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PROCEEDINGS AND DEBATES OF THE 103^d CONGRESS, FIRST SESSION

SENATE—*Wednesday, November 17, 1993*

(Legislative day of Tuesday, November 2, 1993)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable RUSSELL D. FEINGOLD, a Senator from the State of Wisconsin.

The PRESIDING OFFICER. Today's prayer will be offered by the guest chaplain, the Reverend Dr. M. Craig Barnes, National Presbyterian Church, Washington, DC.

PRAYER

The Reverend Dr. M. Craig Barnes, National Presbyterian Church, Washington, DC, offered the following prayer.

Let us pray;

O God, be gracious to the leadership of our land this day. Give them the wisdom of Your spirit that they may find their way through the complex issues we now confront. Give them the courage to hold to what they believe to be right, and the humility to discover more truth than they have.

Most of all, O God, we pray that You will give these leaders Your own great dreams for the future of our people, that we may participate in the kingdom You would build here.

This we pray in the name of the Lord, whose way we prepare. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, November 17, 1993.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable RUSSELL D. FEINGOLD, a Senator from the State of Wisconsin, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. FEINGOLD thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

HABEAS CORPUS REFORM ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 1657, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1657) to reform habeas corpus procedures.

The Senate resumed consideration of the bill.

The ACTING PRESIDENT pro tempore. The time until 9:30 a.m. will be equally divided and controlled by the Senator from Delaware, Mr. BIDEN, and the Senator from Pennsylvania, Mr. SPECTER.

Mr. SPECTER addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I ask unanimous consent that we await the commencing of the 30-minute time period until the Senators who are involved in the presentation arrive. I think they are on their way but they are not in the Chamber at the moment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GRASSLEY addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to speak for 12 minutes as if in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NAFTA AND HISTORY

Mr. GRASSLEY. Mr. President, I rise to discuss the North American Free-Trade Agreement which the other body will vote on, I believe, today. Pending the outcome, we are probably going to vote on that same item later this week.

The vote on NAFTA is clearly an agonizing and very difficult choice. Congress is as divided on this issue as any I have seen. Yesterday's Washington Post-ABC Poll shows that the public is also divided—42 percent in favor and 42 percent opposed.

Today, I will attempt to make the argument for vision and leadership, in support of NAFTA. I would suggest lessons we can learn from history, and dangers that loom if we fail to learn. I hope that my colleagues in the other body, about to vote on NAFTA, will give some weight to these thoughts.

On June 28, 1919, the Treaty of Versailles was signed in Paris, ending the alleged "war to end all wars"—the First World War.

The United States did not ratify the Treaty of Versailles, despite a fierce crusade for it by President Woodrow Wilson. Wilson criss-crossed the Nation, pitching his case to the people, urging their support. He was rebuffed by a turf-conscious U.S. Senate. In the end, America chose isolationism over involvement in the world's affairs.

The consequences of America's failure to ratify this treaty carry a profound learning experience which, in my view, should come to bear as we decide on NAFTA.

There are differences, to be sure, between circumstances surrounding the Treaty of Versailles, and those surrounding this trade agreement. But there are lessons to be learned that are parallel, Mr. President. Those lessons involve the question of American engagement and leadership in the world, versus isolationism. They also involve the issue of the vision of an American President and its political consequences.

Wilson's failed campaign for the treaty foreshadowed two fateful events—one political, one global.

Politically, many historians ascribe the beginning of the decline of the Wilson Presidency to his failed campaign for ratification of the treaty. His inability to win ratification weakened his administration in the eyes of the

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

Nation and the world, and that had an influence on world leadership.

Globally, America's withdrawal from world affairs contributed, no doubt, to the forthcoming tragedy of the Second World War. The terms of the treaty, history shows, were harsh and humiliating for the Germans. They provided a pretext for the rise of naziism and Hitler.

President Wilson foresaw the detrimental effect the treaty would have on the balance of power in Europe. He was well aware of a need for the sober hand of American diplomacy.

Wilson fought to keep America engaged. He personally traveled to Versailles to help influence the substance of the treaty. He tried to temper the nationalist hysteria embedded in its provisions. He was unsuccessful.

Historian and diplomat George Kennan, in his book "American Diplomacy," wrote about the consequences on Europe of America's disengagement and an intemperate Treaty of Versailles.

He said:

> (T)he tragedy of this outcome was not substantially mitigated by the fact that we were not signatories to the Treaty of Versailles and kept ourselves aloof from its punitive provisions. The damage had been done. The equilibrium of Europe had been shattered.

Wilson's campaign for treaty ratification had run smack into the opposition majority party in the U.S. Senate, principally from Senator Henry Cabot Lodge of Massachusetts.

Senator Lodge—the Ross Perot of that day—argued for American isolationism. He succeeded in keeping the United States disengaged from the postwar world.

And so the prestige of the Wilson Presidency faded and Europe headed toward a Second World War. America remained withdrawn, until once again forced to reenter world affairs in 1941 under equally tragic circumstances.

If there is one lesson we learned from the events of 1919 it is that the world needs America's leadership. And that America's role as a world leader is not only good for the world, but it is also good for us in the United States. This is true not only of foreign affairs but also of trade, as the two are interwoven.

I will speak about the more direct parallel of the Smoot-Hawley Act in just a moment. But in a general sense, American leadership and involvement in post-World War I Europe might have helped prevent the world's second great war.

The second lesson is that an American President is often uniquely visionary on matters of world affairs. In the case of Woodrow Wilson, he had a vision of world peace. And his 14 points laid out a structure to build and maintain peace. That was 70 years ago. Today, the structure of the so-called new world order closely parallels Wilson's.

The American people and Wilson's own party did not share his vision at that time. In retrospect, it is easy to conclude that the wiser decision in 1919 would have been to exert American leadership. Absent vision, all we can do is learn the lessons taught by history.

In the case of NAFTA, we have an opportunity to apply these lessons learned. First, the global question:

Do we withdraw from the world and maintain erected barriers to mutual prosperity and greater freedom?

Or, second, do we lead by example, paving the way toward increased world trade and cooperation?

To me, the answer is clear: We do not withdraw. We lead.

And the political question—let me ask my colleagues on the other side of the aisle:

Are you willing to risk your President—the leader of your party—suffering the same fate as President Wilson?

Are you willing to take the risk that the President's vision if flawed, that NAFTA is not good for the country?

And are you willing to risk the possible political decline of the Clinton Presidency should this agreement be defeated?

Think of the prestige of this Presidency when Mr. Clinton goes to Seattle next week to meet with the Chinese. Think of the prestige of this Presidency during the next GATT meetings. Think of the prestige of this Presidency on future free trade talks.

The world needs America's leadership in free trade. And so America needs NAFTA. Failure to enact this agreement means a failure to learn from history. And failure to learn from history means we are doomed to repeat it.

Let me discuss, now, the more direct parallel of the lessons of Smoot-Hawley, as I indicated I would.

During the 1920's, the American economy was going through a dramatic change—from an agrarian to an industrial economy. Instead of fostering the natural progression toward a wealthier economy, we chose to protect the old order. We failed to adapt to change. We raised protective tariffs by enacting Smoot-Hawley.

Many believe that Smoot-Hawley triggered the stock market crash and the Great Depression. It was the exact opposite measure of what was called for by world economic circumstances.

Britain, in fact, had faced the same problem in 1843. Its solution was to lower protective tariffs. It was then freed up to develop its intellectual capital.

Britain's prosperity continued for some time. We, on the other hand, remained in economic depression for the next 15 years.

You would not know all this happened listening to the debate on NAFTA. You would think the world's experience was a blank slate.

In my view, history is on the side of NAFTA.

Here it is, just 6 years away from the 21st century. Communism has collapsed. The post-cold war era has begun. Scores of countries once dominated by the Soviet Union are looking to rejoin the global marketplace. Other countries formerly with state-imposed protectionist systems are eager to join the 21st century as well.

Here at home, the United States is beset by large trade and Federal deficits. Our economy is in the doldrums. We are losing manufacturing jobs to our competitors. Illegal immigrants are pouring across our borders. Internationally, we are bogged down in Somalia and Bosnia and Haiti for who knows what reason, trying to promote whatever.

In my view, free trade is perhaps the best way to promote economic growth in the 21st century. And, it is the best way to promote freedom and democracy throughout the world. It certainly beats the nation-building strategies we are using in Bosnia and Somalia and Haiti.

One reason so many brush fires are ignited around the world—which we then rush to stomp out without appropriate tools—is that nations regress to centuries-old, nationalistic feuding with neighbors.

International commerce has a tendency to lift nations above parochial feuds, especially if a powerful trading partner like the U.S. can show proper leadership. A failure to pass NAFTA, therefore, can be viewed as an abrogation of our international responsibilities as the preeminent leader of the free, post-cold war world.

With NAFTA, there is clearly a right choice. To me NAFTA is a bold step toward a wealthier nation, and stable allies and neighbors.

The vote on NAFTA is a crucial issue because it could determine the direction of our country and the world in the post-cold war era. Now is the time for Congress to support vision and leadership for America, by supporting NAFTA.

I yield the floor.

Mr. SPECTER. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

HABEAS CORPUS REFORM ACT

The Senate continued with the consideration of the bill.

Mr. SPECTER. Mr. President, I understand the regular order is 30 minutes of debate equally divided on the pending Specter amendment on habeas corpus?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. SPECTER. I yield 5 minutes to myself.

Mr. President, if I may have the attention of our colleagues who may be in their offices, we had 2½ hours of debate last night and have reserved 30 minutes this morning, 15 minutes on each side. I can put this argument in a nutshell today.

The pending amendment deals with the great writ of habeas corpus and it is an amendment which provides comprehensive protection for the defendant's constitutional rights by having a comprehensive hearing in Federal court. It establishes time limits so there can be an appropriate recognition of society's interest so that the death penalty can be imposed in the 37 States which now carry the death penalty and so that realistically the death penalty can be imposed under the provisions of the pending bill which call for the death penalty in outrageous cases, such as the assassination of an American President.

This amendment is necessary because at the present time, under the current system, we have cases like Harris in California which have gone on for some 13 years, where an offense was committed in July of 1978 and, as this chart shows, 15 years elapsed before the sentence could be carried out, with some ten petitions for State habeas corpus, five petitions for Federal habeas corpus, 11 applications to the Supreme Court of the United States in a way which absolutely decimates the impact of the death penalty.

Last night and before, there was extended discussion of the reasons why capital punishment is a deterrent, something that I strongly believe from my experience as an assistant district attorney when I prosecuted murder cases, took cases on appeal involving the death penalty. But whatever anyone may think of the deterrent effect of capital punishment, there is no doubt that a majority of the American States now have capital punishment and, under our laws, we are entitled to have this penalty carried out.

I submit that it is a very valuable tool in the arsenal of law enforcement which is totally lost. It is totally lost—and again I call on my own experience as an assistant district attorney—when cases in State habeas corpus, like Harris for 5 years and Beasley for 10 years and Lesko for 6 years, language where they bring up the same issues which have already been decided by the State supreme court.

I do not expect my colleagues who are opposed to the death penalty to vote for this amendment. What habeas corpus really does is not protect the rights of the defendant, but it defeats the purpose of the death penalty. So for people who do not want the death penalty imposed, the vote is against the Specter amendment. For those who want capital punishment carried out, as more than 70 Senators have voted in this Chamber when capital punishment has come up, and as more than 70 percent of the American people have said they want the death penalty, this should be a vote for the Specter amendment.

In our extensive debate last night, the differences between the Senator from Delaware and the Senator from Utah, Senator BIDEN and Senator HATCH, and myself were narrow, virtually to nonexistent.

The Senator from Delaware [Mr. BIDEN], made the argument that this eliminates State habeas corpus and it eliminates exhaustion. But when we took a close look at it, we had virtual agreement between Senator BIDEN and myself on the desirability of having the Federal Government, through the Congress, determine when State habeas corpus begins. It is the determination of the Congress as to the jurisdiction of the Federal court, and this amendment says that Federal habeas corpus begins as soon as the direct appeal from the State is over, once the death penalty has been imposed and cert has been denied.

This amendment provides for time limits on filing, time limits in the district court, time limits in the circuit court, so the entire process can be completed in less than 2 years instead of 15 years, or up to 18 years, as it is at the present time. And the narrow issue which separates Senator BIDEN and ARLEN SPECTER is that retroactivity ideal with fundamental——

The ACTING PRESIDENT pro tempore. The Senator has spoken for 10 minutes.

Mr. SPECTER. I ask for an additional 5 minutes on the timetable this morning, Mr. President.

The only difference between Senator BIDEN and ARLEN SPECTER on retroactivity is that I call for retroactivity on fundamental constitutional rights and Senator BIDEN calls for it on fundamental fairness. I submit, in reality, that is no difference at all.

With respect to the differences between my position and Senator HATCH's position, I point out that on the retroactive issue Senator HATCH agreed with a bill, the essence of which I am currently proposing, when it was cosponsored by Senator HATCH and Senator THURMOND and Senator SIMPSON and myself where the retroactivity reached the issue of fundamental fairness.

An eloquent spokesman for this bill, the essence of this bill, was Senator THURMOND himself who pointed out that the bill he was proposing in 1990, which passed this body by a vote of 56 to 42, "along with Senator SPECTER," was "a tough habeas corpus reform proposal which strikes at the heart of the problem, which is delay, a proposal which establishes time limits and," as Senator THURMOND put it, "would bypass State habeas corpus proceedings" which currently involve so much delay.

Senator BIDEN and Senator HATCH are candid in their continuing opposition to this amendment on the ground that they have made an arrangement not to attach habeas corpus to either the crime bill or to the Brady bill because habeas corpus would be controversial and would defeat those bills.

I submit to Members of this body that that reason is now gone because this is not an amendment to either the crime bill or the Brady bill. It is a separate amendment, freestanding. If we are to take a stand at any realistic time and deal with the problem of interminable delays in capital punishment, then the time to do it is now.

The essence of this bill was passed by an overwhelming majority, 56 to 42, on May 24, 1993. There is absolutely no reason not to pass this habeas corpus amendment today if we expect to have any relief on this issue anytime in the foreseeable future. If you are opposed to the death penalty, if you are opposed to the will of 37 of the States of the United States of America, vote "no" on the Specter amendment.

I ask for an additional 2 minutes, Mr. President.

The ACTING PRESIDENT pro tempore. The Senator is recognized for an additional 2 minutes.

Mr. SPECTER. If the death penalty is to be retained as an important part of the criminal justice system which can work, then this circuitous, elongated process has to come to an end.

We have a realistic blueprint, Mr. President, for reducing violent crime in America by more than 50 percent. That blueprint was outlined by a national commission which functioned in 1972, a commission on which I served. That blueprint is to have realistic rehabilitation for juvenile offenders, first offenders, some second offenders; when they are career criminals, to have life sentences; to have adequate drug treatment for the addicts; to have adequate education so that you do not release a functional illiterate without a trade or skill, who is drug dependent, who obviously comes back to a life of crime.

But an indispensable ingredient in that system is to eliminate the 18-year delays on the imposition of the death penalty which tells every would-be criminal on the street that they can avoid the law; that crime does pay; that the Court system does not work; that law enforcement is not serious; that the Congress of the United States puts up with interminable delays of 18 years and thwarts the will of the American people and the will of the majority of the States in refusing to impose the death penalty when that is the law of the land and an important deterrent.

It is realistic because it structures rehabilitation where that is possible, it structures life sentences for habitual offenders, and it realizes the importance of the death penalty as a symbol of a criminal justice system which works and as a symbol of a deterrent and as a symbol of what the American people want by more than 70 percent and by more than 70 of the Senators who have voted for the death penalty when that issue has come before the Senate.

If you are against the death penalty, again, the vote is "no" on the Specter amendment. If you want to retain a valuable tool for law enforcement, upheld by a majority of the States and an overwhelming majority of the American people and an overwhelming majority of the Senators of this body and the House, the vote is for the Specter amendment.

How much time is remaining, Mr. President, on my side?

The ACTING PRESIDENT pro tempore. The Senator has 3 minutes and 45 seconds.

Mr. SPECTER. I thank the Chair and yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. HATCH addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Utah is recognized.

Mr. HATCH. I do not want to take very long. I have such great respect for my colleague from Pennsylvania and his knowledge of this area and his experience, which is maybe even more important. I know what he is trying to do, and what he is trying to do is well intentioned and right.

As a matter of fact, I agree with much of what he is doing. But there is enough here I disagree with that I would prefer, as the distinguished Senator from Delaware has indicated, to look at this next year, have hearings, listen to all sides, and really look into this as thoroughly as we possibly can because my personal belief is that the Senator's amendment, though an improvement on the language of the bill which we are going to strike, is not an overall solution and, frankly, will be just as bad as today's system and give just as much opportunity for frivolous appeals as we have now under the habeas corpus rulings with which we are presently living.

So I am going to support Senator BIDEN's motion to table this morning, and I hope our colleagues will as well. Then what we are hoping is that we can strike this contentious issue from this crime bill because it is absolutely critical that we do so.

The crime bill is the finest crime bill in the history of this country, and I believe that when we finally get it through both Houses of Congress we are all going to be very pleased that we are going to make a dent against criminal activity in this society.

This issue has been so contentious and so frought with peril and so difficult to resolve among various idea makers in this body that we feel it deserves the effort this next year of having hearings, in which I know the distinguished Senator from Pennsylvania will play a pivotal role, and ultimately help us to resolve what really has to be resolved in the best interests of law enforcement and in the best interests of carrying out penalties and in the best interests of stopping frivolous appeals and saving billions of taxpayer dollars that are going down the drain with these frivolous appeals.

So I commend my dear friend for the very intelligent and articulate arguments that he has made, but I hope that our colleagues will support the chairman's motion to table.

I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. SPECTER addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

Mr. SPECTER. When the Senator from Utah says that we should strike this contentious issue from the crime bill, it characterizes the essence of the opposing argument which is flatout wrong because this issue is not in the crime bill.

I could understand why Senator HATCH and Senator BIDEN would want to strike this from the crime bill. But it is not in the crime bill. It is a separate standing issue. I understand why they made the arrangement to eliminate habeas corpus so they could pass the crime bill and the Brady bill. But that reason no longer exists. I understand why Senator BIDEN and Senator HATCH want to live up to their spirit of the agreement by not moving forward on habeas corpus. But there is no reason why the other 98 Senators ought not to move on habeas corpus at the present time.

When the Senator from Utah says we ought to have further hearings, that is really grossly inappropriate. We have had hearings until they have come out of our ears. We have 2,490 inmates on death row. We have an important tool of law enforcement. We are not enforcing it. We know the rules. We know the law, and the time to act is now.

The Senator from Utah agreed with the essence of this bill on May 24 of 1990. Those who opposed the bill 3½ years ago said let us go back and let us have more hearings, and we will be doing that forever and forever and ever. Now is the time to act on this bill.

Last night the Senator from Utah said that the bill violated Sawyer versus Whitley. I reread the opinion last night, and it simply is not so.

Where this bill allows for an argument where no reasonable sentencing authority can impose the sentence of death, that is realistic, that is reasonable, and that is in line with the Supreme Court opinion in Sawyer.

Where we impose the death penalty, Mr. President, we have to be as sure as we can be, as sure as humanly possible that it is correct. This bill protects the rights of defendants, and constitutional liberties. In fact, it recognizes a ruling by the International Court which said it is cruel and unusual punishment to keep people in confinement for 6 to 8 years. All the interests are promoted by the adoption of this amendment.

How much time remains, Mr. President?

The ACTING PRESIDENT pro tempore. The Senator has 45 seconds.

Mr. SPECTER. I reserve the remainder of my time.

Mr. THURMOND. Mr. President, as every Member of this body knows, I have long advocated appropriate reform of the current habeas corpus procedures followed in the Federal courts. The abuse of habeas corpus litigation has undermined public confidence in our criminal justice system.

In the past, I have introduced legislation to minimize Federal judicial interference with State criminal convictions and address common abuses typical of many habeas petitions. The Senate, in 1991, adopted an amendment which Senator HATCH and I had sponsored by a vote of 58 to 40. This proposal was modeled on recommendations put forth by the Powell Committee, chaired by former Supreme Court Justice Lewis Powell. This proposal would have truly limited a petitioner to a single habeas petition in the Federal courts. Unfortunately, we were unable to have this measure agreed to during the conference on the crime bill.

Now, Mr. President, we are faced with a habeas corpus reform proposal in S. 1607, which I believe is worse than current law. Without doubt, title III of S. 1607 will actually increase the amount of unnecessary litigation and promote delay in death penalty cases. Stating their opposition to Chairman BIDEN's habeas proposal, California attorney general Daniel Lungren and the California District Attorneys Association jointly stated, and I quote:

> At a time when most recognize the habeas corpus process must be streamlined to prevent endless, piecemeal challenges, title III—would lead to more rounds of litigation and less finality and closure for victims.

My good friend from Pennsylvania, Senator SPECTER, has introduced a bill which we are now considering to address the shortcomings of Chairman BIDEN's good faith proposal on habeas corpus reform. I commend my colleague from Pennsylvania for his efforts, particularly placing time limits for consideration of habeas petitions in the Federal courts. Unfortunately, this bill contains those provisions from the Biden proposal which I believe will promote delay and prolong finality in capital and noncapital cases.

Mr. President, a majority of the attorneys general from the ninth circuit are opposed to the habeas proposal in S. 1607 which in large part is contained in the Specter bill we are now considering. This group of chief law enforcement officers within the ninth circuit made five main points in opposition to title III in S. 1607. It is their opinion that this proposal: First, significantly weakens current law; second, contains provisions which violate the tenth amendment of the Constitution by imposing new Federal regulatory schemes on State criminal justice systems; third, overturns or modifies landmark U.S. Supreme Count precedents promoting finality and curbing successive petitions; fourth, affords convicted murderers and criminals more opportunities to challenge their convictions and sentences; and fifth, inexplicably forces victims of crime to suffer through more rounds of litigation and delay. These are the concerns of attorneys general in the ninth circuit who have the responsibility for handling Federal habeas litigation in their jurisdictions.

Mr. President, I share these concerns which I have with the underlying bill, but as we are under a time agreement, I will speak to only a few.

This proposal mandates that States adopt expansive and costly appointment of counsel provisions for capital cases. If a State fails to meet the counsel certification requirements within 180 days after date of enactment, a private cause of action may be brought against that State in Federal court. Also, a private cause of action lies against a State if it fails to establish a costly schedule of hourly rates for compensation of attorneys appointed under this bill. My initial concern with these provisions is that they undermine the 11th amendment's protection for the States. This amendment, among other things, prohibits a Federal court from considering a suit brought by a citizen against his or her own State, unless the State consented to suit against it in Federal court. This legislation will unnecessarily force the States to face suits for coercive relief in the Federal courts.

The counsel provisions mandated on the States under this bill has been appropriately referred to as the Capital Defense Attorney Employment Act of 1993. The imposition of rigid and expansive Federal standards is an unprecedented and substantial intrusion into the State criminal justice system. This compulsory approach mandates the appointment of specialized counsel in the State trial and appellate process, rather than limiting it to the State postconviction stage as the optional approach under the Powell Committee report. The States are able to promulgate effective appointment of counsel procedures without being forced to adopt new Federal statutory standards which are not required under the Constitution. It is beyond our responsibility to impose congressionally enacted Federal standards on State court proceedings concerning the enforcement of State criminal law when not required by the Constitution. The Powell Committee report supports this conclusion as it stated that "it is more consistent with the Federal-State balance to give the States wide latitude to establish a mechanism" for the appointment of counsel. If there are claims of inadequacies with State procedures for the appointment of counsel, the Federal judiciary will ultimately render the final judgment.

There are additional problems with this legislation concerning the retroactive application of new rules as addressed in the Teague decision. My good friend from Utah, Senator HATCH, has spoken to this issue and I will briefly summarize. In Teague versus Lane, the Supreme Court established an essential rule of finality for all habeas cases. Under this doctrine, the court applies the law in effect at the time the conviction became final. New rules developed after the conviction became final will not be applied retroactively by the court subject to two narrow exceptions. This doctrine is crucial. Without it, there can be no closure to a case, as new rules developed after the conviction became final can furnish a basis for a new round of litigation.

I agree with the distinguished ranking member, Senator HATCH, in his conclusion that this bill will weaken the Teague doctrine and the line of cases following Teague.

Mr. President, Dan Lungren, attorney general for California, stated the following opinion on legislation which would undermine the Teague doctrine and I quote:

> The policy question is why the Congress wants to weaken the finality doctrine posited by Teague in any manner. We already know that one of the central problems with the current habeas corpus process is a lack of finality. It seems to me that the heavy burden of proof lies with those proponents who seek to modify the Teague doctrine to establish why any change from established case law is warranted and why this undermining of finality should be countenanced. The victims of crime are entitled to closure and an adequate policy explanation of why any changes should be made in this area.

Mr. President, it is my firm belief that this legislation is worse than current law and will promote more delay and more litigation. It is for these reasons that I oppose this bill.

I yield the floor.

Mr. HATCH. Mr. President, I have been a long time advocate of habeas corpus reform. Habeas corpus reform has been a priority of mine for many years and is an essential reform needed to restore credibility within our criminal justice system. Yet, in my view, no habeas corpus reform is better than title III of S. 1607. I can summarize the reason why in one sentence: the Biden habeas corpus proposal is more favorable to convicted murderers than is current law.

In an effort to address some of S. 1607's inadequacies, my colleague from Pennsylvania has offered an alternative which makes a number of changes to the Biden proposal. For example, my colleague's bill places time limits for consideration of habeas corpus petitions on Federal district courts and courts of appeals. Similar time limits are contained in my habeas corpus proposal. Yet, the core of the Specter bill contains the most troubling and disruptive aspects of the Biden proposal. It does serious damage to the Teague doctrine, it mandates costly and intrusive counsel requirements on the States, and has broad exception to the one petition limitation. For these reasons, I oppose the Specter bill.

Abusive habeas corpus litigation, particularly those cases involving State-imposed death sentences, has undermined the public's confidence in our criminal justice system by causing a lack of finality in the system. Unnecessary litigation and delay in the imposition of constitutionally imposed death sentences have taken a toll on States, victims, and law endorsement. In my State of Utah, convicted murderer William Andrews delayed the imposition of a constitutionally imposed death sentence for over 18 years.

The Dole-Hatch bill curbs the abuse of habeas corpus by state and federal prisoners. It contains a provision identical to a measure I sponsored that passed the Senate by a vote of 58 to 40 in 1991. It is modeled after a proposal for death penalty litigation developed by the Powell Committee, chaired by former Supreme Court Justice Lewis Powell. The States may opt in to the procedures. If a State opts in it must provide counsel on State collateral review. In exchange for providing counsel, the petitioner is limited to a single habeas petition. The Dole-Hatch bill improves upon the Powell proposal by including the full and fair rule of deference for State court adjudications and placing time limits upon habeas corpus petitions in Federal courts.

While the Dole-Hatch bill is in the best interests of law enforcement, the Specter bill could undermine the death penalty and promote more delay and litigation. I fear that it may well result in de facto repeal of the death penalty by making capital punishment litigation too protracted and costly.

The Specter bill does not give the States the option of opting in or out like the Dole-Hatch bill. Instead, it mandates that States adopt expansive and costly appointment of counsel provisions for capital cases. Rather than promote finality, the Specter bill requires more rounds of litigation. This will include new statutory hearings on:

First, workload of appointed counsel; second, qualifications of appointed counsel; third, competency of defendant to decline the appointment of counsel; fourth, compliance with specified counsel standards; and fifth, the competency of the petitioner. None of these new hearings are required under the Constitution .

Under the proposal, if a State fails to comply with the counsel requirements litigation may be brought in Federal court for appropriate injunctive and declaratory relief. Although the court may not overturn criminal convictions, the courts could impose sweeping stays of execution for all existing death row inmates.

In the event enumerated qualifications were not met, two unduly harsh penalties could be imposed: First, the elimination of the traditional presumption of correctness afforded to State court findings of fact; and second, the petitioner then would be given the opportunity to present new claims in Federal court in complete disregard of the exhaustion and procedural default doctrine. These windfall penalties would be applied against the States absent any showing that the attorney was ineffective or that the petitioner did not receive a fair trial. Such penalties, for failing to comply with vague and subjective counsel requirements should not apply to the States.

Further, the Specter bill overturns the landmark Teague doctrine. In *Teague* v. *Lane*, 489 U.S. 288 (1989), the U.S. Supreme Court established an essential rule of finality for all habeas cases. Under this doctrine, Federal courts must apply the law in effect at the time a State conviction became final. New rules of law prescribed by the judiciary after the conviction becomes final will not be applied retroactively nor will convicted criminals be permitted to seek the establishment of new rules via Federal habeas review. Without the Teague doctrine, there can be no closure to a case because each new rule developed by the Federal courts could provide the basis for a new challenge to a death row inmate or other criminal's conviction or sentence.

The Specter bill overturns key rules and cases in this area, weakening the Teague doctrine. It replaces the Teague doctrine with a new standard which applied fundamental rights retroactively. This will return the States and Federal courts to the confusing litigation about retroactivity that occurred prior to Teague. The courts will have to develop factors and guidelines for distinguishing between fundamental and nonfundamental rights. These factors will inevitably generate more litigation of their own. Quite simply, there will be less finality than current law if the Teague doctrine is overturned. The Supreme Court decisions on retroactivity are not unanimous decisions. They are often 6-to-3 or 5-to-4 decisions. These are matters as to which reasonable people can disagree. That is precisely why we need one Supreme Court, and not 650 Federal trial judges, deciding the fundamental question of whether the Supreme Court decisions apply retroactively or prospectively. If Federal trial judges are given discretion to not follow Supreme Court precedent on retroactivity, which is what the Specter bill does, then it is entirely foreseeable that the same proportion of trial judges, 3 out of 9, or 4 out of 9, will decide the issue differently from the majority of the Supreme Court. Those are pretty good odds for a convicted murderer facing a constitutionally imposed death sentence. Even though the Supreme Court has ruled that he cannot obtain the benefit of a new case, and that his sentence is constitutionally sound, the Specter bill will allow him to take his chances with the 650 Federal trial judges out there.

Let us take a look at who stands to benefit from having Supreme Court decisions applied retroactively. In the first instance, the most obvious beneficiaries will be prisoners who have been incarcerated for the longest times—the law has changed so much since they were imprisoned that there will be multiple opportunities for them to argue that they are being unconstitutionally confined.

One case is William Hierens in Illinois. He has been serving a life sentence for the brutal mutilation murder of a child since the late 1940's. He has filed petitions in Federal court for years. I imagine he would like nothing better than to be able to argue that the 1986 Batson versus Kentucky decision on preemptory jury strikes applies to his case and requires a new trial—a new trial after 45 years.

How would the Specter bill permit Hierens to benefit given the Supreme Court's ruling in Batson was applied prospectively? By permitting individual Federal judges—of which there are over 650—to determine whether the Batson decision constitutes "a watershed rule of criminal procedure implicating the fundamental fairness and accuracy of the criminal proceeding." That is the test the courts would apply under new section 2257(b)(2) of the Specter bill.

Other notorious criminals who are awaiting passage of the Specter bill included Charles Manson, Sirhan Sirhan, and more. Each of these vicious killers would like to have the standards now recognized in 1993 as appropriate for reviewing their convictions from the late 1960's and early 1970's. And that is just what the Specter bill will give them. In fact, if the Specter bill was in effect at the time of the Robert Alton Harris case, which took over 13 years to complete, or William Andrews case, which took 18 years to complete, the States of California and Utah would likely still be litigating those cases in Federal court.

The Specter bill also weakens established limits on successive petitions overturning the U.S. Supreme Court decision in *Sawyer* v. *Whitley*, 112 S.Ct. 2514 (1992). This decision permits a successive petition where an actual innocence exception is established. This requires the habeas petitioner to show innocence of the crime itself or "by clear and convincing evidence that but for constitutional error, no reasonable juror would find him eligible for the death penalty." Id. at 2523. The Court's holding in Sawyer is repudiated in at least two respects. First, the "clear and convincing" showing is abandoned. Second, and most significantly, the Specter bill permits successive claims to be filed based on the "existence of additional mitigating evidence." The Supreme Court in Sawyer expressly rejected this avenue for successive petitions, recognizing that the principle of finality would be eviscerated without this limitation.

I recognize that the current habeas corpus process is not working correctly, promoting unnecessary delay and repetitious litigation and we support legitimate efforts to reform the system. Yet, both S. 1607 and the Specter bill deliberately raises the price of capital litigation and interposes new hurdles to capital punishment. In my view, it would be better for the states to litigate under current law than under the terms of the Specter bill.

For these reasons, I urge my colleagues to defeat this legislation.

RESPONSE TO SPECTER

My colleague has asked me about the standard applied in retroactivity cases prior to *Teague* v. *Lane* [489 U.S. 288 (1987)] and to demonstrate how that standard impeded the administration of justice.

The standard applied to new rule cases prior to the Teague doctrine was the Linkletter standard. Under this free flowing test, which is named for the cases of *Linkletter* v. *Walker* [381 U.S. 618 (1965)] and Stoval versus Denno (1967), the courts were required to apply a balancing test in which the interests of the accused were weighed against the effect of retroactive application on the administration of justice, the new rule's effect on the fact finding process, and the State court's reliance on the old law. This loose, amorphous standard, according to State attorneys general with whom I have consulted, gave courts broad discretion to determine on their own whether new rules established by the Supreme Court should be applied retroactively to benefit an individual case. There was much litigation over how these factors were to be applied and defined.

It is difficult to determine the number of Supreme Court cases which were determined to apply retroactively under the old Linkletter standard. This is because each circuit, more or less, was free to decide questions of retroactivity on its own. More importantly, since the old Linkletter standard was a loose and indefinite standard, habeas petitioners were able to shoehorn themselves into stays of execution. This was done by filing habeas petitions which claimed that a new rule should be applied retroactively. The courts were required to issue a stay of execution and hear the claim. Even if the courts determined that a new rule should not be applied retroactively, the vague standard of Linkletter permitted inmates to delay the imposition of their sentences through repeated stays of executions based on these new rule claims.

In 1989, the Supreme Court decided that the loose, free-flowing standard of Linkletter was unfair and impeded the administration of justice. In two decisions, the Court established the present standard by which Federal courts will determine whether a new rule should be applied retroactively. This bright line standard is what we now generally refer to as the Teague doctrine.

First, for those cases on direct review where the conviction has not become final, the Supreme Court has held that defendant should benefit from retroactive application of new rules. This was the Supreme Court's holding in the case of Griffith versus Kentucky (1989). This decision completely favors defendants.

Second, after a petitioner's State conviction has become final, however, a new rule of criminal procedure may not be requested or applied retroactively in Federal habeas cases. This was the result of Teague and the cases that followed [Penry versus Lynaugh (1989) and Butler versus McKellar (1990)].

Senator SPECTER and Senator BIDEN have made no secret of their opposition to Teague. Yet, the Supreme Court in Teague established two exceptions to the bar against retroactive new rules in habeas litigation: First, if the new rule places a kind of conduct or class of defendants beyond the power of the criminal law making authority such as the death penalty for rapists being declared unconstitutional; or second, if the new rule addresses a bedrock procedural element of criminal procedure in a manner which so significantly changes the law that the rule is watershed—the rule must be applied retroactively.

Teague and its bookend case, Griffith, establish a bright line rule of law which ensures uniform application of new rules. Teague has improved the landscape of habeas litigation pursuant to title 28 because it reflects the appropriate reading of title 28—that habeas corpus is simply a statutory deterrent used to encourage State and Federal courts to adhere to constitutional standards. As such, a new rule should not be applied during habeas review of State convictions since State courts could only by expected to defer to rules that were in existence when their consideration became final. In other words, it is not fair to the States to change the rules of the game via habeas review when the State correctly applied the law as it existed at the time of the trial.

The fact is that since Teague, there is a clear test which applies to these cases. As such, there is less litigation in capital cases over new rules should be applied retroactively. In the year preceding Teague, only 11 executions were carried out. The Teague doctrine has limited much of the frivolous and unnecessary litigation surrounding capital cases. Yet, despite the cries of death penalty opponents, Teague has not fostered an ubridled number of executions. In 1992 there were 31 executions. There are still over 2,700 convicted murders sitting on our Nation's death rows. Yet, if we eliminate Teague, we will ensure that very few, if any, deserving murderers will have their sentences carried out.

SPECTER DIFFERENCES

S. 1657, the Specter habeas corpus reform bill is effectively the same as the Biden habeas corpus bill. In fact, in critical areas, such as the mandatory counsel requirements and the standard applied in successive petitions cases, the bill is identical to the Biden bill. The differences are as follows:

Time requirements: The bill sets time limitations for the Federal court's consideration of determinations of habeas corpus petitions. The Dole-Hatch habeas corpus proposal contains similar, although shorter, time limits. This aspect of S. 1657 is an improvement over the Biden bill.

Court of Appeals as gatekeeper: S. 1657 also proposes an innovative role for the courts of appeals to determine whether a successive petition can be heard. Rather than filing a successive petition in a Federal district court, the petitioner first go to the court of appeals seeking an order permitting district court consideration of the claim. While this is an innovative concept and role for the courts of appeals which I have previously supported, it fails to remedy the fundamental flaw of the Biden bill's successive petition proposal—the repudiation of Sawyer versus Whitley. Although the court of appeals will become a so-called gatekeeper on questions of successive petitions, their ability to dispose of frivolous or unnecessary petitions is thwarted by the fact that S. 1657, like the Biden bill, expands the types of claims which can be presented. The gatekeeper concept could work, so long as the standard for successive petitions is narrow.

Abolition of the exhaustion: The Specter bill, in an attempt to speed up the habeas review process in capital cases, abolishes the existing requirement that petitioners exhaust State remedies before filing a habeas petition. In other words, it requires that state collateral review be bypassed since the bill's 6-month statute of limitations would begin to toll once the murderer's conviction becomes final. The effect of this would be to preclude the States from having an opportunity to address constitutional errors on their own prior to Federal review. While I believe that this change will speed up the process, I am concerned the abolition of State collateral review on capital cases could have a detrimental impact on the States' administration of justice.

In the 101st Congress, I supported a habeas measure which contained a similar exhaustion provision. At the time, Senator SPECTER convinced me that it was worth considering. I still believe it is worth considering. Still, the abolition of the State exhaustion requirement, while speeding up the length of appeals, warrants study due to its effective disregard for the interest of the State courts.

The ACTING PRESIDENT pro tempore. Who yields time?

If no one yields time, it will be charged equally to both sides.

Mr. HATCH. Mr. President, just to make it clear further, I think we can agree to a habeas corpus amendment. I do not think it will be what the distinguished Senator from Pennsylvania will totally like or any of us perhaps. But the fact of the matter is that the House is not going to take it, or they would use it as a Christmas tree to hang all other things which would prevent the implementation of the penalties that are prescribed in this particular bill.

So it is better for us to face that problem in a separate way, and, frankly, to do it in an intelligent way that brings everybody together. That is really what is involved here.

So we have made a decision—the managers of the bill—that if we want a really good crime bill, we are going to have to divorce this issue from this particular crime bill or we lose all the other great provisions that we have worked so hard for over the last 2 weeks to make sure are in this bill. It is as simple as that.

The House is not going to take it without making a mess of it and making it a Christmas tree for a number of ideas that may or may not be good ideas.

This morning, we spoke with the National District Attorneys Association, and they informed us that the prosecutors do not support the Specter bill.

In addition, I have a list of numerous attorneys general and victims groups who do not support the Biden bill. I am confident that they would not support the Specter bill as well.

I ask unanimous consent that the list of supporters of the motion to strike the Biden habeas corpus, and therefore I believe the Specter habeas corpus as well, be placed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUPPORTERS OF MOTION TO STRIKE—BIDEN HABEAS CORPUS

STATE ATTORNEYS GENERAL

1. Jan Graham, Utah (Capital).
2. Dan Lungren, California (Capital).
3. Joseph Meyer, Wyoming (Capital).
4. Don Stenberg, Nebraska (Capital).
5. Grant Woods, Arizona (Capital).
6. Frankie Sue Del Papa, Nevada (Capital).
7. Larry EchoHawk, Idaho (Capital).
8. Michael Easely, North Carolina (Capital).
9. Joseph Mazurek, Montana (Capital).
10. Gale Norton, Colorado (Capital).
11. Dan Morales, Texas (Capital).
12. Mark Barnett, South Dakota (Capital).
13. Charles Cole, Alaska (Non-Capital).
14. Jimmy Evans, Alabama (Capital).
15. Robert Marks, Hawaii (Non-Capital).
16. Heidi Heitkamp, North Dakota (Non-Capital).
17. Stephen Rosenthal, Virginia (Capital).
18. Michael Bowers, Georgia (Capital).
19. Robert Butterworth, Florida.
20. Elizabeth Barrett-Anderson, Guam.
21. Herbert Soll, Northern Marianas Islands.

OTHER STATE AND LOCAL LAW ENFORCEMENT

1. Conference of Western Attorneys General.
2. California District Attorneys' Association.
3. National Troopers Coalition.
4. Virginia Association of Commonwealth's Attorneys.
5. Florida Prosecuting Attorneys Association.
6. Idaho Prosecuting Attorneys Association.
7. Virginia Association of Chiefs of Police.
8. Tennessee District Attorneys General Conference (John Pieroti, President).
9. Arizona Prosecutor's Association.
10. William Fuller, Commonwealth's Attorney, City of Danville (Virginia).
11. John M. Mamoulides, District Attorney, Parish of Jefferson (Louisiana).
12. International Association of Chiefs of Police.
13. North Carolina Conference of District Attorneys.
14. Nevada Prosecutors.

CITIZENS' ORGANIZATIONS

1. VIGIL Coalition For Victim's Rights.
2. Citizens for Law and Order, Inc.
3. California Correctional Peace Officers Association.
4. Justice for Murder Victims (San Francisco, CA).
5. Memory Of Victims Everywhere (San Juan Capistrano, CA).
6. Crime Victims United (Sacramento, CA).
7. Leagues of Victims and Empathizers (Tarpon Springs, FL).
8. Organized Victims of Violent Crime (Madison, TN).
9. The Joey Fournier Anti-Crime Committee (Boston, MA).
10. Citizens for a Responsible Judiciary (Apopka, FL).
11. Survivors of Crime (Essex, VT).
12. Victims of Crime and Leniency (Montgomery, AL).
13. Survival, Inc. (Saltillo, MS).
14. Citizens Against Violent Crime (Charleston, SC).
15. Speak out for Stephanie (Overland Park, KS).
16. Citizens for Truth in Punishment (Willis, TX).
17. Justice for Surviving Victims (Denver, CO).
18. Advocates for Survivors of Victims of Homicide (Walls, TX).

OTHER

1. San Diego Union Tribune.
2. Letter signed by 125 former prosecutors and U.S. Attorneys believe that "important changes" need to be made to the Biden Habeas provision.

Mr. HATCH. I yield the floor.

Mr. SPECTER. Mr. President, I have a very, very brief reply to the argument of the Senator from Utah.

It simply is not so when he says this bill will be a Christmas tree; that it will defeat the crime bill. The habeas corpus is not on the crime bill. When the Senator talks about the National District Attorneys Association, he talks to somebody—I do not believe they speak for the national DA's. This bill has only been on the floor for a short time. The national DA's have not been able to convene and meet on it. If the DA's were to control what the Senate does, I would still be a State district attorney and not run for the Senate.

I understand that the managers have made an agreement that they feel bound by, to live up to the spirit of the agreement to oppose this habeas corpus bill. But I say to the other 98 Senators, if you want to carry out the rule of the American people, if you want to carry out the death penalty as provided in this bill, then the only sensible course is to strike the circuitous and the procedural nonsense of habeas corpus today and to pass the Specter amendment which will be a signal that the Senate means business.

This is not going to be done in 1993. The conferencing on the crime bill will not be done until next year. If you are opposed to the death penalty, vote "no." If you are for the death penalty, vote "yes" for the Specter amendment.

Mr. BIDEN. Mr. President, I am for the death penalty, and I am voting no on Specter because Specter will not be of any value in this debate in how to rectify habeas corpus.

I am voting "no" on Specter by shortly moving to table his amendment. I think his approach will not be helpful. It will delay.

There is a significant difference between Specter and Biden retroactivity provisions.

Mr. President, the National District Attorneys Association did endorse the Biden habeas corpus bill as did the vast majority of the attorneys general. I think there were somewhere over 24 of them who did. I think there were somewhere around half a dozen or a dozen who opposed it. But a majority supported the Biden provision.

Also, the National District Attorneys Association called me yesterday on the floor, notwithstanding the fact they did not convene to the best of my knowledge, and said I was able to go on the record indicating they opposed the Specter approach.

Obviously, that is not, nor should it be, dispositive. It is just another precinct—hearing from his former colleagues—which he belonged to. The district attorneys disagreed with his approach. That is the only point, not that we should not listen or listen. There is no uniformity in this regard on this issue. There is uniformity on this with regard to my position.

I would also like to take the time for just a moment, and then I will yield and move to table.

HABEAS CORPUS AND RETROACTIVITY

Senator SPECTER has asked that I delineate the difference between his habeas corpus provision on retroactivity and the retroactivity provision in my habeas bill.

The issue here is what law applies when courts decide habeas corpus petitions. The relevant case is Teague versus Lane.

In Teague, the Supreme Court held that Federal courts should not apply new rules of law to grant State prisoners relief.

The idea here is this: A State court can only be expected to apply the legal standards as they existed when that court reviewed a prisoner's claim.

The Federal courts, for their part, should not announce or apply new principles of Federal law on habeas corpus—and thus blindside State judges and prosecutors by upsetting State convictions that were perfectly correct when rendered.

The Court in Teague made two exceptions to its general rule of nonretroactivity: It stated that a new rule will apply retroactively if it decriminalizes certain conduct, or if it is a watershed rule of criminal procedure implicating the fundamental fairness and accuracy of the criminal proceeding.

In retroactivity cases, prosecutors make two kinds of arguments. Sometimes they contend that the prisoner is relying on a new rule established by the Supreme Court. Here, the Spector proposal would allow relief for any fundamental right announced by the Supreme Court. That is close to one of the two exceptions already articulated by the Supreme Court.

More often, however, prosecutors argue that the district court in habeas corpus would itself have to create a new rule in order to decide for a prisoner.

In any given case, then, the question is whether the rule on which a prisoner's claim depends is settled or new. If it's settled, the Federal court can enforce it. If it's new, the Federal court cannot consider it.

The definition of what counts as a new rule, then, is critical. On this point, the Specter provision is silent. My bill, in contrast, defines a new rule as a rule which changes the constitutional or statutory standards that prevailed when the prisoner's conviction and sentence became final.

Remember, that is what Teague stands for: The Federal courts should consider a habeas petition in light of the legal standards prevailing at the time a conviction becomes final.

So under my bill, a prisoner would be able to seek Federal habeas corpus relief if the claim relies on legal standards prevailing at the time the State acted. A prisoner would not be able to seek relief if the claim depends on a change in those standards.

The language in my bill is drawn from the words of Justice Harlan, the father of the retroactivity doctrine announced in Teague. Indeed, in a passage quoted by the Teague court, Justice Harlan wrote:

> The habeas court need only apply the constitutional standards that prevailed at the time the original proceedings took place.

Since Justice Harlan wrote that standard, the meaning of "new rule" has grown ever more clouded—and that is why it is important for a habeas provision to address this issue.

Over the years, the Supreme Court has come up with a variety of different definitions of a "new rule." These definitions have created much confusion, controversy, and conflicting interpretation—among scholars, litigators, the lower courts, and even among the Justices themselves.

And these various definitions have created another problem: if you read some of the definitions literally, they can be used to create a virtual rule of deference to State courts on questions of Federal constitutional law.

For example, in one case, the Supreme Court defined a new rule as any rule about which State court judges could reasonably disagree.

But, as we all know, lawyers—even reasonable lawyers—can disagree about anything and everything.

So if we define a rule as "new" just because there is disagreement about it, every rule is a new rule. And if every rule is a new rule, we foreclose even the one chance for Federal habeas review that should be open for claims concerning constitutional error.

In other cases, the Supreme Court has defined a new rule as one not dictated or compelled by precedent. Strictly speaking, this definition also can be read to capture virtually any rule on which a prisoner might rely.

For again, as we all know, any case can be distinguished in at least some small way from the cases that came before.

So this definition can also be used to create a rule of deference and to undermine the Federal courts' ability even to apply well-settled legal standards to the unique facts of a particular case.

That is not right. And it is not necessary to assure that State court decisions are not unreasonably overturned by the Federal courts.

The Specter bill does not address this important issue, and thus does nothing to reduce the current confusion.

The definition in my proposal embodies a mainstream view of the proper role of habeas corpus: the Federal courts should independently apply prevailing legal standards to the facts of a particular case; they should not upset State sentences based on intervening decisions that change that prevailing legal standards and they should not defer to judgments that rest on incorrect—although reasonable—interpretations of Federal law.

This definition protects State courts from being blindsided by the award of habeas relief, while at the same time ensuring that Federal habeas corpus continues to exist as a check on incorrect State decisions.

I especially want to thank the National District Attorneys Association for literally hundreds of hours over a period of months that they sat and worked with my staff and interested parties on what I believe was truly a reasonable and workable compromise, as well as with the attorneys general.

I particularly want to thank William O'Malley, Bob Macy of the National District Attorneys Association, and their staff. I want to thank the State attorneys general. I would like to thank Mike Moore of Mississippi and Scott Harshbarger of Massachusetts, Ernie Preate of Pennsylvania, Charlie Oberly of Delaware, and former Attorney General Robert Del Tufo of New Jersey—all of them—for their hard work and again hundreds of hours that we spent trying to fashion a compromise.

I will be back with a habeas corpus bill. It will not be the Specter bill. It will be the Biden bill we pulled out of here and can be amended by the Senator from Pennsylvania, if he so chooses, and that is his right. And maybe he has ways that can improve the approach we had in the underlying crime bill.

But I want to make it clear, I do not support the Specter bill on its merits because I think it lacks merit, not because of everything having to do with Christmas trees. If I thought that we could get habeas corpus passed this year, I do not think anyone in their right mind would suggest I withdraw something I worked on for a couple hundred hours to substitute it for something I think is flawed.

So my opposition to this is on the merits, and I strongly urge my colleagues when they come to the floor for reasons of procedure, reasons of merit, and reasons of facilitating moving this and the Brady bill later, to move to table the Specter bill. I so move. I make the motion, Mr. President.

The ACTING PRESIDENT pro tempore. The yeas and nays are already in order.

Mr. BIDEN. I yield my time.

The PRESIDING OFFICER (Mrs. MURRAY). The question occurs on the motion to table the bill S. 1657.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. DORGAN] is necessarily absent.

The result was announced—yeas 65, nays 34, as follows:

[Rollcall Vote No. 374 Leg.]

YEAS—65

Akaka
Baucus
Bennett
Biden
Bingaman
Boren
Boxer
Bradley
Breaux
Bryan
Bumpers
Campbell
Coats
Conrad
Coverdell
D'Amato
Daschle
DeConcini
Dodd
Domenici
Durenberger
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Grassley
Harkin
Hatch
Hatfield
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Mack
Mathews
McConnell
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Riegle
Robb
Roth
Sarbanes
Sasser
Shelby
Simon
Thurmond
Wellstone

NAYS—34

Bond
Brown
Burns
Byrd
Chafee
Cochran
Cohen
Craig
Danforth
Dole
Faircloth
Gorton
Gramm
Gregg
Helms
Hutchison
Jeffords
Kassebaum
Kempthorne
Lugar
McCain
Murkowski
Nickles
Packwood
Pressler
Reid
Rockefeller
Simpson
Smith
Specter
Stevens
Wallop
Warner
Wofford

NOT VOTING—1

Dorgan

So, the motion to lay on the table (S. 1657) was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. ROBB. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1993

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 1607, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1607) to control and prevent crime.

The Senate resumed consideration of the bill.

Pending:

(1) Levin amendment No. 1151, to improve Federal and State automated fingerprint systems to identify more criminal suspects.

(2) Feinsten amendment No. 1152 (to Amendment No. 1151), to restrict the manufacture, transfer, and possession of certain semiautomatic assault weapons and large capacity ammunition feeding devices.

(3) Dole (for Helms) amendment No. 1159, to repeal the prison caps and provide for reasonable and proper enforcement of the eighth amendment.

(4) Dole (for Smith) amendment No. 1160, to restrict Federal financial assistance to States if they do not comply with certain criminal justice programs.

(5) D'Amato/Hatch amendment No. 1199, to provide the death penalty for engaging in a continuing criminal drug enterprise involving a large quantity of drugs.

(6) Levin amendment No. 1204, to provide for the imposition of the penalty of life imprisonment without the possibility of release rather than imposition of the death penalty.

The PRESIDING OFFICER. The question occurs on amendment No. 1152, offered by the Senator from California [Mrs. FEINSTEIN]. The vote will be by voice vote.

The majority leader.

Mr. MITCHELL. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

VOTE ON AMENDMENT NO. 1152

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California [Mrs. FEINSTEIN]. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. DORGAN] is necessarily absent.

The VICE PRESIDENT. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 56, nays 43, as follows:

[Rollcall Vote No. 375 Leg.]

YEAS—56

Akaka
Baucus
Biden
Boren
Boxer
Bradley
Brown
Bumpers
Byrd
Campbell
Chafee
Coats
Conrad
Danforth
Daschle
DeConcini
Dodd
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hatfield
Inouye
Jeffords
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lugar
Mathews
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Nunn
Packwood
Pell
Pryor
Riegle
Robb
Rockefeller
Roth
Sarbanes
Simon
Wellstone
Wofford

NAYS—43

Bennett
Bingaman
Bond
Breaux
Bryan
Burns
Cochran
Cohen
Coverdell
Craig
D'Amato
Dole
Domenici
Durenberger
Faircloth
Gorton
Gramm
Grassley
Gregg
Hatch
Heflin
Helms
Hollings
Hutchison
Johnston
Kempthorne
Lott
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Reid
Sasser
Shelby
Simpson
Smith
Specter
Stevens
Thurmond
Wallop
Warner

NOT VOTING—1

Dorgan

So the amendment (No. 1152) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table. The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 1151

The VICE PRESIDENT. The question now occurs on the underlining amendment, No. 1151, offered by the Senator from Michigan [Mr. LEVIN].

The Senator from Michigan.

Mr. LEVIN. Mr. President, this amendment says that the FBI shall report to the Congress by June, 1994, regarding how it can accelerate and improve automated fingerprint systems at the State and Federal level in order to use fingerprints found at the scene of a crime to identify more criminal suspects more quickly and effectively.

The automated fingerprint systems store the fingerprints of suspects and convicted felons in an automated file. These systems can be used to compare latent prints lifted at a crime scene against fingerprints of prior offenders already on file, and when comparing prints of a suspect against those of persons wanted, charged, or convicted for offenses committed in other jurisdictions.

The FBI is planning on fully automating its fingerprint identification and criminal history record system including implementation of a Federal-State-local partnership for maintaining and exchanging fingerprint and criminal history records.

The integrated system, known as IAFIS, permits law agencies to run far more fingerprint checks than are feasible with manual processing. Many States and the FBI have made significant progress over the last decade in automating these systems. But the extent of automation and quality of records varies widely, and significant gaps in automation and record quality exists.

IAFIS emphasizes the electronic scanning, transmission, processing, and storage of fingerprints. The full transition from paper to electronic is expected to take years. Most record activity is within the home States because most criminals commit crimes near where they live. About 20 percent of State offenders have multi-State records. States face a major challenge as it is in maintaining high-quality criminal history records on their own. For IAFIS to work, each State would have to upgrade and automate its recordkeeping system and have systems that are compatible with the FBI system.

There are examples of the potentially high success rate of automated latent searches conducted at the State-regional-local level and many States report that old and/or difficult criminal cases have been solved due to latent matches that could not have been conducted manually.

California's system is one example. California has a statewide automated fingerprint identification system which provides automated fingerprint and criminal record services to local, county, and State law enforcement agencies. It searched over 7,000 crime scene fingerprints against the database yielding positive identifications in over 600 cases.

Each State's capabilities differ. The system is a tierd system where searches are first done at the local level—police departments—since most criminals live in the same locality where they commit crimes—and unmatched prints are sent to the State level, and finally to the FBI. The latent data is collected by caseload where there could be from 1 to 100 latent prints per case.

A fairly good automated fingerprint system could match 15 to 20 percent of latent print cases at the local level leading to the identification of a suspect in the crime. The State level could match another 5 to 15 percent of the latent cases sent there. Currently, approximately 15 percent of the latent cases sent to the FBI identify a suspect. For example, in 1992, there were about 13,000 latent cases sent to the FBI. Of that, about 2,000 of the cases identified suspects. That's a 15-percent success rate. In those 2,000 cases, a total of 2,427 suspects were identified because in some cases there are multiple suspects. And currently, most of the identifications at the FBI level are not done through a modern automated system because the FBI doesn't currently have a very good automated system. That is why this system needs to be improved.

If a totally automated system were developed where the FBI can access every State system, with the most advanced equipment, we'll see an appreciable percentage of increased matches leading to the identification of additional suspects. The increase could range as high as 30 percent more matches made, depending on how good the system is to start with on the local and State level.

Using the 1991 50-State latent caseload as the base, I will give you an example of what this might mean in raw numbers. In 1991, in the 50-State latent cases, there were 113,085 total cases of which 43,038 cases were submitted to States' automated systems and of that, 6,400 suspects were identified through those systems. That is a 15-percent match rate at the State level in 1991. An improvement of 30 percent over that base would mean roughly 13,000 more suspects would be identified.

The fight on crime has many battlegrounds. We need to consider whatever advanced technologies in fighting that battle. Improving the automated fingerprint system is one tool that we must explore. This amendment will help us do that.

Mr. President, I ask unanimous consent that an article from the New York Times dated November 12, 1993, entitled "Fingerprint System Extends Arm of the Law" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Nov. 12, 1993]

FINGERPRINT SYSTEM EXTENDS ARM OF THE LAW

(By Margot Slade)

They thought they had gotten away with murder: the intruders who shot a Houston minister in his home in 1991; the man in Miami who ambushed a police officer in 1981; the one in Los Angeles who in 1963 strangled and bludgeoned a waitress during a burglary and attempted rape.

In each case there were no witnesses and nothing to connect the killers to the victims. There were, however, fingerprints. But investigators knew that it might take days, weeks, sometimes months, to identify the prints' owner—assuming they were on file.

But now a new technology is changing that. The automated fingerprint identification system, or Afis, is tracking criminals across the United States. And years after they committed their crimes, it is catching them.

"In under two hours the computers that power Afis can do what it would take a human being 159 years to complete—quickly identify culprits by searching through thousands, sometimes hundreds of thousands, of fingerprints on file to match a latent print taken from the scene of a crime with the prints of the person who did the deed," said Douglas D. Woodlee, the chairman of the Afis committee for the International Association for Identification. The association is made up mostly of law-enforcement officers and deals with the forensic sciences.

30-YEAR-OLD MYSTERY SOLVED

Debbie L. Benningfield, a fingerprint examiner with the Houston police department who has been working with the Afis technology since its inception, said investigators "are solving cases that were previously unsolvable, and by getting bad guys off the streets we're preventing crimes from happening."

In Los Angeles, for example, the police tested their new system in 1990 by having the computer compare the fingerprints of known criminals with those taken from the scenes of the department's oldest unsolved crimes. The search matched the prints of Vernon Robinson, who had some runins with the law about 20 years ago, with those found in the Hollywood apartment of Thora Marie Rose, a waitress who had been slain 30 years ago. Mr. Robinson faces 25 years to life in prison when he is sentenced next month.

Two years ago in Houston, intruders kicked in the door of a minister's house, then shot the minister when he went to investigate. "His wife was upstairs, so there were no witnesses, and the intruders left only some plastic bags, so there were no obvious clues," Officer Benningfield said.

But the bags yielded a fingerprint, which was run through Houston's Afis system. Within 24 hours, the police had a match, and an arrest. The culprit turned in his two companions.

ALMOST SMOKING GUN TO JURIES

Fingerprints are an old-fashioned tool for prosecutors, but one with considerable power, lawyers say. "Juries can identify with fingerprints, since they know about them from watching TV," said David Gilbert, deputy chief of the major crimes division of the State Attorney's Office in Dade County, Fla. "The only thing you have to prove is that the print was left during the commission of the crime."

Scott Nelson, chief of the felony trial division of the Cook County States Attorney's Office in Illinois, said he had prosecuted cases in which a fingerprint was the only major piece of physical evidence. "Defense attorneys are often left asking juries, 'Are you willing to send this man to prison based on a few ridges?" Mr. Nelson said. "I have found that juries have no problem answering, 'Yes.'"

Fingerprint evidence is becoming even more powerful as the systems for matching them link up with each other electronically.

Thirty-nine states and the District of Columbia, along with some 350 towns, cities and counties now use Afis technology, said Mr. Woodlee, who supervises the Tennessee Bureau of Investigation's records and identification unit. Ohio and New Hampshire are also planning to install the systems, he said. For a local or county jurisdiction, a basic system with installation and training costs $2 million to $4 million.

Over the next 10 years, the Federal Bureau of Investigation will be spending $600 million upgrading and extending its fingerprint imaging and matching system, steps in establishing a computerized national fingerprint file.

"With a database of 30 million unique cards—one for each person in our criminal files—and more than 32,000 fingerprint searches a day, we want to answer police department requests for fingerprint matching in hours, not in the two to three months it currently takes," said Peter T. Higgins, the deputy assistant director for engineering in the F.B.I.'s Criminal Justice Information Services Division.

Fingerprint search time with local and state-level Afis systems has been reduced to seconds. Although the systems differ depending on the vendor—Morpho, a French company, NEC Technologies Inc. and Printrak Inc. are the major suppliers—they work in essentially the same way.

Fingerprints, called latents, taken from a crime scene are scanned into a computer using a special magnifying camera. A fingerprint examiner then marks identifying characteristics, and the computer translates the resulting map into a digital code. With this data, the computer can quickly compare new prints with ones on file at rates faster than 1,800 prints per second.

If witnesses to the crime can describe the culprit, in terms of sex, race and age, for example, the computer can narrow the search.

Once the computer finds 20 top candidates, those prints are displayed on a screen so the examiner can conduct a side-by-side comparison.

"If they match, we go ring our cow bell," Officer Benningfield said. "Using computerized arrest records, we can attach a name and criminal history to the matching print and tell our officers who the culprit is."

The automated system can also start with known prints taken from a suspect arrested, say, for driving while intoxicated. "We scan in prints from all 10 fingers and initiate a search of other known prints to see if this person has been arrested before but under a different name," Officer Benningfield said.

She added, "You cannot imagine the pleasure it gives us to go to that person arrested on a D.W.I. and say, 'You want to tell us about that murder a few years ago?'"

ONE PRINT WAS ENOUGH

Police officers across the country say they have been experiencing that kind of pleasure with increasing frequency.

Lieut. John J. Burzinski, the Afis project manager for the Chicago police, tells of a 1991 slaying that "we never would have solved without Afis." Murderer and victim were strangers to each other. They met in a McDonald's and went to the victim's house, where the homicide occurred. "We just had a print taken from a vodka bottle," said Lieutenant Burzinski.

It was enough. "When detectives went to the guy's door," Lieutenant Burzinski said, "the man announced, 'I knew you'd get me."

Louis C. Davis, supervisor of the technical services detail in the City of Miami Police Department, recalls the 1981 slaying of Officer Nathaniel Broom, only three blocks from the police station. The officer had pulled over a car that was driving the wrong way down a one-way street. The driver ran; Officer Broom gave chase and was ambushed in an alley. "The car was stolen and there were no real witnesses," Mr. Davis said.

There was, however, a fingerprint lifted off the car door. "Forty-seven minutes after we ran the print through Afis, we had identified the officer's attacker," he said. "That man is now on death row."

The VICE PRESIDENT. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1151) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL addressed the Chair.

The VICE PRESIDENT. The majority leader.

Mr. MITCHELL. May we have order?

The VICE PRESIDENT. The Senate will be in order.

Mr. MITCHELL. Mr. President, there are four rollcall votes about to occur and I ask unanimous consent that these votes be limited to 10 minutes each.

The VICE PRESIDENT. Is there objection? Without objection, it is so ordered.

VOTE ON AMENDMENT NO. 1159

The VICE PRESIDENT. The question occurs on the motion to lay on the table amendment No. 1159 offered by the Senator from North Carolina [Mr. HELMS].

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. DORGAN] is necessarily absent.

The PRESIDING OFFICER (Mrs. MURRAY). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 31, nays 68, as follows:

[Rollcall Vote No. 376 Leg.]

YEAS—31

Akaka
Biden
Bingaman
Boxer
Bradley
Campbell
Conrad
Daschle
DeConcini
Durenberger
Feingold
Ford
Harkin
Inouye
Kennedy
Kerry
Kohl
Leahy
Levin
Metzenbaum
Mitchell
Moseley-Braun
Moynihan
Murray
Pell
Riegle
Robb
Rockefeller
Sarbanes
Simon
Wellstone

NAYS—68

Baucus
Bennett
Bond
Boren
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
Danforth
Dodd
Dole
Domenici
Exon
Faircloth
Feinstein
Glenn
Gorton
Graham
Gramm
Grassley
Gregg
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Jeffords
Johnston
Kassebaum
Kempthorne
Kerrey
Lautenberg
Lieberman
Lott
Lugar
Mack
Mathews
McCain
McConnell
Mikulski
Murkowski
Nickles
Nunn
Packwood
Pressler
Pryor
Reid
Roth
Sasser
Shelby
Simpson
Smith
Specter
Stevens
Thurmond
Wallop
Warner
Wofford

NOT VOTING—1

Dorgan

So the motion to lay on the table the amendment (No. 1159) was rejected.

Mr. HELMS. Madam President, I move to reconsider the vote.

The PRESIDING OFFICER. The question is on the underlying amendment.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I ask unanimous consent that the yeas and nays on the amendment be vitiated.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The question is on agreeing to the amendment.

The amendment (No. 1159) was agreed to.

VOTE ON AMENDMENT NO. 1199

The PRESIDING OFFICER. The question now is on agreeing to amendment No. 1199 offered by the Senator from New York [Mr. D'AMATO]. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. DORGAN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 74, nays 25, as follows:

[Rollcall Vote No. 377 Leg.]

YEAS—74

Baucus
Bennett
Bingaman
Bond
Boren
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Coats
Cochran
Conrad
Coverdell
Craig
D'Amato
Daschle
DeConcini
Dodd
Dole
Domenici
Exon
Faircloth
Feinstein
Ford
Gorton
Graham
Gramm
Grassley
Gregg
Hatch
Heflin
Helms
Hollings
Hutchison
Jeffords
Johnston
Kassebaum
Kempthorne
Kerrey
Lieberman
Lott
Lugar
Mack
Mathews
McCain
McConnell
Mikulski
Murkowski
Nickles
Nunn
Packwood
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sarbanes
Sasser
Shelby
Simpson
Smith
Specter
Stevens
Thurmond
Wallop
Warner
Wofford

NAYS—25

Akaka
Biden
Chafee
Cohen
Danforth
Durenberger
Feingold
Glenn
Harkin
Hatfield
Inouye
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Metzenbaum
Mitchell
Moseley-Braun
Moynihan
Murray
Pell
Simon
Wellstone

NOT VOTING—1

Dorgan

So the amendment (No. 1199) was agreed to.

Mr. D'AMATO. Madam President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Madam President, may we have order in order to hear this vote?

The PRESIDING OFFICER. The Senate will be in order.

VOTE ON AMENDMENT NO. 1160

The PRESIDING OFFICER. The question occurs on amendment No. 1160 offered by the Senator from New Hampshire [Mr. SMITH]. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. DORGAN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 26, nays 73, as follows:

[Rollcall Vote No. 378 Leg.]

YEAS—26

Bennett
Brown
Byrd
Coats
Conrad
Craig
Daschle
Dole
Domenici
Exon
Faircloth
Gramm
Grassley
Hatch
Helms
Hollings
Hutchison
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Sasser
Smith
Stevens

NAYS—73

Akaka
Baucus
Biden
Bingaman
Bond
Boren
Boxer
Bradley
Breaux
Bryan
Bumpers
Burns
Campbell
Chafee
Cochran
Cohen
Coverdell
D'Amato
Danforth
DeConcini
Dodd
Durenberger
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Gregg
Harkin
Hatfield
Heflin
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mathews
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sarbanes
Shelby
Simon
Simpson
Specter
Thurmond
Wallop
Warner
Wellstone
Wofford

NOT VOTING—1

Dorgan

So the amendment (No. 1160) was rejected.

Mr. DECONCINI. Mr. President, I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 1204

The PRESIDING OFFICER (Mr. MATHEWS). The question is on agreeing to the amendment No. 1204 of the Senator from Michigan [Mr. LEVIN]. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. DORGAN], is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 26, nays 73, as follows:

[Rollcall Vote No. 379 Leg.]

YEAS—26

Akaka
Chafee
Cohen
Danforth
Durenberger
Feingold
Glenn
Harkin
Hatfield
Inouye
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
McCain
Metzenbaum
Mitchell
Moseley-Braun
Moynihan
Murray
Pell
Sarbanes
Simon
Wellstone

NAYS—73

Baucus
Bennett
Biden
Bingaman
Bond
Boren
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Coats
Cochran
Conrad
Coverdell
Craig
D'Amato
Daschle
DeConcini
Dodd
Dole
Domenici
Exon
Faircloth
Feinstein
Ford
Gorton
Graham
Gramm
Grassley
Gregg
Hatch
Heflin
Helms
Hollings
Hutchison
Jeffords
Johnston
Kassebaum
Kempthorne
Kerrey
Lieberman
Lott
Lugar
Mack
Mathews
McConnell
Mikulski
Murkowski
Nickles
Nunn
Packwood
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sasser
Shelby
Simpson
Smith

Specter
Stevens
Thurmond
Wallop
Warner
Wofford

NOT VOTING—1

Dorgan

So the amendment (No. 1204) was rejected.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. For the information of the Senate, the Chair announces that under the previous order the habeas corpus provisions have been stricken from the bill.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1994—CONFERENCE REPORT

Mr. MITCHELL. Mr. President, I now ask that the Chair lay before the Senate H.R. 2401, the Department of Defense authorization conference report.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2401) a bill to authorize appropriations for fiscal year 1994 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1994, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of November 10, 1993.)

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. NUNN. Mr. President, would the Chair please review the time allocation under the unanimous-consent agreement?

The PRESIDING OFFICER. Under the previous order, the Senator from Georgia is allocated 40 minutes; the Senator from South Carolina [Mr. THURMOND] is allocated 40 minutes; the Senator from Arizona [Mr. MCCAIN] is allocated 30 minutes; the Senator from Ohio [Mr. GLENN] is allocated 15 minutes; the Senator from Virginia [Mr. WARNER] is allocated 15 minutes; the Senator from Michigan [Mr. LEVIN] is allocated 5 minutes; and the Senator from Nebraska [Mr. EXON] is allocated 5 minutes.

Mr. NUNN. Mr. President, I thank the Chair.

Mr. President, I would ask to be noticed after I have consumed 15 minutes.

The PRESIDING OFFICER. The Chair will so notify the Senator.

Mr. NUNN. Mr. President, I am pleased to lay before the Senate the conference report on H.R. 2401, the National Defense Authorization Act for fiscal year 1994. This conference report authorizes programs for the Department of Defense, the national security programs of the Department of Energy, and civil defense for fiscal year 1994.

The conferees have worked very hard for the last month to resolve over 1,600 language and funding differences between the House and Senate versions of this bill. Since the House did not complete action on this bill until September 29, we had to finish a difficult conference in a compressed period of time for this broad bill.

I want to thank Chairman DELLUMS, Congressman SPENCE, and the other conferees from the House for their cooperation in this conference. This was Chairman DELLUMS' first conference as chairman of the House Armed Services Committee, and I believe it was also Congressman SPENCE's first conference as the ranking Republican on that committee. As chairman of the conference this year, Chairman DELLUMS did an outstanding job of keeping the conference on track and producing what I believe is a solid conference report.

I also want to thank my friend and colleague, Senator THURMOND, the ranking minority member of the Armed Services Committee, as well as all of the members of the Armed Services Committee, for their cooperation and support throughout the year and throughout the conference. Senator THURMOND has served on a lot of Armed Services conference committees in the past, but this was the first one where he served as ranking minority member of the full committee. It has been a real pleasure working with him on the conference and on the committee throughout the year and, indeed, it has been a pleasure working with him every year since I have been in the U.S. Senate.

Mr. President, under the circumstances, this is a good conference agreement that continues the process of restructuring our Defense Establishment. I say "under the circumstances" because the conferees were forced by Congressional Budget Office scorekeeping rules to make reductions to the budget request of $2 billion in operation and maintenance programs and $4 billion in research and development programs. These reductions were on top of a $9 billion reduction in the fiscal year 1994 defense budget from the fiscal year 1993 level and deeper than I believe prudent.

I am concerned about the impact of these overall reductions on our near-term readiness and on our ability to maintain our qualitative and technological edge. We will depend on these advantages around the world in any kind of confrontation we may have. With the reductions called for in the defense budget over the next several years—and with the reduction we have made this year to the President's budget in order to meet the CBO outlay target—we have to begin to be concerned about the ability of our military forces to carry out their assigned missions. The warning lights are flashing in terms of our military strategy versus our resources, and in terms of our commitments versus our capabilities. This is something we are all going to have to watch very carefully, particularly when we begin work on the fiscal year 1995 Defense budget in just a few short months. I am hoping that President Clinton, Secretary Aspin and other top administration officials in the national security field will also take a new look at our defense commitments around the world, and a new look at the defense budget that they have projected and planned over the next 5 years.

FUNDING AUTHORIZATION

This conference agreement authorizes approximately $261 billion in budget authority for the national defense function for fiscal year 1994, which is about $2.5 billion below the President's request and the budget authority level for defense agreed to in the budget resolution.

This budget authority reduction was necessary because of a scorekeeping dispute between the administration and the Congressional Budget Office concerning defense outlays. As a result of this disagreement, the Armed Services and Appropriations Committees have been required to reduce defense outlays by approximately $2 billion below the level Congress agreed to earlier this year in the budget resolution.

Budget authority represents authority to spend funds and enter into contracts, while outlays are the amounts actually spent during the fiscal year. To reduce outlays by $2 billion, it is necessary to reduce budget authority by a larger amount, since not all budget authority is actually spent during one fiscal year.

This conference report was filed on Wednesday, November 10, and it was printed in the CONGRESSIONAL RECORD of that day. It has been available for Members and staff to review. I want to take a few moments to describe for my colleagues some of the most important provisions in the conference report.

SUBCOMMITTEE ON NUCLEAR DETERRENCE, ARMS CONTROL AND DEFENSE INTELLIGENCE

First, in the areas of strategic deterrence, arms control, and defense intelligence, the conferees fully funded most major procurement and R&D programs; subjected a number of near-term ballistic missile defense programs to reviews for compliance with the

Antiballistic Missile Treaty; and reduced the space and intelligence budgets in line with declining defense resources.

The Defense Department's heavy bomber program was one of the most difficult issues in the conference. On the B-2 bomber, the conferees agreed that it has met all of the required certifications and released for obligation $2.3 billion in prior year funds that had been fenced or withhold until certain conditions had been met. For fiscal year 1994, the conference agreement fully funds the B-2 budget request for procurement and research and development.

On the country's other heavy bomber, the B-1B, the conferees authorized $273.3 million for procurement and $49 million for research and development. Most importantly, we directed the Air Force to test whether the B-1B can achieve its required operational readiness rates if a test wing of B-1B bombers is assigned its normal levels of spares, maintenance, and personnel.

Unlike previous conferences, in which the funding level for the former strategic defense initiative was a contentious difference, the two Houses were very close in their recommendations for the new Ballistic Missile Defense Organization [BMDO]. The conference agreement reduced BMDO funding from the budget request of $3.8 to $2.6 billion.

SUBCOMMITTEE ON COALITION DEFENSE AND REINFORCING FORCES

The conferees approved a series of initiatives in tactical aviation with the goals of establishing an affordable program and improving joint service cooperation. The conference agreement terminates the Navy AFX Program and the Air Force multirole fighter. With the funds saved by canceling the AFX and accelerating the retirement of Navy A-6 attack aircraft, the conferees decided to upgrade Navy F-14 fighter aircraft with bombing capabilities. The conference agreement also authorizes $400 million for 12 F-16 aircraft, which will be the final procurement of this fighter for the Air Force.

The conferees agreed that a more comprehensive approach is needed to improve the U.S. military's ability to support peacekeeping and peace enforcement operations. In the meantime, the conferees took several actions to improve U.S. peacekeeping and peace enforcement capabilities. For example, we authorized $195 million above the budget request for a second JSTARS surveillance aircraft and $5 million for the Joint Chiefs of Staff to develop doctrine for peacekeeping and peace enforcement.

SUBCOMMITTEE ON REGIONAL DEFENSE AND CONTINGENCY FORCES

In the areas of regional defense and contingency forces, the conferees created an intertheater airlift program of $2.3 billion to select competitively the most cost-effective strategy for meeting our strategic airlift requirements. This program will set up a competition between the C-17 aircraft and nondevelopmental aircraft alternatives. The conference agreement authorizes funds for the procurement of four C-17's, but permits the Defense Department to choose to buy as many as six aircraft. The conferees also directed the Defense Department to begin immediately to implement one or more of the airlift alternatives. I believe it is important to start work quickly on the alternatives so that a meaningful competition with the C-17 can be established.

We all hope the C-17 is going to meet its requirements and be able to iron out its considerable problems. But that hope has to be matched by some reality. That is what we are trying to do in this series of alternatives.

In another significant initiative, the conference agreement includes funding to assist the U.S. shipbuilding industry in competing in the world market for commercial ships. The conferees authorized $50 million for a Maritime Technology Program. Maritech, as it is known, will fund, together with matching private sector funds, better ship designs, more effective production methods, and long-range research. A second component of this shipbuilding initiative is $147 million in loan guarantees, on a one-time basis, to support the export of U.S. commercial ships. Matched on a dollar-for-dollar basis by the Transportation Department, these loan guarantees will help our shipbuilders to compete in what is expected to be a large world market for commercial shipbuilding over the next several years.

Most important, it is the hope that this program will help facilitate the kind of industrial capacity that needs to be maintained in this country in order to meet unknown and unforeseeable military shipbuilding requirements in the future.

SUBCOMMITTEE ON DEFENSE TECHNOLOGY, ACQUISITION AND INDUSTRIAL BASE

In the areas of defense technology, acquisition, and the industrial base, the conference agreement maintains the momentum of the Defense Reinvestment and conversion Program enacted last year. The conferees added $300 million to the budget request of $324 million for the industry and technology portion of the conversion program. This increase will sustain funding for this important program at the fiscal year 1993 level.

The conferees also took other significant defense technology initiatives. We approved $150 million for the Strategic Environmental Research and Development Program, an increase of $50 million to the budget request; $15 million was added to increase the capacity of historically black colleges and universities to educate scientists and engineers. Finally, we added $20 million to the Defense Department medical research budget request of $180 million for research on women's health issues that relate to service in the Armed Forces.

Mr. President, I would like to point out that the conference considered these conversion and defense technology initiatives to be important enough to fund at the same time that the research and development budget request had to be cut by about $4 billion in order to meet the outlay target of the budget resolution.

SUBCOMMITTEE ON MILITARY READINESS AND DEFENSE INFRASTRUCTURE

In the areas of military readiness and the defense infrastructure, the outlay target of the budget resolution again forced the conferees to make funding reductions—in this case, about $2 billion in operation and maintenance cuts. The conferees encouraged the Secretary of Defense to reprogram funds from other areas of the defense budget if these reductions harm training or readiness.

This is an area of great concern. We have invited reprogramming because we do believe that there is going to be a severe squeeze in this area, based on the cuts that we were required to make.

Within these tight budget constraints, the conference agreement contains an additional $300 million to reduce the backlog of equipment overdue for repair and an additional $500 million for key readiness shortfalls, such as operating and training tempo. Offsetting reductions were made in the Defense Department environmental restoration funding; counterdrug programs; inventory levels; and foreign currency costs.

The conferees also agreed to a series of provisions that will allow the Defense Department and other Federal agencies to revitalize base closure communities. These provisions build on President Clinton's five-point plan for community recovery, and will:

Allow the Secretary of Defense to transfer or lease portions of properties on closing bases at no or reduced cost to local redevelopment authorities for economic reuse;

Expedite the DOD and Federal agency property screening process at closing bases so that impacted communities can begin a timely plan for economic redevelopment;

Direct DOD to work with State and Federal regulators to speed the environmental cleanup process at closing bases and focus on those parcels that are of greatest value for reuse; and

Provide planning grants through the Office of Economic Adjustment to local communities to prepare and implement economic redevelopment plans.

SUBCOMMITTEE FOR FORCE REQUIREMENTS AND PERSONNEL

In the areas of manpower and compensation, the conference agreement makes the prudent reductions in military personnel strengths called for in the budget request. At the same time, it protects the quality of life for service members, their families, and those who leave the military during the drawdown.

We are trying to protect the men and women in the military as much as possible under this difficult transition.

The conferees expressed their concern over the future end strength of the Army. In particular, we were not convinced that the Army's end strength can be reduced below its fiscal year 1994 level if the Army is to continue its various peacekeeping missions and maintain the capability to respond to two major regional contingencies nearly simultaneously, as called for in Secretary Aspin's Bottom-Up Review. Accordingly, the conference agreement specifies that the Army's strength may not fall below 555,000 before April 30, 1994, and thereafter only if the President certifies that Army forces can carry out their missions adequately. Furthermore, the active duty strength of the Army could not be reduced below 540,000 in fiscal year 1994, and thereafter only if the President certifies the Armed Forces can carry out their missions adequately.

Further, the active duty strengths of the Army could not be reduced below 540,000 in fiscal year 1994.

Mr. President, two significant general provisions should be mentioned. First, the conference agreement establishes a firm basis in law for the Defense Department policy on homosexuality in the Armed Forces. This provision is identical to the legislation contained in both the Senate and the House bills and is consistent with the Clinton administration's policy as set forth and articulated by Secretary Aspin and the Joint Chiefs of Staff in hearings before Congress.

A second general provision authorizes $10 million to continue an enormously important program. Speaking personally, I wish we could have put $20 million, $30 million, $40 million into this program. I urged that course but was not successful in getting more than $10 million. That is a program to continue military-to-military contacts between U.S. Armed Forces and the Armed Forces of newly democratic countries. These contacts assist the military forces of other countries in both their military role and, most important, in understanding the appropriate role of military forces in a democratic society. I consider this one of our most important opportunities and one of our most important programs. It is my hope that the Department of Defense, if they find they need more money—which I believe they will—will ask for a reprogramming in this area as well.

As the highlights of this conference agreement indicate, the conferees on the Defense authorization bill for fiscal year 1994 reached a sound compromise in very difficult circumstances. I recommend it to my colleagues for approval.

At the same time, however, I would like to reiterate my concern about the erosion in the Defense budget. The conference agreement we are considering today supports American soldiers, sailors, airmen, and marines who are operating in combat conditions over southern Iraq, off the cost of Bosnia, in Somalia, in Europe, in Korea, in Japan, and other strategic places in the world. But the readiness of these forces and the forces who are training to take their place is, I think, beginning to be threatened by disproportionate cuts in the Defense budget.

Mr. President, there has to be a wake-up call that we must either adjust our defense resources or our expectations of what our military will be able to do, because the two are going in opposite directions: One is shrinking while the other is growing. We are beginning slowly but surely to have a mismatch among our commitments and our capabilities, as well as the strategy that is supposed to link them. I hope that the administration and Congress will come to understand this fundamental problem and will work together to address it. I will be bringing it to the attention of the administration more and more. I am planning on speaking on this subject again in the near future, and I also will be communicating with the administration about some of the problems, not simply where we are but where we are going to be in 2½ or 3 years based on the budgets that are going to be coming down the line in the next year or two unless something is changed.

Mr. President, before I complete my remarks, I again want to thank Senator THURMOND and all the members of the Armed Services Committee, particularly those who have chaired the subcommittees and who have been ranking Republican members of those subcommittees, for their work on this conference report. This bill has grown so large that the vast majority of the work of the conference is done in panels made up of subcommittee memberships. Without the active participation of all the committee members, we could not have completed the conference successfully.

I also want to thank the staff of the Armed Services Committee for their hard work and outstanding help on this conference under the effective leadership of our staff director, Arnold Punaro, who is absent today, and David Lyles—these two have done a magnificent job—and Andrew Effron, who has done an outstanding job; and Dick Reynard, minority staff director. The majority and minority staffs have continued to work together under these fine leaders and have carried out the committee's tradition of bipartisanship by working closely together to carry much of the burden in this conference.

I would also like to add a special note of appreciation to Greg Scott and Charlie Armstrong of the Senate Legislative Counsel's Office, and Bob Cover, Sherry Chriss, Judy Sheon, and Greg Kostka of the House Legislative Counsel's Office for their excellent work on this bill.

One member of the majority staff deserves special commendation for the particularly heavy load he shouldered during this conference. When John Hamre left the committee staff last month to become comptroller of the Department of Defense, Creighton Greene stepped in and assumed John's responsibilities in addition to the already extensive duties he was performing. Creighton had staff responsibility for some of the most controversial issues and most important issues in the conference, such as the C-17 airlifter, the F-16 fighter, and the shipbuilding initiative. Needless to say, Creighton, as well as other staff members, worked long hours for many weeks and over almost every weekend for the last 6 weeks and handled his responsibilities extremely well.

Mr. President, too many people do not realize the amount of work that goes into this, particularly by the staff. I know I speak for my staff when I say they worked every single weekend for the last four weekends, as well as 70-hour weeks, and worked on Saturday and Sunday and many, many nights during the last 30 days. So I thank all of them for their superb work and for their sacrifice. They believe in our national security. They are dedicated to it, and that is the reason they are able to put out this kind of product and this kind of energy.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina [Mr. THURMOND] is recognized.

Mr. THURMOND. I yield myself such time that may be required.

Mr. President, I join the able chairman of the Armed Services Committee, Senator NUNN, in presenting to the Senate the conference report on the fiscal year 1994 national defense authorization bill. This report is the best compromise we could achieve considering the restrictions of the budget resolution and the scorekeeping rules imposed by the Congressional Budget Office. The conference report provides the necessary funding to sustain operations and to continue critical modernization of our Armed Forces although the overall funding level is, in my judgment, the bare minimum.

Mr. President, I am especially troubled over the $2 billion in reductions we were required to make in the operations and maintenance account to meet the outlay target of the budget resolution. This significant reduction comes at a time when our forces are still engaged in Somalia, patrolling off the coast of Bosnia, enforcing U.N. sanctions on Haiti, containing a still dangerous Saddam Hussein, and watching the activities in North Korea. I am concerned that we are walking a fine line in being able to sustain the readiness of our forces. In this regard, I am joined by many of my colleagues on both sides of the aisle in urging the administration to look more closely at the relationship between resources allocated and commitments of our forces as they develop the fiscal year 1995 defense budget. Otherwise, we face a return to the hollow force of the late 1970's and early 1980's, which may not be able to meet the security challenges of a still dangerous world.

We must also do better in reconciling the disconnect between the Office of Management and Budget and the Congressional Budget Office in scoring. Because of disagreements in accounting procedures, we are penalizing our operating forces. The budget submission is prepared based on Office of Management and Budget scoring. The Budget and Appropriations Committees make their allocations based on Congressional Budget Office scoring. When these two agencies are billions of dollars apart in their scoring, as they were this year, we find ourselves cutting essential programs to meet scoring targets. I am not attempting to address blame. I only urge that, in order to most efficiently apportion a reduced budget, the agency which guides the budget preparation and the agency which guides the congressional allocations work from a common base.

An additional concern is the $1.2 billion reduction in funding for the Ballistic Missile Defense Organization. These reductions are shortsighted in view of the continuing spread of missile technology and weapons of mass destruction. We are finding to our chagrin that mere diplomacy will not stop rogue regimes like Iraq, Iran, and North Korea from developing such weapons. We must maintain the option to render a chemical or nuclear tipped missile less threatening. In my judgment, only an effective missile defense system can do this job.

Mr. President, the distinguished chairman has provided a succinct summary of the conference report. I want to highlight those issues that I consider especially important to the Nation and our military forces.

The conference report provides for a 2.2-percent pay raise for our military personnel. Although not in the administration's request, this increase is critical to maintaining the morale and welfare of our men and women in uniform. We should all remember that at a time when we are drastically reducing our forces, we have them operating at a pace that is equal to that of the cold war. The legislation also makes into law the policy on homosexuals in the military; it supports the Senate's position on the B-2 bomber program, which is one of the more critical modernization programs for our military; it provides strong provisions to help those communities like Charleston, SC, that are being devastated by base closure; and finally, it implements a defense conversion program that is vital to maintaining the industrial base of the country.

Mr. President, I want to thank Senator NUNN, our distinguished chairman; Representative DELLUMS, the able chairman of the House Armed Services Committee; and, FLOYD SPENCE, my friend, counterpart, and fellow South Carolinian, for their cooperation and good work. It was this spirit of cooperation that made the conference agreement possible.

Mr. President, I also want to recognize the hard work of the Senate Armed Services Committee staff, the chiefs of staff, Gen. Dick Reynard and Mr. Arnold Punaro, and their House counterparts. They worked many long hours to assist us in resolving the hundreds of differences between the two bills.

I wish to pay special tribute to our able chairman, SAM NUNN, whose great ability, hard work, and dedication have contributed immeasurably to the national defense of this country and to the welfare of the men and women in uniform.

Mr. President, in closing, I urge my colleagues to join Chairman NUNN and me in supporting this conference report. Like most legislation, it is a compromise that will not please everyone. However, it does provide the essential resources our soldiers, airmen, sailors, and marines need to provide the defense capability that our citizens expect and deserve.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. NUNN. Mr. President, while we are waiting for other Senators who are going to speak on this conference report to come to the floor, I wish to call the attention of those of us in the Senate and in the Congress to a very important matter.

There has been a lot of concern in the Congress about the possibility that our service men and women may have been exposed to hazardous chemical agents and maybe even chemical weapons during the Persian gulf war. We are all well aware of the highly publicized oil well fires that engulfed large portions of the theater of operations in which our troops maneuvered.

We are also aware of reports by Czech Republic chemical defense units serving with coalition units that they detected small quantities of chemical agents on two separate occasions.

At this time, both the Defense Department and the Department of Veterans Affairs are trying to discover the causes of the ailment that has plagued U.S. personnel who served in the Gulf war. This ailment is commonly referred to as either the mystery illness or the Persian Gulf syndrome.

The conference report we have before us today includes a provision originally proposed by the Senator from Michigan [Mr. RIEGLE] that authorizes $1.2 million for the Secretary of Defense to study, in consultation with the Secretaries of Veterans Affairs and Health and Human Services, the effects of exposure to chemical agents including chemical warfare agents on Gulf war veterans.

I wish to congratulate Senator RIEGLE for his tremendous efforts in this important area and for his leadership.

We have asked Senator SHELBY, chairman of the Subcommittee on Force Requirements and Personnel of the Armed Services Committee to undertake an intensive look in this area. Senator SHELBY has been very active in this area. He has displayed a keen interest and insight. He is going to be traveling to Europe at my request next month to take an intensive look into this matter, and certainly anyone who has any suggestions or ideas I would suggest you contact either our committee or Senator SHELBY directly.

We are enormously concerned about the men and women who serve in our military. They sacrifice; many times they even sacrifice in ways we do not even imagine. I hope we will be able to work on this intensely. I hope the Department of Defense and Veterans Affairs will intensify their efforts. Our committee is going to stay on top of this.

I want to assure all the men and women who served in the gulf we are going to do everything we can to find out what the problem is and to do everything we can to help cure that problem as soon as we possibly can.

I wanted to call that to the attention of our colleagues because it is a matter about which I am sure many people are concerned.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, I suggest the absence of a quorum, the time to be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. GRAHAM. Mr. President, I ask unanimous consent that there be a period for morning business in which I can deliver a statement on a subject unrelated to that which is currently under the consideration of the Senate, and that no time be charged during the pendency of the morning business session.

Mr. NUNN. Reserving the right to object, how much time?

Mr. GRAHAM. For 5 minutes.

Mr. NUNN. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

NAFTA

Mr. GRAHAM. Mr. President, over the past several days, I have indicated that it is my intention to vote for the North American Free-Trade Agreement when it is presented to the Senate.

I would like to take this opportunity to briefly explain the basis of my decision.

As with most of my colleagues, I have looked at this issue both in terms of its impact on the Nation and its impact on our specific State.

In the case of the State of Florida, I have been particularly influenced by an analysis conducted by the Federal Reserve Bank of Atlanta relative to the effect of NAFTA on the State of Florida. This analysis indicated that almost every one of the major economic sectors of our State, from electronics and high technology, engineering services, transportation equipment, durable goods, tourism, and chemicals would benefit by NAFTA as it was originally written.

The one area in which the Federal Reserve study indicated the possibility of a negative effect was in agriculture. This has been an area of great concern to the Florida delegation. Over the past several weeks, the delegation has met many times with representatives of the administration to express our concerns.

As a result of that, the administration has come forward with a series of accommodations which have had the effect of softening the impact of the North American Free-Trade Agreement on some of our products which would be most vulnerable to increased competition.

The farmers of Florida are prepared to compete with any farmers anywhere as long as they are doing so under a set of parity standards of products and marketing. I believe that has been accomplished. And as a result of that, many of the major agricultural organizations in Florida, including the Florida Fresh Fruit and Vegetable Association, the Florida Citrus Mutual Sugarcane League, and others, have now indicated their support for the North American Free-Trade Agreement.

So I can say as a Floridian that the North American Free-Trade Agreement will be good for Florida, will create jobs in Florida, and will increase the economic opportunities for Floridians.

Mr. President, I believe that there is another issue that goes beyond the immediate economic calculation of the North American Free-Trade Agreement; that is, where does this decision place our generation of Americans in our national history? I believe that the North American Free-Trade Agreement has implications beyond its immediate economic considerations and goes to the question of a defining moment in terms of where we see ourselves and our Nation.

I believe that those choices that we are making in our vote on the North American Free-Trade Agreement include economic choices. Does America at the end of the 20th century see itself as a country whose future is going to be inward, protectionist, or do we see ourselves as an optimistic expansionist country which is prepared and is preparing itself to continue to be able to compete anywhere in the world?

It is also a cultural statement. Are we a nation which is now timid in the face of expanded competition, expressing that timidity in an appeal to a narrow nationalism, or are we culturally going to be a country which will grasp the opportunity that it has to lead in this post-cold-war era?

And it also is a political statement. It is a political statement in terms of where the United States priorities will be in the world.

I want to particularly, Mr. President, underscore the significance of the political statement that we are making to our nearest neighbors in the Western Hemisphere.

For most of this century, the countries of the Western Hemisphere have adopted their own form of protectionist economic policy, import subsidies, a reluctance to compete in a global marketplace. That set of practices resulted not only in authoritarian political rule, resulted in a tremendous disparity of the distribution of income between wealth and poverty, but also resulted in high levels of national debt and a backwardness to much of the economy of Latin America.

The last decade has seen a reduction of those old economic theories and a willingness for the major Latin American economies increasingly to compete, to grow, to export, and to—Mr. President, I would like to request an additional 3 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. EXON. Mr. President, reserving the right to object, I probably will not object; all Senators have very pressing schedules at this time. I certainly hope that the Senator from Florida will recognize that we are on the defense authorization bill.

So long as the time is not extended beyond 3 minutes, I will be glad to delay the people that I have waiting for me to accommodate my friend from Florida.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. GRAHAM. Thank you, Mr. President. I appreciate the courtesy of the Senator from Nebraska.

Mr. President, all over Latin America, that development of the last 10 years is now under challenge. There will be a series of elections throughout Latin America in the next few months, and in virtually every one of those elections the central issue will be should our Nation continue on the course of free markets and free enterprise or should we revert to our previous socialist status positions?

One of the determinative factors in those elections will be what we decide to do on the North American Free-Trade Agreement. If America sends a signal that it is turning protectionist and that it is going to be closing its economic borders to our neighbors throughout the hemisphere, it will embolden those forces that want to return their nations to their previous patterns of protectionist economies.

That will be very negative for the United States. It is very much in our interest to see that the new democracies in Latin America succeed, that the roots of democratic institutions deepen, and that their commitment to a free market is sustained.

Our vote on the North American Free-Trade Agreement will have a significant impact on whether that movement is aborted or whether it goes forward and achieves its ultimate potential.

Mr. President, every generation of Americans has faced its own particular challenge. In almost every one of those instances, there has been a very strong attraction to stay with the known, to stay with the comfortable, to eschew the future. America has been asked of our generation whether we have already reached our zenith; are we in historical terms now on the downhill of American history?

I reject that definition of where we are in American history. I believe that our generation will see a further expansion of these kinds of opportunities and growth and potentials for individual freedom.

This is a defining moment for our Nation. America is at its best when we are facing the future, not attempting to recapture the past.

That is fundamentally what is at issue with the North American Free-Trade Agreement. I look forward, with enthusiasm, to the opportunity to vote for it in the U.S. Senate. I believe that the American people will look back at this moment in our history and say that we were well served by those who represented us in positions of national responsibility at this point in time and that we grasped that opportunity to build an even greater America.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1994—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. EXON. Mr. President, I will not use all of my 5 minutes. I will then yield back what time I do not use to the manager of the bill, Senator NUNN from the State of Georgia.

Mr. President, first, I want to compliment, once again, our distinguished chairman of the Armed Services Committee, Senator NUNN, and his counterpart, Senator STROM THURMOND from South Carolina. I have worked with these two distinguished Members of the Senate for 15 years now on military matters, and suffice it to say I believe that it was a difficult task they had this year in coming to an agreement with the House on the different versions of the defense authorization bill, and their efforts were exemplary.

I compliment both Senator THURMOND and Senator NUNN for their tireless efforts, and I highly recommend that the Senate accept the conference report.

Having said that, Mr. President, I recognize and realize that there may be some legitimate complaints. There may be some very legitimate points about what was or was not done in this particular bill. Never have I seen a conference report on the defense authorization or other authorizations that was perfect. I simply say that this is a product of an awful lot of very difficult negotiations and hard work.

It may be true that we are cutting the defense authorization too heavily, but I believe that, collectively, on a bipartisan basis, the Senate authorizers came up with a very good plan and have maintained most of the elements of that plan to adequately protect and fund our national security as a result of the conference with the House. Once again, I say that I think they, collectively, in a bipartisan fashion, continue to be concerned about some of the earmarkings that we run into each and every year from the House of Representatives, earmarking certain funds, certain projects, certain pork barrel, certain pet schemes. We did not eliminate all of them in this particular bill, but we eliminated a great many of them.

If there is any one message, I hope that as we move forward to maintain a national security second to none in the world, we dedicate ourselves to this matter of earmarking, pork barreling that has reared its ugly head from time to time and again this year on the defense authorization bill.

Having said that, I reserve the remainder of my time and close again with a salute to the excellent efforts that have produced a good product under the leadership of Senator NUNN and Senator THURMOND.

I yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

PRIVILEGE OF THE FLOOR

Mr. MCCAIN. I ask unanimous consent that one of my staff members, Susan Hall, be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. Mr. President, I have addressed the Senate a number of times this year concerning the continuing decline in defense spending and its adverse impact on the readiness of U.S. military forces. In July, I published a report on this subject entitled "Going Hollow: The Warnings of Our Chiefs of Staff." My more recent comments have also focused on a serious problem in the congressional budget review process which result in the appropriation of funds for programs and projects which were not requested or authorized and which allow the Congress to earmark scarce dollars for special interest projects. I hope that my colleagues have had an opportunity to review my remarks and the information I submitted for the RECORD.

Mr. President, the importance of devoting adequate resources to national defense is heightened in the context of post-cold-war global instability and the potential threat of proliferation of weapons of mass destruction.

Today, as we consider the conference report on the fiscal year 1994 Defense Authorization Act, American soldiers are stationed in Somalia risking their lives at the request of their Nation. The Clinton administration is still considering a possible role for United States troops in the civil war in Bosnia. The possibility of United States intervention to restore the Aristide government in Haiti is still under discussion both within the administration and in the United Nations. Tens of thousands of nuclear weapons remain on the territories of Russia, Ukraine, and Kazakhstan. Regional conflicts around the world currently number almost 30, and some of these local skirmishes could escalate into a serious challenge to U.S. interests.

Countries like Iran, North Korea, and even Iraq, continue to seek the technology and materiels to develop weapons of mass destruction. Other nations remain eager to provide that technology, as well as the means to deliver these weapons against a potential enemy. Controlling the proliferation of weapons of mass destruction must remain a high priority on the national security agenda.

I am disturbed at media reports that some kind of concession is going to be made to North Korea. It is very disturbing to me and could set very dangerous precedent for the future.

I want to take this opportunity to express my serious concern about the Clinton administration's nonproliferation policies to date. The administration, while proclaiming its commitment to nonproliferation, has engaged in a large-scale relaxation of export controls on computer satellites, space launch vehicles, telecommunications technology, with potentially severe consequences to the U.S. national security.

To cite one example, the President announced a new policy on September 29 to allow U.S. computer manufacturers to freely sell, without export licenses of any sort, a powerful new generation of computers to almost any nation in the world, except those defined as "terrorist" countries, such as Libya, Iraq, and North Korea. Experts say that these computers can be linked together to perform as a supercomputer which can facilitate nuclear weapons design efforts.

This administration's justification for this new policy is that these computers are already widely available from companies in other countries and that U.S. export controls on these computers have hurt American computer firms financially. Less important to the administration, apparently, is the principle that the United States must set the example for other countries by restraining our business interests in the greater interests of national security.

By signing the Nuclear Nonproliferation Treaty, the United States promised that it would not in any way assist, encourage, or induce any nonnuclear weapon state in making a nuclear bomb. It seems to me that the President's new policy ignores our important obligations under the NPT in order to satisfy the demands of commercial competition. If we start to shirk our responsibilities, other nations will certainly feel free to do the same. I urge the President to reconsider this ill-conceived weakening of restrictions on potentially nuclear-related technology.

Mr. President, the administration is pursuing a dangerously weak policy toward North Korea. North Korea continues to stymie the efforts of the International Atomic Energy Agency to conduct inspections of its nuclear facilities. The administration responds with offers of carrots rather than sticks to induce better behavior in a renegade government that is eagerly looking for weakness in our response.

We should show North Korea that testing our resolve is not a productive exercise. We should insist that North Korea discontinue its nuclear weapons programs immediately; these efforts are a threat to the entire Pacific region. We should insist that North Korea comply with the inspections required under the NPT, and comply immediately. Economic and trade sanctions should be considered seriously. We should not cancel planned military exercises with our South Korean allies.

The Defense authorization conference report does contain a number of provisions which seek to strengthen nonproliferation efforts. It includes a provision which I proposed expressing the sense of Congress that space launch vehicles ought to remain strictly controlled. It also contains a provision which urges the President to pursue a number of specific actions to redress the dangerous situation in North Korea. I urge the President to review these provisions carefully.

Mr. President, proliferation is far too dangerous a threat to U.S. interests to be underestimated by accommodating diplomacy and single-minded commercial pursuits. Proliferation threatens our interests, those of our allies, and those of humanity. The control of proliferation is, and will long remain, the gravest challenge to U.S. security and world stability.

Mr. President, let me now address the defense budget. The decisions the Congress makes today will determine for many years our ability to play an effective role in word affairs and to protect our own security and that of our friends and allies. I fear that this bill endorses a continuing downward trend in the defense budget that will leave this Nation with insufficient resources to ensure our own security, much less that of our allies.

We all know that economic considerations have forced us to cut the military forces of this Nation. Real defense spending has declined steadily every year since 1985. According to the Congressional Research Service, we have cut defense spending, in constant 1994 dollars, from $388 billion in 1985 to $278 billion in 1993. The budget resolution requires that we cut the defense budget to $263 billion this year. This bill cuts that level even further—to about $261 billion.

Under the Clinton administration budget submitted earlier this year, defense spending would be reduced to $234.1 billion by 1998. This is a total cut in real defense spending of roughly 43 percent—in only slightly more than a decade. This is also more than twice the defense reductions proposed by candidate Clinton during the 1992 election.

Dollars for defense are scarce and getting scarcer. Because of these huge funding cuts, we are forcing hundreds of thousands of men and women out of the military. Our defense industrial base is being cut to the bone. We are accepting compromise after compromise in our military capabilities. The United States has eliminated all programs to modernize our strategic deterrent forces, even though a great degree of uncertainty exists as to the status of such programs in the former Soviet Union. We are cutting readiness, and some aspects of our forces are rapidly becoming hollow. We must draw the line, and draw it now.

Mr. President, I trust my colleagues saw the article in the Washington Post, on Saturday, November 13, 1993, entitled "Army Challenges Clinton Defense Cuts." This article, and a similar one in the November issue of Armed Forces Journal International, refer to information in an unclassified Army memorandum approved by Army Chief of Staff Gordon Sullivan, which identifies 57 major weapons and spending programs that will be eliminated and 63 that will be scaled back if the administration follows through on its plans to cut the defense budget by $88 billion over 5 years.

I ask unanimous consent that both articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 13, 1993]

ARMY CHALLENGES CLINTON DEFENSE CUTS AS SECURITY THREAT

(By John Lancaster)

The Army has mounted a vigorous challenge to the Clinton administration's program of defense cuts, warning in an internal document that planned reductions will leave the service "substantially weakened" and ultimately threaten national security.

The memorandum approved by Army Chief of Staff Gordon R. Sullivan identifies 57 major weapons and spending programs that will be eliminated and 63 that will be scaled back if the administration follows through on plans to cut the defense budget by $88 billion over five years. The outcome of these reductions may be a future force which does not possess the technological superiority required to prevail over all potential conflicts arising from the changing world order," said the document, which was completed last month and forwarded to the Pentagon's civilian leaders.

The Army requires additional resources if it is to meet continual demands for a technology superior response and, at the same time maintain the ability of respond to the likely range of threats.

Although some grousing from the military is inevitable given the scope of planned defense cuts the Army document is noteworthy both for its strident tone and for its explicit warning that the reductions threaten the nation's ability to fight and win wars.

In that regard, the document is an explicit challenge to Defense Secretary Les Aspin, who recently unveiled the administration's plan for a smaller more mobile post-Cold War military of 1.4 million uniformed men and women, compared with 1.6 million under the Bush administration's proposed "base force" plan. Aspin has said repeatedly that in spite of the cuts, the nation's military will retain its "combat readiness" and ability to fight and win two nearly simultaneous regional conflicts.

Aspin has described the "bottom up" review as a collegian, "broadly collaborative" effort in which the military services had substantial say. The memorandum makes clear, however, that the Army feels slighted by the process in comparison with the other services, especially the Marine Corps, which fares better under Clinton's plan than it did under President George Bush's proposal. The internal document was included as an unclassified addendum to the Army's secret Program Objective Memorandum, which outlines the service's proposed spending plan for the years 1995 through 1999. Portions of the addendum have begun to leak out in the defense trade press, and a copy was obtained by The Washington Post.

"We're not only on the razor's edge but in danger of falling off the razor's edge," said an officer on Sullivan's staff who asked not to be named. "I think there is a lot of recognition not only within the Army but outside the Army, on [Capitol Hill], that the bottom up review is flawed, that you can't get there from here."

A senior defense official, who also spoke on condition of anonymity, disputed such claims. He suggested the Army is feeling the pain of defense cuts more acutely than other services because it has not matched their successes in paring unneeded bases and overhead.

I don't think the Army has done as much as the Navy and Air Force in looking at their infrastructure," the official said. "They haven't done as much in retooling their overhead. . . . Why does the Army still have to have 17 separate branches? . . . These are basically people who work in offices."

Most of the hard choices have been postponed. On Wednesday, Congress passed a $261 billion defense spending plan for fiscal 1994, sharing modest $2.5 billion from the administration's request but deferring serious debate on the recommendations in the bottom up review until next year. The budget is about $12 billion smaller than the 1993 spending plan.

In a statement yesterday. Aspin thanked Congress for producing a budget that "largely protects the readiness of our forces."

Pentagon officials acknowledge, however, that over the long term Aspin will have a tough time fulfilling his pledge to maintain readiness, a broad category that includes everything from steaming hours logged by Navy ships to the availability of bullets and spare parts. At a briefing yesterday on the 1994 defense budget, a senior official said continuing military operations in places such as the Persian Gulf region and Somalia are draining operating funds that normally would be used to promote readiness. As a result, he said, the administration will ask Congress for a supplemental appropriation of $900 million to cover U.S. military operations in Somalia through March 31, the planned U.S. withdrawal deadline.

"I'm going to have readiness problems if we keep having contingencies and I have to eat it out of operating funds," the official said. "I'm having to make hard choices right now which brigades go to the National Training Center" in the Mojave Desert, where the Army conducts armored warfare exercises.

"Is there a readiness problem that we have right now," the official added. "I don't think so. But I sure worry about it."

The Army is especially gloomy on the prospects for modernizing the force. "Army modernization . . . is driven by a severely constrained fiscal policy." the memo said. "It forces the soldier's war-fighting capability far below the level of the Army's technological potential."

[From Armed Forces Journal, November 1993]

"BOTTOM-UP" BLOODBATH: THE 1995 BUDGET LOOMS

(By David Silverberg)

It is that season of the year when the leaves have turned, there's a nip in the air, all the Program Objective Memorandums (POM)s should be in and acquisition decisions made, and life should be proceeding smoothly on its inexorable course.

However, 1995 promises a fiscal bloodbath. A foretaste was delivered on 1 September when the Bottom-Up Review cancelled four major aircraft programs, cut funding for an aircraft carrier and 55 ships and submarines, and reduced uniformed personnel by 160,000. But it does not end there. An early forecast of future decision-making indicates that further cuts will be extensive and deep. Memoranda finalizing DoD decisions are due early this month and the services' POMs that set out the rationales for various programs promise little good news.

For example, the FY 95–99 Army POM kills 57 programs and systems and reduces another 63. Between 1995 and 1999, the Army's research, development, and acquisition programs as a whole will decline 17 percent from $62.5 billion to $51.8 billion. Tactical research and development will fall 12.5 percent procurement will fall 22 percent, from $40.6 billion to $31.6 billion.

Though couched in careful bureaucratic language, the bitterness that underlies the 1995 POM is obvious. While some critical programs were protected, their preservation does not mean they are adequately exploited or explored, and they must be weighed against other military funding cuts, the POM document notes. "The outcome of these reductions may be a future force which does not possess the technological superiority required to prevail over all potential conflicts arising from the changing world order, as the Army's ability to execute its mission becomes substantially weakened."

Major Army programs killed by the POM include: The Line-of-Sight Anti-Tank (LOSAT) program, the Non-Line of Sight (NLOS) program, procurement of the Tri-Service Standoff Attack Missile (TSSAM), procurement of UH-60 Black Hawk helicopters after 1997, Non-Cooperative Target Recognition, and Palletized Loading Systems after 1996. Further production of Multiple Launch Rocket System (MLRS) launchers will be halted, although research on an extended-range MLRS rocket can proceed further.

Even the most highly valued Army programs took hits: the Apache Longbow AH-64 C and D models will face a 1998 funding dip that will delay the conversion rate of helicopters to the D model, and the aircraft's fielding will be delayed in later years. While M1A2 tanks will be procured at 105 per year until the year 2005, modifications bringing the M1 and M1A1 to the A2 configuration will decline by 44 percent, and modifications will not be completed until 2020.

Compounding the pain of having to make cuts is the planners' in planning them. "OSD's [Office of the Secretary of Defense] biggest problem is that while living with the realities of the budget cycle, it has injected the Bottom-Up Review into that cycle and has given a whole new set of headaches to the planners who have been thinking about this for 12 months," Dov Zakheim, a former deputy undersecretary of defense, told *AFJI*.

Pentagon budget planners were given little guidance other than the bland pronouncement that the Bottom-Up Review established the levels and direction of Defense Department spending, according to DoD sources. The result is a somewhat shell-shocked budgeting corps.

New challenges are pending. Defense analysts and executives are expressing some concern that the administration's plan for comprehensive national health care could eventually impinge on the defense budget since other sources of revenue seem inadequate. Most observers, though, say that defense, having taken heavy past hits and buttressed by the strategic considerations of the Bottom-Up Review, is relatively immune.

However, Carol Lessure, a legislative analyst and the outreach director for the Defense Budget Project in Washington, said that any impact will depend on what kind of health care program emerges. If it requires a "pay as you go" system in which recipients pay for their care, it may avoid affecting the deficit. If, however, health care adds to the deficit, savings will have to be found elsewhere and the defense budget will be a likely candidate, she pointed out.

The services' POMs are not the last word on the '95 budget—that honor falls to Congress. But companies and members of Congress hoping to save programs during the 1995 fiscal year will face a grueling uphill battle . . . to say the least.

Mr. McCAIN. Mr. President, this internal Army document, which I have not been able to obtain yet, is quoted extensively in the Washington Post article. Let me just read some of the more alarming points contained in the memo:

> The Army requires additional resources if it is to meet continual demands for a technologically superior response and, at the same time, maintain the ability to respond to [the likely threats].
>
> The outcome of these reductions may be a future force which does not possess the technological superiority required to prevail over all potential conflicts arising from the changing world order. * * *
>
> Army modernization * * * is driven by a severely constrained fiscal policy. * * * It forces the soldier's war-fighting capability far below the level of the Army's technological potential.

Mr. President, those words are extremely alarming, extremely alarming.

These warnings by the Army echo exactly what was said earlier this year by the Chiefs of Staff of all the Services. Their comments are contained in my July 1993 report on military readiness.

Mr. President, it is not very pleasant reading, but it is a candid response on the part of the services. For example, General Mundy, the Commandant of the Marine Corps, warns that the Marine Corps is underfunded by $101 million it needs to compensate for readiness funds used to maintain peacekeeping forces and operations in Bangladesh and Somalia. Current backlogs cost $3 million. Combat training is underfunded by $7.8 million. The Marine Corps only received $115 million of $230 million in cash transfers. The Marine Corps reached a critical point in modernizing medium lift, et cetera, et cetera. It goes on and on from all of the services.

I frankly am very grateful that these men and women who serve in the military are candid enough to tell the Congress and the American people of the challenges, the difficulties, and frankly the disaster that may lay ahead of us in our military forces. That has not always been true in the history of this country, and I especially applaud those members of the military who are willing to step forward before it is too late because this time, Mr. President, we will not say in the Congress that we were not warned. We will not say that the members of the uniformed military did not tell us of the problems that lie ahead of us as we find every possible way to spend our taxpayers dollars except on this Nation's national security.

This bill, and the appropriations bill which I voted against last week, endorse a funding level which is inadequate to meet potential challenges to our future security. The cuts in operation and maintenance in this bill are over $2 billion below the request. Research and development, which ensures the future technological superiority of our forces, is cut nearly $4 billion below the request.

These cuts threaten the integrity of a necessarily smaller defense structure. Training, recruiting, spare parts, maintenance—all of these areas vital to the readiness and sustainability of our Armed Forces will suffer in the future.

These cuts threaten the long-term security of our Nation and its citizens. They drive highly skilled men and women out of the military services, including many minorities, and make it more difficult to attract capable men and women to the military as a career. They rob the men and women who work in technical and support jobs in defense industries of their livelihoods.

Mr. President, I understand that reductions of this magnitude were necessary because of an arcane scorekeeping dispute between OMB and CBO, and I share the concern and disappointment of the conferees at the unwillingness of the parties involved in scorekeeping decisions to attempt to resolve this dispute. But I cannot support these further cuts in a budget request which was already cut to the bone.

Mr. President, as my colleagues know, I stated my opposition to the appropriations bill's earmarking of scarce defense dollars for Members' special interest items. And I offered an amendment intended to start remedying the problems of earmarking. I thought that, at least, my colleagues on the Appropriations Committee, having accepted the amendment, would take to heart its intent. Unfortunately, that was not the case. My amendment to permit competitive award of contracts and grants was dropped in conference.

The Defense authorization conference report before the Senate today avoids many of these kinds of problems which were so evident in the appropriations bill. For example, it provides $2.553 billion in defense conversion dollars, and it appears that none of these funds are earmarked for special interest items as they were in the Defense appropriations bill. This bill provides funding for manufacturing technology programs, university research projects, and technology reinvestment programs—all of which will be awarded based on competition and merit-based selection. This bill includes $20 million for a Defense Women's Health Center, but contrary to the House earmarking of these dollars, this conference agreement permits the Secretary of Defense to determine whether and where to establish such a center. And there are many other responsible decisions of the conferees contained in this measure.

However, there are also a number of highly objectionable provisions contained in the Defense authorization conference report. Because of these provisions, and because the level of funding is inadequate, I am compelled to vote against its adoption.

Mr. President, the most egregious example of a pork barrel project is the *Seawolf* submarine program—a $5.2 billion boondoggle. I argued during the floor debate on the Defense appropriations bill for a cost cap on the two submarines currently under production and a prohibition on wasting any more taxpayer dollars to build a third *Seawolf* submarine. The Senate agreed to my amendment to impose fiscal responsibility on the Navy and GE's Electric Boat Division for the first two submarines, but the conferees dropped the cost cap at the request of the Navy. So the cost of these two submarines will continue to increase above current, unacceptable overruns.

I am also disappointed that this authorization conference report contains language in section 121 which authorizes the expenditure of $540 million previously appropriated for the submarine industrial base to procure long-lead items for a third submarine or to pay the costs of canceling this very same submarine last year. So in addition to building a third submarine—for $5.2 billion—the contractors can also collect money for not building that third submarine. This is an outrageous provision, and I am amazed that the conferees included this language in the authorization bill.

Mr. President, during the conferees' deliberations on this matter, a staff member actually called this provision which I have just described a good government solution to the submarine industrial base issue. And that staff member should be ashamed. What in the world could be considered good about a decision to buy a $5.2 billion submarine which we do not need, which we cannot afford, and which sacrifices necessary defense programs and jobs in several States to satisfy constituent interests in Connecticut.

It is also a compelling reason, Mr. President, why markups and conferences should be made open to the public of America. The cold war is over. I believe it is time that the American people saw the incredible power of the staff members of the Senate Armed Services Committee and how little power the members who are elected by the people, as opposed to the unelected, have in the decisionmaking process.

In the early 1980's, the Congress raised the Federal insurance limit on individual depositor's savings and loan accounts to $100,000. This was billed as a good government, good public policy decision to guarantee that Americans' life savings would be ensured against loss. But by the end of the 1980's, American taxpayer with the $150 billion tab for these failed institutions. Why? Because, by removing all risk, the Government eliminated any incentive for these savings and loans to run efficient, well-managed operations.

Mr. President, the Congress is doing the same thing with the *Seawolf* program. Congress has signaled its unwillingness to control the costs of this program. Therefore, neither the Navy nor electric boat has any incentive to manage the costs and schedule of this program, because the Congress will continue to appropriate taxpayer dollars for every cost overrun or schedule slip, with no limit. This is not good Government. It is irresponsible Government. The *Seawolf* program should be terminated, and I intend to continue to try to do so at every opportunity in the future.

I might add, Mr. President, that I received a letter from the Secretary of the Navy saying exactly what those costs could be. I put the caps in at those costs, and the Congress cannot even agree to that.

Mr. President, I was also disappointed that the authorization conferees chose to earmark a large portion of the additional funds provided for modernization of the National Guard and Reserve. Over $990 million was added to this bill for Guard and Reserve equipment. In the Senate bill, this money was provided for general categories of equipment, and the decision on the specific items most vitally needed by Guard and Reserve units was left to the discretion of the Guard and Reserve themselves. The House, on the other hand, had identified every item that was to be procured with these dollars.

I applaud the efforts of the Senate Armed Services Committee to eliminate the pork-barrel set-asides which are usually included in the Guard and Reserve accounts. Permitting the Guard and Reserve leadership to determine their own priorities is the correct procedure, in my view, because these organizations know best what they need most, not the Congress.

However, in this conference agreement, roughly half of the nearly $1 billion in additional dollars is earmarked for specific weapons systems. I am dismayed, but sadly not surprised, that the conferees fell back on the usual pork-barrel approach to ensuring contracts for their constituents and guaranteeing equipment to their local Guard or Reserve units. I cannot support this reckless affirmation of the business-as-usual waste of scarce resources.

I want to point out, again, Mr. President, that as we are earmarking these pork-barrel projects, we are, at the same time, telling thousands of young men and women who joined the military for a career, who seek to remain as honorable members of the service, that we cannot afford to keep them.

Mr. President, the Congress' priorities are skewed and skewed very badly.

Finally, Mr. President, absent any open discussion or public hearings, the chairman of the Force Requirements and Personnel Subcommittee included in this conference report a provision to privatize service academy preparatory schools, over the objection of the service Secretaries, the superintendents of the service academies, the Department of Defense, and everyone else who was familiar with it.

Of particular concern to me is that this is a short-term, stop-gap measure intended to remedy decreasing enrollment at private preparatory schools throughout the United States. In other words, this is a special interest, pork barrel program which will, I predict, benefit a very few members of the committee at the expense of educational quality in our military preparatory schools and, consequently, the quality of our Officer Corps.

The GAO, after investigating this issue, recommends that this action not be taken.

Service academy preparatory schools, in Colorado, New Jersey, and Rhode Island, are absolutely vital in helping prepare women, enlisted personnel, and minority candidates—especially African-American males—for the service academies who otherwise would not have the opportunity. For example: at the Naval Academy, 53 percent of the African-American students went through the Naval Academy Preparatory School, at the Air Force Academy, 50 percent of the African-American students went through the Air Force Academy Preparatory School, at West Point, 34 percent of the African-American students went through the Military Academy Preparatory School.

Personally, in letters sent to me, the superintendents of the service academies have stated that the rates of minority cadets and midshipmen could not be maintained if they had to rely on private preparatory schools. These superintendents, two- and three-star general and flag officers confirmed by the Senate as fully qualified and the best candidates for their positions, are extremely concerned about the lasting negative impact that this provision will have on minority recruitment and equal representation at the academies.

Mr. President, an issue raised by the proponents of privatizing the prep schools is cost savings. However, the GAO has stated that current cost-saving initiatives by the services will reduce costs to the preparatory schools by at least one-half of what they originally reported to Congress. In recent data provided to me, service academy preparatory school costs are right in line with private preparatory school tuition. The GAO has stated to me that they recommend delaying any test program for privatizing the preparatory schools until a revised baseline that reflects several cost-saving initiatives is completed to permit a more meaningful comparison. Furthermore, they went on to say that any such test now would be meaningless and wasteful because it would have to be repeated to obtain new cost data.

Again Mr. President, let me remind this body, this provision for a test program to privatize service academy preparatory schools as written has nothing to do with achieving cost savings or making the service-operated academy preparatory schools more efficient. It is, however, all about pork barrel spending. The effect will be to deny an equal opportunity for minority men and women who wish to serve their country and graduate from one of our Nation's prestigious military academies—an opportunity that we should do everything we can do to encourage.

Mr. President, I have served on the Armed Services Committee for nearly 7 years now. It is a committee of responsible members with an abiding interest in preserving the security of our Nation. I congratulate the chairman and the ranking member for their outstanding efforts once again to achieve some balance among the members of the committee and in deliberations with the House of Representatives.

The specific programs to which I have objected today would not, in and of themselves, cause me to oppose this measure. But a vote for this conference report is, in my view, a vote to acquiesce to a continuing decline in the defense budget. That I cannot do.

Mr. President, I must again sound a warning. We are cutting defense too quickly and too deeply. We are harming the readiness of our military forces, the men and women who today form the best and most effective fighting force in the world. We are putting in jeopardy the future security of this country and our ability to positively influence the course of world events. We must not allow ourselves to ignore the slow but steady decline in the capabilities of our Armed Forces which will occur if we continue to allow this reckless decline in the defense budget. I urge my colleagues to join me in making clear our opposition to the administration's defense budget cuts. I urge my colleagues to vote against the Defense authorization conference report.

Mr. President, I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER (Mr. KERREY). The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I asked for 5 minutes, and I yield myself 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I have voted for every Defense authorization bill that came to this Senate since the day I first arrived almost 21 years ago. I am going to vote against this one today.

Frankly, it is nothing more than a protest vote. I do not know that I could produce a better bill than the distinguished chairman and ranking member. But, frankly, I want to go on record indicating loud and clear that we are moving in the wrong direction. We are cutting defense far too fast. We are going to end up regretting it.

I would like to open by suggesting that the November 13, 1993, edition of the Washington Post has an article, "Army Challenges Clinton Defense Cuts as a Security Threat." This article goes into some detail as to how the Army thinks that is the case, from the top of the Army, General Sullivan, to those who advise him.

I ask unanimous consent that the text of that article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 13, 1993]

ARMY CHALLENGES CLINTON DEFENSE CUTS

(By John Lancaster)

The Army has mounted a vigorous challenge to the Clinton administration's program of defense cuts, warning in an internal document that planned reductions will leave the service "substantially weakened" and ultimately threaten national security.

The memorandum approved by Army Chief of Staff Gordon R. Sullivan identifies 57 major weapons and spending programs that will be eliminated and 63 that will be scaled back if the administration follows through on plans to cut the defense budget by $88 billion over five years. "The outcome of these reductions may be a future force which does not possess the technological superiority required to prevail over all potential conflicts arising from the changing world order," said the document, which was completed last month and forwarded to the Pentagon's civilian leaders.

"The Army requires additional resources if it is to meet continual demands for a technologically superior response and, at the same time, maintain the ability to respond to" the likely range of threats.

Although some grousing from the military is inevitable given the scope of planned defense cuts, the Army document is noteworthy both for its strident tone and for its explicit warning that the reductions threaten the nation's ability to fight and win wars.

In that regard, the document is an explicit challenge to Defense Secretary Les Aspin, who recently unveiled the administration's plan for a smaller, more mobile post-Cold War military of 1.4 million uniformed men and women compared with 1.6 million under the Bush administration's proposed "base force" plan. Aspin has said repeatedly that in spite of the cuts, the nation's military will retain its "combat readiness" and ability to fight and win two nearly simultaneous regional conflicts.

Aspin has described the "bottom up" review as a collegial, "broadly collaborative" effort in which the military services had substantial say. The memorandum makes clear, however, that the Army feels slighted by the process in comparison with the other services, especially the Marine Corps, which fares better under Clinton's plan than it did under President George Bush's proposal. The internal document was included as an unclassified addendum to the Army's secret Program Objective Memorandum, which outlines the service's proposed spending plan for the years 1995 through 1999. Portions of the addendum have begun to leak out in the defense trade press, and a copy was obtained by The Washington Post.

"We're not only on the razor's edge but in danger of falling off the razor's edge," said an officer on Sullivan's staff who asked not to be named. "I think there is a lot of recognition not only within the Army but outside the Army, on [Capitol Hill], that the bottom up review is flawed, that you can't get there from here."

A senior defense official, who also spoke on condition of anonymity, disputed such claims. He suggested the Army is feeling the pain of defense cuts more acutely than other services because it has not matched their successes in paring unneeded bases and overhead.

"I don't think the Army has done as much as the Navy and Air Force in looking at their infrastructure," the official said. "They haven't done as much in retooling their overhead. * * * Why does the Army still have to have 17 separate branches? * * * These are basically people who work in offices."

Most of the hard choices, in any event, have been postponed. On Wednesday, Congress passed a $261 billion defense spending plan for fiscal 1994, shaving a modest $2.5 billion from the administration's request but deferring serious debate on the recommendations in the bottom up review until next year. The budget is about $12 billion smaller than the 1993 spending plan, Bush's last.

In a statement yesterday, Aspin thanked Congress for producing a budget that "largely protects the readiness of our forces."

Pentagon officials acknowledge, however, that over the long term Aspin will have a tough time fulfilling his pledge to maintain readiness, a broad category that includes everything from steaming hours logged by Navy ships to the availability of bullets and spare parts. At a briefing yesterday on the 1994 defense budget, a senior official said continuing military operations in places such as the Persian Gulf region and Somalia are draining operating funds that normally would be used to promote readiness. As a result, he said, the administration will ask Congress for a supplemental appropriation of $300 million to cover U.S. military operations in Somalia through March 31, the planned withdrawal deadline for U.S. troops in that country.

"I'm going to have readiness problems if we keep having contingencies and I have to eat it out of" operating funds, the official said. "I'm having to make hard choices right now which brigades go to the National Training Center" in the Mojave Desert, where the Army conducts armored warfare exercises.

"Is there a readiness problem that we have right now?" the official added. "I don't think so. But I sure worry about it."

The Army memo is especially gloomy on the prospects for modernizing the force. "Army modernization * * * is driven by a severely constrained fiscal policy," the document said. "It forces the soldier's war-fighting capability far below the level of the Army's technological potential."

Mr. DOMENICI. Mr. President, throughout our country's history, after the battles that we fight, we find that we run hastily toward downsizing the military.

When George Washington became President of the United States, he did all that he could to talk the First Continental Congress out of dismantling the Continental Army. The Congress did not take the advice of President Washington. They dismantled the Army down to 80 people. They had 55 people at West Point and the other 25 were at Philadelphia.

The British took notice of this after a few years and they came to Washington; they burned down the White House and tried to burn the Capitol. We almost lost, because we cut too fast.

We were ill prepared for World War I. We dismantled after World War I. We were not prepared for World War II. We trained soldiers with wooden rifles and, believe it or not, the first armored battalion was paid for out of the private funds of a very wealthy general, George Patton, who bought the parts from the Sears Roebuck catalog. In fact, when he died those receipts were found among his prized possessions. The first tank battalion operated only because he bought spare parts. Otherwise it would not run. They had run out of operation and maintenance funding, just as we are heading in that direction now with the kind of dollars that are being allocated for defense.

Again, we dismantled after World War II, and we found ourselves in the middle of the Korean conflict. We all know that is sort of our unremembered war. We tend to forget it. But thousands of casualties occurred, and most experts say that at least half of those would not have lost their lives had we been prepared. We were sending untrained, underarmed, ill-prepared troops into combat. And they did not have the equipment that we should have had in their hands and at their disposal.

The Senate is well familiar with the accomplishments of the F-117 during the Persian Gulf war. It may not be known that the commander of the wing, Cornell Whitley, while trying to inspire his troops in battle told them not to worry because "we are all well equipped."

Cornell Whitley's counsel to his men runs through my mind constantly. As he indicated, "Don't worry, we are all well equipped," it brings to mind statements of another distinguished combat veteran who went on to become President. His name was Dwight David Eisenhower. He once said that one of the things he tried to do very hard as a leader of men was "to not make mistakes too quickly."

Today we find ourselves in the same position that we found ourselves during the First Continental Congress, at the end of World War I and II. I must tell you, the words of Colonel Whitley and President Eisenhower ring louder than ever. "Not to worry, we are all well equipped." "Don't rush to make mistakes too quickly."

We cannot afford to fool each other any longer. This so-called "Bottom-Up Review" is really a "Bottom-Out Review." We cannot allow the superiority of our Armed Forces, the magnificence of our military manpower, to bottom out.

The Clinton administration admits that the allocation of funding in the future years defense plan is $13 billion short of the force structure requirement over the next 5 years. This is only part of the story.

I ask if I might have 2 additional minutes?

Mr. THURMOND. Mr. President, I yield the Senator 2 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. The administration does not include the military pay raise in their "Bottom-Up Review." We granted it. They did not include it. That is an another very large amount of money. They do not include increased costs for CHAMPUS, the medical program for those men and women who are entitled to it because of service. The Odeen Panel Report says we are about $13 billion short of what will be necessary for the environmental cleanup Defense will have to conduct. This is not included in the "Bottom-Up Review" either.

Finally, the gap between what is assumed will be saved from the defense management review and what will actually be saved cannot even be determined at this point. This all adds up. Some estimates, and I think they may even be low, have ranged between an additional $50 to $60 billion. Where will this money come from? In other words, what allocation of funding the "Bottom-Up Review" proposes for the military of the future will be inadequate to deal with what it says is necessary in terms of force structure, and in addition those numbers are probably $50 to $60 billion short at the minimum because of the problems I outlined above.

What is going to happen? We are not going to find that money anywhere because we are too insistent on spending it for other things. We will cut the Defense Department even more.

I rise to oppose this bill, not because I believe the managers, with the money allocated, could do a better job. But I rise in protest of what I see happening to the U.S. military, to those who serve us and those of us who are proud of them and do not want to ever let them get caught short again.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, I yield 5 minutes to Mrs. HUTCHISON, the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I rise to support the conference committee report, but I am doing so with reservation that I may not support the cuts that this administration envisions in 1995, and I want to serve notice right now.

Many people say the cold war is over. "My goodness, why should we not be backing off of defense expenditures?"

Now is the most dangerous time of all to back off of defense expenditures. I saw an article in the Dallas Morning News this weekend. It was an interview with the former Prime Minister, Margaret Thatcher. She just said in answer to a question:

> Now, when something like the end of the Cold War happens—and it happens because a great evil empire collapsed—it's not a time when peace breaks out. People are mistaken if they think it is.
>
> It's a time of great danger because you had that evil empire suppressing many, many of the ordinary national feelings. And also you had several of their client states no longer under their yoke which, I'm afraid for the wrong reasons, they've become free to pursue their own ethnic or racial or cultural objectives.

In fact, as of November 12 of 1993, there were 36 armed conflicts all over the world; since World War II ended in August of 1945, there have been 3 weeks of peace in the world.

We have to look at the expenditures we are making—and all of us want to cut the budget—but we must cut defense responsibly, and I think we are cutting too far too fast. The Senator from New Mexico talked about several instances where we have gone to a hollow force. No one can forget, as recently as 1980 we could not get six helicopters to work in Iran to rescue our own hostages.

I am concerned about research and development. You remember people said at one time we should not spend any money on defense missile systems, "Why would we need defense systems? That would never be a possibility." But look at Desert Storm. We all remember watching as the Scud missiles would come, up would come the Patriots to make sure that those Scud missiles did not land.

Now, through research and development, we are making the Patriot missiles even more accurate and they are going to work even better the next time we need them. But if we do not put the resources there to make sure, they may not be there and they may not be accurate enough. And that would be unthinkable.

We have to have a military strength since we are the only superpower left in the world that is a fighting strength, not a paper strength. We have the world's best trained military, the best trained Army, Navy, Marine Corps, Air Force. But we cannot allow any diminution of that because if we do this will not be a world where there is one superpower, but this will be a world where there are several minipowers.

I do not want to be part of several minipowers. The only way we will maintain freedom throughout the world is if the United States stays strong and firm. And the only way we can stay strong and firm, to make sure we are free and so is the rest of the world, is to make sure that our defenses are strong, that our military is strong.

So I have reservations about this bill today, but I think we have done all right. I think there could have been some improvements, but we are OK. But I am not ready to say that in 1995 and 1996 and 1997 these cuts that are envisioned are in the best interests of our country. So I am going to watch very carefully how it goes this year, and how we are able to function with the cuts that we have.

I am just serving notice, along with many of my colleagues, that we cannot cut our research and development, we must have the systems, we must have the personnel; our personnel must be well paid and well trained; and only then will we remain a superpower and only then will we be sure our country will remain free.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I believe I have been allocated 5 minutes under the UC agreement.

The PRESIDING OFFICER. The Senator is correct.

Mr. LEVIN. Mr. President, first of all, let me commend Senators NUNN and THURMOND for their leadership on our committee again. They have done a bipartisan job on an important bill. I commend both of them for it. It is a pleasure working with both of them.

This conference report has many important initiatives. Some have been described already. In one area, I want to put a little more focus, and that is the effort to improve the ability of the United States to participate effectively in peacekeeping and peace enforcement missions with other nations. Section 1501 of the conference report extends through fiscal year 1994 the transfer authority which we established last year. Up to $300 million may be transferred by the Secretary of Defense for unanticipated international peacekeeping expenses that arise, if several other conditions are met. This provision is not meant to relieve the administration of its obligation to develop a comprehensive and effective financing system for these activities. The United States is not only in arrears on our general dues to the United Nations, but is lagging behind in its assessments from the United Nations to support peacekeeping missions around the globe.

We have tried for several years to elicit a long-term budget plan from the administration and to encourage a comprehensive U.S. policy on multinational peacekeeping and peace enforcement.

Section 1502 of the conference report requires that the President submit a report addressing all of these issues by April 1 of next year, so we expect to have this report in hand as Congress deliberates on next year's authorization act.

Recent events in Somalia and elsewhere have poignantly underscored the need for the United States to develop and exercise command and control procedures and doctrine for joint operations with military forces of other nations. These tools need to be developed and experimented with in advance, not tested on the ground when lives are on the line. So this bill establishes and funds Peace Enforcement Doctrine Development Center which will make use of the U.S. military's sophisticated simulation systems for working out operating concepts and procedures for integrated multinational peacekeeping and peace enforcement missions.

The House agreed to this Senate initiative which will enable our military personnel to simulate and to test doctrine, operational concepts, procedures, and command and control arrangements in a laboratory in advance of any deployment. This effort will complement the Joint Simulation Center for war-fighting concepts and doctrine development, which the conference report also authorized at the behest of the Joint Chiefs of Staff. The Chiefs, under Colin Powell, determined that they needed a simulation center to help develop doctrine for joint warfighting operations among the services, and we are providing for that center in this bill.

We have all struggled, Mr. President, to find the appropriate response to the tragic events in the former Yugoslavia where devastation and ethnic cleansing continue to take a desperate toll. This conference report takes one important step by placing into permanent law the sanctions that the executive branch has imposed against Serbia. We intend by this action to send a signal to Serbian President Milosevic that the lifting of the sanctions against him by the United States is going to require both the Congress and the President to be satisfied that appropriate conditions for the lifting of those sanctions have been met and to pass a law lifting those sanctions.

We are going to do what we can to make sure that violations of international law are not rewarded. This additional hurdle which we are placing in the way of the lifting of those sanctions is, hopefully, going to be a strong signal to the Serbs that the international community is going to do what it can to see to it that their aggression is not rewarded.

This conference report also contains a provision designed to insure that the United States receives a fair portion of the residual value asssociated with military bases that we are closing overseas. With respect to facilities returned by the United States government to the Government of Germany, section 1432 of the conference report requires that the Secretary of Defense certify that the United States Government "has received or is scheduled to receive from the Government of Germany not less than 50 percent of the value" of those facilties. Without such a certification, the United States may not purchase or construct diplomatic facilities in Germany after January 1, 1995.

Mr. President, the negotiations with Germany over these reimbursements have not gone well. They need attention and acceleration. We invested hundreds of billions of dollars in the defense of Europe over the last 50 years, much of that building facilities for our forces. Our forces are leaving—many of the facilities improvements will remain. All we are insisting on now is that Germany pay the United States a fair percentage of the remaining value of improvements we made to military bases we are returning before we invest many more dollars moving our Embassy and related facilities from Bonn to Berlin, which is scheduled to become the new capital of Germany.

Some in the State Department opposed this provision, but they noted that "the delays in receiving monetary compensation for the facilties returned are the result of specific near-term economic problems within the German Government and not their refusal to acknowledge responsibility under the Status of Forces Agreement." Mr. President, if this is true, then there should be no difficulty complying with section 1432.

On nuclear weapons testing, the conference report contains several provisions designed to uphold the current law—section 507, Public Law 102-377. Section 261 prohibits funds from being used for preparations for nuclear weapons effects tests, including the Mighty Uncle test that previously had been scheduled. Weapons effects tests are not allowed under current law. Section 3137 prohibits funds from being used to maintain the U.S. capability to conduct atmospheric testing of nuclear weapons, a program known as Safeguard C. Atmospheric testing has been banned by treaty since 1963, and there is no need to maintain such a capability. Section 3136 prohibits funds from being used to develop for production new very low-yield nuclear weapons. Some research on other nations' activities or possible terrorist work in this area may be conducted, but Congress has clearly indicated its intention that new warhead production be actively discouraged in other countries.

On base closures, the conference report contains a very important package of provisions designed to speed the transfer of base closure real estate and related property for reuse, and to facilitate efforts by local communities to develop new industries and uses for those bases.

The conference report also states—section 2909—that the Secretary of Defense ought to provide surplus military equipment on a priority basis to U.S. communities that have suffered economic hardship from the closure of military bases, whether or not these closures occurred in the 1988, 1991, and 1993 rounds. Formerly closed bases, like Kincheloe Air Force Base, and adjoining communities in Michigan's Upper Peninsula, could benefit even though they were closed in the 1970's and early 1980's. In the future, the conference report states (section 2925), the Secretary of Defense should consider, to the extent feasible, the direct costs of base closure and realignments on State and local government and other Federal agencies. The GAO and others have criticized DOD's failure to consider these costs in previous rounds of base closure.

Mr. President, I wish to note briefly two items that I hope we are facing for the last time, the B-2 bomber and additional F-16 procurement. On the B-2, I must register my concerns that despite our efforts to assume that we do not have a repeat of the B-1 problems, we may still end up with such problems.

Congress established a number of fences around B-2 procurement funds pending the receipt of numerous certifications and reports from DOD. The Defense Department has submitted the required materials and this Authorization Act conference report permits the release of the previously fenced funds. The General Accounting Office has reviewed these DOD certifications and reports and generally concludes that they meet the requirements of the law. This, at least, is a welcome change from previous responses on the B-2 issue, where the former Air Force Secretary did not comply with the law.

I authored several of these fencing provisions, two of which still concern me. The first related to a strengthened warranty provision that would make the contractor liable for the cost of correcting contractor-caused deficiencies, up to the level of the contractor's target profit. Last year, the Air Force capped the contractor's liability on two important types of potential deficiencies, but had no limit on the third type. This year the Air Force was told by Northrop that to change that aspect of the contract would cost the Government one dollar for every additional dollar of coverage. Although it is not clear to me that the Air Force tried very hard to negotiate the point, the Air Force decided that pursuing such a strengthened warranty was not cost-effective and signed a waiver that provides for such a determination.

Unfortunately, the end result is that we do not have the warranty provision that we should have. At least the Air Force does anticipate that it will have a higher cap on liability, but the contractor can cause serious deficiencies and still stick the taxpayer with the bill. I very much regret that this possibility remains, despite my best efforts.

The second provision that concerns me relates to the performance characteristics of the B-2. Basically the issue is whether the B-2 will perform as it was intended to, as we were told it would when we agreed to procure it, or whether we are buying an aircraft that cannot perform up to its proposed standard.

Congress authorized this aircraft because it is supposed to have extraordinary capability. The program has completed only about one-third of its flight testing. In many previous aircraft test programs plenty of problems, including serious problems, were not discovered until the test program was much further along. The GAO, having reviewed the Air Force's certifications on the performance characteristics, says the certification relative to offensive and defensive avionics of the B-2, is barely sufficient, in part because the testing was not done on the block 30 aircraft. GAO goes on to say that more testing is needed if the Air Force Secretary's high level of confidence is to be warranted.

The aircraft will be produced in three configurations: block 10, block 20, and block 30. The first of these configurations, block 10, will have extremely limited capability. It will barely be able to use one model of conventional, dumb gravity bombs. The block 20 aircraft will have more capability, but that will depend on the advanced munitions that are supposed to be available for the B-2—development of those munitions has suffered delays. Only the last two aircraft will be built in the block 30 configuration, and then all the others will be modified to that final status. The block 10 will certainly not be able to accomplish the B-2's formidable mission. The bottom line is, we ought to fly before we buy.

Finally, we do not have a definitized contract for the last five B-2 planes. I find this galling, because we are basically operating at the almost total mercy of the contractor relative to the cost of the last five planes. This conference report contains a provision that requires the Secretary of the Air Force to enter into a definitized contract or report on why such a definitization is not possible. Air Force Secretary wrote to Chairman NUNN to report on why the Air Force has not entered into a definitized contract. The bottom line is that the Air Force has completed negotiation on the final contract and intends to award the contract by the end of this year. I would encourage the Air Force to move expeditiously to award the contract, because delay costs the taxpayers extra money. The last contract took 5 months between negotiation and award. That is simply too long; the Air Force should do better this time.

On the F-16 fighter, I am sorry to report that the conferees decided to fund 12 aircraft that we do not need. Spending $400 million to buy these additional planes is a bad choice, one which I believe we should have rejected. Colin Powell, in his roles, missions, and functions report to Congress stated that we had so many of these aircraft that it had become easier and cheaper for the Air Force to not repair aircraft that developed problems, but simply to pull one of the many spare aircraft out to substitute for the broken one. That was before the Bottom-Up Review concluded that we should reduce our air craft wings from 26-plus to 20 wings.

An outrageous aspect of this issue is the Air Force's effort to change its numbers on the F-16 requirements. Shortly after the Senate acted to terminate the F-16 last year, the Air Force simply changed its assumption about how long the service life of the F-16 would be, from 8,000 to 4,000 hours. This slick move changed all the official projections of how many F-16's we need. Its totally unconvincing.

The compromise we reached this year was to buy half the F-16's requested by the President. The right thing to do would have been to terminate the program last year. The taxpayers will have real reason for anger if we do not terminate the F-16 after this final batch of 12.

Mr. President, another important provision of this conference report concerns research and development of vehicles. This provision notes that the administration has recently come forward with an innovative partnership for government-industry automotive research and development, the so-called clean car or supercar initiative. This initiative joins the Federal Government with the Big Three automotive producers to conduct joint R&D on vehicle technologies of mutual interest.

The conference report contains $30 million to support electric and hybrid vehicle R&D in support of the administration's initiative. This conference report requires that the funds be awarded competitively, and that cost-sharing should be used wherever possible. That is the best way to insure that we are serving the national interest and advancing the state of technology in support of the new coordinated Federal initiative.

Our military has a strong interest in vehicle technology and stands to gain from joint Government-industry cooperation. The Army has an automotive R&D center that does all the vehicle research, design, and engineering work for the ground vehicles of our Armed Forces. This center, the Tank Automotive Research, Design and Engineering Center [TARDEC], has worked closely with the automotive industry over the past year and has found that it shares many research areas of mutual interest with industry. TARDEC will implement this program with the Advanced Research Projects Agency in a new partnership.

Mr. President, as this conference report shows, the debate over our spending priorities in the defense area is not over. There is still a great deal of work to be done to make certain that every dollar we spend on defense is spent wisely and efficiently. The Armed Services Committee has our work cut out for us next year to continue our efforts to produce a force that is geared toward emerging threats, not toward threats of the past, and a force that—while it is smaller in size—is the best-trained, best-equipped force possible, the readiest force with the highest morale we can muster to meet the challenges of this new world. I look forward to this challenge, but I know we will need bipartisan cooperation and we will need leadership from our President and from the Secretary of Defense, to evaluate the conflicting priorities and make the tough choices. Putting off choicemaking has a high cost, both to the effectiveness of our defenses and to the taxpayers.

Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator has 1 minute.

Mr. LEVIN. Mr. President, I ask unanimous consent that I be allowed to proceed as in morning business for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Michigan is recognized.

Mr. LEVIN. I thank the Chair.

(The remarks of Mr. LEVIN pertaining to the introduction of S. 1663 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. LEVIN. I thank the Chair and I yield the floor.

Mr. THURMOND. Mr. President, I yield 5 minutes to the distinguished Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. COATS. Mr. President, I thank the Senator from South Carolina.

There is no question that the changing post-cold war world has allowed us to make some reductions in our military defense spending. But I think, as others have pointed out, there is a danger that our country's abilities to defend our national interests can be seriously impaired and jeopardized by a defense budget that comes down too far too fast.

As former Secretary Cheney has said on many occasions, never in the history of this country have we successfully accomplished a builddown. By not doing so, we place our security interests in considerable jeopardy. The result from that is a threat both to the security of the United States and the security of our budget because, clearly, it requires a much more substantial input on the front end to regear our defense budget to where it needs to be than would otherwise be necessary.

In looking at the authorization bill for fiscal year 1994, many warning flags are raised by this budget, but I do not believe enough to justify voting against it. I do share the sentiments of the Senator from Arizona [Mr. MCCAIN], and his concerns about the hollow force. I think those are legitimate concerns.

But I think in analyzing what we have had to do this year, given the budget restrictions, the situation that exists around the world, and our military needs, we have, with this transitional budget, been able to maintain our essential defense posture as we sort out what our missions and roles and responsibilities are going to be in this new world.

Now, the problem has always been, of course, that none of us can say with assurance just what kind of threats we are going to face in the future. Senator MCCAIN outlined a whole list of those potential threats, and those all bear very close scrutiny and observation. We would be gravely mistaken to assume that we know what is going to happen in the world in 1996 or 1998 or 2000 or beyond; to believe that we can predict with accuracy what those threats will be and what our response will need to be.

Therefore, we must err on the side of military preparedness. We need to ensure that as we structure national defense we do it in such a way that if we err, we err on the side of the plus up, not the plus down. That is the real danger that confronts us.

While the budget before us only reflects $12 billion in cuts for fiscal year 1994 over what was projected for the budget early in the last administration, we need to understand that this is less than one-tenth of the Clinton administration's projected $127 billion of defense cuts over 5 years. So if the administration adheres to its original projection—and I hope they do not—we need to understand we are going to be required to cut $28 billion in each of the succeeding 4 years after fiscal year 1994. These are drastic cuts, and I suggest these are cuts that may very well break the force.

If these future cuts materialize, I am concerned that we will slip back into that era of the hollow force that we all remember so well and that many of us have vowed never to repeat.

During the late 1970's and very early 1980's, we observed the fatal mismatch between mission and resources. We observed the decline of morale in our armed services personnel. We observed the shortages of parts that impacted on our readiness, and we observed the impact of longer and more frequent deployments.

A number of questions arise about the President's future years' defense spending plans and they are disturbing questions.

From where will the outyear defense cuts come?

What will be their effect?

Will our technological edge be dulled?

Will the quality of life and the morale of our soldiers be undermined?

Will we compromise the speed and effectiveness with which we can respond to threats or aggression?

Mr. President, let me give you an example of the difference between 1980 and 1990. A Langley Air Force Base fighter squadron in the early 1980's flunked its readiness exam because they did not have enough spare parts. But 10 years later, after the commitment we made in the decade of the 1980's under President Reagan and President Bush to strengthen our national defense, that same squadron was called upon hours after Iraq invaded Kuwait. It was deployed and in place in the gulf less than 48 hours after the initial notification. We could never have accomplished that in the early 1980's.

Mr. President, I wonder if the Senator from South Carolina could give me an additional 5 minutes. I do not know what the time constraints are.

Mr. THURMOND. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from South Carolina has 11 minutes 50 seconds.

Mr. THURMOND. How much time does the Senator wish?

Mr. COATS. Two minutes.

Mr. THURMOND. Take 5, if the Senator wants it.

Mr. COATS. If the Senator has it, I would be glad to take 5. I thank the Senator.

It is important to understand that we already have some serious warning signs of the beginnings of a decline in our readiness and the beginnings of a return to the hollow force. Secretary Aspin himself has declared that there is "increasing and anecdotal evidence of softness in military readiness and early warning signs that the force may be losing its combat edge."

Mr. President, we absolutely cannot allow that to happen. One of the first and primary duties each of us has as a Senator and as a Member of Congress is to provide for our national defense. It is a constitutional duty. It is a moral duty. It is an ethical duty that we have to the citizens of this Nation. With the commitment of resources, we have always been able to adequately meet our national defense needs. I hope that we will continue our commitment to that worthy goal.

The services have indicated to us difficulties in recruitment and retention of a qualified and motivated force. The Bottom-Up Review, for instance, calls for reducing the Armed Forces by 160,000 more military personnel than the 1999 drawdown baseline established by former President Bush. Yet we still do not have end strength figures for the services.

Where and when will this dramatic drop in personnel level off?

What effect will it have on morale?

What effect will it have on readiness?

We need to understand that it takes time to build a quality force. It takes over 20 years to produce the sort of officers who can effectively command a tank division. It takes 10 years to train and develop a good noncommissioned officer, the very heart of any effective military unit. It takes 4 to 6 years to build a fighter aircraft, and it takes longer to build an aircraft carrier than it did to win World War II.

So commitments made today will not necessarily be in place for 8 to 10 years to provide the effectiveness we need. That is why decisions made today, which may seem reasonable given the threat we face in 1993, may be decisions we will regret 6, 8, and 10 years from now if we do not maintain the development of our forces, the consistent training of our troops, and the procurement of equipment on a steady, regular basis. Only this consistent commitment will put us in a position later in the decade to respond to threats and emergencies.

The fiscal year 1994 Defense authorization bill envisions an America that can fight two regional wars at once, and it also hopes to maintain our ability to deploy forces for humanitarian missions. But if we cut at the rate suggested by the administration's defense budget, we will be too depleted to accomplish these missions.

It is one thing to rhetorically commit our will and our forces. It is another thing to give our military the budget it needs to accomplish those missions.

If we reduce the Defense budget irresponsibly, if we cripple our capacity to project our influence abroad, the consequences to this Nation and the world will be considerable.

We stand at a pinnacle of world influence. We must make careful decisions to maintain our position. We alone can preserve the peace only if we preserve our ability and the power to promote the peace. I say this today as someone who is going to support this budget. I do so with some reservation. It is a transitional budget.

I commend Senator NUNN and Senator THURMOND for the fine work they have done, as well as the Appropriations Committee, under the limitations that have been given them. But I wish to raise these warning signals and add my voice to the growing chorus of voices which say we better be careful; we better be certain we do not go too far too fast. We better look with care at how we are going to meet the needs of the future.

Mr. President, again I thank the Senator from South Carolina for the generous time and, if I have any remaining, I yield it back.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, I suggest the absence of a quorum and it be charged equally to each side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, Senator WARNER of Virginia was scheduled to speak on this bill in favor of it. But he cannot be here. I ask unanimous consent that he be allowed to place a statement in the RECORD later on this subject.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I suggest the absence of a quorum. And I ask that it be equally charged to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, I ask unanimous consent I be able to proceed for 5 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Georgia is recognized for 5 minutes.

THE ROLE AND MISSION OF UNITED STATES ARMED FORCES IN SOMALIA

Mr. NUNN. Mr. President, while we are on the floor on this bill and attention is focused on the defense and foreign policy arena, I want to note what I already discussed with Senator THURMOND, and others, on the committee for all our colleagues.

The Armed Services Committee is conducting an independent investigation into the role and mission of United States Armed Forces in Somalia, including, but not limited to, the particular circumstances surrounding the October 3-4 Ranger raid in Mogadishu where so many of our troops were casualties.

The committee has held a number of hearings on Somalia over the last year and recently held closed-door hearings to receive testimony from Lieutenant General Sheehan and Rear Admiral Cramer of the Joint Chiefs of Staff as well as from General Hoar, the Commander in Chief, United States Central Command, the commander of United States forces in Somalia and the region.

The committee has also sent a comprehensive series of questions to Secretary Aspin. The answers to those questions we have not yet received, but I have discussed it with the Secretary and urged him to do a thorough job but also an expeditious job. When we get the answers to those questions, that will provide the framework for the committee's investigation.

Senator THURMOND and I have asked Senators LEVIN and WARNER, the chairman and ranking member of the Coalition Defense and Reinforcing Forces Subcommittee to take the lead in preparing the full committee for hearings on this matter.

The committee staff will be visiting the Central Command and Special Operations Command headquarters and also will be visiting units that participated in the October 3-4 Ranger raid.

So I wanted to let all our colleagues know what the committee is doing and what we plan to do in this important area.

Mr. President, I reserve the remainder of my 5 minutes and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from South Carolina.

Mr. THURMOND. Mr. President, after we finish debating here and the time is up, I want to ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have already been ordered.

Mr. THURMOND. They have been ordered.

Did the Senator from Georgia ask for them?

Mr. NUNN. I think they have already been ordered.

Mr. THURMOND. I thank the Senator.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I am very pleased to support H.R. 2401, the conference report on the National Defense Authorization Act for fiscal year 1994.

At the beginning of this year, I took over for the first time as chairman of the Subcommittee on Military Readiness and Defense Infrastructure on the Armed Services Committee.

I want to take just a few moments today to summarize for my colleagues the portions of the bill dealing with issues under the jurisdiction of this subcommittee and then offer a few observations and comments on other portions of this conference report.

The Subcommittee on Military Readiness and Defense Infrastructure has a broad charter to oversee two critical elements of our military capability: First, the ability of our military forces to carry out their assigned missions; and second, the ability further to sustain those forces in combat.

Mr. President, our military forces exist for one reason and one reason only: To protect the national security of this Nation. As we reduce the size of the military services, it is absolutely essential that our forces remain fully capable of carrying out the full range of their assigned missions at all times.

The primary focus of our subcommittee is on the combat readiness and combat capability of our military forces. We have some other very important areas under our jurisdiction also, such as base closings, environmental cleanup, and military construction, but combat readiness remains the bottom line for our work on this subcommittee.

Mr. President, I am becoming increasingly concerned that we may be, year by year, cutting the defense budget too much, too fast, and too far.

This year the full committee heard testimony from the service chiefs and from the unified combatant commanders on readiness issues. Concurrently, the Subcommittee on Military Readiness and Defense Infrastructure held a series of hearings which focused on maintaining the readiness and combat capability of our military forces as we reduce the defense budget and draw down the size of our Defense Establishment.

Mr. President, I do not know how many people are aware or have looked back and charted the defense expenditures of this country. But if you go back to the Spanish American War days, almost 100 years, and you plot the defense expenditure curve up and down and up in this country, these figures basically fit a 17-year cycle, a 7-year cycle of buildup and a 10-year cycle of drawdown, a little trough and another 7-year cycle up and 10 down, and it fits basically within a couple of years in all those swings into a 17-year pattern.

The peaks are built up. The amounts spent in gross national product, or whatever measure you want, do not always go to the same height, obviously. World War II, for instance, obviously went above the norm.

But this buildup-builddown pattern is something we followed almost on a 17-year cycle over the last century. When I hear people in a euphoric state these days about our military capability and how good it is and how we can afford to tear it all down and go to a much, much smaller force, I begin to caution that I just do not think that is the case.

Mr. President, in this year's budget, one funding area concerns me in particular. The funding in the operation and maintenance, or O&M accounts, as they are called, has an immediate and direct impact on the combat readiness of our military forces, second only to the quality of the people we recruit and retain in the military services.

The O&M accounts pay the cost of day-to-day operations of our military forces here and around the world. They pay the cost of all individual and unit training for military members, including joint exercises. O&M accounts pay for all the maintenance and support of the weapons and equipment in the military services. These accounts pay for the purchase and distribution of spare parts and supplies to support military members and their equipment wherever they are stationed or deployed. And these funds support maintenance and repair of buildings in bases throughout the Department of Defense.

Mr. President, both at full committee and subcommittee hearings this year, our witnesses, who included DOD officials, representatives of four unified combatant commanders, senior logistics commanders in each service, and each service's operation and maintenance director, all expressed the view that the overall level of O&M funding requested for fiscal 1994 was the minimum level adequate to maintain current readiness levels. Some caution that we already had gone too far and that O&M budgets were already cut too far. They also raised concerns that funding shortfalls in some O&M areas could lead to readiness problems in the near future.

For example, the operating and training tempos in all of the services remain at the high levels of the last several years, but the growing backlogs in the areas of depot maintenance and real property maintenance in each service could put these operating and training tempos in jeopardy if not corrected.

There are other pressing issues funded from the O&M accounts that we need to watch carefully including things like recruiting high quality young people to join the military services and timely environmental cleanup and restoration of military installations, particularly those scheduled for closure.

Secretary Aspin and Deputy Secretary Perry have pledged to avoid the hollow force programs of the past, and I share this commitment, but keeping that commitment is becoming more difficult as these readiness priorities compete for fewer dollars.

As has been the case in the past, the O&M accounts were one of the first targets when it came time to make cuts.

There is a reason for that. When you need cuts, O&M accounts are the target of first resort because most of those O&M budgets spend out in the current year. They are not something that you benefit from 5 years down the road in current budget concerns. And so they are the target of first resort, not last resort. The conferees were forced to cut $2 billion in critical O&M funds this year, Mr. President, in order to meet the outlay targets of the budget resolution. But, because of our commitment to readiness, O&M was not forced to take the whole cut, other areas like R&D had to take a large reduction as well.

I am still very troubled by cutting $2 billion out of O&M, Mr. President. The conferees have cut areas that Congress has been reluctant to cut in the past, things like the environmental restoration accounts, DOD counterdrug activities, and civilian personnel costs. But we just cannot keep cutting the very funds that determine our level of readiness and expect to maintain a ready force.

To mitigate these reductions, however, the conferees encouraged the Secretary of Defense to reprogram funds from other areas of the Defense budget if such reprogrammings would not harm readiness or training, but, as I said, Mr. President, we cannot continue to make these kinds of cuts from the O&M budget and expect to maintain a high degree of readiness.

Within the funding available in the O&M accounts, the conferees realigned funds to high priority readiness accounts from lower priority areas. For example, the conference report increases funding for depot maintenance activities by $300 million in an effort to bring down growing backlogs and adds $500 million to key readiness shortfalls areas like operating and training tempos.

Another positive area I would highlight, Mr. President, is a series of provisions included in the conference report aimed at helping to revitalize communities affected by base closure.

These provisions build on President Clinton's five-point plan for community recovery and will: First, expedite the property screening process; second, direct DOD to work with Federal and State regulators to speed environmental cleanup; third, provide planning grants to communities; and fourth, allow closed bases to be transferred or leased to local redevelopment authorities at no cost or at a reduced cost for economic redevelopment.

Finally, Mr. President, while I am here speaking about the subcommittee's work this year, I again want to thank my friend and colleague, the ranking minority member of the subcommittee, Senator JOHN MCCAIN, for his cooperation and assistance.

Senator MCCAIN and I served together for 6 years on the Manpower and Personnel Subcommittee before moving over to the readiness area, and it is always a pleasure to work with him on national security issues. He has long experience and is very knowledgeable in these areas. He takes these issues very, very seriously. And I want to give him full credit for a lot of work that we have done on this subcommittee.

But, Mr. President, besides my comments on these specific readiness subcommittee issues, I wanted to make a few brief comments on a couple of other areas in the conference report.

The B–1 Lancer bomber has been designated by the U.S. Air Force to be the core of its conventional heavy bomber fleet. I believe it is a superb aircraft—it had some problems earlier—but I think it is a superb aircraft that has set over 40 world records for heavy bombers, and has demonstrated it can be a major asset to our war-fighting capability. It can carry more loads farther than any other airplane in our inventory. It performs missions high or low. It is a very flexible weapons system.

Mr. President, we have 96 B–1's in the inventory, already bought and paid for at a cost of some $28 billion in 1993 dollars. But currently the B–1 is an aircraft that can carry only Mark 82 500-pound gravity bombs, not a terribly useful weapon in modern-day warfare. That is why the B–1 was not used in Desert Storm. It really was not qualified at that time to deliver weapons. It just did not have the needed conventional weapons delivery capability.

So it is imperative that we get on with modernizing this aircraft to carry all the conventional weapons that it has the potential for delivering. Along with that modernization effort, we must ensure that we provide adequate funding for logistics support so that we avert drawing down the aircraft's operational readiness because of inadequate spare parts support.

I hold a view very strongly that modernizing and adequately supporting the B–1 is our only viable option if we are to field a modern, heavy, conventional bomber capability in the numbers that our national strategy requires. I certainly pledge today that I will continue my efforts to ensure that this challenge is met.

I also wanted to mention one other defense procurement program which I feel is especially important in ensuring that this Nation is capable of meeting its worldwide national security commitments. A number of years ago we started a program to reengine the KC–135 tanker aircraft fleet so we can meet the even heavier demands being placed on strategic air mobility by our new rapid reaction and force projection strategy. The tankers are key to implementation of that strategy.

I have worked for many years in support of the KC–135 reengining program. The original Air Force plan was to modernize every tanker in its fleet, including the Air National Guard, to help correct the critical shortfall identified in the aerial refueling capability. Currently there are 149 tankers that have not been modernized in the reserve forces, and they comprise some 27 percent of the total KC–135 tanker inventory.

I would say over the long haul, reengining these tankers more than pays for the cost of the original installation because of better fuel consumption and greater loads that can be carried with these particular engines.

If we are to get our forces to the battle area in an efficient and effective, indeed, in a life-saving manner best suited to the maintenance of our combat capability, then we must ensure that we have adequate aerial tanker support to meet our operational needs. In my view, reengining our KC–135 assets rapidly will help meet such needs.

I trust the administration's fiscal 1995 defense budget request will adequately address this issue. It is a little hard to believe that just as we finish up on this year's bill, we have a couple of months and then we will see a new one from the administration. I hope DOD focuses on both the B–1 situation and the KC–135 reengining in next year's budget.

Also, just a short word—we do so much work here that we take credit for and yet the people that do most of the work in these areas are our staff, our very good staff. On the armed services staff I particularly wanted to pay tribute to David Lyles, who works with us on the Readiness Subcommittee, Madelyn Creedon, Bob Bayer, Julie Kemp, Suzanne McKenna of my personal staff over in the office, and Phil Upschulte. All of these people work such long hours when we are involved with these issues involving national defense. They are dedicated people. They do not do it just as a job. They believe in a strong defense for this country. I just want to give them credit for the wonderful job they do, and full credit for the work we were able to accomplish this year.

In closing, I think this is a good bill this year. Obviously, as in any year, there are things we wish we had in it and some things some of us wish would be taken out. But that is the give and take of our system, and we work as hard as we can on these things and come up with compromise positions that are in the best interests of our Nation.

I will just close with one word of caution. I want to be careful we are not cutting too far too fast. We have seen the euphoria of past times. I mentioned the 17-year cycle of the rise and fall of military expenditures. It has gone on continually since the Spanish-American War. A 7-year buildup, a 10-year decline, a year or two in between there, and a 7-year buildup, a 10-year decline.

In each one of those time periods people thought we were in the midst of a period of lasting peace, the euphoria for peace. We are in such a time now. Yet we see the operations tempo of our forces around the world. It really has not diminished that much; just the focus has changed.

When we are drawing down our regular forces from about 2.1 down to about 1.6 million, and that cutdown will be completed by the end of 1995, and if you think about sustaining military operations—I ask unanimous consent for 1 more minute, please?

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. GLENN. If you are drawing down, you can normally sustain, in a sustained military operation, one-third are deployed, one-third are in training getting ready to go, and one-third are in support roles of some kind or another.

In Desert Storm we deployed close to half a million people for most of the last part of that operation. That would mean you could sustain something like Desert Storm with somewhere around 1.3 to 1.5 million final size of the force. We are beginning to cut to the point where we may be below that. So our ability to sustain a force, even the size of Desert Storm, is going to be jeopardized in the future unless we look at this very, very carefully.

So I caution that in the future we are not going to be able just to dip into this as a great big money pot here, as a cash cow to use for other purposes. We absolutely have to maintain our military forces to match our international commitments, and I think we need to be very, very careful in next year's consideration of the Defense Authorization Act that we not cut too far too fast.

Mr. President, I yield the floor.

Mr. KEMPTHORNE. Mr. President, I support this conference report authorizing spending for national defense programs. But I do so with great reluctance. Given the severe fiscal restraints contained in the budget resolution passed by the Senate, this bill does as much as is possible to preserve the readiness and high-technology advantages of our Armed Forces. Unlike the President's budget request, this bill includes a pay raise for military personnel and I fully support this pay raise. Nonetheless, anyone who has looked at the cuts we had to make knows we cannot continue to reduce defense spending without putting the readiness and capabilities of our Armed Forces, and ultimately the security of this great Nation, at risk.

I want to praise the work of Chairman NUNN and Senator THURMOND because without their guidance and discipline this bill could have been a disaster. Chairman NUNN and Senator THURMOND are true patriots and their service on the Armed Services Committee is a vital contribution to this Nation's national security. But we can only do so much with the limited resources we have been allocated. Chairman NUNN and Senator THURMOND have expressed their own reservations about the pace and scope of these Defense cuts and they are right.

Mr. President, I reluctantly signed this conference report because of my belief that we are cutting Defense spending too fast and too deeply. Throughout our history, the United States has rushed to cut Defense spending when peace seemed on the horizon. Time and time again threats reemerged, threats that we hoped had faded away, and we paid for our rush to reduce our military with the lives and blood of young Americans. I am committed to seeing that we do not make that tragic mistake again.

The fiscal year 1994 Defense authorization bill provides $262 billion for national security activities in the Departments of Defense and Energy. This represents an $11 billion reduction from the amount spent in 1993. When inflation is factored in, the cut this year is even deeper.

Because of the way the Congressional Budget Office counts spending, the bill now before the Senate contains a reduction of $2 billion from the operations and maintenance account. These are the funds that insure the training readiness of our forces and we were forced to cut this account to meet the outlay total requested by the President.

This Defense bill also cuts $4 billion from the research and development accounts that give our forces the technological edge that allows us to save American lives while accomplishing our military objectives. These funds are our seed corn from which future technological innovations will grow and we had to cut this account to meet the budget request submitted by the President.

Throughout this year, Senator MCCAIN has sounded the warning siren about the way we are cutting the finest military force every assembled. This President inherited a formidable military capability from Presidents Reagan and Bush and now we are seeing that military cut and whittled away. I continue to support Senator MCCAIN's effort to make us realize just how severely these large defense cuts are crippling our Nation's defenses. I want to thank Senator MCCAIN for his excellent work and dedication in this effort.

Despite the end of the cold war, threats to United States interests have not ended. As we cut our defenses, North Korea continues its nuclear weapons program, China continues to sell dangerous weapons abroad and Iran continues its multi-billion-dollar military build-up. At the same time, our Nation's leaders say we need the forces to fight two nearly simultaneous major regional conflicts but anyone who has looked at our capabilities know we do not have the forces to match our strategy.

Mr. President, two recent articles make it clear that our senior military leaders openly admit that we cannot continue to cut the Defense budget without incurring the risk that we will not be able to accomplish our objectives. In the first article entitled "Bottom-Up Review Demands May Outweigh Future Air Force Assets," the chief of Staff of the Air Force, General McPeak, is quoted as saying, "We have already gone as far as we can and still do what an Air Force is asked to do—what President rely upon us to do if called on to fight and win two nearly simultaneous major regional conflicts." In the second article entitled, "Army Challenges Clinton Defense Cuts as Security Threat," a memorandum from the Army Chief of Staff, General Sullivan, states, "The outcome of these reductions may be a future force which does not possess the technological superiority required to prevail over potential conflicts arising from the changing world order." According to the Washington Post, the memorandum goes on to say, "The Army requires additional resources if it is to meet continual demands for a technologically superior response and, at the same time, maintain the ability to respond" to the likely range of conflicts. I ask unanimous consent that these two articles be made part of the RECORD and I urge my colleagues to ask our senior military leaders about the risks we are taking by making these deep cuts in defense spending.

There being no objection, the article is ordered to be printed in the RECORD, as follows:

BOTTOM-UP REVIEW DEMANDS MAY OUTWEIGH FUTURE AIR FORCE ASSETS

LOS ANGELES.—Air Force leaders are running out of places to cut costs and are in a quandary about how—if force structure shrinks further—they could fight and win two nearly simultaneous conflicts.

Air Force Chief of Staff Gen. Merrill McPeak, speaking at an Air Force Association symposium on Oct. 28, warned that funding will not improve and the service cannot support more cuts in force structure over and above those called for in the Bottom-Up Review.

"We have already gone down as far as we can and still do what an Air Force is asked to do—what the president will rely on us to do if called on to fight and win two nearly simultaneous major regional conflicts," McPeak said.

While McPeak traditionally has warned against cutting the service's operations and maintenance (O&M) accounts, last week he said the Air force has not done will in reducing costs.

But the service has gone far in trimming redundant organizational structure and shedding Cold War programs, he said. In terms of reforming the acquisition process, "there isn't much the Air Force, acting alone, can do to fix it," he said.

Addressing the O&M issue, McPeak said the Air Force will fly more than a million fewer hours in 1995 then in 1985, yet O&M costs will grow from 30 percent of the budget to 36 percent.

Presenting the operator's point of view at the conference Friday, Air Combat Command chief Gen. John "Mike" Loh said there already are stresses on readiness and, through it is possible at this time to fight and win two nearly simultaneous conflicts, a lot of analysis needs to be done to see how such a situation would pan out a few years from now.

While the guidance from the Bottom-Up Review "is fine," Loh said the service needs to get a better understanding of what assets will be available and how they would be utilized during two conflicts.

"It all boils down to the size of these conflicts and [the degree to which they are simultaneous] and we have to tighten the parameters around where we declare we can do this very difficult mission," Loh said.

Loh said he is "trying to do the proper modeling that puts specifics into this responsibility," and determine what forces could "swing" from one theater to another and what the impact of moving those forces would be.

Currently, he noted, there is a shortage of F100 engines and a backlog of about 1,000 in depots. While service officials are working around the shortage now, readiness could suffer in the future, he said. In addition, though the F–117 stealth bomber provides tremendous leverage, its capable rate currently "is below the ACC standard" and will continue to deteriorate, Loh added.

"If we don't address [these problems] now and just put it on autopilot today, in a few years a hollow force may ring out," he remarked.

Meanwhile, Loh also is compiling a bomber replacement strategy which would outline ways to buy replacement B–2s and continue to upgrade the B–1B and B–52 bombers. The bomber replacement strategy would be similar to the Navy's process of replacing submarines, he noted.

Explaining that any new bombers would be bought in only limited numbers, Loh said, "I don't think our budget can stand a short-term, relatively high-rate bomber program."

Air Force Secretary Sheila Widnall agreed the Air Force can meet the mission requirements of the Bottom-Up Review today, but also said "we are concerned about it not only for today, but also for tomorrow."

One major factor in being able to sustain readiness will be to make sure aircraft programs like the F–22 are continued and delivered, she said.

[From the Washington Post, Nov. 13, 1993]

ARMY CHALLENGES CLINTON DEFENSE CUTS AS SECURITY THREAT

(By John Lancaster)

The Army has mounted a vigorous challenge to the Clinton administration's program of defense cuts, warning in an internal document that planned reductions will leave the service "substantially weakened" and ultimately threaten national security.

The memorandum approved by Army Chief of Staff Gordon R. Sullivan identifies 57 major weapons and spending programs that will be eliminated and 63 that will be scaled back if the administration follows through on plans to cut the defense budget by $88 billion five years. "The outcome of these reductions may be a future force which does not possess the technological superiority required to prevail over all potential conflicts arising from the changing world order," said the document, which was completed last month and forwarded to the Pentagon's civilian leaders.

"The Army requires additional resources if it is to meet continual demands for a technologically superior response and, at the same time, maintain the ability to respond to" the likely range of threats.

Although some grousing from the military is inevitable given the scope of planned defense cuts, the Army document is noteworthy both for its strident tone and for its explicit warning that the reductions threaten the nation's ability to right and win wars.

In that regard, the document is an explicit challenge to Defense Secretary Les Aspin, who recently unveiled the administration's plan for a smaller, more mobile post-Cold War military of 1.4 million uniformed men and women, compared with 1.6 million under the Bush administration's proposed "base force" plan. Aspin has said repeatedly that in spite of the cuts, the nation's military will retain its "combat readiness" and ability to fight and win two nearly simultaneous regional conflicts.

Aspin has described the "bottom up" review as a collegial, "broadly collaborative" effort in which the military services had substantial say. The memorandum makes clear, however, that the Army feels slighted by the process in comparison with the other services, especially the Marine Corps, which fares better under Clinton's plan than it did under President George Bush's proposal. The internal document was included as an unclassified addendum to the Army's secret Program Objective Memorandum, which outlines the service's proposed spending plan for the years 1995 through 1999. Portions of the addendum have begun to leak out in the defense trade press, and a copy was obtained by The Washington Post.

"We're not only on the razor's edge but in danger of falling off the razor's edge," said an officer on Sullivan's staff who asked not to be named. "I think there is a lot of recognition not only within the Army but outside the Army, on [Capitol Hill], that the bottom up review is flawed, that you can't get there from here."

A senior defense official, who also spoke on condition of anonymity, disputed such claims. He suggested the Army is feeling the pain of defense cuts more acutely than other services because it has not matched their successes in paring unneeded bases and overhead.

"I don't think the Army has done as much as the Navy and Air Force in looking at their infrastructure," the official said. "They haven't done as much in retooling their overhead. * * * Why does the Army still have to have 17 separate branches? * * * These are basically people who work in offices."

Most of the hard choices have been postponed. On Wednesday, Congress passed a $261 defense spending plan for fiscal 1994, shaving a modest $2.5 billion from the administration's request but deferring serious debate on the recommendations in the bottom up review until next year. The budget is about $12 billion smaller than the 1993 spending plan.

In a statement yesterday, Aspin thanked Congress for producing a budget that "largely protects the readiness of our forces."

Pentagon officials acknowledge, however, that over the long term Aspin will have a tough time fulfilling his pledge to maintain readiness, a broad category that includes everything from steaming hours logged by Navy ships to the availability of bullets and spare parts. At a briefing yesterday on the 1994 defense budget, a senior official said continuing military operations in places such as the Persian Gulf region and Somalia are draining operating funds that normally would be used to promote readiness. As a result, he said, the administration will ask Congress for a supplemental appropriation of $300 million to cover U.S. military operations in Somalia through March 31, the planned U.S. withdrawal deadline.

"I'm going to have readiness problems if we keep having contingencies and I have to eat it out of" operating funds, the official said. "I'm having to make hard choices right now which brigades go to the National Training Center" in the Mojave Desert, where the Army conducts armored warfare exercises.

"Is there a readiness problem that we have right now?" the official added. "I don't think so. But I sure worry about it."

The Army is especially gloomy on the prospects for modernizing the force. "Army modernization * * * is driven by a severely constrained fiscal policy," the memo said. "It forces the soldier's war-fighting capability far below the level of the Army's technological potential."

Mr. KEMPTHORNE. Mr. President, I came to the U.S. Senate committed to a strong national defense. After 1 year as a member of the Senate Armed Services Committee, I have seen the impact on readiness, research and development, and recruitment that result from the cuts proposed by this administration. As our military leaders have testified this year, our forces are on the razor's edge, teetering toward a hollow force, and President Clinton is asking us to cut more, cut more from defense. Well, one Senator is drawing a line in the sand. Today, I want to serve notice to the Senate that after today I will oppose every defense bill that comes before the Senate if it calls for additional cuts in defense spending. Defense spending has been cut; defense spending has made its contribution to deficit reduction; I urge my colleagues to stop this bloodletting before it is too late; I urge my colleagues, let us not waste the finest military force ever assembled and pay for this mistake with lost lives and increased risk.

I yield the floor.

DEFENSE AUTHORIZATION CONFERENCE REPORT

Mrs. KASSEBAUM. Mr. President, I want to thank our Armed Services Committee for the hard work that has gone into shaping this authorization bill. The chairman, Senator NUNN, and the ranking members, Senator THURMOND, deserve our appreciation for doing the best job possible under difficult circumstances.

However, I share some of the concerns that have been expressed by Senator NUNN and Senator THURMOND about the depth of budget cuts we are making in this bill.

With the end of the cold war and the dissolution of the Soviet Union, I think we all agree that we can and must reduce and restructure our Armed Forces. The primary threat to our national security for the past four decades has now diminished sharply. It would be foolish not to restructure our defense forces to fit this new reality and to realize budget savings that are essential for bringing down our deficit.

At the same time, I think we also agree that not all threats to our national security and our national interests have disappeared. While the primary threat is sharply reduced, the variety of other threats and potential problems seem to have multiplied in places like North Korea and others. Uncertainties about future events in Russia and other parts of the former Soviet Union remain very real and very large.

Clearly, we continue to need strong, well-trained and well-equipped defense forces to meet this verity of potential threats and others we may not now foresee.

Mr. President, throughout the 1980's, I spoke about my concern that our defense buildup was proceeding too rapidly and too broadly. I was concerned that very rapid and large increases in defense spending would lead to waste, inefficiency, and a lack of clear thinking tied to sound strategy. Unfortunately, many of those concerns eventually were borne out.

Now, I fear the pendulum is beginning to swing too far in the other direction—toward a builddown that is too rapid and too poorly thought out. There is no dispute that we should cut defense spending, but the speed and depth of those cuts is a matter of vital concern to us all. Cutting too fast and too deep could directly threaten our national security.

As the chairman and ranking member have pointed out, the bill before us cuts an additional $2 billion from the budget request for operations and maintenance and $4 billion from research and development programs. These cuts are on top of reductions planned by President Bush and made even deeper by President Clinton's budget request.

Despite the committee's effort to ease the impact of these additional cuts, these reductions may have a very real effect on training, equipment maintenance, force modernization, and the overall capabilities and readiness of our defense forces. These are not casual concerns in a world that still holds many flash points of danger.

Mr. President, with those concerns in mind, I will support this bill because I believe the committee has done the best it could under the circumstances. However, I believe caution is in order next year when we return to the question of defense spending.

Mrs. BOXER. Mr. President, I will vote today against the conference report to H.R. 2401, the National Defense Authorization Act of 1994. Although this bill contains many positive features, I feel compelled to vote against it because it includes the codification of a grave injustice: Blatant discrimination based on sexual orientation.

However, I would like to mention several positive provisions of this conference report, which I fully support.

The conference report includes more than $5 billion for environmental cleanup activities. This is especially important to my home State of California. We are learning every day about new environmental hazards at bases marked for closure. Local communities cannot proceed with reuse plans until these hazards are cleaned up.

I am also pleased that the conferees have decided to proceed with the C–17 cargo-jet program. The C–17 provides airlift capacity unmatched by any other aircraft in our Nation's fleet. The C–17 supports the mission of our Armed Forces in the post-cold-war era, and I applaud the conferees' reaffirmation of support.

This report prohibits the use of funds for new nuclear tests. It repeals numerous restrictions on the assignment of women to combat roles, and finally, it imposes reasonable funding limits on the Ballistic Missile Defense Program. These policies are long overdue and will help bring our Armed Forces in step with the times.

Finally, Mr. President, the conferees have seriously addressed the issue of defense conversion and base reuse. The report authorizes over $600 million for badly needed economic conversion programs. I am also pleased that the conferees decided to retain many of the recommendations of the Democratic Task Force on Defense Reinvestment, which were added to the Senate bill in an amendment offered by Senator PRYOR. I was proud to cosponsor that amendment and I look forward to working with the members of the Armed Services Committee to find ways to help defense-dependent communities make the difficult transition to the civilian sector.

I also want to mention a provision of the bill which concerns me. Public Law 92–589, enacted in 1972, provides that the Presidio of San Francisco would become a unit of the National Park System when it was no longer needed by the Department of Defense. The closure of the Presidio as a military base was announced as a result of the 1988 round of base closures, and planning for its future as a national park began.

In 1993, the Base Closure Commission recommended that the Army be allowed to lease space at the Presidio from the Park Service for use as the 6th U.S. Army headquarters. In keeping with those recommendations, lease negotiations are currently underway between the Army and the Park Service. The negotiation of a lease on favorable terms is important to the financial success of the Interior Department's efforts to transform the Presidio from a military base into a national park.

As has been confirmed in two separate colloquys between House Armed Services Chairman RON DELLUMS and Congresswoman NANCY PELOSI, and between the chairman of the Senate Armed Services Subcommittee on Military Readiness and Defense Infrastructure, Senator GLENN, and my colleague, Senator FEINSTEIN, section 2856 of the conference report simply confirms Public Law 92–589.

According to Chairman DELLUMS and Chairman GLENN the language of section 2856 is intended to be in keeping with the Base Closure Commission recommendations of 1989 and 1993. The recommendations of the 1993 commission state in part:

> The Department of the Interior and the Department of the Army should negotiate a lease favorable to both departments for the current facilities occupied by 6th U.S. Army Headquarters and family housing at the Presidio of San Francisco.

REGARDING SECTION 2856

Mrs. FEINSTEIN. I would like to engage the distinguished chairman of the Armed Services Subcommittee on Military Readiness and Defense Infrastructure, Mr. GLENN, in a colloquy regarding section 2856 of the conference report on the Department of Defense Authorization Act for fiscal year 1994.

As the distinguished chairman knows, the Presidio of San Francisco is at a critical juncture in its transition from a military facility to a national park. The U.S. 6th Army has been a welcomed tenant of the Presidio for many years, and I am glad that as a result of the 1993 Defense Base Closure and Realignment Commission's recommendations, this relationship will continue. It is my understanding that section 2856(1) of the conference report is simply a confirmation of Public Law 92–589, which directs that Presidio lands excess to the needs of the Department of Defense would be transferred for management by the National park Service as part of the Golden National Recreation Area. Is this the chairman's understanding?

Mr. GLENN. That is my understanding.

Mrs. FEINSTEIN. Earlier this year the defense Base Closure and Realignment Commission recommended that the 6th Army maintain its headquarters at the Presidio following negotiations with the National Park Service. The 1993 Defense Base Closure and Realignment Commission report clearly states that the Department of the Army should retain only the essential facilities occupied by 6th U.S. Army Headquarters and family housing at the Presidio of San Francisco necessary to accommodate the headquarters and its members.

It is my further understanding that section 2856 in no way changes the intent of those recommendations. Is that the Chairman's understanding as well?

Mr. GLENN. That is also my understanding. Section 2856 should in no way delay or further complicate the reuse and redevelopment of the Presidio of San Francisco. In fact, the provision should speed the transfer of lands at the Presidio that are not essential to the mission of the 6th Army Headquarters and will not be retained by the Department of Defense for use by the 6th Army.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, I believe the time expired on both sides.

The PRESIDING OFFICER. All time has expired.

Mr. THURMOND. I ask unanimous consent the distinguished Senator from Delaware [Mr. ROTH] be allowed to speak for 5 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. ROTH. As in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Delaware is recognized.

CHILD PORNOGRAPHY

Mr. ROTH. Mr. President, there have been some important developments growing out of the Roth-Grassley amendment to the crime bill which the Senate adopted unanimously on November 4. That amendment expressed the sense of the Congress opposing the Justice Department's Supreme Court brief filed in the child pornography case of United States versus Knox.

On November 11, President Clinton publicly announced his support for the Roth-Grassley amendment. I was heartened to learn that President Clinton fully agrees with the Senate's efforts to protect our Nation's children from the scourge of child pornography. I want to commend President Clinton for his support.

The Roth-Grassley amendment, adopted by the Senate by a vote of 100–0, declared, and I am quoting from the language of the amendment, "It is the sense of the Congress that in filing its brief in United States versus Knox, * * * the Department of Justice did not accurately reflect the intent of Congress." The resolution stated that the brief had erred by failing to recognize two key points:

First, that under the 1984 Child Protection Act, the term "exhibition of the genitals" is not limited to nude exhibitions or exhibitions in which the outline of those areas are discernible through clothing, as the Department of Justice brief argued; second, that the prohibitions in the act against depicting a minor engaged in sexually explicit conduct are violated if a person photographs a minor in such a way as to exhibit the child in a lascivious way, rather than requiring lascivious conduct by the child, as the brief also argued.

In other words, the current law prohibits lascivious exhibition of a child's genitals or pubic area, but the department sought to impose additional language: by the child. Thus, under the interpretation of the law urged by the department, child pornography that exhibits children in a lascivious manner would not be prosecuted unless the exhibition is by the child. This reinterpretation of the law would open the floodgates of child pornography.

The Senate view of the meaning of the law is also the view of the Third Circuit Court of Appeals, which affirmed the conviction in the Knox case, and the view which President Clinton's Acting Solicitor General took in the brief he filed with the Supreme Court in March 1993. It apparently is also the view of President Clinton since he agrees with the Roth-Grassley amendment. Moreover, no court, including the Supreme Court, has disagreed with that view.

In fact, the only dissenting view about the meaning of the law comes from the current Solicitor General in the brief he filed with the Supreme Court in the Knox case in September, 1993. I should add, however, that according to Attorney General Reno's testimony responding to my questions before the Senate Banking Committee on November 4, 1993, the Attorney General also agrees with the Solicitor General's narrow interpretation of the child pornography statute.

Under these circumstances, I disagree with President Clinton's call, in his letter of November 10, 1993, to the Attorney General, for new legislation "to ensure that Federal law reaches all forms of child pornography, including the kinds of child pornography at issue in the Senate resolution."

I am also puzzled by the proposed amendment to the child pornography law that Attorney General Reno recently sent to the Judiciary Committee. Attorney General Reno's proposed amendment adds nothing to the current law and, more importantly, could well undermine ongoing child pornography cases including the Knox case itself and other cases now pending.

The Attorney General may feel that we need a new law to cover cases like Knox, but I will remind my colleagues that the former Acting Solicitor General, the Third Circuit Court of Appeals, the Senate and apparently President Clinton himself all believe that the current law covers the facts in Knox. The only dissenting views are those expressed by the Solicitor General and the Attorney General.

Consequently, there is no need for any new legislation, unless the Attorney General wants to expand the child pornography statute to cover situations beyond the facts of the Knox case. If it ain't broke, don't fix it. According to Patrick Trueman, who formerly was in charge of child pornography prosecutions at the Justice Department, the legislative language proposed by the Attorney General may be a grave mistake and could even undermine the current law.

In a letter I sent to President Clinton on November 12, I suggested that he cause the September brief of the Solicitor General in the Knox case to be withdrawn either in the Supreme Court of in the Court of Appeals. That action would solve the problem without need to resort to new legislation. Moreover, there is precedent for such action. During the Bush administration, the Solicitor General, in the case of United States versus Fordice, modified his original brief in the Fordice case after receiving directions about what the President believed the government's position should be in that case.

Unless the Justice Department immediately disavows the Knox brief's narrow interpretation of the child pornography laws, I fear child pornographers and pedophiles currently under prosecution, including the defendant in the Knox case, or those under investigation for similar acts, could go free. New legislation, because it could only be applied prospectively, would not reach such cases. To prevent that result, I urge that President Clinton direct the Justice Department to immediately apply the correct interpretation of the child pornography laws intended by Congress to any and all child pornography cases currently under investigation or litigation.

Mr. President, I request unanimous consent that President Clinton's letter to the Attorney General, dated November 10, 1993, be printed in the RECORD following my statement.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, November 10, 1993.

Hon. JANET RENO,
Attorney General, Washington, DC.

DEAR MADAM ATTORNEY GENERAL: A dispute recently has arisen over the scope of the current federal child pornography law. This dispute impelled the Senate to adopt a "sense of the Senate" resolution expressing its view that the law reaches broadly. I fully agree with the Senate about what the proper scope of the child pornography law should be.

I find all forms of child pornography offensive and harmful, as I know you do, and I want the federal government to lead aggressively in the attack against the scourge of child pornography. It represents an unacceptable exploitation of children and contributes to the degradation of our national life and to a societal climate that appears to condone child abuse.

This Administration supports the broadest possible protections against child pornography and exploitation. I understand that the Justice Department recently filed a brief in which the Department concluded that the current child pornography law is not as broad as it could be. Accordingly, the Justice Department should promptly prepare and submit any necessary legislation to ensure that federal law reaches all forms of child pornography, including the kinds of child pornography at issue in the Senate resolution.

Sincerely,

BILL CLINTON.

OPPOSING THE CHILD PORNOGRAPHY AMENDMENT

Mr. GRASSLEY. Mr. President, the child pornography amendment offered by the administration yesterday is not necessary. There is no need, at this time, to modify the child pornography laws. Under current law, the child need not be nude for the material to be illegal. Similarly, the child need not act lasciviously under the existing legislation. Thus, current law is more than adequate to the job of protecting against the horrors of child sexual exploitation. The problem is that people in this administration will not enforce it.

When we passed the Child Protection Act of 1984, we outlawed child pornography. These materials are entitled to absolutely no constitutional protection. We passed a law that broadly bans these materials.

In fact, Congress, when it considered the forerunner to the Child Protection Act, in 1977, deleted language that would have required child nudity in order to meet the definition of child pornography. The issue was settled. The 1984 act does not require nudity. Yet, in the Knox case, the Reno Justice Department took just that view. It reversed congressional intent and longstanding DOJ interpretation of the law.

So, on November 4, over the protest of the Justice Department, the Senate voted unanimously not that the child pornography laws needed to be expanded, but rather that the law as enacted already prohibits the kinds of materials at issue in the Knox case. I was and am pleased to have played a role in the adoption of that amendment.

I am also pleased that the unanimous Senate vote caused the President to admonish Attorney General Reno to take a tougher stand on child pornography. Nonetheless, the President sidestepped the real issue. Tougher legislation is not needed. Instead, this administration needs to reverse its position, and adhere to the consistent interpretation of the statute. A President truly committed to eradicating child pornography would order his Attorney General to withdraw the brief in the Knox case and file a new one seeking to uphold the conviction. Anything less falsely allows Janet Reno to claim that President Clinton has vindicated the Department's flagrant disregard for congressional intent.

If DOJ files a brief asserting that Knox's conduct violates the law and if the court rejects that argument, then we can consider appropriate amendments. We can have hearings. We can avoid any of the objections of overbreadth that have been raised to this proposed amendment by the ACLU, the American Library Association, and the American Booksellers Association. The current law does not implicate the first amendment concerns on materials such as underwear advertising that these groups have raised about the administration's hastily drafted amendment.

The administration's amendment to the child pornography bill is counterproductive as well as unnecessary. If this amendment were enacted into law, every pending child pornography investigation and prosecution would be affected if the child were nude or were being posed lasciviously. Each defendant would argue that Congress in 1984 obviously did not intend to ban clothed child pornography. Otherwise, there would have been no reason to adopt the amendment proposed yesterday. Similarly, each defendant would argue that if the original bill examined the intent of the pornographer in determining whether the minor was acting lasciviously, there would have been no reason to adopt the administration's amendment. Congress voted to ban these materials in 1984, and it did not make 1993 the effective date. I cannot support an amendment that would have that effect.

The fact is that I disagree with the President and the Attorney General that new legislation is needed. The administration's amendment is nothing more than political trickery. It seeks to deflect attention from the disregard of congressional intent on child pornography that was made in the Knox brief. To paraphrase Winston Churchill, the Justice Department has the tools. They should finish the job.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1994—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the conference report.

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll to ascertain the presence of a quorum.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LIEBERMAN). Without objection, it is so ordered.

Mr. DOLE. Mr. President, has leader's time been reserved? I will take 5 minutes of that.

The PRESIDING OFFICER. It has been reserved.

Mr. DOLE. Mr. President, I commend my colleagues on the conference committee for their hard work in crafting this bill. They have had the difficult task of providing an adequate defense with inadequate funding.

There is much that is good in this conference report. But, as I stated last week, I am concerned about the pace and direction of our continued military build-down. And I oppose the adoption of the conference report for that reason.

If we were to stop here—take stock in where we are going—that would be one thing. But this bill codifies a defense plan that, in my view, is both inadequate and dangerous.

During last year's campaign, then candidate Clinton promised to cut defense spending by $60 billion—below the substantial cuts already made by President Bush. But President Clinton seeks to go much further—reducing our national defense by an additional $127 billion. That is too far and too fast. Especially when the administration seeks to expand America's military involvement throughout the world in these so-called "peace keeping" and "nation building" efforts.

We are now discovering that the so-called Bottom-Up Review which was supposed to restructure our forces consistent with the new threats we face is massively under funded. By as much as $40 billion by some accounts.

Before we go too far, the Congress and the administration should carefully reconcile this defense plan with both our foreign policy, our national security goals and the impact of these deep cuts will have on our economy.

If we continue down this path, our actions may be irreversible, and may jeopardize our future security. We can wring our hands and worry out loud. Or we can go on the record and call a stop to this until we have thought this out more carefully.

Over the course of the past 2 years, we have been constantly reminded that although the Soviet Union has crumbled and the Iron Curtain has been lifted—the world remains a dangerous and unpredictable place.

Regional instability, such as the ongoing crises in Somalia, Haiti, Bosnia, the Korean peninsula, and the former Soviet Union threatens the peace of the global community. Arms proliferation is on the rise. The nuclear weapons of the former Soviet Union are still deployed in Russia and Ukraine. Iran is rearmining at an alarming rate. North Korea is clearly developing nuclear weapons. And in the face of all this, the fact is future threats cannot be predicted with any level of confidence.

We must heed the harsh lessons of the 1970's. During those years the Armed Forces of this Nation were reduced to a hollow force, with readiness having deteriorated to an alarming state by the end of the decade. Remember, our Armed Forces weren't dismantled overnight, but year after year of slashing at defense spending.

Now, however, because of that experience, we can recognize the tell-tale signs of declining readiness, namely: recruiting problems, declining morale, training cutbacks, logistics and support problems, maintenance backlogs, and lack of adequate funding for force modernization. With these signs beginning to reappear today, how can the Congress continue its slash and burn policy towards our defense budgets?

Now is the time to provide the leadership necessary to ensure an adequate national defense. We cannot afford to repeat the mistakes of the late 1970's. We cannot afford to disband the Army of Desert Storm and return to the Army of Desert One.

The fact is, in the future, we may not be able to spend billions of dollars to reconstitute our forces, as we did in the 1980's.

Let us face facts. Continued defense cuts impact people—the 5½ million Americans who make their living in military service or in defense industries and related businesses. Since 1986, nearly 1.2 million Americans have lost their jobs because of defense cutbacks.

Now, the CBO estimates that as a result of the cuts in defense spending called for by the Clinton administration, another 1.4 million Americans will lose their jobs by 1998. This is half a million more than was estimated under the defense budgets of the Bush administration. The elimination of these defense jobs will have a significant impact on the economic future of the defense industry and the country as a whole.

Again, I commend the work of my colleagues for their efforts to salvage an adequate national defense from inadequate funding. But I believe that the cuts made by this bill are too deep. We are simply repeating the mistakes and failed policies of the 1970's. Policies that will cost far more to correct than what some claim to be saving. Therefore, I cannot support this conference report and will vote against its adoption.

The PRESIDING OFFICER. The question is on agreeing to the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. DORGAN] is necessarily absent.

The result was announced—yeas 77, nays 22, as follows:

[Rollcall Vote No. 380 Leg.]

YEAS—77

Akaka
Baucus
Bennett
Biden
Bingaman
Bond
Boren
Bradley
Breaux
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Craig
Danforth
Daschle
DeConcini
Dodd
Durenberger
Exon
Faircloth
Feinstein
Ford
Glenn
Graham
Grassley
Gregg
Harkin
Heflin
Hollings
Hutchison
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mathews
McConnell
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murkowski
Murray
Nunn
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Sarbanes
Sasser
Shelby
Simon
Simpson
Smith
Stevens
Thurmond
Warner
Wofford

NAYS—22

Boxer
Brown
Coverdell
D'Amato
Dole
Domenici
Feingold
Gorton
Gramm
Hatch
Hatfield
Helms
Mack
McCain
Metzenbaum
Nickles
Packwood
Pressler
Roth
Specter
Wallop
Wellstone

NOT VOTING—1

Dorgan

So the conference report was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

INDEPENDENT COUNSEL REAUTHORIZATION ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 145, S. 24, a bill to reauthorize the independent counsel.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill.

The legislative clerk read as follows:

A bill (S. 24) to reauthorize the independent counsel law for an additional 5 years, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Governmental Affairs with an amendment to strike out all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Independent Counsel Reauthorization Act of 1993".

SEC. 2. FIVE-YEAR REAUTHORIZATION.

Section 599 of title 28, United States Code, is amended by striking "1987" and inserting "1993".

SEC. 3. ADDED CONTROLS.

(a) Cost Controls and Administrative Support.—Section 594 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(l) Cost Controls and Administrative Support.—

"(1) Cost controls.—

"(A) In general.—An independent counsel shall—

"(i) conduct all activities with due regard for expense;

"(ii) authorize only reasonable and lawful expenditures; and

"(iii) promptly, upon taking office, assign to a specific employee the duty of certifying that expenditures of the independent counsel are reasonable and made in accordance with law.

"(B) Department of Justice policies.—An independent counsel shall comply with the established policies of the Department of Justice respecting expenditures of funds, except to the extent that compliance would be inconsistent with the purposes of this chapter.

"(2) Administrative support.—The Administrative Office of the United States Courts shall provide administrative support and guidance to each independent counsel. The Administrative Office shall not disclose information related to an independent counsel's expenditures, personnel, or administrative acts or arrangements without the authorization of the independent counsel.

"(3) Office space.—The General Services Administration, in consultation with the Administrative Office, shall promptly provide appropriate office space for each independent counsel. Such office space shall be within a Federal building unless the General Services Administration determines that other arrangements would cost less. Until such office space is provided, the Administrative Office of the United States Courts shall provide newly appointed independent counsels immediately upon appointment with appropriate, temporary office space, equipment, and supplies.".

(b) Independent Counsel Per Diem Expenses.— Section 594(b) of title 28, United States Code, is amended—

(1) by striking "(b) Compensation.—An" and inserting the following:

"(b) Compensation.—

"(1) In general.—An"; and

(2) by adding at the end the following new paragraphs:

"(2) Travel expenses.—Except as provided in paragraph (3), an independent counsel and persons appointed under subsection (c) shall be entitled to the payment of travel expenses as provided by subchapter 1 of chapter 57 of title 5, United States Code, including travel expenses and per diem in lieu of subsistence in accordance with section 5703 of title 5.

"(3) Travel to primary office.—An independent counsel and persons appointed under subsection (c) shall not be entitled to the payment of travel and subsistence expenses under subchapter 1 of chapter 57 of title 5, United States Code, with respect to duties performed in the city in which the primary office of that independent counsel or person is located after 1 year of service under this chapter unless the employee assigned duties under subsection (l)(1)(A)(iii) certifies that the payment is in the public interest to carry out the purposes of this chapter.".

(c) Independent Counsel Employee Pay Comparability.—Section 594(c) of title 28, United States Code, is amended by striking the last sentence and inserting: "Such employees shall be compensated at levels not to exceed those payable for comparable positions in the Office of United States Attorney for the District of Columbia under sections 548 and 550, but in no event shall any such employee be compensated at a rate greater than the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5.".

(d) Ethics Enforcement.—Section 594(j) of title 28, United States Code, is amended by adding at the end the following new paragraph:

"(5) Enforcement.—The Department of Justice and Office of Government Ethics have authority to enforce compliance with this subsection.".

(e) Compliance With Policies of the Department of Justice.—Section 594(f) of title 28, United States Code, is amended by—

(1) striking "shall, except where not possible, comply" and inserting "shall, except to the extent that to do so would be inconsistent with the purposes of this chapter, comply";

(2) adding at the end thereof the following: "To determine these policies and policies under subsection (l)(1)(B), the independent counsel shall, to the extent possible throughout his or her term of office, consult with the Department of Justice.";

(3) striking "An independent" and inserting the following:

"(1) In general.—An independent"; and

(4) adding at the end thereof the following new paragraph:

"(2) National security matters.—An independent counsel shall consult with the Department of Justice with respect to national security matters and shall comply with guidelines and procedures utilized by the Department for the handling and use of classified material.".

(f) Publication of Reports.—Section 594(h) of title 28, United States Code, is amended by adding at the end the following new paragraph:

"(3) Publication of reports.—At the request of an independent counsel, the Public Printer shall cause to be printed any report previously released to the public under paragraph (2). The independent counsel shall certify the number of copies necessary for the public service, and the Public Printer shall place the cost of the required number to the debit of such independent counsel. Additional copies shall be made available to the public through the depository library program and Superintendent of Documents sales program pursuant to sections 1702 and 1903 of title 44.".

(g) Annual Reports to Congress.—Section 595(a)(2) of title 28, United States Code, is amended by striking "such statements" and all that follows through "appropriate" and inserting "each quarter a report detailing all monies expended and annually a report on the activities of the independent counsel, including a description of the progress of any investigation or prosecution conducted by the independent counsel. Such report may omit any matter that in the judgment of the independent counsel should be kept confidential, but shall provide information adequate to justify the expenditures that the office of the independent counsel has made".

(h) Periodic Reappointment of Independent Counsel.—Section 596(b)(2) of title 28, United States Code, is amended by adding at the end the following new sentence: "If the Attorney General has not made a request under this paragraph, the division of the court shall determine on its own motion whether termination is appropriate under this paragraph no later than 3 years after the appointment of an independent counsel and at the end of each succeeding 3-year period.".

(i) Audits by the Comptroller General.—Section 596(c) of title 28, United States Code, is amended to read as follows:

"(c) Audits.—By December 31 of each year, an independent counsel shall prepare a statement of expenditures for the fiscal year that ended on the immediately preceding September 30. An independent counsel whose office is terminated prior to the end of the fiscal year shall

prepare a statement of expenditures by the date that is 90 days after the date on which the office is terminated. The Comptroller General shall audit each such statement and report the results of each audit to the appropriate committees of the Congress not later than March 31 of the year following the submission of any such statement.''.

(j) THRESHOLD INQUIRY.—Section 591(d)(2) of title 28, United States Code, is amended by striking ''15'' each time it appears and inserting ''30''.

(k) CRIMINAL INTENT.—Section 592(a)(2)(B) of title 28, United States Code, is amended to read as follows:

''(B) After conducting an examination under section 591(d) or preliminary investigation under this subsection, the Attorney General shall not decline to proceed under this chapter based upon a lack of evidence that the subject acted with the state of mind required for a violation of criminal law, unless the Attorney General determines that, based upon the information obtained, there are no reasonable grounds to believe that the subject acted with the state of mind required for a violation of criminal law, and no reasonable possibility that further investigation would develop such evidence.''.

(l) RECUSAL.—Section 591(e) of title 28, United States Code, is amended to read as follows:

''(e) RECUSAL OF ATTORNEY GENERAL.—

''(1) WHEN RECUSAL IS REQUIRED.—(A) If information received under this chapter involves the Attorney General, the next most senior official in the Department of Justice who is not also recused shall perform the duties assigned under this chapter to the Attorney General.

''(B) If information received under this chapter involves a person with whom the Attorney General has a personal or financial relationship, the Attorney General shall recuse himself or herself by designating the next most senior official in the Department of Justice who is not also recused to perform the duties assigned under this chapter to the Attorney General.

''(2) REQUIREMENTS FOR RECUSAL DETERMINATION.—Before personally making any other determination under this chapter with respect to a matter, the Attorney General shall determine under paragraph (1)(B) whether recusal is necessary. The Attorney General shall set forth this determination in writing, identify the facts considered by the Attorney General, and set forth the reasons for the recusal. The Attorney General shall file this determination with any notification or application submitted to the division of the court under this chapter with respect to the matter.''.

(m) DISCLOSURE OF INFORMATION.—Section 592(e) of title 28, United States Code, is amended by inserting after ''Except as otherwise provided in this chapter'' the following: ''or as necessary for law enforcement purposes''.

(n) CLARIFY AUTHORITY TO USE JUSTICE PERSONNEL.—Section 594(d)(1) of title 28, United States Code, is amended by adding at the end thereof the following: ''At the request of an independent counsel, prosecutors, administrative personnel, and other employees of the Department of Justice may be detailed to the staff of the independent counsel.''.

(o) ATTORNEY FEES.—Section 593(f) of title 28, United States Code, is amended—

(1) in paragraph (1), by inserting before the last sentence the following: ''No award of attorneys' fees shall be made for any fees that would have been incurred by the individual if the investigation had been conducted by the Department of Justice.''; and

(2) in paragraph (2), by striking everything after ''subsection,'' and inserting the following: ''addressing—

''(A) the sufficiency of the demonstration;

''(B) the need or justification for the underlying item;

''(C) whether the underlying item would have been incurred but for the requirements of this chapter; and

''(D) the reasonableness of the amount of money requested.''.

SEC. 4. MEMBERS OF CONGRESS.

(a) DISCRETIONARY AUTHORITY.—Section 591(c) of title 28, United States Code, is amended to read as follows:

''(c) PRELIMINARY INVESTIGATION WITH RESPECT TO OTHER PERSONS AND MATTERS.—

''(1) IN GENERAL.—When the Attorney General determines that an investigation or prosecution of a person or matter by the Department of Justice may result in a personal, financial, or political conflict of interest, the Attorney General may conduct a preliminary investigation of such person or matter in accordance with section 592 if the Attorney General receives information sufficient to constitute grounds to investigate whether there may have been a violation of Federal criminal law other than a violation classified as a Class B or C misdemeanor or an infraction.

''(2) MEMBERS OF CONGRESS.—When the Attorney General determines that it would be in the public interest, the Attorney General may conduct a preliminary investigation in accordance with section 592 if the Attorney General receives information sufficient to constitute grounds to investigate whether a Member of Congress may have violated any Federal criminal law other than a violation classified as a Class B or C misdemeanor or an infraction.''.

(b) POSTEMPLOYMENT COVERAGE.—Section 591(b) of title 28, United States Code, is amended by striking paragraphs (6) and (7) and inserting the following:

''(6) any individual who held an office or position described in paragraphs (1) through (5), for 1 year after leaving the office or position or until the President under whom the individual served leaves office, whichever period expires first;

''(7) any individual who held an office or position described in paragraphs (1) through (5) during the incumbency of 1 President and who continued to hold that office or position for not more than 90 days into the term of the next President, until the individual leaves such office or position; and''.

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall become effective on the date of enactment of this Act, except that the compensation restrictions added by section 3(c) of this Act shall apply only to employees appointed after the date of enactment of this Act.

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senator from Connecticut be yielded 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the senior Senator from Connecticut for up to 5 minutes.

Mr. DODD. Mr. President, I thank the Chair.

''OUNCE OF PREVENTION'' AMENDMENT TO CRIME BILL

Mr. DODD. Mr. President, I rise today to thank my colleagues for supporting an amendment I offered to the crime bill last Wednesday and to explain it briefly.

I believe this amendment, called an ounce of prevention, fills a hole that I saw in the legislation before us. For while I saw that this bill did a great deal to punish criminals after they commit their crimes, I did not believe it went far enough to support cost-effective programs to prevent children from becoming criminals in the first place.

This omission was, I think, partially a result of a frustration many of my colleagues and I have felt about crime in this country. It is all too easy to conclude that the causes leading young people into lives of crime are so complex and so foreign to each of us that there is little we can do at the Federal level to truly address this issue.

CAUSE FOR HOPE

But over the last several months, my own frustration has turned to hope. As I have spent some time grappling with the issue of youth violence, I have come to discover that there are programs, people and ideas that work well to turn kids' lives around. My message in offering this amendment to the crime bill is that there are concrete things we can do today, as part of this legislation, to help good kids stay out of trouble.

The ounce of prevention amendment is a program based upon a simple premise—namely, that if communities have the will and the resources to work together they can give kids positive alternatives to the streets.

The Federal Government can play a key role in this effort. It can use its resources to bring various groups and individuals within communities together. We can also simplify the complicated maze of programs and application systems so that communities can have one-stop shopping when looking for innovative ideas and resources at the Federal level.

I see this approach as an indispensable component of an over-all attack on crime in this country. The fact is that many kids who join gangs say they do so because they feel they have no other alternatives. My amendment would help communities provide those alternatives.

Such a program is desperately needed. The number of kids turning to gangs is growing. There are now an estimated 400,000 youth gang-members, ranging in age from 9 to 18. This is no longer a problem restricted to major urban areas: gangs have appeared in suburbs and small towns across America.

In offering this amendment, I am not suggesting that the punitive aspects of this crime bill are wrong. I have strongly supported provisions to put more police on the streets and to build more prison space. I have supported stiffer sentences and tougher laws.

CRIME PREVENTION

But I strongly believe that these measures are not enough. They must be balanced with strong measures to get at the root causes of crime.

This is the same philosophy that the President and the First Lady have brought to the debate over health care reform. By emphasizing preventive care, they hope to save lives and save dollars. This amendment is based on the same philosophy. It is far wiser to spend several dollars to keep a community gym open at night than it is to pay the medical bills for a kid who gets shot by a stray bullet while hanging out on a street corner because there is no where else to go.

Why do we not spend a handful of dollars today on programs to give a young person an alternative to crime instead of spending thousands of dollars down the road to punish him after the crime has already taken place? More important than saving money, such an approach would save lives—both of crime victims and of countless young people whose futures can be ruined when they make the terrible mistake of taking part in criminal activity.

The ounce of prevention amendment would provide funds for communities to develop programs to give our young people an alternative to violence. Money would be available for after-school activities, summer academic and recreation programs, and programs to ease young people's transition into the labor market.

BADLY NEEDED COORDINATION

The amendment would also coordinate the youth-related efforts of the Departments of Justice, Education, Health and Human Services, Agriculture, Housing and Urban Development, and the Office of National Drug Control Policy and bring them under the umbrella of a new Ounce of Prevention Council.

This coordination is critical to our efforts. Currently the Federal Government has a patchwork of different youth programs, and there is very little connection between them. Local governments and groups are often bewildered by the bureaucratic maze and do not know where to turn. I hope the Ounce of Prevention Council will bring these programs together, cut through the redtape, and make sure the services reach the communities that need them.

BOTTOM-UP APPROACH

Another strong point of this program is its bottom-up approach to the problem. People in communities all across America have excellent ideas on how to provide their young people with alternatives to crime. The last thing they need is Washington dictating to them what they should do.

Under the Ounce of Prevention Program, local municipalities, schools, colleges, community agencies and other groups would have the opportunity to apply for funds to support programs they have created. Among the groups that might apply for funds are the YMCA and the YWCA; the Boys and Girls Clubs of America; Big Brothers/Big Sisters of America; the Boy Scouts and the Girl Scouts; and the American Red Cross.

It is groups such as these that are on the front lines in our efforts to provide kids with an alternative to gangs, and it is groups such as these we should support.

I know my colleagues join me in hoping for the day when so much of this body's discussion of children and adolescents will not come in the context of anticrime legislation. I think the Ounce of Prevention amendment will move us closer to that day, and I again thank my colleagues for supporting it.

Mr. President, I thank my colleagues here for accepting an amendment that I offered to the crime bill last Wednesday. I appreciate the support of the Senator from Delaware and the support of the Senator from Utah.

My colleague from New Mexico was just here. He and Senator DANFORTH, Senator BRADLEY, and my colleague BOB KERREY from Nebraska, and a lot of people were involved in this idea.

I am talking about the adoption of an amendment we call the ounce of prevention amendment. It came as a result of a meeting that occurred in this town about 2 weeks ago of some people that I asked to get together. They were from across the country—from Oakland, Chicago, Boston, and New York—and they were all involved in youth violence prevention at the grass roots.

Mary Edelman and her husband, Peter Edelman, hosted the dinner. We sat down together to discuss how we might combat youth violence in this country.

This is a frustrating problem. I had held countless hearings on it and I had very little idea how to come to terms with this crisis.

At the end of the discussion that evening at the Edelman home, several things emerged as major problems. One is that a lot of good people and groups at the local level were not getting the kind of support they needed. They did not belong to the political constituency of the municipality or they did not belong to that of the State. They had to go begging in many instance to get support. Yet they were getting the job done and were effective. That was the first problem.

The second problem was when these groups applied to Washington for assistance in this area they had to go through a maze of bureaucracy. Many agencies had good ideas, among them the Justice Department, Labor Department, Health and Human Services, and the Department of Education. But for a YMCA or for a boys club or a girls club to apply for grants through six or seven agencies was just overly complicated.

So we came up with an idea that evening of establishing something called an Ounce of Prevention Council to coordinate the Federal Government's efforts.

The ounce of prevention idea came out of this $23 billion for crime prevention. We felt that if we could come up with 1 ounce—or one-sixteenth—of the funds there to deal with prevention, it would be worth at least that much to try to stop these problems from happening.

I commend the Senator from Delaware, and others, who worked on this bill. They have done a great job. We had a great deal of emphasis on services, people in uniform, putting more police on the streets, and dealing with criminal elements.

At the same time, I think most of us here would like to be part of something that stops the crimes from happening in the first place.

These groups at the local level are doing a good job of crime prevention. So the ounce of prevention amendment will support these groups, and I am pleased that it was adopted by this body.

The Ounce of Prevention Council will be a council chaired by the Attorney General and made up of the Secretaries from Health and Human Services, Education, Agriculture, Housing and Urban Development, as well as the Office of National Drug Control Policy.

Local community groups will be able to apply directly to that council for financing and support for their efforts at the local level in the area of youth violence prevention. They will not have to go to six or seven or eight different agencies to get assistance. They can go right to the Ounce of Prevention Council.

If the local group meets very simple and basic standards, then they will qualify to receive direct financial assistance to help them combat youth violence in their communities—without going through the State and without going through the local municipal government.

That is what this amendment is. It does not have all the resources that we would have liked, but it does set up a structure and a framework that will allow these organizations that are doing the jobs to get some of the resources they need. The amendment will also allow a coordinated effort among the various agencies and departments at the Federal level to consolidate their efforts and provide those resources in a very efficient and expeditious way to our local communities that are really doing a remarkable job.

I would invite my colleagues during the break that we will have between the end of this session and beginning of the next to contact people in some of their home communities, large and small. I think you would be surprised at what terrific efforts are being waged by the Boys and Girls Clubs, YMCA's, YWCA's, church groups, and the like, to give kids an alternative to crime and gangs. These groups are coming up with new ideas, such as after-school programs and alternative dispute resolution efforts. They are doing terrific work. They do not get the attention that a child being shot does, obviously, but they are doing great work. They need our help. They are confused by the bureaucracy. The Ounce of Prevention Council and the assistance we are providing in this crime bill I think can really make a difference for some of these groups and organizations at the local level to prevent crime from happening in the first place.

Mr. President, I again commend the sponsors who joined with me in this, the chairman of the Judiciary Committee, and Senator HATCH, and others for their support of this amendment.

I yield the floor.

INDEPENDENT COUNSEL REAUTHORIZATION ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Chair recognizes the Senator from Michigan.

Mr. LEVIN. Mr. President, last December, the independent counsel law, which had been enacted in response to Watergate and was an important part of our criminal justice system for 14 years, expired. It has been an unfortunate lapse but one that we can correct today with passage of S. 24, the Independent Counsel Reauthorization Act.

S. 24 would put the independent counsel law back on the books for another 5 years. It is very similar to the bill that we introduced in the last Congress and which was reported out of the Governmental Affairs Committee in a bipartisan vote only to be held up on the Senate floor.

S. 24 has the strong support of both the President and the Attorney General. It also has the strong support of the public.

The independent counsel law has been reauthorized twice before with large bipartisan majorities in both Houses of Congress, once in 1983 and then again in 1987.

On both occasions, President Reagan signed the bill into law. In 1988, by a vote of 7 to 1, the Supreme Court found the independent counsel law constitutional.

During each reauthorization of the law based on the experience of the preceding years, we have seen fit to amend and improve the statute. No one has ever claimed that it is the perfect answer to a difficult problem—the conflict of interest or the appearance of a conflict of interest in the Justice Department's prosecuting persons close to the President. That is the inherent problem, and that is the problem which the independent counsel law is intended to address. How can you have public confidence in a prosecution and an investigation of persons close to the President if that investigation is being conducted by somebody who is appointed by the President and subject to the President's control?

Now, there is no perfect answer to this problem. What we have tried to do, however, is to improve the law over time. And I think we have been pretty successful at doing just that.

As in the past, this reauthorization bill offers a number of improvements based upon the experience of the 6 years since the last reauthorization in 1987. They include tighter fiscal and administrative controls on independent counsels, a stronger role for the Attorney General to ensure that only the cases that should go to an independent counsel actually get there, and explicit authority for the Attorney General to use the independent counsel process to investigate Members of Congress.

The basis for the law is the need for public trust in our criminal justice system. Twenty years ago, the public's trust was shattered when then president Nixon ordered his Attorney General, Elliott Richardson, to fire the Watergate special prosecutor, Archibald Cox, who had subpoenaed key White House tapes. Attorney General Richardson resigned instead, and so did Deputy Attorney General William Ruckelshaus. Although Solicitor General Robert Bork obeyed the President's directive and fired Special Prosecutor Archibald Cox, this interference with the Watergate criminal prosecutions left the country reeling. What followed was a constitutional crisis, the resignation of a President, the appointment of a new special prosecutor, and years of criminal investigations, prosecutions, and convictions.

As a result, the independent counsel law was considered by Congress and adopted by Congress on a bipartisan basis. Since its enactment 15 years ago, 13 independent counsels have been appointed. Eight closed their investigations without indictments—but with the public's confidence that the individuals being investigated were not being given any preferential treatment.

Four independent counsels have issued indictments. All four have obtained convictions. One independent counsel, appointed in December, has yet to reach a decision on indictment.

The longest and most complex independent counsel matter has been the Iran-Contra investigation. In December 1986, then-Attorney General Edwin Meese asked the special court to appoint an independent counsel to investigate all crimes arising out of the Iranian arms sales and diversion of profits to the Nicaraguan contras. Interestingly enough, this case was not one where use of an independent counsel was mandatory; Attorney General Meese, supported by President Reagan, chose to invoke the independent counsel process. In response to this request, the special court appointed Lawrence Walsh—a respected lawyer who was a life-long Republican, former prosecutor and Federal judge, and former head of the American Bar Association and who possessed a strong resume of professional experience and honors.

Mr. Walsh accepted the assignment and has since worked through one of the most complex criminal investigations in the history of American jurisprudence. He filed 14 indictments of top Government officials in the Defense Department, State Department and CIA. Eleven resulted in criminal convictions, either from guilty pleas or jury verdicts. One indictment was dismissed due to the Government's refusal to release relevant classified information. Two indictments never went to trial, because President Bush issued pardons for the defendants, Caspar Weinberger and Duane Clarridge. Mr. Walsh has not completed his investigation, drafted his final report, and sent it to the special court. The court has given persons named in the report the opportunity to comment, after which the court will decide whether to release the report.

The Iran-Contra investigation had just begun at the time of the last reauthorization of the law, and it has proved to be the most controversial case we have seen under this law.

Given the complexity of the facts and the political sensitivity of the issue, that controversy has been no surprise at all. But it has been a measure of public confidence in the independent counsel system that there is no charge that the investigation has been a whitewash.

S. 24—this bill—was introduced by Senator COHEN and myself earlier this year and reported by the Governmental Affairs Committee with bipartisan support in July. In general, the bill would: First, reauthorize the independent counsel law for 5 years, second, strengthen fiscal and administrative controls on independent counsels; and third, make it clear that the law applies to Members of Congress. I'd like to address the last two of these items more specifically.

A key feature of the bill is a host of tighter fiscal and administrative controls on independent counsels in response to some of the weaknesses demonstrated by the Iran-Contra matter. These weaknesses include inadequate or unclear cost controls on such matters as staff compensation, office space and travel expenses; and the need for additional accountability measures and a stronger role for the Attorney General.

In answer to these problems, the bill would require independent counsels to: comply with Justice Department spending policies; authorize only "reasonable" expenditures; and appoint a staff person to track expenditures and incur personal liability for authorizing improper expenditures.

To assist the independent counsel in these duties, the bill would clarify the responsibility of the Administrative Office of the U.S. Courts to provide administrative support and guidance.

The bill would require use of Federal office space by independent counsels, unless other arrangements are less costly. It would limit travel expenses by making it clear that Federal travel laws apply to independent counsels and, after one year in office, that independent counsels and staff are not entitled to travel or subsistence expenses when working in the city in which their primary office is located, unless the certifying official approves payment as in the public interest.

The bill would limit independent counsel staff compensation to amounts paid for comparable positions in the U.S. Attorney's Office of the District of Columbia. It would require independent counsels to file quarterly expense reports with the special court and annual progress and expense reports with Congress, and ensure public availability of their final reports. It would require annual expenditure statements by independent counsels and continuing audits by GAO.

Finally, in establishing one of the most important checks on the independent counsel system, S. 24 would require the special court to determine at least once every 3 years whether an independent counsel office should be continued. This provision would create a mandatory check-in by the special court at least once every 3 years—it could be done more often—to see if the office of an independent counsel has done what it was supposed to do and should close up shop and go home.

With respect to Members of Congress, the bill makes it explicitly clear that the Attorney General may investigate a Member of Congress using one of two approaches. She can use the independent counsel process anytime she thinks it is in the public interest to do so. Or, she can proceed to investigate Member of Congress using the Department of Justice. The law which expired a year ago, the old law, limited the Attorney General to using the independent counsel process for Members of Congress only where the Attorney General determined there was a personal, financial, or political conflict of interest. This bill removes that hurdle and gives the Attorney General the discretion needed to use an independent counsel for a Member of Congress whenever she thinks it would be appropriate.

An amendment may be offered later to require the Attorney General to use the independent counsel process exclusively for Members of Congress. We will oppose that amendment as being misguided, since the purpose of the independent counsel law is to address the inherent conflict of interest or the appearance of a conflict of interest that exists when an administration investigates itself. No such conflict of interest exists when an administration investigates a Member of Congress, at least it does not exist inherently. It does not automatically exist. There is not an automatic appearance of a conflict of interest when a Member of Congress is being investigated by the Attorney General.

The Justice Department has a long history of aggressive and successful prosecutions of Members of Congress and that is proof that there is no inherent conflict.

Just last year the Bush administration's Justice Department indicted the ranking Republican on the House Appropriations Committee despite his obvious clear influence over the Department's budget. Two former Members of Congress entered prison just this year, after Federal prosecutions resulted in convictions, and other indictments of Members of Congress are pending or at least possibly pending.

The fact is that the Attorney General is not perceived to be and is not in fact part of the U.S. Congress. There is no inherent conflict when she investigates and prosecutes individual Members in all but unusual cases. That is why the independent counsel law authorizes her to use independent counsel relative to Members of Congress when there are prosecutions being considered, but it also authorizes her to prosecute for herself. That is, relative to Members of Congress, she has two options under our bill. She can go either way without limit. We face two barrels.

On the other hand, the Attorney General is perceived to be and is part of the administration, and there is an inherent conflict of interest or appearance of conflict of interest each time she is called upon to investigate her high-level administration colleagues. That is why the law requires her to turn to an independent counsel when investigating these top executive branch officials and the investigation has reached the required threshold.

This is not just our analysis. The Attorney General herself agrees with this analysis. She testified before our committee flat out that there is an inherent conflict of interest when she investigates top administration officials but not when she investigates Members of Congress.

For that reason Attorney General Reno supports the automatic coverage of top executive branch officials but not the automatic coverage of Congress—not the mandatory coverage of Members of Congress. But she wants the authority to use the independent counsel relative to Members of Congress. And she also wants the authority to proceed on her own.

Congress is not favored as a result. We are subject to a two-barreled approach. The Attorney General wants the discretion, and we give it to her, to use the independent counsel relative to Members of Congress or to investigate us herself. She wants both options, and this bill gives her both options. But regarding the executive branch, she says, and we agree, there is an inherent conflict of interest because these are the high level officials in the same branch that she serves in, appointed by the same person that she works for. It was that conflict in the executive branch that caused, after Watergate, the public to lose its confidence in the ability of the executive branch to conduct investigations of its own top officials.

The independent counsel law has been critical to restoring public confidence in the criminal investigations of top Government officials suspected of misconduct. When it lapsed last year it left a gaping hole in our criminal justice system and it is up to us to repair it.

Finally, I thank my good friend BILL COHEN of Maine. He has worked harder on this legislation over the decades than anybody I know of. He is truly one of the godfathers of this statute. He is a walking history book, although he is not that old, relative to it. We have stood together in support of this law, working together to improve it for the past 15 years, through both Democratic and Republican administrations. That is the hallmark of this bill. Not only does it restore public confidence to the prosecution, the investigation of high level officials, but it also has been a bipartisan bill always.

Senator COHEN has been in the center of this effort. His steadfast support and his knowledgeable approach to this subject has been invaluable to its being reauthorized twice before—indeed, to its original creation. It has been a pleasure working with him, as it always is, but on this bill particularly because of the knowledge and background he brings to this bill.

I yield the floor.

The PRESIDING OFFICER (Mr. KOHL). The Chair recognizes the Senator from Maine [Mr. COHEN].

Mr. COHEN. Mr. President, first of all I thank my colleague from Michigan for those glowing remarks. I do not want to undercut the significance of what he has said. I would like to kind of bathe in the afterglow of the tribute just paid to me, but I wonder if he would tolerate perhaps a 2-minute statement on my part that might appear as in morning business.

NAFTA

Mr. COHEN. Mr. President, earlier today I issued a statement concerning the NAFTA treaty and indicated that I would not be supporting it. In my own estimation, the debate over the proposed free-trade agreement has been vigorous but, unfortunately, too often the debate has generated as much confusion as it has clarity. Exaggerated consequences of its defeat have been matched equally by the inflated benefits projected from its passage.

I will not take the time, now, to explain in its entirety the reason why I will be opposing it, but I will say some businesses undoubtedly are going to profit from this agreement; some will lose. The net effect will not be as great as those who support it claim it will be; nor those who are opposed to it claim it will be. It will be little comfort to those who lose their jobs as a result, that overall there will be a net gain to the United States.

But my reasons go beyond that. NAFTA is basically premised upon the agreement we have with Canada. We have a free-trade agreement with Canada, one I do not support because Canada, as we all know, employs generous subsidies for its various industries that they target to compete with American competition. We did not ever undertake to negotiate those subsidies away and it puts us in a very difficult competitive position. Recently there have been actions by at least one province which has taken the tactic of adding a 12-percent provincial sales tax to goods coming back in from the State of Maine. As a result of that action, business in some areas of Maine has dropped by 50 percent.

In addition to what is clearly a violation of the Canadian Free Trade Agreement that we, the United States, has with Canada, they also have indulged in harassing activities. They have employed people at the border who have held up Canadian citizens for hours, have threatened strip searches, have basically tried to intimidate citizens from Canada coming into Maine to do their shopping.

This past week the administration sent a team to investigate the situation and publicly said that it appears to be a violation of our free-trade agreement, but that there appears to be little we can do about it.

It was my hope that the administration would vigorously protest the violation by Canada, and not only protest it but take action to see that it complies with this Agreement. If the people of Maine, and indeed this country, are going to continue to hold reverence for the rule of law, it is imperative that we not only negotiate and sign treaties but that we also abide by them and, equally important, that we insist upon their proper enforcement. It has not been done in this case and for that reason I cannot add my support, as much as I would like to, to the NAFTA agreement. I cannot add my support as long as one major party to this agreement continues to flout the current agreement, as it currently does.

I have met in Maine with those who oppose NAFTA and those who support it. I have tried to maintain an open line of communication as well as an open mind in an effort to determine where the best interests of Maine and the Nation lie.

As a general proposition I believe that free trade does produce beneficial results for nations that allow goods and services to be exchanged unimpeded by tariff and nontariff barriers. And yet, I reluctantly have concluded that I cannot support this agreement and would like to take a few minutes to explain why I have reached this decision.

Perhaps the most prominent issue of concern is that of job loss.

The logic behind the concern that NAFTA will cause a major shift of jobs from the United States to Mexico is fairly straightforward: Factories are built where costs are lowest. Mexican wages are one-seventh of those in the United States. Factories and jobs, therefore, can be expected to move to Mexico in large numbers.

The logic is initially appealing, but several counterarguments suggest otherwise.

First, it is on coincidence that Mexican wages are on average one-seventh of ours—the average productivity of Mexican workers is one-seventh of United States workers. The cheapest labor is not necessarily the most cost-effective. U.S. workers earn more because they are more productive. NAFTA will not change this.

Also, if low wages were the only criteria involved in deciding where to locate a plant, manufacturing would be done exclusively in low-wage countries. This obviously is not the case. The United States continues to be the world's largest manufacturer despite high wages. BMW and Mercedes-Benz would not be opening plants in the United States if low wages dominated the site selection process. Other factors, like transportation, communications, access to markets and support services, are just as important as wages in determining overall production costs and plant location.

Third, the average United States tariff on imports from Mexico is about 4 percent. Phasing out these relatively small tariffs are unlikely to spur job shifts that have not or would not occur anyway.

The suggestion that NAFTA will cause major job losses strikes a nervous chord in light of the slow-growing economy and a rate of unemployment which is still too high. In fact, NAFTA has become a lightning rod for the widespread anxiety over the economy. The age of anxiety aptly describes the mood of the 1990's.

Even a thankful change like the end of the cold war can cause apprehension. Despite its long-term benefits, the end of the cold war means joblessness for many defense-dependent communities in Maine and other States.

Defense workers are not alone. All workers are facing unprecedented change. The restructuring of corporate America has destroyed any notion that a college degree itself insulates one from the risks of unemployment. In fact, the number of white-collar unemployed have reached historic highs in the 1990's.

The globalization of the economy also adds to the anxiety. While expanding trade offers new opportunities for workers and businesses, it also creates risks. For every Maine business selling its goods and services in the world market, there is a foreign competitor trying to compete here in the domestic market.

As consumers, we benefit from this heightened competition. We enjoy a better and wider selection of goods and services. In our jobs as producers, however, we are continually subject to stiffer and stiffer competition. Firms that cannot adapt will be replaced. This partly explains why the frequency with which Americans change jobs is increasing.

There are economic benefits to a more flexible and fluid work force, but the anxiety and pain associated with these changes is unmistakable.

In the long run, tariffs cannot provide lasting protection for any nation's work force. Even in the face of significant import tariffs on shoes and textiles, the forces causing the loss of jobs in Maine and elsewhere were too great. A highly skilled work force is the best hope for the competitiveness of America and its workers.

Another major argument that has been raised against NAFTA is that the agreement would undermine the sovereignty of Maine and other States. This concern comes from a provision in NAFTA that assures that countries do not use environmental laws as trade barriers. This provision is designed to help the United States because Mexico on occasion has justified import bans on false environmental grounds. In fact, Maine seed potatoes have been kept out of Mexico for the past 2 years because Mexico has falsely claimed that the potatoes have plant pests. Mexico has been the only country that has made this claim. NAFTA is designed to combat precisely this type of abuse of health, safety, and environmental laws.

Since neither Maine nor the Federal Government use sham health or environmental claims as means of keeping out foreign products, it is my judgment that NAFTA will not pose a threat to our sovereignty and will not contribute to the degradation of the environment by permitting or encouraging polluting industries to operate without constraint.

But even as I find several major objections to NAFTA unpersuasive, I have come to the conclusion that I cannot support an agreement that builds upon the United States-Canada Free-Trade Agreement which, at this very moment, is being seriously violated and causing tremendous economic losses in Maine.

In 1988, I opposed the United States-Canada Free-Trade Agreement because it failed to address the generous subsidies provided by the Canadian Government to industries that compete with ones in Maine. Workers and businesses in Maine can compete with anyone, but they should not be expected to compete with the deep pockets of the Canadian Government. Because the United States-Canada Free-Trade Agreement did not create a level playing field for Maine industries, it was not a free trade agreement in my view. It simply maintained an unfair status quo.

The proposed NAFTA essentially builds upon the United States-Canada Free-Trade Agreement. Not only do our problems with Canadian subsidies continue, but new and egregious unfair trade practices have emerged.

In July, Canada began collecting an 11-percent new Brunswick Provincial sales tax [PST] at the Maine border. This discriminatory tax is clearly designed to deter New Brunswick residents from shopping in Maine and, therefore, violates the United States-Canada Free-Trade Agreement. Shopping in Maine by Canadian residents is down by as much as 50 percent in some areas. The discriminatory border tax is forcing Maine retailers to lay off workers and could eventually force stores to close.

Last summer, I asked the administration to raise this matter with Canada. While administration officials have publicly acknowledged that the PST violates the free-trade agreement, they also suggest that there may be little that can be done about it. Negotiating and signing trade pacts are of little value if violations cannot be remedied. Yet, that seems to be the situation Maine businesses now face.

The situation is also worsened by the outrageous conduct of Canadian personnel at the border. Maine and Canadian citizens alike have been harassed by Canadian border officials. This harassment, like the border tax, is clearly designed to discourage New Brunswick residents from shopping in Maine. When faced with long delays when returning home and even the possibility strip searches, few could blame Canadian residents for choosing not to shop in Maine.

Oliver Wendell Holmes' statement that a page of history is worth more than a volume of logic applies here. If the history of the United States-Canada Free-Trade Agreement is any indication, the prospects for NAFTA providing an opportunity for free and fair trade remain in doubt. Despite the stated good intentions of the architects of the agreement, the border harassment, the Provincial sales tax, and the subsidies that Canada continues to provide its industries suggest that the United States-Canada Free-Trade Agreement still has not created a level playing field for Maine businesses and workers. Supporting NAFTA would implicitly sanction the United States-Canada Free-Trade Agreement—a step that I am not prepared to take.

I have taken the time to read and study the agreement while listening as objectively as possible to the conflicting voices in Maine throughout the country.

A number of economists and Maine businesses have indicated to me that NAFTA will create new opportunities and jobs for our citizens. I do not question the accuracy of their forecasts and enthusiasm. But is it also clear to me that a number of jobs will be lost, even though their significance may be discounted by NAFTA proponents because they are not high wage jobs.

It had been my hope that the administration would not only issue a loud protest against the activities of our Canadian neighbor but take action to enforce the treaty itself. I regret that no such action has been forthcoming.

If the people of our country are to continue to hold reverence for the rule of law, then it is imperative that the law be followed and not flaunted. Under the circumstances, I cannot lend my support to a new treaty that in essence expands an existing one that goes unenforced.

INDEPENDENT COUNSEL REAUTHORIZATION ACT

The Senate continued with the consideration of the bill.

Mr. COHEN. Mr. President, I would like to return now to the discussion that is before us and say that this legislation was born in controversy during the Watergate years. It remains controversial today.

There are arguments that are made by opponents against the statute. They are many, and they are varied. The independent counsel is said to be demagogs with unlimited staff, unlimited time, and unlimited resources. They have no meaningful oversight. They are accountable to no one. The statute is inherently flawed because it does not cover Members of Congress, and the law triggers too easily. Rather than ensure fair treatment of high-ranking executive officials accused of wrongdoing, the law operates to treat them more harshly than ordinary citizens—and the list of criticisms go on.

Basically, it is not a debate about the fine details or the modifications that have and can be made, but rather as to whether we need an independent counsel act at all.

There is a feeling, certainly within the Justice Department historically that there has been strong opposition to the need for an independent counsel statute. The reason is because career prosecutors feel that such a statute really is an insult to them. They have dedicated their lives to pursuing the rule of law; they are professional; they are not partisan; and they feel fully capable of conducting any investigation against any official within the executive branch, indeed, in the congressional branch. So they view it, and historically have viewed it, as really an insult to their own integrity.

This legislation is not intended to be an insult to their integrity. It is not really a question about their impartiality because there is another rule in our society that not only must ensure justice be done, but it must appear to be done. The appearance of justice having been done is equally important as justice having been done.

We can see this over a period of years where an investigation has been conducted by the Justice Department and a certain individual has been cleared and because of the nature of the relationship of that individual to the President or other members of the President's Cabinet, questions have remained. They say, "Well, was it really an independent investigation or was it a coverup, a whitewash?" When those questions tend to linger, they cast a cloud over that individual who has been investigated, notwithstanding the fact that the investigation was properly conducted. The cloud of doubt remains, and the cynicism remains. People, again, tend to look upon the Government with less than the highest of appeal.

So I think it is critically important that we focus upon the issue of the appearance of justice having been done.

Attorney General Reno is one of the first confirmed Attorneys General who has come out in favor of this legislation. She supported it during her confirmation hearings. I think that her own experience as an Attorney General, head of a justice department, as such, within the State of Florida, confirms her own respect of the need for this type of law.

In Florida, it was somewhat different. There, the attorney general had the power of appointment. Here, over the objections of myself, Senator LEVIN, and others, our current law, as it exists expired last December. I said at that time I felt that the Republicans were making a mistake in allowing it to expire and that we would rue the day we allowed it to expire because there would come a time when allegations would be leveled against certain high-ranking officials in the executive branch who would then be part of the Democratic Party and little would be done to really resolve those issues to our satisfaction.

Sure enough, there now are allegations pending against several high-level officials, including at least one high-level official within the Cabinet of the President. There is another one pending, of course, against a Member of Congress. There is a growing feeling—which I do not share—on the part of some Members that maybe the Attorney General is acting a bit politically. Maybe it has not been quite as aggressive an inquiry as the case warrants and maybe things are being delayed, stalled or temporized in order to allow a number of political victories to be achieved.

Again, I do not share those particular views, but I must tell you, if they are not articulated, they are strongly felt by some Members.

I think the Attorney General recognized this. She supports this legislation strongly, and she recognizes that the independent counsel law is not the virus that has invaded the body politic, but rather it is part of the cure.

The American people recognize that those who serve in high positions are human beings subject to temptations and subtle influence and pressures, and that their judgments might be affected by those pressures. They are also concerned that the undue influence on the Government by the rich and the powerful, the well-connected, continues to exist, and they want some assurance that there is some kind of independent examination of the activities of those officials.

Senator LEVIN has pointed out this particular law created back in 1978 is not carved in marble; it is not carved in stone. It is subject to change and, indeed, we have seen it change several times. We changed it back in 1982. As I recall, Senator LEVIN was in the forefront of making the changes that were designed to ensure that Government officials would not be prosecuted in circumstances that would not apply to the average citizen. Then again, in 1987, we added new provisions to increase some of the controls on the costs involved.

We have gone further in this legislation. We have added more cost controls because of the legitimate concern on the part of many of our colleagues. They looked to Independent Counsel Walsh's activities and they said it went on too long, cost too much money, became politicized, and there were no adequate cost controls. We have tried to address that in this legislation.

There are monetary restrictions. The scope of the activities is restricted, and we have tried to address the concerns of the critics who have leveled their objections to the law itself.

I think the most serious objection comes from my colleague from Arizona—one of my closest friends—who says the law should apply to all Members of Congress. The law does apply to all Members of Congress. There was an existing law, a so-called catch-all provision that the Attorney General could invoke to apply to Members of Congress whenever he or she saw a potential conflict of interest. Senator LEVIN and I tried to be responsive saying, "Let's go further; let's explicitly provide that the Attorney General, whatever the reason, may call for the appointment of an independent counsel to investigate and prosecute Members of Congress."

But that is not sufficient to satisfy the critics of the law itself. They say it must be uniform. Every Member of Congress must be covered under each and every circumstance. I personally have no objection to Members of Congress being covered because they are already covered. The reason I have raised an objection goes to the constitutionality of the provision.

The McCain amendment basically says that under no circumstances can the Justice Department ever investigate and prosecute a Member of Congress of either party; that because of the mandate, on each and every occasion, an independent counsel must be appointed—no exceptions. I think that runs very near, if not over, the line of the separation of powers clause in the Constitution. I do not believe that Congress can constitutionally pass a law which prohibits the Justice Department from investigating and prosecuting Members of Congress. For this reason, I object to the McCain amendment.

As the statute is drafted, I believe we are covered. We provide explicit authority for the Attorney General to call for an independent counsel, whatever the reason. If he or she decides there is some potential conflict or appearance that justice will not be done, the Attorney General can call for the independent counsel. We can think of any number of cases where that may be the case.

As Senator LEVIN has pointed out, the Justice Department historically has had no hesitation to investigate and prosecute Members of Congress. So we do not find the inherent conflict there. If it exists, authority is granted to the Attorney General to use the independent counsel. But if you mandated that on each and every occasion the Justice Department automatically is excluded from ever investigating or prosecuting a Member of Congress, I think the Supreme Court would say that there is a violation of the separation of powers clause. For that reason, I oppose the McCain amendment.

Mr. President, let me conclude by saying that maybe we will come to a point in time when we will never need an Independent Counsel Act. Historically, it has been the complete province of the President of the United States to have a member he, or maybe one day she, may want. We can go back to the Kennedy years where the President appointed his brother as Attorney General. We can point to Republican Presidents who have appointed their personal counsel as their Attorney General.

Whenever you have a President appointing someone who is viewed as being either a personal attorney, political adviser, or partisan adviser, it creates doubts in the minds of the American people as to whether justice is in fact going to be carried our impartially without regard to politics.

Until we arrive at the time when Presidents will, in fact, appoint individuals who are seen across the board as being completely independent, completely uninvolved in partisan activities and not associated with one party's philosophy or the other, I think there will always be a need to have an independent counsel statute on the books. In those rare cases where complaints or allegations are made against high-level executive branch officials, questions will be raised as to whether the Attorney General or the Justice Department would carry out with the full force and effect of its resources an impartial and complete investigation. This will always remain the case as long as we appoint people who seem to be less than impartial because of their prior history and involvement in politics.

I think most people feel very comfortable, and I still do, with Attorney General Reno's impartiality, and yet, questions are subtly raised: Is she vigorous enough with certain individuals? Is there some attempt by the administration to perhaps subtly or not so subtly influence her decisionmaking? Why do you suddenly see a spate of criticism arise in some of the papers critical of the Attorney General? Is someone putting the message out that she better get in line?

All these questions are floating around. We do not talk about them publicly too much, but that in fact is taking place today. For this reason, I believe there is a need for an independent counsel statute.

When Attorney General Reno was a nominee, she indicated that she favored such legislation. I think the experience she has now enjoyed or not enjoyed—I think it is enjoyed—would bear that out. She, too, feels it is important that the public be reassured on each and every occasion that justice will not only be done but appear to be done.

From its birth in the aftermath of Watergate, the independent counsel statute, or the special prosecutor law as it was originally named, has had many detractors. These critics include many intelligent, thoughtful men and women, some of whom I know personally and professionally and for whom I have respect and admiration. On this issue, we respectfully agree to disagree.

The arguments made by opponents against the statute are many and varied. Independent counsel are said to be demigods with unlimited staff, unlimited time, and unlimited budgets. They have no meaningful oversight and are accountable to no one. The statute is inherently flawed because it does not cover Members of Congress. The law triggers too easily. Rather than ensuring fair treatment of high-ranking executive branch officials accused of wrongdoing, the law operates to treat them more harshly than ordinary citizens.

While we can and will continue to argue over the details of the independent counsel process, the bottom line is that supporters and opponents of the law have a fundamental difference of opinion on the need for a independent process outside the Department of Justice to investigate and prosecute allegations of criminal wrongdoing by high level Government officials. The debate is not about whether the independent counsel statute is the appropriate answer to the problem, but whether or not a problem exists at all.

Opponents of the law assert that the Justice Department should investigate and is perfectly capable of investigating and prosecuting criminal wrongdoing by Government officials no matter who they are. To withdraw this responsibility from the Attorney General and the Justice Department is a disservice and an insult to the Department and, by doing so, we undermine the public trust in the integrity of Government.

It may come as a surprise to some people that I, a long-time supporter and coauthor of the statute, agree that the Justice Department in perhaps all but the most extraordinary of cases is capable of meeting its responsibility to see that justice is served. The law, however, serves two ends, both equally important in our democratic society. One is that justice must be done, and the other that it must appear to be done. The appearance of justice is just as important as justice itself, in terms of maintaining public confidence in our judicial system. Such confidence is undermined when the administration of the law appears to be compromised.

As the members of the Senate are well aware, the level of cynicism and disillusionment of the American public about Government and the integrity of public officials has reached new heights. Opponents of the law may argue that the independent counsel law has contributed to the public's cynicism and the low esteem in which Government officials are held by undermining the public's faith in Government generally and the Justice Department specifically. I disagree. The independent counsel law is not the virus that has invaded the body politic but rather is part of the cure.

The American public recognizes that we live in an imperfect world and that public officials, like themselves, are subject to subtle influences and pressures that affect their judgments and decisions. The public is also concerned, too often with justification, about the undue influence on government of the rich, the powerful or the well-connected. By providing for a judicially appointed independent counsel to handle investigations and prosecutions of top-level executive branch officials, the statue helps to assure the public that criminal wrongdoing by such officials will not be buried or tolerated, and that top-level officials will not be treated as if they are above the law.

We have not professed that the statutory measure designed to meet the public's need is etched in marble or is immutable. Therefore, Senator LEVIN and I have sought ways to refine the law so that it operates fairly and effectively. Congress has attempted to do just that during each of the previous reauthorizations of the statute. In 1982, for example, Congress made changes in the law designed to ensure that government officials would not be prosecuted in circumstances where average citizens would not. In 1987, provisions were added to the law to increase controls on independent counsels.

In S. 24, Senator LEVIN and I have attempted to address problems which have arisen with the law since the last reauthorization. As Senator LEVIN has described in more detail, we have included numerous provisions in the bill to address the legitimate concerns raised with regard to the law's operation.

Most recently, significant concerns have been raised over the monetary costs of the law, in light of the unanticipated scope and cost of independent counsel investigations in the past several years. To address the cost issue, S. 24 includes several provisions to tighten fiscal controls.

Critics also decry the lack of accountability of independent counsel. The old law provides for accountability in a number of ways. Only the Attorney General can request the appointment of an independent counsel and the Attorney General has significant influence in defining the independent counsel's jurisdiction. Independent counsel must comply with Justice Department policies. They may be removed from office by the Attorney General for good cause. They are accountable to the appointing court, which defines their jurisdiction, and, like other prosecutors, they are subject to the authority of trial and appellate judges. S. 24 adds to the existing measures of accountability by requiring the special court to determine at least once every three years whether a particular independent counsel should be terminated. As one of the witnesses at last year's hearing on this issue testified, "Making the investigator independent of the executive does not make the office unaccountable."

The criticism of the law which I find least persuasive is that it does not apply to Members of Congress. Let me say that Members are already covered by the law's so-called catch-all provision. As currently written, the law gives the Attorney General the discretion to request the appointment of an independent counsel whenever he or she determines that an investigation of a Member of Congress by the Justice Department may pose a conflict of interest—either personal, financial, or political.

There is, of course, no inherent conflict of interest when the Justice Department investigates or prosecutes Members of Congress, nor is there any evidence that the Department is hesitant to investigate or prosecute Members. However, to accommodate those who believe that the law was inadequate in this respect, S. 24 would give the Attorney General the authority to seek the appointment of an independent counsel in any case involving allegations of criminal wrongdoing by Members of Congress.

This new provision would not require a finding of a conflict of interest before it can be used. Therefore, the Attorney General could choose to use an independent counsel in every case involving a Member of Congress, effectively creating mandatory coverage, or could confine its use to situations where a conflict exists as under current law. The discretionary nature of the provision would obviate any constitutional concerns raised by an absolute bar on Justice Department Investigations of Members of Congress.

Finally, I want to conclude with a point that I made during the debate on this issue last Congress. As long as Presidents continue to appoint individuals to the office of Attorney General who are seen to be political in nature, either because of their party affiliation or because of their partisan activities, we will continue to need an independent counsel law. Until such time as we have Attorneys General who are perceived to be beyond the political system, who are truly independent in terms of their background and in terms of the respect they command from both Democrats and Republicans, there will always be the perception, if not the reality, of a conflict of interest when the Attorney General is called upon to investigate allegations of wrongdoing at the highest levels of Government.

There have been some notable exceptions to this Presidential practice in the past. If and when the presidents of this country establish the practice of appointing individuals who are highly regarded within the legal profession, who have not been engaged in partisan politics and who, in fact, are a symbol of true impartiality in the administration of justice, then we may find there is no longer a need for the independent counsel law.

In the meantime, there is a compelling need for an independent process to investigate allegations of criminal wrongdoing by high-level Government officials. Justice Holmes once said that "The Life of the law has not been logic: It has been experience." In this case, both logic and experience are on the side of reauthorizing the independent counsel law.

I urge my colleagues to support this legislation.

I yield the floor.

Might I add that the Senator from Arizona has suggested the possibility of 40 minutes on his amendment equally divided, and that would be acceptable to me.

Mr. McCAIN. Perhaps 1 hour equally divided, if that would be agreeable to the managers.

Mr. LEVIN. Either one is fine. I would ask unanimous consent that we have 1 hour equally divided on the McCain amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. And that no amendments to the McCain amendment be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arizona.

AMENDMENT NO. 1205

(Purpose: To remove Members of Congress from the discretionary preliminary investigation provisions and to require such investigations)

Mr. McCAIN. Mr. President, I have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Arizona [Mr. McCAIN], for himself and Mr. GRASSLEY, proposes an amendment numbered 1205.

Mr. McCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> Strike beginning on page 18, line 14, through page 20, line 2, and insert the following:
>
> **SEC. 4. MEMBERS OF CONGRESS.**
>
> (a) MANDATORY COVERAGE OF MEMBERS AND POST EMPLOYMENT COVERAGE.—Section 591(b) of title 28, United States Code, is amended by—
>
> (1) redesignating paragraph (8) as paragraph (9); and
>
> (2) striking paragraphs (6) and (7) and inserting the following:
>
> "(6) any Member of Congress;
>
> "(7) any individual who held an office or position described in paragraphs (1) through (5), for 1 year after leaving the office or position or until the President under whom the individual served leaves office, whichever period expires first;
>
> "(8) any individual who held an office or position described in paragraphs (1) through (5) during the incumbency of 1 President and who continued to hold that office or position for not more than 90 days into the term of the next President, until the individual leaves such office or position; and".
>
> (b) DISCRETIONARY AUTHORITY.—Section 591(c) of title 28, United States Code, is amended to read as follows:
>
> "(c) PRELIMINARY INVESTIGATION WITH RESPECT TO OTHER PERSONS AND MATTERS.—When the Attorney General determines that an investigation or prosecution of a person or matter by the Department of Justice may result in a personal, financial, or political conflict of interest, the Attorney General may conduct a preliminary investigation of such person or matter in accordance with section 592 if the Attorney General receives information sufficient to constitute grounds to investigate whether there may have been a violation of Federal criminal law other than a violation classified as a Class B or C misdemeanor or an infraction.".

Mr. McCAIN. Mr. President, I would, first of all, like to thank my colleagues, Senator LEVIN and Senator COHEN, for bringing this long-awaited legislation to the floor.

I should like to mention at the outset I was accused by a certain editorial writer from the New York Times of blocking this bill. I hope at the appropriate time both Senator LEVIN and Senator COHEN would rebut that allegation. I have stated that I did have this amendment, if and when the bill came to the floor I would offer it, but I have never had any intention of impeding the progress of this important legislation.

I would like to start out, Mr. President, by stating that my friend from Maine does bring up a constitutional question. If that is the case, I would point out that in section 598 of this bill, it says:

> If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of this chapter and the application of such provision to other persons not similarly situated or to other circumstances shall not be affected by such invalidation.

So if his concerns are, indeed, correct, then I believe it would not impact the remainder of the bill.

I will be glad to yield to my friend from Maine.

Mr. COHEN. If the Senator will yield, as a matter of fact, it was primarily due to the amendment of the Senator from Arizona that we insisted on that provision, that it be there as a saving grace for the legislation to prevent us from doing an unconstitutional act.

Mr. McCAIN. I would like to congratulate my colleagues for their foresight in adding that portion of the bill.

Mr. President, let me just start out by quoting from Robert Bennett. We all know that Robert Bennett is one of the most respected members of the legal profession. He has worked with the Senate Ethics Committee, and he has worked on many high visibility cases throughout Washington, DC, and dealt with the legal ramifications of laws regarding various Members of Congress and their encounters with the legal profession or possible violation of laws or ethics.

He stated very clearly, and I quote Mr. Robert Bennett:

> Apply the statute to Congress. I would want this new statute to apply to certain Members of Congress. I think this is very important for two primary reasons. First, the same kind of conflict issue appears to justify appointment of independent counsel to investigate certain executive branch officials. For example, if the Senate or House leadership is important to a President to get his legislative package through Congress, is the public going to have very much confidence in the integrity of an Attorney General of that administration declining a prosecution of a Senate or House leader? Similarly, the integrity of an investigation of a political opponent raises public credibility concerns. Recent public controversies regarding cases involving Members of Congress demonstrate that these are not theoretical concerns.

Now, Mr. President, that is Mr. Robert Bennett's view. He also goes on to say:

> There is another important rationale that is just a commonsense one. Suzanne Garment, who wrote a very excellent book called Scandal, noted that congressional interest has driven the initiation of many of these independent counsel investigations. If the statute applies to Members of Congress and the executive branch, more of these investigations would be instituted on a merit basis rather than a political basis.

Both Mr. Bennett and Ms. Garment are correct in my view.

Mr. President, this is a very simple amendment really. What it says is that the statute we are about to enact, which would apply to some 50 members of the executive branch, would apply to Members of Congress. Many of the Members of Congress that this might apply to are more powerful in most respects and have more effect on the daily lives of Americans than many of the 50 members of the executive branch.

Mr. President, the last approval rating I saw of Congress was around 22 percent with a 69 percent disapproval. There is a reason for that. One of the major reasons is that the American people believe there is a complete disconnect between the Congress of the United States and the American people. And by the way, Mr. President, they are correct. They want us to live under the same rules they do.

The Senate currently exempts itself from the following laws in part or whole: The Civil Rights Act of 1964, the Americans With Disabilities Act, the Age Discrimination in Employment Act of 1967, the Rehabilitation Act of 1973, the National Labor Relations Act, the Fair Labor Standards Act, the Equal Pay Act of 1963, the Occupational Safety and Hazard Act of 1970, the Freedom of Information Act, and the Privacy Act. In all of those laws, Mr. President, the Congress has exempted itself in whole or in part, based on the rationale of constitutional separation of powers.

The American people do not buy that old excuse anymore, Mr. President. They do not buy it. They think that if a Federal inspector comes into a workplace and finds a violation, whether it be in the Halls of Congress or whether it be in Tombstone, AZ, the same laws should apply. They do not like it that we live differently.

Many of these laws that I just quoted are very onerous and burdensome to the American people. But they are not burdensome to the Congress of the United States exempts itself.

So, Mr. President, there will be very compelling constitutional arguments raised against this amendment. But the fact is it is a matter of reality that the American people want us to live exactly like they do. And I intend, as every bill comes up before this body that effects the American people, to offer amendments to apply whatever legislation is before us to the Congress of the United States.

One of the hot-button issues on the talk shows, by the way, is the difference in pensions tnat we have between us and the average working American. Another is the difference in health care plans.

It is time we recognize that the American people demand that we live like they do.

Opponents of this amendment will state that under the bill, an independent counsel may be appointed to investigate Members of Congress. This is true. But this legislation states that the independent counsel must be appointed to investigate the individuals I just noted.

There is a great difference between "may" and "must," just like we "may" have to comply with the National Labor Relations Act. Other people "must." We "may" have to comply with the Equal Pay Act of 1963. The American people "must." There is a very large difference.

This is yet another disturbing and egregious example of the Congress imposing one standard on the executive branch and creating a separate, lesser standard for itself. There is no justification for this unequal standard.

Opponents to mandatory coverage for the Congress base their opposition on three factors:

First, they claim there is no inherent conflict with the Justice Department investigating Members of Congress.

Nothing could be further from the truth. Mr. President, it is not at all difficult to envision a scenario whereby an Attorney General declines to investigate a member of the same party if that Member of the House or Senate plays an important role in the leadership of the Congress or whose vote is desperately needed on an important issue.

I agree that the Attorney General has successfully investigated some Members of Congress. But should the Attorney General's success in those cases be reason for the Congress to set a separate standard for itself?

Mr. President, that rationale is flawed. The executive branch needs the Congress to pass and support its agenda. It is for that reason that members of the executive branch routinely campaign on behalf of Members of Congress. I think it is obvious that a potential conflict of interest exists.

Second, individuals opposing mandatory congressional coverage claim that "including Members of Congress would increase the statute's mandatory coverage more than tenfold, from about 50 individuals to about 600 individuals."

This argument is nothing more than a red herring and presents no substitute reason to exempt Members of Congress.

The committee report states that including Members of Congress in the mandatory section would "inevitably lead to an increase in the number and expense of independent counsel proceedings." Of course this would only be true if Members engaged in conduct that merited an independent counsel investigation. Moreover, I am pleased to note that my colleagues are concerned about saving the taxpayers' money.

If Members are truly concerned about saving money, I expect they will support further amendments to the bill which will responsibly and reasonably restrain spending by independent counsels and avoid a repeat of the Walsh fiasco.

However, Mr. President, while these death bed conversions to fiscal sanity are refreshing, they hide the true motive here—in regards to the independent counsel, some in this body want a separate, lesser standard for the Congress.

Last, those who do not want this amendment to include Members state that "mandatory coverage of Members of Congress would limit the authority of the Justice Department to prosecute members of the legislative branch, thereby raising separation of powers concerns."

Mr. President, I do not believe that including Members of Congress in any way unduly or unfairly limits the authority of the Justice Department. As I previously stated, I believe that a potential political conflict of interest exists with the Justice Department investigating members. If we are going to tie DOJ's hands when it comes to investigating top Executive Branch officials, then we should apply the same restrictions when the DOJ seeks to investigate the Congress.

Some have asserted that mandatory coverage would only allow the Justice Department to investigate petty offenses and force an IC to be appointed for major offenses. I see nothing wrong with that.

Mr. President, the lead story this week in virtually every form of media is about how the President is working to convince Members of Congress to support NAFTA. It is naive to think that on such a close, important vote that no conflict of interest exists. It is simply difficult to see DOJ choosing to investigate a key or crucial Member of Congress, individuals who sometimes have considerably more power and influence than any member of the President's Cabinet.

Additionally, I disagree with the separation of powers argument. If using the independent counsel to investigate the Congress creates a separation of powers conflict, then it does so equally in the underlying legislation.

This leads us to the real issue here, the Congress all too often either establishes separate standards for itself, or in the case of the Senate on such issues as the Fair Labor Standards Act, exempts itself entirely. This is wrong. If we believe that appointing an independent counsel is necessary to maintain public confidence in the Government, then it must be tasked equally to investigate Members of Congress.

Mr. President, we must not continue to set separate standards for the Congress. The Senate currently exempts itself from the following laws in part or whole:

The Civil Rights Act of 1964;

The Americans With Disabilities Act;

The Age Discrimination in Employment Act of 1967;

The Rehabilitation Act of 1973;

The National Labor Relations Act;

The Fair Labor Standards Act;

The Equal Pay Act of 1963;

The Occupational Safety and Health Act of 1970;

The Freedom of Information Act; and

The Privacy Act.

All of these measures must be applied to the Congress. Anything less should be recognized as the Senate's stubborn insistence on keeping its status as the Nation's last plantation.

As a first step, let us now apply this statute equally to the Congress.

Robert Bennett, a respected lawyer who has worked with the Senate Ethics Committee and with whom I am sure all my colleagues are familiar, stated:

> Apply the Statute to Congress. I would want this new statute to apply to certain members of Congress. I think this is very important for two primary reasons. First, the same kind of conflict issue appear that justify appointment of Independent Counsel to investigate certain Executive Branch officials. For example, if the Senate or House leadership is important to a President to get his legislative package through Congress, is the public going to have very much confidence in the integrity of an Attorney General of that Administration declining a prosecution of a Senate or House leader? Similarly, the integrity of an investigation of a political opponent raises public credibility concerns. Recent public controversies regarding cases involving Members of Congress demonstrate that these are not theoretical concerns.
>
> There is another important rationale—that is just a common sense one. Suzanne Garment, who wrote a very excellent book called "Scandal", noted that Congressional interest has driven the initiation of many of these Independent Counsel investigations. If the statute applies to Members of Congress and the Executive Branch, more of these investigations would be instituted on a merit basis rather than a political basis.

Both Mr. Bennett and Ms. Garment are correct.

Mr. President, why would any Member not want the independent counsel law to include Members of Congress? I pose the question, and I will give the answer, because the independent counsel can destroy someone's reputation and good name.

My colleagues are correct that there is much to fear. Prosecutors have extraordinary powers. "The prosecutor" said former U.S. Attorney General Robert Jackson, "has more control over life, liberty, and reputation than any other person in America."

Justice Antonin Scalia has written:

> [T]he independent counsel * * * operate[s] in an areas where so little is law and so much is discretion, [and he] is intentionally cut off from the unifying influence of the Justice Department, and from the perspective that multiple responsibilities provide. What would normally be regarded as a technical violation, there are no rules defining such things, may in his * * * small world assume the proportions of an indictable offense. What would normally be regarded as an investigation that has reached the level of pursuing such picayune matter that it should be concluded, may to him * * * be an investigation that ought to go on for another year. How frightening it must be to have your own independent counsel and staff appointed, with nothing else to do but to investigate you until investigation is no longer worthwhile.

Former independent counsel Jacob Stein said:

> A one case lawyer with nobody to question [him about] what is done in the investigation is a dangerous person.

In fact, I am very concerned about the sweeping powers of the independent counsel. We should think long and hard before we give any person this kind of unfettered power. The response should not, however, be to exempt ourselves from being mandatorily covered by the independent counsel.

Be it fear of the sweeping powers of the independent counsel or simply a desire to perpetuate the Congress' standing as the Nation's last plantation, not putting Congress in the mandatory section is wrong.

Testifying before the Governmental Affairs Committee in 1975 in support of the Independent Counsel, Prof. Archibald Cox stated:

> The pressures, the divided loyalty are too much for any man, and as honorable and conscientious as any individual might be, the public could never feel entirely easy about the vigor and thoroughness with which the investigation was pursued. Some outside person is absolutely essential.

Mr. President, I hope the opponents of my amendment can answer the question as to why would this hold true for the executive branch, but not for the congressional branch?

The answer is simply that if you support the underlying legislation and thus agree with Mr. Cox, then you must agree that the Congress be included in the mandatory section of the bill.

Last, in the Wall Street Journal, January 6, 1993, Mr. Theodore Boutrous, a Washington, DC attorney, stated:

> Should Congress again exempt itself from the independent counsel statute it would be an implicit admission that its motives are partisan and self-interested. It would be hard proof that Congress recognizes the dangers of the broad and unfettered power of the independent counsel office it has created and fears the consequences of unleashing that power against itself. It will reinforce the view that the independent counsel law is an abusive and improper congressional tool for tormenting members of the executive branch with whom Congress disagrees.

Mr. President, as I said at the beginning of my remarks, this is a simple issue, a very simple issue. It is whether Congress intends to live under the same rules that it is imposing on the executive branch.

I believe it is appropriate. I believe that we should. I note the appearance of my good friend from Iowa, Senator GRASSLEY, who has not only fought long and hard on this issue, but has fought long and hard to make sure that Congress is not exempted from laws which it applies to the rest of the American people.

Mr. President, I reserve the remainder of my time.

I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. McCAIN. I yield the remainder of my time to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, could I ask what the amount of time is?

The PRESIDING OFFICER. The time remaining is 15 minutes 40 seconds.

Mr. GRASSLEY. I will inform the Senator from Arizona that that is probably more time than I will need, and he can plan to use it accordingly.

Mr. President, this amendment is being offered to ensure that Congress is as accountable for ethical behavior as the executive branch is accountable. The amendment simply requires the Attorney General to appoint an independent counsel for investigations involving Members of Congress in the very same circumstances as executive branch officials. So whenever the Attorney General determines that an investigation by the Justice Department would result in any personal or any financial or any political conflict of interest, that independent counsel would have to be appointed.

Of course, it is never easy to get Congress to live by the same standards that we prescribe for others. The grassroots people know that ought to be the case, but they have a feeling it is not the case. In fact, it is not the case. I have learned this lesson in the civil rights context. It took me 3 years and it took me four amendments to get the Senate to subject itself to the civil rights laws. And the Senate still refuses, even considering the progress that has been made, to subject our membership to jury trials like every other American is subject to if civil rights laws are violated, in our case being employers of our staff.

The argument usually made by those who oppose congressional coverage is that Congress is already covered. They point to statutory provisions declaring that the legislative branch must adhere to the substantive law. What they always neglect to mention is the perverted congressional coverage never really has any teeth. For example, in the civil rights statutes, Congress would cover itself but provide injured parties no means to vindicate their rights.

I think the situation is very similar here, Mr. President. The bill's sponsors insist that Congress is covered.

Indeed, they have added a new paragraph clarifying that the Attorney General does have the discretion to appoint an independent counsel to investigate Members of Congress. Once again, we say we are covered—but we are really not. It is the difference between "may" and "shall." The Attorney General is required to seek appointment of an independent counsel to investigate executive branch officials where there is a conflict of interest. But the decision to seek an independent counsel in cases involving Members of Congress is entirely discretionary.

The sponsors are unwilling to have Members of Congress bound by the same ethical standards as the executive branch. This was made obvious by their rejection of Senator ROTH's committee amendment to require mandatory coverage of Members of Congress. The justifications given by the sponsors are tenuous, at best.

The sponsors claim that no inherent conflict of interest exists when the Justice Department investigates Members of Congress. They cite the opinion of the ABA and the long history of successful Justice Department prosecutions of Members of Congress. There is no question that the Attorney General might not have a conflict of interest regarding a particular investigation of a Member of Congress—just as the Attorney General may not have a conflict of interest regarding the investigation of another Cabinet official. But that does not mean we should not require appointment of an independent counsel when there is a conflict of interest, as we require for executive branch officials.

The appointment should be mandatory for Members of Congress for the same reason it is mandatory for executive branch officials: To ensure that a conflict of interest does not prevent appointment of an independent counsel where appointment is warranted.

There are bound to be situations where the Attorney General will have strong incentives, political or otherwise, to decline to appoint an independent counsel—even though there is a clear political conflict of interest. A good illustration is the House Post Office investigation.

It has been widely noted in the press that the President has a strong interest in the status of that investigation—insofar as it involves the chairman of the Ways and Means Committee. The President's ability to get key elements of his domestic agenda through the Congress could be greatly affected by the status of the Ways and Means chairman. I have serious doubts about whether political considerations could be completely excluded from any important decisions involving such an investigation.

Back in March, the White House was open about the influence of politics on the investigation. In a report in the March 6 New York Times, it was explained that:

> What frustrates administration officials most is that they do not have any feel for the prospects of an indictment. With no attorney general, no one can go to the prosecutor and get a rundown." While the "officials said that it would be improper for the administration to put pressure on [the U.S. Attorney Jay Stephens]" . . . They also said that "as a practical matter an attorney general might be able to get a general idea of the likelihood of an indictment." One official was quoted as saying "we need to know whether we have to have a plan B.

At her confirmation hearings, Janet Reno assured the Judiciary Committee that there would be no room for politics in DOJ's investigations. Nevertheless, the White House concedes that it has an interest in maintaining DOJ control of investigations involving key Members of Congress. It may only be in order to have a channel for checking on the status of such investigations. But even these limited inquiries have the potential to inject political considerations into criminal investigations—whether the Member under investigation is considered a political friend or a political enemy of the President.

The sponsors claim there is a difference between the branches. They contend there is an inherent conflict when the AG investigates another Cabinet official, because they are part of the same administration. But I think we all know that the political interests of the administration and congressional leaders of the same party are also generally identical. I argue that the potential for conflict, as a practical matter, is the same.

Clearly, the potential for serious conflicts of interest does exist when the Attorney General is expected to investigate and prosecute criminal conduct by Members of Congress, no less than in the case of executive branch officials. When there is such a conflict, appointment of an independent counsel should be mandatory. Our failure to do so will only further justify the public's cynicism about a Congress that exempts itself from generally applicable laws, and tries to excuse the unethical and criminal conduct of its Members on the grounds that such conduct is constitutionally immune speech or debate.

It is time for an end to the Senate's arrogance, and we should start by adopting this amendment.

I reserve the remainder of my time and yield the floor.

Mr. LEVIN. Mr. President, I yield the Senator from Pennsylvania 5 minutes.

Mr. SPECTER. I thank my friend from Michigan. Mr. President, I agree totally with my colleague from Iowa that Congress should treat itself like every other citizen. When the distinguished Senator from Iowa has offered amendments in the past on the floor of this body to include Members of the Senate and Members of the House, as all others are included under the Civil Rights Act or under labor laws or whatever laws are applicable, I have joined him in that respect.

But I disagree with his conclusion on the pending amendment, because what the pending amendment proposes is that Members of Congress, Senators and House Members, would be treated differently than any other citizen, because any other citizen is investigated by the Department of Justice if the need arises, unless there is some special reason not to do so.

There is an exception that on certain categories of executive branch officials where there is in effect a presumption of closeness to the executive branch—that is, the President or the Attorney General, or the subordinates in the Department of Justice—where there may be some reason to believe that they have a relationship or have some closeness because they interact. For example, at Cabinet meetings when the Attorney General sits with the Secretary of Defense or the Secretary of Agriculture or other ranking officials. That presumption, which this bill creates, does make some sense in what is either actual conflict or an apparent conflict of interest to warrant the appointment of independent counsel.

However, when it comes to the 535 Members of Congress, as a matter of reality, that kind of a conflict does not in fact exist. It may be that in some special cases where the Department of Justice officials and the Attorney General may have some contact with the specific Senator or Member of the House of Representatives, it might be appropriate under such cases to make an appointment of independent counsel.

I ask the chairman of the subcommittee, the distinguished Senator from Michigan, if in fact a conflict could exist because of a relationship between the Attorney General and some Member of Congress under investigation, whether there would be latitude under the present bill to have independent counsel appointed?

Mr. LEVIN. The Senator from Pennsylvania is correct.

The Attorney General under our bill has two options open to her. She has latitude which the Senator from Pennsylvania describes to use an independent counsel should the public interest in her opinion so indicate or, as the Senator from Pennsylvania very accurately points out, she could prosecute, investigate Members on her own like she can any other American. The amendment before us would actually eliminate her right to prosecute us the way she can prosecute any other American—except the named high-level executive branch officials, because of the inherent conflict.

So the Senator from Pennsylvania is correct on both counts. She has the latitude to appoint an independent counsel to investigate and prosecute a Member of Congress or she can use the other route and investigate and prosecute us herself.

Mr. SPECTER. I thank the Senator from Michigan for that clarification which I thought was the law.

I ask for an additional 2 or 3 minutes on my original 5 minutes.

Mr. LEVIN. I am happy to yield an additional 3 minutes to the Senator from Pennsylvania.

Mr. SPECTER. I thank the Senator from Michigan.

That is an important point.

The concern raised by the Senator from Iowa is recognized that if there is a reason why a Member of the Senate or a Member of the House is close to the Attorney General or there is some reason to believe there is a conflict of interest or might be a conflict of interest or apparent impropriety, the independent counsel could be appointed. But if we adopt the rationale of the Senator from Iowa that Congress, Members of the House and Senate, should be treated like every other American citizen, then you would not put them in a special category where there had to be an independent counsel. Every other American citizen would be subject to investigation and prosecution by the Department of Justice unless there was some reason to believe there was a conflict of interest.

I agree with what the Senator from Arizona has stated about the power of the prosecutor. I had occasion to be a district attorney for some 8 years, and I know that when the prosecuting attorney has the authority to convene a grand jury, conduct an investigation, to bring an indictment, to bring the prosecution, it has tremendous power. That power has to be exercised with sensitivity and with discretion.

The power of the prosecutor is subject to the control of the courts and subject to the judicial process where all defendants, those charged, are presumed innocent until proved guilty, but even a fact that an indictment is possible gives the prosecutor great power.

I believe we need an independent counsel, and I commend the Senator from Michigan and the Senator from Maine for their leadership in bringing to the floor this independent counsel legislation.

That provision has lapsed in the law. It is very important that where there are ranking executive branch officials or ranking Members of the House or Senate, where there is an overtone of conflict or a key political leader or anyone, where there is a potential conflict or appearance of conflict an independent counsel be appointed. But we ought to limit it to the class where the real problem exists, and it may be that the present law is somewhat too broad.

It is hard to draw a line with precision, a bright line, as to where the presumption ought to apply. My sense is within reasonable bounds the current law applies.

As Senator MCCAIN, the Senator from Arizona, pointed out when you have an independent counsel and he has but one case, there is an undue focus that the independent counsel has to be vested with those powers where the conflict does exist. But to the extent possible, the Department of Justice ought to retain that responsibility.

It is a heavy responsibility. It is subject to the political process where the Department of Justice and the Attorney General are under public scrutiny and answerable to the President and answerable in the political process to the electorate.

So where an independent counsel is warranted, and I think we need the office, as I say, we ought to have it. I support this bill. But it ought to be tailored to those situations where there is either the presumption or appearance of conflict or an actual conflict exists.

I lend my support to the pending bill overall but voice my objection to the pending amendment for the reasons stated.

Mr. GRASSLEY. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER (Mr. AKAKA). The Chair recognizes the Senator from Iowa for 1 minute.

Mr. GRASSLEY. Mr. President, it boils down to just one very simple little issue, and that is whether or not Members of this body and the other body ought to have special treatment and special consideration.

I say we are not any better than anyone else. I am going to use a Democrat because we have a Democrat administration, but if we had a Republican administration you would use the same argument. But if there is a conflict of interest that involves a Democratic Cabinet member, the Attorney General must appoint an independent counsel. OK. Then it gets down to the simple fact. If you have a Democratic Member of Congress should he or she be treated any different than that Cabinet member?

I think out there at the grassroots of America it is very pure and simple, easily understood, that there should not be any special consideration for Members of Congress. In other words, when that Attorney General, because there is a conflict of interest, must appoint a special counsel, then there should not be any discretion if it involves a Member of Congress as the present bill would allow. We change that so that it is likewise mandatory.

I yield the floor.

Mr. SPECTER. Mr. President, will the distinguished Senator from Michigan yield me 3 minutes to direct a question to the Senator from Iowa if he is willing?

Mr. LEVIN. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 20 minutes and 30 seconds.

Mr. LEVIN. I yield 3 additional minutes.

Mr. SPECTER. If our colleague from Iowa is willing to respond to a question, if I have his attention?

Mr. GRASSLEY. I am happy to respond. I hope the Senator realizes I am not a lawyer and I am not going to get into any hair-splitting by a Philadelphia attorney. But I will be glad to try to answer.

Mr. SPECTER. As you can see, Mr. President, there are tremendous advantages in not being a Philadelphia lawyer. For one thing, before responding to a question, you can level that accusation without even the appointment of an independent counsel and without an opportunity to defend.

The very basic matter that I would like to discuss with my colleague from Iowa, with whom I have sat on the Judiciary Committee for many years now, is, is not it really treating a Member of Congress differently from every other American citizen to say that when another American citizen is a Democrat he does not have independent counsel appointed or if the citizen is a Governor and might know the Attorney General personally or if the citizen is a political leader or the national chairman, or some other position not covered by the statute, that it is treating a Senator or Member of the House differently to put them in a category different from any other citizen where that individual, one of 535, has no special acquaintanceship, friendship or relationship to the Attorney General?

Mr. MCCAIN. Mr. President, I would like to say to my friend from Pennsylvania that I am not a lawyer from anywhere.

In response to his question, our view is that Members of Congress, the Senate and the House, are no more ordinary citizens than the 50 people who are covered under this act. In fact, some Members of Congress are more powerful than the 50 members of the executive branch who are covered under this act. These Members of Congress have extraordinary powers vested in them by the people of the United States. We believe that those extraordinary powers indicate that they should be held to the same rules under which the top 50 people in the administration are, since clearly, as Mr. ROBERT BENNETT, who is a well-respected individual, points out there are potentials for conflicts of interest.

Mr. SPECTER. Mr. President, I respond to my colleague from Arizona. I would agree with him if he were particularizing the Speaker of the House, for example, or the leadership of the party in power or maybe even the leadership of the party out of power.

But I think if you take 90 Senators, we do not know any especially in the Department of Justice, or 80 of the Senators, or 350 of the House Members.

I think I made my point, and I will accept the response from Senator MCCAIN as if offered by Senator GRASSLEY.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. LEVIN. I yield myself 3 minutes.

Mr. President, first, to my friends from Arizona and Iowa, let me say that they raised a point which I want to address precisely.

My friend from Iowa says we are not better than anyone else. I could not agree with him more. Everyone else in this country of 260 million Americans can be investigated by the Attorney General of the United States, but under the McCain amendment we cannot be.

The McCain amendment treats us better than everyone else except for about 75 members of the executive branch, and there is a reason for treating them differently from all other Americans. There is an inherent conflict of interest in the Attorney General investigating a high-level member of the executive branch appointed by the same person who is her boss.

But under the McCain amendment, although the Attorney General can investigate and prosecute every American but those 75, she will not be able to investigate us. It is the McCain amendment which gives us the better treatment than every other American, which excludes us from the investigation and the prosecution by the Attorney General, which precludes the Attorney General from having the option she wants to exercise her power under article 2 to investigate and prosecute Members of Congress which, by the way, attorneys general have done throughout history.

My friend from Arizona said the public wants us to live under the same rules they do. You bet. And I agree with both Senators when they talk about civil rights acts and a number of other provisions.

That is exactly what the public wants us to do—to live under the same rules they do. They can be investigated and prosecuted by the Attorney General of the United States. Under the McCain amendment, we cannot be.

Now, our bill provides for two options for the Attorney General: She can investigate and prosecute us the way she can 260 million other Americans, or she can select an independent counsel if there is a conflict of interest or for any other reason.

And, by the way, again, to my friend from Iowa, let me say the McCain amendment is not limited to situations where the Attorney General finds there is a conflict of interest if she would investigate and prosecute a Member of Congress. It is not limited to that. The McCain amendment says, automatically, she cannot investigate us. She cannot prosecute us the way she can everybody else in this country, except for those 75 named executive branch officials.

Now, why does the Attorney General want both options? Why does she want to be able either to investigate and prosecute us or select an independent counsel should there be a conflict of interest or for any other purpose that she deems to be in the public interest?

The reason is because the independent counsel statute is based on the premise, proven during Watergate, that the public will not have confidence in the executive branch investigating and prosecuting itself. That was the premise of the independent counsel statute; that there is an inherent conflict of interest within the executive branch—when the President picks the Attorney General, to have that same person doing the investigation of the President or persons close to the President. You have an inherent conflict of interest, an appearance of conflict of interest, a situation in which the public will have no confidence and there will be no credibility. That is the Watergate lesson.

Now the American Bar Association has written us a letter supporting this bill very strongly. And they have testified in favor of this bill very strongly. But they have also pointed out the difference between this language in our bill, which allows the Attorney General to use one of two options, either prosecute us herself or select an independent counsel. There is a big difference between that and mandating the independent counsel, which eliminates the right of the Justice Department to investigate and prosecute Members of Congress.

Here is what the American Bar Association said in its letter of November 17.

> As noted above, the principle underlying statute is that an independent counsel may be needed when there may be a conflict of interest in having the Department of Justice carry out a particular investigation and possible prosecution. The Attorney General is appointed by the President and serves at his pleasure. The investigation of other officials appointed by the President—that is, high-ranking executive branch officials—places the Attorney General in the untenable position described in Humphrey's Executor, supra. No such conflict of interest, under the law, exists when the object of the investigation is an official of a separate and co-equal branch of Government. The rationale for the utilization of this extraordinary mechanism simply does not apply to investigations of Members of Congress.
>
> The Department of Justice should continue to be the principal prosecutorial arm of the Federal Government. Should the Attorney General in a particular situation believe an independent counsel is needed, one can be appointed. Further, S. 24 makes it explicit that the Attorney General "may" utilize the independent counsel statutory mechanism with respect to allegations of criminal conduct involving Members of Congress. To require, however, the Attorney General to invoke this mechanism in all such cases would be unnecessary, undesirable and unwise.

Now that is the American Bar Association's position on it.

And I will simply add to that, it would not only be undesirable and unwise, it would raise several constitutional questions which could undermine the statute.

This statute is based on a premise that there is a conflict of interest which is inherent when the executive branch investigates its own high level appointees. It is for that reason and that reason only that the right of the executive branch to investigate and prosecute crimes under the Constitution is withdrawn from the executive branch for about 70 named high-level executive branch officials.

This was a carefully crafted statute which was upheld by the Supreme Court by a vote of 7 to 1. And the reason it was, was that the conflict of interest which exists when allegations are made against high level executive branch officials is the only justification for removing, automatically removing from the Attorney General of the United States, the right to investigate and prosecute allegations of crimes against those people. That is the reason for it.

If that reason does not exist, then the basis, the premise upon which this statute is based, is weakened. I do not want to weaken the premise of this statute. We fought too hard to keep this statute in place in order to get public confidence in Government, and that is why we are fighting hard to get it reauthorized.

This amendment attacks that premise, because what this amendment does is automatically cover an additional 500-plus people where there is no inherent conflict of interest or appearance of a conflict of interest.

In conclusion, we should not deny the Attorney General, as this amendment would, the right to investigate and prosecute Members of Congress. That is what the people will react negatively to. That is what the public will say no to. If we say we are not subject to the same investigation and prosecution by the Attorney General that every other American is, then they are going to want to ask why, and they are going to ask why.

And there is no good reason why we should not be. There is no good reason why we should not be subject to the investigation and prosecution of the Attorney General when the Attorney General of the United States has proven over, and over, and over again that he or she can investigate and prosecute Members of Congress.

This bill gives the option to the Attorney General to do either—either to prosecute us herself or to select an independent counsel. We face two barrels of a gun. It seems to me the public will support that and support the approach in this bill.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. COHEN. How much time is remaining on our side?

The PRESIDING OFFICER. The Senator from Maine has 9 minutes and 30 seconds.

Mr. COHEN. And for the sponsors of the amendment?

The PRESIDING OFFICER. The other side has 6 minutes and 11 seconds.

Mr. COHEN. Mr. President I think the purpose is very clear from the arguments that have been advanced by my two friends from Iowa and Arizona. They do not support passage of this independent counsel statute.

What they are really, in essence, saying is: We want to make sure that every Member knows that this is going to apply with full force and effect against them. Just to show you that you are not above the law, we are going to apply the same standards to you that we do to the 50 or 60 members of the executive branch.

They went back and cited, of course, the ADA, the Civil Rights Act, the Older Americans Act, from which Congress was exempted. Of course that has been changed. These laws now apply to Congress. The Independent Counsel Act does not apply to every American. It applies only to a few select people within the executive branch.

We should put the question to the American people: Do you feel comfortable with the Attorney General, whoever that Attorney General might be—Janet Reno today, whoever tomorrow—conducting an investigation of alleged wrongdoing against the President of the United States? Alleged wrongdoing against the Vice President of the United States? Alleged wrongdoing against the Secretary of Commerce? Alleged wrongdoing against the Secretary of Defense? Do you feel comfortable that the Attorney General will be insulated from any pressure coming from within the administration to conduct a full and fair investigation into those select few?

If you say, "We do," then there is no issue. You do not need an independent counsel act. Do you feel confident that

Attorney General Reno could conduct an investigation of Senator GRASSLEY? Do you feel comfortable that she could conduct an investigation of Senators MCCAIN or COHEN or COCHRAN or LEVIN? Or do you feel she is incapable of carrying out her responsibilities?

There is, in fact, a difference. Senators are not subject to dismissal by the President of the United States. I do not serve at his pleasure. None of us serve at his pleasure. That is quite different from the individuals who have been named in the Independent Counsel Act as deserving of some special consideration.

This really is an effort to try to intimidate the Members. "See, you are trying to exempt yourself."

The law explicitly provides that we are covered. I am in fact covered by the Independent Counsel Act. Attorney General Reno at any time can choose to either prosecute me or she can refer it to an independent counsel, if she should choose to do so. We are all subject to the Independent Counsel Act. The American people are not subject to it. They are subject to the rule of law, the criminal laws, like everybody else. We are subject to them, too. But as Senator LEVIN pointed out, under the McCain amendment, we are carved out for special treatment.

Perhaps the purpose is to kill the bill by trying to intimidate us. I am not intimidated. I, frankly, do not care whether members are subject to mandatory coverage or not. That is not my objective in opposing the amendment offered by my good friend from Arizona. But, rather, if you follow the logic of his amendment, you would say that all members of the executive branch ought to be covered. If all Members of Congress are covered, why not all members of the executive branch? Why should the Supreme Court not be covered? Perhaps their clerks should be covered by this amendment. We do not want them above the law.

We have tried to target the Independent Counsel Act to deal with the real issue involved: What happens when an allegation is made against a high-level official within the executive branch, an individual who serves at the pleasure of the President of the United States? Is there an inherent conflict? Is there such an inherent conflict when Members of Congress are, likewise, the subject of allegations of criminal wrongdoing?

We expect to be treated differently in terms of our ethics. Our ethical standards are expected to be higher than that of the general population, that of the business world. We have higher standards because we are fiduciaries. Justice Cardozo said, "The morals of the marketplace are not to be applied to fiduciaries." We demand something higher from fiduciaries. So none of us are exempted from the ethical standards, nor are we seeking to escape the ethical standards of the American people. We are bound by even higher standards because we are public servants and fiduciaries.

We may not always live up to those ethical standards. It is up to Congress itself to discipline its Members—as we are doing now in some celebrated cases. The fact is, the laws involving independent counsels are criminal laws. These are allegations involving criminal misconduct. They apply to us with equal force as they do to the American people.

It may be that the objective of this amendment is to try to intimidate Members of Congress, saying, we are trying to exempt ourselves, therefore once we apply it to ourselves, we will be less inclined to apply it to the President, the Vice President, the Secretary of State, the Secretary of the Treasury, Secretary of Defense, the Attorney General himself or herself; we will not have courage enough to apply it to them because we are now covered—if that is the logic, then we ought to be very straightforward about the amendment's purpose.

But I suspect, if you put the question to the American people: Do you have confidence that the Attorney General can investigate the President of the United States, under whose aegis and at whose pleasure she serves—can she do so with the complete confidence of the American people? I tend to doubt it—no.

Let me also refer to Attorney General Meese. When allegations were made against Attorney General Meese, he specifically asked for the appointment of an independent counsel. Do you know why? He wanted his name cleared. He did not want to have to live under the cloud that would hang over him, the suspicion that the Justice Department had engaged in a whitewash. He wanted the stamp of approval coming from the independent counsel.

So the law is there for a reason, or it was there for a reason. We allowed it to expire last year. But now we are back because allegations have been made against high-level officials in this Democratic administration. And the question is: Why not have a special counsel? And Attorney General Reno has been quite proper. She said: Look, if you do not trust me to conduct the investigation impartially, why should you trust anyone I might appoint? You will level the same questions and criticisms at them.

I think we need the law. I think this amendment is designed to intimidate Members, suggesting that we are trying to exempt ourselves, we are trying to remove Congress from laws that apply to others. We are covered. We are covered just like the American people are covered by our criminal laws. This amendment would carve out an exception that we can only be investigated by an independent counsel.

It says that the Justice Department can never investigate and prosecute a Member of Congress. That, to me, violates the separation-of-powers clause in the Constitution.

For that reason I oppose the amendment and at the appropriate time will move to table it.

The PRESIDING OFFICER. Who yields time?

The Senator from Arizona.

Mr. MCCAIN. Mr. President, I yield myself such time as I may consume. I enjoy spirited debate with my friend from Maine. However, I resent it when both the position of the Senator from Iowa and my position are mischaracterized as opposing passage of the bill. In fact, if he had taken the time to look at the RECORD of November 3, 1987, when this independent counsel was last reauthorized, he would have noted that both Senator GRASSLEY and I voted in favor of it and have expressed our intentions to vote in favor of final passage this time no matter how this particular amendment stands or falls. So I would appreciate it in the future if the Senator from Maine would at least look at the RECORD before he accuses us of some subterfuge or subterranean motive: namely, that of derailing this legislation.

It is far simpler than that. It is exactly as Robert Bennett, one of the most respected men in this town, who knows a lot more than the American Bar Association does about how this town works—I will tell you again what he said:

> I would want this new statute to apply to certain members of Congress. I think it is very important for two primary reasons. First, the same kind of conflict issues appear that justify appointment of Independent Counsel to investigate certain Executive Branch officials. For example, if the Senate or House leadership is important to a President to get his legislative package through Congress, is the public going to have very much confidence in the integrity of an Attorney General of that Administration declining a prosecution of a Senate or House leader? [I don't think so.] Similarly, the integrity of an investigation of a political opponent raises public credibility concerns. Recent public controversies regarding cases involving Members of Congress demonstrate that these are not theoretical concerns.

They are not theoretical concerns. I think the American people want it. I think they need it. And I think they deserve it.

Just to make the record perfectly clear for my friend from Maine, I intend to vote for final passage of this bill, as I always have, whether this amendment rises or falls, just as I did back in 1987 when it was reauthorized, just as my friend from Iowa did in 1987.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. I am delighted to hear my friend from Arizona will support the bill whether his amendment is agreed to or fails.

I intend to do precisely the same, even assuming his amendment is adopted; I will continue to support the legislation.

But let me clarify something else. The Senator, during his initial remarks, indicated there has been some editorial directed toward the Senator from Arizona. I would like to take to the floor to completely disagree with the thrust of that particular editorial. I, under no circumstances, have ever had any indication that the Senator from Arizona had any other motivation to stall this legislation and to prevent or to allow a statute of limitations to run in order to protect any individuals. That has never, to my knowledge, ever been part of his motivation. We may disagree on the effect of his amendment in terms of applying to 535 Members of Congress. But I would like to say for the record that under no circumstances has he ever indicated to me, or have I ever in any way determined that his motivations, in terms of bringing this amendment to the floor, were for the purpose of—in any way—delaying it beyond the statute of limitations to protect anyone or to protect any investigation into allegations in the prior administration, or anyone else.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I just would like to thank my friend from Maine for his kind remarks in clearing that up for the record. I do not know where that editorialist from the New York Times received that information, but I am glad the record is clear now on this issue. It will be irrelevant because this statute is going to be passed with or without my amendment. I have no more further use of my time.

Mr. LEVIN. Mr. President, do I have any time?

The PRESIDING OFFICER. The Senator has 3 seconds remaining.

Mr. LEVIN. In that case, I will yield back the entire remainder of my time, Mr. President.

The PRESIDING OFFICER. The Senator from Michigan yields back his time.

Mr. McCAIN. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

Mr. COHEN. I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 1205. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. DORGAN] and the Senator from Georgia [Mr. NUNN] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 67, nays 31, as follows:

[Rollcall Vote No. 381 Leg.]

YEAS—67

Akaka
Baucus
Bennett
Biden
Bingaman
Boren
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Campbell
Chafee
Cochran
Cohen
Conrad
Daschle
DeConcini
Dodd
Domenici
Durenberger
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Gregg
Harkin
Hatfield
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Mathews
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Packwood
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stevens
Warner
Wofford

NAYS—31

Bond
Brown
Burns
Coats
Coverdell
Craig
D'Amato
Danforth
Dole
Faircloth
Gorton
Gramm
Grassley
Hatch
Helms
Hutchison
Jeffords
Kassebaum
Kempthorne
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Smith
Thurmond
Wallop
Wellstone

NOT VOTING—2

Dorgan
Nunn

So the motion to lay on the table the amendment (No. 1205) was agreed to.

Mr. COHEN. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

AMENDMENT NO. 1206

(Purpose: To repeal the separate independent counsel appointment process and provide for the Presidential appointment of a special counsel within the Department of Justice if necessary to avoid a conflict of interest)

Mr. COCHRAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN] proposes an amendment numbered 1206.

Mr. COCHRAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Justice Special Counsel Act of 1993".

SEC. 2. REPEAL OF INDEPENDENT COUNSEL PROVISIONS.

(a) IN GENERAL.—Chapter 40 of title 28, United States Code, is repealed.

(b) TABLE OF CONTENTS.—The table of contents for part II of title 28, United States Code, is amended by striking the item relating to chapter 40.

SEC. 3. SPECIAL COUNSEL.

Chapter 31 of part II of title 28, United States Code, is amended by adding at the end thereof the following:

"§ 531. Special counsel

"(a) IN GENERAL.—The President, upon recommendation by the Attorney General, shall appoint, by and with the advice and consent of the Senate, a special counsel who shall serve in the place of the Attorney General as provided in this section.

"(b) APPOINTMENT OF SPECIAL COUNSEL.—If the Attorney General determines that an investigation or prosecution of a person described in subsection (c) by the Attorney General or other officer of the Department of Justice may result in a personal, financial, or political conflict of interest, the Attorney General may recommend to the President that a special counsel be appointed.

"(c) PERSONS TO WHOM SUBSECTION (b) APPLIES.—The persons referred to in subsection (b) are—

"(1) the President and Vice President;

"(2) any individual serving in a position listed in section 5312 of title 5;

"(3) any individual working in the Executive Office of the President who is compensated at a rate of pay at or above level II of the Executive Schedule under section 5313 of title 5;

"(4) any Assistant Attorney General and any individual working in the Department of Justice who is compensated at a rate of pay at or above level III of the Executive Schedule under section 5314 of title 5;

"(5) the Director of Central Intelligence, the Deputy Director of Central Intelligence, and the Commissioner of Internal Revenue;

"(6) any individual who leaves any office or position described in any of paragraphs (1) through (5) of this subsection, during the incumbency of the President under whom such individual served in the office or position plus one year after such incumbency, but in no event longer than a period of three years after the individual leaves the office or position;

"(7) any individual who held an office or position described in any of paragraphs (1) through (5) of this subsection during the incumbency of one President and who continued to hold the office or position for not more than 90 days into the term of the next President, during the 1-year period after the individual leaves the office or position;

"(8) the chairman and treasurer of the principal national campaign committee seeking the election or reelection of the President, and any officer of that committee exercising authority at the national level, during the incumbency of the President; and

"(9) any other person the investigation and prosecution of whom may result in a personal, financial, or political conflict of interest.

"(d) AUTHORITIES.—Notwithstanding any other provision of law, a special counsel appointed under this section shall have, with respect to all matters in such counsel's prosecutorial jurisdiction established by the Attorney General full power and independent authority to exercise all investigative and prosecutorial functions and powers of the Department of Justice, the Attorney General's, and other officer or employee of the

Department of Justice, except that the Attorney General shall exercise directions or control as to those matters that specifically require the Attorney General's personal action under section 2516 of title 18. Such investigative and prosecutorial functions and powers shall include—

"(1) conducting proceedings before grand juries and other investigations;

"(2) participating in court proceedings and engaging in any litigation, including civil and criminal matters, that such special counsel considers necessary;

"(3) appealing any decision of a court in any case or proceeding in which such special counsel participates in official capacity;

"(4) reviewing all documentary evidence available from any source;

"(5) determining whether to contest the assertion of any testimonial privilege;

"(6) receiving appropriate national security clearances and, if necessary, contesting in court (including, where appropriate, participating in camera proceedings) any claim of privilege or attempt to withhold evidence on grounds of national security;

"(7) making applications to any Federal court for a grant of immunity to any witness, consistent with applicable statutory requirements, or for warrants, subpoenas, or other court orders, and, for purposes of sections 6003, 6004, and 6005 of title 18, exercising the authority vested in a United States attorney or the Attorney General;

"(8) inspecting, obtaining, or using the original or a copy of any tax return, in accordance with the applicable statutes and regulations, and, for purposes of section 6103 of the Internal Revenue Code of 1986 and the regulations issued thereunder, exercising the powers vested in a United States attorney or the Attorney General;

"(9) initiating and conducting prosecutions in any court of competent jurisdiction, framing and signing indictments, filing informations, and handling all aspects of any case, in the name of the United States; and

"(10) consulting with the United States attorney for the district in which any violation of law with respect to which the special counsel is appointed was alleged to have occurred.

"(e) COMPENSATION.—A special counsel appointed under this section shall receive compensation at the per diem rate equal to the annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5.

"(f) PUBLIC INTEGRITY SECTION.—The special counsel shall use the staff and resources of the Public Integrity Section of the Criminal Division of the Department of Justice in conducting any investigation and prosecution under this section.

"(g) ADDITIONAL PERSONNEL.—For the purposes of carrying out the duties of an office of special counsel, such special counsel may appoint, fix the compensation, and assign the duties of such employees as such special counsel considers necessary (including investigators, attorneys, and part-time consultants) but such employees shall not exceed 50 percent of total staff of the special counsel. The positions of all such employees are exempted from the competitive service. No such employee may be compensated at a rate exceeding the maximum rate of pay payable for GS–18 of the General Schedule under section 5332 of title 5. All employees employed by the special counsel shall be directly supervised by the special counsel.

"(h) STAFF MISCONDUCT.—If a special counsel has reasonable grounds to believe that an employee of the special counsel has or is engaging in improper conduct, the special counsel shall notify the Office of Professional Responsibility of such improper conduct and the Office shall investigate.

"(i) REMOVAL OF AN INDEPENDENT COUNSEL.—An independent counsel appointed under this section may be removed from office, other than by impeachment and conviction, if the Attorney General determines that—

"(1) the independent counsel has failed to follow Department of Justice guidelines;

"(2) the independent counsel violates the cannons of ethics; or

"(3) the investigation of the independent counsel can be conducted by the Department of Justice without a conflict of interest.".

Mr. COHEN. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I ask unanimous consent that a summary of the amendment that I just sent to the desk be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF THE COCHRAN SUBSTITUTE AMENDMENT FOR S. 24

Coverage—Coverage would extend to the same officials and individuals as were covered under the previous Independent Counsel statute and who would be covered under the Committee's proposed reauthorization of that Act.

Process—If the Attorney General determines that an investigation or prosecution of a person covered under the statute may result in a personal, financial or political conflict of interest, the Attorney General may recommend to the President that a special counsel be appointed.

Appointment—Instead of the separate independent counsel appointment process, the substitute amendment provides that, upon the recommendation of the Attorney General, the President shall appoint a special counsel within the Department of Justice.

Qualifications—Since, the special counsel would serve in the place of the Attorney General and exercise the powers of the Attorney General for the purpose of investigating and prosecuting the covered individual, the special counsel's appointment would be subject the advice and consent of the Senate.

Authority of the Special Counsel—The special counsel provided for under the substitute amendment would have the same authority as was delegated to an Independent Counsel authorized under the previous statute and which would be provided for under S. 24.

Accountability—Unlike the scheme provided for under the previous statute and the Committee's proposal, the substitute provides for the removal of the special counsel if the Attorney General determines that—

The independent counsel has failed to follow Department of Justice Guidelines;

The independent counsel violates the cannons of ethics; or

The investigation of the independent counsel can be conducted by the Department of Justice without a conflict of interest.

Separation of Powers Maintained—Under the substitute, the investigatory and Prosecutorial powers—in effect the Attorney General's powers—that are delegated to the special counsel would remain within the Executive Branch in keeping with the intent of the framers of the constitution.

Staff Accountability—The substitute would require that the special counsel use the existing staff and resources of the Public Integrity Section of the Department of Justice in conducting any investigation and prosecution under the act.

Additional Employees and Personnel—The substitute allows the special counsel to appoint additional attorneys, investigators, and part-time consultants, but the number of such personnel could not exceed 50 percent of the total staff of the special counsel.

Supervision of Employees—The substitute requires that all employees of the special counsel shall be directly supervised by the special counsel and if the special counsel has reasonable grounds to believe that an employee is engaging in improper conduct he is required to notify the Office of Professional Responsibility and that office shall investigate.

Mr. COCHRAN. Mr. President, there has been a great deal written recently about the rampage that we see within the Congress and here in Washington involving political partisanship, unlimited spending by independent prosecutors in alleged criminal cases against high-level and some not-so-high-level Government officials. A good deal has been said about the need for reform.

One recent article in the Wall Street Journal, for example, on October 1, observed:

> Partisans in both parties are using ethics as a political weapon. Even more seriously, in recent years we have witnessed the criminalization of differences over foreign policy, grandstanding arrests with bond traders carted off in handcuffs, only to have charges dismissed, the criminal pursuit of hapless savings and loan directors and accountants.

Another recent article in the Los Angeles Times dated October 1 of this year said:

> This is an era that calls for independent prosecutors, not the Lawrence Walsh sort whose office, under the happily now-defunct independent counsel statute, is a grave offense to the separation of powers. No. What is needed in the Brown case—referring to the allegations against Secretary of Commerce, Ron Brown—is the more traditional sort of special prosecutor, the kind who is empowered by the Attorney General and can be reined in if he begins to abuse his office.

Mr. DOMENICI. May we have order, Mr. President?

The PRESIDING OFFICER. Will the Senator suspend? The Senate is not in order. The Senate will be in order.

The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I thank the distinguished Senator from New Mexico and the Chair.

> What is needed in the Brown case—referring to the Secretary of Commerce Ron Brown—is the more traditional sort of special prosecutor, the kind who is empowered by the attorney general, and can be reined in if he begins to abuse his office. Special investigators of that sort can be fired. But if it is done to cover political or politicians' backsides, it usually does the cover-uppers more harm than good.

The article goes on to talk about the fact that this Attorney General, Janet

Reno, is refusing to appoint a special prosecutor. Her reasoning, they say in the article in the L.A. Times, is curious:

> If there were an independent counsel law, she says she would be happy to let loose a new Mr. Walsh, but without the mechanism for a full-blown independent counsel she does not see what credibility would be gained by naming a special prosecutor.

The article writer goes on in the L.A. Times to observe:

> This is an amazing admission by the attorney general. First, she has granted that the questions about Mr. Brown do call for some kind of independent inquiry—how else are we to take her statement that she would name an independent counsel if she were able to do so? And then there is the surprising acceptance that she is perceived to have a conflict of interest. If Miss Reno wanted to eradicate that impression she could still name a special prosecutor: She is wrong to think that such a move would do nothing to bolster her credibility.

Finally, as a preface to a discussion of the provisions of the amendment that has just been sent to the desk, I invite the Senate's attention to an article written by Norman Ornstein. It appears in the Monday, September 20 edition of Roll Call, the newspaper of Capitol Hill. After observing the new confrontational politics that is en vogue on the hill, the partisanship that is harsher and sometimes meaner than many of us remember when we were first elected, he states:

> Over the past few years, the conflict has escalated into a kind of War of the Roses, with Members of both parties, joined by their ideological allies, intent not just on foiling but destroying their political opponents. The focus in the John Tower, Robert Bork, Clarence Thomas, and Lani Guinier nominations on personal attacks, attributes, and motives, not just views, is only one obvious example.

He goes on to observe that the results have come to be, more often than not, the criminalization of policy differences.

He says:

> From muckraking Congressional investigations to the special counsel law, deep-seated differences in policy objectives have been turned into deeper attacks on individuals, often accompanied by criminal investigations. Real questions about violations of law or norms have been stretched into processes to punish transgressors for more than their legal malfeasance—to make them pay for their ideological apostasy or policy arrogance—from Hamilton Jordan to Theodore Olson to Elliot Abrams.
>
> Prosecutorial abuse has been one major part of this. The zeal of prosecutors to bag public officials has increased logarithmically in the past decade; indictments of federal officials have gone up nearly 1,300 percent during that time.
>
> Lawrence Walsh and other special prosecutors have not only sought indictments and pushed trials, but they have eagerly sought the airwaves and news pages to make wild or bitter allegations against their targets that have little to do with their legal cases and everything to do with either frontier justice or naked ambition.

Mr. President, these observations from these newspapers and writers set the stage for what seems to me to be an appropriate time to look more critically at the special prosecutor law that we are being asked to reauthorize by this legislation.

The managers of the bill have worked very hard, and I congratulate Senators LEVIN and COHEN for the hearings we held in the Governmental Affairs Committee to try to look at alternatives, curbs against abuses, ways to make sure that the process is fair to those who are targets of investigations and also the system of justice that the American people have come to expect would be administered in this United States—even when high-level officials of our Government may be involved in violating the criminal laws of our land.

What has come from this process, however, falls way short of what we need and what is required by the abuses, the opportunities for unlimited prosecutorial rampages that we have seen in recent years under the authority of this law we are being asked to reauthorize by this legislation. In the judgment of this Senator, more curbs, more restraints against abuse are needed, and the amendment that I have suggested, I hope, will go further to help meet the challenge that is required.

Let me simply describe quickly the principal provisions of this amendment, which is in the nature of a substitute for the reauthorization offered by the managers. We all know and appreciate the fact that the Constitution established a system of checks and balances—"balances" meaning a balance of power between and among the branches of our Government—so that no one Government official, whether it is an Attorney General, or a President, or the chairman of a powerful committee of the Congress, or a Supreme Court Justice, could exercise unrestrained power.

But, guess what? In this system of checks and balances, we have created an exception to that rule. We have created an independent counsel who is an anomaly in this process, because he or she is unrestrained. There is no balance against the power given to that person. That person is not confirmed by the Senate as an Attorney General would be. That person is not limited in the amount of money that can be used in the carrying out of the perceived responsibilities of that official. The independent counsel statute is an anomaly. It is the only exception to this central principle of our American system of government that exists.

The committee is recommending, unfortunately, that this law be reauthorized and that independent counsel in the future be given unbridled authority to investigate and prosecute other Government officials and be answerable to no one in the exercise of that unbridled power.

The independent counsel statute provides, in effect, that the counsel is above question or restraint. That is too much power, and it invites abuse. And we have a record of experience to prove it. The Congress is left completely out of the process of selection and oversight. No program authority exists to sanction an independent counsel for any abuses of the office whatsoever. The independent counsel is free under this statute to hire staff. That is, also, not subject to any control, direction, or restraint. If anything, the staff is more independent than the independent counsel. This might not be an issue if the independent counsel were exercising direct supervision over an investigation being conducted by the staff. But that is not required by the law. In fact, under this act, the independent counsel has often delegated wide-ranging power to his staff. In the Iran-Contra investigation, for example, Mr. Lawrence Walsh is reported to have said well over a year ago that he had turned over "decisional authority" to his deputy, Craig Gillen.

There was a Washington Post op-ed piece written by Richard Harwood in December of 1992 entitled "Who is Craig Gillen?" The columnist says his research of newspaper stories regarding Craig Gillen concluded that the only information given about this man is that he was referred to as Walsh's chief prosecutor, or deputy independent counsel, or associate counsel. Beyond those labels, none of which are official titles under the independent counsel statute, the only thing that is known about Craig Gillen is that he was once an assistant U.S. attorney in Georgia. But as this columnist points out, "Gillen appears to have been the de facto chief of the operation, its driving spirit, its principal strategist."

I ask to whom was Craig Gillen accountable except to Lawrence Walsh? He was not appointed by the chief executive, the President, or the Attorney General. He was not selected by a three-judge panel or a special court, as required by the independent counsel statute for the selection of an independent counsel, and yet this person exercised all of the power of an independent counsel under the statute because he was given that power by the independent counsel and nothing in the statute prohibits that.

Not only is that person not accountable, he is not even known. There is no way for public sanction, or any kind of check or balance, to restrain in any way, an abuse of power of that individual. And that is the point, Mr. President.

In the search for pure independence, based on the assumption that independence leads to fairness, competence, and good judgment, we have created an independent monster. The special division of the court of appeals for the District of Columbia is responsible under current law for appointing an independent counsel. It did not pass on

Craig Gillen's qualifications or fitness to exercise discretionary decisional authority for the independent counsel.

The statute grants limited discretion to the Attorney General to fire an independent counsel under current law, but there is no explicit authority in the law for the Attorney General to fire Craig Gillen or anyone else hired by the independent counsel.

The substitute amendment I have sent to the desk will remedy these unfair and unconstitutional flaws which would continue even under the statute as it would be amended by the committee bill. The substitute would restore to the Attorney General her responsibility as the chief law enforcement officer of the Federal Government.

The substitute also recognizes the Senate's power and responsibility under our Constitution to conduct a review of the qualifications, the background, the integrity, and fitness for office of a nominee to such an important position. In other words, the Senate is given the power and will exercise the power to confirm the appointment of an independent counsel under this substitute.

When an Attorney General has a conflict of interest or feels that an independent investigation of allegations against a high-ranking official is appropriate, an independent counsel should be named, and this substitute provides that authority.

But the law should not require that such action be taken in every case where a high-level official is simply accused of a violation of the law, nor should it limit arbitrarily any preliminary investigation to 90 days as required by this statute.

I was reviewing just recently, the annual report required by law that is submitted to the Congress by the public integrity section of the Department of Justice.

The 1991 report talks about the fact that one of the responsibilities of this section is to review, in a preliminary fashion, allegations that are made under the Independent Counsel Act to determine whether further investigation is required and make recommendations to the Attorney General about whether independent counsel requirements have been triggered. This observation says:

> Under the independent counsel provisions if specific information from a credible source is received by the Justice Department alleging that any of the certain specified high Government officials has committed a crime, the Attorney General must request that a special panel of Federal judges appoint an independent counsel unless preliminary investigation limited to 90 days establishes there are no reasonable grounds to believe that further investigation or prosecution is warranted.

The report further discusses how this is such an unusual restraint, a 90-day requirement in which a large number of people and resources are devoted to that inquiry, so that speed becomes, in effect, more important than care.

The responsibility for the full investigation and prosecution, in my judgment, and as provided by this substitute, should be returned to the Justice Department and, when necessary, when the Attorney General decides on a case-by-case basis independent counsel are necessary, then counsel may be appointed.

The Attorney General should nominate, in every case where a high ranking official is involved in allegations of criminal conduct, a special prosecutor, but under the terms of this amendment rather than current law.

If special counsel is to exercise the same kind of authority and prosecutorial power as the Attorney General and become the Nation's chief law enforcement officer in a case involving a high-level official, then that nominee ought to be subject to the confirmation processes of the U.S. Senate as provided in other cases of high-level appointments of the executive branch by the Constitution.

Senate confirmation is appropriate because the special counsel in these cases would be the surrogate for the Attorney General, and the person appointed should be held to the same high level of qualifications, integrity, and competence as an Attorney General.

The substitute amendment will change the process for conducting independent investigations and prosecutions, and it will give to the special counsel the same authority that was granted under section 594 of the independent counsel statute, which would be reauthorized under this amendment.

> Notwithstanding any other provision of law—

And I read from the amendment—

> a special counsel * * * shall have, with respect to all matters in such counsel's prosecutorial jurisdiction * * * full power and independent authority to investigate all investigative and prosecutorial functions and powers of the Department of Justice, the Attorney General's, and other officer or employee of the Department of Justice.

Such a broad grant of authority to any Government official demands that the one who possesses that authority be evaluated carefully before that authority can be exercised.

The amendment also addresses the staff problems that came to light under the Lawrence Walsh episode during his service as independent counsel. The amendment provides in the case of staff that once nominated and confirmed the special counsel would utilize the staff of the public integrity section of the criminal division of the Department of Justice.

I quoted a minute ago from the annual report the public integrity section provides to the Congress on its activities and operation. I quoted from the report for the year 1991.

In that year, the section conducted over 200 investigations of allegations of wrongdoing by officials of all three branches of the Federal Government. This office currently conducts the preliminary investigations required by the independent counsel statute to be conducted before the Attorney General asks the court for appointment of an independent counsel.

This section is also responsible for coordinating inquiries by independent counsels regarding legal issues, departmental policies, requests for documents, and interviews of departmental personnel.

So, based on the record of experience and the performance and the reputation for integrity of those who work in this section, it would seem appropriate to me for the public integrity section to conduct the entire investigation, not just the preliminary investigation. If this section is trusted under current law to do the work that is required in an expedited, rushed up, frantic search for the facts on which to base a conclusion about a continued investigation or a recommendation to the Attorney General that an independent counsel should be named, then surely it can be trusted to conduct a continuing investigation to determine if the facts are there to support a criminal conviction, or if a grand jury should be convened to receive evidence of possible violations of criminal law.

The substitute would also require the special counsel to exercise direct supervision over the investigation. If, at any point in the investigation, the special counsel suspects inappropriate actions by any person under his supervision, either within the department's public integrity section or among outside counsel that this substitute permits to be hired in cases, as needed, he would notify the Office of Professional Responsibility in the Department of Justice. That office, according to the order which created it in 1975, serves the function of ensuring that departmental employees perform their duties in accord with the professional standards expected of the Nation's principal law enforcement agency.

Under the substitute, the staff would not only be accountable to an official who is on the job, but also to the normal Justice Department scrutiny of the professional conduct of its employees.

The bill, as reported from our committee, does attempt to address the problem of inappropriate expenditures by the independent counsel which came to light very prominently during the Lawrence Walsh investigation. I commend the managers of the bill and those on the committee who worked very hard, and our staff, as well, who came up with changes that would limit and restrain the opportunity for abuse in this area.

Establishing limitations on the cost of office space and per diem expenses

and imposing a requirement that a specific individual be responsible for approving expenditures are helpful changes, but they do not go far enough. They do nothing for the underlying problem of the authority to spend an unlimited amount of taxpayer money.

We ought to recognize by now, Mr. President, that independence in a Government official does not necessarily guarantee impartiality or competence or good judgment. No law, no matter how hard we work on it, no matter how well refined, can prevent all abuses of power. History has shown that the independent counsel statute is no exception to that rule. While a conflict-free investigation and prosecution may be impossible to guarantee through the enactment of any statute, our efforts toward that end ought, at the very least, to ensure there is accountability for those officials we entrust with great power.

One of the central goals of the substitute amendment, Mr. President, is to restore accountability to the office that has the power to bring prosecutions against the highest officials in the land. More importantly, we ought not, under the guise of establishing an independent office free of outside or inside influences, upset the delicate separation of powers principle the Framers of our Constitution considered to be central to a just Government.

Mr. President, that is a summary and a description, as best I can give it, of the provisions of the substitute amendment.

Let me, before I yield the floor, ask unanimous consent that a series of articles and newspaper op-ed pieces on the subject of the independent prosecutor and some of the recent experiences, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Oct. 1, 1993]

LONE STAR JUSTICE

Texas has become a first class center for business, education and culture, but its judicial system remains a Wild West embarrassment. Business learned to be wary of Lone Star justice when Joe Jamail, "king of torts" and frequent contributor to election campaigns of Texas judges, got a $10.3 billion judgment against Texaco and in favor of Pennzoil. The system has long been seen as a profit-making and political playpen, but bills to reform it languish in a legislature dominated by trial lawyers, and voters lack the power to change it by initiative.

Public disgust seems to have reached a new peak, though, with the indictments this week of Senator Kay Bailey Hutchison, the Republican who won a landslide victory for the seat formerly held by Treasury Secretary Lloyd Bentsen. A new Dallas Morning News and Houston Chronicle poll finds that only 25% of the respondents think the charges have merit. Meanwhile 56% think they are politically motivated.

It's of course impossible to predict what a jury will ultimately decide, all the more so since the indictment is anything but specific. It consists of five counts of misusing state employees and destroying evidence in Mrs. Hutchison's previous position as Texas state treasurer. Two of the counts are felonies, and the cumulative jail sentences add up to 61 years. In trying to reconstruct these grievous sins, the Houston Chronicle reported that state records "indicated that Hutchison used state employees for non-governmental activities that ranged from coordinating her political schedule to planning her Christmas vacation in Colorado to writing thank-you notes."

The Morning News/Chronicle found that 69% of respondents believe using state employees and equipment for personal and political reasons is a common practice among politicians in Texas and no doubt elsewhere. Indeed, Democratic Land Commissioner Garry Mauro's office was found to have made 1,400 calls on state-paid telephones during the 1992 Clinton campaign, but no indictment was sought. Until last month, Governor Ann Richards kept 13 private lines in her official office, including two tied directly to her campaign office. After the media reported this, eight of the lines were suddenly removed.

The Hutchison indictment was sought by Travis County District Attorney Ronnie Earle, who had himself been interviewed for potential appointment to the Bentsen seat by Democratic Governor Ann Richards. His staff raided Mrs. Hutchison's office days after her Senate victory, carting off crates of records. The judge who empaneled the grand jury was once an aide to Mr. Earle. The grand jury turned out to include 10 members who had voted in the Democratic primaries, two non-voters and no Republicans. Senator Hutchison is pushing for an early jury trial that can end before she has to file for re-election in January, and Mr. Earle and the jury foreman are denying political motivation.

Of course no official should be above the law, and no doubt a search of extensive files would find instances in which Mrs. Hutchison exercised poor judgment. It's conceivable, of course, that at trial the murky charges may be fleshed out by more solid evidence of serious transgressions. More likely, though, what we have here is just what it looks like and what the Texas poll respondents judge it to be: A politically motivated fishing expedition intended to damage the new Senator, settle some scores and open the field for the Democratic Party.

In many ways this would be a culmination of recent trends. Partisans in both parties are using ethics as a political weapon. Even more seriously, in recent years we've witnessed the criminalization of differences over foreign policy, grandstanding arrests with bond traders carted off in handcuffs only to have charges dismissed, the criminal pursuit of hapless savings and loans directors and accountants. If Mr. Earle's indictment turns out to be the use of the legal process for partisan purposes, it will set another new low; but then, Texas is into setting records.

George Christian, a Democrat who was press secretary to President Lyndon Johnson, says it's "disturbing" that so many voters doubt the validity of the Hutchison indictment. He says it's time Texas joined most states in ending its partisan elections for judges and district attorneys. He would move to a system where judges are appointed, but voters then confirm them periodically. Clearly the courts of Texas, and some other states as well, need to be purged of a partisan flavor.

Even beyond the borders of Texas, there's plenty of reason to worry that courts are becoming tinged with purposes beyond even-handed law enforcement. There's a danger that the public will become as cynical and suspicious of the judiciary as it has become of all other political institutions.

[From the Washington Post, Dec. 31, 1992]

WHO IS CRAIG GILLEN?

(By Richard Harwood)

The Office of Independent Counsel—OIC to the in crowd—has been a great benefactor of the media as it picked through the garbage of the Iran-contra affair during the past six years. Along the way OIC and its aged leader, 80-year-old Lawrence E. Walsh, dropped many hints of great things to come: the impeachment or indictment of Ronald Reagan, the imprisonment of Cabinet officers, the slaughter of top guns in the CIA. This was the stuff of bold headlines and great expectations. It inspired millions of words of copy and countless broadcast hours.

But in the end not much has come of it. "Little Light, but Much Work * * *" is the New York Times headline. What we know today about Iran-contra is what we knew five years ago at the conclusion of congressional hearings on the affair; nothing more. Walsh and his platoons of lawyers and FBI agents have hooked and landed no big fish. Reagan, the inspirer and spiritual patron of the operation, lives out his good life on the West Coast, unindicted and unimpeached either for lack of evidence or lack of will at OIC. The convictions of Oliver North and John Poindexter were invalidated by the courts because of the use of tainted evidence, an outcome that was not inevitable, according to Sen. Warren Rudman, if Walsh had played his cards in a different way. North may wind up as Virginia's newest senator. Plea bargains on misdemeanor counts extracted modest community service time for people like Robert McFarlane and Elliott Abrams, who was also fined $50. But no one has done or will do jail time except the long-forgotten Thomas Clines, who got 16 months for income tax irregularities.

The much-heralded prosecution of Clair George, the former "CIA spymaster," was an odd and singularly unenlightening episode. It bankrupted him but left the issue in doubt. His involvement in Iran-contra was shown to be peripheral, and the case against him—lying or withholding information from Congress—was so marginal it collapsed the first time around. A majority of jurors favored his acquittal on each of the nine counts in the indictment, forcing a mistrial. The press lost interest. There was no daily coverage of the retrial by such Iran-contra junkies as the New York Times and The Post. But this time the OIC lawyers got a conviction by the skin of their teeth; George was acquitted on five of the seven counts in his indictment. Even that minor victory evaporated Christmas Eve when President Bush pardoned George and five others, including former defense secretary Caspar Weinberger, who had yet to come to trial for withholding information from Congress.

For all that, it's been a good story for a long, long time and there is a very faint possibility of a socko windup. Walsh has made the president a "subject" for investigation. That has an ominous ring to it buy may signify little more than Walsh's pique at the Bush pardons.

In the meantime, the press could clear up for the rest of us one of the mysteries of OIC: Who is Craig Gillen? He's been a major actor for several years in the affairs of OIC. The newspapers label him as Walsh's "chief prosecutor," as the "deputy independent counsel," as the "associate counsel"—in short, as the Number Two guy. That's all we know from the papers, except that he was once an assistant U.S. attorney in Atlanta and that a year ago Walsh told Legal Times, a Washington journal, that he had turned over to Gillen "decisional authority" in OIC.

People who attended the George trial were impressed by Gillen's technical skills. He was the architect of the case—and of its technical flaws—against Caspar Weinberger. But there are no extant profiles in the computers telling us about him—his family, his education, his career history, his talents, his ambitions, his beliefs. The Wall Street Journal claimed in an editorial—with no supporting evidence—that Gillen's aim is to be the governor of his home state, Georgia, and that OIC is merely a steppingstone for that ambition.

Nothing else is readily available except a poison portrait of Gillen contained in an interesting but maudlin and self-serving memoir by Elliott Abrams on his travails with OIC. The book makes clear that Abrams and his wife, Rachel, do not dislike Craig Gillen; they hate him. If WASPs were not supposed to be immune from bigotry, one could easily accuse them of that social sin. In a letter to a friend, reprinted in the book, Rachel Abrams refers to him as "this specimen of [expletive deleted] and compressed lips, this pretty-boy, blond, Georgia WASP, this loathsome little toady of Lawrence Walsh's." Other passages in the letter are unprintable and reflect the obsessive belief that Gillen is a grand inquisitor seeking fame and high place by pursuing "this golden man, my prize"—Elliott Abrams. (She also pays her respects to the Fourth Estate, those "carrion-eaters of the press corps, who daily take their meals at the flesh of the fallen mighty.")

If Craig Gillen can inspire such passions he must be an interesting man. He is also an important figure in these final days of OIC. Lawrence Walsh spends most of his time at home in Oklahoma City. Gillen appears to be the de facto chief of the operation now, its driving spirit, its principal strategist. He will figure in any history of the Iran-contra case and its aftermath.

It is surprising that we know so little about him, surprising that he has retained his anonymity for so long. There are a lot of stories going around about his zealotry.

The last act of the Office of Independent Counsel in this affair will be the submission of a final report. It will be an important document affecting the reputations of many individuals and affecting, perhaps, future relations between Congress and the executive branch. Gillen will be one of its principal authors. Who is he?

[From the Wall Street Journal, Feb. 4, 1993]

LAWRENCE WALSH, SCOFFLAW

(By Michael A. Ledeen)

The Ethics in Government Act—which gave us special prosecutors—has been reintroduced in the Senate, and the performance of Lawrence Walsh will provide much of the background music for the coming debate. There are many alarming aspects to Mr. Walsh's tenure, not least of which is an unchallenged power that has permitted him to ignore the laws, rules and regulations that bind most men and women engaged in the enforcement of laws at the same time that he has insisted on unprecedented standards for his intended victims.

Whenever Mr. Walsh is annoyed by official regulations, for example on things like pay and travel, he simply ignores them, since (in the words of his olympian response to a recent Government Accounting Office inquiry into the operations of his office) "he does not believe that these requirements apply to independent counsels as a matter of law."

As of last March, about 30 of his employees had run up more than 5,000 hours of unjustified excess leave, and to date Mr. Walsh has paid himself about $78,000 above the authorized rate for per diem expenses. These expenses were themselves suspect because he had declared his "work station" to be Oklahoma City rather than Washington (where he spent the bulk of his working hours). This maneuver let him charge the government for his (unauthorized, first class) travel between Oklahoma and Washington, and temporarily let him neatly circumvent the District of Columbia's income taxes. He paid the taxes—along with a fine—only after his circumvention was uncovered by a congressional inquiry and reported in the newspapers.

Thus, the same special prosecutor who so excorsiates his victims for placing themselves "above the law" has not applied the same standards to himself. Indeed, when he was involved in U.S. foreign policy, Mr. Walsh sounded very much like the Iran-Contra players he later prosecuted.

Back in 1960, as acting attorney general in the Eisenhower administration, Mr. Walsh met with Secretary of State Christian Herter and CIA Director Allen Dulles to discuss how best to monitor and control travelers between the U.S. and Cuba. Mr. Herter suggested that it might be desirable to pass some new laws to strengthen U.S. control over the travelers, but Mr. Walsh dismissed such legal niceties. According to "Foreign Relations of the United States (1958-1960)," Vol. VI, "Cuba" (State Department), "Walsh pointed out that there was some point at which you simply had to circumvent the law and that what was important was the INS be given a plausible basis for doing so."

Back then, Mr. Walsh was willing to circumvent the rules on behalf of national security; more recently, he has simply trashed national security regulations. His disdain for proper procedures has produced a substantial hemorrhage of classified information (which Mr. Walsh often refers to as "phony secrets"):

CIA cables, complete with highly sensitive markings (invaluable for anyone who wishes to forge such documents), were publicly released as "Exhibits" during trials, in violation of security requirements.

During a discussion of a motion to quash a subpoena, the Walsh team identified a covert agent by name.

So-called redacted pleadings from Mr. Walsh contained classified information that should have been deleted. On occasion, classified material was included in Mr. Walsh's official letters, which subsequently had to be retrieved and then classified or redacted.

Highly sensitive documents were delivered to receptionists at defense counsels' offices instead of being placed in special secure facilities.

This last item is of a piece with the most spectacular example of Mr. Walsh's cavalier treatment of government secrets. Last July, when he traveled to California to interview former President Reagan, Mr. Walsh carried a satchel of classified documents. Having completed the interview, Mr. Walsh gave his luggage (including the satchel) to his staffers, instructing them to check the bags onto his flight back to Washington. The bags were checked in at curbside at Los Angeles International Airport, but the satchel never arrived at its destination.

The dramatic disappearance of such sensitive material must have shaken even the special prosecutor, but he failed to report the event for several weeks—and when he did, he suggested to the amazed security officers at the Justice Department that the entire procedure had been approved by his security personnel. This was denied by a Walsh security officer, who took a polygraph test on the matter and passed it. The case is still under investigation at the Justice Department, and Bush Deputy Attorney General George Terwilliger has termed Mr. Walsh's behavior a "flagrant violation" of security regulations.

If any normal official of the executive branch behaved in this manner, he would find himself in deep trouble. Quite aside from the casual disclosure of government secrets in court, regulations require a security escort when transporting classified documents and the immediate reporting of any loss. Anyone circumventing such strictures would, at an absolute minimum, have his security clearances suspended, and might very well be placed on extended leave pending the outcome of the investigation. Nothing has been done to Mr. Walsh.

That Mr. Walsh has remained immune from even the slightest official reprimand testifies to the immense power of his office. As former independent counsel Jacob Stein remarked recently, if you've got an unlimited budget and unlimited staff, "you can overpower anyone. * * * Nobody can compete with you, especially an individual." When such awesome power is in the hands of someone like Mr. Walsh, it is a guarantee for disaster.

The Ethics in Government Act should have a stake driven through its heart and be buried in a lead casket. In the meantime, those who care about abuses of prosecutorial power should conduct a thorough investigation of the activities of Lawrence Walsh and his crew.

[From the Wall Street Journal, Mar. 15, 1993]

A PARDON FOR WALSH

Seems like only yesterday that Judge Lawrence Walsh was all over the networks denouncing George Bush's "outrageous" pardon of Caspar Weinbergr. Well, it now turns out that the Government Accounting Office, also an arm of Congress, has just given Judge Walsh a pardon of his own for extensive violations of federal pay and procurement rules by his office. Better yet, the government will look the other way if some of the violations continue.

Last year, it was discovered that because of an "oversight" at the GAO, popularly known as Congress's watchdog agency, there hadn't been an audit of Mr. Walsh's office as the law required, since his prove began in 1987. So they scoured all the independent counsel, and discovered that Mr. Walsh's problems were the most severe. No wonder: His empire accounts for an astounding 90 percent of the $43 million directly spent by all independent counsel since 1978.

Among other things, the GAO audit found that Mr. Walsh and his top deputy, Craig Gillen, had been reimbursed improperly by taxpayers for as much as $78,000 in food and lodging. Other violations of government rules included using a government-leased vehicle and flying first class. And Messrs. Walsh and Gillen failed to pay required Washington, D.C., income taxes, despite living in the city during most of this period. They've since paid the taxes and a penalty.

Mr. Walsh bitterly disputed the GAO's findings. Then, in an October 5, 1992, letter to the Comptroller General he asked for a "waiver" of all overpayments and irregularities "made in the past and similar future disbursements for the limited period prior to the completion of our remaining activities." In short, Judge Walsh wanted a pardon—both past and future.

He got it. Last month Deputy Comptroller General Milton Socolar sent letters to Judge Walsh and to the other independent counsel waiving the government's right to collect money for any violations. Mr. Socolar told us that the waiver "amounts to a forgiveness of legal obligations because there was no evidence of fraud or misrepresentation." He asked for an end to all unautorized payments, but granted a waiver in the case of Judge Walsh's travel and lodging expenses and for future violations. The justification for this extraordinary dispensation is that since Congress had not provided for the reimbursement of expenses for an independent counsel who worked away from home, the government should pay for them anyway.

Now, when a citizens group called Americans for a Balanced Budget filed a Freedom of Information Act request for the financial records, of Mr. Walsh's office, they were turned down. A January 21 letter said this "would be an unwarranted administrative burden." But that reason isn't one of the exemptions allowed under FOIA and is ludicrous given that the financial records were recently handed over to GAO auditors. Judge Walsh was informed that he was clearly violating FOIA rules, and last week his lawyers agreed to surrender the documents.

Having fought for and won his pardon, Judge Walsh could still run afoul of other ethics laws. There are questions about his hiring of a firm to stage a mock trial before 36 Washington, D.C., residents to test his prosecutorial case against Mr. Weinberger. Such a trial could have cost as much as $50,000 and there are reports the contract was given to a San Francisco firm without taking any other bids. If so, that would be a clear violation of federal contract law. The prosecutor's office says it believes it has complied with federal regulations. The biannual GAO audit of Mr. Walsh's office is due out shortly.

So Judge Walsh's legion of crusading attorneys keeps ticking, running the taxpayers' meter while it prepares its "final" (promise?) report on the Iran-Contra affair. The law that authorizes independent counsel expired last December 15, and it has yet to be renewed. Justice Department officials say they have "no jurisdiction" over Judge Walsh. Congress's watchdogs have just given his operation a blanket pardon for noncompliance with government rules.

Gosh, isn't there anyone out there other than us interested and getting some accountability into this unsupervised, uncontrolled creature of the '80s? How about the Reno Justice Department? How about the White House's ethicists?

[From the Washington Post, Feb. 2, 1993]

NO MORE INDEPENDENT COUNSEL

(By Nicholas de B. Katzenbach)

The Independent Counsel Act expired in December, and Congress will consider its reenactment early this session. I hope it will give the next attorney general a chance to prove that he or she can faithfully and impartially enforce the laws of the United States without the appointment of outside counsel the attorney general does not believe necessary. After all, we got along without the need for legislatively prescribed "independent counsel" for almost two centuries.

As part of a larger effort "to preserve and promote public confidence in the integrity of the federal government" the act seeks "to insure fair and impartial criminal proceedings when an administration attempts the delicate task of investigating its own top officials." No one can quarrel with those objectives. What one can question is whether confidence in the integrity of government is in fact promoted by a conclusive presumption that the nation's top law enforcement official cannot enforce the laws impartially in difficult circumstances. And, it seems to me, the controversy which has accompanied the act has often turned it into a political football, which has served to undermine rather than promote public confidence in the integrity of law enforcement.

Ironically, the law was first enacted in response to President Nixon's "Saturday Night Massacre," which led to the resignation of Attorney General Elliot Richardson and the dismissal of special Watergate prosecutor Archibald Cox. Richardson had appointed Cox and assured him he would be dismissed only for cause. When Nixon insisted Cox be fired willy-nilly, Richardson resigned. So did his deputy, William Ruckelshaus, and if Solicitor General Robert Bork had not reluctantly complied with Nixon's demand, I think the whole leadership of the department would have followed Richardson's example. The firing was followed by such a public outcry that Nixon was forced to permit the appointment of another special prosecutor, Leon Jaworski, with results that led to several convictions and the resignation of the president himself.

To my mind those facts established the integrity of the existing system—given only an attorney general of Richardson's ability and character. The independent counsel statute assumes that there are no more Richardsons and that future attorneys general cannot be trusted to live up to their oath of office. Does that promote public confidence in government?

Surely what we want to achieve is an administration that will not tolerate sleaze and, more important, one that has respect for its constitutional responsibilities and those of the other branches of government. Occasional prosecutions of high government officials are almost certainly going to occur. Whether for abuse of office, lying to Congress or offenses unconnected with their public office such as failure to pay income taxes, such conduct should not be tolerated by any president or attorney general.

Public confidence in the integrity of government may be enhanced by the prosecution of such crimes, but only if those charged with law enforcement to their duty. The attorney general may disqualify himself and leave the job to his subordinates, as Bobby Kennedy did in the prosecution of James Landis. He may feel it necessary or politic to appoint a special prosecutor, as did Richardson with Cox. But I do not believe confidence is enhanced if someone else does that job for the attorney general because we assume he lacks the integrity or will to do it himself. The political effort should be directed at ensuring that the president and his administration faithfully execute the laws, that conflicts of interest or lack of candor do not occur and, if they do, are appropriately punished.

Obviously we have had problems in recent years. Some of those stem from the growth of presidential power, particularly in foreign affairs, which unfortunately has led to an even greater growth in presidential self-esteem. President Nixon felt he was above the law and found he was not. President Reagan and Bush were convinced that they had a far greater understanding of foreign affairs than Congress and resented efforts by Congress to limit in any way the exercise of claimed presidential power.

Their views understandably were shared by their followers, particularly those closest and most loyal in the White House. But evading legislative restrictions—even those one regards as misguided and unwise—is not an answer. Misleading Congress undermines our system of government, which depends on respect for law—not on efforts to avoid its consequences. Evasion should be punished. Actually, it should never occur at all.

We are not going to successfully preserve the separation of powers or rid ourselves of corruption in government simply by making conduct criminal and prosecuting the wayward. Yet that is the premise of the Independent Counsel Act. It may serve in some circumstances to ensure prosecution and, to the extent punishment deters, serves these larger purposes in a limited way. But if what we wish to achieve is not simply the punishment of a few but the vindication of the political system itself, that is best accomplished by political sanctions against an administration that tries to deny or excuse unacceptable official conduct, whether criminal or not.

Leaving prosecution of high officials to judicially chosen independent counsel, whatever their personal distinction, does not promote the larger purpose of governmental accountability. It may even promote avoidance, since prosecution is no longer the executive's responsibility. Independent prosecutors are essentially unsupervised and may seek to promote their own reputational ends, and not the public welfare by too vigorous a prosecutorial stance over too long a period of time. Perhaps because they are perceived in this way, perhaps for less worthy motives, they have sometimes been frustrated in their efforts to secure necessary evidence by an unsympathetic attorney general, and confrontation has developed. This exacerbates the problem of public distrust in government. An administration should be required to clean without delay its own Augean stables.

Congress is not without fault when it comes to questions of public accountability. It has made no serious effort to deal with its own problems of sleaze and corruption, with the inherent dangers of costly campaigns and political contributions by those who stand to profit through legislative or executive actions. A democratic majority has used the Independent Counsel Act for what appear to be partisan political purposes, thus avoiding Congress's own oversight responsibilities.

Its failure to act in any serious way about its own conflicts of interest have raised questions about the objective nature of its demands for independent counsel to investigate alleged shortcomings of officials of different political persuasion in the executive branch. And it has confirmed persons of little professional distinction and clear political priorities to man the Department of Justice. To confirm such persons does a disservice to impartial law enforcement and public confidence.

I hope the tradition of congressional acquiescence in the nomination of executive branch appointees in the future will not prevent a hard look at the competence and professionalism of the nominee for attorney general. I hope, too, presidents themselves understand the responsibilities of that office and the necessity, despite occasional embarrassment and pain, of preserving a government of law. This means not only an attorney general with credentials of excellence but staffing the department with persons of similar qualifications and forgoing the temptation to find more attractive legal advice within the White House.

Perhaps the potential enactment of an Independent Counsel Act can help to remind a president of the importance of fair and impartial law enforcement and his own constitutional obligation to faithfully execute the laws of the United States. But its enactment in its present form would almost certainly defeat those purposes.

[From the Washington Times, Mar. 4, 1993]

COST ESTIMATES SOAR TO $100 MILLION FOR IRAN-CONTRA PROBE

(By Michael Hedges)

A congressional hearing on the independent counsel law yesterday quickly became a referendum on the Iran-Contra probe of Lawrence Walsh, with one witness estimating it had cost taxpayers $100 million.

Terrence O'Donnell, a lawyer with the Washington firm of Williams and Connelly who was part of Iran-Contra figure Oliver North's defense team, said the Walsh investigation of the arms-for-hostages scheme was an example of "enormous power run amok."

Even strong supporters for the measure, such as Rep. Barney Frank, Massachusetts Democrat, made transparent references to Mr. Walsh in saying that the law should be refined.

After a discussion of a General Accounting Office report that criticized Mr. Walsh and his staff for lavish spending on first-class air travel, long-term housing in the Watergate Hotel and questionable daily expense charges, Mr. Frank said: "They forgot they were moving into the public sector. . . . They made some mistakes there."

Mr. Walsh has said his direct costs were $35 million for prosecuting a number of Reagan and Bush administration officials, most often for lying to Congress or making false statements to investigators.

But Mr. O'Donnell said, "If the hidden costs are considered, such as the cost of the legions of government officials at [the Defense Department], CIA, [the National Security Agency] and State to respond to independent counsel's insatiable appetite for documents, $100 million is closer to the mark."

That cost figure for the six-year probe was supported yesterday by congressional lawyers and law professors who have examined the prosecution.

Sam Dash, Georgetown University law professor, spoke on behalf of the American Bar Association and "strongly supported" the independent counsel law, saying that most of the special prosecutions undertaken since it was enacted in 1978 have taken a fairly short time and have resulted in a determination that no prosecution was warranted.

And while no member of the Clinton administration appeared at the hearing. Mr. Dash, who served as chief counsel and staff director of the Senate Watergate Committee, said he had assurances from the president that he supported the measure.

But five other witnesses, including two who had represented clients extensively investigated by Mr. Walsh's staff, said they believed the law should either be scrapped or rewritten to tightly restrict the scope of such investigations.

Thomas Wilson, who represented former CIA station chief Joseph Fernandez, described that case as a "tragedy." In written remarks, he said Mr. Fernandez, whose indictment was dismissed by a federal judge, had rolled up a $1.7 million legal bill defending himself against Mr. Walsh. "No professional prosecutor would have prosecuted Fernandez," he said.

Mr. Wilson said if the law is reauthorized, constraints on the special counsel's term and power are needed. "Once you name one, if you have someone who is not doing his job properly, you have created a monster," he said.

Yesterday's hearing before a subcommittee of the House Judiciary Committee was to focus on whether the independent counsel law should be reauthorized for five years. The law expired in December.

Both Democrats and Republicans on the subcommittee said they would back the bill to keep the law—with modifications.

There is strong Democratic support in Congress for keeping the independent counsel law in some form. Some individual Republicans have called for its death, but others see it as a weapon that might one day be turned on Democrats.

"The feeling is, if the Democratic Congress is going to be closely aligned with the administration, having the option of a special counsel might be one way to keep some accountability," said one Republican staff member.

No member of Mr. Walsh's staff appeared as a witness yesterday, and the hearing quickly zeroed in on Mr. Walsh's investigation, despite the efforts of subcommittee Chairman John Bryant, Texas Democrat, who asked witnesses not to "re-litigate" cases or make "reference to previous special counsels except when necessary."

Richard Hibey, who represented former CIA official Clair George on charges of lying to Congress and obstructing the Walsh investigation, said if the law is enacted again it should be written to allow for a permanent office of professional prosecutors to handle independent investigations and prosecutions.

He said such an office would avoid the "unwholesome injection of partisan politics," which he said tainted the Iran-Contra probe.

Among other suggestions backed by some or all of the witnesses and members of the subcommittee:

Limit the term of the special counsel, with cases unfinished after a set time to be referred to the Justice Department for completion.

Limit the cost of prosecutions. Mr. O'Donnell said a standard federal prosecution costs an average of $10,000, compared with $2.5 million for each of Mr. Walsh's targets.

Allow targets of special prosecutions who are not convicted to reclaim legal fees.

Select special counsels from the ranks of current prosecutors or defense lawyers, rather than choosing retired judges as is commonly done now.

Require special counsels to adhere to Justice Department guidelines in determining whether it is in the public interest to pursue a target.

Expand the law to cover investigations of members of Congress.

Mr. Walsh's Iran-Contra probe began in December 1986. At its peak, Mr. Walsh employed 32 lawyers and more than 50 investigators, according to yesterday's testimony.

A congressional aide said an independent review of the process by House experts arrived at the same cost estimate of $100 million.

[From the Wall Street Journal, Apr. 28, 1993]

HOW TO AVOID ANOTHER LAWRENCE WALSH

(By Robert S. Bennett)

Despite Lawrence Walsh's misdirected zeal in his unjustified prosecution of Caspar Weinberger, I nevertheless believe that the use of an independent counsel may be appropriate in certain rare cases. For example, appointment of an independent counsel might be necessary for public acceptability of an investigation of a president, where there is a rational basis to believe he has committed a crime.

That said, the independent counsel law that just expired presents serious problems—problems that were reflected in Mr. Walsh's prosecution of Mr. Weinberger, whom I represented. The legislation reauthorizing the independent counsel statute that appears headed for passage in Congress this spring makes only cosmetic changes and does not address the fundamental problems: the failure to select qualified individuals as independent counsel and staff, and the unaccountable power exercised by the independent counsel.

Mr. Walsh and some members of his staff were inexperienced in complex white-collar matters and, consequently, exercised poor judgment as prosecutors. Mr. Walsh made the Weinberger case his flagship case not because it was his most important case on the merits but because he intended to use it to rehabilitate his office after all its significant convictions were reversed and to prove his unshakable belief that there was a conspiracy at the highest levels of government to cover up the Iran-Contra matter.

Excessive zeal and lack of perspective warped Mr. Walsh's judgment. If he truly believed that the former secretary of defense committed serious crimes, perjured himself, entered into a conspiracy, lied to Congress and lied to the independent counsel, how in good conscience could he have offered a misdemeanor plea? When I told Mr. Walsh that Mr. Weinberger would not admit wrongdoing, he said "we can work out the language," and, to encourage a disposition, indicated he had no desire to see Mr. Weinberger go to jail. Of course, he made it clear that if no such deal were accepted Mr. Weinberger would be indicted for several felonies.

In the Weinberger case, Mr. Walsh's lack of prosecutorial judgment was exacerbated by his staff's inexperience, resulting in legally defective charges. Thus, for example, we were able to obtain dismissal of the principal count in the first indictment against Mr. Weinberger—obstruction of Congress. The infamous second indictment, returned only a few days before the presidential election, was defective on statute of limitations grounds.

The second major failing of the independent counsel statute is that it gives the individual who occupies the position tremendous unaccountable power. Mr. Walsh had authority to investigate whether "any government official" violated "any federal criminal law relating * * * in any way" to the sale of arms to Iran or the provision of support for the Contras since 1984. Under this exceedingly broad jurisdiction, Mr. Walsh continued his investigation for more than six years, longer than all but one or two attorneys general have served. Neither the Justice Department nor any U.S. attorney would have authorized anything like the expenditure of resources—more than $40 million in direct costs, and millions more in support—in cases so lacking in prosecutorial merit. For Mr. Walsh there was simply no point of diminishing returns where the rehabilitation of his office's reputation was concerned.

The lack of accountability, lack of prosecutorial perspective, and virtually unlimited jurisdiction and resources created an arrogance that bred contempt for the rules. The General Accounting Office concluded that Mr. Walsh's office violated numerous regulations on government spending and travel allowances. All these errors and abuses contributed greatly to the pardon effort. Make no mistake about it—the person most responsible for Mr. Weinberger's pardon was not President Bush but Mr. Walsh.

Yes, the independent counsel statute should be reauthorized. But the appointment of an independent counsel must be the exception, not the rule; and his power must be limited.

Before a case even exists, a roster of attorneys with substantial experience as prosecutors, defense lawyers and public defenders should be established from which the independent counsel will be chosen. The appellate and trial judges from each judicial circuit should nominate attorneys. The criteria should be designed to lead to the selection of people of experience in complex criminal matters.

In addition, at least half of an independent counsel's office should be selected from the Justice Department, U.S. Attorney's Office or public defenders. These professionals would have little difficulty investigating a high-level official. In addition to saving money by detailing government employees from their positions, there would be some assurance that prosecutorial guidelines would be followed and that people who understand the limits of the criminal process will be involved in the decision making.

The group in the executive branch to which the statute applies should be narrowed to cover only the president, vice president, cabinet and highest-level White House officials. But the statute should also cover certain members of Congress because investigations of an administration's friends or foes in Congress could raise the same public credibility concerns that justify appointment of independent counsel for executive-branch officials.

An independent counsel should be appointed only if the attorney general determines that "a rational basis exists to believe that a crime was committed," not that there "are reasonable grounds to believe further investigation is warranted," as was the case under the old statute. The duration of an independent counsel's appointment should be limited to the term of a grand jury—18 months. The subject matter over which the independent counsel has jurisdiction must also be limited. The subject matter and potential violations of law should be specified in the attorney general's request for appointment of an independent counsel.

The authority of the independent counsel to issue public reports during his investigation or after it is concluded must be eliminated. Prosecutors do not use their offices as a forum to proclaim their views on history or to pass personal judgment on individuals' conduct, and independent counsel should be no different.

Finally, the "good cause" standard by which the attorney general may terminate an independent counsel should be defined to include failure of an independent counsel to follow Justice Department guidelines, violations of canons of ethics, or a determination by the attorney general that any remaining investigation can be conducted by the Justice Department.

With such safeguards in place, we should be able to avoid another debacle like the Iran-Contra investigation.

(Mr. CONRAD assumed the Chair.)

Mr. COCHRAN. Mr. President, I also want to invite the attention of the Senate to a recent book written by Suzanne Garment, entitled "Scandal: The Culture of Mistrust in American Politics."

I am just going to read one little piece from this review. This is not the whole book, but this is a review of the book that appeared in The American Spectator in January 1992. The author reviews several of the experiences of those who have been charged with crimes and ended up being targets of independent counsel investigations. The reviewer, Steve Munson, calls our attention to one of these stories of former Assistant Attorney General Theodore Olsen.

In 1985, Olsen was accused of having lied 2½ years earlier when he testified before a congressional subcommittee investigating the Environmental Protection Agency. At the insistence of the subcommittee chairman, Democrat Peter Rodino, Attorney General Edwin Meese asked for an independent counsel to investigate. The investigation was requested, even though by 1985 Olsen had already left the Government. Within 6 months, the independent counsel, Alexia Morrison, announced that Olsen's testimony probably did not constitute a prosecutable offense because it was literally true, even if potentially misleading in certain respects. But with that, the Olsen case did not end; it was only just beginning. Morrison was apparently determined to find some evidence of criminality and, unlike ordinary prosecutors, as an independent counsel she was unhampered by time, money, or any other constraint. So she pressed on, at one point threatening to indict Olsen if he refused to waive his rights under the statute of limitations law. Her search took 4 more years and, predictably, she came up empty. Olsen wound up with legal bills in excess of $1 million.

The author of the book writes that the Olsen case showed how an independent counsel could use the office's vast discretionary power to visit harshly discriminatory law enforcement on individual Government officials.

Mr. President, I ask unanimous consent that a copy of that book review also be printed in the RECORD.

There being no objection, the review was ordered to be printed in the RECORD, as follows:

SCANDAL: THE CULTURE OF MISTRUST IN AMERICAN POLITICS

(By Suzanne Garment, Reviewed by Steve Munson)

Once upon a time, a politician or government official risked scandal if he did something illegal, like take a bribe, or morally improper, like have an affair. If exposed, he faced censure, or ruin, or jail, depending on the nature and seriousness of the offense. More importantly, whatever his transgression, and whatever the penalty, neither he nor the public at large would have had any doubts as to why what he had done was scandalous.

But times have changed. Today a political figure can end up impugned, impoverished, or imprisoned simply for doing his job. As Suzanne Garment writes in her compelling new book, "When we look down the list of recent political scandals that have embroiled executive branch officials, we quickly see that many of them involved offenses that would never have become known at any other time in our political history or would not have been considered worthy of serious sustained attention."

How has this situation come about? According to Garment, the roots of today's scandal politics lie in the 1960s. That era, she argues, ushered in a radicalism that has since come to pervade our national life, including the political life of Washington, D.C. At the heart of this radicalism was "the conviction that the people governing this country were fundamentally illegitimate in their claims to authority and criminal in their behavior. It followed that the job of driving out the menace posed by such officials could not be done through conventional American politics, because the old political system entailed too much ordinary electoral activity, endless negotiation, and vitiating compromise." Instead, to achieve their goals the Vietnam-era radicals and their spiritual descendants created what now amounts to a parallel political structure composed of ideologically motivated interest groups, friendly congressional staffs, activist lawyers, and willing journalists.

It is this informal structure that undergirds what Garment calls "our modern scandal production machine." Her book is a systematic attempt to explain how each element of this machine—from "ethics" laws and congressional hearings to the office of the independent counsel and the mass media—operates, and she recounts with riveting clarity the major and minor political scandals of the past decade.

One of these is the story of former assistant attorney general Theodore Olsen. In 1985 Olsen was accused of having lied two and a half years earlier when he testified before a congressional subcommittee investigating the Environmental Protection Agency. At the insistence of the subcommittee chairman, Democrat Peter Rodino, Attorney General Edwin Meese asked for an independent counsel to investigate. The investigation was requested even though by 1985 Olsen had already left the government. Within six months, the independent counsel, Alexia Morrison, announced that Olsen's testimony "probably did not constitute a prosecutable offense because it was literally true, even if potentially misleading in certain respects." But with that the Olsen case did not end; it was only just beginning. Morrison was apparently determined to find some evidence of criminality and, unlike ordinary prosecutors, as an independent counsel she was unhampered by time, money, or any other constraint. So she pressed on, at one point threatening to indict Olsen if he refused to waive his rights under the statute of limitations law. Her search took four more years and, predictably, she came up empty. Olsen wound up with legal bills in excess of $1 million.

Garment writes that the Olsen case showed how "an independent counsel could use the office's vast discretionary power to visit harshly discriminatory law enforcement on individual government officials." Indeed, in reading Scandal one cannot help feeling that, in these matters, the rule of law has been thoroughly corrupted. Those involved in the pursuit of Reagan Administration officials showed few if any qualms about what they were doing, even after it became clear that the only criminal activity they were investigating was that which they themselves had concocted. As Garment puts it:

Today's ethics police practice scorched-earth warfare of a sort readily recognizable from Vietnam days. . . . They display impressive inventiveness in not simply catching criminals but trying to ensure that what is offensive or imprudent behavior today can be treated as scandalous or even criminal behavior tomorrow. They display the same awesome skill as the most radical antiwar activists did in ignoring the question of whether the pain they cause in individual cases is worth the good they do.

The good they do is, in fact, nil. As Garment's book makes clear, the record is replete with cases that never gets into court, that get thrown out of court, that end up in coerced little plea bargains, and that serve only to damage decent and dedicated men, while promoting the careers of unscrupulous Washington lawyers, nihilistic journalists, and publicity-seeking congressmen.

The fact that so many of the "scandals" examined by Garment should never have been investigated to begin with reminds us that, although the law is the instrument of their resolution, these cases have nothing to do with criminal behavior by people in high places. Some, like the prosecution of Raymond Donovan, President Reagan's first secretary of labor, and the Wedtech-related indictments of Lyn Nofziger and E. Robert Wallach, were inspired by standard partisan motives. Others, however, were outright ideological vendettas. As Garment points out, the Theodore Olsen case began as a battle between Reagan and Congress over environmental policy. Likewise, when Edwin Meese was nominated for attorney general, he was immediately targeted by Democratic senators opposed to Reagan's civil rights policies. Foreshadowing the tactics they would later use against Supreme Court nominees Robert Bork and Clarence Thomas, they sent their staffs looking for dirt and within days produced a Meese scandal involving allegations of cronyism and questionable loans.

And then there is the Iran-contra affair. So far, the investigation by independent counsel Lawrence Walsh has taken five years and has cost, according to the Wall Street Journal, more than $100 million—all to investigate and prosecute men who did nothing really wrong. For as everyone in the world—including Lawrence Walsh, his staff, and their cheerleaders in the press—knows, it was not withholding information from Congress, or taking an illegal gratuity, or any of the other trumped-up charges against them that brought down Oliver North and John Poindexter and Elliott Abrams and Alan Fiers and Claire George et al. Their crime was to refuse to allow congressional Democrats sympathetic to the Sandinistas to dictate United States policy toward Nicaragua.

Garment notes that the Iran-contra case exemplifies the post-Watergate habit of turning fundamental disputes over policy into matters for criminal adjudication. (And, of course, in the eyes of those under the sway of the kind of ideas about America and its foreign policy that took root in the 1960s, the Reagan Administration was no less criminal in supporting the anti-Communist struggle in Nicaragua than the Johnson or Nixon Administration had been in fighting the Vietnam war.)

As Scandal suggests, this development is a response to the inability of the radicalized left—whose point of view remains influential in Congress, the media and elsewhere—to win power in presidential elections through the Democratic party. Thwarted by the electorate, the left has turned to destroying its executive branch adversaries through the misuse of our legal institutions. In illuminating the true character of these modern political scandals, Suzanne Garment has made an invaluable contribution to our understanding of the current scene.

Mr. COCHRAN. Mr. President, recently, I read a book written by Terry Eastland entitled "Energy in the Executive." In chapter 5 of that book, he describes what he calls "The Independent Counsel Mess." It begins on page 79 and goes through page 95; a fairly short treatment. But for the RECORD I would like Senators to have the benefit of the observations that he makes on this subject, and I ask unanimous consent that chapter 5 of this book be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. COCHRAN. Mr. President, I have one other reference to make—simply a suggestion. The author of that book has also written a publication that was printed by the National Legal Center for the Public Interest entitled "Ethics, Politics, and the Independent Counsel." It is good reading and offers a lot of suggestions, some of which are included in the changes in the legislation that the committee is reporting today. But, as suggested by my amendment, those changes do not go far enough. I invite the attention of the Senate to that book.

I further ask unanimous consent that an article on the same subject, the independent prosecutor law, by Terry Eastland, be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. COCHRAN. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan [Mr. LEVIN].

Mr. LEVIN. Mr. President, first let me say to my friend from Mississippi that this law is a carefully balanced law that is aimed at providing the kind of protections which he alludes to while retaining the independence of the independent counsel. That is the key to this whole effort, is to retain an independent counsel. Not a counsel who is a surrogate for the Attorney General, as the Senator from Mississippi indicates his own substitute would create, but an independent person whose appointment would be triggered by the existence of certain facts, the passing of certain thresholds, and then when an independent counsel is appointed by a court, subject to certain constraints.

This person is not without constraints. This person does not have unbridled authority. The independent counsel, under the previous law which expired, had certain restrictions—subject to removal by the Attorney General for cause and other restrictions. And we have added some additional restrictions to try to address the kinds of concerns which my friend from Mississippi makes reference to, while retaining the independence of the independent counsel. Without that independent aspect, without that feature, there is no point in reauthorizing the statute.

The lesson of Watergate is you need someone who is independent to investigate and prosecute persons who are close to the President. That is the lesson of Watergate. To adopt this substitute would be to unlearn that lesson and to ignore that lesson.

But my friend from Mississippi is correct in pointing out that it is important to put some restraints on the independent counsel and we have attempted to do so. I will list those restraints in a moment. It is a balance. You want independence but you do not want it untrammeled; you want some restrictions. Someone should have the power to remove under some circumstances, and that has always been provided for—the Attorney General could remove for cause. You want some restraints on expenditures and we build in those kinds of restraints, and we need to. I think there have been some excesses, by the way, which we correct in this statute.

But before I get into the kinds of restraints that are built in to show that this is not untrammeled, that we do retain the critical independence of the office while not providing unlimited power, I want to just quote a few observers of how this statute has worked. This is some testimony that we received at our hearings in 1992 and 1993, first from the Attorney General, Janet Reno:

> It is my firm conviction that the law has been a good one, helping to restore public confidence in our system's ability to investigate wrongdoing by high-level executive branch officials. The Iran-Contra investigation, [she said] far from providing support for doing away with the independent counsel proves its necessity. I believe this investigation could not have been conducted under the supervision of the Attorney General and concluded with any public confidence in its thoroughness and impartiality. The reason I support the concept of an independent counsel with statutory independence is that there is an inherent conflict whenever senior executive branch officials are to be investigated by the Attorney General.

Again, this is the Attorney General speaking.

> It is a measured, appropriate response to a limited but serious problem. The administration, therefore, supports the Independent Counsel Act's reenactment.

The American Bar Association testified, based on 15 years of research and careful study of this issue, as follows:

> We believe the historical record provides ample evidence of both the need for the independent counsel mechanism and the effective role the statute has played in assuring Government's accountability to the American

people and their confidence in the even-handed administration of justice.

Archibald Cox, the former Watergate prosecutor, was quoted as follows:

> The pressures, the tensions of divided loyalty are too much for any man and, as honorable and conscientious as any individual might be, the public could never feel entirely easy about the vigor and thoroughness with which the investigation was pursued. Some outside person is absolutely essential.

Mr. President, we have built in a number of restrictions while retaining that critical independence.

First. Under the law that expired, these restrictions would be continued. No independent counsel can be appointed without a specific request by the Attorney General.

Second. The independent counsel must comply with the court-defined area of inquiry.

Third. The independent counsel must comply with the Department of Justice's prosecutorial guidelines.

Next. The independent counsel must file semiannual expense reports with the court.

The independent counsel must undergo a GAO audit semiannually, and after leaving office.

The independent counsel must comply with special standards of conduct in statute and other professional ethics codes.

Next. The independent counsel must comply with court orders and act under court scrutiny.

The independent counsel may be challenged in any proceeding by the Department of Justice through an amicus brief, which the Justice Department has filed many times.

And the independent counsel can be removed from office at any time by the Attorney General for good cause.

Our bill imposes additional controls because of some of the same reasons that our friend from Mississippi gave. And his purpose in offering his substitute, it seems to me, is a good purpose. We do not want someone with untrammeled discretion. I think he goes way too far because he destroys the independence of the independent counsel statute but, nonetheless, his purpose in providing some controls on the independent counsel seems to me to be a laudatory purpose. And I commend him for that purpose.

But here are some additional controls we impose in our bill: We have a 3-year review provision. The court would have to review each independent counsel case at least once every 3 years to determine whether it should be terminated because the work is substantially complete.

Next, we have a stronger role for the Attorney General. We increase the time to determine the need for preliminary investigation, from 15 to 30 days.

We ease the standard for the Attorney General to close a case before an independent counsel is selected, based on a lack of criminal intent.

We require quarterly expense reports through the court. We require annual progress and expense reports to Congress, and annual financial statements to the General Accounting Office. We have stronger cost controls in our bill.

The independent counsel must act with due regard for expense, must comply with the Department of Justice spending policies, including staff compensation, travel, investigation, and prosecution expenses. The independent counsel must follow Federal travel regulations, must use office space of the Federal Government, unless it is cheaper to use other space, and other administrative requirements in our bill to tighten the cost limits and the expenditures of the independent counsel.

We also clarify the authority that the Department of Justice and the Office of Government Ethics to enforce statutory standards of conduct for the independent counsels and their staffs.

The facts are that we have had 13 independent counsels that have been selected under this law. Eight of the thirteen never sought an indictment. So already we have responsibility and balance. The majority of independent counsel—majority—selected under law did not indict. That seems to me to be the most direct answer to the argument that these are all runaway trains that have been selected here. They have not been. Of the four independent counsels who filed indictments, all four got convictions through juries and guilty pleas.

Some of the convictions were reversed on appeal, always for technical grounds, by the way. But nonetheless, all the independent counsels got convictions through either jury findings or through guilty pleas. That is pretty good evidence, it seems to me, that these independent counsels have acted responsibly. Whether you agree with everyone and every case is not the point. That is what their independence is all about.

There has been a lot of criticism of Judge Walsh. I am not planning, unless others want to go into great detail on this matter, to get into his particular area of inquiry, but he did obtain 11 convictions out of the 14 indictments that he filed. No jury has acquitted any person who has ever been indicted and, it seems to me, that at least in terms of convictions, that there is evidence that Judge Walsh also has acted in a way which is consistent with the independent counsel statute. Again, the key word here is "independence," and it is that word which does not apply to the substitute for a number of reasons.

The substitute, first of all, would have the independent counsel selected by the President of the United States. Under the substitute, instead of having the independent counsel selected by a court, it is no longer an independent counsel; it is instead a special counsel, and the person who is selected to be that special counsel under the Cochran substitute is picked by the President of the United States, which removes the independence. Mind you, it is the President or someone close to the President, an appointee of the President, who is being investigated. It is because of that connection that we created the Independent Counsel Office to begin with because you cannot have credibility if the executive branch is investigating itself. That is what the Watergate lesson was.

Under the Cochran substitute, the very person who is selected to be the "special counsel," no longer independent counsel, is picked by the very person who has appointed the people or the person who is presumably under investigation and about to be prosecuted. So much for credibility of this process, so much for public confidence in this process.

So you lose the independence on one end of the Cochran amendment; on the other end, you inject politics in another way because, under the Cochran amendment, that appointment of the special counsel is subject to confirmation by the Senate of the United States. So now we are plunged into the process of having to confirm or not confirm someone who is picked by the President to investigate someone who the President had picked to be a Cabinet officer or another high-level executive official. That is the worst of all worlds, it seems to me. We do not have the independence, and we get all the politics in the Senate confirmation process. We should not be involved in confirming the person who is picked by a President to investigate the President or someone close to the President. That surely is a major additional flaw in the approach of the Senator from Mississippi.

The Senator is very open and very candid about his approach, as he always is. He has said that this person, this special counsel, is the surrogate for the Attorney General. That is exactly what the independent counsel should not be when investigating a high-level executive branch person.

The law is not worth having if it is not going to be an independent person who is selected to investigate and prosecute under the circumstances set forth in this statute. That is what it really comes down to. This law is worth having and it is worth continuing if we continue the independence of the independent counsel. If the public knows that the person who is investigating and prosecuting high-level executive branch officials is not under the control of the head of the executive branch, this law is worth having, it is worth fighting for. We have fought for it, we have reauthorized it twice. It has lapsed and there is a gap. We should fill that gap, but we have to fill it with the reauthorization of a statute which preserves the independence of the independent counsel. That is the fundamental aspect of this law, and it is that fundamental component which is removed by the Cochran substitute.

So I hope that we will defeat that substitute, retain the independence and the word "independent" in the independent counsel statute.

I yield the floor.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine [Mr. COHEN], is recognized.

Mr. COHEN. Mr. President, I will only offer a few comments. I noticed in Senator COCHRAN's presentation and in his separate views that he filed with the committee, he said:

> Independence doesn't guarantee impartiality or competence.

Again, we would be the first to agree on that point.

He also said:

> There is no perfect solution. The perfect balance of accountability and independence will never be guaranteed by a statute.

Once again, I think Senator LEVIN and I would completely agree; there is no law we can fashion that can guarantee the perfect solution.

My friend from Mississippi goes on to say:

> It is time to steer another course in pursuit of a better alternative.

The real question is: Is this, in fact, a better alternative? On the one hand, as Senator LEVIN has pointed out, we have historically insisted upon independence. That is the only way in which we can hope to gain or regain public confidence that the system is working as it should. But as Senator COCHRAN has also pointed out, that independence, unless it is checked in some fashion, can lead to excess, to abuse, and to unrestrained or untrammeled power.

What we have attempted to do over the years is to find out how the law is working, to see if there have been excesses and abuses either in expenditures or in lack of accountability, and to make changes in the law as it has evolved. That is precisely what we have done here.

I think the Senator from Mississippi makes some valid points. There have been examples of neglect about costs, length of investigations, travel, living conditions, and other types of things which have taken place that have given the impression that we have created a permanent Independent Counsel Office that simply will go on and on and on for the sake of its own existence. We do not want to see that take place, and so we have tried to modify the act to take into account the need for accountability. Senator LEVIN has outlined that in some degree.

The Senator from Mississippi has said it is time we correct the unconstitutional flaws in this particular act. The Supreme Court has already ruled on a 7-to-1 basis in favor of its constitutionality. Thus, while there may be flaws, I do not believe they are unconstitutional flaws. They are flaws which can and should be corrected, and I believe that we have taken measures to do that.

I raise the fundamental question: Why would we want to have a situation where the President would be called upon to pick an independent counsel who would then have to go before the Senate for advice and consent, the entire process of confirmation when we have already gone through the process with the Attorney General.

The President of the United States has picked an Attorney General and submitted the name to the Senate. The Senate has held hearings. We have given advice and consent and approved, saying we trust this person to carry out the mandate of the Attorney General of the United States to seek justice, to fulfill the rule of law, to carry out the ends of justice. We have put our stamp of approval on that nominee.

Now, if we do not have confidence that the Attorney General can carry out the mission of the office because of the closeness of the relationship to the person being investigated, why would we have any more confidence that the President would pick another substitute Attorney General who would then go through the confirmation process, which might take weeks or longer?

It seems to me to put the responsibility or the accountability back on the very person who appointed the Attorney General in the first place, and would raise the same issues of doubt. That is why over the years we have stressed independence—and, yes, we want accountability but primarily we want independence—to reassure the American people that no favoritism is being given to anyone charged with wrongdoing within that circle of high-level officials.

I think the fatal flaw, if we talk about flaws in laws, is that here we put the responsibility back on the President to give us a substitute Attorney General.

For these reasons and those outlined by my colleague from Michigan, we would have to express opposition to the amendment, saying that it frustrates and overturns the very essence of the entire Independent Counsel Act. It puts the balance in favor of accountability versus independence. Whereas, if the charge here has been too much independence and not enough accountability, we can make changes in the law, as we provided here, to correct that as best we can, again agreeing it is not a perfect solution.

Nothing we do will arrive at a perfect result. But we believe the balance should be in favor of the independence with sufficient safeguards for accountability. We think we have achieved that in our own proposal.

But I thank the Senator from Mississippi. He has been a very thoughtful advocate for his position. He has made his point on many occasions to us both formally in committee and informally in various meetings. I think he has contributed enormously to the debate.

I inquire as to whether the Senator would like to continue further on his amendment or whether we could move to a tabling motion.

Mr. COCHRAN. Mr. President, I would be happy to respond to the Senator.

I have no intention of prolonging the debate. I know there are other amendments Senators would like to offer to this bill. Before completing the debate, however, I would like to thank Senators STEVENS and MCCAIN who, in the Committee on Governmental Affairs, joined with me in writing additional views that are made a part of the committee report at page 45.

I can tell from the lack of attendance of other Senators in the Chamber that there is not a great interest in debating this issue. It is what I guess politicians sometimes call a hot potato. You do not want to get too close or hold on to this hot potato. You might get burned. You might make somebody mad. You might create suspicion about your own motives.

But, frankly, I feel so strongly about some of the tragedies that have occurred under the authorities created in the law we are being asked to reauthorize that I believe reform is really needed. It is needed now.

As I prepared to draft an amendment to try to seek some alternative to the process we have observed for the past several years, it struck me as ironic that here we were with a new administration in office now, a Democrat administration for the first time since the Carter administration, when the law was first enacted. Most of the bodies around town and the families that have been destroyed and people who have been left destitute because of abuses under this office, in many cases unfairly, are Republicans.

It seemed to me it might be appropriate for a Republican now to say, even though it is maybe the Democrats' turn to reap the whirlwind, it is time for us all to take a more careful look and say it is time for this nonsense to stop. It is time for these tragedies to stop. I am not talking about zealous, tough, aggressive prosecutions of wrongdoing. I am talking about political witch hunts. I am talking about the unabashed abuse of unrestrained power for political purposes that we have observed under this independent counsel statute.

You all know the examples. I predict there will be others if the Senate reauthorizes this law. Even though there are new restraints, there are new safeguards—and I applaud the managers for their efforts to put those in this bill. But the same basic problem will continue to exist; that is, unlimited, unfettered, unbalanced power in the hands of a few—staff members of independent counsel and an independent counsel—who can spend any amount of money, take any amount of time they want, go after those who started out as targets and then expand to include those who never should have been targets, on and on and on and on. This process continues beyond the statute of limitations, without apology. An absolute tragedy will be unleashed again by the reauthorization of this law.

I do not have any way of counting the votes. We have not done a whip check on this amendment. I know that two other Senators support it, Senator STEVENS and Senator MCCAIN, because they joined in signing my additional views. I have had a couple other Senators ask if I was soliciting cosponsors for the amendment that I was offering, and I said no, I really had not.

I suppose the reason I am offering the amendment is that I feel so strongly about the demerits of the law, and the fact that we need a better alternative. It is sort of like put up or shut up. If you do not like the law, you should suggest something in its place. This is my suggestion. I am willing to stick my neck out and say we need to do it in a different way. We need to guarantee that there is an opportunity for the appointment of independent counsel, but we do not need the unbridled, unlimited authority, and opportunities for the abuse of power that we have seen in recent years.

Maybe the Democrats who are in office now in the executive branch will get a better deal because of the restraints and safeguards that are now being put in this law. It will do nothing for those who have already been victims, real victims of the independent prosecutor law of the past.

I hope there will not be any abuses of power. I do not have any illusions that this amendment will pass.

For the purpose of completing the record, Mr. President, I would like to invite the attention of the Senate to an article in Commentary Magazine that was written in February of this year, ironically by Robert H. Bork. It is one of the best historical analyses of the independent prosecutor law. Interestingly enough, he was the person in the Nixon administration who carried out the independent prosecution and made it possible for the Watergate cases to be brought. He is the guy who did that. After the midnight massacre, and all the rest, he was the guy left standing.

We did not have an independent prosecutor law then and people were prosecuted. People were convicted all over the place in this town. I remember it very well. I was a brand new Member of Congress. It was stunning. My friend, BILL COHEN, who is the manager of this bill, was on the Judiciary Committee. He remembers it all. It was something to see. Elected officials, appointed officials, and staff people were prosecuted and sent to jail. I do not know how many. But there were a lot.

There was no independent prosecutor law on the books. There was no independent counsel law. But there were people with integrity like Robert H. Bork in the Department of Justice who carried out the law.

They did not have unlimited budgets. But there was the political pressure to do what was right. There was political pressure on Congress, on the House Judiciary Committee, to report out articles of impeachment. There were some tough decisions made by politicians. Guess what? They were made by politicians and Members of Congress, who some now say ought to be the victims also of this independent statute. Maybe so.

But you reach a point in all of this where you have to come down to the basic premise of our system of government as just and fair, and that those who serve in it have in their hearts a determination to do what they say they are going to do when they raise their hand and swear to faithfully uphold the Constitution and the laws of the United States, "so help me God." Executive branch officials from the President to the Attorney General say that. And if they do not do that, they ought to be impeached. That is what the Constitution provides for.

Why do we shrink back from that challenge? If the Attorney General that we have right now decides that she is unwilling to prosecute someone who should be prosecuted, then we have recourses. The law and the Constitution provide us opportunities to right those wrongs and those transgressions, if there are any. I am not suggesting there have been any. But we do not need this law to prosecute wrongdoing among the highest level officials in this Government, this new Government. We do not have to have it.

I am carrying out the debate longer than I meant to. But I really think it is a big mistake to reauthorize this law, which has proven to have been one of the greatest disasters this Congress has every visited upon our Government and our American people who, of course, are horrified by the process, and would like to expect more—and better—from our Congress and from the executive branch than they are getting.

I ask unanimous consent, Mr. President, that a copy of the article I referred to by Robert H. Bork be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Commentary magazine, February 1993]

AGAINST THE INDEPENDENT COUNSEL

(By Robert H. Bork)

For almost fifteen years America has experimented with a second and separate system of criminal-law enforcement. The Ethics in Government Act of 1978 created court-appointed independent counsels, placed outside the control of the President and the Attorney General, to investigate and, where possible, prosecute certain high-ranking executive-branch officials. Members of Congress and the judiciary were exempted. The statutory authorization for the Office of Independent Counsel expired this past December, but as a result of the pardons George Bush extended on Christmas Eve to six former officials involved in the Iran-contra affair, the chances that Congress and President Bill Clinton will revive the law seem to have increased. They should first study the record, which has been abominable.

The conventional wisdom, echoed on almost all editorial pages, holds that an independent counsel is essential because the Department of Justice cannot be trusted to prosecute miscreants in the executive branch. The conventional wisdom is wrong. The real effort and, to a large extent, the purpose of a special-prosecutor law has little to do with Department of Justice cover-ups.

"If the institution of the American presidency has grown enfeebled over the past two decades, Suzanne Garment of the American Enterprise Institute writes, it is not only because of battles with its opponents over policies or institutional prerogatives. Its adversaries have also waged a crucial and more or less continuous attack on the underlying moral legitimacy of the office, its occupants, and the President's allies in the executive branch.

A spearhead in the assault on the moral legitimacy, and hence the effectiveness, of the presidency has been the independent-counsel statute. The statute has helped tilt the balance between the executive and legislative branches and has, as a result of the prosecutorial incentives it created, produced savage injustices to individuals. All of this to cure a problem that does not exist.

Two instances routinely cited as showing the need for an independent prosecutor are the Department of Justice's handling of the cases of Spiro Agnew and Richard Nixon. If those two examples do not withstand scrutiny, the argument for a new statute collapses, because there could hardly be greater tests of the Department's capacity than its handling of the wrongdoing of a President and a Vice President. As Solicitor General at the time, I participated in both matters and claim some knowledge of what took place.

In the summer of 1973, George Beall, the United States Attorney for Maryland, discovered that Spiro Agnew had taken bribes when Governor of Maryland and had continued to receive payments while Vice President Beall informed Attorney General Elliot Richardson. There can be few more startling and unhappy messages for an Attorney General to receive, but Richardson informed President Nixon, had a grand jury investigate Agnew, and ultimately indicted him. After Agnew's attorney and I exchanged briefs on the constitutionality of indicting him before he was removed from office by conviction on impeachment, he plea-bargained, confessed his guilt, and resigned the vice presidency.

Though the Department of Justice thus demonstrated that it could remove an incumbent Vice President, some critics apparently believe that Agnew was treated too leniently, that he should have been sent to prison. That option, however, was not available. The Watergate investigation was closing in on Richard Nixon, and Richardson thought it would be devastating to the nation if the President were defending an impeachment trial while the Vice President was a criminal defendant. Agnew used that as a bargaining chip and the deal was struck to be rid of him so that a new Vice President could be in office if Nixon should be impeached. That seemed to me then, and seems to me now, the only responsible course for Richardson to have taken.

The prime exhibit in the argument of those who want an independent counsel, however, is Watergate and what came to be called the Saturday Night Massacre. In fact, those episodes have been thoroughly misunderstood.

The initial investigation of the break-in at the Watergate complex was conducted by Earl Silbert and his colleagues in the Office of the U.S. Attorney for the District of Columbia. The facts unearthed caused Silbert to order research on the constitutionality of indicting the President before he was removed from office by conviction on impeachment. He also issued a wide-ranging subpoena for White House documents. Silbert and his colleagues were ready to make the case against Nixon and his aides, but Elliot Richardson had just been nominated by Nixon for the post of Attorney General, and the Senate Judiciary Committee conditioned confirmation on Richardson's agreement to appoint a special prosecutor. Richardson chose his old law-school professor, Archibald Cox. Silbert gave Cox about 90 type-written pages outlining the conspiracy and the evidence. More work remained to be done, but the essential outline of the case was there. Watergate would have played out about the way it did had the U.S. Attorney's Office been allowed to continue.

Though there was no need for a special prosecutor to deal with Watergate, it was politically inevitable that one would be named. But there might not have been a further demand for a special prosecutor removed from all executive-branch control had it not been for the Saturday Night Massacre (that is, Nixon's firing of Cox, together with the resignations it triggered). For almost 200 years, the public and Congress had been satisfied with what Terry Eastland of the Ethics and Public Policy Center calls the "politics of ethics."[1] The instruments of those politics included investigation and prosecution by the Department of Justice or by special prosecutors brought in for single occasions; congressional investigation; impeachment; clamor in the press; and, most effective, public reaction that determined the political future of those involved in wrongdoing.

The Cox firing changed all that. Although Cox was a man of integrity and ability, Richardson made a mistake in naming him special prosecutor. Nixon was immediately convinced that the investigation would be partisan because Cox was a long-time ally of Nixon's despised and feared political enemy, Senator Edward Kennedy. To compound matters, Cox made the politically maladroit move of taking the oath of office with the Kennedy family in attendance. The newspaper accounts and photographs of that event magnified White House paranoia.

Actually, Cox's behavior as special prosecutor did not warrant distrust. Any prosecutor, on learning of the existence of the tapes Nixon had secretly made, was bound to seek them, by subpoena if necessary. Cox did just that, and panic rolled over the White House. Richardson and the President's top defense lawyers attended a meeting in the office of Alexander Haig, Nixon's chief of staff, to decide what to do about the subpoena. The answer was in two parts. The first was to offer the "Stennis compromise." Senator John Stennis would listen to the subpoenaed tapes and produce a transcript from which national-security matters were deleted. The second part was to give Cox an order to seek no further tapes.

It is surprising that no one at the meeting realized this was a prescription for disaster. It should have been obvious that Cox could not accept either the compromise or the order. To do so would have been to betray his responsibilities. It should also have been clear that Richardson, given his commitment to the Senate Judiciary Committee, could not fire Cox for refusing the order. Apparently neither of these things was thought through, and once the order was given, the Saturday Night Massacre became inevitable.

Cox predictably refused and explained his decision on national television. Though Cox's decision was correct, Nixon now had to fire him: no President can afford to be faced down in public by a subordinate member of the executive branch. Richardson and the Deputy Attorney General would not carry out the firing and departed. I was the third and last in the line of succession established by Department regulations, and I discharged Cox. Had I not done so, the President would have named an Acting Attorney General from outside the Department who would have discharged Cox and perhaps his entire staff. That would have caused mass resignations in the Department of Justice. As it was, I explained the situation to the top officers of the Department and no one resigned.

Whatever the motivation behind the order to Cox, his firing had nothing to do with any attempt to stop the investigation. No one at the White House suggested that I interfere with the investigation in any way. When I met with Nixon after signing the letter removing Cox from office, the President understood that the investigation would continue and said only that he wanted "a prosecution, not a persecution." Cox's deputies and staff remained in place and, as they noted in their final report, did not miss a day's work.

It is partly my fault that the "firestorm," and hence the demand for a court-appointed prosecutor, followed. When I left the White House that night, I should have held a press conference to explain that only Cox was going and his staff would continue as before. That would have countered the impression that a coup was being attempted. I was new to Washington, however, and a press conference never crossed my mind, nor did anyone suggest the idea. That mistake aside, however, the Department of Justice had nothing to apologize for in its handling of Watergate or the Saturday Night Massacre.

In the Nixon and Agnew cases, no one at the main Department of Justice or in the United States Attorneys' Offices was tempted to ignore the evidence in order to protect the President or the Vice President. It may be objected that the nation cannot rely upon always having persons of integrity in those positions. But anyone familiar with institutions such as the Department of Justice or a U.S. Attorney's office will realize that there are other safeguards.

Let us suppose that in the Nixon or the Agnew affair either or both the U.S. Attorney and the Attorney General had been men of less exacting ethical standards. They would have found it impossible to suppress the evidence. High-ranking law-enforcement officials do not go about detecting crime on their own. Evidence is brought to them by others. The facts are known to lower-level prosecutors, FBI agents, often to a grand jury. These are people of professional integrity who also posses keen instincts of self-preservation. They will not be associated with a cover-up, and cannot afford to be. Nor need they have the courage to go public. They have connections with Congress, the press, and public-interest organizations. If an Attorney General had tried to protect Nixon or Agnew, that fact would have been leaked at once. The more spectacular a case is, the higher it reaches into the executive branch, the less willing is anybody to be connected in any way with a cover-up or even the suspicion of one.

Richard Nixon's presidency was doomed from the moment the investigation started, and it really did not matter whether the U.S. Attorney's Office, Cox, or his successor, Leon Jaworski, was in charge. The Watergate investigation could not have been avoided, and once started, it could not have been stopped. There is simply no danger that any criminal violation by a high-ranking official in the executive branch will be hidden by the Department of Justice. Though the fact has been overwhelmed by the mythology of Watergate and the Saturday Night Massacre, there is no case in our history in which the Department failed in its duty to prosecute executive-branch wrongdoing.[2]

That is one reason I testified to both the Senate and House Judiciary Committees in 1973, very shortly after the firing of Cox, that a mechanism for obtaining court-appointed special prosecutors was unnecessary as well as unconstitutional, and that I would therefore recommend to the President that he veto any bill seeking to establish such an office.

No bill was passed, and we escaped the predictable horrors of the institution, until Jimmy Carter became President and supported such a measure. Carter's Attorney General, Griffin Bell, understood the evil of the scheme but loyally backed his President. Since Carter left office, Bell, freed of his commitment, has consistently argued against the legislation.

The independent-counsel statute went through several versions but all versions displayed the features that make the law a recipe for irresponsibility, injustice, and the deformation of the constitutional balance between the legislative and executive branches.

In the Office of the Independent Counsel, Congress created, for the first time in our history, a federal prosecutor who is not really responsible to anyone. Under this statute, when the Attorney General receives allegations of criminal behavior by a high-ranking executive-branch official he must make an inquiry, but he is now deprived of most means of investigation. Unless, thus handicapped by the statute, he can determine that there are no reasonable grounds to believe that further investigation is warranted, he must ask the court to appoint an independent counsel. If a designated number of members of the Judiciary Committee of either House requests an independent counsel, the Attorney General must either agree or submit a report to Congress explaining his negative decision. In short, despite the Constitution's commitment of law enforcement to the President, he and his Attorney General are effectively stripped of that function in cases covered by the statute.

To make matters worse, when an independent counsel finishes his assignment, he must file a report with the court "setting forth fully and completely" a description of his work, the disposition of all cases brought, and his reasons for *not* prosecuting any matter. The court may then release the report, or such portions of it as it deems appropriate. No regular prosecutor would make public his reasons for not indicting, but the release of the special counsel's report can result in considerable embarrassment to the persons involved.

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[1] Ethics, Politics, and the Independent Counsel: Executive Power, Executive Vice 1789–1989, National Legal Center for the Public Interest (1989). This is the best scholarly analysis I know of concerning the great deficiencies of the independent-counsel system.

[2] Charges are being made that an exception to this rule is the BNL case. As yet, however, these charges are unproven.

It is hardly surprising that such a statute is subject to abuse and that lawyers of great distinction have thought it unconstitutional. Thus, in the case of *Morrison* v. *Olson*, former Attorneys General Edward Levi, Griffin Bell, and William French Smith, who served, respectively, under Presidents Gerald Ford, Jimmy Carter, and Ronald Reagan, submitted a brief *amicus curiae* asking the Supreme Court to invalidate the law. It is a great pity that the Court did not follow their recommendation.

Morrison v. *Olson* was a classic use of the independent-counsel statute to weaken the presidency by punishing an executive-branch official for carrying out his duties. A committee of the House demanded files of cases the Department of Justice and the Environmental Protection Agency were investigating or prosecuting. No law-enforcement officer could properly reveal that information. On the advice of the Department of Justice, President Reagan refused disclosure. The committee, enraged at this display of responsibility, asked the House Judiciary Committee to investigate the role of the Department in advising the President.

The Judiciary Committee subpoenaed all the memoranda prepared by Justice in advising the President and called Theodore Olson, the Assistant Attorney General responsible for giving legal advice to the Attorney General and the President. Some materials had been produced and a file search was continuing. Olson said he did not recall whether certain documents existed. Later they were found and produced to the committee.

Still, the committee was angered by Olson's forthright defense of the President's law-enforcement powers. On one occasion, the committee demanded any handwritten notes the Department's lawyers might have made in preparing their advice. Olson replied that he was sure the committee could arrange an exchange of those notes for the handwritten notes of the committee's staffers. One member rose, slammed the file down, and said that was the most outrageous remark he had ever heard.

The hearings were so inconsequential that they were not even published. But over two years later, the committee delivered a 3,100-page report accusing Olson of making false statements to Congress when—to cite one instance—he said he could not recall documents that were later produced. Alexia Morrison was appointed independent counsel and Olson's travails began.

Within six months, in seeking unsuccessfully to expand her jurisdiction to others, Morrison stated that, standing alone, Olson's testimony probably did not violate any criminal statute. Nevertheless, she took almost three years before she announced that there was no case against him.

In the course of these proceedings, Olson challenged a subpoena on the grounds that the independent-counsel statute was unconstitutional. He lost, but in upholding the constitutionality of the law, the Supreme Court created a number of constitutional anomalies that the Founders certainly never contemplated.

One of the most serious is to involve Congress in law enforcement directed at the executive branch. The Constitution protects members of Congress from executive-branch prosecution through the Speech and Debate Clause which makes them legally immune for anything said or written in the course of their duties. No such constitutional protection was thought necessary for the executive branch because it was given control of prosecutions. But now the Court has allowed prosecutions of the executive branch that are effectively initiated by Congress. That is not quite a bill of attainder, but it is a lot closer than the Constitution, properly interpreted, allows. The unfortunate outcome of *Morrison* v. *Olson* leaves the executive branch largely defenseless against this sort of assault. The power to pardon is one of the few shields the President has left.

Though Chief Justice Rehenquist's *Morrison* opinion was unpersuasive, only Justice Scalia dissented, so it is clear that hopes for the law's permanent demise rest not with the Court but with the wisdom and good will of Congress. Given the use Congress has made of the law in the past, the prospect is bleak.

In addition to everything else that is wrong with it, the institution of the independent counsel damages lives and reputations in ways that few regular prosecutors ever could or would. The human as well as the institutional costs are described rivetingly by Elliott Abrams in *Undue Process: A Story of How Political Differences Are Turned Into Crimes*.[3]

When he left the State Department in 1989 after serving there in a variety of positions since 1981, Abrams intended to write a book, but this is not the one he planned. Abrams's last job at State was Assistant Secretary for Inter-American Affairs. Among his many duties was carrying out Ronald Reagan's policy of keeping the Nicaraguan *contras* a viable force against the Sandinistas. That involved him in two wars: a guerrilla war in Central America, and an almost equally violent political war about Central America between the Reagan administration and the Democratic-controlled Congress.

In the fall of 1986, the Iran-*contra* affair exploded and Abrams was called to testify before Congress, the Tower Commission, and a grand jury about the nature of U.S. support for *contras*. An independent counsel, Lawrence Walsh, had also been appointed to investigate Iran-*contra*. He and his staff interviewed Abrams endlessly and took him before the grand jury three times. In early 1988, he was told that the Office of the Independent Counsel believed his statements, and he heard no more about the matter.

Until 1991. Taking into account everything else we now know about that Office, it seems too much of a coincidence that the prosecutors' interest in Abrams should have reawakened right after they lost the case against their most famous target, Oliver North, and when all indications were that they would also lose their other most important case—the one against John Poindexter. After all, they had no information about Abrams they had not had three-and-one-half years earlier.

The supposition that Walsh and his staff went after Abrams because they badly needed trophies to justify their existence is strengthened by the absurdity of the misdemeanor charges they leveled against him. The first was that he knew North had been encouraging a private supply network to support the contras when he, Abrams, had testified to the Senate Foreign Relations Committee that the United States government was not involved with that network. But there was never any secret about the fact of encouragement. Abrams thought he was talking about illegal operational involvement.

The second charge was that when asked by a House committee whether any foreign government was helping the contras, Abrams had said none was, although he knew that funds not yet delivered had been promised by the Sultan of Brunei (who had asked for, and received, pledges of absolute secrecy from our government). Subsequently he made the same denial to a Senate committee, but ten days later, feeling that the denial, while literally true, might have been a bit too close to the line, he went back and informed the Senate committee. The independent counsel charged him with withholding evidence from the House committee.

The answers Abrams gave were not prepared in advance; they were spontaneous responses to hostile questioning. Five years later, equally hostile prosecutors scrutinized every nuance, like lawyers examining a stock prospectus, to see if something, anything, could be said to have been withhold. They had picked their man and had only to imagine a crime. Indeed, a former member of Walsh's team, Jeffrey Toobin, wrote a book disclosing the team's eagerness to prosecute Abrams and their disappointment that they had not found sufficient evidence. Walsh rejoined: "He [Toobin] missed his target. He was supposed to get Abrams. We hit the target after he left."

If the charges were based on prosecutorial hair-splitting, why did Abrams plead guilty to these two misdemeanor counts? There was the prospect of another two years of agony or himself, his wife, and his children and of an estimated $1 million in legal fees that would have drained his and his relatives' savings and left him in debt. But the greatest pressure was the threat that the independent counsel would file an indictment charging multiple felonies in the expectation that the jury would compromise by acquitting him of most but convicting him of one or two. That would mean time in prison as well as disbarment as an attorney.

Abrams was right to fear that outcome. Judge Learned Hand once said that above almost all things, he would dread having his fate in the hands of a jury. The misdemeanor pleas allowed Abrams and his family to resume their lives. It was an eminently sensible decision. Walsh's office offered Clair George, a high CIA officer, the misdemeanor route, George rejected it, was then indicted on seven felony counts, and ultimately convicted of two of them. Later, Walsh's office offered former Secretary of Defense Caspar Weinberger the chance to plead guilty to a misdemeanor with no jail time, in return, according to Weinberger, for implicating Ronald Reagan. Weinberger rejected the offer and Walsh indicted him on five felony charges.

Of course, it is clear that Walsh and his staff wanted bigger game than Elliott Abrams. They repeatedly tried to get him to implicate an aide to George Bush, "trying [to] start something up that would end in impeaching the President." They were also eager to get former Secretary of State George Shultz. Walsh has now made it clear that his office is still trying to get Bush.

Weinberger's case was awaiting trial when Bush pardoned him, as well as George, Abrams, and three other former officials involved in Iran-contra. Angered at the escape of his prey, Walsh accused Bush of a "cover-up" and stated that the lame-duck President was a "subject" of investigation. These are remarks that would be highly inappropriate, and perhaps punishable under the code of professional ethics, if made by a regular prosecutor. They are no less so when flung out by an independent counsel.

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[3] Free Press, 243 pp., $22.95.

Walsh's fury is not hard to understand. For, having set out to uncover a conspiracy, and to prosecute for real crimes, his office has ended up—after spending six years and $35 million—with a record that ranges from poor to disastrous, prosecuting people for not being sufficiently forthcoming. If they could add a former President or Secretary of State to their game bag, they seem to feel, at least something might be retrieved.

In the process, Walsh's prosecutorial team has behaved in ways more morally questionable than did their victims. Walsh's chief deputy, Craig Gillen, in writing to the probation officer who was preparing a recommendation to the judge who would sentence Abrams, both withheld information and made an allegation the prosecutors knew to be false. Not only did the letter give the impression that Abrams had initiated the idea of soliciting third countries for contra support—ignoring that President Reagan had made that decision and that Secretary Shultz had authorized every action taken; Gillen also said that Abrams went to London under an assumed name to meet the Sultan of Brunei's representative, when the prosecutors had numerous documents that showed he had traveled under his own name. As meticulous as Gillen and the others had been in analyzing every detail to "get" Abrams, it passes belief that this letter, designed to influence the sentence, could have been the result of an oversight.

The lessons of Elliott Abram's book are several. Some independent counsels have performed their tasks admirably. But the incentives the statute creates ensure that others will bring prosecutions that no regular prosecutor would bring, and that never should be brought. The independent counsel is set up with an unlimited budget to investigate one person or a small group of persons. The job, moreover, offers the chance to become a national figure, but only if scalps are taken. The independent-counsel statute, therefore, has built into it the certainty of pain and injustice to many innocent people. Abrams and his family are only one example.

The main problem, however, is that the independent counsel is accountable to no one. Four days before the 1992 presidential election, Walsh filed a second indictment of former Secretary of Defense Caspar Weinberger, which included a note suggesting that George Bush knew more about Iran-contra than he had admitted. The judge dismissed the new count as barred by the statute of limitations. The point of the charge was that Weinberger had kept notes he did not disclose and so it was wholly unnecessary to include that particular note. Moreover, the prosecutors can count as well as the judge, and their theory of why the new count was timely was implausible, so they must have known when they filed the indictment that the charge would likely be dismissed. Any regular prosecutor, accountable to a superior, would undoubtedly be called on the carpet, and probably discharged, for what looks remarkably like a partisan attempt to influence the outcome of a presidential election. So far as is known, no action is being taken against Walsh.

The independent-counsel law, however, has achieved its main objective: undermining the legitimacy and efficiency of the executive branch. Abrams, for example, advises officials of that branch to take no notes. Years later, you may not remember what certain phrases in your notes meant, but the independent counsel will be able to suggest sinister implications. Caspar Weinberger would probably give the same advice. Officials will undoubtedly be less energetic in asserting the President's interests and powers before Congress, even when they would be absolutely correct to do so. One wonders how resolute the next Theodore Olson will be.

Except for George Bush's pardons, Presidents themselves have been loath to stand up to the independent-counsel system. Abrams felt he was abandoned by Ronald Reagan and his administration. The State Department's lawyers may assist an official in an investigation of his official conduct until it is clear that he is targeted for indictment, but, at Walsh's insistence, those lawyers were ordered not to assist Abrams in connection with the independent counsel's inquiries even while Abrams was an Assistant Secretary and not targeted. It is not surprising that he speaks contemptuously of "Reagan-administration officials who had gone on to their glory and had left me and a few others out there on the beach to take the incoming fire." It has been observed before that the Reagan administration demanded loyalty up but did not practice loyalty down. The question is not merely one of loyalty to subordinates and behaving honorably oneself; by cutting the lifelines to people like Abrams, the Reagan administration made it likely that future Presidents will get less loyalty up and more subordinates whose primary concern is their own skins.

The subtitle of Abram's book alleges that political differences were turned into crimes. It is difficult to disagree. The charges against him were for statements of a kind that had never before been made criminal. Abrams's real offense was battling for Reagan's policies against a Congress that kept changing its attitudes but often favored the Sandinistas over the contras. Worse, he was intelligent, tough, and self-confident—qualities which, though they annoy some Congressmen, are not usually regarded as criminal. As the Abrams, Olson, and Weinberger cases show, in operation the independent-counsel statute has criminalized political differences, but the only "criminals" it has turned up have been, as Congress intended, in the executive branch. If the law is reenacted, that will not be because Congress has not understood what it has seen; it will be because Congress likes what it has seen.

EXHIBIT 2

SELF-DEFENSE, PLEASE: THE INDEPENDENT COUNSEL MESS

During the Reagan presidency, the future of the special-prosecutor law, originally enacted in 1978 as part of the Ethics in Government Act, was in doubt. Scheduled by its own terms to expire in 1983, the statute, which establishes a system of court-appointed counsels to investigate charges of malfeasance on the part of the President, the Vice President, and other top executive officers, was reauthorized by Congress in January 1983 and extended five years. In December 1987, it was reauthorized a second time and given another five years of life in the U.S. Code. Neither time did President Reagan cast a veto. He should have, on the high ground of self-defense. While seemingly well-intentioned, a product of the "government ethics" ideology that pervaded Washington in the wake of Watergate, the law threatened—and will threaten, as long as it is still on the books—what Alexander Hamilton called "the constitutional rights of the executive."

The Reagan administration did offer some opposition to the law through its congressional testimony during the respective reauthorization processes. And it argued, albeit unsuccessfully, against the statute on constitutional grounds in the landmark case of *Morrison* v. *Olson*. President Reagan himself was correct to speak out against this law. Congress was "apparently convinced that it is empowered to divest the President of his constitutional authority to enforce our nation's laws," he said on December 15, 1987—in a statement made, alas, while signing the second reauthorization bill. Reagan's words did not have the impact a veto could and probably would have had: initiating an inter-branch fight over the law and its future. The veto power can do at least this much, and when the presidency itself is threatened, this much can be very important.

The special prosecutor law stemmed from an infamous presidential action that itself weakened the office—President Nixon's firing of Archibald Cox in the middle of his investigation of Watergate. Past Presidents either on their own motion or through their Attorneys General had named outside special prosecutors; such was the case in Cox's appointment. But because of the Cox firing, Congress decided that in the future leaving such arrangements to executive discretion gave no assurance that special prosecutors would be able to conduct their inquiries free of executive-branch interference. For Congress, the only way to guarantee that outside counsels were truly "independent" of the executive was to change the method of a special prosecutor's appointment and limit the President's power to remove him.

Title VI of the Ethics in Government Act of 1978 filled the bill. It created a special panel—sitting on it would be judges from the federal court of appeals in the District of Columbia—and lodged in the panel the power to appoint a special prosecutor. For his part, the Attorney General was required to open "a preliminary investigation" whenever he received "specific information" that certain high-ranking officials—the President, the Vice President, all cabinet officers—had violated federal criminal laws. During the preliminary investigation, lasting no more than ninety days, the Attorney General could not use the compulsory powers ordinarily available to him—that is, he could not convene a grand jury, subpoena witnesses, grant immunity, or enter into plea-bargaining agreements. The law thus reduced his discretion—and therefore the President's—in this special class of cases. Under the law, the Attorney General could close the investigation if he found that the allegation in question was—as the statute put it—"so unsubstantiated that no further investigation or prosecution is warranted." Otherwise, he had apply to the court for appointment of a special prosecutor. The "so unsubstantiated" standards was a very low one, but it fit the statutory aim of sharply reducing the ability of the Justice Department to make traditional low enforcement judgments when reviewing allegations involving officials covered by the law.

Once the special court named a special prosecutor, he wore the shoes of the Attorney General insofar as his case was concerned. In fact, he had more power than the Attorney General. Special prosecutors were empowered, as Attorneys General were not, to contest in court any claim of privilege or attempt to withhold evidence on grounds of national security. And special prosecutors were required to comply with Justice Department policies only to the extent they thought appropriate. In other words, they were on their own. The statute required that the Attorney General could not remove a special prosecutor unless he committed some "extraordinary impropriety."

As originally enacted, the special prosecutor law was unprecedented in the annals of federal law enforcement, not to mention the presidency itself. Never before had the President been excluded from the process of appointing a government prosecutor. And as for the removal provision in Title VII, the Reconstruction Congress, the most anti-executive Congress in U.S. history, had passed the Tenure of Office Act of 1867, which restricted the President's power to remove key cabinet officers, including the Attorney General. The special prosecutor law was the first since that discredited statute to restrict the President's authority to remove for any reason individuals wielding powers that reasonably could be described as purely executive in nature.

Significantly, the method of appointment and the restriction of the President's removal power meant that federal criminal law enforcement authority could be given to individuals who were not clearly in the executive chain of command that finds the President at the top. Special prosecutors would be largely independent of the President. For all practical purposes, they were not answerable to him for their exercise of the law enforcement power.

The statutory reduction in the Attorney General's—and therefore the President's—traditional law enforcement discretion was unprecedented. The law obligated the Attorney General to conduct preliminary investigations even of allegations from unreliable sources and to refer them to the special court for appointment of a special prosecutor unless he could conclude that they were "so unsubstantiated" that they did not merit further investigation.

In sum, the special prosecutor law was the product of a startling new idea: that criminal investigation of the executive branch should have some independent place in a government of three separated powers. This idea does not fit easily within the framer's original design, nor is it commendable today. The framers did not design a government blind to the possibility of malfeasance in the executive branch (or the other branches). They provided not only for impeachment of the President and top executive officers through a constitutional process, but they also expected that these officials would be, as Hamilton put it, "liable to prosecution and punishment in the ordinary course of law." The framers, however, made impeachment so difficult that it would be an extraordinary event, and they did not make prosecution of executive officers any easier than it is in all other cases. The special prosecutor law altered these arrangements in such a way as to encourage a very aggressive pursuit of alleged executive malfeasance. Whatever its consequences in terms of indictments and convictions, the statute thus promised as no "ethics" law ever had before to weaken the executive branch.

Those who had prophesied that the new law would require investigations that ordinarily would not occur were quickly proved right. In the late 1970s, theory became fact as a special prosecutor investigated Hamilton Jordan, Jimmy Carter's former chief of staff, for allegedly using cocaine. Another special prosecutor named under the new law investigated a different Carter aide, Tim Kraft, on similar charges. Costing the taxpayers some $200,000 for their labors, both outside attorneys declined to prosecute; one later said that if he had been a regular prosecutor, he would have thrown his case out. But for the law, neither case would have been regarded as worth even the slightest investigation. At that time the Justice Department seldom, if ever, investigated or prosecuted cases of personal drug use unless they also involved large-scale drug trafficking—as neither the Jordan nor Kraft case did.

Notwithstanding the anti-executive character of the law, and its outrageous first applications, the Reagan administration did not attempt a frontal assault on the statute. During the twenty months in which Congress worked on reauthorization legislation, the Justice Department tried to persuade Congress to return to the Attorney General the prosecutorial function the statute had carved out for special prosecutors. The Department's chief spokesman on the issue, Rudolph Giuliani, the associate attorney general, did urge Congress to consider repeal, declaring that Justice could not support an extension of the law. But—the first sign that the executive would not use available power to defend itself—Giuliani did not promise or even raise the possibility of a presidential veto. Congress eventually revised the law in ways that somewhat increased the Attorney General's discretion at the initial screening stage and recognized more of the President's constitutional power to remove an independent counsel. But, the law's infirmities were such that it still constituted an invasion of executive prerogative. When the bill was presented to the President for his signature, Justice held back from counseling a veto.

From early 1983 through early 1987 the Justice Department reviewed more and more allegations against high-ranking administration officials—thirty-eight in all. More cases went to the court for appointment of independent counsels. In early 1984, Attorney General William French Smith, having announced his resignation, found himself instead having to refer the man nominated to succeed him, Edwin Meese III, the White House Counselor, for investigation by an independent counsel. Precisely because he had been the subject of such an inquiry, Meese was hardly a credible figure to enlist in any effective fight against a statute aimed at the President's "constitutional rights." That Reagan picked Meese to be his Attorney General, and stuck with that choice despite the independence counsel inquiry, was an indication of his lack of any strategy to oppose the law.

A central theme of Meese's tenure as Attorney General concerned independent counsels. In early 1986 he asked the special court to appoint an independent counsel to investigate a first-term Reagan Justice Department official, Theodore B. Olson, on charges that Olson had obstructed justice and given false testimony to Congress. Later that year came the appointment of an independent counsel to look into charges that former Reagan aide Michael K. Deaver had violated post-government lobbying restrictions. And at the end of 1986 came the appointment of an independent counsel to investigate the Iran-contra affair. In early 1987, another independent counsel was named to investigate allegedly illegal lobbying by another former Reagan aide, Franklyn C. Nofziger. Soon thereafter yet another individual was referred for independent counsel investigation—Meese himself, this time on charges involving the scandal-ridden Wedtech Corporation. This investigation forced Meese to remove himself from all issues involving the independent counsel statute. These included the legislative reauthorization as well as implementations of the current statute and litigation based on it. Ultimate authority for these matters fell to the next in rank, Deputy Attorney General Arnold I. Burns.

On Capitol Hill, the Justice Department took a more forceful position against the law than it had in 1981 and 1982. The Department had previously argued that "extraordinary circumstances" might justify a restriction on the President's removal power of an independent counsel; now it maintained that nothing could. As before, Justice objected to the method of appointment as an unconstitutional usurpation of presidential prerogative. The Department also raised other constitutional concerns (such as the judiciary's involvement in appointing independent counsels and carrying out other non-judicial functions under the law), and various policy concerns (such as the sheer cost of independent counsels, which had sharply increased). But Justice mainly stressed the law's infringement on presidential authority and the resulting lack of accountability on the part of independent counsels. Justice urged Congress to make the law constitutional by vesting the appointment power in the executive branch and dropping the limitation on the President's power to remove a counsel.

But the reauthorization legislation changed neither the method of appointment nor the limitation on the removal power, and it reduced the Attorney General's already limited discretion in the initial screening period. Having joined a constitutional challenge to the statute in the U.S. Court of Appeals for the D.C. Circuit (the *Morrison* case), Justice counseled the President to veto the bill on both policy and constitutional grounds. Declining the advice, Reagan signed the bill in order, as he put it in his December 16 signing statement, "to ensure that public confidence in government not be eroded while the courts are in the process of deciding these questions." The Supreme Court upheld the statute by a seven-to-one vote, with Chief Justice William Rehnquist writing the Court's opinion, and Associate Justice Antonin Scalia alone in dissent. No, said the Court, the independent counsel statute does not violate the Appointments Clause; no, it does not give a federal court duties it shouldn't have under the Constitution; and no, the limitation on the removal power does not violate executive prerogative or the principle of separated powers. In effect, Reagan had relied upon the Court to protect the office; he should have relied upon himself.

Reagan should have vetoed the legislation, although this was not the only avenue of self-defense available to him. After all, upon taking office in 1981, the President could have instructed his Attorney General not to enforce the statute. That is, he could have told the Attorney General not to refer individuals for investigation by special prosecutors. Such an action, premised as it would have been upon the President's constitutional duty to take care that the laws are faithfully executed, would have required a willingness to engage the issue politically. As Paul W. Kahn of the Yale Law School has imagined the scenario, "[Reagan] could have gone before Congress and the nation and said that his oath of office required him to obey the Constitution as he understood it." This would have been an extraordinary executive exertion, but not an impermissible one. President Thomas Jefferson refused to enforce the infamous Alien and Sedition acts, duly enacted in 1798 (and thus before he took office). Those laws did not deny the constitutional rights of the executive, but Jefferson thought they were unconstitutional for First Amendment reasons. There are those who dispute the validity of Jefferson's right to do as he did, but far less disputable is the decision by a President to refuse to enforce a law he believes infringes on presidential prerogative, especially if he has inherited the law and not been a party to its enactment. Had Reagan pondered such a nonenforcement strategy, the important considerations would have been practical ones. While a successful lawsuit against the President would have been most unlikely, a political battle between the elective branches might well have erupted, harming the President's ability to win legislative approval for his economic package. Prudence thus would have counseled against a strategy of nonenforcement, especially since the statute was scheduled to expire, had to be reauthorized, and therefore had to be presented to him—at which point the veto power could have been brought into powerful play.

Simple arithmetic demonstrates the importance of the veto. While a President who will not veto a bill he opposes in its current form must hope that majorities in both houses of Congress will accept his legislative views, a President who does veto such a bill needs one third of a quorum of a single chamber to defeat an override attempt. As we saw in Chapter 4, that is a steep hill for Congress to climb; only a very small percentage of vetoes have ever been overridden.

A successful veto strategy would have required a President willing to make a public case—a President willing to twin appropriate rhetoric and action. In 1983, such a case could have put to effective use the discredited Jordan and Kraft cases, the only special prosecutor cases then concluded. And such a case would have been heard by a Republican-controlled Senate and presented by a Republican President who had seen only one of his subordinates—Labor Secretary Ray Donovan—become the subject of a special prosecutor investigation (which focused on activities occurring before Donovan joined the administration). Had Reagan mustered the votes necessary to sustain a veto, as seems likely, the law probably would have been changed to fit his views. Possibly it might have been allowed to expire. In either event, there would not have been a *Morrison* case, and so there would not be the *Morrison* jurisprudence, which provides a basis for future Congresses to attack the rights of Presidents.

Neither a nonenforcement nor a veto strategy was contemplated in 1981–82. During the transition in 1980–81 no one close to Reagan raised a concern about the special prosecutor law or about protecting presidential prerogatives in general. Preoccupying the President-elect and his transition team was the substantive political agenda that focused on reviving the economy and rebuilding the national defense. The White House left separation of powers concerns to the Justice Department, then focused on other matters—staffing, reforming immigration policy, reviewing policy toward violent crimes.

Attorney General Smith was as aware of executive power issues as anyone in the administration. Indeed, it was Smith who took on a different threat to presidential authority. A suit had been brought by an alien threatened with deportation as a result of a so-called legislative veto; the question for the Supreme Court in *INS* v. *Chadha* was the constitutionality of such measures, which date to the 1930s. The legislative veto was a product of the executive's desire to have broad discretionary authority and Congress's insistence on some means of control—short of having to enact new law—over the exercise of the granted discretion. The executive thus could make policy subject to a simple resolution of either House (a one-House legislative veto) or by concurrent resolution (a two-House veto). A one-House veto was specifically at issue in *Chadha*. Smith thought legislative vetoes were unconstitutional, but the President himself had supported them on the campaign trail, on the political ground—for many conservatives the correct political ground—that the "liberal" executive must be reined in by the branch closest to the people. Smith not only won the President's approval for the position he advanced in the Supreme Court, but in the process helped educate conservatives to the more correct view of the presidency within the constitutional order. The Court adopted the administration's argument in *Chadha*, ruling that the legislative veto at issue violated the Presentment Clause of the Constitution as well as the requirement of "bicameralism" (found in the Presentment Clause).

Smith also counseled the President to veto bills including legislative-veto devices. And the President in fact vetoed H.R. 7336, a package of education amendments. "The Attorney General has advised me, and I agree," said Reagan in his memorandum disapproving H.R. 7336, "that two Houses of Congress cannot bind the Executive branch by passing a concurrent resolution that is not presented to me for approval or veto." The President successfully vetoed this bill containing a two-house legislative veto—just nine days after he signed the independent counsel reauthorization. So there was a defense of the presidency here—but it was not part of any grand design. Such defenses proved ad hoc. As Smith observed in his memoir, "If there was one area in which the White House was deficient during my years in office, it was in the protection of presidential power. Decisions there were made on the basis of the substance of individual issues. There was no effective concern or review of the impact that issue or the position taken with respect to it would have on presidential power. Nor was there any effort to identify governmental activities elsewhere that, if developed, would adversely affect the province of the executive. Nor, to be candid, was the bully pulpit used to provide leadership or defense of that vital institution."

In retrospect it is clear that 1983 provided Reagan his better opportunity to veto the statute. To be sure, Reagan could have vetoed the second reauthorization bill even though he had signed the first one. That previous signature did not require him to accept the law a second time. And the fact that a case challenging the statute's constitutionally was in the courts did not constrain him either. Reagan was free to veto. But the politics would have been difficult. The Senate was now controlled by Democrats. Congress was more willing to take on Reagan than at any previous time in the 1980s. Iran-contra, under investigation by an independent counsel, had politically weakened Reagan both in Congress and at the bar of public opinion. So had other independent counsel investigations, including the inquiry into Edwin Meese's involvement with the Wedtech Corporation. It would have taken a very strong effort on Reagan's part to win the needed votes to defeat an override attempt.

Still, if Reagan had been truly serious about protecting his office, he would have used the veto power. After all, the experience under the independent counsel law since 1983 had provided more damning evidence against the law. Estranged from the institutional environment that constrains all other criminal prosecutors, who, working with limited resources, have not one but many possible cases to consider, independent counsels had acted unreasonably. In his investigation of former Reagan aide Michael Deaver, for example, Whitney North Seymour tried to subpoena the Canadian ambassador to the United States, injuring relations with Canada. (A federal district court rules that the subpoenas violated diplomatic immunity.) A lawyer representing Lawrence Walsh, the Iran-contra independent counsel, told a federal appeals court that not the President but the independent counsel would have the last word in case of a disagreement over foreign policy and its implications for prosecution. Walsh himself told the America Bar Association in 1987 that if an investigation finds "probable cause that a crime has been committed, it is the duty of the independent counsel to prosecute"—a statement expressing a lower standard than that found in the prosecution manual of the Justice Department, which says that fundamental fairness requires that an indictment be issued only if the prosecutor believes that an unbiased jury would convict. Alexia Morrison, the independent counsel named to investigate Ted Olson, worked a deed against him that no ordinary prosecutor would have: Upon finding that he probably had not violated the law, she nonetheless sought to expand her jurisdiction in order to see whether he might be implicated in a conspiracy with others—even though she had no evidence of that.

Meanwhile, the independent counsels had worked a negative effect within the executive branch. Olson, who headed the Office of Legal Counsel in the Smith Justice Department, was investigated for actions that did not involve any element of personal gain or which went beyond the scope of duty. In fact, he was investigated for work that prior to the 1980s would never have been "criminalized." Early in the first Reagan term, House committees headed by two influential Democrats—Peter Rodino and John Dingell—objected to the Environmental Protection Agency's enforcement of environmental laws. When certain documents regarding open criminal investigations were sought, EPA Administrator Anne Burford claimed executive privilege, as directed by the President, who had been duly advised by Justice's Olson. Rodino and Dingell were upset that Olson had asked (unsuccessfully; the issue wasn't ripe) a federal court to put its imprimatur on this claim of privilege, thus heading off a contempt citation against Burford. Olson was summoned to Congress to testify, and there made statements regarding the advice he had given the President. Led by Rodino, the Democratic majority of the House Judiciary Committee used certain provisions in the independent counsel statute to force the appointment of a counsel to investigate Olson for misleading Congress. Thus Olson, departed from Justice in 1984, became in 1986 a defendant, not because the President or his aides thought his investigation was a justified use of scarce prosecutorial resources, worth the cost in money and in possible damage to other governmental interests, but merely because the Attorney General was unable to disprove the allegations made against him by House Democrats. It appeared that Democrats wanted a prosecutor who would investigate not a crime but a man, and to find some offense to pin on him; this is manifestly not what our criminal justice system is supposed to be about. The Olson case, eventually lasting three years, sent a message of caution to high-ranking executive officers. The thought that "this could happen to you, too" drained energy from the executive.

Having observed these cases, Deputy Attorney general Burns urged the President to veto the 1987 reauthorization. And this time William French Smith, now retired to Los Angeles, also advised the President to cast a veto. In his signing statement, Reagan said the law was unconstitutional. So why didn't he veto it? A veto would not have disrupted independent counsel investigations already in progress. And leaving the issue of constitutionality to the courts was dubious; few observers thought the Court would strike down the law. The most plausible explanation for the veto not cast is this: that Reagan shrank from the task for short-term political reasons, that he was unwilling to take action that would have provoked negative political and media reactions. In sum, Reagan lacked the courage of his stated conviction that the law was unconstitutional. On a matter of fundamental principle, he was unable to take a stand.

The veto statement recommended by the Department of Justice in 1987 closed on this note: "In fulfillment of my own solemn obligation to uphold the Constitution, I believe I have no choice but to disapprove this legislation. I understand that this action may not be politically popular, but in carrying out my constitutional duty I simply cannot be moved by popular sentiment or considerations of political expediency. In this the Justice Department was echoing essential Hamiltonian wisdom, worth quoting at length:

"When occasions present themselves in which the interests of the people are at variance with their inclinations, it is the duty of the persons whom they have appointed to be the guardians of those interests to withstand the temporary delusion in order to give them time and opportunity for more cool and sedate reflection. * * * [A] conduct of this kind has saved the people from very fatal consequences of their own mistakes, and has procured lasting monuments of their gratitude to the men who had courage and magnanimity enough to serve them at the peril of their displeasure."

James Madison once observed that the constitutional powers of Congress were such that it could "with the greater facility, mask, under complicated and indirect measures, the encroachments which it makes on the co-ordinate departments." The independent counsel statute represented, and still represents, a complicated but perhaps not so indirect measure. Prosecution of crime is and should remain an executive branch function, in the final analysis under presidential control. When, as here through the independent counsel law, Congress takes part of the President's authority away and locates it elsewhere, it increases the number of executive entities that it can effectively control. This is a recipe for the reduction of the President to, as Charles Fried has stated so well, "a ceremonial head of state." It is the route to a government without energy.

The Reagan failure to veto independent counsel legislation invites future Presidents to absorb a basic lesson: Although the occasions for a "self-defense" veto may be few, they are most important; for it was precisely with these situations in mind that the framers, as Hamilton put it, "chiefly designed" the veto power. A President who undestands this lesson will not rely, as Reagan in effect did in the independent counsel case, exclusively upon Justice Department argument either in Congress or in the Supreme Court in order to protect his office. In vain did the President hope for an antiindependent counsel majority to form in those quarters; and in the Court Reagan risked what he got—jurisprudence that may tempt Congress further to splinter the executive and usurp its authority. (In this regard it is remarkable that Stephen Ross, the General Counsel for the House of Representatives, told a federal court reviewing the constitutionality of the independent counsel statute in 1987 that it would be constitutional for Congress to vest in the Attorney General the appointment of the Solicitor General; such are the antiexecutive ideas found in today's Congress.)

A President who understands he should not rely on the Court to protect the office he holds must be as willing as any Justice to address questions of constitutionality. The Court is not the only arbiter of disputes involving the Constitution. The Constitution vests in the judiciary the power to decide "cases and controversies." The power to interpret the Constitution is a consequence of that power. Similarly, the other two branches of government have their respective jobs to do, and in doing them, they also interpret the Constitution. Or at least they should. Unfortunately, legislators today often abdicate their responsibility to think about the Constitution as they draft legislation; too often their attitude is, "we'll let the Supreme Court decide." The same is true of the executive branch. During the first reauthorization process, for example, Associate Attorney General Giuliani said that the constitutional questions involved "are difficult and not readily answered, given the lack of authoritative Supreme Court rulings on the relevant points." While it is one thing—a proper thing—for the executive branch to review Court rulings in order to reach its own determination of constitutionality, it is quite another effectively to cede to the Court the executive's duty to interpret the Constitution. On important occasions, Giuliani's testimony seemed such an act of cession. "Only a ruling by the Supreme Court would definitely resolve the constitutional issues," he said at one point, notwithstanding that the President himself could have moved toward resolving the constitutional issues in his favor by vetoing the law. The President did not have to wait for "authoritative" or "definitive" rulings from the Supreme Court.

Nor do future Presidents. Indeed, even when the Court has spoken, they still may act. Neither George Bush nor any of his successors is bound by the Court's decision in *Morrison* to sign legislation reauthorizing the independent counsel statute. Presidents worried about such judicial precedent should ponder the presidential precedent—handed down by Andrew Jackson. In 1819, in *McCulloch* v. *Maryland*, the Court upheld the constitutionality of a national bank. One could say *McCulloch* "settled" the issue. But in 1832 President Jackson reopened the question when he voted legislation rechartering the bank. In his veto statement, he discounted the significance of *McCulloch* by arguing that the political branches were not bound by the judiciary's reading of the Constitution. "The opinion of the judges has no more authority over Congress than the opinion of Congress has over the judges," said Jackson in his veto message, "and on that point the President is independent of both. The authority of the Supreme Court must not, therefore, be permitted to control the Congress or the Executive when acting in their legislative capacities, but to have only such influence as the force of their reasoning may deserve." Jackson prevailed in his fight with Congress; the idea of a national bank died. And, thus, by the way, did a strong presidency defeat bigger government.

Andrew Jackson was in many ways an undistinguished President. But to his credit he vetoed the infamous Tenure of Office Act, precisely because it infringed on the rights of the executive. In part because of that act of self-defense, Johnson was impeached in the House and missed by a single vote being convicted by the Senate. But in casting that veto Johnson showed courage.

Having the courage to take responsibility for the office as Johnson did will be especially difficult in our time. Indeed, it is hard to overstate just how difficult. Multiple presidential primaries, incessant opinion polling, and insistent media attention upon the presidency have worked to encourage Presidents to be "men of the people" more than occupants of a constitutional office. (The very democratization of the presidency begun by Jackson in the 1830s and hastened in our century has, as Joseph Bessette observes, reshaped the "calculus of presidential ambition" in such a way that few Presidents will battle for the rights of office, unless their position is also the popular one, as was Jackson's, in opposition to the national bank. The desire to maintain popularity, and the belief that presidential power is simply a function of popularity, as measured in polling data, are attitudes found not only on the part of would-be Presidents but also their cadres of advisors. For a President to resist the counsel of the moment that cites opinion polls and to take what might be an unpopular action, such as a veto cast in defense of his own powers, thus may become an undertaking of enormous proportion. But in the long run the office of the President will not be worth having if Presidents and their advisers are not prepared to act in its defense.

This chapter has examined the self-defense veto in a particular governing context. But as indicated by the brief discussion in this chapter of a nonenforcement strategy, the veto is not the only means of self-defense. Consider also that a President who had administered the executive branch in a way that successfully discouraged criminal or unethical or imprudent behavior would have been better situated politically than Reagan was to cast a veto in 1987; this is a subject I discuss in Chapter 14. Here it is worth noting that, perversely, the independent counsel law encourages presidential irresponsibility. For instead of taking it upon himself to inquire into alleged misconduct of aides and deal with it accordingly—which might include standing behind an aide, or prosecuting and removing him—the President, as Reagan routinely did, can slough off his obligation onto the all-too-willing shoulders of an independent counsel. A President who does not assume the responsibility for office by using available power to defend it may find at the end of the day, as Reagan did, that he and his successors possess fewer rights.

In its origins as well as its persistence through the years, the independent counsel statute is a monument to executive weakness. And that weakness has proved costly to our politics generally. The independent counsel law is a central piece of a post-Watergate Washington culture that has elevated the pursuit of malfeasance to such a high priority that the whole point of our political system, it sometimes seems, is to root out official wrongdoing, even to turn innocence into sin. Scandal substitutes for, and crowds out, ordinary politics. If this is one reason Americans hate politics, to borrow from the title of E.J. Dionne's 1991 book, it is also a reason more and more politicians hate politics, as witness the large number of retirements of incumbent Congressmen in recent years. The messy ethics environment is not likely to change until a strong President, who insists on his constitutional rights and on high standards of conduct as well, determines that it should.

[From the Public Interest, summer 1990]

EXHIBIT 3

THE INDEPENDENT-COUNSEL REGIME

(By Terry Eastland)

It is a venerable legal maxim that hard cases make bad laws. So it happened in Watergate: the hard, indeed the aberrant, case of Watergate made the bad law of the independent-counsel statute, first enacted as Title VI of the Ethics in Government Act of 1978 and twice reauthorized during the eighties. Scheduled by its own terms to expire in 1992, the statute, which applies only to certain high-ranking members of the executive branch, deserves to go gentle into that good night reserved for bad legislation.

Of course, whether that will happen is a much different question. The Framers of the Constitution viewed the legislative branch as the strongest of the three, and in *Federalist* 48, James Madison wrote (with only slight exaggeration) that the legislature "is everywhere extending the sphere of its activity and drawing all power into its impetuous vortex." The independent-counsel statute represents an unprecedented extension of congressional power that has unjustifiably weakened the executive branch. So long as Congress is controlled by Democrats, and the presidency by Republicans, the safe betting is that the statute will be extended in something close to its current form—unless a determined president skillfully opposes it. If George Bush undertakes and succeeds at that task, not only will the executive branch recover its proper strength but our politics generally will also be free of the debilitating influence of the independent-counsel regime.

WATERGATE AND THE ORIGINS OF THE LAW

By constitutional design, the president is responsible for his own conduct in office and for that of his aides. Yet the president has a conflict of interest when he undertakes to discharge that responsibility by investigating criminal allegations against his own appointees, not to mention himself. This conflict, like those that arise when judges decide disputes involving judges' pay or when Congress exempts itself from laws that it makes, was not forbidden by the Constitution. Until the era of the independent counsel, our political system had lived with the conflict by balancing it in various ways, such as by giving Congress the power to impeach executive officers (through explicit constitutional provision) or by allowing Congress to hold oversight hearings. On certain occasions our system had lived with the conflict simply by trying to minimize it through the executive's appointment of outside or special prosecutors to handle specific cases. The Grant, Theodore Roosevelt, Coolidge, and Truman administrations resorted to special prosecutors.

This, of course, is what happened in Watergate, as Attorney General Elliot Richardson named Archibald Cox, a Harvard law professor and former Solicitor General, to handle the investigation. Richardson promised the Senate that Cox would be independent and truly free to pursue the investigation wherever it might lead. But when Nixon abruptly removed the special prosecutor in a dispute over access to White House tapes, something unprecedented happened. For the first time in American political history Congress considered calling for a court-appointed special prosecutor whom the President would have no ability to control. In the view of many in Congress, the only way to minimize the President's conflict of interest so as effectively to overcome it, and thus the only way to guarantee prosecutorial independence from the executive branch, was to divest the executive of his power to appoint and remove the Watergate special prosecutor.

Congress did not enact either H.R. 11401 or S. 2611, the two leading proposals calling for a court-appointed Watergate special prosecutor. President Nixon, who apparently wanted to abolish the special prosecutor's office, changed his mind when the invariably negative reaction to the Cox firing included persistent calls for his impeachment or resignation. Leon Jaworski was quickly appointed by the Justice Department to succeed Cox, and Jaworski labored without administration interference. Jaworski's effort combined with the congressional investigation to effect a result consistent with public opinion—Nixon's resignation.

Our political system thus could be said to have worked well enough in the exceptional case of Watergate. But the new culture that Watergate helped to create concluded that the system was deficient. As early as 1974—the year Nixon resigned—Congress began searching for a way of establishing a system of special prosecutors on a permanent basis. This search for law culminated in the 1978 passage of Title VI.

Supporters of the new approach made much of the need to overcome the president's conflict of interest. The "special prosecutor" law, as it was first called upon enactment, was billed as a "recusal" statute. For many politicians, this proved an appealing way to think of the law at a time when avoiding even the appearance of a conflict of interest had become a dominant value in our politics. Yet it is doubtful that the 1978 law would have been enacted without the influence of two other political forces.

One was distrust of the presidency as an institution. The conventional wisdom in liberal circles in the mid-seventies was that the presidency had been expanding its power since the time of the New Deal, and that while some of this power was doubtless needed in the modern world, it had been abused by Lyndon Johnson in conducting the war in Vietnam and then by Richard Nixon. Watergate was seen as the inevitable product of an increasingly "imperial" institution, not the result of one man's shortcomings. The worry about the "imperial presidency" was so pronounced in Congress that in 1974 Sen. Sam Ervin introduced legislation, almost surely unconstitutional, that would have made the Department of Justice an independent agency. That same year Sen. Alan Cranston, sponsoring special-prosecutor legislation, argued the need for "an independent guardian to keep the Executive Branch honest"—as though the executive branch were inherently and perpetually prone to dishonesty.

The other influential idea concerned the investigation and prosecution of criminal allegations involving top executive officers. Whereas such investigation and prosecution was previously understood to be important but hardly compulsory, something subject to the discretion of the executive branch, now it was reckoned as so important as to be an almost absolute good. It was an activity to be relentlessy pursued, virtually without regard to financial or other costs. *Fiat justitia, ruat coelum*: Let justice be done, though the heavens may fall.

As the search for law proceeded during the mid-seventies, congressmen attempted to bolster their case for a permanent special-prosecutor mechanism by contending, in committee hearings and bill reports, that throughout history administrations had often looked the other way, neglecting to investigate allegations of executive wrongdoing. Whatever the elusive truth of that proposition, the presumption behind it was that no executive wrongdoing should go unpunished.

Watergate had an impact upon the elite culture of the nation's capital, an impact that is still evident today. The scandal obsessed Washington for two years; never before had a "crime" story so displaced normal political life. The heroes of the story were fearless reporters, fearless prosecutors, fearless members of Congress, and fearless members of the executive branch willing to "leak" information about their "bad" colleagues. The fearless were celebrated in print and celluloid. Role models were established for aspiring reporters, prosecutors, congressmen, and even members of the executive branch. The prosecutorial style was "in," with the questions—"What did you know and when did you know it?"—becoming among the most important in our politics.

With the dynamics of the political culture working so powerfully against the executive branch during Watergate, Congress necessarily benefited, its image rising especially among a media now blatantly hostile to the presidency. Many years later. Richard Harwood, the *Washington Post* ombudsman, observed that in the early to middle seventies the media "drifted into a relentlessly adversarial and hostile posture toward the presidency," while "the image of Congress . . . underwent a rehabilitation." Through "its role in opposing the war, in forcing the resignation of Richard Nixon and in other crusades and endeavors, [Congress] became in the minds of many journalists the White Knight of Washington, the last, best bulwark of democracy."

It was in this, the most anti-executive political culture in our history, that the most anti-presidential Congress since Reconstruction labored and brought forth the special-prosecutor law of Title VI.

THE STATUTE AND ITS CONSEQUENCES

Title VI was passed with the support of President Carter and his attorney general, Griffin Bell, who has since recanted his position. Under the new law, the attorney general was required to conduct a "preliminary investigation" whenever he received "specific information" alleging that certain high-ranking administration officials—about 120 in all, including the president—had violated any federal criminal law other than by committing a petty offense. According to the legislative history, "specific information" meant all allegations of wrongdoing save generalized ones having no basis in fact. The law provided that the attorney general must take no more than 90 days (or 120 in case of an extension) to conduct a preliminary investigation, and it precluded his use of the compulsory tools normally at hand—grand juries, subpoenas, plea bargains. The law also provided a formal means by which members of Congress could attempt to initiate an investigation, with the burden resting on the attorney general to explain to Congress a decision *against* applying for a special prosecutor.

Under the law, the attorney general could close his inquiry if he found that the allegation was "so unsubstantiated that no further investigation or prosecution is warranted." If he found that "the matter warrants further investigation or prosecution," he was required to apply to a special division of the federal court of appeals in Washington, D.C., which was created for the purpose of naming special prosecutors. If the attorney general was unable to reach a conclusion within the time allotted for the preliminary investigation, he was required to apply for a special prosecutor to be appointed anyway. Title VI gave the special division of the court no discretion in the matter of appointment; when the attorney general requested a special prosecutor, it was compelled to name one.

As for the special prosecutor himself, he was given the "full power and independent authority" to exercise all investigative and prosecutorial functions of the attorney general. He was to wear the shoes of the attorney general in almost every respect, though he could stray from Justice Department policies. He was merely required to comply,"to the extent [he] deems appropriate," with the department's written policies regarding the enforcement of criminal law. The legislative history shows that the special prosecutor retained the discretion to decide when to follow Justice policy. No other federal prosecutor has ever had such freedom. The law protected the prosecutor's autonomy by making it almost impossible for the president to remove him. Finally, the law required the special prosecutor to file a final report with the special court once he concluded his inquiry. The prosecutor was obliged to describe his effort, including the disposition of all cases brought and his reasons for any decisions not to prosecute. The court was given authority to make sure reports public—a course followed in virtually every case.

In these ways the framers of Title VI established a new institutional framework for exercising part of the criminal law-enforcement power, which had traditionally belonged entirely to the president. In these ways conflict of interest was to be overcome, independence ensured, and justice pursued.

Or so it was supposed. Soon enough the law had unintended consequences. In 1978 and 1980 the attorney general could not do what the law effectively required: he could not *disprove* allegations of cocaine use levelled against two of President Carter's highest-ranking aides, Hamilton Jordan and Tim Kraft. So special prosecutors were named. There were no indictments, but the investigations symbolized the unfairness that the system could generate. It was not Justice Department policy at that time to prosecute cocaine-use charges, and yet the defendants endured the usual stigma and hardships—including legal bills—of individuals under criminal investigation. One of the special prosecutors later observed that had he been a regular prosecutor, he would have exercised discretion and thrown the case out immediately.

Instead of judging Title VI by these negative results and letting the law expire on its five-year timetable in 1983, Congress reauthorized it for another five years. Thinking that it could mitigate the inequities, Congress added amendments designed to increase the attorney general's discretion during preliminary investigations and to tie special prosecutors more closely to Justice Department policy. One amendment even changed the name "special prosecutor" to "independent counsel" on the ground that the old name unfairly stigmatized individuals under investigation, since they might not actually be prosecuted. The argument that ultimately sustained reauthorization was that the new system of independent counsels provided the best way of overcoming apparent conflicts of interest. Congress rejected the view of Associate Attorney General Rudolph Giuliani, representing the Justice Department's position on Capitol Hill, who called the law an effort to govern "by appearance."

During the balance of the eighties, the independent-counsel law, as it was now called, came to symbolize the partisan interbranch conflict that marked the later Reagan years. In February 1984, shortly after President Reagan nominated White House Counselor Edwin Meese III to succeed Attorney General William French Smith, multiple allegations against Meese arose during his confirmation hearings. Meese's nomination was put on hold while the independent counsel, Jacob Stein, sorted through various charges, including alleged omissions on financial-disclosure forms. In late 1985 the Democratic majority on the House Judiciary Committee, on the basis of a 3,000-page document prepared by committee staff, formally asked Meese, now the attorney general, to seek an independent counsel to investigate former Justice official Theodore Olson for making false statements to Congress on a matter relating to a contentious dispute between the president and Congress over EPA law enforcement. Alexia Morrison handled the case, and Olson's constitutional challenge to Title VI eventually led to the Supreme Court's 1988 decision upholding the law in Morrison v. Olson.

In 1986 Whitney North Seymour was named to investigate charges that former Reagan aide Michael K. Deaver had violated restrictions on the lobbying efforts of former government employees. A year later, another counsel, James McKay, was named to investigate similar charges made against former Reagan aide Lyn Nofziger. Nofziger was convicted, but on appeal his conviction was voided on the ground that the law he was accused of violating was too vague. Interestingly, that law was part of the Ethics in Government Act of 1978, which also included Title VI. And just like Title VI, the anti-lobbying law was written to apply only to executive-branch officials. As for Deaver, he was convicted on charges of perjury arising from Seymour's investigation—the original premise of which was undercut by the Nofziger appeal.

In late 1986, Lawrence Walsh was named to investigate charges stemming from the Iran-contra affair. At the heart of these allegations lay a political dispute between the two elective branches, and the two political parties, over foreign policy in Central America.

The 1987 reauthorization hearings themselves illustrated the sharp conflict between the two branches. By then, both houses were controlled by Democrats, and the Democratic Congress sharply disagreed with the Justice Department's implementation of the law. Although eight cases were referred to independent counsels between 1983 and 1987, Congress thought that there should have been more. The report on the Senate reauthorization bill by the Governmental Affairs Committee noted with evident alarm that "only 8 cases, or less than one-fourth of the total caseload [of preliminary investigations], resulted in the Department of Justice's request for the appointment of an independent counsel." During 1987 Attorney General Meese became the subject of another independent-counsel investigation, this one stemming from allegations of wrongdoing involving the scandal-ridden Wedtech Corporation.

The reauthorization bill enacted late in 1987 included amendments designed to reduce the attorney general's discretion in implementing the law and to ensure his accountability to the special division of the court and to Congress. This time around, there was hardly any concern about the law's fairness. During the 1988 presidential campaign, the Democratic Party tried to make an issue of what was called "the sleaze factor" of the Reagan administration, citing the various independent-counsel investigations as evidence. Finally free of his second independent-counsel investigation in July 1988, when McKay decided not to prosecute, Meese (in his last act as attorney general) signed an order subjecting members of Congress to the independent-counsel process. Although his successor, Richard Thornburgh, rescinded the order in 1989, Meese's action was a valediction in keeping with the spirit of the times.

It was also during the latter half of the eighties that independent counsels began behaving in unreasonable ways. Whitney North Seymour, for instance, tried to subpoena the Canadian ambassador to the United States while prosecuting Michael Deaver; a federal court ultimately held that diplomatic immunity blocked his effort, but not before U.S.-Canadian relations had been damaged. For his part, James McKay, the independent counsel in the second Meese case, wrote in his final report that Meese had probably committed crimes—something that no ordinary prosecutor who had declined to prosecute would say publicly, for reasons of simple fairness. Most recently, Lawrence Walsh prosecuted John Poindexter on the basis of a law that had rarely, if ever, been applied to statements made to Congress by members of the executive branch. Walsh, moreover, maintains that if an investigation finds "probable cause that a crime has been committed, it is the duty of the independent counsel to prosecute"—a policy at odds with the prevailing Justice Department standard, which holds that fundamental fairness requires an indictment only if the prosecutor believes that an unbiased jury would convict.

THE PROBLEMS WITH THE LAW

Public records indicate that during the Bush years two more independent counsels have been appointed. One found no basis for prosecuting a minor White House official on charges involving his financial affairs. The other is investigating corruption charges involving former HUD Secretary Samuel Pierce. The Iran-contra investigation is still ongoing from the Reagan years. In all, then, since the enactment of Title VI in 1978, there have been at least a dozen different investigations conducted by eleven independent counsel—about one per year, on average.

In one respect Title VI has been an undeniable success. The many court-appointed counsels have indeed been "independent" of the executive branch; they have been free of any real or apparent conflict of interest. And the very existence of the law may have deterred executive-branch wrongdoing, although no one can say this with certainty.

But the record of the past dozen years shows that disastrous results are incurred by a prosecutorial system in which independent counsels, accountable to no one in the executive branch, have unlimited resources to investigate criminal charges of dubious importance, along with vast discretion to choose investigative procedures.

The law has led to far more investigations than ordinarily would have occurred, including those of a "preliminary" nature at the

Justice Department. Even those inquiries, however serious, that might have been justified have tended to be lengthier and more costly, both to the taxpayers and the defendants, than they would have been had they been handled through the regular process.

"Nothing is too trivial for [independent counsels] to investigate," commented a Justice Department official in 1987. And so it has been. While indictments and prosecutions have been rare—thus demonstrating that judges and juries are the ultimate (and, by the way, the only) constraints upon independent counsels—the counsels' investigations have tended to be multiple and exhaustive, and to delve into matters both beyond the counsels' original jurisdiction and of little interest to regular prosecutors constrained by a larger justice system in which law-enforcement priorities must be set.

This is how the post-Watergate value of making sure that no executive-branch employee is above the law has worked itself out in practical terms. Of course, it has also worked itself out in some (very few) actual convictions. Yet these almost surely would not have occurred had the cases been handled normally. The Justice Department probably would not have prosecuted Deaver or Nofziger, precisely because of the vagueness of the law that they were alleged to have violated; and it is doubtful that the Justice Department would have prosecuted Oliver North or John Poindexter on charges of lying to Congress, because the statutes under which they were charged had not typically been applied in similar situations. After Poindexter's conviction, Independent Counsel Walsh publicly stated that he had been "preoccupied with establishing a legal principle," and he was exactly right; the principle had not previously existed. When it is said that the Iran-contra prosecutions teach that no man is above the law, this means in practical terms that criminal laws seldom if ever applied to executive-branch officials in the representations to Congress will now be enforced. Independent counsels thus have registered their disproportionate influence in act of quite new law enforcement, not traditional ones. No independent counsel has investigated a murder, a robbery, or a stolen vehicle. At least in Watergate there was a hotel break-in.

Whatever else may be said about the executive branch over the past dozen years, it has not experienced a crime wave on any conventional reckoning. What it has experienced is an exhaustive effort to criminalize once-legal activities, many involving politics. While this effort has failed more often than not, those investigated have been the guinea pigs of this post-Watergate experiment. Their fates are worthy of sober reflection.

Still, the fate of the executive branch and our system of government is even more important in the grand scheme of things. The Framers of the Constitution placed a high premium on the need for "energy in the executive." But the independent-counsel law, precisely because its procedures can lead to a formal criminal investigation more quickly and on the basis of less-certain evidence than in the ordinary case, has tended to create unjustified caution and timidity within the executive branch. The Olson case is most illustrative. Theodore Olson was the Justice Department official charged with giving legal opinions and advice to the President and his administration. As a result of congressional testimony related to advice he gave the President regarding an assertion of executive privilege, Olson was accused of misleading Congress and forced to endure an independent-counsel investigation that lasted three years—at great expense, and to no effect. Those who serve in sensitive positions like Olson's must worry that what once was regarded as ordinary public service may now appear to members of Congress (or to some in the media) as criminal behavior that independent counsels must investigate. This kind or worry produces timid tenures in office and indeed the "feeble executive" feared by Hamilton and the Framers. It is not a recipe for good government.

Perversely, the "ethics law" that is the independent-counsel statute creates and breeds irresponsibility. The law invites presidents to hand off to independent counsels their traditional responsibility for investigating and dealing with charges of misconduct on the part of top aides; President Reagan was quite willing to do that, and often. The law also allows Congress to shirk its responsibility to investigate allegations of executive wrongdoing, through the impeachment process if necessary; indeed, the law is an effort to impeach by other means. Congress may delight in an institution that batters (and impeaches) the executive branch, especially when Congress and the presidency are controlled by different parties, but it does not have to be responsible for what happens.

The statute, it is true, contains explicit provision for congressional oversight of independent counsels, something not usually included in a law of Congress. But I am not aware of a single oversight hearing ever being convened to address the work of a sitting independent counsel in those areas, such as expenditures, that appropriately can be opened to public scrutiny. In late 1987 Rep. Clay Shaw, Jr., asked then-chairman of the House Judiciary Committee Peter Rodino to hold a hearing focusing on "the financial accountability of the currently appointed Independent Counsels." Rodino rejected the request, observing: "I am concerned that such hearings would have a chilling effect on the independence of these investigations and would provide a forum for inquiries into the details of the individual ongoing investigations."

If Congress will not oversee the guardians of the executive branch, who will? In our system, in which all power derives from the people, the question is hardly an idle one. The disturbing fact is that independent counsels are effectively accountable to no one. They can make new law, as Lawrence Walsh is doing in the Iran-Contra investigation, and they need not explain why they are doing so.

BACK TO WATERGATE

The independent-counsel law has had perverse and unintended consequences, not least of which has been to wire the Washington political culture in such a way as to make it think that another Watergate might be around the corner whenever there is some allegation of misconduct involving the executive branch. The statute has helped to elevate the pursuit of misconduct to such a high priority that elites in Washington seem to believe, perhaps unconsciously, that the whole point of our political system is to root out official wrongdoing. That, of course, is preposterous. The ultimate issue is not whether public officials guilty of wrongdoing get the punishment that they deserve, but whether the American people get the good government that they deserve. There will be occasions when the pursuit of executive malfeasance must yield to greater concerns that also happen to lie within the president's responsibility. Our politics would be saner without the independent-counsel statute.

And what would happen if the law expired on schedule in 1992? There seems little question that responsibility would be refocused where it should be—in Congress and the president. Presidents would be pressed to confront allegations of wrongdoing, and Congress to investigate and even to commence impeachment proceedings. Both branches could be held accountable for their actions—or lack thereof. The result would be a gain in political perspective and constitutional purpose. The investigation and prosecution of executive malfeasance would cease to have the disproportionate influence upon our politics that they now have. Ordinary politics could be practiced without fear that political disputes would be criminalized and turned over to independent counsels. And the political culture would be freed of the temptation created by the statute to frame allegations of malfeasance in exclusively criminal terms. The president would lose his excuse to postpone, if not to forgo altogether, assessments of the behavior in question in broader terms of ethics and political damage. And resignation would become more viable for those who have engaged in dubious conduct; as it is, individuals use the statute to stay in office while an investigation proceeds, arguing that to leave is to admit the allegations against them.

Of course, presidents or their attorneys general could exercise their discretionary authority to name Watergate-type prosecutors in cases of obvious conflicts of interest. Fewer such prosecutors would be appointed than would be named under the independent-counsel law, but this consequence is hardly undesirable. The decision to name an outside counsel ought to reflect a more balanced judgment than now occurs under the statute, which weights the legal and political scales in favor of a court appointment. In the most serious cases, it is likely that the president would name a special prosecutor.

Supporters of the current system will resist a return to the pre-Watergate system; they will argue that the public cannot have confidence in the work of a special prosecutor named by the president or the attorney general. But they should bear in mind that the old system did work in Watergate. And future presidents no doubt would remember the Nixon example, the prospect of embarrassment and obloquy, and ultimately the prospect of impeachment, should work to prevent a Cox-like firing. Yet even if a special prosecutor is fired, a replacement is likely; after all, Jaworski did succeed Cox.

Watergate remains a seminal event in our recent political history. The lesson it teaches is not the need for the current system of independent counsels, but the viability of our political system. If necessary, ordinary special prosecutors, appointed as they were in Watergate, can investigate charges of misconduct. But the permanent system of court-appointed prosecutors has proved not a remedy but a disease that weakens and impoverishes our political life.

Mr. COHEN. Mr. President, if there is no further debate on this, let me respond just briefly.

I think that Senator COCHRAN has in fact framed the issue properly. He and several colleagues are of the opinion there should be no independent counsel law. And if you have that opinion, then we should not take any action. We should just defeat the bill that Senator LEVIN and I have sponsored. There is no need to have a substitute offered by the Senator from Mississippi.

If you really feel strongly that there is no question about the ability of the Justice Department or Attorney General to carry out his or her mission without the public having some doubt as to whether it was carried out impartially, then we do not need an Independent Counsel Act. You should simply vote against the measure coming before the Senate tonight.

But there is no need for a substitute, if that is what you really believe. What the Cochran amendment does is to simply say, in these cases where there is a cloud of doubt hanging over the Attorney General that she cannot be trusted to carry out an investigation or prosecution, then the President will pick a substitute Attorney General and we will just confirm that Attorney General and have that Attorney General carry out the investigation.

It seems to me it really misses the point. The point is that the President has appointed that individual. That individual is in fact accountable to the President, serves at his pleasure, as the Attorney General does. So we have a principal Attorney General and a substitute Attorney General. Both serve at the pleasure of the President.

So we do not need the Cochran amendment. If you believe we do not need an independent counsel act, let us just vote the bill down tonight and not undertake to restructure it in a way that sets up a redundant process of confirming two Attorneys General.

I suggest the absence of a quorum.

Mr. LEVIN. If the Senator will withhold, I have one additional minute.

The PRESIDING OFFICER. Does the Senator withhold?

Mr. COHEN. I withhold.

Mr. LEVIN. I think the majority leader has indicated we are ready to go to a vote now.

The PRESIDING OFFICER. The Senator from Michigan is recognized, Senator LEVIN.

Mr. LEVIN. Mr. President, let me just say that this law is based on having independent counsel. It is not worth having if we are not going to have an independent counsel. Under the COCHRAN substitute, we do not have an independent counsel. That is what it all comes down to.

I would only repeat two lines, one from our own Attorney General, the current Attorney General, who supports this strongly, and says that there is an inherent—this is our own Attorney General—inherent conflict whenever senior executive branch officials are to be investigated by the Attorney General, and that this bill is a measured, appropriate response to a limited but serious problem, and the administration therefore supports the Independent Counsel Act's reenactment.

Finally, the American Bar Association, which is known for protecting individuals—surely it cares, and we all do, about protecting individuals who are being investigated. We all must. That is why you have to have a balancing such as we have in this bill.

But the American Bar Association, based on a 15-year research analysis, says that this statute has played an effective role in assuring Government's accountability to the American people, and their confidence in the even-handed administration of justice.

Without the independence, you lose the confidence of the American people. That is important, too. Yes, anyone under investigation has rights. Every American has rights, if being investigated, to have some protection. But the American public has a right to have confidence in their Government, and in the ability of their Government to develop and prosecute high-level Government officials.

That is what the Independent Counsel Act is all about. And that is why I hope the Cochran amendment is defeated.

Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. COHEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COHEN. Mr. President, I move to table the pending amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the motion to table the amendment.

The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. DORGAN] and the Senator from Georgia [Mr. NUNN] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Texas [Mr. GRAMM] is necessarily absent.

The PRESIDING OFFICER (Mr. WOFFORD). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 68, nays 29, as follows:

[Rollcall Vote No. 382 Leg.]

YEAS—68

Akaka
Baucus
Bennett
Biden
Bingaman
Boren
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Chafee
Cohen
Conrad
D'Amato
Daschle
DeConcini
Dodd
Durenberger
Exon
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Grassley
Harkin
Hatch
Heflin
Hollings
Hutchison
Inouye
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mathews
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Packwood
Pell
Pryor
Riegle
Robb
Rockefeller
Roth
Sarbanes
Sasser
Simon
Simpson
Specter
Thurmond
Wellstone
Wofford

NAYS—29

Bond
Campbell
Coats
Cochran
Coverdell
Craig
Danforth
Dole
Domenici
Faircloth
Gregg
Hatfield
Helms
Jeffords
Kempthorne
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Reid
Shelby
Smith
Stevens
Wallop
Warner

NOT VOTING—3

Dorgan
Gramm
Nunn

So the motion to table the amendment (No. 1206) was agreed to.

Mr. COHEN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. MCCAIN. Will the Senator from New Jersey yield to me for 15 seconds?

Mr. BRADLEY. I am pleased to yield to the Senator from Arizona.

CHANGE OF VOTE

Mr. MCCAIN. Mr. President, earlier today the Senate considered an amendment offered by Senator LEVIN to the crime bill regarding life imprisonment in lieu of parole. On that vote, No. 379, I voted "yea." I had intended to vote "nay." The final vote was 26–73.

Mr. President, I therefore ask unanimous consent that my vote be changed in the RECORD to reflect a "nay" vote. This request will in no way change the outcome of the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Will the Senator from New Jersey yield to the Senator from Delaware so he can offer an amendment that requires voice vote?

Mr. BRADLEY. I am pleased to yield 5 minutes to the distinguished Senator from Delaware.

The PRESIDING OFFICER. The Senator from Delaware.

AMENDMENT NO. 1207

Mr. ROTH. Mr. President, the independent counsel law needs to be reformed before it is reauthorized. I recognize that there are some thoughtful Members of this body who believe that this has been a bad law, both in its theory and its practice, and should not be revived. However, for my part, I continue to believe that this legislation has merit.

The bottom line is there is always the possibility that circumstances will arise—circumstances like Watergate—where the appointment of an independent counsel is absolutely necessary to assure the public of the impartial administration of justice. This fundamental point too easily becomes obscured in heated debate about the alleged abuses of independent counsels and others involved in implementing the law.

No, the controversy as I see it is not whether the independent counsel law should be reauthorized but how it should be reformed. Experience under the act shows that we must make some changes. We need to address the nature of the prosecution as well as who is to be prosecuted.

The issue that I will address is equally important. Experience under the independent counsel law has taught me that it is very difficult to forecast by a frozen legislative formula precisely which individuals should trigger the invocation of an independent counsel. The reported legislation embraces the cast of characters from Watergate. The list of mandatory coverage includes over 50 persons, perhaps up to 75, and even reaches outside of government to embrace private individuals such as officers of national campaign committees. All individuals not on the mandatory list may nevertheless be subject to an independent counsel investigation at the option of the Attorney General.

The mandatory coverage list is generally defended by proponents of the legislation as articulating a separation-of-powers rationale. But the inclusion of private individuals provides the clue that the rationale ought to be individuals who are politically important to the administration. It is often said that the purpose of independent counsel legislation is to assure a skeptical public that Washington insiders are not getting special treatment. But such skepticism knows no separations-of-powers limits. The public may wonder whether special treatment is being given to a politically well-connected individual whether or not he is employed in the executive or the legislative branch.

As I have reflected on the mandatory coverage issue over the years, I have come to the conclusion that the list is both too broad and too narrow. What I propose as a solution is to refine the bill's mandatory optional dichotomy to include three categories: First, mandatory coverage that includes only the President, the Vice President, and the Attorney General on the basis that no one can credibly prosecute himself or his superiors; second, mandatory review and certification for individuals in the politically well-connected category in which would fall Cabinet officers, senior White House staff, senior Justice Department officials below the Attorney General, and also Members of Congress; and third, optional coverage for everyone else.

The second category is the new category and thus bears further discussion. My proposal would treat individuals in the second category like those in the first category unless the Attorney General certified that the appointment of an independent counsel was not necessary, in view of the particular circumstances, to assure the public that the covered individual was not receiving favorable treatment because of the individual's status. The second category would include Members of Congress because there are, indeed, occasions where the efforts or the vote of a given Member may be critical to the President in getting his program through Congress.

In such circumstances the public may wonder about favorable treatment of that Member. My proposal would not require that an independent counsel be appointed for any individual in the second category, only that the Attorney General review and explain the decision whether or not to seek appointment on a case-by-case basis.

It is true that my proposal would substantially shrink the first category, those mandatorily covered, from over 50 to just 3 individuals. But they stand alone in my view as the only individuals for whom coverage is necessary in each and every case, regardless of circumstances. Other individuals may warrant coverage, but for everyone other than the President, the Vice President, and the Attorney General, coverage depends on the circumstances.

Therefore, my amendment would reserve mandatory coverage only for those who, by their status, will always require it. For other high level officials in the political branches, my amendment would rebuttably presume coverage, leaving it open to the Attorney General to explain why an independent counsel is unnecessary in any case where such appointment is not sought. For those remaining—friends, heavy contributors, or whoever, I would preserve the option of the Attorney General to invoke an independent counsel where a personal, financial, or political conflict of interest exists.

Experience has shown that we are not clairvoyant enough to write into statute a formula for determining the exact cases where an independent counsel would be reassuring. Admitting that, one must then conclude that it is futile to try to predict in statute. If we continue to try, mandatory coverage will be overly broad while still missing cases that merit the appointment of an independent counsel. That is much as we have had it in the past. That the coverage of the HUD scandal was mandatory and that the coverage of Iran-Contra was optional are striking examples of our previous futile efforts to get it right.

Since the excessively wide mandatory coverage of the legislation has not proved itself useful, I believe it would be preferable to narrow the mandatory coverage and provide greater discretion to the Attorney General in invoking an independent counsel. With over 3,000 political appointees in the administration and with 535 Members of Congress there are many possibilities for the appropriate use of an independent counsel. But not every possibility should be mandatorily covered. Whether we like it or not, we must trust the Attorney General. Mandatory coverage should be reserved only for those individuals whose alleged criminal violations will always necessitate an independent counsel. In my opinion, only the President, the Vice President, and the Attorney General meet that test.

Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Delaware [Mr. ROTH] proposes an amendment numbered 1207.

Mr. ROTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 18, line 13, strike all after the period down through page 20, line 2, and insert in lieu thereof the following:

SEC. 4. APPLICABILITY OF INDEPENDENT COUNSEL PROVISIONS.

Section 591(b) of title 28, United States Code, is amended to read as follows:

(b) PERSONS TO WHOM SUBSECTION (a) APPLIES.—

(1) Subsection (a) shall apply to each of the following persons in all circumstances:

(A) the President;

(B) the Vice President; and

(C) the Attorney General.

(2) Subsection (a) shall apply to each of the following persons, unless the Attorney General certifies that in the circumstances presented the preliminary investigation and any subsequent investigation of such person by the Attorney General pose no personal financial, or political conflict of interest and that the possible appointment of an independent counsel would not be necessary to assure the public of the impartial administration of justice:

(A) any Member of Congress;

(B) any individual serving in a position listed in section 5312 of title 5;

(C) any individual working in the Executive Office of the President who is compensated at a rate of pay at or above level II of the Executive Schedule under section 5313 of title 5;

(D) any Assistant Attorney General and any individual working in the Department of Justice who is compensated at a rate of pay at or above level III of the Executive Schedule under section 5314 of title 5;

(E) the Director of Central Intelligence, the Deputy Director of Central Intelligence, and the Commissioner of Internal Revenue;

(F) any individual who held an office or position described in paragraph 1 or in subparagraphs (B) through (E) of paragraph (2), for 1 year after leaving the office or position or until the President under whom the individual served leaves office, whichever period expires first;

(G) any individual who held an office or position described in paragraph 1 or in subparagraphs (B) through (E) of paragraph (2) during the incumbency of 1 President and who continued to hold that office or position for not more than 90 days into the term of the next President, until the individual leaves such office or position; and

(H) the chairman and treasurer of the principal national campaign committee seeking the election or reelection of the President, and any officer of the committee exercising authority at the national level, during the incumbency of the President.

Mr. LEVIN. Mr. President, the Roth amendment would limit mandatory coverage to the President, Vice President and Attorney General.

It would provide presumptive coverage for Members of Congress and others now subject to mandatory coverage.

Reducing mandatory coverage to just three people does not make sense. Reducing mandatory coverage to 3 people and enlarging presumptive coverage by 535 makes even less sense.

The point of the independent counsel law is to deal with inherent conflicts of interest when an administration investigates itself. The Roth amendment essentially says there is no inherent conflict for anyone but the top three officials in the executive branch. Attorney General Reno herself admits that the inherent conflicts go much further. She testified that there is an inherent conflict of interest in investigating the top officials in the administration currently named in the statute.

Mandatory coverage is key to independent council law, because if Justice can choose not to use independent council process, it often will. For executive branch top officials, there should not be that choice, because there is an inherent conflict of interest, and the public has no confidence in an administration investigating itself.

The Roth amendment is a bad idea for the executive branch and unappropriated for the legislative branch.

Mr. ROTH. Mr. President, S. 24, as reported from the Committee on Governmental Affairs, provides mandatory coverage of the independent counsel law to a career civil servant—the Assistant Attorney General for Administration—and to persons not even employed by the Federal Government, such as the chairman, the treasurer, and other officers of the national campaign committees of the President. While it provides mandatory coverage for people like that, it does not provide mandatory coverage for a single Member of Congress.

How did we end up with such a silly result? Basically, the original drafters in 1978 looked at the Watergate cast of characters and tried to create general categories out of the individual circumstances presented. Had Iran-Contra or Travelgate rather than Watergate been the defining moment for this legislation, the mandatory coverage provision might have been rather different.

Resistance to including Members of Congress has been predicated on self interest glorified as constitutional principle. Those opposed to including Members of Congress argue that separation of powers is the rationale for this legislation, that the public cannot trust someone in the executive branch to prosecute someone else in the executive branch whereas the public has no reason to doubt the integrity of a prosecution directed at a Member of Congress. The gist of the argument is that the executive branch is one big team of which no Member of Congress is ever a member.

The problem with the argument that Members of Congress are just friends of the administration but not family is that favoritism is not necessarily limited to family. Yes, there is distinction between the branches. Yes, there is a distinction between family and friends. But those distinctions are irrelevant to the concerns that the American people have with what they perceive to be a buddy system in Washington, DC. Favoritism is not limited to the executive family. That is the view of the American people. They are correct. We are deluding ourselves if we continue to shield ourselves from mandatory coverage of the law under the banner of the separation of powers doctrine.

Members of Congress do not, of course, pose the same problems for an Attorney General as do the President, the Vice President, or the Attorney General himself or herself. However, there is no question in my mind that there are indeed situations where the investigation or prosecution of a Member of Congress may strain the credibility of the Justice Department. We may be witnessing such a situation now.

But it is equally true that not every allegation against a Member of Congress or a Cabinet officer merits calling into play the magnum force and extraordinary expense of an independent counsel. The only accurate prediction is that the appropriateness of an independent counsel will depend on the circumstances. Our past effort at fixing a formula in statute to predict situations where an independent counsel would be necessary to assure the public have proved to be hit-and-miss.

So I have come to conclude that the frozen formulation of statute cannot predict with precision and that as a consequence, discretion must be reposed in the Attorney General except in the three instances where no Attorney General should be asked to prosecute—where the alleged wrongdoer is the President, the Vice President, or the Attorney General. Discretion must be reposed somewhere. Someone must be trusted. I am confident that the judgment of Attorneys General in invoking independent counsels under my amendment would provide more accurate over time than any fixed statutory formula, which will undoubtedly prove—like those in the past—to be either too broad or too narrow, or perhaps both.

My amendment would provide mandatory coverage for all those previously covered in that manner but it would also include Members of Congress. For all these covered persons—except the President, the Vice President, and the Attorney General—the Attorney General could, in effect, waive mandatory coverage in the particular circumstances by certifying two things: First, that the investigation of the person covered would not pose a personal, financial, or political conflict of interest, and second, that the possible appointment of an independent counsel would not be necessary to assure the public of the impartial administration of justice.

This certification process makes the Attorney General accountable for the invocation of independent counsels. If and when the Attorney General makes a judgment with which we disagree, we have the right to sear the Attorney General's conscience with our loud protests. That is how it should be.

My amendment is the only feasible solution to the central question that grips this Chamber: how can we cover Members of Congress as equally as senior members of the executive branch without significantly increasing costs and without significantly diluting the specialness of an independent counsel? My colleagues will recall that in earlier versions of the law, independent counsel were known as special prosecutors.

I suppose someone might suggest that we go all the way and provide mandatory coverage for Members of Congress as well as the 3,000 political appointees in the executive branch. That way no one escapes the net of the independent counsels. But such an approach would be costly, would lose the special quality of independent counsels, and would impliedly show unwarranted distrust in the Justice Department.

But my amendment does not go to such extremes. It provides a middle ground in the debate whether Members of Congress should be mandatorily covered. It would treat Members of Congress the same as executive branch officials with just three individual exceptions noted before. And it would provide for an independent counsel where there is a conflict of interest and where needed to assure the public of the impartial administration of justice.

I believe that this amendment is the answer to the question that has troubled us so long. As with any new idea, I would hope that Members would put aside their preconceived opinions and give this issue the thought it deserves.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 1207) was rejected.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. COHEN. Will the Senator from New Jersey yield for a clarification?

Mr. BRADLEY. I am pleased to yield to the Senator from Maine.

Mr. COHEN. Mr. President, for the benefit of our colleagues who may wish to depart the Hill for a period of time, it is the anticipation of Senator LEVIN and myself that we would not have another rollcall vote prior to 7:30. There has been no determination made as of yet as to whether there will a rollcall vote at 7:30, but we do not anticipate any rollcall votes between now and 7:30.

Mr. LEVIN. Mr. President, I do concur in that.

It is my understanding that the Senator from New Jersey has the floor and is going to speak for approximately 30 minutes, but not on an amendment relative to this bill. It is our intention that if rollcalls are needed on amendments relative to this bill, they not occur before 7:30.

The PRESIDING OFFICER. The Senator from New Jersey.

THE NORTH AMERICAN FREE-TRADE AGREEMENT

Mr. BRADLEY. Mr. President, later this evening, the U.S. House of Representatives will vote on the North American Free-Trade Agreement. As a prelude to the Senate's consideration of the North American Free-Trade Agreement in the upcoming days, if it is passed by the House of Representatives, I have come to the floor today to talk about our general economic circumstance in the country and to try to locate it in the lives of several individual Americans and make some specific recommendations as to how we should see the NAFTA debate, as well as our current economic predicament.

Mr. President, George Fatemi went to work for a major U.S. steel company when he was 19. He lost that job when big steel could not compete with new technology from Japan during the 1970s. He got another job with a glass company, but they laid him off during the 1982 recession. In both cases, he could not take his pension benefits with him because he had not worked long enough to vest. George then hooked up with a defense contractor making missiles until 1992, when the defense cutbacks axed him. Three jobs and three layoffs. George was left with a minuscule pension and payments of $460 a month if he wants to continue health coverage for his family.

Five years ago, Mary and Charles Jones lived the American dream in New Jersey. Mary did marketing for AT&T; Charles was a lawyer with IBM. They had a house in the suburbs, two children, and a 3-week family vacation every August. Then both of them lost their jobs. Today Charles works for a small business selling computer software, and Mary consults, but not often. No more vacations, no health benefits from the jobs. The two kids are now in high school, and the oldest wants to go to MIT, but the family cannot afford it.

Louise Pearl is a single mother who works as a secretary to the president of a construction firm. The office construction boom of the early 1980's has turned into a construction depression in the 1990's, and in the last 18 months, the firm has shrunk from 46 workers to 15. If the company goes under, Louise will need training to get a new job, but she will not have the money to pay for it.

These composite portraits of Louise Pearl, George Fatemi, and the Joneses are not unusual. There are millions of Americans who find economic security an unattainable dream. It is as if Americans are adrift on a gigantic river of economic transformation that carries away everything that resists its swirling currents. Americans are being buffeted by new economic forces as surely as the communities along the Mississippi last summer were being hit by a 100-year flood. Not since the age of democratic revolution coincided with the industrial revolution, over 200 years ago, has the river of economic change flowed so powerfully. What makes the experience so hard is that we have to cope with four fundamental transformations taking place in the world simultaneously.

The 1st is the end of the age of ideology. With the fall of Marxist-Leninist communism and the triumph of democratic liberalism, the content of the United States-Russian conflict disappears.

With superpower peace breaking out, people feel more secure, and the arsenals of the United States and Russia can be dramatically reduced. But for millions of people who work in the defense sector, peace has an even more personal consequence than freedom from first strike. It has cost them their jobs. In 1987, there were 7.2 million people working in what President Eisenhower called the military-industrial complex. In 1992, it was 6.3 million, and in 1997, it will be 4.4 million—almost 3 million job losses. The economic impact of the West's triumph is the downsizing of an entire sector of our economy.

The second transformation is the explosion of world markets. There are 3 billion more people in the world market today than just 10 years ago, and most of them can become our customers by the turn of the century.

During the last decade, not only have Communist societies crumbled and their replacements opened up to the world, but authoritarian and protectionist regimes in Latin America and Asia have also fallen. Instead of billions of people living in closed economies, unwilling to trade and bent on producing everything they need domestically, with a politics that consists of arguing over which subsidies go to which monopolists, country after country—Poland, Mexico, Argentina, India, Vietnam—has liberalized economically. They are encouraging exports, accepting imports, and seeking capital worldwide.

A market of three billion more people represents billions of potential sales of computers, cars, Coca-colas, and CDs, as well as capital goods to electrify a continent, to build more ports and highways, to equip new hospitals, and to build new homes. It also means a billion more workers ready to challenge our own workers in the production of tradeable goods. Clearly, some American workers will lose their jobs. To take advantage of the new markets will demand greater efficiency from our own companies, more complex skills from our work force, and a better corporate strategy for exports. But the result of increased competition will be higher quality and lower prices for our consumers and thousands and thousands of new higher-paying jobs for our workers.

Not since the end of the 19th century has the world economy been as open or the potential for worldwide human betterment through open markets been as great. Since political openness usually follows economic openness, democracy's roots are extending deeper and deeper into more societies than ever before. And yet there are dangers, too.

In the early 20th century, ethnic tension and nationalist fervor snuffed out the flame of hope represented by open trade. Both irrational impulses remain alive today. Ethnic tension threatens to engulf more and more nations in costly conflict: witness Bosnia. Nationalistic fervor in its Ross Perot-Pat Buchanan form calls for protection from international competition and advocates trade only with developed countries like us. Witness the debate over NAFTA.

It is possible that we will close off to this wider market and not accept the challenge, but to do so has consequences, and make no mistake, it means a lower standard of living, a fraying social fabric, and a refusal to lead in a new world.

The third transformation is driven by man's advancing ability to shape his world. It is the knowledge revolution. Through knowledge applied to telecommunications, we communicate without travel. Through knowledge we combine elements in new ways to make materials that do not exist in nature to do jobs with less energy and less assembly. Through knowledge we transform genetic material and worry less about pest control.

For centuries, the determinants of national wealth have been capital, natural resources, and an abundance of labor. Today none of them is as important as knowledge, which has changed the production process and multiplied the types of services available. Applied knowledge can make society cleaner, wealthier, and more humane.

Manual labor serving a machine, whether it is in Detroit or Kuala Lumpur can never produce as efficiently as a computer serving man. It is just that simple. That is why in the future the countries with the most unskilled workers will have the biggest economic problems. Let me repeat. The countries with the most unskilled workers will have the biggest economic problems.

America is further through that revolution than most people imagine. Manufacturing remains essential to our economy. We continue to make things, but we do it with fewer people. When George Fatemi lost his job at the steel company, there were 721,000 steel workers in America, and today there are only 374,000. But those 374,000 are highly efficient. Partly as a result, imports today supply only 15 percent of the U.S. market. This story is being told over and over again in our economy as companies in order to compete become leaner, producing more with less.

To resist the trend toward knowledge-based production is to give the future to those in other countries who capitalize on the inexorable transformation. Yet the challenge to our economy is clear. If we produce the same product with less labor, then there have to be more, not fewer, jobs, producing more new products or serving more new needs.

An exploding knowledge sector built on a sound economic foundation can create these jobs, but the skill requirements will be higher. A worker tomorrow will require a substantial amount of formal knowledge and the capacity and opportunity for continuous learning. Successful work careers will exist only for those who can match what they know to what needs to be done. The days of the 40-year career on the assembly line of one company making one product, quite frankly, are over. Sequential jobs with different companies, even sequential careers, will be the norm.

The fourth transformation has to do with the connection between economic growth and debt. America is mired in a 5-year period of low growth. After the collapse of 1980's false optimism, people are reluctant to spend or to invest. Usually, a government would jump start an economy out of recession either by lowering interest rates, or by giving a tax cut or spending more money on government projects. But interest rates are at a 30-year low, and increasing the deficit to stimulate the economy risks a no-confidence vote from millions of worldwide investors. In short, the gigantic national debt has robbed us of savings just when we need them most for new investment and new training.

America got hooked on the narcotic of debt in the 1980's. It become our worst addiction. Between 1980 and 1987 consumer credit increased 95 percent. Government debt went from $800 billion in 1980 to $4 trillion in 1992. Personal debt began to decrease in the early 1990's as companies and individuals slammed on the brakes. Government kept spending. As 1993 began, the debt over the next 5 years was expected to go from $4 trillion to $5.4 trillion, and even after the 1993 Clinton budget, it will go to $4.9 trillion. The thing that most appalls me is the public and social policy consequences that these numbers imply. The General Accounting Office told me that if nothing were done about the debt, by 2020 every American's income—all of our income—would be 40 percent less than it overwise would be. We will get poorer as we send more and more of our tax dollars to creditors and invest less and less in job-creating, wealth-producing assets. The existence of the debt literally transforms our prospects. It mortgages our children's future and robs them of the expectation that hard work usually yields reward.

So there they are: The end of the ideological cold war, the explosion of world markets, the knowledge revolution, and the gigantic debt. We feel so unprepared, even disoriented, by these four transformations, because no one predicted their cascading impacts on our prospects.

No one told us, not even the best of our intelligence analysts, that the Soviet Union would disappear without a whisper and leave us little need for a vast military machine. No one told us that Adam Smith would replace Marx on the Third World's best-seller list. No one told us that companies resisting change would stumble even if their names were AT&T or IBM. No one told us that gigantic American budget deficits would be financed gladly by the rich of the world and that Americans would continue merrily and irresponsibly consuming our future. No one told us that we could spend more than anyone else in the world on health care and still have millions with no coverage. No one told us that just as we educated more Americans to college level than any other country, the mediocre quality of many American elementary and high schools would be apparent to all. No one told us that the Japanese would be accepted into ASEAN or that China would be burgeoning forward to become an economic superpower. No one told us that the Europeans of Brussels could not displace the French of Paris, the British of London, and the Germans of Berlin as the centers of tribal action, political, and economic drama.

Each of these events has shaped what we produce, how we trade, and pushed us further into uncharted economic waters, with more workers anxious that it will be their job that the swirling river of economic transformation will sweep away next. To survive, we must lighten our load, fix our steering wheel, and get used to living without the certainties of another time. General Motors, General Electric, Dupont no longer assure lifetime jobs. Natural resources will not be decisive in the coming economic competition. Workers cannot be seen as simply discardable cogs in a machine. The cheap labor of larger and larger numbers of unskilled workers will not produce economic growth or generate higher productivity any place in the world for long. Military might will not provide substantial benefits for an economy. A democracy in time of peace and in absence of clear threat will not ever spend $310 billion on defense again. Ethnic and racial tension cannot be viewed as irrelevant to the economic potential of our workers or the collective capacity of our citizens.

What we have always assumed about each generation of Americans having a higher standard of living is not guaranteed. New realities can prevail. Our leaders must be honest with us, and we have to be honest with ourselves. Above all, we have to resist the temptation to believe that the only course is to hold on to what we have and how we do things now.

Mr. President, the fundamental insight to hold on means to lose, as individuals, as companies, and as a nation. No matter how good a worker George Fatemi was in his third career, when the missile orders stopped, so did his job. The Joneses who worked for IBM and AT&T could not have secure employment when IBM failed to see the technology shift, and AT&T, with deregulation, stood unprepared for worldwide competition. To believe that a labor-intensive apparel shop can compete with a modernized factory is, however well-intentioned, a delusion. The idea that we should trade only with countries like us of equivalent living standards ignores that other nations "like us" have absolutely no intention of limiting their trade and economic interaction to us. Underfunded pensions; deficits that can only be financed abroad; educational concepts that presume formal learning ends at 24; personal behavior that leads to skyrocketing health care costs: All of these cannot continue. If we hold onto these misconceptions and destructive patterns, we risk awaking one morning like a town after the river's flood recedes to find our communities broken and the health of our families failing.

For those in the midst of the turmoil, our heart must go out to them. They are not interested in theories. They have to worry about putting food on the table and a roof over the heads of their families. For too long policymakers have ignored their needs and mistaken their loyalty for indifference.

But the morning after, when the tears of compassion dry up, what people want most is a direction to follow that makes sense, a path to take that leads to a job. We must get about the business of dealing with our reality, not hiding from it or denying it or cursing it.

Without minimizing the difficulty, we need to see these transformations as part of a consistent and continuing American saga. We always were a nation suspicious of ideology, as Alexis de Tocqueville said. We always did seek competition to protect liberty, as James Madison stressed. We have always sought to be recognized not for our muscle, but for our wit and agility and values, as Thomas Jefferson argued. We hate being in debt and desperately want to pay our own way, as Andrew Jackson demanded. These transformations are then in character for America, as they are not for much of the world. They are fundamental to the American crisis and at the same time a key to America's renewal. We simply have to know where we want to go and to build a platform that can allow us successfully to navigate the currents of our present economic waters.

I believe Government has a role in this time of transformation. I believe that role is that Government must assure all Americans access to an economic security platform. Given our gigantic national debt, we must build this platform with precision and hardheadedness, conserving our resources at every juncture. As platform designers, we must not respond to the siren calls of political expediency or short-term palliatives; we must steer between too many Government interventions, subsidies, and entitlements to keep the market dynamic and too few to rescue Americans from feeling so vulnerable and paralyzed. We must establish a set of initiatives that does not hobble the efficiency of market forces, but liberates our workers so they can realize their potential.

Who among us does not believe that Mary and Charles Jones have a lot more to contribute to our economy than their current employment would allow? Can we afford to let a worker like George Fatemi not work? Does anyone of us believe that our economy should be deprived of Louise Pearl's talents just because she cannot afford to update her 1970's skills for a 1990's job?

What specifically do I mean by an economic security platform? My economic security platform has three planks. It consists of, and is limited to, a guarantee of basic health coverage, an opportunity for lifetime education, and a guarantee of pension security.

First is health care. It should be available to all Americans. If any American loses a job, changes a job, grows old, experiences a serious illness or a difficult childbirth, confronts an injury to a spouse, or needs regular checkups, that American should be guaranteed access to quality health care. And we simply must control its costs. We cannot compete economically if we pay a health "tariff" of 4 to 7 percent more of our GNP for health care than any other developed country. This premium amounts to a giant health tax on all our goods. So the first is health care.

Second is lifetime education. We cannot survive with 40 percent of Americans with high wages, 40 percent with low wages, and 20 percent unemployable. The only sure way that America will guarantee its workers higher wages is if they have higher skills. The more American workers with superior talents, the higher productivity will be, and the higher worker productivity, the faster the economy will grow. It is that simple.

Given the demands of a knowledgeable economy, the opportunity to advance and learn anew must be available for workers at every stage of a career. Lifetime education means counseling, training, and relocation. Counseling means making it clear that sequential careers will be the norm; that changing a job usually will not be the worker's fault and might not even be the company's; that is just in the nature of things in an economy that rewards innovation during a time of rapid change.

Counseling also means deciding on the skill to be obtained and determining where to get it. Training means actually learning a new skill and using government financial assistance to help pay for it. Relocation means finding a new job that employs the newly acquired skills. Access to lifetime education can be assured with income contingent self-reliance loans, which allow any American to get a loan if he or she agrees to pay a small percentage of future income to the government until it is repaid. Part of access amounts simply to coordinating the 123 existing education programs so that people know how to apply for them.

So the second plank in the platform is lifetime education.

The third plank is pension security. One hallmark of the new age must be labor mobility. That means that when someone works and gets pension benefits, they should be portable. The worker should have his or her benefits guaranteed, companies should fund their pensions adequately, and government should assure that promises of income security for the aged are kept. The trends toward defined contribution plans and stagnating participation levels challenge this promise, as does the state of the Pension Benefit Guarantee Corporation. Greater participation in the system would provide more security and increase our private savings rate.

Our current patchwork pension system is failing large numbers of our workers. Too many are facing uncertainty in their later years. One sharp correction in the stock market, and our current Federal insurance program would be in grave danger and the Federal budget deficit would skyrocket. With the lessons of the S&L debacle in mind, we need to strengthen the pension system today rather than wait for it to falter tomorrow. It starts with candor. It may take public funds; it will at least require Government ingenuity. But we must begin.

Mr. President, that is it.

With an economic security platform, people can live with less anxiety because job loss will not be fraught with the danger of catastrophic health costs or lost pensions, and lifetime education will offer the chance to start anew if you want to work for it. The economic security platform is individual and family focused. It deals with issues that erupt in people's faces. It assumes that failure has some limits and bad luck can't run its full course. It gives the middle class, as well as working people who are poor, a place to stand—a foundation from which they can regroup and then move forward on their own behalf.

But the economic security platform is limited. It is not a slippery slope back to expanded Government entitlements. It is not an attempt to avoid all risks. It does not guarantee income or prevent failure or oversee how people live. The next level of both security and opportunity must come from building strong communities where people live and work.

Government programs do not create self-worth; that's what families, neighbors, and communities do. That is why neighborhood leadership and community structures are so important and should be encouraged. This is as true for the problems of rebuilding urban America as it is for the problems of small towns whose factories have closed. Communities are to humane living what markets are to international competition; both work optimally when given the freedom and the incentives to find their own paths to meet specific needs bests.

In this sense, the economic security platform is different from a social safety net. The safety net of government subsidies is where you end up if everything is falling out from under you and you are about to hit bottom. The economic security platform is where you rest before you advance. It gives reassurance before a continued pursuit of success within our national community.

Health care, lifetime education, and pension security. "Is that it?" one asks. "Aren't there hundreds of anecdotes about failed lives that, if only there had been this or that government program, someone could have pursued happiness or someone else could have avoided tragedy?" Perhaps. But the economic security platform is strictly and intentionally limited because of resources—we have a gigantic debt—and because of theory—the market's dynamism must not be lost. I have tried only to build a platform on which a nation can steer through troubled waters. To add a house of additional new programs, mandates, and work rules would create a structure that would not be seaworthy.

What America should not do is emulate Europe. In America, overall wages have been stagnant since 1973, 1974, and 1975. During the 1980's, the knowledge superstars arrived. Vast salaries went to the brightest, and no raises went to the unskilled. In Europe, it is not a problem of stagnating wages. In Europe, unemployment has been high. Today it is 11 percent, going higher. The joblessness in Europe is caused in part because European governments have created a rigid labor market that discourages the hiring of new workers and prevents the shedding of incompetent workers, while at the same time it burdens business with cumbersome work rules even to the point of determining the required number of vacation days in any firm of virtually any size. In addition, income-support payments go on forever and fearsome restrictions confront anyone who wants to start a new business. Such overregulation stifles an economy's ability to adjust to new circumstances. America's challenge is to raise take-home pay and to reduce the disparity of income without creating the disincentives to job creation that exist in Europe. Only a healthy economy that creates jobs will dampen people's worries. Only an economy that creates new businesses will create new jobs.

Beyond finding a balance between encouraging business and job creation, and providing every American some security in times of transformation, Government needs to get its own fundamentals correct.

Government needs to spend less money overall with more of the money it does spend going to public investment in infrastructure, education, and R&D, which stagnated even as our population grew over the last two decades. Less money should go to transfers from one group to taxpayers to another, particularly if those transfers are unrelated to need.

Taxes should not penalize job creation, but rather hit consumption. Payroll taxes should be replaced by consumption taxes. With less tax penalty for hiring, more workers can be hired and wages can rise too.

All Government spending programs should be sunsetted—presumed to expire unless reauthorized. The President should have a line-item veto both for appropriations and for special interest tax loopholes, both of which increase the debt.

International markets should stay open and competition fierce so that the highest quality and lowest price can be assured and export jobs can grow. That means assigning absolute priority to approving the North American Free-Trade Agreement and completing the GATT round, which reduces barriers to worldwide trade.

Mr. President, as I speak, the House is debating the North American Free-Trade Agreement. There will be a vote within the next couple of hours.

I cannot help but see NAFTA as the test case of whether we hold on and lose, or transform and win. To defeat NAFTA will solve none of the problems generated by the four transformations, the end of the cold war, the knowledge revolution, explosion of world markets, the gigantic Federal debt. To defeat NAFTA will solve none of the problems that flow from those transformations.

To pass NAFTA will improve the chances for more jobs in America and a stronger economy to deal with the real threats to American jobs coming from Europe, Japan, and China. To defeat NAFTA will darken the chances for GATT, and the defeat of both will deny America its major source of job creation during the next few years—export jobs. Ultimately, if world trade expands, everyone can win. To pass NAFTA is to take the challenge headon.

People such as Louise Pearl, George Fatemi, and the Joneses will be helped by the economic security platform. Their children will be helped by keeping the market open and businesses unburdened by excessive regulation. Their children will be helped by more public investment and fewer transfers. Their children will be helped by reducing payroll taxes and increasing taxes on consumption. Their children will be helped by a major reduction of the national debt.

With an economic security platform to help us navigate the surging river of economic change and a healthy, dynamic market awaiting us at our destination, we all have reason to hope. America is better off than our competition. We have turned transformations to our advantage before. Remember the ages of industrialization and automation. We are more flexible than the rigidified economies of Europe and more ethnically diverse than the economies of Asia. Because of those strengths, we are better able to penetrate markets worldwide with goods that are high quality and reasonably priced. What is needed for us to catch the next wave of growth is national leadership that levels with the people, that tells the hard truths as well as the good news, that guides as well as empathizes, and that sees our path clearly and shows the energy to persevere.

One final image. The mythical Ulysses, when he was sailing where the siren songs were sure to be too seductive, plugged the ears of his sailors and had them tie him to the mast so that neither they nor he would plunge into the water and drown. I have painted a picture of turbulent waters where many people on their own, without a security platform, will in fact drown. I have suggested that we cannot fail to get into the middle of this new world of international competition or knowledge production because each promises hope as well as anxiety. I have said that if we heed the siren song of every new idea of what government should do, what government should spend money on, we will never navigate these waters. If we tie ourselves to the mast of efficient government, which does what has to be done and jettisons the rest, we will not need to plug our ears in order to survive and prosper.

I continue to believe in a strong, intelligent, and caring America—one that sets its compass and pursues a course that can provide leadership by example to the world as well as sustenance and security to ourselves. A national economy free of the burden of debt, populated by educated citizens ready to work and to care for their neighbors must be our goal. A dynamic, market-driven economy that remains open to the world must be our destination. A transformed and transforming America can get beyond the river's turbulent waters with our optimism intact and our future prospects bright.

I yield the floor.

[Applause in the galleries.]

The PRESIDING OFFICER (Mrs. BOXER). The galleries will please come to order.

Mr. BRADLEY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Madam President, I ask unanimous consent that I be permitted to proceed for up to 7 minutes as in morning business.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator may proceed.

GOVERNMENT REFORM AND SAVINGS ACT

Mr. DOMENICI. Madam President, today in the Washington Post on the Federal Page there is a very interesting article. It says: "Budget Office Punches Holes in Reform Package Projections."

The subheading is: "Congressional Budget Office Letter Says That the Gore Proposal Would Save Millions, Not Billions."

It was not too long ago when our President suggested to all of us assembled in a joint session that the time had come to use the Congressional Budget Office as the authentic source of budget information. I believe the sense of the discussion was that the time had passed for smoke and mirrors and that the time had arrived to put the plain truth on the table; and that when we needed a real referee—and I am paraphrasing—that we ought to use the Congressional Budget Office because they were neutral and expert.

I would like tonight just to take a few minutes, building on this article that I just commented on.

I ask unanimous consent that the entire article written by Eric Pianin and Stephen Barr be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 17, 1993]

BUDGET OFFICE PUNCHES HOLES IN REFORM PACKAGE PROJECTIONS

(By Eric Pianin and Stephen Barr)

The Congressional Budget Office yesterday punctured White House projections that the first installment of the administration's "reinventing government" plan would save billions of dollars over the next five years, calculating the savings at only $305 million.

When the administration unveiled its package to implement 40 recommendations made by Vice President Gore's National Performance Review on Oct. 26, the White House said the proposals would save $9.1 billion over six years and $5.9 billion over five years.

However, CBO Director Robert D. Reischauer said in a letter to congressional leaders that the proposed Government Reform and Savings Act would generate a mere $170 million in new receipts and revenue and would reduce Social Security spending by $150 million.

When taken together with the $15 million in increased spending that would be required under the proposed legislation, net savings would total only $305 million from 1994 to 1998, according to CBO.

Leon E. Panetta, director of the Office of Management and Budget, said the administration believes "our estimates are solid and we stand by them."

In his statement, Panetta said, "Given the nature of the reforms the administration is performing, I am not surprised that CBO's technical rules cause significant scoring differences on this legislation."

While disputes over how to calculate the budget impact of proposals or program changes are almost routine between OMB and CBO, the CBO report is something of an embarrassment for an administration that has touted the cost-saving virtues of "reinventing government."

Congressional budget experts, dubious of the administration's savings claims, said last week that Gore's proposals are not likely to produce even one-third of the $108 billion of projected overall long-term savings.

Yesterday's findings might also provide some ammunition for conservative Democrats and Republicans who are pressing for approval of a $103 billion package of spending cuts in the face of stiff White House and congressional leadership opposition.

"I think it makes it very clear that you can't simply vote for [the reform and savings legislation] and pretend we've done anything about the deficit," said Rep. Timothy J. Penny (D-Minn.), who along with Rep. John R. Kasich (R-Ohio) is sponsoring a bipartisan deficit-reduction plan. "That, alone, is less than peanuts."

A senior aide to the House Republican leadership said the Penny-Kasich proposal "becomes the only game in town in terms of true deficit reduction" in light of the CBO report.

Congress approved a $496 billion package of tax increases and spending cuts in August, but conservative Democrats and Republicans have called for more far-ranging savings.

The House is scheduled to vote this weekend on a number of proposals for further deficit reduction, including an administration proposal to trim $1.9 billion from fiscal 1994 spending bills, a proposal offered by Reps. Barney Frank (D-Mass.) and Christopher Shays (R-Conn.) to save $21.2 billion over five years, and the more ambitious Penny-Kasich plan.

The administration has warned that adoption of the Penny-Kasich deficit-reduction plan might derail the economic recovery and undermine President Clinton's health care reforms by earmarking for deficit reduction Medicare savings that would otherwise go for universal health care.

Penny and Kasich yesterday ruled out any compromise that would dedicate future Medicare savings in their plan for Clinton's health care reforms. However, they indicated they were exploring a number of changes to their proposals, including those raising the minimum retirement age for federal workers and deferring cost-of-living adjustments for retired military personnel under the age of 62.

Those proposals have drawn fire from federal employee unions and from some House Republicans and Democrats who have warned that they would oppose the package unless they were altered or dropped.

The Government Reform and Savings Act analyzed by CBO would allow the administration, among other things, to reorganize the Agriculture and Housing and Urban Development departments and close field offices, shut down the Pentagon's Uniformed Services University of the Health Sciences, end the Government Printing Office's monopoly status, consolidate U.S. Information Agency activities and eliminate grant funding for Federal Aviation Administration higher education programs.

The administration bill was split into parts for 17 House committees to consider. The package will be reassembled by the Rules Committee this week, indicating just how much of the original bill survived.

One of the major differences between the administration and CBO was over how to calculate the cost of "buyouts" proposed for federal workers. The administration hopes to offer up to $25,000 to employees who resign or retire early as a way of speeding its planned work force reduction of 252,000 workers.

CBO estimated benefits paid to the new retirees would cost $519 million over five years and projected that the proposed buyouts would consume about $2 billion of the funding that agencies receive in appropriations over the five-year period.

Panetta, however, said the administration would force agencies to reduce other spending to accommodate the buyouts. "Thus, the ultimate cost would be zero," he said.

In objecting to how CBO figured the costs of the buyouts and other provisions, Panetta said the administration initiatives "should be adopted because they will make government work better. The exact amount of money they will save is not nearly as important as the improvements they will bring about in the operation of government."

Mr. DOMENICI. Madam President, what I thought I would do is recap what the Congressional Budget Office is saying. The encapsulation of the first phase of the reinventing of Government is found in a House bill called H.R. 3400, which incorporates 48 of the recommendations from the National Performance Review.

At the time that this legislation was transmitted, the administration claimed it would reduce the deficit, I say to my friend from Alaska, by $10 billion over 5 years.

Frankly, if you are going to streamline and make Government better, I am not suggesting that is not a good purpose unto itself. It may very well be. We ought to get the very best Government for our people, and if it does not save money but makes it better, that might be all right. But in this case, the reinventing was to save $10 billion over 5 years.

I must say that as I looked at that plan, I had very serious doubts about whether it would save $10 billion or $9 billion or very much at all. Last Monday, rather than the Senator from New Mexico coming to the floor and saying I wonder about its authenticity in terms of savings, we now have a November 15 Congressional Budget Office release that was in response to a number of Senators who inquired, and they reestimate for budget purposes the proposal; that is, the first phase of the reinvention of Government. To no one's surprise, the Congressional Budget Office reestimate showed a much lower reduction, about $300 million over the same period, not $10 billion.

In addition, if you look carefully at what the Congressional Budget Office is saying, a net of $500 million must be found within the discretionary caps for spending increases to implement the reinvention of Government phase I. If you do the arithmetic, which I will put in the RECORD, essentially the net effect of the first phase is that it will cost the taxpayers a little over $200 million. It will save them nothing.

I repeat, if the purpose is to make Government better, more efficient, maybe one need not demand savings in the Federal budgetary sense. But I believe that when we tell the American people that we are reinventing Government and at the same time remind them that we are going to get them more Government or better Government for less money, we ought to be able to show that that is the case.

OMB, which did the estimating, did not count the implementation costs in several instances, and now we find that to be the case. The OMB counted savings from congressional proposals which were basically already accomplished, such as the termination of the mohair subsidy and a few others. The Congressional Budget Office was unable to estimate savings due to lack of specificity in the legislative language.

For example, one sentence said: "* * * authority to reorganize the Corps of Engineers." The Congressional Budget Office cannot score that very much, and I think they are right.

On the other hand, the administration would say that has a very large savings.

The Congressional Budget Office estimate revealed some interesting points about the deficit reduction that could be achieved by this legislation. Of the $300 million in deficit reduction, about $250 million is classified as off budget, resulting from changes to Social Security and asset sales that do not affect the annual deficit, might affect the cumulative budget deficit; $50 million that would be scored under the pay-as-you-go. That is part of our process now; if you are going to increase things, you must pay for them. So under that provision, the $50 million that would be scored is a net of about $60 million in revenue increases and $10 million in direct spending increases.

I want to emphasize at this point, in the area of entitlement and mandatory spending, the fastest growing portion of the budget spending, we would actually increase over the next 5 years in this new reinvention of Government proposal.

I do not mean to be critical of the general thrust of this legislation. We do need to streamline the way Government operates. We owe it to the American taxpayers to give them the most for their tax dollars.

However, I do object to calling H.R. 3400 deficit reduction legislation.

I know that the executive branch promised many Members that they would get another chance at cutting spending this fall. H.R. 3400 does not fulfill that promise. In fact, the administration has announced its opposition to proposals that would actually reduce spending such as the plan offered by colleagues from the House, PENNY and KASICH, and I am not at this point endorsing their proposals.

For my colleagues in the Senate, I would only suggest that the next time we get promises we ought to get it in writing and get it notarized.

Mr. DOMENICI. Let me summarize. The Congressional Budget Office has summarized that the total deficit reduction of this package which has at various times been said to reduce the deficit by $9.2 billion up to $10 billion, it says that the total deficit reduction is $304 million. It also says that we will have to spend new discretionary appropriations amounting to $495 million. I have not yet done the arithmetic. But let me suggest that if it was 300 and 500, it would be that this package will cost us $200 million, not save us $10 billion.

I yield the floor.

INDEPENDENT COUNSEL REAUTHORIZATION ACT

The Senate continued with the consideration of the bill.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

AMENDMENT NO. 1208

(Purpose: To assure appropriate disclosure of information.)

AMENDMENT NO. 1209

(Purpose: To change the provisions regarding travel to primary office.)

AMENDMENT NO. 1210

(Purpose: To provide that the President shall submit a list to Congress of personnel in the White House Office, and for other purposes.)

Mr. COHEN. Madam President, I have three amendments which I am going to send to the desk on behalf of Senator MCCAIN and ask that they be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the amendments.

The bill clerk read as follows:

The Senator from Maine [Mr. COHEN], for Mr. MCCAIN, proposes amendments numbered 1208 through 1210.

Mr. COHEN. Madam President, I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 1208

At the end of Section 3(a)(2), strike the word "counsel." and insert in lieu thereof the following: "counsel, which shall not be withheld unless the Independent Counsel determines that such information would interfere with a pending investigation or prosecution."

AMENDMENT NO. 1209

On page 11, line 21, beginning with the word "chapter" strike all through line 24 and insert in lieu thereof the following: "chapter. The one-year period may be extended by 3 months if the employee assigned duties under subsection (e)(1)(A)(iii) certifies that the investigation will likely be concluded within that time period."

AMENDMENT NO. 1210

At the appropriate place in the bill, insert the following new section:

SEC. . REPORT ON WHITE HOUSE OFFICE PERSONNEL.

(a) SUBMISSION OF REPORT.—Beginning on January 1, 1994, and again each 6 months thereafter, the President shall submit a report described under subsection (b) to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives.

(b) CONTENTS.—The report under subsection (a) shall include—

(1) a list of each individual—

(A) employed by the White House Office; or

(B) detailed to the White House Office; and

(2) with regard to each individual described under paragraph (1), such individual's—

(A) name;

(B) position and title;

(C) annual rate of pay; and

(D) amount of Federal pay received in the 3-month period immediately preceding the date of the submission of the applicable report required by this section.

Mr. MCCAIN. Mr. President, the Washington Post, on November 1, 1993, listed on the "Federal Page" the names and salaries of all individuals it could determine were employed by, or detailed to, the White House. The amendment at the desk would mandate by law that the White House compile and make public a similar list semiannually.

Mr. President, this is a simple amendment mandating public disclosure.

The precedent for this action comes from rules that govern public disclosure of expenditures in the Senate and the House of Representatives.

Public Law 88–454, approved August 20, 1964, states:

> (a) commencing with the semiannual period beginning on July 1, 1964, and ending on December 31, 1964, and for each semiannual period thereafter, the Secretary of the Senate and the Clerk of the House shall compile, and not later than sixty days following the close of the semiannual period, submit to the Senate and the House of Representatives, respectively, and make available to the public * * * a detailed statement, by items, of the manner in which appropriations and other funds available for disbursement by the Secretary of the Senate or the Clerk of the House of Representatives, as the case may be, have been expended during the semiannual period covered by the report, including (1) the name of every person to whom any part of such appropriation has been paid, (2) if for anything furnished, the quantity and price thereof, and (3) if for services rendered, the nature of the services, the time employed, and the name, time, and specific amount paid to each person. * * *

Mr. President, it was a good idea in 1964 for the Congress to disclose the names and titles of, and amount paid to, its employees. Almost 20 years later, it is time the White House do the same.

There is no justification for this kind of disclosure not to be made.

According to the Washington Post:

> Despite repeated request for a list of who works at the White House and how much each one earns, the White House declines to say. Requests for salary lists from members of a congressional committee that oversees the White House budget also have been turned down. Last week, Patsy L. Thomasson, director of the White House Office of Administration, said that information is private, even though taxpayers foot the bill.

Mr. President, the taxpayers are indeed footing the bill and have every right to know who they are paying and how much.

The Post additionally states:

> One senior official cited privacy concerns and how much angst it might cause if everyone at the White House knew how much everyone else made.

Certainly, Mr. President, I understand the privacy issue. Young people who work very hard and labor long hours should not have their privacy invaded. That is a compelling argument.

However, there are just as many such individuals working in the Congress for Members of Congress who have been subject to the same kind of disclosure requirements.

Additionally, disclosure of salaries and titles has not in any way effected the caliber of individuals seeking employment on the Hill nor lessened their numbers.

I am sure that every member of this body can attest to the fact that we receive thousands of resumes each year from people seeking employment. Disclosure of salaries has not dampened their zeal to work in the Congress.

This amendment is not intended in any way to reflect on the honesty, personal integrity, or the lack of any proper action taken by White House staff. The White House is currently not required to compile this information in this manner. The effect of this amendment will be to mandate disclosure, which I believe will encourage greater public trust in the White House and its very capable staff.

Mr. President, disclosure leads to a better, more ethical government. Members of Congress must disclose their financial statements. We publish, as dictated by law, a book, referred to as the green book, which lists our staffs, their salaries, and titles. The green book also lists other items on which we spend the taxpayers' money.

Mr. President, it is time for the White House to do the same. The taxpayers have a right to know the facts.

Mr. COHEN. These 3 amendments would substitute a 3-month limit for the period of time beyond the 1 year established in the bill during which the independent counsels and their staffs may qualify for travel and subsistence expenses when traveling to and from the city of their primary residence.

Mr. LEVIN. In which their primary office is located.

Mr. COHEN. In which their primary office is located. It would require the independent counsel to permit the Administrative Office of the U.S. Courts to disclose requested information about the independent counsel's proceedings in the jurisdiction of the office unless such disclosure would interfere with the pending investigation or prosecution and require the White House to disclose information about the compensation of its employees.

My understanding is that there is no objection on the part of the majority to the amendments, and I urge their adoption.

Mr. LEVIN. We have no objection, Madam President.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendments.

The amendments (No. 1208, 1209, and 1210) were agreed to.

Mr. COHEN. Madam President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1211

(Purpose: To require that at least 50 percent of the independent counsel's staff shall be comprised of Department of Justice personnel)

AMENDMENT NO. 1212

AMENDMENT NO. 1213

(Purpose: To clarify and strengthen the power of the Attorney General to remove an independent counsel for good cause)

AMENDMENT NO. 1214

(Purpose: To eliminate the final report requirement)

Mr. COHEN. Madam President, I send to the desk four amendments on behalf of Senator DOLE and ask for their immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

The Senator from Maine [Mr. COHEN], for Mr. DOLE, proposes amendments numbered 1211 through 1214.

Mr. COHEN. Madam President, I ask that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 1211

On page 17, strike lines 14 through 20 and insert the following:

(n) REQUIREMENT TO USE DEPARTMENT OF JUSTICE PERSONNEL.—Section 594(d)(1) of title 28, United States Code, is amended to read as follows:

"(1) REQUIRED USE.—An independent counsel shall request assistance from the Department of Justice in carrying out the functions of the independent counsel, and the Department of Justice shall provide that assistance, which may include access to any records, files, or other materials relevant to matters within such independent counsel's prosecutorial jurisdiction, and the use of the resources and personnel necessary to perform such independent counsel's duties.".

AMENDMENT NO. 1212

On page 14, lines 23–25, strike "3" to the end of the sentence and insert the following: "2 years after the appointment of an independent counsel or the reported expenditures by such independent counsel have reached $2 million, whichever occurs first, and at the end of each succeeding 1-year period.".

AMENDMENT NO. 1213

On page 20, between lines 2 and 3, insert the following:

SEC. 5. REMOVAL OF INDEPENDENT COUNSEL FOR GOOD CAUSE.

Section 596(a)(1) of title 28, United States Code, is amended by adding at the end thereof the following: "For purposes of this paragraph, the term 'good cause' includes, but is not limited to, (A) the failure of an independent counsel to follow written Department of Justice guidelines, subject to the limitations of 594(f)(1) and 594(l)(1)(B), respecting enforcement of the criminal laws, and (B) violations of canons of ethics governing the independent counsel and Federal prosecutors.".

AMENDMENT NO. 1214

On page 18, between lines 13 and 14, insert the following:

(p) FINAL REPORT.—Section 594(h)(1)(B) of title 28, United States Code, is amended—

(1) by striking "fully and completely"; and

(2) by striking ", and the reasons" through the period and inserting a period.

Mr. COHEN. Madam President, the four amendments by Senator DOLE would increase the periodic review of an independent counsel by the special court. It would provide guidance on what could constitute grounds to remove independent counsel from office. It would require independent counsel to seek assistance from the Justice Department and to require the Department to provide such assistance. Then restrict the scope of the final report filed by the independent counsel.

On this last point, Senator LEVIN and I would like to clarify something for the record so there will be a proper legislative history to this particular amendment.

Senator DOLE I think is rightly concerned about an independent counsel at the conclusion of an investigation filing a report and taking the opportunity in that report to level charges or complaints about the people under investigation, subject to investigation.

Both Senator LEVIN and I feel that Senator DOLE has raised a valid point. We believe that that final report should be a simple declaration of the work of the independent counsel, obviously pertaining to those cases in which he or she has sought indictments but with respect to cases in which the independent counsel had determined that no such indictment should be brought, to preclude that independent counsel from expressing an opinion or conclusion as to the culpability of any of the individuals involved.

We think that is an unfair opportunity given to independent counsel if he or she should choose to use it, and we would like to see that precluded in the future.

So the purpose of the amendment is quite clear, to restrict the nature of the report to the facts without engaging in either speculation or expressions of opinion as to the culpability of individuals unless that culpability or those activities rise to a level of an indictable offense, in which case the independent counsel would be duty bound to seek an indictment.

I think that is the purpose of what Senator DOLE is striving to achieve, and it is a goal with which Senator LEVIN and I agree.

Mr. LEVIN. Madam President, the purpose of the amendment which we are accepting relative to the final report is, indeed, to try to avoid having independent counsel state conclusory opinions that the subject of an investigation engaged in criminal wrongdoing in the absence of bringing an indictment against that person.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendments.

The amendments (No. 1211, 1212, 1213, and 1214) were agreed to.

Mr. COHEN. Mr. President, I move to reconsider the vote.

I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEVIN. Madam President, I do not know of any additional amendments that anyone has to this bill. We have been here for a few hours. We do not have any word through our cloakrooms of additional amendments to the bill.

Mr. BROWN. Mr. President, I rise to ask the Senator from Michigan a question regarding the independent counsel law. This bill changes the law as it applies to the awarding of attorneys' fees in title 28 of the United States Code, section 593(f). The amendment on its face appears to limit the awarding of attorneys' fees in the case of malicious prosecution or in the case of politically motivated investigations and prosecutions. In our discussions, the Senator has explained that he is attempting to clarify current law to be certain that individuals, who are subject to independent counsel investigations, are treated the same as other citizens investigated by the Justice Department. I agree with the Senator on that point. Is it his intent with the change to section 593(f) that attorneys' fees may be awarded by the division of the court where the person was subjected to malicious prosecution, a politically motivated prosecution, or he or she was investigated by an independent counsel where there were no reasonable grounds to believe that the investigation was warranted?

Mr. LEVIN. The Senator is correct that it is our intent that in the event of a malicious or abusive prosecution by an independent counsel, a subject would be able to obtain attorney fees under this bill.

Mr. COHEN. I agree with the Senator from Michigan.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Madam President, I ask unanimous consent that at 9:30 a.m. on Thursday, November 18, without intervening action or debate, the Senate vote on passage of S. 24, the Independent Counsel Reauthorization Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Madam President, I ask for the yeas and nays on that passage.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. Madam President, will the majority leader yield?

It is my understanding that following disposition of this bill, there may be requests for 15 or 20 minutes of debate, then we go to final passage on the crime bill, followed by the Brady bill.

Mr. MITCHELL. That is correct.

Madam President, my hope is that we can advance the crime bill tonight, following further discussion on the pending bill, to the point where we can get another agreement that will govern that. We would have a limited time—whatever is agreeable to the Republican leader and the Republican managers of the bill.

So I expect we would be voting final passage on the crime bill within less than an hour after we vote on final passage on the independent counsel bill, which is now set at 9:30 tomorrow morning.

Mr. DOLE. It is our hope that we can come together on some agreement on the Brady bill so that we can probably dispose of it one way or the other within 3 hours, maybe.

Mr. MITCHELL. That is my hope, as well.

As the Republican leaders knows, we have had private conversations during the day, up to and including a short time ago, and our staffers have been working long and diligently. I hope, if it is possible, we can get an agreement tonight that locks in the procedure with respect to that. That remains to be seen. But I think the staffs are ready to go do their work on that.

Mr. DOLE. Madam President, I thank the majority leader.

My view is that—we have discussed it here for couple of days—we would not include the Brady bill as part of the crime bill, but have it freestanding. There has been some division of opinion on both sides, but it is my view we are so near an agreement. I guess there is no way to achieve an agreement on that particular—with the exception of one provision, I think everybody in the Chamber is for the bill. We are not quite certain how to resolve that. We still have overnight. But I doubt that can be resolved.

So if we work out some procedure, there would be a vote on that provision, and then I assume the question would be whether or not, depending on what happens to that particular freestanding amendment—I guess we could agree on a cloture vote or two votes. I am not certain. Whatever the majority leader wishes.

If cloture is obtained, then we would have final passage. If it is not obtained, we would have an additional cloture vote; whatever the majority leader decides to do.

Mr. MITCHELL. Madam President, that is my understanding of the status of the discussions now. My hope is, as I just stated, that we can bring those discussions to a conclusion this evening so that before we leave we will know precisely the time and process tomorrow.

If we cannot reach an agreement on the process, obviously we will get to that in the morning. But at the very least, we can now anticipate a vote on final passage of the independent counsel bill at 9:30. Although we do not yet have an agreement finalized, I anticipate a vote shortly thereafter on the crime bill, and then hopefully proceeding to the Brady bill, as the Republican leader and I have just discussed.

Mr. DOLE. Madam President, I want to thank the managers of the independent counsel bill. As I indicated some weeks ago, I thought once we got to the floor, it would move very quickly. The managers have done an outstanding job in expediting the process—we did not need a time agreement—to bring the bill up.

I appreciate the fact that they have been able to accommodate this Senator on four different areas, because there are some areas that I think particularly go to Lawrence Walsh tenure that needed to be addressed. Those amendments have been addressed, and I will include in the RECORD more extensively what those particular amendments will do.

I thank both the Senator from Michigan and the Senator from Maine for their consideration.

I did want to indicate that I think we can all have different views on the independent counsel. I guess some would say, if there was ever a need for it, it ought to be when one party controls everything—the White House, the House, the Senate—because the minority party really has no recourse. We cannot have hearings. We cannot subpoena anybody. We are sort of helpless. If something happens, we just have to write letters to the Attorney General or hold up nominations or hold up legislation.

So I would guess if there is any time it might be worth having independent counsel, it would be where one party, the Republicans or Democrats, controls the White House and the Congress.

That is the case now. We have requested certain investigations and have been turned down by the Attorney General. But I am still of the opinion that there are members in this administration, and any administration, men and women of integrity, who will act in accordance with the law if someone files a complaint or somebody has a question.

So I still oppose the independent counsel. It will pass, the House bill.

Unless the House decides to take the Senate bill, it would not become law this year.

But this Senator has watched Lawrence Walsh in action for the past 7 years, and counting, you can put me down as a skeptic of any bill that would reauthorize the independent counsel statute. I think he has given it a bad name.

Since December 1986, Mr. Walsh and his army of lawyers have destroyed reputations, harassed families, run up a tab of more than $40 million billed directly to the taxpayers, even left top-secret documents behind at an airport taxi stand. And now, 7 years later, can any objective observer look at what Walsh has wrought and say "congratulations on a job well done?"

Obviously, I am no fan of Lawrence Walsh, and I'm no fan of the independent counsel statute either. In my view, we ought to have confidence in our Nation's Attorney General, confidence that she can conduct criminal investigations with independence and without the intrusion of politics.

Unfortunately, in case after case—Travelgate, the State Department file search, to name just two—Attorney General Reno has declined to take decisive action, claiming that her hands are tied because the independent counsel statute has not been reauthorized.

What Attorney General Reno fails to say is that she has the statutory authority to appoint special counsels in cases that merit an independent review. This authority exists, with or without an independent counsel statute, and it has been invoked by past attorneys general, including Bush administration A.G. William Barr who appointed special counsels to investigate the House bank scandal and the inslaw case.

With that said, Madam President, I will be offering a series of amendments designed to ensure that some of the abuses of the Lawrence Walsh 7-year witch hunt aren't repeated by future independent counsels.

It seems to me that we have modified this final report language, because Lawrence Walsh could not indict you or could not convict you, he would try to do it in the court of public opinion by filing some report, in effect venting all of his spleen on somebody he was not able to convict along the way.

This first amendment would eliminate the independent counsel final report requirement.

Quite simply, this final report requirement is unnecessary and it is expensive. And I am pleased that the managers of the bill, Senators COHEN and LEVIN, have accepted my amendment limiting the report's permissible scope.

Since last December, when President Bush pardoned former Defense Secretary Cap Weinberger, Lawrence Walsh spent nearly 8 months drafting his so-called final report, which admittedly is mandated by the independent counsel statute. This report has now been filed with the court of appeals here in Washington.

Although the Walsh report is supposed to be protected under a shroud of court-ordered secrecy, portions of the report have been leaked to the press and judging by news reports, it appears that the report is a self-serving testimonial to the heroics of the Independent Counsel's Office. And even worse, it is paid for by the American taxpayer.

Over and over again, Lawrence Walsh has failed in the courtroom of law. And now, desperate to revive his own sullied reputation, he is apparently seeking success in another venue—the courtroom of public opinion.

Madam President, it is never easy for a prosecutor when he loses a case. But when the not guilty verdict is read, a prosecutor normally picks up his briefcase, hopefully learns from his mistakes, and moves on to the next file.

He does not spend 8 months, at taxpayer expense, writing a report, memorializing his efforts and blasting the very people he failed to convict, an approach I suspect Mr. Walsh takes in his still-secret final report.

Madam President, it is my hope that the amendments accepted by the managers, including the amendment limiting the permissible scope of the final report, will help inject some safeguards into the independent counsel statute so that future abuses can be avoided.

Madam President, we hope we have been able to make the changes there, maybe state some facts, but not opinions, not editorialize.

So again, after months at the taxpayers' expense, writing a report—he has been in office 7½ years. There ought to be term limits on independent counsel. Talk about term limits for Members of Congress. And there is no supervision, no authority. And we believe the managers have done a lot on their own to tighten up the process, and maybe we will not have repeated efforts by anyone who comes along with the "Lawrence Walsh attitude."

Mr. President, for all of the reasons stated, I cannot support the independent counsel bill. I do hope that it will serve the public interest if it is passed and signed into law.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER (Mr. CAMPBELL). The majority leader is recognized.

Mr. MITCHELL. Mr. President, I support S. 24, the third reauthorization of the provisions of the Ethics in Government Act, which provide for the Independent Counsel Office to investigate criminal charges at the highest levels of Government.

I commend Senator LEVIN and Senator COHEN for their leadership in this area, for the persistence with which they have pressed the case for this legislation and have now brought it to the brink of enactment.

The need for such an office first became evident in 1973, when President Nixon, in the throes of the Watergate scandal, successfully fired an independent investigator to whom he had given assurances of complete independence of action in fact as well as appearance.

Only the unprecedented public outrage that followed the Saturday Night Massacre, as the firing of Archibald Cox became known, ensured the continuity of the Office of the Independent Counsel. No law then existed to create such an office.

The political realities of the time forced the President to appoint a new Special Prosecutor, Leon Jaworski, who saw the investigation and subsequent prosecutions through to conclusion. But the conclusion of the Watergate affair left no authority for such an appointment in law.

Two events, which flowed from the Watergate experience led to the enactment of the independent counsel law 5 years later.

The first was the unanimous Supreme Court finding that in America nobody, including the President of the United States, is or can be above the law.

As part of its finding in U.S. versus Nixon, the Supreme Court emphatically upheld the conclusion, earlier reached by the district court in Nader versus Bork, that so long as the regulation appointing the special prosecutor was in effect, nobody has the right to discharge him from his duties. The Supreme Court said the discharge "was in clear violation of an existing Justice Department regulation having the force of law."

The second event was the unprecedented public outcry over the appearance of an effort to evade the law. Congress recognized that the American people would not tolerate the appearance that there are two kinds of criminal law in our country: One for ordinary citizens and one for high Government officials.

Nothing in our national experience, before or since, has so emphatically demonstrated the fundamental American belief in the concept of equal justice under law.

It is to that fundamental American public demand that the Independent Counsel law is directed. It was enacted in 1978, reauthorized in 1982 and 1987, and is before us again for a further extension because it is the one safeguard we have that nobody, under our system, regardless how high in Government, can be above the law.

In 1982, when my colleague, the senior Senator from Maine, chaired the Subcommittee on Government Oversight, the law was reauthorized with virtually no dissent.

Its provisions were modified to correct shortcomings that has become apparent over the preceding 5 years, such as a too-easy triggering mechanism and the costs to innocent parties of an expensive legal investigation. But its core purpose was retained: To ensure that nobody, high official or not, was beyond the reach of the law.

In December 1987 President Reagan signed the second authorization of the law with a signing statement that declared his unequivocal support for its purpose:

> I fully endorse the goal manifested in the Independent Counsel Act of ensuring public confidence in the impartiality and integrity of criminal law investigations of high-level Executive Branch officials. * * *

President Reagan's endorsement of the act was followed by a 7-1 Supreme Court ruling in the case of Morisson versus Olson the following year, in which the Chief Justice wrote that the law was carefully crafted and did no injury to either the President's law enforcement authority or to the principle of the separation of powers.

Despite that strong support, along with the overwhelming bipartisan support of the Congress in the 1987 debate, opposition based on the work of one of the independent counsels, Lawrence Walsh, prevented the majority of the Senate from moving to take up last year's bill and reauthorize the law before it expired last December.

It is ironic that it was largely opposition to the outcome in one particular case that triggered the opposition which has delayed reconsideration of the independent counsel law.

It is especially ironic that those who most strongly criticized the law under which Lawrence Walsh conducted his investigation have been among the loudest in demanding that the present administration appoint an independent counsel in other instances.

The opposition and the subsequent calls for independent counsel appointments also highlight the importance of true independence in this office.

Any special prosecutor appointed by the Attorney General—no matter who the Attorney General is—may be dismissed by the Attorney General. Any special prosecutor appointed as a result of a partisan demand from the Congress will therefore produce a work product whose impartiality is open to question. A special prosecutor has no independence of authority. What legal authority a special prosecutor has is derived entirely from the authority of the Attorney General.

The independent counsel statute, by contrast, allows the Attorney General to request the appointment of a counsel but leaves the decision to do so and the identity of the individual to the judgment of a special panel of the Court of Appeals.

Likewise, although a special prosecutor appointed by an Attorney General may be encouraged to tailor the length and timing of an investigation to the preferences and needs of the Justice Department, a properly appointed and properly independent counsel cannot be forced to comply with anyone's timetable when he or she is pursuing an investigation.

The arguments against a truly independent appointment all rest on the claim that the prosecutorial function of that executive branch is necessarily so exclusive that not even the slightest deviation from executive branch discretion in this area can be tolerated.

This extreme view is said to be essential to preserving the separation of powers doctrine.

But the separation of powers doctrine exists for a purpose, not as an end in itself. The powers of government are separated in our system to prevent the concentration of power in any one branch, not to hermetically seal off each arm of government from the others.

That fact is evident from the structure of the Constitution itself. The veto power gives the President the right to intervene and redirect the legislative branch.

Treaty ratification, declaration of war and confirmation powers all give Congress a role in the functions of the executive branch. And in article II, Congress is given explicit additional authority to "vest the Appointment of such inferior officers, as they think proper * * * in the Courts of Law. * * *"

Since the nineteenth century, the Supreme Court has recognized exceptions to the general appointments rule: In ex parte Siebold, in 1879 the Court found that while "it is no doubt usual and proper to vest the appointment of inferior officers in that department of the Government to which the duties of such officers appertain * * * there is no absolute requirement to this effect."

In that case, the Court asked whether the grant of appointive power—for Federal election overseers—to circuit courts was "incongruous, improper or inconvenient"—and concluded that where that was not the case, such appointments did not intolerably burden the separation of powers.

The decision quoted above was most recently and strongly restated by the Court's 7-1 ruling in Morrison versus Olson, the case which tested the constitutionality of the independent counsel law itself.

There is no doubt that the Congress has the authority to provide for the independent prosecution of investigations and of justice where no existing arm of the government can have the independence or authority to do so.

And, in a nation which exists under the rule of law, no principle is more vital to maintain than the equal treatment of all under the law. High office, close relationships with national leaders, influential past associations are all factors that, fairly or not, can give the impression that some Americans are above the law.

Congress must reassert and reconfirm the fundamental expectation of our people that this is not the case. No American, regardless how high a grant of power he or she has enjoyed is or can ever be, above the law. Our democracy rests on that assumption.

The grants of power that any democracy gives to the few are temporary, limited, and revocable. That is how democratic government is preserved.

And nothing is more important in this structure than the assurance that nothing insulates high officials, elected or appointed, from the full force of the law.

Arguments have been raised here to the effect that we should specifically include Members of Congress as covered persons within the reach of the independent counsel law. It is significant that the managers have written the bill in such a way that Members of Congress are subject to it at the discretion of the Attorney General. The argument has been made that it should be mandatory, that to do otherwise treats the Congress different from the handful of officials in the executive branch. Those arguments are without logical basis.

The Congress is a separate branch of government. Nothing now prevents this Attorney General or any other from investigating and prosecuting any Member of Congress where any infraction of a law is suspected. The House Bank scandal demonstrated very clearly that an administration found little difficulty in pursuing an investigation where the evidence of actual criminality was minimal or nonexistent.

Nothing stops a President from making a special appointment of an independent counsel in such a case or any other, should a President wish to do so.

Moreover, both this bill and current law permit an Attorney General to request an independent counsel for cases involving Members of Congress where a conflict of interest may arise. This bill makes that authority explicit, although it always existed. There is no point to be served by making the authority mandatory, thus effectively preventing the Justice Department from pursuing evidence of criminal conduct by a Member of Congress.

The Attorney General has full discretion to use the Independent Counsel Office in any case that could arise.

The only effect of mandating the inclusion of Members of Congress would be to curtail the Attorney General's discretion and force her to recuse herself in any case involving Members of Congress.

It would, in fact, create a constitutional problem, because it would have the effect of preventing the executive branch from investigating any Member of Congress wherever potential criminal liability might exist, because it would require the Attorney General to appoint an independent counsel.

Such an incursion into the prerogatives of the executive would, in fact, have all the faults that some now see in the much more limited legislation that this bill represents.

On the face of it, no conflict of interest arises if the Attorney General seeks to indict a Member of Congress on a criminal charge.

The current law and the bill before us cover fewer than 100 members of the executive branch.

To expand this coverage to take in all 535 Members of the legislative branch with no coherent rationale would not only intrude into the prosecutorial discretion of the executive branch to a much broader degree, it would do so with respect to an entire branch of Government.

Nobody has as yet suggested that investigations of judicial branch members be similarly insulated, for the obvious reason that no coherent reason to do so exists.

That, quite simply, is exactly the case with respect to Members of Congress.

The unstated but obvious political effort here is to create the impression that Congress is seeking to insulate itself from an onerous liability which is being imposed on the executive.

But that is an impression that cannot be sustained by any examination of the facts. It is rhetoric and nothing more.

The underlying reality is that this is not an onerous burden placed on the executive branch. It is a simple and necessary means by which our Government can investigate itself when the need arises to maintain public confidence in the integrity of both the Government and the administration of the laws.

The fact is that high officials, elected or appointed, are held to a higher standard than private persons. That is an elementary fact of public service in a democracy, and those who wish to enter public service must recognize it.

High officials are required to be more forthcoming and more public in their financial dealings than private persons. Public officials are required to be more careful in their business relationships. And they are expected to be more circumspect in their use of personal influence.

That is because they are trustees of the public trust. Whether public officials disburse Government contracts, Federal grants or write regulations, they are discharging a public trust.

Public office is not a perquisite. It is an honor. It is not a right. It is a privilege.

And so long as there are individuals who fail to recognize that, and improperly attempt to turn the public trust to personal advantage, the public should and must have an iron-clad assurance that public officials, just like private citizens, are accountable under the law on the same terms as everyone else.

That assurance is what the bill before us seeks to provide. It deserves the strong support and the affirmative vote of every Senator.

Mr. President, I conclude by again thanking and congratulating the managers, and I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan [Mr. LEVIN] is recognized.

Mr. LEVIN. Mr. President, first, let me thank the majority leader for his extraordinarily strong statement and his great support of this process. We could not be on the floor here without his support and his persistence. I am confident that tomorrow we will vote to reauthorize the independent counsel and we will do so in large measure because the majority leader is determined to keep this before this body.

Mr. President, there are a number of reasons that I think we will vote tomorrow to reauthorize this statute and fill a gap of about 1 year.

As the Chair knows, we have reauthorized this independent counsel twice before in the Congress and this will be the third reauthorization. It is a 5-year reauthorization. The reason we are going to do so is we want the public to have confidence that investigations of high-level executive branch officials and their prosecutions are being carried out independently and not under the control of the very people who are being investigated.

That is the basic problem that this statute seeks to address. It is that the President and persons close to the President cannot, with public confidence at least, investigate and prosecute themselves. That is the reason this bill was passed to begin with, and that is the reason I am confident that this bill will be given a very strong vote of approval tomorrow.

The Republican leader offered a number of amendments here tonight which address legitimate concerns. I know the Senator from Maine and I were both pleased to work with him to craft and recraft these amendments in a way that they do strengthen this statute. We are grateful for his work on those amendments. We think that they do strengthen the statute.

Relative to his comments about the Iran-Contra investigation, tonight I will briefly say only this. The Attorney General very succinctly, it seems to me, addressed the point of the Republican leader when she testified before our committee as follows:

> That the Iran-Contra investigation far from providing support for doing away with the independent counsel act proves its necessity.

She further said:

> I believe that this investigation—

That is the Iran-Contra investigation—

> could not have been conducted under the supervision of the Attorney General and concluded with any public confidence in its thoroughness or impartiality.

The person who is selected to be the independent counsel, Mr. President, is a life-long Republican, a former Federal judge, and former President of the American Bar Association. He filed 14 indictments, obtained 11 convictions. Of the other three where he did not obtain convictions, two were pardoned before trial, including Caspar Weinberger, and one of the cases was dismissed before trial because the Attorney General refused, understandably, but refused nonetheless, to release classified material.

Of the 11 convictions, 2 were reversed on appeal for technical reasons due to the congressional grant of immunity which had been given, which grant the independent counsel had opposed.

Looking at that entire record, it does not support the conclusion of the Republican leader that the Iran-Contra independent counsel's activity is reason not to renew the independent counsel law.

Mr. President, let me close by again thanking my good friend and colleague from Maine. He is more than perhaps anyone in this Chamber the custodian of the independent counsel law. All of us have a fiduciary duty of making sure that the prosecution laws in this country, particularly against high-level officials, are carried out with independence and credibility so that there is public confidence in Government.

He is an institutional member relative to this law. He helped to create it. His bipartisan support, his tenacity, his persistence has made it possible to reauthorize this law twice before and is the reason, at least one of the important reasons, that we will be reauthorizing it hopefully again tomorrow morning.

I also want to thank Linda Gustitus and Elise Bean of my staff, who have done extraordinary service year after year for the reauthorization of the independent counsel law, and Kim Corthell of Senator COHEN's staff, who has worked so well on this statute and who has worked with my staff in making it possible for us to get to this point.

So I close with the hope that we will give a resounding vote tomorrow morning to reauthorize this statute and to fill a gap of 1 year in its presence on the law books of this country.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine [Mr. COHEN] is recognized.

Mr. COHEN. Mr. President, unaccustomed as we are in the minority to having the final word on legislation, let me just take a moment to thank my colleague from Michigan for his very generous comments.

I must say that I did get a bit apprehensive when the Senator referred to me as having an institutional memory. As the years have ticked off, I like less and less to be referred to as one who is the custodian of this particular piece of legislation when it dates back into the late 1970's. But, nonetheless, I do thank him for his comments.

And let me turn for a moment at least to send some praise in his direction.

Late this afternoon, there was a good deal of discussion about ethics and that the American people felt that we were trying to carve out some special exception for Members of the Senate or the House from ethical considerations and ethical standards. I think the debate has been quite complete on that particular subject matter. But let me say on behalf of Senator LEVIN, I do not know of any Member of the Senate who has been more persistent and I must say more persuasive on the issue of the need for maintaining high ethical standards not only in the Congress but also in the executive branch.

I quoted earlier from Benjamin Nathan Cardozo, who said:

> A trustee is held to something stricter than the morals of the market place. Not honesty alone, but the punctilio of an honor the most sensitive, is then the standard of behavior.

That is what is demanded of each of us. The Senator from Michigan, to his lasting credit, I believe, has been in the forefront of insisting that we measure up to those high standards. We do not always do so, but we must remain accountable to the American people to that standard.

Mr. President, I think it was important that the majority leader made the statements that he did. He is someone I have had the pleasure of serving with for, well, 13 years now. He and I served on the Iran-Contra investigation joint committee. And I must say that while many statements have been made in recent years about the entire Iran-Contra affair simply being an attempt on the part of some to politicize or to criminalize foreign policy decisions, I must just take one moment to offer a brief refutation.

The decision to sell weapons to Iran may or may not have involved criminal activity. It did in fact contravene our publicly stated policy that we had adopted, a public policy that discouraged other nations from supplying weapons to a nation that we believed to be engaged in terrorist activities, that was high on top of our list of terrorist sponsoring nations. So we had a private policy that contravened our public policy that would have been an embarrassment to say the least.

But the issue of then taking the profits from that sale and then diverting them to another purpose—namely, the support of the Contras in Nicaragua—involves something quite different.

Many people will recall Colonel North's testimony before the Iran-Contra committee that the whole purposes of inflating the price of those weapons that were being sold to Iran was to set up what he called an off-the-shelf, self-sustaining, stand-alone, covert capability.

And what that really meant was that we were selling the property that belongs to the American people at inflated prices, taking that profit, putting it over into a private slush fund, and then using that fund to carry out future cover actions that may or may not have been disclosed to the President of the United States but surely would not have been disclosed to the Congress and ultimately to the American people.

That action, or purported action, struck at the very heart of our democratic system. The congressional investigation involved more than simply a politicization of our foreign policy decision or indeed the attempt to criminalize our foreign policy decisions. Those events went to the very heart of the democratic system which calls upon us to formulate public policy, indeed, carry out even private activities in a way that is consistent with the rule of law and with the expectation of the American people.

So I mention this only in passing, that Iran-Contra was important. It was important to have an independent counsel to investigate these charges of criminal wrongdoing. I must say that I did not necessarily agree with either the theories pursued by Judge Walsh or indeed even some of the tactics employed by Judge Walsh. But, nonetheless, in retrospect, I think it was important that we had an independent investigation and history will have to judge whether he was successful or not or whether it was worth the effort or the money to really find out whether the ideals of this country, indeed, the laws of this country, were being quietly and subtly subverted.

So I conclude my remarks this evening after a long day of debating this particular issue to thank Senator LEVIN and to thank Senator MITCHELL. And my thanks to Senator DOLE. A lot of criticism has been directed toward Senator DOLE, that he was somehow interested in blocking this legislation from coming forward. I had a talk with him on many, many occasions, and while he indicated to me he was not going to be supportive of the legislation itself, he believed it was important to bring it forward. He indicated he thought we could pass this without any time agreement; that we could pass it within a day's debate. And, indeed, as a result of the amendments that he offered, I think he improved it to the point where it will enjoy wide support.

So I thank him for his contribution, as well.

And let me again thank Kim Corthell of my staff and the work of Senator LEVIN's staff, as well, for a job well done.

Mr. DURENBERGER. Mr. President, I rise in support of the independent counsel reauthorization.

Nothing is more crucial to the political process than public faith in our system of government. Nothing is more damaging than the impression that certain powerful Government officials are above the law.

For the past 15 years, the independent counsel law has helped to ensure that executive branch officials are not above the law. There is an inherent conflict of interest in having one section of the executive branch—the Justice Department—investigating another member of the executive branch. The independent counsel law provides for the appointment of an outside counsel who will conduct the investigation and prosecution of top-level officials who are close to the President.

I believe that the 5-year reauthorization we are considering strikes an appropriate balance between maintaining the independence of the counsel, while maintaining a certain amount of accountability in the expenses and scope of the investigation.

Mr. President, the independent counsel law expired in December of 1992, and I urge my colleagues to adopt this reauthorization without delay.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Mr. President, I ask unanimous consent to proceed for 5 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, I ask unanimous consent to proceed for 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from the State of Washington is recognized.

Mr. GORTON. I thank the Chair.

(The remarks of Mr. GORTON pertaining to the introduction of S. 1666 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. GORTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COHEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COHEN. I ask unanimous consent consent I be allowed to proceed as in morning business.

I realize the focus of press attention this evening and well into tomorrow and perhaps days thereafter will be upon the NAFTA debate.

Nonetheless, I do want to take a few moments this evening to raise an issue which I think is of critical importance to the American people, indeed to security of the free world itself.

The PRESIDING OFFICER. Without objection, it is so ordered.

CRISIS ON THE KOREAN PENINSULA

Mr. COHEN. Mr. President, press reports indicate that the Clinton administration is moving toward a decision to offer significant concessions in exchange for North Korean actions that Pyongyang is already required to take under international law.

Specifically, Secretaries Christopher and Aspin are reportedly recommending that the United States agree to cancel next year's Team Spirit exercise in exchange for Pyongyang allowing the IAEA to resume its inspections of North Korea's declared nuclear sites. The word "declared" is a critical modifier, since it refers only to those nuclear facilities that North Korea has decided to let the IAEA inspect, which is to say those that Pyongyang thought would yield no evidence of its nuclear weapon program.

It does not include other facilities that informed specialists are persuaded are critical to Pyongyang's bomb program. In order to gain access for inspectors to two suspect sites, the Clinton administration is reportedly considering granting economic concessions and the prospect of diplomatic recognition.

And, it should be noted, the Clinton administration has already made a significant concession by giving North Korea high-level talks. In exchange for this concession, North Korea has become more recalcitrant: halting IAEA inspections of declared sites; threatening to withdraw from the Nuclear Nonproliferation Treaty; and demanding more concessions just to go back to square one.

In a paper issued over the weekend by the Forum for International Policy, the situation was summarized as follows:

> In a reversal of longstanding U.S. policy, senior Administration officials have held at least two rounds of negotiations with their North Korean counterparts over the past several months. These talks, however, have produced little more than backsliding as Pyongyang introduces new problems and attempts to extract new concessions as its price just for returning to the point at which the current crisis began.

This last point is crucial. We are giving ground just to keep North Korea from backsliding. Yet our experience to date has been that preemptive concessions produce more backsliding, not progress.

Some might dismiss the Forum's views as mere partisan pot-shots, since it is led by two high-ranking Bush administration officials, Brent Scowcroft and Larry Eagleburger. I would point out, however, that the Forum is a bipartisan group whose leadership also includes such prominent Democrats as Lloyd Cutler, Dante Fascell, and Robert Strauss. And one of the principal authors of this paper on the Korean nuclear crisis, Arnold Kanter, served not only in the Bush and Reagan administrations, but in the Carter administration, as well.

I think the Forum's paper, entitled "North Korea: The Clock is Ticking" is a sound analysis of the risks associated with the policy toward which the administration is apparently moving. I will submit the entire paper for the RECORD, but would like to summarize some of its key points and recommendations.

The United States, it argues, must present North Korea with a clear choice between the status quo ante, in which there was the prospect that North Korea could begin to integrate itself into the family of nations and address its economic failure, and the alternative of increasing isolation, pressure, and pain.

"It is inconceivable," the authors argue, that the process of integration "could be resumed unless and until North Korea has acted to end the current crisis. We must not suggest to other would-be proliferators that the treat of an indigenous weapons program is the key that unlocks the treasure trove of economic and political benefits." Yet that appears to be exactly the approach the administration is pursuing.

The authors recommend diplomatic efforts to persuade China and Russia to support this strategy and inform Pyongyang that they will not veto a Security Council resolution imposing economic sanctions. The administration should begin now to design a package of sanctions centered on halting Pyongyang's imports of oil, which are critical to North Korea's military and key sectors of its economy. Since China now supplies two-thirds of those imports and could supply all of them, we should urge China to join an effort to steadily reduce Phongyang's oil imports—at the very least, not to replace oil imports cut by other suppliers.

Such a strategic dialogue about mutual security concerns, not the current agenda of bilateral issues and irritants, should be the centerpiece of President Clinton's meeting with Chinese President Jiang Zemin later this week, they argue. This should be accompanied, they propose, by a serious intelligence exchange in which we explain to Chinese officials why the North Korean nuclear issue requires urgent action.

They also urge diplomatic efforts to pursuade Seoul and Tokyo that this approach will not provoke Pyongyang, but provides it will a peaceful way out of the crisis.

The authors also offer three military recommendations:

Do not treat Team Spirit as merely a bargaining chip to be used in an effort to affect the tactical state of play.

Conduct a multilateral naval exercise off North Korea's coast to demonstrate the capability and will to enforce economic sanctions, should they be imposed. Seek to persuade as many countries as possible to participate, particularly South Korea, Japan, Russia, and China.

Conduct a joint United States-South Korean exercise to strengthen the defense of Seoul, emphasizing capabilities such as air defense that Pyongyang should not consider provocative.

These exercises, they argue, should not be "tied to or conditioned on near-term North Korean actions." They should instead be conducted "as soon as possible and without reference to the State of play on the nuclear issue." At the same time, we should make clear that the need for such exercises in the future would depend on increasing stability on the peninsula and reducing threats to peace in the region.

Mr. President, while these recommendations will raise questions, particularly regarding how our allies in Seoul and Tokyo would respond to them, I believe they deserve serious and immediate consideration before any more concessions are made, particularly concessions on the 1994 Team Spirit exercise.

Unfortunately, it does appear that some in the administration are treating Team Spirit as merely a bargaining chip, something we can easily give up in order to send a political signal.

TEAM SPIRIT REQUIRED FOR READINESS

Mr. President, conducting or canceling Team Spirit is not just a political signal to the North. This exercise is critical to maintaining Allied readiness on the Korean peninsula. Readiness is not something that can be stored on the shelf indefinitely. It decays with time:

There is a constant turnover of personnel in both United States forces in South Korea and South Korea's own forces, and the performance of those assuming new assignments on the peninsula is highly dependent on realistic exercises.

Even for those soldiers in Korea with significant experience in their current assignment, performance erodes as more time elapses after the last realistic exercise. And, in general, the rate of erosion accelerates with time, so that if a major annual exercise is skipped, it does not just double the erosion of readiness. If the administration decides to skip Team Spirit in 1994, the degradation of readiness in the coming year can be expected to be much greater than that experienced since Team Spirit was last conducted in early 1993.

This is especially true given the introduction this year of new plans, procedures, and organizations that must be exercised.

On this last point, Mr. President, I would draw your attention to recent press reports that, in response to a report by the Pentagon's Inspector General, our commanders in South Korea have made numerous changes in procedures related to United States reinforcement of South Korea. According to the lead story in the current issue of Defense Week, the IG identified a wide variety of deficiencies in plans for "the reception, staging and onward movement of forces scheduled to deploy" to Korea. According to the IG, "As a result [of these deficiencies] the ability to provide forces as needed to execute the warfighting plan to defend Korea was substantially weakened." Among the deficiencies cited were a lack of docks, aircraft hangars and parking areas, unloading areas, railroad facilities, trucks, billeting and storage structures.

In response to these criticisms, with which United States commanders in Korea officially concurred, numerous changes in plans have been made. To cite a few examples:

The theater commander is updating his "time-phased force deployment data" plan, which details landing sequences so that reinforcements do not overload limited facilities.

Alternative ports and airfields have been identified and integrated into war plans.

Updates are being made in bridge, tunnel, and rail data.

All in-place and reinforcing aircraft have been assigned designated parking spaces.

And numerous other changes have been made related to nitty-gritty details that are essential to a complex military operation being successful.

These changes will undoubtedly raise readiness in the long run. Initially, however, they could actually decrease readiness until they are exercised and the inevitable kinks are worked out. Any time changes are made to a complex system, glitches are to be expected.

And if we learned anything from Operation Desert Shield, it should have been that moving military forces around the world ready to fight is a highly complex process and that it takes time to improvise around the glitches that arise. We were fortunate to have the time in Desert Shield because Saddam stopped at the Saudi border.

We do not have that luxury on the Korean peninsula. Seoul is within artillery range of North Korean forces. As recent press reports have highlighted, North Korea has been steadily moving forces forward in recent years so that some 70 percent are now within 60 miles of the border.

We simply would not have the time to improvise around very many glitches and kinks once hostilities became inevitable or started. Our plans must work the first time with a minimum of glitches. An enormous number of lives would hang in the balance.

Many who are not overly supportive of defense had a clear understanding of this type of problem when the issue was the computer software to command a star wars missile defense. I can only hope they will be as perceptive when it comes to this equally complex system to defend the Korean peninsula. The bottom line is that the only way to have confidence that this system will work satisfactorily is to exercise it.

Contrary to the implications of statements of anonymous administration sources, foregoing Team Spirit '94 would be a major decision since it would result in a degradation of Allied readiness at precisely the time when maintaining and, indeed, enhancing that readiness may be crucial to deter and, if necessary, defeat aggression from the North.

Finally, Mr. President, I must rebut a seriously erroneous assertion being made by anonymous administration officials. Numerous recent press reports have suggested that giving up Team Spirit '94 would not constitute a concession because Congress failed to fund this exercise in the recently adopted defense appropriations bill.

I have checked with the Appropriations Committee and can confirm that the bill did not in limit the administration's ability to conduct Team Spirit. There may be a question of whether the administration's budget request was originally intended to support Team Spirit, but administration officials have told the media that the Pentagon will be allowed to continue preparations for the exercise, indicating that it intended and is able to pay for Team Spirit out of the requested funds, which Congress has approved.

Mr. President, there seems to be no way to interpret this erroneous, anonymous assertion as anything other than an effort to escape political responsibility for the consequences of a decision to cancel Team Spirit. This plunge for political cover is particularly deplorable since it undermines our leverage with North Korea. At the same time as it prepares to make a very major concession to Pyongyang by treating Team Spirit as a bargaining chip, the administration seems to be deliberately cheapening the value of that currency, thereby diminishing the gains we can hope to obtain in exchange.

Far from protecting the administration from political criticism, such amateurish poker playing can only increase the already significant doubts that exist regarding this administration's ability to manage international affairs.

It inevitably raises comparison to a previous Democratic administration. Sixteen years ago, a relatively inexperienced team of policymakers proposed a Korean policy that undermined allied confidence in America and could have led Seoul to question its commitment to forego nuclear weapons.

Today a new team of relatively inexperienced policymakers is crafting another dubious Korean policy that has the potential for undermining Allied confidence in America and could lead Tokyo and Seoul to pursue nuclear weapons programs.

The parallels are inexact, but the risks today are at least as severe.

President Clinton does deserve credit for taking a personal interest in this deepening crisis. He has gone to Korea. He has been briefed by our military commanders there. He has continued President Bush's policy of freezing United States troop reductions in Korea so long as the current crisis remains unresolved. He has used firm rhetoric in describing American weapons capability.

But it is not clear if these commendable steps are being translated into a workable policy that will defend American and allied interests.

President Carter at the urging of Members of Congress, including Senator NUNN, Senator GLENN, myself, and others decided to reverse a disastrous course of action. I recall this history well since one of the first actions I took after joining the Senate was to travel to South Korea and other East Asian capitals in January 1979 to investigate the consequences of the Carter administration's proposed withdrawal of the 2d Infantry Division.

It is my hope that President Clinton will not need congressional intervention to rescue him from this Korean crisis. But this requires that he not proceed down the mistaken path his advisers seem to be mapping for him.

I ask unanimous consent to print in the RECORD the two documents I mentioned earlier.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Forum for International Policy, November 1993]

NORTH KOREA: THE CLOCK IS TICKING

The North Korean nuclear problem has finally made the front page. There is a growing awareness both that it is deadly serious and that it may be about to get even worse. In brief, the North Korean nuclear problem could easily—and abruptly—become a genuine crisis, a real question of war and peace. We now need to move beyond expressions of concern about the seriousness of the problem to a clear strategy and a concrete program of action.

The stakes are enormous. Both South Korea and Japan face growing pressure to counter a suspected North Korean nuclear weapons program with nuclear weapons programs of their own. Even if those two countries continue to resist the nuclear temptation, however, the entire global non-proliferation regime could unravel if countries from Ukraine to Pakistan conclude that the international community is prepared to stand by while North Korea defies its mandates or pursues a nuclear weapons program.

In a reversal of longstanding U.S. policy, senior Administration officials have held at least two rounds of negotiations with their North Korean counterparts over the past several months. These talks, however, have produced little more than further North Korean backsliding as Pyongyang introduces new problems and attempts to extract new concessions as its price just for returning to the point at which the current crisis began. They also have created at least the appearance that their stonewalling, far from imposing a cost or penalty, is being rewarded by continued American eagerness to negotiate further.

Time is not on our side: doubts among key regional states about U.S. purposes and priorities are growing, and the issue is becoming ever more urgent.

THE PROBLEM

We do not know for certain whether the North Koreans removed spent fuel from their nuclear reactors for reprocessing into weapons-grade material before the International Atomic Energy Agency (IAEA) began its monitoring of the nuclear facilities at Yongbyon. Some experts estimate that they may already have stockpiled enough material to produce as many as three to five nuclear weapons, and may be at work on building the weapons themselves. Inspections of "suspect sites" at Yongbyon could clarify this uncertainty. But not only has North Korea blocked these so-called "special" inspections, it is also steadily increasing its defiance of the IAEA.

When North Korea finally ratified the Nuclear Nonproliferation Treaty in 1991, the IAEA installed seals, monitoring cameras, and other devices at declared North Korean nuclear facilities as part of a "safeguards" program to help determine whether weapons-related activities were taking place. Pyongyang now refuses to permit the IAEA to conduct even the "routine and ad hoc" inspections it previously had allowed. With these inspections blocked, the IAEA's cameras are ceasing to function as their film and batteries run out. The seals and other monitoring devices need to be inspected to ensure that they remain intact and have not been tampered with.

This North Korean defiance means that the "continuity of safeguards" will continue to degrade and soon will break down with the result that the international community will not be able to determine whether Pyongyang has removed additional spent fuel from its Yongbyon reactors. At that point, uncertainty about how many "bombs worth" of nuclear material North Korea may have would increase substantially. The result of all this is growing uncertainty, suspicion and instability.

A STRATEGY

Faced with this urgent situation, the United States needs a strategy that combines boldness with subtlety. It should have three immediate objectives:

Preserving the continuity of IAEA safeguards so that the current uncertainties about the North Korean nuclear program do not worsen;

Effective international inspections both of the declared facilities and "suspect sites" at Yongbyon to help learn whether and how much plutonium may already have been diverted; and

Putting in place a continuing regime of effective inspections to block North Korea from developing a nuclear weapon.

Our goal is to achieve real, near-term results. How these are achieved—under the auspices of the IAEA, as part of the North-South denuclearization agreement, or in some other way—is of secondary importance.

CRYSTALLIZING PYONGYANG'S CHOICES

The strategy must also present the North Koreans with a clear choice. On the one hand, it can return to the status quo ante. The period that preceded this crisis held some promise of a process that could begin to integrate North Korea into the family of nations. North Korea seemed to appreciate the difficulties of its own isolation and its need for economic and diplomatic ties to the West. South Korea, Japan, and the United States had been prepared to move in this direction. The way was open for an evolution leading to the establishment of normal diplomatic relations, access to trade and investment, and assurances that peaceful North Korea has nothing to fear from its neighbors.

This process was interrupted, however, by the current nuclear crisis. It is inconceivable that it could be resumed unless and until North Korea has acted to end the current crisis, without precondition or reward. We must not suggest to other would-be proliferators that the threat of an indigenous nuclear weapons program is the key that unlocks the treasure trove of economic and political benefits. But we will offer North Korea the chance to see and rectify its mistake.

The nuclear program is hardly the only serious issue we have with North Korea. But these other issues can be addressed as part of our overall relationship once North Korea has returned to the status quo ante. For that to happen, the nuclear crisis must be resolved.

The other choice for North Korea must be isolation, pressure, and pain that will mount the longer it defies the international community and pursues its nuclear ambitions.

NEXT STEPS

The international community or the United States alone, if necessary, must be willing to take every step necessary to dissuade North Korea from continuing its present course, beginning with the following:

Political Actions: Diplomatically, we need to demonstrate to North Korea its diplomatic isolation on this issue. The November 1 United Nations resolution was a good start. By vote of 140 to 1 North Korea, the U.N. General Assembly explicitly rejected Pyongyang's claim of IAEA bias, and called on North Korea to "cooperate fully with the agency in the full implementation of the safeguards agreement."

We also need to target key regional actors. We need to persuade Russia and especially China to make clear to North Korea—privately but unmistakably—that they will not veto a UN Security Council resolution to impose economic sanctions. We also need to persuade South Korea and Japan that our approach, while determined, is not provocative and offers the North Koreans a peaceful way out. But it does reflect our firm view that a nuclear-armed North Korea would be an intolerable threat to the security of Asia and beyond. Firm action now by these and other concerned nations can avoid two worse choices: a nuclear-armed North Korea or drastic actions to prevent it.

Military Actions: We should look for steps that make clear our determination to deny North Korea a nuclear weapons capability. We also should look for measures that reassure Seoul we have no intention of provoking a North Korean military response, while at the same time making clear our unshakable commitment to the successful defense of South Korea, starting with Seoul. Finally, we should not treat decisions about near-term military steps—including Exercise Team Spirit—simply as bargaining chips to be played or traded in an effort to affect the tactical state of play.

We should implement promptly two military actions which are specifically designed to support the strategy outlined above. One would be a multilateral naval exercise off the coast of North Korea to signal to Pyongyang a capability and determination to enforce economic sanctions should they be imposed. To underscore that this is an international effort to stop the North Korean nuclear program, as many countries as possible should be encouraged to participate—particularly South Korea, Japan, Russia and China—A second would be a joint United States ROK exercise to strengthen the defense of Seoul, emphasing capabilities such as ground-based air defenses that Pyongyang should not regard as provocative.

Exercises such as these would be intended to signal the international community's willingness to move from talk to action while consideration of economic sanctions continues, as well as its resolve to respond to any North Korean military provocation. To make clear that they are not simply bargaining chips, neither exercise should be tied to or conditioned on near-term North Korean actions. Both instead should be conducted as soon as possible and without reference to the state of play on the nuclear issue. At the same time, we should make clear that the need for such exercises, including Exercise Team Spirit and other military deployments in the future would depend on progress in strengthening stability on the Korean peninsula and reducing threats to peace and security in Northeast Asia.

Economic Actions: Surrounded by the Asian economic miracle. North Korea is steadily descending into economic crisis. At least some elements of the leadership understand that the worsening domestic situation and the accelerating gap between North and South increasingly will threaten Pyongyang's political and economic survival. We should use the leverage provided by its desperate straits to help persuade Pyongyang to abandon its nuclear program.

Specifically, we should begin now to design a package of sanctions centered on cutting off North Korean imports of oil. Although oil makes up only about 10 percent of total North Korean energy consumption, it is critical to its military forces, to its coal mining industry (which in turn provides about 75 percent of North Korea's energy needs), and other key sectors of the economy. Oil imports already are down by about one-third to one-half from the mid-1980s. As the regime surely must understand, further significant reductions in oil imports would cripple, if not strangle, the already faltering North Korean economy, with unpredictable, but surely serious, political consequences.

If the prospect of an oil cutoff is to be truly credible, however, Chinese cooperation would be indispensable. Beijing accounts for about two-thirds of North Korea's current oil imports, most of which are delivered via pipeline. Should it so decide, Beijing could easily provide all of North Korea's current oil needs, even if a naval blockade cuts off tankers delivering oil from other suppliers.

We should urge China to join in an international effort steadily to reduce North Korea's oil imports. At a minimum, we should ask China not to replace oil imports from other suppliers that were cut off by a naval blockade or other actions. Put simply, with Beijing's support, manipulation of oil imports could prove to be an important source of leverage. Without that cooperation, economic measures virtually are certain to be ineffective and to leave more forceful actions as the only alternative.

A PROPITIOUS TIME TO ACT

The Chinese do not need to be convinced that a North Korean nuclear capability would be a serious threat to their interests. They do remain to be persuaded, however, that the North Korean nuclear problem requires urgent action rather than what the Chinese call "patient talk;" that we have in mind a strategy that can succeed with their active involvement but will fail without it—leaving only worse and starker alternatives; and that their cooperation will redound to their benefit rather than to their detriment. As the UN resolution suggests, this will be an uphill effort: China was one of only nine countries which abstained on the UN resolution. The seriously strained relations between the United States and China is an added complication.

At the same time, however, U.S.-PRC cooperation on this issue could add a strategic dimension—grounded in a serious dialogue about mutual security interests and concerns—that would benefit the U.S.-Chinese relationship more generally. Framing a discussion of the North Korean issue, this strategic dialogue—rather than the current agenda of bilateral issues and irritants—should be the centerpiece of the meeting between President Clinton and Chinese President Jiang Zemin scheduled for later this month in Seattle. The Seattle meeting should be preceded by a serious intelligence exchange in which the U.S. side undertakes to explain all the reasons why we are convinced that the North Korean nuclear problem not only is serious, but requires urgent action.

The objective in Seattle is not to ignore our bilateral differences with China but to find common ground on an issue of mutual importance that transcends the bilateral issues. If this goal can be achieved, it would hold the promise of reversing North Korea's march toward nuclear weapons, of putting a key bilateral relationship on a new, stronger footing, and of providing a more constructive framework for tackling bilateral problems.

The importance of dealing firmly with the North Korean issue is profound. The Cold War may be over but, as North Korea demonstrates, we continue to live in an age that poses real questions of nuclear war and peace. The United States must lead the international community's response to this crisis. For its approach to succeed, it must have the clear support of Congress and the American people. The President therefore needs to explain to the American people—promptly and persistently—what is at stake and what the United States must and will do.

Principal Authors: Arnold Kanter is a Senior Associate with the Forum for International Policy. During the Bush Administration, he was Under Secretary of State for Political Affairs and Senior Director for Defense Policy at the National Security Council. Stephen Hadley is a Senior Associate with the Forum for International Policy. He has served as Assistant Secretary of Defense for International Security Policy and has also served on the National Security Council staff. He is currently a partner of the law firm Shea and Gardner.

[From Defense Week, Nov. 15, 1993]

SUBSTANTIAL WEAKNESSES MAR REINFORCEMENT OF KOREA: IG

(By Andrew Weinschenk)

Inadequate contingency planning by U.S. commanders has "substantially weakened" South Korea's defense against an onslaught from the North, according to a classified report by the Pentagon Inspector General.

Declassified excerpts were obtained by Defense Week. News of the heretofore unpublicized assessment comes as tensions with North Korea escalate over its nuclear weapons program.

According to one excerpt, the U.S. has not "adequately planned for the reception, staging and onward movement of forces scheduled to deploy" to the Korean peninsula.

The report outlined a laundry list of logistical shortfalls that are somewhat surprising given the 40-year standoff with North Korea. The deficiencies include a lack of docks, aircraft hangars and parking areas, unloading areas, railroad facilities, trucks, billeting and storage structures.

"As a result, the ability to provide forces as needed to execute the warfighting plan to defend Korea was substantially weakened," it said.

The reinforcement issue takes on heightened significance as the tense standoff with North Korea continues over nuclear inspections. U.N.-imposed sanctions designed to force North Korean acceptance of International Atomic Energy Agency inspections could spark a violent North Korean reaction, senior Pentagon officials have warned.

The IG's report paints a picture of serious planning shortfalls on numerous fronts—deficiencies which U.S. Forces in Korea claim to have vigorously attacked.

To shore up the South's defenses, the IG recommended "development of alternative planning" for reinforcements and "identification of solutions to space shortages for arriving aircraft and personnel."

In particular, the report cited the need to ensure that alternative ports are available to receive reinforcements. It also called for additional cargo handling equipment and stevedores.

"We recommend that the commander, 7th U.S. Air Force, identify solutions to alleviate shortages of facilities and real estate for aircraft and personnel."

In addition, the IG recommended purchasing equipment and supplies, including such basics as uniforms, needed by the Korean Service Corps. The corps is a para-military labor force dating to the Korean War, when laborers provided support service to U.S. military forces.

Fully implementing the recommendations would "help ensure that sufficient personnel and resources will be available for arriving forces to be integrated with Combined [U.S. and Korean] Forces in the defense of South Korea," added the report.

The IG noted that, "Reinforcement of warfighting units requires a coordinated effort on the part of all forces involved: those already in Korea and those scheduled to deploy in the event of hostilities."

The North Korean Army fields 1.1 million troops against 700,000 South Korean and 37,000 U.S. troops. About 70 percent of the North's troops are within about 60 miles of the border, meaning there would be little warning of an attack.

Given the small number forward deployed U.S. forces, reinforcements would be "particularly vital" to South Korea's defense, said the IG. The Aspin Pentagon's "bottom-up" review envisions massive deployments from U.S.-based forces to reinforce such a contingency.

PENTAGON MOVING TO PLUG GAPS

According to management comments in the IG's report, U.S. Forces in Korea, or USFK, officially concurred with the IG's findings. It has launched an extensive revamping of its reinforcing and logistics capabilities.

Many improvements took place after the IG concluded its investigation.

Although most of the report is classified, the extent of improvements indicates the scope of deficiencies.

Management said it worked with the South Korean government to update a port study and is negotiating an agreement for more materiel handling equipment. The USFK has also bought and tested 40 additional heavy equipment railcars and updated its bridge, tunnel and rail data.

To reduce space shortfalls, the 7th Air Force has retained exclusive use of some facilities at joint U.S./Korean bases, improving its "beddown" capability. Many U.S. facilities at joint bases were scheduled to revert to South Korea.

To improve wartime host-nation support, the USFK has completed staffing of eight support agreements where just one such agreement existed at the IG investigation's conclusion.

The USFK has also submitted 35 additional "memorandum of agreements," or MOAs, to the South Korean defense ministry for more host-nation support.

In moves specifically related to the IG's conclusion, USFK identified alternative ports and incorporated them into a revised operational plan. The command also is negotiating separate agreements providing enough materiel handling equipment and stevedores.

After a review of the USFK wartime transportation requirements the South Korean defense ministry concluded "assets have been determined to be adequate to satisfy deployment requirements," said the management comments.

The 7th Air Force established a "supportability team" to survey its capacity to absorb reinforcements and transmitted its recommendations to Pacific Air Forces for approval.

To improve host-nation support, USFK and the South Korean government will establish a special steering committee. The charter has been initialed by both sides and "negotiations for final conclusion are currently progressing."

The USFK also said that reinforcement logistics materiel and doctrine were "exercised to the extent possible considering funding constraints" during Team Spirit '93.

Validation of available ramp space at joint U.S./Korean air bases and at U.S.-only installations completed in April 1993 "resulted in designated parking for all inplace and augmenting aircraft," the comments added.

Air base facilities shortages are being addressed through potential construction projects and by updating the theater commander's so-called "time-phased force deployment data" plan. That plan details landing sequences so that reinforcements don't overload limited facilities.

A feasibility study for using offbase hotels to board incoming troops was slated for completion last month. It may lead to another MOA.

The South Koreans have designated a secondary air base to "alleviate congestion" at Kimhae, the primary air field slated to receive U.S. reinforcement, the USFK wrote.

"Discussions are in progress for U.S. use of the newly constructed air freight terminal at this secondary" base.

Recommendations for beefing up "operational project stocks" used to support reinforcing forces are slated for submission to Army headquarters this month. Commercial leasing agreements with Korean companies for additional wartime vehicles should be completed in December.

KOREA SHORTFALLS MAY BE NOTHING NEW

According to Bob Gaskin, the ex-assistant director of the Pentagon's Net Assessment Office until 1992, problems with reinforcing Korea have long been well-known. And they are still enormous. USFK' efforts to plug the shortfalls are "like taking an ice pick to a mountain," he said.

Gaskin said if war comes, Pusan port and Kimhae airfield will be subjected to constant North Korean terrorist, commando and Scud attacks. "They're not going to leave them alone."

Panicky refugees will clog severely limited transportation arteries, complicating the rapid deployment of reinforcements, said Gaskin, now with Business Executives for National Security.

A Pentagon official intimately familiar with the U.S. Korean campaign plan defended it last week. "The fact is that you could look at any plan that has not yet been executed and say that it will . . . or won't work. You can make that statement on any plan that has not been executed." But he admitted that "you can always make [the plan] better."

Gaskin said the number of troops slated to reinforce Korea had not changed much with new planning. The recent "bottom-up" review kept reinforcements at roughly Cold War levels, he said.

But that review did call for "increased early-arriving land-based and carrier aircraft and long-range bombers." It also called for airlift and sealift upgrades to support "rapid closure of heavy forces."

Gaskin also blamed the South Koreans for failing to make sure their logistics capabilities were up to snuff. Unlike Saudi Arabia where the royal family "put its money where it's concerns are," the Koreans haven't spent "the money that is needed."

Gaskin said he submitted a "very disturbing" 1991 report laying out the full scope of problems with U.S. reinforcing plans but charged it was "blocked" from getting to then-Defense Secretary Dick Cheney.

"Many of these problems were addressed in the report two years ago. The report is explosive and detailed, point, chapter and verse."

Mr. COHEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. (Mr. DASCHLE). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO N.H. "HAPPY" BERRY

Mr. DOLE. Mr. President, I rise today to honor the late N.H. "Happy" Berry of Lenora, KS.

"Hap" was a family man, a farmer, a devoted public servant, and a good friend.

He served as master of the Lenora Masonic Lodge, a Shriner, and a trustee of Lenora township. He was a director of the Lenoral Mercantile Association and a director of the Norton County Farm Bureau.

Born in a log cabin in Tennessee, he came to western Kansas in 1920 during the wheat harvest. Subsequently, he and his wife Fern became a part of the Norton county community where "Hap" farmed for over 60 years.

I remember "Hap" for his longtime support and friendship and the legacy he leaves as a Kansan.

With the passing of Fern in 1988, "Hap" is survived by a sister, Mary; three sons, Hardy, Delbert, and Joseph; six grandchildren and six great grandchildren.

IRRESPONSIBLE CONGRESS? HERE'S TODAY'S BOXSCORE

Mr. HELMS. Mr. President, as of the close of business yesterday, November 16, the Federal debt stood at $4,461,657,354,035.12, meaning that on a per capita basis, every man, woman, and child in America owes $17,370.06 as his or her share of that debt.

THE 1994 DEFENSE AUTHORIZATION BILL

Mr. WARNER. Mr. President, I would like to take this opportunity to commend the chairman of the Armed Services Committee, Senator NUNN and the ranking Member, Senator THURMOND for their outstanding leadership throughout this difficult year. The Armed Services Committee, in my opinion, has produced a bill which optimizes the use of relatively scarce resources and provides the strongest defense possible within tight budget constraints.

I am concerned, however, that we may be moving dangerously close to a hollow force. This budget for fiscal year 1994 is $12 billion below what President Bush's defense budget would have been. If President Clinton's administration sticks with his current plan, we will have to cut an additional $28 billion per year each year for the next 4 years. I believe this cuts far too deeply.

If we cut our defense budgets by that much, we will cause hollow forces. We will require the military services to involuntarily separate thousands of qualified volunteers who planned to serve for a career. Additionally, we will curtail essential flying and steaming hours, training ammunition and training opportunities. Our forces cannot remain ready if they cannot train.

Mr. President, I am concerned that we have cut our Ballistic Missile Defense programs too deeply. We have all but dismissed any possibility of a missile defense for the people of the United States. We have substantially slowed the progress toward improvements in theater missile defenses.

I believe this is unwise in a world where North Korea may be well along toward producing nuclear weapons and already has ambitious ballistic missile programs—and where there is still the possibility that former Soviet Union nuclear weapons might fall into the wrong hands or be accidentally launched. Or, where nuclear or ballistic missile technologies, so eagerly sought by third world despots, may not be under positive control in countries of the former Soviet Union. I hope, Mr. President, that next year we find the resources to revitalize our ballistic missile defense programs.

I am pleased that the fiscal year 1994 Defense appropriations bill supported the construction of the Navy's next nuclear-powered aircraft carrier, CVN-76 by providing $1.2 billion for use toward the construction of the carrier when the carrier is authorized. I am confident, Mr. President, that that authorization will be forthcoming next year.

Mr. President, I remain concerned about the balance between reserve component force structure and active component force structure. I understand why it is difficult for the Congress to support major reductions in the reserve components, but we simply cannot maintain force structure in the reserves at the expense of required active component force structure when we have already made major reductions in the active components.

It is essential that we maintain only those forces which are critical in both the active and reserve components—and the total force must be properly balanced. I intend to continue to examine this situation in more depth next year.

Mr. President, I thank the chair, the distinguished floor managers and I yield the floor.

NOMINATION OF MARK L. SCHNEIDER TO BE ASSISTANT ADMINISTRATOR FOR LATIN AMERICA AND THE CARIBBEAN OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT

Mr. DODD. Mr. President, I rise today to share with my colleagues a recent statement made by Mark L. Schneider, President Clinton's nominee to be Assistant Administrator for Latin America and the Caribbean of the Agency for International Development.

On November 9, I had the privilege of chairing a hearing of the Committee on

Foreign Relations to consider Mr. Schneider's nomination.

Mr. Schneider's qualifications for this position are clear. He has served as a Peace Corps volunteer in El Salvador; as executive director of the city of Pittsburgh's human relations commission; as a legislative assistant to our colleague, Senator KENNEDY; as deputy assistant secretary of state for human rights; and as senior adviser to the director of the Pan American Health Organization.

Mr. Schneider's achievements were recognized earlier this year when the Government of Chile awarded him the Bernardo O'Higgins Medal for human rights work.

I would like to bring to my colleagues' attention Mr. Schneider's testimony from last week. I think it was a significant statement on United States aid policy toward Latin America, and it deserves careful and thoughtful consideration. I ask unanimous consent that the statement be entered into the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF MARK L. SCHNEIDER BEFORE THE COMMITTEE ON FOREIGN RELATIONS, NOVEMBER 9, 1993

I want to thank the Chairman and the Members of the Senate Foreign Relations Committee for the opportunity to appear before you today as President Clinton's nominee for the position of Assistant Administrator for Latin America and the Caribbean of the Agency for International Development (USAID). If confirmed in this post, I assure you of my desire and my determination to work very closely with the Members and Staff of this Committee and of other Committees. I am a product of and believe deeply in the importance of the Congressional role in foreign policy and in the value of bipartisan collaboration.

I am proud that USAID Administrator Brian Atwood has asked me to join him in redefining our foreign assistance program, particularly in Latin America and the Caribbean. I obviously am honored that President Clinton accepted the Administrator's recommendation to nominate me for this position.

In some ways, the various strands of my professional career stretching back nearly three decades come together in this position. My first direct involvement in Latin America and in development took place in 1966 when my wife and I lived in El Salvador as Peace Corps volunteers. We worked in a poor barrio in San Salvador with that city's community service agency.

For more than two years, we saw the obstacles to expanding access to education and to health and the realities of uncollected garbage, of cardboard and bamboo shacks, and of untreated sewage. We saw men and women up at 5 a.m. to begin searching for a day of unskilled labor.

We saw poverty in its cruelest form, in the funeral processions that passed through our community to the paupers' cemetery just beyond. They bore tiny wooden coffins with infants who had died from the diseases that could have been prevented by immunization or by the simplest form of medical treatment.

We came to appreciate and marvel at the undaunted spirit of the people of these communities to secure better lives for themselves and for their children.

I spent much of the next decade with the legislative and executive branches of the U.S. government in positions which involved examining U.S. policy and programs affecting Latin America and the Caribbean. My responsibilities on Senator Edward M. Kennedy's staff for the next six years included working closely with the Senate Refugee Subcommittee on humanitarian issues affecting Latin America. On behalf of the Senate Judiciary Committee, I traveled to Chile and Guatemala, the former trip focussing on human rights conditions and the latter exploring the U.S. response to natural disasters.

My next government responsibility was in the Department of State's Human Rights Bureau in the Carter Administration. Despite the global nature of that office, it afforded me another opportunity to think about U.S. development policy toward Latin America.

For the past 12 years, I have had a different perspective on Latin American development issues as a senior policy advisor of the Pan American Health Organization.

The PAHO experience spanned strategic planning, programming, monitoring and evaluation responsibilities for an Organization with a structure very similar to that of USAID. I should add that I also saw USAID from the side of a grantee.

It is essential for USAID to be clear about what it can and cannot do, to do it at the least possible cost and with the least amount of paperwork. Redefining government means defining policy and program objectives in clear and measurable ways, managing for results and changing or ending programs if they fail to produce those results. It means becoming more innovative in the way USAID uses resources. It also means building coalitions with other bilateral and multilateral development institutions. It means defining priorities and concentrating the resources of the international community on those priorities.

The PAHO years also reinforced by awareness of the integrated nature of development, in Latin America and elsewhere. It taught me much about the precise linkages between health and education; between human capital investment and economic growth; between protecting the environment and protecting our health and our future economic base; and between democracy and development.

Therefore, it was particularly exciting to see the strategy of sustainable development which the USAID Administrator set forth when he appeared before this Committee last July.

That strategy was a response to the question of how to recast U.S. development policy in the post Cold War era. It asserts that the new strategy threats increasingly are related to the failures of development: the continuation and exacerbation of poverty, social and economic inequities, environmental abuse, rapid population growth, oppression, and the absence or weakness of democratic institutions. The consequences of those failures are conflict and the collapse of civil society, population dislocation, and stagnant or deteriorating economic and social conditions

The strategic response which the Administrator described is a policy of promoting sustainable development. Sustainable development aims at securing a broadly-based economic growth that reduces poverty; at protecting the environment so that natural resources are there for the next generation; at stabilizing population growth and protecting human health for their own value and because of the contribution they make to economic well-being; and at building democratic institutions which guarantee political freedom and shore up the rule of law.

In Latin America, a renewed USAID, focussed on these priorities, can help a region of direct and continuing importance to the prosperity and security of the United States overcome the threats to development not merely from one year to the next, but from one generation to another.

Secretary of State Warren Christopher's speech to the Council of the Americas contained this assurance: "President Clinton is committed to forging a true partnership of the Americas—a Western Hemisphere Community of Democracies—to strengthen democratic institutions, defend human rights, fight for social justice, support economic reform and free markets and protect the environment."

This commitment recognizes that our ties to Latin America are enduring ones. Each era inevitably presents new threats and new opportunities. Today we face one such moment, able, for the first time in more than 40 years, to help the nations of the Western Hemisphere see the challenges of development without the distorting prism of the Cold War.

The first fundamental challenge is political—the reinforcement of the region's fragile democracies. We have a chance to consolidate a democratic movement which began its march toward freedom long before the fall of the Berlin wall. Now, as President Clinton stated at the United Nations, "We will support the consolidation of market democracy where it is taking new root, as in the states of the former Soviet Union and all over Latin America. And we seek to foster the practices of good government that distribute the benefits of democracy and economic growth fairly to all people."

Part of that consolidation must come in Central America where the transition to democracy remains unsettled. It is vital to complete the Esquipulas peace process, assuring open and democratic systems, respect for the rule of law, and economic growth with equity. Reconciliation and reconstruction will never be fully achieved until the two thirds of the Central American population living in poverty gain access to health care and to education and to the tools to enter the mainstream economies. The next five years will be crucial to the outcome of that transition.

Invigorating democratic institutions and expanding economic opportunities as part of a sustainable development strategy also comprise key components of a revised Andean counter narcotics initiative. USAID has a continuing role in helping those nations to combat the threat of the drug lords.

Also, in Haiti, we see perhaps the region's most glaring example of the costs of failing to address over time the underlying political and economic threats to development. USAID is providing humanitarian food and medical relief as diplomatic efforts attempt to restore the constitutional government of President Aristide.

In Latin America and the Caribbean, after the "lost decade of development," the second challenge is economic.

The 1980s economic crisis brought unprecedented stabilization and structural adjustment. Reforms included trade liberalization, privatization and a market-oriented approach to economic growth. Fiscal deficits began to decline, hyperinflation was curtailed and trade barriers were removed. Nevertheless overall per capita income declined by 9% during the decade; social sector investments plunged; and the percentage of the population living in poverty rose by nearly a third, to 46%, according to the United Nations Economic Commission for Latin America and the Caribbean (ECLAC). Two hundred million people live in poverty today, 60 million more than in 1981.

The test ahead will be how these countries open their economies to the participation of the majority of their citizens even as they maintain and deepen the past decade's market reforms.

Our nation must invest in people here and abroad. Investments in human capital have been shown to have a direct impact on increased productivity, on obtaining better employment opportunities and higher family income, and on opening opportunities for greater participation in the democratic process.

Hopefully, we are seeing the dawning of a new period of economic advancement. Last year, nearly every country in the region experienced positive real growth; but that growth was barely sufficient to match the burgeoning population. The ECLAC reports for 1993 are more promising with estimates of 3.6% growth in GDP per capita.

The relationship to our own economy of restored economic vigor in the region is unquestioned. Latin America constitutes the fastest growing and largest market within the developing world for our products. This year, more than $80 billion in U.S. goods and services will be exported to Latin America. Those figures translate into 1.6 million jobs for American workers. Mexico alone purchases $42 billion in U.S. exports, and is our third largest market, after Canada and Japan.

Not only trade binds our economic futures to the region's development. More than 19 million U.S. citizens travel each year to the region as tourists or on business and more than 11 million Latin Americans will visit this nation. In addition, more than two million legal and illegal migrants will pass across our border to search for work and for brighter futures. We have compelling interests in assisting those nations in improving the health of their citizens, in educating their children and in providing a social infrastructure which will offer them hope in their own countries.

The Administrator has noted that the USAID strategy of sustainable development will seek to strengthen market-oriented economies in the region, to urge sectoral policy reform that emphasizes participation and decentralization, to encourage involvement of non-governmental organizations and microenterprises, to promote greater respect for labor rights and to seek removal of the constraints to broad-based participation in economic development.

Population and health problems constitute the third challenge confronting the region. The hemisphere's population today stands at 725 million with some 450 million living in Latin America and the Caribbean. In less than a generation, the total population will pass the billion mark. The industrial nations will see our population grow by 23%; while the population of Latin America and the Caribbean will grow by 60%. Without sustained development, those demographic pressures inevitably will shake every institution is society.

With respect to health, Latin American's infant mortality rate continues to be nearly six times that of North America, and maternal mortality rates are nearly 40 times higher in several countries than in industrial nations. PAHO has estimated that as many as 500,000 children under age 5 die needlessly each year from diseases which are preventable with known and inexpensive technology. Unfortunately, these traditional diseases now are being paralleled by the AIDS epidemic.

It was in this context that population and health concerns were targeted by the USAID Administrator as priorities to be addressed within the strategy of sustainable development.

There is another hemispheric challenge which frequently has been overlooked in the past. The air and waters and land mass of our neighbors affect our own environment directly and indirectly. Latin America and the Caribbean contain more than half of the world's remaining tropical forest and probably the most diverse and irreplaceable natural storehouse of biodiversity.

The environmental challenge has two parts, and the Administrator has emphasized that USAID will pursue both the preservation of natural resources and the prevention of environmental contamination. In Latin America, the environmental challenge can be measured by the 130 million people who do not have access to safe drinking water and by the 220 million who do not have adequate sanitation and by the fact that barely 10 percent of all sewage collected is treated before being dumped into the common waters of the hemisphere. Or it can be measured by nearly one million cases of cholera which have spread through the region as that disease has reappeared for the first time in a century.

I believe that we share a common destiny with the nations of this hemisphere. This is a moment when the linkages between our economic and political security have never been greater. Helping the nations of the region achieve sustainable development is the best form of preventive diplomacy and the least costly. It is in our national interest to be a full partner in the region's social, economic and political development.

I hope to have the opportunity to help USAID and our country meet these challenges.

S. 1657, HABEAS CORPUS REFORM

Mr. DURENBERGER. Mr. President, I rise to explain the reasons I will vote to table S. 1657, Senator SPECTOR's bill regarding habeas corpus reform.

Among other things, the 14th amendment to our Constitution prohibits States from violating the rights of Americans that are guaranteed by the Constitution. The Habeas Corpus Act of 1867 was enacted to ensure that State courts do not violate the 14th amendment or Bill of Rights when they punish the criminally accused. Since that time, State prisoners have been able to challenge the constitutionality of their conviction or sentence in Federal court by filing a petition for a writ of habeas corpus.

Everyone agrees that it is tragic when an individual commits a crime against another individual. But it is particularly frightening when the State commits a crime by violating constitutional rights in its zeal to punish crime. That kind of misbehavior by the State threatens the liberty of all Americans. That is why I believe that constitutional rights should be zealously protected in our criminal justice system, and the writ of habeas corpus is an important component of that protection.

Those who want to further limit access to habeas corpus maintain that claims are filed frivolously, particularly by prisoners on death row who want to delay their execution. But the fact is, constitutional error is found in 40 percent of the death penalty cases reviewed by Federal courts under habeas corpus.

The Supreme Court has acted recently to significantly limit access to habeas corpus review, and I believe the Congress should proceed with extreme caution before enacting further restrictions on habeas.

I have particular concerns about this bill, such as the elimination of the exhaustion of remedies in State court. Under this bill, petitioners must file a petition for a writ of habeas corpus in Federal court within 6 months of a conviction becoming final, without an adequate opportunity to pursue a writ of habeas corpus in State court.

I am also concerned about the 6-month limit placed on district courts and the 4-month limit placed on courts of appeal for reviewing habeas corpus cases. Federal antitrust or securities cases drag on in Federal courts for years. In death penalty cases—where life rather than money is at stake—we should be at least as willing to commit court resources to ensure fundamental fairness.

I understand that we may take up habeas corpus reform in the next session if this bill is tabled, and I hope that we will have time to consider reform rationally and thoughtfully at that time.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Edwin R. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED JOINT RESOLUTION SIGNED

At 1:17 p.m., a message from the House of Representatives, delivered Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolution:

S.J. Res. 129. Joint Resolution to authorize the placement of a memorial cairn in Arlington National Cemetery, Arlington, Virginia, to honor the 270 victims of the terrorist bombing of Pan Am Flight 103.

At 3:40 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1025. An act to provide for a waiting period before the purchase of a handgun, and for the establishment of a national instant criminal background check system to be contacted by firearms dealers before the transfer of any firearm.

H.R. 2884. An act to establish a national framework for the development of School-to-Work Opportunities systems in all States, and for other purposes.

H.R. 3000. An act for reform in emerging new democracies and support and help for improved partnership with Russia, Ukraine, and other new independent states of the former Soviet Union.

MEASURES REFERRED

The following measure, previously received from the House of Representatives, was read the first and second times by unanimous consent, and referred as indicated:

H.R. 1137. An act to amend the Geothermal Steam Act of 1970 (30 U.S.C. 1001–1027), and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 2620. An act to authorize the Secretary of the Interior to acquire certain lands in California through an exchange pursuant to the Federal Land Policy and Management Act of 1976, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 3286. An act to authorize the Secretary of the Interior to lease certain properties at the Presidio of San Francisco, California; to the Committee on Energy and Natural Resources.

MEASURES PLACED ON THE CALENDAR

The following measure was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 2884. An act to establish a national framework for the development of School-to-Work Opportunities systems in all States, and for other purposes.

PETITIONS AND MEMORIALS

The following petitions and memorials were held laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–313. A joint resolution adopted by the Legislature of the State of Oregon; to the Committee on Appropriations.

"HOUSE JOINT MEMORIAL 5

"Whereas the Congress in 1992 enacted the Mammography Quality Standards Act to provide for the accreditation and inspection of medical clinics and facilities engaged in the early detection of breast cancer by means of mammography technology; and

"Whereas the Act also requires a study to determine whether the imposition of strict standards for clinic and facility certification results in a reduction of poor quality mammography and a consequent improvement in the diagnosis and early treatment of breast cancer, now, therefore,

"*Be It Resolved by the Legislative Assembly of the State of Oregon:*

"(1) The Congress is urged to appropriate to the Department of Health and Human Services the funds necessary to expedite and implement the provisions of the Mammography Quality Standards Act so that thousands of women may be spared the tragic consequences of breast cancer detected too late or not at all.

"(2) Copies of this memorial shall be sent to the President of the Senate, to the Speaker of the House of Representatives and to each member of the Oregon Congressional Delegation."

POM–314. A resolution adopted by the Reformed Church in America, New York, New York relative to greenhouse gases; to the Committee on Energy and Natural Resources.

POM–315. A resolution adopted by the Reformed Church in America, New York, New York relative to fossil fuel consumption; to the Committee on Energy and Natural Resources.

POM–316. A resolution adopted by the Western Legislative Conference of the Council of State Governments relative to Pacific Islands commercial ports; to the Committee on Energy and Natural Resources.

POM–317. A resolution adopted by the Western Legislative Conference of the Council of State Governments relative to the Island of Tinian; to the Committee on Energy and Natural Resources.

POM–318. A resolution adopted by the Association of American State Geologists relative mining law reform legislation; to the Committee on Energy and Natural Resources.

POM–319. A communication from the City Council of Loveland, Ohio relative to the Kings Mills military reservation; to the Committee on Environment and Public Works.

POM–320. A resolution adopted by the Reformed Church in America, New York, New York relative to tobacco products; to the Committee on Finance.

POM–321. A resolution adopted by the Western Legislative Conference of the Council of State Governments relative to coordination of guidance and prevention services for families; to the Committee on Finance.

POM–322. A resolution adopted by the Western Legislative Conference of the Council of State Governments relative to Supplemental Security Income; to the Committee on Finance.

POM–323. A resolution adopted by the Western Legislative Conference of the Council of State Governments relative to the North American Free Trade Agreement; to the Committee on Finance.

POM–324. A resolution adopted by the Western Legislative Conference of the Council of State Governments relative to a U.S.–Mexico Border Health Commission; to the Committee on Foreign Relations.

POM–325. A resolution adopted by the Town of Oliver Springs, Tennessee relative to Federal mandates; to the Committee on Governmental Affairs.

POM–326. A resolution adopted by the Town of Mexico, Maine relative to Federal mandates; to the Committee on Governmental Affairs.

POM–327. A resolution adopted by the Town of Orrington, Maine relative to Federal mandates; to the Committee on Governmental Affairs.

POM–328. A resolution adopted by the Western Legislative Conference of the Council of State Governments relative to reducing demand for illegal drugs; to the Committee on Labor and Human Resources.

POM–329. A resolution adopted by the Western Legislative Conference of the Council of State Governments relative to youth violence; to the Committee on Labor and Human Resources.

POM–330. A resolution adopted by the Legislature of the State of Oregon; to the Committee on Labor and Human Resources.

"HOUSE JOINT MEMORIAL 6

"Whereas breast cancer continues to claim the lives of thousands of women, despite significant scientific advances in detection and treatment; and

"Whereas federal agencies, projects and initiatives play a vital role in our national will to combat and conquer disease; and

"Whereas a coordinated and focused effort often proves to be the key element of victory in battles against disease; now, therefore,

"*Be It Resolved by the Legislative Assembly of the State of Oregon:*

"(1) The Congress of the United States is respectfully requested to establish an Office of Breast Cancer Coordination to provide a cohesive agenda for breast cancer research through such agencies as the National Institutes of health, the National Cancer Institute and the Centers for Disease Control, and to ensure the elimination of redundancy and the fostering of an integrated approach to the eradication of breast cancer.

"(2) Copies of this memorial shall be sent to the President of the Senate, the Speaker of the House of Representatives and to each member of the Oregon Congressional Delegation."

POM–331. A joint resolution adopted by the Legislature of the State of Oregon; to the Committee on Labor and Human Resources.

"HOUSE JOINT MEMORIAL 17

"Whereas Chronic Fatigue Immune Dysfunction Syndrome, also known as Chronic Fatigue Syndrome and Myalgic Encephalomyelitis, is a serious multisystem disease for which there is no known cure or effective treatment; and

"Whereas the national Centers for Disease Control, which in 1988 established scientific criteria for diagnosing this disease, has called CFIDS an emerging epidemic; and

"Whereas estimates of the afflicted range as high as one and one-half percent of the populace, or approximately 3,750,000 individuals including adults, adolescents and children as young as five years of age; and

"Whereas recent biomedical research has shown that Chronic Fatigue Immune Dysfunction Syndrome attacks a number of systems of the human body resulting in chronic debilitating fatigue, many influenza-like symptoms, and neurological, neuromuscular, immunological and cognitive impairments; and

"Whereas the disease can cause extreme debilitation, in some cases in excess of five years, and can prevent sufferers from working and performing normal daily activities; and

"Whereas victims of Chronic Fatigue Immune Dysfunction Syndrome face misunderstanding and a lack of acceptance by providers of social services and public assistance programs despite experiencing symptoms of sufficient severity to legally qualify them for disability coverage under the federal Social Security Act; and

"Whereas because so little is known about the disease, sufferers are often misdiagnosed and receive inadequate medical treatment, prolonging their period of disability and loss of productivity in the workplace; and

"Whereas the mode of transmission of the disease and its natural history are unknown at present, making all segments of the population at risk; and

"Whereas there is great need for education and training of health professionals regarding Chronic Fatigue Immune Dysfunction Syndrome and for increased public awareness of the disease; and

"Whereas there is an urgent need to expand the public health response to this disease, which has been identified in every state; now, therefore,

"Be It Resolved by the Legislative Assembly of the State of Oregon:

"(1) The Oregon Legislative Assembly respectfully memorializes the President and the Congress of the United States to direct increased and specific funding to research Chronic Fatigue Immune Dysfunction Syndrome and to develop effective treatments and a cure for this disease.

"(2) Copies of this memorial shall be sent to the President and Vice President of the United States, to Hillary Rodham Clinton, chairperson of the Health Care Task Force, and to the Speaker of the House of Representatives, and to each member of the Oregon Congressional Delegation."

ENROLLED BILLS AND JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that on November 17, 1993 he had presented to the President of the United States, the following enrolled bills and joint resolutions:

S. 654. An Act to amend the Indian Environmental General Assistance Program Act of 1992 to extend the authorization of appropriations.

S. 1490. An Act to amend the United States Grain Standards Act to extend the authority of the Federal Grain Inspection Service to collect fees to cover administrative and supervisory costs, to extend the authorization of appropriations for such Act, and to improve administration of such Act, and for other purposes.

S.J. Res. 19. Joint Resolution to acknowledge the 100th anniversary of the January 17, 1893 overthrow of the Kingdom of Hawaii, and to offer an apology to Native Hawaiians on behalf of the United States for the overthrow of the Kingdom of Hawaii.

S.J. Res. 129. Joint Resolution to authorize the placement of a memorial cairn in Arlington National Cemetery, Arlington, Virginia, to honor the 270 victims of the terrorist bombing of Pan Am Flight 103.

REPORTS OF COMMITTEES

Under the authority of the order of the Senate of November 11, 1993, the following reports of committees were submitted on November 12, 1993:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 1491: A bill to amend the Airport and Airway Improvement Act of 1982 to authorize appropriations, and for other purposes (Rept. No. 103–181).

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 1218: A bill to authorize appropriations for fiscal years 1994 and 1995 to carry out the National Foundation on the Arts and the Humanities Act of 1965, and the Museum Services Act, and for other purposes (Rept. No. 103–182).

The following reports of committees were submitted on November 17, 1993:

By Mr. INOUYE, from the Committee on Indian Affairs, with an amendment:

S. 1059. A bill to include Alaska Natives in a program for Native culture and arts development (Rept. No. 103–184).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 1588. A bill to amend the Independent Safety Board Act of 1974 to authorize appropriations for fiscal years 1994, 1995, and 1996 (Rept. No. 103–185).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

H.R. 698. A bill to protect Lechuguilla Cave and other resources and values in and adjacent to Carlsbad Caverns National Park.

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

H.R. 914. A bill to amend the Wild and Scenic Rivers Act to designate certain segments of the Red River in Kentucky as components of the National Wild and Scenic Rivers System, and for other purposes.

H.R. 2650. A bill to designate portions of the Maurice River and its tributaries in the State of New Jersey as components of the National Wild and Scenic Rivers System.

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment:

S. 297. A bill to authorize the Air Force Memorial Foundation to establish a memorial in the District of Columbia or its environs.

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

S. 986. A bill to provide for an interpretive center at the Civil War Battlefield of Corinth, Mississippi, and for other purposes.

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

S. 1574. A bill to authorize appropriations for the Coastal Heritage Trail Route in the State of New Jersey, and for other purposes.

By Mr. MOYNIHAN, from the Committee on Finance, without amendment:

S. 1668. An original bill to amend the Social Security Act and related Acts to make miscellaneous and technical amendments, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. Kennedy, from the Committee on Labor and Human Resources:

Magdalena G. Jacobsen, of Oregon, to be a Member of the National Mediation Board for the term expiring July 1, 1996;

Preston M. Taylor, Jr., of New Jersey, to be Assistant Secretary of Labor for Veterans' Employment and Training; and

Oliva A. Golden, of the District of Columbia, to be Commissioner on Children, Youth, and Families, Department of Health and human Services.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs:

Dwight P. Robinson, of Michigan, to be President, Government National Mortgage Association;

Sue E. Ecker, of Rhode Island, to be an Assistant Secretary of Commerce;

Norman E. D'Amours, of New Hampshire, to be a Member of the National Credit Union Administration Board for the term of six years expiring August 2, 1999; and

Martin A. Kamarch, of Massachusetts, to the First Vice President of the Export-Import Bank of the United States for a term of four years expiring January 20, 1997.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LEVIN (for himself, Mr. RIEGLE, Mr. FEINGOLD, and Mr. KOHL):

S. 1663. A bill to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to control the diversion of certain chemicals used in illicit production of controlled substances such as methcathinone and methamphetamine, and for other purposes; to the Committee on the Judiciary.

By Mr. BRYAN (for himself, Mr. BOND, and Mr. RIEGLE):

S. 1664. A bill to amend subchapter II of chapter 53 of title 31, United States Code, to improve enforcement of anti-money laundering laws, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. PELL (by request):

S. 1665. A bill to authorize the Librarian of Congress to retain the proceeds of certain sales, payments or restitution; to the Committee on Rules and Administration.

By Mr. GORTON (for himself, Mr. STEVENS, Mr. MACK, Mr. PRESSLER, and Mrs. HUTCHISON):

S. 1666. A bill to amend the Internal Revenue Code of 1986 to allow a taxpayer to elect to deduct either State and local income taxes or State and local sales taxes; to the Committee on Finance.

By Mr. PELL:

S. 1667. A bill to extend authorities under the Middle East Peace Facilitation Act of 1993 by six months; considered and passed.

By Mr. MOYNIHAN:

S. 1668. An original bill to amend the Social Security Act and related Acts to make miscellaneous and technical amendments, and for other purposes; from the Committee on Finance; placed on the calendar.

By Mrs. HUTCHISON (for herself, Ms. MIKULSKI, and Mrs. FEINSTEIN):

S. 1669. A bill to amend the Internal Revenue Code of 1986 to allow homemakers to get a full IRA deduction; to the Committee on Finance.

By Mrs. FEINSTEIN:

S.J. Res. 152. A joint resolution to designate the visitors center at the Channel Islands National Park, California, as the "Robert J. Lagomarsino Visitors Center"; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DECONCINI (for himself, Mr. GRASSLEY, and Mr. D'AMATO):

S. Con. Res. 52. A concurrent resolution expressing the sense of the Congress that leaders in the Middle East should consider establishing a Conference on Security and Cooperation in the Middle East; to the Committee on Foreign Relations.

By Mr. MOYNIHAN (for himself and Mr. PELL):

S. Res. 167. A resolution expressing the sense of the Senate concerning the Iraqi Government's campaign against the Marsh Arabs of Southern Iraq; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEVIN (for himself, Mr. RIEGLE, Mr. FEINGOLD, and Mr. KOHL):

S. 1663. A bill to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to control the diversion of certain chemicals used in illicit production of controlled substances such as methcathinone and methamphetamine, and for other purposes; to the Committee on the Judiciary.

DOMESTIC CHEMICAL DIVERSIONS CONTROL ACT OF 1993

Mr. LEVIN. Mr. President, today I am introducing legislation that is aimed at stopping a new illegal drug sweeping across the Upper Peninsula of my home State of Michigan. The drug is called Methcathinone, commonly referred to as CAT.

CAT is a highly addictive drug and is a more potent stimulant than cocaine. CAT is made in illegal drug laboratories from ephedrine, an asthma medication that is available as a nonprescription, over the counter drug. Other easily obtainable chemicals such as epsom salts, paint thinner, battery acid, and drain cleaner are part of the CAT production process.

The legislation I am introducing today, cosponsored by my colleague from Michigan, Senator RIEGLE and Senators FEINGOLD and KOHL from Wisconsin, will stop the illegal use of ephedrine tablets in the production of CAT. It is important to note that this legislation has nationwide significance because ephedrine is also the primary drug used to produce methamphetamine, another potent illegal stimulant which is causing nationwide problems. Representative STUPAK recently introduced similar legislation in the House. The House is expected to pass this bill as a suspension bill before Thanksgiving.

Let me give you a little background on the problem. Michigan law enforcement officials believe the production of CAT first began in 1991. Since then, the problem has grown and is highly concentrated in the Upper Peninsula. Seventy-five percent of the ephedrine sold in my home State goes to the sparsely populated Upper Peninsula. Since June 1991, 28 methcathinone laboratories have been seized. These labs were located in Michigan, Illinois, Washington, and Wisconsin. The Upper Peninsula Substance Enforcement Team [UPSET], a special unit which handles drug trafficking, has established a five-member unit which is solely dealing with the CAT problem. But even with this focused effort, CAT has begun to spread to Wisconsin and other States.

The Drug Enforcement Administration [DEA] is afraid CAT will spread like wildfire to other States since it is so easy to make and so addicting. We need to stop this drug before it spreads any further.

The main purpose of the legislation I am introducing is to reverse the legal drug exemption for ephedrine tablets. Because of a loophole in the Chemical Diversion and Trafficking Act of 1988, ephedrine tablets are exempt because they are an approved drug product under the Federal Food, Drug, and Cosmetic Act. Ironically, ephedrine in powder form is not exempt from legal drug exemption and as a result is tightly regulated. My bill will mean ephedrine tablets will be treated in the same way ephedrine powder is treated.

My bill removes ephedrine products from the exemption and grants DEA the authority to remove the legal drug exemption from any other drug products which are diverted to use in the illicit production of controlled drugs. While ephedrine is the only current example of a legal drug being diverted for illicit purposes, if the bill only restricted ephedrine, drug manufacturers could simply combine ephedrine with other products to side step the new restrictions. To avoid additional future loopholes, this bill goes beyond restricting ephedrine and ephedrine combination products to ensure that other listed drugs contained in over-the-counter products do not quickly surface as a substitute for ephedrine to make the same type of illicit drug.

The bill also establishes a registration system for firms in the legal distribution chain for ephedrine and other listed chemicals that could be used in the production of illicit drugs to aid in the tracking of the sale of these products. The legislation establishes a registration system for distributors, importers, and exporters of listed chemicals, which are being diverted in the United States for the production of illicit drugs. Currently, there is a registration for firms distributing ephedrine powder over a certain threshold. Again, my bill aims to treat ephedrine tablets as ephedrine powder is treated. The registration system is modeled after the system that has been in use to register handlers of controlled substances for 20 years.

It is the DEA's position, with which I fully concur, that the Chemical Division and Trafficking Act of 1988 has demonstrated that chemical control and prevention are extremely effective methods of controlling illegal drugs in this country. This is why we must close the loophole for ephedrine tablets and modify the legal drug exemption of the Chemical Diversion and Trafficking Act which allows ephedrine tablets to be sold legally over the counter.

Although this type of prevention seems so simple, Congress has let a version of this bill die in the past because it was part of the larger crime bill that failed to pass last year. This year, Senator GORTON, of Washington, again introduced the Chemical Control Amendments Act, a more comprehensive bill that would control the diversion of a number of chemicals used in the illicit production of controlled substances, including ephedrine. Mr. President, as you know, it was again included as part of this year's crime bill.

The broader chemical control bill may again be delayed as part of the crime bill. But we cannot wait to deal with the CAT problem which is upon us now. We must pass this provision this year, as the House is doing, to move toward solving the ephedrine drug problem. I am introducing this stand-alone bill to close the legal drug exemption loophole as it pertains to ephedrine tablets specifically—as well as other drugs which are illegally diverted for the illicit production of contraband—because of the immediacy and urgency of the CAT problem.

I have a letter from the Administrator of the Drug Enforcement Administration supporting this legislation. It says, "The Department [of Justice] and the DEA fully support your effort and will work with you to secure swift passage of this critical legislation during this Congress." I ask unanimous consent to print the letter in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF JUSTICE,
DRUG ENFORCEMENT ADMINISTRATION,
Washington, DC, October 14, 1993.

Hon. CARL LEVIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEVIN: I am aware of your concern about the illicit manufacture of methcathinone, ("cat" as it called on the street), and the severe health consequences resulting from its abuse. Nowhere is this more true than in Michigan, especially on the Upper Peninsula.

Members of your staff have discussed how to address the "cat" problem with the Drug Enforcement Administration (DEA). The most effective method to lessen the supply of methcathinone is to sharply curtail the availability of ephedrine, a key chemical ingredient needed to manufacture the drug.

I understand that you will be proposing legislation that will address this issue. As you know, the Department of Justice supported a provision to this effect that was included in the Violent Crime Control and Law Enforcement Act of 1991. The Department and DEA fully support your efforts and will work with you to secure swift passage of this critical legislation during this Congress. I can also assure you that DEA will be working with the appropriate agencies to educate the public about the severe health effects caused by the abuse of methcathinone. Hopefully these efforts will reduce the demand for this illicit substance and will impact positively on the supply.

I look forward to working with you on this matter. I am confident that our efforts can successfully reduce the availability and abuse of methcathinone.

Very truly yours,

ROBERT C. BONNER,
Administrator of
Drug Enforcement.

Mr. LEVIN. Mr. President, we cannot stand idly by and let the restriction of ephedrine become bogged down in the debate over the crime bill. We must act quickly and address this problem head on. I am introducing this legislation in the hope that speedy passage will result in the cessation of the production of cat which is particularly claiming victims in the Upper Peninsula of my home State of Michigan. Its poisonous effects will be felt throughout the country unless stopped now.

It is a growing menace. The Drug Enforcement Administration recognizes it, and they have asked us to adopt this provision. I hope that we will pass this law, along with the House of Representatives, before our Thanksgiving recess.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1663

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Domestic Chemical Diversion Control Act of 1993".

SEC. 2. DEFINITION AMENDMENTS.

(a) DEFINITIONS.—Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (33), by striking "any listed precursor chemical or listed essential chemical" and inserting "any list I chemical or any list II chemical";

(2) in paragraph (34)—

(A) by striking "listed precursor chemical" and inserting "list I chemical"; and

(B) by striking "critical to the creation" and inserting "important to the manufacture";

(3) in paragraph (34)(A), (F), and (H), by inserting ", its esters," before "and";

(4) in paragraph (35)—

(A) by striking "listed essential chemical" and inserting "list II chemical";

(B) by inserting "(other than a list I chemical)" before "specified"; and

(C) by striking "as a solvent, reagent, or catalyst"; and

(5) in paragraph (38), by inserting "or who acts as a broker or trader for an international transaction involving a listed chemical, a tableting machine, or an encapsulating machine" before the period;

(6) in paragraph (39)(A)—

(A) by striking "importation or exportation of" and inserting "importation, or exportation of, or an international transaction involving shipment of,";

(B) in clause (iii) by inserting "or any category of transaction for a specific listed chemical or chemicals" after "transaction";

(C) by amending clause (iv) to read as follows:

"(iv) any transaction in a listed chemical that is contained in a drug that may be marketed or distributed lawfully in the United States under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) unless—

"(I)(aa) the drug contains ephedrine or its salts, optical isomers, or salts of optical isomers as the only active medicinal ingredient or contains ephedrine or its salts, optical isomers, or salts of optical isomers and therapeutically insignificant quantities of another active medicinal ingredient; or

"(bb) the Attorney General has determined under section 204 that the drug or group of drugs is being diverted to obtain the listed chemical for use in the illicit production of a controlled substance; and

"(II) the quantity of ephedrine or other listed chemical contained in the drug included in the transaction or multiple transactions equals or exceeds the threshold established for that chemical by the Attorney General."; and

(D) in clause (v), by striking the semicolon and inserting "which the Attorney General has by regulation designated as exempt from the application of this title and title II based on a finding that the mixture is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance and that the listed chemical or chemicals contained in the mixture cannot be readily recovered;";

(7) in paragraph (40), by striking "listed precursor chemical or a listed essential chemical" each place it appears and inserting "list I chemical or a list II chemical"; and

(8) by adding at the end the following new paragraphs:

"(42) The term 'international transaction' means a transaction involving the shipment of a listed chemical across an international border (other than a United States border) in which a broker or trader located in the United States participates.

"(43) The terms 'broker' and 'trader' mean a person that assists in arranging an international transaction in a listed chemical by—

"(A) negotiating contracts;

"(B) serving as an agent or intermediary; or

"(C) bringing together a buyer and seller, a buyer and transporter, or a seller and transporter.".

(b) REMOVAL OF EXEMPTION OF CERTAIN DRUGS.—

(1) PROCEDURE.—Part B of the Controlled Substances Act (21 U.S.C. 811 et seq.) is amended by adding at the end the following new section:

"REMOVAL OF EXEMPTION OF CERTAIN DRUGS

"SEC. 204. (a) REMOVAL OF EXEMPTION.—The Attorney General shall by regulation remove from exemption under section 102(39)(A)(iv) a drug or group of drugs that the Attorney General finds is being diverted to obtain a listed chemical for use in the illicit production of a controlled substance.

"(b) FACTORS TO BE CONSIDERED.—In removing a drug or group of drugs from exemption under subsection (a), the Attorney General shall consider, with respect to a drug or group of drugs that is proposed to be removed from exemption—

"(1) the scope, duration, and significance of the diversion;

"(2) whether the drug or group of drugs is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance; and

"(3) whether the listed chemical can be readily recovered from the drug or group of drugs.

"(c) SPECIFICITY OF DESIGNATION.—The Attorney General shall limit the designation of a drug or a group of drugs removed from exemption under subsection (a) to the most particularly identifiable type of drug or group of drugs for which evidence of diversion exists unless there is evidence, based on the pattern of diversion and other relevant factors, that the diversion will not be limited to that particular drug or group of drugs.

"(d) REINSTATEMENT OF EXEMPTION WITH RESPECT TO PARTICULAR DRUG PRODUCTS.—

"(1) REINSTATEMENT.—On application by a manufacturer of a particular drug product that has been removed from exemption under subsection (a), the Attorney General shall by regulation reinstate the exemption with respect to that particular drug product if the Attorney General determines that the particular drug product is manufactured and distributed in a manner that prevents diversion.

"(2) FACTORS TO BE CONSIDERED.—In deciding whether to reinstate the exemption with respect to a particular drug product under paragraph (1), the Attorney General shall consider—

"(A) the package sizes and manner of packaging of the drug product;

"(B) the manner of distribution and advertising of the drug product;

"(C) evidence of diversion of the drug product;

"(D) any actions taken by the manufacturer to prevent diversion of the drug product; and

"(E) such other factors as are relevant to and consistent with the public health and safety, including the factors described in subsection (b) as applied to the drug product.

"(3) STATUS PENDING APPLICATION FOR REINSTATEMENT.—A transaction involving a particular drug product that is the subject of a bona fide pending application for reinstatement of exemption filed with the Attorney General not later than 60 days after a regulation removing the exemption is issued pursuant to subsection (a) shall not be considered to be a regulated transaction if the transaction occurs during the pendency of the application and, if the Attorney General denies the application, during the period of 60 days following the date on which the Attorney General denies the application, unless—

"(A) the Attorney General has evidence that, applying the factors described in subsection (b) to the drug product, the drug product is being diverted; and

"(B) the Attorney General so notifies the applicant.

"(4) AMENDMENT AND MODIFICATION.—A regulation reinstating an exemption under paragraph (1) may be modified or revoked with respect to a particular drug product upon a finding that—

"(A) applying the factors described in subsection (b) to the drug product, the drug product is being diverted; or

"(B) there is a significant change in the data that led to the issuance of the regulation.".

(2) CLERICAL AMENDMENT.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (84 Stat. 1236) is amended by adding at the end of that portion relating to part B of title II the following new item:

"Sec. 204. Removal of exemption of certain drugs.".

(c) REGULATION OF LISTED CHEMICALS.—Section 310 of the Controlled Substances Act (21 U.S.C. 830) is amended—

(1) in subsection (a)(1)—

(A) by striking "precursor chemical" and inserting "list I chemical"; and

(B) in subparagraph (B), by striking "an essential chemical" and inserting "a list II chemical"; and

(2) in subsection (c)(2)(D), by striking "precursor chemical" and inserting "chemical control".

SEC. 3. REGISTRATION REQUIREMENTS.

(a) RULES AND REGULATIONS.—Section 301 of the Controlled Substances Act (21 U.S.C. 821) is amended by striking the period and inserting "and to the registration and control of regulated persons and of regulated transactions.".

(b) PERSONS REQUIRED TO REGISTER UNDER SECTION 302.—Section 302 of the Controlled Substances Act (21 U.S.C. 822) is amended—

(1) in subsection (a)(1), by inserting "or list I chemical" after "controlled substance" each place it appears;

(2) in subsection (b)—

(A) by inserting "or list I chemicals" after "controlled substances"; and

(B) by inserting "or chemicals" after "such substances";

(3) in subsection (c), by inserting "or list I chemical" after "controlled substance" each place it appears; and

(4) in subsection (e), by inserting "or list I chemicals" after "controlled substances".

(c) REGISTRATION REQUIREMENTS UNDER SECTION 303.—Section 303 of the Controlled Substances Act (21 U.S.C. 823) is amended by adding at the end the following new subsection:

"(h) The Attorney General shall register an applicant to distribute a list I chemical unless the Attorney General determines that registration of the applicant is inconsistent with the public interest. Registration under this subsection shall not be required for the distribution of a drug product that is exempted under section 102(39)(A)(iv). In determining the public interest for the purposes of this subsection, the Attorney General shall consider—

"(1) maintenance by the applicant of effective controls against diversion of listed chemicals into other than legitimate channels;

"(2) compliance by the applicant with applicable Federal, State, and local law;

"(3) any prior conviction record of the applicant under Federal or State laws relating to controlled substances or to chemicals controlled under Federal or State law;

"(4) any past experience of the applicant in the manufacture and distribution of chemicals; and

"(5) such other factors as are relevant to and consistent with the public health and safety.".

(d) DENIAL, REVOCATION, OR SUSPENSION OF REGISTRATION.—Section 304 of the Controlled Substances Act (21 U.S.C. 824) is amended—

(1) in subsection (a)—

(A) by inserting "or a list I chemical" after "controlled substance" each place it appears; and

(B) by inserting "or list I chemicals" after "controlled substances";

(2) in subsection (b), by inserting "or list I chemical" after "controlled substance";

(3) in subsection (f), by inserting "or list I chemicals" after "controlled substances" each place it appears; and

(4) in subsection (g)—

(A) by inserting "or list I chemicals" after "controlled substances" each place it appears; and

(B) by inserting "or list I chemical" after "controlled substance" each place it appears.

(e) PERSONS REQUIRED TO REGISTER UNDER SECTION 1007.—Section 1007 of the Controlled Substances Import and Export Act (21 U.S.C. 957) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting "or list I chemical" after "controlled substance"; and

(B) in paragraph (2), by striking "in schedule I, II, III, IV, or V," and inserting "or list I chemical,"; and

(2) in subsection (b)—

(A) in paragraph (1), by inserting "or list I chemical" after "controlled substance" each place it appears; and

(B) in paragraph (2), by inserting "or list I chemicals" after "controlled substances".

(f) REGISTRATION REQUIREMENTS UNDER SECTION 1008.—Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958) is amended—

(1) in subsection (c)—

(A) by inserting "(1)" after "(c)"; and

(B) by adding at the end the following new paragraph:

"(2)(A) The Attorney General shall register an applicant to import or export a list I chemical unless the Attorney General determines that registration of the applicant is inconsistent with the public interest. Registration under this subsection shall not be required for the import or export of a drug product that is exempted under section 102(39)(A)(iv).

"(B) In determining the public interest for the purposes of subparagraph (A), the Attorney General shall consider the factors specified in section 303(h).";

(2) in subsection (d)—

(A) in paragraph (3), by inserting "or list I chemical or chemicals," after "substances,"; and

(B) in paragraph (6), by inserting "or list I chemicals" after "controlled substances" each place it appears;

(3) in subsection (e), by striking "and 307" and inserting "307, and 310"; and

(4) in subsections (f), (g), and (h), by inserting "or list I chemicals" after "controlled substances" each place it appears.

(g) PROHIBITED ACTS C.—Section 403(a) of the Controlled Substances Act (21 U.S.C. 843(a)) is amended—

(1) by amending paragraphs (6) and (7) to read as follows:

"(6) to possess any three-neck round-bottom flask, tableting machine, encapsulating machine, or gelatin capsule, or any equipment, chemical, product, or material which may be used to manufacture a controlled substance or listed chemical, knowing, intending, or having reasonable cause to believe, that it will be used to manufacture a controlled substance or listed chemical in violation of this title or title II;

"(7) to manufacture, distribute, export, or import any three-neck round-bottom flask, tableting machine, encapsulating machine, or gelatin capsule, or any equipment, chemical, product, or material which may be used to manufacture a controlled substance or listed chemical, knowing, intending, or having reasonable cause to believe, that it will be used to manufacture a controlled substance or listed chemical in violation of this title or title II or, in the case of an exportation, in violation of this title or title II or of the laws of the country to which it is exported;";

(2) by striking the period at the end of paragraph (8) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(9) if the person is a regulated person, to distribute, import, or export a list I chemical without the registration required by this Act.".

SEC. 4. ANTI-SMUGGLING PROVISION.

Section 1010(d) of the Controlled Substances Import and Export Act (21 U.S.C. 960(d)) is amended—

(1) by striking "or" at the end of paragraph (1); and

(2) by adding at the end the following new paragraph:

"(3) imports or exports a listed chemical in violation of section 1007 or 1018,".

SEC. 5. ADMINISTRATIVE INSPECTIONS AND AUTHORITY.

Section 510 of the Controlled Substances Act (21 U.S.C. 880) is amended—

(1) by amending subsection (a)(2) to read as follows:

"(2) places, including factories, warehouses, and other establishments, and conveyances, where persons registered under section 303 (or exempt from registration under section 302(d) or by regulation of the Attorney General) or regulated persons may lawfully hold, manufacture, distribute, dispense, administer, or otherwise dispose of controlled substances or listed chemicals or where records relating to those activities are maintained."; and

(2) in subsection (b)(3)—

(A) in subparagraph (B), by inserting ", listed chemicals," after "unfinished drugs"; and

(B) in subparagraph (C), by inserting "or listed chemical" after "controlled substance" and inserting "or chemical" after "such substance".

SEC. 6. FORFEITURE EXPANSION.

Section 511(a)(6) of the Controlled Substances Act (21 U.S.C. 881(a)(6)) is amended by inserting "or listed chemical" after "controlled substance".

SEC. 7. THRESHOLD AMOUNTS.

Section 102(39)(A) of the Controlled Substances Act (21 U.S.C. 802(39)(A)), as amended by section 2, is amended by inserting "a listed chemical, or if the Attorney General establishes a threshold amount for a specific listed chemical," before "a threshold amount, including a cumulative threshold amount for multiple transactions".

SEC. 8. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on the date that is 120 days after the date of enactment of this Act.

By Mr. BRYAN (for himself, Mr. BOND, and Mr. RIEGLE):

S. 1664. A bill to amend subchapter II of chapter 53 of title 31, United States

Code, to improve enforcement of anti-money-laundering laws, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

ANTI-MONEY-LAUNDERING ACT OF 1993

Mr. BRYAN. Mr. President, Senator BOND, Senator RIEGLE, and I are introducing today, legislation which will greatly improve our efforts to combat money laundering, the Anti-Money-Laundering Act of 1993. This legislation is a companion bill to a bill (H.R. 3235) introduced by Congressman GONZALEZ. I want to commend Congressman GONZALEZ for his leadership in this area.

In 1970, the first Bank Secrecy Act was signed into law. Its purpose was to require certain reports or records where they have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings. In the years since 1970, Federal Bank Secrecy Act requirements have grown in both scope and complexity, and now require financial institutions, as well as many other types of businesses, to file reports on nearly all types of large cash transactions.

The Bank Secrecy Act is widely viewed as an important part of the Federal Government's efforts against money laundering, particularly as it relates to the drug trade. In theory, Federal investigators use currency transaction reports [CTR's] to identify large cash transactions which are the results of illegal activity.

While Federal anti-money-laundering enforcement has had some successes, there are serious problems with the current system. One of the major problems investigators face is the sheer volume of CTR's filed—more than they could ever hope to have the resources to investigate fully.

A study conducted on behalf of the Independent Bankers Association of America [IBAA] found that community bank employees spent over 2 million hours each year complying with the Bank Secrecy Act. The study calculated the compliance costs at nearly $60 million.

The excessive number of reports filed, many of which clearly have no bearing on Federal money laundering enforcement, place a great strain on both Federal investigators and the business which must file the CTR's. Filing CTR's consumes many hours of valuable employee time and requires substantial investments in equipment and tracking systems. Generally, financial institutions and other businesses subject to the Bank Secrecy Act willingly absorb the expense of filing CTR's as part of the cost of doing business, and part of their responsibility in controlling money laundering.

There is, however, a limit to the burden that these private businesses can be expected to bear. In addition, the Federal Government has a responsibility to ensure that the efforts of the businesses filing CTR's are not wasted, and that the requirements of the Bank Secrecy Act produce useful information which can lead to tangible results in money-laundering enforcement.

The legislation we are introducing today will both increase the effectiveness of the Bank Secrecy Act and reduce its burden on private businesses. Our legislation establishes a system of exemptions under which transactions that are clearly of no interest for law enforcement purposes, such as transactions between banks, or between a bank and a government agency, do not trigger CTR's. It also provides institutions the option of developing a list of regular business customers who, with the approval of the Treasury Department, would also be exempt from CTR's. The legislation requires the Secretary to implement rule changes which will reduce the volume of CTR's filed by depository institutions by at least 30 percent—a goal which we believe could be easily met by careful implementation of the new system of exemptions.

In addition to reducing the overall volume of unnecessary CTR's, the legislation we are introducing today makes significant changes to streamline the CTR process and to increase law enforcement agencies' ability to make use of CTR's in criminal investigations.

Mr. President, the Bank Secrecy Act has a laudable goal: to fight money laundering. Unfortunately, the current regulations for reporting cash transactions are a bureaucratic maze, creating confusion and inefficiency in both financial institutions and law enforcement agencies. The reforms we aim proposing in this legislation will go a long way to both reducing unnecessary paperwork, while at the same time, expanding the effectiveness of our Federal money laundering enforcement efforts.

Mr. BOND. Mr. President, I rise today, with my colleague Senator BRYAN, to introduce the Anti-Money-Laundering Act of 1993, a bill to reduce the number of currency transaction reports which banks have to file under the Bank Secrecy Act. I believe that this bill will help relieve bank regulatory burden, improve compliance under the Bank Secrecy Act and better money laundering deterrence efforts.

Action must be taken to relieve the banking industry of the burden of unreasonable regulatory requirements it now faces. The bank regulators currently require all kinds of burdensome compliance reports, activities and documents that cost significant amounts of time and resources. Consequently, banks are generating too many reports and other paperwork of questionable value, instead of making loans.

In particular, to help combat money laundering, banks have to file a currency transaction report [CTR] for all currency transactions over $10,000. The American Bankers Association estimates that it cost banks almost $130 million to file 9.2 million CTR's with the Internal Revenue Service in 1992. The utility to the Government of this massive number of reports has yet to be proven.

This bill will help to reduce drastically the number of useless CTR's which are filed with the Government, thus reducing, in part, bank regulatory burden. The Anti-Money-Laundering Act of 1993 would create mandatory exemptions for transactions between depository institutions, transactions with any U.S. Government or agency, and transactions with any business or category of business where CTR's have little or no value for law enforcement purposes. In addition, Treasury would have the discretion to exempt transactions between a depository institution and its qualified business customers who most frequently engage in transactions which are subject to reporting requirements under the Bank Secrecy Act. I also look forward to identifying and making additional reforms to CTR requirements where the regulatory burdens on depository institutions are unreasonable and the usefulness to the Federal Government is not evident.

I am well aware of the serious problem this situation has created for the banking industry and have been in consultation with my colleagues on the Senate Banking Committee to find solutions. Bank regulatory reform is one of my highest priorities. I also consider it a key to economic growth.

A companion bill, H.R. 3235, has already been introduced in the House. I hope I can work with my colleagues in both the Senate and the House and with the new administration on this bipartisan measure to relieve bank regulatory burden.

By Mr. PELL (by request):

S. 1665. A bill to authorize the Librarian of Congress to retain the proceeds of certain sales, payments or restitution; to the Committee on Rules and Administration.

LIBRARY OF CONGRESS RETENTION OF PROCEEDS ACT

Mr. PELL. Mr. President, in my capacity as vice chairman of the Joint Committee on the Library of Congress and at the request of the Librarian of Congress, I introduce legislation to authorize the Librarian to retain the proceeds of certain sales, payments or restitution.

The Library of Congress, within the past 2 years, has collected over $22,000 in library fines from its patrons, and the Department of Justice has received over $65,000 in restitution due to theft or destruction of the Library's collections. The Library of Congress, unfortunately, does not have the legal authority to retain these sums, which if left in the Library's hands could help replenish the Library's collections. Instead, all such monies must be turned over directly to the U.S. Treasury.

In addition, under present law, the Library is unable to realize any proceeds from commercial disposition of surplus items left after free distribution is made to other libraries and public institutions. These surplus items are made available for disposal according to Library regulations which give other libraries and research institutions first priority for free acquisition, followed by Federal agencies and institutions. Next, educational institutions and other nonprofit tax-exempt organizations can select surplus items. Lastly, under current procedures, commercial book dealers may acquire surplus items from the Library in exchange for other material the Library may wish to obtain from the dealers. The remaining material is transferred to the General Services Administration for final disposal.

This labor-intensive Surplus Book Program costs the Library approximately $50,000 annually. The Library's Acquisitions Program would be strengthened if the Library had the authority to sell to the commercial dealers and retain the proceeds rather than continuing the present practice of exchanging items.

This legislation has five simple purposes: First, it grants the Librarian of Congress the authority to accept restitution—payment and/or fines collected—for lost, stolen, damaged, or destroyed items from its collections; second, it also permits the Librarian to sell certain surplus Library collection materials in accordance with General Services Administration's regulations, providing the items to be sold have been offered to and rejected by other libraries and other institutions, as described above; third, it authorizes the Librarian of Congress to retain the proceeds received as a result of the aforementioned actions and use the funds for the acquisition of Library materials and the administering of the Surplus Program; fourth, it establishes a proceeds account at the U.S. Treasury; and fifth, it mandates that the Librarian report these activities and financial transactions annually to Congress.

Mr. President, this bill contains no request for new funding and will in no way increase legislative appropriations. I believe it is not controversial, and I hope that it will be favorably considered in the next session.

By Mr. GORTON (for himself, Mr. STEVENS, Mr. MACK, Mr. PRESSLER, and Mrs. HUTCHISON):

S. 1666. A bill to amend the Internal Revenue Code of 1986 to allow a taxpayer to elect to deduct either State and local income taxes or State and local sales taxes; to the Committee on Finance.

SALES TAX DEDUCTION LEGISLATION

Mr. GORTON. Mr. President, today I join with Senators STEVENS, PRESSLER, MACK, and HUTCHISON in introducing legislation to correct the single worst error of the 1986 Tax Reform Act—the elimination of the State and local sales tax deduction. The bill we are introducing today will restore a measure of fairness to our Tax Code by giving the taxpayer the choice of deducting either State and local sales taxes or State and local income taxes.

In 1986 when Congress considered the Tax Reform Act, I joined several other Senators and pushed hard for a reasonable and just compromise with respect to sales and income tax deductions. We fought for a compromise that would treat the residents of our States in an equitable and decent manner. The Senate bill did so but, unfortunately, did not prevail in conference and our goal was left unattained. What remained was a bill that eliminated the sales tax deduction but kept the State income tax deduction intact. It was a bill which unfairly burdens taxpayers in numerous States around the Nation.

Under the provisions of the 1986 act, taxpayers living in States with income taxes can deduct these taxes from their Federal tax returns. For these individuals, nothing changed. However, for taxpayers residing in a State like my home State of Washington which has no income tax, the law denies them the ability to deduct sales taxes.

The ability to deduct sales taxes is important to the working families of my home State. For instance, using 1986 IRS tax tables, a family of five earning just over $25,000 per year could deduct almost $500 from their Federal returns. This is no small amount, and the savings could be used for paying the mortgage, putting food on the table, or helping to finance the dream of higher education.

Mr. President, there is no fairness in arbitrary tax treatment. There is no fairness in punishing residents in States like Washington—a State which has decided to raise revenue through sales taxes rather than through income taxes. People are denied this tax deduction simply because they reside within certain geographic boundaries. People in Washington State are rightfully outraged by the unjust provision.

Mr. President, I have heard from people across my State that our present system of allowing one type of deduction while disallowing the other is patently unfair. I share their frustration and believe the Internal Revenue Code needs to be amended to restore a sense of equity. That is why I am introducing this bill today.

After passage of the 1986 tax reform bill, a whole host of bills were introduced to reinstate the deduction. Unfortunately, none were enacted into law. While the number of bills introduced in each session of Congress has dwindled, the anger of the taxpayers of Washington and the pressing need to correct this injustice have not.

Mr. President, this legislation is simple. It will allow taxpayers to decide, for themselves, whether to deduct their State and local income taxes or their State and local sales taxes. For the residents of Washington, and States with similar taxation policies, the sales tax deduction will be allowed for the first time since 1985.

It is past time to correct this inequity and allow citizens to deduct either their State income tax or their State sales tax. I urge my colleagues to cosponsor this bill and bring a measure of fairness back to our tax system.

Mr. President, I ask unanimous consent that a copy of the bill, a letter from Ralph Munro, the secretary of state for Washington, and House Joint Memorial 4008, which calls for a full deduction for sales taxes on Federal returns be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1666

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ELECTION TO DEDUCT STATE AND LOCAL INCOME TAX OR STATE AND LOCAL SALES TAX.

(a) IN GENERAL.—Section 164(a) of the Internal Revenue Code of 1986 (relating to deduction for taxes) is amended by adding after paragraph (5) the following new paragraph:

"(6) At the election of the taxpayer, either—

"(A) State and local income taxes, or

"(B) State and local general sales taxes."

(b) GENERAL SALES TAXES.—Section 164(b) of such Code (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

"(5) GENERAL SALES TAXES.—

"(A) IN GENERAL.—The term 'general sales tax' means a tax imposed at one rate in respect of the sale at retail of a broad range of classes of items.

"(B) SPECIAL RULES FOR FOOD, ETC.—In the case of items of food, clothing, medical supplies, and motor vehicles—

"(i) the fact that the tax does not apply in respect of some or all of such items shall not be taken into account in determining whether the tax applies in respect of a broad range of classes of items, and

"(ii) the fact that the rate of tax applicable in respect of some or all of such items is lower than the general rate of tax shall not be taken into account in determining whether the tax is imposed at one rate.

"(C) ITEMS TAXED AT DIFFERENT RATES.—Except in the case of a lower rate of tax applicable in respect of an item described in subparagraph (B), no deduction shall be allowed under this section for any general sales tax imposed in respect of an item at a rate other than the general rate of tax.

"(D) COMPENSATING USE TAXES.—A compensating use tax in respect of an item shall be treated as a general sales tax. For purposes of the preceding sentence, the term 'compensating use tax' means, in respect of any item, a tax which—

"(i) is imposed on the use, storage, or consumption of such item, and "(ii) is complementary to a general sales tax, but only if a deduction is allowable under subsection (a)(6) in respect of items sold at retail in the taxing jurisdiction which are similar to such item.

"(E) SPECIAL RULE FOR MOTOR VEHICLES.—In the case of motor vehicles, if the rate of tax exceeds the general rate, such excess shall be disregarded and the general rate shall be treated as the rate of tax.

"(F) SEPARATELY STATED GENERAL SALES TAXES.—If the amount of any general sales tax is separately stated, then, to the extent that the amount so stated is paid by the consumer (otherwise than in connection with the consumer's trade or business) to his seller, such amount shall be treated as a tax imposed on, and paid by, such consumer."

(c) CONFORMING AMENDMENT.—Paragraph (3) of section 164(a) of such Code is amended by striking out "State and local, and foreign," and inserting in lieu thereof "Foreign".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SECRETARY OF STATE,
STATE OF WASHINGTON,
Olympia, WA, April 20, 1993.

Hon. SLADE GORTON,
U.S. Senator, Washington, DC.

DEAR SENATOR GORTON: I herewith respectfully transmit for your attention a copy of House Joint Memorial No. 4008, which was recently adopted by the Senate and the House of Representatives of the state of Washington.

This Memorial requests a full deduction for sales taxes on federal tax returns.

Sincerely,

RALPH MUNRO,
Secretary of State.

HOUSE JOINT MEMORIAL 4008

Whereas, The federal tax reform act of 1986 put additional financial stress on the taxpayers of the state of Washington by phasing out the retail sales tax deduction; and

Whereas, Taxpayers in other states may deduct major state taxes in determining federal income tax; and

Whereas, Congress could easily relieve this situation by restoring the full deduction;

Now, Therefore, Your Memorialists respectfully pray that the United States Congress amend the federal tax reform act of 1986 to restore the deduction of retail sales tax under the federal income tax.

Be it resolved, That copies of this Memorial be immediately transmitted to the Honorable Bill Clinton, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington.

By Mr. MOYNIHAN:

S. 1668. An original bill to amend the Social Security Act and related acts to make miscellaneous and technical amendments, and for other purposes; from the Committee on Finance; placed on the calendar.

SOCIAL SECURITY ACT AMENDMENTS OF 1993

• Mr. MOYNIHAN. Mr. President, during the conference earlier this year on the reconciliation bill, the Senate had to wrestle with what had become known as the Byrd rule. This is the stricture authored by our esteemed President pro tempore which provides, among other things, that budget reconciliation bills should not include policy changes having no budgetary effect or merely incidental budgetary effect. The House, which has no such rule, included a number of such propositions in its bill, and all of these had to be stricken from the compromise package worked out in conference. Also, Senators who wanted to include such provisions in the reconciliation bill were prevented from doing so. At that time, I assured Senators, along with my House counterpart, Chairman ROSTENKOWSKI of the Ways and Means Committee, that we would try to find a vehicle for considering these no-cost proposals as soon as possible.

That, essentially, is how we got to where we are now. Legislation reported Wednesday morning by a voice vote in the Finance Committee includes numerous items that had to be dropped from the reconciliation bill, as well as a number of technical corrections to our earlier work. In a handful of cases, we included new provisions that were noncontroversial and that were agreed to by all sides. Our bill is the result of several weeks of work by the majority and minority staffs of the Senate Finance Committee as well as the House Ways and Means and Energy and Commerce Committees. My understanding is that the provisions are agreeable to all of these parties. The Congressional Budget Office has indicated that the bill does not increase expenditures.

Mr. President, many of the provisions in our bill have been around for several years, waiting for a vehicle that could carry them to enactment. Many have passed one or both Houses as part of H.R. 11. Given their relatively noncontroversial nature, and the fact that an agreement has been worked out on a bipartisan basis with all the relevant committees in both the House and the Senate, we would hope that this proposal can be considered under an expedited process, and without amendment.

Mr. President, I ask unanimous consent that the text of the Finance Committee bill, along with a short section-by-section and savings, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1668

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Social Security Act Amendments of 1993".

SEC. 2. REFERENCES IN ACT; TABLE OF CONTENTS.

(a) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(b) REFERENCES TO OBRA.—In this Act, the terms "OBRA–1986", "OBRA–1987", "OBRA–1989", "OBRA–1990", and "OBRA–1993" refer to the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509), the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203), the Omnibus Budget Reconciliation Act of 1989 (Public Law 101–239), the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508), and the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66), respectively.

(c) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title.
Sec. 2. References in Act; table of contents.

TITLE I—MEDICARE PROVISIONS

Subtitle A—Provisions Relating to Part A

Sec. 101. Provisions relating to adjustments to standardized amounts for wages and wage-related costs.
Sec. 102. Essential access community hospital (EACH) amendments.
Sec. 103. Provisions relating to rural health transition grant program.
Sec. 104. Psychology services in hospitals.
Sec. 105. Medicare-dependent, small rural hospitals and sole community hospitals.
Sec. 106. Skilled nursing facilities.
Sec. 107. Notification of availability of hospice benefit.
Sec. 108. Clarifying expertise of individuals to serve on the Prospective Payment Assessment Commission.
Sec. 109. Authority for budget neutral adjustments for changes in payment amounts for transfer cases.
Sec. 110. Clarification of DRG payment window expansion; miscellaneous and technical corrections.

Subtitle B—Provisions Relating to Part B

PART I—PHYSICIANS' SERVICES

Sec. 121. Development and implementation of resource-based methodology for practice expenses.
Sec. 122. Geographic cost of practice index refinements.
Sec. 123. Extra-billing limits.
Sec. 124. Relative values for pediatric services.
Sec. 125. Administration of claims relating to physicians' services.
Sec. 126. Miscellaneous and technical corrections.

PART II—DURABLE MEDICAL EQUIPMENT

Sec. 131. Certification of suppliers.
Sec. 132. Prohibition against carrier forum shopping.
Sec. 133. Restrictions on certain marketing and sales activities.
Sec. 134. Kickback clarification.
Sec. 135. Beneficiary liability for noncovered services.
Sec. 136. Adjustments for inherent reasonableness.
Sec. 137. Miscellaneous and technical corrections.

PART III—OTHER ITEMS AND SERVICES

Sec. 141. Ambulatory surgical center services.
Sec. 142. Study of medicare coverage of patient care costs associated with clinical trials of new cancer therapies.
Sec. 143. Study of annual cap on amount of medicare payment for outpatient physical therapy and occupational therapy services.
Sec. 144. Payment of part B premium late enrollment penalties by States.

Sec. 145. Treatment of inpatients and provision of diagnostic x-ray services by rural health clinics and federally qualified health centers.
Sec. 146. Application of mammography certification requirements.
Sec. 147. Coverage of services of speech-language pathologists and audiologists.
Sec. 148. Miscellaneous and technical corrections.

Subtitle C—Provisions Relating to Parts A and B

Sec. 151. Medicare secondary payer reforms.
Sec. 152. Physician ownership and referral.
Sec. 153. Definition of FMGEMS examination for payment of direct graduate medical education.
Sec. 154. Qualified medicare beneficiary outreach.
Sec. 155. Hospital agreements with organ procurement organizations.
Sec. 156. Peer review organizations.
Sec. 157. Health maintenance organizations.
Sec. 158. Home health agencies.
Sec. 159. Permanent extension of authority to contract with fiscal intermediaries and carriers on other than a cost basis.
Sec. 160. Miscellaneous and technical corrections.

Subtitle D—Provisions Relating to Medicare Supplemental Insurance Policies

Sec. 171. Standards for medicare supplemental insurance policies.

TITLE II—MEDICAID PROVISIONS

Subtitle A—Substantive Provisions

PART I—MANAGED CARE PROVISIONS

Sec. 201. Medicaid managed care antifraud provisions.
Sec. 202. Extension of medicaid waiver for Tennessee Primary Care Network.
Sec. 203. Waiver of application of medicaid enrollment mix requirement to District of Columbia Chartered Health Plan, Inc.
Sec. 204. Waiver of application of medicaid enrollment mix requirement to Managed Health Services Insurance Corporation of Milwaukee, Wisconsin.
Sec. 205. Extension of Minnesota prepaid medicaid demonstration project.

PART II—HOME AND COMMUNITY-BASED SERVICES WAIVER PROVISIONS

Sec. 211. Elimination of requirement of prior institutionalization with respect to habilitation services furnished under a waiver for home or community-based services.
Sec. 212. Relief from third party liability requirements when cost-effective.
Sec. 213. State expenditures for medical assistance with respect to home and community-based services provided under a waiver.

PART III—OTHER PROVISIONS

Sec. 221. Presumptive eligibility for pregnant women.
Sec. 222. Criteria for determining the amount of disallowances.
Sec. 223. Intermediate sanctions for kickback violations.
Sec. 224. Technical amendment related to taxes on certain health care items and services.
Sec. 225. Application of mammography certification requirements under the medicaid program.
Sec. 226. Nursing home reform.
Sec. 227. Increase in authorization of appropriations for the maternal and child health services block grant program.

Subtitle B—Miscellaneous and Technical Corrections Relating to OBRA–1990

Sec. 241. Effective date.
Sec. 242. Corrections relating to section 4401 (drug rebate program).
Sec. 243. Corrections relating to section 4402 (enrollment under group health plans).
Sec. 244. Corrections relating to section 4501 (low-income medicare beneficiaries).
Sec. 245. Corrections relating to section 4601 (child health).
Sec. 246. Corrections relating to section 4602 (outreach locations).
Sec. 247. Corrections relating to section 4604 (payment for hospital services for children under 6 years of age).
Sec. 248. Corrections relating to section 4703 (payment adjustments for disproportionate share hospitals).
Sec. 249. Corrections relating to section 4704 (Federally-qualified health centers).
Sec. 250. Corrections relating to section 4708 (substitute physicians).
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TITLE I—MEDICARE PROVISIONS

Subtitle A—Provisions Relating to Part A

SEC. 101. PROVISIONS RELATING TO ADJUSTMENTS TO STANDARDIZED AMOUNTS FOR WAGES AND WAGE-RELATED COSTS.

(a) USE OF OCCUPATIONAL MIX IN GUIDELINES FOR DETERMINATION OF AREA WAGE INDEX.—

(1) IN GENERAL.—Section 1886(d)(10)(D)(i)(I) (42 U.S.C. 1395ww(d)(10)(D)(i)(I)) is amended by inserting "(to the extent the Secretary determines appropriate)" after "taking into account".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the enactment of OBRA–1989.

(b) CONFORMING AMENDMENTS RELATING TO GEOGRAPHIC AREA USED TO DETERMINE WAGE INDEX APPLICABLE TO HOSPITAL.—(1) Section 1886(d)(8)(C) (42 U.S.C. 1395ww(d)(8)(C)), as amended by section 13501(b)(1) of OBRA–1993, is amended—

(A) in clause (iv), by striking "paragraph (1)" and inserting "paragraph (10)"; and

(B) by adding at the end the following new clause:

"(v) This subparagraph shall apply with respect to discharges occurring in a fiscal year only if the Secretary uses a method for making adjustments to the DRG prospective payment rate for area differences in hospital wage levels under paragraph (3)(E) for the fiscal year that is based on the use of Metropolitan Statistical Area classifications.".

(2) Section 1886(d)(10) (42 U.S.C. 1395ww(d)(10)) is amended—

(A) in subparagraph (C)(i)(II), by striking "the area wage index applicable" and inserting "the factor used to adjust the DRG prospective payment rate for area differences in hospital wage levels that applies"; and

(B) in subparagraph (D)—

(i) by redesignating clause (ii) as clause (iii), and

(ii) by inserting after clause (i) the following new clause:

"(ii) Notwithstanding clause (i), if the Secretary uses a method for making adjustments to the DRG prospective payment rate for area differences in hospital wage levels under paragraph (3)(E) that is not based on the use of Metropolitan Statistical Area classifications, the Secretary may revise the guidelines published under clause (i) to the extent such guidelines are used to determine the appropriateness of the geographic area in which the hospital is determined to be located for purposes of making such adjustments.".

(c) ADJUSTMENT OF LABOR AND NON-LABOR PORTIONS OF STANDARDIZED AMOUNTS.—Section 1886(d)(3)(A)(iii) (42 U.S.C. 1395ww(d)(3)(A)(iii)) is amended by adding at the end the following: "For discharges occurring on or after October 1, 1994, the Secretary shall adjust the ratio of the labor portion to non-labor portion of each average standardized amount to equal such ratio for the national average of all standardized amounts.".

SEC. 102. ESSENTIAL ACCESS COMMUNITY HOSPITAL (EACH) AMENDMENTS.

(a) INCREASING NUMBER OF PARTICIPATING STATES.—Section 1820(a)(1) (42 U.S.C. 1395i–4(a)(1)) is amended by striking "7" and inserting "9".

(b) TREATMENT OF INPATIENT HOSPITAL SERVICES PROVIDED IN RURAL PRIMARY CARE HOSPITALS.—

(1) IN GENERAL.—Section 1820(f)(1)(F) (42 U.S.C. 1395i–4(f)(1)(F)) is amended to read as follows:

"(F) subject to paragraph (4), provides not more than 6 inpatient beds (meeting such conditions as the Secretary may establish) for providing inpatient care to patients requiring stabilization before discharge or transfer to a hospital, except that the facility may not provide any inpatient hospital services—

"(i) to any patient whose attending physician does not certify that the patient may reasonably be expected to be discharged or transferred to a hospital within 72 hours of admission to the facility; or

"(ii) consisting of surgery or any other service requiring the use of general anesthesia (other than surgical procedures specified by the Secretary under section 1833(i)(1)(A)), unless the attending physician certifies that the risk associated with transferring the patient to a hospital for such services outweighs the benefits of transferring the patient to a hospital for such services.".

(2) LIMITATION ON AVERAGE LENGTH OF STAY.—Section 1820(f) (42 U.S.C. 1395i–4(f)) is amended by adding at the end the following new paragraph:

"(4) LIMITATION ON AVERAGE LENGTH OF INPATIENT STAYS.—The Secretary may terminate a designation of a rural primary care hospital under paragraph (1) if the Secretary finds that the average length of stay for inpatients at the facility during the previous year in which the designation was in effect exceeded 72 hours. In determining the compliance of a facility with the requirement of the previous sentence, there shall not be taken into account periods of stay of inpatients in excess of 72 hours to the extent such periods exceed 72 hours because transfer to a hospital is precluded because of inclement weather or other emergency conditions.".

(3) CONFORMING AMENDMENT.—Section 1814(a)(8) (42 U.S.C. 1395f(a)(8)) is amended by striking "such services" and all that follows and inserting "the individual may reasonably be expected to be discharged or transferred to a hospital within 72 hours after admission to the rural primary care hospital.".

(4) GAO REPORTS.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall submit reports to Congress on—

(A) the application of the requirements under section 1820(f) of the Social Security Act (as amended by this subsection) that rural primary care hospitals provide inpatient care only to those individuals whose attending physicians certify may reasonably be expected to be discharged within 72 hours after admission and maintain an average length of inpatient stay during a year that does not exceed 72 hours; and

(B) the extent to which such requirements have resulted in such hospitals providing inpatient care beyond their capabilities or have limited the ability of such hospitals to provide needed services.

(c) DESIGNATION OF HOSPITALS.—

(1) PERMITTING DESIGNATION OF HOSPITALS LOCATED IN URBAN AREAS.—

(A) IN GENERAL.—Section 1820 (42 U.S.C. 1395i–4) is amended—

(i) by striking paragraph (1) of subsection (e) and redesignating paragraphs (2) through (6) as paragraphs (1) through (5);

(ii) in subsection (e)(1)(A) (as redesignated by subparagraph (A))—

(I) by striking "is located" and inserting "except in the case of a hospital located in an urban area, is located",

(II) by striking ", (ii)" and inserting "or (ii)", and

(III) by striking "or (iii)" and all that follows through "section,"; and

(iii) in subsection (i)(1)(B), by striking "paragraph (3)" and inserting "paragraph (2)".

(B) NO CHANGE IN MEDICARE PROSPECTIVE PAYMENT.—Section 1886(d)(5)(D) (42 U.S.C. 1395ww(d)(5)(D)) is amended—

(i) in clause (iii)(III), by inserting "located in a rural area and" after "that is", and

(ii) in clause (v), by inserting "located in a rural area and" after "in the case of a hospital".

(2) PERMITTING HOSPITALS LOCATED IN ADJOINING STATES TO PARTICIPATE IN STATE PROGRAM.—

(A) IN GENERAL.—Section 1820 (42 U.S.C. 1395i–4) is amended—

(i) by redesignating subsection (k) as subsection (l); and

(ii) by inserting after subsection (j) the following new subsection:

"(k) ELIGIBILITY OF HOSPITALS NOT LOCATED IN PARTICIPATING STATES.—Notwithstanding any other provision of this section—

"(1) for purposes of including a hospital or facility as a member institution of a rural health network, a State may designate a hospital or facility that is not located in the State as an essential access community hospital or a rural primary care hospital if the hospital or facility is located in an adjoining State and is otherwise eligible for designation as such a hospital;

"(2) the Secretary may designate a hospital or facility that is not located in a State receiving a grant under subsection (a)(1) as an essential access community hospital or a rural primary care hospital if the hospital or facility is a member institution of a rural health network of a State receiving a grant under such subsection; and

"(3) a hospital or facility designated pursuant to this subsection shall be eligible to receive a grant under subsection (a)(2).".

(B) CONFORMING AMENDMENTS.—(i) Section 1820(c)(1) (42 U.S.C. 1395i–4(c)(1)) is amended by striking "paragraph (3)" and inserting "paragraph (3) or subsection (k)".

(ii) Paragraphs (1)(A) and (2)(A) of section 1820(i) (42 U.S.C. 1395i–4(i)) are each amended—

(I) in clause (i), by striking "(a)(1)" and inserting "(a)(1) (except as provided in subsection (k))", and

(II) in clause (ii), by striking "subparagraph (B)" and inserting "subparagraph (B) or subsection (k)".

(d) SKILLED NURSING SERVICES IN RURAL PRIMARY CARE HOSPITALS.—Section 1820(f)(3) (42 U.S.C. 1395i–4(f)(3)) is amended by striking "because the facility" and all that follows and inserting the following: "because, at the time the facility applies to the State for designation as a rural primary care hospital, there is in effect an agreement between the facility and the Secretary under section 1883 under which the facility's inpatient hospital facilities are used for the furnishing of extended care services, except that the number of beds used for the furnishing of such services may not exceed the total number of licensed inpatient beds at the time the facility applies to the State for such designation (minus the number of inpatient beds used for providing inpatient care pursuant to paragraph (1)(F)). For purposes of the previous sentence, the number of beds of the facility used for the furnishing of extended care services shall not include any beds of a unit of the facility that is licensed as a distinct-part skilled nursing facility at the time the facility applies to the State for designation as a rural primary care hospital.".

(e) DEADLINE FOR DEVELOPMENT OF PROSPECTIVE PAYMENT SYSTEM FOR INPATIENT RURAL PRIMARY CARE HOSPITAL SERVICES.—Section 1814(l)(2) (42 U.S.C. 1395f(l)(2)) is amended by striking "January 1, 1993" and inserting "January 1, 1996".

(f) PAYMENT FOR OUTPATIENT RURAL PRIMARY CARE HOSPITAL SERVICES.—

(1) IMPLEMENTATION OF PROSPECTIVE PAYMENT SYSTEM.—Section 1834(g) (42 U.S.C. 1395m(g)) is amended—

(A) in paragraph (1), by striking "during a year before 1993" and inserting "during a year before the prospective payment system described in paragraph (2) is in effect"; and

(B) in paragraph (2), by striking "January 1, 1993," and inserting "January 1, 1996,".

(2) NO USE OF CUSTOMARY CHARGE IN DETERMINING PAYMENT.—Section 1834(g)(1) (42 U.S.C. 1395m(g)(1)) is amended by adding at the end the following new flush sentence: "The amount of payment shall be determined under either method without regard to the amount of the customary or other charge.".

(g) CLARIFICATION OF PHYSICIAN STAFFING REQUIREMENT FOR RURAL PRIMARY CARE HOSPITALS.—Section 1820(f)(1)(H) (42 U.S.C. 1395i-4(f)(1)(H)) is amended by striking the period and inserting the following: ", except that in determining whether a facility meets the requirements of this subparagraph, subparagraphs (E) and (F) of that paragraph shall be applied as if any reference to a 'physician' is a reference to a physician as defined in section 1861(r)(1).".

(h) TECHNICAL AMENDMENTS RELATING TO PART A DEDUCTIBLE, COINSURANCE, AND SPELL OF ILLNESS.—(1) Section 1812(a)(1) (42 U.S.C. 1395d(a)(1)) is amended—

(A) by striking "inpatient hospital services" the first place it appears and inserting "inpatient hospital services or inpatient rural primary care hospital services";

(B) by striking "inpatient hospital services" the second place it appears and inserting "such services"; and

(C) by striking "and inpatient rural primary care hospital services".

(2) Sections 1813(a) and 1813(b)(3)(A) (42 U.S.C. 1395e(a), 1395e(b)(3)(A)) are each amended by striking "inpatient hospital services" each place it appears and inserting "inpatient hospital services or inpatient rural primary care hospital services".

(3) Section 1813(b)(3)(B) (42 U.S.C. 1395e(b)(3)(B)) is amended by striking "inpatient hospital services" and inserting "inpatient hospital services, inpatient rural primary care hospital services".

(4) Section 1861(a) (42 U.S.C. 1395x(a)) is amended—

(A) in paragraph (1), by striking "inpatient hospital services" and inserting "inpatient hospital services, inpatient rural primary care hospital services"; and

(B) in paragraph (2), by striking "hospital" and inserting "hospital or rural primary care hospital".

(i) AUTHORIZATION OF APPROPRIATIONS.—Section 1820(l) (42 U.S.C. 1395i-4(l)), as redesignated by subsection (c)(2)(A), is amended by striking "1990, 1991, and 1992" and inserting "1990 through 1995".

(j) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 103. PROVISIONS RELATING TO RURAL HEALTH TRANSITION GRANT PROGRAM.

(a) ELIGIBILITY OF RURAL PRIMARY CARE HOSPITALS FOR GRANTS.—

(1) IN GENERAL.—Section 4005(e)(2) of OBRA-1987 is amended in the matter preceding subparagraph (A) by inserting "any rural primary care hospital designated by the Secretary under section 1820(i)(2) of the Social Security Act, or" after "means".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to grants made on or after October 1, 1993.

(b) EXTENSION OF AUTHORIZATION OF APPROPRIATIONS.—Section 4005(e)(9) of OBRA-1987 is amended—

(1) by striking "1989 and" and inserting "1989,"; and

(2) by striking "1992" and inserting "1992 and $30,000,000 for each of fiscal years 1993 through 1997".

(c) FREQUENCY OF REQUIRED REPORTS.—Section 4008(e)(8)(B) of OBRA-1987 is amended by striking "every 6 months" and inserting "every 12 months".

SEC. 104. PSYCHOLOGY SERVICES IN HOSPITALS.

Section 1861(e)(4) (42 U.S.C. 1395x(e)(4)) is amended by striking "physician;" and inserting "physician, except that a patient receiving qualified psychologist services (as defined in subsection (ii)) may be under the care of a clinical psychologist with respect to such services to the extent permitted under State law;".

SEC. 105. MEDICARE-DEPENDENT, SMALL RURAL HOSPITALS AND SOLE COMMUNITY HOSPITALS.

(a) MEDICARE DEPENDENT, SMALL RURAL HOSPITALS.—

(1) CLARIFICATION OF ADDITIONAL PAYMENT.—Section 1886(d)(5)(G)(ii)(I) (42 U.S.C. 1395ww(d)(5)(G)(ii)(I)), as amended by section 13501(e)(1) of OBRA-1993, is amended by striking "the first 3 12-month cost reporting periods that begin" and inserting "the 36-month period beginning with the first day of the cost reporting period that begins".

(2) CONFORMING TARGET AMOUNTS TO EXTENSION OF ADDITIONAL PAYMENTS.—Section 1886(b)(3)(D) (42 U.S.C. 1395ww(b)(3)(D)) is amended in the matter preceding clause (i) by striking "March 31, 1993" and inserting "September 30, 1994".

(b) CLARIFICATION OF UPDATES.—Section 1886(b)(3)(B)(iv)(II) (42 U.S.C. 1395ww(b)(3)(B)(iv)(II)), as added by section 13501(a)(2) of OBRA-1993, is amended by striking "(taking into account" and all that follows through "1994)" and inserting "(adjusted to exclude any portion of a cost reporting period beginning during fiscal year 1993 for which the applicable percentage increase is determined under subparagraph (I))".

SEC. 106. SKILLED NURSING FACILITIES.

(a) CONSTRUCTION OF WAGE INDEX.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall begin to collect data on employee compensation and paid hours of employment in skilled nursing facilities for the purpose of constructing a skilled nursing facility wage index adjustment to the routine service cost limits required under section 1888(a)(4) of the Social Security Act.

(b) CLARIFICATION OF REPEAL OF UTILIZATION REVIEW REQUIREMENTS.—

(1) IN GENERAL.—(A) Section 1814(a)(5) (42 U.S.C. 1395f(a)(5)) is amended—

(i) by striking "and with respect" and all that follows through "regulations";

(ii) by striking "or skilled nursing facility, as the case may be"; and

(iii) by striking "or facility".

(B) Section 1866(d) (42 U.S.C. 1395cc(d)) is amended—

(i) by striking "or skilled nursing facility";

(ii) by striking "or facility" each place it appears;

(iii) by striking "or for post-hospital" and all that follows through "the case may be"; and

(iv) by striking ", or (in the case of" and all that follows through "transfer agreement,".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect as if included in the enactment of OBRA-1987.

(c) CONFORMING AMENDMENTS TO NURSING HOME REFORM.—

(1) SUSPENSION OF DECERTIFICATION OF NURSES AIDE TRAINING AND COMPETENCY EVALUATION PROGRAMS BASED ON EXTENDED SURVEYS.—

(A) IN GENERAL.—Section 1819(f)(2)(B)(iii)(I)(b) (42 U.S.C. 1395i-3(f)(2)(B)(iii)(I)(b)) is amended by striking the semicolon and inserting the following: ", unless the survey shows that the facility is in compliance with the requirements of subsections (b), (c), and (d) of this section;".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall take effect as if included in the enactment of OBRA-1990.

(2) REQUIREMENTS FOR CONSULTANTS CONDUCTING REVIEWS ON USE OF DRUGS.—

(A) IN GENERAL.—Section 1819(c)(1)(D) (42 U.S.C. 1395i-3(c)(1)(D)) is amended by adding at the end the following sentence: "In determining whether such a consultant is qualified to conduct reviews under the preceding sentence, the Secretary shall take into account the needs of nursing facilities under this title to have access to the services of such a consultant on a timely basis.".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall take effect as if included in the enactment of OBRA-1987.

(3) INCREASE IN MINIMUM AMOUNT REQUIRED FOR SEPARATE DEPOSIT OF PERSONAL FUNDS.—

(A) IN GENERAL.—Section 1819(c)(6)(B)(i) (42 U.S.C. 1395i-3(c)(6)(B)(i)) is amended by striking "$50" and inserting "$100".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall take effect January 1, 1994.

(4) DUE PROCESS PROTECTIONS FOR NURSE AIDES.—

(A) PROHIBITING STATE FROM INCLUDING UNDOCUMENTED ALLEGATIONS IN NURSES AIDE REGISTRY.—Section 1819(e)(2)(B) (42 U.S.C. 1395i-3(e)(2)(B)) is amended by striking the period at the end of the first sentence and inserting the following: ", but shall not include any allegations of resident abuse or neglect or misappropriation of resident property that are not specifically documented by the State under such subsection.".

(B) DUE PROCESS REQUIREMENTS FOR REBUTTING ALLEGATIONS.—Section 1819(g)(1)(C) (42 U.S.C. 1395i-3(g)(1)(C)) is amended by striking the second sentence and inserting the following: "The State shall, after providing the individual involved with a written notice of the allegations (including a statement of the availability of a hearing for the individual to rebut the allegations) and the opportunity for a hearing on the record, make a written finding as to the accuracy of the allegations.".

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall take effect January 1, 1994.

(d) CORRECTIONS RELATING TO SECTION 4008.—

(1) Section 1819(b)(5)(D) (42 U.S.C. 1395i-3(b)(5)(D)), as amended by section 4008(h)(1)(D) of OBRA-1990, is amended by striking the comma before "or a new competency evaluation program.".

(2) Section 1819(b)(5)(G) (42 U.S.C. 1395i-3(b)(5)(G)) is amended by striking "or licensed or certified social worker" and inserting "licensed or certified social worker, registered respiratory therapist, or certified respiratory therapy technician".

(3) Section 1819(f)(2)(B)(i) (42 U.S.C. 1395i-3(f)(2)(B)(i)) is amended by striking "facilities," and inserting "facilities (subject to clause (iii)),".

(4) Section 1819(f)(2)(B)(iii)(I)(c) (42 U.S.C. 1395i-3(f)(2)(B)(iii)(I)(c)) is amended by striking "clauses" each place it appears and inserting "clause".

(5) Section 1819(g)(5)(B) (42 U.S.C. 1395i-3(g)(5)(B)) is amended by striking "paragraphs" and inserting "paragraph".

(6) Section 4008(h)(1)(F)(ii) of OBRA-1990 is amended—

(A) by striking "The amendments" and inserting "(I) The amendments";

(B) by striking "nursing facility" each place it appears and inserting "skilled nursing facility";

(C) by redesignating subclauses (I) through (V) as items (aa) through (ee); and

(D) by adding at the end the following new subclause:

"(II) Notwithstanding subclause (I) and subject to section 1819(f)(2)(B)(iii)(I) of the Social Security Act (as amended by clause (i)), a State may approve a training and competency evaluation program or a competency evaluation program offered by or in a skilled nursing facility described in subclause (I) if, during the previous 2 years, item (aa), (bb), (cc), (dd), or (ee) of subclause (I) did not apply to the facility.".

(7) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the enactment of OBRA-1990.

SEC. 107. NOTIFICATION OF AVAILABILITY OF HOSPICE BENEFIT.

(a) IN GENERAL.—Section 1861(ee)(2)(D) (42 U.S.C. 1395x(ee)(2)(D)) is amended by inserting ", including hospice services," after "post-hospital services".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after the first day of the first month beginning more than one year after the date of the enactment of this Act.

SEC. 108. CLARIFYING EXPERTISE OF INDIVIDUALS TO SERVE ON THE PROSPECTIVE PAYMENT ASSESSMENT COMMISSION.

Section 1886(e)(6)(B) (42 U.S.C. 1395ww(e)(6)(B)) is amended by striking "hospital reimbursement, hospital financial management" and inserting "health facility management, reimbursement of health facilities or other providers of services which reflect the scope of the Commission's responsibilities".

SEC. 109. AUTHORITY FOR BUDGET NEUTRAL ADJUSTMENTS FOR CHANGES IN PAYMENT AMOUNTS FOR TRANSFER CASES.

Section 1886(d)(5)(I) (42 U.S.C. 1395ww(d)(5)) is amended—

(1) by inserting "(i)" after "(I)"; and

(2) by adding at the end the following new clause:

"(ii) In making adjustments under clause (i) for transfer cases (as defined by the Secretary) in a fiscal year, the Secretary may make adjustments to each of the average standardized amounts determined under paragraph (3) to assure that the aggregate payments made under this subsection for such fiscal year are not greater or lesser than those that would have otherwise been made in such fiscal year.".

SEC. 110. CLARIFICATION OF DRG PAYMENT WINDOW EXPANSION; MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) CLARIFICATION OF DRG PAYMENT WINDOW EXPANSION.—The first sentence of section 1886(a)(4) (42 U.S.C. 1395ww(a)(4)) is amended by inserting "(or, in the case of a hospital that is not a subsection (d) hospital, during the 1 day)" after "3 days".

(b) TECHNICAL CORRECTION RELATING TO RESIDENT ASSESSMENT IN NURSING HOMES.—Section 1819(b)(3)(C)(i)(I) (42 U.S.C. 1395i-3(b)(3)(C)(i)(I)) is amended by striking "not later than" before "14 days".

(c) TECHNICAL CORRECTION RELATING TO APPLICABLE ADJUSTMENT FACTOR FOR INDIRECT MEDICAL EDUCATION ADJUSTMENT.—Section 1886(d)(5)(B)(ii) (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended by striking "May 1, 1986," and inserting "October 1, 1988,".

(d) CLERICAL CORRECTIONS.—(1) Section 1814(i)(1)(C)(i) (42 U.S.C. 1395f(i)(1)(C)(i)) is amended by striking "1990,," and inserting "1990,".

(2) Section 1816(f)(2)(A)(ii) (42 U.S.C. 1396h(f)(2)(A)(ii)) is amended by striking "such agency" and inserting "such agency's".

Subtitle B—Provisions Relating to Part B

PART I—PHYSICIANS' SERVICES

SEC. 121. DEVELOPMENT AND IMPLEMENTATION OF RESOURCE-BASED METHODOLOGY FOR PRACTICE EXPENSES.

(a) DEVELOPMENT.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall develop a methodology for implementing in 1997 a resource-based system for determining practice expense relative value units for each physicians' service. The methodology utilized shall recognize the staff, equipment, and supplies used in the provision of various medical and surgical services in various settings.

(2) REPORT.—The Secretary shall transmit a report by June 30, 1995, on the methodology developed under paragraph (1) to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate. The report shall include a presentation of data utilized in developing the methodology and an explanation of the methodology.

(b) IMPLEMENTATION.—

(1) IN GENERAL.—Section 1848(c)(2)(C)(ii) (42 U.S.C. 1395w-4(c)(2)(C)(ii)) is amended—

(A) by inserting "for the service for years before 1997" before "equal to",

(B) by striking the period at the end of subclause (II) and inserting a comma, and

(C) by adding after and below subclause (II) the following:

"and for years beginning with 1997 based on the relative practice expense resources involved in furnishing the service.".

(2) CONFORMING AMENDMENT.—Section 1848(c)(3)(C)(ii) (42 U.S.C. 1395w-4(c)(3)(C)(ii)) is amended by striking "The practice" and inserting "For years before 1997, the practice".

(3) APPLICATION OF CERTAIN PROVISIONS.—In implementing the amendment made by paragraph (1)(C), the provisions of clauses (ii)(II) and (iii) of section 1848(c)(2)(B) of the Social Security Act shall apply in the same manner as they apply to adjustments under clause (ii)(I) of such section.

SEC. 122. GEOGRAPHIC COST OF PRACTICE INDEX REFINEMENTS.

(a) REQUIRING CONSULTATION WITH REPRESENTATIVES OF PHYSICIANS IN REVIEWING GEOGRAPHIC ADJUSTMENT FACTORS.—Section 1848(e)(1)(C) (42 U.S.C. 1395w-4(e)(1)(C)) is amended by striking "shall review" and inserting "shall, in consultation with appropriate representatives of physicians, review".

(b) USE OF MOST RECENT DATA IN GEOGRAPHIC ADJUSTMENT.—Section 1848(e)(1) (42 U.S.C. 1395w-4(e)(1)) is amended by adding at the end the following new subparagraph:

"(D) USE OF RECENT DATA.—In establishing indices and index values under this paragraph, the Secretary shall use the most recent data available relating to practice expenses, malpractice expenses, and physician work effort in different fee schedule areas.".

(c) DEADLINE FOR INITIAL REVIEW AND REVISION.—The Secretary of Health and Human Services shall first review and revise geographic adjustment factors under section 1848(e)(1)(C) of the Social Security Act by not later than January 1, 1995. Not later than April 1, 1994, the Secretary shall study and report to the Committee on Finance of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives on the construction of the geographic cost of practice index under section 1848(e)(1)(A)(i) of such Act.

(d) REPORT ON REVIEW PROCESS.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall study and report to the Committee on Finance of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives on—

(1) the data necessary to review and revise the indices established under section 1848(e)(1)(A) of the Social Security Act, including—

(A) the shares allocated to physicians' work effort, practice expenses (other than malpractice expenses), and malpractice expenses;

(B) the weights assigned to the input components of such shares; and

(C) the index values assigned to such components;

(2) any limitations on the availability of data necessary to review and revise such indices at least every three years;

(3) ways of addressing such limitations, with particular attention to the development of alternative data sources for input components for which current index values are based on data collected less frequently than every three years; and

(4) the costs of developing more accurate and timely data.

SEC. 123. EXTRA-BILLING LIMITS.

(a) ENFORCEMENT OF LIMITS.—Section 1848(g) (42 U.S.C. 1395w-4(g)), as amended by section 13517(a) of OBRA-1993, is amended—

(1) by amending paragraph (1) to read as follows:

"(1) LIMITATION ON ACTUAL CHARGES.—

"(A) IN GENERAL.—In the case of a nonparticipating physician or nonpar- ticipating supplier or other person (as defined in section 1842(i)(2)) who does not accept payment on an assignment-related basis for a physician's service furnished with respect to an individual enrolled under this part, the following rules apply:

"(i) APPLICATION OF LIMITING CHARGE.—No person may bill or collect an actual charge for the service in excess of the limiting charge described in paragraph (2) for such service.

"(ii) No liability for excess charges.—No person is liable for payment of any amounts billed for the service in excess of such limiting charge.

"(iii) Correction of excess charges.—If such a physician, supplier, or other person bills, but does not collect, an actual charge for a service in violation of clause (i), the physician, supplier, or other person shall reduce on a timely basis the actual charge billed for the service to an amount not to exceed the limiting charge for the service.

"(iv) Refund of excess collections.—If such a physician, supplier, or other person collects an actual charge for a service in violation of clause (i), the physician, supplier, or other person shall provide on a timely basis a refund to the individual charged in the amount by which the amount collected exceeded the limiting charge for the service. The amount of such a refund shall be reduced to the extent the individual has an outstanding balance owed by the individual to the physician.

"(B) Sanctions.—If a physician, supplier, or other person—

"(i) knowingly and willfully bills or collects for services in violation of subparagraph (A)(i) on a repeated basis, or

"(ii) fails to comply with clause (iii) or (iv) of subparagraph (A) on a timely basis,

the Secretary may apply sanctions against the physician, supplier, or other person in accordance with paragraph (2) of section 1842(j). In applying this subparagraph, paragraph (4) of such section applies in the same manner as such paragraph applies to such section and any reference in such section to a physician is deemed also to include a reference to a supplier or other person under this subparagraph.

"(C) Timely basis.—For purposes of this paragraph, a correction of a bill for an excess charge or refund of an amount with respect to a violation of subparagraph (A)(i) in the case of a service is considered to be provided 'on a timely basis', if the reduction or refund is made not later than 30 days after the date the physician, supplier, or other person is notified by the carrier under this part of such violation and of the requirements of subparagraph (A)."; and

(2) in paragraph (3)(B)—

(A) by inserting after the first sentence the following: "No person is liable for payment of any amounts billed for such a service in violation of the previous sentence.", and

(B) in the last sentence, by striking "previous sentence" and inserting "first sentence".

(b) Clarification of Mandatory Assignment Rules for Certain Practitioners.—

(1) In general.—Section 1842(b) (42 U.S.C. 1395u(b)), as amended by section 126(e), is amended by adding at the end the following new paragraph:

"(18)(A) Payment for any service furnished by a practitioner described in subparagraph (C) and for which payment may be made under this part on a reasonable charge or fee schedule basis may only be made under this part on an assignment-related basis.

"(B) A practitioner described in subparagraph (C) or other person may not bill (or collect any amount from) the individual or another person for any service described in subparagraph (A), except for deductible and coinsurance amounts applicable under this part. No person is liable for payment of any amounts billed for such a service in violation of the previous sentence. If a practitioner or other person knowingly and willfully bills (or collects an amount) for such a service in violation of such sentence, the Secretary may apply sanctions against the practitioner or other person in the same manner as the Secretary may apply sanctions against a physician in accordance with subsection (j)(2) in the same manner as such section applies with respect to a physician. Paragraph (4) of subsection (j) shall apply in this subparagraph in the same manner as such paragraph applies to such section.

"(C) A practitioner described in this subparagraph is any of the following:

"(i) A physician assistant, nurse practitioner, or clinical nurse specialist (as defined in section 1861(aa)(5)).

"(ii) A certified registered nurse anesthetist (as defined in section 1861(bb)(2)).

"(iii) A certified nurse-midwife (as defined in section 1861(gg)(2)).

"(iv) A clinical social worker (as defined in section 1861(hh)(1)).

"(v) A clinical psychologist (as defined by the Secretary for purposes of section 1861(ii)).

"(D) For purposes of this paragraph, a service furnished by a practitioner described in subparagraph (C) includes any services and supplies furnished as incident to the service as would otherwise be covered under this part if furnished by a physician or as incident to a physician's service.".

(2) Conforming amendments.—

(A) Section 1833 (42 U.S.C. 1395l) is amended—

(i) in subsection (l)(5), by striking subparagraph (B) and redesignating subparagraph (C) as subparagraph (B);

(ii) by striking subsection (p); and

(iii) in subsection (r), by striking paragraph (3) and redesignating paragraph (4) as paragraph (3).

(B) Section 1842(b)(12) (42 U.S.C. 1395u(b)(12)) is amended by striking subparagraph (C).

(c) Information on Extra-Billing Limits.—

(1) Part of explanation of medicare benefits.—Section 1842(h)(7) (42 U.S.C. 1395u(h)(7)) is amended—

(A) by striking "and" at the end of subparagraph (B),

(B) in subparagraph (C), by striking "shall include",

(C) in subparagraph (C), by striking the period at the end and inserting ", and", and

(D) by adding at the end the following new subparagraph:

"(D) in the case of services for which the billed amount exceeds the limiting charge imposed under section 1848(g), information regarding such applicable limiting charge (including information concerning the right to a refund under section 1848(g)(1)(A)(iv)).".

(2) Determinations by carriers.—Subparagraph (G) of section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended to read as follows:

"(G) will, for a service that is furnished with respect to an individual enrolled under this part, that is not paid on an assignment-related basis, and that is subject to a limiting charge under section 1848(g)—

"(i) determine, prior to making payment, whether the amount billed for such service exceeds the limiting charge applicable under section 1848(g)(2);

"(ii) notify the physician, supplier, or other person periodically (but not less often than once every 30 days) of determinations that amounts billed exceeded such applicable limiting charges; and

"(iii) provide for prompt response to inquiries of physicians, suppliers, and other persons concerning the accuracy of such limiting charges for their services;".

(d) Report on Charges in Excess of Limiting Charge.—Section 1848(g)(6)(B) (42 U.S.C. 1395w-4(g)(6)(B)) is amended by inserting "information on the extent to which actual charges exceed limiting charges, the number and types of services involved, and the average amount of excess charges and information" after "report to the Congress".

(e) Miscellaneous and Technical Amendments.—Section 1833(h)(5)(D) (42 U.S.C. 1395l(h)(5)(D)) is amended—

(1) by striking "paragraphs (2) and (3)" and by inserting "paragraph (2)"; and

(2) by adding at the end the following: "Paragraph (4) of such section shall apply in this subparagraph in the same manner as such paragraph applies to such section.".

(f) Effective Dates.—

(1) Enforcement; miscellaneous and technical amendments.—The amendments made by subsections (a) and (e) shall apply to services furnished on or after the date of the enactment of this Act; except that the amendments made by subsection (a) shall not apply to services of a nonparticipating supplier or other person furnished before January 1, 1994.

(2) Practitioners.—The amendments made by subsection (b) shall apply to services furnished on or after January 1, 1994.

(3) EOMBs.—The amendments made by subsection (c)(1) shall apply to explanations of benefits provided on or after July 1, 1994.

(4) Carrier determinations.—The amendments made by subsection (c)(2) shall apply to contracts as of January 1, 1994.

(5) Report.—The amendment made by subsection (d) shall apply to reports for years beginning with 1994.

SEC. 124. RELATIVE VALUES FOR PEDIATRIC SERVICES.

(a) In General.—The Secretary of Health and Human Services shall fully develop, by not later than October 1, 1994, relative values for the full range of pediatric physicians' services which are consistent with the relative values developed for other physicians' services under section 1848(c) of the Social Security Act. In developing such values, the Secretary shall conduct such refinements as may be necessary to produce appropriate estimates for such relative values.

(b) Study.—

(1) In general.—The Secretary shall conduct a study of the relative values for pediatric and other services to determine whether there are significant variations in the resources used in providing similar services to different populations. In conducting such study, the Secretary shall consult with appropriate organizations representing pediatricians and other physicians and physical and occupational therapists.

(2) Report.—Not later than July 1, 1995, the Secretary shall submit to Congress a report on the study conducted under paragraph (1). Such report shall include any appropriate recommendations regarding needed changes in coding or other payment policies to ensure that payments for pediatric services appropriately reflect the resources required to provide these services.

SEC. 125. ADMINISTRATION OF CLAIMS RELATING TO PHYSICIANS' SERVICES.

(a) Limitation on Carrier User Fees.—Section 1842(c) (42 U.S.C. 1395u(c)) is amended by adding at the end the following new paragraph:

"(4) Neither a carrier nor the Secretary may impose a fee under this title—

"(A) for the filing of claims related to physicians' services, "(B) for an error in filing a claim relating to physicians' services or for such a claim which is denied,

"(C) for any appeal under this title with respect to physicians' services,

"(D) for applying for (or obtaining) a unique identifier under subsection (r), or

"(E) for responding to inquiries respecting physicians' services or for providing information with respect to medical review of such services.".

(b) CLARIFICATION OF PERMISSIBLE SUBSTITUTE BILLING ARRANGEMENTS.—

(1) IN GENERAL.—Clause (D) of section 1842(b)(6) (42 U.S.C. 1395u(b)(6)) is amended to read as follows: "(D) payment may be made to a physician for physicians' services (and services furnished incident to such services) furnished by a second physician to patients of the first physician if (i) the first physician is unavailable to provide the services; (ii) the services are furnished pursuant to an arrangement between the two physicians that (I) is informal and reciprocal, or (II) involves per diem or other fee-for-time compensation for such services; (iii) the services are not provided by the second physician over a continuous period of more than 60 days; and (iv) the claim form submitted to the carrier for such services includes the second physician's unique identifier (provided under the system established under subsection (r)) and indicates that the claim meets the requirements of this subparagraph for payment to the first physician".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to services furnished on or after the first day of the first month beginning more than 60 days after the date of the enactment of this Act.

SEC. 126. MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) OVERVALUED PROCEDURES.—(1) Section 1842(b)(16)(B)(iii) (42 U.S.C. 1395u(b)(16)(B)(iii)) is amended—

(A) by striking ", simple and subcutaneous",

(B) by striking "; small" and inserting "and small",

(C) by striking "treatments;" the first place it appears and inserting "and",

(D) by striking "lobectomy;",

(E) by striking "enterectomy; colectomy; cholecystectomy;",

(F) by striking "; transurerethral resection" and inserting "and resection", and

(G) by striking "sacral laminectomy;".

(2) Section 4101(b)(2) of OBRA–1990 is amended—

(A) in the matter before subparagraph (A), by striking "1842(b)(16)" and inserting "1842(b)(16)(B)", and

(B) in subparagraph (B)—

(i) by striking ", simple and subcutaneous",

(ii) by striking "(HCPCS codes 19160 and 19162)" and inserting "(HCPCS code 19160)", and

(iii) by striking all that follows "(HCPCS codes 92250" and inserting "and 92260).".

(b) RADIOLOGY SERVICES.—(1) Section 1834(b)(4) (42 U.S.C. 1395m(b)(4)) is amended by redesignating the subparagraphs (E) and (F) redesignated by section 4102(a)(1) of OBRA–1990 as subparagraphs (F) and (G), respectively.

(2) Section 1834(b)(4)(D) (42 U.S.C. 1395m(b)(4)(D)) is amended—

(A) in the matter before clause (i), by striking "shall be determined as follows:" and inserting "shall, subject to clause (vii), be reduced to the adjusted conversion factor for the locality determined as follows:", and

(B) in clause (iv), by striking "LOCAL ADJUSTMENT.—Subject to clause (vii), the conversion factor to be applied to" and inserting "ADJUSTED CONVERSION FACTOR.—The adjusted conversion factor for",

(C) in clause (vii), by striking "under this subparagraph", and

(D) in clause (vii), by inserting "reduced under this subparagraph by" after "shall not be".

(3) Section 4102(c)(2) of OBRA–1990 is amended by striking "radiology services" and all that follows and inserting "nuclear medicine services.".

(4) Section 4102(d) of OBRA–1990 is amended by striking "new paragraph" and inserting "new subparagraph".

(5) Section 1834(b)(4)(E) (42 U.S.C. 1395m(b)(4)(E)) is amended by inserting "RULE FOR CERTAIN SCANNING SERVICES.—" after "(E)".

(6) Section 1848(a)(2)(D)(iii) (42 U.S.C. 1395w–4(a)(2)(D)(iii)) is amended by striking "that are subject to section 6105(b) of the Omnibus Budget Reconciliation Act of 1989" and by striking "provided under such section" and inserting "provided under section 6105(b) of the Omnibus Budget Reconciliation Act of 1989".

(c) ANESTHESIA SERVICES.—(1) Section 4103(a) of OBRA–1990 is amended by striking "REDUCTION IN FEE SCHEDULE" and inserting "REDUCTION IN PREVAILING CHARGES".

(2) Section 1842(q)(1)(B) (42 U.S.C. 1395u(q)(1)(B)) is amended—

(A) in the matter before clause (i), by striking "shall be determined as follows:" and inserting "shall, subject to clause (iv), be reduced to the adjusted prevailing charge conversion factor for the locality determined as follows:", and

(B) in clause (iii), by striking "Subject to clause (iv), the prevailing charge conversion factor to be applied in" and inserting "The adjusted prevailing charge conversion factor for".

(d) ASSISTANTS AT SURGERY.—(1) Section 4107(c) of OBRA–1990 is amended by inserting "(a)(1)" after "subsection".

(2) Section 4107(a)(2) of OBRA–1990 is amended by adding at the end the following: "In applying section 1848(g)(2)(D) of the Social Security Act for services of an assistant-at-surgery furnished during 1991, the recognized payment amount shall not exceed the maximum amount specified under section 1848(i)(2)(A) of such Act (as applied under this paragraph in such year).".

(e) TECHNICAL COMPONENTS OF DIAGNOSTIC SERVICES.—Section 1842(b) (42 U.S.C. 1395u(b)) is amended by redesignating paragraph (18), as added by section 4108(a) of OBRA–1990, as paragraph (17) and, in such paragraph, by inserting ", tests specified in paragraph (14)(C)(i)," after "diagnostic laboratory tests".

(f) STATEWIDE FEE SCHEDULES.—Section 4117 of OBRA–1990 is amended—

(1) in subsection (a)—

(A) by striking "(a) IN GENERAL.—", and

(B) by striking ", if the" and all that follows through "1991, "; and

(2) by striking subsections (b), (c), and (d).

(g) STUDY OF AGGREGATION RULE FOR CLAIMS OF SIMILAR PHYSICIAN SERVICES.—Section 4113 of OBRA–1990 is amended—

(1) by inserting "of the Social Security Act" after "1869(b)(2)"; and

(2) by striking "December 31, 1992" and inserting "December 31, 1993".

(h) OTHER MISCELLANEOUS AND TECHNICAL AMENDMENTS.—(1) The heading of section 1834(f) (42 U.S.C. 1395m(f)) is amended by striking "FISCAL YEAR".

(2)(A) Section 4105(b) of OBRA–1990 is amended—

(i) in paragraph (2), by striking "amendments" and inserting "amendment", and

(ii) in paragraph (3), by striking "amendments made by paragraphs (1) and (2)" and inserting "amendment made by paragraph (1)".

(B) Section 1848(f)(2)(C) (42 U.S.C. 1395w–4(f)(2)(C)) is amended by inserting "PERFORMANCE STANDARD RATES OF INCREASE FOR FISCAL YEAR 1991.—" after "(C)".

(C) Section 4105(d) of OBRA–1990 is amended by inserting "PUBLICATION OF PERFORMANCE STANDARD RATES.—" after "(d)".

(3) Section 4106(c) of OBRA–1990 is amended by inserting "of the Social Security Act" after "1848(d)(1)(B)".

(4) Section 4114 of OBRA–1990 is amended by striking "patients" the second place it appears.

(5) Section 1848(e)(1)(C) (42 U.S.C. 1395w–4(e)(1)(C)) is amended by inserting "date of the" after "since the".

(6) Section 4118(f)(1)(D) of OBRA–1990 is amended by striking "is amended".

(7) Section 4118(f)(1)(N)(ii) of OBRA–1990 is amended by striking "subsection (f)(5)(A)" and inserting "subsection (f)(5)(A))".

(8) Section 1845(e) (42 U.S.C. 1395w–1(e)) is amended—

(A) by striking paragraph (2); and

(B) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4).

(9) Section 4118(j)(2) of OBRA–1990 is amended by striking "In section" and inserting "Section".

(10)(A) Section 1848(i)(3) (42 U.S.C. 1395w–4(i)(3)) is amended by striking the space before the period at the end.

(B) Section 1834(a)(10)(B) (42 U.S.C. 1395m(a)(10)(B)) is amended—

(i) by striking "apply to" and inserting "would otherwise apply to", and

(ii) by inserting before the period at the end "but for the application of section 1848(i)(3)".

(i) OTHER CORRECTIONS.—(1) Effective on the date of the enactment of this Act, section 6102(d)(4) of OBRA–1989 is amended by striking all that follows the first sentence.

(2) Effective for payments for fiscal years beginning with fiscal year 1994, section 1842(c)(1) (42 U.S.C. 1395u(c)(1)) is amended—

(A) in subparagraph (A), by striking "(A) Any contract" and inserting "Any contract"; and

(B) by striking subparagraph (B).

(j) EFFECTIVE DATE.—Except as provided in subsection (i), the amendments made by this section and the provisions of this section shall take effect as if included in the enactment of OBRA–1990.

PART II—DURABLE MEDICAL EQUIPMENT

SEC. 131. CERTIFICATION OF SUPPLIERS.

(a) REQUIREMENTS.—

(1) IN GENERAL.—Section 1834 (42 U.S.C. 1395m), as amended by section 13544(b)(1) of OBRA–1993, is amended by adding at the end the following new subsection:

"(j) REQUIREMENTS FOR SUPPLIERS OF MEDICAL EQUIPMENT AND SUPPLIES.—

"(1) ISSUANCE AND RENEWAL OF SUPPLIER NUMBER.—

"(A) PAYMENT.—Except as provided in subparagraph (C), no payment may be made under this part after May 1, 1994, for items furnished by a supplier of medical equipment and supplies unless such supplier obtains (and renews at such intervals as the Secretary may require) a supplier number.

"(B) STANDARDS FOR POSSESSING A SUPPLIER NUMBER.—A supplier may not obtain a supplier number unless—

"(i) for medical equipment and supplies furnished on or after May 1, 1994, and before

January 1, 1996, the supplier meets standards prescribed by the Secretary in regulations issued on June 18, 1992; and

“(ii) for medical equipment and supplies furnished on or after January 1, 1996, the supplier meets revised standards prescribed by the Secretary (in consultation with representatives of suppliers of medical equipment and supplies, carriers, and consumers) that shall include requirements that the supplier—

“(I) comply with all applicable State and Federal licensure and regulatory requirements;

“(II) maintain a physical facility on an appropriate site;

“(III) have proof of appropriate liability insurance; and

“(IV) meet such other requirements as the Secretary may specify.

“(C) EXCEPTION FOR ITEMS FURNISHED AS INCIDENT TO A PHYSICIAN'S SERVICE.—Subparagraph (A) shall not apply with respect to medical equipment and supplies furnished incident to a physician's service.

“(D) PROHIBITION AGAINST MULTIPLE SUPPLIER NUMBERS.—The Secretary may not issue more than one supplier number to any supplier of medical equipment and supplies unless the issuance of more than one number is appropriate to identify subsidiary or regional entities under the supplier's ownership or control.

“(E) PROHIBITION AGAINST DELEGATION OF SUPPLIER DETERMINATIONS.—The Secretary may not delegate (other than by contract under section 1842) the responsibility to determine whether suppliers meet the standards necessary to obtain a supplier number.

“(2) CERTIFICATES OF MEDICAL NECESSITY.—

“(A) STANDARDIZED CERTIFICATES.—Not later than October 1, 1994, the Secretary shall, in consultation with carriers under this part, develop one or more standardized certificates of medical necessity (as defined in subparagraph (C)) for medical equipment and supplies for which the Secretary determines that such a certificate is necessary.

“(B) LIMITATION ON INFORMATION PROVIDED BY SUPPLIERS ON CERTIFICATES OF MEDICAL NECESSITY.—

“(i) IN GENERAL.—Effective May 1, 1994, a supplier of medical equipment and supplies may distribute to physicians, or to individuals entitled to benefits under this part, a certificate of medical necessity for commercial purposes which contains no more than the following information completed by the supplier:

“(I) An identification of the supplier and the beneficiary to whom such medical equipment and supplies are furnished.

“(II) A description of such medical equipment and supplies.

“(III) Any product code identifying such medical equipment and supplies.

“(IV) Any other administrative information (other than information relating to the beneficiary's medical condition) identified by the Secretary.

“(ii) INFORMATION ON PAYMENT AMOUNT AND CHARGES.—If a supplier distributes a certificate of medical necessity containing any of the information permitted to be supplied under clause (i), the supplier shall also list on the certificate of medical necessity the fee schedule amount and the supplier's charge for the medical equipment or supplies being furnished prior to distribution of such certificate to the physician.

“(iii) PENALTY.—Any supplier of medical equipment and supplies who knowingly and willfully distributes a certificate of medical necessity in violation of clause (i) or fails to provide the information required under clause (ii) is subject to a civil money penalty in an amount not to exceed $1,000 for each such certificate of medical necessity so distributed. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to civil money penalties under this subparagraph in the same manner as they apply to a penalty or proceeding under section 1128A(a).

“(C) DEFINITION.—For purposes of this paragraph, the term ‘certificate of medical necessity’ means a form or other document containing information required by the carrier to be submitted to show that an item is reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member.

“(3) COVERAGE AND REVIEW CRITERIA.—

“(A) DEVELOPMENT AND ESTABLISHMENT.—Not later than January 1, 1996, the Secretary, in consultation with representatives of suppliers of medical equipment and supplies, individuals enrolled under this part, and appropriate medical specialty societies, shall develop and establish coverage and utilization review criteria for 100 items of medical equipment and supplies selected in accordance with the standards described in subparagraph (B). The Secretary shall publish the criteria as part of the instructions available to suppliers under this part and no further publication, including publication in the Federal Register, shall be required.

“(B) STANDARDS FOR SELECTING ITEMS SUBJECT TO CRITERIA.—The Secretary may select an item for coverage under the criteria developed and established under subparagraph (A) if the Secretary finds that—

“(i) the item is frequently purchased or rented by beneficiaries;

“(ii) the item is frequently subject to a determination that such item is not medically necessary; or

“(iii) a wide variation in the coverage or utilization criteria applied to the item exists among carriers (as of the date of the enactment of this subsection).

“(C) ANNUAL REVIEW AND EXPANSION OF ITEMS SUBJECT TO CRITERIA.—The Secretary shall annually review the coverage and utilization of items of medical equipment and supplies to determine whether items not included among the items selected under subparagraph (A) should be made subject to coverage and utilization review criteria, and, if appropriate, shall develop and apply such criteria to such additional items.

“(4) DEFINITION.—The term ‘medical equipment and supplies’ means—

“(A) durable medical equipment (as defined in section 1861(n));

“(B) prosthetic devices (as described in section 1861(s)(8));

“(C) orthotics and prosthetics (as described in section 1861(s)(9));

“(D) surgical dressings (as described in section 1861(s)(5));

“(E) such other items as the Secretary may determine; and

“(F) for purposes of paragraphs (1) and (3)—

“(i) home dialysis supplies and equipment (as described in section 1861(s)(2)(F)),

“(ii) immunosuppressive drugs (as described in section 1861(s)(2)(J)),

“(iii) therapeutic shoes for diabetics (as described in section 1861(s)(12)),

“(iv) oral drugs prescribed for use as an anticancer therapeutic agent (as described in section 1861(s)(2)(Q)), and

“(v) self-administered erythropoetin (as described in section 1861(s)(2)(P)).”.

(2) CONFORMING AMENDMENT.—Effective October 1, 1994, paragraph (16) of section 1834(a) (42 U.S.C. 1395m(a)) is repealed.

(b) USE OF COVERED ITEMS BY DISABLED BENEFICIARIES.—

(1) IN GENERAL.—The Secretary of Health and Human Services, in consultation with representatives of suppliers of durable medical equipment under part B of the medicare program and individuals entitled to benefits under such program on the basis of disability, shall conduct a study of the effects of the methodology for determining payments for items of such equipment under such part on the ability of such individuals to obtain items of such equipment, including customized items.

(2) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit a report to Congress on the study conducted under paragraph (1), and shall include in the report such recommendations as the Secretary considers appropriate to assure that disabled medicare beneficiaries have access to items of durable medical equipment.

(c) CRITERIA FOR TREATMENT OF ITEMS AS PROSTHETIC DEVICES OR ORTHOTICS AND PROSTHETICS.—Not later than one year after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit a report to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate describing prosthetic devices or orthotics and prosthetics covered under part B of the medicare program that do not require individualized or custom fitting and adjustment to be used by a patient. Such report shall include recommendations for an appropriate methodology for determining the amount of payment for such items under such program.

SEC. 132. PROHIBITION AGAINST CARRIER FORUM SHOPPING.

(a) IN GENERAL.—

(1) PROHIBITION DESCRIBED.—Section 1834(a)(12) (42 U.S.C. 1395m(a)(12)) is amended to read as follows:

“(12) USE OF CARRIERS TO PROCESS CLAIMS.—

“(A) DESIGNATION OF REGIONAL CARRIERS.—The Secretary may designate, one carrier for one or more entire regions to process all claims within the region for covered items under this section.

“(B) PROHIBITION AGAINST CARRIER SHOPPING.—(i) Unless permitted by the Secretary, no supplier of a covered item may present or cause to be presented a claim for payment under this part unless such claim is presented to the appropriate regional carrier (as designated by the Secretary).

“(ii) For purposes of clause (i), the term ‘appropriate regional carrier’ means the carrier having jurisdiction over the geographic area that includes the permanent residence of the patient to whom the item is furnished.”.

(2) CLARIFICATION OF AUTHORITY TO DESIGNATE CARRIERS FOR OTHER ITEMS AND SERVICES.—Nothing in the amendment made by paragraph (1) may be construed to restrict the authority of the Secretary of Health and Human Services to designate regional carriers or modify claims jurisdiction rules with respect to items or services under part B of the medicare program that are not covered items under section 1834(a) of the Social Security Act or prosthetic devices or orthotics and prosthetics under section 1834(h) of such Act.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to claims processed on or after May 1, 1994.

SEC. 133. RESTRICTIONS ON CERTAIN MARKETING AND SALES ACTIVITIES.

(a) PROHIBITING UNSOLICITED TELEPHONE CONTACTS FROM SUPPLIERS OF DURABLE MEDICAL EQUIPMENT TO MEDICARE BENEFICIARIES.—

(1) IN GENERAL.—Section 1834(a) (42 U.S.C. 1395m(a)) is amended by adding at the end the following new paragraph:

"(17) PROHIBITION AGAINST UNSOLICITED TELEPHONE CONTACTS BY SUPPLIERS.—

"(A) IN GENERAL.—A supplier of a covered item under this subsection may not contact an individual enrolled under this part by telephone regarding the furnishing of a covered item to the individual unless 1 of the following applies:

"(i) The individual has given written permission to the supplier to make contact by telephone regarding the furnishing of a covered item.

"(ii) The supplier has furnished a covered item to the individual and the supplier is contacting the individual only regarding the furnishing of such covered item.

"(iii) If the contact is regarding the furnishing of a covered item other than a covered item already furnished to the individual, the supplier has furnished at least 1 covered item to the individual during the 15-month period preceding the date on which the supplier makes such contact.

"(B) PROHIBITING PAYMENT FOR ITEMS FURNISHED SUBSEQUENT TO UNSOLICITED CONTACTS.—If a supplier knowingly contacts an individual in violation of subparagraph (A), no payment may be made under this part for any item subsequently furnished to the individual by the supplier.

"(C) EXCLUSION FROM PROGRAM FOR SUPPLIERS ENGAGING IN PATTERN OF UNSOLICITED CONTACTS.—If a supplier knowingly contacts individuals in violation of subparagraph (A) to such an extent that the supplier's conduct establishes a pattern of contacts in violation of such subparagraph, the Secretary shall exclude the supplier from participation in the programs under this Act, in accordance with the procedures set forth in subsections (c), (f), and (g) of section 1128.".

(2) REQUIRING REFUND OF AMOUNTS COLLECTED FOR DISALLOWED ITEMS.—Section 1834(a) (42 U.S.C. 1395m(a)), as amended by paragraph (1), is amended by adding at the end the following new paragraph:

"(18) REFUND OF AMOUNTS COLLECTED FOR CERTAIN DISALLOWED ITEMS.—

"(A) IN GENERAL.—If a nonparticipating supplier furnishes to an individual enrolled under this part a covered item for which no payment may be made under this part by reason of paragraph (17)(B), the supplier shall refund on a timely basis to the patient (and shall be liable to the patient for) any amounts collected from the patient for the item, unless—

"(i) the supplier establishes that the supplier did not know and could not reasonably have been expected to know that payment may not be made for the item by reason of paragraph (17)(B), or

"(ii) before the item was furnished, the patient was informed that payment under this part may not be made for that item and the patient has agreed to pay for that item.

"(B) SANCTIONS.—If a supplier knowingly and willfully fails to make refunds in violation of subparagraph (A), the Secretary may apply sanctions against the supplier in accordance with section 1842(j)(2).

"(C) NOTICE.—Each carrier with a contract in effect under this part with respect to suppliers of covered items shall send any notice of denial of payment for covered items by reason of paragraph (17)(B) and for which payment is not requested on an assignment-related basis to the supplier and the patient involved.

"(D) TIMELY BASIS DEFINED.—A refund under subparagraph (A) is considered to be on a timely basis only if—

"(i) in the case of a supplier who does not request reconsideration or seek appeal on a timely basis, the refund is made within 30 days after the date the supplier receives a denial notice under subparagraph (C), or

"(ii) in the case in which such a reconsideration or appeal is taken, the refund is made within 15 days after the date the supplier receives notice of an adverse determination on reconsideration or appeal.".

(b) CONFORMING AMENDMENT.—Section 1834(h)(3) (42 U.S.C. 1395m(h)(3)) is amended by striking "Paragraph (12)" and inserting "Paragraphs (12) and (17)".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to items furnished after the expiration of the 60-day period that begins on the date of the enactment of this Act.

SEC. 134. KICKBACK CLARIFICATION.

(a) IN GENERAL.—Section 1128B(b)(3)(B) (42 U.S.C. 1320a–7b(b)(3)(B)) is amended by inserting before the semicolon the following: "(except that in the case of a contract supply arrangement between any entity and a supplier of medical supplies and equipment (as defined in section 1834(j)(4), but not including items described in subparagraph (F) of such section), such employment shall not be considered bona fide to the extent that it includes tasks of a clerical and cataloging nature in transmitting to suppliers assignment rights of individuals eligible for benefits under part B of title XVIII, or performance of warehousing or stock inventory functions)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to services furnished on or after the first day of the first month that begins after the expiration of the 60-day period beginning on the date of the enactment of this Act.

SEC. 135. BENEFICIARY LIABILITY FOR NONCOVERED SERVICES.

(a) UNASSIGNED CLAIMS.—

(1) IN GENERAL.—Section 1834(j) (42 U.S.C. 1395m(i)), as added by section 131(a)(1), is amended—

(A) by redesignating paragraph (4) as paragraph (5), and

(B) by inserting after paragraph (3) the following new paragraph:

"(4) LIMITATION ON PATIENT LIABILITY.—If a supplier of medical equipment and supplies (as defined in paragraph (5))—

"(A) furnishes an item or service to a beneficiary for which no payment may be made by reason of paragraph (1);

"(B) furnishes an item or service to a beneficiary for which payment is denied in advance under subsection (a)(15); or

"(C) furnishes an item or service to a beneficiary for which payment is denied under section 1862(a)(1);

any expenses incurred for items and services furnished to an individual by such a supplier not on an assigned basis shall be the responsibility of such supplier. The individual shall have no financial responsibility for such expenses and the supplier shall refund on a timely basis to the individual (and shall be liable to the individual for) any amounts collected from the individual for such items or services. The provisions of subsection (a)(18) shall apply to refunds required under the previous sentence in the same manner as such provisions apply to refunds under such subsection.".

(2) CONFORMING AMENDMENT.—Section 1128B(b)(3)(B) (42 U.S.C. 1320a–7b(b)(3)(B)), as amended by section 134(a), is amended by striking "1834(j)(4)" and inserting "1834(j)(5)".

(b) ASSIGNED CLAIMS.—Section 1879 (42 U.S.C. 1395pp) is amended by adding at the end the following new subsection:

"(h) If a supplier of medical equipment and supplies (as defined in section 1834(j)(5))—

"(1) furnishes an item or service to a beneficiary for which no payment may be made by reason of section 1834(j)(1);

"(2) furnishes an item or service to a beneficiary for which payment is denied in advance under section 1834(a)(15); or

"(3) furnishes an item or service to a beneficiary for which no payment may be made by reason of section 1834(a)(17)(B),

any expenses incurred for items and services furnished to an individual by such a supplier on an assignment-related basis shall be the responsibility of such supplier. The individual shall have no financial responsibility for such expenses and the supplier shall refund on a timely basis to the individual (and shall be liable to the individual for) any amounts collected from the individual for such items or services. The provisions of section 1834(a)(18) shall apply to refunds required under the previous sentence in the same manner as such provisions apply to refunds under such section.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items or services furnished on or after October 1, 1994.

SEC. 136. ADJUSTMENTS FOR INHERENT REASONABLENESS.

(a) ADJUSTMENTS MADE TO FINAL PAYMENT AMOUNTS.—

(1) IN GENERAL.—Section 1834(a)(10)(B) (42 U.S.C. 1395m(a)(10)(B)) is amended by adding at the end the following: "In applying such provisions to payments for an item under this subsection, the Secretary shall make adjustments to the payment basis for the item described in paragraph (1)(B) if the Secretary determines (in accordance with such provisions and on the basis of prices and costs applicable at the time the item is furnished) that such payment basis is not inherently reasonable.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(b) ADJUSTMENT REQUIRED FOR CERTAIN ITEMS.—

(1) IN GENERAL.—In accordance with section 1834(a)(10)(B) of the Social Security Act (as amended by subsection (a)), the Secretary of Health and Human Services shall determine whether the payment amounts for the items described in paragraph (2) are not inherently reasonable, and shall adjust such amounts in accordance with such section if the amounts are not inherently reasonable.

(2) ITEMS DESCRIBED.—The items referred to in paragraph (1) are decubitus care equipment, transcutaneous electrical nerve stimulators, and any other items considered appropriate by the Secretary.

SEC. 137. MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) UPDATES TO PAYMENT AMOUNTS.—(1) Subparagraph (A) of section 1834(a)(14) (42 U.S.C. 1395m(a)(14)) is amended to read as follows:

"(A) for 1991 and 1992, the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year reduced by 1 percentage point; and".

(2) The amendment made by paragraph (1) shall be effective on the date of the enactment of this Act.

(b) Advance Determinations of Coverage.—(1) Effective on the date of the enactment of this Act, section 1834(a)(15) (42 U.S.C. 1395m(a)(15)) is amended to read as follows:

"(15) Advance determinations of coverage for certain items.—

"(A) Development of lists of items by Secretary.—The Secretary may develop and periodically update a list of items for which payment may be made under this subsection that the Secretary determines, on the basis of prior payment experience, are frequently subject to unnecessary utilization throughout a carrier's entire service area or a portion of such area.

"(B) Development of lists of suppliers by Secretary.—The Secretary may develop and periodically update a list of suppliers of items for which payment may be made under this subsection with respect to whom—

"(i) the Secretary has found that a substantial number of claims for payment under this part for items furnished by the supplier have been denied on the basis of the application of section 1862(a)(1); or

"(ii) the Secretary has identified a pattern of overutilization resulting from the business practice of the supplier.

"(C) Determinations of coverage in advance.—A carrier shall determine in advance of delivery of an item whether payment for the item may not be made because the item is not covered or because of the application of section 1862(a)(1) if—

"(i) the item is included on the list developed by the Secretary under subparagraph (A);

"(ii) the item is furnished by a supplier included on the list developed by the Secretary under subparagraph (B); or

"(iii) the item is a customized item (other than inexpensive items specified by the Secretary) and the patient to whom the item is to be furnished or the supplier requests that such advance determination be made.".

(2) Effective for standards applied for contract years beginning after the date of the enactment of this Act, section 1842(c) (42 U.S.C. 1395u(c)), as amended by section 125(a), is amended by adding at the end the following new paragraph:

"(5) Each contract under this section which provides for the disbursement of funds, as described in subsection (a)(1)(B), shall require the carrier to meet criteria developed by the Secretary to measure the timeliness of carrier responses to requests for payment of items described in section 1834(a)(15)(C).".

(3) Effective on the date of the enactment of this Act, section 1834(h)(3) (42 U.S.C. 1395m(h)(3)), as amended by section 133(b), is amended by striking "(12) and (17)" and inserting "(12), (15), and (17)".

(c) Study of Variations in Durable Medical Equipment Supplier Costs.—

(1) Collection and analysis of supplier cost data.—The Administrator of the Health Care Financing Administration shall, in consultation with appropriate organizations, collect data on supplier costs of durable medical equipment for which payment may be made under part B of the medicare program, and shall analyze such data to determine the proportions of such costs attributable to the service and product components of furnishing such equipment and the extent to which such proportions vary by type of equipment and by the geographic region in which the supplier is located.

(2) Development of geographic adjustment index; reports.—Not later than January 1, 1995—

(A) the Administrator shall submit a report to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the data collected and the analysis conducted under paragraph (1), and shall include in such report the Administrator's recommendations for a geographic cost adjustment index for suppliers of durable medical equipment under the medicare program and an analysis of the impact of such proposed index on payments under the medicare program; and

(B) the Comptroller General shall submit a report to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate analyzing on a geographic basis the supplier costs of durable medical equipment under the medicare program.

(d) Oxygen Retesting.—(1) Section 1834(a)(5)(E) (42 U.S.C. 1395m(a)(5)(E)) is amended by striking "55" and inserting "56".

(2) The amendment made by paragraph (1) shall be effective on the date of the enactment of this Act.

(e) Other Miscellaneous and Technical Amendments.—(1) Section 4152(a)(3) of OBRA-1990 is amended by striking "amendment made by subsection (a)" and inserting "amendments made by this subsection".

(2) Section 4152(c)(2) of OBRA-1990 is amended by striking "1395m(a)(7)(A)" and inserting "1395m(a)(7)".

(3) Section 1834(a)(7)(A)(iii)(II) (42 U.S.C. 1395m(a)(7)(A)(iii)(II)) is amended by striking "clause (v)" and inserting "clause (vi)".

(4) Section 1834(a)(7)(C)(i) (42 U.S.C. 1395m(a)(7)(C)(i)) is amended by striking "or paragraph (3)".

(5) Section 1834(a)(3) (42 U.S.C. 1395m(a)(3)) is amended by striking subparagraph (D).

(6) Section 4153(c)(1) of OBRA-1990 is amended by striking "1834(a)" and inserting "1834(h)".

(7) Section 4153(d)(2) of OBRA-1990 is amended by striking "Reconiliation" and inserting "Reconciliation".

(8)(A) Section 1834(a) (42 U.S.C. 1395m(a)) is amended by striking paragraph (6).

(B) Section 1834(a) (42 U.S.C. 1395m(a)) is amended—

(i) in subparagraphs (A) and (B) of paragraph (1), by striking "(2) through (7)" each place it appears and inserting "(2) through (5) and (7)";

(ii) in paragraph (7), by striking "(2) through (6)" and inserting "(2) through (5)";

(iii) in paragraph (8), by striking "paragraphs (6) and (7)" each place it appears in the matter preceding subparagraph (A) and in subparagraph (C) and inserting "paragraph (7)"; and

(iv) in paragraph (8)(A)(i), by striking "described—" and all that follows and inserting "described in paragraph (7) equal to the average of the purchase prices on the claims submitted on an assignment-related basis for the unused item supplied during the 6-month period ending with December 1986.".

(9) The amendments made by this subsection shall take effect as if included in the enactment of OBRA-1990.

PART III—OTHER ITEMS AND SERVICES

SEC. 141. AMBULATORY SURGICAL CENTER SERVICES.

(a) Payment Amounts for Services Furnished in Ambulatory Surgical Centers.—

(1) Use of survey to determine incurred costs.—Section 1833(i)(2)(A)(i) (42 U.S.C. 1395l(i)(2)(A)(i)) is amended by striking the comma at the end and inserting the following: ", as determined in accordance with a survey (based upon a representative sample of procedures and facilities) taken not later than January 1, 1995, and every 5 years thereafter, of the actual audited costs incurred by such centers in providing such services,".

(2) Automatic application of inflation adjustment.—Section 1833(i)(2) (42 U.S.C. 1395l(i)(2)) is amended—

(A) in the second sentence of subparagraph (A) and the second sentence of subparagraph (B), by striking "and may be adjusted by the Secretary, when appropriate,"; and

(B) by adding at the end the following new subparagraph:

"(C) Notwithstanding the second sentence of subparagraph (A) or the second sentence of subparagraph (B), if the Secretary has not updated amounts established under such subparagraphs with respect to facility services furnished during a fiscal year (beginning with fiscal year 1996), such amounts shall be increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) as estimated by the Secretary for the 12-month period ending with the midpoint of the year involved.".

(3) Consultation requirement.—The second sentence of section 1833(i)(1) (42 U.S.C. 1395l(i)(1)) is amended by striking the period and inserting the following: ", in consultation with appropriate trade and professional organizations.".

(b) Adjustments to Payment Amounts for New Technology Intraocular Lenses.—

(1) Establishment of process for review of amounts.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services (in this subsection referred to as the "Secretary") shall develop and implement a process under which interested parties may request review by the Secretary of the appropriateness of the reimbursement amount provided under section 1833(i)(2)(A)(iii) of the Social Security Act with respect to a class of new technology intraocular lenses. For purposes of the preceding sentence, an intraocular lens may not be treated as a new technology lens unless it has been approved by the Food and Drug Administration.

(2) Factors considered.—In determining whether to provide an adjustment of payment with respect to a particular lens under paragraph (1), the Secretary shall take into account whether use of the lens is likely to result in reduced risk of intraoperative or postoperative complication or trauma, accelerated postoperative recovery, reduced induced astigmatism, improved postoperative visual acuity, more stable postoperative vision, or other comparable clinical advantages.

(3) Notice and comment.—The Secretary shall publish notice in the Federal Register from time to time (but no less often than once each year) of a list of the requests that the Secretary has received for review under this subsection, and shall provide for a 30-day comment period on the lenses that are the subjects of the requests contained in such notice. The Secretary shall publish a notice of the Secretary's determinations with respect to intraocular lenses listed in the notice within 90 days after the close of the comment period.

(4) Effective date of adjustment.—Any adjustment of a payment amount (or payment limit) made under this subsection shall become effective not later than 30 days after the date on which the notice with respect to

the adjustment is published under paragraph (3).

(c) Technical Correction Relating to Blend Amounts for Ambulatory Surgical Center Payments.—

(1) In general.—Subclauses (I) and (II) of section 1833(i)(3)(B)(ii) (42 U.S.C. 1395l(i)(3)(B)(ii)) are each amended—

(A) by striking "for reporting" and inserting "for portions of cost reporting"; and

(B) by striking "and on or before" and inserting "and ending on or before".

(2) Effective date.—The amendments made by paragraph (1) shall take effect as if included in the enactment of OBRA–1990.

(d) Technical Correction Related to Cataract Surgery.—Effective as if included in the enactment of OBRA–1990, section 4151(c)(3) of such Act is amended by striking "for the insertion of an intraocular lens" and inserting "for an intraocular lens inserted".

SEC. 142. STUDY OF MEDICARE COVERAGE OF PATIENT CARE COSTS ASSOCIATED WITH CLINICAL TRIALS OF NEW CANCER THERAPIES.

(a) Study.—The Secretary of Health and Human Services shall conduct a study of the effects of expressly covering under the medicare program the patient care costs for beneficiaries enrolled in clinical trials of new cancer therapies, where the protocol for the trial has been approved by the National Cancer Institute or meets similar scientific and ethical standards, including approval by an institutional review board. The study shall include—

(1) an estimate of the cost of such coverage, taking into account the extent to which medicare currently pays for such patient care costs in practice;

(2) an assessment of the extent to which such clinical trials represent the best available treatment for the patients involved and of the effects of participation in the trials on the health of such patients;

(3) an assessment of whether progress in developing new anticancer therapies would be assisted by medicare coverage of such patient care costs; and

(4) an evaluation of whether there should be special criteria for the admission of medicare beneficiaries (on account of their age or physical condition) to clinical trials for which medicare would pay the patient care costs.

(b) Report.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit a report on the study conducted under subsection (a) to the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate. Such report shall include recommendations as to the coverage under the medicare program of patient care costs of beneficiaries enrolled in clinical trials of new cancer therapies.

SEC. 143. STUDY OF ANNUAL CAP ON AMOUNT OF MEDICARE PAYMENT FOR OUTPATIENT PHYSICAL THERAPY AND OCCUPATIONAL THERAPY SERVICES.

(a) Study.—The Secretary of Health and Human Services shall conduct a study of the appropriateness of continuing an annual limitation on the amount of payment for outpatient services of independently practicing physical and occupational therapists under the medicare program.

(b) Report.—By not later than January 1, 1995, the Secretary shall submit to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under subsection (a). Such report shall include such recommendations for changes in such annual limitation as the Secretary finds appropriate.

SEC. 144. PAYMENT OF PART B PREMIUM LATE ENROLLMENT PENALTIES BY STATES.

Section 1839 (42 U.S.C. 1395r) is amended by adding at the end the following new subsection:

"(g)(1) Upon the request of a State, the Secretary may enter into an agreement with the State under which the State agrees to pay on a quarterly or other periodic basis to the Secretary (to be deposited in the Treasury to the credit of the Federal Supplementary Medical Insurance Trust Fund) an amount equal to the amount of the part B late enrollment premium increases with respect to the premiums for eligible individuals (as defined in paragraph (3)(A)).

"(2) No part B late enrollment premium increase shall apply to an eligible individual for premiums for months for which the amount of such an increase is payable under an agreement under paragraph (1).

"(3) In this subsection:

"(A) The term 'eligible individual' means an individual who is enrolled under this part B and who is within a class of individuals specified in the agreement under paragraph (1).

"(B) The term 'part B late enrollment premium increase' means any increase in a premium as a result of the application of subsection (b).".

SEC. 145. TREATMENT OF INPATIENTS AND PROVISION OF DIAGNOSTIC X-RAY SERVICES BY RURAL HEALTH CLINICS AND FEDERALLY QUALIFIED HEALTH CENTERS.

(a) Treatment of Inpatients.—Section 1861(aa) (42 U.S.C. 1395x(aa)) is amended—

(1) in paragraph (1), in the matter following subparagraph (C), by striking "as an outpatient" and inserting "as a patient";

(2) in paragraph (2)(A), by striking "furnishing to outpatients" and inserting "furnishing to patients"; and

(3) in paragraph (3), in the matter following subparagraph (B), by striking "as an outpatient" and inserting "as a patient".

(b) Treatment of Diagnostic X-Ray Services.—Section 1861(aa) (42 U.S.C. 1395x(aa)) is further amended—

(1) in paragraph (1)(A), by inserting "(i)" after "(A)" and by adding at the end the following: "and (ii) diagnostic x-ray services,", and

(2) in paragraph (2)(A), by striking "(A)" and inserting "(A)(i)".

(c) Conforming Amendment.—Section 1862(a)(14) (42 U.S.C. 1395y(a)(14)) is amended by striking "and services of a certified registered nurse anesthetist" and inserting "services of a certified registered nurse anesthetist, rural health clinic services, and Federally-qualified health center services".

(d) Effective Date.—The amendments made by this section shall take effect on January 1, 1994, and shall apply to services furnished on or after such date.

SEC. 146. APPLICATION OF MAMMOGRAPHY CERTIFICATION REQUIREMENTS.

(a) Screening Mammography.—Section 1834(c) (42 U.S.C. 1395m(c)) is amended—

(1) in paragraph (1)(B), by striking "meets the quality standards established under paragraph (3)" and inserting "is conducted by a facility that has a certificate (or provisional certificate) issued under section 354 of the Public Health Service Act";

(2) in paragraph (1)(C)(iii), by striking "paragraph (4)" and inserting "paragraph (3)";

(3) by striking paragraph (3); and

(4) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4).

(b) Diagnostic Mammography.—Section 1861(s)(3) (42 U.S.C. 1395x(s)(3)) is amended by inserting "and including diagnostic mammography if conducted by a facility that has a certificate (or provisional certificate) issued under section 354 of the Public Health Service Act" after "necessary".

(c) Conforming Amendments.—(1) Section 1862(a)(1)(F) (42 U.S.C. 1395y(a)(1)(F)) is amended by striking "or which does not meet the standards established under section 1834(c)(3)" and inserting "or which is not conducted by a facility described in section 1834(c)(1)(B)".

(2) Section 1863 (42 U.S.C. 1395z) is amended by striking "or whether screening mammography meets the standards established under section 1834(c)(3),".

(3) The first sentence of section 1864(a) (42 U.S.C. 1395aa(a)) is amended by striking ", or whether screening mammography meets the standards established under section 1834(c)(3)".

(4) The third sentence of section 1865(a) (42 U.S.C. 1395bb(a)) is amended by striking "1834(c)(3),".

(d) Effective Date.—The amendments made by this section shall apply to mammography furnished by a facility on and after the first date that the certificate requirements of section 354(b) of the Public Health Service Act apply to such mammography conducted by such facility.

SEC. 147. COVERAGE OF SERVICES OF SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS.

(a) Services Defined.—Section 1861 (42 U.S.C. 1395x), as amended by section 148(f)(6)(E), is amended by inserting after subsection (kk) the following new subsection:

"Speech-Language Pathology Services;
Audiology Services

"(ll)(1) The term 'speech-language pathology services' means such speech, language, and related function assessment and rehabilitation services furnished by a qualified speech-language pathologist as the speech-language pathologist is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) as would otherwise be covered if furnished by a physician.

"(2) The term 'audiology services' means such hearing and balance assessment services furnished by a qualified audiologist as the audiologist is legally authorized to perform under State law (or the State regulatory mechanism provided by State law), as would otherwise be covered if furnished by a physician.

"(3) In this subsection:

"(A) The term 'qualified speech-language pathologist' means an individual with a master's or doctoral degree in speech-language pathology who—

"(i) is licensed as a speech-language pathologist by the State in which the individual furnishes such services, or

"(ii) in the case of an individual who furnishes services in a State which does not license speech-language pathologists, has successfully completed 350 clock hours of supervised clinical practicum (or is in the process of accumulating such supervised clinical experience), performed not less than 1 month of supervised full-time speech-language pathology services after obtaining a master's or doctoral degree in speech-language pathology or a related field, and successfully completed a national examination in speech-language pathology approved by the Secretary.

"(B) The term 'qualified audiologist' means an individual with a master's or doctoral degree in audiology who—

"(i) is licensed as a speech-language pathologist by the State in which the individual furnishes such services, or

"(ii) in the case of an individual who furnishes services in a State which does not license speech-language pathologists, has successfully completed 350 clock hours of supervised clinical practicum (or is in the process of accumulating such supervised clinical experience), performed not less than 1 month of supervised full-time speech-language pathology services after obtaining a master's or doctoral degree in speech-language pathology or a related field, and successfully completed a national examination in speech-language pathology approved by the Secretary.".

(b) Conforming Amendments Relating to Medicare Treatment of Speech and Language Services.—

(1) Extended care services.—Section 1861(h)(3) (42 U.S.C. 1395x(h)(3)) is amended by striking ", occupational, or speech therapy" and inserting "or occupational therapy or speech-language pathology services".

(2) Home health services.—Section 1861(m)(2) (42 U.S.C. 1395x(m)(2)) is amended by striking ", occupational, or speech therapy" and inserting "or occupational therapy or speech-language pathology services".

(3) Outpatient physical therapy services.—The fourth sentence of section 1861(p) (42 U.S.C. 1395x(p)) is amended by striking "speech pathology services" and inserting "speech-language pathology services".

(4) Comprehensive outpatient rehabilitation facility services.—Section 1861(cc)(1)(B) (42 U.S.C. 1395x(cc)(1)(B)) is amended by striking "speech pathology services" and inserting "speech-language pathology services".

(5) Hospice care.—Section 1861(dd)(1)(B) (42 U.S.C. 1395x(dd)(1)(B)) is amended by striking "therapy or speech-language pathology" and inserting "therapy, or speech-language pathology services".

(c) Effective Date.—The amendments made by this section shall take effect on January 1, 1994.

SEC. 148. MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) Revision of Information on Part B Claims Forms.—Section 1833(q)(1) (42 U.S.C. 1395l(q)(1)) is amended—

(1) by striking "provider number" and inserting "unique physician identification number"; and

(2) by striking "and indicate whether or not the referring physician is an interested investor (within the meaning of section 1877(h)(5))".

(b) Consultation for Social Workers.—Effective with respect to services furnished on or after January 1, 1991, section 6113(c) of OBRA–1989 is amended—

(1) by inserting "and clinical social worker services" after "psychologist services"; and

(2) by striking "psychologist" the second and third place it appears and inserting "psychologist or clinical social worker".

(c) Reports on Hospital Outpatient Payment.—(1) OBRA–1989 is amended by striking section 6137.

(2) Section 1135(d) (42 U.S.C. 1320b–5(d)) is amended—

(A) by striking paragraph (6); and

(B) in paragraph (7)—

(i) by striking "systems" each place it appears and inserting "system"; and

(ii) by striking "paragraphs (1) and (6)" and inserting "paragraph (1)".

(d) Radiology and Diagnostic Services Provided in Hospital Outpatient Departments.—(1) Effective as if included in the enactment of OBRA–1989, section 1833(n)(1)(B)(i)(II) (42 U.S.C. 1395l(n)(1)(B)(i)(II)) is amended—

(A) by inserting "and for services described in subsection (a)(2)(E)(ii) furnished on or after January 1, 1992" after "1989"; and

(B) by striking "1842(b)" and inserting "1842(b) (or, in the case of services furnished on or after January 1, 1992, under section 1848)".

(2) Effective as if included in the enactment of OBRA–1989, section 1833(n)(1)(B)(i)(II) (42 U.S.C. 1395l(n)(1)(B)(i)(II)) is amended by striking "January 1, 1989" and inserting "April 1, 1989".

(e) Payments to Nurse Practitioners in Rural Areas (Section 4155 of OBRA–1990).—(1) Section 1861(s)(2)(K)(iii) (42 U.S.C. 1395x(s)(2)(K)(iii)) is amended—

(A) by striking "subsection (aa)(3)" and inserting "subsection (aa)(5)"; and

(B) by striking "subsection (aa)(4)" and inserting "subsection (aa)(6)".

(2) Section 1833(r)(1) (42 U.S.C. 1395l(r)(1)) is amended—

(A) by striking "ambulatory" each place it appears and inserting "or ambulatory"; and

(B) by striking "center," and inserting "center".

(3) Section 1833(r)(2)(A) (42 U.S.C. 1395l(r)(2)(A)) is amended by striking "subsection (a)(1)(M)" and inserting "subsection (a)(1)(O)".

(4) Section 1861(b)(4) (42 U.S.C. 1395x(b)(4)) is amended by striking "subsection (s)(2)(K)(i)" and inserting "clauses (i) or (iii) of subsection (s)(2)(K)".

(5) Section 1861(aa)(5) (42 U.S.C. 1395x(aa)(5)) is amended by striking "this Act" and inserting "this title".

(6) Section 1862(a)(14) (42 U.S.C. 1395y(a)(14)) is amended by striking "1861(s)(2)(K)(i)" and inserting "1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)".

(7) Section 1866(a)(1)(H) (42 U.S.C. 1395cc(a)(1)(H)) is amended by striking "1861(s)(2)(K)(i)" and inserting "1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)".

(f) Other Miscellaneous and Technical Amendments.—

(1) Immediate enrollment in part B by individuals covered by an employment-based plan.—(A) Subparagraphs (A) and (B) of section 1837(i)(3) (42 U.S.C. 1395p(i)(3)) are each amended—

(i) by striking "beginning with the first day of the first month in which the individual is no longer enrolled" and inserting "including each month during any part of which the individual is enrolled"; and

(ii) by striking "and ending seven months later" and inserting "ending with the last day of the eighth consecutive month in which the individual is at no time so enrolled".

(B) Paragraphs (1) and (2) of section 1838(e) (42 U.S.C. 1395q(e)) are amended to read as follows:

"(1) in any month of the special enrollment period in which the individual is at any time enrolled in a plan (specified in subparagraph (A) or (B), as applicable, of section 1837(i)(3)) or in the first month following such a month, the coverage period shall begin on the first day of the month in which the individual so enrolls (or, at the option of the individual, on the first day of any of the following three months), or

"(2) in any other month of the special enrollment period, the coverage period shall begin on the first day of the month following the month in which the individual so enrolls.".

(C) The amendments made by subparagraphs (A) and (B) shall take effect on the first day of the first month that begins after the expiration of the 120-day period that begins on the date of the enactment of this Act.

(2) Clinical diagnostic laboratory tests.—Section 4154(e)(5) of OBRA–1990 is amended by striking "(1)(A)" and inserting "(1)(A),".

(3) Separate payment under part B for certain services.—Section 4157(a) of OBRA–1990 is amended by striking "(a) Services of" and all that follows through "Section" and inserting "(a) Treatment of Services of Certain Health Practitioners.—Section".

(4) Community health centers and rural health clinics.—(A) The fourth sentence of section 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)) is amended—

(i) by striking "certification" the first place it appears and inserting "approval"; and

(ii) by striking "the Secretary's approval or disapproval of the certification" and inserting "Secretary's approval or disapproval".

(B) Section 4161(a)(7)(B) of OBRA–1990 is amended by inserting "and to the Committee on Finance of the Senate" after "Representatives".

(5) Screening mammography.—Section 4163 of OBRA–1990 is amended—

(A) by adding at the end of subsection (d) the following new paragraph:

"(3) The amendment made by paragraph (2)(A)(iv) shall apply to screening pap smears performed on or after July 1, 1990."; and

(B) in subsection (e), by striking "The amendments" and inserting "Except as provided in subsection (d)(3), the amendments".

(6) Injectable drugs for treatment of osteoporosis.—

(A) Clarification of drugs covered.—The section 1861(jj) (42 U.S.C. 1395x(jj)) inserted by section 4156(a)(2) of OBRA–1990 is amended—

(i) in the matter preceding paragraph (1), by striking "a bone fracture related to"; and

(ii) in paragraph (1), by striking "patient" and inserting "individual has suffered a bone fracture related to post-menopausal osteoporosis and that the individual".

(B) Limiting coverage to drugs provided by home health agencies.—(i) The section 1861(jj) (42 U.S.C. 1395x(jj)) inserted by section 4156(a)(2) of OBRA–1990 is amended by striking "if" and inserting "by a home health agency if".

(ii) Section 1861(m)(5) (42 U.S.C. 1395x(m)(5)) is amended by striking "but excluding" and inserting "and a covered osteoporosis drug (as defined in subsection (kk), but excluding other".

(iii) Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended—

(I) by adding "and" at the end of subparagraph (N), and

(II) by striking subparagraph (O) and redesignating subparagraph (P) as subparagraph (O).

(C) Payment based on reasonable cost.—Section 1833(a)(2) (42 U.S.C. 1395l(a)(2)) is amended—

(i) in subparagraph (A), by striking "health services" and inserting "health services (other than a covered osteoporosis drug (as defined in section 1861(kk)))";

(ii) by striking "and" at the end of subparagraph (D);

(iii) by striking the semicolon at the end of subparagraph (E) and inserting "; and"; and

(iv) by adding at the end the following new subparagraph:

"(F) with respect to a covered osteoporosis drug (as defined in section 1861(kk)) furnished by a home health agency, 80 percent of the reasonable cost of such service, as determined under section 1861(v);".

(D) APPLICATION OF PART B DEDUCTIBLE.—Section 1833(b)(2) (42 U.S.C. 1395l(b)(2)) is amended by striking "services" and inserting "services (other than a covered osteoporosis drug (as defined in section 1861(kk)))".

(E) COVERED OSTEOPOROSIS DRUG (SECTION 4156 OF OBRA–1990).—Section 1861 (42 U.S.C. 1395x) is amended, in the subsection (jj) inserted by section 4156(a)(2) of OBRA–1990, by striking "(jj) The term" and inserting "(kk) The term".

(7) OTHER MISCELLANEOUS AND TECHNICAL CORRECTIONS.—

(A) OWNERSHIP DISCLOSURE REQUIREMENTS.—(i) Section 1124A(a)(2)(A) (42 U.S.C. 1320a–3a(a)(2)(A)) is amended by striking "of the Social Security Act".

(ii) Section 4164(b)(4) of OBRA–1990 is amended by striking "paragraph" and inserting "paragraphs".

(B) DIRECTORY OF UNIQUE PHYSICIAN IDENTIFIER NUMBERS.—Section 4164(c) of OBRA–1990 is amended by striking "publish" and inserting "publish, and shall periodically update,".

(g) EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this section shall take effect as if included in the enactment of OBRA–1990.

Subtitle C—Provisions Relating to Parts A and B

SEC. 151. MEDICARE SECONDARY PAYER REFORMS.

(a) IMPROVING IDENTIFICATION OF MEDICARE SECONDARY PAYER SITUATIONS.—

(1) SURVEY OF BENEFICIARIES.—

(A) IN GENERAL.—Section 1862(b)(5) (42 U.S.C. 1395y(b)(5)) is amended by adding at the end the following new subparagraph:

"(D) OBTAINING INFORMATION FROM BENEFICIARIES.—Before an individual applies for benefits under part A or enrolls under part B, the Administrator shall mail the individual a questionnaire to obtain information on whether the individual is covered under a primary plan and the nature of the coverage provided under the plan, including the name, address, and identifying number of the plan.".

(B) DISTRIBUTION OF QUESTIONNAIRE BY CONTRACTOR.—The Secretary of Health and Human Services shall enter into an agreement with an entity not later than July 1, 1994, to distribute the questionnaire described in section 1862(b)(5)(D) of the Social Security Act (as added by subparagraph (A)).

(C) NO MEDICARE SECONDARY PAYER DENIAL BASED ON FAILURE TO COMPLETE QUESTIONNAIRE.—Section 1862(b)(2) (42 U.S.C. 1395y(b)(2)) is amended by adding at the end the following new subparagraph:

"(C) TREATMENT OF QUESTIONNAIRES.—The Secretary may not fail to make payment under subparagraph (A) solely on the ground that an individual failed to complete a questionnaire concerning the existence of a primary plan.".

(2) MANDATORY SCREENING BY PROVIDERS AND SUPPLIERS UNDER PART B.—

(A) IN GENERAL.—Section 1862(b) (42 U.S.C. 1395y(b)) is amended by adding at the end the following new paragraph:

"(6) SCREENING REQUIREMENTS FOR PROVIDERS AND SUPPLIERS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this title, no payment may be made for any item or service furnished under part B unless the entity furnishing such item or service completes (to the best of its knowledge and on the basis of information obtained from the individual to whom the item or service is furnished) the portion of the claim form relating to the availability of other health benefit plans.

"(B) PENALTIES.—An entity that knowingly, willfully, and repeatedly fails to complete a claim form in accordance with subparagraph (A) or provides inaccurate information relating to the availability of other health benefit plans on a claim form under such subparagraph shall be subject to a civil money penalty of not to exceed $2,000 for each such incident. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply with respect to items and services furnished on or after January 1, 1994.

(b) IMPROVEMENTS IN RECOVERY OF PAYMENTS FROM PRIMARY PAYERS.—

(1) SUBMISSION OF REPORTS ON EFFORTS TO RECOVER ERRONEOUS PAYMENTS.—

(A) FISCAL INTERMEDIARIES UNDER PART A.—Section 1816 (42 U.S.C. 1395h) is amended by adding at the end the following new subsection:

"(k) An agreement with an agency or organization under this section shall require that such agency or organization submit an annual report to the Secretary describing the steps taken to recover payments made for items or services for which payment has been or could be made under a primary plan (as defined in section 1862(b)(2)(A)).".

(B) CARRIERS UNDER PART B.—Section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended—

(i) by striking "and" at the end of subparagraph (G);

(ii) by striking "and" at the end of subparagraph (H); and

(iii) by inserting after subparagraph (H) the following new subparagraph:

"(I) will submit annual reports to the Secretary describing the steps taken to recover payments made under this part for items or services for which payment has been or could be made under a primary plan (as defined in section 1862(b)(2)(A)); and".

(2) REQUIREMENTS UNDER CARRIER PERFORMANCE EVALUATION PROGRAM.—

(A) FISCAL INTERMEDIARIES UNDER PART A.—Section 1816(f)(1)(A) (42 U.S.C. 1396h(f)(1)(A)) is amended by striking "processing" and inserting "processing (including the agency's or organization's success in recovering payments made under this title for services for which payment has been or could be made under a primary plan (as defined in section 1862(b)(2)(A)))".

(B) CARRIERS UNDER PART B.—Section 1842(b)(2) (42 U.S.C. 1395u(b)(2)) is amended by adding at the end the following new subparagraph:

"(D) In addition to any other standards and criteria established by the Secretary for evaluating carrier performance under this paragraph relating to avoiding erroneous payments, the carrier shall be subject to standards and criteria relating to the carrier's success in recovering payments made under this part for items or services for which payment has been or could be made under a primary plan (as defined in section 1862(b)(2)(A)).".

(3) DEADLINE FOR REIMBURSEMENT BY PRIMARY PLANS.—

(A) IN GENERAL.—Section 1862(b)(2)(B)(i) (42 U.S.C. 1395y(b)(2)(B)(i)) is amended by adding at the end the following sentence: "If reimbursement is not made to the appropriate Trust Fund before the expiration of the 60-day period that begins on the date such notice or other information is received, the Secretary may charge interest (beginning with the date on which the notice or other information is received) on the amount of the reimbursement until reimbursement is made (at a rate determined by the Secretary in accordance with regulations of the Secretary of the Treasury applicable to charges for late payments).".

(B) CONFORMING AMENDMENT.—The heading of clause (i) of section 1862(b)(2)(B) is amended to read as follows: "REPAYMENT REQUIRED.—".

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to payments for items and services furnished on or after the date of the enactment of this Act.

(4) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall apply to contracts with fiscal intermediaries and carriers under title XVIII of the Social Security Act for years beginning with 1994.

(c) MISCELLANEOUS AND TECHNICAL CORRECTIONS.—

(1) Effective as if included in the enactment of OBRA–1993, section 1862(b)(1)(A) (42 U.S.C. 1395y(b)(1)(A)), as amended by section 13561(e)(1) of OBRA–1993, is amended—

(A) in clause (i)(II), by striking "over (and the individual's spouse age 65 or older) who is covered under the plan by virtue of the individual's current employment status with an employer" and inserting "older (and the spouse age 65 or older of any individual) who has current employment status with an employer"; and

(B) in clause (ii), by striking "or employee organization that has 20 or more individuals in current employment status" and inserting "that has 20 or more employees".

(2) Effective as if included in the enactment of OBRA–1993, section 1837(i) (42 U.S.C. 1395p(i)) is amended—

(A) by striking "as an active individual (as those terms are defined in section 1862(b)(1)(B)(iv))" each place it appears in the second sentence of paragraph (1), and the second sentence of paragraph (2) and inserting "(as that term is defined in section 1862(b)(1)(B)(iv)) by reason of the individual's current employment status (or the current employment status of a family member of the individual)";

(B) in paragraph (3)(B), by striking "as an active individual in a large group health plan (as such terms are defined in section 1862(b)(1)(B)(iv))" and inserting "in a large group health plan (as that term is defined in section 1862(b)(1)(B)(iv)) by reason of the individual's current employment status (or the current employment status of a family member of the individual)";

(C) in the second sentence of paragraph (2) (as amended by subparagraph (A)), by striking "as an active individual" and inserting "by reason of the individual's current employment status (or the current employment status of a family member of the individual)"; and

(D) by inserting "status" after "current employment" each place it appears in paragraphs (1)(A), (2)(B), (2)(C), and (3)(A).

(3) Effective as if included in the enactment of OBRA–1993, the second sentence of section 1839(b) (42 U.S.C. 1395r(b)) is amended—

(A) by inserting "status" after "current employment", and

(B) by striking "as an active individual (as those terms are defined in section 1862(b)(1)(B)(iv))" and inserting "(as that term is defined in section 1862(b)(1)(B)(iv)) by reason of the individual's current employment status (or the current employment status of a family member of the individual)".

(4) Effective as if included in the enactment of OBRA–1990, the sentence in section 1862(b)(1)(C) added by section 4203(c)(1)(B) of OBRA–1990 is amended by striking "clauses (i) and (ii)" and inserting "this subparagraph".

(5) Effective as if included in the enactment of OBRA–1989, section 1862(b)(1)(C) is amended in the matter after clause (ii), by striking "taking into account that" and inserting "paying benefits secondary to this title when".

(6) Effective as if included in the enactment of OBRA–1989, section 1862(b)(5)(C)(i) (42 U.S.C. 1395y(b)(5)(C)(i)) is amended by striking "6103(l)(12)(D)(iii)" and inserting "6103(l)(12)(E)(iii)".

(7) Effective as if included in the enactment of OBRA–1990, section 4203(c)(2) of such Act is amended—

(A) by striking "the application of clause (iii)" and inserting "the second sentence";

(B) by striking "on individuals" and all that follows through "section 226A of such Act";

(C) in clause (ii), by striking "clause" and inserting "sentence";

(D) in clause (v), by adding "and" at the end; and

(E) in clause (vi)—

(i) by inserting "of such Act" after "1862(b)(1)(C)", and

(ii) by striking the period at the end and inserting the following: ", without regard to the number of employees covered by such plans.".

(8) Effective as if included in the enactment of OBRA–1990, section 4203(d) of OBRA–1990 is amended by striking "this subsection" and inserting "this section".

(9) Effective as if included in the enactment of OBRA–1993, section 13561(e)(1)(D) of OBRA–1993 is amended—

(A) by inserting "effective as if included in the enactment of OBRA–1989," after "(D)", and

(B) by striking "of each subparagraph".

(10) The amendment made by section 13561(e)(1)(G) of OBRA–1993, to the extent it relates to the definition of large group health plan, shall be effective as if included in the enactment of OBRA–1989.

SEC. 152. PHYSICIAN OWNERSHIP AND REFERRAL.

(a) IN GENERAL.—Section 1877(f) (42 U.S.C. 1395nn) is amended—

(1) in the matter before paragraph (1), by inserting ", investment, and compensation" after "ownership";

(2) in paragraph (2), by inserting ", or with a compensation arrangement (as described in subsection (a)(2)(B))," after "investment interest (as described in subsection (a)(2)(A))";

(3) in paragraph (2), by inserting "interest or who have such a compensation relationship with the entity" before the period at the end;

(4) in the fourth sentence, by striking "covered items and" and inserting "designated health"; and

(5) by striking the third and fifth sentences.

(b) RADIOLOGY SERVICES.—Section 1877(h)(6) (42 U.S.C. 1395nn(h)(6)), as amended by section 13562(a)(2) of OBRA–1993, is amended—

(1) in subparagraph (D), by striking "or other diagnostic services" and inserting "services, including magnetic resonance imaging, computerized axial tomography scans, and ultrasound services"; and

(2) in subparagraphs (E), (F), and (H), by inserting "and supplies" before the period at the end.

(c) REVISION OF EFFECTIVE DATE EXCEPTION PROVISION.—Section 13562(b)(2) of OBRA–1993 is amended by striking subparagraphs (A) and (B) and inserting the following:

"(A) the second sentence of subsection (a)(2), and subsections (b)(2)(B) and (d)(2), of section 1877 of the Social Security Act (as in effect on the day before the date of the enactment of this Act) shall apply instead of the corresponding provisions in section 1877 (as amended by this Act);

"(B) section 1877(b)(4) of the Social Security Act (as in effect on the day before the date of the enactment of this Act) shall apply;

"(C) the requirements of section 1877(c)(2) of the Social Security Act (as amended by this Act) shall not apply to any securities of a corporation that meets the requirements of section 1877(c)(2) of the Social Security Act (as in effect on the day before the date of the enactment of this Act);

"(D) section 1877(e)(3) of the Social Security Act (as amended by this Act) shall apply, except that it shall not apply to any arrangement that meets the requirements of subsection (e)(2) or subsection (e)(3) of section 1877 of the Social Security Act (as in effect on the day before the date of the enactment of this Act);

"(E) the requirements of clauses (iv) and (v) of section 1877(h)(4)(A), and of clause (i) of section 1877(h)(4)(B), of the Social Security Act (as amended by this Act) shall not apply; and

"(F) section 1877(h)(4)(B) of the Social Security Act (as in effect on the day before the date of the enactment of this Act) shall apply instead of section 1877(h)(4)(A)(ii) of such Act (as amended by this Act).".

(d) EFFECTIVE DATES.—

(1) The amendments made by subsections (a) and (b) shall apply to referrals made on or after January 1, 1995.

(2) The amendment made by subsection (c) shall apply as if included in the enactment of OBRA–1993.

SEC. 153. DEFINITION OF FMGEMS EXAMINATION FOR PAYMENT OF DIRECT GRADUATE MEDICAL EDUCATION.

(a) IN GENERAL.—Section 1886(h)(5)(E) (42 U.S.C. 1395ww(h)(5)(E)) is amended by inserting "or any successor examination" after "Medical Sciences".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply as if included in the enactment of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99–272).

SEC. 154. QUALIFIED MEDICARE BENEFICIARY OUTREACH.

Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall establish and implement a method for obtaining information from newly eligible medicare beneficiaries that may be used to determine whether such beneficiaries may be eligible for medical assistance for medicare cost-sharing under State medicaid plans as qualified medicare beneficiaries, and for transmitting such information to the State in which such a beneficiary resides.

SEC. 155. HOSPITAL AGREEMENTS WITH ORGAN PROCUREMENT ORGANIZATIONS.

(a) HOSPITAL AGREEMENTS.—

(1) IN GENERAL.—

(A) IDENTIFICATION OF ORGAN DONORS.—Section 1138(a)(1)(A)(iii) (42 U.S.C. 1320b–8(a)(1)(A)(iii)) is amended to read as follows:

"(iii) require that such hospital's designated organ procurement agency (as defined in paragraph (3)(B)) is notified of potential organ donors;".

(B) AGREEMENTS WITH DESIGNATED ORGAN PROCUREMENT AGENCIES.—Section 1138(a)(1) (42 U.S.C. 1320b–8(a)(1)) is amended—

(i) by striking the period at the end of subparagraph (B) and inserting "; and"; and

(ii) by adding at the end the following new subparagraph:

"(C) the hospital or rural primary care hospital has an agreement (as defined in paragraph (3)(A)) only with such hospital's designated organ procurement agency.".

(C) WAIVER OF REQUIREMENTS RELATED TO AGREEMENTS.—Section 1138(a) (42 U.S.C. 1320b–8(a)) is amended—

(i) by redesignating paragraph (2) as paragraph (3); and

(ii) by inserting after paragraph (1) the following new paragraph:

"(2)(A) The Secretary shall grant a waiver of the requirements under subparagraphs (A)(iii) and (C) of paragraph (1) to a hospital or rural primary care hospital desiring to enter into an agreement with an organ procurement agency other than such hospital's designated organ procurement agency if the Secretary determines that—

"(i) the waiver is expected to increase organ donation; and

"(ii) the waiver will assure equitable treatment of patients referred for transplants within the service area served by such hospital's designated organ procurement agency and within the service area served by the organ procurement agency with which the hospital seeks to enter into an agreement under the waiver.

"(B) In making a determination under subparagraph (A), the Secretary may consider factors that would include, but not be limited to—

"(i) cost effectiveness;

"(ii) improvements in quality;

"(iii) whether there has been any change in a hospital's designated organ procurement agency due to a change made on or after December 28, 1992, in the definitions for metropolitan statistical areas (as established by the Office of Management and Budget); and

"(iv) the length and continuity of a hospital's relationship with an organ procurement agency other than the hospital's designated organ procurement agency;

except that nothing in this subparagraph shall be construed to permit the Secretary to grant a waiver that does not meet the requirements of subparagraph (A).

"(C) Any hospital or rural primary care hospital seeking a waiver under subparagraph (A) shall submit an application to the Secretary containing such information as the Secretary determines appropriate.

"(D) The Secretary shall—

"(i) publish a public notice of any waiver application received from a hospital or rural primary care hospital under this paragraph within 30 days of receiving such application; and

"(ii) prior to making a final determination on such application under subparagraph (A), offer interested parties the opportunity to submit written comments to the Secretary during the 60-day period beginning on the date such notice is published.".

(D) DEFINITIONS.—Section 1138(a)(3) (42 U.S.C. 1320b-8(a)(3)), as redesignated by subparagraph (C), is amended to read as follows:

"(3) For purposes of this subsection—

"(A) the term 'agreement' means an agreement described in section 371(b)(3)(A) of the Public Health Service Act;

"(B) the term 'designated organ procurement agency' means, with respect to a hospital or rural primary care hospital, the organ procurement agency designated pursuant to subsection (b) for the service area in which such hospital is located; and

"(C) the term 'organ' means a human kidney, liver, heart, lung, pancreas, and any other human organ or tissue specified by the Secretary for purposes of this subsection.".

(2) EXISTING AGREEMENTS.—Any hospital or rural primary care hospital which has an agreement (as defined in section 1138(a)(3)(A) of the Social Security Act) with an organ procurement agency other than such hospital's designated organ procurement agency (as defined in section 1138(a)(3)(B) of such Act) on the date of the enactment of this section shall, if such hospital desires to continue such agreement on and after the effective date of the amendments made by paragraph (1), submit an application to the Secretary for a waiver under section 1138(a)(2) of such Act not later than January 1, 1995, and such agreement may continue in effect pending the Secretary's determination with respect to such application.

(3) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to hospitals and rural primary care hospitals participating in the programs under titles XVIII and XIX of the Social Security Act beginning January 1, 1995.

(b) STUDY ON HOSPITAL AGREEMENTS WITH ORGAN PROCUREMENT AGENCIES.—

(1) IN GENERAL.—The Office of Technology Assessment (referred to in this section as the "OTA") shall, pursuant to the approval of the Technology Assessment Board of the OTA, conduct a study to determine the efficacy and fairness of requiring a hospital to enter into an agreement under section 371(b)(3)(A) of the Public Health Service Act with the organ procurement agency designated pursuant to section 1138(b) of the Social Security Act for the service area in which such hospital is located and the impact of such requirement on the efficacy and fairness of organ procurement and distribution.

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the OTA shall complete the study required under paragraph (1) and prepare and submit to the Committee on Finance and the Committee on Labor and Human Resources of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives a report containing the findings of such study and the implications of such findings with respect to policies affecting organ procurement and distribution.

SEC. 156. PEER REVIEW ORGANIZATIONS.

(a) REPEAL OF PRO PRECERTIFICATION REQUIREMENT FOR CERTAIN SURGICAL PROCEDURES.—

(1) IN GENERAL.—Section 1164 (42 U.S.C. 1320c-13) is repealed.

(2) CONFORMING AMENDMENTS.—

(A) Section 1154 (42 U.S.C. 1320c-3) is amended—

(i) in subsection (a), by striking paragraph (12), and

(ii) in subsection (d), by striking "(and except as provided in section 1164)".

(B) Section 1833 (42 U.S.C. 1395l) is amended—

(i) in subsection (a)(1)(D)(i), by striking ", or for tests furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion)";

(ii) in subsection (a)(1), by striking subparagraph (G);

(iii) in subsection (a)(2)(A), by striking ", to items and services (other than clinical diagnostic laboratory tests) furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion),";

(iv) in subsection (a)(2)(D)(i)—

(I) by striking "basis," and inserting "basis or", and

(II) by striking ", or for tests furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion)";

(v) in subsection (a)(3), by striking "and for items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2), or a third opinion, if the second opinion was in disagreement with the first opinion"; and

(vi) in the first sentence of subsection (b), by striking "(4)" and all that follows through "and (5)" and inserting "and (4)".

(C) Section 1834(g)(1)(B) (42 U.S.C. 1395m(g)(1)(B)) is amended by striking "and for items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2), or a third opinion, if the second opinion was in disagreement with the first opinion".

(D) Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(i) by adding "or" at the end of paragraph (14),

(ii) by striking "; or" at the end of paragraph (15) and inserting a period, and

(iii) by striking paragraph (16).

(E) The third sentence of section 1866(a)(2)(A) (42 U.S.C. 1395w(a)(2)(A)) is amended by striking ", with respect to items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion),".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to services provided on or after the date of the enactment of this Act.

(b) MISCELLANEOUS AND TECHNICAL CORRECTIONS.—(1) The third sentence of section 1156(b)(1) (42 U.S.C. 1320c-5(b)(1)) is amended by striking "whehter" and inserting "whether".

(2)(A) Section 1154(a)(9)(B) (42 U.S.C. 1320c-3(a)(9)(B)) is amended to read as follows:

"(B) If the organization finds, after reasonable notice to and opportunity for discussion with the physician or practitioner concerned, that the physician or practitioner has furnished services in violation of section 1156(a) and the organization determines that the physician or practitioner should enter into a corrective action plan under section 1156(b)(1), the organization shall notify the State board or boards responsible for the licensing or disciplining of the physician or practitioner of its finding and of any action taken as a result of the finding.".

(B) Subparagraph (D) of section 1160(b)(1) (42 U.S.C. 1320c-9(b)(1)) is amended to read as follows:

"(D) to provide notice in accordance with section 1154(a)(9)(B);".

(3) Section 4205(d)(2)(B) of OBRA-1990 is amended by striking "amendments" and inserting "amendment".

(4) Section 1160(d) (42 U.S.C. 1320c-9(d)) is amended by striking "subpena" and inserting "subpoena".

(5) Section 4205(e)(2) of OBRA-1990 is amended by striking "amendments" and inserting "amendment" and by striking "all".

(6)(A) Except as provided in subparagraph (B), the amendments made by this subsection shall take effect as if included in the enactment of OBRA-1990.

(B) The amendments made by paragraph (2) (relating to the requirement on reporting of information to State boards) shall take effect on the date of the enactment of this Act.

SEC. 157. HEALTH MAINTENANCE ORGANIZATIONS.

(a) ADJUSTMENT IN MEDICARE CAPITATION PAYMENTS TO TAKE INTO ACCOUNT SECONDARY PAYER STATUS.—

(1) IN GENERAL.—In defining the classes to be used in determining the annual per capita rate of payment under section 1876(a)(1)(B) of the Social Security Act to an eligible organization with a risk-sharing contract under such section (for months beginning after June 1994), the Secretary of Health and Human Services shall treat as a separate class individuals entitled to benefits under title XVIII of such Act with respect to whom there is a group health plan that is a primary plan (within the meaning of section 1862(b)(2)(A) of such Act).

(2) DEADLINE FOR ANNOUNCEMENT OF RATES.—Not later than May 15, 1994, the Secretary shall announce annual per capita rates of payment for eligible organizations described in paragraph (1) that take into account the separate treatment of individuals with respect to whom there is a group health plan that is a primary plan.

(b) REVISIONS IN THE PAYMENT METHODOLOGY FOR RISK CONTRACTORS.—Section 4204(b) of OBRA-1990 is amended to read as follows:

"(b) REVISIONS IN THE PAYMENT METHODOLOGY FOR RISK CONTRACTORS.—(1)(A) Not later than October 1, 1994, the Secretary of Health and Human Services (in this subsection referred to as the 'Secretary') shall submit a proposal to the Congress that provides for revisions to the payment method to be applied in years beginning with 1996 for organizations with a risk-sharing contract under section 1876(g) of the Social Security Act.

"(B) In proposing the revisions required under subparagraph (A), the Secretary shall consider—

"(i) the difference in costs associated with medicare beneficiaries with differing health status and demographic characteristics; and

"(ii) the effects of using alternative geographic classifications on the determinations of costs associated with beneficiaries residing in different areas.

"(2) Not later than 3 months after the date of submittal of the proposal under paragraph (1), the Comptroller General shall review the proposal and shall report to Congress on the appropriateness of the proposed modifications.".

(c) MISCELLANEOUS AND TECHNICAL CORRECTIONS.—(1) Section 1876(a)(3) (42 U.S.C. 1395mm(a)(3)) is amended by striking "subsection (c)(7)" and inserting "subsections (c)(2)(B)(ii) and (c)(7)".

(2) Section 4204(c)(3) of OBRA-1990 is amended by striking "for 1991" and inserting "for years beginning with 1991".

(3) Section 4204(d)(2) of OBRA-1990 is amended by striking "amendment" and inserting "amendments".

(4) Section 1876(a)(1)(E)(ii)(I) (42 U.S.C. 1395mm(a)(1)(E)(ii)(I)) is amended by striking the comma after "contributed to".

(5) Section 4204(e)(2) of OBRA–1990 is amended by striking "(which has a risk-sharing contract under section 1876 of the Social Security Act)".

(6) Section 4204(f)(4) of OBRA–1990 is amended by striking "final".

(7) Section 1862(b)(3)(C) (42 U.S.C. 1395y(b)(3)(C)) is amended—

(A) in the heading, by striking "PLAN" and inserting "PLAN OR A LARGE GROUP HEALTH PLAN";

(B) by striking "group health plan" and inserting "group health plan or a large group health plan";

(C) by striking ", unless such incentive is also offered to all individuals who are eligible for coverage under the plan"; and

(D) by striking "the first sentence of subsection (a) and other than subsection (b)" and inserting "subsections (a) and (b)".

(8) The amendments made by this subsection shall take effect as if included in the enactment of OBRA–1990.

SEC. 158. HOME HEALTH AGENCIES.

(a) Use of Most Current Data in Determining Wage Index.—

(1) In general.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended by striking "as of such date to" and inserting "and determined using the survey of the most recent available wages and wage-related costs of".

(2) Effective date.—The amendment made by paragraph (1) shall apply with respect to cost reporting periods beginning on or after July 1, 1996.

(b) Clarification of Extension of Waiver of Liability.—

(1) In general.—The second sentence of section 9205 of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended by striking "November 1, 1990" and inserting "December 31, 1995".

(2) Effective date.—The amendment made by paragraph (1) shall take effect as if included in the enactment of OBRA–1990.

SEC. 159. PERMANENT EXTENSION OF AUTHORITY TO CONTRACT WITH FISCAL INTERMEDIARIES AND CARRIERS ON OTHER THAN A COST BASIS.

(a) In General.—Section 2326(a) of the Deficit Reduction Act of 1984, as amended by section 6215 of OBRA–1989, is amended in the third sentence by striking "during such period" and inserting "beginning with fiscal year 1990 and any subsequent fiscal year".

(b) Effective Date.—The amendment made by subsection (a) shall apply beginning with fiscal year 1994.

SEC. 160. MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) Survey and Certification Requirements.—(1) Section 1864 (42 U.S.C. 1395aa) is amended—

(A) in subsection (e), by striking "title" and inserting "title (other than any fee relating to section 353 of the Public Health Service Act)"; and

(B) in the first sentence of subsection (a), by striking "1861(s) or" and all that follows through "Service Act," and inserting "1861(s),".

(2) An agreement made by the Secretary of Health and Human Services with a State under section 1864(a) of the Social Security Act may include an agreement that the services of the State health agency or other appropriate State agency (or the appropriate local agencies) will be utilized by the Secretary for the purpose of determining whether a laboratory meets the requirements of section 353 of the Public Health Service Act.

(b) Home Dialysis Demonstration Technical Corrections.—Section 4202 of OBRA–1990 is amended—

(1) in subsection (b)(1)(A), by striking "home hemodialysis staff assistant" and inserting "qualified home hemodialysis staff assistant (as described in subsection (d))";

(2) in subsection (b)(2)(B)(ii)(I), by striking "(as adjusted to reflect differences in area wage levels)";

(3) in subsection (c)(1)(A), by striking "skilled"; and

(4) in subsection (c)(1)(E), by striking "(b)(4)" and inserting "(b)(2)".

(c) Technical Correction to Revisions of Coverage for Immunosuppressive Drug Therapy.—Section 1861(s)(2)(J) (42 U.S.C. 1395x(s)(2)(J)), as amended by section 13565 of OBRA–1993, is amended—

(1) by redesignating clauses (ii) through (v) as clauses (iii) through (vi); and

(2) by striking clause (i) and inserting the following:

"(i) before 1994, within 12 months after the date of the transplant procedure,

"(ii) to an individual who receives a transplant during 1994, within 487 days after the date of the transplant procedure,".

(d) Other Miscellaneous and Technical Provisions.—(1) Section 1833 (42 U.S.C. 1395l) is amended by redesignating the subsection (r) added by section 4206(b)(2) of OBRA–1990 as subsection (s).

(2) Section 1866(f)(1) (42 U.S.C. 1395cc(f)(1)) is amended by striking "1833(r)" and inserting "1833(s)".

(3) Section 4201(d)(2) of OBRA–1990 is amended by striking "(B) by striking", "(C) by striking", and "(3) by adding" and inserting "(i) by striking", "(ii) by striking", and "(B) by adding", respectively.

(4) The section following section 4206 of OBRA–1990 is amended by striking "Sec. 4027." and inserting "Sec. 4207.", and in this subtitle is referred to as section 4207 of OBRA–1990.

(5)(A) Section 4207(a)(1) of OBRA–1990 is amended by adding closing quotation marks and a period after "such review.".

(B) Section 4207(a)(4) of OBRA–1990 is amended by striking "this subsection" and inserting "paragraphs (2) and (3)".

(C) Section 4207(b)(1) of OBRA–1990 is amended by striking "section 3(7)" and inserting "section 601(a)(1)".

(6) Section 2355(b)(1)(B) of the Deficit Reduction Act of 1984, as amended by section 4207(b)(4)(B)(ii) of OBRA–1990, is amended—

(A) by striking "12907(c)(4)(A)" and inserting "4207(b)(4)(B)(i)", and

(B) by striking "feasibilitly" and inserting "feasibility".

(7) Section 4207(b)(4)(B)(iii)(III) of OBRA–1990 is amended by striking the period at the end and inserting a semicolon.

(8) Subsections (c)(3) and (e) of section 2355 of the Deficit Reduction Act of 1984, as amended by section 4207(b)(4)(B) of OBRA–1990, are each amended by striking "12907(c)(4)(A)" each place it appears and inserting "4207(b)(4)(B)".

(9) Section 4207(c)(2) of OBRA–1990 is amended by striking "the Committee on Ways and Means" each place it appears and inserting "the Committees on Ways and Means and Energy and Commerce".

(10) Section 4207(d) of OBRA–1990 is amended by redesignating the second paragraph (3) (relating to effective date) as paragraph (4).

(11) Section 4207(i)(2) of OBRA–1990 is amended—

(A) by striking the period at the end of clause (iii) and inserting a semicolon, and

(B) in clause (v), by striking "residents" and inserting "patients".

(12) Section 4207(j) of OBRA–1990 is amended by striking "title" each place it appears and inserting "subtitle".

Subtitle D—Provisions Relating to Medicare Supplemental Insurance Policies

SEC. 171. STANDARDS FOR MEDICARE SUPPLEMENTAL INSURANCE POLICIES.

(a) Simplification of Medicare Supplemental Policies.—

(1) Section 4351 of OBRA–1990 is amended by striking "(a) In General.—".

(2) Section 1882(p) (42 U.S.C. 1395ss(p)) is amended—

(A) in paragraph (1)(A)—

(i) by striking "promulgates" and inserting "changes the revised NAIC Model Regulation (described in subsection (m)) to incorporate",

(ii) by striking "(such limitations, language, definitions, format, and standards referred to collectively in this subsection as 'NAIC standards'),", and

(iii) by striking "included a reference to the NAIC standards" and inserting "were a reference to the revised NAIC Model Regulation as changed under this subparagraph (such changed regulation referred to in this section as the '1991 NAIC Model Regulation')";

(B) in paragraph (1)(B)—

(i) by striking "promulgate NAIC standards" and inserting "make the changes in the revised NAIC Model Regulation",

(ii) by striking "limitations, language, definitions, format, and standards described in clauses (i) through (iv) of such subparagraph (in this subsection referred to collectively as 'Federal standards')" and inserting "a regulation", and

(iii) by striking "included a reference to the Federal standards" and inserting "were a reference to the revised NAIC Model Regulation as changed by the Secretary under this subparagraph (such changed regulation referred to in this section as the '1991 Federal Regulation')";

(C) in paragraph (1)(C)(i), by striking "NAIC standards or the Federal standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation";

(D) in paragraphs (1)(C)(ii)(I), (1)(E), (2), and (9)(B), by striking "NAIC or Federal standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation";

(E) in paragraph (2)(C), by striking "(5)(B)" and inserting "(4)(B)";

(F) in paragraph (4)(A)(i), by inserting "or paragraph (6)" after "(B)";

(G) in paragraph (4), by striking "applicable standards" each place it appears and inserting "applicable 1991 NAIC Model Regulation or 1991 Federal Regulation";

(H) in paragraph (6), by striking "in regard to the limitation of benefits described in paragraph (4)" and inserting "described in clauses (i) through (iii) of paragraph (1)(A)";

(I) in paragraph (7), by striking "policyholder" and inserting "policyholders";

(J) in paragraph (8), by striking "after the effective date of the NAIC or Federal standards with respect to the policy, in violation of the previous requirements of this subsection" and inserting "on and after the effective date specified in paragraph (1)(C) (but subject to paragraph (10)), in violation of the applicable 1991 NAIC Model Regulation or 1991 Federal Regulation insofar as such regulation relates to the requirements of subsection (o) or (q) or clause (i), (ii), or (iii) of paragraph (1)(A)";

(K) in paragraph (9), by adding at the end the following new subparagraph:

"(D) Subject to paragraph (10), this paragraph shall apply to sales of policies occurring on or after the effective date specified in paragraph (1)(C)."; and

(L) in paragraph (10), by striking "this subsection" and inserting "paragraph (1)(A)(i)".

(b) Guaranteed Renewability.—Section 1882(q) (42 U.S.C. 1395ss(q)) is amended—

(1) in paragraph (2), by striking "paragraph (2)" and inserting "paragraph (4)", and

(2) in paragraph (4), by striking "the succeeding issuer" and inserting "issuer of the replacement policy".

(c) Enforcement of Standards.—

(1) Section 1882(a)(2) (42 U.S.C. 1395ss(a)(2)) is amended—

(A) in subparagraph (A), by striking "NAIC standards or the Federal standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation", and

(B) by striking "after the effective date of the NAIC or Federal standards with respect to the policy" and inserting "on and after the effective date specified in subsection (p)(1)(C)".

(2) The sentence in section 1882(b)(1) added by section 4353(c)(5) of OBRA–1990 is amended—

(A) by striking "The report" and inserting "Each report",

(B) by inserting "and requirements" after "standards",

(C) by striking "and" after "compliance,", and

(D) by striking the comma after "Commissioners".

(3) Section 1882(g)(2)(B) (42 U.S.C. 1395ss(g)(2)(B)) is amended by striking "Panel" and inserting "Secretary".

(4) Section 1882(b)(1) (42 U.S.C. 1395ss(b)(1)) is amended by striking "the the Secretary" and inserting "the Secretary".

(d) Preventing Duplication.—

(1) Section 1882(d)(3)(A) (42 U.S.C. 1395ss(d)(3)(A)) is amended—

(A) by amending the first sentence to read as follows:

"(i) It is unlawful for a person to sell or issue to an individual entitled to benefits under part A or enrolled under part B of this title—

"(I) a health insurance policy with knowledge that the policy duplicates health benefits to which the individual is otherwise entitled under this title or title XIX,

"(II) a medicare supplemental policy with knowledge that the individual is entitled to benefits under another medicare supplemental policy, or

"(III) a health insurance policy (other than a medicare supplemental policy) with knowledge that the policy duplicates health benefits to which the individual is otherwise entitled, other than benefits to which the individual is entitled under a requirement of State or Federal law.";

(B) by designating the second sentence as clause (ii) and, in such clause, by striking "the previous sentence" and inserting "clause (i)";

(C) by designating the third sentence as clause (iii) and, in such clause—

(i) by striking "the previous sentence" and inserting "clause (i) with respect to the sale of a medicare supplemental policy", and

(ii) by striking "and the statement" and all that follows up to the period at the end; and

(D) by striking the last sentence.

(2) Section 1882(d)(3)(B) (42 U.S.C. 1395ss(d)(3)(B)) is amended—

(A) in clause (ii)(II), by striking "65 years of age or older",

(B) in clause (iii)(I), by striking "another medicare" and inserting "a medicare",

(C) in clause (iii)(I), by striking "such a policy" and inserting "a medicare supplemental policy",

(D) in clause (iii)(II), by striking "another policy" and inserting "a medicare supplemental policy", and

(E) by amending subclause (III) of clause (iii) to read as follows:

"(III) If the statement required by clause (i) is obtained and indicates that the individual is entitled to any medical assistance under title XIX, the sale of the policy is not in violation of clause (i) (insofar as such clause relates to such medical assistance), if (aa) a State medicaid plan under such title pays the premiums for the policy, (bb) in the case of a qualified medicare beneficiary described in section 1905(p)(1), the policy provides for coverage of outpatient prescription drugs, or (cc) the only medical assistance to which the individual is entitled under the State plan is medicare cost sharing described in section 1905(p)(3)(A)(ii).".

(3)(A) Section 1882(d)(3)(C) (42 U.S.C. 1395ss(d)(3)(C)) is amended—

(i) by striking "the selling" and inserting "(i) the sale or issuance", and

(ii) by inserting before the period at the end the following: ", (ii) the sale or issuance of a policy or plan described in subparagraph (A)(i)(I) (other than a medicare supplemental policy to an individual entitled to any medical assistance under title XIX) under which all the benefits are fully payable directly to or on behalf of the individual without regard to other health benefit coverage of the individual but only if (for policies sold or issued more than 60 days after the date the statements are published or promulgated under subparagraph (D)) there is disclosed in a prominent manner as part of (or together with) the application the applicable statement (specified under subparagraph (D)) of the extent to which benefits payable under the policy or plan duplicate benefits under this title, or (iii) the sale or issuance of a policy or plan described in subparagraph (A)(i)(III) under which all the benefits are fully payable directly to or on behalf of the individual without regard to other health benefit coverage of the individual".

(B) Section 1882(d)(3) (42 U.S.C. 1395ss(d)(3)) is amended by adding at the end the following:

"(D)(i) If—

"(I) within the 90-day period beginning on the date of the enactment of this subparagraph, the National Association of Insurance Commissioners develops (after consultation with consumer and insurance industry representatives) and submits to the Secretary a statement for each of the types of health insurance policies (other than medicare supplemental policies and including, but not limited to, as separate types of policies, policies paying directly to the beneficiary fixed, cash benefits, and policies that limit benefit payments to specific diseases) which are sold or issued to persons entitled to health benefits under this title, of the extent to which benefits payable under the policy or plan duplicate benefits under this title, and

"(II) the Secretary approves all the statements submitted as meeting the requirements of subclause (I),

each such statement shall be (for purposes of subparagraph (C)) the statement specified under this subparagraph for the type of policy involved. The Secretary shall review and approve (or disapprove) all the statements submitted under subclause (I) within 30 days after the date of their submittal. Upon approval of such statements, the Secretary shall publish such statements.

"(ii) If the Secretary does not approve the statements under clause (i) or the statements are not submitted within the 90-day period specified in such clause, the Secretary shall promulgate (after consultation with consumer and insurance industry representatives and not later than 90 days after the date of disapproval or the end of such 90-day period (as the case may be)) a statement for each of the types of health insurance policies (other than medicare supplemental policies and including, but not limited to, as separate types of policies, policies paying directly to the beneficiary fixed, cash benefits, and policies that limit benefit payments to specific diseases) which are sold or issued to persons entitled to health benefits under this title, of the extent to which benefits payable under the policy or plan duplicate benefits under this title, and each such statement shall be (for purposes of subparagraph (C)) the statement specified under this subparagraph for the type of policy involved.".

(C) The requirement of a disclosure under section 1882(d)(3)(C)(ii) of the Social Security Act shall not apply to an application made for a policy or plan before 60 days after the date the Secretary of Health and Human Services publishes or promulgates all the statements under section 1882(d)(3)(D) of such Act.

(4) Subparagraphs (A) and (B) of section 1882(q)(5) are amended by striking "of the Social Security Act".

(e) Loss Ratios and Refunds of Premiums.—

(1) Section 1882(r) (42 U.S.C. 1395ss(r)) is amended—

(A) in paragraph (1), by striking "or sold" and inserting "or renewed (or otherwise provide coverage after the date described in subsection (p)(1)(C))";

(B) in paragraph (1)(A), by inserting "for periods after the effective date of these provisions" after "the policy can be expected";

(C) in paragraph (1)(A), by striking "Commissioners," and inserting "Commissioners)";

(D) in paragraph (1)(B), by inserting before the period at the end the following: ", treating policies of the same type as a single policy for each standard package";

(E) by adding at the end of paragraph (1) the following: "For the purpose of calculating the refund or credit required under paragraph (1)(B) for a policy issued before the date specified in subsection (p)(1)(C), the refund or credit calculation shall be based on the aggregate benefits provided and premiums collected under all such policies issued by an insurer in a State (separated as to individual and group policies) and shall be based only on aggregate benefits provided and premiums collected under such policies after the date specified in section 171(m)(4) of the Social Security Act Amendments of 1993.";

(F) in the first sentence of paragraph (2)(A), by striking "by policy number" and inserting "by standard package";

(G) by striking the second sentence of paragraph (2)(A) and inserting the following: "Paragraph (1)(B) shall not apply to a policy until 12 months following issue.";

(H) in the last sentence of paragraph (2)(A), by striking "in order" and all that follows through "are effective";

(I) by adding at the end of paragraph (2)(A), the following new sentence: "In the case of a policy issued before the date specified in subsection (p)(1)(C), paragraph (1)(B) shall not apply until 1 year after the date specified in section 171(m)(4) of the Social Security Act Amendments of 1993.";

(J) in paragraph (2), by striking "policy year" each place it appears and inserting "calendar year";

(K) in paragraph (4), by striking "February", "disallowance", "loss-ratios" each place it appears, and "loss-ratio" and inserting "October", "disallowance", "loss ratios", and "loss ratio", respectively;

(L) in paragraph (6)(A), by striking "issues a policy in violation of the loss ratio requirements of this subsection" and "such violation" and inserting "fails to provide refunds or credits as required in paragraph (1)(B)" and "policy issued for which such failure occurred", respectively; and

(M) in paragraph (6)(B), by striking "to policyholders" and inserting "to the policyholder or, in the case of a group policy, to the certificate holder".

(2) Section 1882(b)(1) (42 U.S.C. 1395ss(b)(1)) is amended, in the matter after subparagraph (H), by striking "subsection (F)" and inserting "subparagraph (F)".

(3) Section 4355(d) of OBRA–1990 is amended by striking "sold or issued" and all that follows and inserting "issued or renewed (or otherwise providing coverage after the date described in section 1882(p)(1)(C) of the Social Security Act) on or after the date specified in section 1882(p)(1)(C) of the Social Security Act.".

(f) TREATMENT OF HMO'S.—

(1) Section 1882(g)(1) (42 U.S.C. 1395ss(g)(1)) is amended by striking "a health maintenance organization or other direct service organization" and all that follows through "1833" and inserting "an eligible organization (as defined in section 1876(b)) if the policy or plan provides benefits pursuant to a contract under section 1876 or an approved demonstration project described in section 603(c) of the Social Security Amendments of 1983, section 2355 of the Deficit Reduction Act of 1984, or section 9412(b) of the Omnibus Budget Reconciliation Act of 1986, or, during the period beginning on the date specified in subsection (p)(1)(C) and ending on December 31, 1994, a policy or plan of an organization if the policy or plan provides benefits pursuant to an agreement under section 1833(a)(1)(A)".

(2) Section 4356(b) of OBRA–1990 is amended by striking "on the date of the enactment of this Act" and inserting "on the date specified in section 1882(p)(1)(C) of the Social Security Act".

(g) PRE-EXISTING CONDITION LIMITATIONS.—Section 1882(s) (42 U.S.C. 1395ss(s)) is amended—

(1) in paragraph (2)(A), by striking "for which an application is submitted" and inserting "in the case of an individual for whom an application is submitted prior to or",

(2) in paragraph (2)(A), by striking "in which the individual (who is 65 years of age or older) first is enrolled for benefits under part B" and inserting "as of the first day on which the individual is 65 years of age or older and is enrolled for benefits under part B", and

(3) in paragraph (2)(B), by striking "before it" and inserting "before the policy".

(h) MEDICARE SELECT POLICIES.—

(1) Section 1882(t) (42 U.S.C. 1395ss(t)) is amended—

(A) in paragraph (1), by inserting "medicare supplemental" after "If a",

(B) in paragraph (1), by striking "NAIC Model Standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation",

(C) in paragraph (1)(A), by inserting "or agreements" after "contracts",

(D) in subparagraphs (E)(i) and (F) of paragraph (1), by striking "NAIC standards" and inserting "standards in the 1991 NAIC Model Regulation or 1991 Federal Regulation", and

(E) in paragraph (2), by inserting "the issuer" before "is subject to a civil money penalty".

(2) Section 1154(a)(4)(B) (42 U.S.C. 1320c-3(a)(4)(B)) is amended—

(A) by inserting "that is" after "(or", and

(B) by striking "1882(t)" and inserting "1882(t)(3)".

(i) HEALTH INSURANCE COUNSELING.—Section 4360 of OBRA–1990 is amended—

(1) in subsection (b)(2)(A)(ii), by striking "Act" and inserting "Act)";

(2) in subsection (b)(2)(D), by striking "services" and inserting "counseling";

(3) in subsection (b)(2)(I), by striking "assistance" and inserting "referrals";

(4) in subsection (c)(1), by striking "and that such activities will continue to be maintained at such level";

(5) in subsection (d)(3), by striking "to the rural areas" and inserting "eligible individuals residing in rural areas";

(6) in subsection (e)—

(A) by striking "subsection (c) or (d)" and inserting "this section",

(B) by striking "and annually thereafter, issue an annual report" and inserting "and annually thereafter during the period of the grant, issue a report", and

(C) in paragraph (1), by striking "Statewide";

(7) in subsection (f), by striking paragraph (2) and by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively; and

(8) in the second subsection (f) (relating to authorization of appropriations for grants)—

(A) by striking "and 1993" and inserting "1993, 1994, 1995, and 1996"; and

(B) by redesignating such subsection as subsection (g).

(j) TELEPHONE INFORMATION SYSTEM.—

(1) Section 1804 (42 U.S.C. 1395b-2) is amended—

(A) by adding at the end of the heading the following: "; MEDICARE AND MEDIGAP INFORMATION",

(B) by inserting "(a)" after "1804.", and

(C) by adding at the end the following new subsection:

"(b) The Secretary shall provide information via a toll-free telephone number on the programs under this title.".

(2) Section 1882(f) (42 U.S.C. 1395ss(f)) is amended by adding at the end the following new paragraph:

"(3) The Secretary shall provide information via a toll-free telephone number on medicare supplemental policies (including the relationship of State programs under title XIX to such policies).".

(3) Section 1889 is repealed.

(k) MAILING OF POLICIES.—Section 1882(d)(4) (42 U.S.C. 1395ss(d)(4)) is amended—

(1) in subparagraph (D), by striking ", if such policy" and all that follows up to the period at the end, and

(2) by adding at the end the following new subparagraph:

"(E) Subparagraph (A) shall not apply in the case of an issuer who mails or causes to be mailed a policy, certificate, or other matter solely to comply with the requirements of subsection (q).".

(l) EFFECTIVE DATE.—The amendments made by this section shall be effective as if included in the enactment of OBRA–1990; except that—

(1) the amendments made by subsection (d)(1) shall take effect on the date of the enactment of this Act, but no penalty shall be imposed under section 1882(d)(3)(A) of the Social Security Act (for an action occurring after the effective date of the amendments made by section 4354 of OBRA–1990 and before the date of the enactment of this Act) with respect to the sale or issuance of a policy which is not unlawful under section 1882(d)(3)(A)(i)(II) of the Social Security Act (as amended by this section);

(2) the amendments made by subsection (d)(2)(A) and by subparagraphs (A), (B), and (E) of subsection (e)(1) shall be effective on the date specified in subsection (m)(4); and

(3) the amendment made by subsection (g)(2) shall take effect on July 1, 1994, and shall apply to individuals who attain 65 years of age or older on or after the effective date of section 1882(s)(2) of the Social Security Act (and, in the case of individuals who attained 65 years of age after such effective date and before July 1, 1994, and who were not covered under such section before July 1, 1994, the 6-month period specified in that section shall begin July 1, 1994).

(m) TRANSITION PROVISIONS.—

(1) IN GENERAL.—If the Secretary of Health and Human Services identifies a State as requiring a change to its statutes or regulations to conform its regulatory program to the changes made by this section, the State regulatory program shall not be considered to be out of compliance with the requirements of section 1882 of the Social Security Act due solely to failure to make such change until the date specified in paragraph (4).

(2) NAIC STANDARDS.—If, within 6 months after the date of the enactment of this Act, the National Association of Insurance Commissioners (in this subsection referred to as the "NAIC") modifies its 1991 NAIC Model Regulation (adopted in July 1991) to conform to the amendments made by this section and to delete from section 15C the exception which begins with "unless", such revised regulation incorporating the modifications shall be considered to be the 1991 Regulation for the purposes of section 1882 of the Social Security Act.

(3) SECRETARY STANDARDS.—If the NAIC does not make the modifications described in paragraph (2) within the period specified in such paragraph, the Secretary of Health and Human Services shall make the modifications described in such paragraph and such revised regulation incorporating the modifications shall be considered to be the 1991 Regulation for the purposes of section 1882 of the Social Security Act.

(4) DATE SPECIFIED.—

(A) IN GENERAL.—Subject to subparagraph (B), the date specified in this paragraph for a State is the earlier of—

(i) the date the State changes its statutes or regulations to conform its regulatory program to the changes made by this section, or

(ii) 1 year after the date the NAIC or the Secretary first makes the modifications under paragraph (2) or (3), respectively.

(B) ADDITIONAL LEGISLATIVE ACTION REQUIRED.—In the case of a State which the Secretary identifies as—

(i) requiring State legislation (other than legislation appropriating funds) to conform its regulatory program to the changes made in this section, but

(ii) having a legislature which is not scheduled to meet in 1994 in a legislative session in which such legislation may be considered, the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1994. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

TITLE II—MEDICAID PROVISIONS

Subtitle A—Substantive Provisions

PART I—MANAGED CARE PROVISIONS

SEC. 201. MEDICAID MANAGED CARE ANTIFRAUD PROVISIONS.

(a) PROHIBITING AFFILIATIONS WITH INDIVIDUALS DEBARRED BY FEDERAL AGENCIES.—

(1) IN GENERAL.—Section 1903(m) (42 U.S.C. 1396b(m)) is amended—

(A) in paragraph (2)(A)—

(i) by striking "and" at the end of clause (x),

(ii) by striking the period at the end of clause (xi) and inserting "; and", and

(iii) by adding at the end the following new clause:

"(xii) the entity complies with the requirements of paragraph (3) (relating to certain protections against fraud and abuse).";

(B) in paragraph (2)(B), as amended by section 249, by striking "clause (ix)" and inserting "clauses (ix) and (xii)"; and

(C) by inserting after paragraph (2) the following new paragraph:

"(3)(A)(i) An entity with a contract under this subsection may not have a person described in clause (iv) as a director, officer, partner, or person with beneficial ownership of more than 5 percent of the entity's equity.

"(ii) An entity with a contract under this subsection may not have an employment, consulting, or other agreement with a person described in clause (iv) for the provision of goods and services that are significant and material to the entity's obligations under its contract with the State described in paragraph (2)(A)(iii).

"(iii) If an entity with a contract under this subsection is not in compliance with clause (i) or (ii)—

"(I) a State may continue an existing agreement with the entity unless the Secretary (in consultation with the Inspector General of the Department of Health and Human Services) directs otherwise; and

"(II) a State may not renew or otherwise extend the duration of an existing agreement with the entity unless the State provides a written statement to the Secretary describing compelling reasons that exist for renewing or extending the agreement and the Secretary (in consultation with the Inspector General of the Department of Health and Human Services) approves such statement.

"(iv) A person described in this clause is a person that—

"(I) is debarred or suspended by the Federal Government, pursuant to the Federal acquisition regulation, from Government contracting and subcontracting, or

"(II) is an affiliate (within the meaning of the Federal acquisition regulation) of a person described in subclause (I).".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to agreements between a State and an entity under section 1903(m) of the Social Security Act entered into or renewed on or after January 1, 1994, without regard to whether regulations to carry out such amendments are promulgated by such date.

(b) REQUIREMENT FOR STATE CONFLICT-OF-INTEREST SAFEGUARDS IN MEDICAID RISK CONTRACTING.—

(1) IN GENERAL.—Section 1903(m)(2)(A) (42 U.S.C. 1396b(m)(2)(A)), as amended by subsection (a)(1)(A), is amended—

(A) by striking "and" at the end of clause (xi),

(B) by striking the period at the end of clause (xii) and inserting "; and", and

(C) by adding at the end the following new clause:

"(xiii) the State certifies to the Secretary and the Secretary finds that the State has in effect conflict-of-interest safeguards with respect to officers and employees of the State who have responsibilities with respect to contracts with organizations under this subsection that are at least as effective as the Federal conflicts-of-interest safeguards provided under section 27 of the Office of Federal Procurement Policy Act that apply with respect to Federal procurement officials who have comparable responsibilities with respect to such contracts.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply as of July 1, 1994, without regard to whether regulations to carry out such amendments are promulgated by such date.

(c) REQUIRING DISCLOSURE OF FINANCIAL INFORMATION.—

(1) IN GENERAL.—Section 1903(m)(3), as inserted by subsection (a)(1)(C), is amended by adding at the end the following new subparagraph:

"(B) The contract between the State and an entity referred to in paragraph (2)(A)(iii) shall provide that—

"(i) the entity agrees to report to the State such financial information as the Secretary or the State may require to demonstrate that the entity has a fiscally sound operation; and

"(ii) the entity agrees to make available to its enrollees upon reasonable request—

"(I) the information reported under clause (i),

"(II) the information required to be disclosed under sections 1124 and 1126, and

"(III) a description of each transaction, described in subparagraphs (A) through (C) of section 1318(a)(3) of the Public Health Service Act, between the entity and a party in interest (as defined in section 1318(b) of such Act).".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to contract years beginning on or after April 1, 1994, without regard to whether regulations to carry out such amendments are promulgated by such date, with respect to information reported or required to be disclosed, or transactions occurring, before, on, or after such date.

(d) PROHIBITING MARKETING FRAUD.—

(1) IN GENERAL.—Section 1903(m)(3), as inserted by subsection (a)(1) and as amended by subsection (c)(1), is amended by adding at the end the following new subparagraph:

"(C) The contract between the State and an entity referred to in paragraph (2)(A)(iii) shall provide that the entity agrees to comply with such procedures and conditions as the Secretary prescribes in order to ensure that, before an individual is enrolled or reenrolled with the entity, the individual is provided accurate and sufficient information to make an informed decision whether or not to enroll or reenroll.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to contract years that begin on or after April 1, 1994.

(e) REQUIRING ADEQUATE PROVISION AGAINST RISK OF INSOLVENCY.—

(1) IN GENERAL.—Section 1903(m)(1)(A)(ii) (42 U.S.C. 1396b(m)(1)(A)(ii)) is amended by inserting ", which meets such standards as the Secretary shall prescribe," after "satisfactory to the State".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to contract years beginning on or after January 1, 1995.

(f) REQUIRING REPORT ON NET EARNINGS AND ADDITIONAL BENEFITS.—

(1) IN GENERAL.—Section 1903(m)(3), as inserted by subsection (a)(1) and as amended by subsections (c)(1) and (d)(1) is amended by adding at the end the following new subparagraph:

"(D) The contract between the State and an entity referred to in paragraph (2)(A)(iii) shall provide that the entity shall submit a report to the State and the Secretary not later than 12 months after the close of a contract year containing—

"(i) a financial statement of the entity's net earnings under the contract during the contract year, which statement has been audited using auditing standards established by the Secretary in consultation with the States; and

"(ii) a description of any benefits that are in addition to the benefits required to be provided under the contract that were provided during the contract year to members enrolled with the entity and entitled to medical assistance under the plan.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to contract years beginning on or after January 1, 1994.

SEC. 202. EXTENSION OF MEDICAID WAIVER FOR TENNESSEE PRIMARY CARE NETWORK.

Section 6411(f) of OBRA–1989, as amended by section 1 of Public Law 102–317, is amended by striking "January 31, 1994" and inserting "December 31, 1995".

SEC. 203. WAIVER OF APPLICATION OF MEDICAID ENROLLMENT MIX REQUIREMENT TO DISTRICT OF COLUMBIA CHARTERED HEALTH PLAN, INC.

(a) IN GENERAL.—The Secretary of Health and Human Services shall waive the application of the requirement described in section 1903(m)(2)(A)(ii) of the Social Security Act (42 U.S.C. 1396b(m)(2)(A)(ii)) to the entity known as the District of Columbia Chartered Health Plan, Inc., for the period described in subsection (b), if the Secretary determines that the entity is making continuous efforts and progress toward achieving compliance with such requirement.

(b) PERIOD OF APPLICABILITY.—The period referred to in subsection (a) is the period that begins on October 1, 1992, and ends on December 31, 1995.

SEC. 204. WAIVER OF APPLICATION OF MEDICAID ENROLLMENT MIX REQUIREMENT TO MANAGED HEALTH SERVICES INSURANCE CORPORATION OF MILWAUKEE, WISCONSIN.

The Secretary of Health and Human Services shall waive the application of the requirement described in section 1903(m)(2)(A)(ii) of the Social Security Act (42 U.S.C. 1396b(m)(2)(A)(ii)) to the entity known as the Managed Health Services Insurance Corporation of Milwaukee, Wisconsin until December 31, 1995, if the Secretary determines that the entity is making continuous efforts and progress toward achieving compliance with such requirement.

SEC. 205. EXTENSION OF MINNESOTA PREPAID MEDICAID DEMONSTRATION PROJECT.

(a) IN GENERAL.—Section 507 of the Family Support Act of 1988 (Public Law 100–485), as amended by section 6411(j) of OBRA–1989 and by section 4733 of OBRA–1990, is amended by striking "1996" and inserting "1998".

(b) AUTHORITY TO IMPOSE PREMIUM.—

(1) IN GENERAL.—Notwithstanding section 1916 of the Social Security Act and subject to paragraph (2), the State of Minnesota may impose a premium on individuals receiving medical assistance under the Minnesota Prepaid Demonstration Project operated under a waiver granted by the Secretary of Health and Human Services under section 1115(a) of

the Social Security Act and other individuals eligible under the State's plan for medical assistance under title XIX of such Act.

(2) Limitation on amount of premium.—In no case may the amount of any premium imposed on an individual receiving medical assistance under the State plan or under the Demonstration Project described in paragraph (1) exceed 10 percent of the amount by which the family income (less expenses for the care of a dependent child) of the individual exceeds 110 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

PART II—HOME AND COMMUNITY-BASED SERVICES WAIVER PROVISIONS

SEC. 211. ELIMINATION OF REQUIREMENT OF PRIOR INSTITUTIONALIZATION WITH RESPECT TO HABILITATION SERVICES FURNISHED UNDER A WAIVER FOR HOME OR COMMUNITY-BASED SERVICES.

(a) In General.—Section 1915(c)(5) (42 U.S.C. 1396n(c)(5)) is amended in the matter preceding subparagraph (A) by striking ", with respect to individuals who receive such services after discharge from a nursing facility or intermediate care facility for the mentally retarded".

(b) Effective Date.—The amendments made by this section shall apply to services furnished on or after January 1, 1994.

SEC. 212. RELIEF FROM THIRD PARTY LIABILITY REQUIREMENTS WHEN COST-EFFECTIVE.

(a) In General.—Section 1902(a)(25)(B) (42 U.S.C. 1396a(a)(25)(B)) is amended to read as follows—

"(B) that in any case where such a legal liability is found to exist after medical assistance has been made available, the State or local agency will seek reimbursement for such assistance to the extent of such legal liability, unless—

"(i) the amount of reimbursement the State can reasonably expect to recover for medical assistance furnished to an individual does not exceed the costs of such recovery, or

"(ii) with respect to case management services (as defined in section 1915(g)(2)), the State demonstrates to the satisfaction of the Secretary that it is not cost-effective in the aggregate to seek such recovery with respect to such services furnished to individuals covered under the State plan, using methods specified by the Secretary which may include a demonstration that such services are not generally covered by health insurers in the State;".

(b) Effective Date.—The amendments made by this section shall become effective on January 1, 1994.

SEC. 213. STATE EXPENDITURES FOR MEDICAL ASSISTANCE WITH RESPECT TO HOME AND COMMUNITY-BASED SERVICES PROVIDED UNDER A WAIVER.

(a) In General.—Section 1915(d)(5)(B) (42 U.S.C. 1396n(d)(5)(B)) is amended—

(1) in clause (i), by striking "times the number of years" and inserting "compounded annually for years";

(2) in clause (ii), by striking "times the number of years" and inserting "compounded annually for years"; and

(3) in clause (iv), by striking "December 22, 1987" and inserting "the date of the enactment of the Omnibus Budget Reconciliation Act of 1986".

(b) Effective Date.—The amendments made by subsection (a) shall be effective as if included in the enactment of OBRA-1987.

PART III—OTHER PROVISIONS

SEC. 221. PRESUMPTIVE ELIGIBILITY FOR PREGNANT WOMEN.

(a) Qualified Provider.—Section 1920(b)(2) (42 U.S.C. 1396r–1(b)(2)) is amended to read as follows:

"(2) the term 'qualified provider' means—

"(A) any provider that—

"(i) is eligible for payments under a State plan approved under this title;

"(ii) provides services of the type described in subparagraph (A) or (B) of section 1905(a)(2) or in section 1905(a)(9);

"(iii) is determined by the State agency to be capable of making determinations of the type described in paragraph (1)(A); and

"(iv)(I) receives funds under section 329, 330, 340, or 340A of the Public Health Service Act, title V of this Act, or title V of the Indian Health Care Improvement Act;

"(II) participates in a program established under section 17 of the Child Nutrition Act of 1966 or section 4(a) of the Agriculture and Consumer Protection Act of 1973;

"(III) participates in a State perinatal program; or

"(IV) is the Indian Health Service or is a health program or facility operated by a tribe or tribal organization under the Indian Self-Determination Act (Public Law 93-638); and

"(B) at the option of the State, any individual who is employed by the State and who is determined by the State agency to be capable of making determinations of the type described in paragraph (1)(A).".

(b) Effective Date.—The amendments made by this section shall apply to payments under title XIX of the Social Security Act for calendar quarters beginning on or after January 1, 1994.

SEC. 222. CRITERIA FOR DETERMINING THE AMOUNT OF DISALLOWANCES.

(a) In General.—

(1) Criteria for initial determinations.—Section 1903 (42 U.S.C. 1396b) is amended by adding at the end the following new subsection:

"(x) If the Secretary determines that a disallowance of Federal financial participation should be made under this title with respect to any item or class of items, the Secretary shall, in making a determination with respect to the amount of such disallowance, take into account (to the extent the State makes a showing) factors which shall include—

"(1) whether the amount of the disallowance is reasonably related to the act or omission by the State which is the basis for the disallowance; and

"(2) whether the act or omission by the State which is the basis for the disallowance was based on a reasonable interpretation of Federal statutes, Federal regulations, or any written guidance provided by the Secretary.".

(2) Criteria for redeterminations.—Section 1116(d) (42 U.S.C. 1316(d)) is amended—

(A) by striking "(d)" and inserting "(d)(1)"; and

(B) by adding at the end the following new paragraph:

"(2) In conducting any reconsideration of a disallowance of Federal financial participation by the Secretary under title XIX, the Departmental Appeals Board of the Department of Health and Human Services (or another entity designated by the Secretary), shall, if such Board or entity upholds the basis for the disallowance, determine whether the amount of the disallowance properly takes into account the factors listed in section 1903(x). If the amount of the disallowance does not properly take into account such factors, the Board shall adjust such amount in accordance with such factors.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to disallowances made after the date of the enactment of this Act and shall take effect without regard to the promulgation of implementing regulations.

SEC. 223. INTERMEDIATE SANCTIONS FOR KICKBACK VIOLATIONS.

(a) Penalty for Kickback Violations.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended—

(1) by striking "or" at the end of paragraphs (1) and (2);

(2) by adding "or" at the end of paragraph (3);

(3) by inserting after paragraph (3) the following new paragraph:

"(4) carries out any activity in violation of paragraph (1) or (2) of section 1128B(b) with respect to remuneration relating to a State health care program;";

(4) by striking "given)." at the end of the first sentence and inserting "given or, in cases under paragraph (4), $10,000 for each such violation).";

(5) in the second sentence, by inserting "in cases under paragraphs (1), (2), and (3)," after "In addition,"; and

(6) by inserting after the second sentence the following new sentence: "In cases under paragraph (4), such a person shall be subject to an assessment of not more than twice the total amount of the remuneration offered, paid, solicited, or received in violation of section 1128B(b), determined without regard to whether a portion of such remuneration was offered, paid, solicited, or received for a lawful purpose.".

(b) Authorization to Act.—The first sentence of section 1128A(c)(1) (42 U.S.C. 1320a–7a(c)(1)) is amended by striking the period at the end and inserting ", except that with respect to a proceeding relating to a State health program, the Secretary may initiate such a proceeding at such time and under such procedures as the Secretary determines appropriate unless, within 1 year after the date the Secretary presents a case to the Attorney General for consideration, the Attorney General brings an action in a district court of the United States.".

(c) Effective Dates.—

(1) The amendments made by subsection (a) shall apply to remuneration offered, paid, solicited, or received before, on, or after the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall apply to cases presented by the Secretary of Health and Human Services for consideration on or after the date of the enactment of this Act.

SEC. 224. TECHNICAL AMENDMENT RELATED TO TAXES ON CERTAIN HEALTH CARE ITEMS AND SERVICES.

(a) In General.—Section 1903(w)(7)(A)(viii) (42 U.S.C. 1396b(w)(7)(A)(viii)) is amended by striking the period at the end and inserting "not otherwise subject to a tax described in this subsection.".

(b) Effective Date.—(1) Except as provided in paragraph (2), the amendment made by subsection (a) shall be effective January 1, 1994.

(2) In the case of a State which the Secretary of Health and Human Services determines requires State legislation in order to avoid a reduction in Federal financial participation under section 1903(a) of the Social Security Act as a result of the amendment made by subsection (a), the State shall not be subject to such a reduction before the

first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the preceding sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 225. APPLICATION OF MAMMOGRAPHY CERTIFICATION REQUIREMENTS UNDER THE MEDICAID PROGRAM.

(a) In General.—Section 1902(a)(9) (42 U.S.C. 1396a(a)(9)) is amended—

(1) by striking "and" at the end of subparagraph (B),

(2) by striking the semicolon at the end of subparagraph (C) and inserting ", and", and

(3) by adding at the end the following new subparagraph:

"(D) that any mammography paid for under such plan must be conducted by a facility that has a certificate (or provisional certificate) issued under section 354 of the Public Health Service Act;".

(b) Effective Date.—(1) Except as provided in paragraph (2), the amendments made by subsection (a) shall apply to mammography furnished by a facility during calendar quarters beginning on or after the first date that the certificate requirements of section 354(b) of the Public Health Service Act apply to such mammography conducted by such facility, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirement imposed by the amendment made by subsection (a)(3), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet this additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the preceding sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 226. NURSING HOME REFORM.

(a) Suspension of Decertification of Nurse Aide Training and Competency Evaluation Programs Based on Extended Surveys.—

(1) In general.—Section 1919(f)(2)(B)(iii)(I)(b) (42 U.S.C. 1396r(f)(2)(B)(iii)(I)(b)) is amended by striking the semicolon and inserting the following: ", unless the survey shows that the facility is in compliance with the requirements of subsections (b), (c), and (d) of this section;".

(2) Effective date.—The amendment made by paragraph (1) shall take effect as if included in the enactment of OBRA–1990.

(b) Requirements for Consultants Conducting Reviews on Use of Drugs.—

(1) In general.—Section 1919(c)(1)(D) (42 U.S.C. 1396r(c)(1)(D)) is amended by adding at the end the following sentence: "In determining whether such a consultant is qualified to conduct reviews under the preceding sentence, the Secretary shall take into account the needs of nursing facilities under this title to have access to the services of such a consultant on a timely basis.".

(2) Effective date.—The amendment made by paragraph (1) shall take effect as if included in the enactment of OBRA–1987.

(c) Increase in Minimum Amount Required for Separate Deposit of Personal Funds.—

(1) In general.—Section 1919(c)(6)(B)(i) (42 U.S.C. 1396r(c)(6)(B)(i)) is amended by striking "$50" and inserting "$100".

(2) Effective date.—The amendment made by paragraph (1) shall take effect January 1, 1994.

(d) Due Process Protections for Nurse Aides.—

(1) Prohibiting state from including undocumented allegations in nurse aide registry.—Section 1919(e)(2)(B) (42 U.S.C. 1396r(e)(2)(B)) is amended by striking the period at the end of the first sentence and inserting the following: ", but shall not include any allegations of resident abuse or neglect or misappropriation of resident property that are not specifically documented by the State under such subsection.".

(2) Due process requirements for rebutting allegations.—Section 1919(g)(1)(C) (42 U.S.C. 1396r(g)(1)(C)) is amended by striking the second sentence and inserting the following: "The State shall, after providing the individual involved with a written notice of the allegations (including a statement of the availability of a hearing for the individual to rebut the allegations) and the opportunity for a hearing on the record, make a written finding as to the accuracy of the allegations.".

(3) Effective date.—The amendments made by this subsection shall take effect January 1, 1994.

SEC. 227. INCREASE IN AUTHORIZATION OF APPROPRIATIONS FOR THE MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT PROGRAM.

Section 501(a) (42 U.S.C. 701(a)) is amended by striking "$686,000,000 for fiscal year 1990" and inserting "$705,000,000 for fiscal year 1994".

Subtitle B—Miscellaneous and Technical Corrections Relating to OBRA–1990

SEC. 241. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this subtitle shall take effect as if included in the enactment of OBRA–1990.

SEC. 242. CORRECTIONS RELATING TO SECTION 4401 (DRUG REBATE PROGRAM).

(a) Section 1927.—(1) Section 1927(a) (42 U.S.C. 1396r–8(a)), as inserted by section 4401(a)(3) of OBRA–1990, is amended—

(A) in paragraph (1)—

(i) by amending the second sentence to read as follows: "Any such agreement entered into prior to May 1, 1991, shall be deemed to have been entered into on January 1, 1991, and the amount of the rebate to be paid by the manufacturer under such agreement shall be calculated as if the agreement had been entered into on January 1, 1991.", and

(ii) in the third sentence, by striking "March" and inserting "May";

(B) in paragraph (2)—

(i) by striking "first", and

(ii) by striking the period at the end and inserting the following: ", except that such paragraph (and section 1903(i)(10)(A)) shall not apply to drugs dispensed before May 1, 1991, if the Secretary determines that there were extenuating circumstances with respect to the first calendar quarter of 1991.";

(C) by amending paragraph (3) to read as follows:

"(3) Authorizing payment for drugs not covered under rebate agreements.—Paragraph (1) and section 1903(i)(10) shall not apply to the dispensing of a covered outpatient drug if—

"(A) the State has made a determination that the availability of such drug is essential to the health of beneficiaries under the State plan;

"(B) the drug has been given a rating of 1–A or 1–P by the Food and Drug Administration; and

"(C)(i) the physician has obtained approval for the use of the drug in advance of dispensing such drug in accordance with a prior authorization program described in subsection (d)(5), or

"(ii) the Secretary has reviewed and approved the State's determination under subparagraph (A)."; and

(D) in paragraph (4)—

(i) by striking "In the case" and inserting "(A) In the case",

(ii) by striking "in compliance with" and inserting "in effect under",

(iii) by striking "such agreement provides for a minimum aggregate rebate of 10 percent of the State's total expenditures under the State plan for coverage of the manufacturer's drugs under this title" and inserting "such agreement provides for a minimum aggregate rebate of 10 percent of the sum of the amounts determined under subparagraph (B) for all of the manufacturer's drugs paid for by the State under the agreement", and

(iv) by adding at the end the following new subparagraph:

"(B) The amount determined under this subparagraph with respect to a manufacturer's drug paid for by a State under an agreement described in the first sentence of subparagraph (A) is an amount equal to the product of—

"(i) the average manufacturer's price for such drug; and

"(ii) the number of dosage units of such drug paid for by the State under such agreement.".

(2) Section 1927(b) (42 U.S.C. 1396r–8(b)), as inserted by section 4401(a)(3) of OBRA–1990, is amended—

(A) in paragraph (2)(A), by striking "during" and inserting "for";

(B) in paragraph (3)(A)—

(i) in clause (i), by striking the open parenthesis before "for" and the close parenthesis after "drugs",

(ii) in clause (i), by striking "subsection (c)(2)(B)) for covered outpatient drugs" and inserting "subsection (c)(1)(C)) for each covered outpatient drug", and

(iii) in clause (ii), by inserting a comma after "this section" and after "1990";

(C) in paragraph (3)(B)—

(i) by striking "$100,000" and inserting "$10,000",

(ii) by striking "about charges or prices", and

(iii) by striking "or knowingly provides false information";

(D) in paragraph (3)(C)—

(i) in clause (i)—

(I) by striking "increased by", and

(II) by striking ", and, if" and inserting ". If",

(ii) in clause (ii), by striking "under this section" and inserting "under this section, or a wholesaler or direct seller,",

(iii) in clause (ii), by inserting "under subparagraph (A) or (B)" after "provides false information", and

(iv) in clause (ii), by striking "Such civil money penalties are" and inserting "Any such civil money penalty shall be";

(E) in paragraph (3)(D), by striking "wholesaler;" the first time it appears and inserting "wholesaler or the"; and

(F) in paragraph (4)(B)(i), by adding at the end the following new sentence: "Failure of a State to provide any advance notice of such a termination as required by regulation shall not affect the State's right to terminate coverage of the drugs affected by such termination as of the effective date of such termination.".

(3) Section 1927(d)(3) (42 U.S.C. 1396r-8(d)(3)), as inserted by section 4401(a)(3) of OBRA-1990 and as amended by section 13602 of OBRA-1993, is amended to read as follows:

"(3) ADDITIONS TO DRUG LISTINGS.—The Secretary shall, by regulation, periodically update the list of drugs or classes of drugs described in paragraph (2), or their medical uses, which the Secretary has determined to be subject to clinical abuse or inappropriate use.".

(4) Section 1927(h)(2)(A) (42 U.S.C. 1396r-8(h)(2)(A)), as inserted by section 4401(a)(3) of OBRA-1990, is amended by inserting "develops or" before "acquires".

(5) Section 1927(i) (42 U.S.C. 1396r-8(i)), as inserted by section 4401(a)(3) of OBRA-1990, is amended—

(A) in paragraph (1), by striking "the the operation" and inserting "the operation"; and

(B) in paragraph (2),

(i) by striking subparagraph (C); and

(ii) by redesignating subparagraphs (D), (E), and (F) as subparagraphs (C), (D), and (E), respectively.

(6) Section 1927(j) (42 U.S.C. 1396r-8(j)), as inserted by section 4401(a)(3) of OBRA-1990, is amended to read as follows:

"(j) EXEMPTION FOR CERTAIN HEALTH MAINTENANCE ORGANIZATIONS AND HOSPITALS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the requirements of this section shall not apply with respect to covered outpatient drugs dispensed by—

"(A) a health maintenance organization; or

"(B) a hospital that dispenses covered outpatient drugs using a drug formulary system and bills the State no more than the hospital's purchasing costs for covered outpatient drugs.

"(2) CONSTRUCTION IN DETERMINING BEST PRICE.—Nothing in paragraph (1) shall be construed as excluding amounts paid by the entities described in such paragraph for covered outpatient drugs from the determination of the best price (as defined in subsection (c)(1)(C)) for such drugs.".

(7) Section 1927(k) (42 U.S.C. 1396r-8(k)), as inserted by section 4401(a)(3) of OBRA-1990, is amended—

(A) in paragraph (2)—

(i) in the matter preceding clause (i) of subparagraph (A), by striking "paragraph (5)" and inserting "subparagraph (D)";

(ii) in subparagraph (A)—

(I) in clause (i), by striking "for safety and effectiveness" and by striking "or which is approved under section 505(j) of such Act"; and

(II) by striking "and" at the end;

(iii) in subparagraph (B)—

(I) in clause (i), by striking "prescription," and inserting "prescription;";

(II) in clause (ii), by striking ", and" and inserting "; and"; and

(III) by striking "and" at the end;

(iv) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(v) by adding at the end the following new subparagraph:

"(D) a drug which may be sold without a prescription (commonly referred to as an 'over-the-counter drug'), if the drug is prescribed by a physician (or other person authorized to prescribe under State law).";

(B) in subparagraph (H) of paragraph (3), by inserting "services" after "dialysis";

(C) by striking paragraph (4) and redesignating paragraphs (5), (6), (7), (8), and (9) as paragraphs (4), (5), (6), (7), and (8), respectively;

(D) by amending paragraph (4), as so redesignated, to read as follows:

"(4) MANUFACTURER.—The term 'manufacturer' means, with respect to a covered outpatient drug, the entity holding legal title to or possession of the National Drug Code number for such drug."; and

(E) in paragraph (6), as so redesignated—

(i) in subparagraph (A)(i), by striking "paragraph (5)" and inserting "paragraph (2)(D)",

(ii) in subparagraph (A)(ii), by inserting "or product licensing application" after "application",

(iii) in subparagraph (A)(iv), by inserting "or product licensing application" after "application",

(iv) in subparagraph (A)(iv), by striking "distributers" and inserting "distributors",

(v) in subparagraph (C)(i), by striking "pharmaceuutically" and inserting "pharmaceutically", and

(vi) in subparagraph (C)(iii), by striking ", provided that" and inserting "if".

(b) SECTION 1903.—

(1) ENHANCED MATCH.—Section 1903(a) (42 U.S.C. 1396b(a)) is amended—

(A) by striking the period at the end of paragraph (7) and inserting "; plus"; and

(B) by adding at the end the following new paragraph:

"(8) 75 per centum of so much of the sums expended under the State plan during calendar years 1991 through 1993 as the Secretary determines attributable to the statewide adoption of a drug use review program which conforms to the requirements of section 1927(g).".

(2) CONFORMING AMENDMENTS.—Section 1903(a)(3) (42 U.S.C. 1396b(a)(3)) is amended—

(A) by striking "and" at the end of subparagraph (C) and inserting "plus"; and

(B) by striking subparagraph (D).

(c) FUNDING.—Section 4401(b)(2) of OBRA-1990 is amended by striking the semicolon and all that follows and inserting a period.

(d) DEMONSTRATION PROJECTS.—Section 4401(c)(1) of OBRA-1990 is amended—

(1) in subparagraph (A), by striking "1992" and inserting "1993";

(2) in subparagraph (A), by striking "10" and inserting "5";

(3) in subparagraph (C), by striking "regiment" and inserting "regimen"; and

(4) in subparagraph (D), by striking "1994" and inserting "1995".

(e) STUDIES.—Section 4401(d) of OBRA-1990 is amended—

(1) in paragraph (1)(A), by striking "other institutional facilities," and inserting "nursing facilities, intermediate care facilities for the mentally retarded,";

(2) in paragraph (1)(B), by striking "under this subsection" and inserting "under this paragraph";

(3) in paragraph (1)(B)(i), by striking "under this section" and inserting "under section 1927 of the Social Security Act";

(4) in paragraph (1)(B)(ii)—

(A) by striking "drug use review" the second time it appears and inserting "the type of drug use review that is"; and

(B) by striking "under this section" and inserting "under such section";

(5) in paragraph (1)(B)(iii), by striking "under this title" and inserting "under title XIX of the Social Security Act";

(6) in paragraph (1)(C)—

(A) by striking "May 1, 1991" and inserting "May 1, 1992", and

(B) by striking "Committees on Aging of the Senate and the House of Representatives" and inserting "Committee on Aging of the Senate";

(7) in paragraph (2)—

(A) by striking "By not later than May 1 of each year, the Comptroller" and inserting "The Comptroller";

(B) by striking "Committees on Aging of the Senate and House of Representatives" and inserting "Committee on Aging of the Senate";

(C) by striking "an annual report" and inserting "a report"; and

(D) by striking "retail and";

(8) in paragraph (3)—

(A) in subparagraph (A), by striking ", acting in consultation with the Comptroller General,",

(B) by indenting subparagraph (B) an additional 2 ems;

(C) in subparagraph (B), by striking "December 31, 1991, the Secretary and the Comptroller General" and inserting "June 1, 1993, the Secretary"; and

(D) by striking "Committees on Aging of the Senate and the House of Representatives" and inserting "Committee on Aging of the Senate";

(9) in paragraph (4)—

(A) in subparagraph (A), by striking "each" and by striking the semicolon and inserting a comma;

(B) in subparagraph (B), by striking "December 31, 1991" and inserting "January 1, 1993"; and

(C) in subparagraph (B), by striking "Committees on Aging of the Senate and the House of Representatives" and inserting "Committee on Aging of the Senate";

(10) in paragraph (5)—

(A) by striking "Secretary of Health and Human Services" and inserting "Comptroller General",

(B) by striking "under this title" and inserting "under State medicaid programs", and

(C) by striking the second sentence and inserting the following new sentence: "The Comptroller General shall report to the Congress on the study not later than January 1, 1993."; and

(11) by striking paragraph (6).

SEC. 243. CORRECTIONS RELATING TO SECTION 4402 (ENROLLMENT UNDER GROUP HEALTH PLANS).

Section 4402(b) of OBRA-1990 is amended by striking "1903(u)(1)(C)(iv) (42 U.S.C. 1396b(u)(1)(C)(iv))" and inserting "1903(u)(1)(D)(iv) (42 U.S.C. 1396b(u)(1)(D)(iv))".

SEC. 244. CORRECTIONS RELATING TO SECTION 4501 (LOW-INCOME MEDICARE BENEFICIARIES).

(a) Section 1902(a)(10)(E)(iii) (42 U.S.C. 1396a(a)(10)(E)(iii)), as added by section 4501(b)(3) of OBRA-1990, is amended by striking "cost sharing" and inserting "cost-sharing".

(b) Section 1905(p)(4)(B) (42 U.S.C. 1396d(p)(4)(B)), as amended by section 4501(c)(1) of OBRA-1990, is amended by striking "1902(a)(10)(E)(iii)" and inserting "section 1902(a)(10)(E)(iii)".

SEC. 245. CORRECTIONS RELATING TO SECTION 4601 (CHILD HEALTH).

(a) Section 1902(a)(10)(A)(i)(VII) (42 U.S.C. 1396a(a)(10)(A)(i)(VII)), as added by section 4601(a)(10)(A)(iii) of OBRA-1990, is amended by striking "family;" and inserting "family; and".

(b) Section 1902(l) (42 U.S.C. 1396a(l)), as amended by section 4601(a)(1)(C) of OBRA-1990, is amended—

(1) in paragraph (1)(C), by striking "children" after "(C)";

(2) in paragraph (3), by striking "(a)(10)(A)(i)(VII),," and inserting "(a)(10)(A)(i)(VII),"; and

(3) in paragraph (4)(B), by inserting a comma before "(a)(10)(A)(i)(VI),".

(c) Section 1925 (42 U.S.C. 1396r-6), as amended by section 4601(a) of OBRA-1990, is amended—

(1) in subsection (a)(3)(C), by striking "(i)(VI)" and inserting "(i)(VI),", and

(2) in subsection (b)(3)(C)(i), by striking "(i)(IV) (i)(VI) (i)(VII), ," and inserting "(i)(IV), (i)(VI), (i)(VII),".

SEC. 246. CORRECTIONS RELATING TO SECTION 4602 (OUTREACH LOCATIONS).

(a) Section 1902(a)(55) (42 U.S.C. 1396a(a)(55)), as added by section 4602(a)(3) of OBRA-1990, is amended—

(1) in the matter preceding subparagraph (A)—

(A) by striking "subsection" and inserting "paragraph", and

(B) by striking "(a)" each place it appears; and

(2) in subparagraph (A), by striking "1905(1)(2)(B)" and inserting "1905(l)(2)(B)".

(b) Section 1902(l)(1) (42 U.S.C. 1396a(l)(1)) is amended by striking "who are not described in any of subclauses (I) through (III) of subsection (a)(10)(A)(i) and".

SEC. 247. CORRECTIONS RELATING TO SECTION 4604 (PAYMENT FOR HOSPITAL SERVICES FOR CHILDREN UNDER 6 YEARS OF AGE).

(a) Section 1902(a)(10) (42 U.S.C. 1396a(a)(10)) is amended in clause (X) in the matter following subparagraph (F) by striking "under one year of age" and inserting "under 6 years of age".

(b) Section 1902(s) (42 U.S.C. 1396a(s)), as added by section 4604(a) of OBRA-1990, is amended to read as follows:

"(s) In order to meet the requirements of subsection (a)(56), the State plan must provide that payments to hospitals under the plan for inpatient services furnished to infants who have not attained the age of 1 year (or, in the case of such an individual who is an inpatient on his first birthday, until such individual is discharged) shall—

"(1) if made on a prospective basis (whether per diem, per case, or otherwise), provide for an outlier adjustment in payment amounts for medically necessary inpatient hospital services involving exceptionally high costs or exceptionally long lengths of stay;

"(2) not be limited by the imposition of day limits; and

"(3) not be limited by the imposition of dollar limits (other than dollar limits resulting from prospective payments as adjusted pursuant to paragraph (1)).".

(c) Section 1923(a)(2)(C) (42 U.S.C. 1396r-4(a)(2)(C)) is amended by striking "provided on or after July 1, 1989," and all that follows and inserting the following: "involving exceptionally high costs or exceptionally long lengths of stay—

"(i) for individuals under 1 year of age, in the case of services provided on or after July 1, 1989, and on or before June 30, 1991; and

"(ii) for individuals under 6 years of age, in the case of services provided on or after July 1, 1991.".

SEC. 248. CORRECTIONS RELATING TO SECTION 4703 (PAYMENT ADJUSTMENTS FOR DISPROPORTIONATE SHARE HOSPITALS).

(a) Section 1923(c) (42 U.S.C. 1396r-4(c)) is amended—

(1) in paragraph (2), by striking "paragraph (b)(3)" and inserting "subsection (b)(3)";

(2) by striking the period at the end of paragraph (3)(B) and inserting a comma; and

(3) in the third sentence, by striking "the payment adjustment described in paragraph (2)" and inserting "a payment adjustment described in paragraph (2) or (3)".

(b) Effective December 22, 1987, section 1923(d)(2)(A)(ii) (42 U.S.C. 1396r-4(d)(2)(A)(ii)) is amended by striking "the date of the enactment of this Act" and inserting "December 22, 1987".

(c) Section 4703(d) of OBRA-1990 is amended by striking "412(a)(2)" and inserting "4112(a)(2)".

SEC. 249. CORRECTIONS RELATING TO SECTION 4704 (FEDERALLY-QUALIFIED HEALTH CENTERS).

(a) Clause (ix) of section 1903(m)(2)(A) (42 U.S.C. 1396b(m)(2)(A)), as added by section 4704(b)(1)(C) of OBRA-1990, is amended—

(1) by striking "of such center" the first place it appears;

(2) by striking "federally qualified" and inserting "Federally-qualified";

(3) by inserting "section" before "1905(a)(2)(C)"; and

(4) by moving such clause 2 ems to the left.

(b) Section 1903(m)(2)(B) (42 U.S.C. 1396b(m)(2)(B)), as amended by section 4704(b)(2) of OBRA-1990, is amended in the matter preceding clause (i) by striking "except with respect to clause (ix) of subparagraph (A)," and inserting "(except with respect to clause (ix) of such subparagraph)".

(c) Section 1905(l)(2) (42 U.S.C. 1396d(l)(2)), as amended by section 4704(c) of OBRA-1990 and sections 13606(a) and 13631(f)(2)(B) of OBRA-1993, is amended—

(1) in subparagraph (A)—

(A) by striking "Federally-qualififed" and inserting "Federally-qualified", and

(B) by striking "an patient" and inserting "a patient", and

(2) in subparagraph (B)—

(A) in the matter preceding clause (i), by striking "a entity" and inserting "an entity",

(B) by striking "or" at the end of clause (iii),

(C) by striking the semicolon at the end of clause (iv) and inserting ", or", and

(D) by striking "and includes an outpatient health program" and all that follows through "for good cause shown." and inserting the following:

"(v) is an outpatient health program or facility operated by a tribe or tribal organization under the Indian Self-Determination Act (Public Law 93-638) or by an urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act for the provision of primary health services.

In applying clause (ii), the Secretary may waive any requirement referred to in such clause for up to 2 years for good cause shown.".

SEC. 250. CORRECTIONS RELATING TO SECTION 4708 (SUBSTITUTE PHYSICIANS).

(a) Section 1902(a)(32) (42 U.S.C. 1396a(a)(32)), as added by section 4708(a)(3) of OBRA-1990 and as amended by section 13631(e)(1) of OBRA-1993, is amended—

(1) in the matter preceding subparagraph (A), by striking "except that" and inserting "except that (subject to section 1903(i)(12))"; and

(2) by amending subparagraph (C) to read as follows:

"(C) payment may be made to a physician for physicians' services (and services furnished incident to such services) furnished by a second physician to patients of the first physician if (i) the first physician is unavailable to provide the services; (ii) the services are furnished pursuant to an arrangement between the two physicians that (I) is informal and reciprocal, or (II) involves per diem or other fee-for-time compensation for such services; (iii) the services are not provided by the second physician over a continuous period of more than 60 days; and (iv) the claim form submitted to the State for such services includes the second physician's unique identifier (provided under the system established under subsection (x)) and indicates that the claim meets the requirements of this subparagraph for payment to the first physician; and".

(b) The amendments made by subsection (a) shall apply to services furnished on or after the first day of the first month beginning more than 60 days after the date of the enactment of this Act.

SEC. 251. CORRECTIONS RELATING TO SECTION 4711 (HOME AND COMMUNITY CARE FOR FRAIL ELDERLY).

(a) Section 1929 (42 U.S.C. 1396t), as added by section 4711(b) of OBRA-1990, is amended—

(1) in subsection (c)(2)(F), by moving the second sentence 2 ems to the right;

(2) in subsection (d)(2)(F)(ii), by striking "they manage" and inserting "it manages";

(3) in subsection (d)(2)(F)(iii), by inserting "the agency or organization" after "(iii)";

(4) in subsection (e)(2)(B), by striking "fiscal year 1989" and inserting "fiscal year 1990";

(5) in subsection (f)(1), by striking "Community care" and inserting "community care";

(6) in subsection (g)(1)—

(A) by striking "SETTINGS" and inserting "SETTING"; and

(B) in subparagraph (B), by striking "setting." and inserting "setting in which home and community care under this section is provided.";

(7) in subsection (g)(2), by striking "community care" the second, third, and fourth place it appears and inserting "home and community care";

(8) in subsection (h)(1)—

(A) by amending subparagraph (A) to read as follows:

"(A) a nonresidential setting that serves 8 or more individuals; or"; and

(B) in subparagraph (B)—

(i) by striking "more than 8" and inserting "8 or more"; and

(ii) by inserting "(other than merely board)" after "personal services";

(9) in subsection (h)(2), by striking "community care" the second and third place it appears and inserting "home and community care";

(10) in the first sentence of subsection (j)(1)(A), by striking "the State may terminate the provider's participation under the State plan and may provide in addition for a civil money penalty" and inserting "the State may provide for a civil money penalty and, in addition, may terminate the provider's participation under the State plan";

(11) in the first sentence of subsection (j)(2)(B), by striking "the Secretary may terminate the provider's participation under the State plan and may provide, in addition, for a civil money penalty under subparagraph (C)" and inserting "the Secretary may provide for a civil money penalty under subparagraph (C) and, in addition, terminate the provider's participation under the State plan";

(12) in subsection (k)(1)(A)(i)—

(A) by striking “(d)(2)(E)” and inserting “(d)(2)”, and

(B) by striking “settings,” and inserting “settings),”;

(13) in subsection (l), by striking “State wideness” and inserting “Statewideness”;

(14) in paragraph (2) of subsection (m) by striking “Individual Community Care Plan” and inserting “individual community care plan”; and

(15) by adding at the end the following new subsection:

“(n) COMMUNITY CARE SETTING DEFINED.—In this section, the term ‘community care setting’ means a small community care setting (as defined in subsection (g)(1)) or a large community care setting (as defined in subsection (h)(1)).”.

(b) Section 1905(r)(5) (42 U.S.C. 1396d(r)(5)) is amended by striking “section 1905(a)” and inserting “subsection (a) (other than services described in paragraph (22) or (23) of such subsection)”.

(c) Section 4711(f) of OBRA–1990 is amended by striking “Act” each place it appears and inserting “section”.

SEC. 252. CORRECTIONS RELATING TO SECTION 4712 (COMMUNITY SUPPORTED LIVING ARRANGEMENTS).

(a) Section 1930 (42 U.S.C. 1396u), as added by section 4712(b)(2) of OBRA–1990, is amended—

(1) in subsection (b)—

(A) by striking “title the term,” and inserting “title, the term”,

(B) by striking “guardian” and inserting “guardian or”, and

(C) by striking “3 other” and inserting “3”;

(2) in subsection (d)—

(A) in the matter preceding paragraph (1), by striking “program,” and inserting “program”, and

(B) in the second sentence, by striking “plan” each place it appears and inserting “program”; and

(3) in subsection (i), by striking “FUNDS” and inserting “FUNDS”.

(b) Section 4712(c) of OBRA–1990 is amended—

(1) in paragraph (1), by inserting “of section 1930 of the Social Security Act” after “subsection (h)”; and

(2) in paragraph (2), by striking “this section” and inserting “such section”.

SEC. 253. CORRECTION RELATING TO SECTION 4713 (COBRA CONTINUATION COVERAGE).

(a) Section 1902(a)(10) (42 U.S.C. 1396a(a)(10)) is amended in the matter following subparagraph (F) by striking “COBRA continuation premiums” and inserting “COBRA premiums”.

(b) Section 1902(u)(3) (42 U.S.C. 1396a(u)(3)), as added by section 4713(a)(2) of OBRA–1990, is amended by striking “title VI” and inserting “part 6 of subtitle B of title I”.

SEC. 254. CORRECTION RELATING TO SECTION 4716 (MEDICAID TRANSITION FOR FAMILY ASSISTANCE).

Section 4716(a) of OBRA–1990 is amended by striking “AMENDMENTS.—Subsection (f) of section” and inserting “IN GENERAL.—Section”.

SEC. 255. CORRECTIONS RELATING TO SECTION 4718 (MEDICALLY NEEDY INCOME LEVELS FOR CERTAIN 1-MEMBER FAMILIES).

Section 4718(b) of OBRA–1990 is amended by striking “June 1, 1989” and inserting “July 1, 1989”.

SEC. 256. CORRECTIONS RELATING TO SECTION 4723 (MEDICAID SPEND-DOWN OPTION).

Section 1903(f)(2) (42 U.S.C. 1396b(f)(2)), as amended by section 4723(a) of OBRA–1990, is amended by striking “to the State, provided that” and inserting “to the State if”.

SEC. 257. CORRECTIONS RELATING TO SECTION 4724 (OPTIONAL STATE DISABILITY DETERMINATIONS).

Section 1902(v) (42 U.S.C. 1396a(v)), as added by section 4724 of OBRA–1990, is amended—

(1) by striking “(v)(1)” and inserting “(v)”; and

(2) by striking “of the Social Security Act”.

SEC. 258. CORRECTION RELATING TO SECTION 4732 (SPECIAL RULES FOR HEALTH MAINTENANCE ORGANIZATIONS).

Section 1903(m)(2)(F)(i) (42 U.S.C. 1396b(m)(2)(F)(i)), as amended by section 4732(b)(2)(B) of OBRA–1990, is amended by striking “or” before “with an eligible organization”.

SEC. 259. CORRECTIONS RELATING TO SECTION 4747 (COVERAGE OF HIV-POSITIVE INDIVIDUALS).

Section 4747 of OBRA–1990 is amended—

(1) in subsection (a)—

(A) by striking “services described in subsection (c)” and inserting “services described in subsection (b)(1) (and may provide coverage for services described in subsection (b)(2))”, and

(B) by striking “to individuals” and inserting “to individuals who are not otherwise eligible for medical assistance under such title,”;

(2) by amending subsection (b) to read as follows:

“(b) SERVICES AVAILABLE UNDER A DEMONSTRATION PROJECT.—

“(1) REQUIRED SERVICES.—

“(A) IN GENERAL.—Services described in this paragraph are the following:

“(i) General and preventive medical care services, including outpatient care, physician visits, and clinic visits.

“(ii) Other laboratory and X-ray services.

“(iii) Prescription drugs (including costs associated with the intravenous administration of prescription drugs).

“(iv) Case management services.

“(B) SCOPE OF SERVICES.—The services described in subparagraph (A) may be limited under a demonstration project only on the basis of medical necessity or the appropriateness of such services.

“(2) OPTIONAL SERVICES.—

“(A) IN GENERAL.—Services described in this paragraph are the following:

“(i) Counseling and social services.

“(ii) Substance abuse treatment.

“(iii) Health education services.

“(iv) Dental services.

“(B) SCOPE OF SERVICES.—A demonstration project may limit the amount, duration, or scope of services described in subparagraph (A).”;

(3) in subsection (c)—

(A) in paragraph (1)—

(i) by striking “with a hospital” and all that follows through “other entity have” and inserting “with an entity which has”, and

(ii) by striking “and have access” and all that follows through the end and inserting “and has access to data on comparable patients who have so tested and who are not participating in the demonstration project.”, and

(B) by striking paragraphs (2) and (3) and redesignating paragraph (4) as paragraph (2);

(4) in subsection (d), by striking “paragraph (3)” and “paragraph (1)” and inserting “subsection (b)” and “subsection (a)”, respectively; and

(5) in subsection (f), by adding at the end the following new sentence: “Such sums as may be available under the limitation set forth in this paragraph for fiscal year 1993 shall be available until expended.”.

SEC. 260. CORRECTION RELATING TO SECTION 4751 (ADVANCED DIRECTIVES).

Section 1903(m)(1)(A) (42 U.S.C. 1396b(m)(1)(A)), as amended by section 4751(b)(1) of OBRA–1990, is amended—

(1) by striking “1902(w)” and inserting “1902(w) and”; and

(2) by striking “1902(a)” and inserting “1902(w)”.

SEC. 261. CORRECTIONS RELATING TO SECTION 4752 (PHYSICIANS' SERVICES).

(a) Paragraph (59) of section 1902(a) (42 U.S.C. 1396a(a)), as added by section 4752(c)(1)(C) of OBRA–1990 and as redesignated by section 13623(a)(6) of OBRA–1993, is amended by striking “subsection (v)” and inserting “subsection (x)”.

(b) Section 1903(i)(12) (42 U.S.C. 1396b(i)(12)), as inserted by section 4752(e) of OBRA–1990 and as redesignated by section 13631(c)(3) of OBRA–1993, is amended—

(1) by amending clause (i) of subparagraph (A) to read as follows:

“(i) is certified in family practice or pediatrics by the medical specialty board recognized by the American Board of Medical Specialties for family practice or pediatrics or is certified in general practice or pediatrics by the medical specialty board recognized by the American Osteopathic Association,”;

(2) by amending clause (i) of subparagraph (B) to read as follows:

“(i) is certified in family practice or obstetrics by the medical specialty board recognized by the American Board of Medical Specialties for family practice or obstetrics or is certified in general practice or obstetrics by the Medical Specialty Board recognized by the American Osteopathic Association,”; and

(3) in subparagraphs (A) and (B)—

(A) by striking “or” at the end of clause (v);

(B) by redesignating clause (vi) as clause (vii); and

(C) by inserting after clause (v) the following new clause:

“(vi) delivers such services in the emergency department of a hospital participating in the State plan approved under this title, or”.

SEC. 262. CORRECTIONS RELATING TO SECTION 4801 (NURSING HOME REFORM).

(a) Section 1919(b)(3)(C)(i)(I) (42 U.S.C. 1396r(b)(3)(C)(i)(I)), as amended by section 4801(e)(3) of OBRA–1990, is amended by striking “not to exceed” before “14 days”.

(b) Section 1919(b)(5)(D) (42 U.S.C. 1396r(b)(5)(D)), as amended by section 4801(a)(4) of OBRA–1990, is amended by striking the comma before “or a new competency evaluation program.”.

(c) Section 1919(b)(5)(G) (42 U.S.C. 1396r(b)(5)(G)) is amended by striking “or licensed or certified social worker” and inserting “licensed or certified social worker, registered respiratory therapist, or certified respiratory therapy technician”.

(d) Section 1919(f)(2)(B)(i) (42 U.S.C. 1396r(f)(2)(B)(i)) is amended by striking “facilities,” and inserting “facilities (subject to clause (iii)),”.

(e) Section 1919(f)(2)(B)(iii)(I)(c) (42 U.S.C. 1396r(f)(2)(B)(iii)(I)(c)) is amended by striking “clauses” each place it appears and inserting “clause”.

(f) Section 1919(g)(5)(B) (42 U.S.C. 1396r(g)(5)(B)) is amended by striking “paragraphs” and inserting “paragraph”.

(g) Section 4801(a)(6)(B) of OBRA–1990 is amended—

(1) by striking "The amendments" and inserting "(i) The amendments";

(2) by redesignating clauses (i) through (v) as subclauses (I) through (V); and

(3) by adding at the end the following new clause:

"(ii) Notwithstanding clause (i) and subject to section 1919(f)(2)(B)(iii)(I) of the Social Security Act (as amended by subparagraph (A)), a State may approve a training and competency evaluation program or a competency evaluation program offered by or in a nursing facility described in clause (i) if, during the previous 2 years, none of the subclauses of clause (i) applied to the facility.".

SEC. 263. OTHER TECHNICAL CORRECTIONS.

(a) Section 1905(o)(1)(A) (42 U.S.C. 1396d(o)(1)(A)) is amended—

(1) in the first sentence, by striking "intermediate care facility services" and inserting "for nursing facility services or intermediate care facility services for the mentally retarded"; and

(2) in the second sentence, by striking "or intermediate care facility" and inserting "(for purposes of title XVIII), a nursing facility, or an intermediate care facility for the mentally retarded".

(b) Section 1915(d) (42 U.S.C. 1396n(d)) is amended—

(1) by striking "skilled nursing facility or intermediate care facility" each place it appears in paragraphs (1), (2)(B), and (2)(C) and inserting "nursing facility";

(2) in paragraph (2)(B)(i), by striking "skilled nursing or intermediate care facility" and inserting "nursing facility";

(3) in paragraph (5)(A), by striking "under" the second place it appears and inserting "(or, in the case of waiver years beginning on or after October 1, 1990, with respect to nursing facility services and home and community-based services) under"; and

(4) in paragraph (5)(B)—

(A) in clause (i), by striking "furnished" and inserting "(or, with respect to waiver years beginning on or after October 1, 1990, for nursing facility services) furnished"; and

(B) in clause (iii)(I), by striking "(regardless" and inserting "(or, with respect to waiver years beginning on or after October 1, 1990, which comprise nursing facility services) (regardless".

(c)(1) Section 1924(h)(1)(A) (42 U.S.C. 1396r-5(h)(1)(A)) is amended to read as follows:

"(A)(i) is in a medical institution or nursing facility; or

"(ii) is described in section 1902(a)(10)(A)(ii)(VI) (except that for purposes of subsection (d), such term shall include such individual only if the State elects to apply such subsection to the individual); and".

(2) The amendments made by this subsection shall apply to home or community-based services furnished on or after January 1, 1994.

Subtitle C—Miscellaneous and Technical Corrections Relating to OBRA-1993

SEC. 271. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this part shall take effect as if included in the enactment of OBRA-1993.

SEC. 272. CORRECTIONS RELATING TO SECTION 13601 (PERSONAL CARE SERVICES).

Section 13601(a)(3) of OBRA-1993 is amended by striking "comma" and inserting "period".

SEC. 273. CORRECTIONS RELATING TO SECTION 13604 (EMERGENCY SERVICES FOR ALIENS).

Section 13604(b)(2) of OBRA-1993 is amended to read as follows:

"(2) The Secretary of Health and Human Services shall not disallow expenditures made under section 1903(v)(2) of the Social Security Act for care and services relating to organ transplant procedures furnished before the date of the enactment of this Act.".

SEC. 274. CORRECTIONS RELATING TO SECTION 13611 (TRANSFERS OF ASSETS; TREATMENT OF CERTAIN TRUSTS).

(a) Section 1917(c)(2)(C)(iii) (42 U.S.C. 1396p(c)(2)(C)(iii)), as added by section 13611(a)(2)(C)(iv) of OBRA-1993, is amended by striking "all".

(b) Section 1917(c)(4) (42 U.S.C. 1396p(c)(4)), as amended by section 13611(a)(2)(F), is amended by striking "resources" and inserting "assets".

(c) Section 13611(e)(3) of OBRA-1993 is amended—

(1) by striking "amendment made by subsection (b)" and inserting "amendments made by subsections (a) and (b)"; and

(2) by striking "such amendment" and inserting "such amendments".

SEC. 275. CORRECTIONS RELATING TO SECTION 13612 (MEDICAID ESTATE RECOVERIES).

Section 1917(b)(1) (42 U.S.C 1396p(b)(1)), as amended by section 13612(a) of OBRA-1993, is amended—

(1) by amending the matter preceding subparagraph (A) to read as follows:

"(b)(1) No adjustment or recovery of any medical assistance correctly paid on behalf of an individual under the State plan may be made, except that the State shall comply with the following:";

(2) by amending subparagraph (A) to read as follows:

"(A) In the case of an individual described in subsection (a)(1)(B), the State—

"(i) shall seek adjustment or recovery upon the sale of property subject to a lien imposed on account of medical assistance paid on behalf of the individual, and

"(ii) may seek adjustment or recovery from the individual's estate."; and

(3) in subparagraph (B)—

(A) in clause (i), by striking "or" at the end and inserting "and"; and

(B) in clause (ii), by inserting "additional" after "any".

SEC. 276. CORRECTIONS RELATING TO SECTION 13622 (LIABILITY OF THIRD PARTIES TO PAY FOR CARE AND SERVICES).

(a) Section 1902(a)(25)(A) (42 U.S.C. 1396a(a)(25)(A)), as amended by section 13622(a) of OBRA-1993, is amended by striking "(as defined in section 607(1)" and inserting "(including any such plan meeting the definition of section 607(1)".

(b) Section 1902(a)(25)(I) (42 U.S.C. 1396a(a)(25)(I)), as added by section 13622(c) of OBRA-1993, is amended to read as follows:

"(I) assurances satisfactory to the Secretary that the State has in effect laws providing that, to the extent that payment has been made under the State plan of that or any other State for medical assistance for health care items or services furnished to an individual, the State paying such medical assistance is considered to have acquired the rights of such individual to payment by any third party legally liable to pay for such items or services;".

SEC. 277. CORRECTIONS RELATING TO SECTION 13623 (MEDICAL CHILD SUPPORT).

(a)(1) Title XIX (42 U.S.C. 1396 et seq.) is amended by redesignating section 1908, as added by section 13623(b) of OBRA-1993, as section 1909.

(2) Paragraph (60) of section 1902(a) (42 U.S.C. 1396a(a)), as added by section 13623(a) of OBRA-1993, is amended by striking "section 1908" and inserting "section 1909".

(b) Subsection (b) of section 1909, as redesignated by subsection (a), is amended by striking "as defined in section 607(1)" and inserting "including any such plan meeting the definition of section 607(1)".

SEC. 278. CORRECTIONS RELATING TO SECTION 13624 (PHYSICIAN REFERRALS).

Section 13624(b) of OBRA-1993 is amended by striking "on or".

SEC. 279. CORRECTIONS RELATING TO SECTION 13631 (MEDICAID PEDIATRIC IMMUNIZATION PROVISIONS).

(a) Section 1902(a)(32)(D) (42 U.S.C. 1396(a)(32)(D)), as added by section 13631(e)(1) of OBRA-1993, is amended by striking "(which price includes a reasonable amount to cover shipping and the handling of returns)" and inserting "plus a reasonable amount to cover shipping and the handling of returns".

(b) Section 1928(d)(3)(B) (42 U.S.C. 1396s(d)(3)(B)), as added by section 13631(b)(2) of OBRA-1993, is amended by striking "and any applicable excise tax established under section 4131 of the Internal Revenue Code of 1986".

SEC. 280. CORRECTIONS RELATING TO SECTION 13643 (DEMONSTRATION PROJECTS).

Effective as if included in the enactment of OBRA-1990, section 4745 of such Act is amended in subsection (d) by striking "shall commence not later than July 1, 1991 and".

TITLE III—INCOME SECURITY, HUMAN RESOURCES, AND RELATED PROGRAMS

Subtitle A—Child Welfare, Foster Care, Adoption

SEC. 301. REQUIRED PROTECTIONS FOR FOSTER CHILDREN.

(a) IN GENERAL.—Section 422(b) (42 U.S.C. 622(b)) is amended—

(1) by striking "and" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting "; and"; and

(3) by adding at the end the following:

"(9) provide assurances that the State—

"(A) since June 17, 1980, has completed an inventory of all children who, before the inventory, had been in foster care under the responsibility of the State for 6 months or more, which determined—

"(i) the appropriateness of, and necessity for, the foster care placement;

"(ii) whether the child could or should be returned to the parents of the child or should be freed for adoption or other permanent placement; and

"(iii) the services necessary to facilitate the return of the child or the placement of the child for adoption or legal guardianship;

"(B) is operating, to the satisfaction of the Secretary—

"(i) a statewide information system from which can be readily determined the status, demographic characteristics, location, and goals for the placement of every child who is (or, within the immediately preceding 12 months, has been) in foster care;

"(ii) a case review system (as defined in section 475(5)) for each child receiving foster care under the supervision of the State;

"(iii) a service program designed to help children—

"(I) where appropriate, return to families from which they have been removed; or

"(II) be placed for adoption, with a legal guardian, or, if adoption or legal guardianship is determined not to be appropriate for a child, in some other planned, permanent living arrangement; and

"(iv) a preplacement preventive services program designed to help children at risk of foster care placement remain with their families; and

"(C)(i) has reviewed (or within 12 months after the date of the enactment of this paragraph will review) State policies and administrative and judicial procedures in effect for children abandoned at or shortly after birth (including policies and procedures providing for legal representation of such children); and

"(ii) is implementing (or within 24 months after the date of the enactment of this paragraph will implement) such policies and procedures as the State determines, on the basis of the review described in clause (i), to be necessary to enable permanent decisions to be made expeditiously with respect to the placement of such children.".

(b) RESTRICTION ON REALLOTMENT.—Section 424 (42 U.S.C. 624) is amended—

(1) in the first sentence, by striking "The amount" and inserting the following:

"(a) IN GENERAL.—Subject to subsection (b), the amount"; and

(2) by adding at the end the following:

"(b) EXCEPTION RELATING TO FOSTER CHILD PROTECTIONS.—The Secretary shall not reallot under subsection (a) of this section any amount that is withheld or recovered from a State due to the failure of the State to meet the requirements of section 422(b)(9).".

(c) REPEAL.—Section 427 (42 U.S.C. 627) is hereby repealed.

(d) CONFORMING AMENDMENTS.—

(1) Section 423(a) (42 U.S.C. 623(a)) is amended by striking "and in section 427".

(2) Section 425(a)(2) (42 U.S.C. 625(a)(2)) is amended by striking "the statistical report required by section" and inserting "section 422(b)(9) or".

(3) Section 472(d) (42 U.S.C. 672(d)) is amended by striking "427(b)" and inserting "422(b)(9)".

(e) EFFECTIVE DATE.—The amendments and repeal made by this section shall be effective with respect to fiscal years beginning on or after October 1, 1995.

SEC. 302. CONFORMITY REVIEWS.

(a) IN GENERAL.—Part A of title XI (42 U.S.C. 1301–1320b–13) is amended by inserting after section 1122 the following:

"REVIEWS OF CHILD AND FAMILY SERVICES PROGRAMS, AND OF FOSTER CARE AND ADOPTION ASSISTANCE PROGRAMS, FOR CONFORMITY WITH STATE PLAN REQUIREMENTS

"SEC. 1123. (a) IN GENERAL.—The Secretary, in consultation with the State agencies administering the State programs under parts B and E of title IV, shall promulgate regulations for the review of such programs to determine whether such programs are in substantial conformity with—

"(1) State plan requirements under such parts B and E,

"(2) implementing regulations promulgated by the Secretary, and

"(3) the relevant approved State plans.

"(b) ELEMENTS OF REVIEW SYSTEM.—The regulations referred to in subsection (a) shall—

"(1) specify the timetable for conformity reviews of State programs, including—

"(A) an initial review of each State program;

"(B) a timely review of a State program following a review in which such program was found not to be in substantial conformity; and

"(C) less frequent reviews of State programs which have been found to be in substantial conformity, but such regulations shall permit the Secretary to reinstate more frequent reviews based on information which indicates that a State program may not be in conformity;

"(2) specify the requirements subject to review, and the criteria to be used to measure conformity with such requirements and to determine whether there is a substantial failure to so conform;

"(3) specify the method to be used to determine the amount of any Federal matching funds to be withheld (subject to paragraph (4)) due to the State program's failure to so conform, which ensures that—

"(A) such funds will not be withheld with respect to a program, unless it is determined that the program fails substantially to so conform;

"(B) such funds will not be withheld for a failure to so conform resulting from the State's reliance upon and correct use of formal written statements of Federal law or policy provided to the State by the Secretary; and

"(C) the amount of such funds withheld is related to the extent of the failure to so conform; and

"(4) require the Secretary, with respect to any State program found to have failed substantially to so conform—

"(A) to afford the State an opportunity to adopt and implement a corrective action plan, approved by the Secretary, designed to end the failure to so conform;

"(B) to make technical assistance available to the State to the extent feasible to enable the State to develop and implement such a corrective action plan;

"(C) to suspend the withholding of any Federal matching funds under this section while such a corrective action plan is in effect; and

"(D) to rescind any such withholding if the failure to so conform is ended by successful completion of such a corrective action plan.

"(c) PROVISIONS FOR ADMINISTRATIVE AND JUDICIAL REVIEW.—The regulations referred to in subsection (a) shall—

"(1) require the Secretary, not later than 10 days after a final determination that a program of the State is not in conformity, to notify the State of—

"(A) the basis for the determination; and

"(B) the amount of the Federal matching funds (if any) to be withheld from the State;

"(2) afford the State an opportunity to appeal the determination to the Departmental Appeals Board within 60 days after receipt of the notice described in paragraph (1) (or, if later, after failure to continue or to complete a corrective action plan); and

"(3) afford the State an opportunity to obtain judicial review of an adverse decision of the Board, within 60 days after the State receives notice of the decision of the Board, by appeal to the district court of the United States for the judicial district in which the principal or headquarters office of the agency responsible for administering the program is located.".

(b) CONFORMING AMENDMENT.—Section 471(b) (42 U.S.C. 671(b)) is amended by striking all that follows the first sentence.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) CONFORMING AMENDMENT.—The amendment made by subsection (b) shall take effect on October 1, 1995.

(3) REGULATIONS.—The Secretary shall promulgate the regulations referred to in section 1123(a) of the Social Security Act (as added by this section) not later than January 1, 1995, to take effect on October 1, 1995.

SEC. 303. STATES REQUIRED TO REPORT ON MEASURES TAKEN TO COMPLY WITH THE INDIAN CHILD WELFARE ACT.

(a) STATE PLAN REQUIREMENT.—Section 422(b) (42 U.S.C. 622(b)), as amended by section 301(a), is amended—

(1) by striking "and" at the end of paragraph (8);

(2) by striking the period at the end of paragraph (9) and inserting "; and"; and

(3) by adding at the end the following:

"(10) contain a description, developed after consultation with tribal organizations (as defined in section 4 of the Indian Self-Determination and Education Assistance Act) in the State, of the specific measures taken by the State to comply with the Indian Child Welfare Act.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective with respect to fiscal years beginning on or after October 1, 1994.

SEC. 304. CHILD WELFARE TRAINEESHIPS.

(a) IN GENERAL.—Subpart 1 of part B of title IV (42 U.S.C. 620–628) is amended by inserting after section 428 the following:

"CHILD WELFARE TRAINEESHIPS

"SEC. 429. The Secretary may approve an application for a grant to a public or nonprofit institution for higher learning to provide traineeships with stipends under section 426(a)(1)(C) only if the application—

"(1) provides assurances that each individual who receives a stipend with such traineeship (in this section referred to as a 'recipient') will enter into an agreement with the institution under which the recipient agrees—

"(A) to participate in training at a public or private nonprofit child welfare agency on a regular basis (as determined by the Secretary) for the period of the traineeship;

"(B) to be employed for a period of years equivalent to the period of the traineeship, in a public or private nonprofit child welfare agency in any State, within a period of time (determined by the Secretary in accordance with regulations) after completing the post-secondary education for which the traineeship was awarded;

"(C) to furnish to the institution and the Secretary evidence of compliance with subparagraphs (A) and (B); and

"(D) if the recipient fails to comply with subparagraph (A) or (B) and does not qualify for any exception to this subparagraph which the Secretary may prescribe in regulations, to repay to the Secretary all (or an appropriately prorated part) of the amount of the stipend, plus interest, and, if applicable, reasonable collection fees (in accordance with regulations promulgated by the Secretary);

"(2) provides assurances that the institution will—

"(A) enter into agreements with child welfare agencies for onsite training of recipients;

"(B) permit an individual who is employed in the field of child welfare services to apply for a traineeship with a stipend if the traineeship furthers the progress of the individual toward the completion of degree requirements; and

"(C) develop and implement a system that, for the 3-year period that begins on the date any recipient completes a child welfare services program of study, tracks the employment record of the recipient, for the purpose of determining the percentage of recipients who secure employment in the field of child welfare services and remain employed in the field.".

(b) CONFORMING AMENDMENT.—Section 426(a)(1)(C) (42 U.S.C. 626(a)(1)(C)) is amended by inserting "described in section 429" after "including traineeships".

(c) APPLICABILITY.—The amendments made by this section shall apply to grants awarded on or after October 1, 1994.

SEC. 305. DISPOSITIONAL HEARING.

(a) MOST APPROPRIATE SETTING.—Section 475(5)(A) (42 U.S.C. 675(5)(A)) is amended by inserting "and most appropriate" after "(most family like)".

(b) TIMING OF SUBSEQUENT REVIEW.—Section 475(5)(C) (42 U.S.C. 675(5)(C)) is amended by striking "periodically" and inserting "not less frequently than every 12 months".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1994.

SEC. 306. ELIMINATION OF FOSTER CARE CEILINGS AND OF AUTHORITY TO TRANSFER UNUSED FOSTER CARE FUNDS TO CHILD WELFARE SERVICES PROGRAMS.

(a) REPEAL.—Subsections (b) and (c) of section 474 (42 U.S.C. 674 (b) and (c)) are hereby repealed.

(b) CONFORMING AMENDMENTS.—Section 474 (42 U.S.C. 674) is amended—

(1) in subsection (d)(1)—

(A) by striking "subsections (a), (b), and (c)" and inserting "subsection (a)"; and

(B) by striking "the provisions of such subsections" and inserting "subsection (a)"; and

(2) by redesignating subsection (d) as subsection (b).

(c) EFFECTIVE DATE.—The amendments and repeals made by this section shall apply to payments for calendar quarters beginning on or after October 1, 1993.

SEC. 307. DEMONSTRATION PROJECTS.

Part A of title XI (42 U.S.C. 1301–1320b–13) is amended by inserting after section 1128B the following:

"DEMONSTRATION PROJECTS

"SEC. 1129. (a) IN GENERAL.—The Secretary may authorize not more than 10 States to conduct demonstration projects pursuant to this section which the Secretary finds are likely to promote the objectives of part B or E of title IV.

"(b) WAIVER AUTHORITY.—The Secretary may waive compliance with any requirement of part B or E of title IV which (if applied) would prevent a State from carrying out a demonstration project under this section or prevent the State from effectively achieving the purpose of such a project, except that the Secretary may not waive—

"(1) any provision of section 427 (as in effect before October 1, 1995), section 422(b)(9) (as in effect after such date), or section 479; or

"(2) any provision of such part E, to the extent that the waiver would impair the entitlement of any qualified child or family to benefits under a State plan approved under such part E.

"(c) TREATMENT AS PROGRAM EXPENDITURES.—For purposes of parts B and E of title IV, the Secretary shall consider the expenditures of any State to conduct a demonstration project under this section to be expenditures under subpart 1 or 2 of such part B, or under such part E, as the State may elect.

"(d) DURATION OF DEMONSTRATION.—A demonstration project under this section may be conducted for not more than 5 years.

"(e) APPLICATION.—Any State seeking to conduct a demonstration project under this section shall submit to the Secretary an application, in such form as the Secretary may require, which includes—

"(1) a description of the proposed project, the geographic area in which the proposed project would be conducted, the children or families who would be served by the proposed project, and the services which would be provided by the proposed project (which shall provide, where appropriate, for random assignment of children and families to groups served under the project and to control groups);

"(2) a statement of the period during which the proposed project would be conducted;

"(3) a discussion of the benefits that are expected from the proposed project (compared to a continuation of activities under the approved plan or plans of the State);

"(4) an estimate of the costs or savings of the proposed project;

"(5) a statement of program requirements for which waivers would be needed to permit the proposed project to be conducted;

"(6) a description of the proposed evaluation design; and

"(7) such additional information as the Secretary may require.

"(f) EVALUATIONS; REPORT.—Each State authorized to conduct a demonstration project under this section shall—

"(1) obtain an evaluation by an independent contractor of the effectiveness of the project, using an evaluation design approved by the Secretary which provides for—

"(A) comparison of methods of service delivery under the project, and such methods under a State plan or plans, with respect to efficiency, economy, and any other appropriate measures of program management;

"(B) comparison of outcomes for children and families (and groups of children and families) under the project, and such outcomes under a State plan or plans, for purposes of assessing the effectiveness of the project in achieving program goals; and

"(C) any other information that the Secretary may require; and

"(2) provide interim and final evaluation reports to the Secretary, at such times and in such manner as the Secretary may require.

"(g) COST NEUTRALITY.—The Secretary may not authorize a State to conduct a demonstration project under this section unless the Secretary determines that the total amount of Federal funds that will be expended under (or by reason of) the project over its approved term (or such portion thereof or other period as the Secretary may find appropriate) will not exceed the amount of such funds that would be expended by the State under the State plans approved under parts B and E of title IV if the project were not conducted.".

SEC. 308. PLACEMENT ACCOUNTABILITY.

(a) CASE PLAN REQUIREMENTS.—Section 475(5)(A) (42 U.S.C. 675(5)(A)), as amended by section 305(a), is amended by adding at the end the following: "which—

"(i) if the child has been placed in a foster family home or child-care institution a substantial distance from the home of the parents of the child, or in a State different from the State in which such home is located, sets forth the reasons why such placement is in the best interests of the child, and

"(ii) if the child has been placed in foster care outside the State in which the home of the parents of the child is located, requires that, periodically, but not less frequently than every 12 months, a caseworker on the staff of the State agency of the State in which the home of the parents of the child is located, or of the State in which the child has been placed, visit such child in such home or institution and submit a report on such visit to the State agency of the State in which the home of the parents of the child is located,".

(b) DISPOSITIONAL HEARING.—Section 475(5)(C) (42 U.S.C. 675(5)(C)), as amended by section 305(b), is amended by inserting "and, in the case of a child described in subparagraph (A)(ii), whether the out-of-State placement continues to be appropriate and in the best interests of the child," after "long-term basis)".

(c) DATA COLLECTION.—Section 479(c)(3)(C) (42 U.S.C. 679(c)(3)(C)) is amended—

(1) by striking "and" at the end of clause (i); and

(2) by adding at the end the following:

"(iii) children placed in foster care outside the State which has placement and care responsibility, and".

(d) EFFECTIVE DATES.—The amendments made by this section shall be effective with respect to fiscal years beginning on or after October 1, 1994.

SEC. 309. PAYMENTS OF STATE CLAIMS FOR FOSTER CARE AND ADOPTION ASSISTANCE.

(a) IN GENERAL.—Section 474(b) (42 U.S.C. 674(b)), as redesignated by section 306(b)(2), is amended by adding at the end the following:

"(4)(A) Within 60 days after receipt of a State claim for expenditures pursuant to subsection (a), the Secretary shall allow, disallow, or defer such claim.

"(B) Within 15 days after a decision to defer such a State claim, the Secretary shall notify the State of the reasons for the deferral and of the additional information necessary to determine the allowability of the claim.

"(C) Within 90 days after receiving such necessary information (in readily reviewable form), the Secretary shall—

"(i) disallow the claim, if able to complete the review and determine that the claim is not allowable, or

"(ii) in any other case, allow the claim, subject to disallowance (as necessary)—

"(I) upon completion of the review, if it is determined that the claim is not allowable; or

"(II) on the basis of findings of an audit or financial management review.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective with respect to claims made on or after the date of the enactment of this Act.

SEC. 310. EFFECT OF FAILURE TO CARRY OUT STATE PLAN.

(a) IN GENERAL.—Part A of title XI (42 U.S.C. 1301–1320b–13), as amended by section 307, is amended by inserting after section 1129 the following:

"EFFECT OF FAILURE TO CARRY OUT STATE PLAN

"SEC. 1130. In an action brought to enforce a provision of the Social Security Act, such provision is not to be deemed unenforceable because of its inclusion in a section of the Act requiring a State plan or specifying the required contents of a State plan. This section is not intended to limit or expand the grounds for determining the availability of private actions to enforce State plan requirements other than by overturning any such grounds applied in Suter v. Artist M., 112 S. Ct. 1360 (1992), but not applied in prior Supreme Court decisions respecting such enforceability: *Provided, however*, That this section is not intended to alter the holding in Suter v. Artist M. that section 471(a)(15) of the Act is not enforceable in a private right of action.".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply to actions pending on the date of the enactment of this Act and to actions brought on or after such date of enactment.

Subtitle B—Child Support Enforcement

SEC. 311. REPORTS TO CREDIT BUREAUS ON PERSONS DELINQUENT IN CHILD SUPPORT PAYMENTS.

(a) IN GENERAL.—Section 466(a)(7) (42 U.S.C. 666(a)(7)) is amended—

(1) by striking "Procedures" and all that follows through "request of such agency" and inserting "Procedures which require the State to periodically report to consumer reporting agencies (as defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f))) the name of any parent residing in the State who owes overdue support and is at least 2 months delinquent in the payment of such support and the amount of such delinquency unless the agency requests not to receive such information"; and

(2) by striking "(C) a fee" and all that follows through "by the State" and inserting "(C) such information shall not be made available to (i) a consumer reporting agency which the State determines does not have sufficient capability to systematically and timely make accurate use of such information, or (ii) an entity which has not furnished evidence satisfactory to the State that the entity is a consumer reporting agency".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1995.

SEC. 312. TECHNICAL AMENDMENTS TO PROVISION ON STATE PATERNITY ESTABLISHMENT PROGRAMS.

Section 452(g)(2)(A) (42 U.S.C. 652(g)(2)(A)), as amended by section 13721(a) of OBRA–1993, is amended—

(1) in clause (i), by striking "during the fiscal year";

(2) in subclause (I) of clause (ii), by striking "as of the end of the fiscal year" and inserting "in the fiscal year or, at the option of the State, as of the end of such year";

(3) in subclause (II) of clause (ii), by striking "or (E) as of the end of the fiscal year" and inserting "in the fiscal year or, at the option of the State, as of the end of such year";

(4) in clause (iii), by striking "during the fiscal year"; and

(5) in the matter following clause (iii)—

(A) by striking "who were born out of wedlock during the immediately preceding fiscal year" and inserting "born out of wedlock";

(B) by striking "such preceding fiscal year" both places it appears and inserting "the preceding fiscal year"; and

(C) by striking "or E" the second place it appears.

SEC. 313. AGREEMENT TO ASSIST IN LOCATING MISSING CHILDREN UNDER THE PARENT LOCATOR SERVICE.

(a) IN GENERAL.—Section 463 (42 U.S.C. 663) is amended by adding at the end the following new subsection:

"(f) The Secretary shall enter into an agreement with the Attorney General of the United States, under which the services of the Parent Locator Service established under section 453 shall be made available to the Office of Juvenile Justice and Delinquency Prevention upon its request to locate any parent or child on behalf of such Office for the purpose of—

"(1) enforcing any State or Federal law with respect to the unlawful taking or restraint of a child, or

"(2) making or enforcing a child custody determination.

The Parent Locator Service shall charge no fees for services requested pursuant to this subsection.".

(b) CONFORMING AMENDMENT.—Section 463(c) (42 U.S.C. 663(c)) is amended by striking "(a), (b), or (e)" and inserting "(a), (b), (e), or (f)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1994.

Subtitle C—Supplemental Security Income

SEC. 321. DEFINITION OF DISABILITY FOR CHILDREN UNDER AGE 18 APPLIED TO ALL INDIVIDUALS UNDER AGE 18.

(a) IN GENERAL.—Section 1614(a)(3) (42 U.S.C. 1382c(a)(3)) is amended—

(1) in subparagraphs (A) and (H), by striking "a child" each place it appears and inserting "an individual"; and

(2) in subparagraph (H), by striking "child" the second and third place it appears and inserting "individual".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to determinations made on or after the date of the enactment of this Act.

SEC. 322. COMMISSION ON CHILDHOOD DISABILITY.

(a) ESTABLISHMENT OF COMMISSION.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall appoint a Commission on the Evaluation of Disability in Children (in this section referred to as the "Commission").

(b) APPOINTMENT OF MEMBERS.—(1) The Secretary shall appoint not less than 9 but not more than 15 members to the Commission, including—

(A) recognized experts in the field of medicine, whose work involves—

(i) the evaluation and treatment of disability in children,

(ii) the study of congenital, genetic, or perinatal disorders in children, or

(iii) the measurement of developmental milestones and developmental deficits in children; and

(B) recognized experts in the fields of—

(i) psychology,

(ii) education and rehabilitation,

(iii) law,

(iv) the administration of disability programs,

(v) social insurance (including health insurance), and

(vi) other fields of expertise that the Secretary determines to be appropriate.

(2) Members shall be appointed within 90 days after the date of the enactment of this Act, without regard to the provisions of title 5, United States Code, governing appointments to competitive service.

(3) Members appointed under this subsection shall serve for a term equivalent to the duration of the Commission.

(4) The Secretary shall designate a member of the Commission to serve as Chair of the Commission for a term equivalent to the duration of the Commission.

(c) ADMINISTRATIVE PROVISIONS.—(1) Service as a member of the Commission by an individual who is not otherwise a Federal employee shall not be considered service in an appointive or elective position in the Federal Government for the purposes of any provision of title 5, United States Code.

(2) Each member of the Commission who is not a full-time Federal employee shall be paid compensation at a rate equal to the daily equivalent of the rate of basic pay in effect for Level IV of the Executive Schedule for each day (including travel time) the member attends meetings or otherwise performs the duties of the Commission.

(3) While away from their homes or regular places of business on the business of the Commission, each member who is not a full-time Federal employee may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(d) ASSISTANCE TO COMMISSION.—The Commission may engage such technical assistance from individuals skilled in medical and other aspects of childhood disability as may be necessary to carry out the functions of the Commission. The Secretary shall make available to the Commission such secretarial, clerical, and other assistance as the Commission may require to carry out the functions of the Commission.

(e) STUDY BY THE COMMISSION.—(1) The Commission shall conduct a study, in consultation with the National Academy of Sciences, of the effects of the definition of "disability" under title XVI of the Social Security Act (42 U.S.C. 1382 et seq.) in effect on the date of enactment of this Act, as such definition applies to determining whether a child under the age of 18 is eligible to receive benefits under such title, the appropriateness of such definition, and the advantages and disadvantages of using any alternative definition of disability in determining whether a child under age 18 is eligible to receive benefits under such title.

(2) The study described in paragraph (1) shall include issues of—

(A) whether the need by families for assistance in meeting high costs of medical care for children with serious physical or mental impairments, whether or not they are eligible for disability benefits under title XVI of the Social Security Act, might appropriately be met through expansion of Federal health assistance programs (including the program of medical assistance under title XIX of such Act); and

(B) such other issues that the Secretary determines to be appropriate.

(f) REPORT.—Not later than September 1, 1995, the Commission shall prepare a report and submit such report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate which shall summarize the results of the study described in subsection (e) and include any recommendations that the Commission determines to be appropriate.

(g) TERMINATION OF COMMISSION.—The Commission shall terminate on September 30, 1995.

SEC. 323. EXEMPTION FROM PASS-ALONG REQUIREMENTS.

(a) IN GENERAL.—Section 1618 (42 U.S.C. 1382g) is amended by adding at the end the following new subsection:

"(h) For purposes of determining under subsection (b) of this section whether a State's expenditures for supplementary payments in the twelve-month period beginning on the effective date of any increase in the level of supplemental security income benefits are not less than its expenditures for such payments in the preceding twelve-month period, the Secretary, in computing the State's expenditures, shall disregard, pursuant to the one-time election of such State, all expenditures by such State for retroactive supplementary payments that are required to be made in connection with the retroactive supplemental security income benefits referred to in section 5041 of the Omnibus Budget Reconciliation Act of 1990.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective on, before, and after the date of the enactment of this Act.

Subtitle D—Aid to Families With Dependent Children

SEC. 331. SIMPLIFICATION OF INCOME AND ELIGIBILITY VERIFICATION SYSTEM.

Paragraph (1)(A) of section 1137(d) (42 U.S.C. 1320b–7(d)) is amended to read as follows:

"(1)(A) The State shall require, as a condition of an individual's eligibility for benefits under a program listed in subsection (b), a declaration in writing, under penalty of perjury—

"(i) by the individual,

"(ii) in the case in which eligibility for program benefits is determined on a family or household basis, by any adult member of such individual's family or household (as applicable), or

"(iii) in the case of an individual born into a family or household receiving benefits under such program, by any adult member of such family or household no later than the next redetermination of eligibility of such family or household following the birth of such individual,

stating whether the individual is a citizen or national of the United States, and, if that individual is not a citizen or national of the United States, that the individual is in a satisfactory immigration status.".

SEC. 332. MEASUREMENT AND REPORTING OF WELFARE RECEIPT.

(a) CONGRESSIONAL POLICY.—The Congress hereby declares that—

(1) it is the policy and responsibility of the Federal Government to reduce the rate at which and the degree to which families depend on income from welfare programs and the duration of welfare receipt, consistent with other essential national goals;

(2) it is the policy of the United States to strengthen families, to ensure that children grow up in families that are economically self-sufficient and that the life prospects of children are improved, and to underscore the responsibility of parents to support their children;

(3) the Federal Government should help welfare recipients as well as individuals at risk of welfare receipt to improve their education and job skills, to obtain child care and other necessary support services, and to take such other steps as may be necessary to assist them to become financially independent; and

(4) it is the purpose of this section to provide the public with generally accepted measures of welfare receipt so that it can track such receipt over time and determine whether progress is being made in reducing the rate at which and, to the extent feasible, the degree to which, families depend on income from welfare programs and the duration of welfare receipt.

(b) DEVELOPMENT OF WELFARE INDICATORS AND PREDICTORS.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") in consultation with the Secretary of Agriculture shall—

(1) develop—

(A) indicators of the rate at which and, to the extent feasible, the degree to which, families depend on income from welfare programs and the duration of welfare receipt; and

(B) predictors of welfare receipt;

(2) assess the data needed to report annually on the indicators and predictors, including the ability of existing data collection efforts to provide such data and any additional data collection needs; and

(3) not later than 2 years after the date of the enactment of this section, provide an interim report containing conclusions resulting from the development and assessment described in paragraphs (1) and (2), to—

(A) the Committee on Ways and Means of the House of Representatives;

(B) the Committee on Education and Labor of the House of Representatives;

(C) the Committee on Agriculture of the House of Representatives;

(D) the Committee on Energy and Commerce of the House of Representatives;

(E) the Committee on Finance of the Senate;

(F) the Committee on Labor and Human Resources of the Senate; and

(G) the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(c) ADVISORY BOARD ON WELFARE INDICATORS.—

(1) ESTABLISHMENT.—There is established an Advisory Board on Welfare Indicators (in this subsection referred to as the "Board").

(2) COMPOSITION.—The Board shall be composed of 12 members with equal numbers to be appointed by the House of Representatives, the Senate, and the President. The Board shall be composed of experts in the fields of welfare research and welfare statistical methodology, representatives of State and local welfare agencies, and organizations concerned with welfare issues.

(3) VACANCIES.—Any vacancy occurring in the membership of the Board shall be filled in the same manner as the original appointment for the position being vacated. The vacancy shall not affect the power of the remaining members to execute the duties of the Board.

(4) DUTIES.—Duties of the Board shall include—

(A) providing advice and recommendations to the Secretary on the development of indicators of the rate at which and, to the extent feasible, the degree to which, families depend on income from welfare programs and the duration of welfare receipt; and

(B) providing advice on the development and presentation of annual reports required under subsection (d).

(5) TRAVEL EXPENSES.—Members of the Board shall not be compensated, but shall receive travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

(6) DETAIL OF FEDERAL EMPLOYEES.—The Secretary shall detail, without reimbursement, any of the personnel of the Department of Health and Human Services to the Board to assist the Board in carrying out its duties. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(7) VOLUNTARY SERVICE.—Notwithstanding section 1342 of title 31, United States Code, the Board may accept the voluntary services provided by a member of the Board.

(8) TERMINATION OF BOARD.—The Board shall be terminated at such time as the Secretary determines the duties described in paragraph (4) have been completed, but in any case prior to the submission of the first report required under subsection (d).

(d) ANNUAL WELFARE INDICATORS REPORT.—

(1) PREPARATION.—The Secretary shall prepare annual reports on welfare receipt in the United States.

(2) COVERAGE.—The report shall include analysis of families and individuals receiving assistance under means-tested benefit programs, including the program of aid to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), the food stamp program under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), and the Supplemental Security Income program under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), or as general assistance under programs administered by State and local governments.

(3) CONTENTS.—Each report shall set forth for each of the means-tested benefit programs described in paragraph (2)—

(A) indicators of—

(i) the rate at which and, to the extent feasible, the degree to which, families depend on income from welfare programs, and

(ii) the duration of welfare receipt;

(B) trends in indicators;

(C) predictors of welfare receipt;

(D) the causes of welfare receipt;

(E) patterns of multiple program receipt;

(F) such other information as the Secretary deems relevant; and

(G) such recommendations for legislation, which shall not include proposals to reduce eligibility levels or impose barriers to program access, as the Secretary may determine to be necessary or desirable to reduce—

(i) the rate at which and the degree to which families depend on income from welfare programs, and

(ii) the duration of welfare receipt.

(4) SUBMISSION.—The Secretary shall submit such a report not later than 3 years after the date of the enactment of this section and annually thereafter, to the committees specified in subsection (b)(3)(C). Each such report shall be transmitted during the first 60 days of each regular session of Congress.

(e) SHORT TITLE.—This section may be cited as the "Welfare Indicators Act of 1993".

SEC. 333. NEW HOPE DEMONSTRATION PROJECT.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall provide for a demonstration project for a qualified program to be conducted in Milwaukee, Wisconsin, in accordance with this section.

(b) PAYMENTS.—For each calendar quarter in which there is a qualified program approved under this subsection, the Secretary shall pay to the operator of the qualified program, for no more than 20 calendar quarters, an amount equal to the aggregate amount that would otherwise have been payable to the State with respect to participants in the program for such calendar quarter, in the absence of the program, for cash assistance and child care under part A of title IV of the Social Security Act, for medical assistance under title XIX of such Act, and for administrative expenses related to such assistance. The amount payable to the operator of the program under this section shall not include the costs of evaluating the effects of the program.

(c) DEMONSTRATION PROJECT DESCRIBED.—For purposes of this section, the term "qualified program" means a program operated—

(1) by The New Hope Project, Inc., a private, not-for-profit corporation incorporated under the laws of the State of Wisconsin (in this section referred to as the "operator"), which offers low-income residents of Milwaukee, Wisconsin, employment, wage supplements, child care, health care, and counseling and training for job retention or advancement; and

(2) in accordance with an application submitted by the operator of the program and approved by the Secretary based on the Secretary's determination that the application satisfies the requirements of subsection (d).

(d) Contents of Application.—The operator of the qualified program shall provide, in its application to conduct a demonstration project for the program, that the following terms and conditions will be met:

(1) The operator will develop and implement an evaluation plan designed to provide valid and reliable information on the impact and implementation of the program. The evaluation plan will include adequately sized groups of project participants and control groups assigned at random.

(2) The operator will develop and implement a plan addressing the services and assistance to be provided by the program, the timing and determination of payments from the Secretary to the operator of the program, and the roles and responsibilities of the Secretary and the operator with respect to meeting the requirements of this paragraph.

(3) The operator will specify a reliable methodology for determining expenditures to be paid to the operator by the Secretary, with assistance from the Secretary in calculating the amount that would otherwise have been payable to the State in the absence of the program, pursuant to subsection (b).

(4) The operator will issue an interim and final report on the results of the evaluation described in paragraph (1) to the Secretary at such times as required by the Secretary.

(e) Effective Date.—This section shall take effect on the first day of the first calendar quarter that begins after the date of the enactment of this Act.

SEC. 334. DELAY IN REQUIREMENT THAT OUTLYING AREAS OPERATE AN AFDC-UP PROGRAM.

(a) In General.—Section 401(g)(2) of the Family Support Act of 1988 (42 U.S.C. 602 note; 102 Stat. 2396) is amended by striking "October 1, 1992" and inserting "the date of the repeal of the limitations contained in section 1108(a) of the Social Security Act on payments to such jurisdictions for purposes of making maintenance payments under parts A and E of title IV of such Act".

(b) Effective Date.—The amendment made by subsection (a) shall take effect as if included in the provision of the Family Support Act of 1988 to which the amendment relates at the time such provision became law.

SEC. 335. NEW YORK STATE CHILD SUPPORT DEMONSTRATION PROGRAM.

(a) Extension.—Section 9122(g)(1) of OBRA–1987 is amended by striking "five" and inserting "10".

(b) Payment of Evaluation Costs.—Section 9122(b) of OBRA–1987 is amended by adding at the end the following new flush sentence: "Payment to the State under this section shall not include the costs of evaluating the effects of the program.".

(c) Effective Dates.—

(1) Extension.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) Payment.—The amendment made by subsection (b) shall take effect on April 1, 1994.

SEC. 336. STATE OPTION TO USE RETROSPECTIVE BUDGETING WITHOUT MONTHLY REPORTING.

(a) In General.—Section 402(a)(13) (42 U.S.C. 602(a)(13)) is amended—

(1) by striking all that precedes subparagraph (A) and inserting the following:

"(13) provide, at the option of the State and with respect to such category or categories as the State may select and identify in the State plan, that—"; and

(2) in each of subparagraphs (A) and (B), by striking ", in the case of families who are required to report monthly to the State agency pursuant to paragraph (14)".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on October 1, 1993, and shall apply to payments under part A of title IV of the Social Security Act for fiscal year 1993 and such payments for succeeding fiscal years.

Subtitle E—JOBS Program

SEC. 341. EXPANSION OF COVERAGE FOR INDIAN TRIBES.

(a) In General.—Section 482(i)(2)(A) (42 U.S.C. 682(i)(2)(A)) is amended by striking "members of such Indian tribe receiving aid to families with dependent children" and inserting "Indians receiving aid to families with dependent children who reside on the reservation or within the designated service area".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on October 1, 1994.

SEC. 342. REPORT TO THE CONGRESS WITH RESPECT TO PERFORMANCE STANDARDS IN THE JOBS PROGRAM.

Section 487(a) (42 U.S.C. 687(a)) is amended—

(1) by striking "3" and inserting "4";

(2) in paragraph (1), by inserting "criteria for" after "develop";

(3) in paragraph (2), by striking "for" and inserting "with respect to"; and

(4) in the second sentence, by striking "under this subsection" and inserting "with respect to the program under this part".

Subtitle F—Unemployment Insurance

SEC. 351. EXTENSION OF REPORTING DATE FOR ADVISORY COUNCIL.

In the case of the first Advisory Council on Unemployment Compensation established under section 908 of the Social Security Act (42 U.S.C. 1108), subsection (f) of such section 908 shall be applied—

(1) by substituting "3rd year" for "second year" in paragraph (1), and

(2) by substituting "February 1, 1995" for "February 1, 1994" in paragraph (2).

SEC. 352. TECHNICAL AMENDMENT TO UNEMPLOYMENT TRUST FUND.

Paragraph (1) of section 905(b) (42 U.S.C. 1105(b)) is amended to read as follows:

"(b)(1) Except as provided in paragraph (3), the Secretary of the Treasury shall transfer (as of the close of each month), from the employment security administration account to the extended unemployment compensation account established by subsection (a), an amount equal to 20 percent of the amount by which—

"(A) the transfers to such account pursuant to section 901(b)(2) during such month, exceed

"(B) the payments during such month from the employment security administration account pursuant to section 901(b)(3) and (d).

If for any month the payments referred to in subparagraph (B) exceed the transfers referred to in subparagraph (A), proper adjustments shall be made in the amounts subsequently transferred.".

Subtitle G—Other Provisions

SEC. 361. EXTENSION OF DEMONSTRATION TO EXPAND JOB OPPORTUNITIES.

(a) In General.—Section 505 of the Family Support Act of 1988 (42 U.S.C. 1315 note; 102 Stat. 2404) is amended—

(1) in subsection (e), by striking "3-year period" and inserting "5-year period",

(2) in subsection (f)(2), by striking "January 1, 1993" and inserting "January 1, 1995", and

(3) in subsection (g), by striking "1991, and 1992" and inserting "1991, 1992, 1993, 1994, and 1995".

(b) Effective Date.—The amendments made by subsection (a) shall take effect on October 1, 1993.

SEC. 362. EARLY CHILDHOOD DEVELOPMENT PROJECTS.

Section 501(a) of the Family Support Act of 1988 (42 U.S.C. 1315 note; 102 Stat. 2400) is amended by adding at the end the following:

"(4) For grants to States to conduct demonstration projects under this subsection, there are authorized to be appropriated not to exceed $3,000,000 for each of the fiscal years 1994 through 1998.".

SEC. 363. REALLOCATION OF FUNDS UNDER TITLE XX FOR EMPOWERMENT AND ENTERPRISE GRANTS.

Section 2007 (42 U.S.C. 1397f), as added by section 13761 of OBRA–1993, is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection:

"(e) Reallocation of Remaining Funds.—

"(1) Remitted amounts.—The amount specified in section 2003(c) for any fiscal year is hereby increased by the total of the amounts remitted during the fiscal year pursuant to subsection (d) of this section.

"(2) Amounts not paid to the states.—The amount specified in section 2003(c) for fiscal year 1998 is hereby increased by the amount made available for grants under this section that has not been paid to any State by the end of fiscal year 1997.".

SEC. 364. CORRECTIONS RELATED TO THE INCOME SECURITY AND HUMAN RESOURCES PROVISIONS OF THE OBRA–1990.

(a) Amendment Related to Section 5035(a)(2).—Section 5035(a)(2) of OBRA–1990 is amended by striking "a semicolon" and inserting
"'; and'".

(b) Amendment Related to Section 5040.—Section 1631(n) (42 U.S.C. 1383(n)) is amended by striking "subsection" and inserting "section".

(c) Amendment Related to Section 5051(a).—Section 402(a)(14) (42 U.S.C. 602(a)(14)) is amended to read as follows:

"(14) at the option of the State and with respect to such category or categories as the State may select and identify in the plan, provide that—

"(A) the State agency will require each family to which the State provides (or, but for paragraph (22) or (32), would provide) aid to families with dependent children, as a condition to the continued receipt of such aid (or to continuing to be deemed to be a recipient of such aid), to report to the State agency monthly (or less frequently in the case of such categories of recipients as the State may select) on—

"(i) the income of the family, the composition of the family, and other relevant circumstances during the prior month; and

"(ii) the income and resources the family expects to receive, or any changes in circumstances affecting continued eligibility for, or amount of benefits, the family expects to occur, in that month or in future months; and

"(B) in addition to any action that may be appropriate based on other reports or information received by the State agency, the State agency will—

"(i) take prompt action to adjust the amount of assistance payable, as may be appropriate, on the basis of the information contained in the report (or upon the failure of the family to submit a timely report); and

"(ii) give the family an appropriate explanatory notice concurrent with any action taken under clause (i);".

(d) Repeal of Provision Inadvertently Included.—Section 5057 of OBRA-1990, and the amendment made by such section, are hereby repealed, and section 1139(d) of the Social Security Act shall be applied and administered as if such section 5057 had never been enacted.

(e) Amendment Related to Section 5105(d)(1)(B).—Subparagraphs (E) and (F) of section 1631(a)(2) (42 U.S.C. 1383(a)(2)) are amended to read as follows:

"(E) In cases where the negligent failure of the Secretary to investigate or monitor a representative payee results in misuse of benefits by the representative payee, the Secretary shall make payment to the beneficiary or the beneficiary's representative payee of an amount equal to such misused benefits. The Secretary shall make a good faith effort to obtain restitution from the terminated representative payee.

"(F) The Secretary shall include as a part of the annual report required under section 704 information with respect to the implementation of the preceding provisions of this paragraph, including—

"(i) the number of cases in which the representative payee was changed;

"(ii) the number of cases discovered where there has been a misuse of funds;

"(iii) how any such cases were dealt with by the Secretary;

"(iv) the final disposition of such cases (including any criminal penalties imposed); and

"(v) such other information as the Secretary determines to be appropriate.".

(f) Amendment Related to Section 5105(a)(1)(B).—The second paragraph of section 1631(a) (42 U.S.C. 1383(a)) is amended by striking "(A)(i) Payments" and inserting "(2)(A)(i) Payments".

(g) Amendments Related to Section 5105(b).—Section 1631(a)(2)(C) (42 U.S.C. 1383(a)(2)(C)) is amended—

(1) in clause (i), by striking "to representative" and inserting "to a representative";

(2) by striking clause (ii);

(3) by redesignating clauses (iii), (iv), and (v) as clauses (ii), (iii), and (iv), respectively; and

(4) in clause (iv) (as so redesignated), by striking "(iii), and (iv)" and inserting "and (iii)".

(h) Amendments Related to Section 5107(a)(2)(B).—Section 1631(c)(1)(B) (42 U.S.C. 1383(c)(1)(B)) is amended by striking "paragraph (1)" each place such term appears and inserting "subparagraph (A)".

(i) Amendment Related to Section 5109(a)(2).—Section 1631 (42 U.S.C. 1383) is amended by redesignating the subsection (n) added by section 5109(a)(2) of OBRA-1990, as subsection (o).

(j) Amendments Related to Section 11115(b)(2).—Section 11115(b)(2) of OBRA-1990 is amended—

(1) in subparagraph (A), by striking "paragraph (8)" and inserting "paragraph (9)";

(2) in subparagraph (B), by striking "paragraph (9)" and inserting "paragraph (10)"; and

(3) in subparagraph (C), by redesignating the new paragraph added thereby as paragraph (11).

(k) Effective Date.—Each amendment made by this section shall take effect as if included in the provision of OBRA-1990 to which the amendment relates at the time such provision became law.

SEC. 365. TECHNICAL CORRECTIONS RELATED TO THE HUMAN RESOURCE AND INCOME SECURITY PROVISIONS OF THE OBRA-1989.

(a) Amendment Relating to Section 8004(a).—Section 408(m)(2)(A) (42 U.S.C. 608(m)(2)(A)) is amended by striking "a fiscal" and inserting "the fiscal".

(b) Amendment Relating to Section 8006(a).—Section 473(a)(6)(B) (42 U.S.C. 673(a)(6)(B)) is amended by striking "474(a)(3)(B)" and inserting "474(a)(3)(C)".

(c) Amendment Relating to Section 8007(b)(3).—Subparagraph (D) of section 475(5) (42 U.S.C. 675(5)(D)) is amended by moving such subparagraph 2 ems to the right so that the left margin of such subparagraph is aligned with the left margin of subparagraph (C) of such section.

(d) Effective Date.—Each amendment made by this section shall take effect as if the amendment had been included in the provision of OBRA-1989 to which the amendment relates, at the time the provision became law.

SEC. 366. TECHNICAL CORRECTION RELATED TO THE HUMAN RESOURCE AND INCOME SECURITY PROVISIONS OF THE OBRA-1993.

(a) Amendment Relating to Section 13713(a).—Section 473(a)(6)(B) (42 U.S.C. 673(a)(6)(B)) is amended by striking "474(a)(3)(C)" and inserting "474(a)(3)(E)".

(b) Effective Date.—The amendment made by this section shall take effect as if the amendment had been included in the provision of OBRA-1993 to which the amendment relates, at the time the provision became law.

SEC. 367. ELIMINATION OF OBSOLETE PROVISIONS RELATING TO TREATMENT OF THE EARNED INCOME TAX CREDIT.

(a) Treatment of EITC as Earned Income.—Section 1612(a)(1) (42 U.S.C. 1382a(a)(1)) is amended by striking subparagraph (C) and by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively.

(b) Adjustment of Benefits Due to Treatment of EITC as Earned Income.—Section 1631(b) (42 U.S.C. 1383(b)) is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

SEC. 368. REDESIGNATION OF CERTAIN PROVISIONS.

Section 1631(e)(6) (42 U.S.C. 1383(e)(6)) is amended by redesignating subparagraphs (1) and (2) as subparagraphs (A) and (B), respectively.

Section-by-Section Analysis

TITLE I—MEDICARE PROVISIONS

Subtitle A—Provisions relating to part A

Sec. 101. Provisions relating to adjustments to standardized amounts for wages and wage-related costs

(a) Wage Index and Medicare Geographic Classification Review Board (MGCRB)—The Secretary would be authorized, but not required, to take occupational mix into account in the development of MGCRB guidelines for reclassification to the extent the Secretary determines is appropriate. Clarifies that if labor markets are no longer based on Metropolitan Statistical Areas, the method of calculating the wage index for reclassification would not apply and the MGCRB guidelines may be revised.

(b) Labor and Non-Labor Portions of Standardized Amounts—The Secretary would set the labor and non-labor portion of each standardized amount equal to the national average beginning in fiscal year 1995.

Effective date: Effective upon the date of enactment.

Sec. 102. Essential Access Community Hospital (EACH) Amendments

(a) Authorization for appropriations would be continued at current levels ($10 million a year for grants to States and $15 million a year for grants to hospitals) through fiscal year 1995. The length of stay requirement for State designation of rural primary care hospitals would be modified to provide that no patient may be admitted unless the attending physician certifies that the patient may reasonably be expected to be discharged or transferred within 72 hours, and that the facility may not provide surgery or other services requiring general anesthesia (other than procedures approved for performance on an ambulatory basis) unless the attending physician certifies that the risk of transfer to another facility for the services outweighs the benefits. The Secretary would be authorized to terminate the designation of a rural primary care hospital whose average length of stay (not counting longer stays during periods of inclement weather or other emergencies) exceeds 72 hours. The General Accounting Office would report to the Congress, within 2 years after enactment, on the application and impact of the changes in length-of-stay requirements.

(b) The number of States eligible for grants under the EACH program would be increased from seven to nine. The Committee anticipates that the Secretary will designate additional States on the basis of applications received in response to the initial solicitation and the evaluation performed by the Department in response to those applications.

(c) The Secretary would be authorized to designate an urban hospital as an essential access community hospital if the hospital otherwise meets the criteria for designation. However, urban hospitals would not be eligible for a change in Medicare payment as a result of the designation.

(d) A State receiving a grant under the EACH program could designate a facility in an adjoining State as an essential access community hospital or a rural primary care hospital if the facility is otherwise eligible for designation. The Secretary would be authorized to designate a facility as an essential access community hospital or a rural primary care hospital if the facility is not in a State receiving an EACH program grant and if the facility is a member of a rural health network of a State receiving a grant.

(e) The requirements for written policies and procedures and the supervision of those procedures in rural primary care hospitals would be amended to clarify that the requirements are similar to those for hospitals. Specifically, rural primary care hospitals would be required to appoint a physician, as defined in section 1861(r)(1) of the Social Security Act, to supervise the implementation of the policies.

(f) A rural primary care hospital that had a swing-bed agreement at the time of designation would be authorized to provide swing-bed services up to the hospital's licensed acute care bed capacity at the time of conversion, minus the number of inpatient beds retained by the rural primary care hospital. The Committee recognizes that the statutory criteria regarding designation of a rural primary care hospital are based on the expectation that the RPCH will have a limited number of inpatient beds, and expects that in cases where the RPCH has a substantially greater number of patients, the Secretary may impose additional standards with respect to staffing or other requirements comparable to those applicable to skilled nursing facilities.

(g) The applicability of the inpatient hospital deductible and coinsurance to stays in rural primary care hospitals would be clarified.

(h) The Secretary would be required to implement a prospective payment system for outpatient RPCH services by January 1, 1996. The election of payment alternatives would continue until the Secretary implemented the new system. Payment for outpatient rural primary care hospital services would be made without regard to lesser-of-cost-or-charges limits. Minor drafting errors would be corrected.

Effective date: Effective upon the date of enactment.

Sec. 103. Provisions related to Rural Health Transition Grant Program

Appropriations for the rural health transition grant program would be authorized at $30 million a year for fiscal years 1993 through 1997. Rural Primary Care Hospitals would be eligible to receive grants.

Effective date: Effective upon the date of enactment.

Sec. 104. Psychology services in hospitals

In a State in which such supervision is authorized by State law, the care of hospital inpatients receiving qualified psychologist services could be supervised by a clinical psychologist with respect to such services to the extent permitted by State law.

Effective date: Effective upon the date of enactment.

Sec. 105. Medicare-Dependent, Small Rural Hospital and Sole Community Hospitals

(a) Medicare Dependent, Small Rural Hospitals—A technical correction to clarify that payment amounts are determined by using a 36-month cost reporting period. The target amount definitions needed to make the calculations for Medicare Dependent Hospitals would be extended to September 30, 1994.

(b) Sole Community Hospitals—A technical correction to clarify that the update factor for these hospitals would be based on cost reporting periods for fiscal year 1994.

Effective date: Effective upon the date of enactment.

Sec. 106. Skilled Nursing Facilities

(a) Wage Index—The Secretary would be required to begin collecting the data necessary to compute a wage index based on wages specific to skilled nursing facilities within one year of enactment. The Prospective Payment Assessment Commission would be required to study and report by March 1, 1994 on the impact of applying routine per-diem cost limits on a regional basis.

(b) A technical correction to utilization review and minor conforming amendments to correspond to Medicare Nursing Home Reform.

Effective date: Effective upon the date of enactment.

Sec. 107. Notification of Availability of Hospice Benefit

Hospital conditions of participation with respect to discharge planning would be modified to require an evaluation of a patient's likely need for appropriate post-hospital services, including hospice services, and the availability of those services.

Effective date: The provision would apply to services furnished on or after the first day of the first month beginning more than one year after the date of enactment.

Sec. 108. Clarifying Expertise of Individuals to Serve on Prospective Payment Assessment Commission

Expertise of individuals to serve on the Prospective Payment Commission would be clarified to provide for expertise in health facility management, reimbursement of health facilities or other providers of services which reflect the scope of the Commission's responsibilities.

Effective date: Effective upon the date of enactment.

Sec. 109. Authority for Budget Neutral Adjustments for Changes in Payment Accounts for Transfer Cases

The Secretary currently defines transfers and determines payment amounts for transfer cases in the Prospective Payment System. The Secretary would be authorized to make future revisions to transfer payment policy in a budget neutral manner.

Effective date: Effective upon the date of enactment.

Sec. 110. Clarification of DRG Payment Window; Miscellaneous and Technical Corrections

A Diagnosis Related Group (DRG) window provision of 24 hours would apply to hospitals that are not paid on the basis of DRGs. Other minor technical corrections would be made to Part A.

Effective date: Effective upon the date of enactment.

Provisions relating to part B

Sec. 121. Development and Implementation of Resource-Based Methodology for Practice Expenses

The Secretary would be required to develop a methodology for implementing in 1997 a resource-based system for determining practice expense relative value units for each physicians' service. In developing the methodology, the Secretary would consider the staff, equipment and supplies used in the provision of various medical and surgical services in various settings. The Secretary would be required to report to Congress on the methodology by June 30, 1995. The existing payment methodology would be repealed when the new payment methodology takes effect—for services provided in years beginning with 1997.

Effective date: Effective upon enactment.

Sec. 122. Geographic Cost of Practice Index Refinements

(a) Use of More Recent Data.—The Secretary would review and revise the geographic practice cost index (GPCI) by not later than January 1, 1995 using the most recent data on practice expenses, malpractice expenses and physicians' work effort. The Secretary would consult with appropriate representatives of physicians in reviewing geographic adjustment factors and indices. The Secretary is required to study and report to the Congress on the construction of the index by April 1, 1994.

The Secretary would conduct a study and, within one year of enactment, report to the Congress on: (1) the data necessary to review and revise the GPCI indices, including the shares allocated to physicians' work effort, practice expenses (other than malpractice expenses) and malpractice expenses; the weights assigned to the input components of such shares; and the index values assigned to such components; (2) any limitations on the availability of data necessary to review and revise the indices at least every 3 years; (3) ways to address such limitations, with attention to the development of alternative data sources for input components for which current index values are based on data collected less frequently than every three years; and (4) the costs of developing more accurate and timely data sources.

Effective date: Effective upon the date of enactment.

Sec. 123. Extra-Billing Limits

(a) Limitations on Beneficiary Liability—Non-participating physicians and nonparticipating suppliers would be prohibited from billing or collecting from any person an actual charge in excess of the Medicare limiting charge. No person would be liable for payment of any amount billed in excess of the limiting charge. Physicians, suppliers and other persons who bill or collect amounts exceeding the limiting charge would be required to: (1) refund the full amount collected in excess of the limiting charge; (2) reduce the outstanding balance owed for other items and services furnished to the individual by the amount of the charge exceeding the limiting charge and refund any amount in excess of the outstanding balance; or (3) in the case of where the excess charges have not been collected by the physician, reduce the actual charge billed for the service to the amount approved by Medicare.

Carriers would be required to notify a physician, supplier, or other person within 30 days if the physician has billed in excess of the limiting charge. The physician, supplier or other person would be required to refund or credit excess charges within 30 days after the date the physician, supplier, or other person is notified by the carrier of the violation.

A physician, supplier or other person who (1) knowingly and willfully bills or collects amounts in excess of the limiting charge on a repeated basis; or (2) fails to comply with the refund requirements would be subject to sanctions in accordance with Section 1842(j) of the Social Security Act.

(b) Clarification of Mandatory Assignment Rules for Certain Practitioners—Specified that physicians' assistants, nurse practitioners, clinical nurse specialists, certified registered nurse anesthetists, certified nurse-midwives, clinical social workers and clinical psychologists could only bill for services on an assignment-related basis and that no person is liable for amounts billed in violation of the assignment-related basis. The Secretary could impose sanctions under Section 1842(j) of the Social Security Act on a practitioner who knowingly and willfully bills in violation of this requirement.

(c) Information Regarding Limiting Charges—

(1) Carriers would be required to provide limiting charge information on the Explanation of Medicare Benefits form after the submission of an unassigned claim which exceeds the limiting charge, and to include on such forms information relating to the beneficiary's right to a refund of any excess amounts collected.

(2) Carriers would be required to screen 100 percent of unassigned claims submitted by non-participating physicians, suppliers or other persons prior to making payment to determine whether the amount billed exceeds the limiting charge.

(d) The Secretary would report to the Congress annually on the extent to which annual charges exceeded limiting charges, the number and types of services involved, and the average amount of excess charges.

(e) The provision makes miscellaneous and technical corrections.

Effective date: Except as otherwise provided, subsections (a) and (e) would be effective on enactment, except that subsection (a) does not apply to services of a non-participating supplier or other person furnished before January 1, 1994; subsections (b) and (c)(2) would apply to services furnished, or contracts, on or after January 1, 1994; and subsection (c)(1) would apply to forms provided on or after July 1, 1994. Subsection (d) applies to reports for years beginning with 1994.

Sec. 124. Relative Value for Pediatric Services

The Secretary would fully develop and refine by October 1, 1994 the relative values for the full range of pediatric services. The Secretary would conduct a study of the relative values for pediatric and other services to determine whether there are significant variations in the resources used in providing similar services to different populations. In conducting the study, the Secretary would consult with appropriate organizations representing pediatricians and other physicians, and submit a report to the Congress by July 1, 1995.

Effective date: Effective upon the date of enactment.

Sec. 125. Administration of Claims Relating to Physician Services

The Secretary would be prohibited from imposing any fees related to the filing of claims for physicians' services, for claims errors or denials, for administrative appeals, for obtaining unique identifier numbers, or for responding to inquires concerning the status of pending claims.

The Secretary would be permitted to recognize substitute billing arrangements between two physicians. In order to be recognized, such substitute billing arrangements would be required either to be informal, reciprocal, coverage agreements or per diem or other fee-for-time agreements. The duration of such agreements would be limited to 60 continuous days, and claims for services provided pursuant to such agreements would be required to include the unique identifying number of both physicians. These requirements would be effective for services provided under such arrangements in the first month beginning more than 60 days after the enactment of this Act.

Effective date: Effective upon the date of enactment.

Sec. 126. Miscellaneous and Technical Corrections

(a) Overvalued Procedures—Some procedures would be deleted from the list of exempted services and errors in the names of other services would be corrected. The procedures that would be deleted from the list of exempted services are: lobectomy; enterectomy; colectomy; cholecystectomy; and sacral laminectomy.

(b) Radiology Services—The conversion factors below the maximum reduction amount would not be permitted to be increased. The provision makes other technical changes to OBRA 90.

(c) Anesthesia Services—The conversion factors below the maximum reduction amount would not be permitted to increase. The provision makes other technical changes to OBRA 90.

(d) Assistants at Surgery—The application of the extra-billing limits to physicians serving as assistants at surgery would be clarified.

(e) Technical Components of Diagnostic Services—The limits on payment for the technical component of diagnostic services would not apply to services whose payments were reduced under the OBRA 89 overvalued procedure list.

(f) Statewide Fee Schedules—The OBRA 90 requirement for agreement from members of Congress would be eliminated, and Nebraska and Oklahoma would be statewide localities beginning in 1991.

(g) Study of Aggregation Rule for Claims of Similar Physician Services—The date that the study must be submitted to the Congress would be changed from December 31, 1992 to December 31, 1993.

A number of technical and drafting errors contained in OBRA 90 would be made through minor and conforming amendments.

Effective date: Effective as if included in OBRA 90.

PART II—DURABLE MEDICAL EQUIPMENT

Sec. 131. Certification of Suppliers

(a) (1) Certification of Suppliers—Suppliers of medical equipment and supplies (durable medical equipment, prosthetic devices, orthotics and prosthetics, surgical dressings and such other items as the Secretary may determine and home dialysis supplies and equipment and immunosuppressive drugs) will not be reimbursed for these items unless they have a Medicare supplier number. A supplier may not obtain a supplier number unless the supplier meets uniform national standards prescribed by the Secretary. By January 1, 1996, the Secretary would revise the standards.

The standards would require suppliers to (1) comply with all applicable State and Federal licensure and regulatory requirements; (2) maintain a physical facility and inventory on an appropriate site; (3) have proof of appropriate liability insurance; (4) meet other requirements established by the Secretary. In addition, the requirement for suppliers to obtain a supplier number does not apply to medical equipment and supplies furnished as incident to a physician's service. The Secretary is prohibited from delegating the responsibility to determine whether the supplier meets the standards necessary to obtain a supplier number.

The Secretary would be prohibited from issuing more than one billing number to any supplier, unless the issuance of more than one number is appropriate to identify subsidiary or regional entities under the supplier's ownership or control.

(2) Standardized Certificates of Medical Necessity—Not later than May 1, 1994, the Secretary would develop one or more standardized certificates of medical necessity for medical equipment and supplies if a certificate of medical necessity is required by the Secretary.

The OBRA 90 provision prohibiting suppliers of medical equipment and supplies from distributing completed or partially completed certificates of medical necessity would be modified. Effective May 1, 1994, suppliers may distribute to physicians or beneficiaries a certificate of medical necessity which contains no more than the following information: (1) an identification of the supplier and the beneficiary to whom such equipment or supplies are furnished; (2) a description of the equipment and supplies; (3) any product code identifying the medical equipment or supplies; (4) any other administrative information (other than information relating to the beneficiary's medical condition) identified by the Secretary. If a supplier distributes a certificate containing any of this information, the supplier must also list on the certificate of medical necessity the fee schedule payment amount and the supplier's charge prior to distribution to the physician for completion. Suppliers who violate the provisions would be subject to a civil money penalty in an amount not to exceed $1,000 for each certificate of medical necessity so distributed.

(3) Uniform National Coverage and Utilization Review Requirements—Not later than January 1, 1996, the Secretary would, in consultation with representatives of DME suppliers, beneficiaries, and medical specialty organizations, develop and establish uniform national coverage and utilization review criteria for 100 items of medical equipment and supplies. The criteria would be part of the instructions available to suppliers, and no further publication, including Federal Register publication, would be required.

The Secretary would select an item for development of national coverage and utilization review criteria if: (1) the item is frequently rented or purchased by beneficiaries; (2) the item is frequently subject to a determination that it is not medically necessary; or (3) a wide variation in the coverage or utilization review criteria applied to the item exists among carriers (as of the date of enactment). The Secretary would be required annually to review and determine whether items not on the list should be subject to uniform national coverage and utilization review criteria and to subject them to these criteria if necessary.

(b) Use of covered items by disabled beneficiaries—The Secretary would study and report to the Congress not later than one year following enactment on the effects of the methodology for determining payments for durable medical equipment items and supplies on the ability of persons entitled to disability benefits to obtain equipment, including customized items.

(c) Variations in Quality of Equipment—The Secretary would study and report to the Congress not later than one year after enactment describing prosthetic devices or orthotics and prosthetics that do not require individualized or custom fitting and adjustment. The Secretary would make recommendations regarding an appropriate method for determining the amount of payment for such items that do not require individualized or custom fitting and adjustment.

Effective date: Effective upon enactment, except as otherwise indicated.

Sec. 132. Prohibition Against Carrier Forum Shopping

The Secretary would be authorized to designate in a regulation one carrier for one or more entire regions to process all claims within the region for covered durable medical equipment, prosthetic devices, and orthotics and prosthetics. Unless permitted by the Secretary, suppliers would be prohibited from submitting claims to any carrier other than the carrier having jurisdiction over the geographic area that includes the permanent residence of the patient to whom the item is furnished.

Effective date: Effective for items and services furnished on or after May 1, 1994.

Sec. 133. Restrictions on Certain Marketing and Sales Activities

Suppliers would be prohibited from making unsolicited telephone contacts with Medicare beneficiaries, unless the individual gives written permission to the supplier, or the supplier has furnished the individual with a covered item within the preceding 15 months. Medicare would not pay for items provided subsequent to a prohibited telephone contact. The Secretary would be required to exclude from programs under the Social Security Act suppliers who knowingly make prohibited telephone contacts to such an extent that the supplier's conduct establishes a pattern of contacts in violation of the prohibition. Beneficiaries would not be liable for the cost of items provided as a result of prohibited telephone contacts, and the supplier would be required to refund any amounts collected on a timely basis or be subject to certain sanctions.

Effective date: Effective 60 days after enactment.

Sec. 134. Kickback Clarification

The exemption from anti-kickback penalties for employees in bona-fide employment relationships with providers of Medicare-covered services and supplies would not include the tasks of transmitting assignment rights of Medicare beneficiaries to suppliers of covered items, or performing warehousing or stock inventory functions.

Effective date: Effective 60 days after enactment.

Sec. 135. Beneficiary Liability for Non-covered Services

Medicare beneficiaries would not be financially liable for covered items furnished by a supplier on an unassigned basis if: (1) the supplier does not meet Medicare standards for suppliers of medical equipment and supplies; (2) Medicare has denied payment for the item in advance; or (3) the carrier has determined that the item is not medically necessary.

Effective date: Effective for services provided on or after October 1, 1994.

Sec. 136. Adjustments for Inherent Reasonableness

The Secretary would determine whether the payment amounts for decubitus care mattresses, transcutaneous electrical nerve stimulators (TENS), and any other items considered appropriate by the Secretary are inherently reasonable and would adjust payments for these items if the amounts are not inherently reasonable. Adjustments for these items would be based on the prices and costs applicable at the time the item is furnished.

Effective date: Effective on the date of enactment.

Sec. 137. Miscellaneous and Technical Corrections

(a) Updates to Payment Amounts—The OBRA 90 error would be corrected by specifying that the 1991 and 1992 update is the CPI-U minus one percentage point.

(b) Potentially Overused items and Advance Determinations of Coverage—The Secretary would be able to develop a list of potentially overused items for which advance determinations of coverage may be made if the Secretary determines, based on prior payment experience, that these items are frequently subject to unnecessary utilization throughout a carrier's entire service area or portion of such area. The Secretary could also develop a list of suppliers for which advance determinations of coverage may be made because the Secretary has found that a substantial number of claims have been denied on the basis that they are not medically necessary; or the Secretary has identified a pattern of overutilization resulting from the business practices of the supplier.

A carrier would be required to determine in advance of delivery of an item whether payment for the item may not be made because the item not covered, is included on the list of potentially overused items developed by the Secretary or the item is furnished by a supplier included on the list of potentially abusive suppliers developed by the Secretary.

(c) Study in Variations in Durable medical Equipment Supplier Costs—The Secretary would be required to collect data on supplier costs for DME and analyze them to determine costs attributable to service and product components and the extent to which they vary by type of equipment and geographic region. The HCFA administrator would be required to submit a report and recommendations for a geographic cost adjustment index for DME supplies and an analysis of the impact of such an index on Medicare payments.

(d) Oxygen Retesting—The OBRA 90 language regarding the arterial blood gas values would be amended to require retesting when a beneficiary's initial value is at or above 56.

In addition, the proposal includes certain technical corrections to Sections 4152 and 4153 of OBRA 90.

Effective date: Effective as if included in OBRA 90.

PART III—OTHER ITEMS AND SERVICES

Sec. 141. Ambulatory Surgical Center Services

(a) Payment Amounts—The update for ambulatory surgery services would be established, beginning with fiscal year 1995, at the CPI-U, as estimated by the Secretary, for the twelve-month period ending with the midpoint of the year involved. The Secretary would be required to conduct a survey, based on a representative sample of procedures and facilities, taken not later than January 1, 1995 and updated every five years thereafter, of the actual audited costs of ambulatory surgery facilities. The survey results would be used in establishing payment rates. The Secretary would be required to consult with appropriate trade and professional organizations in updating the list of procedures that can be performed in ambulatory surgery centers.

(b) Adjustments to Payment Amounts for New Technology Intraocular Lenses—The Secretary would be required, within one year after the date of enactment, to develop and implement a process for reviewing reimbursement for new technology intraocular lenses (IOLs). In order to be considered a new technology IOL, the device would have to be approved by the FDA. The Secretary would also be required to consider specific circumstances in determining whether to adjust the payment amount for new technology IOLs. The provision also would specify the administrative procedures for reviewing and approving new technology IOLs.

(c) Technical Corrections—The provision makes technical and miscellaneous corrections to OBRA 90 regarding ambulatory surgery centers.

Effective date: Subsection (a) would be effective upon enactment. Any adjustments of payment amounts under Subsection (b) would become effective not later than 30 days after the date on which the notice of adjustment is published. Subsection (c) would be effective as if included in OBRA 90.

Sec. 142. Study of Medicare Coverage of Patient Care Costs Associated with Clinical Trials of New Cancer Therapies

The Secretary would study the costs of patient care for Medicare beneficiaries enrolled in clinical trials of new cancer therapies (where the protocol for the trial has been approved by the National Cancer Institute or meets similar scientific and ethical standards, including approval by an Institutional Review Board) and report to Congress within two years.

Effective date: Effective upon enactment.

Sec. 143. Study of Annual Cap on Amount of Medicare Payments for Outpatient Physical Therapy and Occupational Therapy Services

The Secretary would study the appropriateness of continuing the annual limitation on the amount of payment for outpatient services of independently practicing physical and occupational therapists and report to Congress by January 1, 1995.

Effective date: Effective upon enactment.

Sec. 144. Payment of Part B Premium Late Enrollment Penalties by States

The Secretary would be authorized to enter into agreements with States for purposes of allowing States to make premium payments for penalties associated with late enrollment under Part B. States would be permitted to make quarterly payments on a lump-sum basis.

Effective date: Effective upon enactment.

Sec. 145. Treatment of Inpatients and Provision of Diagnostic X-Ray Services by Rural Health Clinics and Federally Qualified Health Centers

The provision clarifies that rural health clinics (RHCs) and federally qualified health centers (FQHCs) are not limited to providing services solely to outpatients. Physician services provided to Medicare patients of a RHC or a FQHC would be covered (and paid for through the all-inclusive rate) when such patients are inpatients in a covered medical facility. In addition, diagnostic X-ray services would be covered as qualified RHC and FQHC services.

Effective date: Applies to services furnished on or after January 1, 1994.

Sec. 146. Application of Mammography Certification Requirements

Any mammography facility providing covered screening or diagnostic mammograms to Medicare beneficiaries would be required to hold a certificate (or provisional certificate) issued in accordance with the provisions of the Public Health Service Act.

Effective date: Applies to mammography furnished by a facility on and after the first date that the certificate requirements of section 354(b) of the Public Health Service Act apply to such mammography conducted by such facilities.

Sec. 147. Coverage of Services of Speech-Language Pathologists and Audiologists

The term "speech pathologist" would be changed to "speech-language pathologist" where it appears, except that this amendment would not change the definition of services covered in any setting. A statutory definition of speech-language pathologist and audiologists would be established, consistent with current coverage guidelines.

Effective date: Effective on January 1, 1994.

Sec. 148. Miscellaneous and Technical Corrections

(a) Revision of Information on Part B Claims—The claim form would be required to include the unique physician identification number (UPIN), and the requirement that claims indicate whether the referring physician is an investor in the entity would be repealed.

(b) Consultation for Social Workers—Clinical social workers would be required to consult with a patient's attending physician in the same manner as clinical psychologists.

(c) Reports on Hospital Outpatient Payment—The requirement for the preparation of reports contained in Section 6137 of OBRA 89 and Section 1135(d)(6) of the Social Security Act would be repealed.

(d) Radiology and Diagnostic Services Provided in Hospital Outpatient Departments—Outpatient payment limits would apply to diagnostic services. The physician component of the limit would be based on the resource based relative value scale.

(e) Payments to Nurse Practitioners in Rural Areas—The services of nurse practitioners and clinical nurse specialists would be added to the list of services excluded from the definition of inpatient hospital services.

(f) Other Technical and Conforming Amendments—The special enrollment period would be modified to allow individuals who have employer group health coverage to enroll in Part B at any time they are enrolled in the group health plan, rather than after they leave the plan. If an individual enrolls in Part B while enrolled in the group health plan or in the first month after leaving the plan, Medicare coverage would begin on the first day of the month in which the individual enrolled (or, at he option of the individual) on the first day of any of the following three months).

Various technical and conforming amendments to Sections 4154 through 4164 of OBRA 90 would be made.

Effective date: Except as otherwise provided, effective as if included in OBRA 90.

Subtitle C—Provisions relating to parts A and B

Sec. 151. Medicare Secondary Payer Reforms

(a)(1) The Administrator of HCFA would be required to mail questionnaires to individuals, before such individuals become entitled to benefits under part A or enroll in part B, to determine whether the individual is covered under a primary plan. In addition, the provision would clarify that payments would not be denied for covered services solely on the grounds that a beneficiary's questionnaire fails to note the existence of other health plan coverage.

(2) Providers and suppliers would be required to complete information on claim forms regarding potential coverage under other plans.

Civil monetary penalties would be established for an entity that knowingly, willfully and repeatedly fails to complete a claim form with accurate information.

(b)(1) Contractors would be required to submit a report to the Secretary annually regarding steps taken to recover mistaken payments.

(2) The Secretary would be required to evaluate the performance of contractors in identifying cases in which Medicare is secondary payer.

(3) The provision would clarify the Secretary's authority to charge interest if payment is not received within 60 days after notice is given.

Effective date: The requirements under subsection (a) regarding improved identification of Medicare secondary payer situations would be effective upon the date of enactment, with the exception of subparagraph (2)(A), affecting screening requirements for providers and suppliers, which would apply to items and services punished on or after January 1, 1994. The requirements specified under (b)(1) and (b)(2) would apply to contracts with fiscal intermediaries and carriers for years beginning in 1994. Paragraph (b)(3) affecting the deadline for reimbursement by primary plans would apply to payments for items and services furnished on or after the date of enactment.

Sec. 152. Physician Ownership and Referral

The provision would clarify reporting requirements by specifying that physicians would be required to report investment and compensation arrangements (in addition to ownership) of designated health services. The provision would also clarify the list of designated health services subject to self-referral prohibitions by deleting the term "other diagnostic services" following radiology services and substituting "magnetic resonance imaging, computerized axial tomography scans and ultrasound services." The provision would clarify the application of effective dates with respect to some exceptions.

Effective date: The provisions regarding reporting requirements and the list of designated health services would apply to referrals made on or after January 1, 1995. The provision clarifying effective dates would apply as if included in the enactment of OBRA 93.

Sec. 153. Definition of FMGEMS Examination for Payment of Direct Graduate Medical Education

This provision allows the Secretary to recognize the successor test to the Foreign Medical Graduate Examination in the Medical Sciences (FMGEMS).

Sec. 154. Qualified Medicare Beneficiary Outreach

The Secretary would be required to establish and implement a method for obtaining information from individuals when they become entitled to benefits under part A or enroll in part B that may be used to determine eligibility for benefits under the QMB program.

Effective date: Effective upon the date of enactment.

Sec. 155. Hospital Agreements With Organ Procurement Organizations

Hospitals and rural primary care hospitals would be required to enter into an agreement with the organ procurement organization (OPO) designated by the Secretary for the geographic area in which the hospital or rural primary care hospital is located unless the hospital or rural primary care hospital has obtained a waiver from the Secretary. The Secretary would be required to grant a waiver if the Secretary determines: (1) that the waiver is expected to increase organ donation; and (2) that the waiver will assure equitable treatment of patients referred for transplants within the service area served by such hospital's designated OPO and within the service area served by the OPO with which the hospital or rural primary care hospital enters into an agreement under the waiver.

In making a decision whether to grant a waiver, the Secretary would be authorized to consider such factors as (1) cost effectiveness; (2) improvements in quality; (3) whether there has been any change in a hospital's designated OPO due to a change made on or after December 28, 1992 in the definitions for metropolitan statistical areas (as established by the Office on Management and Budget); and (4) the length and continuity of a hospital's relationship with an OPO other than the hospital's designated OPO, except that the factors the Secretary may consider in determining whether to grant a waiver are not to be construed to permit the Secretary to grant a waiver that is not expected to increase organ donation or assure equitable treatment to patients served by both OPOs affected by a waiver.

Hospitals or rural primary care hospitals seeking a waiver would be required to submit an application to the Secretary containing information the Secretary deems appropriate. The Secretary would be required to publish a public notice of any waiver application within 30 days of receiving an application and would be required to offer interested parties the opportunity to submit written comments during a 60-day period following publication of the notice.

Hospitals and rural primary care hospitals that currently have agreements with organ procurement organizations other than the OPO designated by the Secretary for that geographic area and which desire to continue such agreements must submit a waiver application to the Secretary by January 1, 1995. Hospitals and rural primary care hospitals may continue such agreements pending the Secretary's decision on the waiver.

The Office of Technology Assessment (OTA) would be required, pursuant to the approval of its Technology Assessment Board, to study the efficacy and fairness of requiring a hospital or rural primary care hospital to enter into an agreement with the OPO designated by the Secretary for the service area in which the hospital or rural primary care hospital is located and the impact of this requirement on the efficacy and fairness of organ procurement and distribution. The OTA would be required to submit its report to Congress not later than two years following enactment of this act. The report is to include findings and the implications of these findings on policies affecting organ procurement and distribution.

Effective date: Applies to hospitals and primary care hospitals participating in Medicare and Medicaid beginning January 1, 1995.

Sec. 156. Peer Review Organizations

The requirement that PROs precertify selected surgical procedures would be repealed. Clarifies the notification of state licensing boards by PROs.

Effective date: Effective upon the date of enactment.

Sec. 157. Health Maintenance Organizations

The Secretary would be required to revise the payment methodology for HMOs for contract years beginning with 1994 to take into account variation in costs associated with beneficiaries for whom Medicare is the secondary payer. The Secretary would be further required to submit a proposal to Congress by October 1, 1994 that provides for revisions to the payment methodology for contract years beginning with 1996. In proposing the revisions, the Secretary would be required to consider (1) the difference in costs associated with beneficiaries with different health status and (2) the effects of using alternative geographic classifications. The Comptroller General would be required to report to the Congress on the proposed revisions no later than three months after the Secretary's proposal was submitted.

Effective date: Effective upon the date of enactment.

Sec. 158. Home Health Agencies

(a) Wage Index—The most recent hospital wage data are to be used in constructing the home health wage index for cost reporting periods beginning July 1, 1996.

(b) Waiver of Liability Extension—The limits on liability for claims disallowed by a lack of medical necessity are extended through December 31, 1995 to be comparable to Skilled Nursing Facilities (SNFs) and Hospice Services.

Sec. 159. Permanent Extension of Authority to Contract with Fiscal Intermediaries and Carriers on Other than a Cost Basis

Limited authority provided in section 2326 of the Deficit Reduction Act of 1984 for the Secretary to enter into agreements with fiscal intermediaries and carriers on other than a cost basis would be made permanent.

Sec. 160. Miscellaneous and Technical Corrections

(a) Survey and Certification Requirements—The provision would clarify that user fees imposed under the Clinical Laboratory Improvement Act are not subject to the general ban on user fees.

Minor and technical errors relating to a home dialysis demonstration program authorized under OBRA 90 and Medicare secondary payer requirements in OBRA 90 would be corrected. In addition, the provision would correct minor and technical errors in Sections 4201 through 4207 of OBRA 90.

(b) Other Technical Amendments—A number of minor technical amendments relating to Parts A and B of the Medicare program would be made.

(c) Technical Correction To Revisions of Coverage for Immunosuppressive Drug Therapy—The provision would modify the phase-in schedule enacted in OBRA 93 for beneficiaries who receive immunosuppressive drugs following on organ transplant. Individuals who receive a transplant prior to 1994 would be eligible for immunosuppressive drug coverage within 12 months following the date of the transplant. Individuals who receive a transplant during 1994 would be eligible for such drug coverage for 487 days after the date of the transplant.

Effective date: Effective on the date of enactment.

Subtitle D—Medicare supplemental insurance policies

Sec. 171. Standards for Medicare Supplemental Insurance Policies

Preventing Duplication—This provision would continue the current law prohibition on the sale of duplicative health insurance policies subject to the conditions described in the following paragraph. The provision would clarify that it is unlawful to sell or issue to an individual entitled to benefits under Part A or enrolled under Part B: (i) a health insurance policy with knowledge that such policy duplicates health benefits to which such an individual is otherwise entitled under Medicare or Medicaid; (ii) a Medigap policy with knowledge that the individual is entitled to benefits under another Medigap policy; or, (iii) a health insurance policy, other than a Medigap policy, with knowledge that such policy duplicates health benefits to which the individual is otherwise entitled.

Penalties would not apply, however, to the sale or issuance of a policy or plan that duplicates health benefits under Medicare or Medicaid or a policy or plan that duplicates health benefits to which the individual is otherwise entitled if, under the policy or plan, all benefits are fully payable directly to or on behalf of the individual without regard to other health benefits coverage of the individual. In addition, for the penalty to be waived in the case of the sale or issuance of a policy or plan that duplicates benefits under Medicare or Medicaid, the application for the policy must include a statement, prominently displayed, disclosing the extent to which benefits payable under the policy or plan duplicate Medicare benefits.

Policies that would be subject to the disclosure requirement include, but are not limited to: specific disease policies, hospital confinement indemnity policies, long term care policies, policies that provide fixed indemnity benefits for nursing home care, nursing services in the home or for home care, and policies that provide fixed indemnity benefits for any medical or surgical service or treatment.

The new provisions pertaining to non-duplication would not alter the current law prohibition on the sale of a Medigap policy to a Medicaid beneficiary, except for policies containing prescription drug coverage to Qualified Medicare Beneficiaries, and there is no prohibition on sale of policies to low-income Medicare beneficiaries for whom Medicaid pays only Part B premiums.

Loss Ratios and Refund of Premiums—The provision would clarify that the OBRA '90 loss ratio standard would apply to policies sold or renewed after the effective date of the provision. With respect to a refund or credit for policies issued prior to the effective date of the provision, the calculation would be based on aggregate benefits provided and premiums collected for all policies issued by an insurer in a state and based only on aggregate benefits provided and premiums collected under the policies after the effective date. Other minor and technical drafting errors would be corrected.

Pre-existing Condition Limitations—The provision would clarify the intent of OBRA'90 that, in the case of individuals enrolled in part B prior to age 65, Medigap insurers are required to offer coverage, regardless of medical history, for a six-month period when the individual reaches age 65. The provision would also clarify that insurers are prohibited from discriminating in the price of policies for such an individual, based upon the medical or health status of the policyholder.

Other Miscellaneous and Technical Corrections—The provision would clarify that certain language should be deleted from section 12(C) of the National Association of Insurance Commissioners Model Regulations pertaining to sales commissions. The effective dates for various provisions would be modified. Other minor and technical drafting errors would be corrected.

Effective date: Effective upon the date of enactment.

(c) Effective for contract years beginning on or after April 1, 1994, whether or not there are regulations promulgated by such date for information required to be reported before that date.

(d) Effective for contract years beginning on or after April 1, 1994.

(e) Effective for contract years beginning on or after January 1, 1995.

(f) Effective for contract years beginning on or after January 1, 1994.

Sec. 202–204. Medicaid managed care waiver extensions

Extends waivers of the enrollment mix requirement for certain managed care organizations in the District of Columbia, Tennessee, and Wisconsin through December 1995.

Effective date: Effective upon enactment, except for Chartered Health Plan of the District of Columbia, whose waiver extension is effective retroactively back to October 1992.

Sec. 205. Extension of Minnesota prepaid Medicaid demonstration project

Extends the demonstration period through 1998 and provides authority and conditions for the imposition of premium charges for participants.

Effective date: Effective upon enactment.

Sec. 211. Prior institutionalization requirement for home and community based waiver programs

Eliminates the prior institutionalization requirement for habilitation services provided under a home and community based waiver program.

Effective date: Effective for services provided on or after January 1, 1994.

Sec. 212. Third party liability

Relieves states of the obligation to pursue payment from third parties for the costs of Medicaid case management services

TITLE II—MEDICAID PROVISIONS

Sec. 201. Medicaid managed care antifraud provisions

(a) Prohibiting Affiliations with Individuals Debarred by Federal Agencies—Prohibits Medicaid managed care entities from having as a director, officer, partner, or persons with beneficial ownership greater than five percent of the organization's equity if the person has been debarred or suspended from government contracting pursuant to the Federal Acquisition Regulations, or if the person is an affiliate of such debarred person. Prohibits Medicaid managed care entities from having business affiliations (employment, consulting, or other agreement) for the provision of goods and services that are significant and material to the managed care organization if the person has been debarred or suspended from government contracting pursuant to the Federal Acquisition Regulations.

(b) Requirement for State Conflict of Interest Safeguards in Medicaid Risk Contracting—Requires a state to certify to the Secretary that it has safeguards against conflict of interest between state employees responsible for Medicaid managed care contracting and such contractors.

(c) Disclosure of Financial Information—Requires Medicaid managed care contractors to report financial information specified by the Secretary and the states related to fiscal solvency. A managed care contractor must also agree to make available certain specified information to enrollees upon request.

(d) Prohibiting Marketing Fraud—Requires the Secretary to promulgate regulations on marketing for enrollment and re-enrollment purposes to provide adequate client information.

(e) Requiring Adequate Provision Against the Risk of Insolvency—Requires the Secretary to promulgate regulations concerning solvency standards for Medicaid managed care contractors.

(f) Requiring Report on Net Earnings and Additional Benefits—Medicaid managed care providers will be required to provide an audited financial statement and a report on any benefits provided to Medicaid clients in excess of what was required under the Medicaid contract. These will be annual requirements and the required information will be provided to the State and the Secretary for each contract year.

Effective date:

(a) Effective for Medicaid managed care contracts entered into or renewed on or after January 1, 1994.

(b) Effective July 1, 1994, whether or not there are regulations when it is not cost-effective in the aggregate to do so.

Effective date: Effective January 1, 1994.

Sec. 223. Changes to certain waiver formula

Makes technical changes to the 1915(d) waiver formula.

Effective date: Effective as if included in OBRA 87.

Sec. 221. Presumptive eligibility

Modifies current law to permit state eligibility workers to make presumptive eligibility determinations for pregnant women under certain conditions if the state uses all other presumptive providers specified in statute.

Effective date: Effective January 1, 1994.

Sec. 222. Medicaid disallowances

Allows states to make a showing of certain factors that the Secretary and the Departmental Appeals Board shall consider in determining the amount of a Medicaid disallowance.

Effective date: Effective for disallowance made on or after enactment.

Sec. 223. Medicaid intermediate sanctions for kickback violations

(a) Penalty for Kickbacks—In addition to criminal penalties for kickback violations under Title XI, provides for intermediate sanctions (civil monetary penalties) for violation of the antikickback rules by state health care program providers.

(b) Authorization to Impose Civil Monetary Penalties—Allows the Secretary of HHS to impose civil monetary penalties if the Attorney General does not initiate action in federal District Court within one year of the date on which the Secretary presents to the Attorney General for consideration, a case concerning a state health care program provider.

Effective date:

(a) Effective upon enactment.

(b) Effective for cases presented to the Attorney General on or after enactment.

Sec. 224. Medicaid tax and donation provision

Makes technical change to 1991 law to prohibit double taxation of Health Maintenance Organizations.

Effective date: Effective January 1, 1994 except where state law changes are required.

Sec. 225. Application of mammography certification rules

Requires a Medicaid facility to be certified (provisionally or otherwise) under Sec. 354 of the Public Health Service Act in order to receive payment for mammography screening.

Effective date: Effective concurrent with Sec. 354 except in the case of states requiring state enabling legislation in which case the provision is effective the first day of the first calendar quarter beginning after the close of the first regular session of the state legislature that begins after the date of enactment.

Sec. 226. Nursing home reform changes

(a) Nurse Aide Training in Nursing Facilities Subject to an Extended Facility Survey—Modifies the conditions under which a nursing facility would be prohibited from conducting nurse aide training when it is subject to an extended survey of compliance with Medicaid conditions of participation.

(b) Requirements for Drug Regimen Review Consultants—Allows the Secretary to consider the availability of qualified consultants in determining whether a nursing facility has met requirements for review of resident drug therapies.

(c) Resident's Personal Funds—Raises the minimum amount of funds which a nursing facility must place in a separate, interest bearing account from $50 to $100.

(d) Due Process Protections for Nurse Aides—Prohibits including any undocumented allegations against a nurse aide in a state registry that pertain to resident abuse or neglect, or misappropriation of resident property.

(e) Written Notice of Allegations—Clarifies that a state must make written notification to a nurse aide of allegations of abuse or misappropriation of property, including a written notice of an opportunity for a hearing to rebut allegations and requires that the State make a written finding concerning the allegation(s).

Effective date:

(a) Effective as if included in OBRA 87.

(b) Effective as if included in OBRA 87.

(c) Effective January 1, 1994.

(d) Effective January 1, 1994.

Sec. 227. Maternal and child health block grant

Sets the MCHBG authorization level at $705 million.

Effective date: Effective upon enactment.

Sec. 242. Corrections to OBRA 90 drug rebate program.

Makes various technical corrections and clarifications to the Medicaid drug rebate provisions of OBRA 90.

Effective date: Effective as if included in OBRA 90

Sec. 241, 243–263. Corrections to OBRA 90

Makes various technical corrections and clarifications to OBRA 90 provisions.

Effective date: Effective as if included in OBRA 90

Sec. 271–273. Corrections to OBRA 93

Makes various technical corrections and clarifications to OBRA 93 provisions concerning personal care services and emergency services to aliens.

Effective date: Effective as if included in OBRA 93

Sec. 274. Corrections to eligibility provisions of OBRA 93

Makes technical corrections to the asset transfer and trusts provisions of OBRA 93, by including a delayed effective date for states requiring enabling legislation to implement the new rules on asset transfers (to parallel similar provision for implementation of trust rules) and clarifying that when assets are returned to an individual, the period of ineligibility is proportional to the amount of assets that were not returned.

Effective date: Effective as if included in OBRA 93.

Sec. 275. Corrections relating to Medicaid estate recoveries

Makes technical corrections to the estate recovery provisions.

Effective date: Effective as if included in OBRA 93.

Secs. 276–277. Corrections relating to third party liability and medical child support

Makes technical changes to both provisions and clarifies that a state must assure the Secretary that it has laws requiring insurers to recognize the rights of assignment of both the state Medicaid agency and the rights of assignment of any other state Medicaid agency.

Effective date: Effective as if included in OBRA 93.

Sec. 278. Physician referral

Makes a technical correction to Sec. 13624 concerning physician referrals.

Effective date: Effective as if included in OBRA 93.

Sec. 279. Vaccine purchase provisions

(a) Interim Replacement Program—Conforms provision to current practice by clarifying that vaccine shipping costs for the Medicaid replacement program are not included in the vaccine price under the price cap.

(b) Vaccine Purchase—Clarifies that excise taxes are not included under the price cap.

Effective date: Both (a) and (b) are effective as if included in OBRA 93.

Sec. 280. OBRA 1990 demonstration project

Makes technical correction to OBRA 90 Medicaid demonstration projects.

Effective date: Effective as if included in OBRA 90.

TITLE III—INCOME SECURITY, HUMAN RESOURCES, AND RELATED PROGRAMS

Subtitle A—Child welfare services, foster care, and adoption assistance

Sec. 301. Required protections for foster children

Present law: In order to receive its share of the title IV–B allocation in excess of $141 million, each State is required under section 427(a) of title IV–B to conduct an inventory of children in foster care; and to implement and operate, to the satisfaction of the Secretary, a tracking system for children in foster care, a case review system for children in foster care, and a service program designed to help children, where appropriate, return to families from which they have been removed or be placed for adoption or legal guardianship.

Further, under section 427(b), if the appropriations for the title IV–B program equal $325 million for two consecutive years, a State does not receive its title IV–B allotment in excess of its share of the 1979 funding level unless it has met all the section 427 requirements outlined above, and in addition, has implemented a preplacement preventive services program designed to help children remain with their families. Finally, States that have elected to provide Federally-supplemented foster care payments for voluntarily-placed foster children are required to implement all section 427 protections, including the preplacement preventive services program.

Committee amendment: Beginning for fiscal year 1996, the provision would repeal section 427 of title IV–B and require that the State plan for basic title IV–B funds provide for the foster care protections currently outlined in section 427.

In addition, within 12 months after enactment, States would be required to review State policies and administrative and judicial procedures in effect for children abandoned at or shortly after birth (including policies and procedures providing for legal representation of such children), and, within 24 months after enactment, to implement such policies and procedures as the State determines necessary to enable permanent decisions to be made expeditiously regarding the placement of such children.

Also, funds withheld or recovered from a State based on its failure to provide the above protections could not be reallotted among other States.

Effective date: October 1, 1995.

Sec. 302. Conformity reviews

Present law: (a) Title IV–B.—Section 427 of title IV–B contains certain protections for foster children with which States must comply to be eligible to receive incentive funds. The Department of Health and Human Services (HHS) has developed a review system to determine State compliance with these protections.

States self-certify their compliance with section 427 requirements, and are then reviewed by HHS to determine actual compliance. To verify compliance with section 427, HHS conducts a two-stage review. The first stage is an administrative review to determine whether States have developed policies and procedures necessary to implement section 427 protections for all children in foster care under the responsibility of the State. The second stage is a case record survey to determine if these policies are being implemented throughout the State.

An initial review is conducted for the first year in which the State self-certifies its eligibility. The case record survey in the initial review must confirm that section 427 protections are provided for at least 66 percent of the children in foster care. If a State meets the initial review requirements, a subsequent review is conducted for the following fiscal year, which must find that section 427 protections are provided for at least 80 percent of the children. States which meet the subsequent review will be reviewed for the third fiscal year following the fiscal year for which the subsequent review was conducted. This triennial review must find section 427 protections are being provided for at least 90 percent of the children in foster care. If a State does not meet the requirements for any year under review, the review is conducted each succeeding fiscal year until eligibility is established for title IV–B incentive funds, or until the State withdraws it self-certification.

(b) Title IV–E.—Section 471(a)(13) of title IV–E requires, as a component of State plans under title IV-E, that States arrange for periodic and independent audits of their activities under titles IV-B and IV-E, to be conducted at least once every three years. In addition, section 471(b) allows the Secretary of HHS to withhold or reduce payments to States upon finding that a State plan no longer complies with State plan requirements, or, in the State's administration of the plan, there is substantial failure to comply with its provisions. The Secretary must first provide reasonable notice and opportunity for a hearing.

Committee amendment: The Secretary, in consultation with State agencies administering programs under parts B and E of title IV, is required to publish regulations not later than January 1, 1995, to be effective on and after October 1, 1995, to determine whether State programs are in conformity with State plan requirements under parts B and E, the implementing regulations promulgated by the Secretary, and the relevant approved State plans.

The regulations would have to:

(a) specify the review timetable, which would have to require an initial review of each State program; a timely review of a State program which has been found not to be in substantial conformity; and could permit less frequent reviews of State programs found in substantial conformity;

(b) specify the requirements subject to review, and the criteria for measuring conformity and whether there is a substantial failure to conform;

(c) specify the method to be used to determine the amount of any withholding of Federal matching funds for failure to conform, under which: (i) no withholding could occur unless the program fails substantially to conform, (ii) no withholding could occur for a failure resulting from the State's reliance upon and correct use of formal written statements of Federal law or policy provided to the State by the Secretary, and (iii) the withholding would be related to the extent of the failure to conform;

(d) require the Secretary, with respect to any State found to have failed substantially to conform, (i) to afford the State an opportunity to adopt and implement a corrective action plan, approved by the Secretary, designed to end the failure to conform, (ii) to make technical assistance available to the State to the extent feasible to enable the State to develop and implement the corrective action plan, (iii) to suspend any withholding while the corrective action plan is in effect, and (iv) to rescind any withholding if the failure to conform is ended by successful completion of the corrective action plan.

The regulation must: (i) require the Secretary to give notice to a State not later than 10 days after the determination that the State's program is not in conformity, stating the basis for the determination and the amount of Federal matching funds (if any) to be withheld from the State, (ii) afford the State an opportunity to appeal the determination to the Departmental Appeals Board within 60 days of receipt of the notice (or, if later, after failure to continue or to complete a corrective action plan), and (iii) afford the State an opportunity to obtain judicial review of an adverse decision of the Board, by appeal to the appropriate Federal district court within 60 days after receiving notice of the Board's decision.

Effective date: Upon enactment.

Sec. 303. States required to report on measures taken to comply with measures taken to comply with the Indian Child Welfare Act

Present law: The Indian Child Welfare Act (P.L. 95-608) includes a number of State requirements relating to the foster care or adoptive placement, or termination of parental rights, of Indian children. There is currently no statutory link between the Indian Child Welfare Act and the child welfare services programs under the Social Security Act.

Committee amendment: A State plan for title IV-B must contain a description, developed after consultation with tribal organizations in the State, of the specific measures taken by the State to comply with the Indian Child Welfare Act.

Effective date: October 1, 1994.

Sec. 304. Child welfare traineeships

Present law: Title IV-B authorizes such sums as may be necessary to enable the Secretary to make grants to public or private nonprofit institutions of higher education for training personnel for work in the field of child welfare.

Committee amendment: The Secretary could award grants to institutions of higher learning for child welfare traineeships with stipends only where the grant application provides assurances that:

(a) students given stipends would have to agree to participate in training at a child welfare agency and either to serve in a public or private child welfare agency for a period equal to the period of training, or to repay the cost (or an appropriately pro-rated part) of the stipend, plus interest and, if applicable, reasonable collection fees (in accordance with regulations promulgated by the Secretary). Exceptions to repayment may be prescribed by the Secretary in regulations;

(b) the institution would enter into agreements with child welfare agencies for on-site training of stipend recipients, accept applications from individuals already employed in the field of child welfare services, and track, for a period of three years after completion of a course of study, the employment record of each former student.

Effective date: Would apply to grants awarded on or after October 1, 1994.

Sec. 305(a). "Most appropriate setting" requirement

Present law: Current law requires each foster child to have a case plan designed to achieve placement in the "least restrictive (most family-like) setting available."

Committee amendment: The current law amendment will be modified to require placement in "the least restrictive (most family-like) and most appropriate setting available."

Effective date: October 1, 1994.

Sec. 305(b). Dispositional hearing

Present law: In order to receive certain incentive funds under title IV-B, States are required to implement and operate, in addition to other activities, a case review system for each child receiving foster care under the supervision of the State. Section 475 of title IV-E defines "case review system" to mean a procedure for assuring that: (a) each child has a case plan meeting certain specified requirements; (b) the status of each child is reviewed at least once every six months by a court or by administrative review; and (c) each child in foster care is guaranteed a dispositional hearing in a family or juvenile court or another court of competent jurisdiction, or by an administrative body appointed or approved by the court, no later than 18 months after the original placement in foster care (and periodically thereafter during a continuation of foster care).

The dispositional hearing determines: (a) the future status of the child, including but not limited to, whether the child should be returned to the parent, should be continued in foster care for a specified period, should be placed for adoption, or should be continued in foster care on a permanent or long-term basis; and (b) for a child who is age 16 or older, the services needed to assist the child to make the transition to independent living.

Committee amendment: The initial dispositional hearing would continue to have to take place no later than 18 months after the original placement in foster care, but subsequent hearings would have to take place not less frequently than every 12 months thereafter (rather than "periodically").

Effective date: October 1, 1994.

Sec. 306. Elimination of foster care ceilings and authority to transfer unused foster care funds to child welfare services programs.

Present law: The foster care ceilings and the authority to transfer foster care funds to child welfare services expired September 30, 1992.

Prior to the expiration, the law imposed mandatory State-by-State ceilings on foster care funds if the Federal appropriation for child welfare services reached a specified trigger level. In the absence of a mandatory foster care ceiling, States could elect to operate under a voluntary ceiling. A State could use one of several methods to calculate the most favorable ceiling. The mandatory ceiling did not go into effect after 1981.

Under a voluntary ceiling, a State could transfer a portion of its unused foster care funds to its child welfare services program. However, the amount transferred, together with the State's IV-B allocation, could not exceed what the State would have received if the child welfare services funding had triggered the ceiling. It is estimated that the amount transferred by States equaled less than $1 million for fiscal year 1991, and no funds were transferred for fiscal year 1992.

Committee amendment: Repeals the ceiling and transfer provisions.

Effective date: October 1, 1993.

Sec. 307. Demonstration projects

Present law: No similar provision.

Committee amendment: The provision would authorize the Secretary to permit up to 10 States to conduct demonstration projects which the Secretary finds likely to promote the objectives of titles IV-B or IV-E. The Secretary could waive State conformity with any requirement of titles IV-B and IV-E, which, if applied, would prevent the State from carrying out the demonstration or from effectively achieving the purpose of the demonstration, except the Secretary could not waive: (i) the foster care child protections of title IV-B, (ii) the requirement for the reporting of data on adoption and foster care (section 479), and (iii) any provision of title IV-E which, if waived, would impair the entitlement of any qualified child or family to benefits under title IV-E.

For purposes of Federal payments, expenditures under an approved demonstration could be treated, at State option, as expenditures under title IV-B or under title IV-E.

Demonstrations would be limited to five years. A State seeking to conduct a demonstration project must submit an application to the Secretary, in the form the Secretary requires, which includes:

(a) a description of the proposed project, the geographic area in which the project would be conducted, the children or families to be served, and the services to be provided (which must provide, where appropriate, for random assignment of children and families to groups served under the demonstration and to control groups);

(b) a statement of the period during which the project would be conducted;

(c) a discussion of the benefits that are expected from the project;

(d) an estimate of the costs or savings of the project;

(e) a statement of program requirements for which waivers would be needed to permit conduct of the demonstration;

(f) a description of the proposed evaluation design; and

(g) such additional information as the Secretary may require

The State must obtain an evaluation by an independent contractor of the effectiveness of the demonstration project, using an evaluation design approved by the Secretary which provides for: (i) comparison of methods of service delivery under the demonstration, and such methods under a State plan or plans, with respect to efficiency, economy, and any other appropriate measures of program management; (ii) comparison of outcomes for children and families (and groups of children and families) under the demonstration, and such outcomes under the State plan or plans, for purposes of assessing the effectiveness of the demonstration in achieving its goals; and (iii) any other information that the Secretary requires. The State must provide interim and final evaluation reports to the Secretary at such times and in such manner as the Secretary may require.

The Secretary could not authorize a State to conduct a demonstration unless the Secretary determines that the total amount of Federal funds that will be expended under (or by reason of) the demonstration over its approved term (or some portion thereof or other period the Secretary may find appropriate) will not exceed the amount of such funds that would be spent under the State programs under part B and E of title IV in the State if the demonstration were not conducted.

Effective date: Upon enactment.

Sec. 308. Placement accountability for child placed out of State

Present law: Title IV-E does not require the States to implement any specialized reviews or procedures in the case of children who are placed in foster care outside the State.

Under title IV-E, States are required to provide for the development of a case plan for each child receiving foster care maintenance payments, which must meet certain requirements.

Committee amendment: The case plan for a child placed in a foster family home or child care institution a substantial distance from his home, or in a different State, would have to include a declaration of the reasons why the placement is in the best interests of the child. Also, in the case of a child placed in foster care in a different State, the case plan for the child must require that, periodically, but not less frequently than every 12 months, an agency caseworker of either State visit the child in the foster home or institution, and submit a report on the visit to the State agency of the child's home State. In addition, the dispositional hearing for a child placed in foster care in a different State must determine whether the out-of-State placement continues to be appropriate and in the best interests of the child.

The statutorily-mandated data collection system relating to adoption and foster care (section 479(b)(2) of title IV-E) must provide information on the number and characteristics of children placed in foster care outside the State.

Effective date: October 1, 1994.

Section 309. Payments of State Claims for Foster Care and Adoption Assistance

Present law. No provision. However, Federal regulations provide a timetable for the treatment of State claims for foster care and adoption assistance, and other programs.

Committee amendment: The provision would codify the regulations. Title IV-E would provide that upon receipt of a State claim for expenditures, the Secretary must within 60 days allow, disallow, or defer the claim. Within 15 days after a decision to defer a claim, the Secretary must notify the State of the reasons for the deferral action and of the additional information which the Secretary believes is necessary to determine the allowability of the claim. Within 90 days after receiving all information (in readily reviewable form) necessary to determine the allowability of the claim, the Secretary must either: (1) disallow the claim, if able to complete the review and make a determination that the claim is not allowable, or (2) in any other case, allow the claim subject, as necessary, to later disallowance upon completion of the review, and subject, in any case, to later disallowance on the basis of findings of an audit or financial management review.

Effective date: Upon enactment.

Sec. 310. Effect of failure to carry out State plan (Suter v. Artist M.)

Present law: The "State plan" titles of the Social Security Act include aid to Families with Dependent Children (AFDC) (Title IV-A), Child Welfare Services (Title IV-B), Child Support and Establishment of Paternity (Title IV-D), Foster Care and Adoption Assistance (Title IV-E), Job Opportunities and Basic Skills Training (JOBS) (Title IV-F), and Medicaid (Title XIX). Under these titles, as a precondition of funding, each participating State is required to develop a written "State plan" that meets certain statutory requirements in order to be approved by the Secretary of the Department of Health and Human Services (HHS).

The adoption Assistance and Child Welfare Act of 1980 amended the Social Security Act to require States to provide in their title IV-E plans that, in the case of each child, reasonable efforts will be made (a) prior to the placement of the child in foster care, to prevent or eliminate the need for removal of the child from his home, and (b) to make it possible for the child to return to his home (Sec. 471(a) (15)).

On March 15, 1992, the U.S. Supreme Court held in *Suter v. Artist M.*, that the "reasonable efforts" clause does not confer a federally-enforceable right on its beneficiaries, nor does it create an implied cause of action on their behalf. In rendering its opinion, the Court also stated that although section 417(a) does place a requirement on the States, that requirement "only goes so far as to ensure that the States have a plan approved by the Secretary which contains the 16 listed features."

Committee amendment: The provision would amend title XI of the Social Security Act by adding a new section that reads as follows:

"In an action brought to enforce a provision of the Social Security Act, such provision is not to be deemed unenforceable because of its inclusion in a section of the Act requiring a State plan or specifying the required contents of a State plan. This section is to intended to limit or expand the grounds for determining the availability of private actions to enforce State plan requirements other than by overturning any such grounds applied in *Suter v. Artist M.*, 112 S. Ct. 1360 (1992), but not applied in prior Supreme Court decisions respecting such enforceability; provided, however, that this section is not intended to alter the holding in *Suter v. Artist M.* that section 471(a) (15) of the Act is not enforceable in a private right of action."

The intent of the provision is to assure that individuals who have been injured by a State's failure to comply with the Federal mandates of the State plan titles of the Social Security Act are able to seek redress in the federal courts to the extent they were able to prior to the decision in *Suter v. Artist M.*, while also making clear that there is no intent to overturn or reject the determination in Suter that the reasonable efforts clause of title IV-E does not provide a basis for a private right of action.

Effective date: The amendment would apply to actions pending on the date of enactment and to actions brought on or after the date of enactment.

Subtitle B—Child support enforcement

Sec. 311. Reports to credit bureaus on persons delinquent in child support payments

Present law: The Child Support Enforcement Amendments of 1984 required State child support enforcement agencies to provide information regarding the amount of overdue support owed by an obligor residing in the State to any consumer reporting agency, as defined under the Fair Credit Reporting Act, upon the request of that agency, if the arrearage exceeds $1,000. If the amount of overdue support is less than $1,000, the State may choose whether or not to report the delinquency.

The information may not be made available to the consumer reporting agency until notice of the proposed action has been sent to the obligor, the obligor has been given a reasonable opportunity to contest the accuracy of the information and all procedural due process requirements of the State have been fulfilled. Also, a fee, not to exceed the cost of furnishing the information, may be imposed on the requesting agency by the State.

The Ted Weiss Child Support Enforcement Act of 1992 amended the Fair Credit Reporting Act to require consumer reporting agencies to include in any consumer report information on child support delinquencies provided by or verified by State or local child support enforcement agencies which predates the report by no more than seven years.

Committee Amendment: The provision would require State child support enforcement agencies to report periodically the names of obligors who are at least 2 months delinquent in the payment of support and the amount of the delinquency to consumer reporting agencies. The present law requirement that the amount of the delinquency must exceed $1,000, and the requirement for notice and due process, would be retained. The provision relating to payment of a fee by the credit reporting agencies would be repealed.

Information could not be made available to a consumer reporting agency if: (1) the State determined that the consumer reporting agency lacked capacity to make systematic and timely use of the information; and (2) it did not furnish evidence satisfactory to the State that it conforms to the definition of a "consumer reporting agency" under Federal law.

Effective date: October 1, 1995.

Sec. 312. Technical Amendments to Provision on State Paternity Establishment Programs

Present law: P.L. 103-66, the Omnibus Budget Reconciliation Act of 1993, established new paternity establishment percentages which States must meet in operating their child support enforcement programs. The bill also made technical changes in how the paternity establishment percentage is calculated.

Committee amendment: The amendment corrects drafting errors in P.L. 103-66 that specify how the paternity establishment percentage is calculated.

Effective date: Upon enactment.

Sec. 313. Agreement to assist in locating missing children under the Parent Locator Service

Present law: The Department of Health and Human Services operates a Parent Locator Service to obtain and transmit information as to the whereabouts of any absent parent when such information is to be used to locate the parent for the purpose of enforcing support obligations owed by the parent.

Committee amendment: The Secretary of HHS would be required to enter into an agreement with the Attorney General under which the services of the Parent Locator Service shall be made available to the Office of Juvenile Justice and Delinquency Prevention, upon its request for the purpose of locating any parent or child. The Parent Locator Service may charge no fee for these services.

Effective date: October 1, 1994.

Subtitle C—Supplemental security income

Sec. 321. Definition of disability for children under age 18 applied to all individuals under age 18

Present law: Present law provides a definition of disability applicable to children. Under this definition, a child's physical or mental impairments are evaluated according to criteria that have been developed especially for children. The SSI program defines a child as someone who is neither married nor the head of a household, and who is: (1) under age 18, or (2) under age 22 and a student regularly attending a school, college, or university, or a course of vocational or technical training designed to prepare him for gainful work. As a result, the special evaluation criteria developed to evaluate childhood disabilities may not be used for some SSI applicants who are under age 18.

Committee amendment: The provision would extend the SSI childhood definition of disability to any person under age 18.

Effective date: Applies to determinations made on or after the date of enactment.

Sec. 322. Commission on childhood disability

Present law: No provision.

Committee amendment: The Secretary is directed to appoint a Commission on the Evaluation of Disability in Children, consisting of from 9 to 15 members including recognized experts in relevant fields of medicine; recognized experts in psychology, education and rehabilitation, law, social insurance (including health insurance), or administration of disability programs; and other experts determined appropriate by the Secretary.

The Commission will conduct a study, in consultation with the National Academy of Sciences, on the effects of the current Supplemental Security Income definition of disability, as it applies to children under the age of 18 and their receipt of services, including the advantages and disadvantages of using an alternative definition. The Commission will summarize the results of this study in a report due to the Committees on Finance and Ways and Means, due no later than September 1, 1995.

Effective date: Upon enactment.

Sec. 323. Exemption from pass-along requirements

Present law: Section 1618 of the Social Security Act requires that States making supplementary payments to Supplemental Security Income recipients "pass along" cost-of-living increases in the Federal benefit. There are two options for the States in meeting the "pass-along" requirement: (1) the aggregate spending level option, under which States may make supplementary payments in the 12-month period beginning with the month of the Federal benefit increase that are no less, in the aggregate, than were made in the previous 12-month period; or (2), the individual payment level option, under which a State may maintain the supplementary payment levels that were in effect for categories of individual recipients in March 1983.

Committee amendment: For the purpose of determining under the "aggregate spending level option," whether a State's expenditures for supplementary payments during a 12-month period are not less than its expenditures for such payments in the preceding 12-month period, retroactive SSI payments made to children qualifying under the *Zebley* court decision may, pursuant to a State's one-time option, be excluded from the computation of the State's expenditures.

Effective date: Upon before and after the date of enactment.

Subtitle D—Aid to families with dependent children

Sec. 331. Simplification of income and eligibility verification system

Present law: Section 1137(d) of the Social Security Act specifies that States must require, as a condition of eligibility for the AFDC, Medicaid, unemployment compensation, and food stamp programs, a declaration in writing by each adult individual (or, in the case of a child, by another individual on the child's behalf), stating whether the individual is a citizen or national of the U.S., and if not, that the individual is in a satisfactory immigration status. Under AFDC policy, a newborn child may not be eligible until a declaration had been signed.

Legislation enacted in 1990 overrode the provision of sec. 1137 with respect to the food stamp program. Under that legislation, one adult member of the food stamp household is required to sign, under penalty of perjury, a written declaration as to the citizenship or satisfactory immigration status of all household members, and by regulation, a declaration for newborn children is allowed no later than the next redetermination of eligibility.

Committee amendment: With respect to the programs specified in section 1137(b) (listed above), this provision would allow one adult member of a family or household to sign a declaration, under penalty of perjury, on behalf of other adults in the household. In addition, in the case of a newborn child, it would permit an adult to sign a declaration on behalf of the child no later than the date of the next redetermination of the eligibility of the family or household.

Effective date: Upon enactment.

Sec. 332. Measurement and reporting of welfare receipt

Present law: National and State information on AFDC receipt and the characteristics and financial circumstances of AFDC recipients is compiled annually by the Department of Health and Human Services (DHHS), using data from the National Integrated Quality Control Review System (NIQCS).

Committee amendment: The provision would require the Secretary of Health and Human Services, in consultation with the Secretary of Agriculture, to develop (1) indicators of the rate at which, and (to the extent feasible) the degree to which, families depend on income from welfare programs; and the duration of welfare participation; and (2) predictors of welfare receipt. Not later than 2 years after the date of enactment, the Secretaries of HHS and Agriculture would be required to submit an interim report with conclusions to designated committees of Congress.

A temporary Advisory Board on Welfare Indicators would be created, composed of 12 Members with equal number appointed by the House of Representatives, the Senate and the President. The Board would be composed of experts in the field of welfare research and welfare statistical methodology, representatives of State and local welfare agencies, and organizations concerned with welfare issues. The Board will provide advice and recommendations to the Secretary on the development of the indicators described above, and on the development and presentation of the annual report on welfare receipt.

The provision would require the Secretary to prepare an annual report on welfare receipt, that provides information on the indicators described above, trends in the indicators, predictors of welfare receipt, the causes of welfare receipt, patterns of multiple program receipt, and such other information as the Secretary deems relevant; and such recommendations for legislation, which shall not include proposals to reduce eligibility levels or impose barriers to program access, as the Secretary may determine to be necessary or desirable to reduce (1) the rate at which, and the degree to which, families depend on income from welfare programs; and (2) the duration of welfare receipt. The report shall include analysis of families and individuals receiving assistance under means-tested programs, including AFDC, food stamps, SSI, and State or local general assistance. The first report would be due no later than 3 years after the date of enactment.

Effective date: Upon enactment.

Sec. 333. New hope demonstration project

Present law: No provision.

Committee amendment: The provision would allow the Secretary to provide for a demonstration project for a qualified program to be conducted in Milwaukee, Wisconsin. A qualified program is defined as a program operated by the New Hope Project, Inc., a private not-for-profit corporation in Milwaukee, which offers low-income residents employment, wage supplements, child care, health care, and counseling and training for job retention or advancement.

The provision would require the Secretary to make payments for no more than 20 quarters, in an amount equal to the aggregate amount that would otherwise have been payable to the State with respect to participants in the program, in the absence of the program, for cash assistance and child care under Title IV-A, and for administrative expenses for these programs. Payment to the State under this provision may not include the cost of evaluating the effects of the program.

The operator of the program must provide in the application that the following conditions will be met: (1) the operator will implement an evaluation plan designed to provide reliable information on the impact and implementation of the program, that will include adequately sized groups of participants and control groups assigned at random; (2) the operator will develop and implement a plan addressing the services and assistance to be provided by the program, the timing and determination of payments from the Secretary to the operator of the program, and the roles and responsibilities of the Secretary and the operator with respect to meeting specified requirements; (3) the operator will specify a reliable methodology for determining expenditures to be paid to the operator by the Secretary, with assistance from the Secretary in calculating the amount; and (4) the operator will issue an interim and final report on the results of the evaluation of the program at such times as required by the Secretary.

Effective date: The provision would take effect on the first day of the first calendar quarter that begins after the date of enactment.

Sec. 334. Delay in requirement that outlying areas operate an AFDC–UP Program

Present law: The Family Support Act of 1988 included a requirement that any State AFDC plan make AFDC available to needy dependent children of unemployed parents (for at least 6 out of 12 months). The amendment was effective for the States on October 1, 1990, and for Puerto Rico, Guam, the Virgin Islands and American Samoa on October 1, 1992. (American Samoa, however, does not participate in the AFDC program.) Unlike States, these outlying areas are subject to limitations on payments for AFDC and related programs.

Committee amendment: This provision would delay the requirement for implementation of the Unemployed Parent program in Puerto Rico, Guam, the Virgin Islands, and American Samoa until such time as the limitations on Federal matching payments to these jurisdictions for purposes of making AFDC maintenance payments are repealed.

Effective date: Upon enactment.

Sec. 335. New York State Child Support Demonstration Program

Present law: New York State currently operates a Child Assistance Program (CAP) demonstration under Federal waiver authority enacted under the Omnibus Budget Reconciliation Act of 1987. The demonstration is testing an alternative to AFDC for families with child support orders and monthly earnings. The five year waiver is effective through March 31, 1994.

Committee amendment: The provision would extend the CAP demonstration project for an additional five years, to April 1, 1999.

Effective date: Upon enactment.

Sec. 336. State option to use retrospective budgeting without monthly reporting

Present law: Under current law, States may choose whether or not to use retrospective budgeting for AFDC (i.e., determining AFDC benefits based on the family's income and circumstances in a prior month, rather than the current month). However, States are allowed to use retrospective budgeting only in cases where the family is required to report monthly on income, resources, family composition, and other relevant information. States may require families to report monthly but choose not to apply retrospective budgeting to those families.

Committee amendment: States would decide, with respect to categories of families, whether or not to use monthly reporting, retrospective budgeting, or a combination of the two. Thus, unlike present law, States could use retrospective budgeting for a category of families that is not required to report monthly.

Effective date: October 1, 1993.

Subtitle E—Jobs Program

Sec. 341. Expansion of coverage for Indian tribes

Present law: The Family Support Act of 1988 provides Federal funding for JOBS programs administered by Indian tribes whose applications for funding have been approved by the Secretary of HHS. The formula for funding each program is based on the number of adult members of the Indian tribe that receive AFDC. This formula excludes those Indians who live on the Indian reservation but belong to another tribe.

Committee amendment: All Indians who live on the reservation, regardless of whether they are members of the tribe, are to be counted in determining the tribe's allocation of funds.

Effective date: October 1, 1994.

Sec. 342. Report to the Congress with respect to performance standards in the JOBS Program

Present law: Section 487 of the Social Security Act requires the Secretary, not later than 3 years after the effective date of the Family Support Act of 1988, to develop performance standards for the Job Opportunities and Basic Skills (JOBS) program and to submit her recommendations for performance standards to appropriate committees of Congress. The recommendations must include recommendations with respect to specific measurements of outcomes, may not be based solely on levels of activity or participation, and must take into account what States reasonably can be expected to achieve.

Committee amendment: The provision would delay the required date for recommendations by one year. Also, the Secretary would be required to develop criteria for the performance standards, rather than performance standards.

Effective date: Upon enactment.

Subtitle F—Unemployment insurance

Sec. 351. Extension of reporting date for Advisory Council on Unemployment Compensation

Present law: The Emergency Unemployment Compensation Act of 1991 authorized a quadrennial advisory council on unemployment compensation to examine the purpose, goals, and functioning of the unemployment compensation system, and to make recommendations for improvement. Its first report is due by February 1, 1994.

Committee amendment: The provision would delay the Council's report for one year to February 1, 1995.

Effective date: Upon enactment.

Sec. 352. Technical amendment to unemployment trust fund

Present law: Title IX of the Social Security Act allocates Federal unemployment tax revenue into three accounts of the unemployment trust fund: (1) the Employment Security Administration Account (ESAA); (2) the Extended Unemployment Compensation Account (EUCA); and (3) the Federal Unemployment Account (FUA).

Committee amendment: The provision would strike language that was inadvertently included in the Emergency Unemployment Compensation Amendments of 1992 (P.L. 102-318), that relates to the transfer of funds from the State administration account to the extended unemployment compensation account, within the Federal Unemployment Trust Fund.

Effective date: Upon enactment.

Subtitle G—Other provisions

Sec. 361. Extension of demonstration to expand job opportunities

Present law: The Family Support Act of 1988 established a demonstration project under which not fewer than 5 nor more than 10 nonprofit organizations were authorized to conduct demonstration projects to create employment opportunities for certain low-income individuals. The amount authorized for these grants is $6.5 million for each of fiscal years 1990, 1991, 1992, and 1993.

Committee amendment: The demonstration project would be continued for 2 additional years, through fiscal year 1995.

Effective date: October 1, 1993.

Sec. 362. Extension of authority for early childhood development projects

Present law: The Family Support Act of 1988 authorized up to 10 demonstration projects to test and evaluate the effect of early childhood development programs on families receiving AFDC and participating in Job Opportunities and Basic Skills Training (JOBS), and authorized $6 million for each of fiscal years 1990, 1991, and 1992 for these and two other categories of projects. No funds were appropriated for the early childhood development projects for fiscal years 1990 through 1993.

Committee amendment: The provision would extend the authorization for early childhood development projects through fiscal year 1998. It authorizes to be appropriated for these projects up to $3 million for each of fiscal years 1994 through 1998.

Effective date: Upon enactment.

Sec. 363. Reallocation of funds under the Title XX Empowerment Zone and Enterprise Community Grant Program

Present law: The Omnibus Budget Reconciliation Act of 1993 (P.L. 103-66) provided $1 billion under title XX of the Social Security Act for grants to States for social services to be provided in qualified empowerment zones and enterprise communities. With respect to each qualified empowerment zone, the Secretary will make one grant to each State in which the zone lies on the date of its designation, and a second grant on the first day of the first fiscal year that begins after the designation. With respect to each enterprise community, the Secretary will make one grant to each State in which the community lies, on the date of its designation.

The amount of each grant to a State for an empowerment zone will equal $50 million if the zone is designated in an urban area and $20 million if the zone is designated in a rural area. The amount of each grant to a State for an enterprise community will equal 1/95 of $280 million. There is no provision for reallocation of any funds that are not used by a grantee.

Committee amendment: Funds that are received by a zone or community but are not used would be reallocated to the States for use under the title XX social services block grant program.

Sec. 364. Corrections related to the Income Security and human resource provisions of the Omnibus Budget Reconciliation Act of 1990

Committee amendment: The provision would correct references and punctuation in various SSI and AFDC provisions, eliminate conflicting provisions concerning the reporting date of the National Commission on Children, and correct and simplify language concerning special sequestration rules for JOBS funds.

Sec. 365. Technical corrections related to the human resource and income security provisions of the Omnibus Budget Reconciliation Act of 1989

Committee amendment: The provision would correct a word and spacing in AFDC quality control and adoption assistance legislative language, and a reference concerning foster care and adoption assistance.

Sec. 366. Technical correction related to the human resources and income security provisions of the OBRA-93

Committee amendment: This provision corrects a reference in a section relating to the adoption assistance program.

Sec. 367. Elimination of obsolete provisions relating to treatment of the earned income tax credit

Committee amendment: The provision would eliminate provisions in SSI law about treatment of EITC made obsolete by OBRA 1990, which specifies that SSI (and AFDC, Medicaid, and food stamps) are to disregard EITC as income.

Sec. 368. Redesignation of certain provisions

Committee amendment: The provision would redesignate two subparagraphs of the Social Security Act concerning when face-to-face interviews at field offices must be granted.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 17, 1993.

Hon. DANIEL P. MOYNIHAN,
Chairman, Committee on Finance, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed the Social Security Act Amendments of 1993, as ordered reported by the Senate Committee on Finance on November 17, 1993. The enclosed table summarizes the direct spending or receipts and thus would be subject to pay-as-you-go procedures under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

The bill would make a number of amendments to health and income security programs. Several provisions could affect direct spending, but the estimated cost of each provision that could be estimated is zero, or savings of less than $500,000 annually. The total direct spending effect is estimated to be savings of $2 million over five years, as shown in the enclosed table. One provision, Section 310, could have more significant effects on state and federal spending, but the magnitude of the potential increase could not be estimated. Several other provisions would increase authorization amounts, with total authorizations increasing by $90 million in 1994 and $305 million over the five-year period.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Lori Housman (Title I), Jean Hearne (Title II), and Julie Isaacs and John Tapogna (Title III), who can be reached at 226-2820.

Sincerely,

ROBERT D. REISCHAUER,
Director.

Enclosure.

SOCIAL SECURITY ACT AMENDMENTS OF 1993

CONGRESSIONAL BUDGET OFFICE ESTIMATE

[Outlays by fiscal year, in millions of dollars]

	1994	1995	1996	1997	1998	Total
Title I—Medicare provisions:						
Direct spending:						
Budget authority ..	0	0	0	0	0	0
Outlays	0	0	0	0	0	0
Subject to appropriations:						
Authorization level	59	56	30	30	0	175
Outlays	53	56	33	30	3	175
Title II—Medicaid provisions:						
Direct spending:						
Budget authority ..	(1)	(1)	−1	(1)	(1)	−2
Outlays	(1)	(1)	−1	(1)	(1)	−2
Subject to appropriations:						
Authorization level	18	19	19	19	19	94
Outlays	10	17	19	19	19	84
Title III—Income security, human resources, and related programs:						
Direct spending:						
Budget authority ..	0	0	0	0	0	0
Outlays	0	0	0	0	0	0
Subject to appropriations:						
Authorization level	13	11	4	4	4	36
Outlays	11	11	4	4	4	34
Total:						
Direct spending:						
Budget authority ..	(1)	(1)	−1	(1)	(1)	−2
Outlays	(1)	(1)	−1	(1)	(1)	−2
Subject to appropriations:						
Authorization level	90	86	53	53	23	305
Outlays	74	84	56	53	26	293

[1] Less than $500,000.•

By Mrs. HUTCHISON (for herself, Ms. MIKULSKI and Mrs. FEINSTEIN):

S. 1669. A bill to amend the Internal Revenue Code of 1986 to allow homemakers to get a full IRA deduction; to the Committee on Finance.

INDIVIDUAL RETIREMENT ACCOUNT LEGISLATION

• Mrs. HUTCHISON. Mr. President, I rise to introduce a bill with Senator MIKULSKI and Senator FEINSTEIN that will allow the homemakers of this country to make fair, fully deductible individual retirement account contributions. The Tax Code currently discriminates against women who work at home; it is high time for a change. This bill will allow equal IRA contributions by Americans that work at home—women, and a growing number of men, who have suffered unfairly under an out-of-date section of the Tax Code.

Under the current rules governing individual retirement accounts, married couples are restricted to a deductible IRA contribution of $2,250 each year if only one spouse brings home a paycheck. But if both spouses in a household work outside the home, each is permitted to contribute up to $2,000 annually to an IRA—that's a combined contribution of $4,000. With a $4,000 contribution instead of a $2,250 contribution, over 40 years a couple can make an additional $70,000 in contributions. After 40 years at 6-percent interest, the couple will have $287,084 more in savings for their retirement income needs.

It's obvious that the retirement income needs of the one-income couple are the same as the two-income couple. In fact, they may be even greater, because the one-income couple has earned less money to set aside for the future. We can help them meet that need by giving them the incentive and opportunity to save. We can enable our workers to be secure and independent when they are senior citizens by providing them with the opportunity to save more and have their savings grow to hundreds of thousands of dollars during their working lifetime.

The current lack of fairness in IRA savings also has a negative effect on the future economic strength of this country. Personal savings rates in the United States are shockingly low in comparison to other comparable industrialized countries. In the last 3 years, the Japanese personal savings rate averaged 14.6 percent, while the personal savings rate in the United States averaged 4.7 percent. By increasing the deductible IRA contribution, we can reduce the tax cost of saving, increase the incentive to save, and thereby increase the savings rate.

IRA funds are not just put under a big mattress in Federal Reserve buildings across the United States. They are lent by banks to businesses for investment. The new savings created by increasing the IRA deduction for wives and husbands who work at home will be invested in the economy to create jobs and increase Federal tax revenue. Most important is that while increasing the IRA deduction may reduce revenue for a short period, over the long term increased retirement savings will result in economic growth and a reduced burden on the Federal Government by making our retirees financially independent.

Mr. President, women have longer life expectancies than men, make less money for the same work, and lose more work time due to pregnancy and care for their families. Because of these burdens women begin saving for retirement much later than men, and when they retire they have less retirement savings. We can correct that today. I urge the Senate to promptly pass this bill so that American families can begin saving for retirement.

Mr. President, I introduce a bill to enact fairness in individual retirement account savings.•

By Mrs. FEINSTEIN:

S.J. Res. 152. A joint resolution to designate the visitors center at the Channel Islands National Park, California, as the "Robert J. Lagomarsino Visitors Center"; to the Committee on Energy and Natural Resources.

ROBERT J. LAGOMARSINO VISITORS CENTER ACT OF 1993

• Mrs. FEINSTEIN. Mr. President, today I am introducing a resolution to designate the visitors center at the Channel Islands National Park, CA, as the "Robert J. Lagomarsino Visitors Center." The legislation is identical to House Joint Resolution 67 introduced in the House by Congressman ELTON GALLEGLY and others.

As many of my colleagues know, Robert Lagomarsino served in the House of Representatives for 18 years, from 1974 to 1992, representing the 19th District of California—Santa Barbara County and part of Ventura County. A member of the House Interior and Insular Affairs Committee and the Subcommittee on National Parks and Public Lands, Bob Lagomarsino was active on a wide range of natural resource issues, including the Alaska National Interest Lands Act, the Strip Mine Control Act, the California Wilderness Act, the Sespe Condor Rivers and Range Act, and hundreds of other bills.

But perhaps Bob Lagomarsino is most closely associated with protection of the Santa Barbara Channel and the establishment of the Channel Islands National Park. Even before his election to the House of Representatives, Bob Lagomarsino worked to protect the fragile Channel Islands and their remarkable scenery and wildlife. As a member of the California State Senate, Bob Lagomarsino authored the bill creating a State sanctuary around the Channel Islands. As a Member of the House, Bob Lagomarsino sponsored the legislation which expanded the existing Channel Islands National Monument and redesignated the area as a National Park. He then worked hard to secure the funding necessary to complete the park. Additionally, as a Member of the House, he fought to protect the Channel Islands National Park from potential oil spills, successfully persuading oil companies not to ship Alaskan oil through the Santa Barbara Channel and opposing new Federal oil leases in the area.

Given Bob Lagomarsino's long association with protection of the Channel Islands, I believe it is most fitting for us to designate the visitors center at the Channel Islands National Park as the "Robert J. Lagomarsino Visitors Center." I hope my colleagues will join me in recognizing the contributions of this distinguished Californian and pass this resolution.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 152

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The visitors center at the Channel Islands National Park, California, is designated as the "Robert J. Lagomarsino Visitors Center".

SEC. 2. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the visitors center referred to in section 1 is deemed to be a reference to the "Robert J. Lagomarsino Visitors Center".•

ADDITIONAL COSPONSORS

S. 486

At the request of Mr. HEFLIN, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 486, a bill to establish a specialized corps of judges necessary for certain Federal proceedings required to be conducted, and for other purposes.

S. 636

At the request of Mr. KENNEDY, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of S. 636, a bill to amend the Public Health Service Act to permit individuals to have freedom of access to certain medical clinics and facilities, and for other purposes.

S. 738

At the request of Mr. DANFORTH, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 738, a bill to promote the implementation of programs to improve the traffic safety performance of high risk drivers.

S. 793

At the request of Mr. DORGAN, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 793, a bill to amend the Federal Food, Drug, and Cosmetic Act to require that standards of identity for milk include certain minimum standards regarding milk solids, and for other purposes.

S. 1329

At the request of Mr. D'AMATO, the names of the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Arkansas [Mr. BUMPERS], and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of S. 1329, a bill to provide for an investigation of the whereabouts of the United States citizens and others who have been missing from Cyprus since 1974.

S. 1405

At the request of Mr. KERRY, the names of the Senator from South Dakota [Mr. DASCHLE] and the Senator from Washington [Mrs. MURRAY] were added as cosponsors of S. 1405, a bill to strengthen the National Flood Insurance Program and to reduce risk to the flood insurance fund by increasing compliance, providing incentives for community floodplain management, providing for mitigation assistance, and for other purposes.

S. 1408

At the request of Mr. LOTT, the names of the Senator from Utah [Mr. HATCH] and the Senator from North Carolina [Mr. FAIRCLOTH] were added as cosponsors of S. 1408, a bill to repeal the increase in tax on Social Security benefits.

S. 1437

At the request of Mr. DOLE, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 1437, a bill to amend section 1562 of title 38, United States Code, to increase the rate of pension for persons on the Medal of Honor roll.

S. 1514

At the request of Mr. COVERDELL, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 1514, a bill entitled the "Guaranteed Deficit Reduction Act of 1993."

S. 1533

At the request of Mr. LOTT, the names of the Senator from North Carolina [Mr. HELMS], the Senator from Florida [Mr. MACK], and the Senator from Oklahoma [Mr. NICKLES] were added as cosponsors of S. 1533, a bill to improve access to health insurance and contain health care costs, and for other purposes.

S. 1602

At the request of Mr. METZENBAUM, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 1602, a bill to amend the Sherman Act to restore fair competition in the ocean shipping industry.

S. 1632

At the request of Mr. COCHRAN, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 1632, a bill to extend the effectiveness of an exemption from the requirements of the Depository Institution Management Interlocks Act.

SENATE JOINT RESOLUTION 52

At the request of Mr. PACKWOOD, the names of the Senator from Maine [Mr. COHEN], the Senator from North Dakota [Mr. CONRAD], the Senator from Wisconsin [Mr. KOHL], the Senator from Arizona [Mr. MCCAIN], the Senator from Connecticut [Mr. DODD], the Senator from Arkansas [Mr. PRYOR], the Senator from South Dakota [Mr. PRESSLER], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Florida [Mr. MACK], the Senator from Louisiana [Mr. JOHNSTON], and the Senator from Nebraska [Mr. EXON] were added as cosponsors of Senate Joint Resolution 52, a joint resolution to designate the month of November 1993 and 1994 as "National Hospice Month."

SENATE JOINT RESOLUTION 81

At the request of Mr. LAUTENBERG, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of Senate Joint Resolution 81, a joint resolution designating the oak as the national arboreal emblem.

SENATE CONCURRENT RESOLUTION 34

At the request of Mr. BRADLEY, the names of the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Alabama [Mr. SHELBY], the Senator from North Carolina [Mr. FAIRCLOTH], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of Senate Concurrent Resolution 34, a concurrent resolution expressing the sense of the Senate regarding the accounting standards proposed by the Financial Accounting Standards Board.

SENATE CONCURRENT RESOLUTION 45

At the request of Mr. COATS, the names of the Senator from New Hampshire [Mr. GREGG] and the Senator from Idaho [Mr. KEMPTHORNE] were added as cosponsors of Senate Concurrent Resolution 45, a concurrent resolution relating to the Republic of China on Taiwan's participation in the United Nations.

At the request of Mr. D'AMATO, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of Senate Concurrent Resolution 45, supra.

SENATE CONCURRENT RESOLUTION 50

At the request of Mr. LAUTENBERG, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of Senate Concurrent Resolution 50, a concurrent resolution concerning the Arab boycott of Israel.

SENATE RESOLUTION 162

At the request of Mr. LAUTENBERG, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of Senate Resolution 162, a resolution relating to the treatment of Hugo Princz, a United States citizen by the Federal Republic of Germany.

SENATE RESOLUTION 164

At the request of Mr. MOYNIHAN, the names of the Senator from Pennsylvania [Mr. WOFFORD], the Senator from Michigan [Mr. LEVIN], the Senator from New Jersey [Mr. BRADLEY], the Senator from Hawaii [Mr. AKAKA], the Senator from Colorado [Mr. CAMPBELL], the Senator from Connecticut [Mr. DODD], the Senator from California [Mrs. BOXER], the Senator from Maryland [Mr. SARBANES], the Senator from Maine [Mr. COHEN], the Senator from Kentucky [Mr. FORD], the Senator from Ohio [Mr. METZENBAUM], and the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of Senate Resolution 164, a resolution expressing the sense of the Senate commemorating the bombing of Pan Am flight 103.

AMENDMENT NO. 1159

At the request of Mr. BOND, his name was added as a cosponsor of amendment No. 1159 proposed to S. 1607, a bill to control and prevent crime.

AMENDMENT NO. 1201

At the request of Mr. HEFLIN, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of amendment No. 1201 proposed to S. 1607, a bill to control and prevent crime.

AMENDMENT NO. 1204

At the request of Mr. FEINGOLD, his name was added as a cosponsor of amendment No. 1204 proposed to S. 1607, a bill to control and prevent crime.

SENATE CONCURRENT RESOLUTION 52—RELATIVE TO A CONFERENCE ON SECURITY AND COOPERATION IN THE MIDDLE EAST

Mr. DECONCINI (for himself, Mr. GRASSLEY, and Mr. D'AMATO) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 52

Whereas it is in the interest of the United States and the international community to promote security and cooperation through democracy, human rights, and the rule of law in the Middle East;

Whereas recent developments in the Middle East, including the signing of the historic Declaration of Principles on Interim Self-government Arrangements, have given rise to new hopes for a just and lasting peace and new opportunities for cooperation in the region;

Whereas the Conference on Security and Cooperation in Europe has, since 1975, contributed to positive developments in Europe by providing a comprehensive framework for the consideration of questions relating to security, including a regime of confidence and security building measures; cooperation in the fields of economics, science and technology, and the environment; and cooperation in humanitarian and other fields; and

Whereas the framework and mechanisms of the Conference on Security and Cooperation in Europe, including those devoted to conflict prevention, could serve as useful models for enhancing security, promoting cooperation, and protecting human rights in the Middle East: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) it should be the policy of the Government of the United States to encourage leaders in the Middle East to consider establishing a Conference on Security and Cooperation in the Middle East, modeled on the Conference on Security and Cooperation in Europe, as they attempt to overcome the legacy of the past, strengthen peace and understanding, and develop relations based on mutual respect and confidence, respect for human rights and the rule of law, and economic cooperation; and

(2) the Government of the United States, drawing upon its extensive experience in the Conference on Security and Cooperation in Europe, should consult with interested parties, including the government of the Russian Federation, to explore the possibilities for establishing a Conference on Security and Cooperation in the Middle East.

• Mr. DECONCINI. Mr. President, recent developments in the Middle East, including the signing of the historic Declaration of Principles on Interim Self-Government Arrangements, have given rise to new hopes for a just and lasting peace as well as new opportunities for cooperation in the region. It is in the interest of the United States and the international community to promote security and cooperation through democracy, human rights and rule of law in the Middle East.

I believe that a Conference on Security and Cooperation in the Middle East [CSCME], modeled on the Conference on Security and Cooperation in Europe [CSCE], could make a significant and constructive contribution to that end. The CSCE has, since 1975, contributed to positive developments in Europe by providing a comprehensive framework for the consideration of questions relating to military security and human rights as well as cooperation in the fields of economics, science and the environment. In addition, the CSCE serves as a useful model for confidence-building—a process which will be required if genuine peace is to be established and maintained in the Middle East.

I recently chaired a Helsinki Commission hearing to explore the possibility for establishment of a CSCME. Dr. Abba Eban, former Foreign Minister of Israel, observed, "the key to peace lies in institutionalized regional cooperation." Egypt's Ambassador to the United States, Ahmed Maher El Sayed, noted that "there are violations of human rights in many of the countries of the Middle East, not excluding anyone, but I think that participating in such a process—CSCME—would certainly be very helpful toward enlarging the respect of human rights in all of the countries of the area." Prof. I. William Zartmen of the Johns Hopkins University concluded that "the situation is appropriate for the establishment of a Conference on Security and Cooperation in the Middle East [CSCME], modeled on the European experience." Following the Commission hearing I received a letter from the Crown Prince of Jordan reiterating his support for the concept of a CSCE-like framework for the Middle East.

I harbor no illusions about the serious obstacles standing in the path of achieving lasting stability and peace in the Middle East. Nevertheless, the current climate in the region presents us with an opportunity to begin the process one step at a time.

Mr. President, we should take advantage of this opportunity by encouraging the leaders of the Middle East to consider establishing a CSCME as they attempt to overcome the legacy of the past. The establishment of a CSCME would provide a useful framework to begin building the types of relationships upon which real peace would rest.

The resolution I introduced today, along with Senators GRASSLEY and D'AMATO, is meant to give further impetus to this process. It is imperative that the leaders of the Middle East and all those interested in promoting peace work to maintain the momentum of this historic moment.•

SENATE RESOLUTION 167—RELATIVE TO THE MARSH ARABS OF SOUTHERN IRAQ

Mr. MOYNIHAN (for himself and Mr. PELL) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 167

Whereas the Government of Saddam Hussein has a long and well documented history of brutal repression of the population of Iraq;

Whereas Saddam Hussein carried out a methodical campaign of genocide against Iraqi Kurds, including extensive efforts to render large areas of Iraqi Kurdistan uninhabitable and the use of poison gas in violation of international law;

Whereas Saddam Hussein is now conducting a massive campaign of repression against the population of Shi'ite Arabs in southern Iraq known as the marsh Arabs or the Maadan;

Whereas this campaign includes an enormous effort to drain the wetlands at the confluence of the Tigris and the Euphrates which have sustained the distinct marsh Arab civilization for thousands of years.

Whereas in addition to draining the wetlands Iraqi troops have extensively shelled villages in the marshes.

Whereas the campaign against the marsh Arabs appears to constitute an effort to drive the entire civilian population out of the marshes and to destroy the way of life for a distinct community within Iraq.

Whereas there are recent reports that Iraqi troops have employed chemical weapons against the marsh Arabs in violation of international law and United States Security Council resolutions concerning Iraq;

Whereas prior to the Gulf war the world community did not stop Saddam Hussein from employing similar tactics against the Kurds; Now, therefore, be it

Resolved by the Senate, that the United States Government should immediately—

(a) raise the issue of Saddam Hussein's campaign against the marsh Arabs in the Security Council;

(b) insist that United Nations weapons inspectors be permitted to conduct on site inspection concerning the possible use by Iraqi troops of chemical weapons;

(c) seek to provide humanitarian assistance to persons fleeing from the marshes; and,

(d) study and report to the Congress concerning the environmental consequences of the destruction of this vast wetlands area.

AMENDMENTS SUBMITTED

INDEPENDENT COUNSEL REAUTHORIZATION ACT OF 1993

MCCAIN (AND GRASSLEY) AMENDMENT NO. 1205

Mr. McCAIN (for himself and Mr. GRASSLEY) proposed an amendment to the bill (S. 24) to reauthorize the independent counsel law for an additional five years, and for other purposes; as follows:

Strike beginning on page 18, line 14, through page 20, line 2, and insert the following:

SEC. 4. MEMBERS OF CONGRESS.

(a) MANDATORY COVERAGE OF MEMBERS AND POST EMPLOYMENT COVERAGE.—Section 591(b) of title 28, United States Code, is amended by—

(1) redesignating paragraph (8) as paragraph (9); and

(2) striking paragraphs (6) and (7) and inserting the following:

"(6) any Members of Congress;

"(7) any individual who held an office or position described in paragraphs (1) through (5), for 1 year after leaving the office or position or until the President under whom the individual served leaves office, whichever period expires first;

"(8) any individual who held an office or position described in paragraphs (1) through (5) during the incumbency of 1 President and who continued to hold that office or position for not more than 90 days into the term of the next President, until the individual leaves such office or position; and".

(b) DISCRETIONARY AUTHORITY.—Section 591(c) of title 28, United States Code, is amended to read as follows:

"(c) PRELIMINARY INVESTIGATION WITH RESPECT TO OTHER PERSONS AND MATTERS.—When the Attorney General determines that an investigation or prosecution of a person or matter by the Department of Justice may result in a person, financial, or political conflict of interest, the Attorney General may conduct a preliminary investigation of such person or matter in accordance with section 592 if the Attorney General receives information sufficient to constitute grounds to investigate whether there may have been a violation of federal criminal law other than a violation classified as a Class B or C misdemeanor or an infraction.".

COCHRAN AMENDMENT NO. 1206

Mr. COCHRAN proposed an amendment to the bill S. 24, supra; as follows:

In lieu of the language proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Justice Special Counsel Act of 1993".

SEC. 2. REPEAL OF INDEPENDENT COUNSEL PROVISIONS.

(a) IN GENERAL.—Chapter 40 of title 28, United States Code, is repealed.

(b) TABLE OF CONTENTS.—The table of contents for part II of title 28, United States Code, is amended by striking the item relating to chapter 40.

SEC. 3. SPECIAL COUNSEL.

Chapter 31 of part II of title 28, United States Code, is amended by adding at the end thereof the following:

"§531. Special counsel

"(a) IN GENERAL.—The President, upon recommendation by the Attorney General, shall appoint, by and with the advice and consent of the Senate, a special counsel who shall serve in the place of the Attorney General as provided in this section.

"(b) APPOINTMENT OF SPECIAL COUNSEL.—If the Attorney General determines that an investigation or prosecution of a person described in subsection (c) by the Attorney General or other officer of the Department of Justice may result in a personal, financial, or political conflict of interest, the Attorney General may recommend to the President that a special counsel be appointed.

"(c) PERSONS TO WHOM SUBSECTION (b) APPLIES.—The persons referred to in subsection (b) are—

"(1) the President and Vice President;

"(2) any individual serving in a position listed in section 5312 of title 5;

"(3) any individual working in the Executive Office of the President who is compensated at a rate of pay at or above level II of the Executive Schedule under section 5313 of title 5;

"(4) any Assistant Attorney General and any individual working in the Department of Justice who is compensated at a rate of pay at or above level III of the Executive Schedule under section 5314 of title 5;

"(5) the Director of Central Intelligence, the Deputy Director of Central Intelligence, and the Commissioner of Internal Revenue;

"(6) any individual who leaves any office or position described in any of paragraphs (1) through (5) of this subsection, during the incumbency of the President under whom such individual served in the office or position plus one year after such incumbency, but in no event longer than a period of three years after the individual leaves the office or position;

"(7) any individual who held an office or position described in any of paragraphs (1) through (5) of this subsection during the incumbency of one President and who continued to hold the office or position for not more than 90 days into the term of the next President, during the 1-year period after the individual leaves the office or position;

"(8) the chairman and treasurer of the principal national campaign committee seeking the election or reelection of the President, and any officer of that committee exercising authority at the national level, during the incumbency of the President; and

"(9) any other person the investigation and prosecution of whom may result in a personal, financial, or political conflict of interest.

"(d) AUTHORITIES.—Notwithstanding any other provision of law, a special counsel appointed under this section shall have, with respect to all matters in such counsel's prosecutorial jurisdiction established by the Attorney General full power and independent authority to exercise all investigative and prosecutorial functions and powers of the Department of Justice, the Attorney General's, and other officer or employee of the Department of Justice, except that the Attorney General shall exercise directions or control as to those matters that specifically require the Attorney General's personal action under section 2516 of title 18. Such investigative and prosecutorial functions and powers shall include—

"(1) conducting proceedings before grand juries and other investigations;

"(2) participating in court proceedings and engaging in any litigation, including civil and criminal matters, that such special counsel considers necessary;

"(3) appealing any decision of a court in any case or proceeding in which such special counsel participates in official capacity;

"(4) reviewing all documentary evidence available from any source;

"(5) determining whether to contest the assertion of any testimonial privilege;

"(6) receiving appropriate national security clearances and, if necessary, contesting in court (including, where appropriate, participating in camera proceedings) any claim of privilege or attempt to withhold evidence on grounds of national security;

"(7) making applications to any Federal court for a grant of immunity to any witness, consistent with applicable statutory requirements, or for warrants, subpoenas, or other court orders, and, for purposes of sections 6003, 6004, and 6005 of title 18, exercising the authority vested in a United States attorney or the Attorney General;

"(8) inspecting, obtaining, or using the original or a copy of any tax return, in accordance with the applicable statutes and regulations, and, for purposes of section 6103 of the Internal Revenue Code of 1986 and the regulations issued thereunder, exercising the powers vested in a United States attorney or the Attorney General;

"(9) initiating and conducting prosecutions in any court of competent jurisdiction, framing and signing indictments, filing informations, and handling all aspects of any case, in the name of the United States; and

"(10) consulting with the United States attorney for the district in which any violation of law with respect to which the special counsel is appointed was alleged to have occurred.

"(e) Compensation.—A special counsel appointed under this section shall receive compensation at the per diem rate equal to the annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5.

"(f) Public Integrity Section.—The special counsel shall use the staff and resources of the Public Integrity Section of the Criminal Division of the Department of Justice in conducting any investigation and prosecution under this section.

"(g) Additional Personnel.—For the purposes of carrying out the duties of an office of special counsel, such special counsel may appoint, fix the compensation, and assign the duties of such employees as such special counsel considers necessary (including investigators, attorneys, and part-time consultants) but such employees shall not exceed 50 percent of total staff of the special counsel. The positions of all such employees are exempted from the competitive service. No such employee may be compensated at a rate exceeding the maximum rate of pay payable for GS–18 of the General Schedule under section 5332 of title 5. All employees employed by the special counsel shall be directly supervised by the special counsel.

"(h) Staff Misconduct.—If a special counsel has reasonable grounds to believe that an employee of the special counsel has or is engaging in improper conduct, the special counsel shall notify the Office of Professional Responsibility of such improper conduct and the Office shall investigate.

"(i) Removal of an Independent Counsel.—An independent counsel appointed under this section may be removed from office, other than by impeachment and conviction, if the Attorney General determines that—

"(1) the independent counsel has failed to follow Department of Justice guidelines;

"(2) the independent counsel violates the cannons of ethics; or

"(3) the investigation of the independent counsel can be conducted by the Department of Justice without a conflict of interest.".

ROTH AMENDMENT NO. 1207

Mr. ROTH proposed an amendment to the bill S. 24, supra; as follows:

On page 18, line 13, strike all after the period down through page 20, line 2, and insert in lieu thereof the following:

SEC. 4. APPLICABILITY OF INDEPENDENT COUNSEL PROVISIONS.

Section 591(b) of title 28, United States Code, is amended to read as follows:

(b) Persons to Whom Subsection (a) Applies.—

(1) Subsection (a) shall apply to each of the following persons in all circumstances:

(A) the President;

(B) the Vice President; and

(C) the Attorney General.

(2) Subsection (a) shall apply to each of the following persons, unless the Attorney General certifies that in the circumstances presented the preliminary investigation and any subsequent investigation of such person by the Attorney General pose no personal financial, or political conflict of interest and that the possible appointment of an independent counsel would not be necessary to assure the public of the impartial administration of justice:

(A) any Member of Congress;

(B) any individual serving in a position listed in section 5312 of title 5;

(C) any individual working in the Executive Office of the President who is compensated at a rate of pay at or above level II of the Executive Schedule under section 5313 of title 5;

(D) any Assistant Attorney General and any individual working in the Department of Justice who is compensated at a rate of pay at or above level III of the Executive Schedule under section 5314 of title 5;

(E) the Director of Central Intelligence, the Deputy Director of Central Intelligence, and the Commissioner of Internal Revenue;

(F) any individual who held an office or position described in paragraph 1 or in subparagraphs (B) through (E) of paragraph (2), for 1 year after leaving the office or position or until the President under whom the individual served leaves office, whichever period expires first;

(G) any individual who held an office or position described in paragraph 1 or in subparagraphs (B) through (E) of paragraph (2) during the incumbency of 1 President and who continued to hold that office or position for not more than 90 days into the term of the next President, until the individual leaves such office or position; and

(H) the chairman and treasurer of the principal national campaign committee seeking the election or reelection of the President, and any officer of that committee exercising authority at the national level, during the incumbency of the President.

McCAIN AMENDMENTS NOS. 1208–1210

Mr. COHEN (for Mr. McCain) proposed three amendments to the bill S. 24, supra; as follows:

Amendment No. 1208

At the end of Sec. 3(a)(2), strike the word "counsel." and insert in lieu thereof the following: "counsel, which shall not be withheld unless the Independent Counsel determines that such information would interfere with a pending investigation or prosecution."

Amendment No. 1209

On page 11, line 21, beginning with the word "chapter" strike all through line 24 and insert in lieu thereof the following: "chapter. The one year period may be extended by 3 months if the employee assigned duties under subsection (e)(1)(A)(iii) certifies that the investigation will likely be concluded within that time period."

Amendment No. 1210

At the appropriate place in the bill, insert the following new section:

SEC. . REPORT ON WHITE HOUSE OFFICE PERSONNEL.

(a) Submission of Report.—Beginning on January 1, 1994, and again each 6 months thereafter, the President shall submit a report described under subsection (b) to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives.

(b) Contents.—The report under subsection (a) shall include—

(1) a list of each individual—

(A) employed by the White House Office; or

(B) detailed to the White House Office, and

(2) with regard to each individual described under paragraph (1), such individual's—

(A) name;

(B) position and title:

(C) annual rate of pay; and

(D) amount of Federal pay received in the 3-month period immediately preceding the date of the submission of the applicable report required by this section.

DOLE AMENDMENTS NOS. 1211–1214

Mr. COHEN (for Mr. Dole) proposed four amendments to the bill S. 24, supra; as follows:

Amendment No. 1211

On page 17, strike lines 14 through 20 and insert the following:

(n) Requirement To Use Department of Justice Personnel.—Section 594(d)(1) of title 28, United States Code, is amended to read as follows:

"(1) Required use.—An independent counsel shall request assistance from the Department of Justice in carrying out the functions of the independent counsel, and the Department of Justice shall provide that assistance, which may include access to any records, files, or other materials relevant to matters within such independent counsel's prosecutorial jurisdiction, and the use of the resources and personnel necessary to perform such independent counsel's duties.

Amendment No. 1212

On page 14, lines 23–25, strike "3" to the end of the sentence and insert the following: "2 years after the appointment of an independent counsel or the reported expenditures by such independent counsel have reached $2 million, whichever occurs first, and at the end of each succeeding 1-year period."

Amendment No. 1213

On page 20, between lines 2 and 3 insert the following:

SEC. 5. REMOVAL OF INDEPENDENT COUNSEL FOR GOOD CAUSE.

Section 596(a)(1) of title 28, United States Code, is amended by adding at the end thereof the following: "For purposes of this paragraph, the term 'good cause' includes, but is not limited to, (A) the failure of an independent counsel to follow written Department of Justice guidelines, subject to the limitations of 594(f)(1) and 594(l)(1)(B), respecting enforcement of the criminal laws, and (B) violations of canons of ethics governing the independent counsel and Federal prosecutors."

Amendment No. 1214

On page 18, between lines 13 and 14, insert the following:

(p) Final Report.—Section 594(h)(1)(B) of title 28, United States Code, is amended—

(1) by striking "fully and completely"; and

(2) by striking ", and the reasons" through the period and inserting a period.

NOTICES OF HEARINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. MITCHELL. Mr. President, I would like to announce that the Senate Committee on Indian Affairs and the House Subcommittee on Native American Affairs, Committee on Natural Resources, will be holding a House-Senate conference on Thursday, November 18, 1993, beginning at 5 p.m., in HC–8 of the Capitol Building on H.R. 1268, the Indian Tribal Justice Act.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Wednesday, November 17, 1993, at 9 a.m. on SR–332 on the nominations of Anthony A. Williams, of Connecticut, to be Chief Financial Officer for the Department of Agriculture; Grant B. Buntrock, of South Dakota, to be a member of the Board of Directors of the Commodity Credit Corporation; John E. Tull, Jr., of Arkansas, to be Commissioner of Commodity Futures Trading Commission: Wally B. Beyer, of North Dakota, to be Administrator of the Rural Electrification Administration; Barbara Pedersen Holum, to be a Commissioner of the Commodity Futures Trading Commission; and Michael Dunn, of Iowa, to be Administrator of the Farmers Home Administration.

The PRESIDING OFFICER. Without objection, it is so ordered

COMMITTEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Wednesday, November 17, 1993, at 9:30 a.m., in open session, with the possibility of a closed session, to consider the nomination of Dr. Morton H. Halperin to be Assistant Secretary of Defense for democracy and peacekeeping.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to conduct a hearing on S. 1627, legislation implementing NAFTA, on November 17, 1993, beginning at 3 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet today at 10 a.m. to consider miscellaneous no-cost legislative provisions relating to health and welfare that were omitted from the Budget Reconciliation Act due to the Byrd rule.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, November 17, 1993, at 3 p.m. to hold a nomination hearing on K. Terry Dornbush, to be Ambassador to the Kingdom of the Netherlands.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, November 17, 1993, at 3:30 p.m. to hold nomination hearings on: Mr. M. Douglas Stafford, of New York, to be Assistant Administrator for Food and Humanitarian Assistance of the Agency for International Development; and Mr. L. Ronald Scheman, of the District of Columbia, to be U.S. Executive Director of the Inter-American Development Bank for a term of 3 years.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITEE ON LABOR AND HUMAN RESOURCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet on November 17, 1993, at 9 a.m., for an Executive Session to consider S. 1595, Bone Marrow Donor Program Reauthorization Act of 1993; S. 1597, Organ Transplant Program Reauthorization Act of 1993; S. 244, National Community Economic Partnership Act of 1993; and the nominations of Olivia Golden to be Commissioner on Children, Youth, and Families at the Department of Health and Human Services; Magdalena Jacobsen to be a member of the National Mediation Board; and Preston Taylor, Jr., to be Assistant Secretary for Veterans' Employment and Training at the Department of Labor.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on Public Health: Meeting the Health Care Needs of All Americans, during the session of the Senate on November 17, 1993, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on November 17, 1993, at 10 a.m. on S. 1350—Natural Disaster Protection Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, November 17 at 10 a.m. to hold an open hearing on commercial imagery.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

STOCK OPTIONS—THE EQUITY EXPANSION ACT OF 1993

• Mr. LIEBERMAN. Mr. President, last June I introduced legislation creating a new class of stock option, the performance stock option, and directing the Securities and Exchange Commission to overturn a proposed FASB rule to change the current accounting treatment of stock options. Not surprisingly, the second piece of my legislation has received most of the attention. Because of the growing opposition to FASB's stock option proposal, I wanted to come to the floor this morning and briefly describe my rationale for this bill.

Mr. President, I firmly believe that markets operate freely and efficiently only with full and accurate information. I also believe that financial statements must be credible and comparable, and that the accounting standards that drive financial reporting ought to be set by the private sector. Notwithstanding, I came to believe the FASB proposal must be rejected after reaching three conclusions.

1. ECONOMIC COSTS VERSUS ACCOUNTING BENEFITS

First, Mr. President, I concluded that—in weighing the costs and benefits—the FASB stock option proposal is so potentially damaging to the economy and offers so little in terms of improved comparability and integrity of financial statements that this proposal must not go forward. I believe FASB is ignoring its charter responsibility to promulgate rules only when the expected benefits exceed the perceived costs. FASB's mission statement clearly establishes a standard where the expected benefits must exceed the perceived costs. This is a significant standard for FASB to meet and a higher standard than a mere cost versus benefit analysis.

Mr. President, an employee stock option represents the right of an employee to purchase a set number of company shares for a fixed price at some defined time in the future. Stock options make it possible to start new companies and create new jobs. They enable small companies to stretch scarce venture capital dollars and attract key employees. Stock options also encourage risk-taking and spur technological innovation by putting employees on the same team as the stockholders. In short, they represent an integral and indispensable tool for economic growth and job creation.

Stock options are accounted for today the same as other inherently difficult to value items—by disclosure. For example, since the cost of a pending lawsuit cannot be known in advance, current accounting rules [FASB] require the fact of the suit to be disclosed to investors. In the same way, since the value of an employee stock option depends on unknown variables, the proper accounting is full disclosure to the shareholders.

Specifically, stock options authorize a future capital transaction between a company's stockholders and employees. The cost of that transaction is borne entirely by the shareholders—not the company—through a dilution in the value of their shares. This cost to shareholders is fully disclosed by current stock option accounting as a reduction in earnings per share. Stock option plans are also the only element of corporate compensation that already require the express approval of shareholders. Yet the FASB proposal will require a charge to the company's financial statements, regardless of whether the stock price ever rises or whether the options expire absolutely worthless. In both cases, the real cash value to the employee is zero.

FASB suggests that current accounting recognizes all other equity transactions involving the issuance of stock in exchange for goods and services. In other words, if I gave you stock and you gave me a Ford pickup truck, such a transaction would be accounted for over the depreciable life of the truck. So when I give you stock and when you give me something we will call employee services we should account for that as well. Presuming stock options are compensation—and the company is getting something of value—that would be theoretically correct.

The problem is we can't measure something called employee services. So FASB says since we can't measure what we are getting—employee services—we have to measure what we are giving up. They propose to measure this by using an option pricing model—Black Scholes or a binomial model—by measuring the exercise price, the expected term of the option, the current price of the underlying stock, its expected volatility, the expected dividend yield on the stock, and the risk-free interest rate for the expected option.

But since the real cash value to employees—today—on fixed options offered at the market is indeed zero, we are really not measuring today's value, but rather we are measuring the employees right to participate. There is no question that there is some limited, theoretical justification for FASB's position. But there is significant debate as to whether or not we can measure this right to participate. Bottom line. When you can't count it, disclose it.

One of the problems with the mouse trap—Black Scholes—or any other option pricing model—is that they were designed to measure traded options. These options—unlike fixed employee stock options—are transferable and subject to continual market verification of price. Their value comes from their transferability and volatility. Would anybody really suggest that these options would retain their value if they were no longer able to be traded? Of course not. Yet employee options are not transferable to anyone. The fact is that accurately estimating the present value of a fixed employees stock option—measured in terms of his or her right to participate—is impossible, making these charges imprecise and speculative. No model yet offered comes close. But FASB proposes to force such guesses about the future onto the company's income statement as a reduction of its hard-won earnings.

So we come back to the basis for any accounting change—the cost versus the benefits. In other words, will the improved integrity and comparability of financial statements outweigh the economic costs? I have concluded that they will not, and I am not alone in my analysis. The FASB rule is opposed by the vast majority of the investment community including, the Council of Institutional Investors, the United Shareholders Association, National Venture Capital Association, hundreds of pension funds, three of the four SEC Commissioners, the Financial Executives Institute, the NASDAQ stock market, and each of the big six accounting firms, to name a few. And this does not even begin to count the dozens of high technology industry groups opposing the decision.

The Board says the market will learn to overlook these charges and discern the true nature of the companies earnings. Presuming a thoroughly efficient marketplace, this could be true for the Fortune 500, but 48 percent of all NASDAQ stocks are never followed by any analyst. These companies—the smaller, more volatile, job creating companies—will be seriously impacted. The result of this change will be lower earnings which will impact the ability of these firms to raise capital and will curtail their ability to offer options to a broad-base of their work force.

At a recent Senate hearing, the Council of Institutional Investors said it best:

> There is no group that has a greater interest in the principled right answers to accounting questions than we do. We are the people who invest real money—huge amounts of money—based upon what we read in financial statements. We are America's employees and America's retirees, and we will not get our pensions if we do not invest wisely based on accurate financial information. So no one will be hurt more than we if any other agenda—however virtuous—is pursued at the expense of the accuracy and usefulness of financial statements. This is real people's grocery money. She goes on to say: "The exposure draft requires companies to put something in their financial statements that simply isn't true."

Indeed, Mr. President, FASB is trying to impose the first generally accepted accounting principle, which is generally accepted by no one.

2. WHAT ARE THE BENEFITS OF STOCK OPTIONS AND WHO GETS THEM?

Mr. President, the second reason I introduced my legislation was because there seems to be a looming misunderstanding about what stock options are and who gets them. There has been a lot of attention paid to the horror stories about a relatively small number of extravagantly compensated executives. These stories are true and the outrage is understandable. But that does not paint an accurate picture of the role stock options play in the U.S. economy today. Nor does it paint an accurate picture of who gets them.

The fact is that there are many thousands of companies who offer stock option packages, and many hundreds of thousands of employees who receive them. Some of the companies which have broad-based stock option plans include Nynex, General Mills, Microsoft, Genentech, Wal-Mart, Intel, Motorola, Wendy's, Pepsi-Co, DuPont, NationsBank, and Pfizer. And the practice is even more widespread among smaller, newer companies. The fact is that America's most dynamic, job-creating companies consistently rely on employee stock options to attract and motivate their employees. Not just their top executives, all their employees. Let me just mention one recent survey which concluded that of companies offering stock option plans with fewer than 100 employees, fully 9 out of 10 offer options to every single employee.

Mr. President, as I eluded to earlier, stock options represent enormous economic benefits for businesses and employees alike. Stock options make it possible to start new companies and create new jobs. They stretch venture capital dollars, enhance recruitment, and motivate employees. Indeed, nearly every study of what works in successful companies advocates encouraging employees to buy and own meaningful portions of their company's stock.

Stock options also represent significant benefits for employees. I am speaking of the hundreds of thousands of midlevel, middle class employees who receive options. For these people, stock options represent the difference between working for a company and having an ownership stake in a company. And, in many cases, stock options also represent an extra bonus—a dividend, if you will—that makes it possible to afford a home, a child's college education, a retirement nest egg, or even startup capital to open a business and create more jobs.

3. THE FASB PROCESS IS BROKEN

Mr. President, the third reason I introduced my legislation was because I believe that, in this instance, the FASB process is broken. Arthur Levitt, Chairman of the Securities and Exchange Commission, has taken exception with my view, but nonetheless has taken a position that I believe to be rational and reasoned. Chairman Levitt has argued that the FASB process is fair and open. He has encouraged a thorough debate; has encouraged opponents of the FASB rule to participate in that debate; and has said he will withhold judgment until such a debate occurs. But, Mr. President, this morning I received a copy of a letter sent to Chairman Levitt from 10 industry organizations which makes clear that, in this case, the FASB process is fatally damaged. To quote from the letter: "There is no longer any basis for believing that FASB has maintained the open mind that is essential for regulatory due process." While this is not exactly like a regulatory process, their point is well taken and noteworthy.

Allow me to elaborate. As part of FASB's ongoing deliberative process the Financial Accounting Standards Board issues an exposure draft which is described as a "proposed statement of financial accounting standards," akin to a governmental rulemaking proposal. Simply stated, this exposure draft sets forward the conceptual basis for its proposed standard and the process by which written and oral comments may be made. The first page of the exposure draft for Accounting for Stock-based Compensation reads:

> The proposals that the Board believes are the most significant are summarized below to assist recipients of the proposed Statement.

Under the first heading, "Recognition of Compensation Cost," the exposure draft asks:

> Issue 1: * * * Should the issuance of fixed stock options like the issuance of other equity instruments, result in recognition of the consideration and the subsequent cost incurred as the consideration—employee services—is used in the entity's operations?

Indeed, this is the fundamental question of the debate. Stated simply, the issues raised are: First, are stock options compensation; and second, should fixed stock option grants result in a charge against earnings. Moreover, these are the questions to which many distinguished and accomplished accountants, financial information users, and financial officers hold different views. The exposure draft goes on to raise issues related to measurement date, measurement method, attribution period, and disclosures.

But, Mr. President, last month—more than 2 months before the end of the official public comment period, FASB made it clear their minds are already made up on this central issue. Mr. James Leisenring, vice chairman of the Financial Accounting Standards Board, stated in both written and oral testimony before the U.S. Senate Securities Subcommittee:

> Have we made up our minds that stock options are compensation that should be recognized? Yes. Have we made up our minds about how to exactly measure the compensation expense? No.

In other words, Mr. President, sending FASB any opposing views is a waste of time. Fundamental requirements of due process and fair administrative procedure require that those affected by proposed regulations have a right to have their views heard and considered before the regulations are implemented. FASB's declaration of its conclusions 2 months before its public comment period has closed is a clear breach of fairness and administrative due process. FASB has undermined their own process—a process which has turned out to be neither fair nor open. This process by FASB's own statements is a sham. And, this is not the first time they have made these statements. In virtually every public meeting and in virtually every press report, the message is the same. The FASB has made clear that they are not respecting the public comment process that FASB itself set up to resolve the key questions set forth in their own exposure draft. They are making clear that any public comments on the central issues will not be considered and that their position is nondebatable. That being the case, what is the purpose of this comment period?

Mr. President, I believe it is now necessary and appropriate for Chairman Levitt to stop deferring to the FASB process. It is time for the chairman to step in and exercise the SEC's statutory oversight responsibility and put an end to this misguided exercise in accounting theory. He should do so because the process is flawed. More important, Mr. President, he should do so because—on the substance—the FASB proposal is bad policy, bad economics, and bad accounting.

Mr. President, let me just conclude by quickly addressing a couple of additional points raised by the FASB. FASB has argued that they have no responsibility to take the economic impact of its actions into account. And, they argue that Congress should not become involved in the standard setting process. Generally speaking, I agree with both points. However, do not be fooled into thinking that this is like past accounting debates, despite FASB's attempt to raise the stakes of this proposal. This debate is not about postretirement health benefits, unfunded pensions, or thrift accounting. There is no comparison, and, in this case, there are no identifiable victims.

FASB also states that "Current accounting produces financial statements that are neither credible nor representationally faithful." This statement—like the statement comparing this debate to the savings and loan crisis—is an outrageous exaggeration of the facts. Let me quote Jim Bunt, comptroller of General Electric, at last month's Senate hearing testify on behalf of the Financial Executives Institute:

> I can assert that during the past 20 years, not one shareowner, securities analyst, not one member of the business press, has ever suggested that my company's financial statements are flawed or misleading as a result of our accounting for employee stock options.

Let me also quote from a letter sent to me last summer by the United Shareholders Association, representing 65,000 individual investors. They stated:

> As investors and regular users of corporate financial reports, USA members are the very people the accounting rules are designed to protect. Our members oppose charging earnings for stock options. We do not believe FASB's proposal would clarify the reports we receive. In fact, we believe that including speculative estimates of future stock option values in corporate earnings statements diminishes rather than enhances their usefulness.

Finally, Mr. President, let me just make clear that this debate is not about the independence of the Financial Accounting Standards Board. I am a full supporter of the FASB and their independence, but this debate is not about the FASB. This debate is about employee ownership, economic growth, and job creation. Nobody is arguing that the threat of job loss justifies bad accounting. We are arguing for a pragmatic approach to financial accounting—an approach which recognizes that when you weigh the economic costs against the theoretical accounting benefits—the outcome is clear. What we get is a highly debatable accounting standard, what we give up is a vital tool for economic growth and job creation. This proposal should be withdrawn.•

S. 1618, THE TRIBAL SELF-GOVERNANCE ACT OF 1993

• Mr. GORTON. Mr. President, I am very pleased to have added my name as an original cosponsor to S. 1618, the Tribal Self-Governance Act of 1993, introduced by my distinguished colleague and vice chairman of the Indian Affairs Committee, Senator MCCAIN.

Self-governance is part of a relatively recent trend toward more direct tribal responsibility for, and control over, Federal Government programs. The first step, taken over a decade ago, was the creation of 638 contracts whereby a tribe contracts with the Bureau of Indian Affairs to administer Bureau programs, but cannot change or alter the benefits, structure or regulations associated with the program. Self-governance takes it a big step further.

In 1987, a number of tribes developed a proposal entitled the "Tribal Self-Governance Research and Demonstration Project Act." The next year, after extensive discussions, Congress passed legislation establishing this self-governance demonstration project for a very small number of tribes.

The self-governance demonstration project, which is completely voluntary, provides tribal governments with more control, flexibility and decisionmaking authority over the Federal programs and financial resources intended to benefit Indian people. Tribal governments become policymakers, having the power to alter a Federal program and its funding level to meet tribally determined priorities and the unique needs of their communities. Tribes are not required to operate existing programs. If they wish, they can reallocate funds from that program to another program that is also authorized by Congress.

To date, 28 tribes have entered into compacts with the Department of the Interior. Six tribes have done so with the Indian Health Service, with more in the works. Eight tribes in my home State of Washington participate—the highest number of tribes from any State. These tribes are the Lummi Indian Nation, the Quinault Indian Nation, the Jamestown Klallam Indian Tribe, the Port Gamble S'Klallam Tribe, the Jakah Tribe, the Lower Elwha S'Klallam Tribe, the Squaxin Island Tribe, and the Swinomish Tribe.

I am especially pleased that some of the tribes in Washington State have taken the lead in the Self-Governance Program, publishing a newsletter, Sovereign Nations, and providing education and assistance to other tribes who are interested in, or are in the process of, becoming self-governing.

Mr. President, I have heard from the tribal leaders in my State that self-governance has had a positive effect on participating tribes. They tell me how self-governance allows them to become more independent of the centralized bureaucracy of the BIA, gives them more authority and responsibility to alter Federal programs to meet tribal needs, makes their governments more responsible to tribal members and provides for a greater degree of self-sufficiency. They tell me it has allowed them to grow.

W. Ron Allen, chairman of the Jamestown Klallam Tribe, during testimony before the Senate Indian Affairs Committee, stated "* * * the Jamestown Klallam Tribal Council has had the opportunity to become more flexible with greater opportunity to create responses to specific tribal needs." Chairman Allen goes on to say that the tribe "envisions a strong, stable and more responsible government that can promote greater social, economic and political self-sufficiency for our tribe through the Self-Governance Demonstration Project."

In an interview published in Sovereign Nations, Lummi Nation self-governance Coordinator, Raynette Finkbonner, was asked how the self-governance process has affected the tribe. She responded that, "The process has let the tribe create innovative approaches in redesigning programs to better meet our community needs. It has expanded the decisionmaking authority of the tribal government, the establishment of tribal priorities and the allocation of resources to meet those priorities. We have a good budget ordinance and we have better fiscal accountability. We have involvement and input from the tribal community in our budget process and the establishment of tribal priorities."

Clearly self-governance has moved many important decisions out of Washington, DC to tribal headquarters. It provided tribes with a greater degree of authority and responsibility, enabling them to become more self-sufficient and responsive. And while self-governance does not solve all of a tribe's problems, it is assuredly a step in the right direction.

Mr. President, I have listened to the tribal leaders in my State. I have listened to their hopes for the future, their optimism, and their desire to take more control of their destinies. I have listened and I agree. Self-governance is a new way of doing business that should be promoted and made permanent. That is why I added my support as an original cosponsor to legislation to make self-governance permanent for the department of the Interior and increase the number of tribes which can participate. I urge swift action on this bill and hope to see it passed into law quickly.•

COST COMPARISON BETWEEN "CENTURION" AND "SEAWOLF"

• Mr. D'AMATO. Mr. President, I am very disturbed by the results of the *Centurion* Cost and Operational Effectiveness Analysis [COEA]. A cost comparison between *Centurion* and *Seawolf* equalized for production rate projects a unit price for *Centurion* approaching that of *Seawolf*. This is a shocking outcome considering the original intent of the program was to design a submarine with a unit cost roughly approximating that of the improved *Los Angeles* class.

To fully achieve the affordability goals established for *Centurion*, I believe it will be necessary to pursue a more measured development program geared to thoroughly exploiting new technologies to ensure that significant savings are realized. An extension of *Centurion* development will, in turn, require the procurement of a small number of *Seawolf* subs to sustain the submarine industrial base.

Although the *Centurion* COEA was received too late to affect this year's Defense appropriations markup, I proposed, as a Conference matter, transferring funds from various *Centurion* accounts to the submarine industrial base line, leaving only enough *Centurion* R&D funds to maintain the level of effort necessary to preserve core submarine design capabilities. Accompanying language would have required that, prior to the release of funds, the Navy to report on the cost-effectiveness, particularly over the FYDP, of using pooled fiscal year 1994 *Centurion* funds to: First, partially offset the cost of completing the SSN-23; or second, continue *Centurion* development at the current pace. The Navy would have been further required to reflect in the fiscal year 1995 defense budget request the proposed use of fiscal year 1994 funds.

Senators are familiar with the overall funding crisis in the shipbuilding and conversion, Navy, account, so I will not belabor the point. At a minimum sustaining rate of roughly 1 boat every 2 years, a rate that will protect the current submarine industrial base, the *Seawolf* has a unit cost of ±$2.35 billion. For $3.5 billion-plus in development, a less capable *Centurion* is projected to cost ±$1.4 billion per unit at a rate of 1.5–2 boats per year. Even if these projected costs prove accurate *Centurion* will, at a minimum, require almost twice the funding of *Seawolf*, $4.2 billion-plus versus ≥$2.5 billion every 2 years.

By continuing to build *Seawolf* at a minimal rate and delaying *Centurion*, we can save money outright, then save additional funds by amortizing *Seawolf* production and O&S costs over a greater number of hulls, protect the industrial base, manage the total fleet size better, and engage in a measured development of *Centurion* geared to generating true savings.

Understandably, my colleagues were reluctant to consider such a sweeping proposal during conference. Fortunately, the rescission bill expected in January and the Somalia supplemental offer other opportunities to implement my plan. If accepted, we can put submarine development and acquisition spending on a realistic, affordable footing.•

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations:

Calendar Nos. 326, 485, 487, 488, 489, 514, 515, 516;

I further ask unanimous consent that the nominees be confirmed, en bloc; that any statements appear in the RECORD as if read; that upon confirmation, the motions to reconsider be laid upon the table, en bloc, that the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations, considered and confirmed, en bloc, are as follows:

DEPARTMENT OF STATE

Alvin P. Adams, Jr., of Virginia, a career member of the Senior Foreign Service, class of minister-counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Peru.

DEPARTMENT OF JUSTICE

Eduardo Gonzalez, of Florida, to be Director of the U.S. Marshals Service.

Carl Kimmel Kirkpatrick, of Tennessee, to be U.S. attorney for the Eastern District of Tennessee for the term of 4 years.

Frances Cuthbert Hulin, of Illinois, to be U.S. attorney for the Central District of Illinois for the term of 4 years.

Nora Margaret Manella, of California, to be U.S. attorney for the Central District of California for the term of 4 years.

DEPARTMENT OF DEFENSE

R. Noel Longuemare, Jr., of Maryland, to be Deputy Under Secretary of Defense for Acquisition.

Gilbert F. Casellas, of Pennsylvania, to be General Counsel of the Department of the Air Force.

Henry Allen Holmes, of the District of Columbia, to be an Assistant Secretary of Defense.

TREATY WITH THE GOVERNMENT OF ROMANIA CONCERNING THE RECIPROCAL ENCOURAGEMENT AND PROTECTION OF INVESTMENT

TREATY WITH THE ARGENTINE REPUBLIC CONCERNING THE RECIPROCAL ENCOURAGEMENT AND PROTECTION OF INVESTMENT

TREATY WITH THE REPUBLIC OF BULGARIA CONCERNING THE ENCOURAGEMENT AND RECIPROCAL PROTECTION OF INVESTMENT

TREATY WITH THE REPUBLIC OF ARMENIA CONCERNING THE RECIPROCAL ENCOURAGEMENT AND PROTECTION OF INVESTMENT

TREATY WITH THE REPUBLIC OF KYRGYZSTAN CONCERNING THE ENCOURAGEMENT AND RECIPROCAL PROTECTION OF INVESTMENT

TREATY WITH THE REPUBLIC OF MOLDAVA CONCERNING THE ENCOURAGEMENT AND RECIPROCAL PROTECTION OF INVESTMENT

TREATY WITH THE REPUBLIC OF ECUADOR CONCERNING THE ENCOURAGEMENT AND RECIPROCAL PROTECTION OF INVESTMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the following treaties:

Executive Calendar No. 2, Treaty with the Government of Romania Concerning the Reciprocal Encouragement and Protection of Investment; Calendar No. 3, Treaty with the Argentine Republic Concerning the Reciprocal Encouragement and Protection of Investment; Calendar No. 4, Treaty with the Republic of Bulgaria Concerning the Encouragement and Reciprocal Protection of Investment; Calendar No. 5, Treaty with the Republic of Armenia Concerning the Reciprocal Encouragement and Protection of Investment; Calendar No. 7, Treaty with the Republic of Kyrgyzstan Concerning the Encouragement and Reciprocal Protection of Investment; Calendar No. 8, Treaty with the Republic of Moldova Concerning the Encouragement and Reciprocal Protection of Investment; and Calendar No. 9, Treaty with the Republic of Ecuador Concerning the Encouragement and Reciprocal Protection of Investment.

I further ask unanimous consent that the treaties be considered as having been advanced through the various parliamentary stages up to and including the presentation of the Resolution of Ratification; that no amendments, conditions, declarations, provisos, understandings, or reservations be in order; that any statements appear as if read in the RECORD, and that the Senate vote with one vote to count as seven on the resolution of ratification, without intervening action or debate; that after the vote, the motion to reconsider the vote be tabled; that the President be notified of the Senate's action, and that the Senate return to legislative session.

Mr. President, I ask for a division vote.

The PRESIDING OFFICER. All those in favor will stand and be counted. (After a pause.) Those opposed will stand and be counted.

In the opinion of the Chair, two-thirds of those present having voted in the affirmative, the Resolutions of Ratification are agreed to.

So it was

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty Between the Government of the United States of America and the Government of Romania Concerning the Reciprocal Encouragement and Protection of Investment, with Protocol and Related Exchange of Letters, signed at Bucharest on May 28, 1992.

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty Between the United States of America and the Argentine Republic Concerning the Reciprocal Encouragement and Protection of Investment, with Protocol, signed at Washington on November 14, 1991; and an Amendment to the Protocol effected by Exchange of Notes at Buenos Aires on August 24 and November 6, 1992.

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty Between the United States of America and the Republic of Bulgaria Concerning the Encouragement and Reciprocal Protection of Investment, with Protocol and Related Exchange of Letters, signed at Washington on September 23, 1992.

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty Between the United States of America and the Republic of Armenia Concerning the Reciprocal Encouragement and Protection of Investment, signed at Washington on September 23, 1992.

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty Between the United States of America and the Republic of Kygyzstan Concerning the Encouragement and Reciprocal Protection of Investment, signed at Washington on January 19, 1993.

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty Between the United States of America and the Republic of Moldova Concerning the Encouragement and Reciprocal Protection of Investment, with Protocol and Related Exchange of Letters, signed at Washington on April 21, 1993.

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty Between the United States of America and the Republic of Ecuador Concerning the Encouragement and Reciprocal Protection of Investment, with Protocol and Related Exchange of Letters, signed at Washington on August 27, 1993.

Mr. PELL. Mr. President, the Senate has before it today bilateral investment treaties with Argentina, Armenia, Bulgaria, Ecuador, Kyrgyzstan, Moldova, and Romania.

These treaties are part of a series of bilateral investment treaties being negotiated by the United States. The principal purpose of the bilateral investment treaties is to promote the free flow of international investment and to encourage and protect U.S. investment in developing countries.

Before entering into negotiations, the United States developed a model treaty which sought to incorporate provisions which would facilitate the free flow of investment, prohibit practices which have emerged in various countries which inhibit that free flow, and generally codify rules on investment and dispute settlement, which the United States views as well established international law and precedent. Specifically, the model treaty seeks to achieve the following objectives:

The better of either national or most-favored nation treatment, for each party to the treaty, thereby providing in the case of U.S. companies a "level playing field" in competing with national and third country investors, both on establishment of an investment and thereafter, subject to specified exceptions set forth in the annex or protocol to each treaty;

Application of international law standards to the expropriation of investments, permitting expropriation only for a public purpose in a nondiscriminatory manner and requiring the payment of prompt, adequate, and effective compensation;

The free transfer of all funds associated with an investment into and out of the host country in a freely usable currency;

Access to binding international arbitration for settlement of investment disputes without first resorting to domestic courts;

A prohibition on the imposition of performance requirements, such as obligations to use local products or to export goods, which have become important as countries have increasingly imposed requirements to use domestically produced goods; and

The right of companies to hire top managers of their choice, regardless of nationality.

Intellectual property rights are included in the treaty's definition of "investment." Although the treaty does not prescribe the elements of an intellectual property rights regime, any rights conferred by the national laws of a Party with respect to intellectual property must be treated as an investment. Such rights are accorded the same protections; that is national treatment, as granted to other forms of investment under a bilateral investment treaty.

In each of the bilateral investment treaties, including these treaties, the United States has reserved the right to make or maintain limited exceptions to national or most-favored-nation treatment in specific sectors or matters set forth in the annex or protocol to each treaty.

These treaties all satisfy the basic objectives of the bilateral investment treaty program.

On September 10, 1993, the committee held a hearing on these treaties. Testimony was received by the Honorable Daniel K. Tarullo, Assistant Secretary of State for Economic and Business Affairs, Department of State, who was accompanied by Donald S. Abelson, Assistant U.S. Trade Representative for Services, Investmènt and Intellectual Property.

In addition, the committee received statements in support of the treaties from Ambassador Charlene Barshefsky, Deputy U.S. Trade Representative, the National Association of manufacturers, the U.S. Council for International Business and Joel W. Messing, an international lawyer.

The Committee voted to report favorably the treaties, and recommend that the Senate give it's advice and consent to ratification thereof by a voice vote, with a quorum being present, at a meeting on September 14, 1993.

The treaty text, the administration's summary analysis of each treaty and the committee's recommendations are set forth in the treaty submittals and respective committee reports. (Argentina-Treaty Doc. 103-2, Ex. Rept. No. 103-8; Armenia-Treaty Doc. 103-11, Ex. Rept. No. 103-10; Bulgaria-Treaty Doc. 103-3, Ex. Rept. No. 103-9; Ecuador-Treaty Doc. 103-15, Ex. Rept. No. 103-14; Kyrgyzstan-Treaty Doc. 103-13, Ex. Rept. No. 103-12; Moldova-Treaty Doc. 103-14, Ex. Rept. No. 103-13; and Romania-Treaty Doc. 102-36, Ex. Rept. No. 103-7). The administration's responses to committee questions regarding the interpretation of treaty provisions are available for review as part of the committee's hearing record on each treaty.

Mr. President, I urge that the Senate advise and consent to the ratification of these seven bilateral investment treaties.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

THE MIDDLE EAST PEACE FACILITATION ACT OF 1993

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 1667, a bill to extend the authorities under the Middle East Facilitation Act of 1993 by 6 months, introduced earlier today by Senator PELL; that the bill be deemed read the third time, and passed; the motion to reconsider laid upon the table, and any statements appear at the appropriate place in the RECORD as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 1667) was deemed read the third time, and passed, as follows:

S. 1667

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF AUTHORITIES.

Section 3(a) of the Middle East Peace Facilitation Act of 1993 (Public Law 103-125) is amended by striking "January 1" and inserting in lieu thereof "July 1".

IRANIAN BAHA'I COMMUNITY CONCURRENT RESOLUTION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 225, Senate Concurrent Resolution 31, a concurrent resolution concerning the emancipation of the Iranian Baha'i community; that the concurrent resolution be deemed agreed to; the motion to reconsider be laid on the table and any statements thereon appear in the RECORD at the appropriate place as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the concurrent resolution (S. Con. Res. 31) was deemed agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, is as follows:

S. CON. RES. 31

Whereas in 1982, 1984, 1988, 1990, and 1992, the Congress, by concurrent resolution, declared that it holds the Government of Iran responsible for upholding the rights of all its nationals, including members of the Baha'i Faith, Iran's largest religious minority;

Whereas in such resolutions and in numerous other appeals, the Congress condemned the Government of Iran's religious persecution of the Baha'i community, including the execution of more than 200 Baha'is, the imprisonment of additional thousands, and other repressive and discriminatory actions against Baha'is based solely upon their religious beliefs;

Whereas in 1992, the Government of Iran summarily executed a leading member of the Baha'i community, arrested and imprisoned several other Baha'is, condemned two Baha'i prisoners to death on account of their religion, and confiscated individual Baha'is' homes and personal properties in several cities;

Whereas the Government of Iran continues to deny the Baha'i community the right to organize, to elect its leaders, to hold community property for worship or assembly, to operate religious schools and to conduct other normal religious community activities, and

Whereas on February 22, 1993, the United Nations Commission on Human Rights published a formerly confidential Iranian government document constituting a blueprint for the destruction of the Baha'i community, which document reveals that these repressive actions are the result of a deliberate policy designed and approved by the highest officials of the Government of Iran: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) continues to hold the Government of Iran responsible for upholding the rights of all its nationals, including members of the Baha'i community, in a manner consistent with Iran's obligations under the Universal Declaration of Human Rights and other international agreements guaranteeing the civil and political rights of its citizens;

(2) condemns the repressive anti-Baha'i policy adopted by the Government of Iran, as set forth in a confidential official document which explicitly states that Baha'is shall be denied access to education and employment, and that the government's policy is to deal with Baha'is "in such a way that their progress and development are blocked";

(3) expresses concern that individual Baha'is continue to suffer from severely repressive and discriminatory government actions, solely on account of their religion; and that the Baha'i community continues to be denied legal recognition and the basic rights to organize, elect its leaders, educate its youth, and conduct the normal activities of a law-abiding religious community;

(4) urges the Government of Iran to extend to the Baha'i community the rights guaranteed by the Universal Declaration of Human Rights and the international covenants on human rights, including the freedom of thought, conscience, and religion, and equal protection of the law; and

(5) calls upon the President to continue—

(A) to emphasize that the United States regards the human rights practices of the Government of Iran, particularly its treatment of the Baha'i community and other religious minorities, as a significant factor in the development of the United States Government's relations with the Government of Iran;

(B) to urge the Government of Iran to emancipate the Baha'i community by granting those rights guaranteed by the Universal Declaration of Human Rights and the international covenants on human rights; and

(C) to encourage other governments to continue to appeal to the Government of Iran, and to cooperate with other governments and international organizations, including the United Nations and its agencies, in efforts to protect the religious rights of the Baha'is and other minorities through joint appeals to the Government of Iran and through other appropriate actions.

SEC. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President.

Mr. DODD. Mr. President, I rise in strong support of this legislation, and I want to thank the majority leader for allowing this measure to be considered by the Senate before the winter recess.

Mr. President, the resolution before us is a very simple one. It calls on the Government of Iran to improve its treatment of the Baha'i, Iran's largest religious minority with over 300,000 members. In addition, this resolution calls on the President to continue to consider the treatment of the Baha'i as a significant factor in United States-Iranian relations.

Mr. President, in the 14 years since the Islamic Revolution, members of the Baha'i community have been the target of widespread and systematic persecution, harassment, and discrimination. More than 200 Baha'is have been executed and thousands of others have been arbitrarily imprisoned, robbed of their belongings, and refused employment or educational opportunities.

Iran's true intentions toward the Baha'i community were made clear last winter when a high-level Iranian Government communique was obtained by the U.N. Human Rights Commission. This document spells out in detail the manner in which the Baha'i are to be singled out for discrimination, such as expelling them from universities, denying them employment, and devising a plan to destroy their cultural roots outside the country. The existence of this document came as no surprise to the Baha'i, who had already been living under these de facto conditions for quite some time.

Iran's treatment of the Baha'i has been repeatedly condemned by the State Department and the United Nations. In fact, both President Clinton and Vice President GORE have taken the opportunity in the last several months to personally single out the Iranian regime for its treatment of the Baha'i community.

Here in Congress, Iran's treatment of the Baha'i has also gained considerable attention. In every one of the last four Congresses, legislation has been enacted that calls on the Iranian Government to improve its treatment of the Baha'i. This continued pressure is necessary if we are to send a clear message to the leaders of Iran that their behavior toward the Baha'i cannot be tolerated.

Mr. President, in some ways it would appear that the constant U.S. pressure on this issue has had some results. For example, the number of political killings of Baha'i has dropped to virtually zero over the past several years. Unfortunately, disturbing signs continue to emerge from Iran indicating that the leaders in Tehran still have a long way to go.

For example, earlier this year the Government of Iran began excavating a Baha'i cemetery in order to build a local cultural center. This appalling act was condemned by the United States as yet another example of abuse of the Iranian Baha'i religious community by the Government of the Islamic Republic of Iran. The New York Times, in an editorial, wrote that a regime that stoops to body-snatching can hardly reach lower. I will soon ask unanimous consent that both of these documents be placed in the RECORD at the appropriate place.

In addition, just last month the Iranian parliament passed a law banning civil servants from participating in groups whose constitution is based on the denial of divine religions. This arbitrary and discriminatory provision would clearly prohibit members of the Baha'i community from serving as civil servants.

Mr. President, this resolution currently has 52 cosponsors in this Chamber—a clear indication of the type of broad-based support that this issue has in the Congress. I thank the majority leader for allowing this measure to come to the floor and I urge my colleagues to lend their support to it.

I ask unanimous consent that the documents I referred to be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF STATE,
OFFICE OF THE SPOKESMAN,
August 4, 1993.

DESECRATION OF BAHA'I CEMETERY IN TEHRAN

We have received reports from the Baha'i community that the Tehran municipality is building a community center on the site of a former Baha'i cemetery. Independent sources have confirmed this information.

The United States Government condemns the desecration of this cemetery. It is yet another example of abuse of the Iranian Baha'i religious community by the Government of the Islamic Republic of Iran.

We urge the Iranian Government to halt the construction work immediately.

[From the New York Times, July 8, 1993]

IRAN STOOPS TO GRAVE ROBBING

After the election of President Hashemi Rafsanjani, a supposed harbinger of moderation, the world hoped for better from Iran. But the mortality policy still stalk the streets, jailing men for wearing T-shirts and women for wearing sunglasses. Even more upsetting is the recent bulldozing of grave sites and uprooting of bodies from a Baha'i cemetery in Teheran, ostensibly to make way for a cultural center.

This officially sanctioned grave-robbing follows years of persecution of an estimated 300,000 Iranian Bahais, whose faith the mullahs treat with spite, since it is viewed as a heretical offshoot of Islam. Bahais were singled out for oppression in a secret 1991 order calling for their dismissal from jobs and universities. When the order became known this year, it was rightly condemned by the Clinton Administration and in U.N. debates.

With the death warrant on the novelist Salman Rushdie, the mullahs of Iran made plain their contempt for Western traditions of tolerance. True, those traditions are fragile. Islamic peoples have been persecuted in Germany and the Balkans. And in America, virtually every minority has been the target of hate crimes.

But there's a big difference between state-sponsored persecution and gutter bigotry. Reverence for the dead reaches across all cultures and religions. A regime that stoops to body-snatching can hardly reach lower.

Mr. McCAIN. Mr. President, 3 years ago, I spoke on the Senate floor in support of a resolution urging the Government of Iran to end its repression of the Baha'i community in Iran. I began that statement by recognizing that some limited progress had been made in improving conditions for Baha'is in Iran. I noted that at least Iran had ceased executing Baha'is for their religious beliefs and that the number of Baha'is imprisoned for their faith had decreased dramatically.

Despite the cessation of the most horrible acts of official persecution, it was still clear 3 years ago that Iran's rulers continued to systematically persecute Baha'is for their religious beliefs. That sad fact remains true today.

Moreover, the oppression endured by Baha'is in Iran today has taken an ominous turn for the worse. In March of last year, Bahman Samandari, an Iranian of the Baha'i faith, was executed without notification to his family and for simply practicing his faith. Other Baha'is are currently under sentence of death in Iran. Others have been murdered or have died under strange circumstances.

The UN special representative's report on the human rights situation in Iran, released this past February, provides a bleak account of the outrageous conditions imposed on Baha'is by their Government.

The arbitrary arrest and detention of Baha'is continues.

Baha'is are routinely denied access to institutes of higher learning.

They are prevented from meeting as a community, and from maintaining the administrative offices of their faith.

They are denied means to earn a decent living, and their property rights are casually disregarded.

Their marriages and divorces are not legally recognized.

They are officially regarded by the Iranian Government as unprotected infidels, and undeserving of even minimal respect for their civil rights.

Of course, as you have all heard by now, the most alarming development concerning the Baha'is in Iran is the disclosure of a secret code of oppression approved by President Rafsanjani and Khomeini's successor, the Ayatollah Khameini. This 2-year-old document outlines Iran's cynical design for the destruction of the Baha'i faith.

It orders the expulsion of known Baha'is from universities.

It emphasizes that Baha'is should be punished on trumped up allegations of political espionage.

It calls for a multifaceted effort to stop the growth of the Baha'i religion.

And most frighteningly, it urges the destruction of the Baha'is' cultural roots outside their country.

There is also evidence in this document that Iran is sensitive to international opinion on this issue as it reveals the lengths Iran will go to in order to obscure their oppression of the Baha'is.

We recognize that the United States Congress can influence decisionmaking in Iran. As it has previously, Congress should again pass a resolution denouncing these abuses and calling on Iran to observe recognized standards of decency.

In this way, we can assure Iran's leaders that their gross abuses of the Baha'is will not go unnoticed by us, and it will have consequences.

We must communicate to the Government of Iran that Americans and, indeed, all the ever-expanding free world, consider religious tolerance to be a minimal requirement for entry into the community of nations. If Iran is ever to enjoy normal relations with the free world, it will have to exhibit a far greater acceptance of freedom of religion than has ever been the case in revolutionary Iran. A Baha'i, no less than any other human being, is entitled to the right to life, liberty and the pursuit of happiness.

For Baha'is, as for many people, happiness is pursued through religious devotion. If the theocracy that rules Iran cannot accept that enduring truth, than it has no right to consider itself a worthy member of the civilized world.

Mrs. KASSEBAUM. Mr. President, in June of this year, I was pleased to join with Senator DODD and others in cosponsoring Senate Concurrent Resolution 31, concerning the emancipation of the Iranian Baha'i community. Since 1982, Congress has adopted five resolutions calling on the Iranian Government to cease repressive actions against the Baha'is, Iran's largest religious minority. These resolutions have won broad bipartisan support with more than 50 senators cosponsoring this year's resolution.

Repressive actions have been the deliberate policy of the government of Iran. According to a secret Iranian Government document revealed this year by the U.N. Human Rights Commission, Iran's highest officials have proclaimed a policy calling for the destruction of the Baha'i community. In light of this continuing destructive policy and the recent desecration of the Baha'i cemetery in Tehran, Congress must continue to make clear its concern about Iran's treatment of Baha'is.

There is evidence that the Iranian regime is sensitive to international criticism. Therefore, I urge my colleagues to support this resolution in the hope that this effort will bring about positive results.

Mr. PELL. Mr. President, today the Senate is expected to consider legislation, Senate Concurrent Resolution 31, introduced by Senator DODD, myself and others concerning the tragic situation of the Baha'i community in Iran. While much of the international community's attention has understandably been focused on the major human rights atrocities being committed in such places as Bosnia, Iraq and Haiti, the oppression of the Baha'is, the largest non-Moslem religious minority in Iran, must not be forgotten.

The Baha'is are neither subversives or even separatists; they seek only the right to practice their religion freely. Although they are non-violent by the tenets of their faith, the Iranian Baha'is have been subjected to harassment, imprisonment, loss of jobs, confiscation of property, and even summary executions, solely on the basis of their religious beliefs. Recently, an Iranian government document was obtained which outlines the government's strategy of dealing with the Baha'is "in such a way that their progress and development are blocked." The document goes on to call for a plan "to confront and destroy their cultural roots outside the country."

The government of Iran must be held responsible by the international community for this deliberate effort to repress the Baha'i people. I and a number of other Senators have been calling attention to this tragedy for years; from my experience, I know that congressional attention to this issue has had a positive effect on the policies of the Tehran regime. It remains essential, therefore, to apply constant pressure on Iran.

I would like to draw the attention of the Senate to an appeal made by the American Baha'i community, urging the international community to speak out against Iran's repression of the Baha'is. This appeal has been co-signed by many prominent scholars and policymakers, including Elie Wiesel, George Shultz, and Zbigniew Brzezinski, among others. I ask unanimous consent that the text of the appeal, entitled "An Appeal to the Conscience of Humankind," be included in the RECORD at the conclusion of my remarks, and I also urge my colleagues to support the resolution.

There being no objection, the appeal was ordered to be printed in the RECORD, as follows:

NATIONAL SPIRITUAL ASSEMBLY OF THE BAHA'IS OF THE UNITED STATES,
Washington, DC.

AN APPEAL TO THE CONSCIENCE OF HUMANKIND

A law-abiding religious minority in Iran has been the target of official persecution since the Islamic regime was established fourteen years ago. More than 200 members of the Baha'i Faith have been executed because of their religion. Thousands have been imprisoned, and hundreds of thousands denied education and employment.

As "unprotected infidels," Baha'is have no legal rights or protection. They are under severe and continuing pressure to renounce their faith.

These repressive actions are the deliberate policy of the Government of Iran. According to a secret Iranian government document revealed this year by the U.N. Human Rights Commission, Iran's highest officials—including President Rafsanjani and the Supreme Leader, Ayatollah Ali Khamenei—have proclaimed a policy calling for the destruction of the Baha'i community.

Iran's official policy "regarding the Baha'i question" states that "a plan must be devised to confront and destroy their cultural roots outside the country."

Presidents Reagan, Bush and Clinton, the U.S. Congress, the European Parliament, and the parliaments of Australia, Brazil, Canada, Germany and other nations have decried Iran's repressive actions against Baha'is. The U.N. Human Rights Commission and the General Assembly have repeatedly condemned Iran's abuses of human rights, including its actions against the Baha'i minority.

As Americans who cherish religious freedom and tolerance, we urge the world's leaders to continue to speak out against Iran's plan to destroy the Baha'is.

We urge the United Nations and other organizations such as the Council of Europe and the European Community to call upon the Government of Iran to extend to Baha'is the religious rights guaranteed by the Universal Declaration of Human Rights.

CO-SIGNERS OF AMERICAN BAHA'I COMMUNITY APPEAL FOR IRANIAN BAHA'IS (AS OF NOVEMBER 15, 1993)

Morton Abramowitz, Fouad Ajami, John Brademas, Tom Bradley, William E. Brock, Zbigniew Brzezinski.

Hodding Carter, Chester A. Crocker, Patricia Derian, Edward Derwinski, Lawrence S. Eagleburger, Suzanne Garment, Carl Gershman.

Richard N. Haass, Alexander M. Haig, Jr., Rita E. Hauser, Max M. Kampelman, Robert V. Keeley, Geoffrey Kemp, Coretta Scott King.

Jeane J. Kirkpatrick, Morton M. Kondracke, Leon M. Lederman, Sol M. Linowitz, Bette Bao Lord, Richard W. Murphy.

Michael Novak, Daniel Pipes, Richard Pipes, William B. Quandt, Rozanne L. Ridgway, Stuart Robinson.

Peter R. Rosenblatt, Eugene V. Rostow, Jerome J. Shestack, George P. Shultz, Richard H. Solomon, Helmut Sonnenfeldt, Art Ulene, M.D.

Ben J. Wattenberg, George Weigel, John C. Whitehead, Elie Wiesel, Roger Wilkins, Clarence N. Wood, Michael York, Andrew Young.

INCREASING RATE OF SPECIAL PENSION TO PERSONS WHO HAVE RECEIVED THE MEDAL OF HONOR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Veterans Affairs Committee be discharged from further consideration of H.R. 3341, a bill to increase the rate of special pension paid to persons who have received the Medal of Honor, and that the Senate proceed to its immediate consideration; that the bill be deemed read the third time, passed, and the motion to reconsider laid upon the table; that any statements relating to this measure appear in the Record at the appropriate place and as if given.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 3341) was deemed read the third time, and passed.

CORINTH, MISSISSIPPI, BATTLEFIELD ACT OF 1993

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 289, S. 986, to provide for an interpretive center at the Civil War Battlefield of Corinth, MS.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill (S. 986) to provide for an interpretive center at the Civil War Battlefield of Corinth, MS, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with amendments; as follows:

S. 986

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Corinth, Mississippi, Battlefield Act of 1993".

SEC. 2. FINDINGS AND PURPOSE.

(a) Findings.—Congress finds that—

(1) the 14 sites located in the vicinity of Corinth, Mississippi, that were designated as a National Historic Landmark by the Secretary of the Interior in 1991 represent nationally significant events in the Siege and Battle of Corinth during the Civil War; and

(2) the Landmark sites should be preserved and interpreted for the benefit, inspiration, and education of the people of the United States.

(b) Purpose.—It is the purpose of this Act to provide for a center for the interpretation of the Siege and Battle of Corinth and other Civil War actions in the region and to enhance public understanding of the significance of the Corinth Campaign in the Civil War relative to the Western theater of operations, in cooperation with State or local governmental entities and private organizations and individuals.

SEC. 3. ACQUISITION OF PROPERTY AT CORINTH, MISSISSIPPI.

(a) In General.—The Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to acquire by donation, purchase with donated or appropriated funds, or exchange, such lands or interests therein in the vicinity of the Corinth battlefield in the State of Mississippi, as the Secretary determines necessary for the construction of an interpretive center to commemorate and interpret the 1862 Civil War Siege and Battle of Corinth: *Provided*, That such lands or interests therein shall only be acquired with the consent of the owner thereof.

(b) Publicly Owned Lands.—Lands and interests in lands owned by the State of Mississippi or a political subdivision of the State of Mississippi may be acquired only by donation.

SEC. 4. INTERPRETIVE CENTER AND MARKING.

(a) Construction of Center.—The Secretary is authorized to construct, operate, and maintain on the property acquired under section 3 a center for the interpretation of the Siege and Battle of Corinth and associated historical events. The Center shall include interpretive exhibits and such other features as may be necessary for public appreciation and understanding of the Siege and Battle of Corinth.

(b) Marking.—The Secretary may mark sites associated with the Siege and Battle of Corinth National Historic Landmark, as designated on May 6, 1991, if such sites are determined by the Secretary to be protected by State or local governmental agencies.

(c) Administration—The lands and interests in lands acquired, and the facilities constructed and maintained pursuant to this Act shall be administered by the Secretary as a part of Shiloh National Military Park, subject to the appropriate laws and regulations applicable to the park, the Act of August 25, 1916 (39 Stat. 535, chapter 408; 16 U.S.C. 1 et seq.), and the Act of August 21, 1935 (49 Stat. 666, chapter 593; 16 U.S.C. 461 et seq.).

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

(A) In General.—Subject to subsection (b), there are authorized to be appropriated such sums as are necessary to carry out this Act.

(b) Construction.—Of the amounts made available to carry out this Act, not more than $6,000,000 may be used to carry out section 4(a).

Mr. MITCHELL. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc, that the bill be deemed read three times, passed, and the motion to reconsider laid upon the table; and that any statements on this measure appear in the Record at the appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 986) was deemed read three times and passed, as follows:

S. 986

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Corinth, Mississippi, Battlefield Act of 1993".

SEC. 2. FINDINGS AND PURPOSE.

(a) Findings.—Congress finds that—

(1) the 14 sites located in the vicinity of Corinth, Mississippi, that were designated as a National Historic Landmark by the Secretary of the Interior in 1991 represent nationally significant events in the Siege and Battle of Corinth during the Civil War; and

(2) the Landmark sites should be preserved and interpreted for the benefit, inspiration, and education of the people of the United States.

(b) Purpose.—It is the purpose of this Act to provide for a center for the interpretation of the Siege and Battle of Corinth and other Civil War actions in the region and to enhance public understanding of the significance of the Corinth Campaign in the Civil War relative to the Western theater of operations, in cooperation with State or local governmental entities and private organizations and individuals.

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(a) In General.—The Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to acquire by donation, purchase with donated or appropriated funds, or exchange, such lands or interests therein in the vicinity of the Corinth Battlefield in the State of Mississippi, as the Secretary determines necessary for the construction of an interpretive center to commemorate and interpret the 1862 Civil War Siege and Battle of Corinth: *Provided*, That such lands or interests therein shall only be acquired with the consent of the owner thereof.

(b) Publicly Owned Lands.—Lands and interests in lands owned by the State of Mississippi or a political subdivision of the State of Mississippi may be acquired only by donation.

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(a) Construction of Center.—The Secretary is authorized to construct, operate, and maintain on the property acquired under section 3 a center for the interpretation of the Siege and Battle of Corinth and associated historical events. The center shall include interpretive exhibits and such other features as may be necessary for public appreciation and understanding of the Siege and Battle of Corinth.

(b) Marking.—The Secretary may mark sites associated with the Siege and Battle of Corinth National Historic Landmark, as designated on May 6, 1991, if such sites are determined by the Secretary to be protected by State or local governmental agencies.

(c) Administration.—The lands and interests in lands acquired, and the facilities constructed and maintained pursuant to this Act shall be administered by the Secretary as a part of Shiloh National Military Park, subject to the appropriate laws and regulations applicable to the park, the Act of August 25, 1916 (39 Stat. 535, chapter 408; 16 U.S.C. 1 et seq.), and the Act of August 21, 1935 (49 Stat. 666, chapter 593; 16 U.S.C. 461 et seq.).

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AUTHORITY FOR SECRETARY OF THE INTERIOR TO CONVEY CERTAIN LAND

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 433 to authorize and direct the Secretary of the Interior to convey certain lands in Cameron Parish, LA, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 433) entitled "An Act to authorize and direct the Secretary of the Interior to convey certain lands in Cameron Parish, Louisiana, and for other purposes," do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. CONVEYANCE OF LANDS.

(a) In General.—Subject to the limitations set forth in this section, the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") is directed to convey by quitclaim

deed and without monetary consideration, all right, title, and interest of the United States in and to certain lands located in Cameron Parish, Louisiana, described as section 32, Township 15 south, Range 10 West, Louisiana Meridian, as depicted on the official plat of survey on file with the Bureau of Land Management, to the West Cameron Port Commission for use as a public port facility or for other public purposes. As used in this subsection, the term "other public purposes" means governmental or public welfare purposes (including, but not limited, to schools and roads) within the authority of a unit of local government under the laws of the State of Louisiana, and includes a commercial use by the West Cameron Port Authority of lands conveyed by the United States pursuant to this Act so long as the revenue from such use is devoted to such governmental or public welfare purposes.

(b) RESERVATION OF MINERALS.—The United States hereby excepts and reserves from the provisions of subsection (a) all minerals underlying the lands, including the right to enter and remove same.

(c) REVERSION TO THE UNITED STATES.—If the lands conveyed by the United States pursuant to this Act cease to be operated by the West Cameron Port Authority for use as a public port facility or for other public purposes, such lands shall revert to the United States: Provided, That the lands shall not revert if the Secretary determines that such lands, or any portion thereof, have become contaminated with hazardous substances (as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 and following)).

(d) RETENTION OF PROPERTY FOR COAST GUARD.—The Secretary, after consultation with the Coast Guard and the West Cameron Port Authority, shall except and reserve from such conveyance all right, title, and interest to approximately 3.0 acres of land known as the Calcasieu Pass Radio Beacon Site used by the Coast Guard, along with any improvements thereon, for the continued use and benefit of the Coast Guard.

(e) RETENTION OF OTHER ENCUMBRANCES.—(1) The Secretary shall not convey any right, title, or interest held by the United States on the date of enactment of this Act in or to the following encumbrances, as identified on the map referred to in section 2—

(A) a permit granted to the United States Army to install and maintain an automatic tide gauge for recording storm and hurricane tides; and

(B) height restrictions in relation to the radio beacon tower.

(2) The Secretary, after consultation with the Coast Guard, may include in the deed of conveyance any other restrictions the Secretary determines necessary for the benefit of the Coast Guard, including, but not limited to restrictions on height of structures, and requirements to shield seaward facing lights.

SEC. 2. LETTERMAN-LAIR COMPLEX AT PRESIDIO.

The Secretary of the Interior is authorized to negotiate and enter into leases, at fair market rental and without regard to section 321 of chapter 314 of the Act of June 30, 1932 (40 U.S.C. 303b), for all or part of the Letterman-LAIR complex at the Presidio of San Francisco to be used for scientific, research or educational purposes. For 5 years from the date of enactment of this section, the proceeds from any such lease shall be retained by the Secretary and used for the preservation, restoration, operation and maintenance, improvement, repair and related expenses incurred with respect to Presidio properties. For purposes of any such lease, the Secretary may adjust the rental by taking into account any amounts to be expended by the lessee for preservation, maintenance, restoration, improvement, repair and related expenses with respect to the leased properties.

Mr. MITCHELL. Mr. President, I move that the Senate concur in the amendment of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Maine.

The motion was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the action just taken, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORITY FOR COMMITTEES TO REPORT DURING THE RECESS OR ADJOURNMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that during the recess/adjournment of the Senate that Senate Committees may file committee-reported Legislative and Executive Calendar business on Thursday, December 9 from 11 a.m., to 3 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE RECOGNITION OF SENATOR BIDEN AND RECESS UNTIL THURSDAY, NOVEMBER 18, 1993, AT 9:25 A.M.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the distinguished Senator from Delaware, the chairman of the Judiciary Committee, be recognized to address the Senate and that upon conclusion of his remarks the Senate stand in recess as previously ordered.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Delaware.

Mr. BIDEN. Mr. President, I realize the hour is late and I will not trespass very long on the time of the Senate and the Presiding Officer. I realize he is a captive in that chair, and I will not keep him very long.

VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1993

The Senate continued with the consideration of the bill.

COMMUNITY SCHOOL AMENDMENT

Mr. BRADLEY. Mr. President, with $22 billion available in this bill for prisons and police, a number of us have been concerned that we are not doing anything to get to the fundamental forces behind the epidemic of violence among disaffected, forgotten, angry and lonely young people. For that reason, I offered an amendment to add a community schools demonstration, to give every neighborhood a physical space and a support system for kids who need safety, a library, a quiet room, a gym, or a mentor. I am pleased that the chairman and ranking member of the Judiciary Committee have both enthusiastically agreed to accept this amendment to prevent crime.

One of the great outrages of our cities is that the one public building that is part of every neighborhood and every family's life—the school—bolts its doors tight every afternoon at 3:30 or 4 and every Friday for 48 hours. During that time, kids whose parents are not home often have no safe place to go and no one to help them with homework, sports, or the basic questions about growing up. The dedicated people of the community, who want to be a part of raising the community's children, have no place to come together and help. But if we look at what a few dedicated people have done, we can find an answer. In Newark, NJ, it's the Boys and Girls Club of Newark. In East Orange, NJ, a local YMCA is transforming itself into a safe haven for young people after school. And in Washington, DC, it's a former executive named Kent Amos, who gave up his career to give his full attention to the 50 or more kids who come to his home every afternoon for help with homework and other activities.

Meanwhile, the school buildings, with their gyms and libraries, their nurses' offices and auditoriums, are shuttered. Community schools will provide basic funds to open the schools after hours for purposes the community chooses. It might be a safe place for homework, or an athletic program, or a parenting program for young mothers. Kids need two things during their free time: a place and a mentor. This bill will give both, in communities where there is the kind of commitment that Kent Amos and others have demonstrated in Washington, DC. But now a caring community can affect hundreds of thousands of kids, not just 50.

This amendment is a little different from the bill we introduced last spring, in that it concentrates the effort on supervised activities designed to keep young people out of trouble. It is integrated with the Ounce of Prevention Council, an interagency council on violence prevention which has already begun work and which is given grantmaking authority by another creative amendment to this bill, one developed by Senator DODD. The amendment authorizes $100 million a year for these grants.

I want to stress that the point of this bill is that we are not putting a new burden or new responsibility on the school system, which has its hands full with the basic task of educating kids from 8:30 until 3. The school is a building, usually the only building, where there is a library, a gym, classrooms, a nurse's office, and all the basic facilities that the community needs to shelter and nurture its children. From 3 into the evening, we want that building to belong to the community, to use as it sees fit for its own children.

This crime bill, with its unique new funding mechanism, can offer tough penalties, adequate prison space for those who are apprehended and convicted, and tighten the avenues through which criminals evade or delay justice. But it cannot get to its central purpose, which is "to prevent and control crime," without something that gets to people before they cross the line. Strong communities need the tools to keep young people engaged, ambitious, and optimistic about their futures. A community cannot do that if the schools it possesses are off-limits, owned and controlled by an external bureaucracy, after 3, on weekends, and for 3 months in the summer.

I want to thank my colleagues Senator DANFORTH, again, for his continuing involvement in this initiative, and Senator DOMENICI, who brought some ideas of his own to this amendment as well as enthusiasm for the idea.

OMNIBUS CRIME BILL

Mr. BRADLEY. Mr. President, I rise to speak in favor of this omnibus crime bill. Last week, Senator MITCHELL reminded us that crime is essentially a local issue. I agree with him that much of what we have done over the last few weeks will have only a negligible effect on crime across the country. But I think he would agree that the dialog we have started on crime and violence is an important one. I want to congratulate the chairman of the Judiciary Committee, Senator BIDEN, on this bill and I look forward to continuing the conversation about crime and violence which has gripped this body over the last few weeks.

We have all heard the stories: a child killed in drive-by shooting, an elderly woman afraid to walk out of her home for fear of being robbed in broad daylight by some drugged up young thug, a businessman driving in his car, the random victim of a car-jacking. These are the headlines. They disgust us, enrage us, frighten us, and then fade from our memories once another outrage is committed. We have become hardened to this senselessness. We turn on the nightly news expecting it.

But every day, in ways that have become part of our normal routine, we do little things to avoid becoming victims of crime. We lock our doors. Some people might laugh at this, but there was a time when we did not lock our doors. We hold our possessions closely as we walk through crowded areas. We do not walk out alone at night. We take quick glances behind ourselves when we take money out of ATM machines. We cross the street in an effort to avoid people that we think are threatening. Increasingly, the profile of the threatening person at least as depicted by the media and suggested by their disproportionate presence in our prisons, are young, black, and Hispanic men.

We don't like to talk about that perception, but it is there. Regardless of how much the statistics show that most victims of crime share the same race as their victimizers, we have to acknowledge that many people take subtle and not-so-subtle actions based on their fears about who is committing crime. We buy guns under the mistaken impression that we can protect ourselves, even if our local police force cannot, and even if we know that for every intruder shot in self-protection there are 43 murders, suicides, and accidental killings, often a family member.

This crime bill attempts to respond to some of these concerns. It attempts to give people the ability to regain control of their communities. It is a good start toward this goal, and will, I am certain, spark serious discussion about what our escalating crime problem portends for our society in general.

This bill accomplishes many things. It makes certain that we as a society can rightly express our outrage at the perpetrators of heinous crimes by making sure they serve long sentences. It allows us to impose the sentence of death, where appropriate. And it takes steps to combat some of the social causes of crime, especially among youngsters.

This bill puts 100,000 new police on the street for community policing, increases the penalties for a number of violent and drug-related crimes, and allows people to attend college in return for agreeing to serve as local police officers after graduation. It also provides a variety of discretionary grant programs to help local communities combat youth violence, drug-related crime, and child abuse.

Recognizing that drug treatment is essential to reducing the rate of recidivism among prisoners, this bill authorizes expanded drug treatment for Federal prisoners, and offers grants for drug treatment in State prisons, as well.

While I believe this bill as a whole will be effective in shoring up public confidence in our criminal justice system, I would like to highlight certain provisions of it which I believe will be particularly helpful in making our communities safer.

As I have already mentioned, this bill puts 100,000 additional police on the street to conduct community policing. As the sponsor of similar community policing legislation, I strongly support this effort. Earlier this year, I met a small businessman in New Jersey. His store was in the shadow of City Hall, just blocks away, but when he called the police, he said it took them 3 hours to respond. He concluded that Government would do nothing to ensure his safety, and now he carries a gun.

Government's response to the epidemic of violent crime has been to toughen and toughen again the penalties. I have supported this effort—because the penalties should fit the magnitude of the crime—but there is a larger point. A police culture that isolates officers in squad cars, responding to crimes only after the fact, will never prevent crime and rarely catch the criminal.

While Government was speaking louder about crime, but carrying what looked like a smaller and smaller stick, a few communities were inventing for themselves a new way to promote safety. In East Orange, NJ, police officers recently took the roughest 12-block zone of the city and made it a miniprecinct, with an accessible office and distinct neighborhood beats for every officer.

A similar program that started in 1990 in Columbia, SC, brought an immediate 30 percent reduction in crime. An elderly woman living in a housing project, who had slept on her floor for 5 years because she feared bullets coming through her window, was finally able to get back into bed. Now police officers worry less about what crimes have occurred, and spend more time talking to people, finding out where trouble is brewing, and intervening before it happens. Police know the mothers who are worried about their sons and daughters; they know the shopkeepers who are worried about neighborhood thugs, and they know the thugs the shopkeepers worry about. With knowledge comes trust and trust is the foundation for security. These communities have invented for themselves new ways to ensure safety and will benefit from this bill.

This bill mandates stiffer penalties for drug dealing in public housing. I introduced legislation establishing increased penalties a few years ago. Inspired by the courageous parents of an Elizabeth, NJ, housing project, the legislation toughens the penalty for selling drugs in the vicinity of a public housing project, as is done when a person is convicted of selling drugs in or in the vicinity of a school or playground.

Like most families, families that live in public housing hope to build a better life for themselves and their children. Drugs destroy that possibility, just as surely as drugs destroy the possibility of learning in school. This provision will help families in public housing remake the possibilities by cracking down on those who sell drugs in or near their homes.

This bill also authorizes funding for drug court programs like the successful program in Dade County, FL. Drug court programs provide drug testing, drug treatment, and alternative punishments for certain drug offenders. If an offender comes through the drug court, he or she has to enter into treatment and commit to getting his or her life together. The court monitors the progress of the offender, and if positive progress is made, he or she can avoid incarceration. I know the Attorney

General supports this program. I am pleased that it was included in this bill.

Early intervention during initial contact with the criminal justice system has been credited with turning many young offenders away from a life of drugs and crime. Instead of putting them with hardened criminals or warehousing them in traditional prisons, some local governments have experimented successfully with the idea of sending some youthful offenders to boot camps or neighborhood-based half-way houses. This bill authorizes funds to support these local activities, so that we can get a better idea of how effective alternative incarceration programs can be in reducing recidivism among youthful offenders.

Another important initiative in this bill is the Police Corps. Under this program, individuals will be given scholarships to complete their college educations. In exchange, they must commit to serving as police officers for 4 years after graduation. By placing more college-educated individuals within our police forces, this provision will strengthen the image of police work among the greater community and enhance police departments' ability to understand the social causes; that is, joblessness, low basic skills development, hopelessness, low parent-child supervision of crime. The more educated the police force, the better it is able to respond to crime in urban America.

An important benefit of the Police Corps is its emphasis on public service. Police work is difficult, stressful, and demanding. It often requires individual police officers to risk their lives in order to serve the larger community. It is with a sense of public purpose that most police officers serve their communities. The Police Corps affirms this public purpose.

The ratio of police power to violent crime today is one-tenth of what it was 35 years ago. Many students entering college today have seen their neighborhoods, the places in which they used to play ball and bike safely as first and second graders, become combat zones that their younger brothers and sisters watch from behind barricaded doors and windows. Others recognize that crime is a universal problem, and that America cannot live up to its promise as a Nation if it cannot offer safety to its citizens. Perhaps it is partially because of this sensitivity to the crime problem that a large number of college students polled by the Department of Justice recently said they would be eager to participate in the Police Corps.

The crime wave of recent years has led many cynics to proclaim a breakdown in the desire for public service in America. On the contrary, Mr. President, I believe we are witnessing a resurgence of citizenship and a renewed dedication among younger Americans to give something back to their communities. The Police Corps will allow us to draw on this renewed sense of citizenship to restore viability to our troubled neighborhoods and ensure that the most modest of American dreams—a life free from violence and terror—is a reality in every city in our land.

This bill also strengthens the Juvenile Justice Program to confront the problem of youth gangs in our country. It expands the initiatives set forth in the 1988 drug bill to fund support and prevention programs for young street gang members, offering these youth viable alternatives to life on the streets.

In 1988, Congress established the Community Youth Activity Program. This program authorized funds for education, training, and recreation programs aimed at reaching at-risk youth, including high school dropouts and gang members. New Jersey was awarded one of the program's first grants, which was aimed at reaching New Brunswick youth whose older siblings were involved in drugs, crime, and gangs. I have visited the program and can attest to its effectiveness. But one program in one city in New Jersey will not solve the problem. We must target more resources at gangs. If we do not spend the money now, we will spend much more later to apprehend and imprison those who are caught up in the vicious cycle of gang violence and crime.

Under the expanded program required by this bill, $100 million will be made available to reduce the number of juveniles involved in gang-related crime, to reduce juvenile involvement in drug-related crimes, and to promote the involvement of juveniles in productive activities.

Mr. President, we were able to focus to some extent on guns during the debate on this bill. I know that many of my colleagues did not desire a discussion of guns on this bill, but I am happy we were able to at least start that discussion. I look forward to discussing the destructive effects of certain guns a bit more extensively in the future.

If you talk about crime to the residents of any community in America, you are going to hear about guns. You are going to hear about the high number of guns on the street. You are going to hear about the damage caused, lives lost, and bodies injured. We often think of guns in terms of their impact on the criminal justice system because more guns in the hands of people makes it much more difficult for our police to protect us against crime. But the widespread availability of guns is also a health issue. Gun violence costs the American taxpayers $3 billion a year in health care costs, and I believe we should use our taxing power to offset some of these costs.

There are now an estimated 209 million firearms in this country, about 71 million of which are handguns. A new handgun is produced every 20 seconds. For at least a decade now, almost half of America's households have owned at least one gun and at least 25 percent have owned a handgun. According to one commentator, "gun ownership has become so pervasive that the mere fact of possession has become a problem in and of itself. The presence of guns, especially handguns in homes, has begun to be recognized as a danger to the families who live in those homes."

Wide-spread gun ownership has its consequences. Every 14 minutes someone in the United States dies from a gunshot in a homicide, suicide, or accident. Every 6 hours, a youth between the ages of 10 and 19 commits suicide with a firearm. Nonfatal gunshot injuries have also risen dramatically. There were 240,000 such injuries in the United States in 1989.

Although handguns account for only one-third the number of firearms, they cause two thirds of the firearm-related deaths. They are also used in about 80 percent of all gun murders. Assault weapons cause a far fewer number of deaths, but, on account of their destructive capacity, they have created a crisis for hospitals and health care providers in many communities.

Ninety-five percent of the people injured by a handgun each year require emergency care or hospitalization. Of these, 68 percent require overnight care and 32 percent require a hospital stay of 8 days or more. A study by the University of Arizona Emergency Medical Research Center found that the average cost per gunshot victim was $16,704. When additional charges, such as physician services, ambulances, followup care and rehabilitation, are added in, the overall cost to our health care system is about $3 billion a year.

According to the Centers for Disease Control, at least 80 percent of the economic costs of treating firearms injuries are paid for by taxpayer dollars, a fact every person concerned about the rising cost of health care should heed. The total life-time costs associated with firearm deaths and injuries were over $20 billion in 1990.

Ask any trauma center official about the health care cost of guns and you are certain to get a dose of reality. In 1982, 95 percent of gunshot victims treated at Cook County Hospital had been shot only once, usually with a low-velocity bullet. In 1991, 25 percent of gunshot victims were treated for multiple wounds, many of which were made by high-velocity bullets. The gunshot injuries are so devastating at the Washington, DC, Hospital Center that military trauma physicians are being recruited to relieve the work load.

In northern New Jersey, a 16-year-old girl was shot recently by a fellow classmate during an argument. The victim was paralyzed by a spinal cord injury, and spent 34 days in acute care at a cost of $147,000. This figure does not even include the cost of physical therapy. An uninsured man in New Jersey recently became the unintended victim of a drive-by shooting. The cost of his treatment: in excess of $70,000.

I could mention many causes for the increase in gun violence: lack of opportunity, the waning of basic values, lack of respect for human life, weak law enforcement, light sentencing. But accepting many of these causes of gun violence does not erase the reality that crime and deviant behavior have become much more costly to our health care system because of the prevalence of handguns and assault weapons. Disputes that were settled with fists and knives 10 years ago are now settled with guns. The number, availability and destructive capacity of handguns and assault weapons have contributed significantly to this tragedy.

When the current firearm excise tax provisions were passed by Congress in 1954, the gun market was dominated by sportsmen. We did not have a plethora of guns on the streets of our Nation threatening the physical well-being of our citizens. We did not suffer from the ravages of semiautomatic assault weapons and irresponsible gun use. We were not facing a crisis of gun violence. Because this situation in this country has changed, so should the taxes on handguns, assault weapons, and ammunition.

I want to emphasize that I am not suggesting that we impose a higher tax on gun purchases made for legitimate sporting purposes. To the contrary, I would impose an enhanced Federal tax only on the purchases of handguns, assault weapons, and the ammunition for these firearms. The data show that handguns and assault weapons are responsible for a disproportionate share of gun violence. It is reasonable to tax these firearms at a higher level.

Mr. President, this bill takes several important steps to reduce the incidence of crime in the United States. I am proud to be associated with it. It also starts us toward a dialog which is necessary if we are ever going to turn the tide on crime. I look forward to continuing this dialog and I congratulate my colleagues on this bill.

SUPPORT OF BAN ON ASSAULT GUNS

Mr. AKAKA. Mr. President, I am pleased to be a cosponsor of Senator FEINSTEIN's amendment to restrict the use and possession of assault weapons. It is absolutely imperative to rid the streets of weapons of destruction that have no place in society.

Throughout the debate on S. 1607, many Members have related how violent acts have personally affected their lives. Several months ago, I didn't have a story to tell. Unfortunately, today I do. Only last month, I met with the family of John Scully, a young attorney from Hawaii, who was one of eight people murdered by a lone gunman with two assault guns during a rampage through a San Francisco law firm this past summer.

As I sat with John's parents, Niall and Pegi Scully of Honolulu, John's wife, Michelle Spiess Scully, his sister, Megin Scully-Minuth, and her husband, Reed, I became personally involved with the tragedy of a violent crime. I was no longer able listening to these fine people as just their Senator. I was drawn into this personal tragedy as a parent, a grandfather, and a friend of the family.

Despite their recent loss, the Scully family came to Capitol Hill to meet with Senators and their staffs to urge passage of gun control legislation. I know they met with a number of Members and were appreciative of the time that Senators spent with them. In addition to seeking enactment of gun control measures, the Scullys have established the John and Michelle Scully Fund, which will work toward reducing handgun-related violence in this country.

Their selflessness is remarkable; their commitment to change Senators' minds steadfast; and their willingness to relate their personal tragedy inspiring. Pegi described how she felt calling her six surviving children to tell them of their brother's death. Michelle, whose injuries from the attack are still evident, quietly spoke of her husband's last words as he shielded her from the gunman. Megin, a physician, provided staggering figures relating to the medical costs of gun violence. And her father, also a physician, called gun-related violence a devastating public health issue.

Mr. President, I bring this to my colleagues' attention because the seriousness of allowing individuals to own, or have access to, weapons of such dramatic destruction is unacceptable. We cannot have a crime bill without dealing with the issue of the availability of military style assault weapons. I urge adoption of this amendment.

TRIBUTE TO STELLA BOYLE SMITH

Mr. PRYOR. Mr. President, today, November 17, is Stella Boyle Smith's 100th birthday, and, this afternoon there is a special birthday party in Little Rock in her honor. On this day of well-deserved tribute for Mrs. Stella Boyle Smith, I would like to take just a few moments to recognize the generosity and spirit of this unique person.

Mrs. Smith says that instead of waiting until after her death to bequeath money to deserving institutions, she has been selfish enough to give it away while she could enjoy it. If that is the case, Mrs. Smith has certainly enjoyed a great deal over the 100 years of her life, and there are a number of causes that consider themselves very blessed to have been able to indulge her selfishness.

Her bequests to Arkansas Children's Hospital alone total over $1 million. To show its appreciation, the hospital has named an entire pediatric unit after her, the Infant-Toddler Special Care Unit. The fourth-floor patient pavilion also bears her name.

Mr. President, over the years Mrs. Smith has made donations to many other institutions, including: the Arkansas Symphony Orchestra, St. Vincent Infirmary, the Baptist Medical System, the Central Arkansas Radiation Therapy Institute, the University of Arkansas at Little Rock, Arkansas College, the Malvern Boys Club and the Society to Prevent Blindness.

Among her most recent gifts was a $500,000 trust to the ophthalmology department in the College of Medicine at the University of Arkansas for Medical Sciences [UAMS]. Mrs. Smith was prompted to make this gift after undergoing cataract surgery.

In addition to her enormous monetary generosity over her almost 70 years of dedicated philanthropy, Mrs. Smith has also shown a willingness to give her time to countless causes.

Mrs. Smith marks her involvement with caring for others from a very early age. As the 7th of 10 children, she says he had to learn how to share. When she was only 4 years old, she began visiting shut-ins with her mother and her enthusiasm for helping those in need has not flagged since.

In commenting on her early good works, she has said, "I didn't always have the money, but I had the time."

Mrs. Smith has been honored many times for her years of philanthropy, including being named the Arkansas Democrat Woman of the Year in 1984 and Arkansas Philanthropist of the Year by the Arkansas Chapter of fund-Raising Executives in 1986.

Mrs. Smith herself best summed up what has made her life such a happy one, when she gave the following advice to young people just starting out in life, "Have pride. Enjoy what you're doing. * * * being happy in what you're doing is the main thing. And always be honest and trustworthy."

Happy 100th birthday, Stella Boyle Smith. Thank you for helping so many others.

"KIDS AND GUNS" AMENDMENT (NO. 1148)

Mrs. FEINSTEIN. Mr. President, I rise today in support of the amendment offered by the senior Senator from Wisconsin [Mr. KOHL]. The amendment is simple. It would:

First, make it illegal for anyone to sell a handgun or handgun ammunition to minors under the age of 18; and

Second, make it illegal for a minor to possess a handgun or handgun ammunition except under the supervision of an adult in certain circumstances.

These are two provisions that could save the lives of hundreds of children annually. And, I believe these two provisions do not encroach upon the right of adults to bear arms, but simply monitor a potentially dangerous activity for children.

The fact is, the issue of kids and guns is becoming a chronic problem throughout the United States. Every day we hear stories of gun-related violence involving children. Examples include:

The gun battle which erupted a few weeks ago in a crowded New York City movie theater, leaving one teenager dead and three others wounded. Police recovered four semiautomatic handguns from the theater;

The four 15-year-old children in Louisiana who were arrested last month for bringing guns to a high school football game. Police found 3 semiautomatic handguns and a 30-round semiautomatic assault rifle with a scope and bayonet in one suspect's car;

The story of the teenagers who terrorized a neighborhood for an hour in Dallas last September, randomly firing handguns and an AK-47 from a stolen school bus;

The shooting last summer at a crowded Washington DC, swimming pool in which a teenage gunman fired some 20 rounds into the pool and wounded 6 children; and

Just last week near Los Angeles, three children were shot and killed while coming home from a Halloween party. The police have no motive. The weapon used; a semiautomatic handgun.

When my generation grewup, we worried about the threat of nuclear attack. Today, children grow up worrying about being shot. I was shocked when I read in the Washington Post recently that District children no longer plan for their wedding, they plan for their funeral.

Young students today must walk through metal detectors to go to class. More than 300 metal detectors have already been installed in schools across the country.

The problem is only getting worse. More and more kids are becoming involved in gun-related violence, and more and more kids are using semiautomatic handguns.

A Chicago police superintendent attributed many of his city's 50 homicides of children just through September of this year to semiautomatic weapons. He stated:

> We have younger immature individuals who have precision killing instruments in their hands. * * * They identify targets, but these weapons allow the emission of so many bullets by a single or easy series of trigger pulls they are * * * jeopardizing others as well.

Here are some statistics that reinforce my point:

A recent Joyce Foundation study found that 59 percent of all children in 6th grade through 12th grade said they could get a handgun if they wanted—36 percent said they could get one within an hour;

A national report by the American Psychological Association said that teenagers are 2½ times more likely to be victims of violent crimes than people over 20 years of age;

Every 6 hours a young person unable to cope with adolescent pressures takes his or her own life using a gun;

Between 1980 and 1990 there was a 79-percent increase in the number of young people committing murder with guns; and

More than six young people are murdered each day by someone, often a peer, using a gun.

Kids are obviously getting the weapons from someone. Amazingly, it is currently not illegal for an adult to give or sell a handgun or handgun ammunition to children. It is only illegal for licensed gun dealers to sell to minors.

For the entire population, homicide is the 12th leading cause of death. But for the young people, it is the second leading cause of death.

The Kohl amendment is simple. It is just common sense. It would make it illegal for adults to arm children. I urge my colleagues to support this important amendment.

DRIVER'S PRIVACY PROTECTION ACT AND LAW ENFORCEMENT

Mr. HARKIN. Mr. President, I want to clarify my understanding of the provision of the Driver's Privacy Protection Act concerning law enforcement access to driver's personal information. Under section 2720(b)(2), law enforcement agencies have unrestricted access to this information in carrying out its functions. I believe that, with respect to law enforcement agencies, this provision should be interpreted so as not to in any way restrict or hinder successful law enforcement and crime prevention strategies.

In appropriate circumstances, law enforcement agencies may reasonably determine that disclosure of this private information to a citizen or group of citizens will assist in carrying out the function of the agency. In my view, section 2720(b)(2) authorizes such disclosure. This would include providing such information to neighborhood watch groups engaged in crime deterrence and prevention activities in their neighborhood. Neighborhood watch groups have been successful in reducing the incidence of crimes such as prostitution and drug trafficking by using this information to contact people seen acting suspiciously in their neighborhoods, and in my view, this legislation would not undermine their ability to continue this activity.

However, this exception is not a gaping loophole in this law. A false representation that this information will be used for law enforcement purposes would be punishable under section 2721(b)(1), and misuse of this information would be punishable under 2721(b)(2). Similarly, a law enforcement officer who knowingly provided personal information to a person or group who intended to use that information for purposes that were not in furtherance of the function of that officer's agency would be in violation of the provisions of section 2721(a).

Therefore, it is my view that legislation clearly provides law enforcement agencies with latitude in receiving and disseminating this personal information for the purpose of deterring or preventing crime or other legitimate law enforcement functions. The threshold question, in my view, is whether the law enforcement agency's action is taken in carrying out its functions. My strong support for this legislation is premised on the belief that its implementation will not in any way undermine law enforcement or community policing efforts.

GRAHAM AMENDMENT (NO. 1200) ON THE TRANSFER OF CERTAIN CRIMINAL ALIENS TO FEDERAL FACILITIES

Mr. SIMPSON. Mr. President, I rise to express my support for Senator GRAHAM'S amendment which was adopted on November 16.

This amendment permits the Attorney General at the request of the State, county, or municipality, to transfer to a Federal prison criminal aliens convicted of felonies and incarcerated in State or local correctional facilities.

The aliens who may be transferred to Federal facilities under this amendment are those who entered the country illegally, or who are subject to exclusion or deportation.

We cannot deny that it is a Federal responsibility to control illegal immigration, and to assure that those who come legally, leave the country when their status has expired. If those who enter illegally or who become out-of-status are convicted of felonies in State or local jurisdictions, it is not unfair to expect the Federal Government to assume some responsibility of the cost of their incarceration.

To my colleagues that argue that the State and local governments should not have to pay for the cost of illegal aliens because of the failure of the Federal Government to control illegal immigration, I would point out that we cannot prevent illegal immigration without more border patrol, stronger employer sanctions, including a system to verify employment authorization, and the full cooperation of State and local governments with the immigration service.

If my colleagues who complain about the cost of illegal immigration to State governments want us to control our borders, then you must support enforcement measures I have described. Without them the State and local governments will continue to experience the costs of illegal immigration.

I am pleased that we adopted the Roth amendment, which provides a strong incentive for State and local law enforcement agencies to cooperate with the Immigration Service. We should have passed such a law years ago.

I will support this amendment, but I do urge my colleagues who complain about these costs to support our efforts to take the necessary steps to control illegal immigration.

AMENDMENT NO. 1159

Mr. LEVIN. Mr. President, I will vote against the Helms amendment which is aimed at stripping the Federal courts of their jurisdiction.

There is a proper procedure for amending the Constitution as it affects the judicial branch. However, the attempt to strip the Federal courts of jurisdiction to rule on constitutional rights in an ad hoc manner on the Senate floor is an approach that will not work under our Constitution. It raises false expectations among those who support changing the underlying policy to which the limitations on the Federal courts' jurisdiction are directed.

AMENDMENT NO. 1159

Mr. MACK. Mr. President, I am pleased to join in offering this amendment to the crime bill because it is high time we started favoring innocent citizens over convicted felons. This amendment is straight-forward and quite simple—it merely prevents Federal courts from imposing a cap on prison population unless the plaintiff before them can prove that they personally are suffering an eighth amendment violation because of overcrowding.

The burden of prison population caps arises out of the overlitigious nature of inmates. A judge issues a cap only after a group of clever prisoners brings a suit alleging that the prison population is so high that their right to be free from cruel and unusual punishment is being abridged. While I strongly believe that we should not be violating anyone's constitutional rights, the remedy of prison caps should not be the first or only answer. If a plaintiff cannot prove that he, as an individual, has so little space that his eighth amendment rights are being violated, then a prison cap should simply not be ordered.

In order to meet these caps, prison officials must release felons in order to accommodate newly admitted inmates. These releases take place regardless of the behavior of the inmate. Prisoners are not released because of exemplary conduct or hard work while in prison. They automatically receive time off their sentence and an unearned, quick ticket to freedom. This just isn't right. Unfortunately, the friends and relatives of detective Evelyn Gort know the danger and tragedy of these one-way passes first hand. The individual accused of murdering her was twice released early because of judicially imposed prison caps.

While the early release of inmates is just one aspect of the pervasive fear that grips the streets of my State, it is one we here in Congress can do something about. This fear, that any one of us could be the next victim of a random act of violence, perpetrated by someone who should be paying for their last crime, can be assuaged by passing this amendment. If we limit the power of Federal courts to order these prison caps where they are not absolutely necessary, we keep more violent thugs in prison for more of their full sentence—and that's a good thing. I believe this approach is the least we can do to protect law-abiding citizens and I urge my colleagues to approve the amendment.

GRAHAM/MACK AMENDMENT ON CRIMINAL ALIENS

Mr. MACK. Mr. President, I rise today with my colleague from Florida, and with the support of many others, to ask that the Federal Government be responsive to a problem of its own creation. This amendment permits, but does not require, the Attorney General of the United States to take custody of, or financial responsibility for, criminal aliens incarcerated in State prisons and jails. The flow of illegal immigrants into this country is a Federal problem, not a State problem. An individual State such as Florida can do nothing to prevent illegal immigration. This is solely the province of the Department of Justice, the Federal Customs Service and INS. Florida citizens, like those of California, New York, Texas, and Illinois, are weary of bearing the financial burden for the failure of these agencies to secure our borders.

The injustice perpetuated upon the good citizens of our States are twofold: First, these aliens are able to circumvent our immigration system and illegally gain entry to our country. In many cases, this results in a drawdown of scarce State human resources funds. Federal reimbursement for unpaid medical bills and the educational costs for the children of these immigrants never fully compensates our States. Worse yet, some of these illegal aliens commit crimes, again subjecting the State taxpayers to paying the freight for incarceration costs. The fact of the matter is that these individuals would not be in our jails, and thus depleting our State resources if it weren't for the failures of the Federal Government.

It is not the fault of anyone in my State that the Customs Service didn't catch the boat coming in, or the passenger with fraudulent documents. Why should my constituents or those of any other State be forced to pay for their mistakes? In Florida alone, we have 3,433 illegal aliens serving time in our prisons. That comes out to $58.6 million in State taxpayer funds that could be going to keep more violent criminals behind bars for longer.

The amendment we have offered is based on fundamental fairness and the notion that the Federal Government can and should be accountable for its failure to maintain control of our borders and I urge my colleagues to vote in favor of its passage.

MORGAN P. HARDIMAN TASK FORCE ON MISSING AND EXPLOITED CHILDREN

Mr. D'AMATO. Mr. President, I wanted to speak briefly on the passage of an amendment that Senator DECONCINI and I attached to S. 1607, the 1993 Crime Bill on November 10, 1993. This amendment establishes the Morgan P. Hardiman Task Force on Missing and Exploited Children.

This issue is one that is particularly close to my heart, both because of the dire need to organize this task force on missing and exploited children, but also for whom it is named.

Morgan joined my staff in January 1983, and handled crime and drug issues with great success, traveling and seeing, firsthand, the awful effect on people of illegal drug use, as well as the terrible crime this country faces on a daily basis. Until just before his final illness this past month, Morgan remained dedicated to his work. Morgan always fought for what was just, and that included the rights of children and the effort to locate the thousands who have been abducted and exploited throughout the country.

Mr. President, the U.S. Department of Justice national incidence study found 4,600 nonfamily abductions reported to police, 438,600 children lost, injured, or otherwise missing, and 354,100 children abducted by family members. These numbers are overwhelming.

As we discuss the various amendments to the crime bill, we aim to protect our people. This amendment does just that. Moreover, it seeks to protect our Nation's children by establishing a task force offering the combined resources and expertise of the FBI, ATF, Secret Service, Customs, Postal Inspections Service, U.S. Marshals Service, and the DEA, all to help local governments and police forces in the search for these children. The task force will work together with the Center for Missing and Exploited Children to identify what actions are needed.

Our local police forces are often overwhelmed with an enormous caseload and many times they need expert assistance. With the help of the National Center, and expertise of this task force, critical cases will get the necessary specialized attention to perhaps help solve more outstanding cases. Information and evidence cannot be allowed to fall through the cracks and investigations must continue. This will be the job of the Morgan P. Hardiman Task Force on Missing and Exploited Children.

Mr. President, Morgan P. Hardiman was a quiet hero. He was a colleague and a friend. I am glad that his achievements can be memorialized with his task force. He poured his energy into the creation of Project Alert—America's Law Enforcement Retiree Team—as part of the National Center for Missing and Exploited Children and this task force is a natural outgrowth of his efforts. The people who worked with him in these efforts know that he made a remarkable contribution to his country, and I want to thank Senator DECONCINI for the thoughtful gesture of proposing to name the task force after Morgan. It is a fitting tribute to a man who worked arduously to end the abuse of our nation's children and to bring those missing, home to their families.

I want to thank Senator DECONCINI for this fine amendment, and for the tribute that it provides to my former staffer, Morgan P. Hardiman.

NATIONAL CHILD PROTECTION ACT OF 1993

Mr. COATS. Mr. President, several years ago I supported an effort to address a need that many working American families have for safe and affordable child care. The compromise proposal we passed and the President signed, recognized the reality of working parents and their need to have safe, clean, and secure environments for their children.

Subtitle B of the legislation before us today is, in my opinion, a logical and necessary next step in providing a safe and secure environment for children.

The National Child Protection Act of 1993, which has been included in the crime bill, establishes a nationwide criminal background check for child care workers to determine if persons who are caring for children have committed child abuse or other serious crimes.

Mr. President, this is a very important provision. Protecting our children must be one of our Nation's highest priorities. And I say that not just as a parent, and not just as ranking member of the Subcommittee on Children, but as a former volunteer of an organization which has for the last 90 years, endeavored to help our Nation's children overcome the many obstacles they face by providing one-to-one services to children in need. I am speaking of Big Brothers/Big Sisters of America.

Selection of the most appropriate volunteers to serve as Big Brothers and Big Sisters is a task their more than 500 affiliates take very seriously—the result of which has been the establishment of a very comprehensive mechanism to enable selection of the most qualified and committed volunteers. This process of selection includes a criminal background check. However, some States do not permit or do not assist with the obtaining of police checks; for example, New York and New Jersey, while others require cost prohibiting fees.

This legislation will greatly assist organizations like Big Brothers/Big Sisters in providing valuable services to children in need.

In his testimony before the House Subcommittee on Civil and Constitutional Rights, Big Brothers' President Lynn C. Swann told the committee that:

> This legislation of national criminal background checks would create a uniform and consistent method of reporting and tracking individuals who have been involved in child abuse crimes. As a national organization, with affiliates in all 50 States, we are most interested in an approach on a national level that will enable our agencies to access criminal background checks. The modest investment of dollars would pay significant dividends, if only a few children are saved by this reporting requirement.

Mr. President, this is modest investment in the safety of our children and I am pleased to support it.

KASSEBAUM-SIMPSON SENSE-OF-THE-CONGRESS AMENDMENT NO. 1172

Mr. SIMPSON. Mr. President, I rise in support of the Kassebaum-Simpson amendment which was adopted on November 10, 1993.

Our asylum system has been turned on its head in recent years as would-be immigrants have found it more attractive to come to the United States and claim asylum than to apply for refugee status abroad, or to enter through our regular immigration process.

Mr. President, it's more attractive because once they get into the United States, they then become entitled to all the due process our Constitution provides for American citizens.

If they apply for refugee status abroad, and if they are then found to not have a well-founded fear of persecution, they will be denied refugee status, and that is the end of it.

However, if they can manage to get to the United States to claim asylum, they are then entitled to appeal after appeal, with the final decision made by the Federal Circuit Court of Appeals.

This process can take years, and in the meantime, the alien has an opportunity to live and work in the United States, which was often the primary objective.

The original purpose of asylum was to provide a refuge for people who found themselves in the United States when conditions changed at home, making it unsafe for them to return. That is why we provided an annual allotment of only 5,000 asylum slots when we passed the Refugee Act of 1980.

We have a separate refugee policy to enable people who are outside their countries of nationality, and who have a well-founded fear of persecution, to apply for refugee status at our refugee processing centers, our Embassies, and our consulates abroad.

We should not make it more attractive for aliens to enter the United States, legally of illegally, to apply for asylum, than it is for them to apply for refugee status abroad.

I support the findings of the Kassebaum amendment, and I support the policy it proposes.

We are currently working in the subcommittee, with the administration, to draft expedited asylum procedures for those aliens attempting to enter with fraudulent documents, or no documents.

We are also drafting legislation to provide a more streamlined asylum process for those people already in the country who then claim asylum.

This sense-of-the-Congress amendment expresses the appropriate policy, and one that Congress should support.

BOXER AMENDMENT NO. 1183 TO INCREASE PENALTIES FOR DOCUMENT FORGERY

Mr. SIMPSON. Mr. President, I rise in support of Senator BOXER's amendment adopted on November 10.

Mr. President, this amendment increases the civil penalties for immigration document fraud.

In 1990, I offered an amendment to the Immigration Act of 1990 to create civil penalties for document fraud. This amendment was necessary because U.S. attorneys were reluctant to bring criminal charges against aliens and others who used fraudulent documents to obtain immigration or employment benefits.

By establishing new civil penalties for this type of document fraud, immigration officers could file complaints and bring these charges without involving the U.S. attorneys.

This amendment would increase the civil penalties for a first offense from a minimum of $250 to a minimum of $1,000, and it would increase the maximum penalty from $2,000 to $5,000.

The amendment would also increase the civil penalties for subsequent offenses from a $2,000 minimum to $5,000, and from a $5,000 maximum to $10,000.

In addition to increasing the civil penalties for document fraud under the immigration laws, the amendment would also increase the criminal penalties for document fraud under the Criminal Code.

Document fraud is one of the most serious and difficult problems we are encountering in our efforts to control illegal immigration. Stiffer penalties may reduce the incidence of document fraud, and I support the amendment.

BOXER CRIME BILL AMENDMENTS—INCREASED PENALTIES FOR DOCUMENT FORGERY

> This is a simple amendment. It increases the civil and criminal penalties for any visa, border crossing card, alien registration receipt card, or any other document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States, or used to satisfy any requirement of the Immigration and Nationality Act.
>
> Current law has civil penalties of not less than $250 and not more than $2,000 for each document used, accepted, or created and each instance of use, acceptance, or creation. My amendment would increase these penalties to a $1,000 and a maximum of $5,000.
>
> For those persons who are already under a cease and desist order for document violations, the current penalty is not less than $2,000 and not more than $5,000. My amendment would raise the civil penalty for repeat

offenders to not less than $5,000 and not more than $10,000 for each document used, accepted, or created or each instance of use, acceptance, or creation.

My amendment would also increase the criminal penalties for fraud and misuse of visas, permits, and other documents. For violations under this section, my amendment would raise the current prison term from not more than 5 years to not more than 10 years and, for other circumstances, from not more than 2 years to not more than 5 years.

Additionally, my amendment would increase fines to $10,000 or $5,000 for certain violations under this section of our criminal statutes.

FEDERAL GUN DEALER LICENSING REFORM

Mrs. FEINSTEIN. Mr. President, I rise today in strong support of the amendment offered by the Senator from Illinois [Mr. SIMON]. Simply put, this commonsense amendment would help bring sanity to the federally licensed firearms business.

Everyone in this body has heard the nightmare stories about federally licensed firearms dealers. Such as:

The Maryland man who sold 9mm Glock handguns and Tec-9 semiautomatic weapons out of the trunk of his car;

The Los Angeles gang member who sold more than 1,500 guns to his colleagues—one of the more than 3,000 licensed firearms dealers in Los Angeles County—and only four of the weapons were properly registered with California authorities;

The many Virginians who obtain Federal licenses to avoid the one-gun-per-month law recently adopted;

The Californian who was arrested for selling machineguns and other weapons out of his parents' home to the Fourth Reich skinheads—a group that planned racially motivated terrorist attacks against minority groups, including the well-known first AME church; and

The gun dealership known simply as "Chuck's Guns," which operated out of room 744 of the Frontier Hotel on skid row in downtown Los Angeles.

These are just some examples. There are many, many more.

Unfortunately, as noted above, the results when a criminal receives a Federal firearms license can be deadly. A single dealer has the power to put a large number of guns into the wrong hands before he or she is caught. As one Alcohol, Tobacco and Firearms agent put it, "Hopefully we can catch them [the bad dealers] before too much damage is done. But in the meantime, how many people have been injured or worse?"

The problem is that it is just too easy for criminals to obtain licenses. Just fill out the application, send in the $30 fee, and within 45 days almost anyone can have a 3-year license to sell firearms. Chances are, no one will call or visit the applicant to verify any of the information. In fact, due to a lack of resources, less than 1 out of 10 applicants are personally visited by an ATF inspector before a license is issued.

This headline from the Wall Street Journal says it all: "Want A Gun? Become A Gun Dealer".

As this chart illustrates, the problem is only getting worse. As the number of ATF inspectors who conduct investigations has declined by 13 percent, the number of Federal firearms dealers has increased to 286,000—an increase of 99 percent over the last two decades. There are now more firearms dealers in California than there are high school teachers.

An example of how flawed the system is occurred when a Washington Post reporter sent in an application for his dog "Fifi". ATF ran the required computer check, found no record of criminal activity, and after the 45-day limit, issued "Fifi" a Federal firearms license. The problem is simple and is best described by ATF's head of gun dealer licensing—"If a criminal lies, I catch that up front".

Fault lies not with the Bureau of Alcohol, Tobacco and Firearms. Fault lies with Congress. Unfortunately, ATF just doesn't have the resources to do their job properly.

Under current law, ATF is supposed to process Federal firearms dealer applications as quickly and as efficiently as possible. And even if a full investigation has not been completed, ATF must issue a license after 45 days unless the applicant is disqualified. If ATF does not issue the license, the applicant can sue the Government. I am not aware of any other application procedure in the United States where an applicant can sue the Government if an application is not approved after 45 days.

Congress must act to reform the system of obtaining Federal firearms licenses. When it is harder to get a liquor license, or even a driver's license, than it is to get a firearms license, something is wrong.

The Simon amendment is simple. It would do the following seven things:

First, increase the 45-day ATF license processing requirement to 60 days to ensure that a thorough background check is completed before a license is issued;

Second, make sure that license recipients are in compliance with State and local laws to help make sure that those selling guns are law abiding citizens. The former ATF Director recently testified that "ATF must issue licenses even in situations where we [ATF] may have every reason to believe that the business will be operated in violation of State or local law";

Third, require licensees to report the theft or loss of a firearm within 48 hours of being discovered so ATF can conduct timely investigations;

Fourth, make sure that all Federal firearms dealers are finger-printed and have photo identification—similar to when applying for a drivers license;

Fifth, allow ATF to inspect dealer's inventory and records when a firearm involved in a crime is traced to the dealer;

Sixth, let State and local governments know who has a Federal firearms license in their jurisdiction; and

Seventh, require all licensees to respond to requests from ATF for information in a dealers record within 24 hours. This would help ensure that law enforcement agencies can receive timely information during a criminal investigation.

This amendment is just common sense. I understand that most dealers are law abiding citizens. But, many are not and there are numerous examples to prove that. Let's reform the system to ensure that law abiding citizens and only law abiding citizens can obtain Federal firearms licenses.

As one legitimate federally licensed firearms dealers stated, "It's a joke. The politicians are screaming about gun control, but the Federal Government is handing out licenses to every Tom, Dick, and Harry. And then they never check the people. It makes you want to scream."

I strongly support the Simon amendment, but believe that real reform of Federal firearms licensing procedures can not occur without a discussion of the fee structure. A recent report from ATF estimates that the actual costs to issue a Federal firearms license and to maintain the compliance program is more than $600 per dealer annually. I believe that this taxpayer subsidy must end, and I intend to address this important issue in the future.

The Simon amendment is a good first step that will bring some sanity to the licensing of Federal firearms dealers, and I urge my colleagues to support the amendment.

I ask unanimous consent that the Wall Street Journal article and the AFT cost analysis be entered into the RECORD at this time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Firearms Dealer Compliance Costs

First year costs for:	
Firearms dealer dealing in any title 1 firearms:	
Application processing (Incl. 3 FBI name chk)	$107
Field investigation of applicant	275
Related program costs	220
Admin support	44
Total first year cost	646
Subsequent year cost for:	
1. Firearms dealer dealing in any title 1 firearms:	
Application processing—renewal	34
Field compliance inspection	275
Related program costs	220
Admin support	44
Total out year cost	573
2. Pawnbroker dealing in any title 1 firearms:	
Application processing—renewal	34

Field compliance inspection	382
Related program costs	305
Admin support	61
Total out year cost	792
3. Dealer in (sporting) long guns only:	
Application processing—renewal (every other year)	34
Field compliance inspection	275
Related program costs	220
Admin support	44
Total annual out year cost	286

Source: Bureau of Alcohol, Tobacco, and Firearms.

[From the Wall Street Journal Nov. 4, 1993]

WANT A GUN? BECOME A GUN DEALER

(By Josh Sugarmann)

Sen. Bill Bradley's statement Thursday that Congress should raise the licensing fee on gun dealers to $2,500 from $30 highlighted one of the most overlooked aspects of the national debate on firearms: the ease with which nearly any American over the age of 21 can become a federally licensed gun dealer.

Mr. Bradley's statement follows the recent signing of an executive order by President Clinton directing the federal Bureau of Alcohol, Tobacco and Firearms to begin restricting federal firearms licenses (FFLs) to bona fide gun dealers. This sensible step will help stem the flow of guns to America's criminals, a move that conservatives, who repeatedly emphasize the "rights with responsibilities" ethic, should applaud.

The Type 1 FFL is the basic federal license required to sell guns in America and grants the licensee unique and broad privileges. America's 246,532 Type 1 FFL holders can ship and receive firearms and ammunition in interstate commerce via common carrier and purchase weapons at wholesale prices. Most activity can be conducted free of local and state regulations that apply to individual "over-the-counter" purchases, such as waiting periods or background checks.

LAX PROCEDURES

One would assume that to become a federally licensed firearms dealer, a rigorous set of regulations would be in place to keep undesirables out of the business. But the reality is that any American over the age of 21 can become a gun dealer upon paying a $30 three-year licensing fee and undergoing a loophole-ridden background check for possible felony convictions.

Because of the cursory nature of the application check, those with felony records can avoid detection merely by having relatives, girlfriends, or even pets register for them. In 1990, ATF officials were embarrassed when it was revealed that they had approved a license application for two dogs. "The point is well taken," an ATF spokesman acknowledged. The dogs would clearly pass a record check designed for human beings."

The result of these incredibly lax procedures is that in many states, it is easier to become a dealer in firearms than to purchase a handgun legally. It's not surprising that from 1975 to 1993, the number of Type 1 FFLs jumped more than 68%. The licensing procedure is so lenient that today the U.S. has more gun dealers than it does gas stations.

Yet according to a July ATF report, only 18% of the holders of Type 1 FFLs operate actual storefront businesses such as gun or sporting goods stores. The vast majority, 74%, are "kitchen-table" dealers who conduct business out of their homes—often in violation of state and local zoning, business, or firearms laws. (The remainder conduct business out of commercial premises not associated with the sale of goods to the public, e.g. real estate offices, auto repair shops, or beauty shops.)

While most of the ATF's regulatory lethargy as regards FFL issuance, renewal and revocation has been self-imposed, in 1986 Congress placed major roadblocks in the agency's way when it passed the Firearms Owner's Protection Act. The law helped curtail FFL enforcement by limiting ATF to one unannounced dealer inspection per year; reducing the record-keeping requirements for dealers selling guns from their "personal" collections; removing record-keeping requirements for ammunition dealers; prohibiting ATF from centralizing or computerizing dealers' records; and imposing a higher standard of proof (violations need to be "knowing" or "willful") while lessening penalties for dealer violations.

Moreover, less than 6% of all FFL holders are inspected in an average year. In 1990, the agency revoked only three of the 235,700 Type 1 FFLs then held. The ATF estimates that at current funding levels it would take the agency more than a decade to inspect every FFL holder.

For the first time, however, the ATF recently began visiting or calling all new applicants. Two cases cited by former ATF Director Stephen Higgins in June testimony before the House Subcommittee on Crime illustrate the need for increased oversight.

The first case concerned a New Jersey man whose stated place of business was a room at the YMCA. The applicant had several guns in the room and was reloading ammunition while talking to the inspector. "The applicant," Mr. Higgins testified, "was also watching movies about the Vietnam War and appeared to be irrationally enthralled with that conflict." In a second case, after a preliminary inspection the prospective gun dealer withdrew his application. "One week later," Mr. Higgins continued, "the applicant was arrested for possessing * * * machine guns. He was subsequently released, only to later engage in a shootout with local police."

The bureau has also improved its inspection process by visiting the holders of FFLs in select urban areas prior to renewal, in an attempt to confirm that they have met all state and local licensing requirements. Those who have not met the requirements are informed that their licenses will most likely not be renewed.

Yet an unknown number of FFLs remain in criminal hands. Licensee abuses cited at the June House hearing included those of Detroit kitchen-table dealer Larry Wilson, who sold 2,169 handguns and assault rifles off the books to criminals; New York City resident John Adams, who ordered more than 1,000 handguns through the mail and then sold them on the city's black market; and fellow New Yorker John Zodda, who over a five-year period used his own FFL and a series of falsified licenses to buy and sell more than 2,400 firearms, including assault weapons.

These are not isolated cases. A 1992 study by the Violence Policy Center found that kitchen-table dealers contribute significantly to criminal gun flow. In an analysis of ATF crime-gun traces for Detroit, the study found that one-third of all dealers who had five or more guns used in crimes traced back to them were kitchen-table dealers; the average number of crime guns traced per kitchen-table dealer was nearly 50% higher than that of gun shop owners; and six of the top 10 dealers with five or more criminal gun traces were kitchen-table dealers. These statistics illustrate the folly of the federal government's permissive firearms licensing procedures. Even opponents of gun control should be in favor of measures that would limit gun-dealing licenses to legitimate gun dealers.

WHAT'S NEEDED

As a result of President Clinton's directive, additional steps to be undertaken by ATF include the development of a more comprehensive application form, finger-printing applicants, and automating the bureau's dealer records. The problem cannot be solved, however, until Congress moves to limit license availability to legitimate storefront operations by—at the very least—increasing the annual dealer licensing fee and requiring that before a federal license is granted applicants show proof of having obtained all necessary local and state permits. The recent resignation of Mr. Higgins from the ATF highlights the need for a new director who is committed to implementing these regulations.

These moves will not make it any more difficult for law-abiding citizens to obtain firearms. They will, however, be a big step forward in reducing the number of kitchen table dealers and in the process limiting criminal access to guns. That's as effective a weapon as any in the fight against crime.

LEVIN AMENDMENT TO THE CRIME BILL

Mr. DURENBERGER. Mr. President, I rise to explain the reasons I am a cosponsor of the amendment by my friend and colleague from Michigan, Senator LEVIN.

Senator LEVIN'S amendment would replace the death penalty provisions of this bill with mandatory life in prison without the possibility of parole.

The crime bill began by imposing the Federal death penalty for 47 offenses, and in our mad rush to appear tough on crime the Senate has kept adding to that list. The tone of the debate on this bill has been so extreme that the Senate defeated a very reasonable amendment by Senator SIMON that would have prohibited the execution of juveniles.

I am philosophically opposed to the death penalty as a matter of conscience. But I believe that there are also many practical policy reasons to oppose the death penalty. If we were less concerned about appearing tough on crime and more concerned about crafting rational and effective policy, the Senate would adopt the Levin amendment.

First, we should dispel several myths that have been perpetuated about the death penalty:

Myth No. 1: The death penalty is the only way to permanently incapacitate dangerous criminals. The public supports the death penalty to prevent dangerous individuals from reentering society. But this can also be accomplished by life imprisonment without possibility of parole. Public support for the death penalty drops dramatically when life without parole is mentioned as an alternative.

Myth No. 2: The death penalty is less costly than life imprisonment. Actually, the average trial and one appeal to a State court in a capital case costs about twice as much as incarcerating a prisoner for life. Putting criminals on death row drains the limited resources of our criminal justice system.

Myth No. 3: The death penalty is a deterrent to crime. There is no statistical evidence that the death penalty is a deterrent to violent crime. In fact, murder rates have risen the most over the past 10 years in States with the death penalty. My home State of Minnesota and other States without the death penalty have comparatively low murder rates.

Myth 4: The death penalty is needed to make victims whole. In 1991, the Minnesota State Legislature considered a bill that would have reimposed the death penalty in my home State. The parents of Carin Streufert, a University of Minnesota student who was brutally murdered, testified against the bill. Don and Mary Streufert stated that the death penalty could never erase the pain and grief of victims' families. Don said, "We see no sweetness in revenge, only bitterness and alienation." The death penalty only accomplishes vengeance, and vengeance does not make victims whole.

Another factor that should cause the Senate to stop and think before it drastically expands the death penalty is the inconsistent application of the death penalty. One Federal death penalty is currently in effect under the Anti-Drug Abuse Act of 1988. Under that act, the Justice Department has sought the death penalty against 30 defendants. 22 of these prosecutions were against African Americans. Half of the remaining eight were Hispanic defendants. It is troubling that the Justice Department has not explained this racial disparity.

Mr. President, the vast majority of the free world has rejected the death penalty, while America is in the company of the some of the most intolerant and backward governments on the globe. Our use of the death penalty undermines our standing as a proponent of human rights around the world.

Imposing a Federal death penalty for dozens of offenses is no solution to violent crime. The death penalty is not a deterrent. The death penalty is not a cost-effective alternative to incarcerating criminals. It cannot erase the pain and grief of victims' families. The only thing that can be said for the death penalty is that it feeds our lust for vengeance and perpetuates the cycle of violence.

I urge the Senate to inject some rationality in the crime bill debate and adopt the Levin amendment.

FEINSTEIN AMENDMENT TO THE CRIME BILL

Mr. DURENBERGER. Mr. President, I rise to explain my reasons for opposing the amendment by my distinguished colleague from California, Senator FEINSTEIN, which imposes a ban on certain types of semiautomatic weapons.

First, I must compliment Senator FEINSTEIN for her efforts to exempt hunting and sporting rifles from the ban. I respect her attempt to find a compromise between those who advocate a complete ban on semiautomatic weapons and those who want to protect legitimate sporting rifles. I have often found myself in the same position of trying to find common ground on controversial issues, and I know how difficult that can be.

But I cannot support this amendment at this time because I am not convinced that a ban on semiautomatic weapons will have any real impact on the problem of violent crime.

Semiautomatic weapons make up approximately 15 percent of the firearms owned by Americans. Yet, less than half of 1 percent of violent crimes involve these types of weapons. According to the FBI, more people were killed in 1992 by fists and feet than by rifles of any type. Five times as many people were killed by knives.

Further, if semiautomatic weapons are inherently a danger to the community—and the statistics do not indicate that they are—then I would question why so many weapons have been exempted by this amendment. If semiautomatic weapons are inherently dangerous, then this amendment will not amount to much more than a symbolic gesture.

Crime and violence in America has become a public health crisis. We are in a battle for the hearts and minds of young people in our communities. We are not going to solve the problem through the expansion of the death penalty, nor are we going to solve it through weapons bans. It misdirects our limited resources to think that we can. That is why I will cast my vote against the Feinstein amendment.

REGARDING THE HUTCHISON AMENDMENT TO S. 1607

Mr. PELL. Mr. President, I particularly want to clarify what may be some misunderstanding about the participation of the incarcerated in the Pell grant program. It is important to understand, at the outset, that no prisoner displaces another deserving student who is not in prison. The Pell grant program functions as a quasi-entitlement in which a student qualifies for a grant, and the size of the grant depends on the availability of sufficient appropriations. Thus, a student is not cut out of the program because a prisoner qualifies for a grant. If they are both eligible, they both receive a grant and there is little relationship between the two.

Also, regarding the number of prisoners who receive Pell grants, the Inspector General at the U.S. Department of Education estimates that the number is far less than the 100,000 figure that has been cited, and is actually only about 25,000. This is less than one-half of 1 percent of the 4.5 million students who received Pell grants last year. Further, the actual cost is also considerably less than the $200 million cited, and is much closer to $40 million, which is about six-tenths of 1 percent of the total Pell appropriation.

Mr. President, today there are currently more than 1,000,000 men and women in our Nation's jails. The cost of incarceration of this magnitude is enormous. On average, we spend $30,000 a year to keep a person in jail. As I have said on many, many occasions, it costs us more to send a person to jail than to Yale.

Education is our primary hope for rehabilitating prisoners. Without education, I am afraid we are doomed to a recidivism rate of somewhere between 50 and 70 percent. The door into jail will remain a revolving one. With little or no education, a person will leave prison only to commit another crime and be returned to prison.

Mr. President, we know that postsecondary education for incarcerated students dramatically helps to reduce recidivism rates. Rates for prisoners who receive 2 years of schooling are about only 10 percent, compared with an overall rate of five to seven times that. In Arkansas, for example, inmates who get a high school degree and postsecondary training have a recidivism rate of 8%, less than one-sixth the national rate. Graduates of Alabama's largest inmate education program, J.F. Ingram State Technical College, have a recidivism rate that is one-third lower than that of the Alabama prison system as a whole.

It is most important, however, to understand that these results are achieved with only a very small Federal effort. We spend almost $30 billion a year to keep people in prison. The amount we spend on education through the Pell Grant Program is only one-tenth of 1 percent of what we spend simply to keep a person behind bars. Given that situation, the very small Federal effort we make through the Pell Grant Program certainly helps achieve some very important and remarkable results.

In reauthorizing the Higher Education Act of 1965 last year, we were careful to address concerns about prisoners receiving Pell grants. We now exclude from Pell grant eligibility inmates under a death sentence or serving a life sentence without parole. Postsecondary institutions may not participate in the Pell Grant Program if incarcerated students comprise more than 25 percent of their total student population. Pell grant money cannot supplant State postsecondary correction educational assistance. And finally, incarcerated students eligible for Pell grant aid are limited to tuition and fees. The cost of living expenses for incarceration are not allowed, and this very definitely limits the size of the grants they can receive.

Mr. President, I realize that this is a difficult and highly charged issue. We can take still more steps to ensure that funds go to those with the best chance of rehabilitation, but I do not believe that we should end our commitment to postsecondary education for prisoners. Criminals should be sentenced and incarcerated, but let us also be concerned with their rehabilitation so that they will not return to a life of crime upon release from prison.

Mr. BIDEN. Mr. President, I rise at this late hour because we have been debating the crime bill for an extended period of time now, a number of days, and we have been working out very complicated agreements whereby we would be able to proceed to act on some very, very consequential legislation and very controversial legislation, including what we did today, the vote on the Feinstein-Metzenbaum-DeConcini assault weapons provision and what we hope we can do tomorrow, finally disposing of the Brady bill, hopefully in the fashion I would like to see it disposed of—that is passed.

Tomorrow will be a busy day. Our staffs, as we speak now, our Republican and Democratic staff, leader staff, manager's staff of this bill are trying to work out how to proceed under a time agreement on the Brady bill tomorrow.

So, the reason I tell you all this is to explain why I am about to do something I have not done in 20 years, and that is come and speak on an issue at this late hour rather than during the regular hours because tomorrow, I imagine, if all goes well there will not be much time to discuss what I want to discuss.

That is, I want to speak specifically and briefly to one of the literal casualties of the inability or unwillingness of the Nation to respond to violence in America.

As we debate how best to respond to the epidemic of violent crime in America and hopefully bring to resolution that debate in the Senate tomorrow before the sun sets, and it is a debate that by necessity will last long beyond whatever action we will take on this legislation currently under consideration, in our discussions we inadvertently spend a lot of time talking about statistics.

I have stood on this spot over the last five, six, seven, eight—I do not know how many days now—reciting unfortunately from memory because I have come to know them too well the awesome statistical carnage that occurs on our streets, but they are statistics. And I have cited how bad things are but the empirical evidence is, in fact, very important.

But what we must never forget in the course of quoting the studies and citing the numbers is that every statistic represents a very real human life, in all its riches of experience and emotion, every one of the statistics we have cited on the floor is a human life that has been affected or taken as a consequence of an action by a violent individual and the statistics we state.

Every statistic represents a family, a future, a whole interdependent web of feelings, hopes and plans that has been dashed as a consequence of a malfeasance in our society.

No one who was involved, or who even witnessed, our Judiciary Committee hearings on the proposed assault weapons ban earlier this year, none of us will ever forget, none of us will ever be able to forget if he wanted to, the testimony of a young widower-father and young widow, the living victims of fatally violent acts that shattered their families and so much of what they, like all of us, had assumed could be counted on in life.

I would like tonight to submit written testimony into the RECORD, testimony that reveals another face behind the statistics of violent crime, and a family that, after more than a decade of living with their loss, continues to struggle every day with the scars left by the violent death of a loved one.

The faces in this family are very familiar to me, because one of them belongs to a very good friend of my wife and mine, Kathleen Anderson Winter.

Kathy is a person who can accurately be described as joyful. She is a successful professional, married to a successful professional, with a beautiful young family. She has a great spirit, both generous and warm.

Kathy is also one of the many Americans for whom the violent death of a family member—her brother—remains an inescapably pervasive, fundamental and defining fact of her life and the life of her family.

The testimony I will submit was sent to me in letter form by Kathy's mother, Suzanne Slate Anderson, and I hope all my colleagues will take the time to read it in full. For it is a truly, and painfully, powerful expression of the struggle faced by this and so many other families, who have been victims of tragedy and violence.

What Mrs. Anderson herself describes as "continuing anguish * * * an ongoing awareness that there can never be a wholeness again." She writes that life does go on, but in "a painful, broken rhythm."

The testimony is a powerful expression, too, of how much we all lost the night of August 12, 1982, when Thomas Clark Anderson—age 20, college student, working at a suburban restaurant for his summer job—was killed, by a drug-addicted, would-be robber with a handgun.

It is what we lose every day because of violence in America—promise, security, trust, hope, opportunity, justice, liberty—the very foundations of all that we cherish in our private and our communal lives are threatened by violent crime.

When Mrs. Anderson was going through her son's belongings after his death, she came across a statement he'd written in a chemistry notebook, which read:

> Let me leave you with this thought. Remember that the American dream can not die; for when you are deprived of something you want, you dream about it, and your dream will last as long as you strive to turn it into reality.

Mrs. Anderson speaks to all of us when she quotes that statement and writes:

> Young Americans out there have dreams. I charge you this day with stabilizing our society so that these dreams can be realized. Young people should not have to live in fear that guns will kill them, that schools and neighborhoods are not safe. And parents should not have to bury their children, for they are never whole again.

Unfortunately, Mr. President—and I think I have only mentioned this one other time in 20 years—I can, as we say in our antiseptic language in the Senate, associate with Mrs. Anderson's loss. For the loss of a child, I think, is like no other loss that anyone can experience.

Mr. President, it is time, I believe, for us to answer the charge of Mrs. Anderson to do all that we can to preserve the trend we hope to get started of dealing with violence and reverse the trend of increasing violence in America.

America should not, and must not, be a society where the reasons for fear are greater than the capacity to dream.

Mr. President, I would like to take time now to read—and it is a relatively short letter—portions of Mrs. Anderson's letter to me.

> DEAR SENATOR BIDEN: The following testimony hopefully will reveal to you the continuing, anguish over the violent death of a fine young man felt by his family. It is still acutely painful to reveal the emotion of the loss. Yet, it is still too clinical just to give a statistical accounting of the effect of his death on our lives. Where we are and who we are today has been immeasurably influenced by his death.
>
> There is an exponential factor in reaction to murder, to grieving and to the justice process. It is not a television whodunit where only the question of the guilty is solved. For those who suffer, for those who try to comfort, for those who seek to bring legal and social justice, there is an ongoing awareness that there can never be a wholeness again. Life will never be the same. It is essential for the populace to know that recovering from a death by violent means does not get better in the morning. Time does not necessarily heal all wounds. Anger is not dissipated by years. There is no antidote for this pain, ever.
>
> Thomas Clark Anderson was born on January 19, 1962. He followed two sisters, Kathleen and Jane and was the older brother to John, who was born three years later. He was energetic, had a tremendous work ethic even as a little boy of three, and felt a great sense of family responsibility. Tom loved sports, was popular with his peers and he enjoyed the respect and friendship of people of all ages. He was independent, savvy, and wonderfully polite and well mannered. He was

goal oriented and had a vitality that would tire us all. We loved him and he loved us.

Tom was educated in the public schools until the fourth grade, when he moved with his family to Geneva, Switzerland (as a result of his father's employment) where for five years he attended the International School of Geneva. Upon the family's move back to the United States, he returned to public school, but mainstreaming into a nonflexible program that did not allow for his course of study in Geneva proved difficult. This led us to enroll him in The Hill School, a private school in Pottstown, Pennsylvania.

At The Hill School, Tom was an above average student, a really good soccer player and a prefect his senior year. He was selected by the faculty to counsel younger classmates on values, studies and student life. For his service as a counselor, he was chosen as one of the three outstanding prefects his senior year. Capitalizing on his years in Switzerland, he received honors in the study of French. Tom was accepted at Duke University and entered Duke in January of 1981.

In January 1980, Tom turned 18. One gray winter day when he was on holiday from school, he and I were running errands. He turned to me and said that he needed to register for the draft and would it be all right to do so that day. With a certain emotional tightening, I realized that this was indeed a responsibility of an 18 year old and I agreed to go along. That registration was a time of painful reflection for me. Fortunately, we were at peace. No wars were actually being fought, but I could well remember that there had been wars and friends of mine had lost brothers. I remember the gray sadness when Bill Lentz, a tall blond, blue eyed young man, a recent graduate from NC State, B-17 pilot, an only son and older brother of my friend, was killed in W.W.II. I recall the loss of Charles Long Casey in Korea and how unreal it seemed because he had just been swimming at the country club the summer before and now it was summer again and life at the country club was just the same. For the Casey family it was a painful realization. And then there was C.L. Corn, serving his country as young men who graduated in 1954 had to do. All had died before age 25. Too young, too soon. I was grateful that the reality of war was remote and Tom would be spared that threat.

Tom worked after graduation from high school in a nearby restaurant. He washed dishes at first and then served as a busboy, and did this until I drove him one snowy morning to Duke University. Tom loved Duke. It was the perfect match. He went to both sessions of summer school in 1981 so there was no summer job. In the summer of 1982, he returned to our home in West Chester, Pennsylvania. Summer jobs were not plentiful, so he ended up at the same restaurant working as a busboy, much to the delight of the owner. His brother John, then age 16, joined Tom in working at the restaurant and at times shared the same schedules. John used to complain that Tom was a task master while cleaning up those tables. Tom was saving his money to buy a car and commenced in an exhaustive search for most of the summer. Two years prior to this, he and I had made an in-depth study of all the cars and test drove many of them together. He brought a metallic light blue Honda Accord, where he paid for half and we assisted with a loan for the other half. Tom loved this car and enjoyed showing everyone how the car would talk to you if you left the lights on.

Two weeks prior to the start of the 1982 fall semester, Dennis Dreibelbus, the night manager of the restaurant quit his job to take a position with the Boy Scouts of America. While the owner of the restaurant looked for another night manager, he asked Tom to assume that position. Tom was thrilled and said that this job experience would look good on his resume. We admonished him to be careful, but had no real concern for his safety as the parking lot was well lit and it was a nice suburban area.

On August 12, 1982 our world fell apart. Tom and John were working at the restaurant that night. After the restaurant closed, John talked a few moments with Tom and Teresa Miley, a college student who also worked at the restaurant and dated Tom that summer. John left and went home. Tom and Teresa got into their respective cars to start over to a friend's house. Neither of them saw the 2 robbers with stockings over their heads approach them. Jerry Mims, by his own admission, was high on cocaine and needed money for more drugs. He thought that he might rob the restaurant where he had once worked as he figured it to be an easy target. Mims fired a shot over the hood of Tom's car, then ran around to the driver's side window and fired a shot point blank into Tom's head. The car drifted slowly backwards into the side of the restaurant as Tom was fatally injured. Mims turned and fired a shot at Teresa, but unfortunately the bullet lodged in her car door. Had it been a later model car, she too would have taken a bullet in the head. Mims ran off without the money. Teresa got out of her car and ran to check on Tom. Realizing that he was in need of medical attention, she ran for help. As she ran onto the highway, she fully expected to be shot in the back, but she knew she had to try to get help.

The third car finally stopped for her. She asked the driver to take her to Lasorda's Marchwood Tavern that was the closest thing open and where she could get to a phone to call for an ambulance. When she reached the tavern and asked if she could use the phone, that someone had been shot and needed help, she was told to use the pay phone outside. She found change and called.

The phone rang at our house just as we were getting ready for bed. John had just come in and we chatted a few minutes with him. Tom's father answered the phone. I could hear the subdued voice suddenly filled with anguish. I asked if it was his mother, who was in her nineties. No, it was Kathy, our daughter who worked as a nurse at the local hospital. She had been called down to the emergency room after her shift because one of the nurses in the emergency department, a neighbor, recognized Tom. Tom had been brought in as a John Doe and they needed identification. Kathy said that Tom had been shot, that it was bad, and to come quickly because he was dying. My reaction was total disbelief and my mental picture was of a shot to the shoulder. Oh, that it might have been just that.

We were at the nearby hospital in just a few minutes. John went with us, but we left Jane at home asleep. There was simply not time to apprise her of the situation.

In the emergency room, there were spots of blood on the floor leading to the stretcher where Tom lay. There was hushed apprehension as all service focused on this emergency. No, we could not see Tom. No, I could not hold his hand. No, it was not a good picture; the outlook was bad. The doctor was pale and concerned. Machines kept making those electric impulse sounds and the room was eerily quiet. We all looked at each other not wanting to recognize the reality, wanting this moment to go away. This was not supposed to happen in this safe town. The sounds of the machine stopped. The doctor appeared and said with a choked voice how sorry he was. Tom was dead at 20 years of age.

Sometime later they let me see Tom. I bent over his white sheeted body to kiss that dear young face whose head was wrapped in bandages. He was cold, he was gone. Too soon. Too young. The vitality and laughter of the morning was gone. The energy and expectation forever quieted. This could not be real. But it was and this was only one incident in the many shootings that increasingly have followed.

As we made funeral plans, the Chester County Detectives under Sgt. Mike Carroll began their work. I can never say enough good about these detectives and the judicial system. Their dedication to this case and their compassion for us created a bond that exists with us to this day. They were completely there for us.

Life continued with a painful, broken rhythm. Jane had been told of Tom's death when we returned home that night. Two weeks later she hesitantly packed for the new semester at Lynchburg College. Thank goodness this was a small school where students and professors cared and expressed concern.

Kathy moved back home from her apartment. She managed to complete her second college degree that fall while continuing to work. Her work took on new meaning while dealing with life, death and dying.

John began his senior year in high school. Suddenly the youngest had a forced growing up. He and Tom had been very close, quite different people, but very close.

In 1982, shootings did not happen in public areas such as shopping centers. Violent crime did not happen to people like us. Shooting and murders occurred in "bad" neighborhoods. People with whom you worked were to be trusted. Tom was not that lucky. Dennis Dreibelbus had been the previous night manager of the restaurant. Tom liked and respected Dennis. Dennis quit to take a job with the Boy Scouts of America and Tom was given Dennis' job. It was disclosed during the investigation that Dennis was surreptitiously dealing drugs. Jerry Mims bought drugs from Dennis Dreibelbus. Jerry Mims owed Dennis money. Dennis knew that Mims was going to rob the restaurant. Dennis did not tell anyone. Tom was killed. Dennis Dreibelbus is still alive. Dennis was fired by the Boy Scouts of America upon learning of his drug activity. Justice is not always served.

The detectives did catch the two men who shot Tom. We have been through two trials and we have witnessed their indifferent, callous confessions. It was a painful, stressful experience. Life did not mean much to the person holding the gun. They are in prison serving life sentences without parole.

As the fall began, I knew that it was necessary that I gather together Tom's things. I did not want help. I wanted to grieve, be angry, but recall the good memories that were there among his possessions. I opened every notebook and there among his chemistry notes was a page full of philosophical thoughts on what was important in life. As days turned into weeks and I had almost completed this task, I found the following statement which was so indicative of his life. He had written: "Let me leave you with this thought. Remember that the American dream can not die; for when you are deprived of something you want, you dream about it, and your dream will last as long as you strive to turn it into reality."

Young Americans out there have dreams. I charge you this day with stabilizing our society so that these dreams can be realized. Young people should not have to live in fear that guns will kill them, that schools and neighborhoods are not safe. And parents should not have to bury their children for they are never whole again. Each day is always an acknowledgment of reality. Each day you hope that the surface of your healing will not be scratched, for if it is, you will only bleed again.

Respectfully yours,
SUZANNE SLATE ANDERSON.

As I said, in 20 years I have never read a personal letter in the Chamber, but I have never had such a profound letter written to me. I believe as I said—and I will conclude with this—after all the statistics which I have cited, I know with numbing accuracy, having done this for 15 years, even sometimes I forget that there is a face attached to every one of those statistics.

It is my hope, Mr. President, that when we pass this crime bill tomorrow, eventually pass it in conference with the House, and send it to the President's desk, that we will spare other mothers, fathers, brothers, and sisters, from having to deal with what Mrs. Anderson says, paraphrasing her; the reality that the dream has died, and the scar never heals.

Mr. President, I thank you for your indulgence. I realize that I have kept you longer than you need be here. But knowing the gentleman that you are, you probably would have stayed if I had gone another half hour.

I thank the staff for listening as well. I yield any time that is available to me.

ORDERS FOR THURSDAY, NOVEMBER 18, 1993

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:25 a.m., Thursday, November 18, that following the prayer, the Journal of proceedings be deemed approved to date, and the time for the two leaders reserved for their use later in the day; that upon the disposition of S. 24, the independent counsel bill the Senate resume consideration of S. 1607, the crime bill and that there be 90 minutes for debate, equally divided in the usual form, remaining on the bill, with all other provisions of the previous consent agreement governing consideration of that bill remaining in effect.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 9:25 A.M.

The PRESIDING OFFICER. Under the unanimous consent, the Senate stands in recess.

Thereupon, the Senate, at 10:05 p.m., recessed until tomorrow, Thursday, November 18, 1993, at 9:25 a.m.

NOMINATIONS

Executive nominations received by the Senate November 17, 1993:

DEPARTMENT OF STATE

JEANETTE W. HYDE, OF NORTH CAROLINA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO BARBADOS, AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE COMMONWEALTH OF DOMINICA, AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO ST. LUCIA, AND AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO ST. VINCENT AND THE GRENADINES.

THE JUDICIARY

JUDITH W. ROGERS, OF THE DISTRICT OF COLUMBIA, TO BE U.S. CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT, VICE CLARENCE THOMAS.

THOMAS I. VANASKIE, OF PENNSYLVANIA, TO BE U.S. DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF PENNSYLVANIA VICE A NEW POSITION CREATED BY PUBLIC LAW 101–65, APPROVED DECEMBER 1, 1990.

CONFIRMATIONS

Executive nominations confirmed by the Senate November 17, 1993:

DEPARTMENT OF STATE

ALVIN P. ADAMS, JR., OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF PERU.

DEPARTMENT OF DEFENSE

R. NOEL LONGUEMARE, JR., OF MARYLAND, TO BE DEPUTY UNDER SECRETARY OF DEFENSE FOR ACQUISITION.

GILBERT F. CASELLAS, OF PENNSYLVANIA, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF THE AIR FORCE.

HENRY ALLEN HOLMES, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF DEFENSE.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF JUSTICE

EDUARDO GONZALEZ, OF FLORIDA, TO BE DIRECTOR OF THE U.S. MARSHALS SERVICE.

CARL KIMMEL KIRKPATRICK, OF TENNESSEE, TO BE U.S. ATTORNEY FOR THE EASTERN DISTRICT OF TENNESSEE FOR THE TERM OF 4 YEARS.

FRANCES CUTHBERT HULIN, OF ILLINOIS, TO BE U.S. ATTORNEY FOR THE CENTRAL DISTRICT OF ILLINOIS FOR THE TERM OF 4 YEARS.

NORA MARGARET MANELLA, OF CALIFORNIA, TO BE U.S. ATTORNEY FOR THE CENTRAL DISTRICT OF CALIFORNIA FOR THE TERM OF 4 YEARS.

HOUSE OF REPRESENTATIVES—*Wednesday, November 17, 1993*

The House met at 9 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We are grateful, O God, that in all the moments of life Your spirit does hold us near and underneath our lives are Your everlasting arms that support us and direct us and give meaning to all we do. O gracious God, who has created us to use our abilities in ways that serve all people, we pray for the gifts of discretion and wisdom that we will be faithful with the responsibilities before us and diligent in our efforts for the common good. Remind us, O God, of the admonition of the prophets of old, that in all things we will do justice, love mercy, and ever walk humbly with You. This is our earnest prayer. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. WISE. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. WISE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 230, nays 143, not voting 60, as follows:

[Roll No. 572]

YEAS—230

Abercrombie
Ackerman
Andrews (ME)
Andrews (TX)
Applegate
Archer
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Bateman
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Carr
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Combest
Condit
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dooley
Durbin
Edwards (CA)
Edwards (TX)
English (AZ)
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Frost
Furse
Gephardt
Geren
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Green
Greenwood
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hilliard
Hoagland
Hochbrueckner
Holden
Houghton
Hoyer
Hughes
Inglis
Inslee
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kingston
Klein
Klink
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Livingston
Lloyd
Long
Lowey
Maloney
Mann
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCollum
McCurdy
McDermott
McHale
McInnis
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Montgomery
Moran
Murtha
Myers
Nadler
Natcher
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pombo
Pomeroy
Poshard
Price (NC)
Rahall
Reed
Reynolds
Richardson
Roemer
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sangmeister
Sarpalius
Sawyer
Schenk
Schumer
Scott
Sharp
Shaw
Sisisky
Skaggs
Slattery
Slaughter
Smith (IA)
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tauzin
Tejeda
Thornton
Thurman
Torres
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Vento
Volkmer
Washington
Watt
Waxman
Wheat
Whitten
Williams
Wise
Woolsey
Wyden
Wynn
Yates

NAYS—143

Allard
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Bentley
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bunning
Burton
Callahan
Calvert
Camp
Canady
Castle
Clay
Coble
Collins (GA)
Cox
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Everett
Ewing
Fawell
Fields (TX)
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Gunderson
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Horn
Hunter
Hutchinson
Hyde
Inhofe
Jacobs
Johnson (CT)
Johnson, Sam
Kim
King
Klug
Knollenberg
Kolbe
Kyl
Lazio
Leach
Levy
Lewis (CA)
Lightfoot
Linder
Manzullo
McCandless
McCrery
McHugh
McKeon
McMillan
Mica
Michel
Miller (FL)
Molinari
Moorhead
Morella
Murphy
Nussle
Oxley
Packard
Paxon
Petri
Porter
Portman
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Ridge
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Santorum
Saxton
Schaefer
Schiff
Schroeder
Sensenbrenner
Shays
Shuster
Skeen
Smith (MI)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Talent
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Walker
Walsh
Weldon
Wolf
Young (FL)
Zeliff
Zimmer

NOT VOTING—60

Andrews (NJ)
Barton
Bereuter
Blackwell
Brown (CA)
Buyer
Cardin
Chapman
Clinger
Conyers
Crane
Dixon
Dornan
Emerson
Engel
English (OK)
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Gejdenson
Gilchrest
Hefner
Hinchey
Hoke
Huffington
Hutto
Istook
Jefferson
Kasich
Kleczka
Kopetski
Lewis (FL)
Machtley
Manton
Margolies-Mezvinsky
McDade
McKinney
Meyers
Mollohan
Neal (NC)
Orton
Rangel
Roberts
Rose
Roth
Sanders
Serrano
Shepherd
Skelton
Smith (NJ)
Thompson
Torricelli
Towns
Visclosky
Vucanovich
Waters
Wilson
Young (AK)

☐ 0930

Mr. GUTIERREZ and Mr. CARR changed their vote from "yea" to "nay."

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore (Mr. MONTGOMERY). The gentleman from New York [Mr. QUINN] will lead us in the Pledge of Allegiance.

Mr. QUINN led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills and a concurrent resolution of the House of the following titles:

H.R. 2677. An act to authorize the Board of Regents of the Smithsonian Institution to plan, design, and construct the West Court of the National Museum of Natural History building;

H.R. 3161. An act to make technical amendments necessitated by the enactment of the Older Americans Act Amendments of 1992, and for other purposes; and

H. Con. Res. 169. Concurrent resolution to express the sense of the Congress that the United States should seek compliance by all countries with the conservation and management recommendations and agreements adopted for Atlantic bluefin tuna and other highly migratory species by the International Commission for the Conservation of Atlantic Tunas, and for other purposes.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 714) entitled "An act to provide funding for the resolution of failed savings associations, and for other purposes," and agrees to the conference asked by the House of Representatives on the disagreeing votes of the two Houses thereon, and appoints Mr. RIEGLE, Mr. SARBANES, Mr. DODD, Mr. D'AMATO, and Mr. GRAMM to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 636. An act to amend the Public Health Service Act to permit individuals to have freedom of access to certain medical clinics and facilities, and for other purposes.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair announces there will be no 1-minute speeches this morning, but there will be after the finish of business tonight.

PROVIDING FOR CONSIDERATION OF H.R. 3450, NORTH AMERICAN FREE-TRADE AGREEMENT IMPLEMENTATION ACT

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 311 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 311

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 3450) to implement the North American Free Trade Agreement. The first reading of the bill shall be dispensed with. All points of order against the bill and against its consideration are waived. General debate shall proceed without intervening motion, shall be confined to the bill, and shall not exceed eight hours, with two hours for debate in favor of the bill controlled by Representative Rostenkowski of Illinois or a designee, two hours for debate in opposition to the bill controlled by Representative Gephardt of Missouri or a designee, two hours for debate in favor of the bill controlled by Representative Michel of Illinois or a designee, and two hours for debate in opposition to the bill controlled by Representative Solomon of New York or a designee. Pursuant to section 151(d) of the Trade Act of 1974, after general debate the Committee shall rise and report the bill to the House. Pursuant to section 151(f)(2) of the Trade Act of 1974, the previous question shall be considered as ordered on the bill to final passage without intervening motion.

The SPEAKER pro tempore. The gentleman from California [Mr. BEILENSON] is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield the customary one-half hour of debate time to the gentleman from New York [Mr. SOLOMON], pending which I yield myself such time as I may consume.

Mr. Speaker, I also yield 15 minutes to the gentleman from Michigan [Mr. BONIOR], and I ask unanimous consent that he be allowed to yield portions of that time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. BEILENSON. Yes, I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I think the gentleman is being very fair to an opponent of the NAFTA agreement.

I would like to make the same unanimous consent request on this side, and yield 15 minutes to a proponent of the NAFTA agreement, the gentleman from California [Mr. DREIER], a member of the Committee on Rules.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BEILENSON. Mr. Speaker, I thank the gentleman from New York [Mr. SOLOMON] for his kind words and for his generosity.

During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 311 is the rule providing for consideration of H.R. 3450, to implement the North American Free-Trade Agreement, or NAFTA.

Although floor procedure for the consideration of bills to implement trade agreements are provided for by the Trade Act of 1974 and the Omnibus Trade and Competitiveness Act of 1988, this rule is necessary to shorten the lengthy debate time, 20 hours, called for by these fast-track trade statutes, and to waive points of order. In other respects, the rule follows the procedures specified by law.

The rule before us provides for 8 hours of general debate, to be equally divided and controlled by the proponents and the opponents of H.R. 3450, and within those divisions, to be equally divided and controlled by the majority and minority parties.

Two hours of debate in favor of the bill will be controlled by the chairman of the Committee on Ways and Means, Mr. ROSTENKOWSKI;

Two hours in opposition will be controlled by the majority leader, Mr. GEPHARDT;

Two hours in favor will be controlled by the minority leader, Mr. MICHEL; and

Two hours in opposition will be controlled by the ranking Republican on the Rules Committee, Mr. SOLOMON.

Although the allocation of debate time in this rule is a departure from the normal practice of granting time on the basis of committee jurisdiction, the Committee on Rules believes that the four-way division of time between proponents and opponents from each of the two parties provided by this rule is the fairest and most equitable way to allocate debate time on this measure. The division of time is also in keeping with the fast-track statutes, which call for an equal division of debate time between proponents and opponents of a trade measure. The Committee feels that 8 hours will be a sufficient amount of time to air all of the arguments for and against NAFTA.

The rule also waives all points of order against the bill and against its consideration. This waiver is needed for several reasons.

First, there are several provisions in H.R. 3450 which technically violate the Congressional Budget Act. It is fair to say that the bill does not violate the spirit of the act—that is, the bill would not cause an increase in our annual budget deficits. In fact, over the next 5 years, according to CBO, the bill would result in a net decrease in budget deficits of about $500 million and, if off-budget receipts are included, about $1.6 billion.

Second, the inclusion of $56 million in appropriations for fiscal year 1995 for the North American Development Bank violates clause 5(a) of rule XXI. Funding for this bank will be used to finance environmental improvements, such as water treatment plants, in the border region and other investments related to economic adjustment.

Third, some of the committee reports have not been available for the 3-day layover period provided for by clause 2(l)(6) of rule XI.

Finally, in keeping with the procedures called for under fast-track trade authority, no amendments, and no motion to recommit, will be in order. This will enable the House to vote for or against the bill implementing NAFTA as submitted by the President.

Mr. Speaker, House Resolution 311 establishes, we believe, a fair framework for consideration of what is without a doubt the most important trade measure to come before Congress in many years. While there is not much disagreement over this rule, the bill it makes in order, H.R. 3450, is of course one of the most controversial and divisive issues to come before the House of Representatives in a long time.

The ultimate question that the Members of this House will have to decide, by the time we end this debate tonight, is whether our Nation is better off with NAFTA, or without it. Through the course of this debate, I am certain that the answer that will emerge is that we will be much better off with it.

□ 0940

NAFTA is good economic policy; it will bring about increased economic growth for the United States, as well as Mexico and Canada; it will create more highly paid export-related jobs for American workers, and it will bring about a higher standard of living for Americans.

It will set us on a course in pursuit of a larger strategy of trade expansion and liberalization, which will lead to more economic growth in the future. It will make a critical contribution to U.S. competitiveness in a world increasingly divided into trading blocs.

Over the past half dozen years, trade exports have been the strongest part of our economy, creating about 2 million new American jobs.

Exports to Mexico have more than tripled in the past 6 years—from $12 billion in 1987 to almost $42 billion last year; 6 years ago, we had a $5.7 trillion trade deficit with Mexico, now, we have a $5.4 billion trade surplus.

Mexico has become our third leading export market, our second leading market for manufactured exports, and our third largest market for agricultural products.

Our success of the past several years has occurred even though Mexico's trade barriers remain far higher than ours. The elimination, through NAFTA, of the remaining Mexican tariff barriers, will greatly improve our access to our fastest growing market.

Free trade is good for U.S. jobs, and for U.S. consumers.

Opening up new markets is the key to the creation of new jobs and economic growth in this country. NAFTA presents a golden opportunity to compete even more successfully than we have in the vast and growing Mexican market.

Its approval would ensure Mexico the flow of investment capital it needs to sustain a growth of 6 or 7 percent a year. In another 15 years or so, Mexico will have a trillion dollar economy—almost double the size of our biggest current customer, Canada—and guarantee American business unrestricted access to all that purchasing power. We will be creating a large market right next door, for which the United States will be the best situated, most-favored supplier of goods and services. Because Mexico's barriers will only be reduced for United States and Canadian producers, and not for Asian or European ones, most of the benefits of this rapidly growing market will go to United States companies.

NAFTA is also good foreign policy; it will promote better relations with our neighbors throughout the Western Hemisphere. It will help Mexico consolidate its considerable progress toward economic and political reforms, and it will lead to closer relationships and much greater trade with other Latin American nations. In addition, a prosperous and growing Mexican economy will enable Mexico to cooperate with the United States in addressing such issues as drug trafficking, illegal immigration, and environmental protection.

NAFTA is good environmental policy; by promoting economic growth in Mexico, it will better provide that country with the resources it needs to enforce environmental laws; and, new rules for solving differences over environmental matters will ensure that our own high standards will not be compromised. If Mexico fails to enforce its environmental laws, its government would be fined, if violations persist, trade sanctions could follow. This is the first trade agreement to use fines and trade sanctions to back up environmental protections.

And, finally, Mr. Speaker, the issue before us today, in a very real sense, is about much more than NAFTA, important as that agreement is to our economy and to our Nation.

It is about our place in the world, and what role we will play, and how others will see us.

It is about American political leadership in the post-cold-war world—and whether or not we still believe in the open markets and increasingly freer trade we have been working toward for these past decades.

It is about how the United States will relate to the rest of the world in the years ahead—as an optimistic, confident, competitive leader and trading partner, or as frightened, defeatist, and unreliable nation which is unwilling to act in its own national interest—and in the interests as well of market-oriented growth and democratic political reforms in the developing nations of the world—particularly of our neighbors to the south, whose dramatic reforms of the past decade deserve our strongest support and approbation.

Mr. Speaker, this is a truly momentous occasion, and I hope and pray that we respond in a manner befiting the proud history of this greatest of all nations.

The world still needs us; let us not turn away from our ideals and responsibilities.

Mr. Speaker, I urge the adoption of House Resolution 311 so that the House can proceed with consideration of this important matter.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I say to my colleagues, "I hope you will look at what's in front of me here. There are 11 volumes, several thousand pages. Nobody has any idea what's in the NAFTA agreement—no, you don't."

Mr. Speaker, the gentleman from California [Mr. BEILENSON] has given us a clear explanation of the rule, to which I would like to add several observations.

First, I think Members should realize that much of what we will be doing today—at least the procedural aspect involved—was actually decided about 2½ years ago by the previous Congress.

On May 23, 1991, the House voted to uphold the so-called fast-track procedure for consideration of a NAFTA implementation bill—at least in theory.

Once the House had so committed itself to the fast-track, the Bush administration exercised a free hand in negotiating the North American Free-Trade Agreement, secure in the knowledge that such an agreement would not be subject to amendment by Congress.

The fast-track procedure does not permit any amendment or motion to recommit.

And so the rule now before us does not permit these opportunities either, and that is the way it should be because it is the law.

The fast-track procedure requires that all debate time be evenly divided between proponents and opponents of the measure being considered. The Committee on Rules did not attempt to change that requirement, and I commend the Committee on Rules, of which I am a member, for sticking to the rules of the House.

The rule now before us provides for an even distribution of debate time between proponents and opponents of the NAFTA agreement. The one area in which this rule does depart from fast-track concerns the amount of time for debate. The statute provides for 20 hours; this rule provides for 8 hours. After careful consultation with both sides, I believe that 8 hours should be adequate for debating this bill—a great many Members have seemingly made up their minds already, although I have noticed a shift just in the last hour with some Members changing their minds again and now opposing this bill.

Second, Mr. Speaker, I would just note that the leadership of both parties negotiated the terms of this rule, and they are to be commended as well.

Third, Mr. Speaker, I have to advise the House that some questions related to this bill and the fast-track procedure will not be decided and finally laid to rest today, and I am referring to the so-called side agreements.

The fast-track procedures that were established in the Trade Act of 1988 were to apply to, and my colleagues had better listen to this, "trade agreements entered into * * * after May 31, 1991," 2 years ago "and before June 1, 1993," just a few months ago.

As Members know, the administration has made a desperate attempt to sell the NAFTA agreement by entering into several other agreements, particularly with Mexico, since the June 1 deadline expired. And provisions to implement these other agreements have been included in this bill that we have here before us. But genuine questions have been raised about the President's authority to negotiate these subsequent agreements as well as questions concerning the applicability of fast-track approval procedures for them.

At the Committee on Rules yesterday we heard serious testimony about the constitutional implications involved, and my colleagues are going to hear a lot more about this. At the very least, I just have to say that the inclusion of these side agreements violates the spirit of fast-track, and it violates the good faith that was exercised 2½ years ago when Members voted to uphold the fast-track for this bill.

Moreover, Members should be advised that if the NAFTA agreement itself is eventually enacted into law, the legal status of these side agreements will not go unchallenged for long.

☐ 0950

Finally, Mr. Speaker, I need to say a word about waivers.

This rule waives all points of order against the bill.

In most cases these waivers apply to violations of the Budget Act which are technical in nature.

However, quite frankly, there is no getting around the fact that the waiver protecting the North American Development Bank is a real whopper.

Does any Member know how much that will cost?

Mr. Speaker, A vote for the North American Development Bank, as presented in this bill, is a vote to establish a foreign aid entitlement program which will have priority funding over virtually every other item in the Federal budget. And we can count on that. And Mr. OBEY will have more to say about that later on during this debate.

We heard compelling testimony yesterday about how this monstrosity is going to come back and haunt this House for years to come. And we can count on that.

The North American Development Bank has never been the subject of a single hearing, nor is it part of the NAFTA agreement itself, yet here it is incorporated into this bill.

Mr. Speaker, the American taxpayers do not want to fund another international bank. Believe me, its legal status will not go unchallenged either. We will see to that, too.

Suffice it to say, Mr. Speaker, that I have some real concerns about what we are doing here today. I intend to vote against this treaty for a myriad of reasons that I will explain during the debate itself. But out of fairness to the President and out of fairness to the Speaker of this House and the Members on both sides of the aisle, I will not attempt to stand in the way of allowing this bill to come to the floor for debate. So out of fairness to everybody, I will vote for the rule that will allow that to happen. Let us get on with the debate.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The Chair recognizes the gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this debate is not about whether we need a trade agreement with Mexico, because we clearly do.

The issue before us today is whether or not this NAFTA is the best we can do.

Mr. Speaker, this debate comes down to one simple question: Whose side are you on?

Are you on the side of the "Fortune 500"? Or are you on the side of the "unfortunate 500,000" Americans who will lose their jobs because of this agreement and the literally more than 10 million that will have their wages depressed in this country because of it.

One thing is clear about the events of the past few days:

If NAFTA passes, Henry Kissinger will not be put out of work, the Fortune 500 executives will not lose their stock options, Lee Iacocca will not lose his job, but 500,000 Americans will.

We have lost over 500,000 jobs to Mexico over the past 12 years for one simple reason: Because it is not fair to ask American workers to compete against Mexican workers who earn a dollar an hour or less. This NAFTA that was negotiated does nothing to change that. There is not a single word in over 2,000 pages that says anything or that does anything to raise Mexican wages, to tie Mexican wages to productivity or to ensure that Mexican workers earn enough to buy our products.

How are Mexican workers supposed to buy American cars when a week's wage will barely earn them enough to buy a set of spark plugs?

When the Wall Street Journal asked executives what effect NAFTA would have on their business decisions, 40 percent of our corporations and 55 percent of our largest businesses said they would move some production to Mexico, and 25 percent admitted in a Roper poll in the Wall Street Journal that they would use NAFTA as a bargaining chip to bring down American wages.

Business is telling us they are going to move our jobs to Mexico if NAFTA passes, and we know why. They have been invited to do that, and I think this ad pretty much says it all. This is an ad that the Mexican Government is running or did run in major trade magazines throughout this country. This is what it says: "I can't find good loyal workers for a dollar an hour within a thousand miles of here. Yes you can in Yucatan."

It reads that "You and your company could save $15,000 a year per worker if you had a facility here. Call this number if you are interested."

We called. They have received thousands and thousands of calls. Business is poised and ready to go. They have been invited.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. Not at this point in the debate. I will yield later on.

So, Mr. Speaker, that is what this debate is really all about.

Mr. Speaker, let me ask this of the Members: "Why can't we have a NAFTA that provides the same guarantees for working people that it does for corporations? Why can't we have a NAFTA that raises Mexico's standard of living to our level instead of lowering ours to theirs? Why can't we have a NAFTA that insists that Mexico meet some minimum standards of democracy and human rights?"

This is a silent issue in this debate: Since 1988, under the so-called reform government of Salinas, 26 journalists have been killed in Mexico, 52 members of the opposition party have been assassinated, and Mexico is the only country in the Western Hemisphere that refuses to allow impartial observers to monitor its elections.

Good people in Mexico are trying to reform that system. We have a chance to say yes to them and no to this system.

When the European Community integrated Spain and Portugal and Greece into the Common Market, they developed certain standards for democracy that each country had to meet. Should we do anything less?

If we say yes to this agreement, what kind of pattern do we set for future trade agreements with Brazil, Chile, Venezuela, Colombia, Guatemala, and the rest of Latin America? What kind of signal do we send our human rights and democracy friends who are struggling for democracy in China? What kind of signal do we send to the Chinese when President Clinton meets with them tomorrow to talk about these very issues?

Mr. Speaker, let us be honest. If this NAFTA was such a good deal, it would stand on its own merits. The White House would not have to be making deal after deal. But one month before Christmas, it is "NAFTA Claus" time at the White House. They have got a deal for sugar, they have one for citrus, they have one for vegetables, and they have deals for peanuts and planes and banks, and there is a $17 million tax relief provision right in this bill that we will vote on for Honda Corporation. The only deal they have not cut is the one that they should have made at the beginning of the negotiations, and that is a deal for working people in this country that would affect working people in Mexico and Canada as well.

On top of all that, we are being asked to raise taxes in order to send our jobs to Mexico. This bill raises over a billion dollars in taxes, and that is just the beginning. It is a small fraction of the cost. The total cost of implementing NAFTA is between $20 billion and $50 billion.

Mr. Speaker, this rule alone grants 4 waivers of the Budget Act. This bill is a budget buster. We have not even talked about what the cost is going to be to retrain our workers, to retool our factories, to rebuild our infrastructure, and to clean up the environmental mess at the border.

This NAFTA is not the best we can do, and we should go back to the drawing board and come up with an agreement that benefits the peoples of Mexico and Canada and America. There is no question that our future is linked with the future of Mexico and the good people of Mexico, but we cannot stand up here today and say that this is the best we can do.

If we cannot stand up for the working people of America, if we cannot stand up for democracy in Mexico, if we cannot stand up for human rights around the world, what does this country stand for?

Mr. Speaker, we need a trade agreement with Mexico, but this NAFTA is nothing but a job-stealing, tax-raising, community-destroying agreement, and we have got to defeat it.

Mr. Speaker, I urge my colleagues to vote for the future, to vote for our jobs, to vote for the future of our children, and say no to NAFTA.

Mr. Speaker, I reserve the balance of my time.

□ 1000

Mr. DREIER. Mr. Speaker, because so many Republicans want to line up in support of this rule and the North American Free-Trade Agreement, I yield myself 90 seconds.

Mr. Speaker, I support this rule for consideration of H.R. 3450, and I urge all of my colleagues to join me in that support. The North American Free-Trade Agreement, while not the answer to all of the challenges that face our country, is a historic initiative. It is the product of three Presidents, years of intense negotiations with Mexico and Canada, and hundreds of congressional meetings and hearings. It deserves an up-or-down vote on the floor, and this rule provides that vote.

NAFTA is part of a private sector job-creation strategy that opens foreign markets to our exports. It gives American workers a tangible advantage over their competition in Japan and Europe when selling to the growing Mexican export market.

Over the next 9 hours, the American people will see a very emotional debate. On one side, NAFTA opponents will be selling fear. On the other side, armed with the facts, NAFTA supporters will look forward with confidence and hope. Confidence in the unmatched energy and productivity of the American people, and hope for a future of greater prosperity and peace throughout the Western Hemisphere.

Once or twice a century a nation faces historic crossroads. That is the kind of choice that confronts Congress today. Just as we defeated communism after setting off on the Marshall Plan, the American people will choose the leadership role in eliminating trade barriers and bringing countries together in peace.

This rule will let us make that decision. Do we move forward, or slink back? The Republican leadership supports this rule. The Democrat leadership supports this rule. The administration supports this rule. And I am confident that the American people want us to vote on NAFTA today.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The Chair would inform Members that the gentleman from California [Mr. BEILENSON] has 6 minutes remaining, the gentleman from Michigan [Mr. BONIOR] has 8 minutes remaining, the gentleman from New York [Mr. SOLOMON] has 9 minutes remaining, and the gentleman from California [Mr. DREIER] has 13½ minutes remaining.

Mr. DREIER. Mr. Speaker, I am happy to yield 3 minutes to the gentleman from Sanibel, FL [Mr. GOSS], a very able member of the Committee on Rules who has a very important announcement to make.

Mr. GOSS. Mr. Speaker, I thank the distinguished gentleman from California, an outstanding leader on this issue, for yielding time to me.

Regardless of the outcome of today's historic vote, the experience of NAFTA exemplifies the resilience of our representative form of democracy. There will be consequences if it passes; there will be consequences if it fails—but we cannot go back. I supported fast-track negotiations, primarily because we need expanded productivity to make more jobs and that means access to foreign markets on reasonable terms. No one believes we can sustain our quality of life and continue economic growth just by looking to our domestic markets. Throughout the process of considering and refining this enormously complex trade agreement, we have seen an extraordinary—and somewhat unprecedented—level of citizen participation.

I am extremely grateful to the almost 6,000 southwest Floridians who have contacted me or my offices in just the last two weeks—and the many hundreds of others we have heard from in the past 2 years. In this time of growing public mistrust and apathy toward government, such active engagement by the people we serve is most heartening—even though I know many will be disappointed by the outcome, since there is no clear consensus. I opposed the original NAFTA because it needlessly exposed Florida to unfair competition and threatened our environmental and phytosanitary standards.

These problems have been largely—if belatedly—resolved after much effort by a united Florida delegation and others. Today we have a new NAFTA. I firmly believe it will not bleed jobs to Mexico—it will not increase our tax burden despite stride rhetoric to the contrary. The side agreements are legal and workable. I cannot help but wonder if opponents to signing our Constitution 200 years ago referred to our bill of rights as "unworkable side agreements."

Mr. Speaker, after intense deliberation with many, I have concluded we have before us today a positive opportunity for America and for Florida. I think a yes vote says to the world that America is alive and well and a champion of free enterprise. It says to our neighbors in this hemisphere that we can be trusted to negotiate faithfully and fairly. And it says to Americans—in business, on the farm, to workers and professionals and their families at home—that we can compete and win. Bring on the world—were ready.

Mr. Speaker, I support this rule and I support the new NAFTA—and I urge my colleagues to vote yes.

Mr. BEILENSON. Mr. Speaker, for the purpose of debate only, I yield 3 minutes to the gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in support of the rule and in support of NAFTA. The big issue that is driving this debate is the fear in our communities that the United States companies are going to close down and move to Mexico. I understand that fear, because the economy in my State and everywhere else in the country is changing. But the fact is that NAFTA makes it less likely that companies will move to Mexico, not more so.

NAFTA gets rid of the current Mexican trade barriers that say if America wants to sell in Mexico, it is easier if you locate there. We want American companies to make their products here, and sell them there, and NAFTA makes that easier.

Mr. Speaker, NAFTA is a good deal for us. Mexican tariffs are 2½ times as high as ours, and we have a trade surplus with Mexico. But NAFTA is not just a dry and technical issue about a tariff deal that favors us. It is a judgment about whether we as a country are going to look forward or backward.

A vote in favor of NAFTA is a judgment that this country can lead in the global economy and shape that economy so that we and others can mutually benefit. A vote against NAFTA is a judgment that we are going to try and protect an economy that really does not exist any longer.

Mr. Speaker, America needs more high skill, high wage export jobs. Members should support the rule and this agreement, and empower our workers and companies so they can tap the opportunities that are out there in the world marketplace.

Mr. DREIER. Mr. Speaker, I am very privileged to yield 2 minutes to the gentleman from Menomonee Falls, WI [Mr. SENSENBRENNER], a hard-working member of the Committee on the Judiciary and the Committee on Science, Space, and Technology.

Mr. SENSENBRENNER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in support of this rule and of the North American Free-Trade Agreement. One of the more irresponsible charges that has been levied against NAFTA recently is that NAFTA will allow the diversion of Great Lakes water to Mexico and to other places outside of the Great Lakes Basin.

Mr. Speaker, nothing can be further from the truth. NAFTA is silent on interbasin transfers of Great Lakes water. That means that existing treaties and laws on this subject remain in force unamended. That includes the 1909 Treaty on Boundary Waters between the United States and Canada which sets up a machinery that governs diversions, both into and out of the Great Lakes Basin.

Also unaffected by NAFTA is the 1986 Great Lakes Charter Act, which allows the Governors of those States which have adhered to the Great Lakes Charter to have an individual veto against changing diversions that are presently authorized, either increasing diversions into the Great Lakes or out of the Great Lakes. One of the Governors has recently used his veto power to prevent diversion of Great Lakes water into a place in Indiana outside of the Great Lakes Basin.

NAFTA does not touch the issue of Great Lakes diversions. The machinery that has worked so well on this subject since 1909 remains in place, and every Governor that has acceded to the Great Lakes Charter remains having a veto in case someone is proposing to divert Great Lakes water to any place outside of the Great Lakes.

Mr. Speaker, reject this specious argument; look at the text, and support NAFTA.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentlewoman from Maryland [Mrs. BENTLEY], who has been so valuable in fighting for the American workers of this country.

Mrs. BENTLEY. Mr. Speaker, I thank the gentleman from New York, who has been a leader in our battle on NAFTA.

Mr. Speaker, N-A-F-T-A. Separately, they are simply letters. But when put together, they become an acronym that represents a questionable future for the United States.

The letters stand for "North American Free-Trade Agreement." The T is for "trade" and not for "treaty."

NAFTA is not a treaty, and it requires enabling legislation, which is why the House has the opportunity to vote.

Make no mistake, we are voting on a bill, a bill that creates 17 new bureaucracies and divests U.S. courts of jurisdiction.

However, there will be no amendments. This is an up or down vote on thousands of pages. And in these thousands of pages are 449 pages of legislation. We are not even allowed to change a comma.

By page 11, NAFTA is incorporated by reference and then, in the next 438 pages, this bill goes on to make major changes to the United States Code. However, the House is allowed no amendments.

Whether you agree with NAFTA or not, you should vote down a closed rule on 449 pages of legislation, legislation that makes fundamental changes to the American way of life.

□ 1010

The SPEAKER pro tempore (Mr. MONTGOMERY). The Chair will advise Members that the gentleman from California [Mr. BEILENSON] has 3 minutes remaining, the gentleman from Michigan [Mr. BONIOR] has 8 minutes remaining, the gentleman from New York [Mr. SOLOMON] has 7½ minutes remaining, and the gentleman from California [Mr. DREIER] has 9½ minutes remaining.

Mr. DREIER Mr. Speaker, I yield 1 minute to the gentleman from Riverside, CA [Mr. CALVERT], a strong and outspoken advocate of the North American Free-Trade Agreement.

Mr. CALVERT. Mr. Speaker, what we say here today will be forgotten before the print is dry on tomorrow's CONGRESSIONAL RECORD.

But, what we do here tonight will have an impact for generations to come.

By our vote on NAFTA, Congress will send a message to our neighbors in this hemisphere, and our neighbors across the oceans.

Even more importantly, it will send a message to our neighbors down the street.

The message will be either that America is ready for the 21st century or that America has lost its vision and its will to compete.

To what depths of despair has this great Nation sunk that its elected representatives are afraid to accept a simple challenge of free and open trade?

Have we become so insecure and so fearful of change that we are intimidated by competition with two nations whose combined gross domestic product is less than my State of California?

Those who seek to kill this agreement often appeal to fear. Some appeal to prejudice. They almost always appeal to America's darker side.

But, America has never been about fear or darkness. It has always been about hope—and opportunity.

America did not become the world's greatest economic superpower by taking the safe course—or by clinging to the ways of the past.

Mr. Speaker, this debate is not about statistics that can be tortured and twisted to prove any point of view.

It is about a simple message to our neighbors—to the North, the South, across the Pacific, across the Atlantic, and down Main Street, U.S.A.

Let that message be one of hope; one of opportunity; one of the future.

Let that message be, America is ready for NAFTA; America is ready for the 21st century.

Mr. BONIOR. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, I am urging Members to vote no on NAFTA and no on the rule. I think we ought to vote against this rule because it basically violates the rules of the House.

The NAFTA agreement is being advertised as a trade agreement, but, in fact, as the gentleman from New York indicated, one of the provisions contained in it is to establish an entirely new international bank funding operation, which will have priority over virtually every other item in the budget come fiscal 1995.

It not only authorizes but it also appropriates the funding for the first year for that bank and then leaves us to determine whether or not we are going to be able to find the money the next 3 years to make good on that promise. I do not think much of that deal.

That is one of the reasons why the real budgetary cost to NAFTA will not be the $3.5 billion talked about by the administration and its supporters. It will be closer to $20 billion over the next decade.

NAFTA is advertised as a free-trade agreement, as an agreement that reduces tariffs.

Let me tell you what it really is. It is a snowplow by which we pave the road to an absolutely free flow of capital and a greatly expanded ability to invest American dollars in all of Latin America, with no regard whatsoever for the economic and social consequences to this society, none whatsoever.

Now, the theory of Members who support NAFTA is this. They say, "Lookit, America can't hang on to those low-paying jobs so you ought to give them away and go after the high-paying jobs."

Well, I agree with that in theory. The problem is, this country does not have a clue about how to go after those high-paying jobs. And it certainly does not have a plan to go after those high-paying jobs.

They talk about retraining. They say, "Oh, don't worry about it; if workers lose their jobs, we are going to retrain them."

How many do you think are going to get retrained? With $28 million a year, that comes up to a grand total of 5,175 workers a year. Big deal.

They say that 19 out of 20 studies demonstrate that NAFTA is a winner for this country. But, 10 of those studies start by assuming in their economic models that there will be no economic diversion of investment from the United States to Mexico. So guess what? Because of that assumption, they cannot show that there will be any diversion.

We have seven other studies that assume from the beginning that there will be no change in job levels in this country. And so guess what? Those studies, by design, cannot show us that there will be a job loss in this country.

Now, I want to say to those who are talking about what the job loss will be, nobody has a clue. Mr. Perot does not have a clue; President Clinton does not have a clue. Nobody knows exactly how many jobs we will wind up winning or losing net. But we do know, even the administration admits, that there will be at least 200,000 people who will lose their jobs. And what are we giving to them? Table scraps, table scraps in the form of a joke of a training program.

I just have one other thing to say, besides the $20 billion budget cost. Do not ever lecture me about the item veto and how the Presidential use of an item veto will save money. After this charade of giving away everything but the kitchen sink in order to get enough votes to pass this agreement, if anybody ever doubted for a moment that the White House can pass out more pork in 5 minutes than this House can in 5 years, all they have to do is watch NAFTA.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would like to welcome our guests in the gallery, but they cannot participate in the debate by applauding. The Chair respectfully requests that our guests in the gallery not applaud.

Mr. DREIER. Mr. Speaker, I yield 1 minute to my good friend, the gentleman from Harrisburg, PA [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, when one begins to add up all the negatives on NAFTA and balance them against the positives, it can be a complex and confusing set of facts with which we have to deal. No question about it. The same trouble we have sifting through all of that obtains to the American people. They, too, see good things and bad things arising out of the treaty, which we are debating here today.

But in the final analysis, when those scales are evenly balanced, if they are, and I do not believe they are, between the pros and the cons, one element comes in to tip the balance in favor of support of NAFTA. And that is the expanded market.

What is wrong with an expanded market of these proportions, one that might even double or triple over the next few years in its proportion, simply because we have the foresight to open the borders between Mexico and the United States?

Vote for NAFTA, because it is a vote for our country.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from California [Mr. TORRES].

Mr. TORRES. Mr. Speaker, I rise in support of the rule and NAFTA.

As a 40-year member of the United Auto Workers some have questioned my support for the agreement. Let me tell you why I will be voting for NAFTA.

My decision to support NAFTA was not easy. I have spent most of my adult life fighting for economic and social justice for American workers. For 20 years as a member of the UAW, I organized laborers from Los Angeles, CA, to Buenos Aires, Argentina, My commitment to the rights and opportunities of workers worldwide is well documented and unchallenged.

This lifetime of experience has convinced me, without a doubt, that American workers are the best in the world, able to compete and win in the global economy.

Over the past 3 years I have been one of the most vocal critics of NAFTA. I strongly opposed, and voted against, fast-track, and I would have voted against the NAFTA agreement negotiated by the Bush administration. But this is a new NAFTA. It is a NAFTA that not only provides an opportunity to open new markets and create new jobs, but also protects American workers.

While NAFTA will lead to job gains in high-wage, union-intensive, sectors, I have always been very concerned about those who, in the short term, may suffer the loss of jobs and economic opportunity. The risk of job loss, and the need to address such risk, is not only a problem with NAFTA, but with expanded U.S. participation in the global economy generally.

Almost everyone agrees—even the most strident opponents of NAFTA—that in the long run open trade creates economic growth which benefits workers and consumers in all countries involved. Indeed, the opponents of NAFTA claim that they are not against a free-trade agreement with Mexico, they are just against this agreement and would support new negotiations to achieve, from their perspective, a better deal.

The promise of a better NAFTA is, I have concluded, a false illusion. It will be years, perhaps a generation, before there will be another opportunity to improve cooperation with our Mexican neighbors on trade, environmental, labor, and other issues. Whether the issues relate to immigration, narcotics, or commerce, a rejection of NAFTA will make it much more difficult to resolve problems and pursue opportunities which affect so deeply the people of the United States and Mexico.

With this in mind, and with my colleagues in the House I decided to try and improve NAFTA by promoting the establishment of a North American Development Bank [NADBank] and a NAFTA-related dislocated worker adjustment program to assist those communities and workers who may suffer dislocations related to the implementation of NAFTA. Working closely with Latino leaders, my colleagues in Congress, and other experts from across the country, I set out to persuade President Clinton that these two initiatives were in the national interest and were necessary to address the legitimate fears that NAFTA has evoked.

After several months of hard work and close cooperation, in mid-October President Clinton, Secretary Bentsen, and Secretary Reich agreed to all the essential elements of the NADBank and worker retraining proposals. Indeed, they had already incorporated important elements of my original NADBank proposal in the administration's plan to create a development bank funding facility for environmental investment projects. As a result, I am convinced that this NAFTA will benefit most workers in the United States and in Mexico, and will protect those who, in the short term, are at greatest risk of dislocation. I now believe that NAFTA not only will create better and higher-paying jobs for American workers in many industries, but also will provide new opportunities for those at risk.

During the past few weeks, the proposal to create a North American Development Bank has been the subject of much discussion. Unfortunately, most of what has been said about the NADBank has been either inaccurate or purposely misleading. It has been called everything from massive pork barrel spending to an unfundable hoax. As someone who has worked hundreds of hours consulting public and private finance experts and economists throughout the country on this matter, I want to set the record straight. Do not be beguiled by the opponents of

NADBank and its fright-mongers here in the House, and on the outside by the likes of Ross Perot and Pat Buchanan.

First, it has been said that NADBank is pork barrel and is a waste of taxpayers money. The NADBank is not pork. It is a public policy initiative that is the product of a legitimate legislative process. The idea for a regional development bank has been discussed by academics for over a decade. Last May, 24 of my colleagues joined me in introducing legislation calling for the creation of the NADBank. Two congressional hearings have been held. And the NADBank enjoys support from over 100 environmental groups, Latino leaders, and community activists. In short, the NADBank is not some pork barrel deal, it is a legislative initiative with broad support that is in the public interest.

As for being a waste of taxpayers money, the NADBank represents a highly effective use of a small amount of public funds to mobilize a large amount of private capital. Through its lending capacity of $3 billion, based on a paid-in capitalization of $56 million a year for 4 years, NADBank will be able, conservatively to mobilize more than $20 billion to clean up and prevent environmental pollution along the United States-Mexico border, while also ensuring that communities anywhere in the United States that are negatively affected by NAFTA will have the financial capacity to create new and better jobs. Workers from Peoria to Los Angeles will be assured that more than $1 billion will be available for economic development and job creation in American communities.

Furthermore, my vote did not cost the administration or the taxpayers one dime that had not already been committed to support a narrow set of border environmental projects. My negotiations with the administration focused on the scope of the Bank and the importance of providing it with the authority to make loans outside the border area for economic development to create jobs for Americans.

Second, it has been asserted by some NAFTA opponents that the NADBank will not achieve its important goals because, even if authorized, it will never be adequately funded. This is a false argument. I note that a number of NAFTA's most vocal critics, in and out of the Congress, have endorsed my NADBank proposal. Moreover, the enabling legislation will include $56 million to provide the first-year capitalization for the NADBank. I am confident that if NAFTA is adopted, the Congress will readily appropriate the additional $56 million a year over the next 3 years to ensure full capitalization.

After all, surely a Congress which appropriates billions annually to provide aid to workers in the Middle-East, housing for Soviet soldiers returning to their homeland, and training for computer programmers in Russia, will be willing to appropriate $56 million to assist American communities and workers. NADBank funding will be part of an appropriations budget category that includes NADBank as the only institution which addresses the needs of U.S. communities, as opposed to the needs of foreign countries.

It has been alleged that NADBank allows for an institution with substantial representation by foreign interests to participate in determining how the United States will use funds within its own borders.

This allegation is just flat out wrong. Any lending in the United States through NADBank's United States domestic window is fully controlled by the United States—appointed members of the board of directors. In addition, these loans are subject to review only by the U.S. Advisory and Review Committee, which will consist only of representatives from U.S. communities and U.S. nongovernment organizations. It has also been said that the NADBank proposal focuses on a narrow set of environmental problems and neglects other important concerns.

This allegation is also false. The Charter of the NADBank explicitly expands the scope of activities beyond the administration's original narrow proposal for a border environmental financing facility. The scope is now expanded to include any related environmental infrastructure, including, for example, air pollution. In addition, and more importantly, the scope was expanded to include other economically viable infrastructure and community economic development projects in communities anywhere in the United States affected by NAFTA. In other words, members should be happy with the successful efforts of the NADBank supporters to expand the scope of the original proposal.

Finally, some are asserting Maquiladoras should assume more responsibilities for mitigating their impact on the environment.

That is exactly the logic behind the NADBank. All environmental infrastructure projects will be paid for through user fees paid by Maquiladoras. Maquilas will no longer be able to use the excuse that there are no pollution treatment facilities for their failure to meet environmental laws. NADBank investments are thus an integral part of being able to enforce higher environmental standards along the border. Since all the loans for these environmental projects will be fully repaid, NADBank projects will be financed strictly on the polluter pays principle.

For those who may lose jobs because of NAFTA, the new Dislocated Worker Adjustment Program I advocated, along with my colleagues XAVIER BECERRA and LUCILLE ROYBAL-ALLARD, will provide the support necessary to ease their transition into new jobs. It provides for rapid identification and certification of affected workers, meaningful job training opportunities and income support. And for the first time, dislocated workers in secondary and cyclical industries will be eligible for job training and income support, industries that employ large numbers of lower skilled workers.

The Clinton negotiated NAFTA is a new agreement, one that truly addresses American and Mexican labor and environmental laws and provides protection for any short term negative impact. I am convinced that with these additions to NAFTA, I have made the right decision for my constituents and for the Nation. In essence, my original position on NAFTA did not change, NAFTA has changed.

Finally, I believe that Americans must approach the future with confidence and determination. Future generations will benefit if the leaders of today act with courage and optimism about the ability of our people to compete and win in the global economy. Future generations will benefit if we today establish a historic new set of institutions, such as the NADBank and the Labor and Environmental Commissions, which create the basis for a relationship of cooperation and trust, not only with the people of Mexico, but with people and nations throughout the hemisphere.

President Clinton's NAFTA is an agreement I am proud to support. I am proud that the President and his administration have worked closely with me and Latino leaders from across the country to address our concerns. I urge you to support our President. I urge you to have confidence in our people. I urge you to vote yes in support of the rule and the North American Free-Trade Agreement.

□ 1020

Mr. DREIER. Mr. Speaker, I am happy to yield 2 minutes to our diligent colleague, the gentleman from Stamford, CT [Mr. SHAYS].

Mr. SHAYS. Mr. Speaker, this is a historic day. As we begin debate on NAFTA I pray on bended knee that we do this House justice, that we do what is right for our country. And I know my colleagues share that hope.

The cold war has ended, and while the United States and the Soviet Union were fighting that war, Western Europe, Japan, and the Asian rim nations were fighting an economic war and dividing the spoils. This is the contest we should be waging and passing the North American Free-Trade Agreement will begin the process.

NAFTA is a good agreement for our country. It is good for us economically, it is good for us socially, it is good for us politically, it is good for us environmentally.

In August 1941, almost 4 months before Pearl Harbor, Asia and Europe, were at war and Americans drew inward. They wanted us to isolate ourselves and shut out the rest of the world. So they encouraged their Congressmen to end the draft. But there were men and women in Congress who knew what we needed to do. They knew that the United States could not be an island unto itself, and so they approved continuing the draft—but by only one vote.

This great Nation of 248 million people, with an economy 20 times larger than Mexico's, does not need to fear our neighbors to the south. As it did in 1941 this Congress needs to rise to the occasion. We need to seize the moment and pass NAFTA. There is no doubt in my mind future generations will look back on this vote and ask how we could have done otherwise.

Today marks the beginning of the United States entrance into the contest of the 21st century—to expand our economy and create jobs. Our economic future is in exports, and NAFTA is the first step toward that future.

Mr. DREIER. Mr. Speaker, I am happy to yield 1 minute to my good friend, the gentleman from Colorado Springs, CO [Mr. HEFLEY].

Mr. HEFLEY. Mr. Speaker, let me say for the record that I support the North American Free-Trade Agreement. I think NAFTA is in this country's best interest.

That is not to say that I think NAFTA is going to be completely painless. I am sympathetic with many of the concerns raised about the agreement. U.S. businesses operate under a blanket of environmental and safety regulations which hamper their ability to compete in the international market. I agree that these handicaps need to be recognized and addressed in any trade agreement.

At the same time, I am wary of some of the arguments raised against establishing free trade with Mexico. The constant harping that NAFTA will cost this country jobs and slow our future economic growth is completely contrary to our recent experience with trade agreements.

We have all heard the statistics. Over the last 5 years, since the Mexican Government unilaterally cut its tariffs on American products, United States trade with Mexico has exploded, and what was a trade deficit has changed into a trade surplus.

Despite this record, many opponents claim that if the NAFTA is passed, then United States Corporations will move to Mexico to take advantage of the lower labor costs.

Well, that is happening right now without the assistance of the NAFTA agreement. And if we stop them from moving to Mexico, they'll move to South Korea or the Pacific rim instead. Sticking our heads in the sand and scrapping NAFTA won't solve the problem of high-priced American labor.

On the other hand, NAFTA will open up Mexico's markets for the kind of capital and manufactured goods in which we are competitive. Since 1986 when Mexico entered GATT, United States exports to Mexico have tripled creating over 400,000 American jobs. Over 80 percent of these new jobs are the high-wage manufacturing jobs that concern the opponents of NAFTA. Signing NAFTA will create more.

Other opponents to NAFTA point out that we cannot have balanced trade with Mexico because its people living along the United States-Mexico border live in substandard housing and earn substandard wages. In my mind, this observation would seem to support a free trade agreement. Mexico's people can't improve their conditions and if they have no jobs or income.

That response also applies to the environmental concerns raised against NAFTA. There is a direct linkage between economic growth and increased environmental performance. Environmental regulations cost money, and Mexico can't address its current environment problems without economic growth.

The perception held by many Americans is that Mexico is a third world country that has little to offer the United States as a trading partner. This perception ignores the reality that Mexico's middle-class population is larger than Canada's entire population.

In fact, Mexico is already our third leading trading partner, consuming over $40 billion in American goods each year and providing employment for over 600,000 Americans.

For every impoverished citizen who would gladly work—whether NAFTA is ratified or not—at a $1 a day job along the Mexico border, there is a middle-class citizen eager to purchase U.S. goods and services but can't because current Mexican tariffs are too high.

There are two other objections to NAFTA that I think need to be addressed. First is the issue of taxes. Under this agreement, $2.5 billion worth of tariffs—that is, taxes on American consumer—will be cut. In their place, $700 million worth of increased transportation user fees will be increased.

That means this agreement represents a net $1.8 billion tax cut for Americans. As someone who has fought hard to cut taxes, this cut is an unexpected bonus and further reason to support this agreement.

The second objection is sovereignty. Opponents of NAFTA have claimed that NAFTA abandons Congress' role in regulating trade and undermines our national sovereignty. I have looked into these concerns, and am satisfied our environmental, transportation, health, safety, and labor laws will not be unduly weakened by this agreement.

As evidence of this, 42 of 50 State Governors support his trade agreement. I am unconvinced that Governors from both the right and the left of the political spectrum would support this agreement if it were going to undercut their ability to set policy for their Sates.

In conclusion, the time to ratify NAFTA is now. Under the current probusiness government in Mexico, that country's economy is going to grow substantially over the next decade. We can either lower our trade barriers, work with Mexico, and benefit from this growth or we can erect a wall along the Rio Grande and stand by while Mexico teams up with Japan and Germany and leaves us behind.

Mr. BONIOR. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I thought I had heard it all. But equating the Bill of Rights to NAFTA is like equating Mother Teresa to Michael Millikin. This debate, ladies and gentleman, actually justifies giving Dr. Kevorkian a political license.

Back home, all of these side deals for the Southern States, for sugar, orange juice, and textiles, the Northern deals for urban projects, the industrial State deals for worker retraining, a $17 million tax break to Honda Motors who did not pay their taxes that they owed in this bill, ladies and gentlemen, in Washington this is called politics. Back home in your town and my town these are called bribes and crimes.

This is a sad day. Politicians have sold their souls to the devil, and the American worker is in hell trying to grow out of it.

Mr. DREIER. Mr. Speaker, I am very pleased to yield 1 minute to our friend, the gentleman from Casper, WY [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Speaker, I rise in support of the rule and in support of the agreement.

Seldom are we confronted with an issue so driven by emotion and clouded with unfounded information, and also by personal political agendas. It is tough for all of us in this country to try to cut through the fog and come up with the right decision.

Any agreement, of course, that is made by this country needs to be entered into on the basis of strengthening the country and its economy and its leadership in the world, its relationship with our neighbors. Any economy as large and effective as ours and as efficient must have expanded markets.

Our country is the largest exporter in the world. Any jobs that have been developed over the last several years are a result of expanded export markets.

There is always a downside of course to agreements the magnitude of this one. One of the speakers bemoaned the fact that they did not have a chance to put in the periods and comas and the details. A treaty of this kind cannot be done by a committee of 435.

On balance, this agreement is in favor of the United States and U.S. jobs, and we should pass the rule and the bill.

Mr. DREIER. Mr. Speaker, I am happy to yield 1 minute to my good friend, the gentleman from Oceanside, CA [Mr. PACKARD].

Mr. PACKARD. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, NAFTA will launch the creation of a North American free-trade zone. In an effort to increase its economic muscle abroad, we have seen the European countries undertake a similar step, creating the European Community. It is our best vehicle to compete with the European Community, and the Pacific rim trade bloc.

NAFTA will increase America's muscle in our hemisphere, creating the largest free-trade zone in the world—over 370 million people—opening new markets to U.S. products. This will allow us to maintain our position as the world's economic superpower.

The vote on NAFTA is truly an historic one. This vote is essentially a yardstick by which we will measure our fears against the future.

The rest of the world is watching—our confidence and faith in economic progress will be judged by the outcome of this vote. Passage or defeat of NAFTA will determine the pace of American competitiveness.

This vote will decide, during this economically transitional time, whether we choose to move forward, to meet the new challenges of the 21st century—to lead the world—or resist inevitable change and relegate America to a second rate economic power.

About the job loss argument: There is nothing to stop United States companies from relocating to Mexico without NAFTA.

I will not stand here and deny the obvious: There are companies who have chosen to take jobs across the border to Mexico.

Ironically, these jobs were lost primarily because we do not have a free-trade agreement with Mexico. It will raise $1.1 billion in new user fees but it cuts almost $3 billion in existing taxes and tariffs. The net tax cut is $1.8 billion.

Because of the current tariff structure imposed by the Mexican Government, it is extremely difficult for United States businesses to compete there unless they physically move their production to Mexico and hire Mexican workers.

Under NAFTA, U.S. businesses will not have to pay these kinds of tariffs, and will not have to move their companies to Mexico in order to compete in the Mexican market.

I urge my colleagues to vote for the economic progress that is the future.

I caution them that progress will happen with or without America—if we do not get on the train now, it will leave the station without us.

Our ability to compete in global markets is the basis of our economic future.

I urge my colleagues to pass this agreement for the greater good of all America, not for political or parochial reasons.

I urge you to vote "yes" on the rule and "yes" on NAFTA.

□ 1030

Mr. BONIOR. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Wisconsin [Mr. BARCA].

Mr. BARCA of Wisconsin. Mr. Speaker, we have had the New Deal, the Fair Deal, but this is just a bad deal. And this rule allows it to be a worse deal.

The rules do not allow us to raise any points of order, even though in this bill we have added a development bank, study centers, things unrelated to this free-trade agreement. They are not part of the free-trade agreement that was negotiated with Mexico and Canada. These are part of the side agreements negotiated with dozens of Members of Congress, item after item that will bust our budget and rearrange our priorities. They never had a review by any of the committees of this House.

We should not create laws this way, and we certainly should not create banks and study centers this way.

It is already stated that this violates our Budget Act. These items did not need to be put in here. They should not have been put in here.

I would urge the Members to vote against this rule and certainly to vote against this bad deal.

Mr. DREIER. Mr. Speaker, the overwhelming majority of Governors support the North American Free-Trade Agreement, and I yield 1 minute to the next Governor of Rhode Island, from Portsmouth, the gentleman from Rhode Island [Mr. MACHTLEY].

Mr. MACHTLEY. Mr. Speaker, I rise in support of the rule and in support of NAFTA.

Patriotism is doing what is right for one's country. This is not an argument about ideology. It is not an argument of partisanship. It is an argument that should be based on the facts and not on fears.

As we look at the facts, the facts are clearly in support of NAFTA, because it is right for America. America needs to take its place of leadership. We need to have open and free markets to send our goods. We need to tell our neighbors that when we make a deal we will stand by this deal.

A NAFTA is a good and important vote.

Seldom will we have a vote on this House floor which will mean more for the future of the United States than this vote today.

I ask my colleagues to put aside their partisanship, put aside their ideological backgrounds, and to look at the facts, and when you look at the facts, I am sure you will conclude, as I will, that this is a good vote, good for our future.

Mr. BONIOR. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Toledo, OH [Ms. KAPTUR], who has been such a strong advocate against this NAFTA.

Ms. KAPTUR. Mr. Speaker, today I rise in strong opposition to NAFTA and this rule.

Today the United States confronts an historic opportunity to use our trading power to promote democracy, create jobs, and raise the standard of living for our own people as well as the people of Mexico. This NAFTA debate is not about whether America will compete; rather, it is about on what terms we will ask our workers and farmers to compete with low-wage, undemocratic nations of the world.

The trade agreement that moves us into this new era of trade-linked advancement will be precedent-setting.

This NAFTA is not a fundamental realignment of U.S. trade policy. It is a throwback to the post-1946 World War II era when America tried to rebuild the world and stave off communism by absorbing imports into our economy from nations devastated by war and corrupt political systems. Their economies remain export-driven as will be Mexico's, and retain their repressive political regimes.

This has resulted in the largest trade deficits and loss of jobs this country has ever experienced since the 1800's.

We must compete in global markets with nations that do not share our political and social values, but we cannot let the greed of the marketplace overwhelm the values that underlie our democracy.

Never has the United States negotiated a free-trade agreement with a nation whose standard of living and political system are different from our own, as Mexico's, during the period when we have lost millions of jobs during the 1980's. NAFTA will continue this outsourcing of jobs to Mexico from this country.

President John Kennedy said in 1962 in his Alliance for Progress that we must not forget that the doctrine of development is more than a blueprint for economic advance. It says that material progress is meaningless without individual freedom and political liberty.

Rejection of this agreement will send an important signal to other non-democracies like Mexico that we will continue to link economic development with the development of just political and social institutions.

Vote "no" on NAFTA. Vote for democracy-building and prosperity for ordinary people of this continent.

AN OPPORTUNITY

Mr. Speaker, in this post-cold war era, the United States confronts an historic opportunity as the preeminent world economy and the world's largest democratic republic and market. Our new challenge is to use our trading power to promote democracy and raise the standard of living for our own people, as well as people around the world. Our objective should be to engage in high wage/high productivity competition with other advanced economies, not to meet the competition of low wage/high productivity/nondemocratic societies. And we must place equal emphasis on prying open the closed markets of the world. The trade agreement that moves us into this new era of trade-linked advancement will be precedent setting.

NAFTA DOESN'T MEASURE UP

This NAFTA is not a fundamental realignment of trade policy. It is a narrowly drawn tariff and investment agreement with toothless side addenda. It is a throwback to post-1946 World War II era, when America tried to rebuild the world and stave off communism by absorbing imports into our economy from nations devastated by war and corrupt political systems. This program was wildly successful, and Japan, Korea, and Taiwan are now among our foremost competitors. But the world has changed. Their economies remain export driven, their production is still aimed at the United States market, but they have continued to protect their own markets from United States exports. The result is a persistent trade deficit, and an erosion of our economic security. Ours is still the largest national economy in the world, but it is threatened by a flood of imports from low wage countries, and persistent barriers to U.S. exports to other major markets.

THE ECONOMIC REALITIES

With the end of the cold war and the growth of the global economy, our security depends more than ever on economic strength, and our most critical challenges are in the marketplace. The history of the 20th century in our country has been one of "taming" our national marketplace to make room for social values. American workers fought hard for labor rights; the bleak years of the depression taught us important lessons about regulating the marketplace; and more recently we have worked to find effective ways to protect our environment and the health and safety of our citizens at home and at work. Canada, Japan and the nations of Europe have enacted many similar protections, but we compete in global markets with nations that do not have similar protections. They do not share our political and social values, and they are willing to accept conditions that we find unacceptable.

The challenge of trade policy in this unregulated global market is to use our market power to respect our workers and strengthen our economy. We cannot let the greed of the marketplace overwhelm the values that underlie our democracy. As we adapt to remain competitive and increase productivity, we must make sure that our policy reflects our fundamental values and contributes to a better standard of living for our citizens.

Since the 1970s, the American economy has been eroded by gaping trade deficits and devastating losses of high-wage manufacturing jobs. Our full-time high-wage job base continues to erode while part-time work increases.

During the last decade, United States manufacturing employment fell by 951,000 jobs, while employment in the maquiladora areas of northern Mexico exploded by 431,000 jobs.

Last year, U.S. employment fell by another 325,000 jobs.

Unemployment just ticked up again, and more than 400,000 layoffs have been announced since January 1.

General Motors will trim its U.S. workforce by 74,000 and close 21 plants over the next 4 years.

IBM has announced plans to cut its labor force by an additional 35,000 workers.

Industry restructuring may insure the long-term survival of the companies themselves, but we cannot ignore the significance of the job losses. Laid-off workers have not been able to find comparable jobs, and communities are reeling from revenue losses from closed facilities and smaller payrolls.

Over 60 percent of the new jobs created during the first half of 1993 were part-time jobs.

The majority of new jobs were created in three categories—temporary work, restaurant work, and health care.

Service sector jobs are, in most cases, clearly inferior to the manufacturing jobs they replace—lower pay, lower benefits, less job security.

Something is fundamentally wrong with U.S. trade and economic policy that has allowed this set of circumstances to proceed unabated, while the economies of other nations have caught up to our own.

TARIFFS HAVE DROPPED

Since the early 1970s when most U.S. tariffs dropped to almost nothing the U.S. has been hemorrhaging jobs and accumulating historic trade deficits. Averaging over $100 billion in many years, the trade deficit represents thousands of lost jobs in the manufacturing sector. Every one billion dollars of trade deficit translates into 23,500 lost U.S. jobs, so we can draw the direct connection between trade deficits and lost jobs.

For too long, our trade agreements have been "sweetheart trade deals" with too narrow a focus, often benefitting one industry or sector, that is the few at the expense of the many. U.S. trade agreements have resulted in harm to our workers, our farmers, and our economic health.

This debate is not really about tariffs in Mexico. Since 1985 most tariffs have dropped by 90 percent (U.S. tariffs average 3.5 percent and Mexico 8.2 percent). As a result we have witnessed the explosion of U.S. investment in northern Mexico with the bulk of production from more than 2,200 companies headed back here into our market. Business interests love Section 1110 of the Agreement, which provides strong investment guarantees.

No Party may directly or indirectly nationalize or expropriate an investment of an investor of another Party in its territory or take a measure tantamount to nationalization or expropriation of such an investment, except for a public purpose; on a nondiscriminatory basis; in accordance with due process; and on payment of compensation.

Compensation at full market value shall be paid without delay in a G7 currency, including interest from the day of expropriation until the day of payment.

These protections are designed to allay the fears of the international business community, which has never forgotten that the Mexican government nationalized the petroleum industry in 1976.

THE IMPORTANCE OF MANUFACTURING JOBS

Importantly, we are considering this proposal at a time when our domestic economy has been sputtering and suffering the loss of millions of manufacturing jobs. In fact, as a percent of Gross Domestic Product, high wage manufacturing jobs in the U.S. have fallen below 20 percent of total jobs. This compares very unfavorably with our chief industrial and trade competitors Japan and Germany who maintain manufacturing as nearly one-third of their economic bases. Sinking U.S. wage levels are directly attributable to the loss of high-paying industrial jobs in the U.S. No other major industrial power has allowed itself to be diminished to this extent. No trade agreement can ignore this predicament.

THE SOCIAL DIMENSION OF COMPETITION

Countries with a commitment to democracy building and the best products—not the most exploited workers or the best special deals—should get our attention. Any trade agreement the U.S. signs must acknowledge this new global climate and fully address the social, political, as well as economic, dimensions of trade-related growth. To do less will harm our own people and fail to hold other nations to the lofty goals our own liberty commands.

ONLY THE THIRD "FREE TRADE AGREEMENT

Never has the United States negotiated a free trade agreement with a nation whose standard of living and political system are as different from our own as Mexico's. In fact, the U.S. has only signed two "free trade" agreements in our history. The first, in 1985, was with Israel, and the second, in 1989, was with Canada. Both economies were far more like our own than Mexico's.

	Per capita GDP	Work force size
Israel	$11,000	1,850,000
Canada	14,000	13,800,000
Mexico	3,200	27,400,000
U.S	22,470	125,300,000

The United States comprises 85 percent of the North American market, Canada 11 percent and Mexico 4 percent, but Mexico provides one-sixth of the workforce. And with 40 percent of Mexico's population under the age of 15, each year 1–2 million new workers will join the workforce during the next decade. For the U.S. to not consider these demographic implications is indeed serious.

ASIAN INTEREST

There is only one aspect of Mexico that interests Asian investors: its proximity to the U.S. market. This has already lured Sony and Panasonic to set up maquiladora plants where parts imported from Japan are assembled in Mexico for export to the United States. Asian investment in Mexico has lagged far behind United States investment, because of distance, cultural differences, and Asian uncertainty about Mexico's stability. They have preferred to invest in other parts of Asia, and there's no reason to believe that defeating NAFTA would change that.

With NAFTA, however, the benefits of access to the U.S. market would change the investment equation and redirect to Mexico Asian investment that would otherwise come to the United States. This investment diversion would redirect new employment to Mexico that would otherwise be located in the U.S. The only study that looked at this issue predicted that $2.5 billion of investment would be displaced from the U.S. to Mexico annually. That translates to 375,000 potential new jobs lost over 5 years—jobs manufacturing goods for the U.S. market, but redirected to Mexico by NAFTA.

THE COMMON MARKET EXAMPLE

The Common Market structure which Europe has adopted to achieve market integration rests on basic political freedoms, rights of ownership, labor rights and judicial safeguards, not just in theory but in practice. The European example provides a precedent for slowly phasing-in any type of trade agreement over decades, not years. And the European model also provides for a Social Charter to deal with job dislocations and other social repercussions arising from merging markets. But never in the history of Europe has that market had to absorb an economy as low wage as Mexico. Even Spain, Portugal, and Greece, whose standards of living are higher and whose political systems are not one-party states, have proven to be monumental challenges for absorption into the market.

To join the European Community market a nation first must be a functioning democracy. Why should the Americans frame the debate today in terms any less lofty? A comprehensive accord should have the goal of setting in place a long-term development strategy to build democracy and prosperity for all nations seeking entry into the trading union.

CANADA'S EXPERIENCE

The United States-Canadian Free Trade agreement, which I supported, did not provide any cushion for dislocation of workers. It has resulted in enormous job losses in Canada, 500,000—over 25 percent of its manufacturing jobs in 5 years. Trade agreements must reach beyond tariff and investment rules and anticipate the social and political consequences as well.

TRADE WITH MEXICO

To date, trade with Mexico has largely been composed of U-turn goods—United States parts destined for the maquildora industry. That is, nearly half leave the United States for Mexico but then come back here for ultimate sale in our market. This is not what is generally viewed as a new export market. The claim that NAFTA will increase United States exports to Mexico is truly exaggerated. Increasing US exports to Mexico since 1987 until this year largely have been tied to the value of the peso not to the growth of a middle class in Mexico.

The distribution of income in Mexico is wildly unequal, and the benefits of the "Mexican economic miracle" have flowed into the accounts of a few very wealthy families. Instead of middle class, Mexico has developed a large new class of billionaires. Only the United States, Germany and Japan had more billionaires in the July 1993 tally by *Forbes* Magazine. Instead of purchasing power for workers, the result of Mexico's growing output has enabled these new industrialists to consolidate their ownership of Mexico's productive capacity, and in some cases purchase U.S. corporations in cartel-like fashion.

FAST TRACK

The inadequate agreement we call NAFTA is actually a quagmire created by "fast track." Article I, Sec. 7(B) of the United States Constitution states: "The Congress shall have the Power to regulate commerce with foreign nations." The 1974 Trade Act set up the "fast track" procedure to facilitate negotiation of trade agreements and protect the credibility of the President when the Executive Branch enters into specific negotiations. But our highest responsibility is not to make it easy to negotiate an agreement, it is to ensure that the agreement is good for our country. This Congress ceded too much of our Constitutionally-mandated trade-making authority to the Executive branch. In effect, we substituted un-elected negotiators and bureaucrats in the arcane world of trade for comprehensive Congressional deliberations. Now we see the results of our own abdication.

In fact, Congress' careful consideration is essential if we are to produce a comprehensive agreement that takes into account the fact that the Agreement will impact almost every aspect of U.S. life and law—wage standards, banking, environment, agriculture, immigration, and judicial review. Fast Track requires us to express our convictions with a single vote—up or down—with no amendments allowed. Only since 1974 has the Congress ceded its trade making authority under fast track. It does not seem proper to me that the Congress of the United States has turned itself into a Parliament that merely puts its stamp of approval or disapproval on the Executive Branch's handiwork, and left ourselves with the bleak alternative of voting only "yes" or "no." I ask: How can we do this to ourselves and to our country?

DEMOCRACY AND PROSPERITY

There remain fundamental differences between our respective systems that no trade agreement can ignore. These include wide and growing disparities in our standards of living, differences in our approaches to ensuring basic constitutional and political freedoms and widely varying experiences in expanding individual liberties including property ownership, small business enterprise, banking and entrepreneurship. Our two nations manage our judicial systems and federal systems of government quite differently. Unlike Mexico, the United States has a long history of sharing power with local and State governments—and checks and balances play a very prominent role in our system. We cannot proceed with an agreement that ignores these fundamental values. What America must do is negotiate expanding trade opportunities while representing human dignity through a North American Economic and Social Compact.

MEXICO IS NOT A DEMOCRACY

The proposed agreement is silent on the principles of democracy building and free elections in Mexico—and Mexico's democracy and attitude toward human rights are in grave need of strengthening. A single party, PRI, has, according to our own State Department, "dominated Mexico's politics for over 60 years. It maintains political control through a combination of voting strength, organizational power, access to governmental resources not enjoyed by other political parties, and—according to credible charges from the principal opposition parties and other observers—electoral irregularities." Mexico has been called "the perfect dictatorship." The Mexican government has consistently refused requests from opposition parties for electoral monitoring by international organizations. Just last month, PRI introduced a bill in the Senate to bar any international observers from Mexican elections. Even the participation of observers who are Mexican nationals would be severely restricted, and cannot be or have been a member of the leadership of a national, state or municipal political organization or political party within 5 years prior to the election.

According to the State Department, "* * * there continue to be human rights abuses in Mexico, many of which go unpunished, owing to the culture of impunity that has traditionally surrounded human rights violators. These violations include the use of torture and other abuses by elements of the security forces, instances of extrajudicial killing, and credible charges by opposition parties, civic groups, and outside observers that there are flaws in the electoral process." In a recent letter to President Clinton, Americas Watch stated:

> Mexicans still endure serious human rights violations. Over the past four years, Human Rights Watch/Americas Watch and other human rights organizations have documented a consistent pattern of torture and due process abuses in a criminal justice system laced with corruption; electoral fraud and election related violence; harassment, intimidation, and even violence against independent journalists, human rights monitors, environmentalists, workers, peasants and indigenous peoples when they seek to exercise their rights to freedom of expression and assembly; and impunity for those who violate fundamental rights.

A trade agreement with Mexico offers the opportunity to use our close relationship with Mexico to encourage reform of these abuses. However, if, as in the current NAFTA, we fail to seize this opportunity, abuses will continue. And their effect—inhibiting justice and accountability, preventing Mexican citizens from enjoying the protection of their own laws—will not only hurt Mexicans, but will place U.S. citizens at a competitive disadvantage. We owe it to Mexico and to ourselves to do better. Why should the U.S. sign any such path-breaking accord with a nation that is not a functioning democracy?

IMPACT ON WAGES IN MEXICO

The proposed NAFTA accord and its side agreements are inadequate to encourage jobs creation in the U.S. largely because the agreement does not offset the cheap wages and the poor social benefits of Mexico's workers. Their standard of living is one-seventh of our own, and that gap is growing. In fact, Mexico's government purposely holds down wage increases to half the level of inflation, which decreases the purchasing power of Mexican workers. As Anthony DePalma of the New York Times commented:

> The Mexican negotiators of the pact were careful not to commit themselves to wage parity with the United States. Mexico is going to try only to make up for some of the losses suffered by workers over the last decade, when the buying power of the minimum wage dropped sixty percent.

The productivity of Mexican workers has risen overall, most dramatically in the export sector, but wages have not risen accordingly.

Professor Harley Shaiken:

> Overall, productivity has climbed from 30 to 41 percent between 1980 and 1992 while real hourly compensation has fallen by 32 percent.

There is no evidence to show that the significant investment that has occurred to date in Mexico has helped create jobs in the United States nor build a middle class in Mexico, nor raise their standard of living to purchase products they are assembling. This NAFTA does absolutely nothing to link rising productivity in Mexico to wage increases, which is the only way to create a real middle class and a real market for U.S. consumer goods.

LABOR RIGHTS IN MEXICO

Labor rights—the right to meet openly, to organize, to bargain collectively and to strike—are recognized by democracies around the world. In our own country, they have provided a framework for workers to negotiate decent wages and working conditions. These rights are included in Mexico's own labor law, but the record is abysmal—the Government refuses to recognize independent unions; labor leaders are intimidated and even killed; wage agreements are negotiated by "union officers (who) support government economic policies and PRI political candidates in return for having a voice in policy formation."

Thea Lee, Economist with the Economic Policy Institute:

> The enforcer of the regressive wage policy is the Mexican Minister of Labor, Arsenio Farell Cubillas. According the U.S. Embassy in Mexico City "he has maintained pressure on the labor sector in an effort to hold the line on wage demands . . . Farell has not hesitated in declaring a number of strike actions illegal, thus undercutting their possibility for success. These and other successful confrontations with unions have generally served to minimize the gains of labor activism and its use of strike actions."

The government policy is wage restraint, but we could just as well call it wage regression. Real wages in Mexico—and buying power of most Mexican workers—have actually dropped during the Salinas administration. It is simply not acceptable to ask U.S. workers to compete with workers whose wage growth is suppressed, and it is even more unconscionable that our own government would enter into an Agreement that facilitates that suppression. Instead of effective mechanisms to ensure that Mexican workers benefit from their increasing productivity, we are left dependent on a press statement by Mexico's President that does not have the force of law.

Prof. Harley Shaiken:

> Leaving labor relations out of the labor agreement is like leaving air and water out of an environmental agreement. It sends Mexico and multinational corporations a signal that maintenance of controls over unions and a distorted wage-productivity relationship is acceptable.

IMPACT ON WAGES IN THE UNITED STATES

Any agreement must uphold the highest living standards on our continent for the 21st century and ensure that wage standards are harmonized upwards. Because it does not provide any mechanism for linking wage increases to rising Mexican productivity, this proposed accord places tremendous downward pressure on U.S. and Canadian wages. It threatens the right of a worker to earn a fair day's pay for a fair day's work.

Shaiken:

> . . . in the export sector Mexican wages are low for reasons that have little to do with productivity. Instead, wages are artificially depressed by government policies and constricted labor rights, among other factors. Unless this frayed link between rising productivity and wages is repaired, then Mexico will be much more attractive as an export platform than as a consumer market. The result will not only throttle the development of Mexico's consumer market but could serve as a magnet for U.S. jobs and depress down on U.S. wage levels.

Thus any agreement must forthrightly address the rights of workers to better their conditions. These must be written into laws that are enforced. A good agreement should set in place a system that results in job creation, and increased investment in plants and equipment in both the high and low wage nations. Worker adjustment clauses for the different labor and benefit standards between our two nations must be incorporated ahead of time so this agreement can be called fair and just. Sadly, the side agreements on both labor and environment are not submitted to Congress as formal legislation and, therefore, are not only weak in themselves but are absolutely unenforceable.

MIGRATION/AGRICULTURE

The current NAFTA will accelerate the ongoing shift in Mexico from small-scale family farm agriculture to large-scale, corporate agribusiness. Not only will this have severe implications for the sustainable use of Mexico's resources, including water, but it will cause a vast migration from the farms to the cities and ultimately to the United States. The seriousness of this problem cannot be overestimated. Even the "Economist" magazine, known for its pro-NAFTA views, admitted in a recent article that "* * * the immediate impact of the double blow struck by agricultural reform and falling tariff barriers will be to cause many [Mexicans] to leave the countryside—and often the country, as they head north for the United States.

Clearly, NAFTA should include—as it currently does not—an effective way to address the increased flow of Mexican agricultural workers seeking to immigrate into the United States. And equally clearly, NAFTA's negotiators should consider—as they have so far failed to do—the downward pressure this migration will place on Mexican manufacturing and farm wages and the negative consequences for U.S. workers.

On my recent trip to Mexico, our delegation met with an agricultural economist who discussed the devastating impact NAFTA would have on the Mexican agricultural sector. She reported to us about the "the great struggle * * * for the people who work the land to own the land," and the fact that land reform is forcing peasants to leave the countryside.

> This is a country that just up to two decades ago was mainly farmers. The free trade agreement is a death sentence for Mexican farmers. At present they want to do away with 30 million farmers. In this country, until 1992, when they changed Article 27 of the Constitution, the peasants were the owners of 60% of the resources of our country.
>
> At present new modifications of Article 27 of the Constitution, pushed by the mercantile associations and the courts, are privatizing the land * * * For years, the land was not able to be transferred or taken away. It was not in the market. It was not for sale, it could not be repossessed. But now peasants will have private ownership of their tiny piece and land. The land will be in the market. It can be transferred. The most probable thing that will happen is that they will lose it, through repossession by the bank or acquisition. The family estate has been lost, there is a huge crisis in the Mexican farmland.

THE NAFTA BUREAUCRACY

This NAFTA establishes a bureaucratic maze and a quasi-judicial system beyond the reach of ordinary citizens. The dispute settlement mechanism substitutes expert panels and supernational bodies to make decisions that should be made within our political system. It sets up closed-door processes that ignore the public's right to know. There is no means to involve interested parties, including states, groups or individuals, with expertise and interest in an issue. It does not recognize the rights of individuals to seek redress, nor does it provide for judicial review. As Chairman Waxman told the President:

> * * * disputes would be decided by a process that is repugnant to basic concepts of due process and openness that are so fundamental to our democracy. The NAFTA expressly requires that the entire dispute resolution process be shrouded in secrecy. Article 2012(1)(b). The briefs are secret, oral arguments are closed to the public, and the NAFTA even prohibits disclosure of any dissent to a panel's decision.

Any agreement must set up a fair judicial system that assures individual rights and allows ordinary citizens and consumers to seek redress.

BORDER PROTECTION

We need guaranteed border inspection to control over 5,000 trucks that cross the United States-Mexican border daily bringing everything from tomatoes to cocaine, from melons to illegal immigrants. There must be strict provisions to stem the flood of drugs coming across our border. Any agreement must deal with the health and safety regulations for workers and fair distribution of profits. Any agreement must address the life-threatening problem of toxic waste from foreign-owned industries being dumped into Mexico's rivers, vacant land, and local sewage trenches. The agreement must address the question of security for our farmers from the influx of cheap produce and cushion Mexican farmers from divestiture of land. And the agreement must ensure that all Mexican produce will be safe and free of dangerous pesticides.

WORKER ADJUSTMENT

NAFTA supporters argue that the United States should concentrate on manufacturing the highest technology products here at home. But we need jobs for all Americans, not just nuclear engineers. We haven't seen the President's proposal for worker adjustment, but we know it is badly needed right now to ease the adjustment of the defense industry and to help the thousands whose jobs have already been lost to foreign production. Do we have the resources to make NAFTA adjustments as well? And why should U.S. taxpayers pay the cost of corporate relocation to Mexico? We should spend our money on worker adjustment for those who are already in the unemployment lines and renew our commitment to preserving jobs which are at risk—and that means defeating this NAFTA.

Because the comprehensive worker adjustment program will not be ready, the Administration has proposed an interim program for NAFTA-related job dislocations only. The program extends for 18 months, and is based on Labor Department estimates of job losses of 22,500 over that time period. The Administration originally budgeted $90 million over 18 months, or $60 million annually, which would have accommodated only 8,000 workers in a full training program. The Senate bumped this figure up to $177 million, still far short of the Bush Administration proposal for NAFTA. The Bush plan specifically reserved $335 million annually and provided an additional $670 million annually in discretionary funding if needed.

AGRICULTURE—SANITARY AND PHYTOSANITARY STANDARDS

As we all know, there is no enforceable side agreement to deal with sanitary and phytosanitary standards, a gross deficiency in the accord by all accounts. NAFTA affirms the right or sovereignty of every member nation to establish the level of protection of human, animal, or plant life or health it considers appropriate. NAFTA also preserves the right of the United States to prohibit the entry of goods not meeting U.S. health, safety and environmental and other product standards. But who enforces the standards? And what recourse exists for our farmers and consumers when disputes arise? We have a byzantine dispute resolution system that will result in jobs for lawyers but will not provide the immediate protection necessary to the people whose lives and livelihood are in jeopardy.

Customs and inspection procedures along the border are already taxed well beyond their capacity. This means that the potential exists for large quantities of unsafe food and products to enter the United States. In fact, the Food and Drug Administration at Nogales is able to inspect only one of every 600 trucks that line up by the thousands each week. We also know Mexico lacks the personnel, facilities, instrumentation, and funding to expand monitoring and inspection services to enforce adequate health and sanitary regulations affecting trade. Funds must be earmarked specifically for this purpose and firms benefiting from cross-border trade must pay this cost.

As tariff and nontariff barriers such as licenses and quotas are lowered, the effect of sanitary and phytosanitary standards in restricting trade may become more noticeable. Our farmers will be forced to compete with a nation where DDT is legal and pesticide law enforcement is nonexistent. Protection of American consumers should not be secondary to the economic pressures of increasing trade.

The GAO found that "because of inefficiencies and resource limitations, FDA's programs provide only limited protection against public exposure to prohibited pesticide residues on imported foods. Since the Mexican government does not monitor residue levels for exported produce, U.S. inspections are all the more important."

Bovine Tuberculosis is another critical border inspection issue. Tuberculosis in cattle in the United States—a condition we had almost wiped out—increased from 70 in 1988 to 224 during the first six months of 1992. Ninety-two percent of these cases were from steers of Mexican origin. NAFTA would immediately eliminate the tariff on feeder cattle from Mexico, and the resulting surge in imports would overwhelm our inspection and monitoring system.

Ohio is one of 40 states in the United States with the status of an Accredited Free State for tuberculosis. The status is difficult to obtain, and can be suspended if only a single infected herd is discovered. Under NAFTA this status can be revoked if two or more herds are found to be infected in a 48 month period. Any inspections of Mexican cattle by a state can be challenged under the proposed treaty for being "trade distorting" and the state would have no recourse. In effect, the treaty would supersede the authority of any state to regulate for bovine tuberculosis.

FOOD SAFETY

NAFTA would subject U.S. food safety and environmental laws to legal challenge by Mexico and Canada. The Agreement would permit Canada or Mexico to challenge a standard adopted for public policy or precautionary reasons is the standard were perceived to cause economic injury to another Party to the Agreement. Under the General Agreement on Tariffs and Trade (GATT), Mexico and Canada have already challenged over 40 state laws on such issues as sales of alcoholic beverages and sales of non-dolphin safe tuna. NAFTA makes many more challenges inevitable.

WORKER HEALTH AND SAFETY

Worker health and safety are considered a necessary business expense in the United States, and we have developed an effective regulatory system to insure that companies enforce the law. Mexico's health and safety standards are lower, and enforcement is far weaker. While in the United States the penalty for willful violation can be up to $70,000 for each instance, the maximum fine for a repeated violation in Mexico is about $1,500. Substantial differences in standards and enforcement confer a competitive advantage to manufacturers located in Mexico, and companies that relocate are quick to exploit this advantage, despite the risk to workers.

On a tour of Mexican production facilities, I visited one Ohio company that had relocated production to Mexico where I saw women spraying glue on rings. I asked why they were not wearing masks and I was told, "Well, the women do not like to wear masks and the (one ceiling) fan probably pulls out the fumes anyway."

At another plant, I saw men pulling down machines that stamped out rubber parts. There were no guards on the machines. Their arms could get caught in the machines. I asked the manager of that company, a U.S. citizen who commuted to work across the border daily, whether or not the workers in that plant were covered by some form of Mexican social security. He told me he did not know the answer, because all he worried about was the bottom line.

Later, one of my own constituents saw a newspaper photo of a Mexican worker operating machinery that he had operated in a Toledo plant before it was shipped down to Matamoros. He noted that the equipment was being operated unsafely by the Mexican worker, because the emergency "off" switch had been covered.

DISPUTE SETTLEMENT

Many of us take for granted the protections embedded in our legal processes, including openness; public participation; balance; and subsidiarity. But the dispute resolution process embedded in NAFTA has none of these protections. Instead, it would commit us to a system that is closed, secret, highly partisan and empowered to run roughshod over lower level decisions. Legitimate grievances would be buried in red tape and delay.

North Dakota Commissioner of Agriculture Sarah Vogel identified these shortcomings:

> The United States Constitution and the North Dakota Constitution provide for open courts. The Freedom of Information Act and state law counterparts provide for open records and open hearings with very limited exceptions. There is no good reason why NAFTA disputes should be treated any differently than antitrust cases, class action tort cases or complex administrative issues or any other kind of litigation.
>
> There is no mechanism for "public participation." * * * the only "Parties" to NAFTA are the federal governments of the U.S., Canada, and Mexico * * * there is no means to involve states or individuals with expertise relevant to the issue.
>
> When sanitary, phytosanitary, environmental or other "scientific" issues arise, the panel's appointment of a "scientific review board" is not subject to any standards other than what the parties "may agree." Any party can block another party's (or the panel's) request for scientific input by simply not agreeing to the scientist or technical expert or by limiting terms and conditions of their employment * * * and the panel's appointment of experts will not necessarily result in balanced views.
>
> NAFTA does not adhere to the historic deference that U.S. courts, state and federal, have provided to executive and administrative decisions * * * NAFTA panels may undertake a full de novo reexamination of the measure being challenged (with) complete discretion to second-guess an agency or state legislature.
>
> The panel roster members are likely to be drawn from a few law firms with extensive ties to multinational corporations. By definition, labor lawyers, farm lawyers, plaintiff's trial lawyers, environmental lawyers and non-lawyers will be ineligible for service, as will individual citizens.

VISION OF A DEMOCRACY AND PROSPERITY IN THE AMERICAS

The original comprehensive vision for the Americas was articulated by President John F. Kennedy in 1962 as the Alliance for Progress. "We must not forget that our Alliance for Progress is more than a doctrine of development—a blueprint of economic advance. Rather it is an expression of the noblest goals of our society. It says that material progress is meaningless without individual freedom and political liberty. It is a doctrine of the freedom of man in the most spacious sense of that freedom."

The Alliance for Progress articulated a plan for linking social and political development with economic development. It failed in part because it was so ambitious, because funding never matched the need, and because of the resistance and even sabotage of the Latin American oligarchies. But it did incorporate a comprehensive vision of development. That comprehensive vision is still necessary if people throughout the Americas are to share a decent way of life.

When Europe integrated Portugal and Spain into its Common Market, that integration was part of an adjustment process that has continued over 40 years. The Common Market includes a "Social Charter" which establishes rights to social assistance, collective bargaining, vocational training, and health and safety protections. This Social Charter sets a realistic framework of shared values and insures that development in the EC does not pit workers in one country against those in another.

The EC also anticipated that integration require investment, and it continues to spend billions to mitigate the costs to individuals and communities.

> $20 billion will be spent over the next six years on the special "cohesion fund" designed to enable Spain, Portugal, Ireland and Greece to catch up with the rest of the Community.
>
> $183 billion in "Structural aid" will be available to regions of the EC whose output is 75 percent or less of the Community average GDP.

In 1992, transfers from the EC accounted for around 4 percent of Portugal's GDP.

VISION FOR THE FUTURE

Last May, I led a bipartisan Congressional delegation to Mexico. One of the many women leaders in that country with whom we met presented a very clear alternative to this NAFTA, which she termed "a continental agreement for development, equity and employment." She said that the lack of competitiveness in North America is not caused by barriers to trade, or by the lack of institutional stimuli to investment, but by deep structural imbalances brought by the unregulated and predatory attitudes of the multinational corporations.

This woman also had a vision of what a good agreement would contain, beginning with a focus not unlike the Alliance for Progress. She envisioned a pact that recognizes the differences in living standards, development and productivity of the various economies. She argued that continental integration also implies stimulating the Central American Common Market, the Andean Pact, Mercosur and other similar associations, and adjusting them to the basis of the Hemispheric pact. Realization of such an agreement is already in the minds of many organizations, and it should be the shared purpose of millions of people from the whole continent.

WHAT'S IN GOOD AGREEMENT

For our nations to reap the mutual benefits of trade expansion despite our differences, trade must be part of a larger strategy for growth and change in Mexico, and for adjustment here in the United States and Canada. Our trade agreement with Mexico is not only historic; it will set a precedent for America's future trade agreements with non-democratic, low-wage societies. It must be carefully crafted so it addresses fundamental issues central to achieving true democracy and prosperity for all citizens of the continent.

A trade agreement worthy of our support will be comprehensive. It will take into account issues critical to the preservation of our own economic strength and will protect the long-term interests of American workers.

> Will be phased in over several decades, as have Europe's integration;
>
> Will acknowledge the propensity of many U.S. companies to cut costs and head South;
>
> Will include a provision that ensures competitive advantage for our continent is not built on cheap labor nor escaping to tax havens nor avoiding environmental standards.

This NAFTA will not contribute to continental development, but will hurt small businesses, workers, families, communities, consumers, and the environment in all three countries. It will benefit traders, exports and Wall Street investment interests.

A trade agreement worthy of our support will preserve our fundamental democratic values and serve to advance them in our trading partners. Only a trade agreement that embodies the best values of democracy and prosperity deserves out support. It should go without saying that the ongoing struggle of Mexicans to make their government a true democracy, rather than a democracy in name only, can and should be assisted. Democratic reforms should be an integral part of all U.S. trade policy—after all, in the post-Cold War world, international trade is the strongest link between our country with its strong democratic traditions and the rest of the world. We must never miss an opportunity to strengthen democracy.

A trade agreement worthy of our support will build real growth by improving the purchasing power of Mexico's citizens. Spreading the benefits of liberalized trade will improve the lives of workers and sustain economic growth throughout North America. Right now, NAFTA is a narrowly drawn tariff agreement and must be changed to an agreement that freely addresses the political, social and economic integration that must simultaneously occur.

FOREIGN POLICY

Rejection of this Agreement will not be the foreign policy disaster that supporters claim. In fact, rejection will serve a higher purpose by reaffirming our commitment to basic principles of democracy and fairness.

The people of Mexico know that rejection of this agreement is not a vote against them, nor does it deny the close economic and social ties between our nations. The people of Mexico will understand that rejection of NAFTA affirms their historic efforts to democratize their politics and improve their standard of living. Mexico does not yet have a functioning democracy, and the PRI does not appear ready to open the electoral system to accommodate the legitimate efforts of the two opposition parties. Rejection of NAFTA holds out the possibility of a linkage between our countries based on equal rights and a rising quality of life for citizens of all three countries.

Rejection of this agreement will send an important signal to other non-democracies that we will continue to link economic development with the development of just political and social institutions. It will help convince them of the strength of our convictions and it will help them understand the depth of the democratic process in our country. It will also give a strong signal that the American public insists on being part of the trade debate, that the days of delegating critical economic and trade negotiations to special interests and unselected specialists are behind us.

This long and difficult debate has served to illuminate the deficiencies of old style trade agreements. This NAFTA does not reflect new thinking and it does not move us forward to meet the challenges of the new economic order. It's time for a realignment of U.S. trade policy toward developing nations that goes beyond the narrow tariff and investment focus of this agreement.

We must go back to the drawing board and develop a comprehensive agreement, one that encompasses not only the economic integration of low wage economies, but also economic concerns for our people here at home; one that links expanded trade to democracy building and social development abroad; one that reflects our own commitment to a high quality of life for people throughout the Americas.

It's time to return to the original comprehensive vision for the Americas articulated by President John F. Kennedy in 1962—

> We must not forget that our Alliance for Progress is more than a doctrine of development—a blueprint of economic advance. Rather it is an expression of the noblest goals of our society. It says that material progress is meaningless without individual freedom and political liberty. It is a doctrine of the freedom of man in the most spacious sense of that freedom.

Mr. DREIER. Mr. Speaker, I yield 1½ minutes, the remainder of my time, to my friend, the gentleman from Mobile, AL [Mr. CALLAHAN], to close our debate.

(Mr. CALLAHAN asked and was given permission to revise and extend his remarks.)

Mr. CALLAHAN. Mr. Speaker and ladies and gentleman of the House, we are going to close in just a few minutes this portion of the debate on NAFTA, and I do not recall in our history here, at least for most of us, that we have ever been so involved or so interested in a policy such as this agreement that is going to take place with Mexico and Canada, nor do I remember a time in our history when the people of America have become so interested in an issue.

Mr. Speaker, I wish they would have gotten as interested in the tax issue last August, because had they been that interested, we would not have that tax bill which faces us today. I hope they get just as interested in the health care issue that is coming forth next year.

We have been visited by presidents of foreign countries, we have been visited by the President of the United States, by Cabinet members, by leading industrialists, by union leaders, by ordinary people, by truck drivers. We have been talked to by every interest that we can be talked to about this agreement. When Ross Perot came to my office last week, he said, "SONNY, possibly you are right in your argument that in the State of Alabama you will benefit, because you have paper, you have textiles, you have chemical industries, and, yes, those industries are going to benefit, and maybe the State of Alabama will, indeed, benefit." "But," he said, "SONNY, what you should do is think about the country, think about the country as a whole."

And I am here to tell you today that I have taken Mr. Perot's advice. I have considered the country, and after careful consideration and deliberation and investigation and discussions with people from all walks of life, I have concluded that this is in the best interests of all of the people of the United States of America.

Certainly we are going to have some pockets of problems that might result, but the benefits far outweigh those problems that will be created.

I feel NAFTA holds such great promise for U.S. manufacturers to produce more products that a net gain in jobs should be achieved in the long run. At the very least, the number of jobs will remain roughly the same. But even so, the economy will benefit because we will unquestionably boost U.S. production in virtually every sector. American workers are the most productive and efficient in the world. Jobs will not be taken from them based on the wage differential between them and Mexican workers.

It is worth noting that Alabama and especially my congressional district and like most States, stands to benefit significantly from the removal of unilateral trade barriers. Over the 5 years during which Mexico has started lowering tariffs, Alabama's exports have tripled for a total of $264 million in 1992. This also represents tremendous growth over the 1991 level of $152 million. Some 27,000 Alabama jobs can be attributed to exports to Canada and Mexico, Alabama's largest and third largest trading partners. Total exports to these partners reached $978 million in 1992.

In my own district, the port of Mobile stands to be a big winner when increased export traffic heading for Mexico utilizes its facilities. The paper industry, a major presence in my district, anticipates huge gains in sales of consumer products to Mexico. Paper exports to Mexico from Alabama were $24 million in 1991. Another major employer in the area, the chemical industry, expects similar growth in exports. In the area of textiles and apparel, the value of exports to Mexico grew from $326,000 in 1987 to $26.9 million in 1992. Problems for peanut growers and the sugar industry have now been resolved.

Mr. Speaker, many of those who oppose NAFTA do so out of legitimate concern for the well-being of Mexican citizens who they believe are currently mistreated by employers. Certainly many have poor living conditions and are subjected to environmental risks. I am sympathetic to this argument but I have not been convinced that rejection of NAFTA will help. On the contrary, I believe that acceptance of the agreement and the said agreements will give us the necessary leverage to improve the quality of life of working Mexicans and Americans.

Another area of debate has been that of U.S. sovereignty. I have fully studied this question and am totally confident that American sovereignty will not be comprised and that Congress would never allow this to occur. I would not vote for this agreement if I had any uncertainty whatsoever regarding U.S. sovereignty.

NAFTA proves the old adage that politics makes strange bedfellows. Today we see a strong effort on my side of the aisle to secure a victory for President Clinton. But the stakes are high and partisanship must be put aside. The long-term consequences of failing to approve NAFTA are troublesome—our ability to negotiate favorable trade agreements in the near future and to maintain respect as the leader of the free world is in the balance. We must accept this challenge and ensure that the United States moves into the future as an economic superpower. NAFTA gives us that opportunity and I hope we will seize it.

Mr. SOLOMON. Mr. Speaker, I yield the remainder of our time to the gentleman from Midland City, AL [Mr. EVERETT], a very new and distinguished Member of this body.

□ 1040

Mr. EVERETT. Mr. Speaker, I would like to thank my good friend, the gentleman from New York [Mr. SOLOMON] ranking member of the Committee on Rules and cochairman of the anti-NAFTA task force for yielding me this time and allowing me to close.

Mr. Speaker, unfortunately the discussion of the North American Free-Trade Agreement has become a shouting match, with misinformation rather than facts being debated in the media. The debate on this floor should be on the merits of NAFTA as determined by the document itself, and not whether a free-trade agreement is good or bad. No one argues whether free trade is good or bad—it is good. Nor should this be a debate about our relationship with Mexico. No one questions that we should have a better and a new relationship with Mexico.

This agreement must be examined today for two critical reasons: First, a bad trade agreement can do great harm to the United States, and this is a bad agreement based on flawed and misleading studies. The United States will most certainly experience job loss. Even my State of Alabama will most certainly experience job loss, a fact that even the NAFTA proponents admit.

Second, this document, should it stand, will be used as a model for all future trade agreements with the rest of Latin America. The question debated should be if this NAFTA is in the best long-term interest of the United States. I clearly say to you that it is not.

Mr. Speaker, what is the NAFTA if it is not a free-trade agreement? It is an investment protection agreement, one that would further encourage large American corporations to relocate both high-technology and low-skill jobs to Mexico. NAFTA clearly gives these corporations protection they either do not currently have, or, protection which extends beyond the maquiladora border plants. Please read section 1110 if you disagree with that. The NAFTA under section 1110, for instance, guarantees foreign investors for the first time the right to take their profits, dividends, and capital gains out of Mexico. It also guarantees investors that, if either their plants or capital investment are nationalized by the Mexican Government, they will quickly be reimbursed at market prices. In addition, NAFTA guarantees high-technology and other foreign investors the same protection for intellectual property rights, patents, copyrights, and trademarks that now exist in the United States.

NAFTA supporters claim that the proposed pact will create thousands of new well-paying jobs in America to take advantage of the expanding Mexican consumer market. I do not think so.

There is no expanding Mexican consumer market, nor will there be an expanding consumer market in Mexico. The annual per capita income in Mexico is less than $2,600. Because wages are artificially depressed by government policies with constricted labor rights which have no relationship to productivity, these Mexican workers cannot afford decent food and shelter—much less more consumer goods.

A recent newspaper advertisement claims: "The average Mexican already spends $450 a year on American goods." That statement is a classic example of the misinformation put out by supporters of the NAFTA. The only way the average Mexican is spending $450 on American goods is if he is buying a bulldozer, or, a piece of heavy-duty Earth-moving equipment to park next to his mud-floor shanty. The average Mexican spends only $80 to $90 a year on U.S. consumer goods. As a matter of fact, the United States has a $2.3 billion trade deficit with Mexico in consumer goods.

Even the best and highest paid jobs in Mexico, which are located in the maquiladora sector, only average $1.64 an hour. In the maquiladora plants, 545,000 workers are making microchips, doing assembly line work, cut and sew textile work, and many other jobs which at one time belonged to higher paid American workers.

My colleague who mentioned that 400,000 jobs had been created in the last 10 years forgot to mention that we lost over half a million jobs to the Mexicans during the same time.

Mr. Speaker, NAFTA supporters claim that if the pact passes, many of these jobs will return to the United States and create more American high-technology jobs to meet the growing Mexican market. Many American corporations visited me urging the passage of the NAFTA and mentioned their companies would not take American jobs to Mexico. I always have responded by saying: "That's great news.

Now, will you get me a letter signed by your CEO saying your company pledges not to close any American plants and move jobs to Mexico after the NAFTA is passed?"

In all these months I have yet to receive one signed letter.

The President of the United States asked for that pledge from United States' corporations some 3 weeks ago; they would not honor his request either.

The reason is simple. This NAFTA will turn Mexico into an export platform for companies who will take advantage of Mexico's low wages and newly emerging skilled work force. Companies locating in Mexico do not have to worry about health care, OSHA, building codes, safety standards, environmental concerns, and hundreds of other Federal mandates that add to the per unit cost of producing a product in the United States.

The end result is that more Americans will lose jobs on both ends of the skill level. Large American companies have fired over 400,000 Americans in the last 6 months alone. These highly skilled workers will, for the most part, never see their jobs again. On the other end are the so-called low-skilled jobs, where this country has lost another 500,000 direct and indirect jobs to Mexico over the last 10 years.

Despite promises, the NAFTA will do nothing to replace those jobs. As this country continues to lose jobs on both ends of the skill-level several things will happen. Unemployment and underemployed levels will continue to rise and Americans will have fewer dollars to spend on clothing, automobiles, gasoline, food supplies, furniture, and other consumer goods.

Finally, there's the limp argument that 300 economists, including eight Nobel laureates, signed a letter to the administration supporting the NAFTA. In an interview by People's Radio, all were contacted. Of the 150 who responded, only 19 had actually read the NAFTA before endorsing the trade agreement. And eight did not even know their names were on the petition, a situation, in my mind at least, identical to an attorney advising a client that it is OK to sign a 2,000 page complex legal contract without the attorney having read the contract.

I do not think it is enough that Congress oppose the NAFTA, but it must also support the business of allowing American companies to create jobs in this country. Many American companies are being forced to locate jobs offshore by Government acts such as the 1986 elimination of tax incentives plus an ever-escalating regulatory burden.

Congress and others must recognize that companies have to make a profit if they are to provide jobs for Americans. The Congress with the urging and the support of American workers, must implement worthwhile investment tax credit, offer capital gains tax incentives, eliminate the alternative minimum tax, change depreciation schedules for passive loss rules, and lessen many of the mandates on private business.

In short, we need to make this country competitive in order to ensure American jobs.

Mr. BEILENSON. Mr. Speaker, I yield myself the balance of my time to close debate.

To summarize the rule, we will have 8 hours of debate divided equally between proponents and opponents of the NAFTA, there will be no amendments, the rule waives all points of order.

Mr. Speaker, views on both sides of the issue are deeply and sincerely held. I do believe that what will emerge through the course of this debate is that it is essential that we pass this measure. This is one of those defining moments in our history when we will decide whether we go on in the post-cold-war era with confidence and optimism or whether we retreat from the world and our responsibilities to it and to ourselves.

Mr. Speaker, I hope and pray, as I said earlier on in the debate, that we respond in a manner befitting the proud history of this great Nation and approve this rule and this agreement.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the resolution.

The question was taken, and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. KAPTUR. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 342, nays 85, not voting 6, as follows:

[Roll No. 573]

YEAS—342

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barlow
Barrett (NE)
Barrett (WI)
Barton
Bateman
Becerra
Beilenson
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Bryant
Callahan
Calvert
Camp
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clyburn
Coble
Coleman
Collins (GA)
Combest
Conyers
Cooper
Coppersmith
Cox
Coyne
Cramer
Crane
Cunningham
Darden
de la Garza
Deal
DeLauro
DeLay
Derrick
Deutsch
Dickey
Dicks
Dingell
Dixon
Dooley
Dreier
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Emerson
Engel
English (AZ)
English (OK)
Eshoo
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Hall (OH)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings
Hayes
Hefner
Hilliard
Hoagland
Hobson
Horn
Houghton
Hoyer
Huffington
Hughes
Hutchinson
Hutto
Hyde
Inhofe
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Kanjorski
Kasich
Kennedy
Kennelly
Kim
King
Kingston
Klein
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lightfoot
Livingston
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCrery
McCurdy
McDade
McDermott
McHale
McInnis
McKeon
McKinney
McMillan
Meehan
Meek
Menendez
Meyers
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nadler
Natcher
Neal (NC)
Nussle
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Petri
Pickett
Pickle
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Ramstad
Rangel
Ravenel
Regula
Reynolds
Richardson
Ridge
Roberts
Rohrabacher
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Royce
Sabo
Sangmeister
Santorum
Sarpalius
Sawyer
Schaefer
Schenk
Schiff
Schroeder
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Spence
Spratt
Stenholm
Stokes
Strickland
Studds
Stump
Stupak
Sundquist
Swett
Swift
Synar
Talent
Tanner
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Torres
Torricelli
Unsoeld
Valentine
Vento
Visclosky
Vucanovich
Walker
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wolf
Woolsey
Wyden
Wynn
Young (FL)
Zeliff
Zimmer

NAYS—85

Barca
Barcia
Bartlett
Bentley
Blute
Brown (OH)
Bunning
Burton
Buyer
Byrne
Canady
Collins (IL)
Collins (MI)
Condit
Costello
Crapo
Danner
DeFazio
Dellums
Diaz-Balart
Doolittle
Dornan
Evans
Filner
Gonzalez
Gutierrez
Hall (TX)
Hamburg
Hefley
Herger
Hinchey
Hochbrueckner
Hoekstra
Holden
Hunter
Inglis
Istook
Kaptur
Kildee
Kleczka
Klink
LaFalce
Lewis (FL)
Lewis (GA)
Linder
Lipinski
McCollum
McHugh
McNulty
Mfume
Mica
Neal (MA)
Oberstar
Obey
Peterson (MN)
Pombo
Pomeroy
Rahall
Reed
Roemer
Rogers
Ros-Lehtinen
Rush
Sanders
Saxton
Scott
Snowe
Stark
Stearns
Tauzin
Taylor (MS)
Taylor (NC)
Thurman
Torkildsen
Traficant
Tucker
Upton
Velazquez
Volkmer
Walsh
Washington
Waters
Watt
Wise
Yates

NOT VOTING—6

Andrews (NJ)
Clinger
Hoke
Mollohan
Towns
Young (AK)

☐ 1109

Messrs. SANDERS, BARCIA of Michigan, HINCHEY, DELLUMS, VOLKMER, HAMBURG, and YATES changed their vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

☐ 1110

PERMISSION TO HAVE UNTIL MIDNIGHT THURSDAY, NOVEMBER 18, 1993, TO FILE CONFERENCE REPORT ON H.R. 2330, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1994

Mr. GLICKMAN. Mr. Speaker, I ask unanimous consent that the managers may have until midnight Thursday, November 18, 1993, to file a conference report on the bill (H.R. 2330) to authorize appropriations for fiscal year 1994 for the intelligence and intelligence-related activities of the U.S. Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

Mr. Speaker, the minority has been informed of this request, and I understand there is no objection to it.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from Kansas?

There was no objection.

NORTH AMERICAN FREE-TRADE AGREEMENT IMPLEMENTATION ACT

The SPEAKER pro tempore. Pursuant to House Resolution 311 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3450.

☐ 1111

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3450) to implement the North American Free-Trade Agreement, with Mr. PRICE of North Carolina in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

H.R. 3450

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "North American Free Trade Agreement Implementation Act".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.
Sec. 2. Definitions.

TITLE I—APPROVAL OF, AND GENERAL PROVISIONS RELATING TO, THE NORTH AMERICAN FREE TRADE AGREEMENT

Sec. 101. Approval and entry into force of the North American Free Trade Agreement.
Sec. 102. Relationship of the Agreement to United States and State law.
Sec. 103. Consultation and layover requirements for, and effective date of, proclaimed actions.
Sec. 104. Implementing actions in anticipation of entry into force and initial regulations.
Sec. 105. United States Section of the NAFTA Secretariat.
Sec. 106. Appointments to chapter 20 panel proceedings.
Sec. 107. Termination or suspension of United States-Canada Free-Trade Agreement.
Sec. 108. Congressional intent regarding future accessions.
Sec. 109. Effective dates; effect of termination of NAFTA status.

TITLE II—CUSTOMS PROVISIONS

Sec. 201. Tariff modifications.
Sec. 202. Rules of origin.
Sec. 203. Drawback.
Sec. 204. Customs user fees.
Sec. 205. Enforcement.
Sec. 206. Reliquidation of entries for NAFTA-origin goods.
Sec. 207. Country of origin marking of NAFTA goods.
Sec. 208. Protests against adverse origin determinations.
Sec. 209. Exchange of information.
Sec. 210. Prohibition on drawback for television picture tubes.
Sec. 211. Monitoring of television and picture tube imports.
Sec. 212. Title VI amendments.
Sec. 213. Effective dates.

TITLE III—APPLICATION OF AGREEMENT TO SECTORS AND SERVICES

Subtitle A—Safeguards

PART 1—RELIEF FROM IMPORTS BENEFITTING FROM THE AGREEMENT

Sec. 301. Definitions.
Sec. 302. Commencing of action for relief.
Sec. 303. International Trade Commission action on petition.
Sec. 304. Provision of relief.
Sec. 305. Termination of relief authority.
Sec. 306. Compensation authority.
Sec. 307. Submission of petitions.
Sec. 308. Special tariff provisions for Canadian fresh fruits and vegetables.
Sec. 309. Price-based snapback for frozen concentrated orange juice.

PART 2—RELIEF FROM IMPORTS FROM ALL COUNTRIES

Sec. 311. NAFTA article impact in import relief cases under the Trade Act of 1974.
Sec. 312. Presidential action regarding NAFTA imports.

PART 3—GENERAL PROVISIONS

Sec. 315. Provisional relief.
Sec. 316. Monitoring.
Sec. 317. Procedures concerning the conduct of International Trade Commission investigations.
Sec. 318. Effective date.

Subtitle B—Agriculture

Sec. 321. Agriculture.

Subtitle C—Intellectual Property

Sec. 331. Treatment of inventive activity.
Sec. 332. Rental rights in sound recordings.
Sec. 333. Nonregistrability of misleading geographic indications.
Sec. 334. Motion pictures in the public domain.
Sec. 335. Effective dates.

Subtitle D—Temporary Entry of Business Persons

Sec. 341. Temporary entry.
Sec. 342. Effective date.

Subtitle E—Standards

PART 1—STANDARDS AND MEASURES

Sec. 351. Standards and sanitary and phytosanitary measures.
Sec. 352. Transportation.

PART 2—AGRICULTURAL STANDARDS

Sec. 361. Agricultural technical and conforming amendments.

Subtitle F—Corporate Average Fuel Economy

Sec. 371. Corporate average fuel economy.

Subtitle G—Government Procurement

Sec. 381. Government procurement.

TITLE IV—DISPUTE SETTLEMENT IN ANTIDUMPING AND COUNTERVAILING DUTY CASES

Subtitle A—Organizational, Administrative, and Procedural Provisions Regarding the Implementation of Chapter 19 of the Agreement

Sec. 401. References in subtitle.
Sec. 402. Organizational and administrative provisions.
Sec. 403. Testimony and production of papers in extraordinary challenges.
Sec. 404. Requests for review of determinations by competent investigating authorities of NAFTA countries.
Sec. 405. Rules of procedure for panels and committees.
Sec. 406. Subsidy negotiations.
Sec. 407. Identification of industries facing subsidized imports.
Sec. 408. Treatment of amendments to antidumping and countervailing duty law.

Subtitle B—Conforming Amendments and Provisions

Sec. 411. Judicial review in antidumping duty and countervailing duty cases.

Sec. 412. Conforming amendments to other provisions of the Tariff Act of 1930.

Sec. 413. Consequential amendment to Free-Trade Agreement Act of 1988.

Sec. 414. Conforming amendments to title 28, United States Code.

Sec. 415. Effect of termination of NAFTA country status.

Sec. 416. Effective date.

TITLE V—NAFTA TRANSITIONAL ADJUSTMENT ASSISTANCE AND OTHER PROVISIONS

Subtitle A—NAFTA Transitional Adjustment Assistance Program

Sec. 501. Short title.

Sec. 502. Establishment of NAFTA transitional adjustment assistance program.

Sec. 503. Conforming amendments.

Sec. 504. Authorization of appropriations.

Sec. 505. Termination of transition program.

Sec. 506. Effective date.

Sec. 507. Treatment of self-employment assistance programs.

Subtitle B—Provisions Relating to Performance Under the Agreement

Sec. 511. Discriminatory taxes.

Sec. 512. Review of the operation and effects of the agreement.

Sec. 513. Actions affecting United States cultural industries.

Sec. 514. Report on impact of NAFTA on motor vehicle exports to Mexico.

Sec. 515. Center for the study of Western Hemispheric Trade.

Sec. 516. Effective date.

Subtitle C—Funding

PART 1—CUSTOMS USER FEES

Sec. 521. Fees for certain customs services.

PART 2—INTERNAL REVENUE CODE AMENDMENTS

Sec. 522. Authority to disclose certain tax information to the United States customs service.

Sec. 523. Use of electronic fund transfer system for collection of certain taxes.

Subtitle D—Implementation of NAFTA Supplemental Agreements

PART 1—AGREEMENTS RELATING TO LABOR AND ENVIRONMENT

Sec. 531. Agreement on labor cooperation.

Sec. 532. Agreement on environmental cooperation.

Sec. 533. Agreement on Border Environment Cooperation Commission.

PART 2—NORTH AMERICAN DEVELOPMENT BANK AND RELATED PROVISIONS.

Sec. 541. North American Development Bank.

Sec. 542. Status, immunities, and privileges.

Sec. 543. Community adjustment and investment program.

Sec. 544. Definition.

TITLE VI—CUSTOMS MODERNIZATION

Sec. 601. Reference.

Subtitle A—Improvements in Customs Enforcement

Sec. 611. Penalties for violations of arrival, reporting, entry, and clearance requirements.

Sec. 612. Failure to declare.

Sec. 613. Customs testing laboratories; detention of merchandise.

Sec. 614. Recordkeeping.

Sec. 615. Examination of books and witnesses.

Sec. 616. Judicial enforcement.

Sec. 617. Review of protests.

Sec. 618. Repeal of provision relating to reliquidation on account of fraud.

Sec. 619. Penalties relating to manifests.

Sec. 620. Unlawful unlading or transshipment.

Sec. 621. Penalties for fraud, gross negligence, and negligence; prior disclosure.

Sec. 622. Penalties for false drawback claims.

Sec. 623. Interpretive rulings and decisions; public information.

Sec. 624. Seizure authority.

Subtitle B—National Customs Automation Program

Sec. 631. National Customs Automation Program.

Sec. 632. Drawback and refunds.

Sec. 633. Effective date of rates of duty.

Sec. 634. Definitions.

Sec. 635. Manifests.

Sec. 636. Invoice contents.

Sec. 637. Entry of merchandise.

Sec. 638. Appraisement and other procedures.

Sec. 639. Voluntary reliquidations.

Sec. 640. Appraisement regulations.

Sec. 641. Limitation on liquidation.

Sec. 642. Payment of duties and fees.

Sec. 643. Abandonment and damage.

Sec. 644. Customs officer's immunity.

Sec. 645. Protests.

Sec. 646. Refunds and errors.

Sec. 647. Bonds and other security.

Sec. 648. Customhouse brokers.

Sec. 649. Conforming amendments.

Subtitle C—Miscellaneous Amendments to the Tariff Act of 1930

Sec. 651. Administrative exemptions.

Sec. 652. Report of arrival.

Sec. 653. Entry of vessels.

Sec. 654. Unlawful return of foreign vessel papers.

Sec. 655. Vessels not required to enter.

Sec. 656. Unlading.

Sec. 657. Declarations.

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Sec. 690. Repeal of obsolete provisions of law.

Sec. 691. Reports to Congress.

Sec. 692. Effective date.

SEC. 2. DEFINITIONS.

For purposes of this Act:

(1) AGREEMENT.—The term "Agreement" means the North American Free Trade Agreement approved by the Congress under section 101(a).

(2) HTS.—The term "HTS" means the Harmonized Tariff Schedule of the United States.

(3) MEXICO.—Any reference to Mexico shall be considered to be a reference to the United Mexican States.

(4) NAFTA COUNTRY.—Except as provided in section 202, the term "NAFTA country" means—

(A) Canada for such time as the Agreement is in force with respect to, and the United States applies the Agreement to, Canada; and

(B) Mexico for such time as the Agreement is in force with respect to, and the United States applies the Agreement to, Mexico.

(5) INTERNATIONAL TRADE COMMISSION.—The term "International Trade Commission" means the United States International Trade Commission.

(6) TRADE REPRESENTATIVE.—The term "Trade Representative" means the United States Trade Representative.

TITLE I—APPROVAL OF, AND GENERAL PROVISIONS RELATING TO, THE NORTH AMERICAN FREE TRADE AGREEMENT

SEC. 101. APPROVAL AND ENTRY INTO FORCE OF THE NORTH AMERICAN FREE TRADE AGREEMENT.

(a) APPROVAL OF AGREEMENT AND STATEMENT OF ADMINISTRATIVE ACTION.—Pursuant to section 1103 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2903) and section 151 of the Trade Act of 1974 (19 U.S.C. 2191), the Congress approves—

(1) the North American Free Trade Agreement entered into on December 17, 1992, with the Governments of Canada and Mexico and submitted to the Congress on November 4, 1993; and

(2) the statement of administrative action proposed to implement the Agreement that was submitted to the Congress on November 4, 1993.

(b) CONDITIONS FOR ENTRY INTO FORCE OF THE AGREEMENT.—The President is authorized to exchange notes with the Government of Canada or Mexico providing for the entry into force, on or after January 1, 1994, of the Agreement for the United States with respect to such country at such time as—

(1) the President—

(A) determines that such country has implemented the statutory changes necessary to bring that country into compliance with its obligations under the Agreement and has made provision to implement the Uniform Regulations provided for under article 511 of the Agreement regarding the interpretation, application, and administration of the rules of origin, and

(B) transmits a report to the House of Representatives and the Senate setting forth the determination under subparagraph (A) and including, in the case of Mexico, a description of the specific measures taken by that country to—

(i) bring its laws into conformity with the requirements of the Schedule of Mexico in Annex 1904.15 of the Agreement, and

(ii) otherwise ensure the effective implementation of the binational panel review process under chapter 19 of the Agreement regarding final antidumping and countervailing duty determinations; and

(2) the Government of such country exchanges notes with the United States providing for the entry into force of the North American Agreement on Environmental Cooperation and the North American Agreement on Labor Cooperation for that country and the United States.

SEC. 102. RELATIONSHIP OF THE AGREEMENT TO UNITED STATES AND STATE LAW.

(a) RELATIONSHIP OF AGREEMENT TO UNITED STATES LAW.—

(1) UNITED STATES LAW TO PREVAIL IN CONFLICT.—No provision of the Agreement, nor the application of any such provision to any person or circumstance, which is inconsistent with any law of the United States shall have effect.

(2) CONSTRUCTION.—Nothing in this Act shall be construed—

(A) to amend or modify any law of the United States, including any law regarding—

(i) the protection of human, animal, or plant life or health,

(ii) the protection of the environment, or

(iii) motor carrier or worker safety; or

(B) to limit any authority conferred under any law of the United States, including section 301 of the Trade Act of 1974;

unless specifically provided for in this Act.

(b) RELATIONSHIP OF AGREEMENT TO STATE LAW.—

(1) FEDERAL-STATE CONSULTATION.—

(A) IN GENERAL.—Upon the enactment of this Act, the President shall, through the intergovernmental policy advisory committees on trade established under section 306(c)(2)(A) of the Trade and Tariff Act of 1984, consult with the States for the purpose of achieving conformity of State laws and practices with the Agreement.

(B) FEDERAL-STATE CONSULTATION PROCESS.—The Trade Representative shall establish within the Office of the United States Trade Representative, a Federal-State consultation process for addressing issues relating to the Agreement that directly relate to, or will potentially have a direct impact on, the States. The Federal-State consultation process shall include procedures under which—

(i) the Trade Representative will assist the States in identifying those State laws that may not conform with the Agreement but may be maintained under the Agreement by reason of being in effect before the Agreement entered into force;

(ii) the States will be informed on a continuing basis of matters under the Agreement that directly relate to, or will potentially have a direct impact on, the States;

(iii) the States will be provided opportunity to submit, on a continuing basis, to the Trade Representative information and advice with respect to matters referred to in clause (ii);

(iv) the Trade Representative will take into account the information and advice received from the States under clause (iii) when formulating United States positions regarding matters referred to in clause (ii); and

(v) the States will be involved (including involvement through the inclusion of appropriate representatives of the States) to the greatest extent practicable at each stage of the development of United States positions regarding matters referred to in clause (ii) that will be addressed by committees, subcommittees, or working groups established under the Agreement or through dispute settlement processes provided for under the Agreement.

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Federal-State consultation process established by this paragraph.

(2) LEGAL CHALLENGE.—No State law, or the application thereof, may be declared invalid as to any person or circumstance on the ground that the provision or application is inconsistent with the Agreement, except in an action brought by the United States for the purpose of declaring such law or application invalid.

(3) DEFINITION OF STATE LAW.—For purposes of this subsection, the term "State law" includes—

(A) any law of a political subdivision of a State; and

(B) any State law regulating or taxing the business of insurance.

(c) EFFECT OF AGREEMENT WITH RESPECT TO PRIVATE REMEDIES.—No person other than the United States—

(1) shall have any cause of action or defense under—

(A) the Agreement or by virtue of Congressional approval thereof, or

(B) the North American Agreement on Environmental Cooperation or the North American Agreement on Labor Cooperation; or

(2) may challenge, in any action brought under any provision of law, any action or inaction by any department, agency, or other instrumentality of the United States, any State, or any political subdivision of a State on the ground that such action or inaction is inconsistent with the Agreement, the North American Agreement on Environmental Cooperation, or the North American Agreement on Labor Cooperation.

SEC. 103. CONSULTATION AND LAYOVER REQUIREMENTS FOR, AND EFFECTIVE DATE OF, PROCLAIMED ACTIONS.

(a) CONSULTATION AND LAYOVER REQUIREMENTS.—If a provision of this Act provides that the implementation of an action by the President by proclamation is subject to the consultation and layover requirements of this section, such action may be proclaimed only if—

(1) the President has obtained advice regarding the proposed action from—

(A) the appropriate advisory committees established under section 135 of the Trade Act of 1974, and

(B) the International Trade Commission;

(2) the President has submitted a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate that sets forth—

(A) the action proposed to be proclaimed and the reasons therefor, and

(B) the advice obtained under paragraph (1);

(3) a period of 60 calendar days, beginning with the first day on which the President has met the requirements of paragraphs (1) and (2) with respect to such action, has expired; and

(4) the President has consulted with such Committees regarding the proposed action during the period referred to in paragraph (3).

(b) EFFECTIVE DATE OF CERTAIN PROCLAIMED ACTIONS.—Any action proclaimed by the President under the authority of this Act that is not subject to the consultation and layover requirements under subsection (a) may not take effect before the 15th day after the date on which the text of the proclamation is published in the Federal Register.

SEC. 104. IMPLEMENTING ACTIONS IN ANTICIPATION OF ENTRY INTO FORCE AND INITIAL REGULATIONS.

(a) IMPLEMENTING ACTIONS.—After the date of the enactment of this Act—

(1) the President may proclaim such actions; and

(2) other appropriate officers of the United States Government may issue such regulations;

as may be necessary to ensure that any provision of this Act, or amendment made by this Act, that takes effect on the date the Agreement enters into force is appropriately implemented on such date, but no such proclamation or regulation may have an effective date earlier than the date of entry into force. The 15-day restriction in section 103(b) on the taking effect of proclaimed actions is waived to the extent that the application of such restriction would prevent the taking effect on the date the Agreement enters into force of any action proclaimed under this section.

(b) INITIAL REGULATIONS.—Initial regulations necessary or appropriate to carry out the actions proposed in the statement of administrative action submitted under section 101(a)(2) to implement the Agreement shall, to the maximum extent feasible, be issued within 1 year after the date of entry into force of the Agreement; except that interim or initial regulations to implement those Uniform Regulations regarding rules of origin provided for under article 511 of the Agreement shall be issued no later than the date of entry into force of the Agreement. In the case of any implementing action that takes effect on a date after the date of entry into force of the Agreement, initial regulations to carry out that action shall, to the maximum extent feasible, be issued within 1 year after such effective date.

SEC. 105. UNITED STATES SECTION OF THE NAFTA SECRETARIAT.

(a) ESTABLISHMENT OF THE UNITED STATES SECTION.—The President is authorized to establish within any department or agency of the United States Government a United States Section of the Secretariat established under chapter 20 of the Agreement. The United States Section, subject to the oversight of the interagency group established under section 402, shall carry out its functions within the Secretariat to facilitate the operation of the Agreement, including the operation of chapters 19 and 20 of the Agreement and the work of the panels, extraordinary challenge committees, special committees, and scientific review boards convened under those chapters. The United States Section may not be considered to be an agency for purposes of section 552 of title 5, United States Code.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year after fiscal year 1993 to the department or agency within which the United States Section is established the lesser of—

(1) such sums as may be necessary; or

(2) $2,000,000;

for the establishment and operations of the United States Section and for the payment of the United States share of the expenses of binational panels and extraordinary challenge committees convened under chapter 19, and of the expenses incurred in dispute settlement proceedings under chapter 20, of the Agreement.

(c) REIMBURSEMENT OF CERTAIN EXPENSES.—If, in accordance with Annex 2002.2 of the Agreement, the Canadian Section or the Mexican Section of the Secretariat provides funds to the United States Section during any fiscal year, as reimbursement for expenses by the Canadian Section or the Mexican Section in connection with settlement proceedings under chapter 19 or 20 of the

Agreement, the United States Section may retain and use such funds to carry out the functions described in subsection (a).

SEC. 106. APPOINTMENTS TO CHAPTER 20 PANEL PROCEEDINGS.

(a) CONSULTATION.—The Trade Representative shall consult with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate regarding the selection and appointment of candidates for the rosters described in article 2009 of the Agreement.

(b) SELECTION OF INDIVIDUALS WITH ENVIRONMENTAL EXPERTISE.—The United States shall, to the maximum extent practicable, encourage the selection of individuals who have expertise and experience in environmental issues for service in panel proceedings under chapter 20 of the Agreement to hear any challenge to a United States or State environmental law.

SEC. 107. TERMINATION OR SUSPENSION OF UNITED STATES-CANADA FREE-TRADE AGREEMENT.

Section 501(c) of the United States-Canada Free-Trade Implementation Act of 1988 (19 U.S.C. 2112 note) is amended to read as follows:

"(c) TERMINATION OR SUSPENSION OF AGREEMENT.—

"(1) TERMINATION OF AGREEMENT.—On the date the Agreement ceases to be in force, the provisions of this Act (other than this paragraph and section 410(b)), and the amendments made by this Act, shall cease to have effect.

"(2) EFFECT OF AGREEMENT SUSPENSION.—An agreement by the United States and Canada to suspend the operation of the Agreement shall not be deemed to cause the Agreement to cease to be in force within the meaning of paragraph (1).

"(3) SUSPENSION RESULTING FROM NAFTA.—On the date the United States and Canada agree to suspend the operation of the Agreement by reason of the entry into force between them of the North American Free Trade Agreement, the following provisions of this Act are suspended and shall remain suspended until such time as the suspension of the Agreement may be terminated:

"(A) Sections 204(a) and (b) and 205(a).

"(B) Sections 302 and 304(f).

"(C) Sections 404, 409, and 410(b).".

SEC. 108. CONGRESSIONAL INTENT REGARDING FUTURE ACCESSIONS.

(a) IN GENERAL.—Section 101(a) may not be construed as conferring Congressional approval of the entry into force of the Agreement for the United States with respect to countries other than Canada and Mexico.

(b) FUTURE FREE TRADE AREA NEGOTIATIONS.—

(1) FINDINGS.—The Congress makes the following findings:

(A) Efforts by the United States to obtain greater market opening through multilateral negotiations have not produced agreements that fully satisfy the trade negotiating objectives of the United States.

(B) United States trade policy should provide for additional mechanisms with which to pursue greater market access for United States exports of goods and services and opportunities for export-related investment by United States persons.

(C) Among the additional mechanisms should be a system of bilateral and multilateral trade agreements that provide greater market access for United States exports and opportunities for export-related investment by United States persons.

(D) The system of trade agreements can and should be structured to be consistent with, and complementary to, existing international obligations of the United States and ongoing multilateral efforts to open markets.

(2) REPORT ON SIGNIFICANT MARKET OPENING.—No later than May 1, 1994, and May 1, 1997, the Trade Representative shall submit to the President, and to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives (hereafter in this section referred to as the "appropriate Congressional committees"), a report which lists those foreign countries—

(A) that—

(i) currently provide fair and equitable market access for United States exports of goods and services and opportunities for export-related investment by United States persons, beyond what is required by existing multilateral trade agreements or obligations; or

(ii) have made significant progress in opening their markets to United States exports of goods and services and export-related investment by United States persons; and

(B) the further opening of whose markets has the greatest potential to increase United States exports of goods and services and export-related investment by United States persons, either directly or through the establishment of a beneficial precedent.

(3) PRESIDENTIAL DETERMINATION.—The President, on the basis of the report submitted by the Trade Representative under paragraph (2), shall determine with which foreign country or countries, if any, the United States should seek to negotiate a free trade area agreement or agreements.

(4) RECOMMENDATIONS ON FUTURE FREE TRADE AREA NEGOTIATIONS.—No later than July 1, 1994, and July 1, 1997, the President shall submit to the appropriate Congressional committees a written report that contains—

(A) recommendations for free trade area negotiations with each foreign country selected under paragraph (3);

(B) with respect to each country selected, the specific negotiating objectives that are necessary to meet the objectives of the United States under this section; and

(C) legislative proposals to ensure adequate consultation with the Congress and the private sector during the negotiations, advance Congressional approval of the negotiations recommended by the President, and Congressional approval of any trade agreement entered into by the President as a result of the negotiations.

(5) GENERAL NEGOTIATING OBJECTIVES.—The general negotiating objectives of the United States under this section are to obtain—

(A) preferential treatment for United States goods;

(B) national treatment and, where appropriate, equivalent competitive opportunity for United States services and foreign direct investment by United States persons;

(C) the elimination of barriers to trade in goods and services by United States persons through standards, testing, labeling, and certification requirements;

(D) nondiscriminatory government procurement policies and practices with respect to United States goods and services;

(E) the elimination of other barriers to market access for United States goods and services, and the elimination of barriers to foreign direct investment by United States persons;

(F) the elimination of acts, policies, and practices which deny fair and equitable market opportunities, including foreign government toleration of anticompetitive business practices by private firms or among private firms that have the effect of restricting, on a basis that is inconsistent with commercial considerations, purchasing by such firms of United States goods and services;

(G) adequate and effective protection of intellectual property rights of United States persons, and fair and equitable market access for United States persons that rely upon intellectual property protection;

(H) the elimination of foreign export and domestic subsidies that distort international trade in United States goods and services or cause material injury to United States industries;

(I) the elimination of all export taxes;

(J) the elimination of acts, policies, and practices which constitute export targeting; and

(K) monitoring and effective dispute settlement mechanisms to facilitate compliance with the matters described in subparagraphs (A) through (J).

SEC. 109. EFFECTIVE DATES; EFFECT OF TERMINATION OF NAFTA STATUS.

(a) EFFECTIVE DATES.—

(1) IN GENERAL.—This title (other than the amendment made by section 107) takes effect on the date of the enactment of this Act.

(2) SECTION 107 AMENDMENT.—The amendment made by section 107 takes effect on the date the Agreement enters into force between the United States and Canada.

(b) TERMINATION OF NAFTA STATUS.—During any period in which a country ceases to be a NAFTA country, sections 101 through 106 shall cease to have effect with respect to such country.

TITLE II—CUSTOMS PROVISIONS

SEC. 201. TARIFF MODIFICATIONS.

(a) TARIFF MODIFICATIONS PROVIDED FOR IN THE AGREEMENT.—

(1) PROCLAMATION AUTHORITY.—The President may proclaim—

(A) such modifications or continuation of any duty,

(B) such continuation of duty-free or excise treatment, or

(C) such additional duties,

as the President determines to be necessary or appropriate to carry out or apply articles 302, 305, 307, 308, and 703 and Annexes 302.2, 307.1, 308.1, 308.2, 300-B, 703.2, and 703.3 of the Agreement.

(2) EFFECT ON MEXICAN GSP STATUS.—Notwithstanding section 502(a)(2) of the Trade Act of 1974 (19 U.S.C. 2462(a)(2)), the President shall terminate the designation of Mexico as a beneficiary developing country for purposes of title V of the Trade Act of 1974 on the date of entry into force of the Agreement between the United States and Mexico.

(b) OTHER TARIFF MODIFICATIONS.—

(1) IN GENERAL.—Subject to paragraph (2) and the consultation and layover requirements of section 103(a), the President may proclaim—

(A) such modifications or continuation of any duty,

(B) such modifications as the United States may agree to with Mexico or Canada regarding the staging of any duty treatment set forth in Annex 302.2 of the Agreement,

(C) such continuation of duty-free or excise treatment, or

(D) such additional duties,

as the President determines to be necessary or appropriate to maintain the general level of reciprocal and mutually advantageous concessions with respect to Canada or Mexico provided for by the Agreement.

(2) SPECIAL RULE FOR ARTICLES WITH TARIFF PHASEOUT PERIODS OF MORE THAN 10 YEARS.—

The President may not consider a request to accelerate the staging of duty reductions for an article for which the United States tariff phaseout period is more than 10 years if a request for acceleration with respect to such article has been denied in the preceding 3 calendar years.

(c) CONVERSION TO AD VALOREM RATES FOR CERTAIN TEXTILES.—For purposes of subsections (a) and (b), with respect to an article covered by Annex 300-B of the Agreement imported from Mexico for which the base rate in the Schedule of the United States in Annex 300-B is a specific or compound rate of duty, the President may substitute for the base rate an ad valorem rate that the President determines to be equivalent to the base rate.

SEC. 202. RULES OF ORIGIN.

(a) ORIGINATING GOODS.—

(1) IN GENERAL.—For purposes of implementing the tariff treatment and quantitative restrictions provided for under the Agreement, except as otherwise provided in this section, a good originates in the territory of a NAFTA country if—

(A) the good is wholly obtained or produced entirely in the territory of one or more of the NAFTA countries;

(B)(i) each nonoriginating material used in the production of the good—

(I) undergoes an applicable change in tariff classification set out in Annex 401 of the Agreement as a result of production occurring entirely in the territory of one or more of the NAFTA countries; or

(II) where no change in tariff classification is required, the good otherwise satisfies the applicable requirements of such Annex; and

(ii) the good satisfies all other applicable requirements of this section;

(C) the good is produced entirely in the territory of one or more of the NAFTA countries exclusively from originating materials; or

(D) except for a good provided for in chapters 61 through 63 of the HTS, the good is produced entirely in the territory of one or more of the NAFTA countries, but one or more of the nonoriginating materials, that are provided for as parts under the HTS and are used in the production of the good, does not undergo a change in tariff classification because—

(i) the good was imported into the territory of a NAFTA country in an unassembled or a disassembled form but was classified as an assembled good pursuant to General Rule of Interpretation 2(a) of the HTS; or

(ii)(I) the heading for the good provides for and specifically describes both the good itself and its parts and is not further subdivided into subheadings; or

(II) the subheading for the good provides for and specifically describes both the good itself and its parts.

(2) SPECIAL RULES.—

(A) FOREIGN-TRADE ZONES.—Subparagraph (B) of paragraph (1) shall not apply to a good produced in a foreign-trade zone or subzone (established pursuant to the Act of June 18, 1934, commonly known as the Foreign Trade Zones Act) that is entered for consumption in the customs territory of the United States.

(B) REGIONAL VALUE-CONTENT REQUIREMENT.—For purposes of subparagraph (D) of paragraph (1), a good shall be treated as originating in a NAFTA country if the regional value-content of the good, determined in accordance with subsection (b), is not less than 60 percent where the transaction value method is used, or not less than 50 percent where the net cost method is used, and the good satisfies all other applicable requirements of this section.

(b) REGIONAL VALUE-CONTENT.—

(1) IN GENERAL.—Except as provided in paragraph (5), the regional value-content of a good shall be calculated, at the choice of the exporter or producer of the good, on the basis of—

(A) the transaction value method described in paragraph (2); or

(B) the net cost method described in paragraph (3).

(2) TRANSACTION VALUE METHOD.—

(A) IN GENERAL.—An exporter or producer may calculate the regional value-content of a good on the basis of the following transaction value method:

$$RVC = \frac{TV-VNM}{TV} \qquad 100$$

(B) DEFINITIONS.—For purposes of subparagraph (A):

(i) The term "RVC" means the regional value-content, expressed as a percentage.

(ii) The term "TV" means the transaction value of the good adjusted to a F.O.B. basis.

(iii) The term "VNM" means the value of nonoriginating materials used by the producer in the production of the good.

(3) NET COST METHOD.—

(A) IN GENERAL.—An exporter or producer may calculate the regional value-content of a good on the basis of the following net cost method:

$$RVC = \frac{NC-VNM}{NC} \qquad 100$$

(B) DEFINITIONS.—For purposes of subparagraph (A):

(i) The term "RVC" means the regional value-content, expressed as a percentage.

(ii) The term "NC" means the net cost of the good.

(iii) The term "VNM" means the value of nonoriginating materials used by the producer in the production of the good.

(4) VALUE OF NONORIGINATING MATERIALS USED IN ORIGINATING MATERIALS.—Except as provided in subsection (c)(1), and for a motor vehicle identified in subsection (c)(2) or a component identified in Annex 403.2 of the Agreement, the value of nonoriginating materials used by the producer in the production of a good shall not, for purposes of calculating the regional value-content of the good under paragraph (2) or (3), include the value of nonoriginating materials used to produce originating materials that are subsequently used in the production of the good.

(5) NET COST METHOD MUST BE USED IN CERTAIN CASES.—An exporter or producer shall calculate the regional value-content of a good solely on the basis of the net cost method described in paragraph (3), if—

(A) there is no transaction value for the good;

(B) the transaction value of the good is unacceptable under Article 1 of the Customs Valuation Code;

(C) the good is sold by the producer to a related person and the volume, by units of quantity, of sales of identical or similar goods to related persons during the six-month period immediately preceding the month in which the good is sold exceeds 85 percent of the producer's total sales of such goods during that period;

(D) the good is—

(i) a motor vehicle provided for in heading 8701 or 8702, subheadings 8703.21 through 8703.90, or heading 8704, 8705, or 8706;

(ii) identified in Annex 403.1 or 403.2 of the Agreement and is for use in a motor vehicle provided for in heading 8701 or 8702, subheadings 8703.21 through 8703.90, or heading 8704, 8705, or 8706;

(iii) provided for in subheadings 6401.10 through 6406.10; or

(iv) a word processing machine provided for in subheading 8469.10.00;

(E) the exporter or producer chooses to accumulate the regional value-content of the good in accordance with subsection (d); or

(F) the good is designated as an intermediate material under paragraph (10) and is subject to a regional value-content requirement.

(6) NET COST METHOD ALLOWED FOR ADJUSTMENTS.—If an exporter or producer of a good calculates the regional value-content of the good on the basis of the transaction value method and a NAFTA country subsequently notifies the exporter or producer, during the course of a verification conducted in accordance with chapter 5 of the Agreement, that the transaction value of the good or the value of any material used in the production of the good must be adjusted or is unacceptable under Article 1 of the Customs Valuation Code, the exporter or producer may calculate the regional value-content of the good on the basis of the net cost method.

(7) REVIEW OF ADJUSTMENT.—Nothing in paragraph (6) shall be construed to prevent any review or appeal available in accordance with article 510 of the Agreement with respect to an adjustment to or a rejection of—

(A) the transaction value of a good; or

(B) the value of any material used in the production of a good.

(8) CALCULATING NET COST.—The producer may, consistent with regulations implementing this section, calculate the net cost of a good under paragraph (3), by—

(A) calculating the total cost incurred with respect to all goods produced by that producer, subtracting any sales promotion, marketing and after-sales service costs, royalties, shipping and packing costs, and nonallowable interest costs that are included in the total cost of all such goods, and reasonably allocating the resulting net cost of those goods to the good;

(B) calculating the total cost incurred with respect to all goods produced by that producer, reasonably allocating the total cost to the good, and subtracting any sales promotion, marketing and after-sales service costs, royalties, shipping and packing costs, and nonallowable interest costs that are included in the portion of the total cost allocated to the good; or

(C) reasonably allocating each cost that is part of the total cost incurred with respect to the good so that the aggregate of these costs does not include any sales promotion, marketing and after-sales service costs, royalties, shipping and packing costs, or nonallowable interest costs.

(9) VALUE OF MATERIAL USED IN PRODUCTION.—Except as provided in paragraph (11), the value of a material used in the production of a good—

(A) shall—

(i) be the transaction value of the material determined in accordance with Article 1 of the Customs Valuation Code; or

(ii) in the event that there is no transaction value or the transaction value of the material is unacceptable under Article 1 of the Customs Valuation Code, be determined in accordance with Articles 2 through 7 of the Customs Valuation Code; and

(B) if not included under clause (i) or (ii) of subparagraph (A), shall include—

(i) freight, insurance, packing, and all other costs incurred in transporting the material to the location of the producer;

(ii) duties, taxes, and customs brokerage fees paid on the material in the territory of one or more of the NAFTA countries; and

(iii) the cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of renewable scrap or by-product.

(10) INTERMEDIATE MATERIAL.—Except for goods described in subsection (c)(1), any self-produced material, other than a component identified in Annex 403.2 of the Agreement, that is used in the production of a good may be designated by the producer of the good as an intermediate material for the purpose of calculating the regional value-content of the good under paragraph (2) or (3); provided that if the intermediate material is subject to a regional value-content requirement, no other self-produced material that is subject to a regional value-content requirement and is used in the production of the intermediate material may be designated by the producer as an intermediate material.

(11) VALUE OF INTERMEDIATE MATERIAL.—The value of an intermediate material shall be—

(A) the total cost incurred with respect to all goods produced by the producer of the good that can be reasonably allocated to the intermediate material; or

(B) the aggregate of each cost that is part of the total cost incurred with respect to the intermediate material that can be reasonably allocated to that intermediate material.

(12) INDIRECT MATERIAL.—The value of an indirect material shall be based on the Generally Accepted Accounting Principles applicable in the territory of the NAFTA country in which the good is produced.

(c) AUTOMOTIVE GOODS.—

(1) PASSENGER VEHICLES AND LIGHT TRUCKS, AND THEIR AUTOMOTIVE PARTS.—For purposes of calculating the regional value-content under the net cost method for—

(A) a good that is a motor vehicle for the transport of 15 or fewer persons provided for in subheading 8702.10.00 or 8702.90.00, or a motor vehicle provided for in subheadings 8703.21 through 8703.90, or subheading 8704.21 or 8704.31, or

(B) a good provided for in the tariff provisions listed in Annex 403.1 of the Agreement, that is subject to a regional value-content requirement and is for use as original equipment in the production of a motor vehicle for the transport of 15 or fewer persons provided for in subheading 8702.10.00 or 8702.90.00, or a motor vehicle provided for in subheadings 8703.21 through 8703.90, or subheading 8704.21 or 8704.31,

the value of nonoriginating materials used by the producer in the production of the good shall be the sum of the values of all nonoriginating materials, determined in accordance with subsection (b)(9) at the time the nonoriginating materials are received by the first person in the territory of a NAFTA country who takes title to them, that are imported from outside the territories of the NAFTA countries under the tariff provisions listed in Annex 403.1 of the Agreement and are used in the production of the good or that are used in the production of any material used in the production of the good.

(2) OTHER VEHICLES AND THEIR AUTOMOTIVE PARTS.—For purposes of calculating the regional value-content under the net cost method for a good that is a motor vehicle provided for in heading 8701, subheading 8704.10, 8704.22, 8704.23, 8704.32, or 8704.90, or heading 8705 or 8706, a motor vehicle for the transport of 16 or more persons provided for in subheading 8702.10.00 or 8702.90.00, or a component identified in Annex 403.2 of the Agreement for use as original equipment in the production of the motor vehicle, the value of nonoriginating materials used by the producer in the production of the good shall be the sum of—

(A) for each material used by the producer listed in Annex 403.2 of the Agreement, whether or not produced by the producer, at the choice of the producer and determined in accordance with subsection (b), either—

(i) the value of such material that is nonoriginating, or

(ii) the value of nonoriginating materials used in the production of such material; and

(B) the value of any other nonoriginating material used by the producer that is not listed in Annex 403.2 of the Agreement determined in accordance with subsection (b).

(3) AVERAGING PERMITTED.—

(A) IN GENERAL.—For purposes of calculating the regional value-content of a motor vehicle described in paragraph (1) or (2), the producer may average its calculation over its fiscal year, using any of the categories described in subparagraph (B), on the basis of either all motor vehicles in the category or on the basis of only the motor vehicles in the category that are exported to the territory of one or more of the other NAFTA countries.

(B) CATEGORY DESCRIBED.—A category is described in this subparagraph if it is—

(i) the same model line of motor vehicles in the same class of vehicles produced in the same plant in the territory of a NAFTA country;

(ii) the same class of motor vehicles produced in the same plant in the territory of a NAFTA country;

(iii) the same model line of motor vehicles produced in the territory of a NAFTA country; or

(iv) if applicable, the basis set out in Annex 403.3 of the Agreement.

(4) ANNEX 403.1 AND ANNEX 403.2.—For purposes of calculating the regional value-content for any or all goods provided for in a tariff provision listed in Annex 403.1 of the Agreement, or a component or material identified in Annex 403.2 of the Agreement, produced in the same plant, the producer of the good may—

(A) average its calculation—

(i) over the fiscal year of the motor vehicle producer to whom the good is sold;

(ii) over any quarter or month; or

(iii) over its fiscal year, if the good is sold as an aftermarket part;

(B) calculate the average referred to in subparagraph (A) separately for any or all goods sold to one or more motor vehicle producers; or

(C) with respect to any calculation under this paragraph, make a separate calculation for goods that are exported to the territory of one or more NAFTA countries.

(5) PHASE-IN OF REGIONAL VALUE-CONTENT REQUIREMENT.—Notwithstanding Annex 401 of the Agreement, and except as provided in paragraph (6), the regional value-content requirement shall be—

(A) for a producer's fiscal year beginning on the day closest to January 1, 1998, and thereafter, 56 percent calculated under the net cost method, and for a producer's fiscal year beginning on the day closest to January 1, 2002, and thereafter, 62.5 percent calculated under the net cost method, for—

(i) a good that is a motor vehicle for the transport of 15 or fewer persons provided for in subheading 8702.10.00 or 8702.90.00, or a motor vehicle provided for in subheadings 8703.21 through 8703.90, or subheading 8704.21 or 8704.31; and

(ii) a good provided for in heading 8407 or 8408, or subheading 8708.40, that is for use in a motor vehicle identified in clause (i); and

(B) for a producer's fiscal year beginning on the day closest to January 1, 1998, and thereafter, 55 percent calculated under the net cost method, and for a producer's fiscal year beginning on the day closest to January 1, 2002, and thereafter, 60 percent calculated under the net cost method, for—

(i) a good that is a motor vehicle provided for in heading 8701, subheading 8704.10, 8704.22, 8704.23, 8704.32, or 8704.90, or heading 8705 or 8706, or a motor vehicle for the transport of 16 or more persons provided for in subheading 8702.10.00 or 8702.90.00;

(ii) a good provided for in heading 8407 or 8408, or subheading 8708.40 that is for use in a motor vehicle identified in clause (i); and

(iii) except for a good identified in subparagraph (A)(ii) or a good provided for in subheadings 8482.10 through 8482.80, or subheading 8483.20 or 8483.30, a good identified in Annex 403.1 of the Agreement that is subject to a regional value-content requirement and is for use in a motor vehicle identified in subparagraph (A)(i) or (B)(i).

(6) NEW AND REFITTED PLANTS.—The regional value-content requirement for a motor vehicle identified in paragraph (1) or (2) shall be—

(A) 50 percent for 5 years after the date on which the first motor vehicle prototype is produced in a plant by a motor vehicle assembler, if—

(i) it is a motor vehicle of a class, or marque, or, except for a motor vehicle identified in paragraph (2), size category and underbody, not previously produced by the motor vehicle assembler in the territory of any of the NAFTA countries;

(ii) the plant consists of a new building in which the motor vehicle is assembled; and

(iii) the plant contains substantially all new machinery that is used in the assembly of the motor vehicle; or

(B) 50 percent for 2 years after the date on which the first motor vehicle prototype is produced at a plant following a refit, if it is a motor vehicle of a class, or marque, or, except for a motor vehicle identified in paragraph (2), size category and underbody, different from that assembled by the motor vehicle assembler in the plant before the refit.

(7) ELECTION FOR CERTAIN VEHICLES FROM CANADA.—In the case of goods provided for in subheadings 8703.21 through 8703.90, or subheading 8704.21 or 8704.31, exported from Canada directly to the United States, and entered on or after January 1, 1989, and before the date of entry into force of the Agreement between the United States and Canada, an importer may elect to use the rules of origin set out in this section in lieu of the rules of origin contained in section 202 of the United States-Canada Free-Trade Agreement Implementation Act of 1988 (19 U.S.C. 2112 note) and may elect to use the method for calculating the value of nonoriginating materials established in article 403(2) of the Agreement in lieu of the method established in article 403(1) of the Agreement for purposes of determining eligibility for preferential duty treatment under the United States-Canada Free-Trade Agreement. Any election under this paragraph shall be made in writing to the Customs Service not later than the date that is 180 days after the date

of entry into force of the Agreement between the United States and Canada. Any such election may be made only if the liquidation of such entry has not become final. For purposes of averaging the calculation of regional value-content for the goods covered by such entry, where the producer's 1989–1990 fiscal year began after January 1, 1989, the producer may include the period between January 1, 1989, and the beginning of its first fiscal year after January 1, 1989, as part of fiscal year 1989–1990.

(d) ACCUMULATION.—

(1) DETERMINATION OF ORIGINATING GOOD.—For purposes of determining whether a good is an originating good, the production of the good in the territory of one or more of the NAFTA countries by one or more producers shall, at the choice of the exporter or producer of the good, be considered to have been performed in the territory of any of the NAFTA countries by that exporter or producer, if—

(A) all nonoriginating materials used in the production of the good undergo an applicable tariff classification change set out in Annex 401 of the Agreement;

(B) the good satisfies any applicable regional value-content requirement; and

(C) the good satisfies all other applicable requirements of this section.

The requirements of subparagraphs (A) and (B) must be satisfied entirely in the territory of one or more of the NAFTA countries.

(2) TREATMENT AS SINGLE PRODUCER.—For purposes of subsection (b)(10), the production of a producer that chooses to accumulate its production with that of other producers under paragraph (1) shall be treated as the production of a single producer.

(e) DE MINIMIS AMOUNTS OF NONORIGINATING MATERIALS.—

(1) IN GENERAL.—Except as provided in paragraphs (3), (4), (5), and (6), a good shall be considered to be an originating good if—

(A) the value of all nonoriginating materials used in the production of the good that do not undergo an applicable change in tariff classification (set out in Annex 401 of the Agreement) is not more than 7 percent of the transaction value of the good, adjusted to a F.O.B. basis, or

(B) where the transaction value of the good is unacceptable under Article 1 of the Customs Valuation Code, the value of all such nonoriginating materials is not more than 7 percent of the total cost of the good,

provided that the good satisfies all other applicable requirements of this section and, if the good is subject to a regional value-content requirement, the value of such nonoriginating materials is taken into account in calculating the regional value-content of the good.

(2) GOODS NOT SUBJECT TO REGIONAL VALUE-CONTENT REQUIREMENT.—A good that is otherwise subject to a regional value-content requirement shall not be required to satisfy such requirement if—

(A)(i) the value of all nonoriginating materials used in the production of the good is not more than 7 percent of the transaction value of the good, adjusted to a F.O.B. basis; or

(ii) where the transaction value of the good is unacceptable under Article 1 of the Customs Valuation Code, the value of all nonoriginating materials is not more than 7 percent of the total cost of the good; and

(B) the good satisfies all other applicable requirements of this section.

(3) DAIRY PRODUCTS, ETC.—Paragraph (1) does not apply to—

(A) a nonoriginating material provided for in chapter 4 of the HTS or a dairy preparation containing over 10 percent by weight of milk solids provided for in subheading 1901.90.30, 1901.90.40, or 1901.90.80 that is used in the production of a good provided for in chapter 4 of the HTS;

(B) a nonoriginating material provided for in chapter 4 of the HTS or a dairy preparation containing over 10 percent by weight of milk solids provided for in subheading 1901.90.30, 1901.90.40, or 1901.90.80 that is used in the production of—

(i) preparations for infants containing over 10 percent by weight of milk solids provided for in subheading 1901.10.00;

(ii) mixes and doughs, containing over 25 percent by weight of butterfat, not put up for retail sale, provided for in subheading 1901.20.00;

(iii) a dairy preparation containing over 10 percent by weight of milk solids provided for in subheading 1901.90.30, 1901.90.40, or 1901.90.80;

(iv) a good provided for in heading 2105 or subheading 2106.90.05, or preparations containing over 10 percent by weight of milk solids provided for in subheading 2106.90.15, 2106.90.40, 2106.90.50, or 2106.90.65;

(v) a good provided for in subheading 2202.90.10 or 2202.90.20; or

(vi) animal feeds containing over 10 percent by weight of milk solids provided for in subheading 2309.90.30;

(C) a nonoriginating material provided for in heading 0805 or subheadings 2009.11 through 2009.30 that is used in the production of—

(i) a good provided for in subheadings 2009.11 through 2009.30, or subheading 2106.90.16, or concentrated fruit or vegetable juice of any single fruit or vegetable, fortified with minerals or vitamins, provided for in subheading 2106.90.19; or

(ii) a good provided for in subheading 2202.90.30 or 2202.90.35, or fruit or vegetable juice of any single fruit or vegetable, fortified with minerals or vitamins, provided for in subheading 2202.90.36;

(D) a nonoriginating material provided for in chapter 9 of the HTS that is used in the production of instant coffee, not flavored, provided for in subheading 2101.10.20;

(E) a nonoriginating material provided for in chapter 15 of the HTS that is used in the production of a good provided for in headings 1501 through 1508, or heading 1512, 1514, or 1515;

(F) a nonoriginating material provided for in heading 1701 that is used in the production of a good provided for in headings 1701 through 1703;

(G) a nonoriginating material provided for in chapter 17 of the HTS or heading 1805 that is used in the production of a good provided for in subheading 1806.10;

(H) a nonoriginating material provided for in headings 2203 through 2208 that is used in the production of a good provided for in headings 2207 through 2208;

(I) a nonoriginating material used in the production of—

(i) a good provided for in subheading 7321.11.30;

(ii) a good provided for in subheading 8415.10, subheadings 8415.81 through 8415.83, subheadings 8418.10 through 8418.21, subheadings 8418.29 through 8418.40, subheading 8421.12 or 8422.11, subheadings 8450.11 through 8450.20, or subheadings 8451.21 through 8451.29;

(iii) trash compactors provided for in subheading 8479.89.60; or

(iv) a good provided for in subheading 8516.60.40; and

(J) a printed circuit assembly that is a nonoriginating material used in the production of a good where the applicable change in tariff classification for the good, as set out in Annex 401 of the Agreement, places restrictions on the use of such nonoriginating material.

(4) CERTAIN FRUIT JUICES.—Paragraph (1) does not apply to a nonoriginating single juice ingredient provided for in heading 2009 that is used in the production of—

(A) a good provided for in subheading 2009.90, or concentrated mixtures of fruit or vegetable juice, fortified with minerals or vitamins, provided for in subheading 2106.90.19; or

(B) mixtures of fruit or vegetable juices, fortified with minerals or vitamins, provided for in subheading 2202.90.39.

(5) GOODS PROVIDED FOR IN CHAPTERS 1 THROUGH 27 OF THE HTS.—Paragraph (1) does not apply to a nonoriginating material used in the production of a good provided for in chapters 1 through 27 of the HTS unless the nonoriginating material is provided for in a different subheading than the good for which origin is being determined under this section.

(6) GOODS PROVIDED FOR IN CHAPTERS 50 THROUGH 63 OF THE HTS.—A good provided for in chapters 50 through 63 of the HTS, that does not originate because certain fibers or yarns used in the production of the component of the good that determines the tariff classification of the good do not undergo an applicable change in tariff classification set out in Annex 401 of the Agreement, shall be considered to be a good that originates if the total weight of all such fibers or yarns in that component is not more than 7 percent of the total weight of that component.

(f) FUNGIBLE GOODS AND MATERIALS.—For purposes of determining whether a good is an originating good—

(1) if originating and nonoriginating fungible materials are used in the production of the good, the determination of whether the materials are originating need not be made through the identification of any specific fungible material, but may be determined on the basis of any of the inventory management methods set out in regulations implementing this section; and

(2) if originating and nonoriginating fungible goods are commingled and exported in the same form, the determination may be made on the basis of any of the inventory management methods set out in regulations implementing this section.

(g) ACCESSORIES, SPARE PARTS, OR TOOLS.—

(1) IN GENERAL.—Except as provided in paragraph (2), accessories, spare parts, or tools delivered with the good that form part of the good's standard accessories, spare parts, or tools shall—

(A) be considered as originating goods if the good is an originating good, and

(B) be disregarded in determining whether all the nonoriginating materials used in the production of the good undergo an applicable change in tariff classification set out in Annex 401 of the Agreement.

(2) CONDITIONS.—Paragraph (1) shall apply only if—

(A) the accessories, spare parts, or tools are not invoiced separately from the good;

(B) the quantities and value of the accessories, spare parts, or tools are customary for the good; and

(C) in any case in which the good is subject to a regional value-content requirement, the value of the accessories, spare parts, or tools are taken into account as originating or nonoriginating materials, as the case may be, in calculating the regional value-content of the good.

(h) INDIRECT MATERIALS.—An indirect material shall be considered to be an originating material without regard to where it is produced.

(i) PACKAGING MATERIALS AND CONTAINERS FOR RETAIL SALE.—Packaging materials and containers in which a good is packaged for retail sale, if classified with the good, shall be disregarded in determining whether all the nonoriginating materials used in the production of the good undergo an applicable change in tariff classification set out in Annex 401 of the Agreement. If the good is subject to a regional value-content requirement, the value of such packaging materials and containers shall be taken into account as originating or nonoriginating materials, as the case may be, in calculating the regional value-content of the good.

(j) PACKING MATERIALS AND CONTAINERS FOR SHIPMENT.—Packing materials and containers in which a good is packed for shipment shall be disregarded—

(1) in determining whether the nonoriginating materials used in the production of the good undergo an applicable change in tariff classification set out in Annex 401 of the Agreement; and

(2) in determining whether the good satisfies a regional value-content requirement.

(k) TRANSSHIPMENT.—A good shall not be considered to be an originating good by reason of having undergone production that satisfies the requirements of subsection (a) if, subsequent to that production, the good undergoes further production or any other operation outside the territories of the NAFTA countries, other than unloading, reloading, or any other operation necessary to preserve it in good condition or to transport the good to the territory of a NAFTA country.

(l) NONQUALIFYING OPERATIONS.—A good shall not be considered to be an originating good merely by reason of—

(1) mere dilution with water or another substance that does not materially alter the characteristics of the good; or

(2) any production or pricing practice with respect to which it may be demonstrated, by a preponderance of evidence, that the object was to circumvent this section.

(m) INTERPRETATION AND APPLICATION.—For purposes of this section:

(1) The basis for any tariff classification is the HTS.

(2) Except as otherwise expressly provided, whenever in this section there is a reference to a heading or subheading such reference shall be a reference to a heading or subheading of the HTS.

(3) In applying subsection (a)(4), the determination of whether a heading or subheading under the HTS provides for and specifically describes both a good and its parts shall be made on the basis of the nomenclature of the heading or subheading, the rules of interpretation, or notes of the HTS.

(4) In applying the Customs Valuation Code—

(A) the principles of the Customs Valuation Code shall apply to domestic transactions, with such modifications as may be required by the circumstances, as would apply to international transactions;

(B) the provisions of this section shall take precedence over the Customs Valuation Code to the extent of any difference; and

(C) the definitions in subsection (o) shall take precedence over the definitions in the Customs Valuation Code to the extent of any difference.

(5) All costs referred to in this section shall be recorded and maintained in accordance with the Generally Accepted Accounting Principles applicable in the territory of the NAFTA country in which the good is produced.

(n) ORIGIN OF AUTOMATIC DATA PROCESSING GOODS.—Notwithstanding any other provision of this section, when the NAFTA countries apply the most-favored-nation rate of duty described in paragraph 1 of section A of Annex 308.1 of the Agreement to a good provided for under the tariff provisions set out in Table 308.1.1 of such Annex, the good shall, upon importation from a NAFTA country, be deemed to originate in the territory of a NAFTA country for purposes of this section.

(o) SPECIAL RULE FOR CERTAIN AGRICULTURAL PRODUCTS.—Notwithstanding any other provision of this section, for purposes of applying a rate of duty to a good provided for in—

(1) heading 1202 that is exported from the territory of Mexico, if the good is not wholly obtained in the territory of Mexico,

(2) subheading 2008.11 that is exported from the territory of Mexico, if any material provided for in heading 1202 used in the production of that good is not wholly obtained in the territory of Mexico, or

(3) subheading 1806.10.42 or 2106.90.12 that is exported from the territory of Mexico, if any material provided for in subheading 1701.99 used in the production of that good is not a qualifying good,

such good shall be treated as a nonoriginating good and, for purposes of this subsection, the terms "qualifying good" and "wholly obtained in the territory of" have the meaning given such terms in paragraph 26 of section A of Annex 703.2 of the Agreement.

(p) DEFINITIONS.—For purposes of this section—

(1) CLASS OF MOTOR VEHICLES.—The term "class of motor vehicles" means any one of the following categories of motor vehicles:

(A) Motor vehicles provided for in subheading 8701.20, subheading 8704.10, 8704.22, 8704.23, 8704.32, or 8704.90, or heading 8705 or 8706, or motor vehicles designed for the transport of 16 or more persons provided for in subheading 8702.10.00 or 8702.90.00.

(B) Motor vehicles provided for in subheading 8701.10, or subheadings 8701.30 through 8701.90.

(C) Motor vehicles for the transport of 15 or fewer persons provided for in subheading 8702.10.00 or 8702.90.00, or motor vehicles provided for in subheading 8704.21 or 8704.31.

(D) Motor vehicles provided for in subheadings 8703.21 through 8703.90.

(2) CUSTOMS VALUATION CODE.—The term "Customs Valuation Code" means the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade, including its interpretative notes.

(3) F.O.B.—The term "F.O.B." means free on board, regardless of the mode of transportation, at the point of direct shipment by the seller to the buyer.

(4) FUNGIBLE GOODS AND FUNGIBLE MATERIALS.—The terms "fungible goods" and "fungible materials" mean goods or materials that are interchangeable for commercial purposes and whose properties are essentially identical.

(5) GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.—The term "Generally Accepted Accounting Principles" means the recognized consensus or substantial authoritative support in the territory of a NAFTA country with respect to the recording of revenues, expenses, costs, assets and liabilities, disclosure of information, and preparation of financial statements. These standards may be broad guidelines of general application as well as detailed standards, practices, or procedures.

(6) GOODS WHOLLY OBTAINED OR PRODUCED ENTIRELY IN THE TERRITORY OF ONE OR MORE OF THE NAFTA COUNTRIES.—The term "goods wholly obtained or produced entirely in the territory of one or more of the NAFTA countries" means—

(A) mineral goods extracted in the territory of one or more of the NAFTA countries;

(B) vegetable goods harvested in the territory of one or more of the NAFTA countries;

(C) live animals born and raised in the territory of one or more of the NAFTA countries;

(D) goods obtained from hunting, trapping, or fishing in the territory of one or more of the NAFTA countries;

(E) goods (such as fish, shellfish, and other marine life) taken from the sea by vessels registered or recorded with a NAFTA country and flying its flag;

(F) goods produced on board factory ships from the goods referred to in subparagraph (E), if such factory ships are registered or recorded with that NAFTA country and fly its flag;

(G) goods taken by a NAFTA country or a person of a NAFTA country from the seabed or beneath the seabed outside territorial waters, provided that a NAFTA country has rights to exploit such seabed;

(H) goods taken from outer space, if the goods are obtained by a NAFTA country or a person of a NAFTA country and not processed in a country other than a NAFTA country;

(I) waste and scrap derived from—

(i) production in the territory of one or more of the NAFTA countries; or

(ii) used goods collected in the territory of one or more of the NAFTA countries, if such goods are fit only for the recovery of raw materials; and

(J) goods produced in the territory of one or more of the NAFTA countries exclusively from goods referred to in subparagraphs (A) through (I), or from their derivatives, at any stage of production.

(7) IDENTICAL OR SIMILAR GOODS.—The term "identical or similar goods" means "identical goods" and "similar goods", respectively, as defined in the Customs Valuation Code.

(8) INDIRECT MATERIAL.—

(A) The term "indirect material" means a good—

(i) used in the production, testing, or inspection of a good but not physically incorporated into the good, or

(ii) used in the maintenance of buildings or the operation of equipment associated with the production of a good,

in the territory of one or more of the NAFTA countries.

(B) When used for a purpose described in subparagraph (A), the following materials are among those considered to be indirect materials:

(i) Fuel and energy.

(ii) Tools, dies, and molds.

(iii) Spare parts and materials used in the maintenance of equipment and buildings.

(iv) Lubricants, greases, compounding materials, and other materials used in production or used to operate equipment and buildings.

(v) Gloves, glasses, footwear, clothing, safety equipment, and supplies.

(vi) Equipment, devices, and supplies used for testing or inspecting the goods.

(vii) Catalysts and solvents.

(viii) Any other goods that are not incorporated into the good, if the use of such goods in the production of the good can reasonably be demonstrated to be a part of that production.

(9) INTERMEDIATE MATERIAL.—The term "intermediate material" means a material that is self-produced, used in the production of a good, and designated pursuant to subsection (b)(10).

(10) MARQUE.—The term "marque" means the trade name used by a separate marketing division of a motor vehicle assembler.

(11) MATERIAL.—The term "material" means a good that is used in the production of another good and includes a part or an ingredient.

(12) MODEL LINE.—The term "model line" means a group of motor vehicles having the same platform or model name.

(13) MOTOR VEHICLE ASSEMBLER.—The term "motor vehicle assembler" means a producer of motor vehicles and any related persons or joint ventures in which the producer participates.

(14) NAFTA COUNTRY.—The term "NAFTA country" means the United States, Canada or Mexico for such time as the Agreement is in force with respect to Canada or Mexico, and the United States applies the Agreement to Canada or Mexico.

(15) NEW BUILDING.—The term "new building" means a new construction, including at least the pouring or construction of new foundation and floor, the erection of a new structure and roof, and installation of new plumbing, electrical, and other utilities to house a complete vehicle assembly process.

(16) NET COST.—The term "net cost" means total cost less sales promotion, marketing and after-sales service costs, royalties, shipping and packing costs, and nonallowable interest costs that are included in the total cost.

(17) NET COST OF A GOOD.—The term "net cost of a good" means the net cost that can be reasonably allocated to a good using one of the methods set out in subsection (b)(8).

(18) NONALLOWABLE INTEREST COSTS.—The term "nonallowable interest costs" means interest costs incurred by a producer as a result of an interest rate that exceeds the applicable federal government interest rate for comparable maturities by more than 700 basis points, determined pursuant to regulations implementing this section.

(19) NONORIGINATING GOOD; NONORIGINATING MATERIAL.—The term "nonoriginating good" or "nonoriginating material" means a good or material that does not qualify as an originating good or material under the rules of origin set out in this section.

(20) ORIGINATING.—The term "originating" means qualifying under the rules of origin set out in this section.

(21) PRODUCER.—The term "producer" means a person who grows, mines, harvests, fishes, traps, hunts, manufactures, processes, or assembles a good.

(22) PRODUCTION.—The term "production" means growing, mining, harvesting, fishing, trapping, hunting, manufacturing, processing, or assembling a good.

(23) REASONABLY ALLOCATE.—The term "reasonably allocate" means to apportion in a manner appropriate to the circumstances.

(24) REFIT.—The term "refit" means a plant closure, for purposes of plant conversion or retooling, that lasts at least 3 months.

(25) RELATED PERSONS.—The term "related persons" means persons specified in any of the following subparagraphs:

(A) Persons who are officers or directors of one another's businesses.

(B) Persons who are legally recognized partners in business.

(C) Persons who are employer and employee.

(D) Persons one of whom owns, controls, or holds 25 percent or more of the outstanding voting stock or shares of the other.

(E) Persons if 25 percent or more of the outstanding voting stock or shares of each of them is directly or indirectly owned, controlled, or held by a third person.

(F) Persons one of whom is directly or indirectly controlled by the other.

(G) Persons who are directly or indirectly controlled by a third person.

(H) Persons who are members of the same family.

For purposes of this paragraph, the term "members of the same family" means natural or adoptive children, brothers, sisters, parents, grandparents, or spouses.

(26) ROYALTIES.—The term "royalties" means payments of any kind, including payments under technical assistance or similar agreements, made as consideration for the use or right to use any copyright, literary, artistic, or scientific work, patent, trademark, design, model, plan, secret formula, or process. It does not include payments under technical assistance or similar agreements that can be related to specific services such as—

(A) personnel training, without regard to where performed; and

(B) if performed in the territory of one or more of the NAFTA countries, engineering, tooling, die-setting, software design and similar computer services, or other services.

(27) SALES PROMOTION, MARKETING, AND AFTER-SALES SERVICE COSTS.—The term "sales promotion, marketing, and after-sales service costs" means the costs related to sales promotion, marketing, and after-sales service for the following:

(A) Sales and marketing promotion, media advertising, advertising and market research, promotional and demonstration materials, exhibits, sales conferences, trade shows, conventions, banners, marketing displays, free samples, sales, marketing and after-sales service literature (product brochures, catalogs, technical literature, price lists, service manuals, sales aid information), establishment and protection of logos and trademarks, sponsorships, wholesale and retail restocking charges, and entertainment.

(B) Sales and marketing incentives, consumer, retailer, or wholesaler rebates, and merchandise incentives.

(C) Salaries and wages, sales commissions, bonuses, benefits (such as medical, insurance, and pension), traveling and living expenses, and membership and professional fees for sales promotion, marketing, and after-sales service personnel.

(D) Recruiting and training of sales promotion, marketing, and after-sales service personnel, and after-sales training of customers' employees, where such costs are identified separately for sales promotion, marketing, and after-sales service of goods on the financial statements or cost accounts of the producer.

(E) Product liability insurance.

(F) Office supplies for sales promotion, marketing, and after-sales service of goods, where such costs are identified separately for sales promotion, marketing, and after-sales service of goods on the financial statements or cost accounts of the producer.

(G) Telephone, mail, and other communications, where such costs are identified separately for sales promotion, marketing, and after-sales service of goods on the financial statements or cost accounts of the producer.

(H) Rent and depreciation of sales promotion, marketing, and after-sales service offices and distribution centers.

(I) Property insurance, taxes, utilities, and repair and maintenance of sales promotion, marketing, and after-sales service offices and distribution centers, where such costs are identified separately for sales promotion, marketing, and after-sales service of goods on the financial statements or cost accounts of the producer.

(J) Payments by the producer to other persons for warranty repairs.

(28) SELF-PRODUCED MATERIAL.—The term "self-produced material" means a material that is produced by the producer of a good and used in the production of that good.

(29) SHIPPING AND PACKING COSTS.—The term "shipping and packing costs" means the costs incurred in packing a good for shipment and shipping the good from the point of direct shipment to the buyer, but does not include the costs of preparing and packaging the good for retail sale.

(30) SIZE CATEGORY.—The term "size category" means with respect to a motor vehicle identified in subsection (c)(1)(A)—

(A) 85 cubic feet or less of passenger and luggage interior volume;

(B) more than 85 cubic feet, but less than 100 cubic feet, of passenger and luggage interior volume;

(C) at least 100 cubic feet, but not more than 110 cubic feet, of passenger and luggage interior volume;

(D) more than 110 cubic feet, but less than 120 cubic feet, of passenger and luggage interior volume; and

(E) 120 cubic feet or more of passenger and luggage interior volume.

(31) TERRITORY.—The term "territory" means a territory described in Annex 201.1 of the Agreement.

(32) TOTAL COST.—The term "total cost" means all product costs, period costs, and other costs incurred in the territory of one or more of the NAFTA countries.

(33) TRANSACTION VALUE.—Except as provided in subsection (c)(1) or (c)(2)(A), the term "transaction value" means the price actually paid or payable for a good or material with respect to a transaction of the producer of the good, adjusted in accordance with the principles of paragraphs 1, 3, and 4 of Article 8 of the Customs Valuation Code and determined without regard to whether the good or material is sold for export.

(34) UNDERBODY.—The term "underbody" means the floor pan of a motor vehicle.

(35) USED.—The term "used" means used or consumed in the production of goods.

(q) PRESIDENTIAL PROCLAMATION AUTHORITY.—

(1) IN GENERAL.—The President is authorized to proclaim, as a part of the HTS—

(A) the provisions set out in Appendix 6.A of Annex 300–B, Annex 401, Annex 403.1, Annex 403.2, and Annex 403.3, of the Agreement, and

(B) any additional subordinate category necessary to carry out this title consistent with the Agreement.

(2) MODIFICATIONS.—Subject to the consultation and layover requirements of section 103, the President may proclaim—

(A) modifications to the provisions proclaimed under the authority of paragraph (1)(A), other than the provisions of paragraph A of Appendix 6 of Annex 300–B and section XI of part B of Annex 401 of the Agreement; and

(B) a modified version of the definition of any term set out in subsection (p) (and such modified version of the definition shall supersede the version in subsection (p)), but only if the modified version reflects solely those modifications to the same term in article 415 of the Agreement that are agreed to by the NAFTA countries before the 1st anniversary of the date of the enactment of this Act.

(3) SPECIAL RULES FOR TEXTILES.—Notwithstanding the provisions of paragraph (2)(A), and subject to the consultation and layover requirements of section 103, the President may proclaim—

(A) modifications to the provisions proclaimed under the authority of paragraph (1)(A) as are necessary to implement an agreement with one or more of the NAFTA countries pursuant to paragraph 2 of section 7 of Annex 300-B of the Agreement, and

(B) before the 1st anniversary of the date of the enactment of this Act, modifications to correct any typographical, clerical, or other nonsubstantive technical error regarding the provisions of Appendix 6.A of Annex 300-B and section XI of part B of Annex 401 of the Agreement.

SEC. 203. DRAWBACK.

(a) DEFINITION OF A GOOD SUBJECT TO NAFTA DRAWBACK.—For purposes of this Act and the amendments made by subsection (b), the term "good subject to NAFTA drawback" means any imported good other than the following:

(1) A good entered under bond for transportation and exportation to a NAFTA country.

(2) A good exported to a NAFTA country in the same condition as when imported into the United States. For purposes of this paragraph—

(A) processes such as testing, cleaning, repacking, or inspecting a good, or preserving it in its same condition, shall not be considered to change the condition of the good, and

(B) except for a good referred to in paragraph 12 of section A of Annex 703.2 of the Agreement that is exported to Mexico, if a good described in the first sentence of this paragraph is commingled with fungible goods and exported in the same condition, the origin of the good may be determined on the basis of the inventory methods provided for in the regulations implementing this title.

(3) A good—

(A) that is—

(i) deemed to be exported from the United States,

(ii) used as a material in the production of another good that is deemed to be exported to a NAFTA country, or

(iii) substituted for by a good of the same kind and quality that is used as a material in the production of another good that is deemed to be exported to a NAFTA country, and

(B) that is delivered—

(i) to a duty-free shop,

(ii) for ship's stores or supplies for ships or aircraft, or

(iii) for use in a project undertaken jointly by the United States and a NAFTA country and destined to become the property of the United States.

(4) A good exported to a NAFTA country for which a refund of customs duties is granted by reason of—

(A) the failure of the good to conform to sample or specification, or

(B) the shipment of the good without the consent of the consignee.

(5) A good that qualifies under the rules of origin set out in section 202 that is—

(A) exported to a NAFTA country,

(B) used as a material in the production of another good that is exported to a NAFTA country, or

(C) substituted for by a good of the same kind and quality that is used as a material in the production of another good that is exported to a NAFTA country.

(6) A good provided for in subheading 1701.11.02 of the HTS that is—

(A) used as a material, or

(B) substituted for by a good of the same kind and quality that is used as a material, in the production of a good provided for in existing Canadian tariff item 1701.99.00 or existing Mexican tariff item 1701.99.01 or 1701.99.99 (relating to refined sugar).

(7) A citrus product that is exported to Canada.

(8) A good used as a material, or substituted for by a good of the same kind and quality that is used as a material, in the production of—

(A) apparel, or

(B) a good provided for in subheading 6307.90.99 (insofar as it relates to furniture moving pads), 5811.00.20, or 5811.00.30 of the HTS,

that is exported to Canada and that is subject to Canada's most-favored-nation rate of duty upon importation into Canada.

Where in paragraph (6) a good referred to by an item is described in parentheses following the item, the description is provided for purposes of reference only.

(b) CONSEQUENTIAL AMENDMENTS WITH DELAYED EFFECT.—

(1) BONDED MANUFACTURING WAREHOUSES.—The last paragraph of section 311 of the Tariff Act of 1930 (19 U.S.C. 1311) is amended to read as follows:

"No article manufactured in a bonded warehouse from materials that are goods subject to NAFTA drawback, as defined in section 203(a) of the North American Free Trade Agreement Implementation Act, may be withdrawn from warehouse for exportation to a NAFTA country, as defined in section 2(4) of that Act, without assessment of a duty on the materials in their condition and quantity, and at their weight, at the time of importation into the United States. The duty shall be paid before the 61st day after the date of exportation, except that upon the presentation, before such 61st day, of satisfactory evidence of the amount of any customs duties paid to the NAFTA country on the article, the customs duty may be waived or reduced (subject to section 508(b)(2)(B)) in an amount that does not exceed the lesser of—

"(1) the total amount of customs duties paid or owed on the materials on importation into the United States, or

"(2) the total amount of customs duties paid on the article to the NAFTA country.

If Canada ceases to be a NAFTA country and the suspension of the operation of the United States-Canada Free-Trade Agreement thereafter terminates, no article manufactured in a bonded warehouse, except to the extent that such article is made from an article that is a drawback eligible good under section 204(a) of the United States-Canada Free-Trade Agreement Implementation Act of 1988, may be withdrawn from such warehouse for exportation to Canada during the period such Agreement is in operation without payment of a duty on such imported merchandise in its condition, and at the rate of duty in effect, at the time of importation.".

(2) BONDED SMELTING AND REFINING WAREHOUSES.—Section 312 of the Tariff Act of 1930 (19 U.S.C. 1312) is amended—

(A) in paragraphs (1) and (4) of subsection (b), by striking out the parenthetical matter and the final ", or" and by adding at the end the following:

"; except that in the case of a withdrawal for exportation of such a product to a NAFTA country, as defined in section 2(4) of the North American Free Trade Agreement Implementation Act, if any of the imported metal-bearing materials are goods subject to NAFTA drawback, as defined in section 203(a) of that Act, the duties on the materials shall be paid, and the charges against the bond canceled, before the 61st day after the date of exportation; but upon the presentation, before such 61st day, of satisfactory evidence of the amount of any customs duties paid to the NAFTA country on the product, the duties on the materials may be waived or reduced (subject to section 508(b)(2)(B)) in an amount that does not exceed the lesser of—

"(A) the total amount of customs duties owed on the materials on importation into the United States, or

"(B) the total amount of customs duties paid to the NAFTA country on the product, or";

(B) by adding at the end of subsection (b) the following new flush sentence.

"If Canada ceases to be a NAFTA country and the suspension of the operation of the United States-Canada Free-Trade Agreement thereafter terminates, no charges against such bond may be canceled in whole or part upon an exportation to Canada under paragraph (1) or (4) during the period such Agreement is in operation except to the extent that the metal-bearing materials were of Canadian origin as determined in accordance with section 202 of the United States-Canada Free-Trade Agreement Implementation Act of 1988."; and

(C) in subsection (d) by striking out the parenthetical matter and by inserting before the period the following:

"; except that in the case of a withdrawal for exportation to a NAFTA country, as defined in section 2(4) of the North American Free Trade Agreement Implementation Act, if any of the imported metal-bearing materials are goods subject to NAFTA drawback, as defined in section 203(a) of that Act, charges against the bond shall be paid before the 61st day after the date of exportation; but upon the presentation, before such 61st day, of satisfactory evidence of the amount of any customs duties paid to the NAFTA country on the product, the bond shall be credited (subject to section 508(b)(2)(B)) in an amount not to exceed the lesser of—

"(1) the total amount of customs duties paid or owed on the materials on importation into the United States, or

"(2) the total amount of customs duties paid to the NAFTA country on the product.

If Canada ceases to be a NAFTA country and the suspension of the operation of the United States-Canada Free-Trade Agreement thereafter terminates, no bond shall be credited under this subsection with respect to an exportation of a product to Canada during the period such Agreement is in operation except to the extent that the product is a drawback eligible good under section 204(a) of the United States-Canada Free Trade Agreement Implementation Act of 1988".

(3) DRAWBACK.—Subsections (n) and (o) of section 313 of the Tariff Act of 1930 (19 U.S.C. 1313(n) and (o)) are amended to read as follows:

"(n)(1) For purposes of this subsection and subsection (o)—

"(A) the term 'NAFTA Act' means the North American Free Trade Agreement Implementation Act;

"(B) the terms 'NAFTA country' and 'good subject to NAFTA drawback' have the same respective meanings that are given such terms in sections 2(4) and 203(a) of the NAFTA Act; and

"(C) a refund, waiver, or reduction of duty under paragraph (2) of this subsection or paragraph (1) of subsection (o) is subject to section 508(b)(2)(B).

"(2) For purposes of subsections (a), (b), (f), (h), (p), and (q), if an article that is exported to a NAFTA country is a good subject to NAFTA drawback, no customs duties on the good may be refunded, waived, or reduced in an amount that exceeds the lesser of—

"(A) the total amount of customs duties paid or owed on the good on importation into the United States, or

"(B) the total amount of customs duties paid on the good to the NAFTA country.

"(3) If Canada ceases to be a NAFTA country and the suspension of the operation of the United States-Canada Free-Trade Agreement thereafter terminates, then for purposes of subsections (a), (b), (f), (h), (j)(2), and (q), the shipment to Canada during the period such Agreement is in operation of an article made from or substituted for, as appropriate, a drawback eligible good under section 204(a) of the United States-Canada Free-Trade Implementation Act of 1988 does not constitute an exportation.

"(o)(1) For purposes of subsection (g), if—

"(A) a vessel is built for the account and ownership of a resident of a NAFTA country or the government of a NAFTA country, and

"(B) imported materials that are used in the construction and equipment of the vessel are goods subject to NAFTA drawback,

the amount of customs duties refunded, waived, or reduced on such materials may not exceed the lesser of the total amount of customs duties paid or owed on the materials on importation into the United States or the total amount of customs duties paid on the vessel to the NAFTA country.

"(2) If Canada ceases to be a NAFTA country and the suspension of the operation of the United States-Canada Free-Trade Agreement thereafter terminates, then for purposes of subsection (g), vessels built for Canadian account and ownership, or for the Government of Canada, may not be considered to be built for any foreign account and ownership, or for the government of any foreign country, except to the extent that the materials in such vessels are drawback eligible goods under section 204(a) of the United States-Canada Free-Trade Implementation Act of 1988.".

(4) MANIPULATION IN WAREHOUSE.—Section 562 of the Tariff Act of 1930 (19 U.S.C. 1562) is amended—

(A) in the second sentence by striking out "without payment of duties—" and inserting a dash;

(B) by striking out paragraphs (1), (2), and (3) and inserting the following:

"(1) without payment of duties for exportation to a NAFTA country, as defined in section 2(4) of the North American Free Trade Agreement Implementation Act, if the merchandise is of a kind described in any of paragraphs (1) through (8) of section 203(a) of that Act;

"(2) for exportation to a NAFTA country if the merchandise consists of goods subject to NAFTA drawback, as defined in section 203(a) of that Act, except that—

"(A) the merchandise may not be withdrawn from warehouse without assessment of a duty on the merchandise in its condition and quantity, and at its weight, at the time of withdrawal from the warehouse with such additions to or deductions from the final appraised value as may be necessary by reason of change in condition, and

"(B) duty shall be paid on the merchandise before the 61st day after the date of exportation, but upon the presentation, before such 61st day, of satisfactory evidence of the amount of any customs duties paid to the NAFTA country on the merchandise, the customs duty may be waived or reduced (subject to section 508(b)(2)(B)) in an amount that does not exceed the lesser of—

"(i) the total amount of customs duties paid or owed on the merchandise on importation into the United States, or

"(ii) the total amount of customs duties paid on the merchandise to the NAFTA country;

"(3) without payment of duties for exportation to any foreign country other than to a NAFTA country or to Canada when exports to that country are subject to paragraph (4);

"(4) without payment of duties for exportation to Canada (if that country ceases to be a NAFTA country and the suspension of the operation of the United States-Canada Free-Trade Agreement thereafter terminates), but the exemption from the payment of duties under this paragraph applies only in the case of an exportation during the period such Agreement is in operation of merchandise that—

"(A) is only cleaned, sorted, or repacked in a bonded warehouse, or

"(B) is a drawback eligible good under section 204(a) of the United States-Canada Free-Trade Agreement Implementation Act of 1988; and

"(5) without payment of duties for shipment to the Virgin Islands, American Samoa, Wake Island, Midway Island, Kingman Reef, Johnston Island or the island of Guam."; and

(B) in the third sentence by striking out "paragraph (1) of the preceding sentence" and inserting "paragraph (4) of the preceding sentence".

(5) FOREIGN TRADE ZONES.—Section 3(a) of the Act of June 18, 1934 (commonly known as the "Foreign Trade Zones Act"; 19 U.S.C. 81c(a)) is amended—

(A) in the last proviso—

(i) by inserting after "That" the following: ", if Canada ceases to be a NAFTA country and the suspension of the operation of the United States-Canada Free-Trade Agreement thereafter terminates,"; and

(ii) by striking out "on or after January 1, 1994, or such later date as may be proclaimed by the President under section 204(b)(2)(B) of such Act of 1988," and inserting "during the period such Agreement is in operation"; and

(B) by inserting before such last proviso the following new proviso: ": *Provided, further*, That no merchandise that consists of goods subject to NAFTA drawback, as defined in section 203(a) of the North American Free Trade Agreement Implementation Act, that is manufactured or otherwise changed in condition shall be exported to a NAFTA country, as defined in section 2(4) of that Act, without an assessment of a duty on the merchandise in its condition and quantity, and at its weight, at the time of its exportation (or if the privilege in the first proviso to this subsection was requested, an assessment of a duty on the merchandise in its condition and quantity, and at its weight, at the time of its admission into the zone) and the payment of the assessed duty before the 61st day after the date of exportation of the article, except that upon the presentation, before such 61st day, of satisfactory evidence of the amount of any customs duties paid or owed to the NAFTA country on the article, the customs duty may be waived or reduced (subject to section 508(b)(2)(B) of the Tariff Act of 1930) in an amount that does not exceed the lesser of (1) the total amount of customs duties paid or owed on the merchandise on importation into the United States, or (2) the total amount of customs duties paid on the article to the NAFTA country:".

(c) CONSEQUENTIAL AMENDMENT WITH IMMEDIATE EFFECT.—Section 313(j) of the Tariff Act of 1930 (19 U.S.C. 1313(j)) is amended—

(1) by striking out "If" in paragraph (2) and inserting "Subject to paragraph (4), if"; and

(2) by adding at the end the following new paragraph:

"(4) Effective upon the entry into force of the North American Free Trade Agreement, the exportation to a NAFTA country, as defined in section 2(4) of the North American Free Trade Agreement Implementation Act, of merchandise that is fungible with and substituted for imported merchandise, other than merchandise described in paragraphs (1) through (8) of section 203(a) of that Act, shall not constitute an exportation for purposes of paragraph (2).".

(d) ELIMINATION OF DRAWBACK FOR SECTION 22 FEES.—Notwithstanding any other provision of law, the Secretary of the Treasury may not, on condition of export, refund or reduce a fee applied pursuant to section 22 of the Agricultural Adjustment Act (7 U.S.C. 624) with respect to goods included under subsection (a) that are exported to—

(1) Canada after December 31, 1995, for so long as it is a NAFTA country; or

(2) Mexico after December 31, 2000, for so long as it is a NAFTA country.

(e) INAPPLICABILITY TO COUNTERVAILING AND ANTIDUMPING DUTIES.—Nothing in this section or the amendments made by it shall be considered to authorize the refund, waiver, or reduction of countervailing duties or antidumping duties imposed on an imported good.

SEC. 204. CUSTOMS USER FEES.

Paragraph (10) of section 13031(b) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(10)) is amended to read as follows:

"(10)(A) The fee charged under subsection (a)(9) or (10) with respect to goods of Canadian origin (as determined under section 202 of the United States-Canada Free-Trade Agreement) when the United States-Canada Free-Trade Agreement is in force shall be in accordance with section 403 of that Agreement.

"(B) For goods qualifying under the rules of origin set out in section 202 of the North American Free Trade Agreement Implementation Act, the fee under subsection (a)(9) or (10)—

"(i) may not be charged with respect to goods that qualify to be marked as goods of Canada pursuant to Annex 311 of the North American Free Trade Agreement, for such time as Canada is a NAFTA country, as defined in section 2(4) of such Implementation Act; and

"(ii) may not be increased after December 31, 1993, and may not be charged after June 29, 1999, with respect to goods that qualify to be marked as goods of Mexico pursuant to such Annex 311, for such time as Mexico is a NAFTA country.

Any service for which an exemption from such fee is provided by reason of this paragraph may not be funded with money contained in the Customs User Fee Account.".

SEC. 205. ENFORCEMENT.

(a) RECORDKEEPING REQUIREMENTS.—Section 508 of the Tariff Act of 1930 (19 U.S.C. 1508) is amended as follows:

(1) Subsection (b) is amended to read as follows:

"(b) EXPORTATIONS TO FREE TRADE COUNTRIES.—

"(1) DEFINITIONS.—As used in this subsection—

"(A) The term 'associated records' means, in regard to an exported good under paragraph (2), records associated with—

"(i) the purchase of, cost of, value of, and payment for, the good;

"(ii) the purchase of, cost of, value of, and payment for, all material, including indirect materials, used in the production of the good; and

"(iii) the production of the good.

For purposes of this subparagraph, the terms 'indirect material,' 'material,' 'preferential tariff treatment,' 'used,' and 'value' have the respective meanings given them in articles 415 and 514 of the North American Free Trade Agreement.

"(B) The term 'NAFTA Certificate of Origin' means the certification, established under article 501 of the North American Free Trade Agreement, that a good qualifies as an originating good under such Agreement.

"(2) EXPORTS TO NAFTA COUNTRIES.—

"(A) IN GENERAL.—Any person who completes and signs a NAFTA Certificate of Origin for a good for which preferential treatment under the North American Free Trade Agreement is claimed shall make, keep, and render for examination and inspection all records relating to the origin of the good (including the Certificate or copies thereof) and the associated records.

"(B) CLAIMS FOR CERTAIN WAIVERS, REDUCTIONS, OR REFUNDS OF DUTIES OR FOR CREDIT AGAINST BONDS.—

"(i) IN GENERAL.—Any person that claims with respect to an article—

"(I) a waiver or reduction of duty under the last paragraph of section 311, section 312(b)(1) or (4), section 562(2), or the last proviso to section 3(a) of the Foreign Trade Zones Act;

"(II) a credit against a bond under section 312(d); or

"(III) a refund, waiver, or reduction of duty under section 313(n)(2) or (o)(1);

must disclose to the Customs Service the information described in clause (ii).

"(ii) INFORMATION REQUIRED.—Within 30 days after making a claim described in clause (i) with respect to an article, the person making the claim must disclose to the Customs Service whether that person has prepared, or has knowledge that another person has prepared, a NAFTA Certificate of Origin for the article. If after such 30-day period the person making the claim either—

"(I) prepares a NAFTA Certificate of Origin for the article; or

"(II) learns of the existence of such a Certificate for the article;

that person, within 30 days after the occurrence described in subclause (I) or (II), must disclose the occurrence to the Customs Service.

"(iii) ACTION ON CLAIM.—If the Customs Service determines that a NAFTA Certificate of Origin has been prepared with respect to an article for which a claim described in clause (i) is made, the Customs Service may make such adjustments regarding the previous customs treatment of the article as may be warranted.

"(3) EXPORTS UNDER THE CANADIAN AGREEMENT.—Any person who exports, or who knowingly causes to be exported, any merchandise to Canada during such time as the United States-Canada Free-Trade Agreement is in force with respect to, and the United States applies that Agreement to, Canada shall make, keep, and render for examination and inspection such records (including certifications of origin or copies thereof) which pertain to the exportations.".

(2) Subsection (c) is amended to read as follows:

"(c) PERIOD OF TIME.—The records required by subsections (a) and (b) shall be kept for such periods of time as the Secretary shall prescribe; except that—

"(1) no period of time for the retention of the records required under subsection (a) or (b)(3) may exceed 5 years from the date of entry or exportation, as appropriate;

"(2) the period of time for the retention of the records required under subsection (b)(2) shall be at least 5 years from the date of signature of the NAFTA Certificate of Origin; and

"(3) records for any drawback claim shall be kept until the 3rd anniversary of the date of payment of the claim.".

(3) Subsection (e) is amended to read as follows:

"(e) SUBSECTION (b) PENALTIES.—

"(1) RELATING TO NAFTA EXPORTS.—Any person who fails to retain records required by paragraph (2) of subsection (b) or the regulations issued to implement that paragraph shall be liable for—

"(A) a civil penalty not to exceed $10,000; or

"(B) the general recordkeeping penalty that applies under the customs laws;

whichever penalty is higher.

"(2) RELATING TO CANADIAN AGREEMENT EXPORTS.—Any person who fails to retain the records required by paragraph (3) of subsection (b) or the regulations issued to implement that paragraph shall be liable for a civil penalty not to exceed $10,000.".

(b) CONFORMING AMENDMENT.—Section 509(a)(2)(A)(ii) of the Tariff Act of 1930 (19 U.S.C. 1509(a)(2)(A)(ii)) is amended to read as follows:

"(ii) exported merchandise, or knowingly caused merchandise to be exported, to a NAFTA country (as defined in section 2(4) of the North American Free Trade Agreement Implementation Act) or to Canada during such time as the United States-Canada Free-Trade Agreement is in force with respect to, and the United States applies that Agreement to, Canada,".

(c) DISCLOSURE OF INCORRECT INFORMATION.—Section 592 of the Tariff Act of 1930 (19 U.S.C. 1592) is amended—

(1) in subsection (c)—

(A) by redesignating paragraph (5) as paragraph (6); and

(B) by inserting after paragraph (4) the following new paragraph:

"(5) PRIOR DISCLOSURE REGARDING NAFTA CLAIMS.—An importer shall not be subject to penalties under subsection (a) for making an incorrect claim for preferential tariff treatment under section 202 of the North American Free Trade Agreement Implementation Act if the importer—

"(A) has reason to believe that the NAFTA Certificate of Origin (as defined in section 508(b)(1)) on which the claim was based contains incorrect information; and

"(B) in accordance with regulations issued by the Secretary, voluntarily and promptly makes a corrected declaration and pays any duties owing."; and

(2) by adding at the end the following new subsection:

"(f) FALSE CERTIFICATIONS REGARDING EXPORTS TO NAFTA COUNTRIES.—

"(1) IN GENERAL.—Subject to paragraph (3), it is unlawful for any person to certify falsely, by fraud, gross negligence, or negligence, in a NAFTA Certificate of Origin (as defined in section 508(b)(1)) that a good to be exported to a NAFTA country (as defined in section 2(4) of the North American Free Trade Agreement Implementation Act) qualifies under the rules of origin set out in section 202 of that Act.

"(2) APPLICABLE PROVISIONS.—The procedures and penalties of this section that apply to a violation of subsection (a) also apply to a violation of paragraph (1), except that—

"(A) subsection (d) does not apply, and

"(B) subsection (c)(5) applies only if the person voluntarily and promptly provides, to all persons to whom the person provided the NAFTA Certificate of Origin, written notice of the falsity of the Certificate.

"(3) EXCEPTION.—A person may not be considered to have violated paragraph (1) if—

"(A) the information was correct at the time it was provided in a NAFTA Certificate of Origin but was later rendered incorrect due to a change in circumstances; and

"(B) the person voluntarily and promptly provides written notice of the change to all persons to whom the person provided the Certificate of Origin.".

SEC. 206. RELIQUIDATION OF ENTRIES FOR NAFTA-ORIGIN GOODS.

Section 520 of the Tariff Act of 1930 (19 U.S.C. 1520) is amended by adding at the end the following new subsection:

"(d) Notwithstanding the fact that a valid protest was not filed, the Customs Service may, in accordance with regulations prescribed by the Secretary, reliquidate an entry to refund any excess duties paid on a good qualifying under the rules of origin set out in section 202 of the North American Free Trade Agreement Implementation Act for which no claim for preferential tariff treatment was made at the time of importation if the importer, within 1 year after the date of importation, files, in accordance with those regulations, a claim that includes—

"(1) a written declaration that the good qualified under those rules at the time of importation;

"(2) copies of all applicable NAFTA Certificates of Origin (as defined in section 508(b)(1)); and

"(3) such other documentation relating to the importation of the goods as the Customs Service may require.".

SEC. 207. COUNTRY OF ORIGIN MARKING OF NAFTA GOODS.

(a) AMENDMENTS TO TARIFF ACT OF 1930.—Section 304 of the Tariff Act of 1930 (19 U.S.C. 1304) is amended—

(1) in subsection (c)(1), by striking "or engraving" and inserting "engraving, or continuous paint stenciling";

(2) in subsection (c)(2)—

(A) by striking "four" and inserting "five"; and

(B) by striking "such as paint stenciling";

(3) in subsection (e), by striking "or engraving" and inserting "engraving, or an equally permanent method of marking";

(4) by redesignating subsection (h) as subsection (i); and

(5) by inserting after subsection (g) the following new subsection:

"(h) TREATMENT OF GOODS OF A NAFTA COUNTRY.—

"(1) APPLICATION OF SECTION.—In applying this section to an article that qualifies as a good of a NAFTA country (as defined in section 2(4) of the North American Free Trade

Agreement Implementation Act) under the regulations issued by the Secretary to implement Annex 311 of the North American Free Trade Agreement—

"(A) the exemption under subsection (a)(3)(H) shall be applied by substituting 'reasonably know' for 'necessarily know';

"(B) the Secretary shall exempt the good from the requirements for marking under subsection (a) if the good—

"(i) is an original work of art, or

"(ii) is provided for under subheading 6904.10, heading 8541, or heading 8542 of the Harmonized Tariff Schedule of the United States; and

"(C) subsection (b) does not apply to the usual container of any good described in subsection (a)(3)(E) or (I) or subparagraph (B)(i) or (ii) of this paragraph.

"(2) Petition rights of NAFTA exporters and producers regarding marking determinations.—

"(A) Definitions.—For purposes of this paragraph:

"(i) The term 'adverse marking decision' means a determination by the Customs Service which an exporter or producer of merchandise believes to be contrary to Annex 311 of the North American Free Trade Agreement.

"(ii) A person may not be treated as the exporter or producer of merchandise regarding which an adverse marking decision was made unless such person—

"(I) if claiming to be the exporter, is located in a NAFTA country and is required to maintain records in that country regarding exportations to NAFTA countries; or

"(II) if claiming to be the producer, grows, mines, harvests, fishes, traps, hunts, manufactures, processes, or assembles such merchandise in a NAFTA country.

"(B) Intervention or petition regarding adverse marking decisions.—If the Customs Service makes an adverse marking decision regarding any merchandise, the Customs Service shall, upon written request by the exporter or producer of the merchandise, provide to the exporter or producer a statement of the basis for the decision. If the exporter or producer believes that the decision is not correct, it may intervene in any protest proceeding initiated by the importer of the merchandise. If the importer does not file a protest with regard to the decision, the exporter or producer may file a petition with the Customs Service setting forth—

"(i) a description of the merchandise; and

"(ii) the basis for its claim that the merchandise should be marked as a good of a NAFTA country.

"(C) Effect of determination regarding decision.—If, after receipt and consideration of a petition filed by an exporter or producer under subparagraph (B), the Customs Service determines that the adverse marking decision—

"(i) is not correct, the Customs Service shall notify the petitioner of the determination and all merchandise entered, or withdrawn from warehouse for consumption, more than 30 days after the date that notice of the determination under this clause is published in the weekly Custom Bulletin shall be marked in conformity with the determination; or

"(ii) is correct, the Customs Service shall notify the petitioner that the petition is denied.

"(D) Judicial review.—For purposes of judicial review, the denial of a petition under subparagraph (C)(ii) shall be treated as if it were a denial of a petition of an interested party under section 516 regarding an issue arising under any of the preceding provisions of this section.".

(b) Coordination With 1988 Act Regarding Certain Articles.—Articles that qualify as goods of a NAFTA country under regulations issued by the Secretary in accordance with Annex 311 of the Agreement are exempt from the marking requirements promulgated by the Secretary of the Treasury under section 1907(c) of the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100–418), but are subject to the requirements of section 304 of the Tariff Act of 1930 (19 U.S.C. 1304).

SEC. 208. PROTESTS AGAINST ADVERSE ORIGIN DETERMINATIONS.

Section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) is amended—

(1) in subsection (c)(1) by inserting ", or with respect to a determination of origin under section 202 of the North American Free Trade Agreement Implementation Act," after "with respect to any one category of merchandise" in the fourth sentence;

(2) in subsection (c)(2)—

(A) by striking out "or" at the end of subparagraph (D);

(B) by redesignating subparagraph (E) as subparagraph (F);

(C) by inserting after subparagraph (D) the following new subparagraph:

"(E) with respect to a determination of origin under section 202 of the North American Free Trade Agreement Implementation Act, any exporter or producer of the merchandise subject to that determination, if the exporter or producer completed and signed a NAFTA Certificate of Origin covering the merchandise; or"; and

(D) by striking "clauses (A) through (D)" in subparagraph (F) (as redesignated by subparagraph (B)), and inserting "clauses (A) through (E)"; and

(3) by adding at the end the following new subsections:

"(e) Advance Notice of Certain Determinations.—Except as provided in subsection (f), an exporter or producer referred to in subsection (c)(2)(E) shall be provided notice in advance of an adverse determination of origin under section 202 of the North American Free Trade Agreement Implementation Act. The Secretary may, by regulations, prescribe the time period in which such advance notice shall be issued and authorize the Customs Service to provide in the notice the entry number and any other entry information considered necessary to allow the exporter or producer to exercise the rights provided by this section.

"(f) Denial of Preferential Treatment.—If the Customs Service finds indications of a pattern of conduct by an exporter or producer of false or unsupported representations that goods qualify under the rules of origin set out in section 202 of the North American Free Trade Agreement Implementation Act—

"(1) the Customs Service, in accordance with regulations issued by the Secretary, may deny preferential tariff treatment to entries of identical goods exported or produced by that person; and

"(2) the advance notice requirement in subsection (e) shall not apply to that person;

until the person establishes to the satisfaction of the Customs Service that its representations are in conformity with section 202.".

SEC. 209. EXCHANGE OF INFORMATION.

Section 628 of the Tariff Act of 1930 (19 U.S.C. 1628) is amended by adding at the end the following new subsection:

"(c) The Secretary may authorize the Customs Service to exchange information with any government agency of a NAFTA country, as defined in section 2(4) of the North American Free Trade Agreement Implementation Act, if the Secretary—

"(1) reasonably believes the exchange of information is necessary to implement chapter 3, 4, or 5 of the North American Free Trade Agreement, and

"(2) obtains assurances from such country that the information will be held in confidence and used only for governmental purposes.".

SEC. 210. PROHIBITION ON DRAWBACK FOR TELEVISION PICTURE TUBES.

Notwithstanding any other provision of law, no customs duties may be refunded, waived, or reduced on color cathode-ray television picture tubes, including video monitor cathode-ray tubes (provided for in subheading 8540.11.00 of the HTS), that are nonoriginating goods under section 202(p)(19) and are—

(A) exported to a NAFTA country;

(B) used as a material in the production of other goods that are exported to a NAFTA country; or

(C) substituted for by goods of the same kind and quality used as a material in the production of other goods that are exported to a NAFTA country.

SEC. 211. MONITORING OF TELEVISION AND PICTURE TUBE IMPORTS.

(a) Monitoring.—Beginning on the date the Agreement enters into force with respect to the United States, the United States Customs Service shall, for a period of 5 years, monitor imports into the United States of articles described in subheading 8528.10 of the HTS from NAFTA countries and shall take action to exercise all rights of the United States under chapter 5 of the Agreement with respect to such imports. The United States Customs Service shall take appropriate action under chapter 5 of the Agreement with respect to such imports, including verifications to ensure that the rules of origin under the Agreement are fully complied with and that the duty drawback obligations contained in article 303 and Annex 303.8 of the Agreement are fully implemented and duties are correctly assessed.

(b) Report to Trade Representative.—The United States Customs Service shall make the results of the monitoring and verification required by subsection (a) available to the President and the Trade Representative. If, based on such information, the President has reason to believe that articles described in subheading 8540.11 of the HTS, intended for ultimate consumption in the United States, are entering the territory of a NAFTA country inconsistent with the provisions of the Agreement, or have been undervalued in a manner that may raise concerns under United States trade laws, the President shall promptly take such action as may be appropriate under all relevant provisions of the Agreement, including article 317 and chapter 20, and under applicable United States trade statutes.

SEC. 212. TITLE VI AMENDMENTS.

Any amendment in this title to a law that is also amended under title VI shall be made after the title VI amendment is executed.

SEC. 213. EFFECTIVE DATES.

(a) Provisions Effective on Date of Enactment.—Section 212 and this section take effect on the date of the enactment of this Act.

(b) Provisions Effective When Agreement Enters Into Force.—Section 201, section 202, section 203(a), (d), and (e), section 210 and section 211, the amendment made by section 203(c), and the amendments made by sections 204 through 209 take effect on the date the Agreement enters into force with respect to the United States.

(c) Provisions With Delayed Effective Dates.—The amendments made by section 203(b) apply—

(1) with respect to exports from the United States to Canada—

(A) on January 1, 1996, if Canada is a NAFTA country on that date, and

(B) after such date for so long as Canada continues to be a NAFTA country; and

(2) with respect to exports from the United States to Mexico—

(A) on January 1, 2001, if Mexico is a NAFTA country on that date; and

(B) after such date for so long as Mexico continues to be a NAFTA country.

TITLE III—APPLICATION OF AGREEMENT TO SECTORS AND SERVICES

Subtitle A—Safeguards

PART 1—RELIEF FROM IMPORTS BENEFITING FROM THE AGREEMENT

SEC. 301. DEFINITIONS.

As used in this part:

(1) Canadian article.—The term "Canadian article" means an article that—

(A) is an originating good under chapter 4 of the Agreement; and

(B) qualifies under the Agreement to be marked as a good of Canada.

(2) Mexican article.—The term "Mexican article" means an article that—

(A) is an originating good under chapter 4 of the Agreement; and

(B) qualifies under the Agreement to be marked as a good of Mexico.

SEC. 302. COMMENCING OF ACTION FOR RELIEF.

(a) Filing of Petition.—

(1) In general.—A petition requesting action under this part for the purpose of adjusting to the obligations of the United States under the Agreement may be filed with the International Trade Commission by an entity, including a trade association, firm, certified or recognized union, or group of workers, that is representative of an industry. The International Trade Commission shall transmit a copy of any petition filed under this subsection to the Trade Representative.

(2) Provisional relief.—An entity filing a petition under this subsection may request that provisional relief be provided as if the petition had been filed under section 202(a) of the Trade Act of 1974.

(3) Critical circumstances.—An allegation that critical circumstances exist must be included in the petition or made on or before the 90th day after the date on which the investigation is initiated under subsection (b).

(b) Investigation and Determination.—Upon the filing of a petition under subsection (a), the International Trade Commission, unless subsection (d) applies, shall promptly initiate an investigation to determine whether, as a result of the reduction or elimination of a duty provided for under the Agreement, a Canadian article or a Mexican article, as the case may be, is being imported into the United States in such increased quantities (in absolute terms) and under such conditions so that imports of the article, alone, constitute a substantial cause of—

(1) serious injury; or

(2) except in the case of a Canadian article, a threat of serious injury;

to the domestic industry producing an article that is like, or directly competitive with, the imported article.

(c) Applicable Provisions.—The provisions of—

(1) paragraphs (1)(B), (3) (except subparagraph (A)), and (4) of subsection (b);

(2) subsection (c); and

(3) subsection (d),

of section 202 of the Trade Act of 1974 (19 U.S.C. 2252) apply with respect to any investigation initiated under subsection (b).

(d) Articles Exempt From Investigation.—No investigation may be initiated under this section with respect to—

(1) any Canadian article or Mexican article if import relief has been provided under this part with respect to that article; or

(2) any textile or apparel article set out in Appendix 1.1 of Annex 300-B of the Agreement.

SEC. 303. INTERNATIONAL TRADE COMMISSION ACTION ON PETITION.

(a) Determination.—By no later than 120 days after the date on which an investigation is initiated under section 302(b) with respect to a petition, the International Trade Commission shall—

(1) make the determination required under that section; and

(2) if the determination referred to in paragraph (1) is affirmative and an allegation regarding critical circumstances was made under section 302(a), make a determination regarding that allegation.

(b) Additional Finding and Recommendation if Determination Affirmative.—If the determination made by the International Trade Commission under subsection (a) with respect to imports of an article is affirmative, the International Trade Commission shall find, and recommend to the President in the report required under subsection (c), the amount of import relief that is necessary to remedy or, except in the case of imports of a Canadian article, prevent the injury found by the International Trade Commission in the determination. The import relief recommended by the International Trade Commission under this subsection shall be limited to that described in section 304(c).

(c) Report to President.—No later than the date that is 30 days after the date on which a determination is made under subsection (a) with respect to an investigation, the International Trade Commission shall submit to the President a report that shall include—

(1) a statement of the basis for the determination;

(2) dissenting and separate views; and

(3) any finding made under subsection (b) regarding import relief.

(d) Public Notice.—Upon submitting a report to the President under subsection (c), the International Trade Commission shall promptly make public such report (with the exception of information which the International Trade Commission determines to be confidential) and shall cause a summary thereof to be published in the Federal Register.

(e) Applicable Provisions.—For purposes of this part, the provisions of paragraphs (1), (2), and (3) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)) shall be applied with respect to determinations and findings made under this section as if such determinations and findings were made under section 202 of the Trade Act of 1974 (19 U.S.C. 2252).

SEC. 304. PROVISION OF RELIEF.

(a) In General.—No later than the date that is 30 days after the date on which the President receives the report of the International Trade Commission containing an affirmative determination of the International Trade Commission under section 303(a), the President, subject to subsection (b), shall provide relief from imports of the article that is the subject of such determination to the extent that the President determines necessary to remedy or, except in the case of imports of a Canadian article, prevent the injury found by the International Trade Commission.

(b) Exception.—The President is not required to provide import relief under this section if the President determines that the provision of the import relief will not provide greater economic and social benefits than costs.

(c) Nature of Relief.—The import relief (including provisional relief) that the President is authorized to provide under this part is as follows:

(1) In the case of imports of a Canadian article—

(A) the suspension of any further reduction provided for under Annex 401.2 of the United States-Canada Free-Trade Agreement in the duty imposed on such article;

(B) an increase in the rate of duty imposed on such article to a level that does not exceed the lesser of—

(i) the column 1 general rate of duty imposed under the HTS on like articles at the time the import relief is provided, or

(ii) the column 1 general rate of duty imposed on like articles on December 31, 1988; or

(C) in the case of a duty applied on a seasonal basis to such article, an increase in the rate of duty imposed on the article to a level that does not exceed the column 1 general rate of duty imposed on the article for the corresponding season occurring immediately before January 1, 1989.

(2) In the case of imports of a Mexican article—

(A) the suspension of any further reduction provided for under the United States Schedule to Annex 302.2 of the Agreement in the duty imposed on such article;

(B) an increase in the rate of duty imposed on such article to a level that does not exceed the lesser of—

(i) the column 1 general rate of duty imposed under the HTS on like articles at the time the import relief is provided, or

(ii) the column 1 general rate of duty imposed under the HTS on like articles on the day before the date on which the Agreement enters into force; or

(C) in the case of a duty applied on a seasonal basis to such article, an increase in the rate of duty imposed on the article to a level that does not exceed the column 1 general rate of duty imposed under the HTS on the article for the corresponding season immediately occurring before the date on which the Agreement enters into force.

(d) Period of Relief.—The import relief that the President is authorized to provide under this section may not exceed 3 years, except that, if a Canadian article or Mexican article which is the subject of the action—

(1) is provided for in an item for which the transition period of tariff elimination set out in the United States Schedule to Annex 302.2 of the Agreement is greater than 10 years; and

(2) the President determines that the affected industry has undertaken adjustment and requires an extension of the period of the import relief;

the President, after obtaining the advice of the International Trade Commission, may extend the period of the import relief for not more than 1 year, if the duty applied during the initial period of the relief is substantially reduced at the beginning of the extension period.

(e) Rate on Mexican Articles After Termination of Import Relief.—When import relief under this part is terminated with respect to a Mexican article—

(1) the rate of duty on that article after such termination and on or before December 31 of the year in which termination occurs shall be the rate that, according to the United States Schedule to Annex 302.2 of the Agreement for the staged elimination of the tariff, would have been in effect 1 year after the initiation of the import relief action under section 302; and

(2) the tariff treatment for that article after December 31 of the year in which termination occurs shall be, at the discretion of the President, either—

(A) the rate of duty conforming to the applicable rate set out in the United States Schedule to Annex 302.2; or

(B) the rate of duty resulting from the elimination of the tariff in equal annual stages ending on the date set out in the United States Schedule to Annex 302.2 for the elimination of the tariff.

SEC. 305. TERMINATION OF RELIEF AUTHORITY.

(a) General Rule.—Except as provided in subsection (b), no import relief may be provided under this part—

(1) in the case of a Canadian article, after December 31, 1998; or

(2) in the case of a Mexican article, after the date that is 10 years after the date on which the Agreement enters into force;

unless the article against which the action is taken is an item for which the transition period for tariff elimination set out in the United States Schedule to Annex 302.2 of the Agreement is greater than 10 years, in which case the period during which relief may be granted shall be the period of staged tariff elimination for that article.

(b) Exception.—Import relief may be provided under this part in the case of a Canadian article or Mexican article after the date on which such relief would, but for this subsection, terminate under subsection (a), but only if the Government of Canada or Mexico, as the case may be, consents to such provision.

SEC. 306. COMPENSATION AUTHORITY.

For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), any import relief provided by the President under section 304 shall be treated as action taken under chapter I of title II of such Act.

SEC. 307. SUBMISSION OF PETITIONS.

A petition for import relief may be submitted to the International Trade Commission under—

(1) this part;

(2) chapter 1 of title II of the Trade Act of 1974; or

(3) under both this part and such chapter 1 at the same time, in which case the International Trade Commission shall consider such petitions jointly.

SEC. 308. SPECIAL TARIFF PROVISIONS FOR CANADIAN FRESH FRUITS AND VEGETABLES.

(a) In general.—Section 301(a) of the United States-Canada Free-Trade Agreement Implementation Act of 1988 (19 U.S.C. 2112 note) is amended—

(1) in paragraph (1), by striking "promptly" in the flush sentence at the end thereof and inserting "immediately",

(2) by redesignating paragraphs (2) through (9) as paragraphs (3) through (10), respectively,

(3) by inserting after paragraph (1) the following new paragraph:

"(2) No later than 6 days after publication in the Federal Register of the notice described in paragraph (1), the Secretary shall decide whether to recommend the imposition of a temporary duty to the President, and if the Secretary decides to make such a recommendation, the recommendation shall be forwarded immediately to the President.",

(4) in paragraph (5), as redesignated by paragraph (2), by striking "paragraph (3)" and inserting "paragraph (4)", and

(5) by amending paragraph (9), as redesignated by paragraph (2), to read as follows:

"(9) For purposes of assisting the Secretary in carrying out this subsection—

"(A) the Commissioner of Customs and the Director of the Bureau of Census shall cooperate in providing the Secretary with timely information and data relating to the importation of Canadian fresh fruits and vegetables, and

"(B) importers shall report such information relating to Canadian fresh fruits and vegetables to the Commissioner of Customs at such time and in such manner as the Commissioner requires.".

(b) Effective Date.—The amendments made by subsection (a) take effect on the date of the enactment of this Act.

SEC. 309. PRICE-BASED SNAPBACK FOR FROZEN CONCENTRATED ORANGE JUICE.

(a) Trigger Price Determination.—

(1) In general.—The Secretary shall determine—

(A) each period of 5 consecutive business days in which the daily price for frozen concentrated orange juice is less than the trigger price; and

(B) for each period determined under subparagraph (A), the first period occurring thereafter of 5 consecutive business days in which the daily price for frozen concentrated orange juice is greater than the trigger price.

(2) Notice of determinations.—The Secretary shall immediately notify the Commissioner of Customs and publish notice in the Federal Register of any determination under paragraph (1), and the date of such publication shall be the determination date for that determination.

(b) Imports of Mexican Articles.—Whenever after any determination date for a determination under subsection (a)(1)(A), the quantity of Mexican articles of frozen concentrated orange juice that is entered exceeds—

(1) 264,978,000 liters (single strength equivalent) in any of calendar years 1994 through 2002; or

(2) 340,560,000 liters (single strength equivalent) in any of calendar years 2003 through 2007;

the rate of duty on Mexican articles of frozen concentrated orange juice that are entered after the date on which the applicable limitation in paragraph (1) or (2) is reached and before the determination date for the related determination under subsection (a)(1)(B) shall be the rate of duty specified in subsection (c).

(c) Rate of Duty.—The rate of duty specified for purposes of subsection (b) for articles entered on any day is the rate in the HTS that is the lower of—

(1) the column 1–General rate of duty in effect for such articles on July 1, 1991; or

(2) the column 1–General rate of duty in effect on that day.

(d) Definitions.—For purposes of this section—

(1) The term "daily price" means the daily closing price of the New York Cotton Exchange, or any successor as determined by the Secretary, for the closest month in which contracts for frozen concentrated orange juice are being traded on the Exchange.

(2) The term "business day" means a day in which contracts for frozen concentrated orange juice are being traded on the New York Cotton Exchange, or any successor as determined by the Secretary.

(3) The term "entered" means entered or withdrawn from warehouse for consumption, in the customs territory of the United States.

(4) The term "frozen concentrated orange juice" means all products classifiable under subheading 2009.11.00 of the HTS.

(5) The term "Secretary" means the Secretary of Agriculture.

(6) The term "trigger price" means the average daily closing price of the New York Cotton Exchange, or any successor as determined by the Secretary, for the corresponding month during the previous 5-year period, excluding the year with the highest average price for the corresponding month and the year with the lowest average price for the corresponding month.

PART 2—RELIEF FROM IMPORTS FROM ALL COUNTRIES

SEC. 311. NAFTA ARTICLE IMPACT IN IMPORT RELIEF CASES UNDER THE TRADE ACT OF 1974.

(a) In General.—If, in any investigation initiated under chapter 1 of title II of the Trade Act of 1974, the International Trade Commission makes an affirmative determination (or a determination which the President may treat as an affirmative determination under such chapter by reason of section 330(d) of the Tariff Act of 1930), the International Trade Commission shall also find (and report to the President at the time such injury determination is submitted to the President) whether—

(1) imports of the article from a NAFTA country, considered individually, account for a substantial share of total imports; and

(2) imports of the article from a NAFTA country, considered individually or, in exceptional circumstances, imports from NAFTA countries considered collectively, contribute importantly to the serious injury, or threat thereof, caused by imports.

(b) Factors.—

(1) Substantial import share.—In determining whether imports from a NAFTA country, considered individually, account for a substantial share of total imports, such imports normally shall not be considered to account for a substantial share of total imports if that country is not among the top 5 suppliers of the article subject to the investigation, measured in terms of import share during the most recent 3-year period.

(2) Application of "contribute importantly" standard.—In determining whether imports from a NAFTA country or countries contribute importantly to the serious injury, or threat thereof, the International Trade Commission shall consider such factors as the change in the import share of the NAFTA country or countries, and the level and change in the level of imports of such country or countries. In applying the preceding sentence, imports from a NAFTA country or countries normally shall not be considered to contribute importantly to serious injury, or the threat thereof, if the growth rate of imports from such country or countries during the period in which an injurious increase in imports occurred is appreciably lower than the growth rate of total imports from all sources over the same period.

(c) Definition.—For purposes of this section and section 312(a), the term "contribute importantly" refers to an important cause, but not necessarily the most important cause.

SEC. 312. PRESIDENTIAL ACTION REGARDING NAFTA IMPORTS.

(a) IN GENERAL.—In determining whether to take action under chapter 1 of title II of the Trade Act of 1974 with respect to imports from a NAFTA country, the President shall determine whether—

(1) imports from such country, considered individually, account for a substantial share of total imports; or

(2) imports from a NAFTA country, considered individually, or in exceptional circumstances imports from NAFTA countries considered collectively, contribute importantly to the serious injury, or threat thereof, found by the International Trade Commission.

(b) EXCLUSION OF NAFTA IMPORTS.—In determining the nature and extent of action to be taken under chapter 1 of title II of the Trade Act of 1974, the President shall exclude from such action imports from a NAFTA country if the President makes a negative determination under subsection (a)(1) or (2) with respect to imports from such country.

(c) ACTION AFTER EXCLUSION OF NAFTA COUNTRY IMPORTS.—

(1) IN GENERAL.—If the President, under subsection (b), excludes imports from a NAFTA country or countries from action under chapter 1 of title II of the Trade Act of 1974 but thereafter determines that a surge in imports from that country or countries is undermining the effectiveness of the action—

(A) the President may take appropriate action under such chapter 1 to include those imports in the action; and

(B) any entity that is representative of an industry for which such action is being taken may request the International Trade Commission to conduct an investigation of the surge in such imports.

(2) INVESTIGATION.—Upon receiving a request under paragraph (1)(B); the International Trade Commission shall conduct an investigation to determine whether a surge in such imports undermines the effectiveness of the action. The International Trade Commission shall submit the findings of its investigation to the President no later than 30 days after the request is received by the International Trade Commission.

(3) DEFINITION.—For purposes of this subsection, the term "surge" means a significant increase in imports over the trend for a recent representative base period.

(d) CONDITION APPLICABLE TO QUANTITATIVE RESTRICTIONS.—Any action taken under this section proclaiming a quantitative restriction shall permit the importation of a quantity or value of the article which is not less than the quantity or value of such article imported into the United States during the most recent period that is representative of imports of such article, with allowance for reasonable growth.

PART 3—GENERAL PROVISIONS

SEC. 315. PROVISIONAL RELIEF.

Section 202(d) of the Trade Act of 1974 (19 U.S.C. 2252(d)) is amended—

(1) in paragraph (1)(A) by inserting "or citrus product" after "agricultural product" each place it appears;

(2) in the text of paragraph (1)(C) that appears before subclauses (I) and (II)—

(A) by inserting "or citrus product" after "agricultural product" each place it appears, and

(B) by inserting "or citrus product" after "perishable product";

(3) by redesignating subparagraphs (A) and (B) of paragraph (5) as subparagraphs (B) and (C); and

(4) by inserting a new subparagraph (A) in paragraph (5) to read as follows:

"(A) The term 'citrus product' means any processed oranges or grapefruit, or any orange or grapefruit juice, including concentrate.".

SEC. 316. MONITORING.

For purposes of expediting an investigation concerning provisional relief under this subtitle or section 202 of the Trade Act of 1974 regarding—

(1) fresh or chilled tomatoes provided for in subheading 0702.00.00 of the HTS; and

(2) fresh or chilled peppers, other than chili peppers provided for in subheading 0709.60.00 of the HTS;

the International Trade Commission, until January 1, 2009, shall monitor imports of such goods as if proper requests for such monitoring had been made under subsection 202(d)(1)(C)(i) of such section 202. At the request of the International Trade Commission, the Secretary of Agriculture and the Commissioner of Customs shall provide to the International Trade Commission information relevant to the monitoring carried out under this section.

SEC. 317. PROCEDURES CONCERNING THE CONDUCT OF INTERNATIONAL TRADE COMMISSION INVESTIGATIONS.

(a) PROCEDURES AND RULES.—The International Trade Commission shall adopt such procedures and rules and regulations as are necessary to bring its procedures into conformity with chapter 8 of the Agreement.

(b) CONFORMING AMENDMENT.—Section 202(a) of the Trade Act of 1974 is amended by adding at the end thereof the following:

"(8) The procedures concerning the release of confidential business information set forth in section 332(g) of the Tariff Act of 1930 shall apply with respect to information received by the Commission in the course of investigations conducted under this chapter and part 1 of title III of the North American Free Trade Agreement Implementation Act.".

SEC. 318. EFFECTIVE DATE.

Except as provided in section 308(b), the provisions of this subtitle take effect on the date the Agreement enters into force with respect to the United States.

Subtitle B—Agriculture

SEC. 321. AGRICULTURE.

(a) MEAT IMPORT ACT OF 1979.—The Meat Import Act of 1979 (19 U.S.C. 2253 note) is amended—

(1) in subsection (b)—

(A) by striking the last sentence in paragraph (2),

(B) by redesignating paragraph (3) as paragraph (4) and inserting after paragraph (2) the following new paragraph:

"(3) The term 'meat articles' does not include any article described in paragraph (2) that—

"(A) originates in a NAFTA country (as determined in accordance with section 202 of the NAFTA Act), or

"(B) originates in Canada (as determined in accordance with section 202 of the United States-Canada Free-Trade Agreement Implementation Act of 1988) during such time as the United States-Canada Free-Trade Agreement is in force with respect to, and the United States applies such Agreement to, Canada."; and

(C) by inserting after paragraph (4) (as redesignated by subparagraph (B) of this paragraph) the following new paragraphs:

"(5) The term 'NAFTA Act' means the North American Free Trade Agreement Implementation Act.

"(6) The term 'NAFTA country' has the meaning given such term in section 2(4) of the NAFTA Act.";

(2) in subsection (f)(1), by striking the end period and inserting ", except that the President may exclude any such article originating in a NAFTA country (as determined in accordance with section 202 of the NAFTA Act) or, if paragraph (3)(B) applies, any such article originating in Canada as determined in accordance with such paragraph (3)(B)."; and

(3) in subsection (i), by inserting "and Mexico" after "Canada" each place it appears.

(b) SECTION 22 OF THE AGRICULTURAL ADJUSTMENT ACT.—

(1) IN GENERAL.—The President may, pursuant to article 309 and Annex 703.2 of the Agreement, exempt from any quantitative limitation or fee imposed pursuant to section 22 of the Agricultural Adjustment Act (7 U.S.C. 624), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, any article which originates in Mexico, if Mexico is a NAFTA country.

(2) QUALIFICATION OF ARTICLES.—The determination of whether an article originates in Mexico shall be made in accordance with section 202, except that operations performed in, or materials obtained from, any country other than the United States or Mexico shall be treated as if performed in or obtained from a country other than a NAFTA country.

(c) TARIFF RATE QUOTAS.—In implementing the tariff rate quotas set out in the United States Schedule to Annex 302.2 of the Agreement, the President shall take such action as may be necessary to ensure that imports of agricultural goods do not disrupt the orderly marketing of commodities in the United States.

(d) PEANUTS.—

(1) EFFECT OF THE AGREEMENT.—

(A) IN GENERAL.—Nothing in the Agreement or this Act reduces or eliminates—

(i) any penalty required under section 358e(d) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359a(d)); or

(ii) any requirement under Marketing Agreement No. 146, Regulating the Quality of Domestically Produced Peanuts, on peanuts in the domestic market, pursuant to section 108B(f) of the Agricultural Act of 1949 (7 U.S.C. 1445c–3(f)).

(B) REENTRY OF EXPORTED PEANUTS.—Paragraph (6) of section 358e(d) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359a(d)(6)) is amended to read as follows:

"(6) REENTRY OF EXPORTED PEANUTS.—

"(A) PENALTY.—If any additional peanuts exported by a handler are reentered into the United States in commercial quantities as determined by the Secretary, the importer of the peanuts shall be subject to a penalty at a rate equal to 140 percent of the loan level for quota peanuts on the quantity of peanuts reentered.

"(B) RECORDS.—Each person, firm, or handler who imports peanuts into the United States shall maintain such records and documents as are required by the Secretary to ensure compliance with this subsection.".

(2) CONSULTATIONS ON IMPORTS.—It is the sense of Congress that the United States should request consultations in the Working Group on Emergency Action, established in the Understanding Between the Parties to the North American Free Trade Agreement Concerning Chapter Eight—Emergency Action, if imports of peanuts exceed the in-quota quantity under a tariff rate quota set out in the United States Schedule to Annex 302.2 of the Agreement concerning whether—

(A) the increased imports of peanuts constitute a substantial cause of, or contribute importantly to, serious injury, or threat of serious injury, to the domestic peanut industry; and

(B) recourse under Chapter Eight of the Agreement or Article XIX of the General Agreement on Tariffs and Trade is appropriate.

(e) FRESH FRUITS, VEGETABLES, AND CUT FLOWERS.—

(1) IN GENERAL.—The Secretary of Agriculture shall collect and compile the information specified under paragraph (3), if reasonably available, from appropriate Federal departments and agencies and the relevant counterpart ministries of the Government of Mexico.

(2) DESIGNATION OF AN OFFICE.—The Secretary of Agriculture shall designate an office within the United States Department of Agriculture to be responsible for maintaining and disseminating, in a timely manner, the data accumulated for verifying citrus, fruit, vegetable, and cut flower trade between the United States and Mexico. The information shall be made available to the public and the NAFTA Agriculture Committee Working Groups.

(3) INFORMATION COLLECTED.—The information to be collected, if reasonably available, includes—

(A) monthly fresh fruit, fresh vegetable, fresh citrus, and processed citrus product import and export data;

(B) monthly citrus juice production and export data;

(C) data on inspections of shipments of citrus, vegetables, and cut flowers entering the United States from Mexico; and

(D) in the case of fruits, vegetables, and cut flowers entering the United States from Mexico, data regarding—

(i) planted and harvested acreage; and

(ii) wholesale prices, quality, and grades.

(f) END-USE CERTIFICATES.—

(1) IN GENERAL.—The Secretary of Agriculture (referred to in this subsection as the "Secretary") shall implement, in coordination with the Commissioner of Customs, a program requiring that end-use certificates be included in the documentation covering the entry into, or the withdrawal from a warehouse for consumption in, the customs territory of the United States—

(A) of any wheat that is a product of any foreign country or instrumentality that requires, as of the effective date of this subsection, end-use certificates for imports of wheat that is a product of the United States (referred to in this subsection as "United States-produced wheat"); and

(B) of any barley that is a product of any foreign country or instrumentality that requires, as of the effective date of this subsection, end-use certificates for imports of barley that is a product of the United States (referred to in this subsection as "United States-produced barley").

(2) REGULATIONS.—The Secretary shall prescribe by regulation such requirements regarding the information to be included in end-use certificates as may be necessary and appropriate to carry out this subsection.

(3) PRODUCER PROTECTION DETERMINATION.—At any time after the effective date of the requirements established under paragraph (1), the Secretary may, subject to paragraph (5), suspend the requirements when making a determination, after consultation with domestic producers, that the program implemented under this subsection has directly resulted in—

(A) the reduction of income to the United States producers of agricultural commodities; or

(B) the reduction of the competitiveness of United States agricultural commodities in the world export markets.

(4) SUSPENSION OF REQUIREMENTS.—

(A) WHEAT.—If a foreign country or instrumentality that requires end-use certificates for imports of United States-produced wheat as of the effective date of the requirement under paragraph (1)(A) eliminates the requirement, the Secretary shall suspend the requirement under paragraph (1)(A) beginning 30 calendar days after suspension by the foreign country or instrumentality.

(B) BARLEY.—If a foreign country or instrumentality that requires end-use certificates for imports of United States-produced barley as of the effective date of the requirement under paragraph (1)(B) eliminates the requirement, the Secretary shall suspend the requirement under paragraph (1)(B) beginning 30 calendar days after suspension by the foreign country or instrumentality.

(5) REPORT TO CONGRESS.—The Secretary shall not suspend the requirements established under paragraph (1) under circumstances identified in paragraph (3) before the Secretary submits a report to Congress detailing the determination made under paragraph (3) and the reasons for making the determination.

(6) COMPLIANCE.—It shall be a violation of section 1001 of title 18, United States Code, for a person to engage in fraud or knowingly violate this subsection or a regulation implementing this subsection.

(7) EFFECTIVE DATE.—This subsection shall become effective on the date that is 120 days after the date of enactment of this Act.

(g) AGRICULTURAL FELLOWSHIP PROGRAM.—Section 1542(d) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 7 U.S.C. 5622 note) is amended by adding at the end the following new paragraph:

"(3) AGRICULTURAL FELLOWSHIPS FOR NAFTA COUNTRIES.—

"(A) IN GENERAL.—The Secretary shall grant fellowships to individuals from countries that are parties to the North American Free Trade Agreement (referred to in this paragraph as 'NAFTA') to study agriculture in the United States, and to individuals in the United States to study agriculture in other NAFTA countries.

"(B) PURPOSE.—The purpose of fellowships granted under this paragraph is—

"(i) to allow the recipients to expand their knowledge and understanding of agricultural systems and practices in other NAFTA countries;

"(ii) to facilitate the improvement of agricultural systems in NAFTA countries; and

"(iii) to establish and expand agricultural trade linkages between the United States and other NAFTA countries.

"(C) ELIGIBLE RECIPIENTS.—The Secretary may provide fellowships under this paragraph to agricultural producers and consultants, government officials, and other individuals from the private and public sectors.

"(D) ACCEPTANCE OF GIFTS.—The Secretary may accept money, funds, property, and services of every kind by gift, devise, bequest, grant, or otherwise, and may in any manner, dispose of all of the holdings and use the receipts generated from the disposition to carry out this paragraph. Receipts under this paragraph shall remain available until expended.

"(E) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated such sums as are necessary to carry out this paragraph.".

(h) ASSISTANCE FOR AFFECTED FARMWORKERS.—

(1) IN GENERAL.—Subject to paragraph (3), if at any time the Secretary of Agriculture determines that the implementation of the Agreement has caused low-income migrant or seasonal farmworkers to lose income, the Secretary may make available grants, not to exceed $20,000,000 for any fiscal year, to public agencies or private organizations with tax-exempt status under section 501(c)(3) of the Internal Revenue Code of 1986, that have experience in providing emergency services to low-income migrant or seasonal farmworkers. Emergency services to be provided with assistance received under this subsection may include such types of assistance as the Secretary determines to be necessary and appropriate.

(2) DEFINITION.—As used in this subsection, the term "low-income migrant or seasonal farmworker" shall have the same meaning as provided in section 2281(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (42 U.S.C. 5177a(b)).

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $20,000,000 for each fiscal year to carry out this subsection.

(i) BIENNIAL REPORT ON EFFECTS OF THE AGREEMENT ON AMERICAN AGRICULTURE.—

(1) IN GENERAL.—The Secretary of Agriculture shall prepare a biennial report on the effects of the Agreement on United States producers of agricultural commodities and on rural communities located in the United States.

(2) CONTENTS OF REPORT.—The report required under this subsection shall include—

(A) an assessment of the effects of implementing the Agreement on the various agricultural commodities affected by the Agreement, on a commodity-by-commodity basis;

(B) an assessment of the effects of implementing the Agreement on investments made in United States agriculture and on rural communities located in the United States;

(C) an assessment of the effects of implementing the Agreement on employment in United States agriculture, including any gains or losses of jobs in businesses directly or indirectly related to United States agriculture; and

(D) such other information and data as the Secretary determines appropriate.

(3) SUBMISSION OF REPORT.—The Secretary shall furnish the report required under this subsection to the Committee on Agriculture, Nutrition, and Forestry of the Senate and to the Committee on Agriculture of the House of Representatives. The report shall be due every 2 years and shall be submitted by March 1 of the year in which the report is due. The first report shall be due by March 1, 1997, and the final report shall be due by March 1, 2011.

Subtitle C—Intellectual Property

SEC. 331. TREATMENT OF INVENTIVE ACTIVITY.

Section 104 of title 35, United States Code, is amended to read as follows:

"§ 104. Invention made abroad

"(a) IN GENERAL.—In proceedings in the Patent and Trademark Office, in the courts, and before any other competent authority, an applicant for a patent, or a patentee, may not establish a date of invention by reference to knowledge or use thereof, or other activity with respect thereto, in a foreign country other than a NAFTA country, except as provided in sections 119 and 365 of this title.

Where an invention was made by a person, civil or military, while domiciled in the United States or a NAFTA country and serving in any other country in connection with operations by or on behalf of the United States or a NAFTA country, the person shall be entitled to the same rights of priority in the United States with respect to such invention as if such invention had been made in the United States or a NAFTA country. To the extent that any information in a NAFTA country concerning knowledge, use, or other activity relevant to proving or disproving a date of invention has not been made available for use in a proceeding in the Office, a court, or any other competent authority to the same extent as such information could be made available in the United States, the Commissioner, court, or such other authority shall draw appropriate inferences, or take other action permitted by statute, rule, or regulation, in favor of the party that requested the information in the proceeding.

"(b) Definition.—As used in this section, the term 'NAFTA country' has the meaning given that term in section 2(4) of the North American Free Trade Agreement Implementation Act.".

SEC. 332. RENTAL RIGHTS IN SOUND RECORDINGS.

Section 4 of the Record Rental Amendment of 1984 (17 U.S.C. 109 note) is amended by striking out subsection (c).

SEC. 333. NONREGISTRABILITY OF MISLEADING GEOGRAPHIC INDICATIONS.

(a) Marks Not Registrable on the Principal Register.—Section 2 of the Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes", approved July 5, 1946, commonly referred to as the Trademark Act of 1946 (15 U.S.C. 1052(e)), is amended—

(1) by amending subsection (e) to read as follows:

"(e) Consists of a mark which (1) when used on or in connection with the goods of the applicant is merely descriptive or deceptively misdescriptive of them, (2) when used on or in connection with the goods of the applicant is primarily geographically descriptive of them, except as indications of regional origin may be registrable under section 4, (3) when used on or in connection with the goods of the applicant is primarily geographically deceptively misdescriptive of them, or (4) is primarily merely a surname."; and

(2) in subsection (f)—

(A) by striking out "and (d)" and inserting "(d), and (e)(3)"; and

(B) by adding at the end the following new sentence: "Nothing in this section shall prevent the registration of a mark which, when used on or in connection with the goods of the applicant, is primarily geographically deceptively misdescriptive of them, and which became distinctive of the applicant's goods in commerce before the date of the enactment of the North American Free Trade Agreement Implementation Act.".

(b) Supplemental Register.—Section 23(a) of the Trademark Act of 1946 (15 U.S.C. 1091(a)) is amended—

(1) by striking out "and (d)" and inserting "(d), and (e)(3)"; and

(2) by adding at the end the following new sentence: "Nothing in this section shall prevent the registration on the supplemental register of a mark, capable of distinguishing the applicant's goods or services and not registrable on the principal register under this Act, that is declared to be unregistrable under section 2(e)(3), if such mark has been in lawful use in commerce by the owner thereof, on or in connection with any goods or services, since before the date of the enactment of the North American Free Trade Agreement Implementation Act.".

SEC. 334. MOTION PICTURES IN THE PUBLIC DOMAIN.

(a) In General.—Chapter 1 of title 17, United States Code, is amended by inserting after section 104 the following new section:

"§ 104A. Copyright in certain motion pictures

"(a) Restoration of Copyright.—Subject to subsections (b) and (c)—

"(1) any motion picture that is first fixed or published in the territory of a NAFTA country as defined in section 2(4) of the North American Free Trade Agreement Implementation Act to which Annex 1705.7 of the North American Free Trade Agreement applies, and

"(2) any work included in such motion picture that is first fixed in or published with such motion picture,

that entered the public domain in the United States because it was first published on or after January 1, 1978, and before March 1, 1989, without the notice required by section 401, 402, or 403 of this title, the absence of which has not been excused by the operation of section 405 of this title, as such sections were in effect during that period, shall have copyright protection under this title for the remainder of the term of copyright protection to which it would have been entitled in the United States had it been published with such notice.

"(b) Effective Date of Protection.—The protection provided under subsection (a) shall become effective, with respect to any motion picture or work included in such motion picture meeting the criteria of that subsection, 1 year after the date on which the North American Free Trade Agreement enters into force with respect to, and the United States applies the Agreement to, the country in whose territory the motion picture was first fixed or published if, before the end of that 1-year period, the copyright owner in the motion picture or work files with the Copyright Office a statement of intent to have copyright protection restored under subsection (a). The Copyright Office shall publish in the Federal Register promptly after that effective date a list of motion pictures, and works included in such motion pictures, for which protection is provided under subsection (a).

"(c) Use of Previously Owned Copies.—A national or domiciliary of the United States who, before the date of the enactment of the North American Free Trade Agreement Implementation Act, made or acquired copies of a motion picture, or other work included in such motion picture, that is subject to protection under subsection (a), may sell or distribute such copies or continue to perform publicly such motion picture and other work without liability for such sale, distribution, or performance, for a period of 1 year after the date on which the list of motion pictures, and works included in such motion pictures, that are subject to protection under subsection (a) is published in the Federal Register under subsection (b).".

(b) Conforming Amendment.—The table of sections at the beginning of chapter 1 of title 17, United States Code, is amended by inserting after the item relating to section 104 the following new item:

"104A. Copyright in certain motion pictures.".

SEC. 335. EFFECTIVE DATES.

(a) In General.—Subject to subsections (b) and (c), the amendments made by this subtitle take effect on the date the Agreement enters into force with respect to the United States.

(b) Section 331.—The amendments made by section 331 shall apply to all patent applications that are filed on or after the date of the enactment of this Act: *Provided*, That an applicant for a patent, or a patentee, may not establish a date of invention by reference to knowledge or use thereof, or other activity with respect thereto, in a NAFTA country, except as provided in sections 119 and 365 of title 35, United States Code, that is earlier than the date of the enactment of this Act.

(c) Section 333.—The amendments made by section 333 shall apply only to trademark applications filed on or after the date of the enactment of this Act.

Subtitle D—Temporary Entry of Business Persons

SEC. 341. TEMPORARY ENTRY.

(a) Nonimmigrant Traders and Investors.—Upon a basis of reciprocity secured by the Agreement, an alien who is a citizen of Canada or Mexico, and the spouse and children of any such alien if accompanying or following to join such alien, may, if otherwise eligible for a visa and if otherwise admissible into the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), be considered to be classifiable as a nonimmigrant under section 101(a)(15)(E) of such Act (8 U.S.C. 1101(a)(15)(E)) if entering solely for a purpose specified in Section B of Annex 1603 of the Agreement, but only if any such purpose shall have been specified in such Annex on the date of entry into force of the Agreement. For purposes of this section, the term "citizen of Mexico" means "citizen" as defined in Annex 1608 of the Agreement.

(b) Nonimmigrant Professionals and Annual Numerical Limit.—Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended by redesignating subsection (e) as paragraph (1) of subsection (e) and adding after such paragraph (1), as redesignated, the following new paragraphs:

"(2) An alien who is a citizen of Canada or Mexico, and the spouse and children of any such alien if accompanying or following to join such alien, who seeks to enter the United States under and pursuant to the provisions of Section D of Annex 1603 of the North American Free Trade Agreement (in this subsection referred to as 'NAFTA') to engage in business activities at a professional level as provided for in such Annex, may be admitted for such purpose under regulations of the Attorney General promulgated after consultation with the Secretaries of State and Labor. For purposes of this Act, including the issuance of entry documents and the application of subsection (b), such alien shall be treated as if seeking classification, or classifiable, as a nonimmigrant under section 101(a)(15). The admission of an alien who is a citizen of Mexico shall be subject to paragraphs (3), (4), and (5). For purposes of this paragraph and paragraphs (3), (4), and (5), the term 'citizen of Mexico' means 'citizen' as defined in Annex 1608 of NAFTA.

"(3) The Attorney General shall establish an annual numerical limit on admissions under paragraph (2) of aliens who are citizens of Mexico, as set forth in Appendix 1603.D.4 of Annex 1603 of the NAFTA. Subject to paragraph (4), the annual numerical limit—

"(A) beginning with the second year that NAFTA is in force, may be increased in accordance with the provisions of paragraph 5(a) of Section D of such Annex, and

“(B) shall cease to apply as provided for in paragraph 3 of such Appendix.

“(4) The annual numerical limit referred to in paragraph (3) may be increased or shall cease to apply (other than by operation of paragraph 3 of such Appendix) only if—

“(A) the President has obtained advice regarding the proposed action from the appropriate advisory committees established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155);

“(B) the President has submitted a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that sets forth—

“(i) the action proposed to be taken and the reasons therefor, and

“(ii) the advice obtained under subparagraph (A);

“(C) a period of at least 60 calendar days that begins on the first day on which the President has met the requirements of subparagraphs (A) and (B) with respect to such action has expired; and

“(D) the President has consulted with such committees regarding the proposed action during the period referred to in subparagraph (C).

“(5) During the period that the provisions of Appendix 1603.D.4 of Annex 1603 of the NAFTA apply, the entry of an alien who is a citizen of Mexico under and pursuant to the provisions of Section D of Annex 1603 of NAFTA shall be subject to the attestation requirement of section 212(m), in the case of a registered nurse, or the application requirement of section 212(n), in the case of all other professions set out in Appendix 1603.D.1 of Annex 1603 of NAFTA, and the petition requirement of subsection (c), to the extent and in the manner prescribed in regulations promulgated by the Secretary of Labor, with respect to sections 212(m) and 212(n), and the Attorney General, with respect to subsection (c).”.

(c) Labor Disputes.—Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended by adding at the end the following new subsection:

“(j) Notwithstanding any other provision of this Act, an alien who is a citizen of Canada or Mexico who seeks to enter the United States under and pursuant to the provisions of Section B, Section C, or Section D of Annex 1603 of the North American Free Trade Agreement, shall not be classified as a nonimmigrant under such provisions if there is in progress a strike or lockout in the course of a labor dispute in the occupational classification at the place or intended place of employment, unless such alien establishes, pursuant to regulations promulgated by the Attorney General, that the alien's entry will not affect adversely the settlement of the strike or lockout or the employment of any person who is involved in the strike or lockout. Notice of a determination under this subsection shall be given as may be required by paragraph 3 of article 1603 of such Agreement. For purposes of this subsection, the term ‘citizen of Mexico’ means ‘citizen’ as defined in Annex 1608 of such Agreement.”.

SEC. 342. EFFECTIVE DATE.

The provisions of this subtitle take effect on the date the Agreement enters into force with respect to the United States.

Subtitle E—Standards

PART 1—STANDARDS AND MEASURES

SEC. 351. STANDARDS AND SANITARY AND PHYTOSANITARY MEASURES.

(a) In General.—Title IV of the Trade Agreements Act of 1979 (19 U.S.C. 2531 et seq.) is amended by inserting at the end the following new subtitle:

“Subtitle E—Standards and Measures Under the North American Free Trade Agreement

“CHAPTER 1—SANITARY AND PHYTOSANITARY MEASURES

“SEC. 461. GENERAL.

“Nothing in this chapter may be construed—

“(1) to prohibit a Federal agency or State agency from engaging in activity related to sanitary or phytosanitary measures to protect human, animal, or plant life or health; or

“(2) to limit the authority of a Federal agency or State agency to determine the level of protection of human, animal, or plant life or health the agency considers appropriate.

“SEC. 462. INQUIRY POINT.

“The standards information center maintained under section 414 shall, in addition to the functions specified therein, make available to the public relevant documents, at such reasonable fees as the Secretary of Commerce may prescribe, and information regarding—

“(1) any sanitary or phytosanitary measure of general application, including any control or inspection procedure or approval procedure proposed, adopted, or maintained by a Federal or State agency;

“(2) the procedures of a Federal or State agency for risk assessment, and factors the agency considers in conducting the assessment and in establishing the levels of protection that the agency considers appropriate;

“(3) the membership and participation of the Federal Government and State governments in international and regional sanitary and phytosanitary organizations and systems, and in bilateral and multilateral arrangements regarding sanitary and phytosanitary measures, and the provisions of those systems and arrangements; and

“(4) the location of notices of the type required under article 719 of the NAFTA, or where the information contained in such notices can be obtained.

“SEC. 463. CHAPTER DEFINITIONS.

“Notwithstanding section 451, for purposes of this chapter—

“(1) Animal.—The term ‘animal’ includes fish, bees, and wild fauna.

“(2) Approval procedure.—The term ‘approval procedure’ means any registration, notification, or other mandatory administrative procedure for—

“(A) approving the use of an additive for a stated purpose or under stated conditions, or

“(B) establishing a tolerance for a stated purpose or under stated conditions for a contaminant,

in a food, beverage, or feedstuff prior to permitting the use of the additive or the marketing of a food, beverage, or feedstuff containing the additive or contaminant.

“(3) Contaminant.—The term ‘contaminant’ includes pesticide and veterinary drug residues and extraneous matter.

“(4) Control or inspection procedure.—The term ‘control or inspection procedure’ means any procedure used, directly or indirectly, to determine that a sanitary or phytosanitary measure is fulfilled, including sampling, testing, inspection, evaluation, verification, monitoring, auditing, assurance of conformity, accreditation, registration, certification, or other procedure involving the physical examination of a good, of the packaging of a good, or of the equipment or facilities directly related to production, marketing, or use of a good, but does not mean an approval procedure.

“(5) Plant.—The term ‘plant’ includes wild flora.

“(6) Risk assessment.—The term ‘risk assessment’ means an evaluation of—

“(A) the potential for the introduction, establishment or spread of a pest or disease and associated biological and economic consequences; or

“(B) the potential for adverse effects on human or animal life or health arising from the presence of an additive, contaminant, toxin or disease-causing organism in a food, beverage, or feedstuff.

“(7) Sanitary or phytosanitary measure.—

“(A) In general.—The term ‘sanitary or phytosanitary measure’ means a measure to—

“(i) protect animal or plant life or health in the United States from risks arising from the introduction, establishment, or spread of a pest or disease;

“(ii) protect human or animal life or health in the United States from risks arising from the presence of an additive, contaminant, toxin, or disease-causing organism in a food, beverage, or feedstuff;

“(iii) protect human life or health in the United States from risks arising from a disease-causing organism or pest carried by an animal or plant, or a product thereof; or

“(iv) prevent or limit other damage in the United States arising from the introduction, establishment, or spread of a pest.

“(B) Form.—The form of a sanitary or phytosanitary measure includes—

“(i) end product criteria;

“(ii) a product-related processing or production method;

“(iii) a testing, inspection, certification, or approval procedure;

“(iv) a relevant statistical method;

“(v) a sampling procedure;

“(vi) a method of risk assessment;

“(vii) a packaging and labeling requirement directly related to food safety; and

“(viii) a quarantine treatment, such as a relevant requirement associated with the transportation of animals or plants or with material necessary for their survival during transportation.

“CHAPTER 2—STANDARDS-RELATED MEASURES

“SEC. 471. GENERAL.

“(a) No Bar To Engaging in Standards Activity.—Nothing in this chapter shall be construed—

“(1) to prohibit a Federal agency from engaging in activity related to standards-related measures, including any such measure relating to safety, the protection of human, animal, or plant life or health, the environment or consumers; or

“(2) to limit the authority of a Federal agency to determine the level it considers appropriate of safety or of protection of human, animal, or plant life or health, the environment or consumers.

“(b) Exclusion.—This chapter does not apply to—

“(1) technical specifications prepared by a Federal agency for production or consumption requirements of the agency; or

“(2) sanitary or phytosanitary measures under chapter 1.

“SEC. 472. INQUIRY POINT.

“The standards information center maintained under section 414 shall, in addition to the functions specified therein, make available to the public relevant documents, at such reasonable fees as the Secretary of Commerce may prescribe, and information regarding—

"(1) the membership and participation of the Federal Government, State governments, and relevant nongovernmental bodies in the United States in international and regional standardizing bodies and conformity assessment systems, and in bilateral and multilateral arrangements regarding standards-related measures, and the provisions of those systems and arrangements;

"(2) the location of notices of the type required under article 909 of the NAFTA, or where the information contained in such notice can be obtained; and

"(3) the Federal agency procedures for assessment of risk, and factors the agency considers in conducting the assessment and establishing the levels of protection that the agency considers appropriate.

"SEC. 473. CHAPTER DEFINITIONS.

"Notwithstanding section 451, for purposes of this chapter—

"(1) APPROVAL PROCEDURE.—The term 'approval procedure' means any registration, notification, or other mandatory administrative procedure for granting permission for a good or service to be produced, marketed, or used for a stated purpose or under stated conditions.

"(2) CONFORMITY ASSESSMENT PROCEDURE.—The term 'conformity assessment procedure' means any procedure used, directly or indirectly, to determine that a technical regulation or standard is fulfilled, including sampling, testing, inspection, evaluation, verification, monitoring, auditing, assurance of conformity, accreditation, registration, or approval used for such a purpose, but does not mean an approval procedure.

"(3) OBJECTIVE.—The term 'objective' includes—

"(A) safety,

"(B) protection of human, animal, or plant life or health, the environment or consumers, including matters relating to quality and identifiability of goods or services, and

"(C) sustainable development,

but does not include the protection of domestic production.

"(4) SERVICE.—The term 'service' means a land transportation service or a telecommunications service.

"(5) STANDARD.—The term 'standard' means—

"(A) characteristics for a good or a service,

"(B) characteristics, rules, or guidelines for—

"(i) processes or production methods relating to such good, or

"(ii) operating methods relating to such service, and

"(C) provisions specifying terminology, symbols, packaging, marking, or labelling for—

"(i) a good or its related process or production methods, or

"(ii) a service or its related operating methods,

for common and repeated use, including explanatory and other related provisions set out in a document approved by a standardizing body, with which compliance is not mandatory.

"(6) STANDARDS-RELATED MEASURE.—The term 'standards-related measure' means a standard, technical regulation, or conformity assessment procedure.

"(7) TECHNICAL REGULATION.—The term 'technical regulation' means—

"(A) characteristics or their related processes and production methods for a good,

"(B) characteristics for a service or its related operating methods, or

"(C) provisions specifying terminology, symbols, packaging, marking, or labelling for—

"(i) a good or its related process or production method, or

"(ii) a service or its related operating method,

set out in a document, including applicable administrative, explanatory, and other related provisions, with which compliance is mandatory.

"(8) TELECOMMUNICATIONS SERVICE.—The term 'telecommunications service' means a service provided by means of the transmission and reception of signals by any electromagnetic means, but does not mean the cable, broadcast, or other electromagnetic distribution of radio or television programming to the public generally.

"CHAPTER 3—SUBTITLE DEFINITIONS

"SEC. 481. DEFINITIONS.

"Notwithstanding section 451, for purposes of this subtitle—

"(1) NAFTA.—The term 'NAFTA' means the North American Free Trade Agreement.

"(2) STATE.—The term 'State' means any of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.".

(b) TECHNICAL AMENDMENTS.—

(1) DEFINITION OF TRADE REPRESENTATIVE.—Section 451(12) of the Trade Agreements Act of 1979 is amended to read as follows:

"(12) TRADE REPRESENTATIVE.—The term 'Trade Representative' means the United States Trade Representative.".

(2) CONFORMING AMENDMENTS.—Title IV of the Trade Agreement Act of 1979 is further amended—

(A) by striking out "Special Representative" each place it appears and inserting "Trade Representative"; and

(B) in the section heading to section 411, by striking out "**SPECIAL REPRESENTATIVE**" and inserting "**TRADE REPRESENTATIVE**".

SEC. 352. TRANSPORTATION.

No regulation issued by the Secretary of Transportation implementing a recommendation of the Land Transportation Standards Subcommittee established under article 913(5)(a)(i) of the Agreement may take effect before the date 90 days after the date of issuance.

PART 2—AGRICULTURAL STANDARDS

SEC. 361. AGRICULTURAL TECHNICAL AND CONFORMING AMENDMENTS.

(a) FEDERAL SEED ACT.—Section 302(e)(1) of the Federal Seed Act (7 U.S.C. 1582(e)(1)) is amended by inserting "or Mexico" after "Canada".

(b) IMPORTATION OF ANIMALS.—The first sentence of section 6 of the Act of August 30, 1890 (26 Stat. 416, chapter 839; 21 U.S.C. 104), is amended by striking ": *Provided*" and all that follows through the period at the end of the sentence and inserting ", except that the Secretary of Agriculture, in accordance with such regulations as the Secretary may issue, may (1) permit the importation of cattle, sheep, or other ruminants, and swine, from Canada or Mexico, and (2) permit the importation from the British Virgin Islands into the Virgin Islands of the United States, for slaughter only, of cattle that have been infested with or exposed to ticks on being freed from the ticks.".

(c) INSPECTION OF ANIMALS.—Section 10 of the Act of August 30, 1890 (26 Stat. 417, chapter 839; 21 U.S.C. 105), is amended—

(1) by inserting above "SEC. 10." the following new section heading:

"SEC. 10. INSPECTION OF ANIMALS.";

(2) by striking "SEC. 10. That the Secretary of Agriculture shall" and inserting "(a) IN GENERAL.—Except as provided in subsection (b), the Secretary of Agriculture shall"; and

(3) by adding at the end the following new subsection:

"(b) EXCEPTION.—The Secretary of Agriculture, in accordance with such regulations as the Secretary may issue, may waive any provision of subsection (a) in the case of shipments between the United States and Canada or Mexico.".

(d) DISEASE-FREE COUNTRIES OR REGIONS.—

(1) TARIFF ACT OF 1930.—Section 306 of the Tariff Act of 1930 (19 U.S.C. 1306) is amended—

(A) in subsection (a), by striking "RINDERPEST AND FOOT-AND-MOUTH DISEASE.—If the Secretary of Agriculture" and inserting "IN GENERAL.—Except as provided in subsection (b), if the Secretary of Agriculture"; and

(B) by striking subsection (b) and inserting the following new subsection:

"(b) EXCEPTION.—The Secretary of Agriculture may permit, subject to such terms and conditions as the Secretary determines appropriate, the importation of cattle, sheep, other ruminants, or swine (including embryos of the animals), or the fresh, chilled, or frozen meat of the animals, from a region if the Secretary determines that the region from which the animal or meat originated is, and is likely to remain, free from rinderpest and foot-and-mouth disease.".

(2) HONEYBEE ACT.—The first section of the Act of August 31, 1922 (commonly known as the "Honeybee Act") (42 Stat. 833, chapter 301; 7 U.S.C. 281), is amended—

(A) in subsection (a)—

(i) by striking ", or" at the end of paragraph (1) and inserting a semicolon;

(ii) by striking the period at the end of paragraph (2) and inserting "; or"; and

(iii) by adding at the end the following new paragraph:

"(3) from Canada or Mexico, subject to such terms and conditions as the Secretary of Agriculture determines appropriate, if the Secretary determines that the region of Canada or Mexico from which the honeybees originated is, and is likely to remain, free of diseases or parasites harmful to honeybees, and undesirable species or subspecies of honeybees."; and

(B) in subsection (b)—

(i) by inserting "(1)" after "imported into the United States only from"; and

(ii) by inserting before the period the following: ", or (2) Canada or Mexico, if the Secretary of Agriculture determines that the region of Canada or Mexico from which the imports originate is, and is likely to remain, free of undesirable species or subspecies of honeybees".

(e) POULTRY PRODUCTS INSPECTION ACT.—Section 17(d) of the Poultry Products Inspection Act (21 U.S.C. 466(d)) is amended—

(1) in paragraph (1), by inserting after "Notwithstanding any other provision of law," the following: "except as provided in paragraph (2),";

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(3) by inserting after paragraph (1) the following new paragraph:

"(2)(A) Notwithstanding any other provision of law, all poultry, or parts or products of poultry, capable of use as human food offered for importation into the United States from Canada and Mexico shall—

"(i) comply with paragraph (1); or

"(ii)(I) be subject to inspection, sanitary, quality, species verification, and residue standards that are equivalent to United States standards; and

"(II) have been processed in facilities and under conditions that meet standards that are equivalent to United States standards.

"(B) The Secretary may treat as equivalent to a United States standard a standard of Canada or Mexico described in subparagraph (A)(ii) if the exporting country provides the Secretary with scientific evidence or other information, in accordance with risk assessment methodologies agreed to by the Secretary and the exporting country, to demonstrate that the standard of the exporting country achieves the level of protection that the Secretary considers appropriate.

"(C) The Secretary may—

"(i) determine, on a scientific basis, that the standard of the exporting country does not achieve the level of protection that the Secretary considers appropriate; and

"(ii) provide the basis for the determination in writing to the exporting country on request.".

(f) Federal Meat Inspection Act.—Section 20(e) of the Federal Meat Inspection Act (21 U.S.C. 620(e)) is amended—

(1) by striking "not be limited to—" and inserting "not be limited to the following:";

(2) by striking paragraph (1);

(3) by redesignating paragraphs (2) through (6) as paragraphs (3) through (7), respectively;

(4) by inserting after "not be limited to the following:" (as amended by paragraph (1)) the following new paragraphs:

"(1)(A) Subject to subparagraphs (B) and (C), a certification by the Secretary that foreign plants in Canada and Mexico that export carcasses or meat or meat products referred to in subsection (a) have complied with paragraph (2) or with requirements that are equivalent to United States requirements with regard to all inspection and building construction standards, and all other provisions of this Act and regulations issued under this Act.

"(B) Subject to subparagraph (C), the Secretary may treat as equivalent to a United States requirement a requirement described in subparagraph (A) if the exporting country provides the Secretary with scientific evidence or other information, in accordance with risk assessment methodologies agreed to by the Secretary and the exporting country, to demonstrate that the requirement or standard of the exporting country achieves the level of protection that the Secretary considers appropriate.

"(C) The Secretary may—

"(i) determine, on a scientific basis, that a requirement of an exporting country does not achieve the level of protection that the Secretary considers appropriate; and

"(ii) provide the basis for the determination to the exporting country in writing on request.

"(2) A certification by the Secretary that, except as provided in paragraph (1), foreign plants that export carcasses or meat or meat products referred to in subsection (a) have complied with requirements that are at least equal to all inspection and building construction standards and all other provisions of this Act and regulations issued under this Act.";

(5) in paragraphs (3) through (7) (as redesignated by paragraph (3)), by striking "the" the first place it appears in each paragraph and inserting "The";

(6) in paragraphs (3) through (5) (as so redesignated), by striking the semicolon at the end of each paragraph and inserting a period; and

(7) in paragraph (6) (as so redesignated), by striking "; and" at the end and inserting a period.

(g) Peanut Butter and Peanut Paste.—

(1) In general.—Except as provided in paragraph (2), all peanut butter and peanut paste in the United States domestic market shall be processed from peanuts that meet the quality standards established for peanuts under Marketing Agreement No. 146.

(2) Imports.—Peanut butter and peanut paste imported into the United States shall comply with paragraph (1) or with sanitary measures that achieve at least the same level of sanitary protection.

(h) Animal Health Biocontainment Facility.—

(1) Grant for construction.—The Secretary of Agriculture shall make a grant to a land grant college or university described in paragraph (2) for the construction of a facility at the college or university for the conduct of research in animal health, disease-transmitting insects, and toxic chemicals that requires the use of biocontainment facilities and equipment. The facility to be constructed with the grant shall be known as the "Southwest Regional Animal Health Biocontainment Facility".

(2) Grant recipient described.—To be eligible for the grant under paragraph (1), a land grant college or university must be—

(A) located in a State adjacent to the international border with Mexico; and

(B) determined by the Secretary of Agriculture to have an established program in animal health research and education and to have a collaborative relationship with one or more colleges of veterinary medicine or universities located in Mexico.

(3) Activities of the facility.—The facility constructed using the grant made under paragraph (1) shall be used for conducting the following activities:

(A) The biocontainment facility shall offer the ability to organize multidisciplinary international teams working on basic and applied research on diagnostic method development and disease control strategies, including development of vaccines.

(B) The biocontainment facility shall support research that will improve the scientific basis for regulatory activities, decreasing the need for new regulatory programs and enhancing international trade.

(C) The biocontainment facility shall allow academic institutions, governmental agencies, and the private sector to conduct research in basic and applied research biology, epidemiology, pathogenesis, host response, and diagnostic methods, on disease agents that threaten the livestock industries of the United States and Mexico.

(D) The biocontainment facility may be used to support research involving food safety, toxicology, environmental pollutants, radioisotopes, recombinant microorganisms, and selected naturally resistant or transgenic animals.

(4) Authorization of appropriations.—There are authorized to be appropriated for each fiscal year such sums as are necessary to carry out this subsection.

(i) Reports on Inspection of Imported Meat, Poultry, Other Foods, Animals, and Plants.—

(1) Definitions.—As used in this subsection:

(A) Imports.—The term "imports" means any meat, poultry, other food, animal, or plant that is imported into the United States in commercially significant quantities.

(B) Secretary.—The term "Secretary" means the Secretary of Agriculture.

(2) In general.—In consultation with representatives of other appropriate agencies, the Secretary shall prepare an annual report on the impact of the Agreement on the inspection of imports.

(3) Contents of reports.—The report required under this subsection shall, to the maximum extent practicable, include a description of—

(A) the quantity or, with respect to the Customs Service, the number of shipments, of imports from a NAFTA country that are inspected at the borders of the United States with Canada and Mexico during the prior year;

(B) any change in the level or types of inspections of imports in each NAFTA country during the prior year;

(C) in any case in which the Secretary has determined that the inspection system of another NAFTA country is equivalent to the inspection system of the United States, the reasons supporting the determination of the Secretary;

(D) the incidence of violations of inspection requirements by imports from NAFTA countries during the prior year—

(i) at the borders of the United States with Mexico or Canada; or

(ii) at the last point of inspection in a NAFTA country prior to shipment to the United States if the agency accepts inspection in that country;

(E) the incidence of violations of inspection requirements of imports to the United States from Mexico or Canada prior to the implementation of the Agreement;

(F) any additional cost associated with maintaining an adequate inspection system of imports as a result of the implementation of the Agreement;

(G) any incidence of transshipment of imports—

(i) that originate in a country other than a NAFTA country;

(ii) that are shipped to the United States through a NAFTA country during the prior year; and

(iii) that are incorrectly represented by the importer to qualify for preferential treatment under the Agreement;

(H) the quantity and results of any monitoring by the United States of equivalent inspection systems of imports in other NAFTA countries during the prior year;

(I) the use by other NAFTA countries of sanitary and phytosanitary measures (as defined in the Agreement) to limit exports of United States meat, poultry, other foods, animals, and plants to the countries during the prior year; and

(J) any other information the Secretary determines to be appropriate.

(4) Frequency of reports.—The Secretary shall submit—

(A) the initial report required under this subsection not later than January 31, 1995; and

(B) an annual report required under this subsection not later than 1 year after the date of the submission of the initial report and the end of each 1-year period thereafter through calendar year 2004.

(5) Report to congress.—The Secretary shall prepare and submit the report required under this subsection to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

Subtitle F—Corporate Average Fuel Economy

SEC. 371. CORPORATE AVERAGE FUEL ECONOMY.

(a) In General.—Section 503(b)(2) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003(b)(2)) is amended by adding at the end the following new subparagraph:

"(G)(i) In accordance with the schedule set out in clause (ii), an automobile shall be considered domestically manufactured in a model year if at least 75 percent of the cost to the manufacturer of the automobile is attributable to value added in the United States, Canada, or Mexico, unless the assembly of the automobile is completed in Canada or Mexico and the automobile is not imported into the United States prior to the expiration of 30 days following the end of that model year.

"(ii) Clause (i) shall apply to all automobiles manufactured by a manufacturer and sold in the United States, wherever assembled, in accordance with the following schedule:

"(I) With respect to a manufacturer that initiated the assembly of automobiles in Mexico before model year 1992, the manufacturer may elect, at any time between January 1, 1997, and January 1, 2004, to have clause (i) apply to all automobiles it manufactures, beginning with the model year commencing after the date of such election.

"(II) With respect to a manufacturer initiating the assembly of automobiles in Mexico after model year 1991, clause (i) shall apply to all automobiles it manufactures, beginning with the model year commencing after January 1, 1994, or the model year commencing after the date that the manufacturer initiates the assembly of automobiles in Mexico, whichever is later.

"(III) With respect to a manufacturer not described by subclause (I) or (II) assembling automobiles in the United States or Canada but not in Mexico, the manufacturer may elect, at any time between January 1, 1997, and January 1, 2004, to have clause (i) apply to all automobiles it manufactures, beginning with the model year commencing after the date of such election, except that if such manufacturer initiates the assembly of automobiles in Mexico before making such election, this subclause shall not apply and the manufacturer shall be subject to clause (II).

"(IV) With respect to a manufacturer not assembling automobiles in the United States, Canada, or Mexico, clause (i) shall apply to all automobiles it manufactures, beginning with the model year commencing after January 1, 1994.

"(V) With respect to a manufacturer authorized to make an election under subclause (I) or (III) which has not made that election within the specified period, clause (i) shall apply to all automobiles it manufactures, beginning with the model year commencing after January 1, 2004.

"(iii) The Secretary shall prescribe reasonable procedures for elections under this subparagraph, and the EPA Administrator may prescribe rules for purposes of carrying out this subparagraph.".

(b) CONFORMING AMENDMENTS.—The first sentence of section 503(b)(2)(E) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003(b)(2)(E)) is amended—

(1) by striking "An" and inserting "Except as provided in subparagraph (G), an", and

(2) in the last sentence, by striking "this subparagraph" and inserting "this subparagraph and subparagraph (G)".

Subtitle G—Government Procurement

SEC. 381. GOVERNMENT PROCUREMENT.

(a) IN GENERAL.—Section 301 of the Trade Agreements Act of 1979 (19 U.S.C. 2511) is amended—

(1) in subsection (a) by striking "The President" and inserting "Subject to subsection (f) of this section, the President";

(2) by inserting "or the North American Free Trade Agreement" after "the Agreement" in paragraph (1) of subsection (b); and

(3) by adding at the end the following new subsections:

"(e) PROCUREMENT PROCEDURES BY CERTAIN FEDERAL AGENCIES.—Notwithstanding any other provision of law, the President may direct any agency of the United States listed in Annex 1001.1a-2 of the North American Free Trade Agreement to procure eligible products in compliance with the procedural provisions of chapter 10 of such Agreement.

"(f) SMALL BUSINESS AND MINORITY PREFERENCES.—The authority of the President under subsection (a) of this section to waive any law, regulation, procedure, or practice regarding Government procurement does not authorize the waiver of any small business or minority preference.".

(b) RECIPROCAL COMPETITIVE PROCUREMENT PRACTICES.—Section 302(a) of such Act (19 U.S.C. 2512(a)) is amended by striking "would otherwise be eligible products" in paragraph (1) and inserting "are products covered under the Agreement for procurement by the United States".

(c) DEFINITION OF ELIGIBLE PRODUCT.—Section 308(4)(A) of such Act (19 U.S.C. 2518(4)(A)) is amended to read as follows:

"(A) IN GENERAL.—The term 'eligible product' means, with respect to any foreign country or instrumentality that is—

"(i) a party to the Agreement, a product or service of that country or instrumentality which is covered under the Agreement for procurement by the United States; or

"(ii) a party to the North American Free Trade Agreement, a product or service of that country or instrumentality which is covered under the North American Free Trade Agreement for procurement by the United States.".

(d) CONFORMING AMENDMENTS.—Section 401 of the Rural Electrification Act of 1938 (7 U.S.C. 903 note) is amended by inserting ", Mexico, or Canada" after "the United States" each place it appears.

(e) EFFECTIVE DATE.—The provisions of this subtitle take effect on the date the Agreement enters into force with respect to the United States.

TITLE IV—DISPUTE SETTLEMENT IN ANTIDUMPING AND COUNTERVAILING DUTY CASES

Subtitle A—Organizational, Administrative, and Procedural Provisions Regarding the Implementation of Chapter 19 of the Agreement

SEC. 401. REFERENCES IN SUBTITLE.

Any reference in this subtitle to an Annex, chapter, or article shall be considered to be a reference to the respective Annex, chapter, or article of the Agreement.

SEC. 402. ORGANIZATIONAL AND ADMINISTRATIVE PROVISIONS.

(a) CRITERIA FOR SELECTION OF INDIVIDUALS TO SERVE ON PANELS AND COMMITTEES.—

(1) IN GENERAL.—The selection of individuals under this section for—

(A) placement on lists prepared by the interagency group under subsection (c)(2)(B)(i) and (ii);

(B) placement on preliminary candidate lists under subsection (c)(3)(A);

(C) placement on final candidate lists under subsection (c)(4)(A);

(D) placement by the Trade Representative on the rosters described in paragraph 1 of Annex 1901.2 and paragraph 1 of Annex 1904.13; and

(E) appointment by the Trade Representative for service on the panels and committees convened under chapter 19;

shall be made on the basis of the criteria provided in paragraph 1 of Annex 1901.2 and paragraph 1 of Annex 1904.13 and shall be made without regard to political affiliation.

(2) ADDITIONAL CRITERIA FOR ROSTER PLACEMENTS AND APPOINTMENTS UNDER PARAGRAPH 1 OF ANNEX 1901.2.—Rosters described in paragraph 1 of Annex 1901.2 shall include, to the fullest extent practicable, judges and former judges who meet the criteria referred to in paragraph (1). The Trade Representative shall, subject to subsection (b), appoint judges to binational panels convened under chapter 19, extraordinary challenge committees convened under chapter 19, and special committees established under article 1905, where such judges offer and are available to serve and such service is authorized by the chief judge of the court on which they sit.

(b) SELECTION OF CERTAIN JUDGES TO SERVE ON PANELS AND COMMITTEES.—

(1) APPLICABILITY.—This subsection applies only with respect to the selection of individuals for binational panels convened under chapter 19, extraordinary challenge committees convened under chapter 19, and special committees established under article 1905, who are judges of courts created under article III of the Constitution of the United States.

(2) CONSULTATION WITH CHIEF JUDGES.—The Trade Representative shall consult, from time to time, with the chief judges of the Federal judicial circuits regarding the interest in, and availability for, participation in binational panels, extraordinary challenge committees, and special committees, of judges within their respective circuits. If the chief judge of a Federal judicial circuit determines that it is appropriate for one or more judges within that circuit to be included on a roster described in subsection (a)(1)(D), the chief judge shall identify all such judges for the Chief Justice of the United States who may, upon his or her approval, submit the names of such judges to the Trade Representative. The Trade Representative shall include the names of such judges on the roster.

(3) SUBMISSION OF LISTS TO CONGRESS.—The Trade Representative shall submit to the Committee on the Judiciary and the Committee on Ways and Means of the House of Representatives and to the Committee on Finance and the Committee on the Judiciary of the Senate a list of all judges included on a roster under paragraph (2). Such list shall be submitted at the same time as the final candidate lists are submitted under subsection (c)(4)(A) and the final forms of amendments are submitted under subsection (c)(4)(C)(iv).

(4) APPOINTMENT OF JUDGES TO PANELS OR COMMITTEES.—At such time as the Trade Representative proposes to appoint a judge described in paragraph (1) to a binational panel, an extraordinary challenge committee, or a special committee, the Trade Representative shall consult with that judge in order to ascertain whether the judge is available for such appointment.

(c) SELECTION OF OTHER CANDIDATES.—

(1) APPLICABILITY.—This subsection applies only with respect to the selection of individuals for binational panels convened under chapter 19, extraordinary challenge committees convened under chapter 19, and special committees established under article 1905, other than those individuals to whom subsection (b) applies.

(2) INTERAGENCY GROUP.—

(A) ESTABLISHMENT.—There is established within the interagency organization established under section 242 of the Trade Expansion Act of 1962 (19 U.S.C. 1872) an interagency group which shall—

(i) be chaired by the Trade Representative; and

(ii) consist of such officers (or the designees thereof) of the United States Government as the Trade Representative considers appropriate.

(B) FUNCTIONS.—The interagency group established under subparagraph (A) shall, in a manner consistent with chapter 19—

(i) prepare by January 3 of each calendar year—

(I) a list of individuals who are qualified to serve as members of binational panels convened under chapter 19; and

(II) a list of individuals who are qualified to serve on extraordinary challenge committees convened under chapter 19 and special committees established under article 1905;

(ii) if the Trade Representative makes a request under paragraph (4)(C)(i) with respect to a final candidate list during any calendar year, prepare by July 1 of such calendar year a list of those individuals who are qualified to be added to that final candidate list;

(iii) exercise oversight of the administration of the United States Section that is authorized to be established under section 105; and

(iv) make recommendations to the Trade Representative regarding the convening of extraordinary challenge committees and special committees under chapter 19.

(3) PRELIMINARY CANDIDATE LISTS.—

(A) IN GENERAL.—The Trade Representative shall select individuals from the respective lists prepared by the interagency group under paragraph (2)(B)(i) for placement on—

(i) a preliminary candidate list of individuals eligible to serve as members of binational panels under Annex 1901.2; and

(ii) a preliminary candidate list of individuals eligible for selection as members of extraordinary challenge committees under Annex 1904.13 and special committees under article 1905.

(B) SUBMISSION OF LISTS TO CONGRESSIONAL COMMITTEES.—

(i) IN GENERAL.—No later than January 3 of each calendar year, the Trade Representative shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives (hereafter in this section referred to as the "appropriate Congressional Committees") the preliminary candidate lists of those individuals selected by the Trade Representative under subparagraph (A) to be candidates eligible to serve on panels or committees convened pursuant to chapter 19 during the 1-year period beginning on April 1 of such calendar year.

(ii) ADDITIONAL INFORMATION.—At the time the candidate lists are submitted under clause (i), the Trade Representative shall submit for each individual on the list a statement of professional qualifications.

(C) CONSULTATION.—Upon submission of the preliminary candidate lists under subparagraph (B) to the appropriate Congressional Committees, the Trade Representative shall consult with such Committees with regard to the individuals included on the preliminary candidate lists.

(D) REVISION OF LISTS.—The Trade Representative may add and delete individuals from the preliminary candidate lists submitted under subparagraph (B) after consultation with the appropriate Congressional Committees regarding the additions and deletions. The Trade Representative shall provide to the appropriate Congressional Committees written notice of any addition or deletion of an individual from the preliminary candidate lists, along with the information described in subparagraph (B)(ii) with respect to any proposed addition.

(4) FINAL CANDIDATE LISTS.—

(A) SUBMISSION OF LISTS TO CONGRESSIONAL COMMITTEES.—No later than March 31 of each calendar year, the Trade Representative shall submit to the appropriate Congressional Committees the final candidate lists of those individuals selected by the Trade Representative to be candidates eligible to serve on panels and committees convened under chapter 19 during the 1-year period beginning on April 1 of such calendar year. An individual may be included on a final candidate list only if such individual was included in the preliminary candidate list or if written notice of the addition of such individual to the preliminary candidate list was submitted to the appropriate Congressional Committees at least 15 days before the date on which that final candidate list is submitted to such Committees under this subparagraph.

(B) FINALITY OF LISTS.—Except as provided in subparagraph (C), no additions may be made to the final candidate lists after the final candidate lists are submitted to the appropriate Congressional Committees under subparagraph (A).

(C) AMENDMENT OF LISTS.—

(i) IN GENERAL.—If, after the Trade Representative has submitted the final candidate lists to the appropriate Congressional Committees under subparagraph (A) for a calendar year and before July 1 of such calendar year, the Trade Representative determines that additional individuals need to be added to a final candidate list, the Trade Representative shall—

(I) request the interagency group established under paragraph (2)(A) to prepare a list of individuals who are qualified to be added to such candidate list;

(II) select individuals from the list prepared by the interagency group under paragraph (2)(B)(ii) to be included in a proposed amendment to such final candidate list; and

(III) by no later than July 1 of such calendar year, submit to the appropriate Congressional Committees the proposed amendments to such final candidate list developed by the Trade Representative under subclause (II), along with the information described in paragraph (3)(B)(ii).

(ii) CONSULTATION WITH CONGRESSIONAL COMMITTEES.—Upon submission of a proposed amendment under clause (i)(III) to the appropriate Congressional Committees, the Trade Representative shall consult with the appropriate Congressional Committees with regard to the individuals included in the proposed amendment.

(iii) ADJUSTMENT OF PROPOSED AMENDMENT.—The Trade Representative may add and delete individuals from any proposed amendment submitted under clause (i)(III) after consulting with the appropriate Congressional Committees with regard to the additions and deletions. The Trade Representative shall provide to the appropriate Congressional Committees written notice of any addition or deletion of an individual from the proposed amendment.

(iv) FINAL AMENDMENT.—

(I) IN GENERAL.—If the Trade Representative submits under clause (i)(III) in any calendar year a proposed amendment to a final candidate list, the Trade Representative shall, no later than September 30 of such calendar year, submit to the appropriate Congressional Committees the final form of such amendment. On October 1 of such calendar year, such amendment shall take effect and, subject to subclause (II), the individuals included in the final form of such amendment shall be added to the final candidate list.

(II) INCLUSION OF INDIVIDUALS.—An individual may be included in the final form of an amendment submitted under subclause (I) only if such individual was included in the proposed form of such amendment or if written notice of the addition of such individual to the proposed form of such amendment was submitted to the appropriate Congressional Committees at least 15 days before the date on which the final form of such amendment is submitted to such Committees under subclause (I).

(III) ELIGIBILITY FOR SERVICE.—Individuals added to a final candidate list under subclause (I) shall be eligible to serve on panels or committees convened under chapter 19 during the 6-month period beginning on October 1 of the calendar year in which such addition occurs.

(IV) FINALITY OF AMENDMENT.—No additions may be made to the final form of an amendment described in subclause (I) after the final form of such amendment is submitted to the appropriate Congressional Committees under subclause (I).

(5) TREATMENT OF RESPONSES.—For purposes of applying section 1001 of title 18, United States Code, the written or oral responses of individuals to inquiries of the interagency group established under paragraph (2)(A) or of the Trade Representative regarding their personal and professional qualifications, and financial and other relevant interests, that bear on their suitability for the placements and appointments described in subsection (a)(1), shall be treated as matters within the jurisdiction of an agency of the United States.

(d) SELECTION AND APPOINTMENT.—

(1) AUTHORITY OF TRADE REPRESENTATIVE.—The Trade Representative is the only officer of the United States Government authorized to act on behalf of the United States Government in making any selection or appointment of an individual to—

(A) the rosters described in paragraph 1 of Annex 1901.2 and paragraph 1 of Annex 1904.13; or

(B) the panels or committees convened under chapter 19;

that is to be made solely or jointly by the United States Government under the terms of the Agreement.

(2) RESTRICTIONS ON SELECTION AND APPOINTMENT.—Except as provided in paragraph (3)—

(A) the Trade Representative may—

(i) select an individual for placement on the rosters described in paragraph 1 of Annex 1901.2 and paragraph 1 of Annex 1904.13 during the 1-year period beginning on April 1 of any calendar year;

(ii) appoint an individual to serve as one of those members of any panel or committee convened under chapter 19 during such 1-year period who, under the terms of the Agreement, are to be appointed solely by the United States Government; or

(iii) act to make a joint appointment with the Government of a NAFTA country, under the terms of the Agreement, of any individual who is a citizen or national of the United States to serve as any other member of such a panel or committee;

only if such individual is on the appropriate final candidate list that was submitted to the appropriate Congressional Committees under subsection (c)(4)(A) during such calendar year or on such list as it may be amended under subsection (c)(4)(C)(iv)(I), or on the list submitted under subsection (b)(3) to the congressional committees referred to in such subsection; and

(B) no individual may—

(i) be selected by the United States Government for placement on the rosters described in paragraph 1 of Annex 1901.2 and paragraph 1 of Annex 1904.13; or

(ii) be appointed solely or jointly by the United States Government to serve as a member of a panel or committee convened under chapter 19;

during the 1-year period beginning on April 1 of any calendar year for which the Trade Representative has not met the requirements of subsection (a), and of subsection (b) or (c) (as the case may be).

(3) EXCEPTIONS.—Notwithstanding subsection (c)(3) (other than subparagraph (B)), (c)(4), or paragraph (2)(A) of this subsection, individuals included on the preliminary candidate lists submitted to the appropriate Congressional Committees under subsection (c)(3)(B) may—

(A) be selected by the Trade Representative for placement on the rosters described in paragraph 1 of Annex 1901.2 and paragraph 1 of Annex 1904.13 during the 3-month period beginning on the date on which the Agreement enters into force with respect to the United States; and

(B) be appointed solely or jointly by the Trade Representative under the terms of the Agreement to serve as members of panels or committees that are convened under chapter 19 during such 3-month period.

(e) TRANSITION.—If the Agreement enters into force between the United States and a NAFTA country after January 3, 1994, the provisions of subsection (c) shall be applied with respect to the calendar year in which such entering into force occurs—

(1) by substituting "the date that is 30 days after the date on which the Agreement enters into force with respect to the United States" for "January 3 of each calendar year" in subsections (c)(2)(B)(i) and (c)(3)(B)(i); and

(2) by substituting "the date that is 3 months after the date on which the Agreement enters into force with respect to the United States" for "March 31 of each calendar year" in subsection (c)(4)(A).

(f) IMMUNITY.—With the exception of acts described in section 777(f)(3) of the Tariff Act of 1930 (19 U.S.C. 1677f(f)(3)), individuals serving on panels or committees convened pursuant to chapter 19, and individuals designated to assist the individuals serving on such panels or committees, shall be immune from suit and legal process relating to acts performed by such individuals in their official capacity and within the scope of their functions as such panelists or committee members or assistants to such panelists or committee members.

(g) REGULATIONS.—The administering authority under title VII of the Tariff Act of 1930, the International Trade Commission, and the Trade Representative may promulgate such regulations as are necessary or appropriate to carry out actions in order to implement their respective responsibilities under chapter 19. Initial regulations to carry out such functions shall be issued before the date on which the Agreement enters into force with respect to the United States.

(h) REPORT TO CONGRESS.—At such time as the final candidate lists are submitted under subsection (c)(4)(A) and the final forms of amendments are submitted under subsection (c)(4)(C)(iv), the Trade Representative shall submit to the Committee on the Judiciary and the Committee on Ways and Means of the House of Representatives, and to the Committee on Finance and the Committee on the Judiciary of the Senate, a report regarding the efforts made to secure the participation of judges and former judges on binational panels, extraordinary challenge committees, and special committees established under chapter 19.

SEC. 403. TESTIMONY AND PRODUCTION OF PAPERS IN EXTRAORDINARY CHALLENGES.

(a) AUTHORITY OF EXTRAORDINARY CHALLENGE COMMITTEE TO OBTAIN INFORMATION.—If an extraordinary challenge committee (hereafter in this section referred to as the "committee") is convened under paragraph 13 of article 1904, and the allegations before the committee include a matter referred to in paragraph 13(a)(i) of article 1904, for the purposes of carrying out its functions and duties under Annex 1904.13, the committee—

(1) shall have access to, and the right to copy, any document, paper, or record pertinent to the subject matter under consideration, in the possession of any individual, partnership, corporation, association, organization, or other entity;

(2) may summon witnesses, take testimony, and administer oaths;

(3) may require any individual, partnership, corporation, association, organization, or other entity to produce documents, books, or records relating to the matter in question; and

(4) may require any individual, partnership, corporation, association, organization, or other entity to furnish in writing, in such detail and in such form as the committee may prescribe, information in its possession pertaining to the matter.

Any member of the committee may sign subpoenas, and members of the committee, when authorized by the committee, may administer oaths and affirmations, examine witnesses, take testimony, and receive evidence.

(b) WITNESSES AND EVIDENCE.—The attendance of witnesses who are authorized to be summoned, and the production of documentary evidence authorized to be ordered, under subsection (a) may be required from any place in the United States at any designated place of hearing. In the case of disobedience to a subpoena authorized under subsection (a), the committee may request the Attorney General of the United States to invoke the aid of any district or territorial court of the United States in requiring the attendance and testimony of witnesses and the production of documentary evidence. Such court, within the jurisdiction of which such inquiry is carried on, may, in case of contumacy or refusal to obey a subpoena issued to any individual, partnership, corporation, association, organization, or other entity, issue an order requiring such individual or entity to appear before the committee, or to produce documentary evidence if so ordered or to give evidence concerning the matter in question. Any failure to obey such order of the court may be punished by such court as a contempt thereof.

(c) MANDAMUS.—Any court referred to in subsection (b) shall have jurisdiction to issue writs of mandamus commanding compliance with the provisions of this section or any order of the committee made in pursuance thereof.

(d) DEPOSITIONS.—The committee may order testimony to be taken by deposition at any stage of the committee review. Such deposition may be taken before any person designated by the committee and having power to administer oaths. Such testimony shall be reduced to writing by the person taking the deposition, or under the direction of such person, and shall then be subscribed by the deponent. Any individual, partnership, corporation, association, organization, or other entity may be compelled to appear and be deposed and to produce documentary evidence in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the committee, as provided in this section.

SEC. 404. REQUESTS FOR REVIEW OF DETERMINATIONS BY COMPETENT INVESTIGATING AUTHORITIES OF NAFTA COUNTRIES.

(a) DEFINITIONS.—As used in this section:

(1) COMPETENT INVESTIGATING AUTHORITY.—The term "competent investigating authority" means the competent investigating authority, as defined in article 1911, of a NAFTA country.

(2) UNITED STATES SECRETARY.—The term "United States Secretary" means that officer of the United States referred to in article 1908.

(b) REQUESTS FOR REVIEW BY THE UNITED STATES.—In the case of a final determination of a competent investigating authority, requests by the United States for binational panel review of such determination under article 1904 shall be made by the United States Secretary.

(c) REQUESTS FOR REVIEW BY A PERSON.—In the case of a final determination of a competent investigating authority, a person, within the meaning of paragraph 5 of article 1904, may request a binational panel review of such determination by filing such a request with the United States Secretary within the time limit provided for in paragraph 4 of article 1904. The receipt of such request by the United States Secretary shall be deemed to be a request for binational panel review within the meaning of article 1904. The request for such panel review shall be without prejudice to any challenge before a binational panel of the basis for a particular request for review.

(d) SERVICE OF REQUEST FOR REVIEW.—Whenever binational panel review of a final determination made by a competent investigating authority is requested under this section, the United States Secretary shall serve a copy of the request on all persons who would otherwise be entitled under the law of the importing country to commence proceedings for judicial review of the determination.

SEC. 405. RULES OF PROCEDURE FOR PANELS AND COMMITTEES.

(a) RULES OF PROCEDURE FOR BINATIONAL PANELS.—The administering authority shall prescribe rules, negotiated in accordance with paragraph 14 of article 1904, governing, with respect to binational panel reviews—

(1) requests for such reviews, complaints, other pleadings, and other papers;

(2) the amendment, filing, and service of such pleadings and papers;

(3) the joinder, suspension, and termination of such reviews; and

(4) other appropriate procedural matters.

(b) RULES OF PROCEDURE FOR EXTRAORDINARY CHALLENGE COMMITTEES.—The administering authority shall prescribe rules, negotiated in accordance with paragraph 2 of Annex 1904.13, governing the procedures for reviews by extraordinary challenge committees.

(c) RULES OF PROCEDURE FOR SAFEGUARDING THE PANEL REVIEW SYSTEM.—The administering authority shall prescribe rules, negotiated in accordance with Annex 1905.6, governing the procedures for special committees described in such Annex.

(d) PUBLICATION OF RULES.—The rules prescribed under subsections (a), (b), and (c) shall be published in the Federal Register.

(e) ADMINISTERING AUTHORITY.—As used in this section, the term "administering authority" has the meaning given such term in section 771(1) of the Tariff Act of 1930 (19 U.S.C. 1677(1)).

SEC. 406. SUBSIDY NEGOTIATIONS.

In the case of any trade agreement which may be entered into by the President with a NAFTA country, the negotiating objectives of the United States with respect to subsidies shall include—

(1) achievement of increased discipline on domestic subsidies provided by a foreign government, including—

(A) the provision of capital, loans, or loan guarantees on terms inconsistent with commercial considerations;

(B) the provision of goods or services at preferential rates;

(C) the granting of funds or forgiveness of debt to cover operating losses sustained by a specific industry; and

(D) the assumption of any costs or expenses of manufacture, production, or distribution;

(2) achievement of increased discipline on export subsidies provided by a foreign government, particularly with respect to agricultural products; and

(3) maintenance of effective remedies against subsidized imports, including, where appropriate, countervailing duties.

SEC. 407. IDENTIFICATION OF INDUSTRIES FACING SUBSIDIZED IMPORTS.

(a) PETITIONS.—Any entity, including a trade association, firm, certified or recognized union, or group of workers, that is representative of a United States industry and has reason to believe—

(1) that—

(A) as a result of implementation of provisions of the Agreement, the industry is likely to face increased competition from subsidized imports, from a NAFTA country, with which it directly competes; or

(B) the industry is likely to face increased competition from subsidized imports with which it directly competes from any other country designated by the President, following consultations with the Congress, as benefiting from a reduction of tariffs or other trade barriers under a trade agreement that enters into force with respect to the United States after January 1, 1994; and

(2) that the industry is likely to experience a deterioration of its competitive position before more effective rules and disciplines relating to the use of government subsidies have been developed with respect to the country concerned;

may file with the Trade Representative a petition that such industry be identified under this section.

(b) IDENTIFICATION OF INDUSTRY.—Within 90 days after receipt of a petition under subsection (a), the Trade Representative, in consultation with the Secretary of Commerce, shall decide whether to identify the industry on the basis that there is a reasonable likelihood that the industry may face both the subsidization described in subsection (a)(1) and the deterioration described in subsection (a)(2).

(c) ACTION AFTER IDENTIFICATION.—At the request of an entity that is representative of an industry identified under subsection (b), the Trade Representative shall—

(1) compile and make available to the industry information under section 308 of the Trade Act of 1974;

(2) recommend to the President that an investigation by the International Trade Commission be requested under section 332 of the Tariff Act of 1930; or

(3) take actions described in both paragraphs (1) and (2).

The industry may request the Trade Representative to take appropriate action to update (as often as annually) any information obtained under paragraph (1) or (2), or both, as the case may be, until an agreement on more effective rules and disciplines relating to government subsidies is reached between the United States and the NAFTA countries.

(d) INITIATION OF ACTION UNDER OTHER LAW.—

(1) IN GENERAL.—The Trade Representative and the Secretary of Commerce shall review information obtained under subsection (c) and consult with the industry identified under subsection (b) with a view to deciding whether any action is appropriate—

(A) under section 301 of the Trade Act of 1974, including the initiation of an investigation under section 302(c) of that Act (in the case of the Trade Representative); or

(B) under subtitle A of title VII of the Tariff Act of 1930, including the initiation of an investigation under section 702(a) of that Act (in the case of the Secretary of Commerce).

(2) CRITERIA FOR INITIATION.—In determining whether to initiate any investigation under section 301 of the Trade Act of 1974 or any other trade law, other than title VII of the Tariff Act of 1930, the Trade Representative, after consultation with the Secretary of Commerce—

(A) shall seek the advice of the advisory committees established under section 135 of the Trade Act of 1974;

(B) shall consult with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives;

(C) shall coordinate with the interagency organization established under section 242 of the Trade Expansion Act of 1962; and

(D) may ask the President to request advice from the International Trade Commission.

(3) TITLE III ACTIONS.—In the event an investigation is initiated under section 302(c) of the Trade Act of 1974 as a result of a review under this subsection and the Trade Representative, following such investigation (including any applicable dispute settlement proceedings under the Agreement or any other trade agreement), determines to take action under section 301(a) of such Act, the Trade Representative shall give preference to actions that most directly affect the products that benefit from governmental subsidies and were the subject of the investigation, unless there are no significant imports of such products or the Trade Representative otherwise determines that application of the action to other products would be more effective.

(e) EFFECT OF DECISIONS.—Any decision, whether positive or negative, or any action by the Trade Representative or the Secretary of Commerce under this section shall not in any way—

(1) prejudice the right of any industry to file a petition under any trade law;

(2) prejudice, affect, or substitute for, any proceeding, investigation, determination, or action by the Secretary of Commerce, the International Trade Commission, or the Trade Representative pursuant to such a petition, or

(3) prejudice, affect, substitute for, or obviate any proceeding, investigation, or determination under section 301 of the Trade Act of 1974, title VII of the Tariff Act of 1930, or any other trade law.

(f) STANDING.—Nothing in this section may be construed to alter in any manner the requirements in effect before the date of the enactment of this Act for standing under any law of the United States or to add any additional requirements for standing under any law of the United States.

SEC. 408. TREATMENT OF AMENDMENTS TO ANTIDUMPING AND COUNTERVAILING DUTY LAW.

Any amendment enacted after the Agreement enters into force with respect to the United States that is made to—

(1) section 303 or title VII of the Tariff Act of 1930, or any successor statute, or

(2) any other statute which—

(A) provides for judicial review of final determinations under such section, title, or successor statute, or

(B) indicates the standard of review to be applied,

shall apply to goods from a NAFTA country only to the extent specified in the amendment.

Subtitle B—Conforming Amendments and Provisions

SEC. 411. JUDICIAL REVIEW IN ANTIDUMPING DUTY AND COUNTERVAILING DUTY CASES.

Section 516A of the Tariff Act of 1930 (19 U.S.C. 1516a) is amended as follows:

(1) Subsection (a)(5) (relating to time limits for commencing review) is amended to read as follows:

"(5) TIME LIMITS IN CASES INVOLVING MERCHANDISE FROM FREE TRADE AREA COUNTRIES.—Notwithstanding any other provision of this subsection, in the case of a determination to which the provisions of subsection (g) apply, an action under this subsection may not be commenced, and the time limits for commencing an action under this subsection shall not begin to run, until the day specified in whichever of the following subparagraphs applies:

"(A) For a determination described in paragraph (1)(B) or clause (i), (ii) or (iii) of paragraph (2)(B), the 31st day after the date on which notice of the determination is published in the Federal Register.

"(B) For a determination described in clause (vi) of paragraph (2)(B), the 31st day after the date on which the government of the relevant FTA country receives notice of the determination.

"(C) For a determination with respect to which binational panel review has commenced in accordance with subsection (g)(8), the day after the date as of which—

"(i) the binational panel has dismissed binational panel review of the determination for lack of jurisdiction, and

"(ii) any interested party seeking review of the determination under paragraph (1), (2), or (3) of this subsection has provided timely notice under subsection (g)(3)(B).

If such an interested party files a summons and complaint under this subsection after dismissal by the binational panel, and if a request for an extraordinary challenge committee is made with respect to the decision by the binational panel to dismiss—

"(I) judicial review under this subsection shall be stayed during consideration by the committee of the request, and

"(II) the United States Court of International Trade shall dismiss the action if the committee vacates or remands the binational panel decision to dismiss.

"(D) For a determination for which review by the United States Court of International Trade is provided for—

"(i) under subsection (g)(12)(B), the day after the date of publication in the Federal Register of notice that article 1904 of the NAFTA has been suspended, or "(ii) under subsection (g)(12)(D), the day after the date that notice of settlement is published in the Federal Register.".

(2) Subsection (b)(3) (relating to the standards of review) is amended—

(A) by inserting "NAFTA OR" after "DECISIONS BY" in the heading; and

(B) by inserting "of the NAFTA or" after "article 1904".

(3) Subsection (f) (relating to definitions) is amended—

(A) by amending paragraphs (6) and (7) to read as follows:

"(6) UNITED STATES SECRETARY.—The term 'United States Secretary' means—

"(A) the secretary for the United States Section referred to in article 1908 of the NAFTA, and

"(B) the secretary of the United States Section provided for in article 1909 of the Agreement.

"(7) RELEVANT FTA SECRETARY.—The term 'relevant FTA Secretary' means the Secretary—

"(A) referred to in article 1908 of the NAFTA, or

"(B) provided for in paragraph 5 of article 1909 of the Agreement,

of the relevant FTA country."; and

(B) by adding at the end the following new paragraphs:

"(8) NAFTA.—The term 'NAFTA' means the North American Free Trade Agreement.

"(9) RELEVANT FTA COUNTRY.—The term 'relevant FTA country' means the free trade area country to which an antidumping or countervailing duty proceeding pertains.

"(10) FREE TRADE AREA COUNTRY.—The term 'free trade area country' means the following:

"(A) Canada for such time as the NAFTA is in force with respect to, and the United States applies the NAFTA to, Canada.

"(B) Mexico for such time as the NAFTA is in force with respect to, and the United States applies the NAFTA to, Mexico.

"(C) Canada for such time as—

"(i) it is not a free trade area country under subparagraph (A); and

"(ii) the Agreement is in force with respect to, and the United States applies the Agreement to, Canada.".

(4) Subsection (g) (relating to review of countervailing and antidumping duty determinations) is amended as follows:

(A) The subsection heading is amended by striking out "Canadian Merchandise" and inserting "FREE TRADE AREA COUNTRY MERCHANDISE".

(B) Paragraph (1) is amended by striking out "Canadian merchandise" and inserting "free trade area country merchandise".

(C) Paragraph (2) is amended by inserting "of the NAFTA or" after "article 1904".

(D) Paragraph (3)(A) is amended—

(i) by striking out "nor Canada" and inserting "nor the relevant FTA country" in each of clauses (i) and (ii);

(ii) by inserting "of the NAFTA or" before "of the Agreement" in each of clauses (i) and (iii);

(iii) by striking out "or" at the end of clause (iii);

(iv) by amending clause (iv)—

(I) by striking out "under paragraph (2)(A)"; and

(II) by striking out the period and inserting a comma; and

(v) by adding at the end of subparagraph (A) the following:

"(v) a determination as to which binational panel review has terminated pursuant to paragraph 12 of article 1905 of the NAFTA, or

"(vi) a determination as to which extraordinary challenge committee review has terminated pursuant to paragraph 12 of article 1905 of the NAFTA.".

(E) The first and second sentences of paragraph (3)(B) are amended to read as follows: "A determination described in subparagraph (A)(i) or (iv) is reviewable under subsection (a) only if the party seeking to commence review has provided timely notice of its intent to commence such review to—

"(i) the United States Secretary and the relevant FTA Secretary;

"(ii) all interested parties who were parties to the proceeding in connection with which the matter arises; and

"(iii) the administering authority or the Commission, as appropriate.

Such notice is timely provided if the notice is delivered no later than the date that is 20 days after the date described in subparagraph (A) or (B) of subsection (a)(5) that is applicable to such determination, except that, if the time for requesting binational panel review is suspended under paragraph (8)(A)(ii) of this subsection, any unexpired time for providing notice of intent to commence judicial review shall, during the pendency of any such suspension, also be suspended.".

(F) Paragraph (4)(A) is amended—

(i) in the first sentence—

(I) by inserting "the North American Free Trade Agreement Implementation Act implementing the binational dispute settlement system under chapter 19 of the NAFTA, or" after "or amendment made by,";

(II) by inserting a comma before "violates";

(III) by inserting "only" after "may be brought"; and

(IV) by inserting ", which shall have jurisdiction of such action" after "Circuit"; and

(ii) by striking the last sentence.

(G) Paragraph (5) is amended—

(i) by inserting "of the NAFTA or" after "article 1904" in each of subparagraphs (A), (B), and (C)(i);

(ii) by striking out ", the Canadian Secretary," in subparagraph (C)(ii) and inserting ", the relevant FTA Secretary,"; and

(iii) by inserting "of the NAFTA or" after "chapter 19" in subparagraph (C)(iii).

(H) Paragraph (6) is amended by inserting "of the NAFTA or" after "article 1904".

(I) Paragraph (7) is amended—

(i) by inserting "OF THE NAFTA OR THE AGREEMENT" before the period in the paragraph heading;

(ii) by striking out "IN GENERAL.—" in the heading to subparagraph (A) and inserting "ACTION UPON REMAND.—"; and

(iii) by inserting "the NAFTA or" before "the Agreement" in subparagraph (A).

(J) Paragraph (8)(A) is amended—

(i) by inserting "(i) GENERAL RULE.—" before "An interested party";

(ii) by inserting "of the NAFTA or" after "article 1904(4)";

(iii) by indenting the text so as to align it with new clause (ii) (as added by clause (iv) of this subparagraph); and

(iv) by adding at the end the following new clause:

"(ii) SUSPENSION OF TIME TO REQUEST BINATIONAL PANEL REVIEW UNDER THE NAFTA.—Notwithstanding clause (i), the time for requesting binational panel review shall be suspended during the pendency of any stay of binational panel review that is issued pursuant to paragraph 11(a) of article 1905 of the NAFTA.".

(K) Paragraph (8)(B)(ii) is amended by striking out "Canadian Secretary," and inserting "relevant FTA Secretary,".

(L) Paragraph (8)(C) is amended by striking out "under article 1904 of the Agreement of a determination" and inserting "of a determination under article 1904 of the NAFTA or the Agreement".

(M) Paragraph (9) is amended by inserting "of the NAFTA or" after "chapter 19".

(N) Paragraph (10) is amended by striking out "Government of Canada" and all that follows thereafter and inserting "Government of the relevant FTA country received notice of the determination under paragraph 4 of article 1904 of the NAFTA or the Agreement.".

(O) The following new paragraphs are added at the end:

"(11) SUSPENSION AND TERMINATION OF SUSPENSION OF ARTICLE 1904 OF THE NAFTA.—

"(A) SUSPENSION OF ARTICLE 1904.—If a special committee established under article 1905 of the NAFTA issues an affirmative finding, the Trade Representative may, in accordance with paragraph 8(a) or 9, as appropriate, of article 1905 of the NAFTA, suspend the operation of article 1904 of the NAFTA.

"(B) TERMINATION OF SUSPENSION OF ARTICLE 1904.—If a special committee is reconvened and makes an affirmative determination described in paragraph 10(b) of article 1905 of the NAFTA, any suspension of the operation of article 1904 of the NAFTA shall terminate.

"(12) JUDICIAL REVIEW UPON TERMINATION OF BINATIONAL PANEL OR COMMITTEE REVIEW UNDER THE NAFTA.—

"(A) NOTICE OF SUSPENSION OR TERMINATION OF SUSPENSION OF ARTICLE 1904.—

"(i) Upon notification by the Trade Representative or the Government of a country described in subsection (f)(10)(A) or (B) that the operation of article 1904 of the NAFTA has been suspended in accordance with paragraph 8(a) or 9 of article 1905 of the NAFTA, the United States Secretary shall publish in the Federal Register a notice of suspension of article 1904 of the NAFTA.

"(ii) Upon notification by the Trade Representative or the Government of a country described in subsection (f)(10)(A) or (B) that the suspension of the operation of article 1904 of the NAFTA is terminated in accordance with paragraph 10 of article 1905 of the NAFTA, the United States Secretary shall publish in the Federal Register a notice of termination of suspension of article 1904 of the NAFTA.

"(B) TRANSFER OF FINAL DETERMINATIONS FOR JUDICIAL REVIEW UPON SUSPENSION OF ARTICLE 1904.—If the operation of article 1904 of the NAFTA is suspended in accordance with paragraph 8(a) or 9 of article 1905 of the NAFTA—

"(i) upon the request of an authorized person described in subparagraph (C), any final determination that is the subject of a binational panel review or an extraordinary challenge committee review shall be transferred to the United States Court of International Trade (in accordance with rules issued by the Court) for review under subsection (a); or

"(ii) in a case in which—

"(I) a binational panel review was completed fewer than 30 days before the suspension, and

"(II) extraordinary challenge committee review has not been requested,

upon the request of an authorized person described in subparagraph (C) which is made within 60 days after the completion of the binational panel review, the final determination that was the subject of the binational panel review shall be transferred to the United States Court of International Trade (in accordance with rules issued by the Court) for review under subsection (a).

"(C) PERSONS AUTHORIZED TO REQUEST TRANSFER OF FINAL DETERMINATIONS FOR JUDICIAL REVIEW.—A request that a final determination be transferred to the Court of International Trade under subparagraph (B) may be made by—

"(i) if the United States made an allegation under paragraph 1 of article 1905 of the NAFTA and the operation of article 1904 of the NAFTA was suspended pursuant to paragraph 8(a) of article 1905 of the NAFTA—

"(I) the government of the relevant country described in subsection (f)(10)(A) or (B),

"(II) an interested party that was a party to the panel or committee review, or

"(III) an interested party that was a party to the proceeding in connection with which panel review was requested, but only if the time period for filing notices of appearance in the panel review has not expired, or

"(ii) if a country described in subsection (f)(10)(A) or (B) made an allegation under paragraph 1 of article 1905 of the NAFTA and the operation of article 1904 of the NAFTA was suspended pursuant to paragraph 9 of article 1905 of the NAFTA—

"(I) the government of that country,

"(II) an interested party that is a person of that country and that was a party to the panel or committee review, or

"(III) an interested party that is a person of that country and that was a party to the proceeding in connection with which panel review was requested, but only if the time period for filing notices of appearance in the panel review has not expired.

"(D)(i) TRANSFER FOR JUDICIAL REVIEW UPON SETTLEMENT.—If the Trade Representative achieves a settlement with the government of a country described in subsection (f)(10)(A) or (B) pursuant to paragraph 7 of article 1905 of the NAFTA, and referral for judicial review is among the terms of such settlement, any final determination that is the subject of a binational panel review or an extraordinary challenge committee review shall, upon a request described in clause (ii), be transferred to the United States Court of International Trade (in accordance with rules issued by the Court) for review under subsection (a).

"(ii) A request referred to in clause (i) is a request made by—

"(I) the country referred to in clause (i),

"(II) an interested party that was a party to the panel or committee review, or

"(III) an interested party that was a party to the proceeding in connection with which panel review was requested, but only if the time for filing notices of appearance in the panel review has not expired.".

SEC. 412. CONFORMING AMENDMENTS TO OTHER PROVISIONS OF THE TARIFF ACT OF 1930.

(a) REGULATIONS FOR APPRAISEMENT AND CLASSIFICATION; FINALITY AND DECISION.—Sections 502(b) and 514(b) of the Tariff Act of 1930 (19 U.S.C. 1502(b) and 1514(b)) are each amended by inserting "the North American Free Trade Agreement or" before "the United States-Canada Free-Trade Agreement".

(b) DEFINITION.—Section 771 of the Tariff Act of 1930 (19 U.S.C. 1677) is amended—

(1) by redesignating as paragraph (21) (and placing in numerical sequence) the second paragraph that is designated as paragraph (18) (relating to the definition of the United States-Canada Agreement) in such section; and

(2) by inserting after paragraph (21) (as redesignated by paragraph (1) of this subsection) the following new paragraph:

"(22) NAFTA.—The term 'NAFTA' means the North American Free Trade Agreement.".

(c) DISCLOSURE OF PROPRIETARY INFORMATION IN TITLE VII PROCEEDINGS.—Section 777(f) of the Tariff Act of 1930 (19 U.S.C. 1677f(f)) is amended—

(1) by inserting "THE NORTH AMERICAN FREE TRADE AGREEMENT OR" before "THE UNITED STATES-CANADA AGREEMENT" in the heading;

(2) by inserting "the NAFTA or" before "the United States-Canada Agreement" each place it appears in paragraph (1)(A);

(3) in the second sentence of paragraph (1)(A)—

(A) by inserting "or extraordinary challenge committee" after "binational panel"; and

(B) by inserting "or committee" after "the panel";

(4) in paragraph (1)(B)—

(A) by inserting "the NAFTA or" before "the Agreement" in clauses (iii) and (iv); and

(B) by striking out "Government of Canada designated by an authorized agency of Canada" in clause (iv) and inserting "Government of a free trade area country (as defined in section 516A(f)(10)) designated by an authorized agency of such country";

(5) in paragraph (2) by inserting ", including any extraordinary challenge," after "binational panel proceeding";

(6) in paragraph (3)—

(A) by inserting "or extraordinary challenge committee" after "binational panel", and

(B) by inserting "the NAFTA or" before "the United States-Canada Agreement";

(7) by striking out "agency of Canada" in each of paragraphs (3) and (4) and inserting "agency of a free trade area country (as defined in section 516A(f)(10))"; and

(8) in the first sentence of paragraph (4) by inserting ", except a judge appointed to a binational panel or an extraordinary challenge committee under section 402(b) of the North American Free Trade Agreement Implementation Act," after "Any person".

SEC. 413. CONSEQUENTIAL AMENDMENT TO FREE-TRADE AGREEMENT ACT OF 1988.

Section 410(a) of the United States-Canada Free-Trade Agreement Implementation Act of 1988 (19 U.S.C. 2112 note) is amended by adding at the end the following new sentence: "In calculating the 7-year period referred to in paragraph (1), any time during which Canada is a NAFTA country (as defined in section 2(4) of the North American Free Trade Agreement Implementation Act) shall be disregarded.".

SEC. 414. CONFORMING AMENDMENTS TO TITLE 28, UNITED STATES CODE.

(a) COURT OF INTERNATIONAL TRADE.—Chapter 95 of title 28, United States Code, is amended—

(1) in section 1581(i) by inserting "the North American Free Trade Agreement or" before "the United States-Canada Free-Trade Agreement";

(2) in section 1584—

(A) by amending the section heading to read as follows:

"§ 1584. Civil actions under the North American Free Trade Agreement or the United States-Canada Free-Trade Agreement"; and

(B) by striking out "777(d)" and inserting "777(f)"; and

(3) in the table of contents for such chapter by amending the entry for section 1584 to read as follows:

"1584. Civil actions under the North American Free Trade Agreement or the United States-Canada Free-Trade Agreement.".

(b) PARTICULAR PROCEEDINGS.—Sections 2201(a) and 2643(c)(5) of title 28, United States Code, are each amended by striking out "Canadian merchandise," and inserting "merchandise of a free trade area country (as defined in section 516A(f)(10) of the Tariff Act of 1930),".

SEC. 415. EFFECT OF TERMINATION OF NAFTA COUNTRY STATUS.

(a) IN GENERAL.—Except as provided in subsection (b), on the date on which a country ceases to be a NAFTA country, the provisions of this title (other than this section) and the amendments made by this title shall cease to have effect with respect to that country.

(b) TRANSITION PROVISIONS.—

(1) PROCEEDINGS REGARDING PROTECTIVE ORDERS AND UNDERTAKINGS.—If on the date on which a country ceases to be a NAFTA country an investigation or enforcement proceeding concerning the violation of a protective order issued under section 777(f) of the Tariff Act of 1930 (as amended by this subtitle) or an undertaking of the Government of that country is pending, the investigation or proceeding shall continue, and sanctions may continue to be imposed, in accordance with the provisions of such section 777(f).

(2) BINATIONAL PANEL AND EXTRAORDINARY CHALLENGE COMMITTEE REVIEWS.—If on the date on which a country ceases to be a NAFTA country—

(A) a binational panel review under article 1904 of the Agreement is pending, or has been requested; or

(B) an extraordinary challenge committee review under article 1904 of the Agreement is pending, or has been requested;

with respect to a determination which involves a class or kind of merchandise and to which section 516A(g)(2) of the Tariff Act of 1930 applies, such determination shall be reviewable under section 516A(a) of the Tariff Act of 1930. In the case of a determination to which the provisions of this paragraph apply, the time limits for commencing an action under 516A(a) of the Tariff Act of 1930 shall not begin to run until the date on which the Agreement ceases to be in force with respect to that country.

SEC. 416. EFFECTIVE DATE.

The provisions of this title and the amendments made by this title take effect on the date the Agreement enters into force with respect to the United States, but shall not apply—

(1) to any final determination described in paragraph (1)(B), or (2)(B)(i), (ii), or (iii), of section 516A(a) of the Tariff Act of 1930 notice of which is published in the Federal Register before such date, or to a determination described in paragraph (2)(B)(vi) of section 516A(a) of such Act notice of which is received by the Government of Canada or Mexico before such date; or

(2) to any binational panel review under the United States-Canada Free-Trade Agreement, or any extraordinary challenge arising out of any such review, that was commenced before such date.

TITLE V—NAFTA TRANSITIONAL ADJUSTMENT ASSISTANCE AND OTHER PROVISIONS

Subtitle A—NAFTA Transitional Adjustment Assistance Program

SEC. 501. SHORT TITLE.

This subtitle may be cited as the "NAFTA Worker Security Act".

SEC. 502. ESTABLISHMENT OF NAFTA TRANSITIONAL ADJUSTMENT ASSISTANCE PROGRAM.

Chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.) is amended by adding at the end the following new subchapter:

"Subchapter D—NAFTA Transitional Adjustment Assistance Program

"SEC. 250. ESTABLISHMENT OF TRANSITIONAL PROGRAM.

"(a) GROUP ELIGIBILITY REQUIREMENTS.—

"(1) CRITERIA.—A group of workers (including workers in any agricultural firm or subdivision of an agricultural firm) shall be certified as eligible to apply for adjustment assistance under this subchapter pursuant to a petition filed under subsection (b) if the Secretary determines that a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated, and either—

"(A) that—

"(i) the sales or production, or both, of such firm or subdivision have decreased absolutely,

"(ii) imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and

"(iii) the increase in imports under clause (ii) contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm or subdivision; or

"(B) that there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

"(2) DEFINITION OF CONTRIBUTED IMPORTANTLY.—The term 'contributed importantly', as used in paragraph (1)(A)(iii), means a cause which is important but not necessarily more important than any other cause.

"(3) REGULATIONS.—The Secretary shall issue regulations relating to the application of the criteria described in paragraph (1) in making preliminary findings under subsection (b) and determinations under subsection (c).

"(b) PRELIMINARY FINDINGS AND BASIC ASSISTANCE.—

"(1) FILING OF PETITIONS.—A petition for certification of eligibility to apply for adjustment assistance under this subchapter may be filed by a group of workers (including workers in any agricultural firm or subdivision of an agricultural firm) or by their certified or recognized union or other duly authorized representative with the Governor of the State in which such workers' firm or subdivision thereof is located.

"(2) FINDINGS AND ASSISTANCE.—Upon receipt of a petition under paragraph (1), the Governor shall—

"(A) notify the Secretary that the Governor has received the petition;

"(B) within 10 days after receiving the petition—

"(i) make a preliminary finding as to whether the petition meets the criteria described in subsection (a)(1) (and for purposes of this clause the criteria described under subparagraph (A)(iii) of such subsection shall be disregarded), and

"(ii) transmit the petition, together with a statement of the finding under clause (i) and reasons therefor, to the Secretary for action under subsection (c); and

"(C) if the preliminary finding under subparagraph (B)(i) is affirmative, ensure that rapid response and basic readjustment services authorized under other Federal law are made available to the workers.

"(c) REVIEW OF PETITIONS BY SECRETARY; CERTIFICATIONS.—

"(1) IN GENERAL.—The Secretary, within 30 days after receiving a petition under subsection (b), shall determine whether the petition meets the criteria described in subsection (a)(1). Upon a determination that the petition meets such criteria, the Secretary shall issue to workers covered by the petition a certification of eligibility to apply for assistance described in subsection (d).

"(2) DENIAL OF CERTIFICATION.—Upon denial of certification with respect to a petition under paragraph (1), the Secretary shall review the petition in accordance with the requirements of subchapter A to determine if the workers may be certified under such subchapter.

"(d) COMPREHENSIVE ASSISTANCE.—Workers covered by certification issued by the Secretary under subsection (c) shall be provided, in the same manner and to the same extent as workers covered under a certification under subchapter A, the following:

"(1) Employment services described in section 235.

"(2) Training described in section 236, except that notwithstanding the provisions of section 236(a)(2)(A), the total amount of payments for training under this subchapter for any fiscal year shall not exceed $30,000,000.

"(3) Trade readjustment allowances described in sections 231 through 234, except that—

"(A) the provisions of sections 231(a)(5)(C) and 231(c), authorizing the payment of trade readjustment allowances upon a finding that it is not feasible or appropriate to approve a training program for a worker, shall not be applicable to payment of such allowances under this subchapter; and

"(B) notwithstanding the provisions of section 233(b), in order for a worker to qualify for trade readjustment allowances under this subchapter, the worker shall be enrolled in a training program approved by the Secretary under section 236(a) by the later of—

"(i) the last day of the 16th week of such worker's initial unemployment compensation benefit period, or

"(ii) the last day of the 6th week after the week in which the Secretary issues a certification covering such worker.

In cases of extenuating circumstances relating to enrollment in a training program, the Secretary may extend the time for enrollment for a period not to exceed 30 days .

"(4) Job search allowances described in section 237.

"(5) Relocation allowances described in section 238.

"(e) ADMINISTRATION.—The provisions of subchapter C shall apply to the administration of the program under this subchapter in the same manner and to the same extent as such provisions apply to the administration of the program under subchapters A and B, except that the agreement between the Secretary and the States described in section 239 shall specify the procedures that will be used to carry out the certification process under subsection (c) and the procedures for providing relevant data by the Secretary to assist the States in making preliminary findings under subsection (b).".

SEC. 503. CONFORMING AMENDMENTS.

(a) REFERENCES.—Sections 221(a), 222(a), and 223(a) of the Trade Act of 1974 (19 U.S.C. 2271(a), 2272(a), and 2273(a)) are each amended by striking out "assistance under this chapter" and inserting "assistance under this subchapter".

(b) BENEFIT INFORMATION.—Section 225(b) of the Trade Act of 1974 (19 U.S.C. 2275(b)) is amended by inserting "or subchapter D" after "subchapter A" each place it appears.

(c) NONDUPLICATION OF ASSISTANCE.—Subchapter C of chapter 2 of title II of the Trade Act of 1974 is amended by adding at the end the following new section:

"SEC. 249A. NONDUPLICATION OF ASSISTANCE.

"No worker may receive assistance relating to a separation pursuant to certifications under both subchapters A and D of this chapter.".

(d) JUDICIAL REVIEW.—Section 284(a) of the Trade Act of 1974 (19 U.S.C. 2395(a)) is amended by inserting "or section 250(c)" after "section 223".

(e) TABLE OF CONTENTS.—The table of contents for chapter 2 of title II of the Trade Act of 1974 is amended—

(1) by inserting after the item relating to section 249 the following new item:

"Sec. 249A. Nonduplication of assistance.";

and

(2) by adding at the end thereof the following new items:

"SUBCHAPTER D—NAFTA TRANSITIONAL ADJUSTMENT ASSISTANCE PROGRAM

"Sec. 250. Establishment of transitional program.".

SEC. 504. AUTHORIZATION OF APPROPRIATIONS.

Section 245 of the Trade Act of 1974 (19 U.S.C. 2317) is amended—

(1) by striking "There" and inserting "(a) IN GENERAL.—There",

(2) by inserting ", other than subchapter D" after "chapter", and

(3) by adding at the end the following new subsection:

"(b) SUBCHAPTER D.—There are authorized to be appropriated to the Department of Labor, for each of fiscal years 1994, 1995, 1996, 1997, and 1998, such sums as may be necessary to carry out the purposes of subchapter D of this chapter.".

SEC. 505. TERMINATION OF TRANSITION PROGRAM.

Subsection (c) of section 285 of the Trade Act of 1974 (19 U.S.C. 2271 preceding note) is amended—

(1) by striking "No" and inserting "(1) Except as provided in paragraph (2), no"; and

(2) by adding at the end the following new paragraph:

"(2)(A) Except as provided in subparagraph (B), no assistance, vouchers, allowances, or other payments may be provided under subchapter D of chapter 2 after the day that is the earlier of—

"(i) September 30, 1998, or

"(ii) the date on which legislation, establishing a program providing dislocated workers with comprehensive assistance substantially similar to the assistance provided by such subchapter D, becomes effective.

"(B) Notwithstanding subparagraph (A), if, on or before the day described in subparagraph (A), a worker—

"(i) is certified as eligible to apply for assistance, under subchapter D of chapter 2; and

"(ii) is otherwise eligible to receive assistance in accordance with section 250,

such worker shall continue to be eligible to receive such assistance for any week for which the worker meets the eligibility requirements of such section.".

SEC. 506. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by sections 501, 502, 503, 504, and 505 shall take effect on the date the Agreement enters into force with respect to the United States.

(b) COVERED WORKERS.—

(1) GENERAL RULE.—Except as provided in paragraph (2), no worker shall be certified as eligible to receive assistance under subchapter D of chapter 2 of title II of the Trade Act of 1974 (as added by this subtitle) whose last total or partial separation from a firm (or appropriate subdivision of a firm) occurred before such date of entry into force.

(2) REACHBACK.—Notwithstanding paragraph (1), any worker—

(A) whose last total or partial separation from a firm (or appropriate subdivision of a firm) occurs—

(i) after the date of the enactment of this Act, and

(ii) before such date of entry into force, and

(B) who would otherwise be eligible to receive assistance under subchapter D of chapter 2 of title II of the Trade Act of 1974,

shall be eligible to receive such assistance in the same manner as if such separation occurred on or after such date of entry into force.

SEC. 507. TREATMENT OF SELF-EMPLOYMENT ASSISTANCE PROGRAMS.

(a) GENERAL RULE.—Section 3306 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

"(t) SELF-EMPLOYMENT ASSISTANCE PROGRAM.—For the purposes of this chapter, the term 'self-employment assistance program' means a program under which—

"(1) individuals who meet the requirements described in paragraph (3) are eligible to receive an allowance in lieu of regular unemployment compensation under the State law for the purpose of assisting such individuals in establishing a business and becoming self-employed;

"(2) the allowance payable to individuals pursuant to paragraph (1) is payable in the same amount, at the same interval, on the same terms, and subject to the same conditions, as regular unemployment compensation under the State law, except that—

"(A) State requirements relating to availability for work, active search for work, and refusal to accept work are not applicable to such individuals;

"(B) State requirements relating to disqualifying income are not applicable to income earned from self-employment by such individuals; and

"(C) such individuals are considered to be unemployed for the purposes of Federal and State laws applicable to unemployment compensation,

as long as such individuals meet the requirements applicable under this subsection;

"(3) individuals may receive the allowance described in paragraph (1) if such individuals—

"(A) are eligible to receive regular unemployment compensation under the State law, or would be eligible to receive such compensation except for the requirements described in subparagraph (A) or (B) of paragraph (2);

"(B) are identified pursuant to a State worker profiling system as individuals likely to exhaust regular unemployment compensation; and

"(C) are participating in self-employment assistance activities which—

"(i) include entrepreneurial training, business counseling, and technical assistance; and

"(ii) are approved by the State agency; and

"(D) are actively engaged on a full-time basis in activities (which may include training) relating to the establishment of a business and becoming self-employed;

"(4) the aggregate number of individuals receiving the allowance under the program does not at any time exceed 5 percent of the number of individuals receiving regular unemployment compensation under the State law at such time;

"(5) the program does not result in any cost to the Unemployment Trust Fund (established by section 904(a) of the Social Security Act) in excess of the cost that would be incurred by such State and charged to such Fund if the State had not participated in such program; and

"(6) the program meets such other requirements as the Secretary of Labor determines to be appropriate.".

(b) CONFORMING AMENDMENTS.—

(1) Section 3304(a)(4) of such Code is amended—

(A) in subparagraph (D), by striking "; and" and inserting a semicolon;

(B) in subparagraph (E), by striking the semicolon and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(F) amounts may be withdrawn for the payment of allowances under a self-employment assistance program (as defined in section 3306(t));".

(2) Section 3306(f) of such Code is amended—

(A) in paragraph (3), by striking "; and" and inserting a semicolon;

(B) in paragraph (4), by striking the period and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(5) amounts may be withdrawn for the payment of allowances under a self-employment assistance program (as defined in subsection (t)).".

(3) Section 303(a)(5) of the Social Security Act (42 U.S.C. 503(a)(5)) is amended by striking "; and" and inserting ": *Provided further*, That amounts may be withdrawn for the payment of allowances under a self-employment assistance program (as defined in section 3306(t) of the Internal Revenue Code of 1986); and".

(c) STATE REPORTS.—Any State operating a self-employment program authorized by the Secretary of Labor under this section shall report annually to the Secretary on the number of individuals who participate in the self-employment assistance program, the number of individuals who are able to develop and sustain businesses, the operating costs of the program, compliance with program requirements, and any other relevant aspects of program operations requested by the Secretary.

(d) REPORT TO CONGRESS.—Not later than 4 years after the date of the enactment of this Act, the Secretary of Labor shall submit a report to the Congress with respect to the operation of the program authorized under this section. Such report shall be based on the reports received from the States pursuant to subsection (c) and include such other information as the Secretary of Labor determines is appropriate.

(e) EFFECTIVE DATE; SUNSET.—

(1) EFFECTIVE DATE.—The provisions of this section and the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) SUNSET.—The authority provided by this section, and the amendments made by this section, shall terminate 5 years after the date of the enactment of this Act.

Subtitle B—Provisions Relating to Performance Under the Agreement

SEC. 511. DISCRIMINATORY TAXES.

It is the sense of the Congress that when a State, province, or other governmental entity of a NAFTA country discriminatorily enforces sales or other taxes so as to afford protection to domestic production or domestic service providers, such enforcement is in violation of the terms of the Agreement. When such discriminatory enforcement adversely affects United States producers of goods or United States service providers, the Trade Representative should pursue all appropriate remedies to obtain removal of such discriminatory enforcement, including invocation of the provisions of the Agreement.

SEC. 512. REVIEW OF THE OPERATION AND EFFECTS OF THE AGREEMENT.

(a) STUDY.—By not later than July 1, 1997, the President shall provide to the Congress a comprehensive study on the operation and effects of the Agreement. The study shall include an assessment of the following factors:

(1) The net effect of the Agreement on the economy of the United States, including with respect to the United States gross national product, employment, balance of trade, and current account balance.

(2) The industries (including agricultural industries) in the United States that have significantly increased exports to Mexico or Canada as a result of the Agreement, or in which imports into the United States from Mexico or Canada have increased significantly as a result of the Agreement, and the extent of any change in the wages, employment, or productivity in each such industry as a result of the Agreement.

(3) The extent to which investment in new or existing production or other operations in the United States has been redirected to Mexico as a result of the Agreement, and the effect on United States employment of such redirection.

(4) The extent of any increase in investment, including foreign direct investment and increased investment by United States investors, in new or existing production or other operations in the United States as a result of the Agreement, and the effect on United States employment of such investment.

(5) The extent to which the Agreement has contributed to—

(A) improvement in real wages and working conditions in Mexico,

(B) effective enforcement of labor and environmental laws in Mexico, and

(C) the reduction or abatement of pollution in the region of the United States-Mexico border.

(b) SCOPE.—In assessing the factors listed in subsection (a), to the extent possible, the study shall distinguish between the consequences of the Agreement and events that likely would have occurred without the Agreement. In addition, the study shall evaluate the effects of the Agreement relative to aggregate economic changes and, to the extent possible, relative to the effects of other factors, including—

(1) international competition,

(2) reductions in defense spending,

(3) the shift from traditional manufacturing to knowledge and information based economic activity, and

(4) the Federal debt burden.

(c) RECOMMENDATIONS OF THE PRESIDENT.—The study shall include any appropriate recommendations by the President with respect to the operation and effects of the Agreement, including recommendations with respect to the specific factors listed in subsection (a).

(d) RECOMMENDATIONS OF CERTAIN COMMITTEES.—The President shall provide the study to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate and any other committee that has jurisdiction over any provision of United States law that was either enacted or amended by the North American Free Trade Agreement Implementation Act. Each such committee may hold hearings and make recommendations to the President with respect to the operation and effects of the Agreement.

SEC. 513. ACTIONS AFFECTING UNITED STATES CULTURAL INDUSTRIES.

Section 182 of the Trade Act of 1974 (19 U.S.C. 2242) is amended by adding at the end the following new subsection:

"(f) SPECIAL RULE FOR ACTIONS AFFECTING UNITED STATES CULTURAL INDUSTRIES.—

"(1) IN GENERAL.—By no later than the date that is 30 days after the date on which the annual report is submitted to Congressional committees under section 181(b), the Trade Representative shall identify any act, policy, or practice of Canada which—

"(A) affects cultural industries,

"(B) is adopted or expanded after December 17, 1992, and

"(C) is actionable under article 2106 of the North American Free Trade Agreement.

"(2) SPECIAL RULES FOR IDENTIFICATIONS.—For purposes of section 302(b)(2)(A), an act, policy, or practice identified under this subsection shall be treated as an act, policy, or practice that is the basis for identification of a country under subsection (a)(2), unless the United States has already taken action pursuant to article 2106 of the North American Free Trade Agreement in response to such act, policy, or practice. In deciding whether to identify an act, policy, or practice under paragraph (1), the Trade Representative shall—

"(A) consult with and take into account the views of representatives of the relevant domestic industries, appropriate committees established pursuant to section 135, and appropriate officers of the Federal Government, and

"(B) take into account the information from such sources as may be available to the Trade Representative and such information as may be submitted to the Trade Representative by interested persons, including information contained in reports submitted under section 181(b).

"(3) CULTURAL INDUSTRIES.—For purposes of this subsection, the term 'cultural industries' means persons engaged in any of the following activities:

"(A) The publication, distribution, or sale of books, magazines, periodicals, or newspapers in print or machine readable form but not including the sole activity of printing or typesetting any of the foregoing.

"(B) The production, distribution, sale, or exhibition of film or video recordings.

"(C) The production, distribution, sale, or exhibition of audio or video music recordings.

"(D) The publication, distribution, or sale of music in print or machine readable form.

"(E) Radio communications in which the transmissions are intended for direct reception by the general public, and all radio, television, and cable broadcasting undertakings and all satellite programming and broadcast network services.".

SEC. 514. REPORT ON IMPACT OF NAFTA ON MOTOR VEHICLE EXPORTS TO MEXICO.

(a) FINDINGS.—The Congress makes the following findings:

(1) Trade in motor vehicles and motor vehicle parts is one of the most restricted areas of trade between the United States and Mexico.

(2) The elimination of Mexico's restrictive barriers to trade in motor vehicles and motor vehicle parts over a 10-year period under the Agreement should increase substantially United States exports of such products to Mexico.

(3) The Department of Commerce estimates that the Agreement provides the opportunity to increase United States exports of motor vehicles and motor vehicle parts by $1,000,000,000 during the first year of the Agreement's implementation with the potential for additional increases over the 10-year transition period.

(4) The United States automotive industry has estimated that United States exports of motor vehicles to Mexico should increase to more than 60,000 units during the first year of the Agreement's implementation, which is substantially above the current level of 4,000 units.

(b) TRADE REPRESENTATIVE REPORT.—No later than July 1, 1995, and annually thereafter through 1999, the Trade Representative shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on how effective the provisions of the Agreement are with respect to increasing United States exports of motor vehicles and motor vehicle parts to Mexico. Each report shall identify and determine the following:

(1) The patterns of trade in motor vehicles and motor vehicle parts between the United States and Mexico during the preceding 12-month period.

(2) The level of tariff and nontariff barriers that were in force during the preceding 12-month period.

(3) The amount by which United States exports of motor vehicles and motor vehicle parts to Mexico have increased from the preceding 12-month period as a result of the elimination of Mexican tariff and nontariff barriers under the Agreement.

(4) Whether any such increase in United States exports meets the levels of new export opportunities anticipated under the Agreement.

(5) If the anticipated levels of new United States export opportunities are not reached, what actions the Trade Representative is prepared to take to realize the benefits anticipated under the Agreement, including possible initiation of additional negotiations with Mexico for the purpose of seeking modifications of the Agreement.

SEC. 515. CENTER FOR THE STUDY OF WESTERN HEMISPHERIC TRADE.

(a) AMENDMENT TO THE CBI.—The Caribbean Basin Economic Recovery Act (19 U.S.C. 2701 et seq.) is amended by inserting after section 218 the following new section:

"SEC. 219. CENTER FOR THE STUDY OF WESTERN HEMISPHERIC TRADE.

"(a) ESTABLISHMENT.—The Commissioner of Customs, after consultation with appropriate officials in the State of Texas, is authorized and directed to make grants to an institution (or a consortium of such institutions) to assist such institution in planning, establishing, and operating a Center for the Study of Western Hemispheric Trade (hereafter in this section referred to as the 'Center'). The Commissioner of Customs shall make the first grant not later than December 1, 1994, and the Center shall be established not later than February 1, 1995.

"(b) SCOPE OF THE CENTER.—The Center shall be a year-round program operated by an institution located in the State of Texas (or a consortium of such institutions), the purpose of which is to promote and study trade between and among Western Hemisphere countries. The Center shall conduct activities designed to examine—

"(1) the impact of the NAFTA on the economies in, and trade within, the Western Hemisphere,

"(2) the negotiation of any future free trade agreements, including possible accessions to the NAFTA; and

"(3) adjusting tariffs, reducing nontariff barriers, improving relations among customs officials, and promoting economic relations among countries in the Western Hemisphere.

"(c) CONSULTATION; SELECTION CRITERIA.—The Commissioner of Customs shall consult with appropriate officials of the State of Texas and private sector authorities with respect to selecting, planning, and establishing the Center. In selecting the appropriate institution, the Commissioner of Customs shall give consideration to—

"(1) the institution's ability to carry out the programs and activities described in this section; and

"(2) any resources the institution can provide the Center in addition to Federal funds provided under this program.

"(d) PROGRAMS AND ACTIVITIES.—The Center shall conduct the following activities:

"(1) Provide forums for international discussion and debate for representatives from countries in the Western Hemisphere regarding issues which affect trade and other economic relations within the hemisphere, including the impact of the NAFTA on individual economies and the desirability and feasibility of possible accessions to the NAFTA by such countries.

"(2) Conduct studies and research projects on subjects which affect Western Hemisphere trade, including tariffs, customs, regional and national economics, business development and finance, production and personnel management, manufacturing, agriculture, engineering, transportation, immigration, telecommunications, medicine, science, urban studies, border demographics, social anthropology, and population.

"(3) Publish materials, disseminate information, and conduct seminars and conferences to support and educate representatives from countries in the Western Hemisphere who seek to do business with or invest in other Western Hemisphere countries.

"(4) Provide grants, fellowships, endowed chairs, and financial assistance to outstanding scholars and authorities from Western Hemisphere countries.

"(5) Provide grants, fellowships, and other financial assistance to qualified graduate students, from Western Hemisphere countries, to study at the Center.

"(6) Implement academic exchange programs and other cooperative research and instructional agreements with the complementary North/South Center at the University of Miami at Coral Gables.

"(e) DEFINITIONS.—For purposes of this section—

"(1) NAFTA.—The term 'NAFTA' means the North American Free Trade Agreement.

"(2) WESTERN HEMISPHERE COUNTRIES.—The terms 'Western Hemisphere countries', 'countries in the Western Hemisphere', and 'Western Hemisphere' mean Canada, the United States, Mexico, countries located in South America, beneficiary countries (as defined by section 212), the Commonwealth of Puerto Rico, and the United States Virgin Islands.

"(f) FEES FOR SEMINARS AND PUBLICATIONS.—Notwithstanding any other provision of law, a grant made under this section may provide that the Center may charge a reasonable fee for attendance at seminars and conferences and for copies of publications, studies, reports, and other documents the Center publishes. The Center may waive such fees in any case in which it determines imposing a fee would impose a financial hardship and the purposes of the Center would be served by granting such a waiver.

"(g) Duration of Grant.—The Commissioner of Customs is directed to make grants to any institution or institutions selected as the Center for fiscal years 1994, 1995, 1996, and 1997.

"(h) Report.—The Commissioner of Customs shall, no later than July 1, 1994, and annually thereafter for years for which grants are made, submit a written report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives. The first report shall include—

"(1) a statement identifying the institution or institutions selected as the Center,

"(2) the reasons for selecting the institution or institutions as the Center, and

"(3) the plan of such institution or institutions for operating the Center.

Each subsequent report shall include information with respect to the operations of the Center, the collaboration of the Center with, and dissemination of information to, Government policymakers and the business community with respect to the study of Western Hemispheric trade by the Center, and the plan and efforts of the Center to continue operations after grants under this section have expired.".

(b) Authorization of Appropriations.—There are authorized to be appropriated $10,000,000 for fiscal year 1994, and such sums as may be necessary in the 3 succeeding fiscal years to carry out the purposes of section 219 of the Caribbean Basin Economic Recovery Act (as added by subsection (a)).

SEC. 516. EFFECTIVE DATE.

(a) In General.—Except as provided in subsection (b), the provisions of this subtitle shall take effect on the date the Agreement enters into force with respect to the United States.

(b) Exception.—Section 515 shall take effect on the date of the enactment of this Act.

Subtitle C—Funding

PART 1—CUSTOMS USER FEES

SEC. 521. FEES FOR CERTAIN CUSTOMS SERVICES.

(a) In General.—Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c) is amended—

(1) by amending paragraph (5) of subsection (a) to read as follows:

"(5)(A) For fiscal years 1994, 1995, 1996, and 1997, for the arrival of each passenger aboard a commercial vessel or commercial aircraft from outside the customs territory of the United States, $6.50.

"(B) For fiscal year 1998 and each fiscal year thereafter, for the arrival of each passenger aboard a commercial vessel or commercial aircraft from a place outside the United States (other than a place referred to in subsection (b)(1)(A) of this section), $5."

(2) by adding at the end of paragraph (1) of subsection (b), the following flush sentence:

"Subparagraph (A) shall not apply to fiscal years 1994, 1995, 1996, and 1997.",

(3) in subsection (f)—

(A) in paragraph (1), by striking "except" and all that follows through the end period and inserting: "except—

"(A) the portion of such fees that is required under paragraph (3) for the direct reimbursement of appropriations, and

"(B) the portion of such fees that is determined by the Secretary to be excess fees under paragraph (5).",

(B) in paragraph (3)(A), by striking the first parenthetical and inserting "(other than the fees under subsection (a) (9) and (10) and the excess fees determined by the Secretary under paragraph (5))",

(C) in paragraph (4), by striking "under subsection (a)" and inserting "under subsection (a) (other than the excess fees determined by the Secretary under paragraph (5))", and

(D) by adding at the end thereof the following new paragraph:

"(5) At the close of each of fiscal years 1994, 1995, 1996, and 1997, the Secretary of the Treasury shall determine the amount of the fees collected under paragraph (5)(A) of subsection (a) for that fiscal year that exceeds the amount of such fees that would have been collected for such fiscal year if the fees that were in effect on the day before the effective date of this paragraph applied to such fiscal year. The amount of the excess fees determined under the preceding sentence shall be deposited in the Customs User Fee Account and shall be available for reimbursement of inspectional costs (including passenger processing costs) not otherwise reimbursed under this section, and shall be available only to the extent provided in appropriations Acts.", and

(4) in paragraph (3) of subsection (j), by striking "September 30, 1998" and inserting "September 30, 2003".

(b) Effective Date.—The amendments made by this section shall take effect on the date the Agreement enters into force with respect to the United States.

PART 2—INTERNAL REVENUE CODE AMENDMENTS

SEC. 522. AUTHORITY TO DISCLOSE CERTAIN TAX INFORMATION TO THE UNITED STATES CUSTOMS SERVICE.

(a) In General.—Subsection (l) of section 6103 of the Internal Revenue Code of 1986 (relating to confidentiality and disclosure of returns and return information) is amended by adding at the end thereof the following new paragraph:

"(14) Disclosure of return information to United States Customs Service.—The Secretary may, upon written request from the Commissioner of the United States Customs Service, disclose to officers and employees of the Department of the Treasury such return information with respect to taxes imposed by chapters 1 and 6 as the Secretary may prescribe by regulations, solely for the purpose of, and only to the extent necessary in—

"(A) ascertaining the correctness of any entry in audits as provided for in section 509 of the Tariff Act of 1930 (19 U.S.C. 1509), or

"(B) other actions to recover any loss of revenue, or to collect duties, taxes, and fees, determined to be due and owing pursuant to such audits."

(b) Conforming Amendments.—Paragraphs (3)(A) and (4) of section 6103(p) of such Code are each amended by striking "or (13)" each place it appears and inserting "(13), or (14)".

(c) Effective Date.—

(1) In general.—The amendments made by this section shall take effect on the date the Agreement enters into force with respect to the United States.

(2) Regulations.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury or his delegate shall issue temporary regulations to carry out section 6103(l)(14) of the Internal Revenue Code of 1986, as added by this section.

SEC. 523. USE OF ELECTRONIC FUND TRANSFER SYSTEM FOR COLLECTION OF CERTAIN TAXES.

(a) General Rule.—Section 6302 of the Internal Revenue Code of 1986 (relating to mode or time of collection) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) Use of Electronic Fund Transfer System for Collection of Certain Taxes.—

"(1) Establishment of system.— .

"(A) In general.—The Secretary shall prescribe such regulations as may be necessary for the development and implementation of an electronic fund transfer system which is required to be used for the collection of depository taxes. Such system shall be designed in such manner as may be necessary to ensure that such taxes are credited to the general account of the Treasury on the date on which such taxes would otherwise have been required to be deposited under the Federal tax deposit system.

"(B) Exemptions.—The regulations prescribed under subparagraph (A) may contain such exemptions as the Secretary may deem appropriate.

"(2) Phase-in requirements.—

"(A) In general.—Except as provided in subparagraph (B), the regulations referred to in paragraph (1)—

"(i) shall contain appropriate procedures to assure that an orderly conversion from the Federal tax deposit system to the electronic fund transfer system is accomplished, and

"(ii) may provide for a phase-in of such electronic fund transfer system by classes of taxpayers based on the aggregate undeposited taxes of such taxpayers at the close of specified periods and any other factors the Secretary may deem appropriate.

"(B) Phase-in requirements.—The phase-in of the electronic fund transfer system shall be designed in such manner as may be necessary to ensure that—

"(i) during each fiscal year beginning after September 30, 1993, at least the applicable required percentage of the total depository taxes imposed by chapters 21, 22, and 24 shall be collected by means of electronic fund transfer, and

"(ii) during each fiscal year beginning after September 30, 1993, at least the applicable required percentage of the total other depository taxes shall be collected by means of electronic fund transfer.

"(C) Applicable required percentage.—

"(i) In the case of the depository taxes imposed by chapters 21, 22, and 24, the applicable required percentage is—

"(I) 3 percent for fiscal year 1994,

"(II) 16.9 percent for fiscal year 1995,

"(III) 20.1 percent for fiscal year 1996,

"(IV) 58.3 percent for fiscal years 1997 and 1998, and

"(V) 94 percent for fiscal year 1999 and all fiscal years thereafter.

"(ii) In the case of other depository taxes, the applicable required percentage is—

"(I) 3 percent for fiscal year 1994,

"(II) 20 percent for fiscal year 1995,

"(III) 30 percent for fiscal year 1996,

"(IV) 60 percent for fiscal years 1997 and 1998, and

"(V) 94 percent for fiscal year 1999 and all fiscal years thereafter.

"(3) Definitions.—For purposes of this subsection—

"(A) Depository tax.—The term 'depository tax' means any tax if the Secretary is authorized to require deposits of such tax.

"(B) Electronic fund transfer.—The term 'electronic fund transfer' means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution or other financial intermediary to debit or credit an account.

"(4) COORDINATION WITH OTHER ELECTRONIC FUND TRANSFER REQUIREMENTS.—

"(A) COORDINATION WITH CERTAIN EXCISE TAXES.—In determining whether the requirements of subparagraph (B) of paragraph (2) are met, taxes required to be paid by electronic fund transfer under sections 5061(e) and 5703(b) shall be disregarded.

"(B) ADDITIONAL REQUIREMENT.—Under regulations, any tax required to be paid by electronic fund transfer under section 5061(e) or 5703(b) shall be paid in such a manner as to ensure that the requirements of the second sentence of paragraph (1)(A) of this subsection are satisfied."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the date the Agreement enters into force with respect to the United States.

(2) REGULATIONS.—Not later than 210 days after the date of enactment of this Act, the Secretary of the Treasury or his delegate shall prescribe temporary regulations under section 6302(h) of the Internal Revenue Code of 1986 (as added by this section).

Subtitle D—Implementation of NAFTA Supplemental Agreements

PART 1—AGREEMENTS RELATING TO LABOR AND ENVIRONMENT

SEC. 531. AGREEMENT ON LABOR COOPERATION.

(a) COMMISSION FOR LABOR COOPERATION.—

(1) MEMBERSHIP.—The United States is authorized to participate in the Commission for Labor Cooperation in accordance with the North American Agreement on Labor Cooperation.

(2) CONTRIBUTIONS TO BUDGET.—There are authorized to be appropriated to the President (or such agency as the President may designate) $2,000,000 for each of fiscal years 1994 and 1995 for United States contributions to the annual budget of the Commission for Labor Cooperation pursuant to Article 43 of the North American Agreement on Labor Cooperation. Funds authorized to be appropriated for such contributions by this paragraph are in addition to any funds otherwise available for such contributions. Funds authorized to be appropriated by this paragraph are authorized to be made available until expended.

(b) DEFINITIONS.—As used in this section—

(1) the term "Commission for Labor Cooperation" means the commission established by Part Three of the North American Agreement on Labor Cooperation; and

(2) the term "North American Agreement on Labor Cooperation" means the North American Agreement on Labor Cooperation Between the Government of the United States of America, the Government of Canada, and the Government of the United Mexican States (signed at Mexico City, Washington, and Ottawa on September 8, 9, 12, and 14, 1993).

SEC. 532. AGREEMENT ON ENVIRONMENTAL COOPERATION.

(a) COMMISSION FOR ENVIRONMENTAL COOPERATION.—

(1) MEMBERSHIP.—The United States is authorized to participate in the Commission for Environmental Cooperation in accordance with the North American Agreement on Environmental Cooperation.

(2) CONTRIBUTIONS TO BUDGET.—There are authorized to be appropriated to the President (or such agency as the President may designate) $5,000,000 for each of fiscal years 1994 and 1995 for United States contributions to the annual budget of the Commission for Environmental Cooperation pursuant to Article 43 of the North American Agreement on Environmental Cooperation. Funds authorized to be appropriated for such contributions by this paragraph are in addition to any funds otherwise available for such contributions. Funds authorized to be appropriated by this paragraph are authorized to be made available until expended.

(b) DEFINITIONS.—As used in this section—

(1) the term "Commission for Environmental Cooperation" means the commission established by Part Three of the North American Agreement on Environmental Cooperation; and

(2) the term "North American Agreement on Environmental Cooperation" means the North American Agreement on Environmental Cooperation Between the Government of the United States of America, the Government of Canada, and the Government of the United Mexican States (signed at Mexico City, Washington, and Ottawa on September 8, 9, 12, and 14, 1993).

SEC. 533. AGREEMENT ON BORDER ENVIRONMENT COOPERATION COMMISSION.

(a) BORDER ENVIRONMENT COOPERATION COMMISSION.—

(1) MEMBERSHIP.—The United States is authorized to participate in the Border Environment Cooperation Commission in accordance with the Border Environment Cooperation Agreement.

(2) CONTRIBUTIONS TO THE COMMISSION BUDGET.—There are authorized to be appropriated to the President (or such agency as the President may designate) $5,000,000 for fiscal year 1994 and each fiscal year thereafter for United States contributions to the budget of the Border Environment Cooperation Commission pursuant to section 7 of Article III of Chapter I of the Border Environment Cooperation Agreement. Funds authorized to be appropriated for such contributions by this paragraph are in addition to any funds otherwise available for such contributions. Funds authorized to be appropriated by this paragraph are authorized to be made available until expended.

(b) CIVIL ACTIONS INVOLVING THE COMMISSION.—For the purpose of any civil action which may be brought within the United States by or against the Border Environment Cooperation Commission in accordance with the Border Environment Cooperation Agreement (including an action brought to enforce an arbitral award against the Commission), the Commission shall be deemed to be an inhabitant of the Federal judicial district in which its principal office within the United States, or its agent appointed for the purpose of accepting service or notice of service, is located. Any such action to which the Commission is a party shall be deemed to arise under the laws of the United States, and the district courts of the United States (including the courts enumerated in section 460 of title 28, United States Code) shall have original jurisdiction of any such action. When the Commission is a defendant in any action in a State court, it may at any time before trial remove the action into the appropriate district court of the United States by following the procedure for removal provided in section 1446 of title 28, United States Code.

(c) DEFINITIONS.—As used in this section—

(1) the term "Border Environment Cooperation Agreement" means the November 1993 Agreement Between the Government of the United States of America and the Government of the United Mexican States Concerning the Establishment of a Border Environment Cooperation Commission and a North American Development Bank;

(2) the terms "Border Environment Cooperation Commission" and "Commission" mean the commission established pursuant to Chapter I of the Border Environment Cooperation Agreement; and

(3) the term "United States" means the United States, its territories and possessions, and the Commonwealth of Puerto Rico.

PART 2—NORTH AMERICAN DEVELOPMENT BANK AND RELATED PROVISIONS

SEC. 541. NORTH AMERICAN DEVELOPMENT BANK.

(a) ACCEPTANCE OF MEMBERSHIP.—The President is hereby authorized to accept membership for the United States in the North American Development Bank (hereafter in this part referred to as the "Bank") provided for in Chapter II of the Border Environment Cooperation Agreement (hereafter in this part referred to as the "Cooperation Agreement").

(b) SUBSCRIPTION OF STOCK.—

(1) SUBSCRIPTION AUTHORITY.—

(A) IN GENERAL.—The Secretary of the Treasury may subscribe on behalf of the United States up to 150,000 shares of the capital stock of the Bank.

(B) EFFECTIVENESS OF SUBSCRIPTION.—Except as provided in paragraph (3), any such subscription shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

(2) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—For payment by the Secretary of the Treasury of the subscription of the United States for shares described in paragraph (1), there are authorized to be appropriated $1,500,000,000 ($225,000,000 of which may be used for paid-in capital and $1,275,000,000 of which may be used for callable capital) without fiscal year limitation.

(3) FUNDING; LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS.—

(A) FUNDING.—For fiscal year 1995, the Secretary of the Treasury shall pay to the Bank out of any sums in the Treasury not otherwise appropriated the sum of $56,250,000 for the paid-in portion of the United States share of the capital stock of the Bank, 10 percent of which may be transferred by the Bank to the President pursuant to section 543 to pay for the cost of direct and guaranteed Federal loans.

(B) LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS.—For fiscal year 1995, the Secretary of the Treasury shall subscribe to the callable capital portion of the United States share of the capital stock of the Bank in an amount not to exceed $318,750,000.

(4) DISPOSITION OF NET INCOME DISTRIBUTED BY THE FACILITY.—Any payment made to the United States by the Bank as a distribution of net income shall be covered into the Treasury as a miscellaneous receipt.

(c) COMPENSATION OF BOARD MEMBERS.—No person shall be entitled to receive any salary or other compensation from the Bank or the United States for services as a Board member.

(d) APPLICABILITY OF BRETTON WOODS AGREEMENTS ACT.—The provisions of section 4 of the Bretton Woods Agreements Act shall apply with respect to the Bank to the same extent as with respect to the International Bank for Reconstruction and Development and the International Monetary Fund.

(e) RESTRICTIONS.—Unless authorized by law, neither the President nor any person or agency shall, on behalf of the United States—

(1) subscribe to additional shares of stock of the Bank;

(2) vote for or agree to any amendment of the Cooperation Agreement which increases the obligations of the United States, or which changes the purpose or functions of the Bank; or

(3) make a loan or provide other financing to the Bank.

(f) FEDERAL RESERVE BANKS AS DEPOSITORIES.—Any Federal Reserve bank that is requested to do so by the Bank shall act as its depository or as its fiscal agent, and the Board of Governors of the Federal Reserve System shall supervise and direct the carrying out of these functions by the Federal Reserve banks.

(g) JURISDICTION OF UNITED STATES COURTS AND ENFORCEMENT OF ARBITRAL AWARDS.—For the purpose of any civil action which may be brought within the United States, its territories or possessions, or the Commonwealth of Puerto Rico, by or against the Bank in accordance with the Cooperation Agreement, including an action brought to enforce an arbitral award against the Bank, the Bank shall be deemed to be an inhabitant of the Federal judicial district in which its principal office within the United States or its agency appointed for the purpose of accepting service or notice of service is located, and any such action to which the Bank shall be a party shall be deemed to arise under the laws of the United States, and the district courts of the United States, including the courts enumerated in section 460 of title 28, United States Code, shall have original jurisdiction of any such action. When the Bank is a defendant in any action in a State court, it may at any time before trial remove the action into the appropriate district court of the United States by following the procedure for removal provided in section 1446 of title 28, United States Code.

(h) EXEMPTION FROM SECURITIES LAWS FOR CERTAIN SECURITIES ISSUED BY THE BANK; REPORTS REQUIRED.—

(1) EXEMPTIONS FROM LIMITATIONS AND RESTRICTIONS ON THE POWER OF NATIONAL BANKING ASSOCIATIONS TO DEAL IN AND UNDERWRITE INVESTMENT SECURITIES OF THE BANK.—The seventh sentence of the seventh undesignated paragraph of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24), is amended by inserting "the North American Development Bank," after "Inter-American Development Bank,".

(2) EXEMPTION FROM SECURITIES LAWS FOR CERTAIN SECURITIES ISSUED BY THE BANK; REPORTS REQUIRED.—Any securities issued by the Bank (including any guarantee by the Bank, whether or not limited in scope) in connection with the raising of funds for inclusion in the Bank's capital resources as defined in Section 4 of Article II of Chapter II of the Cooperation Agreement, and any securities guaranteed by the Bank as to both the principal and interest to which the commitment in Section 3(d) of Article II of Chapter II of the Cooperation Agreement is expressly applicable, shall be deemed to be exempted securities within the meaning of section 3(a)(2) of the Securities Act of 1933 (15 U.S.C. 77c), and section 3(a)(12) of the Securities Exchange Act of 1934 (15 U.S.C. 78c). The Bank shall file with the Securities and Exchange Commission such annual and other reports with regard to such securities as the Commission shall determine to be appropriate in view of the special character of the Bank and its operations and necessary in the public interest or for the protection of investors.

(3) AUTHORITY OF SECURITIES AND EXCHANGE COMMISSION TO SUSPEND EXEMPTION; REPORTS TO THE CONGRESS.—The Securities and Exchange Commission, acting in consultation with the National Advisory Council on International Monetary and Financial Problems, is authorized to suspend the provisions of paragraph (2) at any time as to any or all securities issued or guaranteed by the Bank during the period of such suspension. The Commission shall include in its annual reports to Congress such information as it shall deem advisable with regard to the operations and effect of this subsection and in connection therewith shall include any views submitted for such purpose by any association of dealers registered with the Commission.

SEC. 542. STATUS, IMMUNITIES, AND PRIVILEGES.

Article VIII of Chapter II of the Cooperation Agreement shall have full force and effect in the United States, its territories and possessions, and the Commonwealth of Puerto Rico, upon entry into force of the Cooperation Agreement.

SEC. 543. COMMUNITY ADJUSTMENT AND INVESTMENT PROGRAM.

(a) THE PRESIDENT.—(1) The President may enter into an agreement with the Bank that facilitates implementation by the President of a program for community adjustment and investment in support of the Agreement pursuant to chapter II of the Cooperation Agreement (hereafter in this section referred to as the "community adjustment and investment program").

(2) The President may receive from the Bank 10 percent of the paid-in capital actually paid to the Bank by the United States for the President to carry out, without further appropriations, through Federal agencies and their loan and loan guarantee programs, the community adjustment and investment program, pursuant to an agreement between the President and the Bank.

(3) The President may select one or more Federal agencies that make loans or guarantees the repayment of loans to assist in carrying out the community adjustment and investment program, and may transfer the funds received from the Bank to such agency or agencies for the purpose of assisting in carrying out the community adjustment and investment program.

(4)(A) Each Federal agency selected by the President to assist in carrying out the community adjustment and investment program shall use the funds transferred to it by the President from the Bank to pay for the costs of direct and guaranteed loans, as defined in section 502 of the Congressional Budget Act of 1974, and, as appropriate, other costs associated with such loans, all subject to the restrictions and limitations that apply to such agency's existing loan or loan guarantee program.

(B) Funds transferred to an agency under subparagraph (A) shall be in addition to the amount of funds authorized in any appropriations Act to be expended by that agency for its loan or loan guarantee program.

(5) The President shall—

(A) establish guidelines for the loans and loan guarantees to be made under the community adjustment and investment program;

(B) endorse the grants made by the Bank for the community adjustment and investment program, as provided in Article I, section 1(b), and Article III, section 11(a), of Chapter II of the Cooperation Agreement; and

(C) endorse any loans or guarantees made by the Bank for the community adjustment and investment program, as provided in Article I, section 1(b), and Article III, section 6(a) and (c) of Chapter II of the Cooperation Agreement.

(b) ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—The President shall establish an advisory committee to be known as the Community Adjustment and Investment Program Advisory Committee (in this section referred to as the "Advisory Committee") in accordance with the provisions of the Federal Advisory Committee Act.

(2) MEMBERSHIP.—

(A) IN GENERAL.—The Advisory Committee shall consist of 9 members of the public, appointed by the President, who, collectively, represent—

(i) community groups whose constituencies include low-income families;

(ii) any scientific, professional, business, nonprofit, or public interest organization or association which is neither affiliated with, nor under the direction of, a government;

(iii) for-profit business interests; and

(iv) other appropriate entities with relevant expertise.

(B) REPRESENTATION.—Each of the categories described in clauses (i) through (iv) of subparagraph (A) shall be represented by no fewer than 1 and no more than 3 members of the Advisory Committee.

(3) FUNCTION.—It shall be the function of the Advisory Committee—

(A) to provide advice to the President regarding the implementation of the community adjustment and investment program, including advice on the guidelines to be established by the President for the loans and loan guarantees to be made pursuant to subsection (a)(4), advice on identifying the needs for adjustment assistance and investment in support of the goals and objectives of the Agreement, taking into account economic and geographic considerations, and advice on such other matters as may be requested by the President; and

(B) to review on a regular basis the operation of the community adjustment and investment program and provide the President with the conclusions of its review.

(4) TERMS OF MEMBERS.—

(A) IN GENERAL.—Each member of the Advisory Committee shall serve at the pleasure of the President.

(B) CHAIRPERSON.—The President shall appoint a chairperson from among the members of the Advisory Committee.

(C) MEETINGS.—The Advisory Committee shall meet at least annually and at such other times as requested by the President or the chairperson. A majority of the members of the Advisory Committee shall constitute a quorum.

(D) REIMBURSEMENT FOR EXPENSES.—The members of the Advisory Committee may receive reimbursement for travel, per diem, and other necessary expenses incurred in the performance of their duties, in accordance with the Federal Advisory Committee Act.

(E) STAFF AND FACILITIES.—The Advisory Committee may utilize the facilities and services of employees of any Federal agency without cost to the Advisory Committee, and any such agency is authorized to provide services as requested by the Committee.

(c) OMBUDSMAN.—The President shall appoint an ombudsman to provide the public with an opportunity to participate in the carrying out of the community adjustment and investment program.

(1) FUNCTION.—It shall be the function of the ombudsman—

(A) to establish procedures for receiving comments from the general public on the operation of the community adjustment and investment program, to receive such comments, and to provide the President with summaries of the public comments; and

(B) to perform an independent inspection and programmatic audit of the operation of the community adjustment and investment program and to provide the President with the conclusions of its investigation and audit.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the President, or such agency as the President may designate, $25,000 for fiscal year 1995 and for each fiscal year thereafter, for the costs of the ombudsman.

(d) REPORTING REQUIREMENT.—The President shall submit to the appropriate congressional committees an annual report on the community adjustment and investment program (if any) that is carried out pursuant to this section. Each report shall state the amount of the loans made or guaranteed during the 12-month period ending on the day before the date of the report.

SEC. 544. DEFINITION.

For purposes of this part, the term "Border Environment Cooperation Agreement" (referred to in this part as the "Cooperation Agreement") means the November 1993 Agreement Between the Government of the United States of America and the Government of the United Mexican States Concerning the Establishment of a Border Environment Cooperation Commission and a North American Development Bank.

TITLE VI—CUSTOMS MODERNIZATION

SEC. 601. REFERENCE.

Whenever in subtitle A, B, or C an amendment or repeal is expressed in terms of an amendment to, or repeal of, a part, section, subsection, or other provision, the reference shall be considered to be made a part, section, subsection, or other provision of the Tariff Act of 1930 (19 U.S.C. 1202 et seq.).

Subtitle A—Improvements in Customs Enforcement

SEC. 611. PENALTIES FOR VIOLATIONS OF ARRIVAL, REPORTING, ENTRY, AND CLEARANCE REQUIREMENTS.

Section 436 (19 U.S.C. 1436) is amended—

(1) by amending subsection (a)—

(A) by striking out "433" in paragraph (1) and inserting "431, 433, or 434 of this Act or section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91)",

(B) by amending paragraph (2) to read as follows:

"(2) to present or transmit, electronically or otherwise, any forged, altered, or false document, paper, information, data or manifest to the Customs Service under section 431(e), 433(d), or 434 of this Act or section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91) without revealing the facts; or", and

(C) by amending paragraph (3) to read as follows:

"(3) to fail to make entry or to obtain clearance as required by section 434 or 644 of this Act, section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91), or section 1109 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1509); or"; and

(2) by striking out "**AND ENTRY**" in the section heading and inserting "**ENTRY, AND CLEARANCE**".

SEC. 612. FAILURE TO DECLARE.

Section 497(a) (19 U.S.C. 1497(a)) is amended—

(1) by inserting "or transmitted" after "made" in paragraph (1)(A); and

(2) by amending paragraph (2)(A) to read as follows:

"(A) if the article is a controlled substance, either $500 or an amount equal to 1,000 percent of the value of the article, whichever amount is greater; and".

SEC. 613. CUSTOMS TESTING LABORATORIES; DETENTION OF MERCHANDISE.

(a) AMENDMENT.—Section 499 (19 U.S.C. 1499) is amended to read as follows:

"SEC. 499. EXAMINATION OF MERCHANDISE.

"(a) ENTRY EXAMINATION.—

"(1) IN GENERAL.—Imported merchandise that is required by law or regulation to be inspected, examined, or appraised shall not be delivered from customs custody (except under such bond or other security as may be prescribed by the Secretary to assure compliance with all applicable laws, regulations, and instructions which the Secretary or the Customs Service is authorized to enforce) until the merchandise has been inspected, appraised, or examined and is reported by the Customs Service to have been truly and correctly invoiced and found to comply with the requirements of the laws of the United States.

"(2) EXAMINATION.—The Customs Service—

"(A) shall designate the packages or quantities of merchandise covered by any invoice or entry which are to be opened and examined for the purpose of appraisement or otherwise;

"(B) shall order such packages or quantities to be sent to such place as is designated by the Secretary by regulation for such purpose;

"(C) may require such additional packages or quantities as the Secretary considers necessary for such purpose; and

"(D) shall inspect a sufficient number of shipments, and shall examine a sufficient number of entries, to ensure compliance with the laws enforced by the Customs Service.

"(3) UNSPECIFIED ARTICLES.—If any package contains any article not specified in the invoice or entry and, in the opinion of the Customs Service, the article was omitted from the invoice or entry—

"(A) with fraudulent intent on the part of the seller, shipper, owner, agent, importer of record, or entry filer, the contents of the entire package in which such article is found shall be subject to seizure; or

"(B) without fraudulent intent, the value of the article shall be added to the entry and the duties, fees, and taxes thereon paid accordingly.

"(4) DEFICIENCY.—If a deficiency is found in quantity, weight, or measure in the examination of any package, the person finding the deficiency shall make a report thereof to the Customs Service. The Customs Service shall make allowance for the deficiency in the liquidation of duties.

"(5) INFORMATION REQUIRED FOR RELEASE.—If an examination is conducted, any information required for release shall be provided, either electronically or in paper form, to the Customs Service at the port of examination. The absence of such information does not limit the authority of the Customs Service to conduct an examination.

"(b) TESTING LABORATORIES.—

"(1) ACCREDITATION OF PRIVATE TESTING LABORATORIES.—The Customs Service shall establish and implement a procedure, under regulations promulgated by the Secretary, for accrediting private laboratories within the United States which may be used to perform tests (that would otherwise be performed by Customs Service laboratories) to establish the characteristics, quantities, or composition of imported merchandise. Such regulations—

"(A) shall establish the conditions required for the laboratories to receive and maintain accreditation for purposes of this subsection;

"(B) shall establish the conditions regarding the suspension and revocation of accreditation, which may include the imposition of a monetary penalty not to exceed $100,000 and such penalty is in addition to the recovery, from a gauger or laboratory accredited under paragraph (1), of any loss of revenue that may have occurred, but the Customs Service—

"(i) may seek to recover lost revenue only in cases where the gauger or laboratory intentionally falsified the analysis or gauging report in collusion with the importer; and

"(ii) shall neither assess penalties nor seek to recover lost revenue because of a good faith difference of professional opinion; and

"(C) may provide for the imposition of a reasonable charge for accreditation and periodic reaccreditation.

The collection of any charge for accreditation and reaccreditation under this section is not prohibited by section 13031(e)(6) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(e)(6)).

"(2) APPEAL OF ADVERSE ACCREDITATION DECISIONS.—A laboratory applying for accreditation, or that is accredited, under this section may contest any decision or order of the Customs Service denying, suspending, or revoking accreditation, or imposing a monetary penalty, by commencing an action in accordance with chapter 169 of title 28, United States Code, in the Court of International Trade within 60 days after issuance of the decision or order.

"(3) TESTING BY ACCREDITED LABORATORIES.—When requested by an importer of record of merchandise, the Customs Service shall authorize the release to the importer of a representative sample of the merchandise for testing, at the expense of the importer, by a laboratory accredited under paragraph (1). The testing results from a laboratory accredited under paragraph (1) that are submitted by an importer of record with respect to merchandise in an entry shall, in the absence of testing results obtained from a Customs Service laboratory, be accepted by the Customs Service if the importer of record certifies that the sample tested was taken from the merchandise in the entry. Nothing in this subsection shall be construed to limit in any way or preclude the authority of the Customs Service to test or analyze any sample or merchandise independently.

"(4) AVAILABILITY OF TESTING PROCEDURE, METHODOLOGIES, AND INFORMATION.—Testing procedures and methodologies used by the Customs Service, and information resulting from any testing conducted by the Customs Service, shall be made available as follows:

"(A) Testing procedures and methodologies shall be made available upon request to any person unless the procedures or methodologies are—

"(i) proprietary to the holder of a copyright or patent related to such procedures or methodologies, or

"(ii) developed by the Customs Service for enforcement purposes.

"(B) Information resulting from testing shall be made available upon request to the importer of record and any agent thereof unless the information reveals information which is—

"(i) proprietary to the holder of a copyright or patent; or

"(ii) developed by the Customs Service for enforcement purposes.

"(5) MISCELLANEOUS PROVISIONS.—For purposes of this subsection—

"(A) any reference to a private laboratory includes a reference to a private gauger; and

"(B) accreditation of private laboratories extends only to the performance of functions by such laboratories that are within the scope of those responsibilities for determinations of the elements relating to admissibility, quantity, composition, or characteristics of imported merchandise that are vested in, or delegated to, the Customs Service.

"(c) DETENTIONS.—Except in the case of merchandise with respect to which the determination of admissibility is vested in an agency other than the Customs Service, the following apply:

"(1) IN GENERAL.—Within the 5-day period (excluding weekends and holidays) following the date on which merchandise is presented for customs examination, the Customs Service shall decide whether to release or detain the merchandise. Merchandise which is not released within such 5-day period shall be considered to be detained merchandise.

"(2) NOTICE OF DETENTION.—The Customs Service shall issue a notice to the importer or other party having an interest in detained merchandise no later than 5 days, excluding weekends and holidays, after the decision to detain the merchandise is made. The notice shall advise the importer or other interested party of—

"(A) the initiation of the detention;

"(B) the specific reason for the detention;

"(C) the anticipated length of the detention;

"(D) the nature of the tests or inquiries to be conducted; and

"(E) the nature of any information which, if supplied to the Customs Service, may accelerate the disposition of the detention.

"(3) TESTING RESULTS.—Upon request by the importer or other party having an interest in detained merchandise, the Customs Service shall provide the party with copies of the results of any testing conducted by the Customs Service on the merchandise and a description of the testing procedures and methodologies (unless such procedures or methodologies are proprietary to the holder of a copyright or patent or were developed by the Customs Service for enforcement purposes). The results and test description shall be in sufficient detail to permit the duplication and analysis of the testing and the results.

"(4) SEIZURE AND FORFEITURE.—If otherwise provided by law, detained merchandise may be seized and forfeited.

"(5) EFFECT OF FAILURE TO MAKE DETERMINATION.—

"(A) The failure by the Customs Service to make a final determination with respect to the admissibility of detained merchandise within 30 days after the merchandise has been presented for customs examination, or such longer period if specifically authorized by law, shall be treated as a decision of the Customs Service to exclude the merchandise for purposes of section 514(a)(4).

"(B) For purposes of section 1581 of title 28, United States Code, a protest against the decision to exclude the merchandise which has not been allowed or denied in whole or in part before the 30th day after the day on which the protest was filed shall be treated as having been denied on such 30th day.

"(C) Notwithstanding section 2639 of title 28, United States Code, once an action respecting a detention is commenced, unless the Customs Service establishes by a preponderance of the evidence that an admissibility decision has not been reached for good cause, the court shall grant the appropriate relief which may include, but is not limited to, an order to cancel the detention and release the merchandise.".

(b) EXISTING LABORATORIES.—Accreditation under section 499(b) of the Tariff Act of 1930 (as added by subsection (a)) is not required for any private laboratory (including any gauger) that was accredited or approved by the Customs Service as of the day before the date of the enactment of this Act; but any such laboratory is subject to reaccreditation under the provisions of such section and the regulations promulgated thereunder.

SEC. 614. RECORDKEEPING.

Section 508 (19 U.S.C. 1508) is amended—

(1) by amending subsection (a) to read as follows:

"(a) REQUIREMENTS.—Any—

"(1) owner, importer, consignee, importer of record, entry filer, or other party who—

"(A) imports merchandise into the customs territory of the United States, files a drawback claim, or transports or stores merchandise carried or held under bond, or

"(B) knowingly causes the importation or transportation or storage of merchandise carried or held under bond into or from the customs territory of the United States;

"(2) agent of any party described in paragraph (1); or

"(3) person whose activities require the filing of a declaration or entry, or both;

shall make, keep, and render for examination and inspection records (which for purposes of this section include, but are not limited to, statements, declarations, documents and electronically generated or machine readable data) which—

"(A) pertain to any such activity, or to the information contained in the records required by this Act in connection with any such activity; and

"(B) are normally kept in the ordinary course of business."; and

(2) by amending subsection (c) to read as follows:

"(c) PERIOD OF TIME.—The records required by subsections (a) and (b) shall be kept for such period of time, not to exceed 5 years from the date of entry or exportation, as appropriate, as the Secretary shall prescribe; except that records for any drawback claim shall be kept until the 3rd anniversary of the date of payment of the claim.".

SEC. 615. EXAMINATION OF BOOKS AND WITNESSES.

Section 509 (19 U.S.C. 1509) is amended as follows:

(1) Subsection (a) is amended—

(A) by striking out "and taxes" wherever it appears and inserting ", fees and taxes";

(B) by amending paragraph (1) to read as follows:

"(1) examine, or cause to be examined, upon reasonable notice, any record (which for purposes of this section, includes, but is not limited to, any statement, declaration, document, or electronically generated or machine readable data) described in the notice with reasonable specificity, which may be relevant to such investigation or inquiry, except that—

"(A) if such record is required by law or regulation for the entry of the merchandise (whether or not the Customs Service required its presentation at the time of entry) it shall be provided to the Customs Service within a reasonable time after demand for its production is made, taking into consideration the number, type, and age of the item demanded; and

"(B) if a person of whom demand is made under subparagraph (A) fails to comply with the demand, the person may be subject to penalty under subsection (g);";

(C) by amending that part of paragraph (2) that precedes subparagraph (D) to read as follows:

"(2) summon, upon reasonable notice—

"(A) the person who—

"(i) imported, or knowingly caused to be imported, merchandise into the customs territory of the United States,

"(ii) exported merchandise, or knowingly caused merchandise to be exported, to Canada,

"(iii) transported or stored merchandise that was or is carried or held under customs bond, or knowingly caused such transportation or storage, or

"(iv) filed a declaration, entry, or drawback claim with the Customs Service;

"(B) any officer, employee, or agent of any person described in subparagraph (A);

"(C) any person having possession, custody or care of records relating to the importation or other activity described in subparagraph (A); or"; and

(D) by striking out the comma at the end of subparagraph (D) and inserting a semicolon.

(2) Subsections (b) and (c) are redesignated as subsections (c) and (d), respectively.

(3) The following new subsection is inserted after subsection (a):

"(b) REGULATORY AUDIT PROCEDURES.—

"(1) In conducting a regulatory audit under this section (which does not include a quantity verification for a customs bonded warehouse or general purpose foreign trade zone), the Customs Service auditor shall provide the person being audited, in advance of the audit, with a reasonable estimate of the time to be required for the audit. If in the course of an audit it becomes apparent that additional time will be required, the Customs Service auditor shall immediately provide a further estimate of such additional time.

"(2) Before commencing an audit, the Customs Service auditor shall inform the party to be audited of his right to an entry conference at which time the purpose will be explained and an estimated termination date set. Upon completion of on-site audit activities, the Customs Service auditor shall schedule a closing conference to explain the preliminary results of the audit.

"(3) Except as provided in paragraph (5), if the estimated or actual termination date for an audit passes without the Customs Service auditor providing a closing conference to explain the results of the audit, the person being audited may petition in writing for such a conference to the appropriate regional commissioner, who, upon receipt of such a request, shall provide for such a conference to be held within 15 days after the date of receipt.

"(4) Except as provided in paragraph (5), the Customs Service auditor shall complete the formal written audit report within 90 days following the closing conference unless the appropriate regional commissioner provides written notice to the person being audited of the reason for any delay and the anticipated completion date. After application of any exemption contained in section 552 of title 5, United States Code, a copy of the formal written audit report shall be sent to the person audited no later than 30 days following completion of the report.

"(5) Paragraphs (3) and (4) shall not apply after the Customs Service commences a formal investigation with respect to the issue involved.".

(4) Subsection (d) (as redesignated by paragraph (2)) is amended—

(A) by striking out "statements, declarations, or documents" in paragraph (1)(A) and inserting "those";

(B) by inserting ", unless such customhouse broker is the importer of record on an entry" after "broker" in paragraph (1)(C)(i);

(C) by striking out "import" in each of paragraphs (2)(B) and (4)(B);

(D) by inserting "described in section 508" after "transactions" in each of paragraphs (2)(B) and (4)(B); and

(E) by inserting ", fees," after "duties" in paragraph (4)(A).

(5) The following new subsections are added at the end thereof:

"(e) LIST OF RECORDS AND INFORMATION.—The Customs Service shall identify and publish a list of the records or entry information that is required to be maintained and produced under subsection (a)(1)(A).

"(f) RECORDKEEPING COMPLIANCE PROGRAM.—

"(1) IN GENERAL.—After consultation with the importing community, the Customs Service shall by regulation establish a recordkeeping compliance program which the parties listed in section 508(a) may participate in after being certified by the Customs Service under paragraph (2). Participation in the recordkeeping compliance program by recordkeepers is voluntary.

"(2) CERTIFICATION.—A recordkeeper may be certified as a participant in the recordkeeping compliance program after meeting the general recordkeeping requirements established under the program or after negotiating an alternative program suited to the needs of the recordkeeper and the Customs Service. Certification requirements shall take into account the size and nature of the importing business and the volume of imports. In order to be certified, the recordkeeper must be able to demonstrate that it—

"(A) understands the legal requirements for recordkeeping, including the nature of the records required to be maintained and produced and the time periods involved;

"(B) has in place procedures to explain the recordkeeping requirements to those employees who are involved in the preparation, maintenance, and production of required records;

"(C) has in place procedures regarding the preparation and maintenance of required records, and the production of such records to the Customs Service;

"(D) has designated a dependable individual or individuals to be responsible for recordkeeping compliance under the program and whose duties include maintaining familiarity with the recordkeeping requirements of the Customs Service;

"(E) has a record maintenance procedure approved by the Customs Service for original records, or, if approved by the Customs Service, for alternative records or recordkeeping formats other than the original records; and

"(F) has procedures for notifying the Customs Service of occurrences of variances to, and violations of, the requirements of the recordkeeping compliance program or the negotiated alternative programs, and for taking corrective action when notified by the Customs Service of violations or problems regarding such program.

"(g) PENALTIES.—

"(1) DEFINITION.—For purposes of this subsection, the term 'information' means any record, statement, declaration, document, or electronically stored or transmitted information or data referred to in subsection (a)(1)(A).

"(2) EFFECTS OF FAILURE TO COMPLY WITH DEMAND.—Except as provided in paragraph (4), if a person fails to comply with a lawful demand for information under subsection (a)(1)(A) the following provisions apply:

"(A) If the failure to comply is a result of the willful failure of the person to maintain, store, or retrieve the demanded information, such person shall be subject to a penalty, for each release of merchandise, not to exceed $100,000, or an amount equal to 75 percent of the appraised value of the merchandise, whichever amount is less.

"(B) If the failure to comply is a result of the negligence of the person in maintaining, storing, or retrieving the demanded information, such person shall be subject to a penalty, for each release of merchandise, not to exceed $10,000, or an amount equal to 40 percent of the appraised value of the merchandise, whichever amount is less.

"(C) In addition to any penalty imposed under subparagraph (A) or (B) regarding demanded information, if such information related to the eligibility of merchandise for a column 1 special rate of duty under title I, the entry of such merchandise—

"(i) if unliquidated, shall be liquidated at the applicable column 1 general rate of duty; or

"(ii) if liquidated within the 2-year period preceding the date of the demand, shall be reliquidated, notwithstanding the time limitation in section 514 or 520, at the applicable column 1 general rate of duty;

except that any liquidation or reliquidation under clause (i) or (ii) shall be at the applicable column 2 rate of duty if the Customs Service demonstrates that the merchandise should be dutiable at such rate.

"(3) AVOIDANCE OF PENALTY.—No penalty may be assessed under this subsection if the person can show—

"(A) that the loss of the demanded information was the result of an act of God or other natural casualty or disaster beyond the fault of such person or an agent of the person;

"(B) on the basis of other evidence satisfactory to the Customs Service, that the demand was substantially complied with; or

"(C) the information demanded was presented to and retained by the Customs Service at the time of entry or submitted in response to an earlier demand.

"(4) PENALTIES NOT EXCLUSIVE.—Any penalty imposed under this subsection shall be in addition to any other penalty provided by law except for—

"(A) a penalty imposed under section 592 for a material omission of the demanded information, or

"(B) disciplinary action taken under section 641.

"(5) REMISSION OR MITIGATION.—A penalty imposed under this section may be remitted or mitigated under section 618.

"(6) CUSTOMS SUMMONS.—Nothing in this subsection shall limit or preclude the Customs Service from issuing, or seeking the enforcement of, a customs summons.

"(7) ALTERNATIVES TO PENALTIES.—

"(A) IN GENERAL.—When a recordkeeper who—

"(i) has been certified as a participant in the recordkeeping compliance program under subsection (f); and

"(ii) is generally in compliance with the appropriate procedures and requirements of the program;

does not produce a demanded record or information for a specific release or provide the information by acceptable alternative means, the Customs Service, in the absence of willfulness or repeated violations, shall issue a written notice of the violation to the recordkeeper in lieu of a monetary penalty. Repeated violations by the recordkeeper may result in the issuance of penalties and removal of certification under the program until corrective action, satisfactory to the Customs Service, is taken.

"(B) CONTENTS OF NOTICE.—A notice of violation issued under subparagraph (A) shall—

"(i) state that the recordkeeper has violated the recordkeeping requirements;

"(ii) indicate the record or information which was demanded; and

"(iii) warn the recordkeeper that future failures to produce demanded records or information may result in the imposition of monetary penalties.

"(C) RESPONSE TO NOTICE.—Within a reasonable time after receiving written notice under subparagraph (A), the recordkeeper shall notify the Customs Service of the steps it has taken to prevent a recurrence of the violation.

"(D) REGULATIONS.—The Secretary shall promulgate regulations to implement this paragraph. Such regulations may specify the time periods for compliance with a demand for information and provide guidelines which define repeated violations for purposes of this paragraph. Any penalty issued for a recordkeeping violation shall take into account the degree of compliance compared to the total number of importations, the nature of the demanded records and the recordkeeper's cooperation.".

SEC. 616. JUDICIAL ENFORCEMENT.

The second sentence of section 510(a) (19 U.S.C. 1510(a)) is amended by inserting "and such court may assess a monetary penalty" after "as a contempt thereof".

SEC. 617. REVIEW OF PROTESTS.

Section 515 (19 U.S.C. 1515) is amended by inserting at the end the following new subsections:

"(c) If a protesting party believes that an application for further review was erroneously or improperly denied or was denied without authority for such action, it may file with the Commissioner of Customs a written request that the denial of the application for further review be set aside. Such request must be filed within 60 days after the date of the notice of the denial. The Commissioner of Customs may review such request and, based solely on the information before the Customs Service at the time the application for further review was denied, may set aside the denial of the application for further review and void the denial of protest, if appropriate. If the Commissioner of Customs fails to act within 60 days after the date of the request, the request shall be considered denied. All denials of protests are effective from the date of original denial for purposes of section 2636 of title 28, United States Code. If an action is commenced in the Court of International Trade that arises out of a protest or an application for further review, all administrative action pertaining to such protest or application shall terminate and any administrative action taken subsequent to the commencement of the action is null and void.

"(d) If a protest is timely and properly filed, but is denied contrary to proper instructions, the Customs Service may on its own initiative, or pursuant to a written request by the protesting party filed with the appropriate district director within 90 days after the date of the protest denial, void the denial of the protest.".

SEC. 618. REPEAL OF PROVISION RELATING TO RELIQUIDATION ON ACCOUNT OF FRAUD.

Section 521 (19 U.S.C. 1521) is repealed.

SEC. 619. PENALTIES RELATING TO MANIFESTS.

Section 584 (19 U.S.C. 1584) is amended—

(1) by amending subsection (a)—

(A) by striking out "appropriate customs officer" wherever it appears and inserting "Customs Service",

(B) by striking out "officer demanding the same" in paragraph (1) and inserting "officer (whether of the Customs Service or the Coast Guard) demanding the same", and

(C) by inserting "(electronically or otherwise)" after "submission" in the last sentence of paragraph (1); and

(2) by amending subsection (b)—

(A) by striking out "the appropriate customs officer", "he" (except in paragraph (1)(F)), and "such officer" wherever they appear and inserting "the Customs Service",

(B) by striking out "written" wherever it appears (other than paragraph (1)(F)),

(C) by inserting "or electronically transmit" after "issue" wherever it appears, and

(D) by striking out "his intention" in the first sentence of paragraph (1) and inserting "intent".

SEC. 620. UNLAWFUL UNLOADING OR TRANSSHIPMENT.

Section 586 (19 U.S.C. 1586) is amended—

(1) by inserting ", or of a hovering vessel which has received or delivered merchandise while outside the territorial sea," after "from a foreign port or place" wherever it appears; and

(2) by amending subsection (f)—

(A) by striking out "the appropriate customs officer of the" and "the appropriate customs officer within the" and inserting "the Customs Service at the"; and

(B) by striking out "the appropriate customs officer is" and inserting "the Customs Service is".

SEC. 621. PENALTIES FOR FRAUD, GROSS NEGLIGENCE, AND NEGLIGENCE; PRIOR DISCLOSURE.

Section 592 (19 U.S.C. 1592) is amended—

(1) by inserting "or electronically transmitted data or information" after "document" in subsection (a)(1)(A)(i);

(2) by inserting "The mere nonintentional repetition by an electronic system of an initial clerical error does not constitute a pattern of negligent conduct." at the end of subsection (a)(2);

(3) by amending subsection (b)—

(A) by amending the first sentence of paragraph (1)(A)—

(i) by striking out "the appropriate customs officer" and inserting "the Customs Service",

(ii) by striking out "he" and inserting "it", and

(iii) by striking out "his" and inserting "its", and

(B) by amending paragraph (2)—

(i) by striking out "the appropriate customs officer" wherever it appears and inserting "the Customs Service",

(ii) by striking out "such officer" wherever it appears and inserting "the Customs Service", and

(iii) by striking out "he" wherever it appears and inserting "it";

(4) by amending subsection (c)(4)—

(A) by striking "time of disclosure or within thirty days, or such longer period as the appropriate customs officer may provide, after notice by the appropriate customs officer of his" in subparagraph (A)(i) and by striking out "time of disclosure in 30 days, or such longer period as the appropriate customs officer may provide, after notice by the appropriate customs officer of his" in subparagraph (B), and inserting in each place "time of disclosure, or within 30 days (or such longer period as the Customs Service may provide) after notice by the Customs Service of its"; and

(B) by inserting after the last sentence the following: "For purposes of this section, a formal investigation of a violation is considered to be commenced with regard to the disclosing party and the disclosed information on the date recorded in writing by the Customs Service as the date on which facts and circumstances were discovered or information was received which caused the Customs Service to believe that a possibility of a violation of subsection (a) existed."; and

(5) by amending subsection (d)—

(A) by striking out "the appropriate customs officer" and inserting "the Customs Service",

(B) by striking out "duties" wherever it appears and inserting "duties, taxes, or fees", and

(C) by inserting ", TAXES OR FEES" after "DUTIES" in the sideheading.

SEC. 622. PENALTIES FOR FALSE DRAWBACK CLAIMS.

(a) AMENDMENT.—Part V of title IV is amended by inserting after section 593 the following new section:

"SEC. 593A. PENALTIES FOR FALSE DRAWBACK CLAIMS.

"(a) PROHIBITION.—

"(1) GENERAL RULE.—No person, by fraud, or negligence—

"(A) may seek, induce or affect, or attempt to seek, induce, or affect, the payment or credit to that person or others of any drawback claim by means of—

"(i) any document, written or oral statement, or electronically transmitted data or information, or act which is material and false, or

"(ii) any omission which is material; or

"(B) may aid or abet any other person to violate subparagraph (A).

"(2) EXCEPTION.—Clerical errors or mistakes of fact are not violations of paragraph (1) unless they are part of a pattern of negligent conduct. The mere nonintentional repetition by an electronic system of an initial clerical error does not constitute a pattern of negligent conduct.

"(b) PROCEDURES.—

"(1) PREPENALTY NOTICE.—

"(A) IN GENERAL.—If the Customs Service has reasonable cause to believe that there has been a violation of subsection (a) and determines that further proceedings are warranted, the Customs Service shall issue to the person concerned a written notice of intent to issue a claim for a monetary penalty. Such notice shall—

"(i) identify the drawback claim;

"(ii) set forth the details relating to the seeking, inducing, or affecting, or the attempted seeking, inducing, or affecting, or the aiding or procuring of, the drawback claim;

"(iii) specify all laws and regulations allegedly violated;

"(iv) disclose all the material facts which establish the alleged violation;

"(v) state whether the alleged violation occurred as a result of fraud or negligence;

"(vi) state the estimated actual or potential loss of revenue due to the drawback claim, and, taking into account all circumstances, the amount of the proposed monetary penalty; and

"(vii) inform such person that he shall have a reasonable opportunity to make representations, both oral and written, as to why a claim for a monetary penalty should not be issued in the amount stated.

"(B) EXCEPTIONS.—The Customs Service may not issue a prepenalty notice if the amount of the penalty in the penalty claim issued under paragraph (2) is $1,000 or less. In such cases, the Customs Service may proceed directly with a penalty claim.

"(C) PRIOR APPROVAL.—No prepenalty notice in which the alleged violation occurred as a result of fraud shall be issued without the prior approval of Customs Headquarters.

"(2) PENALTY CLAIM.—After considering representations, if any, made by the person concerned pursuant to the notice issued under paragraph (1), the Customs Service shall determine whether any violation of subsection (a), as alleged in the notice, has occurred. If the Customs Service determines that there was no violation, the Customs Service shall promptly issue a written statement of the determination to the person to whom the notice was sent. If the Customs Service determines that there was a violation, Customs shall issue a written penalty claim to such person. The written penalty claim shall specify all changes in the information provided under clauses (i) through (vii) of paragraph (1)(A). Such person shall have a reasonable opportunity under section 618 to make representations, both oral and written, seeking remission or mitigation of the monetary penalty. At the conclusion of any proceeding under section 618, the Customs Service shall provide to the person concerned a written statement which sets forth the final determination, and the findings of fact and conclusions of law on which such determination is based.

"(c) MAXIMUM PENALTIES.—

"(1) FRAUD.—A fraudulent violation of subsection (a) of this section is punishable by a civil penalty in an amount not to exceed 3 times the actual or potential loss of revenue.

"(2) NEGLIGENCE.—

"(A) IN GENERAL.—A negligent violation of subsection (a) is punishable by a civil penalty in an amount not to exceed 20 percent of the actual or potential loss of revenue for the 1st violation.

"(B) REPETITIVE VIOLATIONS.—If the Customs Service determines that a repeat negligent violation occurs relating to the same issue, the penalty amount for the 2d violation shall be in an amount not to exceed 50 percent of the total actual or potential loss of revenue. The penalty amount for each succeeding repetitive negligent violation shall be in an amount not to exceed the actual or potential loss of revenue. If the same party commits a nonrepetitive violation, that violation shall be subject to a penalty not to exceed 20 percent of the actual or potential loss of revenue.

"(3) PRIOR DISCLOSURE.—

"(A) IN GENERAL.—Subject to subparagraph (B), if the person concerned discloses the circumstances of a violation of subsection (a) before, or without knowledge of the commencement of, a formal investigation of such violation, the monetary penalty assessed under this subsection may not exceed—

"(i) if the violation resulted from fraud, an amount equal to the actual or potential revenue of which the United States is or may be deprived as a result of overpayment of the claim; or

"(ii) if the violation resulted from negligence, an amount equal to the interest computed on the basis of the prevailing rate of interest applied under section 6621 of the Internal Revenue Code of 1986 on the amount of actual revenue of which the United States is or may be deprived during the period that—

"(I) begins on the date of the overpayment of the claim; and

"(II) ends on the date on which the person concerned tenders the amount of the overpayment.

"(B) CONDITION AFFECTING PENALTY LIMITATIONS.—The limitations in subparagraph (A) on the amount of the monetary penalty to be assessed under subsection (c) apply only if the person concerned tenders the amount of the overpayment made on the claim at the time of disclosure, or within 30 days (or such longer period as the Customs Service may provide), after notice by the Customs Service of its calculation of the amount of the overpayment.

"(C) BURDEN OF PROOF.—The person asserting lack of knowledge of the commencement of a formal investigation has the burden of proof in establishing such lack of knowledge.

"(4) COMMENCEMENT OF INVESTIGATION.—For purposes of this section, a formal investigation of a violation is considered to be commenced with regard to the disclosing party and the disclosed information on the date recorded in writing by the Customs Service as the date on which facts and circumstances were discovered or information was received which caused the Customs Service to believe that a possibility of a violation of subsection (a) existed.

"(5) EXCLUSIVITY.—Penalty claims under this section shall be the exclusive civil remedy for any drawback related violation of subsection (a).

"(d) DEPRIVATION OF LAWFUL REVENUE.—Notwithstanding section 514, if the United States has been deprived of lawful duties and taxes resulting from a violation of subsection (a), the Customs Service shall require that such duties and taxes be restored whether or not a monetary penalty is assessed.

"(e) DRAWBACK COMPLIANCE PROGRAM.—

"(1) IN GENERAL.—After consultation with the drawback trade community, the Customs Service shall establish a drawback compliance program in which claimants and other parties in interest may participate after being certified by the Customs Service under paragraph (2). Participation in the drawback compliance program is voluntary.

"(2) CERTIFICATION.—A party may be certified as a participant in the drawback compliance program after meeting the general requirements established under the program or after negotiating an alternative program suited to the needs of the party and the Customs Service. Certification requirements shall take into account the size and nature of the party's drawback program and the volume of claims. In order to be certified, the participant must be able to demonstrate that it—

"(A) understands the legal requirements for filing claims, including the nature of the records required to be maintained and produced and the time periods involved;

"(B) has in place procedures to explain the Customs Service requirements to those employees that are involved in the preparation of claims, and the maintenance and production of required records;

"(C) has in place procedures regarding the preparation of claims and maintenance of required records, and the production of such records to the Customs Service;

"(D) has designated a dependable individual or individuals to be responsible for compliance under the program and whose duties include maintaining familiarity with the drawback requirements of the Customs Service;

"(E) has a record maintenance procedure approved by the Customs Service for original records, or, if approved by the Customs Service, for alternate records or recordkeeping formats other than the original records; and

"(F) has procedures for notifying the Customs Service of variances to, and violations of, the requirements of the drawback compliance program or any negotiated alternative programs, and for taking corrective action when notified by the Customs Service for violations or problems regarding such program.

"(f) ALTERNATIVES TO PENALTIES.—

"(1) IN GENERAL.—When a party that—

"(A) has been certified as a participant in the drawback compliance program under subsection (e); and

"(B) is generally in compliance with the appropriate procedures and requirements of the program;

commits a violation of subsection (a), the Customs Service, shall, in the absence of fraud or repeated violations, and in lieu of a monetary penalty, issue a written notice of the violation to the party. Repeated violations by a party may result in the issuance of penalties and removal of certification under the program until corrective action, satisfactory to the Customs Service, is taken.

"(2) CONTENTS OF NOTICE.—A notice of violation issued under paragraph (1) shall—

"(A) state that the party has violated subsection (a);

"(B) explain the nature of the violation; and

"(C) warn the party that future violations of subsection (a) may result in the imposition of monetary penalties.

"(3) RESPONSE TO NOTICE.—Within a reasonable time after receiving written notice under paragraph (1), the party shall notify the Customs Service of the steps it has taken to prevent a recurrence of the violation.

"(g) REPETITIVE VIOLATIONS.—

"(1) A party who has been issued a written notice under subsection (f)(1) and subsequently commits a repeat negligent violation involving the same issue is subject to the following monetary penalties:

"(A) 2D VIOLATION.—An amount not to exceed 20 percent of the loss of revenue.

"(B) 3RD VIOLATION.—An amount not to exceed 50 percent of the loss of revenue.

"(C) 4TH AND SUBSEQUENT VIOLATIONS.—An amount not to exceed 100 percent of the loss of revenue.

"(2) If a party that has been certified as a participant in the drawback compliance program under subsection (e) commits an alleged violation which was not repetitive, the party shall be issued a 'warning letter', and, for any subsequent violation, shall be subject to the same maximum penalty amounts stated in paragraph (1).

"(h) REGULATION.—The Secretary shall promulgate regulations and guidelines to implement this section. Such regulations shall specify that for purposes of subsection (g), a repeat negligent violation involving the same issue shall be treated as a repetitive violation for a maximum period of 3 years.

"(i) COURT OF INTERNATIONAL TRADE PROCEEDINGS.—Notwithstanding any other provision of law, in any proceeding commenced by the United States in the Court of International Trade for the recovery of any monetary penalty claimed under this section—

"(1) all issues, including the amount of the penalty, shall be tried de novo;

"(2) if the monetary penalty is based on fraud, the United States shall have the burden of proof to establish the alleged violation by clear and convincing evidence; and

"(3) if the monetary penalty is based on negligence, the United States shall have the burden of proof to establish the act or omission constituting the violation, and the alleged violator shall have the burden of providing evidence that the act or omission did not occur as a result of negligence.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to drawback claims filed on and after the nationwide operational implementation of an automated drawback selectivity program by the Customs Service. The Customs Service shall publish notice of this date in the Customs Bulletin.

SEC. 623. INTERPRETIVE RULINGS AND DECISIONS; PUBLIC INFORMATION.

Section 625 (19 U.S.C. 1625) is amended to read as follows:

"SEC. 625. INTERPRETIVE RULINGS AND DECISIONS; PUBLIC INFORMATION.

"(a) PUBLICATION.—Within 90 days after the date of issuance of any interpretive ruling (including any ruling letter, or internal advice memorandum) or protest review decision under this chapter with respect to any customs transaction, the Secretary shall have such ruling or decision published in the Customs Bulletin or shall otherwise make such ruling or decision available for public inspection.

"(b) APPEALS.—A person may appeal an adverse interpretive ruling and any interpretation of any regulation prescribed to implement such ruling to a higher level of authority within the Customs Service for de novo review. Upon a reasonable showing of business necessity, any such appeal shall be considered and decided no later than 60 days following the date on which the appeal is filed. The Secretary shall issue regulations to implement this subsection.

"(c) MODIFICATION AND REVOCATION.—A proposed interpretive ruling or decision which would—

"(1) modify (other than to correct a clerical error) or revoke a prior interpretive ruling or decision which has been in effect for at least 60 days; or

"(2) have the effect of modifying the treatment previously accorded by the Customs Service to substantially identical transactions;

shall be published in the Customs Bulletin. The Secretary shall give interested parties an opportunity to submit, during not less than the 30-day period after the date of such publication, comments on the correctness of the proposed ruling or decision. After consideration of any comments received, the Secretary shall publish a final ruling or decision in the Customs Bulletin within 30 days after the closing of the comment period. The final ruling or decision shall become effective 60 days after the date of its publication.

"(d) PUBLICATION OF CUSTOMS DECISIONS THAT LIMIT COURT DECISIONS.—A decision that proposes to limit the application of a court decision shall be published in the Customs Bulletin together with notice of opportunity for public comment thereon prior to a final decision.

"(e) PUBLIC INFORMATION.—The Secretary may make available in writing or through electronic media, in an efficient, comprehensive and timely manner, all information, including directives, memoranda, electronic messages and telexes which contain instructions, requirements, methods or advice necessary for importers and exporters to comply with the Customs laws and regulations. All information which may be made available pursuant to this subsection shall be subject to any exemption from disclosure provided by section 552 of title 5, United States Code.".

SEC. 624. SEIZURE AUTHORITY.

Section 596(c) (19 U.S.C. 1595a(c)) is amended to read as follows:

"(c) Merchandise which is introduced or attempted to be introduced into the United

States contrary to law shall be treated as follows:

"(1) The merchandise shall be seized and forfeited if it—

"(A) is stolen, smuggled, or clandestinely imported or introduced;

"(B) is a controlled substance, as defined in the Controlled Substances Act (21 U.S.C. 801 et seq.), and is not imported in accordance with applicable law; or

"(C) is a contraband article, as defined in section 1 of the Act of August 9, 1939 (49 U.S.C. App. 781).

"(2) The merchandise may be seized and forfeited if—

"(A) its importation or entry is subject to any restriction or prohibition which is imposed by law relating to health, safety, or conservation and the merchandise is not in compliance with the applicable rule, regulation, or statute;

"(B) its importation or entry requires a license, permit or other authorization of an agency of the United States Government and the merchandise is not accompanied by such license, permit, or authorization;

"(C) it is merchandise or packaging in which copyright, trademark, or trade name protection violations are involved (including, but not limited to, violations of section 42, 43, or 45 of the Act of July 5, 1946 (15 U.S.C. 1124, 1125, or 1127), section 506 or 509 of title 17, United States Code, or section 2318 or 2320 of title 18, United States Code);

"(D) it is trade dress merchandise involved in the violation of a court order citing section 43 of such Act of July 5, 1946 (15 U.S.C. 1125);

"(E) it is merchandise which is marked intentionally in violation of section 304; or

"(F) it is merchandise for which the importer has received written notices that previous importations of identical merchandise from the same supplier were found to have been marked in violation of section 304.

"(3) If the importation or entry of the merchandise is subject to quantitative restrictions requiring a visa, permit, license, or other similar document, or stamp from the United States Government or from a foreign government or issuing authority pursuant to a bilateral or multilateral agreement, the merchandise shall be subject to detention in accordance with section 499 unless the appropriate visa, license, permit, or similar document or stamp is presented to the Customs Service; but if the visa, permit, license, or similar document or stamp which is presented in connection with the importation or entry of the merchandise is counterfeit, the merchandise may be seized and forfeited.

"(4) If the merchandise is imported or introduced contrary to a provision of law which governs the classification or value of merchandise and there are no issues as to the admissibility of the merchandise into the United States, it shall not be seized except in accordance with section 592.

"(5) In any case where the seizure and forfeiture of merchandise are required or authorized by this section, the Secretary may—

"(A) remit the forfeiture under section 618, or

"(B) permit the exportation of the merchandise, unless its release would adversely affect health, safety, or conservation or be in contravention of a bilateral or multilateral agreement or treaty.".

Subtitle B—National Customs Automation Program

SEC. 631. NATIONAL CUSTOMS AUTOMATION PROGRAM.

Part I of title IV is amended—

(1) by striking out

"PART I—DEFINITIONS

and inserting

"PART I—DEFINITIONS AND NATIONAL CUSTOMS AUTOMATION PROGRAM

"Subpart A—Definitions";

and

(2) by inserting after section 402 the following:

"Subpart B—National Customs Automation Program

"SEC. 411. NATIONAL CUSTOMS AUTOMATION PROGRAM.

"(a) Establishment.—The Secretary shall establish the National Customs Automation Program (hereinafter in this subpart referred to as the 'Program') which shall be an automated and electronic system for processing commercial importations and shall include the following existing and planned components:

"(1) Existing components:

"(A) The electronic entry of merchandise.

"(B) The electronic entry summary of required information.

"(C) The electronic transmission of invoice information.

"(D) The electronic transmission of manifest information.

"(E) Electronic payments of duties, fees, and taxes.

"(F) The electronic status of liquidation and reliquidation.

"(G) The electronic selection of high risk entries for examination (cargo selectivity and entry summary selectivity).

"(2) Planned components:

"(A) The electronic filing and status of protests.

"(B) The electronic filing (including remote filing under section 414) of entry information with the Customs Service at any location.

"(C) The electronic filing of import activity summary statements and reconciliation.

"(D) The electronic filing of bonds.

"(E) The electronic penalty process.

"(F) The electronic filing of drawback claims, records, or entries.

"(G) Any other component initiated by the Customs Service to carry out the goals of this subpart.

"(b) Participation in Program.—The Secretary shall by regulation prescribe the eligibility criteria for participation in the Program. Participation in the Program is voluntary.

"SEC. 412. PROGRAM GOALS.

"The goals of the Program are to ensure that all regulations and rulings that are administered or enforced by the Customs Service are administered and enforced in a manner that—

"(1) is uniform and consistent;

"(2) is as minimally intrusive upon the normal flow of business activity as practicable; and

"(3) improves compliance.

"SEC. 413. IMPLEMENTATION AND EVALUATION OF PROGRAM.

"(a) Overall Program Plan.—

"(1) In general.—Before the 180th day after the date of the enactment of this Act, the Secretary shall develop and transmit to the Committees an overall plan for the Program. The overall Program plan shall set forth—

"(A) a general description of the ultimate configuration of the Program;

"(B) a description of each of the existing components of the Program listed in section 411(a)(1); and

"(C) estimates regarding the stages on which planned components of the Program listed in section 411(a)(2) will be brought online.

"(2) Additional information.—In addition to the information required under paragraph (1), the overall Program plan shall include a statement regarding—

"(A) the extent to which the existing components of the Program currently meet, and the planned components will meet, the Program goals set forth in section 412; and

"(B) the effects that the existing components are currently having, and the effects that the planned components will likely have, on—

"(i) importers, brokers, and other users of the Program, and

"(ii) Customs Service occupations, operations, processes, and systems.

"(b) Implementation Plan, Testing, and Evaluation.—

"(1) Implementation plan.—For each of the planned components of the Program listed in section 411(a)(2), the Secretary shall—

"(A) develop an implementation plan;

"(B) test the component in order to assess its viability;

"(C) evaluate the component in order to assess its contribution toward achieving the program goals; and

"(D) transmit to the Committees the implementation plan, the testing results, and an evaluation report.

In developing an implementation plan under subparagraph (A) and evaluating components under subparagraph (C), the Secretary shall publish a request for comments in the Customs Bulletin and shall consult with the trade community, including importers, brokers, shippers, and other affected parties.

"(2) Implementation.—

"(A) The Secretary may implement on a permanent basis any Program component referred to in paragraph (1) on or after the date which is 30 days after paragraph (1)(D) is complied with.

"(B) For purposes of subparagraph (A), the 30 days shall be computed by excluding—

"(i) the days either House is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die, and

"(ii) any Saturday and Sunday, not excluded under clause (i), when either House is not in session.

"(3) Evaluation and report.—The Secretary shall—

"(A) develop a user satisfaction survey of parties participating in the Program;

"(B) evaluate the results of the user satisfaction survey on a biennial basis (fiscal years) and transmit a report to the Committees on the evaluation by no later than the 90th day after the close of each 2d fiscal year;

"(C) with respect to the existing Program component listed in section 411(a)(1)(G) transmit to the Committees—

"(i) a written evaluation of such component before the 180th day after the date of the enactment of this section and before the implementation of the planned Program components listed in section 411(a)(2) (B) and (C), and

"(ii) a report on such component for each of the 3 full fiscal years occurring after the date of the enactment of this section, which report shall be transmitted not later than the 90th day after the close of each such year; and

"(D) not later than the 90th day after the close of fiscal year 1994, and annually thereafter through fiscal year 2000, transmit to the Committees a written evaluation with respect to the implementation and effect on users of each of the planned Program components listed in section 411(a)(2).

In carrying out the provisions of this paragraph, the Secretary shall publish requests for comments in the Customs Bulletin and shall consult with the trade community, including importers, brokers, shippers, and other affected parties.

"(c) Committees.—For purposes of this section, the term 'Committees' means the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

"SEC. 414. REMOTE LOCATION FILING.

"(a) Core Entry Information.—

"(1) In general.—A Program participant may file electronically an entry of merchandise with the Customs Service from a location other than the district designated in the entry for examination (hereafter in this section referred to as a 'remote location') if—

"(A) the Customs Service is satisfied that the participant has the capabilities referred to in paragraph (2)(A) regarding such method of filing; and

"(B) the participant elects to file from the remote location.

"(2) Requirements.—

"(A) In general.—In order to qualify for filing from a remote location, a Program participant must have the capability to provide, on an entry-by-entry basis, for the following:

"(i) The electronic entry of merchandise.

"(ii) The electronic entry summary of required information.

"(iii) The electronic transmission of invoice information (when required by the Customs Service).

"(iv) The electronic payment of duties, fees, and taxes.

"(v) Such other electronic capabilities within the existing or planned components of the Program as the Secretary shall by regulation require.

"(B) Restriction on exemption from requirements.—The Customs Service may not permit any exemption or waiver from the requirements established by this section for participation in remote entry filing.

"(3) Conditions on filing under this section.—The Secretary may prohibit a Program participant from participating in remote location filing, and may remove a Program participant from participation in remote location filing, if the participant—

"(i) fails to meet all the compliance requirements and operational standards of remote location filing; or

"(ii) fails to adhere to all applicable laws and regulations.

"(4) Alternative filing.—Any Program participant that is eligible to file entry information electronically from a remote location but chooses not to do so in the case of any entry must file any paper documentation for the entry at the designated location referred to in subsection (d).

"(b) Additional Entry Information.—

"(1) In general.—A Program participant that is eligible under subsection (a) to file entry information from a remote location may, if the Customs Service is satisfied that the participant meets the requirements under paragraph (2), also electronically file from the remote location additional information that is required by the Customs Service to be presented before the acceptance of entry summary information and at the time of acceptance of entry summary information.

"(2) Requirements.—The Secretary shall publish, and periodically update, a list of those capabilities within the existing and planned components of the Program that a Program participant must have for purposes of this subsection.

"(3) Filing of additional information.—

"(A) If information electronically acceptable.—A Program participant that is eligible under paragraph (1) to file additional information from a remote location shall electronically file all such information that the Customs Service can accept electronically.

"(B) Alternative filing.—If the Customs Service cannot accept additional information electronically, the Program participant shall file the paper documentation with respect to the information at the appropriate filing location.

"(C) Appropriate location.—For purposes of subparagraph (B), the 'appropriate location' is—

"(i) before January 1, 1999, a designated location; and

"(ii) after December 31, 1998—

"(I) if the paper documentation is required for release, a designated location; or

"(II) if the paper documentation is not required for release, a remote location designated by the Customs Service or a designated location.

"(D) Other.—A Program participant that is eligible under paragraph (1) to file additional information electronically from a remote location but chooses not to do so must file the paper documentation with respect to the information at a designated location.

"(c) Post-Entry Summary Information.—A Program participant that is eligible to file electronically entry information under subsection (a) and additional information under subsection (b) from a remote location may file at any remote location designated by the Customs Service any information required by the Customs Service after entry summary.

"(d) Definitions.—As used in this section:

"(1) The term 'designated location' means a customs office located in the customs district designated by the entry filer for purposes of customs examination of the merchandise.

"(2) The term 'Program participant' means, with respect to an entry of merchandise, any party entitled to make the entry under section 484(a)(2)(B).".

SEC. 632. DRAWBACK AND REFUNDS.

(a) Amendments.—Section 313 (19 U.S.C. 1313) is amended as follows:

(1) Subsection (a) is amended—

(A) by inserting "or destruction under customs supervision" after "Upon the exportation";

(B) by inserting "provided that those articles have not been used prior to such exportation or destruction," after "manufactured or produced in the United States with the use of imported merchandise,";

(C) by inserting "or destruction" after "refunded upon the exportation"; and

(D) by striking out "wheat imported after ninety days after the date of the enactment of this Act" and inserting "imported wheat".

(2) Subsection (b) is amended—

(A) by striking out "duty-free or domestic merchandise" and inserting "any other merchandise (whether imported or domestic)";

(B) by inserting ", or destruction under customs supervision," after "there shall be allowed upon the exportation";

(C) by inserting "or destroyed" after "notwithstanding the fact that none of the imported merchandise may actually have been used in the manufacture or production of the exported";

(D) by inserting ", but only if those articles have not been used prior to such exportation or destruction" after "an amount of drawback equal to that which would have been allowable had the merchandise used therein been imported"; and

(E) by inserting "or destruction under customs supervision" after "but the total amount of drawback allowed upon the exportation".

(3) Subsection (c) is amended to read as follows:

"(c) Merchandise Not Conforming to Sample or Specifications.—Upon the exportation, or destruction under the supervision of the Customs Service, of merchandise—

"(1) not conforming to sample or specifications, shipped without the consent of the consignee, or determined to be defective as of the time of importation;

"(2) upon which the duties have been paid;

"(3) which has been entered or withdrawn for consumption; and

"(4) which, within 3 years after release from the custody of the Customs Service, has been returned to the custody of the Customs Service for exportation or destruction under the supervision of the Customs Service;

the full amount of the duties paid upon such merchandise, less 1 percent, shall be refunded as drawback.".

(4) Subsection (j) is amended to read as follows:

"(j) Unused Merchandise Drawback.—

"(1) If imported merchandise, on which was paid any duty, tax, or fee imposed under Federal law because of its importation—

"(A) is, before the close of the 3-year period beginning on the date of importation—

"(i) exported, or

"(ii) destroyed under customs supervision; and

"(B) is not used within the United States before such exportation or destruction;

then upon such exportation or destruction 99 percent of the amount of each duty, tax, or fee so paid shall be refunded as drawback. The exporter (or destroyer) has the right to claim drawback under this paragraph, but may endorse such right to the importer or any intermediate party.

"(2) If there is, with respect to imported merchandise on which was paid any duty, tax, or fee imposed under Federal law because of its importation, any other merchandise (whether imported or domestic), that—

"(A) is commercially interchangeable with such imported merchandise;

"(B) is, before the close of the 3-year period beginning on the date of importation of the imported merchandise, either exported or destroyed under customs supervision; and

"(C) before such exportation or destruction—

"(i) is not used within the United States, and

"(ii) is in the possession of, including ownership while in bailment, in leased facilities, in transit to, or in any other manner under the operational control of, the party claiming drawback under this paragraph, if that party—

"(I) is the importer of the imported merchandise, or

"(II) received from the person who imported and paid any duty due on the imported merchandise a certificate of delivery transferring to the party the imported merchandise, commercially interchangeable merchandise, or any combination of imported and commercially interchangeable merchandise (and any such transferred merchandise, regardless of its origin, will be treated as the imported merchandise and any retained merchandise will be treated as domestic merchandise);

then upon the exportation or destruction of such other merchandise the amount of each such duty, tax, and fee paid regarding the imported merchandise shall be refunded as drawback, but in no case may the total drawback on the imported merchandise, whether available under this paragraph or any other provision of law or any combination thereof, exceed 99 percent of that duty, tax, or fee.

"(3) The performing of any operation or combination of operations (including, but not limited to, testing, cleaning, repacking, inspecting, sorting, refurbishing, freezing, blending, repairing, reworking, cutting, slitting, adjusting, replacing components, relabeling, disassembling, and unpacking), not amounting to manufacture or production for drawback purposes under the preceding provisions of this section on—

"(A) the imported merchandise itself in cases to which paragraph (1) applies, or

"(B) the commercially interchangeable merchandise in cases to which paragraph (2) applies,

shall not be treated as a use of that merchandise for purposes of applying paragraph (1)(B) or (2)(C).".

(5) Subsection (l) is amended by striking out "the fixing of a time limit within which drawback entries or entries for refund under any of the provisions of this section or section 309(b) shall be filed and completed," and inserting "the authority for the electronic submission of drawback entries".

(6) Subsection (p) is amended to read as follows:

"(p) Substitution of Finished Petroleum Derivatives.—

"(1) In general.—Notwithstanding any other provision of this section, if—

"(A) an article (hereafter referred to in this subsection as the 'exported article') of the same kind and quality as a qualified article is exported;

"(B) the requirements set forth in paragraph (2) are met; and

"(C) a drawback claim is filed regarding the exported article;

the amount of the duties paid on, or attributable to, such qualified article shall be refunded as drawback to the drawback claimant.

"(2) Requirements.—The requirements referred to in paragraph (1) are as follows:

"(A) The exporter of the exported article—

"(i) manufactured or produced the qualified article in a quantity equal to or greater than the quantity of the exported article,

"(ii) purchased or exchanged, directly or indirectly, the qualified article from a manufacturer or producer described in subsection (a) or (b) in a quantity equal to or greater than the quantity of the exported article,

"(iii) imported the qualified article in a quantity equal to or greater than the quantity of the exported article, or

"(iv) purchased or exchanged, directly or indirectly, an imported qualified article from an importer in a quantity equal to or greater than the quantity of the exported article.

"(B) In the case of the requirement described in subparagraph (A)(ii), the manufacturer or producer produced the qualified article in a quantity equal to or greater than the quantity of the exported article.

"(C) In the case of the requirement of subparagraph (A)(i) or (A)(ii), the exported article is exported during the period that the qualified article described in subparagraph (A)(i) or (A)(ii) (whichever is applicable) is manufactured or produced, or within 180 days after the close of such period.

"(D) In the case of the requirement of subparagraph (A)(i) or (A)(ii), the specific petroleum refinery or production facility which made the qualified article concerned is identified.

"(E) In the case of the requirement of subparagraph (A)(iii) or (A)(iv), the exported article is exported within 180 days after the date of entry of an imported qualified article described in subparagraph (A)(iii) or (A)(iv) (whichever is applicable).

"(F) Except as otherwise specifically provided in this subsection, the drawback claimant complies with all requirements of this section, including providing certificates which establish the drawback eligibility of articles for which drawback is claimed.

"(G) The manufacturer, producer, importer, exporter, and drawback claimant of the qualified article and the exported article maintain all records required by regulation.

"(3) Definition of qualified article, etc.—For purposes of this subsection—

"(A) The term 'qualified article' means an article—

"(i) described in—

"(I) headings 2707, 2708, 2710, 2711, 2712, 2713, 2714, 2715, 2901, and 2902 of the Harmonized Tariff Schedule of the United States, or

"(II) headings 3901 through 3914 of such Schedule (as such headings apply to liquids, pastes, powders, granules, and flakes), and

"(ii) which is—

"(I) manufactured or produced as described in subsection (a) or (b) from crude petroleum or a petroleum derivative, or

"(II) imported duty-paid.

"(B) An exported article is of the same kind and quality as the qualified article for which it is substituted under this subsection if it is a product that is commercially interchangeable with or referred to under the same eight-digit classification of the Harmonized Tariff Schedule of the United States as the qualified article.

"(C) The term 'drawback claimant' means the exporter of the exported article or the refiner, producer, or importer of such article. Any person eligible to file a drawback claim under this subparagraph may designate another person to file such claim.

"(4) Limitation on drawback.—The amount of drawback payable under this subsection shall not exceed the amount of drawback that would be attributable to the article—

"(A) manufactured or produced under subsection (a) or (b) by the manufacturer or producer described in clause (i) or (ii) of paragraph (2)(A), or

"(B) imported under clause (iii) or (iv) of paragraph (2)(A).".

(7) The following new subsections are inserted after subsection (p):

"(q) Packaging Material.—Packaging material, when used on or for articles or merchandise exported or destroyed under subsection (a), (b), (c), or (j), shall be eligible under such subsection for refund, as drawback, of 99 percent of any duty, tax, or fee imposed under Federal law on the importation of such material.

"(r) Filing Drawback Claims.—

"(1) A drawback entry and all documents necessary to complete a drawback claim, including those issued by the Customs Service, shall be filed or applied for, as applicable, within 3 years after the date of exportation or destruction of the articles on which drawback is claimed, except that any landing certificate required by regulation shall be filed within the time limit prescribed in such regulation. Claims not completed within the 3-year period shall be considered abandoned. No extension will be granted unless it is established that the Customs Service was responsible for the untimely filing.

"(2) A drawback entry for refund filed pursuant to any subsection of this section shall be deemed filed pursuant to any other subsection of this section should it be determined that drawback is not allowable under the entry as originally filed but is allowable under such other subsection.

"(s) Designation of Merchandise by Successor.—

"(1) For purposes of subsection (b), a drawback successor may designate imported merchandise used by the predecessor before the date of succession as the basis for drawback on articles manufactured by the drawback successor after the date of succession.

"(2) For purposes of subsection (j)(2), a drawback successor may designate—

"(A) imported merchandise which the predecessor, before the date of succession, imported; or

"(B) imported merchandise, commercially interchangeable merchandise, or any combination of imported and commercially interchangeable merchandise for which the successor received, before the date of succession, from the person who imported and paid any duty due on the imported merchandise a certificate of delivery transferring to the successor such merchandise;

as the basis for drawback on merchandise possessed by the drawback successor after the date of succession.

"(3) For purposes of this subsection, the term 'drawback successor' means an entity to which another entity (in this subsection referred to as the 'predecessor') has transferred by written agreement, merger, or corporate resolution—

"(A) all or substantially all of the rights, privileges, immunities, powers, duties, and liabilities of the predecessor; or

"(B) the assets and other business interests of a division, plant, or other business unit of such predecessor, but only if in such transfer the value of the transferred realty, personalty, and intangibles (other than drawback rights, inchoate or otherwise) exceeds the value of all transferred drawback rights, inchoate or otherwise.

"(4) No drawback shall be paid under this subsection until either the predecessor or the drawback successor (who shall also certify that it has the predecessor's records) certifies that—

"(A) the transferred merchandise was not and will not be claimed by the predecessor, and

"(B) the predecessor did not and will not issue any certificate to any other person that would enable that person to claim drawback.

"(t) Drawback Certificates.—Any person who issues a certificate which would enable another person to claim drawback shall be subject to the recordkeeping provisions of this chapter, with the retention period beginning on the date that such certificate is issued.

"(u) Eligibility of Entered or Withdrawn Merchandise.—Imported merchandise that has not been regularly entered or withdrawn for consumption shall not satisfy any requirement for use, exportation, or destruction under this section.

"(v) Multiple Drawback Claims.—Merchandise that is exported or destroyed to satisfy any claim for drawback shall not be the basis of any other claim for drawback; except that appropriate credit and deductions for claims covering components or ingredients of such merchandise shall be made in computing drawback payments.".

(b) APPLICATION OF AMENDMENT TO FINISHED PETROLEUM DERIVATIVES.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, the amendment made by paragraph (6) of subsection (a) shall apply to—

(1) claims filed or liquidated on or after January 1, 1988, and

(2) claims that are unliquidated, under protest, or in litigation on the date of the enactment of this Act.

SEC. 633. EFFECTIVE DATE OF RATES OF DUTY.

Section 315 (19 U.S.C. 1315) is amended—

(1) by striking out "appropriate customs officer in the form and manner prescribed by regulations of the Secretary of the Treasury," in the first sentence of subsection (a) and inserting "Customs Service by written, electronic or such other means as the Secretary by regulation shall prescribe,";

(2) by striking out "customs custody" in the first sentence of subsection (b) and inserting "custody of the Customs Service"; and

(3) by striking out "paragraph 813" in subsection (c) and inserting "chapter 98 of the Harmonized Tariff Schedule of the United States".

SEC. 634. DEFINITIONS.

Section 401 (19 U.S.C. 1401) is amended—

(1) by amending subsection (k) to read as follows:

"(k) The term 'hovering vessel' means—

"(1) any vessel which is found or kept off the coast of the United States within or without the customs waters, if, from the history, conduct, character, or location of the vessel, it is reasonable to believe that such vessel is being used or may be used to introduce or promote or facilitate the introduction or attempted introduction of merchandise into the United States in violation of the laws of the United States; and

"(2) any vessel which has visited a vessel described in paragraph (1)."; and

(2) by inserting at the end thereof the following new subsections:

"(n) The term 'electronic transmission' means the transfer of data or information through an authorized electronic data interchange system consisting of, but not limited to, computer modems and computer networks.

"(o) The term 'electronic entry' means the electronic transmission to the Customs Service of—

"(1) entry information required for the entry of merchandise, and

"(2) entry summary information required for the classification and appraisement of the merchandise, the verification of statistical information, and the determination of compliance with applicable law.

"(p) The term 'electronic data interchange system' means any established mechanism approved by the Commissioner of Customs through which information can be transferred electronically.

"(q) The term 'National Customs Automation Program' means the program established under section 411.

"(r) The term 'import activity summary statement' refers to data or information transmitted electronically to the Customs Service, in accordance with such regulations as the Secretary prescribes, at the end of a specified period of time which enables the Customs Service to assess properly the duties, taxes and fees on merchandise imported during that period, collect accurate statistics and determine whether any other applicable requirement of law (other than a requirement relating to release from customs custody) is met.

"(s) The term 'reconciliation' means an electronic process, initiated at the request of an importer, under which the elements of an entry, other than those elements related to the admissibility of the merchandise, that are undetermined at the time of entry summary are provided to the Customs Service at a later time. A reconciliation is treated as an entry for purposes of liquidation, reliquidation, and protest.".

SEC. 635. MANIFESTS.

Section 431 (19 U.S.C. 1431) is amended—

(1) by amending subsections (a) and (b) to read as follows:

"(a) IN GENERAL.—Every vessel required to make entry under section 434 or obtain clearance under section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91) shall have a manifest that complies with the requirements prescribed under subsection (d).

"(b) PRODUCTION OF MANIFEST.—Any manifest required by the Customs Service shall be signed, produced, delivered or electronically transmitted by the master or person in charge of the vessel, aircraft, or vehicle, or by any other authorized agent of the owner or operator of the vessel, aircraft, or vehicle in accordance with the requirements prescribed under subsection (d). A manifest may be supplemented by bill of lading data supplied by the issuer of such bill. If any irregularity of omission or commission occurs in any way in respect to any manifest or bill of lading data, the owner or operator of the vessel, aircraft or vehicle, or any party responsible for such irregularity, shall be liable for any fine or penalty prescribed by law with respect to such irregularity. The Customs Service may take appropriate action against any of the parties."; and

(2) by inserting after subsection (c) the following new subsection:

"(d) REGULATIONS.—

"(1) IN GENERAL.—The Secretary shall by regulation—

"(A) specify the form for, and the information and data that must be contained in, the manifest required by subsection (a);

"(B) allow, at the option of the individual producing the manifest and subject to paragraph (2), letters and documents shipments to be accounted for by summary manifesting procedures;

"(C) prescribe the manner of production for, and the delivery for electronic transmittal of, the manifest required by subsection (a); and

"(D) prescribe the manner for supplementing manifests with bill of lading data under subsection (b).

"(2) LETTERS AND DOCUMENTS SHIPMENTS.—For purposes of paragraph (1)(B)—

"(A) the Customs Service may require with respect to letters and documents shipments—

"(i) that they be segregated by country of origin, and

"(ii) additional examination procedures that are not necessary for individually manifested shipments;

"(B) standard letter envelopes and standard document packs shall be segregated from larger document shipments for purposes of customs inspections; and

"(C) the term 'letters and documents' means—

"(i) data described in General Headnote 4(c) of the Harmonized Tariff Schedule of the United States,

"(ii) securities and similar evidences of value described in heading 4907 of such Schedule, but not monetary instruments defined pursuant to chapter 53 of title 31, United States Code, and

"(iii) personal correspondence, whether on paper, cards, photographs, tapes, or other media.".

SEC. 636. INVOICE CONTENTS.

Section 481 (19 U.S.C. 1481) is amended—

(1) by amending subsection (a)—

(A) by amending the matter preceding paragraph (1) to read as follows: "IN GENERAL.—All invoices of merchandise to be imported into the United States and any electronic equivalent thereof considered acceptable by the Secretary in regulations prescribed under this section shall set forth, in written, electronic, or such other form as the Secretary shall prescribe, the following:",

(B) by amending paragraph (3) to read as follows:

"(3) A detailed description of the merchandise, including the commercial name by which each item is known, the grade or quality, and the marks, numbers, or symbols under which sold by the seller or manufacturer in the country of exportation, together with the marks and numbers of the packages in which the merchandise is packed;", and

(C) by amending paragraph (10) to read as follows:

"(10) Any other fact that the Secretary may by regulation require as being necessary to a proper appraisement, examination and classification of the merchandise.";

(2) by amending subsection (c) to read as follows:

"(c) IMPORTER PROVISION OF INFORMATION.—Any information required to be set forth on an invoice may alternatively be provided by any of the parties qualifying as an 'importer of record' under section 484(a)(2)(B) by such means, in such form or manner, and within such time as the Secretary shall by regulation prescribe."; and

(3) by inserting before the period at the end of subsection (d) the following: "and may allow for the submission or electronic transmission of partial invoices, electronic equivalents of invoices, bills, or other documents or parts thereof, required under this section".

SEC. 637. ENTRY OF MERCHANDISE.

(a) AMENDMENTS TO SECTION 484.—Section 484 (19 U.S.C. 1484) is amended to read as follows:

"SEC. 484. ENTRY OF MERCHANDISE.

"(a) REQUIREMENT AND TIME.—

"(1) Except as provided in sections 490, 498, 552, 553, and 336(j), one of the parties qualifying as 'importer of record' under paragraph (2)(B), either in person or by an agent authorized by the party in writing, shall, using reasonable care—

"(A) make entry therefor by filing with the Customs Service—

"(i) such documentation or, pursuant to an electronic data interchange system, such information as is necessary to enable the Customs Service to determine whether the merchandise may be released from customs custody, and

"(ii) notification whether an import activity summary statement will be filed; and

"(B) complete the entry by filing with the Customs Service the declared value, classification and rate of duty applicable to the merchandise, and such other documentation or, pursuant to an electronic data interchange system, such other information as is necessary to enable the Customs Service to—

"(i) properly assess duties on the merchandise,

"(ii) collect accurate statistics with respect to the merchandise, and

"(iii) determine whether any other applicable requirement of law (other than a requirement relating to release from customs custody) is met.

"(2)(A) The documentation or information required under paragraph (1) with respect to any imported merchandise shall be filed or transmitted in such manner and within such time periods as the Secretary shall by regulation prescribe. Such regulations shall provide for the filing of import activity summary statements, covering entries or warehouse withdrawals made during a calendar month, within such time period as is prescribed in regulations but not to exceed the 20th day following such calendar month.

"(B) When an entry of merchandise is made under this section, the required documentation or information shall be filed or electronically transmitted either by the owner or purchaser of the merchandise or, when appropriately designated by the owner, purchaser, or consignee of the merchandise, a person holding a valid license under section 641. When a consignee declares on entry that he is the owner or purchaser of merchandise the Customs Service may, without liability, accept the declaration. For the purposes of this Act, the importer of record must be one of the parties who is eligible to file the documentation or information required by this section.

"(C) The Secretary, in prescribing regulations to carry out this subsection, shall establish procedures which insure the accuracy and timeliness of import statistics, particularly statistics relevant to the classification and valuation of imports. Corrections of errors in such statistical data shall be transmitted immediately to the Director of the Bureau of the Census, who shall make corrections in the statistics maintained by the Bureau. The Secretary shall also provide, to the maximum extent practicable, for the protection of the revenue, the enforcement of laws governing the importation and exportation of merchandise, the facilitation of the commerce of the United States, and the equal treatment of all importers of record of imported merchandise.

"(b) RECONCILIATION.—

"(1) IN GENERAL.—A party that electronically transmits an entry summary or import activity summary statement may at the time of filing such summary or statement notify the Customs Service of his intention to file a reconciliation pursuant to such regulations as the Secretary may prescribe. Such reconciliation must be filed by the importer of record within such time period as is prescribed by regulation but no later than 15 months following the filing of the entry summary or import activity summary statement; except that the prescribed time period for reconciliation issues relating to the assessment of antidumping and countervailing duties shall require filing no later than 90 days after the Customs Service advises the importer that a period of review for antidumping or countervailing duty purposes has been completed. Before filing a reconciliation, an importer of record shall post bond or other security pursuant to such regulations as the Secretary may prescribe.

"(2) REGULATIONS REGARDING AD/CV DUTIES.—The Secretary shall prescribe, in consultation with the Secretary of Commerce, such regulations as are necessary to adapt the reconciliation process for use in the collection of antidumping and countervailing duties.

"(c) RELEASE OF MERCHANDISE.—The Customs Service may permit the entry and release of merchandise from customs custody in accordance with such regulations as the Secretary may prescribe. No officer of the Customs Service shall be liable to any person with respect to the delivery of merchandise released from customs custody in accordance with such regulations.

"(d) SIGNING AND CONTENTS.—Entries shall be signed by the importer of record, or his agent, unless filed pursuant to an electronic data interchange system. If electronically filed, each transmission of data shall be certified by an importer of record or his agent, one of whom shall be resident in the United States for purposes of receiving service of process, as being true and correct to the best of his knowledge and belief, and such transmission shall be binding in the same manner and to the same extent as a signed document. The entry shall set forth such facts in regard to the importation as the Secretary may require and shall be accompanied by such invoices, bills of lading, certificates, and documents, or their electronically submitted equivalents, as are required by regulation.

"(e) PRODUCTION OF INVOICE.—The Secretary may provide by regulation for the production of an invoice, parts thereof, or the electronic equivalents thereof, in such manner and form, and under such terms and conditions, as the Secretary considers necessary.

"(f) STATISTICAL ENUMERATION.—The Secretary, the Secretary of Commerce, and the United States International Trade Commission shall establish from time to time for statistical purposes an enumeration of articles in such detail as in their judgment may be necessary, comprehending all merchandise imported into the United States and exported from the United States, and shall seek, in conjunction with statistical programs for domestic production and programs for achieving international harmonization of trade statistics, to establish the comparability thereof with such enumeration of articles. All import entries and export declarations shall include or have attached thereto an accurate statement specifying, in terms of such detailed enumeration, the kinds and quantities of all merchandise imported and exported and the value of the total quantity of each kind of article.

"(g) STATEMENT OF COST OF PRODUCTION.—Under such regulations as the Secretary may prescribe, the Customs Service may require a verified statement from the manufacturer or producer showing the cost of producing the imported merchandise, if the Customs Service considers such verification necessary for the appraisement of such merchandise.

"(h) ADMISSIBILITY OF DATA ELECTRONICALLY TRANSMITTED.—Any entry or other information transmitted by means of an authorized electronic data interchange system shall be admissible in any and all administrative and judicial proceedings as evidence of such entry or information.".

(b) AMENDMENT TO SECTION 771.—Section 771 (19 U.S.C. 1677) is amended by adding at the end the following new paragraph:

"(23) ENTRY.—The term 'entry' includes, in appropriate circumstances as determined by the administering authority, a reconciliation entry created under a reconciliation process, defined in section 401(s), that is initiated by an importer. The liability of an importer under an antidumping or countervailing duty proceeding for entries of merchandise subject to the proceeding will attach to the corresponding reconciliation entry or entries. Suspension of liquidation of the reconciliation entry or entries, for the purpose of enforcing this title, is equivalent to the suspension of liquidation of the corresponding individual entries; but the suspension of liquidation of the reconciliation entry or entries for such purpose does not preclude liquidation for any other purpose.".

SEC. 638. APPRAISEMENT AND OTHER PROCEDURES.

Section 500 (19 U.S.C. 1500) is amended—

(1) by striking out "The appropriate customs officer" and inserting "The Customs Service";

(2) by striking out "appraise" in subsection (a) and inserting "fix the final appraisement of";

(3) by striking out "ascertain the" in subsection (b) and inserting "fix the final";

(4) by amending subsection (c)—

(A) by inserting "final" after "fix the", and

(B) by inserting ", taxes, and fees" after "duties" wherever it appears; and

(5) by amending subsections (d) and (e) to read as follows:

"(d) liquidate the entry and reconciliation, if any, of such merchandise; and

"(e) give or transmit, pursuant to an electronic data interchange system, notice of such liquidation to the importer, his consignee, or agent in such form and manner as the Secretary shall by regulation prescribe.".

SEC. 639. VOLUNTARY RELIQUIDATIONS.

Section 501 (19 U.S.C. 1501) is amended—

(1) by striking out "the appropriate customs officer on his own initiative" and inserting "the Customs Service";

(2) by inserting "or transmitted" after "given" wherever it appears; and

(3) by amending the section heading to read as follows:

"SEC. 501. VOLUNTARY RELIQUIDATIONS BY THE CUSTOMS SERVICE.".

SEC. 640. APPRAISEMENT REGULATIONS.

Section 502 (19 U.S.C. 1502) is amended—

(1) by amending subsection (a)—

(A) by inserting "(including regulations establishing procedures for the issuance of binding rulings prior to the entry of the merchandise concerned)" after "law",

(B) by striking out "ports of entry, and" inserting "ports of entry. The Secretary",

(C) by inserting "or classifying" after "appraising" wherever it appears, and

(D) by striking out "such port" and inserting "any port, and may direct any customs officer at any port to review entries of merchandise filed at any other port"; and

(2) by striking out subsection (b) and redesignating subsection (c) as subsection (b).

SEC. 641. LIMITATION ON LIQUIDATION.

Section 504 (19 U.S.C. 1504) is amended—

(1) by amending subsection (a)—

(A) by striking out "Except as provided in subsection (b)," and inserting "Unless an entry is extended under subsection (b) or suspended as required by statute or court order,",

(B) by striking out "or" at the end of paragraph (2),

(C) by inserting "or" after the semicolon at the end of paragraph (3), and

(D) by inserting the following new paragraph after paragraph (3):

"(4) if a reconciliation is filed, or should have been filed, the date of the filing under section 484 or the date the reconciliation should have been filed;"; and

(2) by amending subsections (b), (c), and (d) to read as follows:

"(b) EXTENSION.—The Secretary may extend the period in which to liquidate an entry if—

"(1) the information needed for the proper appraisement or classification of the merchandise, or for insuring compliance with applicable law, is not available to the Customs Service; or

"(2) the importer of record requests such extension and shows good cause therefor.

The Secretary shall give notice of an extension under this subsection to the importer of record and the surety of such importer of record. Notice shall be in such form and manner (which may include electronic transmittal) as the Secretary shall by regulation prescribe. Any entry the liquidation of which is extended under this subsection shall be treated as having been liquidated at the rate of duty, value, quantity, and amount of duty asserted at the time of entry by the importer of record at the expiration of 4 years from the applicable date specified in subsection (a).

"(c) NOTICE OF SUSPENSION.—If the liquidation of any entry is suspended, the Secretary shall by regulation require that notice of the suspension be provided, in such manner as the Secretary considers appropriate, to the importer of record and to any authorized agent and surety of such importer of record.

"(d) REMOVAL OF SUSPENSION.—When a suspension required by statute or court order is removed, the Customs Service shall liquidate the entry within 6 months after receiving notice of the removal from the Department of Commerce, other agency, or a court with jurisdiction over the entry. Any entry not liquidated by the Customs Service within 6 months after receiving such notice shall be treated as having been liquidated at the rate of duty, value, quantity, and amount of duty asserted at the time of entry by the importer of record.".

SEC. 642. PAYMENT OF DUTIES AND FEES.

(a) AMENDMENT TO SECTION 505.—Section 505 (U.S.C. 1505) is amended to read as follows:

"SEC. 505. PAYMENT OF DUTIES AND FEES.

"(a) DEPOSIT OF ESTIMATED DUTIES, FEES, AND INTEREST.—Unless merchandise is entered for warehouse or transportation, or under bond, the importer of record shall deposit with the Customs Service at the time of making entry, or at such later time as the Secretary may prescribe by regulation, the amount of duties and fees estimated to be payable thereon. Such regulations may provide that estimated duties and fees shall be deposited before or at the time an import activity summary statement is filed. If an import activity summary statement is filed, the estimated duties and fees shall be deposited together with interest, at a rate determined by the Secretary, accruing from the first date of the month the statement is required to be filed until the date such statement is actually filed.

"(b) COLLECTION OR REFUND OF DUTIES, FEES, AND INTEREST DUE UPON LIQUIDATION OR RELIQUIDATION.—The Customs Service shall collect any increased or additional duties and fees due, together with interest thereon, or refund any excess moneys deposited, together with interest thereon, as determined on a liquidation or reliquidation. Duties, fees, and interest determined to be due upon liquidation or reliquidation are due 30 days after issuance of the bill for such payment. Refunds of excess moneys deposited, together with interest thereon, shall be paid within 30 days of liquidation or reliquidation.

"(c) INTEREST.—Interest assessed due to an underpayment of duties, fees, or interest shall accrue, at a rate determined by the Secretary, from the date the importer of record is required to deposit estimated duties, fees, and interest to the date of liquidation or reliquidation of the applicable entry or reconciliation. Interest on excess moneys deposited shall accrue, at a rate determined by the Secretary, from the date the importer of record deposits estimated duties, fees, and interest to the date of liquidation or reliquidation of the applicable entry or reconciliation.

"(d) DELINQUENCY.—If duties, fees, and interest determined to be due or refunded are not paid in full within the 30-day period specified in subsection (b), any unpaid balance shall be considered delinquent and bear interest by 30-day periods, at a rate determined by the Secretary, from the date of liquidation or reliquidation until the full balance is paid. No interest shall accrue during the 30-day period in which payment is actually made.".

(b) CONFORMING AMENDMENT.—Subsection (d) of section 520 (19 U.S.C. 1520(d)) is repealed.

SEC. 643. ABANDONMENT AND DAMAGE.

Section 506 (19 U.S.C. 1506) is amended—

(1) by striking out "the appropriate customs officer" and "such customs officer" wherever they appear and inserting "the Customs Service";

(2) by amending paragraph (1)—

(A) by striking out "not sent to the appraiser's stores for" and inserting "released without an",

(B) by striking out "of the examination packages or quantities of merchandise",

(C) by striking out "the appraiser's stores" and inserting "the Customs Service", and

(D) by inserting "or entry" after "invoice", and

(3) by amending paragraph (2)—

(A) by inserting ", electronically or otherwise," after "files", and

(B) by striking out "written".

SEC. 644. CUSTOMS OFFICER'S IMMUNITY.

Section 513 (19 U.S.C. 1513) is amended to read as follows:

"SEC. 513. CUSTOMS OFFICER'S IMMUNITY.

"No customs officer shall be liable in any way to any person for or on account of—

"(1) any ruling or decision regarding the appraisement or the classification of any imported merchandise or regarding the duties, fees, and taxes charged thereon,

"(2) the collection of any dues, charges, duties, fees, and taxes on or on account of any imported merchandise, or

"(3) any other matter or thing as to which any person might under this Act be entitled to protest or appeal from the decision of such officer.".

SEC. 645. PROTESTS.

Section 514 (19 U.S.C. 1514) is amended—

(1) by amending subsection (a)—

(A) by striking out "appropriate customs officer" in the text preceding paragraph (1) and inserting "Customs Service",

(B) by inserting "or reconciliation as to the issues contained therein," after "entry," in paragraph (5),

(C) by striking out "and" and inserting "or" at the end of paragraph (6),

(D) by striking out the comma at the end of paragraph (7) and inserting a semicolon, and

(E) by striking out "appropriate customs officer, who" in the text following paragraph (7) and inserting "Customs Service, which";

(2) by amending subsection (b) by striking out "appropriate customs officer" and inserting "Customs Service";

(3) by amending the first sentence of subsection (c)(1) to read as follows: "A protest of a decision made under subsection (a) shall be filed in writing, or transmitted electronically pursuant to an electronic data interchange system, in accordance with regulations prescribed by the Secretary. A protest must set forth distinctly and specifically—

"(A) each decision described in subsection (a) as to which protest is made;

"(B) each category of merchandise affected by each decision set forth under paragraph (1);

"(C) the nature of each objection and the reasons therefor; and

"(D) any other matter required by the Secretary by regulation.";

(4) by redesignating paragraph (2) of subsection (c) as paragraph (3) and by striking out "such customs officer" in such redesignated paragraph and inserting "the Customs Service";

(5) by designating the last sentence of paragraph (1) of subsection (c) as paragraph (2);

(6) by striking out "customs officer" in subsection (d) and inserting "Customs Service"; and

(7) by amending the section heading to read as follows:

"SEC. 514. PROTEST AGAINST DECISIONS OF THE CUSTOMS SERVICE.".

SEC. 646. REFUNDS AND ERRORS.

Section 520 (19 U.S.C. 1520) is amended—

(1) by inserting "or reconciliation" after "entry" in paragraphs (1) and (4) of subsection (a); and

(2) by amending subsection (c)—

(A) by striking out "appropriate customs officer" wherever it appears and inserting "Customs Service",

(B) by inserting "or reconciliation" after "reliquidate an entry", and

(C) by inserting ", whether or not resulting from or contained in electronic transmission," after "inadvertence" the first place it appears in paragraph (1).

SEC. 647. BONDS AND OTHER SECURITY.

Section 623 (19 U.S.C. 1623) is amended—

(1) by inserting "and the manner in which the bond may be filed with or, pursuant to an authorized electronic data interchange system, transmitted to the Customs Service" after "form of such bond" in subsection (b)(1); and

(2) by inserting at the end of subsection (d) the following new sentence: "Any bond transmitted to the Customs Service pursuant to an authorized electronic data interchange system shall have the same force and effect and be binding upon the parties thereto as if such bond were manually executed, signed, and filed.".

SEC. 648. CUSTOMHOUSE BROKERS.

Section 641 (19 U.S.C. 1641) is amended—

(1) by adding at the end of subsection (a)(2) the following new sentence: "It also includes the preparation of documents or forms in any format and the electronic transmission of documents, invoices, bills, or parts thereof, intended to be filed with the Customs Service in furtherance of such activities, whether or not signed or filed by the preparer, or activities relating to such preparation, but does not include the mere electronic transmission of data received for transmission to Customs.";

(2) by amending subsection (c)(1) to read as follows:

"(1) IN GENERAL.—Each person granted a customs broker's license under subsection (b) shall be issued, in accordance with such regulations as the Secretary shall prescribe, either or both of the following:

"(A) A national permit for the conduct of such customs business as the Secretary prescribes by regulation.

"(B) A permit for each customs district in which that person conducts customs business and, except as provided in paragraph (2), regularly employs at least 1 individual who is licensed under subsection (b)(2) to exercise responsible supervision and control over the customs business conducted by that person in that district.";

(3) by inserting at the end of subsection (c) the following new paragraph:

"(4) APPOINTMENT OF SUBAGENTS.—Notwithstanding subsection (c)(1), upon the implementation by the Secretary under section 413(b)(2) of the component of the National Customs Automation Program referred to in section 411(a)(2)(B), a licensed broker may appoint another licensed broker holding a permit in a customs district to act on its behalf as its subagent in that district if such activity relates to the filing of information that is permitted by law or regulation to be filed electronically. A licensed broker appointing a subagent pursuant to this paragraph shall remain liable for any and all obligations arising under bond and any and all duties, taxes, and fees, as well as any other liabilities imposed by law, and shall be precluded from delegating to a subagent such liability.";

(4) by amending subsection (d)(2)(B)—

(A) by striking out "appropriate customs officer" and inserting "Customs Service" in the first and third sentences,

(B) by striking out "he" and inserting "it" in the third sentence,

(C) by striking out "15 days" and inserting "30 days" in the third sentence,

(D) by striking out "the appropriate customs officer and the customs broker; they" and inserting "the Customs Service and the customs broker; which" in the sixth sentence,

(E) by striking out "his" and inserting "the" in the seventh sentence, and

(F) by striking out "for his decision" and inserting "for the decision" in the eighth sentence; and

(5) by amending subsection (f) by striking out "United States Customs Service." and inserting "Customs Service. The Secretary may not prohibit customs brokers from limiting their liability to other persons in the conduct of customs business. For purposes of this subsection or any other provision of this Act pertaining to recordkeeping, all data required to be retained by a customs broker may be kept on microfilm, optical disc, magnetic tapes, disks or drums, video files or any other electrically generated medium. Pursuant to such regulations as the Secretary shall prescribe, the conversion of data to such storage medium may be accomplished at any time subsequent to the relevant customs transaction and the data may be retained in a centralized basis according to such broker's business system.".

SEC. 649. CONFORMING AMENDMENTS.

(a) PLACE OF ENTRY AND UNLADING.—Section 447 (19 U.S.C. 1447) is amended by striking out "the appropriate customs officer shall consider" and inserting "the Customs Service considers".

(b) UNLADING.—Section 449 (19 U.S.C. 1449) is amended by striking out "appropriate customs officer of such port issues a permit for the unlading of such merchandise or baggage," and inserting "Customs Service issues a permit for the unlading of such merchandise or baggage at such port,".

Subtitle C—Miscellaneous Amendments to the Tariff Act of 1930

SEC. 651. ADMINISTRATIVE EXEMPTIONS.

Section 321 (19 U.S.C. 1321) is amended—

(1) by amending subsection (a)(1)—

(A) by striking out "of less than $10" and inserting "of an amount specified by the Secretary by regulation, but not less than $20,",

(B) by inserting ", fees," after "duties" wherever it appears, and

(C) by striking out "and" at the end thereof;

(2) by amending subsection (a)(2)—

(A) by striking out "shall not exceed—" and inserting "shall not exceed an amount specified by the Secretary by regulation, but not less than—",

(B) by striking out "$50" and "$100" in subparagraph (A) and inserting "$100" and "$200", respectively,

(C) by striking out "$25" in subparagraph (B) and inserting "$200",

(D) by striking out "$5" in subparagraph (C) and inserting "$200", and

(E) by striking the period at the end thereof and inserting "; and", and

(3) by inserting a new paragraph (3) at the end of subsection (a) to read as follows:

"(3) waive the collection of duties, fees, and taxes due on entered merchandise when such duties, fees, or taxes are less than $20 or such greater amount as may be specified by the Secretary by regulation."; and

(4) by amending subsection (b)—

(A) by striking out "to diminish any dollar amount specified in subsection (a) and"; and

(B) by striking out "such subsection" wherever it appears and inserting "subsection (a)".

SEC. 652. REPORT OF ARRIVAL.

Section 433 (19 U.S.C. 1433) is amended—

(1) by amending subsection (a)(1)—

(A) by striking out "or" at the end of subparagraph (B),

(B) by inserting "or" after the semicolon at the end of subparagraph (C), and

(C) by adding after subparagraph (C) the following:

"(D) any vessel which has visited a hovering vessel or received merchandise while outside the territorial sea;";

(2) by striking out "present to customs officers such" in subsection (d) and inserting "present, or transmit pursuant to an electronic data interchange system, to the Customs Service such information, data,"; and

(3) by amending subsection (e) to read as follows:

"(e) PROHIBITION ON DEPARTURES AND DISCHARGE.—Unless otherwise authorized by law, a vessel, aircraft or vehicle after arriving in the United States or Virgin Islands may, but only in accordance with regulations prescribed by the Secretary—

"(1) depart from the port, place, or airport of arrival; or

"(2) discharge any passenger or merchandise (including baggage).".

SEC. 653. ENTRY OF VESSELS.

Section 434 (19 U.S.C. 1434) amended to read as follows:

"SEC. 434. ENTRY; VESSELS.

"(a) FORMAL ENTRY.—Within 24 hours (or such other period of time as may be provided under subsection (c)(2)) after the arrival at any port or place in the United States of—

"(1) any vessel from a foreign port or place;

"(2) any foreign vessel from a domestic port;

"(3) any vessel of the United States having on board bonded merchandise or foreign merchandise for which entry has not been made; or

"(4) any vessel which has visited a hovering vessel or has delivered or received merchandise while outside the territorial sea;

the master of the vessel shall, unless otherwise provided by law, make formal entry at the nearest customs facility or such other place as the Secretary may prescribe by regulation.

"(b) PRELIMINARY ENTRY.—The Secretary may by regulation permit the master to make preliminary entry of the vessel with the Customs Service in lieu of formal entry or before formal entry is made. In permitting preliminary entry, the Customs Service shall board a sufficient number of vessels to ensure compliance with the laws it enforces.

"(c) REGULATIONS.—The Secretary may by regulation—

"(1) prescribe the manner and format in which entry under subsection (a) or subsection (b), or both, must be made, and such regulations may provide that any such entry may be made electronically pursuant to an electronic data interchange system;

"(2) provide that—

"(A) formal entry must be made within a greater or lesser time than 24 hours after arrival, but in no case more than 48 hours after arrival, and

"(B) formal entry may be made before arrival; and

"(3) authorize the Customs Service to permit entry or preliminary entry of any vessel to be made at a place other than a designated port of entry, under such conditions as may be prescribed.".

SEC. 654. UNLAWFUL RETURN OF FOREIGN VESSEL PAPERS.

Section 438 (19 U.S.C. 1438) is amended—

(1) by striking out "section 435" and inserting "section 434";

(2) by inserting ", or regulations issued thereunder," after "of this Act"; and

(3) by striking out "the appropriate customs officer of the port where such vessel has been entered." and inserting "the Customs Service in the port in which such vessel has entered.".

SEC. 655. VESSELS NOT REQUIRED TO ENTER.

Section 441 (19 U.S.C. 1441) is amended—

(1) by amending the text preceding paragraph (1) to read as follows: "The following vessels shall not be required to make entry under section 434 or to obtain clearance under section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91):";

(2) by amending paragraph (3) to read as follows:

"(3) Any vessel carrying passengers on excursion from the United States Virgin Islands to the British Virgin Islands and returning, if—

"(A) the vessel does not in any way violate the customs or navigation laws of the United States;

"(B) the vessel has not visited any hovering vessel; and

"(C) the master of the vessel, if there is on board any article required by law to be entered, reports the article to the Customs Service immediately upon arrival.";

(3) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and inserting after paragraph (3) the following:

"(4) Any United States documented vessel with recreational endorsement or any undocumented United States pleasure vessel not engaged in trade, if—

"(A) the vessel complies with the reporting requirements of section 433, and with the customs and navigation laws of the United States;

"(B) the vessel has not visited any hovering vessel; and

"(C) the master of, and any other person on board, the vessel, if the master or such person has on board any article required by law to be entered or declared, reports such article to the Customs Service immediately upon arrival;";

(4) by amending paragraph (6) (as so redesignated) by striking out "enrolled and licensed to engage in the foreign and coasting trade in the northern, northeastern, and northwestern frontiers" and inserting "documented under chapter 121 of title 46, United States Code, with a Great Lakes endorsement"; and

(5) by amending the section heading to read as follows:

"SEC. 441. EXCEPTIONS TO VESSEL ENTRY AND CLEARANCE REQUIREMENTS.".

SEC. 656. UNLADING.

Section 448(a) (19 U.S.C. 1448(a)) is amended—

(1) by amending the first sentence—

(A) by striking out "enter)" and inserting "enter or clear)",

(B) by striking out "or vehicle arriving from a foreign port or place" and inserting "required to make entry under section 434, or vehicle required to report arrival under section 433,",

(C) by inserting "or transmitted pursuant to an electronic data interchange system" after "issued", and

(D) by striking out the colon after "officer" and the proviso and inserting a period;

(2) by amending the second sentence—

(A) by striking out ", preliminary or otherwise,", and

(B) by inserting ", electronically pursuant to an authorized electronic data interchange system or otherwise," after "may issue a permit";

(3) by striking out the last sentence and inserting the following: "The owner or master of any vessel or vehicle, or agent thereof, shall notify the Customs Service of any merchandise or baggage so unladen for which entry is not made within the time prescribed by law or regulation. The Secretary shall by regulation prescribe administrative penalties not to exceed $1,000 for each bill of lading for which notice is not given. Any such administrative penalty shall be subject to mitigation and remittance under section 618. Such unentered merchandise or baggage shall be the responsibility of the master or person in charge of the importing vessel or vehicle, or agent thereof, until it is removed from the carrier's control in accordance with section 490."; and

(4) by striking out "the appropriate customs officer" and "such customs officer" wherever they appear and inserting "the Customs Service".

SEC. 657. DECLARATIONS.

Section 485 (19 U.S.C. 1485) is amended—

(1) by amending subsection (a)—

(A) by inserting "or transmit electronically" after "file", and

(B) by inserting "and manner" after "form";

(2) by amending subsection (d)—

(A) by striking out "A importer" and inserting "An importer", and

(B) by striking out "a importer" and inserting "an importer"; and

(3) by inserting after subsection (f) the following new subsection:

"(g) EXPORTED MERCHANDISE RETURNED AS UNDELIVERABLE.—With respect to any importation of merchandise to which General Headnote 4(e) of the Harmonized Tariff Schedule of the United States applies, any person who gained any benefit from, or met any obligation to, the United States as a result of the prior exportation of such merchandise shall, in accordance with regulations prescribed by the Secretary, within a reasonable time inform the Customs Service of the return of the merchandise.".

SEC. 658. GENERAL ORDERS.

Section 490 (19 U.S.C. 1490) is amended—

(1) by amending subsection (a) to read as follows:

"(a) INCOMPLETE ENTRY.—

"(1) Whenever—

"(A) the entry of any imported merchandise is not made within the time provided by law or by regulation prescribed by the Secretary;

"(B) the entry of imported merchandise is incomplete because of failure to pay the estimated duties, fees, or interest;

"(C) in the opinion of the Customs Service, the entry of imported merchandise cannot be made for want of proper documents or other cause; or

"(D) the Customs Service believes that any merchandise is not correctly and legally invoiced;

the carrier (unless subject to subsection (c)) shall notify the bonded warehouse of such unentered merchandise.

"(2) After notification under paragraph (1), the bonded warehouse shall arrange for the transportation and storage of the merchandise at the risk and expense of the consignee. The merchandise shall remain in the bonded warehouse until—

"(A) entry is made or completed and the proper documents are produced;

"(B) the information and data necessary for entry are transmitted to the Customs Service pursuant to an authorized electronic data interchange system; or

"(C) a bond is given for the production of documents or the transmittal of data.";

(2) by amending subsection (b)—

(A) by amending the heading for subsection (b) to read as follows:

"(b) REQUEST FOR POSSESSION BY CUSTOMS.—", and

(B) by striking out "appropriate customs officer" and inserting "Customs Service"; and

(3) by adding at the end the following new subsection:

"(c) GOVERNMENT MERCHANDISE.—Any imported merchandise that—

"(1) is described in any of paragraphs (1) through (4) of subsection (a); and

"(2) is consigned to, or owned by, the United States Government;

shall be stored and disposed of in accordance with such rules and procedures as the Secretary shall by regulation prescribe.".

SEC. 659. UNCLAIMED MERCHANDISE.

Section 491 (19 U.S.C. 1491) is amended—

(1) by amending subsection (a)—

(A) by striking out "customs custody for one year" in the first sentence and inserting "in a bonded warehouse pursuant to section 490 for 6 months",

(B) by striking out "public store or bonded warehouse for a period of one year" in the second sentence and inserting "pursuant to section 490 in a bonded warehouse for 6 months",

(C) by striking out "estimated duties and storage" in the first sentence and inserting "estimated duties, taxes, fees, interest, storage,",

(D) by inserting "taxes, fees, interest," after "duties," wherever it appears, and

(E) by striking out "duties" in the last sentence and inserting "duties, taxes, interest, and fees"; and

(2) by redesignating subsection (b) as subsection (e) and inserting after subsection (a) the following new subsections:

"(b) NOTICE OF TITLE VESTING IN THE UNITED STATES.—At the end of the 6-month period referred to in subsection (a), the Customs Service may, in lieu of sale of the merchandise, provide notice to all known interested parties that the title to such merchandise shall be considered to vest in the United States free and clear of any liens or encumbrances, on the 30th day after the date of the notice unless, before such 30th day—

"(1) the subject merchandise is entered or withdrawn for consumption; and

"(2) payment is made of all duties, taxes, fees, transfer and storage charges, and other expenses that may have accrued thereon.

"(c) RETENTION, TRANSFER, DESTRUCTION, OR OTHER DISPOSITION.—If title to any merchandise vests in the United States by operation of subsection (b), such merchandise may be retained by the Customs Service for official use, transferred to any other Federal agency or to any State or local agency, destroyed, or otherwise disposed of in accordance with such regulations as the Secretary shall prescribe. All transfer and storage charges or expenses accruing on retained or transferred merchandise shall be paid by the receiving agency.

"(d) PETITION.—Whenever any party, having lost a substantial interest in merchandise by virtue of title vesting in the United States under subsection (b), can establish such title or interest to the satisfaction of the Secretary within 30 days after the day on which title vests in the United States under subsection (b), or can establish to the satisfaction of the Secretary that the party did not receive notice under subsection (b), the Secretary may, upon receipt of a timely and proper petition and upon finding that the facts and circumstances warrant, pay such party out of the Treasury of the United States the amount the Secretary believes the party would have received under section 493 had the merchandise been sold and a proper claim filed. The decision of the Secretary with respect to any such petition is final and conclusive on all parties."; and

(3) by amending subsection (e) (as so redesignated) by striking out "appropriate customs officer" in paragraph (3) and inserting "Customs Service".

SEC. 660. DESTRUCTION OF MERCHANDISE.

Section 492 (19 U.S.C. 1492) is amended—

(1) by inserting ", retained for official use, or otherwise disposed of" after "destroyed"; and

(2) by striking out "appropriate customs officer" and inserting "Customs Service".

SEC. 661. PROCEEDS OF SALE.

Section 493 (19 U.S.C. 1493) is amended—

(1) by inserting "taxes, and fees," after "duties,";

(2) by striking out "by the appropriate customs officer"; and

(3) by striking out "such customs officer" and inserting "the Customs Service".

SEC. 662. ENTRY UNDER REGULATIONS.

Section 498(a) (19 U.S.C. 1498(a)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) Merchandise, when—

"(A) the aggregate value of the shipment does not exceed an amount specified by the Secretary by regulation, but not more than $2,500; or

"(B) different commercial facilitation and risk considerations that may vary for different classes or kinds of merchandise or different classes of transactions may dictate;"; and

(2) by striking out "$10,000" in paragraph (2) and inserting "such amounts as the Secretary may prescribe".

SEC. 663. AMERICAN TRADEMARKS.

Section 526(e)(3) (19 U.S.C. 1526(e)(3)) is amended—

(1) by striking out "1 year" and inserting "90 days"; and

(2) by striking out "appropriate customs officers" and inserting "the Customs Service".

SEC. 664. SIMPLIFIED RECORDKEEPING FOR MERCHANDISE TRANSPORTED BY PIPELINE.

Part IV of title IV is amended by inserting after section 553 the following new section:

"SEC. 553A. RECORDKEEPING FOR MERCHANDISE TRANSPORTED BY PIPELINE.

"Merchandise in Customs custody that is transported by pipeline may be accounted for on a quantitative basis, based on the bill of lading, or equivalent document of receipt, issued by the pipeline carrier. Unless the Customs Service has reasonable cause to suspect fraud, the Customs Service may accept the bill of lading, or equivalent document of receipt, issued by the pipeline carrier to the shipper and accepted by the consignee to maintain identity. The shipper, pipeline operator, and consignee shall be subject to the recordkeeping requirements of sections 508 and 509.".

SEC. 665. ENTRY FOR WAREHOUSE.

Section 557(a) (19 U.S.C. 1557(a)) is amended—

(1) by designating the first 2 sentences of such subsection as paragraph (1);

(2) by striking out in such paragraph (1) (as so designated) ": *Provided*, That the total period of time for which such merchandise may remain in bonded warehouse shall not exceed 5 years from the date of importation." and inserting the following: "; except that—

"(A) the total period of time for which such merchandise may remain in bonded warehouse shall not exceed 5 years from the date of importation; and

"(B) turbine fuel may be withdrawn for use under section 309 without the payment of duty if an amount equal to the quantity of fuel withdrawn is shown to be used within 30 days after the day of withdrawal, but duties (together with interest payable from the date of the withdrawal at the rate of interest established under section 6621 of title 26, United States Code) shall be deposited by the 40th day after the day of withdrawal on fuel that was withdrawn in excess of the quantity shown to have been so used during such 30-day period."; and

(3) by designating the remaining sentences of such subsection as paragraph (2).

SEC. 666. CARTAGE.

The first sentence of section 565 (19 U.S.C. 1565) is amended to read as follows: "The cartage of merchandise entered for warehouse shall be done by—

"(1) cartmen appointed and licensed by the Customs Service; or

"(2) carriers designated under section 551 to carry bonded merchandise;

who shall give bond, in a penal sum to be fixed by the Customs Service, for the protection of the Government against any loss of, or damage to, the merchandise while being so carted.".

SEC. 667. SEIZURE.

Section 612 (19 U.S.C. 1612) is amended—

(1) by amending subsection (a)—

(A) by striking out "the appropriate customs officer", "such officer" and "the customs officer" wherever they appear and inserting "the Customs Service", and

(B) by striking out "the appraiser's return and his" and inserting "its"; and

(2) by amending subsection (b) to read as follows:

"(b) If the Customs Service determines that the expense of keeping the vessel, vehicle, aircraft, merchandise, or baggage is disproportionate to the value thereof, the Customs Service may promptly order the destruction or other appropriate disposition of such property under regulations prescribed by the Secretary. No customs officer shall be liable for the destruction or other disposition of property made pursuant to this section.".

SEC. 668. LIMITATION ON ACTIONS.

Section 621 (19 U.S.C. 1621) is amended—

(1) by inserting "any duty under section 592(d), 593A(d), or" before "any pecuniary penalty"; and

(2) by striking out "discovered:" and all that follows thereafter and inserting the following: "discovered; except that—

"(1) in the case of an alleged violation of section 592 or 593A, no suit or action (including a suit or action for restoration of lawful duties under subsection (d) of such sections) may be instituted unless commenced within 5 years after the date of the alleged violation or, if such violation arises out of fraud, within 5 years after the date of discovery of fraud, and

"(2) the time of the absence from the United States of the person subject to the penalty or forfeiture, or of any concealment or absence of the property, shall not be reckoned within the 5-year period of limitation.".

SEC. 669. COLLECTION OF FEES ON BEHALF OF OTHER AGENCIES.

The Tariff Act of 1930 is amended by inserting after section 528 the following new section:

"SEC. 529. COLLECTION OF FEES ON BEHALF OF OTHER AGENCIES.

"The Customs Service shall be reimbursed from the fees collected for the cost and expense, administrative and otherwise, incurred in collecting any fees on behalf of any government agency for any reason.".

SEC. 670. AUTHORITY TO SETTLE CLAIMS.

The Tariff Act of 1930 is amended by inserting after section 629 the following new section:

"SEC. 630. AUTHORITY TO SETTLE CLAIMS.

"(a) IN GENERAL.—With respect to a claim that cannot be settled under chapter 171 of title 28, United States Code, the Secretary may settle, for not more than $50,000 in any one case, a claim for damage to, or loss of, privately owned property caused by an investigative or law enforcement officer (as defined in section 2680(h) of title 28, United States Code) who is employed by the Customs Service and acting within the scope of his or her employment.

"(b) LIMITATIONS.—The Secretary may not pay a claim under subsection (a) that—

"(1) concerns commercial property;

"(2) is presented to the Secretary more than 1 year after it occurs; or

"(3) is presented by an officer or employee of the United States Government and arose within the scope of employment.

"(c) FINAL SETTLEMENT.—A claim may be paid under this section only if the claimant accepts the amount of settlement in complete satisfaction of the claim.".

SEC. 671. USE OF PRIVATE COLLECTION AGENCIES.

The Tariff Act of 1930 is amended by inserting after section 630 the following new section:

"SEC. 631. USE OF PRIVATE COLLECTION AGENCIES.

"(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary, under such terms and conditions as the Secretary considers appropriate, shall enter into contracts and incur obligations with one or more persons for collection services to recover indebtedness arising under the customs laws and owed the United States Government, but only after the Customs Service has exhausted all administrative efforts, including all claims against applicable surety bonds, to collect the indebtedness.

"(b) CONTRACT REQUIREMENTS.—Any contract entered into under subsection (a) shall provide that—

"(1) the Secretary retains the authority to resolve a dispute, compromise a claim, end collection action, and refer a matter to the Attorney General to bring a civil action; and

"(2) the person is subject to—

"(A) section 552a of title 5, United States Code, to the extent provided in subsection (m) of such section; and

"(B) laws and regulations of the United States Government and State governments related to debt collection practices.".

Subtitle D—Miscellaneous Provisions and Consequential and Conforming Amendments to Other Laws

SEC. 681. AMENDMENTS TO THE HARMONIZED TARIFF SCHEDULE.

(a) RETURN SHIPMENTS.—General Note 4 of the Harmonized Tariff Schedule of the United States is amended—

(1) by striking out "and" at the end of subdivision (c);

(2) by inserting "and" after "1930," in subdivision (d);

(3) by inserting after subdivision (d) the following:

"(e) articles exported from the United States which are returned within 45 days after such exportation from the United States as undeliverable and which have not left the custody of the carrier or foreign customs service,"; and

(4) by adding at the end the following new sentence: "No exportation referred to in subdivision (e) may be treated as satisfying any requirement for exportation in order to receive a benefit from, or meet an obligation to, the United States as a result of such exportation.".

(b) ENTRY NOT REQUIRED FOR LOCOMOTIVES AND RAILWAY FREIGHT CARS.—

(1) The Notes to chapter 86 of such Schedule are amended by inserting after note 3 the following new note:

"4. Railway locomotives (provided for in headings 8601 and 8602) and railway freight cars (provided for in heading 8606) on which no duty is owed are not subject to the entry or release requirements for imported merchandise set forth in sections 448 and 484 of the Tariff Act of 1930. The Secretary of the Treasury may by regulation establish appropriate reporting requirements, including the requirement that a bond be posted to ensure compliance.".

(2) The U.S. Notes to subchapter V of chapter 99 of such Schedule are amended by inserting after note 8 the following new note:

"9. Railway freight cars provided for in subheadings 9905.86.05 and 9905.86.10 are not subject to the entry or release requirements for imported merchandise set forth in sections 448 and 484 of the Tariff Act of 1930. The Secretary of the Treasury may by regulation establish appropriate reporting requirements, including the requirement that a bond be posted to ensure compliance.".

(c) INSTRUMENTS OF INTERNATIONAL TRAFFIC.—The U.S. Notes to subchapter III of chapter 98 of such Schedule is amended by inserting after note 3 the following new note:

"4. Instruments of international traffic, such as containers, lift vans, rail cars and locomotives, truck cabs and trailers, etc. are exempt from formal entry procedures but are required to be accounted for when imported and exported into and out of the United States, respectively, through the manifesting procedures required for all international carriers by the United States Customs Service. Fees associated with the importation of such instruments of international traffic shall be reported and paid on a periodic basis as required by regulations issued by the Secretary of the Treasury and in accordance with 1956 Customs Convention on Containers (20 UST 30; TIAS 6634).".

SEC. 682. CUSTOMS PERSONNEL AIRPORT WORK SHIFT REGULATION.

Section 13031(g) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(g)) is amended—

(1) by striking out "In addition to the regulations required under paragraph (2), the" and inserting "The";

(2) by striking out paragraph (2); and

(3) by redesignating paragraph (3) as paragraph (2).

SEC. 683. USE OF HARBOR MAINTENANCE TRUST FUND AMOUNTS FOR ADMINISTRATIVE EXPENSES.

(a) IN GENERAL.—Paragraph (3) of section 9505(c) of the Internal Revenue Code of 1986 (relating to expenditures from Harbor Maintenance Trust Fund) is amended to read as follows:

"(3) for the payment of all expenses of administration incurred by the Department of the Treasury, the Army Corps of Engineers, and the Department of Commerce related to the administration of subchapter A of chapter 36 (relating to harbor maintenance tax), but not in excess of $5,000,000 for any fiscal year.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to fiscal years beginning after the date of the enactment of this Act.

SEC. 684. AMENDMENTS TO TITLE 28, UNITED STATES CODE.

(a) AMENDMENTS RELATING TO ACCREDITATION OF PRIVATE LABORATORIES.—Title 28 of the United States Code is amended as follows:

(1) Section 1581(g) is amended by—

(A) striking out "and" at the end of paragraph (1);

(B) by striking out the period at the end of paragraph (2) and inserting "; and"; and

(C) by adding at the end the following:

"(3) any decision or order of the Customs Service to deny, suspend, or revoke accreditation of a private laboratory under section 499(b) of the Tariff Act of 1930.".

(2) Section 2631(g) is amended by inserting at the end the following new paragraph:

"(3) A civil action to review any decision or order of the Customs Service to deny, suspend, or revoke accreditation of a private laboratory under section 499(b) of the Tariff Act of 1930 may be commenced in the Court of International Trade by the person whose accreditation was denied, suspended, or revoked.".

(3) Section 2636 is amended—

(A) by redesignating subsection (h) as subsection (i); and

(B) by inserting after subsection (g) the following new subsection:

"(h) A civil action contesting the denial, suspension, or revocation by the Customs Service of a private laboratory's accreditation under section 499(b) of the Tariff Act of 1930 is barred unless commenced in accordance with the rules of the Court of International Trade within 60 days after the date of the decision or order of the Customs Service.".

(4) Section 2640 is amended—

(A) by redesignating subsection (d) as subsection (e); and

(B) by inserting after subsection (c) the following new subsection:

"(d) In any civil action commenced to review any order or decision of the Customs Service under section 499(b) of the Tariff Act of 1930, the court shall review the action on the basis of the record before the Customs Service at the time of issuing such decision or order.".

(5) Section 2642 is amended by inserting before the period the following: "or laboratories accredited by the Customs Service under section 499(b) of the Tariff Act of 1930".

(b) APPLICATION OF SUBSECTION (a) AMENDMENTS.—For purposes of applying the amendments made by subsection (a), any decision or order of the Customs Service denying, suspending, or revoking the accreditation of a private laboratory on or after the date of the enactment of this Act and before regulations to implement section 499(b) of the Tariff Act of 1930 are issued shall be treated as having been denied, suspended, or revoked under such section 499(b).

(c) JURISDICTION OF COURT.—Section 1582(1) of title 28, United States Code, is amended by inserting "593A," after "592,".

(d) FILING OF OFFICIAL DOCUMENTS.—Section 2635(a) of title 28, United States Code, is amended to read as follows:

"(a) In any action commenced in the Court of International Trade contesting the denial of a protest under section 515 of the Tariff Act of 1930 or the denial of a petition under section 516 of such Act, the Customs Service, as prescribed by the rules of the court, shall file with the clerk of the court, as part of the official record, any document, paper, information or data relating to the entry of merchandise and the administrative determination that is the subject of the protest or petition.".

SEC. 685. TREASURY FORFEITURE FUND.

Section 9703 of title 31, United States Code (as added by Public Law 102-393), is amended—

(1) by redesignating subparagraphs (E), (F), (G), (H), and (I) of subsection (a)(2) as subparagraphs (F), (G), (H), (I), and (J), respectively;

(2) by inserting after subparagraph (D) of subsection (a)(2) the following new subparagraph:

"(E) the payment of claims against employees of the Customs Service settled by the Secretary under section 630 of the Tariff Act of 1930;"; and

(3) by striking out "shall" the first place it appears in subsection (e) and inserting "may".

SEC. 686. AMENDMENTS TO THE REVISED STATUTES OF THE UNITED STATES.

(a) TECHNICAL AMENDMENTS.—The Revised Statutes of the United States are amended as follows:

(1) Section 2793 (19 U.S.C. 288, 46 U.S.C. App. 111, 123) is amended—

(A) by striking out "Enrolled or licensed vessels engaged in the foreign and coasting trade on the northern, northeastern, and northwestern frontiers of the United States," and inserting "Documented vessels with a coastwise, Great Lakes endorsement,"; and

(B) by striking out the first semicolon and all the text that follows thereafter and inserting a period.

(2) Section 3126 (19 U.S.C. 293) is amended—

(A) by striking out "Any vessel, on being duly registered in pursuance of the laws of the United States," and inserting "Any United States documented vessel with a registry or coastwise endorsement, or both" and

(B) by striking out all the text occurring after the first sentence.

(3) Section 3127 (19 U.S.C. 294) is amended by striking out "in registered vessels" and inserting "a United States documented vessel with a registry or coastwise endorsement, or both,".

(4) Section 4136 (46 U.S.C. App., 14) is amended by striking out—

(A) "The Secretary of Commerce may issue a register or enrollment" and inserting "The Secretary of Transportation may issue a certificate of documentation with a coastwise endorsement"; and

(B) "Secretary of Commerce," and inserting "Secretary of Transportation,".

(5) Section 4336 (46 U.S.C. App. 277) is amended—

(A) by striking out "register or enrollment or license of any vessel" and inserting "certificate of documentation of any documented vessel"; and

(B) by striking out "Secretary of the Treasury is not required to have its register or enrollment or license" and inserting "Secretary of Transportation is not required to have its certificate of documentation".

(b) CLEARANCE REQUIREMENTS.—Section 4197 of such Revised Statutes (46 U.S.C. App. 91) is amended to read as follows:

"SEC. 4197. CLEARANCE; VESSELS.

"(a) WHEN REQUIRED; VESSELS OF THE UNITED STATES.—Except as otherwise provided by law, any vessel of the United States shall obtain clearance from the Customs Service before proceeding from a port or place in the United States—

"(1) for a foreign port or place;

"(2) for another port or place in the United States if the vessel has on board bonded merchandise or foreign merchandise for which entry has not been made; or

"(3) outside the territorial sea to visit a hovering vessel or to receive merchandise while outside the territorial sea.

"(b) WHEN REQUIRED; OTHER VESSELS.—Except as otherwise provided by law, any vessel that is not a vessel of the United States shall obtain clearance from the Customs Service before proceeding from a port or place in the United States—

"(1) for a foreign port or place;

"(2) for another port or place in the United States; or

"(3) outside the territorial sea to visit a hovering vessel or to receive or deliver merchandise while outside the territorial sea.

"(c) REGULATIONS.—The Secretary of the Treasury may by regulation—

"(1) prescribe the manner in which clearance under this section is to be obtained, including the documents, data or information which shall be submitted or transmitted, pursuant to an authorized data interchange system, to obtain the clearance;

"(2) permit the Customs Service to grant clearance for a vessel under this section before all requirements for clearance are complied with, but only if the owner or operator of the vessel files a bond in an amount set by the Secretary of the Treasury conditioned upon the compliance by the owner or operator with all specified requirements for clearance within a time period (not exceeding 4 business days) established by the Secretary of the Treasury; and

"(3) authorize the Customs Service to permit clearance of any vessel to be obtained at a place other than a designated port of entry, under such conditions as he may prescribe.".

SEC. 687. AMENDMENTS TO TITLE 18, UNITED STATES CODE.

Section 965(a) of title 18, United States Code, is amended—

(1) by striking out "sections 91, 92, and 94 of Title 46" and inserting "section 431 of the Tariff Act of 1930 (19 U.S.C. 1431) and section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91),";

(2) by striking out "the collector of customs for the district wherein such vessel is then located" and inserting "the Customs Service"; and

(3) by striking out "the collector like" and inserting in lieu thereof "the Customs Service like".

SEC. 688. AMENDMENT TO THE ACT TO PREVENT POLLUTION FROM SHIPS.

Section 9(e) of the Act to Prevent Pollution from Ships (94 Stat. 2301, 33 U.S.C. 1908(e)) is amended by striking out "shall refuse or revoke" and all of the text following thereafter and inserting "shall refuse or revoke the clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91). Clearance may be granted upon the filing of a bond or other surety satisfactory to the Secretary.".

SEC. 689. MISCELLANEOUS TECHNICAL AMENDMENTS.

(a) ACT OF OCTOBER 3, 1913.—The Act of October 3, 1913, is amended—

(1) in section IV, J, subsection 1 (19 U.S.C. 128) by striking out "registered as a vessel of the United States," and inserting "documented under chapter 121 of title 46, United States Code,"; and

(2) in section IV, J, subsection 3 (19 U.S.C. 131)—

(A) by striking out "vessels of the United States" and inserting "United States documented vessels"; and

(B) by striking out "registered as a vessel of the United States." and inserting "documented under chapter 121 of title 46, United States Code.".

(b) ACT OF AUGUST 5, 1935.—Section 4 of the Act of August 5, 1935 (19 U.S.C. 1704) is amended—

(1) by striking out "whenever the collector of customs of the district in which any vessel is, or is sought to be, registered, enrolled, licensed, or numbered," and inserting "when the Secretary of Transportation";

(2) by striking out "such collector" and inserting "the Secretary of Transportation";

(3) by striking out "said collector shall revoke the registry, enrollment, license, or number of such vessel" and inserting "the Secretary of Transportation shall revoke any endorsement on the vessel's certificate of documentation or number (when the Secretary is the authority issuing the number under chapter 123 of title 46, United States Code)"; and

(4) by striking out "Such collector and all persons" and inserting "The Secretary of Transportation and all persons".

(c) ACT OF NOVEMBER 6, 1966.—Sections 2(e) and 3(e) of the Act of November 6, 1966 (46 U.S.C. App. 817d(e) and 817e(e)) are each amended—

(1) by striking out "The collector of customs at" and inserting "At"; and

(2) by inserting ", the Customs Service" after "subsection (a) of this section".

SEC. 690. REPEAL OF OBSOLETE PROVISIONS OF LAW.

(a) REVISED STATUTES.—The following provisions of the Revised Statutes of the United States are repealed:

(1) So much of section 2792 as is codified at 19 U.S.C. 289 and 46 U.S.C. App. 110 and 112 (as in effect on the date of the enactment of this Act).

(2) Section 3111 (19 U.S.C. 282).

(3) Section 3118 (19 U.S.C. 286).

(4) Section 3119 (19 U.S.C. 287).

(5) Section 3122 (19 U.S.C. 290).

(6) Section 3124 (19 U.S.C. 291).

(7) Section 3125 (19 U.S.C. 292).

(8) Section 4198 (46 U.S.C. App. 94).

(9) Section 4199 (46 U.S.C. App. 93).

(10) Section 4201 (46 U.S.C. App. 96).

(11) Section 4207.

(12) Section 4208 (46 U.S.C. App. 102).

(13) Section 4213 (46 U.S.C. App. 101).

(14) So much of section 4221 as is codified at 46 U.S.C. App. 113 (as in effect on the date of the enactment of this Act).

(15) Section 4222 (46 U.S.C. App. 126).

(16) Sections 4306, 4307, and 4308 (46 U.S.C. App. 351 through 353).

(17) Section 4332 (46 U.S.C. App. 274).

(18) Section 4348 (46 U.S.C. App. 293).

(19) Section 4358 (46 U.S.C. App. 306).

(20) Section 4361 (46 U.S.C. App. 307).

(21) Sections 4362 through 4369 (46 U.S.C. App. 308 through 315).

(22) Sections 4573 through 4576 (46 U.S.C. App. 674 through 677).

(b) TARIFF ACT OF 1930.—The following sections of the Tariff Act of 1930 are repealed:

(1) Section 432 (19 U.S.C. 1432).

(2) Section 435 (19 U.S.C. 1435).

(3) Section 437 (19 U.S.C. 1437).

(4) Section 439 (19 U.S.C. 1439).

(5) Section 440 (19 U.S.C. 1440).

(6) Sections 443, 444, and 445 (19 U.S.C. 1443, 1444, and 1445).

(7) Section 465 (19 U.S.C. 1465).

(8) Section 482 (19 U.S.C. 1482).

(9) Section 583 (19 U.S.C. 1583).

(10) Section 585 (19 U.S.C. 1585).

(c) MISCELLANEOUS PROVISIONS.—The following provisions are repealed:

(1) Section 1 of the Act of February 10, 1900 (46 U.S.C. App. 131).

(2) Section 2 of the Act of April 29, 1908 (46 U.S.C. App. 127).

(3) Section 1 of the Act of July 1, 1916 (46 U.S.C. App. 130).

(4) Sections 1 and 2 of the Act of July 3, 1926 (46 U.S.C. App. 293a and 293b).

(5) The last undesignated paragraph of section 201 of the Act of August 5, 1935 (19 U.S.C. 1432a), is repealed.

(6) The Act of June 16, 1937 (19 U.S.C. 1435b).

(7) The Act of May 4, 1934 (46 U.S.C. App. 91a).

(8) Section 1403(b) of the Water Resources Development Act of 1986 (Public Law 99–662; 26 U.S.C. 4461 note).

SEC. 691. REPORTS TO CONGRESS.

(a) ANTIDUMPING AND COUNTERVAILING DUTY COLLECTIONS.—The Commissioner of Customs shall before the 60th day of each fiscal year after fiscal year 1994 submit to Congress a report regarding the collection during the preceding fiscal year of duties imposed under the antidumping and countervailing duty laws.

(b) CES FEE REPORT.—

(1) AMENDMENT.—Section 9501(c) of the Omnibus Budget Reconciliation Act of 1987 (19 U.S.C. 3 note) is amended by adding at the end the following new paragraph:

"(3) The Commissioner of Customs is authorized to obtain from the operators of centralized cargo examination stations information regarding the fees paid to them for the provision of services at these stations.".

(2) REPORT.—Within 9 months after the date of the enactment of this subsection, the Commissioner of Customs shall submit to the Committees referred to in section 9501(c) of the Omnibus Budget Reconciliation Act of 1987, a report setting forth—

(A) an estimate of the aggregate amount of fees paid to operators of centralized cargo examination stations during fiscal year 1993; and

(B) the variations, if any, among customs districts with respect to the amounts of the fees charged for centralized cargo examination station services.

(c) COMPLIANCE WITH CUSTOMS LAWS.—Section 123 of the Customs and Trade Act of 1990 (19 U.S.C. 2083) is amended—

(1) by redesignating subsection (d) as subsection (e), and

(2) by inserting after subsection (c) the following:

"(d) COMPLIANCE PROGRAM.—The Commissioner of Customs shall—

"(1) devise and implement a methodology for estimating the level of compliance with the laws administered by the Customs Service; and

"(2) include as an additional part of the report required to be submitted under subsection (a) for each of fiscal years 1994, 1995, and 1996, an evaluation of the extent to which such compliance was obtained during the 12-month period preceding the 60th day before each such fiscal year.".

(d) COURIER SERVICES COMPLIANCE REPORT.—The Commissioner of Customs shall initiate a compliance review of certain courier services which may not be eligible for benefits under the regulations of the Customs Service prescribed in part 128 of title 19 of the Code of Federal Regulations and shall submit a report to Congress on the results of such review within 1 year after the date of the enactment of this Act.

SEC. 692. EFFECTIVE DATE.

This title takes effect on the date of the enactment of this Act.

The CHAIRMAN. Under the rule, the gentleman from Illinois [Mr. ROSTENKOWSKI], or a designee, will be recognized for 2 hours in favor of the bill; the gentleman from Missouri [Mr. GEPHARDT], or a designee, will be recognized for 2 hours in opposition to the bill; the gentleman from Illinois [Mr. MICHEL], or a designee, will be recognized for 2 hours in favor of the bill; and the gentleman from New York [Mr. SOLOMON], or a designee, will be recognized for 2 hours in opposition to the bill.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to begin this debate today with a plea for perspective. It is true that the issue before us is terribly important to America's future in the decades ahead. But I fear that both sides have been guilty of grossly overstating the impact it will have in the days and weeks ahead.

We will not experience a hemispheric boom or burst in January because we approve this agreement in November. Nor will we see a burst of job gains—or job losses—in the first quarter of next year because we approved NAFTA in the last quarter of this year. Today's jobless will not suddenly find work because there's a NAFTA. And those workers whose jobs are in jeopardy today will not be any safer if NAFTA fails.

But that does not mean that our decision today is unimportant. In fact, our vote today will help determine what kind of American economy our children will inherit. We are debating whether America is a confident country, eager to face the future, ready to take on all competitors—or a nation in decline clinging to memories of our past.

In this debate, we are telling the world how we view ourselves, whether we welcome change and challenge or whether we fear it. We are sending a message about whether the world's only superpower thinks its best days are in the past or in the future.

While we frequently spend many hours in this Chamber discussing our Nation's flaws, I nonetheless am an optimist. Repeatedly in our history, we have been asked to enlarge America's markets. There have always been doubters, but they have always been proven wrong.

Each enlargement of our market has led to an enhancement of our standard of living. I am confident that our approval of NAFTA will open another positive chapter in American history.

I urge my colleagues to embrace the future and support NAFTA.

The Chairman, I reserve the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. Mr. Chairman, I yield 5½ minutes to the gentleman from South Carolina [Mr. DERRICK].

Mr. DERRICK. Mr. Chairman, if Members believe what my distinguished colleague, the gentleman from Chicago, IL, just told us, they should read the history of the British empire, because the British spent 200 years giving away their industrial strength for foreign policy, and look where they are today. They were once the greatest empire the world has ever known.

Let me say that there is a lot of misinformation that has gone out on both sides of this argument, but one thing that is true as I stand here this morning and speak to the Members is the fact that if we pass NAFTA, Americans are going to lose jobs. The Members should not take my word for it. The Wall Street Journal did a survey in which some 500 executives throughout this country were asked what they would do if NAFTA passed; 55 percent of them responded that if NAFTA passed, they would give serious consideration to moving part of their operations to Mexico.

If that does not convince Members, let me suggest they read their business magazines throughout this country and see the ads that are constantly appearing: "Come to Mexico, bring your business to Mexico, cheap labor, no regulations." At the Bobbin manufacturing exhibit in Atlanta, just a few weeks ago, they were handing out fliers advertising for apparel manufacturers to move to Mexico.

□ 1120

I have had in the last 2 or 3 days a telephone call from a broom manufacturer in my district, wanting to know how to locate a plant in Mexico, and who to get in touch with in Mexico.

We have heard an awful lot about retraining. Well, let me tell you, as you go through the Third District of South Carolina, and you see the vacant store fronts in the small communities throughout South Carolina, you know that to train people who have lost their jobs, there have to be jobs to train them for. When these people lose the jobs that they have had for years and years in apparel and textiles, there is nothing else for them to do except to get on some sort of government dole.

What NAFTA proposes to do is to make Mexico a de facto state for economic purposes, a state where manufacturers can move and buy labor for $1 an hour instead of what they are paying back home—$7 and $8 an hour—with no health provisions, no safety, no wage restraints to follow. So let me tell you, if NAFTA passes, they will move and jobs will be lost.

There is another myth that is out there, that there is going to be some magic market that will be created for American goods. Common sense tells you that Mexicans making $1 an hour or less cannot afford to buy American goods. The Government of Mexico is committed to a low-wage policy. The wage rates of Mexicans today are 62 percent of what they were in 1979 and 1980.

It is simply wrong that there is some great export market that this country has; it is just not true. American exports to Mexico in 1992 were $44 billion; 70 percent were goods not intended for the consumer market—they were either capital goods or goods that are sent down there to be assembled and come back. The only thing that counts in a market such as that are consumer goods, of which there were relatively few.

So what is the cost going to be to our country? We are probably going to lose 1 million jobs over the next 20 years. The taxpayers, according to the Joint Economic Committee, are going to have to pay over $20 billion for costs associated with the enactment of NAFTA.

In conclusion, let me say this to the administration: If this is such a good deal, why did we almost have to give the portico away on the White House to get it? As I travel about over this country on planes, people who wear suits and ties are all for NAFTA. But I say to the administration, those are not the people that brought you to the dance. The people that brought you to the dance are those that are working out there in the mills and the small communities of this country that are worried about losing their jobs. And I say to the administration, just be careful when you send out these letters to the minority, that when the music stops you have a partner to dance with.

Mr. KOLBE. Mr. Chairman, to begin this historic debate on our side, it is my great pleasure to yield 4 minutes to the gentleman from Georgia [Mr. GINGRICH], the majority whip.

Mr. GINGRICH. Mr. Chairman, I thank my friend from Arizona for yielding.

Mr. Chairman, this is a debate, as you have just heard, between fear and clinging to the past versus hope and building a new future. This debate is in the past traditions of historic bipartisanship, the tradition of the Marshall plan, the Truman doctrine, and the vote on Desert Storm. Unlike that vote, where every elected Democratic leader opposed the President of the United States, I am proud to say that all but one of the elected House Republican leaders are working with the President of the United States.

We know that we have a chance to create local jobs through world sales. We know this is a bipartisan commitment.

Then-Candidate Reagan, November 14, 1979, said:

> We live on a continent whose three countries possess the assets to make it the strongest, most prosperous and self-sufficient area on Earth. Within the borders of this North American continent are the food, resources, technology, and undeveloped territory which, properly managed, could dramatically improve the quality of life of all it's inhabitants.
>
> It is no accident that this unmatched potential for progress and prosperity exists in three countries with such longstanding heritages of free government. A developing closeness among Canada, Mexico, and the United States—a North American accord—would permit achievement of that potential in each country beyond that which I believe any of them, strong as they are, could accomplish in the absence of such cooperation.

That was then-Candidate Reagan.

President George Bush, on September 10, 1992, said:

> NAFTA will open an important market, a Mexican economy whose growth prospects will quickly transform its expanding industries and consumers into excellent American customers.

Then-Candidate Bill Clinton, on October 4, 1992, speaking of NAFTA, said:

> It will provide more jobs through exports. It will challenge us to become more competitive. It will certainly help Mexico to develop, but still, that is also in our interest. A wealthier Mexico will buy more American products.

So every one of our recent Presidents—Reagan, Bush, Clinton—have all said "yes" to the idea of more American jobs through trade.

Some conservatives have worried about sovereignty. Yet Judge Bork says, "Any possible threat posed by the NAFTA side agreements to the sovereignty of the United States, there is no such threat discernible." He went on to say, "No treaty or executive agreement can bind the United States if it wishes to withdraw from the agreement's obligations. There is no sovereignty question."

William F. Buckley said, "NAFTA yields no significant irreversible authority to any extra-national body."

There is no such sovereignty argument. But there is a real argument. My only request of my friends who are against it is that when you debate NAFTA today, you debate the facts—that you stick to the historic issues.

We talked about pressure, pressure at the White House. There has been no pressure in this debate like the pressure from the labor unions, and every American knows it, because they have seen it on national television.

But I would ask you, after debate based on the facts, when you vote tonight, remember two things: This is a vote for history. Every once in a while there is that magic moment that is larger than politics; it is larger than reelection; it is larger than personal ego. It is a moment when you define for the future of the Nation and the future of the world who we are and what we believe in.

Second, vote the future of your country and your children. I am an optimist. As Reagan once said, I believe in dreaming heroic dreams. After all, I am an American. I chose to vote to increase American civilization, to increase our economic opportunity, because I believe in a bigger future, a better future, and a greater chance for all humans to pursue happiness. And I believe reaching out to Mexico is an important first step in that direction.

Mr. SOLOMON. Mr. Chairman, I yield myself such time as I might consume.

Mr. Chairman, in doing so, I would like to brag that I was, with the exception of our Republican leaders, the gentleman from Illinois [Mr. MICHEL], Ronald Reagan's strongest supporter in this Congress. I was so proud to carry his water for 8 years in this Congress.

In that same vein, I have always believed in the principles of free trade. But, Mr. Chairman, free trade has to be fair trade. The very first principle of fair trade is that it must be conducted on a level playing field.

Mr. Chairman, there is nothing fair about this agreement. Under the terms of NAFTA and the attendant side agreements, there is no semblance of a level playing field, and all of us know it. As a matter of fact, the entire playing field is tipped in the favor of Mexico, guaranteeing unfair competition for American business and industry and American workers.

Mr. Chairman, this is a bad agreement, a destructive agreement, and an agreement that must be rejected by this Congress today. It will not be the end of the world if we do that.

□ 1130

Mr. Chairman, there are many flaws in this so-called free-trade agreement, but five of them, I think, stand out as the most egregious:

First, NAFTA violates the U.S. Constitution. Second, it threatens the sovereignty of this great Nation. Third, it will result in more Federal porkbarrel spending, the creation of another U.S. taxpayer-funded international bank, similar to the World Bank, and more foreign aid paid out of the pockets of the American people.

Fourth, it will raise taxes, once again, on the American people. And my gosh, when will that stop?

Fifth, and perhaps most importantly, the Mexican Government continues to be totally undemocratic and cannot be trusted to keep its end of the bargain.

Allow me to address just some of these flaws. As to the Constitution, there is no question that this pact violates articles I, II, and III of the Constitution, as well as the fifth amendment. In fact, a lawsuit is being prepared right now in the event that NAFTA does pass.

Additionally, the inclusion of the Clinton administration's side agreements violates U.S. law, and it violates the rules of this House.

Under the terms of the 1988 Trade Act, the fast-track procedures under which we are considering this agreement today apply only to agreements entered into before June 1, 1993.

Mr. Chairman, we both know that the side agreements were negotiated after June 1 and, thus, should be voted on separately by this Congress. But there is not going to be any separate vote. There is going to be one up-or-down vote on all of this, 7,000 pages. And none of my colleagues have read it. There is not a Member in this House who has read it. I have not read it, and I was in my office till midnight last night trying to see exactly what is in this, to at least have some comprehensive understanding of it.

Regarding the sovereignty issue, NAFTA will create huge new international bureaucratizes and tribunals paid for by who else? By the American taxpayers. And we Republicans are going to vote to create these new international bureaucracies and tribunals? And these new bureaucracies and tribunals will be employers to resolve disputes over trade, environmental and regulatory issues? Regulatory issues? Superseding U.S. law and State law?

Listen to these new agencies, and I am sorry to get so excited about this. The North American Free-Trade Commission. Think about it. The North American Development Bank, another World Bank style bureaucracy paid for by the man in the barrel, the American taxpayer. And this bank, incidentally, is a payoff to some in our California delegation. We will hear more about that.

Then we have the Border Environment Cooperation Commission, and God knows what that is. Members can bet their last taxpayer's dollar that it is another huge new bureaucracy accountable to whom? Accountable to no one in America.

Mr. Chairman, it goes on and on. Take the time to read this pact. These unelected, unaccountable tribunals will effectively usurp the legitimate authority of this U.S. Congress. They will usurp and abrogate States' rights. Members' own State laws dealing with the environment and labor. And they will override our own U.S. Federal Court System.

Mr. Chairman, upon taking office each one of us swears to uphold our cherished Constitution. We did not swear to tear it down, to abrogate it, to usurp it. But that is exactly what we are doing here. Read the pact, read the side agreements.

Mr. Chairman, as I stated before, some of these trilateral bureaucracies represent political payoffs by the administration to some reluctant Members of Congress. And what else has the administration promised?

Some of the new protectionist deals in what is supposed to be a free-trade pact include deals on peanuts, citrus fruits, corn syrup, sugarbeets, cotton, beef, and tomatoes. There are unauthorized road and bridge projects, textile protection in Virginia, manhole covers in Louisiana, and heaven knows what else. Mr. Chairman, should not these deals be voted on separately by this Congress? Do my colleagues know what would happen to them? They would all go down in flames. They would not be a part of this process.

Mr. Chairman, there is even more. For instance, the list of goodies used to literally buy votes, although legally, includes two new C-17 cargo planes at a cost of $1.5 billion to buy just one vote. These two airplanes are not even in the budget for 1994. How is President Clinton going to deliver those two planes? Are Members going to vote for it? They know they are not. So we cannot deliver. So whoever is selling their vote for two of these planes, is not going to get it. That deal is going to be reneged.

And then we have a helium reserve down in Texas, $305 million. Eliminating that was in President Clinton's rescission bill which is sitting over here on the desk waiting for us to vote on it. But we will never have a chance to enact it because the appropriators are going to kill it. And they are not even going to give us a chance. But here President Clinton is promising to put back in this helium thing which he has already asked us to turn down.

Mr. Chairman, this administration has bought, but not paid for, scores of pro-NAFTA votes, courtesy of the taxpayers. And those taxpayers are going to be outraged when they start adding them up.

Did Members read the New York Daily News or the New York Post this morning? Front page stories say there is $50 billion in goodies, giveaways.

Speaking of taxes, it goes without question that reduced tariffs under NAFTA will cost, according to most estimates, $2.5 billion. And it is going to be much higher than that. The gentleman from Illinois [Mr. ROSTENKOWSKI] knows that. And how does the administration propose to pay for this? Of course, in the usual way around here, we are going to raise taxes, as if the largest tax increase in the history of this Nation 3 months ago was not enough.

Let me tell Members something, it will be enough for the American people. My friends, judgment day is coming. It is coming next November. We are all up for reelection in less than a year. That is not very long for some of the new Members in particular.

Let me tell Members, it will be here in a split second. All of a sudden, opponents are going to be out there screaming at Members. It will be here before we know it. And colleagues, the American people do not care whether we are Republicans or Democrats. They are going to throw us out of here if we do not stop taxing and spending and regulating the American people.

Lastly, Mr. Chairman, let me just address the question of the Mexican Government. Let us face it. It is a one-party dictatorship. One political party in Mexico has been in power and has magically won every election since 1929. That is 64 years. That is longer than the Democrats have controlled this House. And how do Members think that happens? Every democracy in this hemisphere experiences problems every once in a while. But one-party rule for 64 years? Do we call that a democratic government in Mexico? Members know better.

Mr. Chairman, that government is not accountable to the American people or even to the Mexican people. It is only accountable to its own self-interest. Mr. Chairman, the Mexican Government can and does violate its own laws. Those politicians turn their heads, and there is corruption all over the place. They routinely fail to enforce their own labor laws and environmental regulations already.

The Mexican Government has already stated that it will not write the side agreements to NAFTA into Mexican law, as they are in our country, where there is recourse if American businesses do not live up to the law. There is no recourse in Mexico.

And while American businesses will have to meet our already high standards, and in New York State they are even higher than the rest of the Nation, nothing is going to happen in Mexico.

Mr. Chairman, this agreement amounts to little more than a handshake. I am going to tell my colleagues right now, as a member of the Committee on Foreign Affairs for many years, the Mexican Government cannot be trusted to make good on just a handshake.

Let me tell Members, the way to deal with a nation like Mexico is not in this trilateral operation that we have in this bill. We need to deal bilaterally, without the interference of some bureaucracy that is accountable to no one, especially not to the American people.

□ 1140

Members of Congress, we could demand bilaterally that the Mexican Government write these agreements into their own commercial code and enforce them before we initiate the agreement. That is how we deal bilaterally. We have all of this influence in America. All we have to do is tell them what to do, and they will have to do it.

Mr. Chairman, after NAFTA passes Mexico will have no incentive to implement any side agreements, and they will not do it. The result will be the destruction of hundreds of thousands of U.S. jobs. We know that. That is why we have all of these deals in the bill to work out retraining programs for Americans who are going to lose their jobs. It is in the bill. Read it. How do we justify that?

Mr. Chairman, NAFTA is currently, as negotiated, just not going to work. I am going to tell Members something right now. We can work out a free-trade pact with Mexico, we can do it. But we have to sit down and do it together as Republicans and Democrats working with the President. And I pledge to my colleagues that I will be the first to do that, as a free trader all my life. But we have to remember that we cannot do something that is going to take away American jobs. The American people deserve better than that, and that is why I will vote "no" on this bill.

But I pledge to Members to work to try to develop something that will certainly make for a level playing field for the American people, so that they can compete and save their jobs.

Mr. Chairman, I reserve the balance of my time.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. GIBBONS], chairman of the Subcommittee on Trade of the Committee on Ways and Means.

Mr. GIBBONS. Mr. Chairman, in 2 minutes it is almost impossible to refute all of the mistakes that the former speaker, the gentleman from New York, just made. I want to try to straighten him out a little if I can.

We are debating H.R. 3450. It is a document that is 445 pages long, not all of the books that the gentleman has there. But that is what we are debating.

Of that, only the first 300 pages are new legislation. The remainder of the legislation has passed the House, passed the Senate, and unfortunately was vetoed when that whole bunch of bills were vetoed last year. It is the Trade Modernization Act. So we are talking about some 300 pages here that we have to go through.

I think I know more about it than I am sure the gentleman does, and I think I know more about it than most of the Members of this House, because I helped put this together over a 3-year period. I have heard everybody complain, talk about it. We have checked it all out, and most of it is misinformation, just as we have just heard.

I know not only the small picture, but I know the larger picture. I have been visiting Mexico for over 50 years. Mexico is a poor country. It is our next door neighbor. It has been there for 500 years. It is not going away.

The Mexican economy, the Mexican nationality is mixing with the American economy and the American nationality. It is time that we did something constructive about it.

This trade agreement, and that is what we are talking about, is a trade agreement, just 300 pages long, is a carefully worked out and considered document. It will open the Mexican market to the United States, the Mexican market that has been closed to us for most of those 400 years.

It will also allow us to send our goods to Mexico, not our jobs to Mexico.

Those who want to preserve the status quo, which they complain about, are losing the whole point of this argument. We have got to change the status quo. This small bill does.

Mr. GEPHARDT. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, what disturbs me most about this NAFTA agreement is that essentially it treats the workers of this country, hard-working American men and women supporting themselves and their families, as an afterthought.

For the past 20 years we have watched the American family be hit with wave after wave of unemployment. We have watched them lose their jobs, their benefits, their income, and their standard of living. We have seen that as unemployment has taken place in various sectors of our economy that those families that were hit by it have never been able to recover their standard of living. They have never been able to recover their wages or the dreams for their children. We have seen that each and every time.

In spite of this 20-year history, this Government has never been willing or able to confront the future of these workers and what our obligation is to try to help them when they, basically through no fault of their own, have become unemployed. We have never had a comprehensive policy to transition workers from one industry to another, from one segment of our economy to another, to deal with reeducation, retraining, and reemployment. Our policy is that you get an unemployment check, you become poor, you lose your home, you take your children out of school, and you start over. That kind of economic Darwinism cannot continue to serve the American economy or the American citizens.

But that is what has happened, and that is what is happening today as we embark on a new venture in the American economy by sanctioning the free-trade agreement with Mexico, recognizing that it will be incorporated into a large free-trade agreement with Latin America.

But this is not the first time the American worker will be left behind. They were left behind when the automobile industry failed to recognize the desire of American consumers for high-quality goods and to get their production costs down, resulting in the unemployment of a quarter of a million people and more people this last year. They were left behind when the steel industry failed to reinvest its profits in steelmaking and was not competitive in the world, and tens of thousands of people lost their jobs, never to recover their standard of living.

We have seen it in other areas, when capital went crazy in the 1980's and debt was assumed in the name of leveraged buyouts, and corporate takeovers, and when good companies like Continental, Eastern, Safeway, and others were thrown into debt, and the only way the debt could be solved was to unemploy the workers. So a few predatory attorneys and dealmakers made huge profits and the workers hit the unemployment lines.

Even today, as we reduce defense spending and experience base closures, what we find out is there is no program in place for these people who helped us win the cold war, for these people who have the highest and the best skills in the world. They are an afterthought. And that is why there is a labor side agreement, because labor had no chair at the NAFTA consultations, at its negotiations. There was no chair for Mr. and Mrs. Jones and their family, for Mr. and Mrs. Smith, for the aerospace worker, for the high-technology worker, for the blue collar worker. There was no chair for them. And when that became obvious to America, we ran in and tried to negotiate a side agreement, a side agreement that we will not vote on here, a side agreement that is not enforceable, and a side agreement that will do nothing to protect American workers from the downward pressure on their wages that will be caused by NAFTA.

So once again we see that the American worker is an afterthought.

That cannot be the mission of this Government, of this administration or of this Congress. We must start to recognize the dignity of our workers and our families and our obligations to help them as they move through a changing economy.

This NAFTA should be turned down.

Mr. LEWIS of California. Mr. Chairman, as I take a moment to control the time of the gentleman from Arizona [Mr. KOLBE], I am rather disappointed. I thought for a while that I was going to get a dissertation on the trilateral commission from my friend, the gentleman from New York [Mr. SOLOMON].

Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, several chapters will unfold during this debate which must be understood before the American people will embrace this agreement.

Among those chapters are the questions of jobs, expanding democracy and opportunity in our hemisphere, and of our ability to compete in a shrinking world. I expect to speak to each of these during this debate.

The first is jobs. If it can be demonstrated that there will be a net loss of jobs as a result of NAFTA, then it will not be adopted. On the other hand, if it can be demonstrated that the agreement will create more jobs in the short as well as the long run, we should adopt it. If it will lead to more jobs and cause the American hemisphere to compete more effectively in a more and more competitive world, then we should embrace it enthusiastically.

All of us should be concerned about the way the jobs issue has been discussed by the opponents of NAFTA, for it seems to me that discussions have almost been designed to cut off thought and in many ways has caused much of the American people to stop listening.

On the one hand, organized labor in America is in fear of the past, is concerned about a shrinking membership, and has strongly plied their membership and their friends with misinformation. It is true that jobs have been lost in the past—largely to Asia but to countries like Mexico as well. I submit the vast percentage of those jobs were lost because sectors of American business were unprepared for change.

Let me illustrate my point. During the forties, fifties, and sixties, Kaiser Steel was a major employer in my home county. Over 15 years ago, Kaiser Steel closed its mills—almost entirely because the industry had not responded to modern technology. Because of that, they were not able to compete. Those jobs were lost to Asia before a NAFTA was ever proposed.

In the steel fabrication industry—in contrast—we learned our lesson. Modern technology has been used in small plants all across the United States and our workers are beating the pants off of Japan and Taiwan. Head on head, American workers are outproducing low wage workers in major manufacturing industries.

Yet, organized labor continues to try to shape the debate by taking us back to their past instead of positively looking to the future. NAFTA will mean more high paying jobs as a result of more trade of high quality products made by the most productive workers in the world.

The other piece of the opposition debate that must be set straight involves the sucking sound. Since we first heard that phrase, a lot of Americans quit listening, in fear of American industry moving to Mexico. Increased trade does not mean our jobs will move to Mexico. To the contrary, more trade will create additional jobs in the United States.

I challenge the opponents to disprove these facts: First. Since our neighbor to the south began unilaterally reducing tariffs in the mid-1980's, our products being traded to Mexico have increased, not decreased. In 1986, $12 billion of American goods were sold in Mexico. The figure for 1992 is $38 billion. This increase has created between 20 to 23,000 jobs here at home. Our trade balance has moved from a deficit of almost $5 billion to a trade surplus of $5.4 billion in 1992. Increased trade has produced over 70 percent of the new jobs in this country over the last decade. At a time when other sectors of our economy remain weak, it would be foolhardy to walk away from continued trade opportunities with Mexico—the country with the most positive "Buy U.S.A." attitude of any country in the entire world.

NAFTA continues that pattern of reducing Mexican tariffs on American made goods. That means more high paying jobs in the near term. Let me specifically illustrate this point: Bill Johnson owns the largest Caterpillar distributorship in the West. There is currently a 20-percent tariff on his products sold in Mexico. Caterpillar has 50 percent of the market. The other half is dominated by Komatsu Co. of Japan. Bill says, "Imagine what will happen when the 20 percent tariff comes off our tractors and it remains on the ones from Japan." He will dominate the marketplace—expanding jobs in southern California as well as in Illinois where the equipment is built. Exactly the same story applies to the computer industry—thousands of high paying jobs in the United States—high paying jobs produced right away.

Mexico has become our second most important trading partner—second only to Canada. These two countries are important to the United States—important in terms of American jobs and important in terms of the role we play in the world marketplace.

Mexico has gone through very significant shifts during the last 10 years, changes that will cause Mexico to become an even more important world leader and partner in the decades ahead.

During the early 1980's, a new leadership within the Institutional Revolutionary Party [PRI] decided it was critical to shift the direction of their economic policies. Mexico had tried a centralized system of government ownership of the industrial base. It was not successful. President Carlos Salinas de Gotari has brought about a quiet revolution during his presidency. Over 400 industries have been sold to the private sector with hundreds more in line. Over $28 billion dollars of revenue so far—$18 billion of that income from cash that had been languishing in American and other foreign banks. The money has been used to reduce internal debt—rather than spending it on social programs—an economic policy that is beyond the U.S. Congress.

Further, President Salinas has reduced tax rates and created incentives to participate in their tax system. The result: Almost a 50 percent increase in tax revenues.

Tariff rates have been reduced unilaterally from 100 percent levels to a top rate of 20 percent. While that is several times our top rate on their products, trade of American goods to Mexico has skyrocketed.

These changes in economic policy have led to rapid expansion of the Mexican economy. With that, a virtual explosion of economic opportunity has occurred for Mexicans at home. In sum, more and better paying jobs—which means greater trade opportunity for the United States in Mexico.

It is in America's interest to encourage the extension of these policies. With continuation of private economic hope for all Mexicans will come a new faith in Democratic values. That is precisely what is needed throughout all of Latin America—new economic opportunity for a larger and larger middle class and a broadly based faith in democratic institutions.

There is a reason Japan does not like this deal. There is a reason Germany, France, and the rest of the EEC are critical of this deal. Those regions are working together to create trade blocks that are designed to allow them to compete—even dominate—in world trade well into the 21st century. They know trade is not a zero sum game. They know that Canada, Mexico, and the United States of America—cooperating as a block, will be a fearsome force in the years ahead.

A trading block of 360 million consumers and a total GNP approaching $7 trillion. That is the foundation that will allow the United States to lead the world of nations on the path way of change and hope * * * and hopefully peace and freedom for all mankind.

One last point: President Clinton is scheduled to leave tomorrow to participate in critical negotiations of the GATT—the General Agreement on Tariffs and Trade. These talks are to try to open up fair trade opportunities in Europe and Asia. Just think what happens if our President arrives at the table with his wings clipped. He will almost be laughed out of the room.

In contrast: with the support of NAFTA, his hand could not be stronger. This is a historic moment—a time to guarantee America's ability to lead in the world of free trade.

This is not the time for us to walk away from our friend Carlos Salinas. Working more closely with Canada and Mexico is in the best interests of all people living and working in the North American hemisphere. That's why I urge you to join me in voting for NAFTA. Vote for more American jobs right now.

Mr. Chairman, I yield 3 minutes to my colleague, the gentleman from Kansas [Mr. ROBERTS].

☐ 1150

Mr. ROBERTS. Mr. Chairman, I had intended on rising to give a positive speech in behalf of the NAFTA, and I am going to do that.

But I want to get the attention of my friend, the gentleman from New York [Mr. SOLOMON]. I am on record for 12 long years voting against taxes, regulations, and the deficit, with a voting record at least equal to yours. I am on record, let me say, of defending the U.S. Constitution with a record at least, at least the same as yours.

No deals have been made in PAT ROBERTS' office, as the ranking Republican on Agriculture. There have been no deals. I have been for NAFTA on the strength of the agreement.

Now, the gentleman and I are members of the U.S. Marine Corps, and we are colleagues, and in the Marine Corps, they teach you to shoot straight with a rifle. You, sir, have fired a shotgun of fear at me, and I resent it.

Now, we must accept the politics of hope and reject the politics of fear.

The decision we will make will define the economic role of the United States into the next century. In this sense, we will continue to work to meet the challenges we face in regards to jobs, agriculture, trade, foreign relations, all of the problems that we have heard here on the floor, or we will face the same challenges and bigger challenges, the same problem and bigger problems with no agreement.

Over the past half century we rejected the protectionism and isolationism that helped trigger the Great Depression. We led the world toward open markets and free trade. United States economic strength is the force that brought down all the regimes; that strength brought new hope for freedom around the world.

NAFTA is built upon this half century of experience with both the hope and the promise of the free markets.

Those of us who are privileged to represent agriculture, our farmers, our producers know that the decision on NAFTA will impact us well into the next century. United States agricultural exports have grown from $1.3 billion to $4 billion this year, and 700,000 Americans owe their jobs to trade with Mexico.

In Kansas, Mexico is the third-largest market for our products. Food exports alone have soared by 364 percent.

Even more, we will say "yes" to expanded farm exports to Mexico by $2 billion to $2.5 billion, 50,000 new jobs, increased poultry exports, corn exports, wheat, soybeans, pork, beef. If we reject NAFTA, we reject the gains that we have made in regards to this kind of farm income.

Now, NAFTA is not the total solution. I know that. More especially with the problems we face with agriculture, but the question I pose to those who oppose NAFTA is this: What is your plan for increasing the income of our family farmers? Are we going back to the Harkin-Gephardt mandatory supply management program? We do not have the votes to do that. We do not have the budget to do that.

We are not going to increase a deficiency payment or the marketing loan. What is your plan for increasing farm exports if you reject increased trade with our fastest growing export market?

Vote for NAFTA.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to a very distinguished Member, the gentlewoman from Florida [Ms. ROS-LEHTINEN].

Ms. ROS-LEHTINEN. Mr. Chairman, I am opposing this agreement for a broad range of reasons including the loss of thousands of manufacturing jobs in my home State of Florida and throughout this Nation; also because of the billions of dollars in additional bureaucratic Government spending and also because we are having United States taxpayers pay for Mexico's environmental mess; also because of the tax increases on cruise ship and airline passengers to make up for lost tariff revenues, and because our environmental, health, and safety laws can be challenged by Mexico and Canada by unelected trinational commissions.

Chief among my concerns is the threat that this agreement poses to thousands of American jobs, especially those in Florida.

An Economic Policy Institute study reports that thousands of manufacturing jobs in my home State could be threatened if NAFTA passes. These jobs are in eight major industries where lower Mexican wages and regulations could cause these jobs to be moved to Mexico.

The cost of implementing this agreement has been estimated in the billions of dollars in the next 5 years.

Let us not do this to our American taxpayers.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Chairman, last month I attended a meeting at the White House when President Clinton had invited a large delegation of Republican and Democratic Members of Congress to hear him when he made his appeal for the adoption of NAFTA. As he approached the podium accompanied by former President George Bush, former President Jimmy Carter, and former President Gerald Ford, the entire audience rose to their feet and began to applaud them, and they applauded them, and they kept applauding.

Mr. Chairman, I believe that that was one of the most electrifying moments I have witnessed of any event since my 30 years in the Congress. They were saying they not only supported NAFTA but they were saying the American system is good, and though we may differ, we appreciate your leadership.

There were four Presidents there supporting NAFTA, which is also supported by President Reagan and President Nixon.

This has been a good debate. This has been a fair debate.

But NAFTA must pass, because it is in our best interest. In my judgment, this vote is a trade shot heard around the world. It is probably the only opportunity most of us will have in our lifetime to pass a trade agreement that will help nearly every American business and industry. It is a historic moment for us.

We should not give way to fear and apprehension. We can differ, and we have differed, but this has been a healthy, intelligent debate.

Now it is time for us, America, to move forward. We are in global competition. We must pass NAFTA, because if we fail to pass NAFTA, I think I can tell you, as our present Ambassador, Jim Jones, who was a Member of this House, said, it will be viewed in Central and South America as well as in Mexico that we, the United States, are isolationists, and we do not want to trade in this Western Hemisphere. We cannot permit that.

We should advance the measure, and I am proud to support NAFTA.

Mr. Chairman, NAFTA is the trade shot heard round the world. It is probably the only opportunity most of us will have in our lifetime to pass a trade agreement that benefits almost all American businesses and industries. NAFTA is the historic opportunity of the century to expand the United States market into countries like Mexico, in Central and Latin America, which can only benefit from American product and technology imports.

This is the most important trade agreement in American history, and its passage is immensely important to the United States—it must pass. This is the most important foreign policy vote we will make in this decade. Our trading partners to the south include not only Mexico, but also all of South and Central America. This is the best chance we have ever had to expand our markets and sell American goods in the Western Hemisphere. More open markets for more American-made products mean more American jobs. NAFTA will preserve 700,000 American jobs related to trade with Mexico.

Last year the United States enjoyed a $5.4 billion trade surplus with Mexico. Through Texas flows almost half of the $76 billion in United States trade with Mexico. With NAFTA, the remaining Mexican trade barriers will be removed creating new jobs and vastly increasing exports of United States goods. NAFTA will leave the rest of the world on the outside looking in on the world's largest trading market, and enable us to better compete with Europe and Asia. That is why the Japanese, generally, are opposed to NAFTA—because it will enable the Western Hemisphere to open up and flourish into the world's largest and strongest market.

There are many myths out there floating around that if you don't know the facts, are easy to believe. For example:

Opponents are talking about that giant sucking sound of American jobs leaving the United States to Mexico for cheaper labor. That simply is not true. Businesses do not make a decision to move their companies solely on the cost of wages. They also look at capital, machinery, transportation, and other infrastructure requirements like communications. NAFTA will create jobs for Americans—not lose jobs.

Opponents also want people to believe that Mexican trucks that are hazardous are going to take over American highways running motorists off the road. This also is a myth. All foreign trucks entering U.S. borders must meet U.S. safety inspection and licensing standards.

Opponents also might try to claim that Mexico allows the use of harmful pesticides, specifically DDT, and NAFTA will allow imports contaminated by such. Once again—a falsehood. In fact, the use of DDT on food in Mexico is banned. NAFTA will not change U.S. food safety inspection requirements or customs standards. NAFTA can actually be viewed as an incentive for Mexican farmers to meet United States pesticide and residue requirements.

If NAFTA is not passed, the labor and environmental conditions in Mexico may not be improved. Right now, NAFTA is our only pressure on the Mexican Government to enforce the laws and standards in their own country and companies in order to meet United States standards. Environmental groups sat at the conference table during the negotiations; for the first time in our Nation's history, environmentalists have had a direct input into a trade agreement.

Our own Ambassador to Mexico, and former colleague, Jim Jones, says:

> If NAFTA is defeated, the resentment in Central and South America will be even greater than in Mexico. The result will be to make it much harder for American businesses to expand into those markets unless they locate plants and jobs there. The political consequences in the next few years will be severe because it will be apparent that America's great economic growth potential in Latin America will have been lost.

The people of the United States must put trust into the 4 years of negotiations that have been put into this agreement. We must have faith in the six Presidents, Congress, Governors, and Nobel Prize winners who have all supported NAFTA as the trade agreement of the century. The world is watching to see if we maintain our position as a global leader by passing NAFTA. This is a battle between isolationism and world leadership. It is a matter of global competition—not just free trade.

We are within striking distance of victory, and I encourage my colleagues to support its passage.

Mr. GEPHARDT. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. CONDIT].

Mr. CONDIT. Mr. Chairman, I stand today with the majority leader, the gentleman from Missouri [Mr. GEPHARDT] and the gentleman from Michigan [Mr. BONIOR], in asking my colleagues to cast a "no" vote on this agreement.

For more than 3 years and two administrations, the United States, Mexico, and Canada have been negotiating a free-trade pact that had the potential to open up the largest free-trade sector in the world. Since I have been in Congress, I have supported the concept of free trade which allows the marketplace to operate independent of Government interference. However, I am a realist and there is an important step we need to take before free trade can be achieved—fair trade.

I believe that when negotiating a trade pact, the United States has the responsibility to look out for the best interest of America. What our trade representatives have negotiated is a trade agreement that is mainly beneficial to Mexico, but not all Mexicans.

I have made my stance on NAFTA perfectly clear over the last few months after thoroughly examining the NAFTA through the House Committee on Agriculture. In the final analysis, I cannot support a trade pact that does not protect the workers of this country.

People on both sides of this debate agree that there will be costs to the economy of the United States. There is disagreement over the extent of potential damage, but even supporters admit that jobs will be lost and incomes reduced. Where I come from, my district cannot afford any job losses. Not for 15 years, 10 years, 5 years, or even 1 year while we wait for the Mexican economy to catch up with our economy and increase their standard of living.

NAFTA isn't free or fair trade, it is managed trade or better mismanaged trade. We have huge labor cost disparities. No one can credibly argue that a $16-per-hour wage versus $2-per-day wage will not act as an invitation to relocate south of the border.

Part of fixing NAFTA with side agreements would require Mexico and the United States to provide for new, tougher, and enforceable labor and environmental standards, agreements on internal financial regulations, and protection against sudden destructive import surges. The side agreements would also have to assure some permanent funding to pay for the cost of trade adjustment and environmental repair. However, none of these elements are in the side agreements that the United States Government has agreed to with Mexico and Canada.

As you may be aware, last month I went to Mexico with some of my colleagues on the Government Operations Committee. During this trip we met with President Salinas, members of his Cabinet, farmer groups, and United States and Mexican business leaders. I found the trip extremely informative and hope that it will contribute to improved relations and cooperation between the two nations. It is unquestionably important for the United States and Mexico to improve and maintain a strong trade relationship. I am not convinced that the NAFTA agreement will accomplish the results advertised. In our meetings with Mexican officials I asked if this agreement will help stem illegal drug trafficking, illegal immigration, and increase extraditions. I am also concerned about the treatment of some United States agricultural commodities in the NAFTA—this trip gave me the opportunity to meet directly with Mexican Government officials to detail these issues.

The North American Free-Trade Agreement is a symbol of all that is wrong with our trade accords. For workers, our trade pacts have left them standing still, or falling behind while we continue to export jobs abroad. They see trade agreements that are more interested in quick profits rather than a long-term investment-led program. For businesses, we have seen the enormous need to compete in a global market but have been shut out because they face protectionist barriers all across the globe while we continue to run a trade deficit year after year and open our markets to the rest of the world. In case after case, issue after issue, industry after industry, NAFTA is bad news for Americans.

Mr. GEPHARDT. Mr. Chairman, I yield 4 minutes to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN. Mr. Chairman, NAFTA is not about protectionism or about

Smoot-Hawley. NAFTA is not about isolationism or xenophobia. The American people are better than that, and so are the Members of Congress who share their concern about this NAFTA.

NAFTA is not about bedfellows, strange or otherwise. NAFTA is not basically about GATT or Japan or the APEC meeting in Seattle.

It is essentially about America, our jobs, our businesses, our standard of living. NAFTA is about a fact denied by too many proponents: There are two legitimate sides to this issue. It is about how we further integrate our economy with others, in this instance Mexico, a country whose governmental policies artificially keep down wages and salaries in order to attract investment from the north.

The Bush administration did not even try to address this basic economic issue.

To my deep disappointment, the supplemental agreements negotiated by the Clinton administration failed to do so.

Let me refer to two charts which illustrate the basic issue. The first chart relates to our exports to Mexico. This chart shows that half or more of our exports to Mexico go to maquiladoras or like plants. These are plants employing 600,000-plus people. These are plants making all kinds of industrial goods which are shipped back to the United States.

The second chart shows what has happened to productivity and to wages under Mexican Government policy. It shows that for the first quarter of 1993 Mexican wages went up by only 1 percent, even though productivity went up by 9 percent. This is the rub. The supplemental agreements do not address this set of issues.

□ 1200

Indeed, to the contrary, this NAFTA gives a seal of approval to Mexican wages, salary and investment strategies—to a rigged, unlevel playing field. We learned in the 1980's, with Japan and others, the outcome of a complacent American response to an unlevel playing field. We should not make the same mistake in the 1990's. Rather than confronting these basic economic issues, we have seen renegotiations around the edges, leaving the basic core to fester.

This divisive, indeed I believe corrosive, debate in which we are engaged today did not have to happen. Expanded trade, yes; this NAFTA, no. Renegotiate NAFTA? Yes.

It is with this deep conviction that I today vote "no" on this NAFTA.

Mr. KOLBE. Mr. Chairman, I yield 1 minute to the gentleman from Tennessee [Mr. SUNDQUIST], another distinguished member of the Trade Subcommittee, a real champion of trade.

Mr. SUNDQUIST. I thank my colleague for yielding this time to me.

My colleagues, I have long supported NAFTA, for one simple reason: I believe it will be good for America's economy, it will create and protect American jobs. Allow me to give a couple of examples from my home State of Tennessee, companies that will benefit as NAFTA eliminates tariffs and barriers to their products: Du Pont, Allied Signal, Saturn, North American Phillips, Procter & Gamble, Federal Express, and many others.

Our agricultural community, as PAT ROBERTS said earlier, is behind NAFTA. Many small companies and entrepreneurs are anxious for a fair chance to reach the Mexican consumer market. If you have automobile plants in your States, do not be confused by the previous speaker. Let me give you the facts. We sell 4,000 cars and trucks to Mexico right now. Under this agreement we will sell 60,000 cars and trucks.

I am voting "yes" because I believe that American workers and American companies can compete with anyone anywhere, given a fair chance, given an opportunity. NAFTA offers that; it deserves our support.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. DIAZ-BALART], a very distinguished member of the Committee on Foreign Affairs.

Mr. DIAZ-BALART. I thank the gentleman for yielding this time to me.

Mr. Chairman, I find it amazing how we get all caught up and carried away by the dogma a la mode. Now it is free trade. The dogma a la mode is we are going to place hundreds of thousands of our economically most vulnerable Americans, their jobs at risk, because of the dogma a la mode.

Now, some of my friends say, "DIAZ-BALART, are you against free trade?" I say, "No, I am not against free trade, I support free trade. I support electricity too, but I do not suggest you stick your finger in the electrical socket."

With this NAFTA, we are going to create a single market with, as the gentleman from New York said just a few minutes ago, a rotating dictatorship, a dictatorship that is the longest standing dictatorship in the world since the collapse of the Soviet Union. Now, of course, it is not as ruthless as the totalitarian dictatorships; that is a given. But we should announce from the very beginning that we were interested in a hemispheric common market of democracies. Now, some people may say that I have a democracy fetish. I do not believe that I have one. I think it is irresponsible to enter into a single market with something other than a representative democracy, however. It was not a fetish on the part of the Europeans when they insisted upon effective, functioning democracies before admitting countries into the European Common Market and then the single market. It was not a fetish for the Europeans when they told Franco's Spain and the Colonels in Greece and the Oliveira Salazar in Portugal that, "You have to wait until you are a democracy before we can have a common market or a unitary market with you." That was not a fetish. They knew what we should know: that only citizens of representative democracy can pressure their official and independent judiciaries into compliance with their own laws. That is why democracy must be a condition-precedent to entering into a single market.

There are, Mr. Chairman, other functioning representative democracies in the southern part of this Hemisphere. Why is that a secret? Why did we pick the longest standing dictatorship in the world to enter into the NAFTA with? It was incorrect, it was a fatal flaw. We are not against a hemispheric common market, but this NAFTA is not in the interests of this Nation and most plainly, and most importantly, it is certainly unenforceable. Who are we signing it with? Who are we signing it with? That is the issue we must remember throughout this day. Representatives of the Mexican people? No. Ask the Mexican people, they will tell you it has been election after election after election after election that in fact is stolen. We owe it not only to the American people but to the Mexican people as well to insist upon representative democracy before we move forward with this.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 4 minutes to the gentleman from Texas [Mr. DE LA GARZA], chairman of the Committee on Agriculture.

Mr. DE LA GARZA. Mr. Chairman and my colleagues, I come here as the chairman of the Committee on Agriculture, as a Representative of the 15th District of Texas, and as a Hispanic-American whose family has lived on the border of the Rio Grande for over 300 years.

Like one or two of the previous speakers said, I cannot explain the agricultural section of NAFTA in this few minutes. Nor can I explain everything that has been misrepresented about what has been done in NAFTA. So let me just say for some of my colleagues on this side: This was started by a Republican President. It was negotiated by a Republican trade ambassador, Carla Hills. But all of us worked with them, trying to protect the interests of our constituencies, me on the border and as chairman of the Committee on Agriculture for all U.S. agriculture.

There has been much criticism and finger pointing about the administration, "They did this, they promised that." My friends that is what our constituencies demanded that we do. We have taken care of the sugar industry. Why? Because the American sugar industry is one of the industries that provides the jobs that everyone has been speaking about. And the same is true of the concerns with peanuts and all of the other areas in agriculture that were not fully addressed in the preliminary agreement when it was negotiated. And that is what we are doing. I am proud that we did it. I am here to support it and support the agreement. I feel very strongly that no one can point the finger and say, "They are buying votes." No, I was working for American interests and American agriculture.

Also, let me say I share blood with the Mexican people. And the xenophobic, anti-Mexico slurs that have made the rounds here, including from some Members of this House, I resent that, I resent that very much.

You know what some Members want to do? They want a Mexican Government run by the Government of the United States. We tried that, and it did not work. But we took two-thirds of Mexico in the process.

My dear friends, that is the history: Texas, New Mexico, Arizona, California, part of Oregon, part of Utah, part of Colorado, almost all of Kansas. That was Mexico. That was Mexico.

I dare say, with all due respect, a war was started in order to sign a treaty that gave the United States of America all of that territory. We cannot go into Mexico and Americanize it. We cannot tell the Mexican people, "You do this because we want you to do it." That is an insult to a neighbor, to a friend, to a whole people, regardless of their personal politics.

Yes, they have a long way to go. I am not here defending Mexico, I am defending the blood that I share with those people. Now, our colleagues, about the anti-Mexican slurs, can you imagine what they would say about the blacks? Can you imagine what they would say about our Jewish brethren, our Hungarians, our Greeks, our Italians, our Irish? That is not the American way.

We cannot expect to Americanize the world. We cannot call the President of Mexico a dictator. I do not know who voted for him or who did not, but we do not have that right. It is an abuse to the people of Mexico that any one of our Members would stand here and say, "This is how Mexico should be, this is how I say Mexico should act."

□ 1210

There was mention about trucks, for example. I checked into that. They have the same agreement, the same rules that we do. But the worst thing is the way that the people of Mexico have been depicted, the way the Government of Mexico has been insulted, and that is not right. That really should not be the issue. The issue is that this is a good agreement, maybe not a perfect agreement, but a good one. It will bring jobs, and we should vote yes.

Some have criticized the recent letters of understanding reached to deal with certain agricultural issues. My colleagues, do not fault those who represent agricultural areas for their desire to strike the best deal possible for their constituents.

American agriculture is not saying no to this NAFTA. They realize closer economic ties with Mexico and Canada is in the best long-term interests. They are only asking that there be fair trading rules in place to deal with their competitors in Mexico and Canada.

My friends, this is the NAFTA that this Congress should and must approve. This is a trade agreement that is in our national interest.

Let me speak briefly about the agricultural trade aspects of NAFTA. This NAFTA, while not perfect, does provide American agriculture with the opportunity to lock-in and expand its sales to Mexico, our third and fastest growing market for United States agricultural exports.

Under NAFTA, Mexico would be required, as would we, to eliminate or phase down agricultural tariffs over a period of up to 15 years, depending on the commodity. Nontariff barriers, such as quotas and import licenses, would also be converted to tariff-rate quotas and subject to similar phase-downs.

Many of our exports to Mexico would increase immediately. But even greater gains for American farmers and American food industries and their workers will be realized over time as NAFTA helps improve the Mexican standard of living.

By the end of the 15-year transition period, annual United States agricultural exports are projected to grow by $2.0 billion to $2.5 billion on top of the $4 billion in agricultural sales we made to Mexico last year, because of NAFTA.

By the end of the 15-year transition period, American farm cash receipts will increase by 3 percent over projected levels, because of NAFTA.

By the end of the 15-year transition period, additional agricultural exports will add over 50,000 jobs to the U.S. economy, because of NAFTA.

Under NAFTA, all agricultural commodities would be eligible for NAFTA's general safeguard provisions to protect them from import surges triggered on the basis of import volume.

Under NAFTA, strict rules of origin for agricultural products will prevent third-party countries from using Mexico as an export platform to gain duty-free access to the United States market. Only North American producers can obtain the benefits of the tariff preferences NAFTA provides.

I am confident American farmers can compete on the more level playing field this NAFTA and the letters of understanding will provide.

The reality is that Mexican farm production overall cannot keep pace with the present level of domestic demand. Two-thirds of Mexico is desert or mountain terrain. Mexico's population of 90 million is expected to grow to over 100 million by the end of the decade.

Even with NAFTA, even with the changes in the farm structure in Mexico and the use of technology and mechanization, Mexican agriculture will not be able to feed its people by itself. It simply does not have the land or water to do it.

With NAFTA, American farmers and ranchers can be assured they are the suppliers with preferential access to meet Mexico's increasing food needs.

That is what NAFTA will do for American agriculture and for rural America.

This trade agreement is obviously vital to the State of Texas and the people who live along the border with Mexico. I have worked for more than 2 years to ensure that the concerns of the people of south Texas are addressed in some form or fashion in this trade agreement.

For my south Texas district, this NAFTA paves the way for greater trade opportunities and greater attention to environmental conditions. I would hope the administration moves quickly to establish the Good Neighbor Environmental Board, already signed into law, to garner the public input so critical to the setting of environmental improvement priorities along the border.

Finally, I want to mention what this NAFTA debate has meant to me as a Hispanic from Texas.

My family and their ancestors have lived in south Texas for some 300 years. My family is part of a culture linked to both America and Mexico. And I am very proud of that.

What has bothered me in this NAFTA debate is the inaccurate, misleading and unfair characterizations of Mexico and the Mexican people made by some opponents of NAFTA. Americans are better than this.

Our country must look to its future. For years, Mexicans have viewed their neighbor to the north as the land of economic opportunity. I believe it is time Americans start to think of our neighbor to the south as a partner as a way of improving our own economic security by improving Mexico's economic security.

The economic catalyst provided by NAFTA is essential to achieving these goals. For without a more stable economy and a higher standard of living, Mexico cannot afford to improve its pesticide use standards or vigorously enforce environmental laws on its polluting industries. Without NAFTA, Mexican families hungering for economic opportunities will continue to gravitate north. And without NAFTA, low-skilled American workers will continue to lose jobs.

Let us not squander this historic opportunity to expand our markets, boost our economy and promote better relations with our neighbors. Our past demands it; our future requires it. NAFTA is our opportunity to lay the foundation for a better, more prosperous economy for all three countries and for future generations.

Mr. Chairman, I would like to insert into the RECORD at this point, the letters of understanding that have been reached for the various agricultural commodities.

THE WHITE HOUSE,
Washington, November 15, 1993.

Hon. BILL SARPALIUS,
House of Representatives,
Washington, DC.

DEAR BILL: I want to respond to the concerns you raised regarding imports of peanuts and peanut products from Canada as they relate to the North American Free Trade Agreements (NAFTA).

I know that peanut growers are concerned about imports of peanut butter and peanut paste as well as quality standards for peanut products. I am, therefore, instructing the Secretary of Agriculture to begin discussions with the Canadian government to seek to remedy the increase in imports of peanut butter and peanut paste and agree on appropriate quality standards for peanut products. I am also requesting the United States International Trade Commission (USITC) to commence, in 60 days, investigation under Section 22 of the Agricultural Adjustment Act (7 U.S.C. 624) to make findings and recommendations as to whether imports are being or are practically certain to be imported into the United States under such conditions, and in such quantities as to render or tend to render ineffective, or materially interfere with, the peanut program of the Department of Agriculture. I am also requesting the USITC to give precedence to this investigation. Such investigation is to begin unless I notify the USITC that, as a result of our consultations with Canada, and subsequent Canadian actions, an investigation is unnecessary.

Regarding the issue of quality standards for imported raw peanuts, Secretary Espy informs me that under the Food, Agriculture, Conservation and Trade Act of 1990—as affirmed in the proposed NAFTA implementing legislation—all peanuts, whether shelled or in-shell, imported into the United States will be inspected and handled as provided in, and fully comply with, Marketing Agreement No. 146.

I trust these actions and assurances will enable you to support the NAFTA implementing legislation.

Sincerely,

BILL CLINTON.

THE WHITE HOUSE,
Washington, November 15, 1993.

Hon. GLENN ENGLISH,
House of Representatives, Washington, DC.

DEAR GLENN: I want to respond to the concerns you raised regarding the trade of wheat and the North American Free Trade Agreement (NAFTA).

Our mutual objective is to create a free and fair environment for the trade of wheat in North America. I am committed to making the NAFTA a reflection of the realities of the North American wheat market and ensuring that the benefits of the Agreement will accrue to U.S. wheat producers as intended. I know American wheat farmers would welcome a North American market free of barriers and distortions.

I am, therefore, instructing the Secretary of Agriculture to begin discussions with the Canadian government to seek to remedy the negative effects of their subsidy practices, including transportation subsidies and Canadian Wheat Board pricing practices (such as, the pricing of milling quality wheat). I am also requesting the United States International Trade Commission (USITC) to commence, in 60 days, an investigation under Section 22 of the Agricultural Adjustment Act (7 U.S.C. 624) to make findings and recommendations as to whether imports are being or are practically certain to be imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the wheat program of the Department of Agriculture. Such investigation is to begin unless I notify the USITC that, as a result of our consultations with Canada, and subsequent Canadian actions, an investigation is unnecessary.

With respect to end use certificates, NAFTA implementing legislation mandates the Secretary of Agriculture to require such certificates for wheat and barley imports from a country that itself requires end use certificates for those grains. The purpose of this requirement is to ensure that foreign agricultural commodities do not benefit from U.S. export programs. I am instructing the Secretary of Agriculture to act quickly to implement this requirement, and to make certain that it is effectively administered.

We are also working with the Government of Mexico to ensure wheat trade in North America is not distorted by unfair subsidy practices, and trade remedy laws will be effectively utilized to deal with this problem. In that context, it is my intention that the working group we are requesting be created under the NAFTA, to deal with issues relating to North American wheat trade, meet at least quarterly to review pricing and other policies that affect wheat trade in North America. We will also request that the Working Group on Agricultural Subsidies give particular attention to the elimination of all export subsidies affecting wheat trade between the parties.

I trust that these commitments will permit you to support enactment of NAFTA implementing legislation.

Sincerely,

BILL CLINTON.

U.S. TRADE REPRESENTATIVE,
EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, DC.

Hon. JAIME SERRA PUCHE,
Secretary of Commerce and Industrial Development, Alfonso Reyes 30, Piso 10, Colonia Condesa, 06140 Mexico D.F.

DEAR DR. SERRA: I have the honor to confirm the following understanding reached between the delegations of the United States of America and the United Mexican States with respect to the implementation of the Schedule of the United States to Annex 302.2 of the North American Free Trade Agreement ("NAFTA").

1. When the daily closing price for frozen concentrated orange juice for the nearby contract month on the New York Cotton Exchange for each of five consecutive business days is less than the most recent five-year average price for the corresponding month, the United States may apply a rate of customs duty to goods provided for in Harmonized System subheading 2008.11 that are originating goods that qualify to be marked as a good of Mexico in excess of 70 million gallons, single strength equivalent, during calendar years 1994 through 2002, and 90 million gallons, single strength equivalent, during calendar years 2003 through 2007.

2. Any rate of customs duty applied under paragraph 1 shall be no greater than the lesser of—

(a) the most-favored-nation (MFN) rate as of July 1, 1991; or

(b) the prevailing MFN rate.

3. The United States shall cease to apply the rate of customs duty specified in paragraph 2 if the daily closing price for frozen concentrated orange juice for the nearby contract month on the New York Cotton Exchange exceeds for each of five consecutive business days the most recent five-year average price for the corresponding month.

4. The term "frozen concentrated orange juice" means all products provided for in Harmonized System subheading 2009.11.

5. The term "nearby contract month" means the closest month in which contracts for frozen concentrated orange juice are being traded on the New York Cotton Exchange.

6. The term "five-year average price for the corresponding month" means the price determined by reviewing the monthly average of daily closing prices for the five most recent years, eliminating the highest and lowest monthly average prices and calculating the simple average of the remaining three monthly averages.

7. This agreement will enter into force on January 2, 1994 and terminate December 31, 2007 or as provided for in Article 2205 of the North American Free Trade Agreement, whichever is earlier.

I have the honor to propose that this letter, which is authentic in English, and your letter of confirmation in reply, constitute an agreement between our two governments.

Sincerely,

MICHAEL KANTOR.

NOVEMBER 3, 1993.

Ambassador MICKEY KANTOR,
U.S. Trade Representative, Washington, DC.

DEAR AMBASSADOR KANTOR: As a result of the agreement reached by the citrus producers of the United States of America and the United Mexican States, I have the honor to confirm the following understanding reached between the delegations of the two countries with respect to the implementation of the Schedule of the United States to Annex 302.2 of the North American Free Trade Agreement ("NAFTA").

1. When the daily closing price for frozen concentrated orange juice for the nearby contract month on the New York Cotton Exchange for each of five consecutive business days is less than the most recent five-year average price for the corresponding month, the United States may apply a rate of customs duty to good provided for in Harmonized System subheading 2009.11 that are originating goods that qualify to be marked as a good of Mexico in excess of 70 million gallons, single strength equivalent, during calendar years 1994 through 2002, and 90 million gallons, single strength equivalent, during calendar years 2003 through 2007.

2. Any rate of customs duty applied under paragraph 1 shall be no greater than the lesser of:

(a) the most-favored-nation (MFN) rate as of July 1, 1991; or

(b) the prevailing MFN rate.

3. The United States shall cease to apply the rate of customs duty specified in paragraph 2 if the daily closing price for frozen concentrated orange juice for the nearby contract month on the New York Cotton Exchange exceeds for each of five consecutive business days the most recent five-year average prices for the corresponding month.

4. The term "frozen concentrated orange juice" means all products provided for in Harmonized System subheading 2009.11.

5. The term "nearby contract month" means the closest month in which contracts for frozen concentrated orange juice are being traded on the New York Cotton Exchange.

6. The term "five-year average price for the corresponding month" means the price determined by reviewing the monthly average of daily closing prices for the five most recent years, eliminating the highest and lowest monthly average prices and calculating the simple average of the remaining three monthly average.

7. This agreement will enter into force on January 2, 1994 and terminate December 31, 2007 or as provided for in Article 2205 of the North American Free Trade Agreement, whichever is earlier.

I have the honor to propose that this letter, which is authentic in Spanish, and your letter of confirmation in reply, constitute an agreement between our two governments.

Sincerely yours,

DR. JAIME SERRA PUCHE.

Secretary of Commerce and Industrial Development, Government of Mexico.

U.S. TRADE REPRESENTATIVE,
EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, DC.

Hon. JAIME SERRA PUCHE,
Secretary of Commerce and Industrial Development, Alfonso Reyes 30, Piso 10, Colonia Condesa, 06140 Mexico D.F.

DEAR DR. SERRA: I have the honor to confirm the following understanding reached between the delegations of the United States of America and the United Mexican States with respect to the implementation of Annex 703.2 of the North American Free Trade Agreement ("NAFTA").

Section A of Annex 703.2 of the NAFTA provides in part for market access between the United States of America and the United Mexican States with respect to "trade in sugar and syrup goods." The text generally provides, reciprocally for the United States and Mexico, that market access in sugar and syrup goods depends to a certain extent on whether the two countries have determined whether either has been or is projected to be a net surplus producer. "Net surplus producer" is defined as a Party that has a net production surplus.

"Net production surplus", in turn, is defined as "the quantity by which a Party's domestic production of sugar exceeds its total consumption of sugar during a marketing year, determined in accordance with [Section A of Annex 703.2]."

High fructose corn syrup is readily substitutable for sucrose sugar syrups, particularly in such uses as soft drinks. Such substitution could result in effects not intended by either Party. Accordingly, the United States of America and the United Mexican States agree that the determination of "net production surplus" for purposes of Section A of Annex 703.2 shall include consumption of high fructose corn syrup provided for in Harmonized System subheadings 1702.40, 1702.50 and 1702.60.

In addition, notwithstanding the provisions of paragraph 15(b) and (c) of Section A of Annex 703.2, the ceiling for each of the seventh through 14th marketing years shall be 250,000 metric tons, raw value, and paragraph 16 of Section A of Annex 703.2 shall not apply.

I would also like to take this opportunity to affirm the provisions in paragraph 6 of Section A of Annex 703.2 which provide that each Party may count the in-quota quantity under a NAFTA tariff rate quota toward the satisfaction of in-quota quantity commitments undertaken by the Party as a result of the Uruguay Round of multilateral trade negotiations under the General Agreement on Tariffs and Trade.

I have the honor to propose that this letter, which is authentic in English, and your letter of confirmation in reply, constitute an agreement between our two governments, to enter into effect upon the entry into force of the NAFTA for the United States and Mexico and to remain in effect through the fourteenth marketing year for such time as they remain parties to the NAFTA.

Sincerely,

MICHAEL KANTOR.

NOVEMBER 3, 1993.

Ambassador MICHAEL A. KANTOR,
U.S. Trade Representative, Washington, DC.

DEAR AMBASSADOR KANTOR: As a result of the agreement reached by the sugar producers of the United States of America and the United Mexican States, I have the honor to confirm the following understanding reached between the delegations of the two countries with respect to the implementation of Annex 703.2 of the North American Free Trade Agreement ("NAFTA").

Section A of Annex 703.2 of the NAFTA provides in part for market access between the United States of America and the United Mexican States with respect to "trade in sugar and syrup goods." The text generally provides, reciprocally for the United States and Mexico, that market access in sugar and syrup goods depends to a certain extent on whether the two countries have determined whether either has been or is projected to be a net surplus producer. "Net surplus producer" is defined as a Party that has a net production surplus.

"Net production surplus", in turn, is defined as "the quantity by which a Party's domestic production of sugar exceeds its total consumption of sugar during a marketing year, determined in accordance with [Section A of Annex 703.2]."

High fructose corn syrup is readily substitutable for sucrose sugar syrups, particularly in such uses as soft drinks. Such substitution could result in effects not intended by either Party. Accordingly, the United States of America and the United Mexican States agree that the determination of "net production surplus" for purposes of Section A of Annex 703.2 shall include consumption of high fructose corn syrup provided for in Harmonized System subheadings 1702.40, 1702.50 and 1702.60.

In addition, notwithstanding the provisions of paragraph 15 (b) and (c) of Section A of Annex 703.2, the ceiling for each of the seventh through 14th marketing years shall be 250,000 metric tons, raw value, and paragraph 16 of Section A of Annex 703.2 shall not apply.

I would also like to take this opportunity to affirm the provisions in paragraph 6 of Section A of Annex 703.2 which provide that each party may count the in-quota quantity under a NAFTA tariff rate quota toward the satisfaction of in-quota quantity commitments undertaken by the Party as a result of the Uruguay Round of multilateral trade negotiations under the General Agreement on Tariffs and Trade.

I have the honor to propose that this letter, which is authentic in Spanish, and your letter of confirmation in reply, constitute an agreement between our two governments, to enter into effect upon the entry into force of the NAFTA for the United States and Mexico and to remain in effect through the fourteenth marketing year for such time as they remain parties to the NAFTA.

Sincerely yours,

DR. JAIME SERRA PUCHE,
Secretary of Commerce and Industrial Development, Government of Mexico.

THE COMMISSIONER OF CUSTOMS
Washington, DC, November 16, 1993

Hon. GLENN ENGLISH;
House of Representatives Washington, DC.

DEAR CONGRESSMAN ENGLISH: I have been briefed on the discussions that you have had recently with representatives of the U.S. Customs Service with regard to enforcement of tariff preference requirements in the NAFTA. The Administration understands your concern that non-Mexican agricultural products, including beef, wheat, and peanut products, may be illegally transshipped through Mexico into the United States under a false certification that they are actually products of Mexico.

In response, I am writing to assure you that Customs will implement enforcement actions to counter transshipment of agricultural commodities, especially peanuts and meats. Specifically, Customs will initiate the following continuing enforcement programs: at least ten visits to agricultural processing sites in Mexico; continuing audits or at least ten major agricultural products exporters; and investigations of suspected violations that may be uncovered through this process.

These site visits, audits, and investigations will be conducted under the new verification authority contained in the NAFTA, as well as under the authority of the current Customs Mutual Assistance Agreement with Mexico, a copy of which has already been provided to you. These actions will begin on the date of NAFTA implementation.

I also concur with your strong feelings that Customs will need a devoted cadre of auditors, import specialists, and agents to fulfill its commitment to country of origin enforcement under NAFTA. As a result, I can assure you that 350 such positions, in an appropriate mix to be determined by Customs, will be so assigned. This number will include at least 100 newly hired employees.

Your support of the President in his efforts to maintain our future competitiveness and to secure America's position in global trade is greatly appreciated.

Sincerely,

GEORGE J. WEISE,
Commissioner.

U.S. TRADE REPRESENTATIVE,
EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, DC, November 3, 1993.

Hon. JAIME SERRA PUCHE,
Secretary of Commerce and Industrial Development Mexico City, Mexico

DEAR JAIME: As you know, several United States industries have expressed an interest in obtaining more rapid elimination of tariffs on goods traded between the United States and Mexico than currently provided for in the NAFTA. I am sympathetic in particular to the U.S. producers of wine and brandy, flat glass, home appliances and bedding components such as springs, iron rails and wooden parts.

I believe the quick initiation of a tariff acceleration exercise, as called for in Article 302.3 of the NAFTA, would provide an excellent demonstration of the advantages of a trade relationship governed by the NAFTA. As a result, I am requesting your agreement to announce that the United States and Mexico will begin the first round of tariff accelerations in January 1994, immediately after the NAFTA is implemented, with intention of completing the exercise as soon as is feasible, but in any case in no more than one hundred and twenty days.

Sincerely,

MICHAEL KANTOR.

It is important to note that, in the Mexican version of the letter of understanding between the two countries regarding sugar, that nation's Secretary of Commerce and Industrial Development, the Honorable Jaime Serra Puche points out that the resolution of the sugar problem in the draft NAFTA was "the result of the agreement reached by the sugar producers of the United States of America and the United Mexican States."

It is also important to note that U.S. sugar producers have been trying since the draft NAFTA was initiated by President Bush in August 1992 to correct deficiencies with regard to sugar trade between the two countries. The resolution U.S. sugar producers proposed was designed to have no negative impact on other segments of this Nation's agriculture, or any other segment of the U.S. economy. That resolution was accepted by the Mexican Government. No concessions were requested and none were granted.

The sugar problem in the NAFTA was worked out as the result of an agreement arrived at by the sugar industries in Mexico and the United States—without ancillary concessions—and, at no cost to United States taxpayers.

I would like to clarify several items concerning sugar in the agreement:

First, Mexico and the United States have an agreement by the exchange of letters between their Trade Ministers which is included in the legislative package sent to Congress by the President.

Second, it is the understanding of the Members of Congress in its consideration of the agreement that the language contained in the exchange of letters on sugar, and other agriculture side letters, which have been signed and exchanged by each country's respective trade representatives, are a mutually agreed upon interpretation of the agreement and that the acceptance of the agreement by the Congress is with the clear understanding that these letters will be duly enforced by the executive branch for the duration of this agreement.

Third, the United States and Mexico each will allow duty-free imports of sugar up to the greater of first, 7,258 metric tons raw value, second, the quota allocated by the United States for a non-NAFTA country in the category other specified countries and areas, or third, up 25,000 metric tons for years 1 through 6, and 250,00 metric tons, raw value, for years 7 through 14, if Mexico is projected to have a net amount production surplus, in accordance with the terms of the letters.

Fourth, the United States and Mexico have reached a subsequent understanding as a result of which the calculations related to net surplus production will include the consumption of high fructose corn syrup in Mexico. Also, the ceiling for imports of sugar during the 7th through 14th marketing years will be the amount of the net production surplus up to a celling of 250,000 tons.

Beginning not later than 6 years after NAFTA goes into force, Mexico will implement a tariff-rate quota regime for sugar that conforms to the regime in the United States.

Lastly, it is my understanding the provisions in paragraph 6 of section A of annex 703.2 which provide that each party may count the in-quota quantity under a NAFTA tariff rate quota toward the satisfaction of in-quota quantity commitments undertaken by the party as a result of the Uruguay round of multilateral trade negotiations under the General Agreement on Tariffs and Trade have been affirmed in the exchange of the two letters.

Mr. GEPHARDT. Mr. Chairman, I yield 3 minutes to the gentleman from Missouri [Mr. CLAY].

Mr. CLAY. Mr. Chairman, I rise in opposition to H.R. 3450, the North American Free-Trade Agreement Implementation Act.

Approval of this measure will increase downward pressures on the wages of workers in the United States; nullify any movement toward greater labor-management cooperation; discourage efforts to improve the education and skills of low-wage workers; and exacerbate the inequitable distribution of income. Congressional ratification of NAFTA would be a disastrous for the Nation.

A trade agreement between Mexico and the United States could achieve desirable, important ends. If properly designed, taking into consideration the concerns of workers and environmentalists, it could increase the standard of living and elevate the health standards in both countries. Such a treaty should include provisions to stabilize exchange rates, require the democratizing of domestic institutions, and improve the slave wages of Mexican workers as a condition of ratification.

Mr. Chairman, NAFTA is not simply badly designed, it is fatally flawed. It is intended to achieve only a single objective, to make it safer and more profitable for American companies to invest in Mexico and export back to the United States. This treaty does little more than secure the property rights of those who want to invest in Mexico in order to maximize profits. The sad consequence is not only the further loss of American jobs, but increased downward pressure on the wages of those jobs that remain.

NAFTA is being proposed at a time when American workers have suffered significant declines in living standards. The number of full-time American workers with wages below the poverty level has increased substantially during the 1980's while trillion-dollar deficits have crippled the ability of Government to create retraining programs, extend unemployment benefits, or provide other life-saving assistance to smooth the transition. NAFTA will accelerate the decline of the high standard of living of American workers; will exaggerate differences between the rich and poor; and will create a permanent underclass in the United States. Rather than bringing the Mexican standard of living up to levels more nearly approaching ours, NAFTA will lower the American standard of living to levels more nearly approaching theirs.

Mr. Chairman, I urge my colleagues to defeat H.R. 3450.

Mr. KOLBE. Mr. Chairman, I yield 1 minute to a distinguished freshman Member, the gentleman from New Jersey [Mr. FRANKS], a member of the Committee on the Budget and member of the Committee on Public Works and Transportation.

(Mr. FRANKS of New Jersey asked and was given permission to revise and extend his remarks.)

Mr. FRANKS of New Jersey. Mr. Chairman, rarely has an issue generated the level of controversy that we have seen from the debate over NAFTA. Each side in the NAFTA debate has its own statistics, analysis and anecdotal evidence to support its position. My challenge, as a Member of Congress, has been to sort through the competing claims and charges.

Frankly, throughout this debate I have become wary of the information presented by each side. While I don't believe either camp has willfully engaged in deception or misrepresentation, both sides are so firmly committed to their original positions that they have been able to hire so-called experts who have been able to produce the research that justifies their claims.

I came to this debate as one who has had a longstanding belief that nations improve their standard of living by increasing trade with other nations. Increased trade, improved access to markets through reducing tariffs and other trade barriers has a long track record of improving the quality of life for the people of all nations.

But when it comes to NAFTA, opponents contend, there will be no benefits for the American worker and his family. The allegation is that there is something uniquely evil about NAFTA. That's why I've spent hundreds of hours focusing on the validity of the charges and countercharges. I have met with a wider diversity of people on this issue than any I have faced in my 14 years of elective office.

Moreover, I have a special responsibility to evaluate this treaty with a view toward what it means for the 600,000 people in central New Jersey that I represent in the U.S. Congress.

Over and over again, NAFTA opponents have suggested that the only ones who would benefit from NAFTA would be a handful of huge multinational companies who would use Mexico as a haven for cheap labor and loose regulatory controls.

In order to learn for myself whether workers would be helped by NAFTA, I undertook a systematic effort to contact businesses, not just large companies, but particularly the small- and medium-sized firms which employ 80 percent of our workers and have created nearly all the new jobs over the last 10 years.

The people I spoke with represent what NAFTA is all about.

It is about tapping into new markets for American products so we can build a more secure and prosperous future for American workers.

It is about the Red Devil Co. in Union, NJ, a family-owned business employing 250 workers whose paint tools and caulking products have become a household name in the United States. Now they want to do the same in Mexico.

It is about Mentor Graphics of Warren, NJ, a computer software company that wants to expand into Mexico but fears that their technological advances will be pirated by the Mexicans. NAFTA will provide the protection they need for their intellectual property rights. Mentor Graphics views Mexico as a stepping stone to the expanding and lucrative markets of Central and South America.

And it is about Hexacon Electric Co. of Roselle Park, NJ, a family-owned manufacturer with 100 employees which is facing some tough times because of cutbacks in defense spending. With its biggest customer cutting back, Hexacon needs to find new markets for its soldering equipment for electronic manufacturers. It sees Mexico as having a huge potential for its products.

These companies know that our national economy is at a crossroads. The old way of doing business isn't working anymore. The United States can no longer rest on its past accomplishments and assume it will always be the most dominant economic power on Earth. The world's economy is moving on. Americans are now coming to understand that competition from Japan, Europe, and China is truly fierce. We must have a strategy that allows us to win the global economic competition, just as we won the cold war.

Even the most adamant opponents of NAFTA recognize that our industrial foundation is shifting. Over the past 20 years, without NAFTA, certain industries have virtually disappeared from the American landscape. Over that same period, others have developed and are now dominating world markets. These significant changes in the economy, and the resulting loss of some jobs, and the creation of others, is an ongoing process all over the world.

We cannot stop these changes, but we, as a nation, can use change as an opportunity to open up new avenues for new jobs for American workers.

Clinging to the ways of the past is not the answer. Our Nation must be willing to take on the competition, not retreat from it. We must control our own economic destiny.

The debate over NAFTA comes down to one between the future and the past. Between moving forward or standing still.

This debate takes place at a unique time in American history. Today, the power of fear seems to be greater than the power of hope.

I understand and appreciate the concerns of those who are opposing NAFTA. The anxiety felt by American workers is real and understandable. I saw a graphic example of workers' anxiety back in June, when over 1,200 of my constituents attended a jobs fair that I sponsored at Union County College, located in Cranford, NJ. Change can be frightening, especially in these unstable economic times. But the translation of this anxiety into opposition to NAFTA is counterproductive.

If we do nothing, our industrial base will continue to erode while more and more manufacturing jobs disappear. Beyond NAFTA, Congress has the obligation to develop a comprehensive plan of action to rehabilitate our own ailing manufacturing sector and to stop the hemorrhaging loss of manufacturing jobs. That's why I joined with Democratic Congressman MARTY MEEHAN of Massachusetts to form the first-ever congressional task force on revitalizing American manufacturing. In January, we will be recommending a series of changes in the regulatory process, tax system, and worker training programs to stimulate a rebirth in American manufacturing.

NAFTA is a vital tool in that process. It provides us with an opportunity to expand trade with our neighbors and to rebuild our own industrial base. If we don't take advantage of new markets south of the border, our economic rivals, most likely Japan, will quickly act to fill the void.

To listen to opponents of NAFTA, one could almost get the impression that currently no economic activity exists between the United States and Mexico. Those who proclaim "Not this NAFTA" warn that before we enter into a meaningful trading relationship with Mexico, a whole host of preconditions need to be met. But the fact is that today we have an enormous, ongoing, trading relationship with Mexico.

Mexico represents a huge market across our border waiting for access to high quality, affordable, United States goods—85 million consumers in a nation with a $324 billion aggregate economy. More than 20 million people live in Mexico City alone—that's nearly three times the population of New Jersey. The critics say the Mexicans are too poor to purchase American-made consumer goods. But 3 weeks ago, I stood in the toy department at a brand new Wal-Mart store in Mexico City. As the store manager told me that this particular store had broken all records for sales in its first week of operation, I watched as hundreds of middle-class Mexicans walked away with Fisher-Price toys and Scott baby products for their children. They were picking up bars of Dove soap, cans of Tasters Choice coffee, and plastic soap dishes made by Van Ness Plastic in Belleville, NJ.

The ability to sell American goods to Mexico will never be fully realized while Mexico continues to maintain high tariffs. Their tariffs on average are 2½ times higher than American tariffs. It's the difference between stepping off a 6-inch curb to get goods into the United States versus the need to scale a 6-foot wall to get products into Mexico. By forcing Mexico to lower its tariffs, NAFTA will actually reduce the price of United States products to Mexican consumers. Under NAFTA, half of all United States made goods exported to Mexico, including such competitive products as computers, machine tools, and medical devices, would be tariff-free starting in January 1994. Within 5 years, two-thirds of all United States industrial exports would enter Mexico duty-free.

Since 1987, when Mexico began a process of bringing down its restrictive tariffs, the United States has turned a $5.7 billion trade deficit with Mexico into a $5.6 billion trade surplus. To put that $5.6 billion surplus with Mexico in perspective, last year the United States had a $48 billion deficit with Japan. Mexico is now America's third largest and fastest growing trading partner. Our exports to Mexico have been growing 2½ times faster than our exports to the rest of the world.

This year alone, United States exports to Mexico will total about $45 billion in United States dollars. And a vast majority of these exports—83 percent—stay in Mexico. That's important because NAFTA opponents argue that much of our exports to Mexico are actually so-called u-turn goods, which are sent to Mexico for assembly and are sold back to American consumers. That is simply not true. Fully 83 percent of American exports to Mexico are consumed by Mexicans in Mexico.

On a per capita basis, the average Mexican is already spending over $451 a year on United States products, far more than the average European, who spend $295 on United States goods or the average Japanese who spends $385 on American-made products. This is a fact even though the Japanese and Germans on average are five times more affluent than the Mexicans.

It is true that Mexican wages are low. But they are on the rise and that will leave workers with more income to purchase American-made products. In the past 5 years, real wages in the manufacturing sector of the Mexican economy grew 27 percent, and wages in the commercial sector rose 39 percent. Moreover, the Mexican Government has adopted a policy that would continually raise pay for Mexican workers commensurate with productivity increases.

The Mexicans love American-made products. Sears has 43 retail stores in Mexico and the vast majority of their products are made in the United States of America. Wal-Mart recently opened its first Mexican store—the largest in the world covering almost 6 acres with 72 cash registers—and they plan to open two more stores. Nearly half the products sold at the Mexico City Wal-Mart store are made in the United States.

The United States has its foot in the door in Mexico. NAFTA can swing that trading door wide open. And once that door to Mexico is open, it provides American products with access to the 300-million strong Spanish-speaking market throughout Central and South America.

For New Jersey businesses, especially those in the manufacturing sector, Mexico is already a major market. Today, Mexico is our sixth largest export market. The growth in exports to Mexico has been truly remarkable—increasing a whopping 139 percent in just 5 years from 1987 to 1991—far faster than the export growth in the rest of the world. New Jersey is sending a diverse lineup of goods to Mexico, from petrochemicals and computers to industrial machinery and electronic equipment.

It only makes sense for the United States to turn first to its neighbors to expand its trading base. All around the world, countries are working together to establish free-trade zones. The countries of Europe followed the same approach. Likewise, Japan has moved to create favorable trade relationships with other Pacific rim countries. NAFTA is the first step in expanding the market for American goods throughout the growing economies of Central and South America.

Perhaps the most frequently aired concern is that NAFTA will drive American businesses out of the United States and into Mexico to take advantage of lower wages.

As we examine this argument, it is important to note that right now, there is nothing stopping American companies from relocating in Mexico to reap whatever benefits they perceive from hiring cheap labor. In fact, NAFTA would take away one of the major incentives to relocate to Mexico—the duties and restrictions United States companies must now pay to sell their products in Mexico. Those restrictions actually prohibit certain products from being sold in Mexico unless they are produced in Mexico with Mexican parts and labor. NAFTA would remove these duties and restrictions, and with it, the incentives that currently exist for American businesses to relocate in Mexico.

While it is true that wages are far lower in Mexico than the United States, there's another important factor that makes moving production facilities to Mexico a bad business decision. United States labor is far more productive than Mexican labor—five times more productive in fact.

General Motors recently decided to stop producing cars in Mexico and to move that production to the United States because it can make the same car for $700 cheaper here in the United States. AT&T shut down one of its manufacturing facilities in Mexico and moved it back to Atlanta, GA.

The fact is NAFTA will promote exports, not people. Exports mean more jobs for American workers. For every $1 billion in exports, studies show that nearly 20,000 jobs are created. And those jobs connected with exports pay 17 percent higher wages than other jobs.

And that brings us to another important concern—ensuring our Nation's stringent environmental and product standards are not undermined by Mexican imports under the NAFTA agreement.

Let me clear up this issue by referring to specific language in the agreement that protects the right of each country to set its own environmental and health standards. The agreement states in article 903 that nothing in the agreement prevents a participating country from adopting those standards necessary to—

> fulfill its legitimate objectives, for example because of fundamental climatic, geographical, technological, or infrastructural factors, scientific justification or the level of protection that the Party considers appropriate.

Under this provision, any imported product that does not meet USDA or FDA requirements to protect the public health and safety of the American people will not be allowed into our country.

The fact is that NAFTA is the most environmentally friendly trade agreement ever negotiated.

This unprecedented attention to a cleaner environment is a first for any major trade agreement. It will produce an added bonus for U.S. businesses—especially those located in New Jersey—who specialize in environmental controls as they will now be able to tap into a new market for their products. Mexico has already made a significant commitment to a cleaner environment and is spending $2.5 billion a year on their effort. It is increasingly turning to U.S. businesses to supply the technology and services needed for its cleanup efforts. Forty-five percent of the imports for environmental technologies come from the United States. That's good news for New Jersey companies that has developed a niche in the environmental cleanup field.

But it wasn't my own evaluation that persuaded me that NAFTA is good for the environment. An impressive lineup of environmental organizations are backing ratification of NAFTA including the National Audubon Society, the World Wildlife Fund, the National Wildlife Foundation, and the Natural Resources Defense Council.

Illegal immigration is another key issue facing our country. In this regard, NAFTA has the potential to reduce the steady stream of Mexican immigrants by creating new economic opportunities within the borders of Mexico—opportunities for new jobs and higher wages. As the Commission for the Study of International Migration concluded: "The issue for many countries is stark; they either export goods and services to create jobs at home, or they export people."

Finally, there are two more points that need to be made. First, America's employment profile is changing everyday. Some sectors of the economy are gaining, others face very uncertain futures. Some level of employment dislocation is inevitable as the world's economy goes through another historic transition. I agree with Secretary of Labor Robert Reich that job losses that could be traced directly to the enactment of NAFTA will be extremely minimal. Job shifts will occur, but as virtually all studies have shown, NAFTA will have very little impact on job losses. Although there is no action available to us in Washington that can avert the loss of every job currently held by an American worker, we have a moral responsibility to provide new skills to displaced workers who for whatever reason lose their jobs.

My sensitivity to this issue has caused me to support the bill currently before Congress to extend unemployment benefits for workers who continue to struggle while looking for jobs in a sluggish economy. Moreover, I am in strong support of Secretary Reich's proposal that will offer a new, comprehensive retraining program targeted specifically at workers who are losing their jobs because of the changing economic climate. The Labor Department proposal addresses the need to provide universal access for all laid-off workers, quality labor market information, long-term training for dislocated workers and income support for those workers who enroll in a retraining program. In addition, the manufacturing task force, which I cochair in Congress, will be making a host of suggestions to enhance our Nation's job training programs.

Finally, my conscience is very clear today. I have carefully listened to both sides in this debate and have arrived at a decision that I am convinced is justified on the basis of the facts. I strongly believe that NAFTA will be a big winner for New Jersey workers. But if the agreement produces some unintended consequences, NAFTA contains a vitally important provision. In chapter 22, under article 2205, each country has the opportunity to withdraw from NAFTA. All it would require for U.S. withdrawal, is a vote of the Congress and 6 months notice. No conscientious Member could sit by if this agreement turns out to be damaging to the American economy. The termination clause gives us an extremely important safety valve.

Since the end of World War II, the United States has led the world in reducing trade barriers. NAFTA builds on that 50-year tradition. Last year, the export of U.S.-made products grew by $27 billion. And 75 percent of that growth came from selling products to developing and underdeveloped countries. We need to build on that strength by expanding trade with our neighbor to the south, which has one of the fastest growing economies in the world.

To those who fear NAFTA, I ask them a simple question: What happens if we do nothing, if we walk away from this agreement and carry on as usual?

Mexican consumers will continue to seek new products and services that can't be produced in Mexico. Other industrialized nations will merely step in and fill the void, enhancing their economic prosperity while our Nation's economy staggers along.

Our border with Mexico will remain an environmental time bomb. The Mexican Government will no longer have an incentive to clean up the region.

Finally, the stream of illegal immigrants crossing the border from Mexico in search of a job will continue, straining our own resources.

Standing still is not the answer.

The world that we live in today is far different from what it was just a few years ago. So much has changed in such a short period of time. And with that change comes an enormous challenge. Will we fight for our economic vitality, or will we try to return to a world, long gone?

I believe we must move forward. Mr. Chairman, I urge my colleagues to seize the moment and boldly invest in the future of America by voting "aye" on NAFTA.

Mr. SOLOMON. Mr. Chairman, I yield 3 minutes to the gentlewoman from Maine [Ms. SNOWE], a veteran member of the Committee on Foreign Affairs.

Ms. SNOWE. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, when talking about the ramifications of the North American Free-Trade Agreement, I am reminded of the hit movie, "Back to the Future." Similarly, as proponents of NAFTA say the treaty looks to the future, they fail to see how other trade agreements have failed our workers and our industries in the past.

I represent a district in the State of Maine which has experienced the down side of our Government's trade policies. The State of Maine is living proof of the failures of past U.S. trade policy. I have been in Congress for 15 years, and I have been fighting the same trade battles for 15 years.

During this period, it has been clear to Mainers that U.S. trade policies haven't worked because our trade relief process doesn't work, and existing trade laws and agreements have not been aggressively enforced. As a result, the Maine footwear industry—the largest in the Nation—has lost over 9,000 jobs to countries like Mexico, whose work forces are dominated by low-wage jobs. Similar horror stories can be told about textiles, fisheries, and our lumber industry.

Five years ago, before the United States-Canada Free-Trade Agreement was signed, Maine was promised by our Government that Canadian subsidies and nontariff trade barriers on potatoes would be addressed. Five years later, nothing has been done on this vital Maine issue, and the potato industry in my district continues to suffer from subsidized imports from Canada.

To make matters worse, our United States trade representative—in a major departure from our existing treaty—conceded a major point in NAFTA by allowing Canadians to resolve trade sanction disputes in Canadian courts. No chance of a fair trial there.

Although the Canadian Province of New Brunswick decided to impose an 11-percent provincial sales tax on goods purchased in the United States, indisputably a violation of the 1988 agreement, 6 months have gone by and we still have no resolution to the dispute. If we cannot address obvious and admitted violations such as these, how can we hope our Government will enforce cross-border national wage policies and environmental degradation issues under the complex bureaucratic process established in NAFTA.

You see, I believe that free trade is a two-way street. Trade agreements like NAFTA are only as good as the trade officials who are negotiating and enforcing them. But for years, confidence in our Nation's ability to bring fair and swift conclusions to bilateral trade disputes has been nullified by a distinct lack of commitment on the part of our trade negotiators. The loopholes allowing such unfair Canadian practices to proceed could have been closed this summer during discussions over the NAFTA side agreements, and tougher enforcement measures could have been negotiated.

Instead, this administration and congressional leaders have spent their time trying to convince lawmakers that NAFTA is a fair deal—practically giving away the family silver. They can wheel and deal for votes, but they could not do the same for the American worker. Why did they not use the same time, energy, and enthusiasm negotiating tougher side agreements to level the playing field for our workers?

In the final analysis the key questions relate to jobs for workers: what guarantees for enforcement do we have for the unknown terrain for the future? Where is the commitment of our Government beyond this vote here, today? If past actions—or inactions—are any indication of the future for trade under NAFTA, then, regrettably, nothing will change for our workers.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Let the Chair intervene to say that persons in the gallery should be reminded that demonstrations of approval or disapproval are strictly against the rules of the House.

The CHAIRMAN. The Chair recognizes the gentleman from California [Mr. MATSUI], the designee of the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. MATSUI. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Chairman, we have all been elected to lead the greatest Nation on Earth, and our job is to recognize that greatness, to understand how we achieved it and to sustain, even to strengthen it, for we all stand on the shoulders of giants today, giants of integrity, leaders who have shown courage when it was called for, politicians who have had faith in our future and were willing to sacrifice personal political gain for the long-term public interest.

We are being tested today, and the whole world is watching. Are we still the America of inclusion, a nation of competitors, a country of confidence? Or are we a nation in decline, of exclusion, of protectionists and isolationists? Will we self-destruct out of fear, or will we today meet the test of greatness?

Nations are in many ways like the human beings that make them up. We all know in our experience that when we stop growing physically or intellectually or spiritually, we start dying. There is no static state in our lifetimes or in the life of nations.

□ 1220

Send a signal today to the rest of the world, a clarion call to the other developed nations, those second place challengers, that we are not afraid of free and fair trade, that we will compete, and to the underdeveloped nations of the world, that we look upon our neighbors to the south, not with scorn as Third World people, but as friends with whom we will join hands and hearts to make the Western Hemisphere the greatest place to live and to work in the new world and into the next century, America's century, the century of the Americas.

Mr. GEPHARDT. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. SOLOMON. Mr. Chairman, in a bipartisan effort, I also yield 1 minute to the gentleman from Ohio [Mr. TRAFICANT].

The CHAIRMAN. The gentleman from Ohio [Mr. TRAFICANT] is recognized for 3 minutes.

Mr. TRAFICANT. Mr. Speaker, I think the only thing free about the North American Free-Trade Agreement is all the Mexican money that was passed around Washington to help to pass it, and I think this is a sad day for the American worker. I think there are leaders in both parties that truly are trying to reach out, fashion a trade program in America that is truly fair and gives the American worker a chance to compete. But the truth is the powers of both the Democrat and Republican Parties are so much alike that I predict that we will have a third major political party in this country by the turn of the century, and I would like to say this:

> It's needed, and the American worker better get on with it because we have great problems.

But let us take a look at Mexico and America, and let us be honest about it. I say:

> If you are going to start a manufacturing operation in America, you have IRS, Social Security, workman's comp, unemployment comp, OSHA, EPA, banking regulations, security regulations, health inspectors, pension law, minimum wage and about a $25 an hour labor rate. My colleagues, if you start that company down in Mexico, you have token regulations, and you could hire people day and night at a dollar an hour, and our system is still free enterprise. Bottom line: We're going to lose jobs; everybody here knows that.

Mr. Chairman, if NAFTA is such a good deal, I ask, "Why don't we apply it first to Japan who is cleaning our clock illegally?" There is not enough courage here to challenge them.

This is not a new deal. It is not even an old deal. These side deals are amounting to just a simple raw deal, my colleagues, and it makes no sense to me for America to send their jobs, factories, cash, banks and technology to Mexico, and in return, my colleagues, we get unemployment and plant closings.

And I say, "If you want to do something about illegal immigration, put some damn money into the Border Patrol."

We do not need any more retraining, Mr. Chairman. What are we retraining American workers to do? Where are the jobs they are going to have?

I think it is time for a third major political party. I commend the powerful leaders on both sides that are trying to help, but their efforts are not enough, and they will not be enough because there is no damn difference between Republicans and Democrats, and that is the tragedy, and NAFTA points it out very clearly to the American worker.

Mr. KOLBE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Ohio [Mr. BOEHNER].

Mr. BOEHNER. Mr. Chairman, I rise today in strong support of the North American Free-Trade Agreement. Passage of this trade agreement will continue our Nation's ongoing efforts to reduce trade barriers around the world and increase export opportunities for American companies and workers.

I have heard from many people back in Ohio about the benefits of this agreement. I'd like to share with the House some of the growth opportunities that will exist with the passage of this agreement for companies located in the Eighth District of Ohio.

The Square D Co., with plants located in Middletown and Oxford, OH, exports roughly 40 percent of its products. These exports support nearly half of the jobs provided at these facilities. NAFTA offers yet another new market for Square D to sell its products.

The French Milling Co. of Piqua, OH, produces the machinery that crushes 75 percent of all oilseeds in Mexico. If NAFTA is defeated, they will be forced to move production of these machines back to Mexico in order to serve this important market. Passage of NAFTA will guarantee that these jobs stay in Ohio.

Enactment of NAFTA means that Henny Penny Co. in Eaton, OH, will sell more equipment to fast food franchises in Mexico, which in turn, means more jobs and greater economic security for Ohioans.

There is no doubt that Ohio's largest industry—agriculture will reap enormous benefits. Mexico is agriculture's third largest export market. Feedgrains, dairy, and livestock, all important Ohio commodities will have great opportunities to increase their marketshare in Mexico. Expanded trade with Mexico also means better prices and greater prosperity for Ohio farmers from the marketplace, not from Government programs.

Ohio's exports of oilseeds are expected to rise by 20 percent and corn exports are projected to increase by 60 percent. Over the next decade, NAFTA will result in a 100-percent increase in dairy exports, a 150-percent increase in poultry exports, and a 250-percent increase in pork exports from the United States to Mexico.

In summary Mr. Chairman, passage of NAFTA means economic security and greater prosperity for workers in the Eighth District and all Ohio. Lee Iacocca had it right when he said "This agreement is a no-brainer."

Mr. Chairman, I submit several letters from companies in my district.

A.O. SMITH, ELECTRICAL PRODUCTS CO.,
Tipp City, OH, October 19, 1993.

JOHN BOEHNER,
Troy, OH

DEAR MR. BOEHNER: I strongly support the North American Free-Trade Agreement. U.S. exports to Canada and Mexico have more than doubled from $55.3 billion to $111.4 billion between 1980 and 1990. The U.S. Department of Commerce has estimated 2.3 million U.S. jobs are currently related to exports to Mexico and Canada. Since Mexico joined GATT and reduced its tariff rates in 1986, the resulting increase in U.S. exports to Mexico created as many as 320,000 new jobs. I urge you to vote in support of NAFTA.

NAFTA will create new jobs at the company where I work because it will increase sales due to market expansion in Mexico and Canada. I work at A.O. Smith and we have plants in Mexico already, most established a long time before NAFTA negotiations. To survive in a very competitive market, A.O. Smith moved part of its Electric Motor division to Mexico. If we hadn't, all of our Electrical Products companies would have closed. Korea took over the U.S. marketplace in garage door motors in the early 1980's. As a result of moving to Mexico in 1986, A.O. Smith regained the market share of garage door motors from the Koreans. Since all the motor parts are fabricated in the U.S., A.O. Smith actually saved over 1,000 jobs in the U.S. If you consider the fact that we purchase all of our steel, copper, aluminum and other supplies and services in the U.S., there were probably thousands more jobs saved in the U.S. Currently we have over 1,200 employees in U.S. electric motor plants.

In our water heater division, 90 percent of the water heater materials come from the United States and only some final assembly is done in Mexico. One of the main reasons for moving one of our water heater plants to Mexico was for distribution purposes. Just-in-Time delivery is vital to survival in the water heater market.

We do the fabrication of both the electric motors and water heaters in the U.S. This fabrication incorporates higher technical skills and means the high paying jobs have remained in the U.S. A.O. Smith abides by stringent environmental, health and safety regulations in all our Mexican plants. These standards are as stringent as the ones followed by our U.S. plants.

More jobs in Mexico will expand Mexican consumer demand for U.S. goods. Mexicans prefer U.S. goods. Sixty-seven percent of their imports are from the U.S., compared to Japan's 21 percent and Europe's 17 percent of the import market. If NAFTA is passed, A.O. Smith is positioned to be a major motor producer in Mexico, which will create more jobs in the U.S. and bring more export dollars to the U.S. economy.

Voting in support of NAFTA is voting for more high paying jobs in your district. I strongly urge you to vote yes for NAFTA.

Sincerely,

DAVID BAKER,
Personnel Manager.

THE FRENCH OIL MILL MACHINERY CO.,
Piqua, OH, November 8, 1993.

Congressman JOHN A. BOEHNER,
Longworth H.O.B., Washington, DC.

DEAR JOHN: On behalf of The French Oil Mill Machinery Company with 110 employees in Piqua, Ohio, I am writing to urge your active support for the North American Free Trade Agreement (NAFTA). I strongly believe that enactment of the NAFTA will create new jobs and spur economic growth in both Ohio and all the United States.

A ratified NAFTA will:

Create more U.S. jobs. It is forecast that NAFTA will boost demand for U.S. products in Mexico, creating an estimated 200,000 new export-related job opportunities over the next two years.

Preserve the more than 700,000 U.S. jobs that already depend on exports to Mexico. Without NAFTA, Mexico may retreat from its new open-market policy and many of these jobs would be lost.

That certainly could be true at our company. About 75% of the vegetable oilseeds crushed in Mexico are processed on our company's oil mill extraction machinery. When the peso was devalued in 1982/1983, and the border became essentially closed, we could not support our Mexican customers. We negotiated long and hard with the Mexican government and finally received authorization to start two wholly-owned subsidiary companies: one for marketing and one for manufacturing.

We manufactured (under sub-contract) portions of our machinery in Mexico for several years, in order to serve our customers' needs. We did not find this particularly cost-effective, thus when the border "re-opened", we discontinued our operations, and moved the work back into the U.S.

If NAFTA is not enacted, it is entirely possible that Mexico may again raise a tariff wall, making it difficult for us to keep the work in Piqua. If one of our foreign competitors started manufacturing in Mexico, we would definitely have to follow suit, moving jobs from the U.S.

Thus, NAFTA would strengthen our company and the opportunities available to the American workforce, certainly including Ohio.

I hope that you will vigorously support NAFTA implementing legislation. Please let me know your view.

Very truly yours,

DENNIS D. BRATTON,
Treasurer & Controller.

PMI FOOD EQUIPMENT GROUP,
Troy, OH, October 28, 1993.

Hon. JOHN A. BOEHNER,
U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR CONGRESSMAN BOEHNER: On behalf of PMI Food Equipment Group, I am writing to urge your active support for the North American Free Trade Agreement (NAFTA). I strongly believe that enactment of the NAFTA will aid in job creation and spur economic growth in both Ohio and the United States. As you may be aware, PMI Food Equipment Group (formerly Hobart Corporation) has operations in Ohio and employs several thousand individuals.

A ratified NAFTA will:

Create more U.S. jobs. NAFTA will boost demand for U.S. products in Mexico, creating an estimated 200,000 new export-related job opportunities.

Increase America's ability to compete in world markets. Under NAFTA, the U.S. will have a significant edge over European and Asian products in the rapidly growing Mexican market. This advantage will grow as the free trade area is expanded to include Central and South American nations.

I do not expect that the effects of NAFTA on our business will be all positive. Nevertheless, we believe that for our business as well as the American economy as a whole, the positives far outweigh the negatives. We, therefore, urge your support.

I hope that you will support NAFTA implementing legislation.

Sincerely,

J.W. DEERING.

PET INCORPORATED, COLDWATER, OH
November 16, 1993.

Hon. JOHN A. BOEHNER,
U.S. House of Representatives, Washington, DC.

DEAR REPRESENTATIVE BOEHNER: I am writing to you about the approaching votes in the United States Congress on the North American Free Trade Agreement.

While I cannot comment on other industries, I can comment from the perspective of my company, Pet Incorporated. Pet is a leading branded, packaged foods manufacturer with 83 percent of our sales in the United States last year.

Our company sees significant advantages from NAFTA in terms of future exports of our products, principally to Mexico but also to Canada. Longer term, we believe that similar advantages would result from expanding NAFTA to other markets in Latin America.

Our company sees no prospect of moving production from our present locations to Mexico as a result of NAFTA.

We also believe that NAFTA is very important in maintaining an open posture towards Latin America, a market that has more immediate export potential for our company than either the East European bloc or the Pacific Rim. For example, at present we are testing our Old El Paso sales products in Mexico and Venezuela. This potential new export from the United States would be helped by NAFTA's removal of tariff and other trade barriers.

Therefore, we strongly urge you to vote in favor of NAFTA and to support the agreement with your colleagues.

Very truly yours,

WILLIAM T. WARD,
Plant Manager.

JAMES F. DICKE II,
New Bremen, OH, November 2, 1993.

Congressman JOHN BOEHNER,
U.S. House of Representatives,
Washington, DC.

DEAR JOHN: During my trip last week to South America as a part of the Young President's Association International Chapter, we had the occasion to meet, hear from and question the presidents of Argentina, Uruguay, Paraguay and Chile. What I found most interesting and wanted to share with you was their attitude about the importance of NAFTA, which was even stronger than I had realized.

Especially Presidents Carlos Menem of Argentina and Patricio Aylwin of Chile made it dramatically clear that their countries are looking to the U.S.A. for leadership in opening Western Hemisphere trade. Presidents Bush and Clinton have both impressed these leaders; and in their own markets, they have seen a roll back of their protectionism creating positive results. They see NAFTA as a critical test of U.S. intentions towards Latin America, and see the U.S. itself as the biggest economic winner. It seemed hard for them to imagine that we in the United States may reject NAFTA against our own interests and theirs too. I realize that you are already in favor, but thought perhaps this information could be helpful in reasoning with colleagues who might think their districts will be hurt.

Janet joins me in sending best regards.

Sincerely,

JIM.

Mr. SOLOMON. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from South Carolina [Mr. RAVENEL].

Mr. RAVENEL. Mr. Chairman, in my district I have a number of garment industries, some people call them cut and sew operations. Most are located in an economically deprived area. In these plants hundreds of people, predominantly women, work at sewing machines making a variety of clothing. Many are the sole support of their families. Because of the competitiveness of the garment industry, their jobs are relatively low-wage, but they are jobs providing the necessities of life and particularly the dignity that comes from gainful employment. These folks believe that if NAFTA passes, their jobs will move to Mexico. I share that belief.

What, Mr. Speaker, will then happen to these good people? Some say they can be retrained, but retrained for what? There are tragically inadequate job opportunities in that area. For many, welfare and dependency must be their only recourse. However, if NAFTA does not pass this day, the question can be revisited at a later date when safeguards can be provided for these, my constituents. As our country is, and into the future will be, the world's greatest and most lucrative market, this alternative should be no unsolvable problem.

Mr. GIBBONS. Mr. Chairman, I yield 1 minute to the gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Mr. Chairman, in 1803, America expanded its borders with the purchase of the Louisiana Territory. The move was controversial. After all, how could a nation as young and small possibly control or afford so much wilderness? But Thomas Jefferson had the courage and the vision to see in that wilderness the future of our Nation.

In 1867, Secretary of State William Seward purchased the Alaska Territory. The skeptics called the purchase Seward's folly. But Seward had the courage and vision that created one of the crown jewels of our Nation.

I am confident that future generations will recall that in 1993 America once again seized an opportunity, not through land, but through trade. Let history show that we had that courage and vision, like our forefathers, to secure, as Thomas Jefferson said, "an ample provision for our posterity." Let us expand our horizons, let us ensure our future, and let us pass this free-trade agreement.

□ 1230

Mr. GEPHARDT. Mr. Chairman, I yield 2½ minutes to the gentleman from California [Mr. TUCKER].

Mr. TUCKER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, as we move on past the vote, this historic vote tonight, and history reflects what we have done here on this floor tonight, if this NAFTA passes I can sadly say that history will not reflect that we had great vision, but history will reflect that we embraced the notion of expansion and of progress at the expense of people. For indeed, someone recently said that America should be about putting people first. But, more recently than not, it seems as though America is about putting profit first.

As I have talked to the average American in the last few days and weeks and unending hours of this discussion on NAFTA, people have been generally confused. They have asked, "What side should I believe?" And I have fathomed from that that it is entirely because there are many parts and many aspects of this North American Free-Trade Agreement that do make sense, that will generate profit, that will generate trade. But the question is not should we do this NAFTA. The question is how should we do this NAFTA.

NAFTA is a good concept. North American trade is a good principle. But at what expense? At what cost?

All of the proponents of NAFTA stacked up together cannot deny the fact that there is an eight-to-one wage disparity between Mexico and the United States. Over the last 12 years, the wages in the United States and Canada have gone up, but in Mexico they have not.

When you get down to the long and short of this NAFTA agreement, you will realize that no one is doing for the American worker what they are willing to do south of the border. When are we going to stand up for America and do what is right for our people?

Mr. KOLBE. Mr. Chairman, I yield 2 minutes to the very distinguished gentleman from Lincoln, NE [Mr. BEREUTER], a senior member of the Committee on Foreign Affairs and the Committee on Banking, Finance, and Urban Affairs.

Mr. BEREUTER. Mr. Chairman, first, this Member would offer a few comments and a conclusion on what is actually obvious to a substantial majority of the Members of this House—the approval of NAFTA is the best interest of the United States of America and of the American people, both in the short term and certainly in the long term. It is also in the best interest of the working men and women of this country, farm families, and every other significant or every minor occupational or economic sector in this country. While one should not exaggerate the immediate benefits to America of NAFTA or the relatively small number of additional jobs created in the United States by NAFTA, there will be a net increase in U.S. jobs and there even will be a net increase in manufacturing jobs. More importantly, however, it will slow the loss of our jobs to other countries—to Southeast Asia, and yes, to Mexico, too.

Furthermore, approval of NAFTA will improve environmental conditions on both sides of the Mexico-United States border, while giving strong encouragement to election, labor, environmental, and many other areas of reform in Mexico. Clearly, too, the arguments recently raised about NAFTA threatening our sovereignty are so phoney they are unworthy of additional comment.

In short, this trade agreement, like all such carefully crafted agreements, benefits all the nations involved. Mutual reduction in trade barriers, even in an agreement as complicated as NAFTA, is not a zero-sum game. Both Mexico and the United States are net beneficiaries, and so is Canada. Indeed, I believe that a secret ballot would show that at least three-quarters of this House would vote "aye" on NAFTA today, for they know in their hearts and minds that the approval of NAFTA is overwhelmingly in our national interest and overwhelmingly positive for the American people. This vote isn't even a close call.

Mr. Chairman, second, this Member would assert, with respect to the foreign policy or international relations impact on the NAFTA decision, there is scarcely any possibility of overestimating the impact of the choice presented to us today. My colleagues, with no hyperbole I tell you this vote on NAFTA today is the most important United States hemispheric and most important United States-Mexican relation vote to come before the Congress in the 20th century.

The defeat of NAFTA would, by rejection of the Mexicans' initiatives and implicitly the worthiness of their ambitious reform programs, send a very negative message to other nations of Latin America and the Caribbean. Many of them are now committed to liberalization and political reform. In addition to other advantages they see in a NAFTA-like trade agreement with the United States, our neighbor countries to the south now understand that these reforms are also the key to greater trade and access to U.S. markets and U.S. exports. We must remember that a NAFTA agreement with Mexico is only the first step. Chile is the next of several countries impatiently waiting in line.

All of Latin America and the Caribbean is watching our vote today to see if we have the courage, political will, and the confidence in ourselves to act not only in our own best interests, but more importantly to lead this Western Hemisphere to a brighter economic future for all of its citizens. Those economic gains and the democratic, economic, income equity, and environmental reforms that can and should be stimulated for the citizens of each successive country which is accepted into this new multinational trade agreement is the grand opportunity we can secure for the citizens of the Hemisphere of the Americas. We must not hold out this hope to all of our neighbors south of our border and then because of faintheartedness pull it away by rejecting NAFTA. The damage to our hemispheric relations and the loss of a favored trade position within our own Western Hemisphere to our trade competitors in Western Europe, Japan, Southeast Asian nations, and Brazil cannot be overestimated. It is incalculable, but it would be a huge and continuing loss.

Neither should we doubt that what we do here today will directly affect our posture and chances for a successful conclusion to the Uruguay round of the GATT negotiations next month. Absolutely nothing is more important to global economic growth than an equitable conclusion to this round—for developed countries, for developing countries, and for the United States. If the House rejects NAFTA today one of two things will surely happen—the possible conclusion to the round will be dashed, or America, its resolve and leadership shown to be lacking, will be presented with a take-it-or-leave-it bad bargain of an agreement which it should not accept. Similar opportunities for American involvement in an emerging Asian-Pacific trade alliance also is jeopardized by a rejection of NAFTA.

Mr. Chairman, in concluding these necessarily too brief comments on the foreign policy implications of the NAFTA vote, this Member would share the following very apt editorial comments about the breadth of the foreign policy implications of this NAFTA vote by Mr. Al Koontz, writing in the Beatrice, NE, Daily sun of November 16, 1993:

> As we make the final turn toward the next century, other countries in the world will read NAFTA as a true indicator of which direction the United States will turn. Will the U.S. continue to be a forward-looking and progressive world leader, or move inward to isolationism. Obviously, there is too much riding on NAFTA not to vote yes.

Mr. Chairman, as a third part of these remarks I would address the following question. With these very positive domestic and international results of a favorable NAFTA vote, why then is this NAFTA vote controversial? I believe in part it is due to the fact that NAFTA has become a lightning rod for a widespread discontent in this country. A great many Americans are unhappy with a wide variety of things they see in our country, and certainly important on that list is the perception of declining job opportunities or prospects for themselves and their children and grandchildren. They are unhappy with the economic status quo, unhappy with economic trends, and distrustful of Government. Unfortunately this is an ideal climate for fear mongering, disinformation, misinformation, and xenophobic scapegoating. Unfortunately, we have seen all of those tactics used by some of the opponents to NAFTA at large in our land.

In addressing the subject of NAFTA the noted economist Robert J. Samuelson in his column in the November 17, 1993 issue of The Washington Post suggests that "the larger agenda of the NAFTA opposition is to advance avowedly protectionist and isolationist policies." And, indeed, undoubtedly that is the larger, hidden agenda of some of the better known American NAFTA opponents outside this body. Their rhetoric and argument play to and nurture many biases and faulty socioeconomic theories. In comparing the isolationism of the 1930's with the new patriotism espoused by the latent America first opponents of NAFTA, Samuelson has the following conclusion I hope my colleagues will consider: "The essence of isolationist illusion, then as now, is the denial of reality. The rhetoric is populist and patriotic, but the ideas are nutty. If Congress endorses them, it will be a low day for democracy." How true and how truly devastating an example of democratic representation to see this Congress stampeded off a cliff by the hooting and hollering of the latest variant of the know-nothing gang.

Each time, on each element of NAFTA we need to ask: Are we better off with NAFTA or with the status quo? Or asked another way, does the approval of NAFTA reduce or increase the problem or concern of the critic? Invariably the provisions of NAFTA have a positive impact—make improvements on the status quo.

Now, beyond this angst of the American citizenry, add to this volatile mix the overt political threats aimed at many of our colleagues, especially on the other side of the aisle. Then one can understand the expected narrow winning margin for NAFTA today.

Mr. Chairman, may I applaud those Members who in the last few days, when faced with threats to their political survival, have courageously said: "No special interest owns, my vote; nobody pulls my chain; I am going to cast my vote for what is in the best interest of the United States as required by my oath of office; I will vote for NAFTA."

Mr. Chairman, ladies and gentlemen of the House, in conclusion this Member would assert that this is clearly one of the two or three most important votes we will ever cast in Congress. I ask you to think hard about how you will explain to yourself and your children, 5, 10, or 20 years from now why you didn't vote "aye" on NAFTA. One I suppose can conjure up a hundred excuses now or in the future for voting "no" today, but I predict those excuses will ring hollow within you.

Mr. Chairman, finally this Member wants to assure his constituents that in making this decision to vote "aye" on the NAFTA proposal before the House today I have set aside any partisan interests and particular sectoral and other special interests. My responsibility is to carefully examine the provisions of the NAFTA, and the arguments pro and con. The conclusion reached is that the approval of NAFTA is clearly in the overall best interest of the United States—both in the short term and long term; for my home State of Nebraska and its citizens, the case is even more overwhelmingly positive. Therefore, my oath of office, my conscience, my sense of responsibility to our country and my constituents, and now the favorable views of the majority of my constituents who have expressed an opinion on NAFTA all demand I vote "aye" on NAFTA.

Mr. HUNTER. Mr. Chairman, I yield 2 minutes to the very distinguished gentleman from New York [Mr. WALSH].

Mr. WALSH. Mr. Chairman, I rise in strong opposition to the proposed agreement. I am deeply concerned about its impact on American workers and the American economy. At a time when almost all major American companies are downsizing, laying off and firing manufacturing workers, many other companies are looking at moving some of their operations to Mexico. Granted, many have already gone, but with the promise of a formal agreement, a more stable Mexican Government, a less volatile labor situation, not to mention cheap labor and lax environmental laws, many more will go. It will eat away at our standard of living and disrupt the already fragile American family.

That is what I believe. There are others who believe in their hearts differently. And they will vote for the agreement because of those beliefs. I respect that.

What I do not respect is Members selling their vote to the highest bidder, whether it is the President or the lobbyists. In recent days NAFTA has become "Let's Make a Deal" with the President opening the U.S. Treasury to any Member who is on the fence. That is wrong, and it makes us all look bad.

The test that this deal must pass is the mirror test. When we get up tomorrow morning and look into the bathroom mirror, I think we will know whether we passed the test. If we can look ourselves in the eye and say that was the right vote for the right reason, we pass. If we have to roll our eyes away and say with a sense of half-hearted resignation, "Oh well, that's just the way it is," we fail.

Let us work together to create an environment in our country where business can grow and prosper at home before we decide we cannot manufacture here anymore. Let us work to reduce taxes, regulation, and government interference in business so they hire American workers, pay good wages and take the burden of supporting the American society off an overstressed government. Let us clean up our own backyard before we go looking for greener pastures in Mexico.

Mr. GIBBONS. Mr. Chairman, I yield 2 minutes to the gentleman from Oklahoma [Mr. MCCURDY].

Mr. MCCURDY. Mr. Chairman, all of us in Congress know that our careers are marked by thousands of small choices, and a few great ones. We face today one of the most important votes of our political lives.

I speak knowing the full measure of the anxiety and concern of American workers. One of my earliest memories is of my parents being laid off, and my father desperately looking for a new job. The only work he could find was clear across the State, and he lived apart from us for a year until we could move to join him.

I know firsthand the damage done to a family when Americans lose their jobs. But I also know that rejecting NAFTA will only make the problem worse.

My belief in NAFTA is not based so much on the treaty itself. On balance, it is good for America. But on its own, it offers no economic windfall. But NAFTA's real importance lies in its larger role in promoting the integrity of the global trading system.

In trade, our choice is very simple. It is about what kind of world we will leave for our children. Our choice is between the free exchange of goods and ideas, or a world of barriers and walls; between friendship among nations, or a new economic cold war; between competition that will make us strong, or isolation that will make us weak.

But free trade is not a one-shot deal; it is not a single decision made at one point in history. It is a gradual process, with pivotal choices made years or even decades apart.

Here is where the real importance of NAFTA lies. There is a straight line between NAFTA, the Asian-Pacific economic summit later this week, the conclusion of the GATT round next month, and the future of free trade.

NAFTA represents an historic moment for the world trading system. It embodies the fundamental decision that we, as a nation, must make between free trade and protectionism.

At stake is our standing in the international community and our ability to negotiate from strength in global trade talks. Our choice is whether we will make Mexico our economic partner, or stand aside and watch Mexico team up with Canada and Japan. Before us is the only chance we will have to create large numbers of new jobs for American workers over the next several years.

Consider what will happen if NAFTA fails. President Clinton will go into the Asian and GATT talks as a crippled leader. Other countries will scoff at our demands for opening their economies.

Then, companies from Canada, Asia, and Europe will rush to get the deal that we passed up. They will move into Mexico; and once there, they will export nearly tariff-free to the United States while ignoring Mexico's labor and environmental laws.

That, my friends, is the status quo. It is not a situation created by NAFTA.

Unable to compete on a level playing field, we will turn to protectionism. Mexico and our other trading partners will retaliate. We will respond. And in the end, it is the American worker who will suffer.

Hope for American workers cannot be found in shutting ourselves off from the world. Anyone who believes that should review the history of the Smoot-Hawley tariffs, and think a moment about what the Great Depression did to the American worker.

Free trade is our only hope for creating new jobs for Americans. We must invest in the future and create the best-trained, most productive work force in the world.

But if we are producing only for ourselves, our standard of living will remain stagnant, while Asia and Europe race ahead. If we spurn the world's markets, our companies will wither and die while foreign corporations grow strong.

That is not the kind of future I want to leave to my children.

And what if NAFTA passes?

If we choose free trade over protectionism, we must be honest: There is no easy answer to the problem of competition. American jobs are on the line every day as our companies go head-to-head with their competitors abroad. But we cannot go back; we cannot return to the time when American companies dominated global trade almost without trying.

It is almost as if the opponents of NAFTA are hoping to close their eyes, vote against the treaty, and make foreign competition go away. It is almost as if they hope that defeating NAFTA will make all American jobs safe.

But the global economy is a reality, and we are a part of it. If we deny that, if we shut ourselves off from the world for short-term political gain, we betray the trust of all Americans. We must move forward, accept the challenge of competition, and resolve to win. That is the only honest strategy to build a better future for American workers.

I believe competition makes us stronger. Can anyone deny that our automobiles are better today because of Japanese competition? Or our electronics, or steel?

The irony is that American industry, after years of hard work, is finally ready to go head-to-head with anyone, to use the dedication and skill and pride of American workers to compete and win. In the end, I favor NAFTA because I have faith in the American worker; because I am not afraid of competition; and because I believe the key to our future prosperity lies in the global trading system.

□ 1240

Mr. GEPHARDT. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in strong opposition to the NAFTA Agreement.

Mr. Chairman, I would like to be here and proclaim support as a free trader, as someone that believes in the global marketplace, the inevitable role that U.S. workers and manufacturing and other services play in that. The U.S. workers are the most productive workers in the world.

But the fact of this agreement is that it is a bad agreement. Candidate Clinton recognized that and said that he was going to change it. He tried. I commend him for trying. But he did not do it.

The fact is, this agreement should be based on the problems that have existed, on the track record in the past with Mexico. That track record is one in which there has been environmental degradation, where there has been a denial of political rights, where there has been a suppression of labor, where there has been an increase in productivity among the Mexican worker, who, I think, can be very productive, and a decrease in wages. It has an inflated peso.

We have all kinds of problems that are not addressed in this. We are not leveling the playing field. We are dealing with an equation that is not going to work.

This agreement protects copyrights. It protects and deals with tariffs. It protects a whole series of things that are important to corporations and industry in this Nation and others in business. But it does not deal with the fundamental rights. We should be using our leverage in a 21st century manner in terms of dealing with the political and economic realities of what is happening to the people in Mexico and in this Nation. We need to move forward in terms of structural economic change and trade.

But this agreement simply turns its back on it and continues the business as usual type of trading away from our competitive advantage in this country at the expenses of American working men and women in this country.

We are going to finance and be expected to finance the pollution cleanup and to finance the other deals that makes this trade go forward. We are taking on a population of 70, 80 million people to solve this particular problem at the expense of the American workers.

We need entry-level jobs in this country. Most of us that did not come into this world with a silver spoon started out and got to where we are on the basis of such entry-level jobs.

I urge my colleagues to reject this agreement.

Mr. Chairman, I rise in opposition to H.R. 3450, the North American Free-Trade Agreement [NAFTA] Implementation Act.

Over the past weeks and months, hundreds of my constituents from Minnesota have contacted me to express their views on this important issue. Some of them have expressed support for NAFTA because they believe that it will have a positive impact on our Nation's economy by producing jobs both in the United States and Mexico. Many others have expressed their opposition to NAFTA because they believe that this particular agreement will hurt our Nation's economy and will cost jobs in the United States as well as harm the Mexican economy and its workers in the final analysis. Both the proponents and the opponents of this proposal have expressed their views with sincere and often deeply felt conviction.

After months of studying this proposal and the subsequent side agreements, I have concluded that I must oppose this particular agreement in its present form for several reasons.

This agreement does not meet the fundamental economic challenges that could and should have been embraced in this trade accord. Certainly, our Nation must continue to strive to enhance trade relations with Mexico and participate in the global economy of trade and commerce on a sound policy foundation.

First and foremost, I believe that NAFTA will put at significant risk many American jobs and will drive down U.S. wages for millions of working men and women. The United States could lose hundreds of thousands of jobs after already experiencing a reduction of 2.6 million manufacturing jobs during the 1980's. Millions of Americans have been displaced and more are being displaced every day because of fundamental changes occurring in the United States and the world economy. To simply dismiss these difficult and painful economic changes as being inevitable without making every reasonable effort to mitigate these dislocations is irresponsible. Regrettably, this particular agreement falls far short of mitigating the impact and effects which even the proponents of NAFTA concede will occur for hundreds of thousands of American working men and women whose employment situation will be affected by NAFTA.

Wages will be driven down in the United States, especially for low-wage employment workers, because productive capital will go where labor costs are lower. In fact, Mexico has repeatedly trumpeted its low wages as an inducement to convince more American companies to relocate manufacturing from the United States to Mexico. Many companies have closed their United States plants and gone south or opened new manufacturing plants in Mexico when they could have expanded and opened new plants here at home. Many Mexican workers make less in a day than their counterparts in the United States earn in 1 hour.

One of the assumptions of free market theory is that as productivity increases, wages will also rise. This is not the case in Mexico. In fact, the Mexican Government has actively intervened as a matter of national policy to suppress Mexican workers' wages in spite of the fact that Mexican worker productivity rose by 41 percent between 1980 and 1992 and their workers' wages actually dropped. Indeed, for every $1 earned today by the average Mexican worker, an average American worker earns $7.

What does the Mexican worker's paycheck buy? Not as much as it should. Real wages in Mexico have declined by 25 percent since 1979. Even the Bank of Mexico and the Mexican National Commission on the Minimum Wage admit that the buying power of the minimum wage has fallen by an incredible 67 percent between 1976 and 1992. Mexican per capita purchasing power is only a fraction of that in the United States and Canada. The end result of the artificial suppression of Mexican workers' wages is that they are severely limited in the amount of discretionary income which they have at their disposal to buy American-made goods and services. Also, the inflated value of the peso by 20 percent has had a crushing effect on Mexican workers' earnings and, when readjusted to reflect its market value, will significantly reduce their purchasing power to buy U.S. imports to Mexico.

While free market theory assumes that increased free trade is automatically beneficial to all parties, we must look specifically at Mexico and the United States and assess how each will supposedly benefit under NAFTA. While the United States is Mexico's largest trading partner, Mexico is the third largest trading partner for the United States. Furthermore, evaluation beyond the raw numbers is key to understanding the impact of NAFTA. For example, 37 percent of recent United States exports went to Maquiladora plants, mostly along the United States-Mexican border, which ship most of their output back to the United States as finished products. That is not a boost to the United States economy, but represents a loss of potential United States manufacturing jobs to Mexico. This is hardly a conventional export to be scored as a bona fide sale.

If NAFTA in its present form is approved, the flight of capital which could be used to produce good jobs for American workers in this country will continue and accelerate. Economist Donald Ratajczak of Georgia State University estimates that $1 billion of U.S. investment generates about 30,000 jobs. Assuming a relatively modest $2.5 billion annual capital outflow, that would mean 375,000 potential new U.S. jobs lost over 5 years—more than wiping out the claimed 170,000 job gain over 5 years estimated by the Institute for International Economics if NAFTA is implemented.

Second, NAFTA and its side agreements on labor rights and the environment are inadequate. In fact, the Clinton administration has even stated that the side agreements could be unilaterally renounced without prompting a U.S. withdrawal from the overall NAFTA agreement. This statement is especially disturbing in light of the President's earlier assurances that the concerns about labor rights and the environment would be adequately protected and that the side agreements were an integral part of the NAFTA package.

Today, workers in Mexico are effectively denied the basic right to freely organize for higher wages and better working conditions and are even jailed, beaten, or blacklisted based on objective reports of the Mexican workers' plight.

Mexico has some of the worst air and water pollution problems in the developing world. Many of these problems are apparent along the United States-Mexican border and affect both Mexican and United States citizens. Mexico has adequate environmental laws on paper, but in reality they are largely unenforced on the ground. The disconnection between Mexican laws and their enforcement under an evolving authoritarian political system raises profoundly disturbing questions about how NAFTA and its side agreements would be interpreted and implemented by Mexico. There is simply inadequate assurance that under the NAFTA side agreements that this situation will change. It is a leap in faith for the advocates of NAFTA to presume that the implementation of NAFTA will revolutionize Mexico's political establishment and institutions.

Third, it is important to note that it has been Mexico, not the United States, which has erected the high tariff barriers of recent years. While the administration of President Salinas is continuing important efforts at economic and political reform, and while average tariffs in Mexico have fallen in recent years, Mexican tariffs are still much higher than current United States tariffs on Mexican-made goods.

One of the most disturbing aspects of the debate over NAFTA has been the false assumption that it is the United States which must abolish its protective wall and open itself to free trade. Such admonishments simply misunderstand or misrepresent the true circumstances. The United States has had the most open trade policy in the history of the world. We have sought increased trade with nearly every country in the world as well as assuring increased access for American-made goods in the world market. Indeed, it is the United States which has sought to liberalize and achieve greater access to foreign markets. However, because of the continuance of high foreign tariffs and unfair nontariff barriers, American-made products have repeatedly been kept out of certain foreign markets. The reality of our common border with Mexico as well as important existing economic relations between our nations will not change, regardless of whether NAFTA is approved or disapproved. Trade liberalization to reduce tariff and nontariff barriers is now and has been in the hands of Mexico.

Finally, I must oppose NAFTA because it will significantly increase the Federal deficit. The Congressional Budget Office [CBO] has estimated that tariff losses to the United States over the next 5 years alone will be more than $2.5 billion. The Joint Economic Committee has found that the administration has significantly underestimated the direct costs of implementing NAFTA. Direct costs for implementing NAFTA could reach $20.1 billion over the next decade. Such costs would include a NAFTA-related Dislocated Worker Program which could cost $3.9 billion over the next decade and direct environmental and highway costs of $11.3 billion. The Joint Economic Committee has also found a potential $7.4 billion financing gap in meeting these direct implementation costs over the nest 10 years. Even now at the 11th hour, the administration has been offering inducements to Members which may drive the cost of this NAFTA Agreement higher than anyone now realizes. At a time when Congress and the administration are expected to slash Federal programs in housing, health care, education, and other urgent social needs, this is a cost we cannot afford.

Some have suggested that if the Congress rejects this NAFTA proposal that it would fundamentally undermine our future foreign relations not only with Mexico, but all of Latin America. In my view, the question of whether to implement this particular agreement is fundamentally an economic question and not a sweeping question of whether we wish to have good relations with Mexico and the other nations of Latin America. It is abundantly clear that the United States wishes to be a good neighbor and friend to Mexico and other Latin American countries. But bargaining away competitive advantages and winking at environmental, labor, and human rights standards is building a United States-Mexico relationship in a swamp of sinking and shifting ground.

The fact that the current proposal is seriously flawed should not prevent the administration from going back to the drawing board with Mexico and crafting an agreement which does what it is supposed to do to serve the best interests of all of the people of the United States, Mexico, and Canada. The Clinton administration has recognized and attempted to rectify the shortcomings in this agreement. That is why the effort was made to negotiate side agreements and why they have continued their efforts up to the final hour before the vote in the House to offer positive changes and inducements for Members in return for their support for this bill. It has been a moving target, but in spite of all the window dressing and decorating, this is still a flawed agreement.

A truly free and fair trade agreement should be based upon mutual benefits, competitive parity, and fairness to both United States and Mexican workers. A truly free and fair agreement would not carve out special protections for certain select agricultural commodities while ignoring the concerns of others. A truly free and fair agreement would protect the environment, natural resources, and human rights from exploitation at the expense of many for the benefit of a few. Unfortunately, this agreement simply does not meet the mark.

I urge my colleagues to vote against this measure.

Mr. KOLBE. Mr. Chairman, I yield 1 minute to the gentleman from Huntington Beach, CA [Mr. ROHRABACHER], a member of the Committee on Foreign Affairs and the Committee on Science, Space, and Technology.

Mr. ROHRABACHER. Mr. Chairman, today we decide if our businesses and working people will have the competitive edge, in freely selling in an expanding Mexican economy, while the Europeans and Asians keep paying a 10 to 20 percent tariff. We decide if our citizens will produce the technology and equipment used by the Mexican people to improve their lot and in the process make themselves even better consumers of American goods and services.

Let us not kid ourselves. If we reject NAFTA, the current reformers in that country could be replaced by corrupt, incompetent and anti-American leadership. Mexico could go into an economic tailspin, and that would turn what is a server illegal immigration problem today, into an immigration calamity tomorrow.

Shall we build an alliance of prosperity, in an economic trading bloc that is vast in territory, and is energy and resource independent—a trading bloc that will catapult the living standards of the citizens of all three countries?

I say yes. Let us build a better future together with out neighbors.

Mr. HUNTER. Mr. Chairman, I would inquire of the Chair as to the remaining time for the various segments.

The CHAIRMAN. The gentleman from Illinois [Mr. ROSTENKOWSKI] has 1 hour and 44 minutes remaining, the gentleman from Missouri [Mr. GEPHARDT] has 1 hour and 38 minutes remaining, the gentleman from Illinois [Mr. MICHEL] has 1 hour and 46 minutes remaining, and the gentleman from

New York [Mr. SOLOMON] has 1 hour and 35 minutes remaining.

Mr. HUNTER. Mr. Chairman, I reserve the balance of my time.

Mr. GIBBONS. Mr. Chairman, I yield 1 minute to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Chairman, I support NAFTA because it means more jobs for the people of my district, my State and our Nation. Those that oppose NAFTA point to the wage differentials and say that we cannot compete. Wage differentials will be there with or without NAFTA.

What NAFTA does is reward American companies that keep their plants and jobs in our country, rewarding them by bringing down the barriers that currently exist to take their products into Mexico.

Let us talk about specific companies and specific jobs. In my State, Bethlehem Steel, Sparrows Point, 400 additional jobs, 200 in manufacturing steel that will be directly used in Mexico for structural problems, 200 to companies located in the United States that need steel in order to sell their products into Mexico.

McCormick Spice. They currently do $150 million worth of business in Mexico, but they have certain plans to produce products in Mexico because of the local requirements in Mexico trade law. Those requirements are gone under NAFTA. More jobs in Maryland for my people.

Let us talk about Citibank and RTKL. an architectural company that is located in Baltimore. As new contracts are awarded, there will be more jobs in downtown Baltimore doing architectural services.

Procter & Gamble manufactures Noxema and Cover Girl cosmetics in Baltimore, MD. There is a 20-percent tariff for bringing those products into Mexico. But those tariffs are eliminated under NAFTA. More jobs, more competitiveness for our products made in Baltimore, more jobs for the people of my area.

SCM makes titanium dioxide, the white powder that goes into making products white, from high-grade paper to the "M" on M&M's. Currently, there is a 15-percent tariff. That is gone. SCM estimates a growth of 50 to 100 percent in their Mexican market over the next 3 to 5 years. That is more jobs for the people of Maryland.

The State of Maryland depends upon the Port of Baltimore. Jobs increase by NAFTA. NAFTA means more jobs.

I hope my colleagues will support NAFTA.

Mr. GEPHARDT. Mr. Chairman, I yield 2 minutes to the gentleman from Vermont [Mr. SANDERS].

Mr. HUNTER. Mr. Chairman, I yield 1 minute to the gentleman from Vermont [Mr. SANDERS].

The CHAIRMAN. The gentleman from Vermont [Mr. SANDERS] is recognized for 3 minutes.

Mr. SANDERS. Mr. Chairman, corporate America and the big money interests have told us that NAFTA is a good deal. I do not believe them.

Recent history has told us that corporate America is concerned about one thing and one thing alone, and that is their own wealth and their own power.

NAFTA may be a good deal for the people who own our corporations, but it is a bad deal for American workers, for our family farmers. And it is bad for the environment.

Very briefly, four reasons why this NAFTA agreement should be defeated: No. 1, the American worker and family farmer should not be asked to compete against a desperate people of Mexico who are forced to work for a minimum wage of 58 cents an hour and an average manufacturing wage of $2.35 an hour. A Wall Street Journal poll of last year has already told us that 40 percent of the CEO's who were polled said that they are prepared to move manufacturing down to Mexico, 40 percent, if NAFTA were approved. And 24 percent said that they would use NAFTA to lower wages, to keep wages low. Wages in America today are already too low. We do not need NAFTA to lower them further.

No. 2, the United States should not merge economies with a nation that is not a democracy.

□ 1250

There is much evidence to suggest that Mr. Salinas, the President of Mexico, was himself illegally elected. Most of their state elections are rigged. The media is highly controlled. The workers there cannot form free trade unions.

What does this say about our commitment to democracy when we merge economies with an undemocratic nation? How do we have free trade with a nation that is not free?

The third point, Mexico, despite all the fine-sounding laws, which in fact are worthless, has allowed American companies to heavily pollute their environment with toxic waste, endangering health on both sides of the border. I regard it as an outrage that American taxpayers, some of whom have already been thrown out on the streets by American corporations going to Mexico, are now going to be asked to pay higher taxes to clean up the toxic waste caused by American companies that have gone to Mexico. Let the companies clean up their waste, not the American taxpayers.

Fourth and last, frankly, Mr. Speaker, it is a disgrace to this institution and to our country that President Clinton has had to spend billions of dollars of taxpayer money buying congressional votes for this treaty with military cargo planes, bridges, development banks, airline routes, renegotiated tariffs, et cetera. If the deal is such a good deal, one does not have to buy votes for it. Mr. Speaker, let us defeat this NAFTA.

Mr. KOLBE. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Wilmette, IL [Mr. PORTER], a senior member of the Committee on Appropriations.

Mr. PORTER. Mr. Chairman, the issue is: After almost 50 years of Republican and Democratic administrations alike urging the world toward freer trade, can the United States, the world's largest economy, the world's greatest exporter, with the world's most productive workers, afford to trade freely with a weak economy to our south and a tiny economy to our north?

Are you kidding me? To ask the question is to answer it. Of course we can.

Is it to the advantage of American business, American workers, and the environment to do so? Overwhelmingly, yes.

Most importantly, after winning the cold war and at a time when U.S. influence in the world has never been greater, what would NAFTA's rejection mean to our leadership and ability to move the world toward our values, toward democracy, human rights, the rule of law, free economics, and greater and freer trade? Rejection of NAFTA would be a disaster.

Support NAFTA. Not to do so is mindless and lacks vision, courage, and the understanding of how free markets work for a better life for all people.

Mr. GIBBONS. Mr. Chairman, I yield 2 minutes to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Chairman, I am voting for this agreement because I honestly believe it will increase jobs and economic growth, and it will enhance America's power and prestige in the world. Some argue quite convincingly that it will suck jobs to Mexico and reduce wages in the United States. I simply do not accept that. I would never, never, never vote for an agreement to push Kansas' or American jobs to Mexico or to Japan or anywhere else. Doing that would not only violate my constitutional responsibilities, I would also be a damned fool in doing that.

Neither, might I add, would I allow my vote to be bought by anybody, and I doubt anybody in this Chamber would be in the same situation for an issue that affects America's national security. Frankly, the easier political vote is "no." That is because the intensity factor is on the no side. The fear factor is quite large.

People are worried about their jobs, but rejection of NAFTA does nothing to improve the status quo with Mexico, and it also demeans this country's No. 1 political status in the world, and it takes us back to the era of the 1920's and 1930's, when we buried our heads in the sand, hoped for a happy world, with no interest in what was happening beyond our borders, and set the stage for the Great Depression and World War II. I want nothing of that.

My own State is an export State. Boeing sells the majority of their airplanes outside the United States Boeing employs 16,000-plus people in Wichita, and I believe failure to enact NAFTA jeopardizes Boeing's ability to sell airplanes in Latin America, especially when that predator Airbus Industries is ready to suck up our jobs in the event NAFTA is defeated.

NAFTA is neither heaven nor hell, it is neither nirvana nor the depth of depression. It just makes good sense for America's economic future. I urge my colleagues to vote for it.

Mr. GEPHARDT. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. STUPAK].

Mr. STUPAK. Mr. Chairman, over the past months much has been said about the material things that NAFTA will or will not do for this country. But NAFTA is much more than just material things and who has and who will not have a job.

I am here as a freshman, and I am wrapping up my first year in this prestigious body. I came here last fall in hopes that we could change the normal way of doing business in this institution.

I came here because I believe in this country. I came here because I believed in our Government, and I came here because I have some basic beliefs.

After watching all the wheeling and dealing, after watching all the side agreements, and after watching all the side promises, and the what-you-want-for-your-vote attitude that prevails in this Congress, I am, on the day of this vote, very disappointed in the way some people have chosen to govern. To govern, what does that really mean?

Does it mean get whatever you can and who cares about principles and beliefs? Does it mean make the best deal for yourself personally, and who cares about principles and beliefs?

To govern, does it mean to sell your vote for the largest, most expensive project in your district? To govern, does it mean that we cut a side deal for your industry, be it sugar, citrus, small appliances, wheat, broom corn, or peanuts?

Yes, I may only be a freshman, but I have some basic principles and beliefs, and I believe that all American workers are important, that principles and beliefs should not be traded or sold.

I believe in protecting our environment. I believe in democracy, the right of people to assemble, to come together, to collectively bargain with their employer. These are basic American beliefs and rights.

I do not believe that these American beliefs can be suddenly traded away. I do not think that they can suddenly become part of a side agreement, and I do not think they can become the basis for a pork-barrel project in your district. You cannot trade them away or cash them in, in hopes of future economic gains based on an agreement that fails to guarantee basic American principles and beliefs.

I had concerns about this NAFTA just like everyone else here, and I wrote the President. I asked him, coming from the Great Lake State of Michigan, "Tell me, Mr. President, what assurance exists under NAFTA to guarantee that our Great Lakes water will not be diverted to Mexico, as I and other environmental groups in the United States and Canada believe will happen under this NAFTA."

I received a response. It stated: "The President has been advised of your interest in this matter. You will receive a response from him in the near future." Well, thank you for no answer, because my vote is not for sale, so I really did not expect a response, but I thought our environment needed a response. I thought the diversion of Great Lakes water needed a response. I thought that American beliefs needed a response.

If my colleagues are listening today and if they have made their deal, if they have a deal for a project in their district, I have a question. I ask: Was it really worth the special interest to sell out our American beliefs and principles?

How do you go back home and face the American worker? How do you stand up for the environment? How can you justify human dignity, human rights, if you vote for this NAFTA?

So to those special-deals Members, I hope that you do not sell out our American principles and beliefs. I hope it is not business as usual, and that principles and beliefs mean more than material self-interest.

Vote "no" on this NAFTA.

Mr. DREIER. Mr. Chairman, I am happy to yield 2 minutes to the gentleman from Orlando, FL, Mr. MCCOLLUM, a hard-working member of the Committee on the Judiciary and the Committee on Banking, Finance and Urban Affairs.

Mr. MCCOLLUM. Mr. Chairman, our constituents expect us to study the issues and make the tough votes. I have looked at NAFTA, I have looked at the various side agreements, and I have reached the conclusion that we have obtained the best agreement possible. This agreement is what is best for central Florida and for this country.

Agriculture is Florida's second largest industry and job producer, and until the very favorable and enforceable side agreements with Mexico on citrus, sugar, and fresh vegetables were signed this past week, I was prepared to vote "no".

Since these concerns have been resolved, I have carefully reviewed the core criticisms of NAFTA which have been brought to my attention and I have found them wanting. I have read and studied the provisions of the agreement itself, especially those pertaining to areas such as immigration, United States sovereignty, and incentives or disincentives for United States business to open offices in Mexico and take jobs there.

A lot of people have wrongly been led to believe that NAFTA will give us completely open borders between the United States and Mexico. This is not so. Nothing will change with respect to our border checks and restrictions on entry from Mexico. Under a carefully monitored program certain specially trained professionals will be allowed to enter our country, complementing a similar arrangement we have with Canada. But this is a far cry from a legalization program or opening our borders.

The arbitration process for settling disputes under NAFTA is the same process we use today in other trade agreements, and is merely a common-sense business way of resolving questions that arise under the agreement, not an abrogation of United States sovereignty. It is the same practice that many United States businesses have been using for years to settle disputes.

Under the current trade regime with Mexico, American goods are taxed on an average 10 percent, while Mexican goods coming here are taxed on average only 3 percent. The United States already has a $5.4 billion trade surplus with Mexico, and common sense tells us that the removal of the 10-percent tariff on American goods will mean more of them will be sold in Mexico and more jobs created here, while the removal of the tiny 3-percent tariff on Mexican goods will be virtually meaningless in providing any further incentive for United States companies to move production to Mexico.

Most Americans do not know the terms of the NAFTA agreement and are being misled by a lot of false information. When these unjust criticisms are put aside, the case for passing NAFTA is compelling.

In order to have future economic growth and maintain our high standard of living in the 21st century, the United States must enter fair, new trade agreements with its Latin American neighbors to create new markets for our products and more jobs for our citizens. The passage of NAFTA is a critical step in this direction.

☐ 1300

Mr. GIBBONS. Mr. Chairman, I yield 1 minute to the gentlewoman from California [Ms. ESHOO].

Ms. ESHOO. Mr. Chairman, I rise today in support of NAFTA. I believe this vote embraces the future and lets go of a past to which we should not cling. We must move forward with the economic tide of change and not tread water. We must stake our claim to world leadership and not retreat into isolation.

I believe that America was and still is the best idea that this world has ever seen. We are leadership; we are democracy; we are change; and we are the innovators. We are constantly stretching ourselves to grow, to be bold, to have a greater vision of the future.

NAFTA makes sense for America. It allows us to do what we have always done best—export our products, our democratic principles, and our values, but not our jobs. NAFTA will help the U.S. economy grow and proper, generate jobs, and provide our workers with greater economic security.

And as I have reviewed the agreement and listened to my constituents, I believe NAFTA makes sense for California and the 14th Congressional District. California's exports to Mexico are responsible for creating nearly 150,000 jobs. And we need more. NAFTA will provide them. Computer, electronic, and transportation products will be particularly big winners with NAFTA as Mexico's 20 percent tariffs on our exports come tumbling down. As Mexican markets for these products increase, jobs in the 14th District will increase. The 14th District, which includes Silicon Valley, is in the business of creating the future. NAFTA looks to that future.

NAFTA also makes sense for the environment. With this agreement, billions of dollars will be spent to clean up our polluted border with Mexico. For the first time, NAFTA's environmental side agreement obligates countries to enforce environmental laws, and backs them up with multimillion penalties and trade sanctions.

This vote represents the future for our country and our neighbors to the north and south. It says to our children that we welcome change and will move forward; that we are willing to make difficult decisions for a better tomorrow.

I urge my colleagues to vote in favor of NAFTA.

Ms. KAPTUR. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. STOKES].

Mr. STOKES. Mr. Chairman, I rise today to express my strong opposition to the passage of H.R. 3450, the North American Free-Trade Agreement Implementation Act. I believe that the North American Free-Trade Agreement [NAFTA], including the side agreements, is fatally flawed, and could prove an economic disaster for the United States, and its working men and women.

Clearly, the fundamental issue surrounding NAFTA is not simply a matter of whether we want to expand trade with Mexico, as we have already done with Canada. In the abstract, a unified North American market of the United States, Mexico, and Canada makes sense. Canada is already our No. 1 trading partner, and Mexico is our third largest trading partner. The essential issue is really the fact that any free-trade agreement between the United States, Canada, and Mexico should provide for a level playing field between all three countries.

Consequently, the question becomes how do we go about implementing a treaty which removes all tariffs and import duties between the United States and Mexico, while protecting the legitimate rights of workers in all three countries to a decent standard of living, and a safe workplace. We must also be concerned with how a NAFTA treaty protects the environment, especially in Mexico, where decades of rampant development, with little or no regard for the environment, have created numerous environmental nightmares. No agreement should be approved which ignores the fundamental concerns of working men and women in America, and which fails to provide critical safeguards to protect all of our children from the poisoning and destruction of our environment.

Mr. Chairman, the essential point to remember in this debate is that the United States and Mexico are very different countries, with dramatically dissimilar historical traditions of respect for individual rights and freedoms, especially in the area of workers' rights. In Mexico the right to freely associate, and form independent trade unions, is not recognized. It follows then that protections for workplace health and safety are not as strong, and the wage and hour laws are not as extensive or stringent. Linking respect for freedom of association and other basic worker rights should be the centerpiece of the framework of NAFTA, and all other international trade agreements entered into by the United States. The NAFTA treaty does not acknowledge these basic rights, in the treaty or in the labor side agreement. This is totally unacceptable.

Furthermore, the United States and Mexican economies differ dramatically, and we possess vastly different standards of living. Mexico has a gross domestic product only one-twenty-fifth as large as that of the United States. Wages in Mexico average less than 10 percent of the United States level, and the average per capita income in Mexico is $1,820 a year.

It is sad to say, Mr. Chairman, but the single comparative advantage of free trade with Mexico for American business is the poverty of its citizens and their willingness to work for subsistence wages. Studies have shown that employees in Maquiladora factories average productivity rates of about 85 percent to 90 percent of American workers. No matter how productive, U.S. workers cannot compete with labor costs of approximately $1 an hour. Also, as Henry Ford, an icon of corporate America preached, no matter how productive, factories cannot sell consumer products if workers cannot afford to buy them.

Approval of the North American Free-Trade Agreement in its present form would only serve to subject an increasing number of American workers to continuous pressure to lower their wages, benefits, and living standards in order to compete with low-wage Mexican labor using high-technology machinery and equipment. This is simply an intolerable situation.

Mr. Chairman, I believe that we have a duty to our constituents to insist that any North American Free-Trade Agreement approved by this Congress possess the highest standards for protection of workers and the environment in all three nations. We also have the obligation to insist that a NAFTA treaty contain strong enforcement mechanisms and sanctions against corporations and nations which violate those standards. It is disheartening to know that the North American Free-Trade Agreement we are being presented with, including the side agreements, does not even come close to satisfying these conditions. Therefore, I must reaffirm my opposition to the NAFTA treaty, and urge all my colleagues to vote against its adoption.

Mr. DREIER. Mr. Chairman, I am happy to yield 1 minute to the gentleman from St. Joseph, MI, Mr. UPTON, an able member of the Committee on Energy and Commerce.

Mr. UPTON. Mr. Chairman, we have a choice tonight, a choice to keep the status quo or to change it for the better.

Most of us have been threatened and bullied, but let us stop worrying about our reelection and put substance over politics and worry about the next generation. That is what this debate is all about.

We need to keep our companies and workers north and break the barriers so that those companies and products do not go south. This agreement removes the incentives to go down there. Instead of sending our workers we will eliminate the tariff, sometimes as high as 20 percent, and instead with this agreement send those products instead. What is wrong with that?

As I have talked and listened to the employers in my district, both big and small, they tell me how NAFTA will help them grow in Michigan, not in Mexico. What is wrong with that?

So far this year GM has exported three cars to Mexico. This is in a market that is going to buy 750,000 new cars this year. The Big Three tell us, GM, Chrysler, and Ford, that they will sell 60,000 cars next year if this agreement is passed. What is wrong with that?

I urge my colleagues to vote "yes."

Mr. GIBBONS. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. FARR].

Mr. FARR of California. Mr. Chairman, the future of our economic well-being lies not in the status quo. It lies in change. NAFTA represents that change.

This country, is big enough, strong enough, and compassionate enough to open our borders to change. We sit on the greatest economic engine in the world. We have the power to make positive change for us—and for others—and we should use that power to do so.

The American worker is the most professional, hardest working laborer on the face of the Earth. I do not believe the prospect of fair competition frightens Americans. Those who raise the specter of hundreds of thousands—if not millions—of lost jobs, have no faith in the American workforce. Well, I do. This treaty is not about exporting jobs, it's about exporting our superior products made from a superior work force.

I initially opposed this measure, based on my impression that NAFTA would cost more American jobs than it would create. Reflecting upon my work as a Peace Corps volunteer in Latin America, and upon my work as Chairman of Trade Issues in the California legislature, and after listening to my district, I am convinced NAFTA will actually strengthen our economy and yield a net gain in employment. Improvement in the Mexican economy will assure more sales of United States products, not less. More sales means more jobs. More jobs means my district hardest hit by plant and base closure, will gain employment. That's good.

I respect and appreciate the views of those who genuinely believe that NAFTA's effects will be harmful. I once believed that myself. But it's my duty as a congressman to study each issue and make my best judgment, based on what is best for America and the 17th District of California. It would have been easy to vote no on NAFTA; it was the politically safe thing to do. But I plan to vote yes on NAFTA because it's the right thing to do.

Mr. GIBBONS. Mr. Chairman, I yield 1 minute to the gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. Mr. Chairman, we have all seen the television ad that lists the names of those who support and those who oppose the North American Free-Trade Agreement. Well, let me add to each of these two lists.

In favor: Missouri's Governor, Mel Carnahan. Governor Carnahan endorsed the agreement yesterday, by stating:

> Today, I would like to announce my support for the North American Free-Trade Agreement. After careful consideration, I have come to the conclusion that the agreement would improve Missouri's economy and create more jobs by expanding our trade opportunities.

Opposed: The Japanese. A November 15 letter from the United States Ambassador to Mexico, a former Member of this House of Representatives, James R. Jones, states:

> I can tell you that I have now seen high level Japanese business delegations in Mexico. They met recently in Mexico with leading members of the cabinet and President Salinas and informed them that they will be ready with direct investment in Mexico immediately if the Congress defeats NAFTA.

Mr. Chairman, the consequence of voting against this agreement will be to help the Japanese expand their export markets at the expense of our fellow Americans.

Mr. Chairman, I place the entire November 15 letter from Ambassador Jones into the CONGRESSIONAL RECORD at this point.

NOVEMBER 15, 1993.

Hon. IKE SKELTON,
House of Representatives.

DEAR IKE: Just a short note to tell you how much I enjoyed visiting with you on my last trip to Washington.

As usual you are asking the right questions. You have every reason to be concerned about what will happen to America's position in Mexico and Latin America should NAFTA fail in the Congress.

I can tell you that I have now seen high level Japanese business delegations in Mexico. They met recently in Mexico with leading members of the Cabinet and President Salinas and informed them that they will be ready with direct investment in Mexico immediately if the Congress defeats NAFTA.

In my judgement the greatest economic growth potential for the U.S. is in Mexico and Latin America. If NAFTA is defeated the best we can hope is to share these markets with Europe, Japan and Asian countries. Right now we are the principal partner in Mexico and Latin America.

I appreciate your concerns.

Sincerely yours,
JAMES R. JONES,
U.S. Ambassador to Mexico.

(At this point Ms. DELAURO assumed the chair as Chairman of the Committee of the Whole.)

□ 1310

Ms. KAPTUR. Madam Chairman, I yield 4 minutes to the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. Madam Chairman, I rise in opposition to H.R. 3450, the bill to implement the North American Free-Trade Agreement.

Today, America's workers are watching us. They know their jobs and their standard of living are at risk. NAFTA is a bad deal for American workers because it jeopardizes their future.

I have opposed this NAFTA from the outset. In 1991, I voted against granting the Bush administration fast track authority to negotiate a trade agreement with Mexico because I believed that Congress should not relinquish its right to amend an agreement that would affect each and every American worker. I was right. Congress was foolish to assume that our negotiators would reach a trade agreement that was so good for American workers, business, and consumers that it could not be improved.

This NAFTA promises that more American jobs will be threatened by competition with low-wage Mexico. This NAFTA fails to link Mexican wage increases with productivity increases, which would ensure that American living standards do not decline. This NAFTA fails to ensure that the hard-won health and safety standards of the American workplace will not be diminished in the face of competition from a country that fails to enforce its child labor, health, and safety standards.

Mr. Chairman, this agreement protects property rights, not human rights. In reality, it is an investment agreement, not a trade agreement. Its purpose is to secure American investments in Mexico, allowing American companies to take advantage of dollar-an-hour labor. It promotes capital investment in a Third World country, rather than the mutual advantage to all three countries of raising Mexico's labor and environmental standards to the first-world status of the United States and Canada.

Labor and environmental issues, inadequately addressed by the side agreements, should have been at the core of the agreement, not afterthoughts intended to placate wavering Members of Congress.

The effect of NAFTA on working Americans will be devastating. The Committee on Education and labor has heard testimony from workers whose jobs have been eliminated by American employers moving to Mexico, I want to mention two of these stories, stories will multiply if we make the mistake of approving NAFTA.

U.S. Auto Radiator used to manufacture auto parts in Highland Park, MI. It moved 300 jobs to Mexico. Hattie Smith worked for U.S. Auto Radiator for 12 years, earning $7.60 an hour. As her last duty before she was fired, Hattie was sent to Mexico to train her 65 cents an hour replacements—13-year-old girls working without protective gear.

When Electro-Wire Corp., which makes parts for General Motors and Ford, shifted its production to Juarez, Mexico, 3 years ago, 100 workers in Owosso, MI, lost their jobs. Bernadette Ford told my committee that she knew her job was in trouble when her plant manager hung on the bulletin board a letter from the mayor of Juarez expressing his pleasure with the new plant and offering to supply an unlimited work force for 53 cents an hour. Bernadette said the letter was used to explain to employees why they weren't getting any pay raises.

These are just two examples of Michigan's loss of 300,000 manufacturing jobs in the past decade. Over the same period, manufacturing jobs in Mexico have increased 700 percent. Prominent economists issue studies showing that NAFTA will create American jobs because of increased exports to Mexico. But these studies do not evaluate the devastating consequences for American communities of the jobs lost because products that used to be made here are now made in Mexico.

One export industry NAFTA supporters do not mention exists to help American companies move their operations to Mexico. I obtained a solicitation from one of these businesses. It is called AIRS America, for Americas Industry Relocation Services, Inc., and it is based in Philadelphia. AIRS advertises its ability to help American companies, in the wake of NAFTA, "set up new offshore operations 100 percent owned by you or in a joint venture with a Mexican partner."

AIRS America, in its solicitation, explains that United States companies can save huge sums on labor costs by relocating ,to Mexico. For example, it calculates, an American company with 100 employees, paying the prevailing U.S. wage of $15 including fringe benefits, could save $2.9 million per year in labor costs.

With savings like this, you can be sure that our largest export to Mexico will be American jobs.

Corporate America has made no secret of its desire to move production to Mexico. In a well-known survey of American executives published in the Wall Street Journal last year, 40 percent said they were very likely or somewhat likely to shift production to Mexico under NAFTA. One-fourth said they were likely to use NAFTA as a bargaining chip to hold down wages in the United States.

Recently, the Clinton administration asked American companies to pledge not to export American jobs. The silence was deafening.

What will happen to American workers when their jobs are exported? The implementing legislation would provide a paltry $30 million appropriation to the job retraining program under the Trade Adjustment Assistance Program. That sum pales in comparison to the deals the administration has promised in exchange for votes.

Is this program effective? No, says the Department of Labor's inspector general and the General Accounting Office. The trade program has failed to train workers for jobs comparable to the ones they lost. This problem plagued program, the only salve for displaced workers, is no solution for the auto and other manufacturing workers in the 13th district who are going to lose their jobs.

If NAFTA is to create jobs based on higher exports, we need a plan to put my people into those jobs. I don't see one.

Finally, as chairman of the Committee on Education and Labor, I want to discuss the labor side agreement.

Designed to prevent American labor standards from sinking to Mexico's level, the side agreement is woefully inadequate to ensure safe and healthful working conditions for American or Mexican workers. It does not assure that each signatory to NAFTA maintains minimally acceptable labor standards. The side agreement provides only that each country enforce whatever labor standards it wants; therefore, Mexican labor standards could rise—or fall. We can be certain that NAFTA will result in pressure on American firms to weaken the labor protections provided here at home, because of competition from businesses operating under Mexico's lax enforcement of minimum wage, child labor, and health and safety standards.

The side agreement's glaring flaw is its failure to ensure Mexican workers the right to form and join independent trade unions, to bargain collectively, and to strike. We know that Mexico suppresses free trade unions and punishes workers who strike.

Sanctions may be pursued only if a country engages in a persistent pattern of failure to enforce its labor laws. Sanctions may not be invoked where that failure is a reasonable exercise of discretion or allocation of resources to other priorities. Under the procedures, a council comprised of the labor ministers of the United States, Canada, and Mexico is to investigate any complaints of failure to uphold labor law. The council may not subpoena documents but must rely on publicly available information, and its conclusions will not routinely be made public. Affected workers have no right to participate in the council's inquiry. The council's procedures are so time consuming and cumbersome that a senior Mexican official has assured Mexican businessmen that it is unlikely sanctions would ever be imposed.

Nothing requires any country to adhere to the side agreements. The NAFTA legislation does not include language to implement the side agreements. Any party can withdraw from the side agreement—while the benefit of reduced tariffs under NAFTA would continue.

Finally, Mr. Chairman, I want to comment on the attacks that NAFTA supporters, including the President, have made on the leaders of organized labor. Implicit in the criticism is the assumption that rank-and-file workers ought to support NAFTA but have been herded in a backward-thinking direction by labor leaders.

If you come from a district like mine, and you just talk to some of the working men and women who have devoted their lives to companies that now salivate at the prospect of moving jobs to a Third World country just a thousand miles away, you will know that opposition to this treaty is rooted in the hearts of the people who have made this country great, who struggle to pay their mortgages and send their kids to college, to save something for retirement and enjoy the fruits of their labor. They know this NAFTA is a bad deal for them.

That is why, Mr. Chairman, I urge my colleagues to defeat this agreement. We can and we must do better.

We should negotiate a new NAFTA, one that protects the economic interests of American workers while it encourages development in Mexico. I would support a NAFTA that, at its center, was committed to the principles of human rights, of labor rights, of environmental protection, and of the raising of living standards for the people of all three nations.

Mr. Chairman, I include documents which promote relocation of companies to Mexico:

AIRS AMERICAS.

Good Morning!

Thank you for contacting AIRS AMERICAS. We can help you relocate your facilities to Mexico. With the pending passage of a North American Free Trade Agreement, Mexico represents one of the best areas to expand your industrial base, market products and substantially reduce your labor costs. We can set up new offshore operations 100% owned by you or in a joint venture with a Mexican partner.

We can help your company successfully set up a facility in Mexico. We have a team of corporate, legal and fiscal professionals, both U.S. and Mexican nationals, with years of experience in Mexico and Latin America.

What can we do for you? We can prepare a Strategic Relocation Report defining an appropriate course to fulfill your objectives. We can assist in the implementation of the plan and establish all necessary governmental and private sector contacts on your behalf.

We believe that Mexico and Latin America represent many competitive advantages for you to consider. Interested to learn more about these opportunities? I would enjoy meeting with you to discuss your plans for expansion into Mexico. Plese call me in the USA at 215-533-4500. All discussions will be held in strict confidence.

Very truly yours,

BARRY S. FEATHERMAN,

Executive Vice President.

PRO FORMA LABOR SAVINGS WORKSHEET

The following average model provides you with approximate labor savings for a U.S.-based company with 100 workers. You can substitute your own labor and fringe costs, plus total number of employees to arrive at your actual savings. Fill in blank worksheet on opposite side of the page.

UNITED STATES

$15 U.S. labor with fringes/per hour times 40 hours worked per week equals $600 cost per worker per week dollars U.S.

100 number of employees times $600 weekly wage dollars times 52 equal weeks per year equals $3,120,000 yearly labor cost per 100 workers dollars U.S.

MEXICO

$1.00 Mexico labor with fringes per hour dollars times 40 hours worked per week equals $40 cost per worker per week dollars U.S.

100 number of employees times $40 weekly wage times 52 equal weeks per year equals $208,000 yearly labor cost per 100 workers dollars U.S.

LABOR SAVINGS FOR UNITED STATES COMPANY WITH 100 WORKERS RELOCATED IN MEXICO

$3,120,000 yearly labor costs dollars per 100 U.S. workers minus $208,000 yearly labor costs dollars per 100 Mexico workers equals $2,912,000 savings per year in United States dollars.

Bottom Line: Labor costs in Mexico average about $1.00 U.S. per hour. If you operate a labor intensive manufacturing facility, you will increase your profits by relocating to Mexico.

Mr. DREIER. Madam Chairman, I yield such time as she may consume to my friend, the gentlewoman from Bellevue, WA, Ms. DUNN.

Ms. DUNN. Madam Chairman, I rise in support of NAFTA, because I am convinced it will open markets, it will increase trade opportunities, and it will increase jobs in the Eighth Congressional District of Washington State and throughout the United States.

Mr. DREIER. Madam Chairman, I yield 1 minute to my friend, the gentleman from New Hampshire [Mr. ZELIFF].

Mr. ZELIFF. Madam Chairman, I thank the gentleman for yielding me this time.

Madam Chairman, let us examine the words and actions of those we respect about NAFTA.

When President Kennedy lowered trade barriers, America experienced one of the longest periods of economic prosperity in its history.

Treasury Secretary Lloyd Bentsen said, "If plants move out of the country solely for low wages, we should watch out for Bangladesh, not Mexico."

Jack Kemp said, "If Japan lowered its tariffs to the level that Mexico's tariffs are reduced by NAFTA, we would take the deal immediately."

Lee Iacocca declares, "It would be a shame for America to build up walls around ourselves, when the rest of the world is tearing down their walls."

I urge my colleagues to listen to the words of "Tip" O'Neill, who states, "I always lived by the principle that my central duty was to represent the bread and butter economic interests of working men and women. It is because I care about the creation of jobs and the expansion of the middle class of this country that I strongly support the North American Free-Trade Agreement," Tip O'Neill concludes.

American productivity can compete in the world economy. NAFTA may be controversial today, but NAFTA is essential for tomorrow.

I urge my colleagues to vote for NAFTA. It is good for New Hampshire and it is good for America!

Mr. EVERETT. Madam Chairman, I yield 4 minutes to the gentleman from New York [Mr. GILMAN], the distinguished ranking Republican on the Committee on Foreign Affairs.

Mr. GILMAN. Madam Chairman, I thank the gentleman for yielding me this time.

Madam Chairman, over the past few months I have extensively reviewed all of the arguments for and against the North American Free-Trade Agreement.

I have talked at length with and listened to my constituents, to three past Presidents, to President Clinton and to many past and present Cabinet officers, to both our business community leaders and to our workers, and I have listened attentively to our floor debate.

Since the debate on this issue first began over a year ago, I have openmindedly waited to hear and to understand any compelling arguments as to why this agreement truly benefits our Nation, our economy, and our Nation's workers.

But, the more I have heard, the less I am convinced that this NAFTA is good for our Nation. With its high price tag, NAFTA will cost our taxpayers billions of dollars. It will throw our labor markets into turmoil and will cost thousands of American workers their jobs.

The Joint Congressional Economic Committee reported that NAFTA will cause a potential gross job dislocation of 500,000 or more—and downward pressure on U.S. wages, as well.

NAFTA's environmental provisions are unwieldy, unworkable, and have been virtually closed to public participation. It will place the health and safety standards of our States at risk because we will simply be unable to effectively enforce them.

Equally important, this agreement is not linked to any guarantee that Mexican wages will rise as productivity increases in Mexico.

NAFTA will force American workers to compete with Mexican workers who make as little as $6 per day.

In some Mexican export industries, productivity is 80 to 90 percent of that in similar United States industries, but wages are only 10 to 15 percent of United States wages.

NAFTA's worker retraining program is not worth the name.

It proposes to spend the same limited amount of money to retrain hundreds of thousands of workers throughout the entire country as was spent to retrain the workers of only one automotive plant in New York.

Moreover, we must consider the threat of increased narcotics traffic crossing the Mexican border. Without question, the flow of illicit drugs into this country will increase as our borders are opened, as transportation systems are streamlined, and as border inspections are reduced under NAFTA.

This administration was able to find a $17 million customs duties break for the Honda Motor Corp. as part of this bill.

But it could not find any new funding to deal with narcotics traffic that is sure to increase, just as it erupted in Europe when the European Community opened its borders.

Liberalizing trade is an important goal and we should support Mexico in its economic reform efforts.

But in doing so, this agreement must not neglect our Nation's interests. And our interests are not well served by an administration which tries to buy a trade agreement at the expense of the taxpayer and the consumer with a number of sweetheart deals that amount to protectionism by any other name.

It is a sorry spectacle when the administration is willing to put us on the road to protectionism in the name of free trade. Yet this is precisely what is occurring when special protection is promised to our vegetable, citrus, sugarcane, and beet growers. The Congressional Budget Office should be required to provide us with the cost to the treasury and to the consumer of these and any other special interest deals designed to win approval for this agreement.

It is my understanding that this legislation is trying to lower trade barriers at the same time it is laying the cornerstone of several new centers, facilities, banks, and even bridges.

Voters' cynicism about Washington only worsens as the Mexican Government and United States corporations pour millions of dollars into the lobbying campaign for this agreement.

A study conducted last May by the Center for Public Integrity found that Mexico was spending at least $30 million to sell this agreement to the United States Congress. Since then, millions more dollars have been pumped into this effort.

According to the center, "Mexico has mounted the most expensive, elaborate campaign ever conducted in the United States by a foreign government."

The Mexican Government has also helped to finance a private investment fund set up to buy American companies and move their work to Mexico. AmeriMex has tried to target some United States manufacturing firms by promising to replace our $10 an hour workers with $1.50 an hour Mexican workers.

If NAFTA is adopted, many American companies are going to have a hard time paying decent wages not to mention complying with environmental and safety standards. In a poll conducted last year some 40 percent of 455 executives surveyed indicated they were likely to move some manufacturing to Mexico after NAFTA is passed.

Unlike the situation prevailing in the United States and in Canada, a government-dominated alliance of business, labor, and farm organizations in Mexico has broken the traditional tie between a worker's wages and his productivity with the result that wages are artificially set and are thereby prevented from responding to market forces.

NAFTA and the labor side agreement do not address this important problem. NAFTA proponents argue that Mexican wages have been rising over the past 2 years, but these wages are still at about the same level as that prevailing in 1980.

At present, the average hourly wage in the United States is $16.17 per hour versus $2.35 an hour in Mexico.

President Salinas has promised to address this wage and productivity disparity, but there are no guarantees that there will be a follow through on his commitment or that any successor Mexican administration will choose to honor it.

In regard to the critical question of job creation, there are no commitments about the agreement's effects on our labor market—only many confusing and contradictory studies. The administration bases its claim that NAFTA will create some 200,000 jobs over the next 2 years based on the short-term projections of the Institute for International Economics. Over a long-term scenario, however, this same institute projects a net job loss.

The Economic Strategy Institute estimates that NAFTA will stimulate foreign investment in Mexico, especially in its export-oriented industries, and that by the year 2002 as many as 220,000 jobs could move south.

A recent study by the Joint Economic Committee [JEC] concluded that the trade agreement could produce significant disruptions in the U.S. labor market and the gross dislocation of 500,000 workers.

Citing the 1993 trade statistics for Mexico from the Department of Commerce, the JEC study concluded that our trade surplus—and the related increase in United States employment—is fast disappearing.

Together with the fact that Mexico is likely to devalue its currency in the near future—with or without a trade agreement—the administration' claim of 200,000 new NAFTA jobs over the next 2 years appears to be completely unrealistic.

A study completed last month on the impact of the United States-Canadian Free-Trade Pact on Canada's labor market concluded that the net employment effect has so far been slightly negative. The migration of Canadian jobs southward to the lower wage and less regulated workplace in our country should be a red flag for the implementation of NAFTA especially in light of the much greater difference in wages and working conditions prevailing between the United States and its neighbor to the south.

While many American workers will find their wages being held down or reduced by the agreement, the American taxpayer will be asked to contribute billions of dollars for the agreement as well.

According to the Joint Economic Committee report issued last week, the total cost of NAFTA comes to $20.1 billion over the next 10 years. This includes $8.8 billion in lost revenues resulting from tariff reductions, $3.9 billion in proposed worker retraining which may be required and income support and $7.4 billion for the cost of the environmental cleanup and infrastructure development.

Other estimates for NAFTA's costs range from $13 billion to $54 billion depending on the estimates for the repair of large scale environmental problems along our border and for the comprehensive retraining and other support for labor force.

Our society could be impacted with other costs as well. Many experts believe that the increased commercial border traffic resulting from NAFTA will lead to an increase in the flow of illicit drugs into the United States.

A September 1993 GAO report on drug control efforts along the border indicated that the sheer volume of traffic makes effective interdiction an extremely difficult task. About 8 million shipping containers enter the country in a single year and thousands of vehicles cross the border from Mexico every day.

The drug problem lies in detecting which of these conveyances are transporting illegal drugs, without impeding commerce. According to the report, "an increased flow of commercial traffic under the proposed North American Free-Trade Agreement can only be expected to exacerbate the problem."

One of the leading experts on the flow of illicit drugs into this country, former U.S. Customs Commissioner William von Raab, who served under President Reagan, has warned that NAFTA "is likely to promote a quantum increase in drug availability" here. Such an increase has taken place in Europe when the border barriers were removed.

While the administration points to increased cooperative efforts of drug enforcement officials on both sides of the border, there are no guarantees that Mexico will continue its efforts if NAFTA is approved.

In advocating this agreement, the administration also points to increased Mexican cooperation in meeting the environmental pollution problems throughout that country and along the United States-Mexican border. The key environmental issue in regard to NAFTA, however, is the ability of the environmental side agreement to enable individuals or environmental organization to seek redress for any clear pattern of environmental abuses.

On this count, the environmental side agreement is seriously deficient. It fails to give these organizations or individuals access to the complaint and adjudication process. The process itself is overly long and tortuous.

The agreement establishes a commission whose main function is the discussion and study of environment problems. They are going to try to talk and study the problem to death. And when more than talk is required, its complicated and lengthy procedures—requiring up to 470 days to complete—will result in fines only after a country's repeated failure to enforce its laws.

The ineffectiveness of the Commission was described by top Mexican trade negotiator, Jaime Serra Puche, to the Mexican Congress on August 19, 1993. In his remarks, he noted the limited scope of the Commission's powers and the time-consuming process needed to reach enforcement recommendations. He concluded that the long timeframe of the process makes it very improbable that the fines or sanctions could ever be levied by any one of the governments against another.

In conclusion, Mr. Speaker, I believe that this agreement is deficient on too many counts. Accordingly, I call on my colleagues to defeat this agreement before us today and to work with all interested parties in crafting a credible agreement with Mexico that will truly improve living standards on both sides of the Rio Grande.

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Mr. GIBBONS. Madam Chairman, I yield 2 minutes to the gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. I thank Chairman GIBBONS very much and commend him.

Madam Chairman, NAFTA is a job-creating machine, but it is also the best vehicle we now have to clean up pollution in North America. NAFTA directly links environmental protection to trade, funds environmental cleanup with $8 billion and penalizes countries for not enforcing their environmental laws with unprecedented penalties and fines.

I think it is also important that environmental reformers understand that if NAFTA goes down, the rules of the General Agreement on Tariffs and Trade [GATT] apply and GATT rules are weaker on environmental protection than are the NAFTA standards. That is why it is no accident that the Natural Resources Defense Council, the Environmental Defense Fund, the National Wildlife Federation, and millions of environmentalists are on record supporting this NAFTA.

Vote for cleaner air and water and less pollution in North America; support the NAFTA agreement.

Mr. GIBBONS. Madam Chairman, I yield 2 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. I thank the gentleman for yielding this time to me. I thank him for his very courageous leadership on this.

Madam Chairman, I just want to correct the record on some things that I have heard in this debate. I have heard people talking about how NAFTA opens borders. NAFTA does not open up any borders. We retain all control over our borders, as does the Mexican Government.

NAFTA lowers tariffs, it lowers tariffs against American products. On the average, an American product will be 20 percent less expensive after NAFTA. That means the average person can buy 20 percent more, that means more jobs in America making that 20 percent more.

I do not know how you increase jobs in this country unless you increase markets, and this is the way we increase markets. If we do not want to increase this market, there is a whole lot of other people willing to do that. It also brings in a phenomenal environmental progress that no one has seen before, and a strong labor side agreement.

Many people would say "not this NAFTA." Our friends south of the border, they perceive this as a second NAFTA. They did the first NAFTA with George Bush and then the new administration said, "No, we want another NAFTA." So there are two side agreements. I must say I think the environmental one is even better than the labor one, but they are very good side agreements. They are very historic, we have never seen them in another trade agreement.

From that side of the border, it looks like NAFTA II.

Now we have people saying, "That is not good enough, we want NAFTA III." How many? What do you want, a fast breeder NAFTA reactor out there? How many do you want? How many people come to the table? How long does this go on?

This is a good deal. I come from the America that has a driving dream, I come from the America that is not afraid of the world, that is willing to compete, not retreat.

If we vote "no" today, we are retreating, and that is a very, very bad sign for our future.

Ms. KAPTUR. Madam Chairman, I yield 3 minutes to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. Madam Chairman, I rise in opposition to this North American Free-Trade Agreement (NAFTA), and H.R. 3450 which would approve and implement it. President Clinton has tried to fix the NAFTA he was left with by the former administration, but the agreement is still bad for jobs, bad for food safety, and bad for the environment.

We have all heard about the deals the White House has been making to try to get support, but I was appalled to learn today that the administration seems to be not only willing to give away taxpayer dollars but also environmental and health standards designed to protect the American public.

Just 1 week ago, the Environmental Protection Agency issued a proposed rule freezing use of a chemical called methyl bromide, used to fumigate fruit and vegetable crops, at 1991 levels.

In issuing its rule, EPA identified methyl bromide as a known ozone depleter, and as a result the agency is required by the Clean Air Act either to phase down or to freeze it altogether. Well, I have here a description of what purports to be the agreement that was worked out recently with the administration so that the Florida delegation would vote for this turkey and its fresh fruits and vegetable industry. This document says that this administration has agreed to impose no restrictions on the use of methyl bromide until the year 2000.

At this point, I will insert the following documents in the RECORD: the letter of U.S. Trade Representative Michael Kantor to Mr. Michael J. Stuart, executive vice president and general manager of the Florida Fruit and Vegetable Association, explaining that there will be no restriction on the manufacture or use of methyl bromide until the year 2000; the Florida Fruit and Vegetable Association's outline of the administration's agreement, including the administration's commitment not to restrict the use of methyl bromide until the year 2000; and finally two flyers issued by the Friends of the Earth identifying the Florida Fruit and Vegetable Association's understanding that the administration had agreed it would not restrict use or production of methyl bromide until the year 2000 and in which the Environmental Protection Agency appears to disagree with the commitment on methyl bromide the Trade Representative made in his letter to the Florida Fruit and Vegetable Association.

U.S. TRADE REPRESENTATIVE,
EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, DC.

Mr. MICHAEL J. STUART,
Executive Vice President and General Manager, Florida Fruit and Vegetable Association, Orlando, FL.

DEAR MR. STUART: I want to respond to the concerns raised by the Florida Fruit and Vegetable Association regarding the North American Free Trade Agreement (NAFTA) and other developments affecting your industry.

Let us first respond to your concerns about the possible trade impact of NAFTA and other agreements. With regard to any potential harm from future increases in imports, I want to assure you the Administration will vigorously utilize the early warning import surge mechanism negotiated under NAFTA with respect to tomatoes and sweet peppers. I will also expedite any request for relief under the fast-track provisional relief procedures of section 202(d) of the Trade Act of 1974. Since your products will, as a result of the NAFTA implementing bill, already be under the U.S. International Trade Commission (ITC) monitoring this will ensure a quick resolution of any such request. If, after investigation, the ITC determines that imports of tomatoes or sweet peppers are a substantial cause of serious injury, or threat thereof, to the domestic industry, I will recommend to the President that he proclaim provisional relief for the industry.

I am also very much aware of your concern that concessions on tomatoes and sweet peppers in the Uruguay Round, when combined with tariff phase-outs to which we are committed under the (NAFTA), could impair Florida's ability to remain competitive in the production of these crops. Therefore, I want to assure you that the Administration will not agree to tariff cuts in the Uruguay Round that are greater than 15 percent ad valorem on the following sensitive items:

0702.00.1000—Tomatoes, fresh/chilled, entered 3/1–7/14, inclusive, or 9/1–11/14, inclusive, in any year;

0702.00.4000—Tomatoes, fresh/chilled, entered 7/15–8/31, inclusive, in any year;

0702.00.6000—Tomatoes, fresh/chilled, entered 11/15, in any year, to the last day of the following February, inclusive;

0709.60.0040—Fruits of the genus Capsicum (peppers), other than chill, fresh/chilled;

0705.11.2000—Head lettuce, fresh/chilled, 11/1–5/30, inclusive;

0705.19.4000—Lettuce, not head lettuce, 11/1–5/30, inclusive;

0707.00.2000—Cucumbers, fresh/chilled, entered 12/1–last day of February, inclusive;

0707.00.4000—Cucumbers, fresh/chilled, entered 3/1–4/30, inclusive;

0707.00.5000—Cucumbers, fresh/chilled, entered 5/1–6/30, inclusive, or 9/1–11/30, inclusive;

0709.00.2000—Celery, fresh/chilled, reduced in size;

0709.40.6000—Celery, fresh/chilled, not reduced in size 3/1–4/14, inclusive;

0709.90.4070—Sweet corn, fresh/chilled.

In addition, I will recommend to the President that he not use his authority under 19 U.S.C. 2463 to designate these items as "eligible articles" for purposes of the Generalized System of Preferences program.

I know you are concerned about the expansion of Caribbean Basin Initiative (CBI) benefits in the region. As you may know, the countries currently eligible for CBI benefits are listed in the statute. I want to assure you that with regard to possible new participants in CBI because of developments in the hemisphere, we will not grant benefits on fruits and vegetables to any new entrant that would adversely affect your industry.

You have expressed an interest in participating in the Market Promotion Program (MPP) for enhancing agricultural exports by promoting U.S. agricultural goods in foreign markets. Since this program is administered by the U.S. Department of Agriculture, I have discussed your interest with Secretary Espy. The Secretary informs me that in order to be eligible for this program, your organization must make formal application and demonstrate a readiness to match promotion funds which would be provided by USDA. If your organization meets all the requirements, your application will be seriously considered by the Secretary.

I understand that you are concerned that there be adequate inspection by the Food and Drug Administration (FDA) of imported fruits and vegetables from Mexico. I have been advised by the FDA that they constantly monitor the level of imports of FDA-regulated products. The FDA has committed that if it sees a significant increase in imports from Mexico, it will adjust the import program devoted to inspection of these imports accordingly.

Insofar as Florida's representation on the Agricultural Policy Advisory Committee (APAC) and the Agricultural Technical Advisory Committee for Fruits and Vegetables (ATAC) is concerned, I would welcome the continued service of your association's representatives on these Committees. I will recommend to the President that such representatives be appointed.

I also want to respond to concerns you have raised with respect to several non-trade issues. First, regarding methyl bromide replacement, I have spoken with Secretary Espy and I want to assure you that the Administration is committed to full funding of research for alternative soil and post harvest substances that can be used for both soil and post-harvest fumigation. The Administration recognizes the potential harm to your industry and others unless a satisfactory solution is found, and the President has asked me to assure you that this effort will be given a very high priority. Attached is a breakdown of our current spending on such research in Florida, and Secretary Espy and I want to assure you that this research will be continued, and if necessary expanded in future years.

Under the proposed FDA regulations now being finalized for methyl bromide, there will not be any restriction on the manufacture or use until the year 2000, by which time we hope to have satisfactory alternatives. The President wants to assure you that if no satisfactory alternative is found, the Administration will consider appropriate action to guarantee that our agricultural producers are not left without a commercial viable means of achieving the necessary soil and post-harvest fumigation. Given the critical nature of this substance to our trade interests, you can be certain of my personal involvement in this matter to ensure that your commercial interests are not affected by any future restriction.

With respect to the re-registration of minor use pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), the Administration has already proposed legislation to accommodate your concerns. We are willing to work actively with you to secure the earliest possible enactment of this legislation.

I am pleased to report that Secretary Espy is prepared to continue and expand purchases of fresh vegetables for the school lunch program, including a doubling of the purchases for fresh tomatoes and new purchases of sweet corn. In order to accomplish this, he will work with your industry to put in place the necessary changes in the current system to accommodate fresh vegetables. The Secretary is also committed to the completion of the U.S. Horticultural Research Station in Fort Pierce, Florida. The new facility is in the design stage and is expected to be completed in FY 1998 at a cost of $33 million. We will complete the construction of this facility and ensure its full funding. Once completed, this facility will expand considerably the number of research scientists working on vegetable research.

I trust that these commitments will permit you to support enactment of NAFTA implementing legislation.

Sincerely,

MICHAEL KANTOR.

FFVA AGREEMENT ON NAFTA-KEY POINTS

1. Expedited Import Surge Protection: The NAFTA implementing legislation calls for monitoring of imports of fresh tomatoes and peppers for a 15 year period ending January 1, 2009. The Trade Representative has assured us the Administration will vigorously utilize the early warning import surge mechanism, and will expedite any request for relief under the fast-track provisions of Section 202 of the Trade Act of 1974.

In addition, the implementing bill requires the Secretary of Agriculture to designate an office within USDA to be responsible for maintaining and disseminating data on: A) fresh fruit, vegetable and citrus product imports, B) inspections of fruits and vegetable entering the United States from Mexico; and C) Mexico's planted and harvested acreages, and wholesale prices, quality and grades for its fruits and vegetables, entering the United States.

2. Uruguay Round: The Uruguay Round of GATT talks are scheduled for completion late this year. Tariff cuts will range from 15 percent to 100 percent. The agreement states the Administration will not agree to tariff cuts in the Uruguay Round that are greater then 15 percent ad valorem for the following items: tomatoes, pepper (bell), head lettuce, other lettuce, cucumbers, celery, sweet corn.

3. Generalized System of Preference: The Generalized System of Preference (GSP) program permits duty-free access to the United States on certain products exported from developing countries. The agreement calls on the President not to use his authority to designate the items listed in number 2 as eligible articles under the GSP program.

4. Caribbean Basin Initiative: With regard to possible new participants in the CBI, the agreement states that the Administration will not grant benefits on fruits and vegetables to any new entrant that would adversely affect the industry.

5. Methyl Bromide: There will not be any restriction on the manufacture or use of methyl bromide until the year 2000. In addition, the Administration has committed to full funding of research into alternative soil and post harvest fumigation materials.

6. USDA Purchases: USDA will continue and expand purchases of fresh vegetables for the school lunch program, including the doubling of the purchases of fresh tomatoes and new purchases of sweet corn. The Department will work with the industry to put in place the necessary changes in the current system to accommodate fresh vegetables.

7. Other Provisions: The agreement contains other provisions dealing with the Administration's support for key industry initiatives: a. legislation to ease the re-registration of minor use chemicals; b. construction and full funding of the ARS Horticultural Research Facility, and expansion of the number of research scientists working on vegetable research; c. adjustment of the FDA's food safety inspection program to increase in imports of fruit and vegetable commodities.

ADMINISTRATION DENIES METHYL BROMIDE DEAL

Mickey Kantor's letter to the Florida Fruit and Vegetable Association states that "Under the proposed EPA regulations now being finalized for methyl bromide, there will not be any restriction on the manufacture or use until the year 2000". The Florida Fruit and Vegetable Association has reiterated this assertion as part of its understanding of the deal being offered.

However, Chuck Fox of EPA who is working in the White House has today assured Liz Cook, Friends of the Earth's chief specialist on ozone depletion, that the claim of the Florida Fruit and Vegetable Association is wrong.

Carol Browner, Administrator of EPA, stated in a conference call today with the heads of the Natural Resource Defense Council and the Environmental Defense Fund that there is no deal to change the methyl bromide freeze on manufacture at 1991 levels.

The EPA has also told Karen Steuer of the Merchant Marine and Fisheries Committee that the Office of the US Trade Representative cannot change the methyl bromide freeze on manufacture.

FLORIDA AGRICULTURAL GROUP BOASTS NAFTA DEAL THAT COULD COST THE ENVIRONMENT: METHYL BROMIDE RESTRICTIONS AT STAKE

The Florida Fruit and Vegetable Association is distributing materials saying that they obtained a deal from the Clinton Administration that would lift "any restriction on the manufacture or use of methyl bromide until the year 2000".

This deal would undercut environmentalists' efforts to reduce the use of this pesticide before the year 2000. Methyl bromide contributes to ozone depletion and is known to cause acute and potentially chronic health effects in humans, including poisoning, neurological damage, cancer and reproductive harm.

Under the Montreal Protocol, an international agreement designed to phase-out the use of ozone-destroying chemicals, the United States has committed to freeze the production of methyl bromide at 1991 levels by January 1, 1995.

EPA is also in the process of finalizing a rulemaking which would require a freeze of methyl bromide production at 1990 levels by January 1, 1994 and a phase-out by January 1, 2000.

Some sources in the Administration say that they haven't cut a deal that would change existing policies, but they have yet to make a public statement. It remains unclear whether or not they have tied their hands to initiate any more restrictive regulations if scientific evidence demonstrates the need or if alternatives are developed.

The Administration seems to have adopted a "deal now for NAFTA and deal with the consequences later" approach in their campaign to pass NAFTA. Rather than promoting NAFTA on its merits, it has negotiated backroom deals to gain votes. They have given away highways, research centers, agricultural deals, bridges, and military cargo planes. The C–17 military cargo planes deal for Texas will cost between $700 million and $1.4 billion dollars, roughly one-third to one-half the amount of EPA's operating budget.

NAFTA has enough environmental costs without backroom deals costing the environment.

Now, as a Member who has worked on NAFTA and as someone who has long been concerned about the health and safety of Americans, I want to tell you, I have had my worst fears confirmed. Not only does this NAFTA itself tend to pose a threat to our country's ability to maintain strong environmental and health regulations, but the administration also seems to be willing to jeopardize our environmental laws and regulations to get this agreement passed.

Let me tell you about the jobs situation too. Throughout my district the number of unemployed has risen so dramatically over the last 10 or so years, particularly the last year, that my constituents have become accustomed to meeting their friends and their neighbors in the unemployment compensation line.

I do not think any American should agree to a NAFTA that is going to cause this kind of upheaval in the American communities. Ablebodied Americans, men and women who want jobs, who need jobs, who had jobs, who had some of those jobs that have already gone south of the border, are the ones I am talking about. Men and women like you and me, who were able to have entry-level jobs, who send their kids to school, who pay for the mortgages on their bungalows, who bought the Fords, who brought the Chevies, are the ones who are going to suffer. This is a NAFTA that is not going to enable future generations to do those kinds of things that those of us who are older have done. What kind of NAFTA is it that is not going to keep the same standard of living that we enjoy today? It is one that is going to cause our standard of living to fall, one that is going to say to those who are younger than I am, "No, no, you cannot achieve the quality of life that we did in America." Stop this NAFTA now.

Mr. Speaker, the American standard of living is built on the premise that workers should be paid a high enough wage so that they can buy the products they make. The opposite is true in Mexico. The Mexican Government suppresses wages, prohibits legitimate efforts of workers to organize and to bargain collectively, and breaks up strikes, as an attraction for United States and other foreign business to locate in Mexico.

As a result, with NAFTA, American workers' wages will either be dragged down by government-restricted Mexican wages, or their jobs will move to Mexico altogether.

Over the past 3 years, I have spent more time on NAFTA than any other issue. The Subcommittee on Commerce, Consumer Protection, and Competitiveness which I chair has held 14 hearings and briefings on NAFTA, and I have traveled to Mexico on three occasions to meet with Mexican officials and to see firsthand the living conditions in the border towns where the maquiladora factories are located. In addition, the subcommittee took a resolution to the floor of the House, which passed by a unanimous vote, expressing the view of the House that NAFTA should not threaten any health, safety, or environmental law of the United States.

From the outset, I expressed my view that NAFTA could have some real benefits for all three countries, if properly negotiated. Nevertheless, I had several concerns. First, and most importantly, for NAFTA to be worth doing it must improve the standard of living and create jobs in all of the countries. If instead, NAFTA will move jobs out of this country, or bring down wages, it should be defeated.

Supporters of NAFTA like to talk about jobs they believe NAFTA will create in the long run; they do not like to talk about all the jobs that will be lost now. The fact is that for hundreds of thousands of Americans, NAFTA could cost them their jobs now, with no hope of new and better jobs in the future. These are hardworking Americans who depend on jobs in factories to be able to pay their mortgages, feed their families, and educate their children.

A study by the Center for Urban Economic Development of the University of Illinois at Chicago, found that since 1980, over 67,000 jobs were lost in my State of Illinois to firms with operations in Mexico. The Chicago metropolitan area accounted for more than 47,000 of these jobs that were lost. Many of these jobs were jobs with some of my State's oldest and best-known manufacturing employers, for example:

Quaker Oats Company moved its Fisher-Price Division to Matamoros and Tijuana.

Zenith has moved to Chihuahua, Reynosa, and Matamoros.

American Hospital Supply moved to Juarez.

North American Philips moved to Juarez.

Lamkin Leather and Rubber Co. moved to Tijuana.

Gould Electric Products moved to Juarez.

R.R. Donnelly and Sons moved to Reynosa.

Cooper Lighting moved to Juarez.

Brunswick Corporation moved to Juarez.

Eureka Manufacturing moved to Juarez.

Outboard Marine Corporation moved to Juarez.

When manufacturing jobs move to Mexico or anywhere else in the world, those who lose their jobs are no longer tax-paying members of society; instead, they become tax consumers. Just recently, the Congress dealt with legislation to extend the number of weeks that unemployed Americans can receive benefits. If we do not soon stop the flow of jobs out of this country, there will not be enough money in the Treasury to provide benefits for all the unemployed Americans. We need to stop extending benefits, and start creating jobs for working Americans.

But I have other concerns about the agreement, too. I have taken a particular interest in the issue of food safety and trade agreements. I became interested in this subject when we reviewed changes the Bush administration made in meat inspection when the United States Canada Free-Trade Agreement went into effect.

Under the so-called streamlined procedures, Canadians were allowed to select the meat that would be subject to inspection by our inspectors. This intolerable situation was eventually reversed, but it taught me an important lesson that trade agreements can be used to reduce consumer safety. I should point out that the same authority in the Canadian Free-Trade Agreement that lead to the now infamous streamlined procedures, is also in the NAFTA implementing bill for Mexico as well.

Finally, based on my visits to the border, it was clear that the maquiladora factories were doing considerable environmental damage in the United States-Mexico border area. NAFTA could provide an opportunity to improve these problems, but it would require specific provisions to provide funding for the cleanup. Mexican environmental standards and enforcement would also have to be raised to levels here in the United States.

Unfortunately, I do not believe that NAFTA, even with the admirable efforts of President Clinton to negotiate environmental and labor side agreements, meets my concerns about the agreement.

Let me begin by discussing NAFTA's impact on jobs and wages. I must say that that single most important factor in my decision was my experience in the border towns visiting workers in the maquiladoras. The workers were living in terrible conditions. They lived in shacks with no running water or electricity. I saw their pay stubs indicating that they were working long hours for an average of only $1.64 an hour.

If Mexico does not stop constraining wages to attract investment, American workers will always be threatened, and under NAFTA that threat becomes a deadly reality. The failure of the Mexican Government to allow real labor unions to form so that wages could rise with productivity meant that American workers would see their standard of living fall instead of Mexican workers rising.

For example, I began to question a statement often used by NAFTA supporters that the average Mexican buys $450 of American products every year. It seemed to me that a Mexican worker would first have to have $450, before he or she could be expected to buy $450 worth of United States products.

I visited a worker at a Zenith plant. He could never hope to buy the television set he assembled, because his wages were so low. I began to question where were these average Mexicans who brought $450 of American goods, and whether claims of a large Mexican market for United States-made products were accurate.

After some research, we found out that the $450 figure was derived by taking all United States exports to Mexico and dividing that number by the total Mexican population. Included in these exports were parts shipped to the maquiladoras for assembly and then returned to the United States. Also included were capital goods used to build the maquiladora factories. In short, the average Mexican was really a U.S. corporation.

When I asked how much of our exports to Mexico were actual consumer goods that Mexican consumers could buy, the amount provided by the International Trade Commission was only $2.3 billion. That's $25 per Mexican consumer—a far cry from $450. So long as wages are constrained in Mexico, we should remain skeptical of claims of a growing Mexican consumer market.

In the area of food safety, there was both good news and bad news in NAFTA. The good news is that the implementing legislation includes, at my urging, a provision which makes clear that U.S. food safety laws, as well as other health, safety, and environmental laws, cannot be weakened as a result of NAFTA.

The bad news is that there may be no practical way to ensure that food imported from Mexico may be safe. The Food and Drug Administration [FDA] only has 13 inspectors for the entire United States-Mexico border, and the agency has told me that Mexican produce exported to the United States is about twice as likely to have pesticide residue levels that violate United States standards, as is produce grown here in the United States.

In addition, we know that Mexico has approved 17 different pesticides for use on food that the United States has not approved. Only 7 of those 17 pesticides are even detectable by the tests that the FDA uses when it inspects fruits and vegetables imported from Mexico.

Finally, despite the efforts of the Clinton administration to negotiate a side agreement on the environment, the environmental problems at the border are likely to get worse, not better. In my view, there are three serious flaws in the side agreement.

First, there is no funding mechanism to ensure that those who benefit under NAFTA, namely the United States corporations that move their factories to Mexico, will be required to pay for the cleanup of the pollution that they have caused. Instead, it appears that funding, if any, for cleanup will be paid by the U.S. taxpayer.

Second, the side agreement only addresses problems caused by the failure of a government to enforce its environmental laws. It does not address the disparity in environmental standards.

We have constantly been told by NAFTA supporters that Mexican environmental standards are equivalent to ours, but that is often not true. For example, when we looked at the case of the Carbon I and II plants, which were built on the Mexican border and polluting Big Bend National Park, we found that the standards for power plants were quite different. For example, according to EPA, Mexico's standard for particulate emissions is 10 times weaker than the United States standard, and its standard for sulfur dioxide is 14 times weaker than our own.

Third, the side agreements are not tied to NAFTA. Under the provisions of the side agreements, a country can withdraw at any time, but still be entitled to the benefits of NAFTA. Despite commitments of the Trade Representative to fix this problem in the implementing bill, the bill we are voting on has no provision to deal with a country that withdraws from a side agreement. The Clinton administration has stated its intention to withdraw from NAFTA if another country withdraws from a side agreement, but other administration's may not. Indeed, it is no secret that many Republicans do not look favorably on those agreements.

So while we will be making a permanent decision on NAFTA, the side agreements may disappear. This certainly raises the question about how seriously the NAFTA proponents see the side agreements.

Let me say in conclusion, that I take no pleasure in opposing this agreement. There is much that is good in the NAFTA, and I hope that the three governments will all return to the negotiating table. I believe we need to take into consideration the recent elections in Canada so that our Canadian partners are comfortable with a new agreement. And by all means we should continue to strengthen our ties with Mexico. The Mexican Government, and President Salinas particularly, have made greater strides toward improving the relationship between our countries than any previous leader. We must make clear that we want that relationship to prosper.

But, above all else, we must never lose sight of the hundreds of thousands of American workers whose jobs are on the line. Unless NAFTA ensures they won't face unfair low-wage competition from Mexican workers whose wages are held down be government edict, their interests cannot be protected.

I oppose this NAFTA for the simple reason that it threatens the standard of living of working Americans. They deserve better from their Government.

Mr. DREIER. Madam Chairman, I am happy to yield 1 minute to a thoughtful member of the Committee on the Budget, the Committee on Energy and Commerce, the gentleman from Charlotte [Mr. MCMILLAN].

Mr. MCMILLAN. I thank the gentleman for yielding this time to me.

My colleagues, this vote ain't bought, it is carefully thought out over 2 years of dialog with my constituents and a trip to Mexico.

I rise in strong support of NAFTA. Even as a Congressman from a State with traditionally import-sensitive industries like textiles and furniture, whose workers, by the way, support this agreement, we have reason to be concerned about the past, but NAFTA is about the future. Those workhorses of the Old South, textiles and furniture, are joined in supporting NAFTA by workers in chemicals, paper, machinery, and electronics and agriculture. The reason is simple: Since Mexico began lowering tariffs 5 years ago, North Carolina exports have increased by 365 percent. Fifty-eight thousand North Carolina jobs now depend on Mexican imports; 36,000 of them in the last 5 years. NAFTA means more and better jobs for Carolinians, not just next year but as far as the eye can see.

Now is the time for the United States not to shrink inward, now is the time to build upon, to rise above our fears, and build upon our strengths.

I urge my colleagues to support this agreement.

Mr. DREIER. Madam Chairman, I am happy to yield 1 minute to a hard-working member of the Committee on Ways and Means, the gentleman from Corning, NY [Mr. HOUGHTON].

Mr. HOUGHTON. Madam Chairman, to me the debate boils down really into two basic points: First, you cannot have it both ways. You cannot crawl into your shell and ask others to crawl out of theirs. Adlai Stevenson once said it is not possible for this Nation to be politically international and at the same time economically isolationist. It is like asking one Siamese twin to do a high dive while the other plays the piano.

Second, I have found here that in most important votes such as this, there is a time lag. We saw this with catastrophic care and others saw this many years ago in a restrictive trade act.

□ 1330

In 1930, Smoot-Hawley was passed. In 1932, which saw the lowest reelection rate of this century, of the 121 Representatives who lost their jobs, 98 had voted for Smoot-Hawley.

As Mr. Santayana once said, "Those who cannot remember history are condemned to repeat it."

Madam Chairman, we must support NAFTA.

Mr. DREIER. Madam Chairman, I am happy to yield 1 minute to the gentlewoman from New Jersey [Mrs. ROUKEMA], the ranking Republican on the Subcommittee on Housing and Community Development of the Committee on Banking, Finance and Urban Affairs.

Mrs. ROUKEMA. Madam Chairman, I support NAFTA and I do so only after an extensive analysis of the extravagant claims and counterclaims swirling around this agreement.

You see, this is not a no-brainer as some have claimed. And, it is not about the jobs that this country has already lost.

It's about the future and where we are going, based on the facts and simple logic.

There's no secret that New Jersey's economy has been mired in difficult times over the past few years. We've witnessed the net losses of thousands of jobs in recent years. But since the 1987 opening of the Mexican economy, New Jersey jobs related to exports to Mexico and Canada have jumped by over 36,000.

Today, 72,000 New Jersey jobs are supported by manufacturing exports to Mexico and Canada.

In 1991, New Jersey exported $3.3 billion to our North American neighbors.

From 1987 to 1992, New Jersey's exports to Mexico grew 155 percent to $483 billion. Manufactured goods account for 97 percent of the total.

There's little doubt that NAFTA will only accelerate an ongoing, positive trend. In fact, Citizens for a Sound Economy projects that New Jersey may gain as many as 14,000 new jobs as a result of NAFTA. That's good in a State where jobs related to export, on average, pay 12 percent more than the typical U.S. job.

NAFTA will also provide new access to the growing Mexican market by United States financial services. For the first time, U.S. banks, securities firms, and insurance companies will be permitted to operate branches, nonbank lenders, commercial financing, mortgage lending, and credit card companies. All of these industries are integral parts of our New Jersey economy.

To me, NAFTA is about opening new markets for American products. It's not about the manufacturing jobs we've already lost to China and the Pacific rim and to Mexico. They are gone, with or without NAFTA.

No, this debate is about setting a foundation for the global economy for 5, 8, 10 years and for the next generation of Americans.

How will NAFTA benefit the current jobs of New Jersey residents? We are all very proud that New Jersey is our national headquarters for research and development in the pharmaceutical, chemical, telecommunications, and other high-technology industries.

That means protection of the intellectual property—patents, formula, compounds, and so forth—produced by the likes of Johnson and Johnson, Becton-Dickinson, AT&T, Merck, Schering-Plough, Hoffman-LaRoche, Warner Lambert, and others is critically important. NAFTA has variously been described to me as the strongest agreement yet on intellectual property and one that could serve as a benchmark for future agreements—including GATT. New Jersey industry needs protection from unscrupulous Mexican pirates and from damaging Government-sponsored licensing programs in Canada.

This debate is not about politics. It is about determining long-term trade policy for this Nation with serious economic and national security implications.

I understand that NAFTA has become the focal point for all the anxieties about our national ability to compete and our national ability to employ our workers in high value jobs which allow them to maintain their standard of living. For the first time in our history, Americans are insecure and anxious about our future. They see a significant erosion in the middle class.

I understand the fears of many American workers today who are concerned they may wake up tomorrow to find their jobs transplanted to another developing economy. Those fears are not allayed by all the talk of the worker retraining programs that will accompany NAFTA. The bottomline is, retraining for what? America needs new export markets.

I support the concept of a North American Development Bank and its related dislocated worker adjustment program. If properly structured, this program would provide invaluable assistance to individuals and communities affected by NAFTA.

I recognize that the rules of origin are critically important. We cannot tolerate a system whereby overseas competitors use Mexico, or Canada, for that matter, as an assembly platform for products made of their components to be shipped into the United States. While I have been well assured that NAFTA contains even stronger rules of origin than the Canadian Free-Trade Agreement, this is an area that bears our consent scrutiny.

Is NAFTA the answer to Mexico's and America's economic problems? No way. This is not a panacea. It is a trade agreement. Yes, an imperfect trade agreement that bears strict enforcement and constant surveillance.

I will vote for NAFTA today and then tomorrow begin the hard work of ensuring that its implementation and enforcement protects our national interest.

Mr. DREIER. Madam Chairman, I am happy to yield 1½ minutes to the gentleman from Atlanta, GA [Mr. LINDER], a hard-working new Member of Congress.

Mr. LINDER. Madam Chairman, in 1978 Jude Wanniski wrote "The Way the World Works" in which he showed how the Smoot-Hawley tariff bill impacted the market. Few noticed at the time, but on days when the lead story from Washington indicated the bill might pass, the market declined. When the story from Washington suggested difficulties for Smoot-Hawley the market climbed.

As we all know the bill was finally signed and nations around the world responded in kind by closing their borders to American exports. Our farmers, dependent on exports for survival, lost their markets. Then they lost their farms. Manufacturing followed suit.

Open markets are the most efficient markets. No one argues that. There have been no intellectual arguments made on behalf of barriers to free trade by opposing NAFTA.

Opposition to NAFTA is purely political. If you live in a State with a large Perot vote you will probably oppose NAFTA. If you have a large organized labor district you must be opposed. These are visions of the next election, not the next century.

The arguments from both sides regarding job creation are guesses at best. We lost over 1 million jobs to the Pacific rim over the last decade. That will continue with or without NAFTA. We have lost jobs to Mexico. That will continue with or without NAFTA.

Those who believe in free enterprise understand that capital seeks its most productive use. Capitalists desire to make their products as inexpensively as possible so that they can sell them at as low a price as possible. The consumers are the ultimate winners. NAFTA will not change that.

The United States will gain some jobs from increased sales of goods to Mexico as that nation replaces Japan in the next year or two as our second largest export market. We simply do not know how many we will gain, nor do we know how many will be lost. But in an economy with 119 million jobs, in which over 500,000 jobs are lost and gained every 3 to 4 months in the natural course of events, the changes due to NAFTA will be insignificant.

NAFTA is a foreign policy agreement. Today Mexico has the most honest government in over 100 years. They are privatizing large segments of the industrial base. They have the most robust economy and the most rapidly growing standard of living in our hemisphere. We are no longer the hated Gringo to the north. We are valued friends who products Mexicans not only prefer, but are proud to own.

Do we want to continue to nurture this growing friendship with our neighbor to the south, or do we want to say no to several years of improving relations and return to the Gringo days?

Mexico needs our approval as a trading equal as well as access to our capital markets. We need access to their consumers.

As we provide the technology and capital Mexico needs to grow and prosper, the Mexicans are looking south. They see 700 million consumers in Central and South America as a market for their products. If we choose not to be their partners they will turn to Japan and Germany. The marketplace works.

Mexico is an attractive market for investment today and it is unrealistic to believe that other nations will not respond to the opportunities that reside there. Indeed, over the last week end Canada, the third partner to this agreement, said that if we do not pass NAFTA they will seek a bilateral agreement between Canada and Mexico.

Protective measures will not change the flow of capital and jobs. Government can, of course, get in the way and make the markets less efficient. We can build walls around the Nation once again, and provide protection for our union jobs and inefficient industries, but that will only delay and prolong the changes that are inevitable. In our procrastination other nations will fill the void leaving us greater challenges in the future.

Whether we like it or not, we live in a global economy. People cross national boundaries as easily as our grandparents crossed from State to State. We simply cannot leave walls between nations whose people want nothing more than increased trade among friends.

Recently Chris Patton, Governor of Hong Kong, issued a warning about protectionism in an article in the "Economist." He remarked that a Martian visitor traveling to the planet Earth four centuries ago from the tepee settlements of North America, to the mud flats of typhoid ridden London, past the warring cities and domains of Europe to the Ming mandarinate of 16th century Beijing would have concluded in a second that China would rule the world for centuries to come. China's sprawling but united country was governed by an efficient government. They had invented gunpowder, printing, and the compass. They had a powerful navy that could roam the seas. No nation or people could come close to the Chinese for civilized living and culture. Then they retreated behind the great wall, and history told a different tale.

NAFTA is not a jobs program or an economic booster shot. It is a foreign policy initiative between two peoples who have moved closer together in interests and aspirations and who desire to remove the barriers that artificially separate their entrepreneurs from our entrepreneurs. The walls should come down.

Mr. MATSUI. Madam Chairman, I yield 2 minutes to the distinguished gentleman from Florida [Mr. BACCHUS].

Mr. BACCHUS of Florida. Madam Chairman, I rise today to support the North American Free-Trade Agreement.

The NAFTA will help us keep and create more jobs, and especially more high-paying manufacturing jobs in my district across Florida and across America.

As a former trade negotiator for the United States, I believe fervently that free, fair trade, and an ever-expanding world trading system will mean more jobs and more prosperity for everyone everywhere.

America has more to gain from more trade than any other nation, and the workers in my district have more to gain than most Americans.

Venture Products, Inc., in Cocoa, FL, distributes automotive parts. The company currently employs just eight workers, but when the NAFTA eliminates Mexican tariffs on auto parts, the company tells me that it will be able to sell more into Mexico and hire more of my constituents as workers in Brevard County.

The Sun Nuclear Corp., in Melbourne, FL, employs 25 people who manufacture medical instruments. They expect to sell more in Mexico and hire more workers in my district if the NAFTA passes.

A small plant in Osceola County employs 65 workers who make Gatorade. Because of increased sales that are anticipated to Mexico when the NAFTA passes, their company expects to double its work force in Osceola County.

We are in the process of deepening and widening Port Canaveral in my district to containerize it and bring it into the mainstream of world cargo trade. That over time will mean hundreds and literally thousands of new businesses and new jobs, and even more when the NAFTA passes.

The largest employer in my district is the Harris Corp., which employs 12,000 people. Their fastest growing market by far is in Mexico, but they have to pay 20-percent tariffs to sell in Mexico. There are competing against the Japanese there who are beginning to move plants into Mexico. If the NAFTA fails, the Harris Corp. will have an incentive to move jobs from my district down to Mexico to compete with the Japanese. If the NAFTA passes, they will be able to continue to employ my constituents in Melbourne and throughout Brevard County in Florida.

It is the opposite, the precise opposite of the sucking sound that Ross Perot talks about, and that is one more reason why we should pass the NAFTA.

Mr. MATSUI. Madam Chairman, I yield 2 minutes to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Madam Chairman, it is a political tragedy that a majority of my Democratic colleagues will shortly turn their backs on our party's proud legacy of opposition to protectionism. From F.D.R. to J.F.K., our great Democratic leaders understood that expanded foreign markets for American products is the sure and sound route to expanded job opportunities. Democratic President Bill Clinton understands that also.

The short time allotted me today does not allow me to demonstrate that lowering high Mexican tariffs and low United States tariffs will result in expanded United States exports to Mexico.

So, I would like to take my remaining time to address the left of the political process, which in its effort to defeat the NAFTA, has undertaken a campaign to vilify and demonize the Government of Mexico.

To hear them talk—and I include members of the anti-NAFTA forces here in Congress—as well as in the outside political process—Mexico is no better than Franco's Spain or Pinochet's Chile, an authoritarian, despotic regime that tramples mercilessly on the democratic process and on human rights.

It was not always so that the left was saying this. In the early and mid-1980's, that same left the same Member of Congress, and I include myself in that group—lionized Mexico for its opposition to United States policy in Central America and for its farsighted hemispheric leadership in the pursuit of a more peaceful path.

Then, Mexico was an ally rightfully seeking, in the Contadora process, a democratic, non-violent approach to hemispheric security—and those of us who consider ourselves progressive, who opposed the contras, who supported cutting military aid to El Salvador, had nary a negative word to say, about that wise Mexican Government and its wise foreign policy.

□ 1340

In the 6 years since those days Mexico has reformed itself more than anytime in its history, and now NAFTA represents a concrete opportunity to integrate the Mexican economy with our own and that of Canada. But it will do much more. It will bind Mexico closer in all respects to the United States and Canada. That can only have a salutary impact on Mexican society and its political process. The market reforms which will be instituted in Mexico as a result of NAFTA will weaken the hold of the ruling party in Mexico. It will expand the Mexican economy, strengthen a growing middle class, and increase the demands of Mexican workers for political change.

It will be seen elsewhere in our hemisphere that America has embarked on a new approach with our closest neighbors, a policy designed for the post cold war era. It will finally demonstrate an end to the unilateral, 'big-stick policies that to this day have left a residue of resentment. It will hold out the prospect of a hemispheric-wide free trade zone that will help spread prosperity and strengthen democracy throughout this region.

Ms. KAPTUR. Madam Chairman, I yield 2 minutes to the gentleman from Georgia [Mr. LEWIS].

Mr. EVERETT. Madam Chairman, I also yield 2 minutes to the distinguished gentleman from Georgia.

The CHAIRMAN. The gentleman from Georgia [Mr. LEWIS] is recognized for 4 minutes.

Mr. LEWIS of Georgia. Madam Chairman, I rise today to make it plain and crystal clear that I cannot and will not support this NAFTA. This agreement is about more than trade. It is about the dignity of man and the destiny of democracy. This agreement betrays the American people and we as Members of this body have a moral obligation, a mandate and a mission to say no to NAFTA.

Let me be clear, I do want free trade, but not at the expense of our workers; not at the expense of our environment, and not at the expense of our commitment to human rights.

During this entire debate on NAFTA, there has been a deafening conspiracy of silence when it comes to the question of human rights. Can we turn a deaf ear to the working conditions in Mexico? Can we turn a deaf ear to the starvation wages that many people are receiving? Can we turn a deaf ear to the large number of people who have been arrested and detained for no good reason? Can we turn a deaf ear to the number of people who have turned up missing? I ask of you today—can we turn a deaf ear to the large number of political assassinations?

We must never forget that in Mexico, workers are not free to organize—democracy is not yet a living reality. Those of us who believe in freedom of the press, those of us who believe in the right to protest for right, those of us who believe in certain God-given rights for all humankind, we have a moral duty to oppose NAFTA.

It was Martin Luther King, Jr., who said on one occasion that "If you don't stand for something, you will surely fall for anything!" This legislation should stand on its own merits. The dealmaking, horse trading and the outright buying and selling of votes by the administration is obscene and not becoming of a great Nation. If we pass NAFTA, we will be sending a message to the American people that human rights can be bought and sold like packaged goods over a store counter.

And let me say again, I am for trade. But I am not for trade at any cost, and any price. I say that with this NAFTA, the price is too high, the price is too costly.

Those of us who are opposed to NAFTA have nothing to offer except our votes. I did not come to this House in 1987 to trade my vote away. The people of the Fifth Congressional district of Georgia did not send me here to sell them out for a mess of pottage and 30 pieces of silver.

Madam Chairman, I do not know about you, but as Joshua of old said, "as for me and my house", I am going to cast my lot with the working people of America—the taxpayers, people who work with their hands every single day.

I also know what it is like to live under a vicious and degrading economic system where people work from sunup to sundown for starvation wages. As a child growing up on a tenant farm in the old South, I experienced the unrelenting poverty and despair of a system based on exploitation. I do not want America to nurture this system in Mexico. We must not go back to child labor, unjust wages and environmental destruction.

This little planet, Earth, is not ours to hoard. It is not ours to waste, but to use what we need.

We should leave this part of the planet to include the borders of Mexico and the United States of America a little more peaceful, a little safer, a little greener, and a little cleaner for unborn generations.

Consider the responsibility that we bear as the leading democracy in the world. We should vote against this NAFTA.

What does it profit a great nation, the United States of America, to gain a free trade agreement with Mexico and lose her soul?

Mr. KOLBE. Madam Chairman, I yield 1 minute to the very distinguished gentleman from Williamsville, NY, Mr. PAXON, a member of the Committee on Energy and Commerce.

Mr. PAXON. Madam Chairman, the most important concern facing my constituents and all Americans is jobs, preserving those we have and creating new job opportunities. Throughout my region and across our Nation the facts are clear. Increasing U.S. trade means job protection and job creation, and that is why I am backing NAFTA.

Every week at home I visit a plant or a business. I walk on Main Street or stop at a farm, and the positive impact NAFTA will have in all these settings is overwhelming.

For example, Madam Chairman, in the Rochester region alone over 4,000 firms presently export, 2,000 to Mexico. From industrial giants like Kodak, Xerox, G.M., and Bausch and Lomb to smaller firms and farms, tens of thousands of folks earn their living there because of foreign trade. It is also true in the Buffalo area where we are already benefiting from the United States-Canada Trade Agreement with provisions similar to NAFTA.

Madam Chairman, I have here letters from hundreds of employers representing thousands of workers in our region who support NAFTA.

Mr. KOLBE. Madam Chairman, I yield 1 minute to the distinguished gentleman from Arizona [Mr. KYL] a member of the Committee on Armed Services.

Mr. KYL. Madam Chairman, I rise in support of the North American Free-Trade Agreement [NAFTA].

Trade is not a zero-sum game. There is not a winner and a loser in trade. Perhaps what has been lost in the debate on NAFTA is simply this: trade between two people or two entities benefits both. To give the simplest of examples—when you buy something, say a computer, from a store, the gains are mutual; the money the store takes in helps it pay its costs and provides some profit and, you, the customer, purchase a desired product which makes you more productive.

However, when artificial barriers are forced into the equation, trade is inhibited. Extend the example—just as you are about to buy the computer, a government agent comes in and requires you to pay a $500 tax or tariff. The likelihood that the transaction will take place diminishes greatly with that requirement, and both you and the store are then the loser. I cite this example to make the point that seems to have gotten lost in all the rhetoric and statistical charges and countercharges. What NAFTA is all about is allowing free commerce for the benefit of both parties.

There is another aspect to NAFTA. It will benefit those who produce goods and services for export. Today, Mexican tariffs are 2½ times higher on average than United States tariffs, putting United States exporters at a disadvantage. NAFTA creates a level playing field for the United States by reducing the tariffs—or taxes—that the people in the United States must pay the Mexican Government in order to sell goods and services to the people in Mexico. When we speak of who will participate in free trade, we are not speaking about Mexico and the United States. Our countries do not trade anything with each other. Individual Americans and individual Mexicans are the actual merchants and customers. NAFTA removes restrictions of the Mexican and United States Government on the freedom of their citizens to trade with one another. In other words, NAFTA removes power from the hand of government and restores freedom to the individual.

Freer trade works. Since 1986 when Mexico began to liberalize its trade practices with the United States, America and Arizona have seen a tremendous increase in exports to Mexico. Exports from Arizona to Mexico increased by more than 90 percent in 1992. It is no wonder that, in a recently completed survey conducted by Temple, AZ-based O'Neill Associates for the East Valley Partnership, 92 percent of individuals living in the Phoenix area said they support NAFTA.

I noted that Mexican tariffs are still 2½ times higher on average than United States tariffs. Mexican tariffs average 10 percent compared to our average of three percent. It should be expected that United States exports to Mexico will increase even more with the implementation of NAFTA.

For some industries, the discrepancy in tariffs is even higher than the 10 to 3 ratio I just mentioned. Just to give you an example, I mention the products below:

[In percent]

Product—type/tariff	Mexican tariff	U.S. tariff
Chemicals	20	4
Cars/light trucks	20	2.2
Auto parts	13.1	0.4
Household app.	17	1
Machine tools	13	2

Some people are concerned that jobs will be lost to Mexico if NAFTA is implemented. Overall, the result should be the opposite because NAFTA will eliminate non-tariff barriers that block United States exports to Mexico. For example, the auto and autoparts industry Mexican local content rules and export requirements effectively shut out United States based producers of most finished products and require United States automakers to shift production to Mexico. NAFTA will remove these requirements, allowing auto producers of finished goods to use components produced in the United States and ship from their United States operations.

The increase in exports as a result of reducing these and other tariffs will create hundreds of thousands of jobs. The U.S. Trade Representatives Office estimates that 200,000 new jobs are created for every billion dollars in increased exports.

Trade with Mexico directly supports over 600,000 American jobs. NAFTA is expected to increase that to 1 million within 3 years. In Arizona alone, according to Departmemt of Commerce figures, some 14,000 new jobs were created as a result of increased Arizona-Mexico trade between 1991 and 1992.

Allied Signal Inc. illustrates the types of opportunities and jobs that can be created as a result of United States trade with Mexico. Allied Signal has traditionally been a defense contracting firm but has shifted some of its business to the environmental technology industry. They make and sell catalytic converters and, converters are currently being phased in as a standard requirement for automobiles in Mexico. However, United States high technology products like the catalytic converter face some of Mexico's highest tariffs. NAFTA will eliminate tariffs on such high technology products. Allied Signal pays roughly $1 million per year in tariffs and has indicated that without NAFTA it may be forced to move production to Mexico in order to avoid Mexican tariffs. Hundreds of jobs could be kept in the United States by implementing NAFTA.

Mattel Barbies Inc. is another good example of how freer trade will result in increased jobs for the United States and Mexico. As a result of Mexico's freer trade policies and in anticipation of NAFTA, Mattel Inc. has moved its production, raw materials acquisition, and management facilities from Southeast Asia to the United States and Mexico.

These and other examples, which provide hundreds of thousands of U.S. jobs, are what NAFTA is all about. NAFTA does not change United States environmental laws (but will enhance environmental cleanup in Mexico) does not endanger U.S. sovereignty, and does not offset benefits that will result from freer trade.

By now, all of us should understand the positive implications of the NAFTA and pass this agreement. It is not acceptable to support the status quo and to let opportunity pass us by. NAFTA represents an opportunity for America to enter the 21st century as the preeminent economic power in an economically expanding hemisphere. For all of us who care about creating jobs and helping to restore our economic future, I urge you to vote for this agreement.

Mr. EVERETT. Madam Chairman, I yield 1 minute to the distinguished gentleman from New York [Mr. QUINN] a freshman member.

Mr. QUINN. Madam Chairman, we have heard an awful lot of discussion about NAFTA recently, and we will hear more later today. We have heard about the isolationism, we have heard about the expansionism, protectionism, and globalism. We have heard about open markets and closed markets. But I rise today not to discuss all the theories and the rhetoric about NAFTA, the implications of what may or may not happen if this agreement is passed or if it fails. And I rise today in defense of jobs, American jobs, jobs in my district, and western New York and across the country.

□ 1350

I ask my colleagues today to examine the facts. NAFTA opponents are opposed to NAFTA because of actual economic practice by Mexico—my constituents do not want to hear about economic theories or political rhetoric. What they care about is jobs—the loss of their jobs.

There is no free market economy in Mexico. There is no invisible hand of supply and demand. Instead, there's a very visible hand of government * * * repressing wages, standards of living, and enticing American companies to invest there. Why? Cheap labor and lower environmental standards.

How can we compete against that?

Approximately 5.9 million U.S. manufacturing jobs are vulnerable under NAFTA. That's right—almost 6 million jobs in this country. My State of New York would be fifth hardest hit State in the Nation in terms of job losses. NAFTA indeed could devastate our fragile economic recovery, not only in New York State, but across the country.

Last, Madam Chairman, along with many of the American people I question why NAFTA can't be sold on its merits? Votes for NAFTA have been traded like stocks and bonds. Except, the administration is trading with the American people's tax money—money for sugar, bridges, roads and who knows what else has been promised behind closed doors. But I guess that's business as usual in Washington, DC.

I support free trade, but only when it's fair, and I call that smart trade.

I urge my colleagues vote down NAFTA and send a clear message to Mexico: Reform your autocratic economy and keep your hands off American jobs. NAFTA ignores jobs, income levels, and the environment.

We must protect American jobs, preserve America's standard of living, and support smart trade. Say "no" to NAFTA.

Mr. MATSUI. Madam Chairman, I yield 1 minute to the gentlewoman from Tennessee [Mrs. LLOYD].

Mrs. LLOYD. Madam Chairman, as I have read the North American Free-Trade Agreement and listened to the arguments on both sides, I was left with one overriding question. What happens if we do not pass NAFTA?

Earlier this year, I expressed grave reservations over the NAFTA, as it was originally drafted. As the former chairman of the Congressional Textile Caucus and a strong advocate of the textile industry, I have been rather leery of trading pacts which I feel might imperil American industries and workers.

After considerable reflection on the most important vote of my career, I have concluded that the defeat of NAFTA will not save jobs, it will not prevent any American company from relocating to Mexico, nor will it solve our trade deficit.

Textiles are an important industry in Tennessee. Textile and apparel exports have grown at a 33-percent annual rate since 1987. In 1992, Tennessee's exports to Mexico totaled nearly $414 million, making Mexico the State's second most important foreign market. Under NAFTA, Tennessee's textile exports to Mexico will be able to grow faster. And most importantly, strict rules of origin ensure that Mexico will not be used as an import platform for Asian textiles and fabrics. President Clinton has personally assured me that the administration will increase the customs budget by $15 million in order to enforce trade laws on textiles and apparel. The administration also pledged to negotiate a 15-year phaseout on textile quotas in the final talks of the Uruguay round of the GATT.

In coming to a decision, I also considered the serious consequences the defeat of NAFTA will have for U.S. national interests. The cold war is over and America cannot remain an economic superpower if it turns down the opportunity to develop the largest common market in the world. The United States will be left with no effective responses to the regional trade strategies Europe and Japan are successfully employing to bolster their competitiveness. U.S. workers will be competing with one arm tied behind their back.

Rejection of NAFTA could delay or lead to the collapse of the Uruguay round of GATT trade talks. The United States has the most to gain from the GATT agreement, but our main trading partners may refuse to offer politically difficult concessions if there is any doubt of congressional approval. Collapse of the round could spark a new round of world protectionism—and a worldwide recession that would place millions of U.S. jobs at risk.

A defeat of NAFTA will send disturbing messages to Mexico and other Latin American countries which have made political and economic reforms in recent years. Mexico's President Salinas has taken important steps toward creating a free-market economy over the past 5 years, including a significant reduction in tariffs. The United States has benefited from this through skyrocketing exports and the creation of hundreds of thousands of new jobs. Mexico may react to a rejection by closing its markets and seeking investment and trade with our competitors in Europe and Asia.

United States-Mexican relations could become tense, reducing cooperation on issues that Americans are deeply concerned—illegal immigration, illegal drug trade, labor rights, and the environment. The United States cannot address these concerns by itself.

Most importantly, if NAFTA fails U.S. international leadership will be in doubt, because we have just signaled to the world that America is not confident of its ability to compete with a neighboring economy only one-twentieth its own size.

Is this Congress ready to repudiate 50 years of market-expanding efforts under every American President since Franklin D. Roosevelt? Is Congress prepared to face the former Communist nations which will have lost their prime advocate for opening export markets to their products? Is Congress ready to weaken the Presidency at a time when political and economic tensions are so high across the globe?

I do not believe this body wants to abdicate its responsibility for global leadership and I therefore urge my colleagues to support NAFTA.

Ms. KAPTUR. Madam Chairman, I yield 2 minutes to the gentlewoman from North Carolina [Mrs. CLAYTON].

Mrs. CLAYTON. Madam Chairman, today we consider this agreement, the North American Free-Trade Agreement. Today we consider the present and future of our American economy, our wages, our standard of living, and the principles we hold in the highest esteem.

Mr. Speaker, I am a firm supporter of free trade. I believe that international trade provides enhanced opportunity for our precious industries. I believe that increased trade is essential for the future growth of our economy. However, today I say to my colleagues, I do not support this trade agreement because I believe it is flawed. Today, I say to my fellow Americans, the vote we are about to take is not a litmus test on the principle of free trade. Rather, it is a question of whether American workers and investors will benefit from this agreement.

Mr. Chairman, we live in a great Nation. The United States is the leader of the free industrialized world. Our Nation remains the only superpower in the world and the envy of all democracies. We are the first among democracies where free enterprise thrives, and we represent the model for the world. The distinction with our Nation relates to the value we place in raising our standard of living, our real wages, and leaving our children a strong future. We are competitive.

The truth is that we must lower our ideals and standards in order to enter into this agreement. If this body decides to pass this agreement, we give credence to the practices employed by our neighbors to the south—the premeditated suppression of wages. By entering into this agreement, we do not help the Mexican consumers, we settle and compromise for the sake of expediency.

Mr. Chairman, this agreement is about establishing a strong and lasting relationship with our neighbors. We all desire that Mexico be a strong nation with a rising standard of living. But this should not be done by pulling our own wages and standard of living down to accommodate the lower wages and lax environmental standards of our neighbor to the south.

I believe that NAFTA may be especially dangerous for the hard-working people of rural eastern North Carolina. In my district, only 57.8 percent of those 25 years of age or higher possess a high school diploma or equivalency, and we are also plagued with a poverty rate of 26 percent. In this regard, I am most concerned with the potential loss in low-skilled jobs which would result with the implementation of this agreement. I believe that NAFTA would also adversely affect the ability of small farmers to remain competitive.

We need to establish a trading pact in North America which is based on the principles that has made our Nation strong. We must call for a trading partnership which respects the right of average citizens and workers to have good wages and standards of living. Today, let us send a message to the global community that the United States demands more than just free trade, we demand free trade and fair play.

Mr. KOLBE. Madam Chairman, I yield 1 minute to the distinguished gentleman from Kennedyville, MD on the eastern shore of Maryland [Mr. GILCHREST] a member of the Committee on Public Works and Transportation and the Committee on Merchant Marine and Fisheries.

Mr. GILCHREST. Madam Chairman, I thank the gentleman for yielding.

Madam Chairman, I would like to respond to an earlier speaker on the other side of the aisle who made a reference that those of us who are voting for NAFTA will lend a deaf ear to the oppressed and to those seeking jobs and a better life.

Those of us who are voting for NAFTA do not lend a deaf ear to the Mexican worker or the American worker. Those of us who are voting for NAFTA do not lend a deaf ear to the oppressed. With NAFTA, we can create jobs in America. With NAFTA, we offer the opportunity for workers in Mexico to raise their standard of living. With NAFTA, we unleash the spirit of democracy and the creative power of a market economy, which is what we believe in, which is what we have been working so mightily for since World War II.

One last thing: There is a mystery about human initiative. It reveals itself when there is responsibility present and when there is dignity present. President Clinton and President Salinas have given us the opportunity to raise the standard of living by offering responsibility and dignity to both sides of the border for American and Mexican workers.

Madam Chairman, I urge a yes vote on NAFTA.

I rise in support of the North American Free-Trade Agreement, and I request permission to revise and extend my remarks.

To anyone opposed to NAFTA, I have to ask: What is it about the status quo that you like so much? Do you think it's good that the United States market is wide open, while the Mexican market is largely closed? Do you like the fact that United States businesses can, and do, move south of the border, but that they can't stay here and export to Mexico? Do you think it's good that Mexico can currently use lax enforcement of environmental laws to attract investment? Do you approve of the fact that Mexico's tariffs are 2½ times as high as ours? If you oppose NAFTA, clearly, you think the status quo is a terrific idea.

Whether we pass NAFTA or not, American businesses will be able to move south of the border and export to the United States. Whether we pass NAFTA or not, the border area will be polluted, although NAFTA takes steps to clean it up. Whether we pass NAFTA or not, Mexican wages will be lower than ours. Whether we pass NAFTA or not, the Mexican Government will not be a perfect government.

But if we do pass NAFTA, American businesses will be able to stay here and export to Mexico. If we pass NAFTA, Mexico will be required to adequately enforce their environmental laws. If we pass NAFTA, we take the first step toward border cleanup. If we pass NAFTA, tariffs will be eliminated, and our businesses will be able to compete on a level playing field.

I completely fail to understand how anyone could say that the status quo is preferable to NAFTA. It is the status quo that has cost American workers jobs and polluted the border area. NAFTA is the first step to solving the problems created by the status quo.

Let me assert my firm belief that the only thing we have to fear is fear itself—nameless, unreasoning, unjustified terror which paralyzes needed efforts to convert retreat into advance.

Mr. KOLBE. Madam Chairman, I yield 1 minute to the distinguished freshman gentleman from Pine Bluff, AR, [Mr. DICKEY], a member of the Committee on Agriculture and a member of the Committee on Natural Resources.

Mr. DICKEY. Madam Chairman, I am for NAFTA. But I am also an observer of this process, and I think there are four bad points that I want to mention.

One, is I was only given 1 minute to talk; No. 2, is the enormous dollars, threats, and favors that have been given, that have been discouraging in a lot of ways, because the American people are left out; I also think that the working man's interests have been abandoned by the very people who supposedly are representing them, the lobbyists; I think too much emphasis has been on reelection. Too much discussion has been who is going to be reelected and how you are going to be reelected and how you are going to raise money.

The good part is the bipartisanship. That is, we have been doing this together. We have been showing the American people that the problems of America and our relationship to the world are more important than who gets the credit or who we are working beside or who we are working against. I think that is awfully good.

The working person is the very reason why this issue gets my vote. We are like a chain. Our country is like a chain. The weakest link has to be made stronger. That is why I am for the working person.

Mr. KOLBE. Madam Chairman, I yield 1 minute to the distinguished freshman gentleman from Holland, MI, Mr. HOEKSTRA, a member of the Committee on Education and Labor.

Mr. HOEKSTRA. Madam Chairman, I rise today in support of NAFTA because it will create the opportunity for new jobs in the United States by expanding the marketplace for American produced goods. The argument that we will lose jobs because of NAFTA ignores reality. The ability to move jobs out of the United States exists today. By approving NAFTA, we will reduce the incentive to move jobs to Mexico by lowering and eliminating tariffs on United States goods. No longer will United States companies need to locate in Mexico to sell to Mexican citizens.

However, the challenge to create new U.S. jobs begins tomorrow. United States businesses need to take advantage of this opportunity that we are providing them, and this Government needs to create a job friendly environment. We need to allow job creators to go about their business with a minimum of Government interference. We need to reduce the paperwork that smothers initiatives, taxes that stifle investment, and mandates that strangle flexibility for workers and managers.

Mr. MATSUI. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. PETE GEREN].

Mr. PETE GEREN of Texas. Madam Chairman, I rise in support of the NAFTA and American jobs.

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Mr. MATSUI. Madam Chairman, I yield 2 minutes to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Madam Chairman, I rise in strong support of the North American Free-Trade Agreement [NAFTA]. As a farmer in real life, I feel very strongly that opening new markets for American products and promoting freer and fairer trade is imperative if we are to maintain our leadership position in the world economy. The only way that farmers in America have survived—those of us who have survived—is because we have engaged in the world market. Those of us who are involved in agriculture realized that we had to aggressively work to open markets around the world if we were to remain viable. America cannot afford simply to focus on our domestic market and ignore the rest of the world.

NAFTA is an important part of our effort to open new markets and compete in the international market. If we defeat NAFTA, it will be much more difficult for the United States to convince other countries to open their markets. The consequences of this action would be devastating for all U.S. industries.

NAFTA will have an extremely beneficial impact on U.S. agriculture. Mexico has an increasingly urbanized, growing population that represents a significant market for United States farmers. United States agricultural exports to Mexico have risen to nearly $4 billion. According to the Department of Agriculture, United States agricultural exports under NAFTA are expected to be $2 to $2.5 billion higher a year than it would be without NAFTA. By increasing U.S. exports in many income-supported commodities, NAFTA will reduce spending on farm programs.

NAFTA also presents a tremendous opportunity for the American energy industry. NAFTA will eliminate tariffs on oil- and gas-field equipment and allow American businesses to compete for the $8 billion in procurement contracts that Mexico's state-owned energy companies enter into each year. It will allow American natural gas and electricity companies to negotiate contracts directly with their Mexican counterparts. A recent Texas A&M study found that the energy provision of NAFTA could raise Texas' output of goods and services by an estimated $2 billion a year and create more than 29,000 jobs for Texans.

Although some of the opponents of NAFTA suggest that only the large multinational corporations will benefit, NAFTA will benefit small businesses who do not have the resources to overcome the barriers to the Mexican market that NAFTA will eliminate. I know of one small businessman in my district who lost a contract in Mexico by 1 percent because he was not able to overcome a 10-percent tariff. Numerous other small businessmen have told me that they expect to benefit from NAFTA. I would like to submit for the RECORD a list of some of the businesses in my district who will benefit from NAFTA.

SELECTED BUSINESSES IN THE 17TH DISTRICT OF TEXAS WHO EXPECT TO BENEFIT FROM FREE TRADE WITH MEXICO

FMC in Stephenville, Texas employs 200 people in producing valves, pumps and fittings for oil and gas producers. FMC estimates that NAFTA will increase their sales by $3.5 million and allow them to add twenty high-paying jobs in the Stephenville facility.

U.S. Brass in Abilene. U.S. Brass has been exploring opportunities to sell piping to Mexico. NAFTA will increase the likelihood that these efforts to expand business for U.S. Brass in Abilene will be successful.

The 3M factory in Brownwood, Texas which employs 574 people, anticipates an increased market for its products such as reflective sheeting. Last year, 3M signed a $30 million contract with Mexico to produce reflective sheeting for license plates that are sold in Mexico. NAFTA would make it easier for them to compete for more contracts of this type with Mexico and expand their business.

Industrial Technology Inc. in Mineral Wells, Texas, which produces high-tech test equipment for the telephone industry, already is benefiting from trade with Mexico and will do better with NAFTA. One-fourth of his sales are exports, 20 percent of which are to Mexico. At least four of their employees have jobs as a direct result of their sales to Mexico. NAFTA presents an opportunity for Industrial Technology Inc. to take advantage of the multi-billion modernization of the Mexican telephone system.

The question that I have posed to NAFTA opponents on numerous occasions is: How will America be better off than we are today if NAFTA is defeated? I have not received an answer to this question. Defeating NAFTA will not create jobs, control immigration, stop the flow of illegal drugs or clean up the environment.

On the other hand, defeating NAFTA would represent a threat to the American economy and national security. Defeating NAFTA would put cooperation on issues such as illegal immigration, drug trafficking, and other issues at risk. It would also jeopardize the political and economic reforms in Mexico. Economically, defeat of NAFTA will lock in the current unfair trading relationship in which Mexican barriers will continue to limit United States access to the Mexican market while Mexico will continue to enjoy virtually unlimited access to the United States market.

Madam Chairman, the vote on NAFTA represents a crossroads for American policy as well as for economic policy. While direct impact of NAFTA on the United States economy has been exaggerated by supporters and opponents of NAFTA, the ramifications of the decision we make on NAFTA go far beyond the issue of trade with Mexico. The issue before us is whether America is prepared to use our economic power to open foreign markets or return to isolationist trade policies. I urge my colleagues to consider the serious negative ramifications that returning to isolationist policies will have on the American economy and take a risk for America. Vote for NAFTA. Vote for jobs.

Ms. KAPTUR. Madam Chairman, I yield 2 minutes to the gentlewoman from Indiana [Ms. LONG].

Ms. LONG. Madam Chairman, there is not much new to say in a debate like this. I hope, however, to present a different perspective than what I have heard so far.

My concern is the negative—in fact—disproportionately negative impact that this agreement would have on rural areas of our country.

Yes, NAFTA could be good for many sectors of agriculture. I am a farmer, most of my family are farmers, and we could personally benefit from increased commodity sales to Mexico. But agriculture accounts for only about 10 percent of the economies in rural communities. The NAFTA decision can not be based solely on agriculture.

True free trade should benefit all in our country—not just a few.

Even NAFTA proponents agree that there will be job losses. However, proponents are comforted by the hope that the losses will be outweighed by the gains.

My problem is where the job losses will come from, and where the gains will be—or more appropriately—where job gains will not be. The losses will take place—unquestionably—in the lower skill, lower wage jobs. Hopefully, the gains will be in higher skill, higher wage positions.

That may be good for our economy if it would all work out. But, I know something about economics, and I know even more about rural communities. Almost 70 percent of the low-skill, low-wage jobs we expect to lose are located in rural America. That is where the losses will come from—rural cities and towns in our country.

The job gains will not offset the losses in rural America. Smaller communities are already hard pressed to attract business. And once a company leaves a small city or town—the results can be devastating—because many times these companies are the largest employers in the area. These companies are often the lifeblood of the entire community.

Proponents of NAFTA say that if we are not competitive, let the jobs go. They argue that the low-wage, low-skill jobs are going to Mexico anyway. I agree, they are going to go eventually.

But NAFTA accelerates the process. And it does so at a time when rural communities are not yet prepared to deal with significant job losses.

These are the towns that have just learned the finer points of economic development in the last decade. They are just beginning to attract some firms from the larger metropolitan areas.

With NAFTA, we would be facilitating an exodus from rural America—at a time when small communities already lag in infrastructure developments like wastewater treatment, transportation, and so forth—that could help attract replacement jobs.

I have talked to town board presidents, county commissioners, and rural residents—they are not yet ready to compete for the promised new jobs that might become available.

The fact is that this particular NAFTA will result in disproportionate job losses in our Nation's smaller cities and towns, and we have no real plan to assist rural residents with what could be devastating losses—not just job losses—but losses of entire communities.

Madam Chairman, I cannot vote for that.

Mr. KOLBE. Madam Chairman, I yield 1 minute to the distinguished gentleman from Bentonville, AR, Mr. HUTCHINSON, a member of the Committee on Public Works and Transportation and the Committee on Veterans' Affairs.

Mr. HUTCHINSON. Madam Chairman, I rise in support of NAFTA.

Mexico has made great, great strides in recent years. They have balanced their budget, privatized many industries, lowered inflation from over 250 percent to less than 10 percent, and they have expanded trade with the United States, all while lowering both corporate and personal income taxes, a pretty good model for the United States.

Rejection of NAFTA will be a kick in the teeth to the economic and political reforms that have occurred in Mexico. Under NAFTA, there will be no infringement on American sovereignty; not one scintilla of our sovereignty is sacrificed by the passage of this trade agreement.

No provision in NAFTA can supersede American domestic law or the Constitution of the United States.

Madam Chairman, I say that we must say no to the fearmongers. This is a free-trade agreement. It is not "apocalypse now." It is not the eve of destruction. But it can be the eve of opportunity, if we pass NAFTA. Free trade does not create a win-lose situation. Free trade benefits everyone.

I urge its passage.

Mr. KOLBE. Madam Chairman, I yield such time as he may consume to the distinguished gentleman from Millbrook, NY, Mr. FISH, the ranking member of the Committee on the Judiciary.

Mr. FISH. Madam Chairman, for weeks and months, I have listened to hundreds and heard from thousands of people who shared their hopes and concerns about the North American Free-Trade Agreement [NAFTA]. Though their arguments varied, the question for me has remained constant, What is in the best interest of my country? After careful study and consideration, I have concluded that NAFTA is in our best interest, and I will vote for it today.

Arriving at this decision has not been easy because people who I have always respected, and on whose judgment I have often relied, have directly opposing views on this issue. Particularly painful for me is the criticism my vote will draw from labor and environmental leaders—allies of mine over the years in the causes of social justice and environmental protection.

No issue has been more central to the NAFTA debate than jobs. While the extent of job loss or gain is disputed, the anxiety I sense from so many American workers who feel threatened is real. Ours is an economy in transition, and such rapid change is scary and often painful. The lingering recession of the past several years combined with defense conversion, increased foreign competition, increased American labor productivity, and the increased demand of American consumers for foreign goods have cost hundreds of thousands of Americans their jobs.

But protectionism is not the answer. A "no" vote on NAFTA will not bring back the jobs of my nearly 8,000 Hudson Valley neighbors laid off by IBM last spring or any of the other 500,000 jobs which have left New York State in the past 5 years. A "no" vote will not stop any others from leaving. But NAFTA, by phasing out high Mexican tariffs, removes the incentive to move production to Mexico. United States companies, enjoying highly productive American workers and superior infrastructure need not incur the expense of relocating to sell to the Mexican market.

I am encouraged by a number of reports from the business community about actions they will take if NAFTA is approved. More than 90 textile mills, accounting for the majority of textile production in the United States have signed a pledge not to move jobs, plants, or facilities to Mexico if NAFTA is approved. Philips Electronics will close plants in Mexico and move them back to the United States, and will be able to continue production in Manlius, NY, instead of moving that plant to Mexico. At least seven other companies, including AT&T and GM, have announced plans to relocate plants from Mexico back to the United States. In addition, numerous companies have plans to vastly expand their work forces in the United States if NAFTA is approved.

Large corporations are not the only beneficiaries of this agreement. Small- to medium-sized businesses all over the country, including two in Westchester County, NY—Eagle Export Trading Co., and ServiAlimentos—have told me how NAFTA will greatly increase their ability to compete for market share in Mexico and expand their operation in the United States.

I am convinced that a "no" vote on NAFTA threatens U.S. leadership in promoting world trade and the chance to position ourselves for a dynamic future of economic growth. A "no" vote puts at risk the GATT negotiations with their promise of vastly increased trade and jobs at home. A "no" vote on NAFTA denies United States products preferential treatment in the growing Mexican economy and corresponding jobs at home. And a "no" vote does nothing to promote cleanup of the toxic pollution in our border areas.

The increasingly high productivity of the American work force, producing as much as our country needs or wants, demands a larger market for the goods we produce. The only way to create and maintain additional jobs, particularly in manufacturing, is to gain increased access to foreign markets. Our best hope for the future is an expanding export market to Latin America. The prospect of markets in a Western Hemisphere free-trade zone lies ahead, and approval of NAFTA is the first step toward that goal.

NAFTA would create the world's largest trading alliance with 370 million consumers in Canada, the United States, and Mexico. New York State would be a major beneficiary of its approval. Mexico is already one of New York's fastest growing export markets, with our State's exports to that country having increased by more than 82 percent between 1987 and 1992. Since 1987, 8,300 jobs have been created in New York because of increased trade with Mexico and it is estimated that another 15,000 could be created by 1997 if exports continue at current rates.

But should NAFTA cause one job loss or 100,000 job losses in the near term, our response must be compassionate and immediate because every job is important and every day makes a difference to someone who is unemployed. The Federal Government must swiftly aid those who are negatively impacted by providing training and retraining, job search assistance, and counseling. Secretary of Labor Robert Reich has personally assured me that retraining of dislocated workers is his top priority and he has committed himself and his staff to a comprehensive overhaul of this country's worker-adjustment programs. Until this new program is in place, the implementing legislation before us establishes a program to provide financial assistance and training to workers facing economic dislocations associated with NAFTA. It also requires that a comprehensive study of the operations and effects of NAFTA be conducted 3 years after its entry into force, and this is something I will be carefully monitoring from day one.

Although the creation of new jobs in the United States is the most important single reason for Americans to support NAFTA, we must not lose sight of the fact that this agreement will also reduce push factors leading to illegal immigration by spurring economic growth in Mexico. Greater employment opportunities for Mexican citizens in their own country mean not only greater consumer demand for American products, but also incentives for Mexicans to remain at home and participate in Mexico's development. In Judiciary Committee testimony earlier this month, Immigration and Naturalization Service Commissioner Doris Meissner described NAFTA as "America's best opportunity to reduce illegal immigration from Mexico."

NAFTA has also been heralded by U.S. negotiators and private sector advisory reports as the strongest multilateral agreement on intellectual property rights ever negotiated. This is critical for U.S. industry, especially high-technology companies such as biotechnology, computer, pharmaceutical, and others, which depend heavily on such protections for their products. These innovative and creative industries make tremendous commitments to research and development and are major providers of the high-technology jobs that we need in this country. But their products are subject to piracy abroad. IBM, for example, invests over $6 billion annually in research and development, but estimates their losses worldwide to software piracy at about $1 billion annually. Clearly the need for strong intellectual property protection, such as that embodied in NAFTA, for U.S. companies operating in the global marketplace cannot be overemphasized.

It is important to put to rest the notion that our national sovereignty is surrendered by NAFTA provisions creating binational panels to resolve disputes. There is nothing in NAFTA that requires we change our laws as a result of a ruling by a binational panel. We are still in control of our laws. Also, we can disregard any ruling of a binational panel and not be any worse off. All that can happen is that the complaining country can raise their tariffs, which they are at liberty to do without NAFTA.

To those who have heard that NAFTA will sacrifice American sovereignty, Jack Kemp, Ronald Reagan, William F. Buckley, and other staunch defenders of U.S. sovereignty, respond that under NAFTA no international body has any legal authority over American domestic affairs, and no private individual or party would be allowed to bring suit against a sovereign nation.

Finally, environmental groups are split on the merits of NAFTA. NAFTA prohibits weak enforcement of environmental laws as an incentive for luring investment. Mexico already has environmental protection laws comparable to the United States but it is their enforcement of these laws which is a problem. NAFTA provides a mechanism for investigating allegations of weak enforcement, consultations, and ultimately penalties for an offending country to be penalized for failing to correct a problem.

The National Wildlife Federation, World Wildlife Fund, Nature Conservancy, Audubon Society, Environmental Defense Fund, Natural Resources Defense Council, and Defenders of Wildlife agree that NAFTA is a step forward in environmental protection and that the cleanup of the polluted border area between the United States and Mexico will only occur with the $4 billion included in this legislation. I commit myself to working with all environmental organizations to ensure that environmental protection laws are strengthened and that those already on the books are fully enforced.

Madam Chairman, for decades the United States has encouraged Mexico and other nations of Latin America to move toward development of free-market economies. In the past 5 years under the leadership of President Salinas, Mexico's economy has undergone dramatic change. Many barriers to investment have been brought down, many public sector enterprises successfully privatized, foreign private investment encouraged, and the GDP growth rate strengthened. Inflation is down and consumer disposable income is up. This has resulted in a tripling of United States exports to Mexico over the last 5 years, making Mexico the second largest market in the world for United States manufactured goods. NAFTA will lock in these gains, end the maquiladora program, and provide a stable foundation for continued progress.

The idea of free trade among nations is not new. The United States has had a longstanding commitment to fair and open trade in the world market. From the beginning of our Republic, the free flow of goods and services back and forth between nations has defined growing prosperity.

We now have the opportunity to put our words into action with our two closest neighbors. In 1979 President Ronald Reagan said, "* * * we can dare to dream that at some future date a map of the world might show the North American continent as one in which the peoples and commerce of it's three strong countries flow more freely across their present borders than they do today." Madam Chairman, that day is today and this significant window of opportunity will close tonight if this House does not approve this legislation to implement the North American Free-Trade Agreement.

"Not this NAFTA" is a catchy slogan but it is not reality. No person involved in these difficult negotiations over the past 6 years believes there is any possibility of renegotiation. This includes President Salinas who has stated emphatically and repeatedly that Mexico will not accept renegotiation. So the time is now for us to embrace the future with characteristic American confidence, or we will lose this historic opportunity to regenerate and strengthen our economy with the promise of border markets for our goods and a robust economy for this generation and the next. I urge my colleagues to join me in supporting the legislation before us to implement the North American Free-Trade Agreement.

Mr. MATSUI. Madam Chairman, I yield 1 minute to the gentleman from Arizona [Mr. PASTOR].

Mr. PASTOR. Madam Chairman, in the middle of one of Mexico City's most beautiful public spaces, Chapultepec Park, there stands a monument that recalls a very bitter time in the relations between our country and the Republic of Mexico. Rising far above the ground, El Monumento de los Niños Heroes, memorializes the brave and valiant Mexican youth who chose to take their own lives rather than become prisoners of the invading United States Army during the Mexican-American War. It is a stark and somber reminder of a time when mutual suspicion, hostility, xenophobia, and warfare characterized the relationship between the United States and Mexico.

How far we have come, Madam Chair, from those dark days. A culture of mutual respect and open friendship now permeates the relations between Washington and Mexico. For years, our communities along the border have coexisted and profited from the trade relationship between our two countries. This NAFTA presents an unique opportunity to set new and higher standards of trade between our nations. I don't believe this country has ever entered into a treaty that elevates our environmental and labor concerns to the level achieved by NAFTA.

The abuses that have plagued the United States-Mexico border cannot be attributed to NAFTA. Rather, NAFTA will address the needs of our border communities that have been ignored for far too long. NAFTA, through the North American Development Bank, will allow us to invest in the environmental and physical infrastructure needed to improve standards and practices in all three NAFTA countries. For the first time we are given a real opportunity to work with Mexico and improve the living conditions for both peoples living along the border.

My fellow colleagues, today we are witnessing a truly historical moment. NAFTA will help us move forward into a new era. It will reaffirm our leadership and strength in the world market as we negotiate other future agreements such as the Asia-Pacific Alliance and the GATT. Many people fear NAFTA and are not confident in our Nation's ability to compete in the international labor force. We cannot survive, let alone compete, if we become protectionists and isolationists. I say we must face our future with hope, demonstrating confidence in the American workers' ability to compete with the rest of the world. We must face this challenge head on and take this bold step forward to ensure America's long-term economic growth within the international marketplace.

In conclusion, I would like to say that there is no question that NAFTA will benefit the State of Arizona and my constituents in the Second District. Thank you Madam Chair, for providing me the opportunity to submit this statement and once again I urge my colleagues to vote "yes" for NAFTA.

Mr. MATSUI. Madam Chairman, I yield 1 minute to the gentleman from Texas [Mr. COLEMAN].

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Mr. COLEMAN. Madam Chairman, I thank the gentleman for yielding time to me.

Madam Chairman, this is a truly historic day for generations of American citizens. The North American Free-Trade Agreement [NAFTA] offers this Congress a unique opportunity to improve the livelihood and quality of life for millions of Americans which are increasingly dependent upon the vagaries of the global marketplace. I am convinced that we will do the right thing for the working people of this country, and for our children.

The vote I cast today in favor of NAFTA has been a decision which comes only after listening to my constituents and considering their opinions. This issue is one of the most emotional I have faced in all of my years of public service. I sincerely believe that to permit the status quo is unacceptable for my community and for all of America as we prepare for the 21st century. NAFTA is in the best interest of our country, my State and region, and my community.

NAFTA will have a direct impact on my congressional district along the United States-Mexico border. I am privileged to represent El Paso, TX, the largest city directly on the border with Mexico. Its 600,000 residents live and work in an international environment, a microcosm of trade and commerce governed by treaty, international laws, customs, cultural considerations, and informal agreements. Our sister city, Ciudad Juarez, Chihuahua has nearly 1.5 million residents who breathe the same air, share the same watershed, drive on the same bridges, and shop at the same stores as my constituents. Millions of people cross the boundary between El Paso and Juarez, both legally and unlawfully. Every day—on both sides of the border—families are united; tourists embark on journeys; children go to school; and workers travel to their jobs. Life on the border is both simple and complex. Our history and destiny are inextricably linked to one another. The problems and promises represented by NAFTA are embodied in a single community in the middle of the desert, thousands of miles from Washington, DC, and Mexico City.

Never has so much attention been focused on the Southwest border in recent time. Not since Gen. "Blackjack" Pershing and Pancho Villa carried out a military drama along the border in the early part of this century have we as a country looked to the Southwest. Relations between our two nations have witnessed moments of crisis on the one hand and occasional tributes to international cooperation and friendship on the other. What of our neighbors today? Will we again turn our backs on Mexico and our own negotiating credibility? NAFTA allows us to write another chapter in this book.

Madam Chairman, dozens of congressional delegations have visited Mexico and the Southwest during consideration of this legislation. Concerns have been raised over the quality of life and great needs which exist along the border. Certainly no person knows better than I the critical needs of the border region. I have been raising these issues in this Chamber for the past 11 years. Health problems in my district rival those of developing countries. Thousands of children in my district live in colonies without potable water or sewage services. Residents of my district live under a cloud of smog and dust generated by 2 million people. The Rio Grande River is one of the most polluted in North America. More than 30 percent of residents in my district live in poverty; almost 40 percent have no health insurance.

Do we again turn our backs on these problems as this House has often done? NAFTA gives us an opportunity to begin to address these problems.

Some of my colleagues will recall the Mexico of the recent past. Triple-digit inflation brought about a lack of earning power in that country that we cannot fathom. Have we forgotten that just 10 years ago in a desperate move to stabilize its economy, Mexico literally cut the value of its currency in half? The economic effect of that move brought about a nosedive in the economies of the border States in the Southwest. Illegal immigration soared. Small businesses from Brownsville to San Diego shut their doors in record numbers. Yet economic and political reforms have reversed that trend in a country that wants to join with us and Canada to move together into the 21st century.

Polls indicate that this agreement is not supported by a clear majority of the American people. Each of us is elected and sent to Washington under a compact with our constituents that, after listening to all of the arguments on an issue, we will make a decision based upon the merits—and not on the politics. Clearly the facts stack up heavily in favor of NAFTA. Is there something that NAFTA opponents know that they have not shared with all 14 Nobel Laureates in Economics, every living American President, all living Secretaries of State, and every living Secretary of Commerce who is supporting NAFTA? Did every author of 23 independent studies on NAFTA lie in concluding that the net results would be job creation and not job loss? The Department of Commerce did not create numbers when it concluded that more than 200,000 jobs would be created under NAFTA in the first 2 years.

Why do the polls not reflect the support that this agreement warrants? It is because some opponents have stooped to the lowest common denominators to defeat NAFTA—fear and misrepresentation of the facts. The most widely distributed document challenging NAFTA was pilloried by independent observers, prompting a 74-page correction of its misstatements by the U.S. Trade Representative. Some aspects of this debate more properly belong in a circus, and this is a disservice to our constituents and the American public. I am particularly disturbed at the anti-Mexican and anti-immigrant slurs which have surfaced in some quarters which have absolutely no place in the debate.

Now let me turn to the foreign policy implications of NAFTA. The ramifications of rejecting this trade agreement would be profound, not only for the United States, but for the world. A vote for NAFTA will reaffirm our confidence at home and strengthen our credibility internationally. As has often been stated, nonratification would be the first rejection of a modern-day trade agreement. There is no doubt that this would hinder President Clinton's efforts at erasing trade barriers with other countries, including this week's Asian Pacific economic forum and the upcoming Uruguay round of the GATT. What signal would we be sending to the world if we reject the pact? Where is the international leadership upon which we Americans pride ourselves?

Mexico and Latin America in a non-NAFTA environment would retreat from permitting United States investment, and move toward courting Europe and Asia to the exclusion of American interests. Political and economic reforms throughout Latin America would suffer. Further, its defeat would have significant implications on undocumented immigration into the United States and exacerbate existing problems which occur in urban areas throughout the country as a result of illegal immigration. Efforts made to stop the flow of illegal drugs would be impacted. Cleanup of the U.S. border region would rely on unmet promises and delayed good will.

The gains of Mexico's trade liberalization over the years of President Salinas' administration would certainly be lost with the rejection of NAFTA. And with it, the good will directed at the United States by Mexico. We would return to the days of reacting to Latin America, instead of providing leadership, the old Band-Aid approach to foreign policy in this hemisphere.

The entire world is watching our action today. They will learn whether we are a country prepared to confront the future; whether we will choose hope over fear. The world is watching to learn if Congress has faith in the American worker, in his or her ability to compete and win against any economic foe, in her ability to adapt to the technological wave of the future.

By passing NAFTA, we can send a clear message to the international community: Open your markets to American products and you will find a partner in the United States with a highly skilled, flexible, and productive work force. President Clinton has demonstrated the strength of character our Nation needs to move us into a new era. Let me urge my colleagues to follow his lead and vote for a positive change for America.

Ms. KAPTUR. Madam Chairman, I yield 3 minutes to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Madam Chairman, I oppose this NAFTA agreement, but I must say, out of fairness, I think it is a close call. I have listened for 6 months, as all the Members have, and frankly, I think that the argument has been characterized on both sides by overstatement and political hyperbole. I think both the proponents and the opponents make up the facts as they go along. We hear exactly how many jobs are going to be won, exactly how many jobs are going to be lost, precisely how many new dollars there are going to be in profits, exactly how many bankruptcies are going to occur.

Just 2 weeks ago in Montana during a 1-week time period, the administration said, "We are going to create 3,000 new jobs in Montana if we pass NAFTA." Then a few days later USDA came out and said, "No, it is 6,000 jobs." Then remember when we had the closed circuit teleconference? At that time it was 9,300 new jobs in Montana. Nonsense, balderdash, horsefeathers.

None of us know, let us admit it, so how does one decide? What I did was look at the last free-trade agreement. That is with Canada. There were a lot of promises.

For example, no dumping of barley or wheat was going to occur. On, yes? Seventy-six percent more wheat dumped in this country since that agreement, 213 percent more barley, 130 percent more durum, and last week I checked at the Sweetgrass entry port, 2-million pounds of Canadian beef came into this country for us to eat. Out of the 2-million pounds, 144 pounds were inspected, 30 percent of it sent back as dirty, unhealthy, unsafe.

The Canadian Free Trade Agreement does not work, and know what, they used that as a model for this one.

Let me say a word about the process that got us here. It is called bipartisanship. It is a process that has opened up political fault lines in both parties which threaten to become chasms. We have Democratic leaders opposing their own sitting President. We have a majority of Republicans who never vote for the slightest help for American workers siding with the AFL-CIO. We have progressive Democrats agreeing with Richard Nixon. It is like Ghandi being for nuclear war.

If this is bipartisanship, I want partisanship. I want BOB DOLE in this corner, Bill Clinton in this corner. I want to get rid of the flat earth we are suddenly living on, and go back to a round one.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair advises that Members should avoid personal references to Members of the Senate.

Mr. KOLBE. Madam Chairman, I yield 1 minute to the distinguished gentleman from Ennis, TX, Mr. BARTON, a member of the Committee on Energy and Commerce and the Committee on Science, Space, and Technology.

Mr. BARTON of Texas. Madam Chairman, I rise in strong support of the North American Free-Trade Agreement. This is really a vote on our vision for America's role in the world community. If we believe that we can compete, if we believe that we are No. 1 in productivity, if we believe that we are No. 1 in manufacturing, if we believe that we are No. 1 in exports today, vote for NAFTA.

Mexico wants fair trade, not foreign aid. This will benefit us. It will benefit my district. I happen to be the home district of the famous Alliance Airport that Mr. Perot is a partner in, so I will benefit, as he will, if we pass the agreement.

Our opponents, I think, are guilty of going to an optometrist and getting a faulty pair of bifocals. The bifocals tend to magnify the problems and minimize the opportunities. There are tremendous opportunities in NAFTA if we vote yes. It is a good deal for the United States of America.

Why not take yes for an answer? Why not turn one of our good customers for American goods and services into our best customer? Let us vote for the future. Let us vote yes on NAFTA.

Madam Chairman, I strongly support the North American Free-Trade Agreement [NAFTA]. I am very excited about the impact it will have upon our Nation's economy.

The agreement freeing trade between the United States, Canada, and Mexico will create jobs in each country. The United States, which has already gained 225,000 jobs due to improved trade with Mexico since just 1986, will enjoy a net gain of another 171,000 jobs in this decade if NAFTA is implemented. Of the more than 316,000 jobs to be created in the United States, an estimated 113,000 of them will be in Texas. Job growth will be in all sectors of our economy: manufacturing, agriculture, and services. Already, 61,500 new jobs have been created by growth in Texas' manufactured exports to Mexico and Canada. In 1991, Texas exported $16 billion worth of goods to Mexico. This figure will escalate rapidly when the NAFTA agreement is signed.

The 316,000 new American jobs will be created because longstanding barriers to sales of American products into Mexico will be eliminated. The market for made-in-America goods will immediately expand when NAFTA is ratified as American products will not be subject to tariffs and duties in place now. Mexico consumers already purchase American-made products as 71 percent of their imports. As more American-made goods are purchased in Mexico, more jobs will be created in the United States.

Our close proximity to Mexico, in addition to our established ties with Mexican markets, puts Texas in the perfect position to benefit from this new trade package. The removal of trade barriers with Mexico will help Texas in energy, automobile manufacturing, telecommunications, electronics, computers, agriculture, chemicals, and other industries. Texas will benefit from the opening of Mexico more than any other State. A world leader in telecommunications and other related industries, the Dallas-Fort Worth Metroplex will gain more than any other city. Texas consumers will also find that many items made in Mexico, Canada and even the United States are cheaper with a free trade agreement.

Nothing in NAFTA will encourage American firms to move their operations to Mexico. Any company that wants to can already do so. In fact, the opening of Mexico will encourage firms to move back to the United States, where productivity, infrastructure and communications are better and where they will no longer face obstacles to doing business with Mexican consumers. If low wages were the only factor in a company's decision to move, most American firms would have moved to Puerto Rico, an American commonwealth where wages are lower and trade is free. But low labor costs are but a small part of doing business—American jobs have not left for Puerto Rico, and they will not leave for Mexico.

Products from Japan and other nations will not be able to enter American markets any easier. Domestic content rules still apply. For example, to be considered a North American product enjoying free movement in NAFTA, an automobile must have 62.5 percent North American content. This means that the Japanese cannot ship parts to Mexico to be assembled into cars for shipment to the United States. All Mexican and Canadian companies will still have to comply with United States and Texas standards on safety, health, environment, quality, and other important issues.

This agreement will also benefit Mexico. Over one million jobs will be created in Mexico, and Mexico's standard of living, now approximately $3,000 per capita, could easily double in 5 years. That is good news for America, especially for border States like Texas, which has been fighting a never-ending battle against illegal immigration. If Mexicans can find good jobs in their home country, they should not need to come to the United States for a job.

I can assure you there is no hidden agenda for NAFTA. President Bush directed his trade negotiators to secure a free trade agreement solidifying the opening of Mexico and was very pleased with their final draft of NAFTA. Now, President Clinton, many labor officials, large and small businesses, economists, and millions of American consumers have all given NAFTA an enthusiastic stamp of approval.

This agreement, negotiated by President Bush, will be voted on in the Congress during this year. If passed, it will go into effect in 1994. Half of all tariffs, affecting 81 percent of United States products exported to Mexico, would be immediately reduced to zero. When implementation language for NAFTA is considered on the floor of the House, I will vote for it because I believe creating jobs and economic growth in the United States is a very good idea.

Mr. KOLBE. Madam Chairman, I yield 1 minute to the very distinguished gentleman from Hickory, NC Mr. BALLENGER, a member of the Committee on Education and Labor and the Committee on Foreign Affairs.

Mr. BALLENGER. Madam Chairman, I will vote "yes" this evening on the North American Free-Trade Agreement. We have already heard a lot of theories regarding NAFTA's effect on the national economy, but I would like to share with you facts about the possible effect of NAFTA on my home State of North Carolina. Evidence from both the private and public sectors show that NAFTA will be a boon for North Carolina. It also shows that NAFTA will create more demand for goods and services which will lead to an increase in high paying jobs in North Carolina.

As the chart shows, between 1987 and 1992, North Carolina's overall exports to Mexico, furniture, textiles, lumber, and agricultural crops, dramatically increased from $95 to $346 million, a 365-percent increase. This demand was due to the Mexican Government's reduction of trade barriers from 25 to 15 percent. The bottom line is that reduced Mexican trade barriers increased demand for North Carolina-made goods and services, increased exports between our State to Mexico which resulted in good paying jobs for North Carolinians. Once NAFTA is passed and trade barriers are totally eliminated, demands for North Carolina products will continue to increase.

I urge my colleagues to look at the facts in their own districts and States—I believe members will see equally impressive trade figures as I did in my district. NAFTA is good for North Carolina, NAFTA is good for each of the 50 States, and NAFTA is good for America. Vote "yes" on NAFTA.

Madam Chairman, I include the chart depicting industrial exports from North Carolina to Mexico:

NORTH CAROLINA'S EXPORTS TO MEXICO, BY INDUSTRY SECTOR

[By percent and thousand dollars]

	1987	1992	Percent change	Dollar change
NC'S exports to Mexico	$94,670	$440,076	364.9	$345,406
Agriculture, forestry & fisheries	734	869	18.4	135
Agriculture—crops	65	561	758.6	496
Forestry	9	21	125.4	11
Manufacturing	93,312	431,088	362.0	337,776
Food Products	623	5,660	808.4	5,037
Textile Mill Products	3,115	32,584	946.0	29,469
Apparel	7,600	47,406	523,7	39,806
Furniture & Fixtures	70	4,829	6813.4	4,759
Chemical Products	16,923	89,269	427.5	72,346
Indus. Mach. & Computers	24,371	109.935	351.1	85,564

Mr. KOLBE. Madam Chairman, I yield 1 minute to the distinguished gentleman from Naperville, IL, Mr. FAWELL, a member of the Committee on Education and Labor and the Committee on Science, Space, and Technology.

Mr. FAWELL. Madam Chairman, I thank the gentleman for yielding time to me.

Madam Chairman, 170 years ago, a historian said about ancient Greece: "Free trade, one of the greatest blessings which a government can confer on a people, is in almost every country unpopular." While much about the world has changed dramatically since ancient Greece, human nature has changed little; that free trade is fundamentally good for all nations has been, and always will be, a hard sell.

I know that there are deeply held feelings on both sides of the NAFTA issue. I have listened to those on both sides. I have never questioned the motives of the vast majority of proponents and opponents of NAFTA. They are patriotic Americans who want what is best for this country, but have an honest difference of opinion. I have received a great deal of mail and calls on NAFTA, with proponents slightly outnumbering opponents (943 to 808). I respect the views of those on both sides, and I thank those who took the time to communicate their views with me.

Now, however, it is time to vote. In the end, I must cast my vote for what in my judgment is best for all of my constituents, and for what I believe is best for my country.

Madam Chairman, after weighing both sides, I believe the case for NAFTA is overwhelming. To those who remain opposed, I have but one request: Put aside the rhetoric on both sides of the issue for a moment and focus on what NAFTA actually does. Focus on what NAFTA would mean to real U.S. companies, employing real U.S. workers, trying to sell real U.S. products.

Caterpillar's chairman, Donald Fites, made the most compelling argument for NAFTA recently in a few paragraphs that would make plain speaking Harry S. Truman (another advocate of free trade) proud.

At Caterpillar, we can't understand how such hyperbole, coupled with a pocketful of pithy one-liners, have created such a fuss about this trade agreement. For us, NAFTA is essentially a tax cut. Mexico, Canada, and the United States will eliminate the taxes * * * charged on each other's products. The big winners will be U.S. manufacturers and their employees.

* * * It seems that what really bothers NAFTA critics is the mere notion of "free-trade" with Mexico. That perplexes us. For caterpillar and most other American manufacturers, ending the Mexican tax on American-built products will provide us with an enormous competitive advantage in Mexico.

Here's how it would work. Currently, when Caterpillar ships an East Peoria-built bulldozer South of the Border, the Mexican Government tacks on a 10 percent duty. Our Mexican customers think of the tariff as a tax that's intended to discourage the purchase of American products. Send a Mossville-built marine diesel engine, and the duty is 15 percent. For an Aurora-built excavator, Mexico charges a 20 percent tax.

NAFTA will change that. On January 1, 1994, NAFTA will obligate Mexico to eliminate its duties on those products.

* * * Is there a catch? There surely is, and it's a big one. Mexico's tariff reductions will apply only to products made in North America. That means products made by competitors in Japan, Europe, and Korea will still be subject to Mexico's high import taxes.

Is that fair? If you ask someone who sells European or Asian products, they will tell you in no uncertain terms that NAFTA is blatantly unfair. And they're right. The business reality of NAFTA is: If it's not made in North America, it won't be sold in Mexico.

So what is it about NAFTA that creates all the concern? NAFTA opponents will tell you * * * jobs, jobs, and more jobs. But what does that mean? It's easy to see how NAFTA will discourage creation of European and Asian jobs. It's also easy to see how NAFTA will create American jobs. The challenge is to understand how NAFTA will—as NAFTA critics claim—hurt the American workers.

Granted, in exchange for Mexico eliminating its hefty tariffs on United States products, the United States agrees to eliminate duties on Mexican products coming into the United States. But that is where rhetoric abandons reality. For most products, U.S. tariffs represent nothing more than nuisance taxes. Take the U.S. duty on construction equipment as an example—it is only 2.5 percent. For agricultural equipment, the U.S. tariff is zero.

That is the real point of NAFTA. The U.S. market is already open. The Mexican market is not. If NAFTA fails to pass Congress, Mexico will still be able to ship its products into the United States with minimal tariffs [in fact, half of all Mexican goods enter now with no restriction or tariff]. Unfortunately, American manufacturers will lose an opportunity to have what would amount to "preferential" access to the growing Mexico market.

* * * as [Illinois'] largest manufacturer, Caterpillar is part of [the] export boom. Cat exports of nearly $200 million to Mexico in 1992 generated work for 1,300 U.S. Caterpillar workers and 2,700 employees at our U.S. suppliers * * * we estimate the free trade agreement will boost our U.S. exports by another $50 million over levels without NAFTA. And that will generate work for another 1,000 employees at Caterpillar and its suppliers.

I could not have put it any better. Of course, Caterpillar is but one company. What about other companies? Let's look at what NAFTA requires of the United States and Mexico across the board.

TARIFFS OVERALL

Mexico within 15 years phases out tariffs on United States goods which average 10 percent. The United States phases out tariffs on Mexican goods, which average 4 percent. Fifty percent of Mexico's tariffs are eliminated immediately on implementation of the treaty.

AUTOMOBILES

Mexico reduces tariffs on United States cars from 20 percent to 10 percent immediately, and eliminates all of them in 10 years. Mexico also immediately eliminates the quota on new car imports—now only 20 percent of the market. It also phases out the trade balance requirement, which forces United States producers to locate in Mexico and replaces Mexican content requirement with North American content requirement.

The United States immediately eliminates the 2.5 percent tariff on Mexican autos that meet the 62.5 percent North American content requirement. Without NAFTA, United States car makers are virtually shut out of selling any cars to the growing Mexican market for new cars, 750,000 new cars this year. In the first year of NAFTA, U.S. automakers estimate that auto tariff reductions will enable them to sell an additional 65,000 cars and increase sales by $1 billion, creating 15,000 American jobs. Of course, United States-made cars, with NAFTA, will have a tremendous advantage over cars made in Japan, or any other countries that are not part of NAFTA.

PETROLEUM

Mexico will substantially lift foreign investment restrictions on 14 of the 19 basic petro chemicals. The U.S. makes no comparable changes.

INTELLECTUAL PROPERTY

Mexico must strengthen protection from trademarks, patents and copyrights, including those on computer programs. No change for U.S. in intellectual property.

MAQUILADORAS

Phase out this program, which was designed as a platform for exports to the U.S.

AGRICULTURE

For Mexico, within 15 years, eliminate tariff and nontariff barriers, some of which are very strict. For the U.S., eliminate tariffs and barriers over 15 years.

When one puts aside the rhetoric surrounding the agreement, and focuses on what it actually says, one point comes through loud and clear: NAFTA is largely a list of things that Mexico must do. The one-sided nature of NAFTA does not mean a bad deal for Mexico, however. Mexico needs to rapidly attract technological know-how and capital to build its infrastructure and economy. As with every liberalized trade agreement in this century, free-trade benefits all parties.

NAFTA WILL REDUCE LIKELIHOOD OF U.S. JOBS MOVING SOUTH

Madam Chairman, we have heard over and over again from NAFTA opponents that the agreement will move jobs to Mexico. First, there is nothing preventing companies from moving to Mexico right now. If low wages were the motivating factor in locating businesses, Haiti would be the manufacturing mecca in our hemisphere because it has the lowest wages in our hemispheres. If businesses feared the political situation in Haiti, they could set up shop in the Dominican Republic, or even Puerto Rico. But these nations, or commonwealth in the case of Puerto Rico, are not attractive to most companies because other factors such as labor productivity—where we have a five to one advantage—and infrastructure are critical factors.

Moreover, the question at hand is not "will companies move to Mexico?" Many already have moved there without NAFTA. The real question is "will passage of NAFTA make it more or less likely jobs will move from the United States to Mexico?"

Again, forget the emotional rhetoric on both sides, and look at real-world decisions confronting U.S. companies with and without NAFTA. Companies now exporting to Mexico are faced with Mexican import regulations and tariffs that are many times ours. The only way around these tariffs and regulations is to build products in Mexico. That means moving United States jobs to Mexico. But with NAFTA, the tariffs and regulations disappear, and American companies are far more likely to manufacture products in the United States and ship to Mexico.

THE 1986–1992 TRADE EXPERIENCE PROVES NAFTA WILL WORK FOR THE U.S.

The American people do not have to take our word for it, that reducing Mexican tariffs and barriers is a good deal for the United States. We've already had a 7-year experiment; since 1986, Mexican President Salinas has been unilaterally reducing tariffs and wiping out barriers. While tariffs are still high, they are down significantly. The results have been dramatic:

During this period, United States exports to Mexico have tripled from $12.4 billion annually to $44 billion last year.

During the same period, the United States transformed a $5 billion trade deficit with Mexico to a $5.6 billion trade surplus.

The best opponents of NAFTA have been able to argue in the face of these facts is to claim that those figures hide the fact that many parts are shipped to Mexico, assembled there, then exported to the United States. But these trade surplus figures already take into account all imports and exports to both countries. There is simply no way around it. As Mexico's tariffs come down, our trade surplus goes up. That means more U.S. jobs. And remember, export-related jobs pay an average of 17 percent more than other jobs in the United States.

EXPORTS ARE THE GROWTH PART OF OUR ECONOMY

Today, exports are the growth part of our economy. They are the success story creating millions of new jobs. Since 1986, exports have increased 90 percent and we've regained our position as the world's largest exporter. Mexico helped put us over the top. They have now become our third largest trading partner.

The success of exports was no accident. Every administration since Franklin Roosevelt has pursued free trade with the rest of the world. No major free-trade agreement has been defeated by the U.S. Congress since FDR. The last agreement we entered into—the Canadian free-trade agreement—resulted in a 19-percent increase in United States exports to Canada in 2 years. Illinois exports to Canada doubled.

WHAT IS IT IN THE AGREEMENT THAT WOULD CAUSE THE LOSS OF JOBS?

The one question opponents of the treaty have failed to answer is "Specifically what is in NAFTA that will cause the loss of U.S. jobs?" Opponents inevitably point to: Some United States jobs moved to Mexico; Mexico has lower wages than the United States; and Mexico's enforcement of environmental laws is poor.

To all three statements I say, "I agree." These things have happened without NAFTA. It simply makes no sense to blame these problems on NAFTA. These problems already exist without NAFTA. NAFTA is part of the solution to these problems, it is not the cause. To argue that we should not pass NAFTA because these problems exist is analogous to our saying we should not cut Federal spending now because for the past 27 years we've racked up huge deficits. Using this line of thinking, we should not pass the welfare reform/workfare legislation because our welfare system has failed. Or, we should not reform our health care system because our health care system is too expensive and access to insurance for some is limited.

PLAYING ON THE FEARS OF AMERICANS

The world is changing rapidly. There is great economic upheaval. This worries all of us. We are worried about our jobs, our income, our purchasing power, losing our pension or health insurance, our children's future. The lifelong career with one company is becoming a thing of the past. The leading opponents of NAFTA have tried to tie these fears to NAFTA. But what is the true basis of these fears? Why are these things happening?

They are happening because technology—particularly the computer chip—has brought the world closer together. It is an increasingly global economy and marketplace. It is happening because we face increasing competition from the developing pacific rim nations. It is happening because with the end of the cold war, we are downsizing our military.

These changes present challenges and painful transition for many American workers. But they also present us with tremendous opportunities for new markets for our goods and services.

Defeating NAFTA will not solve any of these problems; In fact, its defeat will only make them worse. No nation which isolates itself with protectionism will prosper. This has always been the case, but is increasingly so. Since the industrial revolution began 200 years ago, the growth of trade has been the fundamental building block for raising the standard of living throughout the world. The spread of high technology to developing countries has created new competitive challenges for existing industrial powers.

When existing industrial countries respond to competitive challenges by improving their productivity and permitting the new producers to export, the world economy prospers. Conversely, when they pursue protectionist trade policies, such as those of the 1920's and 1930's, the world slips into depression.

In the face of these challenges, we have a choice. We can wring our hands, put up a wall to the rest of the world, and blame low wages in Mexico—a nation with a gross domestic product one-twentieth the size of ours and a workforce one-fifth as productive—for our Nation's problems.

Or, we can roll up our sleeves and do everything we can to be the most productive Nation in the world and compete. In a sense, our Nation has already decided to take the later course. That is precisely what entrepreneurs, companies, and workers are doing all over this great land of ours. They have outproduced and beat our competition, making the United States the world's biggest exporter.

It is the United States Congress that is threatening to pull the rug out from under this export boom with Mexico because Congress fears we cannot compete with Mexico.

Some viewers may have viewed as a stunt Vice-President GORE's handing Ross Perot a picture of Senator Smoot, and Representative Hawley the other night on Larry King. But, I believe the Vice-President was quite justified in doing something dramatic to grab the attention of several generations of Americans who are far too young to remember the crucial lesson of our Nation's last great depression.

He reminded Americans that the last time Congress resorted to protectionism it committed the most infamous blunder in the 20th century: The passage of the Smoot-Hawley Tariff bill in 1930. Smoot-Hawley, which raised barriers to trade, was passed to protect jobs in a weak economy. [Sound familiar?] Stock markets declined within 2 weeks of passage of Smoot-Hawley and they did not bottom until 1932. That was the last time Congress passed anything like Smoot-Hawley. There is no contemporary protectionist event whose stock market impact can be easily gauged.

In the post-World War II period, the lessons learned from Smoot-Hawley led to 50 continuous years of free-trade policies of Democrat and Republican Presidents alike. With this free-trade policy came the General Agreement of Tariffs and Trade [GATT]. During the post World War II period, the United States took advantage of free-trade to become the world's greatest economic power.

DEFEAT OF NAFTA WOULD HAVE REPERCUSSIONS FAR BEYOND MEXICO

There is far more tied up in this vote than our relationship with Mexico.

"The shock waves of a NAFTA defeat would echo around the globe," says Robert B. Zoellick, Undersecretary of State under President Bush.

> Just as new Latin leaders in Central and South America have finally decided to adopt the political and economic principles we have been promoting for generations, the U.S. would be telling them those principles were mere rhetoric. Asians and Europeans would conclude that we had lost confidence in our economic future, in our ability to complete with developing nations and in ourselves.
>
> The U.S. will have passed up a superb chance to develop integrated, continental operations that would have made us more competitive globally. We will have cast away leverage that could have helped us open markets in Asia in Europe * * *.
>
> The global trade negotiations, the Uruguay Round of GATT, would he set back badly, perhaps permanently. The French, who have been resisting their European partners' pleas to swallow an agricultural deal, would question why they should commit political suicide at home to cooperate with an American president who has had a trade agreement rejected by Congress.

In short, "if NAFTA losses, it will be a stunning defeat, the first rejection of an international trade accord since Congress gave the President authority to negotiate trade matters in 1934," concluded Business Week magazine. "A defeat could cast a pall over Clinton's presidency and tarnish the U.S.'s reputation as a world trade leader."

ENVIRONMENTAL ISSUES

Mexican President Salinas has said, "poverty is the environment's worst enemy." How true it is. The world's most polluted nations are those that are economically poor, such as in eastern Europe. Whereas Mexico, as it grows economically, invests more in environmental spending.

NAFTA's opponents are right when they say Mexico has not enforced its environmental laws. However, as with job loss, the question is whether NAFTA will improve or harm Mexico's environment. Again, the evidence is overwhelming that NAFTA will improve Mexico's environment because it will have more resources to commit to a cleaner environment, and Mexico will be subject to international standards for enforcement.

MEXICAN LABOR PRACTICES—STANDARD OF LIVING

One of the most bizarre aspects of the debate over NAFTA has been the role played by leaders of groups who usually regard themselves as social progressives, such as the AFL-CIO. They claim to oppose NAFTA not only because of their fear of low-wage competition, but because they argue Mexico does not deserve this trade agreement because their wages are too low, their working conditions too deplorable. Once again, NAFTA is not the cause of Mexican wages being lower than they are in the United States. I think the AFL-CIO leaders understand that.

To some extent, pre-Salinas Mexican governments did suppress trade unions—but not to bolster trade. Under the pre-Salinas policies of restricting foreign investment and trade, Mexico needed repressive labor policies for the same reason the Soviet Union and Eastern Europe did: Its industries were uncompetitive. This was a natural outgrowth of other well intentioned but misguided policies which effectively shut Mexico out of the world economic system.

Before the 1910 Mexican revolution, Mexico aggressively promoted foreign trade and investment. After the revolution, however, Mexico severely restricted trade, using an economic model that was embraced by much of Latin America as well as many formerly colonial countries in Africa and South Asia. As we now know, this protectionism, along with Marxism, was a dismal failure. In the 1960's and 1970's, when the Asian countries were taking off, Mexico failed to share in the boom because her economic policies still limited her access to the world trading system. Mexico's protectionist trade policies produced a downward spiral in the country's economic performance. Mexican workers could not improve their standard of living by purchasing foreign goods or moving from low wage employers to export oriented sectors that pay more because of higher levels of productivity. This closed economic system resulted in a few families and business groups getting very rich, but the vast majority of Mexicans did not share in the economic growth occurring in much of the rest of the developing world. Ironically, Ross Perot and the United States unions point to these wealthy families as a reason to oppose NAFTA, to oppose opening trade with Mexico.

What President Salinas has achieved since the mid 1980's is quite remarkable. Most serious analysts of Mexico agree that he has gone further in modernizing Mexico's economic structure than any President in this country. He has moved to open the economy to world competition, privatize state banks, break the oil unions' strangleholds in energy, deregulate capital markets, modernize infrastructure, balance the Government's fiscal accounts, and replaced the Ejido system of state communal farms with private ownership.

These policies have resulted in a 58 percent increase in GDP per capita since 1988 and Mexican wages have increased by 36 percent between 1987 and 1992.

What is truly amazing is that environmental and United States labor groups, in opposing NAFTA, are saying no to the Mexican reforms of the last 7 years that have resulted in great progress in precisely the two areas they care about most: Labor practices and the environment! Do these groups really believe that less trade and less engagement with the United States will lead to higher wages, and a cleaner environment?

Finally, I would be remiss if I closed without mentioning what NAFTA means with respect to our immigration problems. Obviously, the key problem driving millions of illegal Mexican immigrants into the United States is lack of jobs and decent wages in Mexico. The best way to solve this problem is an economically viable and growing Mexico.

President Clinton said in last year's campaign, "Protectionism is just another word for giving up." I do not want the U.S. Congress to give up. This is a very important vote. President Clinton correctly stated on November 10, that NAFTA "has become the symbol of where we want to go in the world."

Our Nation's third President had a similar view: "Instead of embarrassing commerce under piles of regulating laws, duties and prohibitions, could it be relieved from all its shackles in all parts of the world, could every country be employed in producing that which nature has best fitted it to produce, and each be free to exchange with others, mutual surpluses for mutual wants—the greatest mass possible would then be produced of those things which contribute to human life and human happiness."

Madam Chairman, Thomas Jefferson, William Jefferson Clinton—and most Presidents in between—have pursued free trade because they understood free trade is in the best interest of our Nation. Now, it is time for Congress to do what I think the majority of its members know is clearly in our Nation's best interest: Support NAFTA.

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Mr. EVERETT. Madam Chairman, I yield 2 minutes to the distinguished gentleman from South Carolina [Mr. INGLIS].

Mr. INGLIS of South Carolina. Madam Chairman, I thank the gentleman for yielding the time and I rise to talk to Members of this body about an argument that they are not hearing very much against NAFTA. We have heard a number of discussions here this morning about the trade advantages of NAFTA.

Well, there is another side of the story that needs to be focused on, and that is what happens to investment dollars given the passage of NAFTA. I believe that NAFTA makes Mexico investment-friendly. It fixes several things. First, if you have an industry outside of the maquiladores area, you have to have a 50-50 Mexican partner. Second, you cannot repatriate your profits. Third, you are not protected against expropriation, and fourth, you do not have any intellectual property protection. Those things are fixed by NAFTA. That is nice for Mexico, but consider that in the totality of the environment in which we operate. That is, unfortunately, just about daily in this body we are making America investment-unfriendly. We are taking steps to make America investment-unfriendly. As long as that continues, here is a conversation tomorrow morning, if NAFTA passes, in a boardroom somewhere in America.

"Folks, here is a choice. We have $100 million to invest in a new plant. Where shall we put it, Mexico? Well, the good news about Mexico is it is now investment-friendly. What is the news about America? Well, the news about America is that it is constantly becoming more and more investment-unfriendly."

Given that contrast, there is quite a possibility that that board of directors is going to decide to locate that plant in Mexico, not in the United States. And that means a loss of jobs to Americans.

That is what we have to fix, in my opinion. First let us fix the investment climate in America by making sure that we make it positive before we throw our industries into competition with other countries who are investment-friendly.

I urge my colleagues to vote no on NAFTA, and let us create a positive investment climate in America for investment here and jobs here.

Mr. MATSUI. Madam Chairman, I yield 1 minute to the gentleman from Kentucky [Mr. MAZZOLI], distinguished subcommittee chairman of the Committee on the Judiciary.

Mr. MAZZOLI. Madam Chairman, I thank the gentleman for yielding the time and I rise in support of the NAFTA. I have concluded after study and consultations with my friends and constituents that NAFTA's passage will in fact create new markets for products made in the Third District of Kentucky as well as around the country.

It is also a positive foreign policy step in that it tends to stabilize this hemisphere, and that is always to the good.

But Madam Chairman, American workers are apprehensive and they are concerned, and they are almost afraid about what the future holds for them. Now this is not simply due to NAFTA, but this certainly is augmented by the possible passage of NAFTA. So if this North American Free-Trade Agreement does pass tonight, I think our obligation, and the incumbency on us as a Congress is to make sure that the side agreement on labor rights and protections does in fact work, and, if it does not, we have to pass or secure the passage of those understandings and protocols that will put teeth into those agreements.

To do anything less than to protect the American workers and those industries which are affected would obviously not bring honor to this Chamber. We have to protect those people.

Ms. KAPTUR. Madam Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. PETERSON] who has been so valiant in these efforts.

Mr. PETERSON of Minnesota. Madam Chairman, during the 1992 campaign, candidate Clinton outlined problems that he saw in NAFTA. He said these problems would need to be fixed before he would support the agreement as President Clinton.

Unfortunately, in spite of all the last minute deals we have seen going on around this place, most of these problems still remain, such as: Protection of domestic environmental, consumer, State, and local law from challenge under the agreement; safeguards for U.S. manufacturing jobs and wage levels; safety of imported foods; fairness for America's family farmers; new adequate funding for worker retraining, environmental cleanup and border infrastructure; guaranteed highway safety for American's; democratic accountability; and open citizen participation in our trade negotiations.

After reviewing this agreement for provisions to address these problems, it appears to me that by President Clinton's own standards, NAFTA is flawed and a bad deal for America.

Madam Chairman, our Subcommittee on Employment, Housing and Aviation held nine hearings to review many of these problems candidate Clinton's pointed out about NAFTA. We examined the labor side agreements, we examined worker productivity, retraining programs and other employment related aspects of NAFTA. Our hearings confirmed these concerns were valid and largely not addressed despite all the side deals that are going on.

Madam Chairman, the subcommittee has just received a GAO study in response to our hearing on worker retraining. During that hearing the GAO and the inspector general for the Department of Labor said the Trade Adjustment Assistance [TAA] Program was flawed and has not worked for the 19 years of its existence. This is the program the administration is using to model their NAFTA worker retraining program. The GAO just came back with a study that said that this is not going to work as well.

Madam Chairman, if NAFTA was such a good deal for America they would not be having to make all of these deals to get the votes to pass it.

I am going to vote "no" on NAFTA, but I am ready to work with the administration and other Members to fashion a new NAFTA that will be good for America, good for the workers and the families, and that will live up to President Clinton's demands for this agreement.

Mr. KOLBE. Madam Chairman, I yield 1 minute to the distinguished gentleman from Baton Rouge, LA [Mr. BAKER], a member of the Committee on Banking, Finance and Urban Affairs, the Committee on Natural Resources, and the Committee on Small Business.

Mr. BAKER of Louisiana. Madam Chairman, I thank the gentleman for yielding the time.

Madam Chairman, if we could only see beyond the present moment, to know for a certainty what the future will hold, we could take away the risk and uncertainty and fear of what tomorrow may bring. But we cannot, and it has never been so.

The pioneers who came to this great country forged across the mountains and went to the wilderness of the West and they did so, amazingly enough, without Government regulation. They did it on their own. They faced the fear and the challenge and they conquered.

We should turn our fears of Mexico into anger over our own Government's regulation of free people here and of businesses in this country, because American workers are the most productive, they are the most creative. They can face any competitor on even ground and always win.

We should pass this agreement, and then we should turn to Washington and get rid of the silly, costly, meaningless regulations that drive businesses out and keep American jobs from being created. That is the answer to America's vision for tomorrow, not telling the workers of the next generation do not worry, Congress will protect you from competition.

It has not been so. It will never be.

Mr. KOLBE. Madam Chairman, I yield 1 minute to the distinguished gentleman from Loveland, CO [Mr. ALLARD], a member of the Committee on Agriculture, the Committee on the Budget, and the Committee on Natural Resources.

Mr. ALLARD. Madam Chairman, I thank the gentleman for yielding me the time.

Madam Chairman, I rise today in support of the North American Free-Trade Agreement. Perhaps the most fascinating aspect of NAFTA has been that it has completely blurred party lines. When was the last time anyone in Congress remembers a Republican whip rounding up votes for a Democrat President while the Democrat whip was furiously trying to defeat his President. If NAFTA has accomplished anything over the past several weeks it has been to shake up the status quo around here, which is a pretty big accomplishment in itself.

The NAFTA agreement addresses the most important issue all of us faced in last year's election, jobs. Opponents of NAFTA claim that agreement will encourage American companies to move to Mexico. But American companies that have already relocated to Mexico have left because Mexican tariffs on American goods are, on average, 2½ times greater than American tariffs on Mexican goods. The incentive to do business in Mexico now is to avoid high tariffs. By passing NAFTA we do not provide incentives to move to Mexico, we eliminate incentives to move to Mexico.

Trade with Mexico accounts for jobs in every State, in Colorado 4,000 jobs, from agriculture to energy, are supported by our trade with Mexico. A concrete example of how we are going to win comes from my district. One of the largest employers in Colorado's 4th Congressional District is Monfort Industries. This year alone they shipped 40 million pounds of beef to Mexico. The purchasing power of Mexicans and the potential demand for American products is staggering.

But that potential will not be fully realized without NAFTA. In November of last year Mexico enacted a 25-percent tariff on beef due to European subsidized beef forcing their livestock producers out of business. Our meat producers and processors are subject to those tariffs without NAFTA. That tariff is going to hurt American jobs at Monfort Industries, the Community of Greeley, and a lot of members of the United Food and Commercial Workers.

Madam Chairman, NAFTA will eliminate tariffs on beef and on many other American products that would otherwise be too expensive for the Mexican consumer. Those tariffs will remain in place on products outside of North America. NAFTA is a good deal for all of us.

Mr. HUNTER. Madam Chairman, I yield 4 minutes to the distinguished gentleman from Florida [Mr. BILIRAKIS].

□ 1430

Mr. BILIRAKIS. Madam Chairman, I am a strong believer in the benefits of free and fair trade. Since coming to Congress I have supported legislation to open foreign markets to United States products and when plans to negotiate a free-trade agreement with Mexico were initially announced, I was optimistic that such a trade pact would present new opportunities for United States business.

After long and careful deliberation, however, I find that I cannot support the agreement before Congress today. Throughout the entire negotiation process, I worked with other members of the Florida delegation to ensure that our State's agricultural industry—our State's second largest employer—would not be devastated by NAFTA.

I believe the present agreement represents an improvement, but the growers in my district are simply not convinced that enough has been done. I do not believe they should be forced, by political expediency, to accept a flawed agreement.

But my concerns go far beyond Florida agriculture. As a member of the Energy and Commerce Committee, I have heard extensive testimony on the safety of pesticide residue and food.

In Mexico, 17 different pesticides can be used in food production that are not approved for use in the United States. I am informed that only seven of these pesticides are detectable by the tests that the Food and Drug Administration uses when it inspects imported fruits and vegetables.

According to the FDA, Mexican produce is twice as likely to have pesticide residue levels that violate United States standards—standards which are themselves often criticized as inadequate.

Madam Chairman, we have been told that the many side agreements to NAFTA have perfected this document, or at least alleviated our worst concerns.

Yet under NAFTA, a country may unilaterally withdraw from the side agreements but still enjoy the benefits of NAFTA. This arrangement not only questions the effectiveness of the side agreements, but undermines their fundamental purpose.

We must remember that in 1991, Mexico successfully challenged United States tuna import restrictions under GATT. Under NAFTA, Mexico or Canada would be able to lodge similar challenges to other United States environmental laws. Some of our laws that could be challenged include the Marine Mammal Protection Act, the Endangered Species Act, the Wild Bird Conservation Act, the Seal Turtle Conservation Act, and the High Seas Driftnet Enforcement Act.

NAFTA also allows 63 different professions special entry into the U.S. market. Foreign nationals in each of these 63 professions—ranging from economists and engineers to interior designers and social workers—will not be required to obtain employment authorization for temporary entry.

No wonder it is difficult for some of us in this Chamber to understand how NAFTA will work to improve employment opportunities for U.S. citizens. It would seem only to improve job opportunities for foreign professionals.

Although billed as an agreement to free up trade, the implementation of NAFTA will create a complicated bureaucracy to administer its provisions. At least 17 different working groups, subcommittees and panels will be established under NAFTA.

However, despite this explosion in bureaucracy, we have no assurances that disputes under NAFTA will be resolved quickly. Past experience with steel imports and other commodities should give us pause to expect anything approaching prompt relief for trade violations.

Proponents of NAFTA have argued that the average Mexican consumer buys $450 of United States goods each year. This is just plain wrong and we should know better.

The International Trade Commission estimated that only $2.3 billion in actual consumer goods were available to Mexican consumers—that's $25 per Mexican consumer, hardly a robust market for high technology United States goods.

What we do know about NAFTA is that it will cost us money and jobs now—while any benefits that accrue will occur somewhere down the road.

NAFTA will cost $2.5 billion in lost tariffs, $1.7 billion in worker training and adjustment, an estimated $20 billion in border environmental cleanup, and another $15 to $20 billion in infrastructure improvements. Under NAFTA, we will alter payroll collections to raise $2.2 billion and increase international travel fees by $758 million. In other words, we will pay the bill now for NAFTA and hope that the agreement delivers for us somewhere in the ill-defined future.

I think the Government of the United States should be able to do business like most consumers and private corporations. That is: Cash on delivery. Instead of a level playing field, NAFTA is pay now, hope later. Is this really the best deal we could make?

Not too long ago, Congress passed a Budget Reconciliation Act that called for major new taxes in the near term and budget savings in 3 to 5 years. To me, this was the "new math" of deficit reduction. We were told that we could cut the deficit by taxing more and spending more now—while cutting Government spending later.

In a nutshell, NAFTA uses the same flawed reasoning. We will incur the costs of the agreement upfront, experience job losses, let our markets be exposed to low-wage goods and then hope that down the road, the agreement will allow us greater access to an improved consumer market in Mexico. This amounts to pay now, pay later and hope for the best. This may be the stuff of dreams and aspirations, but it should not be the substance of international trading agreements.

We should have a new trading arrangement with Mexico and Canada and with other nations in the Western Hemisphere. NAFTA, however, is not the model for progress; it is a prescription for repeating the mistakes of the past.

I would hope that we can reject this agreement and move forward on more steady ground. The American people deserve a better deal.

Mr. MATSUI. Madam Chairman, I yield 1½ minutes to the gentleman from Ohio [Mr. SAWYER], the distinguished chairman of the Subcommittee on Civil Service.

Mr. SAWYER. Madam Chairman, I rise in support today, and in all honesty, a decision of this kind has been a tough call for someone from my region of the country.

Arguably no other district has suffered more from the loss of heavy manufacturing jobs, in my case in tires and rubber, over the last 20 years. No other industry is more global or transnational or has become so more quickly. The fact though is that loss happened without NAFTA.

That bitter experience has become the repository for anger over past job losses and fears of an uncertain future. But just as arguably no other district is better poised to benefit from new markets for the export-dominant products and the jobs they will create. The truth is NAFTA is neither the doomsday trigger for the collapse of the American economy that its opponents would make of it, nor is it the salvation of America's place in world trade that some advocates would suggest. At best it is one small element in the larger work of meeting the commercial challenges of the European Community trade blocs, the Pacific rim, and new productive capacity of the emerging nations of the world.

Its support is grounded in the future, a sense of security, and the size and resiliency of our economy and confidence in our ability to compete on terms not just with Mexico but with the world. We are on the threshold of a new era. The change is upon us whether we want it or not.

The fact is that change is not something to fear. We cannot change the tides, as dangerous as they may be, but we can learn to navigate at the crosscurrents of some of the greatest challenges we have faced in a century.

Mr. MATSUI. Madam Chairman, I yield 1 minute to the gentleman from Texas [Mr. SARPALIUS].

Mr. SARPALIUS. Madam Chairman, NAFTA is not about today. It is about tomorrow. It is about the future, whether America should rise to the challenge of the world market or sink down below walls that we have created around this country.

What we have done in this country is we have built these giant walls. That is what this debate is about is bringing down these walls and extending our hands to our brothers and sisters to the north and our brothers and sisters to the south, coming together and creating the world's largest market, $6.5 trillion.

This debate is about giving our children a real future, a prosperity, an opportunity to dream their dreams and to make their dreams come true. This debate is about giving our children the legacy to open up the doors of the future, giving them an opportunity to step into those rooms and take advantage of those opportunities that are given to them.

Let us pass NAFTA today.

Mr. MATSUI. Madam Chairman, I yield 2 minutes to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. Madam Chairman, I rise today in support of the North American Free-Trade Agreement because the NAFTA will provide new opportunities for American workers and businesses, and create new jobs and spur economic growth.

The intensity of the NAFTA debate reflects legitimate fears about our economy and about the future. For too long middle-class families have endured stagnant wages, skyrocketing health care costs, and diminished opportunities. Madam Chairman, Americans are angry—and they have good reason to be.

In the last 35 years New York City alone has lost 600,000 manufacturing jobs, New York State has lost a third of its manufacturing base in just the last 20 years. However, NAFTA did not cause American jobs to relocate, and NAFTA's defeat will not stop more jobs from leaving.

The fact is that NAFTA will, on balance, make the United States and the New York region more competitive. It will create new export-related jobs to help replace the hundreds of thousands of jobs we have lost to foreign competition over the last several decades. It will allow American businesses and American workers greater access to a growing market of 90 million consumers hungry for American products. This increased trade will mean more jobs for American workers here at home.

In the New York metropolitan region NAFTA's passage will expand key service and high-technology industries like banking, finance, telecommunications, and computers. It will also provide our small businesses and manufacturers a level playing field to compete and win in Mexico. Since 1987 exports from New York State to Mexico have increased by over $400 million, generating real jobs throughout our region. NAFTA will accelerate this positive trend.

My bottom line in reaching this decision was jobs creation and economic growth. I believe that NAFTA passes the test on both counts, and I urge my colleagues to vote for it.

Mr. KOLBE. Madam Chairman, I yield 1 minute to the very distinguished gentleman from Richmond VA [Mr. BLILEY], the ranking member of the Committee on Energy and Commerce.

□ 1440

Mr. BLILEY. I thank the gentleman for yielding this time to me.

You know, my colleagues, we have a $7 billion trade surplus with Mexico today, and that is in spite of a 10- to 20-percent tariff. Now, you remove the tariff from the United States while you keep it on for the Pacific rim countries and the European countries, and the only way for that trade to go is up. Those balances will increase. That means more jobs for Americans.

We hear talk that, well, this will be bad for the environment. I cannot see how, if NAFTA goes down, that the environment in Mexico will improve. The way to improve it is to pass it and keep engaged. They say the wages, well, the wages will only improve as their economy gets better. And that is why this trade is good for Mexico as well as the United States.

The same for child labor. But just as important are the foreign policy considerations. If this goes down, the President need not bother to go and meet with the Asians later this week, and GATT will fail as well.

Mr. KOLBE. Madam Chairman, I yield 1 minute to one of our newest Members, the distinguished gentleman from Cincinnati, OH, Mr. PORTMAN, a member of the Committee on Government Operations.

Mr. PORTMAN. I thank the gentleman for yielding this time to me.

Madam Chairman, I rise today in support of NAFTA because it will create jobs for Americans. Not satisfied by the data that I was getting from either side of the NAFTA debate, I conducted my own survey of a cross section of businesses in my district in southwest Ohio—over 400 small, medium, and large companies, randomly selected. I found that by a 10 to 1 margin, the respondents expect NAFTA to create new jobs at their companies. Not one of the businesses surveyed said NAFTA would lead them to set up operations in Mexico.

When responding to the survey, many wrote personal notes explaining exactly why the provisions of this agreement will help them put people to work in my district.

The general manager of a small company that manufactures coatings and wax emulsions put it simply: NAFTA will significantly reduce his company's cost of sales to Mexico. Why? Because the 15 percent tariff they now face goes to zero. With more exports, they will have more jobs in my district. More importantly, if NAFTA fails today, with the margins in this industry as thin as they are, the company says it has no choice but to move some of its United States operations to Mexico, just to get around these tariffs and compete.

NAFTA represents hope, opportunity, and economic growth. We need it.

Mr. KOLBE. Madam Chairman, I yield 1 minute to the gentleman from Monticello, IN, Mr. BUYER, a member of the Committee on Armed Services and the Committee on Veterans' affairs.

Mr. BUYER. I thank the gentleman for yielding this time to me.

Madam Chairman, I came to Congress with bedrock ideals and core values with a commitment to do that which is in the long-term best interest of Indiana and the country. I saw a Congress that was filled with politicians who focused on the short term and allowed the emotion of the moment to dictate our domestic policy. So Congressmen were casting votes on how it affected their next election, and that clouds the reality with political spins. I will not now or in the future, put my finger in the air and vote according to prevailing winds. Decisions of statecraft must be based upon intellect, not emotion.

There are few votes that any Member of Congress will cast in a career that will have the national and international implications that this vote carries. In light of this burden, I decided last spring to conduct a thorough and thoughtful study on the North American Free Trade Agreement, its short- and long-term implications on America, on Indiana, and on the Fifth District.

I have researched, read, studied, and listened. I have had scores of meetings with both proponents and opponents. I have met with President Clinton and Vice President GORE. I have met with administration officials: Ambassador Mickey Kantor and Treasury Secretary Lloyd Bentsen. I have met with well-known private citizens: Ross Perot, former Trade Representative Carla Hills, and Lee Iacocca, and others. I have met with business representatives from my district: Chrysler Corp., General Motors, Delco Electronic, Bethlehem and Inland Steel, J.C. Penny, 3-M Corp., Federal Mogul * * *. I have met with union representatives: United Auto Workers, the Teamsters, and Electrical Workers * * *. I have met with agriculture interests: Indiana Farm Bureau, Indiana Pork Producers, Indiana Soybean Growers Association, Indiana Corn Growers Association, Farmers Union, and Individual farmers, I have met with Republicans; I have met with Democrats; and I have met with members of United We Stand.

Most importantly, I have met with men and women from all walks of life in my District. At over 40 town meetings, NAFTA has consumed over half the discussion. Few Members of the House have undertaken the study and examination of the issue of NAFTA as I have done.

Throughout this process the No. 1 question in my mind that had to be addressed was: Is NAFTA in the best interests of America, Indiana, and the Fifth District?

I was elected to Congress just a year ago; I have never held political office before. I was elected to be an instrument for change. I will always give thought and study to issues, as I have with NAFTA, no matter how long or arduous the process. I will vote according to the best interests of my constituents, my State and my country.

From my readings and discussions, I have reached the conclusion that NAFTA is in the long-term best interests of the United States, Indiana, and my constituents in the Fifth District. I will vote in favor of NAFTA.

JOBS

The opponents of NAFTA are correct in one thing—the debate on NAFTA has centered around jobs. Only the opponents have the wrong answer, America does not lose jobs under NAFTA—America is the big jobs winner.

Job dislocation will happen with or without NAFTA. If the opponents have not recognized it yet, the global economy is not the future—it is now. Our businesses and industry do not just compete with the company down the street, or across town, or across the State line. American industry is in competition with industry in Europe and Asia. Competition is the character of America; we must not fall into a comfort zone. The last two decades have not been easy ones economically, as business and industry have launched efforts to be globally competitive. Plants have closed, and some workers have lost jobs. I have seen this pain first hand in my district as the auto industry restructured to compete in the world market.

What NAFTA will do, is position the United States well to compete in the Mexican marketplace and that in turn will create jobs in the United States. As 10 former Secretaries of Commerce, both Republican and Democratic, recently wrote me:

> NAFTA is a job creation engine. Exports to Mexico already support an estimated 700,000 U.S. jobs. Conservative estimates are that the U.S. will experience a net gain of 200,000 jobs as a result of the NAFTA in the first year alone. And these will be good paying jobs—export-related manufacturing jobs that pay 17% more than the average job.

American jobs depend on exports. For every $1 billion on new exports, 19,000 new U.S. jobs are created.

Mexico is already one of the best customers for American products, resulting in a trade surplus in America's favor year after year. This was not always the case. Before the Mexican reforms of 1986, the United States had a $6 billion trade deficit with Mexico. After Mexico decreased some of its tariffs and opened its market to our products, it shifted to a $5 billion surplus—an $11 billion shift in America's favor. This increased trade with Mexico since 1986, has created 400,000 American jobs according to the United States Department of Commerce.

Indiana, in particular, is well-suited to take advantage of reduced trade barriers to Mexico. Our auto part manufacturers, small parts manufacturing, agribusiness, and farmers should benefit greatly by the lowering and ultimately elimination of tariffs that have prohibited United States companies from competing in the Mexican market. Indiana exports support approximately 95,000 Hoosier jobs—many in the Fifth District. Since 1988, nearly 20,000 new Hoosier jobs have been created due to exports to Mexico and Canada. Over 11,400 Hoosier jobs are supported by Exports to Mexico alone. The Indiana Department of Commerce ranks Mexico fourth among Indiana's export markets; Canada ranks first. Indiana companies stand to benefit by NAFTA.

Dalton Foundries, Inc., in Warsaw, wrote to me regarding NAFTA. They believe "enactment of the NAFTA will create additional jobs for our company." With NAFTA, Dalton Foundaries will be able to compete on an equal playing field with their Mexican counterparts and increase their exports.

Chrysler recently announced it was investing a quarter billion dollars in their Kokomo facility for new equipment, continuous quality improvement, and capacity expansion. Additional spending is also still under consideration. Bob Eaton, chairman of the board and CEO of Chrysler wrote, "If Chrysler had any intention of reducing its operations in Kokomo, we wouldn't be investing hundreds of millions of dollars in that facility." Mr. Eaton estimates that 64,000 more transmissions from Kokomo would be sold in Mexico if NAFTA is approved in the first year alone—that means jobs in the Kokomo plant. Without NAFTA, this increase in exports will not materialize and it weakens job security at the plant. Therefore, without NAFTA, Chrysler will have to increase its investment in Mexico to support increased production there. Mr. Eaton said, "This could jeopardize our level of investment and jobs in the United States and your district." The United States Department of Commerce projects that our Nation's automotive exports to Mexico could rise by $1 billion in the first year alone—which is good for the Fifth District.

A union member and Chrysler worker agreed with Eaton and called my office and simply stated, "It [NAFTA] will eliminate trade barriers and allow us to sell cars in Mexico. We are afraid if we do not have this agreement what might happen. We will build more transmissions if it passes.

General Motors has assembled 4.5 million cars in the United States this year and only 3 have been exported to Mexico. With NAFTA, GM projects exports to rise to 20,000 vehicles next year, and to 60,000 annually after 5 years. That means job security to hundreds of workers in Marion and the possibility of increasing employment to meet the new demand of production.

Inland Steel and Bethlehem Steel are two of the world's largest steel manufacturers, all with facilities located in northwest Indiana. They support NAFTA and believe it will increase their competitiveness in Mexico. Over the last 4 years, Inland Steel alone has quadrupled its exports to Mexico, even with the current trade barriers in place. Inland believes those exports will increase under NAFTA as it removes those barriers.

Other Indiana manufacturing industry and the jobs it supports will be winners with NAFTA. Monon Corp. in Monon, IN, is one of the more competitive manufacturers in the trailer industry in the United States. Monon Corp. recently hired 700 new employees to keep up with demand of new orders. The Canadian Free-Trade Agreement opened a huge market in Canada and Monon is now one of the largest suppliers of trailers in Canada. Monon Corp. believes the same could be true with Mexico if the trade barriers in Mexico are removed. Tom Rosby, president of Monon Corp. wrote, "With NAFTA, we expect our employment to climb even higher."

Federal Mogul in Logansport, who has four plants in Mexico said, "Had the NAFTA been adopted much earlier, it would not have been necessary for us to build those plants in Mexico. However, the local content rule required that goods sold in Mexico be produced in Mexico." Federal Mogul firmly believes NAFTA is good for American job security.

In Wabash, Ford Meter Box Co. employees manufacture exports that accounts for 10 percent of current sales. Currently exports with Mexico only account for $100,000. Terry Agness, president of Ford Meter Box, believes that with NAFTA their exports to Mexico can reach $1 million. Additionally, right now they are exporting $1 million to Canada and again, NAFTA will allow them to compete and increase their share of that market too.

One of the largest employers in the Fifth District is Delco Electronics. Delco favors NAFTA because they provide auto parts to Chrysler who will ultimately sell more cars in the Mexican market. Presently, restrictions in the Mexican market are considerable and they prohibit the auto sector from fair competition.

AGRICULTURE

Besides the auto industry and other manufacturing, the other big winners under NAFTA will be American farmers and agribusiness. According to the Purdue University Agriculture and Economics Department, using 1991 prices, after the full implementation of NAFTA, it is expected to increase farm cash receipts in Indiana by nearly $100 million. Most of these gains are in corn and soybeans. The Indiana Corn Growers Association and the Indiana Soybean Growers Association support NAFTA. It is projected that the farm value of corn will increase by $38 million and soybeans by $40 million. Livestock, grains, and oil seeds are also expected to make considerable gains.

The pork industry would make remarkable gains. The Fifth District is one of the largest pork producers in the country and it alone accounts for over 27 percent of Indiana's pork sales. NAFTA would have a $7 million impact in sales on the Fifth District according to Danita Rodibaugh, executive director of the Indiana Pork Producers Association.

Joseph Sebring of Indiana Packers in Delphi said that NAFTA will help create jobs in the Indiana agribusiness industry. Failure to ratify NAFTA could have devastating consequences, according to Sebring, as agriculture depends on open, overseas markets for growth.

Iowa Beef Packers [IBP] is the world's largest exporter of beef and pork. Mexico's consumption of beef has increased 40 percent in the last 2 years alone, again with trade barriers that make it difficult for the United States to compete. IBP believes NAFTA will greatly benefit their plants, including their proposed Logansport facility—if their purchase agreement is completed.

Harry Pearson, a Fifth District farmer and president of Indiana Farm Bureau, agrees that NAFTA will strengthen Indiana's exports and jobs. Pearson stated, "Hoosier exports to Canada have increased by more than $1 billion since the 1989 Canadian Free-Trade Agreement." He believes opening Mexico's doors will have a similar impact, if not greater.

Creighton Bros. employs approximately 200 people and has operations in both Kosciusko and Marshall Counties that produce and process eggs and egg products. They are strong supporters of NAFTA and believe passage will open markets and as a result will create a significant number of new jobs.

Jasper County farmers Kendall and Tammy Culp speak for many Hoosier farmers with whom I have met. They believe NAFTA is crucial to their farm because it allows the agriculture industry to compete in a market that is currently very prohibitive. "Farmers have to take what the market gives them and free trade is essential to the family farmer. We can compete with anyone in the world when the deck isn't stacked against us. NAFTA removes those boundaries, therefore opening a huge new arena for us that will be very beneficial for us. NAFTA means profits and jobs for Indiana's farmers," according to the Culps.

Finally, Rick Heyde, plant manager of Viskase Corp. in Kentland believes, "The elimination of import licenses on corn and wheat, and tariffs on many agricultural commodities, will have a positive influence on our local agriculture industry and their related fields."

SIDE AGREEMENTS

The side agreements negotiated by United States Trade Representative Mickey Kantor provide the needed assurance that Mexico will enforce its environmental and labor laws, by committing Mexico to strengthen its administrative and judicial procedures and to provide Mexican citizens with access to legal processes to help enforce Mexican Laws. Article 3 of the environmental agreement commits each government to "ensure that its laws and regulations provide for high levels of environmental protection" and to "strive to continue to improve those laws and regulations."

The National Wildlife Federation said, "NAFTA is clearly a change away from business as usual. It fully assures environmental protection will not take a back seat to economic concerns." They believe the environmental side agreement is a real opportunity to change the nature of trade, and its effect on the environment.

This is the first labor agreement negotiated specifically to accompany and build on a trade agreement. The labor side agreement promotes improved labor conditions and strong enforcement on national labor laws in all three countries.

This agreement creates a Commission on Labor Cooperation to work jointly on labor issues such as child labor, health and safety, minimum wages, and worker benefits. The labor side agreement is a step in the right direction to assure that Mexican economic growth does not come at the expense of the Mexican worker.

U.S. SOVEREIGNTY

Some opponents of NAFTA from the far right of the political spectrum fear the loss of U.S. sovereignty, our very being as a nation. They believe that the trilateral dispute resolution mechanisms in NAFTA would endanger U.S. law and rule. This argument is a red herring.

Other opponents of NAFTA believe that produce contaminated with pesticides outlawed in the United States will be sold in United States grocery stores; that unlicensed Mexican truckdrivers in unsafe vehicles will cross the border and come careening down United States highways posing safety threats to unsuspecting American motorists. These are unfounded claims.

Nothing in NAFTA interferes with the ability of the United States to conduct international relations or to enact and enforce our own laws. The supplemental agreements on environmental and labor standards require that each country enforce its own laws. The side agreements establish special commissions on the environment and labor. Each commission consists of representatives of the three NAFTA governments and a Secretariat. Their only focus is on failures of a country to enforce its own sovereign laws.

NAFTA does not override Federal or State or local standards. NAFTA will not allow unlicensed Mexican truck drivers on United States roads. Furthermore, Mexican trucks will be subject to all American safety and environmental standards. Currently, produce containing pesticides banned in the United States cannot be marketed in the United States. NAFTA does nothing to change this requirement. The Food and Drug Administration, the Department of Health and Human Services, and the U.S. Customs Service are charged with ensuring that imported foods meet the same requirements as domestic products.

THE UNITED STATES AS A WORLD LEADER

Unfortunately, very little attention has been focused on the consequences of NAFTA on the influence and leadership of the United States in a changing world.

Dramtic changes have taken place in the world. The Soviet Union is no more, the Berlin Wall has fallen, and the cold war is over. The European Community is currently the world's largest trading bloc. Asian countries are openly discussing the creation of a free-trade zone that would include Hong Kong, Japan, Korea, Singapore, and China.

With the end of the cold war, the United States stands alone as the superpower of the world, militarily, politically, and economically. Is this a position we are willing to lose?

I have met with many business representatives in the Fifth District: GenCorp, Eli Lily, 3-M, Thompson Consumer Electronics, Tenneco, United Technologies, who have explained the tremendous advantages of NAFTA; advantages which we should seize before another nation, or nations, broker a similar agreement leaving the United States alone.

Former Indiana Governor and Ambassador to Singapore, Bob Orr, said, "If NAFTA is defeated, the United States will be deemed an unreliable and untrustworthy trading partner." The Asian community will certainly not want to include the United States in discussions of Pacific rim trade. Furthermore, many believe the defeat of NAFTA could have dire implications on the current discussions of the General Agreement of Tariffs and Trade [GATT].

If the United States cannot capitalize on its proximity to Mexico to reduce barriers to the export of our products to the Mexican market, how can we hope to succeed in reducing barriers to our products with other nations, most notably the Japanese. If NAFTA fails, the Mexican Government will not wait for us to rewrite another treaty. Japan, Korea, Germany, and others stand ready to negotiate trade agreements with Mexico if the United States backs out. The Korean Government is already giving its companies tax incentives and low-interest loans to locate plants in Mexico to gain access to that market. There is no economic vacuum. Some nation will enjoy a privileged trading status with Mexico and I would like to see that nation be the United States.

How ironic. Those who complain most vociferously about the barriers erected by other nations to United States products, especially Japanese barriers to American automobiles, rice, beef, and oranges, for example, now complain about efforts to eliminate barriers to United States products in our very own neighborhood. You cannot have it both ways. Either the elimination of barriers is good or the elimination of barriers is bad. I believe that the elimination of barriers to trade can only benefit the United States and her people.

President Salinas has taken bold steps to improve the standing of the people of his nation. President Salinas knows that where economic freedom blooms, there political freedom blooms—ask the peoples of the former Soviet Union. It is in our interests to have a free economy on our border to the South; one that welcomes free trade with us.

CONCLUSION

I will vote in favor of NAFTA. I have studied long and hard and I have given thoughtful consideration to all arguments. My decision to support NAFTA is in the best interest of our Nation, of my State of Indiana, and of the Fifth District. It means jobs and economic opportunity for Americans. And it enhances the role of the United States as an economic and political superpower.

Americans are used to meeting challenges. We carved a nation from the wilderness. We settled the vast expense of the American West. We defeated the totalitarian dictators of the 20th century that threatened global security in World War II and in the cold war.

Soon we will enter the 21st century. I have no doubt that Americans can meet the opportunities that will come with NAFTA and secure the economic well-being of our children and our children's children.

Mr. MATSUI. Madam Chairman, I yield 2 minutes to the gentleman from Arizona [Mr. COPPERSMITH].

Mr. COPPERSMITH. Madam Chairman, with our hectic schedules it is easy to get lost in the daily whirl, to have no time for thought. Much of what we vote on in this body does not seem to matter after the day is done. But today's vote demands that we consider both history and the future.

History shows that reducing trade barriers time and time again has benefited the economies on both sides of where there used to be a wall. As for the future, we vote today not just on NAFTA, but also on the role the United States can and will play in the world economy.

If not this NAFTA, then what NAFTA? Who in the world, when we go to negotiate a trade agreement, would listen to us? Canada's Government indicates it will pursue free trade with Mexico with or without the United States. Europe and Japan are eager to establish economic footholds in the rapidly growing markets of Latin America. If we reject this NAFTA, why should Mexico and Canada give us another NAFTA? What on Earth could that new NAFTA say that is not in this NAFTA?

Both sides in this debate have used some overheated rhetoric. Given the size and the ordinary churn of the U.S. economy, NAFTA represents a relatively small step. But today we decide whether we will take that step forward or backward.

People will remember this vote as a vote that determines our Nation's direction. Let us vote for opening new markets, let us vote for expanding trade and opportunity, and let us vote for creating new jobs.

Let us cast a vote that serves the best interests of all Americans, not just for today, but for the future as well.

Ms. KAPTUR. Madam Chairman, I reserve the balance of my time.

Mr. KOLBE. Madam Chairman, I yield 1½ minutes to the distinguished ranking member of the Committee on Energy and Commerce, the gentleman from Glendale, CA, Mr. MOORHEAD.

Mr. MOORHEAD. I thank the gentleman for yielding this time to me.

Madam Chairman, I rise today to support the North American Free-Trade Agreement and to provide some background as to how I came to that decision.

There has been no shortage of advice on how to vote on NAFTA, both from the proponents and the opponents. However, as I listened carefully to the pros and cons, I kept returning to one, inescapable conclusion—voting in favor of NAFTA is the right thing to do. I firmly believe that NAFTA is a good agreement for my constituents, for California, and for the United States.

First, and most important, the reason to all of us, is jobs.

The second reason is that the agreement will preserve U.S. sovereignty over its domestic policy. Unlike some of the assertions made by opponents of NAFTA, nothing in NAFTA, or the side agreements, can force the United States to change laws or take action we do not wish to make.

Third, critics of NAFTA assert that approving the agreement will be bad for my home State of California. California is one of the States that will benefit most from NAFTA. Mexico is California's fastest growing market, accounting for over 10 percent of California's exports of manufactured goods. This is in spite of tariffs of 20 percent or more on the kinds of high-technology products manufactured in California.

NAFTA contains other significant advantages for California industries, like improved intellectual property protection for motion pictures and computer software. Because of such provisions, the agreement will help produce high-wage, high-skills jobs in southern California which will go a long way toward compensating for the recent cutbacks in defense spending.

Fourth, without NAFTA we have no leverage with the Mexican Government to try to stop illegal immigration, and absent real growth in Mexico, there is no incentive for the Mexican people to stay in their own country.

My decision to vote in favor of NAFTA was not an easy one, but it was the right one.

Mr. KOLBE. Madam Chairman, I yield 1 minute to my distinguished colleague on the Committee on the Budget and the Committee on the Judiciary, the gentleman from San Antonio, TX, Mr. LAMAR SMITH.

Mr. SMITH of Texas. I thank the gentleman for yielding this time to me.

Madam Chairman, over 700 constituents have written me about NAFTA during the last few days. They favor NAFTA by a 6-to-1 ratio.

Like them, I feel an increase in exports will mean an increase in jobs for hard-working Americans. And like them, I feel NAFTA will spur an economy recently burdened by new taxes and too many defense cuts.

However, those of us who support NAFTA should be careful not to oversell it. The trade agreement will be phased in over 15 years and it is unlikely to have an immediate economic impact.

Opponents also should be careful not to over-criticize it. The trade agreement contains an escape clause and the United States can always withdraw from the trade agreement if it proves harmful to American interests. That should reassure those who harbor doubts.

If NAFTA does pass, credit should go to Republican leaders like BOB MICHEL, NEWT GINGRICH, and DICK ARMEY, who have made it possible. A majority of Republicans will likely support it, while a majority of Democrats probably will not.

NAFTA is not a panacea for our economy's doldrums but it will help Americans compete in a world market; it will give America an opportunity to export more goods and services; and it will allow us to look forward to a more promising economic future.

Mr. MATSUI. Madam Chairman, I yield 2 minutes to the gentleman from the State of Washington [Mr. INSLEE].

Mr. INSLEE. Madam Chairman, you find rapidly when you take this job that there are hard decisions, but I am at peace in voting for NAFTA because I believe a pro vote for NAFTA is part of the American tradition, for three reasons. There are three things we can say we believe in in America.

First, we believe in action, action this day. It is a temptation to many of us to hide, if you will, in inaction. It was a temptation back in the early days of the cold war when voices were heard that said, "Not this NATO," but we did not hesitate. We took action.

When voices said, "Not this Louisiana Purchase, let's get a better deal," but we took action.

Sometimes when you are climbing a mountain and you are are in trouble, you have got to move. This country needs to move.

Second, Americans believe in progress, and Mexico is making progress. Mexico is not America, but the new Mexico is neither the old Mexico. More inspectors for safety, $2.5 billion for environmental cleanup. Mexico is making progress.

In 1957 when we established the Civil Rights Commission in this country, we did not say, "Not this Civil Rights bill." We said that was progress. We have to make progress.

Third, Americans believe in fairness, simple fairness for the American worker. You know, if our tariffs were all zero today and equal, would we vote to give Mexico tariffs twice as high as ours? No, and we should vote to make theirs zero like they belong.

We have got to vote today, and when they chisel my name in the history books, it will be a vote for action. It will be a vote for progress. It will be a vote for fairness. It will be a vote for NAFTA.

Mr. KOLBE. Madam Chairman, I yield 1½ minutes to the distinguished gentleman from Erie, PA, Mr. RIDGE, a member of the Committee on Banking, Finance and Urban Affairs and a member of the Committee on Veterans' Affairs.

Mr. RIDGE. Madam Chairman, I thank my friend and colleague for yielding this time to me.

NAFTA. Never in recent memory has an issue stirred so deep and so divergent a set of emotions across Pennsylvania. But make no mistake about it, NAFTA represents more than simply a trade agreement. It is a contest over two sharply contrasting visions of a changing world and how America and Pennsylvania are to find their place in it. It is about our future, as a country and as a Commonwealth.

For many Pennsylvanians battered by years of hard economic times, particularly those in my home of western Pennsylvania, NAFTA is not only the focal point for present day frustrations and future uncertainties but a release valve for the emotional and economic pain accumulated over more than two decades.

For these Pennsylvanians, NAFTA pours salt on wounds that have yet to heal from years of plant closings and job losses. You cannot have roots in the Steel Valley and have gone through life in western Pennsylvania, as I have, and not be touched by the pain of these events. My heart knows well that it is these experiences that spark the deep-seeded anxieties and fears about NAFTA.

But if there is ample emotional ammunition taking aim at NAFTA, the intellectual arguments against the pact run thin. My mind tells me that the policies of open markets and eliminating trade barriers are not what caused the economic shifts that occurred throughout Pennsylvania.

Rather, those shifts were the product of radical technological, social, economic, and cultural changes that transformed not only the United States but the entire world. Defeating NAFTA will not bring back what once was. Nor will it arrest the irreversible and accelerating changes of today and tomorrow.

Likewise, it is not at all clear how the defeat of NAFTA will provide Pennsylvania workers with any greater guarantee of future economic security. Indeed, just the opposite seems true. NAFTA's defeat, and the larger retreat of the United States from the global stage that it signals, is likely to leave us less secure.

America's preeminence in the 21st century will depend on its economic leadership as much as its military capability. Promoting greater freedom and fewer restrictions in the global marketplace are clearly in our best national interest. The risks are calculated and manageable. The rewards are significant and long-lasting.

Important to recognize too is that our economic well-being is becoming increasingly intertwined with the rest of the world. Since the mid-1980's alone, exports have been responsible for over 40 percent of all economic growth and 25 percent of all job growth. Pennsylvanians take note. Virtually all of the job growth in manufacturing has been related to exports.

That the link between exports abroad and economic growth and job creation at home will only grow stronger over time, not weaker, is undisputed. Given this reality, it is a fool's errand to think that we can erect protective trade walls around our Nation—the logical consequence of NAFTA's defeat—and somehow still maintain, much less improve, our standard of living. That task can only be achieved by finding new markets and new customers.

The future economic security and prosperity of our great Commonwealth then lies firmly in the camp of free and fair trade. Pennsylvanians have always been a people who have believed strongly in themselves and their own natural abilities. There is no doubt in my mind that we can compete with anyone in the world. And we must not be afraid to do so.

But my belief that America and Pennsylvania will come out on top with the passage of NAFTA is driven by more than my faith in our people. It is driven by experience and fact as well.

Since Mexico began to liberalize its economy in 1986, Pennsylvania exports have grown by over 300 percent and created nearly 11,000 new export-related jobs in the state. Roughly 14,000 jobs statewide are now supported by trade with Mexico.

Mexican-bound Pennsylvania exports have not only meant more jobs for our workers, but better jobs as well. Wages in those manufacturing industries that are among the State's leading exporters to Mexico—primary metals, industrial machinery and computers, and chemicals—are among some of the highest paying jobs in the State.

These gains have come in spite of Mexican tariff barriers that remain, on average, 2½ times higher than our own and nontariff barriers that require our companies to locate in Mexico in order to sell there. All of this will be eliminated under NAFTA. That, in a nutshell, is really what NAFTA is all about: tearing down barriers to the Mexican—not the United States—economy.

That such a step should lead to greater growth and opportunity for those on both sides of the border should, in this day and age, be axiomatic. For if we have learned anything in the nearly 60 years since the disaster of Smoot-Hawley, it is that all nations are winners when barriers to commerce are lowered.

That free trade will create both winners and losers here at home is not to be denied. Yet even the most conservative estimates reflect a net gain of 175,000 new jobs from NAFTA.

This Congress has done nothing to put people back to work. We have increased taxes, imposed new mandates, and created even more regulations. No new jobs as a result of this legislative effort—probably even fewer because of it.

We have extended unemployment benefits—the right thing to do, but no one went back to work.

There is only one way to preserve and to create jobs. Whether selling lemonade or locomotives, America and Pennsylvania must constantly seek new, friendly markets and new customers. Canada and Mexico offer these in abundance.

Sadly, Pennsylvania has been losing jobs for reasons totally unrelated to trade and NAFTA. Surely, in a global economy with worldwide competition, companies will continue to migrate and jobs will be created and lost with or without NAFTA. It is the inevitable consequence of global markets. It is all the more reason to search for new and friendly markets for American products. Export means jobs, good jobs.

NAFTA. For Pennsylvanians, it is a choice of whether our future lies in looking forward and outward, or backward and inward. It is an issue of whether we will embrace the challenge of change and make it work to our advantage, or whether we will continue to drain our energies to fight yesterday's wars.

I believe in the ability of America and Pennsylvania to compete and to win. I cast my vote for the future and the opportunities offered by global change. I cast my vote for NAFTA.

Mr. KOLBE. Madam Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Madam Chairman, I rise in strong support of NAFTA.

Madam Chairman, of all the arguments that have been made both in favor and in opposition to the North American Free-Trade Agreement, there is one aspect that has largely gone unmentioned. Concern has been expressed for the laborer, for the businessman, for the bureaucrat, and the environmentalist. But underlying the differences of opinion that may exist among these different groups of people is a characteristic that brings them all together, a characteristic that will result in everyone benefiting through NAFTA.

This characteristic is that all of these people are consumers, and all consumers seek safe, high quality products at competitive, affordable prices. A simple but neglected rule of economics is that free trade helps a country by providing its citizens with the variety of products that allows them to receive the best value for their purchases. The key is competition, which induces low prices but also provides consumer choice.

As Doreen Brown, president of Consumers for World Trade, stated:

> All workers are consumers; not all consumers are workers. Tariffs serve as hidden, regressive taxes; they hurt low- and fixed-income consumers since tariffs are applied most heavily to the necessities of life, such as agricultural products and textiles. The passage of NAFTA represents a victory for all Americans.

By eliminating $500 million in import taxes, NAFTA will increase imports, stimulating the national economy and inducing competition, which will provide consumer with more choices in the marketplace at affordable prices. Former U.S. Trade Representative Carla Hills pointed out NAFTA is the first international trade agreement to eliminate quotas on textiles and apparel. Additionally, U.S. consumers will particularly benefit from lower costs and longer seasonal availabilities of certain agricultural products such as fruits and vegetables, including tomatoes, cantaloupes, and cucumbers.

The U.S. economy is the most open in the world. Until recently, Mexico's was one of the most protected. Because NAFTA gives producers increased opportunities to sell to Mexico, they will be able to expand production and reduce per unit costs and, as a result, reduce prices charged to all American consumers. One recent study showed that easing trade barriers with Mexico could reduce prices by 6 percent or more.

According to Tom Duesterberg, director of the Competitiveness Center at the Hudson Institute: "Some of the affected goods [will be] household glassware, with current tariffs as high as 38 percent—brooms, 32 percent; rubber shoes, 65 percent; cantaloupes, 35 percent; canned tuna, 35 percent; and orange juice, 26 percent." Consumers should also benefit from lower transportation costs on imports from Mexico.

Americans already only spend about 8 percent of total personal income on food consumed at home, compared to 11 percent for Canadians and 19 percent for Germans and Japanese. We also have a much higher standard of living because our markets are more open. NAFTA will open our markets even further.

NAFTA could add as much as $30 billion to the U.S. economy over the next 10 years—$315 for the typical household. It is American families that are going to be the prime beneficiaries of this agreement, as they will be spending less of their income on their children's clothing, on peanuts, and on a host of other household items.

I believe in supporting the American family, and it is for this reason that I support NAFTA. I urge my colleagues to think of their constituents, remember that they are all consumers and that consumers are the prime beneficiaries of open borders, and vote for NAFTA.

Mr. HUNTER. Madam Chairman, I yield 4 minutes to the distinguished gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR of Mississippi. Madam Chairman, I want to thank the Representative of the minority for yielding this time to me.

Madam Chairman, the proponents of this treaty would like the citizens of our country to believe that a pro-NAFTA vote is of historical significance. I disagree. For at least the past 40 years this Congress has voted on a regular basis go give sweetheart tax breaks to foreign corporations. There is nothing new about that.

For at least 40 years they voted to increase taxes on the American people. There is nothing new about that.

For at least 40 years they have voted to increase the deficit. There is nothing new about that.

On the other hand, if this Congress chooses to cast an historic vote, they will be given that opportunity by voting against NAFTA.

You see, it would be historical if just once this Congress said, "No. We have given you enough."

If this body is ever going to learn to say no to the special interest groups in this country who demand more spending, then should we not begin by saying no to tax giveaways and increased spending in Mexico?

A little over 100 days ago the majority in this body decided that the deficit was so horrible that they had to raise taxes on American citizens and American corporations.

A little over 100 days ago the minority in this body said that the increased domestic spending was so horrible that they would not raise taxes on Americans.

Now 100 days later this body will vote tonight on a treaty that according to our Congressional Budget Office report of November 4, 1993, says that we will raise taxes on Americans, raise domestic and Mexican spending, our money in their country, and raise the American deficit.

In November, just 1 year ago, the citizens of this country sent a message to Congress. They said they were sick of business as usual. They told Congress to cut spending. They told Congress to cut the deficit and they told Congress, if you can, cut taxes.

Tonight this body will vote on a message that raises spending both here and in Mexico on sweetheart projects, and by the admission of our head of the Environmental Agency, Ms. Carol Browner, we will spend billions of dollars to clean up waste water in Mexico, not in America, but in Mexico, and it will increase the American deficit.

This country already has the world's most open markets. Those people who say we do not are deceiving the American public. If you do not believe me, go out and try to buy an American television. You cannot. In 1968 the people of this country bought about 2 million color televisions. Every one of them was made in this country. Last year the people of America bought over 21 million color televisions, not one was made here.

You cannot buy an American-made VCR. You cannot buy an American-made camera or wristwatch. One-third of the automobiles on our roads come from other countries.

During the Reagan and Bush administrations we had over $1 trillion trade deficit. How much more open do we need our markets?

If free trade has been so great, why are we always the loser?

The defeat of NAFTA does not close our markets. The defeat of NAFTA does not turn our backs on the world. The defeat of NAFTA says that just once we are listening to the American public. We will not raise your taxes. We will not increase your spending and we will not add to the deficit.

Mr. HOAGLAND. Madam Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. PAYNE].

Mr. PAYNE of Virginia. Madam Chairman, each of us here today is truly concerned about how we, as legislators, can help maintain and create good jobs for those we represent.

As a member of the Ways and Means Trade Subcommittee, I have spent a good bit of time studying NAFTA. I have spent a good bit of time in hearings listening to experts, both opponents and supporters.

And I have spent a good bit of time listening to the people back home. I have heard—and I understand—the concerns of those who fear losing their jobs.

Madam Chairman, I have come to support the North American Free-Trade Agreement because I believe it will maintain and create jobs—good jobs—in my congressional district and across the country.

Some of my constituents have raised concerns about NAFTA's effect on the textile and apparel industries.

Included in NAFTA is a provision I offered which strengthens the rules of origin for textiles and apparels.

This amendment helps our United States textile and apparel workers by guaranteeing that under NAFTA, duty-free treatment will apply only to those products that are spun, woven, and sewn in North America—not China, not Pakistan, not India.

This means that the United States will be more competitive in the world textile and apparel markets and more jobs for American workers.

I believe that today's vote is historic.

It is historic because by passing NAFTA, we are saying that we are confident that America—and American workers—can compete and win in the global economy.

It is historic because passing NAFTA says to the Asian leaders the President will meet with tomorrow in Seattle, and to the GATT negotiators still meeting in Geneva: We mean what we say—we want markets more fully open all around the world.

We know that our economic future—and our prosperity—is directly linked to our ability to open new markets for our products.

I urge my colleagues to vote for NAFTA. Say yes to economic growth. Say yes to creating new jobs for Americans. And say yes to a confident and prosperous future for our Nation.

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Ms. KAPTUR. Madam Chairman, may I inquire as to the time remaining?

The CHAIRMAN. The gentlewoman from Ohio [Ms. KAPTUR] has 1 hour and 12½ minutes remaining, the gentleman from Nebraska [Mr. HOAGLAND] has 1 hour and 11½ minutes remaining, the gentleman from Arizona [Mr. KOLBE] has 1 hour and 16½ minutes remaining, and the gentleman from California [Mr. HUNTER] has 1 hour and 14 minutes remaining.

Ms. KAPTUR. Madam Chairman, I yield 2 minutes to the distinguished gentleman from Michigan [Mr. DINGELL], the chairman of the Committee on Energy and Commerce.

Mr. DINGELL. Madam Chairman, we are presented today with two bad choices. The concept of the North American Free-Trade Agreement is sound and deserving of support. But we are not voting on a concept. The particular agreement we are voting on today is deeply, and in my view, fatally flawed.

A properly negotiated NAFTA could give us the tools to help solve the problems of illegal immigration, worker exploitation, and environmental degradation. A well-crafted agreement could promote real democratic reforms in Mexico, create jobs in and enrich all three signatory countries, and enhance our economic position within the hemisphere.

This agreement, even with its side agreements on labor rights and the environment, fails to accomplish these worthy goals. It is clear that Mexico lacks any real counterpart to most of our environmental laws, or the will to enforce its existing laws. For example, Mexico has no equivalent to our Superfund or RCRA statutes to address the cleanup of hazardous wastes. Mexico does not have a program to remedy the environmental problems from leaking underground storage tanks. Mexico does not have community right-to-know reporting requirements similar to those imposed on United States industry.

As to labor issues, the mechanism for addressing complaints about child labor practices, health and safety problems, and the like, is cumbersome and too complicated to be effective. The Mexican Government refused in the negotiations over labor rights to address the fundamental question of Mexican workers' rights and ability to form independent unions and bargain collectively.

Madam Chairman, I particularly have concerns about the auto provisions of the NAFTA.

When we considered the Canadian Free-Trade Agreement [CFTA] in 1988, the Committee on Energy and Commerce was critical of the domestic content provisions of that agreement. We believed that a 50-percent content level was too low and urged that the level be raised to 60 percent soon after approval of the CFTA. The Bush administration committed to achieve that goal. However, Canada resisted and the Bush administration was less than enthusiastic about pushing Canada to accept this higher level.

NAFTA does achieve a higher standard of 62.5 percent of North American content. But that level will not be reached until after the turn of the century. As a result, the standard our committee urged for the 1990's in Canada will not be achieved until after 2000. In my judgment, this is a wonderful gift to the Canadians and to the Mexicans.

Much has also been said about the changes in the Mexican auto decree which has hindered sales in Mexico of automobiles produced in the United States. NAFTA addresses the decree, but like the content issue, takes 10 years to rectify. Because of that long delay U.S. workers today will not realize the benefits of NAFTA for years to come.

NAFTA supports argue that the agreement's defeat will not prevent American companies from relocating plants and shipping jobs to Mexico. That may be true—but that is not a valid argument in favor of this agreement. With or without NAFTA, companies will be tempted by Mexico's low-wage economy and its lax or nonexistent environmental standards. But this NAFTA amounts to the United States subsidizing Mexican industrial development.

The basic flaws in NAFTA are not of this administration's making. The side agreements represented a valiant, sincere, but ultimately unsuccessful attempt to rectify the problems inherent in the main agreement. I will cast my vote against this agreement, and urge my colleagues to do the same.

Madam Chairman, I would like to submit for the RECORD letters from the U.S. Trade Representative and the Environmental Protection Agency that were submitted in response to inquiries from the Committee on Energy and Commerce, as well as additional material relevant to our consideration of this matter.

THE U.S. TRADE REPRESENTATIVE,
EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, DC, November 17, 1993.

Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter of October 13, 1993, transmitting follow-up questions regarding the North American Free Trade Agreement. I appreciated the opportunity to testify before your Committee on this critical component of the President's agenda, and welcome this opportunity to provide further information.

The Office of the U.S. Trade Representative and the Environmental Protection Agency (EPA) have worked together to answer the Committee's questions. The questions not answered in the enclosed have already been submitted separately to the Committee by EPA.

I apologize that the demands of finalizing the implementing legislation and other elements of the NAFTA package for transmittal to Congress prevented me from responding sooner. Please do not hesitate to contact me if I may be of further assistance.

Sincerely,

MICHAEL KANTOR.

ANSWERS TO QUESTIONS FOR THE ENVIRONMENTAL PROTECTION AGENCY AND THE U.S. TRADE REPRESENTATIVE CONCERNING NAFTA ENVIRONMENTAL MATTERS

(Submitted by the House Committee on Energy and Commerce)

Question 1: At the briefing, I pointed out that the environmental supplemental agreement states in Article 1(d) that it supports "the environmental goals and objectives of the NAFTA." I pointed out that the "objectives" of NAFTA are set forth in Article 102 and they do not mention the environment. In the case of Chapter 7, the scope is agriculture and sanitary and phytosanitary measures. The latter term, as noted by the USTR in its September 29 letter, covers only certain environmental measures. The USTR said that: "Environmental standards such as the Clean Air Act standards are not sanitary and phytosanitary measures as that term is defined in the NAFTA." As far as I can tell, the words "environment" or "environmental", do not appear in NAFTA, except in Article 104 in regards to other agreements with trade obligations. Thus, I reiterate that it appears that the above quote in Article 1(d) of the supplemental agreement is merely hortatory and that the side agreement, while helpful, is independent of the NAFTA.

In short, NAFTA fails to recognize the need to protect, conserve and promote the environment in its implementation. The side agreement does not change that fact. If you disagree, please explain the basis for that disagreement. What is Mexico's and Canada's objection to, at a minimum, revising Article 102 of NAFTA to correct this perceived omission?

Answer: We disagree. NAFTA does recognize the importance of environmental protection. Several provisions in NAFTA were negotiated with environmental concerns in mind (and in response to concerns of U.S. environmental groups), and are designed to ensure that NAFTA implementation is sensitive to those concerns. First, the NAFTA parties have agreed that economic development should take place in an environmentally sound manner. The NAFTA Preamble itself states that one of its primary purposes is to:

"Contribute to the harmonious development and expansion of world trade * * * in a manner consistent with environmental protection and conservation; * * * promote sustainable development; * * * [and] strengthen the development and enforcement of environmental laws and regulations."

In addition, section B of Chapter Seven explicitly affirms the rights of governments to take sanitary and phytosanitary measures to protect human, animal and plant life and health. (Article 712(1)). Furthermore, Chapter Nine explicitly recognizes environmental protection as a legitimate objective of governments and affirms the right to take standards-related measures "relating to safety, the protection of human, animal or plant life or health, the environment or consumers." (Articles 904(1) and 915).

Perhaps NAFTA's most important environmental provisions are found in the Investment Chapter, in Article 1114, and which also include the term "environmental". Article 1114 provides that each party may impose stringent environmental requirements to ensure that investment activity in its territory is undertaken in an environmentally sensitive manner, so long as the requirements do not discriminate between domestic and foreign investors. This includes, for example, the requirement in many states for environmental impact assessments of new private construction as well as government projects. (Article 1114(1).) Further, in Article 1114(2), the parties renounce the relaxation of health, safety or environmental measures for the purpose of attracting or encouraging investment. The text sets forth a procedure for compulsory consultations between parties in case such a relaxation occurs, with the purpose of ending the practice. The term "environmental measure" as used in Article 1114 encompasses any environmental "law, regulation, procedure, requirement or practice" and is accordingly broad enough to include most if not all of the environmental standards of the three NAFTA parties.

Even with these provisions, President Clinton believed that NAFTA's environmental benefits could be buttressed, and he accordingly sought a supplemental agreement on the environment. The supplemental agreement, a separate but related agreement, gives the Commission on Environmental Cooperation the responsibility for cooperating with the NAFTA commission on environmental matters and for an ongoing consideration of the environmental effects of the NAFTA. (Article 10(6).)

Finally, the fact that the three NAFTA signatories have entered into a supplemental agreement in which they agree to support "the environmental goals and objectives of the NAFTA" is clear evidence of their understanding that NAFTA contains such environmental goals and objectives. For these and other reasons, there is no need to revise Article 102.

Question 2: Do any of the provisions of either side agreement require implementing legislation? Please explain. Are the side agreements trade agreements under U.S. trade law and are they to be referenced or incorporated in the implementing legislation of each Party? (I assume that the U.S. would not unilaterally include them in such legislation.) In this regard, are they agreements under the Fast Track law? Are the side agreements considered agreements under Article 103 or 104?

Answer: The supplemental agreements are not trade agreements for purposes of fast track procedures. The implementing legislation submitted by President Clinton on November 4 is limited to provisions authorizing the President's participation in and expenditures for the labor and environmental supplemental agreements. Legislation necessary to implement the United States-Mexico Agreement on Border Cooperation is also included.

The implementing legislation also provides that the President may not bring NAFTA into force until Canada and Mexico have taken the necessary steps to bring the labor and environmental supplemental agreements into force.

The supplemental agreements are not among the agreements referred to in Article 103. Article 103 applies to preexisting agreements to which all three NAFTA governments are parties, including bilateral, trilateral, and multilateral agreements. Because the supplemental agreements were negotiated after the NAFTA was concluded and will come into force immediately following the NAFTA (see Env. Article 47; Lab. Article 51), they are not subject to Article 103.

Although the North American Agreement on Environmental Cooperation is an environmental agreement for purposes of Article 104, it does not need to be listed in Annex 104.1 both sides it is a later in time agreement and because the three governments specifically provided in the Environmental Agreement for the suspension of NAFTA benefits.

Question 3: At the briefing, I believe the USTR gave support to the view that if a Party gives notice under Article 50 of withdrawal from the side agreement, the U.S. should exercise its withdrawal under Article 2205 of NAFTA. Mr. Kantor indicated that the implementation legislation might be drafted to make this clear. I would like to understand how and to what extent you propose to provide such a directive to the Executive Branch in such legislation. Also, if a Party, such as Canada, gave such notice, would the U.S. terminate NAFTA only in the case of Canada and reinstate the Canadian Free Trade Agreement or would the termination apply to both Mexico and Canada? What are the possible implications of such termination for U.S. businesses under the NAFTA?

Answer: Section 101(b)(2) of the implementing bill provides that the NAFTA will not enter into force for the United States with respect to either Canada or Mexico unless that country has provided for the entry into force of the supplemental agreements on the environment and labor.

Furthermore, in the Statement of Administrative Action submitted to the Congress, the Administration specifically committed that if Canada or Mexico withdraws from a supplemental agreement on a non-consensual basis the United States will cease to apply the NAFTA to that country. That would not be the case if the withdrawal is consensual. The Administration will consult with Congress in this regard.

Question 5: Have you made a similar analysis of Canada's laws and standards? If so, please provide the results. In the case of Canada, Annex 41 of the side agreement provides that on date of signature or on exchange of notifications under Article 47, "Canada shall set out in a declaration a list of any provinces for which Canada is to be bound with respect to matters within their jurisdiction." It also states that Canada can modify that declaration. Has Canada provided that declaration as yet? Does this mean that Canada could decide not to list any provinces or some, but not all? If so, what is the benefit of the side agreement if one or more of the provinces, such as the western provinces, are not bound, particularly since much of Canada's environmental law is dependent on the provinces concurring.

Answer: Canada has not yet provided its list of provinces pursuant to Annex 41 of the environmental supplemental agreement, and we would not expect them to do so before the exchange of notifications.

The supplemental agreement binds Canada for all matters subject to its federal control, including the enforcement of national environmental laws throughout the provinces. Canada's constitutional system limits its ability to accept the agreement's obligations on behalf of a province for matters under provincial control. To redress this imbalance among the Parties and to encourage provincial participation, the agreement commits Canada to use its best efforts to bring the provinces into this agreement, and limits its ability to take advantage of dispute settlement procedures according to the extent of provincial participation. For example, Canada may not request consultations or the establishment of a dispute settlement panel at the request of or primarily for the benefit of a non-participating province. In addition, Canada may not seek consultations or dispute settlement for the nonenforcement of a U.S. or Mexican environmental law that would, in Canada, be within provincial jurisdiction until provinces representing at least

55 percent of Canada's gross domestic product are participating in the agreement.

While Canada's constitution reserves a significant proportion of environmental regulatory authority to the provinces, many environmental laws are administered by the federal government and would be fully covered by the agreement, including their implementation and enforcement in provinces that were not listed pursuant to Annex 41. Moreover, much of the benefit of the supplemental agreement is its creation of the Commission for Environmental Cooperation and that Commission's potential to improve environmental cooperation throughout North America. Canada will be a full participant on that Commission. Finally, the Administration fully expects Canada's provinces to be brought on board, and will be following closely their progress in this regard.

Question 9: The United States and Mexico currently have a bilateral agreement regarding waste shipments. Is there a reason why this agreement is not in Annex 104.1 where the related agreement with Canada is listed? Also, how would NAFTA affect the current ban on shipments of hazardous waste to Mexico for the purpose of disposal?

Answer: The U.S.-Canada and U.S.-Mexico bilateral agreements concerning shipments of hazardous wastes are listed in NAFTA Annex 104.1. The U.S.-Mexico rules are contained in Annex III of the Agreement on Cooperation in the Border Area. According to Article 104, in the event of an inconsistency between the specific trade obligations of those agreements and the NAFTA, the environmental agreements prevail.

The NAFTA does not affect Mexico's current ban on shipments into Mexico of hazardous wastes for disposal. Because Mexican disposal facilities are currently inadequate, such imports could present a significant health hazard. In fact, the United States would be concerned about the transboundary effects and natural resource implications of a lifting of such a ban now. Over time, however, we expect U.S. and Canadian waste management companies to take advantage of liberalized trading regimes to help Mexican authorities create the waste treatment infrastructure that Mexico needs.

Question 10: What factors would be used under a NAFTA dispute settlement proceeding to distinguish a legitimate environmental measure from an illegitimate trade barrier, and how does this differ substantively or procedurally from the current analysis under the GATT?

Answer: Environmental measures can take many forms. Accordingly, it is not possible to provide a detailed description of all the considerations that could be raised in a NAFTA dispute settlement proceeding concerning such measures. However, any measure subject to NAFTA dispute settlement, including environmental measures, will be evaluated under the rules of environmental measures, will be evaluated under the rules of the NAFTA. These rules include the general national treatment obligation in Article 301, the general prohibition against import and export restrictions in Article 309, and the requirements for measures related to investment and services. These rules also provide for a number of exceptions, including the GATT Article XX exceptions incorporated into Article 2101.

Environmental measures that are sanitary or phytosanitary measures within the scope of Section B of Chapter Seven that are challenged by a NAFTA party will also be evaluated according to the criteria set forth in Section B of Chapter Seven. These criteria include, for example, whether such measures are based on scientific principles and whether they are based on a risk assessment as appropriate to the circumstances. (for more detail, see our answers to Questions 30 and 33 that you previously submitted.)

Environmental measures that are standards-related measures within the scope of Chapter Nine will be judged according to the criteria set forth in Chapter Nine. These include, for example, whether the measures provide national treatment or whether they provide treatment no less favorable than that provided to goods or services of another country.

Many of the NAFTA disciplines are taken from the GATT. For example, Article 301 and Article 309 specifically incorporate GATT obligations. The Agreement on Technical Barriers to Trade ("Standards Code") provides many of the same rules as are in Chapter Nine of the NAFTA. The GATT does not currently contain an agreement on sanitary and phytosanitary measures. The current Uruguay Round of GATT negotiations contains proposed texts on both sanitary and phytosanitary measures and standards-related measures. The NAFTA provisions on sanitary and phytosanitary measures and standards-related measures were drawn from the proposed texts in the Uruguay Round, modified to meet the needs of the three NAFTA countries.

Question 12: A number of bills are pending before this Committee (H.R. 963, H.R. 1076, H.R. 2848) would provide states or local communities with the authority to restrict shipments of municipal solid waste generated outside the state, which would include waste from Canada or Mexico, from entering landfills within the state. Does such a provision contravene the Canadian Free Trade Agreement or NAFTA, or is it subject to challenge under either treaty?

Answer: It is not feasible to speculate about such provisions in general. Any such measure by a state or local government would need to be examined on a case-by-case basis.

Question 13: For the purposes of standards-related measures in Chapter 9, would the definition of "standard" or "technical regulation" encompass regulations containing standards and criteria for environmental marketing claims of provisions specifying plastic recycling codes? What obligation would be imposed by Article 905 on a federal agency such as the Federal Trade Commission or the Environmental Protection Agency to use or adopt relevant international standards?

Answer: The definition of "standard" or "technical regulation" in Article 915 and as used in Chapter 9 could encompass regulations containing standards and criteria for environmental marketing claims or provisions specifying plastic recycling codes.

In the NAFTA, a "standard" means:

(a) characteristics for a good or a service,

(b) characteristics, rules or guidelines for:

(i) processes or production methods relating to such good, or

(ii) operating methods relating to such service, and

(c) provisions specifying terminology, symbols, packaging, marking or labelling for:

(i) a good or its related process or production method, or

(ii) a service or its related operating method,

for common and repeated use, including explanatory and other related provisions, set out in a document approved by a standardizing body, with which compliance is not mandatory.

Standards can be either government standards, or more commonly they can be private standards developed by private standardizing bodies.

The term "technical regulation" refers to mandatory (and therefore governmental) product standards. Under the NAFTA, a technical regulation means:

(a) characteristics or their related processes and production methods for a good,

(b) characteristics for a service or its related operating methods, or

(c) provisions specifying terminology, symbols, packaging, marking, or labelling for:

(i) a good or its related process or production method, or

(ii) a service or its related operating method,

set out in a document, including applicable administrative, explanatory and other related provisions, with which compliance is mandatory.

Article 905 of the NAFTA provides for the Parties to use relevant international standards, where such standards would be effective or appropriate to fulfill the NAFTA Party's legitimate objectives, as a basis for each NAFTA Party's own standards-related measures, in order to facilitate trade among the parties. At the same time, the NAFTA explicitly affirms the right of each NAFTA party to have standards-related measures that achieve a higher level of protection than the relevant international standard. U.S. federal agencies are therefore expected to use international standards where effective and appropriate, but NAFTA does not demand adoption of international standards where the agency considers that the international standard would be an ineffective or inappropriate means to fulfill the agency's objective.

This is similar to the current requirements for federal agencies under U.S. law. Section 402(2) of the Trade Agreements Act of 1979 generally requires federal agencies in developing standards to base the standards on international standards, if appropriate.

Question 17: The Side Agreement provides for a Commission for Environmental Cooperation governed by a Council. It directs the Council to cooperate with the NAFTA Free Trade Commission. Will there now be two independent Commissions and Secretariats and related Councils, etc.? Does the NAFTA Commission have any powers over the side agreement commission? What is the NAFTA Commission's role in environmental and related matters?

Answer: The NAFTA will have a Free Trade Commission and a Secretariat. The North American Agreement on Environmental Cooperation will have a Commission for Environmental Cooperation, which will comprise a Council, a Secretariat, and a Joint Public Advisory Committee.

The NAFTA Free Trade Commission, established under Article 2001, does not have authority over the Commission for Environmental Cooperation. We expect constructive cooperation between the Commissions since the respective U.S. Commissioners, the U.S. Trade Representative and the Environmental Protection Agency Administrator are members of the same Administration, and will coordinate their positions on issues that affect both Commissions. Moreover, for any given NAFTA matter each government may select the appropriate cabinet officer it wishes as its representative. Where an environmental matter comes before the NAFTA Commission, the U.S. may wish to have the relevant Cabinet officer take responsibility for the matter (e.g., the Secretary of Interior, the

Secretary of Commerce, or the Environmental Protection Agency Administrator).

The NAFTA Commission's role in environmental and related matters is the same as for other matters—it is responsible for supervising the implementation and further elaboration of the Agreement, resolving disputes that may arise regarding its interpretation or application, and supervise the work of the committees and working groups established under the Agreements. Where an environmental issue arises—e.g., consultations under Article 1114, questions of interpretation regarding the sanitary and phytosanitary measures provisions, or oversight of the work of a committee endeavoring to harmonize certain environmental standards, the Commission would be involved. The Council of the Commission on Environmental Cooperation will cooperate with the Free Trade Commission in environment-related matters, as is specified in Article 10(6) of the environmental agreement.

Question 18: (a) Article 14 appears to establish a process governing submissions by any non-governmental organization or person asserting that a Party is failing to effectively enforce its environmental law. Even if the Secretariat considers that the submission warrants developing a factual record, it cannot do so unless the Council, by a two-thirds vote, instructs it to do so. Is it true that without such an instruction, the process ends? If the Secretariat gets such an instruction and prepares the record, please explain why it cannot be made public except by a two-thirds vote. Assuming there is an affirmative vote to make the factual record public, what happens then? Must the affected Party take any action? Please explain.

(b) Under Article 14, a Party has 30 days to advise the Secretariat "whether the matter [under submission] is the subject of a pending judicial or administrative proceeding, in which case the Secretariat shall proceed no further. * * * For purposes of Article 14(3), "judicial or administrative proceeding" means "a domestic judicial, quasi-judicial or administrative action pursued by a Party in a timely fashion and in accordance with its law." Such actions are defined as "mediation; arbitration; the process of issuing a license, permit, or authorization; seeking an assurance of voluntary compliance or a compliance agreement; seeking sanctions or remedies in an administrative or judicial forum; and the process of issuing an administrative order." Does the reference to mediation and arbitration includes non-binding mediation or non-binding arbitration? What criteria will be used to define or interpret the phrase "in a timely fashion"?

Answer: (a) It is true that if the Council does not vote to instruct the Secretariat to prepare a factual record the Secretariat will not further investigate the submission.

Once a factual record has been prepared, the parties decide whether to establish a dispute settlement panel. This is true whether or not the record has been made public. It is also the case that the Council may vote to establish a dispute settlement panel regarding matters for which no Secretariat factual record was prepared.

Factual records serve multiple purposes, but their primary purpose is to inform governments, who are the ones who must decide whether to proceed with dispute settlement. Regardless, as Administrator Browner stated in her testimony November 10, 1993 before the House Merchant Marine and Fisheries Committee, the United States will support making available to the public all non-confidential elements of factual records prepared by the Secretariat.

We assume that when a factual record is made public, the "sunshine" of public attention is likely to encourage the Party whose enforcement practices are the subject of the report to take corrective actions, in which case further dispute settlement proceedings may not be required.

(b) Yes, in some instances the reference to medication and arbitration could include non-binding mediation or arbitration. "Mediation" often does not suggest a result that is binding.

The reason that the language "in a timely fashion" was included in the Agreement text is that the U.S. did not want long and unnecessarily drawn-out proceedings to prevent a matter from being looked into by the Secretariat. We did not think a government should be able for long periods of time to frustrate the Commission's work, for example, by withholding a final determination on a matter. While there is no specific time period specified, this language prevents unnecessary delay in proceedings from hampering the Commission's investigation of allegations of non-enforcement of environmental law.

Question 20: What other letters or agreements on wheat, agriculture generally, cross-border pollution, or other matters are being discussed with Canada or Mexico or both? What is their status? What is their effect on the NAFTA?

Answer: The NAFTA package that the President transmitted to Congress on November 3rd and 4th describes the complete set of agreements and related correspondence with Mexico and Canada related to the NAFTA. These include the supplemental agreements on labor, the environment, and import surges; agreements concluded with Mexico relating to citrus products and to sugar and sweeteners; the border funding agreement with Mexico; letters agreeing to further negotiations to accelerate duty reductions, and a list of more technical letters related to NAFTA that have previously been provided to the Congress and that are already on file with the Senate Finance Committee. None of the letters pertaining to specific products contain permanent exceptions to free trade; all pertain to the transition from the status quo to free trade. As you know, the NAFTA already provides some differentiation in the pace of removal of barriers for different products and industries, depending on the sensitivity of those industries.

U.S. ENVIRONMENTAL
PROTECTION AGENCY,
Washington, DC, November 15, 1993.

Hon. JOHN DINGELL,
Chairman, Committee on Energy and Commerce,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your follow-up questions to the Administrator's testimony at the September 29, 1993 NAFTA hearing, sent by letter October 13. EPA and USTR have reviewed the questions, and determined that some of the questions should most appropriately be answered by USTR, which will respond by separate letter. The attached EPA responses are in answer to questions 4, 6, 7, 8, 11, 14, 15, 16, 18(b), and 19.

Please let me know if we can be of further assistance to you. Thank you.

Sincerely yours,

ROBERT W. HICKMOTT,
Associate Administrator.

QUESTIONS AND ANSWERS

Question 4: At the briefing you said that EPA recently began a new analysis of Mexico's environmental law and standards to see if, for example, they are, in fact, comparable to [U.S. environmental statutes]. * * * Also, I understand that EPA has found the submissions by Mexico are not always complete. Some standards are considered comparable apparently on the basis of EPA assumptions that are not yet verified as accurate through discussions with officials from Mexico. Further, EPA staff have stated that Mexico's standards will not likely be adequately developed for full analysis for some time to come. Do you disagree with these comments?

Answer: EPA expects to have a preliminary draft of its report on Mexican environmental standards available to the Committee on October 29. We hope to have received by that time comments from Mexico through the Mexican Embassy in Washington.

We generally agree with Committee comments in question four, but make the following points:

The EPA report will not include an analysis of Mexican standards comparable to those U.S. standards developed under either the Safe Drinking Water Act or the Superfund Act. As we discussed in some detail with Committee staff, Mexico has no analogue to either of these two pieces of U.S. legislation. As noted below, Mexico does have a small, voluntary "Superfund"-type program but it is not comparable to the U.S. program in terms of size or impact.

Also, EPA's review of Mexican laws, regulations and standards has been limited to pollution and pollution prevention laws, regulations and standards and will not include a review of those Mexican laws that might be compared with the Endangered Species Act or the fish and wildlife laws.

As we discussed with Committee staff, we think exploring the notion of comparability of two standards in a large number of cases is less useful and revealing than looking to see whether the two countries, through the development of their regulatory regimes are attempting to achieve comparable levels of environmental protection. We have sufficient information on Mexican standards in the areas of air, water, waste and pesticides to make this judgment. That will be the focus of the October 29 draft.

Question 6. The following questions address the comparability of Mexico's hazardous waste laws with our Resource Conservation and Recovery Act (RCRA):

(a) Does Mexico require pretreatment of hazardous waste before disposal similar to U.S. land ban requirements adopted in the 1984 amendments?

Answer: Mexico's laws and regulations governing hazardous waste do not require treatment of hazardous waste prior to land disposal. However, Mexican officials authorizing any such disposal may require such treatment for specific hazardous wastes or on a case-by-case basis.

(b) Does Mexico have anything comparable to the RCRA "corrective action" program to insure cleanup of operating facilities which have a treatment, storage or disposal permit?

Answer: Mexican law establishes general requirements for response to a spill of hazardous waste. However, we could find no specific requirements for cleanup of permitted facilities comparable to the RCRA Section 3004(u) corrective action program.

(c) Does Mexico have comparable closure or financial responsibility requirements for hazardous waste treatment, storage and disposal facilities?

Answer: Mexican law contains general closure requirements for hazardous waste units, but no financial responsibility requirements.

(d) Does Mexico set comparable standards for tanks, incinerators or surface impoundments?

Answer: We could find no specific requirements for hazardous waste tanks, incinerators, or surface impoundments under Mexican law. However, we do not know the extent to which such units are actually used or authorized for use under Mexican law.

(e) Does Mexico have a program to remedy environmental problems from leaking underground storage tanks as the U.S. does in Subtitle I of RCRA?

Answer: We could find no specific remedial program for leaking underground storage tanks under Mexican law.

(f) Does Mexican law require hazardous waste treatment, storage, or disposal facilities to obtain permits specifying conditions to protect public health and the environment?

Answer: Mexican law does require that all hazardous waste generators and management facilities receive a specific authorization to operate from the government.

(g) Finally, does Mexico have comparable "Subtitle D" minimum federal criteria (location, design, groundwater monitoring, corrective action, closure and post-closure care) for municipal solid waste landfills, such as the U.S. rules which were promulgated on October 9, 1991?

Answer: As in the U.S., treatment and disposal of municipal waste has traditionally been governed by state and local law, rather than by Federal law. EPA has not yet undertaken an analysis of Mexican state environmental law. Like EPA, SEDESOL has only normative responsibility over municipal waste. SEDESOL has identified three types of "correct" landfills and provides ongoing technical assistance and guidance to municipalities.

Question 7: In a February 1992 report, the General Accounting Office stated that "Mexico has not yet been able to identify all hazardous waste generators and not all generators are providing manifests for their hazardous waste shipments." I understand that Mexico does not have similar requirements to manifest and track shipments of hazardous waste that based on currently available information, the authorities believe that only 30 percent of the hazardous waste generated is being accounted for. Is that accurate?

Answer: Since the creation of SEDESOL's Procuraduria Federal de Proteccion al Ambiente (PFPA) in June-July, 1992, Mexico has conducted nearly 15,000 inspections country-wide, including more than 2,144 inspections in the border area. A primary goal of this aggressive schedule of inspections has been to identify facilities which generate hazardous waste, and determine their compliance with hazardous waste recordkeeping and shipment tracking requirements. According to SEDESOL statistics issued for inspections through February of 1993, the PFPA estimated that 65 percent of the maquiladora facilities that generate hazardous waste had complied with recordkeeping requirements for documenting waste generation, and 40 percent had complied with the requirement to export the waste to the country of origin of the raw materials. This represents a significant increase in compliance rates from estimated compliance at the time the GAO report was published. Moreover, by launching its aggressive inspection program, which has resulted in total or partial temporary closure of more than 241 facilities in the border area since SEDESOL's creation, SEDESOL's enforcement program is establishing itself as a credible deterrent against violators. Accordingly, we suspect that the compliance rate with waste recordkeeping, tracking, and export requirements has improved even more in the last six months.

We are working with SEDESOL on a pilot database for confirming shipments of hazardous waste. We are currently beginning efforts to cross-check Mexican and U.S. waste shipment information in the database to verify data integrity. With proper funding of this effort, the database has potential to become a key tool for both the U.S. and Mexico to monitor compliance with waste shipping requirements, and to target violators.

Question 8: Does Mexico have a Superfund program or any program requiring cleanup of old sites or sites previously contaminated? Does Mexico have comparable Community Right-To-Know reporting requirements on its industry similar to those imposed by Title III of SARA in 1986 and the Pollution Prevention Act of 1990?

Answer: Mexico has no Superfund program comparable in either size or impact to the U.S. program. It does have a small voluntary program in which polluters pay into a fund. The fund is not large and the law does not mandate participation.

Mexico does not have on the books Community-right-to-know reporting requirements. EPA has every reason to believe, however, that such measures will be enacted in Mexico. Mexico has subscribed to the United Nations APPEL process which is akin to the U.S. community-right-to-know regime, has signed on to declarations at the U.N. Conference on Environment and Development held at Rio de Janiero in 1992, calling upon governments to keep their populations apprised of hazardous materials stored in communities and, in the Environmental Agreement, Mexico has agreed with the U.S. and Canada that the Council of Environmental Ministers formed by the Agreement (which includes Mexico's Environment minister) shall promote and develop recommendations regarding public access to information concerning the environment that is held by each government, including information on hazardous materials and activities in its communities and opportunities to participate in decision-making processes related to such access.

Question 11: Does Mexico have comparable criminal sanctions for environmental violations, both as to the scope and type of activities covered and as to the severity of the fines and length of possible imprisonment?

Answer: SEDESOL may refer a criminal case to the Federal Attorney General to initiate prosecution at any time it believes evidence of a crime exists, including during the conduct of administrative enforcement proceedings. Such proceedings, although rare, have been increasing, particularly in cases involving hazardous waste disposal, where disposed wastes may provide clear evidence of patently criminal activity. In the recent Mexico case, for example, involving mismanagement and illegal disposal of wastes brought to a solvent recycling facility which lacked adequate recycling capacity, we understand that the facility operator was arrested, and the ensuing prosecution resulted in cooperation of the operator in cleaning up the waste and a stiff fine.

In general, our discussions with Mexican officials on their environmental enforcement program have focused on SEDESOL's PROFEPA and its civil administrative program. We have not had direct discussions on criminal enforcement with the Federal Attorney General. However, SEDESOL PROFEPA officials acknowledged in last March's meeting with EPA lawyers to study Mexico's environmental laws that some review of criminal offenses might be needed to better pursue prosecutions of environmental crimes. Particularly, they indicated that more precisely defining criminal offenses may facilitate application to intentional violations of environmental regulation, but that such changes would be subject to Congressional debate.

Question 14 (a): In the case of the Carbon II plant near Predras Negras, Mexico, I understand that the emission rate under the Mexican rules is about 1.9 million Btu's. EPA said that if the plant was located in the U.S. it would be subject to a new source performance standard, the requirement of new source review pursuant to the Prevention of Significant Deterioration regulation, and the requirement of best available control technology. Am I correct in my understanding that Mexico has no comparable requirement for Carbon II under its technical norm for sulfur dioxide (SO_2), particulate, and nitrogen oxides (NO_X) emissions?

Answer: EPA has reviewed the Mexican norm applicable to this source (NOM-CCAT-005/93) and compared it to the relevant U.S. New Source Performance Standard (40 CFR 51.60). Pursuant to the Mexican norm, a plant's emissions of SO_2, PM, and NO_X are subject to limits measured by kilograms of pollutant per cubic meter of dry coal burned. Because the Mexican emission standard is thus tied to coal density and heat (Btu) value of the coal to be burned, conversion to comparable U.S. units must be based on the individual characteristics of the coal and burners at issue. Based upon the coal's heat value specified for the Carbon II facility, EPA staff estimate the standards applicable to Carbon II as follows:

SO_2: Mexico, 8.7 lbs. per million Btu; United States, 0.3 lbs. per million Btu.

PM: Mexico, 0.31 lbs. per m Btu; United States, 0.03 lbs per m Btu.

NO_X: Mexico, 0.86 lbs. per m Btu; United States, 0.5 lbs. per m Btu.

These comparisons, along with a summary of U.S.-Mexico discussions to date and the ways in which comparable issues would be addressed under NAFTA, are discussed in detail in a recent response to your July 13 letter to Administrator Browner. This response was signed by Michael Shapiro, the Acting Administrator for EPA's Office of Air and Radiation.

Question 14 (b): Please explain whether the (comprehensive environmental) assessment is the same as would be required in the U.S. under the National Environmental Policy Act of 1979, and provide us with the status. Also, what are the Bank's guidelines? How do they compare with our laws? Treasury said that a meeting was to be held in August by the Bank with Mission and the staff of the EPA, as well as other Federal agencies. What was the result and who attended?

Answer: We understand that Mission Energy had decided not to continue its involvement in the Carboelectrica plant and will not be seeking World Bank funding. We expect that any further discussions would take place in a bilateral context and would not implicate multilateral financial institutions or their environmental procedures and requirements.

Question 15: Please describe the current status of the Mexican investigation and enforcement systems with respect to environmental violations, including the judicial and penalty systems, and indicate its effectiveness and problems. Is there a problem of a lack of trained people and inadequate technical and other support? Is there a problem of corruption?

Answer: The General Ecology Law vests authority to enforce environmental laws, regulations and standards primarily in SEDESOL. Mexico has been increasing its emphasis on enforcement and reorganized its environmental authorities, creating within SEDESOL a semi-autonomous enforcement infrastructure, the Procuraduria Federal de Proteccion al Ambiente (PFPA or PROFEPA), roughly translated into English as the Federal Attorney General for Environmental Protection.

INSPECTION AND ENFORCEMENT PROCEDURES

Environmental Enforcement in Mexico generally involves one or a combination of four techniques: plant closings, which may be permanent or temporary, and total or partial; the negotiation of compliance agreements, particularly in response to a temporary plant closing; the posting of a surety bond to secure compliance with an agreed or ordered schedule of compliance; and the imposition of fines. These enforcement tools are implemented administratively, with SEDESOL acting both as prosecutor and adjudicator. Judicial proceedings, which would require referral of the matter to the Federal Attorney General's office, are reserved for criminal prosecutions, which are rare.

When SEDESOL investigates a facility and takes enforcement action, all the formalities of Mexican law must be strictly observed by the investigators. SEDESOL inspectors must document inspections by obtaining an inspection order which identifies the place to be visited, the reasons for the inspection, and the scope of the inspection. The inspection order must be presented to company personnel, along with the inspector's credentials. The company must provide access to all operations and documents necessary to carry out the inspection, as outlined in the order. Refusal of access may result in the inspector requesting police assistance.

Upon concluding the inspection, the inspector must prepare an inspection report on the premises, to be signed by two company witnesses designated by the inspector. The company is given an opportunity to include any comments or objections in the report, and copies of the report are provided to the company.

If the inspector finds an ecological imbalance or irregularity which may impact human health or the environment, the facility is notified of the initiation of administrative proceedings, and given 10 days to prepare a response to the inspectors' findings. This triggers an administrative adjudication process which is generally conducted by the creation of a written record of each party's offering of proof, as opposed to the conduct of oral hearings. Through the offerings of proof, SEDESOL describes in detail the irregularities it found; the facility is given an opportunity to present rebuttal evidence; a determination is made on which counts to proceed; and needed corrective actions are identified. Within 30 days of the offering of proof, SEDESOL will render its resolution of the matter, including corrective actions to be implemented, time periods for implementing, and sanctions or penalties. SEDESOL notifies the facility of its decision, which must then execute the decision.

To effectuate a decision to apply a fine, SEDESOL must transmit its decision to the Treasury Department. If a facility shutdown is ordered, SEDESOL's decision will specify what actions must be taken before the facility may reopen, as well as compliance or corrective requirements which continue after reopening. Within 5 days of the term specified in the decision, the company must report on the status of its compliance with the decision. If a followup inspection uncovers non-compliance, SEDESOL may double the monetary penalty and shut the facility down, or modify a pending shut-down order to impose more stringent conditions for reopening.

Companies may petition for reconsideration of SEDESOL's decision within 15 days. The petition for appeal must identify injury sustained by the company in the underlying proceeding, and controverting evidence. SEDESOL's final decision, which may sustain, overturn or modify the original decision, must be made within 15 days of submission of the appeal petition. Judicial review of administrative decisions for Constitutional violations may be obtained through the use of amparo procedures. Use of this procedure has been rare but increasing. Because the Mexican civil law system does not rely on precedent, the courts are likely to grant considerable discretion to the substantive decisions of the administrative agency in such appeals, narrowly confining the scope of review to procedural irregularities which violate Constitutional protections of individual liberties.

SANCTIONS AND SETTLEMENT NEGOTIATIONS

A primary enforcement tool utilized by SEDESOL is the plant closure, which may be temporary or permanent, and may involve closing the entire facility or only a portion of its operations. A closure order results when SEDESOL inspectors discover a direct and significant threat to the environment or human health, or a high level of nuisance, such as noise pollution.

Temporary closures are ordered when the immediate problem creating health or environmental threat is remediable. Such temporary closings are intended to lead to consultations between SEDESOL and corporate entities formally charged with violating environmental law. The closings occur in advance of negotiations, and the plant is allowed to reopen only after the company resolves the immediate problem, and an agreement with timetables for achieving full compliance is reached. In negotiating a compliance agreement, SEDESOL may use its discretion to allow industries—especially the smaller industries—a reasonable time to comply with its requirements. These legally enforceable agreements are monitored by SEDESOL.

Permanent closures are employed more rarely than temporary closures, but the threat of permanent closure serves as a major deterrent to noncompliance. A permanent closure might be ordered where a facility has huge emissions problems, perhaps exacerbated by the fact that it is located in a highly-populated area where exposure risks are increased. Permanent closures are likely to be ordered when the problems are impossible or too expensive to fix; however, this sanction may also be imposed punitively, such as where there is a history of extreme noncompliance even though it may be possible to mitigate the immediate environmental risks created by the plants' operations.

SEDESOL prefers, however, to order total, but temporary closure, and negotiate solutions wherever possible that will allow the plant to reopen. At times, plants subject to temporary closure orders may terminate operations permanently if the operational changes sought by SEDESOL are too expensive to implement. When a plant closes permanently and relocates, it will be subject to all SEDESOL requirements for new operations, including permit requirements, environmental impact assessments, and compliance with regulations and ecological norms.

Both SEDESOL and EPA rely on negotiated settlements to achieve compliance and remediation of environmentally unsound conditions. Approximately 95% of EPA's administrative and civil judicial actions are concluded as negotiated settlements. The primary distinction between the Mexican system and the U.S. system is that in Mexico, a strong sanction—facility shutdown—is imposed prior to initiation of negotiations, and continues in effect until negotiations are complete and the facility initiates agreed to corrective measures to SEDESOL's satisfaction.

In the United States, in both administrative and judicial enforcement, negotiations usually take place during the pendency of the enforcement proceeding (i.e., after filing of a complaint) which seeks to impose sanctions, including civil penalties and injunctive relief. At times, the government negotiates a settlement with the facility prior to the filing of a complaint, and a consent agreement and formal complaint are filed simultaneously. The court or administrative tribunal must approve and enter the terms of any settlement. Once entered, the settlement is judicially enforceable.

In contrast to the Mexican system, in the U.S., only when the government satisfies a high burden of demonstrating that a company's actions present an imminent and substantial endangerment to human health and the environment, or that emergency injunctive relief is otherwise warranted, will a court or administrative tribunal enjoin continuing activities of the subject of an enforcement action prior to full adjudication or settlement of the matter. In the absence of clear emergency conditions, it may take years before a case is adjudicated or settled, resulting in an enforceable order to correct violations and remedy any environmental problems caused thereby. In the Mexican system, the authority to shut down a facility pending the negotiation of a compliance agreement provides SEDESOL with substantial bargaining power in promoting rapid and favorable settlements.

SEDESOL's use of fines has been variable. In the early 1980's, SEDUE relied primarily on fines in its enforcement approach. In mid-decade, however, SEDUE changed its strategy, becoming reluctant to use fines in the belief that available capital should be directed instead toward investment in pollution control equipment. Prior to the reorganization, SEDUE began rethinking its strategy once and appeared poised to use fines more frequently as an enforcement tool against violation of fines to deter noncompliance. SEDESOL also intends for these charges to help pass along inspection costs to the company.

Existing law permits the imposition of fines equivalent to 20 to 20,000 times the daily minimum wage in the Federal District of Mexico. According to Mexican officials, fines can be imposed on a per-day, per-violation basis for as long as the violation persists. By comparison, most U.S. environmental statutes allow for civil penalties up to $25,000 per day per violation. Thus, the range of monetary fines that can be imposed by SEDESOL is comparable to, and can even be greater than, those imposed by the United States.

In practice, just as in U.S. administrative and civil judicial enforcement cases, the penalties sought or agreed to in settlement for initial violations may be much lower than the statutory maximum, based upon considerations of economic fairness and the seriousness of the violation. However, while as U.S. consent decrees often contain stipulated penalties for failure to comply with its provisions which are generally higher than the initial penalty agreed to in settlement, SEDESOL may double the fine for persistent violations, creating a powerful deterrent against failing to implement the terms of an agreed or ordered compliance schedule.

Another tool that Mexico has used is administrative detention, which is distinguished from a criminal arrest. Administrative detention can result in the deprivation of a corporate officer's freedom for up to 36 hours. More commonly, it is applied for several hours on a daily basis until agreement is reached on a compliance plan and schedule.

Criminal prosecutions are contemplated under specific regulations. SEDESOL may refer a criminal case to the Federal Attorney General to initiate prosecution at any time it believes evidence of a crime exists, including during the conduct of administrative enforcement proceedings. Such proceedings, although rare, have been increasing, particularly in cases involving hazardous waste disposal, where disposed wastes may provide clear evidence of patently criminal activity. In the recent Mexico case, for example, the criminal arrest of the operator of a solvent recycling facility for mismanagement and illegal disposal of wastes brought onsite despite inadequate recycling capacity, the facility operator was arrested, resulting in a fine of $30 million pesos and the cooperation of the auditor in cleaning up the waste.

Mexican officials acknowledge, however, that some review of criminal offenses might be needed to better pursue prosecutions of environmental crimes. Some Mexican courts have been reluctant to impose criminal sanctions in environmental or analogous types of cases, with judges declaring the legal description of the criminal offense in legislation or regulations overbroad, and therefore invalid. Thus, to improve the usefulness of criminal prosecutions as an environmental enforcement tool, the Mexican legislature may have to redesign some of the offenses. Such an effort may take place in the context of Congressional debate over the very role of enforcement, as opposed to investing in environmentally sound technology from the start, in promoting a clean environment.

ENFORCEMENT RESOURCES

The government of Mexico spends 1% of its gross domestic product on environmental protection. This week, the Mexican government provided EPA with updated enforcement data. By the end of 1993, SEDESOL will have issued 140 official standards (regulations) comprising all environmental media. These regulations are issued in consultation with industry and scientific and technical experts. SEDESOL will continue to issue regulations in order to fully implement the General Ecology Law, which is the framework for environmental regulation in Mexico.

Since 1992, SEDESOL has conducted over 16,000 inspections of Mexico's 500,000 facilities. SEDESOL has 472 inspectors and will have 500 by the end of 1993. Over 300 of these inspectors were trained in a cooperative inspector training program developed by EPA and SEDESOL.

Question 16: Articles 3 and 10 of the Environmental Side Agreement state that each Party shall ensure that its laws and regulations provide for "high levels of environmental protection" and that the Parties shall strive to continue to improve those laws and regulations. What is the baseline for Mexico, Canada, and the U.S. upon which one will be able to measure such improvement? What is contemplated by the word "improve" in the case of each Party's laws and standards?

Answer: This language provides that the "laws and regulations" shall provide for high levels of environmental protection. While the overall regulatory regimes of the two countries may be geared to the achievement of high environmental protection levels, this language provides a basis for consultation and joint work where individual regulations, or the standards that implement them, do not in the view of a Party promote the overall achievement of high levels of protection. For example, where the U.S. perceives (as was the case with SO_2 emissions from the Carbon I and II coal-fired power plants in Mexico) that a Mexican standard for a particular industrial sector could cause transboundary environmental harm to the U.S., these Chapters provide formal mechanisms to address such discrepancies and to promote more stringent Mexican standards.

Question 18(b): Does the reference [in Article 14] to mediation and arbitration include non-binding mediation or non-binding arbitration? What criteria will be used to define or interpret the phrase "in a timely fashion"?

Answer: Yes, it would probably refer to non-binding mediation or arbitration. "Mediation" often does not suggest a result that is binding. Moreover, if the definition includes seeking assurance of voluntary compliance, we assume that "arbitration" would include an ongoing arbitral proceeding, in which the parties have agreed to participate, whether or not it would result in a binding decision.

The reason that the language "in a timely fashion" was included in the Agreement text is that the U.S. did not want long and unnecessarily drawn-out proceedings to prevent a matter from being looked into by the Secretariat. We did not think a government should, for example, by withholding a final determination on a matter, be able for long periods of time to frustrate the Commission's work. While there is some imprecision in the language, we think it prevents unnecessary delay in proceedings, from hampering the Commission's investigation of allegations of non-enforcement of environmental law.

Question 19: What is the expected annual cost of this side agreement to the U.S.? Will that cost be budgeted through the State Department or the EPA budget? What will be the role of the EPA? Will the EPA be required to assign any of its own full-time equivalents to the Commission? If so, please indicate the number of FTEs that will be dedicated to implementing the environmental side agreement.

Answer: The Agreement on Environmental Cooperation among Canada, Mexico and the United States, signed on September 14, 1993, creates a North American Commission on Environmental Cooperation (NACEC). The three countries' governments will contribute equally to fund the Commission.

The current annual cost estimate for the NACEC is approximately $14.4 million: the U.S. government will pay one third of total costs, or $4.8 million. This estimate includes funding for a Council, which would govern the Commission's activities and be comprised of "a cabinet-level or equivalent representative" from each NAFTA party, a Secretariat which supports the Council operationally and is composed of an Executive Director and somewhere between 45–75 staff, and a Joint Public Advisory Committee. Given that the staff may grow from 45 to 75, EPA anticipates that costs for the Secretariat would increase accordingly in subsequent years.

Several options exist for funding the NACEC. These options include full EPA funding, full State Department funding, and a joint funding arrangement between EPA and the State Department. No decision has been made yet on how the NACEC will be funded.

NACEC's Secretariat will consist of an international, nongovernmental staff, to be funded, but not staffed, by the three representative governments. Consequently, EPA is not required to assign any of its full-time equivalents to the Commission; however, EPA does foresee the possibility of detailing personnel to the NACEC for career development and some support purposes.

Mr. KOLBE. Madam Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Madam Chairman, I rise in support of NAFTA.

Mr. KOLBE. Madam Chairman, I yield 1 minute to the distinguished gentleman from Ramsey, MN, Mr. GRAMS, a member of the Committee on Banking, Finance and Urban Affairs.

Mr. GRAMS. Madam Chairman, I believe, a vote for NAFTA is good for my State of Minnesota and for the American people.

For Minnesota, NAFTA means new opportunities for Minnesota products and better jobs for Minnesota workers.

NAFTA is good for Minnesota farmers. NAFTA means up to a 70-percent increase in exports to Mexico for corn, wheat, and soybeans. Exports from the beef, pork, poultry, and dairy industries could increase up to 500 percent under NAFTA.

And contrary to what NAFTA critics claim, we cannot send Minnesota farm land to Mexico, only Minnesota farm products.

NAFTA is good for Minnesota businesses—particularly those in the fields of high technology and health care. Mexico needs American goods and services.

And by meeting those needs, we will not be exporting jobs to Mexico, we'll be exporting products—American-made products—and that means more jobs here for the people of Minnesota and across America.

Finally, NAFTA is good for Minnesota workers. From 1987–92, Minnesota's exports to Mexico grew by nearly 200 percent, creating 5,700 new jobs in 1992 alone. To shut the door on United States-Mexico trade would put an end to these jobs—and that is simply wrong.

Let us do what is right for a change—for our farmers, our businesses, our workers and our future. Let us support NAFTA.

Mr. KOLBE. Madam Chairman, I yield 1 minute to the very distinguished gentleman from Wisconsin

[Mr. GUNDERSON], a member of the Committee on Education and Labor.

Mr. GUNDERSON. Madam Chairman, the question before us is simple: are we willing to frame the future by taking an active role in the global economy? Or sit passively and allow the world to change around us? If we look at the facts, the choice is clear—we must approve NAFTA.

For the Nation, NAFTA means lower barriers and an expanding trade surplus. Since 1986, this country's trade balance with Mexico has improved from a $5 billion deficit to a $5 billion surplus. We can't afford to walk away from a surplus when we are running a trade deficit with Asia of $75 billion. Our current merchandise exports to Mexico support 700,000 jobs; that figure will increase with the lowering of Mexico's trade barriers. Mexico's tariffs average 2.5 times greater than United States tariffs. The NAFTA will gradually remove these barriers as well as non-tariff barriers, leveling the playing field for U.S. exports, industrial and agricultural.

For Wisconsin, NAFTA provides a unique opportunity for strengthening Wisconsin industries and jobs. In 1992, Wisconsin exported $2.3 billion to Canada and Mexico, its first and sixth largest export markets. Manufactured exports to Mexico and Canada currently support 54,873 jobs in Wisconsin. Since 1987, exports to Mexico increased by $170 million and created 6,000 jobs. In the first 10 years after NAFTA is passed, it is predicted that $104 million will return to Wisconsin through increased exports. A recent study by the University of Wisconsin concluded that NAFTA means 20,000 jobs for Wisconsin. But this tells only part of the story.

In western Wisconsin, the NAFTA is a win-win deal for both agriculture and manufacturing. The USDA projects that Wisconsin will be selling an additional $150 million to $300 million of its agricultural products to Mexico after NAFTA is implemented. That means better prices for farmers and a better economy for all of Wisconsin. Why? Because exports enhance producer prices.

In the last 5 years, we have had 2 years where there have been significant increases in dairy exports. In 1989, dairy exports increased by 1.918 billion pounds over the prior year and the average M-W price went up by $1.34/hundred-weight. In 1992, dairy exports increased by 3.424 billion pounds over the prior year and the average M-W price went up $.82/hundredweight. Clearly, there is a direct relationship between exports and producer prices.

In the last 5 years, we have had 2 years where there have been significant increases in dairy exports. In both of these years, the average M-W price for milk also increased substantially. This put an extra $324 million in Wisconsin dairy producer's pockets in 1989 and an extra $197 million for Wisconsin dairy farmers in 1992. Why is that important to Wisconsin's economy? Quite simply, every dollar that a farmer spends is turned over in the economy seven times.

The passage of NAFTA will result in significant increases in Wisconsin farm commodity exports to Mexico over the next decade according to estimates by the USDA and the Texas A&M Ag Economics Department: A 60 percent increase in corn exports (6 cents/bushel); a 100-percent increase in dairy exports; a 150-percent increase in poultry exports; a 200-percent increase in beef exports; and a 250-percent increase in pork exports.

Wisconsin agriculture is clearly a big winner under NAFTA—that's why it's been endorsed by the Wisconsin Farm Bureau, Wisconsin dairies, the Wisconsin Cattlemen's Association, Land O' Lakes, the Wisconsin Port Producers, and the Mid-America Dairyman, to name just a few.

NAFTA benefit are important for the industrial base as well. Under NAFTA, there will be a $2 billion increase in rail delivery. This means 12,000 new jobs.

The NAFTA will also greatly benefit the manufacturing industry in western Wisconsin. The Advance Transformer Co. in Grant County is one example. The company employs over 1,400 workers in manufacturing transformers for fluorescent lights. Advance sold $7 million of its products in Mexico last year, despite a 20-percent tariff. If we approve NAFTA, that 20-percent tariff will disappear and Advance will more than double its Mexican sales next year. All of this production would be done with Wisconsin workers.

If NAFTA does not pass, however, Advance will likely be forced to start a plant in Mexico. A chief U.S. rival, Valmont Electric, has already moved its assembly to the maquiladora region. If NAFTA is not passed, Advance will have to combat the high tariffs by moving its production for Mexican markets to Mexico so that it can remain competitive with its rival, Valmont.

The same is true for other products such as canned vegetables from Cumberland; conveyer systems from Potosi; food products from Augusta; audio components from River Falls; electronic equipment from Menomonie; and small appliances from Eau Claire.

And that is only a small sample.

Other benefits include the following:

Since 1987, exports of wood products and furniture have expanded over 2,500 percent. Think of what will happen with NAFTA?

NAFTA will bring a $1 billion increase in auto parts and cars. That will support 15,000 jobs.

Tires are currently subject to a 20 percent tariff in Mexico. With NAFTA, that tariff will drop off, allowing greater exports.

In the end, I believe that America must truly venture out into the global market. It must compete with full force instead of retreating inside the false fences of protectionism. NAFTA is good for Wisconsin. It is good for America. And it merits our full support.

Mr. HUNTER. Madam Chairman, I yield 3 minutes to the very distinguished gentleman from Oklahoma [Mr. INHOFE].

(Mr. INHOFE asked and was given permission to revise and extend his remarks.)

□ 1510

Mr. INHOFE. Madam Chairman, we have heard many eloquent speeches today and we have seen many polished theatrics, but you know and I know that not one vote on this floor will be changed based on what is said today. This show is for the folks back home; and, Madam Speaker, it is already predetermined that NAFTA will pass tonight. Oh, it will look like a narrow margin, but there will be 15 or 20 Democratic Members of Congress who have told the President, "Mr. President, you know you can count on me; if my vote is the deciding vote, I will vote for it. But if you don't need me, I'll vote for the constituents back home." That's the game we play.

But, Madam Chairman, I have to say something for the RECORD. I will match credentials with anyone in this legislative body on free trade. There are none more dedicated to free trade than I. And second, Madam Speaker, I understand and love the Mexican people. I used to work with Mexicans. When I was mayor of Tulsa, we established the first, the very first commercial and business relationship between a city in the United States and a city in Mexico. This was 14 years ago between the cities of Tulsa, OK, and San Luis Potosí, Mexico. Also, when I was mayor of Tulsa, I began the first Hispanic affairs commission and only last month received the Award of the Americas. Yo he estado trabajando con mexicanos for varios anos y yo intiendo la gente de mexico como me famalia.

Having said that, imagine how surprised I was when I received the final documents called the North American Free-Trade Agreement. Since I am on the Public Works and Transportation Committee, I gave them the elements of the NAFTA that deal with transportation and asked for their interpretation. The result: We gave away the store in our negotiations.

Here we have a President who passed a retroactive tax increase on small business and issued mandates on health requirements, labor requirements, and environmental requirements and turns right around and promotes a trade agreement that exempts our Mexican competition from these mandates. In other words, a Mexican trucker will be able to compete with a United States independent trucker from point to point within the United States and not have to comply with our emission requirements and other mandates.

A Mexican national can own 100 percent of an American transportation company while we can only own a 49-percent interest in a Mexican transportation company. This inequity will not be corrected until the year 2004.

The gentleman from Michigan who spoke before me said there are only two bad choices. Let me suggest a good choice, Madam Speaker. Let's renegotiate and correct the unlevel playing field that has been offered. The big question is, "Can we renegotiate or will the Mexican Government renegotiate?" I was told by close friends in the Mexican Government last August that if the NAFTA failed, President Salinas would spend an additional 5 weeks in renegotiations. Now we have been told that they will not renegotiate. Of course, that is just a part of the negotiation process. So, all this discussion today is academic. The votes are there and it will pass unless—and this is a big unless—a handful of probusiness, pro-free-trader Members of Congress will opt for choice No. 3: To renegotiate for a real free-trade agreement, a free-trade agreement that is good for the United States, that is good for Mexico, and is good for Canada. The concept is right, the negotiations are wrong.

Mr. HOAGLAND. Madam Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Madam Chairman, the North American Free-Trade Agreement is the most important U.S. policy decision since approval of the Marshall plan following World War II. Not only did the Marshall plan chart the course of economic recovery for war ravaged Europe, it established the United States as the leading voice in world economic and foreign policy. Because the Uruguay round of the GATT negotiations were underway before the fall of the Soviet Union in 1991, NAFTA is the first major international agreement debated by the United States since these Earth-shaking changes occurred.

Untold opportunities exist today if we are open to change and work for the creation of new markets. Today we have a choice. We can ignore change or we can invite it. We can get run over by change or become change agents.

I want to share a little-known fact: The United States currently has a $6 billion dollar trade surplus with low-wage Mexico and a $36 billion trade deficit with high-wage Japan.

Despite its underdeveloped economy, Mexico already buys United States goods in huge quantities. On a per capita basis Mexicans purchase $350 worth of American products every year, compared with $266 for each European. Mexico's middle and upper classes make up 20 percent of its population, or 20 million people. This consumer class is about the size of the entire population of Canada. We cannot walk away from a market this large.

In my own State of Minnesota, 300 companies already export goods and services to Mexico, supporting 5,700 jobs in our State. The majority of those jobs have been added since 1988, when Mexico began reducing its tariffs on United States goods. The NAFTA will eliminate all tariffs over a 15-year period creating even greater opportunities for trade in the future.

But, most importantly, Mexico is the bridge to the entire span of Latin America. In Central and South America the population will increase by 22 percent over the next 7 years, reaching 500 million by the end of the decade. Clearly, the next frontier in trade is definitely south of the U.S. border.

We cannot create American jobs without markets. We cannot create markets without trade. The NAFTA offers a forward looking trade policy.

An anti-NAFTA vote is a vote for retreat.

A pro-NAFTA vote is a vote for the future.

Mr. OBEY. Madam Chairman, I yield 2 minutes to the distinguished gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Madam Chairman, I am for free international trade, but free trade tempered by fairness.

A common economic market, encompassing the entire North American continent, free of barriers to the movement of people, goods, and capital is an enticing dream—one that should be a goal for the Canadian, American, and Mexican Governments and people. It is also one that we can achieve under the right conditions.

The proposed North American Free-Trade Agreement on which we will vote today falls so far short of the goal of free and fair trade that this NAFTA should be defeated, renegotiated by the Clinton administration, the defects cured, and the agreement resubmitted to Congress next year.

This NAFTA fails the tests of fairness to United States workers, enforceable protection for Mexican worker's rights, and enforceable protection for environmental values.

The labor supplements designed to benefit American workers are weak, insufficient, and, worst of all, unenforceable.

Investment capital, on the other hand, is very specifically and effectively protected in the core agreement. Such important matters as intellectual property rights, repatriation of profits, and other investor rights are not only included in the basic agreement, backed by stiff sanctions, but they are also removed from the Mexican court system, covered, instead, under the dispute resolution mechanism.

The agreement tilts heavily in favor of capital and industry, while leaving American jobs vulnerable and Mexican workers subject to continued exploitation at low wages and few or no worker benefits.

We should not approve an agreement that will leave Mexican workers subject to exploitation, American industry vulnerable to unfair cost competition, and the environment unprotected against degradation by both Mexico and the United States, as well as other foreign firms that may locate in Mexico in the future.

A renegotiated NAFTA, that meets the tests I have spelled out would, indeed, be in the best interests of both countries and I urge my colleagues to vote down this NAFTA and I further urge the administration to take up the challenge of expanding trade between the United States and Mexico by negotiating a truly effective and fair agreement next year.

Mr. DREIER. Mr. Chairman, I am happy to yield 1 minute to our thoughtful colleague from Waterbury, CT, Mr. FRANKS, a member of the Committee on Energy and Commerce.

Mr. FRANKS of Connecticut. Madam Chairman, history has shown that the free-trade agreements with Israel and Canada have helped all countries involved. Protectionism in the past resulted in a despression. With few exceptions, long-term jobs have been created when risks were taken. Greater access to new markets means more sales, and typically more sales means more jobs.

Madam Chairman, when the opponents of NAFTA claim that corporations are going to move a large number of jobs to Mexico, they are ignoring the fact that it is not in the corporation's best interests to have high unemployment in America, because the unemployed cannot purchase their products.

For corporations to derive the maximum benefit from NAFTA, they need to increase consumer purchases by Mexicans. But, more importantly, corporations need to maintain, if not increase, the purchasing power of Americans. That would yield the highest profits for corporations, and, Madam Chairman, that will mean jobs for Americans.

Americans are can do people. We are not can't do people. We can make NAFTA work for America.

Mr. DREIER. Madam Chairman, I am happy to yield 1 minute to the gentleman from California [Mr. McKEON], the president of the freshman class and the former mayor of the city of Santa Clarita, CA.

Mr. McKEON. Madam Chairman, I rise today in strong support of NAFTA. I would like to share with you a letter I recently received from a manufacturer in my district. His comments demonstrate how the passage of

NAFTA will maintain and create jobs here in the United States and conversely, how the defeat of NAFTA will serve to destroy jobs.

This manufacturer claims his business will survive with or without NAFTA. For him it is simple. Without NAFTA, he moves his factory to Mexico to avoid the cumbersome trade barriers and high tariffs under current regulations. He says, "My problem is solved." But, "of course over 100 workers in my * * * plant will be out of work." Without NAFTA, Madam Chairman, those 100 jobs and many others from similar industries will go to Mexico.

However if NAFTA passes, this manufacturer will be able to service the Mexican market from Santa Clarita unencumbered by burdensome trade barriers. This will result in increased exports translating to increased jobs.

Madam Chairman, the message is clear. NAFTA will create jobs which in turn will build our economy. I urge a "yes" vote today.

I include the letter referred to for the RECORD.

DEAR SIR, I work for a manufacturing company in the Los Angeles area. We sell equipment for the plastics industry. The market for our products in the United States is mature and is not growing. In order to grow, or even just to survive we need to tap export markets.

Having analyzed the markets in Mexico and the rest of Latin America, I know there is untapped demand for our products. However there is one major problem facing us: tariffs. In Mexico, for example, our equipment faces a 20% tariff.

Whether NAFTA passes or not, I can still get around this problem. However, how I can get around this problem does depend on whether NAFTA passes or not. Let's examine the following 2 scenarios:

1) NAFTA passes: My problem is solved. I can service the U.S. and Mexican markets from my Los Angeles area factory unencumbered by tariff barriers. Furthermore, as projected free trade agreements are signed with other Latin American countries, I can also look forward to serving those markets from my Los Angeles factory.

2) NAFTA is rejected: I can still solve my problem. I simply move my factory to Monterrey, Mexico. Checking the Harmonized Tariff Schedule, I find that my equipment is entitled to duty free entry into the United States when imported from Mexico. Furthermore I will have duty free access to the Mexican market. But wait. It gets even better. Mexico has a free trade agreement with Chile and is in the process of implementing agreements with Colombia and Venezuela and further accords are in the works with the rest of Latin America. My problem is solved. Of course, over 100 workers in my Los Angeles area plant will be out of work.

With average duties of only 1.9% of Mexican products currently entering the United States. I am sure many other American companies can gain the same advantage as I can by moving to Mexico if NAFTA is not passed.

Sincerely,

———.

Mr. DREIER. Madam Chairman, I yield 1 minute to our valiant appropriator, the gentleman from Parsippany, NJ, Mr. GALLO.

Mr. GALLO. Madam Chairman, I rise today in support of the North American Free-Trade Agreement. Since it was first advanced as an idea by Ronald Reagan in his Presidential campaign, I have closely examined the development of NAFTA and the export market as an industry. The evidence overwhelmingly indicates that the United States benefits from free-trade agreements, and there is no accurate data indicating that it will be different by expanding trade with Mexico.

Contrary to claims that this agreement will result in a mass exodus of American companies to Mexico, this free-trade agreement will likely have the opposite affect. American companies are already free to move operations abroad but many businesses prefer to operate in the United States citing our skilled and educated work force, incomparable infrastructure, and abundant energy resources.

Export growth is one of the most important components of a successful economy, and it has been one of only a few industries that has steadily created new jobs throughout the recession. Historically, free-trade agreements have given American companies access to lucrative new markets providing opportunities to grow. Mexico's 85 million consumers will give the United States the economic boost that we sorely need.

Currently, the State of New Jersey benefits from $3 billion worth of exports to Canada and Mexico combined. In 1987, when Mexico lowered its tariffs from 100 percent to 20 percent, New Jersey's merchandise exports to Mexico grew over 155 percent in 5 years, making New Jersey one of 38 States whose exports to Mexico have more than doubled. And export-related jobs pay as much as 17 percent higher wages than non-export related jobs.

Nationwide, a free-trade agreement among the three countries is worth $6 trillion. When Mexico's tariffs on United States goods dropped from 100 percent to 20 percent, United States exports shot from $14 billion to $40 billion, creating 520,000 jobs in the United States. About 70 percent of Mexico's imports come from the United States. Mexico imports more per capita from the United States—$450 per year—than the Europeans—$295 per year—or the Japanese—$385 per year. And, the United States accounts for almost two-thirds of direct foreign investment in Mexico.

On labor issues, some Americans were led to believe that NAFTA would not protect United States workers from the lax enforcement of Mexican labor laws. Also, Americans have been told that because Mexico is much poorer than the United States, expanded trade would reduce our standard of living. Though this argument appears logical on the surface, businesses consider many other factors other than wage rates to decide on a location to do business.

Companies look for locations to manufacture based on transportation facilities, communications, infrastructure, market, energy resources, and education level. United States workers compete successfully with lower wage Mexican workers because American workers are five times more productive. These factors give U.S. companies the ability to support higher wages.

With stronger trade ties, job creation will be enhanced. For the United States, every $1 billion in exports creates 20,000 new jobs. Twenty-five percent of United States unionized jobs are manufacturers of our top exports to Mexico. Export related jobs pay 17 percent higher wages than non-export related jobs. And one in eight jobs depends on foreign trade.

Aside from the clear connection between free trade and economic prosperity from this agreement, it is written to protect U.S. sovereignty in the areas of environmental standards. The agreement struck by the three countries during supplemental negotiations clearly states that each country retains its own standards, and affirms a commitment to harmonize upward, each country's environment.

Though Mexican environmental laws are actually stronger than United States laws, Mexico has been lax in enforcing its laws. With this agreement the United States has much greater leverage in pressuring Mexico to enforce its laws and it gives the United States, Canada, and Mexico an historic opportunity to unite in cleaning up the borders that has been suffering from years of neglect.

Madam Chairman, the facts surrounding our past free-trade agreements should lay to rest the fears of NAFTA opponents that we will have a mass exodus of jobs or decrease in standard of living—the protection and enhancement of which is my foremost consideration in agreeing to support this trade agreement.

□ 1520

Mr. HUNTER. Madam Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. EVANS].

Mr. EVANS. Madam Chairman, I am opposed to NAFTA because I believe that it will hurt American workers. This agreement is nothing more than an investment agreement that will ease the movement of capital between the United States and Mexico and increase the profits of big corporations at the expense of workers, consumers, communities, and the environment in all three countries. In the last 10 years, Illinois has seen 70,000 jobs move to Mexico and this agreement would put 380,000 more jobs at risk. And the jobs that stay will suffer from wage depression as companies use threat of relocation to squeeze wages and benefits.

Mexican workers make about $1 an hour. American workers are the best in the world, but they can't compete with those wages.

We are told that the treaty will open a vast consumer market for Illinois firms which will create jobs. But in reality, only about 10 percent of Mexican consumers can afford to buy United States products, and only 8 percent of all of our exports to Mexico are consumer products.

NAFTA supporters say that Illinois firms benefit from trade with Mexico, which will increase with this agreement. Yet, half of these Illinois exports are intra-company transfers. For example, an Illinois clothing company cuts cloth in Illinois, sends it to a Mexican subsidiary for assembly, which is then shipped back to the United States for sale. Illinois workers lose jobs in this shell game.

This agreement follows the same road that we have traveled the last decade—lost jobs, depressed wages, closed factories. We need free and fair trade. But NAFTA will not deliver it. We have to say No to NAFTA.

Mr. MATSUI. Madam Chairman, I yield 1 minute to the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT. Madam Chairman, I rise in favor of the North American Free-Trade Agreement.

After many weeks of examining my reservations about this agreement in the light of many expert opinions and economic studies pro and con, I am unable to shake the strong feeling that to vote against NAFTA would be to look backward, not forward, and would send a signal to the world that our country does not have enough self-confidence even to enter a free-trade agreement with a small neighbor on our own border.

And I have concluded that the risks of the not going forward are greater than the risks of approving the agreement.

Four factors played the most prominent role in my decision:

First, my concern that NAFTA might encourage jobs to leave the country eventually gave way to the conclusion that there is very little to discourage jobs from going to Mexico now, without NAFTA. An agreement that will cause Mexico to drop its high tariffs discouraging entry of American products should, it seems, help create jobs.

Second, on Thursday the President will travel to the Asian Pacific Economic Cooperation meetings in Seattle. Our trade representatives continue to negotiate in Geneva at the Uruguay round of GATT talks. I do not see how the President or our trade negotiators can speak with any authority when they demand that foreign markets be opened to our products if we have refused to enter a free-trade agreement with an economically small nation on our own border.

Third, the domestic impact on Mexico that would result from defeating NAFTA is a serious matter. After generations of economic stagnation and anti-American demagoguery, Mexico is finally opening its economy and taking steps to build a genuine democracy. To turn down this historic opening would not advance our long-term interest in having a stable, prosperous neighbor that imports our products rather than exports its labor.

Fourth, finally, I cannot ignore the disproportionately positive impact NAFTA is projected to have on my own State and city. Trade between Texas and Mexico in 1992 totalled $18 billion, 38 percent of all Texas exports. Under NAFTA this is projected to increase by another $8.2 billion over the next 10 years. Over 40 percent of the 180,000 jobs protected to be created by NAFTA in Texas are expected to be in the Dallas-Fort Worth area. These facts, coupled with the infrastructure improvements, health programs, and environmental cleanup slated for the Texas border under the various provisions accompanying this agreement, are predicted to cause an enormous positive impact on our region.

I believe the opponents of NAFTA are sincere. This agreement could have been much stronger. And years and years of bad trade agreements and job losses have given us all good reason to be skeptical of any agreement with a lower wage country.

But a careful examination of the facts—our present low tariffs have little effect on job retention, while their high tariffs have a significant negative effect, for example—leads me to the conclusion that, on balance, it is in the national interest to vote yes.

Mr. MATSUI. Madam Chairman, I yield 1 minute to the gentlewoman from Utah [Ms. SHEPHERD].

Ms. SHEPHERD. Madam Chairman, I rise in support of the North American Free-Trade Agreement. I owned a business and I know that a business that is not growing is dying. This principle holds true for our economy as well. If we yield to the politics of preservation and cries for protectionism, if we retreat from the emerging global economy by voting against NAFTA, we will be condemning our economy to a slow, but certain death. There is no safety in hiding.

Understandably, many Members of this body and citizens of our country are concerned about job loss. I am as well. I am supporting this agreement because increased exports and job creation go hand-in-hand. Through eliminating insurmountable trade barriers and removing prohibitive tariffs we will enable companies in my district, in all our districts, to expand their markets and their employment. It is tragically ironic that as we are attempting to pry open markets in Asia and liberalize trade with Europe through GATT, many would close the door of opportunity with our Mexican and Canadian neighbors.

This was an incredibly difficult decision. Many of my friends and supporters do not agree with me. Yet, for me the bottom line is this: Mexican tariffs on United States goods are 2½ times higher than United States tariffs. If we don't take this opportunity to remove these barriers, sell American products and create a better future for our children, Japan, Germany, or Asia will.

Mr. OBEY. Madam Chairman, I yield 1½ minutes to the gentleman from Ohio [Mr. FINGERHUT].

Mr. FINGERHUT. Madam Chairman, I rise today as part of this significant debate to both say my piece and to marvel at the politics of this Capital City.

Just a few weeks ago, as the debate focused on the simple but powerful question of American jobs, the NAFTA agreement appeared dead in the water. While the claims of the opponents regarding the precise number of job losses were frequently challenged, even the supporters admitted that there would be, in their phrase, "short-term losses."

Having failed to persuade Congress and the public that the agreement would create jobs, the proponents shifted the debate to foreign policy. What will the world say, they argue, if the United States turns its back on its neighbor to the south? This will be a shot heard round the world, they argue.

Madam Chairman, it is not surprising that the second argument worked much better than the first. No Member of this body, however they vote today, wants to undermine the President of the United States in the eyes of the world. Every Member is a patriot; they all believe in a strong America.

But even as the proponents have raised their new arguments with great skill, they have found it impossible or inconvenient to say a few simple words: We do not accept job losses, not even one. We will fight to save every job. We will promote trade and help businesses penetrate other markets while making it clear that we want them to stay here and invest at home. I waited more than 9 months from the day I was sworn in to hear those words before announcing my opposition to NAFTA. Even with all the sound and the fury of the debate, I have still not heard them.

Madam Chairman, it is fundamental that a government protects its citizens first. No mayor in my district will accept a company leaving their city without a fight, no Governor will do the same in their States. Why then do we accept these short-term losses without a fight?

I represent the industrial heartland of our country—big plants and little plants. I have worked hard on policies to support these industries, and I will continue to work on an export promotion strategy and industrial policy that will help our businesses that compete abroad. But why did our Government stand by while jobs left this country for Southeast Asia and Mexico? Why don't we have tax policies that unequivocally favor investment in equipment and employment here in the United States? These would be signals to business that if they stay at home and invest at home, they will be rewarded.

Madam Chairman, I am filled with sadness at the conclusion I have reached. But I agree with Abe Rosenthal, writing in yesterday's New York Times:

> The genuine fears of frightened workers are dismissed by the Clinton administration, press and academia. If that is true now, while workers are still fighting, what care will be shown them or their thoughts if they are defeated and find themselves out of work in the name of grander interest?

For these reasons, I will vote "no" on the NAFTA.

Mr. DREIER. Madam Chairman, I yield 1 minute to the gentleman from Appleton, WI, Mr. ROTH, an incisive free trader.

Mr. ROTH. Madam Chairman, never before in American history has a trade agreement generated such an intense public debate. During these past months, I have carefully listened to all sides. I have listened to the witnesses at our committee hearings.

I have talked about NAFTA with the President, with Ross Perot, with Pat Buchanan, with business leaders, and with union leaders. Most important, I have heard from thousands of average citizens across northeast Wisconsin—people with no axe to grind, but who are concerned about our country: Who are concerned about keeping good paying jobs here at home; who are concerned about economic growth; and who are concerned about our national sovereignty, and keeping our country strong.

By itself, NAFTA is not the issue with most people. After all, NAFTA is just a tariff agreement with a friendly neighbor whose economy will always be a small fraction of ours.

But NAFTA has become the lightning rod for the deep-seated fears—and the fervently held hopes—for our country's future.

That's why each of us in this House owes it to the American people to cast our vote on principle—on what each of us truly believes is in the best interest of our country and the American people.

But in recent weeks—indeed at this very hour—we have seen this serious issue turned into a sorry spectacle.

The Oval Office has been turned into a bazaar, open for business to buy votes for NAFTA with favors and special deals.

On the other side, the union bosses have used threats to bully Members into voting against NAFTA.

Even Ralph Nader, who the press once canonized as America's conscience, has carried out a campaign of threats and intimidation. Well after today, Ralph Nader is just another lobbyist.

The American people, regardless of what side they are on, deserve better from their President and their Congress.

Today I will vote for NAFTA, because NAFTA is in the best interest of our country and northeast Wisconsin.

My decision is based not on what the President said, but what thousands of average people in northeast Wisconsin have said to me and wrote to me about NAFTA.

No one buys my vote, and no one threatens me, because I listen to the people who sent me here. The people ask only one thing of their Congressman: to exercise our best judgment on their behalf, free of favor or threat. And my best judgment is that NAFTA will increase American exports, will create new jobs here at home, and will help our economy grow.

Here are the facts. In the last 5 years, United States exports to Mexico have nearly tripled, from $14 billion in 1987 to over $40 billion in 1992.

Using the Commerce Department's long-standing estimate that every billion of exports translates into 20,000 jobs, this 5-year increase in exports has added over 500,000 jobs for American workers.

In Wisconsin, exports to Mexico have gone up 220 percent in 5 years. That is an increase of more than 3 times, now totaling $250 million. That is on top of the nearly $2 billion that Wisconsin exports to Canada, our other partner in NAFTA.

Wisconsin is one of America's leading exporting States, because we in Wisconsin learned long ago that exports are the key to future growth, and that exports produce good jobs—in fact American workers who make products for export are taking home 20-percent higher wages, on average.

Our Wisconsin government economists estimate that NAFTA will create 6,000 new jobs in Wisconsin over the next 7 years, and 20,000 new jobs in the next 17 years.

NAFTA is good for every major sector of Wisconsin's economy—and therefore for every major sector of Wisconsin's work force. For Wisconsin's paperworkers, they will see more jobs created as their companies increase sales.

As Mexico's tariffs come down on American paper products, companies like Fort Howard in Green Bay and Scott in Marinette and Oconto Falls will increase exports.

As Mexico accepts more United States dairy products, Wisconsin dairy farmers will see a 50-percent increase in powdered milk sales. Other Wisconsin dairy products will go to Mexico, increasing sales by 15 percent. Wisconsin's high-technology companies will increase exports to Mexico, creating new jobs in our State for American workers.

FMC's plant in Green Bay, which makes packaging machinery, has already seen a 200-percent increase in its exports to Mexico since 1987. Mexico still has tariffs as high as 15 percent against FMC's products. Once those tariffs are gone, FMC's Green Bay plan will see even greater increases, which will mean more work for the 250 workers in that plant—and even more jobs.

Green Bay also is the home of Schneider National, one of America's leading transportation companies.

NAFTA will mean an increase in Schneider's freight hauling business, resulting in more work for Schneider's dedicated employees. These are specific examples of the reality that NAFTA will create new jobs in northeast Wisconsin.

And more jobs is what America needs for our economic future. All across the industrialized world, job creation is the top priority. From Tokyo and Seoul in Asia to Bonn and Paris in Europe, jobs are the top concern of governments.

We here today can take a step toward creating jobs for Americans, right here at home. Given that prospect, all the other arguments fade into irrelevance.

NAFTA is good for America.

NAFTA is good for northeast Wisconsin.

Today, I urge my colleagues to join me in voting for our country's future.

Mr. DREIER. Madam Chairman, I yield 1 minute to the gentleman from Fond du Lac, WI, Mr. PETRI.

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Mr. PETRI. Madam Chairman, as I promised last year, I have tried to consider the NAFTA with an open mind and listen to everyone with a view. In the end, I will vote "yes."

We will lose some jobs. I agonize over that. But we are losing those jobs anyway. With NAFTA, we will gain other jobs.

Yes, Mexico has cheap labor. But if cheap were the key, all our jobs would have gone long since to Bangladesh or Haiti.

In Wisconsin we have skilled, productive workers, efficient factories, and quality infrastructure. We need not fear Mexico, or anyone else. We can compete.

In fact, NAFTA will mean more exports, and more and better jobs, across central Wisconsin. If there is any giant sucking sound, it will be products going south, not jobs.

But beyond that, accepting NAFTA sends a vital signal to the world. It says: after winning the long struggle against communism—a great victory for free minds and free markets—we will not now shrink back in fear from those principles in the very hour of our triumph. Rather, we will take the lead, as the strongest nation on earth, in working to open the world economy for the benefit of all.

Mr. DREIER. Madam Chairman, I am happy to yield one minute to the gentleman from Minnetonka, MN, Mr. RAMSTAD.

Mr. RAMSTAD. Madam Chairman, as a member of the historic bipartisan pro-NAFTA whip group, I want to applaud President Clinton for his strong leadership on this job-creating pact.

Republicans, Democrats, and the White House have worked together in an unprecedented way to insure passage of this job-creating treaty.

We have worked together for people like Cheri Cohen and Peggy Knapp from Minnesota, who have spent the entire week here at their own expense to convince Members of the need for NAFTA to allow their small business to expand its exports and create more jobs.

Without a strong coalition of progrowth, projob and proopportunity Republicans and Democrats, the fate of this agreement would have been sealed months ago.

Supporters of NAFTA know what the rest of the world knows: Given a level playing field, American workers can compete. American workers can excel.

Madam Chairman, again I thank Members from both sides of the aisle who have shown the American people that Congress is capable of rising above gridlock and working together in a bipartisan way for the best interests of our great Nation.

Madam Chairman, I urge my colleagues to do what is right for America and pass this historic job-creating treaty.

Mr. MATSUI. Madam Chairman, I yield 1 minute and 30 seconds to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Madam Chairman, this is a painful vote. When I look at the ranks of those who opposed NAFTA, I see many friends I have stood with for over a decade. I hear their speeches and their words are familiar. I have made those speeches about working men and women, people just like my family, people who struggle in an economic system that can be both rewarding and ruthless.

However, today I must respectfully disagree with my many friends, and my many friends and colleagues in labor and in Congress. We have heard a lot of economists quoted on the floor today. I would like to quote another counselor. His name was Bob Dylan. He wrote 30 years ago, "You'd better start swimming or you'll sink like a stone."

Our economic times are truly changing. Our future is in global competition. Expanded trade is an opportunity. It is not a reason to panic. We have the most productive workers in the world, we have the best farmers, and we are blessed with natural resources other nations only long for.

America need not apologize. America can compete. NAFTA gives us a new market, a new opportunity, and a new challenge, a challenge to provide the education and training and resources for America's future so that we can continue to lead the world into the 21st century.

Mr. OBEY. Madam Chairman, I yield such time as he may consume to the gentleman from South Dakota [Mr. JOHNSON].

Mr. JOHNSON of South Dakota. Madam Chairman, I rise in opposition to this NAFTA.

Madam Chairman, deciding to oppose the North American Free-Trade Agreement in its current form was not a conclusion I reached easily. NAFTA is a complex issue, with many valid arguments—for and against. I support continued trade discussions with Mexico, and before reaching a decision, I met with many people on both sides, read hundreds of articles and letters, and gave the question many hours of serious thought.

Frankly, I believe both proponents and opponents have overstated NAFTA's impact. It's important to cut through the fog of press releases and slick advertisements to learn the facts.

There were several points that played important roles in my decision:

Under this NAFTA, the White House Office of Management and Budget admits that billions of dollars in higher taxes will be needed to pay for lost tariff revenue, for cleaning up the environmental disaster along our border, and for a Mexican development bank. NAFTA supporters contend illegal immigration will slow if more jobs are created in Mexico, but virtually everyone concedes that illegal entry into the United States will definitely increase over the next decade.

Exports to Mexico have been increasing without NAFTA, and they will continue to whether or not NAFTA is approved. The Department of Commerce ranked our State 47th last year, having less than a tiny two-hundredths of 1 percent of total United States exports to Mexico in dollar value. Exports to Mexico will inevitably be a less significant factor for South Dakota than for many other States, with or without NAFTA.

Unlike the European Community—which linked improved wages, worker rights, and democratization to entry into the EC—NAFTA attempts to bond the United States with a non-democratic nation that has 58-cents-per-hour minimum wages, largely unenforced environmental laws, worker organizations kept under the thumb of the dominant political party, a muzzled press, and more than 200 opposition political leaders killed during the past 4 years.

An analysis of studies on this NAFTA by the congressional Joint Economic Committee concluded that there could be a decline of more than 1 percent in U.S. wages. Council of Economic Advisers Chairman Laura Tyson said the link between trade and wages is still an open question. If this question is still open, how can we justify plunging forward to approve NAFTA?

The November 1, Wall Street Journal reported that President Clinton has asked United States companies to pledge that they will not move jobs to Mexico if NAFTA passes, but few companies have been willing to make such a pledge. Perhaps they have read the Mexican Government's "Yes You Can In Yucatan" advertisement targeted to executives who, in the words of the ad, "can't find good, loyal workers for a $1 an hour within 1,000 miles of here." NAFTA would encourage U.S. investment to be shifted south, costing jobs in this country. Likewise, other nations could invest in new plants in Mexico, taking advantage of the labor market and tax environmental enforcement.

According to North Dakota Commissioner of Agriculture Sarah Vogel, NAFTA is flawed in its rules affecting, United States exports to Mexico of wheat, milk powder, cheese, corn, barley, and dry edible beans. It is lightly possible, instead of increasing southward flow of these products, NAFTA could hinder our farm exports.

NAFTA advocates overlook its potentially negative impacts on the livestock industry. Mexico already exports about 1 million feeder calves to the United States yearly, and its role under NAFTA will surely grow, serving to lower the market price for South Dakota feeder calves. Also, as trade in livestock from Mexico has increased, so has the incidence of tuberculosis in cattle, which United States producers have spent thousands of dollars to control. In 1988, there were only 70 cases of TB. But by the first half of 1992, there were 224 confirmed TB cases—92 percent from Mexico.

The Canadian Free-Trade Agreement has alerted us to potential problems with border inspection of foreign products, particularly meat. A border inspector, quoted in the September 10, 1990, Wall Street Journal, said:

> I found fecal material, blood clots, hair, bruises, green pus-filled abscesses that should have been obvious to the people preparing the product.

Another inspector said nearly 10 percent of meat coming from Canada would be rejected if all meat were inspected instead of simply being spot checked. Potential problems with Mexico are far greater because of its poorer animal health standards.

With NAFTA's protections for foreign investment, Mexico would become the side for investments in new, high-technology meatpacking operations. As a result, the U.S. packing industry would tighten, further threatening the future of facilities like Sioux Falls' Morrell plant.

It's difficult to oppose a President of my own party on an issue that he has said is important to his administration. Yet, it's even more important to vote for the position that I believe ultimately is in the best interest of South Dakota. On this particular NAFTA, in my judgment, that vote is "no."

Mr. OBEY. Madam Chairman, I yield 1½ minutes to the gentleman from Pennsylvania [Mr. COYNE].

Mr. COYNE. Madam Chairman, the House must make an important decision today. Reject the North American Free-Trade Agreement and the House will send a message that the United States demands free and fair trade that promotes the interests of working people. Pass this agreement and we signal that the United States will accept a flawed treaty that does nothing to slow the erosion of good paying American jobs.

I will vote against NAFTA because a bad trade agreement is worse than not having any agreement at all. I say this because that is the issue before the House today. The NAFTA agreement first negotiated by President Bush was fundamentally flawed. While President Clinton worked to correct problems with Mexican labor and environmental standards, unacceptable problems remain that would hurt workers in both the United States and Mexico.

First, Mexico wants to continue unfair labor practices that keep Mexican wages low even while Mexican and foreign companies grow and prosper. Even proponents of this agreement admit that Mexico has failed to protect the rights of its own citizens in the work place. The Mexican Government has shown repeatedly that it will side with those who benefit by paying Third World wages at modern industrial plants.

This one-sided position hurts United States workers who will compete against more productive Mexican plants where the average wage could still be $2.35 an hour. The House has been offered promises by the current Mexican President that the disparity between Mexican wages and productivity will be diminished, but the legislation before the House today fails to provide a legal assurance that progress will be made on this front. The fact remains that Members must vote on the specific law being debated here today. We should not vote based on promises of what may be done in the future.

Madam Chairman, some say only low income jobs would be affected. The reality is that a lot of Americans depend on low paying jobs to provide for their families. There is too little in this agreement to offer hope for those who will find their jobs under increasing pressure as a result of an open trade border with Mexico. In addition, there has been an unacceptable lack of specificity about how displaced workers will be assisted in obtaining new skills or new jobs.

Another problem is the failure to guarantee enforcement of Mexican environmental laws. Mexico has some good laws on paper, but also has a horrible enforcement record. This endangers both Mexicans and United States citizens. Industrial pollution does not respect international borders, and this agreement fails to provide sufficient environmental protections for Americans who live up wind or up stream of Mexico.

The question is not one of opposing free trade with Mexico. The United States must also have fair trade with Mexico. I support both free and fair trade, which is way I did vote for the United States-Canada Free-Trade Agreement and the United States-Israel Free-Trade Agreement. The facts remain that NAFTA does not provide both free and fair trade with Mexico. Again, a bad treaty that fails to protect the interests of workers or the environment is worse than having no treaty at all.

Madam Chairman, the proposed NAFTA does not achieve the goal of free and fair trade in North America, and should be defeated. We can do better.

Mr. KOLBE. Madam Chairman, I yield 1 minute to the distinguished gentleman from Oklahoma City, OK, Mr. ISTOOK, a member of the Committee on Appropriations.

Mr. ISTOOK. Madam Chairman, I favor NAFTA, but I understand why many Americans are fearful.

Too many politicians campaigned last year by creating fear. They told us that America is weak, and our economy is in danger, and it is all Reagan and Bush's fault. Now, to pass NAFTA, the American people are told that our Nation is strong, and it can out-compete other countries. No wonder the public is confused.

All sorts of twisted tales are being told about NAFTA, often by people who sincerely believe them. Where have people learned how to generate such confusion? I say they have learned by example—the bad example they have seen here in Washington.

Those who spread fear should not be surprised that it causes panic. We need to reassure people who are honestly scared, rather than condemning them.

I spent long hours separating the facts from the fiction. I have concluded that:

We will lose more jobs to Mexico if we do not pass NAFTA, and we will lose a major chance to expand our economy through trade; and we will lose our commitment to free enterprise, which has served America so well.

Instead, let us win.

I urge you to join me in supporting NAFTA today.

Mr. HUNTER. Madam Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. KILDEE].

Mr. KILDEE. Madam Chairman, I thank the gentleman for yielding time to me.

Madam Chairman, tonight the Members of this body will be voting on a trade agreement that will fundamentally change the way we negotiate future trade agreements, and I believe this change will be harmful to our country.

Madam Chairman, under this NAFTA, the two basic elements that have made America great—capital investment and consumer purchasing power—would be radically undermined.

Under this NAFTA, billions of dollars of investment capital would flow not within the United States, but south of the border to Mexico.

Under this NAFTA, the flight of jobs and dollars to Mexico would put significant downward pressure on American wages and purchasing power.

Under this NAFTA, American environmental laws would be undermined if they were viewed as barriers to trade.

Under this NAFTA, American citizens would be taxed billions of dollars to subsidize the loss of American jobs.

Under this NAFTA, Mexican workers would still not have free and independent labor unions to help improve their purchasing power.

Madam Chairman, because of these problems, and many others, I have concluded that this NAFTA is fatally flawed and must be defeated.

I urge my colleagues to reflect on the loss of American jobs and investment, and the ability to protect our environment, if this NAFTA is approved.

I urge my colleagues to protect those investments, those jobs, and that sovereignty.

I urge Members to vote this NAFTA down.

Mr. MATSUI. Madam Chairman, I yield 1 minute to the gentleman from California [Mr. TORRES].

Mr. TORRES. Madam Chairman, my announced intentions to support the NAFTA have been characterized by my many labor friends as a desertion from my labor roots. It is, in fact, not. I reached this decision as a direct outcome of my labor background, my training, and my sympathies.

The administration added two critical points to this treaty. First, they added a North American Development Bank, a vehicle to target investment capital to provide a safety net for workers, for workers.

Second, the new agreement contains a flexible job assistance program targeting training and income assistance.

Are there problems with NAFTA? You bet there are. There are problems in this country without a NAFTA.

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Frankly, NAFTA is far from being a perfect document. I see it as a blueprint, as a beginning vehicle for grappling with the inevitable market relocations and reorganizations that have to take place.

So I call upon my friends in labor to grasp this enormous opportunity and the potential of NAFTA in spreading the vision and the reality of industrial democracy throughout this hemisphere. Sure, corporations and capital are being welcomed in Mexico through NAFTA. But labor must realize its own potential in providing leadership in this hemisphere for all workers.

The upcoming vote on the North American Free-Trade Agreement [NAFTA] has been called the most important political decision of this century.

Hyperbole, widely differing facts and figures, high emotions, and drama have pitted allied against old friends, regions against States, haves against have-nots, businesses against businesses, elected official against each other and the administration, and labor against industry.

Madam Chairman, my announced intention to support the NAFTA has been characterized by my friends in the U.S. labor movement as a desertion from my labor roots—it is not. In fact, I reached this decision as a direct outcome of my labor background, training, and sympathies.

Will NAFTA help or hurt? We have only to look to our north to learn of its potential effects. Before doing so, we need to understand that in the real economic world, the causes and effects of the 5-year-old trade agreement with our Canadian partners are difficult to sort out.

In general, the Canadian economic picture is rough. Job growth has been stagnant, the agreement's architect and prime supporter became the most unpopular Prime Minister in Canadian history, and free trade has become everyone's scapegoat. One could argue, however, that the Canadian economic downturn has more to do with global economic ills than the United States-Canada Free-Trade Agreement.

The primary lesson for the United States in this experience seems to be: prepare for massive adjustments in very specific sectors. The Canadian agreement demonstrates that there will be sectors of the economy with wins, and those with losses.

Now, I chose to put my support behind the new NAFTA because the administration added two critical components which address directly the lessons learned in Canada. First, they added a North American Development Bank, a vehicle to target investment capital, to provide a safety-net for workers, should displacement occur. Second, the new agreement contains a flexible job assistance program to target training and income assistance into specific areas. These additions to NAFTA address directly potential economic and job losses.

Are there problems with NAFTA? You bet. There are problems for this country without a NAFTA. Frankly, NAFTA is far from being a perfect document. I see it as a blueprint, as a beginning, a vehicle for grappling with inevitable and unavoidable market relocations and reorganizations.

What has surprised me is that my friends in the North American labor movement, so far, have failed to grasp the enormous opportunity and potential, in the NAFTA, for spreading the vision and reality of industrial democracy throughout this hemisphere.

Multinational corporations and capital are being welcomed into Mexico through NAFTA. Labor must realize its inevitable linkages to these new directions and definitions of national sovereignty. Labor must insist upon being partners in implementing a NAFTA which will achieve their long held dreams and aspirations of social justice.

For, just as the NAFTA lowers tariff and other barriers to United States industry and investment in Mexico, it provides an opening for United States and Canadian labor to work directly, and in solidarity, with Mexican workers to address the most pressing needs.

These joint efforts would include raising wages, strengthening trade union democracy, organizing new hemisphere-wide unions and consequently to help United States and Canadian labor reverse their decline in membership and influence. NAFTA can become labor's vehicle for renewing and revitalizing its historic commitment to social and economic justice in this hemisphere.

Labor's justifiable apprehensions over Mexico's low wages, poor industrial labor practices, failure to enforce environmental and democratic safeguards can be overcome only if the trade union movement rises to the vision and opportunity of working directly and in formal affiliation with the rural and industrial workers of this hemisphere.

The negative social and environmental realities of the maquiladora process pays stark tribute to what can happen when organized labor does not become a full partner in the economic development process.

Labor is right to criticize these shortcomings and injustices, but historically, they achieve more lasting results through organizing than merely criticizing.

Technological changes have blurred national boundaries as barriers to trade and investments. The corporate community have responded to these changes. NAFTA is a manifestation of this new direction.

Canadian and North American labor face historic challenges through these changing trade patterns. Whether these are opportunities to better wage and working conditions, and to increase organizational strength, depends upon the vision, imagination, courage, and solidarity of labor's new direction.

The AFL-CIO's commitment to, and support for, trade union democracy in Poland through its affiliation with Solidarity, and the UAW's past working relationship with the formation of the auto councils in Mexico, are intimations of future directions for organized labor in industrial, service, and agricultural sectors under the NAFTA and other trade agreements.

Congress never legislated labor's mandate to organize the unorganized. Visionary and socially conscious trade union leaders forged organizing strategies and commitments to extend union democracy, initially, from craft industries, to manufacturing, and more recently into agricultural and service industries.

NAFTA is a challenge to all sectors of our economy, and to all partners in this agreement. I believe in the democratic future of American workers—both North and South American. It seems to me that NAFTA provides an initial blueprint for an exciting future for both industry and labor. It's not a perfect agreement, and begs adjustment, additions, and fine-tuning to protect workers and regions where dislocations may occur. This process begs the full participation of organized labor—if they grasp this vision and potential for historic change.

History demonstrates that there can be no lasting social and economic justice for workers without organized labor.

Bitter experience has taught both the Canadian and United States labor movement that legislation or trade agreements alone do not guarantee proper enforcement of wage and labor standards, unless there is constant vigilance from a trade union presence.

This experience mandates the direct participation of labor in the NAFTA not only to guarantee the equity of its social and economic effects, but to enhance labor's own commitment to solidarity and to the growth of free and democratic trade unionism throughout the Americas.

Mr. OBEY. Madam Chairman, I yield 10 seconds to the gentleman from Indiana [Mr. JACOBS].

Mr. JACOBS. Madam Chairman, CNN is reporting that the Japanese stock market is soaring with the news that this bill may pass.

To quote a great man, "Think about it."

Mr. OBEY. Madam Chairman, I yield 1½ minutes to the gentleman from Wisconsin [Mr. BARCA].

Mr. BARCA of Wisconsin. Madam Chairman, I rise to urge Members to vote no on this NAFTA. We can do better and we should do better for the American businesses and workers.

In fact, if we were debating the merits of this agreement alone, I believe it would be easily rejected. But it has become increasingly clear in the last couple of weeks as we have renegotiated everything from peanuts to tomatoes that this agreement is flawed.

But if we ratify this tonight, we will have foreclosed future opportunities to renegotiate. Instead we will lock in some of the worst features of this NAFTA.

The goal of any NAFTA or trade agreement, most importantly, is to improve the standard of living for American businesses so that we can create more family-supporting jobs for our workers. But like so many past trade agreements, this is flawed.

In Mexico, while productivity has gone up, their wages have gone down in the last 10 years, and at 58 cents an hour for their minimum, wage, it is questionable how many of our products and services they can buy. And the likelihood of our trade sanctions ever being imposed are minimal, and that has been acknowledged by the proponents, and that is why this is flawed.

I will conclude by saying the cost of this agreement is $2.5 billion this year alone, rising to something over $20 billion, and we do not have a clue how we are going to pay for it. What ever happened to the principle of pay as you go? What ever happened to the principle of free and fair trade?

Mr. KOLBE. Madam Chairman, I yield 1 minute to the very distinguished gentleman from Picacho, NM, Mr. SKEEN, a member of the Committee on Appropriations.

Mr. SKEEN. Madam Chairman, I thank the gentleman for yielding me this time.

Madam Chairman, today is the day. There is a yes vote and there is a no vote, and there ain't no maybe one. You decide either whether you are going to be for it or against it. We are not going to revise the agreement again, we are not going to rewrite it today. And if Members want to hang this whole question on jobs, that horse left the barn years ago, and you did not do anything about it, not a word was said by the special interests who are raising all kinds of cain about the NAFTA agreement, and who sat idly by because we were very comfortable as a Nation that did not really have to compete because we had a great consumer market that was held captive.

Well, those days are gone. We have a chance today to get in there and compete, because the jobs horse left when we let the Asiatic and Pacific rim countries take the jobs that we have, move them over there, operate them and then send the products back.

By the way, the textile folks who are concerned about this should read the labels on most of the goods, textile goods, in the stores today. They all come from Pacific rim countries.

Now is the day for us to get our heads out of the bunker, get up here and start competing, and the way to do it is to vote for NAFTA.

Mr. KOLBE. Madam Chairman, I am pleased to yield 1½ minutes to the very distinguished gentleman from Findlay, OH, Mr. OXLEY, a member of the Committee on Energy and Commerce.

Mr. OXLEY. Madam Chairman, what are we afraid of? Are we afraid of trading with a country that is one-twentieth the size of the United States and whose workers are one-fifth as productive as Americans? Are we afraid that if the Mexicans lower their trade barriers, which in some cases are as high as 20 percent, down to zero, that somehow we will not sell more products, more farm products and more machinery, more equipment and chemicals and the like into Mexico?

If the Japanese came to us tomorrow and said we will reduce our tariffs down to zero, everybody in this Chamber would rush and say, "Yes." When Mexico makes that same offer, we say we are not going to take yes for an answer.

Madam Chairman, many of us in this Chamber have had tough votes before. This, in my estimation, is not one of them. This makes sense for our country, it makes sense for my home State that is the third largest exporter, and it makes sense for all of us who believe in the process of free and open trade by free people.

That is really what it is all about.

One of the worst arguments I have heard on this floor is that somehow the drug trade will be increased if NAFTA is approved. Nothing could be further from the truth, and Judge Bonner, who is now the head of the DEA, made it clear that one of the best ways that we can deal with the drug problem is to pass NAFTA.

NAFTA is good for America. Let us pass it today.

Mr. MATSUI. Madam Chairman, I yield 2 minutes and 15 seconds to the gentlewoman from Florida [Mrs. MEEK].

Mrs. MEEK. Madam Chairman, I support NAFTA. My decision was very carefully and prayerfully delivered and deliberated.

I grew up in a great depression. I have seen much change in our country. However, after seeing decades of deprivation and adversity in our society, I have come to the conclusion that we need some new solutions to the age-old problems of unemployment and the lack of economic opportunity.

I have heard many principled arguments on both sides from well-meaning, intelligent people of good will who are struggling to do what is best for our country, as I myself have struggled with this question. In the end I have decided that old solutions to the unemployment problems and the lack of economic opportunity have not worked.

NAFTA is right for the times. It is time for America to go in a new direction.

Several months ago I opposed NAFTA because at that time I felt it would adversely affect American jobs and jobs in my district and in my State of Florida. In recent weeks, as NAFTA has been improved and additional analyses have become available, I have reconsidered my position. After an objective analysis of the best evidence available, I have decided to vote in favor of NAFTA, because I believe NAFTA is a job creator that will increase the economic opportunities for every American, including African-Americans who have been so long left out of the economic scene.

I believe the time has come for America to take a bold and a very forceful economic step forward to increase the potential of our faltering economy, and to create more jobs and more economic opportunities for Americans of all races, colors, and creeds.

No one has a crystal ball. The agreement is complex, and all sides can find something in it to prove their point.

In addition, international trade is the key to revitalizing our economy. NAFTA will create the world's largest trade zone, and in Miami and Florida, and in these United States, we will take advantage of it.

The real issue here is whether or not we can deliver new solutions for old problems.

Mr. OBEY. Madam Chairman, I yield 1½ minutes to the gentleman from Illinois [Mr. LIPINSKI].

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Mr. LIPINSKI. Madam Chairman, today we vote for the American dream, or we vote against the American dream.

Each Member of the House will make that decision today. I oppose NAFTA and that is a vote for the American dream. This is not a fight about saving the AFL-CIO. It is about saving good-paying, American middle-class jobs. This is not a fight to protect just manufacturing jobs. It is about saving an economic way of life for middle class Americans. This fight is not about protectionism. It is about protecting the American dream. This fight is not about creating a Mexican middle class. It is about saving the American middle class.

If we want this Nation to again be the economic power-house of the planet, let us start up that highway today. Let us vote no and save the American dream. And then develop an American policy of economic nationalism. Only after we have done that can we then start trying to save the world again.

Mr. KOLBE. Madam Chairman, I yield 1 minute to the very distinguished gentleman from Albuquerque, NM, Mr. SCHIFF, a member of the Committee on Science, Space, and Technology.

Mr. SCHIFF. Madam Chairman, I rise in support of passage of the North American Free-Trade Agreement.

I believe that we need to increase the export of American goods, and in Mexico there is an emerging consumer market with a desire for American goods.

In the last 5 years, without NAFTA, trade with Mexico has grown tremendously with the balance of trade in favor of the United States.

The opponents of NAFTA argue that under NAFTA companies can move and move jobs from the United States to Mexico. That is true. But that is true today without NAFTA. Those companies that want to go can go.

The average tariff now against goods coming from Mexico to the United States is relatively low, and that is the point. The average tariffs in Mexico against United States goods is still relatively high. By mutually lowering tariffs, NAFTA will provide an advantage for United States goods by reducing the tariffs more than the reduction in tariffs against goods coming into the United States.

That is why I think NAFTA is good for the United States, and I urge its passage.

Mr. MATSUI. Madam Chairman, I yield 1 minute to the gentleman from Texas [Mr. TEJEDA].

Mr. TEJEDA. Madam Chairman, the issue before us is the course of our economic future. To remain the world's economic leader we must expand our consumer market. We cannot retreat into protectionism. We have witnessed over the past few years fantastic global changes—new democracies, new technologies, and new opportunities for trade. We must think globally. For years we have been telling our high school graduates that they no longer compete only with the high school graduates across town, but with high school graduates from across the world—Japan and Germany. If we reject NAFTA we limit their future potential.

We must pass NAFTA and teach our graduates by example. We must also send the world a message. The United States intends to remain the world's economic leader!

There are those who argue that the United States will lose jobs because of low wages in Mexico. I submit to you that when a business looks to build a new facility or relocate, they consider not only wages, but also infrastructure, transportation, and communications. If wages were the only consideration then places like Bangladesh and Haiti would be booming. If we are afraid of competing in other markets, then we need to pack our bags and go back to school and learn basic economics 101.

Mr. OBEY. Madam Chairman, I yield 1½ minutes to the gentleman from Georgia [Mr. BISHOP].

Mr. BISHOP. Madam Chairman, I rise today in opposition to NAFTA.

It is not in the best interests of our country. NAFTA will compromise our national security. We must not allow key components of our national defense to be moved to Mexico.

United States defense contractors have set up subsidiaries in Mexico to underbid their American competitors. We cannot rely on the production of computer chips from Mexico for guided-missile systems in the United States.

NAFTA is bad for Georgia's agriculture. Some claim that a deal has been struck for peanuts. Make no mistake about it, Georgia's peanut farmers are 100-percent opposed to NAFTA.

Georgia produces 45 percent of the Nation's peanuts and almost 40 percent from my district. NAFTA will cost Georgia peanut farmers $60 million to say nothing of the losses for other peanut States.

Critics claim that Mexico cannot produce because of a lack of investment capital for machinery and equipment used in production. But that is what this NAFTA is all about, directing big business capital investment into Mexico.

NAFTA reduces the economic risk and gives full faith and credit backing of three governments to the investment capital needs of Mexico. When you combine capital equipment with Mexico's cheap labor, you put American workers and American farmers out of work.

Finally, NAFTA is flawed in that it does not address the disparity between wages in Mexico and the United States. The real hourly wage in Mexico has fallen 32 percent since 1980, while manufacturing productivity has risen more than 30 percent.

The side agreements do not address this fact, and results in a playing field slanted against American workers and our sliding American wages.

I am for free trade but also fair trade. We cannot compromise our Nation's security. We cannot turn our backs on dislocated workers. We cannot turn our backs on our farmers.

Mr. KOLBE. I yield such time as he may consume to the gentleman from Utah [Mr. HANSEN].

Mr. HANSEN. Madam Chairman, I rise in strong support of the North American Free-Trade Agreement.

Madam Chairman, I rise today in support of the North American Free-Trade Agreement. The main reason that I support NAFTA is because a vote for NAFTA is a vote for American jobs.

Every single job in America depends in some way on customers and clients, and the citizens of Mexico are among the world's best customers for American made products. On a per capita basis, Mexicans buy over $450 worth of products from the United States a year, more than their counterparts in Japan and Europe. This is more than any other group buys from America other than Canada.

Reducing tariffs and other barriers to trade will dramatically open up this already expanding market. Before Mexico joined the General Agreement on Tariffs and Trade in 1986, tariffs on United States products were as high as 100 percent. Today, they are down to an average of 10 percent. From 1986 to 1992, American exports to Mexico more than tripled from $12 billion to $41 billion. The United States runs a $5 billion trade surplus with Mexico, and this is in real dollars and exports.

Under NAFTA, this trend toward greater trade will only accelerate. Despite the progress that has been made under GATT, many markets remain closed to U.S. products and companies.

As demand for U.S. products expands and exports increase, American businesses will grow and hire new workers. The U.S. Commerce Department estimates that every additional $1 billion in exports generates over 19,000 new jobs. Since 1986, increased exports to Mexico have created more than half a million new American jobs.

Countless businesses and constituents in my district have contacted me regarding the importance that passage of NAFTA will have. These businesses are generally creating the well-paid, highly skilled jobs that Utah and America need.

The notion that NAFTA will cause an immediate and massive job migration to Mexico is based more on fear than on facts. If low wages were the only incentive, America would be losing jobs to China and Haiti, not Mexico. United States firms can presently locate to Mexico without NAFTA. Critics point to cheap labor as a threat to United States jobs, but they fail to recognize that United States workers are five times more productive than their Mexican counterparts. I know that when placed on a level playing field, American workers can compete with anyone. Critics of NAFTA fail to give American workers the credit they deserve.

Additionally, one of the major issues of the NAFTA debate concerns the alleged threat that NAFTA poses to our national sovereignty and our Constitution. In the words of one of the foremost experts on the Constitution, Judge Robert Bork said, "The first and shortest reason that NAFTA poses no threat to the sovereignty of the United States is that no treaty or executive agreement can bind the United States if it wishes to withdraw from the agreement's obligations." In other words, the only thing that can change the constitution is an amendment to the constitution. NAFTA is a trade agreement like many others that we have entered into, that Congress can override at any time.

Once NAFTA is examined on its merits and not on the misinformation being disseminated by its proponents it is easy to see the benefits. The economic benefits of free trade are well established. This is not a perfect agreement by any means, but the consequences of moving toward protectionism would be severe. I would urge my colleagues to move forward toward greater free trade and not backward toward protectionists policies of the 1930's.

Mr. KOLBE. Madam Chairman, I yield such time as he may consume to the gentleman from California [Mr. PACKARD].

Mr. PACKARD. Madam Chairman, I rise in strong support of the NAFTA agreement, and I urge my colleagues to support it.

Madam Chairman, NAFTA will launch the creation of a North American free-trade zone. In an effort to increase its economic muscle abroad, we have seen the European countries undertake a similar step, creating the European Community. NAFTA will increase America's muscle in our hemisphere, creating the largest free-trade zone in the world—over 370 million people—opening new markets to U.S. products. This will allow us to maintain our position as the world's economic superpower.

The vote on NAFTA is truly an historic one. This vote is essentially a yardstick by which we will measure our fears against the future. The rest of the world is watching—our confidence and faith in economic progress will be judged by the outcome of this vote. Passage or defeat of NAFTA will determine the pace of American competitiveness. This vote will decide, during this economically transitional time, whether we choose to move forward, to meet the new challenges of the 21st century—to lead the world—or resist inevitable change and relegate American to a second-rate economic power.

Critics of NAFTA have had two things going for them: Virtual information overload and an American public whose mood is economically introspective at the moment. These two elements have given the anti-NAFTA forces the leverage to market some baseless arguments. Ultimately, opponents of NAFTA rely on transparent arguments that play upon people's chief fear—job loss.

Since the debate about NAFTA began heating up several months ago, the public has been bombarded with reams of conflicting statistics about the effect NAFTA will have on our economy. The issue has been clouded by wild predictions of jobs fleeing across the border on one hand, while the other side claims hundreds of thousands of jobs will instantly be created. Both claims are exaggerated. However, because of the current sluggishness of the U.S. economy in general and California's economy in particular, the argument of job loss has been potent.

Two things about the job loss argument: There is nothing to stop United States companies from relocating to Mexico without NAFTA.

I will not stand here and deny the obvious: There are companies who have chosen to take jobs across the border to Mexico. Ironically, these jobs were lost primarily because we do not have a free-trade agreement with Mexico.

Because of the current tariff structure imposed by the Mexican Government, it is extremely difficult for United States businesses to compete there unless they physically move their production to Mexico and hire Mexican workers. Under NAFTA, United States businesses will not have to pay these kinds of tariffs, and will not have to move their companies to Mexico in order to compete in the market.

Second, dire predictions about the giant sucking sound of jobs being lost as United States companies flee to Mexico are ridiculous when you consider the facts. NAFTA opponents base their job-loss argument on the assumption that low wages are the sole determinant of economic success. This contention is not supported by the body of economic evidence, or by decisions most businesses and employers have made, and will continue to make, in the future.

If cheap labor was the sole determinant of economic success, the Dominican Republic would be an economic powerhouse. It is not. No matter how cheap labor is, the bottom line to business is that the work force must have a level of education equal to or greater than the task at hand. United States workers are nearly five times more productive than their Mexican counterparts. This, combined with America's superior infrastructure is more than enough to offset the lure of cheap labor. The reason most U.S. companies flee this country is to escape high taxes and excessive regulations, not cheap labor.

SOVEREIGNTY

Critics whip up another flimsy argument against passage of NAFTA, when they charge that it will somehow erode American sovereignty. They point to the international commissions created to mitigate labor and environmental disputes among the three countries.

My colleagues, anyone who has studied this agreement will recognize this as a transparent appeal to fear.

Under NAFTA, no international body has any legal authority over American domestic affairs. Furthermore, NAFTA does not allow any private individual or party to bring suit against a sovereign nation.

The bottom line is that sovereignty means autonomy. Is the United States able to export its goods to Mexico without artificial obstruction such as tariffs? Not currently.

However, with passage of NAFTA our economic autonomy will be strengthened by the elimination of barriers to trade and investment in Mexico.

The United States will regain the power to make its economic decisions based upon the freedom to trade with Mexico. It will no longer be forced to play by somebody else's economic rules. When we have an even playing field on which to compete America is virtually unbeatable. This is what NAFTA will provide, thus giving America more economic sovereignty.

TAXES

This brings us to the heart of America's economic security: How much of their income do Americans get to keep. Currently, Americans pay too many taxes; their real income is eroded by endless taxes and hidden taxes such as tariffs. That is another reason why I support NAFTA. The centerpiece of NAFTA will amount to a $1.8 billion tax cut for American consumers over the next 5 years.

When two Americans trade goods on the marketplace, the Government takes a cut—this is a tax. But, when an American and a Mexican trade goods in the marketplace, the Governments of both countries tax us twice. Not only is the product slapped with a tax in the production process, but it is taxed again at the border in the form of a tariff. What's even worse, American products are taxed at 2½ times the rate of Mexican goods.

When taxes are raised or lowered, economic activity responds accordingly. When taxes are low, the market is more active since buyers and sellers exchange more goods. The same principle applies for tariffs. When tariffs drop, international economic activity increases since buyers and sellers find it makes sense to trade more goods.

Not only do lower tariffs mean we can trade more goods, we can trade more types of goods. A product that was not tradeable at a high tariff because of the marginal rate of return, may suddenly be able to enter the market because the after-tax return becomes profitable.

On the average, American consumers pay a 4-percent tax on goods that come into our country from Mexico. NAFTA would eliminate that tax. Anyone who votes against NAFTA is voting against a tax cut for consumers in this country.

MARKETS

In terms of consumers, lowered trade barriers with neighboring Mexico offers the most lucrative opportunity to find an expanding market for American goods. It truly is intellectually difficult to make a case against a market of over 370 million people for our goods.

By passing NAFTA we will remove investment and trade barriers, and the quality of our products and the superiority of our work force will translate into economic growth for our struggling economy.

New and virtually untapped markets like Mexico are, after all, where profits for business lie. When businesses can expand and grow to meet the increased demand of larger markets, jobs are created. Every $1 billion in exports supports 20,000 high-skilled, high-wage jobs. So, in a nutshell, exports equal jobs, and NAFTA equals more exports for America. In the long run, NAFTA will produce a net gain in jobs.

COMPETITIVE EDGE

Finally, passage of NAFTA gives our products a competitive edge. While other countries will have to continue to add 10 to 20 percent tariffs to the prices of their goods, these tariffs for American products will be eliminated. After passage of NAFTA, our products will enjoy a huge price advantage and hold a secure and permanent place in the expanding Mexican market.

Again, I see this vote as a barometer of our confidence as Americans. Passage of NAFTA will allow us to unleash our competitive energy on new markets, free of artificial barriers to trade. Killing NAFTA is a step backward economically—it is a vote for the status quo.

I urge my colleagues to vote for the economic progress that is the future. I caution them that progress will happen with or without America—if we don't get on the train now, it will leave the station without us. Our ability to compete in global markets is the basis of our economic future.

I urge my colleagues to pass the agreement for the greater good of all America, not for political or parochial reasons. I urge you to pass NAFTA.

Mr. KOLBE. Madam Chairman, I yield 1 minute to the gentleman from New York [Mr. LAZIO], a very distinguished freshman from Bridgewater, a member of the Committee on Banking, Finance and Urban Affairs, and my colleague on the Committee on the Budget.

Mr. LAZIO. Madam Chairman, I have listened—carefully—to hundreds of constituents on both sides of the NAFTA issue. They expect me to make the hard choices, on the merits, without regard to political consequences.

NAFTA is clearly in the best interests of Long Island and the country. NAFTA will not only preserve, but create jobs. And they will be good jobs, because our advantage is our highly productive work force.

America in 1993 finds herself in the midst of a global economy. The world is inhabited by 5.4 billion people. America's future depends on our aggressively pursuing these vast markets. To retreat means we shoot ourselves in the foot.

I reject as unacceptable the current economic situation, which is why we must seize this opportunity for a better future, by tearing down trade barriers and opening up a potentially vast new market for American-made products.

If NAFTA is defeated, we will never know what would have happened. But if it passes, we can always opt out with 6 months notice and for any reason.

If we want our children to have the opportunities past generations have enjoyed, we must have the courage to reject fear and accept opportunity.

(At this point Mr. MFUME assumed the chair as Chairman of the Committee of the Whole.)

Mr. HUNTER. Mr. Chairman, I yield 2 minutes to Mr. BARCIA of Michigan.

Mr. BARCIA of Michigan. Mr. Chairman, as I have said since last year's congressional campaign, I support fair trade not free trade, and therefore, plan to vote against the North American Free-Trade Agreement. My greatest consideration in taking this position is that American and Mexican workers, the North American environment, and many American small businesses and entire industries stand to be big losers unless we make the pact much stronger in several areas. I remain concerned about the impact of NAFTA on our small farmers and particularly the sugar industry.

Even though Mexico has agreed to modifications in NAFTA which may reduce the problems sugar producers might face, I believe this new provision needs further deliberation. Other industries such as flat glass, textiles, and other consumer goods will be hurt by the necessity of competing with Mexican workers who do not receive a fair wage or benefits. Am I to be reassured that losing jobs is OK because we will have so much money available for worker retraining? If we will gain so many jobs from the NAFTA, why have worker readjustment benefits been such a key aspect of proponents' arguments against labor concerns. Our citizens want to keep their jobs, not trade them in for a handout, no matter what you call it.

Mr. Chairman, as a Congressman from Michigan, I am also quite concerned about the effect on our environment and the risk to the Great Lakes.

We must act swiftly and responsibly to once again make America the most attractive place in the world to produce goods. Instead of passing a NAFTA now, we also need to make sure that we help Mexico improve its ability to enforce environmental, health and safety standards and workers' rights.

If there are no guarantees that the Mexican people will be rewarded with higher pay as their productivity rises, how can we guarantee an increase in export-related jobs in the United States. Who will buy these products.

Perhaps proponents of this agreement are correct when they say that a vote against this agreement is one of fear. But, I ask my colleagues and the citizens of my Fifth District of Michigan if fearing for the well-being of my friends and neighbors is such a bad quality to have. I submit to you that it is not.

The problems with, and questions about, the NAFTA as it stands, Mr. Chairman, are far too significant to wash away my fears. We must fill in the blanks before our workers, businesses, and environment can be considered safe. Not safe from competition, but safe to compete. Then, and only then, a NAFTA might be productive for all of our countries.

Mr. MATSUI. Madam Chairman, I yield 3 minutes to the distinguished gentleman from Indiana [Mr. HAMILTON].

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Mr. HAMILTON. Mr. Chairman, the Members of this House face today an important and difficult vote—as important and difficult as they will ever cast. We often flatter ourselves—mistakenly—that all the world watches what we do. This time the world really is watching.

The stakes in this vote are enormous. So is our responsibility. The political passions run high. But it is my judgment that most of us will vote on the basis of what we think is best for the country.

What's at stake? Jobs, growth, and exports; United States leadership in the world; the ability of the President to negotiate trade agreements; the success of the GATT talks; our relations with Mexico; and Latin America's hopes for closer economic ties with the United States.

THE CLIMATE

The debate over NAFTA has become an epic battle. NAFTA has become a symbol of something larger than itself; it is much more than a trade agreement. We are at a great turning point.

All of us recognize the fears and anxieties among American workers, and sympathize with them. They worry, legitimately, about their jobs, their wages, and their security. They see NAFTA as a threat.

NAFTA symbolizes the enormous changes coursing through our international economy. Tougher competition. Stagnant wages. Fewer blue collar jobs. Declining military spending. A shift in opportunities from unskilled to skilled jobs.

NAFTA presents a choice between two fundamentally different views of the world, two visions of America's future. Will the United States seek to expand its political and economic influence around the world, or will we withdraw and disengage? Do we embrace or resist change? That is why the world is watching.

THE TEST FOR NAFTA

The test to apply to NAFTA is a simple one: Will NAFTA make things better or worse for the United States?

Will NAFTA help those Americans who are hurting?

Will NAFTA improve the North American environment?

Will NAFTA promote political reform in Mexico?

Will NAFTA make for a stronger, more prosperous America?

MY POSITION IN BRIEF

I am convinced we will be better off with NAFTA than without it. Nearly every problem we face gets worse if NAFTA is defeated, and becomes easier to solve if NAFTA passes.

NAFTA passes the test.

WHY I SUPPORT IT: THE DETAILS

A: ECONOMY

First, the economic arguments. Economically, NAFTA will have a small but positive impact. Some jobs will be lost, probably low-skilled ones, and we must help those who lose their jobs. But the net result of NAFTA will be job gains, not job losses. All serious studies reach this conclusion.

Opponents argue NAFTA will entice American companies to go to Mexico. But neither logic nor experience support this argument. A United States firm in search of low-wage Mexican labor can leave now, with no restrictions. But if we pass NAFTA, Mexico's tariffs, which are 2½ times as high as our own, will come down. Nontariff barriers will be wiped out. There will be less incentive for American firms to move to Mexico. NAFTA levels a playing field now sharply tilted in Mexico's favor.

By approving NAFTA, we give up a little; we get quite a lot. I do not know how a wealthy country like the United States can grow wealthier and create more jobs unless there is growth through trade.

Our work force already can produce as much as this country will buy. To create and maintain new manufacturing jobs, we need access to foreign markets. The United States, to prosper, must not only open up trade with Mexico, but with the world.

B: SIDE AGREEMENTS

NAFTA's side agreements are not perfect but, on balance, they are valuable. They give us the means to promote improved environmental protection in Mexico. Without NAFTA, we have no such leverage. The status quo, which is unacceptable, will continue.

Through NAFTA, we are creating financing mechanisms to help pay for border environmental cleanup. Without NAFTA, the border environment becomes more lethal.

The labor side agreement will keep Mexico moving forward in enforcing its labor laws and standards. Without NAFTA, we have no leverage, and the deplorable conditions will simply continue.

Defeating NAFTA will not curb pollution, or alleviate the exploitation of labor. Enacting NAFTA will do both.

C: FOREIGN POLICY

NAFTA comes at a crucial moment for U.S. foreign policy. Decisions will be made in the coming weeks, not only on NAFTA, but at the APEC summit, and in the GATT talks. These critical events will define United States trade relationships with Latin America, Europe and Asia for years to come. They will shape our global economic future. How we respond, in turn, will shape our world.

Passing NAFTA will show we are engaged and standing by our commitment to open markets. NAFTA confirms our historic role in promoting free trade. Make no mistake: NAFTA's defeat will define our foreign policy as isolationist and protectionist.

The debate so far has been framed mostly in terms of jobs. But NAFTA has become one of the most important foreign policy decisions of the decade. We should pass NAFTA because important American foreign policy interests are at stake.

NAFTA will promote closer cooperation with Mexico on issues Americans care about, such as illegal drugs and immigration. These are problems we cannot solve on our own.

NAFTA will stimulate economic and political reform in Mexico and, over time, foster a more prosperous Mexico, politically stable Mexico. This is a vital U.S. national interest.

NAFTA is a turning point in our relations with Latin America. It will help consolidate political and economic reforms already underway in Latin America, a region that could become a huge export market for the United States.

NAFTA will promote progress in global trade talks, by reminding our key trading partners that we have alternative markets close to home.

D. CONSEQUENCES OF REJECTION

We also face serious consequences if NAFTA is rejected.

If NAFTA fails, our relations with Mexico and Latin America will be seriously damaged.

If NAFTA fails, the President's ability to maneuver in the international arena—whether the forum is GATT, APEC, or NATO—will be crippled.

If NAFTA fails, our leverage in other important negotiations will be undercut. If we turn our back on free trade with Mexico, how will we persuade Germany, Japan, France, and others to make politically difficult concessions in the GATT talks?

If GATT fails, global trade expansion, underway since World War II, will be at risk, and so will U.S. jobs.

If NAFTA fails, we have no meaningful response to the regional trade strategies of Europe and Japan.

If NAFTA fails, a President will be wounded, and our commitment to free markets and the liberal world trade system undermined.

E: FLAWS IN OPPONENTS' ARGUMENTS

NAFTA is not a perfect agreement, but its opponents make the classic mistake. They are making the best the enemy of the good. They have many complaints about NAFTA. But we cannot solve every problem between the United States and Mexico in a single trade agreement.

"Not this NAFTA," they say. "We can negotiate a better one that does more for the environment, more for Mexican workers, and more to bring full democracy to Mexico."

Those who await a better NAFTA will be waiting a long time. The truth is, if not this NAFTA, then no NAFTA—at least for years to come.

NAFTA's opponents are also wrong to view trade as a zero sum game. If Mexico gains, they say, we lose. They see only so much output to be produced, a finite supply of capital to be invested. They believe that if NAFTA creates economic growth in Mexico, it will come at our expense.

History proves the reverse: When trade expands, both parties gain. Market economies that engage in free trade grow richer together—not at each other's expense. Trade is a positive sum game.

NAFTA's opponents are pessimistic about America's economic strength. As one worker put it to me: "The center of our concern is fear—fear that we cannot compete."

If you listen to NAFTA's opponents, our negotiators were outsmarted. Our core industries can survive only with protection and subsidies. The United States is in inevitable economic decline and must close its borders.

NAFTA's opponents paint a distorted picture of the world's strongest economy.

F: NAFTA IS AN OPPORTUNITY

NAFTA is an opportunity for America.

NAFTA is an opportunity for growth, not only for the United States, but for Mexico and, eventually, all of Latin America.

Put aside the statistical games. Despite all the studies that conclude that NAFTA's gains exceed its losses, no one can predict future economic trends with certainty. There will be losers, but that is no reason to defeat NAFTA.

A wider market and increased competition will benefit all three economies. NAFTA builds on the open trading system that has served us well since World War II. It offers better jobs and higher incomes, and it will promote democracy and political pluralism and stability in Mexico.

CONCLUSION

This vote today is among the most important votes any of us will ever cast. Our responsibility is to do the right thing, what we think is best for the country.

Our decision comes down to a fundamental choice. NAFTA's opponents offer a pessimistic vision of America's prospects, a vision whose message is: We cannot compete. We cannot lead. Let us withdraw, isolate ourselves, and protect our markets.

NAFTA's supporters, along with President Clinton, Vice President GORE, and all the living former Presidents and Nobel Prize-winning economists, offer a different vision. Our message is: We can compete. We will open our markets. We must grow. We will not disengage. We will lead.

If NAFTA fails, we lose. We lose jobs and exports. We lose progress toward a GATT agreement, and we lose credibility and stature in the world.

If we pass NAFTA, we gain. We gain more jobs, a healthier economy, better relations with Mexico and Latin America, momentum toward a GATT agreement, and leadership in the hemisphere and in the world.

I urge my colleagues to vote for NAFTA.

Mr. OBEY. Mr. Chairman, I yield 1½ minutes to the gentleman from Pennsylvania [Mr. HOLDEN].

Mr. HOLDEN. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in strong opposition to NAFTA. But that does not mean that I am protectionist. I believe in free trade, but it must be fair trade. We have a free and fair trade agreement with our neighbors to the north, with the Canadians. On balance, both countries have benefited.

I have heard a great deal of argument today in this Chamber that says there is a possibility we will lose American jobs to Mexico if this agreement is confirmed, and I agree with that belief. The administration has taken the time to address this concern, and they have recommended a side agreement. Have any of our Members read the side agreement that deals with the Mexican wages? It is a bureaucratic nightmare and a lawyer's dream come true.

Mr. Chairman, this is supposed to be a North American free-trade agreement, not a Mexican free-trade agreement. Then why, why are there so many examples where our tariffs come down immediately and Mexican tariffs come down over 5, 10, 15 years?

Mr. Chairman, that is not fair trade, that is not even free trade.

Finally, Mr. Chairman, there is this rumor going around this Chamber, has gone around for weeks, that the Japanese are hoping that this agreement is defeated because they then will be able to enter into a free-trade agreement with Mexico. That is not true. The Japanese market is soaring. Why is it soaring? Because they are after the American market. The Japanese want to produce goods in Mexico, take advantage of cheap labor there and the environmental laws not being enforced, come across the border duty-free, and sell those products to the American citizens.

I urge all my colleagues, please defeat this agreement.

The CHAIRMAN. The Chair would advise Members controlling the debate time that the gentleman from California [Mr. MATSUI] has 58½ minutes remaining; the gentleman from Wisconsin [Mr. OBEY] has 59½ minutes remaining; the gentleman from Arizona [Mr. KOLBE] has 63 minutes remaining; and the gentleman from California [Mr. HUNTER] has 64½ minutes remaining.

Mr. KOLBE. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio [Mr. GILLMOR].

Mr. GILLMOR. I thank the gentleman for yielding this time to me, and I rise in support of NAFTA.

Mr. Chairman, over the course of the last few months I have met with literally hundreds of people from around my district and the State of Ohio, representing both those for NAFTA and those against NAFTA. During that time I have received thousands of letters and phone calls in my office on both sides of the issue, and I have reviewed large quantities of information prepared by both national and local groups for and against the proposed trade treaty.

In addition, I have done a survey of 1,100 businesses in my district to ascertain the impact the NAFTA agreement might have on them and on employment in the district. I have also met personally with prominent proponents including President Clinton, and with such prominent opponents as Ross Perot to discuss the issues.

From the beginning, I have said that one of the principal factors in my decision would be the likely impact on economic growth and on jobs in my district and in the State of Ohio.

After receiving all this information I have decided to vote for approval of this trade agreement for two reasons:

First, the agreement is better for jobs and for the economy in our area than the current situation; and

Second, if the agreement does not work out to America's advantage we have an express right under the agreement to withdraw from it at any time by simply giving 6 months notice. We can withdraw from it 6 months after it is approved, a year after it is approved, 5 years after it is approved, or any time that we wish.

The debate over NAFTA has become a very emotional debate and sometimes the facts and the provisions of the agreement have been lost in that emotional debate.

For example, I have heard from some of my supporters in the Fifth District, some of whom have said that if I vote for NAFTA they will never vote for me again, and from other supporters who say that if I vote against NAFTA then they will never vote for me again. The moral of the story is that you can't please everyone. There is only one thing to do. That is to make an honest evaluation of the arguments and use your best judgment to vote for what is in the best interest of your district, your State, and your country.

When making a decision on NAFTA one has to look at the current situation without NAFTA, and compare it to what would likely happen economically with NAFTA. Opponents of NAFTA are contending that jobs are moving to Mexico now. They claim that is a reason to oppose NAFTA. The fact is that jobs are moving to Mexico because of the current situation, not because of NAFTA.

Without NAFTA there are clear incentives for American companies to move jobs to Mexico. One of the principal things that NAFTA does is to remove incentives to move jobs out of the country, and creates incentives to keep jobs here.

Mexico is a low-wage country and that does not change by the passage of NAFTA. However, the fact is there is a tax called a tariff on American goods going into Mexico that is on average 2½ times the tax on goods coming into the United States from Mexico. That creates a huge incentive for larger companies to move jobs out of America and into Mexico. One thing that NAFTA does is to eliminate that tax disadvantage and make it more profitable than it is now for American companies to keep jobs here.

If someone is concerned about job loss in America now, then it seems to me they ought to want to change the current situation which encourages that job loss. NAFTA does change that situation and changes it in a way that is likely to be positive for jobs and the economy in the United States.

Opinion in my district is divided on the question of NAFTA. I do not know of any scientific poll in my district on the issue, but generally poll results in my district are close to results of national polls.

In this respect, the two most recent national polls on this issue are interesting. A Washington Post/ABC News poll conducted November 11 to 14 showed 42 percent in favor of NAFTA, 42 percent opposed, and 16 percent undecided. A Wall Street Journal/NBC News poll conducted November 14 and 15 showed 36 percent in favor of NAFTA, 31 percent opposed, and 33 percent undecided.

Mr. KOLBE. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. FIELDS], the very distinguished ranking member of the Committee on Merchant Marine and Fisheries and a member of the Committee on Energy and Commerce.

Mr. FIELDS of Texas. I thank the gentleman for yielding this time to me.

Mr. Chairman, this is a historic occasion for the House of Representatives. Today, the House will consider H.R. 3450, legislation implementing the North American Free-Trade Agreement. The outcome of this debate will have a profound effect on the lives of American citizens, and it will define the U.S. role in the world into the 21st century and beyond. Passage of NAFTA will result in a better life for all Americans, Mexicans, and Canadians; rejection of NAFTA will create a giant sucking sound of 700,000 American jobs dependent on trade with Mexico going down the drain.

If approved by Congress, NAFTA would create a free-trade zone on the North American continent linking the economies of the United States, Mexico, and Canada in one giant market. NAFTA will, over the next 15 years, create a fully integrated $6 trillion trading bloc of 370 million Mexican, American, and Canadian consumers—a trading bloc 25 percent larger than the European Economic Community. Creation of this North American free-trading zone will allow the United States, Mexico, and Canada to trade freely among themselves, as well as compete more effectively in the larger international arena.

The already close trading relationship between Texas, Mexico, and Canada will expand, and will bring about even greater economic benefits for my home State if NAFTA is approved. Exports to Canada and Mexico already support 389,000 Texas jobs. Currently, Mexico and Canada are Texas' first- and second-largest export markets. Since 1987, exports from Texas to Mexico have increased by 191 percent, rising from $6.5 billion to nearly $19 billion. And while it may sound unbelievable, the port of Houston is Mexico's largest port; more Mexican cargo passes through the port of Houston—7.9 million tons last year—than through all the ports in Mexico combined.

Mr. Chairman, NAFTA is an important investment in America's future. The fact is that free and fair trade benefits everyone, rather than helping only a few at the expense of others. Those who oppose NAFTA believe incorrectly that because Mexico gains from this agreement, the United States must lose. However, if one looks at the facts, rather than the misinformation, it is clear that NAFTA is good for U.S. companies and their workers.

NAFTA will open Mexico's $6 billion telecommunications market to competition for United States firms offering everything from central office equipment and voice mail to private network and data processing. Telmex, the Mexican telephone company, is beginning a 5-year, $10 billion modernization program. NAFTA will give American exporters a cost advantage of up to 20 percent over other foreign competitors, meaning the massive project will be dominated by American firms. Telecommunications firms that operate in Texas like Southwestern Bell, AT&T, MCI, and DSC will have a unique advantage in competing for this business.

In the financial services arena, NAFTA is the most comprehensive trade agreement that the United States has ever negotiated.

Under NAFTA, Mexico will immediately eliminate tariffs on 60 percent of United States chemical, rubber, and plastics imports, giving United States companies a 20-percent price advantage over Japanese, German, and other competitors. Houston-area companies such as Goodyear and Air Products & Chemicals will benefit significantly.

Eliminating import duties through NAFTA on United States-made computer projects will mean increased computer exports to Mexico—and that will benefit Compaq employees in Houston, IBM employees in Austin, and Dell employees in Dallas.

NAFTA will enhance energy trade by giving United States companies a greater opportunity to expand expansion into Mexico's gasoline, petrochemical, and natural gas markets. It will also open the door to the energy equipment and service industries which will help replace some of the 500,000 jobs lost in our domestic energy industry in recent years. In fact, NAFTA will open up major export opportunities for the energy industry in Texas. By the year 2000, expanded energy exports to Mexico could expand the Texas economy by an estimated $2 billion a year, and could create 29,000 additional jobs for Texans.

Mr. Chairman, if we reject NAFTA, United States-Mexican relations would suffer irreparable damage. The United States would jeopardize its world economic leadership while our bolder competitors, like Japan and the European Community, would immediately move to establish closer economic ties with Mexico. Further, we would show the world that our country cannot follow through on its commitments. Defeat of NAFTA would surely threaten the succession conclusion of GATT negotiations and would tie President Clinton's hands during his upcoming trade negotiations with the Pacific rim countries.

I urge my colleagues to separate the rhetoric from the reality and support this historic agreement. The facts speak for themselves.

Mr. KOLBE. Mr. Chairman, I yield 1 minute to the gentleman from New Hartford, NY, one of the more thoughtful Members of our Congress and a member of the Committee on Science, Space, and Technology.

Mr. BOEHLERT. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in support of NAFTA.

That is a sentence I was not sure I would be uttering as recently as 24 hours ago. And, frankly, it is an uncomfortable statement to make. The easier vote for me—the more politic vote—would be to oppose this agreement. I feel uneasy standing apart from the labor movement when we so often stand together, and I am equally uneasy when there is such division within the environmental community—all the more so because proudly I say color me green.

But politics are not the only complicating factor here. This decision is so difficult because the substantive policy issues are a close call.

It is easy to lose sight of that amid the overheated rhetoric and personal attacks that have characterized this debate. But contrary to any claims made by either side, Perot, Jackson, BONIOR, and GEPHARDT are not the Four Horsemen of the Apocalypse; and our former Presidents are not named Moe, Larry, Curly, Shemp, and Joe. The unseemly spectacle that has been the NAFTA debate has consisted largely of exaggeration.

The hard truth is that NAFTA is unlikely to have an enormous economic impact any time soon in either direction and that its impact is difficult to evaluate in any event. Still, most analyses indicate that the benefits of NAFTA outweigh the costs, and that conclusion is in accord with what I'm hearing from my own district.

Dairy farmers in my region are eager for NAFTA because it could help alleviate the Nation's dairy surplus, which depresses their incomes. Business leaders in my area support NAFTA, not because they are planning to leave, but because it can mean more business and more jobs throughout our congressional district.

Corning has told me that NAFTA will mean more jobs for Oneonta. Proctor & Gamble has told me that NAFTA will mean more jobs for Norwich. Oneida Ltd. has told me that NAFTA will mean more jobs for Sherrill.

And our State's past experience lends credibility to these claims. New York's exports to Mexico have grown 80 percent in the past 5 years as Mexico has opened its markets. Already 17,000 workers in New York State owe their jobs to trade with Mexico—and that's while high tariffs continue to exist. Jobs is my favorite four-letter word; jobs are what this debate is all about.

Still, workers in my area are understandably fearful about the agreement; our region has been wracked by years of job loss and defense cuts have clouded the outlook for the future. But the unpleasant truth is that most firms that would relocate in Mexico would do so with or without NAFTA, but most new export jobs would be created only with NAFTA. NAFTA may not be a boon to labor, but labor is likely to be worse off without it.

The Washington Post's editorial yesterday captured the issue well. The editors wrote, "The vote on NAFTA requires each member of Congress to think carefully about the American future." Not about my future or the next election, but about the American future. And that is what I have done. I have tried to set aside the rhetoric, the simple political considerations, and the exaggerated claims; I have tried to think carefully about the Nation's future.

And so I do rise in support of NAFTA—with discomfort, reluctance, hesitation, even a little trepidation. But I can't allow myself to be ruled by uncertainty and fear in the face of all the evidence of this agreement's potential benefits. I have decided to hope that this is an instance where the only thing we have to fear is fear itself.

Mr. KOLBE. Mr. Chairman, I yield 1 minute to the gentleman from Adison, MI [Mr. SMITH], a member of the Committee on the Budget and a member of the Committee on Science, Space, and Technology.

Mr. SMITH of Michigan. I thank the gentleman for yielding time to me.

Mr. Chairman, if the advantages of NAFTA seem so obvious, why is the vote so close? I suspect the answer is that the debate is no longer about tariffs and the details of the agreement. Rather the concerns are a reflection of politics and the uncertainty about the state of America.

Over this country's history, American workers have shown that they can compete with anyone in the world, and because of this, we are the richest nation on Earth.

NAFTA's opponents have generated fear by suggesting job loss. The real threat of job loss comes from a spendthrift Congress that has placed one burden after another on U.S. businesses and U.S. workers.

We cannot be afraid of competition. Imports from Mexico are about one-half of 1 percent of our GNP. American jobs will depend upon our fiscal, monetary, and social policies, not on Mexico. Mexico is not the enemy, the U.S. Congress is the enemy by enacting increased taxes and overzealous regulations that place our producers at a competitive disadvantage.

If we decide, in this vote today, to reject a zero tariff in one of the fastest growing markets in the world so we do not have to face competition, we will help ensure that our standard of living continues to decline.

A vote for NAFTA is a self interest vote for the United States to continue to prosper and to continue to be a world leader.

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Mr. HUNTER. Mr. Chairman, I yield 4½ minutes to the very distinguished gentleman from Maryland [Mr. BARTLETT].

Mr. BARTLETT of Maryland. Mr. Chairman, I am a very strong proponent of free and fair trade. Early in the NAFTA discussion I was enthusiastic because I realized that we must be a member of a trading bloc commensurate with the challenge of the European community, and more especially of the Pacific rim countries; but as I have studied more and learned more and considered the opponents and the proponents of NAFTA, I reluctantly concluded that I must vote against NAFTA.

There are several concerns I have about NAFTA and several very good reasons why my vote is no. In these few moments I will discuss but one of them.

Initially NAFTA will be a significant drag on our economy. This is recognized almost unanimously by those who support it and those who oppose it. We will lose initially some jobs to Mexico. That is understandable and other circumstances it would be tolerable.

Americans understand deferred gratification. That is the reason that our young people go to college, rather than spending their time on the beach; so we could tolerate a loss of jobs to Mexico now if it was going to mean more and better jobs for Americans in the future, and under the right circumstances I firmly believe that is what free and fair trade will do; however, our economy is now already suffering under the Clinton tax increases, the largest tax increase in history, and pending health care reform will mean additional taxes and additional drag on our economy.

We cannot afford yet another risky economic adjustment so close to President Clinton's tax increases and his upcoming health care taxes.

I view NAFTA as the equivalent for our country as elective surgery for a patient. You wait until your patient is in good health and then the elective surgery which initially has a drag on the patient ultimately will procure good for the patient.

I am firmly a supporter of free and fair trade. I think that we run a high economic risk to add the early drag of NAFTA to an already imperiled economy.

What we need if we are to embark on NAFTA now, and I think we should do it sooner rather than later, what we need is broad support, not a support which is bought at 7 plus million dollars per vote.

If our economy, as I fully expect it will do, will turn down as a result of these taxes and as a result of NAFTA should NAFTA pass, then we need a broad spectrum of support so that we have the staying power to stay with it.

I am very fearful that free trade, which I thoroughly support, is going to be blamed for a downturn in our economy. We need to give free and fair trade every chance.

The future of our economy and our position in the global marketplace may depend on it, but there are simply too many unknown questionable and politicized aspects of NAFTA to warrant my vote.

Free-trade agreements need to be done right, and NAFTA is not the right one and this is not the right time.

Vote no and then we need to send a message to the world that we want to quickly renegotiate a treaty which has a broad spectrum of support so that it will have the staying power necessary to do the good things that we know free and fair trade will do for this country.

Mr. MATSUI. Mr. Chairman, I yield 1 minute to the gentleman from Tennessee [Mr. CLEMENT].

Mr. CLEMENT. Mr. Speaker, I understand the concerns of those who are anti-NAFTA because of the lousy U.S. agreements from the past that have lost hundreds of thousands and millions of jobs; but this agreement is moving us in the right direction, in a new direction.

The original NAFTA agreement was negotiated, as we all know, by President Bush, but improved significantly by President Clinton.

This agreement will be responsible for a net gain of jobs for America.

I know American workers can compete successfully and win in the international economic market.

We have seen what has happened in Europe with EC–92. We have seen what has happened in the Asian countries and the Pacific rim.

Under NAFTA with 360 million consumers, a production rate on an annual basis of over $6 trillion, North America will undoubtedly become the single largest and most successful market on the globe today.

Mickey Kantor, our U.S. Trade Representative, is negotiating with 110 countries to bring down the tariffs, and we are going to put all that in jeopardy if we do not approve NAFTA.

NAFTA is about investment in our national economic system.

Mr. OBEY. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. DIXON].

Mr. DIXON. Mr. Chairman, today I rise to voice my opposition to the North American Free-Trade Agreement [NAFTA] Implementing Act (H.R. 3450). My decision to vote against NAFTA was an extremely difficult one. As a former member of the Foreign Operations Appropriations Subcommittee, I understand the importance of promoting free trade.

The arguments for and against NAFTA are very compelling. President Clinton's decision to negotiate side agreements on labor and the environment to improve the enforcement provisions of NAFTA is admirable. However, I have thoroughly reviewed NAFTA and the side agreements, and believe that this agreement fails to adequately protect American jobs, fails to provide effective environment safeguards, and maintain health and safety standards.

My vote against NAFTA is not a vote against the future of our foreign policy, or a vote against the leadership of this great Nation or a vote for isolationism. I am deeply concerned about our competitiveness in world markets and the future of the American work force. My vote is for the workers of America who are at risk of losing their jobs.

While the U.S. economy appears to be growing at least moderately, there has been no discernible improvement in the economy of California or Los Angeles County. California's unemployment rate climbed from 9 percent in August to 9.8 percent in October, in comparison to the unemployment rate for the Nation, which was 6.8 percent in October. California's jobless rate is the highest among the 11 major industrial States. The unemployment rate for Los Angeles County during the same period reached another high of 9.7 percent. As a result of a downturn in defense spending and base closure, more jobs are expected to be lost, and the short-term outlook for Los Angeles County is discouraging. NAFTA, in the near term, may cause even greater hardships for my region.

We can ill afford to lose more jobs in Los Angeles, and NAFTA does little to allay the fears of those who could possibly lose their jobs as a direct result of enactment of the agreement. The number of U.S. jobs that may be lost as a direct consequence of the agreement cannot be predicted with any reasonable degree of accuracy. However, studies single out lower-skilled, lower-income, blue-collar workers as those who are most at risk from increased competition with Mexico's low-wage workers. A study by business week estimates that even if new investment in Mexico were limited to only $2.5 billion a year, the resulting job loss would be 375,000 over 5 years.

NAFTA does not guarantee that Mexican average wages and working conditions will rise with productivity. Without such clear and enforceable provisions, adoption of NAFTA would be a lost opportunity for millions of individuals in the United States and Mexico.

My vote is also for enforceable environmental standards. California has some of the toughest environmental laws in the country, and many of us have worked hard to improve the air and water quality in my State. When I was in the California State Assembly, I joined my colleagues in passing tough environmental laws so that our next generation could enjoy the beauty of California. There is a strong possibility that NAFTA may jeopardize Federal, State, and local laws, and possibly lower standards, particularly in health, safety, labor, and environmental matters.

The enactment of NAFTA will cost the taxpayers about $2.7 billion over 5 years. I support the administration's decision to establish a Trade Adjustment Assistance Program for training dislocated workers who have lost their jobs because of a shift in production to Mexico or Canada, as well as due to imports. However, as the administration and Congress seeks to drastically reduce our budget deficit, many vital programs are being reduced. Over the years, we have seen a reduction in basic unemployment benefits, and Congress has yet to pass the Unemployment Compensation Act that will provide additional benefits to unemployed workers. Later this week, Congress will vote on a measure to rescind $2.58 billion in domestic spending programs, defense and foreign affairs, and as part of President Clinton's plan to reinvent government, the administration is proposing to cut another $9 billion over 5 years. I believe that the administration may find it difficult to fully fund this much needed dislocated worker adjustment program, community-based economic development projects, environmental cleanup efforts at the border, and the North American Development Bank.

Mr. Chairman, over the last several months, I have received hundreds of letters, postcards, and telephone calls from concerned constituents who have spoken out passionately on both sides of the NAFTA issue. This is clearly an issue that will have a far reaching impact on each and every one of us. However, the agreement before us today fails to provide the necessary safeguards for America's work force, including the enforcement of sound health, safety, and environment standards. I urge my colleagues to join me in voting against this act in order to renegotiate a stronger, enforceable agreement that will provide security and prosperity for our country.

Mr. OBEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. MURPHY].

Mr. MURPHY. Mr. Chairman, I rise in opposition to the NAFTA implementation legislation.

Mr. Chairman, sometime later today the House will vote on the North American Free-Trade Agreement and complete our constitutional obligation toward this agreement.

It is safe to say that every Member of this body has been lobbied many times by both sides, and for many tonight's vote will come as quite a relief. As the rhetoric and postulating reach a crescendo, I believe that it is important to look back a few years to see exactly how we arrived at this moment in time, this point in our history.

In 1989, President Bush asked for and received from Congress the fast-track authority. Although I voted against this polite request to eliminate Congress from these negotiations, both the House and the Senate agreed with the President.

For 2 years, the Bush administration, with its own negotiators in place, hammered out a free-trade agreement which was available for submission to Congress before the 1992 elections. For whatever reason—lack of time or lack of a majority—President Bush allowed this agreement to be held over for special priority this year. As we are all aware, President Bush and his negotiators are not around to push for the agreement that they concluded without the input of Congress.

The next dramatic event affecting NAFTA took place recently in Canada. The party which negotiated NAFTA and their prime minister were badly beaten in the recent Canadian elections. The new party is decidedly cool toward the agreement.

About the only thing that hasn't changed is the intensity of Mexico's lobbying effort to get this agreement through Congress.

Mr. Chairman, let me reduce this to its most basic elements—almost 40 percent of this Congress was not here in 1989 when the Congress imprudently agreed to fast track. The United States President who negotiated the agreement and his Canadian counterpart are gone. Much of the Canadian parliament is gone and all that we are left with is an agreement which offers neither free nor fair trade. The side agreements, our only chance at addressing our concerns in the areas of workers and the environment—are too little too late and have no real effect.

Congress did itself and the Nation a disservice by waiting so long before asserting itself into this agreement and as a direct result we automatically excluded most of the American public from the debate.

It comes as no surprise that my calls and letters are running 10 to 1 against NAFTA. Once my constituents read the fine print in this 1,200 page recipe for disaster, they could never support it.

Western Pennsylvania knows all too well about job loss to other nations. We realize that having a steady job with decent pay is always better than an illusive promise of a fair-trade agreement with more worker retraining provisions.

When the head of the Immigration and Naturalization Service Doris Meissner admits that this agreement will not stem the flow of illegal immigration into this country, my constituents were not surprised.

When the Joint Economic Committee announced that NAFTA would cost tens of billions of dollars and up to 500,000 jobs, no one in Western Pennsylvania was surprised and no one could give them any kind of guarantee that their jobs would not be included in that number.

When reports of pork barrel deals to bring Members over to the pro-NAFTA side became public, Western Pennsylvania was not surprised but they were angry that their tax dollars might be used to threaten their jobs and darken their futures.

Mr. Chairman, my district does not care about ambiguous interpretations of economic models or about continually changing rosy scenarios about how NAFTA is the next best thing to sliced bread. They care about jobs—their jobs, their communities jobs and the jobs around this Nation. They are not willing, and I agree, to put their livelihood on the table with no guarantees and no chance to recover from economic consequences of the act.

I rise in opposition to the North American Free-Trade Agreement and hope that its defeat will allow calmer and more rational thinking to prevail during the next round of multilateral trade negotiations.

Mr. OBEY. Mr. Chairman, I yield 1½ minutes to the gentleman from Pennsylvania [Mr. KLINK].

Mr. KLINK. Mr. Chairman, I ask you on this NAFTA implementation not to listen to my words, but to listen to the words of Mary Hervey from Downing Town, PA, who wrote me this letter. She says:

> I didn't vote for Perot, and I am not in any union. What I am, however, is unemployed.
>
> When my grandparents immigrated to the United States in 1890 from Poland they passed on a powerful message to my father. If you work hard, you can make it in America. In 1967 I left school and had more job offers than I could accept. They were plentiful. By 1974, the good paying jobs were just starting to shrink and I had to work two jobs at times to make ends meet.
>
> Still believing in my father's message, at 34, a divorced mother of two, and sick of being "1 paycheck away from a welfare check," I earned my G.E.D., enrolled in Lebanon Valley College the same year, and working full time at my job and a full load at school, I graduated with a B.A. 4½ years later. My father's motto stayed within my mind and saw me through the difficult process of earning my degree. He always told me that "I could do anything if I wanted it bad enough." Now I feel that I am not the one who gave up, rather my government has given up on me. My father and grandparents were not around when we started shipping jobs to Asia. They weren't around when we gave companies incentives to move to Puerto Rico to get huge tax breaks. They aren't around now to see the latest sell out to the workers who prospered in the 50's or their children and grandchildren who seek work now.

Mary Hervey adds that this Friday, November 19, she will receive her last unemployment check. She says she does not want unemployment. She wants a job. The only job she can find pays $6 an hour.

Mr. Chairman, this NAFTA will not help Mary Hervey. It will create more Mary Hervey's. Vote no on this NAFTA.

Mr. Chairman, as a founding member of the anti-NAFTA caucus, I thought I knew all the reasons to oppose NAFTA: the loss of hundreds of thousands of U.S. jobs, massive environmental degradation, and a decline in health and safety standards for workers.

But then the Banking Committee, on which I serve, herd several weeks of testimony on NAFTA about abuses within Mexico's political, regulatory, judicial, and financial services sectors.

The committee heard testimony from Mrs. Lucia Duncan, who described several accounts of the Mexican courts allowing seizure, without cause, of property owned by Americans.

IBM's political agent in Mexico, Kaveh Moussavi, told the committee he has been named Public Enemy No. 1 by Mexico for filing formal fraud complaints with the Mexican Government. When Mr. Moussavi contacted a Mexican attorney to obtain judicial redress in that nation, the attorney said, and I quote, "Your naivete is touching; this is not the United Kingdom nor the United States."

Mr. Moussavi decided to go public with his case. He was then threatened over the telephone that if he testified before the United States Congress about the corruption in the Mexican Government, that when he returned to Britain, he would have one less child.

Mr. Alex Argueta, a developer from Tucson, AZ, is living proof that large, centralized banks in Mexico defraud their clients and steal their savings. Mr. Argueta testified that gangster tactics were used against him after he obtained a $2 million loan from a Mexican bank. After being held incommunicado for 2 days, he was imprisoned for 1½ years. He was released only after he signed a promissory note which changed the terms of his loan, and, subsequently, deprived him of $20 million.

In addition, the committee heard more generally about the lack of banking regulations in Mexico and the large volume of drug money being launched by Mexican banks.

Finally, and perhaps scariest of all, is the fact that Robert Bostick, former Associate Deputy Undersecretary for International Labor Affairs at the United States Department of Labor, whose responsibilities included negotiating NAFTA, pleaded guilty to agreeing to accept 10 percent of the net profits from a Mexican worker housing project on the United States-Mexican border.

Let me say that again: Mr. Bostick was a NAFTA negotiator who took kickbacks on housing projects on the border. He faces a 5-year prison sentence and a $250,000 fine.

The Banking Committee ultimately reported the banking section of the NAFTA legislation before us with an unfavorable recommendation because the North American Development Bank is such a sham.

The more I learn about NAFTA, the more reasons I have to oppose NAFTA.

My colleagues who are still undecided should oppose NAFTA, too.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. LEWIS].

Mr. LEWIS of Florida. Mr. Chairman, I rise in support of NAFTA.

Mr. Chairman, when I look back at the 3 years that I and the entire Florida congressional delegation have been involved in the North American Free-Trade Agreement process, it is hard to believe that on the day of the vote I rise in support of passage of NAFTA.

I have long been opposed to passage of the NAFTA based on its potential damage on Florida's $6 billion agricultural industry. However, in a good faith effort undertaken by the Florida congressional delegation with the U.S. Trade Representative, solutions have been successfully negotiated and completed to ensure that Florida farmers will be treated fairly under the NAFTA. That effort was undertaken truly based upon the merits of the issues, and I commend the administration for taking the extra effort to conclude binding and substantive agreements with the Mexican Government.

Mr. Chairman, I want to take this opportunity to thank the Florida delegation, the fourth largest in size but undoubtedly the largest in unified determination, for sticking together to make this NAFTA a better agreement for the State of Florida. It was truly the resolve and commitment of the entire delegation that enabled the crafting of a new NAFTA that guaranteed fair competition for Florida agriculture. We stood together in the interest of the second largest industry in the State of Florida, an industry with an overall economic impact on the State of over $16 billion. Mr. Chairman, today Florida agriculture is part of the overall picture that is referred to when discussing the NAFTA. My gratitude goes out to the delegation for making this possible.

Mr. Chairman, while I was in the category of people who used to say not this NAFTA, I believe that we have crafted a new agreement that will benefit Florida and all of America. I have full confidence that America and Florida can compete with anyone globally, and look toward the future with hope, not fear, about the effects of free trade.

I hope that my colleagues will truly vote their conscience and do the right thing, Mr. Chairman, and for this reason I will vote in favor of the NAFTA.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa [Mr. GRANDY], a member of the Committee on Ways and Means.

Mr. GRANDY. Mr. Chairman, when dealing with foreign nations, America usually has three choices. We can trade, we can provide aid, or we can invade. With Latin America, we usually boil that down to two choices. We can either rattle sabers or we can restructure debt, both of which usually just widen the gap between the Third World and the First; but today we can break that cycle. We can pass the North American Free-Trade Agreement and we can say to the Mexican Government, "Yes, we want a new partnership with one of the most successful and fastest growing free market experiments in the world," or we can draw ourselves up into our most imperious, neocolonial posture and say, "No deal, Mexico. You are not democratic enough. Your factories are not clean enough. Your immigration laws are not tough enough. We will not assist you in improving your living standards until you correct these glaring flaws in your national character."

□ 1620

This is like telling a diabetic, "No insulin until you get better."

But however, we vote, let us not demean this debate with these weary stereotypes and blatant misconceptions that the Salinas government is some corrupt and contemptible 1990's version of the Latin American dictatorship our CIA propped up in the mid-1950's. The truth is our economy should be rebounding as fast as Mexico's. Our Congress should be making the historical economic reforms that Mexico is enacting, and our Presidents, Bush and Clinton, should have the guts to make the hard decisions that de la Madrid and Salinas have made for the last 8 years.

What am I talking about?

Example: A 200-percent inflation rate in the mid-1980's, down to 7 percent today; this despite a major earthquake in Mexico City and the collapse of oil prices. Four hundred government firms privatized, 95 percent of them acquired by Mexico entrepreneurs. We cannot even close ASCS offices in Manhattan. Oh, yes, and a balanced budget by 1994. Mexican wages are still too low. We know that, but by that logic the United States should have rejected the Marshall Plan when Germany's wages were just 17 percent of ours. They are now 60 percent higher.

Mr. Chairman, we were right then, and we are right now. The opportunity is today. The vote on NAFTA is aye.

Mr. MATSUI. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. EDWARDS].

Mr. EDWARDS of Texas. Mr. Chairman, listen with me to this statement. During four-fifths of our history we have had protective tariff laws, and all the advancements and progress that have come to the Republic have come because of the beneficial operation of this policy which protects American labor and American capital from inflation by those in a far lower level industrially, commercially, and financially than are the people of the United States.

Members, this is the primary statement or argument against NAFTA. That is that we must protect American jobs from cheap foreign labor by maintaining higher tariffs. There is only one problem. The statement I just read was not made today against NAFTA. It was made on June 13, 1930, by Senator James Watson of Indiana in supporting the Smoot-Hawley tariff bill.

Mr. Chairman, Smoot-Hawley protectionism in 1930 was a disaster for American workers. In more recent times is it not ironic that Mexico itself has learned that protectionism has been a disaster for its workers? It sounds good, but it does not work. The politics of fear; that is what protectionism is all about.

Mr. Chairman, protectionism is a misnomer. It does not protect jobs; it kills them. Just look at Smoot-Hawley. Senator James Watson and Smoot-Hawley were wrong in 1930. Let us not repeat that terrible mistake some 63 years later.

My colleagues, let us reject the misguided politics of fear, and to demonize Mexico here in this House may be a cleaver scare tactic, but it demeans a valued ally and neighbor and brings no dignity to this House.

A vote for NAFTA is a vote for American jobs and an historic step forward in our relations with Latin America.

Mr. OBEY. Mr. Chairman, I yield 2½ minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Chairman, today this body will vote on legislation which will affect our economy for decades to come: the North American Free-Trade Agreement. Each and every Member of this body stands concerned about the economic prosperity of this country. Many of us approach this agreement with different views and different perspectives. But we all do so with what we each believe to be in the interests of our State, our economy, and our country. We have had vigorous debate for many months. Such debate is an essential part of the democratic process. I respect my colleagues for their decisions, but at the end of the day, many of us will differ. Of that we can be certain.

As a Nation, our overriding goal must be an increased standard of living for all Americans. This is what the American people want and this is what they rightfully deserve.

This debate has exceeded the scope of protectionism versus free trade. I would submit that most of the Members of this body opposing this agreement believe in free trade and the need to improve our competitive standing. I do. The larger question is not whether the United States wants to trade but how we are to trade—not just with Mexico—but with the world. The time has come for the United States to regain its strength and stability as a world competitor.

I believe that a strong trade policy must be part of an integrated national economic strategy and one that stresses growth. As we work to address the pressing issues facing this Nation, we cannot ignore that a comprehensive trade strategy is vital. In a shrinking global economy, harmonizing international trade is a complex task and one worthy of thorough consideration and thoughtful contemplation.

Other than health care, this is perhaps one of the most difficult votes many of us will make. Whether you vote to support or to oppose this agreement, so much uncertainty remains in the balance. And only time will tell. Economic theories, muddled models and formulas aside, economic reality is the ground on which this vote must be cast.

This agreement was intended to promote free and fair trade in our hemisphere. But I believe its costs are high and disproportionate as the interests of our Mexican neighbor clearly outweigh our own.

I supported the Bush administration's attempts to negotiate a solid agreement and was disappointed. I was pleased when President Clinton pursued further negotiations to improve the text. While this may be the first agreement of its kind, I do not believe it is the best agreement we could have negotiated.

The rejection of this agreement does not forecast doom and gloom as many are inclined to predict. My belief is that rejection of this agreement will be a reverberating signal to this Nation. Debate of this agreement is not just about tariff reductions and trade barriers. After all, they are already disappearing. This debate surrounds the livelihood of each and every American working to make ends meet in a disparate economy. NAFTA will not wash away the economic uncertainty felt by working men and women. It will not right the wrongs of the past. Nor will it serve as an illustrious model for future trade agreements or policy.

I believe there is a better policy to be had with Mexico. We must engage in discussing progressive policies for working conditions, human rights, and environmental issues. Of importance to this debate—and absent from the agreement—are assurances regarding the Mexican standard of living, and constitutional and political freedoms. These should be priorities not obstacles when entering into an agreement of this magnitude. These are not expendable options at the bargaining table. But rather they are inherent to a progressive and comprehensive proposal.

As drafted, NAFTA contains injurious trade provisions which are blatantly unfair to American industries and workers. I am not opposed to a North American free-trade zone. I am not opposed to improving our competitive standing in the international marketplace. But I do contend that this agreement lacks sufficient benefits for American workers and it lacks certain safeguards for American industries struggling to survive. In my mind, any agreement or policy entered into by this country, whether foreign or domestic, must have one goal, one priority and that is the quality of life for the American people. I have participated in this debate for years as a member of the Ways and Means Committee. I had hoped to support a free-trade agreement. I have given this careful consideration. However, this agreement, my colleagues, is one I regretfully cannot support.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. MANZULLO].

Mr. MANZULLO. Mr. Chairman, the 16th Congressional District of Illinois is a microcosm of the Nation. It's heavily involved in manufacturing and agriculture. I do not represent companies. I do not represent labor unions. I represent people who are concerned about their jobs. I support NAFTA because it will bring jobs to the 16th District, the rest of Illinois, and the Nation.

NAFTA means that 75 workers at the Triseal Corp. in Hebron will continue to sell automotive seals to Mexico.

NAFTA means that workers at the Chrysler plant in Belvidere will be able to sell between 3,000 and 5,000 of the newest cars on the market—the Neon—directly to Mexico.

NAFTA means that the workers at Green Giant in Belvidere will sell processed frozen corn directly to Mexico.

NAFTA means that the workers at Ingersoll in Rockford will sell more machine tools to Mexico.

Mr. Chairman, NAFTA will create jobs. I urge a yes vote.

Mr. HUNTER. Mr. Chairman, I yield 2 minutes to the gentleman from North Dakota [Mr. POMEROY].

Mr. POMEROY. Mr. Chairman, to my colleagues who are considering voting "yes" today based on last-minute side deals I say, "I urge you to think again. I don't care whether your deal was the one for citrus, winter fruits and vegetables, flat glass, bed frames, brooms, peanuts, wine, home appliances, or textiles. I urge you to look at what has happened to wheat under the last trade agreement, the Canadian Free-Trade Agreement adopted in 1987."

To make certain Canada did not unfairly subsidize grain exports to the United States, Mr. Chairman, the Great Plains States sought assurances and protections, and, boy, did they get them. Wheat is mentioned in the report language. Wheat is included in the bill. Protections were placed in the text of the treaty itself. In total these protections are much stronger than any of the side deals recently cut, but look at what has happened. Canadian wheat imports are up 500 percent, grain prices have been suppressed, and it has cost the farmers I represent tens of millions of dollars. In spite of the treaty protections, the last administration did absolutely nothing, and this administration only became interested in our problems as it feverishly dealt for votes for NAFTA.

□ 1630

Mark my words, those of you who are voting "yes" based on last minute deals are likely to be disappointed should this agreement be adopted. The promises you have won will not be worth the paper they are written on, assuming you even got them in writing, without enforcement and follow-through later on. This supplemented, amended, and changing up to the last minute agreement is not a secure basis to launch an unprecedented trade experiment. Not this NAFTA. I am convinced it is a bad move for North Dakota and the country.

I urge Members to vote "no" on this flawed agreement.

Mr. MATSUI. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. VALENTINE].

Mr. VALENTINE. Mr. Chairman, last week, I came to the floor of the House to announce my decision to support the North American Free-Trade Agreement. At that time, I told my colleagues how important I felt this agreement was, not only to our ability to compete in the global marketplace, but to the future of American workers and their families.

Since that time, my commitment to this agreement is, if anything, stronger. Passage of NAFTA will create the world's largest trading block. It will remove trade barriers between the United States and Mexico, and will allow the free flow of goods and services between our first and third largest trade markets. At a time when the rest of the world is clamoring for trade agreements and new markets, it just makes sense that we protect our own markets and build toward future economic security.

Failure to pass NAFTA, on the other hand, will open the door of opportunity for our European and Asian competitors. Mexico is ready to take on trade partners. Japan and Europe are willing suitors just waiting for an opportunity. We cannot afford to stand behind outdated trade barriers while the rest of the world expands the free flow of goods.

The debate we complete today will include little new in revelations. We are all aware of the facts, and more to the point, the fears which are fueling opposition to this agreement. The predictions of doom—job loss, environmental damage, unfair treatment of labor—are not visions of the future. My colleagues, all of that exists today.

Many of the dangers we face if we do not approve NAFTA are even greater than the ones predicted with its passage. Without NAFTA, Mexico has no incentive to improve its environmental protection. Mexico has no incentive to enforce humane labor standards. Without NAFTA, many American businesses will have no choice but to move south if they want to tap into the fastest growing marketplace in the western hemisphere. With NAFTA, we gain access to a vital new market, we assure cooperation—not competition—with our neighbors, and we provide Mexico with the incentive to address the very concerns that worry us the most.

Put simply, we have much more to fear without NAFTA than we do with NAFTA.

In some ways, our debate today is as old as our democracy. Spirited, and even bitter, discussions about tariffs and trade policy have divided Americans since the earliest days of the Republic. From the time that New England manufacturers and Southern planters squared off over tariff policy in the 1780's, perhaps no single issue has been so persistently at the center of our Nation's economic and political conflicts.

While we continue our debate, the rest of the world is moving inexorably toward greater economic integration through freer trade. Standing against that tide will only cut us off from the opportunities that are essential if we are to prosper in the coming century. Rather than leaving the trade battle, we must lead it.

NAFTA is absolutely essential.

There will always be legitimate concerns about any trade agreement, and legitimate grounds to oppose trade agreements. But, as hard as we may wish for it, we will never achieve a risk-free agreement that protects all American interests.

In my mind, NAFTA is not a perfect agreement. But I have concluded that it is unlikely that we could produce another agreement, at least in the near future. It is more likely that our place will be quickly taken by one or more of our economic competitors. In any case, the opportunity lost is an opportunity gained for Europe, Japan, and other Asian countries who are making steady progress toward building their economic markets.

In the final analysis, I must be guided by the interests of the people I represent. There are almost as many opinions on that issue as there are individual North Carolinians, but I believe that NAFTA will be good for any State.

Since 1987, North Carolina's merchandise exports to Mexico have grown by 365 percent. In 1991 alone, North Carolina exported $2.2 billion in goods to Mexico and Canada. Perhaps most important, 57,000 North Carolina jobs are supported by manufactured exports to our North American neighbors, and the State, according to some estimates, will reap a net gain of over 1,300 new jobs if NAFTA is implemented.

North Carolina and the Nation cannot afford to turn our backs on NAFTA. We cannot afford to pass up the opportunity for measurable improvements in Mexico's environmental and labor policies just because the agreement does not solve all the problems in these areas. We cannot afford to turn our backs on a good agreement because of the vague, and surely illusory, promise of a perfect agreement. Finally, we cannot afford to let fear of an uncertain future paralyze us from action. Time, and our competitors march on.

The North American Free-Trade Agreement will be good for the United States in the long term. I will vote for it, and I urge my colleagues in the House to support it.

Mr. OBEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. Mr. Chairman, I rise today in opposition to the proposed North American Free-Trade Agreement. At stake is our very system of representative and democratic government itself. In the balance hangs the ability of working people to secure a decent life and the kind of government under which we want our children to live.

NAFTA will sacrifice as never before in the history of this Nation the vision of responsible, representative, and democratic government held out for us by the founders of our country. NAFTA puts Federal and State laws in jeopardy, as they will be targeted for undoing as so-called barriers to trade. NAFTA will undermine the fundamental constitutional principle of a balance of powers among three coequal branches of government by transferring functions from one branch of government to another. NAFTA will also set up numerous international bodies that will have intrusive powers both on U.S. businesses and government.

And all of this from a trade deal that was negotiated in secret, but from which the biggest multinational corporations and banks are set to make billions of dollars. The six volumes of texts, annexes, tariff schedules, and side agreements stand over eight inches thick. But who among the supporters has actually read this agreement? Only one in ten of the economists who endorsed NAFTA for the President have read it. Fewer local proponents have. NAFTA is much more than just a trade agreement. It raises many complex questions that have not been dealt with. If NAFTA is passed, we as Members of Congress, will be abdicating our constitutional responsibility to serve and protect the citizens of this country as representatives and as legislators.

Further, the main reason NAFTA may pass in the U.S. House of Representatives is due to all of the pork and special deals handed out by the Clinton administration. Not since coming to Congress have I seen such unabashed vote-buying. If someone in business did the same things the President has done to get this deal passed, they would be convicted of bribery. And it's the taxpayers of this country—whether they supported or opposed NAFTA—that will foot the tab for years to come for all this dealmaking.

As chairman of the House Committee on Banking, Finance and Urban Affairs, I have pursued my concerns about the finance and banking aspects of NAFTA. As I have said before, NAFTA would be more accurately labeled the North American Free-Trade and Finance Agreement, for the finance provisions are the driving force behind the agreement. I convened hearings of the Banking Committee and found that NAFTA will put the safety and soundness of the finance and banking systems of this country at risk; it will put in jeopardy the most basic banking laws of this country that were put in place as a result of the Great Depression; it will worsen the already dire problem of international money laundering; and it will open the door to risky investments by United States taxpayer insured financial institutions and banks in Mexico. I also found that this part of the agreement was negotiated in collusion with the largest banks and financial interests, namely those set to make the most money from the deal, not those charged with protecting the well-being of this country and its citizens.

We have already experienced so-called free trade in San Antonio when a garment plant closed up shop and moved to Central America under another trade liberalization effort. Over 1,000 jobs were lost and as many lives ruined. The worker retraining programs proved to be woefully inadequate. Many of these people are still out of work. No supposed benefits of more jobs from increased trade have trickled down to these displaced workers. If this is what free trade means, I what nothing of it.

NAFTA is an enticing siren's song. It sounds good to many on the surface, but it will bring this country further up on the rocks of economic and governmental ruin. Yes, international trade already exists—as it will continue to—and democratic government is already in a critical state in this country. That is no reason to take one more step down the slippery slope by approving a bad deal. The tide has to be turned if we are to have a chance.

The presiding bishop of the Episcopal Church, Edmond Browning, made the call that no trade agreement should be approved that does not balance economic growth with protection for working people. I would add to this that no deal should be approved that undermines our system of democratic government. NAFTA fails on all of these counts. I have found NAFTA to be inimical to the best interest of the greatest number of people in all three countries involved. For these reasons and more, I am voting against NAFTA.

Mr. OBEY. Mr. Chairman, I yield 1½ minutes to the gentleman from New Jersey [Mr. MENENDEZ].

Mr. MENENDEZ. Mr. Chairman, we should face up to—and not fear—free trade. But we must insist on fair trade. We should welcome—not fear—competition, but we must insist on a level playing field.

We should look forward to entering the 21st century as hemispheric partners. But we must insist that all of us benefit before we enter into any trade agreement.

I take issue with those who say that a vote against NAFTA is a vote for isolation, or a vote for fear, or a vote for the past. For many Americans, the detrimental effects that a NAFTA would bring are too serious a matter for us to dismiss. I joint many Americans in harboring serious reservations about this NAFTA. And I assure you today that no deal is worth my vote for this NAFTA.

When hundreds of garment assembly, glass, and other small manufacturing jobs go from my congressional district in New Jersey to a state in Mexico, there are painful consequences for our workers and their families.

Unemployment is now 10.5 percent in the 13th District of New Jersey—this is the highest rate in the entire State and way above the national average. I do not want to add to it.

The experts have a catchy word for losing your job. They call it dislocation. Actually, they are right. Your job goes from this location here to that location overseas. That is what dislocation is all about.

We tried job retraining in the 1980's. Did it work? It did if success means earning $6 or $7 an hour to learn something new while searching for another job; if it takes you 3 years before you find a new job, which pays you 25 percent less than the one you lost. Is that how America takes care of workers she throws on the street?

A.M. Rosenthal of the New York Times puts it well:

> The genuine fears of frightened workers are dismissed contemptuously by the Clinton Administration, press, and academia. If that is true now, while workers are still fighting, what care will be shown them or their thoughts if they are defeated and find themselves out of work in the grander interest?

Why will I vote "no"? Just look at the merits. Will NAFTA raise the standard of living of the American people? No. Will NAFTA mean better jobs and better wages for American workers? No. Will NAFTA protect the environment? No. Will lower tariffs in Mexico cause United States companies to invest more here at home? No. Mr. Chairman, the entire Mexican market is smaller than my home State of New Jersey's market. Will NAFTA cost us billions in lost revenue and related costs? Yes.

I will not vote against the best interests of the American people. And I will not vote against the best interests of my constituents. Say "no" to this NAFTA.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from Iowa [Mr. LEACH], the ranking Republican on the Committee on Banking, Finance and Urban Affairs.

Mr. LEACH. Mr. Chairman, all of us recognize there are risks in free-trade agreements, particularly with societies with lower standards of living. But, in the final measure, free trade is a better answer to the world's economic disequilibrium than foreign aid; shared economic hope is a more effective deterrent to war than competitive protectionism.

When it comes to advancing peace as well as prosperity, big fences simply do not make good neighbors. If there is any hope of countries and peoples coming to have shared values in a world of nuclear weapons and fractured group identities, competition must be in trade, not arms; in markets, not land masses. NAFTA, in this context, is a step toward providing citizens of the globe a common self-interest—shared prosperity based on shared economic growth.

Of all the major economic issues before Congress, NAFTA is a decision for which there are a large number of meritorious arguments on each side. There are certain risks involved in enacting NAFTA, but my best judgment at this point is that the American economy, especially the Iowa economy, will benefit in the long run from freer trade and that more jobs will be created than lost in the United States because of NAFTA.

My support for NAFTA is based partly on a look at the benefits of free trade throughout American history. One of the lessons of the 1930's was that protectionist legislation such as the Smoot-Hawley tariff lengthened and deepened the Great Depression. By reverse logic, in recessionary times, promoting policies that impel the growth of international trade is likely to serve as an economic stimulant. Trade barriers are particularly harmful to Iowa's agricultural-based economy; hence the importance of regional agreements like NAFTA and the larger multicontinent GATT process.

It cannot be stressed enough that defeat of NAFTA will produce a double whammy for the Iowa farmer: loss of new markets south of our border and loss of the last vestiges of leverage for fairness in agricultural trade in the GATT discussions. If NAFTA goes down, the French would crow. The contention on the continent would be that Americans have no right to petition for fairer trade in agricultural commodities—that is, reduced subsidies—if we refused to embrace free trade in our own hemisphere.

Our farmers are the most productive in the world, yet in the absence of international markets this very productivity is the largest contributor to our excess supply problems. What Iowa farmers need is open markets abroad that are based on fair and equal trade. This is also true for Iowa's manufacturing and services economy.

Many companies with substantial capital investments in the First District like HON Industries in Muscatine expect to be able to create more Iowa jobs because they will not only be subject to lower Mexican tariffs but the dismantling over time of made-in-Mexico product requirements. Some companies will always seek the lowest wage environment. For this type of company, Mexico is more attractive without than with NAFTA because Mexico will not have to adjust its labor or environmental standards and will be able to keep in place discriminatory tariffs. With or without NAFTA some jobs will flow to Mexico. With NAFTA more new jobs are likely to be created in the United States than would otherwise be the case.

Several years ago the United States established a free-trade agreement with Canada. In advance of the agreement, most economists suggested it would be good for the United States and even better for Canada. In retrospect, the agreement has proven good for Canada and even better for the United States. Canada which had very high tariffs on United States goods, has been required to drop far more trade barriers than the United States. In this regard, a like circumstance exists with Mexico. Their tariffs are extremely high, often 3 to 10 times higher than very modest U.S. ones and their current nontariff barriers put U.S. companies in a competitively untenable position.

Under NAFTA, in exchange for assured access to the United States and Canadian markets, the Mexicans must give the most on tariffs and on accepting changes in their environmental and labor policies. While free-trade arrangements with lower-wage societies holds particular risks for some companies, midwestern farmers as well as farm implement, food processing, and trucking companies centered in cities like Cedar Rapids and the Quad Cities should be benefited. And, it must be emphasized, without NAFTA United States companies are free to invest in Mexico. All NAFTA does is lower already low barriers to Mexican imports and in exchange lower what are substantially higher barriers to United States exports to Mexico.

The most risky aspect of the agreement relates to the significant wage differential in Mexico. This could pose a problem in some industries, but it should be stressed, the same problem exists without an agreement. One protection for us that seldom is noted is that the effect of an agreement can be measured over time and either party will retain the right to withdraw if it does not prove fair. Here, those of us who are fortunate enough to live north of the Rio Grande must understand that when opportunity and hope are lacking at home, individuals will make the obvious decision. They vote with their feet for a better life. President Salinas is neither exaggerating nor threatening when he suggests the choice for America is whether we want more Mexican products or more Mexican people.

Another factor of interest is that the Asian countries, which unlike Mexico have developed an enormous trade surplus with the United States in recent years, radically oppose the agreement. They conjecture that a partnership of countries of North America will cause more job creation here and a lower reliance on imports from Asia. Economists point out, for instance, that when the United States imports a finished product from the Far East, almost all the component parts are manufactured in the Far East. In Mexico, the reverse is the case. A growing jobs base in Mexico can potentially impel a growing jobs base in the United States. As Mexican buying power increases, so will Mexican demand for United States goods. Likewise, our European competitors are very apprehensive of NAFTA because they fear they will be boxed out of the Mexican market because they will be forced to pay tariffs that United States firms will not. One Cedar Rapids company, for instance, tells me they expect to be in a position to replace a European company's current dominance of the Mexican market for agricultural byproducts.

Finally, two notes about the democratic process. First, critics of NAFTA are right to be upset with the tactics of the administration in pledging other peoples' money—that is, taxpayer dollars—to influence votes. For instance, however meritorious establishment of a North American development bank might be in another context, I voted in committee against establishing such a mechanism as part of the NAFTA agreement because I considered it grossly unseemly to advance a multimillion dollar spending program just to influence a few votes to favor NAFTA. People can credibly be for or against NAFTA, but positions should be based on principle not promises of programs.

In a more positive sense, it is interesting, perhaps profoundly so, that an important policy identified with a sitting President should be supported in the majority by the party that has the greatest interest in seeing the President not succeed, while less than 40 percent of the President's own party is expected to vote for the position advocated by their leader. Whatever the merits of NAFTA—and, as a policy initiative it is most decidedly a close call—it is remarkable that so many members of the President's political opposition are putting their view of the country's best interest above partisanship. This is particularly remarkable given the fact that individual election politics, in almost all instances, is better served by an anti-NAFTA vote.

This vote thus symbolizes an aspect of American democracy that is unlike that of any comparable democratic society. It would simply be inconceivable that an opposition party would bail out a French or German or British or Australian Prime Minister in a like setting. But many Republicans understood that the Presidency more than the President was at issue and that American leadership in the world, most notably on economic issues like GATT, but also political issues from Korea to Bosnia would have been weakened if President Clinton had been dealt a setback on NAFTA.

For all these reasons, I believe that ratifying NAFTA is the best economic choice that America can make at this moment and that the risk of pushing ahead is not as great as the risk of doing nothing. If the agreement later proves not to benefit the United States, it can and should be reassessed.

Mr. HUNTER. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. BORSKI].

Mr. BORSKI. Mr. Chairman, I rise in strong opposition to the North American Free-Trade Agreement.

I deeply regret having to oppose this agreement because increased trade among the three North American countries is essential to economic growth. However, if we approve this agreement today, we will lose a historic opportunity to negotiate a trade agreement that would improve the standard of living of all the workers from the United States, Mexico, and Canada.

To attract foreign investment, the Mexican Government deliberately suppresses the wages of Mexican workers. Because of the huge wage disparities between United States and Mexican workers, thousands of American jobs have already been relocated to Mexico.

NAFTA could have and should have been used as an effective instrument to raise the living standards of workers in all of North America. Through the NAFTA negotiations, we had an opportunity to bring about changes in the Mexican labor market that would have prevented job dislocation and leveled the playing field between United States and Mexican workers. We could have negotiated an agreement that guaranteed universally recognized labor rights and wages that increase with productivity. In short, we had a historic opportunity to negotiate an agreement that would have increased trade without dislocating workers.

Regrettably, that is not the agreement before us today. Instead, we must vote today on an agreement that will lock into place a policy that keeps Mexican wages low and attracts American investment, production, and jobs south of the border.

Furthermore, by improving the investment climate in Mexico, NAFTA will actually accelerate the trend of job dislocation. With this agreement, we will be putting the endorsement of the United States Government behind American corporate investment in Mexico.

Even more disturbing, the mere threat of job dislocation under NAFTA will create a tremendous downward pressure on U.S. wages. This threat will give companies a powerful bargaining tool over their workers in labor negotiations. When competing with low-paid, productive Mexican workers, the American workers may be forced into choosing between accepting a lower wage or losing their job.

This NAFTA will accelerate the two-decade trend of declining real wages, forcing middle-income American families to get by with less. For America to be a strong and competitive nation in the 21st century, the standard of living of working Americans must rise. Instead of raising Mexican living standards, this NAFTA will force down American wages.

NAFTA will also weaken our ability to enforce and maintain stringent health, environmental, and safety standards. An investigation of NAFTA's transportation safety issues conducted by the Public Works and Transportation Subcommittee on Investigations and Oversight, found many questions unanswered.

Will there be older, less safe trucks entering our Nation? Will there be an adequate inspection program in Mexico? Will strict American safety standards apply to Mexican truck drivers on America's roads, and how will they be enforced? Will a system of exchanging information on driver violations be implemented on a timely basis? These questions remain unanswered.

Mr. Chairman, this debate today is not about whether Congress supports free trade or protectionism. It's not about whether we're looking forward or backward. This debate is about whether the NAFTA before us today is good for the jobs, wages, and economic future of this country and its citizens.

America's workers are still the world's most productive workers. When the rules of trade are fair, they can compete with anyone in the world. But this NAFTA puts American workers at a serious competitive disadvantage, putting American jobs and wages at risk. We need a trade agreement that will allow American, Mexican, and Canadian workers to compete on a level playing field.

Mr. Chairman, this NAFTA hurts working Americans. We can and must do better. Let's defeat this NAFTA and negotiate a better trade agreement that keeps productive jobs in America, respects the rights of Mexico's workers, protects strong United States standards and improves the standard of living of all North Americans.

Mr. MATSUI. Mr. Chairman, I yield 1½ minutes to the gentleman from Georgia [Mr. ROWLAND].

Mr. ROWLAND. Mr. Chairman, this has been a really difficult decision to make. The people in the Eighth District of Georgia are split on NAFTA.

I have had two principal concerns that especially affect the people in the Eighth Congressional District. First, I have had concerns about the apparel industry located in almost every small community. The day before yesterday I received a letter from the President in response to a letter several of us had written. Many of these concerns were addressed by the President.

Second, I have been concerned about the future of the peanut industry. We have long sought a cap for peanut butter and peanut paste coming into the United States from Canada because the products displace quota peanuts. This action has subsequently required more money to go from the Federal treasury into the Commodity Credit Cooperation. If nothing is done, the increase of these peanut products would essentially destroy the peanut industry in our State.

This morning in a meeting with Secretary of Agriculture Mike Espy, the Secretary said he was more acutely aware of this problem than he had been, and committed to me and I quote,

> I give my assurance that I will work vigorously in my negotiations with Canada to limit the amount of Canadian exports of peanut butter and peanut paste, which would include your suggestion of a cap of 1 percent of U.S. domestic consumption.

Further commitments to the peanut industry in my State were also made.

In addition, I do not believe that there will be a shift of jobs away from the Eighth District and my State. Rather, we would be able to increase exports to Mexico above the $6 billion trade surplus our country has now there. I will cast a vote in favor of NAFTA.

Mr. OBEY. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Michigan [Miss COLLINS].

□ 1640

Miss COLLINS of Michigan. Mr. Chairman, the North American Free-Trade Agreement before us today is a trade bill, sure enough. It is a trade bill because it trades away jobs. And not only does it give away jobs, it gives away the hopes of millions of Americans who want a job, today and tomorrow.

NAFTA is not about free trade or global competition. NAFTA is an investment instrument, which will send money through a well-greased funnel to Canada and Mexico, at a time when our own cities are rotting at the core.

Look at my own city of Detroit. Thirty-five years ago it was a thriving metropolis of 2 million people that provided good manufacturing jobs. It gave many families, mine included, a secure working-class, middle-class life. Then plants closed their doors; some moved south. Today, Detroit has barely a million residents. It is a city where 10,000 people will stand in line 4 miles long in the cold to apply for a job in a casino that doesn't even yet exist.

The American people are in pain today; the economy is sputtering. In my district, the poverty rate is 37 percent. The unemployment rate for African-Americans is over 19 percent. This NAFTA will bring more suffering, more pain for millions of hard-working and decent people.

This Nation was built on the sweat and tears of our working men and women. And how do we repay them? With a handout to corporate America that virtually invites employers to send our jobs to Mexico? Has this Congress lost its humanity? What this NAFTA is symbolically saying is, "When we've got you on the ground, when your wages are depressed, when your factories are closing, when you are 45 years old and have spent your life in a manufacturing job that has vanished, we are sending the jobs across the border." And the final kick in the head is that we have a job training proposal that is just that, a proposal, a wisp of a program that might happen at some indefinite point in the future if we have the money.

How can we in good conscience pull the rug out from under an entire class of people, the middle class? And when these jobs are gone, what do we do with the shells of communities that remain, like the neighborhood I grew up in, in Detroit?

NAFTA conjures up frightening images of lost opportunity, of ghost towns, of job lines. I cannot remember a vote that has so deeply touched so many Americans and that has created so much uncertainty for so many decent people.

I ask my friends to search their hearts and souls on this vote. NAFTA may be good-intentioned, but this NAFTA is wrong. If we were elected for anything it was to create good jobs at good wages, to revitalize our economy and to sustain the American dream for all of our citizens.

I would like to share with my colleagues several additional points that demonstrate how NAFTA will adversely impact African-Americans.

JOB LOSS

Over 30 percent of the African-American labor force is employed in manufacturing, compared to less than 20 percent of the white labor force. Of the 6 million African-American women in the work force, 14 percent are employed as operators, fabricators, laborers, and in precision production, crafts, and repairs; 9.3 percent of their white counterparts work in these groups. Of the 5.6 million African-American men in the work force, 30.4 percent are employed as operators, fabricators, and laborers; white men are 18.4 percent of their total labor force in these same jobs. By encouraging imports and by encouraging United States basic manufacturing companies to relocate to Mexico where wages and costs of doing business are lower, American jobs will vanish.

Basic manufacturing has traditionally been the entry point into the middle class for many African-Americans, and even without NAFTA, the number of workers in manufacturing has been declining over the last two decades. The type of jobs that will move out of the country under NAFTA are mostly like to be the type of jobs held by many African-Americans, with no programs in place to ease current trends or NAFTA dislocations.

The following estimates predict job losses under NAFTA:

Some 22,500 jobs could be lost in the first 18 months.—U.S. Department of Labor.

Some 145,000 jobs would be lost over 5 to 6 years.—Gary Clyde Hufbauer and Jeffrey J. Schott, economists.

Some 300,000 to 600,000 jobs would be lost.—Joint Economic Committee.

Some 500,000 jobs would be lost.—Economic Policy Institute.

Some 912,000 jobs would be lost over 9 years.—Economic Strategy Institute.

These estimates are for losses directly related to trade and do not, for example, take into account job loss by the suppliers of these companies or jobs in many community businesses dependent on the wages of these workers.

EQUAL EMPLOYMENT OPPORTUNITIES

The volume of Federal contracts with U.S. companies today exceeds $195 billion. For Federal Government procurement, NAFTA would treat Canadian and Mexican companies as "United States companies," thus effectively negating "Buy America" policies. Currently, Federal contractors must maintain an equal employment opportunities program. Of all contractors, 96 percent have required affirmative action programs. These requirements have served as important leverage on the private sector to provide equal employment opportunities.

Several studies—Rand Corporation, University of California—have confirmed that these EEO requirements on Federal contractors have increased minority employment, contributed to occupational advancement, and have increased minorities' wages.

Opening up Federal contracts to Canadian and Mexican companies will dilute this action-forcing requirement. With fewer American companies getting Federal contracts, there will be fewer equal employment opportunity programs in the private sector.

DAMAGE TO URBAN COMMUNITIES

Minorities disproportionately hold nonmanagerial positions in public employment. As State and local governments lose revenues from companies relocating to Mexico, government services will have to be curtailed, causing job losses. Cities may have to offer new revenue-losing tax incentives to lure businesses, causing further public employment cutbacks.

The New York Times has cited United States intelligence reports warning that drug traffickers have already started buying manufacturing, trucking, and warehouse businesses on the United States-Mexico border for drug shipments. Facilitating the flow of drugs will mean further deterioration of American cities.

In addition, I would like to insert in the RECORD the official position of the Congressional Black Causus.

THE CONGRESSIONAL BLACK CAUCUS POSITION PAPER: NORTH AMERICAN FREE TRADE AGREEMENT

The Congressional Black Caucus stands in opposition to the North American Free Trade Agreement (NAFTA). While it is recognized that NAFTA was originally proposed to help spur economic growth within the United States through increased trade and increased competition in the global marketplace, there are areas of concern that have not been addressed. Without sufficient attention to the areas of concern, the Congressional Black Caucus will remain firm in opposition.

AREAS OF CONCERN

Opposition principally is focused on factors affecting jobs, the environment, minority business opportunities and the potential effects on the Caribbean region.

Jobs.—Our trade deficit with Mexico has already grown in many industries. Estimates of probable job losses due to NAFTA have reached as high as one million. State and local governments will lose tax revenues from businesses who relocate and individuals who become jobless. In those regions that suffer the most intense job losses, the corresponding loss of tax revenues will be substantial. NAFTA will have a negative impact on the generation of revenues in this country precisely at a time when entitlement benefits and services are under great peril. Also, an examination of the average hourly wages for production workers in those industries already affected reveals that the jobs being lost are high-wage, not only low-wage manufacturing jobs. Those who lose jobs because of import competition do not climb up the job ladder, but fall back to lower wages or fall off the job ladder into unemployment. There is little to support the claim of NAFTA proponents that free trade will create higher wage jobs for U.S. workers because Mexican workers will take jobs at the lower end of the skills ladder while American workers will move up to better paying jobs.

Environment.—There has not been sufficient progress made with Mexico related to environmental protection. NAFTA must preserve the rights of states and the federal government to set high individual standards for the environment, conservation, health and safety. NAFTA does not provide a secure, dedicated source of funding for border clean-up, environmental infrastructure, conservation initiatives, protection of communities and worker health. The treaty does not prevent the flight of industries which seek to take advantage of lax environmental, health and safety standards in other countries. Further, there are not sufficient opportunities for public participation in trade and environmental disputes and in investment and trade decisions affecting individual communities.

Minority Businesses.—The Minority Business Community has never been fully consulted or considered on NAFTA. There are no current proposals to provide technical, financial marketing or educational assistance to small business in general, or to minority business in particular, interested in trade with or investment in Mexico. Remedies must be carefully explored and should accompany the NAFTA.

The Caribbean.—Preferential treatment for Mexico—especially in areas of sugar, citrus and apparel—could result in significant diversion of trade from the Caribbean. Such a diversion would stall economic growth, and dislocate productive activity in both the United States and the Caribbean. If NAFTA takes effect in January, U.S./Caribbean commerce could erode by next spring. Using the textile industry as an example, NAFTA calls for a progressive reduction of tariffs on Mexican textiles and apparel over the next decade. This disrupts U.S. and regional trading patterns, because Caribbean Basin Initiative garments made from U.S. textile would * * * apparel made from Mexican textiles.

NAFTA is not primarily a free trade agreement. It is an investment agreement designed to protect investments which U.S. companies make in Mexico. The Congressional Black Caucus stands in strong opposition to this treaty as drafted.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. KING].

Mr. KING. Mr. Chairman, it is a unique privilege to be a Member of the U.S. Congress. It is an even greater privilege to be a Member of this body during a defining moment in our Nation's history. This NAFTA debate is such a moment.

Mr. Chairman, the vote we cast today will define America's role in the post-cold-war world. Our vote will send a clear signal to the world as to whether the United States has the courage and the vision to assume the role of economic leadership or whether, instead, we will retreat behind the walls of protectionism.

I support NAFTA for the same reasons that our predecessors supported NATO and the Marshall plan and the space program—our national security and our Nation's future demand it.

Mr. Chairman, NAFTA is not a Democrat issue or a Republican issue, it is an American issue. Our country is strong because in times of national challenge and opportunity Americans have come together to transcend politics and put their country before their party.

President Clinton is not of my party and I disagree with him on many issues. But the President is right on NAFTA and I commend him for the courage he has demonstrated in taking this issue to the American people. I must also express my sincere admiration for the Republican leaders who stood by the President and served the national interest. They epitomize what Mr. Lincoln meant when he said that we serve our party best when we serve our country.

Mr. Chairman, a vote for NAFTA is a vote for jobs and economic growth. It is also a vote for the politics of reason and hope and a rejection of the politics of fear and demagoguery.

A vote for NAFTA is a vote for closer cooperation with Mexico and Latin America. It is a vote for free markets and economic reform.

Mr. Chairman, a vote for NAFTA is a vote for our workers, for our future, and for our country.

Mr. HUNTER. Mr. Chairman, I yield 3½ minutes to the distinguished gentleman from Florida [Mr. MICA].

Mr. MICA. Mr. Chairman, along with my Florida colleagues, I have worked during the past months to improve a treaty, side agreements, and the enabling legislation for NAFTA.

While the Florida delegation has been successful in securing some improvements in NAFTA, I cannot in good conscience support NAFTA today.

As this treaty and bill are presented to Congress, we are forced to unfairly choose between winners and losers. Based on my recent work and experience in international trade, today I must reject this unfair approach.

For example, in Florida, citrus concentrate and sugar will be saved. However, much of the remainder of Florida's agriculture industry will not survive the next decade.

Just look at the facts: Mexico has 6 million agricultural workers, all earning at or below the 50-cent-per-hour minimum wage. This is equal to the entire work force of my State who earn at least our U.S. minimum wage.

Florida agricultural workers are regulated by the Department of Labor, USDA, HHS, EPA, INS, FDA, and numerous other regulatory agencies. Mexico ignores even the most basic labor standards and working conditions.

While several Florida agricultural concerns have been satisfied, is it fair to abandon the others? Still opposed today is a majority of the agricultural associations, not to mention what is now estimated to be 95 percent of the independent growers in my State.

I cannot vote today to cast aside one worker or one business in favor of another. Unfortunately, agriculture is not the only industry that will be unfairly impacted.

As another example, the president of an Orlando manufacturing company has written and said, "In order to compete, we would be obliged to move the labor intensive portions of our production from Florida to Mexico."

While some U.S. manufacturers under this treaty would be winners, others clearly would be losers.

I fear that to benefit a few, we will undermine many. Truly, the Mexican market for American goods has been overstated.

Their economy is only the size of Luxembourg, and their buying capacity is clearly limited by a work force where only 1 in 26 earns a United States minimum wage.

Under this treaty, where would any business person choose to locate their new or expanded manufacturing facilities? In any of the 50 States with tough local, State, and Federal regulations? Or would they in fact choose to locate in a place where regulations and laws are ignored, and then freely moved goods across the border on roads and bridges improved by U.S. taxpayers?

This is a good treaty between the United States and Canada. It would be a good treaty just as Europeans have formed between equal trading partners with nearly equal wages, judicial systems, and regulatory standards.

But this is not a good treaty with a Third World nation who has none of those important mechanisms in place.

Finally, I cannot in good conscious support this treaty or this legislation because I have seen firsthand the blatant disregard Mexico has shown for its environment. Nowhere in the Western Hemisphere or the world is there such complete disregard and contempt for the environment.

And to add insult to injury, American taxpayers are now asked to pay the tab for years of environmental destruction and neglect.

It is because of these concerns today that I will vote in opposition to NAFTA. I urge my colleagues to vote against NAFTA.

Mr. HOAGLAND. Mr. Chairman, I yield 2 minutes to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Chairman, I rise in strong support of NAFTA because I believe that the status quo in the United States-Mexico relationship is unacceptable economically and environmentally. In supporting NAFTA, I am casting my vote for the young people of America and for the future.

In studying NAFTA, I have been most impressed by the support it enjoys among the young. Our young people have high hopes about the future and understand that we must have a regional trade agreement in our hemisphere if we are to compete successfully in the global economy. Expanding markets for our products will create more jobs and more opportunity for all Americans.

In addition, Mr. Chairman, we must get on with cleaning up the United States-Mexico border. A vote for NAFTA is a vote for the young children there on both sides of the border who are exposed to serious health risks every day because of environmental degradation. That is why I am pleased to join the Natural Resources Defense

Council, the Environmental Defense Fund, the Audubon Society, the World Wildlife Fund, and other environmental groups, as well as the great Governor of Texas, Ann Richards, who urges a "yes" vote on NAFTA.

NAFTA will work because it will create jobs. I commend President Clinton for addressing the concerns of American workers. His initiatives include worker retraining, the North American Development Bank, and his commitment to use his authority for sanctions if Mexico deprives its workers of their internationally recognized labor rights. I commend him for his leadership in fighting for a brighter future for our country and for our young people.

Mr. Chairman, closer to home, my district of San Francisco was built on trade and early on recognized the importance of exports to our economy's vitality. NAFTA will be good for San Francisco and it will give a needed boost to the California economy, which will, in turn, help the national economy. Vote "yes."

Mr. Chairman, on the subject of human rights, there is an ongoing debate in my State about whether people are leaving Mexico for jobs, as I contend, or for social services, as others contend. There is no serious contention that people are fleeing political persecution in Mexico. We all agree that Mexico must improve its record on human rights, but let us not play into the hands of the world's tyrants by equating Mexico with the authoritarian regimes of China or Burma.

□ 1650

Mr. OBEY. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Chairman, I urge a "no" vote on NAFTA.

Mr. Chairman, as one who has been involved in human rights and civil rights for all my time in Congress, more than 30 years, I deeply feel that the approval of NAFTA would be a tragic mistake.

NAFTA was written not by working men and women, or poor people, but by the privileged people.

Its basis is classic, old fashioned, trickle down, which says that whatever makes money for business will ultimately be good for the workers.

Amongst the key reasons our manufacturing corporations move to Mexico is because the wages are one-sixth ours, often as low as $1 an hour.

And Mexican environmental laws are weak and not enforced, meaning further savings in overhead.

NAFTA's passage would exacerbate these factors. As the new Roper poll indicates, up to 40 percent of our corporations would look favorably on a move to Mexico.

NAFTA would actually encourage more moves to Mexico because the treaty legitimizes the move, giving the move assurance of Government support, both Mexico's and our own.

And think of the advantage in wage disputes NAFTA gives to manufacturers here at home. They can put the squeeze on labor in wage disputes by saying simply—"If you don't take our offer, we'll move to Mexico where the Government guarantees low wages and no strikes".

California, already buffeted by job losses resulting from companies moving to Mexico, will suffer as more companies are encouraged to move South to take advantage of cheap labor, weak environmental laws and Government supported strikebreaking.

The NAFTA decision is a profound human rights issue. Working men and women and poor people need the support of their government. NAFTA stacks the deck against their legitimate human rights.

Mr. OBEY. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I also urge a "no" vote on NAFTA.

Mr. Chairman, this vote puts Members in a very difficult and in a very unfortunate position. I agree with the fundamental goals of NAFTA. I am in favor of lowering tariffs and allowing free trade between the United States, Mexico, and Canada.

It is important to remember that just 1 year ago, every Member of this House voted for a resolution that directed the President not to negotiate any trade agreement that jeopardizes health, safety, labor, and environmental laws. The resolution also stated that the House would not approve NAFTA if it jeopardizes those laws.

I have carefully evaluated this agreement to determine whether it meets the standard established by the resolution. In order to clarify the meaning of the agreement, I have exchanged numerous letters with the U.S. Trade Representative to determine whether NAFTA meets the test of the House resolution, and I ask that these letters be placed in the record.

It is my view that the agreement represents a step backward in terms of environmental laws; it represents a step toward uncertainty in terms of food safety laws; and it represents a lost opportunity in terms of protecting American workers. Therefore, I have no choice but to vote against the agreement.

We don't have to approve this NAFTA. I am convinced that we can do better. We can have a NAFTA that accomplishes the important goal of free trade without adversely impacting health, safety, and environmental laws, as well as American workers. I urge my colleagues to vote against this NAFTA and to support a renegotiated agreement that protects our laws and our workers.

SUBCOMMITTEE ON HEALTH
AND THE ENVIRONMENT,
Washington, DC, June 23, 1993.

Hon. MICKEY KANTOR,
U.S. Trade Representative, Washington, DC.

DEAR MICKEY: I am writing this letter to follow up our recent meeting in which we discussed the potential impact of the North American Free Trade Agreement on U.S. environmental, health and safety laws. While the meeting and subsequent discussions between our staffs have been useful in clarifying a number of issues, it would be extremely helpful to receive your written response to the following questions:

1. NAFTA requires that regulatory standards pertaining to food be based on "risk assessment, as appropriate to the circumstances." Article 712, para. 3. As you are aware, for food additives, color additives and animal drugs, the Delaney clauses in U.S. law prohibit the addition of any substance to foods if the substance is an animal carcinogen. 21 U.S.C. 348(c)(3)(A), 376(b)(5)(B) and 512(d)(1)(H). Under the Delaney clauses, a traditional risk assessment is irrelevant. Public Citizen v. Young, 831 F.2d 1108 (D.C. Cir. 1987). I would like your evaluation of whether the NAFTA agreement in any way jeopardizes the Delaney clauses in U.S. law. Specifically, how does the Delaney clauses' statement that the theoretical risk to humans is irrelevant square with the requirement in Article 712, para. 3 that U.S. laws be based on a risk assessment?

2. NAFTA declares that each party may adopt food safety regulation "only to the extent necessary to achieve its appropriate level of protection, taking into account technical and economical feasibility." Article 712, para. 5. What provisions in NAFTA would prevent Canada or Mexico from successfully challenging U.S. laws as NAFTA inconsistent, including the Delaney clauses and laws relating to pesticide residues in foods, on the grounds that they are most stringent than "necessary" to achieve the appropriate level of protection chosen by the U.S.?

3. I want to ensure that the U.S. has not ceded its authority to restrict trade in order to promote protection of our global commons. Please explain whether the language in NAFTA would prevent the U.S. or other signatories from restricting trade in order to protect an extraterritorial resource, assuming that such a restriction is applied in a way that is non-discriminatory. For example, would NAFTA preclude the U.S. from prohibiting the sale or import of specific varieties of seal pelts with the objective of protecting seal populations that are not listed as endangered under the Convention of International Trade in Endangered Species? Would nondiscriminatory restrictions on the sale or import of products producing greenhouse emissions for the purpose of protecting the global climate be consistent with NAFTA?

4. I also want assurances that NAFTA will not prohibit the use of trade restrictions as a sanction for the failure to comply with future international environmental accords not listed in NAFTA Article 104, especially on the issue of global climate protection. Please explain whether NAFTA would discourage the adoption in any new multilateral agreement on global climate of provisions imposing trade sanctions on non-complying nations, analogous to the trade sanction provisions which have proven so effective in the Montreal Protocol for Protection of the Stratospheric Ozone Layer.

5. Section 105 of NAFTA provides that the parties are to insure "all necessary measures are taken in order to give effect to [its] provisions * * *, including their observance * * * by state and provincial governments." Does this require the U.S. to preempt any state and local laws, and does the Administration intend to include any preemption provisions in its implementing legislation?

I appreciate your response to these questions in the hope that we can resolve these important issues. Since Congress may be considering these issues in the near future, I request that you provide response by July 16, 1993. Please have your staff contact Bill Schultz or Greg Wetstone of my staff at 226-7620 if you have any questions.

With every good wish, I am

Sincerely,

HENRY A. WAXMAN,
Chairman.

THE U.S. TRADE REPRESENTATIVE,
EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, DC, September 7, 1993.

Hon. HENRY A. WAXMAN,
Chairman, Subcommittee on Health and the Environment, Committee on Energy and Commerce, Washington, DC.

DEAR CONGRESSMAN WAXMAN: Thank you for your letter of June 23, 1993, in which you raise a number of questions concerning the interpretation and application of the provisions of the North American Free Trade Agreement (NAFTA) in connection with several environmental concerns.

The NAFTA will establish the largest market in the world, create jobs in America, and enhance the region's competitiveness. The NAFTA, together with the supplemental Agreement on Environmental Cooperation concluded last week, provides a number of strong steps to promote environmental protection. The NAFTA itself begins with the Parties' commitment to "promote sustainable development; strengthen the development and enforcement of environmental laws and regulations" and undertake the NAFTA commitments "in a manner consistent with environmental protection and conservation."

These commitments are reflected in the provisions of the NAFTA that follow, including explicit recognition of the rights of governments to maintain measures to protect human, animal or plant life or health, the environment and consumers; recognition of the rights to establish the level of protection governments consider appropriate; a commitment to work jointly to enhance the level of safety and of protection of human, animal and plant life and health, the environment and consumers; and renouncing the relaxing of health, safety or environmental measures to encourage investment.

The Agreement on Environmental Cooperation will ensure that economic growth is consistent with goals of sustainable development. The Agreement on Environmental Cooperation further promotes environmental protection, including by ensuring that laws and standards continue to provide high levels of environmental protection and that those laws are effectively enforced.

I will respond to each of the specific questions in your letter in turn.

Question 1: NAFTA requires that regulatory standards pertaining to food safety be based on "risk assessment, as appropriate to the circumstances." Article 712, para. 3. As you are aware, for food additives, color additives and animal drugs, the Delaney clauses in U.S. law prohibit the addition of any substance to foods if the substance is an animal carcinogen. 21 U.S.C. 348(c)(3)(A), 376(b)(5)(B) and 512(d)(1)(H). Under the Delaney clauses, a traditional risk assessment is irrelevant. Public Citizen v. Young, 831 F.2d 1108 (D.C. Cir. 1987). I would like your evaluation of whether the NAFTA agreement in any way jeopardizes the Delaney clauses in U.S. law. Specifically, how does the Delaney clauses' statement that the theoretical risk to humans is irrelevant square with the requirement in Article 712, para. 3 that U.S. laws be based on a risk assessment?

Response: The NAFTA was carefully drafted, with the Delaney clauses and other provisions of U.S. law firmly in mind, to safeguard the ability of governments to ensure food safety. To understand how the NAFTA applies to these and other "sanitary and phytosanitary measures" (covered in Section B of Chapter 7), it is important to distinguish between two key concepts—the level of protection that a government chooses and the measure that the government uses to achieve that level of protection.

The NAFTA makes explicit that each government may establish those levels of protection for human, animal or plant life or health that the government considers to be appropriate (Article 712(2)). A government's choice of the level of protection of human health need not be based on a scientific rationale or on a "risk assessment." The NAFTA implicitly recognizes that such choices are based on societal, not scientific, values.

The Delaney clauses, in the first instance, establish a level of protection. They reflect a decision by the Congress that there should be no risk of cancer to humans from the substances those clauses cover. That decision is fully protected under the NAFTA.

The NAFTA does require governments to meet certain elementary requirements when applying laws and regulations to achieve their chosen level of protection in order to safeguard against blatant trade protectionism in the guise of a health regulation. Our trading partners have repeatedly sought to exclude perfectly safe U.S. products from their markets by citing false "health" pretexts.

For example, the NAFTA requires that the sanitary or phytonsanitary measure used have a scientific basis and be based on a risk assessment appropriate to the circumstances.

It makes sense to require governments to meet these tests since legitimate health laws and regulations would have a scientific basis and are the product of a risk assessment. For example, a determination that a particular food additive poses a health risk is made on scientific grounds. Similarly, legitimate food additive regulations are based on "risk assessments" of the type required in the NAFTA. The term "risk assessment" is defined in the NAFTA in relevant part as an evaluation of the potential for adverse effects on human life or health arising from the presence of an additive, contaminant, toxin or disease-causing organism in a food, beverage, or feedstuff. Importantly, "risk assessment" as used in the NAFTA is not limited to quantitative risk assessment, which is a particular type of risk assessment used to evaluate the potential for carcinogenesis.

The Delaney clauses are entirely consistent with the NAFTA's requirements in this regard. The determination that a particular substance poses a risk of cancer is a scientific determination, based on an evaluation of the potential for carcinogenic effect. Based on scientific principles, the United States has determined that if a substance induces cancer in animals, it poses some risk of human carcinogenesis. And since the level of protection under Delaney requires that there be zero risk of carcinogenesis, we prohibit the substance.

The Public Citizen case dealt with the question of whether there was a de minimis exception under the color additives Delaney clause, not whether it was appropriate to evaluate whether a particular substance is an animal carcinogen and thus such substance poses a risk of carcinogenesis. The court's determination that there was no de minimis exception under the Delaney clauses does not change the fact that all three Delaney clauses are themselves based on a risk assessment and are consistent with the NAFTA requirements.

Question 2: NAFTA declares that each party may adopt food safety regulation "only to the extent necessary to achieve its appropriate level of protection, taking into account technical and economic feasibility." Article 712, para. 5. What provisions in NAFTA would prevent Canada or Mexico from successfully challenging U.S. laws as NAFTA inconsistent, including the Delaney clauses and laws relating to pesticide residues in foods, on the ground that they are more stringent than "necessary" to achieve the appropriate level of protection chosen by the U.S.?

Response: Article 712(5) of the NAFTA provides as follows: "Each Party shall ensure that any sanitary or phytosanitary measure that it adopts, maintains or applies is applied only to the extent necessary to achieve its appropriate level of protection, taking into account technical and economic feasibility." (Emphasis added.)

This provision addresses how a health law or regulation that is in place is applied. It does not address the validity of the underlying health law or regulation itself, or the level of protection afforded by those laws.

Article 712(5) provides no basis for challenging the levels of protection that the Congress has established in the Delaney clauses or laws relating to pesticide residues in food. The fact that those chosen levels of protection reflect a more conservative approach than other countries toward the level of protection that we desire in setting specific standards does not render these laws subject to question under Article 712(5).

This provision is meant to ensure that governments do not enforce or apply their health laws or regulations in a way calculated to provide a special advantage to domestic producers. For example, this provision is designed to guard against a country imposing a two year quarantine on imported cattle (and not coincidentally protecting the domestic industry) when a 10 day quarantine would be sufficient to guarantee the cattle are not diseased.

Article 712(5) does not require governments to avoid taking any action that has trade restrictive effects. And it recognizes that governments may legitimately take economic and technical factors into account in the manner that they apply their health regulations to imported goods. Finally, the provision is drafted so that a government will always be able to apply its health measures in a manner that fully achieves the country's chosen level of protection.

Question 3: I want to ensure that the U.S. has not ceded its authority to restrict trade in order to promote protection of our global commons. Please explain whether the language in NAFTA would prevent the U.S. or other signatories from restricting trade in order to protect an extraterritorial resource, assuming that such a restriction is applied in a way that is nondiscriminatory. For example, would NAFTA preclude the U.S. from prohibiting the sale or import of specific varieties of seal pelts with the objective of protecting seal populations that are not listed as endangered under the Convention on International Trade in Endangered Species? Would nondiscriminatory restrictions on the sale or import of products producing greenhouse emissions for the purpose of protecting the global climate be consistent with NAFTA?

Response: This Administration is committed to taking effective action to protect global environmental resources, including the global commons. Far from ceding our authorities in this area in the NAFTA, the agreement itself and the supplemental Agreement on Environmental Cooperation affirm the commitment of all three countries to protection of the environment and the promotion of sustainable development. In a provision that has no precedent in trade agreements, NAFTA Article 104 expressly provides that the obligations of the NAFTA parties under international environmental agreements shall prevail over any inconsistent obligations undertaken in the NAFTA.

The NAFTA does not change U.S. obligations concerning the use of trade sanctions to protect a particular resource outside the United States. The NAFTA will not impair the ability of the United States to impose the kinds of non-discriminatory trade restrictions cited in your examples. Thus, a nondiscriminatory prohibition on the sale of all domestically- and foreign-produced seal pelts in the United States would generally be consistent with the NAFTA. Similarly, a ban on the sale of all domestic and foreign-made goods producing greenhouse gas emissions would generally be consistent with NAFTA requirements.

As you may know, the broader question of the use of trade measures to protect resources outside a particular country's jurisdiction is currently under discussion in a number of international fora, including the Working Group on Environmental Measures and International Trade under the General Agreement on Tariffs and Trade (GATT), and in the Organization for Economic Cooperation and Development (OECD).

This issue arises most clearly in connection with the "general exceptions" to the GATT, a number of which have been included as general exceptions to the NAFTA as well. The exceptions most directly applicable to environmental protection are GATT Article XX(b) (protection of human, animal and plant life or health) and Article XX(g) (conservation of exhaustible natural resources). Some GATT countries, and an earlier, unadopted GATT panel report, have asserted that those exceptions are not available for measures to conserve or protect a resource outside the jurisdiction of the country taking the measure. The scope of those articles are the subject of on-going dispute settlement proceedings before a GATT panel concerning a challenge by the European Communities and the Netherlands to U.S. import restrictions on tuna in order to protect dolphins.

In those GATT dispute settlement proceedings, we have made clear that Article XX fully guarantees the ability of the United States to take measures to protect resources outside its jurisdiction. The inclusion of these Article XX provisions in the NAFTA does nothing to jeopardize the U.S. position on this question.

Question 4: I also want assurances that NAFTA will not prohibit the use of trade restrictions as a sanction for the failure to comply with future international environmental accords not listed in NAFTA Article 104, especially on the issue of global climate protection. Please explain whether NAFTA would discourage the adoption in any new multilateral agreement on global climate of provisions imposing trade sanctions on noncomplying nations, analogous to the trade sanction provisions which have proven so effective in the Montreal Protocol for Protection of the Stratospheric Ozone Layer.

Response: The NAFTA is intentionally designed to be flexible enough to accommodate additional international environmental or conservation agreements that contain trade obligations. Article 104 of the NAFTA gives precedence over the NAFTA to the trade obligations contained in a list of international environmental agreements. That list includes the Montreal Protocol on Substances that Deplete the Ozone Layer.

Article 104 explicitly contemplates adding new environmental or conservation agreements to the list as the NAFTA countries may agree. If a new multilateral agreement on climate change contains trade obligations, it could be added to the list in accordance with Article 104.

Question 5: Section 105 of NAFTA provides that the parties are to insure "all necessary measures are taken in order to give effect to [its] provisions . . ., including their observance . . . by state and provincial governments." Does this require the U.S. to preempt any state and local laws, and does the Administration intend to include any preemption provisions in its implementing legislation?

Response: Article 105 is intended to ensure that the federal government in each of the three NAFTA countries is fully accountable for any state or provincial measures covered by the agreement. This provision is drawn virtually verbatim from the United States-Canada Free-Trade Agreement (CFTA).

Article 105 does not establish or require federal preemption of state or provincial measures. It does mean that the federal government will be held accountable if it cannot secure state or provincial compliance with NAFTA obligations.

The precise legal relationship between the NAFTA and a country's domestic law is a matter for each participating government to decide. For example, we understand that Mexico intends to adopt NAFTA into its domestic law, thus superseding any pre-existing, inconsistent Mexican federal or state law.

In the United States, this issue will be addressed in the NAFTA implementing bill. The Administration will be working with the Congress to develop the NAFTA implementing legislation, including any provisions necessary or appropriate to implement Article 105.

It is important to note that where a question arises concerning the consistency of a state law with U.S. international trade obligations, the Executive Branch works with the state through cooperation and consultations. We ensure that our states are fully briefed on any discussions with other governments concerning state laws and are kept involved in any dispute settlement proceedings that may be initiated. In the case of the NAFTA—as we have done in connection with the CFTA—we would expect state representatives to be full participants in any panel proceedings concerning their laws.

In the one instance where state measures were successfully challenged before a GATT panel, we have not had recourse to preemption or lawsuits. Rather, we have worked with the state involved to see what, if any, solutions to the question can be found that would fully protect state interests in the matter. We expect our practice of consultations and cooperation to continue under the NAFTA.

We would note that there is no preemption under the NAFTA in another sense, which is that state and local laws are free to differ from federal regulations and still be consistent with the NAFTA. In fact, there is nothing in the NAFTA that refers to federal standards as any point of reference for state standards. Instead, the same NAFTA requirements that guard against standards being used to provide a special advantage to domestic producers are applied to federal standards and to state standards.

Thank you for this opportunity to clarify these issues. I look forward to continuing to work with you in preparing for the implementation of the NAFTA.

Sincerely,

MICHAEL KANTOR.

SUBCOMMITTEE ON HEALTH
AND THE ENVIRONMENT,
Washington, DC, September 16, 1993.

Hon. MICKEY KANTOR,
U.S. Trade Representative, Washington, DC.

DEAR MICKEY: As we discussed last Thursday, I have attached below a summary of my concerns regarding environmental aspects of the North American Free Trade Agreement. It remains my hope that we can work together to address each of these important issues.

Process Standards.—It appears that U.S. laws that restrict market access to products that are produced in a way that harms the environment or human health could be subject to challenge under NAFTA as non-tariff trade barriers, even if we apply these laws equally to domestic and imported products. For example, although drift-net fishing is known to be extremely destructive of aquatic life in our oceans, a ban on sales of fish caught by drift-net fishing could be found to violate NAFTA. The same problem, of course, arises in the context of the U.S. law restricting the import of tuna caught in a fashion that kills dolphin. It appears that such restrictions would not be "standards related measures" or "technical regulations" under Chapter 9 of the Agreement and could therefore be found to be barriers to trade.

International Agreements.—The list of international agreements in Article 104 of NAFTA is not sufficiently inclusive, and may present an obstacle to the inclusion of trade sanctions in future multilateral environmental agreements. In fact, it appears that trade restrictions in future international agreements to address global environmental problems such as global climate change might well be found to be violative of NAFTA. Although future multilateral agreements could be added to the list in Article 104, such action requires approval of all parties. A recalcitrant North American nation could therefore use NAFTA to undermine the key forcing mechanism of trade sanctions. This problem would, of course, be exacerbated if NAFTA were expanded to include other nations of central or South America.

Border Air Pollution.—Major new pollution sources are being constructed on the Mexican side of the U.S.-Mexico border without air pollution controls. The most troubling example is the Carbon II power plant now under construction in Piedra Negras. This massive new facility will not include the stringent controls required for all new facilities in the U.S. and is expected to release hundreds of thousands of tons of sulfur dioxide pollution into our common air supply—dramatically reducing visibility in Big Bend National Park, and perhaps in other national parks as well. Failure to require controls on new facilities not only subjects large areas of the Southwest U.S. to additional air pollution, it also provides an unfair competitive advantage to Mexico—allowing that country to lure new facilities with reduced environmental costs.

Food Safety.—Your letter of September 7, 1993 partially addresses my concerns about the impact of NAFTA on U.S. food safety laws. You have indicated that Article 712(3)(c), which requires that sanitary and phytosanitary measures must be "based on risk assessment, as appropriate to the circumstances," does not require that food safety laws be based on a conventional risk assessment because Article 712(2) states that each country may establish its "appropriate levels of protection," including a level of protection that does not rely on conventional risk assessment. Can you give me similar assurances with respect to sections 712(3)(a), 712(3)(b) and 715(3)(b)?

It has also been suggested that section 715(3)(b), which states that each party must "avoid arbitrary or unjustifiable distinctions in [its appropriate level of protection] in different circumstances," could be the basis for a successful challenge to the Delaney clauses. Can you assure me that this provision does not jeopardize the Delaney clauses?

Your September 7 letter also responded to my concern regarding NAFTA language providing that each party may adopt food safety regulation "only to the extent necessary to achieve its appropriate level of protection, taking into account technical and economic feasibility." Article 712(5). You state that this language applies to how a law or regulation or law is enforced and not to the content of the law or regulation. I would like assurances that your statement applies to any administrative regulation or order and would not allow challenges to the choices made in setting regulatory standards under such regulations or orders. For example, am I correct that this provision could not be a basis for a challenge to an agency decision to ban a pesticide rather than to reduce its use; to ban export of pesticides rather than to use import inspections to guard against import of foods with unapproved pesticides; or to require batch-by-batch testing of infant formula rather than periodic testing?

Most importantly, please provide statements from Canada and Mexico indicating that they agree with your interpretation of the provisions in the Agreement that raise questions with regard to food safety. This statement should be in a form that would bind future signatories of the NAFTA.

Preemption.—I am concerned about the preemptive effect of implementing legislation and would like the opportunity to review your legislative language to insure that it does not unnecessarily interfere with state and local laws.

Thank you for your cooperation in addressing these important matters.

With every good wish, I am

Sincerely,

HENRY A. WAXMAN,
Chairman.

THE U.S. TRADE REPRESENTATIVE,
EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, DC, October 26, 1993.

Hon. HENRY A. WAXMAN,
Chairman, Subcommittee on Health and the Environment, Washington, DC.

DEAR HENRY: Thank you for your letter of September 16, 1993 summarizing your concerns regarding environmental aspects of the North American Free Trade Agreement (NAFTA). That letter raised concerns regarding: process standards, international agreements, border air pollution, food safety, and preemption.

Let me note at the outset that the case for the NAFTA comes down to two compelling points: the NAFTA will increase economic growth and jobs in the United States, and the NAFTA will help us resolve problems that trouble Americans in our current relationship with Mexico. Prominent among those problems are issues related to environmental protection and our citizens' health and safety that I know are of particular interest to you.

The combination of the provisions of the NAFTA and the NAFTA side agreement on the environment (the North American Agreement on Environmental Cooperation) constitute truly path-breaking advances in the area of trade and the environment. The NAFTA and the side agreements of the NAFTA show heightened sensitivity to safeguarding our rights to protect the environment, health and safety. They also contain provisions aimed at seeing that the benefits of increased trade and economic growth are accompanied by measures to improve standards and enforcement of laws affording these protections.

Let me address each of your specific concerns in turn.

PROCESS STANDARDS

In your letter, you state that U.S. laws that restrict market access to products that are produced in a way that harms the environment or human health would not be "standards-related measures" or "technical regulations" under Chapter Nine of the NAFTA and could therefore be found to be inconsistent with the NAFTA.

As an initial matter, it is incorrect to state that Chapter Nine of the NAFTA (Standards-Related Measures) prohibits measures that are not "standards related measures" or "technical regulations." Chapter Nine provides for a series of disciplines on standards-related measures, as defined in that chapter, and applies only to "standards-related measures of a Party, other than those covered by Section B of Chapter Seven [of the NAFTA] (Sanitary and Phytosanitary Measures), that may, directly or indirectly, affect trade in goods or services between the Parties, and to measures of the Parties relating to such measures." (Article 901)

If a measure is not a standards-related measure, then Chapter Nine does not apply to it. (A technical regulation is one type of a standards-related measure, as defined in Article 915.) Any measure of the type described in your letter would need to be analyzed on a case by case basis.

We disagree that such measures would generally be inconsistent with the NAFTA. For example, as you know, the question of U.S. embargoes under the Marine Mammal Protection Act of 1972 (MMPA) on imports of yellowfin tuna in order to protect and conserve dolphin is currently the subject of a dispute settlement proceeding under the General Agreement on Tariffs and Trade (GATT). In that proceeding, the United States has maintained that the U.S. embargoes are consistent with the GATT by virtue of GATT Articles XX(g), (b) and, in the case of the intermediary nation embargoes under the MMPA, Article XX(d) as well.

Those GATT articles are incorporated into the NAFTA through Article 2101 and would be available if U.S. measures were challenged under the NAFTA.

From our perspective, consideration of the issue of "processes and production methods" or PPMs is a high priority element of the workplan for the Council under the North American Agreement on Environmental Cooperation. This involves the very complex, and often sensitive, questions of how to address any environmental effects of products due to the processes or production methods associated with them. Questions like: how was the product harvested?, how was it processed?, what effects will its consumption have on, say, the environment?

These questions are of a global nature, not limited just to North America. Therefore, while the Administration is committed to taking them up with our North American neighbors in the context of the NAFTA and the supplemental agreement on environmental cooperation, we are also seeking a broader dialogue. Indeed, preparatory discussions are already under way in the Organization for Economic Cooperation and Development (OECD) to develop a sound analysis of PPMs. We are actively involved in those discussions.

Another important step from our perspective will be to engage the GATT, beginning with a post-Uruguay Round workprogram on the environment, which we hope will be launched at the conclusion of the Uruguay Round. This work would of necessity have to include a thorough examination of the adequacy of the GATT's substantive rules as they relate to PPMs. Broadly, our objective is to ensure that countries are able to effectively address environmental objectives while not providing a means for arbitrary limit on trade. Easier said than done. This project will take time—but we will take it on in good faith, multilaterally and in the North American context.

INTERNATIONAL AGREEMENTS

You expressed concern that the list of agreements in Article 104 and its Annex is not sufficiently inclusive. The agreements listed in article 104 and its Annex had been identified as the agreements where there was particular concern that the relationship to the NAFTA should be made explicit. We did not list a number of other international environmental agreements. The NAFTA, in article 2101, incorporates the general exceptions to the General agreement on Tariffs and Trade (GATT). These exceptions generally provide for environmental measures to protect human, animal or plant life or health as well as for measures relating to the conservation of living and non-living exhaustible natural resources. This could include measures to implement international environmental agreements.

We recognize that trade measures under international environmental agreements can play an important role in the implementation of those agreements. For example, the trade obligations of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) have been vital to ensuring the preservation of endangered species. Article 104 affirms the importance of these measures.

For greater clarity, I have recently received agreement from the government of Canada and Mexico that we will modify Annex 104.1 of the NAFTA to include the following additional agreements:

(a) The Convention Between the United States of America and the United Mexican States for the Protection of Migratory Birds and Game Mammals, done at Mexico, February 7, 1936; and

(b) The Convention on the Protection of Migratory Birds, done at Washington, August 16, 1916.

We are currently studying which additional agreements it may be appropriate to include on the list, and I look forward to continuing to work with you on this issue.

BORDER AIR POLLUTION

Your letter expressed concern that major new pollution sources are being constructed on the Mexican side of the U.S.-Mexico border without air pollution controls, and cited as the most troubling example the Carbon II power plant now under construction in Piedras Negras.

The Carbon II power plant will use state-of-the-art electrostatic precipitators to control particulate pollution. Since the sulfur content of the coal to be used by the plant is very low (one percent or less), no controls are currently planned for SO_2 emissions from the plant. As was true in the U.S. until recently, no such controls are required by Mexican standards in this circumstance.

With respect to visibility in Big Bend National Park, we understand that technical studies are being undertaken to better estimate the magnitude of the effect from SO_2 emissions from the plant. Consultations involving the Department of State, the Department of the Interior, the Environmental Protection Agency, and the Mexican government are continuing on this issue.

We also understand that the local air quality effects of emissions from the plant are not a significant issue. U.S. as well as Mexican health and welfare-based ambient air quality standards for sulfur dioxide will be met.

The way the Carbon II situation is being managed through cooperative work between our two governments shows how the closer ties between the United States and Mexico fostered by the NAFTA and the Supplemental Agreements greatly improve our ability to work out issues that may arise between us as neighbors. The Mexican government has given us assurances that they will work with us to reach a resolution of the issue. Indeed, officials of the Departments of State and the Interior and of the Environmental Protection Agency met with Mexican officials at least twice in the past few weeks on this topic and will meet with them again next week.

Mexico began building the Carbon I and II power plants—the only coal-fired power plants in Mexico—several years ago to meet its growing needs for electricity. The power is strictly for domestic use in Mexico. The project will continue, with or without NAFTA. What NAFTA and the Supplemental Agreements provide is closer ties among the North American countries and an environmental commission that will give us a better way to deal with such situations as they arise—or even before they arise—in the future.

More to the point, the North American Agreement on Environmental Cooperation contains explicit commitments to work together toward higher environmental standards. This will help reduce existing differences between U.S. and Mexican standards by bringing their standards up, not by lowering ours.

FOOD SAFETY

Your letter also sought assurances with respect to additional questions on the interpretation of the sanitary and phytosanitary provisions of the NAFTA not raised in our earlier correspondence on this issue. You sought an assurance that Articles 712(3) (a) and (b) and 715(3)(b) do not require that a NAFTA country base its level of protection for food safety on a risk assessment. As we stated in response to a similar question with respect to Article 712(3)(c), each NAFTA country is free to establish its appropriate level of protection for food safety, including a level that does not rely on a risk assessment.

Article 715(3)(b) obligates each NAFTA party, in establishing its appropriate level of protection, to avoid arbitrary or unjustifiable distinctions in its appropriate levels of protection in different circumstances, where such distinctions result in arbitrary or unjustifiable discrimination against a good of another party or constitute a disguised restriction on trade between the parties. As noted in my September 7 response to your earlier letter, the NAFTA was carefully drafted, with the Delaney clauses and other provisions of U.S. law firmly in mind, to safeguard the ability of governments to ensure food safety.

The Delaney clauses, in the first instance, establish a level of protection. They reflect a decision by the Congress that there should be no risk of cancer to humans from the substances those clauses cover. As I also noted in my letter of September 7, 1993, that decision is fully protected under the NAFTA.

We do not view the level of protection established by the Delaney clauses as arbitrary or unjustifiable distinctions in U.S. appropriate levels of protection in different circumstances, nor do the Delaney clauses result in arbitrary or unjustifiable discrimination against a good of another party or constitute a disguised restriction on trade between the parties. The measures applied under the Delaney clauses apply equally to goods whatever their origin.

With respect to Article 712(5), measures that are adopted, maintained or applied are to be applied only to the extent necessary to achieve the government's appropriate level of protection. However, each government retains the right to establish the level of protection that it considers appropriate. Your letter proposed several examples, including an example in which an agency, in applying an administrative order or regulation that it has adopted or maintains, decided to require batch-by-batch testing of infant formula rather than periodic testing. In that example, the question under Article 712(5) would be whether, taking into account technical and economic feasibility, applying batch-by-batch testing was applying a measure beyond the extent necessary to achieve the agency's appropriate level of protection, and would periodic testing achieve that level of protection. A similar analysis would apply to the other examples cited in your letter.

The discipline provided by Article 712(5) is reasonable and is not burdensome. Since the government established the level of protection it considered appropriate in the first place, it would be surprising for the government to seek then to apply a measure to achieve a level of protection beyond the level that government considered to be appropriate.

Your letter also requested that we provide statements from Canada and Mexico, in a form that would bind future signatories of the NAFTA, that they agree with the interpretation we have provided of the NAFTA provisions applicable to measures to ensure food safety. The best assurance of the meaning and application of these provisions is the test of the NAFTA itself, which has already been agreed to by the governments of Mexico and Canada and which would bind future signatories of the NAFTA. My letter of September 7, 1993 was based on the plain language of the NAFTA. We also intend to make sure that the Statement of Administrative Action reflects the explanation of the NAFTA provisions I provided earlier. As you know, the Statement of Administrative Action is the single, contemporaneous compilation of the Administration's statements of what is in the NAFTA (its terms, how it will work, what it means for the United States) and is approved by the Congress.

I will consider your request for statements for Canada and Mexico. However, assurances of the type requested raise some potential difficulties—they would actually be additional international agreements, requiring that we enter into negotiations with the governments of Mexico and Canada. These negotiations could invite those governments to re-visit the NAFTA provisions. We have received numerous other requests for further agreements with the governments of Mexico and Canada on various provisions of the NAFTA, and I assume those governments have also received similar requests.

PREEMPTION

Your letter expressed your desire for an opportunity to review the language of the draft NAFTA implementing bill to insure it does not unnecessarily interfere with state and local laws. I share your concern that the implementing bill not unnecessarily interfere with state and local laws. As you may know, we are currently engaged in a process of extensive consultations and review with the Congress of draft implementing legislative language. I look forward to working with you as we move forward in that process.

Thank you for this opportunity to address your concerns. The NAFTA and the side agreements contain both provisions to ensure that trade liberalization does not come at the expense of environmental protection and provisions to help improve environmental protection.

Sincerely,

MICHAEL KANTOR.

HOUSE OF REPRESENTATIVES,
Washington, DC, November 12, 1993.

Hon. WILLIAM J. CLINTON,
The President, The White House, Washington, DC.

DEAR MR. PRESIDENT: I appreciate your taking the time to meet with me last week about the North American Free-Trade Agreement (NAFTA). Your personal effort to ensure congressional approval of this pact has been extraordinary.

As you know, I have a longstanding interest in the effects of trade agreements on our health, safety, and environmental laws. Last year, I sponsored a resolution, adopted by the House of Representatives, that declared that Congress would not approve the NAFTA if it jeopardize these laws. Since June, I have been working with the Office of the U.S. Trade Representative (USTR) to understand fully how the NAFTA would affect our domestic laws. In a series of letters that I have exchanged with the USTR, some points have been clarified. Serious concerns remain, however.

After considering this issue as carefully as I can, I want to urge you to withdraw the NAFTA enabling legislation from Congress and initiative negotiations on a new agreement with Mexico and Canada. Although I strongly support the liberalization of trade laws and have consistently opposed protectionist legislation, I reluctantly have to oppose the Agreement as it is now written.

This issue transcends the traditional "for or against" free trade debate. For many of us, the current NAFTA creates a conflict between our support for increased international competition and our commitment to progressive environmental, health, and safety laws. I have struggled with this choice and concluded that under your leadership we can—and must—do better than the NAFTA before Congress.

Despite what some have said, the NAFTA would allow another country to challenge our health and safety standards. Mexico could for the first time challenge a U.S. law that protects our food supply on the ground that it "arbitrarily or unjustifiably discriminate[s]" against imports, or creates a "disguised restriction on trade." Article 712(4), 712(6). These provisions open the door to challenges to many statutes, including laws that establish standards for infant formula, carcinogens in foods, pesticides, and Proposition 65, California's law that requires labeling of certain carcinogens in foods. Even key provisions of the Clean Air Act, such as requirements to reformulate gasoline, could be challenged as an "unnecessary obstacle to trade." Article 904.4(b).

Although our laws should be expected to meet these tests, disputes would be decided by a process that is repugnant to basic concepts of due process and openness that are so fundamental to our democracy. The NAFTA expressly requires that the entire dispute resolution process be shrouded in secrecy. Article 2012(1)(b). The briefs are secret, oral arguments are closed to the public, and the NAFTA even prohibits disclosure of any dissent to a panel's decision. Article 2012(1)(b).

In addition, only countries can be parties. Article 2008. Citizens and State governments (which may wish to defend challenges to State laws) are not allowed to participate, even if a future President refuses to defend one of our laws. And, as I understand the Agreement, most decisionmakers would be trade experts with little understanding of health and environmental laws.

These concerns became all too real last year when an international trade panel held that provisions of our Marine Mammal Protection Act designed to prevent the slaughter of dolphins violate the General Agreement on Tariffs and Trade (GATT). If endorsed, that decision would undermine one of the most important tools we have used to address global environmental problems: the use of restrictions that apply equally to imported and domestic products to promote environmentally responsible behavior.

The NAFTA would have the same effect. It would discourage the use of trade sanctions in new international environmental accords. Although an exception to the NAFTA's limitations on trade restrictions is specifically included for the Montreal Protocol on Substances That Deplete the Stratospheric Ozone Layer and a small number of other listed accords, new environmental agreements would be similarly protected only after the unanimous approval of all NAFTA parties. Article 104. Trade restrictions in important new accords—including a likely pact for climate change—could be found to violate the NAFTA and be effectively precluded. Without trade restrictions, however, a climate change agreement would likely be ineffective.

In addition, the NAFTA appears to retain the prohibition on trade restrictions against products produced in environmentally damaging ways established in last year's GATT panel ruling. Although the U.S. has formally challenged the panel ruling, the NAFTA includes by reference the GATT language interpreted to prohibit such "process-based" trade restrictions. Article 2101(1). Current or future U.S. laws barring import of, for example, fish caught in ways that kill dolphin, or fish caught with destructive draftnets, would therefore be subject to challenge under this Agreement.

I know you share my concerns in these areas and have worked hard for constructive solutions. But while the current NAFTA's language recognizes the potential for problems, it lacks the specific provisions that guarantee a cure. As a result, Congress is faced with a choice between efforts to promote trade and potential threat to the integrity of our laws, some of which I have battled against industry for years to enact. The unfortunate reality is that a future Administration opposed to our environmental and safety laws could undermine these important statutes simply by mounting a weak defense when these laws are challenged.

I am also concerned that the NAFTA lacks specificity regarding economic reform in Mexico. I am especially disappointed that the Agreement does not guarantee that Mexican average wages and working conditions will rise with productivity. This is an essential component for progress. Without such clear and enforceable provisions, adoption of the NAFTA would be a lost opportunity for millions of people both in Mexico and the United States.

Finally, I recognize that the environmental side agreement that you negotiated would establish a forum for focusing attention on border and other environmental problems. However, the agreement does not address the concerns that I have raised above. I was also disappointed by the decision not to bind the environmental side agreement to the NAFTA. As a result, a future President could withdraw from the side agreement while retaining the NAFTA, without having to obtain approval from Congress.

During these past weeks, many advocates for the NAFTA have told me that my concerns are legitimate but not central to this issue. I disagree. I believe they are too fundamental to be ignored. Yet, under the "Fast Track" procedure, which I voted against, these concerns cannot be resolved by Congress. The only way to improve the Agreement is to defeat it and begin renegotiation.

I realize, of course, that you are concerned that defeating the NAFTA will eliminate any opportunity to reach an agreement with Mexico and send a dangerous signal to the international community. Those of us with concerns about the NAFTA have a special responsibility to ensure that a different message is sent. Accordingly, I want to make it absolutely clear that I unequivocally support a free trade agreement with Mexico and Canada, and stand ready to immediately begin working with you on a new agreement that successfully reconciles both our commercial and non-economic values.

Again, this is a difficult decision, but I urge you to withdraw the NAFTA from the Congress. With your tremendous commitment to this issue, I am confident we could reach a much better agreement in the future.

Sincerely,

HENRY A. WAXMAN,
Member of Congress.

THE U.S. TRADE REPRESENTATIVE,
EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, DC, November 16, 1993.

Hon. HENRY A. WAXMAN,
U.S. House of Representatives,
Washington, DC.

DEAR CONGRESSMAN WAXMAN: The President has asked me to respond to your letter to him regarding your decision to oppose the North American Free-Trade Agreement (NAFTA). I was surprised by your decision, particularly because the reasons you give are primarily related to concerns about the environment.

I believe your opposition to the NAFTA package submitted by the President would be a grievous mistake. Approval of the NAFTA and the accompanying package of environmental and labor measures will advance the cause of environmental protection in the United States and the rest of North America. By contrast, rejecting it would be a setback for our country, our economy and our efforts to enhance protection of human health and the environment throughout our continent.

I have enclosed more detailed comments on the particular points you raise in your letter, because it seems that your criticisms are based on misconceptions of the NAFTA and the supplemental agreements, and of their effect on our existing relationship with Mexico. Certain points, however, warrant particular emphasis.

First, the NAFTA and the side agreements mark a major step forward in showing that the economic growth and development we seek for the United States and our neighbors by opening markets and expanding trade can be accompanied by enhanced environmental protection and cooperation. The NAFTA itself is the most environmentally sensitive trade agreement ever negotiated, including protection not only for our own environmental laws, but also for major international environmental agreements, as well as commitments to greater transparency and to refrain from relaxing environmental laws to attract investment. We have gone further in the environmental side agreement and in the bilateral agreement on border funding. Those agreements will encourage improved environmental laws and enforcement of those laws, lay a strong base for continued cooperation on the many transborder issues, and bring needed financial resources to improving the health and environment of the border. As the Natural Resources Defense Council said in announcing its support, "The Clinton Administration has successfully linked strong environmental measures, for the first time, to international trade and economic integration."

Second, rejecting NAFTA would not immunize our laws protecting health and the environment from trade challenge, as your letter seems to suppose, but rather will leave all such measures subject to challenge under the rules and processes of the GATT. The NAFTA's rules and dispute settlement processes are more environmentally sensitive than those of the GATT, owing largely to the significant role of environmental groups in advising U.S. negotiators of the NAFTA. At the suggestion of environmentalists, the United States insisted on the right to force any GATT challenge by Mexico or Canada about U.S. standards to be heard instead in the NAFTA.

Finally, it is a tempting but dangerous illusion to think that rejection of this NAFTA package will soon be followed by a replacement agreement which somehow keeps the virtues of the present accord while adding additional advantages in the different ways various critics see NAFTA as falling short of their respective ideals. The NAFTA package is the product of more than three years of tough negotiations under two U.S. Presidents. It is easy to forget that Mexico which has its own history of mistrust of the United States, has committed to moving an enormous distance and in unprecedented ways in these negotiations.

The sometimes acrimonious debate in the United States, in which criticism has too often had more vehemence than logic or consistency, could hardly serve to encourage Mexico to quickly re-engage in negotiations with the United States. Even if there were such a disposition (and President Salinas has said there is not), we face a crowded domestic and international agenda, and Mexico will quickly be embroiled in the campaign to choose President Salinas's successor. In short there is neither time nor disposition to remake the NAFTA package, let alone to remake it in a way that keeps its virtues for the United States while satisfying all of the diverse and even conflicting critics.

This NAFTA package represents a once in a generation opportunity. It would be a tragic loss to reject this excellent deal because it falls short of the ideal, when the alternative will be to leave us with an unhappy or even deteriorating status quo.

Environmentalists from six major environmental groups, representing a majority of environmentalists in this country, understand that. As Kathryn Fuller of the World Wildlife Fund said on September 15 when endorsing NAFTA, "our support of the NAFTA and the Agreement on Environmental Cooperation boils down to this: ultimately, the environment of North America will be better with the passage of NAFTA than without it."

I know and respect you as an individual deeply committed to the environment. For that very reason, I hope you will consider carefully the points raised in this letter and its attachment before casting your vote on Wednesday. I am convinced that a yes vote is the right vote for our country's future, including sustainable economic growth, enhanced environmental protection, and more and better jobs for our workers.

Sincerely,

MICHAEL KANTOR.

POINT-BY-POINT RESPONSE

Assertion: NAFTA opens the door to challenge to our health and safety standards.

Fact: This assertion misreads the NAFTA and its effect on the status quo in two ways: First, it appears to confuse the ability to challenge a U.S. law with the ability to in such a challenge. Second, NAFTA does not "open the door" to trade challenge. Those laws could be challenged now under the rules of GATT. Under NAFTA those U.S. laws are less likely to be challenged and a challenge is even less likely to succeed.

U.S. laws, such as the Clean Air Act, set requirements that are legitimate protections of the environment and food safety. They are not disguised restrictions on trade nor do they arbitrarily or unjustifiably discriminate against another country's goods and products. Because our laws are based on science and legitimate efforts to protect health and safety, they would not be successfully challenged under NAFTA.

The Consumers Union, which publishes Consumer Reports and has taken no position on the NAFTA, recently wrote to Reps. Matsui and Wyden saying "We have examined NAFTA's likely impact on food safety, and believe that the agreement offers adequate protection in this area."

NAFTA is intended to prevent a country from erecting protectionist barriers under the guise of the health and safety standards. The fact is, some of our trading partners resort to this tactic. For example, one country prohibits imports of U.S. walnuts, purportedly because of coddling moths. However, there is no scientific basis for this barrier to U.S. exports since our shelled walnuts are not a host for coddling moth. Similarly, another of our trading partners has banned the importation of some of our wheat, claiming it contained prohibited pesticide residues, even though thorough evaluations by FDA scientists and six other scientific institutions in three countries unequivocally concluded it did not.

Many of the provisons cited as problematic are obligations the United States has lived under for years, both under the General Agreement on Tariffs and Trade (GATT) (in force since 1948) and the Standards Code (in force since 1980).

So, it is incorrect to say that "Mexico could for the first time challenge a U.S. law." Mexico or Canada can challenge a U.S. health standard right now under the GATT. Again, that does not mean they would win.

Assertion: NAFTA expressly requires the entire dispute settlement process to be shrouded in secrecy.

Fact: The NAFTA's dispute settlement procedures are not like a U.S. court case. The NAFTA dispute settlement mechanism is designed to help the NAFTA parties resolve their differences amicably, first through consultations and negotiations. Although panel hearings, like those of the GATT and our free trade agreement with Canada, are confidential, the Administration will follow its normal procedures of consultation with relevant Congressional committees and interested private parties during the course of such discussions, soliciting their views and keeping them fully abreast of developments.

If consultations fail, the NAFTA provides for non-binding arbitration. The panel of arbitrators is made up of private citizens, not judges, who will have expertise in international trade matters or matters particularly germane to the case at hand. These panels have no authority to make "rulings," bind the parties, or order changes in the domestic law. The most they can do is recommend. Once those recommendations are tabled, it is up to the parties to decide—through further negotiations and consultations—what is to be done.

Although Canada and Mexico will have the right to maintain the secrecy of their own briefs, the United States has taken a commitment to make copies of its own submissions to international trade dispute settlement panels available to the public. This practice will continue under the NAFTA. Furthermore, the Administration has committed in its Statement of Administrative Action to the fullest possible participation of state government representatives in all aspects of dispute settlement proceedings affecting their interests, including state government participation in panel hearings themselves.

In preparing briefs, the United States will continue its practice under the GATT and the U.S.-Canada Free Trade Agreement to give public notice of the dispute, receive comments on the dispute from interested parties, and solicit advice and input from relevant private groups in preparing U.S. briefs and oral arguments to dispute settlement panels. States or local governments whose laws are challenged will be part of the U.S. team defending the measures.

The NAFTA explicitly calls for the publication of panel reports (Article 2017) and explicitly provides for dissenting opinions (Article 2017 (1) & (2)).

Finally, as EPA Administrator Browner testified last week, the Administration is fully committed to transparent dispute settlement procedures under the environmental supplemental agreement.

Assertion: Most decision-makers would have little understanding of health or environmental laws.

Fact: NAFTA dispute settlement panelists cannot be characterized as "decision-makers". As noted above, panelists are private citizens whose role is to make non-binding findings and recommendations to the participating governments. Panelists have no power to "decide" anything for the parties or to compel any behavior.

Furthermore, the NAFTA does not require or favor the selection of panelists with trade as opposed to environmental or health expertise. In fact, the NAFTA explicitly states that NAFTA panelists may have expertise in "* * * law, international trade, or other matters covered by the Agreement * * *" Article 2009. Those matters obviously include health and environmental laws.

The Administration has specifically committed under section 106(c) of the NAFTA implementing bill and in the Statement of Administrative Action to encourage the appointment of environmental experts in any panel convened to consider a U.S. environmental law. In addition, the NAFTA creates a unique mechanism, the "scientific review board," to assist panels in any case in which they need help in addressing environmental or other scientific issues.

The fact is that NAFTA, the implementing bill, and the environmental supplemental agreement contain numerous pro-environmental safeguards and procedures. The NAFTA package represents a true advance for environmental protection in an international trade context.

As the National Wildlife Federation has said, "NAFTA and the environmental side agreements clearly represent our best hope for coming to grips with trade and environmental issues in North America."

Assertion: the NAFTA enshrines GATT panel decisions that are unfavorable to the environment.

Fact: This assertion is based on the flawed assumption that GATT panels make "decisions" that are "enforced" and further assumes that the United States has agreed, or will agree, with the panel report on "tuna-dolphin."

It is disconcerting to see the flawed reasoning of the panel report in the tuna-dolphin dispute with Mexico portrayed as fact. That report has not been adopted by the GATT, much less put into effect in the United States. Indeed, this whole issue is currently being re-visited by another panel where the United States has refuted in detail the previous panel's reasoning. To imply that adverse GATT panel findings on this subject have somehow been carried into the NAFTA appears to pre-judge the outcome of the second proceeding.

If there are problems with the GATT panel reports, they must be fixed in the GATT. The NAFTA, which only applies among three countries, cannot fix the GATT rules or reports, which apply to over 100 countries. Our ability to accomplish reform of the GATT rules, either during the coming weeks in the Uruguay Round or in more substantive reforms in the coming years, will be seriously undermined if the Congress turns its back on the NAFTA. Our trading partners are watching closely; they will work with us if they know that our country is seriously committed to both trade liberalization and environmental protection.

To charge that the NAFTA somehow places at risk U.S. laws against the use of destructive driftnets is not accurate. Neither Canada nor Mexico use driftnets in their fisheries and thus would have no incentive to challenge U.S. laws against their use. Furthermore, Mexico has significantly improved its efforts to protect dolphins so that its dolphin protection is now roughly equivalent to, or in some cases even better than, that for the U.S. fleet.

Assertion: The NAFTA will not allow the United States to use trade sanctions under international environmental agreements.

Fact: The NAFTA is the first international trade agreement to protect precisely that right.

The NAFTA specifically exempts from trade rules the use of trade measures under the Montreal Protocol and other major international environmental accords. Making these agreements take precedence over NAFTA's trade rules—and over the GATT—is a major, precedent setting step forward in the effort to link environmental protection and trade. Furthermore, the NAFTA specifically provides for including additional agreements, including future agreements, in this list. In fact, we recently reached agreement with Mexico and Canada to add our treaties on migratory birds to the list.

The United States is committed to pursuing vigorous international environmental agreements. As later-in-time agreements, future environmental agreements that include NAFTA countries would prevail over the NAFTA in the event of any conflict. Moreover, as noted in the Statement of Administrative Action submitted to the Congress, we do not foresee any conflict between the requirements of the NAFTA and the trade obligations imposed by the environmental agreements listed in Article 104 or by other agreements not currently listed.

Assertion: Even if the NAFTA has some good environmental provisions, future Administrations might not defend U.S. environmental laws as vigorously as this one.

Fact: This is an argument for abandoning all international trade agreements, since this one is by far the most pro-environment in history.

The NAFTA contains important, groundbreaking, specific provisions to protect the environment. The NAFTA is not a choice between promoting trade and threatening the integrity of U.S. environmental laws; it is just the opposite. The NAFTA itself begins with a commitment to promoting trade in a manner consistent with environmental protection and conservation and with the commitment of the NAFTA countries to promoting sustainable development. And the new institutions created under the supplemental agreements will help solidify U.S. commitments to environmentally sensitive trading regimes.

No one can guarantee what a future Administration, or a future Congress, will do. But this is no reason for abandoning the progress we have made in the NAFTA and leaving us solely with trade agreements that do not adequately take the environment into account. Taken to its logical conclusion, such an argument would suggest that we should abandon the world trading system that has contributed so greatly to this country's prosperity over the past 45 years.

Assertion: The NAFTA does not guarantee an increase in Mexican minimum wages.

Fact: While it is correct that the NAFTA does not guarantee that average Mexican wages will rise with productivity, the labor supplemental agreement fully addresses such concerns. The very day in mid-August that we initialed the supplemental agreements, President Salinas announced that increases in productivity will result in proportional increases in the Mexican minimum wage. This measure was subsequently adopted by Mexico's Wage and Price Board and is now binding law in Mexico. Moreover, increases in the minimum wage, linked to productivity, will echo throughout the Mexican economy because, unlike in the United States, many Mexican labor contracts and wages are expressed in terms of multiples of the minimum wage.

The supplemental agreement on labor cooperation obligates countries to enforce their own laws, including laws and regulations related to minimum wage. In the event that Mexico persistently failed to abide by this minimum wage policy, the United States would be ale to pursue dispute settlement procedures—including the possibility of trade sanctions--under the agreement. In short, the Mexican commitment is a genuine commitment, and the U.S. has recourse to dispute settlement should Mexico fail to take it seriously.

The vast economic development generated by trade since 1945 increased wage rates wherever trade has been the greatest. It is well to remember that Japan and Germany were denounced only a few years ago as unfairly low-wage producers. No one makes that argument any more and yet those two countries continue to account for a very substantial amount of our trade deficit. Mexico, by contrast, is a net importer of U.S. products.

Assertion: The Administration did not bind the supplemental environment agreement to the NAFTA.

Fact: This statement is simply wrong.

We note at the outset that there is more than a little incongruity between an assertion that the supplemental agreement is inadequate and a complaint that the Administration did not do enough to make sure that it remains in force.

Section 101(b)(2) of the implementing bill provides that the NAFTA will not enter into force for the United States with respect to either Canada or Mexico unless that country has provided for the entry into force of the supplemental agreements on the environment and labor.

Furthermore, in the Statement of Administrative Action submitted to the Congress, the Administration specifically committed that if Canada or Mexico withdraws from a supplemental agreement on a non-consensual basis the United States will cease to apply the NAFTA to that country. With respect to the United States, if a future President were to terminate a supplemental agreement, Congress has more than sufficient authority to ensure that the United States could no longer apply the NAFTA as well. If NAFTA is rejected, the precedent-shattering environmental supplemental agreement will never even have a chance to prove its value.

SUBCOMMITTEE ON HEALTH
AND THE ENVIRONMENT,
Washington, DC, November 17, 1993.

Hon. MICHAEL KANTOR,
U.S. Trade Representative, Executive Office of the President, Washington, DC.

DEAR AMBASSADOR KANTOR: I am writing in reference to your letter of November 16, 1993. While I appreciate your prompt response, I remain convinced that the NAFTA in its current form would undermine crucial health, safety and environmental laws.

Although it would serve little purpose to provide a complete point-by-point rebuttal to your letter, there are some observations that I want to share with you. I believe that it is useful to clarify where we agree and where we differ on important aspects of the NAFTA. In this regard, I find it significant that you do not dispute the accuracy of my interpretation of crucial provisions of the NAFTA.

First, you do not dispute that under the NAFTA another country could challenge our health and safety standards, including laws that establish standards for pesticides, infant formula and certain requirements in the Clean Air Act. Instead, you argue that countries already have ability to challenge our laws under the existing GATT agreement. While this is technically true, it is not significant. Under GATT, unlike the NAFTA, panel decisions are unenforceable: they can be blocked by any country that is a member of GATT, including the country whose laws are being challenged. The availability of a GATT challenge is therefore hardly comparable to challenges authorized under the NAFTA, which can lead directly to trade sanctions.

Second, you do not contest my statement that the NAFTA dispute resolution process is shrouded in secrecy. For this reason, it is hard to understand your statement that the NAFTA embodies commitments to "greater transparency." In particular, your statement that U.S. briefs will be released is directly contrary to section 2012(1)(b) of the NAFTA which mandates that "all written submissions to and communications with the panel shall be confidential."

You also state that the panel has "no authority to * * * bind the parties." However, Article 2019 of the NAFTA expressly provides that if a panel has declared a U.S. law to be inconsistent with the NAFTA, the country challenging our law can impose unilateral trade sanctions on the U.S.

Third, you do not dispute my concern that the NAFTA incorporates the GATT language that was the basis for the GATT panel decision holding that the U.S. Marine Mammal Protection Act violates GATT, or that there are a number of other laws that could be challenged on the same legal theory. Unfortunately, in light of the adverse panel decision, the U.S. position that the GATT panel decision interpreting this same language is incorrect has little significance.

Finally, you do not appear to dispute my concern that the NAFTA would make it more difficult in the future to enter into treaties such as the Montreal Protocol to protect the ozone. You are correct that future agreements that include all the NAFTA countries could prevail over the NAFTA, but this aspect of the agreement effectively gives a single NAFTA country the ability to block the United States' ability to apply a future agreement to that country. The long term problem is even more serious because other Central and South American nations are granted similar veto power as they join the agreement.

My decision to oppose the NAFTA was particularly difficult because I strongly support the goals of NAFTA, and none of the provisions that concern me is a necessary component of the NAFTA. A NAFTA which accomplishes everything that the Administration wants to accomplish could have been negotiated without jeopardizing our health, safety and environmental laws.

It is my hope that in future trade agreements the Administration will address the legitimate concerns that I have raised in correspondence and discussions with you on this important matter.

Sincerely,

HENRY A. WAXMAN
Member of Congress.

Mr. OBEY. Mr. Chairman, I yield 1 minute to the other gentleman from California [Mr. FILNER].

Mr. FILNER. Mr. Chairman, three Democratic and Republican Members of this House who represent San Diego, CA—the largest city on the United States-Mexican border—all oppose NAFTA.

Perhaps more than anyone else in this Chamber, we San Diegans understand the disastrous consequences of NAFTA for our constituents—and for Mexican citizens.

Today—and every day—50 million gallons of raw sewage flow through my district from Tijuana. With NAFTA, we see that getting twice as bad.

Today—and every day—several thousand immigrants seeking a better life, cross illegally through my district. With NAFTA, we see that getting twice as bad.

We have lost thousands of sheet metal fabrication, furniture manufacturing, auto parts production, and carpentry jobs to Mexico. With NAFTA, we see that process accelerating.

San Diego—and this Nation—simply cannot afford this NAFTA.

I urge my colleagues to vote "no."

The CHAIRMAN. The Chair wishes to advise those Members controlling the debate time that the gentleman from California [Mr. MATSUI] has 50 minutes remaining, the gentleman from Wisconsin [Mr. OBEY] has 52 minutes remaining, the gentleman from Texas [Mr. ARCHER] has 55 minutes remaining, and the gentleman from California [Mr. HUNTER] has 54 minutes remaining.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. CAMP].

Mr. CAMP. Mr. Chairman, I have visited coffee shops, union halls, farms, factories, and small businesses. I have listened to families, employers, and people worried about their jobs. I have listened to their hopes and their fears of what the North American Free-Trade Agreement may mean to Michigan's Fourth District, my home State of Michigan, and America.

Mr. Chairman, after reading the agreement and considering all I have read and all I have heard, I am voting for Michigan and in favor of the North American Free-Trade Agreement. I believe we must look to the future. Michigan's exports to Mexico are already supporting 26,000 jobs in the State. Our Michigan workers are selling their products south of the border at the rate of $165,000 an hour, and that is with the tariffs and quotas in place.

Mr. Chairman, while this is not a perfect trade agreement, no agreement can be. The future is for us to put our manufactured goods, agricultural products, and services into foreign markets. We have the best workers, the best technology, and the best competitive spirit. We will win with trade barriers coming down.

Mr. HUNTER. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. POSHARD].

Mr. OBEY. Mr. Chairman, I also yield 1 minute to the gentleman from Illinois.

The CHAIRMAN. The gentleman from Illinois [Mr. POSHARD] is recognized for 2 minutes.

Mr. POSHARD. Mr. Chairman, a month ago, we agreed to a budget which seeks to reduce deficit spending in this country by $500 billion over 5 years. We agreed, in this House, that any new program we advocated above this budget authority would require one of two things. You have to have the courage to put a new tax on the table to pay for it, and to convince the American people it is worth the new tax.

Or you have to go to other parts of the budget, cut out existing programs, and use that saving for any new program. We told the American people that further cuts would be applied to our $4 trillion debt. We said we wanted to put this country on a pay-as-you-go basis.

How many billions of dollars will this agreement cost? How will we pay for the new North American Development Bank, which will be underwritten by the American taxpayer, and commits this country to infrastructure development and environmental cleanup in Mexico and here? How will we pay for job training for those workers who lose their jobs? How will we pay for the loss of tariff revenue? It is the American taxpayer which will be guaranteeing the security of our investments in Mexico, not the industries who move there.

Has there been even one of my colleagues on the Republican side of the aisle who has offered a new tax to pay for this agreement? No. Has there been even one of my colleagues on the Democrat side of the aisle who has offered to cut other programs and use that money for this NAFTA? No. How then will we pay for this investment in Mexico?

We will do what we always do, we will find a way to borrow the money, increase the deficit, and put pay-as-you-go government on the back burner one more time.

Mr. MATSUI. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. LEHMAN].

Mr. LEHMAN. Mr. Chairman, a vote for NAFTA represents the continuation of a proven economic strategy that has served us well for 200 years. Like our forefathers, we must be bold enough to seize this opportunity to build a better future.

We will not have economic growth without expanded trade—58 percent of our growth since 1988 has come from exports, and export-related jobs pay 17 percent more than other jobs.

Without NAFTA, Mexican tariffs will remain 250 percent higher than ours. With NAFTA, the only way Europeans and Asians will be competitive effectively in this market is by reducing their tariffs on American goods—so do not tell me American workers will not benefit from this agreement.

All the negative effects that NAFTA naysayers predict are occurring now without NAFTA. Mr. Chairman, the future is here whether we recognize it or ignore it, whether we fear it or embrace it.

American workers are ready to compete and win. The question is whether or not we will let them. The political vote is "no," but the right vote is "yes."

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. SHAW], a member of the Committee on Ways and Means.

Mr. SHAW. Mr. Chairman, we have reached a critical point in the development of the relationship between the United States and Mexico. NAFTA represents a broad economic agreement between our two countries, but in truth, it means much more. The legal enforcement of trade agreements cannot and should not be divorced from mutual respect and cooperation in criminal matters.

Historically, the Government of Mexico has never extradited one of its citizens to the United States—no matter how heinous or violent the crimes committed on United States soil. In fact, the extradition treaty that has been in place since 1978 between the United States and Mexico has been a one-way street. We extradited; they did not. But that did not stop the Mexican Government from continuing to request the extradition of United States citizens to Mexico, and we cooperated and abided by the treaty.

I have been greatly concerned that if the Government of Mexico refused to abide by the spirit of a treaty on matters as important as the extradition of violent felons, how could we depend on Mexico to abide by the letter and spirit of an agreement as broad as far-reaching as NAFTA?

For almost 13 years I have been working to change the longstanding Mexican policy on extraditions. Finally, after much hard work on this issue by myself and senior officials in the Mexican Government and our own, the Mexican Government has agreed to begin the extradition process in Mexico should the suspect in the particular case I have been most concerned with be apprehended on Mexican soil.

Because of the cooperation displayed by the Mexican Government on this sensitive issue and the commitments made on their part, I am confident that the Government of Mexico will proceed in good faith under the terms of the extradition treaty, and I also believe that the good faith displayed on this issue will carry over into the fulfillment of obligations under NAFTA.

I particularly want to thank our Attorney General, Janet Reno, and Mexico's Attorney General, Jorge Carpizo, for effecting this historic change in the extradition policy of Mexico. United States Ambassadors Jim Jones and

Mickey Kantor and Mexican Ambassador Jorge Montano were also most helpful in bringing about this new era of cooperation in the enforcement of our criminal law.

I am also satisfied that the recent agreements concerning citrus and winter vegetables have resolved most of the concerns of the Florida agricultural industry.

NAFTA will be good for Florida. NAFTA will be good for the United States. Americans are not afraid to compete, and I will vote for NAFTA on the floor today.

Mr. HUNTER. Mr. Chairman, I yield 1 minute to the gentlewoman from Oregon [Ms. FURSE].

Ms. FURSE. Mr. Chairman, I rise today in opposition to the NAFTA agreement. I have long been a supporter of free and fair trade. I have authored legislation that promotes international trade, but I cannot, in good conscience, vote for this agreement. I would have liked to have voted for the side agreements, but they are not part of the accord and can be left on the sideline and totally ignored.

NAFTA rides roughshod over our environmental laws. The U.S. Trade Representative has confirmed that with this agreement water can be traded away as a commodity. Under NAFTA, our Columbia River water can be diverted to Canada and eventually Mexico, and we will be powerless to stop that from happening.

NAFTA is a bad deal for our industries * * * and our citizens. As a freshman Member of Congress, I was elected to change Business as usual. But this NAFTA simply cements business as usual in place. By opposing NAFTA, we are keeping our commitment to the American people to proceed into the 21st century making sure that their jobs and their environment are secure.

Mr. Chairman, I urge a "No" vote.

Mr. MATSUI. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. ORTIZ].

Mr. ORTIZ. Mr. Chairman, I rise today in support of the North American Free-Trade Agreement.

These, my friends, are the facts about NAFTA:

NAFTA is good for the United States. It is time for us to launch the United States into the 21st century as the leading country for free trade in the world market.

NAFTA would create a free trade bloc with a market of 360 million people and a combined GNP of $6 trillion. Mexico's tariffs on our goods, which are 2½ times higher than United States tariffs, will be eliminated.

Economic security in Mexico will be the surest way to combat illegal immigration.

NAFTA will be good for the environment, providing for enforcement of domestic laws and sanctions for nonenforcement.

This is not a perfect world, and this is not a perfect agreement. But it is the only agreement in town.

Someone asked me what about if there is another oil embargo. Mexico will be ready to fill this void.

Another NAFTA, some say, another time. Another NAFTA? The way the Mexican people have been treated and insulted, we wonder whether there will be time for another NAFTA. Take the opportunity today. Vote for NAFTA.

Let me expand upon the points I have just raised.

When history is written, a fundamental change in the direction of a nation seldom turns on one single event. Rather, it is a gradual change in course marked by several events.

A number of developments have led to this day, including the emergence of the trading blocs of the Pacific rim and the concept of the European Common Market, followed by the end of the cold war and the collapse of the Soviet Union. As the security of nations relies more heavily on successful commerce than on conventional arsenals, fair and balanced commerce among nations provides the most secure basis for expanding economic growth and opportunity. NAFTA is the foundation of that economic security and opportunity.

As the Congressman representing a district which borders Mexico, I would like to address some of the concerns I have heard expressed by my colleagues during this debate. I would ask that you listen to the majority of those who live on the border. That's where I come from. My constituency overwhelmingly supports NAFTA. Why? They know firsthand the tangible benefits of increased commerce with Mexico and the risks of turning our backs on this opportunity. Very simply, increased trade has brought more jobs and more money to the pockets of workers to support their families. My constituents have seen, firsthand, the common sense behind the theory that more trade equals more money, equals more jobs, and a better future.

Many in this Chamber have expressed concern about the effect of NAFTA on the environment along the border. In fact, NAFTA offers the best prospect to continue and expand the environmental cleanup that has already begun. Furthermore, NAFTA puts the teeth in Mexican environmental laws, and demands compliance.

For those who are concerned that NAFTA might mean increased immigration from Mexico, it is important to understand why Mexican nationals emigrate in the first place. Mexicans generally emigrate north for economic reasons. NAFTA will mean more opportunities at home for Mexicans. With more and better jobs available at home, there is no incentive to relocate illegally to the United States. Economic security at home will be the biggest deterrent to illegal immigration.

I have heard opponents of the agreement talk of another NAFTA. What other NAFTA? We have only this before us—and if we reject it, we have precious little hope of even trying to negotiate another. Renegotiation of another NAFTA would probably not be possible, and even if it were, we would not see it for yet another generation. This is the only train leaving the station, and if we are not on it, we will miss this window of world trade opportunity. To paraphrase another Texan, "It's just that simple."

My colleagues, I urge you to vote for NAFTA.

Mr. OBEY. Mr. Chairman, I yield 1½ minutes to the gentleman from Missouri [Mr. WHEAT].

Mr. WHEAT. Mr. Chairman, after a thorough review of the North American Free-Trade Agreement, and after extensive outreach with citizens of my district and my State, I have made the decision to vote against this NAFTA.

I do not cast my vote out of fear, but out of my confidence that we can do better.

Let me be clear: A vote against today's NAFTA is not a vote against more open trade. Throughout my career, I have come to this floor to vote for initiatives to level the playing field and break down barriers to trade all over the world.

A vote against NAFTA is a vote for the opportunity to craft a new agreement that will take on the tough issues of wage discrepancies, Mexican labor standards, and job training.

It is a vote for the chance to negotiate a better pact that will include workable plans to fund initiatives to adequately retrain U.S. workers, clean up the environment, and replace lost tariff revenue.

Mr. Chairman, I have complete confidence in American workers' ability to compete and win against the workers of any other nation. Our obligation, as policymakers and as legislators, is to ensure that the playing field on which our workers compete is level and fair.

The current NAFTA simply does not meet this fundamental standard.

It fails to sufficiently take into account the enormous differences between the United States and Mexican economies, provide for adequate assistance and training for American workers, or secure basic labor rights for Mexican workers.

A free and fair agreement must do more to link in increase in Mexico's artificially low wages with increases in productivity. Mexico's wages have been suppressed and distorted by a policy known as El Pacto. El Pacto must end if we are to begin a free and fair trade agreement with Mexico.

A free and fair agreement must do more to provide for an effective retraining initiative for Americans thrown out of their jobs. And, most of all, a free and fair agreement must not threaten to diminish our standard of living by pressuring U.S. wages down an even steeper slope of no return.

Some proponents of this NAFTA have brought up the parallel of European Community integration among Germany and the less developed, less prosperous economies of Spain, Portugal, or Greece.

But they neglect to mention that EC integration didn't occur until those less affluent nations took significant political and economic reforms and the more affluent nations provided tens of billions of dollars in transition and structural adjustment assistance. The EC has provided over $120 billion since 1986 alone and $22 billion this year for adjustment assistance.

The gulf between Mexico and the United States—both politically and economically—is far wider than that between the rich and less well off EC nations.

Mr. Chairman, NAFTA is an unprecedented agreement, but it will set a precedent that will have far-reaching consequences in future trade pacts with our Latin American neighbors. It is critical to set the right precedent, not the wrong one.

If we don't act to right the wrongs in this agreement today, we will see those same flaws carried over tomorrow in trade agreements with nations throughout the rest of the hemisphere.

It is important—and it is possible—to take the time to do this right for the United States and American workers, right for Mexico, and, by extension, right for the rest of the Americas.

Working together, we can develop a new and fair agreement that will safeguard American interests while opening up further market opportunities for U.S. products.

That fundamental principle must be our goal today, tomorrow, and into the future. And that, Mr. Chairman, is why I cannot and will not support this NAFTA.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from Nebraska [Mr. BARRETT].

Mr. BARRETT of Nebraska. Mr. Chairman, today we are going to decide whether to embrace the dramatic opportunities taking place in Mexico and in other Latin American countries, or we will decide to stumble into the future with blinders on to the realities of world trade.

Many are familiar with the use of blinders for horses. The reasoning behind these blinders is that what the horse can't see, can't get scared or distracted and deter it from its path.

There was a time when U.S. trade policy wore blinders. We were the world's only economic superpower, countries had to meet our terms, and we could take a course of action more or less blind to any trade competitors. But do any of us really believe that this is policy that will succeed in the 21st century?

The opponents of NAFTA believe that if we reject this agreement, they will have won a victory for America because they will have proved that America comes first, that America wasn't sold down the Rio Grande.

To the contrary, defeat of this trade agreement sells out to a certain level of cowardice. Why, I ask, do certain special interests have no faith in the abilities of U.S. business and industry to compete?

Yes, compete. We're good at it; we win at it; we shouldn't cower from competition. And that is what NAFTA offers us—the ability to compete fairly with our neighbors.

Today, it is up to this Chamber to remove the blinders and take notice and take advantage of the opportunities Canada and Mexico offer as full trading partners and economic allies.

NAFTA is not the perfect solution to all of Mexico's problems, nor to all of our own economic ills. And neither does it address every aspect of fear of U.S. labor unions and isolationists.

But NAFTA removes the blinders and gives us the means to look at and deal with these problems straight on. NAFTA will enable us to help bring, among many things, democratic reforms and improvements in labor and environmental enforcement.

I urge the House to seriously think about this for our children's sake, not for our own political futures and catchy sound-bites on tonight's news. Parochial interests and concerns about the next round of campaign dollars need to be set aside for the future of the entire country.

After clearing away all the rhetoric about jobs lost, jobs gained, et cetera, et cetera, it all really comes down to simple facts about lowering tariffs and giving American workers the chance to fairly compete in Mexico.

I ask my colleagues to remove the blinders of trade protectionism and short-shortsightedness. Look south and see the world as it really is—one that wants U.S. products, that wants to improve its environment and labor standards, one that wants to move toward hemispheric cooperation and prosperity.

I urge my colleagues to support NAFTA.

Mr. HUNTER. Mr. Chairman, I yield 4 minutes to the very distinguished gentleman from Kentucky [Mr. ROGERS].

Mr. ROGERS. Mr. Chairman, I thank the gentleman for yielding the time.

Mr. Chairman, I rise in opposition to NAFTA, and I am opposed because I am convinced that NAFTA will mean many of the jobs in Kentucky will be lured to Mexico, especially the nonskilled jobs. It will mean we will be extremely hard pressed as well to attract in the future those jobs to our district, and to our State, and I think to our country.

Those of us who oppose NAFTA are doing so I think primarily because we fear the loss of jobs for our people. Are we justified in that fear? Well, think about it this way: All of our States, Mr. Chairman, are in stiff competition with each other every day to attract new jobs, new industries to our States and to our regions. We compete. We are all bound by the same United States laws, and we have basically similar attributes, similar wage scales and the like. So even the very smallest advantage that one State can gain over the other will mean that you fail to win or you win that new factory.

Suppose overnight, Mr. Chairman, that my State of Kentucky were able to eradicate all of the U.S. laws governing safety in the workplace, environmental restrictions, we erase the minimum wage law, and the workmen's compensation law, the unemployment compensation law, tax laws, zoning restrictions and everything else that governs doing business in this country. Suppose Kentucky were able to erase all of those restrictions that we are bound by, all of those things that drive up the cost of doing business, wherever you are doing business. What if overnight Mr. Chairman, we were able to reduce the land costs to a negligible sum, and then suppose, Mr. Chairman, we were able in Kentucky to reduce the pay scale of worker to $1 an hour.

Question: Do you think Kentucky would be able to successfully compete for those new industries looking for a place to go? Boy, give me that chance. You bet. Kentucky would be flooded with industry moving from all over the country, and indeed all over the world, coming here for those kinds of advantages. There would be no contest. We would beat New York, we would beat Louisiana, we would beat Texas, we would beat Tennessee, we would beat every other State in the Union. It would be no contest.

They would be able then to undercut, Mr. Chairman, with factories in Kentucky, all of their competitors all over the world, and they would all then be forced to come and get these advantages. All of the rest of you would scream to high heaven of the unfair advantages that your competitors are getting in Kentucky, and you would demand the same in your State.

Folks, that is what we are talking about here. NAFTA, in effect, makes Mexico just another State, the 51st State for economic competition purposes. But this State would not be subject to U.S. laws, and its dollar-an-hour labor would be absolutely plentiful. Mexico's low wages, its lax laws on safety, the environment, taxes and workers' benefits and the like would inevitably lure our factories from this country who depend upon unskilled labor. That low wage scale there also would drive down the wages for those who are left in the United States under the threat of moving to Mexico, and the wages would be driven down.

That is why working America, Mr. Chairman, is opposed to this unfair advantage we are giving to Mexico.

Reject NAFTA. Bring back a new NAFTA that equalizes the playing field and does not make the current playing field a slippery slope to Mexico.

Reject this NAFTA.

□ 1710

Mr. MATSUI. Mr. Chairman, I yield 1 minute to the gentleman from Georgia [Mr. JOHNSON].

Mr. JOHNSON of Georgia. Mr. Chairman, I rise in support of the North American Free-Trade Agreement. Let's be honest: No one can predict with any certainty the number of jobs that will be won or lost by the passage or failure of NAFTA. There is some gamble as to whether the short-term risks outweigh the long-term opportunities in passing his agreement. I my view, however, NAFTA is a good bet for the 10th District of Georgia, and it's a good bet for America.

In the 1930's there were many who believed that we could build a wall around this country to protect American industries from the perils of foreign trade. That philosophy gave us the Smoot-Hawley protectionist trade laws and contributed to the deepest economic depression this country has ever seen.

The United States is now the lead player in the international economy and we cannot extract ourselves from it. We should not hamstring the American industries which are most competitive in this market by trying to fight the free-market economic forces which have made some of our industries less competitive. This is a fight that cannot be won by protectionist policies. We have to recognize that industries at risk will not be saved by rejecting NAFTA. American industry can compete and win in the global economy if given a fair shot at open markets, and that's what NAFTA gives us.

You don't have to look far to find Georgia industries that will benefit from NAFTA: the poultry, textile, computer products, business services, manufactured housing, medical products, forest products, commercial equipment, and transportation industries are only few. All of these industries are currently providing jobs in Georgia, and all of these industries will be able to export more of their products to Mexico when that country's restrictive tariffs are eliminated. The reduction of export restrictions to Mexico for these companies means more jobs for Americans in America.

Let me mention just a few of the businesses in my district which expect to benefit from NAFTA: ABB Inc., in Athens, employs 500 people. They wrote to me to say that NAFTA would open up Mexico's Government-owned electric utility to their products. Hercules Inc. employs 600 people near Covington in the manufacture of textiles; their ability to penetrate the Mexican market is dependent upon the passage of this agreement. And Springs Industries, which operates a textile mill in Washington and employs 220 people, will sell more sheets and towels when NAFTA is passed.

It's clear: NAFTA means American workers producing American goods for sale in global markets. We cannot pass up this opportunity to allow our industries to compete more effectively. I urge my colleagues to vote "yes" on NAFTA.

Mr. OBEY. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey [Mr. KLEIN].

Mr. HUNTER. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey [Mr. KLEIN].

The CHAIRMAN. The gentleman from New Jersey [Mr. KLEIN] is recognized for 2 minutes.

Mr. KLEIN. Mr. Chairman, I rise in opposition to NAFTA.

We have all seen the projections of potential long-term job gains or losses from NAFTA. But even the economists who made them have no assurances that these projected job gains will ever occur.

What I do know is that in the short run this NAFTA will cause a loss of jobs in north Jersey, already hard hit by unemployment.

The stark reality of this came to me one day last winter not from a labor leader, but from a small businessman. I was walking in a snow storm and a car pulled up beside me. The driver said, "I'm a constituent. I own a small manufacturing business. NAFTA will wipe me out."

A few weeks later, the same man came to my office with a letter he had received from a Mexican trade group inviting him to move his business to Mexico. The letter told him that he could buy all the labor he needed "for one dollar an hour, including taxes and fringe benefits." My constituent told me, "HERB, I employ 250 people. If NAFTA passes, I have two choices: move to Mexico, or go out of business." Since then dozens of other small manufacturers have told me a similar story. There are thousands of unskilled and semiskilled workers in jobs like these in New Jersey. If NAFTA passes, most of these jobs will be lost. These aren't economic projections. These are real jobs of real people who are already hard hit by rampant unemployment.

I believe in free trade—but on a level playing field. And with the huge disparity between United States wages and Mexican wages—kept low artificially by the Mexican Government—there is no level playing field. Any trade agreement should be accompanied by real reform in Mexican labor practices, enabling Mexican workers to get decent wages and giving American workers an opportunity to compete fairly and keep their jobs.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from Delaware [Mr. CASTLE].

Mr. CASTLE. Mr. Chairman, I am convinced NAFTA is right for this Nation and right for my State of Delaware for two major reasons, job growth and the long-term economic and political interests of the United States.

In my district, the entire State of Delaware, we gathered economic information from as many sources as possible. We carefully and thoroughly analyzed this data and compiled this list of Delaware businesses and industries which will benefit from increased exports and create more jobs in my State if NAFTA is enacted.

If Delaware's job growth and opportunities are multiplied by hundreds of other congressional districts throughout this country, this represents real gains for America and Americans. This is a compelling reason to support NAFTA.

We also must look at NAFTA for its long-term advantages. The bottom line is not hope versus fear. It is opportunity gained versus opportunity lost. The United States of America, the greatest economic power in the world, must not retreat into isolationism.

When one breaks through the politics and the rhetoric, NAFTA boils down to an economic agreement which will benefit Canada, Mexico and, most importantly, the United States.

I urge passage of NAFTA.

WHAT NAFTA MEANS TO DELAWARE

(Based upon representations from numerous Delaware industries)

Auto Manufacturer Employers: Chrysler, Newark, export 5,000 additional cars to Mexico.

Chemical Industry Employers: DuPont, Delaware, quadrupled exports to Mexico in last 3 years; Hercules, Middletown, eliminate 125% cumulative Mexican tax; and ICI, Atlas Point, double sales to Mexico of major customer.

Pharmaceutical Employers: DuPont, Merck, Delaware, increase access to Mexican market and FMC Corporation, Newark, transfer foreign production to Newark.

Manufacturing Employers: DuPont Nylon Plant, Seaford, gain 15% advantage over Europe and Asia; Scott Paper Company, Dover, increased exports, added 100 employees; and Hewlett-Packard, Wilmington, 15%–20% growth in exports to Mexico.

Financial Service Employers: Delaware Incorporated Banks, 23 Banks support NAFTA, none oppose and Citibank, Dover, expand insurance and financial services in Mexico.

Transportation Employers: Port of Wilmington, expand shipping services for exports to Mexico.

Small Business Employers: Sterwin Laboratories, Millsboro, increase poultry vaccine sales in Mexico and Plastic and Rubber, Delaware, increased exports to Mexico 436 percent, and 1987–91.

Agricultural Employers: Delmarva Poultry, Mexican trade barriers eliminated and Delaware Farm Bureau, seeks expanded trade opportunities.

Mr. SOLOMON. Mr. Chairman, I yield 5 minutes to a distinguished freshman, the gentleman from Georgia [Mr. COLLINS].

Mr. COLLINS of Georgia. Mr. Chairman, NAFTA has been a very tough issue for me. I have 31 years of experience as a business and I know very well the importance of free trade. I am a strong supporter of the fact that a true free-trade agreement in North America will be good for the United States.

But, that does not necessarily mean that NAFTA will be good for the United States. I have closely studied the issues of NAFTA. I have asked many questions about the nature and impact of this agreement. The answers I have found cause serious concern about the impact that this agreement will have on our domestic economy.

Question: Is NAFTA actually a free-trade agreement?

Answer: No, it is not free trade.

First, NAFTA does not equalize all tariffs between the United States and Mexico: many will remain unequal for several years; and, second, NAFTA will install protectionist provisions: Mexico is awarded the only monopoly in the oil and gas industry; and protections are included for textiles and agriculture.

We are not creating free trade if we are legislating protectionist provisions.

Question: Is the North American Free-Trade Agreement actually a North American agreement?

Answer: No. There is no limitation on the amount of investment coming from other countries outside of North America. There are content regulations, but nothing to prevent a country from coming in, building a production facility from ground up, and successfully avoiding tariffs while penetrating the newly expanded market created by NAFTA.

Question: What is a more appropriate name for NAFTA?

Answer: It should be called the MIA—the Mexico Investment Agreement because the primary purpose of this agreement is to open up all of Mexico for private sector development and investment.

NAFTA is structured to draw companies into Mexico for investment. With the freeing up of Mexico's nationwide market, companies currently located and limited to the Maquiladora zones will move into other regions of the country in order to find even cheaper available labor, and avoid the escalating environmental cleanup costs currently associated with the Maquiladora areas.

Question: Will NAFTA create jobs?

Answer: Yes. Certainly in Mexico. But what kind of jobs will be created for the United States and in what domestic industries? Supporters argue that we will see an increase in demand for U.S. made consumer goods; and as a result, an increase in job opportunities here at home.

In reality it is true that job creation will occur in low cost, U.S. consumer goods production. But a close look at Mexico's economic structure and it becomes clear that there will not be an enormous increase in demand from the masses in Mexico.

Mexico: 85 million people.
Average annual income: $3,000.
GDP: $290 billion.
Unemployment: 25 percent.
United States: 260 million.
Average annual income: $22,000.
GDP: $6 trillion.

The figures for Mexico do not add up to a consumer economy. It is no secret that Mexico is having severe economic problems and it is imperative that they succeed in getting industrial investment into their markets.

The United States is the market for consumers and through NAFTA we will make Mexico the leading market for manufacturing.

So what kind of jobs will be created in the United States by passing NAFTA? We will most likely see job creation in the production of capital equipment that will be used in moving and building new production facilities in Mexico.

Question: Will NAFTA cause job loss?

Answer: Yes. Estimates of short-term job loss range widely. A supporter of NAFTA in my district brought me this report. It is a study done by Prof. Thomas Schoenbaum at the University of Georgia and it clearly states:

> Even if critics are correct, the economic effect of the loss of even a few hundred thousand low-wage jobs over 10 years will be negligible in the United States with an employment force of over 120 million people. Most job losses would not be through lay-offs but though lack of job creation.

"Lack of job creation." That quote alone should be enough to send chills up the spine of every legislator in this Chamber. Job creation is what our economy is all about. An economy that loses a few hundred thousand jobs because of a lack of job creation means a grim economic forecast for the United States under NAFTA.

Question: Why have companies gone to Mexico so far?

Answer: Not just wage/labor costs alone; Government regulation: OSHA, EPA, elimination of investment incentives from the Tax Code during 1986 reform, mandated insurance, workers compensation, family medical leave requirements, labor unions; all have contributed to the departure of business from American soil. With the passage of NAFTA, we add to the incentives to leave, and reduce the incentives for companies to invest in America.

Question: Are we prepared to compete under the parameters of NAFTA?

Answer: No. We must prepare our country for such a dramatic change in trade policy. Yes—we can vote this NAFTA down and work toward creating a real free-trade agreement that better serves the United States and Canada, while still providing much needed opportunities for economic growth in Mexico. A free-trade agreement should address the following issues:

First, remove monopoly provisions for Mexico that restrict investment in Mexico's oil and gas industry;

Second, require that foreign companies beyond North American, that invest in Mexico's manufacturing industry pay regular tariffs for their products traded within this region. Otherwise it is not a true North American agreement;

Third, level the playing field by immediately equalizing tariffs for all three countries: the United States, Canada, and Mexico. No more unbalanced tariff levels;

Fourth, require that transportation vehicles and operators be subject to U.S. safety and registration requirements when they enter our country for trade/shipping purposes;

Fifth, call for the elimination of Mexico's El Pacto agreement between government and business and elevate Mexico's minimum wage to United States levels in 3 years;

Sixth, eliminate the bureaucratic trinational commissions. They only add to the regulatory and restrictive nature that makes NAFTA a managed trade agreement, rather than a free-trade agreement;

Seventh, address environmental problems in the border region by requiring that cleanup projects on each site must be underway by a minimum of 15 percent before the trade agreement takes effect;

Eighth, make the agreement effective 1 year from date of passage;

Ninth, include a 6-month review and cancellation clause; and

Tenth, most importantly we should prepare our domestic markets by giving the private sector the ability to compete with new manufacturing markets in Mexico. We should return to the Tax Code the very necessary incentives we need in U.S. markets that will give businesses a real reason to stay and investment in U.S. markets and create jobs. We can do this by implementing an investment tax credit; a capital gains break for tangible goods, not stocks, investment paper, and so forth, eliminating the alternative minimum tax, changing the depreciation schedule for passive loss rules, creating tax-free IRA to encourage savings, and by lessening the mandates on private businesses.

And rather than allow Mexico to lure our manufacturing industries south, why not give them good reason to move into United States urban, inner-city areas and create jobs where now there is high unemployment and escalating dependency on welfare? With the right tax incentives, manufacturing industries, such as apparel textiles, could move into these areas and create jobs. By preparing our country for a free-trade agreement first, we can do for our poverty areas what the current NAFTA promises to do for Mexico's poor.

There is an alternative to the current NAFTA. I strongly urge my colleagues to vote this agreement down and allow an opportunity for us to prepare our domestic economy by installing incentives that will allow our private markets to compete on a level playing field, and renegotiate a true free-trade agreement.

□ 1720

The CHAIRMAN. The Chair wishes to remind those Members controlling the debate time: The gentleman from California [Mr. MATSUI] has 47 minutes remaining; the gentleman from Wisconsin [Mr. OBEY] has 48½ minutes remaining; the gentleman from Texas [Mr. ARCHER] has 41 minutes remaining; and the gentleman from New York [Mr. SOLOMON] has 42 minutes remaining.

Mr. MATSUI. Mr. Chairman, I yield such time as he may consume to the gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. I thank the gentleman for yielding time to me, and I rise in support of this trade agreement.

Mr. Chairman, "You're retiring from this place. At least the NAFTA vote will be easy for you," a colleague said to me on the floor the other day. Wrong. Deciding whether to vote for the North American Free-Trade Agreement or not is the most difficult vote I will cast in my 16 years in Congress.

My close relationship with organized labor has never been a matter of political convenience. I believe that workers should be able to organize so they can speak for themselves. It is a logical extension of our free enterprise system.

My voting record these past eight terms is strongly pro-labor, and of that I am very proud. But a person cannot agree with best friends, always. I have disagreed with labor from time to time on trade issues. The NAFTA, however, is not just another trade issue, and I have worked hard to understand the thinking of both its supporters and opponents.

The decision has been agonizing because, after meeting with rank-and-file workers both at home and here in the Capitol, I am convinced that their opposition to the NAFTA is very real and based upon a certitude that it will threaten their jobs and reduce their standard of living.

In talking with the workers themselves, you quickly see this is not a case of their repeating arguments suggested by labor leaders. There is real fear and real anxiety about the NAFTA.

But that begs another question: How did American workers become so anxious, their confidence in their future become so fragile?

I have had more than one business person express to me their utter consternation at the vehemence of individual workers' opposition to the NAFTA. To business the issue is, to use Lee Iacocca's words from his TV ad, "a no brainer." The fact business people are surprised is, in itself, a little startling in light of labor's opposition to our even negotiating the treaty.

More importantly, the surprise of American business at worker reaction reflects, in a very basic way, a major part of the problem because it demonstrates how extremely out of touch business and industry is with their employees and their lives, aspirations and anxieties.

If the NAFTA is defeated, this attitude, which ranges from mere disinterest to overt delight with the decline of the lot of organized labor in recent years, will be at the root.

THE ANTI-WORKER ACTIONS OF THE 80'S ARE A MAJOR CAUSE OF ANTI-NAFTA REACTION

Review the record, Labor—and I mean unorganized workers as well as members of unions—has suffered enormous set-backs over the last dozen years or more. Some have resulted from unforeseen events as when the collapse of the Soviet Union resulted in sever cut-backs in many defense-related industries. Some grow out of a determined and active anti-labor policy, especially in the Reagan administration.

Specifics? President Ronald Reagan's huge over-reaction to the air traffic controllers' strike. By firing all striking controllers he rejected any effort to resolve the matter amicably. Intentionally or not, he initiated a new era of labor/management conflict.

His firing of striking government workers encouraged business and industry to take a harder line with their employees—stealing techniques directly from the administration.

Labor responded by trying to pass a bill that would prevent management from firing employees who were engaged in a legal strike. Management set up the cry that this would disturb the traditional balance between them and labor. The truth is that Ronald Reagan upset the traditional balance because American industry had really never used the technique before. But the bill that, in truth, would have restored the balance was fought bitterly by both the Reagan-Bush administrations and industry. Now striker replacement legislation has support from President Clinton and was passed in the House of Representatives last June, but has not yet passed the Senate.

Look at other efforts to help American workers.

A bill that simply required a company that was actively considering the closing of one of its plants to tell its workers a few weeks in advance, was fought as hard as if it actually prevented plant closures.

The effort to revise the Hatch Act to let Federal Government workers participate in the political life of this country like every other citizen was rejected repeatedly for years. It was only recently passed into law.

Just this year we finally passed a family leave bill which sought to establish for American workers what workers in virtually every other industrialized nation in the world have: The right to stay home to care for family in emergency circumstances without losing their job—and, notably, without being paid. This was opposed bitterly by the Reagan and Bush administrations.

None of these proposals was remotely radical.

And most recently, one of the first actions of the Clinton administration, to try to create jobs in the present recession, was turned down by Congress. The opposition mindlessly cried "Spending" at a time President Clinton knew we needed to put Americans back to work. Surely its passage would have addressed some of the concerns of working Americans and reduced anxiety enough to make less adamant their opposition to the NAFTA.

Business cannot expect to stick its thumb in the eyes of its workers for more than a decade without a reaction. What goes around, comes around, and relentless opposition to the NAFTA by labor is best understood in the context of relentless opposition to workers' interests.

If the NAFTA is defeated, it will be, in my judgment, the direct result of policies and actions by Government and business over the last dozen years or so which have treated workers with such disrespect and caused such a high level of frustration and worry that labor has no trust left, little faith left, and no capacity to resist the fear of change.

NEW ECONOMIC CLIMATE MAKES NOW A BAD TIME FOR BUSINESS AND LABOR TO FIGHT

All of this has been occurring during a period of jarring transition. Not only has the demise of the Soviet Union changed many economic equations, technology is making the world smaller and demanding major changes in our economic thinking. It is not a matter of whether we want to have a world marketplace. Rather it is that there is a world marketplace and we have to figure out how to function in it.

That requires change.

American industry was slow to embrace change. The best example is probably our automobile industry.

Government is slow to change. Every single one of our trade competitors has a government/private sector cooperative system to advance its best interests. It's called industrial policy. Yet, right up to and through the Bush administration we have adamantly refused to consider such a strategy. We sat here happily believing that others could go into the game with talent and a game plan and we could win with talent alone, no game plan. What arrogance. What stupidity. Only with the Clinton administration are we beginning to maximize our opportunities in foreign trade by developing strategies to do so.

Further, it must be noted that Ronald Reagan's idea of free trade was to talk about it but not lift a finger to insist on fair treatment in return. His reputation for forceful military policy hid his monumental timidity in trade policy.

That has changed. Under Trade Representative Mickey Kantor the Clinton administration has been pursuing a free trade policy, but with a vigorous insistence on fair trade response from our trading partners.

And labor has been slow to change. That labor has little control over events that impact on it makes this transition an especially threatening one for workers. But, wishing for the 60's, hoping change will go away, mistaking new challenges for old frustrations or letting the fear of the unknown force you into reactionary policies will not serve the interests of American workers in this changed world.

AND THAT BRINGS US TO THE NAFTA

Into this time of uncertainty and transition comes the issue of the NAFTA.

I have listened to the arguments with care, asked many questions, reviewed many responses. Having tried to understand the natural complexities of the issue, I now try to reduce it back to basics, for that is what policy ultimately is.

Much of the analysis has been little more than "My economist can beat up your economist" which makes it difficult for mere mortals to sort out. But there are some exaggerations and contradictions.

Example: Pro-NAFTA forces say the reason NAFTA will not result in low Mexican wages reducing high American wages to some mediocre level in between is that the entire Mexican economy is no larger than the economy of Los Angeles. Even if the blending were to occur it would have minimal effect on United States wages.

Then, pro-NAFTA forces tell you how great it will be for American products to have tariff-free access to the huge Mexican market. Well, I don't know of a company that would not want access to the Los Angeles market under any circumstances. But either the Mexican market is relatively small or relatively large. It can't be both.

My view? It's a modest but worthwhile market. Just as we wouldn't want to exclude ourselves from selling into the LA economy, we should be interested in that of Mexico. Perhaps more important, however, are the economies of the rest of the Western hemisphere which can follow Mexico in opening up to us. There lies great potential.

Example: What will happen if we defeat NAFTA. I have been assured by pro-NAFTA forces that Mexico will be embarrassed, could not and would not renegotiate and would enter into negotiations for a similar trade agreement with Japan.

Anti-NAFTA forces say, "Of course, they have to say that." But they go on to assure me that Mexico will leap at the chance to renegotiate a better treaty if this one is turned down.

Pro-NAFTA people respond, "Of course, they have to say that."

Who knows what the truth is? I don't. It's speculation on both sides. It does seem reasonable, however, that Mexico would be at least a little miffed at a rejection of the treaty. And, why would Japan not try to exploit that irritation by discussing a treaty that would give them a trade beachhead on our side of the mutual, natural market of the Pacific Rim?

THE SUCKING SOUND: WILL THE NAFTA EXPORT JOBS TO MEXICO?

There are a few central issues to each side of the debate. First, the anti-NAFTA side has been worried from the beginning about the loss of high paying American jobs to low-paid Mexican workers if the NAFTA is passed.

Ross Perot has called this, "The great sucking sound."

I have concluded that the sucking sound is, in fact, Ross Perot sucking up to American workers by trying to exploit their fears and anxieties. Perot has, to quote the Washington Post, "spun the public's reasonable anxieties into a web of dark conspiracies, fabricated numbers and fantastic claims."

But think about it. For many industries in America such a move would not make sense because the savings in labor costs would not compensate for the capital expenditure of duplicating in Mexico existing United States plants, the costs of dealing with Mexico's poor infrastructure and, often, the much lower productivity of largely poorly trained Mexican workers. Besides, if Mexico is such a draw, they could have already moved there without a treaty.

Another truth is that for many, many products, labor costs are not the most important consideration. Other costs of doing business exceed labor costs in importance. I've taken a little malicious delight in asking business people who tell me that, why they don't share that fact with their workers. I get usually only embarrassed hems and haws, but a few have frankly said that such an admission would not be useful when it's time to bargain the next labor contract.

If business has been exaggerating the proportional cost of labor in order to keep wages down, one can forgive workers if, based on that exaggeration, they fear low-wage Mexican competition. But it doesn't make it true.

OUR STANDARD OF LIVING: IS THE NAFTA A THREAT TO IT?

Tied with the wage issue are workers' concerns about their standard of living. We all know that today there are more families where both parents have to work to earn the same standard of living one parent could provide just a few years ago. We all see homeless people on our streets that were not there a decade ago.

However, NAFTA did not cause those problems. Defeating NAFTA will not cure them.

To deal with this disturbing trend in our quality of life is going to require that we do some things differently. Change always causes uncertainty. Uncertainty causes anxiety. Anxiety can cause timidity. Timidity can prevent one from acting when you need to.

NAFTA, as renegotiated by the Clinton administration, offers the prospects of some positive change in things that having been driving our standard of living down. Defeating NAFTA does absolutely nothing whatever to change the conditions that have led us to our unsatisfactory status quo.

MEXICAN LABOR CONDITIONS: DOES THE NAFTA DO ENOUGH?

Late in the debate in a new and very legitimate issue was raised by those who oppose the NAFTA. Pointing to the sorry lot of Mexican workers, the point has been made that the NAFTA does not do as much as we'd like to improve labor laws and working conditions for Mexican workers. Further, the enforcement procedures of the provisions that do exist are too weak, it is asserted.

There is little there to argue with, except that what NAFTA does contain is better than the status quo. It is not often that we can achieve an ideal goal with any single effort. Most goals are achieved a piece at a time. This NAFTA is not where we should stop in efforts to improve conditions In Mexico, but it is a place to begin. This NAFTA does too little. Defeating NAFTA does nothing whatever.

DOES THE NAFTA CREATE U.S. JOBS?

Proponents made huge claims for job creation growing out of the NAFTA. I think these are exaggerated. But I believe that it does move us in that direction. When you cut through the war of economic projections, expert analysis and all the rest, what is left is this: we presently have few trade barriers against Mexican goods coming into the country, while Mexico has substantial tariff barriers slowing our exports to them. NAFTA makes those barriers go away. That creates new opportunities for American sales which create jobs. Let's just not exaggerate.

DOES THE NAFTA RECOGNIZE THE NEW ECONOMIC REALITIES?

Most important of all to me is this question: Does the passage or defeat of NAFTA help move the United States aggressively into the new world economic climate?

As a nation, we've had it pretty good most of the time since 1945. We were the industrial nation in the world then. Everyone else had been bombed flat. We bestrode world commerce. And, I believe, we grew to believe that was our birthright—to always lead, to always be first and best. The attitude made us a bit complacent and, in time, we were shocked to find that other nations could create and produce and have strong economies too. We were slow to respond and then spent a precious decade, when we should have been catching up, listening to a President wandering around the South Lawn murmuring the mantra of free trade rather than moving us vigorously into effective competition.

That has changed. We have a President now who sees clearly what we must do by the end of this century to assure that the next is another American century. The NAFTA, rightly or not, will be seen as a major symbol of whether we are willing to do the things necessary to be a vibrant, successful and prosperous leader in the new world economy.

Passing the NAFTA says yes. Defeating NAFTA will be interpreted by our competitors as evidence that we are no longer flexible enough to change, no longer confident enough to grasp new challenges and no longer ambitious enough to want to compete with the best.

It will be felt first in GATT and there is no telling when it will be felt last. We must simply acknowledge that this NAFTA is neither ideal nor fatally flawed. Rather it is a step—a necessary step—we have to take on the way to a better future.

For those reasons, I will vote for the NAFTA. But, even so, this is not an easy decision: there is yet a caution.

A LAST OBSERVATION

Just as I have suggested that there are serious repercussions if we defeat the NAFTA, I think there are some equally serious things we must prepare to meet if the NAFTA passes.

In effect, I have argued here that organized labor specifically and American workers generally have been fighting the last war; the frustrations of the last dozen years or more have so savaged their confidence and optimism, have so threatened their capacity to provide a secure future for their families that they can see the NAFTA only in terms of its risks, not its opportunities.

If that is true, passage of the NAFTA—especially in the short run—is going to send a new wave of anxiety through the working people of the land. You cannot have listened carefully to the rank and file on this issue and mistake their sincerity or their fear.

After one particularly wrenching session in my office with some union folks from home, a young staffer in my office looked at me and said, "My God. Those people are scared to death."

That is a reality that every NAFTA supporter better deal with. Ours is a time of considerable political unrest. American workers can easily be radicalized. The things they asked for in the 80's and were denied will look like sweet reason itself compared to their demands if workers become completely disassociated from mainstream American political life. We are closer to that right now than I think politicians generally realize. It will come as a thunderbolt of surprise to those leaders of business and industry who even now say they have no idea why workers oppose the NAFTA.

Creation of a radical workers movement including a new political party is not impossible. The capture of their support by politicians who wish to exploit their frustrations is not a technique exclusive to bored and egomaniacal billionaires. All sorts of demagogues can play at that game.

And such political chaos would come at a time we should be tending to other serious business if we are going to compete effectively in tomorrow's world.

Should that unpleasant vision become our future, there will be lots of blame to go around. But it will be a pointless, pathetic argument that can roil along while other nations tie up the markets of the world.

To guard against such an eventuality if the NAFTA passes, the administration and Congress with the active participation of American business needs to signal a new and more balanced attitude toward American workers. It needs to encompass a government willingness to include labor along with business in forging basic decisions affecting the economy. Government and the private sector must cooperate with labor to find and provide ways to achieve greater economic security for workers during this period of transition. And business, working with labor, must find and implement new models of management that treat workers like the essential players they are, rather than as expendable commodities to be sacrificed at will.

If the NAFTA passes and those things are not done, the victory party will be short and bitter. The NAFTA is not an end. It is a beginning. But its passage will require a whole new agenda—not only for planning our trading policy and strategy, but for addressing the domestic implications of those policies. Secure jobs is what it's all about. These who envision that goal in the NAFTA have a responsibility to reassure with deeds the promise they see in that approach.

The opponents of the NAFTA, many of whom are my friends, are looking backward. Defeating NAFTA will change nothing for the better. The proponents of the NAFTA are looking ahead. The important questions: are they looking ahead far enough? And will they follow through?

Mr. MATSUI. Mr. Chairman, I yield 1 minute to the gentlewoman from Arkansas [Ms. LAMBERT].

Ms. LAMBERT. I thank the gentleman for yielding this time to me.

Mr. Chairman, I come before you today to voice my support for the North American Free-Trade Agreement, and I urge my colleagues to do the same.

Mr. Chairman, I represent a district of 25 rural counties that are predominantly agricultural in their economic makeup. We grow more rice than any other district in the country, we rank third in soybean production, and sixth in cotton production. In other words, Mr. Chairman, we farm, and we do it well. There is no doubt in my mind, nor in the minds of the producers that I represent, that NAFTA represents a much needed opportunity for economic growth.

For years we have known that increased prosperity in the farm economy would only come from expanding existing markets and creating new ones. As agricultural policy is continually budget driven, the days of increased Federal outlays are indeed numbered. Increasing exports of U.S. agricultural commodities is absolutely vital to the economic health of America's farmers.

Since 1987, Arkansas crop exports have increased by an incredible 3,500 percent.

In an age of increased competition, we must look to new markets to remain prosperous. Without attracting new customers, we cannot create more jobs. Mexico is already the third largest foreign market for our agricultural products in spite of an average 13 percent tariff on imported commodities. For a market of approximately 90 million customers, NAFTA presents a marketing opportunity that cannot be abandoned.

Mr. Chairman, it is not only agriculture that stands to benefit from the NAFTA. Since 1987, Arkansas exports have increased by 213 percent—clear evidence of the benefits of opening new markets.

Like many Members, I had concerns over the potential impact on the environment and labor. The side agreements represent a significant step toward addressing those concerns. More important, the side agreements provide an opportunity for all the member countries to ensure that each nation's laws are adequately observed and enforced.

In the end, this is a vote for the future, a vote of confidence for America's role in the 21st century economy, and a statement, contrary to the rhetoric, that America's work force—the best and most productive in the world—can compete and win in any market.

Mr. OBEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Chairman, I rise in opposition to this agreement. We need a NAFTA, but not this one.

All trade agreements that are worth anything have both risks and rewards for those who enter into them. NAFTA is no different. The problem with NAFTA is not that it is not risk free or that it doesn't have any rewards, but that all the risk is assumed by working men and women while all the rewards are enjoyed by large corporations.

The first great risk that American workers are being asked to take is that the companies they work for will not pack up and move to Mexico before the ink is dry on NAFTA. This is no idle concern; 40 percent of American businesses surveyed last year said that they would move to Mexico if Congress passed NAFTA. President Clinton, in a valiant effort to reassure Americans, got a similarly unnerving response when he asked corporate America to take a pledge not to move to Mexico; silence. Not a single business would promise not to move south if NAFTA passes.

The second risk that American workers take is that Mexico's living standards will rise fast enough under NAFTA to enable Mexicans to buy a lot more American goods. This is a gamble since Mexico's per capita income is currently only 14 percent of that of the average American and it could easily take decades before they are able to buy enough to start reemploying Americans who were thrown out of work when NAFTA passed in the first place. What, we have to ask, are those unemployed Americans supposed to do in the meantime? In any case, by the time Mexicans are ready to buy in sufficient quantities, they may not even need to buy from us because they will probably have developed their own manufacturing base out of the companies that will have left the United States under NAFTA.

The third major risk Americans take with NAFTA is that trade adjustment assistance will be enough to help those who lose their jobs due to this agreement. As Andy Romegialli, a representative of the International association of Machinists from Middletown, CT, said at a hearing before my trade subcommittee, "What are people going to be retrained for, what types of jobs?" Worker retraining alone is not enough, he says. People have to know that they are being retrained for jobs that will actually exist. Businesses, however, are still unwilling to make a commitment that jobs will be there for retrained workers. They would prefer that we trust what they call the natural evolution of the U.S. economy to create those jobs. That, I think, is just too much a toss of the dice for most workers to stomach.

While working America is taking all the risks for NAFTA, corporate America is getting ready to reap the rewards. By all assessments, there will indeed be substantial gain for those companies who, unlike their employees, can pick up and move to Mexico. They are likely to increase their profits as they lower their labor costs by employing Mexicans who earn less than $4 a day. They will be able to escape a multitude of labor and environmental laws in the United States that create safer and cleaner workplaces but which add to the cost of doing business here. And, they will face no real challenge to their business practices if some of them do cut corners because NAFTA's enforcement provisions are weak.

I do support free trade agreements but only when both the risks and the rewards are equally shared by the working men and women of America and by the corporations that employ them. I do believe that it is possible to negotiate such an agreement but after 12 hearings on NAFTA over the past 3 years I have to conclude that this agreement does not meet this criteria of fairness. The people of eastern Connecticut have been hurting too long for anyone to ask them to take more risks with their economic futures. And NAFTA, above all else, represents risk for most and reward for only a fortunate few. For that reason I cannot support NAFTA.

Mr. OBEY. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Hawaii [Mrs. MINK].

Mrs. MINK. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise today to oppose approval of the North American Free-Trade Agreement. I oppose this NAFTA because it leaves thousands of American workers with the prospects of losing their jobs, and being thrown onto an uncertain market looking for another job.

If we want to encourage United States investment in Mexico then it seems to me that we have to provide for the possibility of lost jobs. The decision to close up and move to Mexico will not be with the worker's approval. They will be issued a pink slip and left to their own devices to find a replacement.

The campaign of 1992 was about jobs. The people all across the country were hurting. They wanted the Congress to do something about jobs. Unemployment lines were growing. Thousands were being told that they were going to lose their jobs because of downsizing of businesses in America. Thousands more were soon to lose their jobs because of base closures and announced cuts in Government jobs.

The President tried to push through a modest jobs bill early in his administration. It died. Since that day, no jobs program has surfaced. Our promise to the American people stands empty. Jobs lost under NAFTA will likewise lie without any real promise of fulfillment.

Unemployment compensation expired on October 3 for hundreds of unemployed workers. Sadly, their families are still going hungry because the Congress can't agree on how to pay for it. How do you suppose we are going to find the money to pay for NAFTA and all the side agreements promised to win votes if we can't even find the money to pay for those who are unemployed now?

The 1992 campaign was about finding ways to build capital investment in America. Instead we are now debating how to help our corporations take their capital out of the country.

We do not need to be highly intelligent to know what will happen. Companies will move to Mexico. thousands of American jobs will be lost. Corporations are assured that they can hire workers in Mexico at paltry wages without any possibility of a trade union movement having a chance to improve the workers status. With lower costs of production, lower environmental standards, profits will soar. Couldn't some of these profits be set aside to help American workers who lost their jobs because their employer moved to Mexico?

This is a patently unfair trade of profits for jobs. American jobs have clearly sacrificed and there is no plan whatsoever to take care of these displaced workers.

I want this plan to be renegotiated so that our workers have guarantees of retraining and education so that they can get one of these high-tech jobs that they have been asked to trade for their current jobs. Its only fair that this assurance be in place before we allow these jobs to be lost.

I want NAFTA to guarantee the workers of Mexico the right to organize and to bargain for better wages. If our companies are being encouraged to move to Mexico to induce a greater unity of foreign policy, then it is only right and proper that we work to improve the vast difference of wages between these two countries. Not to do so is merely to give lip service to the lofty ideals of comity without helping to achieve it. Yet NAFTA is silent on these matters.

As I see it, America is being asked to give up 500,000 jobs solely so that American business can make higher profits.

Vote "no" and do not abandon the American worker.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. HYDE], a Member of our leadership.

Mr. HYDE. I thank the gentleman for yielding this time to me.

Mr. Chairman, I would think if jobs are going to move down to Mexico, that is, if NAFTA is ratified, I just wonder why Bangladesh or Haiti are not the industrial centers of the world; that is, if cheap labor is the secret to success and not infrastructure, not marketing——

□ 1726

The CHAIRMAN (Mr. MFUME). The Sergeant at Arms will restore order, the Sergeant at Arms will restore order. The committee will be in order.

The Chair notes a disturbance in the visitors gallery in contravention of law and the rules of the House. The doorman and the police will remove those persons from the gallery participating in that disturbance.

The Chair will further advise those persons seated in the gallery that they are here as guests of the House of Representatives and that any display of approval or disapproval of the proceedings will be prohibited.

The time belongs to the distinguished gentleman from Illinois [Mr. HYDE], who may continue.

Mr. HYDE. Mr. Chairman, I just want to say that is the last time I will ever wear that aftershave lotion.

Mr. Chairman, this legislation, if it passes tonight—and I think it will—will pass with substantial Republican votes. And I think that is worth noting. While credit has been bestowed right and left on people who have worked very hard on this, the fact is that the Republicans in this body have been and are a responsible minority. Our opposition to the Clinton budget was a principled opposition, and our support for NAFTA is a principled support.

The term "national interest" is something that we all try to locate and define, especially when we talk about foreign policy, but national interest is very important in international trade. It seems to me our national interest is served by removing trade barriers, by lowering tariffs, which is another way of saying cutting taxes. When you cut taxes, you increase exports, and when you increase exports, you increase the jobs, you get more jobs.

Mr. Chairman, for 50 years we have had an economic growth that has been fueled by liberalizing international trade. This growth has given us a standard of living that is the envy of the world. We need a world trade policy that is centrifugal, not a centripetal view. NAFTA is only one incremental step in encouraging worldwide economic growth, and it demonstrates American leadership in the quest for global prosperity.

Mr. Chairman, the question is often asked: Is the North American Free-Trade Agreement [NAFTA] truly a treat to the sovereignty of the United States? Will this trade agreement allow foreign countries and international tribunals to run roughshod over our laws and our Federal, State, and local governments? Despite the predictions of the trade pact's wary, if not imaginative opponents, NAFTA will not preempt the will of the American people and lead to our subjugation by sinister forces.

NAFTA is a trade accord between the United States, Canada, and Mexico that reduces or eliminates tariffs and other trade barriers between the three countries over a 15-year period. Negotiated by the Bush administration, the accord strengthens our country in many ways. It removes obstacles to free trade and gains broad access to new markets for American products. It will accelerate economic growth in all three countries and create jobs in its wake. Increasing the size of Mexico's economy will also serve as a major disincentive to illegal immigration. More Mexicans will stay at home creating a larger market for American goods and services. In short, it is a win-win situation.

The side agreements to NAFTA negotiated by the Clinton administration—while adding little of value to the accord—do not give supranational powers to the commissions and secretariats created for labor and environmental issues. The United States retains all legislative, judicial and administrative authority for writing, amending, and enforcing our laws. Explicitly stated in the side agreements is the recognition that each country will continue to determine its own level of environmental protection and labor standards.

Nonetheless, these appendages to NAFTA have some unappealing features. If requested by two member countries, working panels of the commissions are empowered to investigate complaints of persistent failure to enforce national laws regarding environmental protection, occupational safety and health, and child labor or minimum wage violations. If the complaints are valid, fines can be issued against national governments. If they go unpaid, tariffs limited to pre-NAFTA levels can be reimposed against the specific industry sector involved. However, in no event will a country suffer a worse penalty than the tariffs that exist today. Annoying as they are, the flawed side agreements do not alter the basic nature of NAFTA and certainly do not negate the benefits it promises to bring.

NAFTA is a good example of why we fought so hard to win the cold war. Democracy and free enterprise are inextricably bound together. With the defeat of international communism and the notable failure of centrally controlled economies, it is essential to our national interest that free market principles fill the vacuum left behind. By example, NAFTA boosts free market forces throughout the hemisphere and beyond. It offers strong encouragement to the world's remaining nonmarket economies to rid themselves of the straitjacket of government controls. Our goal should be to ultimately extend this free-trade zone from the Article to the Antarctic, strengthening fragile democracies and fostering the expansion of free enterprise and lucrative throughout the hemisphere.

To reject NAFTA and thus slam the door in Mexico's face is to alienate our next-door neighbor, as well as our other friends in the hemisphere and may ultimately disadvantage U.S. exporters as they compete with Japan, China, and others for markets throughout Latin America. Defeat of NAFTA would also seriously weaken the hand of political and economic reformers in Mexico who have made great strides to modernize that country during President Salinas' tenure. It could easily reverse that favorable trend, sending Mexico's economy into a tailspin and straining our historical friendly relationship with that country.

Claims that NAFTA threatens the sovereignty of the United States are simply not credible. It does not mimic the Maastricht treaty, as some have claimed. Europe has been on the declared path of political and economic integration for decades. North America is on a very different path. We do not seek to combine our political institutions with our neighbors or to create a common currency. Until it was contrived by NAFTA's opponents here, concerns over sovereignty arose only north of our border where an entire psychological discipline is devoted to representing pervasive fears of being swallowed whole by the United States. Looking southward, anxiety over Mexican designs on American sovereignty has not been evident since 1848 when our forebears handily defeated Santa Anna and acquired from Mexico everything from Texas west to the Pacific coast.

Americans have been advocating free trade for centuries. As Thomas Paine wrote in 1792 in the "The Rights of Man." "The prosperity of any commercial nation is regulated by the prosperity of the rest. If they are poor, she cannot be rich; and her condition, be it what it may, is an index of the height of the commercial tide in other nations." Economic growth will benefit all partners in free-market trade. More jobs will be created, higher wages and salaries will be earned, and living standards will improve.

NAFTA is about preserving, strengthening, and extending our values and our beliefs. It will not diminish America, nor will it threaten others. On the contrary, it will strengthen us. It is an important step to secure a better tomorrow for all Americans.

The CHAIRMAN. The Chair appreciates the gentleman's patience and his humor.

Mr. SOLOMON. Mr. Chairman, I reserve the balance of my time.

Mr. MATSUI. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. JOHNSTON].

Mr. JOHNSTON of Florida. Mr. Chairman, I rise in favor of NAFTA.

Mr. Chairman, the vote on NAFTA is not simply about Mexico and jobs: It is a referendum on the Nation's willingness to build a new institutional architecture for international relations. The real question before Congress is whether the United States has the guts and vision to replace the deadly geopolitical confrontation of the cold war with a new geoeconomic competition based on open markets, free trade, and regional alliances.

Such defining moments are rare in history. Only twice before in the 20th century has Washington faced a decision of such magnitude. Once it punted, with disastrous results. In 1920, Congress rejected President Woodrow Wilson's request for membership in the League of Nations, effectively turning the Nation isolationist and protectionist. The Smoot-Hawley Tariff Act followed, triggering the Great Depression and paving the way for World War II.

Perot and other critics cite a litany of ills facing the United States. But none of these problems would improve if NAFTA fails. Quite the contrary. The evidence of history is convincing: Expanded trade leads to greater prosperity. Congress would be making a huge mistake if it rejects NAFTA.

NAFTA: A DEFINING MOMENT FOR AMERICA

On Nov. 17, Congress will cast its first official vote on America's role in the post-cold-war era. The vote on the North American Free Trade Agreement is not simply about Mexico and jobs: It is a referendum on the nation's willingness to build a new institutional architecture for international relations. The real question before Congress is whether the U.S. has the guts and vision to replace the deadly geopolitical confrontation of the cold war with a new "geoeconomic" competition based on open markets, free trade, and regional alliances.

Such defining moments are rare in history. Only twice before in the 20th century has Washington faced a decision of such magnitude. Once it punted, with disastrous results. In 1920, Congress rejected President Woodrow Wilson's request for membership in the League of Nations, effectively turning the nation isolationist and protectionist. The Smoot-Hawley Tariff Act followed, triggering the Great Depression and paving the way for World War II.

The horror of that war drove home to America the disastrous consequences of retreating from the world. Congress voted to finance the Marshall Plan for Europe, create NATO, and join the International Monetary Fund and the General Agreement on Tariffs & Trade. America took the leading role in constructing the international organizations that defined the next half-century, thereby preserving for itself relative peace and a great deal of prosperity.

The same choice between global leadership and pusillanimous retreat is before Congress once again. A bizarre alliance of groups is pounding away at the 30 or so Congress members wavering on NAFTA. They are led, of course, by the would-be William Jennings Bryan of modern day America—Ross Perot. The populist poseur, his image riding across America's TV screens, is trying to rally the fearful and the wounded to fight against the forces of global competition.

THE CHOICE IS LEADERSHIP OR RETREAT

Just as Bryan in the 1890s called for a silver standard and inflation to defend farmers from industrialization, so Perot calls for protectionism to save workers from globalization and technological change. Perot's famous quote about jobs, the "giant sucking sound from the south," is the equivalent of Bryan's "you shall not crucify this nation on a cross of gold." Like Bryan, Perot offers false hopes and false solutions.

It's not that the pain of working people in America isn't real. When Pat Buchanan says that NAFTA is "an insider's deal among the transnational elite," he expresses the anguish and anger felt by millions of blue- and white-collar Americans at the corporate managers who ordered huge downsizings and layoffs in recent years. While many top-rank managers floated off on golden parachutes, working stiffs on assembly lines and in offices found themselves on the slippery slope of downward mobility. Sure they're angry.

Yes, competition creates dislocation, but labor's response to global competition is as misguided as it is self-destructive. Unions are not simply fighting against lower tariffs with Mexico. They are arguing, by extension, that all low-wage producers are a threat to U.S. jobs and living standards. In fact, unions are really saying that the low wages, poor environmental and safety regulation, and lack of worker rights that inevitably exist in the less-developed world in themselves constitute unfair trade barriers. By that logic, unions would prefer to keep tariffs high—and build them even higher—against imports from all the ex-communist and statist countries that have converted to market capitalism.

And they are not alone. The French are making similar noises about restricting trading to high-wage countries. "The question now is how to organize to protect ourselves from countries whose different values enable them to undercut us," said Prime Minister Edouard Balladur recently.

DEMOCRATIZING MEXICO

That is why the stakes on the NAFTA vote are so high. The French are already balking at signing the Uruguay Round of GATT, which would lower tariffs and further free trade around the world. A "no" vote on NAFTA would undermine the Clinton Administration's ability to complete the GATT negotiations on schedule by yearend.

A "no" vote would humiliate the President as he meets with the heads of 14 Asian and Pacific nations on Nov. 18 in Seattle, a day after Congress votes. Many Asian businessmen profess to worry about a Fortress America excluding their products and would like Congress to vote NAFTA down. The more sophisticated leaders, however, realize that any vote in Congress against free trade with a low-wage country is as much a slap at them as at Mexico.

There is a crisis of demand around the world, and the solution is more trade, not less. Anti-NAFTA forces argue that Americans can't compete against cheap Mexican labor, but the truth is that Mexico is sucking up U.S. exports, not jobs. Exports to Mexico quadrupled over four years, to $40.6 billion in 1992, as Mexican tariffs dropped.

Mexican President Carlos Salinas de Gortari has curbed wage hikes to cut Mexico's 160% inflation rate in 1988 to 9.5% this year. That done, he has just signed a pacto with business and labor raising workers' wages in step with productivity gains. As Mexico's growth speeds up, demand for American goods will increase. Higher wages also will expand the middle class and spur the democratization of Mexico, as they did in Korea and Taiwan.

Finally, President Clinton deserves high marks for embracing what is, after all, a Republican initiative. He was right to recognize that the Democrats need NAFTA. Moderate "New Democrats" who advocate free trade, market solutions to social problems, and smaller, more efficient government would be bludgeoned by the old-line, union-based, tax-and-spend crowd should NAFTA fail. That would make the Democratic Party a reactionary force in politics, not a progressive one.

Perot and other critics cite a litany of ills facing the U.S. But none of these problems would improve if NAFTA fails. Quite the contrary. The evidence of history is convincing: Expanded trade leads to greater prosperity. Congress would be making a huge mistake if it rejects NAFTA.

Mr. MATSUI. Mr. Chairman, I yield 1 minute to the gentleman from Georgia [Mr. DEAL].

□ 1730

Mr. DEAL. Mr. Chairman, I have come to this podium on few occasions. I do so today because of the importance of this issue, and I do so in support of NAFTA.

All of us can find parts of this agreement that we do not like, so can the Mexicans and the Canadians.

Although some of my constituents will not agree with my decision, all of them expect me to make this hard decision based on the best facts available.

The CHAIRMAN (Mr. MFUME). The gentleman will suspend.

The Chair notes a disturbance in the Visitors' Gallery has occurred in contravention of the law and the rules of the House of Representatives. The doormen and the police will remove those persons from the gallery participating in that disturbance.

The Chair again wishes to advise all persons seated in the gallery that you are here as guests of the House of Representatives, that any display of approval or disapproval of the proceedings on the floor will be prohibited.

The Committee will be in order.

The Chair wishes to advise the gentleman in the well that he may begin with the full allotment of his time.

Mr. DEAL. I thank the Chair.

I would like to assure the gentleman from Illinois that it was not his aftershave, because I use a different brand.

Mr. Chairman, although some of my constituents will not agree with my decision, all of them expect me to make this hard decision based on the best facts available, and that is what I have done.

I have concluded that if we are to be a true world leader, we must display courage on an issue where the political condemnation is immediate and the vindication must await the future.

I am convinced that on international issues the nations that prevail are those that promote their strengths rather than dwelling on their weaknesses.

I believe that our greatest strength is the spirit of our people, a spirit that welcomes challenge and opportunity. That is what NAFTA offers.

Faith must prevail over fear. I will vote "yes," because I believe in the strength of the United States of America.

Mr. OBEY. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. LAFALCE].

Mr. LAFALCE. Mr. Chairman, I rise again in opposition to NAFTA, to underscore that opposition.

I generally support the ideal of free trade. It appeals to all of my intellectual and competitive instincts. In an ideal world, or a nonideal world where things were at least relatively equal, we can and should have free trade. Thus, I supported the Canadian-United States Free-Trade Agreement—indeed, I was probably its strongest proponent in the Congress, and also opposed the protectionist textile bill.

But we have to remember some basic precepts as we look at NAFTA, an agreement involving Canada, on the one hand, and Mexico on the other. Our whole concept of a government based on laws, not men, is one that is shared by Canada. Our tradition of free and fair elections is shared by our neighbors to the north. Free and fair judiciary, policy, and business practices are other important traditions that the United States and Canada share. Canadian wages are as high or higher than those in the United States; working conditions there are equal to or better than those enjoyed by United States workers. And Canadian environmental laws and their enforcement are also at least equal to our own.

These similarities enabled the historic United States-Canada Free-Trade Agreement. And conditions similar to those between us and Canada enabled a comparable agreement to be reached between the United States and Israel.

Regrettably, the similarities that enabled these agreements do not exist with respect to Mexico. Wages in Mexico are radically lower than they are here—roughly 10 to 15 percent of our wage rates. All too often Mexican workers toil in abysmal working conditions. The environmental conditions in Mexico, due to lax enforcement of what would otherwise be reasonably good laws, are more like those in Russia or Eastern Europe than in the United States or Canada. Since early in this century Mexico has been ruled by a one-party regime that shows few compunctions about respecting election laws or other niceties of democracy. The Mexican judiciary is far from independent; and the police have a reputation for extra-legal activities. And doing business in Mexico often means knowing and practicing too many of the intricacies and illegalities of under-the-table wheeling and dealing.

I should mention that I consider myself a strong friend of the Mexican people. During the 1980's, when Mexico and other Latin American nations faced a serious economic crisis, I led efforts in Congress to provide relief from oppressive foreign debt for those nations. In 1986 I steered legislation through Congress calling on the United States to take the lead in creating an international debt management facility for just that purpose. Unfortunately, that bill was vetoed and the veto message specifically mentioned my efforts on behalf of debt relief. In 1988 I was more successful, getting the legislation through again and signed into law. Angel Guerria, chief debt negotiator for Mexico, said that I had "done more to give hope" to Mexico than any other Member of Congress.

I was flattered when President-elect Salinas' office contacted me after his November 1988 election, to invite me to his inauguration. And that gesture was in spite of my introduction in 1986 of a bill to repeal the Maquiladora program. I had done that because I had seen first hand—in my congressional district, elsewhere in the United States, and in Mexico itself—how that program had hurt workers in both countries.

So I take a back seat to no one in terms of my support of Mexico and her people over the years. And I believe that this history gives me standing to comment on the NAFTA before us today and to join the debate over whether or not it should be approved.

One thing that bothers me is the degree of exaggeration that has been engaged in during the debate, by both proponents and opponents of NAFTA. What I hope the Nation has observed, however, is that more exaggeration and distortion has come from outside the walls of Congress, and the level of debate within these walls has, on the whole, been reasoned and rational. I am proud of that and of the fact that once again Congress as an institution is treating a serious matter seriously.

Before proceeding on the substance of this issue, however, I would like to comment briefly on some of the kinds of things that have been said about those of us who oppose this NAFTA. It disturbs me that opponents of this NAFTA are being painted as protectionists, as myopic, as people who look toward the past, not the future. This is surely not true for all of this NAFTA's opponents.

It's a nice debating point to say that NAFTA opponents are the equivalent of supporters of the Smoot-Hawley tariffs of 1930. That makes a good photo opportunity, but it's fundamentally false. Very few NAFTA opponents believe that we should build up high tariff walls. Unlike then, the United States now is the world's most open market, and we are leading the fight to get the rest of the world to catch up with us. I bow to no one in my zeal to level the trading floors for all, through the proven benefits of free and fair trade.

But I have a great many concerns about this particular NAFTA. First, there is a potential for serious job losses in the United States. It is impossible to predict the number of jobs that will be lost, but the underlying fact is that the jobs that will be lost are real jobs held by hard-working Americans. There has been little if any consideration about the alternatives that will be available for these workers. The proposal contains but a pittance for retraining, but even if an effective retraining regime were to be implemented, one has to ask—retraining for what? Again, we do not have a reasonable answer to this crucial question.

Second, and more importantly, it is very likely that NAFTA will have a seriously depressing effect on U.S. wages. In a 1993 Wall Street Journal pool, some 40 percent of corporate executives said that they would consider moving some operations to Mexico if NAFTA passes, and another 25 percent said they would use Mexican wage rates in their bargaining with their United States workers. I have no doubt that this will reduce U.S. wages or constrain wage increases, thus contributing to a further lowering of our workers' purchasing power, and our Nation's standard of living. This NAFTA seems to be governed by the lowest common denominator—pursuing a low wage strategy versus a high wage, value-added strategy. As two economists from Amherst and the University of Massachusetts said Monday in the New York Times:

> [NAFTA] would bind all three countries in the straitjacket of 19th century free market economics, jeopardizing governmental efforts to promote long-term growth of productivity and better living standards throughout the continent.

Third, I believe that this NAFTA will also have an adverse impact within Mexico itself. There is the real potential for further exploitation of the Mexican people. It has been estimated, for example, that a million to a million and a half Mexican farm workers—principally those in the corn and dairy sectors—will be wiped out over the next decade and become immigrants, either to already over-crowded and opportunity-poor Mexican cities or to the United States, exacerbating the illegal immigrant problem we already have. And even when multinational investors move jobs to Mexico there is no certainty that the Mexican workers will be well treated—look at the Maquiladora program and the fact that in many of that program's plants the wage rates are lower than in other sectors of the Mexican economy.

These are just some of the harmful effects that I see. But perhaps the greatest reason I have for opposing this NAFTA is the lost opportunity that NAFTA entails. We had a chance here to deal with more than just dry economic issues—to deal, instead, with human rights and the exaltation of the human spirit.

Some of us who have qualms about this NAFTA look at an agreement of this kind and ask not only what it does, but what it might do. Rather than just viewing it in terms of dollars and cents and pesos, as do its proponents, we should look toward a grander design. We should not lose sight of one of the central purposes of life on this Earth—to elevate the living conditions of all human beings to just levels, not only here in the United States, but throughout the world. In this sense, this is not just an economic debate, but a moral one as well.

I, of course, bring certain prejudgments on this score. My thoughts about the lives of working men and women have been shaped over the years by, among other things, three path-finding Papal encyclicals. Two influenced the first speech I ever gave, in high school, on the subject of work in human society. These were "Rerun Novarum" by Pope Leo XIII and "Quadragesimo Anno" by Pope Pius XI. And much more recently, just a couple of years ago, Pope John Paul II weighed in on this subject with his encyclical, "Centesimus Annus." I found his thoughts on this so important that I held a hearing of my Small Business Committee on the encyclical.

My developed beliefs are that every human has certain basic rights—and that the right to a job is one of those basic rights, and that government should somehow ensure, or try to ensure—by creating an appropriate socio/economic/political climate—a job for every human being. Through a job one can gain dignity and human worth. But we need to make sure that the jobs do in fact provide just that—dignity and worth. To do that they must provide just wages, just working conditions, a just environment. These—a just wage, just working conditions, a just environment—are concomitant basic human rights—concomitant to the right to a job. These are what lead to a just and decent life. There is another right of workers that is basic and concomitant to the right to a job. That is the right of working men and women to associate together, to organize themselves so they can speak and bargain collectively for all the rights of a just life—a just wage, just working conditions, a decent environment. As Pope John Paul II said in his enduring encyclical, "On Human Labor,"

> Man's life is built up every day from work, from work it derives its specific dignity * * * through work man not only transforms nature, adapting it to his own needs, but he also achieves fulfillment as a human being and indeed in a sense becomes more a human being * * *."

Under President Carter the United States, Mexico, Canada, and virtually every other nation in the world entered into the International Covenant on Economic, Social and Cultural Rights, which requires all signatories to afford their citizens these basic human rights. I have pointed out on numerous occasions how this treaty parallels the Clinton administration's statements about human rights and the kind of priority they should receive in the conduct of our foreign policy, and I have noted that the agreement could, properly enforced, be a powerful tool to help eradicate human rights abuses in Mexico.

Unfortunately, the U.S. Senate has not seen fit to ratify this international treaty. That's bad enough. But Mexico has signed and ratified it. In these circumstances, one would think that would mean Mexico could easily agree to incorporate into NAFTA the kind of protections called for in this multilateral treaty. But the fact is that Mexico's Government flaunts its provisions, mocks them, by the way Mexican laborers are treated.

Earlier I mentioned the fundamental right of workers to associate together, to speak and bargain collectively for just wages, working conditions, and other employment-related matters. This right simply does not exist in fact in Mexico. Labor conditions there are somewhat similar to what they were in the United States before the 1930's, when we enacted modern labor laws and took them seriously. Only after establishing those fundamental principles in our laws, and enforcing them, did we become the great Nation we are today. Yet this essential right isn't even in the side agreements to NAFTA, either as a condition precedent or as a condition subsequent. No, it is merely a hope. I am sure everyone knows the destination of the road that is paved with good intentions.

And our history is not the only guidepost on this issue. Look at Poland in recent years. There, the workers were also deprived of their basic rights to just wages, just working conditions, a decent environment. But they took action, and I would ask where the world would be today without what was done by Solidarity. There is a very good chance that the Berlin Wall would still be standing and the Soviet Union would still exist, but for Solidarity and its constancy in standing up for the proposition that workers can organize for their mutual benefit.

But just as Solidarity stood as a model for the then-Communist world, so too will NAFTA be a model for U.S. relations with Third World nations. Wouldn't it be nice if NAFTA stood for the same principles that Solidarity did and does? Latin America and nations from throughout the world will be watching what we do today. I submit that this NAFTA is a poor model for the developing world, a poor model for Chile, for Argentina, for Brazil, for the Caribbean nations, and for all other nations who wish to extend their economic ties and grow their economies in a more just world. I submit that having a model which fully spells out the rights of workers is crucial, and that for this reason alone we should go back to the drawing board and do it right.

I fear this NAFTA is a ploy, perhaps deliberate, perhaps not, on the part of multinational corporations which simply want a cheap beachhead—a place from which to launch their products most cheaply and most profitably to the rest of the world. We should make no mistake about these huge conglomerates. They may be headquartered within the United States, and U.S. citizens may hold a substantial portion of their stock, but these entities have little loyalty to our Nation or to anything except the pursuit of profits. There is nothing wrong about the profit motive, of course; it is a central premise on which our economy is built. But the profit motive unchecked by a concern for man and the human condition all too often can become rapacious and unreasonably exploitative.

These multinationals too often want to make their products without having to worry about dealing with effective unions backed by strongly enforced labor laws. They don't want to have to worry about strict enforcement of environmental laws. They don't use these words, of course, but look at their actions. Why else do they move $15 per hour jobs from the United States and pay $2 per hour in Mexico? Why not move those jobs somewhere at $7 or $8 per hour? The reason is obvious—they will only pay what they have to pay, and under prevailing conditions in Mexico, that is far from a just and reasonable wage. They are exploiting the situation, exploiting the people. Affluent stockholders will further flourish, but the poor will remain oppressed. We must pursue a preferential option for the poor.

During his campaign last year, President Clinton said that he was dissatisfied with the NAFTA that had been negotiated by President Bush, and that unless three tough side agreements could be reached he would have to reject it. Now he asks approval of this NAFTA based on side agreements that he has negotiated with Canada and Mexico. Yet as Ralph Nader has said, "most of the NAFTA improvements that candidate Clinton had demanded never even made it to the table during the side-agreement negotiations."

One of these side agreements deals with what are known as "import surges." What does it say? Essentially little more than the underlying NAFTA agreement itself says.

Another deals with environmental protection along the border and elsewhere in Mexico. Is it strong? The Sierra Club says: "NAFTA poses a threat to United States and State environmental laws and to international environmental conventions."

The third side agreement deals with worker rights. How tough is this one? Not very. The AFL–CIO says: "The accord contains no agreement on or definition of minimal international worker rights and labor standards."

Why are these side agreements so weak? One reason might well be that the multinational corporations didn't even want side agreements at all. They fought hard to water down anything that might be included in them. So our interests have been subverted not by foreign lobbyists, but by American lobbyists whose interests have transcended our Nation's, or any nation's.

But more importantly, these side agreements are not even binding. Salinas has not sought their approval by the Mexican Congress, and President Clinton has expressed his view that he need not submit them to the United States Congress for approval, either. Incidentally, neither the Mexican Chamber of Deputies nor the Mexican Senate has had one hearing or debate on NAFTA. So much for nascent democracy. The side agreements remain, then, worthless pieces of paper—nonbinding and unenforceable in any court of law.

In 1985 I gave a speech called "Religion, Politics and Justice in a Democracy," in which I noted that "* * * economic decisions, policies, and institutions should all be at the service of human beings. The economy was made for people, and not the other way around." Central questions to any economic debate must be what proposed actions do for people, and what do they do to people. We hear time and again about NAFTA's impact on trade balances, its effect on our budget deficit, et cetera, but we hear little if anything about what the central purpose of any economic decisions, policies and institutions should be: to serve human beings.

There are three principles that I believe should apply in judging the soundness of proposed actions put before us. One, the fulfillment of the basic needs of the poor is of highest priority. Two, increasing participation of those on the margins of society takes precedence over the preservation of privileges of the powerful and the wealthy. And three, meeting human needs and increasing participation in society should be priority targets in the investment of wealth, talent, and human energy. NAFTA fails all three guiding principles.

We are told time and again that this NAFTA contains a number of provisions which would involve actions by Mexico that would improve both her trade relations with the United States and Canada and help the internal Mexican economy as well. But almost all of these proposed actions can be taken right now, by Mexico acting alone—unilaterally—without benefit of this or any NAFTA. For instance, an opening of the Mexican banking system to our large banks can and probably should be done right now, regardless, and doing that would probably help both the United States and Mexico. Similarly, if lowering tariff barriers between the United States and Mexico will help Mexican consumers, then Mexico can continue the long-standing trends toward lower tariffs that started, without benefit of NAFTA, several years ago. Why aren't these and other unilateral steps being taken? Because what's really at stake here is the desire for a good housekeeping seal of approval on the part of the Salinas government—an enshrinement of their perfect dictatorship.

When we addressed and passed the fast-track legislation, I predicted what would happen when NAFTA came back to the Congress. We were told at the time that we would be able to debate NAFTA on the merits, and vote it up or down based on whether or not it was a good agreement. I was skeptical that would be the case, and I was right. For now we are told that failure on the part of Congress to pass NAFTA would be cataclysmic. We are not told that regardless of the merits of the proposal, we have to go along or the sky will fall. Well, I believe that it is important to say "no" both because this NAFTA is deficient on the merits and because Congress should make it plain that it has the authority to enter into trade arrangements with other nations, and it does not intend to cede that authority willy-nilly to any administration, Republican or Democrat.

But we will be insulting the Mexican people, we are told. Would we? I submit that the Salinas government is certainly not the same as the Mexican nation or her people. Indeed, most objective observers would agree that President Salinas didn't even receive a majority of the votes when he ran for that office. The leader of Mexico's primary opposition party, Mr. Cardenas, the man who probably really won that 1988 election, has said that he opposes this NAFTA. Or look at opinion polls. They show that the Mexican people are just about as split about this agreement as are the people in the United States and Canada.

There is a lot of apocalyptic talk about this—doomsday messages that defeat of NAFTA will sour United States-Mexican relations for decades, that it will diminish United States prestige in the world, that it will undermine GATT and other pending international deals, et cetera. I find these end of the world scenarios a little tiresome. The United States will still be the only superpower in the world, with or without NAFTA, and other nations will continue looking to us for leadership.

Armageddon is not upon us. A Presidency does not hang in the balance. If GATT fails, it won't be because of NAFTA but because of domestic politics in France. Everyone knows that, but too many of us don't want to admit it.

With or without NAFTA, the world changes and moves on. Look at the three leaders who negotiated NAFTA, the world changes and moves on. Look at the three leaders who negotiated NAFTA. Two—President Bush and Prime Minister Mulroney—have been removed from office. We don't know yet who will succeed President Salinas next year, except that it will be his appointee, someone who will be elected openly and freely, if possible, but fraudulently if necessary. This, too, we know all too well, try as we might like to ignore such a disquieting fact.

What will happen to United States-Mexican relations if NAFTA goes down? I see no reason why the significant progress that has been made over the past several years cannot continue. If NAFTA does fail, it will be by a narrow margin, making it clear to the Mexican people and her leaders that there is every reason to believe that a responsible NAFTA can and should be negotiated. Many NAFTA opponents have joined me in supporting the creation of a common market in the Americas, embodying principles that should be considered in the context of further dealings with Mexico and other Third World nations. A bill we have sponsored to accomplish this end, the American Common Market Act of 1993, lays out standards of democracy, wage levels, a social charter for health and safety, and a policy on competition as minimum requirements for joining an American Common Market.

We can have a better future—a better future for us, for Mexico, for all of the Americas. We need only adhere to our basic American values. To do that we cannot separate economic issues from democratic and moral principles. We must remember who we are and what we are. We must remember and adhere to our root values.

In June of this year Secretary of State Christopher said: "Democracy is the best way to advance lasting peace and prosperity in the world." And he went on to say that the Clinton administration "* * * will weigh human rights considerations in trade policy." It is not too late to apply these policies to NAFTA.

This NAFTA is myopic. This NAFTA is short-sighted. This NAFTA is based on 19th century economics. This NAFTA is a lost opportunity. We should reject this NAFTA and seek instead an agreement that comports with our grand vision of the future of our continent, our hemisphere, our world. No economic agreement should be divorced from human rights or from the realities of the human condition. We should pursue instead an American Common Market that will help ensure, in Mexico, in the United States, and elsewhere, an interconnecting, a coupling, a marriage between trade goals and human and societal rights.

The CHAIRMAN (Mr. MFUME). The Chair appreciates the cooperation of most visitors in the gallery who are here, as most of us, because of your interest in the matter before the House today.

Mr. OBEY. Mr. Chairman, I yield myself 30 seconds simply to say that if those ill-advised souls who have just engaged in the last demonstration think they are helping that cause, they do not understand the democratic process.

Mr. Chairman, I yield 1 minute to the gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. Mr. Chairman, I would first like to start off by congratulating

President Clinton and the gentleman from Michigan [Mr. BONIOR] for their leadership on this issue, and the gentleman from New York [Mr. SOLOMON]. No matter how this issue ends up, I think it is important for us as a party and a country to come together after this important debate and debate health care, debate welfare reform, and interestingly enough, Mr. Chairman, to debate issues of trade such as the importance of engaging in trade with China in the future; but this agreement has been called the most important free-trade vote in the last decade. It is accurately named that for all the wrong reasons.

Members have been freely trading votes for promises, projects and parochial interests, tomatoes, peanuts, sugar, you name it.

But what about people? What about iron workers? What about auto workers? What about people like carpenters in the Midwest who will lose jobs? Where are our lobbyists for those workers?

As designated on the front page of the New York Times today in almost a caricature-like fashion, we have these people arguing for the interests of those special interests, rather than the interests of the people.

I would also like to say that this is only free trade and not fair trade. It does not reflect the new ideas of managed trade. It does reflect the old and out-dated free-trade ideas that have lost us jobs, that have increased our trade debt, and caused us to lose out on new markets.

This agreement needs to reflect free and fair trade. It needs to reflect fair human rights standards. It needs to reflect fair and free political parties in Mexico.

As a supporter of an eventual NAFTA treaty, let us move toward one that moves through Central America and South America to engage Argentina and Brazil and not settle for this flawed NAFTA treaty.

Mr. Chairman, throughout this debate over the North American Free-Trade Agreement [NAFTA] many of the accord's supporters have labeled its opponents as "protectionist," and unnecessarily afraid of a market that is only one-twentieth the size of the U.S. market. Let me be clear on one point—I oppose NAFTA but I am neither protectionist nor fearful of our southern neighbor's economic potential.

On the contrary, I fully support the integration on the American, Mexican, and Canadian economies because I truly believe that a North American trading bloc could outdistance the world's other regional trading alliances in nearly every respect. In fact, I envision a North American-South American trading relationship in the future that will be both unprecedented in its structure and its economic potential.

I believe that I share this vision with many of my colleagues who today speak in favor of NAFTA. What we disagree about is the vehicle with which to accomplish this task.

I oppose the NAFTA that is before this Chamber today.

My opposition rests in the fact that the agreement does not accurately reflect the nature of the Mexican labor force and that the pact's crafters failed to realize the agreement's adverse effects on the working men and women of our Nation.

While there has been wide disagreement over the actual number of jobs that will be either lost or gained as a result of NAFTA, the GAO has found, and Noel laureate economists have confirmed, that there will most certainly be a loss of jobs employing unskilled workers. In a perfect world, our Nation's work force would report everyday to high-skilled, high-wage jobs. But that is simply not the case, and we have a responsibility to those low-skilled workers whose jobs are threatened by this agreement.

Assurances that the nature of the Mexican work force will have a negligible effect on the United States are simply not true. The low wages, high productivity, and sheer numbers of the Mexican labor market rebuke this assertion.

A recent Joint Economic Committee report found that, even if the United States turned out to be a marginal winner in net job gain, NAFTA would have a substantial negative impact for a large number of Americans. In fact, according to the committee, NAFTA could result in gross dislocations of between 300,000 and 600,000 jobs, and create a downward pressure on U.S. wages, especially for non-professional workers.

NAFTA supporters in this Chamber today have argued that the agreement will not reduce U.S. wages. Throughout the course of this debate, they have claimed that Mexican wages have risen relative to United States wages in recent years and will continue to do so. But this argument overlooks the huge decline in Mexican wages relative to United States wages that occurred earlier than the 1980's. Even after accounting for the increases in Mexican wages since 1987, the average Mexican hourly compensation in all manufacturing is now only 15 percent of United States levels, far below the 22 percent in 1980.

Many NAFTA proponents assert that low wages reflect low productivity, and would not provide a cost savings for manufacturers. In Mexico's case, nothing can be further from the truth. While real wages have declined in Mexico, manufacturing productivity has been rising. Studies indicate that in Mexican export industries productivity is 80 to 100 percent of that in similar United States industries. In fact, in a growing number of industries, labor productivity in Mexico is even higher than in comparable United States factories because the Mexican plants are newer and the workers often get more training.

Many have pointed to the relatively low tariffs that exist between Mexico and the United States and conclude that NAFTA would not lure any American employment across the border because, if companies wanted to move south, they would have already moved. The reality is that NAFTA is meant to make Mexico more appealing to United States investors and does in fact accomplish this goal. In short, NAFTA removes many of the obstacles that have kept hundreds of companies from ever considering expansion to Mexico. These companies are not the manufacturing giants of the world, but smaller, labor-intensive manufacturers.

I represent a district in the Midwest that was once a manufacturing powerhouse and still remains the home of small businesses that produce quality goods. Over the last decade my district has been the site of many plant closings, and has experienced the loss of countless manufacturing jobs. In fact, just last week, a machine tooling plant announced that it would be closing December 1 and will put nearly 60 employees out of work. I do not assert that these jobs went to Mexico, but I do believe that we have a lesson to learn about the residual effects that job dislocation due to plant closure leaves on a community.

It has been the case in north central Indiana that when a plant closes, it leaves behind a work force that is unable to find employment through no fault of its own. The problem is that new jobs are not being created in our region to keep pace with the escalating numbers who find themselves out of work. And often, those fortunate enough to find work often do so only after taking a pay cut. This results in less disposable income that has a direct—and usually immediate—negative impact on the local economy.

While I do not expect any North American Free-Trade Agreement to outlaw job movement from one country to another, I do assert that such an agreement could and should recognize the unique nature of each participant's labor force and seek to increase employment in all countries. Trade does not have to be a zero-sum game.

At this time, this NAFTA is unwise. The agreement's negotiators picked winners and losers and its clear that the losers are American workers.

NAFTA should be defeated.

The CHAIRMAN. The Chair would advise the gentleman that he was also ceded an additional minute by the gentleman from New York [Mr. SOLOMON].

Mr. MATSUI. Mr. Chairman, I yield 2 minutes to the gentleman from Nebraska [Mr. HOAGLAND].

Mr. HOAGLAND. Mr. Chairman, for the past several months a distinguished panel of 13 educators, economists, and lawyers from Nebraska's universities and political bodies have studied the North American Free-Trade Agreement and concluded that NAFTA would have a modest, but positive impact on Nebraska's economy.

One thing we know for sure is that Mexico is a major consumer of corn, that corn exports to Mexico could nearly double if the NAFTA is ratified, increasing corn prices by approximately 10 cents a bushel, and increasing total farm income in Nebraska by nearly $100 million by the year 2000.

We know that Nebraska's exports to Mexico have increased from about $44 million in 1987, after Mexican trade barriers were lowered, to $100 million in 1992, and that, with NAFTA, these trends will continue.

NAFTA will mean more jobs at our railroads. The employees of companies like ConAgra, Kellogg's, and Campbell Soup, and the Omaha Works AT&T plant, and many other businesses, will benefit as we further open the Mexican market and create jobs to manufacture or grow more of our products.

But the reasons for NAFTA go far beyond the concerns of eastern Nebraska.

The NAFTA debate poses two visions of the world.

One is the zero sum game theory, that we win only if Mexico loses, and that, further, we win in trade with China, Brazil, Japan, or any other trading partner, only if they lose.

The other vision is that trading partners grow and prosper together, and further, knowing that Mexico has many problems making its democracy work, as do we, that we spread our values of democracy and markets through engagement, not disengagement.

This second view holds that not only does a rising tide lift all boats, but that our boats will rise higher because we have a sounder economic and political structure and will continue to out compete them as we sell to their markets.

It is this second vision that is the vision proven by history and the principal reason we must ratify this agreement.

Mr. OBEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. SANGMEISTER].

Mr. SANGMEISTER. Mr. Chairman, I rise in opposition to the NAFTA agreement. We could do much better, and hopefully there will be a second NAFTA.

Mr. Chairman, today I cast my vote against the North American Free-Trade Agreement.

As an elected official for much of the past 10 years, I have always considered the interests of American working men and women as a top priority in my decisions. The basis of America's past and present greatness has always been due to a growing, strong and vibrant middle-class. I have no doubt this formula must continue if we are to pass on a worthwhile legacy to future generations. Regrettably, this agreement in its present form endangers the standard-of-living for America's middle-class.

In the end, history is the only sure thing to show us whether the North American Free-Trade Agreement is, on the whole, good for the United States. Frankly, everything else is pure speculation. For every study praising NAFTA, there is another study criticizing it. There is only one steady guide to rely on when sifting through such conflicting information—and that guide is common sense.

After much consideration and reflection, I have finally concluded that there is clearly a long-term need for a North American Free-Trade Agreement. However, the current NAFTA proposal does not provide adequate protections to the American worker and I believe the United States should renegotiate a more balanced pact. I do not accept the proposition that whether or not you support this agreement defines whether you are an optimist or a pessimist for our country's future. Rather, I believe this NAFTA vote defines to what extent an elected representative is willing to risk the jobs and wages of millions of working Americans.

If NAFTA was only about lowering tariffs, then I believe the vote today would be a unanimous one. However, it is much more than tariffs. This NAFTA is a direct challenge to our labor, environmental, health, and safety standards. This NAFTA will reduce the risk of American investments in Mexico, thereby, making it more attractive to move capital south across the border. This NAFTA provides another route for Japanese and European products into the United States. This NAFTA ignores the vast differences between the political institutions of the United States and Mexico.

If tariffs were the only issue, political traditions would not be very significant. But due to the extensive integration of the United States and Mexican economies laid out under this NAFTA, we would be abrogating our responsibility as stewards of American democratic institutions if we did not address the issue of the authoritarian nature of the Mexican Government. As good a man as President Salinas is, NAFTA is an agreement between entire societies, not between just three men. For those people who do not wish to offend Mexico by raising these concerns, then I say you are not in a position to ask the American people to support the economic integration of Mexico and the United States, without providing sufficient protections for their rights and high standards that they have earned.

My problem with this NAFTA is not only with its content. I believe the process should give one serious concerns as well. Why has it come to a point that the entire future of Mexican-American relations rides on this single vote? Why was Congress not able to debate and vote on minor agreements with Mexico over the last 5 years of the Salinas administration so that American and Mexican citizens could become more familiar with the issue at stake by the time a major agreement was signed by the respective leaders of the United States, Mexico, and Canada? Under the Bush administration, I voted against the implementation of fast-track procedures for NAFTA because I believed it was important for the Congress to maintain the right to modify such an important agreement.

I believe one reason why the House of Representatives is so divided on this issue is because there are so few examples of the United States making any kind of economic agreements with Mexico. Considering that the United States has shared a lengthy border with Mexico since its founding, one has to ask why all the focus has been placed on this one agreement.

Supporters have argued that opponents of NAFTA based their decision on fear and paranoia. Ironically, the NAFTA supporters appeal to people's fear when they claim that if the United States does not agree to this NAFTA now, then: Mexico will enter an agreement with Japan and the European community; illegal immigration will increase; and America's competitiveness will further decline.

The United States has more to lose than to gain with this NAFTA. The U.S. market is second to none in the world. We should be more worried about selling American products to Americans than to Mexicans. Japan and Europe understand that the United States is still the premium market to compete in. These two competitors have not been overly anxious to extend their markets into Mexico. I believe the threat of Mexico agreeing to a similar NAFTA with the European economic community and Japan is not at all consistent with the trade practices of these advanced industrial powers.

The crux question for me is: Will the NAFTA create a significant net gain of good paying jobs for Americans within a reasonable period of time? Let's look at some facts. The U.S. gross national product is over $6 trillion. Mexico's GNP is only 4 percent of ours. The population of the United States is over 255 million while Mexico's is about 95 million. The minimum wage of the United States is $4.25 and in Mexico it is $0.58. The average manufacturing wage in the United States is $16.17 and in Mexico it is $2.35 in the interior and $1.64 in the maquiladora.

What I find disturbing about these facts is the combination of a very small market for United States goods in Mexico with a very large Mexican work force willing to work for very small wages. Furthermore, Mexico does not have a free and independent collective bargaining process, and there are no assurances that Mexican wages will increase if this NAFTA is approved. Increases in productivity are not tied to wage increases under the pact. When this wage differential is coupled with the NAFTA provisions that would reduce obstacles and risks of American investments into Mexico, I believe this could be a formula which could work contrary to our best interests. Although American workers are the most productive in the world, this wage gap will only lure United States factories and jobs into Mexico. I am not satisfied with the protections this pact provides to keep jobs in the United States and believe it presents a direct threat to the American standard-of-living.

There are no clear answers about NAFTA's impact on American jobs and the American economy. With unemployment where it is today, especially in the 11th Congressional District, I cannot approve of further incentives for businesses to move south. Our economy is too anemic right now to take such a risk which, again, is based solely on speculation.

We must remember that this is a three-nation pact. With the results of the Canadian elections, the coalition is seriously weakened. It is widely anticipated that the new prime minister will seek to renegotiate the NAFTA proposal. As it now stands, two of the three nations are very wary over the pact.

Besides the issue of jobs, I am not convinced that NAFTA has seriously addressed environmental concerns. Attention has been paid to the creation of an environmental commission which would respond to complaints of violations of environmental law. However, the total staff has been restricted to only 60 members with a yet agreed upon operating budget. I believe the resources of the commission will be grossly insufficient to cope with the expected number of serious and technically complex complaints by citizens from all three member nations.

The side agreements clearly do not provide adequate guarantees that Mexico will raise its labor and environmental laws up to the higher American and Canadian standards. I also have serious doubts concerning the effectiveness of the complex and secret enforcement process.

As a member of the House Subcommittee on International Law, Immigration, and Refugees, I have a particular concern with the absence of a United States-Mexico extradition treaty. Currently, Mexican citizens who commit felonies in the United States and flee back to Mexico are not returned to our country to stand trial. I believe this makes a mockery of our judicial system.

Lastly, I am very concerned about approving such an extensive agreement that will further integrate the Mexican and American economies. Mexico is a developing nation with a long way to go to become a liberal democracy. The current NAFTA seems to treat Mexico as if it were an advanced industrial and democratic nation. Of course Mexico is neither of these. By passing NAFTA we will be doing a disservice to all the people of this country that have fought so hard to achieve high levels of labor, economic, political, and environmental standards. NAFTA will place an enormous stress on these achievements, diminishing their significance.

Supporters of NAFTA claim that a defeat of NAFTA is a victory for American protectionism. NAFTA is an issue about Mexican protectionism not American. The American market is among the freest in the world and will remain so without NAFTA. Why do you think that a protectionist nation like Japan has been so successful in the American market?

I urge President Clinton to immediately renegotiate the NAFTA proposal. Mexico and Latin America are too important to the future of the United States not to agree on a well-constructed economic plan under which all nations can prosper. America needs NAFTA and I intend to work for the right one.

Mr. OBEY. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Washington [Mrs. UNSOELD].

Mr. SOLOMON. Mr. Chairman, I yield an additional 30 seconds to the gentlewoman from Washington [Mrs. UNSOELD].

The CHAIRMAN. The gentlewoman from Washington is recognized for a total of 2 minutes.

Mrs. UNSOELD. Mr. Chairman, I would like to share with my colleagues what my opposition to this NAFTA is all about, but first I want to say what it is not about.

It is not about whether I believe in a global economy. Global economic integration is inevitable. Our task is to direct it in a way that serves our people.

It is not about whether I support President Clinton. I will continue to be a strong supporter of the President, because I believe on many fronts he is moving America forward.

It is not about bashing Mexico. Those of us voting against NAFTA are doing so in part because we also want what is best for Mexican workers and the Mexican economy. We understand that by virtue of geography the American and Mexican futures are linked, and that a healthy Mexico with rising living standards is in the best interests of the United States.

So why am I voting against this NAFTA? Because the good it might do is undone by two fatal shortcomings. First, it does nothing to establish basic labor rights in Mexico, and second, it works against the sustainable use of the Earth's resources.

Let me cover the first point. This NAFTA does a lot to protect intellectual property rights. It does a lot to protect the security of foreign investment in Mexico. But it does nothing to help raise the standard of living in Mexico so that their workers might become consumers of American goods and so that their low wages don't draw away United States investment and United States jobs. And why is that? Why does this NAFTA make investment in Mexico secure and keep Mexican wages low? Because that is what the Bush administration wanted it to do. They negotiated this agreement to serve the interests of large United States corporations, not to serve the interests of the average Mexican or American worker.

That is not a charge I make lightly. It clearly reflects the basic mind set of the Bush administration. Let me give you an example. In October 1990, while the Bush administration was negotiating NAFTA, then Commerce Secretary Robert Mosbacher was holding day-long seminars to convince United States companies to invest in Mexico. And what do you suppose part of the argument he made was? He gave those business executives materials that claimed Mexico was a better place than the United States for their investment dollars because "the gap between the U.S. minimum wage and the Mexican direct wage will in fact increase.* * *"

It is interesting to note that Secretary Mosbacher was joined in his pitch by his Mexican counterpart Jaime Serra Puche, the same Mexican official who has been widely quoted as dismissing any concern that NAFTA's side agreements will be enforced. In his words, "the timeframe of the process makes it very improbable that the stage of sanctions could ever be reached."

President Clinton has been very critical of the previous administration's approach to trade negotiations. He recognized the fundamental failings of the Bush NAFTA. That was the reason behind his demand that side agreements on labor and the environment be negotiated. I and many others waited to see what those negotiations would bring. And I and many others were profoundly disappointed when we discovered that the President's original concerns were addressed superficially. What is more, there is now serious question as to whether the side agreements are inseparable from this NAFTA, so even the small gains they bring to labor rights are perched precariously and could be severed from the rest of the NAFTA text.

A NAFTA that demanded progress on labor rights equal to changes achieved on intellectual property rights and security of investment would have been worth supporting. It could have ended the Mexican Government's policy of suppressing wages. And let us be clear on that point, wages in Mexico are held down by the denial of basic labor rights. As a result, since 1980 Mexican wages have declined 32 percent even as Mexican productivity increased 41 percent.

A NAFTA that is truly in the best interests of our workers and of Mexican workers would provide the Mexican people with the fundamental right to organize and to strike. It would give the Mexican people, more than half of whom live in poverty, some hope for a better future. This NAFTA doesn't.

For America, that means a low-wage but increasingly productive Mexican work force will act as a magnet for United States investment. That is something most of those vaunted studies on NAFTA's economic implications completely miss. Most of them do not even factor in what NAFTA would mean to the flow of investment dollars in North America and what that means in turn for U.S. jobs. The Joint Economic Committee of Congress rightly sites this as a flaw that brings into questions whether most of those studies are worth the paper they are written on.

Fortunately, some folks have been asking the question about investment flows, and what they are telling us is disturbing. In last week's Business Week, Aaron Bernstein cited one estimate that NAFTA will divert $2.5 billion in investment from the United States to Mexico annually. He cites another economist's projection that capital displacement of that magnitude could cost us 375,000 American jobs over 5 years.

Let us be clear. That capital would be going to Mexico to exploit cheap labor. Unless NAFTA is renegotiated to improve Mexican wage rates and labor rights, we can waive goodbye to those investment dollars, and to a lot of United States jobs. So it again comes down to whether Mexicans are allowed the fundamental rights that Americans have been fighting so long to secure in this country. It brings us back to the fact that Mexican workers and American workers share the fight for decent wages and a decent standard of living. This NAFTA points living standards for all the workers of North America in the wrong direction.

Now let me turn to what I believe is the second fatal flaw of this NAFTA—it's failure to promote the sustainable use of the Earth's resources.

Beyond labor rights, this debate should also be about something else, something which has been left on the sidelines for far too long when it comes to trade negotiations. It should be about whether we will have a bountiful planet to hand over to our children, or whether we will continue to plunder it irresponsibly.

I commend this administration for recognizing the clear link between trade and the environment. Even though the side agreement on the environment—like the side agreement on labor—suffers from the precariousness of its link to the main text, it does break some new ground, and I acknowledge that. But Mr. Chairman, there is a huge hole in both NAFTA and GATT—a hole so big that the world's oceans and their resources can flow right through it.

Under both GATT and NAFTA, we are surrendering our right as a nation to impose sanctions upon other nations that irresponsibly exploit resources found in international waters.

I have a lot of firsthand experience with this issue—in part because I come from the Pacific Northwest, and in part because I sit on the Merchant Marine and Fisheries Committee. I have spent my 5 years in this Chamber fighting to protect our oceans from driftnets and other practices that decimate fisheries. We have won some of those battles and lost others. But if NAFTA and GATT stay on their current path, those who pillage our seas will be shielded from punishment and the battle to save our seas will be lost.

In the last Congress, this body passed a piece of legislation mandating sanctions upon any nation that continued to use driftnets—those 30-mile-long curtains of death. The law bolstered a U.N. resolution prohibiting the use of driftnets in international waters. The ban took effect on January 1 of this year and since then our own Coast Guard has caught four vessels using the nets. Yet our Government hasn't even attempted to follow U.S. law and impose sanctions. Why? I have tried to get an answer from our Government, and I am left to assume it is because our trade agreements would find it an unfair barrier to trade.

In fact, there is good reason to fear our law would be overturned. A GATT panel, in a dispute involving the United States and Mexico, determined that another United States law was in violation of GATT because it dealt with production and process methods, or PPM's, and because it related to actions taken outside the territory of the United States. What does that mean? It means that any nation can do anything it wants on the high seas—it can rake the ocean clean of fish using driftnets or any other contraption one might devise, and the United States has no standing to deter that nation with trade sanctions.

Recently, another example brought this same failing of our trade agreements home with new force.

In the Bering Sea, outside the territorial waters of the United States and Russia, there is an area known as the Donut Hole. Fishing for pollock—fish originating in the waters of Russia and the United States—began there in the mid-1980's. The annual catch quickly expanded from roughly 360,000 metric tons in 1985 to 1.4 million metric tons in both 1988 and 1989. The United States and Russia tried to slow the harvest, restricting the catches of their own vessels, but other nations continued to grab all the fish they could. Eight international meetings were held to try to halt the plundering, but nothing came of them because there was no leverage—no tool available to enforce sustainable use. By 1992 the harvest had plummeted to 10,000 metric tons. The fishery was destroyed.

That kind of horror story will be repeated unless we change course in our trade negotiations. In voting against NAFTA, we can send our trade negotiators back to the table to get it right. We can send the message that our trade agreements must be consistent with the sustainable use of the world's marine resources.

This issue is critical to NAFTA not only because resource management among NAFTA signatories is critical, but because an approved NAFTA will establish the U.S. position in current and future GATT rounds. If we are not willing to demand that a trinational agreement be made compatible with sustainable use of the planet's fisheries, there is very little reason to believe we will demand it when negotiations involve the more than 100 member nations of GATT.

Some may believe this matter is esoteric or remote. Well, it isn't. It goes to the heart of whether there will be any fish left in the seas for future generations. It goes to the heart of whether we will be good stewards of the Earth. It goes to the heart of whether NAFTA and GATT look to the future or remain tied to the past.

In sum, two seemingly different reasons lead me to vote against this NAFTA, but in one critical respect, sustainable use of resources and the advancement of basic labor rights are intertwined. They are both necessary if we are to secure a brighter future for our children. They would both be part of a NAFTA worth of support. They are absent in this NAFTA and I urge my colleagues to vote no.

☐ 1740

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Chairman, I support NAFTA, but as the gentleman from Illinois [Mr. HYDE] stated, I oppose the President on the tax-and-spend bill. Based on principle, I support the President on NAFTA. On the same principle I would say to the President, Republicans can help you pass NAFTA. But if your administration drops its focus on management of the agreement, opponents' fears will come to fruition. Its success or failure rests with the President. Republicans lack the block of votes to control management.

The CHAIRMAN. The Chair advises the gentleman from California [Mr. CUNNINGHAM] that all comments should be directed to the Chair.

Mr. CUNNINGHAM. Mr. Chairman, NAFTA is important to my district. Thousands of jobs in San Diego County already are linked to trade with Mexico, and the Citizens for a Sound Economy estimates over 16,000 new jobs that will be created in San Diego alone. The San Diego Chamber of Commerce, the National Federation of Independent Businesses, the San Diego Economic Development Center, and six Presidents support NAFTA, and who are these groups? They are the groups that create jobs in this country, and we ought to listen to them.

Mr. Chairman, this is one of the toughest votes I will cast. I have a tremendous number of patriotic, sincere constituents who have good arguments on both sides of this issue.

But I am voting for NAFTA.

I am for new American jobs, and for the future of my State and this Nation. I believe that American business and American workers are strong, and that with NAFTA, we can compete and win against any in the world in fair and open commerce.

Let's talk about NAFTA and jobs.

Citizens for a Sound Economy released a study last Friday that said lowering trade barriers through NAFTA would create 16,400 jobs in San Diego County alone.

A large number of businesses from north San Diego County have assured me that NAFTA creates more export opportunities and more American jobs. Two of those businesses have plants in Mexico because the tariffs today make that profitable. Under NAFTA, with lower tariffs, they will move those plants and those jobs back to the United States.

In shipbuilding, a major San Diego County employer, NAFTA gives United States shipbuilders a 25-percent price advantage over Europe and Asia when we export ships to Canada. That's a major competitive advantage. And that's how NAFTA will create American jobs.

Let's talk about leverage—leverage with Mexico to solve our problems with the environment and with illegal immigration. Many of my friends who follow Ross Perot raise a good point. Our border environment, our illegal alien problem, our concern with Mexican labor laws and corruption, are all major, major problems. They require action. The question is over the best way to act.

I contend that our choice isn't between this NAFTA and not this NAFTA. Our choice is between this NAFTA and no NAFTA at all. By enacting NAFTA, it is in the interest of the Mexican Government to cooperate with the United States to solve these problems as neighbors and friends.

By defeating NAFTA, we ensure that Mexico closes its doors to the United States and opens its export market of 90 million people to every other nation that wants its own trade deal.

There is no time for another deal. We snooze, we lose.

Nations like Korea, Japan, and the nations of Europe know a growth market when they see it. And they are looking for the opportunity to open Mexico's markets tomorrow—if we defeat NAFTA today.

If we defeat NAFTA, we'll never get Mexican cooperation on Tijuana sewage, on illegal immigration, on pollution from the maquiladoras, on human rights, and labor laws. We will get no cooperation at all.

Enacting NAFTA gives America a fighting chance to address and solve these challenges together.

Finally, I believe this historic vote is about America's place in this world, today and tomorrow. Patriotic Americans do and will disagree about the particulars of NAFTA.

Yet we must ask these questions.

Is America strong and free, innovative and entrepreneurial, and capable of winning in commerce? Even in recession, are we or are we not the envy of the world in liberty, standard of living and economic power?

Or is America a fragile giant, fearful of the future, an economic bum, needing protection from the strong so we can look good in comparison with the weak?

My colleagues: If America is strong in your eyes, join me and vote for NAFTA, and keep us winning and make us stronger.

But if America is a weak, old has-been, and beyond hope, then vote against NAFTA. Take our marbles and go home, and ensure America's fate in the dustbin of economic history.

It is just that simple.

Thank you, Mr. Chairman.

I urge my colleagues to show courage and confidence in America and vote for NAFTA.

Mr. SOLOMON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, at this point in the debate, I think it is appropriate to make a few remarks about the corruption of the legislative process which has been on display during the debate on NAFTA.

Over in the other body, the distinguished President pro tempore of the Senate has made 14 speeches in recent weeks discussing the fall of the Roman Republic.

According to Senator BYRD, the Roman Republic fell after the Senate had ceded too much of its authority—especially its authority over the public purse—to the generals, and consuls, and tribunes—to the executive branch, so to speak.

Well, such is the history of Rome according to Senator BYRD.

But with all due respect to him, I would like to suggest a different reading of Roman history—an interpretation that has particular relevance to the NAFTA debate.

I believe the more pertinent explanation for the fall of the Roman Republic simply involves the fact that the Roman Senate—the legislature—could not legislate.

And it could not fulfill its legislative obligations because too many Senators discovered over time that they could dip into the public treasury for any and every private purpose that came along.

The greatest of Roman Senators, Cicero, said that the liberties of the Nation are secure until people discover they can vote for themselves benefits from the public treasury.

And I tell you, Mr. Chairman, the raids on the Treasury—the vote-buying—that has taken place in order to get this bill through is the most insidious thing I have ever seen in 15 years as a Member of Congress.

And then, of course, we remembered how the same thing happened in August in order to buy passage of the reconciliation bill.

In both cases, the normal legislative process in this House has been corrupted almost beyond recognition.

We are not legislating today any more than we legislated in August.

This bill is not being considered on its merits any more than the reconciliation bill was.

No, what we have here is a naked effort to buy passage of legislation—damn the merits, just buy the votes.

There is not a Member here who knows all of the deals that have been cut—and there is not a Member here who knows the budgetary implications of those deals.

And then we wonder why we can never seem to get the budget under control.

Mr. Chairman, if being President involves nothing more than being ringmaster of a game show—"let's make a deal"—then maybe we should elect Bob Barker, and at least we would have a professional in charge.

But if this process continues much longer, we are in trouble.

If a bidding war starts taking place every time an important bill comes before the House, the legislative process will be destroyed.

I realize that horsetrading is part of politics and part of reaching a compromise.

But, sooner or later, legislation has to be considered on its merits—or this whole process will be nothing more than a sham.

As legislators we must demonstrate that we can legislate—or this Congress will go the way of the Roman Republic, not to mention such 20th century failures as the Weimar Republic in Germany and the Fourth Republic in France.

Believe me, my friends, it can happen here.

And the process by which this bill is being decided represents a giant step in the wrong direction.

Mr. MATSUI. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. DOOLEY].

Mr. DOOLEY. Mr. Chairman, we in this House have the opportunity today to pass NAFTA and send a powerful message to the rest of the world about the direction the United States is heading.

I urge my colleagues to pass this North American Free-Trade Agreement and send the message that the United States intends to press its leadership position and be actively engaged in the changing world economy.

I am convinced that if this NAFTA fails, we will be sending the worst possible signal.

This is a critical moment in our history. It is paramount that we reach out and provide leadership to the world's other industrialized nations, many of which are on the brink of economic recession and are facing enormous political pressure to back away from a reduction of trade barriers.

By passing this NAFTA we are reaffirming our role as leader. We are telling the rest of the world that the United States is open for business, that we expect fair trade, and that we don't shy away from competition.

Some Members of this House would have us bury our heads in regard to trade with Mexico. They say, "We shouldn't be trading with countries whose social or economic agendas aren't equal to our own."

That is a dangerous sentiment. It smacks of a darker side of our national psyche. Today is our opportunity to cast aside that ugly notion.

Let us take advantage of this opportunity to open trade doors. Let's not isolate ourselves. Let us march forward.

I want to make a few remarks about the positive influence NAFTA will have on American agriculture.

As a farmer from California, I have seen firsthand the ability of my State's dynamic agriculture industry to export its products around the world. Many other States have discovered or are discovering the dramatic impact that enhanced exports can have on the creation of good jobs.

This NAFTA clears the way for additional agricultural trade. What's more, it establishes a fair-trade benchmark that we should be pursuing all over the globe.

This NAFTA also is a chance for us to impact the serious problem of immigration between the United States and Mexico.

Most Mexican emigration is for economic reasons. Mexican people come to the United States—legally and illegally—looking for a more secure future for their families. With this NAFTA, they will have a better opportunity of realizing economic security in their home country.

In making the case for trade agreements such as NAFTA and GATT, I often refer to population projections.

Over the next 20 years, the population of the United States will increase by 30 million. At the same time, the rest of the world will grow by 2 billion. It does not take a rocket scientist to realize that most of the world's consumers will be outside the United States.

If our economy is to continue to grow and create jobs—if the United States is to have a chance to flourish economically as the new global economy emerges—then we should pass this NAFTA and go on about the business of negotiating other trade agreements.

Some critics of NAFTA would have Americans believe that our country has no business embarking on this enterprising trade agreement.

That kind of isolationist thinking is dangerous. Competing on an equal basis in the world market is the kind of challenge that Americans have never backed down from. We must not start now.

Let us show the rest of the world that we mean business. Let's show Mexico that we have a stake in its future, and in solving our common problems together. Let us show the world that we are not about to isolate ourselves from progress.

I urge my colleagues to support NAFTA—this NAFTA.

Mr. LEWIS of Georgia. Mr. Chairman, I yield 1½ minutes to the gentleman from New Jersey [Mr. PALLONE].

The CHAIRMAN. Does the gentleman from Georgia seek to control the time of the gentleman from Wisconsin [Mr. OBEY]?

Mr. LEWIS of Georgia. I do, Mr. Chairman.

The CHAIRMAN. The Chair recognizes the gentleman from New Jersey [Mr. PALLONE] for 1½ minutes.

Mr. PALLONE. Mr. Chairman, I rise today to express my strong opposition to the North American Free-Trade Agreement.

Mr. Chairman, this NAFTA will increase the incentives for United States manufacturers to invest in production facilities in Mexico, to take advantage of lower wages, substandard occupational health and safety regulations and lax environmental enforcement. American workers whose jobs don't go south of the border will have far less leverage in negotiating pay increases and benefits, given the lack of parity between United States workers and their counterparts in Mexico. Furthermore, the idea of a large and growing middle class of consumers in Mexico with enhanced buying power and an appetite for American products is greatly overstated. In fact, at least a third of the United States exports to Mexico in 1991 consisted of machinery going to outfit United States factories in Mexico. Given the small Mexican consumer market, the bulk of the finished goods produced by these machines will come back north of the border to the United States market. Simply put, we will be exporting factories and capital to Mexico, and importing the fruits of this cheap labor.s

Mr. Chairman, it seems that almost every time I pick up a newspaper from New Jersey I read about layoffs and downsizing at yet another plant in my district. This is a trend that will only accelerate under NAFTA. I cannot go back to the people in my district, look them in the eyes and tell them I voted to send their job to Mexico on the promise that we might gain over the long term.

Mr. Chairman, we should devote our energies to worker retraining, investing in new technologies here at home. That's what the people in Central New Jersey and all over the country are counting on Congress to do. We should defeat NAFTA.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. JOHNSON], one of this Nation's great heroes.

Mr. SAM JOHNSON of Texas. Mr. Chairman, listen. We have been hearing a lot of things about misstatements of facts that are going to occur if this agreement is passed, and a lot of it is just not true. As trade increases, so do jobs. Every $1 billion in trade creates 19,000 jobs, and by opening up Mexico we are going to have new jobs created. Over the past 6 years 400,000 jobs have been created in this country, and to think that that would not increase with increased trade is just crazy. Industries that are going to benefit if NAFTA passes are the computer industry, petrochemicals, financial services, grain producers, telecommunications, manufacturers, paper, steel, pharmaceuticals, and a lot of consumer goods. Without NAFTA problems are going to persist.

Mr. Chairman, we need to take on those trading blocs in Asia and in Europe and keep America No. 1 in the economic world. Pass NAFTA. NAFTA is the vehicle that will ensure our economic success in the future.

The CHAIRMAN. Does the gentleman from Oregon [Mr. KOPETSKI] seek to control the time of the gentleman from California?

Mr. KOPETSKI. Yes, I do, Mr. Chairman.

□ 1750

Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. PRICE].

Mr. PRICE of North Carolina. Mr. Chairman, I rise in support of H.R. 3450, legislation implementing the North American Free-Trade Agreement [NAFTA].

I support this agreement because it will be good for the U.S. economy, expanding our export markets and creating good jobs in North Carolina and across our Nation. It will raise labor and environmental standards in Mexico, encouraging political and economic reform in that country and reducing the incentives some firms have had to relocate there. And it will reassert United States leadership in this hemisphere, solidifying a more constructive relationship with Mexico and improving the prospects for economic development and democratization throughout Latin America.

I will expand on each of these points in turn. But I want first to comment on what I have heard in this Chamber today, because I believe our debate is in danger of going astray. Some NAFTA opponents seem to see this vote as a referendum on economic and political conditions in Mexico or on the state of our own economy. It is neither. Some seem to think that the question before us is whether this is a perfect treaty and whether it adequately addresses every conceivable U.S. interest. But that is not the question we face.

The question, Mr. Chairman, is not whether this is a flawless treaty but whether it is better than the status quo. Will we be better off with this treaty or without it? It is ironic that so many speakers here today, eloquently decrying what is wrong with the Mexican and United States economies and voicing the legitimate grievances of working people on both sides of the border, have then ended up embracing the status quo. In fact, they are doing worse than that, for if we defeat NAFTA we will in all likelihood regress, jeopardizing the economic and diplomatic progress we have made so far.

We must not deceive ourselves. It would not be easy to pick up the pieces from a defeat here today, the glib assurances of NAFTA opponents to the contrary notwithstanding. A "no" vote might be appealing as a way of venting frustration, and of course one can always focus on this or any complex measure's imperfections. But we should not assume that another NAFTA would be easy or even possible to come by. If this agreement were to go down, Mr. Speaker, I would not want to have a "no" vote on my record or on my conscience, for I believe a defeat here today would be a blow from which our President, our country's trade prospects, and our relations with our neighbors in this hemisphere would take many years to recover.

So this is not a vote to cast lightly or symbolically, without thinking long and hard about the disastrous ramifications of defeat. But I want to concentrate on the more positive and hopeful aspects of this agreement, for it promises many benefits for our country and for our Canadian and Mexican neighbors as well.

A. GOOD FOR THE ECONOMY

First, NAFTA will be good for the U.S. economy, expanding our export markets and creating good jobs throughout this country. Mexico has become our third largest and our fastest growing export market, and with NAFTA the United States, Canada, and Mexico will comprise the largest market in the world—a combined economy of $6.5 trillion and 370 million people. Some 400,000 export-related jobs have been created since Mexico began opening its market in 1986. Over 700,000 United States jobs are now supported by exports to Mexico, a number NAFTA should increase to 900,000 by 1995. And these are good jobs, paying some 12 percent above our average wage.

There also will be some job losses, far fewer than the job gains, as investments in Mexico become more legally and financially secure and disparities between the United States and Mexico in labor and environmental standards persist. But those disparities will narrow over time, and NAFTA will eliminate Mexican import restrictions and the investment and domestic content requirements which have forced some manufacturers to locate in Mexico in order to sell there.

NAFTA's lowering of tariff barriers will benefit United States exporters more than their Mexican counterparts, for Mexico's tariffs are 2.5 times greater than ours. But even that reflects the partial, unilateral opening of the Mexican market which Presidents de la Madrid and Salinas initiated in the mid-1980's, and the expansion of trade we have enjoyed since that time gives an indication of what is in store. United States merchandise exports to Mexico have increased 228 percent since 1986, reaching $40.6 billion in 1992 and turning a $5.7 billion trade deficit, 1987, into a $5.6 billion trade surplus. Some have questioned these figures, charging that these exports are largely components to be incorporated, under production sharing arrangements, in products that will be shipped back to the United States. But only 22 percent of United States exports to Mexico in 1992 fit this description, and approximately 83 percent of this growth in United States exports to Mexico over the past 5 years was for Mexican consumption, not re-export.

My State of North Carolina is poised to reap the benefits of NAFTA. Our exports to Mexico have increased by a spectacular 365 percent over the past 6 years, exceeding $440 million in 1992. This reflects not only the opening of Mexico's markets but also the growth, diversification, and export-mindedness of our State's economy. All sectors have benefited from the expansion—agriculture, textiles and apparel, furniture and wood products, chemical products, electronic equipment, industrial machinery, and computers. Recent growth in trade with Mexico has created over 6,000 new jobs in North Carolina, most of them paying well above the State's average wage. And the State of North Carolina is ready to open a trade office in Mexico, opening up further opportunities.

Stanley Black, a distinguished economist at the University of North Carolina at Chapel Hill, recently noted that our State was mainly exporting its higher-value type products to Mexico and was likely to accelerate this trend under NAFTA. "If we envision a future with better jobs at higher pay for North Carolinians," he concluded, "we must encourage larger markets for our highest value products."

I am not suggesting, of course, that NAFTA is the total solution. The growth it fosters will be of little benefit to many of our people unless they have the training necessary to claim these new jobs. I am encouraged by the success of tech-prep educational ventures in our State, by the establishment of innovative apprenticeship programs in some of the firms which stand to benefit most from NAFTA, and by our progress in upgrading community college offerings through my Scientific and Advanced Technology Act. NAFTA will help ensure the creation of more good jobs, but we must also make certain that our young people and our mid-career workers are equipped to claim those jobs.

B. BETTER LABOR AND ENVIRONMENTAL STANDARDS

The second major argument in NAFTA's favor is that it would give the United States and Canada a far greater potential for upgrading labor and environmental standards in Mexico than we have now or would have without the agreement. Much has been said about the difficulties and dangers of tying ourselves so closely to an economy so different from ours. But we are already deeply affected by these economic, environmental, and political disparities, and it is hard to see how the defeat of NAFTA could make them anything but worse. The side agreements negotiated by the administration, fulfilling President Clinton's campaign promise of last year, would not give us all the leverage we would like, but they certainly would give us far more than we have now, and in significant respects they break new ground.

The labor agreement commits the parties to wide-ranging principles including the right to bargain collectively and to strike, and it sets up machinery for intergovernmental consultations and independent expert evaluations of labor problems. It clearly relies on consultation and cooperation more than on enforcement, and provides for the possible use of trade sanctions only in the areas of health and safety, child labor, and minimum wage. Most of my own questions about NAFTA have concerned the alleged limitations of the labor provisions, and both the U.S. Trade Representative and the AFL–CIO have been forthcoming with helpful—if not entirely consistent—interpretations. I am left with a concern, for example, that member countries, through their control of the national administrative offices which each would establish, might be able to suppress information about labor complaints and discourage investigations. I wish there were stronger assurances that the Mexican minimum wage would in fact reflect increasing productivity and that a future Mexican Government could not abuse its ties with labor organizations to keep wages artificially low. At the same time, I believe the charges that NAFTA would nullify or weaken the leverage the United States has under existing trade laws have been greatly exaggerated, and that treaty opponents with their worst-case scenarios have greatly underestimated the potential of consultation and mediation to resolve problems short of the full-blown imposition of sanctions.

The environmental agreement is stronger than the labor agreement and less restrictive regarding areas of potential enforcement. NAFTA is the first trade agreement to have these sorts of provisions, designed to ensure that environmental safeguards are not sacrificed to gain a competitive economic advantage. As with the labor agreement, the relevant question is not whether the agreement might have been better but whether we would be better off with the agreement than without it. Jessica Matthews, former vice president of the World Resources Institute, argues persuasively that the answer is "yes":

> NAFTA's defeat would mean less immediate cleanup in Mexico, less growth, less environmental technology transferred through U.S. investment, and less Mexican demand and capacity for environmental improvement (both of which rise with income). It would wipe out the precedents this agreement sets for other trade talks. And it could lay the base for a dangerous and retrograde environmental/protectionist alliance. If NAFTA goes down, the environment loses—now and later.

C. U.S. LEADERSHIP

Finally, Mr. Chairman, we should approve NAFTA to reassert United States economic and political leadership and to solidify new constructive relationships with Mexico and our other neighbors in this hemisphere. In listening to this debate over these last several months I have been struck by the defeatist tone of much of the opposition. Is this any way for the most powerful and most richly blessed nation on earth to conduct itself? What has happened to our confidence, our openness to new ventures, our readiness for challenges? President Salinas and the Mexican people have advanced a great deal, instituting far-reaching economic and political reforms, often at our urging. By our vote here today we either encourage and build upon these changes or turn our backs on the whole enterprise and cast ourselves, in Senator Christopher Dodd's phrase, as the "hypocrites of the hemisphere."

House Foreign Affairs Committee chairman Lee Hamilton leaves no doubt as to the importance of NAFTA to Mexico's democratic future:

> A fully democratic Mexico would be a more stable and reliable neighbor . . . [and] NAFTA is the most effective, least intrusive step the U.S. can take to promote democratic political change in Mexico. Mexico's political leadership has been divided over economic reform. But NAFTA's approval is likely to tip the Mexican balance permanently toward the reformers.

Conversely, NAFTA's defeat could set back the reform process for years, and the United States' perceived rebuff of Mexico would have a chilling effect on our relationships throughout the hemisphere. Let me quote from a sobering letter recently sent to all House Members by 32 directors of Latin American studies at leading U.S. universities:

> NAFTA will continue an unprecedented spirit of cooperation with the United States on important issues for both countries . . . environmental deterioration, narcotics trafficking, undocumented migration, and cross-border crime. . . . On the other hand, the failure to pass NAFTA will shatter the good will built up over the past few years. Because Mexico's leadership has invested so much political capital in NAFTA, we fear that a profound mistrust would color Mexican attitudes toward the United States. Does America want a Mexico as a willing partner committed to solve our joint problems? Or a Mexico which has been rejected as unworthy? We believe the United States wants a cooperative Mexico.

Mr. Chairman, I am convinced that NAFTA offers our country manifold opportunities for job creation and export growth, but I believe that these diplomatic and political considerations are equally compelling. The NAFTA debate is being carefully watched not only by Mexico but by other Latin American nations eager to build an improved relationship with the United States in the post-cold war era. Our President goes to Seattle for the Asia-Pacific Economic Cooperation meetings later this week, and his hand will be decisively strengthened or weakened by what we do here today. Indeed, the whole world is watching, hopeful that in our action here today we will show the leadership that will be required if the GATT negotiations are to be successfully concluded.

In voting for NAFTA we vote for a future of expanding economic opportunities and we voice the United States' confidence that we can play to win in the expanding international arena. And we vote for U.S. leadership in forging a new partnership in this hemisphere—not just the world's largest market, but a community of free and democratic nations committed to solving our problems cooperatively and to securing the brighter future for all of our people.

Mr. LEWIS of Georgia. Mr. Chairman, I yield 1 minute to the gentleman from Maryland [Mr. WYNN].

Mr. WYNN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise this evening in opposition to the North American Free-Trade Agreement. Is this the best we can do? Is this the best we can do? We are running after this treaty as though it was a panacea for our economic ills. Yet Mexico is only our third leading trading partner, representing about 8 percent of our overall trade.

Mr. Chairman, I am particularly offended by those who say, "Well, if you are not for the North American Free-Trade Agreement, you are acting out of fear and you are not looking at the future."

Mr. Chairman, in an era of downsizing, in an era of recession-prone economics, in an era of persistent unemployment, I do not think those are fears. I think those of us who are against the North American Free-Trade Agreement are acting out of compassion, compassion for the people who are going to lose their jobs as low wage jobs and blue collar jobs go to Mexico. That is not an irrational fear. That is compassion for the American public.

Mr. Chairman, are we ignorant to the future? I do not think so. To borrow a phrase from the old football coach, George Allen, "The future is now." For those people who lose their jobs, for those people who lose their homes, for those people who lose a chance for a college education for their kids, the future is now. That is the future we need to protect. That is why I am opposed to NAFTA.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentlewoman from Florida [Mrs. FOWLER].

Mrs. FOWLER. Mr. Chairman, it is no surprise that the debate over NAFTA has been a contentious one.

This issue is complex and controversial, but when it comes right down to the bottom line, it is about people. Will there be enough jobs for Americans in the future? How will our economy fare in the years to come—and how will that affect our children? Is NAFTA the right thing to do for the American people?

After spending a lot of long days and late nights studying this agreement, talking with my constituents and with experts on trade and economics—not to mention President Clinton, Ross Perot, and representatives from many organizations on both sides—I have concluded that NAFTA will benefit the American people. I encourage my colleagues to ignore the pressure and the politics and vote for NAFTA and the economic future of this Nation.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana [Mr. McCRERY], a member of the Committee on Ways and Means.

Mr. McCRERY. Mr. Chairman, I serve on the Republican Whip organization. I have also served on the NAFTA whip team and, over the last few days, on the combined Republican and Democratic whip organization supporting NAFTA. As a result of those duties, and my desire to see NAFTA adopted by the Congress, I have had occasion to talk with a great many Members of the House about this trade agreement. Have I talked with any who were holding out their vote for some concession or project? Yes, I have. Like it or not, that is inherent in the legislative process. But I want to make clear that for every 1 Member I talked to who was holding out his hand, I talked to 10 who were searching their hearts.

Mr. Chairman, I am a Republican, and I do not like the direction this House, dominated by Democrats, has taken on a number of issues in the 5 years I have been here. But in the course of this campaign to pass NAFTA, talking with both Republicans and Democrats, my cynicism regarding Congress has not been heightened; on the contrary, I have, in the main, been impressed with the depth of concern shown by my colleagues for the best interests of their districts and this Nation.

There are some in this body who will tonight cast a vote which they know may not be in their best political interest. But they will cast it nonetheless, because they understand that occasionally, a public servant must subordinate his own personal, parochial, or political interests to those of the common good: otherwise he serves no one but himself.

My experience in this effort to pass NAFTA has been a good one. It has convinced me that, by and large, the halls of this House are filled with good men and women who want to do what's best for our country. And that is why, Mr. Chairman, I believe this NAFTA will pass this evening. It is a momentous step in the direction of a bright future for our Nation and our hemisphere.

Mr. SOLOMON. Mr. Speaker, I yield 5 minutes to the distinguished gentlewoman from Maryland [Mrs. BENTLEY], the next Governor of the State of Maryland.

Mrs. BENTLEY. Mr. Chairman, I rise in opposition to this agreement. The vote tonight will be for the soul of America—the destiny of this Republic. We are not voting on a run-of-the-mill trade agreement, rather we are voting on a new form of governance run by tri-national bureaucrats not answerable to the Congress nor the American courts, and thus, not answerable to the American people over whose lives they will have so much control.

A Washington Post article on November 14, called this new structure, "an embryonic NAFTA government." It continues to explain, "NAFTA is creating a variety of continental institutions—ranging from trade dispute panels to labor and environmental commissions."

Imagine how large this new governmental structure will be when as the article states, "NAFTA will be a consortium of 92 states, and provinces, plus scattered federal districts, territories and dependencies."

In August 1992, Walter Russell Mead, contributing editor of Harpers, wrote as follows about NAFTA, "the result will be a historic shift in the constitutional system of checks and balances of the Federal Government and between the Federal Government and the 50 states."

A prestigious Washington constitutional law firm comments on the loss of the power of the Congress in the NAFTA agreement which cedes power from the Congress to the President. It divests the Federal courts of jurisdiction over matters specifically reserved to the court by the Constitution.

In addition, NAFTA establishes transnational panels which have the power to rule directly on U.S. law—or to make rulings that require the United States to change its law and pay tribute. NAFTA also impairs the powers of the States. It deprives U.S. citizens of their traditional and constitutional rights to petition the courts to redress grievances.

In fact, confirming this statement is the gentlemen from Texas [Mr. ARMEY], one of the leaders of the pro-NAFTA forces, who wrote in "Why This Conservative Favors This NAFTA," that "According to Article 2021 of NAFTA, private parties do not have a right of action in U.S. courts based on Commission findings."

Mr. ARMEY's statement affirms the opinion of the Washington law firm that NAFTA deprives U.S. citizens of their constitutional rights to petition the courts which makes this a vote on constitutional issues rather than on trade.

Equally important, NAFTA violates article I of the Constitution because the President can unilaterally interpret or change the provisions in the implementing NAFTA legislation without coming back to Congress. Essentially, the President is assuming the right to legislate which is the job of this legislative body.

NAFTA violates the appointments clause which is article II, section 2 of the Constitution because the members of the dispute panels are not appointed by the President as is required by the Constitution. Establishment of the panels violates article III, section 1 of the Constitution, which provides not only for the Supreme Court but for Congress to establish lesser courts.

□ 1800

Remember, similar panels under the existing Canadian Free-Trade Agreement have overturned three decisions of the U.S. International Trade Commission.

The best summary of NAFTA appeared in the Washington Post this summer under the signature of former Secretary of State Henry Kissinger, who referred to a revolution in this hemisphere and a new international order.

He stated, "It is this revolution that is at stake in the ratification of NAFTA. What Congress will soon have before it is not a conventional trade agreement but the hopeful architecture of a new international system."

Mr. Chairman, it is revolution we are voting for tonight. I refuse to vote for a revolution to forever change the face of America. I vote "no" on NAFTA and, thus, "yes" for the American people and their future.

Mr. KOPETSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from Washington [Mr. KREIDLER].

Mr. KREIDLER. Mr. Chairman, I rise in support of the agreement.

Mr. Chairman, I have spent my career fighting for American workers and for the protection of our environment. After months of careful thought and dozens of meetings with constituents, I have come to the conclusion that voting to approve NAFTA continues this record. I believe that in the long run, the agreement will benefit the American economy, American workers, and the environment of both Mexico and the United States.

This has been the most difficult decision I have faced since being elected to Congress, and one of the most difficult in my political career. I have listened to many, many people on both sides. I have been guided by an overriding concern for NAFTA's impact not only on working people in my district, but in Washington State and throughout our Nation.

For too many years, American trade policy was passive and weak. We failed to play from our strength in the growing world marketplace. We failed to demand that those countries seeking to trade freely also trade fairly. It is no wonder that so many Americans find it hard to believe that any trade agreement can benefit them.

But this trade pact is different. Bill Clinton is providing the leadership on trade that working Americans need and deserve. He has worked hard to open markets all over the world to American exports, and has made it clear that America will not sit by and watch our industrial competitors take over those markets.

Approving NAFTA tells the world that America is back in the race, that American workers and American products are ready to compete with anyone, any time. It strengthens our hand in the critical worldwide trade negotiations that conclude this year. By knocking down Mexican trade barriers, NAFTA opens up a huge potential market for American exports. Those exports are the key to protecting the jobs of American workers and providing more future job opportunities in America.

The administration also reached an agreement that requires each country to enforce its laws relating to child labor, minimum wage, and occupational safety and health. I had hoped this side agreement would go further to strengthen worker rights in all three countries. But it is the most progressive trade-related agreement for working people that we have ever negotiated. Rejecting it along with NAFTA would not help American or Mexican workers.

NAFTA also goes further than any past trade agreement to protect the environmental standards and safeguards that I have always supported. It recognizes each country's right, and the right of each State, to set its own levels of environmental protection, and encourages all three North American countries to "harmonize upward" their environmental standards. The administration also negotiated an agreement which I support, that allows each country to require its neighbors to enforce their environmental laws.

Is NAFTA a perfect agreement? No trade agreement can be. Trade agreements always reflect compromise between countries. I would like to see stronger provisions to help Mexican workers bargain freely for better wages and working conditions, and stronger protections for this contingent's environment. But, along with the side agreements the administration negotiated, I believe this is the best agreement we can expect.

I have met with a lot of people who oppose NAFTA because it does not go far enough to protect American jobs, Mexican workers, or the environment. I have asked them how a decision to reject NAFTA would lead to improvements. Some of them have assured me that we can reach a new and better agreement if we reject this one.

That might be true, but I believe it is more likely that the Mexican Government and people would see rejection of NAFTA as a rejection of their historic effort to drop trade barriers and modernize their economy. Mexico may well find trading partners in Asia or Europe, instead of the United States, if we pass up this opportunity. No one who understands this century's unhappy history of United States-Mexican relations thinks rejecting NAFTA would bring Mexico back to the bargaining table.

So the question is whether American workers, American consumers, and the environment we share are better off with or without the agreement we have. That is the real choice we face.

The reality of the world today is change—economic, political, and social. The nation that best competes is the one that best adapts to that change—not the one that most strongly opposes it.

But I know how change can foster anxiety and insecurity. The working men and women of this country endured the antiworker policies of two Presidents for 12 years. Their government did not do well by them, and their mistrust of government is wholly understandable. So is their mistrust of corporations which have used the threat of job losses to win wage concessions, and which have polluted the environment in this and other parts of the world.

I have listened to many people in the Ninth District of Washington express their fears about this agreement. I understand their anxiety, because it reflects the larger frustration and uncertainty we all feel about our economic future and about the air, water, and natural resources we share. But we cannot allow our fear and anxiety to paralyze us or blind us to opportunities. The answer to our economic stagnation is not isolation or withdrawal, but boldness and action. We must be willing to reach out beyond our borders, develop new markets, and play to win in the global economy.

None of us can predict the future and we cannot know with certainty what all the effects of this agreement will be. From all that I have heard, I believe it will have beneficial, if limited, effects for the United States. If, after the agreement is implemented, we learn that is not the case, then I will be the first to insist that the United States withdraw, as it can at any time. I will also support the kind of comprehensive assistance American workers whose jobs may be at risk deserve, and I call on NAFTA's supporters in the business community to do the same.

No one has ever accused me of being too cautious. I do not believe taking "safe" votes will make things right in America. I have always tried to vote my conscience. It is clear that the "political" vote for me would be to vote "no," to vote with the labor and environmental groups that have supported me. But in this case, a "yes" vote is the right vote for all Americans.

America is the greatest nation in the world, the healthiest democracy, and the most powerful economic force in history. We did not achieve that greatness through timidity or protectionism. We cannot avoid change; we must make it work for us. We cannot shrink from challenge; we must embrace it. NAFTA represents the future, and that is why I am voting for it.

Mr. KOPETSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Colorado [Mr. SKAGGS], one of the leaders of the NAFTA pro vote side.

Mr. SKAGGS. Mr. Chairman, history will judge today's vote on the NAFTA Implementation Act. How will it be remembered? Will this Congress be remembered as confident or fearful? Will we vote today to take a step forward to open the door to new opportunities, or will we retreat, pulling a curtain across our borders?

It is probably not an overstatement to say that this vote represents a referendum on America's role in the world. Approving NAFTA will, I believe, strengthen our economy, sharpen our competitive edge, improve our relations with Latin America, demonstrate our leadership in world affairs, and prove we are serious about working for a more open international trading system. However, the risks—economic, strategic, and geopolitical—of failing to pass NAFTA are great.

Defeating NAFTA likely means: Losses in export opportunities and export-drive jobs; slowed progress toward economic and political liberalization in Mexico; continued piracy of United States copyrighted products; a more uncertain future for the GATT talks; and serious questions in the world about U.S. leadership.

But defeating NAFTA will not solve the problems most opponents cite in opposing it. Threats to American jobs won't cease; toxic discharges along our border will not go away; enforcement of Mexican labor standards won't get better. And we'll have even less leverage to do much about any of these problems.

I don't wish to minimize the concerns that some have expressed about NAFTA. I held lengthy meetings in Colorado with opponents and supporters of the treaty before taking a final position. After acquainting myself as fully as I could with these views and the wealth of information available, I decided to support NAFTA.

There are a lot of misconceptions and just plain incorrect information circulating about what NAFTA will and won't do, especially with respect to Mexico. I would like to try to dispel just a few of the fictions that have caused a lot of the fears.

Opponents say: "not this NAFTA," with the implication that we can "get a better NAFTA." But I'm afraid the reality is, it's this NAFTA or no NAFTA for the foreseeable future. We shouldn't kid ourselves about getting back to the negotiating table any time soon. The Mexican and Canadian Governments simply aren't in a position to win approval in their own countries of a new treaty more favorable to the United States than this one. Especially for Mexico, it's hard to imagine a Mexican Government, already beset by criticism for getting too close to the Americans, returning to negotiate a second deal that gives us more after being humiliated by NAFTA's defeat. So, the choice before us is between the status quo, which is clearly unacceptable, and a historic chance for positive change in all three countries.

Opponents say NAFTA hurts America's economic interests. To the contrary, the NAFTA package will level the trade playing field for U.S. products. Currently, we are getting the short end of the stick. Mexican tariffs on United States goods are two-and-a-half times our tariffs on their products. The United States market is relatively open to Mexican goods but Mexico sharply restricts American access to its market. For instance, Mexico arbitrarily limits the importation of United States-made cars to only 1,000 a year. With NAFTA, that restriction will be lifted, and United States auto makers will be able to compete freely, boosting sales to Mexico and creating more high-paying jobs for American workers.

Opponents say NAFTA means more American companies will move to Mexico. Nonsense. NAFTA eliminates far more incentives than it creates for United States firms to open production plants in Mexico. The problem with the status quo is that, for many American businesses, the only way to sell in Mexico is to manufacture in Mexico. NAFTA prohibits these unfair and restrictive trade barriers that hurt American workers, opening the Mexican market to products made here in the U.S.A.

Opponents say cheap labor in Mexico will cost U.S. jobs. This overestimates the importance of wages in a company's decision about where to locate. Though American workers are paid more than their Mexican counterparts, they're also eight times more productive. In addition, inferior infrastructure, unreliable services, and other "headache" costs make Mexico unattractive for many United States firms. Jolly Rancher, a company in my district, Mercedez-Benz and BMW are just a few examples of firms who have recently decided to expand their operations or locate new plants here in America rather than Mexico. That is because this country offers benefits that far outweigh the lure of lower Mexican payrolls.

Opponents say that Mexicans are too poor to buy U.S. products. This is simply not true. Mexico has a middle class that is larger than the entire population of Canada and is hungry for goods with the "made in the U.S.A." lable. Mexico today provides the second largest market for U.S. manufactured goods. Mexicans spend 70 cents of every import dollar on U.S. goods. I couldn't characterize the opportunities that the Mexican market offers for us better than the CEO of Celestial Seasonings, another great Colorado company, who wrote in a recent letter to me: "Ninety-five million people live south of the border, and we would like to sell them tea. Please vote for NAFTA."

Opponents say NAFTA threatens the environment. The status quo—not NAFTA—is the real threat. For decades, Mexico has looked the other way when companies polluted. Under NAFTA, though, a country will face trade sanctions if it tries to attract business by cutting corners on environmental standards. NAFTA specifically renounces relaxing environmental, health and safety measures to attract investment. Finally, the economic growth that NAFTA will encourage, especially in Mexico, will make it easier for that country to afford the costs of pollution controls.

Opponents say that NAFTA will undermine existing U.S. laws. This is also inaccurate. The agreement explicitly states that it does not affect the authority of federal, state and local governments to adopt whatever standards they choose.

Americans are worried and frustrated by the uncertainty they face about their jobs and the economy. But NAFTA isn't the cause of our current difficulties. It's the status quo that's the problem, NAFTA seeks to turn the tide in the right direction by giving us important new tools to improve the job picture here at home and leverage real reform in Mexico. NAFTA's not perfect, but it's a lot better than the drift of doing nothing.

To any colleagues who may still be undecided, I say, America's domestic economic renewal depends significantly on export expansion. That's the real bottom line on saving U.S. jobs. We need to sell more of our goods abroad if we want to create jobs and compete successfully against Europe and Asia in today's exceedingly competitive world.

And I'd also say this: Cleaner manufacturing practices and better environmental enforcement in Mexico requires us to engage with Mexico, not humiliate her. We need to cooperate with Mexican reformers, giving Mexicans the incentive and wherewithal to stop polluting and start protecting. That's the bottom line on cleaning up the environment. Passing NAFTA gives us better leverage to do so.

America's greatest victories have come at moments when, through leadership and vision, we looked to the future and took bold and confident steps to embrace it. We have an opportunity to take such a step tonight. Though it is but one step, it will necessarily mean the choice of a particular path and direction.

I want desperately for us to choose the path and direction that is right for our country—one that is true to our heritage of expecting and insisting on the best from ourselves and our friends. NAFTA is an early milepost on that path, in that direction.

It has moved me deeply to see the number of colleagues in the last few days who have resisted enormous political pressure and who, with courage, have determined to vote their convictions. You do yourself proud, as you do your country a great service.

Mr. LEWIS of Georgia. Mr. Chairman, I yield 1 minute to the gentleman from Missouri [Mr. VOLKMER].

Mr. SOLOMON. Mr. Chairman, I yield 30 seconds to the gentleman from Missouri [Mr. VOLKMER].

The CHAIRMAN. The gentleman from Missouri [Mr. VOLKMER] is recognized for 1½ minutes.

Mr. VOLKMER. Mr. Chairman, I have been asked many times why I oppose NAFTA.

In the short time I have I cannot fully explain all of the provisions that need to be corrected to make NAFTA fair to the American public. Provisions to be corrected are sanitary and phytosanitary standards; enforcement or dispute resolution; rules of origin; environmental protection; Mexican labor safety, health, hour and minimum wage provisions. Without these corrections, products that would not meet our standards will be imported from Mexico; when the corrupt Government of Mexico files a complaint that a law of Missouri or of St. Louis, MI, violates the NAFTA then that dispute is decided by a tribunal in secret and the state of Missouri or St. Louis could not be represented or even heard in regard to the dispute; the rules of origin will permit goods to be transhipped through Mexico from other countries to evade tariffs.

What happens to jobs here in good old USA under NAFTA? Well, the proponents tell us we will have 300,000 new jobs paying an average of $5.00 an hour and we know we will lose 500,000 present jobs paying an average of $9.00 an hour. What this means is a lower standard of living for all working Americans. Who benefits—the big investors who will invest in plants and business in Mexico to take advantage of cheap labor.

There is general agreement among economists that the standard of living for workers in the USA will decline to reach the level of the Mexican worker.

For the stockholders, and big investors of large companies there is a big economic windfall if NAFTA passes.

This NAFTA is not good for America. We need to negotiate a new and better NAFTA. I do not oppose fair trade with Mexico. I do oppose this NAFTA and I will vote against it today.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. HORN].

Mr. HORN. Mr. Chairman, I want jobs with dignity, with hope, and with opportunity. That is why I am for the North American Free-Trade Agreement.

At long last, for the first time in this century, Mexico has broken with its tradition of state control of the economy and is moving away from anti-Americanism. It has chosen the route of private enterprise and economic growth as have the emerging democracies of Eastern Europe and the former Soviet Union.

I applaud Mexico's desire to develop and provide the opportunities for its people comparable to those which we have enjoyed here in America.

Let us reject the caricatures of Mexico as a nation of a few rich people with the rest living in abject poverty. There is a major middle class in Mexico that is growing. They aspire to the same things that Americans aspire to: Good jobs at good wages, home ownership, education, and the desire to pass on a better life to their children.

They want American goods, they are buying American goods, and they will be able to buy even more American goods once this agreement is implemented. That means more jobs in America for Americans.

There is poverty in Mexico as there is throughout the world, including the United States. The implementation of this agreement will mean expanding trade for both nations and the opportunity for good jobs at good wages for every American and Mexican.

This afternoon, in a meeting of Republican freshmen, we went around the room, and we all agreed that there has been no coercion placed on the Republicans to vote against their conscience on this issue. I might add, that has been my experience during my 11 months in this House.

I would hope that Republicans who would have supported this agreement if a Republican President were in the White House, would continue their support even though a President of the other party is now in the White House. As with the successful bipartisan foreign policy that brought about the fall of communism, partisan politics, or the desire for domestic partisan advantage, must continue to stop at the water's edge, be it the Atlantic, the Pacific, or even the Rio Grande.

This agreement is good for America and Americans.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. EWING].

Mr. EWING. Mr. Chairman, I appreciate having the opportunity to address this very important issue.

Discussions leading up to tonight have been very lengthy and intense. I believe America will be glad when we vote tonight, and they will be glad when we vote positively to pass NAFTA.

We have had so many negative things said about this NAFTA—job loss, moving industry, pollution, illegal immigration, and taxes.

The thing which those who speak out against NAFTA fail to tell us, though, is those are the things that we are getting now, and we do not have NAFTA. It is time that we took a turnaround and took a positive approach. We can all agree on one thing in this House. We want jobs. We want to improve and renew the economy of this country.

Passage of NAFTA is one thing we can do to take a step in that direction.

□ 1810

Mr. Chairman, American industry has too long been on a level lane, lagging behind our major competitors around the world in job creation. We need new markets to conquer. Jobs will be created with new markets.

Let us set free our great industrial machine in a new and bigger market where will receive free and fair access for our industry.

The same is true of American agriculture. In the heartland of America, our agricultural giant slumbers, but we all know that once awakened, this giant can out-produce any other country in the world with the best and cheapest grain, cattle, poultry, dairy, and hogs of any agricultural nation.

Hardworking men and women in industry and agriculture deserve NAFTA. They deserve NAFTA and, hopefully, it will lead on to a GATT negotiation.

Had our Founding Fathers taken any other step but to take down barriers between the States, we would have had another Europe here in America. I urge my colleagues to vote for NAFTA.

Mr. Chairman, for the record I add comments of Illinois Governor Edgar and two Illinois Senators in support of NAFTA:

OFFICE OF THE GOVERNOR,
Springfield, IL, October 22, 1993.

Hon. DAN ROSTENKOWSKI,
U.S. House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR DAN: I want to thank you for your support of the North American Free Trade Agreement. The NAFTA provides enormous opportunities to create jobs in Illinois and the United States by increasing exports to Mexico and improving our competitive position by becoming the world's largest free trade area. NAFTA represents the future and by adopting it Americans can show the world we are ready, willing and able to compete anywhere in the world.

In Illinois, our exports to Mexico have increased $1 billion since 1987 creating 19,000 new jobs in Illinois. Our total trade with Mexico supports 28,600 total jobs in Illinois. Mexico is Illinois' second largest trading partner, behind Canada. Illinois' merchandise exports to Mexico grew 385 percent from 1987 to 1992, from $278 million to $1.3 billion.

A study by the Illinois Department of Commerce and Community Affairs indicates that 13,000 Illinois jobs will be created before the end of 1995 if NAFTA passes. Similarly, the U.S. Department of Commerce and DCCA estimate that over 500,000 jobs in Illinois are supported by direct and indirect exports and that one in four Illinois manufacturing jobs depends on trade.

Unfortunately, the NAFTA debate has been driven by the fear of the unknown. Defeating NAFTA will do nothing to improve our economic future; in fact, it will surely make it worse. Although projections show some job loss, it will be small. That is why I am supportive of worker retraining programs for those adversely affected by NAFTA.

Canada and Mexico represent 37 percent of all Illinois exports. The following Illinois exports to Mexico accounted for 82 percent of total 1992 exports to that country:

Industrial Machinery ($508 million);

Transportation Equipment ($165 million);

Electric and Electronic Equipment ($138 million);

Primary Metal ($109 million);

Food Products ($93 million); and

Chemicals ($89 million); not to mention services and agriculture with our corn exports to Mexico growing to one-third of market share from current levels of one quarter.

For instance, tariff schedules will be eliminated in some key areas for Illinois industries like industrial machinery (10–20% tariff), transportation equipment (5% tariff), and electric and electronic equipment (as high as 20%). These markets and tariff cuts mean more jobs and higher wages for Illinois workers since increased exports create jobs which are higher paying than non-export-related jobs.

To stand still, to not be bold and daring is to surrender our opportunity to others in the world who are more courageous, more visionary, more aggressive and more undaunted by challenge. To not take advantage of the opportunity before us is to retreat into economic isolationism that the country could not withstand in the 1920's and cannot afford today.

Thank you again for your strong leadership on NAFTA. I hope you can persuade undecided Illinois members to support the agreement.

Sincerely,

JIM EDGAR,
Governor.

EDGAR SAYS NAFTA MEANS JOBS FOR ILLINOIS

WASHINGTON, DC.—Stressing that Illinois industry produces goods that are much in demand in Mexico, Illinois Gov. Jim Edgar today said that a three-way trade agreement between the United States, Mexico and Canada would create thousands of jobs in Illinois.

"Today more than ever is the time to compete, not retreat," Edgar said. "Take a look at what Mexican consumers are shopping for. Look at what we in Illinois export today. The two lists match. When NAFTA lowers Mexico's tariffs on our goods, reducing the price of our products, we will sell more than ever."

Primary exports by Illinois companies include industrial machinery, transportation equipment, electric and electronic equipment, food products and chemicals.

"Dozens of studies have been done on NAFTA's effect on the nation's economy, and the vast majority say the same thing—NAFTA is good for America, good for jobs in America and good for jobs in Illinois."

Illinois, already a major exporting state, realized a 23 percent increase in exports during the first half of this year, making it the nation's leader in export growth. Nationally, exports grew by 4.5 percent during the same period.

The Illinois Department of Commerce and Community Affairs predicts that job gains attributable to NAFTA, combined with expected growth in exports regardless of a trade agreement, will mean 13,000 additional Illinois jobs by 1995.

In addition, a University of Illinois study projects that NAFTA will generate an additional $150 million to $200 million in annual Illinois agriculture exports, raising farm income by $5 per acre for corn producers and $16 per acre for soybeans.

Exports to Canada and Mexico represent 37 percent of all Illinois exports.

"We have heard a lot of talk from the naysayers, NAFTA's opponents, who fear a giant sound of U.S. jobs being sucked away to Mexico if NAFTA is approved," Edgar said. "In fact, the only giant sucking sound we are going to hear is the economic health and vitality of our citizens being sucked away if NAFTA is not approved."

Pointing out that exports now account for one in four Illinois manufacturing jobs, Edgar and Illinois exports to Mexico have increased almost five-fold to nearly $1.4 billion during the last five years.

Edgar's comments came during an electronic "town hall" meeting sponsored by the U.S. Chamber of Commerce to boost support for the trade pact, which is scheduled for a ratification vote in the U.S. House of Representatives on Nov. 17.

"NAFTA represents the future, offering this country both challenge and opportunity. To stand still, to not be bold and daring, is to surrender our opportunity to others in the world who are more courageous, more visionary, more aggressive and more undaunted by challenge," Edgar said. "To not accept the challenge, to not take advantage of this opportunity is to retreat into economic isolationism that this country could not withstand in the 1920s and cannot afford today."

APPENDIX: GOVERNORS SUPPORT THE NAFTA

Governor Pete Wilson (R-California):

Commerce between the United States and Mexico freed of the constraints of tariff and non-tariff barriers means increased trade, and increased trade translates into vitally needed jobs on both sides of the border. Between 1987 and 1990, California's exports to Mexico more than doubled—creating tens of thousands of new jobs.

Governor Roy Romer (D-Colorado):

I really believe that NAFTA will create jobs and benefit American business and the American worker. The fact is that NAFTA will create jobs and benefit American business and the American worker. I wouldn't support it otherwise.

Teaming up with a Mexican partner can start a long-term relationship that can create jobs in both countries and enable both to compete with Europe and Asia. In Colorado's case, [we have sent] almost monthly missions to Mexico for the last year and a half.

The North American Free Trade Agreement will need refinement through the implementation process. It may create losers as well as winners. On balance, however, it will clearly enhance trade, create jobs in both countries, improve relations with our neighbors to the south, and make all three countries more globally competitive.

Governor Jim Edgar (R-Illinois): The NAFTA will provide thousands of jobs for Illinois and an economic boost for our state, particularly in the long term. Illinois exports to Mexico have more than tripled in the last five years, and the elimination of trade barriers will mean our businesses and their workers can continue to prosper from that trend.

The reality is that the elimination of trade barriers allows Midwestern farmers to increase their grain sales to Mexico by millions of tons every year. In addition, a northern Illinois steel and wire products firm, which began exporting to Mexico last year, expects its sales to Mexico to increase by 40 percent.

Governor William Schaefer (D-Maryland): One of the greatest challenges I face as governor is trying to convince the citizens of Maryland that we must recognize the realities and opportunities of foreign competition. When I travel about the state, I often hear people suggest that we should "stick to our knitting" right here at home and not worry about building relationships with other

U.S. SENATE,
Washington, DC.

To: Ann/Tim, Office of the Minority Leader
Fax: 5–7733.

From: Mike Funk, Office of Senator Simon
Voice: 4–7016.

STATEMENT OF SENATOR PAUL SIMON ON HIS SUPPORT FOR THE NORTH AMERICAN FREE-TRADE AGREEMENT

I support NAFTA because I believe that it will create good jobs for the working people of the United States. My study of the NAFTA agreement began skeptically. By studying NAFTA's impact in Illinois, a State that is an economic microcosm of the nation, I have come to believe that it will strengthen the nation's economy. NAFTA's overall benefits to this generation and to future generations make this a fight worth spending political capital to win.

STATEMENT OF SENATOR CAROL MOSELEY-BRAUN ON NAFTA

When I have a chance to vote on the implementing legislation on the North American Free-Trade Agreement, or NAFTA, as it is known, I will vote for it. My reasons are uncomplicated and straightforward. The history of opening up trade is a history of increasing economic growth. When trade barriers are removed, trade increases. When trade increases, jobs are created.

The future depends on our capacity to relate effectively to a new global village. The world has changed. We really are closer together. And our economic relationships are more closely intertwined than ever before. NAFTA is about meeting that change and facing the future.

ILLINOIS AND THE NAFTA: EXPORTS AND JOBS

Illinois Jobs Supported by Trade with Mexico and Canada—139,600.

EXPORTS

Illinois Exports to Mexico and Canada Reached $6.6 billion in 1992.

Illinois was one of 17 states which ranked Mexico among their top three export destinations. Canada, our other NAFTA partner, was Illinois' top export market; Mexico was second largest.

28,600 jobs in Illinois in 1992 were supported by exports to Mexico. Almost 70 percent of those jobs were created in the past five years, since Mexico began liberalizing its import regime.

Illinois' merchandise exports to Mexico grew 385 percent from 1987 to 1992, rising from $278 million to $1.3 billion. Illinois was one of 13 states which more than quadrupled their exports to Mexico during this period.

The dollar increase in Illinois' exports to Mexico ranked fourth among all 50 states for the 1987-1992 period.

Illinois ranked eighth among all states in the percentage increase in exports to Mexico over the five year period. Nonborder states registered the greatest percentage growth in shipments to the Mexican market.

In 1992, Illinois ranked fifth among all 50 states and second among the North Central states in the value of exports to Mexico. Major industrial states in the Midwest have been among those with the largest increases in the dollar value of exports to Mexico.

Illinois' exports to Mexico grew 385 percent from 1987 to 1992, 292 percentage points faster than export growth to the rest of the world.

Illinois boosted exports of an extremely wide range of manufactured goods to Mexico over five year period. Sectors that recorded significant gains were: industrial machinery & computers (up $394 million), transportation equipment (up $142 million), primary metal industries (up $99 million), electric & electronic equipment (up $96 million), and food products (up $89 million).

In 1992, Illinois' exports to Canada totalled $5.2 billion. Illinois' exports to Canada have increased by more than 90 percent over the past five years, during which the U.S.—Canada Free Trade Agreement was implemented (January 1, 1989).

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentlewoman from Kansas [Mrs. MEYERS].

Mrs. MEYERS of Kansas. Mr. Chairman, for a long time I intended to vote "no" on NAFTA because I believe the United States could have negotiated a better trade agreement with stronger environmental and worker protections. However, I will vote "yes" for two reasons:

First, over the past 2 weeks, I have become convinced that the Third District of Kansas is overwhelmingly supportive of NAFTA, and all reports indicate that Kansas, in particular, will benefit from NAFTA.

Second, the deciding factor in my decision to support NAFTA was the fact that I became convinced that if we do not get this agreement, we may not get another chance. I think we must have NAFTA to retain the U.S. economic leadership position in the world, and I believe that if we reject NAFTA, we may not have another opportunity. Other industrialized nations are searching for new export markets, and if we reject this agreement, Mexico will soon enter into trade agreements with other countries and lock us out. This would be very destructive to our economy, to small business as well as large, and to agriculture.

Mr. KOPETSKI. Mr. Chairman, I yield 1 minute to the gentlewoman from Texas [Ms. EDDIE BERNICE JOHNSON].

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, in a matter of hours, this body will vote on the North American Free-Trade Agreement, finally putting to an end months of hype and hysteria.

What has been at the root of this frenzy?

Fear and misinformation.

As one who knows the danger of ignorance and the destructive power wielded by fear, I would like to talk briefly on why I am supporting NAFTA.

After over 9 months of research, investigation, and deliberation, last week I announced my support for NAFTA.

I listened to constituents, labor representatives, small business owners, large business representatives, and environmentalists.

Of every businessman who came in my office, I asked the same question, will NAFTA cause you to increase your employment in my district?

Every single one of those CEO's, large and small, said that they could add workers as a result of NAFTA.

Last year, Texas exported $19 billion to Mexico. Those are American jobs.

If NAFTA passes, the Dallas-Fort Worth metroplex alone will see an increase of 75,600 jobs.

But NAFTA is not about Texas, it is about this Nation and its future.

Labor laws that guarantees the right of membership, strike, and so forth, are written into the Constitution of Mexico.

It is a rare occasion when a political issue captures the attention of the American population the way NAFTA has.

However, one of my greatest disappointments with this debate has been the polarization which has occurred as a result of the fears which have been played on all too well by NAFTA's opponents.

Many of my colleagues have decided to vote against NAFTA out of the fear that NAFTA will inordinately impact the black community, and say it is easier for me to support NAFTA because I am from Texas.

But I believe NAFTA is an opportunity for all black Americans. And the true challenge of leadership is to identify an opportunity and seize it.

I would like to share a few statistics on NAFTA and its impact on black people.

Last year, the United States exported over $4 billion in motor vehicles and parts to Mexico—11.5 percent of the workers who produced those parts were black Americans.

Those jobs are export-based jobs located in this country.

We exported $1.5 billion in other manufactured goods to Mexico last year—10.3 percent of employees in the manufactured goods sector are black Americans.

Those are American jobs in this country.

Some of the biggest opponents of NAFTA have been blacks in labor organizations; their greatest fear: job loss.

According to the Department of Labor, 36.7 percent of all union members are Government employees—Federal, State, and local.

Those jobs are not going to Mexico.

Blacks comprise 13.4 percent of workers in transportation services.

It is only logical that if trade increases, employment in this sector will increase, too.

Those jobs will not go to Mexico.

Right now, there are approximately 67,000 blacks employed in jobs tied to exports to Mexico and that number will increase as we export more.

There is another side of this discussion which I would like to address before I yield and that is NAFTA's impact on black businesses.

The national coalition of 100 Black Women recently stated, the appetite for goods and services in Mexico could be a major boost to the influx of new capital into the black cottage industry.

Black female entrepreneurs in this industry, many of whom experienced the glass ceiling—the invisible barrier that prevents women and minorities from climbing too high on the corporate totem pole—could seize the opportunity to create trading relationships that fuel a long-term period of economic gain and business growth.

NAFTA represents a tremendous opportunity for black businesses and this Nation.

I cannot deny that blacks are particularly sensitive to the economic health of the national economy.

But I must point out that our national economy is increasingly dependent on our exports.

With the fierce competition which lies beyond our shores, we cannot let ourselves be paralyzed by fear.

We must continue to strive to create opportunity, hope, and jobs.

NAFTA will create those opportunities, for blacks, hispanics, white men, and women, and lead us into the next century.

Mr. LEWIS of Georgia. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. BROWN].

Mr. SOLOMON. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. BROWN].

The CHAIRMAN. The gentleman from Ohio [Mr. BROWN] is recognized for 2 minutes.

Mr. BROWN of Ohio. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, on the way over today I was riding in an elevator with another Member of Congress and said, "You are voting for NAFTA, right?" And he said, "Yes." I said, "You are going to vote for a $50 billion new government program that is unfunded?" And he said, "Yes, I am."

I said, "How are we going to pay for that? How are we going to pay for the environmental clean-up? How are we going to pay for worker retraining? How are we going to pay for infrastructure? How are we going to pay the $10 billion the Governor of Texas asked for? How are we going to pay for more border security and Customs officials?"

He said, "That is your problem. You are in the majority. You worry about it later." True story.

Voters last year voted for change. They voted for change in the White House. They voted for 120 of us as new freshmen. Voters voted last year not for more unfunded programs, not for more borrow-and-spend programs, not for more business as usual, not for trickle-down economics, but, Mr. Chairman, NAFTA is all of that.

With NAFTA's trickle-down economics, Mr. Chairman, there are so many corporate jets at National Airport carrying so many corporate lobbyists that there are literally not enough parking spaces for them today at that airport. There are lobbyists wearing $800 suits swarming all over the Halls of Congress today saying, "We want NAFTA. Give us NAFTA."

NAFTA is again business as usual. Votes have been bought and sold by pro-NAFTA forces: $1.4 billion for C-17 planes, $10 million for a trade center, millions for a development bank, sugar deals, cotton deals, peanut deals, citrus deals, all protectionism, in the name, I might add, of free trade.

Fifty billion dollars for this NAFTA, and no money to pay for it, and no indication from the supporters of NAFTA how they are going to pay for it. Many Members of Congress who have planned to vote for this agreement today do not support and probably never will support worker retraining, or even unemployment benefits for workers who lose their jobs because of NAFTA.

Mr. Chairman, they want it both ways. They want this agreement without paying for it. It is the same old story. Go home, go home, those Members who are voting for this $50 billion unfunded program, go home, look your voters in the eye and explain that to them.

NAFTA is a bad deal. Kill it.

Mr. ARCHER. Mr. Chairman, I yield 4 minutes to the gentleman from Illinois [Mr. CRANE], the ranking member on the Subcommittee on Trade of the Committee on Ways and Means, a gentleman who has been extremely active in advising during the negotiations, in helping and developing the legislation.

Mr. CRANE. Mr. Chairman, I thank my distinguished colleague, the ranking member on the Committee on Ways and Means.

Mr. Chairman, I think, to put this into a little bit of historical perspective, there are a couple of things we ought to focus on. One is, historically, the major division between our two parties throughout the greater period of the existence of the Democrat Party and the Republican Party was trade. The Members over here on the Democrat side were the free traders, and it was the Republicans that tried to put the walls up around the country to protect industry and jobs.

Then we had some historic moments. The McKinley Tariff of 1890 directly contributed to the panic of 1893. It was two other Republicans in 1930, Mr. Smoot and Mr. Hawley, well-known Republicans, who guaranteed that our depression went worldwide.

In the post-World War II era, our parties switched positions. The fact of the matter is that the Democrat Members inherited that legacy from the original Republican Party, and our Republicans tended to move in the direction of free trade.

Grover Cleveland made an interesting observation as President. He said, "Protectionism inflicts its greatest injury on that man who earns his daily bread with the sweat of his brow." That is absolutely correct. Free trade is for the benefit of consumers, and those people in lower and middle income brackets are the chief beneficiaries of free trade.

In this particular instance, Mr. Chairman, we have abundant examples of what free trade has done in terms of job creation. It is a job creator. A $1 billion increase in exports accounts for almost 19,000 new jobs created here in our economy, and on average, they are higher paying jobs than the average job in this country.

Mr. Chairman, if we look at what President Salinas has managed to accomplish unilaterally during his tenure as President of Mexico, and keep in mind he got a Ph.D. in economics here in the States, and that he has Chicago School of Economics in his thinking, he has privatized virtually everything down there. He inherited a $100 billion national debt, and last year he came in with a budget surplus with no new taxes.

□ 1820

I mean, he is our kind of person, and he unilaterally reduced those tariffs.

If you go back to 1987 our total exports to Mexico were $14.5 billion. Last year we came in at almost $41 billion in total exports, but more importantly, we had a trade deficit with Mexico approaching $5 billion in 1987, and last year it was over a $5 billion surplus.

We are looking at almost 500,000 jobs that have been directly created over the last 5 years because of that unilateral action, and yet Mexico still has tariffs in the range of 10 percent to 20 percent.

We have had half of the NAFTA in place already, because most Mexican goods can come in here duty-free or at max they are paying a 4-percent duty at the border.

We have not been able to enjoy reciprocity thus far, and that is what NAFTA is calculated to do.

In my home State of Illinois if you look at our manufacturing exports over the last 5 years, they have gone up with Mexico 420 percent. Our agricultural exports have gone up 370 percent. There are 156,000 jobs in my home State of Illinois already directly related to our trade with Canada and Mexico, and they are prepared to increase quite dramatically.

But keep in mind something else. The American auto industry could not afford to pay those duties and sell American cars, so what they did is jump the border, build plants down there and manufacture cars in Mexico. Right now GM is contemplating closing one of its plants down there, moving all of that back up to Ypsilanti, Michigan. We have a potential here for guaranteeing that small business at last has access to that Mexican market too.

I urge my colleagues to look at the figures, to talk to the businesses in their districts, and especially those in the export business. It is a benefit for all, Canada, the United States, and Mexico.

Vote "aye."

Mr. KOPETSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY. Mr. Chairman, I rise today in support of the North American Free-Trade Agreement. This agreement will create new and good jobs for the working people of this country and send a clear signal for the rest of the world that trade barriers are a way of the past, and that free and fair trade is the wave of the future.

NAFTA sends a message to the Japanese and to others that our trade with them will be based on their markets being opened to our goods.

NAFTA sends a message to Latin America and to Eastern Europe that capitalism works and that free markets are the key to world prosperity.

This is a fundamental message sent by President Kennedy 30 years ago when he tossed aside trade barriers and led our Nation to prosperity.

It is true that we have lost millions of jobs to other nations, and it is also true that the debate that has occurred in this Chamber and across our country has ripped open a wound in the American people, and has exposed a sense of abandonment that too many people in this country feel. They pick up the newspapers, they read, they see it on the television that millions of jobs are leaving, and they see IBM, and they see Boeing Aircraft and others laying off tens of thousands of American workers.

I believe all of us that support the NAFTA agreement have a fundamental responsibility to those millions of Americans to say that we are going to join together from here on in and create a social compact where we say to them that not only are we gong to look out for corporate America, but we are going to look out for the working people of this country, we are going to invest in their education, we are going to invest in the infrastructure, and we are going to ask corporate America to help to pay for this plan to get our workers trained so that we can compete with the Germans and the Japanese, and so that we do not have to see our good jobs go overseas and see a sense of abandonment by the American people, for if we bring ourselves to it and reestablish the social compact that was in existence when President Kennedy called for his trade agreement with the Mexicans and Canadians and his trade agreements throughout the world, this country will create millions of good jobs for the working people of America.

Mr. LEWIS of Georgia. Mr. Chairman, I am pleased and delighted to yield 1 minute to the gentlewoman from Connecticut [Ms. DELAURO].

Mr. HUNTER. Mr. Chairman, in the interest of comity, I yield 1 minute also to the gentlewoman from Connecticut.

The CHAIRMAN. The gentlewoman from Connecticut [Ms. DELAURO] is recognized for 2 minutes.

Ms. DELAURO. Mr. Chairman, today we have the opportunity to make a new beginning, to take what we have learned through months of vigorous and heartfelt debate, and learn from it.

A defeat for NAFTA—a "no" vote—is not the end, it is the beginning. It is the beginning of negotiating an agreement that protects the rights and jobs of workers in both the United States and in Mexico; the beginning of an agreement that would promote a high-wage, high skill strategy here in the United States; an agreement that would provide adequate environmental and health safeguards; and an agreement that would end the policy of artificially low Mexican wages which will drain jobs from the United States.

This NAFTA does none of these things. This NAFTA turns its back on workers in the United States who have already suffered a decade of decline in their real hourly wages; it works to depress their wages even further; and it does precious ,little to help retrain those who do lose their jobs.

Only about 5,000 workers a year will be retrained under the Administration's program for dislocated workers.

Mr. Chairman, when I was a child I visited my mother as she worked in the heat and dirt at her sewing machine in a New Haven sweat shop. It was her dream to make sure that I did not have to do the same. I cannot vote for an agreement that could lead American workers back down that low-wage path; and that will ensure that Mexican workers cannot find their way out.

This NAFTA will drain resources from the United States—precious financial resources at a time when our economy is already weak and vulnerable; precious jobs when we have already suffered a tremendous hemorrhaging of jobs. It is not the best we can do.

We are not divided here today on the benefits of free trade. We all embrace it. We are divided on how to best achieve it. We know that we have to compete globally to survive. So does the Mexican Government. And neither we nor they will turn our backs on this goal if this agreement is defeated.

Who can argue that Mexico will walk away from the table when the United States accounts for three-quarters of its exports and almost three-quarters of its imports?

We can negotiate a new agreement. We can begin again. And we will be better off for it. Vote for an agreement that shows we understand the hopes and fears of American workers. Vote for an agreement that will protect their interests, our economy, our hard fought environmental and health laws. An agreement that pushes for higher wage jobs here at home and helps the workers in Mexico have a better life as well. Vote for the future. Vote "no" on this NAFTA.

Mr. CRANE. Mr. Chairman, I yield 2 minutes to our distinguished colleague, the gentleman from Florida [Mr. MILLER].

Mr. MILLER of Florida. Mr. Chairman, I rise today in strong support for the North American Free-Trade Agreement. This was not an easy decision for me to make. Politically, the easy thing to do would have been to oppose NAFTA. But, I have always said that I was willing to make the tough choices, and this is one.

We stand here today at the economic crossroads of the postcold war era. Down one road is a return, to the failed policies of protectionism, defeatism, and fear. Down the other road is a continued willingness to hope, compete and prosper in the global marketplace.

The bottom line is, we have no choice. The United States is already competing with the rest of the world. The only decision we face today, is between openly embracing new markets for American products, or burying our heads in the sand. If we choose to hide, our competitors will flourish, meeting the new demands of Mexico's growing consumer class. Defeating NAFTA will not save American jobs, but it will keep new American goods out of Mexico.

The workers of the United States are the most productive in the world. There is only one way to ensure their economic futures. We must continue to compete abroad, discovering new markets for American goods and new job opportunities for American workers.

I support NAFTA because I have an undying faith in the American spirit. A vote for NAFTA is a vote for real change. It is a vote of America's future. It is what we need to remain competitive in the new global economy.

Mr. HUNTER. I yield 5½ minutes to the very articulate gentleman from Florida [Mr. STEARNS].

□ 1830

Mr. STEARNS. Mr. Chairman, for almost 3 years I have wrestled with this issue. On one hand, I believe this Nation needs to move forward on the issue of trade in order to create new markets. On the other, I continue to be disturbed by the ever-increasing regulatory and tax burdens placed on America business and the negative effect this has had on our competitiveness.

The main reason I ran for Congress 5 years ago was that, as a small businessman, I saw the Federal Government gradually eroding our economic base. The destructive combination of mandates and taxes were making it harder and harder to run a successful business and meet a payroll. Since coming here to Washington, nothing that I have seen indicates to me that there is going to be significant change in that trend.

Just this year, the administration proposed and Congress approved, the largest tax increase in American history. In recent years, we have passed the Clean Air Act, the Family and Medical Leave Act, and the Civil Rights Act. And soon, we may be adding a higher minimum wage, stricter environmental restrictions, striker replacement legislation, and of course, mandated health care coverage.

Whatever the merits of these laws individually, no one can deny that each adds an additional cost to the already difficult task of running a profitable business here in the United States.

The need result has been that millions of American jobs have been lost to overseas competition. Corporations overseas could produce goods more cheaply with a government that often worked with them, not against them. Many American companies were faced with the choice of "leave the United States and survive" or "stay, fight and die." Thus, we have seen our unemployment rate hover around seven percent and the number of manufacturing jobs decline to historic lows.

I believe that expanded trade helps ameliorate the employment losses we have experienced in many of our basic industries. However, we need to address first the underlying government policies that have driven so many buisnesses and industries away from the United States before we open our borders completely to nations that have much lower regulatory costs such as Mexico.

In a perfect world, tax and regulatory relief at home would balance out the increased competition from low wage countries abroad. That would be a true win-win situation.

What I believe we will see with this NAFTA is a situation where some big businesses and large manufacturers benefit and do create jobs. These corporations have the clout in Washington to protect themselves from the downsize of NAFTA while enjoying the new opportunities in Mexico.

But small businesses, small communities and individuals at the lower end of the wage scale will be left more vulnerable than ever by a NAFTA agreement that is not tied to tax and regulatory relief. I am concerned that what we will see over the next few years is a draining away of the jobs in these areas—the same ones already under assault by big government policies.

The Clinton administration, in its attempts to win the support of its own party, negotiated a series of environmental and labor side agreements to NAFTA. NAFTA and these side agreements raise serious concerns that NAFTA will increase, not decrease, regulatory costs on this side of the border, moving the United States further away from the direction we need to go to become more competitive internationally.

NAFTA will create the following new bureaucracies: the Commission on Labor Cooperation, the Commission on Environmental Cooperation, a bilateral Border Environmental Cooperation Commission and a North American Development Bank. Each of these new agencies will add new layers of bureaucracy, new regulations and new red tape—the same job killers that already have done so much harm to our economy. Plus it will cost taxpayers $10 billion that will be funneled through multilateral banks, there is a foreign aid program to Mexico all the while our deficit is increasing.

The administration should have focused its efforts on removing many of the obstacles to manufacturing and agricultural industries here in the United States. With a pro-competitiveness initiative, we could have ensured that the benefits of NAFTA were broad-based and spread evenly.

Instead, I am concerned that we will see those who have the least bear the brunt of this agreement, as lower wage/lower skills jobs leave the United States for Mexico.

I applaud all the attempts to make this treaty more fair for the people of Florida and congratulate my colleagues on the work that was done to ensure a more level playing for American fruit and vegetable growers.

Nonetheless, the late hour of these agreements and the difficulty I have experienced determining whether or not these deals are binding causes me to retain my skepticism that this deal can work for my State.

It is my impression that these agreements, especially those on vegetables that are most important to my district, do not have the binding effect of law. I regret that these agreements couldn't have been reached earlier so that members whose districts are affected would have had adequate time to research them.

Nonetheless, we should not fool ourselves that this agreement will serve as a great engine of American jobs. Even under the administration's favorable assumptions, 200,000 jobs will be created in the next 5 years. That is only a few more jobs than were created in the last month without a NAFTA. At the same time, we know that significant economic dislocation will occur in areas such as mine that are heavily reliant on agriculture.

It is unfortunate that the prevailing policies in Washington make it difficult for me to support this agreement. We should not, however, accept NAFTA when it will harm our basic industries in agriculture and industry. This is why the price of NAFTA appears too high to me.

Mr. KOPETSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from the great State of Washington [Mr. McDERMOTT], a neighbor of the State of Oregon.

Mr. McDERMOTT. Mr. Chairman, I rise in support of NAFTA.

Mr. Chairman. On most issues before the Congress, deciding how to vote is relatively easy. In most instances, I base my vote on principles I have developed over the course of my political career and on what I perceive to be the consensus of my constituents.

In the case of my vote on the North American Free-Trade Agreement, however, it has not been easy to decide. From the outset, there have been thoughtful, articulate, concerned people who I have known for years whose views are diametrically opposed on this issue. In addition, I found that my own longstanding support of labor and the environment and human and civil rights was being challenged by my belief that the more openly we trade with the world, the less likely we are to become engaged in international situations that may lead to war.

As I evaluated the arguments put forward by the two sides, there seemed to be no firm basis on which to decide the issue. Both sides seemed to be partly right and partly wrong. So, for me, the issue turned on the long-term implications for our relationship with our closest neighbors and with the rest of the international trading community.

Our history with Mexico has not been a friendly one. It began with the Mexican-American War that resulted in the United States taking a large portion of Mexican territory, including California. Understandably, bad relations existed until the 1880's, when trade began to open and, in fact, boomed as we entered Mexico to gather oil rights and to try to control the Mexican transportation system. Consequent anti-American feelings in Mexico fueled a revolution in the early 1900's which lead to the erection of the tariff barriers of today.

Now, in 1993, we are considering a trade agreement which is in fact an investment treaty. The truly significant aspects of the treaty are not the lower tariffs, which will have some effects, but the investment protection of "intellectual properties" and financial and insurance arrangements. This investment protection will allow the flow of capital into Mexico for small and medium sized businesses. Given the existing problems in organizing and running labor unions in Mexico, it is not impossible to conceive that labor in Mexico will be exploited at the expense of American jobs. It is for this reason that both labor and environmental side agreements were negotiated. Both should have been stronger in my opinion. Our efforts to guard against and prevent such exploitation should continue.

The labor issues raised by NAFTA are particularly distressing because they involve painful job dislocations. These must be addressed not only in the context of NAFTA but in a broader context as well. Both our recent failure to pass a 7-week extension of unemployment benefits and our chronic failure to offer meaningful worker retraining underscore the depth of our difficulty in this arena. These problems are not limited to NAFTA; they accompany the Clean Air Act, the Endangered Species Act, and countless other desirable public policies that also displace workers in our economy.

In the final analysis, I have concluded that job losses which will occur over the long term if the United States retreats from a strong pursuit of new world markets will outweigh the painful, short-term job dislocations which will occur under NAFTA.

I have particular concern about the environmental degradation which has become increasingly apparent around the maquilladora plants in Mexico. We agreed to take back into the United States all of the toxic wastes produced by operations of maquilladora plants. But the truth of the matter seems to be that we have put insufficient personnel and money into monitoring this cleanup, and the result is that it now appears that American taxpayers will be forced to pay for it. The costs should be paid by the companies that created the border contamination.

In face of all these problems, then, what are the compelling reasons to vote for NAFTA? As far back as the late 1930's, Secretary of State Cordell Hull began to lay the groundwork for an international plan to use free trade as a method to prevent future world wars. He reasoned that if the world was intertwined in international trading, its political powers would not go to war.

To that end, he led the United States to establish the United Nations as an institution to resolve international political disputes. He also led in establishing three international trade-related institutions which have served their purposes well. They are the World Bank, the International Monetary Fund, and GATT.

He learned from our failure to join the League of Nations after the First World War and the subsequent passage of the Smoot-Hawley Act that the failure to create an open international trading system resulting in the formation of trading blocs which led to political blocs which led to military blocs which led to the Second World War. He resolved this must not happen again.

This plan worked reasonably well until the world began to change in the 1980's. The GATT agreement of the 1940's did not even mention the issues of the 1980's: intellectual properties and banking and insurance arrangements. So the Uruguay round of GATT talks was begun in the late 1980's. Because these talks have stalled, two things have happened. First, we negotiated a free-trade agreement with Canada and, second, we began discussions with both Mexico and Canada to develop a North American free-trade zone.

The importance of NAFTA is twofold.

First, it opens a door to Mexico that has been closed since the early part of the century. It is inconceivable that two neighbors could remain antagonistic toward each other given the common problems we share. Our only hope of overcoming our environmental and labor problems begins with the groundwork laid by this agreement. Although certainly not a perfect document, it begins a process which I believe will not be as good and quick as its proponents suggest nor as disastrous and final as its opponents contend.

The second reason that NAFTA is important is that it lays the basis for the President to lead the world to a conclusion of the GATT talks. In many ways, this future GATT agreement looms much larger on the international screen if for no other reason than that it affects the entire world.

Could we have written a better NAFTA? Yes. The human and labor rights issues and the environmental concerns will not go away and must be addressed. Yet, as we enter a new global landscape, it is crucial that the United States not shrink from its role as the leader of the free-trading world. To weaken our President in his efforts to lead the world in this endeavor is good neither for us in the short run nor for our children in the long run.

For those reasons, I have decided to vote for the North American-Free-Trade Agreement.

Mr. KOPETSKI. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts [Mr. MEEHAN].

Mr. MEEHAN. Mr. Chairman, whether NAFTA is approved by the House today or defeated, the great free-trade debate of 1993 has taught all of us—the public as well as Members of Congress—about economics, history, and today's global economy.

Besides the strong feelings that people have on both sides of the issue, the one thing that has become most clear in all of my discussions about NAFTA is that all of us are desperately seeking a stronger economy and more jobs. Over the past 5 years, eastern Massachusetts—which I represent—has been through nothing short of a depression.

I believe that America can compete against any country in the world because our workers are more productive, hardworking, and competitive.

NAFTA tells the Germans, the Japanese, and the rest of the world that the United States is ready to take them on and we're strong enough to win. As a country, now is the time to take the first big step forward to winning in the global economy. I know we're ready.

NAFTA means more jobs for Americans.

Mr. DERRICK. Mr. Chairman, I yield 1½ minutes to the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Chairman, I speak in support of the working people of America who are in opposition to the North American Free-Trade Agreement which will cause massive and devastating job losses in vital sectors of our economy, accelerate the erosion of the industrial base, and hasten the flow of investment to Mexico where wages are low and enforcement of labor, environmental, health and consumer-product safety standards is weak or nonexistent.

The economic benefits of NAFTA will be enjoyed by a privileged few, and those who suffer will be the same who too often endure hardship and sacrifice in the interest of the imperatives of commerce.

Like most of my colleagues, I support the concept of a hemispheric trade agreement. I wanted to support the President on NAFTA. My committee met extensively with the administration. We went to Mexico. I sat down with the U.S. Trade Representative on numerous occasions and we had candid discussions about the shortcomings of NAFTA.

At my request, the administration included provisions in the implementing legislation that better protect minority business programs. The inclusion of these protections in an international trade agreement is an important step in safeguarding these critical programs. The Government Operations Committee will work to include similar provisions in the General Agreement on Tariffs and Trade [GATT] Government Procurement Code that is scheduled for completion next month.

But it is not enough. Despite this progress, despite my belief in the good intentions of this administration, I must vote against ratification of NAFTA because NAFTA cannot be fixed. It cannot be fixed with side agreements, implementing legislation or a statement of administrative action. And it shouldn't be bought with pork-barrel promises.

Is the future of working Americans worth a $10 million center for the study of trade, a $17 million break for Honda, or a couple extra C–17 planes built in your district? We are trading away our future with these pork barrel deals.

This agreement subordinates fundamental American values—the right to earn an honest wage, the right to organize, the right to good health and a sound environment—to the only currency of importance to multinational corporations: The imperatives of commerce.

NAFTA, is a high stakes gamble, a game of winners and lowers played with loaded dice.

If you are a multinational corporation, you win. If you are a blue-collar worker from Detroit, you lose. If you want to pay your workers less, you win. If the plant where you work moves south, you lose. If you own a small farm, you lose. If you are poor—like nearly 1 in 5 Americans are—you lose. If you do not have a college degree, you lose—and if you cannot put your kids through college, they will lose too.

You know that under a NAFTA regime people will suffer. They will lose their jobs, their families and communities may disintegrate, and they may not ever recover. If you vote in favor of this agreement, then you are telling these people that they don't matter, that their jobs and their communities don't matter, and that their future is irrelevant.

These are not American values, Mr. Chairman. We cannot, we must not codify these values in an international trade agreement. We must vote against this agreement, not out of pessimism or fear, but because a vote against this NAFTA is a vote for American values and the optimism and faith that we can do better.

I yield back the balance of my time and ask for unanimous consent to revise and extend my remarks.

Mr. CRANE. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. ARMEY], our distinguished Republican conference chairman who has his doctorate in economics.

Mr. ARMEY. Mr. Chairman, nations do not trade with each other, people trade with each other. And for those people, we have before us a fundamental question of freedom. The issue is, will we allow our citizens the freedom to decide when they can benefit from free exchange?

NAFTA supporters endorse Mr. Smith's right to trade with Mr. Sanchez, and we recognize their ability to make decisions in their own interests. We also know that both can be made better off by trade. Most important, we believe that no agency in Washington, no bureaucracy in Mexico City, no ministry in Ottawa is qualified or justified in obstructing trade between Mr. Smith and Mr. Sanchez.

The other side of this debate holds a less charitable view of the American people. They believe governments know best. They believe government should tax, regulate, and restrict agreements between free people. They say, given the freedom to trade, Americans will lose.

In this debate, Congress must choose the side of freedom.

Why?

Mr. Chairman, since World War II our Nation has worked to build a prosperous and peaceful world. A world founded on the principles of free enterprise, open markets, and democracy.

And as the world became more free and prosperous, so did we.

Today America's economy is the most powerful in the world, and America is the No. 1 exporter. Thirteen million Americans work in export-related jobs. If America's export sector were a separate economy, it would be the world's 12th largest.

We are now living in the post-cold-war era, the dawn of a new era of freedom. Across the world, nations are embracing American principles of free enterprise and democracy. These nations are the growth markets of tomorrow.

Now, we face today's historic decision on NAFTA. The outcome will chart our Nation's course for decades. After leading the fight for freedom, will we retreat and leave to others the benefits of expanded world trade? Will America capture these new markets or leave them to our competitors?

If you defeat NAFTA today, you turn our economic agenda over to the timid—to those who believe we cannot compete.

Mr. Chairman, no nation ever grew rich by restricting its people's ability to conduct commerce—at home or abroad.

If we pass NAFTA tonight we reaffirm our belief in the ability of America's entrepreneurs and workers, and uphold the sovereignty of American consumers. We proclaim that Americans will compete and prosper in the world marketplace, not cower in the face of competition.

A vote for NAFTA is a vote for freedom. And freedom works.

□ 1840

Mr. CRANE. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. Mr. Chairman, I rise in support of NAFTA.

Mr. Chairman, yesterday I announced my intention to vote in favor of NAFTA, the North American Free-Trade Agreement, because I believe it will increase jobs in the 14th Congressional District.

This has not been an easy decision. I have received literally hundreds of calls and letters on both sides of this issue. I want to thank the constituents who called and wrote me over the last several months to express their views. Their ideas and opinions are important, and I wanted to take the time to listen carefully to you.

I am supporting the NAFTA because I believe it will increase jobs in Illinois. As the high level of tariffs among North American countries has been lowered in recent years, Illinois companies and Illinois farmers have pursued new sales into the Mexican and Canadian markets aggressively and they have been very successful. Canada and Mexico are Illinois' first—and second—largest export markets. Exports to our neighbors, both north and south, have grown at a rapid pace over the past several years, and eliminating the trade barriers currently imposed by Mexico will lead to new jobs for our citizens.

I also believe it is imperative that the United States takes a leadership role in the development of international trade—not only with Mexico and Canada—but around the world. American workers, when allowed to compete, are second to none. In that regard, successful completion of the GATT is vital to American jobs. I believe our failure to pass NAFTA would signal to the world, and especially to our trading partners in Asia, such as Japan, that they can continue protectionist policies and keep American goods out of their countries.

Those who have called and written in opposition to the agreement argue it will lead to additional job losses. We have lost some jobs to Mexico in the past, in part because American companies could only avoid high Mexican tariffs by producing in Mexico. Because NAFTA lowers those high tariffs, I believe it will enable us to competitively ship Illinois goods to Mexico—not Illinois jobs. While I believe this agreement is in the best interests of the United States, it is important to remember that we have the ability to withdraw from it 6 months after announcing our intent to do so. This clause of the agreement gives us an added measure of security to guarantee that the NAFTA is beneficial for our Nation, both now and in the years to come.

The future of this Nation, and the prosperity of the people of Illinois, rest increasingly on our ability to compete effectively within a framework of open markets, and the North American Free-Trade Agreement is an important step in that direction.

Mr. HUNTER. Mr. Chairman, I yield 1 minute to the gentlewoman from Florida [Mrs. THURMAN].

Mr. DERRICK. Mr. Chairman, I yield an additional minute to the gentlewoman from Florida [Mrs. THURMAN].

The CHAIRMAN. The gentlewoman from Florida is recognized for 2 minutes.

Mrs. THURMAN. I thank the gentlemen for yielding this time to me.

Mr. Chairman, thoughtful people can have honest differences of opinion about how American employers will react—what choices they will make—if the North American Free-Trade Agreement passes tonight.

But let us talk about some facts, not speculation. Fact: NAFTA will be costly. Estimates say NAFTA will cost up to $40 billion for environmental cleanup, worker retraining, roads, bridges, and sewage treatment.

Fact: We passed a budget a few months ago which freezes domestic spending for the next 5 years. We will make deeper cuts in a few days. I ask you, where is this money going to come from?

Do not get me wrong. I am very happy that Florida agriculture was finally heard and President Clinton, to his credit, took steps to protect some commodities from unfair competition.

But the good news is misleading. The agriculture community is not united. A lot of citrus growers, strawberry growers, tomato growers, peanut producers, and the Florida Farm Bureau and others are still opposed to NAFTA.

And so are the citizens of the 5th Congressional District of Florida. Thousands have contacted me in opposition to this NAFTA.

Side agreements and letters cannot fix what is fundamentally wrong with this NAFTA.

There is nothing in this NAFTA which forces the Mexican Government to grant basic labor rights to its workers, to allow wages to rise with productivity or to enforce basic environmental standards.

Mr. Chairman, the last few days have been instructive.

I ask you, if we can successfully negotiate side deals and concessions up to the 11th hour, doesn't this prove conclusively that this NAFTA is full of holes, that it is incomplete, that it can be improved?

I say we owe it to those most vulnerable—our working families—to go the extra mile to negotiate an agreement for which we can all be proud.

For the sake of America, vote no on this NAFTA.

Mr. KOPETSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana [Mr. JEFFERSON], a member of the Committee on Ways and Means.

Mr. JEFFERSON. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise today to reiterate my support for the North American Free Trade Agreement. I support the agreement because I believe it will be of tremendous benefit not only to my district of New Orleans and my State of Louisiana, but also to the Nation as a whole.

In my district, we have the port of New Orleans, the second largest port in tonnage in the country. Through our port pass trade goods of every kind, agricultural, petrochemical, food products, wood and paper goods to name just a few. While there are honest differences on the effect of NAFTA, I strongly believe that this agreement encourages and enhances this trade activity and will be of tremendous benefit to our local and State economies. In 1992, Louisiana ranked seventh among the 50 States and second among the south central States in the value of exports to Mexico. The New Orleans region's services industries such as medicine, business/professional tourism and educational services already export to Mexico. 11,000 jobs in Louisiana in 1992 were supported by exports to Mexico, most in my district, and almost 50 percent of those jobs were created within the past 5 years, since Mexico began liberalizing its import regime. To quote the president of the Port Authority of New Orleans, J. Ron Brinson, "The time has come to start realizing the tremendous potential of the rest of the hemisphere."

One anticipated result of NAFTA will be a substantial increase in both imports and exports through area port facilities with more ships calling at area terminals, more maritime service service businesses expanding, and more port revenues, jobs and incomes.

Furthermore, our area's ports have excellent intermodal connections with container-handling and water-rail-trucking intermodal facilities that link readily to U.S. manufacturing and market centers likely to be stimulated by NAFTA.

Further anticipated benefits of NAFTA to the New Orleans area include the attraction of offices of Mexican companies as they seek to establish a foothold in or expand into the

United States additionally, there should be an increase in business-related travel demand focusing on area hotels, restaurants, and entertainment businesses associated with the expanded import/export cargo activity and business relationships with U.S. companies in the New Orleans region.

On a national level, it is clear that the world powers of the 21st century will not be military powers but rather economic powers. Prosperity and a rising living standard in this Nation are integrally related to our ability to find and penetrate new markets for innovative U.S.-produced goods and services that are created with such quality and care as to be competitive with the products of any and all of our trading partners.

Mr. Chairman, there are new frontiers for us to conquer. Low-income jobs leaving us in droves without NAFTA, and will continue to do so. This is not where our future lies. Our future lies in creating higher-paying jobs and educating our people to handle those jobs created through expanding imports. They are within our vision, they lie within the markets of Latin and South America, the European Community, the Pacific Rim, and Africa. It is time for us to take up the challenge that Americans historically have always responded to with optimism, vigor, and ingenuity. We can begin with the adoption of NAFTA.

The CHAIRMAN. The Chair wishes to advise Members that the gentleman from South Carolina [Mr. DERRICK] has 36½ minutes remaining; the gentleman from Illinois [Mr. CRANE] has 31½ minutes remaining; the gentleman from New York [Mr. SOLOMON] has 26½ minutes remaining; and the gentleman from Oregon [Mr. KOPETSKI] has 31 minutes remaining.

Mr. DERRICK. Mr. Chairman, I yield 1 minute to the gentlewoman from Missouri [Ms. DANNER].

Ms. DANNER. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise today in opposition to NAFTA.

Mr. Chairman, I believe in a NAFTA in which the acronym denotes not the North American FREE-Trade Agreement, but the North American fair-trade agreement. Therefore, I believe we should renegotiate NAFTA.

You have heard Members of this body stating various and sundry reasons why this agreement should be renegotiated. I would like to speak about one in particular, the issue of sovereignty, because I think its important for the American public to know that NAFTA relinquishes much of our national sovereignty.

In the past, decisions affecting Americans have been made by Americans.

However, under NAFTA, decisions with regard to United States trade laws will be made by an international panel composed of Mexicans, Canadians, and Americans—none of whom are elected officials answerable to our American people.

□ 1850

Many agree that there is a genuine question as to the constitutionality of much of NAFTA. I believe that it is better to do it right than to do it fast.

□ 1851

(At this point Mr. DE LA GARZA assumed the chair as Chairman of the Committee of the Whole.)

Mr. CRANE. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. LEVY].

Mr. LEVY. Mr. Chairman, outside this Chamber, the anti-NAFTA forces are hearing this debate and they are in an absolute panic. And, as the hours go by, they are becoming more and more creative.

Earlier, they tried telling us that NAFTA causes cancer. That was disproved and now—on my way over here—I was lobbied against NAFTA on the ground that—get this—NAFTA's passage will lead to the drainage of all the water from the Great Lakes. I am still working on that one.

Let us stop the nonsense—the scare tactics and the misinformation.

It all boils down to these questions:

Does the United States want to take part in the new world financial order or retreat from it? Do we want to unite with our hemispheric partners to compete with Japan and Germany or maintain barriers between this country and our most obvious trading partners?

The United States has traditionally been a world leader in the area of international trade. By defeating NAFTA we will be signalling to the world that we can no longer compete, that we support protectionism instead of free trade.

We will be telling our neighbors "Look elsewhere, not to us, for an industrial power from which to purchase goods and services free of tariffs that inflate prices artificially."

Those who argue against NAFTA say that the treaty's passage will lead American companies to Mexico, taking American jobs with them. Why?

Nothing in our present law prohibits companies from locating in Mexico or conducting part of their operations there. They can do that if NAFTA passes or if it doesn't.

The fact of the matter is that, under NAFTA, tariffs that raise the price of American products in Mexico will be eliminated, more products will be sold, and jobs will be created in this country to meet increased demand.

By passing NAFTA today we send a signal to the world that Americans do not shrink away from the challenge of competition. We welcome it and we expect to win.

We also send a message to our constituents that, in an appropriate case, we can act in a bipartisan way to do what is right for the country.

Mr. Chairman, I disagree with the President more often than I agree with him but he is right on NAFTA. I will be voting "yes" on the treaty today and I urge my colleagues to do the same.

Mr. HUNTER. Mr. Chairman, I yield such time as he may consume to the gentleman from Maryland [Mr. MFUME].

Mr. MFUME. Mr. Chairman, I urge a no vote on NAFTA.

Mr. Chairman, I rise today in opposition to the North American Free-Trade Agreement, or NAFTA. My opposition stems from the fact that while I am a proponent of free trade I am a stronger supporter of fair trade, and NAFTA, in its current form, is not fair.

To begin, NAFTA is not fair to American workers. Despite claims of jobs gains if NAFTA passes, a Roper Organization survey of 455 senior executives of manufacturing companies perhaps says it all. A third of the executives polled think NAFTA will be somewhat unfavorable to American workers. As many as 40 percent say that it is likely that, under the agreement, they will shift some production to Mexico in the next few years. And a quarter of the executives polled admit that they would use the threat of moving as a bargaining chip in forcing concessions from unions.

Which American workers will be hurt? The Congressional Joint Economic Committee estimates that as many as 500,000 American workers—half a million men and women—will lose their jobs because of NAFTA over the next 10 years. The majority of these jobs will come from the manufacturing sector—the people who work to produce motor vehicles, textiles and apparels, electric machinery and equipment, and processed fruits and vegetables.

These people who will lose their jobs when American factories relocate are those who work for the minimum wage or slightly more. They are the people who use the majority of their paychecks to meet the basic needs; they can least afford to lose their jobs. Furthermore, according to the Congressional Joint Economic Committee, these workers are not likely to find replacement jobs in the same industry. According to the committee:

> This is especially true for . . . workers losing jobs in textiles and apparels, where the trade related job losses will be accompanied by structural changes in the industry's volume and method of production, which will lower the overall employment requirements for the industry.

The fact of the matter is that the legislation before us authorizes only $28 million a year to assist workers displaced by NAFTA. The Bush administration—never considered a friend of the unemployed—had proposed $335 million per year, or 12 times the current proposal.

Furthermore, NAFTA supporters argue that NAFTA will create new jobs; better paying jobs in high technology industries. You cannot tell me, however, that a man or woman who has worked on an assembly line for 10 years and may have, at most, a high school education, will be scooped up by all these new high technology firms begging for employees.

In short, NAFTA could potentially displace a large number of hard working American men and women and to date no one has given me anything near an assurance that they will not simply fall through the cracks.

NAFTA is also unfair to the Mexican labor force. The minimum wage in Mexico is 58 cents an hour, and the Mexican Government plays a large role in maintaining that figure. Individuals trying to assert the right to collective bargaining are at best discouraged, and at worst harassed, jailed, tortured, or shot.

Furthermore, despite all of the talk we have been hearing about the recent increases in the Mexican economy, the standard of living for the average Mexican worker has dropped and gains in productivity have not resulted in an equal gain in wages.

Another concern I have with NAFTA is the impact it will have on the American, Mexican, and global environments. Despite the fact that Mexico has some of the toughest environmental laws on the books, they also have some of the most pervasive environmental problems. The Mexican Government's lax attitude toward enforcing environmental regulations is a serious problem; this problem is exacerbated by the industries that have freely polluted the United States-Mexican border for years, dumping waste and fostering corruption in accommodating border towns desperate for jobs.

If the United States is already uncomfortable with the role of world policeman, then the issue of environmental enforcement is an example of every politician's worst nightmare; a domestic squabble.

Another issue of concern to me is the fact that NAFTA is not fair to some of our most important historical trading partners; our Caribbean neighbors. Although there were rumors of a Caribbean parity bill which would put many Caribbean nations on equal footing with Mexico, the proposal never came to fruition.

At risk is a score of industries, such as textiles, apparel, sugar, and citrus products whose markets could dry up as a result of NAFTA. Trading patterns of Caribbean nations could be disrupted and several nations' economies thrown in turmoil as they are forced to compete at a disadvantage with Mexican products given free entry into American markets.

Finally, as chairman of the Congressional Black Caucus and as a Member of Congress representing a predominantly African-American congressional district I share a number of my colleagues' concerns about the impact NAFTA will have on African-Americans and on African-American businesses. The agreement before us contains no provisions to assist minority businesses to help them compete with multinational corporations for trade from Mexico.

I do not need, at this point, to discuss the problems that African-American and other minority-owned businesses currently face. Suffice it to say, however, that if NAFTA passes these problems are likely to be exacerbated by the fact that African-American businesses, unlike many other American businesses, will not be receiving any assistance from the Federal Government to make inroads into all of these new opportunities that NAFTA's supporters are touting.

As I said earlier, I support free trade. In fact, I believe that free trade is necessary if we are going to remain strong and economically healthy in the next century. The agreement before us, however, presents more problems that it does solutions, and is inherently unfair.

I support and encourage free and fair trade, but unfortunately the agreement before us is not fair. While NAFTA may benefit the executives and investors of large American companies who want to do business in Mexico, it also risks the alienation of long-term friends and trading partners, displaces American workers, and poisons the well, literally and figuratively, on both sides of the United States-Mexican border.

Mr. MATSUI. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. MANN].

Mr. MANN. Mr. Chairman, I rise to speak in support of NAFTA. In some ways in recent weeks it seems like a lifetime of study of the issue as scores of people literally have contracted me, met with me. I have received hundreds of letters, hundreds of telephone calls.

I keep coming back to one simple point of logic. The main thing that NAFTA does is eliminate the tariff barriers that stand between American-made products and their sale in Mexico.

The major change with NAFTA is that those barriers will be removed. We should be able to export more American-made products to Mexico. That should mean more jobs for Americans.

There is a fundamental question whether we believe in ourselves, whether we have confidence to support this change.

There is also the question whether we are going to stand true with the traditional support of this country for free trade. I think we must and I think we should.

I believe that NAFTA is good for American workers. I believe it is good for Ohio workers, and I plan to support NAFTA this evening.

Mr. DERRICK. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Oregon [Mr. DEFAZIO].

Mr. HUNTER. Mr. Chairman, I yield an additional minute to the gentleman from Oregon [Mr. DEFAZIO].

The CHAIRMAN. The gentleman from Oregon [Mr. DEFAZIO] is recognized for a total of 2 minutes.

Mr. DEFAZIO. Mr. Chairman, I thank both gentlemen for yielding this time to me.

Mr. Chairman, we have heard much from those who preceded me in this debate, about NAFTA as an export-oriented job-generating competitive agreement. In a perverse way, they are absolutely correct. The United States will see an increase of exports in scarce capital to build plants in Mexico.

The United States will export more jobs to Mexico while Americans pound the pavement in search of employment.

Responsible U.S. firms will be forced to compete with corporate polluters who seek safe haven under a corrupt and greedy dictatorship.

This agreement does not represent change. It locks into place the failed trade policies of the last 15 years, an era when the United States of America lost hundreds of thousands of jobs to unfair foreign competition, slid from a 70-year trade surplus to the depths as the world's greatest debtor nation under the rubric of free trade.

Under this agreement, foreign policy concerns supersede concern for U.S. workers and the domestic economy. Mexico will be given the opportunity to build up competing industries behind new and continued tariffs.

Read it, read it, my colleagues, the 700-page annex in Spanish, the new and continued tariffs granted to Mexico under this agreement. I know you have not read that if you support his agreement.

What bizarre version of free trade is this?

Finally, there has been much debate about the merits and demerits of the so-called side agreements on labor and the environment. If you based your vote on the enforcement of the side agreements on labor and the environment, you based your vote on a lie.

You are legislators. You know that you cannot take a side agreement and adopt it by Executive order. It is not part of the legislation before you here tonight. It is not being enacted into law by the United States of America. It is not enforceable under our Constitution unless it is enacted into law. This is not enacted into law.

Vote "no" on NAFTA.

Mr. CRANE. Mr. Chairman, I yield 2 minutes to our distinguished colleague, the gentleman from Massachusetts [Mr. TORKILDSEN].

Mr. TORKILDSEN. Mr. Chairman, I rise to urge all of my colleagues to support the North American Free-Trade Agreement.

During the past year, I have spoken to people throughout my district, employees and employers, union and non-union. After carefully studying enormous tracts of information, I announced my support last month for the North American Free-Trade Agreement, because it will mean more and better paying jobs for the American people.

The existing trade relationship between the United States and Mexico is not a fair one. Mexican tariffs on United States goods are much higher than United States tariffs on Mexican made goods. For United States made computers, Mexican tariffs are as high as 20 percent, and for United States made telecommunications equipment, Mexican tariffs can be as high as a staggering 35 percent. If the Congress approves the NAFTA, U.S. computer and telecommunications companies will not have to pay these tariffs.

Much of the current opposition to NAFTA is driven by fear, not fact. Defeating NAFTA will not increase wages in Mexico, or improve labor conditions in Mexico, or improve the environment in Mexico, especially along the United States border.

Defeating NAFTA will mean that Mexico will continue to keep the existing barriers to United States goods and services. Defeating NAFTA will mean the world will look at the United States and wonder if protectionism is now ruling our country.

But by approving the NAFTA, the United States will have some ability, through trade sanctions, to make Mexico enforce its own environmental laws and improve worker rights.

By approving the NAFTA, we will open up a growing market to American employers and employees. My home State of Massachusetts will see strong growth in the areas of telecommunications, computers, software, financial services, and many other industries. With this economic growth will come increased job security and employment in Massachusetts and throughout the United States.

This NAFTA will create tens of thousands of new jobs, jobs that pay better wages. Jobs that come about by producing high value added products, among the best products America makes.

This NAFTA will let the world know that the United States is willing to compete, and willing to let the productivity of the American worker take control in a world economy.

Mr. MATSUI. Mr. Chairman, I yield 2 minutes to the gentleman from Mississippi [Mr. PARKER], a distinguished member of the Committee on Public Works and Transportation.

Mr. PARKER. Mr. Chairman, today, we are considering an issue that I consider to be the most important economic vote to come before this body in the last 60 years.

There is this little fellow from Texas who has been heard to say that the "devil is in the details." So is confusion.

Both sides have engaged in exaggeration.

The pluses are not as great as the proponents say, and the minuses are not as great as the opponents claim.

NAFTA is not a cure-all for our economic woes. Just what is it? It is a determination of the role that our Nation is going to play in a newly integrated world.

It is about how we will view other countries—and how we want to interact with them in terms of economics. It is about the willingness of America to live together with the family of nations that make up this world.

Do we want to turn inward or look outward? Do we want to abdicate world leadership?

Make no mistake, this debate is about world leadership.

Whatever ,we do here, the world will follow us. In 1930, we turned inward, erecting high tariffs and walls against trade.

It was a coalition of right wing isolationists and organized labor that convinced the country that we could become prosperous with that policy.

As we all know, what we got in the place of prosperity—was reaction from the rest of the countries of the world, who followed us and raised their own tariffs and walls against our goods and services. What we got was worldwide depression.

History is our most important teacher. NAFTA is about the future. It is about change. While change may be scary, the past can be terrifying.

We have a choice here—we can move into the shadow of Japan and of Europe, and—unbelievable as it sounds—live in fear of Mexico; or we can lead the world into tomorrow. It is our choice. Join me in voting for NAFTA.

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Mr. DERRICK. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin [Mr. KLECZKA].

Mr. KLECZKA. Mr. Chairman, the House of Representatives is about to decide the fate of the North American Free-Trade Agreement [NAFTA]. The deciding factor must be whether this agreement is in the best interest of our country and the people we represent. Use of this criteria dictates that I must oppose this measure.

I must seriously take issue with the concessions and special projects—pork—the administration is giving away to undecided Members of Congress and special interest groups.

So many concessions have been made to various special interests that this NAFTA doesn't look like free trade at all. The administration has granted protections to the citrus, flatglass, wheat, broomcorn, appliances, and sugar sectors. The list goes on, and it keeps growing.

Supporters have also raised unreasonable fears about Japan waiting in the wings to go into Mexico if NAFTA fails. Nothing could be further from the truth.

The Japanese are generally astute business people. They usually do not act impulsively. If Japan saw increased profits in Mexico, it would have more of a presence than a mere 4 percent of foreign investment there. A recent Business Week article spells this out. Japan wants us to lead the way by passing this agreement, so it can be assured of a stable business environment in Mexico and an open door north to the United States and Canada for Japanese goods.

This past September Japan's Consul General drove up from Chicago to Milwaukee to lobby me on behalf of NAFTA. Unless he was using reverse psychology, he was expressing Japan's support for NAFTA in no uncertain terms.

Even without NAFTA, 15 companies have moved a portion or all of their operations from Wisconsin to Mexico in the last 15 years. That movement alone has meant 3,500 lost jobs for Wisconsin. More will follow if NAFTA passes because companies will take advantage of our reduced tariffs and Mexico's minimal worker protections, lax environmental standards, and cheap labor.

It is time to go back to the drawing board. Join me in defeating this NAFTA.

Mr. CRANE. Mr. Chairman, I yield 3 minutes to my distinguished colleague, the gentleman from California [Mr. THOMAS], who has done yeoman work in this legislation in the area of agriculture.

Mr. THOMAS of California. Bear with us folks. We have only about 2 hours to go. Everything that needs to be said has been said, just not everybody has had a chance to say it.

Mr. Chairman, it is a real pleasure taking the floor and knowing that in about 2 hours I will be casting my vote with more than 100 Republicans who will share the green lights with more than 100 Democrats to pass the North American Free Trade Agreement. This show of bipartisanship is a long time coming because there has been way too much partisanship on a number of issues for too long.

I say to my colleagues, "If you listen to the opponents, they say it's not this NAFTA, it's we could have done this, we should have done that. Well, when you look at the woulda's, the coulda's, and the shoulda's, the ifs and the buts, as Dandy Don Meredith used to say on Monday night football, 'If ifs and buts were candy and nuts, we would all have a Merry Christmas.'"

But let us look at what has been done in the real world between countries who are jealous of their sovereignty and hung on to it. First of all, I think we have to commend President Salinas of Mexico. We have to give a lot of credit to former President Bush. We have to give credit to President Clinton. We have got to give credit to the Democratic leadership and the Republican leadership in this House, to the chairmen and ranking members of the committee who moved this forward in one of the most negative, nasty climates I have ever seen.

My colleague, the ranking member on the Trade Subcommittee, said that I have been involved with this bill in the agriculture area. I was involved with the United States-Israeli Free Trade Agreement, with the United States-Canada Free Trade Agreement and now bringing Mexico into the North American Free Trade Agreement. This is the best one yet. I say, "The more you work at it, the better you get, and this is the best bilateral trade agreement the United States has ever made."

I say to my colleagues, "If you look at specific sections, areas that I have a great concern about in agriculture, transshipment of goods, point of origin of goods, the content that's in those goods, where did it come from? Is it what it says it is? If you take a look at the protection of intellectual property rights, these are the best agreements we've ever reached. This is now the standard for the world."

Now I apologize for getting into the nuts and bolts of this particular agreement, but, after all, not only have I looked at all of those pages, not only have I read them, but I helped write them.

As my colleagues know, it is not uncommon to have a bipartisan working relationship in the area of foreign affairs or in trade, so Democrats and Republicans coming together in this bipartisan way is not necessarily unique. What I hope is unique is that from this night forward we continue to try to work in a bipartisan way, not just on foreign policy, not just on trade agreements, but on absolutely necessary domestic policy.

I just also happen to be the ranking Republican on the Health Subcommittee of the Committee on Ways and Means, and I cannot tell my colleagues how much I would be pleased to come to the floor and vote for a bipartisan solution to change health care in this Nation.

Mr. MATSUI. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. BEILENSON].

Mr. BEILENSON. Mr. Chairman, I rise in strong support of H.R. 3450, legislation implementing the North American Free-Trade Agreement [NAFTA].

Seldom have we faced a more significant vote in Congress; seldom is so much at stake. And seldom do we have such a clear-cut opportunity to move our country forward toward a future that offers so much hope for our own well-being, as well as for that of our neighbors.

NAFTA deserves our support because it will generate more economic growth for the United States, as well as Mexico and Canada, and create more highly paid export-related jobs for American workers. It will bring about a closer relationship with Mexico, which will enable us to better address such issues as illegal immigration, drug trafficking, and environmental protection. And, it will strengthen the leadership of the United States in world affairs.

Opening up new markets is the key to the creation of jobs and increased prosperity. Over the past half dozen years, trade exports have been the strongest part of our economy, creating about 2 million new American jobs.

Mexico has already become a vitally important market for United States exports. It is now our third leading export market, our second leading market for manufactured goods, and our third leading market for agricultural products. Export to Mexico have more than tripled in the past 6 years—from $12 billion in 1987 to almost $42 billion last year. Six years ago, we had a $5.7 trillion trade deficit with Mexico; now we have a $5.4 billion trade surplus. More than 700,000 U.S. jobs are now supported by exports to that country.

By removing the remaining barriers to trade with Mexico—particularly by reducing Mexican tariffs, which are 2½ times higher than ours—this accord presents a golden opportunity to build on our success in supplying the vast and growing Mexican market.

NAFTA's approval will ensure Mexico the flow of investment capital it needs to sustain a growth rate of 6 or 7 percent a year. In another 15 years or so, Mexico will have a trillion dollar economy—almost double the size of our biggest current customer, Canada—and guarantee American business unrestricted access to all that purchasing power. We will be creating a huge market right next door, for which the United States will be the best-situated, most-favored, supplier of goods and services. Because Mexico's barriers will only be reduced for United States and Canadian products, and not for Asian or European ones, most of the benefits of this rapidly growing market will go to U.S. companies.

If investors in Mexico are largely American, as they will be if NAFTA is approved, the equipment going into new plants, the construction companies building them, and the parts and the intermediate materials used for production will probably come from the United States. That will promote long-term as well as short-term U.S. job gains. Otherwise, new investment, along with parts, capital equipment, and engineering, is likely to come from Japan and Europe. If that happens, Mexico could be turned into a foreign-export platform aimed at the United States.

Under NAFTA, many more export jobs for Americans will be created, and since export jobs pay 17 percent more than the average for the whole economy, those will be high-paying jobs. And, American consumers will benefit from lower prices on goods and services from Mexico.

In California, where the recession has been more severe and long-lasting than most other States, NAFTA will be particularly advantageous. Between 1987 and 1992, exports to Mexico from our State grew by nearly 200 percent, more than exports to any other country. A very large share of those exports have been from California's high-technology sectors such as industrial machines, computers, and electronic equipment. NAFTA will generate even more growth for those products.

Opponents argue that if NAFTA is approved, more companies will move their production to Mexico to take advantage of cheaper labor. But just the opposite is true. There is nothing to stop companies from moving to Mexico right now. Some that relocate there do so because Mexico's tariff and domestic content requirements make it necessary for United States businesses to relocate to Mexico in order to sell there. NAFTA will prohibit those requirements, thus allowing for the first time American companies to ship products to Mexico that have been produced in the United States.

In addition, hundreds of thousands of small and medium-sized firms in the United States—which create 80 percent of the new jobs in the United States—would have access to the Mexican market for the first time. Most are now unable to do business in Mexico because they lack the time and resources needed to contend with Mexican trade barriers.

Besides being good for our economy, NAFTA will also be good for our relationships with other nations. It will promote a closer relationship not only with Mexico, but also with our neighbors throughout the Western Hemisphere who are hoping for improved trade with us in the future, and who are watching this vote closely as a sign of our willingness to increase trade with them.

A prosperous and growing Mexican economy will help that nation cement its considerable progress toward economic and political reforms, which will lead to more cooperation with Mexico in addressing such issues as drug trafficking, illegal immigration, and environmental protection.

Illegal immigration, which is placing an enormous strain on communities in southern California, will be eased by NAFTA—not just because there will be greater cooperation between the two countries, but also because NAFTA will generate more and better job opportunities in Mexico. By doing so, it will help stem the tide of Mexicans who enter the United States illegally in search of jobs.

Economic growth in Mexico will also provide that country with the resources it needs to enforce environmental laws. New rules for solving differences over environmental matters will ensure that our own high standards are not compromised. And, if Mexico fails to enforce its environmental laws, its government would be fined; if violations persist, trade sanctions could follow.

This is the first trade agreement to use fines and trade sanctions to back up environmental protection. In fact, the degree to which environmental considerations have been addressed in this accord is unprecedented; it is the most environmentally responsible agreement we have ever negotiated. Significantly, its approval will set a standard for incorporating environmental considerations into future trade agreements the United States negotiates.

And, finally, Mr. Chairman, the issue before us today, in a very real sense, is about much more than NAFTA, important as that agreement is to our economy.

It is about our place in the world, and the role we will play, and the way others see us.

It is about American political leadership in the post-cold war world, and whether or not we still believe in the open markets and increasingly freer trade we have been working toward for these past decades.

It is about how the United States will relate to the rest of the world in the years ahead—as an optimistic, confident, competitive leader and trading partner, or as a frightened, defeatist, and unreliable nation which is unwilling to act in its own national interest, and in the interest, as well, of market-oriented growth and democratic political reform in the developing nations of the world—particularly of our neighbors to the south, whose dramatic reforms of the past decade deserve our strongest support and approbation.

Approval of NAFTA will point our Nation in the right direction: toward the opening of world markets to trade and investment, and the economic benefits our Nation and others will reap as a result, and toward retaining and strengthening our Nation's leadership in world affairs.

This is a truly momentous occasion. It is one of those defining moments in our history, and I hope and pray that we respond in a manner befitting the proud history of this great Nation. Our decision will determine whether we go on in the post-cold war era with confidence and optimism—or whether we retreat from our obligations to others, as well as to ourselves. The world still needs us; let us not turn away from our ideals, and our responsibilities.

Mr. Chairman, for the sake of the economic well-being of our people, our national security, and our leadership in the world, it is essential that we approve H.R. 3450. I urge my colleagues to vote for this important legislation.

Mr. DERRICK. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. McHALE].

Mr. McHALE. Mr. Chairman, by insisting upon a renegotiation of NAFTA, the United States has an unprecedented opportunity to promote not only free trade and economic prosperity, but to renew our nation's historic commitment to democratic equality, individual liberty, and the empowerment of workers within a free market system, both in our own Nation and in Mexico.

The North American Free-Trade Agreement, now before us, seeks to achieve profit through the abandonment of principle. If NAFTA is ratified in its current form, Mexican wages will continue to be artificially suppressed by that government's authoritarian economic policies; U.S. workers, no matter how skilled or productive, will be fatally undercut by an intolerable wage differential; unacceptable, though cost-effective, environmental degradation will continue in Mexico, placing United States companies at a severe competitive disadvantage; and finally, investment capital, so desperately needed to modernize United States industry, will be attracted south to the low wage, high pollution manufacturing climate in Mexico.

Some day, in the not too distant future, I hope to vote for a renegotiated NAFTA agreement, one that will protect fair labor standards and the international environment, eliminate all trade barriers between the United States, Canada and Mexico, while protecting people as well as corporate profits. The current NAFTA agreement fails to meet that challenge and neither political pressure nor name calling by editorial writers will cause me to change my mind. With my vote on NAFTA today, I will defend the highly skilled, decently paid, working men and women of the Lehigh Valley's labor-intensive industries, including the more than 20,000 citizens employed in steel, trucking, and apparel. These citizens built the Lehigh Valley. They must not be abandoned. They are not expendable.

Enhancing one company's profit need not come at the expense of another company's very existence. I will, therefore, vote "no" on this NAFTA.

Mr. CRANE. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from Maryland [Mrs. MORELLA].

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Mrs. MORELLA. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, a major newspaper endorsing NAFTA characterized the controversy by quoting FDR, and said, "The only thing we have to fear is fear itself." Indeed, fear of the unknown.

Clearly no agreement of this magnitude could have a wholly beneficial effect for any of the nations involved. However, I believe that the agreement will be ultimately beneficial to our Nation.

Mr. Chairman, NAFTA will help to bring about environmental improvements in Mexico and along the border. NAFTA will increase protection of natural resources and will preserve and increase environmental standards. It provides for increased public participation in environmental decisionmaking. NAFTA-inspired economic growth in Mexico will provide it the wherewithal to better enforce its environmental laws.

NAFTA will further reduce Mexican tariffs on United States goods, helping to expand our export markets there and bringing about a net increase in jobs in the United States. The agreement also phases out Mexico's nontariff barriers and removes incentives for United States companies to move to Mexico.

Look at what President Salinas' efforts to lower tariffs and open up Mexico's economy have done in my own State. More that 15,000 Maryland jobs are supported by United States trade with Canada and Mexico, and in 1992 alone, 1,000 jobs in Maryland were supported by the State's growing market in Mexico. Between 1987 and 1992, Maryland's exports to Mexico grew by 248 percent; that is more than 100 percent faster than Maryland's exports to the rest of the world. Removal of remaining Mexican import tariffs under NAFTA offers the opportunity for increasing Maryland, and American, jobs and exports to Mexico.

As a strong advocate of human rights and environmental concerns, I am pleased that the debate on NAFTA has focused attention on the state of affairs in Mexico. I hope that this interest in human rights and the environment in Mexico continue into the future regardless of the final disposition of NAFTA.

I will not dispute the claims of NAFTA's opponents that Mexico has less than ideal guarantees of human rights, labor rights, environmental enforcement, and democratic participation. However, the defeat of NAFTA is a vote for status quo—it will do nothing to address these problems; on the contrary, passage of NAFTA is a vote for progress—it offers the best prospects for addressing Mexico's shortcomings in these areas.

In the coming weeks, Mexico's ruling party will choose its candidate for the presidency of Mexico. If NAFTA is defeated, the Salinas economic reforms, which have allowed for the tremendous growth of exports and related jobs in the United States, as well as greater economic freedom in Mexico, will be discontinued, and the party and the country will move back toward the left. Under these conditions, President Salinas' successor will be in no position to renegotiate a new NAFTA. Passage of this NAFTA, now, will help assure the continuation of Mexico's movement toward a freer economy, which is inextricably linked to the growth and development of greater political freedom and democracy.

If you want more American jobs, a cleaner border, and a freer Mexico, I urge you to join me in support of NAFTA to preserve United States leadership in the world.

Mr. SOLOMON. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Philadelphia, PA, Mr. WELDON.

Mr. WELDON. Mr. Chairman, I voted for fast track 2 years ago. I voted for fast track because we were led to believe that we would get a straightforward agreement that would lower tariffs, remove trade barriers, be one that we could all understand that was simple in nature, ye go to the heart of the concern that all of us had, to improve trade relations with Mexico.

We were told there should be no chance for amendments, because the Congress would load the package up with all kinds of protectionist provisions. We were told the side agreements would be simple and straightforward and enforceable and would improve working conditions and environmental regulations.

Mr. Chairman, let us look at what we have. This is the simple document, thousands of pages of regulations and detailed analysis, that most of us have not had a chance to read and fully understand.

It is loaded with protectionism. It is a free trade agreement that is going to provide protectionism for wine, for citrus, for sugar, for glass, for home appliances, for peanuts, for sugar beets, for asparagus, and tons of other products, when we are told it is a free trade agreement.

But beyond that, we have grants for roads, bridges, mass transit, C17s, and a $17 million tax forgiveness for the Honda Motor Corp.

Mr. Chairman, on top of that, we have been told the side agreements are really legitimate documents. But what did the Secretary of Commerce from Mexico tell the Mexican Parliament? He said to them, "The time frame of the process makes it impossible that sanctions will ever occur."

Mr. Chairman, if the Mexicans do not take the side agreements to task, and if they do not think they are really valid, then how can we?

Mr. Chairman, this is not what I voted for 2 years ago. This is not a fast track free trade agreement. This is a protectionist free trade agreement that is running and being passed under the guise of being some kind of new agreement with Mexico.

This agreement was brought by the last minute details of this administration with Members of this body, and I am ashamed to say that is what is going to pass it tonight, because it cannot be defeated. We should start over and we should do what we set out to do 2 years ago, and pass a real free trade agreement. I would vote for that.

Approximately 1 month ago I had a personal visit with the CEO of a large Pennsylvania-based food corporation. During the course of our 30 minute conversation about NAFTA we both agreed on the benefits of a free-trade agreement with Mexico that would enhance the free flow of goods and services and minimize tariffs. The CEO spoke eloquently about his company's plans, and to be honest, I was impressed with his assertion that hundreds of jobs had been created due to expanded trade with Mexico.

I then asked the $64,000 question: "What do you employees think about NAFTA?" The CEO replied "Well, they're against it."

And so it's been all over Pennsylvania and the Nation. Corporate executives tout their support of NAFTA while workers in the same organizations lead the fight in opposition. And, at least in my experience, the opposition has not just come from organized labor. This is an issue which has energized the grassroots. While the mail and telephone calls have dropped from the 10-to-1 ratio of opposition, they still run overwhelmingly against NAFTA.

I have heard too many stories from too many credible sources to dismiss the concerns of American workers. Accordingly, I will vote against NAFTA.

In my discussions with business and labor leaders, I have become convinced that significant job losses will occur if NAFTA is passed. One Philadelphia based company wrote that they would face two choices if NAFTA were passed—close the factory and import from Mexico or move to Mexico for a 10 year payroll savings of $5 million. This is a 100-year-old company with annual sales around $50 million. Another former plant manager saw NAFTA as "a vehicle for large corporations to use as a common denominator to take plants to the countries that have the lowest pay scales and poorest working conditions without their local government objection".

Most polls have shown the American people to be extremely skeptical of NAFTA. Not everyone is a blue-chip economist, but the American people have shown a great wisdom and common sense when deciding issues like this. And the American people are not convinced, not by former Presidents, or Secretaries of State, or by editorials or talking heads. Why are they so resistant?

Two years ago, I voted to give the President "fast track" authority to allow the President to negotiate NAFTA without congressional interference. I did so in the hopes that we would get a relatively simple agreement that reduced and eliminated trade barriers in a straightforward manner. My career in public service has consistently been based on the notion that free and fair trade is the best and quickest way to improve the quality of life for all our citizens.

Just in the last year, for example, I have focused on United States private economic investment in the former Soviet Union. This type of beneficial trade is far superior to American foreign aid, paid for the taxpayers. I firmly believe a similar strategy will work in Mexico.

Certainly, over the last 20 years I could point to over 30,000 manufacturing jobs that we have lost along our industrial corridor. These jobs, it is true, left without NAFTA. But many of these jobs left due to unfair foreign competition—like the American Viscose plant—or more attractive conditions in other countries—like Westinghouse.

My hope was that NAFTA would provide an enforceable mechanism to ensure that Mexico—and eventually all of Latin America—would move rapidly to improve working conditions, enhance environmental regulations and fully support human rights in a truly free democracy.

After close scrutiny, I have concluded that NAFTA does none of the above. The labor and environmental side agreements that have been so highly touted by the Clinton administration are so unenforceable as to be almost meaningless. Even the Mexican Secretary of Commerce mocked the side agreements in recently assuring Mexican legislators that "the time frame of the process makes it very improbable that the stage of sanctions could ever be reached."

I repeatedly tried to clarify these and other concerns with the administration for the last month. When Dr. Laura Tyson called to ask for my support of NAFTA in September, I asked at that time—and repeatedly since—to have she and Trade Representative Mickey Cantor travel to the Delaware Valley for a face to face meeting with me and labor and environmental leaders to address these concerns. Needless to say, that meeting never happened.

Unfortunately, what has happened has been a "free for all" between Members of Congress and the White House to buy support for this failed agreement. Over 39 separate "deals" have been cut involving over 100 House Members to insert special provisions that, in many cases, have nothing to do with free trade.

This agreement also contains scores of little goodies for favored companies and industries. Deep within the 2,000-page document are pork provisions funding regional animal health centers and regional trade centers, sweetheart deals for the sugar, wheat, and citrus industries, and a $17 million tax break for Honda Motors.

NAFTA supporters claim that the agreement will help ease our burgeoning problems with illegal immigration. However, in a recent trip to Los Angeles with my friend and colleague ELTON GALLEGLY [R–CA] I learned that NAFTA would likely have the opposite effect. In fact, Alan Nelson, Commissioner of the U.S. Immigration and Naturalization Service under President Reagan, has said "Illegal flow (of immigrants) will increase with NAFTA, at least for the next 15 years." Many Californians, including Congressman GALLEGLY—whose southern California District is hard hit with illegal immigrants—shares that assessment.

While much is made of potential job losses under NAFTA, barely touched upon has been the cost of NAFTA to the U.S. Treasury. I have yet to hear one Republican supporter of NAFTA propose new taxes to pay for the agreement nor one Democrat supporter propose spending cuts to offset increased costs. We know that cleaning up the polluted United States-Mexican border will cost billions, and the loss of tariff revenues also impacts the budget. The President has only announced a partial funding mechanism—levying a $1.50 surcharge on all travel by air and sea into our borders. This will cover only a fraction of the total costs of NAFTA.

In the final analysis, we need to look at the impact of this NAFTA on the American worker. As someone born and raised in a blue collar family and community, I know first-hand what it means to a community to lose a plant that employs hundreds of workers. I am afraid that if NAFTA is passed, thousands of towns across America will see plants close and jobs leave.

Labor productivity in Mexico's export industries is typically 80 percent of U.S. levels, while wages are 10 to 15 percent. This encourages manufacturers to produce their goods in Mexico to sell in the United States. I am convinced that industries will move to Mexico if NAFTA is passed. This has already cost roughly 500,000 jobs with a strong downward pressure on wages. Certainly, not all industries will have an incentive to move, only those who pay a relatively high percentage of their costs in wages and whose labor force is largely unskilled. The worker who makes sophisticated electronics parts for stereos won't be threatened by NAFTA, but the guy who assembles them will be.

In fact, the move is already underway to siphon off these jobs. So-called "relocation firms" are already working with companies to set up operations in Mexico in anticipation of NAFTA. One such firm, American Industries Relocation Services, located here in Philadelphia, boasts in a letter to corporate leaders that "we can have your company successfully set up a facility in Mexico."

In October, when President Clinton sought pledges from major corporations not to move jobs to Mexico, not a single one signed up. When the Roper polling company asked corporate executives in 1992 if they would "shift some production to Mexico—if NAFTA is ratified," 40 percent answered that this was 'very' or 'somewhat' likely. For large companies, that figure was 55 percent.

Why would NAFTA encourage companies to move that have not already done so? The answer lies in the added stability and lower risk to businesses due to the agreement's guarantee of business-friendly policies. While some job loss is inevitable with any trade agreement, we are not prepared for the massive economic shift we will experience with NAFTA.

I am convinced that it is in our best interests to pass a North American Free Trade Agreement. I am not convinced that this is the best that we can do. Working together we can do better for Mexico, for America, and most importantly, for the U.S. workers who will be most severely impacted by our actions.

Mr. MATSUI. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Texas [Mr. LAUGHLIN], a powerful member of the Committee on Public Works.

Mr. LAUGHLIN. Mr. Chairman, I would like to recognize the many contributions made by the chairman of the House Agriculture Committee, KIKA DE LA GARZA, for insuring a future of American agriculture, and thank him for his statement earlier today which highlighted the arguments against NAFTA based on emotion rather than the facts.

The facts are: American Agriculture impacts almost every job and business in small towns all across America. Second, many say that only States near the Mexican border will benefit from NAFTA.

Not true.

Consider these two examples:

The State of Michigan, since 1987 when President Salinas started reducing tariffs, has seen its sales to Mexico increase 51 percent.

Last year Michigan sold $1.6 billion in goods to Mexico. Those sales reflect jobs which produced those goods. In fact, Mexico ranked as Michigan's second largest foreign market in 1991.

The State of Ohio's exports to Mexico grew 137 percent from 1987 to 1991. In 1991, Ohio ranked 9th among our 50 States in the value of sales to Mexico.

In deciding on NAFTA we must all remember the words of President John F. Kennedy upon his arrival in Mexico City on June 29, 1962: "While geography has made us neighbors, tradition has made us friends. Economics has made us partners..." Mexico is our neighbor and we should treat Mexico as a neighbor and friend. We should want to do business with our friend and neighbor. We Americans take pride in being decent to our neighbors but listening to some on the floor today it sounded as if they were talking about an enemy.

We are not talking about trade with Mars, Russia, China, Germany or France or Japan; We are talking about trade with our next door neighbor who has demonstrated a desire to purchase American goods produced by American workers.

A vote for NAFTA is a vote for America's economic future.

Mr. Chairman, a vote for NAFTA makes us a better economic partner with our neighbors.

Mr. DERRICK. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New York [Mr. RANGEL], a senior member of the Committee on Ways and Means.

Mr. RANGEL. Mr. Chairman, I cannot support NAFTA. I cannot support it in its present form. But it is a concept that I think is very exciting, and I can see how so many people would grab it.

It seems as though by removing the trade barriers what we would be able to do is to encourage investment into Mexico and to take these poor people, these untrained people, and train them, push them to be more productive, to expand them into the middle class. And by doing this, you would increase their consuming appetite. After they reach this part in their life and their economy, they will then be able to purchase our exports. That means that while we do lose the jobs that we have, that we should be expecting many more jobs, high tech jobs, for bankers, investment bankers, insurance companies, and advertisers.

The problem that I have with this concept is that if it is good enough for Mexico, why is it not good enough for my district? Why is it that we have throughout these inner cities young people, that when you talk about a job, you know that you do not mean them? If we can apply this concept to Mexico, I think we ought to be doing it right here at home.

Mr. CRANE. Mr. Chairman, I yield 3 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON], one of our hardest working members of the Subcommittee on Trade.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I rise in strong support of the North American Free-Trade Agreement and ask unanimous consent to revise and extend my remarks.

The small and medium-sized Connecticut businesses that I am proud to represent need NAFTA. With defense downsizing and a prolonged recession in our State, the road to job growth and economic strength is paved with exports.

Ask those many small companies I represent that have already been approached by Mexican businessmen wanting to buy their products because they are such high quality and so reasonably priced.

NAFTA unlocks new markets, awards our products a preferred position in those markets, and protects sensitive sectors from sudden, disruptive change. For these three reasons, NAFTA means jobs and economic growth for Connecticut and America.

The evidence is clear that NAFTA will create expanded markets. Since 1987, United States exports to Mexico have shot up as tariffs have come down. With NAFTA, many more products and services from our factories and offices will flow to Mexico because those 10 and 15 percent tariffs that currently make our goods noncompetitive in Mexico will disappear. NAFTA opens markets. NAFTA creates jobs.

Second, NAFTA awards key American products a preferred position in the three-nation market. Clear rules of origin and tough tracing requirements will stimulate demand for more American manufactured products and, as our goods become more visible in Mexico, Mexican distributors will sell them throughout Latin America, creating increasing demand for American products and still more jobs in this country and Mexico.

Finally, import-sensitive sectors are protected from swift changes in trading patterns through strong snap back provisions in the agreement. If a particular industry is harmed by a surge in imports from Mexico, our folks are shielded by an unprecedented mechanism designed to give American producers the time and market support to adjust and compete.

This agreement is good for American workers; it is the culmination of long, hard negotiating by people like Carla Hills, Mickey Kantor, Rufus Yerxa, Chip Roh; a team of which we can be proud. It will expand our markets and jobs, boost economic opportunity for us and future generations, and continue U.S. economic leadership and the stability it provides in a tense and troubled world.

Mr. Speaker, I urge passage of NAFTA. It is in America's interest and in the interest of international prosperity and peace.

Mr. Chairman, I also wish to focus in more detail on two aspects of the agreement that have been too little pondered in this debate, both of which make us far better off under NAFTA than without it.

One aspect is the package of provisions that will moderate the impact on American producers of a surge in Mexican exports.

Recognizing America's painful experience with Japanese imports that literally devastated such sectors as autos, machine tools, and bearings, this agreement does for other sensitive sectors what voluntary restraint agreements did for machine tools, steel, and autos. VRAs were a real battle to pass, but through them, some of our critical industries gained the time they needed to become more productive and modernize both their technology and products. By stretching out the years to adjust to competition from lower cost, foreign-made products, and by forcing a slowdown in imports during this period—and thereby protecting a portion of our markets for ourselves—we literally saved, for example, the American machine tool industry.

NAFTA builds on that experience and, for the first time, builds in effective "snap back" protection for American businesses facing import surges from Mexico. Under NAFTA, tariffs and other protections "snap back" if increasing imports injure U.S. businesses, and the adjustment period is lengthened to better make American companies regain competitiveness. Of course, it is not lengthened indefinitely, but experience indicates that American industries become competitive with time to adjust and additional capital.

Change is inevitable. Do you want change with no mechanism for controlling the pace of change and moderating its impact?

The second reason that we are better off with NAFTA than without it, is that it contains strong rules of origin and tough tracing provisions that advantage many American manufactured goods. If NAFTA fails, Mexico will still open its markets to foreign investors and reduce tariffs gradually. It will do this through bilateral agreements because it must have outside goods and capital to modernize and improve both the standard of living of its people and the quality of the environment. Through bilateral agreements, Mexico will put Asian, American, and European goods on equal footing; Asian and European goods however, will be able to pour over our border with low or zero tariffs, costing jobs.

With NAFTA, we will enjoy protection against the harsh effects of too rapid change though "snapback" safeguards and actually give our products a preferred or advantaged position in this period of global change through content requirements. For example, only autos with 62.5 percent domestic content can enjoy tariff-free movement, and since we are by far the biggest auto parts producer of the three NAFTA countries, this content requirement—giving preference only to parts from our three countries—will benefit us.

Not only will such high domestic content autos supply Mexico, but through Mexico, they also will supply the rapidly growing South American market. Mexico is not looking just to buy American products for its own consumption. It hopes to be a major distributor of U.S. and all three-nations' goods throughout South America.

In sum, NAFTA opens markets, gives our products a preferred position in those markets, and protects sensitive sectors from too rapid change. By expanding markets and creating new demand for us to ship product, it assures jobs in my Connecticut district and will create jobs in the years ahead throughout America.

At stake is this country's leadership role in world trade and our continuing ability to compete with industries around the globe. No amount of hand-wringing and doom-saying can obscure the fact that Americans are winners and stand to gain ground under NAFTA.

Stripped to its essentials, NAFTA simply reduces Mexico's high tariffs and other legal barriers currently imposed on United States and Canadian products headed for that country. By knocking down these artificial walls, the volume of American products shipped into Mexico will increase substantially—and that means greater job security and ultimately more jobs for United States workers, from Torrington, CT, to Tuscaloosa, AL.

Recent history tells the story very plainly. Since Mexican President Salinas began cutting tariffs on United States-made goods in 1986, our trade balance has jumped from a negative $6 billion to a positive $7 billion this year. In other words, in a matter of just 6 years, U.S. workers are cranking out an additional $13 billion in goods to be sold south of the border.

Other facts that get lost in the overheated rhetoric:

The Mexican people buy 35 percent more per capita from the United States than the far more wealthy Europeans;

Since Mexico began reducing its tariff barriers to U.S. goods in 1986, exports to Mexico have grown 24 percent annually. And, NAFTA will make permanent President Salinas' actions and assures continual reductions in barriers; and

Seventy cents of every dollar spent by the Mexicans on imports are spent on products made in the United States of America.

What does this mean for the Connecticut workers I am privileged to represent? Our relatively small State sent Mexico 280 million dollars' worth of goods in 1992, and exports to Mexico grew 140 percent between 1987 and 1992. Connecticut's exports to Canada have grown 75 percent over the same period, to $1.3 billion in 1992. This export growth to our North American trading partners has created 12,300 new jobs in Connecticut alone. All told, over 41,000 Connecticut workers owe their jobs to exports to Mexico and Canada. Because NAFTA makes permanent the changes that created this increase in trade and jobs, and because NAFTA will expand the kind of promise that made this growth possible, it spells more exports and jobs for Connecticut and every other state.

Connecticut is a State of small manufacturers. Of our 6,500 firms, 5,300 have fewer than 50 employees. The companies that make us a manufacturing State do not have the capital to build in Mexico nor do they want to do business under Mexico's complicated laws and regulations. But they do make high quality, competitive products and many already have received orders from new Mexican customers.

Moreover, the environmental benefits of the treaty cannot be denied. Without NAFTA, timely funding for the multi-billion dollar border plan that commits Mexico to far-reaching environmental cleanup will be imperiled. Just as serious, pressure to improve enforcement of Mexico's generally strong environmental laws will dissipate and the losers will be everyone in North America.

I firmly believe I owe it to the people of Connecticut to vote for an agreement that will expand our markets and jobs, boost economic opportunity for us and future generations, and continue U.S. economic leadership and the stability it provides in a tense and troubled world.

I urge passage of the North American Free-Trade Agreement. It is in America's interest and in the interest of international prosperity, peace, and friendship.

□ 1920

Mr. SOLOMON. Mr. Chairman, I yield 1½ minutes to the very distinguished gentleman from Ohio [Mr. APPLEGATE].

Mr. DERRICK. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. APPLEGATE].

The CHAIRMAN. The gentleman from Ohio [Mr. APPLEGATE] is recognized for 2½ minutes.

Mr. APPLEGATE. Mr. Chairman, the road to hell is paved with good intentions. NAFTA may well be well-intended. The side agreements are well-intentioned. But it is not intended for the American worker.

I believe in free trade and fair trade for Mexico. I think we all do. But this does not cut the muster. And the shame of all of this, it all breaks down in the eleventh hour, what we are debating about, the fate of the Nation, rests on a deal cut with tomatoes, peanuts, wheat and orange juice.

Let me tell my colleagues this: We should be talking about jobs.

Let me tell Members about this little report that was not released but came under the Department of Commerce under the Bush administration. They estimated that the United States would lost 40 percent of the remaining jobs in the automobile industry, in the steel industry, and textile industry and the apparel industry, if NAFTA passes. And folks, we have already lost 3 million jobs since 1980.

So then, after all of this is said and done, the jobs are gone. What do we have? We have the question of taxes.

Well, we have got good news and bad news. The bad news is that it is going to cost us $30 billion more in new taxes to pick up the cost of NAFTA. The good news is that we will be paying less, because our paycheck is going to be less.

My colleagues, this deal was cut with the devil. This is an autocracy that we are dealing with, not a democracy. It was a contrived and manipulated economy to keep the elite in power and keep the elite in money and to keep the Mexican workers depressed in the gulag neighborhoods.

Why, O why, do we think that the autocrats are going to give all this up? Why does the United States have this great love affair with Latin American dictators?

Well, folks, let us say this, what are we going to give to the American people for Thanksgiving? What kind of a gift? Are we going to give them NAFTA? Is that what we want to give? Is this our thanks to the American workers, those who have given everything to us?

They are the ones who are going to get gobbled up on Thanksgiving Day. And with all the dressing we stuff in this bird, it still ain't going to fly.

Happy Thanksgiving, America.

Mr. MATSUI. Mr. Chairman, I yield one-half minute to the gentleman from Tennessee [Mr. FORD].

Mr. FORD of Tennessee. Mr. Chairman, this evening we must vote for our future, not for the status quo. We must vote for NAFTA.

NAFTA is not a perfect trade agreement. It is a good trade agreement. NAFTA will expand access for our domestic products, while protecting them from import surges from our neighbors. NAFTA will also improve our environment and solidify the close and important relationship with our neighbors. In other words, NAFTA is the right agreement for the future of America.

If we reject NAFTA, it will send a signal to our other trading partners that we are fearful of international competition. Why should we be afraid of international competition? Because of international competition, American products, whether from agriculture or manufacturing, are in demand around the world. NAFTA will not change that fact.

Once the Mexican market is opened, demand for United States goods will increase tremendously. That is what our international competitors are afraid of. That is why they hope we will reject NAFTA.

We cannot stand still, afraid to move into the future and permit the rest of the world to pass us by. A vote against NAFTA is a vote for the status quo. What will the status quo bring. It will not stop job losses. It will not suddenly clean the environment along the United States Mexican border. It will not change the political system in Mexico. A vote against NAFTA will not do anything about the issues that the NAFTA opponents have raised today.

Mr. Chairman, it is time that we approach NAFTA based on what we know is true about our capabilities, not based on fears about our inabilities. It is time that we approach NAFTA based on what we know about the abilities of the United States to compete in the international marketplace. It is time that we come together and support NAFTA.

Mr. DERRICK. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from Florida [Ms. BROWN].

Ms. BROWN of Florida. Mr. Chairman, I rise today in strong opposition to the North American Free-Trade Agreement. This agreement is bad for my district, bad for the State of Florida, and bad for the country.

Too many hard-working people in my State and across the Nation have no jobs. In Florida we daily see the toll that base closures and corporate downsizing have on jobs. Now is not the time to start a program that encourages our companies to move to Mexico.

And let us be clear about this bill, it is a job killer.

But don't believe me. The Congressional Budget Office and the Joint Economic Committee have said the NAFTA will cost American workers 500,000 jobs. In case anyone missed it I said 500,000 American jobs.

But don't believe me. Listen to what the executives at the top manufacturing companies said to the Wall Street Journal—40 percent of these executives said they will move their work to Mexico if NAFTA passes.

But don't believe me. Listen to what Business Week, one of the strongest advocates of NAFTA, said in its latest edition. The Business Week cover story said, and I quote: "Companies would disappear, jobs vanish, and the pain would be widespread."

But don't believe me. The Mexican Government's largest development bank said that its goal was to, "obtain companies wherein all of the manufacturing operations will be relocated to Mexico to take advantage of savings in the cost of labor."

Mr. Chairman, this bank is funded by the same Mexican Government we negotiated this treaty with.

I must say again to my colleagues that this NAFTA is a job killer. I urge my colleagues to vote for jobs and against NAFTA.

Mr. ARCHER. Mr. Chairman, I yield 3 minutes to the gentleman from Arizona [Mr. KOLBE], the most active gentleman on the task force to promote NAFTA.

Mr. KOLBE. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, we are nearing the close of a historic debate. This debate about NAFTA takes place against the backdrop of historic changes in the world.

The Berlin Wall has been dismantled, demolished by the relentless currents of democracy. And Yet, a wall remains. The wall left standing is not of bricks and mortar. It's barriers are not guarded by militia.

But just as surely as the Berlin Wall, this wall has restricted freedom and divided peoples. It is the wall of protectionism—designed by isolationists, built with fear, maintained by unenlightened self-interest.

The wall saps America's strength, its optimism, its confidence. It arouses the darker side in all of us.

The wall has its guardians, too. Mostly out of ignorance and insecurity, they defend its structure with every tool at their disposal.

But the American people have rejected protectionism and isolationism before. Fifty years ago, at the end of World War II, the United States acknowledged its responsibility to provide leadership in the international community.

We were successful then because we had the vision to pursue a stable and peaceful international system, to support democratic principles, to advocate for free and open markets. Because we had that determination, the democratic West outlasted a totalitarian Soviet Union. Today, we live in a safer, freer world. Our vision and leadership succeeded

But with today's vote, history, once again, knocks at our door. Once again, we must answer her call; we must vote our economic future.

By approving NAFTA we tell the world that we do not turn our back on the American future.

NAFTA will promote U.S. national security, but that is not its only virtue. NAFTA will create jobs, but it is not only about employment. NAFTA will benefit consumers and producers, but it is more than buying and selling goods. NAFTA will improve the environment, but it is more than clean air and water.

The sum of NAFTA is greater than its component parts. Taken together, NAFTA represents America's opportunity to lead, to set the standard for the rest of the world.

And so, today, we must ask ourselves these questions: Will we lead or will we be left behind? Will we establish America's role in the next century, or will we shrink into a confused isolationism? Do we fear change or welcome it?

We stand at a moment frozen in time—a moment of choice. To borrow from the words of Abraham Lincoln at an earlier, critical moment in our history, the world will little note, nor long remember what we say here, but it can never forget what we will do here today.

Former Secretary of State James Baker said it so well a few days ago when he said that "Come home, America" may be an appealing slogan, but it is a true siren song. NAFTA critics miss a fundamental truth that has been understood by every President in modern times. You see, Secretary Baker said, America already is at home. And that home is called the world.

When President Reagan visited West Berlin in June 1987, he stood at the Berlin Wall's Brandenburg gate. He appealed to General Secretary Gorbachev with these words: "Come here to this gate! Mr. Gorbachev, open this gate! Mr. Gorbachev, tear down this wall."

On the eve of this historic vote, I appeal not to a sworn enemy, but to my sworn colleagues: Tear down this wall. Open freedom's gate.

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Mr. MATSUI. Would the chair please advise us as to the amount of time each of the sides has remaining?

The CHAIRMAN. The gentleman from California [Mr. MATSUI] has 24½ minutes remaining, the gentleman from South Carolina [Mr. DERRICK] has 29½ minutes remaining, the gentleman from Texas [Mr. ARCHER] has 17½ minutes remaining, and the gentleman from New York [Mr. SOLOMON] has 22 minutes remaining.

Mr. MATSUI. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. BECERRA].

Mr. BECERRA. Mr. Chairman, much has been attributed to the NAFTA, both bad and good. Somewhere in between lies the truth. There is one thing I do know, however. When we wake up tomorrow, the essential character of this Nation will not have changed, whether NAFTA passes or not. The same, I believe, can be said about Mexico and Canada.

I cannot think of anyone on either side of the NAFTA debate who is opposed to the goal of achieving free trade. For my State, California, trade is a source of strength. $2 billion of our country's $5 billion trade surplus with Mexico is earned by California. Our State's exports to Mexico have increased nearly 200 percent since 1987. The jobs of 1 million Californians are due to this State's worldwide trade; 100,000 of those trade jobs exist because of our trade directly with Mexico.

NAFTA will indeed expand trade, both for California and the United States, but opponents are correct that we cannot sacrifice American workers, small business owners, or our maturing commitment to the environment solely to expand trade. It has taken 11 contentious and often very painful months to bring this truth to the surface. The North American Development Bank and a comprehensive worker adjustment program are the results of this.

Mr. Chairman, I am ready to vote for this NAFTA, but were it not for the steady and tenacious efforts of my friends in labor unions, the environmental community, and community-based organizations, I know I would not have a NAFTA before me to support.

There is good and bad in this NAFTA, but the truth is, we should support it.

Mr. DERRICK. Mr. Chairman, I yield 1 minute to the gentleman from Rhode Island [Mr. REED].

Mr. REED. Mr. Chairman, I rise in opposition to the NAFTA before us today. While I recognize the reality of greater economic integration in North America, I believe there is a better way than this NAFTA.

This NAFTA involves more than tariff reductions or rules of origin. It is an investment strategy to develop Mexico's economy with no commensurate guarantee for similar investment in America's international competitiveness.

This NAFTA does not require that Mexican wages rise with productivity. This NAFTA does not recognize that the attractiveness of low wages in Mexico will act as a drag on wages in the United States. This agreement does not require an end to "el pacto," which Business Week reports "smothers inflation and preserves Mexico's huge labor cost gap with the United States and other producers." This NAFTA does not address Mexico's policy of overvaluing its peso, and the expected peso devaluation which will erase our trade surplus with Mexico.

This NAFTA is not an agreement between democracies. It does not involve any effort to foster free elections and independent labor movements, or end repression of political opponents and the press. This NAFTA does not answer the question of who in Mexico can afford to buy American products. Indeed, the much-ballyhooed growth in United States exports to Mexico is driven by the shipment of plant equipment and parts to Mexican factories for resale in the United States, not based on consumer goods. The treaty's environmental side agreements do not protect U.S. environmental laws from being challenged as barriers to trade, even though this NAFTA creates a United States-funded development bank to clean up the border. This NAFTA provides even less worker retraining funds than President Bush requested.

In addition, this NAFTA now contains a number of things that are far removed from the concept of free trade that so many of my colleagues have spoken of today. It turns out NAFTA is a gravy train for agriculture and other special interests. If the road to perdition is paved with good intentions, then the road to NAFTA is paved with special deals.

Mr. Chairman, I want a NAFTA that recognizes the disparities between Mexico's and the United States' economic and political systems, and increases wages on both sides of the border. My opposition is based not on fear—although many Rhode Islanders are deeply concerned about maintaining their standard of living—but on my belief that trade agreements should be based on America's historical ideals of democracy, fairness, and opportunity for all working people.

Mr. Chairman, no one knows whether NAFTA will pass until the final vote occurs. However, if the agreement passes, it is imperative that business interests and other NAFTA supporters make sure that the rhetoric surrounding NAFTA comes to fruition. My colleagues can be assured that if NAFTA passes, I will work to ensure that working Americans truly benefit from this agreement, and that Mexican wages, environmental standards, and civil rights actually improve.

At the same time, if NAFTA fails today, I will support the administration's effort to rapidly negotiate an alternative agreement that fosters fair as well as free trade and betters the lives of both American and Mexican workers.

Mr. Chairman, for the RECORD I include an article I authored regarding NAFTA:

THE NORTH AMERICAN FREE TRADE AGREEMENT—IT'S A PLOY TO MOVE UNITED STATES JOBS TO MEXICO

(By Jack Reed)

Now is not the time for NAFTA. In the face of increasingly fierce international competition that has already taken away American jobs, a rush to send jobs south of the border is not the answer. Certainly, it's not the answer for thousands of talented Rhode Islanders searching for a chance to work again or struggling families who are barely making it on two paychecks.

NAFTA's defenders point to the current trade surplus we enjoy with Mexico as a reason to approve NAFTA. These NAFTA boosters gladly conclude that further tariff reductions imposed by NAFTA will only increase the U.S. trade surplus with Mexico and add jobs to our economy. This simplistic view distorts both the nature of our current trade surplus with Mexico and the nature of NAFTA.

Much of our trade surplus with Mexico results not from relative tariffs, but from a highly overvalued peso. The rise in the value of the peso since the mid-'80s has made our exports to Mexico cheaper and, alternatively, our imports from Mexico more expensive. The peso has increased in value because the Mexican government has maintained high interest rates in order to induce an in-flow of short-term capital to finance a huge deficit with the rest of the world. This is not sustainable.

Many analysts, including supporters of NAFTA, predict an inevitable devaluation of the peso after next August's elections in Mexico. Such a devaluation, on the order of 10 percent, would effectively wipe out the average tariff reductions contemplated by NAFTA and signal the end of trade surpluses built on currency advantage. Indeed, the Mexicans have already begun a "creeping devaluation" of the peso. This fact may account for the present erosion of the U.S. trade surplus with Mexico. In the first eight months of 1993, it was running at less than half the level of 1992.

If NAFTA was just about tariffs or the peso, then we could dismiss it as being ineffectual or of modest impact. But NAFTA is about much more than regulating tariffs. It is fundamentally an investment agreement designed to make it safer for U.S. companies to invest in Mexico. In testimony before the House Small Business Committee, Roberto Salinas-Leon, a Mexican scholar and proponent of NAFTA said, ". . . NAFTA is less a trade accord than an investment strategy intended to generate resources to finance new jobs." Senor Salinas-Leon is talking about new jobs in Mexico, not Rhode Island.

This strategy, combined with the extraordinary wage differential between the United States and Mexico will be a powerful attraction for U.S. investment. Mexican wages in export industries are currently 10 to 15 percent of U.S. levels. These low wages exist despite significant gains in productivity. Productivity in Mexican export industries is estimated at 80 to 100 percent of similar U.S. industries. Prof. Hanley Shalken of the University of California in San Diego estimates that average Mexican labor productivity rose 41 percent between 1980 and 1992. In contrast, the hourly compensation of Mexican manufacturing workers in 1992, adjusted for inflation, was only 68 percent of 1980 levels.

Low wages and rapidly improving productivity will be a tremendous draw for the relocation of American industry. No Rhode Islander who remembers when their grandparents and parents and uncles and aunts went off to the mills—mills now empty or sadly underused—has to be reminded of how the draw of low wages moved Rhode Island mill jobs down to such low-wage states as South Carolina and Georgia.

Defenders of NAFTA will sometimes grudgingly admit that some jobs will be lost, but they quickly respond that any such losses will be offset by Mexican consumption of American goods. NAFTA supporters see a world where low paid Mexican workers will be transformed into an affluent middle class that will demand American goods. Such a presumption denies the reality of the Mexican political culture.

Mexico is a democracy in form only. In substance, it is a one-party, authoritarian government. The Institutional Revolutionary Party (PRI, in the Spanish acronym) dominates Mexico today as it has for 64 years. The PRI will no doubt win the Mexican election next August. The only questions are the identity of the hand-picked successor to President Carlos Salinas de Gortan and the level of fraud the PRI will use to win.

Mexico is a country without strong social institutions to ensure that government policy produces social progress. The "official" labor group, the Confederation of Mexican Workers, acts as a *de facto* arm of the government, functioning more to enforce government policy than to support its members. Since the late '80s, that policy has been to support "*el pacto*," a state-dominated alliance of business, labor and peasant organizations. As Business Week noted, the purpose of el pacto is "to smother inflation and preserve Mexico's huge labor cost gap with the U.S. and other producers."

Without a truly participatory government where elections are decided not by fraud but by the votes of its citizens, without effective organizations to push for improved labor conditions, NAFTA will do little if anything to transform the lives of Mexican workers and create that mythical middle class that will buy our goods. With NAFTA, Mexico will become a platform for low-wage production for the American market, not a sizable market of middle-class consumers for American products.

The fight over NAFTA is a fight about our standard of living. If it passes an immediate affect will be on U.S. wages as the threat on reality of relocation to Mexico acts as a brake on wage increases for working Americans. There will also be jobs lost as companies find it harder to compete with low-wage production in Mexico.

The first casualties of NAFTA will be low-skilled, labor-intensive jobs. It may be easy for pundits to bid these jobs adieu as being already destined for expatriation, but for thousands of Rhode Islanders they represent a chance for a better life and the dignity that work brings. Instead of spending our time debating what is essentially a strategy for investment in Mexico, we should seize this moment to invest in our own productivity and competitiveness and look for ways to create jobs and improve our educational system. Only then will Americans get a fair deal.

Mr. DERRICK. Mr. Chairman, I yield 1 minute to the gentlewoman from New York [Ms. VELÁZQUEZ].

Ms. VELAZQUEZ. Mr. Chairman, today we find ourselves about to cast a crucial vote on the proposed North American Free-Trade Agreement. I have decided to vote against this NAFTA, because I believe that its passage would cause massive job dislocation in the United States and a severe downward pressure on the wages of millions of hard working Americans. Moreover, I feel NAFTA would encourage the exploitation of Mexican workers by United States-owned maquiladoras, and foster further environmental violations by American firms in Mexico.

With this NAFTA our main exports to Mexico will not be American goods, but American jobs. The agreement's supporters claim that this would not be the case. However, when The Wall Street Journal polled the executives of this Nation's largest companies, 55 percent of them stated that if NAFTA passed they would move their operations to Mexico. I wonder how they plan to justify the loss of close to one million jobs to the men and women of this Nation, especially when those companies that do remain in the U.S. are likely to hold the agreement over the heads of American workers in an effort to drive down their wages.

NAFTA is simply an agreement crafted solely for the sake of big business and its profit margins. Behind its thick layers of fancy language, NAFTA is still nothing more than an incentive for American firms to take a one way ticket South of the Rio Grande. So when I speak to NAFTA supporters, I tell them to look south, to the United States-owned maquiladoras in Matamoros and Reynosa, and the toxic waste that they produce. I tell them to look at the lives of Mexican workers, who toil endlessly for meager wages, whose families are forced to live in utter misery, and whose basic employment rights are so conveniently swept under the corporate rug by American companies like Dupont and 3M—all in the name of profit. Then I tell them to turn their sights back to the United States—to our own workers, who no longer have jobs because companies like Green Giant and Ford found the lower labor costs and lax environmental standards in Mexico too much of a bargain to turn down. I tell them that these examples are a sign of the times to come—if NAFTA is passed, the pain and the struggle of families of millions of North American workers will become common place.

Some answer with the promise of worker retraining programs. But I remind them that these have proven inadequate, that the General Accounting Office [GAO] recently stated that the Trade Adjustment Assistance Program [TAA] is inaccessible, and full of inefficiencies. If this program has not been able to deal with the current job loss in this country, how can any program patterned after it handle the tremendous dislocation of American workers that NAFTA would certainly bring about? Frankly, I have yet to understand how NAFTA supporters make a case for an upward shift in jobs in the United States, when the Labor Department has found that only 1 of 10 recipients of the Trade Adjustment Assistance Program actually found new employment in their chosen field, at a salary of 80 percent of what they used to earn.

Supporters of the North American Free Trade Agreement have boasted extensively about what they refer to as a United States trade surplus with Mexico. What their claims hide, however, is the fact that 80 percent of our United States exports to Mexico aren't consumer goods at all, they are manufacturing plants, equipment, and parts to make final products that are then shipped back to the United States.

Even now, NAFTA supporters continue to knock at my door, hoping that they will get me to falter, but I stand strong in my resolve, because I realize that NAFTA, as currently proposed, will only mean pain—not benefit. I know that for the sake of both Mexicans and American workers—all of whom will pay dearly if the agreement is approved—this NAFTA must be stopped.

I know that much pressure is being exerted on my colleagues to vote for this agreement. I know that the promise of that bridge, of that highway, that special project for a congressional district is very tempting—but I ask you: Is the pain of millions of workers, and the struggle of each one of their families worth a bridge? Is the integrity and the dignity of this Congress worth a highway? The cost of NAFTA, and each bridge and highway that is traded for a vote in its favor, will ultimately be handed down to the tax-payers of this country. How will we justify that?

So my colleagues, I urge you, when we cast our votes tonight, think about all that this agreement really means. This NAFTA is not the free trade agreement that the people of the Americas deserve. We must defeat it, or millions will pay dearly.

Mr. DERRICK. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, in this debate we have heard a lot of theoretics about free trade and fair trade. Let me give some historical facts. There is some free trade in America right now. Oil comes into this country without tariff. When the oil ministers meeting in OPEC decided to take away the American marketplace, when Sheik Omani decided to drop all prices to $8 a barrel, we lost 400,000 American jobs, almost 100,000 of them in my State of Louisiana. That is what free trade can do, if we are not careful with it.

Louisiana fishermen in my State have seen the loss of half of the fishing fleets, because of trade with Mexico, Mexicans who do not have to pull TEDS, Mexicans who get Pemex cheap diesel to run their fishing fleet, and we get no help from our Government to balance that with some fair trade.

The problem with this NAFTA is that it opens the door to more and more of that. In sugar, for example, a sugar cartel exists internationally, smaller than the oil cartel in Geneva. It controls sugar prices. This NAFTA could destroy the sugar industry. I urge a no vote.

Mr. DERRICK. Mr. Chairman, I yield 1 minute to the gentleman from Louisiana [Mr. FIELDS].

Mr. FIELDS of Louisiana. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, today, I rise in opposition to the North American Free-Trade Agreement. After much study and debate, I have concluded that a "no" vote on NAFTA is the right vote for my district.

My district in Louisiana is among the poorest in the country. Many jobs in my district are manufacturing jobs which are vulnerable to be lost with the passage of NAFTA. My constituents, their jobs, and their livelihoods would be jeopardized.

I cannot possibly fulfill my responsibility to my constituents by voting for NAFTA. Many point to the promise of retraining as a response to inevitable job losses. But families in Louisiana cannot survive unemployment while waiting for retraining.

Furthermore, there is no reason whatsoever to believe we can now pass a jobs bill to retrain displaced workers in this Congress, when, after all, we could not pass a stimulus bill to create jobs last spring. Thus, what makes us think we can do it after the NAFTA vote?

Businesses are extremely important in my decision. Clearly, businesses survive only if decisions are made based upon costs. Will the manufacturing businesses move south of the border to get a better bottom line? Given the already bleak situation in my district, this risk is too great.

Mr. Chairman, we need more certainty about the effects of NAFTA before approving such an agreement. I am not convinced that NAFTA will not take away American jobs. Therefore, I have decided to vote "no" on the North American Free-Trade Agreement. My "no" vote is a "no" vote for the people, my "no" vote is for somebody's next meal, my "no" vote is to save somebody's home, my "no" vote is for somebody's college education, you see, my vote is for the American workers.

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Mr. MATSUI. Mr. Chairman, I yield 1 minute to the gentlewoman from Washington [Ms. CANTWELL].

Ms. CANTWELL. Mr. Chairman, today is a historic occasion. Each of my colleagues, whether they are for or against NAFTA, know that our decision today will resonate around the world.

We all agree that American workers are the best in the world. We all agree that exporting U.S. products creates jobs. And we all agree that we want open markets for those products.

In my State, the State of Washington, we have increased exports to Mexico by 577 percent in the last 6 years. I believe NAFTA means net job gains for my district, for the State of Washington, and for the United States.

I ask my colleagues though to remember, or I ask my colleagues to consider that President Clinton will travel to Seattle tomorrow for trade talks with 15 Asian Pacific countries and their leaders. Our decision today on NAFTA will either give the President a powerful tool to push for free trade with Asia or leave us standing defenseless as the trade community around the world calls our bluff.

I ask my colleagues to support NAFTA.

Mr. DERRICK. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. BLACKWELL].

Mr. BLACKWELL. Mr. Chairman, I rise in opposition to the North American Free-Trade Agreement, in its present form.

At stake in this debate is the very economic future of the United States.

According to the Joint Economic Committee of the Congress, if we support this treaty, over the next 5 to 10 years, 500,000 Americans will be out of work.

In addition, the pressure to reduce wages, benefits, and full-time jobs will increase as American businesses are forced to consider profits when faced with hiring Mexican workers for as little as $6 per day, with no benefits.

There is great irony, or perhaps an admonition, in the fact we consider the NAFTA treaty during national hunger and homelessness awareness week.

The harsh reality of today is that 3 million Americans are homeless, and 9 million are out of work, standing on the doorsteps of homelessness, a paycheck or unemployment check away from the streets.

Hunger and homelessness is being driven by joblessness in America. While the recession officially ended in March of 1991, unemployment has not ended.

For nearly 2 years, roughly 7 percent of our citizens have been out of work, and last month, the unemployment rate increased.

And what answer do we offer those made miserable by unemployment? We offer extended benefits—maybe—and we offer NAFTA—a deal which will mean more unemployment and lower wages for Americans.

Mr. Chairman, we should be offering out of work Americans jobs, and we should be offering underpaid Mexicans a treaty that will promote a better quality of life for citizens of both Nations.

More joblessness for America is not the only problem with NAFTA. We can look forward to capital flight as more U.S. companies relocate South. Look at Sears—shutting down in America and opening up in Mexico.

If you think we have a balance of trade deficit now, I wonder what you will think when millions and millions of U.S. dollars fly south.

With this treaty, we embrace unregulated dumping with disastrous effects on our environment and public health.

With this treaty, we embrace increased drug smuggling at the border.

With this treaty, we embrace the importation of produce and meat that may not be inspected and may not be safe for consumption. With this treaty, we embrace child labor and wages at near slave labor.

Mr. Chairman, with this treaty, we threaten family farmers in America with underpriced produce and wheat importations, and we wink and nod at suffering in Mexico.

With this treaty, we embrace everything that this Nation does not stand for and we reject everything that we do stand for, including hope and opportunity.

Instead of rejecting America, we should reject NAFTA.

Mr. DERRICK. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in opposition to NAFTA.

Mr. DERRICK. Mr. Chairman, I yield such time as she may consume to the gentlewoman from California [Ms. SCHENK].

Ms. SCHENK. Mr. Chairman, I rise in opposition to NAFTA.

Mr. Chairman, in recent days debate over the NAFTA has been intense—in Washington, in San Diego, and across the country. Yet my opposition to the pact is longstanding.

While I strongly support the principles of free trade, I feel that now is the wrong time to endorse a treaty that could hurt San Diego—socially, economically, and psychologically. It is my concern for the well being of San Diego that lies at the root of my disenchantment with the NAFTA.

At this time, our experience with American job losses to the maquiladoras along the United States-Mexico border provides a possible preview of what can be expected with the implementation of the NAFTA. The NAFTA fails to address adequately the problem of United States companies closing production plants in this country, moving to Mexico, and leaving workers unemployed and untrained.

I am further troubled over the impact the NAFTA will have on undocumented immigration into the San Diego area. With trade barriers eliminated, United States agricultural products such as corn and pork may flood the Mexican market, leaving Mexican farmers and peasants without work. Without an income, these farmers are likely to come north—to the United States and the San Diego area—in search of work, a home, and social support systems. Our community already is bearing an enormous social and economic expense in trying to provide for undocumented immigrants. This burden is likely to become even heavier should the NAFTA go into effect.

I am concerned about certain other consequences of implementing the NAFTA. For instance, under the NAFTA, even more Mexican trucks will stream over the border into the San Diego area. It is far from certain whether these trucks would have to meet California's strict standards for weight limits, vehicle safety features, driver fatigue rules, driver testing for drugs and alcohol, or driver record checks. Even if subject to our laws, we do not have adequate personnel and equipment for enforcement. The agreement is equally unclear in offering assurances for the flow of drugs and illegal immigrants into our community. In addition, while Mexico will have immediate access to our markets, it will receive a 15-year grace period on some of its barriers.

I am also greatly concerned that the NAFTA's environmental provisions, even with the side agreements, are inadequate. For example, there is no mention of dealing with the continuing and deplorable problem of sewage pouring over the border from Tijuana. I worry that Mexico's interest in resolving the sewage crisis perks up when international agreements are on the table, but it will dissolve as soon as the issue is past us. The NAFTA gives me no solace that our sewage problem will be seriously addressed. In fact, the EPA has said that our sewage issue is "on a different track"—I hope a more realistic one.

I strongly support assisting Mexico's internal economic development, as well as efforts to deal directly with border and cross-border problems. I have cosponsored bills to establish a North American Development Bank and to create a United States-Mexico-Canada health commission. These proposals would provide concrete tools to address the economic, health, environmental, and infrastructure challenges which exist at our border. This legislation also would serve as a building block to a trade agreement we all would be able to support in the future.

I have thought long and hard about the NAFTA and did not come to my position lightly or without reservations. However, with our economy sluggish and with American workers feeling so uncertain about their futures, it is the wrong time to ask our fellow citizens in San Diego to take a risk on the unknown. I would have preferred to see this agreement come before the Congress in a year or two when we would know more about the direction in which our economy was heading. Such a delay would also have allowed us a greater opportunity to address more substantively some of the issues I have mentioned.

Mr. DERRICK. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Georgia [Ms. MCKINNEY].

Ms. McKINNEY. Mr. Chairman, I rise in opposition to NAFTA.

I believe in international trade, but I do not believe in this NAFTA.

I share the vision of a post-cold war economy, driven by exports, brimming with high-paying, high-tech jobs. But that vision ought to include the potential of every American. Once again, those who have the least to give are being asked to make the ultimate sacrifice so that the dreams of others may come true.

We are told that a rising tide lifts all ships and that NAFTA represents that rising tide. I suggest that NAFTA really represents the same old tired trickle-down politics tried and rejected by the American people.

I am concerned about the young people who spin their lives on the street corners of urban and rural America, having lost faith in an educational system and an economic system that treats them as spectators and not as real players.

I am concerned about the men and women who prize the low-wage jobs that give them both hope and pride and a stake in the rewards of work.

I am concerned about the residents of the 11th district, both black and white, who have rejected the racist ideas being put to them that the interests of blacks and rural whites can't be represented by one person. The residents of the 11th district, both black and white, have spoken in one voice in their overwhelming opposition to NAFTA.

Increased taxes and deficit spending to pay for NAFTA are unacceptable in the face of the urban and rural blight that wages across our land, including an education system that is failing in its marks. Presently, there is no plan for the many American workers who will be displaced because of NAFTA, nor, for the countless others who are still displaced because of the failed policies of the past.

Mr. DERRICK. Mr. Chairman, for purposes of debate only, I yield 1 minute to the gentleman from New York [Mr. OWENS].

Mr. OWENS. Mr. Chairman, the free trade swindle has been slowly strangling the American economy for the last 12 years. Now NAFTA will accelerate the choking of the job opportunities for American workers. From past experience we can easily anticipate the impact of this monster free-trade agreement. Instead of this one way hemorrhaging of jobs we need a balanced trade agreement; we need a reciprocal trade agreement. The free trade swindle is intensified when two economies are as different as the United States and Mexico. The lure of slave labor wages will eventually entice even the most reluctant factory owners to Mexico.

It is dangerous to recklessly merge two economies when the wage structures, the political systems, the physical environments, and the overall standards of living are so incompatible. The European Common Market works for all of the citizens of all the countries because Europe has insisted on this environmental, political and wage compatibility.

Because the United States is engaging in deceptive, slight of hand, fast track treaty making, the passage of NAFTA will facilitate gross exploitation of American workers and Mexican workers. A few dozen multinational corporations will dictate the terms for employment for all workers. Not only hourly wage earners but technicians, scientists; all must wake up. Our incomes and our very survival will be manipulated by a few dozen corporate barons. We are all in danger of becoming urban peasants or suburban serfs.

African Americans, other minorities and the poor will continue to be the hardest hit by this great free-trade swindle. But an economy that is being strangled by misguided, opportunistic policies will dissolve at an accelerated rate dragging our great middle class into lower and lower standards of living.

Let us be loyal to our new Democratic administration. Let us be loyal to our party. Let us block this tragic blunder. George Bush's fast-track NAFTA must be derailed. For the sake of the workers of our Nation, for the long term survival of our total economy, we must all vote no on NAFTA. Stop the great free-trade swindle now.

Mr. DERRICK. Mr. Chairman, I yield 1 minute to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Chairman, I have been a labor Democrat all my life and a labor law professor for much of my professional life. I cannot take a walk with a treaty that promises so little to both American and Mexican workers.

I agree with those who say do not blame NAFTA for what has happened to our economy. But, I blame this NAFTA for part of what may happen to our economy.

I blame this NAFTA for being ahead of its time and behind in its common sense, joining the two economies prematurely when Mexico can pull us down instead of making sure NAFTA pulls Mexico up.

I blame this agreement for the certain prospect of unfair wage competition stacked against American workers.

I blame this NAFTA because, as written, it is a disincentive to upgrade the skills of American workers and an incentive to ignore investment in our own work force.

I blame this NAFTA for evading United States responsibility to help more rapidly raise the standard of living of Mexican workers.

I blame this NAFTA for the naive assumption that a tri-national commission can and will effectively remedy the inevitable labor and environmental abuses everyone knows are coming.

I blame this NAFTA for failing to provide a way to pay for its promises to workers and to the environment.

I blame this NAFTA for failing to encourage a free market for Mexican labor, when market forces alone would bring higher wages for Mexican workers and fairer competition with their American counterparts.

I blame this NAFTA for betraying free trade unionism when unions have been virtually the only mechanism workers have had to raise wages to match their increased productivity.

Mr. Chairman, I blame this NAFTA, not every NAFTA. I can vote for a NAFTA. I cannot vote for this NAFTA.

Mr. DERRICK. Mr. Chairman, for purposes of debate only, I yield 1 minute to the gentleman from New Jersey [Mr. PAYNE].

Mr. PAYNE of New Jersey. Mr. Chairman, I rise in strong opposition to H.R. 3450, the measure to implement the North American Free-Trade Agreement.

As a member of the Foreign Affairs Committee, I understand the importance of good relations with our neighbors to the north and south.

However, several concerns regarding the fast-track approach, the potential for job loss and the creation of lower wage jobs, as well as unsettled environmental issues, force me to view this agreement unfavorably.

As a representative from an urban district in New Jersey, I am extremely concerned about the high rate of joblessness in our Nation's cities.

Considering the bleak condition of our urban economy, the prospect of losing a single American job is unacceptable.

Over 50 industries in New Jersey have been identified as being at risk under NAFTA, potentially affecting over 250,000 workers. And this is for New Jersey alone, not the United States.

It is time to institute a trade policy that will move us toward a global economy while strengthening the American job market. Unfortunately, NAFTA falls short of that goal.

Mr. Chairman, I respect President Clinton's hard work on this issue, but I disagree with him about the potential impact of NAFTA. I urge my colleagues to oppose the North American Free-Trade Agreement as currently written.

Mr. DERRICK. Mr. Chairman, for purposes of debate only, I yield 1 minute to the gentleman from Hawaii [Mr. ABERCROMBIE].

Mr. ABERCROMBIE. Mr. Chairman, after considering arguments from a wide range of opponents and supporters of the pact, I came to the conclusion that the agreement runs counter to the interests of the Mexican and American peoples. An examination of the agreement presented to the Congress left me convinced that the specific provisions of this particular NAFTA will have a negative impact on the people of both our nations and the State of Hawaii.

Closest to home is my responsibility to Hawaii. My concerns encompass two of our State's largest industries, tourism and agriculture.

NAFTA will permit the dumping of Mexican sugar on the American market. With Mexican sugar workers earning a fraction of the wages of Hawaii's sugar workers and their counterparts on the United States mainland, this may be the death knell for Hawaii's third largest industry. As a maneuver to smooth over the concerns of our Hawaii congressional delegation, the Governments of Mexico and the Untied States exchanged letters saying in effect: Don't worry, we won't let it happen. It should be noted that these letters were NOT included in the package submitted to the Congress for a ratification vote. As a legally enforceable codicil to NAFTA, they aren't worth the paper they're written on. They amount to nothing more than the words whispered by con artists since the beginning of time: Trust me.

Other segments of Hawaii's agriculture industry including papayas, pineapples, coffee, and flowers are unlikely to benefit from NAFTA and may be damaged considerably in their ability to compete with Mexico for access to the United States mainland market. For example, Mexico has fruit-fly free zones and are not subject to strict marketing orders on the size and appearance of produce.

NAFTA will also take a slice out of Hawaii's travel and tourism industry. In an effort to make the agreement revenue neutral, the administration proposes to replace the tariff revenues lost as a result of NAFTA with a head tax on international visitors arriving at U.S. airports and seaports. This disincentive can only hurt Hawaii's efforts to attract more tourists from Europe and Asia. That's bad news for every Hawaii resident whose job depends, directly on indirectly, on the visitor industry. With Hawaii tourism down 5.2 percent from last year, with hundreds of hotel rooms sitting empty, we don't need a treaty that pushes our visitor count even lower. For Hawaii's number one economic sector, the bottom line is that NAFTA uses travel and tourism as a cash cow without any return benefit to our visitor industry.

NAFTA of course will affect every State, not just Hawaii. Essentially, NAFTA is not a trade agreement at all. Its principal effect will not be the reduction of barriers between rival producers. Rather, the pact will increase incentives for United States producers to move jobs to Mexico and expand their reliance on Mexican workers for the manufacture of products for the United States market. The treaty will create winners and losers. The winners will certainly be large U.S. corporations, which will be able to slash production costs while experiencing virtually no increase in competition.

American workers, on the other hand, will be thrown into a labor market extending into the Third World where the Mexican State of Yucatan, for example, lures United States employers by advertising wage rates of less than a dollar a day. United States workers, who through their organizing and collective bargaining efforts, have achieved a standard of living unprecedented in human history, will have virtually no leverage in maintaining wage, job protection, and benefit levels.

The achievements of American workers to date in attaining these objectives has been the result of their ability to organize and bargain collectively as labor unions. Even nonunion workers benefit from the existence of unions, because union wage levels set the standard for entire industrial sectors. The key to success in labor's endeavors, obviously, is the freedom to organize independently of government and/or employer control. Such conditions, unfortunately, do not exist in Mexico. The major labor organization there, CTM, resembles the docile unions in formerly Communist countries. Truly independent worker efforts such as those at the Volkswagen plant in Puebla, the Ford plant in Cuautitlan, the Cananea copper mine, the Modelo Brewery in Mexico City, and the Tonel Rubber Co. were broken up by CTM goons, armed troops, and government repression. The labor provisions of the NAFTA agreement submitted to Congress are so weak as to be laughable. They will in fact constitute a green light to intensify labor repression in Mexico. Mexican workers will continue to be denied the right to meaningful participation in the work place, and wage rates will remain mired at subsistence level.

Even without NAFTA, wage incentives to move production facilities to Mexico are substantial. Mexico's minimum wage is about 50 cents per hour and the average manufacturing wage is less than $1.60. To encourage relocation of United States plants, the Mexican Government has suppressed independent labor unions and held wages at United States-owned facilities to levels below those prevailing at Mexican-owned factories. Tne average wage at U.S.-owned maquiladora plants is less than $1.10 an hour. Let us not be deluded into thinking that these wages mean that the only U.S. jobs moving south will be unskilled jobs. A number of U.S. producers are already taking advantage of low wage levels to provide the extensive training required by high skilled production processes. Thus, it is not just low wage jobs that will drain away because of NAFTA, but the most highly prized advanced technology manufacturing jobs will be disappearing as well.

United States job losses due to the agreement have been estimated at various levels, the most common being 500,000. Virtually all the econometric projections cited by NAFTA proponents fail to consider the pact's most important job loss implications. As a recent article in Business Week noted, "Most studies rely on the 19th century theory of free trade, which assumes that capital doesn't cross borders. Result: the studies miss the drain of U.S. investment dollars." According to mainstream estimates, a $1 billion shift of United States capital to Mexico would, on average, cost 30,000 American jobs. Business Week estimates that even if new investment in Mexico were limited to only $2.5 billion per year, the resulting job loss would be 375,000 over 5 years.

How much new business investment will flow into Mexico is also problematic. It will be determined on a plant by plant basis in thousands of board rooms across America. The recent history of corporate America offers little reassurance that human needs will be accorded equal weight to bottom line considerations. To understand the profit-driven excesses of which corporate decisionmakers are capable, one has only to recall the junk bond and leveraged buyout frenzies of the 1980's.

None of the pro-NAFTA arguments are as empty as the wishful thinking about United States products that might be sold in the Mexican marketplace. The United States Embassy in Mexico prepares an annual report on the Mexican economy. This year's report indicates that in 1992, only 10.2 percent of urban workers in Mexico earned as much as $4.30 per day, five times the minimum wage. With 26 million people in the Mexican work force, Embassy data indicates that less than 2 million earn $6,000 or more annually. Probably fewer than 1 million Mexicans earn the equivalent of the United States minimum wage. It is clear that few Mexican families could afford to purchase goods imported from the United States. As a market for consumer exports, Mexico is comparable to Luxembourg.

NAFTA proponents argue that the United States enjoys a large and increasingly favorable balance of trade with Mexico. They argue further that the surplus will grow larger with NAFTA. Mexico-United States trade figures, however, demonstrate just how misleading statistics can be. The Congressional Budget Office estimates that a third of the $32 billion of the 1991 United States exports to Mexico consisted of machinery and scientific instruments. A major portion of this equipment was destined to outfit United States-owned factories in Mexico. Virtually all the output of these factories will be shipped northward back across the border. It is the height of self-delusion to suppose that exporting our productive capacity to a low wage manufacturing area is evidence of a potentially golden market for U.S. goods.

With the immigration issue having reached crisis proportions in some parts of the United States, it is claimed that NAFTA will slow Mexican immigration to the United States. If so, it would be the first time in recorded history that expanded commerce reduced the flow of people between the participating states. NAFTA will produce winners and losers not just in the United States, but in Mexico as well. Among the losers are certain to be the several million Mexicans now engaged in the raising of corn. They are among the poorest and least educated people on the North American Continent. As Mexico phases out its high tariff on corn, most if not all of these peasants and farm workers will be dislocated. Some no doubt will seek work in the newly established factories. Their impact on the Mexican labor market punctures the hopes of those who foresee an army of middle class consumers emerging from the NAFTA-created Mexican work force. Others among the dispossessed corn growers will head north, exacerbating an already serious crisis in California and other magnet areas in the United States.

NAFTA supporters like to compare NAFTA to the European Community's admission of Spain, Greece, and Portugal. That comparison simply serves to illustrate the degree to which NAFTA is a high-risk misadventure. International Monetary Fund data demonstrate that wages in those countries are actually more comparable to those in low-wage areas of the United States and 3 to 4 times higher than Mexican levels. Manufacturing wages in Spain, for instance, exceeded $8 per hour in 1991. It should be noted also that Spain, Portugal, and Greece have a combined population considerably smaller than Mexico's. Consequently, the potential problems they pose for the more advanced European countries are proportionately less. Nonetheless, the European Community spent tens of millions of dollars on infrastructure, environmental protection, worker retraining and dislocation benefits in order to ease the pains of integration.

A more appropriate international comparison is the European Community's decision on Turkey's application for membership. In 1989 the community refused to even negotiate with Turkey on possible membership terms. The opinion accompanying that decision stated:

> The low level of personal incomes naturally has an impact on the social situation of the workers, and this would make it difficult for Turkey to align itself within a short period on the social standards which the community has adopted or is about to adopt. As long as these disparities continue to exist, there will be reason to fear that Turkey would experience serious difficulties. [T]hese doubts are accompanied by the concern the Community may feel regarding the burden Turkish accession would impose on its own resources.
>
> In spite of the progress achieved since 1980, there is still a substantial development gap between the Community and Turkey, such that a comparison of GDP per head reveals that purchasing power in Turkey is one-third the Community average.

I quote at length from this report, because our concerns about an economic union between the United States and Mexico should be at least as strong as the European Community's reservations about Turkey's application for membership. Per capita income in Turkey is 50 percent higher than that of Mexico, its population growth is slower, and the population differential between Turkey and the European Community is twice as large as that between Mexico and the United States.

NAFTA's environmental and public health provisions provide further reasons for my concern about this agreement. We have been assured that the pact and its side agreements provide ample protection, but this is decidedly not the case.

Over the past three decades, the United States has begun to erect a framework of laws to protect our environment. Under NAFTA, United States Federal and State environmental laws could be challenged as incompatible with international trade rules. If a NAFTA dispute panel rules that an environmental protection law interferes with trade, then the United States would either have to change the law or face sanctions against their exports. Environmental laws are vulnerable to challenge because a dispute panel must rely on a series of tests that are weighted in favor of trade and against environmental laws. NAFTA could override some of the most important of these, including:

The Lacy Act of 1972, which prohibits the importation of wildlife taken in violation of conservation laws;

The Pelly amendment to the Fisherman's Act of 1967, which restricts the import of fish from nations violating international fishery conservation guidelines such as the rules of the International Whaling Commission;

The Marine Mammal Protection Act of 1981, which prohibits the importation of non-dolphin safe tuna;

The International Dolphin Conservation Act of 1992, which also prohibits the importation of non-dolphin safe tuna; and

The Wild Bird Conservation Act of 1992, which bans the import of birds taken from the wild in tropical countries.

Additionally, the United States could not limit the importation of goods that unnecessarily destroy wildlife or natural resources during their production.

Further, NAFTA's provisions can be invoked to void the application of United States food safety laws to products originating in Mexico. Examples include the Delaney clause, which bars cancer-causing additives to foods, and California's proposition 65 requiring food labels to disclose the presence of harmful or toxic ingredients.

Included in the NAFTA package is the North American Development Bank [NADBank]. This institution is offered as a vehicle to ameliorate environmental damage resulting from NAFTA, but its total resources will be only a small fraction of the needed total and its scope is far too narrow. The NADBank will fund infrastructure for water pollution cleanup, wastewater treatment, and municipal solid waste dumps. These are vitally important, but other priorities—air pollution, toxic waste, et cetera—are ignored.

This NAFTA, to summarize, is a big gamble and the odds have been poorly calculated. At stake are the livelihoods and futures of millions of working Mexicans and Americans. It's an exciting proposition for the corporate elitists and game theorists who roll the dice. But it's something else again for those who find themselves with the dice loaded against them.

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Mr. MATSUI. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. PETE GEREN].

Mr. PETE GEREN of Texas. Mr. Chairman, I want to first thank my colleague, the gentleman from California [Mr. MATSUI], for yielding me this time and commend him for his outstanding leadership on this issue as well as the gentleman from New Mexico [Mr. RICHARDSON], who has led this fight with the gentleman from California [Mr. MATSUI].

Mr. Chairman, although the debate all day today has been spirited and too often marked by acrimony, the goal of everyone in this House is the same. The goal is jobs for Americans, good-paying jobs, good benefits, opportunity for all Americans to improve their lot in life and leave a better future for our children.

How do we get there? Is it with NAFTA or without NAFTA?

The opponents say without.

Every living President says a future with NAFTA will be brighter. Presidents Nixon, Ford, Carter, Reagan, and Bush and Clinton agree on that point. Every living Nobel prizewinner in economics says with NAFTA. Every objective study of the job impact of NAFTA in this country says with NAFTA, and there have been 18 of them.

Every living Speaker of the House including my predecessor, Jim Wright, who is certainly a great leader in the labor movement in this country, says with NAFTA.

Forty-one of fifty Governors, including my Governor, Ann Richards, says our future will be brighter with NAFTA.

Mr. Chairman, the University of Texas recently completed a study, and it has projected job growth of 75,000 jobs for the Fort Worth-Dallas Metroplex, 75,000 jobs in north Texas alone. My area has been hit hard by economic setbacks, and if we are going to give our families a chance to get back on their feet, if we are going to build a brighter future, we must seize this opportunity.

NAFTA means jobs for Americans. NAFTA must be a piece of the future that we build for our children.

I urge my colleagues to vote yes tonight. Let us make change a friend. Let us embrace change, and let us do this for our children.

Mr. DERRICK. Mr. Chairman, for purposes of debate only, I yield 1 minute to the distinguished gentleman from New Jersey [Mr. TORRICELLI].

Mr. TORRICELLI. Mr. Chairman, I rise against NAFTA, not because I oppose free trade, but because I believe in it.

But when one nation imposes on its workers no right to organize and another guarantees that right, when one nation protects its environment and one nation allows it to be abused, we are not establishing free trade. We are once again entering America into a trade deal that is to our distinct disadvantage.

Mr. Chairman, I believe in free trade enough to believe that the administration should return to Mexico City to the negotiating table and genuinely reach an agreement where markets are opened and not manipulated and not, once again, put at the disadvantage of our own people and our own workers.

I urge a no vote on NAFTA.

Mr. SOLOMON. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. GALLEGLY].

Mr. GALLEGLY. Mr. Chairman, I rise in opposition to this 3,755 page, 800-pound document referred to as NAFTA.

Mr. DERRICK. Mr. Chairman, for purposes of debate only, I yield 1 minute to the gentlewoman from Virginia [Ms. BYRNE].

Ms. BYRNE. Mr. Chairman, a lot has been said tonight, but I want to remind my Democratic colleagues about a time in March when we, the majority party, stood shoulder to shoulder with the President to create an economic stimulus package in this House to create 500,000 jobs, and unfortunately the other body squelched that effort. But it was worth fighting for, because it created jobs in this country.

And now we are willing to gamble. We are willing to gamble on those jobs that we were willing to fight for in March.

It is not worth the gamble, and just a few weeks ago, we extended unemployment benefits for the second time to the tune of $10 billion so far this year.

There is no money here to extend more unemployment. We have got to create jobs here.

I went to the maquiladoras in May, and I saw the blueprint for NAFTA. I saw take-home pay of $17.32 a week.

I ask you to vote no on NAFTA and start again, and this time do it right.

Mr. DERRICK. Mr. Chairman, for purposes of debate only, I yield 1 minute to the gentlewoman from Ohio [Ms. KAPTUR].

Mr. SOLOMON. Mr. Chairman, I yield 1 minute to the gentlewoman from Ohio [Ms. KAPTUR].

The CHAIRMAN. The gentlewoman from Ohio [Ms. KAPTUR] is recognized for 2 minutes.

Ms. KAPTUR. Mr. Chairman, as a strong opponent of this NAFTA, let me thank all my dear colleagues on both sides of the aisle who have fought so untiringly to inject a human face into this debate on NAFTA—to be voices for the millions in our Nation whose lives have already been affected by the erosion of good-paying jobs—and those in Mexico who work their hearts out, but earn not enough to buy what they make. Irrespective of the outcome, our fight will continue after this vote in the tomorrows to come—a fight against the narrow vision of the elites and Wall Street who have contempt for those who work in our factories, on our farms, and on Main Street in the United States and Mexico. We have known all along what a mountain we had to climb. But we have been valiant in our efforts, and we can be proud as our votes are cast tonight. For it is in our hearts that the truest principles of democracy, prosperity and respect for ordinary people of extraordinary spirit reside.

For me, this has been a fight about dignity for people. So ours will not only be a moral victory. It gives hope to those in our world who struggle for democracy, labor rights, for human rights, for a clean environment, for health and safety in the workplace, and in fact, for the right to speak out as we have spoken out here today. We find repugnant the deals that have been cut to sway votes in this body. Human nature is too often weak. But out of this moment has come an incredible awareness on the part of the American people that trade and jobs are inextricably linked and that people matter more than profits. If this flawed agreement passes, in the months and years ahead, as plant relocations and production move to Mexico in greater numbers and people in our Nation are hurt and those in Mexico exploited, it will be on this floor of Congress that we will be voices for those who bear the pain of NAFTA. We wait for the tomorrows in which we can constructively fashion a trade agreement that moves America and the world into a new era of trade-linked advancement for people of ordinary means.

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Mr. DERRICK. Mr. Chairman, for purposes of debate only, I yield 1 minute to the gentlewoman from California [Ms. SCHENK].

Ms. SCHENK. I thank the gentleman for yielding time to me.

Mr. Chairman, the time and the circumstances are wrong for this NAFTA. I support free and fair trade, but not to the detriment of America's working men and women, and not to the detriment of my community of San Diego, right on the border.

I cannot vote for this NAFTA because it puts the proverbial cart before the horse. For example, we first should have provided for the basic facilities and infrastructure, such as strengthened border patrol, to deal with the increased illegal immigration which will surely come as Mexican farmers are displaced by our corn and pork.

We should have provided for the extra law enforcement needed to deal with the onslaught of trucks and other vehicles that will clog San Diego's freeways.

We could have, and should have, done better in negotiating this treaty. These are uncertain economic times, and people feel insecure about their own future. It is unfair to ask Americans to take a risk as great as this NAFTA at this time, and I urge my colleagues to vote against it.

Mr. MATSUI. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. ANDREWS].

Mr. ANDREWS of Texas. Mr. Chairman, we are at a defining point in this country's long history of economic leadership. Our credibility as the world's leading economic power hangs in the balance.

In 1948 America stood as the eminent world power. That year the Congress faced a historic choice: whether to follow a path of isolationism and withdrawal or become the dominant leader of the free world.

A Democratic President, Harry Truman, and a Republican Congress led by Senator Arthur Vandenburg worked together to pass the Marshall plan and changed forever the face of Europe. America entered the cold war with bold and daring leadership.

Today, the issue of the North American Free-Trade Agreement, in both size and scope, pales in comparison. But the choice is no less historic. This is a significant moment in American foreign policy. A vote for NAFTA is a vote to seize our future. To reject this important agreement is to retreat to isolationism and protectionism.

At the heart of the issue the choice is a clear one: Will the United States become insular and isolated in this new age of international trade and competition or will our Nation lead the world to an open and more global marketplace. This is a significant moment in our history and will determine America's role in the world economy well into the next century.

Mr. Chairman, our opponents will have you believe that we have been outtraded by Mexico and are on the verge of trading away our future. The fact is that NAFTA levels the playing field that is currently stacked against us. It requires Mexico to drop its tariffs and open a growing market as never before to United States exporters, their employees and to our goods.

There are tremendous differences in size between the United States and Mexico—the Mexican economy is only one-twentieth the size of the United States economy. Mexico is simply not capable of flooding our market with goods and outproducing our workers.

A vote for NAFTA will strengthen our credibility abroad and strengthen our hand as a world leader in the fierce competition that lies ahead. At this very moment, leaders from the Pacific rim are flying to the United States to meet with the President to discuss future trade opportunities in this important region. Asia, with a combined economy of $6 trillion, is one of the world's most dynamic markets. We must build a stronger trading relationship with Asia to improve access for our goods and services. Rejection of NAFTA will weaken our President in these negotiations.

Mr. Chairman, we must also remember that the deadline on GATT negotiations is quickly approaching. More than 100 countries are taking part in this effort to rewrite the rules of world trade, to bring down barriers in markets across the globe. The United States has been working for years to break the impasse on GATT, and we are near the goal line. Rejection of NAFTA sends the message to Europe that we are unreliable trading partners.

Rejections of NAFTA puts the United States at a disadvantage in pressing Japan and our European partners to lift restrictions on United States Trade and investment. Make no mistake, the connection between NAFTA and the GATT and United States-Japan talks is crucial. A rejection of NAFTA here today will all but guarantee disaster in these negotiations.

The vote on NAFTA is also the symbol of our leadership in developing the markets of Latin and South America. The markets of the Western Hemisphere will be rapidly expanding in the next century. The United States is their natural trading partner, and we must be at the forefront of developing these emerging economies. By taking the lead today, we lay the groundwork for the future.

The vote on NAFTA represents a test. Are we ready today to fully engage our marketplace or will we relinquish our role as leaders. I, for one, refuse to believe that the United States cannot, for all of our strengths, compete against the labor of developing countries. Not only can we compete but we can win.

Americans are rightly concerned about an erosion in their standard of living. I understand these fears—but defeating NAFTA will not address these problems.

Opponents fear that NAFTA will cause factories to move to Mexico to take advantage of cheap labor. The truth of the matter is that business can do this now. Labor is only one component of production. A successful factory needs infrastructure, communications, a distribution network—all areas where the United States has a major advantage. Most importantly, American workers are the most productive in the world.

NAFTA eliminates incentives for companies to move to Mexico. Currently, the only way for many American businesses to sell in Mexico is to manufacture in Mexico. NAFTA opens the Mexican market to United States exports and for the first time, allows us to sell to Mexico what we produce here in the United States.

NAFTA will not only be an economic boon for North America, but it will help us focus our resources and address environmental problems along the border. Let us be clear about one thing: NAFTA did not cause the pollution and environmental degradation along the border and rejection of NAFTA will do nothing to improve it. We cannot turn our back to the environmental problems along the border, hoping that they will disappear.

The mainstream environmental community is solidly behind this agreement. They know that the defeat of NAFTA will not help us address environmental concerns that will accompany future industrial expansion. They know that the defeat of NAFTA will not make Canada and Mexico more responsible for environmental preservation. They know that defeat of NAFTA will not clean up the United States-Mexico border area or the Rio Grande River. With NAFTA there is vastly more funding for border cleanup than there is now and more than there would be without it.

We should not fear for America's future. We stand at the close of one century looking into the next as the most powerful Nation on Earth. This is our time to be daring—to take a risk worth taking. And like other moments in our history, it is time to show leadership, to show our resolve and to show our commitment to the future. Let us stand with our President; with every living former President; and with every living Secretary of State. Let us stand for out future. Let us pass NAFTA.

Mr. SOLOMON. Mr. Chairman, I reserve the balance of my time. We have just one final speaker before the quorum call.

The CHAIRMAN. the gentleman from Texas [Mr. ARCHER] has 2½ minutes remaining.

Mr. ARCHER. Mr. Chairman, I yield 15 seconds to the gentlemen from Florida [Mr. YOUNG].

Mr. YOUNG of Florida. Mr. Chairman, I regret that not enough time was allocated so that each Member would have the opportunity to say what is on their conscience. But in 15 seconds let me say that to deny American workers the opportunity to fairly compete in the world marketplace is just not acceptable. So I rise in support of this free-trade agreement.

Mr. Chairman, to deny American workers the opportunity to fairly compete in the worlds market-places is not acceptable. So tonight I rise in support of the free-trade agreement despite the fax message I just received which said, "There is still time to save your job—vote no on NAFTA."

Saving my job is of no relevance when compared to the economic future of our Nation. It is the jobs of America's workers, especially those that will be created by this free-trade agreement, that are at issue here tonight. Threats like I just received simply strengthen my resolve to do the right thing and support the North American Free-Trade Agreement.

At the end of a telephone conversation yesterday, Mr. H. Ross Perot, simply told me to vote my conscience tonight. Well Mr. Chairman, over the past few weeks I have searched my conscience at length and talked to many people from all sides of this issue. This includes a private meeting last night with President Clinton in the Oval Office, at his request, a meeting with Mr. Perot in my office earlier this month, at his request, countless discussions with my colleagues in the House and Senate, conversations with hundreds of constituents from my home district in Florida, and hundreds more letters, telegrams, and faxes from people throughout our Nation. All of these meetings, conversations, calls and letters, along with my personal research lead me to conclude that my original inclination to support NAFTA was the correct one.

There has never been a doubt in my mind that American workers can outcompete any other workers in the world. And given a level playing feel, there is likewise no doubt in my mind that American businesses and industries can out compete their competition in any other nation.

The key to NAFTA is that it levels the playing field for American firms seeking to export their products and services to Mexico. It provides a unified, barrier-free trading environment for workers and businesses in the United States, Canada, and Mexico.

Through my work on the Permanent Select Committee on Intelligence, I receive regular briefings from our intelligence agencies on the economic changes taking place in various parts of the world. It is no secret that our allies in the European Community are establishing a unified economy much like that envisioned by NAFTA. Less well known, however, are the discussions under way in other parts of the world, such as East Asia, where trading blocs are coming together. NAFTA allows us to protect our competitive position in this evolving global market.

For the people of Pinellas County and the state of Florida I represent, NAFTA will mean the creation of jobs to fulfill a greater demand for the products produced in our State. These will be good, high paying jobs that will bolster our State's economy.

Florida has helped lead our Nation turn a trade deficit with Mexico into a $2.3 billion trade surplus as Florida's exports to Mexico have tripled over the past 5 years, growing from $219 million in 1987 to $664 million in 1992. During that time, Mexico has grown from being Florida's 14th ranked trade partner to its 7th.

Canada, the third signatory to the NAFTA, is Florida's leading export market. In the 3 years since the United States-Canada Free-Trade Agreement was implemented, Florida exports to Canada have increased from $664 million to $1.6 billion. This experience gives credence to the analyses which predict a similar explosion in United States to Mexico will follow the implementation of NAFTA on January 1.

All those who have engaged in this debate tonight and over the many months we have discussed NAFTA are to be complimented for encouraging a very important, wide-ranging debate on this very complicated agreement. Ross Perot and the many critics of NAFTA have performed a valuable service. They have called attention to sections of this agreement which required every Member of this House to closely study its two volumes and separate out fact from fiction. This healthy national, and at times international, debate has not only energized the electorate, but raised the debate to such a level that every American learned much more about NAFTA than they knew before.

In fact, many people who contacted me over the past few weeks to oppose NAFTA, have after further review, called this week to let me know that they now support the agreement. They have taken the time to listen to the debate and concluded that NAFTA is really in the best interest of our Nation.

From the outset, NAFTA's impact on American jobs has been one of the major recurring concerns. Study after study, however, predicts that jobs will be created, not lost. The U.S. International Trade Commission predicts that 200,000 American export-related jobs will be created by NAFTA by 1995. The Institute for International Economics puts the figure at 145,000.

The Florida Department of Commerce estimates that in our State, five new jobs will be created for every one job lost. In addition, the department believes that the newly created jobs will be higher paying jobs related to the growing high technology industries which would benefit from NAFTA.

A second concern is that NAFTA will encourage United States businesses to relocate operations, and jobs, to Mexico to take advantage of lower wage rates. The truth is, American businesses inclined to move south already would have done so, in part to avoid tariffs. Only one-fifth of the production costs for businesses is related to labor. Plant, equipment, and transportation make up a greater share of the cost and in these areas, American businesses find it more economical to produce their goods in the United States than Mexico. With regard to wages, a recent study has shown that the earnings of Mexican workers have risen by almost 30 percent in the past 5 years and that they will continue to rise with the implementation of NAFTA. The enactment of NAFTA makes it far less likely that American firms will locate to Mexico than if NAFTA is defeated.

A third concern about NAFTA has been that it would threaten our State's agriculture producers and industries. By remaining united right up until the final days, our delegation has been able to receive from the administration firm letters of agreement that protect Florida's citrus, vegetable, and fruit producers. With these agreements, the major associations representing various Florida agriculture interests have joined in support of NAFTA.

A fourth concern I have heard from my constituents is that NAFTA will threaten our environment and our wildlife. While there is some disagreement within the environmental community, a number of major environmental and wildlife organizations, including the National Wildlife Federation, the Natural Resources Defense Council, the World Wildlife Federation, the National Audubon Society, the Environmental Defense Fund, and Conservation International have all announced their support for NAFTA. The agreement does nothing to undermine current or future United States environmental laws while at the same time giving our nation leverage to raise the environmental standards of Mexico and Canada. This can only help to enhance the environment of our hemisphere. Killing NAFTA would do nothing to improve the environment.

A fifth major concern is that NAFTA will encourage an even greater flow of illegal immigrants from Mexico into the United States.

Studies have shown that just the opposite is true. The basic tenet of NAFTA is that lifting trade barriers between the United States, Canada, and Mexico will encourage economic growth and job creation in all three nations. This will create new and higher paying jobs in Mexico and will allow Mexican workers to find employment without having to illegally enter the United States looking for work. It is no secret that illegal aliens, given a choice between staying in their homelands and working, or illegally entering our Nation, prefer to stay in their homeland close to family and friends and the culture to which they have grown accustomed. Furthermore, some reports have found that with a growing economy and the dropping of trade barriers, many Mexican businesses will no longer need to locate along the United States border. By moving away from the border, the rate of illegal immigration will drop and the ability of U.S. law enforcement personnel to patrol our borders will improve.

Mr. Chairman, there are many other issues that have been discussed in the two volumes and more than 3,700 pages that comprise NAFTA. In the end, each of us who has been elected to Congress must cast a vote for or against this agreement. In making that decision, I must decide what is in the best interests of the United States of America. It is clear to me that tearing down trade barriers around the world is in the best interests of American workers and American consumers.

It comes to a question of confidence—confidence that our workers will continue to outproduce the workers of any other nation and confidence that expanding the markets for American goods will improve our Nation's balance of trade to the benefit of the U.S. economy.

This is not to say that my vote of NAFTA will be a politically popular vote with all the voters in the Tenth Congressional District of Florida. As I said at the outset, each of us who supports this agreement has received calls of retribution. There have been implied threats and direct threats against future support for me if I support NAFTA.

To cast my vote for or against any legislation based on the threat of retaliation at the polls would be the same as me casting a vote for or against an issue based on financial political support. It would be a bribe and this Congressman's vote is not for sale on this or any other issue.

Mr. Chairman, NAFTA brings down trade barriers that improve our Nation's competitive position. It will create jobs—good jobs—that will stimulate our Nation's economy and enhance our access to foreign markets. It is my hope that its passage this evening will be a first step toward bring down all trade barriers that exist throughout the world. There will never by any doubt in my mind that given a fair and level playing field, our Nation's worker's can outwork and outproduce the workers of any nation in the world. In time, NAFTA will prove just that.

Mr. ARCHER. Mr. Chairman, I yield 15 seconds to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Chairman, I rise today in support of new avenues to enhance America's economic future and, therefore, I am supporting the North American Free-Trade Agreement.

Mr. Chairman, I rise today in support of new avenues to enhance America's economic future; and therefore, I am supporting the North American Free-Trade Agreement [NAFTA]. I will cast my vote tonight in favor of NAFTA because the issue here is jobs.

There is a lot of confusion out in the public mind about whether NAFTA is going to help us in America or hurt us. The fact of the matter is that the jobs going to Mexico have already gone. What NAFTA does is lower tariffs and permits the United States to sell more of our goods and services to Mexico. In turn, that means more jobs and economic opportunities in America if we're selling more of our products down there.

We, as Americans, think of our country as the last of the major superpowers; however, military power is often ineffective in economic warfare as the Japanese have recently proved so well. Indeed, today's global wars are taking shape in the form of "economic blocs" rather than military alliances, to achieve global power objectives.

Simply put, the future economic growth of both my congressional district in southern Missouri and our Nation as a whole depend on the removal of trade barriers, not raising trade barricades around us. In this hemisphere, our balance of agricultural trade continues to improve and American farm producers have been able to maintain this growth with tariffs currently in place. Imagine the opportunities that lie ahead if we tear down the tariffs that remain, not only for agriculture, but for more efficiently produced American manufactured goods.

Finally, I would like to point out that there has been a lot of concern expressed about what happens if, once we are in this agreement, we find we wish we were not. The answer to that is very simple—article 2205 provides that any country "may withdraw from this agreement 6 months after it provides written notice of withdrawal to the other parties."

With the end of the cold war; the great desire for positive change by all people, most especially our own people; in recognition that the next century is going to be dramatically different than the one coming to a close, this vote will help position the United States to continue to be the strongest, most inspirational leader on the face of the earth—through trade, not aid; through peaceful development, rather than the conflict of war.

I will close simply by saying: vote "aye" on NAFTA and say "yes" to American jobs, a better quality of life, and new economic opportunities for the United States.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. KNOLLENBERG].

Mr. KNOLLENBERG. I thank the gentleman for yielding this time to me.

Mr. Chairman, tonight we reach the end of a long and important debate on America's trade policy and our Nation's economic future.

This is probably the most important vote of the year. And through all the rhetoric, a simple choice has emerged.

Tonight, I say to my colleagues we will determine whether America stakes its claim in the global economy, or whether we continue to slide backward under the status quo.

With NAFTA, we will open the way for a tremendous infusion of American-made goods into Mexico.

One need only look at the American auto industry to see NAFTA's great potential.

Last year, we exported just a thousand vehicles to Mexico. With NAFTA, we will export 60,000. That is right, 60,000 cars, built here in the U.S.A. by American autoworkers.

And in a vast number of other industries, entrepreneurs will move forward, boosting exports and creating jobs.

Will NAFTA single-handedly revive the American economy—which is still overburdened by high taxes and regulation? No. But it will increase our exports and it will create jobs—for that reason alone, we should pass it.

But we must also face a larger issue. Tonight, the whole world is watching what we do in this Chamber.

If we have the courage to pass NAFTA, we will show the world that we are ready to take the aggressive steps necessary to open markets for American products—throughout the hemisphere and across the globe.

We cannot simply walk away from this opportunity.

In this post-cold-war world, the true measure of a nation's prowess will not be decided on the battlefield; it will be decided in the marketplace.

I say to my friends that in my district, in Michigan, and indeed throughout the Nation, we have the most productive, highly skilled workers in the world.

I have supreme confidence in their ability to fight and win the battle of the global marketplace.

So tonight, let us claim our rightful place on the world's economic stage. Let us pass NAFTA, and show the world what an economic superpower can do.

Mr. DERRICK. Mr. Chairman, I yield such time as he may consume to the gentleman from American Samoa [Mr. FALEOMAVAEGA].

Mr. FALEOMAVAEGA. Mr. Chairman, I rise in opposition to the NAFTA.

Mr. Chairman, I rise today in opposition to H.R. 3450, legislation which will implement the North American Free-Trade Agreement.

Mr. Chairman, this decision has not been an easy one for me. I am a firm believer in the concept of free trade and that our country, as a whole, can be very competitive in the international marketplace, if given a level playing field. A free-trade agreement holds the possibility of improved trade relations with our neighbors, increased opportunities for some industries, and reduced immigration problems along our southern border. Additionally, our President has fully committed himself to the passage of NAFTA, and I must commend him for the admirable job he has done in consolidating strong support for NAFTA. As a fellow Democrat, I am very reluctant to take any action which might be perceived as opposing the first Democratic President in office for well over a decade.

Nevertheless, with respect to NAFTA as it currently stands, I am concerned with the likely, significant impact this NAFTA will have on the U.S. territories, and in particular on American Samoa.

In my congressional district of American Samoa, fully one-third of the local work force is employed by two tuna canneries. When the secondary industries which support these two primary employers are considered, approximately one-half of our economy is driven by the tuna industry. This industry and their over 4,000 employees provide the bulk of our local tax revenues. Not surprisingly, nearly half of the canned tuna consumed annually in the United States, over $600 million worth, is produced by my district.

Under NAFTA, even with the 15 year "C+" tariff reduction schedule contemplated for canned tuna, it has been predicted that the trade agreement's effect on the tuna industry would be major. According to the NAFTA impact study conducted by the U.S. International Trade Commission for the House Ways and Means Committee, "Removal of U.S. duties on canned tuna would likely result in a significant increase in U.S. imports of such items from Mexico. The harm such an increase in imports would likely do the U.S. tuna industry would be significant." (USITC Publication 2353, at page 4–14.)

Given these circumstances, I felt compelled to write to the chief executives of the corporations controlling the tuna canneries in American Samoa, Starkist Seafood Co. and Van Camp Seafood, Inc., regarding their views on NAFTA and the possibility of their canneries relocating to Mexico.

Their responses, although attempting to be reassuring, could not mask certain facts. First, they will stay in my district only so long as their companies can remain competitive worldwide; and, second, the current import duty on canned tuna is a significant cost factor, whose removal could change their competitive position in American Samoa.

Based on the facts available to me, if NAFTA is implemented, I am of the opinion that despite their desire to remain in Samoa, both canneries will likely move their operations elsewhere in 15 years or sooner. I say this, not because I want them to leave—I do not—but because at some point I know with the tariff reductions it will no longer be economically viable for them to continue their operations here.

Mr. Chairman, given the significant negative impact expected in my congressional district, I solely regret I am not able to support this NAFTA because of the foregoing concerns.

Mr. DERRICK. Mr. Chairman, for purposes of debate only, I yield 1 minute to the distinguished gentleman from New Hampshire [Mr. SWETT].

Mr. SWETT. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in opposition to this NAFTA.

I believe it essential that the United States, Canada, and Mexico engage in free trade. I also believe that a free trade agreement should raise Mexico's standards, not lower ours.

As we proceed down the road of increased trade liberalization, we need to decide what values should form the foundation of our trading relationships. We cannot take food off the tables of American workers to give to Mexican workers.

Mr. Chairman, we cannot endanger the lives of citizens in both countries with poison and pollution. We need to create an agreement which will feed and protect citizens of both countries.

Mr. Chairman, properly negotiated, a new trade agreement would help promote reforms in Mexico, protect our environmental laws, and enrich both Mexico and the United States.

NAFTA falls short of these criteria.

I urge my colleagues to join me in defeating this NAFTA, so we can negotiate a new agreement which upholds the values dear to all Mexicans, Canadians, and Americans.

Mr. DERRICK. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. COSTELLO].

Mr. COSTELLO. Mr. Chairman, I rise in opposition to this NAFTA agreement.

Mr. Chairman, today the U.S. House of Representatives will vote on NAFTA—the North American Free Trade Agreement. In 1991, I voted against giving President Bush the authority to rush into a fast-track agreement with Mexico and Canada, and now I will vote against this NAFTA in the House of Representatives.

I have spent countless hours examining NAFTA from every perspective. I have read the proposed 2,000 page agreement, I have read articles, and have attended debates, workshops and lectures both in favor of and against NAFTA. I am not convinced that this NAFTA is in the best interest of the U.S. or the Mexican worker.

The proponents of this NAFTA believe that it will (1) create new jobs in the U.S. "long term"; (2) help clean up environmental problems along the border; (3) reduce immigration problems; and (4) increase wages and improve working conditions in Mexico while expanding U.S. businesses.

I believe that this NAFTA is a job killer, that it will contribute to greater pollution problems along the U.S.-Mexican border and that the creation of jobs in the "long term" for the U.S. is a gamble-not a guarantee. We should and can do better!

Everyone agrees that jobs will be lost in the short term if NAFTA is passed. Those who believe that NAFTA will create jobs in the U.S. long term base their claim on the premise that the Mexican people will demand and purchase products manufactured in the U.S. They believe that the Mexican people will be able to afford U.S. goods because the Mexican government has promised to increase wages and improve working conditions for Mexican workers, enforce environmental laws and eliminate human rights violations in Mexico.

Consider the following:

The United States will lose up to 500,000 good manufacturing jobs—up to 40 percent of our jobs in automobiles, steel, textiles and apparel according to an unreleased study by the U.S. Department of Commerce. Proponents claim that the Americans losing their jobs will be able to find better jobs in the U.S. Very few Americans who have lost their job recently as a result of a plant closing or a U.S. company moving to Mexico have been able to find better or higher paying jobs.

The minimum wage established by the Mexican government for its workers is 58-cents per hour. Ninety percent of the workers in Mexico make less than $22.00 per day. Wages in Mexico have declined by 25 percent since 1979, despite an increase in production in manufacturing facilities. It is difficult to believe that the Mexican government will increase wages in order for Mexican workers to be able to afford to purchase U.S. products.

It is clear that the Mexican government purposely keeps wages low in order to attract new manufacturing plants from the United States and other countries. The Mexican government has purchased full page newspaper ads asking the United States and other companies to come to Mexico for $1.00 per hour wages and low overhead.

Every major human rights organization has condemned the Salinas Administration for being one of the most abusive governments in this hemisphere.

NAFTA cannot be debated in Mexico without fear of retaliation. Recent public opinion polls in Mexico indicate that less than one-third of the people in Mexico favor NAFTA.

Proponents claim that NAFTA will reduce illegal Mexican immigration to the United States. Look at the history of the maquiladora area near the border and its effect on immigration. American factories in the maquiladora areas actually contribute to illegal immigration, by bringing families to the area on wages which cannot possibly sustain them. Our country has and will continue to send our sons, daughters, husbands and wives half-way around the world to protect human rights, while at the same time we are being asked to contribute to degradation of human rights—where workers labor and live in slave conditions—in Mexico.

This NAFTA will cost U.S. taxpayers several billion dollars to implement. Recently, the administration discussed the possibility of imposing a new transportation tax in order to implement NAFTA. It has been estimated that the U.S. taxpayers will end up paying between $10 and $30 billion in lost revenue and in infrastructure improvements that will be necessary to implement NAFTA.

In conclusion, I believe that we need a fair trade agreement with Canada and Mexico. This NAFTA is not fair! I believe that we should and must reject this NAFTA and negotiate a trade agreement that is fair to all parties. I urge my colleagues to reject this NAFTA.

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Mr. DERRICK. Mr. Chairman, I yield the balance of my time to the distinguished gentleman from Wisconsin [Mr. OBEY].

The CHAIRMAN. The gentleman from Wisconsin [Mr. OBEY] is recognized for 2½ minutes.

Mr. OBEY. Mr. Chairman, if NAFTA tonight threatened the jobs of editorial writers and network news anchors and

Wall Street bankers, this bill would not have a prayer, but it does not. It threatens the jobs of noncollege educated workers, so it is going to press.

All I will say to you tonight, if you are intending to cast your vote for this turkey, all I will say to you is if you are going to vote for it tonight, remember that in contrast to the advertised price tag, this baby carries a $20 billion minimum price tag over the next decade. I am talking about a price tag to the taxpayer, to the Federal budget, to the deficit.

Do not vote for this tonight, do not buy the goods tonight unless you are willing to pay for them over the next 10 years. If you are really going to claim tonight that you are going to provide job training for people who lose their jobs, then you had better be there when we have job training bills on the floor.

If you are going to go home and tell your constituents that you are going to provide schools for work and education and training programs, as people have said this is going to provide, then you had better be there when we bring those appropriations to the floor.

If you are willing to impose on the House tonight the authorization and the appropriation for a 5-year commitment to a new international banking institution that will obligate taxpayers to provide guarantees for over $2 billion, then you had better be there when the Foreign Operations bill comes to the floor the next 4 years that pays those obligations that you will legally incur tonight if you vote for that bill.

Now, I do not think we ought to do that. I think we ought to vote this down, but if you vote for it, then let us see you follow the logical consequences of your actions. Let us see you do the heavy lifting that is going to be required after this is passed tonight.

Mr. SOLOMON. Mr. Chairman, I yield our remaining 6 minutes to the distinguished gentleman from Kentucky [Mr. BUNNING] a member of the Committee on Ways and Means and a very learned Member of this House on this issue.

Mr. BUNNING. Mr. Chairman, I guess we have heard about everything there is to say about the North American Free-Trade Agreement.

We have heard the promise of jobs—the promise that NAFTA will generate hundreds of thousands of new jobs because of increased export opportunities.

I believe the opportunities are there. I do believe in free trade, and I believe that improved trading relationships will eventually mean jobs for us and for Mexico.

But no one has explained how an economy that is one 1/20 the size of our own can absorb enough of our products and services to offset the negative impact of opening the door to a Mexican work force that is nearly 1/3 the size of ours.

These numbers virtually guarantee tremendous job dislocation if this treaty passes. And this treaty does nothing to offer any hope to the working men and women in our fragile industries.

We have heard today, that those of us who believe this treaty threatens our Nation's sovereignty are off base.

I personally am truly concerned that the huge trinational bureaucracy that this treaty creates is a threat to our sovereignty.

I believe it threatens our ability to set our own health and safety and environmental standards, to set professional licensing standards, and to deregulate our own economy.

But today we have heard opinions from legal scholars who say these fears are groundless, that this sovereignty issue is "a dog which just won't hunt."

I am not a lawyer. In fact I am rather proud that I am not. But if "this dog won't hunt"—what is this dog doing in this treaty?

We have heard today that this treaty is a great opportunity for everybody—profits, jobs, investment opportunities galore.

But how can anyone tell what a great deal it is when we do not know what it really costs?

We just don't know the costs of all the promises that are being made in the back rooms at the White House and on Capitol Hill. The American people should be outraged at the way this treaty has been bought—vote by vote—with wheeling and dealing that would make a rug merchant blush.

If we tried this kind of vote buying in Kentucky, there would be a grand jury looking into it. In fact, we do try it in Kentucky and there is a grand jury looking into it.

We have heard a lot today—but we have not heard what these promises and side deals will cost. It think that is outrageous.

We have heard today a lot of promises about the benefits of opening up our Nation to competition. But we have not heard the one promise that would make me feel more comfortable with this agreement—the promise that President Clinton plans to change the course of his administration and do something to make this Nation more competitive instead of less.

We have heard a lot today about jobs. But where was that concern about jobs and competition when the President shoved his tax bill through this House?

Retroactive tax increases on small business will not make our country more competitive. The President's tax bill, enacted just months ago will cost 5 times as many jobs as this treaty could ever create.

The President's health care plan, if it is enacted, will kill five or ten times as many jobs as NAFTA could ever create.

If we are going to tear down the walls and open the doors, we have to get our own house in order and this administration and its policies do not give me any faith that we are ready to do this. It frightens me.

And we have heard today that this is a historic moment—this treaty is an historic opportunity. And I agree. After today, with or without this treaty, we will start the march into history—into the 21st century.

With or without this treaty we will continue to improve our trade relations with Mexico and reduce the trade barriers that separate us.

But as we begin this march into history, we really should start the march together. This treaty, this NAFTA, leaves too many unanswered questions and it leaves too many people behind in the dust.

Treaties are supposed to bring people together and offer hope for a better tomorrow. This treaty offers hope to our business community—hope of expanded trade opportunities and investment opportunities. It offers hope to the people of Mexico—hope of economic growth and job opportunities.

But for many working people in this country, this agreement offers nothing but fear, insecurity, and the loss of jobs. We can not leave them in the dust.

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Mr. Chairman, we cannot leave them in the dust. We can do better; we must do better. Let us reject this NAFTA.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Iowa [NUSSLE].

Mr. NUSSLE. Mr. Chairman, I rise in support of the NAFTA agreement.

Mr. MATSUI. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon [Mr. KOPETSKI].

Mr. KOPETSKI. Mr. Chairman, Members, yes, NAFTA is a trade agreement and Oregon and the United States will gain from it. But just as important is the fact that NAFTA is a strategy. It is an economic strategy to sell American-made products to American consumers and to a world market. This is the heart and basic concept of this agreement.

The United States has a $6 billion trade surplus with Mexico. Mexico is not our competitor. But the United States has a $45 billion trade deficit with Japan. Japan and Asia are our competitors, Thirty-three percent of Germany's gross domestic product is exported while only 11 percent of America's GDP is exported. These are our competitors—Japan and Asia, Germany and Europe. That is why they oppose NAFTA.

By NAFTA and the strategy involved, for the first time since the Marshall plan the United States is proactively setting forth an economic strategy for our businesses and workers to compete successfully in the global economy.

Instead of always responding, always playing defense, always playing catch-up to the economic challenges from Japan and Germany, we will set the rules for the economic gain in our backyard. Under NAFTA, Mr. Chairman, we, not our competitors, set the rules for doing business through the rule of origin, the domestic content provision. We, not our competitors, set the rules through the enforcement processes for the intellectual property rights provisions. We, not our competitors, set the rules by giving tax preferences to goods produced in North American businesses over non-North American-produced products sold in the United States.

Under NAFTA, Mr. Chairman, we tell the world that we are designing the economic playing field in North America. We, not our competitors.

By this I see America returning to a road of prosperity and economic security. Trade-related jobs pay on the average 17 percent more than nontrade-related jobs. This economic strategy will allow the United States to return to jobs that pay living wages with health care benefits, with a pension program.

Mr. Chairman, to vote no on NAFTA is to accept the status quo. To vote yes is to embrace the strategy which allows us to move forward and to seek a better world for our people.

Mr. ALLARD. Mr. Chairman, today we have the opportunity to vote on one of the most important pieces of legislation of our time—the North American Free Trade Agreement. The implications of this historic agreement extend far beyond a simple trade agreement. NAFTA would create the largest and richest market in the world. The passage of NAFTA would affect the ability of the U.S. to remain competitive as well as help define our role as leaders in the international community. NAFTA offers the opportunity to expand our markets, increase our exports, and grow our economy.

Yet, despite all of these positive gains, there are still those who refuse to look toward America's future. There are those that are content with letting the special interest groups define what is good for our Nation. Rather than believing that the United States is a world leader and an innovator that can successfully compete in the global market place, the anti-NAFTA crowd believes that the United States should hide and retreat from international competition. It baffles me that some think a country whose economy is one-twentieth the size of ours is going to threaten our standard of living here in the United States of America.

For those who have been concerned with Mexico's labor or environmental practices, or with their past record on human rights and democracy, my response is that—engagement is the most effective weapon. If we want to address the problems of illegal immigration or drug trafficking, the answer does not lie in cutting our ties with Mexico and disengaging. Furthermore, closing the door on Mexico will have serious repercussions throughout North America. If NAFTA fails, relations with Central and South America could be soured, which translates directly into lost markets for American goods and the lost opportunity to help strengthen democracy and free enterprise in our hemisphere.

With the cold war over and the increasing globalization of our economy, it is quite evident that international trade and export growth is the key to our future. If we reject this opportunity today—the opportunity to forge closer ties with Mexico and engage with them—we will lose our ability to be leaders in North America and leaders throughout the world. Canada has already announced that if the U.S. Congress fails to pass NAFTA, their country will go ahead and negotiate a bilateral free trade agreement with Mexico. In addition, if Congress fails to pass this agreement, our chances of securing further trade negotiations that lower trade barriers, open new markets for U.S. goods, protect intellectual property rights, and set environmental and labor standards, will surely be lost. The fact is, the decision we make on NAFTA comes at a critical time for international trade. Should NAFTA fail, it could prevent a successful completion of the present multilateral trade agreement, known as GATT, which is scheduled to come to a close by mid December. Moreover, a country which rejects free trade with its neighbors, who share the same borders, is not likely to carry much international clout in convincing other nations across the ocean to drop their tariffs and engage in free trade.

Unfortunately Mr. Chairman, a great deal of misleading information and half-truths have been spread on the issue of NAFTA. In an effort to get the record straight, I think it is important to address some of these concerns.

Much of the NAFTA debate has centered around the issue of jobs. NAFTA opponents have claimed that this agreement will only accelerate the loss of manufacturing jobs in the United States. I believe, and leading economists have professed, that NAFTA will create jobs, because it offers the U.S. new markets and opportunity to increase U.S. exports, Recent history sheds light on this point. In 1986, Mexico began to lower its trade barriers and as a result, United States exports to Mexico grew. According to the Department of Commerce, this has added more than 400,000 new jobs to the American economy. NAFTA is a job creator.

As we all know, structural shifts in manufacturing employment have been occurring in this country for more than a decade. These changes have not occurred because of NAFTA, but stem from factors such as modernization, efficiency and a more global economy. NAFTA is not part of the problem. It may be, however, part of the solution. NAFTA will create the largest market in the world. By increasing our export opportunities, NAFTA will enable us to take advantage of America's economic strengths, which include high-wage and high-tech manufacturing.

The low wage rate in Mexico has been cited as a reason that American companies will relocate if NAFTA passes. If that is the case, why aren't there more American companies there now? And why are many which moved there now considering moving back to the U.S.? The truth is, this manufacturing exodus, is short-sighted and ignores many of the other factors of production, such as worker productivity and transportation costs. Moving factories down to Mexico is a costly undertaking. I doubt seriously that there will be a surge of companies that will close-up shop in America and relocate in Mexico, solely to take advantage of the cheaper labor. Again, anyone who runs a business knows that labor costs are just part of the total equation. With Mexican tariffs lowered, companies will not be as tempted to move to Mexico in the first place. Many companies have done so in the past in order to circumvent the high import duties that are presently in place.

An example of how NAFTA will help expand U.S. exports and boost our high-tech industries like computers can be seen in my district in Colorado. Without NAFTA, Hewlettt Packard in Fort Collins and Greely, CO, must pay a 20% Mexican tariff. With NAFTA, Hewlett Packard can sell more computer equipment for the same amount of money. With NAFTA, Hewlett Packard in Loveland, Fort Collins, and Greely will hire additional engineers and production workers to meet the additional demand for their product. With NAFTA, NW Transport of Commerce City, CO, and United Parcel Service in Fort Collins and Greeley will ship this additional computer equipment to Mexico. Finally, with NAFTA, Hewlett Packard will increase their overall sales because they will have a 20% price advantage over their Pacific Rim competitors.

As a representative of an agricultural district, I am especially sensitive to the needs of farmers, ranchers and those in the livestock industry. When Ross Perot, in his book Save Your Job, Save Our Country argued that NAFTA would be a bad deal for agricultural trade, I knew there were some inaccurate facts being circulated. The truth is, U.S. agriculture and the American farmer are big winners under the NAFTA. Conservative estimates show that by the end of the transition period, NAFTA is expected to increase U.S. agricultural exports by $2.0 billion to $2.5 billion annually. NAFTA also terminates Mexico's import licensing system, which has been a major barrier to U.S. agricultural exports to Mexico. With the elimination of tariffs, the United States will have even more access to the growing Mexican market.

An example of this increased agricultural trade can be seen at Monfort Industries, a processing plant in Greeley, CO. If a pound of hamburger sold from Monfort was valued at $1.40/pound, it would cost $1.68/pound in the Mexican retail store because of a 20-percent Mexican tariff. NAFTA would provide the opportunity for the Mexican consumer to buy 20 percent more Monfort beef for the same price. This increase amounts to 72 truck loads of beef per week as opposed to just 60 loads per week. NAFTA would provide the opportunity for additional jobs at Monfort's processing plant. NAFTA would provide the opportunity for the Spingfield, CO rancher to sell more feeder calves to the feedlot in Kersey, CO. NAFTA would provide the opportunity for the corn grower from Burlington, CO to sell additional feed to the feedlot in Yuma, CO. NAFTA would provide the opportunity for the trucker to transport more corn and calves to the feedlot, fat cattle to the processing plant, and product in Mexico. Finally, Mexico would be able to sell more beef to Mexico overall because they would have a 20-percent price advantage over beef from Argentina and Australia.

Opponents of NAFTA have brought up the issue of sovereignty and have complained that

NAFTA's 1,200 pages of text threaten American's sovereignty. This issue needs to be clarified. Most of the 1,200 pages in the NAFTA agreement are transition rules, including detailed schedules for phasing out import duties. The other major portion of the agreement deals with origin rules. These are designed to prevent non-NAFTA countries, especially those countries in Asia, from taking advantage of the benefits reserved for North Americans. Nothing in NAFTA or its side agreements requires any country to observe anything other than its own laws. Furthermore, it should be noted that if NAFTA passes, and if for some reason the United States wanted to withdraw from the obligations set up by the agreement, the United States has the ability to do so. Congress can at any time override an agreement or any provision of it, by simple legislation. The President may also do so by executive action. Thus, NAFTA does not threaten U.S. sovereignty.

The issue of whether or not NAFTA threatens our health and safety standards for agricultural products coming into this country has come up for discussion. Frankly, when I first heard this, I was also concerned. However, I am now confident that NAFTA does not pose a threat to U.S. health and safety standards for agricultural goods. This point was reinforced during a House Agriculture Committee hearing in which an administrator from the U.S. Department of Agriculture testified that: the NAFTA provisions will preserve our ability to maintain import standards and requirements essential for protecting the health of U.S. agriculture. The language in this agreement clearly preserves our right, as well as Canada's and Mexico's, to maintain and implement measures necessary to protect the health of our livestock and crops as long as these requirements have a scientific basis. The notion that NAFTA would open the borders to free movement of commodities infested or infected with agricultural pests and diseases simply is not true.

Another argument put forward by NAFTA opponents is that the agreement will make our highways unsafe and Mexican drivers will not have to meet United States minimum safety standards. This claim is simply wrong. Nothing in NAFTA would exempt Mexican or Canadian vehicles or drivers from United States environmental standards. Any safety and environmental standards that are presently required on American trucks will also be required on Mexican trucks. Also, these standards will be enforced with the same stringency applicable to U.S. operators. Mexican trucks will go through the same ports-of-entry at each State's border that now stop United States trucks. There they will be subject to the same weight licensing and safety requirements now in place for U.S. vehicles.

Another pronouncement I have heard that needs to be corrected is that NAFTA is an agreement only for corporate America and large companies. This cannot be further from the truth. Right now, only multinational corporations and Fortune 500 companies can take advantage of the Mexican markets. They are the only ones that have the ability to bypass the high Mexican tariffs and move directly to their targeted market to set up shops and factories. However, if NAFTA passes, the small business person will have the opportunity to take advantage of the fertile markets of Mexico. By lowering trade barriers, the small entrepreneur in America, for the first time, will have the chance to sell his or her products internationally. An example of this can be seen in my district, in Colorado. Wally and Ruth Dusenberry, owners of Speer Cushion in Holyoke, CO say NAFTA would provide the opportunity for them to sell additional tractor seats in Mexico because NAFTA would give them a 20-percent price advantage over their foreign competitors. They estimate that NAFTA would provide the opportunity for three additional manufacturing jobs in their rural community of 2,000 people.

Mr. Chairman, for all of these reasons, I support NAFTA. It is good for the people of my district in Colorado and is good for the United States overall. To defeat this historic agreement would be a serious mistake. I urge my colleagues to seize this important opportunity and look toward American's future. I urge my colleagues to vote in support of NAFTA.

Ms. MOLINARI. Mr. Chairman, today the House votes on the most significant trade deal of this century, the North American Free Trade Agreement. The long months of debate are finally coming to an end and we will make a decision.

I believe the correct decision is to reject the politics of fear and adopt NAFTA. When you look past the rhetoric and the distortions at the facts, NAFTA makes sense for America.

I wrote an editorial published in the November 14 edition of the Staten Island Advance explaining some of the ways NAFTA will create more and better jobs for Americans and help our country remain competitive in the twenty-first century.

I commend the entire editorial to my colleagues:

NAFTA MEANS JOBS, SECURITY FOR THE FUTURE

(By Congresswoman Susan Molinari)

Congress is about to vote on the most important trade deal of this century, the North American Free Trade Agreement. NAFTA is a defining moment for our nation, forcing us to choose between surrendering to the politics of fear, and thereby giving up our leading role in the world, or securing America's strength and prosperity well into the twenty-first century.

Like they did before the Great Depression, protectionists armed with misleading statistics and colorful metaphors have done their best to keep us isolated by demonizing this trade pact. The plain truth, however, is that NAFTA will provide enormous opportunities to expand our economic growth, increase U.S. exports and create new and better jobs for American workers.

Rather than destroy American jobs, NAFTA will create jobs, and cities that specialize in financial services and information technology, such as New York, stand to gain the most.

Consider the benefits of NAFTA for the financial services industry, the largest employer in New York City and New York State. NAFTA will help New York consolidate its position as the financial center for the Western Hemisphere by allowing, for the first time, U.S. banks to take deposits and make loans to 80 million more customers, as well as issue credit cards in Mexico. This translates directly into more American jobs.

NAFTA will open Mexico to U.S. securities dealers. American investment managers working here will manage Mexican mutual funds and stockbrokers will be able to sell their services there.

In addition, NAFTA phases out Mexican restrictions on U.S. insurance companies and opens up that $3.5 billion market which is growing immensely. Increased economic development in Mexico, which NAFTA will foster, will require higher levels of commercial, automobile, homeowner, and life insurance.

By opening these opportunities, in the short-run NAFTA will create thousands of new jobs in New York for financial related jobs such as brokers, secretaries, analysts, clerks, computer technicians, legal advisors, planners, office designers, security staff and back-office workers. And this is just the financial world. In the long run, NAFTA will make all of New York's industries stronger.

As New York's financial services firms do more business, so will the companies that work with them such as telecommunications, information services and computers. Staten Island's largest employer, the Teleport, for example will prosper greatly by NAFTA immediately.

Right now, Mexico slaps a huge tax, double the average U.S. tax, on all of our goods that we ship there. NAFTA all but eliminates these barriers, and that means Mexicans will buy even more American-made goods.

This means New York will sell more scientific and measuring instruments, more transportation equipment, more computer hardware and software, health services, chemical products, food products, telecommunications equipment and services, furniture, industrial machinery, and a host of other goods and services. In each of these industries, increased exports to Mexico and Canada mean more jobs here in the United States.

Yes, in the coming months some jobs will be lost to Mexico, but these jobs will go there whether we pass NAFTA or not. Nothing is going to stop those jobs from leaving, but NAFTA will help us stop the hemorrhaging and bring some jobs back from Asia and other parts of the world.

NAFTA's primary effect, opening Mexico to U.S. goods and services, will create the largest trading block in the world and allow us to compete with other international trade rivals such as the Europeans and the Japanese.

Under NAFTA, Canada, the U.S. and Mexico will form a market with a combined economy of $6.5 trillion and 370 million people.

Today, Staten Island and every New York City borough must operate on a global scale. To insure continued success and an adequate standard of living, Americans must not be afraid to compete in the world market. Approval of NAFTA will say to our competitors that America is ready for the challenge and will give us a powerful competitive advantage.

If we do not engage Mexico in this trade pact, others will. We can only make a difference with Mexican environmental and political standards if we gain enough leverage to make sanctions mean something. Otherwise, Mexico will simply trade with other nations which do not care that Mexican companies are polluting our hemisphere or their society may not be open as we would like.

It is true. The more you learn about NAFTA, if you get your information from those you are not trying to scare you into believing falsehoods, the more you understand how it makes sense for New York and for America.

I support NAFTA and will continue to reject the politics of fear.

Mr. HILLIARD. Mr. Chairman, I come before this body today to say no. No to sending jobs to Mexico, no to making the rich richer and the middle class and working class poor poorer, and to say no to the North American Free-Trade Agreement.

The proponents of NAFTA say that the only jobs which will be lost to Mexico are Marginal Jobs. We are not talking cracker crumbs here folks. These so-called marginal jobs are an important part of the economy of my district, as well as the entire Nation. I say that these marginal jobs send our kids to college, they make car payments, house payments, pay for insurance and help us build a nest egg for our retirement. I will never, never foresake the middle class or the poor, so I am voting against the NAFTA treaty.

All critics agree that the loss of jobs will occur in the short term. Well, in districts like the 7th District of Alabama, many of my constituents will not be around to reap the rewards of the so-called long term benefits of this agreement. A published study pointed out that NAFTA's net effect by the year 2000 would be a loss of investment in our country by as much as $53 billion dollars, a decline of over half a million U.S. jobs, with a loss in U.S. wage income of $320 billion. Tell me, who can afford those kind of losses?

Also, many large companies have brought out the big guns to push NAFTA here today. Well if I were in their shoes and would stand to profit considerably from this measure, I would break out the big guns and fight for this bill also. However, I am here to fight for the little people. Today, by voting no, I will be a soldier for the right cause, jobs and prosperity now. In America, not in Mexico.

Do not gamble with other people's lives, with dreams of pie in the sky. I come to warn you that if we pass NAFTA, we will be sorry ever "afta."

Mr. FISH. Mr. Chairman, Chapter 19 of the NAFTA deals with dispute settlement in antidumping and countervailing duty cases. It is closely modeled after the same chapter of the Canada Free Trade Agreement. Because sovereignty questions have been raised in connection with this provision, I think it is important to put those concerns to rest.

First, there is no question but that Congress has the power to assign the adjudication of antidumping and countervailing duty cases to binational panels. Under the Constitution, Congress has the authority to affect both the appellate jurisdiction of the Supreme Court as well as to create and regulate the jurisdiction of inferior Federal courts. Furthermore, it has long been recognized that Congress can assign these kinds of cases to a non-judicial forum for adjudication. That is exactly what is done with the dispute settlement procedure.

Second, by including a dispute settlement procedure in NAFTA, we are not overriding or surrendering our national sovereignty. Rather, NAFTA utilizes the dispute settlement procedure as a means of determining whether the relevant laws of any of the three signatory countries violate the terms of the Agreement itself. If, under that procedure, a United States law is found to violate the terms of the NAFTA, that does not automatically alter that U.S. law. Instead, at that point, the United States can choose to leave that law in place. That would mean that penalties or tariffs could be imposed by the other signatories. But the key point is that our reaction to a negative decision by a binational panel on a particular U.S. law or regulation still would solely be within our own control. The same is true with respect to the laws and regulations of Mexico and the laws and regulations of Canada.

All three signatories of NAFTA have the option to refuse to alter laws that are found to be inconsistent with the terms of the Agreement. If any of the three sovereign countries refuse to change such a law, then under the agreement the other countries can impose penalties or tariffs. One final point. Under the terms of this Agreement, any of the signatories can withdraw from the Agreement on 6 months notice.

I have studied this matter carefully, as I did when the House Judiciary Committee considered the United States-Canada Free-Trade Agreement Implementation Act in 1988. I was convinced then, as I am now, that the dispute settlement procedure is fully consistent with the Constitution of the United States. I am also convinced, based on the literal language of the NAFTA, that its terms in no way reduce our sovereignty. In fact, the adoption of the agreement itself will be an exercise of our sovereignty and the language of the agreement permits us to refuse to change any of our laws in the face of a negative decision by a binational panel. The sovereignty arguments by opponents of NAFTA simply do not hold water.

Mrs. LOWEY. Mr. Chairman, I rise today to announce my support for the North American Free-Trade Agreement. I still have several concerns about the NAFTA, but I have concluded that its promise outweighs its risk, and that passage of this agreement will be good for Americans, and will best promote America's interest in a challenging new global environment.

For me, this conclusion has not been an easy one to reach, and comes only after intense discussion with advocates on both sides and careful analysis of several fundamental questions. These are: (1) Will the NAFTA result in increased job opportunities for American workers, especially in New York? (2) Will American wages and benefits remain strong despite increased integration with the Mexican economy? (3) Will the NAFTA reduce the flow of illegal immigration? (4) Will the benefits of the NAFTA result in rising living standards for the average Mexican worker? (5) Will the NAFTA expand our trilateral commitment to environmental protection and essential health standards? (6) Will our global leadership and trading leverage be strengthened by NAFTA's passage? (7) Will the NAFTA preserve the role of collective bargaining in our country? And (8) Will the NAFTA reaffirm our basic national commitment to the expansion of freedom, democracy and human rights?

On balance, I am now satisfied that the answer to each of these questions is yes. And through legitimate concerns remain about our economic relationship with Mexico, it is clear that most things we fear—job flight, environmental degradation, investment diversion—are conditions which already exist, or policies which Mexico could implement unilaterally should the NAFTA be defeated. It is equally clear that most things we want—access to export markets, a renewed commitment to democratic reforms, and rising living standards—are either contained in the NAFTA, or will best be achieved through its passage.

JOBS FOR AMERICANS AND NEW YORKERS

EXPORT INDUSTRIES

Economic models produce different forecasts on the net job growth resulting from the NAFTA's implementation. But virtually all agree that by lowering Mexican trade barriers—which today are more than twice as high as our own—the NAFTA will increase U.S. exports and create jobs in related fields.

Indeed, forecasts indicate that nearly 200,000 jobs will be created by 1997 as a result of this agreement.

That projection makes a great deal of sense. Mexico's tariffs make it far more difficult for U.S. manufacturers and businesses to service the Mexican market than vice versa. Mexico retains high tariffs on many imported goods, and its prohibits U.S. service providers from operating south of the border—completely shutting out important industries like banking, insurance, construction and telecommunications.

The NAFTA will correct this unfair and unequal relationship, much to our benefit.

We don't have to speculate on the results of tariff reduction. We can look at recent history for evidence. Since Mexico initiated its policy of liberalized trade restrictions in 1986, American exports to Mexico have increased 228 percent to a total of $40.6 billion. And we have transformed a $5.7 billion trade deficit into a $5.4 billion trade surplus, one of the few bright spots in our otherwise poor trade balance.

Mexico's consumers have demonstrated a remarkable appetite for American-made products allowing their per capita consumption of exports to exceed that of wealthier Japan and Europe. Just one-quarter to one-third of the Mexican population has enough buying power right now to equal the entire Canadian market. And there is every reason to believe that a more prosperous and less protected Mexico would consume even more.

In New York State, the proof is just as dramatic. Since 1987, trade to Mexico has increased by over $400 million dollars, generating thousands of jobs. Those jobs are supporting families, paying taxes, and building dreams. They are a down-payment on the export-driven potential of a future built on expanding markets.

New York is especially well positioned to take advantage of the opportunities most expanded by the NAFTA in key service and high-tech industries. And, under the NAFTA, our small businesses will no longer have to negotiate prohibitively complicated border restrictions on product flow. If the NAFTA is passed and current trends continue, New York can expect to gain 15,000 jobs by 1997.

Some say that many of these exports are parts which are then assembled for re-shipment back to the United States, but that is just not the case. Most of our exports to Mexico, 70 percent, are for Mexican consumption or use.

Others say that an export stream which contributes to Mexico's capital infrastructure is not sustainable and only seeds a future boom in Mexican manufacturing that will cost United States jobs. But again, the evidence points to a different conclusion.

There is a vast unmet demand for capital goods in Mexico—a demand which will keep our exports strong well into the next century. The capital goods market includes many of our most competitive products, in high-wage industries. And it is important to remember that the range of capital goods included in the trade statistics is far broader than factory supplies, also including such items as refrigerators, computers, medical equipment and photographic supplies. Exports like these are in no way going to threaten our manufacturing base.

Besides, the long-term need to increase Mexican living standards, purchasing power, and prosperity is dependent upon the eventual expansion of Mexican industrial capacity, not on its continuing stagnation.

The simple truth is this. Mexico has a vast market of some 90,000,000 consumers. Many of the American firms who want to reach those buyers have been forced by unequal and unfair trade restrictions to base operations in Mexico. The NAFTA will eliminate these incentives and give exporters a powerful reason to keep their jobs in the United States.

AMERICAN PRODUCTIVITY AND QUALITY

The most effective and emotional argument against the NAFTA claims that it intensifies the direct competition between well-paid American workers and their poorly-paid Mexican counterparts. But the wage disparity which exists now would be reduced by an improving Mexican economy.

We should also remember that a strict wage comparison ignores the many other factors which go into business decisions—productivity, transportation costs, infrastructure factors such as telephone service, water supply and road conditions, and access to other crucial components of production.

If this sounds counter-intuitive, consider the choices we make in our own lives. Buying a cup of coffee, eating a meal, purchasing a house, picking out clothing—each of these activities costs far more in the United States than in Mexico, yet very few Americans leave.

If economic behavior were as simplistic as some suggest, it wouldn't just be jobs drifting away, it would be everything and everyone—Americans moving to take advantage of the lower costs throughout most of the world. Obviously, that is not going to happen, because the benefits of living in America and being an American cannot be distilled into a single cost figure. The same is true when it comes to doing business in America.

American workers remain the most productive, and the best value, in the world. That is a powerful magnet for investment and employment which will only improve with the increased efficiency free trade promotes.

It is important that we be candid and forthright about the NAFTA. Some jobs will leave. But they will be a very small fraction of our economy, many of which would leave with or without the NAFTA. And those losses will be more than off-set by increased jobs in export-related industries, and by rising incomes resulting from improving efficiency and productivity.

In terms of trade effects, NAFTA will mean more jobs, not less.

INVESTMENT

Of course, not all job shifts are captured by an analysis of trade patterns. Direct capital investment incentives are among the NAFTA's central features, and a major concern of those who fear that additional investment in Mexico represents a drain on resources otherwise slated for the United States.

What are these investment incentives?

By and large they include the normal criteria by which decision makers in free market systems evaluate the wisdom of economic activity. They include intellectual property rights, protection against state seizure of property, and safeguards on brand-name usage. These are especially important for our computer and high-tech industries.

An we should remember that these strong protections were included in the NAFTA at the suggestion and insistence of our own American negotiators.

Will they attract in investment capital to Mexico? Yes, but not necessarily at the expense of the United States. Investment is not displaced at a one to one ratio. Indeed, much of the new investment will be just that—new—an addition to the global market. Much more of the investment will be drawn not from the United States, but from other low-skill, low-wage nations.

That is a crucial point. The natural and unstoppable reality of economic restructuring involves a shift of low-skill, low-wage jobs to the developing world. If those jobs are to leave, it is far better for us that they relocate to Mexico than to Asia or other parts of the world. In Mexico they will utilize parts and services generated by the United States, allowing us to share in the economic benefits.

In any case, Mexico could easily adopt better investment guarantees with or without the NAFTA. No action in the United States could prevent such a step, even if we were determined to block it.

Finally, let us think about where the other side of the investment argument leads. A failure to adopt modern guarantees for investors would frustrate Mexico's efforts to develop a stable economy. That is a poor prescription for a nation with which we share a two thousand mile border, and is an unrealistic basis for any negotiation.

GLOBAL COMPETITION

Finally, as we contemplate our proposals for job growth, we must not forget that our trilateral relationship with Canada and Mexico does not exist in a vacuum. The NAFTA's effect on our competitive posture in a global market deserves the highest consideration.

And here again, the NAFTA helps. The larger our marketplace, the broader our buying power, and the higher our productivity, the more world-wide investors will turn to North America for market access. At the same time, our ability to compete as producers will increase, buoyed by economies of scale within a strong and unified economic bloc.

And by tightening the requirements on parts content by which goods are judged to have originated in North America, the NAFTA will actually reduce the likelihood of Mexico's being used as an export platform by other nations.

Make no mistake. Mexico, with a GDP one-twentieth the size of America's, is not our chief economic competitor. The NAFTA strengthens our hand in the real contest with competitors in Europe and Asia—competitors who represent a more serious threat to American jobs.

AMERICAN WAGES

Our economy is not just suffering from slow job growth. The central economic challenge of the last two decades has been a painful stagnation in income levels. Indeed, since 1973, real, personal income has been virtually unchanged. That is why I have been extremely concerned about the effect the NAFTA could have on American wages.

Opponents of the NAFTA are right to question employers about their plans for using the threat of Mexican competition as leverage for reducing salaries. And I must say that the responses from many of our corporate executives has been less reassuring than I would like.

But, on balance, I believe that both the fears of workers and the ill-conceived plans of some short-sighted employers will not materialize. American workers, even with higher wages, will remain a more attractive source of labor in the vast majority of cases. That, coupled with simple limits on the capacity of the small Mexican economy to absorb massive business activity, will make most threats of Mexican competition idle ones.

In fact, most experience with free-trade suggests that wages will increase as capital moves towards the high-skill sectors where America enjoys a relative advantage over Mexico.

Larger economies, without artificial barriers to commerce, tend to be more efficient and cost-effective, leaving more money for investment and salaries, and giving consumers more discretionary income. That's what happened in Europe when Spain and Portugal joined the European Economic Community.

Wages in our export related industries are fully twelve percent higher than the national average. And if we make a real investment in education and training, we can expand our global advantage and attract even more of the good jobs on which a strengthening economy is based.

ILLEGAL IMMIGRATION

The tide of illegal immigration from Mexico is among our most pressing national concerns. It is a major strain on our health care, social services, schools, law enforcement and, of course, the taxpayers who in all too many instances pick up the costs. Last year, those costs amounted to over $10 billion.

The pool of illegal workers also serves to reduce wages for U.S. citizens by introducing direct on-site competition from individuals unprepared to assert their rights because of their status. A curb on illegal immigration will directly benefit lower-wage workers who might not themselves feel the positive effects of the NAFTA's other provisions, and who may fear that their jobs are in jeopardy.

While I strongly favor increased border surveillance and control, I know that there are not enough police in the world to seal off our borders. So long as economic opportunity remains bleak in Mexico and appears bright in the United States, there is no enforcement method up to the task of keeping illegal immigrants out.

The only long-term solution is a policy of creating job opportunity in Mexico, thereby lessening the incentive for an illegal to flee across the border. No other policy or proposal will do as much to achieve that end as the NAFTA.

ENVIRONMENTAL PROTECTION

There are a host of issues which at first glance do not seem to have any direct connection to trade policy but which are, in fact, intimately related. Chief among them is environmental protection, and that has been a critical concern of mine.

My constituents, many of whom live along the shore of the Long Island Sound, know how closely our own quality of life is shaped by the cleanliness of our surroundings. I would never approve of an agreement which undermines America's environmental standards, or which imperils environmental conditions elsewhere.

I believe that the NAFTA and its supplementary agreements do just the opposite, creating momentum toward a real, long-term change in Mexico's environmental behavior, and introducing a precedent-setting approach to international environmental enforcement.

While most major environmental groups support the NAFTA, I can understand the worries of those which don't. After all, it is true that Mexico's environmental standards and enforcement are not up to our own. But we must ask—how best can this situation be remedied? I have concluded that no policy will do more for the Mexican environment than one which strengthens their economy.

The fact is, poor nations have neither the economic nor political resources to focus on environmental preservation. We should not expect men and women desperate for food, clothing and shelter to respond to even the most persuasive environmental arguments, and I believe that reliance on suggestion alone will do little to improve the Mexican environment.

Studies suggest that when national income rises, quality of life concerns become more central for citizens and, in turn, for government. Indeed, as its economy improves, Mexico has begun, in some measure, to grapple with its environmental crisis. With the implementation of the NAFTA and its side agreements, many believe this process will accelerate.

In any case, the NAFTA's environmental provisions and side agreements represent progress. Not only does the NAFTA provide funds for the clean up of the environmentally devastated Mexican border region, but it also, for the first time, establishes a framework whereby sanctions can be imposed on nations which fail to enforce their existing environmental regulations.

That provision is essential, because the problem in Mexico has been not so much the letter of their environmental law, but its execution.

To be frank, I had hoped that the penalties in the supplementary agreements would be even more stringent, and that the disciplinary process would be less cumbersome. But I recognize the revolutionary nature of this framework, and hope it will set a standard for the future.

Moreover, I am assured that our own relatively high environmental and health standards will not be undermined by provisions of the NAFTA. As someone who is extremely concerned about the environmental causes of diseases like breast cancer, this has been among my highest priorities, and one to which I will give great attention.

The NAFTA provides for oversight of so-called unnecessary regulations suspected of restricting trade. But this process, based on provisions in the GATT, simply allows for challenges—it by no means ensures their success.

Our overall experience with the GATT has shown that American environmental restrictions can withstand the scrutiny permitted by the NAFTA. We will also, of course, retain the right to enforce our environmental codes at the border.

I share fears that increased produce imports from Mexico may expand the pool of fruits and vegetables treated with high levels of pesticides. But, inadequate enforcement of environmental and health codes is a broad concern applicable to products of any nature and from any source. The NAFTA highlights our problems with inspection and oversight, but hardly creates them. We have to address this challenge with or without the NAFTA.

MEXICAN LIVING STANDARDS

A key assumption underlying the NAFTA is that Mexican workers will benefit from its passage. We have not only a humanitarian interest in such a development, but an economic one as well. Higher incomes will enable the average Mexican worker to consume our products at an increasing rate, and will reduce the wage differential between our two countries. This is critical to the maintenance of our competitive advantage as Mexican productivity increases.

Frankly, I am very disappointed that neither the NAFTA nor its side agreements include specific requirements tying productivity growth to wage increases, and giving substance to the rights of workers to organize and bargain collectively. I had worked for these provisions and urged their adoption by all parties. And I believe both of these steps would have ensured that Mexican workers enjoy the NAFTA's benefits, going a long way toward satisfying domestic concerns about the agreement.

Still, I am persuaded that, even without these guarantees, Mexican workers will be among the beneficiaries of an open trade process.

Since Mexico began to open its markets and reform its economy, wages have risen with productivity, suggesting that future developments will follow the same line. And President Salinas has made a public commitment to adjusting minimum wages in Mexico according to future productivity gains.

I will be closely monitoring developments in Mexico's labor market, and will insist that the administration hold the Mexican authorities accountable for continued progress.

Clearly, Mexico has a long way to go before it meets the wage and labor standards that we consider basic. But without the NAFTA, their desperate situation will continue to threaten American jobs. With the NAFTA, both Mexican and American workers can look forward to a better and fairer future.

AMERICA'S GLOBAL LEADERSHIP

While economics are rightly the focus of most of this debate, the effects of the NAFTA's passage or defeat will also bear directly on our foreign policy, and on our ability to exercise world leadership.

Democracy and the expansion of free markets go hand in hand. Everywhere, from Russia to China to Eastern Europe to Africa to Latin America, we are asking developing countries to forgo government controls in favor of free market reforms and open trading arrangements.

In Mexico, President Salinas has embraced our challenge, reversing a long history of anti-American rhetoric and policy, and moving away from statist economics. These developments are among the most hopeful and significant in our long, and often troubled, relationship with Mexico. President Salinas has staked much of his prestige, and that of his new course, on reciprocal trade liberalization.

Therefore, a defeat for the NAFTA would be a stunning setback, both for Mexico's reforms, and for America's moral authority in a changing world.

It would also undermine our ability to take strong positions in the ongoing GATT talks, which even NAFTA opponents agree are essential to world economic growth and job creation, and in our bilateral negotiations with other nations, including some which have serious trade imbalances with us.

Tomorrow, our President will meet with leaders from throughout the Pacific rim to discuss future trade arrangements and other aspects of our relationship. His ability to pursue U.S. objectives in those talks will be impacted by our decision. We must decide either to strengthen him with a victory on the NAFTA, or to undermine his credibility with its defeat.

The future we hope to achieve is not built on scattered, isolated incidents, but instead on a progression, each step guided and directed by the last. Our common vision of a new world which encourages human aspirations will not be achieved through idle pronouncements or empty suggestions, but by tough action aimed at progress.

The NAFTA is our next major step in that process.

AMERICAN LABOR

What has made this decision most difficult for me are the concerns of my good friends in organized labor. I respect their views because no people fight harder for the interests of working men and women.

Certainly, they have great reason to be suspicious of this agreement and of government promises in general. The last decade has not been a kind one to American workers, unionized or not—and too often the promise of shared prosperity has turned out to be a painful mirage. I cannot deny the emotional power or the sincerity of their arguments, but my best judgment has guided me to the decision I announce today.

I know that we disagree on this, but I also trust that they have confidence in my judgment, and in my sincere desire to do what is right for all Americans, including those in organized labor.

I intend to continue working closely with our unions in the many areas where we share concerns: labor standards, worker rights, health care, infrastructure investment, and education, among others.

The most immediate goal for which we should work together is an increase in the commitment to the retraining of workers displaced by continuing changes in our economy.

That is essential, because although the NAFTA will produce overall economic benefits, for some the costs will be high. Why? Theoretical models that substitute a lost job opportunity for another job in another sector simply do not account for the reality of geographic displacement or mismatched skills.

Therefore, the NAFTA must be a part of a comprehensive strategy to open opportunities for American workers, restore sense of progress, and renew confidence in future personal success. Together, we have a fundamental obligation to broaden the NAFTA debate and to share its benefits with those most directly affected by restructuring. Not to stop the train of progress, but to help everyone find a seat. That is an obligation I am determined to see honored.

Indeed, I believe that the NAFTA will actually expand opportunities for union organization. Those industries which benefit from export opportunities are more heavily unionized than those projected to be hurt under the NAFTA, and have a union membership nearly twice the private sector average. Growing exports will strengthen the hand of organized labor in the American workplace.

LOOKING FORWARD

In my judgment, our debate is not about this NAFTA versus another NAFTA. It is about this NAFTA versus no NAFTA. There may not be another chance for this Congress, for this President, perhaps for this generation.

The central fact of our relationship with Mexico—both its promise and its peril—is this: No opportunity can be seized and no problem corrected without direct engagement aimed at lifting Mexican living standards, opening its institutions, and stabilizing its economy.

Until this happens, we will not stem the flow of illegal immigration, we will not prevent environmental abuses, we will not stop the flight of jobs, we will not achieve improved protection for human rights, and we will not enjoy the fruits of expanded trade and job opportunities.

And if the NAFTA fails, we can expect a sharp and painful return to the anti-Americanism which has characterized so much of Mexico's history, risking potentially serious instability on our southern border.

There is a final point I would like to make. There are many things this Congress will do that will have a great deal more impact on our job market, the dignity of work, and our standard of living than the NAFTA. And yet, none arouse the passion of this debate. Why is it that so many invest so much in this decision?

I believe it has less to do with numbers and projections than with a crisis of confidence in our ability and character—a fundamental struggle over the American spirit, and over a vision of America's role in a new world.

This debate comes at an unfortunate time, when self-confidence is very low. We have just experienced a painful recession. And economic shifts make Americans, regardless of economic status, feel insecure and uncertain about the future.

And the world is transforming before our eyes. The march of science, the growth of markets, developments in communications, even the expansion of democracy which we all applaud, change borders more and more into imaginary constructs of fading significance.

Many feel as though America is under siege, and are tempted to build higher walls in her defense. And many who fear that we are incapable of competing openly are prepared to forgo opportunities in order to preserve the status quo.

This defeatism is all the more ironic given America's strengths and record of success in the markets of the future. We are good at innovative, cutting edge technologies—computers, communications, biotechnology—that will shape the outcome of global competition in the next century.

We are the most productive people on Earth, and we are ready to compete and win.

The NAFTA represents an activist America, engaged in a partnership not just with Mexico but with all peoples of good will. It is the logical conclusion of the Alliance for Progress begun by John Kennedy, of the containment doctrine outlined by Harry Truman, of the commitment to peace and international law sought by Woodrow Wilson, and of the timeless principles laid out by Thomas Jefferson.

Today, we must embrace the hopes of a new American century, animated by the same spirit of optimism and achievement. We must reaffirm the character which guided this greatest of nations through every crisis and every challenge.

Let us make this decision with hope, with confidence, and with courage.

I will vote "yes."

Ms. ROYBAL-ALLARD. Mr. Chairman, I rise to support the North American Free-Trade Agreement. This decision was made after considerable thought and discussion with the supporters and opponents of NAFTA. I believe that the passage of the North American Free-Trade Agreement is in the best interest of our country. This agreement will help maintain and create jobs for American workers and the labor and environmental protections in the side agreements will promote sustainable long-term economic growth for the United States. This North American Free-Trade Agreement is the first trade agreement in history to include provisions for resolving worker displacement/dislocation and border pollution issues. For this reason, I support the North American Free-Trade Agreement that is before us today for a vote.

I am convinced that maintaining jobs and strengthening competitiveness is the reason why passage of NAFTA is so vital to both California and our country. We must open up new markets if we are to effectively compete with Asia and Europe.

I know this is difficult because of the multitude of social and economic changes California has experienced over the last decade. Yet, with the proper vision and leadership, California can effectively transform its economy and prepare itself for the 21st century.

California, because of its geographic location bordering Mexico has most to gain with NAFTA. Today, California is the second largest exporter to Mexico amongst our States. Mexico ranks third among California export markets, taking nearly 10 percent of California's total exports. In real numbers this translates into $6.6 billion of the State's total exports to Mexico in 1992 alone. For the people in my district this means jobs. For the State of California this translates into 9,600 jobs in the first 2 years after the passage of NAFTA. These statistics along with my discussions with the working men and women of my district and their employers have convinced me that by further reducing trade barriers with our bordering countries, NAFTA will provide additional export-related growth which will translate into job gains for the people of my district, my State and this Nation.

Clearly, some of these changes have and will continue to be difficult to accept. These changes are not however unique to California. Across this country and around the world, change is becoming a fact of life. We can facilitate change by creating competing and expanding export market opportunities. NAFTA will help us reach this goal while protecting those workers who are at the greatest risk of dislocation, by cleaning up our borders from environmental degradation and by creating better and higher paying jobs for American workers.

Mr. MINETA. Mr. Chairman, on November 4, President Clinton formally transmitted the NAFTA implementing legislation to Congress (H.R. 3450; S. 1627). Prior to that, the Committee on Public Works and Transportation negotiated with the Office of the U.S. Trade Representative, the Departments of State, Treasury and Transportation, and the Environmental Protection Agency as well as with other relevant congressional committees on those matters of interest to the committee. The purpose of these remarks is to describe for legislative history the final resolution of those issues.

FAST-TRACK

The original working draft included a provision that mandated that any legislative changes to the NAFTA in the 30-month period following enactment would be considered under fast-track procedures. Under those procedures, the President proposes to Congress the legislation which he believes is necessary and Congress then has a time certain to either approve or disapprove the legislation without amendment.

The committee's concern had centered on the fact that NAFTA provides for a harmonization process which would consider ways in which commerce among the three countries could be enhanced by harmonizing commercial regulations and the like. The specific concern was that this process might lead to proposals to ease truck safety laws in the United States. The committee argued that where such easing would require changes in U.S. statutes (e.g., truck weights), those changes should be considered by Congress through the normal legislative process and not by fast-track. Thus, the committee recommended deletion of the fast-track requirement.

The legislation as submitted by the President contains no fast-track requirement.

RELATIONSHIP TO U.S. LAWS

Since the NAFTA, its side agreements and the implementing legislation address a wide range of issues, the committee was concerned that the interpretation and construction of U.S. laws in general, and environmental and motor carrier laws in particular, could be affected in some way. Therefore, the committee recommended language to ensure that U.S. laws prevail by stating that no provision of the agreement, nor the application of any such provision to any person or circumstance, which is inconsistent with any law of the United States, shall have effect. The Committee also recommended language making it clear that nothing in the implementing legislation shall be construed to amend or modify any law of the United States, including any environmental or motor carrier law, unless specifically provided for in the legislation.

The legislation as submitted by the President contains both recommendations [secs. 102(a) (1) and (2)]. The Statement of Administrative Action [SAA] lists environmental statutes that are not amended or modified by the bill. The list includes those environmental laws under the jurisdiction of the committee.

LAND TRANSPORTATION STANDARDS SUBCOMMITTEE

Not only was the committee concerned about the possibility of recommendations to ease truck safety through proposed changes in statutes, but also through proposed changes in U.S. regulations.

The NAFTA would establish a Land Transportation Standards Subcommittee to "make compatible the safety and operating standards of the NAFTA countries to the greatest extent practicable" over a 6-year period. United States safety standards must be met by truck and bus companies from Mexico when they are operating in the United States and, conversely, United States truck and bus companies must meet Mexican safety standards when operating in Mexico. No standard may be imposed by any of the countries solely for the purpose of providing a barrier to the provisions of NAFTA.

As mentioned above, with the deletion of the "fast-track" requirement, any changes to safety and operating standards codified in law can only be made legislatively by the Congress. However, changes to safety or operating standards required by issuance of administrative regulation at the discretion of the Secretary, and not by law, could potentially be changed through the harmonization process.

The committee's concern was that the harmonization process might result in recommendations to reduce other truck safety and related regulations not embodied in statute. Thus, the committee recommended language that provided that if the Land Transportation Standards Subcommittee makes a recommended change in regulation, the Secretary of Transportation shall transmit notification of such recommendation to Congress. It provided further that if DOT issues a regulation implementing a recommendation by the Subcommittee, DOT shall transmit notification of such issuance to Congress and such regulation shall only take effect after the 90th day following the date of such notification. Lastly, the language provided for congressional and state observers to attend subcommittee meetings.

The legislation as submitted by the President largely accepts the committee recommendation. It provides that if the Secretary of Transportation issues or amends any regulation implementing a recommendation of the Land Transportation Standards Subcommittee, the regulation or amendment shall take effect no sooner than 90 days after it is issued [sec. 352].

The SAA states further that the Department of Transportation will consult with interested persons in the private sector, relevant congressional committees and, where they have sole or concurrent jurisdiction over the matter, state governments, at all stages of the work of the Land Transportation Standards Subcommittee in considering common motor carrier safety rules or other common standards for bus and truck operations. DOT will also promptly notify the pertinent congressional committees of any recommendation that the subcommittee adopts on these subjects. In addition, DOT will provide notice to those committees of any proposed or final DOT regulations implementing such a recommendation.

On the specific issue of state observers, section 102(b) of the proposed legislation also provides that the administration will involve the states to the greatest extent possible in the development of U.S. positions with respect to issues subject to state jurisdiction that are addressed by the various committees and working groups established by the NAFTA. The administration will seek advice from the States and take such advice into account in formulating U.S. positions in the work of such bodies, including by permitting State representatives to assist in relevant federal agency preparations for such work. Where the administration determines that it is feasible and appropriate, it will invite State representatives to attend as observers at meetings held by such bodies. Secretary of Transportation Peña has further assured the committee that, even though the implementation legislation does not provide a statutory right for observers from the congressional committees of jurisdiction, such observers would be welcome at any time.

BORDER ENVIRONMENTAL ISSUES

The implementing legislation also includes a border environmental proposal: to establish a Border Environment Cooperation Commission [BECC] to provide technical and financial planning assistance to public and private organizations in the border region for infrastructure projects that enhance the environment; to establish a North American Development Bank [NADB] to supplement existing funds, such as EPA funds, and to provide new funding from the World Bank and the Inter-American Development Bank, in the overall scheme to finance environmental cleanups; and to establish a Community Adjustment and Investment Program [CAIP], under which the President would be authorized to receive from the NADB 10 percent of its initial paid-in capital and to make those funds available for community adjustment and investment loans or guarantees.

As far as the committee was concerned, the border environmental proposal at the outset raised a number of questions, notwithstanding the fact that there are serious pollution needs in the border area. For example, there is a legitimate question about whether specific authorization of grants for the border generally or for specific border communities should be decided in NAFTA implementing legislation via fast-track or in the reauthorization of the Clean Water Act via the normal legislative process. There is also a question about whether extra funds, or funding on more advantageous terms, should go to one part of the country but not to other parts. And there is a legitimate question about whether these particular funds should be authorized when funding for the rest of the country has been reduced over the past decade and when the Congress has no assurance as to what funding levels will be in future years.

With these concerns in mind, and recognizing that the three countries reached agreement on a border environmental component, the committee did make specific recommendations.

On funding levels, the administration's original funding proposal for the BECC and CAIP was for an open-ended ("such sums") authorization. The committee insisted on specific dollar amounts (without recommending a number) and the administration agreed to authorize the BECC at $5 million annually [sec. 533], and the Office of Ombudsman to carry out the CAIP at $25,000 annually [sec. 543]. On funding for the NADB, the original administration proposal did not specify how much of the $1.5 billion authorized to cover the U.S. share of the total capitalization would be authorized for paid-in versus callable capital. The committee requested that they do so and the final version specifies that $225 million of the $1.5 billion is authorized for paid-in capital [sec. 541].

On the issue of the 10% for the CAIP, the committee recommended up to 10 percent in order to give the President flexibility in funding decisions for this program and in order to not "lock in" funding for this program at the expense of the other two (i.e., BECC and NADB). The administration rejected this and authorized a straight 10 percent [sec. 543].

The administration also initially contemplated a "such sums" general financial assistance program whereby EPA would be authorized to provide financial assistance to the BECC and federal, state and local entities for planning, design and construction of environmental enhancement facilities. This proposal provided no specifics regarding which of the EPA programs would be affected. Nor was there any specific information about what would be done or accomplished by this proposal. The wastewater program for the Colonias and other communities along the United States-Mexican border and the wastewater program for the Tijuana River in San Diego were presumably the most likely candidates. At the present, the Tijuana River project is authorized, but there is no specific authorization for grants at the Colonias or other border area locations.

The question was whether the administration would attempt to specify projects and dollar amounts of specific authorizations in the NAFTA implementing legislation, or defer that decision until the Clean Water Act reauthorization. The administration decided to do the latter, and deleted this provision entirely.

A particularly important issue raised by the committee on funding for the border environmental program was the affect that this might have on funding of other EPA programs. With budget caps and limited federal resources, the committee's fear was that funding for the border environmental program would come at the expense of other, already under-funded EPA programs (Clean Water, Superfund, etc.). The committee sought and received clarification that none of the funds authorized to carry out the Border Environmental Program included in the implementing legislation would be from funds appropriated to EPA. The committee did not recommend where the funds should or would come from, but simply that they not come from EPA's budget. It is the committee's understanding that these programs will not be funded from EPA and will be funded through Function 150 (international affairs).

Mr. HOCHBRUECKNER. Mr. Chairman, after months of debate the Congress will vote on the North American Free-Trade Agreement [NAFTA] between the United States, Mexico, and Canada today. I rise to express my strong opposition to this proposed NAFTA and to say that I look forward to supporting a new NAFTA negotiated by the Clinton administration with a greater sensitivity to concerns about the effects on working people and the environment.

I believe that this NAFTA is fundamentally flawed because it fails to adequately protect our Nation's hard fought labor, safety, health, and environmental laws and standards, and the interests of both American and Mexican workers. I strongly feel that the Clinton administration needs to immediately return to the negotiating table and get a better deal to ensure that the quality of life in all three countries is elevated, not reduced to the lowest common-denominator standards.

After reviewing the NAFTA agreement's 2,000 pages it appears that the agreement's protection for intellectual property, patents, and trademarks and the lowering of trade barriers would benefit many U.S. businesses. Unfortunately, I am extremely dismayed by the lack of any similar protections for American workers, Mexican workers, or the environment.

The United States has never entered into free-trade negotiations with another country whose economic and social conditions are so different from our own as are Mexico's. The working conditions in Mexico are abysmal. Mexico's highest wage earners in the manufacturing sector average $1.80 per hour—one-seventh of that paid to United States workers. Mexican wages for manufacturing plant workers are below those in Hong Kong, Korea, Singapore and other developing nations. In fact, at the Maquiladora plants along the United States-Mexican border the average worker earns 68 cents per hour. At this wage rate, it takes the average worker 6.8 hours to be able to purchase a frying pan and 1.6 hours to be able buy a chicken to cook in that pan. People making that little cannot afford to purchase imported goods from the United States.

Mexico's low wage levels, combined with its lack of enforcement of laws granting fundamental workers' rights, including reasonable hours of work and decent working conditions, clearly make it advantageous for some United States companies to locate assembly plants in Mexico to hire cheap labor. Together with Mexico's horrible environmental enforcement protection record, American workers and businesses will find it impossible to compete fairly with their Mexican counterparts under this NAFTA. I am extremely concerned that NAFTA would encourage American firms to find a low-wage solution to the problem of global competitiveness. Mexico's comparative advantage could be reduced to simply cheap labor, turning Mexico's economy into one large export platform.

The NAFTA agreement as written provides little assurance of environmental restoration of the border, proposes less than half the money needed for cleanup efforts, and ignores major ongoing pollution problems. Air pollution, water pollution, and toxic waste do not pay attention to borders. We already have very serious problems and no assurances that things will get better.

Under NAFTA, our environmental laws can be challenged. Our laws regarding pesticides on food can be challenged because "necessary protection" has been defined as that which is least restrictive of trade. U.S. laws protecting wildlife such as whales and dolphins would not be honored under this NAFTA. The Wild Bird Conservation Act, which I supported actively in the Merchant Marine and Fisheries Committee, could be challenged under this agreement.

We have heard that most environmental organizations support NAFTA. Not so. Those opposed to NAFTA include the Sierra Club, Friends of the Earth, Clean Water Action, American Humane Society, Citizens for a Better Environment, to name a few of the 300 environmental groups that do oppose this NAFTA.

NAFTA supporters argue that United States companies are already locating assembly plants in Mexico to hire cheap labor and avoid worker protection and environmental laws. They claim that NAFTA will allow the United States to assert its strong influence from the "inside" in the areas of labor and environment to help quickly elevate Mexican standards.

We must not settle for a second rate deal with vague promises to fix the deal in the future. Mexico is eager for this agreement and is not going to go away if we say "no" to the first version and insist on needed changes. We have a new President who only partially participated in the negotiating of NAFTA and we have a new government in Canada, two good reasons to go back to the drawing board. Importantly, a better NAFTA will make sure that working conditions and wages are improved for Mexican workers so that they are able to buy more of our Nation's goods.

Further, by setting aside this NAFTA and working on a better agreement I believe we will actually strengthen President Clinton's negotiating position with Mexico and other nations. The best trade agreements we ever achieved with Canada and Japan were reached while Congress was developing and passing the Fair Trade Act of 1988. Having the President and Congress involved in a "good cop-bad cop" type of arrangement with our trading partners is the best formula for getting them to open markets to our products and for taking our trade negotiators seriously.

However, NAFTA is not just an economic issue. NAFTA is a moral issue and a human rights issue. A new NAFTA will better demonstrate that we will not share in the exploitation of workers. This factor is critically important because NAFTA is to be the basis of further agreements in the Western Hemisphere with our Latin American neighbors. We must send a signal to these other developing countries that free trade must not become a barrier to achieving social, environmental, and economic justice.

In today's increasingly integrated global marketplace, the success of our nation's businesses is often tied to their ability to compete abroad. Our workers have consistently demonstrated that when they are allowed to compete with our global competitors on a level playing field, their output and productivity levels are clearly superior. While Mexico's gross domestic product [GDP] at $317 billion is only 5 percent of the United States $5,950 billion GDP, Mexico is America's third largest trading partner, with an economy comparable to the size of Los Angeles. It is clear that a better NAFTA makes sense and could ultimately benefit the people of all three countries.

Unfortunately, this NAFTA creates bitterness and tension, and undermines efforts to bring our nations together as a unified economic force. It is imperative that a better agreement be negotiated that will create a cohesive and mutually supportive trading block that can compete with the European Community and the Pacific Rim.

Many of my Long Island constituents and I want better protection for the environment, better wages and working conditions for workers in Mexico, and protection of American workers, not a lowering of wages and a loss of jobs here. I am voting against this NAFTA, and I respectfully urge President Clinton to go back to the negotiation table and get a better deal for our people.

Mr. KIM. Mr. Chairman, I rise in support of the North American Free-Trade Agreement and urge its passage this evening in the House.

Jobs, crime and adverse impact of illegal immigration—from Mexico—are the top concerns of my district in California. I strongly believe that the NAFTA combined with commitments I personally received from President Clinton on a new prisoner exchange agreement with Mexico will help create more jobs at home while reducing crime and illegal immigration. It is a win-win package.

After thoroughly analyzing the cases presented by NAFTA opponents and supporters and weighing the costs against the benefits of this free-trade agreement, I have concluded that there are greater benefits than losses and that, in the long run, NAFTA will significantly boost economic growth and prosperity here in the United States. While no trade agreement is ever perfect, this is all in all a good deal for America.

The most troubling cost to me is my concern about short-term job loss and readjustment. That is why the commitment I received from President Clinton for a new prisoner exchange agreement is so important. Currently, there are 16,000 illegal immigrants in California prisons costing the American taxpayer over $450 million annually. By requiring convicted illegal immigrants to serve their terms in Mexican jails, we free up resources that can be used to invest in new American jobs and other services in California thereby offsetting the impact of short-term job losses.

As an added bonus, this prisoner-exchange agreement should reduce crime by illegal immigrants. I think they will think twice about breaking the law in the United States if they know they will be serving their time in Mexican jails.

NAFTA offers many economic and other benefits to the United States. Unfortunately, many of the facts about NAFTA have been lost in the inaccurate and misleading rhetoric circulating around the country. This is an historic opportunity we should not let pass by. I urge my colleagues to join me in supporting NAFTA.

Mr. FAZIO. Mr. Chairman, I rise in support of the North American Free-Trade Agreement [NAFTA]. NAFTA is a complex issue. It is an emotional issue. Many intelligent and reasoned arguments are being made on both sides of the debate. In arriving at my decision to support NAFTA, I have taken great strides to review and understand all the information and arguments being presented. And, after careful consideration of the facts, it is my belief that NAFTA is good for America.

Today, we are at trade disadvantage with Mexico. Half of Mexico's goods already enter the United States tariff-free and the rest face a low average tariff of 3.5 percent. Mexico, on the other hand, imposes tariffs of 10 to 20 percent on most United States imports, bans some products altogether and does not protect high-tech American goods from copyright and patent violations. In addition, the environmental compliance burden on American business is much greater than on Mexican business. In short, businesses operating in Mexico operate at a distinct advantage over their American-based counterparts.

Today, without NAFTA, component assembly plants are already operating in Mexico and many American jobs and factories have already moved south of the border. We need to recognize that these jobs have been lost under the existing framework, not under NAFTA. We need to stop this job flight to Mexico and get something in return. NAFTA wail achieve this goal by eliminating Mexico's high tariffs and increasing access to the Mexican market for American products produced in America.

Since 1986, when Mexican President Carolos Salinas began implementing economic reforms by opening its borders to greater trade and investment, Mexico has quickly become the fastest growing market for United States goods. United States exports to Mexico tripled from 1986 to 1992 and the United States trade balanced shifted from a deficit of $5.4 billion in 1986 to a surplus of $5.7 billion in 1992. NAFTA will further promote this positive trend. That means thousands of jobs here at home.

Many have stated that NAFTA will harm the environment. To the contrary, NAFTA represents an historic breakthrough on the treatment of the environment in international trade. Without NAFTA, nothing will change. Pollution will continue along the border and the United States will have little if any leverage to gain improvements in Mexico's environmental condition. Under NAFTA, however, we can use trade sanctions as an enforcement mechanism when Mexico does not enforce its own environmental standards.

Additionally, concrete steps have already been taken by the United States and Mexico to clean up the United States-Mexican border as well as to improve Mexico's overall environmental record. In September, Mexico signed a $4 billion environmental agreement with the World Bank to help enforce Mexico's environmental laws and improve environmental conditions along the United States-Mexico border. As a first step, $700 million will be dedicated immediately to clean up the border. Additionally, this initiative will improve Mexico's water supply, solid waste management, toxic waste control, natural resource management, and biodiversity protection.

Because of the environmental provisions contained in NAFTA, six national environmental organizations have endorsed NAFTA. They are the National Wildlife Federation; the World Wildlife Fund; the Audubon Society; the Environmental Defense Fund; the Natural Resources Defense Council; and Conservation International. I share these groups' view that we will protect the environment more with NAFTA than without it. Moreover, it is estimated that the market for environmental products and services in Mexico—an area where the United States is a clear leader—will amount to $1.5 billion by 1994. This market alone, which will be created in part by NAFTA, will provide thousands of jobs for U.S. workers in one of the core industries of the 21st century.

None of these activities would be happening today if it were not for the pressure United States negotiators were able to bring to bear on Mexico under the context of NAFTA. Perhaps even more importantly, these activities will probably not be implemented unless NAFTA is now passed by Congress.

Another key area where NAFTA will have positive benefits for the Unites States and for California, in particular, is immigration. Today, 200,000 to 300,000 Mexicans immigrate to the United States annually. Another 1.5 to 2 million come to the United States as temporary workers. Under NAFTA, as the Mexican economy grows, the job base will expand, wages will increase and many Mexicans will find gainful employment at home. This prospect can only help stem the tide of immigration that strains California's public assistance programs and general revenues. NAFTA will be the best self-help program we can offer the Mexican people. According to a recent study, NAFTA will substantially reduce Mexican immigration to the United States over the next 15 to 20 years. We have to lay the groundwork now if we are going to realize a long-term reduction in immigration.

Mr. Chairman, the most compelling argument for NAFTA is that it will create jobs for Americans. Much of the opposition to NAFTA stems not from the agreement itself, but from the pain created by our stagnant economy. NAFTA did not create these problems, but it can help solve them. Nineteen out of the 20 most comprehensive economic studies predict that NAFTA, by increasing exports, will boost employment and wages in the United States. The U.S. Department of Commerce estimates that NAFTA will create 200,000 net jobs for American workers. This is a bottom line that we should all support.

Clearly, as with any trade agreement, some U.S. industries and some U.S. workers may be hurt by NAFTA. But, appropriate steps are being taken to address this impact. For example, under the NAFTA agreement, U.S. tariffs for vulnerable industries will be phased out over longer periods of time—5, 10, or 15 years. In addition, the United States will be able to restore tariffs to pre-NAFTA levels if a particular industry is unduly harmed. Further, an early-warning monitoring system is being established to track import surges. For American workers, NAFTA itself will help ensure that the income gap between United States and Mexican workers is closed. Without NAFTA, Mexico will continue to put downward pressure on wages in some United States industries. Most importantly, the Clinton administration is preparing a comprehensive program to provide income support and retraining for any dislocated workers.

In closing, for citizens from my home State, it is important to remember that California is the most successful trading State in the country and thus has much at stake in NAFTA. Over 1 million Californians derive their jobs from international trade, which is the only sector of the State economy that has continued to expand during California's general economic downturn. Canada and Mexico are California's second and third largest trading partners, totaling $13.9 billion in exports and supporting over 300,000 jobs. Since 1987, California exports to Mexico have increased 190 percent, twice the rate of California's exports to the rest of the world during the same period—95 percent.

Mr. Chairman, it is no wonder that the Japanese oppose NAFTA. They know that NAFTA gives the United States and California an advantage in world trade. Japan would jump at the opportunity to sign their own agreement with Mexico like they are doing with other Asian countries right now. In fact, Japan has already begun negotiations with Chile and other South American countries. It is time we beat them to the punch. NAFTA will create the largest trading bloc in the world, enable us to compete more effectively with the European Community and Japan, and help restore America's competitive edge in the international marketplace.

Defeating NAFTA will not make us more competitive; will not create jobs; will not control immigration; nor will it clean up the environment. It will simply maintain the status quo. With NAFTA, however, we have an opportunity to begin the process of making long-term improvements in each of these areas. We have an opportunity to create a net gain of 200,000 jobs for American workers. And, we have an opportunity to reassert our role as a world leader in the international marketplace.

Clearly, there are many differing opinions on the impact of NAFTA. However, I believe that the net effect of NAFTA will be beneficial to California and to the United States. I believe it will result in more jobs, not fewer. I believe that NAFTA will help improve the standard of living for all Americans as well as all Mexicans. It is for all these reasons that I support this important trade agreement. I urge my colleagues to join with me in supporting this historic agreement.

Mr. SMITH of New Jersey. Mr. Chairman, my decision to vote "no" on NAFTA is based on four major concerns: one, my concern for job loss in my State and across the Nation; two, my longstanding opposition to new taxes; three, my years of work on behalf of worldwide human rights; and four, my support for policies which protect our natural and global environment.

While the statistics and prognostications regarding the effect of NAFTA on job losses and job creation have varied widely, there is acceptance of the projection that nationwide the labor market will churn, and in the immediate term, there will be job loss. Beyond this, an

October 1993 report written by the Joint Economic Committee finds that there could be potentially significant gross job dislocations of 500,000 or more over a period of 5 to 10 years, as well as downward pressure on U.S. wages * * * . Some credible estimates of the downward wage impact predict a loss of $348 in average full-time compensation for a manufacturing worker.

Mr. Chairman, when these numbers are projected onto the job market in my State of New Jersey, NAFTA will have numerous detrimental effects. In his Labor Day 1993 speech, New Jersey State AFL–CIO President, Charles Marciante, stated that:

> NAFTA will further erode our dwindling manufacturing base with anticipated job losses in excess of 190,000 here in New Jersey alone. Projections have been made that the workers in New Jersey will lose 6 percent of this State's jobs if the flawed agreement is enacted * * * . The trade act's complete disregard for enforcement of environmental standards, the total lack of health and safety work standards and the refusal by the Mexican government to allow workers * * * to bargain and organize are sure signs that 'fair trade' is not part of NAFTA and should not be part of our immediate future.

As if to add insult to injury NAFTA will not only eliminate jobs, but will also result in new or higher taxes. The White House concedes that implementing NAFTA will cost the United States—and that is us, taxpayer—billions. A November 9 Joint Economic Committee study on the cost of NAFTA estimates this price tag at $20.1 billion over 10 years while other estimates have placed the cost as high as $50 billion, asserted by the United Auto Workers. The administration has already proposed new taxes on travel and shipping to close the gap but the matter remains unresolved. As we know, the Clinton budget proposal is predicated on new taxes, the Clinton health care proposal is predicated on new taxes, and—you guessed it—all signs point to the reality that Clinton's NAFTA agreement will be achieved through new taxes. I don't believe the American people can take another hit.

Mr. Chairman, many people don't realize how many new and varied costs are involved in NAFTA. For example, as part of the deal, Americans are being asked to pay an estimated price tag of $21 billion for border environmental problems. Although proponents of NAFTA argue that it is a job gainer, NAFTA will cost $5 billion in new spending on displaced workers. Add to this the fact that the Secretary of Commerce has estimated that it will cost $15 billion for the rebuilding of roads, bridges and other infrastructures along the border of the United States and Mexico.

One issue which has been sidelined throughout the NAFTA debate is the protection of human rights. In testimony before the Foreign Affairs Subcommittee on International Security, International Organizations and Human Rights, Human Rights Watch testified that:

> [r]egrettably, human rights issues were simply not on the trade table in NAFTA discussion between our government and Mexico. (For example, in the supplemental agreement on labor, the issues of freedom of association, assembly, and collective bargaining for unionists and worker association are simply not addressed.) Absent from the discussion of NAFTA have been such issues as torture and due process abuses in a criminal justice system laced with corruption; * * * harassment, intimidation and even violence; * * * and impunity for those who violate fundamental human rights.

As the leader of human rights around the globe, the United States is now inadvertently putting our stamp of approval on this behavior by agreeing to NAFTA without requiring or even seeking human rights reforms on behalf of the Mexican people.

I agree with those who suggest that it is not too late for the United States to bring human rights issues to the NAFTA debate, and encourage and bolster positive actions by the Mexican Government. In fact, along with many of my colleagues, I recently signed a letter to Mexican President Salinas regarding a number of human rights cases which have been of particular concern. The Mexican Ambassador responded in a timely fashion. I hope, Mr. Chairman, that this is a sign of better things to come rather than a temporary adjustment during our NAFTA deliberations.

I had hoped that the negotiation of the environmental side accord would have established an appropriate and effective enforcement mechanism whereby necessary environmental protections would be assured. Even the Institute for International Economics which is supportive of NAFTA identified two areas which are not sufficiently protected. Existing environmental laws need to be reviewed and, as written, the side agreement on environment fails to encourage the upward harmonization of environmental standards and enforcement. In fact, Mr. Chairman, there are some who argue that the mandate to harmonize standards among the countries will weaken U.S. environmental standards, as well as labor standards.

Mr. Chairman, I cannot support the NAFTA as it has been negotiated but I am hopeful that a different, tariff-free agreement can be crafted which will open new markets but also provide the protections needed for American workers, make human rights an integral part of U.S. trade policy, and bolster efforts to protect and preserve our fragile environment. Only then, will I be able to lend my full support for such a trade agreement.

Mrs. LLOYD. Mr. Chairman, as I have read the North American Free-Trade Agreement and listened to the arguments on both sides, I was left with one overriding question. What happens if we do not pass NAFTA?

Earlier this year, I expressed grave reservations over the NAFTA, as it was originally drafted. As the former chairman of the Congressional Textile Caucus and a strong advocate of the textile industry, I have been rather leery of trading pacts which I feel might imperil American industries and workers.

After considerable reflection on the most important vote of my career, I have concluded that the defeat of NAFTA will not save jobs, it will not prevent any American company from relocating to Mexico, nor will it solve our trade deficit.

Tennessee textile workers are just one group who stand to benefit from an open Mexican market of 90 million consumers. Textile and apparel exports have grown at a 33 percent annual rate since 1987. In 1992, Tennessee's exports to Mexico totaled nearly $414 million, making Mexico the State's second most important foreign market. Under NAFTA, Tennessee's textile exports to Mexico will be able to grow faster. And most importantly, strict rules of origin ensure that Mexico will not be used as an import platform for Asian textiles and fabrics. President Clinton has personally assured representatives with textiles constituencies that the administration will increase the Customs budget by $15 million in order to enforce trade laws on textiles and apparel. The administration also pledged to negotiate a 15-year phaseout on textile quotas in the final talks of the Uruguay round of the GATT.

In coming to a decision, I also considered the serious consequences the defeat of NAFTA will have for U.S. national interests. The Cold War is over and America cannot remain an economic superpower if it turns down the opportunity to develop the largest common market in the world. The United States will be left with no effective response to the regional trade strategies Europe and Japan are successfully employing to bolster their competitiveness. U.S. workers will be competing with one arm tied behind their back.

Rejection of NAFTA could delay or lead to the collapse of the Uruguay round of GATT trade talks. The United States has the most to gain from the GATT agreement, but our main trading partners may refuse to offer politically difficult concessions if there is any doubt of congressional approval. Collapse of the round could spark a new round of world protectionism—and a worldwide recession that would place millions of U.S. jobs at risk.

A defeat of NAFTA will send disturbing messages to Mexico and other Latin American countries which have made political and economic reforms in recent years. Mexico's President Salinas has taken important steps toward creating a free-market economy over the past 5 years, including a significant reduction in tariffs. The United States has benefited from this through skyrocketing exports and the creation of hundreds of thousands of new jobs. Mexico may react to a rejection by closing its markets and seeking investment and trade with or competitors in Europe and Asia.

United States-Mexican relations could become tense, reducing cooperation on issues that Americans are deeply concerned—illegal immigration, illegal drug trade, labor rights and the environment. The United States cannot address these concerns by itself.

And if NAFTA fails, U.S. international leadership will be in doubt, because we have just signaled to the world that America is not confident of its ability to compete with a neighboring economy only one twentieth its own size.

Is Congress ready to repudiate 50 years of market-expanding efforts under every American President since Franklin D. Roosevelt? Is Congress prepared to face the former Communist nations which will have lost their prime advocate for opening export markets to their products? Is Congress ready to weaken the Presidency at a time when political and economic tensions are so high across the globe?

I don't believe Congress wants to abdicate its responsibility for global leadership and I therefore urge my colleagues to support NAFTA.

Mr. MINETA. Mr. Chairman, in recent weeks, there has been much discussion and debate on the merits of the North American Free-Trade Agreement. I have spent a great deal of time talking with constituents, labor unions, environmental groups, high-technology companies, as well as the President and members of this administration—hearing compelling arguments both for and against the agreement. My decision to support NAFTA is a result of this discussion and debate. I did not make any request of the President in return for my vote, and my decision was based solely on the fact that I firmly believe that passage of NAFTA is the best investment strategy for the United States.

The vote on NAFTA was the most difficult decision I have had to make during my tenure in Congress. I recognize that there will be sectors of our economy, and communities in our country, that may in the short term be negatively affected by passage of NAFTA. On the other hand, companies in the high-technology industry stand to benefit from NAFTA, and communities such as Silicon Valley are likely to see job gains.

I have listened carefully to the arguments of organized labor. I have been a friend of labor for my entire public life, and I have always tried to make sure that the jobs and the security of working men and women in this country are protected. So when the argument is made to me that any piece of legislation before Congress will cause job loss, I stand up and take notice.

I have also been bothered by the fact that certain workers and industries have been under-represented on this issue, such as my friends in the cut flower business. Those industries are already struggling to compete against lower priced foreign products. It must be a top priority of the administration and the Congress to work with those industries to adapt to our global economy.

However, we cannot escape the fact that we are in an increasingly global economy. With or without NAFTA, the job dislocation that many people are experiencing today will continue. The solid jobs with long-term stability that we must create to employ those workers are dependent, more than anything else, on expanding access to overseas markets of U.S. products. I fear that to defeat NAFTA would cripple our ability to create those jobs. We must look to the future, not to how we have competed in the past.

NAFTA confronts our Nation with a fundamental question—What is the best investment strategy for our future? As the market for U.S. products is becoming increasingly global, we must be sure to establish and protect our ability to compete everywhere. Passage of NAFTA will create the largest common market in the world, with 360 million customers and $6.4 trillion in annual production.

Passage of this agreement will have other international implications as well. It will help to improve the Mexican economy and will give support to political reforms that have taken place there in recent years. In addition, passage of NAFTA will allow the United States to maintain a stronger bargaining position in the ongoing GATT negotiations.

NAFTA is also the greenest trade agreement ever negotiated. For the first time, a trade agreement has recognized the legitimate environmental concerns associated with trade. This is not an environmentally perfect agreement, but NAFTA provides us with a dramatically improved framework for addressing the environmental problems our world faces today.

Finally, while I believe there is little doubt that NAFTA will result in a net benefit for the United States, Mexico, and Canada, there is a provision in the agreement that allows any country to opt-out with 6 months notice. If this agreement turns out to be a bad deal for our country, I will support withdrawal from the treaty.

In the final analysis, passage or defeat of NAFTA will be a defining moment for U.S. world leadership. Either we shrink from our worldwide responsibility or we seize the opportunity to lead the way toward free and open markets everywhere. I believe we must look toward the futures with vision, and take a bold move to secure this Nations' long-germ international competitiveness. For these reasons, and after much deliberation, I will vote for the North American Free-Trade Agreement.

Mr. SAXTON. Mr. Chairman, over the last several weeks, my staff and I have heard from hundreds of constituents on both sides of the North American Free-Trade Agreement [NAFTA]. I have had the opportunity to weigh all sides of the agreement.

On the surface, NAFTA seems like a great idea for the United States. Many new jobs are expected to be created 5 to 10 years down the road because of NAFTA. Unfortunately, however, most observers predict that there will be many jobs lost in the first few years. Some experts estimate that as many as 550,000 jobs will be lost over time. These expected job losses are a main point of contention.

For example, my home State of New Jersey may lose as many as 10,000 jobs due to the impact on glass manufacturing by NAFTA in southern New Jersey. The fallout from such job losses will send a ripple throughout the Delaware Valley. Many other industries in other States will also be similarly affected.

I am not sure if the job loss estimates are exact, but I am convinced that there will be many jobs lost. Moreover, in the light of our present economic situation, I do not believe that we can sustain a further drop in employment.

I am also wary about NAFTA's effect on current U.S. environmental laws and national sovereignty. I worry that our high environmental standards will be compromised. NAFTA's environmental commissions will become de facto judge and jury over all U.S environmental rules. NAFTA also has a number of provisions for dispute resolution panels which will establish a bureaucracy with authority over all subnational governments. State and local laws will be subject to the interpretation of this supranational rule. Trinational tribunals with the effect of law over U.S. citizens are not an acceptable provision to any free-trade policy.

Therefore, tonight I will cast my vote against the North American Free-Trade Agreement.

Mr. DUNCAN. Mr. Chairman, I have cast close to 2,500 votes since coming to Congress 5 years ago, and many have been on very tough issues. But for me personally, this has been the most difficult.

Putting all national personalities aside, I know that in my district, there are many good, kind, and intelligent people on both sides of this issue. I know, too, that there are very good arguments both for and against this agreement.

While I am convinced that, in the long run, passage of NAFTA will result in substantial gains for the United States, I recognize that there will be short-term hits that will have to be absorbed. It really hurts me to think that I might cast a vote that could cause even one business to close, or even one person to lose his or her job.

I am also concerned that this agreement contains a number of provisions that have nothing to do with free trade and that could cost us greatly and cause us problems in the years ahead. Ultimately, however, I feel that many more jobs will be created and many more people helped than hurt, especially in Tennessee, if NAFTA is approved.

While I have personal reservations myself, I have never felt that I own this congressional seat. I have always tried as best I can to vote the way that the majority of people in my district want me to vote.

In the end, the most important factor in my decision to support this agreement was the response of my constituents. Over the last few days, I have become convinced that a substantial majority of the people in the Second Congressional District now support NAFTA.

One last thing: I have neither asked for nor received anything for my vote. My vote belongs to the people of East Tennessee and is not for sale to anyone, at any time, for any price.

Mr. MACHTLEY. Mr. Chairman, today we have the chance to strengthen America, redefine our leadership in the global economy and confront the empty fears of those who would throw up the walls of isolationism. Today we have the opportunity to reassert our Nation's greatness and proclaim to the rest of the world that we are the United States and we mean business.

The North American Free-Trade Agreement is the key to our Nation's prosperity and competitiveness as well as hemispheric peace and security. NAFTA is the agreement that will give individual Americans both the freedom to sell their goods and services to a vastly expanded market as well as the freedom to purchase goods and services at more competitive prices.

The crucial element of this agreement is that it will create the pressure for every other nation in this hemisphere to sign similar trade agreements with the United States. A defeat of this agreement will lead to a crisis of confidence in United States leadership—in Mexico, the hemisphere and elsewhere. NAFTA serves a broader interest by strengthening democracy and stability throughout Latin America and enhancing United States credibility in trading negotiations with the rest of the world.

This NAFTA contains provisions to eliminate tariffs and trade barriers and will permit half of all United States goods to enter Mexico duty free immediately, with most remaining tariffs eliminated within 10 years. If we don't grasp this incredible opportunity we will have reverted to protectionism and will have encouraged our Asian and European competitors to usurp the trade advantage we now enjoy.

It is evident to me that our competitors would be more than happy to help themselves to the chunk of Mexican market share left behind by the United States in the wake of a failed NAFTA. Let's not be fooled. If this NAFTA fails, the Mexican Government is not going to wait around for the next NAFTA.

I do not want U.S. support for free markets and democratic institutions in the world to be seen as empty rhetoric. If we bury our heads in the sand, that is exactly what will happen, and that is exactly what our trading adversaries are hoping and waiting for us to do.

I do not look forward to having the United States being seen as having lost its resolve and ability to lead the world on trade policy. Make no mistake, rejecting NAFTA would be seen as a failure of American will and an unmistakable turn toward protectionism.

The signing of NAFTA will ensure:

Mexico's continued sensitivity to the environment. Without NAFTA, the political will and financial resources to improve the environment in Mexico, and particularly along the border, will disappear.

Continued American leadership in the hemisphere and on global economic issues.

Continued transformation of Mexico's economy with increasing opportunities for American business.

Expansion of trade and economic growth in a continental market of 370 million consumers uniting the United States, Mexico, and Canada, a trading block from the Yukon to the Yucatan.

Most importantly, it means new jobs for Americans.

None of us can afford to turn our backs on the opportunities and prospects that this pioneering trade agreement offers. The fact is, that we must continue to trade globally if we are to maintain our strength.

NAFTA is the necessary step to take if we are to bravely step forward, as we must, and enter the future with the resolve and determination that made this Nation great.

We have to pass the North American Free-Trade Agreement. It's the wise thing to do. It's the right thing to do.

Mr. WOLF. Mr. Chairman, I rise in support of H.R. 3450, the North American Free-Trade Agreement. While there are good and sincere people on both sides of this debate, on balance I believe NAFTA will be a net benefit job creator and economic boost that will be good for the working men and women in our country. It will better position our economy to compete in the global markets and help us open new markets in Mexico and the fast growing Latin American region. In particular, for Virginia and my district I believe this will be true. Thousands of Virginia jobs depend upon international trade and this trend will continue.

I understand the concerns about the effects NAFTA will have on American workers. However the agreement includes provisions for protecting sensitive industries, and, given the new opportunities for American businesses, it is estimated that over 200,000 new jobs will be created in the United States.

However, it is unfortunate that the dizzying lobbying efforts on NAFTA and the lobbying money going into this process have obscured the jobs issue. Ex-White House aides and former trade representatives from both parties serve as hired guns for the Mexican Government. Mandy Grunwald, a Clinton confidant who regularly and unofficially works at the White House, reportedly has a $5 million contract for the pro-NAFTA media budget. Business week quotes a Democratic consultant who says "everyone knows" Mandy Grunwald is against NAFTA. Before it is even signed, NAFTA is providing an economic boom to Washington insiders and lobbyists and I find this distasteful.

Further, because of the troubling precedents set at the White House in the budget agreement, some votes on this close issue are being bartered, bought and sold. There are deals for the sugar industry, deals for peanut producers, and a give away of a trade center in Texas. The side agreements also designed to round up votes complicate and clutter the case for free trade. This kind of horse trading has gone on before it has been particularly offensive this go around.

"The White House has been giving away trade concessions as though they were candy," stated Andrea Mitchell of NBC News in a recent report on NAFTA. THe side agreements, done in large part to appease protectionist concerns, have largely failed to win over many converts. In a more perfect world a free-trade agreement could be confined to several sentences or several pages.

But despite this sideshow, I support NAFTA because after all the hype and hyperbole, I believe the net impact will be beneficial. Coming from the party of Lincoln, I believe in President Lincoln's adage that the best way to build our party is to build our country. NAFTA will help in the effort to get our stagnant economy moving again. The Clinton taxes are going to hit in a big way next spring. Expanding trade and markets offers us one of the best opportunities to offset the drag these taxes will have on the economy.

The United States currently has only a 4 percent average tariff rate and very few other restrictions on Mexican imports so we are giving away very little under the terms of NAFTA. Removing these tariffs will, in effect, be a tax cut for American consumers. The Congressional Budget Office scores NAFTA as a $1.8 billion net tax cut over 5 years. The barriers that are being removed are mostly on the Mexican side. Clyde Prestowitz, one of the country's most outspoken critics on trade policy, supports NAFTA and points out that removal of the barriers may actually reduce incentives for U.S. firms to move south.

Likewise immigration problems will be relieved in some part as the Mexican economy grows and provides a growing and better job market. An improved Mexican economy will also provide a more expansive market for the United States to sell products and services. With a growing population expected to reach 100 million soon it is imperative that the Mexican economy improve or we will see more illegal immigration. Even the Economic Policy Institute, a group strongly opposed to NAFTA, has admitted that NAFTA would reduce immigration from Mexico by between 1.4 to 1.6 million persons. The political situation will also be stabilized as economic opportunities grow. All in all both the United States and Mexico will both be able to improve their economies. This is a win-win proposition.

Prestowitz points out that although half of Mexico's 80 million population does live in poverty, one-quarter to one-third of Mexicans have relatively high incomes, creating a market nearly the size of Canada's for United States goods. Mexico already purchases 70 percent of its imports from the United States and is now the third largest market for American goods and services. Mexico is the second largest computer and software market in Latin America with the hardware purchases of $1.5 billion in 1992 and software purchases of $270 million. The hardware market is expected to grow 20 percent a year and software 30 percent a year. On a per capita basis, Mexico purchases more United States products than our trade partners in the European community. For each $1 billion in trade with Mexico, 17,000 American jobs are created. Wages of United States workers in jobs related to exports to Mexico are 12 percent higher than the national average. Under NAFTA, Mexico will also allow American enterprises to provide banking, securities, insurance and other services in its market.

Mexico's barriers will only be reduced for United States and Canadian producers and not for Asian or European suppliers so the benefits of the larger Mexican market will go largely to United States companies. Japanese companies have long benefited from having a lock on emerging markets in Asia. Similarly NAFTA will give U.S. firms a lock on a market of their own with which to fight back. In fact, many companies already in Japan may be induced to come to Mexico and purchase parts and equipment from the United States rather than Japan. The car industry is one example where lifting the tariffs will expand our economy tremendously. American cars will have a big advantage over the Japanese under NAFTA and the automotive parts industry in this country will also be helped as more cars are bought and sold in North America. All in all, NAFTA enables us to create the most dynamic economic trading area in the world.

The U.S. agriculture sector and American farmers will be big winners under NAFTA. Conservative estimates show an expected increase of $2 to $2.5 billion in United States agricultural exports annually to Mexico by the end of the transition period in the treaty. That is why groups such as the American Farm Bureau, the National Broiler Council [poultry], Virginia Agribusiness Council, apple processors, 42 chief State agricultural officials and all nine former secretaries of Agriculture support NAFTA. As exports grow, America's agriculture business—the best in the work—will be one of the big winners. The apple processing and poultry industries in my district are very likely to have more jobs for our community.

In Virginia, exports to Mexico almost quadrupled from 1987 to 1992 rising from $41 to $158 million. Virginia ranked 15th among all 50 States in the percentage increase in exports to Mexico over the past 5 years. These exports were diverse. They ranged from transportation equipment, $42 million; industrial machinery and computers, $29 million; chemical products, $21 million; food products, $14 million; and primary metal industries, $12 million.

American workers are the most productive in the world and American workers are far better paid than those of Mexico and other countries because we have such a significant advantage in the other factors that go into competitiveness such as education, infrastructure, communications, and transportation. Nevertheless, I think this agreement puts a burden on the American companies to keep faith with American workers while expanding trade.

NAFTA is far from a perfect agreement but it is as far and as fast as we can go in the right direction right now on free trade. A more substantive debate would have been welcome but the facts, obscured though they may have been for most of the debate, add up in support of NAFTA. We should not fear free trade when America has the most productive economy in the world. We should not fear free trade when America is the largest exporter in the world. We should not fear trade with a country whose economy is only one-twentieth the size of America's. NAFTA obviously won't solve all our economic woes but it will move us in the direction of economic growth through expanding our export markets. It is a positive method of dealing with our growing international economy and one that will bear fruit for American workers. A stronger trading block will in turn give the United States more leverage to open the markets of Japan and Europe and further expand trade and opportunity in our country and abroad.

Ms. PELOSI. Mr. Chairman, I rise today in support of the North American Free-Trade Agreement [NAFTA]. Over the past months, I have spent hundreds of hours studying the NAFTA and its consequences, and meeting with my constituents, representatives of labor and the environmental community. The vast majority of this time has been spent with people and groups who oppose NAFTA, in order to ensure that their concerns have been given every serious consideration at the highest levels in the debate. For months, I have carried to the administration the concerns of my constituents regarding NAFTA, particularly relating to its impact on American workers and on the environment. I have expressed these concerns to administration officials at every opportunity and at every level, and have taken them to President Clinton himself.

Our concerns have fallen into five major categories: standard of living issues, trade adjustment issues, environmental issues, sector-specific issues, and process issues—enforcement.

In my years in the Congress, I have actively supported the inclusion of human rights and environmental concerns in our international trade agreements and banking relationships. The NAFTA is no exception.

NAFTA will increase United States exports to Mexico if it raises the standard of living and purchasing power of Mexican workers. With such an increase, the wage gap will be lessened and there will be less incentive for American companies to move to Mexico. The internationally recognized human rights of freedom of association and the right to organize and bargain collectively are necessary to improve Mexican worker's lives and to close the wage gap. I have had extensive discussions with the Administration about the need for leverage to improve workers' rights in Mexico. These discussions have centered mainly on the possible use of the Section 301 trade mechanism to provide such leverage.

The President has assured me, in writing, that NAFTA does not diminish the right of the United States to take action under section 301 if Mexico's actions or policies deny internationally recognized workers' rights, such as freedom of association and the right to strike, and burden or restrict United Stated commerce. The President has also assured me that he will not hesitate to use his authority under section 301 with respect to Mexico or any other country, where called for in those provisions. In addition, the implementing legislation before us today contains language declaring that nothing contained in the NAFTA shall "limit any authority conferred under any law of the United States, including section 301 of the Trade Act of 1974. * * *"

Worker adjustment assistance for displaced American workers is a serious issue. The reality of today's world is that businesses and jobs are already leaving our country for other countries, primarily countries in Asia. I believe that we must embark, and in fact, should already have embarked, on a major program for worker retraining and economic growth. This program must be implemented regardless of whether NAFTA passes or fails. I support the administration's worker retraining program for workers dislocated by NAFTA. I believe, however, that it is only a beginning. We must reach out to all of the workers who have been dislocated by more than a decade of economic policies that disregarded their plight.

I am pleased that the administration has agreed to the establishment of a binational North American Development Bank, proposed by Representative TORRES, to help in communities where workers may be dislocated because of NAFTA.

I understand the wish of some in the environmental community that NAFTA and the environmental side agreement would have gone further in protecting the environment. It does, however, provide a framework through which to begin addressing environmental degradation throughout Mexico, including in the border region.

California has some of the Nation's strongest environmental protection and food-safety laws in the Nation and concern has been raised that these laws would be pre-empted by NAFTA. Every time I have discussed this issue with administration representatives, including EPA Administrator Browner, I have been told in no uncertain terms that no such pre-emption will take place. NAFTA preserves the right of states to pass stringent health and safety laws.

There are those who argue that we should renegotiate this agreement. Such renegotiations could take years and frankly, I do not believe that we have years left in which to solve the pressing environmental problems. My colleague Representative RON COLEMAN, who represents the border region in Texas, has in his district schools where all of the children are infected with hepatitis. The breast cancer rates in places in his district run to one out of every three women, compared to a 1-in-9 ratio nationwide. These people simply cannot afford to wait the years which a renegotiation could take.

Among the sector-specific issues important to California which I have raised with the administration are the concerns of those in the maritime industry, the surface transportation industry, and the wine industry. The administration has agreed to approach these concerns with heightened sensitivity and attention. The concerns of the maritime industry, in particular, transcend the NAFTA debate and require serious national action.

And finally, on process and enforcement issues, the administration argues that ensuring effective enforcement of national standards is at the heart of NAFTA's dispute settlement mechanism. In addition, the side agreements create an obligation to enforce effectively labor and environmental laws and a mechanism through which an independent evaluation and report on the effectiveness of national enforcement of national laws in the environmental and labor areas can occur. Recognizing that the outcome of disputes on these issues may be of significant interest to many people outside of government, the U.S. Trade Representative has committed to providing opportunity for public notice and input into dispute settlement proceedings involving the United States under NAFTA.

I firmly believe that any measure which improves life in Mexico will improve life in California. The border we share is a lifeline, linking us on a daily basis.

California will be one of the leading beneficiaries of increased trade through NAFTA. Canada, one NAFTA partner, ranks second among California's export markets. Mexico ranks third. California's exports to Canada, totalling $7 billion in 1992, more than doubled over the past five years, during which the United States-Canada Free Trade Agreement was implemented. In that same 5 years, Our State's merchandise exports to Mexico almost tripled, rising to $6.6 billion. In 1992, 89,600 jobs in California were supported by exports to Mexico and over 45 percent of those jobs were created in the past 5 years. More trade with Mexico and Canada can only result in an increased demand in Mexico for California-made goods. This translates directly into California jobs.

My decision is based ultimately on my belief that the economic status quo is completely unacceptable and that we must move forward, as a nation, into the future. Regional trading blocs are the trend of the future, as the development of the European Community illustrates. It is our economic advantage to participate in a North American trade bloc, eventually to be expanded to the entire Western Hemisphere. I am convinced that in order to compete globally, we need a NAFTA, and that NAFTA must be passed at this time.

I believe that this NAFTA means jobs for my district and for California. It will create jobs for American workers. It will clean up the environment on the border. And, it has my support.

I have the greatest respect for my friends in organized labor and commend them on their valuable contribution to this important national debate. If the NAFTA passes, I look forward to working with them on its implementation and enforcement.

Mr. GOODLATTE. Mr. Chairman, I come before you tonight to make two points clear. The first is my support for the North American Free-Trade Agreement [NAFTA]. I have the privilege of representing the people of the sixth district of Virginia which leads the Old Dominion in exports with its high quality, competitively priced manufactured goods and agricultural commodities. For months I studied this agreement and met with hundreds of constituents across my district. I am convinced that NAFTA means jobs and increased trade for my region and will strengthen our Nation's ability to compete worldwide. My decision was based on a careful review of the issues and the merits of the agreement. This brings me to my second point which is my continuing displeasure with the backroom, wheel-and-deal, politics-as-usual approach that many reports indicate is being taken to get this agreement passed. I urge Members to base their votes on the merits of the agreement and to reject the laundry list of special deals that are apparently being offered. Take a stand to maintain the integrity of this body and protect the wallets of our Nation's taxpayers. Pass NAFTA on its merits, and reject the tradition of pork-barrel politics as usual.

Mr. DICKS. Mr. Chairman, today this House faces a clear choice, America can seize the opportunity to make the reality of world economic cooperation and competition work to promote economic growth here and abroad. The alternative is to pursue a siren's song of isolationism and protectionism that promises sanctuary from the realities of the cruel world but in fact will deliver economic stagnation.

Most opponents of the agreement concur that we need to squarely face world economic competition, but that this NAFTA is not the right one. They believe that by rejecting this agreement we can expeditiously renegotiate an agreement with Mexico that will better address their concerns. I believe that the opposite is far more likely.

This is the same tactic that those who opposed arms control agreements with the Soviets in the 1970's and 1980's pursued. They argued that by rejecting agreements, we could easily convince the Soviets to make additional, one-sided concessions. Of course this did not take place, and we still have not ratified a strategic arms control agreement since 1972. In its place we had to rely on informal agreements to follow guidelines of unratified treaties and seemingly unending negotiations for the perfect agreement. Frankly, we were very lucky that the entire enterprise did not fall apart as a result, and given the instability in the former U.S.S.R. we will have to continue to be lucky.

I have to conclude that this time we will not be so lucky. I have to conclude that rejection of the agreement will set back mutual cooperation, will provide no incentive for Mexico to deal with these issues, and will provoke a new round of attempts to entice American firms to relocate in Mexico, while maintaining or increasing current barriers to United States exports. On the other hand, I think the side agreements on labor and the environment, while not all we might want, provide a forum to promote progress in these areas that would not otherwise exist.

No trade agreement can be expected to deal with all the troubling issues of transitioning to global economic competition. With or without NAFTA companies can still choose to relocate to Mexico although it is interesting to note recent decisions by Raytheon, GM, and many small firms who did relocate to come back to the United States. Low-wage competition from other areas of Latin American and Asia will continue to challenge our economy. And our competitors, especially the Japanese, are still going to try to secure agreements around the world that will benefit themselves, at our expense.

But while the direct substance of the NAFTA is small in the overall economic scheme, its symbolism with respect to the course this Nation takes in future trade policy has become immense as this debate has unfolded.

The United States has just prevailed in the third major war of this century with the end of the cold war. After each of these triumphs we faced a fundamental decision on whether we would remain active in world affairs or crawl into a false cocoon of isolationism. After the First World War we decided to return to normalcy in a nostalgic effort to turn back the clock. We rejected entry into the League of Nations and instituted a protectionist economic policy. After a short boom, the result was the Great Depression and the rise of fascism.

After the Second World War there was strong sentiment to focus on the homefront and shun world responsibility. But with strong leadership from Harry Truman, the Marshall plan and the Truman Doctrine were approved, leading the way for economic revival and the triumph of democracy.

We now face a similar crossroads. It is naive to think that by denying world realities we can somehow return to a nostalgic past. The simple fact of the matter is we can and must compete in the real world. There is no going back.

We have critically important trade issues to resolve involving GATT where we are trying to end foreign subsidies that undercut international sale of American products ranging from agriculture to aircraft. The leaders of the Pacific rim will soon meet in Seattle for the annual APEC conference to discuss the future of the massive Asian trade. Our leadership and leverage in these negotiations will be dramatically undercut by defeat of the NAFTA.

A letter I received from a small businessman in Seattle sums up the positive attitude we need to win in the world market of the 21st century. He states:

> Those who believe that NAFTA will result in a flood of low cost manufacturing jobs from the US are sadly behind the times. Those jobs left years ago. * * * America is first in agriculture, technologically advanced manufacturing (Boeing, Weyerhauser, Intel and others are good examples), value added production, and service oriented businesses.
>
> In an age of instant communications, the world is and will continue to move toward open trade and a global economy—with or without the U.S. To move backward to an era of isolationism and protectionism would be folly.

Mr. MINGE. Mr. Chairman, I support fair trade. Free trade results in more jobs and greater wealth in the trading nations. We live in a global environment and our policies must reflect that reality. If we do not keep pace with the natural progression of the global marketplace, we will be left behind. But in our efforts to increase trade, we must first establish a strong, shared foundation of economic, environmental agricultural, and industrial standards, rights and obligations.

A North American trade agreement is in our best interest. However, this North American Free-Trade Agreement [NAFTA] has too many potential problems, too many unanswered questions, and too many unaddressed subject areas to merit my support at this time. NAFTA does not establish a solid foundation for the economic partnership that is being built for this continent.

My decision not to support NAFTA was difficult. The agriculture community is split over the agreement. For example, NAFTA supporters point to studies that claim that if it implemented there will be a $0.06 a bushel increase in the price of corn over 15 years. Given today's terrible price of corn and our weather-ravaged agricultural economy in the Second District, any increase would be welcome. However, on many days the market price of corn at Minnesota elevators fluctuates by more than $.06 per bushel.

Moreover, we should not need NAFTA to increase the price of corn. Many observe that increasing the United States Department of Agriculture [USDA] loan rate for corn would have an immediate impact. Furthermore, the 15 year projections fail to adjust for other important factors including:

The substantial decrease in Mexico's buying power due to anticipated devaluation of the Mexican peso.

The likely effects on sales to Mexico and on the market price if Brazil, Argentina, Chile and other Western Hemisphere countries join NAFTA as is hoped.

The opportunity for increased production in this country if land that is currently out of production, or planted to other crops that do not fare well under NAFTA, is planted to corn.

NAFTA proponents project similar benefits for soybeans and pork, but there is the same uncertainty. The point is not that we should ignore the possibility for improvement over 15 years; certainly export opportunities for all crops should be recognized. However, for most farmers who lose money on each bushel they produce and who have not seen price improvement after 15 years of much publicized trade expansion initiatives, the hope for improved prices for NAFTA is illusive. In any event, there is a strong prospect that trade with Mexico in agricultural products will continue to grow without NAFTA and I certainly support both the continuation of such trade and implementation of an improved NAFTA agreement. I expect such an improved agreement could be in place without substantial delay.

The risks are also sobering. Would an expanded NAFTA that includes other countries such as Brazil or Argentina actually lower prices? Can Mexico become a platform for processing or blending products from other countries—such as New Zealand—and shipping them to the United States? With cheaper labor costs and NAFTA-based investment incentives, would Mexico develop its own livestock processing capacity over the 15 years and dilute much of the anticipated United States agriculture gains? Will dislocations in our economy offset the benefits those of us in Minnesota agriculture hope to realize? We must be realistic about the risks and not let hopes blind us to the problems with NAFTA and today's trade opportunities.

United States agricultural producers are efficient, but they are also subject to an ever-increasing amount of regulations and restrictions, such as those involving chemical use and expected ones on tillage procedures. This affects the cost of operation. Agricultural producers in Mexico and other countries are not subject to the same restrictions. This consideration takes on added importance when it is recognized that the NAFTA that is approved will be the prototype of agreements with countries that compete with more Minnesotan products. A level playing field is only fair and should be assured in a comprehensive trade agreement.

The bottom line is that we simply do not know what the effect will be in terms of increased exports and improved prices. We do know that while NAFTA may provide some benefits to agriculture, it does so at the expense of other sectors of the United States agricultural community and at the expense of 1 to 3 million Mexican farmers who are expected to leave their land as a result of changes occurring in Mexico as a part of NAFTA.

Most immigration experts expect NAFTA to stimulate migratory flows to Mexican urban areas and to the United States to displaced Mexican peasants and laid-off Mexican farm workers take advantage of large wage differences. In fact, a recent survey of Mexicans found 45.8 percent of those interviewed believed NAFTA would make it easier for Mexicans to get jobs in the United States.

Another fundamental concern is NAFTA's impact on workers in both Mexico and the United States. Mexican workers are producing considerably more and earning considerably less than they did at the beginning of the 1980's. The 1990 census, moreover, revealed that 63.2 percent of the population made no more than twice the minimum wage of $200 per month while the prices of goods approached those in the United States. To a large extent, wages are low because the Mexican Government, which sets wage rates through an agency called El Pacto, has deliberately kept them low, even for highly productive Mexican workers in modern new manufacturing plants. This interferes with the market and frustrates the level playing field. It does not constitute an acceptable foundation for an economic partnership.

A question United States firms are increasingly likely to ask is why pay $17.50 an hour in Detroit when well trained, productive Mexican auto workers are available for $2.38? The obvious danger is a strong downward pressure on U.S. wages, harming an already hard-hit middle class. According to a 1992 Wall Street Journal poll, one quarter of almost 500 corporate executives polled admitted that they are either "very likely" or "somewhat likely" to use NAFTA as a bargaining chip to hold down wages. And 40 percent indicated they might move at least some of their production to Mexico within the next several years.

Wages are only part of the picture. Our job safety and worker programs have been constructed over several decades. Presently we are considering a national health care program. If Minnesota loses businesses to South Dakota because of disparities between workers compensation and tax policies, the problems facing communities in the United States trying to compete with Mexico for jobs can be readily understood.

The Mexican Government's policy of low wages has further adverse impacts on the United States. It limits the development of a larger Mexican middle class that can afford to purchase goods produced in the United States. It also tempts Mexican workers to look to the United States as the place to move for improved economic opportunity.

This policy's impact on jobs and wages in rural America is especially important. We know NAFTA will result in both job loss and job creation. The dispute is about how much of each and whether the jobs created will offset the job losses. Most studies indicate low-wage, low-skill manufacturing jobs are likely to be lost, and that the jobs created by NAFTA are likely to be high wage, high skill and in urban areas. This scenario does not bode well for rural areas, which have a higher percentage of low-wage, low-skill jobs.

Rural America may well carry the principal burden of adjustment under NAFTA. For decades, manufacturing plants have located in rural areas to take advantage of less unionization, lower wages, and other enticements. For many rural towns, a single plant provides a majority of jobs. Plant closures in these cases can destroy entire rural communities. Even downsizing causes substantial dislocation. Under NAFTA there are no safeguards or adequate remedies to protect our communities from such devastation. For farm families at risk of losing their farms and for those young people in rural areas that are looking for work in a tight job market these considerations are critical.

The cost of implementing NAFTA also concerns me. First we have our workers. The administration's plan for dealing with dislocated workers generally has been strongly criticized by the Labor Department's own inspector general. There is no plan in place to deal with the special needs of rural America where job growth is less apt to occur. It will be expensive to deal with this dislocation.

Second, there is Mexico. This NAFTA presupposes that market forces alone will bring together economies and societies as different as the three countries. But the European experience should teach us that bringing together advanced and developing economies is an expensive proposition. Tremendous investment has been made by the European Economic Community in Greece, Spain, Portugal, and Ireland. Estimates indicate that their commitment exceeds that made by the United States under the Marshall plan.

A third type of investment is environmental clean-up. Treasury Secretary Bentsen has estimated the cost of environmental clean-up alone along the United States-Mexican border at $8 billion over the next decade. Others put it at $21 billion.

Fourth, there is lost tariff revenue. Over 5 years it is estimated at $3 billion.

Given our tremendous deficit, this cost consideration must be faced. Total cost estimates vary from $20 billion to $40 billion. The administration originally stated that the costs of implementation would be offset by growth. However, we are beginning to see that there will be immediate costs with little assurance of budget offsets. Trade Representative Kantor has said that raising taxes is "the best option we can find in a series of bad options." Already Texas officials have come hat in hand seeking $10 billion in Federal aid to finance the NAFTA commitments and for cleaning up environmental problems in the border area. This is the time to decide: do we raise taxes, cut other expenditures, or add to the deficit?

Furthermore, the fundamental difference between Mexico and the United States and Canada is the absence of a regulatory framework and laws that characterize developed market economies. Without that structure and ability to assure consumer, environmental, and employee protection, as well as due process, NAFTA enforcement is inadequate. Balanced economic development will not occur in Mexico unless a series of deep changes are carried out in social policy and structure—and unless the costs of economic development and integration are forthrightly reorganized.

For a good example of this, we again need only to look a the European Economic Community. The considerations that it weighed, the conditions it imposed, the commitments that it made, and the pace at which it proceeded in bringing Ireland, Greece, Spain, and Portugal into its membership is instructive. The fact that Turkey and African countries are not yet EEC members is sobering.

NAFTA will be the foundation of our relationship with Mexico and the rest of Latin and Central America. We need to make sure that this foundation is solid. Proponents of this NAFTA tend to label all opposition to it as protectionism. I am not a protectionist. We live in an interconnected world and we need to have rules to guide us as we enter the 21st century. Trade agreements are rules that we need in order to progress as a country and as a world. But we can and must do better than this set of rules.

To this end, I support legislation that will intrinsically link enforceable environmental, worker protection, agriculture, safety, and other standards to any future NAFTA. By establishing a social charter of shared standards, rights and obligations, this legislation will ensure that any future NAFTA sets a string foundation for our relationship with our trading partners.

I am hopeful that the Clinton administration can and will expand NAFTA so that it is indeed a firm foundation for trade with Mexico and other western hemisphere nations. I look forward to an agreement or changes in this agreement or limits on its adoption that will enable me to support it.

I expect that trade with Mexico will continue to grow, NAFTA or no NAFTA. For many NAFTA has erroneously become the symbol of increasing trade with Mexico and the fight for its passage has diverted us from the real issue of needing an adequate agreement. I have great respect for the Mexican people and President Salinas. If Congress does not approve this NAFTA, it should not be taken as any type of United States criticism or rejection of the Mexican people or their President. Indeed many Mexican groups are urging Congress to vote down this agreement.

This is not a matter of letting the best be the enemy of the good. Rather it is a matter of making sure an inadequate agreement does not become a foundation for an economic partnership. It is much harder to repair or complete the foundation after the structure is built. Changes are easier to make now because they allow us to build a more solid and promising future. If it takes extra time to negotiate these changes, such a modest delay is not significant in such a long-term relationship. We all hope that in the meantime our trade with Mexico will continue to thrive, that relations between our countries will remain strong, and that all three countries will be better served by a prudent delay in completing the foundation work.

Mr. ZIMMER. Mr. Chairman, the vote on the North American Free-Trade Agreement is one of the most important I have had to cast since coming to Congress. The outcome of this vote will set the direction for United States trade for years to come.

That is why I have taken the time to give the citizens of the 12th District every opportunity to express their opinions to me and have carefully evaluated their concerns about NAFTA.

The question for me has always been whether NAFTA is in the best interest of the United States, New Jersey, and the 12th District. I believe it is.

Free trade has served this Nation well and protectionism has hurt consumers, workers, and often the very industries that have been protected from the need to produce the best products at the best prices.

NAFTA will create the world's largest single marketplace, allowing us to compete more effectively with European and Asian trading blocs and making possible further expansion of our markets throughout the hemisphere.

I am convinced that NAFTA will result in a net increase in U.S. jobs and savings to U.S. consumers of billions of dollars in taxes on the imports they buy.

Many of the opponents of the agreement say they support the idea of entering into a free-trade agreement with Mexico but do not support this NAFTA. I believe that if this NAFTA is killed, there will be no NAFTA of any kind for many years to come. Even under the most favorable of circumstances, Mexico and Canada would never agree to the unprecedented additional concessions demanded by NAFTA opponents. It is far less likely that a lame-duck Mexican administration and the new Liberal Party Government in Canada would be willing or able to agree to a better deal for the United States if Congress rejects out of hand the product of years of good faith bargaining. In my view, the choice is either this NAFTA or no NAFTA. Clearly, this NAFTA is better than the status quo.

Because Mexican tariffs on United States goods are more than twice as high as our own tariffs on Mexican imports, United States producers and workers will benefit far more than their Mexican competitors.

New Jersey is in a unique position to take advantage of this agreement. As a major port of entry, the State stands to gain by the substantial increase in traffic among the three parties to NAFTA. New Jersey's financial service enterprises, our chemical manufacturers, our pharmaceutical and biotechnology industries, and our telecommunications companies will be among the major beneficiaries of NAFTA.

I have carefully examined the question of whether NAFTA would result in American jobs going to Mexico. The sad fact is that unskilled American jobs have been going to Mexico and other low-wage countries for years without NAFTA. Others have been lost to automation and downsizing. Blocking NAFTA will not stop this trend. Approving NAFTA will not accelerate this trend appreciably. Fortunately, the cost of labor is only one factor in the decision where to locate a facility. The quality and productivity of our work force, the proximity to the marketplace, and the reliability of our infrastructure will continue to compensate for wage differentials.

Whether or not NAFTA is approved, American workers will have to be the best trained and most highly skilled in the world if we are to retain our manufacturing base and avail ourselves of the opportunities provided by the global marketplace. We must improve the quality of our education, job training, and retraining so we can continue to reap the benefits of free trade in the future and allow our workers to compete on the basis of higher productivity rather than lower wages.

On balance NAFTA will be good for our environment and Mexico's. NAFTA is the first trade agreement to specify that environmental protections will not be considered a barrier to trade. This will protect our strict environmental laws from being subverted by the agreement. That is why key environmental groups such as the National Audubon Society and the National Wildlife Federation support NAFTA. These groups hope that this provision will become a cornerstone of U.S. trade policy and be included in future negotiations under the General Agreement on Tariff and Trade.

NAFTA's opponents argue that we should not enter into the agreement because the Mexican Government has no regard for the environment. In fact, Mexico has enacted some of the toughest environmental laws in the world, but has not enforced them. NAFTA would require Mexico to do so. Rejecting NAFTA would eliminate virtually any leverage we might have over Mexico's environmental practices.

I do not discount the potential costs of NAFTA, but I believe the benefits will be much greater. If we reject NAFTA, we will regret it years from now as a colossal missed opportunity.

Ms. WOOLSEY. Mr. Chairman, I rise today as a supporter of free trade throughout the world. I rise today in support of free trade with Mexico. I also rise as an opponent to this North American Free-Trade Agreement. There is no disputing that with the right agreement, expanded trade with our neighbors can be good for all three nations, and we as Members of Congress must be committed to making this happen.

We need a free-trade agreement that will reduce the trend of job losses and declining wages in this country. There is great danger, however, that the NAFTA we are debating today will only accentuate that trend. For this reason, Mr. Chairman, I am voting against this NAFTA, with the confidence that as long as we remain committed to free trade we can negotiate a better agreement.

The reason that jobs and wages are threatened by this agreement lies in the repressive and undemocratic treatment of workers by the Mexican Government—treatment that does not allow workers to bargain for fair salaries. Without addressing this problem, a free-trade agreement with Mexico would force American workers into unfair competition against workers who have artificially low wages. The party of President Carlos Salinas has controlled all levels of Mexican Government for over 60 years, and has historically deprived workers of their right to organize. When the working people of Mexico try to bargain for fair wage levels, they are harassed, beaten, jailed, and sometimes tortured and killed for their efforts. Because of these repressive policies, workers in Mexico do not earn the wages they deserve.

Mr. Chairman, this may sound like a human rights problem which has nothing to do with free trade, but it is an economic issue as well. Because Mexican workers do not have the right to organize, the average manufacturing wage in Mexico is about $2 per hour. In the United States, on the other hand, the average wage is almost $14. Although there will always be a wage disparity between two counties entering into a free-trade agreement, this disparity is artificially large, and it will force American workers and their families into unfair competition.

When countries enter into a free-trade agreement, there is a tendency for the wage levels in those countries to move down to the lowest common denominator. If workers in the high wage country do not take a pay cut, they face the danger of losing their jobs altogether to the cheaper labor of the low wage country. This happened with the United States-Canada Free-Trade Agreement, which has resulted in Canada's loss of 300,000 manufacturing jobs since 1989. Mr. Chairman, the wage disparity between Canada and the United States is nothing compared to the gap between our country and Mexico. I cannot ask working families of the United States to enter into this unfair competition. I cannot ask them to make a choice between losing their jobs or taking a massive pay cut. Free trade is desirable, but because of the way Mexican workers are treated, this agreement is unfair.

Proponents of this NAFTA hold to the theory that passage of the agreement will change Mexico's undemocratic practices. Why, then, is it only a theory? Why is it not in writing? The side agreements negotiated this summer say nothing about the Mexican worker's right to organize, and we cannot gamble away the livelihood of hard working Americans and their families by betting on a theory.

A similar theory is used to dismiss Mexico's historic failure to enforce environmental regulations. Proponents tell us that if this NAFTA is passed, we will see a profound improvement in Mexico's treatment of its environment. But there is no disputing that Mexico's lax environmental regulations have provided temptation for some United States businesses to relocate to Mexico where they can profit cheaply, leaving Americans without work. Instead of signing an agreement with Mexico and then hoping in good faith that change occurs, NAFTA should contain a binding agreement prior to approval.

After all, it took the European Common Market 10 years to allow Greece and Portugal to enter, precisely to ensure that their labor and environmental practices would not hurt the agreement. They did this for a reason, and we should learn from it.

Another argument we hear from proponents of this NAFTA is that if Congress fails to approve the agreement, trade relations between our country and Mexico will be damaged beyond repair, and there will be no chance to negotiate another NAFTA. To answer this, Mr. Chairman, I would like to remind my colleagues that the Mexican Government approached us with the proposal of a free-trade agreement in the first place, and Mexico still has much to gain by renegotiating, if this NAFTA is defeated. Good ideas do not die, Mr. Chairman. Free trade with Mexico is a good idea, and I am confident that we can get it right.

A free-trade agreement with Mexico will cause some American workers to be displaced, but this NAFTA would force workers in the United States into unfair competition with the artificially low wages in Mexico, causing displacement that is unnecessary, I have introduced a bill, the Displaced Worker Retraining Act of 1993, which would provide a comprehensive retraining program for workers who are laid off because of Federal policy decisions such as NAFTA. I introduced this bill because the programs we now have are ineffective in getting displaced workers back into the labor force. I can assure you that if our present worker retraining programs were not so flawed—if a comprehensive worker retraining program were already in place—many of us who are concerned about the impact this NAFTA will have on the working people of this country would be more willing to support it. But right now, Mr. Chairman, there is no such program. Where are the programs to help these workers train for a new job? Where are the funds to help hard-hit communities get back on their feet? If we insist on this NAFTA, where is the safety net to help the families who are losers in the NAFTA equation? Right now there are no answers to these questions—another reason to take a step back, renegotiate, and fix the problems associated with this particular free-trade agreement.

The debate on NAFTA has been emotionally charged and has centered around personalities. I certainly do not agree with many of the arguments that some NAFTA opponents have made, nor do I align myself with them. In making my decision to vote against this trade agreement, I have made every effort to sift through the rhetoric to answer the question: Is this NAFTA good for the majority of the American people, or is it worth our while to fix the flaws in this agreement and make a better one? I believe, Mr. Chairman, that a defeat of this NAFTA will not send our country into a downward economic spiral, and it is worth the wait to fix the problems associated with this agreement.

So, Mr. Chairman, although I cannot support this NAFTA because I do not believe it will benefit the majority of the American people, I strongly urge my colleagues not to recede into isolationism or protectionism. As Members of Congress, it is our job to ensure that this does not happen. I urge my colleagues to make the commitment now to improve America's economic future by actively supporting a free-trade agreement with Mexico which accounts for the interests of workers and the environment—an agreement that will truly benefit everyone in the United States of America.

Mr. HALL of Ohio. Mr. Chairman, as the North American Free-Trade Agreement [NAFTA] currently stands, I plan to vote against it for a variety of reasons.

I believe free trade is an important and ongoing project. In 1991, I supported extending to the President fast-track authority to negotiate trade agreements because I recognize the importance of exports in sustaining economic growth for the United States. Since many Latin and South American countries are interested in having this free-trade agreement extended to them, the Congress must have high standards for this NAFTA, since it will be used as the basis for all future agreements in the Americas.

I have concerns about the unequal reduction in tariffs in this agreement. An International Trade Commission study reported that 64 percent of Mexican products will come into the United States duty free while only 49 percent of United States products will go into Mexico duty free in the first year after NAFTA is implemented. Tariffs should be reduced at a more equal level. Another specific example which troubles me is that all barriers on exporting used vehicles to Mexico will not be removed until January 1, 2019—a whole quarter century after enactment of NAFTA. This 25-year phase-out could hurt exports by the United States auto parts industries.

In any trade agreement, there are winners and losers. My concern is that the Dayton area, which I have the honor or representing, would be a net loser. The Dayton area has a large concentration of automobile related manufacturing plants. With the lower wages in Mexico, I believe many companies will be tempted to focus their new investment in Mexico and build new plants south of the border instead of in the United States. This belief was reinforced by a recent Wall Street Journal survey of 462 companies in which more than half stated they would increase their investment and production of goods in Mexico under NAFTA.

In the past, many promises have been made to the people in Dayton, OH, which were later broken. For example, a major computer company was taken over and promises were made that there would not be any major changes in the company's structure for 5 years. Two years later, these promises are being broken. NAFTA is another promise. I am not convinced it will benefit the Dayton area and the thousands of people who are struggling to keep their jobs and make ends meet.

Mr. MANTON. Mr. Chairman, I rise today to express my strong opposition to the North American Free-Trade Agreement.

I have concluded that this agreement is not in the best interest of workers in New York City or the rest of the country. The working people in my district have already seen thousands of good manufacturing jobs leave New York City. Their fears about NAFTA are genuine and are justified. Even NAFTA supporters concede that we will lose many labor-intensive jobs in the short term. I cannot encourage the escalation of this trend by voting for NAFTA. I cannot, in good conscience, support a trade agreement which threatens the very livelihood of those I represent.

Implementing NAFTA will reinforce artificially low wages in Mexico which will, in the long run, result in a loss of income for Americans. Indeed, even those fortunate enough to keep their jobs will likely see a reduction in their wage levels. No amount of rhetoric about having confidence in United States workers' ability to compete can change the fact that Mexican wages will put United States workers at a brutal disadvantage.

Mr. Chairman, my constituents live in one of the most expensive metropolitan areas in the world. Lower wages will make it increasingly difficult for residents of Queens and the Bronx to provide for their families and maintain a decent standard of living. In today's uncertain economy, we need job growth and security for New York and the United States, not a high-risk gamble on our future under NAFTA.

NAFTA will accelerate the already inexorable flow of jobs to developing countries, as multinational corporations search the globe for cheaper labor markets. Americans will continue to see the flight of manufacturing jobs and depressed wages, while maquiladora workers south of the border will witness their below-subsistence levels remain and living conditions worsen.

Mr. Chairman, the Joint Economic Committee has estimated the potential costs of implementing NAFTA could reach $20.1 billion over the next decade. Loss of tariff revenues, environmental and infrastructure gaps, worker retraining programs, and transitional adjustments make up the majority of these costs. In these times of fiscal restraint and deficit reduction, I am concerned Congress will be forced to cover these expenses by cutting back on other important domestic programs such as education and health care. Putting this country first is not protectionism.

NAFTA levels workers, not tariffs, Mr. Chairman. I urge its resounding defeat.

Mr. MONTGOMERY. Mr. Chairman, I rise in support of the North American Free-Trade Agreement. After considering the provisions of NAFTA, I think its passage is in the long-term best interests of our country.

Lifting tariffs on goods going to Mexico will open up that market for more exports and that will mean more jobs for our people here in the United States.

The Agreement will also be a plus for Mississippi and Mississippi products. Mexico is our seventh largest trading partner today, even with tariffs that range from 10 percent to 25 percent on goods produced in my home State. Doing away with those tariffs will help Mississippi industries that produce electronic equipment, lumber, and wood products, furniture, and will boost all segments of the agricultural economy that is so important to our State.

Mississippi manufacturers have told me that orders for goods going to Mexico doubled a few years ago when Mexico took steps on its own to lower tariffs from 40 percent to around 15 and 20 percent on some items. That business activity is likely to greatly increase when the tariffs are completely wiped out.

I know some people have concerns about the possible loss of jobs if NAFTA is approved. But I want to point out that if we defeat NAFTA, all the dangers that threaten jobs in some sectors of our economy will still be in place, including high tariffs, low wages, and lax enforcement of labor and environmental laws.

Killing NAFTA will not eliminate that threat of job loss, but it will deny us the opportunity to level the trading field and give our manufacturers the chance to compete on a more equal footing in the growing Mexican market.

I urge support for the agreement.

Mr. LANCASTER. Mr. Chairman, I would like to take this opportunity to outline the reasons for my decision to vote against NAFTA.

I have voted against the North American Free-Trade Agreement [NAFTA], but only after a serious and intensive review of its pros and cons, and after educating myself as fully as possible on the issues and discussing them with hundreds of constituents across the Third Congressional District of North Carolina. This has been a difficult decision to make. When JESSE HELMS and Jesse Jackson are against NAFTA and Ronald Reagan and Bill Clinton are for it, one realizes the complexity and uncertainty of the issue.

Though I believe the good and bad of NAFTA have been exaggerated by the respective sides, I am convinced that NAFTA will in the long-term create more jobs across the county that it will eliminate. It will even create jobs in certain industries and certain communities in the third district. However, after careful analysis and long discussions with people of the third district, I believe that long-term growth in eastern North Carolina resulting from NAFTA is highly unlikely. Therefore, I believe that in eastern North Carolina we will have a net reduction in jobs as a result of this agreement.

For many years eastern North Carolina has been short-changed by State and national business and governmental leadership, and as a result lacks the infrastructure and highly skilled work force which will be necessary to attract the new jobs NAFTA will create.

Much of the Third Congressional District of North Carolina is not served by four-lane roads, regular rail service, or natural gas. Though our educators and parents have struggled mightily to educate our children, the educational resources available in the Piedmont are not available in the east. Our tax base will not support the kind of educational improvements that have taken place in the rest of the State and the State has not equalized that funding shortfall with State appropriated dollars. We are in this situation through no fault of our own: some of our poorest counties have taxed themselves at rates almost double what Piedmont counties are paying in property tax. The high-technology, high-wage industry which will result from NAFTA will locate on interstate or interstate-type roads, on sites served by rail and natural gas, and where there is a ready supply of highly trained workers. Because of the neglect of our region in the past, we are simply not in a position now to take advantage of any positive impact of NAFTA; it will take years to make up for the infrastructure short-fall and to give our able and highly motivated work force the skills they need to perform the tasks of high-technology, high-wage manufacturing.

In addition to the economic hit eastern North Carolina will take from NAFTA, we are still reeling from the proposed 75 cents per pack tax increase on tobacco to pay the full cost of health care reform for the rest of the country. If this tax should be enacted by Congress and signed by the President, as consumption falls, tobacco quotas will drop, and the long-run result may be that tobacco will no longer be a significant economic factor in eastern North Carolina. The east simply cannot be called upon to take these twin blows at the same time.

There are other issues which surround NAFTA which contribute to my decision. Though tobacco and grain may receive a slight boost from NAFTA, vegetable products, which are possible alternatives in the east for tobacco as it declines, are hit hard by NAFTA. Since they are labor intensive and since Mexico can double- or triple-crop produce, they will eliminate produce as a significant crop in the east except for local, fresh distribution. Likewise, peanuts, already important in our region, are hit hard by NAFTA and the flood of Mexican peanuts which may follow.

I have alluded to the loss of jobs in the east. This job loss will occur in the low-wage, low-skilled industry that hires thousands of workers across the east. Much of this is in the apparel industry which is already abandoning the east at an alarming rate. We have just learned that an apparel industry in Mount Olive—in my home county—will be leaving soon for the cheaper wages of Central America.

The Joint Economic Committee on Congress says the administration has underestimated the cost of NAFTA by more than $700 million. Since Congress is now working on a pay-as-you-go basis, any reduction in revenues or increases in spending must be offset by additional cuts in other programs or by new revenues. Thus, NAFTA will almost certainly require additional taxes for implementation, something neither I nor my constituents have any stomach for.

If workers are to be displaced by NAFTA, there certainly is an obligation of the country which agrees to this displacement to retrain those unemployed persons. Surprising as it may be, President Bush proposed $335 million for worker retraining, but President Clinton has only proposed $90 million. That is a drop in the bucket compared to what will be needed. In my opinion, eastern North Carolina could use the full allotment and still not adequately retrain the workers who will lose their jobs. Furthermore, nothing has been proposed to help communities devastated by closed industries to develop their infrastructure to attract the NAFTA generated jobs.

Early in the debate, I indicated that unless side agreements were agreed to with regard to environmental protection and worker protection that puts Mexico on par with this country, that I could not support NAFTA. Those side agreements which were entered into improved the situation in these two regards, but they simply are inadequate. Mexico points with pride to legislation on the books there that on its face looks very good with regard to both aspects. However, nothing, absolutely nothing, is done to enforce either environmental protection or worker protection. The side agreements are incredibly weak in seeing to it that Mexico lives up to its laws.

Since businesses in this country and in Mexico will be competing head-to-head in the production of identical products being offered at identical prices, Mexican products produced at significantly lower cost because of their wage scale will have a distinct advantage in that competition. U.S. industries will have to keep their wages low to compete. This will have the effect of suppressing wage increases in this country, and will thus result in lower wages and a lower standard of living in this country.

I share the concern of many that Mexico has had one party rule for many years and that that party structure has become corrupt and undemocratic. We will be dealing with a government that engages in significant human rights abuses as well as financial corruption at unacceptable levels. The proponents of NAFTA say that we should pass it to encourage greater democratization and better human rights in that country. I say that we should demand real evidence of progress in those two areas before we become their full partner in trade.

Though support for NAFTA picked up dramatically in the 2 weeks prior to the vote, the majority of constituent communications to my office were opposed to its passage. Constituent interest in an issue is always an important factor though not determining in my final decision. Unless every constituent could be asked their opinion, I never can know what the real majority thinks. Communication is often stimulated by interest groups or emotional appeals that skew the results and mask the thinking of the silent majority.

For these and other reasons, I decided to vote against NAFTA.

Mr. LIGHTFOOT. Mr. Chairman, I rise in support of the North American Free-Trade Agreement [NAFTA].

NAFTA is about opening markets and reducing barriers to trade. Free trade benefits the most resourceful, efficient, and productive workers: American workers.

Opponents of NAFTA cite their concerns about factories relocating to Mexico, worker and human rights and environmental problems. These problems already exist and have existed for many years, before NAFTA was negotiated. Rejecting NAFTA will not remedy these problems. Instead, the status quo is maintained and these problems continue.

There is little to stop United States companies from moving to Mexico now. The primary reason for relocating to Mexico is to gain access to the Mexican market. However, under NAFTA, tariff reductions will occur and the primary obstacle of United States goods reaching the Mexican market will be eliminated. NAFTA will allow United States companies access to the Mexican market without having to more there.

Mexico is Iowa's third largest export market, supporting 3,123 Iowa jobs in 1992. Since Mexico began to lower its tariff rates in 1987, Iowa's merchandise exports to Mexico have more than tripled, from $66 million to $200 million. NAFTA is expected to result in a net gain of 870 jobs in Iowa; good, export-related jobs which pay better than non-export related jobs.

Trade is not a zero sum game with a set number of jobs in the world. A job gain in one country does not mean a job loss in another. Trade is a positive sum game with no limit to the number of jobs that can be created.

The only way to remain competitive is to compete. The world is a global marketplace, and the United States must continue in its role as the world economic leader. Trade protectionism only hurts those nations that employ it. The effects are higher consumer prices, limited consumer choice and reciprocal trade treatment by other nations. In our own history, this policy contributed to and prolonged the Great Depression.

The United States cannot remain an economic superpower by enacting protectionism policies for the benefit of a few inefficient, yet powerful, special interests. Instead of trying to preserve the past, we must prepare ourselves to meet the challenges of the future.

Mr. FRANKS of Connecticut. Mr. Chairman, history has shown that the free-trade agreements with Israel and Canada helped all countries involved.

While protectionism in the past has resulted in depression. In 1930 Congressmen Smoot and Hawley authored a protectionist tariff bill which many historians believe deepened the Great Depression. We must learn from history, and history shows that protectionism does not work.

With few exceptions, long-term jobs have been created when risks were taken. Simply stated, greater access to new markets means more sales. It is very clear to me that more sales means more jobs.

Mr. Chairman, when the opponents of NAFTA claim that corporations are going to move to Mexico and bring American jobs with them, they are ignoring the facts. It is not in corporate America's best interest to have high unemployment in the United States. Unemployed people cannot purchase their products.

It's very simple: Who is going to purchase more goods: an American earning $40,000 or a Mexican earning $6,000 a year? American companies are far more dependent on United States consumers than those in Mexico. Mexican consumption of United States goods will certainly provide a nice bonus for American firms, but these companies know that they will be in serious trouble without United States demand for their goods and services.

For corporations to derive the maximum benefit from NAFTA, they need to increase consumer purchases by Mexicans. More importantly, U.S. companies must maintain if not increase the purchasing power of Americans. This would yield the highest profits for American corporations. Ladies and gentlemen, this means jobs for the United States.

My home State of Connecticut has prospered tremendously since Mexico liberalized its trade laws in the mideighties. Since 1987 Connecticut exports to Mexico have increased 143 percent to $280 million annually. This has created over 5,000 new jobs in the nutmeg State alone. Connecticut stands to gain many more jobs if Congress passes this historic agreement. Connecticut exports 78 percent of all goods manufactured in the State. Accordingly, I believe that opening up the Mexican market to United States products will mean jobs for Connecticut and jobs for all Americans.

If NAFTA is defeated, American companies will still be able to move jobs to Mexico, and America will gain nothing for it. Environmental standards will not improve because Mexico's economy cannot sustain itself to enforce its regulations. And, our immigration problems with Mexico will get worse not better.

NAFTA will create a $6.5 trillion market of 360 million consumers. This agreement will establish the largest free trade block in the world. Mexico is currently the United States' third most important trading partner, as approximately 7 percent of all United States exports are destined for Mexico. Most importantly, the United States enjoys a $5.4 billion trade surplus with our southern neighbor.

The NAFTA agreement is a positive step toward creating a free-trade zone from the Yukon to the Yucatan. It creates the worlds largest free market and will allow us to compete more effectively with the Japanese and the emerging European Economic Community as we move toward the global economy of the 21st century. Labor Secretary Robert Reich summed the benefits of free trade very well when he stated: "World trade is not a zero-sum gain in which a finite number of jobs are parceled out among the workers of the world. Trade is a positive sum gain in which there is not a natural limit to the number of jobs that can be created."

Finally, Americans are can-do people, we are not can't-do people, and we can make NAFTA work for America.

Mr. DERRICK. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

Members will record their presence by electronic device.

The call was taken by electronic device, and the following Members recorded their presence:

[Roll No. 574]

ANSWERED "PRESENT"—420

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Becerra
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Emerson
Engel
English (AZ)
English (OK)
Eshoo
Evans
Everett
Ewing
Faleomavaega (AS)
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Fish
Foglietta
Ford (MI)
Ford (TN)
Fowler
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings
Hayes
Hefley
Hefner
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCollum
McCrery
McCurdy
McDade
McDermott
McHale
McHugh
McInnis
McKeon
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nadler
Natcher
Neal (MA)
Neal (NC)
Norton (DC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stearns
Stenholm
Stokes
Strickland
Studds
Stump
Stupak
Sundquist
Swett
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Underwood (GU)
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Watt
Weldon
Wheat
Whitten

Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

☐ 2044

The CHAIRMAN. Four hundred twenty Members have answered to their names, a quorum is present, and the Committee will resume its business.

Mr. BONIOR. Mr. Chairman, I yield myself such time as I may consume.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, I thank the gentleman for yielding to me.

I rise in strong opposition to NAFTA, H.R. 3450, the North American Free-Trade Agreement Implementation Act.

I do so after having spent literally hundreds of hours reading NAFTA and the side agreements which were proposed to strengthen it, reviewing thousands of other pages of documentation, and discussing it at length with both supporters and opponents of the pact.

Before I explain the reasons for my decision to oppose NAFTA, I would like to comment briefly on the lobbying effort which has taken place these past few months, to try to influence public opinion on this subject.

Contrary to much of what we have been told, this is not a choice between free-trade and protectionism. It is not a once-in-a-lifetime decision between change or status quo. And it is certainly unfair to suggest that we cannot renegotiate this treaty if it fails. The White House has already been doing that for months and continues to do so to this day.

The efforts by both the proponents and opponents of NAFTA to couch this debate in these terms has grossly oversimplified the matter, confused, and in many cases alarmed, the American public, and has done a great disservice to our Nation.

I also find it highly objectionable that the White House has engaged in a horse trading effort of monumental proportions these past few days, pitting one industry against another, in an effort to round up enough votes to pass this legislation.

The White House should not be picking winners and losers in order to generate votes for NAFTA. We should be passing a trade agreement because it's in our national interest to do so, and not simply because the citrus industry, the peanut growers, the grain farmers and a favored few others have been taken care of, while the concerns of many other basic industries in our country have been ignored.

That's the wrong way to approach an issue which has such tremendous, long-range implications for the workers and economy of our Nation and our neighbors in the North American hemisphere. It is only going to create many more problems down the road which could have been avoided if the administration had stayed focused on the national interest, and not resorted to a conquer, confuse and divided strategy.

Having said that, it is beyond dispute that there is a long-term need for a North American hemispheric trade agreement. I realize that many of the problems we currently facing along our border, and in Mexico as well as in Central and South America are the direct result of our failure to address our regional economic interests for far too long. Nevertheless, this agreement does not provide the appropriate framework for addressing these problems. It falls far short.

I believe that the fundamental goal of a good trade agreement must be to create economic growth and opportunity, and to raise the living standard in all countries involved in the pact, not lower them. Unfortunately, the NAFTA we consider today fails to achieve this goal, for its does not provide adequate protections to American industry of American jobs. Instead, I truly believe that it will lower our economic standards, without doing anything to bring up those of our trading partners to the South.

I commend the President for his efforts to improve this agreement by establishing the side agreements. Unfortunately, I believe that these side accords fall short and do little to repair the serious deficiencies in the original text of the agreement which was passed on from the previous administration. Regrettably, this NAFTA is the wrong agreement at the right time.

Nevertheless, I remain committed to establishing a free-trade agreement which will further the United States' political, economic, and social goals.

Our trading practices with Mexico can and should be vastly improved. I believe that this NAFTA, however, will lock in the status quo and, in some instances, make it even worse.

We all know that in Mexico, Government rules and procedures set both minimum wages and maximum wage increases for the majority of hourly workers in their manufacturing industries at a level which is 1⁄7th of that which is earned tin the United States. Their strategy is to keep wages low to combat inflation and to attract investment by companies seeking cheap labor and little regulation in an effort to minimize operating costs.

Unfortunately, this NAFTA along with the labor supplemental accord, contains little that will change these policies over time. There is no assurance that workers rights will be properly enforced. Instead, the ruling party's overwhelming power to control economic life in Mexico will persist.

I believe that democracy and a free and open bargaining system must be the bedrock of the trade agreement and not one of the tenuous, hoped for, consequences of the agreement—once adopted. Yet this agreement lacks any mechanism or commitments to assure that these reforms will take place. As a result, wages in Mexico will continue to be deliberately held down by an alliance between government controlled labor unions and government influenced business associations that collaborate to set wages.

One of the bitter ironies of this NAFTA is that, by decreasing tariffs, Mexican exposure to United States exports should rise. However, at the same time this NAFTA locks in the low wages for Mexican workers, making it very difficult for Mexican labor to afford Mexican or United States products. Such a result is clearly detrimental to the United States since a fundamental goal of the trade agreement is to help Mexican workers improve their standard of living, thereby becoming better consumers of our goods. It is unfair to Mexican workers for they deserve more.

This NAFTA also does little to ensure that the efficiency of production for Mexican farmers will increase in the years ahead. As it becomes increasingly difficult to earn a living through farming, workers will be compelled to relocate to the growing industrial areas located along the border region. And as the supply of Mexican labor at the border exceeds the demand, more will cross that border in search of a better life.

I also believe that this NAFTA will be very detrimental to the American work force. Although we may be unable to pinpoint the exact figure, it is inevitable that, as a result of this agreement hundreds of thousands of American workers will lose their jobs.

The southern New Jersey region, alone could lose well over 10,000 jobs in the glass, plastics, food processing, and textile industries. The glass industry, which is a key employer in the southern New Jersey region, would be particularly vulnerable if this pact is approved. The pressure to relocate to an area of cheaper labor, a relatively cheap and reliable source of energy, and lower overhead costs will increase on this industry.

The clothing manufacturers in southern New Jersey have already lost most of their markets to cheaper imports. This pact puts at serious risk what is left of this industry. Hundreds of hard-working employees, who may not be trained for any other type of employment, will end up on the unemployment line or welfare.

The impact of such lost employment is very real and devastating to these American families. I am afraid that for those families the promise of establishing, in the long term, retraining programs for dislocated workers will not suffice. For, in the near term, such programs will neither pay a bill nor put food on the table. Moreover, the funding for these programs has not yet been identified.

Throughout this debate the American worker, who stands to lose his livelihood, is at odds with many American industries which stand to gain a great deal from moving operations across the border in order to take advantage of the cheap labor and minimal environmental, health and safety standards.

Yet the impact felt by American workers will come, not only from lost employment, but also from the downward pressure on wages and benefits in the U.S. This is inevitable as key industries that remain in the United States struggle to compete with those that made the business decision to relocate to Mexico, in order to take advantage of the low overhead costs and new protections afforded by this agreement.

We are just beginning the process of economic recovery from a debilitating recession, and two decades in which we've seen a decrease in real income. I find the propect of a downward pressure on wages and benefits in the United States disheartening as well as unacceptable.

With respect to the environment, I firmly believe that liberalized trade must not come at the expense of a healthy global environment. Unfortunately, the environmental side agreements to this NAFTA do little to ensure that Mexico will bring its environmental enforcement up to a relative par with ours, nor does it provide the right of the U.S. Government to secure the compliance of such laws through trade measures.

Instead, this agreement could very well expose U.S. food safety laws, State and local laws which exceed international standards, and laws regulating the import of products produced in ways that damage the environment, subject to challenge as an impediment to trade.

I do not believe that the formal mechanisms which are established by the side agreement for consultation and resolution of disputes improve the enforcement of environmental laws.

And while they may apply to the non-enforcement of laws against companies engaged in the production of goods and services between the NAFTA countries, this oversight process does not seem to cover the non-enforcement of environmental laws with respect to foreign direct investment. Nor does this side accord provide for sanctions against those who violate these laws.

In terms of the boarder clean-up effort, a sound and comprehensive plan must be an essential aspect of any trade agreement with Mexico. Unfortunately, this agreement, along with the environmental side accord falls short, once again.

Moreover, the financing mechanism under the agreement does not secure the requisite funding for any such environmental clean up initiative. As a result, funding for this most important effort will be competing with our other, equally serious, domestic priorities. U.S. taxpayers should not have to pay for these costs which will run into the billions of dollars.

Clearly, it is essential that we enter into a North American Hemispheric Trade Agreement that will address the basic overall interests of America and Mexico, for this will set the tone for our negotiations with our other trading partners. Unfortunately, the agreement we are now considering is deficient for its puts mostly profit above policy. It will lock in the institutional status quo in Mexico and expose many of our basic industries to unfair trading practices for years to come.

That is not the future I want for our children and grandchildren, nor is it the future that our trading partners to the south deserve. For these reasons I, regrettably, cannot support this agreement. I will vote nay to send it back for renegotiation and resubmission to the Congress. Thank you.

Mr. BONIOR. Mr. Chairman, tonight, this House of Representatives will have a chance to earn its name.

We alone were founded to be the voice of the people.

Never in my memory have I seen so many forces arrayed against those of us who oppose the agreement.

Pundits have derided us.

Editorial boards have railed against us.

The Fortune 500 has opened its corporate coffers to campaign against us.

The Government of Mexico has spent $30 million to lobby us.

All because we have dared to stand up and say this NAFTA is a bad deal.

It will cost jobs.

It will drive down our standard of living.

It will lock in place a Mexican system that exploits its own people and denies them the most basic political and economic rights.

Mr. Chairman, we are not alone tonight.

The working people who stand against this treaty don't have degrees from Harvard.

They don't study economic models.

And most of them have never heard of Adam Smith.

But they know when the deck is stacked against them.

They know it is not fair to ask American workers to compete against Mexican workers who earn $1 an hour.

That is not fair trade. That is not free trade.

We stand here tonight with the people who can't cut deals when they are a few dollars short.

To them, NAFTA isn't some economic theory.

It's real life.

When jobs are lost, these are the people who have to sell their homes, pull their kids out of school, and look for new work.

Those of us who take these concerns seriously have been called fearmongers, afraid to take risks, with no vision of the future.

That is an insult to the working families of this country.

These are the people who show their faith in this country every day.

They take risks every day that people who make their fortunes in the stock market would never understand.

They know we live in a global economy.

They know we need new markets.

They know we need free trade with Mexico.

But they also know that the work of America is still done by people who pack a lunch, punch a clock, and pour their heart and soul into every paycheck.

And we cannot afford to leave them behind.

Tonight, we are their voices. And we must stand with them.

We stand tonight with autoworkers in the Midwest, who can compete with any worker in the world, but ask: How can we compete if we don't have jobs?

We stand with the aerospace workers in California, who have seen jobs leave for Tijuana, and demand to know: why will we pay higher taxes to send our jobs to Mexico?

We stand tonight with church leaders, who have documented torture, corruption, and human rights abuses in Mexico, and ask us tonight: why does this treaty do nothing to stop that?

We stand with the workers in the maquiladoras, who hoped that when American companies moved to Mexico, they would have the opportunity to lift their families out of poverty, but instead find themselves mired in a river of toxins and when they try to raise their voices in protest, their own Government silences them.

We are their voices tonight.

We are not alone.

For standing with us in this Chamber tonight are all the Americans who came before us, who had the courage to fight against the odds and against the powers that be for a better future and a better life.

The men and women who struggled in sweatshops for a dime a day, who one day found the strength to stand up and say enough.

The farmers who faced drought and depression and foreclosure, who could have thrown it all away but found the courage to say never.

The farmworkers who saw children struggling 12 hours a day to work our harvests of plenty, who had the courage to stand up and say no more.

The men and women who crossed the bridge at Selma, who stood firm in the face of dogs, and hoses, and nightsticks. And when they were told that this was not the time to fight for justice responded we shall not be moved.

Those are the people who stand with us tonight.

Their voices echo throughout this Chamber.

We must not turn our backs on all they fought for.

We must not turn our backs on all that was earned through the toil and the tears and the courage of our parents and grandparents.

We must move forward.

This vote is about more than money and markets.

It is about more than tariffs and free trade.

It is about basic values.

It is about who we are.

And what we stand for as a people.

It's about the dignity of work.

It's about respect for human rights.

It's about democracy.

Mr. Chairman, if we don't stand up for working people in this country, who is going to?

If we don't insist that Mexico let its people earn a decent wage, who will?

If we don't stand up for democracy and human rights in our trade agreements, then what does this country stand for?

We didn't fight the cold war just so we could exploit new markets.

We did it for something larger than ourselves.

We did it to advance the cause of freedom.

And that's what this vote is all about.

We have come too far and sacrificed too much in this country to turn the clock back now.

This NAFTA is not the best we can do.

We can do better.

I urge my colleagues;

Vote for the Future.

Vote for our jobs.

Vote for human rights and democracy.

Say no to this NAFTA.

□ 2050

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from California [Mr. DREIER].

Mr. DREIER. Mr. Chairman, Teddy Roosevelt said that we have an obligation to support our President when he is right, and a responsibility to oppose him when he is wrong. Tonight Republicans will provide an overwhelming vote the North American Free-Trade Agreement, because Bill Clinton is right on this issue. On November 11, 1979, Ronald Reagan announced his candidacy for President of the United States. In it he envisioned a North American accord, one that would unite Canada, the United States, and Mexico. He did so because he believed strongly in free markets, in expanding opportunity for individuals, in reducing taxes, and creating greater political pluralism.

Tonight we are going to have an opportunity to do that here, to finally bring that vision to reality. As we look at this struggle that has gone ahead, many people have been involved in it. Clearly, President Reagan envisioned it. This agreement was put together by President Bush and many people who worked hard there, and President Clinton supports it. This is the kind of bipartisan support that the American people want, and we can do it again on other issues.

We have a great opportunity for the future, and I happen to believe that when the ideals of free markets and expanded opportunities are before us, we can support it. Vote "yes" on the North American Free-Trade Agreement.

Mr. ARCHER. Mr. Chairman, I yield three minutes to the distinguished gentlemen from Texas [Mr. BONILLA].

Mr. BONILLA. Mr. Chairman, as a freshman, I was elected to this Congress because the people wanted someone who would work in a bipartisan manner to do what is right for America.

Today we—and freshmen in particular—must take a stand for the future of our country and do what is right.

We must take a stand for economic growth and opportunity. When we enter new markets—such as the ones NAFTA will give us—we win.

This is a nation of competitors—and winners. When Americans compete, they win. And this freshman came to Washington to make sure America remains a winner.

Mr. Chairman, NAFTA is simple. It removes tariffs between the United States, Canada and Mexico and allows goods to travel freely and be sold in what would be the world's largest open market—a market with more than 360 million potential buyers.

It makes perfect business sense. Yet, surprisingly, there is opposition.

I represent a district that covers more than 600 miles of the United States-Mexican border, from Laredo to El Paso, and contains a large percentage of American Hispanics who know about trade with Mexico.

My constituents have witnessed firsthand how free trade has benefited the United States.

They understand that companies from every part of the United States have been trying to penetrate the Mexican market for years.

They have witnessed the mile-long line of tractor trailers—with license plates from almost every State—waiting to take their American-made goods to Mexico. It is an amazing sight.

In fact, the increase in exports to Mexico is so impressive that I recently hosted some of my undecided colleagues in Laredo, TX, so they could see for themselves what liberalized trade policies with Mexico have accomplished. Each of may colleagues who witnessed for themselves the effects of free trade has announced they will vote for the NAFTA. I wish every one of my colleagues who are opposed or undecided on NAFTA could have this opportunity.

Those who want to stop NAFTA offer nothing in its place. They cannot tell use how killing this agreement will create a single American job, increase American exports, or keep America the world's economic leader. Yet I know many of my constituents are concerned about what NAFTA will do to America. I want them to know that their concerns are not ignored. But for the sake of future generations of Americans, we cannot surrender to the politics of fear. I support NAFTA because, like my constituents, I want what is best for our Nation.

I must admit, when I was elected last year I never imagined having the opportunity to vote on an issue that would so greatly define our country's future—a vote on a trade agreement that will create the largest trading bloc in the world. An economic powerhouse—with the United States leading the way.

Mr. Chairman, we all are entrusted with making the decisions that are crucial to the future of our districts and our country. We know that we must make the decisions that we believe are best for the future of the people we represent. The North American Free-Trade Agreement is the doorway to a prosperous future for the United States. It is for this reason—the future of the United States of America—that I urge my colleagues to support the NAFTA. If we retreat from opportunity now, we will have no place to turn in the future. And there will be no victory in that.

□ 2100

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Oregon [Mr. SMITH].

Mr. SMITH of Oregon. Mr. Chairman, I thank my friend, the gentleman from Texas, for yielding the time.

Mr. Chairman, I rise in strong support of NAFTA.

Mr. Chairman, I rise on this historic occasion to express my support for the North American Free-Trade Agreement [NAFTA] and the new opportunities it will create for 2.5 million Oregonians.

As a longtime supporter of free trade, I am pleased the President and the administration finally decided to pull out all of the stops to ensure its passage. My home State, Oregon, is already reaping the benefits of free trade with Canada and developing Mexican markets. Since 1987, when Mexico began to liberalize its trade policy, Oregon exports to Mexico have multiplied by 452 percent. When you take the agricultural sector by itself, the bread and butter industry in my district, our exports to Mexico have increased by a whopping 1,123 percent. Exports of transportation equipment have jumped a smashing 15,308 percent. Lumber and wood products exports have grown by 1,458 percent. Not bad considering Mexico's import tariffs remain an average of 2.5 times greater than our own.

So the potential benefit of NAFTA to my constituents is clear. But I do not support NAFTA just because it will be good for Oregon. Or for Mexico. I support the trade agreement because it is in the interest of all Americans, especially those who produce agricultural products. For years, U.S. agriculture policy has been assaulted for subsidizing our farmers at the taxpayers' expense. Since more than one-third of America's agriculture production, including 60 percent of Oregon's production, is exported, export opportunities are essential in order to maintain higher prices for our products. Without accessible foreign markets, our farmers are less profitable, government deficiency payments skyrocket, and the taxpayer foots the bill.

The world economy is globalizing as international trade flourishes. We cannot hang on to the economies of the past, even if special interests argue out of the fear of the unknown that we should. If we fail to rise above the politics of fear and pass NAFTA, we will send a grim message to the European Community and the Far East—the United States isn't really interested in free trade; move on without us.

NAFTA is a test of whether Americans are ready to face the 21st century with hope or with fear. The issue is not Mexico or Mexican wages. The issue is whether the United States is a global economic power and willing to act like one. Americans are the most efficient, productive workers in the world and we have everything to gain by creating the world's largest free market under NAFTA. Now is hardly the time to cower in fear of a Mexican economy that is 1/25 the size of ours.

I am excited about the benefits NAFTA will create for agriculture and the American economy, and I hope the rest of my colleagues look beyond the political threats and come to grips with the necessity for us to move into the future and pass NAFTA tonight.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. DORNAN].

Mr. DORNAN. Mr. Chairman, no late dinner for me tonight. My wife is against NAFTA. But I have the vote. I rise in support of NAFTA.

Mr. Chairman, I rise today in support of the North American Free Trade Agreement. This historic pact is essential to the future of our Nation.

As you know, the NAFTA debate has been a bitter one. The anit-NAFTA forces have pulled out all the stops in their drive to defeat this agreement. Their cries against NAFTA have been characterized by untruths and distortions. The rhetoric is peppered with insinuations and political threats for NAFTA supporters.

The anit-NAFTA forces have convinced some people in my district that passage of the agreement will mean nothing less than the end of our United States. Of course, they have used seductive, yet fallacious, arguments to make their case. But fear-mongering no longer sells and in the end I an confident that this historic pact will pass.

Today is the moment of truth, Mr. Chairman. It is the day this body will decide on the course of our Nation's trade policy. Will we pass NAFTA and choose to lead our hemisphere in free trade? Or will we cave in to the politics of fear and abdicate our leadership role, turning our backs on global trade liberalization? The opportunity is ours to lose.

The NAFTA debate has been called a choice between Populism and sound economics. That is an insult to Populism. It is more nativism than Populism that drives many NAFTA opponents. The second half of that is correct. There are sound reasons to vote for NAFTA. Mexico presents itself as a great, potential, and growing market for United States goods. Last year alone, the United States was the source of some 70 percent of Mexico's total imports, and the market for 76 percent of its exports.

This is a lucrative opportunity for U.S. businesses, and not only business with a big "B"; small businesses stand to gain the most under NAFTA, as firms with fewer than 100 employees tend to be the most vulnerable to high tariffs. NAFTA represents a chance for these companies to move into a new and growing market.

How good will it be? Well, hyperbole has been the norm in the battle over NAFTA, but it is clear that some areas of the nation will prosper directly from freer trade with Mexico. My home state of California stands to gain heavily, especially the Orange County area I represent here in Congress. According to a recent study by Cal State Fullerton, Orange County will be the beneficiary of a true boom. The study concludes that 10,000 new jobs would be created in Orange County by 1999.

Where will the gains come? Medical device manufacturing for one, which will be welcome news for an industry that is sure to suffer under Bill Clinton's coming health care disaster. A tariff of 16 percent will be eliminated in this industry. Machine parts, electronics and computers are also well-positioned to benefit from NAFTA. Overall, Orange County's $227 million annual trade surplus with Mexico is estimated to increase five-fold by the end of the decade under NAFTA.

But it is important not to overstate the economic benefits of NAFTA. Rather than being immediate and point-specific, NAFTA's effects will be largely evolutionary and cumulative. But the real benefits to U.S. businesses are the intangibles. A simple economic proposition is that if you lower the price of something, people will buy more of it. Thus, in this case, if Mexico lowers tariffs, which are in essence taxes, on American goods then you make it easier for the Mexican people to buy more American products.

Moreover, long-term plans could be made by CEO's in the secure expectation of the continued integration of the economies of Canada, Mexico, and the United States. And what is most important, business relations between the three nations are codified, and thereby placed beyond the reach of capricious Government action, something we cannot say even for our own country.

NAFTA opponents, in their specious reasoning, have attempted to portray the agreement as a big political risk for the United States. But although it would be disingenuous to ignore the implicit risks, it is fair to say that it is really Mexico who is taking the leap of faith. Americans, who as a nation believe they know more about other countries than they actually do, have a skewed vision of our neighbor to the south. It's poor, it's dirty, it's uneducated, it's corrupt. But these elitist views ignore the transition Mexican President Carlos Salinas de Gortari has led his nation through in the late 1980's. Gone are the days of "Yanqui, go home!" But if we turn our backs on our neighbors when they are making the effort to reform, then we could quickly return to the days when the United States and Mexico viewed each other with distrust.

The history of our two nations is characterized by often hostile relations with periods of cooperation. We are now entering such a period, which makes the timing of the agreement so critical. In past decades, Mexico has been targeted by Soviet and even Nazi influence as a platform for anti-American propaganda and intelligence gathering. But today, with the help of President Salinas, Mexico is making a conscious, collective choice to shed decades of socialist control and embrace market capitalism. The Mexican people are now convinced that free trade will help their economy grow. They are emulating the American experience. This is a true Cold War victory.

And make no mistake, the risks for Mexico are considerable. Under NAFTA, Mexican companies will face competition from bigger, better-financed, and technologically more sophisticated U.S. firms with better-educated, more productive employees. American industries complaining about losing out to Mexican competition absolutely pale in comparison to what Mexico will experience. Yet opponents persist. The politics of fear intensify their doomsday predictions. Nevertheless, a recent article in the respected publication, The Economist puts the threat in perspective.

Taking the most dire—and disputed—number for U.S. job loss due to NAFTA, 490,000, The Economist points out that as big as the number may sound in absolute terms, if true, it would have little affect on the U.S. labor market, which fluctuates by an average 200,000 workers every month. The Economist estimates that for Mexico to take away 2 million American jobs, which is a ridiculous estimate, it would have to generate a bilateral trade surplus of $100 billion, equal to a third of its current GDP. In short, an impossible turn of events.

NAFTA opponents work with some really incredible assumptions, and ignore the obvious. They assume that moving and training costs for U.S. firms are zero. And they ignore the fact that United States workers are eight times more productive than their Mexican counterparts. Gone from their figuring of Mexican wages are considerations of the burdens placed on Mexican businesses by a Socialist economy since the 1930's. Subsidized food, medicine, housing, and the traditional month's-pay Christmas bonuses are never mentioned. This of course, significantly raises the level of Mexican wages. In fact, fringe benefits account for 62 percent of base pay in Mexico, versus 8 percent in the United States. These wages have also been rising with productivity over the last decade.

What has been the experience of United States firms manufacturing in Mexico? As was recently reported in THE WALL STREET JOURNAL, many American companies are finding Mexican workers aren't so cheap after all. As the report stated:

> Wages in Mexico aren't nearly as low as many people believe, and low Mexican productivity often erases much of the wage advantage anyway. Moreover, a host of problems, ranging from congested roads to corrupt judges, run up operating costs. And few companies base plant locations on a simple calculation of wage differentials; for most U.S. manufacturers, the cost of labor is less important than such factors as the skills of the work force, the quality of transportation, and the access to technology.

These are all areas where the United States worker is light years ahead of his Mexican counterpart, which makes me wonder why Ross Perot, who is a friend of mine but with whom I strongly disagree on this issue, thinks that U.S. workers can't compete? And how would he explain the decision by Mercedes Benz and BMW to build their North American plants in the United States instead of Mexico?

What about the Maquiladora system we have heard so much about? Well, to date only about 96,000 jobs have gone to Mexico in the last decade under the Maquiladora system. The lower tariffs under NAFTA will, however, take away the comparative benefits of that system. It will be gone in 5 years.

To be sure, some American companies may seek to improve their competitive standing by relocating to Mexico to couple high technology with cheaper labor. But there is nothing to prevent American companies from moving to Mexico right now. You know I have heard several of my colleagues complain that big United States companies they have asked have refused to sign a pledge not to move manufacturing facilities to Mexico if NAFTA passes. Of course, these same companies would never sign such a pledge on the assumption that NAFTA would not pass.

I would suspect that if anything, because of the side agreements, which are supposed to result in tougher Mexican environmental and labor laws, there will be less incentive for companies to leave the United States with NAFTA. Also, lower tariffs on the Mexican side make moving to Mexico unnecessary. And besides, if an American firm is determined to move to take advantage of cheap labor, it will move to Asia if not Mexico. The difference is that if a company moves to Mexico, statistics show it will buy 50 percent of its inputs from the United States. If it goes to Asia, it will buy only 13 percent from America.

The fact is, NAFTA is a trend in world trade relations that we cannot afford to miss. NAFTA is ground-breaking. Never before will industrialized and developing countries have opened their markets so completely to one another. But NAFTA is also the next logical step for the United States and its two neighbors. And the trend promises to become a predictable flow as the decade progresses. South American nations are lining up behind Chile in particular to sign on to NAFTA at a later date. A candidate for President in El Salvador just this morning told colleagues that NAFTA will be good for everyone in the Americas.

But it's not just the rest of the Americas that wants to get in on the act. Australia's foreign minister, Senator Gareth Evans, recently stated that his country is interested in joining the trade pact, even if GATT negotiations were to fail.

GATT, of course, is another matter of concern. The NAFTA accord represents a consistent progression toward the goals of GATT. But defeat of NAFTA would have a chilling effect on the world economy. The President, for once, got it right. NAFTA has become a symbol of where we want to go in the world. NAFTA will be an "economic wedge" which will help bring free-market principles to the rest of the hemisphere. And the United States will be the point of that wedge. I am tired of our country being perceived as trailing in trade relations to nations such as Japan and Germany. NAFTA represents a real opportunity to turn this around.

Finally, a word about our Nation's sovereignty. Concern over sovereignty is premised on a fundamental misunderstanding of NAFTA. First, it is important to realize that no treaty or agreement can ever bind the United States if it decides to withdraw at a later date. This happens all the time, and I will prove this point later.

But more importantly, under NAFTA, our sovereignty is protected. The environmental side agreement explicitly recognizes "the right of each Party to establish its own levels of domestic environmental protection and environmental development policies and priorities, and to adopt or modify accordingly its environmental laws and regulations." A similar recognition exists for labor. It's true that Trade Representative Mickey Kantor has fudged this truth in past comments, but a recent letter to the ranking minority member of the House Ways and Means Committee, BILL ARCHER, affirms the language of the agreement. And conservatives should be comforted by the assessment of Judge Robert Bork of the American Enterprise Institute that indeed, the side agreements "are hardly a threat to our national sovereignty." In fact, he points out that the defeat of NAFTA would decrease U.S. credibility and influence in trade, and for this reason, our sovereignty would certainly count for less.

The side agreements are admittedly a bone thrown to U.S. labor unions and environmentalists, which exposes labor's all-out offensive against NAFTA as being a philosophical attack on free trade. Nevertheless, Judge Bork's assessment recognizes that neither Mexico nor Canada would be necessarily troubled by unilateral abrogation of either of the side agreements. Indeed, it is Mexico which would be most likely to do so, anyway.

But I will admit that the side agreements negotiated by Bill Clinton have made the NAFTA accord negotiated by President Bush less good. They create useless layers of bureaucracy and will cost us money. President Bush never envisioned including them in the original agreement, and they have scared away an important block of fee-traders. I would prefer NAFTA without them.

This is why upon passage of NAFTA, I intend to introduce legislation to withdraw the United States from both the Agreement on Environmental Cooperation and the Agreement on Labor Cooperation. I would encourage any of my colleagues who are basing their vote on the existence of these agreements to support NAFTA as an important trade agreement, and then support my legislation as a reform for the further improvement of that agreement.

So, Mr. Chairman, let me encourage my colleagues to look past the politics and stand in favor of world trade liberalization with the United States as the leader. I ask my colleagues to have a little faith in American competitiveness, and ignore the fretful alarms being sounded by NAFTA's detractors. The sky will not fall, but walls will, if we seize upon this historic opportunity and assume our leadership role as a Pacific power. Leadership does presume certain risks, but we cannot be afraid to act. Of leaders, our great president Teddy Roosevelt said, "His place shall never be with those cold and timid souls who know neither victory nor defeat." I urge my colleagues to take these words to heart, vote for NAFTA, and open a new chapter in American preeminence in world affairs.

Mr. Speaker, in closing let me emphasize in simple bullet sentences why NAFTA is good for California.

NAFTA will be an honest-to-goodness "boom" for the California economy. Here, Mr. Speaker, are some of the supporting numbers:

California's population is roughly the size of Canada's, with an economy three times that of Mexico's.

Mexico is California's fastest growing market, taking nearly 10 percent of the state's exports in manufactured goods. This share accounts for 16 percent of all United States manufactured products sent to Mexico.

In 1992, total State exports to Mexico weighed in at nearly $6.6 billion. This makes Mexico the State's third most important foreign market.

In 1992, California exports to Canada totaled $7 billion.

California is the Nation's leading exporter of electrical equipment and industrial machinery, which are two of the State's largest export products to Mexico. California firms account for 27 percent of all electrical equipment and 20 percent of all industrial machinery and instruments that the United States exports.

After electronics, electrical equipment and supplies, and industrial machinery, top export items include medical equipment, processed food and consumer goods. Increased sales will likely come for manufacturers of computers and office automation equipment, telecommunications equipment, aircraft and parts, and various types of technical instruments.

Electricity is four times cheaper in California than in Mexico, so as a manufacturing input cost, electricity remains an economically competitive factor for the State.

California's export volume in textiles and apparel to Mexico has grown 24 percent compounded annually since 1987. This comes to about a 489-percent increase, representing $209 million in increased sales. This put sales for 1992 at $252 million.

Other industries that will likely benefit under NAFTA are computer software, rubber and plastic, oil and gas field machinery, and transportation equipment.

California farmers are 25 times more productive than Mexican farmers.

The lifting of import licenses—called non-tariff barriers—will allow many aspects of California agriculture to compete in Mexico at long last.

There will be an expected boost of $10 million to $15 million annually for agriculture alone. In 1990, California agricultural exports to Mexico were valued at near $92 million.

The dairy industry will be one of the most positively affected sectors, as Mexico's population and income growth are projected to outpace its dairy production for years.

California is the seventh largest cattle producing State. National beef revenues are expected to triple, anywhere from $200 million to $400 million higher than without NAFTA.

California grapes, almonds, and hay will finally be able to compete in Mexico on equal footing.

Service exports like insurance, trucking and accounting, all usually related to agriculture exports, will likely grow considerably under NAFTA.

Some 184,500 California jobs are reliant upon manufactured exports to Mexico and Canada.

The productivity of California workers is 5 to 10 times higher than those in Mexico.

The California Office of Planning and Research estimates NAFTA will result in a net increase of 40,000 jobs statewide.

An estimated 61,000 new jobs in California's manufactured export industry have been created as a result of the relaxing of trade barriers in 1987 between Canada, Mexico, and the United States.

California, as one of four States bordering Mexico, stands to gain the most from a stronger Mexican economy which will be better able to employ more of its citizens, and thereby discourage the level of illegal immigration we see today. California is currently the destination of half of all Mexican migration to the United States.

NAFTA'S IMPACT ON ORANGE COUNTY

For Orange County in particular, NAFTA is even better news. It will create 10,000 new jobs here by 1999, fully one-quarter of all jobs created in California.

The current $227 million annual trade surplus Orange County has with Mexico will increase five-fold by the end of the decade. Next year alone, Orange County exports to Mexico will double to about $563 million.

Primary gainers for Orange County will be manufacturers of rubber and plastic goods, machinery, scientific and medical instruments, computers, and electronic components.

There will be some job losses in Orange County, but for every one job lost, eight will be created.

Mr. SOLOMON. Mr. Chairman, I made a suggestion to the gentleman from California that his wife take his place. But since we cannot do that, Mr. Chairman, I yield 8 minutes to another very valuable Member of the House from California [Mr. DUNCAN HUNTER], chairman of the Anti-NAFTA Task Force.

Mr. HUNTER. Mr. Chairman, I want to take this opportunity to thank my great friend, JERRY SOLOMON, for the valiant effort that he has led on our side of the aisle, and all of the great work that he has done. And I want to thank all of my friends, because I have had a mini-debate on the Republican side with just about every Member on this issue long before the vote occurred. I respect, I value and I treasure those who are going with us. I respect greatly those who have decided to go the other way.

I am impressed with all of the work that this House has done over this issue. There has been a lot of agonizing, a lot of agonizing, and I respect that.

In the end, Mr. Chairman, this agreement is a business deal. It is a business deal in which we make Mexico investment-friendly, and that is not all bad. But it is clear that that is what we do, and that is the reason that 44 percent of CEO's, chief executive officers of companies that do $1 billion plus in sales a year, 55 percent of those CEO's surveyed just yesterday said they were very likely or somewhat likely under NAFTA to move their production to Mexico.

It is because we are making Mexico investment-friendly. And let me tell Members what we have done to do that.

You know, a couple of years ago the Big Three undertook an experiment. We have heard a lot of statements on the floor and in recent months by the pro-NAFTA forces to the effect that Mexican workers are not very productive and there is nothing to fear. But we undertook an experiment, and the experiment by the Big Three was can Mexican workers, if they are well equipped, well trained and have good middle-level management, can they be as productive and make as high quality a product as American workers. And my friends, the answer came back a resounding yes.

If you look at the Ford plant at Hermosillo where they turn out 160,000 Fords a year, all to send back to American buyers, you will see that they have won a very prestigious J.D. Powers award for being the fifth-ranking auto plant out of 46 in North America for quality, for high productivity, beating out five Japanese plants, I might add, at that time, 96 percent of American machine yield, and all, my friends, for $2.38 an hours.

From my district in San Diego I have seen that same experiment take place in many, many companies that have gone on the other side of the border. So we can expect that production is going to move. We should not be naive.

And my friends, for those colleagues of mine, my dear colleagues who have stood up and said production is not going to go, we will not move jobs, I respect you a lot as fellow Members of Congress, but you are not CEO's. The CEOs say they are inclined to go. It makes common sense on their balance sheet.

So what do we get back for this moving production that so many people have talked about, because it will happen? Do we get back increased buying power from Mexican citizens that will actually buy a lot of our products and outbalance this movement of industry south?

The answer, my friends, is no. And that comes from pro-NAFTA economists who say because the labor pool in Mexico is so big, and because the PRI has such dominance, the only increase you are going to see in wages in Mexico over the next 5 years are going to be due to reevaluation of the peso.

So what does that mean? It means that the people who work at the Sony plant in Tijuana, just south of my district, can work the entire year, never buy a meal for their family, never pay a cent in rent, and they cannot in 1 year buy a single television set that they make. This is not a deal about increased buying power of the Mexican people.

And let me say to President Clinton, who has run and put out many, many releases, made many statements about the $40 billion in exports, that those are phony exports. It is very clear that one-third of those exports are U-turn exports. Those are the components that come from American manufacturers that go south to Tijuana, to Juarez, to other places. They are joined together in Mexico and U-turned back to the United States. And President Clinton calls that exports to Mexico. We know that he counts exports to Mexico When Briggs & Stratton leaves America and goes south to Juarez and takes a flatbed truck with $2 million worth of equipment across the Mexican border, and President Clinton will call that a job-creating export to Mexico.

When you strip it down and you strip away the phony exports, we do not have a trade surplus with Mexico. We have got a job surplus, and we have got a dollar surplus.

Now we need to help Mexico, my colleagues, I agree with that. But do you know what Mexico needs to be prosperous? Mexico is not undergoing the problems that they have and thousands of people are not coming across the border because of tariffs between the United States and Mexico. They need a good dose of political freedom.

A businessman in Mexico needs to be able to buy or not buy, hire or not hire without having to get the permission of the PRI. And working people in Mexico need to have the right to organize. They need to have the right to choose employers. They need to have the right not to be broken up by Federal officials when they came together for bargaining.

□ 2110

Mexico needs a good dose of political freedom, and that is something we will be happy to export to them.

Now, let me just talk to my Republican colleagues with whom I have had many small debates over the last several months on this subject. And I know where you are going to vote, and I respect that. I respect the analysis and the agonizing decision that many of you have made.

Let me just say something about our party. Two architects of our party, Abraham Lincoln and Theodore Roosevelt, were not for free trade, because they wanted to build our party around the workingman. Theodore Roosevelt ushered our party into this 20th century. Theodore Roosevelt was not an isolationist. He projected American military power around the world. He built the blue-water navy. He built the Panama Canal to drive it through. He presided over the greatest industrial surge in our history.

My Republican colleagues, he also built a majority in the House of Representatives, because he had working people on his side. He built our party around working people, and in his message, his platform message to Henry Cabot Lodge in 1904, he said our tariffs have to reflect the difference in wages between America's workingman and his foreign counterpart, because the standard of living of America's workingman should be the centerpiece of the Republican Party.

Teddy Roosevelt's workingman has done a lot since that day. He carried us through two world wars in which he saved the globe for democracy. That workingman brought down the Berlin Wall with his sweat, with his blood, small conflicts around the world. Recently he won the war in the gulf. He fed starving people in Somalia.

Did you know that the average worker in this country who carries a lunch bucket pays $1,000 bucks a year out of his paycheck in withholding just for national security? You cannot do that at $2.38 an hour. That is the American worker that we built the Republican Party around.

Well, we are not treating the American worker as well as we did in Teddy Roosevelt's day. In fact, we are retreating from the American worker.

NAFTA is not a glorious, honorable program. It is not innovative, creative, or courageous. It is a retreat. It is a retreat of American industry away from all the problems that we have caused in overregulation, heavy taxes, this contemplated massive burden that President Clinton is going to put on small business, the contributions that will drive many of them bankrupt, that is what American business is retreating from.

Well the American workingman deserves better, and I ask you to vote no on NAFTA. Let us vote no on NAFTA so that the average wage earner in this country, when he sits at the dinner table with his family after a day's work at his job, can say of the House of Representatives, the United States Congress, "It works for us."

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Chairman, I believe in politics, as in life, that you can never go wrong when you fight for what you believe in, and, DAVID BONIOR, I salute you and all those people who fought with you for your passionate defense of the people who suffered during the last two decades and beyond. You have my admiration and by respect.

Both parties, sitting here tonight have to take away from what I believe is a very momentous debate a new dedication to solve the problems of the very people that have been described. We owe it to them to leave this Congress with a national health care plan and a plan for training and reemployment in place. Let us dedicate ourselves to doing that tonight.

Many of us who have reached a different conclusion about where to go and how to proceed. We have a similar vision, but I believe that many of us are convinced that we can provide jobs for Americans and Mexicans by seizing opportunities to create new jobs and economic growth. Broader and freer markets will create new opportunities for all American workers and for those throughout this hemisphere.

But I think it is very important that we point out that those of us who are voting differently are doing so out of conviction, a similar kind of conviction, that I think we have heard expressed articulately on this floor tonight.

This has been a significant debate, reminiscent perhaps of the League of Nations debate or the fight over the Truman Doctrine.

None of us are owned by labor, none of us are coerced by business, and none of us are afraid of Ross Perot. We are the humble servants of the people who send us here, and we are struggling at this very moment to do what is right for the American people.

None of us has a corner on the truth, and all of us know the complexity of the world economy that we are part of.

I think this House is a grand place. I am proud to be a Member of it, and the passion that flows in this debate only underscores for me how deeply committed people all across this room are to fulfill the oath of office that they took a year ago.

I am absolutely convinced that, while none of us are absolutely certain of the result of our actions tonight, we are serving the American people in a time-honored tradition, and I think we ought to uphold and extol this institution, because it is still doing its job for the American people.

Mr. ARCHER. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, this is truly a watershed moment in our economic history.

This debate is more than just about trade with Canada and Mexico. It is about the importance of our economy and the importance of American workers and consumers alike. However, much more important is the significance of NAFTA as a symbol of our country's leadership in world affairs and the confidence that the American people have in their ability to compete and to win.

As the gentleman from California [Mr. DREIER] said, Ronald Reagan understood this, and it was his dream for a North American trade partnership that is before us tonight.

What we seem to learn from history is that we never seem to learn from history. I hope that will not be the case tonight, because since the industrial revolution, countries that have reduced their trade barriers have brought about a major increase in the standard of living of their people. Countries that have raised their trade barriers have suffered a decline in the standard of living of their people. I do not want that for America.

In spite of the many misstatements about NAFTA, the American people instinctively understand the case for economic growth, new and better-paying jobs, and, in particular, this agreement.

It contains no new taxes. In fact, its elimination of tariffs provides almost $2 billion of tax cuts for all Americans. America will prosper under NAFTA.

The United States can only win under an agreement where Mexico gives up its highly restrictive trade barriers and accepts the trade disciplines that we have had to follow for years.

How can we lose when we give up so little? Half of Mexican goods come into the United States today duty-free. The average tariff that we impose on their imports is only 4 percent. On autos it is only 2½ percent, while their tariffs, on average, are 10 percent with other highly restrictive measures against buying our goods and services.

□ 2120

Our country is imitated and envied all over the world for a reason: We are a competitive, compassionate, thinking and doing country.

NAFTA is nothing but another opportunity to help us do what we do best. Above all, NAFTA creates jobs for American workers, higher-paying export jobs. NAFTA really is the ultimate win-win situation. Mexico will modernize its economy by buying machinery, products, and equipment from the United States, creating better jobs for its own workers. Its consumers will then spend their new-found wealth on everything from autos and refrigerators to diapers made in the U.S.A., creating better-paying jobs for Americans.

Will firms move to Mexico because of cheap labor? They can do it today, and often they do because current Mexican trade barriers keep out American goods.

NAFTA will improve the situation for the shipment of products made in this country and not in Mexico.

Say "yes" to American jobs, say "yes" to NAFTA. Does NAFTA infringe upon our sovereignty? No. In spite of what some have said, there is nothing in this agreement that supersedes our Constitution or our right to make our own laws.

Vote "yes" on NAFTA. NAFTA secures our sovereignty. Passing NAFTA supports the democratic and economic reformers in this hemisphere.

Say "yes" to democracy, "yes" to open markets, "yes" to U.S. jobs, "yes" to NAFTA.

Mr. SOLOMON. Mr. Chairman, we only have one speaker to sum up for this side, and we would reserve our time.

Mr. BONIOR. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. YATES].

Mr. YATES. Mr. Chairman, I rise in opposition to the bill.

Mr. Chairman, we have heard so frequently on this debate that we must not miss this historic opportunity. So true, Mr. Speaker, but I fear it is an opportunity revised. This NAFTA could have been an historic document had some attention and some determination been exercised to protect the rights of working people and to protect the environment in our own country, both of which will be threatened by the terms of this agreement.

Ah, what might have been Mr. Speaker. I voted for the original GATT agreement almost 50 years ago. I believe in free trade—but I also believe in fair trade.

Even under GATT our environmental laws are attacked. In this week's press is an article which describes Venezuela as filing a protest against our anti-smog laws which require clean air standards of gasoline.

Venezuela wants to sell dirty air gasoline in the United States but is banned from doing so by our laws. These laws say Venezuela is a burden on free trade as referred by GATT. Of course, that clause will be fought and rejected I trust.

This is an example of the kind of threats which NAFTA offers to the environmental protections we have so long fought to obtain. I fear that rather than our bringing Mexico up to our standards, this agreement may very well result in bringing our standards lower.

We need strong protections which this NAFTA does not contain for both the environment working conditions and wage levels.

I shall vote against this NAFTA.

Mr. BONIOR. Mr. Chairman, I yield such time as he may consume to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Chairman, I rise in opposition to the bill.

Mr. Chairman, many years ago, as a student at the Netherlands School of International Business and Economics, I had the opportunity to learn about the benefits of free and fair trade. I understand that a North American Free-Trade Agreement [NAFTA] would be beneficial to Kansas, the United States, Canada, and Mexico. The issue before us now is not whether we need a trade agreement with our North American neighbors—we do—but whether the agreement currently before Congress is the best agreement we can get.

After months of study, I have concluded that NAFTA, as it is currently written, is not the right agreement for Kansas or the United States. We can and must negotiate a better deal, not only for the sake of Kansas workers who are threatened by this agreement, but also for the sake of Mexican workers who have been victimized by their government's labor policies.

Thoughtful opponents of NAFTA are concerned about the agreement's effect on state sovereignty, and U.S. food safety and environmental laws. While I share some of those concerns, my primary objection to the agreement is that it does not address the need for labor law reform in Mexico. Unless such reform is required as a part of NAFTA, Mexican workers will not earn the wages they will need to buy U.S. made products.

NAFTA'S FATAL FLAW

Simply put, no trade agreement with Mexico will significantly benefit the United States unless it requires the Mexican Government to allow the wages of Mexican workers to increase with their productivity. Because the Mexican economy is only a fraction the size of ours—5 percent of the United States gross domestic product—the only way to expand substantially the Mexican market for our products is to increase the purchasing power of Mexican consumers. This cannot happen unless the Mexican Government abandons its historic policy of holding down wages. Today real wages in Mexico are lower than they were in 1980.

Because the current agreement does not adequately address this fundamental issue it is fatally flawed.

NAFTA CAN AND MUST BE RENEGOTIATED

Historically the Mexican Government simply has not respected the basic rights of working men and women. Incredible as it may sound, workers must ask permission from a government commission to strike. Last year, 6,000 strike request were filed. Less than 2 percent of the requests were granted.

Throughout recent history the handful of rich and powerful families who control Mexico's government have kept the wages of workers artificially low to combat inflation and to attract foreign investment from multinational corporate conglomerates seeking low wage labor as a way to cut costs.

If Mexican wages are not allowed to increase freely with productivity under NAFTA, it will not only sabotage the agreement, it will also create a downward pressure on United States wages. The combination of increased productivity, artificially low wages, and enhanced investment security will give United States companies additional incentives to relocate manufacturing operations in Mexico. And it will put pressure on U.S. workers to agree to wage concessions in order to keep their jobs.

Mexican President Salinas has reportedly promised to allow the average Mexican industrial wage of $4.20 a day to start rising with inflation and productivity. But there is nothing in the agreement, or the side agreements, that requires him to follow through on this promise. As President Reagan would say, we should "trust, but verify." There is no mechanism in the current agreement to do that.

We must insist that the agreement be renegotiated to require the Mexican Government to reform its labor practices. If we ratify the current agreement, we would be placing our seal of approval on the status quo and the Mexican Government will be under no obligation to make the necessary reforms.

This conclusion is verified by the Economic Policy Institute, which in a recent report said: "The idea that somehow we might influence democratic reforms after we have rewarded this authoritarian regime with permanent economic benefits flies in the face of everything we know about human nature and politics."

At the very least, NAFTA should contain a formal review mechanism which would require that each nation reapprove the agreement after a set period—perhaps 3 years. This kind of provisional approval would provide the Mexican Government with an opportunity to demonstrate that it is willing to honor its promise to let wages rise with productivity, and allow Congress to verify that progress is being made.

I do not believe that our choice is either this NAFTA or no NAFTA. I have been involved in too many business and legislative negotiations to be pressured into accepting a bad deal. The United States must not act out of fear. We must negotiate from a position of strength and be patient.

The renegotiations I have called for could take place in the coming weeks, or after the Mexican elections next summer.

A trade agreement is in the best interests of Kansas, the United States, Canada, and Mexico. All three nations understand that simple fact. So in spite of the rhetoric on both sides of the border, I believe that all three nations will be motivated to continue the negotiations until a fair agreement is reached.

NAFTA AND KANSAS

Much has been made about the potential benefits of NAFTA to Kansas agriculture. Too much. In an attempt to build support for the agreement, proponents have overstated the potential benefits. For example, a USDA study indicated that NAFTA would increase revenues to the U.S. wheat industry by about $30 million over the 10 year transitional period.

If true, this would increase Kansas wheat exports by approximately $5.4 million over the same period. While that is a considerable sum, it represents only one-half of 1 percent of the State's total annual wheat sales.

Make no mistake about it, I am interested in anything that increases Kansas' agricultural exports. I understand that trade with Mexico is important to Kansas. But I am confident that Kansas agricultural exports to Mexico will continue to increase with or without this NAFTA. I strongly believe the renegotiated NAFTA that I am advocating would be more beneficial to Kansas farmers and workers than the one which is now before us.

THE COSTS OF NAFTA

In addition to an estimated $3 billion in lost tariff revenue, NAFTA will cost billions of dollars to implement. It is estimated that necessary infrastructure improvements and environmental cleanup projects in the border area, coupled with a program to retrain displaced American workers could cost as much as $40 billion. Right now, there is no plan in place to pay these costs. In fact, many proponents of NAFTA simply want to add these costs to the deficit. That must not be allowed to happen.

A BETTER NAFTA

I voted last year to give President Bush "fast track" authority to negotiate NAFTA. I did so because I was committed to achieving a workable agreement. I remain committed to that goal.

I believe that the President can and will negotiate a trade deal with Mexico and Canada that will be better for American farmers, workers, and businesses.

Mr. BONIOR. Mr. Chairman, I yield such time as he may consume to the gentleman from North Carolina [Mr. WATT].

Mr. WATT. Mr. Chairman, I rise in opposition to NAFTA.

Making a decision on NAFTA has been a wrenching experience. Because NAFTA has been such a hotly debated proposal and an issue on which I had so little experience, I thought I owed it to my constituents to consider every available piece of information and every opinion and to allow those for and against NAFTA to attempt to make a compelling case without feeling that I had already closed my mind to their arguments.

Because I was undecided, I heard from thousands of constituents and representatives of interest groups about every conceivable aspect of NAFTA. I read hundreds of letters, position papers, and studies and attended every hearing I could on the subject. I met with those who had strong opinions, asked the hard questions, played "devil's advocate," debated my staff, questioned my colleagues, and probably made life miserable for myself and those around me. In the process I learned a lot about constituents on both sides of the issue and I learned more and more about the merits and shortcomings of this NAFTA.

One important thing I learned about my constituents was that while many of them had strong opinions about NAFTA, and sometimes personal or business interest they perceived NAFTA would help or hurt, they were confident that I would make up my mind only after carefully balancing the competing interest and after thoroughly evaluating all the important arguments for and against passage. While that imposed a greater responsibility on me, it was also extremely comforting.

On November 17 I no longer had the luxury of being undecided. As a Member of Congress I was called upon to vote on NAFTA. I voted against it. Here are the main reasons why.

NAFTA will result in a loss of low wage jobs. Even supporters of NAFTA conceded that NAFTA would result in the loss of low wage, labor-intensive jobs. They argued that the loss of low wage jobs would be more than offset by an increase in the number of high tech jobs. This projected increase in high tech jobs, however, provide little consolation to the employees in the 12th district who hold low wage jobs (about one in three wage earners). These employees are not currently trained to do the high tech jobs expected to be created under NAFTA. Yet all my efforts to have an aggressive retraining program included as part of NAFTA or considered at the same time as NAFTA, efforts which I pursued with the administration over several months, were unsuccessful. Without the promise of retraining, I simply could not justify this NAFTA to the employees in my district for whom low wage jobs are clearly better than no wage jobs.

NAFTA could result in lower wages for U.S. workers. The daily wage of a Mexican employee is roughly equal to the hourly wage of a U.S. employee and Mexico has an abundant supply of workers. When polled, one in four U.S. business executives admitted that they would use Mexico's low wages as a threat to keep U.S. wages down. This could mean that U.S. workers might have to face the unfair choice between keeping their jobs or accepting lower wages, fewer benefits or worse working conditions.

NAFTA will encourage some U.S. companies to move to Mexico. All the business owners who discussed NAFTA with me verbally assured me that they would never consider moving their businesses to Mexico. However, when I suggested that they back up that verbal assurance by agreeing in writing to pay U.S. minimum wages, meet U.S. labor standards and comply with U.S. environmental standards if they did move to Mexico, not one of them agreed to take me up on the offer. Without that written commitment, I found it impossible to believe that some businesses would not be tempted to relocate to Mexico.

Devaluation of the Mexico peso could reduce or eliminate the U.S. trade surplus. Evidence presented at hearings regarding NAFTA confirmed that the peso is currently overvalued. This makes U.S. exports artificially cheaper and allows Mexicans to buy more U.S. goods. I expect the peso to be devalued after passage of NAFTA. If this occurs, the difference between Mexican wages and U.S. wages will be even more dramatic than it is now and the ability of Mexicans to purchase U.S. goods will be substantially reduced.

After a thorough analysis, I concluded that this NAFTA shortchanges both U.S. workers and businesses by taking the wrong approach to the agreement.

Workers in all three countries would have benefitted by requiring in the agreement that work and wage standards be improved in Mexico. This would have addressed the legitimate fears of U.S. workers, and it would have resulted in U.S. businesses exporting substantially more than under this NAFTA by assuring that the people of Mexico could really afford to buy our products. This is exactly the way the Europeans approached the development of their Common Market.

Workers and businesses would also have benefitted by including a mechanism to stabilize the Mexican currency. Again, this was the approach of the European Common Market. Any agreement which fails to address concerns about the value of the peso runs the risk of jeopardizing the ability of Mexicans to purchase products made in the U.S., reinforcing Mexican workers as second class employees, increasing the attractiveness of Mexico as a relocation site for U.S. plants and increasing the insecurity of U.S. workers.

Businesses and workers would have benefitted if a comprehensive worker retraining program had been included in the agreement. Expanding businesses would have been guaranteed a plentiful supply of skilled workers and workers would have been guaranteed the opportunity to learn the skills needed to fill the high tech jobs to be created.

Perhaps the most devastating consequence of shortchanging workers and businesses is the precedent we have set. If, as economists have indicated, passage of NAFTA sets the stage for trade agreements in Chile, Venezuela and the rest of our hemisphere, we may well have done our country a disservice which far exceeds the immediate impact of this NAFTA by allowing this agreement to become the model.

My constituents, both those who supported and those who opposed this NAFTA, can be assured that the analysis represents my very best evaluation. In light of the passage of this NAFTA, more than anything else, I hope that the concerns I have expressed turn out to be dead wrong.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. I thank the gentleman for yielding this time to me.

Mr. Chairman, success has many fathers and to give proper credit, NAFTA is the product of the visions of Presidents Bush and Clinton. It is not perfect, but it is clearly the right step, the right time in the post-cold war history.

Like the New Hampshire primary and the budget agreement, President Clinton's tenacity and leadership have brought NAFTA back from the dead. He deserves the major accolades today.

NAFTA is going to become reality because of a true bipartisan spirit of cooperation. NAFTA has shown that bipartisanship can work if properly nurtured.

Mr. Chairman, I salute the Republicans for their commitment. I salute the opponents of NAFTA for the depth of their sincerity and their convictions in fighting for their constituents, many of whom have lost their jobs.

For those NAFTA opponents in my party, we must start healing our wounds starting tomorrow, regardless of the outcome of this vote. As we cast our vote tonight, let us ask these questions: Can we afford to turn inward as a Nation at a time when the world cries out for our leadership in the new battlegrounds of trade and economic competition? Are we willing to surrender markets in Mexico and Latin America to Japan and Western Europe and turn our backs on our friends in our own hemisphere? Are we willing to gamble on a status quo without NAFTA to improve the problems of illegal immigration, labor, and environmental protection?

With NAFTA we have a fighting chance to address these problems.

Mr. Chairman, around this country, across Latin America, Asia, and Europe, the eyes of the world are upon this chamber. The easy vote is "no." The tough vote, but the right vote for this country and the world community, is "yes."

Let us tonight make the right choice.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I believe each of us is concerned with taking a course of action that will further economic growth for the United States. But we have two very different views of America's future being put forward today. One is confident and open. The other is insecure and closed. Both views are accurate in describing what most of us feel is going on around us, but it is the first view that I believe must prevail.

We have a responsibility to our constituents, to all Americans to choose the path that will enable us to prosper in an increasingly competitive world. We cannot withdraw from that world and we must not let others determine our economic future.

Since the passage of legislation providing for the consideration of the North American Free-Trade Agreement, our country has been involved in an intense but nevertheless healthy debate about the merits of that agreement and what it means for the future. This is Democracy.

My decision to support NAFTA is one which I considered very carefully. There are serious concerns on both sides of the debate as we have heard throughout today by our colleagues. As with any important issue affecting the future of our country, the decision has not been an easy one.

I recognize that many of my closest friends and strongest political supporters have expressed fears that the adoption of NAFTA would lead to a loss of jobs for many hard-working Americans. They believe that a free trade agreement is desirable and ultimately important to our economic future, but that this agreement is flawed. I recognize those fears are genuine and deeply felt. They are not a mere debating point, they are the concerns of every hard-working American.

In making my decision to support NAFTA, I have carefully considered the views of my constituents, labor, business, environmentalists, human rights activists and those of the President and his administration on the economic opportunities and risks that NAFTA presents.

I an convinced the United States stands to gain with the passage of NAFTA.

Mexico is already our third largest trading partner. In fact, Mexico and Canada, together account for one-fourth of all United States trade. With a population of more than 80 million, Mexico buys 70 percent of its imports from the United States. Since Mexico began lowering its trade barriers in 1986, American exports have more than tripled, creating hundreds of thousands of American jobs.

The fact is that exports are our largest job creator and are likely to remain the key to America's continued economic growth. The United States cannot ignore the importance of the Mexican market for American goods.

NAFTA will create the world's largest free trade zone with over 370 million customers and $6.4 trillion in annual production. As Mexico's tariff walls come down, which we must remember are generally two to three times higher than those of the United States, exports will increase and jobs will be created. In the long run, NAFTA will enable Mexico's rising population to become a fast-growing market for U.S. goods and will provide the economic incentives for its citizens to choose to remain in Mexico.

I understand that all of these statistics must be put in the proper context—the fact is that Mexico's economic importance and thus its impact has been exaggerated by both sides—its size is only about 5 percent of the U.S. Second, trade barriers between the United States and Mexico are already relatively low. What are we doing here today with this agreement is basically concluding a process of trade liberalization that began almost a decade ago. Third, U.S. employment statistics routinely fluctuate up and down by 200,000 on a monthly basis. This needs to be kept in mind when we look at the figures put forward by both opponents and proponents on projected job losses and gains. This in no way dismisses the jobs issue, I am merely setting forward the reality in which the issues are being framed.

Clearly, the labor community feels passionately about this issue. During the past 12 years the Federal Government has essentially ignored the devastating impact of global competition on America's workers and communities.

Therefore, it is essential that we remain vigilant in examining and responding to the job effects of any trade agreement. We must have retraining programs available. And with respect to NAFTA, we must be prepared to invoke those provisions of the Agreement that provide for remedies if there should be extraordinary impacts on particular sectors or by the agreement as a whole. We must put forward an economic strategy that both expands trade opportunities and offers new sources of opportunity and security for American workers.

However, the Global economy is reality that we cannot make go away, a reality that a defeat of NAFTA will not change. The daily shifts we are experiencing as a nation regarding job losses and creation will go on and must be dealt with as they occur. Regardless of what happens to NAFTA, our responsibility is to work to ensure the overall growth of our economy, a rising standard of living for our people and increased employment opportunities.

I view my support for NAFTA as a vote of confidence in America's future in a world in which no nation can close its doors and expect to prosper or grow and in which no nation can be expected to open its doors without demanding that such a move be reciprocated.

I have concluded that, if NAFTA passes:

First, the people of the United States stand to gain;

Second, America's credibility as a negotiator, as a world leader, and as a trading partner will be enhanced;

Third, American businesses and workers will profit from a market not just in Mexico but eventually throughout Latin America;

Fourth, American competitiveness will be strengthened vis-a-vis Japan and the European common market; and

Fifth, and we will send a positive message that the United States is committed to working together to develop strong economic and political ties with our closest neighbors.

Ultimately, I think NAFTA is about more than tariffs and trade, It is about America's capacity for leadership, its ability to compete in the new global economic order, and its willingness to support the growth of economic reform and political freedoms abroad.

If we defeat NAFTA today, we will:

First, squander a unique opportunity to forge a new economic and political partnership with the reformers throughout Latin America, a partnership based on respect and shared opportunity;

Second, appease the forces of nationalism and anti-Americanism in the Western Hemisphere;

Third, betray America's tradition of championing open markets, and;

Fourth, tell our allies with whom we are negotiating GATT that the United States only supports free trade when it can insulate itself from the forces of international economic competition;

To defeat NAFTA is to believe that American businesses and workers can not compete and to encourage those waiting on the sidelines, Japan and Europe, to take our place; and to run from challenge and opportunity, when we know we can triumph and prosper.

In 1962 our 35th President, John F. Kennedy, was promoting passage of the Trade Expansion Act, and stated that protectionism reflects "A national lack of confidence and growth."

I believe that Americans fully understand that we live in a world in which doors can not be shut to isolate us from the vagaries of competition. I also believe that Americans are willing to keep those doors open as long as our neighbors do not shut theirs. Finally, I believe that Americans support policies that widen opportunities for American workers and businesses as long as we are prepared to assist those who may get hurt in the process.

For months the people of America and its representatives have struggled with the challenge of NAFTA. Is it good or is it bad? Will it create jobs or take jobs? Will it help to expand our economy or will it shrink it?

As of yesterday, America was evenly divided. This division is in the context of the loss of American manufacturing jobs and market share to foreign competitors. And, in the context of the conflict, between fear and hope; pessimism and confidence.

Today the House must decide and that decision will involve risk. I have concluded that it is a risk worth taking. And, I believe that America, can and will meet the challenge posed by open competition.

Change is never easy and rarely without risk. And, there is very often the fear of failure. America's greatness has never been rooted in fear; but, rather it has been based on the willingness of Americans to adapt, to compete, and to prevail.

As we make this decision, let me urge my colleagues on both sides of the aisle who will vote for NAFTA, that we pledge not to forget nor forsake those who are presently being visited by the pain of change in this global economy.

I believe support of this NAFTA is in the best interest of America's economic future; of the political, social, and economic vitality and vibrance of this Hemisphere; and of the political and economic relations of America with the rest of the world.

John Kennedy in his inaugural address asked: "Can we forge against these enemies (of tyranny, poverty, disease, and war itself) a grand and global alliance, north and south, east and west, that can assure a more fruitful life for all mankind?"

And then he asked his fellow Americans, "Will you join in that historic effort?"

Such a historic opportunity is now ours.

President Clinton has responded with courage and vision: "Yes."

Today, we in this House, in our time, must also answer, "Yes."

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. MATSUI].

Mr. MATSUI. I thank the chairman of the Committee on Ways and Means for yielding this time to me.

Mr. Chairman, I, as Mr. FAZIO, would like to reach out to the opponents of the NAFTA, particularly the gentleman from Michigan [Mr. BONIOR], the leader of the effort, and commend him for the work that he has done and the passion he has shown for those he represents, and certainly the fact that in our caucus—if I might just say—he has never brought this up to try to embarrass or harm the proponents. He never brought it up in any of the whip meetings. For that I think those of us who support the NAFTA really appreciate all of his efforts.

And certainly to my colleagues on the other side of the aisle, many of us as we began the process of NAFTA, just as you felt about us, had trepidations about whether each of us could trust each other.

☐ 2130

I have to tell you that those of us who support the NAFTA, Democrats and Republicans, feel that we have reached a new beginning with each other.

I have to tell you that those of us on this side of the aisle have the utmost respect for those of you and we look forward to working with you in the future.

What the NAFTA is all about is a trade agreement. It reduces tariffs on both sides of the border. For every $4 of U.S. tariffs, there are $10 worth of Mexican tariffs.

It protects intellectual properties of the United States and it also provides trade and services, banking, insurance and other services that are so prevalent nowadays in the free world. This will produce jobs in the United States, not a lot of jobs in the United States, because trade is not a zero sum game. If a job is created in Mexico, that does not mean a job is lost in Detroit or California. That means you create a middle class in Mexico which creates a market for more United States exports. That is why this is beneficial.

But the opponents have said that the Mexican Government is corrupt, that they do not treat their workers right.

Yes, they have problems, they indeed have problems; but since 1987, as all of you know, they have a new leader, President Salinas. He has privatized 80 percent of the nationalized businesses in Mexico by trying to make it more like a free market economy. Since he has taken office, wages for the average worker in America have gone up 40 percent.

Jamie Sierra, who is one of the leaders of Mexico, says, "Congressman MATSUI, why it is that your people don't understand that we are trying to be a democracy like you, that we are trying to move to a free market system and treat our people well? It is going to take time, but help us, help us do it."

But more importantly than the issue of trade is the issue of America's role in the world since the cold war has ended.

There have been a few defining moments in America. For example, one would look at the Louisiana Purchase, or the purchase of Alaska. I have to tell you that there was a lot of controversy when those events occurred, even though they appeared to be small events, but the Louisiana Purchase opened up the West and Alaska, as you know, is a natural resource to all Americans.

I have to tell you that this is a defining moment as well, because this is going to determine whether this country after the fall of the Berlin Wall is willing to reach out and protect the concept of trade so that we lift all boats in this world, the poor, the rich, and all people of this hemisphere. That is what is at stake in this debate, and that is why the passage of NAFTA is so important.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, in a few minutes, each of us will confront a personal moment of truth. I will enthusiastically vote in favor of the NAFTA legislation. I am confident that NAFTA is both good for the United States and good for the Americas.

We disagree among ourselves about the impact of NAFTA. But there is broad agreement on some basic issues. These areas of agreement argue strongly for approval.

First, there is virtual unanimity among economists that this agreement will help our economy grow faster. The lesson of history is that expanding markets benefit everyone involved—producers and consumers, exporters and importers, richer and poorer nations.

Second, there is equally broad agreement that America is losing low-tech factory jobs and will continue to do so whether this agreement is accepted or not. There is not reason to believe that accepting this agreement will accelerate that change. In fact, there is some reason to believe that NAFTA will moderate it.

Our challenge now lies not in trying to turn back the clock, but in gaining control of our future. Those who labor to preserve the past run a risk of sabotaging our future.

NAFTA will give us easy access to millions of middle-class Mexicans who crave goods marked "Made in the USA" and thus create jobs here.

My third point is that while trade has been used as a component of our foreign policy, it would be foolhardy and frustrating to trade only with nations that are American clones. Critics point to Mexican environmental and labor standards, both of which are lower than ours. But we continue to trade with many nations that have worse records in both areas. And we should. In this case, the fact is that NAFTA will have a positive impact on Mexican standards.

Those who say we should renegotiate to achieve an agreement that will make Mexico meet our standards set an unattainable standard. Politics is not about perfection. It is about incremental progress. And this agreement includes substantial progress on both the labor and environmental standards questions.

Ultimately, however, this debate is about hopes and fears. Those of us who support the pact are confident that Americans can compete with anyone anywhere and prevail. Those who oppose it tend to fear that we cannot compete and should focus on holding on to what we have got. Their message is a sad one because what they are ultimately saying is that America's best days are behind us.

A vote against NAFTA is nothing less than a vote for economic surrender, a statement that America cannot compete and lacks the courage to try.

A vote for NAFTA is a vote for the future and a show of confidence in American competitiveness.

I urge my colleagues to put aside their fears. Vote for a brighter future by approving this important legislation.

Mr. SOLOMON. Mr. Chairman, I believe we will be next-to-last in the pecking order. We would reserve the balance of our time at this time.

The CHAIRMAN. It is the understanding of the Chair that there are four speakers left and the gentleman is in the order in which we have been rotating.

Mr. SOLOMON. Would the Chair cite the order? I just want to make sure we have a pro and a con, and a pro and a con.

The CHAIRMAN. It is the understanding of the Chair that there are four speakers left, that we are going in the order in which we have been rotating. There will be "nay," "yea," "nay," "yea."

Mr. SOLOMON. I thank the Chair. That is the order that I wanted, and that is certainly satisfactory.

The CHAIRMAN. The gentleman may proceed. The gentleman from New York [Mr. SOLOMON] has 7 minutes remaining.

Mr. SOLOMON. Mr. Speaker, I yield myself the balance of our time.

I call attention of the body that in my 15 years in this Chamber this is only the second time where we have gone into an extended debate for some 12 or 13 hours, when tempers did not flare, when the debate was conducted in a civil manner, and certainly I think the entire House is to be commended for that, and I congratulate all the Members on all sides. Certainly it shows that reasonable men and women can be civil to each other, and just to prove it, the gentleman from Georgia [Mr. GINGRICH] is sitting right here next to me.

Mr. Speaker, when the debate started over 13 hours ago, I spoke about the unfairness of this treaty and the lack of a level playing field that placed American business and industry, and the American worker, at a severe disadvantage in competing with their counterparts in Mexico.

And I called attention to a number of egregious flaws to the NAFTA agreement, that cause long time free traders like me to oppose this treaty.

First, NAFTA violates the U.S. Constitution, articles 1, 2, and 3, as well as the fifth amendment.

Second, it threatens the sovereignty of our Nation by creating huge new international bureaucracies and tribunals, like the North American Trade Commission, the North American Development Bank, and the Border Environmental Cooperation Commission, and God knows what else.

And these unelected, unaccountable tribunals and bureaucrats, are empowered to usurp the legitimate and constitutional authority of the U.S. Congress.

They are empowered to abrogate States Rights, and even override our own State and Federal court system.

And the American taxpayer will once again be called on to: First pay for the establishment of another International Bank, and more foreign aid that the American taxpayer does not want to pay for.

Second the taxpayer will have to pay for $2½ billion in lost revenues caused by reduced tariffs.

And third—and even worse—the taxpayers are going to have to shell out what the newspapers report at about 50 billion dollars to pay for the special exceptions (or considerations) that President Clinton had to enter into to guarantee passage of the treaty.

But Members of this House, the most egregious flaw in this unfair treaty is the trust we are placing in the Mexican Government.

Ladies and Gentlemen, the Mexican Government continues to be one of the most undemocratic, politically corrupt governments in our part of the world.

Mexico is, let's face it, a one-party dictatorship, run by a political party that has magically won every election since 1929 (64 years in power) * * * and we all know how that happens.

Members, the Mexican Government can and does violate its own laws. It routinely fails to enforce its own labor and environmental regulations.

Thus, while American business and industry will have to meet our already high labor and environmental standards, Mexican firms will not, and even if they did enact them into their law, they wouldn't enforce them, because they refuse to do it Right Now!

Therefore this agreement amounts to little more than a handshake, and this Mexican Government cannot be trusted to make good on just a handshake.

Members of this Congress, the way to deal with a nation like Mexico is bilaterally, without the interference of some third, higher force, accountable to no one, especially not the American people.

Members of Congress, bilaterally, we could demand that the Mexican Government write these agreements into their commercial code and enforce them before we sign the treaty.

That's the kind of treaty we should be voting on today.

That's the kind of treaty that would create the level playing field, that would make free trade, fair trade.

It's the kind of treaty that would take away the risk of losing hundreds of thousands of jobs.

Mr. Speaker and Members, I represent the Hudson Valley of New York State, 157 small towns, most of them 200-year-old mill towns, along the Hudson River.

It's the old Rust Belt that used to have a thriving textile industry, making gloves, shirts, carpets, paper and electrical capacitors. Mr. Speaker and Members, most of those industries are gone. They moved South—or to China or Korea and yes to Mexico, and our young people went with them. The few that are left employ mostly older workers, and, Mr. Speaker, these people are worried. They are afraid they are going to lose their jobs.

I sat in my office until midnight last night taking calls from those worried people. For example, one typical call came from a 55-year-old man. (I know him) I see him at football games, hockey games. He's a man who dropped out of high school to join the military. Four years later he came home, got married, had children, coached little league, worked with scouts, was a volunteer fireman, and is an exemplary citizen in his community. That 55-year-old man called me last night and I'll never forget that call. He said to me, JERRY, I'm scared, I'm scared to death, I'm scared to death I'm going to lose my job. I still have kids in high school and college, and I'll never find another job, and with his throat choked up, he said, JERRY, please please don't do anything that will make me lose my job.

Well, Mr. Speaker, I don't know whether NAFTA will cause him to lose his job, but it might, there is a risk, and if he did, I'd never be able to look that man in the face. I'd be embarrassed and humiliated. And that's why I will not vote for this treaty in its present form. But if the treaty is defeated, I will do anything in my power to work with Democrats, and Republicans, and the President, to enact another Free Trade Agreement, one that is fair and level for American business and industry, and fair for American workers.

Please vote "no" on this unfair treaty.

□ 2140

Mr. ARCHER. Mr. Chairman, I yield the balance of my time to the distinguished Republican leader of the House, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Chairman, may I at the very outset join in the compliments to the House on our decorum throughout this debate, and, in wrapping up the debate for our side in the affirmative, Mr. Chairman, I am not going to deal with the substantive issues for they have been pretty well covered. But I would like to address, if I might, first my own side over here.

Mr. Chairman, we Republicans have always, during my tenure here in the House, believed in free trade strongly, breaking down tariff barriers and creating the kind of environment our businesses and industries need to be competitive in a global economy.

□ 2150

You were reminded earlier, by I think both the gentleman from California [Mr. DREIER] and the gentleman from Texas [Mr. ARCHER], that it was President Reagan who, early in the days of his administration, called for breaking down the barriers to trade throughout the hemisphere. Then we enacted the Canadian Free-Trade Agreement, and now our efforts are turned to the South, to open up Mexico, and eventually Central America and South America.

A vote for NAFTA is in the great tradition of our party. It is a tradition that taps into the very wellspring of American hope and confidence. So let it be said on this crucial vote tonight that we Republicans did not sacrifice the jobs of tomorrow to the fears of today.

Make no mistake about it: this is also a battle for our principles, our values, and our vision. The more votes I see up there on the board from our side tonight, the better. It ought to be 131 or 132 or more, and it will make me that much more proud.

Now let me make my last pitch maybe to those of you on both sides who may yet be undecided or have that uneasy feeling about your voting for NAFTA. I know the pressures you are under. I have been there any number of times over my years. It is tough. And when your political friends, your good friends, are telling you to vote no, when you have a strong inclination on the merits to vote yes, let me offer one reason you might vote that way.

There is a great legacy of faith in America's future, going back to the very foundations of our Republic. This vote on NAFTA is a referendum on that faith in America's future. Does that faith still endure? Does it still inspire?

When President Clinton leaves this weekend to a most important international meeting in Seattle, the leaders of other nations will be asking those questions in a very pointed way. The President, in my mind, certainly does not deserve to be rebuffed by the Congress on the eve of this meeting.

So let us not be victimized by the bully boys, the spokesmen of the politics of fear, the economics of anxiety, and the philosophy of despair.

I know that our colleagues who are opposed to NAFTA on both sides of the aisle base their opposition on principle. But think of the three most famous nonelected opponents of NAFTA: Ross Perot, Pat Buchanan, and Ralph Nader; the Groucho, Chico, and Harpo of NAFTA opposition.

I thought maybe it was an appropriate time to lighten it up a bit.

But, seriously, they and others like them want to define our time as the Age of Anxiety, in which our own response to the challenges of global competition is to retreat, whine, and whimper.

This Nation did not come this far to stay hunkered down in fear and trembling, behind walls that do not protect us, but merely isolate us. And with all due respect to my dear friend who made reference to the patron saints of our party, Abraham Lincoln and Theodore Roosevelt, those were different times. The world has changed. These are the problems we are faced with today. We do not live in that world. The relationship of the United States with the rest of the world is changing daily, and we have got to meet that change. That is what it is all about.

Finally, in political chaos like this, when the old landmarks are lost in a fog of rhetoric, we cannot look to others, but we have to look into our own hearts and our minds and do what our conscience tells us is best for our country.

So, again let me just simply say, do not sacrifice the jobs of tomorrow to the fears of today. A vote for NAFTA represents the best traditions of our past and the best hope for our future.

Mr. BONIOR. Mr. Chairman, I yield the balance of our time to the distinguished majority leader, the gentleman from Missouri [Mr. GEPHARDT].

The CHAIRMAN. The gentleman from Missouri [Mr. GEPHARDT], the distinguished majority leader, is recognized for 8 minutes.

Mr. GEPHARDT. Mr. Chairman, this debate represents a proud moment for the House of Representatives. Tonight the American family is coming together to make a very difficult and a very hard decision. As with the debate on the Persian Gulf war a few years ago, we have tonight a divided country on a very difficult issue. And now, like then, we have been listening to the American people, we have been debating the facts of this agreement, we have been wrestling with our consciences, and tonight we stand in the shoes of the American people.

We have largely accepted that each other's motives are good. I submit that everyone who disagrees with me tonight shares my desire for a better America. I submit to that. We simply disagree tonight on how best to get there.

It has been especially difficult for many of us on this side who are in disagreement tonight with our President. He worked hard, in my view, to fix an agreement that he was handed by President Bush. I worked hard with him to try to get it right. And at the end of the day, unhappily, I came to the conclusion that it was not right. But I respect his conclusion that it was, and I respect the fight that he has put up for his position.

In May of 1991, in the fast track debate on this floor on NAFTA, I said this:

> if you think the right kind of treaty can be strong enough to create new American jobs and tough enough to protect the American environment, the Mexican environment, American workers and Mexican workers, if you think trade can mean more jobs and better wages, then I urge you to let this negotiation go forward. I said vote yes.

All we are saying is give trade a chance. We gave this treaty and this negotiation every chance. But my unhappy conclusion tonight is that this agreement that is before us is deficient and flawed. In short, it is not a sufficient force for progress.

First, it does not leave us with confidence that Mexican worker wages will go up with productivity. All of you know the facts. You know that Mexico's command economy has artificially kept wages down. You know that the average Mexican worker makes 68 percent tonight of what he or she made in 1980. You know that in 1980 the Mexican worker made 22 percent of the average American worker's wage, but tonight he only earns 15 percent of the average American worker's wage. You say well, what difference does it make? People say are you saying we cannot trade with countries that have a lower standard of living?

That is not what I am saying. But what I am saying is that we cannot and we must not expose our workers and our corporations to unfair competition; to a wage system where the government sets the wages and artificially holds them down. We must not do that.

At the end of the negotiations, I asked our negotiators to ask the Mexican negotiators to put the entire Mexican labor law into the enforcement process.

☐ 2200

And on the last day they agreed to child labor and safety, but they would not agree, they adamantly refused to put in the industrial relations part the right to organize, the right to assemble, the right to collectively bargain, and the right to strike. We must not approve a treaty that does not put all of the labor law into the enforcement process.

Members may say, well, why is that so important? Why do we care so much about that?

Let me tell them why I do. If this agreement is to work for us, for Mexico, for Canada, Mexican worker wages must come up. The reason they must come up is that if they do, there will no longer be such an inducement for our corporations to go there to get the benefits of labor.

Members say, well, they can now. I agree with that. But further with that, if we let it go on, there will be continued downward pressure on our workers' wages and on our negotiations.

And finally, and most importantly, the promise of NAFTA, the potential of NAFTA is that we will have a market in which to sell our products. Henry Ford had it right. If we do not pay the workers a decent wage, they cannot buy the cars that they are making. We have got to get Mexican wages to go up.

This agreement tells Mexico that change is not necessary. It ratifies a system that is in place. But when we negotiated this agreement, our business people rightly went to our negotiators and said, "We must have protection of our investment. We must have protection of our intellectual property." And they were right to ask for that.

But when we went and said, we must also have protection for the rights of their workers and ours, there was not an answer of assent.

We must not approve a treaty that only protects the rights of business but does not protect the rights of workers.

The second major defect has to do with money. All of us know the problems that have been created at the border, and many of them are our fault. We set up a maquiladora program 30 years ago, and millions of workers were drawn to that border to work. Never was the right infrastructure put in place to support all of those people. The sewer systems, the water systems, and the road systems that should have been there have never been there.

I submit to my colleagues tonight that this treaty is insufficient on providing the moneys that will be needed over 20 and 30 years to put those very needed things in place. I do not want to go to that border 5 and 10 years from now and find conditions are worse and not better. And when will we finally stop lying to ourselves and creating myths and illusions. If we want to build this, we have to pay for it. This treaty does not pay for it. It does not make it happen.

And one moment. I said, 2½ years ago, let us have a cross-border transaction fee. Why did I say that? Not because it is popular, but because the money has got to come from somewhere. And I believe it should come from the people who are most benefiting from the trade between the countries. Let us have a fee that pays for the things that we believe are important to do.

Now, let me say that many say that we are at a fork in the road. The proponents say that we will go down the right road or the wrong road. I agree that we are at a fork in the road, but I think the right road is to follow the kind of agreement that leads to the new world of commerce and trade that we are in. The issue is no longer whether to trade. It is how to trade. It is, what are the rules of engagement?

The old issue between protectionism and free trade is over. It is history. The argument over the rules of fair trade and how to get our workers and businesses on a level playing field is the debate of the present and the future.

Our goal must be over time to achieve compatibility, compatibility between all countries that are trading, just as we have compatibility between all of the States of the United States.

This debate started before the cold war ended and before the wall fell in Berlin. And in most of the cold war period, our standard of living was rising, and we were locked in a battle with communism. We did not care too much about trade treaties. We never had a debate on this floor that I can remember about a trade treaty like this, because we just assumed economic growth. And we always put trade treaties to be subservient to defense or foreign policy. It just was not that important.

My colleagues, this NAFTA tonight is the last of the old world trade treaties. Americans now realize that our standard of living has been declining for over 15 years. They realize that our most important national goal must be a rising standard of living.

Proponents of this NAFTA represent the past, represent the status quo and fear of real change, and they must understand that this country's greatness was not built on cheap labor.

I ask Members tonight to remember for whom they stand tonight, on whose behalf do we ask for this fairness.

Over many days in the last 3 years I have stood in villages in Mexico, and I have had Mexican workers come up to me and say, "Will you, Mr. Congressman, insist on a NAFTA that fights for fair wages for our hard, productive work? Mr. Congressman, will you insist on a NAFTA that really provides money for sewer systems and water systems and roads so that we can raise our families in dignity and security and safety?"

And I have met countless U.S. workers who have said, "Mr. Congressman, will you insist on a NAFTA that gets me on a level playing field and that will have real funding for training programs, if perchance I lose my job?"

I have not met one person who shrinks from the competition of fair trade. Our workers are not afraid. Mexican workers are not afraid. But I have met lots of people who have very high expectations of us. They expect us to be a force for genuine progress. They expect us to be a force for a NAFTA that will increase wages in all three countries. This NAFTA does not meet those expectations. We can and we must do better.

As you vote tonight, as you put your card into the machine, put yourself in the shoes of the people that you represent. Think of them. Think of their dreams. Think of their families.

Think of Anita Mingus, who worked for Zenith in Springfield, MO, who along with her coworkers froze their wages over 8 years so they could keep their jobs, who in 1989, they cut their wages by 8 percent so that she was making $7 an hour to keep their jobs, who then saw their plant go from 4,000 jobs to 1,000 jobs, to 100 jobs tonight, as they do the work to finally close the plant that has gone to Mexico.

Think of Anita Mingus, who believes her coworker husband died of a heart attack because of the stress of losing his job.

I talked to her on the phone this evening. She said she is going to school to be a printer. She is supporting herself and her 13-year-old son with a part-time minimum wage job. She said she is not afraid and she is not bitter. She knows we have got to compete, and she is optimistic about her future.

□ 2210

But she said, "I am a survivor, Mr. GEPHARDT. The Lord always takes care of me." And then she said, "But tonight, Mr. GEPHARDT, I am counting on you." When you vote tonight, think of Anita Mingus and the millions like her who count on us and only have us to count on. She believes we can renegotiate this agreement and she believes we can get a better agreement. Say "no" to this NAFTA, say "yes" to Anita Mingus and millions like her. Let us live up to her expectations. Say "yes" tonight to a better NAFTA.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield the balance of our time to the gentleman from Washington [Mr. FOLEY], the Speaker of the House of Representatives.

Mr. FOLEY. Mr. Speaker, this has been a long debate, not only a long debate today, but a long debate over recent weeks and months. It has been a difficult debate, difficult in so many ways for so many of us. We find our parties divided, not one against the other, but internally divided. Our leadership is divided, our Members divided, and we find ourselves, in disagreement not only with our colleagues, but with so many associates and friends outside of this Chamber with whom we have had so many years of association and respectful cooperation. That has been difficult.

It has been an emotional debate, to some degree, because it is a debate about consequence, consequence for our future, consequence for our constituents. We are the House of Representatives. We have that solemn duty, that tremendous opportunity, to represent 600,000 or so of our fellow citizens.

I stand here tonight, as all of us have stood here, as a Representative of my constituents. I have had to ask the question, as each of us has had to ask, is this a good agreement, not only for our country, for our States and regions, but is it a good agreement for our constituents, those we have that high responsibility and opportunity to represent.

For myself, I have given the answer; it is. This is not a perfect agreement. We do not pass perfect laws. One can always ask for something better. One can always find defects and deficiencies. One can always hope for a more perfect instrument, but his is, for this moment, an opportunity to expand our trade, to reach out beyond our borders, to continue our leadership, to seize the future, and to do so on behalf, first of all, of our constituents and our citizens, but with the knowledge that it will be to the benefit of those neighbors, north and south, on both sides of the border.

Can anyone believe that the conditions on the border will be better if we reject NAFTA, that opportunities in Mexico will be greater if we reject NAFTA, our standard of living lower if we reject NAFTA? I believe that the standard of living of our neighbors in Mexico will rise because of NAFTA, and that will be good for the standard of living of Americans, it will be good for American opportunities; it will mean a brighter future for our citizens.

I think, despite our interest in our neighbors, we must probably decide this issue selfishly: Is it good for America or not? If it is not, we should reject it; but I believe passionately, it is good for our country, and good for our future.

But I understand, I appreciate, the attitudes of others. It has been especially difficult to have such divisions among two of my fellow leaders, for whom I have the greatest respect, the gentleman from Missouri [Mr. GEPHARDT] and the gentleman from Michigan [Mr. BONIOR].

They represent, as the Members have heard tonight, an intense feeling opposite from mine, not in our goals, our hopes, our visions, but in our beliefs of how our country achieves those goals that we all share.

Each one of us, in a few minutes, will have to cast a vote. This is the place where a decision must be made on this issue. More than in the other body, this is the critical place for a decision tonight. Almost 200 years ago, in this building, a British visitor asked Alexander Hamilton, as he watched a particularly fractious and difficult debate, what was going on on the Floor. Alexander Hamilton answered, "Sir, there the people govern. To govern is to choose." Now, we must make our choice, but, whether we make our choice for the NAFTA agreement, as I hope and believe we will and should, or against it, let us take from this Chamber, in addition to the decision that we make for our fellow citizens and for the American people, a respect for each other, the dignity that each one of us should give to all, on all sides of this question. Let us say that each has acted for what he or she believed to be the good, if not the best, for our fellow citizens, and for the future of our Nation.

Let not this debate or our decision rend the fabric of our democracy. Let it strengthen us as we face the challenges of the future.

I go now to the chair to put this question to the House, and I do so with a prayer that it will be the right decision for our people, and the right decision for this great institution.

The CHAIRMAN. Under the rule, the Committee rises.

□ 2218

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. DE LA GARZA, Chairman of the Committee of the Whole House on the State of the Union, reported that that committee, having had under consideration the bill (H.R. 3450) to implement the North American Free-Trade Agreement, pursuant to House Resolution 311, he reported the bill back to the House.

The SPEAKER. Under the rule, the previous question is ordered.

□ 2220

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SOLOMAN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 234, noes 200, not voting 0, as follows:

[Roll No. 575]

AYES—234

Allard
Andrews (TX)
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Barton
Bateman
Becerra
Beilenson
Bereuter
Berman
Bliley
Boehlert
Boehner
Bonilla
Brewster
Brown (CA)
Bryant
Buyer
Callahan
Calvert
Camp
Cantwell
Cardin
Castle
Chapman
Clement
Clinger
Coble
Coleman
Combest
Cooper
Coppersmith
Cox
Crane
Cunningham
Darden
de la Garza
Deal
DeLay
Dickey
Dicks
Dooley
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (TX)
Emerson
English (AZ)
English (OK)
Eshoo
Ewing
Farr
Fawell
Fazio
Fields (TX)
Fish
Flake
Foley
Ford (TN)
Fowler
Franks (CT)
Franks (NJ)
Frost
Gallo
Gekas
Geren
Gibbons
Gilchrest
Gillmor
Gingrich
Glickman
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Greenwood
Gunderson
Hamilton
Hancock
Hansen
Hastert
Hastings
Hayes
Hefley
Hefner
Herger
Hoagland
Hobson
Hoekstra
Horn
Houghton
Hoyer
Huffington
Hutchinson
Hutto
Hyde
Inslee
Istook
Jefferson
Johnson (CT)
Johnson (GA)
Johnson, E. B.
Johnson, Sam
Johnston
Kasich
Kennedy
Kim
King
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
Lambert
Laughlin
Lazio
Leach
Lehman
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Lloyd
Lowey
Machtley
Mann
Manzullo
Markey
Matsui
Mazzoli
McCandless
McCollum
McCrery
McCurdy
McDade
McDermott
McInnis
McKeon
McMillan
Meehan
Meek
Meyers
Michel
Miller (FL)
Mineta
Molinari
Montgomery
Moorhead
Moran
Morella
Neal (NC)
Nussle
Ortiz
Oxley
Packard
Parker
Pastor
Paxon
Payne (VA)
Pelosi
Penny
Petri
Pickett
Pickle
Porter
Portman
Price (NC)
Pryce (OH)
Quillen
Ramstad
Reynolds
Richardson
Ridge
Roberts
Rohrabacher
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Sarpalius
Sawyer
Schaefer
Schiff
Schroeder
Sensenbrenner
Shaw
Shays
Shepherd
Skaggs
Skeen
Skelton
Smith (IA)
Smith (MI)
Smith (OR)
Smith (TX)
Spratt
Stenholm
Studds
Stump
Sundquist
Swift
Synar
Tanner
Tejeda
Thomas (CA)
Thomas (WY)
Thornton
Torkildsen
Torres
Upton
Valentine
Walker
Whitten
Wolf
Wyden
Young (FL)
Zeliff
Zimmer

NOES—200

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Applegate
Barca
Barcia
Barlow
Barrett (WI)
Bartlett
Bentley
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Blute
Bonior
Borski
Boucher
Brooks
Browder
Brown (FL)
Brown (OH)
Bunning
Burton
Byrne
Canady
Carr
Clay
Clayton
Clyburn
Collins (GA)
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Crapo
Danner
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dingell
Dixon
Doolittle
Edwards (CA)
Engel
Evans
Everett
Fields (LA)
Filner
Fingerhut
Foglietta
Ford (MI)
Frank (MA)
Furse
Gallegly
Gejdenson
Gephardt
Gilman
Gonzalez
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Harman
Hilliard
Hinchey
Hochbrueckner
Hoke
Holden
Hughes
Hunter
Inglis
Inhofe
Jacobs
Johnson (SD)
Kanjorski
Kaptur
Kennelly
Kildee
Kingston
Kleczka
Klein
Klink
LaFalce
Lancaster
Lantos
LaRocco
Levin
Lewis (GA)
Lipinski
Long
Maloney
Manton
Margolies-Mezvinsky
Martinez
McCloskey
McHale
McHugh
McKinney
McNulty
Menendez
Mfume
Mica
Miller (CA)
Minge
Mink
Moakley
Mollohan
Murphy
Murtha
Myers
Nadler
Natcher
Neal (MA)
Oberstar
Obey
Olver
Orton
Owens
Pallone
Payne (NJ)
Peterson (FL)
Peterson (MN)
Pombo
Pomeroy
Poshard
Quinn
Rahall
Rangel
Ravenel
Reed
Regula
Roemer
Rogers
Ros-Lehtinen
Royce
Rush
Sabo
Sanders
Sangmeister
Santorum
Saxton
Schenk
Schumer
Scott
Serrano
Sharp
Shuster
Sisisky
Slattery
Slaughter
Smith (NJ)
Snowe
Solomon
Spence
Stark
Stearns
Stokes
Strickland
Stupak
Swett
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thompson
Thurman
Torricelli
Towns
Traficant
Tucker
Unsoeld
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Washington
Waters
Watt
Waxman
Weldon
Wheat
Williams
Wilson
Wise
Woolsey
Wynn
Yates
Young (AK)

□ 2236

So the bill was passed.

The result of the vote was announced as above recorded.

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON HOUSE ADMINISTRATION

The SPEAKER laid before the House the following communication from the chairman of the Committee on House Administration:

HOUSE OF REPRESENTATIVES,
Washington, DC, November 16, 1993.

Hon. THOMAS S. FOLEY,
Speaker, House of Representatives,
U.S. Capitol, Washington, DC.

DEAR MR. SPEAKER: This is to inform you, pursuant to Rule L (50) of the Rules of the House, that an employee of the Committee on House Administration has been served with a subpoena issued by the U.S. District Court for the District of Columbia.

After consultation with the General Counsel, I will make the determinations required by the Rule.

With my very best wishes,
Sincerely,

CHARLIE ROSE,
Chairman.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

HOUSE OF REPRESENTATIVES,
Washington, DC, November 16, 1993.

Hon. THOMAS S. FOLEY,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: This is to notify you pursuant to Rule L (50) of the Rules of the

House I have been served with a subpoena issued by the United States District Court for the District of Columbia.

After consultation with the General Counsel of the House, I have determined that compliance with the subpoena is not inconsistent with the privileges and precedents of the House.

With great respect, I am

Sincerely yours,

DONNALD K. ANDERSON, *Clerk,*
U.S. House of Representatives.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3425, DEPARTMENT OF ENVIRONMENTAL PROTECTION ACT

Mr. BEILENSON, from the Committee on Rules, submitted a privileged report (Rept. No. 103–372) on the resolution (H. Res. 312) providing for consideration of the bill (H.R. 3425) to redesignate the Environmental Protection Agency as the Department of Environmental Protection, and for other purposes, which has referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 796, FREEDOM OF ACCESS TO CLINIC ENTRANCES ACT OF 1993

Mr. BEILENSON, from the Committee on Rules, submitted a privileged report (Rept. No. 103–373) on the resolution (H. Res. 313) providing for consideration of the bill (H.R. 796) to assure freedom of access to clinic entrances, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3351, ALLOWING GRANTS FOR DEVELOPING ALTERNATIVE METHODS OF PUNISHMENT FOR YOUNG OFFENDERS

Mr. BEILENSON, from the Committee on Rules, submitted a privileged report (Rept. No. 103–374) on the resolution (H. Res. 314) providing for consideration of the bill (H.R. 3351) to amend the Ominibus Crime Control and Safe Streets Act of 1968 to allow grants for the purpose of developing alternative methods of punishment for young offenders to traditional forms of incarceration and probation, which was referred to the House Calendar and ordered to be printed.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CLINGER (at the request of Mr. MICHEL) for November 18 and the balance of the session on account of a detached retina.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. BACHUS of Alabama) to revise and extend his remarks and include extraneous material:)

Mr. TORKILDSEN, for 5 minutes, on November 18, 19, and 20.

(The following Members (at the request of Mr. MFUME) to revise and extend their remarks and include extraneous material:)

Mr. HINCHEY, for 30 minutes, on November 18.

Mr. VENTO, for 60 minutes, on November 20.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. BACHUS of Alabama) and to include extraneous matter:)

Mr. FIELDS of Texas.
Mr. COX.
Mr. ALLARD.
Mr. BLILEY in two instances.
Mr. MILLER of Florida.
Mr. BARTLETT of Maryland.
Ms. MOLINARI.
Mrs. JOHNSON of Connecticut.

(The following Members (at the request of Mr. MFUME) and to include extraneous matter:)

Mr. RANGEL.
Mr. FAZIO.
Mr. BACCHUS of Florida.
Mr. TRAFICANT.
Mr. HAMILTON, in two instances.
Mr. BERMAN.
Mr. SANDERS.
Mr. SHARP.
Mr. LANTOS.
Mr. YATES.
Mr. TOWNS, in seven instances.
Mr. SERRANO.
Mr. DURBIN.
Mr. ENGEL.
Mr. RAHALL.
Mr. KLECZKA.
Mr. COYNE.
Mr. PICKLE.
Mr. ACKERMAN.
Mr. SAWYER.
Mr. DIXON.
Mr. NADLER.
Mr. KILDEE.
Mr. STUDDS.

SENATE ENROLLED JOINT RESOLUTION

The SPEAKER announced his signature to an enrolled joint resolution of the Senate of the following title:

S.J. Res. 129. Joint resolution to authorize the placement of a memorial cairn in Arlington National Cemetery, Arlington, Virginia, to honor the 270 victims of the terrorist bombing of Pan Am Flight 103.

ADJOURNMENT

Mr. MFUME. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 44 minutes p.m.), the House adjourned until tomorrow, Thursday, November 18, 1993, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2164. A communication from the President of the United States, transmitting his request for emergency supplemental appropriations of $25 million in budget authority for the Department of Agriculture to be used for watershed protection systems damaged by flooding along the Mississippi River and its tributaries, pursuant to 31 U.S.C. 1107 (H. Doc. No. 103–170); to the Committee on Appropriations and ordered to be printed.

2165. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–142, "South Africa Sanctions Temporary Repeal Act of 1993," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

2166. A letter from the Director, Administrative Office of the United States Courts, transmitting the financial operation of the Judicial Officers' Retirement Fund, pursuant to Public Law 100–659, section 8 (102 Stat. 3920); to the Committee on Government Operations.

2167. A letter from the Director, Office of Management and Budget transmitting the financial management status report and government-wide 5-year financial management plan, pursuant to Public Law 101–576, section 301(a) (104 Stat. 2849); to the Committee on Government Operations.

2168. A letter from the Clerk, U.S. House of Representatives, transmitting the quarterly report of receipts and expenditures of appropriations and other funds for the period of July 1, 1993, through September 30, 1993, pursuant to 2 U.S.C. 104a (H. Doc. No. 103–169); to the Committee on House Administration and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 3225. A bill to support the transition to nonracial democracy in South Africa (Rept. 103–296, Pt. 4). Referred to the Committee of the Whole House on the State of the Union.

Mr. STUDDS: Committee on Merchant Marine and Fisheries. H.R. 58. A bill to authorize the Secretary of Transportation to convey vessels in the National Defense Reserve Fleet to certain nonprofit organizations; with an amendment (Rept. 103–370). Referred to the Committee of the Whole House on the State of the Union.

Mr. STARK: Committee on the District of Columbia. H.R. 51. A bill to provide for the admission of the State of New Columbia into the Union; with an amendment (Rept. 103–371). Referred to the Committee on the Whole House on the State of the Union.

Mr. MOAKLEY: Committee on Rules. House Resolution 312. Resolution providing for the consideration of the bill (H.R. 3425) to redesignate the Environmental Protection Agency as the Department of Environmental Protection, and for other purposes (Rept. 103-372). Referred to the House Calendar.

Ms. SLAUGHTER: Committee on Rules. House Resolution 313. Resolution providing for the consideration of the bill (H.R. 796) to assure freedom of access to clinic entrances (Rept. 103-373). Referred to the House Calendar.

Mr. GORDON: Committee on Rules. House Resolution 314. Resolution providing for the consideration of the bill (H.R. 3351) to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants for the purpose of developing alternative methods of punishment for young offenders to traditional forms of incarceration and probation (Rept. 103-374). Referred to the House Calendar.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. GEJDENSON: Committee on House Administration. H.R. 3. A bill to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and benefits for congressional election campaigns, and for other purposes, with an amendment; referred to the Committee on Judiciary for a period ending not later than November 19, 1993, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(l), rule X (Rept. 103-375, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. COBLE:

H.R. 3522. A bill to suspend until January 1, 1996, the duty on certain machinery; to the Committee on Ways and Means.

By Mrs. JOHNSON of Connecticut (for herself, Ms. Byrne, Mrs. Bentley, Mrs. Lloyd, Ms. Kaptur, Mrs. Meyers of Kansas, Ms. Molinari, Mrs. Kennelly, Mr. McCrery, and Mrs. Clayton):

H.R. 3523. A bill to amend the Internal Revenue Code of 1986 to allow homemakers to get a full IRA deduction; to the Committee on Ways and Means.

By Ms. EDDIE BERNICE JOHNSON of Texas (for herself, Mr. Watt, Mr. Lewis of Georgia, Mr. Washington, Mr. Mfume, Ms. Brown of Florida, Mr. Hilliard, Mr. Rangel, Mr. Thompson, Mr. Ford of Tennessee, Mr. Reynolds, Mrs. Clayton, Mr. Scott, Mr. Clyburn, Mrs. Collins of Illinois, Mr. Bishop, Mr. Wheat, Mr. Towns, Ms. Norton, Mr. Tucker, Mr. Fields of Louisiana, Mr. Payne of New Jersey, Miss Collins of Michigan, Mr. Owens, Ms. McKinney, Mr. Hastings, Mrs. Meek, Mr. Stokes, Mr. Wynn, Mr. Flake, Mr. Rush, Mr. Dixon, Mr. Jefferson, and Mr. Franks of Connecticut):

H.R. 3524. A bill to amend the Federal Deposit Insurance Act to permit the continued insurance of deposits in minority- and women-owned banks by the Bank Deposit Financial Assistance Program; to the Committee on Banking, Finance and Urban Affairs.

By Mr. KLEIN (for himself, Mr. Hughes, Mr. Fazio, Mrs. Schroeder, Mr. Klink, Mr. Torricelli, Mr. Menendez, Mr. Andrews of New Jersey, Mr. Pallone, Mr. Payne of New Jersey, and Mr. Nadler):

H.R. 3525. A bill to amend title 18, United States Code, to punish certain types of bribery in Federal elections; to the Committee on the Judiciary.

By Ms. LOWEY (for herself, Mr. Abercrombie, Mr. Ackerman, Mr. Andrews of Maine, Mr. Bacchus of Florida, Mr. Berman, Mr. Beilenson, Mr. Brown of California, Ms. Byrne, Mr. Cardin, Mr. Clay, Mr. Dellums, Mr. Deutsch, Mr. Dixon, Mr. Dornan, Mr. Edwards of California, Mr. Fawell, Mr. Foglietta, Mr. Frank of Massachusetts, Ms. Furse, Mr. Gallegly, Mr. Gibbons, Mr. Goss, Mr. Gutierrez, Mr. Hughes, Mr. Hyde, Mr. Jacobs, Mr. Johnston of Florida, Mrs. Kennelly, Mr. Lantos, Mr. Lipinski, Mr. Machtley, Mrs. Maloney, Mr. Manton, Mr. Matsui, Mr. McDermott, Mr. Miller of California, Mrs. Mink, Ms. Molinari, Mr. Moran, Mr. Nadler, Mr. Owens, Mr. Payne of New Jersey, Ms. Pelosi, Mr. Porter, Mr. Roemer, Mr. Rose, Mrs. Schroeder, Mr. Schumer, Mr. Shaw, Mr. Shays, Mr. Stark, Mr. Stokes, Mr. Swift, Mr. Torres, Mr. Torricelli, Mr. Towns, Mr. Traficant, Mr. Valentine, Mr. Waxman, Mr. Wheat, and Mr. Yates):

H.R. 3526. A bill to end the use of steel jaw leghold traps on animals in the United States; to the Committee on Energy and Commerce.

By Mr. SCHUMER (for himself and Mr. Synar):

H.R. 3527. A bill to make unlawful the transfer or possession of assault weapons; to the Committee on the Judiciary.

By Ms. McKINNEY (for herself, Mr. Blackwell, Ms. Waters, Mr. Tucker, Mr. Reynolds, Mr. Dixon, Mr. Rush, Ms. Brown of Florida, Miss Collins of Michigan, Mr. Scott, Mr. Payne of New Jersey, Mrs. Meek, Mr. Hastings, Mr. Watt, Mr. Flake, Mr. Rangel, Mr. Dellums, Ms. Norton, Mr. Owens, Mr. Fields of Louisiana, Mr. Hilliard, and Mr. Clyburn):

H. Con. Res. 182. Concurrent resolution concerning United States interdiction of Haitian vessels and individuals; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

Mr. BLUTE introduced a bill (H.R. 3528) for the relief of Rauof A. Khalil; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 173: Mr. Doolittle.

H.R. 345: Mr. Zeliff.

H.R. 392: Mr. Schiff.

H.R. 401: Mr. Lipinski.

H.R. 408: Mr. Gibbons.

H.R. 455: Mr. Pastor.

H.R. 515: Mr. Manzullo, Mrs. Roukema, Mr. Mazzoli, Ms. Kaptur, and Mr. Lehman.

H.R. 563: Mr. Armey.

H.R. 657: Mr. Zeliff.

H.R. 746: Mr. Carr, Mr. Peterson of Florida, Mr. Gordon, Mr. Gallegly, Mr. Moakley, Mrs. Fowler, Mr. Pete Geren of Texas, Mr. Valentine, and Mr. Andrews of New Jersey.

H.R. 773: Mr. Lewis of Florida.

H.R. 786: Mr. Filner.

H.R. 840: Mr. Andrews of Maine.

H.R. 1026: Mr. Schiff.

H.R. 1031: Mr. Parker, Mr. Hughes, and Mr. Martinez.

H.R. 1055: Mr. Cramer and Mr. Montgomery.

H.R. 1123: Mr. Hobson.

H.R. 1126: Ms. Dunn and Mr. Hobson.

H.R. 1127: Mr. Hobson.

H.R. 1128: Mr. Hobson.

H.R. 1129: Mr. Schiff and Mr. Hobson.

H.R. 1130: Mr. Schiff.

H.R. 1209: Mr. Schiff.

H.R. 1237: Mr. Brown of California, Mr. Ackerman, and Mr. Reed.

H.R. 1296: Mr. Myers of Indiana and Mr. de Lugo.

H.R. 1300: Mr. Schiff.

H.R. 1319: Mr. Zeliff.

H.R. 1349: Mrs. Fowler, Mr. Miller of Florida, Mr. Klug, Mr. Schiff, and Mr. Hoekstra.

H.R. 1428: Mr. Schiff and Mr. Upton.

H.R. 1523: Mr. Zeliff.

H.R. 1524: Mr. Zeliff.

H.R. 1525: Mr. Zeliff.

H.R. 1552: Mr. Hobson.

H.R. 1563: Mr. Machtley.

H.R. 1583: Mr. Menendez.

H.R. 1600: Mr. Jacobs, Mr. Castle, Mr. Roemer, and Ms. Velazquez.

H.R. 1620: Mr. Zimmer.

H.R. 1765: Ms. Lambert.

H.R. 1767: Ms. Lambert.

H.R. 1768: Ms. Lambert.

H.R. 1909: Mr. Bereuter.

H.R. 2031: Mr. Rose.

H.R. 2038: Mr. Zimmer.

H.R. 2039: Mr. Zimmer.

H.R. 2132: Mr. Engel.

H.R. 2253: Mr. McCrery.

H.R. 2350: Mr. Gutierrez.

H.R. 2417: Mr. Swett and Mrs. Bentley.

H.R. 2433: Mr. DeLay.

H.R. 2434: Mrs. Vucanovich and Mr. Hobson.

H.R. 2641: Mr. Rose.

H.R. 2745: Mr. McDade, Mr. Coyne, Mr. Murphy, and Mr. Gekas.

H.R. 2786: Mrs. Unsoeld, Mr. Hall of Ohio, Mr. McCloskey, Mr. Stenholm, and Mr. Saxton.

H.R. 2813: Mr. Fish.

H.R. 2834: Mr. Ramstad.

H.R. 2856: Mr. Oberstar, Mr. Dellums, Mr. Upton, Mr. Weldon, Mr. Fingerhut, Mr. Watt, and Mr. Barca of Wisconsin.

H.R. 2872: Mr. Bateman, Mr. Portman, and Ms. Dunn.

H.R. 2898: Mr. Abercrombie.

H.R. 2925: Ms. Lambert.

H.R. 2929: Mr. Minge, Mr. Parker, and Mr. Skeen.

H.R. 3005: Ms. Dunn.

H.R. 3075: Mr. Clay, Mr. Coleman, Mr. Deutsch, Mr. Fish, Mr. Hilliard, Mr. Gutierrez, Mr. Kopetski, Mr. Markey, Mr. Neal of North Carolina, Mr. Pastor, Mr. Sabo, Mr. Torricelli, Mr. Torres, and Mr. Vento.

H.R. 3076: Mr. Engel.

H.R. 3088: Mr. ALLARD and Mr. ENGEL.

H.R. 3098: Mr. BATEMAN and Mr. LEVIN.

H.R. 3109: Mr. BARCIA of Michigan.

H.R. 3121: Mr. FISH.

H.R. 3136: Mr. SCHUMER and Mr. WATT.

H.R. 3158: Mr. HINCHEY.

H.R. 3222: Mr. REGULA.

H.R. 3236: Mr. FAWELL, Mr. BARRETT of Wisconsin, Mr. HINCHEY, Mr. MINGE, and Mr. SANDERS.

H.R. 3301: Mr. PETERSON of Minnesota.

H.R. 3328: Mr. ANDREWS of Texas, Mr. COMBEST, Mr. GILMAN, and Ms. LAMBERT.

H.R. 3365: Mr. BACCHUS of Florida, Mr. COLEMAN, Ms. NORTON, and Mr. MCHALE.

H.R. 3372: Mr. ENGEL, Mr. KNOLLENBERG, Mr. KASICH, Mr. CRAMER, Mr. GENE GREEN of Texas, Mr. DELLUMS, Mr. DIXON, Ms. BYRNE, Mr. MAZZOLI, Mr. KOPETSKI, Mr. FOGLIETTA, Mr. RUSH, Mr. SKELTON, Mr. MATSUI, Mr. MCNULTY, Mr. GONZALEZ, Mr. JOHNSON of Georgia, Mr. THORNTON, Mr. SMITH of New Jersey, Mr. STUMP, Mr. NEAL of Massachusetts, and Mr. WILSON.

H.R. 3386: Mr. POSHARD, Mr. BALLENGER, Mr. SUNDQUIST, Mr. KASICH, Mr. EVERETT, and Mr. BEREUTER.

H.R. 3421: Ms. DUNN.

H.R. 3424: Mr. PETE GEREN of Texas, Mr. CASTLE, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. WALSH, Ms. LAMBERT, Mr. FROST, and Mr. SWETT.

H.J. Res. 28: Ms. SHEPHERD.

H.J. Res. 90: Mr. HUTTO, Mr. MINETA, and Mr. RAVENEL.

H.J. Res. 117: Mr. BILBRAY.

H.J. Res. 139: Mr. CALVERT, Mr. VISCLOSKY, Mr. WOLF, Mr. HILLIARD, Mr. BORSKI, Mr. MFUME, Mr. BAESLER, Mr. HOEKSTRA, Mr. UPTON, Mr. OLVER, Mr. EMERSON, Mr. FOGLIETTA, Mr. MCDERMOTT, Mrs. KENNELLY, Mrs. JOHNSON of Connecticut, Mr. DIXON, Mr. MOAKLEY, Mr. COPPERSMITH, Mr. KENNEDY, Mr. FRANK of Massachusetts, Mr. BLUTE, Mr. STENHOLM, Mr. BARCIA of Michigan, Mr. CONYERS, Mr. TORKILDSEN, and Mr. CASTLE.

H.J. Res. 145: Mr. BURTON of Indiana, Mr. UPTON, Mr. OXLEY, Mr. HANCOCK, Mr. BARTON of Texas, Mr. HERGER of California, and Mr. WELDON.

H.J. Res. 158: Mr. HUNTER.

H.J. Res. 159: Mr. SMITH of Oregon, and Ms. EDDIE BERNICE JOHNSON of Texas.

H.J. Res. 165: Mr. WOLF, Ms. KAPTUR, Mr. REED, Mr. BACHUS of Alabama, and Mr. SAWYER.

H.J. Res. 175: Mr. ANDREWS of New Jersey, Mr. BACCHUS of Florida, Mr. BURTON of Indiana, Mr. GENE GREEN of Texas, Mr. LAUGHLIN, Mr. MCDERMOTT, Mr. OBEY, Mr. PAXON, and Mr. SOLOMON.

H.J. Res. 216: Mr. STEARNS.

H.J. Res. 224: Mr. CLAY.

H.J. Res. 241: Mr. FINGERHUT.

H.J. Res. 247: Mr. PAYNE of Virginia, Mr. FILNER, and Mrs. UNSOELD.

H.J. Res. 257: Mr. OXLEY, Mr. VALENTINE, Mr. HOCHBRUECKNER, Mr. MCCOLLUM, Mr. GALLEGLY, Mr. LANTOS, Mr. LEVY, Mr. WALSH, Mr. MEEHAN, Mr. JACOBS, Mr. MCCRERY, Mr. HEFLEY, and Mr. JEFFERSON.

H.J. Res. 272: Mr. COLEMAN, Mr. DARDEN, Mr. VISCLOSKY, Mr. DICKS, Mr. STOKES, Mr. MYERS of Indiana, Mr. CARR, Ms. LOWEY, Mr. MFUME, Mr. YATES, Mr. THORNTON, Mr. MOLLOHAN, Mr. HINCHEY, Mr. GUNDERSON, Mr. PAYNE of Virginia, Mr. KLINK, Mr. BROWDER, Mr. HILLIARD, Ms. ESHOO, Mr. HOLDEN, Mr. BROOKS, Mr. SAWYER, Mr. REYNOLDS, Mr. MATSUI, Mr. GEJDENSON, Mr. SHARP, Mr. KOPETSKI, Mrs. LLOYD, Mr. HAYES, Mr. OBERSTAR, Mr. HOAGLAND, Mr. SKELTON, Mr. OWENS, Mr. TORRICELLI, Mr. ENGEL, Mr. SPRATT, Mr. STENHOLM, and Mr. GENE GREEN of Texas.

H.J. Res. 282: Mr. EWING, Mr. SOLOMON, Mr. LEVY, and Ms. PRYCE of Ohio.

H. Con. Res. 107: Mr. BARRETT of Nebraska and Mr. FLAKE.

H. Con. Res. 110: Mr. BOEHLERT and Mr. SCHIFF.

H. Con. Res. 124: Mr. GUNDERSON, Mr. JOHNSON of South Dakota, and Mr. WILLIAMS.

H. Con. Res. 127: Mr. MCDADE, Mr. COYNE, Mr. MURPHY, and Mr. GEKAS.

H. Con. Res. 138: Ms. MARGOLIES-MEZVINSKY, Mr. MANTON, Mr. BEILENSON, Mr. COOPER, Mr. FOGLIETTA, Mr. LEVY, Mr. ENGEL, Ms. SLAUGHTER, Ms. LOWEY, Mr. COPPERSMITH, and Mr. NADLER.

H. Con. Res. 141: Mr. MCINNIS, Mr. KASICH, Mr. ENGEL, Mr. CALVERT, and Mr. TALENT.

H. Res. 117: Mr. JACOBS.

H. Res. 234: Mr. TALENT, Ms. SHEPHERD, Mr. LANCASTER, Mr. ROBERTS, Mr. BROWDER, Mr. FORD of Michigan, and Mr. HOBSON.

EXTENSIONS OF REMARKS

BACK TO THE DRAWING BOARD

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 17, 1993

Mr. KLECZKA. Mr. Speaker, today the House of Representatives will decide the fate of the North American Free-Trade Agreement [NAFTA]. The deciding factor must be whether this agreement is in the best interest of our country and the people we represent. Use of this criteria dictates that I must oppose this measure.

NAFTA's odyssey began when President Bush and Mexican President Salinas announced in June 1990 their intention to negotiate a free-trade agreement. Later, Canada joined. Then, on May 26, 1991, President Bush's fast track procedure passed this body without my support. Fast track sheltered the agreement from amendments in Congress and set forth an expeditious timetable for consideration. Next, this agreement was completed by the Bush administration.

Thus, the measure before us today is almost entirely a product of the Bush administration. President Clinton inherited it and then attempted to strengthen those aspects he found lacking—specifically, the labor and environmental aspects. He attempted to do so by negotiating the so-called side agreements. While President Clinton made a good faith effort, the agreement and side agreements are sadly still lacking.

I continue to be deeply disturbed with the hyperbole which has dominated this debate. In my judgment, the American people have been ill-served by the crescendo of misinformation and erosion of substance by both supporters and opponents of this agreement. We must raise the level of this discussion to one more befitting this body.

Although I share their position, I do not share the tactics of some opponents of NAFTA. Many have played fast and loose with the facts.

Instead of sticking to the facts, many have talked of the "sucking sound" of jobs going south they say will be heard instantaneously from coast to coast if the agreement passes today. Such phrases and characteristics do not further the public understanding of this matter.

Supporters of NAFTA indicate this is a cureall for all our illegal immigration problems. Not so.

Clearly, tactics of this nature have no place in a debate of this significance.

I must seriously take issue with the concessions and special projects—PORK?—the administration is giving away to undecided Members of Congress and special interest groups.

So many concessions have been made to various special interests that this NAFTA doesn't look like free trade at all. The administration has granted protections to the citrus, flatglass, wheat, broomcorn, appliances, sugar sectors. The list goes on, and it keeps growing.

The administration has reportedly traded votes for bridges, airline routes, military cargo planes, a development bank, and grazing fees.

Where is the chorus of voices who opposed such pork projects earlier this year when the budget was being assembled? I guess if the pork benefits your viewpoint then it's OK. Seems like a double standard to me.

Supporters have also raised unreasonable fears about Japan waiting in the wings to go into Mexico if NAFTA fails. Nothing could be further from the truth.

The Japanese are generally astute business people. They usually do not act impulsively. If Japan saw increased profits in Mexico, it would have more of a presence than a mere 4 percent of foreign investment there. A recent Business Week article spells this out. Japan wants us to lead the way by passing this agreement, so it can be assured of a stable business environment in Mexico and an open door north to the United States and Canada for Japanese goods.

Moreover, in September 1993, Japan's Consul General drove up from Chicago to Milwaukee to lobby me on behalf of NAFTA. Unless he was using reverse psychology, he was expressing Japan's support for NAFTA in no uncertain terms.

Also contained in this agreement is a surprise $17.5 million giveaway to Honda. This provision retroactively forgives Honda from tariffs due to the U.S. Government because imported cars did not meet basic "rules of origin" standards under the Canadian Free-Trade Agreement. That's right, $17.5 million down the drain and into Honda's corporate coffers. Make no mistake, this is an out and out gift to Honda just because its lawyers succeeded in inserting this language into the agreement. What does this provision have to do with this trade agreement?

Let me focus on the jobs we will lose with this agreement. American workers are the best in the world, but they just cannot compete with Mexican workers when Mexico's minimum wage is 58 cents an hour and its average wage for skilled workers is $2.35 an hour. Reliable estimates have shown that if NAFTA passes, it will cost us 500,000 jobs by 1999. That alone should be reason enough to seriously question this agreement.

With Mexican workers competing directly with working people in this country, there will be downward pressure on our wages. That will lead to a further deterioration of standard of living for thousands of working Americans, and it will exacerbate the growing shift from good paying manufacturing jobs to low-paying, dead-end service sector jobs at minimum wage. That has been the trend in my district in recent years, and that trend will only worsen under NAFTA.

Even without NAFTA, 15 companies have moved a portion or all of their operations from Wisconsin to Mexico in the last 15 years. That movement alone has meant 3,500 lost jobs for Wisconsin. More will follow if NAFTA passes because companies will take advantage of our reduced tariffs and Mexico's minimal worker protections, lax environmental standards, and cheap labor.

The Secretary of the Treasury has placed the cost of the necessary border cleanup at somewhere between $5 billion and $8 billion. That money has to come from somewhere, and NAFTA sidesteps this critical question. The cost will most likely be paid by U.S. taxpayers, while the funds could be used by our cities to upgrade our own infrastructure.

We are told that this poor country is just waiting for U.S.-produced goods. Mexico's market is only 4 percent of the total North American market. And, with an average annual income of $3,200 a year, how many cars, appliances, and computers can the average Mexican family afford?

On balance, most economists agree that NAFTA means some winners and some losers. The winners will be big business and big investors. The losers will be people I represent, working families in the so-called "Rust Belt" and other industrial regions. It is only logical that if there is to be worker dislocation, we should determine who will suffer and do everything we can to minimize or eliminate the blow to them. That is where this debate should focus.

If NAFTA passes, I hope and pray supporters of the agreement are correct in their arguments. But, I fear they are not. This NAFTA will put thousands of people at risk or even worse, lead to thousands of job losses. That is why I am against it. I know we can do better. If the European Community could wait for Spain and Portugal to raise their economic and political standards of living, we can wait for Mexico to do the same.

If NAFTA fails we should go back to the drawing board. We should sit down and negotiate an agreement that is in our national interest. Then, we should pass it.

Mr. Speaker, let us rise above the hyperbole and misinformation and defeat NAFTA. This agreement will lead to declining standards of living and lost jobs for our citizens.

Moreover, if we defeat this agreement, we will send the world a clear message the President can take to Asian leaders in Seattle later this week. That message is that Congress cannot be bought. We will not support an agreement that is not in our national interest. We stand up for average working folks, here and in Mexico. We care about the environment. It is time to go back to the drawing board. Join me in defeating this NAFTA.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

TRIBUTE TO RIDDICK "BIG DADDY" BOWE

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 17, 1993

Mr. TOWNS. Mr. Speaker, I am pleased to salute Riddick "Big Daddy" Bowe for his numerous achievements as an athlete, humanitarian, and positive role model for the community.

I am taking this opportunity to recognize Mr. Bowe because he has overcome tremendous obstacles in his quest to escape the hazards of the inner city. One of 13 children, Riddick Bowe grew up in the Brownsville section of Brooklyn. Despite enduring very tough economic times as a child, he did not fall prey to the ills of the streets. He tried his hand at boxing and demonstrated that he had the will and talent to become a champion.

Riddick won four Golden Glove titles between 1985–88. He went to the Olympics in Seoul, Korea in 1988 and lost to Canada's Lennox Lewis, an event that changed the course of his life. That loss coupled with personal family tragedy, crystallized in his mind and heart his goal to become the heavyweight champion of the world. In March 1989 he became a professional fighter and began his climb to the championship. In 1993 he defeated Evander Holyfield for the championship.

The hallmark of this man however is his beating the odds. He is a positive example for countless young people confronted with adversity. His most enduring qualities surfaced after he won the title. He has demonstrated that despite considerable fame and wealth, he is still a man of the people. Mr. Bowe has traveled on goodwill tours, and contributed his wealth and time to humanitarian causes. Most important, he continues to find time to lend a positive word to young children.

In these times when there are so few true role models, Riddick Bowe stands tall. A devoted husband and family man it is my pleasure to salute one of Brooklyn's favorite sons, Riddick "Big Daddy" Bowe.

THE 75TH ANNIVERSARY OF THE CHRISTIAN COUNTY FARM BUREAU

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 17, 1993

Mr. DURBIN. Mr. Speaker, I rise today to recognize the 75th anniversary of the founding of the Christian County Farm Bureau.

Christian County, located in central Illinois, is home to rich soil and abundant corn and soybean crops. It is one of the counties that I represent in which family farming and agriculture is a way of life. Since 1918, the Farm Bureau has stood with the farmers in Christian County through great changes in the world of agriculture. Their members have provided critically needed services to the people of the area, such as farm safety programs and information on the latest agricultural technology. This group offers support to the men and women who work tirelessly to provide a safe and abundant food supply for our country.

The Christian County Farm Bureau branch was established 1 year before the American Farm Bureau Federation was organized, and throughout its long and challenging history, this branch has grown considerably along with the federation. The American Farm Bureau Federation now represents 2,800 county units and 4.1 million members. This is a testament to the continued importance of agriculture to the American way of life.

Mr. Speaker, it is with great pride that I congratulate the Christian County Farm Bureau on its anniversary. I look forward to working with the bureau in the future.

THE WORKING POOR

HON. BERNARD SANDERS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 17, 1993

Mr. SANDERS. Mr. Speaker, I would like to submit the following article from the Wall Street Journal for the CONGRESSIONAL RECORD.

Mr. Speaker, this piece eloquently illustrates the need for an increase in the minimum wage. Two of my constituents from the northeast kingdom of Vermont are featured in the article. It highlights the problems workers from Vermont and across this country encounter when trying to make ends meet on today's minimum wage.

At the present minimum wage, a full time worker would receive $8,840 a year, $2,300 under the poverty line. Mr. Speaker, it is time that we increase the minimum wage, and that is why I have introduced H.R. 692, the Livable Wage Act of 1993.

[From the Wall Street Journal, Nov. 12, 1993]

MINIMUM-WAGE JOBS GIVE MANY AMERICANS ONLY A MISERABLE LIFE—IN RURAL VERMONT, SOME GO WEEK TO WEEK, HOPING NO MAJOR BILLS HIT THEM

(By Tony Howitz)

Newport, VT.—On payday, Brian Deyo's sole purchase is a $4.96 box of cheap bullets known as "full metal jackets."

Mr. Deyo works full time at a hockeystick factory. He takes home $188.40 a week. After rent and utilities, that leaves about $20 for food—and no margin at all for misfortune, such as the one Mr. Deyo now faces. Vermont's brutal cold hit freakishly early this fall, and he must buy heating oil three paychecks ahead of plan.

"Every day I'm making choices," says Mr. Deyo, who has a wife and a chronically ill two-year-old daughter. "Do I pay the rent and risk having the power cut? Or do we take a chance on both and buy food?"

This payday, the choice is clear: He's two weeks late on the rent, and the fuel tank must be filled. Unable to afford food, he will hunt for it. Stalking through the icy woods beneath the Green Mountains, Mr. Deyo mulls his life. At age 28, he senses he has done something wrong, but he isn't sure what. "I'm proud to be a workingman," the son of two factory workers says. "I only wish I made a living."

"Making work pay" has become a Clinton administration catch phrase, but one that appears increasinly hard to fulfill. Put simply, the aim is to lift working Americans above the poverty line—a threshold that Mr. Deyo and 9.4 million others currently don't reach. Almost 60% of poor families have at least one member working. "Someone who plays by the rules and tries to work full time should be able to support a family," says lawrence Katz, chief economist at the Labor Department.

However, with universal health insurance—one means toward achieving this goal—under siege, the administration has retreated from another. In late October, after arguing for months that a modest rise in the minimum wage is needed to help pull workers out of poverty, Labor Secretary Robert Reich shelved his campaign until after Congress votes on health-care reform. This delay was welcomed by business groups, which argue that an increase would cost jobs because employers would automate, relocate overseas or cut staff to recoup higher labor costs (see page A4).

But what's often obscured by such policy debate is the sheer harshness of life in low-wage America. The minimum wage—currently $4.25 an hour—was mauled by inflation in the 1980s and now provides an income so meager that welfare recipients often do better if they turn down jobs paying it. A full-time minimum-wage worker grosses $8,840 a year—$2,300 under the poverty line for a family of three. In 1979, the same worker earned $459 above the line.

The depressed minimum wage also anchors the bottom end of a pay ladder so low that even people who, like Mr. Deyo, climb up a few rungs are still in poverty. In fact, such workers often are worse off than those earning $4.25 an hour because they are more likely to be adults and heads of households qualifying for little or no government assistance. Many minimum-wage workers are young part-timers with other income from spouses or parents.

"Families where the main breadwinner is making $5 or $6 an hour—these are the people who are really hurting," says Gary Burtless, a labor economist at the Brookings Institution. This largely forgotten group also helps account for the 44.3% jump in the number of working poor between 1979 and 1992.

PROFILE OF THE WORKING POOR

America's working poor are mostly white, mostly high-school educated and disproportionately rural—a profile that is typified by the three-county corner of Vermont known as the Northwest Kingdom. This bucolic landscape of moose crossings, maple-syrup stands and scarlet foliage also harbors 10% unemployment, closed mills and ramshackle homes.

Barbara Stevens runs a crisis center in Newport, a town of 4,700 that is a two-hour drive from Burlington. The morning after the first big chill, her office was crammed with disheveled people unprepared for the winter and seeking help. Many were on their way to work. "They'd say things like, 'I've got two kids and no oil in the furnace, so we slept in the car last night with the heater on,'" Ms. Stevens says.

One such visitor is Mr. Deyo, the hockeystick worker. Late paying his bills, he has had his electricity disconnected several times. This is a special calamity for Mr. Deyo; his daughter has asthma and relies on a ventilator. Letters from Ms. Stevens and local doctors have helped him to get his power switched back on.

Ironically, Mr. Deyo is earning more than he ever has. After years of minimum-wage jobs, he gets $5.50 an hour stenciling trademarks onto hockey-stick blades. His annual gross income is so near the poverty line that now he qualifies for very little public assistance. In principle, this suits him fine; he's a former National Guardsman and a conservative Republican wary of government and liberal "do-gooders." But in practice, just a minor setback—even a blown-out tire on his 1980 Buick—sets off a cycle of late bills, ruined credit ratings and shaky employment.

Though the cost of living here is low, his take-home pay of $188.40 a week barely covers his fixed costs: $60 rent for a cramped apartment, about $40 for heat, $40 for power (high because of his daughter's ventilator and humidifier), $10 for gasoline and $15 for installment payments on the family's new possessions. The Deyos can't afford a phone. That leaves about $20, mostly spent at a discount market that sells dented cans and crushed boxes.

"We don't buy taped boxes because the food could have spilled on the floor and been scooped back in," says Roxanna Deyo, who stays home because she is loath to put her frail child in day care.

The Deyos also live in terror of small shocks that can knock them off their tightrope budget. Three years ago, for instance, their car developed transmission trouble. Unable to afford a $500 repair bill, Mr. Deyo had to abandon the car—and his job cleaning kitchens at a ski resort more than an hour's drive away.

A DISAPPOINTING MOVE

Soon afterward, the Deyos, seeking work in higher-wage Massachusetts, sold all they owned to go there. But they ran out of money before finding jobs. Two years later, they are still making payments on the used, now-tattered furniture they bought on their return north. Many needs are put off indefinitely. Plagued by painful, rotted teeth, Mr. Deyo waited two years until he was laid off and eligible for Medicaid before having a few pulled.

Week to week, the Deyos still cling to one luxury. To "break the constant tension," Mr. Deyo says, he buys a take-away dinner every Saturday, usually a plain pizza costing $5.99.

"I feel like I'm doing what I'm supposed to do," says Mr. Deyo, who dreamed of studying forestry when he graduated from high school but couldn't afford the fees and went to work at McDonald's instead. "I work hard, my family's together. But I'm running just to stay where I am, which isn't a real great place."

His most recent frustration: an attempt to free his family of rent—and of their grim quarters—by purchasing a $24,000 trailer to park on his parents' land. A local bank refused his loan request, citing "excess obligations" and "insufficient income." One upbeat note: the Deyos, who anxiously await their annual rebate from the earned-income tax credit to catch up on bills and buy appliances, should see the amount double in early 1995 to about $3,200 because of a recent change in the law.

A growing number of Americans share the Deyos' plight. Lawrence Mishel of the Washington-based Economic Policy Institute says 28% of adult workers are at wage levels too low to keep a family of four out of poverty, compared with 21% in 1979. He also notes that their privation has deepened: 14.3% of adult workers now earn wages below 75% of the poverty line, triple the 1979 percentage.

THE FORCES AT WORK

Mr. Mishel and other economists cite various reasons, such as the decline of manufacturing jobs and of unions in an ever-more technological economy. In addition, minimum-wage increases, which tend to bump up the whole bottom of the pay scale, didn't occur between 1981 and 1990. That especially hurt young workers, such as Mr. Deyo, who began working during the 1980's at the minimum wage and have edged up very slowly ever since.

However, the depressed minimum wage may have kept alive some jobs that otherwise would have vanished. Along Newport's railroad tracks, in an old flour depot, American Maple Products Corp. employs 40 people bottling syrup and making candy Santas and other treats. The family-owned company is typical of the light, often-marginal businesses that employ many low-wage workers nationwide.

"Maple candy," the company's president, Roger Ames, dryly observes, "is not your basic growth industry."

Starting most workers at the minimum wage, Mr. Ames ekes out profits of 3% on sales from what he admits is a creaking plant. At one conveyor belt, nine people fill jugs with syrup, then cap, date and box the jugs by hand—a task, Mr. Ames says, that costly new machines can perform with two workers. Nearby, two people run a 50-year-old device that drops candy into molds, while other workers use their fingers to smooth the fuzzy edges left by the plant's old tools.

"If you're paying the minimum [wage] and it takes 20% more time to do a job than it should, it doesn't seem that critical," Mr. Ames says.

He adds that a 50-cent increase in the minimum wage would cost him about $100,000 a year and force him to "take a hard look" at labor-saving machinery. He would stop replacing workers who leave or retire and go to a piecework system that might penalize older employees.

RAPID CHANGE UNLIKELY

"I don't have a sweatshop mentality," Mr. Ames says. But he says neither he nor other employers are likely to raise their pay simply out of charity, particularly in a competitive industry. "If you had someone who mowed your lawn every week for $5, would you reach in and pay $10 the next week?" he asks.

Moreover, he is under no pressure to raise pay because few employers deviate from the prevailing wage. The result: an uncompetitive labor market that traps low-skilled workers even as they climb the pay scale. Connie Lucas went to work at American Maple 12 years ago at the minimum wage and now earns $6.10 an hour. With weekly take-home pay of only $151.50, and worried about the plant's future (her husband also works there), she decided to seek another job.

"But every opening offers the same—$4.25, $4.25, $4.25," the 35-year-old Ms. Lucas says, "I can't afford to work another 12 years just to get back to where I am."

Bonnie Buskey wonders whether she can afford to work at all. Last spring, both she and her husband were unemployed and received about $1,000 a month in public assistance. Now, he works in construction, and she works full time at American Maple at the minimum wage. Together, they bring home about $1,200 a month.

But Ms. Buskey pays a baby sitter $2 an hour to look after her two girls for part of the day, slicing her real wage during those hours to $2.25. And now that the Buskeys are off welfare, they no longer qualify for Medicaid. Unable to afford health insurance, Ms. Buskey spent a week's pay on a recent visit to the dentist and lives in dread of serious illness.

"The message from the government seems to be, 'Stay home, vegetate in front of the TV, and you'll be better off,'" the 29-year-old says. Asked why she doesn't, she shrugs. "Good old American pride. I like to think that I earn whatever I get."

THE PRESSURE TO QUIT

In fact, some people do quit jobs because they can do better on benefits. Ms. Stevens, the Newport social worker, says she feels forced to advise jobless people to turn down work at or near the minimum wage. "I have to tell them, 'The job's good for your soul and good for your mind but not for your pocketbook,'" she says.

Trapped at the bottom by the low minimum wage, such workers also must compete with people sliding down the pay ladder. At the hockey-stick factory, Mr. Deyo's brother-in-law and co-worker, Garth Shannon, has never worked for the minimum wage. His first job after finishing high school was at a shoe factory that paid $9 an hour. But after a wage dispute, the plant moved to the Dominican Republic, and Mr. Shannon has bounced down the pay scale ever since, enduring plant closings, layoffs and menial jobs.

"Most people plan for when things get better," says the 35-year-old Mr. Shannon, who wears thick glasses on which he pays monthly installments. "I try to plan for when things get worse."

As a foreman, he is among the factory's best paid workers, earning $5.95 an hour. But with a family of five, his poverty is even worse than Mr. Deyo's. He heats his jerry-built home with a wood stove in which he burns old doors and other scrap timber salvaged from abandoned houses. He burns kerosene lamps to save on electricity. Like the Deyos, the Shannons can't afford a telephone. They also couldn't afford a foundation when they built the house seven years ago; stones and wood props keep it from sliding downhill.

A conservative man with a fierce work ethic, Mr. Shannon has urged his wife to work part time rather than stay home with their youngest daughters, age five and eight. As a nursing-home housekeeper, she earns $4.61 an hour and brings home $20 a week after baby-sitting bills. "Work is what made this country great," says Mr. Shannon, who has draped an American flag across the front of his house.

OCCASIONAL DESPAIR

But as he cooks home-made pizza for his girls, he confesses to occasional despair at how little his labor provides for his family. The worst moment came when his five-year-old's kindergarten class took a day trip to a zoo in nearby Canada. The Shannons couldn't afford the $12 bus fare and were too proud to borrow. "We kept her home that day so she wouldn't feel bad about missing the trip," he says.

David Price, Mr. Shannon's and Mr. Deyo's boss, is sympathetic. He helped pay for Mr. Shannon's glasses and recently gave him his own children's outgrown clothing. But like Mr. Ames at American Maple, Mr. Price doesn't need to raise pay to keep his 13 workers; he has 500 job applications on file.

So Mr. Price does small things, such as treating workers to a birthday lunch. In October, it was Mr. Deyo's turn. Devouring a prime-rib sandwich, he confides that it is his first meal out in six months. Mr. Price also gives workers a turkey at Christmas and a ham at Easter; Mr. Deyo still has a bit of ham left, in his freezer, "for emergencies," he says.

But there is little else in the larder. So, on payday, after banking his check to cover the rent, Mr. Deyo buys bullets and drives to his brother-in-law's home. The two men hike off in search of an animal Mr. Shannon recently spotted in a cornfield. "I've never eaten bear," Mr. Deyo says excitedly, toting a used military rifle he bought for $80. "But they look like they have a lot of meat on them."

The two men soon find tracks but no bear. At dusk, after two hours of tramping through dense woods, Mr. Deyo spots a crow—"edible if you cook it just right," he says. But he can't get close enough for a shot. Frustrated, he aims at a chipmunk. Mr. Shannon talks him out of it. "There wouldn't be enough meat there for a sandwich," he says.

Exhausted and cold, the two head back. Mr. Deyo tosses his gun in the trunk. Mr. Shannon touches his brother-in-law on the arm. "It could have been worse," he says. "At least we didn't waste any bullets."

SALUTE TO WILLIAM "BILL" P. LAFAYETTE

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 17, 1993

Mr. COYNE. Mr. Speaker, today I want to pay tribute to William P. Lafayette, of Franklin Park, PA, who will be leaving the Franklin Park Council at the end of his current term this year.

It is fitting that the House should salute individuals like William P. Lafayette who have devoted so much of their lives to improving the quality of life in their local community. We should honor those men and women who sacrifice their time and energy to serve their fellow citizens.

William P. Lafayette is a native of Burlington, VT, but he and his family have made their home in Franklin Park, PA, for over 23 years. Bill Lafayette has served his fellow citizens in Franklin Park for the past 19 years, first as a member of the Franklin Park Planning Commission and later as an elected member of the Franklin Park Council. First elected to council in 1978, Bill Lafayette served as council vice-president for 6 years and has served as council president for the last 2 years. The people of Franklin Park have reaffirmed their confidence in Bill Lafayette by electing him to serve their borough the second longest term of any other council member in the borough's history.

William Lafayette has achieved an impressive record of responding to the needs and concerns of the people of Franklin Park. Under his leadership, Franklin Park has succeeded in maintaining the second lowest millage tax rate in Allegheny County. Bill Lafayette has shown his personal commitment to preserving Franklin Park's 4.5 mill tax rate which has been in place for the past 23 years. Bill Lafayette has also worked steadfastly to ensure the orderly growth and development of Franklin Park so that this community's high quality of life can be maintained. He has played a central role in efforts to improve the borough's infrastructure with the addition of the Bear Run sewer extension and the construction of Franklin Park's first municipally owned golf course, Clover Hill. Bill Lafayette has also supported efforts to improve the operation of council business by hiring a borough manager and establishing a more organized management structure.

It should be noted that William Lafayette has served his community as an elected official while also working in the private sector as a successful businessman. Bill Lafayette currently holds the position of vice-president of O'Brien-Kreitzberg Corp., a project management firm in Pittsburgh. This local branch has grown over the past 5 years from the 3 employee operation to a business that now employs over 25 people. In addition to his work at this firm, Bill Lafayette is the president of the Pittsburgh American Society of Civil Engineers, an active member of the Project Management Institute and president of the Pittsburgh chapter of Norwich Alumni.

William Lafayette earned his degree in civil engineering from Norwich University in Vermont. After being hired by Bethlehem Steel and being assigned to headquarters in Bethlehem, PA, Bill Lafayette met and married his wife of 23 years, Elaine Smith Lafayette. After he transferred 11 times in 9 years, the Lafayette family decided to make their home in the Franklin Park Borough north of the city of Pittsburgh. It has been in this community that Bill and Elaine raised their three children, Kathleen, Kristin, and Michael.

Mr. Speaker, it is my hope that Bill Lafayette will enjoy his well-earned retirement from the Franklin Park Council. Still, I know that the needs and dreams of his neighbors and friends in Franklin Park will never be far from the thoughts of Bill Lafayette, a dedicated public servant.

TRIBUTE TO MIKE McCALLUM

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 17, 1993

Mr. TOWNS. Mr. Speaker, it gives me great pleasure to pay tribute to a man who has prevailed in the field of boxing, Mike "The Body Snatcher" McCallum. A classic warrior, McCallum does not contemplate defeat, but firmly believes that he can beat any man, any time, any where.

Mike's record proves his ability, with 44 wins, 2 losses, 1 draw, and 34 knockouts. A two-time Jamaican Olympic team member and a holder of 13 world championship titles, McCallum is deemed by fans to be the most dominant middleweight champion since Marvin Hagler.

As a child growing up in Jamaica, Mike was active in sports. Surprisingly, he dreamed of becoming a professional horseracing jockey. Mike's interests moved from the racetrack to the ring as he grew older. While many boxers have fought and then retired only to come back to the ring, Mike McCallum has never left the sport. Even when managers have lost confidence in him, he continued to fight. Once he made the decision to box, it became a never-ending passion. McCallum says that after boxing he wants to be a trainer.

Away from the ring, McCallum is a devoted family man, spending most of his time with his 12-year-old daughter, Michelle, and his mother in New York.

Mr. Speaker, it is an honor to recognize a man so dedicated to his work and family. Please join me in congratulating Mike McCallum for his outstanding accomplishments.

TRIBUTE TO BUSTELO COFFEE CO.

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 17, 1993

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to the Bustelo Coffee Co., which this Friday, November 19, will celebrate its 65th anniversary.

In 1928 an immigrant from Spain named Gregorio Bustelo started a coffee business in New York's "El Barrio" in East Harlem with a coffee roaster he had purchased for $125. Over the succeeding decades New York City's Hispanic population—particularly its Puerto Rican population—grew even larger, and Gregorio Bustelo expanded his business to match it. By the year 1960, Bustelo Coffee had a fleet of 10 delivery trucks and a modern plant in the Bronx to provide high quality expresso coffee to the many Spanish bodegas and to a number of New York supermarkets.

Mr. Speaker, Bustelo has been the traditional coffee of New York's Hispanics for as long as I can remember. As children we thought coffee was just another word for Bustelo. And since the mid 1960's, when it became one of the Tetley brand of products, Bustelo has grown into the leading coffee among Hispanics in all of the United States. With the recent explosion of expresso's popularity across the country and around the world, the coffee first marketed by Gregorio Bustelo 65 years ago is destined to become a favorite of a broad and diverse international community.

I would like to extend my congratulations to Henry McInerney, chairman of the board of directors of Tetley, Inc., on the continuing success of the Bustelo Coffee Co. at this important milestone.

THE DISGRACE OF THE PEOPLE'S HOUSE: TO LET INNOCENT FAMILIES GO WITHOUT AT THANKSGIVING

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 17, 1993

Mr. RAHALL. Mr. Speaker, Congress is in a mad rush to adjourn before Thanksgiving. There is nothing wrong with wanting to get out of session and ready to settle in with our family, friends, neighbors, children, grandchildren for a feast of turkey and all the trimmings on Thanksgiving Day. Nothing at all. Is there?

It's an American tradition, isn't it?

Not if, through no fault of your own, you are unemployed. Not if you have been unemployed so long you are now listed among those who are chronically unemployed—some still looking for elusive jobs, others who've quit looking altogether. But you were at least getting weekly unemployment benefits until this past October 2, 1993. You had even managed to not think about how to pay the taxes that come due on unemployment benefits next April.

The House, after putting aside serious concerns of the Hispanic Caucus and others concerning methods of payment that would adversely affect immigrants of Hispanic origins, finally voted to extend unemployment benefits—emergency benefits—through next February. Not very long—but at least more weekly checks to tide families over until another day—a day beyond Thanksgiving and Christmas—so that they could hope to have a few pennies left over to celebrate during the holiday season, too—celebrations that the rest of us take for granted.

But even after the House voted—more than 3 weeks ago—the Senate tacked onto the bill a nongermane amendment, mandating the reduction of the Federal work force by 252,000 by 1999. Clinton had proposed to do this, as a means of reducing spending and the deficit.

The Members of both bodies had, painfully for many, already voted to cut at least 100,000 Federal workers by 1995, to save $20 billion. Adding on the rest would save a total of $27 billion—according to OMB. According to CBO, the so-called savings aren't there to begin with. And, according to both House and Senate proposals pending, from crime bills to God-knows-what-all, if the savings are there, they have already spent it three times over. So much for deficit reduction and spending cuts.

Yet at the heart of this statement, Mr. Speaker, is that all this rhetoric and shilly-shallying around has led to nothing more than to leave the unemployed dangling in the wind, no safety net, no nothing, to stop their fall through the cracks of our indifference.

All I've heard recently is NAFTA, NAFTA, NAFTA. And I've heard more about health care reform than anyone should have to listen to until at least next spring when the real work begins; then I hear about reinventing government and Penny-Kasich proposals to make meat ax cuts to what is left of the Nation's budget that, if enacted, will go far toward creating more unemployment. And if enacted, will certainly stop our economic growth that has begun to show up in real honest-to-God numbers.

And as cited above, I've heard much about crime and the crime bill Congress must enact to put a stop to all this killing—including the Brady bill—none of which will mean a whole lot if we don't put Americans back to work. At least unemployed West Virginians will use their guns to hunt game to put on their tables.

By all means, let us finish up NAFTA—I hear the survival of mankind, the free world, and the Fortune 500 depends upon it.

By all means let us get a crime bill and pay for it with money that comes from our own creation of another unemployed segment of our population—the Federal employees. What on earth must these Federal employees have done to warrant such treatment, anyway? If we aren't RIF'ing them, we are furloughing them—and now we just arbitrarily cut 252,000 of them loose, while we gleefully plan ways to spend the money we were supposed to be saving by cutting them in the first place.

And hanging by a thin thread to this nongermane amendment, this filibuster-enabling proposal, played to the tune of "So Long Its Been Good to Know Ya"—are the long-term unemployed—nearly 8 million of them. The needy among us—needy because coal mines and plants closed, jobs lost through no fault of their own—are being held hostage by a disgraceful display of indifference by a House and Senate full of haves, who have no compassion for the have-nots.

This is an emergency—repeat emergency—extension bill. H.R. 3167 is its number; feeding families at Thanksgiving and putting a toy under the Christmas tree for a small child is its name. Too crass? Too commercial for all the purists out there? OK, then its an emergency bill to put cornmeal mush and pinto beans on the table, and instead of a child's toy under a Christmas tree, just give the kids a warm pair of mittens, and a warm cap for their heads. Just think, when the home heating is turned off for lack of payment, they can sleep in them to keep from freezing.

Are we seriously considering leaving Washington without taking action on this bill—leaving it until next January or February? Do you suppose the unemployed will mind if we don't waltz back to the Nation's Capital to represent them until mid-January; they'll just hang in there and wait, right?

They don't have a choice.

We do.

Since I assume Federal employees are warm-blooded Americans who work for a living, and who have daily needs for food, clothing, and shelter, just like the rest of us, they should not be sacrificed on the rhetorical-altar of additional tough spending cuts, or additional massive deficit reductions, or cutting government waste claims.

What is our motto around here these days? We got ours, let them get theirs?

We aren't Federal employees. Our paycheck goes on.

We aren't the chronically unemployed, worn out from looking for nonexistent jobs. Our paycheck goes on.

As a Post editorial said: "The personnel cuts have yet to be made, and already we have spent them to pay for two deficit reductions and one expenditure increase." Yet the biggest fight in the House over the emergency benefits extension bill was over how to find the $1.2 billion to pay for it. How about we report the bill out of conference, with the nongermane amendment intact since both bodies voted overwhelmingly to do so—cut 252,000 Federal employees, save $22 billion or $20 billion or $27 billion, depending on whose numbers you use—and set aside at least enough of the savings to pay for the benefits—for both the currently unemployed, and for the 252,000 unemployed Federal employees between now and 1995. It would solve all our problems, even eliminating the concerns of the Hispanic Caucus over how the House bill proposed to pay for the benefits in its original bill.

How's that for a compromise.

I hear 8 million unemployed souls out there saying: "Great, Nick, just Great. Do it."

I can't. I'm not on the conference committee. But I have a vote, and I want to vote before November 22, 1993, to extend emergency unemployment benefits to the jobless Americans out there. It may be too late to help put a turkey on their table at Thanksgiving, but it is not too late for Christmas—is it?

Is it?

VOICE OF AMERICA SCHOLARSHIP PROGRAM

HON. JIM BACCHUS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 17, 1993

Mr. BACCHUS of Florida. Mr. Speaker, I include an essay by Ms. Kris Marie Havens in the RECORD, for your information and enjoyment.

MY VOICE IN AMERICA'S FUTURE

(By Kris Havens)

On a dark stage, an actor waited. Suddenly a small yet brilliant spotlight grew, as if it gave life to the actor. It was at this time when that person could say anything, do anything, be anything, knowing that he would affect every member in the audience. The greatest playwright, William Shakespeare, once expressed, "The world is a stage." If this is true, then we are all the actors. Through our actions and voice we will touch each other.

VOICE

This five letter word presents not only the verbal, but the nonverbal actions as well. If a person looks deep enough into this word, they may be able to see how each letter represents a different performance. Those activities are the ones where the power of my voice rings.

"V" represents Volunteer. Just as the spotlight grows and gives life to one actor, the performance of volunteering gives hope to many players. It is true, people are ripped out of their homes by environmental disasters. It is true, some children go to bed hungry. It is true, we all are vulnerable to incurable diseases. No matter what the case, everyone needs one thing—aid. Whether it's one's money, one's time, or one's heart, it helps. Edward G. Bulwar-Lytton once said, "When a person is down in the world, an ounce of help is better than a pound of preaching." When I attend Project Response and hug those unfortunate people who have acquired the HIV virus, or even worse, AIDS, nonverbally the power of my voice rings.

"O" stands for Opinions. Before the cast is picked and any staging is done, it is the director who performs first, by deciding on how to interpret the play. In this remarkable country the people are free to believe in anything they desire. Thomas Mann once said, "Opinions cannot survive if one has no chance to fight for them." I will fight for my opinion in public forums, through voting and serving my country in military service. As I prepare myself for these duties, in the end the power of my voice rings.

"I" represents being informed. The entire cast and crew of a play must take on life blindfolded shows ignorance and weakness. We must keep in touch with what is going on in our city, state, country, and world. "America is not just a nation but a nation of nations," stated our 36th President of the United States, Lyndon B. Johnson. We must not ignore any problems that occur in this world; because in the end, it may be on our doorsteps and more likely, too difficult to control. By picking up a newspaper and reading more than just the comics and horoscope, softly, the power of my voice rings.

"C" stands for Choice. An actor may choose many ways to portray his character to display the best of his talents. Everyone, as a United States citizen, has to choose to speak up for change. William James believed, "When you have to make a choice and don't make it, that in itself is a choice." I choose to be proud of my country, and its flag, and its opportunities. By choosing to act on these convictions, the power of my voice rings.

"E" represents Education. Without light, nothing breathes on stage. Without knowledge, the light in a man's mind is dark. One must know the past to prevent future decisions from failing. One must know the present, as well, to aid in the future. "Education is growth * * * Education is not a preparation for life; education is life itself," explained Professor John Dewey. By enrolling myself in challenging classes and helping those struggling to gain knowledge, the power of my voice rings.

The words for Johnson, Shakespeare, Dewey symbolize how the power of their voices still ring. Yet not only can their words be recalled, but their performances as well, therefore, I choose that my deeds speak for me through volunteering, holding opinions on current issues, staying informed, making choices, and striving for the best education possible. The power of my voice will ring in America's future.

OBSERVATIONS ON THE 1993 ELECTIONS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 17, 1993

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington report for Wednesday, November 17, 1993 into the CONGRESSIONAL RECORD:

OBSERVATIONS ON THE 1993 ELECTIONS

The November 2 elections contained no congressional or national races, but mayoral races for several major cities and governor races for Virginia and New Jersey. Voters were confronted with a variety of ballot initiatives, on topics ranging from school choice to taxes to gay rights. The Republicans swept the three highest profile races—New York City mayor and the New Jersey and Virginia governorships—and ballot initiatives revealed often rebellious voters. I think the experts make too much of trying to find national trends in local and state elections. Most of these elections tend to be based on local, not national issues. Yet the elections do provide a glimpse of the mood of the voters.

MOOD OF THE VOTERS

The mood of the voters appears to be "grouchy and grumpy", as one pollster put it. The voter unrest stems first and foremost from the poor economy and secondly from the pervasive fear of violent crime. Voters want to see leaders run the country and their communities in ways that directly benefit their families, their neighborhoods, and their places of work. They have a sense that things are not quite right and ought to be better. They continue to express a warning against established politicians. They still want change and results.

Although there is not much doubt that voters continue to be upset and impatient, they can still be quite deliberative and discriminating. They clearly do not like tax increases, although they will support some tax increases if they like what the taxes are paying for. For example, in Washington state the voters agreed to keep taxes that were partly used for financing a new health care plan. The voters in California supported an increase in sales taxes to support public safety efforts. The crime issue still carries a lot of weight with voters and they are prepared to put their tax money where their worries are. Those running for office put heavy stress on anti-crime measures. They talked tough on crime, and supported such measures as tougher penalties and no parole for serious offenders.

On social welfare issues, my general sense is that the voters do not favor proposals for redistribution or entitlement. But they do like proposals which advance opportunity, community, and responsibility.

The voters are also quite prepared to reward results. For example, the mayor of Houston promised to put more police on the streets. He did so, cut crime, and had almost no opposition this year. Other mayoral races across the country also showed voters favoring efficient, non-ideological governments. In most contests, racial lines did not seem to make that much difference.

Term limits continue to be popular, with big wins for term limits in the state of Maine and New York City and in smaller cities and counties across the country.

It is always hard to sum up an election mandate, but the voters across the country continue to show strong support for term limits, a tougher than ever stand on crime, opposition to gay rights, and, while not enthusiastic about tax increases, they would pay higher taxes if the revenue goes for health care or education. The voter is not in the mood to experiment with new ideas, with the probable exception of crime. In Washington state, for example, the voters approved a "three strikes you're out" approach which would mandate life sentences without chance of parole for people convicted of three consecutive felony offenses.

"Security" has become the new buzzword in politics. It encompasses the anxieties workers have about losing their jobs, and the fear that people have of crime and the random violence in communities and schools.

CANADIAN ELECTION

There may be some lessons from the Canadian election as well. It may have told us that the deficit was never going to be the cutting-edge issue, that the voter still has his eyes on jobs and economic growth and seems to understand that without that growth the deficit will never go away. The new Canadian Prime Minister won with a commitment to greater public works spending to put people back to work and repeatedly emphasized the theme that the country had to concentrate all of its efforts on the economy to create jobs, to have economic growth, to give dignity to the workers. This suggests that politicians have to tread a fine line. They have to be fiscally responsible but also have to be compassionate; they cannot be "big spenders" but must remember that jobs and growth almost always beat austerity in an election period.

INCUMBENTS

A politics of protest is still very much alive with an unhappy electorate. It is also an electorate that is not sure which way to turn for help. The campaign to limit the terms of elected officials continues to gain momentum. Already 16 states have approved term limits. Yet I think the public is less inclined than they once were to believe that the solution is to get rid of the incumbents. Voters continue to be very wary of any incumbent, but they are not enchanted with challengers in competitive races either. Every candidate in this atmosphere is potentially in trouble. It makes for a combative, demanding environment for the candidate.

CAMPAIGN TACTICS

I continue to be impressed by how politics today is dominated by the professionals who create public images of the politicians. These people are pollsters, consultants, campaign strategists, advertisers, columnists, and commentators. They deal with the images and perceptions of politics much more than its substance, and they have come to hold powerful sway over America's political life. They were abundantly evident in recent elections.

The election also showed that negative politics is back in style. In the New York City race, in New Jersey, and in Virginia it was all a "no holds barred" race. I think the elections also showed that campaigns can still matter. Voters do listen to the candidates, more perhaps than the candidates may think.

CONCLUSION

Voters today are at least as ready to shake things up in government as they were in 1992. The cantankerous mood of the voter has put all politicians on notice, and is likely to make lawmakers even more edgy than they already are about casting risky votes. At the same time, there is a strong plea by voters for politicians to get back to basics. They want politicians to deal with the fundamental issues—such as the economy and crime—and to fix the mess they see all around them. They just want to make things work.

TRIBUTE TO THOMAS DANIEL HEMANS

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 17, 1993

Mr. TOWNS. Mr. Speaker, I rise today to commend a very talented individual, Mr. Thomas Daniel Hemans, known to his peers in the basketball world as "Tommy". Thomas Hemans is a native of Brooklyn, NY, and is an outstanding basketball player and professional.

Tommy started his successful basketball career as team captain at Jefferson High School. After accepting one of numerous basketball scholarships offered to him, Tommy continued his education at Niagara University. He excelled as an all American basketball player which along with many other honors enabled Tommy to be drafted by the St. Louis Hawks of the NBA. For 13 seasons, Tommy was one of the most outstanding players in the Eastern Professional Basketball League.

Tommy is not only an exceptional athlete, but a man whose professional career is also outstanding. He has attained high level governmental positions such a supervisor of recreation and community activities (board of education), executive director of the New York City Board (office of the mayor), and his present position with the New York City Schools, director of the public schools athletic league.

Tommy states that, "any achievements I may have attained are directly attributed to my family, my friends, my colleagues, my coaches, my teammates and my opponents."

RELIGIOUS INTOLERANCE IN SAUDI ARABIA

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 17, 1993

Mr. LANTOS. Mr. Speaker, I would like to draw your attention to the human rights conditions in Saudi Arabia where restrictions on religious freedom remain a serious concern. Although the Government of Saudi Arabia released 21 members of the Shi'a Muslims community in July, 1993, Amnesty International estimates that hundreds of individuals remain incarcerated for the peaceful expression of their religious beliefs.

Islam is the official religion in Saudi Arabia and all citizens are required to practice only the Muslim religion. Since 1990, hundreds of men, women, and children have been arrested and detained for the peaceful expression of their non-Muslim religious beliefs. Religious intolerance toward non-Muslims has increased during the past several years and the number of worshippers who have been arrested, detained, and mistreated has risen significantly.

Mr. Speaker, the Saudi Government prohibits any religious activity that it considers not to be Muslim. Even a division of Islam, the Shi'a Muslims, are unable to practice their faith. Shi'a Muslims are not permitted to practice their faith publicly or privately, are forbidden from constructing places of worship and are prohibited from celebrating their traditional religious rituals. Many Shi'a Muslims are forced to convert to Sunni Muslim beliefs. Many of those who have expressed their religious beliefs in public have been arrested, tortured during interrogation, and kept in solitary confinement for prolonged periods of time.

Christians in Saudi Arabia are also victims of religious discrimination. They are forbidden to have places for public worship and they risk persecution if they practice their religion in secret sessions.

Saudi law prohibits the celebration of non-Muslim holidays and the use of non-Islamic religious items, such as rosary beads, Bibles, crosses, or pictures of Jesus Christ. There have been reports of repeated cases of arrest, detention, and torture of Christians who engaged in prohibited activities, including the celebration of Christmas. Police forces have frequently disrupted prayer services at private homes and arrested worshippers.

Mr. Speaker, last year Michael Cornelius was arrested in Saudi Arabia. His crime was having said "Jesus Christ is Lord." For his statement of faith he was convicted and sentenced to 1,000 lashes and 7 years in prison. Michael's case is one example of the many cases of Christians who have been beaten and tortured during interrogations and incarceration. Many religious prisoners eventually were released, deported, or unaccounted for.

In light of the internationally guaranteed right to freedom of religion as expressed in the United Nations Declaration of Human Rights, the international community cannot close it's eyes to the religious intolerance. For that reason I am speaking out today for those who's wounds are not seen or who's cries for help are not heard.

HONORING THE WALKER FAMILY

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 17, 1993

Mr. PICKLE. Mr. Speaker, I give special recognition to a great Texas family with a long and illustrious history. Mrs. Jean Halden Walker, a constituent of mine in Austin, TX, and her family are reminders that great leaders have brought my State of Texas and our great Nation to the forefront of the world.

Mrs. Walker's ancestors fled the poverty and tyranny of Europe in the 1600's in search of a better life here in America. Members of her family were present for the writing of the Mayflower Compact, the Mecklenberg Declaration in North Carolina, the U.S. Declaration of Independence, and my own State's Declaration of Independence. Some of her more famous relatives were John Alden, Roger Williams, and Samuel Gorton of Rhode Island. Mrs. Walker's great-grandfather was the renowned William Thomas Yancey, the editor of the original Galveston News, forerunner of the Dallas News.

The family of Mrs. Jean Halden Walker represents the best of America: The great pioneers, boldly forging ahead in a new land that was so large and strange, but yet so full of opportunity. It is to these men and women and their courage, strength, and fortitude that we owe our great Nation, founded upon the rights we hold so dear.

I am proud to know Jean Halden Walker, her husband, Chuck, and her parents. Few families have played a more vital role in our history and development. I salute Mrs. Walker and her family, and wish them the very best.

TRIBUTE TO THE HEROISM OF MANUEL INANUE DEDIOS, A CRUSADING JOURNALIST IN THE WAR ON DRUGS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 17, 1993

Mr. RANGEL. Mr. Speaker, I rise to pay tribute to the memory of Manuel Inanue DeDios. A crusading journalist and relentless fighter against the narcotics trade, he was murdered in March 1992 by assassins associated with the Colombian drug trade.

A former editor of El Diario La Prensa, a major Spanish language daily newspaper in New York City, Mr. DeDios had established a reputation, and gained many enemies, with his untiring journalistic pursuit of criminals involved in smuggling millions of dollars in illegal drugs into this country. Indeed, he had once written in a newspaper column that he expected to be killed some day for his journalistic pursuits.

The 48-year-old Mr. DeDios was killed by two bullets to the head fired by a gunman as the journalist sat eating dinner in a restaurant in Queens, NY. Witnesses told the police that two men entered the crowded restaurant, located in the center of the city's Colombian community, and one of them pulled a gun and began firing.

Investigators concluded that the murder was the work of Queens-based drug operators who had arranged for the murder through contacts with members of the Cali drug cartel in Colombia.

Following a months-long investigation by local and Federal authorities, including the Justice Department and the Drug Enforcement Administration, to date, three suspects who pled guilty to various charges related to the DeDios killing, as well as other paid assassinations, are facing multiple life sentences. Another suspect is awaiting trial.

At the time of his death, Mr. DeDios was the owner and publisher of two small Spanish-language magazines, which he founded after leaving El Diario in 1989. He was working on articles that named drug dealers and money launderers connected to the Colombian cocaine trade. Investigators believe that payments to the killers came from people who feared being exposed by Mr. DeDios.

Beyond his career as a crusading editor, Mr. DeDios authored several books on the Colombian drug trade, including "The Secrets of the Medellin Cartel," published in 1988.

Mr. DeDios has been honored by Columbia University with a posthumous award for his brilliant career as a journalist. In addition, a scholarship fund for Latino journalists has been established in his name by WNBC–TV, administered by the National Association of Hispanic Journalists.

Mayor David Dinkins of New York described his journalistic legacy as an "inspiration for our Nation's young aspiring journalists."

Mr. DeDios, who was born in Cuba, had also lived in Puerto Rico, before joining El Diario in 1976, as a police reporter. He was named editor-in-chief in 1981. He is survived by his wife Vicky Sanchez and a 4-year-old daughter.

LOSS OF JOBS UNDER NAFTA

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 17, 1993

Mr. ACKERMAN. Mr. Speaker, as the House prepares to vote on NAFTA today, I want to bring to the attention of my colleagues an op-ed article in yesterday's New York Times by A.M. Rosenthal.

Mr. Rosenthal makes the important point that American workers are legitimately concerned about the loss of their jobs and have had longstanding concerns about low wages, inadequate labor laws, and freedom of association for workers around the world.

In light of the importance of today's vote, I urge my colleagues to read Mr. Rosenthal's article.

[From the New York Times, Nov. 16, 1993]

NAFTA HITS INTELLECTUALS

(By A.M. Rosenthal)

No need to worry. Nafta will not cost the job of a single American factory or agricultural worker. No plant or farm will be put out of business.

However, because of various complicated Nafta tax and anti-subsidy provisions, some other Americans will experience inconvenience.

Jobs will be lost by several hundred thousand editorial writers, columnists and other journalists, plus publishing executives, university professors, Wall Street specialists and members of state and Federal legislative staffs. A few dozen think tanks will close down altogether.

But unemployment insurance will be available, often, for these newly unemployed intellectuals. Any many may be retrained for jobs as newsroom receptionists, school custodians or clerks in automated warehouses.

Of course they must be flexible—willing to sell their homes, pull their children out of school and hunt for new jobs in other cities around the country. Many will find employment above the minimum wage, probably, if they take care not to be too old to compete with high school dropouts.

But being educated people they will also understand that contrasted to the possibility of a better balance of trade with Mexico their problems are entirely minor and not whine about it.

Anyway, perhaps things will pick up for them toward the end of the 90's.

Ah—all this has been my evil little fantasy these past couple of weeks. Ah—how they would howl, those journalistic and academic supporters of Nafta who have shown so little care, compassion or understanding about the fears of working people who might lose their jobs, how they would howl if their own jobs were in danger.

I can hear them already, because I have heard them so often before. If a newspaper is in danger of closing, or Wall Street brokers have a bad year, or if professors face loss of tenure for anything but murder, we fill pages of print and hours of air time with sheer poignancy.

But we really do expect workers who lose their jobs after years at a craft or assembly line to be sweet and humble, because some day some other workers in some other factory may pick up jobs.

I was in favor of NAFTA, though I never did think the Republic would collapse, America be driven from the company of decent nations and extraterrestrials take over if it did not pass. But now the Administration and the intelligentsia have converted me to opposition to the current version of NAFTA.

The genuine fears of frightened workers are dismissed contemptuously by the Clinton Administration, press and academia. If that is true now, while workers are still fighting, what care will be shown them or their thoughts if they are defeated and find themselves out of work in the name of grander interest?

I am a company man; any union that threatens my paper, watch out. But that does not turn me into some kook union-hater, spilling over with rage at unions exercising their right to lobby.

The Administration's attack on the whole A.F.L.-C.I.O. and its leaders is not only unjust, but damaging to freedom movements everywhere.

When it was not at all fashionable, the A.F.L.-C.I.O. and Lane Kirkland, its President, came to the quiet assistance of freedom fighters, dissidents and political prisoners throughout Eastern Europe and the Soviet Union. The U.S. will need Kirkland again.

But Mr. Kirkland is suddenly painted Mussolini and his members a bunch of know-nothing boobs.

Workers fear that NAFTA would preserve child labor, abysmal wages and government-police union-busting in Mexico. All of these are brutally unfair to Mexicans and to competing U.S. workers. And in case anybody cares about such niceties, Mr. Kirkland argues they also run counter to provisions in U.S. free-trade laws.

But if this version of NAFTA is defeated, American business, labor and government still have a chance to try to negotiate a NAFTA that would open Mexico not only to free trade but to free unions and halfway decent pay.

President Clinton says he needs NAFTA as a message of support to the Asian summit meeting in Seattle. If he loses, maybe the message will be even stronger. In Asia as in the U.S. and Mexico, Americans are against slave wages, forced labor, child labor and government union-smashing.

Aren't we supposed to be?

TRIBUTE TO SHAWN DUNSTON

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 17, 1993

Mr. TOWNS. Mr. Speaker, I rise today to honor Mr. Shawn Dunston, one of the top Major League shortstops in America.

Shawn graduated from Brooklyn's Thomas Jefferson High School in 1982. At Jefferson he was a three time all-star and two time MVP in baseball, and maintained a high academic average. Shawn has always combined his natural athletic prowess with academic strength; however, he will tell you that baseball was always second to his education.

As a teenager Shawn consistently shared his talent for baseball with youngsters. He is extremely community spirited. His caring attitude comes from a strong personal sense of purpose, and a healthy respect for himself, his family, friends, and teammates.

Shawn is said to be blessed with the strongest arm of any infielder in baseball. He took over the starting shortstop job for the Chicago Cubs in 1985 and has since been named the National League All-Star infielder with the best arm.

Mr. Speaker, it is with great respect and honor that I recognize Mr. Shawn Dunston for his outstanding achievements.

KEY DOCUMENTS PROVE INNOCENCE OF JOSEPH OCCHIPINTI

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 17, 1993

Mr. TRAFICANT. Mr. Speaker, as part of my continuing efforts to bring to light all the facts in the case of former Immigration and Naturalization Service agent Joseph Occhipinti, I submit into the RECORD additional key evidence in this case.

EXHIBIT N—AFFIDAVIT

Angel Nunez, Esq., being duly sworn deposes and says:

1. I currently reside at 240 Nagle Avenue, Apartment 14G, New York, N.Y.

2. I am an Attorney At Law lawfully admitted to the Pennsylvania Bar with a speciality in Immigration law.

3. I am an active community leader in the Washington Heights/Inwood section of Manhattan, which is predominately made up of Immigrants from the Dominican Republic.

4. I am an expert in civil rights having been a special legal adviser to the Undersecretary of the United States Department of Education, and having been employed as the Assistant Commissioner for Equal Employment Opportunity at the New York City Department of Sanitation.

5. I am a board member of the National Hispanic Coalition and the Somos Uno Foundation. Both of these organizations are dedicated to the economic educational and legal progress of Hispanics in the United States.

6. I was the first Dominican Politician on the ballot in the United States. I was a candidate for the New York City Council in 1985.

7. On or about April 8, 1991 I received a call from Supervisory Agent Joseph Occhipinti telling me that there were a number of newspaper articles in El Diario (the leading Hispanic Newspaper) that alleged civil rights and embezzlement violations against Bodega owners. Agent Occhipinti wanted to assure me that the investigation he was working on "Project Bodega" was a duly authorized criminal investigation of a drug cartel implicated in the murder of a New York City police officer.

During the conversation, he asked me questions about the Federation of Dominican Businessmen and Industrialist of New York, aka the Federation, since they were the genesis of the allegations. I told Joe that the responsible thing for me to do would be to have him give me a list of the places he visited during his investigation and I would conduct my own investigation as to the truth of the charges.

8. I had previous dealings with Mr. Occhipinti in my official capacity as the Attorney for Dominicana Airlines. I had found Mr. Occhipinti to be a professional, dedicated and effective law enforcement officer. In my experience, Mr. Occhipinti was well respected in the Dominican community as being a protector of the Civil rights of undocumented Dominican Aliens. Mr. Occhipinti was the Officer who spearheaded the investigation called "Project Square Badge", which successfully prosecuted Security Officers from Wells Fargo Security Inc., for alien smuggling and numerous abuses of aliens in their custody including the starvation and sexual abuse of detainees awaiting deportation. Mr. Occhipinti was also known in the Dominican community as being an effective Crime fighter against the organized Dominican Drug Cartels and organized crime. In addition, I believe that if Officer Occhipinti was a habitual violator of civil rights I would have known about it since as an Immigration attorney I represent a large number of Dominican aliens.

9. My preliminary investigation of the charges made against Officer Occhipinti appeared to have been maliciously fabricated by the complainants all of whom were related by family ties, membership or association

with the Federation. In addition, these complainants, who were portrayed as hard working law abiding merchants by the US. Attorney's office were in fact involved in a variety of criminal activities for which they were found to be in violation of law by Officer Occhipinti and thereby had a motive to make such allegations.

10. On or about April 1991, after Officer Occhipinti had been formally indicted, I volunteered to help him in his defense. I did this free of charge because I felt a moral and civic obligation as an officer of the court to bring to light the fraud which was destroying this man's life.

11. During my participation in Mr. Occhipinti's defense investigation and prosecution I found numerous instances of prosecutorial misconduct which are as follows:

A. INTENTIONAL EXCLUSION OF EXCULPATORY EVIDENCE FROM THE GRAND JURY

1. A review of the Grand Jury testimony disclosed that the prosecutors on many occasions intentionally withheld from the Grand Jury material facts which tended to show the complainants involvement in criminal activities. The prosecutors also went to great lengths to show complainants to be credible law abiding witnesses knowing this to be patently false. Exhibit "A"

B. INTIMIDATION OF DEFENSE WITNESSES

1. An investigation has uncovered numerous witnesses who has allegedly intimidated by the prosecution. These witnesses have agreed to testify if properly subpoenaed and if precautionary measures against retaliation are taken. Exhibit "B"

C. FAILURE TO TURN OVER EXCULPATORY EVIDENCE TO THE DEFENSE

1. An investigation has uncovered an overwhelming amount of witnesses, and who were interviewed by the prosecutors and provided exculpatory testimony. The prosecution intentionally withheld that exculpatory evidence from the defense after being legally required and asked to do so. Exhibit "B"

2. The defense has learned that the US Attorneys Office utilized Special agents of the US Department of Justice, Office of the Inspector General and the Internal Revenue Service, Criminal Investigations Division in their investigation.

HONORING JIM LUCAS

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 17, 1993

Mr. ENGEL. Mr. Speaker, It is my distinct pleasure to pay tribute to one of our Nation's most outstanding labor leaders, Jim Lucas, who is being honored with the Spirit of Life award by the Robal Chapter of the City of Hope National Medical Center on December 4.

This is not the first honor being bestowed on Jim Lucas, and it is not likely to be the last. He has made community service and activism the trademark of his career and his life. As president of Local 888 of the United Food and Commercial Workers International Union, which is headquartered in Mount Vernon, NY, Jim Lucas has fought for the rights of workers in this country and around the world. Yet, he has always been true to his roots and has never lost sight of the importance of family and community.

Although he has met and worked with some of the most powerful people in the world, Jim Lucas will talk about his parents, brothers, and school teachers when asked who he respects the most. He will point to the family he has raised and the church he helped rebuild when asked to point to his greatest accomplishments.

The motto of the City of Hope reads, "There is no profit in curing the body if, in the process, you destroy his soul." This mainly applies to the medical center's mission in addressing health problems, but it is entirely appropriate in describing the career of Jim Lucas. While working tirelessly to better the outward condition of his fellow man, he has realized that the key to success lies in inspiring our inner spirit.

I congratulate the City of Hope for choosing Jim Lucas as the recipient of the Spirit of Life award. I also extend my appreciation to Jim Lucas for all his efforts on behalf of his neighbors and all working people. May both City of Hope and Mr. Lucas enjoy many more years of success.

MY INDIANA

HON. PHILIP R. SHARP

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 17, 1993

Mr. SHARP. Mr. Speaker, I would like to share with my colleagues this beautiful poem written about my home State by a good friend of mine, Philip Ball, M.D.

My Indiana

(By Philip Ball, M.D.)

Did you never live in Indiana?
Too bad. You've been deprived.
It's not New York or Dallas
or a strange happy hour palace
like Miami or Vegas.
No, not my Indiana.

It's a place of flowing streams
like Wabash, Saint Joe and Kankakee,
and White and Salamonie and the old Maumee.
And it's got Lick Creek and Salt Creek,
and Mud Creek and Buck Creek,
and Big Creek and Mill Creek,
and Pipe Creek and Coal Creek,
and The Big Blue,
and the beautiful Ohio, too.

In the north
it's a place of shimmering lakes
like Winona, Sylvan and Wawasee,
and old Tippecanoe.
Then there's Lake Michigan too,
with its mills that make steel
and its great dunes of sand.

In the south, ancient hardwood trees stand
on the green rolling hills,
and deer roam wherever they will.
In the lush central plains
the gentle rains
fall on fields of soy beans
and corn which is green
and thigh high by July.
All in Indiana, my home,
where I'll live till I die.

But, it's mostly a state of mind,
my Indiana.
It has no fuss or pretensions,
and you'll never question
that it's honest and simple,
it's plain and it's kind.
And I'll admit
that it's square and it's straight,
my Hoosier State.
My own Indiana!
My Home!

TRIBUTE TO MELVYN J. DAVIS

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 17, 1993

Mr. TOWNS. Mr. Speaker, I would like to bring to your attention the outstanding contributions and hard work of Mr. Melvyn J. Davis, the NBA's player programs managers. His duties include coordinating internships with corporations, and counseling players in an effort to help them move comfortably into their second careers. In addition, Mr. Davis administers the NBA Legends Foundation, a fund created to aid former NBA players who are experiencing financial difficulties.

Mel graduated from St. John's University, and was drafted by the New York Knicks in 1973. Mel proceeded to spend 4 years in the NBA with the Knicks and New Jersey Nets. Mel also played in the European professional league for 5 years. After spending 8 years with Pepsi Cola, where he managed and supervised several Pizza Hut restaurants, he joined the NBA's management organization.

An active participant in the community, Mel has been a Big Brother and a member of the Bridgestreet Baptist Church for 5 years. a positive role model to inner city youth, Mel works with the Police Athletic League, Public Schools League, and the Boy Scouts. In addition, he speaks to youth on the importance of staying in school, and working hard to attend college.

It is with sincere appreciation that I honor Mr. Davis for his achievements. He is an accomplished man and an asset to our community.

HONORING THE RESCUERS OF GARRETT AND ALLEGANY COUNTIES

HON. ROSCOE G. BARTLETT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 17, 1993

Mr. BARTLETT. Mr. Speaker, today I commend the many people of Garrett and Allegany Counties in my district who assisted in the search for two young girls who recently were lost in the woods of the Savage River State Forest in western Maryland.

On October 18 of this year, 9-year-old Amy Lynn Fitzgerald and 8-year-old Lisa Marie Whitaker ran away from the Maryland Salem Children's Trust Home in Garrett County and became lost. They were missing for nearly 24 hours, including a frightening overnight in the cold mountain air. Rescue workers and volunteers found items of the girls clothing in sporadic locations, yet the girls themselves could not be located. Naturally, the worst was feared.

Not only was there an outpouring of help and support from volunteer organizations, but radio stations, private citizens, and local merchants all contributed to the search and rescue efforts to find these two lost little girls.

Because of the massive cooperative search on the part of the good citizens of Garrett and Allegany counties, Little Lisa and Amy were found unharmed. This happy ending serves as a testament to the people of western Maryland and their strong sense of community and caring.

TRIBUTE TO CONGREGATION EMUNATH ISRAEL ON ITS 140TH ANNIVERSARY

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 17, 1993

Mr. NADLER. Mr. Speaker, I want to take this occasion to take note of the 140th anniversary of the founding of Congregation Emunath Israel, an important and venerable house of worship in the Chelsea section of Manhattan, an area I am proud to represent. That anniversary will be celebrated this Sunday, at a dinner I will be unable to attend because we will be conducting legislative business here through the weekend.

Congregation Emunath Israel is more than just a Jewish house of worship. It is a center of community life. During the week, the congregation provides adult education courses in a variety of fields. Its program of cultural events, open to the whole community, includes lectures, concerts, art exhibits, and political forums.

The congregation's annual Yom HoShoa service reminds all who attend of the effort to exterminate an entire people and of the lessons the Holocaust holds for us today. The congregation has also played host for the past 4 years to a drop-in social services and lunch program for the homeless. Meanwhile, the members of the congregation have taken it upon themselves to help pay the higher education expenses of a recent Ethiopian immigrant to Israel whom the congregation "adopted."

I also want to pay tribute to the distinguished individuals who will be honored at the anniversary dinner this Sunday. They include Henry Garber, for his service as a trustee of the congregation; Irene Grubman, for her efforts as president of the congregation's Sisterhood; Rabbi Meyer Leifer, for his 30 years of service to the congregation and to the larger Chelsea community; and to Lina Schoenfeld for her contributions as office director, Kiddush director, and trustee.

It gives me pride to salute Congregation Emunath Israel as it celebrates its first 140 years, with confidence that its tradition of service to both the Jewish community of Chelsea and the larger Chelsea community will continue, stronger than ever, in the next 140 years.

A TRIBUTE TO NORTHBAY HOSPITAL GUILD

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 17, 1993

Mr. FAZIO. Mr. Speaker, I rise today to pay tribute to the NorthBay Hospital Guild which has provided 35 years of dedicated volunteer service to the Solano County community. I am honored to speak on the Guild's behalf and enter into the CONGRESSIONAL RECORD a brief and incomplete list of its many accomplishments.

Since its founding over three decades ago, more than 1,000 volunteers of all ages from the Solano County community have served in the NorthBay Hospital Guild. These volunteers have generously contributed more than one-half million hours of service to the community.

In addition, the NorthBay Hospital Guild has donated more than $1 million to the nonprofit NorthBay Healthcare System, which, in turn, provides millions of dollars in charity care every year to area residents.

Mr. Speaker, I ask my colleagues in the House of Representatives to join me today in honoring the selfless members of the NorthBay Hospital Guild, past and present, and I personally extend my sincere appreciation for their commitment to the good health and well-being of our community.

TRIBUTE TO MARK KROEKER

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 17, 1993

Mr. BERMAN. Mr. Speaker, I am honored to pay tribute to Deputy Chief Mark Kroeker, a friend and an exceptional leader in the Los Angeles Police Department. The San Fernando Valley is going to sorely miss Mark, whose new assignment is head of the LAPD's south bureau. As commander of operations in the Valley bureau, Mark instituted a community policing program that reduced crime and brought residents and officers closer together.

I saw firsthand Mark's warm and caring approach when we toured Blythe Street in Panorama City, which has experienced serious gang problems for several years. On a tour of the area Mark spoke directly to residents, listened to their fears and concerns, and generally gave a marvelous accounting of himself and the department. Watching his easy rapport with the people of Blythe Street, I could not help thinking that police-community tensions would be lessened or even eliminated in Los Angeles if there were more commanders like Mark Kroeker.

I have no doubt Mark will be equally successful in the south bureau. He is the ideal person to begin the difficult task of improving relations between the police and community in that area. Chief Willie Williams has made the perfect appointment in this case.

I ask my colleagues to join me in saluting Deputy Chief Mark Kroeker, a superb police officer and a good friend. I wish him well in his new post.

TRIBUTE TO FRED THOMPSON

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 17, 1993

Mr. TOWNS. Mr. Speaker, I would like to highlight the achievements and contributions of Fred Thompson, meet director of the Colgate Women's Games. Mr. Thompson has devoted more than 38 years to helping young women complete their education in addition to participating in track and field. He was an assistant coach of the United States Women's Track and Field Team at the 1988 Olympics in Seoul, South Korea. Fred is also the founder of the Atoms Track Club, an established and internationally respected Women's sports group.

Thousands of girls and women, ages 6 to 30-plus, from greater New York, Long Island, New Jersey and beyond, register annually for the preliminary track and field events that are a part of the Colgate women's games. As director, Mr. Thompson is involved with providing educational aid from the Colgate-Palmolive Co. to the highest scorers from these events.

Fred is a native of Brooklyn, where he graduated from the City College of New York and St. John's University School of Law. Since then he has dedicated his time and efforts to coaching U.S. women's track and field teams around the world.

I applaud Fred Thompson for his generosity and dedication to our Nation's women.

CONGRESSMAN KILDEE SALUTES MAYOR WALLACE HOLLAND

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 17, 1993

Mr. KILDEE. Mr. Speaker, I rise today to pay tribute to the mayor of Pontiac, MI, Wallace E. Holland. Mayor Holland is leaving office after nearly 20 years of public service. In appreciation for his service to the city of Pontiac and northern Oakland County, Mayor Holland will be the guest of honor at a banquet organized by a coalition of public servants, business persons and members of the community-at-large.

The banquet entitled, "A Tribute to Wallace Holland, An Appreciation Banquet For A Pioneer and Dedicated Public Servant", will take place on November 18, 1993 at the Pontiac Silverdome. In keeping with Wallace Holland's lifelong commitment to community service, the proceeds from this banquet will help fund programs that are responsible for the development of our nation's most precious natural resource, our youth. The Lakeside Boys and Girls Club and the Michigan Association for Leadership Development are but two of the organizations that will benefit from Mayor Holland's generosity.

A lifelong resident of the city of Pontiac, Wallace Holland was born on September 18, 1926. He attended Pontiac schools and went onto Oakland Community College. Mayor Holland was employed by the General Motors

Corp., as a mechanical supervisor until he retired in 1982 to become Pontiac's first elected full-time mayor.

Wallace Holland served as a member of the Pontiac City Commission from 1970 until 1974, when the commission appointed him Pontiac's first black mayor. Mayor Holland had become a respected political veteran by the time of his first public bid for the Mayor's seat in 1982. He served as mayor until 1985 and was re-elected mayor of Pontiac in 1990 with his term of office ending in January 1994.

A community leader as well as public servant, Mayor Wallace Holland has been involved in numerous organizations, including the White House Conference on Small Business, the U.S. Conference of Mayors, the Michigan Association of Mayors, the Michigan Municipal League, the Southeastern Michigan Council of Government's the United Way, the Michigan World Cup Commission, the Boy Scouts of America, the National Association for the Advancement of Colored People and the Pontiac Area Urban League.

Mr. Speaker, Mayor Holland's roots are burned deep in the soil of Pontiac. He and his wife, the late Exavier Holland, raised six children. He has worked tirelessly to make their future brighter. Because of the life he has lived, I know that this retirement recognition will not mark his departure from the public life. Rather, the dinner is a symbol of the love and respect the community has for Wallace Holland as he steps down from the office of mayor. I ask you and my fellow Members of the 103d Congress to join me in paying tribute to a dedicated public servant, Mayor Wallace Holland.

TRIBUTE TO DR. JACK LEWIS MOORE

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 17, 1993

Mr. DIXON. Mr. Speaker, I rise today to pay special tribute to Dr. Jack Lewis Moore who was honored at the Western Michigan University 1993 Distinguished Alumni Award dinner on Saturday, October 9. This prestigious award is reserved for those alumni who have made a significant contribution in their chosen profession. Dr. Moore has devoted over 30 years to the practice of medicine and has been an outstanding spokesperson for anesthesiology in California and nationwide. Dr. Moore, who resides in my congressional district, has also been actively involved in civic activities.

Dr. Moore's pursuit of medical excellence began at Western Michigan University in 1959 where he obtained a bachelor of arts degree in biology. He received his master of science degree in pharmacology and a doctorate of medicine degree from Howard University. Dr. Moore performed his internship at Kalamazoo Borgess Medical Center, and took his residency in anesthesiology at Case Western Reserve University Hospital. In 1970, Dr. Moore joined the anesthesiology department at Kaiser Permanente Medical Center in Bellflower, CA. Two years later, he was promoted to Kaiser's chief of anesthesiology, a position he held for 12 years. Dr. Moore has also served at Kaiser as Education Chairman for Anesthesiology, Medical Director for the School of Nurse Anesthetists, and Regional Coordinator for Anesthesiology.

Over the span of his medical career, Dr. Moore has been a leader in numerous professional organizations, including the American Society of Anesthesiologists and the National Medical Association. He has been a positive influence on the formation of medical policy, and served as chairman of the National Medical Association's anesthesiology section. Dr. Moore is a member and the immediate past president of the California Society of Anesthesiologist. For 10 years, he served as a district director for the California Society of Anesthesiologist.

Dr. Moore has inspired many young minority students to study medicine, and specialize in anesthesiology. In 1970, he became a clinical instructor in anesthesia at the University of California at Los Angeles [UCLA] and continues to instruct UCLA residents in this field. He also is a professor at Charles R. Drew Postgraduate Medical School.

Mr. Speaker, I urge my colleagues in the House of Representatives to join me in recognizing Dr. Jack Lewis Moore for his outstanding accomplishments in the field of medicine and his exceptional achievements in anesthesiology.

LETTERS FROM THE STATE AND DEFENSE DEPARTMENTS ON UNITED STATES POLICY IN SOMALIA

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 17, 1993

Mr. HAMILTON. Mr. Speaker, at the time of the November 9 floor debate on House Concurrent Resolution 170, directing the President pursuant to section 5(c) of the war powers resolution to remove United States Armed Forces from Somalia, I received letters from the Secretary of State and the Principal Deputy Under Secretary of Defense with respect to United States policy in Somalia.

I would like to bring these letters to the attention of my colleagues. The text of the letters follows.

THE SECRETARY OF STATE,
Washington, DC, November 9, 1993.

Hon. LEE H. HAMILTON,
Chairman, Committee on Foreign Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: As I said in response to your question this morning, the mission of the United States in Somalia remains as was stated by the President on October 7 and as it has been since the beginning of U.S. involvement there: to assist in providing a secure environment to enable the free flow of humanitarian relief.

In his address to the nation, the President made clear that the core of our mission is to protect U.S. troops in Somalia and their logistics bases and to keep open and secure the key roads and lines of communication that are essential for the United Nations and relief workers to keep the flow of food, supplies, and people moving freely throughout the country.

There has been no change in our mission as stated by the President. The patrols and other activities described for our forces in recent days are related only to these objectives. To ensure that there is no misunderstanding on the Somali side about the activities of U.S. forces, we will be working closely with the U.N. and the Somalia factions in the recently reestablished security committee.

As the House of Representatives prepares to debate H.Con.Res. 170, I would also like to take this opportunity to stress the importance which the Administration attaches to the action taken by your Committee in amending the original text of this resolution. Your amended text is similar to the President's stated policy respecting the withdrawal of U.S. forces from Somalia by March 31, 1994.

An accelerated withdrawal would run the risk of not allowing enough time for other countries, under U.N. auspices, to take over the functions now being carried out by U.S. forces. Moving up our withdrawal date also would only encourage other countries which now have forces in Somalia to withdraw their troops and discourage those countries which are considering sending troops. It would also undermine the efforts which Ambassador Oakley has been making to move forward on the track of political reconciliation.

Please do not hesitate to contact me if I can be of any further assistance on this important issue.

Sincerely,

WARREN CHRISTOPHER.

PRINCIPAL DEPUTY UNDER
SECRETARY OF DEFENSE,
WASHINGTON, DC,
November 9, 1993.

Hon. LEE HAMILTON,
Chairman, House Foreign Affairs Committee, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: You have asked for a formal response from the Department of Defense on what the implications would be if U.S. forces were required to withdraw from Somalia by 31 January, vice 31 March 1994. In the Department's view there would be severe and adverse consequences resulting from such an action.

First, we have already developed a withdrawal plan for U.S. forces based on the 31 March withdrawal date. Any acceleration of the plan to 31 January would be extremely difficult to implement due to the logistic constraints posed by the small seaport and airport in Mogadishu.

Second, a decision to accelerate the U.S. withdrawal would likely cause most other countries providing forces to UNOSOM to leave prematurely as well. Since we would probably be requested to provide the strategic lift needed to redeploy those forces, it would exacerbate "throughput" and other logistic problems and complicate our withdrawal.

Third, the majority of Somalis favor a continued U.S. and UN presence to maximize the chances for an agreed settlement and a reasonable prospect for maintaining order, after we leave. Once announced, an accelerated withdrawal of U.S. and UNOSOM forces would likely cause a panic among supporters of the UN presence and result in an end to the present de facto cease-fire and a renewal of major inter-clan warfare. This resumption of major hostilities would increase the danger not only to Somalis, but also to U.S. and

UNOSOM forces as they attempted to withdraw. In short, withdrawing our forces under such circumstances could significantly increase the risk to American and UN forces.

Finally, the resulting situation would virtually eliminate any prospect for meaningful progress toward a political solution to Somalia's problems over the next several months. It would also increase the likelihood that the progress we have made in restoring security and eliminating famine in that country over the past year would be wiped out.

The Clinton Administration and the Department of Defense continue to oppose passage of the Gilman Resolution. The points were covered by Thomas Longstreth, the Director of the DoD Somalia Task Force, during the House Foreign Affairs Committee markup of the Gilman and Hamilton Resolutions, and by Ambassador Robert Oakley during meetings with you and other members of the House Leadership yesterday.

Please let me know if we can be of further assistance.

Sincerely,

WALTER B. SLOCOMBE.

TRIBUTE TO CHERYL TOUSSAINT-EASON

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 17, 1993

Mr. TOWNS. Mr. Speaker, I rise today to pay tribute to one of the greatest female athletes of her time, Cheryl Toussaint-Eason. She won a silver medal at the 1972 Olympic Games in Munich, Germany, and was consistently ranked as one of the Nation's premier half-milers. Cheryl has won numerous national titles. She has set an American record at 800 meters, a world record at 600 yards and several world and American records at 4400 meters with her team, the Atoms track Club of Brooklyn, NY.

Cheryl earned a bachelor's degree from New York University where her major was mathematics. She then pursued a career on Wall Street with the Federal Reserve Bank and Merrill Lynch. In 1982, Cheryl established her own sportswear—specialties company, CoVentures, Inc. In 1985 she expanded her business with the development of her own line of custom designed racing apparel known as Tousse.

Both Cheryl's athletic and professional careers have been a success. It is an honor to congratulate Mrs. Toussaint-Eason.

TRIBUTE TO DON BURNS

HON. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 17, 1993

Mr. COX. Mr. Speaker, I rise today to pay tribute to the memory of Don Burns, a legacy within the community of Newport Beach, CA, where he served as a distinguished teacher, coach, and one of the longest serving ocean lifeguards in our Nation's history.

Don Burns was known as the Nice Guy of Orange County because of his love for his community, friends, and colleagues. He was always there to encourage, lead, and inspire those who knew him through his humility and generosity.

A member of the Newport Beach Marine Department for over four decades, Don was the senior training officer, responsible for recruiting, training, and supervising the young men and women who now keep Orange County's beaches safe and protected.

Don Burns was born and raised in Southern California. He received his baccalaureate degree from the University of Southern California. After a tour of duty as the assistant football coach at USC, he coached football and track for three high schools in Orange County from 1956 to 1984. He is survived by his wife Rose, sons John and Don Jr., and daughter Kathy, of Newport Beach, CA.

Mr. Speaker, Don Burns exemplified the highest ideals on which this country was founded: honesty, kindness, loyalty, humor, and charity. Although he is deeply missed by family and friends alike, his memory will continue to inspire us to serve our country honorably and decently. I ask my colleagues to join with me in paying tribute to his gracious and generous spirit.

INDIVIDUAL RETIREMENT ACCOUNTS FOR ALL

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 17, 1993

Mrs. JOHNSON of Connecticut. Mr. Speaker, I am introducing today legislation designed to help women who work at home save for retirement. I am pleased that several of my colleagues have joined me in this effort and look forward to congressional approval of the measure early next session.

Women who do not work outside the home contribute as much as their working spouses to the care and support of their families and deserve equal retirement security. Unfortunately, the Tax Code prevents women who work at home from providing for their own retirement to the same extent as women who work outside the home.

The problem is rooted in the rules governing Individual Retirement Accounts [IRA's]. If both spouses in a household bring home a paycheck, each is permitted to contribute and deduct up to $2,000 to an IRA—$4,000 in total, subject to income limits. If only one spouse works, however, a married couple is limited to contributing a total of $2,250 to an IRA. In other words, a one-income married couple may put aside only about one-half as much in an IRA as a two-income couple. Furthermore, if the wage earner in a one-income married couple may put aside only about one-half as much in an IRA as a two-income couple. Furthermore, if the wage earner in a one-income couple participates in an employee pension plan, there are further limits on total IRA contributions.

Clearly, the Tax Code discriminates against spouses—primarily women—who work at home.

In order to end this unequal treatment and to promote private retirement savings, I am introducing legislation to permit full, $2,000 IRA contributions by nonworking spouses. Under my bill, a nonworking spouse could make a deductible IRA contribution, just as working spouses do under current law. An identical Senate bill will be introduced by Senator HUTCHISON and others this month.

IN RECOGNITION OF ANDREW J. WINSTON, SHERIFF OF THE CITY OF RICHMOND, VA

HON. THOMAS J. BLILEY, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 17, 1993

Mr. BLILEY. Mr. Speaker, I rise today to recognize a man of great service and dedication not only to the fine citizens of Richmond, VA, but to the ideals of law enforcement that he has embodied for so many years.

On December 31 of this year, Andrew J. Winston will retire as the sheriff of the city of Richmond, VA. A lifelong resident of Richmond, Andy graduated from John Marshall High School where he was first captain of the corps of cadets. He served 4 years in the U.S. Army during World War II, and soon after he joined the Richmond police department.

In 1947, Andy was appointed as a magistrate for the city of Richmond, and he served in that capacity for more than 23-years until his appointment as city sergeant in 1970. When the office of city sergeant was merged with the sheriff's department in 1977, Andy Winston was elected to his first full-time term as sheriff. He was reelected in 1981, 1985, and 1989.

During my service as mayor of Richmond in the 1970's, I had both the privilege and the pleasure of working with Andy on a great deal of important city initiatives. What has remained with me these many years is the knowledge that my hometown has been protected by a most honest and able caretaker of the public trust.

Sheriff Winston chose not to seek reelection in 1993. However, he has long been active in community service, and I was pleased to hear he will continue to provide our fair city with his guidance and wisdom for years to come.

Mr. Speaker, I am proud to recognize the many years of dedicated service Andy Winston has provided the citizens of Richmond. A fine man, a good husband and father, an inspired leader—this is the legacy Andy Winston will leave with the sheriff's department.

TRIBUTE TO A VALIANT MIDSHIPMAN

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 17, 1993

Mr. STUDDS. Mr. Speaker, I rise to pay tribute to Joseph Steffan, the young Annapolis midshipman whose promising Naval career was cut short 6 years ago by the cruel irrationality of the military ban on lesbians and gay men, and who this week dealt that policy a devastating blow from which it may never recover.

On Tuesday, November 16, in an eloquent and carefully reasoned opinion, a three-judge panel of the U.S. Court of Appeals for the District of Columbia unanimously declared the ban unconstitutional, and ordered the Department of Defense to award Mr. Steffan his diploma and his commission.

Writing for the unanimous court, Chief Judge Abner Mikva said, "America's hallmark has been to judge people by what they do, and not by who they are. Just as Mr. Steffan won his Battalion Commander ranking by his conduct, so must he be judged by his conduct. It is fundamentally unjust to abort a promising military career solely because of a truthful confession of a sexual preference different from that of the majority, a preference untarnished by even a scintilla of misconduct."

I have always believed that the military ban was unconstitutional and that the courts—if not the Congress—must eventually say so. In the Steffan case, one of the most respected courts in the land has taken that step, unanimously declaring that a policy which rests on nothing more than "irrational prejudice" cannot stand. "The Constitution," the court declared, "does not allow government to subordinate a class of persons simply because others do not like them."

While the court's decision did not address the constitutionality of the new policy that is about to go into effect, I believe that it too will ultimately be struck down. I also hope and believe that the other courts now considering this question will issue similar rulings in the cases before them, and that should the government choose to appeal today's landmark decision, it will be affirmed.

Joe Steffan and his attorneys have devoted 5 years of their lives to this case. Theirs is a victory not only for one exceptional individual but for all who have served and still serve with honor and distinction. It is a victory shared most of all by those who challenged the policy in years past only to have their pleas fall on deaf ears. Yesterday's ruling is, at long last, an answer to their prayers. It is the beginning of the end for a cruel and unjust policy.

SPRING HIGH SCHOOL MARCHING BAND RECOGNIZED

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 17, 1993

Mr. FIELDS of Texas. Mr. Speaker, today, the House debates one of the most important issues that we will consider in this session of the 103d Congress: the proposed North American Free-Trade Agreement. Before we do so, however, I would like to take one moment of the House's time to salute Spring High School's marching band, which last weekend won the title of Bands of America National Marching Champion

The 158-member Spring High School marching band bested marching bands from 64 other schools from 17 States in the contest held in the Hoosier Dome in Indianapolis, Indiana. Spring becomes the first school in Texas to win the national marching band championship.

Two years ago, Spring went to the national marching band competition and placed eighth; last year, Spring won the Class 5A University Interscholastic League State Marching Championship. This year, in Indianapolis, Spring High School's marching band won an incredible 96.55 out of 100 possible points in securing its national title. In all, Spring's marching band has won 14 competitive awards this year—including the national championship.

The national championship is just the latest honor accorded the students, faculty members and administrators of Spring High School. The national championship attests to the hard work and dedication of band director Bill Watson, band instructors Diane Burton, Don Meyers, Gregg Rinehart, and Garret Decker, and the members of the marching band. During their months of practice, marching band members routinely spent 15 hours per week perfecting their routine and musical skills.

I want to take this opportunity to congratulate the members of the Spring High School marching band—and their instructors and parents—on earning this award. This honor demonstrates clearly that hard work, dedication, perseverance and a commitment to excellence pay off in the long run. This honor demonstrates that the students, faculty members and administrators at Spring High School are committed to excellence in everything they do: from education to band.

Mr. Speaker, I hope you will join with me in congratulating the Spring High School marching band on winning its national championship.

TRIBUTE TO DR. JOSEPH GANEY

HON. DAN MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 17, 1993

Mr. MILLER of Florida. Mr. Speaker, I rise today to ask my colleagues in the House to join me in paying tribute to an extraordinary physician and friend, Dr. Joseph Ganey, of Bradenton, FL. Joe Ganey passed away earlier this month, and his loss is keenly felt by us all.

As we begin the great debates about health care reform, few would argue that our health care system provides the best quality care in the world. That is often the case because we have received our care from outstanding doctors like Joe Ganey. He was a special individual who brought great comfort to his many patients, love to his family and friends, and commanded immense respect from a grateful community.

Our local newspaper wrote a fine editorial in honor of Dr. Ganey, and I would like to take this opportunity to share it with my friends here in the House of Representatives.

JOE GANEY: A SPECIAL DOCTOR

The long list of honors Dr. Joseph Ganey Sr. received during his lifetime is an impressive record of his accomplishments.

He served as chief of staff and chief of surgery at Manatee Memorial Hospital, director of Manatee National Bank and Southeast National Bank of Bradenton, president of Manatee Kidney Foundation, director of the Manatee Chamber of Commerce.

He was a member of the medical advisory board for Happiness House, director of the corporate board of the Bradenton Boys Club, and founder of Westside National Bank.

In addition, Dr. Ganey was on a half-dozen professional associations, and a past president of the Manatee County Medical Society.

An active civic leader, Dr. Ganey gave his time generously to support the De Soto Historical Society, and the De Soto Celebration. He was a Mason, a member of the Egypt Shrine Club and the Manatee Cattleman's Association.

He was a devoted husband and father and friend of the most respected members of our community.

In 1989 Dr. Ganey was named Distinguished Citizen of the Year, Manatee County's highest honor.

But this list of accomplishments provide only a limited description of this remarkable man whose death Manatee County mourns today.

A pioneer in the medical field, Dr. Ganey opened the first surgical group practice in Bradenton in 1952 with Dr. Joe Gibson. Because he grew up in this area, most of Dr. Ganey's patients already knew him well as the boy who had delivered their papers or helped out at his father's drugstore. That familiarity inspired a confidence that won patients' trust.

As Dr. Randy McSwain told us, "Dr. Ganey always knew the right words to say to put a patient at ease."

Because Joe Ganey loved life, people loved him.

Centuries ago, the Greek physician and teacher Hippocrates said "where there is love of man, there is also love of the art" of healing. "For some patients," Hippocrates wrote, "though conscious that their condition is perilous, recover their health simply through their contentment with the goodness of the physician."

Dr. Joseph Ganey Sr. was such a healer. It is impossible to say how many lives this gentle doctor saved through his skill and ability to gain his patients' trust.

Too often, all of us as patients take the healer's art for granted. But it is more than science, more than skill, more than experience and dedication.

It is an act of faith.

It is no coincidence that Dr. Ganey's three sons followed in his footsteps to become doctors.

It is an act of faith.

Their father represented the very best of one of the world's most noble professions.

In describing his long-time friend, Paul Bartley, the Herald's readers' advocate, told us, "I don't know of anyone who didn't like Joe Ganey."

He will be greatly missed.

ADMINISTRATION PROPOSES WORKER DISLOCATION ASSISTANCE

HON. MICHAEL A. ANDREWS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 17, 1993

Mr. ANDREWS of Texas. Mr. Speaker, at the very core of the debate over the North American Free-Trade Agreement is the issue of jobs.

Opponents fear that a disproportionate number of job losses will occur under NAFTA. The truth of the matter is that job loss is occurring today and will continue to occur to an even greater extent if NAFTA is not passed. Under NAFTA, however, job dislocation is addressed to ensure that all workers are given the opportunity to acquire the skills necessary to find new, high-paying jobs and provided assistance in being placed in such jobs.

Secretary of Labor Robert Reich has written me the attached letter outlining the President's strategy and proposals to address employment opportunities for workers displaced as a result of the NAFTA. The administration has devised very clear proposals to address this issue, and I believe that these proposals make the agreement stronger for the workers of Texas and America.

U.S. DEPARTMENT OF LABOR,
SECRETARY OF LABOR,
Washington, DC, November 10, 1993.

Hon. MICHAEL A. ANDREWS,
House of Representatives, Washington DC.

DEAR CONGRESSMAN ANDREWS: Last week, the President transmitted to Congress legislation implementing the North American Free-Trade Agreement (NAFTA). I urge you to support this historic legislation, which will create the largest and richest free trade area in the world.

As Secretary of Labor, I would not support his agreement if I was not absolutely convinced that it is good for American workers. NAFTA will create good jobs for thousands of Americans.

This notwithstanding, I understand the anxiety Americans are feeling about NAFTA. In recent years, intensifying global competition and rapidly-expanding technologies have altered the nature and expanded the scale of job loss. More and more Americans are losing their old jobs and have been forced to find new work. Americans are rightly concerned about an erosion in their standard of living. But defeating NAFTA will not address this problem. To the contrary, NAFTA creates new opportunities for Americans to export products and services.

As we move toward the vote on NAFTA, the Clinton Administration is seeking to address the legitimate concerns that have been raised about employment opportunities, both as part of the NAFTA package, and more broadly over the long term.

First, while all credible studies conclude that dislocation due to NAFTA will be small, we are taking steps as part of the implementing legislation to insure that any worker who must change jobs because of NAFTA will be held harmless from the implications of this change. We are determined to provide the best possible adjustment assistance for affected workers to find new jobs. Immediately upon entry into force of the NAFTA agreement, workers who become dislocated because of increased imports from Mexico or Canada, or because of a shift of operations by a U.S. company to Mexico or Canada, will be a eligible for adjustment assistance services which draw upon the best aspects of the Trade Adjustment Assistance Program and the EDWAA dislocated workers program under the Job Training and Partnership Act. This program will provide early intervention, job search and counseling services, and income support tied to long term training.

This NAFTA-specific program is the first step toward broader reform of our unemployment compensation and retraining system. The President recognizes the need to implement comprehensive reform of our existing unemployment insurance system and training programs to address the growing problem of structural unemployment. Each year, approximately two million Americans are displaced from their jobs from a variety of causes unrelated to NAFTA. The length of unemployment for the average worker resulting from this displacement continues to grow. Historically, we have dealt with this displacement largely through the very costly provision of income support through unemployment insurance. Income support, while a critical aid in the transition to re-employment, by itself does little to help people who are permanently laid-off get new skills to find new jobs.

The President is committed to sending legislation to Congress early next year to create a comprehensive system for putting Americans back to work. This program will target areas and populations with the greatest needs. The services to be provided under this program will be available to all workers who lose their jobs, regardless of cause. The three principles which will guide the development of this new re-employment system include:

Universal and comprehensive services that include early intervention and effective long-term training, coupled with income support;

A nation-wide information network that would help workers make more informed career and job choices and assisting their selection of proper training; and,

Establish single points of access to a streamlined system of consolidated Department of Labor programs.

Securing Congressional passage of this re-employment reform proposal is one of our highest legislative priorities next year. In the interim, it is important that we all recognize that the job expansion that will occur as a result of the passage of NAFTA is part of the solution to bringing about a brighter economic future for us all.

I urge you to support NAFTA. And, I look forward to continuing to work with you to enact legislation to move this country from an income maintenance system to a true employment security system for all Americans.

Sincerely,

ROBERT B. REICH.

INDIAN GOVERNMENT'S RESTRAINT LEADS TO PEACEFUL CONCLUSION OF MOSQUE STANDOFF IN KASHMIR

HON. FRANK PALLONE, JR.

OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES
Wednesday, November 17, 1993

Mr. PALLONE. Mr. Speaker, early in the morning of November 16, some 33 militants who had been occupying Hazratbal Shrine in Srinagar, Kashmir, India, surrendered to the authorities. A total of 62 persons, including hostages, came out of the mosque yesterday morning, while 18 others had previously been released, thus peacefully ending the month-long crisis.

There was not a single shot fired by the security forces. Furthermore, Moslem clerics who inspected the shrine after the surrender verified that no harm had come to the shrine or to the holy relic of the Prophet Mohammed inside the shrine. The militants left behind them in the mosque weapons, including rifles, a machine gun, a rocket launcher, hand grenades and mines, as well as ammunition and a radio set.

Mr. Speaker, the peaceful resolution of the occupation of the mosque is a great tribute to the restraint shown by the security forces of India. There are strong indications that the militants who seized the Hazratbal Mosque were intent on provoking a show of force as part of a cynical, calculated strategy to win some measure of popular support and further destabilize the region. Furthermore, there is evidence that forces from outside of Kashmir have been involved in ongoing efforts to promote unrest in this beautiful mountainous region. India's Prime Minister P.V. Narashima Rao consistently maintained that maintaining the safety of this shrine was his government's primary concern. The outcome of this crisis proved the sincerity of the government's statements and the vitality of the Indian government's secular and pluralistic character.

I firmly hope that the example of restraint shown by the Indian Government will be followed by all parties involved in the Kashmir issue, including forces within Kashmir and neighboring countries. International terrorism and political violence are the greatest threats to democracy, and must not be tolerated—much less promoted—by any civilized nation. I do not believe it is helpful for outside parties to challenge the territorial integrity of India or to question the existing boundaries. Rather, the Kashmir question is best resolved peacefully, through direct negotiations between India and Pakistan under the terms of the Simla Agreement of 1972, which provides a basis for a peaceful solution to the disagreements between these two South Asian neighbors.

Prime Minister Rao recently sent a letter to Benazir Bhutto upon her election as Prime Minister of Pakistan, extending an offer to negotiate on a variety of issues, including the Kahmir question. I hope that Mrs. Bhutto will respond to this offer in the positive spirit in which it was offered and we will see the beginning of a renewed peace process in South Asia.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, November 18, 1993, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

NOVEMBER 19

9:30 a.m.

Armed Services

To hold hearings on the nomination of Morton H. Halperin, of the District of Columbia, to be Assistant Secretary of Defense for Democracy and Peacekeeping.

SH-216

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD-366

Finance

Social Security and Family Policy Subcommittee

To hold hearings to examine welfare reform issues.

SD-215

Indian Affairs

To hold hearings on S. 1526, to improve the management of Indian fish and wildlife and gathering resources.

SR-485

10:00 a.m.

Finance

Business meeting, to mark up S. 1560, to make the Social Security Administration an independent agency, and to consider the nomination of Olivia A. Golden, of the District of Columbia, to be Commissioner on Children, Youth and Families, Department of Health and Human Services.

SD-215

Foreign Relations

East Asian and Pacific Affairs Subcommittee Closed briefing on North Korea's intransigence on the nuclear inspection issue.

S-116, Capitol

NOVEMBER 30

9:30 a.m.

Indian Affairs

To hold hearings on S. 1216, to resolve the 107th Meridian boundary dispute between the Crow Indian Tribe, the Northern Cheyenne Indian Tribe, and the United States and various other issues pertaining to the Crow Indian Reservation.

SR-485

POSTPONEMENTS

NOVEMBER 18

2:30 p.m.

Indian Affairs

To hold hearings on H.R. 734, to provide for the extension of certain Federal benefits, services, and assistance to the Pascua Yaqui Indians of Arizona.

SR-485

NOVEMBER 19

10:00 a.m.

Labor and Human Resources

To continue hearings on the Administration's proposed Health Security Act, to establish comprehensive health care for every American, focusing on the needs of Americans with disabilities.

SD-430

NOVEMBER 22

9:30 a.m.

Agriculture, Nutrition, and Forestry

Agricultural Research, Conservation, Forestry and General Legislation Subcommittee

To hold hearings to review the Federal meat inspection programs.

SR-332

10:00 a.m.

Labor and Human Resources

Labor Subcommittee

To hold hearings on the Administration's proposed Health Security Act, focusing on retiree health benefit coverage.

SD-430

HOUSE OF REPRESENTATIVES—*Thursday, November 18, 1993*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Teach us, O God, to focus not only on what must be accomplished in our duties and in our lives, but also on what should be done for our good and the good of people everywhere. We have received the gifts of faith and hope, but we concentrate on what seems near at hand and forget the nurture of our hearts and souls and the very fabric of our character. Ennoble us, sustain us, support us, and strengthen our resolve that we will grow in grace and in the knowledge of Your will, now and evermore. Amen.

NOTICE

To save costs, no interim issues of the Congressional Record will be printed between the last meeting of the first session of the 103d Congress and the first meeting of the second session. Statements submitted by Members to be printed in the Congressional Record should be received by the Official Reporters of Debates no later than the 1st day of the session.

By order of the Joint Committee on Printing.

WENDELL H. FORD, CHAIRMAN.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from California [Mr. TORRES] come forward and lead the House in the Pledge of Allegiance.

Mr. TORRES led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 3341. An act to amend title 38, United States Code, to increase the rate of special pension payable to persons who have received the Congressional Medal of Honor.

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 433) entitled "An act to authorize and direct the Secretary of the Interior to convey certain lands in Cameron Parish, LA, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2401), "An act to authorize appropriations for fiscal year 1994 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes."

The message also announced that the Senate had passed bills and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 986. An act to provide for an interpretive center at the Civil War Battlefield of Corinth, Mississippi, and for other purposes;

S. 1667. An act to extend authorities under the Middle East Peace Facilitation Act of 1993 by six months; and

S. Con. Res. 31. Concurrent resolution concerning the emancipation of the Iranian Baha'i community.

CONTINUING SAGA OF JOHN DEMJANJUK

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the saga of John Demjanjuk continues. The Sixth Circuit Court in Cincinnati officially revoked the 1986 extradition order. The court said the Justice Department played a game, win at any cost, and threw out the facts, withheld the facts.

The court also said that the Justice Department perpetrated a fraud on the courts, lying to the courts.

The court also said that the Justice Department succumbed to outside pressures, and with reckless disregard for the truth, even after knowing since 1981 this man was not Ivan, they prosecuted him as Ivan.

Mr. Speaker, win at any cost, fraud, reckless disregard for the truth. Who looks like the Nazi now?

Israel did not go forward with any case against Demjanjuk because, Members of Congress, Germany said the ID card is a phony.

Mr. Speaker, let us get some justice in this case.

PASS THE UNEMPLOYMENT COMPENSATION BILL

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, first of all I want to extend my congratulations to the President for his big victory yesterday, and although I opposed him, now the wounds must be healed, and I think what we have to do is try to work together with the President to achieve his hopes and goals.

No. 2, I appeal to the leadership of this Congress to get the unemployment compensation bill out of committee and get it passed. The unemployed are either running out of money or they are out of money right now.

This is the most critical issue we have to face right now. Do not let American workers suffer because of political bickering.

Christmas is coming on, my friends. Let us get it out now. And I say to my colleagues: Do not leave Washington without it, because you may not be coming back.

THE VOTERS WILL NOT WAIT MUCH LONGER

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, the taxpayers we are sworn to serve are not going to take it much longer. If you do not believe me, take a look at any public opinion poll. And if you don't believe the polls, take a look at the latest election results.

Last November, dozens of Members were elected to this body because they promised a program of reform—congressional reform, tax and budget reform, campaign reform, lobbying reform. And the Democrat leadership promised that we would get the opportunity to vote on those reforms.

Well, it has not worked out that way. Budget and tax reform? Nope. In fact, the Democrat majority in this Congress enacted the largest single tax increase in American history and added a trillion dollars to the national debt.

Campaign reform? Nope.

Lobbying reform? Nope.

Congressional reform? Nope.

Mr. Speaker, the Democrat leadership would do well to heed the message received in Virginia and New Jersey and New York. Because if you do not soon allow us to vote on meaningful reform, the same message is going to be

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

heard next November in Washington, DC. Loud and clear.

NO ADJOURNMENT WITHOUT PASSING UNEMPLOYMENT COMPENSATION EXTENSION

(Mrs. JOHNSON of Connecticut asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise this morning to call on my colleagues to join me in opposing adjournment until the House passes an unemployment compensation extension.

Recently the Democrat leadership told reporters they were not sure whether the measure would be acted upon before adjournment. My colleagues, hard-working people in my district have been counting on this extension to pay their mortgages and buy groceries. These people are calling my office daily expressing their heartfelt fear that they will lose their homes and be forced to go onto welfare.

Where is the fairness? Where is the compassion? How come Members on both sides of the aisle are not up in arms? How come the leadership casually suggests that we would rather go home than vote on extending unemployment compensation benefits?

I am struck by the sad irony of expressing concern and sympathy for workers yesterday, and neglecting their desperate needs yet one more day here.

I understand the problem of the Senate amendment, but we must not allow these benefits to be stalled. Many families in my district have little to be thankful for this Thanksgiving if we do not act on extending unemployment compensation benefits before we leave here. Today is not a minute too soon.

Join me in urging the Speaker to bring this bill to the House floor for our consideration immediately.

CONGRESSIONAL REFORM? NO SUCH LUCK

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS of Wyoming. Mr. Speaker, just when we thought it might be possible for Congress to improve its ratings with the public through bipartisan activity and voting in the national interest, we read a story in the Washington Times which begins:

> A House reform panel stalled yesterday in its attempt to pass a comprehensive package of congressional reforms when its Members failed to agree on how to do their job.

□ 1010

Let us take a little walk back in time. Last November a record number of reform-minded freshmen were elected to Congress. The Democrat leadership immediately promised that we would soon have an opportunity to vote on substantive congressional reform. That was 1 year ago.

Now we are prepared to adjourn this session of Congress. We are no closer to seeking a reform package on the floor than we were last November.

Why is that? Very simple. Democrats have controlled this body for 40 years. They have fallen in love with the status quo; they have fallen in love with absolute power. They are not willing to part with it.

Mr. Speaker, a word of advice: Let us reform the House. It is what we were elected to do. It is the right thing to do.

BIPARTISAN APPROACH TO HEALTH CARE NEEDED

(Mr. ZELIFF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ZELIFF. Mr. Speaker, now that NAFTA is behind us, we must turn our attention to health care. We should utilize the same bipartisan NAFTA coalition to work together to develop true health care reform that we can all agree on. We need to pass those reforms we can all agree on.

That means passing the elimination of preexisting conditions, passing antitrust modifications, passing tort reform, passing antifraud measures, raising the self-employed's tax deduction, streamlining the administration process, and giving the States more flexibility.

We should do these things now, Mr. Speaker. Let us start cutting costs now.

These agreed-upon reforms should be passed immediately, Mr. Speaker, and then we can begin to cut costs today. We should act now.

Mr. Speaker, again, some of the things we do not need: We do not need to socialize our medicine, we do not need a mandated business approach where we mandated benefits to be paid for by small business to put people out of work, we do not need more government bureaucracy and inefficiency. But what we need is a commonsense approach to solving our Nation's health care problems.

Let us do it together, but let us do it right now.

REGULATORY REFORM MUST BE ADDRESSED

(Mr. MICA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICA. Mr. Speaker, once again the Rules Committee of the House of Representatives is attempting to deny an opportunity to debate one of the most important questions facing Congress and our Nation.

The Rules Committee has turned its back on bipartisan pleas to act on regulatory reform. They have denied the House the chance to bring the commonsense risk cost benefit language to the floor.

As we elevate EPA to a cabinet-level position the Rules Committee has shut the door on making sense of EPA's clouded mission.

The leadership of this House has ignored the pleas of cities, counties, and States nearly bankrupted by unfocused Federal regulations.

The leadership of this House has ignored the pleas of business and industry that are reeling from the costly impact of Federal regulation.

More than any trade treaty, this action by the Rules Committee will ensure that the United States sends jobs and business overseas.

Maybe they can be smug this morning that they pulled one over on the House, but what they have really done is shafted the American people.

NONVIOLENT CIVIL DISOBEDIENCE SHOULD NOT BE A FELONY

(Mr. SMITH of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of New Jersey. Mr. Speaker, there is an elemental difference between those persons who employ violence or the threat of violence as a means to an end and those who utilize peaceful nonviolent expressions of dissent such as sit-ins or sidewalk prayer.

The plain language of H.R. 796, Mr. Speaker, blatantly and wrongfully eliminated the difference by elevating nonviolent acts of civil disobedience committed by pro-lifers from a misdemeanor category to that of a felony. Under the bill a woman who simply sits in front of an abortion clinic door or sidewalk and gets in the way of an abortionist would be deemed a felon and could be thrown into prison for 1 year for the first offense and 3 years for the second offense.

The Smith substitute that I will offer today imposes strict penalties on those, Mr. Speaker, who use force or the threat of force.

I believe that we ought to go after those who bomb clinics or in any way are involved with violence but not after those who are involved in nonviolent civil disobedience.

Other causes in the past used nonviolent civil disobedience in order to get their point across; from the civil rights movement to AIDS activists to a whole host of causes, whether you agree or disagree, use nonviolent civil disobedience. To turn them into felons would be an atrocity.

LET US DELAY ON EPA

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, as most of our Members now know, the other body intends to take up the North American Free-Trade Agreement and begin the crime bill and go home probably by 2 o'clock on Saturday.

I would hope that the Democratic leadership of the House would look at this and then begin to slow down and focus in on what we can practically do. Let me talk about one specific bill which I hope will not come up in precisely the spirit of comity that we developed yesterday.

The Environmental Protection Agency bill, it seems to me, should not come up for three reasons. First, according to the Vice President's report, this particular bill will cost taxpayers an additional $1.2 billion, and I think at the present time, until that is worked into the President's budget, adding another $1.2 billion is the wrong signal.

Second, the ranking member of the Committee on Government Operations, the gentleman from Pennsylvania [Mr. CLINGER], is incapacitated. He has worked hard on this bill. He can be here in time to do it when we come back. Nothing is going to happen to this bill between now and the beginning of next year. Therefore, it should not come up.

But, third, every Member who believes in stopping unfunded mandates, every Member who has been going back home telling their mayors and their county commissioners, "I am against unfunded mandates" should vote against the rule, because this rule does not make in order the amendment on unfunded mandates, and this rule does not make in order the Johnston amendment from the Senate which passed overwhelmingly on risk assessment and rationality, and this rule, in its current form, is a rule which I think may well go down.

So this will be a test vote on unfunded mandates, and I think every Member who is concerned about unfunded mandates will want to vote no on the rule.

I hope the leadership will pull the bill. Let us negotiate a little bit and come back in January with a rule we can agree on.

PASS CRIME BILL THIS YEAR

(Mr. CLEMENT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLEMENT. Mr. Speaker, I had the honor of accompanying President Clinton on his trip last weekend to Memphis where he addressed the 86th Annual Holy Convocation of the Church of God in Christ.

The President spoke about the violent crime gripping our cities and communities across this great Nation. I wish you could have seen the chord he struck with the audience when he talked about drugs, crime, and violence that are ravaging our communities.

The audience applauded the loudest when President Clinton talked about passing legislation to make our streets safer.

Mr. Speaker, 37,000 people die each year from gunshot wounds, many of them our children. Gangs bent on violence flourish in our schools and on our city streets. We are all at risk. Violent crime has touched nearly every family in America.

The public is afraid and demanding action. A recently published Washington Post-ABC news poll shows that crime is the most important issue facing the country.

I do not believe we should adjourn this year until Congress enacts and sends to the President tough anticrime legislation. I encourage the Members of the House to get behind our President and encourage our leadership, both Democratic and Republican, to set aside one day before we adjourn to debate and pass a crime bill.

Let us give the American people a Christmas gift and end these atrocities in our society today.

CRIMINAL JUSTICE SYSTEM MUST OFFER TRAINING FOR OFFENDERS

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, this morning as I was jogging around the Washington Monument, I noticed a worker there who was shoveling water off the sidewalk and throwing it onto a high bank next to the sidewalk; yet, with every shovelful, the water simply trickled back down on the sidewalk. "How absurd," I thought, "what typical government inefficiency."

And yet, as I jogged on, I thought, "You know, that is what we do in our criminal justice system." We, every day, have police officers locking up criminals for the fifth, sixth, seventh, eighth, and ninth offense, throw them into jail, and they run back out onto the street.

For the worker, common sense would have told him to simply put a bulwark, put a drainage ditch, let the water be absorbed into the soil, let it be productive, but, no, the water simply came back down.

Mr. Speaker, when we get folks in our jail system, we need to have training programs, we need to have worker programs, we need to keep them in jail and not let them out until they are ready to be productive.

I hope as we review these many crime bills that we move in that direction.

CRITICAL NEGOTIATIONS ON GATT

(Mr. REGULA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REGULA. Mr. Speaker and my colleagues, many of the complaints on NAFTA, certainly by the opponents, were that there was very little input from the Members of Congress in the drafting of this agreement. Consequently, it contained buried in the 3,000 pages a lot of things that we may be surprised were, as time goes on, but that is history.

What I want to bring to your attention is that during the next 4 weeks there will be a critical negotiation taking place in Geneva to hopefully wrap up the GATT negotiations, the General Agreement on Trade and Tariffs.

□ 1020

This involves 116 countries, it involves a potential $6 trillion in additional economic activity worldwide, and certainly we should all be paying attention to this. It ranges from intellectual property to administrative trade laws.

Mr. Speaker, I want to make a point, and that is that our fast-track legislation included not only NAFTA but GATT. So if we are not going to be faced with, suddenly, a treaty that we have no choice to amend or change, we need to get involved now.

I would urge you, if you have concerns, if your business community has concerns, that you should express those concerns to our trade ambassador forthwith because if things go as they hope to, by December 15 the GATT treaty will be wrapped up, and it has far greater significance for the future than does NAFTA in terms of economic activity.

KASICH-PENNY COMMON CENTS PLAN

(Mr. PORTMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTMAN. Mr. Speaker, Congress will have an opportunity later this week to get serious about cutting Government spending. Let us seize that opportunity.

The President's recent budget-cutting proposal does not go nearly far enough. It only cuts $11 billion over 5 years from the Federal budget—small change to a Nation facing annual deficits of over $200 billion. And, the administration wants to plow even these modest savings into new Federal spending. We must—and we can—do better.

Fortunately, we will have a stronger alternative to support in the Kasich-Penny common cents plan. This bipartisan package makes nearly $100 billion in cuts, ten times as many as the President proposed. And, unlike the

President's proposal, it mandates that all the savings go toward deficit reduction.

The common cents plan hits nearly every part of the budget: Even the White House staff: Even Congress—finally, we lead by example.

It's not perfect, but I believe the package as a whole is effective and fair. It delivers real cuts, the kind many of us in this chamber pleaded for during the budget battle.

If we cannot make these cuts, what hope is there of ever getting control of the debt? Passing this plan is just common sense.

POST-NAFTA: WE CAN COME TOGETHER AGAIN

(Mr. BOEHNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOEHNER. Mr. Speaker, it is the morning after the NAFTA vote. The Sun has come up, we are still alive, and the Republic still stands strong. As we dust ourselves off from last night's bruising battle, let us turn our attention to what remains to be done. Just as the Congress came together after the gulf war vote. Let us see if we can come together now.

NAFTA is here and here to stay. It is in all of our interests, if we are truly servants of the people, to assure that it is a success and lives up to the promise its supporters held out.

To my colleagues who opposed this treaty, sighting the heavy costs of employment and regulation in America, I say this: listen to your own words. Maybe we should do something about lessening the burden on America's employers so they are not tempted to seek refuge elsewhere.

And to my colleagues who supported the treaty, we must remain diligent in our efforts to assure that America's business community does not just take the money and run. Let us hold them accountable to their promises of job growth in America.

Mr. Speaker, yesterday's battle is over. But the war to keep America an economic powerhouse continues. Let us all move forward together to win that war.

MINERAL EXPLORATION AND DEVELOPMENT ACT OF 1993

The SPEAKER pro tempore (Mr. TORRES). Pursuant to House Resolution 303 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 322.

□ 1024

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 322) to modify the requirements applicable to locatable minerals on public domain lands, consistent with the principles of self-initiation of mining claims, and for other purposes, with Mrs. KENNELLY in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Tuesday, November 16, 1993, the amendment offered by the gentleman from Utah [Mr. HANSEN] had been disposed of and title IV was open for amendment at any point.

Are there further amendments to title IV?

Mr. LEHMAN. Madam Chairman, I move to strike the last word.

Madam Chairman, I do so only to inform the House where we are at in this debate. As I understand it, we are into title IV, we had finished all the contentious amendments to the legislation, and we will move in a few minutes on the motion to recommit from the Republican side and follow that with a vote on final passage. This will be a historic vote in the House, since this act has not been substantially amended since 1872, when it was first put into effect.

As far as I know, there are no other amendments, but there are two votes coming shortly, one on the motion to recommit and the other on final passage.

Mrs. VUCANOVICH. Madam Chairman, I move to strike the requisite number of words.

I would just like to point out a few things that have been said during this debate that needed a little clarification.

Several of our Members who have supported this bill talked about the foreign ownership in the United States gold mining industry. I would like to point out who owns the typical ounce of gold produced in the United States.

Seventy percent of the gold owned in the United States is owned by the United States ownership of production. Sixteen percent is Canadian ownership, 7 percent British ownership, and 7 percent the rest of the world.

We have heard there is a lot of control and ownership of the leading U.S. gold mines. I would like to point out that 17 United States-majority control or ownership; two mixed Canadian and United States control or ownership; three majority control; three Canadian majority control or ownership; two British majority control or ownership; and one the rest of the world.

It is important that you are aware of some of these recent transactions. There are three that I would like to point out: Sir James Goldsmith of London sold his substantial holdings in Newmont Mining, which is the largest gold mining company in the United States. The second one, Hansen of England, sold its two major gold mines in the United States to Santa Fe Pacific Gold of New Mexico. And, third, Homestead Mining company of San Francisco acquired International Corona, a leading Canadian gold mining company.

On the reverse side of this equation, the United States owns much of the Canadian industry. The United States accounts for 80 percent of the total foreign direct investment in Canada. Canada is the biggest customer for United States exports of goods and services.

United States investors and institutions own or control substantial portions of industry in the Canadian economy: 20 percent of the wood and paper sector, 24 percent of the energy sector, 51 percent of the electronic and electrical sector, 47 percent of the petroleum production, and 27 percent of the minerals and mining sector.

So I think some of these arguments are very flawed about ownership by foreign companies.

□ 1030

Madam Chairman, I would like to point out that there are some flaws in the jobs impact, which the Department of the Interior's own economic modeling of the royalty scheme shows.

I would just like to take a minute to remind my colleagues, the figures of Secretary Babbitt are not true mining job loss estimates. They are net jobs loss; in other words, many more than 1110 direct and indirect job losses are expected with the 8 percent gross royalty of H.R. 322; but the supporters of this bill say new jobs will be created in abandoned mine reclamation, and new Government employment necessary under this bill.

Madam Chairman and my friends, these partially offsetting new jobs will not be created unless there is public lands mining upon which to collect rent, royalty and the user fees in this bill.

Mining jobs create new wealth, and that is what pays the freight for the abandoned mines restoration.

I think it is critical that the committee go back to the Department of the Interior with several different royalty proposals and choose one that does not lead to large mining job losses because of production foregone due to a confiscatory royalty policy. Only in this way will there possibly be enough money in the abandoned mine reclamation fund in title 3 of this bill to accomplish its objectives, which I support and which are paralleled in the Senate's already-passed bill.

Statement of administrative policy and other supporting information follows:

H.R. 322—MINERAL EXPLORATION AND DEVELOPMENT ACT OF 1993

The Administration strongly supports H.R. 322, as reported by the House Natural Resources Committee. This legislation meets all of the Administration's major objectives for Mining Law reform by ensuring that:

The system of patenting (selling) public land into private ownership is abolished;

Taxpayers receive a reasonable return in royalties for the use of public lands;

An annual claim maintenance fee is imposed to curtail the speculative use of mining claims for non-mining purposes and assure diligent development of those claims;

Public lands that have higher values for other uses are not open to mining; and

Adequate standards are provided to govern mining operations and assure that reclamation occurs.

PAY-AS-YOU-GO SCORING

H.R. 322 would affect receipts; therefore, it is subject to the pay-as-you-go (PAYGO) requirement of the Omnibus Budget Reconciliation Act (OERA) of 1990.

OMB's preliminary PAYGO scoring estimates of this bill are presented in the table below. Final scoring of this legislation may deviate from these estimates. If H.R. 322 were enacted, final OMB scoring estimates would be published within 5 days of enactment, as required by OBRA. The cumulative effects of all enacted legislation on direct spending and receipts will be reported to Congress at the end of the congressional session, as required by OBRA.

PAY-AS-YOU-GO ESTIMATES

(In millions of dollars)

	1994	1995	1996	1997	1998	1994–98
Outlays	−4	−4	−28	−136	−136	−308

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 17, 1993.

Hon. GEORGE MILLER,
Chairman, Committee on Natural Resources, House of Representatives, Washington, DC

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for H.R. 322, the Mineral Exploration and Development Act of 1993. This estimate replaces CBO's previous estimate of the cost of H.R. 322, dated November 12, 1993.

The attached estimate corrects language regarding the possibility of litigation arising if affected parties were to assert that their property rights had been taken by the federal government as a result of H.R. 322. This version reflects the fact that only claim holders, and not private property owners, would be affected by the bill and might bring suit against the government.

Enactment of H.R. 322 would affect direct spending and could affect receipts. Therefore, the bill would be subject to pay-as-you-go procedures under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES L. BLUM,
(For Robert D. Reischauer).

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE, NOVEMBER 17, 1993

1. Bill number: H.R. 322.

2. Bill title: Mineral Exploration and Development Act of 1993.

3. Bill status: As reported by the House Committee on Natural Resources on November 9, 1993.

4. Bill purpose: H.R. 322 would make a number of changes to the Mining Law of 1872, the primary law governing the production of hardrock minerals on federal lands.

Title I of the bill would establish new procedures for locating a mining claim on federal lands. In addition, this title would change the acreage covered by each claim from 20 to 40 acres, deem any unpatented claim a converted claim and make it subject to the provisions in the bill, and impose new fees for claim maintenance.

Title II would establish new requirements for the management of mining activities on federal lands and new environmental standards. The bill would require federal agencies—primarily the Department of the Interior (DOI) and the Department of Agriculture (USDA)—to:

Review, approve, and modify, if necessary, mine operation plans and issue permits before mineral exploration or production could begin;

Establish, monitor, inspect, and enforce rules for mining and reclamation activities;

Inspect permit holders for evidence of financial assurance to meet the conditions of the bill;

Collect penalties for violations of the provisions of the title;

Study federal lands before mining activities can be conducted to determine whether such lands are suitable for mineral development;

Take steps to phase out mining activities in conservation system units; and

Establish user fees to cover costs of processing permits and related activities.

Title III would establish an annual royalty totaling 8 percent of the net smelter return from all minerals produced on federal lands. (The net smelter return is calculated by deducting the cost of certain refining steps from the gross value of the minerals produced.) The bill would establish procedures for collecting the royalties and penalties for underreporting.

Title III also would establish an Abandoned Locatable Minerals Mine Reclamation Fund to be administered by DOI. The fund would receive claim maintenance receipts, royalty income, penalties, and certain other receipts collected by the federal government for mineral activities on federal lands. These funds would be available, when appropriated, to carry out administrative responsibilities associated with the bill and to conduct reclamation and restoration activities on land and water resources affected by mining activities.

Title IV contains administrative provisions that would provide the Secretary of the Interior and the Secretary of Agriculture with authority to carry out the provisions of the bill. The title would require that no patents be issued for any mining claim located after January 5, 1993. This title also would:

Require the Secretaries to conduct inspections and carry out enforcement activities to ensure compliance with the provisions of the bill;

Establish procedures for citizen suits, administrative review, and judicial review;

Authorize affected agencies to collect fees to cover certain costs incurred in administering the provisions of this bill; and

Provide for the adjustment, every ten years, of all fees and rentals to reflect inflation.

5. Estimated cost to the federal government:

[By fiscal year, in millions of dollars]

	1994	1995	1996	1997	1998
Authorizations:					
Estimated authorizations of appropriations	41	51	63	67	70
Estimated outlays	36	50	61	66	69
Direct spending:					
Estimated budget authority	−2	−2	−52	−114	−114
Estimated outlays	−2	−2	−52	−114	−114
Revenues:					
Estimated revenues	(1)	(1)	(1)	(1)	(1)

[1] CBO cannot estimate this amount.

The costs of this bill fall within budget function 300.

This table does not include the potential costs that could result if claim holders affected by the bill successfully claim that their property rights have been taken by the federal government as a result of the cessation of patenting after January 1993. CBO has no basis for estimating the extent or the result of such litigation.

Basis of Estimate:

Authorizations. H.R. 322 would significantly change the way the federal government manages the exploration for and development of hardrock minerals on federal lands. Based on information provided to CBO by DOI and USDA, we estimate that enactment of this bill would increase the costs of managing federal lands and minerals by $50 million to $70 million annually over the next five years, assuming appropriation of the necessary funds. (Costs for fiscal year 1994 would be lower because only part of the year remains.) These administrative costs would result from provisions in titles II and IV requiring DOI and USDA to: process and approve mining applications and reclamation plans ($13 million in fiscal year 1994, growing to $23 million in fiscal year 1998); determine which lands are unsuitable for mineral development (about $15 million annually); monitor and inspect exploration and mining operations, and enforce compliance with the provisions of the bill ($11 million to $21 million annually); and administer a royalty collection program and the resulting trust fund (about $10 million annually, once the royalty collection program and trust fund are fully implemented).

There is some uncertainty as to how provisions in the bill requiring the agencies to conduct unsuitability reviews would be implemented. If the agencies interpret such requirements as compelling them to conduct a nationwide review of lands and to produce National Environmental Protection Act documentation as soon as possible after enactment, the bill would result in significant costs over the five-year period. If suitability studies were conducted on a smaller "project-by-project" scale, however, costs would be less. Based on information from the DOI and USDA, CBO believes that the agencies would be most likely to approach the suitability studies on a project-by-project basis. In addition, if the agencies interpret the bill as requiring them to conduct extensive subsurface mineral and hydrologic inventories on significant portions of federal lands before any mining activities could occur, then the costs could be higher. Based on information from the committee staff, CBO believes that the subsurface inventories would not be required. If both of these high-cost options were pursued, however, the costs of H.R. 322 could be $20 million to $200 million a year higher than shown in the table.

Direct Spending. Enactment of the bill also would increase federal offsetting receipts—thereby decreasing direct spending outlays—by an estimated $284 million over the 1994–1998 period. These receipts would result from royalty collections, user fees established to cover administrative costs, and an increase in maintenance fees for new claims.

H.R. 322 would impose a royalty collection on the net smelter return on the production of minerals on federal lands. CBO estimates that royalty collections would result in additional offsetting receipts of about $245 million over the 1996–1998 period. We assume that annual gross value of production for minerals on public lands would be about $1.5

billion annually, assuming that no new patents are issued after enactment of the bill. We estimate that the net smelter return would be about 90 percent of the gross value of production, and that production would decline slightly each year after the imposition of a royalty. We expect that a federal government would begin to collect royalties in the spring of 1996.

The bill also would require DOI and USDA to impose user fees on applicants to cover the costs of permitting, and would authorize the agencies to establish user fees to cover the cost of other administrative activities by the bill. Because the agencies would determine the fees, it is difficult to predict the exact amount that would be collected. Based on information from DOI and USDA, CBO assumes that the agencies would set fees at a level that would cover administrative costs for certain, but not all, permitting activities. CBO estimates that fees would be collected starting in fiscal year 1996, and would result in additional offsetting receipts of about $10 million annually. Receipts could vary considerably from this figure, depending on how the fees are set.

H.R. 322 would make permanent the $25 claim application fee and the $100 claim maintenance fee established in the Omnibus Budget Reconciliation Act of 1993 and would increase the fee for new claims to $200. CBO estimates that this provision would result in additional receipts of about $2 million annually. Claim holders would be able to reduce their royalty payments by the amount of their claim maintenance fee each year, however, and CBO estimates that about half of the fees collected would be applied to royalty payments. As a result, the net increase in receipts would be $2 million in fiscal years 1994 and 1995, but would drop to $1 million a year in fiscal years 1996–1998.

Enactment of H.R. 322 could increase direct spending if certain claim holders affected by the bill successfully claim that, as a result of section 417, their property rights have been taken by the federal government and if compensation is paid out of the Claims, Judgments and Relief Acts account. Section 417 would limit the ability of claim holders to purchase the federal land covered by their mining claims to those claimants who had submitted a patent application by January 5, 1993. More than 100 patent applications were either submitted after the January deadline or are currently being adjudicated and thus would not be eligible for transfer to private ownership under the terms of this bill. It is possible that some of these claimants would go to court claiming that their property rights had been taken by the federal government. CBO has no basis for estimating the extent or the result of such litigation.

The bill would establish penalties for a number of violations. The collection of penalties would result in additional revenues, but CBO cannot predict the extent to which companies would violate the new mining provisions or whether those violators would be required to pay penalties.

6. Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1998. CBO estimates that enactment of H.R. 322 would increase offsetting receipts—thereby decreasing direct spending outlays—by $284 million over the 1994–1998 period. These outlay savings would result primarily from the collection of royalties and user fees.

Some direct spending could result if certain claim holders affected by the bill successfully claim that, as a result of the bill, their property rights have been taken by the federal government and if compensation is paid out of the Claims, Judgments paid out of the Claims, Judgments and Relief Acts account. CBO has no basis for estimating the extent or outcome of any litigation related to this bill.

Finally, the provisions of H.R. 322 establishing penalties for violating terms of the bill could increase federal revenues, but we have no basis for estimating the magnitude of such revenues.

The following table summarizes CBO's estimate of the pay-as-you-go impact of this bill:

	1994	1995	1996	1997	1998
Change in outlays	−2	−2	−52	−114	−114
Change in receipts	(1)	(1)	(1)	(1)	(1)

[1] CBO cannot estimate this amount

7. Estimated cost to State and local governments: None.

8. Estimate comparison: None.

9. Previous CBO estimate: None.

10. Estimate prepared by: Patricia Conroy.

11. Estimate approved by: C.G. Nuckols, Assistant Director for Budget Analysis.

[From the Arizona Tribune, Aug. 31, 1993]

MINING INDUSTRY NOT IN DANGER—NO CAUSE FOR ALARM

If we're to believe the urgent warnings of the Arizona Mining Association, Congress is about to shut down the mining industry, costing thousands of jobs here and across the nation. The lobbying group even sponsored a rally in Globe on Saturday that drew 2,000 people to say "adios" to the object of their scorn—H.R. 322.

Gov. Fife Symington got the crowd churned up by declaring it "wrong to have federal policy that threatens to extinguish a way of life."

And he might have a point, if that is what H.R. 322 would do. But it won't.

What it will do is put some reasonable and long-overdue controls on the virtually free access miners and mining companies have had to federal lands since a post-Civil War Congress dreamed up fabulous incentives to speed the settlement and exploitation of the West.

If H.R. 322 passes in the House and a companion measure, S. 257, is approved in the Senate, it will be the first time ever that the federal government requires of the hard-rock mining industry anything approaching the kinds of conditions it places on virtually every other industry that uses public lands.

Little in these measures would affect current mining activities in Arizona or elsewhere. They are aimed primarily at easing environmental damage from future mines and generating royalties similar to those paid by coal miners, oil companies and loggers.

The Arizona Mining Association knows this, of course, but nonetheless has shamelessly played on the worst fears of working Arizonans to stir some public opposition to the bills. The governor should have known better than to be used as a front man in this propaganda ploy.

The few regulations there are governing hard-rock miners were set by the Mining Law of 1872, but they are aimed almost exclusively at encouraging mining by setting minimal requirements. Essentially by staking a claim, digging a few holes and paying a few dollars an acre, miners have been able to establish ownership of vast amounts of formerly public lands.

The policy worked well in terms of drawing settlers to the West and tapping the region's vast mineral wealth. Copper mining was one of Arizona's cornerstone industries for a century and still is a major contributor to the state's economy despite a steep decline the past two decades, due largely to foreign competition.

While mining has created wealth, jobs and tax revenues, it has not had to pay royalties to compensate the public for exploitation of lands that belonged to everyone. Mining interests have had carte blanche not only to strip lands of their mineral wealth without having to heal the resulting scars, but have been able to sell those lands for huge profits.

While having little impact on existing mines, H.R. 322 would require future mines to operate in an environmentally sound manner and to pay an 8 percent royalty on mineral value, substantially less than royalties paid on coal, oil and gas extracted from public lands.

The bill also would give the federal government the authority to weigh mining against recreation and other uses, would do away with patenting and require miners to reclaim mined lands.

In short, it would require of mining the same kinds of responsible economic and environmental conditions placed on other enterprises that glean profit from natural treasures that belong to all Americans.

And that's good public policy.

[From the Sacramento Bee, Mar. 26, 1993]

ENDING PUBLIC LAND GIVEAWAYS

The wooden signs that have for decades welcomed visitors to California's national forests feature a slogan—"Land of Many Uses"—that speaks volumes about how much those acres have been logged, mined and grazed. To be really telling, however, the slogan ought to have included an epithet—"at Rock-Bottom Prices."

And it's not just the national forests, where stands of trees have been sold below cost to timber companies. Federally owned deserts and mountains have been leased or sold off for mining and public pastures for grazing, all at a fraction of what they would cost on the real market. It all amounts to a public subsidy for private ranching, mining and logging companies that often profit enormously from such sweet deals.

But after years of allowing this to continue, Congress and a more environmentally conscious White House appear ready to make some significant changes. The Clinton administration is pursuing a new federal land policy that would depart sharply from the way the government has traditionally administered hundreds of millions of acres—500 million in the West alone. If Congress approves, the Department of Interior will charge fair market prices for timber and raise the rent on ranchers who are now able to graze cattle on federal land—which is often grazed bare—for about a fifth of what it would cost to lease private property.

But perhaps most important, Congress may overhaul the antiquated 1872 Mining Law, enacted to encourage settlement of Western lands but which also has allowed miners to buy federal land for as little as $2.50 an acre and pay no royalties no matter how much they extract. Sen. Dale Bumpers of Arkansas is determined to see that stopped; he's introduced a revision (S 257) that would require miners to rent land for $25 an acre and pay royalties (roughly 10 percent) on what they take out.

The higher fees and royalties could bring in as much as $1 billion over five years—assuming use of the lands does not drop more sharply than expected in response to higher costs. Some of that money would be used to repair rivers, forests, range lands and wildlife habitats that have been sorely neglected. It's about time the public domain was treated as something other than a bargain basement.

[From the New Mexican, Sept. 4, 1993]

MINE-LAW RALLIES: REFORM IS OVERDUE

How fitting that the mining lobby's latest roadshow reaches New Mexico on Labor Day weekend.

A rally is scheduled for noon today at the Roundhouse. Nearby, at the same time, environmentalists will be holding a rally of their own.

The focus of the megabucks mine-industry rally, replete with bused-in participants, is jobs—jobs the metal companies claim would be wiped out if Congress reforms a mining law passed during the scandal-ridden presidency of Ulysses S. Grant, and unchanged since then.

Enacted at a time of "Manifest Destiny" and seemingly infinite space and resources, the 1872 Mining Act helped make America a great industrial power. It also allowed mining companies to trash vast areas of the Four Corner states while paying not a dime for the copper, lead, silver and gold they gouged from the earth.

As for the miners who hammered and dug through the rocks, southwestern history is peppered with acts of highhandedness that gave rise to labor unions.

And job security? It was there only as long as lodes were. When the mines played out, the companies left town. Those who wanted work would have to move, too.

Today, hand-drills and spades have given way to gargantuan earth-scrapers. The effect is higher productivity and fewer jobs. Copper production has soared in the past decade, while jobs have disappeared at an alarming rate.

To be sure, 2,000 New Mexicans have, for the while, good jobs at the mines down in the Silver City area—but that figure is down from 11,000 just 14 years ago. Miners today are only about a quarter of a percent of the New Mexico workforce. And much as mine companies would like to blame mine-law reformers for those job losses, the fact is that they've done away with those jobs in New Mexico while fending off reform in Washington.

We'll hear today from the mining lobby that a proposal by Rep. Nick Rahall, D-W. Va., for reclamation and a reasonable 8 percent royalty on minerals from public lands would cost thousands of jobs nationwide.

For one thing, the mining companies here and elsewhere are working private land; property they picked up for just $2.50 an acre, thanks to our archaic federal mine law. for another, if Congress finally gets around to making mine companies clean up after themselves, it would mean more, not fewer, jobs.

The Rahall reform bill is being raised as a bogeyman that will drive the mining industry to South America. We have news for anyone who would swallow that line: American corporations have been mining that continent with cheap labor for most of this century.

The mines' only real argument against reform is that they've had their way with the West for 120 years, and that any changes could cut into their profits.

With Phelps Dodge alone making profits of a quarter of a billion dollars a year, that's not much of an argument.

The conservationists' rally won't likely be the big production that the mines are staging—but they can be expected to drill some shaft-sized holes in the argument against long-overdue mine-law reform.

[From the Arizona Republic, Sept. 12, 1993]

WIMPY FIRMS CAN'T GET OFF THE U.S. DOLE

(By Stephen Tuttle)

American big business is a wimp. Their mouths have been so firmly attached to the breast of government largesse for so long they appear completely unable now to remove them. Which is going to make the public's continued demand for change all the harder for any politician to accomplish.

It's a simple matter. Nearly every major business entity, and their congressional representatives, believe massive change is needed—just so long as the impact falls on somebody else. And since the "somebody else" is always thoroughly represented too, nothing ever really changes.

We hear almost constantly about all kinds of spending programs that sound patently ridiculous. A few million for the honey bee industry, a quick $30 million for angora goat farmers, bizarre military hammers and toilet seats, payments to farm operators to not grow some crops, and on goes the list, almost endlessly. But the industries receiving the tax breaks, subsidies, price supports, handouts or whatever the particular program might be called believe their particular government benefit is essential.

In fact, they tell us quite regularly they absolutely cannot survive unless we keep digging into our pockets to help them out.

MINING HIGH ON THE LIST

We have several examples here in Arizona, none better than the mining industry, which benefits primarily from what they don't have to pay instead of what they receive. In 1872, Congress decided that federal lands should be made available to mining operations for $2.50 per acre, they would pay no federal royalties and there was no requirement they rehabilitate the land they mine. Unlike everything else on Earth, those land costs have remained unchanged for 121 years. There is now afoot a plan to increase the land costs, charge a royalty and institute some land restoration plans. The mining industry tells us it cannot survive such a change.

The mining industry claims it will lose 40,000 jobs, prices for raw materials will skyrocket, and some have even talked about moving to South America. All because they apparently have counted on the notion that even though everything else has increased in price, their land costs would stay the same in perpetuity.

It is the same story with cattle ranchers, whose federal grazing fees haven't changed in a ridiculously long time. They too claim they can't survive with new fee structures and environmental requirements.

But neither can the cotton farmers survive without their goodies, nor the citrus farmers. We have to keep getting funding for the Central Arizona Project, we have to keep giving all kinds of breaks to any company that wants to relocate here, we have to protect our military bases. And for every local tax-funded project and program we might think is essential, a favor or vote must be traded for one somewhere else that somebody else believes is essential.

The system is self-perpetuating because nobody ever volunteers to get off the dole. They instead invest millions of dollars, spend thousands of hours and exert untold pressure on elected representatives to continue whatever program has made them a beneficiary. While at the same time making impassioned pleas to save the "private enterprise" system. Private enterprise, an unfortunately anachronistic notion, now exists only among very small businesses unable to figure a way to get on the governmental gravy train.

PERENNIAL PATIENTS

To put this in medical terms (and we will soon be hearing an amazing amount of self-serving palaver from the health care industry), business has become a patient suffering from severe hypochondria who instead of trying to survive on his own, demands more and more care. The more we provide, the less likely it becomes that the patient will ever recover.

The irony of all the I-want-change-so-long-as-it-affects-somebody-else posturing is that no industry will die without their government handouts. Some companies will close, some jobs will be lost, some new companies will open and new jobs will be created.

The mandate for change the experts saw in the 1992 elections will be mythological so long as someone is willing to trade millions for nonsense like Steam Town, USA, and millions for nonsense like the National Helium Reserves. Once we recognize the government larder is empty—even for our own pet projects—maybe we can move on to the real money spenders, the exponentially expanding number of entitlement recipients.

If we want real change, we have to begin recognizing that fiddling at the edges is not going to make a difference. It is time to reassert our independence by demanding an end to almost all government freebies. Even ours.

[From the Albuquerque Journal, July 24, 1993]

POLL FINDS SUPPORT FOR MINING LAW CHANGES

(By Ed Moreno)

SANTA FE.—New Mexicans want regulations of hard-rock mining and reform of an 1872 federal law that now allows miners to buy public land cheap and not pay royalties, according to a poll.

The poll was commissioned by the New Mexico Environmental Law Center and paid for through a $9,000 grant from the San Francisco-based Tides Foundation's 777 Fund.

The poll shows that more than three-fourths of the voters in the survey want the state to have a mining reclamation law. New Mexico is one of only two states without such a law, said Douglas Meiklejohn, director of the law center.

"We're going to use it to try to convince legislators of the need for a hard-rock mining law. We're very hopeful something will happen on the state level," Meiklejohn said Wednesday.

Meanwhile in Congress, a House bill to reform the 1872 Mining Act approved by the House Interior Committee on June 24 would ban ownership of claimed land and require royalties and reclamation.

David Henderson, state representative of the National Audubon Society, said reform bills have failed in the Senate. But Sen. Pete Domenici, R-N.M., who supports reforms less sweeping than the House bill, said Wednesday he thinks a bill may pass this year.

In New Mexico, a bill to regulate hard-rock mining never got out of committee during the 1992 Legislature, despite backing from Gov. Bruce King.

The poll shows that 78 percent of voters want the state to regulate hard-rock mining as strictly or more strictly than coal mining. Hispanics generally favor stronger regulation, as do residents of Albuquerque and northern New Mexico.

Coal mines now must conform to environmental, job safety and reclamation standards, but hard-rock miners, those that extract copper, silver, uranium, gold, lead, zinc, pumice and other minerals, aren't regulated.

The poll also shows that 57 percent of the people believe hard-rock mining disrupts public lands, whereas 24 percent of the people believe mining can coexist with other uses such as recreation, grazing and wilderness.

The results show that less than one-fourth of the people know of the 1872 federal law by name. But when given some information about the law, they favor changes, a poll summary says.

For instance, between 91 percent and 84 percent said a miner's right to buy claimed land for $2.50 to $5 an acre wasn't fair.

And 81 percent of the people also believe the 1872 law is in need of reform because it doesn't require miners to reclaim the land or pay royalties to the federal government.

Henderson said that while Sen. Jeff Bingaman, D-N.M., hasn't taken a firm position on possible reform, Domenici has thwarted even a watered-down reform bill.

Domenici said Wednesday he supports reforms, but only those that won't hurt the domestic mining industry.

He said a moderate bill offered by Sen. Dale Bumpers of Arkansas was a "Trojan horse" designed to get the issue to a House-Senate conference committee, where more of the farther-reaching House bill would be adopted.

Domenici said he wouldn't ban ownership of claims outright, but would require reclamation of any mining site under state or federal law.

And he said he supports a "revision" clause that would return the land to the government if it is used for something other than mining.

Domenici's proposal also doesn't require companies to pay royalties to the government because of fears the additional cost "will significantly diminish mining in the United States," he said.

The poll by Research and Polling Inc. in late June sampled 400 registered voters. The results have a margin of error of plus or minus 5 percent, said pollster Brian Sanderoff.

[From the Great Falls Tribune, Feb. 20, 1993]

POLL SHOWS SUPPORT FOR MINING LAW CHANGE

(By Bob Anez)

HELENA.—A large majority of Montanans want changes in the 120-year-old federal mining law that are opposed by the industry, a poll by the Northern Plains Resource Council shows.

The chairman of the organization of farmers, ranchers and environmentalists said Wednesday the survey results support the group's demand for updating the 1872 law.

"It's important for us to understand where the people stand," said Richard Parks of Gardiner.

Gary Langley, executive director of the Montana Mining Association, dismissed the poll as skewed against the industry.

"I don't think they're in the mainstream of public thinking," he said of Northern Plains members. "I think they're a bunch of radicals that want to stop mining, and they took a loaded poll."

Parks said results of the poll are being released now because House Interior Committee action is expected soon on proposed changes in the mining law.

The telephone survey of 501 randomly selected registered voters likely to vote in the general election was conducted Dec. 2-4. The margin of error is plus or minus 6 percent.

The survey showed 88 percent of respondents favor updating a provision of the mining law allowing companies to buy public lands and hard rock minerals for $2.50 to $5 per acre.

The poll also indicated 60 percent want the law changed to require royalty payments. In addition, 77 percent said hard-rock mining should be regulated at least as strictly as the coal industry.

MOTHER LODE VERSUS MOTHER NATURE

(By John Skow)

Guerrilla Theater note, environmental division, bad-pun subdivision: last month Sierra Club members in Jackson, Wyoming, operating as the Not Yours, Mine, Mining Co., staked a claim to U.S. Forest Service land, now leased to the Snow King Resort and used for a ski lift. The point was to demonstrate that under archaic U.S. law, such claiming of the right to lease public land for mining is entirely legal. At present time, plans for actual mining were not firm.

The Sierra Club cutups are not the most impudent manipulators of bad U.S. mine law. New techniques for extracting bullion from low-grade ore have touched off a little-noticed gold rush in the West, devastating huge areas, often at high-altitude sites that almost inevitably pollute the headwaters of rivers. A worst example in the making, environmentalists fear, is a gold mine that Noranda Inc., a big Canadian firm operating through a subsidiary of a subsidiary called Crown Butte Mines, intends to operate in fragile Montana high country 2.5 miles from the northeast corner of Yellowstone Park and entirely surrounded by the Absaroka-Beartooth Wilderness.

The mining industry sees nothing outlandish in the risk Crown Butte proposes to take with the nation's oldest national park, and nothing funny about the claiming of ski runs by environmental jokers. Hard-rock mining (for gold, copper, silver and other metals) once ruled the Rocky Mountain states. The industry is foreign-dominated now (18 of the 25 largest gold mines in the country are owned by non-U.S. firms, most of them Canadian). Only one Western job in 1,000 is directly tied to metal mining. But mining interests have not lost the knack of command, nor have most Rocky Mountain legislators lost the habit of subservience. Attempts in Congress to reform the key U.S. law, passed in 1872 and not substantially revised for hard-rock mining since then, have failed so far in the Senate. A pallid bill introduced by Republican Senator Larry Craig of Idaho is industry-approved and reforms nothing.

There is real reform in a House measure offered by Representative Nick Rahall, a West Virginia Democrat. It calls for suitability reviews of hard-rock mining proposals (similar to reviews for coal-mine leases), an end to "patenting" (buying U.S. lands for an absurd $5 an acre), federal reclamation standards (now left to states) and an 8% royalty paid to the U.S. on net production. Oil, gas and coal leases on federal land require a 12.5% gross royalty, but hard-rock mining pays nothing to the U.S., and a suitability review is an airy dream. Which is why mining-industry money has watered the grass roots of pro-development "wise use" groups such as People for the West. And why David Rovig, until recently president of Crown Butte, the outfit that has Yellowstone in its sights, solicited $1,000 contributions for Rahall's 1992 election opponent. Rahall won, but there is no certainty that his mining reform, now incorporated in a bill offered by Democratic Representative Richard Lehman of California, will reach a House-Senate conference and emerge with its pants on, let alone without having its watch and wallet stolen.

One way to see how mining has scarred the land is to fly with Bruce Gordon, chief pilot of an environmental flying service called Lighthawk, and Roger Flynn, his interlocutor, who runs a one-man environmental law firm in boulder called the Colorado Mining Action Project. From Denver the Cessna 210 heads south to New Mexico, then north along the spine of the Rockies above ulcerated earth where the land has bled money—from gold at Victor near Pikes Peak, and at Battle Mountain near San Luis, Colorado; and from molybdenum at Questa in northern New Mexico and at the vast Amax mine near Leadville. The hawk's-eye view shows the wreckage of mountains, dead land that will not revegetate, soured rivers, towns left to wither when mineral prices dropped and distant corporate directors cut their losses.

The rawest and most recent disaster is Summitville in the San Juan Mountains of southern Colorado. Over the plane's intercom, Flynn tells its shabby history. In all, some 280,000 ounces of gold were extracted, worth $98 million at today's price of $350 per oz. But the mine's leach pad, designed to catch sodium cyanide flushed through pulverized rock to dissolve gold, had been installed badly, in midwinter. It leaked, and the resulting solution of heavy metals in the acidic drainage poisoned 17 miles of the Alamosa River, which waters farms and ranches in the San Luis Valley. After a required bond for reclamation costs was raised from $2.2 million to $7.2 million, Galactic Resources Ltd., the mine's Canadian owner, abruptly declared bankruptcy and walked away last December. Summitville is now a Superfund site, and cleanup may run as high as $100 million.

But the Lighthawk flight continues north toward what many environmentalists fear will be a new Summitville and a new Superfund disaster. The plane threads through the grand, jagged peaks of the Wind River Range in Wyoming and on to the wild and isolated northeastern corner of Yellowstone National Park. Gordon stands the Cessna on one wing, circling a few hundred feet above Cooke City, Montana, a drowsy, ragtag little mountain burg that is a summer gateway to the park.

Just above town are a couple of 10,000-ft. peaks: Crown Butte, which is a spectacular, striated pillar, and Henderson, a hulk that bears old scars from open-pit mining. Digging petered out here in the 1950s—as it happened, only a few feet short of the mother lode. Underneath Henderson, recent exploration has shown, are ore deposits said to be worth $1 billion. It is here that Noranda's subsidiary Crown Butte is pushing hard to start up a large 24-hour-a-day gold mine and processing mill. Workings would be underground and no cyanide would be used, but Yellowstone Park's director of resource management, Stu Coleman, has said that from an environmental point of view, Henderson Mountain is "probably the worst possible place in the U.S. for a gold mine."

It is hard to argue with Coleman. The mine threatens the environment, as well as the social and economic stability, of Yellowstone Park and nearby Wyoming. Exploratory drilling has already scared away many of the area's elk, moose, bighorn sheep and grizzly bears. The project would turn tiny Cooke City, whose winter population is about 100, into a mining town (though Crown Butte proposes the extraordinary measure of segregating its 320 construction workers and 150 miners in a mountainside work camp).

But the biggest problem here and throughout the Rockies is acidic drainage. Gold-bearing rock tends to contain large quantities of sulfur, which form sulfuric acid when exposed to air and water. The acid puts such highly toxic metals as copper and cadmium into solution, and the poisons kill aquatic life. That happened before when Henderson was mined in the '50s.

What Crown Butte proposes is to dig out 56 acres of wetlands, moose-breeding ground high on the mountain, and building a 77-acre lake to hold toxic mine residues called tailings. This mass, weighing about 5.5 million tons, would be held back by a 90-ft.-long earth-fill dam (earthquake-proof), say the company's engineers), and lined with clay and long-lasting plastic. At the end of the mine's 15-to-20-year life, the water level would be lowered and the crushed sulfate tailings would be capped with rock and dirt. The remaining water would be stagnant, not flowing. Thus the supply of oxygen would be cut off, and formation of acid would stop.

Stop for how long? The scheme has never been tested in a man-made impoundment, nor at 9,000 to 10,000 ft. in mountainous terrain subject to very heavy snowfalls, avalanches, flooding, severe underground seepage and seismic activity. If, or when the tailings dump fails, it will funnel heavy metals into Fisher Creek, which becomes the Clarks Fork of the Yellowstone River, the only "wild and scenic" river in northwestern Wyoming. If the Army Corps of Engineer's or the Environmental Protection Agency vetoes the wetlands destruction, the next best site would require a more complicated dam, and if, or when, it failed, the mess would head downstream of Yellowstone Park.

Hard-rock miners tend to think of themselves as semiheroic, crustier than cowboys, and when a site is inconvenient, they say, "You mine where the ore is." Henderson's ore is entirely surrounded by environmentalists. The Absaroka-Beartooth Wilderness is not more than a mile away on all sides. Just a bit farther, 2.5 miles to the southwest, is the great national park.

And just below Henderson are the people of Cooke City, each of them, in winter, a full 1% of the vox populi. Everyone agrees the 400 or so summer people are mostly against the mine, but summer people don't count here or anyplace else. Winter people, real Cooke City people, are split more or less down the middle. Jack Williams, a folk artist who was hurt years ago in a mine cave-in, favors Crown Butte, and so does his wife Bertie. Carpenter Jim Barrett, head of a home grown environmental group called the Beartooth Alliance, objects to being pushed around as well as to the way the mine's advance men have explained, very politely, what they are going to do to Cooke City. Outfitter John Graham, a burly, grizzled hunting guide, says wearily that the mine's trucks and drilling rigs have ruined the area for his clients. "They've got that stuff in their backyards," he says. "they don't want to see it here."

Allan Kirk, Crown Butte's chief exploration geologist, does a good job of guiding skeptical visitors around the mine site, explaining the care with which crews have been contouring and reseeding—"mitigating" is the word—old mine wreckage. Orange-stained, acidic water, the beginning of Fisher Creek, flows out of an old adit (mine entrance), but Kirk says large-scale plugging with cement and waste rock will prevent such seepage from dribbling out of Henderson's far side and downstream to Yellowstone. Will this work in a watery, fractured mountain?

"There are risks in all human activity," says Kirk.

Crown Butte claims to have risked about $30 million so far in exploration and environmental cleanup. What it would gain is clear; about half of the $1 billion in ore is thought to be recoverable. What the northern Rockies would gain is less certain. Yellowstone Park's fragile buffer forests would suffer more industrial invasion, if not environmental damage. Montana would get small royalty payment, but Wyoming, which would absorb most of the social impact, would get nothing. There is no large population of unemployed miners in the area, which is getting along fairly well from tourism. Peter Aengst, an activist for the Greater Yellowstone Coalition, repeats a familiar complaint: "Crown Butte gets the mine, and Yellowstone gets the shaft."

Some such assessment may have prompted Senator Max Baucus, a Montana Democrat, to write a surprising letter to Crown Butte's management. Calling himself a friend of mining, he nevertheless said he was unwilling to gamble a national treasure—Yellowstone—against short-term economic gain. Damage from a failed tailings pond, warned Baucus, could be "cataclysmic" and "irreversible." He didn't say what should be done with the tailing—truck convoys to NIMBY ("not in my backyard") land are a possibility—but if an on-the-mountain tailings pond is necessary, mine plans "should be abandoned."

Baucus' letter, though it may stiffen the spines of the regulating agencies, probably won't be enough to stop the mine. Noranda and Crown Butte may well get a permit to operate. A draft environmental-impact statement is expected by summer, shepherded by the Forest Service and the Montana State Lands Department, two agencies generally considered to be pro-development. The fact is that the outdated 1872 mining law, which treats the U.S. as if it were an underdeveloped country to be exploited, does not allow the agencies to say no to a permit. They can say only "yes, provided . . ." and see that federal and state laws governing clean air, clean water, wetlands and endangered species are enforced. If a mine corporation is rich and determined enough, it can pay for a lot of environmental compensation. Noranda, for instance, expects to pay roughly $8 million for damage to grizzly-bear habitat at another Montana mine site.

Other expenses are not so excessive. Most of Crown Butte's land on Henderson Mountain is privately owned, but with reforms of mine law pending, the company is hurrying to patent 45 acres of federal land, about a fifth of the mine site, containing $200 million worth of ore. As mine scandals go, this one is trifling. In Nevada the Canadian-owned American Barrick. Resources Corp. will probably be allowed to patent 1,793 acres, worth about $10 billion, for a nifty $8,965. Still it is worth noting that under the 1872 law, Crown Butte will buy its 45 acres from U.S. taxpayers and own it for the remainder of eternity for exactly $225.

Mr. THOMAS of Wyoming. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, we talked a good deal about this bill a couple days ago, but I simply want to rise and talk a little bit specifically about mining, but in general about jobs, jobs in the public land States of the West.

When we talk about mining, we are talking about jobs. We are talking about good jobs. We are talking about the opportunity to create more jobs.

When we talk about public lands, we are talking about an economic aspect of the West that is peculiar. We are talking about the opportunity for States that have 50 to 80 percent public lands within their States to have the kind of public policy on lands that allows for economic growth, that allows for jobs in the West, allows for growth in the West.

When we talk about western public lands, we are talking not only about mining, we are talking about grazing, we are talking about the cost of water, we are talking about moratoriums on oil and gas, we are talking about limits on timber, we are talking about an assault on the economy of the West.

Clearly, that is one that has been designed by the Department of the Interior and the Secretary.

So we need to take a look at what we are doing when we talk about jobs.

I do not think there is any question but what there needs to be a modernization of the mining law. We all agree upon that, but we do not need to strangle the economic future of the West to do something about reforming mining law.

It is interesting, it seems to me, that we spent, and properly so, all day yesterday specifically, and we have spent almost all this year talking about jobs, building jobs, creating jobs.

Now we are talking today about reducing jobs, about losing jobs.

The same folks who spoke so passionately yesterday about workers are the same ones who are willing to have more and more regulation, the same ones who are suspicious of profits and the opportunity to make profits, the same ones who make it impossible to have incentives to invest to create jobs.

Madam Chairman, it does take investment to create jobs. It takes some tenure in order to get that investment back. It takes reasonable regulations. We cannot have businesses drowned in regulations. It takes an opportunity to make a profit. There is nothing evil about profits. That is the incentive to create jobs.

Madam Chairman, I am for mining reform, but not this mining reform. Have we heard that before?

We can do better and we can do a little better today, and we can do a great deal better when we have our conference committee.

Madam Chairman, let us have a mining reform bill that does not strangle opportunity, that does not reduce jobs, but indeed has a balance of both economic opportunity and environmental protection.

Mr. RAHALL. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, as we conclude this debate, I remind my colleagues once again about the historic event on which we are about to embark.

The distinguished chairman of the subcommittee, the gentleman from California, in his opening remarks 2 days ago spoke of some of the history of the efforts to reform the 1872 mining law.

Back in 1865 on the House floor, Representative George Washington Julian called the efforts to enact what eventually became the mining law of 1872 legislative madness.

He noted on this House floor, and I remind you, this was in 1865, 7 years prior to enactment of the law:

> The United States have let the mineral lands open to our people and to the greed of monopolists from foreign countries for the past 16 years during which time $1 billion have been extracted without a dollar of revenue to the National Treasury.

One hundred twenty-eight years later, the debate continues. We have had a healthy debate over the last couple days over this issue. It has been through the entire legislative mill for a number of years. I think that has been very productive to our efforts to strike a proper balance here. If we do not enact this law, then I fear that the mining industry's ability to continue mining on public lands in the West would be severely threatened. So it is in the interest of the industry that we have this reform. It is in the interest of the American taxpayers that we have this reform as well.

Most importantly, Madam Chairman, it is in the interest of our environmental legacy in the western parts of our country that we ensure that no longer do we have the mining landscapes, the red water streams, the open mine shafts which kids fall down in and are killed, but that we have responsible mining reclamation at the same time that we continue to provide jobs for our people, not only in the mining industry, but in the reclamation of these mine sites as well.

So again, Madam Chairman, I conclude by asking the House to defeat this motion to recommit and to pass this historic reform of the mining law of 1872.

Mr. SKAGGS. Mr. Chairman, I rise to express my support for reform of the 1872 mining law—but my reluctant opposition to this bill in its current form.

There is no question that we need to reform the mining law. It might have made sense 120 years ago to give away public land as an inducement to get young men—and young women—to go West. But we long ago repealed the Homestead Act, and it's long past time to reform the general mining law to meet the needs of today's West.

The mining law's patenting provisions have been badly abused, resulting in billions of dollars of Federal lands being sold for a few dollars an acre. The thousands of abandoned mines in the West must be reclaimed, and a Federal reclamation standard imposed to ensure that in the future mined lands will be restored. A reasonable royalty payment should be required for commercial use of public lands, to provide the taxpayers with a fair return of use of their property.

But as much as I think we should overhaul the mining law, I still find this bill to be the wrong reform. Simply put, it goes too far. If passed in its current form, it would impose too great an economic burden, and too many unworkable regulatory burdens, on the mining industry.

Let me focus on the one provision that concerns me the most—having to do with the question of royalties payments.

Earlier this year, when Secretary of the Interior Bruce Babbitt appeared before the Interior Appropriations Subcommittee, I asked him for the justification for his recommendation of a 12½ percent gross royalty on hard rock mining. In response, the Department provided very little information and data. What they did provide supported a 3½-percent gross royalty—not a 12½-percent gross royalty.

The bill before us today does not go as far as Secretary Babbitt's original recommendation, but it would impose an 8-percent gross royalty. The committee report, however, indicates that private royalty rates range from 2 to 8 percent of gross income. For gold, the report states that 5 percent is the most typical rate.

In other words, it appears that if this bill were pass in its current form, the Federal Government would charge more to mine on public lands than other landowners charge to mine on their land. I know of no reason to justify that.

On royalties, as on some other issues, it seems that this is a bill prepared in anticipation of an eventual compromise with a very different bill already passed by the Senate—a bill that leaves far too much of the current law intact. I can understand the desire of the leaders of the House Committee on Natural Resources to position themselves so a compromise with the Senate will produce a reasonable final bill. But I am not willing to vote for a bill that represents a bargaining position for conference more than it represents a piece of legislation ready to be signed into law.

Despite my vote, I expect this bill to be passed by the House today. I encourage its managers to work with the Senate to produce a more realistic and reasonable reform of the mining law. When they do, I will enthusiastically join in voting for that version.

The CHAIRMAN. Are there any further amendments?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. TORRES] having assumed the chair, Mrs. KENNELLY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 322) to modify the requirements applicable to locatable minerals on public domain lands, consistent with the principles of self-initiation of mining claims, and for other purposes, pursuant to House Resolution 303, she reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. CRAPO

Mr. CRAPO. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. CRAPO. I am opposed to the bill, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. CRAPO moves to recommit the bill, H.R. 322, to the Committee on Natural Resources, with instructions to report back promptly to the House with recommendations that will result in no net loss of jobs as measured by existing Department of the Interior economic models.

The SPEAKER pro tempore. The gentleman from Idaho [Mr. CRAPO] is recognized for 5 minutes.

Mr. CRAPO. Mr. Speaker, the instructions that we seek on this motion are quite simple. This House should tell the Committee on Natural Resources to go back into session and to craft an amendment to H.R. 322 that would undo the net job less result which the gross royalty provisions in the bill will cause.

Mining is an $86 billion a year industry which supports American families and communities, and passage of H.R. 322 will result in a net loss of $5.7 billion in economic output.

□ 1040

The mining industry is directly responsible for providing 500,000 Americans with jobs. The sponsors of H.R. 322 admit that passage of the bill could lead to the loss of 5 percent of the American mining jobs. This loss is predicted by the Department of the Interior's own analysis of H.R. 322.

The accounting firm of Coopers and Lybrand have studied H.R. 322 and suggest the impact could be even larger, and I would like to point out on the chart we have, the summary here of a number of different approaches, what kind of a job impact could happen.

If my colleagues will notice the first line, the Department of the Interior's own study is that in the first year alone over 1,100 jobs or 1,100 jobs could be lost with a net impact in revenue of $11 million.

The Coopers and Lybrand study, which projects out over 10 years, shows that the job impact could be as high as 44,000 jobs. The economist Michael Evans has projected over the same 10 years, with different analysis, that at least 18,000 jobs could be lost.

The point is that, regardless of whether we accept the Coopers and Lybrand approach, the Evans approach or the Department of the Interior approach, we are going to have serious job loss under this bill.

The Western Governors Association has also expressed strong opposition to H.R. 322, and they are concerned that it establishes a complex and duplicative system unresponsive to States' needs and preempts the roles of the State. We should not be doing this while we are at the same time causing this kind of job loss, and I would like to direct my colleagues' attention to the second chart here, just an example in Idaho.

In Idaho, at the Thunder Mountain mine the hard rock mining has 110 full-time employees. Under reclamation, only 4 to 10 employees, part of them seasonal. The average salary of a miner when that mine was operating was $34,000. The average salary of reclamation workers, $12,500. On the total annual payroll, $3.7 million when the mine was in operation. Now, $75,000 to $80,000 under reclamation. The status of employment under operation, all positions were long-term jobs. Now, under reclamation, limited transitional jobs. The annual taxes paid; impact on the Treasury was $1,065 under full-time operation. Under reclamation, none except for the sales tax on supplies.

This is just one example of what can happen as we start reducing our mining industries with oppressive laws that do not take into consideration job loss, and the purpose of this motion is to ask that this body send this bill back to the committee so that we can take care of those jobs that are going to be impacted by the harsh provisions of its terms.

Mr. LEHMAN. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore (Mr. TORRES). The gentleman from California [Mr. LEHMAN] is recognized for 5 minutes.

Mr. LEHMAN. Mr. Speaker, I admit to being somewhat confused by the gentleman from Idaho's motion, since by all accounts, except those advanced by the mining industry, H.R. 322, as amended, will result in a net-zero-job loss, if not an actual increase in jobs.

According to the Department of the Interior's economic models and to the Congressional Budget Office, H.R. 322, as amended, will not result in a massive loss of jobs. The Department's economic models indicate that an 8 percent net smelter return royalty could, at certain prices, result in the possible loss of 640 jobs—that's out of 45,000 jobs that are currently attributed to the mining industry.

On the other hand, the Congressional Budget Office reports that an 8 percent gross income royalty applied to reclamation would result in a net gain of 1,200 jobs.

But, economic models aside and let's face it—we can each drag out any number of "economic theories" or "models" to support our contradictory positions—it is widely recognized that western Federal lands are seen as much more than a storehouse of extractable merchandise. These public lands provide the economic base upon which the current settlement of the West depends. Recreation, wildlife, and scenic beauty are all critical to the West's future.

H.R. 322, as amended, will protect that environmental base which has become an integral part of the region's economic base. It will do this in several important ways. First, it will dislodge the misleading place mining enjoys due to the unquestionable advantage it has under current law.

Second, H.R. 322 will allow other uses of the land to be given equal consideration.

Finally, H.R. 322 will create jobs and improve the environmental quality of the area by restoring lands damaged by past mining practices.

In simple terms, H.R. 322 will create jobs.

H.R. 322 will require the Federal Government to be a responsible landowner and require those mining companies which extract hard rock minerals from Federal lands to act in the same manner the oil, gas, and coal industries are already required to act on Federal lands.

Since the revenues generated by H.R. 322 will be used to reclaim abandoned mine sites, it will create jobs. According to the Bureau of Labor Statistics, 26 jobs will be created for every $1 million spent cleaning up these old mine sites.

The CBO estimates that the bill will, by 1997, raise $114 million a year.

It should also be noted that the hard rock industry has, by necessity, been a very resilient industry. It has always faced an uncertain market where prices can fluctuate widely. Between 1987 and 1992, gold prices suffered a 40-percent decline. In just 6 months this year, the price of gold has fluctuated from $325 an ounce to $410 an ounce. It then began to move quickly downward. The gold industry has not been thrown into wide turmoil by these changes. Instead, the industry has dramatically increased to record levels of production.

But, statistics aside, what is the role that mining plays in the western economy? Despite the popular portrait of the Gabby Hayes prototype perpetuated, in large part by the mining industry, hard rock mining actually plays a minuscule role in terms of western employment.

The fact is that only about 1 job in 1,000 is directly related to metal mining in the West.

And, further, all metal mining does not occur on Federal lands. Only 53 percent of all land in the West is Federal land and only 15 percent of the value of hard rock mineral production can be attributed to Federal lands. And, less than 1 percent of copper production in the West comes from Federal lands.

If the current rush to patent continues, as is expected, the percentage of active mining on Federal lands, which would be subject to H.R. 322, would significantly decline.

Therefore, since only one in a thousand western jobs depends on metal mining and only one in six of those jobs would be affected by H.R. 322, one can only conclude that H.R. 322—with or without further analysis by the Department of the Interior—is going to affect only a tiny sliver of western jobs.

Consequently, because H.R. 322 will help protect an important segment of the western economy and will reinvest the revenues it raises in the West, putting people to work repairing that land from past damage, the net impact is positive.

H.R. 322 will strengthen the western economy and put people to work. If only the direct employment impacts associated with the reclamation programs are considered in concert with the direct employment impacts on mining jobs, the result is a net increase of 1,200 jobs.

Finally, facts aside—which in this case are clearly on the side of approving H.R. 322—the motion to recommit is clearly nothing more than a stall tactic designed to further protect an industry which has managed to hoodwink the Congress time and time again into thinking it needs some kind of special socialized welfare protection.

Today, we have a chance to bring hard rock mining into the 20th century.

This is a historic moment.

I urge my colleagues to defeat the motion to recommit and go on to approve H.R. 322 as amended.

Mr. Speaker, I yield to the gentleman from West Virginia [Mr. RAHALL], who certainly deserves our praise this morning for bringing us to this important point.

Mr. RAHALL. Mr. Speaker, this legislation will create jobs.

Under this bill, we are creating an abandoned locatable minerals reclamation fund for the purpose of restoring the damages caused by past mining practices.

This fund is modeled after the abandoned mine reclamation fund for coal mined lands that we established under the Surface Mining Control and Reclamation Act of 1977.

And the fact of the matter is that for each $1 million spent in reclaiming abandoned mined lands, about 26 direct and indirect jobs are created.

These are good paying jobs in the construction industry.

Furthermore, I would submit that by providing for a more efficient regime under which the hard rock mining industry will operate on public lands, this bill will also promote employment at active mining operations.

Prior to the passage of legislation of this nature, we always hear predictions of gloom and doom.

For example, in 1977, coal production was at about 600 million tons per year. At the time, the coal industry said that if we passed the Surface Mining Act, it would cause their demise.

Today, 16 years later, coal production is close to 1.2 billion tons per year.

So I would suggest that we will not experience the type of job loss the opponents of this bill suggest.

I urge the defeat of the motion.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. CRAPO. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 148, nays 270, not voting 15, as follows:

[Roll No. 576]

YEAS—148

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Coble
Collins (GA)
Combest
Cox
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Doolittle
Dornan
Dreier
Duncan
Dunn
Emerson
Everett
Ewing
Fields (TX)
Fowler
Gallegly
Gekas
Gillmor
Gingrich
Goodlatte
Goodling
Goss
Grams
Hall (TX)
Hancock
Hansen
Hastert
Hayes
Hefley
Herger
Hobson
Hoekstra
Houghton
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Istook
Johnson, Sam
Kasich
Kim
King
Kingston
Knollenberg
Kolbe
Kyl
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Manzullo
McCandless
McCollum
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Montgomery
Moorhead
Myers
Nussle
Orton
Oxley
Packard
Parker
Paxon
Petri
Pombo
Portman
Pryce (OH)
Quillen
Quinn
Ramstad
Roberts
Rogers
Rohrabacher
Roth
Royce
Santorum
Schaefer
Schiff
Sensenbrenner
Shaw
Shuster
Skeen
Skelton
Smith (MI)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Vucanovich
Walker
Walsh
Wolf
Young (FL)
Zeliff

NAYS—270

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Baesler
Barca
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Blute
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dickey
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English (AZ)
English (OK)
Eshoo
Evans
Farr
Fawell
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallo
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Glickman
Gonzalez
Gordon
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Horn
Hoyer
Hughes
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klug
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Moran
Morella
Murphy
Murtha
Nadler
Natcher
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Porter
Poshard
Price (NC)
Rahall
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Roemer
Ros-Lehtinen
Rostenkowski
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Saxton
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shays
Shepherd
Skaggs
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Snowe
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NOT VOTING—15

Bacchus (FL)
Chapman
Clinger
Dicks
Ford (TN)
Grandy
Hoke
Klink
McCrery
Ridge
Rose
Sisisky
Washington
Wilson
Young (AK)

☐ 1109

Mr. GREENWOOD changed his vote from "yea" to "nay."

Messrs. HAYES, EWING, and BUYER changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. TORRES). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. RAHALL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 316, nays 108, not voting 9, as follows:

[Roll No. 577]

YEAS—316

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barlow
Barrett (WI)
Becerra
Beilenson
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Blute
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Canady
Cantwell
Cardin
Carr
Castle
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dingell
Dixon
Dooley
Duncan
Durbin
Edwards (CA)
Edwards (TX)
Engel
English (AZ)
English (OK)
Eshoo
Evans
Farr
Fawell
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gallo
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Gordon

Goss
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastert
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Holden
Horn
Hoyer
Huffington
Hughes
Hutto
Hyde
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
King
Kleczka
Klein
Klug
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (FL)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Matsui
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McHale
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Nadler
Natcher
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Roemer
Ros-Lehtinen
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Saxton
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Snowe
Spence
Spratt
Stark
Stearns
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Washington
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (FL)
Zimmer

NAYS—108

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bliley
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Coble
Collins (GA)
Combest
Cox
Crane
Crapo
DeLay
Doolittle
Dornan
Dreier
Dunn
Emerson
Everett
Ewing
Fields (TX)
Gekas
Gillmor
Goodling
Grams
Hancock
Hansen
Hayes
Hefley
Herger
Hoekstra
Hoke
Houghton
Hunter
Hutchinson
Inglis
Inhofe
Istook
Johnson, Sam
Kasich
Kim
Kingston
Knollenberg
Kolbe
Kyl
Lewis (CA)
Lightfoot
Linder
Livingston
Manzullo
McCandless
McCollum
McCrery
McHugh
McInnis
McKeon
Mica
Michel
Molinari
Myers
Nussle
Orton
Oxley
Packard
Paxon
Pombo
Quillen
Quinn
Roberts
Rogers
Rohrabacher
Royce
Santorum
Schaefer
Skaggs
Smith (MI)
Smith (OR)
Smith (TX)
Solomon
Stenholm
Stump
Sundquist
Talent
Tauzin
Taylor (NC)
Thomas (CA)
Thomas (WY)
Vucanovich
Walker
Walsh
Young (AK)
Zeliff

NOT VOTING—9

Chapman
Clinger
Dicks
Gilchrest
Klink
Martinez
Ridge
Rose
Wilson

□ 1127

Mr. MEEHAN changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LEHMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on H.R. 322, the bill just passed.

The SPEAKER pro tempore (Mr. TORRES). Is there objection to the request of the gentleman from California?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 300

Mr. COLLINS of Georgia. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 300.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

FREEDOM OF ACCESS TO CLINIC ENTRANCES ACT OF 1993

Ms. SLAUGHTER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 313 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 313

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 796) to assure freedom of access to clinic entrances. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and the amendments made in order by this resolution and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment. All points of order against the amendment numbered 4 in the report are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

□ 1130

The SPEAKER pro tempore (Mr. TORRES). The gentlewoman from New York [Ms. SLAUGHTER] is recognized for 1 hour.

Ms. SLAUGHTER. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Florida [Mr. GOSS], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 313 is the rule providing for the consideration of H.R. 796, the Freedom of Access to Clinic Entrances Act of 1993.

The rule provides for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary.

The rule makes in order the Judiciary Committee amendment in the nature of a substitute now printed in the bill as an original bill for the purposes of amendment. The substitute shall be considered as read; all points of order against the committee substitute are waived.

No amendments to the substitute are to be in order except those printed in the report of the Committee on Rules. The amendments are to be considered in the order, manner, and for the time specified in the report. The amendments shall be considered as read and are not subject to further amendment.

Further the rule waives all points of order against the amendment to be offered by Representative SMITH of New Jersey.

Mr. Speaker, the four amendments made in order under this rule include a comprehensive substitute which provides an alternative approach to the problem addressed by the bill as well as three other amendments to perfect the bill's language.

Finally, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, H.R. 796, the bill for which the Rules Committee has recommended this rule, was developed in response to the growing problem of orchestrated violence at reproductive health clinics all across the Nation. In recent years, the level of this violence has escalated. The list is long and sad: vandalism, arson, bombing, gassing, physical attacks, death threats, shootings, and murder—against clinic staff, as well as their families and their children, and against the women who need the health services these clinics offer.

The statistics tell a horrible story: Between 1977 and April of this year, over 1,000 acts of violence were reported against clinics and health care providers. These include: 36 bombings; 81 arsons; 131 death threats; 84 assaults; 2 kidnappings; 327 clinic invasions; and 1 murder.

Over 6,000 clinic blockades and other disruptions of clinic activity were reported during that period.

Just this past March, Dr. David Gunn of Florida was shot and killed; murdered, by an antiabortion activist.

This past August, Dr. George Tiller was shot and wounded in Oregon, because he performed legal abortions at a reproductive health clinic.

And just last month, a 19-year-old youth set fire to a Texas clinic, causing $50,000 worth of damage. This was the ninth women's health center to be damaged by fire so far this year.

These acts of violence do not only hurt those directly hit; they also affect the thousands of women who need to use these clinics for their health care. More than 90 percent of the clinics that have experienced blockades or violence also provide other health services, in addition to abortions. And many of the clinics targeted for blockades and harassment are located in rural areas. They are frequently the only source of reproductive medical care for the women they serve. Disruptions in the operation of these clinics has therefore deprived many women of a wide range of badly needed medical services, including pregnancy and prenatal care.

While it is true that most State and local law enforcement have the authority to police such violations of their criminal codes, in reality this often does not happen. In some cases, the locality does not have the resources to battle large-scale, long-term interstate lawlessness, including trespass, vandalism, and assault. In other cases, they simply choose not to do so. Clearly, a Federal remedy is the only answer if we are standardize law enforcement and offer all clinics the same protection.

Until early this year, Federal courts could act to restrain clinic blockades. But once the Supreme Court ruled, in the Bray decision, that the Ku Klux Klan statute no longer offered protection to clinics and providers, we were left with no legal means of ending the disruptions; no way to keep these clinics open and safe for women, their doctors or nurses; and no way to guarantee this constitutionally protected right.

Attorney General Janet Reno has testified that no other Federal law is applicable in this situation. She noted that—

> The reluctance of local authorities to protect the rights of individuals provides a powerful justification for the enactment of Federal protections; protections that have been evoked previously by Congress in passing laws to protect civil rights.

This bill will fill the gap and provide these protections. The National Association of Attorneys General supports the bill, for just that reason. As does the American Medical Association, and the League of Women Voters, among many others.

It is important to note that this bill will not abridge anyone's right to conduct peaceful, lawful protests at clinics. What it will do, however, is make reproductive health clinics safe for the men and women who work there, as well as for the women who need their services. These health care professionals and their patients need our help, and I urge my colleagues to provide it for them by supporting this rule and this important legislation.

Mr. GOSS. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Georgia [Mr. GINGRICH], the minority whip.

Mr. GINGRICH. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I strongly urge my colleagues to vote down this rule. I think this rule is a tragic, tragic mistake. It is a mistake, first of all, because we are dealing with freedom-of-speech rights that are central to America.

I think when you look back at the entire history of the civil rights movement, when you look back at the antiwar movement, if we had applied these kinds of restrictions and this kind of language, it would have distorted that entire experience and would have gravely threatened the rights and the liberties of Americans, and in that sense, I think this bill as it is currently written is explicitly dangerous to the right of Americans to dissent and the right of Americans to protest.

I strongly favor any actions that are needed to end violence. I believe anyone who is engaged in violence against a fellow American deserves jail and that every American deserves protection against violence. But there are free-speech issues here that are very, very important.

The use of words like "intimidation" is a judgmental word. If you are standing 3 feet away but staring at a person, are you intimidating them? If you are a father or a mother trying to talk to your daughter, are you intimidating them? Under what circumstances will this be applied?

I want to make two sets of points; the first is in urging a "no" vote, look at the amendments that were defeated. There was a Gekas-Stenholm amendment which would have extended the protection against demonstration to include other lawful activities. There was a Kennedy amendment which would extend the protection from assault or interference to individuals who engage in lawful activities in the vicinity of an abortion facility. There was an Inglis amendment to strike language allowing private citizens to bring suit under this bill. There was a Klink amendment to redefine the definition of physical obstruction in order to remove peaceful sit-ins and similar passive demonstrations from the scope of the bill.

Notice the way that this bill is designed. First of all, it is one more example of another trial-lawyer-enrichment bill. It is one more effort to extend to the private citizen the right to go to court, the incentive to show up and have one more trial lawyer file one more triple-damages suit, to have one more opportunity for legal blackmail, to have one more settlement out of court, to enrich the lawyers one more time.

□ 1140

So I understand why, if you are a trial lawyer, this might be a good bill, because you are going to have more business.

Second, notice that this particular rule blocks from amendment Democrat and Republican efforts to amend this bill. Third, notice that this bill would, in effect, stop precisely the kinds of civil disobedience which were at the heart of what the civil rights movement was all about.

Let me make a second point, and that is that there are significant threats here that are not clear. As I understand it, in the other body the bill was amended to provide a provision excepting from the penalties and civil remedies any parent or legal guardian of a minor. That is, in the bill as drafted in the other body, as I understand it, if you were a parent or a legal guardian and you had a 12-year-old, 13-year-old, 14-year-old about to walk into an abortion clinic, you would not be subject to these provisions if you were obstructing or intimidating your 12-, 13-, 14-year-old daughter. This bill in its current form will not protect parents, will in fact make them subject to a lawsuit so they could face the prospect of being sued by their daughter, with the trial lawyer taking the usual cut of the money, and they would be subject to triple damages.

Ms. SLAUGHTER. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I yield to the gentlewoman from New York.

Ms. SLAUGHTER. I thank the gentleman for yielding.

Mr. Speaker, the DeLay amendment, which takes care of the problem of which the gentleman speaks, is in this rule.

Mr. GINGRICH. If my friend from New York would answer: Why did she then reject the Inglis amendment?

Ms. SLAUGHTER. We rejected some of the amendments because they were incorporated into the Smith amendment.

Mr. GINGRICH. I meant the Kennedy amendment.

Ms. SLAUGHTER. And some for nongermaneness.

Mr. GINGRICH. But I am correct, am I not, in saying the Kennedy amendment, No. 6, which specifically does what I just said, does not take care of it?

Ms. SLAUGHTER. I believe it is the DeLay amendment, I say to the gentleman from Georgia, that does specifically what he is talking about.

Mr. GINGRICH. Very well. I appreciate the gentlewoman's correcting me.

The Kennedy amendment in fact extended protection from assault or interference from individuals who engage in unlawful activities in the vicinity of an abortion clinic is afforded those seeking reproductive health services.

I would urge everyone to vote for the DeLay amendment in the bill.

Let me go on and point out that of the five amendments defeated, several were offered by Democrats and several were offered by Republicans. But my point would be twofold:

First, the bill, as it is currently written, extends to the words "obstruction" and "intimidation" a level of interpretation which I do not believe we have ever had in American legal tradition and which is a violation of free speech. It is one thing to say, as I would say, no one should engage in violence and we should protect people from violence; it is another thing to say the Federal Government is now going to put you at risk because of your free-speech activities and it is potentially going to put you in jail and is going to put you at risk for a lawsuit with triple damages by somebody who is out there trying to make a buck on what may well in fact be a nuisance lawsuit.

Second, there are legitimate amendments which should be made in order for both Democrats and Republicans. It is very unfortunate that the leadership of this House has gotten into the habit of strangling the rights of amendments for both Democrats and Republicans.

I think we should have a "no" vote on the rule and then support a rule to bring the same bill up with the full amendment capability so that this bill could be corrected so that it could be supported.

Ms. SLAUGHTER. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. I thank the gentlewoman for yielding this time to me.

Mr. Speaker, I rise today in opposition to this restrictive rule. Along with our colleague, Mr. GEKAS, I had wished to offer an amendment which would have extended the protections established in H.R. 796 to other equally important areas. Unfortunately, our amendment was not allowed to be debated on the floor and therefore I intend to vote against this rule and H.R. 796.

Although I oppose the bill, I support the stated intent of the authors in attempting to address the serious problem of violent and inappropriate activities by some extremist groups. Regardless of one's position on the reproductive health services debate, murder and violence cannot be condoned or allowed to go unpunished. If this bill did only what its supporters claim, I would be leading the fight for its passage.

For example, the authors of H.R. 796 claim the bill targets "* * * conduct that is not protected by the first amendment. Shootings, arson, vandalism, death threats, and chemical attacks—that's the kind of violence and terror that H.R. 796 is intended to stop." This simply is not so. The bill goes much further by prohibiting conduct which "* * * intimidates, or interferes with any person, or attempts to do so * * *" And, it provides for a private right of action against a specific group of people, those who protest abortion rights.

You don't have to be a legal scholar to see the intent or the practical consequences of these loosely worded and legally undefined prohibitions. H.R. 796 would effectively abate peaceful anti-abortion protests as well as the allegedly targeted violent protests, because of the chilling effect of the private right of action triggered by such a nebulous legal standard. Most people will make the logical choice of not participating in peaceful protest for fear of being sued for damages of $5,000 per violation for actions which may be construed to intimidate or interfere with a woman attempting to obtain an abortion or a doctor who performs reproductive health services.

What is so frustrating to me is that the authors of this bill know this, despite what they may say. I know because I introduced legislation in the 101st Congress which addressed an equally serious problem of inappropriate and violent activities directed toward animal research laboratories and agri-business. Researchers were being threatened and vitally important research destroyed along with the facilities for the sake of animal rights.

I introduced a bill that paled in comparison to H.R. 796's prohibited activities, but like H.R. 796 did include a private right of action so that researchers whose life's work was destroyed by arson or theft could sue for damages from the violators. I was told by some of the primary supporters of H.R. 796 that my language was totally unacceptable on the grounds that it would violate these protestors' constitutional rights. In fact, I want to submit for the RECORD a copy of a letter I received from the ACLU which expressed their constitutional reservations to my Farm Animal and Research Facilities Protection Act.

Last year, my break-in bill was eventually enacted into law, but not without substantial amendment. The bill enacted into law prohibited only criminal acts and was stripped of its civil right of action. Even though my original bill had overwhelming support in the Congress, these changes had to be made to clear the House Judiciary Committee. Ironically the members of that committee are the authors and strongest supporters of H.R. 796.

As stated earlier, H.R. 796 has created an entirely new legal standard for one category of individuals, a legal standard that will be challenged as unconstitutional under the first amendment. There are valid questions that must and will be asked, and the attorneys and courts will hammer out many constitutional nuances if H.R. 796 is successfully signed into law.

This brings me to why I am here today. I believe that if we are going to set forth this new legal standard for protestors of reproductive health services, we should also apply it to other controversial activities. For example, if it is not appropriate for an abortion protestor to intimidate a woman seeking her legal choice to reproductive health services, then I believe it should also be inappropriate for a striking worker to intimidate another worker attempting to cross the picket line to exercise his or her right to work. What's the difference between an abortion protestor chaining himself or herself to a piece of office furniture in a clinic and an environmentalist chaining himself or herself to a tree that a logger is attempting to cut down. In both cases there is interference such as the bill references. How are the thousands of human lives which are lost from the destruction of years of biomedical research less valuable than the lives of doctors or young women threatened by force, threat of force, or physical obstruction at a reproductive health services clinic?

I have a folder with me this afternoon with just a small sampling of the extremely disturbing threats, intimidations, and outright deaths involved in cases of labor strikes, animal research, forestry production, and so forth. Just as I find the death of a doctor in a clinic or the bodily harm done to women seeking to enter such clinics extremely distressing and unacceptable, I find the story of deaths and death threats in these other situations equally alarming. In all cases there are already criminal penalties for criminal activity. What distinguishes the protections of this bill are the stated combination of criminal and civil penalties which come into play for whoever engages in "threat of force, * * * intimidates, or interferes with any person or class of persons * * *" obtaining or providing reproductive health services.

Addressing these concerns is the intent of the amendment Mr. GEKAS and I had wished to offer during consideration of H.R. 796. While our amendment would not have dealt with the bill's constitutionality problems, it would have applied its new legal standard equally to other controversial and potentially egregious activities. By applying a what's-good-for-the-goose-is-good-for-the-gander rule to the bill, I believe we could have created a more valid bill to which everyone has a vested interest in developing the best and most just language and standards possible.

Unfortunately, our amendment is not allowed by this restrictive rule. Therefore, I will oppose it and encourage my colleagues to do the same. I regret having to do so because, as I said at the beginning of my remarks, I believe there is a very valid concern which was the original impetus for this legislation. I would embrace the opportunity to vote for the legislation which H.R. 796's promoters say they are bringing to the floor today. Unfortunately, the rhectoric does not match the legislative language of H.R. 796 and I thus must unfortunately oppose this bill.

Ms. SLAUGHTER. Mr. Speaker, will the gentleman yield?

Mr. STENHOLM. I yield to the gentlewoman from New York.

Ms. SLAUGHTER. I thank the gentleman for yielding to me.

Mr. Speaker, I want to point out to my colleague, Mr. STENHOLM, that the reason his amendment was not allowed is because it was nongermane to the bill.

Mr. STENHOLM. I would make a statement here again, a simple question: Why is it nongermane? What is the difference between an individual or a group of individuals that will chain themselves to a fence in front of a reproductive services clinic or those that would do the same thing in front of a research laboratory designed to provide research on the information necessary to protect the lives of countless thousands? What is the difference?

And I am not an attorney. That is why I get in trouble on arguments like this. I am not smart enough, you tell me, to come down and to look at the legal nuances. When you talk about germaneness, I am not smart enough, you tell me. I do not understand what is the difference.

All we are saying is, if the language that those of you who are smart enough to determine what is legal, what is constitutional, what goes back to 1964, why not just apply it to every instance? What are we afraid of? Why is it that we cannot have a simple amendment saying it should be applied to everything? We agree. I agree with everything the supporters are saying about this. But I am puzzled as to why we only apply it to one category. What is the difference between an environmentalist who chains themselves to a tree in protest of the cutting down of the tree, or spiking the tree that might cause an individual harm? What is the difference between the issues? We are talking about, we all agree—and that is why the gentlewoman who totally correct in the rule and the bill last year in which we did get almost unanimous support, we were able to come together.

But now we find new and different and unusual language, and all we say with our amendment is why not or should we not be allowed to have it apply to this, to have it adapted to this bill also? That is the simple question we ask. I do not understand it.

Perhaps some of you can understand it. In the meantime I would strongly urge all of my colleagues vote down this rule. Let us allow questions such as that which Mr. GEKAS and I are raising to be debated on the floor of the House and to have perhaps some of us who do not understand all the constitutional nuances understand—we can vote, we can make commonsense judgments to this question.

Please vote down this rule and give us a chance.

MONTANA SHOOTING
SPORTS ASSOCIATION,
Missoula, MT, November 16, 1993.

RUSSELL MIDDLETON,
c/o Congressman Stenholm, U.S. House of Representatives, Washington, DC.

DEAR RUSSELL: On March 13, 1990, a well-publicized event occurred in Montana where several protestors interfered with a lawful bison hunt near the northern border of Yellowstone National Park.

On that day, three hunters were attempting to hunt bison, an activity authorized by the Montana Legislature. Professional protesters known to have connections with Earth First, Fund for Animals, and the Animal Liberation Front made several attempts to interfere with the hunt. These protesters are thought to have been paid, professional protesters.

First, the protesters attempted to herd the bison away from the hunters. Having failed in that objective, one protestor stabbed a bison hunter with a ski pole to prevent the hunter from shooting. This incident was filmed and carried on national television. Another protester stepped in front of the rifle of a hunter who was just about to squeeze off a shot at a bison. Both protesters were arrested and cited, the first with assault, the second with violations of Montana's hunter harassment law.

The second protester was convicted in Justice Court, and appealed to the District Court. The District Court dismissed charges on the grounds that the Montana hunter harassment law violated the protesters First Amendment freedom of expression. The State of Montana has appealed this dismissal to the Montana Supreme Court, the Montana Shooting Sports Association has entered an amicus appearance, and this matter is now pending before the Montana Supreme Court.

Please let me know if I can provide any further information.

Sincerely yours,

GARY S. MARBUT,
President.

STRIKE VIOLENCE

Mr. HATCH. Madam President, I rise to notify Members of the Senate that Eddie York died last week.

Who is Eddie York?

Eddie York was 35 years old. He was from Dingess, WV. Killed by a single shot to the back of his head, Eddie York is the latest victim of strike violence.

Madam President, the United Mine Workers of America have been on strike for almost three months against the members of the Bituminous Coal Operators Association [BOCA]. Today, some 16,000 miners are on strike and are affecting operators who produce approximately 15 percent of the coal mined in the United States.

Eddie York is the latest example of how violence is often threatened and executed as a negotiating tool by some unions.

In the past, UMWA strikes have been dominated by shootings, arson, property destruction, and the intimidation of employees.

As a result of the union's tactics in its strike against Pittston, the union was fined $52 million by a State court in Virginia for contempt.

This year, the strike has again been dominated by shootings, arson, and vandalism. Strikers have derailed trains, shot electrical transformers, and burned vehicles and property. They have damaged or destroyed millions of dollars worth of property. They have physically attacked company personnel. The lives of the spouses and children of supervisors and other employees have been endangered.

One community lost its entire electrical service when someone disabled the power station that provided service to the Old Ben mine in Indiana. 2,000 people were without electricity, including eight people who are on life support systems. Fortunately, the Red Cross and the local sheriff's department were able to provide temporary relief and shelter for these people, but it will cost more than $500,000 to fix the damage.

This latest tragedy is all the more senseless because Eddie York, a back-hoe operator, did not even work for the mining company. He worked for an independent contractor, and he was cleaning a reclamation pond on the property, which he had done for years. This was not work performed by the union.

He was shot and killed in Logan County, WV, as he attempted to leave the mine. I understand that it is extremely dangerous to enter or exit most of the mines that are being struck. This mine was no exemption. People have to be escorted on and off the property, and most individuals will only drive in convoys for safety.

Two security vehicles escorted Mr. York and another person off the property. After the vehicles left the property and were driving on a public road, strikers began hurling rocks. Shots were fired from a wooded area; several shots hit other vehicles in the convoy. Eddie York's truck was hit at least three times according to the police. It was the third that appeared to be the fatal bullet.

Madam President, there is no possible justification for such a crime.

As one of the few Members of this body who has belonged to a union, I firmly believe in the right of employees to organize, to join a union, and to exercise their right to strike.

But, a union should not be permitted to wage a campaign of terror during a strike. A labor dispute should not be an excuse for violence. The right to strike is not a right to vandalize, harass, or commit murder.

Unfortunately, labor violence continues to occur.

On July 1, 1993, several companies petitioned the National Labor Relations Board to enjoin the UMWA from continuing to break the law by engaging in violence and other prohibited acts. Unfortunately, the NLRB has now taken three weeks to consider this request and may take many more. If the problem is as serious as many feel, then the Board should act immediately. If there is no truth to the petitioner's request, then the union has a right to have the petition rejected just as quickly. It is troubling to me that the NLRB drags its feet on this question. How much more time before someone else is killed?

For years, I have attempted to persuade this body to take the violence being committed during labor disputes more seriously. Unfortunately, my efforts have not been successful. Some have attempted to trivialize this issue, claiming that reports of violence are greatly exaggerated. Others have suggested that violence is simply part of the process, providing a kind of "boys will be boys" justification for this egregious behavior. These arguments are ridiculous.

Eddie York was not the first person to have died as a result of union violence. He was not the first person to have had rocks thrown at his car. He was not the first person to have been assaulted or to have had his family threatened. There are countless other American workers in other States who have been victims of these reprehensible union tactics whose names have never appeared in the newspaper.

Those of us in Congress must simply begin taking strike violence more seriously. We cannot justify it or sweep it under the rug.

Consequently, before this body considers new legislation to provide even greater powers to unions during a labor dispute, I urge that they take a careful look at the adequacy of current law to stop union violence. I hope Senators will remember Eddie York.

I have to say that this is serious stuff. I do not believe that union leaders want violence. I do not believe they can condone or justify the violence like what happened to Eddie York. I do not believe that good union leaders appreciate that type of conduct, but it is happening, and it is happening during what many feel is a legitimate strike. There are differences. People do have to fight it out from time to time, but there is no excuse for killing an innocent third party, like Eddie York. I, frankly, think we have to do something about it.

AUGUST 16, 1988.

You are truly a fiend! And your so-called "research" is nothing less than torture and murder.

The only punishment that you are entitled to is to have your eyes gouged out and be bolted to a frame through your ——, then be smeared all over your body with cat food and turn all the hungry cats in Berkeley loose on you, to tear you limb from limb * * * slowly!

A hex on you and your family * * * you will all die slow horrible deaths! And then you will burn in Hell!

DECENT HUMAN BEINGS.

MAY 1, 1990.

People such as yourself make me sick! The experiments that you perform are ludicrious. They help none, but they do manage to maim and kill many cats. Animals were not put on this Earth for some insensitive a—— like yourself to exploit, maim, and kill them. I don't know how you are able to sleep at night being conscious of your actions. You must not care about anyone or anything but yourself. You are a no good mother —— and I am a very wealthy person with power. I'm going to pay through the nose to have some big, fat, slimy, —— capture you and experiment on you. Perhaps they will cut off your ——. At least you will get a taste of your own medicine.

Die you filthy ——. —— you and your parents for living—every bone inside my body yearns to smash your —— head in you low life maggot—if I ever meet you I swear to God I'll rip your —— —— off and stuff them down your throat—do you have the guts to write back to me—I don't think you do you —— worm.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from the Commonwealth of Pennsylvania [Mr. GEKAS] who had a hand in this amendment which was turned down, which is not germane but could have been made germane by the Committee on Rules.

Mr. GEKAS. Mr. Speaker and Members of the House, that is exactly correct. The gentleman from Texas [Mr. STENHOLM] quite properly raised a note of indignation that the Committee on Rules, in the person of the gentlewoman from New York, would say that the Gekas-Stenholm proposition should not be debated because it is not germane. That is an excuse that we can no longer tolerate.

The Committee on Rules time and time again, to suit its purposes or the leadership's, the Democratic leadership's purposes, waives germaneness like it is a wave of the hand. And when the minority, to try to protect the Gekas-Stenholm attempt the other day, refused to accept a request to waive germaneness. The question of the lady from New York is: Is the Rules Committee empowered to waive germaneness? The answer is "yes."

☐ 1150

So we cannot tolerate the excuse of nongermaneness. That is the explanation for the gentleman from Texas. They did not want to waive germaneness to allow our amendment to apply in the floor debate.

Ironically, I say to the gentlewoman from New York, I voted in favor of this proposition in committee. The gentlewoman from New York and her counterparts in the Rules Committee are violating or abusing me as a voter in favor of this piece of legislation.

The fact that they would not let us debate it, to allow it to apply to nuclear facility demonstrators, to animal rights demonstrators, to tree lumberjack demonstrators, to other kinds of facilities which also are recipients of the indignation of the public or groups of people who oppose that kind of action, we do not want to hear about germaneness anymore. It can be waived and it should have been waived.

I am a proponent of this legislation, and now I am constrained to vote against it because they did not allow me to help your cause by helping others to vote for the bill to allow constant and good and reasonable amendments to be offered to it.

I resent this germaneness bit, and I will vote "no" on the rule and ask everybody to vote "no" on the rule.

Ms. SLAUGHTER. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, I thank the gentlewoman for yielding this time to me.

This bill before us is not like other bills. This is in response to an emergency. What the bill will do, it will protect gravely threatened rights. I heard that expression used earlier by the gentleman from Georgia, for whom I have great respect.

This legislation is in response to a nationally orchestrated campaign of violence and it protects gravely threatened rights.

H.R. 796 is legislation in response to a nationally orchestrated campaign of violence and vandalism against reproductive health clinics, as well as physical blockades and invasions of clinics. These illegal activities have been preventing women from obtaining health care services, and threatening the lives of health care providers.

From 1977 to April 1993, more than 1,000 acts of violence against reproductive health providers were reported in the United States, including 36 bombings, 81 arsons, 131 death threats, 84 assaults, 2 kidnapings, 327 clinic invasions, and 1 murder. Since January 1992, 71 chemical attacks have been reported in 15 States as well. And in a recent nationwide survey, 50 percent of the clinics responding reported experiencing extreme violence—with 25 percent of those clinics having experienced physical invasions or chemical attacks in 1993 alone.

This is another reason why the amendment that was mentioned, the Stenholm-Gekas amendment, was not found in order. This is in response to a national emergency.

The bill is also in response to the January Supreme Court ruling in Bray versus Alexandria which created a gap in Federal law. Federal injunctive relief is no longer available for clinics under Federal civil rights laws.

H.R. 796 will give the Federal Government the power to act when State and local authorities cannot or will not act to guarantee access to these clinics where women, especially poor women, go for a wide range of services that include family planning, prenatal examinations, mammograms, Pap smears, as well as abortion services.

The bill applies only to the use of force, threat of force, or physical obstruction that intentionally injures, intimidates, or interferes with any person who is obtaining or providing reproductive health services.

The bill protects all expressive conduct, including peaceful picketing or other peaceful demonstration protected by the first amendment. We are talking about illegal conduct, not peaceful picketing.

This bill is not about abortion—it is about protecting women's access to reproductive health services.

And may I in response to comments made on the rule indicate that the bill, carefully crafted, does state that nothing in this section shall be construed to prohibit any expressive conduct, including peaceful picketing or other peaceful demonstrations protected from legal prohibition by the first article, the first amendment to the Constitution. I would like to stress that, because you are going to hear from opponents of the rule and opponents of the bill that it infringes on first amendment rights. It could not be more explicit in the bill.

The bill is not about abortion. It is about protecting women's success to reproductive health services. It has been carefully crafted to protect the first amendment rights, as I mentioned. It has been narrowly drawn to specifically address this problem, without providing too broad a Federal role.

This is another response to the amendment that was considered not germane.

Changes were made in both the subcommittee and full committee in an effort to further clarify and improve the bill.

The rule is a fair rule. It allows a McCollum-Schumer amendment, a delay amendment, a Smith substitute, and a motion to recommit. The Smith substitute includes the substance of most of the remaining amendments offered at the Rules Committee.

This rule provides for an extensive debate on the bill, and I urge my colleagues to support it.

Mr. Speaker, I would like to comment in response to what was also stated with regard to one of the amendments offered that would redefine physical obstruction. Clinic blockades are preventing women from obtaining reproductive health services and denying them their rights to such care. It is important to remember that those who demonstrated in the sixties, these were attempts to obtain the rights of citizenship denied to African-Americans. The blockades of clinics now are attempts to deny persons their rights, to deny them medical services, and in some cases services that their lives depend on.

Mr. Speaker, I ask this body to approve the rule.

Mr. GOSS. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Kentucky [Mr. BUNNING].

Mr. BUNNING. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in strong opposition to this so-called freedom of access to clinic entrances bill. I oppose this bill because it is a blatant violation of the rights secured by the first amendment and because it punishes people, not for a crime, but for their viewpoint.

This bill is narrowly focused. It targets one single group—people who oppose abortion. The language in the bill, however, is so broad and vague that pro-lifers will have to live with the fear of unknowingly violating Federal law, and facing the financial risk of having to defend themselves against phony allegations that they violated the act. This is insane.

Almost 30 years ago this body passed the Civil Rights Act of 1964. Before passage of this act, there were sit-ins and protests all around the country; some were peaceful and some were not. Civil rights groups then were as much or more potentially violent than today's pro-life groups. Yet, we did not outlaw civil rights protesters of the 1960's because of their viewpoint or motivation then—and we should not outlaw pro-lifers for the way they think now.

People have a right to have an opinion on abortion. People have a right to oppose abortion. I know it is not politically correct—but we have that right.

Accompanying that right is the right to organize peacefully and to protest peacefully. This bill would seriously damage that right.

No one should be afraid to exercise their right of free speech guaranteed under the first amendment. A right you cannot exercise is no right at all.

This bill is blatantly discriminatory. It would punish citizens not just for what they do—but for what they think. It would seem that big brother has released the thought police in the Halls of Congress.

The discriminatory features of face are all too obvious. It singles out pro-life groups because they protest abortions at abortion clinics. How can we justify it? How can we justify singling out this one single group of people when there are so many other groups doing the same things?

This bill slashes the first amendment to ribbons for one single group.

Yes, we should punish violence. Yes, we should punish threats of violence. But this bill goes beyond that. It would punish people engaged in nonviolent, free speech, which is perfectly lawful.

This bill comes close to home for me. My wife, two of my own daughters, and their families, and one of my sons-in-law are deeply involved in Operation Rescue. Not one of them poses any kind of threat of violence whatsoever. They truly are peaceful people. They just have strong feelings about the issue of abortion. And they are dedicating their lives to bringing an end to abortion. And that is not a crime—it should not be a crime.

My wife Mary, my daughters Joan and Bridget and their children should have the same right to express their beliefs as any other citizen who is willing to take a stand on an issue that is important to them. They should not be made Federal criminals because of the motivation or the beliefs behind their actions.

It will be a day of shame for the House if we decide to criminalize speech that we do not agree with. I urge my colleagues to look closely at this unconstitutional bill and to reject it.

□ 1200

Mr. GOSS. Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from Maine [Ms. SNOWE].

Ms. SNOWE. Mr. Speaker, as cochair of the Congressional Caucus for Women's Issues and a cosponsor of this bill, I rise in support of the Clinic Entrances Act. In 1774, John Adams said that "we are a government of laws, not of men". This is basic principle upon which our Government was founded. Of course, we are today a government of both men and women, with a diversity of views and ideas. But we are a nation of laws, and that is what distinguishes our democracy from other forms of government.

This legislation is designed to protect and strengthen existing laws which guarantee the women of our Nation the right to seek and obtain critical health care services, including reproductive health services. This bill also attempts to prevent the increasing violence which has permeated the debate about a woman's fundamental right to reproductive health services.

The debate has been transformed from one of words to one of bombings, arson, vandalism, death threats and murder. The women of America deserve better than this. They do not deserve harassment. They deserve respect. They do not deserve to face threats of violence, they deserve a safe haven for health services. And they do not deserve a renegotiation of their rights. Women deserve to have their rights and freedoms protected and preserved.

It is indeed regrettable that we have had to come to this point, that we must still fight to guarantee women equal and safe access to care services. "Is there a need for this legislation?" some might ask. Consider the facts: From 1977 to 1993, more than 1,000 acts of violence against providers of reproductive health services were reported. Sixteen reproductive health clinics were burned and more than 100 incidents of vandalism were reported last year alone, in each case more than double the previous record. Last year alone, 83 health facilities for women were blockaded. In addition, almost one-fourth of reproductive health clinics surveyed reported staff resignations as a direct result of the violence—staff that could not be replaced because of continued threats. Clearly, something must be done.

What kind of clinics have been targeted for these tactics? Clinics which provide not just reproductive health services such as abortion, but clinics which provide essential pediatric care, prenatal care, childhood immunizations, diagnosis and treatment of STD's, contraceptive services, pap smears, mammograms for breast cancer, and other forms of counseling for women—even for battered women seeking solace and refuge from abusive relationships. In fact, more than 90 percent of clinics provide these health services in addition to abortion.

What kind of women—and men—suffer most from threats of violence and vandalism at these health centers? The low-income women who depend on such clinics for their personal health care needs. The rural women who already face burdens and barriers by traveling long distances to seek health care in times of need, in times of stress. The men and women who provide these essential health services to those who seek them, nurses, doctors, and volunteers, many of whom are men and women who too often bravely risk their lives simply to guarantee women their fundamental, constitutional rights.

Today, just as in the days of John Adams and other guarantors of freedoms, our Government should be a nation of laws, not a people who are above the law, and who seek to harass, or threaten, others because of their beliefs or their personal choices. The first amendment of our constitutional guarantees—to everyone—the right of free speech. But it does not allow our citizens to commit senseless acts of violence.

Let us be clear about what this bill does not do. It does not prevent individuals from exercising their first amendment rights. It does not prevent lawful picketing or protest without force. It does not prevent citizens from free speech. And it does not prevent peaceful protest. What this bill does prevent is forceful, threatening acts which would clearly deny a woman her right to access to reproductive health services.

Passage of this bill sends an unmistakable message to our country: violence will not be tolerated, while women will continue to have access to the health care they need and deserve. It is a clear choice. It is a necessary choice.

I urge my colleagues to support this much needed and timely bill.

Ms. SLAUGHTER. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I thank the gentlewoman from New York [Ms. SLAUGHTER] for yielding this time to me, and I want to say I think this is a very, very important day. We have been waiting to have this bill come to the floor for a very long time, and I am sorry some of my friends on the other side would not yield when I was trying to intervene to tell them that their fears, or their misconceptions, are absolutely that, misconceptions.

Let me, first of all, say to the gentleman from Kentucky [Mr. BUNNING] that every one of his family members he is so concerned about can speak out, can think, can do anything they want because the first amendment of the Constitution says the Congress shall make no laws. So, if this law interfered with speech or any kind of peaceful protest, it would be thrown out on its face. It does not. What this is is in the grand American tradition of one's freedom ends where the other person's nose begins. I say to my colleagues, "In other words, you may speak, you may protest, you may do whatever you want, so long as it is peaceful. When it becomes violent, or when you begin to stop allowing anyone else to exercise their rights to certain actions, then it's gone." So, I certainly hope the gentleman hears that.

To my friend who came forward from the Committee on the Judiciary, yes, he did vote for this bill. We were very proud of his cosponsorship. He asked, "Why can't they add all these other things?" I think he knows the answer to that.

The Committee on the Judiciary does not believe in federalizing anything because the State and local area is supposed to take care of it unless it is overwhelming the State and local area or unless there appears to be groups that are going around through interstate commerce trying to shut down clinics, or whatever, or like the animal rights thing, or unless they find that there are certain localities where people will not enforce the law when it comes to constitutional principles. We do not sit around here and think, "Gee, what else could possibly happen," and add that to the bill. Mr. Speaker, we have waited, and waited and waited for this to come in, and I introduced a bill almost like this 10 years ago when we began to see this kind of violence come up against clinics.

Now let me add another thing that I think is so critical. We are not talking about property here. We are talking about women. We are talking about clinics where women get their primary care. Ninety-some percent of the women going to these clinics get their health care there during their reproductive years. They get cancer screening. They get physicals. They gets shots. They get all sorts of things. They may get their prenatal exams. They may get all sorts of care there. This is where they go. It is their one-stop shop.

Remember, under the whole new health care thing OB/GYN's are considered primary care givers, and what is happening? We have had groups of people who have tried to keep women from getting in to get a very primary, basic constitutional right; that is, access to health care, access to their health care and their physical needs, and that is what this says the Federal Government can move in and deal with if the local authorities cannot deal with it. That is what it is, if they are overwhelmed, or if they are not of a mind to deal with it because they feel basically women have this constitutional right.

□ 1210

Now, I cannot imagine why anybody wants the Federal Government to move out and take over law enforcement all over the country, and I do not think we do. I think we look very, very hesitantly at moving into these areas, and the Committee on the Judiciary, I think, is very, very keen on making sure that first amendment rights stand up, that everybody can have their American entitlement to protest, to say what they want, to continue on, but we cannot have somebody ordaining themselves to move forward and say, "I am not going to let anybody else have their rights."

That is what this is about. It is really very, very simple, and I think all women just want desperately to be treated as citizens, not as property, not as pawns, but as citizens able to have constitutional rights and able to exercise them in the way that anyone with an American citizenship birthright should be able to.

I am proud to be here to bring this bill to the floor, and I hope all the Members vote for this rule because I think with so much of what we are hearing today, we can answer every one of those issues.

Mr. Speaker, I ask the Members to please vote on the facts and not on our fears. Let us guarantee women their constitutional rights to health care.

Mr. GOSS. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from California [Mr. DORNAN].

Mr. DORNAN. Mr. Speaker, I rise against the rule and against H.R. 796.

I agree with the analysis of the gentleman from Georgia [Mr. GINGRICH] that all of the amendments offered upstairs should have been found germane and made in order.

Mexico's budget is about 3 percent of our Gross Domestic Product, and yet we gave 8 hours to that debate. This is a debate about civil rights and freedom of expression and the right to peaceably assemble to redress ills in our country.

The distinguished gentlewoman who just spoke said that this is about women going for primary prenatal care. Believe me, no woman of any age who is excited about the growth of human life, a human life in her body, goes to an abortion clinic for prenatal care.

And why are the liberals so ashamed to use the word "abortion" in this well? My distinguished friend, the gentlewoman from Maine, who spoke just before the last speaker, just says, "health care" as a euphemism for "abortion." That it is simply called reproductive health care. But of course, it is anti-reproductive health care. It is stopping reproduction, not assisting it. My daughters, one of my sons, and my wife have all called me in the Cloakroom this morning after watching this debate, and they are asking why there is such shame attached to abortion that we have to use all these code words around here.

In all the history of this House, no woman who has ever served here has come to that lectern or to this one and said, "It's no big deal. I've had an abortion."

Rush Limbaugh, whether you like him or not, reaches every single acre of America. On 630 some stations yesterday he said that "We are so cavalier about killing 1,600,000 little babies in their mothers' wombs for all 9 months, and for any reason whatsoever, or for no reason at all, that our society has become desensitized to the value of human life. Then we wonder why young kids are shooting one another." I have said as much myself on the House floor many times.

You cannot have this cavalier attitude about the destruction of human life with an immortal soul ordained by God in the womb and not expect a death cult to spread across this land.

When somebody spikes a tree and a lumberjack loses his arm, as happened last year, as loathsome as that is, there is no rush to have a Federal law against the environmental extremist. We find these extremists in every movement in this country. Why pick on pro-lifers only?

When somebody is walking down Fifth Avenue and throws animal blood on a woman with a fur coat, who wants to make that a Federal crime? Is that not intimidation? Is that not conduct?

When homosexual activists came into the Cathedral where I was baptized, the beautiful St. Patrick's, and chained themselves to the pews and threw condoms and used every foul obscenity they could think of, I was personally outraged and offended, but I did not want to see Federal laws making this a crime.

Mr. Speaker, I want to put 14 points in the RECORD today, and I hope that I have time to do that during general debate, about the civil rights and the restriction of people who assemble peaceably.

I am a strong opponent of abortion. But I am also just as strong an opponent of anybody who would betray the pro-life movement by bombing a clinic or by shooting a human being, even if it is an abortionist who murders 50 babies a day. You do not shoot them. That betrays the movement.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume just to make one comment, if I may.

Ninety-three percent of all the clinics that provide abortion services also provide services for menopause, breast/ovarian cancer, prenatal care, infertility problems, and adoption. That is 93 percent of all the clinics.

Mr. Speaker, for the purposes of debate only, I yield 2 minutes to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, I thank the gentlewoman for yielding time to me again, because I just wanted to respond to some of the comments I have heard over and over again.

Again we have in print now a reproduction right from the bill which talks about first amendment rights being preserved. I commend this to my colleagues so they can see that nothing should be construed as prohibiting any expressive conduct, including peaceful picketing as protected by the first amendment, et cetera.

Second, I have a list of the Members of the United States Senate who have been antichoice, pro-life, whatever the term that we want to use is, who voted for this freedom of access to clinics entry bill, because they believe, like all of us do in this Chamber, that we cannot condone violence. It is very un-American, and it is cruel.

The gentleman who just spoke talked about the fact that these clinics provide only abortion services. We have had many people testify that they have gone there for Pap smears, mammograms, and for a series of tests. And I would like to call to his attention that unfortunately in Lancaster, PA, there was a health care clinic that was bombed that provided no abortion services at all. Evidently the people who did it thought it did.

Why is there a need for this? There is a need because we have an organization that has said that they defend the use of force to stop abortion, wherever force is necessary, and they have a declaration that says that.

Mr. Speaker, Americans need to be preserved. The first amendment needs to be preserved, and this is something all of us can come together on in our fight against violence.

Mr. GOSS. Mr. Speaker, I yield 1 minute to our distinguished colleague, the gentleman from Florida [Mr. MILLER].

Mr. MILLER of Florida. Mr. Speaker, I rise in opposition to the rule and to the bill, the Freedom of Access to Clinic Entrances Act of 1993 [FACE]. This legislation is not about abortion rights. The relevant questions before us today deal with other, equally significant rights, particularly States' rights and first amendment rights under the Constitution.

Perhaps more fundamentally, why do we seek today to further criminalize activities that are already illegal.

Murder, the use of force, the threat of force and intentional injury are abhorrent offenses, and are already treated as such under existing laws.

I am gravely concerned about violent acts such as the murder of Dr. David Gunn in Pensacola earlier this year. I recognize the severity of this crime. Thankfully, our criminal justice system in Florida is already working to ensure that, if found guilty, Dr. Gunn's murderer could receive Florida's maximum punishment. I am not convinced of the need for a new Federal law. I believe that State and local laws are appropriate for handling these situations so that Federal legislation such as H.R. 796 is not required, and is inappropriate.

Mr. GOSS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New Jersey [Mr. SMITH], who has a great interest in this issue and in the amendment he will be offering.

Mr. SMITH of New Jersey. Mr. Speaker, I thank my good friend for yielding me this time.

Mr. Speaker, I just want to make a brief point, and we will get into this matter further. The substitute I will be offering focuses on the violence which all of us find to be absolutely abhorrent and imposes Federal penalties on those who commit acts of violence or who intend to commit acts of violence.

Earlier the gentlewoman from Colorado [Mrs. SCHROEDER] made a point that H.R. 796 does not affect any kind of peaceful protest. That is absolutely untrue. People who have engaged in nonviolent civil disobedience, which has been the hallmark of movement after movement and cause after cause in this country, including the civil rights cause, used nonviolent civil disobedience as a means to an end, perhaps sitting down, doing a sit-in, putting one's hands in one's pocket, or perhaps praying in front of a clinic or protesting that which you are against as a way of expressing a certain point of view. If that is done, one commits a misdemeanor and spends a night in jail or is fined or something along those lines.

The legislation the gentleman from New York [Mr. SCHUMER] will bring forward could throw that person into prison for 1 year, for 3 years for a second offense, and with fines of up to a quarter of a million dollars simply for nonviolent civil disobedience.

□ 1220

That is the fundamental difference between H.R. 796, which while it addresses and goes after violence, equally goes after those who engage in nonviolent civil disobedience. Apply this to any other movement, and it will be laughed right out of this Chamber.

Ms. SLAUGHTER. Mr. Speaker, for purposes of debate only, I yield 1½ minutes to the gentleman from California [Mr. FARR].

Mr. FARR of California. Mr. Speaker, I rise today to join my colleagues in voicing strong support for H.R. 796, the Freedom of Access of Clinic Entrances Act, and support the rule.

More than 400 bombings, arson, and other acts of violence and vandalism have been directed against family planning clinics since 1980.

Just recently, my own district experienced a random shooting at the Salinas Planned Parenthood Clinic and the spilling of gallons of fishguts and blood on the parking lot at Seaside Medical Facility.

If a woman cannot privately, freely, and safely choose abortion, she is being denied her constitutional right. If she cannot gain access to a clinic she is being denied her right to obtain other nonabortion related medical services.

We need this law in order to send a clear message to the American people that shootings, arson, and fishguts are neither appropriate nor legitimate means of expressing political and moral differences.

This bill does not discriminate against peaceful protest nor does it in any way remove the constitutional right of citizens to assemble.

The recent passage of a similar bill in the other body with strong bipartisan support clearly demonstrates that this is not a pro-choice versus pro-life issue.

Vote to uphold a woman's constitutional right to choose abortion.

Vote against the Smith amendment and for this important rule.

Mr. GOSS. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from South Carolina [Mr. INGLIS].

Mr. INGLIS of South Carolina. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in strong opposition to this rule. This rule is one of many that comes to the floor of this House that leaves out very important amendments.

Mr. Speaker, I think there is one that should have been included in this rule, and that is the amendment that I offered that would have stricken, given the Members of this body the opportunity to strike, the private cause of action under the statute. It is an amendment that is a simple strike amendment. It is germane. It violates no House rules. It is one that I offered in the committee, got a rollcall vote on in the committee, and I would have thought it was important enough to let every Member of this body vote on, rather than the Judiciary Committee, which is clearly biased against this legislation. Unfortunately, the Committee on Rules did not see fit to include this simple amendment in this legislation.

So I rise in strong opposition to this rule, and would encourage my colleagues to reject it so that we can have an opportunity to perfect this legislation.

Mr. Speaker, you will hear later from me about the need to strike out the private right of action under this statute. Why would we unleash a profit-making enterprise called an abortion clinic on an unsuspecting, nonviolent demonstrator at a clinic, who is simply standing there in a nonviolent way expressing their first amendment rights? Why would we unleash that profit-making enterprise to sue that poor person?

Ms. SLAUGHTER. Mr. Speaker, for the purpose of debate only, I yield 1¾ minutes to the gentlewoman from Oregon [Ms. FURSE].

Ms. FURSE. Mr. Speaker, I rise today in support of the Freedom of Access to Clinic Entrances Act, H.R. 796.

Although opponents of this measure would like you to believe that this bill would infringe on an individual's right to peaceful protest, their claims are simply untrue. As an activist myself, and a participant in nonviolent protests, I am pleased that language in this bill ensures the right of peaceful protest.

We are all aware of the escalating violence in this country at health clinics. Currently a woman from my home State of Oregon is sitting in jail accused of shooting an abortion doctor. She has said, "it was the most holy, most righteous thing I've ever done."

When we have people who believe it is their moral duty to stop doctors from providing these services, and to use any means available—including threats, harassment, or murder—I say we must protect a woman's right to choose—and we must protect a physician's right to perform these services.

This violence must stop. We must take action today to send a message that violence—for any cause—is unacceptable.

We must pass H.R. 796 to protect a woman's right to choose, a right which is guaranteed by the U.S. Constitution. In addition, nurses, physicians, and other health care workers must feel safe that they can care for people without fear for their lives.

I urge my colleagues to support this important bill. The safety and peace of mind of so many are at stake.

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

Mr. GOSS. Mr. Speaker, murder, causing intentional injury, obstructing our fellow citizens from carrying out their freedoms, and willful destruction of property are all reprehensible activities regardless of to whom, at what, or where they are directed—and they are all against the law.

The issue in this country today is whether this Congress, the people we serve, and the laws of this land, will remain committed to ensuring that we do not condone such behavior in any circumstance. That means full enforcement—not redundant legislation wrapped in litmus paper. This bill seeks to create a special category of behavior—and a privileged category of people.

Seeking services at a reproductive health clinic becomes a specially protected endeavor under this bill. That is hard to justify. Yes, there has been serious trouble and tragedy at some clinics, just like there has been serious trouble and tragedy in the schoolyards and on the streets in every city and almost every community throughout America because we refuse to get tough on crime and adopt real anticrime legislation.

Because of the incredibly broad language in this bill, certain behavior consistent with lawful free speech and the right of lawful assembly could become action punishable by severe extra penalty.

This legislation focuses unfairly on behavior targeted toward a certain group of people, a certain type of facility and on behalf of a certain philosophy and set of beliefs. The supporters of this legislation seem to believe that murder, violence, destruction or obstruction at a reproductive services clinic are somehow more terrible crimes than murder, violence, destruction or obstruction as acts of violence that take place by the hundreds for a whole host of reasons, in all walks of life across this country every day. I disagree. There are a plethora of laws on the books that mandate that murder, violence, harassment or intimidation be punished regardless of where or why they occur. It is enforcement that is the problem—and it is up to us to encourage enforcement of the adequate existing laws on the books; not make new laws that generate special privileged classes of people and special types of behavior based on emotional, philosophical, and political characterizations.

Mr. Speaker, the problem of violence at reproductive health clinics is a serious issue—deserving of a serious response. But this is not it. I know this—I am from Florida where we have seen and properly responded to these indefensible, inexcusable acts.

This bill obfuscates existing law—creates an eye-of-the-beholder test for intimidation which must have trial and constitutional lawyers looking forward to very lucrative rewards. In the Rules Committee we heard testimony on a host of amendments designed to bring this legislation back to reality and equal treatment under the law. Several of these proposals have been made in order by this rule—but I must note that we once again have a restrictive rule that precludes discussion on important amendments—including a bipartisan proposal designed to ensure that we are not violating our own Constitution by targeting one specific point of view for special protection under the law. Incredibly, we will not be allowed to debate that crucial point.

Likewise, we will not be allowed to debate an amendment designed to ensure that protections under this bill extend to those who engage in lawful protest.

We also heard about an amendment to tackle the Herculean task of keeping this bill from becoming another Federal boondoggle for attorneys—this too was not allowed.

If the supporters of this legislation truly believe that they are presenting a worthy product, then they should not fear free and open debate on such legitimate amendments.

Mr. Speaker, I oppose this restrictive rule and this well-intentioned, but badly crafted legislation. Nobody except lawyers profit when we layer confusing, contradictory, and vague laws on top of the good ones we already have. Nobody profits when we mix up the need for enforcement with the desire to make a political statement. America loses when we put those with one lawful point of view at greater risk than those with another. And that is precisely what this legislation will do.

I join with those who want all proper safeguards and protections at reproductive health clinics—but I cannot support the effort to silence those with whom some people might disagree. That is too high a price—too unfair a price.

□ 1230

We have had presentation that this particular legislation will not allow that constitutional violation of right, because it prohibits any expressive conduct. Let me tell my colleagues, this is eye of the beholder. The test is intimidation. If somebody feels intimidated on their way or with some business to do at a reproductive health clinic, that becomes the test. And that is going to be a very difficult test to judge. Who will make it? It will be made in the courts. There will be no standard that we can use, because it is going to be the eye of the beholder. What to one person is intimidation to the other person is a joke or to the other person is a legal expression or to another person is a passionate cause. But somebody may feel intimidated.

Lord knows, I felt a little intimidated yesterday when I saw some of the demonstrations going on on one point of view. I even had my way blocked, but I was not going to a reproductive health clinic. I was just trying to get to my office.

I think we are going way, way far afield on this. And I hope the danger bells are sounding.

ROLLCALL VOTES IN THE RULES COMMITTEE ON AMENDMENTS TO THE PROPOSED RULE ON H.R. 796, THE FREEDOM OF ACCESS TO CLINICS ENTRANCES ACT OF 1993

1. Open rule—This amendment to the proposed rule provides for one-hour, open rule and makes the Judiciary Committee amendment in the nature of a substitute in order as an original bill for the purpose of amendment under the five-minute rule.

Vote (Defeated 2-5): Yeas—Quillen, Goss; Nays—Moakley, Beilenson, Frost, Hall, Slaughter. Not voting: Derrick, Bonior, Wheat, Gordon, Solomon, Dreier.

2. Gekas/Stenholm No. 5—Extends the protection under H.R. 796 beyond demonstration affecting reproductive health services to include other lawful commerce activities; nuclear energy, animal or medical research.

Vote (Defeated 2-5): Yeas—Quillen, Goss; Nays—Moakley, Beilenson, Frost, Hall, Slaughter. Not voting: Derrick, Bonior, Wheat, Gordon, Solomon, Dreier.

3. Canady (FL) No. 6—Extends the protection from assault or interference to individuals who engage in lawful activities in the vicinity of an abortion facility as is afforded those seeking reproductive health services.

Vote (Defeated 2-6): Yeas—Quillen, Goss; Nays—Moakley, Beilenson, Frost, Hall, Gordon, Slaughter. Not voting: Derrick, Bonior, Wheat, Solomon, Dreier.

4. Inglis (SC) No. 2—Strikes language allowing private citizens affected by clinic blockades or violence to bring suit under this bill.

Vote (Defeated 2-6): Yeas—Quillen, Goss; Nays—Moakley, Beilenson, Frost, Hall, Gordon, Slaughter. Not voting: Derrick, Bonior, Wheat, Solomon, Dreier.

5. Klink (PA) No. 4—Redefines the definition of "physical obstruction in order to remove peaceful sit-ins and similar passive demonstrations from the scope of the bill.

Vote (Defeated 2-6): Yeas—Quillen, Goss; Nays—Moakley, Beilenson, Frost, Hall, Gordon, Slaughter. Not voting: Derrick, Bonior, Wheat, Solomon, Dreier.

6. Adoption rule—

Vote (Adopted 6-2): Yeas—Moakley, Beilenson, Frost, Hall, Gordon, Slaughter; Nays—Quillen, Goss. Not voting: Derrick, Bonior, Wheat, Solomon, Dreier.

OPEN VERSUS RESTRICTIVE RULES 95TH–103D CONG.

Congress (years)	Total rules granted [1]	Open rules		Restrictive rules	
		Number	Percent [2]	Number	Percent [3]
95th (1977–78)	211	179	85	32	15
96th (1979–80)	214	161	75	53	25
97th (1981–82)	120	90	75	30	25
98th (1983–84)	155	105	68	50	32
99th (1985–86)	115	65	57	50	43
100th (1987–88)	123	66	54	57	46
101st (1989–90)	104	47	45	57	55
102d (1991–92)	109	37	34	72	66
103d (1993–94)	50	12	24	38	76

[1] Total rules counted are all order of business resolutions reported from the Rules Committee which provide for the initial consideration of legislation, except rules on appropriations bills which only waive points of order. Original jurisdiction measures reported as privileged are also not counted.

[2] Open rules are those which permit any Member to offer any germane amendment to a measure so long as it is otherwise in compliance with the rules of the House. The parenthetical percentages are open rules as a percent of total rules granted.

[3] Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules, as well as completely closed rule, and rules providing for consideration in the House as opposed to the Committee of the Whole. The parenthetical percentages are restrictive rules as a percent of total rules granted.

Sources: "Rules Committee Calendars & Surveys of Activities," 95th–102d Cong.; "Notices of Action Taken," Committee on Rules, 103d Cong., through Nov. 17, 1993.

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 58, Feb. 2, 1993	MC	H.R. 1: Family and medical leave	30 (D–5; R–25)	3 (D–0; R–3)	PQ: 246–176. A: 259–164. (Feb. 3, 1993).
H. Res. 59, Feb. 3, 1993	MC	H.R. 2: National Voter Registration Act	19 (D–1; R–18)	1 (D–0; R–1)	PQ: 248–171. A: 249–170. (Feb. 4, 1993).
H. Res. 103, Feb. 23, 1993	C	H.R. 920: Unemployment compensation	7 (D–2; R–5)	0 (D–0; R–0)	PQ: 243–172. A: 237–178. (Feb. 24, 1993).
H. Res. 106, Mar. 2, 1993	MC	H.R. 20: Hatch Act amendments	9 (D–1; R–8)	3 (D–0; R–3)	PQ: 248–166. A: 249–163. (Mar. 3, 1993).
H. Res. 119, Mar. 9, 1993	MC	H.R. 4: NIH Revitalization Act of 1993	13 (d–4; R–9)	8 (D–3; R–5)	PQ: 247–170. A: 248–170. (Mar. 10, 1993).
H. Res. 132, Mar. 17, 1993	MC	H.R. 1335: Emergency supplemental Appropriations	37 (D–8; R–29)	1(not submitted) (D–1; R–0)	A: 240–185. (Mar. 18, 1993).
H. Res. 133, Mar. 17, 1993	MC	H. Con. Res. 64: Budget resolution	14 (D–2; R–12)	4 (1-D not submitted) (D–2; R–2)	PQ: 250–172. A: 251–172. (Mar. 18, 1993).
H. Res. 138, Mar. 23, 1993	MC	H.R. 670: Family planning amendments	20 (D–8; R–12)	9 (D–4; R–5)	PQ: 252–164. A: 247–169. (Mar. 24, 1993).
H. Res. 147, Mar. 31, 1993	C	H.R. 1430: Increase Public debt limit	6 (D–1; R–5)	0 (D–0; R–0)	PQ: 244–168. A: 242–170. (Apr. 1, 1993).
H. Res. 149 Apr. 1, 1993	MC	H.R. 1578: Expedited Rescission Act of 1993	8 (D–1; R–7)	3 (D–1; R–2)	A: 212–208. (Apr. 28, 1993).
H. Res. 164, May 4, 1993	O	H.R. 820: Nate Competitiveness Act	NA	NA	A: Voice Vote. (May 5, 1993).
H. Res. 171, May 18, 1993	O	H.R. 873: Gallatin Range Act of 1993	NA	NA	A: Voice Vote. (May 20, 1993).
H. Res. 172, May 18, 1993	O	H.R. 1159: Passenger Vessel Safety Act	NA	NA	A: 308–0 (May 24, 1993).
H. Res. 173 May 18, 1993	MC	S.J. Res. 45: United States forces in Somalia	6 (D–1; R–5)	6 (D–1; R–5)	A: Voice Vote (May 20, 1993)
H. Res. 183, May 25, 1993	O	H.R. 2244: 2d supplemental appropriations	NA	NA	A: 251–174. (May 26, 1993).
H. Res. 186, May 27, 1993	MC	H.R. 2264: Omnibus budget reconciliation	51 (D–19; R–32)	8 (D–7; R–1)	PQ: 252–178. A: 236–194 (May 27, 1993).
H. Res. 192, June 9, 1993	MC	H.R. 2348: Legislative branch appropriations	50 (D–6; R–44)	6 (D–3; R–3)	PQ: 240–177. A: 226–185. (June 10, 1993).
H. Res. 193, June 10, 1993	O	H.R. 2200: NASA authorization	NA	NA	A: Voice Vote. (June 14, 1993).
H. Res. 195, June 14, 1993	MC	H.R. 5: Striker replacement	7 (D–4; R–3)	2 (D–1; R–1)	A: 244–176.. (June 15, 1993).
H. Res. 197, June 15, 1993	MO	H.R. 2333: State Department. H.R. 2404: Foreign aid	53 (D–20; R–33)	27 (D–12; R–15)	A: 294–129. (June 16, 1993).
H. Res. 199, June 16, 1993	C	H.R. 1876: Ext. of "Fast Track"	NA	NA	A: Voice Vote. (June 22, 1993).
H. Res. 200, June 16, 1993	MC	H.R. 2295: Foreign operations appropriations	33 (D–11; R–22)	5 (D–1; R–4)	A: 263–160. (June 17, 1993).
H. Res. 201, June 17, 1993	O	H.R. 2403: Treasury-postal appropriations	NA	NA	A: Voice Vote. (June 17, 1993).
H. Res. 203, June 22, 1993	MO	H.R. 2445: Energy and Water appropriations	NA	NA	A: Voice Vote. (June 23, 1993).
H. Res. 206, June 23, 1993	O	H.R. 2150: Coast Guard authorization	NA	NA	A: 401–0. (July 30, 1993).
H. Res. 217, July 14, 1993	MO	H.R. 2010: National Service Trust Act	NA	NA	A: 261–164. (July 21, 1993).
H. Res. 218, July 20, 1993	O	H.R. 2530: BLM authorization, fiscal year 1994–95	NA	NA	

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.—Continued

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 220, July 21, 1993	MC	H.R. 2667: Disaster assistance supplemental	14 (D–8; R–6)	2 (D–2; R–0)	PQ: 245–178. F: 205–216. (July 22, 1993).
H. Res. 226, July 23, 1993	MC	H.R. 2667: Disaster assistance supplemental	15 (D–8; R–7)	2 (D–2; R–0)	A: 224–205. (July 27, 1993).
H. Res. 229, July 28, 1993	MO	H.R. 2330: Intelligence Authority Act, fiscal year 1994	NA	NA	A: Voice Vote. (Aug. 3, 1993).
H. Res. 230, July 28, 1993	O	H.R. 1964: Maritime Administration authority	NA	NA	A: Voice Vote. (July 29, 1993).
H. Res. 246, Aug. 6, 1993	MO	H.R. 2401: National Defense authority	149 (D–109; R–40)		A: 246–172. (Sept. 8, 1993).
H. Res. 248, Sept. 9, 1993	MO	H.R. 2401: National defense authorization			PQ: 237–169. A: 234–169. (Sept. 13, 1993).
H. Res. 250, Sept. 13, 1993	MC	H.R. 1340: RTC Completion Act	12 (D–3; R–9)	1 (D–1; R–0)	A: 213–191–1. (Sept. 14, 1993).
H. Res. 254, Sept. 22, 1993	MO	H.R. 2401: National Defense authorization		91 (D–67; R–24)	A: 241–182. (Sept. 28, 1993).
H. Res. 262, Sept. 28, 1993	O	H.R. 1845: National Biological Survey Act	NA	NA	A: 238–188 (10/06/93).
H. Res. 264, Sept. 28, 1993	MC	H.R. 2351: Arts, humanities, museums	7 (D–0; R–7)	3 (D–0; R–3)	PQ: 240–185. A: 225–195. (Oct. 14, 1993).
H. Res. 265, Sept. 29, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	A: 239–150. (Oct. 15, 1993).
H. Res. 269, Oct. 6, 1993	MO	H.R. 2739: Aviation infrastructure investment	N/A	N/A	A: Voice Vote. (Oct. 7, 1993).
H. Res. 273, Oct. 12, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	PQ: 235–187. F: 149–254. (Oct. 14, 1993).
H. Res. 274, Oct. 12, 1993	MC	H.R. 1804: Goals 2000 Educate America Act	15 (D–7; R–7; I–1)	10 (D–7; R–3)	A: Voice Vote. (Oct. 13, 1993).
H. Res. 282, Oct. 20, 1993	C	H.J. Res. 281: Continuing appropriations through Oct. 28, 1993	N/A	N/A	A: Voice Vote. (Oct. 21, 1993).
H. Res. 286, Oct. 27, 1993	O	H.R. 334: Lumbee Recognition Act	N/A	N/A	A: Voice Vote. (Oct. 28, 1993).
H. Res. 287, Oct. 27, 1993	C	H.J. Res. 283: Continuing appropriations resolution	1 (D–0; R–0)	0	A: 252–170. (Oct. 28, 1993).
H. Res. 289, Oct. 28, 1993	O	H.R. 2151: Maritime Security Act of 1993	N/A	N/A	A: Voice Vote. (Nov. 3, 1993).
H. Res. 293, Nov. 4, 1993	MC	H. Con. Res. 170: Troop withdrawal Somalia	N/A	N/A	A: 390–8. (Nov. 8, 1993).
H. Res. 299, Nov. 8, 1993	MO	H.R. 1036: Employee Retirement Act–1993	2 (D–1; R–1)	N/A	A: Voice Vote. (Nov. 9, 1993).
H. Res. 302, Nov. 9, 1993	MC	H.R. 1025: Brady handgun bill	17 (D–6; R–11)	4 (D–1; R–3)	A: 238–182. (Nov. 10, 1993).
H. Res. 303, Nov. 9, 1993	O	H.R. 322: Mineral exploration	N/A	N/A	A: Voice Vote. (Nov. 16, 1993).
H. Res. 304, Nov. 9, 1993	C	H.J. Res. 288: Further CR, FY 1994	N/A	N/A	
H. Res. 312, Nov. 17, 1993	MC	H.R. 3425: EPA Cabinet Status	27 (D–8; R–19)	9 (D–1; R–8)	
H. Res. 313, Nov. 17, 1993	MC	H.R. 796: Freedom Access to Clinics	15 (D–9; R–6)	4 (D–1; R–3)	
H. Res. 314, Nov. 17, 1993	MC	H.R. 3351: Alt Methods Young Offenders	21 (D–7; R–14)	6 (D–3; R–3)	

Note.—Code: C-Closed; MC-Modified closed; MO-Modified open; O-Open; D-Democrat; R-Republican; PQ: Previous question; A-Adopted; F-Failed.

Mr. SCHUMER. Mr. Speaker, will the gentleman yield?

Mr. GOSS. I yield to the gentleman from New York.

Mr. SCHUMER. Mr. Speaker, I ask the gentleman if he would tell me, near intimidation is not a criteria in this bill. It is intimidation by force or threat of force. That is what the statute reads.

I would ask the gentleman if he is familiar with the United States Code, with the civil rights laws, 18 U.S.C. 245. That very language was used, and it has been in existence for 30 years, where any single person who simply protested, just as the people were protesting outside the gentleman's office, and perhaps produced a mental state of anxiety that might intimidate without force or threat of force, I ask him to cite me a single instance where that language, which has been on the books for 30 years, has stopped any peaceful protest?

Mr. GOSS. Mr. Speaker, reclaiming my time, I yield to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, I thank the gentleman from New York for just describing my substitute. What he left out, and I hope the membership takes careful note of this, the use of force or threat of force is what my amendment says, as does his underlying bill. But what he adds is "or physical obstruction." This is, someone physically standing on the sidewalk with their hands in their pockets, standing there or kneeling, praying the rosary, perhaps, or saying some other prayer.

The gentleman from New York has described my substitute. His bill H.R. 796 goes so far beyond that to captivate, to bring into this net those who are engaging in nonviolent civil disobedience.

If this were to apply to the civil rights laws, it would be a sham to our civil rights laws. But it does not.

We crafted our amendment in order to track the civil rights laws that the gentleman has referenced. So he has described my substitute, not his own.

The SPEAKER pro tempore (Mr. TORRES). The time of the gentleman from Florida [Mr. GOSS] has expired.

Ms. SLAUGHTER. Mr. Speaker, for the purposes of debate only, I yield the balance of my time to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, I thank the gentlewoman for yielding time to me.

What I would say to my colleagues, first off, is this is not a pro-life or pro-choice bill. This is very simply a bill that says, if there is a concerted effort to take away a Federal right, then should the Federal Government step in or should the Federal Government stay there with its hands folded on its chest and let that Federal right continue to be violated time after time after time. That is what this bill is all about.

I would remind my colleagues, the exact same language that the gentleman from New Jersey and the gentleman from Florida would say would stop the peaceful right of protesters was approved in the Senate, not only 69 to 30, but by Senators who have, from what I am told, a 100-percent pro-life voting record, 9 of them, by many other Senators who often vote the pro-life side.

In our committee, this bill received the support of colleagues, both Democratic and Republican, who again were always pro-life.

I ask you, my colleagues, would they vote for a bill that would stop peaceful protests? No way.

I would ask all of my colleagues to read in the bill section 248(d). I will read it. I will read it carefully and I will read it slowly so all the misstatements that have occurred on that side of the aisle about taking away the peaceful right of protest, which I find to be so totally infactual that I think there is another agenda here, "Rule of construction, nothing in this section shall be construed to prohibit any expressive conduct, including peaceful picketing or other peaceful demonstrations protected from legal prohibition by the first article of the amendment to the Constitution."

The amendment is simple.

Mr. SANDERS. Mr. Speaker, will the gentleman yield?

Mr. SCHUMER. I yield to the gentleman from Vermont.

Mr. SANDERS. Mr. Speaker, under the Constitution, all people have the right to protest, to stand up and to fight for their rights. And there is no disagreement about that in this body.

But, Mr. Speaker, it is not just protesters who have constitutional rights. If a woman in this country chooses to have an abortion, she also has rights. And those rights include the right to have an abortion without harassment, without violence, and without having to fight her way into a health clinic. And today, that is what we are saying to the women of America. They have rights, too.

Mr. Speaker, I thank the gentleman for yielding to me.

☐ 1240

Mr. SCHUMER. Reclaiming my time, Mr. Speaker, I would just make one plaintive plea to those, like the gentleman from New Jersey [Mr. SMITH], who are vehemently pro-life, and I respect that. I respect my constituents who are. It comes out of deep moral belief. I do not consider myself or anyone on this side of the aisle morally superior or morally inferior to that.

However, I would say to the gentleman that there are those who believe that their beliefs, their pro-life beliefs, are so superior to everyone else's that they can take the law into their own hands. They besmirch the legitimate pro-life movement. They make it look like a movement of violence and a movement of moral superiority that claims that they can overrule our Government.

This bill, by separating those who would legitimately protest from those who use violence and blockade and other physical force to protest, would do a favor to those who, however strongly they believe in pro-life, still believe in the Constitution and the laws of the United States and equal protection under the law.

This bill is good for those who are pro-choice and it is good for those who are pro-life. It is only bad for those who seek to take the law into their own hands.

The SPEAKER pro tempore (Mr. TORRES). All time has expired.

Ms. SLAUGHTER. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the nays appeared to have it.

Ms. SLAUGHTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 233, nays 192, not voting 8, as follows:

[Roll No. 578]

YEAS—233

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Bacchus (FL)
Baesler
Barca
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Boehlert
Bonior
Boucher
Brooks
Browder
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Coyne
Cramer
Danner
Darden
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English (AZ)
English (OK)
Eshoo
Evans
Ewing
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Furse
Gallo
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Horn
Hoyer
Hughes
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kennedy
Kennelly
Kleczka
Klein
Kopetski
Kreidler
Lambert
Lancaster
Lantos
LaRocco
Lehman
Levin
Lewis (GA)
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Margolies-Mezvinsky
Markey
Martinez
Matsui
McCloskey
McCurdy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Molinari
Montgomery
Moran
Morella
Murtha
Nadler
Natcher
Neal (MA)
Neal (NC)
Olver
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Pickett
Pickle
Pomeroy
Porter
Price (NC)
Rangel
Reed
Reynolds
Richardson
Ridge
Roemer
Rostenkowski
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shays
Shepherd
Skaggs
Slattery
Slaughter
Smith (IA)
Snowe
Spratt
Stark
Stokes
Strickland
Studds
Swett
Swift
Synar
Tanner
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Washington
Waters
Watt
Waxman
Wheat
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NAYS—192

Allard
Applegate
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehner
Bonilla
Borski
Brewster
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Coble
Collins (GA)
Combest
Costello
Cox
Crane
Crapo
Cunningham
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Emerson
Everett
Fawell
Fields (TX)
Fish
Fowler
Franks (NJ)
Gallegly
Gekas
Gilchrest
Gillmor
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hayes
Hefley
Herger
Hobson
Hoekstra
Hoke
Holden
Houghton
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Istook
Johnson, Sam
Kasich
Kildee
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
Kyl
LaFalce
Laughlin
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Lipinski
Livingston
Manton
Manzullo
Mazzoli
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
McNulty
Mica
Michel
Miller (FL)
Mollohan
Moorhead
Murphy
Myers
Nussle
Oberstar
Obey
Ortiz
Orton
Oxley
Packard
Paxon
Peterson (MN)
Petri
Pombo
Portman
Poshard
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Ravenel
Regula
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stenholm
Stump
Stupak
Sundquist
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Torkildsen
Tucker
Upton
Volkmer
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—8

Brown (CA)
Clinger
Dicks
Geren
Kaptur
Rose
Sisisky
Whitten

□ 1300

Mr. GREENWOOD, Mr. BARCIA of Michigan, and Mrs. FOWLER changed their vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. TORRES). Pursuant to House Resolution 313 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 796.

□ 1301

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 796) to assure freedom of access to clinic entrances, with Mr. KOPETSKI in the chair.

The Chair read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 3 minutes, and the gentleman from Wisconsin [Mr. SENSENBRENNER] will be recognized for 30 minutes.

The Chair recognizes the distinguished gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of H.R. 796, the Freedom of Access to Clinics Entrances Act. This bill prohibits the intentional use of force or physical obstruction to injure, intimidate, or interfere with another person's obtaining or providing reproductive health services. It also prohibits intentional damage or destruction of property because a facility provides reproductive health services.

Mr. Chairman, where local law enforcement authorities are overwhelmed or simply refuse to enforce the law, the Federal Government is obliged to step in and protect the free exercise of constitutional rights. Periodically in our country's history, the Federal Government has been called upon to take on such a role—and has done so with vigilance and honor. The history of the labor and the civil rights movements bear witness to this fact.

At this historical juncture in our Nation's life, it is incumbent upon the Federal Government to do so again, for today women are being prevented from peacefully and freely exercising their constitutional rights to privacy. Across the country, we all have seen far too often the drastic escalation of violence in misguided—and malicious—attempts to prevent them from doing so.

Women seeking reproductive services have faced physical attacks, physical obstruction, and worse; clinics providing services have been vandalized and firebombed; health professionals have been stalked, and now the violence against them has reached the despicable level of attempted murder, plain and simple. In the face of all of this, the Federal Government should not, cannot, and must not sit idly by.

In devising appropriate Federal legislation, we of course recognize the challenge of fully respecting our first amendment protections. A careful reading of H.R. 796 reveals that the bill before us carefully protects the exercise of the constitutional rights, on both sides of the question.

I want to commend Crime Subcommittee Chairman SCHUMER, Congresswoman SCHROEDER and the many other Members who have shown their leadership on this issue.

I urge my colleagues to support passage of H.R. 796, without any weakening amendments.

Mr. Chairman, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 8 minutes.

Mr. Chairman, the purpose of this bill, even though the authors might not so state, is to put an end to demonstrations in front of abortion clinics around the country, whether they be peaceful or whether they be violent. They make no differentiation between peaceful protests, which are a part of the American fabric, and violent protests, where there are plenty of State and Federal laws to punish those who have committed felonies against either persons or property.

To demonstrate this point, the supporters of this legislation are passing out at the doorways a USA Today editorial that says, "USA Today supports FACE," and it lists various crimes that have taken place before abortion clinics: 1 murder, 1 attempted murder, 1 bombing, 8 arsons, 15 bomb threats, and 66 death threats.

No one in the pro-life movement who is responsible supports violating the law, killing, maiming, and arson, but this bill is broadly drafted so that those who use their rights to peaceful protest and who commit acts of peaceful civil disobedience will be made into Federal felons and will be subjected to civil lawsuits in Federal court, which means that the defendants will have to foot their own lawyers' bills which will be substantial.

How is this done? It is done through an overbroad definition in this statute so that someone who stands in the doorway of an abortion clinic with their arms folded, which might be a civil forfeiture or a misdemeanor under most State and local laws, will become a felony subject to a year in prison on the first offense and 3 years imprisonment on subsequent offenses.

But furthermore, the operators of that clinic will also be able to sue that person who is obstructing the entrance in a peaceful way with a civil suit in Federal court.

Now, I wonder what would happen if similar legislation were introduced in this Congress or in State legislatures 30 or 40 years ago to make felons out of people who were demonstrating for civil rights laws in segregated restaurants, and what would happen if someone introduced legislation to allow the operator of a segregated lunch counter to file suit in Federal court against the people who were sitting in, or what would happen in the late 1960's when the same types of civil disobedience occurred in opposition to the war in Vietnam.

This type of legislation, with just a different issue put in, would have been used by the Government to intimidate those who were objecting to Government policies.

□ 1310

During the early years of this century, this type of legislation with words "labor management dispute" would have been used to intimidate workers who were trying to form unions in order to better their economic life. And that is why it is so dangerous and such wrong policy to single out a single issue for this type of legislation.

My fear is that once the precedent is set in passing this type of legislation that is aimed at one side of one issue, then a majority of politically correct folks sometime in the future in the Congress of the United States will be able to pick up this legislation, change the issue and do exactly the same type of thing for others who wish to disobey civilly because they have got strong moral views on the subject matter.

I believe that the activities of the civil rights movement, the activities of those who opposed the war in Vietnam and the activities of those who wished to form unions in the early parts of this century because they were allowed to disagree civilly, made our country a better place and enriched the fabric of what we call America today.

The supporters of this legislation attempt to lump nonviolent protestors with those who commit violence. That is wrong. That is wrong, and that sets a terrible precedent. These people are using their first amendment rights, in many instances, to protest something that they object to on moral grounds. We do not need a first amendment to protect politically correct speech. A fundamental principle of our Nation's law is that Government is prohibited from banning and regulating speech or preventing assembly based upon the content of the speech or the ideas expressed. Of course, the right of free speech does not guarantee a receptive audience. Nor does it in any way sanction the use of force or coercion to impose one's views on an unwilling listener.

Likewise, the right to be free from Government interference in obtaining an abortion does not mean that a woman has the right to be insulated from the views of her fellow citizens on the meaning and consequences of that act.

I unequivocally condemn the murder of Dr. Gunn in Florida and the shooting of Dr. Tiller in Wichita, but recognize that this is not the first time in our history that legitimate expressions of ideas have crossed the line into violence by a few extremists.

Political protest has been at the forefront of social change. From the Boston Tea Party to the abolitionist movement, from the antiwar protests and to the activism of the civil rights movement, civil disobedience has been an intimate part of our history. This is perhaps the first time in our Nation's history, however, that those in power have so openly sought to use the authority of Government to broadly suppress the legitimate actions of a movement with which they do not agree. The legislation sweeps with a broad and heavy hand to target peaceful, nonviolent, constitutionally protected activities on the same terms as violent or forceful acts.

I thought our country had outgrown McCarthyism when the Senator from my State was condemned by the other body in 1954. What we are seeing here is modern-day McCarthyism.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from California.

Mr. LEWIS of California. I thank the gentleman for yielding.

Mr. Chairman, I feel very strongly about this issue. As the gentleman knows, from time to time I have taken a close look at questions on the edges of the pro-life pre-choice issue. It is a very tough issue.

The gentleman makes a fundamental point that the right to protest is a constitutional right. I appreciate the gentleman's statement very much.

Mr. SENSENBRENNER. Mr. Chairman, I reserve the balance of my time.

Mr. BROOKS. Mr. Chairman, I yield 3 minutes to the distinguished chairman of the subcommittee, the gentleman from New York [Mr. SCHUMER].

Mr. KREIDLER. Mr. Chairman, will the gentleman yield?

Mr. SCHUMER. I yield to the gentleman from Washington.

Mr. KREIDLER. Mr. Chairman I rise in support of this measure.

Mr. Chairman, I rise in support of H.R. 796, legislation to protect patients and health professionals from forceful interference with the provision of medical care.

There is no excuse for the violence, destruction, and abuse that have occurred at health clinics around the country. These activities go beyond the free expression of ideas. They violate the first rule of medicine: they do harm. They make it harder for women who simply want to exercise their constitutional right to an abortion. They jeopardize the health of pregnant women trying to get prenatal care. They threaten the health of other women who are not even pregnant, who are just trying to get medical care. Frankly, trying to keep a woman from seeing her doctor, for whatever reason, is one of the most cowardly and despicable acts I can imagine.

There has been concern about whether this legislation restricts freedom of expression, which is protected by the first amendment to our Constitution. I share that concern, because free expression and dissent are the foundations of our democracy. They are also absolutely essential to a healthy doctor-patient relationship.

So I want to be very sure that any legislation we pass here will not have unintended consequences later on. And after careful analysis, I am convinced that this legislation has been crafted to protect protesters, patients, and providers. No one who engages in peaceful, nonviolent protest has anything to fear under this bill. But those would use force or the threat of force should think twice now, because this bill makes such intimidation and harassment a Federal crime. Attorney General Janet Reno has written that such interference "has gone beyond the legitimate expression of opposing views."

Even the American Civil Liberties Union, which works to protect just about every form of free speech there is, has endorsed this bill. It is not free speech that is threatened here—it is women's health and lives. It is nurses, doctors, and other health professionals whose mission is to heal.

Let us be clear about H.R. 796: People can still conduct sit-ins, demonstrate, shout, sing, pray, picket, or proselytize. It would be foolish and unconstitutional to limit any of those activities. But it is dangerous to keep people who need medical care from getting it, and that is why this bill restricts only the most damaging activities: Protesters may not hurt people. They may not threaten people. And they may not physically block women from getting the medical care they need.

This legislation is similar to a law enacted in my State of Washington earlier this year. It works in Washington State, and it will work throughout our country. I urge my colleagues to vote for this bill.

Mr. SCHUMER. I thank the chairman of the committee for yielding this time to me.

Mr. Chairman, I rise in support of H.R. 796.

Our great system of individual rights means nothing if we cannot exercise our rights peacefully. If we allow the hand of violence to choke even one of our basic rights, the rest might as well be written on the wind.

History has taught these lessons over a thousand dark nights. If we let fear strangle one right, violence stalks another. If we let terror intimidate one group, intolerance threatens another.

That is what this bill is about. Because this bill is first and last a civil rights bill. And it shares the common purpose of all great civil rights legislation. It simply ensures that Americans can exercise their rights—free from terror, free from violence, and free from intimidation.

Unfortunately, this is not an academic debate. The record is frighteningly clear about the violence that inspired this bill. In the 6 years between 1977 and 1993, more than 1,000 violent acts against reproductive health providers were reported in the United States.

These were not acts of legitimate protest. These were criminal acts. These were acts of terror—against patients, against doctors, and against nurses. They included bombings, arson, death threats, kidnapings, clinic invasions, assaults, and one senseless murder.

There is no room in our system for this kind of violence. It may disguise itself in the sheep's clothing of protest. But it is not protest. It is the very opposite of protest. It is raw, naked violence.

This violence is not merely a local problem. The evidence is clear that there is a nationwide campaign to prevent women from exercising their right to reproductive health care. In too many cases, local law enforcement authorities cannot or will not act to effectively protect that right. Sometimes they are overwhelmed by sheer numbers. Sometimes they are ideologically motivated to their duty to protect the right to peacefully seek health care.

Mr. Chairman, this is what the bill states, and I will read it again and again and again to combat the misinformation from the other side. This is in subsection (d):

> "(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit any expressive conduct (including peaceful picketing or other peaceful demonstration) protected from legal prohibition by the first article of amendment to the Constitution.

Mr. Chairman, this bill protects the great right of peaceful assembly. It is as carefully crafted as any piece of legislation ever written to protect one right without infringing another. That care and evenhandedness is why so many in the other body who have 100 percent pro-life convictions and who oppose abortion support this bill.

In my own neighborhood, for example, a Catholic bishop recites the rosary every day in front of a clinic to express his opposition to its work. I deeply respect what he is doing. If I thought for one moment that this bill cast even the slightest shadow of a doubt on his right to protest, I would rather not have this bill. But I am certain that it does not.

Those who oppose abortion can still hand out leaflets under this bill. They can still pray. They can still make speeches.

But they cannot use force. They cannot use violence. They cannot use physical obstructions. They cannot choke off the rights of other Americans.

These prohibitions are evenhanded. This bill forbids just as much the use of force and obstruction against reproductive health clinics that do not practice abortion as against those that do.

I urge you to consider the consequences of escalating violence if we do not pass this bill. What has happened already is unthinkable. What is likely to happen is unimaginable. This is a responsible, desperately needed measure. It will prevent violence and ensure civil order.

If we do not end it now, I ask my colleagues, when?

Mr. SENSENBRENNER. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Chairman, there is a fundamental difference between those persons who employ violence, or the threat of violence as a means to an end and those who engage in peaceful, nonviolent dissent such as pickets, sit-ins or sidewalk prayer.

The language of H.R. 796, Mr. Chairman, unjustly ends that difference by making nonviolent acts of civil disobedience committed by pro-lifers Federal crimes instead of misdemeanors.

I believe this is an unjust, unjustified, and cruel penalty that totally trashes any notion that punishment should fit the crime.

Under this bill, a woman who simply sits in front of an abortion clinic sidewalk or door and gets in the way of an abortionist or clinic personnel can be thrown in jail for a year on her first offense and be hit with a bruising fine. That is not justice. Just getting in the way, making access unreasonably difficult isn't a felony. Kidnapers, killers, rapists are felons, people who get in the way are not. H.R. 796 as it relates to nonviolent civil disobedience is unconscionably harsh and vindictive.

Let me say emphatically that violence against abortionists or anyone else is contemptible. The pro-life movement categorically condemns all violence including the sanitized violence used against unborn children. Just as shooting people at clinics is wrong, the dismembering the fragile bodies of unborn babies or pumping poison into their systems is wrong.

When it comes to picketing or demonstrating or nonviolent acts of civil disobedience, the motivation of pro-life is to protect, safeguard, emphasize with, and enhance the lives of both the mothers and their babies.

The substitute I will offer today imposes strict penalties on individuals who by force or threat of force, intentionally injure, intimidate, or physically obstruct any person because that person is providing or obtaining reproductive health services. Persons who merely physically obstruct however without using or threatening force would not be subject to Federal penalties.

My substitute clearly addresses the issues the sponsors say they are most concerned about. Violent attacks, such as the one that resulted in the death of Dr. David Gunn, cannot be condoned by anyone. Leaders of all of the major pro-life groups have condemned acts of violence. Dr. Gunn's assailant has been arrested and is subject to the possibility of receiving the death penalty under Florida law. But the key difference that separates my substitute from H.R. 796 is the issue of nonviolent civil disobedience.

Frankly I think members will be shocked to learn that under H.R. 796, a woman or man who engages in a peaceful sit-in or prays silently in a way that hampers access to an abortion mill or gets in the way can be thrown in prison for a year and be fined $100,000. If they do it again, they will be thrown into jail for 3 years and pay up to $250,000.

To the best of my knowledge, not since the Fugitive Slave Act has nonviolent civil disobedience been construed by Congress to be a Federal crime—which is precisely what H.R. 796 would do.

As you well know Mr. Speaker, nonviolent civil disobedience has been used by a myriad of causes and movements, including civil rights, environmentalism, D.C. Statehood, women's rights, antiapartheid, labor rights, antiwar, antinukes, AIDS, and abortion. Under the pending legislation only the pro-life nonviolent activists would be singled out and turned into felons.

H.R. 796 discriminates against pro-life Americans by turning an action based on a viewpoint-specific view on abortion into a felony. To get a taste of how unfair this provision to the bill is consider this:

If picketers nonviolently physically obstruct access to an abortion mill in order to obtain higher wages or benefits, and other clinic personnel or patients find it unreasonably difficult to pass, those picketers could only be charged with a misdemeanor. On the other hand, if pro-life picketers behave in the identical way making ingress or egress to the clinic unreasonably difficult the pro-life picketers can be charged with having committed a felony.

In other words, the same exact action would be punished in radically different ways. Equal justice under the law? Not by a longshot, Mr. Speaker.

Let me also point out that under H.R. 796 more remedies are provided under Federal law to people who sell abortions than are given to persons protected from racial discrimination under Federal civil rights laws.

Under H.R. 796 an array of civil remedies which is unprecedented in traditional Federal civil rights statutes are provided, including statutory damages of $5,000 per violation.

And a pro-life individual does not have to have been convicted of a crime before she can be dragged into court under a civil action brought by the abortion mill. There are numerous instances of clinics filing harassing lawsuits against pro-lifers engaging in legal, first amendment protected activity. H.R. 796 gives theses clinics yet another legal club with which to threaten pro-life persons who participate in legal pickets, prayer vigils, and sidewalk counseling.

H.R. 796 permits a State attorney general to demand an award of attorneys fees from an individual protestor, which is unprecedented in Federal civil rights laws.

In most civil rights cases, plaintiffs are individuals and the defendants are businesses or government entities. To level the playing field, the Supreme Court has interpreted the prevailing party, for the purposes of awarding attorneys fees, to mean the plaintiff if the plaintiff wins any sort of victory, but the defendant only if the action can be shown to have been frivolous. consequently, prevailing party carries with it a meaning that is not appropriate for civil actions that are likely to arise under H.R. 796. In cases arising under H.R. 796, the plaintiffs would probably be businesses—that is abortion clinics—and the defendants would be private citizens.

H.R. 796 provides strong protections under Federal law to abortion providers but utterly fails to give these same protections to individuals exercising their first amendment rights.

H.R. 796 gives pro-abortion escorts and personnel a license to taunt, abuse, obstruct, and provoke pro-lifers—including those engaging in legal pickets. Pro-life women and men have ample reason to fear acts of force or violence from pro-abortion protestors outside of abortion clinics, but these abortion supporters have nothing to fear under this bill. They can taunt, harass, and intimidate pro-life demonstrators, and make every effort to provok them into the slightest violation without fear of being punished by its array of penalties and civil damages.

It is disingenuous for supporters of H.R. 796 to claim that the bill is not viewpoint-biased because it would protect pro-life pregnancy aid centers as well as abortion clinics. There is little controversy over pro-lifers providing free prenatal care for poor women. The controversy centers on abortion—the killing of unborn babies—and H.R. 796 provides no equivalent Federal protection to pro-life persons outside of abortion clinics.

Finally, my substitute makes violence or the threat of violence a Federal crime. It safeguards free speech and treats both sides of this contentious issue with fairness and in a balanced way.

□ 1320

Mr. BROOKS. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. Mr. Chairman, I rise today in full support of H.R. 796, the Freedom of Access to Clinic Entrances Act. The need for this legislation could not be any more urgent and I strongly urge my colleagues to join me in supporting it.

Currently, there is a small group of people that are viciously terrorizing women, doctors, health care workers, and their respective families. They use threats, intimidation, and violence in their effort to prevent women and doctors from exercising their legal rights. With each year that passes, more incidents of violence are reported, the harassment grows more fierce and this year a physician in Florida was killed for providing legal, reproductive health services to women.

In my district in Chicago, just this past weekend, the Planned Parenthood/Chicago Area's Midwest Center was bombarded by protesters who chained themselves inside the building. This is only the most recent incident in a long series of attacks on clinics in my district and throughout the country.

The Freedom of Access to Clinic Entrances Act would stop the terror by providing Federal assistance to combat increasingly dangerous and terrifying activities by antichoice fanatics. Federal assistance is needed because of countless incidents in which State and local authorities have been completely overwhelmed and overrun. H.R. 796 would establish criminal and civil penalties for the use of force or physical obstruction aimed at preventing a woman from obtaining an abortion. The bill also enables Federal courts to issue injunctions to regulate demonstrations.

Mr. Chairman, we need to pass this legislation to stop a small minority of Americans from holding the rest of us hostage. To reiterate, law-abiding citizens are being threatened, blocked, and terrified from exercising their legal rights and we in Congress must put an end to it now. I urge my colleagues to join me in voting for H.R. 796 and opposing any weakening amendments or substitutes.

Mr. BROOKS. Mr. Chairman, I yield such time as she may consume to the gentlewoman from California [Ms. HARMAN].

Ms. HARMAN. Mr. Chairman, I rise in strong support of H.R. 796, the Freedom of Access to Clinic Entrances Act.

On November 11, a warm and sunlit Veterans Day, I came with several House Members to attend the dedication of the Vietnam Women's Memorial—to make my peace with the war that scarred my generation and to witness women taking our place as partners and patriots in our Nation's wars.

It was an extraordinary event. Particularly moving was the invocation by former Vietnam veteran, nurse, and current Idaho minister, the Reverend Alice Farquhar-Mayes. Mr. Chairman, I will include the full text of her statement in the RECORD. She said, in part:

> We who waited and worked and worried were forever changed;
>
> We who went willingly into the hell to bring hope, heart, healing, humanity came home forever changed;
>
> We who went into the hell armed with compassion, knowledge, smiles, and tears came home forever changed;
>
> We who went into the hell with a willingness to touch, to hold, to listen, to care came home forever changed.
>
> We were—and are—everywoman.

Women taking our place as partners requires courageous actions to advance justice and equality, particularly here in our own country. Equality for women has been a prominent theme in the 103d Congress, and I am proud of my role:

As a cosponsor of the Family and Medical Leave Act, which became law on February 5, 1993;

As an original cosponsor of the Freedom of Choice Act, H.R. 25;

As an original cosponsor of the Economic Equity Act, H.R. 2790.

As a member of the House Armed Services Committee, I worked to repeal section 6015 of title 10, the last law on the books excluding women from serving in combat roles. In addition, as the first freshman ever to serve on the defense authorization conference committee, I worked to remove provisions from the fiscal year 1994 Defense bill that would have delayed the opening of combat roles to women and imposed excessive reporting requirements on the Defense Department.

I think any woman who is willing to risk death to serve our Nation should be allowed to do so. But I do not believe that women should have to risk injury or death to exercise their legal rights at home, or that others' lives should be put at risk to help them. Today, the House will vote on H.R. 796, the Freedom of Access to Clinic Entrances Act. I support this bill because women and their doctors are facing battle lines at family planning clinics in this country every day.

The tragic murder of Dr. David Gunn, the shooting of Dr. George Tiller, and such other documented acts of clinic violence including 36 bombings, 84 cases of arson, 60 attempted arsons, 35 clinic invasions, 498 acts of vandalism, 86 assaults, 149 death threats, two kidnapings, 29 burglaries and countless cases of stalking against clinic employees demonstrate the need to curb escalating violence against the freedom of choice. There are those who claim these criminal acts are isolated incidents, but I am persuaded that we must deter potentially violent protests and intervene to assure reasonable access to family planning clinics.

In my congressional district, OB-GYN physicians who perform legal abortions have contacted me for help. These health care providers are concerned that the inclusion of their pictures and home addresses on wanted posters prepared by an antiabortion group could endanger their personal safety and property as well as the safety of their families.

In addition, I must point out that the provisions of this law provide Federal protection not only to abortion clinics, staff and patients, but also to pro-life counseling and pregnancy centers, staff and patients to the extent that they are threatened by force, physical obstruction, and destruction of property.

I am committed to the principle that every citizen has the right to peacefully demonstrate. I am proud to live in a country that gives constitutional protection to free speech. I am equally committed to the principle that all citizens have the right to obtain legal reproductive health services without suffering injury, intimidation, or interference.

For these reasons I am a cosponsor of H.R. 796 and urge all of my colleagues who believe in the Constitution and the right of all citizens to live and work in a safe environment to vote for the Freedom of Access To Family Planning Clinics.

Mr. Chairman, I include the following invocation to which I referred earlier:

DEDICATION OF THE VIETNAM WOMEN'S MEMORIAL

(By Rev. Alice Farquhar-Mayes)

INVOCATION

> Let us begin with a moment of silence; A moment to allow ourselves to be truly present to this place, to this time, to one another, and to God.
>
> O God of light and God of darkness, God of all creation, We dare to claim—and proclaim—Your presence here among us. We dare to claim this as Holy Ground—holy because you are here; holy because we are here.
>
> We seek your blessing on what we do here this day, and on each one of us, however we have come: in body, spirit, prayer; in person and through modern technology.
>
> We give you thanks this day has finally come, for we have waited long, worked hard, prayed often, and sometimes despaired. We give you thanks for all who have supported us and loved us along the way, and for those who have gone before us on the journey Home.
>
> O Timeless God of all our days and years, surround us with your love.
>
> We who waited and worked and worried were forever changed;
>
> We who went willingly into the hell to bring hope, heart, healing, humanity came home forever changed;
>
> We who went into the hell armed with compassion, knowledge, smiles, and tears came home forever changed;
>
> We who went into hell with a willingness to touch, to hold, to listen, to care came home forever changed.
>
> We were—and are—Everywoman.
>
> We now come to you and to this sacred time, to remember and to be remembered;
>
> We come to bear witness and to be heard; to honor and to be honored; to touch and to be touched; to celebrate and to Come Home.
>
> We come to heal and to be healed;
>
> We come that our pain may be assuaged and our joy made full.
>
> We come, perhaps most of all, to pray for PEACE, to declare without equivocation that all war is appalling and abhorrent—to you and to each of us here gathered.
>
> O God who redeems the past and who makes all things new, Come to us and be in us this day and make us ready for what we are about to begin.
>
> Be light to our darkness and peace to our pain. Give us both solace and strength, pardon and renewal. Then we shall find the way of laughter—and the victory will go to Love. Amen.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Chairman, this country is founded on the first amendment, which guarantees freedom of speech and the right of peaceful assembly. So many of us have worked to protect these rights.

Also, Americans have another fundamental right, and that is the right to live without fear of intimidation or bodily harm. This act safeguards our first amendment rights while keeping safe those who work in a field which has stirred public passions.

If my colleagues doubt that such protections are necessary, let them speak to the men and women who have been the victims of intimidation and violence. Let them speak to the families who have been terrified by death threats. And let them speak to women who have searched their consciences and found some very painful and difficult answers—only to have their path to medical services blocked.

We are talking about death threats, stalkings, chemical attacks, arson, bomb threats and the fatal shooting of Dr. Gunn in Florida and another serious attack in Kansas.

I understand that those who block clinics would say that the greater violence occurs within these facilities. But the people who work in the clinics and the women who use their services are breaking the law.

This bill establishes penalties for violence and acts of intimidation that go far beyond peaceful demonstrations. And it sends a firm message that violence and intimidation will not be tolerated.

Mr. Speaker, this is a reasonable bill, and a necessary bill, and I encourage my colleagues to pass it.

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, I would like to read an excerpt from the Washington Times of November 6:

> Activist Dick Gregory and his Dignity Patrol of Citizen Anti-Drug Crusaders say they are prepared for sit-ins and boycotts at local

7-11 Stores and will put their lives on the line by videotaping drug sales. The efforts are a part of a two-prong mission against drug traffic in the District, Mr. Gregory said.

That is just for a little background information.

I certainly would like to vote for this bill. The problem with it is that it is colored with a touch—more than a touch—of unconscious hypocrisy. You would never dream of applying the strictures in this bill to a labor dispute. You would never dream of applying the strictures in this bill to environmental protesters or nuclear demonstrators; no, only abortion.

This is a rifle shot at the anti-abortion movement, and make no mistake about it.

The issue really is not abortion. The underlying issue is the meaning of the first amendment. What are the limits, what are the parameters of free speech?

If these groups that are praying and sidewalk counseling and trying to persuade people not to exterminate their unborn child were in front of another killing place, let us say Auschwitz, you would be honoring them. You would not be making them felons. You would be saying, "You're trying to save people's lives. What a wonderful, noble thing."

But because it is the unborn they seek to protect, we criminalize them. We send them to jail.

I often wonder why the judge-made right to abortion trumps all our other rights. What does it say about us as a country when the abortion license overrides free speech, freedom of assembly, and a 200-year tradition of peaceful protest?

In the constellation of American liberties, the abortion license has become the transcendent liberty.

I do not defend the use of violence. If there is anything counterproductive to the pro-life movement, it is to use violence in protest to violence; but every movement has its extreme radical fringe. You do not condemn the whole movement because of the excesses of its radical fringe.

Political protest has been at the forefront of social change from the Boston Tea Party to Selma, and to pro-lifers these killing places require protests.

This bill subjects nonviolent, possibly perfectly legal behavior, to criminal sanctions. It criminalizes physical obstruction where there is no threat of force or use of force.

Is standing on a sidewalk saying the Rosary and handing somebody a pamphlet or trying to hand them a pamphlet physical obstruction, unreasonable obstruction?

Do you think there are not judges who will find it so?

And what have you done to the first amendment when you do this?

This bill will not tranquilize the atmosphere around the clinics; it will radicalize it.

Mr. BROOKS. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from New York [Mr. NADLER].

Mr. NADLER. Mr. Speaker, I yield to the gentleman from Rhode Island [Mr. MACHTLEY].

(Mr. MACHTLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MACHTLEY. Mr. Chairman, I rise in support of this legislation.

This is a perfect example of how Congress can respond to the cry for help coming from each of our States and districts.

Dr. Gunn, the Florida physician who was shot to death last March, brought this issue into the national spotlight.

In my own State of Rhode Island our Planned Parenthood waiting room was invaded; the clinic was blockaded; the Planned Parenthood medical director's driveway was covered with nails. Not only did he get four flat tires, but his wife stepped on a nail, and his two young children had to be kept inside while the nails were cleaned up.

Mr. Chairman, the Freedom of Access to Clinic Entrances does not prohibit demonstrating; it does not infringe on our first amendment right of free speech.

It does, however, make it a Federal crime to obstruct access to an abortion facility; it does make it a Federal crime to damage a clinic; it does make it a Federal crime to use force, threat of force, or physical obstruction to injure, intimidate, or interfere with patients or providers of reproductive health services.

So far this year there have been 329 incidents of violence against abortion providers—over 100-percent increase from 10 years ago. There have been 1,080 incidents of disruption, including hate mail, harassing phone calls, and bomb threats.

It is a Federal crime to use violence and force against every American. Reproductive health service providers are no exception and deserve this same protection.

The fact is that the law of the land allows abortions. Those who have a problem with this should be talking to their Representatives and Senators, not setting bombs, not committing arson or delivering death threats, and certainly not covering a physicians driveway with nails.

This is not about free speech. This is a criminal issue, and I urge my colleagues to vote for this bill.

Mr. NADLER. Mr. Chairman, the purpose of this bill is to protect liberty against mob rule. The liberty at issue is fundamental: The right of women to walk into a clinic to exercise their constitutionally guaranteed freedom of choice. Zealots must not be permitted to physically obstruct the exercise of this freedom.

Contrary to some arguments, this bill does not impinge in any way on the first amendment rights of abortion opponents. What it impinges upon is the ability of one group of citizens to impose their beliefs on their fellow citizens by physical obstruction and intimidation.

Antiabortion protestors have an absolute right to say, "Don't do it," or anything else they want to say. They do not have any right to say, by means of physical force or intimidation, "We won't let you do it."

Let us be clear. These concerns are not merely hypothetical. Physical obstruction, intimidation, violence up to and including arson and murder, have become commonplace at abortion clinics and other reproductive health facilities throughout the country.

It is not merely the right, but the obligation of Government to protect citizens whose rights are systematically assaulted as they have been.

The women of America and the health professionals who assist them in controlling their reproductive destinies are looking to us for relief from the outrageous tactics, the violence, the mob rule that has been used by groups whose sense of frustration at their inability to impose their beliefs on everyone else through the political process and the courts has led them to an extremism that justifies in their own minds trampling on the rights of others.

Mr. Chairman, I urge my colleagues to vote "yes" on this bill.

□ 1330

Mr. BROOKS. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from Nevada [Mr. BILBRAY].

Ms. VELÁZQUEZ. Mr. Chairman, will the gentleman yield?

Mr. BILBRAY. I yield to the gentlewoman from New York.

Ms. VELÁZQUEZ. Mr. Chairman, I rise today in strong support of the Freedom of Access to Clinic Entrances Act.

From 1977 through April 1993, more than 1,000 acts of violence related to clinics, including one murder have been reported in the United States. The pro-life extremists who commit these acts, show a blatant disregard for the lives of those trying to deliver legal abortion services to women all across America—and to those medical professionals who supply these same women with prenatal examinations, mammograms, pap smears, birth control, and other vital women's health services.

Critics of this bill say that it violates their rights under the first amendment. They are grossly misinformed. What the first amendment does not protect—and what H.R. 796 prohibits—is force, threat of force, or physical obstruction which injures, intimidates, or interferes with other persons because they seek to provide or obtain reproductive health services. We must protect the choice and safety of millions of women across this Nation. I urge my colleagues not to be fooled by the allegations of antiabortion extremists, and to vote for this long-overdue bill.

Mr. BILBRAY. Mr. Chairman, when I first heard about this bill, which was over a year ago, and I expressed my disfavor with it, I said it is not needed, that no one should be denied their constitutional rights to picket, and demonstrate, and pray in front of any abortion clinic, or Planned Parenthood clinic, or whatever that facility may be. But over the last year and a half, Mr. Chairman, I have seen the violence increase. I have seen a doctor killed. I have seen another shot. I have seen others injured. Even though I am a prolifer, Mr. Chairman, I recognize that the situation has gotten out of hand.

People say, "Well, if somebody stands in front of a door or accidentally bumps somebody going in while they are praying the rosary, they can be thrown into prison for a year and fined $100,000." Now those that bring up this type of argument know that is not going to happen. The same situation arose recently in my State in a frontier strike. Some picketers assaulted somebody trying to go in. They were convicted. These were union pickets. They were sent to jail and fined because they assaulted people, but they deliberately did it. They knew what they were doing when they did it, and they were repudiated by union leaders as well as others in the community.

Mr. Chairman, nobody is going to go to jail because they accidentally stand on the sidewalk. They are going to be cited if they deliberately interfere with somebody's rights, and I say to my colleagues, "I firmly believe that, even if you're pro-life, you should support this bill and vote for it to keep the violence down and to rid extremists from this situation."

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentlewoman from Nevada [Mrs. VUCANOVICH], the other half of the Nevada delegation.

Mrs. VUCANOVICH. Mr. Chairman, John F. Kennedy once said that—

> This Nation was founded on the principle that all men are created equal and that the rights of every man or woman are diminished when the rights of one man or woman are threatened.

Today in this House, the rights of peaceful, nonviolent pro-life men and women are threatened by this piece of legislation that is aimed solely at them. The pro-life community which believes deeply in the right of life of all people, born and unborn, has repeatedly condemned the violence wrought by a few extremists. H.R. 796 seeks to address this growing problem of violence at abortion clinics throughout the country but in its zeal to protect those who seek or provide abortions, it violates the first amendment rights of those who wish to prayerfully offer an alternative to the violence of abortion.

H.R. 796 makes no distinction between violent and nonviolent protest at abortion clinics. If offers severe penalties for a first offense, up to 1 year in jail and up to $100,000 in fines. Should a grandmother praying the rosary on a public sidewalk be subject to the same harsh penalties as someone who sets fire to a clinic? I think not.

Our country has a history of peaceful protest used by people of conscience who feel that their voice will not be clearly heard in any other way. The first amendment guarantees this right. Let us not pass a bill in this House that would cause us to place an asterisk in the Constitution that reads "freedom of speech is fine unless you oppose abortion."

I urge my colleagues to vote against this bill.

Mr. BROOKS. Mr. Chairman, I yield 1½ minutes to the distinguished gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Chairman, today we are considering the Freedom of Access to Clinic Entrances Act (H.R. 796), a bill to determine whether we as a nation will continue to tolerate acts of terror, intimidation, and violence at health care clinics. Some hold that this bill is about stifling protests, about gutting the first amendment, and about promoting abortion.

Nothing could be further from the truth.

This bill is about Kathryn Maxwell of Michigan, who scheduled an appointment for her high-risk pregnancy but was turned away because Operation Rescue blockaded her doctor's office. The local police department of Novi, MI, patrolling outside, said they could do nothing.

The Freedom of Access to Clinic Entrances Act is about the firebombing of a Corpus Christi, TX, clinic that provides a full range of reproductive health care services and also served as an adoption agency. The clinic was burned to the ground.

The bill is about Dr. Pablo Rodriguez, the medical director of a Providence, RI, Planned Parenthood clinic, who wears a bullet-proof vest to work at the suggestion of local police. They told him they could not deal with the protesters at his clinic.

And this bill is about more than 322 clinic invasions; 441 cases of clinic vandalism; 36 bombings; 53 attempted bombings/arsons; 91 death threats; 82 assaults; 30 cases of stalking; 2 kidnappings; 327 clinic invasions; and one murder.

The Freedom of Access to Clinic Entrances Act will give the Federal Government the power to act when State and local authorities cannot or will not act to guarantee access to these clinics where women, especially poor women, go for a variety of medical services that include birth control, prenatal examinations, mammograms, pap smears, as well as abortion services.

In committee hearings in both the 102d and 103d Congresses, we learned of the national scope of the problems women and health care providers face every day not only in well-orchestrated, well-publicized blockades and arson attacks in Whichita and Buffalo but in less publicized, daily threats, vandalism, and intimidation in communities all across the Nation.

We have heard from local officials, like the chief of police of Manassas, VA, whose personnel and budgets have been exhausted in patrolling blockades. And we heard from local officials, like one Texas sheriff, who holds strong antiabortion views, that "he would not enforce local laws against blockaders."

Those who oppose this bill say that it will stifle free speech, gut the first amendment, and punish those who are engaged in acts of protest and civil disobedience, acts that mirror those of the protests and civil disobedience against segregation that thousands of Americans participated in during the 1960's.

Nothing could be further from the truth.

In crafting this bill, Congressman SCHUMER and I, and Judiciary Committee members from both sides of the aisle and from both sides of the abortion debate, have been diligent in ensuring that the principles of free speech and assembly found in the first amendment are protected. This bill unequivocally states that:

> Nothing * * * shall be construed to prohibit any expressive conduct (including peaceful picketing or other peaceful demonstrations) protected from legal prohibition by the first article of amendment to the Constitution.

This means that protestors can picket, boycott, pray, sing hymns, wave signs, verbally accost patients and personnel, hand out leaflets, photos, and brochures. But, they cannot do all of the above and also chain themselves to the front door, block someone's entry to a clinic, or invade and forcibly occupy a clinic.

The opponents of this bill often compare the activities of antiabortion extremists to the acts of civil disobedience, the protests, and marches of civil rights activists against businesses, local and State governments, and the Jim Crow laws of the South that were attempts to obtain rights for African Americans, rights of citizenship they had long been denied.

The protests and blockades of reproductive health clinics, on the other hand, are nothing less than attempts to deny women their rights, to deny them medical services, in some cases to deny them services that their lives depend on.

The attempt to equate the protests and civil disobedience of the civil rights movement with the blocking of clinic entrances, the burning and bombing of clinics, the stalking of patients, doctors, and nurses, and the shooting death of a doctor in Florida makes a mockery of the principles and the life of Dr. Martin Luther King.

Those who oppose this bill maintain that this bill is about abortion.

Nothing could be further from the truth.

This bill is about providing access to medical services of all kinds without fear, without intimidation, and without coercion. It is about providing services—like prenatal care, pap smears, mammograms—that can literally mean the difference between life and death for many American women. It is about providing freedom of access, without which, women of this country have no freedom of choice.

I urge you to support the Freedom of Access to Clinic Entrances Act not because you are for or against abortion, but because you are against the tactics of terror, coercion, and violence.

Mr. BROOKS. Mr. Chairman, I yield 1½ minutes to the gentleman from Minnesota [Mr. RAMSTAD].

Mr. RAMSTAD. Mr. Chairman, the freedom of Access to Clinic Entrances Act is not a pro-life versus pro-choice issue. It is a necessary response to the escalation of violence at reproductive health centers all across America.

As the hearings demonstrated, there is a need for Federal legislation to protect the constitutional rights of women entering the clinics. In my home State of Minnesota, local law enforcement has simply been unable at times to protect the rights of health care workers and patients.

No one disagrees with the right of peaceful demonstration, but blocking entrances, and thus preventing the exercise of a constitutional right, is not acceptable.

This bill will serve as a deterrent to de-escalate the violence aimed at clinics and health care workers.

Let us be perfectly clear, nothing in this bill prevents the peaceful picketing or other peaceful demonstrations protected under the first amendment of the Constitution.

Mr. Chairman, we need to pass this bill to end the violence.

Mr. SENSENBRENNER. Mr. Chairman, I yield 1½ minutes to the gentleman from New York [Mr. LEVY].

Mr. LEVY. Mr. Chairman, it is unavoidable that many people are going to view the battle over this legislation as one between the pro-choice people and those who describe themselves as pro-life. But to me it is not about that at all. Most of us who will vote against this bill today think that the tactics or organizations like Operation Rescue and similar groups are outrageous. We do not think it is right to shoot doctors under any circumstances. It is wrong to set buildings on fire. Murder and arson are illegal in every State. So, why would we seek to federalize these laws?

Mr. Chairman, some people say it is because women have a Federal right to abortion. But people have many Federal rights, and there are no corresponding Federal crimes covering those who interfere with those rights. I, for example, have a right to worship in the synagogue of my choice. It says so right in the Constitution. Any of us can worship wherever we want.

□ 1340

But there is no access to churches and temples bill pending here. If there was, it probably would not be taken seriously.

Quite frankly, I would support the bill which is before us today if it made it a Federal crime to deny any person access to any place where the Federal Government says they have a right to be. In that way this bill, which has been criticized for being overbroad for other reasons, is not broad enough. And I would not exclude abortion clinics. If proponents of the bill were sincere when they say that this vote is not about pro-choice or pro-life, their bill would guarantee access to every place else. Please vote no on H.R. 796.

Mr. BROOKS. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from Illinois [Mr. SANGMEISTER].

Mr. SANGMEISTER. Mr. Chairman, I am pro-life both personally and politically and, this year, have voted against the Freedom of Choice Act and in favor of the Hyde amendment which bans Federal funding of abortion services. My record is clear. I oppose abortion except in cases of rape, incest or when the life of the mother is threatened by carrying the pregnancy to term. I also support the rights of fellow pro-lifers who choose to peacefully protest outside of abortion clinics. Furthermore, I am a strong supporter of the first amendment which guarantees freedom of speech and the right to peaceably assemble.

However, I am also a former county prosecutor who believes strongly that maintaining a civil society depends on respecting the rights of others and rejecting violence at all times. For this reason I cannot condone, nor even look the other way, when an anti-abortion protestor goes beyond the boundaries of the first amendment and commits acts of violence, harassment or vandalism.

As a member of the House Judiciary Committee, I voted to approve H.R. 796—the freedom of access to clinic entrances bill—on September 14 of this year. At the time, I was very concerned that this bill would infringe upon pro-life protesters rights to free speech and assembly. As a result, I offered an amendment in the subcommittee markup to prevent this. My amendment stated that nothing in the bill prohibits any expressive conduct including peaceful picketing protected by the first amendment. With this language included in the final version of the bill, legislative intent—handing out a leaflet is not a violation.

Mr. Chairman, I remain convinced that H.R. 796, in its present form, is necessary and would not have supported this—or any other piece of legislation—if, in my opinion, it unduly infringed upon the legitimate, constitutional right of individuals to peacefully protest. Furthermore, I can not condone the actions of individuals who feel they are above the law and choose violence, harassment or vandalism as a means of voicing their views. Therefore, I will vote yes on FACE. In addition, I want to commend the work of Chairman BROOKS and Chairman SCHUMER in bringing this bill to a vote and urge my colleagues to support this bill.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. Mr. Chairman, I rise in strong support of the Freedom of Access to Clinic Entrances Act. Chairman SCHUMER and Representative CONNIE MORELLA are to be commended for their hard work in bringing this critical legislation to the floor.

Mr. Speaker, this bill is long overdue. Indeed, the murder of Dr. David Gunn last spring in Florida was only one tragic indication that the violence has gone too far.

For too long we have allowed the rhetoric of extremists to escalate. Some who could not achieve their goals through the political process have turned to violence and intimidation—they have taken the law into their own hands, and the results have been devastating.

The facts speak for themselves:

In one recent survey, 50 percent of clinics experienced severe antiabortion violence this year. These violent acts include death threats, stalking, chemical attacks, arson, bomb threats, invasions, and blockades.

The National Abortion Federation reports that the number of violent incidents has more than tripled in the last 2 years.

And the longer we wait to pass Federal remedies, extremists are developing new, more insidious ways to attack clinics and to ensure that women do not receive vital services. This year we have seen a frightening use of noxious chemicals to close clinics and harm clinic personnel.

These attacks can cost hundreds of thousands of dollars. This year alone, extreme violence against clinics have caused almost $4 million in damages to clinics.

Mr. Speaker, these violent acts don't happen in a vacuum. They have real effects on real people.

Each blockade, each act of intimidation, each bombing, each arson, each chemical attack means that women and their families do not have access to basic health care.

These clinics do much more than provide abortion services. They provide family planning services, prenatal care, and even adoption services. Earlier this year the Blue Mountain Clinic in Montana was destroyed by arson. It had provided prenatal care and delivery, childhood immunizations, and contraceptives services.

Mr. Speaker, there is a clear nationwide campaign of terror and violence to deprive women of their basic rights. yet State and local law enforcement officials are either unwilling or unable to adequately safeguard the victims.

Women who seek reproductive health services, and physicians who brave almost daily harassment, need our help. We must pass legislation that provides relief both to providers and their patients.

I ask my colleagues to remember that these clinics provide critical health care services to women and their families.

And I ask my colleagues to remember that we are a nation that respects the right to protest, but deplores the use of terror and intimidation.

I urge my colleagues to support H.R. 796.

Mr. SENSENBRENNER. Mr. Chairman, I yield such time as he may consume to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Chairman, while I hoped I could support this bill, based on the present language I rise in opposition.

Mr. Chairman, I come to this debate as one of the few Members endorsed by neither the pro-life or the pro-choice lobbying organizations. I have always tried to carefully consider each and every issue on the subject of abortion precisely on its merits. The issue before us must be considered in this same way.

To be honest, I came to this debate fully expecting to support the legislation before us. The concept that people can take the law into their own hands is repugnant to me. If we allow individuals to decide for themselves which laws to honor, and which ones to ignore, we will have nothing but anarchy. The operations and tactics of Operation Force and like-minded organizations, I find offensive. Violence to individuals seeking a service, to individuals performing a service, or to buildings housing a service legal under the law simply cannot be tolerated or accepted. Violence is not the solution to resolving this very personal and difficult issue and, for this reason, I had hoped to support the legislation before us.

But a crucial test for every legislator ought to be whether we believe such actions are constitutional. The very oath we take swears us to uphold the Constitution of the United States. We must do that on issues, without regard to the controversy or political consequences of such action. When I defend the constitutional right of every citizen to have equal opportunity in our society, I must do so for everyone. I find that on some issues certain guarantees in our Constitution offend conservatives. On others these guarantees offend or inconvenience liberals. But the same protections must be afforded everyone.

The language in the proposed legislation which concerns me reads as follows:

> Whoever by force, threat of force, or physical obstruction, intentionally injures, intimidates, or interferes with any person, or attempts to do so, because that person or any other person or any class of person is obtaining or providing reproductive health services (is subject to criminal and or civil penalties).

It is my conclusion that such language presents three potential problems constitutionally. However, before doing so, I should note that some will suggest this language is modeled after existing Federal language with respect to voting rights and racial discrimination. But there is a difference. Voting rights and civil rights are explicitly guaranteed by the Constitution. Reproductive rights are not. Indeed, Roe versus Wade and other abortion rights decisions are not premised upon any explicitly constitutional guarantee but, rather grounded in the implicit right to privacy which pervades the Constitution.

Obviously, I strongly believe in a constitutional right to privacy. However, the Supreme Court has historically distinguished between legislation based on explicit and implicit constitutional rights. So, just because we have other statutes that employ this language does not necessarily make it appropriate in this legislation.

The 14th amendment provides that no State shall deny any person the equal protection of the laws. While there is no corresponding explicit prohibition against the Federal Government, the Court has held that the fifth amendment's due process clause—life, liberty, or property may not be taken without due process of the law—implicitly guarantees equal protection.

What does that mean for the bill before us? H.R. 796 prohibits physical obstruction which intimidates or interferes with another's obtaining reproductive health services. One could argue that this singles out those individuals who blockade abortion clinics for civil and criminal penalties but leaves other blockaders such as union employees go scot-free when they engage in similar activities and, as such, violates equal protection provisions.

Here, the Court has, and will, distinguish between speech and action. If the bill prohibited picketing at an abortion clinic, the Court would probably find a violation of equal protection since you are punishing one form of speech over another. However, the Court is not so inclined to find a violation of equal protection where its actions, like obstructing entrance to a building, that is regulated and the illegal actions is narrowly defined. Thus, based upon the 14th amendment, I am not ready to conclude an equal protection problem exists.

A second constitutional challenge to the bill will likely be based upon the first amendment's protection of free speech. Again, I believe the proposed legislation meets this test. For the bill states, "nothing in this section shall be construed to prohibit expressive conduct (speech) protected from legal prohbition by the first amendment to the Constitution." This language will direct courts to interpret the bill as aimed only at illegal actions.

So what is the problem constitutionally?

The due process clause of the fifth amendment restricts the Federal Government from taking the life, liberty, or property of any person without the due process of the law. So what does that mean? Oversimplified, it means that every person is entitled to certain legal procedures before the Government can act against them—specifically; notice, a hearing, and an appeal.

Notice means just what it says—that a person has warning that the Government is about to act against them. In this context, a statute that is so vague or all encompassing that it fails to provide adequate notice/warning of prohibited behavior or blurs the line between prohibited behavior and obviously legal behavior will be declared unconstitutional by the courts as overbroad and failing to provide due process to the persons charged thereunder.

Specifically, any person who "by threat of force or physical obstruction * * * intimidates" any other person obtaining reproductive health services violates H.R. 796. Clearly, there are situations under which that could happen. However, the context of the situation is also relevant.

Not every threat of force or physical obstruction intended to intimidate is illegal. In fact, in Wisconsin such actions are not criminal unless a reasonableness standard is met—that is, in the case of threatened force, that a reasonable person under the circumstances would believe that the force was imminent and the person making the threat was capable of delivering the force.

It may be intimidating to have an 80-year-old pro-lifer singlehandedly try to obstruct your entering an abortion clinic by standing in your way and handing you a pamphlet. But is it reasonable to believe this person will actually be able to keep you out? Contrast that to a situation where hundreds of Operation Rescue protestors truly block access to the clinic. Yet, under the bill as drafted, both actions are equally prohibited.

While the amendment by Mr. SCHUMER intends to further clarify the meaning of "intimidate," it is my conclusion the language remains overly broad. I would suggest that to solve this problem one must either further define "intimidate" to mean "imminent threat to bodily harm" or perhaps even better, simply delete the word "intimidate" and properly but narrowly define the word "interfere."

Anyone who has followed my legislative record knows full well of my commitment to tolerance under the law for those people, actions, and even lifestyles that we may not approve of but which must be allowed under the protections of a free society and the Constitution. Yet, it would be wrong for me to vote for legislation simply because I agree with its goal or title.

In an attempt to protect the rights of those who seek the services of a reproductive health clinic, we cannot deny the legitimate rights of those who seek to protest such actions. If our goal is to find that proper balance of protection for both parties, then we have a legislative obligation to define narrowly and properly the terms in a way which will withstand review by the courts.

I have come to the conclusion this legislation is nothing but a lawyer's dream. It will increase litigation and case law by both plaintiffs and defendants. It will result in the courts attempting to do what we should be doing today—properly defining the law.

I am willing to work with any and all to properly solve the legal questions before us. I am willing to work with any and all to guarantee that all Americans have the opportunity afforded them by the Constitution. But I am not willing to vote for legislation that sounds good, but I fear does nothing.

We can and we should do better.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Oklahoma [Mr. ISTOOK].

Mr. ISTOOK. Mr. Chairman, this bill is about extremism. This bill is an extremist bill being pushed by extremists. Because there are a few, a very few, who use violence to oppose abortion, this bill seeks to retaliate.

This bill is the moral equivalent of launching a nuclear attack against all pro-life protesters, whether they are violent or not. You say you want to punish murder; I agree. But we already have stiff laws against it, including the death penalty. Another law will not help. You say you want to punish arson and fire bombing; I agree. But we already have stiff laws against those crimes. Another law will not help.

This bill is not needed to go after violent protesters. The problem is what it does to nonviolent protesters.

What is it that is new in the bill? It says if you interfere with somebody, if you make a physical obstruction, no matter how slight, that is it; you get a year in prison and a $100,000 fine, a civil lawsuit for at least $5,000, punitive damages, and legal fees. That is extreme.

So what might you do to bring down the full weight of the U.S. Government upon you? If you picket an abortion clinic and you step in front of someone going in, you have physically obstructed them. You have interfered. You get it. If you politely stop somebody and say, "Won't you think this over before you go in?" You have physically obstructed them. You have interfered. You get the full penalty, the incredible and obscene level of penalties.

We already have laws against trespass. Use them. We have laws against destruction of property. Use them. We have laws against violence. Use them.

More than anything else, this bill reminds me of something that happened when I was in college, the tragedy at Kent State, when protesters were shot and killed by Federal troops. That is the kind of extremism that this bill promotes, the attitude of "Kill the protesters."

You cannot put a false face of moderation on this extremist bill. It goes off the deep end. Make the punishment fit the crime, but do not launch the equivalent of a nuclear attack against those who keep protests peaceful.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from Pennsylvania [Ms. MARGOLIES-MEZVINSKY].

Ms. MARGOLIES-MEZVINSKY. Mr. Chairman, I am speaking today on behalf of the thousands of women, health care providers, and staff who have become victims of a national war declared upon them by extremist protestors. Protestors who do not wish to express their opinions lawfully and peacefully, but who instead use bombs, guns, and physical violence to get their point across.

Mr. Chairman, I would like to read a quote from a threatening letter delivered to a clinic in Pottstown, which is in my district. Signed by a group named Avengers for the Unborn, the letter reads:

> The religious wimps who protest outside abortion clinics are useless because they are too peaceful. It is time to meet violence against the unborn with violence against the murderers of the unborn.

This kind of harassment cannot be tolerated.

These clinics that have been threatened, bombed, or blockaded offer more than just abortion services, they offer crucial, sometimes lifesaving health care services to women. Many women, especially low-income women, are dependent upon these clinics for prenatal care, treatment of sexually transmitted diseases, and cancer screening. Blocking women from obtaining health care is not simply an inconvenience, it is a crime.

Finally, Mr. Chairman, to say that this bill denies first amendment rights is ludicrous. No one in this body wants to deny anyone, regardless of his or her views, the right to speak his or her mind. However, let us make it perfectly clear that the right to free speech does not include the right to threaten, harm, or deny anyone his or her right to enter a clinic.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from New York [Mrs. MALONEY].

Mrs. MALONEY. Mr. Chairman, I rise in strong support of the Freedom of Access to Clinics Act.

This act is needed to protect Americans against those who resort to terror and even murder to impose their views through violence and intimidation.

The violence has been directed at people who have attempted to enter medical facilities that offer abortion among a full range of health services.

This violence has been directed at both patients and providers, and has included the murder of a doctor in Florida and the wounding of another doctor in Kansas.

Mr. Chairman, this legislation would simply make it a Federal crime to obstruct access to a clinic, to intimidate, injure, or interfere with anyone seeking or providing reproductive health services.

In other words, you cannot break the law to force your views on someone else. If someone tried to use these tactics to block entry to a supermarket, no community in America would tolerate it. Family planning clinics deserve the same protection.

Last year Congress passed a bill that prevented the violent blockade of animal research clinics. Certainly human health facilities deserve the same protection.

This bill is not about free speech, which is protected under the legislation. It is about conduct that is irresponsible and ought to be illegal.

□ 1350

Mr. SENSENBRENNER. Mr. Chairman, I yield such time as he may consume to the gentleman from Alabama [Mr. BACHUS].

Mr. BACHUS of Alabama. Mr. Chairman, while I deplore the violence that has been mentioned, I reluctantly rise in opposition to H.R. 796 in its present form and in support of the Smith substitute amendment.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. HERGER].

Mr. HERGER. Mr. Chairman, I rise in strong opposition to this legislation, which poses a direct threat to the first amendment free speech rights of every American.

There are dozens of Members of this body who began their political careers in the antiwar or civil rights movements. We regularly hear them tell stories of the struggles they engaged in on behalf of their beliefs.

Nonviolent civil disobedience was a hallmark of both movements. Where would the civil rights movement have been if $250,000 fines had been imposed on those who staged sit-ins at segregated lunch counters? Would we have tolerated laws allowing the bus company to sue Rosa Parks for punitive damages just because she inconvenienced them?

There are currently strong penalties available to punish people who commit violent acts. Yet, this bill treats the pro-life movement as if all demonstrators were potential murderers.

Mr. Chairman, that is equivalent to saying that the Black Panther party was the norm for the civil rights movement, and that the Weathermen bombers were the norm for the antiwar movement. That is just not the case.

Let us not criminalize demonstrations based solely on the viewpoint of the demonstrator. Defeat this unfair and unconstitutional erosion of free speech.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Rhode Island [Mr. REED], a member of the Committee on the Judiciary.

Ms. SCHENK. Mr. Chairman, will the gentleman yield?

Mr. REED. I yield to the gentlewoman from California.

Ms. SCHENK. Mr. Chairman, I rise in strongest support of the Freedom of Access to Abortion Clinic Entrances Act.

Mr. Chairman, passage of this bill is extremely important to me, to the residents of California's 49th Congressional District, and to women across America. At stake is a woman's right to safe access to family planning services.

Last March, five San Diego clinics were sprayed with butyric acid, a dangerous toxin that irritates the eyes and respiratory tract and causes skin burns.

These were not isolated acts. Over 1,100 acts of violence against abortion providers were reported to the California Abortion Rights Action League last year.

Despite the prevalence of such violence, the FBI refused to investigate the attacks in San Diego on grounds that Federal law did not authorize an enforcement response.

Antiabortion violence is a national epidemic. H.R. 796 must be passed so our Government can give American women the protection they deserve.

Mr. REED. Mr. Chairman, I rise in support of H.R. 796, the Freedom of Access to Clinic Entrances Act. We must pass this legislation so that the women of our country are not prevented from exercising their right to reproductive health care by violent protesters.

I want to share with my colleagues the experience of Barbara Baldwin, a good friend of mine who is the executive director of Planned Parenthood of Rhode Island. Her story illustrates the need for Federal action.

The Planned Parenthood clinic waiting room has been repeatedly invaded by protesters. On one occasion, it took over an hour for the Providence Police to clear the reception area. Later, all of their exterior locks were filled with epoxy glue. When the locksmith arrived, one of the picketers told him she had a gun in her purse and would shoot him.

The medical director's face appeared on a wanted poster. His driveway has been mined with nails. He got four flat tires and his wife stepped on a nail when she went jogging. He has two small children and lives in a remote part of the State. In April, someone took out a life insurance policy on his wife, and sent it to the office. He has ordered and plans to wear a bullet proof vest.

The building that houses the clinic was splashed with red Xerox toner and had to be repainted—only to be resplashed with green fluorescent paint later. Clinic patients and staff are regularly harassed by protesters, who frequently videotape everyone going into the clinic. This clinic provides urgently needed preventive health care as well as abortion services.

The clinic executive director has been followed and harassed by a group of men, and eventually had to get a temporary restraining order.

The men who followed her have been arrested in Texas, Ohio, New York, the District of Columbia, Wisconsin, Georgia, and Arizona. They have served time in North Dakota and North Carolina. These are not local protesters: This is a nationwide network.

Since 1977, over 1,000 acts of violence have been reported in the United States, including 36 bombings, 81 arsons, 131 death threats, 84 assaults, 327 clinic invasions, 2 kidnapings, and 1 murder. It is clear that State and local enforcement has been overwhelmed by a nationwide campaign of violence designed to intimidate health care providers and their patients. It is time for the Federal Government to step in and stop this siege.

The shooting of Dr. David Gunn, anonymous death threats to clinic owners and physicians, arson, bomb threats, and physical attacks on clinic staff and patients are not the acts of peaceful protestors. We cannot allow a organized campaign of intimidation and violence to stop Americans from exercising their right to reproductive health care. This bill is evenhanded, and protects not only abortion clinics but abortion alternative counseling and pregnancy centers to the extent that they are threatened by force, physical obstruction, and destruction of property. H.R. 796 guarantees the right of everyone, those on both sides of the abortion issue, to engage in peaceful protest.

It is incumbent upon us today to protect health care workers like Barbara Baldwin, her staff, and others like her across the country. I urge my colleagues to support this important legislation.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. Mr. Chairman, I rise today to urge my colleagues to vote for passage of the freedom of access to clinic entrances bill with no weakening amendments. This bill will give our law enforcement officers the tools necessary to prevent blockades of clinics and to punish those who insist on breaking the law time and time again.

I want to point out that this is not an issue of freedom of speech, nor, are many of the protesters in front of abortion clinics nonviolent as they claim.

Instead, they are opposed to allowing women access to the health care of their choice, just as segregationists in the 1950's were opposed to allowing African-Americans access to education and voting.

In the south, in the early 1960's, people opposed to individual freedoms burned crosses, bombed houses, destroyed churches, and killed people who sought to exercise their constitutional rights.

That same legacy of hate and violence was demonstrated at abortion clinics across the country this year, as one doctor was murdered, and another shot.

Mr. Chairman, since 1977, there have been over 1,000 violent acts at family planning clinics including bombing, arson, kidnaping, assault and battery, and murder.

This is America in 1993. It is not the south in the 1950's, and, we must not allow these violent hate crimes to continue.

I urge my colleagues to join me in putting an end to the unlawful activities waged by protesters at clinics. Vote "yes" on the freedom of access to clinic entrances bill.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Chairman, some who say it is OK to burn the American flag, some who would have pornography funded by the National Endowment for the Arts cite the first amendment. Look at the union picket lines. They say, it is OK for those kinds of things to go on with the unions and their picketing, but try and stop someone that is stopping the loss of life, that is a different thing. That is a double standard.

Mr. Chairman, I rise today in opposition to H.R. 796. Union violence against a workplace, homosexual activists disrupting a Roman Catholic Mass, theft of student newspapers because one group deemed them racist, and, yes, violent trespass and vandalism of abortion clinics all share a common thread. Each one takes an inappropriate action to send a particular message.

While a union may or may not strike, its members may not sabotage a plant without subjecting themselves to the American justice system and sure punishment.

Now we want to make one type of protest subject to Federal punishment and impose a $100,000 penalty and a 1-year prison term. While homosexual organizations may have a dispute with the teaching of a church, disruption of a mass is trespassing at least and a strident violation of our first amendment freedoms.

Theft of a large number of publications is not just theft. It is a theft that does damage to our first amendment freedoms.

It must be pointed out that blocking access to any building is considered trespass under law, State law. Vandalism against private property is punishable by fines, prison terms and/or both.

This bill also goes against States' rights.

All this brings us to the legislation under consideration today, the Access to Clinic Entrances Act. Illegal as all the above activities are, this particular legislation creates a newer, higher level. This bill is unnecessary and I urge my colleagues to oppose it.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Wisconsin [Mr. KLUG].

Mr. KLUG. Mr. Chairman, I spent 12 years of my life working as a journalist. No issue is more important to me than the first amendment. And so when this legislation was first introduced, I have to tell my colleagues that as somebody who considers themself pro-choice, I took a look at this legislation with some great trepidation.

I am not a lawyer by training, which frankly may be an advantage in life, but in this particular case, I do not think served me very well.

I asked two professors at the University of Wisconsin, who are experts in constitutional law, to see whether the first amendment specifically applied in this case and whether the rights of the first amendment were indeed protected.

I want to share something with Members that Prof. Larry Church wrote. He said, "This bill prohibits conduct, not expression," which is exactly the argument the gentleman from New York [Mr. SCHUMER] has made. "This is a crucial distinction," Professor Church writes.

He said,

> Last summer, a unanimous Court upheld a Wisconsin statute which enhanced the penalty for a crime if it was committed out of animus against "race, religion or color." Writing for the Court, Justice Rehnquist distinguished the Wisconsin law on the grounds that the St. Paul ordinance which was previously stricken found as unconstitutional was explicitly directed at expression, such as a speech or messages, while the Wisconsin statute was aimed at conduct unprotected by the First Amendment. Similarly, H.R. 796 is explicitly not directed at expression, but rather aims only at unprotected conduct.

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So it is clear to me as a defender of the first amendment that the first amendment is protected under this language. The case of the gentleman from New York [Mr. SCHUMER] prevails, and in this case the right that now needs protection is the right of women to seek an abortion if they choose to do so.

I urge my colleagues to vote "yes."

Mr. Chairman, I include the correspondence I referred to earlier:

UNIVERSITY OF WISCONSIN,
Madison, October 14, 1993.

Re H.R. 796 and the first amendment.

To: Congressman Scott Klug.
From: Professor Ted Finman.

The Chancellor's office has asked me to examine H.R. 796 and give you my thoughts on how it fits with the First Amendment. I am pleased to do so and hope the following will be useful to you.

My overall conclusion is that H.R. 796 does not violate the protection which the First Amendment provides for speech and other communicative activities. Section (a)(2) deals with damaging or destroying property. It is difficult to see how such conduct could claim First Amendment protection. Thus I take it that the constitutional questions that have been raised are directed to Section (a)(1). As I read this provision, it prohibits the following:

1. intentionally injuring or attempting to injure someone;
2. interfering or attempting to interfere with someone through the use of force or a threat of force;
3. interfering with someone, or attempting to do so, by making entry or exist from an abortion facility unreasonably difficult;
4. using force or threat of force to intimidate or attempt to intimidate someone, or intimidating or attempting to intimidate someone by making entry or exit from an abortion facility unreasonably difficult.

None of these prohibitions restrict speech per se. Speech is prohibited if it constitutes a threat of force and is used to interfere with someone's effort to obtain or provide reproductive services. That sort of speech, used for that purpose would not be considered protected by the First Amendment. H.R. 796 also speaks about intimidation. Here, however, it is critical to note that H.R. 796 does not prohibit intimidation itself. Rather it prohibits certain means of intimidation: intimidation brought about through the use of force, threats of force or obstruction of facilities. None of these means would be characterized as protected "speech" within the meaning of the First Amendment.

In brief, it is difficult to see how opponents of H.R. 796 could genuinely believe that its prohibitions violate the First Amendment. It may be that they are concerned with how law enforcement officials might apply such a law rather than with what the law says on its face. Section (d)'s exemption of picketing and other expressive conduct provides substantial protection against possible misuses of H.R. 796.

Nothing in a statute, of course, can eliminate all risks of this sort. However, so long as a statute is valid on its face, as H.R. 796 appears to be, the risk of misapplication does not make it constitutionally infirm. Perhaps more importantly, as a practical matter, if such a risk was a good reason for not adopting a law, we would have few laws of any sort. Indeed, if risk of abuse were a telling objective, many valid and useful laws that deal with communicative activity—laws that play a vital social role—would never have been adopted.

For example, many if not most municipalities have ordinances regulating the time and place of parades, marches and similar communicative activities. Experience demonstrates that such laws are subject to abuse. Yet most of us recognize that these ordinances fulfill critical governmental functions, and thus that abuses must be dealt with as they arise, not by foregoing the laws themselves.

It is, of course, difficult to assess the risk of misuse, and I do not purport to possess any expertise on this matter. My personal judgment, however, for whatever it may be worth, is that the risk of misuse of H.R. 796 is small. The watchful eyes of those who oppose abortion and of those who zealously support the First Amendment are likely to deter improper applications of the law. Certainly whatever risk remains will be no greater than the risks associated with many laws that we consider an essential part of our social fabric.

OCTOBER 14, 1993.

Re abortion legislation.
From: Larry Church.

This brief memo is in response to your request that I reply to a request from the office of Congressman Scott Klug to review the constitutionality of a bill, H.R. 796, (Amendment Substitute offered by Rep. Schumer) which would make it a federal criminal and civil offense to "block access to reproductive health services." Whether a law is constitutional, of course, depends ultimately on whether the Supreme Court says it is. In my judgment, at least a majority of the Supreme Court, and possibly all of the Justices, would sustain this law. Thus, I think the bill, if enacted, would pass constitutional muster.

The case that might most give pause to my conclusion is probably R.A.V. v. St. Paul, 112 S.Ct. 2538 (1992), in which the Court, per Justice Scalia, struck down a municipal ordinance that criminalized the placing on public or private property of symbols which arouse anger, alarm or resentment on the basis of race, religion or gender. The Court found that the ordinance prohibited expression only with respect to identified "disfavored topics," in violation of First Amendment guarantees of free speech.

H.R. 796 bans only interference with persons seeking or providing reproductive health services. It does not reach any other kind of interference. The bill provides injunctive relief and compensatory and punitive damages (including "statutory damages" of $5000 per violation, in lieu of actual damages) and reasonable attorney and expert witness fees, as well as criminal sanctions that start at one year in prison for a first offense. The bill would have the effect of limiting physical intimidation or coercion, and certainly violence, at abortion clinics—this is presumably precisely its purpose. Because of the severity of its criminal and civil sanctions, and because of the inevitable ambiguity of some of its key terms, (prohibited physical obstruction, for example, is defined in Section (f)(3) to include rendering passage to or from a reproductive health facility "unreasonably difficult") the bill might also induce caution on the part of those who plan only robust, but possibly also intimidating to some, demonstrations. Critics of the bill might thus argue that it does trench upon expression respecting a disfavored topic and so falls within the ambit of the R.A.V. case.

However, I do not think that the H.R. 796, if enacted, would be struck down by the Court. One reason for this is that the bill makes a determined effort to ensure that expression does remain protected. Section (d) explicitly exempts "any expressive conduct" protected by the First Amendment from coverage under the bill; and even though there must always be some ambiguity about operative terms in a statute, Section (a) includes as prohibited actively only that which "by force, threat of force, or physical obstruction, intentionally injuries, intimidates or interferes" with another person. The impact of these provisions is that the bill prohibits conduct, not expression. This is a crucial distinction. Last summer, a unanimous court upheld a Wisconsin statute which enhanced the penalty for a crime if it was committed out of animus against "race, religion, color, disability, sexual orientation, national origin or ancestry." (See Wis. Stat. 939.645(1)(b).) Writing for the Court, Justice Rehnquist distinguished R.A.V. on the grounds that the St. Paul ordinance was explicitly directed at expression, such as speech or messages, while the Wisconsin statute was aimed at conduct unprotected by the First Amendment. Similarly, H.R. 796 is explicitly not directed at expression, but rather aims only at unprotected conduct.

Another case that has a bearing on the issue is *Bray* v. *Alexandria Women's Health Clinic*, 113 S. Ct. 753 (1993), the decision which perhaps precipitated the drive to pass H.R. 796. In Bray, a mojority of the Court concluded that the Civil Rights Act of 1871, now codified at 42 U.S.C. Sec. 1985 (5), did not protect against obstructive demonstrations at abortion clinics, However, the Court held only that the old statute did not apply, not that Congress should not constitutionally pass such a statute. The reason the statute did not apply, the Court said, was because it covered only racial or other class-based discrimination.

Again, there is a critical distinction between a holding that a particular statute does not actually apply to abortion obstructions and one concluding that a different statute that did so apply would be unconstitutional. Justice Scalia's opinion for the Court in Bray goes only to the first point, not the second. Even this much was troubling to two concurring Justices. Justice Kennedy wrote: "Even in the context of political protest, persistent organized, premeditated lawlessness menaces in a unique way the capacity of a State to maintain order and preserve the rights of its citizens." 113 S. Ct. at 769. Justice Souter concluded that although no finding of an actionable conspiracy had expressly been made, such a finding would have been "supportable on this record." 113 S. Ct. at 778.

For three dissenting Justices, (Blackmun, O'Connor and Stevens) the old 1871 statute did apply; and there was no doubt about the constitutionality of that: "The Court ignores the obvious (and entirely constitutional) congressional intent behind Sec. 1985 (3) to protect this Nation's citizens from what amounts to the theft of their constitutional rights by organized and violent mobs across the country." J. Stevens, dissenting, 113 S. Ct. at 780. (Emphasis added.)

In conclusion, I believe the Court would uphold H.R. 796 against constitutional attack. A woman's constitutional right to obtain an abortion was sanctioned, even created, by the Court itself twenty years ago in *Roe* v. *Wade*. For the Court now to strike down practical congressional support for the implications of that original decision could only severely undermine the decision itself. Given the recent decisions noted above (not to mention the replacement by Justice Ginsburg or Justice White, who was with the majority in Bray and dissented in *Roe* v. *Wade*) this does not seem likely, either in terms of free speech or abortion jurisprudence.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I am a graduate of the University of Wisconsin Law School. One of the things they taught me there is, half the lawyers in the country are wrong, and they are the ones that lose their case. With all due respect to my colleague, the gentleman from Madison, WI, Mr. KLUG, the law professor that he quoted is wrong because the word "intimidation" is stated in the statute.

One can hold up a sign in front of an abortion clinic when standing in front of the entrance that says, "Don't kill your baby." That speech, that is intimidation, and that will result in a jail term and in a $250,000 fine. That is why the first amendment is violated. Remember, we do not need a first amendment to protect politically correct speech.

Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN. Mr. Chairman, the gentleman from Wisconsin [Mr. KLUG] and I are both Jesuit-educated. But I laid down in front of a sheriff's office in Mississippi, and I knew I was breaking the law and could be arrested. It was a peaceful demonstration similar to nonviolent protests led by Ghandi who learned this tactic in Ireland. What is wrong with the IRA in Ireland is that they abandoned this tradition and turned to violence. If they had stayed with the peaceful demonstrations that helped win 26 of those 32 counties independence in the beginning of the century, we would not have this tiny island nation still divided.

No, the gentleman from Wisconsin [Mr. KLUG] is wrong. I wish we could have had him here during the flag-burning debate in which Morton Halperin was leading forces saying that to burn a flag in front of veterans in wheelchairs was not conduct but expression. If burning a flag is expression why isn't other forms of peaceful protest.

Civil disobedience, but peaceful, is protected in this country, and you must pay the piper and go to jail if you violate the law. Aside from the distinguished Black Caucus in this House, I wonder how many people in this House have put their body on the line in peaceful demonstration against laws that they have found were wrong.

Now my friend, and he is my friend, the gentleman from New York [Mr. SCHUMER], is dead wrong. To demonstrate his hypocrisy, I will quote his own words from the debate on the Animal Enterprise Act last year. In this debate, he, Mr. SCHUMER claimed, "violent attacks by extremist groups" is all we are after in this bill, continuing that, "This bill now focuses specifically on these attacks." He went on to say, "Most important, the amendment restricts the scope of the bill to serious offenses. Trivial instances will be left where they should be, to State and local systems."

I include for the RECORD a summary of violent acts by pro-abortion people, not human reproductive freedom people, but pro-abortion people, who insist on killing preborn children with souls ordained by God, at anytime in the womb through all 9 months.

Here are just a handful of instances of violence against peaceful pro-life demonstrators, including a Buffalo abortionist who assaulted pro-lifers with a baseball bat. The liberals are going too far here, Mr. Chairman. This will go to the Supreme Court. And it will lose.

Mr. Chairman, let me say that while I am a strong opponent of abortion on-demand, under no circumstances do I advocate or condone any violence or terrorist attacks against abortion clinics, an abortion practitioner, or other individuals involved in the abortion business. As someone who opposes violence against all human beings, born and pre-born, I find these acts to be reprehensible and horribly counterproductive to the message of the pro-life movement.

Furthermore, the harsh penalties of this legislation would not apply to those who block the doorway of a medical facility in order to protest animal research, promote AIDS funding, demand national health insurance, or whatever. In fact, no Federal offense occurs unless the impeding is done with intent to prevent or discourage any person from obtaining a reproductive health service—defined in the bill to include abortion and abortion counseling.

In fact, FACE seeks to create a Federal thought crime—a criminal offense defined in terms of anti-abortion motivation—which would, in effect, chill the exercise of our constitutionally protected first amendment rights.

If antiwar protesters during the Vietnam war were slapped with high fines and lengthy jail terms for trespassing or engaging in violence, the liberals in this House would have gone berserk. And if civil rights activists in the 1960's were afforded the same Federal penalties for participating in sit-ins and the like, the reaction would have been similar. Then and now, liberals would argue that Americans have the right to free speech.

But because the politically correct majority in the media and in Congress don't like to hear what some Americans have to say about abortion, they have decided to elevate the right to kill pre-born children above the constitutional right to freedom of expression. Make no mistake about it—the intent of this bill is to silence the entire pro-life movement.

The overwhelming majority of pro-lifers are peaceful and nonviolent. And many of the men, women, and children who demonstrate outside clinics are there simply to pray, sing, or provide information to women who are facing a crisis pregnancy.

The pro-life movement should not be condemned because of a handful of individuals who have engaged in actual violence. As a fellow abortion opponent has stated, "To blame the pro-life movement for such isolated events is like discrediting the anti-slavery movement because some zealous abolitionists burned the crops of slave owners." Moreover, I am confident that many in the homosexual, anti-war, animal rights, and the pro-abortion movement are equally appalled by violent individuals in their movements who misconstrue the message they are trying to convey.

But in reality, this bill does not seek to put an end to violence against abortion clinics and abortionists. Indeed, we already have laws on the books that punish violent and unlawful protesters. And I believe these laws should be enforced to the fullest possible extent. Yet this bill seeks to put an end not just to the violence but also to peaceful protesting and civil disobedience of pro-life activities only. No other interest group is subject to Federal criminal penalties.

Yet the FACE bill does not address specific acts of violence like the one that involved the murder of Dr. Gunn. Instead, it targets an entire movement that has the constitutional right to express itself through the free speech clause.

Why are not supporters of this bill concerned about acts of intimidation, violence, and destruction of property by pro-abortion activists?

Consider these examples:

A pro-abortion organization called Church Ladies for Choice demonstrated outside the Calvary Temple in St. Louis MO, in response to the Calvary's assistance in Operation Rescue's summer training program. They banged drums, shouted obscenities, and harassed and mocked churchgoers. When the police arrived, the mob began to turn on them. Six protestors were arrested on charges of assault and obstructing police.

A large group of pro-abortionists blocked the entrance to the Brooklyn Park Evangelical Free Church parking lot while pounding on and denting cars that dared to pass while shouting filthy obscenities at families.

A Right To Life office in Gainesville, FL, was firebombed when a proabortion activist tossed a molotov cocktail at the building.

Dr. Alan Ross, co-owner of a Gaithersburg, MD, medical clinic was found guilty of assaulting two abortion protestors—it was his second conviction in 3 months. He previously jammed a hypodermic syringe into the arm of an antiabortion activist.

A Buffalo abortionist was arrested in 1989 for attacking pro-lifers with a baseball bat.

Joe Scheidler, a pro-life activist, was visited by pro-abortion protesters who stood outside his home and screamed obscenities, then came through the yard and hung black hangers in the trees, on his screen door and on his porch lamp. They proceeded to ring the door and present his wife with a bouquet of hangers for her husband.

There are countless incidences prompted by other protest groups:

The blasphemous show by AIDS activists at St. Patrick's Cathedral in New York City a few years ago. In the name of homosexual rights, these people chained themselves to pews during Mass, then proceeded to spit on and pelt condoms at churchgoers.

On September 19, 2 months ago, the Hamilton Square Baptist Church was stormed by almost 100 homosexual activists who jostled churchgoers, threw rocks, assaulted police officers, and kicked down church doors. They also ripped down the church's Christian flag and replaced it with a homosexual flag, broke a cement bench, and caused over $2,000 in property damage. Later that day, they threatened to throw jars filled with gasoline through the windows of the church.

During the Vietnam war, campuses were bombed killing people, researchers were killed because they performed defense contracts. Speakers who supported U.S. intervention were commonly assaulted.

This bill is patently unconstitutional. It would set a precedent of making criminals out of people based solely on motivation. This contradicts the premise of our criminal justice system which seeks only to punish wrongful action, not wrongful thought.

That my colleagues are thumbing their noses at the impending slippery slope to all political crusades is incredible. If you don't think this legislation has the potential to completely outlaw peaceful protests and civil disobedience, which was effectively used by the late Rev. Martin Luther King, then I suggest you read this bill carefully.

With this said, I ask my colleagues to join me in opposing this outrageous piece of legislation.

Mr. BROOKS. Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana [Mr. SHARP].

Mr. SHARP. Mr. Chairman, I rise in support of the bill and against growing violence against individuals who have the right of access to health and reproductive clinics, and also to protect the right of people to peacefully protest.

Mr. BROOKS. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Michigan [Miss COLLINS].

Miss COLLINS of Michigan. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I support the Freedom of Access to Clinic Entrances Act and I want to make one thing clear: This bill is about protecting rights, not infringing them. H.R. 796 makes it a crime to use force or threats of force to obstruct access to a reproductive health clinic or to damage such a clinic.

It is important to understand that this bill does not infringe on anyone's rights. In fact, it would explicitly allow peaceful protest. No one is required under this legislation to put down their picket sign or stop distributing literature.

What this bill does require is punishment of those who use violence and intimidation to block people who are trying to get legal health care services. Our Constitution protects free speech. As an African-American and as a woman, no one understands better than I do that nonviolent civil disobedience is an effective means of social protest. The right to peacefully express one's views is a precious constitutional right.

But I believe in the adage that "Your right to swing your arm ends at my face." When anyone interferes with the constitutionally protected right of anyone to consult with his or her health care provider of choice, that conduct should be punished.

Again, this bill is about protecting basic rights. H.R. 796 sends a message that we will not tolerate violence or intimidation that interferes with constitutionally protected rights. It has a double thrust: It protects peaceful demonstration and the right to choose your doctor without fear of violence. that is something we should all support.

The CHAIRMAN. The gentleman from Texas [Mr. BROOKS] has 6 minutes remaining, and the gentleman from Wisconsin [Mr. SENSENBRENNER] has 3 minutes remaining.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Mr. Chairman, I rise in opposition to this legislation. I am greatly concerned about the impact H.R. 796 will have on freedom of expression. Trespass and other forms of uncivil disobedience are illegal in virtually every State and municipality of our Nation. Thus H.R. 796 is a solution in search of a problem. This bill has a fatal flaw. It discriminates one class of people by making their beliefs—in many instances religiously motivated—a Federal crime. There is no justification for such a new role by the Federal Government.

Mr. Chairman, today's debate is not about civil disobedience. It is about making civil disobedience on behalf of one particular cause a Federal offense.

Look at the evidence. Members of unions who threaten other employees or even destroy property and attack other workers are not covered by this bill. This is true despite the fact that their actions potentially threaten the free association and contract rights of their employers and fellow employees. So called gay rights activists who interrupt worship services across this Nation are not covered by this bill. This is the case even though their actions infringe on a right so fundamental, free exercise of religion, that the Founders of this Nation insisted on placing it first among the Bill of Rights.

Sadly, only those who seek to protect the lives of unborn children are covered by this bill. Regardless of your position on the legality of abortion, I ask my colleagues on both sides of the aisle to consider the consequences of today's act. Let us not start down the path of making Federal crimes out of what are essentially philosophical disputes. The American people deserve better.

Mr. SENSENBRENNER. Mr. Chairman, I yield the balance of my time to the gentleman from South Carolina [Mr. INGLIS], who has a very important point to make.

The CHAIRMAN. The gentleman from South Carolina [Mr. INGLIS] is recognized for 1 minute.

Mr. INGLIS of South Carolina. Mr. Chairman, hidden away in this bill is another reason to be against it, not just the dangerous tide of the federalization of law enforcement, which we seem to be about in the other body and in this body here every day here lately, but leaving that aside, there is another very important reason to oppose this bill. This bill gives a plaintiff a private right of action, a clinic a private right of action to bring a lawsuit against a protester. That protester may be a grandmother on the sidewalk handing out a leaflet, yes, simply extending her arm to give a pamphlet to someone. Viewed from inside that clinic, that will be seen as an aggressive act, one that requires immediate action, and a lawsuit is filed against the grandmother, the grandmother finds herself in court, and we have the litigation explosion and the expansion of it through this bill.

No other civil rights bill gives this private right of action. This one is unique. This one gives a private right of action no other civil rights bill does. Why is that? Is this such a fundamental thing that we have got to give fuel to the fire, the litigation explosion? Stop the litigation explosion. Stop this act.

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Mr. BROOKS. Mr. Chairman, I yield 2½ minutes to the distinguished gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Chairman, I would ask the gentleman who just spoke to remain in the body, that, in fact, there is other legislation that provides the same right for civil action, and this body passed it without objection last year, which is the access to animal research laboratories.

I will comment that for years radical antiabortion groups have been denying women's rights.

Mr. INGLIS of South Carolina. Mr. Chairman, will the gentlewoman yield?

Mrs. UNSOELD. I yield to the gentleman from South Carolina.

Mr. INGLIS of South Carolina. Is there not a difference though between that statute and this one? Is that not a fact?

Mrs. UNSOELD. It is the same right of access, same right of access.

A vast majority of people that are protected under this bill are women, women going into health clinics for cancer screening, or a Pap smear, or a treatment of a reproductive disorder. They may be seeking help, fertility help, or, yes, possibly an abortion.

But all that these women are asking for is protection of their rights without fear of physical harm, without being pushed and shoved, without having to fight their way into a clinic.

Please, oppose weakening amendments and support passage of the Freedom of Access to Clinic Entrances Act.

For years, radical anti-abortion groups have been denying women's rights and endangering women's health by blockading family planning clinics. In the past year, they have stepped up their attacks. First there was noxious butyric acid, arson and vandalism. Then in March, outside the Pensacola Women's Medical Clinic in Florida, a doctor was shot dead at point blank range. In August, a doctor was shot and wounded in Wichita, KS.

A recent survey found that one in two family clinics has suffered severe violence this year. One in two. These attacks have sparked national outrage and demands that the brutal ideologically based violence be stopped.

The clinic access bill can make the violence stop by imposing tough Federal penalties on those who obstruct and harass people entering clinics. It is carefully crafted to protect the first amendment rights of protesters by explicitly allowing peaceful protest—from picketing and praying to speeches and literature distribution—as long as that protest does not physically block those trying to enter or exit a clinic.

The vast majority of people protected under this bill are women—going to health clinics for a cancer screening or a Pap smear, treatment of a reproductive disorder or yes, possibly an abortion. All that these women are asking from us is protection of their rights without fear of physical harm, without being pushed and shoved, without having to fight their way into clinic. Please oppose weakening amendments and support the final passage of the Freedom of Access to Clinic Entrances Act.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentlewoman from Kansas [Mrs. MEYERS].

Mrs. MEYERS of Kansas. Mr. Chairman, I am in support of H.R. 796, the Freedom of Access to Clinic Entrances. There is probably no group of people more outspoken and independent than Kansans, and I would not support this bill if it attempted to impose a certain belief on anyone or if it prevented anyone from speaking their mind.

However, the bill we are discussing seeks to prevent stalking, bombings, arson, and acid attacks to enforce their viewpoint. This bill does not set a precedent. In the past we have addressed national problems with national solutions. Examples are some civil rights laws, and the animal facilities protection act.

We need to protect first amendment rights and we need to ensure that everyone in a community has the right to a full range of legal medical services, without fear of violence or intimidation. I believe this bill does both.

Mr. COX. Mr. Chairman, I rise in opposition to H.R. 796. This legislation would create a new Federal felony for certain kinds of trespass, assault, battery, disorderly conduct, and obstruction of public ways already covered by State law.

I oppose the creation of a Federal criminal code. Criminal law—from murder to trespass—is properly the province of the States. Only when peculiar interstate or international problems of criminal law enforcement render State law inadequate should Congress enlarge the Federal criminal jurisdiction.

Because the conduct complained of by proponents of this legislation is always localized—comprising trespass, disorderly conduct, obstruction of public ways, assault, battery, and like criminal offenses—it does not fall within this narrow exception. If this legislation were to pass, the Federal courts will be required to handle cases as simple as trespass or vandalism.

This new law would also require such offenses to be investigated by the Federal Bureau of Investigation and prosecuted by the U.S. attorneys' offices. Much unnecessary litigation—both criminal and civil because there are new Federal civil causes of action in this bill as well—would be added to the already crushing burden on our Federal court system.

The Smith substitute, while less broad than the underlying bill, likewise federalizes a broad range of State law crimes. For that reason, despite my very high regard for its author, I must vote against it as well.

Instead of seeing to it that justice is served, federalizing basic criminal law enforcement only makes our entire criminal justice system less efficient. That is why I intend to vote "no" on H.R. 796.

Ms. LONG. Mr. Chairman, as a Member of Congress, the issue of abortion is one of the most difficult issues on which I must vote. I have long supported the rights of States to pass restrictions, such as parental consent or notification, that they believe are appropriate. Today the Congress has the opportunity to vote on an amendment that appears to protect the parent-child relationship in such situations.

The Freedom of Access to Clinics Act would make it a Federal offense to use force, threat of force, or physical obstruction to intentionally injure, intimidate, or interfere with anyone seeking reproductive health services. The DeLay amendment to this bill would exempt parents or legal guardians from penalties or civil remedies when their activities are directed at their minor child. In effect, this provision would allow parents to use force or threat of force against their daughter. I cannot support such a provision that would condone the use of force in such a situation.

Mr. CRANE. Mr. Chairman, I rise to oppose H.R. 796, the Freedom of Access to Clinic Entrances Act.

If the House should pass H.R. 796 as it was reported, we will prohibit the right to peaceful protest which is guaranteed in the first amendment of the Constitution. Moreover, this bill is specifically aimed at only one group of individuals, those who oppose abortion and are attempting to change its current legal status in the United States. Why focus on the pro-life protestors? Where is the concern about protestors during labor disagreements? Why not protect pro-life activists from violent pro-abortion groups? The limited scope of the bill certainly raises questions regarding equal protection under the law. The current language of the bill is so vague that the actions of individuals who peacefully stand before the entrance of a clinic are subject to the same penalties as the violent obstructionist protestors. This ambiguity could certainly lead to a flood of litigation.

While I oppose abortion on demand, I realize that those who perform abortions do have rights themselves. I condemn the actions of the individual who killed the abortionist Dr. David Gunn and those who have bombed clinics where abortions are performed. In fact, those seeking to protect the life of the unborn have condemned the Gunn slaying and the vast majority of organized pro-life demonstrators not only protest in a non-violent manner but have also condemned the violent actions of others.

Mr. Chairman, is it in the purview of the Federal Government to be involved in this issue? Absolutely not. Many States have laws on the books addressing some of the concerns raised during this debate. I believe that we must allow State and local governments to make these laws. If we do not, then we are merely extending the long arm of the Federal Government into every county courthouse and statehouse in America.

In my view, this bill will violate the constitutional rights of Americans to protest peacefully. For all of the above reasons, I urge my colleagues to reject H.R. 796.

Mr. FAZIO. Mr. Chairman, I rise in support of H.R. 796, the Freedom of Access to Clinic Entrances Act.

This is not about abortion, or the right to choose. It is about protecting patients and health care providers from the rapidly escalating violence that we have been witnessing at reproductive health clinics around the country. That is why, in spite of our differing views on the matter of choice, those of us who support this bill have come together on this issue. We believe that something must be done to stop the violence. We believe that individuals do not have the right to attempt to take the law into their own hands because they do not support a woman's right to obtain a safe, legal abortion.

Over the past 10 years we have seen over 1,000 incidents of violence and almost 500 blockades—not peaceful demonstrations—at reproductive health care facilities. One doctor has been killed. Another wounded. Patients and providers have been stalked and threatened. Clinic blockades and invasions, arson, chemical attacks, and bomb threats are all a part of this campaign. Yet, State and local laws have not been enough to address the scope of the problem.

But this bill gives the Federal Government the power to act when—and only when—protestors go beyond the lawful expression of their views and resort to acts of violence against those with whom they do not agree. The Freedom of Access to Clinic Entrances Act makes it a Federal crime to obstruct access to a reproductive health clinic or to damage such a clinic. It further makes it a Federal offense to force, threaten, obstruct, injure, intimidate or interfere with anyone seeking or providing reproductive health services.

The bill explicitly states that it does not apply to peaceful demonstrations, which are a form of expressive conduct that is protected by the first amendment. It does not violate anyone's right to free speech or to demonstrate peacefully. Protestors only break this law when their peaceful demonstrations turn into physical obstructions or, even worse, violence. The bill protects patients and providers and insures patient access, yet it allows those who choose to protest to do so peacefully, within their constitutional rights.

I respect the rights of those who believe that abortion is wrong. However, I also support a woman's right to access the complete range of reproductive health services, and the right of health care providers to render these services—without being assaulted or harassed. For too long, we have watched demonstrators, using physical obstruction and intimidation, prevent women from exercising their constitutional right to obtain an abortion. Enactment of the Freedom of Access to Clinic Entrances Act is long overdue.

Mr. ROSTENKOWSKI. Mr. Chairman, I rise today in support of H.R. 796, the Freedom of Access to Clinic Entrances Act. The increasing rate of vandalism, chemical attack, arson, death threats, and even shooting, is alarming. This legislation provides essential protection to health care providers and their patients.

In the past week, a group of protesters chained themselves to the Midwest Health Center, a clinic owned by Planned Parenthood of the Chicago area. This same clinic was one of three in the Chicago area that were struck by a chemical attack in 1992. Vandals poured a noxious acid through the clinic's mail slot, damaging carpeting, drapery, and furniture. At another health center in the city, vandals drilled a hole in the back door so they could spray the chemical in. the clinics were forced to be closed for a day, denying access to medical services and birth control information to communities with some of the highest levels of teen pregnancy and infant mortality in the Nation.

Mr. Chairman, this legislation responds to a nationwide campaign to instill fear in doctors and patients. Regardless of our individual views on abortion, we all share an obligation to protect the safety of our constituents. We also share an obligation to protect free speech. I support this legislation because it protects both. This difficult and divisive issue must be fought with reasoned words and ideas, not vandalism and terrorism.

Ms. PELOSI. Mr. Chairman, I rise today in strong support of H.R. 796, the Freedom of Access to Clinic Entrances Act. This bill is a carefully considered, carefully drafted measure which would guarantee the protection of rights for people on both sides of the abortion issue to engage in peaceful protest. It would also extend protection for women seeking access to reproductive health services legally available to them and for providers who offer those reproductive health services.

In 1993, over 50 percent of clinics across the country offering reproductive health services have undergone extreme violence, including death threats, arson, chemical attacks, and bomb threats. In the past 2 months alone, 4 clinics in my home State of California have experienced dangerous and damaging acts, including an arson incident at one clinic in September which caused 1.4 million dollars' worth of damage.

H.R. 796 would provide for the imposition of civil and criminal penalties on individuals who intentionally prevent other individuals from entering or exiting a reproductive health facility. This measure is necessary because abortion issue extremists have too often overstepped their constitutionally protected rights of free speech and assembly and acted illegally, impeding and obstructing the constitutional rights of others.

H.R. 796 would explicitly protect constitutional rights by preserving the freedom to peacefully demonstrate under the first amendment at clinics. This bill would not prohibit or punish lawful activity such as the passing out of leaflets, praying in front of clinics, picketing and other protesting without force, threat of force or physical obstruction. The bill does prohibit the use or threat of force at clinic entrances.

The support the Freedom of Access to Clinic Entrances has—from both sides of the aisle and from both sides of the abortion debate—adds strength and credibility to this bill which would quite simply protect rights already guaranteed in the Constitution by punishing violent offenders.

Mr. Chairman, I urge my colleagues to vote against violence and to vote in favor of H.R. 796, without any debilitating amendments.

Mr. DELAY. Mr. Chairman, this bill has many problems. Later in this debate I will offer an amendment to protect the rights of parents to raise their own children.

Let's be very clear as to what we are doing on the floor of the House today. We are creating special rights for certain people and creating special penalties for certain groups of protesters.

My colleagues have heard several stories of violence committed by persons who oppose abortion. But far more prevalent than violence at abortion clinics is union violence.

I want to inform my colleagues about Eddie York from Dingess, WV. Eddie York is a victim of strike violence. He was 35 years old when he was killed by a single shot in the back of his head this past July.

Eddie worked for an independent contractor cleaning a reclamation pond at a mining operation. He had done this work for years. The mining company was being struck this summer. Eddie York did not even work for the mining company and his was not work performed by the union.

He was shot and killed in Logan County, WV, as he attempted to leave the mine. If my colleagues think it is dangerous to cross picket lines at abortion clinics, they should try to enter or exit most of the mines that are being struck. This mine was no exemption. People have to be escorted on and off the property, and most individuals will only drive in convoys for safety.

Two security vehicles escorted Mr. York and another person off the property. After the vehicles left the property and were driving on a public road, strikers began hurling rocks. Shots were fired from a wooded area; several shots hit other vehicles in the convoy. According to the police, the truck Eddie was driving was hit at least three times. One of those bullets was fatal.

One of the reasons for this violence is that Federal law provides no adequate remedies to deal with the problem of picket line violence. Historically, the National Labor Relations Board has dismissed complaints of violence as nothing more than examples of, in the words of one decision, mere animal exuberance.

While we have a national scheme for regulating union representation elections, collective bargaining negotiations, and picketing activity in connection with union organizing and collective bargaining, the NLRB refuses to address the violence that too often accompanies such activities.

The reason given is that violence is a matter best left to State and local authorities. What happens, unfortunately, is that those authorities are unwilling to get involved in violent strikes because their family members, friends and neighbors are involved. Also, many State and local police forces are represented by union themselves, and too often these police unions end up sympathizing with the strikers.

If we have a national labor policy that regulates collective bargaining, then we should have one that addresses picket line violence. Thousands of Americans have been killed, maimed and seriously injured because of picket line violence arising from labor disputes than have from violence occurring on picket lines at abortion clinics.

Eddie York's tragic death is not unique. Eddie's only crime was that he simply wanted to provide for his family. If Congress is going to take a strong stand against picket line violence, it should do so no matter what the reason for that violence.

Unfortunately, this House refuses to provide or even consider to provide equal protection under the law to hard working Americans subjected every single day to deadly union violence.

People entering abortion clinics will receive special protections under this bill that average Americans attempting to go to work do not receive.

I point out to my colleagues that they should make no mistake about what we are doing with this bill.

Support of this bill will provide more protection to people who want to kill the living than to people who want to make a living.

I urge my colleagues to oppose this bill.

Mr. ANDREWS of Texas. Mr. Chairman, since 1977, there have been over 1,000 recorded violent incidents outside family planning clinics. So far this year there have been hundreds of serious attacks against abortion providers—this includes arson, bombing, and incidents of severe vandalism. This year, in Houston alone, a clinic has been fire-bombed, gas has been poured through roof air vents severely damaging the building and beuyric acid has been used to damage two clinics. During many of these incidents, pregnant women were inside the clinics receiving prenatal examinations. Clearly this interference has gone far beyond the legitimate expression of views.

Attacks on patients continue to increase. Individuals responsible for these heinous acts do not, as they claim, hold peaceful demonstrations, but rather they terrorize patients and clinic personnel. At the very least they set up blockades which prevent staff and patients from entering or leaving clinics.

This bill does not send anyone to jail for exercising their constitutional rights. The truth of the matter is that it protects the rights of anti-choice and pro-choice advocates equally. The only rights that are not protected are those who choose to take the law into their own hands. That is why this legislation is supported by the American Civil Liberties Union, the National Association of Attorneys General and many pro-life organizations, just to name a few.

It is essential that we do more to secure the legal right to choose. We must protect the rights of those who provide legal abortion services from harassment. Too many physicians have had their and their families' lives threatened. We simply cannot allow this to continue.

Recent escalations of violence and blockades at clinics demand that we enact legislation to protect a woman's ability to exercise her constitutional right to an abortion. I urge my colleagues to support the Freedom of Access to Clinic Entrances Act.

Mr. SKAGGS. Mr. chairman, as a cosponsor of the Freedom of Access to Clinic Entrances Act I urge my colleagues to join me in passing this much needed legislation.

Simply stated, this bill would make it a Federal crime to attack or harass people at medical facilities where abortions are performed. We should not, and cannot, continue to condone the activities of a vocal minority who use force and intimidation to interfere with people who lawfully seek to obtain or provide reproductive health services.

As I'm sure everyone is aware, the recent escalation in violence against patients, doctors, and others entering and leaving medical clinics has been both vicious and deadly. Just this year alone, one doctor was shot and wounded by an anti-abortion protester in Kansas, and more tragically, a similar attack in Florida left another doctor dead. There have been all too many other instances of violence, ranging from drive-by shootings and bombings to vandalism and shovings against people exercising their constitutional right to choose to have an abortion, those who assist them, and even people who happen to be visiting clinics on other business.

This kind of behavior is not acceptable and must not be tolerated. Of course, I respect and support the fundamental right of anti-abortion advocates to voice their opinion. The first amendment protects that right, and I am an unqualified supporter of the first amendment. But actions that interfere with the constitutional right of others to have access to reproductive health services have no more to do with the first amendment than any other criminal assaults.

When peaceful protests become violent confrontations, when a war of words becomes a war with victims, it's time to draw the line. We must ensure that people with a constitutional right to choose an abortion have the necessary freedom from harassment to exercise that right.

Based on tragic recent history, it is clear that existing laws are inadequate to prevent this violence or punish those who commit it. That's why it is urgently necessary that we enact the legislation before us today, and I urge my colleagues to join me in doing precisely that.

Mrs. LLOYD. Mr. Chairman, I rise in support of H.R. 796, the Freedom to Access Clinic Entrances Act [FACE]. I am dismayed by the senseless violence that has occurred in this country against both individuals seeking health services and providers of health care. I realize that many people have deeply held opinions on the subject of abortion. I believe that the right to voice or demonstrate ones' opinion is the essence of our democratic society. However, it is inconceivable to me that the divergence of convictions has led to intentional obstruction of individuals' access and personal freedom to medical services—not just abortion.

I believe that individuals should have the opportunity to access the best health care services available. I am outraged at malicious acts of violence that have occurred toward individuals and health facilities. These traumatic incidents have sent a frightening message across the United States, that individuals seeking or providing health services are now susceptible to threats, injury, or death. Our Founding Fathers did not create the first amendment to justify intrusion on our fellow citizens' civil and constitutional rights.

The FACE bill is a response to the threats and intentional interference that has plagued our health clinics. This bill would impose civil or criminal penalties to persons who intentionally prevent, injure, or intimidate other individuals from entering or exiting a medical facility. The measure would apply to all individuals, regardless of their views. This language does not amend the first amendment, nor does it infringe upon the fabric of the Constitution. H.R. 796 incorporates language from operative Federal statutes, such as the prohibition to use or threaten to use force to willfully injure, intimidate, or interfere with an individual's right to vote. Thus, the argument that this bill is unconstitutional, simply does not hold water.

I wholeheartedly support the first amendment of the Constitution—protecting the freedom of speech or the press, the freedom to establish a religion, the freedom to petition the Government, and the right to peaceably assemble. Everyone is entitled to express their views and I respect that. The first amendment is the backbone of this country and I hold it as a sacred right. However, you can't yell fire in a crowded theater. The first amendment is exploited when individuals inflict harm onto other individuals or violate others' civil and constitutional rights.

Mr. Chairman, H.R. 796 will not prohibit peaceful protesting, assembling, or picketing. This legislation maintains the right to voice one's opinions and assemble for something that is of great concern, as long as it does not present harm to others. I urge my colleagues to support this bill.

Mr. ENGEL. Mr. Chairman, I rise today in support of H.R. 796, the Freedom of Access to Clinic Entrances Act, and in opposition to any weakening amendments.

The need for this legislation is imminent. According to a recent nationwide survey of women's health care clinics which provide reproductive services, antiabortion violence is a serious and life-threatening intimidation tactic. Of the clinics participating in the survey, 50.2 percent have experienced severe antiabortion violence in the first 7 months of 1993. These violent acts included death threats, stalking, chemical attacks, arson, bomb threats, invasions, and blockades.

The violence has been extremely detrimental to the lives of health care workers and to the provision of health care services. Death threats and stalking have caused health care workers and patients to fear for their safety and their lives on a daily basis. The work of many clinics—which often includes low-cost prenatal care, birth control, infertility, and adoption as well as abortion services—has been disrupted regularly by blockades, chemical attacks, and invasions. In extreme cases, innocent lives have been lost, as in the murder of Florida physician, Dr. David Gunn.

Clearly, antiabortion violence has created a health care crisis that demands immediate Federal intervention.

In fact, Attorney General Janet Reno testified before the Senate Labor Committee that no adequate remedy now exists to address this crime wave. Anti-abortion crusaders draw blockaders from around the country to overwhelm local law enforcement agencies in an effort to further their cause. As a result, local police departments are either unable, or unwilling, to deal with the scope of this activity, creating a situation analogous to the impetus of Federal civil rights legislation in the 1960's.

H.R. 796 will simply protect access to legal abortion services by prohibiting the use or threat or force that interferes with obtaining or providing reproductive health services. Lawful picketing and protest which is unaccompanied by force, threats of force, or physical obstruction, would not be prohibited and would be explicitly and fully protected by the act.

I urge my colleagues to support this legislation. We cannot continue to condone intimidation tactics and unchecked violence by ignoring the facts Vote in favor of H.R. 796.

Mrs. ROUKEMA. Mr. Chairman, I rise in support of H.R. 796, the Freedom of Access to Clinic Entrances Act and urge my colleagues to pass this legislation. This bill makes it a Federal crime to obstruct access to a reproductive health clinic, or to damage such a clinic. Under H.R. 796, it would become a Federal offense to use force, threat of force, or physical obstruction to intentionally injure, intimidate, or interfere with anyone seeking or providing reproductive health services.

Local law enforcement is not always capable or willing to respond to abortion providers if violence or any disruption occurs. H.R. 796 remedies this by creating Federal penalties for impeding access to abortion services. H.R. 796 carries criminal penalties of up to $100,000 and up to 1 year in prison for a first violation, and up to $250,000 and 3 years in prison for a second violation.

It is absolutely vital to protect a woman's ability to exercise her constitutional right to an abortion. Eighty-three health facilities were blockaded last year, preventing access to these clinics which provide a range of health services, not just abortion. Women and children depend on such facilities for family planning, prenatal care, and childhood immunizations, as well as abortion. We also need to protect medical facilities from damage or destruction. Sixteen reproductive health clinics were burned and more than 100 incidents of vandalism were reported last year. The violence has escalated to murder and physical harm by use of firearms. We can not allow this to continue.

This is not to say that protesters will not be allowed any freedoms. The Freedom of Access to Clinics Entrances Act protects the rights of everyone to express their opinions. Picketing, prayer, and distributing pamphlets are considered free speech under the first amendment and are protected by H.R. 796. This bill also protects those entering the clinics and the clinics themselves. No one should be subject to violence. By supporting H.R. 796, you will be protecting women from intimidation, terror, and physical threats.

I urge you to support the Freedom of Access to Clinic Entrances Act. This act will allow people the right to oppose abortion, but these same people will not have a right to cause harm to anyone entering or inside an abortion clinic. Clinic violence will no longer be tolerated. Vote for H.R. 796.

Mr. STOKES. Mr. Chairman, I rise today in strong support of H.R. 796, the Freedom of Access to Clinic Entrances Act. I want to commend my colleague from New York, Congressman CHARLES SCHUMER, for crafting this legislation and for working so assiduously for enactment of this critical measure. His leadership in this regard has been especially important as in the last several years, our Nation has witnessed the escalating violence of antiabortion extremists. Consequently, we have also observed the inadequacy of existing State and Federal laws, and the inability of local law enforcement authorities to curb the rising tide of violence against abortion clinics, doctors, health care workers, and women across the country.

In light of this grave situation, Mr. Chairman, we must recognize that a Federal response to this violence and harassment is absolutely necessary. H.R. 796 embodies that response by providing critically needed Federal civil and criminal penalties against persons engaging in these heinous acts of harassment, intimidation, and violence. These sanctions will serve as powerful deterrents, curtailing the terror and extremism fueling the rising incidence of clinic violence nationwide.

As we have witnessed, this problem is national in scope and existing Federal law is inadequate to provide a complete remedy. The widespread violence has been extremely detrimental to the lives of health care workers and to the provision of health care services. Death threats and stalking have caused health care workers and patients to fear for their safety and their lives on a daily basis. Statistics show that reported death threats against doctors performing abortions have increased by 600 percent in the last year alone.

Moreover, the work of many clinics, which often provide comprehensive reproductive services including low-cost prenatal care, birth control, infertility, and adoption, as well as abortion services, has been disrupted regularly by blockades, chemical attacks, and invasions. In some cases, antiabortion violence has damaged clinic facilities or driven away clinic staff, forcing these facilities to reduce their patient load and the wide range of services they provide. Other clinics have had to cease operation altogether after their facilities were destroyed by fire or bombings, leaving thousands of women without adequate health care services.

Mr. Chairman, antiabortion violence has created a health care crisis that demands immediate Federal intervention. Antiabortion violence not only has curbed access to abortion, but also has prevented patients, particularly low-income women and their families, from receiving a wide range of health care services—poor women who depend on these clinics for their health care needs have been the primary casualties of antiabortion violence. Failure to pass this critical measure will pose a serious threat to not only a woman's access to reproductive health care, but the health care needs of children and families throughout this country.

Mr. Chairman, the violence and terrorism directed at women and medical personnel at clinics is already epidemic. To fight this epidemic we must enact the Freedom of Access to Clinic Entrances Act. H.R. 796 represents the best medicine to cure this epidemic and I urge all of my colleagues to vote in favor of H.R. 796.

Mr. EVERETT. Mr. Chairman, I rise today in opposition to H.R. 796, the Freedom of Access to Clinic Entrances Act, or FACE. I oppose this legislation not because it seeks to deter violent acts which have been perpetrated against abortion clinic personnel—I feel that such acts should be appropriately punished by law and agree that such violence as the murders of Dr. Gunn and Dr. Tiller cannot be tolerated.

However, to me, this bill is objectionable for two very basic reasons. First, it sets a dangerous precedent constitutionally by essentially criminalizing an individual's particular view point. Mr. Chairman, I am not aware of any penalties for other groups such as animal rights activists, striking workers, and so on, who are known for their vigorous styles of protest. Once again, there are those in this body who want to silence a specific movement and punish speech based on content.

Mr. Chairman, this bill's language is so broad and vague that I feel certain this will encourage more frivolous and time-consuming litigation which will burden our already overtaxed court system. Mr. Chairman, I am also concerned that, under FACE, there is no clear definition as to what injury is which only opens the door further to lawsuits brought by private individuals based on emotional or mental distress. Moreover, this bill puts peace-abiding nonviolent citizens in the same category as those protestors that employ less peaceful means. As a result, I feel the cumulative effect of this legislation is to ultimately discourage one sector of our society from expressing its constitutionally guaranteed rights of free speech.

In closing, let me say that this bill is a wolf in sheep's clothing. It claims to ensure freedom of access to one group, while denying access to the public arena for those individuals who wish to be heard on the issue of human rights in a peaceful manner. Mr. Chairman, I challenge my colleagues to make this vote a referendum, not on pro-life or pro-choice, but on the need to preserve free speech for all Americans. If we pass H.R. 796, we will have placed a foot in the door that will encourage the further erosion of the constitutional rights for other groups that those in Washington wish to silence.

Mr. Chairman, I urge my colleagues to vote to protect free speech; vote "no" on this legislation.

Mr. KYL. Mr. Chairman, I rise in opposition to the Freedom of Access to Clinic Entrances Act, H.R. 796.

The purported purpose of this bill is to help prevent violence against those who perform abortions. It creates Federal criminal and civil remedies against blockades, assaults, and other violent and threatening tactics by individuals who are motivated by their opposition to abortion.

I am troubled by an increasing trend to duplicate State criminal laws with new Federal laws when, first, State laws and law enforcement are not shown to be inadequate, and second, Federal courts are already overburdened.

Mr. Chairman, the murder of Dr. David Gunn in Florida was deplorable. It cannot be condoned under any circumstance. But, the fact is, it is a crime under Florida law, and the individual responsible for that crime was promptly arrested on a first-degree murder charge. There is nothing to suggest that the State of Florida has in any way been derelict in its duty, or that another law would have prevented the crime.

More than 2,600 pro-life protestors were arrested in Wichita in August 1991 after engaging in incidents of illegal trespass. Not only was a trespass law on the books, but obviously there was no question in the minds of local law enforcement authorities about enforcing it.

And, according to a memorandum dated October 7, 1993, by John Keeney, the Acting Assistant Attorney General, and circulated to U.S. attorneys around the country, a variety of Federal laws are also already available to deal with abortion-related violence. As Mr. Keeney stated in the memorandum, the full copy of which I will ask to be reprinted in the RECORD at the end of my statement,

> Federal law enforcement has regularly responded to instances of arson or bombing of medical clinics which provide abortion services. Over the past decade, the Bureau of Alcohol, Tobacco, and Firearms and Federal prosecutors have solved and obtained convictions in many of these cases.

Assistant Attorney Keeney went on to list other statutes that might be invoked: The Hobbs Act, 18 U.S.C. 1951; Interstate Travel in Aid of Racketeering, 18 U.S.C. 1952; RICO, 18 U.S.C. 1962; Bombing or Arson, 18 U.S.C. 844(i); Interstate Communication of a Threat, 18 U.S.C. 875; and Telephone Harassment, 47 U.S.C. 223.

So the problem is not that the activities in question here are legal. They are not. It is not that local law enforcement authorities have failed to enforce those laws. They have.

If there is really a need to enhance the ability of law enforcement to deal with unruly protesters, it is not advanced by passing another law to be enforced. But, I suspect that the goal is not simply to duplicate existing State or Federal laws against criminal offenses, but really to chill even peaceful protests by those motivated by their opposition to abortion.

Mr. Chairman, that gets to another concern which I have: I believe the law ought to apply uniformly no matter what the motivation of the perpetrator. If a group of AIDS activists demonstrate outside an abortion clinic because that clinic's personnel allegedly refuse to care for persons who are HIV positive, they would not be subject to the penalties imposed by this bill. Yet, identical conduct by pro-life protestors at another clinic several miles away would be subject to the very severe penalties of this legislation just because they are motivated by their concern about abortion.

Can we really say that the conduct in the first instance in any less problematic than the second—that those involved in the pro-life protest are deserving of more punishment?

There should not be different penalties depending on the motivation of protestors. Why should animal rights activists, labor groups or AIDS activists be treated differently than pro-life protesters if their conduct is identical?

The effect of this bill is really to establish penalties so daunting, and define offenses so broadly, that few people would consider exercising their constitutional right to protest abortion, even in nonviolent ways.

Many will support this bill because they support access to abortion; but I suggest they should consider what happens when the government looks back on this legislation as a precedent to suppress other conduct and other causes in the future. This bill would put us on a slippery slope. We should be very careful about sanctioning assaults on free speech and expression. To do it in one popular case is to invite it in others that might not be so popular; but, the precedent will have been established.

The constitutional right to free speech and assembly is too precious to be risked on today's popular cause. This is especially so since all of the conduct proscribed by this bill is already adequately covered by other laws against violence and threats of violence.

Mr. Chairman, we don't need to consider a new Federal law every time someone breaks a State or local law—most States and localities already have laws on the books dealing with the offenses that would be covered here. Moreover, many communities are considering so-called bubble laws to provide a zone of protection to people seeking to enter a clinic. So long as such local ordinances apply to all establishments, not just abortion clinics, and are not impermissibly restrictive on the right to exercise free speech and assembly on public property, such local ordinances would do more to resolve the problems than this legislation.

I urge my colleagues to oppose this bill, and I ask unanimous consent that the Kenney memo be reprinted in the RECORD at this point.

U.S. DEPARTMENT OF JUSTICE,
Washington, DC, October 7, 1993.

Memorandum to: All United States Attorneys.

From: John C. Keeney, Acting Assistant Attorney General.

Subject: Threats and Violence Directed Against Abortion Service Providers.

While most anti-abortion activity is comprised of peaceful picketing which is, of course, constitutionally protected under the First Amendment, recently there have been a number of forcible or violent acts or threats against providers of abortion services. This has led the Department to review the federal law enforcement response to such activity. This memorandum is intended to provide guidance to U.S. Attorneys in fashioning an appropriate response to anti-abortion threats and violence which violate federal criminal laws.

Federal law enforcement has regularly responded to instances of arson or bombing of medical clinics which provide abortion services. Over the past decade, the Bureau of Alcohol, Tobacco, and Firearms and federal prosecutors have solved and obtained convictions in many of these cases. However, there has not to date been a comparable effort to exercise jurisdiction under other federal statutes of potential applicability to anti-abortion violence. When there is a jurisdictional basis to respond to forcible or violent acts or threats against abortion service providers, U.S. Attorneys, in conjunction with their local FBI office, should move aggressively to fulfill their enforcement responsibilities. This is particularly critical in those jurisdictions where local law enforcement authorities are not responding effectively.

There are several federal statutes which may, in certain instances, be applicable to such threats and violence. The following is a brief review of some of those statutes.

The Hobbs Act, 18 U.S.C. §1951. This statute may, in certain circumstances, provide a basis for prosecution of persons who attempt to drive abortion clinic providers out of business through the knowing and deliberate use or threatened use of force or violence. Although the statute also requires proof of an adverse effect on commerce, the courts have concluded that only a minimal effect is required. Attached is a memorandum which explores in more detail the potential application of the Hobbs Act to forcible or violent protest activity designed to shut down the operation of an abortion clinic.

Interstate Travel in Aid of Racketeering, 18 U.S.C. §1952. This statute has potential applicability to persons who travel in interstate commerce with intent to commit any crime of violence to further an unlawful activity and thereafter engage in or attempt to engage in acts of extortion or arson.

RICO, 18 U.S.C. §1962. This statute makes it a crime to be a part of an enterprise, including a group of individuals associated in fact, engaged in interstate commerce that conducts, or conspires to conduct, its affairs through a pattern of racketeering that could include acts or threats of murder, arson, or extortion in violation of state law.

Bombing or Arson, 18 U.S.C. §844(i). This statute makes it a crime to damage or destroy, or attempt to damage or destroy, by fire or explosive, any building or personal property used in any activity affecting interstate commerce.

Interstate Communication of a Threat, 18 U.S.C. §875. This statute makes it a crime to transmit in interstate commerce any communication containing any threat to injure the person of another. Similarly, it is an offense under that same statute to transmit in interstate commerce, with intent to extort, any threat to injure the property of another.

Telephone Harassment, 47 U.S.C. §223. This statute makes it a crime to use telephone lines to engage in interstate telephone calls designed to harass.

When confronted with abortion clinic threats or violence in your district, you should promptly consider the application of these statutes in determining whether there is an appropriate basis for a federal response. If you initiate any investigations or prosecutions, or have any that are now ongoing, please advise the Terrorism and Violent Crime Section at 202-514-0849, so that we can remain aware of the action being taken in this area. Additionally, attorneys in that Section are available to address any questions you might have concerning the application of the statutes discussed above.

Mrs. MINK. Mr. Chairman, the issue that we debate today is not the right to an abortion, and neither is it the right to free access to abortion clinics. We know the answer to both of these questions. The right to choose to have an abortion is a fundamental right, and access to abortion clinics is absolutely necessary to protect that right. Today, that right is being challenged by violent actions of vigilantes, who use fear and terrorism to prevent the free exercise of health care.

Elements of the antiabortion movement have attempted to wrest this issue from reasonable protest to systematically conducting a highly coordinated campaign of terrorism and violence. The unfortunate subject of this violence are those who provide women's reproductive health care services and the women and children who seek their care.

Since 1977, more than 1,000 acts of violence have been committed against abortion clinics, their patrons or staff. These include 36 bombings, 81 arsons, 131 death threats, 84 assaults, two kidnappings, 327 clinic invasions, and 1 murder. These acts of violence do not only block women's access to abortion, but they also threaten the health of the women and children who rely upon these clinics for prenatal care and delivery, childhood immunizations, and contraceptive services. The Freedom of Access to Clinic Entrances Act, H.R. 796, seeks to protect these women and children and those who have been courageous enough to care for them.

H.R. 796 would effectively impede this radical element and protect access by establishing criminal penalties and a civil cause of action against anyone who "by force, threat of force, or physical obstruction, intentionally injures, intimidates, or interferes with any person because that person or any other person or class of persons is obtaining or providing reproductive health services, or intentionally damages or destroys the property of a facility because that facility provides reproductive health services * * * ."

Those who oppose this legislation, or who seek to eviscerate it with weakening amendments, claim that this bill would somehow impinge upon their right to freedom of speech. This is a false argument. Nothing in this act will prohibit picketing, displaying signs, expressions of verbal opposition, praying, or any other lawful attempt to dissuade women from obtaining abortions.

Opponents of this bill also claim that it violates the first amendment in that the terms "physical obstruction", "interfere", and "intimidate" are unconstitutionally vague. Contrary to these assertions, this language is perfectly clear and would easily withstand a constitutional challenge. The Supreme Court has repeatedly stated as much as upholding identical language which has been used in well-established civil rights legislation.

Mr. Chairman, we must not allow the democratic process to be supplanted by a campaign of terrorism and physical harassment. Rather than allowing violence to determine social policy, the threat of punishment will deter overzealous anti-abortion activists to use appropriate protests to achieve their goals. Furthermore, these penalties are not excessive. They are no different from those found in laws which protect persons seeking to exercise their right to vote, or which protect access to public lands or courthouses.

Mr. Chairman, a great travesty is being perpetrated against law abiding citizens. This campaign of terror has been allowed to continue unabated. We must stand up against those who would allow threats, harassment, and violence take the place of debate and reason. Rather than let policy be decided by those who would kill, burn, or terrorize, this Congress must pass the Freedom of Access to Clinic Entrances Act.

Ms. ESHOO. Mr. Chairman, I rise today in support of the Freedom of Access to Clinic Entrances Act.

As an original cosponsor of this legislation, I believe it's vital for us ensure that all people have the right to obtain health care in safety—especially those seeking important reproductive services and the clinic workers who provide them.

Violent extremism in the name of virtue is more than a vice. It's criminal and must be prosecuted. No matter how passionately antichoice activists may feel about their cause, they should not be entitled to physically attack, blockade, or vandalize those with whom they disagree.

All across the nation, Operation Rescue and similar groups have engaged in a systematic conspiracy to use violence to deprive women of their constitutional right to reproductive services. Since 1977, opponents of choice have directed more than 1,000 reported acts of violence at abortion providers, including bombings, arson, death threats, kidnapings, assaults, shootings, and even murder.

Operation Rescue's "No Place To Hide" campaign terrorizes doctors and health care workers from coast to coast. Some doctors and their families are followed to work, school, and shopping, while others are harassed at home.

The most vivid example of this violence occurred last March when Dr. David Gunn, a physician who provided abortion services, was murdered by an antichoice protester in Florida.

Mr. Chairman, enough is enough. American women should not be held hostage to the terrorist tactics of antichoice extremists.

The Freedom of Access Act would remedy this situation by prohibiting the threat of force to interfere with obtaining or providing reproductive health services. At the same time, it would allow lawful picketing and protests that are unaccompanied by force, threats of force, or physical obstruction.

I believe that this legislation strikes a proper balance between protecting the rights of free access and free speech. Access to reproductive rights must be ensured. And this bill is the right way to do it.

Mr. FORD of Michigan. Mr. Chairman, as a cosponsor of the Freedom of Access to Clinic Entrances Act, I would like to share some thoughts on the arguments made by a few of my colleagues during this debate.

Opponents of the bill claim that it will infringe on the free speech rights of every-day citizens expressing strongly held religious and political beliefs. That is simply untrue. Nobody wants to protect these rights more than I do. The measure before us today is meant to address a different problem—the consistent abuse of womens' legal access to reproductive services by organized professionals who move from one city or town to another intimidating and harassing local residents. When these groups descend on a locality, law enforcement resources are stretched to a breaking point and very often overwhelmed. The Federal offense created in this bill is meant to ensure that women in these localities are not completely cut off from reproductive services.

Instances of terror have touched the women of my congressional district. In Michigan, family planning clinics have been threatened with bombings, invasions, blockades, chemical attacks, and arson. In the fall of 1992 during one 10-day period, 15 Michigan clinics were vandalized with butyric acid. In the first half of this year, three clinics received bomb threats, four clinics reported death threats to their employees, five clinics were invaded, and one clinic was threatened with arson.

In one clinic in my district, an antichoice activist, posing as a patient, entered the building and sprayed butyric acid in the clinic. Professional cleaners needed to overhaul the entire facility—even the dry-wall and porcelain had to be removed and replaced at a cost of thousands of dollars. When it rains the odor recurs throughout the clinic.

Many of the opponents of this bill have further argued that no matter what the intention of the demonstrator, a peaceful nonviolent protester could be hauled off to jail for practicing their first amendment rights. These arguments have completely ignored the language of the bill which states, "the use of force, threat of force, or physical obstruction to intentionally injure, intimidate, or interfere with anyone seeking or providing reproductive health services" would be made a Federal offense. Peaceful demonstrations—an important part of the American tradition of political participation—are protected.

Mr. Chairman, opponents of this measure have intentionally tried to blur the distinction between the first amendment rights of all Americans to peaceably assemble or the freedom of speech and the practice of civil disobedience. Practitioners of civil disobedience deliberately decide to break a law that they believe is immoral—knowing fully that the consequence of their actions is arrest. This they willingly accept. This bill penalizes only violence—forceful or threatening acts that intentionally interfere with access to reproductive health services. And violence is not a tenet of civil disobedience. My guess is that while the arguments of opponents of this measure are cloaked in the rhetoric of protecting first amendment rights, their real intent is to shut down reproductive health clinics.

The failure of local jurisdictions to protect women—many who are poor and rely on the reproductive health clinic as their only health provider—demonstrates the real need for this legislation. All American women must be ensured the freedom to seek the reproductive health services guaranteed to them by the Supreme Court, free from violence and physical intimidation.

Mr. Chairman, I urge my colleagues to support this proposal.

Mr. KOLBE. Mr. Chairman, I rise today in support of H.R. 796, the Freedom of Access to Clinics Act [FACE]. This bill prohibits the use of force or threat of force to injure, intimidate, or interfere with anyone seeking to obtain or provide reproductive health services. It also prohibits intentional damage or destruction of reproductive health facility property. I want to emphasize that H.R. 796 does not infringe upon first amendment rights. H.R. 796 explicitly acknowledges the right of individuals and groups to picket, display signs, express verbal opposition, or other forms or protest protected under the first amendment.

While I am concerned with the trend to federalize so many crimes, and its impact on the

Federal courts, it has become increasingly apparent that Federal law is necessary to provide adequate protection for employees and patients in reproductive health clinics.

The violence of the protests at these clinics has escalated dramatically. Local law officials have been overwhelmed by the sheer number of protesters and their tactics which include blockades, invasions, vandalism, and the destruction of clinic property. Others have been unwilling to enforce existing laws against trespass, vandalism, and assault.

Patients and medical staff have been terrorized and threatened. Particularly hard hit have been those clinics in rural areas where there is often only one facility to serve a large region. When these clinics are forced to shut down, women in rural areas must travel enormous distances to other facilities.

Women must not be prevented from exercising their right to choose.

I urge my colleagues to support H.R. 796.

Mr. MINETA. Mr. Chairman, I rise today to join my colleagues in strong support of H.R. 796, the Freedom of Access to Clinic Entrances Act. I believe that every American woman—not her parent, not a judge, and certainly not bureaucrats—has the right and the wisdom to make her own choice about abortion.

The individual right to choose is diminished, however, when certain groups block entrances to clinics. The individual right to choose is, in fact, obliterated when protesters go beyond the legitimate expression of their views and resort to acts of violence against those with whom they do not agree.

H.R. 796 will protect women's ability to exercise their constitutional right to comprehensive reproductive health services by guaranteeing access to clinics while preserving the freedoms of the first amendment to the U.S. Constitution.

I believe that this legislation is necessary to address the growing number of violent incidents at these clinics and to guarantee protected access to those facilities. I thus support H.R. 796 because it will ensure that women in all 50 States have access to the full range of reproductive health care services legally available to them, without the threat of violence or intimidation.

Mr. FRANKS of Connecticut. Mr. Chairman, I rise in support of H.R. 796, the Freedom of Access to Clinic Entrances Act of 1993. This bill would prohibit force, the threat of force, or physical obstruction which infringes on the rights of others seeking to obtain reproductive health services.

Opponents of this measure charge that first amendment rights would be violated with this bill. However, the Supreme Court has consistently upheld the concept that Congress may act to penalize certain types of harmful conduct and not others. The punishment of conduct which infringes on the rights of others in obtaining reproductive services is consistent in this bill.

I do no oppose protest that is peaceful, nonviolent, and employs means to constructively express opposition. The right to protest ends when it infringes on the rights of other citizens.

No woman seeking services from a health clinic, whether for abortion services or general health care, should be attacked or intimidated in anyway. This bill addresses this concern in a responsible manner, and I support passage.

Mrs. THURMAN. Mr. Speaker, I am voting against the Delay amendment to the Freedom of Access to Clinic Entrances Act because it does not prohibit parents from using force or the threat of force to prevent their daughters from seeking reproductive services. Under the Freedom of Access to Clinic Entrances Act, we, as parents, can continue to discourage our daughters from obtaining an abortion. It does not infringe upon our parental rights or our first amendment rights to counsel our daughters or to tell them "No". Parents retain the right to deny their permission to their daughters to have an abortion.

However, for families in which domestic violence is a threat, the Delay amendment does not fully protect a young woman, who obtains permission from a judge to seek reproductive services, from exercising her right under the law. Instead, it allows the parents of that woman to revert to force and perhaps to the violence which she sought to avoid.

I believe that parental consent and notification laws should remain an issue for States to decide. However, I also am in favor of judicial bypass systems to protect young women from the threat of violence. In fact, many States have gone to great lengths to provide legal bypass systems, and this amendment clearly undermines those efforts.

Further, as the distinguished Chairman BROOKS of the Judiciary Committee pointed out, it puts an extra burden on local law enforcement which now must enforce a basically unenforceable provision of law. Indeed, how will the local authorities know if a person directing force at one woman to prevent her access into a clinic is in fact her parent?

Mr. Chairman, the Freedom of Access to Clinic Entrances Act seeks to end the violence surrounding the abortion issue. The amendment not only weakens its ability to combat violence but also actually rubber stamps violence against our children.

Mr. BACHUS of Alabama. Mr. Speaker, I rise today in strong opposition to H.R. 796, the Freedom of Access to Clinic Entrances Act and in support of the substitute offered by Mr. SMITH of New Jersey.

This legislation does nothing to put tougher penalties on criminals or curb violence in our country. What it seeks to do and effectively does is to limit our constitutional rights to free speech and assembly.

For the first time in the history of our country, courts and judges will be allowed to determine a speaker's motivation and select a harsher punishment, not for an action like murder, but for the motivation of attempting to save the life of an unborn child.

This is not what our forefathers intended when they set in place our first amendment rights to free speech and assembly.

This Congress should instead, attack the real ills of this country—murderers, child molesters, and drug traffickers—with as much zeal as they propose to use to curb the first amendment rights of parents, clergy, and those who peacefully speak for those who cannot speak for themselves.

Ms. DUNN. Mr. Speaker, today I rise in support of H.R. 796, the Freedom of Access to Clinic Entrances Act. We all condemn the violent incidents that have accompanied protests at women's reproductive health care facilities. Violence surrounding this issue must be stopped. It is now necessary in my judgment to pass legislation that will protect access to these facilities. Both the patients seeking a wide range of services and the personnel who work in clinics deserve assurance of protection.

I am convinced that this legislation affirms that it is possible and necessary to protect both a woman's right to choose and first amendment free speech rights of pro-life protesters. H.R. 796 does include a specific disclaimer that its provisions are not to be construed as a prohibition of any expressive conduct protected by the first amendment such as peaceful picketing, prayer vigils, or other peaceful demonstration. Indeed, I believe that our society can find a balance that will protect a wide range of peaceful protests while also guaranteeing safe access to reproductive health clinics, places of worship, public buildings, and any other legal places of business.

However, the recent escalation in vandalism and violence against reproductive health care facilities and their staff demands action. The provocative and threatening tactics by a handful of a clinic blockaders, coupled with the length and the sheer number of demonstrations, often combine to overwhelm State and local law enforcement efforts to uphold relevant State and local laws. These factors, along with a recent Supreme Court decision that current laws do not serve to guarantee Federal protection for women's access to reproductive health care facilities, made it necessary to pass specific legislation.

While it is my opinion that the Smith amendment more specifically defined the punishable acts of violence while safeguarding the right to free speech and peaceful assembly, it is of paramount importance to ensure that women have protected access to reproductive health care facilities.

Mr. PENNY. Mr. Speaker, Mohandas Gandhi, father of the nonviolent protest movement, once said: "pursuit of truth did not permit violence being inflicted on one's opponent, but that he must be weaned from error by patience and sympathy." Gandhi abhorred violence. I abhor violence. Violence whether by pro-life or pro-choice protesters cannot and should not be tolerated. On that principle the sponsors of the Freedom of Access to Clinic Entrances Act and I wholeheartedly agree.

However, I cannot support passage of this legislation without amendment because—all arguments by the supporters and the ACLU to the contrary—I believe that it lacks sufficient first amendment safeguards. The bill itself does not distinguish between nonviolent civil disobedience and violent conduct—though the bill report attempts to clarify its intent. But definitions are in the eye of the beholder and intimidation under the statute could extend to things clearly protected under the first amendment such as singing, praying, chanting, and sidewalk counseling that occurs outside abortion clinics. Even if the definition of intimidation is narrowed to reasonable apprehension of bodily harm, I am concerned that we have moved dangerously toward limiting speech. That is not a step we should take regardless of our personal views on the issue of abortion.

Mr. BROOKS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired. Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill is considered as an original bill for the purpose of amendment and is considered as having been read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 796

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Freedom of Access to Clinic Entrances Act of 1993".

SEC. 2. FREEDOM OF ACCESS TO REPRODUCTIVE HEALTH SERVICES.

Chapter 13 of title 18, United States Code, is amended by adding at the end the following:

"§ 248. Blocking access to reproductive health services

"(a) Prohibiting Activities.—Whoever—

"(1) by force, threat of force, or physical obstruction, intentionally injures, intimidates, or interferes with any person, or attempts to do so because that person or any other person or class or persons is obtaining or providing reproductive health services; or

"(2) intentionally damages or destroys the property of a facility, or attempts to do so, because that facility provides reproductive health services;

shall be punished as provided in subsection (b) of this section and also be subject to the civil remedy provided in subsection (c) of this section.

"(b) Penalties.—Whoever violates subsection (a) of this section shall—

"(1) in the case of a first offense, be fined under this title or imprisoned not more than 1 year, or both; and

"(2) in the case of a second or subsequent offense after a prior conviction under this section, be fined under title or imprisoned not more than 3 years, or both;

except that, if bodily injury results, the length of imprisonment shall be not more than 10 years, and if death results, it shall be for any term of years or for life.

"(c) Civil Actions.—

"(1) Right of action generally.—Any person who is aggrieved by a violation of subsection (a) of this section may in a civil action obtain relief under this subsection.

"(2) Action by attorney general.—If the Attorney General has reasonable cause to believe that any person, or group of persons, is aggrieved by a violation of subsection (a) of this section, the Attorney General may in a civil action obtain relief under this subsection.

"(3) Actions by state attorneys general.—If an attorney general of a State has reasonable cause to believe that any person or group of persons is aggrieved by a violation of subsection (a) of this section, that attorney general may in a civil action obtain relief under this subsection.

"(4) Relief.—In any action under this subsection, the court may award any appropriate relief, including temporary, preliminary or permanent injunctive relief, and compensatory and punitive damages for each person aggrieved by the violation. With respect to compensatory damages, the aggrieved person may elect, at any time before the rendering of final judgment, to recover, in lieu of actual damages, an award of statutory damages in the amount of $5,000 per violation. The court may award to the prevailing party, other than the United States, reasonable fees for attorneys and expert witnesses.

"(d) Rule of Construction.—Nothing in this section shall be construed to prohibit any expressive conduct (including peaceful picketing or other peaceful demonstration) protected from legal prohibition by the first article of amendment to the Constitution.

"(e) Non-Preemption.—Congress does not intend this section to provide the exclusive remedies with respect to the conduct prohibited by it, nor to preempt the legislation of the States that may provide such remedies.

"(f) Definitions.—As used in this section, the following definitions apply:

"(1) Reproductive health services.—The term 'reproductive health services' means reproductive health services provided in a hospital, clinic, physician's office, or other facility, and includes medical, surgical, counselling or referral services relating to the human reproductive system.

"(2) Facility.—The term 'facility' includes the building or structure in which the facility is located.

"(3) Physical obstruction.—The term 'physical obstruction' means rendering impassable ingress to or egress from a facility that provides reproductive health services, or rendering passage to or from such facility unreasonably difficult.

"(4) State.—The term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

SEC. 3. EFFECTIVE DATE.

This Act takes effect on the date of the enactment of this Act, and shall apply only with respect to conduct occurring on or after such date.

SEC. 4. CLERICAL AMENDMENT.

The table of sections at the beginning of chapter 13 of title 18, United States Code, is amended by adding at the end the following new item:

"248. Blocking access to reproductive health services.".

The CHAIRMAN. No amendment to the substitute is in order except the amendments printed in House Report 103–373. Each amendment may be offered only by a Member designated in the report, shall be considered as read, and is not subject to amendment.

Debate time on each amendment will be equally divided and controlled by the proponent and an opponent of the amendment.

The CHAIRMAN. It is now in order to consider amendment No. 1 printed in House Report 103–373.

AMENDMENT OFFERED BY MR. MC COLLUM

Mr. McCOLLUM. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. McCollum:

Page 5, line 1, strike "Rule" and insert "Rules".

Page 5, line 1 insert "(1)" before"Nothing".

Page 5, after line 5, insert the following:

(2) Nothing in this section shall be construed to interfere with the authority of States to enforce State or local laws regulating the provision of reproductive health services.

The CHAIRMAN. Pursuant to the rule, the gentleman from Florida [Mr. McCollum] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

Mr. BROOKS. Mr. Chairman, I claim the time for the 5 minutes.

The CHAIRMAN. The gentleman from Texas [Mr. Brooks] will be recognized for 5 minutes in opposition.

The Chair recognizes the gentleman from Florida [Mr. McCollum].

Mr. McCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the amendment that I offer today is the result of a compromise worked out between my colleague, the gentleman from New York [Mr. Schumer], and myself that addresses a fairly narrow but nonetheless important issue related to H.R. 796.

Under the bill as currently written, an individual can pursue litigation against an individual who "by force, threat of force, or physical obstruction * * * interferes with any person or any other person or class of persons" who is "obtaining or providing reproductive health services." Unfortunately, the effect of this language could be to unintentionally cripple most or even all constitutional State regulations regarding abortion, including regulations that serve solely to protect the health of women who are seeking to obtain abortions.

For example, an unlicensed late-term abortionist would have a civil cause of action for compensatory damages and punitive damages against State officials who attempt to prevent the abortionist from performing an illegal abortion. Clearly, that was not the intention of the authors of this bill.

Consequently, I offered in the Rules Committee an amendment that would have limited coverage to those offering legal abortions. My colleague, Mr. Schumer, also offered a second-tier amendment that would have addressed this problem. The amendment that I am offering today is, as I have noted, a compromise between my amendment and the Schumer amendment.

Under the provisions of this amendment, nothing in H.R. 796 would be construed to interfere with the authority of States to enforce laws regulating reproductive health services.

Mr. Chairman, I have deep reservations about H.R. 796, but the amendment that I am offering addresses a narrow but serious issue that, if uncorrected, could have a profoundly negative impact on the ability of States and localities to protect the health of women who seek abortions.

Mr. Chairman, this compromise amendment is a prudent and sensible approach and I urge that it be adopted.

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. MCCOLLUM. I am happy to yield to the gentleman from New York.

Mr. SCHUMER. Mr. Chairman, I want to rise in support of this amendment which was jointly introduced by the gentleman from Florida and myself.

It is an important amendment to clarify what we intend to do and what we do not intend to do with the legislation.

As the gentleman from Florida stated, it was never the intent of this legislation that State laws should be preempted, so it makes clear that the FACE bill does not preempt other State and local laws regulating the provision of reproductive services, the kind of laws that would be constitutional restrictions on abortions, medical regulations, laws regarding manner of providing reproductive services, who can perform such circumstances, safety regulations, et cetera. None of that was intended to be overruled by the bill.

It does, of course, maintain the supremacy of Federal law over conduct that violates this act so that States cannot pass contrary laws in an effort to negate FACE, and so by doing this amendment, we are clarifying that, what we want to do with the bill, not overruling existing State laws.

Mr. Chairman, I appreciate the cooperation and support and always gentlemanly intellectual and keen spirit of the gentleman from Florida.

Mr. MCCOLLUM. I thank the gentleman. It has been a pleasure working with him.

Mr. Chairman, I reserve the balance of my time.

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it is always a pleasure to see Republican and Democratic members of the Committee on the Judiciary working together.

Mr. Chairman, I rise in support of this amendment offered by the gentleman from Florida [Mr. MCCOLLUM], a distinguished member of the Judiciary Committee.

Mr. Speaker, the Committee on the Judiciary had absolutely no intent of preempting State or local laws governing the provision of reproductive health services. By adding a rule of construction that there is no such preemption to be found anywhere in the bill, the amendment is merely a clarification of our intent to leave such laws in place.

H.R. 796 also specifically states that Congress does not intend to preempt State laws providing remedies with regard to its prohibited conduct. Of course, should a State or local government pass a law permitting the very blockades or other activities outlawed by this bill, Federal law would prevail, as it must.

I think the amendment offered by the gentleman from Florida is a very useful clarification, and I urge its adoption.

Mr. Chairman, I yield back the balance of my time.

Mr. MCCOLLUM. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. MCCOLLUM].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report No. 103-373.

AMENDMENT OFFERED BY MR. DELAY

Mr. DELAY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. DELAY: Page 3, line 8, strike the period and insert the following: ", except that a parent or legal guardian of a minor shall not be subject to any penalties or civil remedies under this section for such activities insofar as they are directed exclusively at that minor."

The CHAIRMAN. Pursuant to the rule, the gentleman from Texas [Mr. DELAY] will be recognized for 15 minutes, and a Member opposed will be recognized for 15 minutes.

The Chair recognizes the gentleman from Texas [Mr. DELAY].

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Mr. DELAY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to thank you for the opportunity to offer ny amendment to H.R. 796, the Freedom of Access to Clinics Act.

As you know, proponents of H.R. 796 claim that the Freedom of Access Act, championed by Senator KENNEDY, protects individuals who enter abortion clinics from harm. The hype surrounding this bill has been intensified by the tragic Pensacola shooting in which Dr. Gunn, an abortion doctor from Pensacola, FL, was violently killed by a criminal who can hardly be characterized as pro-life. The minute he pulled the trigger he proved otherwise.

It is my strong belief that people who commit violent acts should be prosecuted to the full extent of the law. Any person who would intentionally damage, destroy property, or commit acts of violence should be penalized. Opposition to H.R. 796 in no way condones acts of violence. The bill simply extends beyond its stated purpose.

However, the language of H.R. 796 creates a new cause of action whereby parents and legal guardians can incur civil and criminal penalties for activities you and I regard as normal parenting. I know that my colleagues on both sides of the aisle share this concern with me. The loosely defined language on page 5 of the bill defines physical obstruction as "rendering passage to or from such facility unreasonably difficult."

In addition, many Members may not be aware that under the current language of the bill, a parent who interferes with his or her daughter in their own home whether it be refusing to lend them the car or even a verbal reprimand making passage to a facility difficult can be fined and arrested—even in States where parental consent is required.

The amendment I am proposing is the same as that found in the Kennedy bill and simply exempts the parent or legal guardian from penalties resulting from activities directed toward his or her minor child. I would like to point out that this exemption applies only to parents and their minor children and does nothing to exempt adults whose activities are directed at other minor children.

This exemption in no way interferes with, displaces or affects child abuser or related laws; rather, this amendment simply says that this particular act does not create a new cause of action against parents or guardians.

I believe that this exemption should be included to protect parents from being penalized for raising their children.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Does the gentleman from Texas [Mr. BROOKS] rise in opposition to the amendment?

Mr. BROOKS. Yes, Mr. Chairman, I do.

The CHAIRMAN. The gentleman from Texas [Mr. BROOKS] will be recognized for 15 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may require.

Mr. Chairman, I rise in opposition to this amendment.

Before we vote on this amendment, let us be very clear about what it is about and what it is not about. It is not about obtaining parental consent before a minor can obtain an abortion. The majority of States already have laws requiring parental consent or notice before a minor can obtain an abortion. H.R. 796 does not change those laws in any way. It also does not apply to peaceful persuasion or to counseling of minors by their parents or their legal guardians against abortion.

What the amendment is about is allowing a person to physically obstruct another person from entering a building, or destroying a building. How, might I ask, are the police to determine that the person making the claim to be a young woman's parent actually is her parent? How are the police even to determine if a young woman is a minor? Ask each young woman for an I.D.? What if she refuses? Should she go straight to jail? Obviously, the amendment does not bother to consider such issues nor does it worry about subjecting police to liability for failing to enforce a basically unenforceable provision of law.

However well-intentioned, this amendment has a great potential for mischief, or worse. I urge my colleagues to reject this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. DELAY. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. I thank the gentleman for yielding this time to me.

Mr. Chairman, if you have a child who is underage and is going to approach an abortion clinic without your permission, I would think that you would want to stop them. I would think my colleagues on both sides of the aisle would want the same right to do that without coming under $100,000 fine or a year in jail; because, I tell you, I have an 11-year-old and a 15-year-old daughter and if either one of them tried to go into an abortion clinic, I would stop them. As their father, I am going to do everything I can to protect them.

I think people on both sides of this issue would support that. That is what this amendment is about. It says that a parent who has an underage child who is going to enter an abortion clinic, can stop them. That is not unreasonable. I do not know which side of the issue you are on on this thing, but I look at the entire bill.

This is a parent's responsibility to a child. I would ask my colleagues to support it.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the distinguished Member, the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. I thank the gentleman for yielding this time to me.

Mr. Chairman, I urge my colleagues to oppose the DeLay amendment. I recognize how appealing this amendment will be to many Members, but it actually has serious repercussions.

First, please think about what this amendment actually does. It states that parents should not be prevented from using force, the threat of force or physical obstruction if their daughter is seeking to obtain reproductive health services. We are talking about the use of force or threat of force. I don't think that any of us approves of child abuse.

Second, the language challenges the bypass requirement for state parental laws. The Supreme Court has confirmed that such a bypass must be part of these laws. This bypass mechanism is required because there are situations in which a minor does not feel that she can obtain consent, such as the fear of physical violence.

To give an example, a minor could have followed the legal recourse provided to her, and could have obtained a bypass from a judge. She could then go to a clinic to obtain an abortion. However, her parent finds out and forcibly requires her to leave the clinic. This minor has just been denied her rights under the law, and will clearly have to confront the physical violence for which the bypass requirement was established.

This amendment is a dangerous one, and I urge you to defeat it. We cannot condone force against minors by their parents. It is terrible public policy, and I urge a no vote on the DeLay amendment.

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Mr. BROOKS. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. HASTINGS].

Mr. HASTINGS. Mr. Chairman, I rise in opposition to the amendment and in strong support of the freedom of access bill, a bill which I cosponsored.

This bill will give the Federal Government the power to act when State or local government cannot or will not act to guarantee access to clinics where women go for essential reproductive health services. Many of these services are preventive in nature as such as prenatal care, pap smears, and mammograms. We cannot permit people to physically block access to a place where women, oftentimes poor women, turn for essential medical assistance.

The naysayers say this bill will stifle free speech. They say it will discriminate against protest and civil disobedience by the pro-life movement. I say protest all you want, speak out all you want, but do not physically prohibit any woman from medical treatment. In Florida one doctor already lost his life, we don't need any other lives lost to this senseless violence.

Mr. DELAY. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Chairman, I thank my friend for yielding this time to me.

Just let me say to the members of the committee, we are talking about a very simple amendment that seeks to preserve and protect the rights of parents to act in the best interests of their minor daughter. That is all this amendment does. It says that the Federal penalties which could include 1 year in prison, $100,000 in fines for the first offense, 3 years in prison, $250,000 fine for the second offense, if you just say "no" to your daughter to an abortion that she may be contemplating.

This violates parental rights; that is to say if the language of the bill were to prevail and the amendment of the gentleman from Texas [Mr. DELAY] were not to prevail, I think it would set a wedge between children and their parents. That ought not to be what children's rights are all about, trying to divide families.

We ought to be promulgating and promoting policies in this Chamber that provide for healing and provide for opportunities for families to grow and to nurture, not to break them apart.

I can foresee instances, particularly with the physical obstruction provision where a mother or a father perhaps might stand in the doorway of their own home and say to their minor daughter, "Please, don't go out and procure that abortion. Please, you've got a 6-month gestation baby growing and being nurtured inside of you. Please don't go down to that abortion clinic, where chemical poisons will be injected into that baby."

That would be an actionable offense under the provisions of H.R. 796. That, Mr. Chairman, is outrageous.

The DeLay amendment is modest. It is very simple and I think it protects parents' rights in a way they ought to be protected.

If child abuse or something else is committed, there are already laws on the books. Every State of the Union has them. Every municipality has laws where if some kind of coercive action is taken against that minor, that is actionable and ought to be, but to make it a Federal crime to say to your daughter, "Please don't go," and perhaps to stand in the doorway of your own house saying, "Please don't go," that would be actionable and a Federal crime, that is outrageous.

Mr. BROOKS. Mr. Chairman, I yield 3 minutes to the distinguished gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Chairman, I thank the gentleman for yielding this time to me.

First of all, let me answer the prior speaker. Of course, the parent can say, "Just say no." The parent can talk, the parent can cajole, the parent can do anything except engage in force or threat of force.

This is a difficult amendment to speak against, because on first blush it looks like where we should be going, and oh, how I wish we could pass this amendment and mandate normal parenting for everyone in America and live happily ever after.

But unfortunately, most of our State legislatures have come to terms with this issue. If we pass this amendment we will be undoing what they did. State legislatures have come to terms with this issue. If we pass this amendment we will be undoing what they did. State legislatures in trying to deal with this very complex issue have said, "Look, we're going to say parental consent, but with a judicial by-pass," because if a young person says, "I'm going to be beaten, I'm going to have all sorts of things done."

If this happens, they have the right to go to a judge or someone and get a judicial bypass around their parents if they are truly under that threat of force.

So most of our State legislatures have had the courage to find an escape valve for young people who are trapped in a family situation that is not normal, where violence is more the course than we would like to admit happens in America's families.

What we will do if we pass this amendment is totally negate that, because what will happen then is even if the young person has obtained the judicial bypass, there will be absolutely no way they could still get the services they needed if the parent proceeded to put forth in front of them, what the bypass is trying to avoid.

Second, it would open up a whole new area, and it is for young people trying to get reproductive services, just normal reproductive service. They may very well be sexually active and not able to communicate that with their parents, and if their parents find out supposedly through threat of force, they could prevent this.

You know, 20 percent of young people are coming down with STD's every year. I do not think any parent wants to deal with that, but some parents deal with it better than others and some are able to have very good discussions with their young people and others are not.

How I wish we could move it so that everybody did; but if we pass this, what we will be doing is legalizing acts of force of a parent against a child. I do not think that is where we want to go.

We will be undoing the very important judicial bypass laws that have been worked out when we have seen young people commit suicides and do other things in these kinds of situations where they could not converse with their parents, and we could also be preventing young people from getting reproductive services when they need them, but feel their parents would not allow.

Mr. Chairman, I urge a no vote.

Mr. DELAY. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN. Mr. Chairman, if I heard the gentlewoman correctly, she said parental rights are awfully difficult to speak against, and boy, should they be.

I knew it would come to this someday. That this father of five and grandfather of nine would be in the position of becoming a criminal when exercising my parental rights over any one of my five children who ever was to contemplate killing one of my grandchildren.

Now, my five are all grown up and in their thirties, and they are five dynamic pro-life young men and women. A couple of them are big in animal rights, too, way beyond any bill I have ever endorsed, but they do have a consistent ethic of respect for life.

I would say to my friend, the gentleman from New York [Mr. SCHUMER], and I do mean my friend, that with some precision the gentleman has tweaked the NRA about their inability ever to make concessions, to be purists right down the line. Yet when it comes to this issue the gentleman himself won't budge.

As for the gentlewoman from Colorado [Mrs. SCHROEDER], she thinks she knows more than most parents.

When it comes to my kids the gentlewoman does not know more than this parent or this grandparent. And when a parent believes that it is a human life in their daughter's womb, then that parent has a right to do whatever they think is required to stop their child from killing their unborn baby. And it is a baby. Did you ever wonder why abortionists who use ultrasound technology to tear the babies apart always divert the screen away from the mother who is allowing the child to be ripped apart in her womb? This remarkable technology is used in killing today. Getting back to the amendment, a vote against the DeLay amendment is a vote against parents.

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. DORNAN. I am glad to yield to the gentlewoman from Colorado.

I am going to wear my Ranger green sweater tomorrow. It is like a peacock. I can use it to call attention to this side, the father's side, of the parental equation. As Ross Perot said, it takes two to tango.

Go ahead, I yield to the gentlewoman from Colorado.

□ 1440

Mrs. SCHROEDER. Mr. Chairman, is the gentleman asking me to tango?

Mr. DORNAN. Mr. Chairman, how might I interpret that?

Excuse me one second. I ask the gentlewoman, Have you heard Rush Limbaugh's parody of John Lennon's obnoxious song about imagine, in which here is the line "imagine no religion"? Rush has improved it by changing it to, "Imagine there's no liberals." And while I'm at it, did you see the special last night on Denmark? There 10, 11, 12, 13-year-old girls are having sex, carousing, drinking, and smoking. And who do they go to in order to justify expatriots in Denmark engaged in child pornography? Liberals. American liberals wrecking our culture.

This is all part and parcel of the same culture war that is just heating up. Passing this bill will add to it.

The CHAIRMAN. The time of the gentleman from California [Mr. DORNAN] has expired.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER] so she might pose her questions and make her statement.

Mrs. SCHROEDER. And I will even be happy to loan my green suit to the gentleman from California [Mr. DORNAN] if he likes it so much.

But let me just clarify one more time what I am trying to say because I think it might have been just a bit distorted, and I would like the record to be clear, Mr. Chairman.

I, too, am a parent, and I think I am a very caring parent, and I think all of us who are caring parents try tremendously all the time to have dialog with our young people. Now I think the gentleman from California does that, and I hope I have done a good job of doing that. My children are now older, too, and luckily we got through all those difficult years.

Mr. DORNAN. Probably all good liberals like mine are all good conservatives.

Mrs. SCHROEDER. No, but unfortunately we do not all have perfect families, or we do not all have families with this kind of ability to have dialog, and to talk to their young people and that have built this trust, and what I am talking about here is, No. 1, young people who may want to go to clinics talk to their parents, and their parents threaten them tremendously if they do go to a clinic for reproductive services.

Mr. DORNAN. Does the gentlewoman mean they threaten to cut off their inheritance if they——

The CHAIRMAN. The Chair advises the gentleman from California that he must ask the gentlewoman from Colorado to yield.

The gentlewoman from Colorado [Mrs. SCHROEDER] may proceed.

Mrs. SCHROEDER. Yes, and the gentleman from California [Mr. DORNAN] must call me a gentlewoman even if he does not think I am one.

Mr. DORNAN. I do it all the time.

Mrs. SCHROEDER. Oh, good.

But the gentleman must realize that under the bill you can say anything, you can cut off their inheritance, you can argue, you can do whatever you want in that manner, but violence is what is prevented by this bill, and let us hope that we start lowering the level of violence everywhere, and I doubt very seriously that the gentleman really meant he would stoop to violence against his own children because I think he is so verbally skilled that he would never have to do that. I luckily was verbally skilled enough that I never had to do that, but what we are talking about is incidents——

Mr. DORNAN. Mr. Chairman, would the gentlewoman yield for a short question?

Mrs. SCHROEDER. Let me finish.

The CHAIRMAN. The time of the gentlewoman from Colorado [Mrs. SCHROEDER] has expired.

Mr. DORNAN. All I did was get lectured.

Mr. DELAY. Mr. Chairman, I yield myself the balance of my time which, I believe, is 4 minutes. Is that correct?

The CHAIRMAN. The gentleman is correct.

Mr. DELAY. Mr. Chairman, I think this opposition is really unfortunate. I would like to speak to the bill itself. I think it is a terribly written bill. This bill violates what this country is all about just to protect some abortion clinics and to protect a certain group of people that believe in abortion and want to violate the first amendment rights of American citizens.

But be that as it may, I cannot believe what I have just heard in opposition to this exemption, the smoke that has been blown over this bill in trying to manipulate what my amendment is about. It is just mind-boggling. I guess nothing is sacred to the liberals. They want to come into people's houses and tell parents how to act. The argument has nothing to do with force, I might add to the gentlewoman from Maryland and the gentlewoman from Colorado. Because, if they read the bill, as I have read the bill, while it does just talk about force and threat of force or physical obstruction, it also talks about intimidation and interfering. Interfering can be defined as a father telling his daughter that they cannot go to the abortion clinic or, cannot have the keys to the car to drive to the abortion clinic.

Mr. Chairman, this is a loosely written bill, and probably intentionally so. Look at the vague argument being made. They are trying to cover up what is the intent of my amendment. All the parental exemption states is: If a parent tells his or her child that they cannot go have an abortion, or if a parent stands in front of the door and just makes an attempt to interfere, and the the daughter blasts past them and goes to the clinic, the parent becomes a criminal—a Federal felon for trying to be a good parent. This is a most unbelievable attempt to try to kill my amendment by throwing out smoke. And the gentlewoman from Colorado says that the exemption interferes with preemption law—that this preempts State parental notification or judicial bypass. However, there is a nonpreemption section in the bill. My amendment does not preempt State law or parental notification status in State law. And it has nothing to do with the child abuse or sexual abuse laws in the State. All it says is that a parent cannot be made a criminal for being a parent. And it is outrageous in my mind that anyone would speak against this amendment based upon the arguments that have been made.

Mr. Chairman, this bill reaches right into our homes and makes criminals out of parents who in any way interfere with their child having an abortion. This bill is so badly written, it is not even location specific. It does not say, "You have got to be standing out in front of an abortion clinic trying to restrict your child from going in." It does not specify a location in the bill. So, anywhere that a parent tries to interfere with their children having an abortion, a cause of action can be brought against that parent, and that parent can be made a Federal felon if convicted. This is amazing.

Mr. Chairman, when a parent tells a policeman that this is my daughter, do my colleagues not think the policeman is going to step back, ask the question and ask for some ID, and investigate it further? But if the parent is standing out in front of the abortion clinic, talking to his daughter in a very rough way, he will be deemed to have been interfering with his child, with any person attempting to go into that clinic and have an abortion.

This is outrageous, it is outrageous that they would go into the homes of America and make felons out of parents.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentlewoman from Florida [Ms. BROWN].

Ms. BROWN of Florida. Mr. Chairman, I rise in support of the freedom of access to clinic entrances bill. This bill will give the Federal Government the power to act when clinic protestors take the law into their own hands to prevent women from obtaining needed medical care and health care workers from providing health services by blockading entrances to clinics, by invading clinics, and by burning these clinics to the ground.

Under this bill, the Federal Government will be able to act when State and local authorities cannot or will not act.

Attorney General Janet Reno has asked Congress to pass this bill because current Federal, State, and local laws are inadequate to protect health care providers, their patients, and clinics.

Today, the opponents of this measure will compare their movement to the civil rights movement and to those protests led by Dr. Martin Luther King. There is a big difference between the two. The protests and marches of the civil rights movement to gain voting rights for African-Americans, is a world apart, from the blocking of clinic entrances, the burning and bombing of clinics, threats directed at patients and health care workers, and the murder of Dr. Gunn in Florida in order to deny women their rights, and to deny them medical services. Shame on you for comparing yourselves to Dr. Martin Luther King.

My colleagues, let us vote for this bill. Without amendments.

□ 1450

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, all I want to say is the bill was really very carefully crafted. My only response at this point is that what it says is that you have to have one of three actions: force, threat of force, or physical obstruction. Then, in addition to that, intentionally injuring, intimidating, interfering with, or attempting to do so. You have to have both of these things in tandem, and it will not happen in anybody's home.

Mr. DELAY. Mr. Chairman, will the gentlewoman yield?

Mrs. MORELLA. I yield to the gentleman.

Mr. DELAY. Mr. Chairman, the gentlewoman does not think a parent is not going to intentionally stop his child from having an abortion?

Mrs. MORELLA. Mr. Chairman, reclaiming my time, you can use persuasion, of course. But what we are talking about is if you bodily, intentionally stand there in front of a health facility, and you are ready to injure that person, that we should have any waiver, because we consider that to be physical force that should not be used. I want to clarify that this was carefully written.

Mr. DELAY. Mr. Chairman, if the gentlewoman will yield further, I would like to ask a question: Would the gentlewoman show me where it even says health facility or is location specific in the bill?

Mrs. MORELLA. Mr. Chairman, on page 3 of the bill that I have it says that because that person, or any other person, or class of persons, is obtaining or providing reproductive health services or, and then it goes into intentionally damaging. So it says reproductive health services in both instances.

Mr. DELAY. Mr. Chairman, if the gentlewoman will yield further, that does not say anything about a health facility or location of the health facility.

Mrs. MORELLA. Mr. Chairman, the facility is defined at another point within the bill where it lists definitions. It defines reproductive health services, provided in a hospital, clinic, physician's hospital, or other facility, and includes medical-surgical counseling. Then facility includes the building or structure in which the facility is located.

Mr. DELAY. Mr. Chairman, that is not the prohibited activities section.

Mr. BROOKS. Mr. Chairman, I yield the remainder of my time to the distinguished gentleman from Oklahoma [Mr. SYNAR].

The CHAIRMAN. The gentleman from Oklahoma is recognized for 2 minutes.

Mr. SYNAR. Mr. Chairman, my colleague from Texas has, what he considers, a well-intended amendment. Yet I think there are some outstanding questions which really should be posed if we try to practically apply it.

For example, as many of us know, various States have protections today for parental consent notification. States do not interfere on parental discipline. They will, however, stop excessive discipline, as well as child abuse. So the first question with respect to the amendment is how does the gentleman from Texas [Mr. DELAY] intend to deal with that?

Second, as a practical matter, how is a policeman going to determine whether the person causing the interference is indeed the parent, and whether the child is a minor or not? Is the policeman going to ask for an ID, and if the ID is not forthcoming, is the child then put into jail?

Finally, if the police do not enforce the law because they are unable to determine whether it is, indeed, the parent or whether the child is, indeed, a minor, can the police be held liable?

The point is, there are more questions raised by the amendment than are answered. We need to try to avoid the mischief that the amendment would cause.

Therefore, I would ask my colleagues if they would take a very serious look at the practical application of this amendment I think they will come to the conclusion that this is not the type of amendment that we want to attach to this legislation.

Mr. DELAY. Mr. Chairman, will the gentleman yield?

Mr. SYNAR. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Chairman, to answer the gentleman when he asked what would we do about child abuse, there is a nonpreemption clause in the bill that does not preempt State law. So if a State law has child abuse provisions and child abuse laws, they hold, as has been recommended by Senator KENNEDY himself when he passed this bill in the Senate.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. DELAY].

The question was taken; and on a division (demanded by Mr. DELAY) there were—ayes 15, noes 9.

RECORDED VOTE

Mr. BROOKS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 350, noes 82, not voting 6, as follows:

[Roll No. 579]

AYES—350

Ackerman
Allard
Andrews (TX)
Applegate
Archer
Armey
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Browder
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clayton
Clement
Coble
Coleman
Collins (GA)
Combest
Condit
Cooper
Costello
Cox
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
DeLay
Derrick
Diaz-Balart
Dingell
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (TX)
Emerson
English (AZ)
English (OK)
Eshoo
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Fingerhut
Fish
Flake
Foglietta
Fowler
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gallo
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gingrich
Glickman
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hayes
Hefley
Hefner
Herger
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Lowey
Machtley
Mann
Manton
Manzullo
Markey
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McHale
McHugh
McInnis
McKeon
McMillan
McNulty
Meek
Menendez
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (FL)
Minge
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Murphy
Murtha
Myers
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Royce
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stearns
Stenholm
Strickland
Studds
Stump
Stupak
Sundquist
Swift
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thornton
Torkildsen
Traficant
Tucker
Underwood (GU)
Upton
Valentine
Velázquez
Volkmer
Vucanovich
Walker
Walsh
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—82

Abercrombie
Andrews (ME)
Bacchus (FL)
Becerra
Blackwell
Boehlert
Brooks
Brown (CA)
Brown (FL)
Clay
Clyburn
Collins (IL)
Collins (MI)
Conyers
Coppersmith
Coyne
de Lugo (VI)
Dellums
Deutsch
Edwards (CA)
Engel
Evans
Filner
Ford (MI)
Ford (TN)
Frank (MA)
Gejdenson
Gilman
Gonzalez
Hamburg
Hastings
Hilliard
Hinchey
Horn
Jefferson
Johnston
Kopetski
Kreidler
Lewis (GA)
Long
Maloney
Margolies-Mezvinsky
Martinez
Matsui
McDermott
McKinney
Meehan
Mineta
Mink
Morella
Nadler
Natcher
Norton (DC)
Olver
Owens
Payne (NJ)
Rangel
Rose
Rush
Sabo
Sanders
Schroeder
Scott
Stark
Stokes
Swett
Synar
Thompson
Thurman
Torres
Torricelli
Towns
Unsoeld
Vento
Visclosky
Washington
Waters
Watt
Waxman
Woolsey
Wyden
Wynn

NOT VOTING—6

Andrews (NJ)
Clinger
Dickey
Dicks
Faleomavaega (AS)
Romero-Barceló (PR)

□ 1521

Mr. COYNE changed his vote from "aye" to "no."

Ms. CANTWELL, Mr. MILLER of California, Ms. FURSE, Mrs. MEEK, Messrs. PETERSON of Florida, BERMAN, KLEIN, FARR of California, GEKAS, and DEFAZIO, Ms. EDDIE BERNICE JOHNSON of Texas, Messrs. SERRANO, SHAYS, ROSTENKOWSKI, REYNOLDS, FAZIO, SCHUMER, LAMBERT, STUDDS, FIELDS of Louisiana, HOAGLAND, and GIBBONS, Mrs. LOWEY, and Ms. VELÁZQUEZ changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 3 printed in House Report 103-373.

AMENDMENT OFFERED BY MR. SCHUMER

Mr. SCHUMER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SCHUMER: Page 6, line 4, strike the close quotation mark and the period which follows.

Page 6, after line 4, insert the following:

"(5) INTIMIDATE.—The term 'intimidate' means to place a person in reasonable apprehension of bodily harm to himself or herself or to another.".

The CHAIRMAN. Pursuant to the rule, the gentleman from New York [Mr. SCHUMER] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is a very simple amendment. It simply takes the definition of intimidate; the bill now prohibits the use of force, threat of force or physical obstruction to injure or intimidate.

A question was raised about the definition of intimidate, and it refines those definitions. I believe it is acceptable to everybody.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Does any Member wish to speak in opposition to the amendment?

If not, the question is on the amendment offered by the gentleman from New York [Mr. SCHUMER].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 4 printed in House Report 103–373.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. SMITH OF NEW JERSEY

Mr. SMITH of New Jersey. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. SMITH of New Jersey:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Clinic Violence and Obstruction Prevention Act of 1993".

SEC. 2. PREVENTION OF VIOLENCE AND OBSTRUCTION AT REPRODUCTIVE HEALTH FACILITIES.

Chapter 13 of title 18, United States Code, is amended by adding at the end the following:

"§248. Preventing violence and obstruction at reproductive health facilities

"(a) PROHIBITED ACTIVITIES.—Whoever—

"(1) by force or threat of force, intentionally injures, intimidates, or physically obstructs any person, or attempts to do so, because that person or any other person is lawfully providing or obtaining reproductive health services;

"(2) by force or threat of force, intentionally injures, intimidates, or physically obstructs any person who is lawfully engaging in activity protected by the first article of amendment to the Constitution, or attempts to do so—

"(A) in or on, or within 500 feet of, a facility lawfully providing reproductive health services; or

"(B) in or on, or within 300 feet of, the residence of a person lawfully providing or obtaining reproductive health services; or

"(3) intentionally damages or destroys the property of a facility that is providing reproductive health services, or attempts to do so;

shall be punished as provided in subsection (b) of this section and shall also be subject to the civil remedy provided in subsection (c) of this section, except that a parent or legal guardian of a minor shall not be subject to any penalties or civil remedies under this section for such activities insofar as they are directed exclusively at that minor.

"(b) PENALTIES.—Whoever violates subsection (a) of this section shall be fined under this title or imprisoned not more than 1 year, or both, except that, if bodily injury results, the length of imprisonment shall be not more than 10 years, and if death results, it shall be for any term of years or for life.

"(c) CIVIL ACTIONS.—

"(1) RIGHT OF ACTION GENERALLY.—Any person who is aggrieved by a violation of subsection (a) of this section may in a civil action obtain relief under this subsection.

"(2) ACTION BY ATTORNEY GENERAL.—If the Attorney General has reasonable cause to believe that any person, or group of persons is being, has been, or may be injured by conduct constituting a violation of this section, and such conduct raises an issue of general public importance, the Attorney General may commence a civil action and obtain relief under this subsection.

"(3) RELIEF.—(A) In any action under this subsection, the court may award any appropriate relief, including temporary, preliminary, or permanent injunctive relief, subject to subparagraph (B), and compensatory damages for each person aggrieved by the violation.

"(B) No court may issue a temporary, preliminary, or permanent injunction in any case involving or growing out of a demonstration within 500 feet of a facility providing reproductive health services or within 300 feet of the residence of a person lawfully engaging in activity protected under subsection (a)(1), except—

"(i) after hearing the testimony of witnesses in open court in support of the allegations of a complaint made under oath and the testimony offered in opposition thereto, and the granting to opposing parties of the right to cross-examine such witness; and

"(ii) after the court has made and filed with the record in the case findings of fact to the effect that—

"(I) unlawful acts have been threatened and will be committed, or have been committed and will be continued, unless restrained;

"(II) substantial irreparable injury to complainant's person or property will follow;

"(III) as to each item of relief granted, greater injury will be inflicted upon complainant by the denial of relief that will be inflicted upon defendants by the granting of relief; and

"(IV) complainant has no adequate remedy at law.

No such restraining order or injunction may be issued on account of any threat or unlawful act except against a person making the threat or committing the unlawful act or authorizing or ratifying the same with actual knowledge thereof. Every restraining order or injunction granted in a case involving or growing out of a demonstration within 500 feet of a facility providing reproductive health services or within 300 feet of the residence of a person lawfully engaging in activity protected under subsection (a)(1) shall include only a prohibition of such specific conduct as may be expressly complained of in the complaint filed in such case and as shall be expressly included in the findings of fact.

"(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit or limit any expressive conduct (including peaceful picketing or other peaceful demonstration) protected from legal prohibition by the first article of amendment to the Constitution.

"(e) NON-PREEMPTION.—Congress does not intend this section to provide the exclusive remedies with respect to the conduct prohibited by it, nor to preempt the legislation of the States that may provide such remedies.

"(f) DEFINITIONS.—As used in this section, the following definitions apply:

"(1) REPRODUCTIVE HEALTH SERVICES.—The term 'reproductive health services' means reproductive health services provided in a hospital, clinic, physician's office, or other facility, and includes medical, surgical, counselling or referral services relating to the human reproductive system.

"(2) FACILITY.—The term 'facility' includes the building or structure in which the facility is located.

"(3) PHYSICALLY OBSTRUCTS.—The term 'physically obstructs' means rendering impassable—

"(A) ingress or egress, or rendering passage unreasonably difficult; or

"(B) public ways or traditional public fora or rendering passage through public ways or traditional public fora unreasonably difficult.

"(4) STATE.—The term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

SEC. 3. EFFECTIVE DATE.

This Act takes effect on the date of the enactment of this Act, and shall apply only with respect to conduct occurring on or after such date.

SEC. 4. CLERICAL AMENDMENT.

The table of sections at the beginning of chapter 13 of title 18, United States Code, is amended by adding at the end the following new item:

"248. Preventing violence and obstruction at reproductive health facilities.".

The CHAIRMAN. Pursuant to the rule, the gentleman from New Jersey [Mr. SMITH] will be recognized for 15 minutes, and a Member opposed will be recognized for 15 minutes.

Mr. BROOKS. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Texas [Mr. BROOKS] will be recognized for 15 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me say to members that if you want to tangibly and aggressively crack down on abortion clinic violence without doing irreparable harm to those people engaged in nonviolent civil disobedience, vote for my substitute.

If you want to establish in Federal law that force or threat of force will be punshed, while at the same time not doing irreparable harm to people engaged in nonviolent civil disobedience, vote for my substitute.

If you want to throw violent individuals who kill, firebomb and assault others into prison, which is where they belong, without doing irreparable harm to people engaged in nonviolent civil disobedience, then your vote is "yes" on the Smith substitute, "no" on H.R. 796.

The substitute I offer today imposes strict penalties—including a year in prison and $100,000 in fines—up to 10 years if bodily injury occurs—on individuals who by force or threat of force, intentionally injure, intimidate, or physically obstruct any person because that person is providing or obtaining reproductive health services. The language of my bill tracks our Nation's civil rights law.

If H.R. 796, the Freedom of Access to Clinic Entrances Act, becomes law it will be the first time since the Fugitive Slave Act—which was bitterly resisted by the abolitionists even though prison and fines were heaped upon those against slavery for interfering with that law—that Congress has made nonviolent civil disobedience a felony. H.R. 796 would turn our Nation's longstanding tradition on peaceful civil disobedience on its head. And it would do it—selectively—only to pro-life demonstrators.

H.R. 796 would turn peaceful, nonviolent protestors into felons simply because they rendered passage to or from an abortion clinic unreasonably difficult.

Just getting in the way will make you a felon and draw a long prison term and massive fine.

Just getting in the way, even if you are on your knees praying with hands folded and eyes closed, will make you liable for a year's prison sentence and a $100,000 fine. Do it again and you may go to jail for 3 years and pay a quarter of a million dollars in penalties. And, any aggrieved person may file a suit to recover unlimited punitive damages under the terms of H.R. 796.

H.R. 796 goes to great lengths to protect the financial well-being of abortion mill operators. However, there is virtually no concern demonstrated for peaceful lower and middle-income women and men who would be subjected to draconian jail terms, fines and lawsuits. My substitute addresses this injustice by extending the same protection from assault or interference to pro-life persons engaging in lawful first amendment activity.

Under H.R. 796, pro-abortion counter protestors at abortion mills who physically batter or abuse peaceful pro-lifers will be totally immune to any of the penalties contained in H.R. 796. In fact, passage of this legislation in its current form will encourage proabortion activists to taunt and abuse pro-lifers. If they succeed in eliciting an actionable response, they can then hit the pro-lifer with draconian penalties.

Make no mistake about it. Pro-abortion activists routinely and systematically abuse pro-lifers at abortion clinics. Women who have worked for the abortion industry have told House and Senate committees about numerous instances of abuse by pro-choice activists against pro-lifers.

Katherine Hudson a pro-abortion advocate, served for 3 years as a clinic defense activist, primarily in the Washington, DC area. "From many conversations with police not only in D.C., but in Houston, Buffalo, and with Federal marshals, I know that law enforcement is much more concerned with the behavior of the more radical pro-choice liberal activists such as NWROC [National Women's Rights Organizing Coalition], R&R [Refuse and Resist], Act Up and Queer Nation than they are with Operation Rescue," Ms. Hudson told the House Judiciary Subcommittee on Crime and Criminal Justice on April 1, 1993.

The Bay Area Coalition Against Operation Rescue [BACAOR] is very Explicit about their recommended means of dealing with pro-life protectors. In their March, 1990 publication, "Clinic Defense, a Model" they say the following:

> As OR [Operation Rescue] has shifted to picketing more than blockading, we've learned that we can't relax and let them "just" picket * * * Even if the sidewalk is "public," we've had success at putting enough of us out, early enough, to basically bully the ORs into staying across the street.

BACAOR goes on to recommend some specific sexual and religious baiting tactics for dealing with pro-life protestors.

> [I]f baiting an OR about his treatment of women, his sexuality, and how many times he masturbates will keep him from bothering clients and from being able to effectively direct the others, do it.

Mr. Chairman some manuals for training pro-abortion protestors cynically exploits the training pro-life protestors are given in non-violence. Let me read a short excerpt from a training manual put out by the Bay Area Coalition Against Operation Rescue:

> [Pro-life protestors] are coached not to hit people outright. Their passive-aggressive tactics * * * give us plenty of plenty of places to grab hold of their jackets, etc. to pull on. * * * Chivalry is not dead with these people, and that means they have an inordinate sense of modesty and honor about being accused of touching women. There are innumerable instances of female clinic defenders neutralizing male [pro-life protectors] by shouting "get your hands off me, don't you dare touch me" all the while pushing the [male protestors] out of the line.

Mr. Chairman, pro-life protestors are already being hit with frivolous lawsuits from pro-abortion activists. H.R. 796 would provide a new weapon for one-side harassment suits. Consider the testimony of attorney Nikolas J. Nikas of the American Family Association Law Center (Senate Committee on Labor and Human Resource, May 12, 1993):

> One of my clients, a 65 year-old woman suffering from M.S. and confined to a wheelchair, prayed the Rosary outside of an abortion clinic on the public walkway. This obviously dangerous protestor was sued because she allegedly harassed and intimidated abortion clinic staff, volunteer escorts, women and their companions. (p. 9)

Based on his extensive experience in defending pro-life protestors who have been faced with such legal dilemmas, Mr. Nikas also made the following statement to the committee:

> [I]n every abortion case that I have ever participated in, or heard about, it is a certainty that the pro-abortion plaintiffs will vigorously attempt to impose sweeping limitations on pro-life expression. (p. 7)

In sum, my substitute is very strong in dealing with violence. However, it also safeguards some of our most cherished freedoms—the rights to free speech and peaceful assembly. Those who believe in fair treatment for both sides in the emotionally changed abortion debate will find a balanced approach in my substitute.

□ 1530

Mr. Chairman, I reserve the balance of my time.

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from New Jersey [Mr. SMITH].

Mr. Chairman, this substitute proposal is troubling in many ways. It drastically narrows the scope of protection to within a certain number of feet of a facility or residence. Thus, it excludes all those who are on their way to, or from, those places. So, for example, it would put off limits the despicable act of shooting a doctor because he provides reproductive health services because of a loophole that he is traveling miles away from his residence or clinic.

The substitute also narrows the scope of who can seek relief, eliminating the cause of action provided in H.R. 796 for State attorneys general and limiting the right of action of the U.S. Attorney General. At the same time, it imposes burdensome procedures for obtaining a temporary restraining order against prohibited activity, and it narrows the relief that can be sought when a cause of action is brought.

But the real time bomb buried in the substitute amendment is the seemingly innocuous phrase lawful reproductive services. By questioning whether health care services are lawful—which one could do for the treatment of arthritis—the amendment would create a powerful new tool of harassment by allowing opponents of clinic activities to delve into all of a facility's records, its business practices, regulatory compliance, medical licenses. If names and addresses of clients were able to be accessed in the determination of what is, or is not, lawful, the harassment potential would only multiply.

With regard to first amendment activities, I would point out once again that H.R. 796 clearly states that it cannot be used to prohibit any expressive conduct protected from legal prohibition by the first amendment.

For all these reasons, I urge my colleagues to reject this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. SMITH of New Jersey. Mr. Chairman, I yield myself 30 seconds in order to respond to the chairman.

The chairman is responding to an earlier draft and not the legislation before this body. In this legislation there are no limitations on the effect and the reach where force or the intent to use force is involved. So the comments just made, do not apply to this legislation. If force or the intent to use force are involved here, it applies and the Federal Government would be involved and a crime would have been committed, under my legislation.

So the gentleman has spoken to something that is simply not on the table.

Mr. BROOKS. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. SCHUMER] the chairman of the subcommittee.

Mr. SCHUMER. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in strong opposition to the Smith amendment. Ladies and gentlemen, make no mistake about it, this is a gutting amendment. If this amendment passes, the bill will really be meaningless.

Let me show you why: First, the bill would allow blockades. Right now, one of the reasons that this bill started was the blockading of clinics, not the peaceful protests but tens and hundreds of people sitting by the doorway and not letting women who not only wished services for abortion but services for birth control, services for cervical checks, not allowing them into these clinics. the amendment eliminates blockades.

Second, it would not allow States' attorneys general to enforce the law.

How can States be empowered to protect State laws if the State attorneys general cannot do it?

Third, it encourages frivolous lawsuits unrelated to the provision of reproductive services. By covering only lawfully provided or obtained services, the Smith amendment encourages lawsuits by Operation Rescue.

Fourth, it makes it virtually impossible to get an injunction against those who commit violence against clinics and providers. One of the clauses of the bill is that if the clinic is besieged, they can go to court and get an injunction.

And finally, it expressly sanctions violence and threats of violence against innocent women and health professionals so long as the violence or threats do not occur near a clinic or a home.

What if a doctor is on the street and what if somebody goes over and jostles him or punches him or harasses him or her? This bill would say, "Sorry, it doesn't cover."

So while there have been amendments, three of which have been added here, that may not be the amendments that reach the broadest expanse, they do not undo the bill. This amendment undoes the bill.

Let me say just one final thing: There is a tradition of civil disobedience. But with civil disobedience goes the fact of accepting punishment. Operation Rescue and all those, who of those who oppose this amendment, not the mainstream of the pro-life movement, have this weird idea that they can blockade clinics but that the law ought not be enforced and that there should be no punishment for that.

That is not the tradition of Martin Luther King, that is not the tradition of Gandhi, that is not the tradition of anyone who knows what civil disobedience is all about.

If somebody feels so strongly that they have to take the law into their own hands, the whole tenet of civil disobedience is that you accept your punishment like an adult man, like an adult woman. And the Smith amendment says, "No, let them blockade, let them not punish," which shows the real purpose of this amendment, not to foster protest, peaceful protest for sure, not to foster anything except to shut down all of the abortion clinics by either legal or illegal means.

Mr. EDWARDS of California. Mr. Chairman, will the gentleman yield?

Mr. SCHUMER. I yield to the gentleman.

Mr. EDWARDS of California. I thank the gentleman for yielding.

Mr. Chairman, I happen to agree with the gentleman that this amendment would gut the bill, and that is why it is offered by the gentleman who is a strong opponent of anything like this. So it is designed that way.

Will the gentleman explain to me why it would gut the bill? Why is it too destructive?

Mr. SCHUMER. Well, it does it in many ways, and I just went through some of them.

Let me repeat: It would allow blockades; it would allow physical violence and harassment as long as it was not near the home or the clinic, such as chasing a doctor. How about harassing the kids of a doctor on their way to school? It would do many of these things. So that is two of the five ways that it guts the bill, and I appreciate the gentleman inquiring.

Mr. BROOKS. Mr. Chairman, I reserve the balance of my time.

Mr. SMITH of New Jersey. I yield myself 15 seconds before I yield to the gentleman from California. Just to answer the gentleman, the gentleman again is reading from the wrong draft. Where violence or the intent to use violence or force is involved, there are no parameters, it covers violence anywhere it is involved. So the gentleman is totally misconstruing this amendment. He is looking at an earlier draft.

Mr. Chairman, I yield 1½ minutes to the gentleman from California [Mr. ROHRABACHER.]

Mr. ROHRABACHER. I thank the gentleman for yielding this time to me.

Mr. Chairman, I am very happy that my colleague, the gentleman from New York [Mr. SCHUMER] has just stated he demands that people who commit civil disobedience be punished. What I would like to know, if they really mean this or whether they are singling out people who believe that babies are being killed.

Now, I can understand there are strong feelings on both sides, because today MAXINE WATERS, a colleague of ours who has strong feelings about statehood, encouraged people to block the doorways of the Cannon Office Building. That is, we have had people encouraging people to commit civil disobedience blocking our own Federal office buildings in order to try to—I will not use the word intimidate, that may be too strong—but to pressure us in order to make a political decision. Should they be persecuted and prosecuted for committing civil disobedience? That is Federal property. There is probably some hypocrisy in this room on issues like that.

Mr. Chairman, I will be supporting, let me note—I am opposing this bill because I do not believe this should be a Federal issue. I do not believe that criminal matters should be a Federal issue. I disagree with my colleagues on both sides who believe that civil disobedience is justified. I think civil disobedience, when you are blocking doorways, is an act that should be prosecuted under the criminal justice system. You are trying to coerce people. I do not care if your belief is about abortion, I do not care if your belief is in statehood, but these are criminal offenses and should be left at the State level.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from Maryland [Mrs. MORELLA] in opposition to the amendment.

Mrs. MORELLA. I thank the gentleman for yielding. Mr. Chairman, the Smith substitute guts the bill. Physical obstruction is covered only if force or the threat of force is used. Thus, clinic blockades would continue without the Federal relief provided under the bill.

The Smith substitute does not cover force, the threat of force, or physical obstruction beyond a zone around the clinic or the home of the person obtaining or providing reproductive health services. Thus, health care providers or patients would not be protected when they were not at home or at the clinic.

The requirement that would restrict the bill only to any person who is lawfully providing or obtaining reproductive health services would give defendants a means of harassing clinics during lawsuits by delving into all of the clinic's records regarding their business practices, regulatory compliance, medical licenses, and so forth. In effect, if a clinic were found to have failed to comply with any State and local requirement, no matter how insignificant, the bill's remedies would not apply. In addition, such a requirement could provide opportunities for defendants to gain intrusive information about a woman's medical status.

The Smith substitute extends a Federal cause of action to anti-abortion demonstrators. There is no coordinated, national campaign of force, threats of force, physical obstruction, and destruction of property by pro-choice activists against antiabortion demonstrators. There have only been a handful of isolated local incidents, primarily involving fist fights. There has not been a single incident in which local law enforcement authorities have been unable to handle unlawful conduct engaged in by pro-choice activists. The bill is completely evenhanded in providing Federal protection not only to abortion clinics, staff, and patients, but also to pro-life counseling or pregnancy centers, staff, and patients.

A Federal cause of action for demonstrators would turn the bill into another weapon for antiabortion extremists to use against already beleaguered clinics, staff, and patients. These groups have already made clear that they will use any opportunity to file harassing lawsuits against pro-choice activists. The bill would become a clinic harassment bill, not a clinic access bill.

The Smith amendment establishes an extremely restrictive standard for obtaining Federal injunctive relief, making it almost impossible to obtain an injunction. The bill is intended to once again provide Federal injunctive relief, filling the gap in Federal law that resulted from the Supreme Court Bray decision in January.

The Smith amendment would gut the bill. I urge Members to oppose it.

□ 1540

Mr. SMITH of New Jersey. Mr. Chairman, I yield myself 15 seconds to respond to the gentlewoman, to make the point that, the injunctive relief criteria as established in my substitute track what is used in Federal law. We just took it right out of Federal law. So that has been misspoken by my distinguished colleague.

Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. CANADY].

Mr. CANADY. Mr. Chairman, I rise to speak in favor of this amendment, which does not gut the bill, but which, instead, seeks to bring some balance to this bill.

This amendment offered by the gentleman from New Jersey [Mr. SMITH] most importantly would extend the protections of the bill to persons engaged in lawful first amendment activities to protest against abortion.

Without this amendment, the bill inevitably will act to discourage the expression of opinion on one side of the abortion debate.

It will create an atmosphere in which opponents of abortion are fearful of exercising their first amendment rights.

And it will do this notwithstanding the bill language which acknowledges the primacy of the first amendment.

We all, in this House, oppose the settlement of political differences through violence or other illegal means.

There is no place in our country for the lawless acts that have been committed by both opponents and proponents of abortion.

But this bill in its present form presents a totally unbalanced approach to this problem.

Rather than applying equitable, evenhanded protections to those who are the victims of unlawful acts in the conflict over abortion, this bill focuses on only one side of the conflict, singling out that side for a full array of Federal criminal penalties and civil remedies.

This is the fundamental flaw in this bill.

Without the Smith amendment, consider the anomalous situation which this bill will create.

Two people on the sidewalk outside an abortion clinic become engaged in a physical confrontation. One is a pro-life protester. The other is an abortion advocate, and clinic employee.

The pro-lifer will be subject to the full force of the Federal civil remedies and criminal penalties provided in the bill.

The abortion advocate will be immune from such Federal penalties and remedies.

This is fundamentally unfair.

If we allow this by passing the bill without the Smith amendment, it will demonstrate that this Congress is hostile to the lawful expression of pro-life opinion in this country.

It will evidence a disturbing animus toward those peaceful, law abiding, citizens of this country who simply seek to speak up in defense of life.

I urge my colleagues to vote yes on the Smith amendment.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Chairman, I thank the gentleman for yielding this time to me.

I really want to urge people to vote against this Smith amendment.

What you are hearing here is people trying to mix the distinction between civil disobedience and violence. There is a bright line between civil disobedience and violence. I think Dr. King would be horrified if he could hear the way his name has been thrown around here.

We are talking about violence. This is the body that approved a bill, and many of you were cosponsors, saying there should not be violence against laboratories that have animals in them.

Would you please tell me why women cannot have health care and have at least extended the same kind of protections against violence?

Now, for those who are saying this is not evenhanded, it is evenhanded. It would allow the same kind of enforcement against any violence by pro-choice people against birth right centers.

So those who are against and those who are for choice, either one of them are in great trouble if they move to block access to the other's clinics and the other's services. That is all this is about.

I find it really unconscionable that we get this so mixed up.

What would this do? This would say a State attorney-general cannot enforce this law. Imagine. How are you going to enforce it if you do not have the State attorneys general doing it?

It would allow blockades. It would also allow the force and the violence now that we are trying to stop.

If any of you have ever visited one of these clinics, you would know that 95 percent of the services in there are dealing with women's basic health care services. This is where they go. Certainly they have the right to get in and get out of there without being subject to violence or without having this restricted.

We know the local law has broken down. That is why we need this bill.

If you did it for bunny rabbits, can we not at least give women equal rights?

Mr. SMITH of New Jersey. Mr. Chairman, I yield such time as he may consume to the gentleman from Maryland [Mr. BARTLETT].

Mr. BARTLETT of Maryland. Mr. Chairman, I rise in strong support of this amendment, which brings a modicum of sanity to an otherwise inane and unconstitutional bill.

I rise in strong support of the Smith substitute amendment and in opposition to the bill. But let me begin my saying that I too, am outraged by the murder of Dr. Gunn of Florida and the shooting of Dr. Tiller in Wichita. I in no way condone the use of violence as a way of demonstrating support for life.

However, this bill goes way beyond addressing the problem of violence at abortion clinics. This bill would set up harsh guidelines for those pro-lifers who practice peaceful civil disobedience. By passing the Freedom of Access to Clinic Entrances Act, the Congress will be setting a precedent—that we can pass laws to restrict the right of free speech based on a person's viewpoint.

Mr. Chairman, I oppose this bill because it applies different rules of conduct to the two sides engaged in this emotionally charged debate. Individuals who attempt to restrict entrance to a clinic for reasons other than the fact that the person is receiving an abortion would not be subject to the same penalties and fines.

This is a bad piece of legislation which is an obvious attempt to selectively apply the first amendment to those people who prescribe to a liberal pro-choice social agenda.

In contrast Mr. Chairman, the Smith substitute is a commonsense, evenhanded alternative that applies penalties for violent acts of protest. At the same time, Mr. Chairman, the Smith substitute protects those individuals who practice first amendment activities in the vicinity of a clinic or residence.

I urge the adoption of the Smith substitute and rejection of the bill on final passage.

Mr. SMITH of New Jersey. Mr. Chairman, I yield 1 minute to the distinguished gentleman from California [Mr. DORNAN].

Mr. DORNAN. Mr. Chairman, where is my friend, the gentleman from New York [Mr. SCHUMER]? Oh good, right there.

I have had very strong passionate pro-life people come to me and say, "Will you rescue with us?"

I have said, "I am a lawmaker. I can't be a lawbreaker, and I hope you expect to feel the penalty of all the law."

It is just like the people who demonstrated from this Chamber in front of the South African Embassy during its evil days when they had flex-cuffs put on. People who demonstrated, including my pal who I saw last night, Rev. Jesse Jackson, realize that breaking the law will result in penalties.

Where did the gentleman get the idea, I say to my dear friend, that these people at their conferences the night before a rescue, and I have gone and witnessed how they set this up, where did the gentleman get the idea that they do not expect to be arrested by local law?

I did march with Martin Luther King. I did not expect to get arrested in my Air Force uniform on August 28, 1963, but I did expect to get arrested in Mississippi and Alabama, and I did.

They do believe they are going to be arrested, I say to my friend, the gentleman from New York [Mr. SCHUMER], honestly.

Mr. Chairman, would the gentleman from Texas [Mr. BROOKS] yield 34 seconds to the gentleman from New York [Mr. SCHUMER] to lecture me?

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, just to answer the gentleman from California, it is very simple.

This bill is the only hope of enforcing the law in certain sections of the country. When the local sheriff, for ideological reasons, says, "I won't," when there is trespass, when a town like Dobbs Ferry is overwhelmed by Operation Rescue, they have a small number of police officers and a thousand protesters, if the Federal Government does not step in the carefully drawn way of this amendment, there is no punishment.

So by opposing this amendment, those who say they enforceable disobedience and accept the punishment, are saying that in localities that cannot or will not enforce the law, there should be no punishment.

☐ 1550

Mr. DORNAN. But does the gentleman agree they do not expect to be arrested?

The CHAIRMAN. The time of the gentleman from New York [Mr. SCHUMER] has expired.

Mr. SMITH of New Jersey. Mr. Chairman, I yield 2½ minutes to the gentleman from Pennsylvania [Mr. KLINK].

Mr. KLINK. Mr. Chairman, I would like to thank my distinguished colleague, the gentleman from New Jersey, for allowing me to speak in support of his substitute.

This substitute would distinguish between the activities of violent protesters and nonviolent protesters.

This Nation has a history of tolerance—and to some degree even respect—for nonviolent civil disobedience. From the nonviolent abolitionists to the antiwar movements, from Henry David Thoreau to Martin Luther King, Jr., we have always recognized the close association between peaceful and civil disobedience, which violates laws against trespassing and obstruction of public ways, and political speech, which is clearly one of the most highly protected rights within our Constitution.

I am not advocating that civil disobedience should be overlooked, or that laws against trespass or obstruction should not be enforced. People who engage in this type of activity understand very well that there will be consequences to their actions, and because we are a government of laws and not of men, I believe that these laws need to be enforced to maintain order and justice in our society.

My concern is that we are treading a very fine line when we treat some persons engaged in nonviolent civil disobedience differently than other groups of people doing exactly the same thing, especially when the basis for treating them differently hinges on the motivation or political beliefs of those persons.

When we do this, Congress has gone beyond punishing criminal acts; it is putting itself in the business of saying that one cause or political belief is better than another cause or belief. And that gives me great concern.

To punish one group more harshly than another implies discrimination against one particular viewpoint. All groups that engage in peaceful sit-ins and similar activity should be treated in an evenhanded manner, regardless of the motivation of those engaged in this conduct.

Another significant concern that I have with H.R. 796 which this amendment would address is that the bill treats people engaged in nonviolent civil disobedience on a par with those who commit acts of violence. Under H.R. 796, a second offense for physical obstruction—that is, sitting in a doorway—which attempts to interfere with another person would constitute a felony with penalties of up to 3 years in Federal prison and $250,000 in fines.

Finally, Mr. Chairman, I urge my colleagues to support the substitute offered by the gentleman from New Jersey [Mr. SMITH], as I feel the Federal Government does not need to be involved in stamping out this type of peaceful civil disobedience. It should not be involved here.

Mr. BROOKS. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Savannah, GA, [Ms. MCKINNEY].

Ms. MCKINNEY. Mr. Chairman, I rise today as a cosponsor of H.R. 796.

I rise because of the courage displayed by the women, the clinic workers, the doctors, and their families who brave the demonstrators who show up at their homes and offices every day.

These people harass women throughout Georgia and the United States who are going into health clinics—regardless of whether they are at the clinic for an abortion, birth control, or a Pap smear.

Dr. Gay is an abortion provider in the Atlanta area. Day after day, he and his family must drive through antiabortion protesters picketing his home. And when he gets to his office, Dr. Gay and his staff must again endure mobs stalking the clinic.

Each day, they yell at him and beat their fists on his car. They remind him that two doctors have been shot this year. And sometimes they point their fingers at him like a pistol and say, "You'll be next."

These attacks on Dr. Gay, his staff, his patients, and his family have afforded him a permanent injunction against these terrorists. But with a mayor who will not dispatch the police to enforce the injunction, he has absolutely no one to turn to for protection.

We cannot stand by and allow Americans to endure this terrorism day in and day out.

And further, I cannot stand by and see these people degrade the memory of Dr. Martin Luther King by comparing themselves to him and his philosophy of nonviolence. They act more like those who blocked the schoolhouse doors in Arkansas, Alabama, and Georgia.

I encourage my colleagues to support H.R. 796, and reject the Smith amendment.

Mr. SMITH of New Jersey. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Chairman, before I vote for or against this bill I have a question that I really would like answered by the gentleman from New York [Mr. SCHUMER].

Let me describe a situation. We have 3, 10, 12 people, pro-life, on a sidewalk in front of a clinic. People cannot get by. Police come and lift them up, put them in a paddy wagon, take them away.

Are they subject to a felony and 1 year in jail?

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. GILCHREST. I yield to the gentleman from New York.

Mr. SCHUMER. No. The first-time offense they are simply subject to a misdemeanor.

Mr. GILCHREST. Suppose it is the second time.

Mr. SCHUMER. The second time it is a felony, but they need not get jail time. There is no minimum mandatory.

Mr. GILCHREST. I thank the gentleman from New York.

Mr. BROOKS. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Chairman, I rise in strong opposition to the Smith substitute.

Mr. Chairman, I want to take a moment to address my understanding of the substitute offered by the gentleman from New Jersey and why it should not be adopted.

I think that there is absolutely no disagreement in this body on the primacy of the first amendment. As our debate yesterday reminded us, the right to disagree—and to disagree quite vocally—is precious to our democracy. Abortion is an issue of paramount importance to many, many Americans; it is an intensely controversial issue and one in which we must have a national dialog. The wide spectrum of opinions in this body on the question of abortion is testament to the vitality of that debate.

Free speech is predicated ultimately on the respect this value is accorded by the American people. It is absolutely critical that we do all that we can to protect and promote a fundamental respect for speech—for the right to disagree, the right to advocate and argue, and the right to protest. Every Member of this body is sworn to uphold this right.

But as I understand this substitute amendment, we are attempting to carve out a special treatment not for speech, but rather for conduct. Specifically, the amendment contends that the act of obstructing a clinic should not be illegal.

I think that this contention is mistaken. Obstruction of a clinic is not speech—it is action. It is, moreover, an action that interferes with the rights and privileges of other people. Time and again, our Supreme Court has looked at the question of abortion. Time and again—notwithstanding substantial changes in the court's makeup at the direction of Presidents opposed to abortion—that Court has concluded that abortion is a fundamental right. Many in Congress disagree with that conclusion, but none of us are empowered to disregard it, no more than we are empowered to wrest a voting card from the hands of another Member with whom we may disagree. It is a fundamental right, and interference with that right is a crime.

Obstruction is civil disobedience. Many great figures in world history have advocated civil disobedience. But none have contended that they should not be subject to arrest. Civil disobedience contemplates arrest as a consequence—that is how it is differentiated from other crimes, and that is also how it is differentiated from speech. Civil disobedience contemplates peaceful action, but that does not mean that it is not a crime, and that does not mean that it is only speech.

I would also note that civil disobedience is rarely invoked to interfere with the rights of others. Rather, its historical usage has been to protest against that which is viewed as an infringement of one's own rights. This is one reason why the actions of Operation Rescue—even when they are peaceful—are not truly akin to those of Thoreau, Ghandi, and King.

Ultimately, Mr. Chairman, I am concerned that this amendment will inevitably lead to violence. It encourages obstruction and it includes a restrictive standard for obtaining injunctions. Obstruction, in turn, encourages conflict which, in turn, engenders violence. I do not think that this is a role which we should play.

Mr. BROOKS. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Chairman, I rise in opposition to the Smith substitute. This substitute renders the bill meaningless—it would leave physicians open to continued violence; it would tie up clinics in endless and costly litigation, it would make it virtually impossible to take legal measures against those committing violence, and it would ban State attorney general from enforcing the law. That is not what this law intends.

It is the constitutionally protected right of women in this country to make their own choices about reproductive health. But that right means little if women are barred from exercising it. Barred by violence or the threat of violence. Barred because access to the clinic they use is literally blocked by those who would deny them this right. Or barred because fear for their safety has driven away the people who would provide these health services.

Freedom of speech is also protected by the Constitution. And the bill we consider here today is true to both of these rights. It protects and enforces women's access to reproductive health services—and it carefully protects freedom of speech for those who disagree.

There is no question about the need for action. Vandalism against clinics has doubled. Sixteen clinics have been burned down. Eighty-three clinics have been blockaded. Arson, bombing, and murder have all been unleashed against these clinics and those who run them. Doctors and staff live in fear of providing a constitutionally protected service. We stand today to take that fear away and give them back their safety.

I am saddened, quite frankly, that we are forced to enact this legislation. But we have no choice. The violent challenges to those who would exercise their rights cannot go unmet.

Mr. Chairman. Let us put an end to the killing, the violence, and the fear. Let us show that violence for any cause is an unacceptable course of action. And let us live up to our heritage as a nation governed by laws with a deep and abiding respect for our Constitution. Protect our rights—oppose the Smith substitute and pass the Freedom of Access to Clinic Entrances Act.

Mr. SMITH of New Jersey. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, the gentlewoman from Connecticut [Ms. DELAURO] just said we should live up to our heritage. Part of our heritage, as I understand it, is equal protection of the law, and yet we single out prolifers standing in front of an abortion clinic, which they have mistakenly called reproductive rights services, single them out for jail and for fines, but we do not single out the people who are obstructing the way into the Longworth Building or the Cannon Building in support of District of Columbia statehood. We do not single out environmental demonstrators. We do not single out civil rights demonstrators. It is only people who are worried and concerned about the unborn being exterminated in somebody's womb. Mr. Chairman, that is unequal protection of the law.

Now what are we talking about here? I heard the gentlewoman from Colorado [Mrs. SCHROEDER] say "violence." That is precisely right, violence. In the Schumer bill someone can go to jail, be fined, or both, without violence, without threat of violence; simply, Mr. Chairman, physical obstruction. Do my colleagues hear me? Simply physical obstruction.

□ 1600

Then you are subject to these fines. Nobody else in the panoply of demonstrations or civil disobedience is. Just if you dare to try to protect a defenseless unborn child. Then, if you physically obstruct, you are subject to these penalties, these felonies.

Mr. Chairman, every politician that ever ran for office stands and hands people a pamphlet on a corner. Is that physically obstructing? Is that intimidating?

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I will be happy to yield to the gentleman.

Mr. SCHUMER. Mr. Chairman, I will say to the gentleman that in all the case law we have looked at under this law, there has never been a case where handing someone a pencil is physically obstructing.

Mr. HYDE. Mr. Chairman, reclaiming my time, I submit to the gentleman that the day is not far away when one of the new judges we are getting is going to find that intimidating, physically obstructing. The gentleman may shake his head, but I do not agree with him.

Mr. Chairman, what you have under the proposal of the gentleman from New York [Mr. SCHUMER] is no violence or force involved, simply physical obstruction. Under Smith, there must be force or threat of force.

Mr. Chairman, is that not what we are against? I heard the word "violence" repeated many times. Let us support Smith, which requires the use of force or the threat of use of force before you felonize somebody for physically obstructing.

Now, I have heard about the doctor that was shot, and, of course, that is tragic. But let me tell Members, if you do not think people get shot and killed in labor disputes, you have not been paying attention.

Mr. Chairman, this article is from last July's Associated Press. "A nonunion subcontractor working at a strike bound arch of West Virginia Mine was shot to death on his first day on the job."

Mr. Chairman, do we have violence on picket lines? Yes. Why do we not federalize and criminalize that violence? Why do we just pick on abortion?

Mr. BROOKS. Mr. Chairman, I yield such time as he may consume to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Chairman, I rise in support support of the Smith substitute.

Mr. BROOKS. Mr. Chairman, I yield 1½ minutes to the gentleman from Washington [Mr. INSLEE].

Mr. INSLEE. Mr. Chairman, I rise in opposition to the amendment and in support of the bill. I believe it is altogether fitting and proper that we debate these constitutional issues, because we are the guardians of the constitutional rights of this country.

Mr. Chairman, I think we should take a lesson from the experience of the former Soviet Union. In the Soviet Union, they had a piece of paper that had just about the same Bills of Rights as we did. But there was something they had missing. They had a missing ingredient, a way to provide the enforcement of those rights.

Mr. Chairman, we are talking about the right of privacy here. If we lose in practice, in practice, the way for a woman to engage in her right of privacy, we will have become the Soviet Union, with a nice Bill of Rights and no way to enforce it.

The Bill of Rights and the right of privacy does not exist only where local sheriffs decide to enforce it. It exists in every county. And because certain sheriffs decide not to enforce that universal right, we are required, vested, and obligated, to take Federal action, just like the Congress did in the civil rights battle when the local sheriffs in Mississippi, and now it is a great State, would not enforce Federal rights.

When Members come and talk in this chamber about the segregation battles and compare that to this situation, the situation of a person who wants to walk into a segregated donut shop and buy a donut, and say it is the same thing if a woman who is pregnant with a high-risk pregnancy, and compare that trauma to someone hungry for a donut, the person has never been pregnant.

Mr. INHOFE. Mr. Chairman, I rise in favor of the Smith substitute.

Mr. Chairman, this legislation does nothing more than create a host of new Federal crimes. It will punish those individuals who choose to participate in nonviolent demonstrations at numerous facilities around the country that provide abortion services. This bill provides very strong protection for abortion providers in this country under Federal law and fails to give the same protection to those persons wishing to exercise their first amendment rights under the Constitution.

This language is so broad and so unclear that pro-life individuals will have to live with the fear that they will be violating Federal law by peacefully protesting. They will be afraid to exercise their first amendment right of free speech. This bill makes nonviolent civil disobedience a Federal crime. Citizens of this country should not have to live in fear of expressing their position on abortion * * * or any issue.

The practice of civil disobedience has a long history in this Nation. This bill singles out pro-life groups specifically. To punish one group for civil disobedience more severely, based on someone's viewpoint on a particular issue, is a clear violation of the first amendment. Mr. Chairman, I thought the first amendment was drafted to protect all Americans from Government infringements on free speech.

Mr. Chairman, the Smith substitute addresses these concerns * * * and I ask my colleagues to vote for the Smith substitute.

Mrs. LOWEY. Mr. Chairman, I rise in strong opposition to the Smith substitute. Amendment has one and only one intent: to gut this critical legislation.

I must admit that I am somewhat heartened by this substitute. Heartened, because it acknowledges the clear recognition of the need for Federal remedies to address the escalating violence at reproductive health clinics. I am pleased that we all agree that the violence has gone too far.

But that is about the only good thing about the amendment.

Do not be fooled—the clear intent of this substitute is to render the bill almost meaningless. The real FACE protects both the rights of protesters and the rights of physicians and their patients. This substitute tips the balance in the favor of extremist protesters.

Indeed, this substitute provides a new cause of action to extremist groups, giving them the right to tie up reproductive health clinics in endless litigation. Just recently, operation rescue formed the legal offense fund, whose purpose is to litigate clinics to death. They intend to exhaust the resources of clinics, providers, doctors and patients through unending litigation. Clearly, they want to put these clinics out of business, and they do not care if, in doing so, they deprive women and their families of access to pre-natal care, immunizations, contraception, and yes, abortion.

A vote for the Smith substitute is a vote to encourage frivolous lawsuits and a vote to weaken the protections H.R. 796 is designed to provide.

I urge my colleagues in the strongest possible terms to oppose the Smith substitute.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from New Jersey [Mr. SMITH].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SMITH of New Jersey. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 177, noes 255, not voting 6, as follows:

[Roll No. 580]

AYES—177

Allard
Applegate
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bevill
Bilirakis
Bliley
Blute
Boehner
Borski
Browder
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Coble
Collins (GA)
Combest
Costello
Crane
Crapo
Cunningham
de la Garza
Deal
DeLay
Diaz-Balart
Doolittle
Dornan
Dreier
Duncan
Dunn
Emerson
Everett
Ewing
Fields (TX)
Fish
Gallegly
Gekas
Gillmor
Gingrich
Goodlatte
Goodling
Goss
Grams
Hall (OH)
Hall (TX)
Hancock
Hansen
Hastert
Hayes
Hefley
Herger
Hoekstra
Hoke
Holden
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Istook
Johnson, Sam
Kanjorski
Kasich
Kildee
Kim
King
Kingston
Klink
Knollenberg
Kyl
LaFalce
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Lipinski
Livingston
Manton
Manzullo
Mazzoli
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
McNulty
Mica
Michel
Miller (FL)
Mollohan
Montgomery
Moorhead
Murphy
Murtha
Myers
Nussle
Oberstar
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Penny
Peterson (MN)
Petri
Pombo
Portman
Poshard
Quillen
Quinn
Rahall
Ravenel
Regula
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Rowland
Royce
Santorum
Sarpalius
Saxton
Schaefer
Sensenbrenner
Shaw
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stenholm
Stump
Stupak
Sundquist
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (WY)
Tucker
Volkmer
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)

NOES—255

Abercrombie
Ackerman
Andrews (ME)
Andrews (TX)
Bacchus (FL)
Baesler
Barca
Barlow
Barrett (WI)
Becerra
Beilenson
Bereuter
Berman
Bilbray
Bishop
Blackwell
Boehlert
Bonilla
Bonior
Boucher
Brewster
Brooks
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Cooper
Coppersmith
Cox
Coyne
Cramer
Danner

Darden
de Lugo (VI)
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English (AZ)
English (OK)
Eshoo
Evans
Faleomavaega (AS)
Farr
Fawell
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallo
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Glickman
Gonzalez
Gordon
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hamburg
Hamilton
Harman
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Horn
Houghton
Hoyer
Hughes
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kaptur
Kennedy
Kennelly
Kleczka
Klein
Klug
Kolbe
Kopetski
Kreidler
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Lewis (GA)
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Margolies-Mezvinsky
Markey
Martinez
Matsui
McCandless
McCloskey
McCurdy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Molinari
Moran
Morella
Nadler
Natcher
Neal (MA)
Neal (NC)
Norton (DC)
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickett
Pickle
Pomeroy
Porter
Price (NC)
Pryce (OH)
Ramstad
Rangel
Reed
Reynolds
Richardson
Ridge
Roemer
Rose
Rostenkowski
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sawyer
Schenk
Schiff
Schroeder
Schumer
Scott
Serrano
Sharp
Shays
Shepherd
Sisisky
Skaggs
Slattery
Slaughter
Smith (IA)
Snowe
Spratt
Stark
Stokes
Strickland
Studds
Swett
Swift
Synar
Thomas (CA)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Underwood (GU)
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Washington
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Zeliff
Zimmer

NOT VOTING—6

Andrews (NJ)
Clinger
Conyers
Dickey
Dicks
Romero-Barcelo (PR)

□ 1624

Mr. HOCHBRUECKNER, Mr. GUNDERSON, and Ms. DANNER changed their vote from "aye" to "no."

Messrs. PETRI, GILLMOR, and McMILLAN changed their vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. SKELTON) having assumed the chair, Mr. KOPETSKI, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 796) to assure freedom of access to clinic entrances, pursuant to House Resolution 313, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendments in the nature of a substitute adopted by the Committee of the Whole?

Mr. WALKER. Mr. Speaker, I demand a separate vote on the so-called DeLay amendment.

The SPEAKER pro tempore. Is a separate vote demanded on any other amendment?

The Clerk will report the amendment on which a separate vote has been demanded.

The Clerk read as follows:

Amendment: Page 3, line 8, strike the period and insert the following: ", except that a parent or legal guardian of a minor shall not be subject to any penalties or civil remedies under this section for such activities insofar as they are directed exclusively at that minor."

Mr. WALKER (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. WALKER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 345, noes 80, not voting 8, as follows:

[Roll No. 581]

AYES—345

Ackerman
Allard
Andrews (TX)
Applegate
Archer
Armey
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Browder
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clayton
Clement
Coble
Coleman
Collins (GA)
Combest
Condit
Cooper
Costello
Cox
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
DeLay
Derrick
Diaz-Balart
Dingell
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (TX)
Emerson
English (AZ)
English (OK)
Eshoo
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Fingerhut
Fish
Flake
Foglietta
Fowler
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gallo
Gekas
Geren
Gibbons
Gilchrest
Gillmor
Gingrich
Glickman
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hayes
Hefley
Hefner
Herger
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnson, Sam
Kanjorski
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Lowey
Machtley
Mann
Manton
Manzullo
Markey
Martinez
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McHale
McHugh
McInnis
McKeon
McMillan
McNulty
Menendez
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (FL)
Minge
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Murphy
Murtha
Myers
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Royce
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stearns
Stenholm
Strickland
Studds
Stump
Stupak
Sundquist
Swift
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda

Thomas (CA)
Thomas (WY)
Thornton
Torkildsen
Torres
Traficant
Tucker
Upton
Valentine
Velazquez
Volkmer
Vucanovich
Walker
Walsh
Weldon
Wheat
Whitten
Wilson
Wise
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—80

Abercrombie
Andrews (ME)
Bacchus (FL)
Becerra
Blackwell
Boehlert
Brooks
Brown (CA)
Brown (FL)
Clay
Clyburn
Collins (IL)
Collins (MI)
Conyers
Coppersmith
Coyne
Dellums
Deutsch
Edwards (CA)
Engel
Evans
Filner
Ford (MI)
Ford (TN)
Frank (MA)
Gejdenson
Gilman
Gonzalez
Hamburg
Hastings
Hilliard
Hinchey
Horn
Jefferson
Johnston
Kopetski
Kreidler
Lewis (GA)
Long
Maloney
Margolies-Mezvinsky
Matsui
McDermott
McKinney
Meehan
Meek
Mineta
Mink
Morella
Nadler
Natcher
Olver
Owens
Payne (NJ)
Rose
Rush
Sabo
Sanders
Schroeder
Scott
Stark
Stokes
Swett
Synar
Thompson
Thurman
Torricelli
Towns
Unsoeld
Vento
Visclosky
Washington
Waters
Watt
Waxman
Williams
Woolsey
Wyden
Wynn
Yates

NOT VOTING—8

Andrews (NJ)
Clinger
Dickey
Dicks
Gephardt
Gutierrez
Kaptur
Shepherd

□ 1646

Mr. LEVIN changed his vote from "no" to "aye."

Mr. BECERRA changed his vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. SKELTON). The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. SENSENBRENNER. I am, in its present form, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. SENSENBRENNER moves to recommit the bill H.R. 796 to the Committee on the Judiciary with instructions to report the same back to the House forthwith with the following amendment:

Page 3, beginning on line 7, strike "and also be subject to the civil remedy provided in subsection (c) of this section".

Page 3, strike line 21 and all that follows through line 24 on page 4.

Mr. SENSENBRENNER (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The SPEAKER pro tempore. The gentleman from Wisconsin [Mr. SENSENBRENNER] is recognized for 5 minutes.

Mr. SENSENBRENNER. Mr. Speaker, I yield to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Speaker, I thank the gentleman for yielding.

I support his motion to recommit.

Mr. SENSENBRENNER. Mr. Speaker, this motion to recommit strikes the civil right of action contained in H.R. 796 both for individuals as well as for the United States and State attorneys general. The attorneys general do not need a civil right of action, because they already have adequate power particularly since the criminal penalties in this bill remain.

However, the civil right of action can be used by those that wish to stop peaceful protests as an intimidating club to prevent people from exercising their first-amendment rights, because anybody who is sued under the civil right of action that is contained in this bill will have to hire their own attorney at their own expense, even if they have not violated the law, because they will have to get themselves exonerated in a Federal court. That is wrong. That can subject anybody that is peacefully praying the rosary in front of an abortion clinic individually each to hire an attorney.

My motion to recommit also strikes the fact that even when the plaintiff can prove no damages there are $5,000 of liquidated damages that are automatically assessed against each defendant. That is wrong, too.

But what is also wrong is that if the defendant prevails, the defendant does not get any attorney's fees whatsoever.

□ 1650

Now, I think that we ought to be fair in this. There is no other civil right of action by an individual against another individual in any of the civil rights laws. The bus company was not given a civil right of action to sue Rosa Parks, the operators of the segregated lunch counters were not given the civil right of action to try to sue those who were sitting in in support of the passage of civil rights laws. There is no reason why a civil right of action should be granted in this bill to allow plaintiffs' attorneys to harass people who are peacefully protesting in front of abortion clinics. And that is what will happen unless my motion to recommit is passed.

I would urge support for the motion to recommit so that this bill does not become another way to enrich plaintiffs' attorneys.

Mr. Speaker, I yield to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Speaker, I rise in support of the motion to recommit. The language as contained in the bill presently giving the private cause of action is unprecedented in the history of this country as far as civil rights action is concerned. It is an intimidating factor that really is meant to stifle dissent. I, for one, believe that it should be stricken.

There are other provisions in this bill that go to violence at the clinics; I do not support any violence at the clinics, and I do not think anybody here does. But I do support the right of individuals to dissent, and this language in the bill will actually stifle that because of the threat of the lawsuits and the way that the language in the bill is structured, because you, as a plaintiff, a clinic or a doctor or a nurse, anybody in there, when you sue, you are entitled to liquidated damages if you can prove your case and you also get attorneys' fees. But if you lose, you do not lose anything. You do not lose a thing.

How is that being fair? Why do you not have a provision in here to make it fair that if you lose, if you sue and you lose, you pay $5,000 and you pay attorneys' fees?

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I rise in opposition to the motion to recommit, and I yield to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, the need for this legislation arose with the blockade of the Alexandria Women's Health Clinic in my district. I rise in very strong support of this bill as it stands right now.

Mr. Speaker, I rise today in support of H.R. 796, the Freedom of Access to Clinic Entrances Act. I am proud to be a cosponsor of this important legislation. Since the Supreme Court's Bray decision, which overturned a Federal court injunction against Operation Rescue's blockade of the Alexandria Women's Health Clinic, located in my district, clinic violence has escalated nationwide to an unprecedented level. In 1993 alone more than 50 percent of clinics surveyed have experienced some form of violence: arson, chemical attacks, invasions, stalking, blockades, bomb threats, and death threats.

These kinds of radical activities cannot be characterized as peaceful protest. This is outright terrorism, the final aim of which is to shut down clinics and strip the legal right of abortion away from the women of this country. Unless Congress acts to protect clinics, clinicians, and patients, the right to choose will be a right in theory only, available only to those brave few willing to risk their personal safety to exercise their constitutional rights.

In my own State of Virginia, without Federal assistance, localities have no effective means of ending blockades which have effectively shut down clinics throughout northern Virginia.

The strain that antiabortion violence places on local law enforcement is simply too much. Our local officials need help from the Federal Government. That's what this legislation will provide.

Opponents of this bill have tried to paint this legislation as an extreme piece of legislation that will prevent peaceful protestors from exercising their first amendment rights under the Constitution. This is absolutely untrue. This bill will criminalize the use of force, threat of force, or physical obstruction which interferes with anyone seeking or providing reproductive health services. It won't stop protestors from demonstrating outside of clinics, holding posters, or shouting at people entering clinics. It won't stop people from sitting and praying in front of a reproductive health care facility. It will stop the campaign of violence and terrorism gripping our country that led to the tragic shooting death of Dr. David Gunn in Florida.

This debate is not about abortion, it is about the liberty of individuals to exercise their legal rights in this country. It is our role to protect those rights when they are endangered, as Congress did when it prohibited unlawful interference with an individual's attempt to exercise the right to vote.

I urge my colleagues, regardless of your position on abortion, to take a stand against terrorism, take a stand against violence, and reaffirm our Constitution. I urge my colleagues to vote for H.R. 796.

Mr. BROOKS. Mr. Speaker, I yield to the gentlewoman from Arizona [Ms. ENGLISH].

Ms. ENGLISH of Arizona. Mr. Speaker, I rise today in support of H.R. 796, the Freedom of Access to Clinic Entrances Act.

This legislation is urgently needed to protect reproductive health care providers and their patients from the violence that has been plaguing these people and facilities. In recent years, various acts of violence, including arson, bombings, death threats, and murder have been reported and were determined to be related to efforts blocking access to clinics. Yet, State and local law enforcement agencies have been unable to prevent these crimes from occurring.

According to Tuesday's Washington Post, crime was recognized as the biggest issue facing the country today. I see the Freedom of Access to Clinic Entrances Act as another necessary facet to the overall crime package put before Congress, and we cannot debate the package without addressing this most serious of issues. State and local law enforcement agencies have been unable to protect the victims of the illegal and dangerous attempts to block access because there is no specific prohibition on interference with clinic access.

The act of interference cannot be prosecuted; but rather only the specific act which serves to interfere. It is only through specific Federal and civil penalties designed to protect access to clinics that physicians and patients can be fully protected. It is quite evident that the situation is getting worse and something must be done. The Freedom of Access to Clinic Entrances Act can wait no longer.

The Freedom of Access to Clinic Entrances Act has bipartisan support, as well as pro-choice and pro-life support. It is an antiviolence bill, penalizing violence only, while permitting peaceful protest.

In this era of violent crime, let us ensure that the women, men, and children who need the services these facilities provide are able to receive these services in a peaceful, antiviolent environment. Their health and their lives depend on this.

Mr. BROOKS. Mr. Speaker, I yield to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Speaker, I rise today in support of H.R. 796. This legislation would preserve the first amendment freedoms guaranteed by our constitution. Protesters at reproductive health clinics would not be penalized for exercising free speech. Protesters would only be penalized for violent and threatening conduct, which is not and should not be protected by the first amendment.

Equally important, a woman's right to choose as defined by the U.S. Supreme Court would be preserved by this legislation. This legislation would protect a woman from individuals engaging in violent, forceful or intimidating acts in order to restrict her access to reproductive health care. This legislation would also protect the rights of health care providers to provide legal health care services to women.

It is high time that individuals engaging in violent acts outside of reproductive health clinics get the message that their behavior and disregard for the rights of others will no longer be tolerated. It is not appropriate to continue to treat women as second-class citizens, and I believe that this legislation carefully protects womens' rights without infringing on the right of peaceful protest.

I strongly defend the right of antiabortion protesters to picket, pray, or otherwise oppose the performance of abortions. These protesters have strongly held views, and they have the constitutional right and moral obligation to express them. But others who disagree with those views, have an equal right to ignore their protests.

Some suggest that this issue should be handled by State and local officials, rather than the Federal Government. But the national campaigns by antiabortion groups are calculated precisely to overwhelm the resources of local law enforcement agencies. Wichita, KS has certainly confronted this problem.

I support this measure today because I believe it is a fair and practical protection against undue violence. It protects those who seek access to clinics. But it also protects those who do not believe in the use of abortion services and who wish to demonstrate that belief consistent with their constitutional right to peaceably assemble.

Americans of conscience must not be denied the right to oppose abortion. They must be permitted to protest and lobby and pray and carry signs. Even if what they say offends people. Congress must protect their right to speak and assemble peacefully while they struggle to change the law.

What they cannot do is threaten people, harass people, intimidate people. Certainly, they cannot hurt people. But the committee report accompanying this bill tells of arsons, bombings, shootings, death threats, assaults, kidnapings, even a murder—acts of violence aimed at Americans who seek to exercise a hotly debated but constitutionally protected right.

The report tells of the inability and unwillingness of some local authorities to enforce State laws. In such circumstances, it is appropriate for the Federal Government to act.

I believe that H.R. 796 will not hinder legal protests. It simply limits the debate to lawful civil discourse, where it belongs.

I urge my colleagues to support this bill.

Mr. BROOKS. Mr. Speaker, I am, of course, dead set against this motion to recommit. It would limit the remedies for victims of violence, sabotage, et cetera, at these clinics to the people and to the properties. It would limit all the civil damages. This means the doctors could not sue, the nurses could not sue, the victims could not sue, and it is a detriment to the effectiveness of this legislation.

I would ask for its unanimous defeat.

Mr. Speaker, I yield to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Speaker, I rise to oppose the motion to recommit and to urge passage of the Freedom of Access to Clinic Entrances Act. I speak as a Member who has spent much of her professional career as a civil rights and constitutional lawyer.

The gentleman has objected to the provision of the bill providing for a private civil cause of action, stating that civil rights bills do not contain such private causes of action against other individuals.

Mr. Speaker, this is a bill which is unlike the typical civil rights legislation in that it is not directed against Government institutions or employers, but against individuals who are intimidating other individuals. In our law, this is akin to a tort, where indeed a private right of action would always be possible.

Mr. Speaker, I want to congratulate the chairman and the sponsors of this bill because they have accomplished a very difficult task. They have written a constitutional statute even though it touches upon the first amendment area. I could not vote for this bill if they had not crafted it as skillfully as they have.

The opposition cannot accuse me of being for this bill because I am prochoice, although, of course I am prochoice. However, Mr. Speaker, as a first amendment specialist in practice, I had occasions to argue first amendment cases in the Supreme Court of the United States and in other courts and often in cases where those whom I represented were individuals whose views I abhorred, including people who would be proud to call themselves racists. What I was trying to indicate—as an ACLU lawyer—by representing such individuals was that once the first amendment is weakened against them, it is weakened against all of us. The amendment tilts toward no point of view, but only in favor of free expression. Thus only through principled support of the first amendment can you guarantee that your own views will not be subject to an exception you may desire for others.

The greatest abuse in this debate, however, has been to invoke the name of Martin Luther King, Jr. The bill reaches protest action Dr. King would reject. Let me describe what kind of action this bill would reach.

Last January, Operation Rescue blockaded several clinics in the District of Columbia. At the Hillcrest Center in southeast Washington, every entrance was obstructed by anti-choice demonstrators. The driveway was blocked with a dumpster, the front door was blocked by anti-choice protestors who had locked their arms through hollow steel pipes welded to railroad ties wedged against the door, and both the rear and side doors were blocked by cars with flattened tires. Inside each car, several demonstrators chained and handcuffed themselves to the same type of steel pipe and tie contraption.

Hours later, when the police finally removed all the obstructions, the doors themselves could not be opened because the locks had been filed with glue.

The actions I have just described, Mr. Speaker, have nothing in common with the nonviolent protests led by Dr. Martin Luther King, Jr. I was in some of those protests. We knelt and prayed, as well, but we were quickly arrested. We did not physically intimidate any member of the public. Instead, we were physically intimidated by the police. And yet we did not fight back, and we did not keep others from enjoying their constitutional right.

The outrageous violence and intimidation that has become the trademark of Operation Rescue and its imitators have given nonviolent direct action a bad name. It is time that we reclaimed the good name of militant but peaceful protest in the tradition of Martin Luther King, Jr., by passing the Freedom of Access to Clinic Entrances Act.

The SPEAKER pro tempore (Mr. SKELTON). All time has expired.

Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken, and the Speaker pro tempore announced that the noes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 182, noes 246, not voting 5, as follows;

[Roll No. 582]

AYES—182

Allard
Applegate
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barlow
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilirakis
Bliley
Blute
Boehner
Bonilla
Borski
Browder
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Coble
Collins (GA)
Combest
Costello
Cox
Crane
Crapo
Cunningham
de la Garza
Deal
DeLay
Diaz-Balart
Doolittle
Dornan
Dreier
Duncan
Emerson
Everett
Ewing
Fields (TX)
Fish
Gallegly
Gekas
Gilchrest
Gillmor
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hayes
Hefley
Herger
Hoekstra
Hoke
Holden
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Istook
Johnson, Sam
Kanjorski
Kasich
Kildee
Kim
King
Kingston
Klink
Knollenberg
Kolbe
Kyl
LaFalce
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Lipinski
Livingston
Manton
Manzullo
Mazzoli
McCandless
McCollum
McCrery
McDade
McHugh
McKeon
McMillan
McNulty
Mica
Michel
Miller (FL)
Mollohan
Montgomery
Moorhead
Murphy
Murtha
Myers
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Penny
Peterson (MN)
Petri
Pombo
Portman
Poshard
Quillen
Quinn
Rahall
Ravenel
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stenholm
Stump
Stupak
Sundquist
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Valentine
Volkmer
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)

NOES—246

Abercrombie
Ackerman
Andrews (ME)
Andrews (TX)
Bacchus (FL)
Baesler
Barca
Barrett (WI)
Becerra
Beilenson
Berman
Bilbray
Bishop
Blackwell
Boehlert
Bonior
Boucher
Brewster
Brooks
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Coyne
Cramer
Danner
Darden
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dingell
Dixon
Dooley
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Engel
English (AZ)
English (OK)
Eshoo
Evans
Farr
Fawell
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallo
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Green
Greenwood
Gunderson
Gutierrez
Hamburg
Harman
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Horn
Houghton
Hoyer
Hughes
Inslee
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kaptur
Kennedy
Kennelly
Kleczka
Klein
Klug
Kopetski
Kreidler
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Lewis (GA)
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Margolies-Mezvinsky
Markey
Martinez
Matsui
McCloskey
McCurdy
McDermott
McHale
McInnis
McKinney
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Molinari
Moran
Morella
Nadler
Natcher
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickett
Pickle
Pomeroy
Porter
Price (NC)
Pryce (OH)
Ramstad
Rangel
Reed
Regula
Reynolds
Richardson
Ridge
Roemer
Rose
Rostenkowski
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shays
Shepherd
Sisisky
Skaggs
Slattery
Slaughter
Smith (IA)
Snowe
Spratt
Stark
Stokes
Strickland
Studds
Swett
Swift
Synar
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Velazquez
Vento
Visclosky
Washington
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Zeliff
Zimmer

NOT VOTING—5

Andrews (NJ)
Clinger
Dickey
Dicks
Johnson (CT)

□ 1719

Messrs. HOBSON, UPTON, and REGULA changed their vote from "aye" to "no."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mrs. JOHNSON of Connecticut. Mr. Speaker, I was unavoidably detained during the preceding vote. Had I been here, I would have voted "no."

□ 1720

The SPEAKER pro tempore (Mr. SKELTON). The question is on the passage of the bill.

The bill was passed.

The title of the bill was amended so as to read: "A bill to amend title 18, United States Code, to assure freedom of access to reproductive services."

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. MCINNIS. Mr. Speaker, I wish to add at this point in the RECORD that I support H.R. 796, the Freedom of Access to Clinic Entrances Act, and that I voted for it in the voice vote in the House of Representatives today.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 796, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

MAKING IN ORDER ON FRIDAY, NOVEMBER 19, 1993, OR SATURDAY, NOVEMBER 20, 1993, CONSIDERATION OF CONFERENCE REPORT ON H.R. 2330, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1994

Mr. GLICKMAN. Mr. Speaker, I ask unanimous consent that it be in order tomorrow, Friday, November 19, 1993, or Saturday, November 20, 1993, to consider the conference report on the bill (H.R. 2330) to authorize appropriations for fiscal year 1994 for the intelligence and intelligence-related activities of the U.S. Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, that all points of order against the conference report and against its consideration be waived, and that the conference report be considered as read when called up for consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

There was no objection.

AUTHORIZING LEASING OF NAVAL VESSELS TO CERTAIN FOREIGN COUNTRIES

Mr. HAMILTON. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs be discharged from further consideration of the bill (H.R. 3471) to authorize the leasing of naval vessels to certain foreign countries, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

Mr. GILMAN. Mr. Speaker, reserving the right to object, I do not intend to object, but I will yield to the distinguished gentleman from Indiana [Mr. HAMILTON], the chairman of the Committee on Foreign Affairs, for an explanation of the bill.

Mr. HAMILTON. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, let me briefly explain what this bill is about and why I urge its consideration and passage.

WHAT THIS BILL DOES

This bill authorizes the Secretary of the Navy to lease 25 *Knox*-class frigates: six to Brazil; four each to Turkey and Thailand; three to Taiwan; two each to Egypt, Spain, and Venezuela; and one each to Morocco and Oman.

WHY THIS BILL IS IN THE U.S. NATIONAL INTEREST

This legislation is in the national interest of the United States because it: enhances cooperation and interoperability of U.S. forces with friendly and allied governments; helps friendly and allied governments modernize their naval forces; generates $74.8 million in leasing fees to the U.S. Treasury; saves the U.S. Government $16.8 million in ship deactivation costs; and generates an estimated $285 million in revenues for U.S. commercial shipyards as they repair and reactivate these ships for transfer.

All of these costs will be paid for in their entirety by the foreign recipient governments that seek these lease agreements.

This legislation has a clear and positive impact on our budget, as well as our Nation's foreign policy. I urge adoption of the bill H.R. 3471.

Mr. GILMAN. Mr. Speaker, further reserving the right to object, I am pleased to yield to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Speaker, I would like to enter into a colloquy with the gentleman from Indiana [Mr. HAMILTON].

Am I correct in my understanding that the U.S. Navy estimates that H.R. 3471 could generate as much as $285 million in U.S. shipyard activities with regard to the immediate maintenance, repair, and reactivation of these *Knox*-class frigates prior to their transfer under these leasing agreements?

Mr. HAMILTON. Mr. Speaker, if the gentleman from New York will yield, let me say that the gentleman is correct. The Department of the Navy estimates that 14 of these vessels will be reactivated as safe-to-steam, and that 3 of these vessels will be reactivated as full mission capable. The Department estimates that safe-to-steam reactivation will cost $14 million per ship—for a total of $210 million, and that full mission reactivation will cost $25 million per ship—for a total of $75 million. Taken together these totals account for the Department's estimate of $285 million in U.S. shipyard activities.

Mr. ROHRABACHER. Is there any legal requirement upon the foreign recipient nations to conduct maintenance, repair, and reactivation at U.S. shipyards?

Mr. HAMILTON. As I understand it, there is no such legal requirement. The Department of the Navy negotiates maintenance, repair, and reactivation contracting arrangements following congressional authorization to enter into such leasing agreements. This work can be done in the recipient nation's shipyards, or in U.S. public or private shipyards.

Mr. ROHRABACHER. Does the gentleman from Indiana have an opinion with respect to where such work should be done?

Mr. HAMILTON. It is both my hope and expectation that recipient nations should enter into maintenance, repair, and reactivation contracts with U.S. shipyards. Such contract will ensure greater interoperability between foreign leased ships of U.S. origin, and those currently deployed by the U.S. Navy. In this regard, it is my understanding that in the past the bulk of all such work has been conducted in U.S. shipyards. It remains my hope and expectation that such trends continue in the future.

□ 1730

Mr. ROHRABACHER. Mr. Speaker, I submit the following unclassified point paper, written by the Department of the Navy for insertion in the RECORD at this point. The paper estimates that U.S. private and public shipyards will realize $285 million in reactivation revenues from the lease of these vessels.

POINT PAPER

SUBJECT

Savings to the U.S. Government from 8 hot ship transfers and revenue generated in U.S. shipyard (private and Naval) by reactivation of 17 cold ship transfers of Knox class frigates.

DISCUSSION

Dollars saved by 8 hot ship Knox class transfers:

Inactivation cost: $1.5 million times 8, $12,000,000.

Inactivation storage per year: ($50,000 each/month) times 8 ships times 12 months, $4,800,000.

Grand total saved in first year, $16,800,000.

Dollars generated by 17 cold ship reactivation in U.S. shipyards:

Reactivation shipyard revenue: three primary categories:

(1) Tow away only: $0.25 million, numbers of ships expected to tow only: none. Total "Tow Away Only": none.

(2) "Safe-to-Steam" reactivation: $15 million, number of ships expected: 14 ships. Total "Safe-to-Steam" work, $210,000,000.

(3) "Full Mission" (with Safe-to-Steam), $25 million, number of ships expected: 3 ships. Total "Full Mission", $75,000,000.

Reactivation shipyard revenue grand total, $285,000,000.

RECOMMENDATION

Approve legislation for Knox class transfers of 25 ships to various governments.

Mr. GILMAN. Mr. Speaker, further reserving the right to object, I have reserved that right in order to express my support for this legislation.

The purpose of this legislation is to authorize the transfer of 25 ships to 9 countries—Brazil, Egypt, Morocco, Oman, Spain, Taiwan, Thailand, Turkey, and Venezuela. The proposed transfers all involve *Knox*-class ships to be leased pursuant to chapter 6 of the Arms Export Control Act. Under the lease terms, the United States may terminate the leases and have the vessels returned to U.S. custody should the need arise.

Eight of the twenty-five ships remain in active service as training vessels and would be transferred directly to the foreign countries once they are decommissioned. The remaining 17 ships are currently in inactive status and would require significant reactivation work before the recipient nation could take possession.

The United States would incur no costs for the transfer of these naval vessels. Any expenses incurred in connection with the transfers would be charged to the recipient nation including maintenance, repair, and reactivation costs, and training.

The U.S. Government will receive a total of $74.8 million from all 25 leases. Further, by leasing these ships, the United States will avoid $12 million in deactivation costs for the eight ships that remain in active service, and an additional $15 million in storage costs in the first year alone for the 25 ships. In addition, it is anticipated and expected that the recipient countries will pay U.S. shipyards a total of $285 million for work related to reactivation of the 17 inactive ships.

This is sound legislation. It advances the valuable, cooperative relationships the United States has established with each of these nations' navies and manages to save U.S. taxpayers a significant amount of money at the same time. I urge all Members to support it.

Mr. Speaker, further reserving the right to object, I yield to the gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR of Mississippi. Mr. Speaker, I thank the gentleman for yielding to me.

My question is not only to the minority but also to the committee chairman. One of those vessels to be transferred is named after a black Naval aviator from Hattiesburg, MS, who served with distinction in World War II, Jesse Brown.

I realize the vessel is being transferred to Egypt and that in all probability will be renamed under an Egyptian name.

My request to both the minority and the committee chairman would be that when they meet with the Navy, if they could request of them that those artifacts bearing the name of Jesse Brown from the vessel, such as the ship's plaque, would be transferred to the people of Hattiesburg, MS, for their city government so that they could establish a park or some other memorial to Jesse Brown in his honor.

Mr. GILMAN. Mr. Speaker, further reserving the right to object, that certainly is an appropriate request, and we will be pleased to add that request to the papers upon transfer.

Mr. Speaker, I yield to the gentleman from Indiana [Mr. HAMILTON].

Mr. HAMILTON. Mr. Speaker, I concur with the distinguished gentleman from New York, and I will work closely with him and with the gentleman from Mississippi to see if we can achieve that.

Mr. GILMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. SKELTON). Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3471

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY TO LEASE NAVAL VESSELS TO CERTAIN FOREIGN COUNTRIES

The Secretary of the Navy is authorized to lease to the following foreign governments the following naval vessels:

(1) BRAZIL.—To the Government of Brazil, the "KNOX" class frigates HEPBURN (FF 1055), PATTERSON (FF1061), FRANCIS HAMMOND (FF1067), DOWNES (FF 1070), BLAKELY (FF 1072) and PAUL (FF 1080).

(2) EGYPT.—To the Government of Egypt, the "KNOX" class frigates JESSE L. BROWN (FFT 1089) and MOINESTER (FFT 1097).

(3) MOROCCO.—To the Government of Morocco, the "KNOX" class frigate VALDEZ (FF 1096).

(4) OMAN.—To the Government of Oman, the "KNOX" class frigate MILLER (FF 1091).

(5) SPAIN.—To the Government of Spain, the "KNOX" class frigates AYLWIN (FF 1081) and PHARRIS (FF 1094).

(6) TAIWAN.—To the Coordination Council for North American Affairs (which is the Taiwan instrumentality designated pursuant to section 10(a) of the Taiwan Relations Act), the "KNOX" class frigates JOSEPH HEWES (FFT 1078), COOK (FF 1083), and BARBEY (FF 1088).

(7) THAILAND.—To the Government of Thailand, the "KNOX" class frigates MARVIN SHIELDS (FF 1066), HAROLD E. HOLT (FF 1074), OUELLET (FF 1077), and TRUETT (FFT 1095).

(8) TURKEY.—To the Government of Turkey, the "KNOX" class frigates BOWEN (FFT 1079), McCANDLESS (FFT 1084), DONALD B. BEARY (FFT 1085), and AINSWORTH (FFT 1090).

(9) VENEZUELA.—To the Government of Venezuela, the "KNOX" class frigates ROARK (FF 1053) and GRAY (FF 1054).

SEC. 2. APPLICABLE LAW.

The leases authorized by section 1 shall be in accordance with chapter 6 of the Arms Export Control Act (22 U.S.C. 2796 and following), except that section 62 of that Act (22 U.S.C. 2796a; relating to reports to Congress shall apply only to renewal of the leases.

SEC. 3. COSTS OF LEASES.

Any expense of the United States in connection with a lease autorized by section 1 shall be charged to the recipient.

SEC. 4. EXPIRATION OF AUTHORITY.

The authority granted by section 1 shall expire at the end of the 2-year period beginning on the date of the enactment of this Act, except that leases entered into under that authority during that period may be renewed.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

MIDDLE EAST PEACE FACILITATION ACT OF 1993 EXTENSION

Mr. LANTOS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1667) to extend authorities under the Middle East Peace Facilitation Act of 1993 by 6 months, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. SKELTON). Is there objection to the request of the gentleman from California?

Mr. GILMAN. Mr. Speaker, reserving the right to object, I shall not object, but I am pleased to yield to the gentleman from California [Mr. LANTOS] for an explanation of the bill.

Mr. LANTOS. Mr. Speaker, I thank the distinguished gentleman from New York for yielding to me.

This bill provides for an extension of the President's current authority to suspend certain restrictions of law relating to the Palestine Liberation Organization [PLO].

Under Public Law 103–125, the President's authority to suspend such restrictions expires on January 1, 1994. This legislation extends that authority from January 1, 1994, to July 1, 1994.

The purpose of this legislation is to help U.S. diplomacy in support of Middle East peace efforts.

If Congress adjourns without acting on this legislation, restrictions on the PLO will be reimposed on January 1. This will be a setback for United States efforts to help implement the Israeli-PLO peace agreement. This will be a setback for U.S. national interests.

An extension to July 1 will:

Give the President flexibility to conduct diplomacy; and

Give the Congress ample opportunity to conduct oversight over U.S. policy toward the PLO early in the next session of the 103d Congress.

I want to thank Chairman GONZALEZ and the ranking member, Mr. LEACH, of the Committee on Banking, Finance and Urban Affairs, for agreeing to waive consideration of this measure, without prejudice to the jurisdiction of their committee.

I urge my colleagues to support S. 1667.

Mr. GILMAN. Mr. Speaker, further reserving the right to object, I shall not object, but I merely wish to add my support to the legislation being considered.

S. 1667 is a simple 6-month extension of Public Law 103–125, the Middle East Peace Facilitation Act of 1993. That legislation permits the President to waive certain provisions of law pertaining to the Palestine Liberation Organization.

The measure adopted in October expires on January 1, 1994. Because the State Department indicated the administration's desire to move quickly, the original bill was not the subject of hearings, nor did it receive the scrutiny it should have. Unfortunately, the extension legislation was not the subject of hearings or other congressional oversight, either.

The original legislation contained a section expressing the expectation of Congress that "any extension of the authority provided to the President * * * will be conditional on the PLO renouncing the Arab League boycott of Israel, and urging the nations of the Arab League to end the Arab League boycott of Israel." That expectation is still strong in Congress, as evidenced by further action today by myself and Congressman LANTOS.

Legislation we have introduced today would prohibit the sale or lease of defense articles and services to countries that participate in the secondary and tertiary boycott of Israel. This measure will give some teeth to one of our primary foreign policy objectives, and we therefore invite our colleagues to join us in this effort.

Congress will continue to use the full force of this Government to bring about the demise of the Arab boycott, including the provision contained in Public Law 103–125.

While I would have preferred a 3-month extension of the act, the Senate has already approved and sent over a 6-month extension. Therefore, we have been asked to act expeditiously.

Mr. LANTOS. Mr. Speaker, if the gentleman will yield further, I want to commend my distinguished colleague, the gentleman from New York [Mr. GILMAN] on getting the Arab boycott removed, and I want to thank him for his support of this piece of legislation.

Mr. Speaker, I urge all of my colleagues to support S. 1667.

Mr. GILMAN. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. BARCA of Wisconsin). Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1667

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF AUTHORITIES.

Section 3(a) of the Middle East Peace Facilitation Act of 1993 (Public Law 103–125) is amended by striking "January 1" and inserting in lieu thereof "July 1".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2287

Mr. HOAGLAND. Mr. Speaker, I ask unanimous consent to remove my name as a cosponsor of H.R. 2287.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3039

Mr. HOAGLAND. Mr. Speaker, I ask unanimous consent that the name of the gentlewoman from Maine [Ms. SNOWE] be removed as a cosponsor of H.R. 3039.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2469

Mr. PAYNE of Virginia. Mr. Speaker, inadvertently several months ago, my name was placed as a cosponsor of H.R. 2469. My intention was to cosponsor H.R. 2326.

I ask unanimous consent to remove my name as a cosponsor of H.R. 2469.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

NATIONAL LAW ENFORCEMENT TRAINING WEEK

Ms. BYRNE. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 75) designating January 2, 1994, through January 8, 1994, as "National Law Enforcement Training Week," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, I yield to the gentleman from Delaware [Mr. CASTLE], the chief sponsor of House Joint Resolution 165.

Mr. CASTLE. Mr. Speaker, I thank the gentlewoman from Maryland [Mrs. MORELLA] for yielding to me, and the gentlewoman from Virginia [Ms. BYRNE].

Mr. Speaker, I would like to speak for a moment to Senate Joint Resolution 75, which is similar to our House resolution, but we are going to act on this first. First, it was sponsored by 230 Members of the House, and I thank all of them for their cosponsorship.

National Law Enforcement Training Week is a commemorative event, but it happens to recognize something which is vitally important in the United States of America today. We are probably, in this Congress, in the course of the next week or few months, going to spend a great deal of money with respect to law enforcement: more police officers, more fire power in order to fight crime.

However, I can tell the Members from my experience in the State of Delaware, in the city of Wilmington, that if our law enforcement officers are not properly trained, if they do not have the ability to understand situations that they are confronted with, if they do not have the background of working with computers and the different mechanisms for crime fighting today, then all the policemen in the world probably are not going to make a difference in terms of really fighting crime.

Law enforcement training has become vitally significant across the United States of America, and we are very proud that in Delaware we have the headquarters of an organization, the American Society of Law Enforcement Trainers, which has some 4,000 members headquartered in beautiful Lewes, DE, a beautiful resort spot, which does the coordination for this. It has changed dramatically in recent years. They are going to have their seventh annual training seminar this January in Washington, DC.

As our police officers have become negotiators, as they deal with reporters, with the press, as they deal with ability to handle firearms, to deal with school kids, to do all the things we ask them to do today, let us remember that as we act on this commemorative for National Law Enforcement Training Week, make absolutely certain that we understand the importance of that, what they are doing for us, and the difference they can make in making absolutely sure that we keep good order and have our States and local municipalities in good condition across the United States of America.

Mrs. MORELLA. Mr. Speaker, further reserving the right to object, I want to congratulate the gentleman for his leadership in making us all aware of our national law enforcement training, and the ability to celebrate National Law Enforcement Training Week with all the appropriate ceremonies.

Mr. Speaker, I yield to our colleague, the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I thank the gentlewoman for yielding time to me.

Mr. Speaker, I rise in strong support of this legislation and commend the gentlewoman for introducing the legislation.

Mr. Speaker, I rise today in strong support of Senate Joint Resolution 75, legislation designating January 2 through January 8, 1994, as "National Law Enforcement Training Week."

Our Nation is fortunate to have more than 500,000 law enforcement officers who work to protect our lives and safety each and every day. These brave men and women fight drug pushers, violent criminals, and others who seek to disturb the lives of law-abiding citizens. We all recognize that law enforcement is a dangerous job. In the past 10 years, more than 1,500 law enforcement officers have been killed in the line of duty. Every 57 hours, an officer loses his or her life while protecting the American public from crime; 200,000 officers have been injured on the job in the last 10 years, and 600,000 have been assaulted.

Law enforcement training is crucial for the safety of our officers and the citizens of our towns and cities. It is our duty to honor those selfless individuals who risk their lives daily for our protection. Further, it is in the best interests of our Nation to encourage our young people to recognize the importance of law enforcement in America.

Accordingly, Mr. Speaker, I urge my colleagues to join me in support of this important legislation.

Mrs. MORELLA. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 75

Whereas law enforcement training and the sciences related to law enforcement are critical to the immediate and long-term safety and well-being of this Nation because law enforcement professionals provide service and protection to citizens in all sectors of society;

Whereas law enforcement training is a critical component of national efforts to protect the citizens of this Nation from violent crime, to combat the malignancy of illicit drugs, and to apprehend criminals who commit personal, property, and business crimes;

Whereas law enforcement training serves the hard working and law abiding citizens of this Nation;

Whereas it is essential that the citizens of this Nation be able to enjoy an inherent right of freedom from fear and learn of the significant contributions that law enforcement trainers have made to assure such right;

Whereas it is vital to build and maintain a highly trained and motivated law enforcement work force that is educated and trained in the skills of law enforcement and the sciences related to law enforcement in order to take advantage of the opportunities that law enforcement provides;

Whereas it is in the national interest to stimulate and encourage the youth of this Nation to understand the significance of law enforcement training in the law enforcement profession and to the safety and security of all citizens;

Whereas it is in the national interest to encourage the youth of this Nation to appreciate the intellectual fascination of law enforcement training; and

Whereas it is in the national interest to make the youth of this Nation aware of career options available in law enforcement and disciplines related to law enforcement: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That January 2, 1994, through January 8, 1994, is designated as "National Law Enforcement Training Week".

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

RELIGIOUS FREEDOM DAY

Ms. BYRNE. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 216) designating January 16, 1994, as "Religious Freedom Day," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, the minority has no objection to this legislation.

Mr. Speaker, I yield to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I thank the gentlewoman for yielding to me.

Mr. Speaker, I rise in strong support of House Joint Resolution 216.

Mr. Speaker, I am pleased to rise in support of House Joint Resolution 216, legislation designating January 16, 1994, as "Religious Freedom Day." As a cosponsor of this legislation, I commend my colleague from Virginia [Mr. BLILEY] for introducing this important legislation.

Mr. Speaker, as Americans we enjoy certain freedoms. These individual rights, which are afforded to every American, in the Bill of Rights, must be protected and ensured. By designating January 16, 1994, as "Religious Freedom Day" we will do just this.

I am pleased that 2 days ago, on November 16, the Religious Freedom Restoration Act became public law. This legislation restores and protects the free exercise of religion to the standard that existed prior to the 1990 Supreme Court decision in Oregon Employment Division versus Smith. As a cosponsor of the House version of the Act, I strongly believe in the importance of this legislation. The Oregon versus Smith Supreme Court decision set a bad precedent. However, the Religious Freedom Restoration Act will correct this situation by stating that the Government may infringe on the free exercise of religion only if, first, there exists a compelling Government interest; and second, the infringement is the least restrictive means of furthering the Government's interests.

I am pleased that we are considering this important measure that will continue to protect the rights of every American resident. Accordingly, I urge my colleagues to join me in supporting this legislation that will designate January 16, 1994, as "Religious Freedom Restoration Day."

Mr. BLILEY. Mr. Speaker, I rise today in support of a House joint resolution I introduced to proclaim January 16, 1994, "Religious Freedom Day"—House Joint Resolution 216. The purpose of this resolution is twofold: to celebrate the religious freedom which every American citizen enjoys, and to acknowledge the document that first codified this freedom—the Virginia statute for Religious Freedom.

Written by Thomas Jefferson, the Virginia Statute marked an end to the legal conflicts surrounding the quest for religious freedom; a quest that began early in the 17th century when Europeans fled their native lands for America in search of a life free from religious persecution.

Perhaps the most finely written testimony of Mr. Jefferson's concern for the liberation of the human mind from bondage, the statute recognizes the right of every human being to define for themselves both the existence and the perimeters of their spiritual life. By giving the natural right of religion precedence over the interests of the State and thereby completely dividing the church and State, the Virginia statute allows each individual to worship, or not worship, in the way he or she chooses.

The statute has been recognized by scholars, lawyers, religious leaders, and the Supreme Court as one of the most influential documents ever created. Furthermore, the statute was a tremendous influence on, and the precursor to the Bill of Rights, specifically, the first amendment.

Mr. Jefferson himself asked that his three most important contributions to his country be mentioned on his tombstone, the Declaration of Independence, the University of Virginia, and the statute of Virginia for Religious Freedom.

January 16, 1786 was the day on which this statute passed the Virginia General Assembly and since this day it has effected all Americans. In recognition of this, the Virginia General Assembly, as well as the States of Kentucky, Illinois, Florida, Idaho, and Mississippi, have all passed resolutions commemorating the Statute and setting aside January 16, 1994 as "Religious Freedom Day."

I rise today in support of offering all Americans the opportunity to do the same, and I am pleased to bring this commemorative to the floor with the necessary 218 cosponsors.

Mrs. MORELLA. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 216

Whereas December 15, 1991, as the 200th anniversary of the completion of the ratification of the Bill of Rights;

Whereas the first amendment to the Constitution of the United States guarantees religious liberty to the people of the United States;

Whereas millions of people from all parts of the world have come to the United States fleeing religious persecution and seeking freedom of worship;

Whereas in 1777 Thomas Jefferson wrote the bill entitled "A Bill for Establishing Religious Freedom in Virginia" to guarantee freedom of conscience and separation of church and state;

Whereas in 1786, through the devotion of Virginians such as George Mason and James Madison, the General Assembly of Virginia passed such bill;

Whereas the Statute of Virginia for Religious Freedom inspired and shaped the guarantees of religious freedom in the first amendment;

Whereas the Supreme Court of the United States has recognized repeatedly that the Statute of Virginia for Religious Freedom was an important influence in the development of the Bill of Rights;

Whereas scholars across the United States have proclaimed the vital importance of such statute and leaders in fields such as law and religion have devoted time, energy, and resources to celebrating its contribution to international freedom; and

Whereas America's First Freedom Center, located in Richmond, Virginia, plans a permanent monument to the Statute of Virginia for Religious Freedom, accompanied by educational programs and commemorative activities for visitors from around the world: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That January 16, 1994, is designated as "Religious Freedom Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to join together to celebrate their religious freedom and to observe the day with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL HOME CARE WEEK

Ms. BYRNE. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 55) to designate the periods commencing on November 28, 1993, and ending on December 4, 1993, and commencing on November 27, 1994, and ending on December 3, 1994, as "National Home Care Week," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, the minority has no objection. I would like to commend the gentlewoman from Tennessee [Mrs. LLOYD], who introduced this resolution, and acknowledge its importance in terms of our consideration of health care reform, because indeed, caring for the ill and disabled in the home is very, very important. It allows for dignity and independence of the individual.

Mr. Speaker, I withdraw my reservations of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 55

Whereas organized home care services for the elderly and disabled have existed in the United States since the last quarter of the 18th century;

Whereas home care is an effective and economical alternative to unnecessary institutionalization;

Whereas caring for the ill and disabled in their homes places an emphasis on the dignity and independence of the individual receiving these services;

Whereas since the enactment of the medicare home care program, which provides coverage for skilled nursing services, physical therapy, speech therapy, social services, occupational therapy, and home health aide services, the number of home care agencies in the United States providing these services has increased from fewer than 1,275 to more than 12,000; and

Whereas many private and charitable organizations provide these and similar services to millions of individuals each year, preventing, postponing, and limiting the need for them to become institutionalized to receive these services: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the periods commencing on November 28, 1993, and ending on December 4, 1993, and commending on November 27, 1994, and ending on December 3, 1994, are each designated as "National Home Care Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such weeks with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL DRUNK AND DRUGGED DRIVING PREVENTION MONTH

Ms. BYRNE. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 122) designating December 1993 as "National Drunk and Drugged Driving Prevention Month," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, I rise today to bring attention to the problem of drunk and drugged driving in this country. Driving while under the influence of either alcohol or drugs is the most frequently committed violent crime in the United States. Nearly 18,000 people were killed and 1.2 million people were injured in crashes involving alcohol and other drugs last year. Impaired driving costs society some $46 billion in direct costs and another $5.5 billion in medical costs each year.

Today, there is a great outcry by citizen action groups such as Mothers Against Drunk Driving [MADD], Students Against Drunk Driving [SADD], Remove Intoxicated Drivers [RID], and the National Commission Against Drunk Driving to reduce the number of alcohol related traffic deaths. They have succeeded by contributing to a 30-percent reduction in the number of these deaths over the past decade. Because of this increased public awareness, there is a need to develop comprehensive solutions at the State and local levels.

December is a month of many holidays and celebrations, with more drivers on the road. More than 20 public and private sector organizations have joined together to carry out a nationwide public information, education, and enforcement campaign during the December holiday season, in order to stem the tide of alcohol and drug-related driving fatalities during this time of year.

I urge you to join me in endorsing their efforts by supporting House Joint Resolution 247, the congressional joint resolution proclaiming December 1993 as "National Drunk Driving and Drugged Driving Prevention Month."

Mr. Speaker, I am privileged to yield to the gentleman from New York [Mr. GILMAN].

□ 1750

Mr. GILMAN. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, I am pleased to rise in support of House Joint Resolution 247, designating the month of December 1993 as "National Drunk and Drugged Driving Prevention Month," and I would like to commend the gentleman from California [Mr. MINETA] for sponsoring this legislation.

Mr. Speaker, the National Center for Statistics and Analysis has published facts on drunk driving estimating that approximately 10 percent of car crashes involved alcohol, and an astounding 25 percent of drivers involved in fatal traffic crashes were drunk. When you add in the disastrous effects of drugs on driving ability, it is disheartening.

These discouraging statistics are only the tip of the iceberg. Figures are even more discouraging in those studies that concentrate on our young people.

Mr. Speaker, more than 40 percent of all teenage deaths result from motor vehicle accidents, about half of these involve drunk and drugged driving.

Just as we cannot afford to turn our back on Americans who are experimenting and regularly using illicit narcotics, we cannot ignore the abuse of alcohol. Drunk and drugged driving accidents, and drunk and drugged driving fatalities have reached unprecedented proportions. We must sent out a clear, strong message to our entire Nation, especially to our young. We must send them a clear message that drunk and drugged driving is not only wrong, not only foolish, but can be fatal.

I am pleased this legislation is on the floor of the House today, and I urge all my colleagues to join in support of House Joint Resolution 247.

Mrs. MORELLA. Mr. Speaker, further reserving the right to object, I thank the gentleman from New York for the eloquent and meaningful statement that he made. I will be joining the Mothers Against Drunk Driving and Students Against Drunk Driving and the private sector in my community for their traditional and annual red ribbon campaign, and I urge other Members of the House to do likewise in their jurisdictions.

Mr. MINETA. Mr. Speaker, the No. 1 highway killer on our highways is driving under the influence of alcohol. Yet, at a time when we as a body, and as a nation, are faced with the need to develop solutions to counter a rising tide of violence that sometimes seems unstoppable, battles are being won in the war against drunk driving. Public and private sector organizations have successfully promoted public education and enforcement programs that have resulted in a 30-percent decline in the number of drunk driving fatalities over the last 10 years.

But the cry of victory is a long way from being heard. More than 18,000 people died on our Nation's highways last year as a result of alcohol-related traffic crashes—accounting for 45 percent of the total highway fatality rate. In fact, drunk driving continues to be the most frequently committed violent crime in America.

If we are to win this war, our past successes must be sustained, and efforts to develop further comprehensive solutions must be developed. We must never lost sight of our goal to make drunk and drugged driving a thing of the past.

Because December is a month of many holidays and celebrations, it is a particularly appropriate time to focus national attention on the gravity of the drunk driving problem. More than 70 public and private sector organizations have joined together to carry out a nationwide public information, education, and enforcement campaign during the December holiday season.

I am proud to join my colleagues in the House and the other body in supporting the adoption of Senate Joint Resolution 122, which will serve to provide the necessary national focus on these lifesaving activities.

Mrs. MORELLA. I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. BARCA of Wisconsin). Is there objection to the request of the gentlewoman?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 122

Whereas impaired driving is the most frequently committed violent crime in the United States;

Whereas last year 45 percent of those who died on our Nation's highways were the result of alcohol involved crashes;

Whereas last year nearly eighteen thousand people were killed and one million two hundred thousand were injured in crashes involving alcohol;

Whereas impaired driving continues to cost society some $46,000,000,000 each year in direct costs;

Whereas medical costs associated with impaired driving run approximately $5,500,000,000 a year;

Whereas injury and property damage resulting from impaired driving cause physical, emotional, and economic hardship for hundred of thousands of adults and young people;

Whereas the ongoing work of citizen activists groups such as Mothers Against Drunk Driving (MADD), Students Against Driving Drunk (SADD), Remove Intoxicated Drivers (RID), and the National Commission Against Drunk Driving continue to promote good prevention efforts which have contributed to a 30 percent reduction in alcohol-related traffic deaths over the past decade;

Whereas a decade of intense public education effort has proved that alcohol-related highway crashes are not accidents and can be prevented;

Whereas comprehensive community-based strategies to further reduce and prevent impaired driving tragedies are known to be effective;

Whereas an increased public awareness of the gravity of the problem of drunk and drugged driving may help to sustain efforts to develop comprehensive solutions at the State and local levels;

Whereas more than seventy public and private sector organizations have joined together to carry out a nationwide public information, education, and enforcement campaign during the December holiday season;

Whereas the Secretary of Transportation has set a goal by the year 1997 to reduce alcohol-related fatalities to 43 percent and MADD has set a goal by the year 2000 to reduce alcohol-related traffic fatalities to 40 percent;

Whereas the Secretary of Health and Human Services has set a goal by the year 2000 for all fifty States to prohibit any allowable blood-alcohol concentration tolerance level for drivers younger than age twenty-one; and

Whereas December is a month of many holidays and celebrations, with more drivers on the roads and an increased number of social functions, is a particularly appropriate time to focus national attention on this critical problem; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of December, 1993 is designated as "National Drunk and Drugged Driving Prevention Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that month with appropriate activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL HOSPICE MONTH

Ms. BYRNE. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 159) to designate the month of November in 1993 and 1994 as "National Hospice Month," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, I rise in strong support of House Joint Resolution 159 designating the month of November 1993 and 1994 as "National Hospice Month," and I thank the gentleman from Connecticut [Mr. GEJDENSON] for introducing this legislation in the House.

Hospice provides our elderly and terminally ill with an environment which eases these individuals into a relative painless death in a familiar and supportive atmosphere. Hospice care strives to support a health care system which not only attends to the psychological needs of the patient, but of the family members and friends as well. Hospice care today is one of compassion in a world of increasing alienation between patient and health care providers. The increase in hospices in our Nation reflects a mounting interest in addressing the medical needs of our elderly and terminally ill by providing personal care tailored to dying with dignity and self respect.

Mr. Speaker, designating November 1993 and 1994 as National Hospice Month deserves our support in order that we may acknowledge the many hospice health care providers and volunteers who daily work to relieve the burden of the terminal illness of their patients and their families. The compassion and selflessness they provide contribute greatly to the quality of life while dealing with such an unfortunate situation.

Mr. Speaker, I would like to say that it is always a pleasure to handle these commemoratives upon occasion with my good friend the gentlewoman, from Virginia [Ms. BYRNE].

Ms. BYRNE. Mr. Speaker, will the gentlewoman yield?

Mrs. MORELLA. Further reserving the right to object, I yield to the gentlewoman from Virginia.

Ms. BYRNE. Mr. Speaker, I want to thank the gentlewoman from Maryland and the gentleman from New York [Mr. GILMAN] for their remarks and their help on these resolutions.

Mrs. MORELLA. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 159

Whereas hospice care has been demonstrated to be a humanitarian way for terminally ill patients to approach the end of their lives in comfort with appropriate, competent, and compassionate care in an environment of personal individuality and dignity;

Whereas hospice advocates care for the patient and family by attending to their physical emotional, and spiritual needs and specifically, the pain and grief they experience;

Whereas hospice care is provided by an interdisciplinary team of physicians, nurses, social workers, pharmacists, psychological and spiritual counselors, and community volunteers trained in the hospice concept of care;

Whereas hospice has become a full partner in the Nation's health care system;

Whereas the enactment of a permanent medicare hospice benefit and an optional medicaid hospice benefit makes it possible for many more Americans to have the opportunity to elect to receive hospice care;

Whereas private insurance carriers and employers have recognized the value of hospice care by the inclusion of hospice benefits in health care coverage packages; and

Whereas there remains a great need to increase public awareness of the benefits of hospice care: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of November in 1993 and 1994 is designated as "National Hospice Month". the President is requested to issue a proclamation calling upon all government agencies, the health care community, appropriate private organizations, and people of the United States to observe each of those months with appropriate forums, programs and activities designed to encourage national recognition of and support for hospice care as a humane response to the needs of the terminally ill and as a viable component of the health care system in this country.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Ms. BYRNE. Mr. Speaker, I ask unanimous consent that all Members be given 5 legislative days in which to revise and extend their remarks on the several joint resolutions just considered and passed.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

There was no objection.

REPORT OF ACTIVITIES OF UNITED STATES GOVERNMENT IN UNITED NATIONS DURING CALENDAR YEAR 1992—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Foreign Affairs:

To the Congress of the United States:

I am pleased to transmit herewith a report of the activities of the United States Government in the United Nations and its affiliated agencies during the calendar year 1992. The report is required by the United Nations Participation Act (Public Law 264, 79th Congress; 22 U.S.C. 287b).

WILLIAM J. CLINTON.

THE WHITE HOUSE, *November 18, 1993.*

JANET RENO'S JUSTICE DEPARTMENT

(Mr. SENSENBRENNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks, and include extraneous matter.)

Mr. SENSENBRENNER. Mr. Speaker, what's happening in Janet Reno's Justice Department?

First, the Justice Department flip-flops on child pornography, urging the Supreme Court to make it more difficult to convict child smut peddlers. President Clinton recently wrote her a letter chastising this action.

Now, Justice admits that a bureaucratic foul up prevented the manufacturer of Ritalin, a prescription drug used to treat attention deficit hyperactivity disorder in children, from increasing production to meet a growing demand. As a result, many pharmacies ran out of this medicine causing problems for the parents and children who have had difficulty finding it.

Attorney General Reno promised to protect the children of this country, but I think she owes an apology to the parents and children who have suffered by the mistakes of her Department. She also owes Congress and the public an explanation of how this foul up happened.

I have called for a GAO investigation into this inexcusable mistake and have written Ms. Reno for answers to my questions. I include my letters on this subject in the RECORD.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, November 17, 1993.

Hon. CHARLES A. BOWSHER,
Comptroller General of the United States, Washington, DC.

DEAR MR. BOWSHER: I respectfully request an investigation into the management of Schedule II drugs, particularly methylphenidate (Ritalin), by the Department of Justice. Ritalin is a drug on the Drug Enforcement Administration's list of controlled substances for the treatment of attention deficit hyperactivity disorders.

As you may be aware, scarcities of this drug have occurred periodically most recently in fall, 1993. The DEA established an annual Aggregate Production Quota (APQ) which is frequently revised as part of a midyear review process. The DEA must determine the amount of the drug needed for legitimate medical and scientific needs while ensuring that an oversupply does not occur to prevent the diversion of the drug for illegal purposes.

On November 4, 1993, the Justice Department acknowledged that the Department of Justice review required to set he annual production quota of Ritalin and other controlled substances was "inadvertently delayed" due to a failure to coordinate the regulation setting process with the Office of Management and Budget. An earlier shortage occurred in 1986.

Conversations with the pharmaceutical industry and a consumer organization indicate Ritalin scarcities occurred in earlier years as well. In fact, history may indicate the Annual Production Quota established in January is consistently underestimated with the expectation the quota will be revised later in the year.

1. Please evaluate the methodology utilized in establishing the Aggregate Production Quota (APQ) for Ritalin and other Section II drugs.

2. Please evaluate the accuracy of the APQ established in January for Ritalin and other Section II drugs compared to the final APQ established after the mid-year review by DEA.

3. Please evaluate DEA compliance with the recommendation of the 1986 Administrative Law Judge review.

4. Please evaluate DEA emergency authority, consideration, and use thereof to avert an anticipated Ritalin shortage.

5. Please make recommendations to improve the estimation methodology and midyear review of the APQ, interagency coordination efforts, and the aversion of future Ritalin and other Section II shortages.

I look forward to the opportunity to discuss these issues with GAO officials to further define issues to be addressed by the investigation at your earliest convenience. I appreciate your consideration of my request.

Sincerely,

F. JAMES SENSENBRENNER, Jr.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, November 17, 1993.

Hon. JANET RENO,
Attorney General, Department of Justice, Washington, DC.

DEAR ATTORNEY GENERAL RENO: On November 4, 1993, the Department of Justice issued a statement acknowledging a bureaucratic delay in the approval of an increase in the annual production quota of Ritalin (the trade name for nethylphenidate), and a number of other controlled substances. Unfortunately, the statement does not answer some relevant questions on this matter which caused thousands of parents to search from pharmacy to pharmacy in search of the drug for children with attention deficit disorders. I respectfully request your investigation of these events and written response to me for the record.

A press release by the Drug Enforcement Administration (DEA) issued on Department of Justice letterhead on October 7, 1993, stated, "Contrary to earlier reports * * *, the DEA did not delay the mid-year review process required to revise the quota. Instead, DEA has worked to expedite to review process and, in turn, permit increased quantities of the drug to be produced in a timely manner." In light of the recent admission by the Department of Justice, it is disturbing DEA attempted to cover-up the delay and actually to take credit for "expediting" the review process "in a timely manner" despite full knowledge that a two month bureaucratic delay occurred from May 13, 1993 to mid-July elsewhere within the Department of Justice. In my opinion, such misleading and contradictory public statements discredit the Department and do a disservice to the interested public.

Furthermore, I would appreciate your review and information on the following matters:

1. The New York Times reported November 14, that the official responsible for ensuring the timely submission of the Notice of Proposed Rulemaking to the Office of Management and Budget was reassigned to another office. Which official has responsibility for the "blunder"? In their absence, who has responsibility? Has the Department taken any disciplinary action? What are the normal tracking procedures for the submission by the Department of Justice to the Office of Management and Budget? Were these followed? What measures have been instituted to ensure the situation will not recur?

2. DEA officials, the pharmaceutical community, and the concerned public reportedly were aware of the delay. Did DEA officials make any attempt to notify Department of Justice officials regarding the bureaucratic delay? If so, how? If so, what was the Department's response? If not, why not?

3. Following realization by DEA and Department of Justice officials of the bureaucratic delay, did DEA or the Justice Department consider using emergency authority to bypass the public comment period allowing an earlier revision of the Aggregate Production Quota? If so, what were the results of the evaluation? If not, why not?

I hope you share my belief that the American people deserve a response to these questions and an explanation for the seemingly contradictory statements issued by the DEA and the Department of Justice. Your attention and response to my request is appreciated.

Sincerely,

F. JAMES SENSENBRENNER, Jr.

VACATION OF SPECIAL ORDER AND REQUEST FOR SPECIAL ORDER

Mr. KOPETSKI. Mr. Speaker, I ask unanimous consent to change the 30-minute special order on November 18, 1993, for the gentleman from Georgia [Mr. DEAL], to a 5-minute special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

TRANSFER OF SPECIAL ORDER

Mr. KOPETSKI. Mr. Speaker, I ask unanimous consent that the special order for the gentleman from Michigan [Mr. BONIOR], on November 18, 1993, be allocated to the gentleman from Ohio [Mr. BROWN].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

□ 1800

TIME FOR PRESIDENT TO ACT IN FISCALLY RESPONSIBLE MANNER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. EWING] is recognized for 5 minutes.

Mr. EWING. Mr. Speaker, after all his past statements, I am surprised President Clinton has indicated that not only will he oppose real spending cuts, he intends to fight against balancing the budget amendment.

When President Clinton needed votes to pass his tax increase legislation earlier this year, he promised conservative Democrats he would propose additional spending cuts. The proposal that he came up with is a pathetic attempt to make it look like he is cutting spending while he is really doing nothing.

The President could only come up with 37 rescissions for fiscal year 1994 totaling a paltry $1.9 billion. This is out of a budget which will be increased by at least $81 billion. I cannot believe it.

If you add in the $9.1 billion in cuts over 6 years he has proposed, which come from Vice President GORE's National Performance Review, the total of the President's spending cuts average less than $2 billion per year.

With an annual deficit currently around $255 billion, this is not even a drop in the bucket.

Just this afternoon we learned that the democratic leadership in Congress is now trying to kill even these cuts by further delaying a vote.

A vote had been planned for this Saturday on the rescissions and a vote on the Penny/Kasich amendment, but now we hear the leadership is trying to delay it until Monday. When we will be under heavy pressure to adjourn.

The President has also sent his lieutenants out to fight against spending cuts.

This weekend Treasury Secretary Bentsen said the administration is strongly opposed to additional spending cuts, saying, quote, "we sure don't want to slip back into recession."

Also recently, Deputy Budget Director Alice Rivlin said that, quote, "substantial additional deficit reduction at this time could slow the growth of the economy at a crucial point in the business and policy cycles."

Here is an article on the front page of last Saturday's Washington Post, titled "White House Tries to Halt Budget Cuts," What? After all the commitments made to get votes for his tax bill a few months ago.

Finally, the President recently sent a letter to Congress expressing his strong opposition to the balanced budget amendment.

Mr. Speaker, since when does the economy depend on Government deficits to keep it going? The Clinton administration is so addicted to big spending and big deficits, they actually think it is a good thing.

To the contrary, Government red ink saps money out of the economy, reduces private investment and job creation, and has crippled economic growth.

Every working American knows that living on credit cards is not good budgeting.

President Clinton has put Congress and the American people on notice that he will fight tooth and nail against any attempt to make real spending cuts and to balance the budget.

It is time to start living within a budget just like every working American must do.

And it is time the President returned to his new Democratic roots and start acting in a fiscally responsible manner with the taxpayer's money.

JUDICIAL SYSTEM NOT RESPONSIBLE FOR THE CRIME PROBLEM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. DEAL] is recognized for 5 minutes.

Mr. DEAL. Mr. Speaker, crime and what to do about it has become a popular political topic. The reason is politicians are becoming aware of what the public has known for a long time: We have a serious problem with those who choose to violate our law, and the public is sick and tired of it.

We in Congress are debating and passing various pieces of legislation which are loosely referred to as the crime bill. In doing so, we are talking about hiring thousands of new policemen, streamlining habeas corpus-based appeals, and control of handguns and assault weapons.

The issue I want to focus on tonight is that in the broadside assault we are making on crime we are too prone to label the problem as one of our judicial system. Too often we join the public outcry against crime and make the judicial system the scapegoat. In doing so, we are heading down a path that threatens our very system of government.

Perhaps we should examine some basic lessons in civics and recognize that our criminal justice system is not synonymous with our judicial system. I do not ask that we engage in this discussion as some philosophical exercise. I do so because it is important that we not jeopardize one of our three branches of Government without recognizing the responsibility of the other two.

When murders and rapists go unapprehended, we blame it on our judicial system. When some of those same criminals are finally arrested, tried, and convicted and then paroled after serving only a few months in prison, we once again lament and say something is wrong with our judicial system. It is time we stopped and acknowledged that we in Congress, the legislative branch, make the laws including appropriating the funds to hire the policemen, build the prisons and pay the guards, and that the executive branch has the responsibility to enforce the laws including providing the prosecutors and making the decisions as to when paroles will be granted.

The judicial branch is only responsible for interpreting the laws, and it must not bear the criticism for the failure of the legislative branch to provide the funds and make the laws nor the blame for the executive branch's failure to prosecute or in releasing persons from prison early. All are part of the criminal justice system.

The Bureau of Justice statistics reports that in 1992 the Federal prison population grew by 12.1 percent to 80,259, and that State prison populations grew by 6.8 percent to 803,334. In addition, local jails had another 426,479 people incarcerated at mid-year 1991, up 5.2 percent from 1990.

Sometimes we fail to recognize that in order for those who are arrested for crimes to move into the prison system at both the Federal and State levels they must pass through the judicial system. We have heard judges and prosecutors talk about case backlogs, and that problem is very real.

Many would consider that our system is like an hourglass with the court system being the narrow channel through which the sand must pass.

The reason is that at the Federal level the judicial receives only eight-tenths of 1 percent of the 1994 fiscal year budget. Most States do not do any better. In fact, most, like my State of Georgia, do not do quite as well. They are only 74 one-hundredths of 1 percent of both the fiscal year 1993 and 1994 budgets which are devoted to the courts.

What does this mean? It means that we must do better. Why? Because if we allow the failure of the legislative branch to appropriate adequate funds and the failure of the executive branch to refuse to grant early paroles to become the anvil around the neck of the judiciary, then we have done a grave injustice to that important branch of Government.

What can be the consequences? The cries to radically change our system will continue to grow louder, and ultimately the unrest of the public will be seized by some demagogue, a breed of which there seems to be a proliferation lately, and our constitutional system of a free and independent judiciary, of the presumption of innocence, of a right to trial by jury of your peers will be swept away.

Those flames of unrest are growing higher with each passing day. It is imperative that those of us who have the power to extinguish them do so, for the voices of the judiciary have been silenced by codes of judicial conduct and judicial ethics. Perhaps out of frustration the judiciary often strikes out at its own constituency over which it has any control, the members of the bar, and in so doing they alienate their only natural protectors.

The result is that when citizens cry out against the judicial system citing the trials in Los Angeles as the springboard of their complaint, as they did in a recent radio call-in show in my hometown, no one comes to the defense of the system or to the defense of the judges who are the embodiment of the problem in the minds of the callers.

I am but one voice. The message needs to be heard.

What good does it do to pass a crime bill that puts 50,000 new policemen on the streets if we do not provide any funds for the courts through whom those arrested by the policeman pass? The judicial system of Government has always been between the legislative branch and the executive branch of Government.

What is unfair is when those two other branches become the anvil that puts the squeeze on the third.

AMERICAN INDIAN HERITAGE MONTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from American Samoa [Mr. FALEOMAVAEGA] is recognized for 5 minutes.

Mr. FALEOMAVAEGA. Mr. Speaker, in honor of this November being designated as American Indian Heritage Month, I want to take a few minutes to share with my colleagues a little history concerning early contact between American Indians living along the east coast of the United States and early European settlers in the same area. Much of this information is taken from a book entitled "Native American Testimony," published by Viking Penguin and edited by Peter Nabokov.

Much has been said about the early interactions between the European and Indian cultures in the early 17th century. Unfortunately, much of the recent published material has been negative and relating to the fighting which took place. It is important to remember that there was also considerable cooperation between the early settlers and the Indians.

Depending on where and when we went to school, some of us learned that the winter of 1607 was a hard one for the settlers in Jamestown, VA. During that year, half the group died from starvation and disease. Without the help of the Indians of the Powhatan Confederacy, which at that time was made up of 30 tribes, almost certainly all of these new settlers would have died that winter.

Despite these good intentions during the period of early contact, the relations between the Powhatan and the settlers deteriorated to the extent that in the spring of 1622 the Indians attacked the settlement at Jamestown and killed 350 settlers. In commenting on the abuses which led to this attack, and warning the settlers that a more peaceable demeanor would benefit everyone involved, Wahunsonacock, the leader of the Powhatan confederacy, had this to say:

> Why should you take by force that from us which you can have by love? Why should you destroy us, who have provided you with food? What can you get by war? We can hide our provisions, and fly into the woods; and then you must consequently famish by wronging your friends. What is the cause of your jealousy? You see us unarmed, and willing to supply our wants, if you will come in a friendly manner, and not with swords and guns, as to invade an enemy.
>
> I am not so simple, as not to know is it better to eat good meat, lie well, and sleep quietly with my women and children; to laugh and be merry with the English; and, being their friend, to have copper, hatchets, and whatever else I want, than to flee from all, to lie cold in the woods, feed upon acorns, roots, and such trash and to be so hunted, that I cannot rest, eat, or sleep. In such circumstances, my men must watch, and if a twig should but break, all would cry out, "Here comes Captain Smith"; and so, in this miserable manner, to end my miserable life; and, Captain Smith, this might be soon your fate too, through your rashness and unadvisedness.
>
> I, therefore, exhort you to peaceable councils; and, above all, I insist that the guns and swords, the cause of all our jealousy and uneasiness, be removed and sent away.

Mr. Speaker, the American Indians had firmly held religious beliefs long before settlers arrived from Europe. Even as late as this year we enacted legislation which attempts to protect the tribes' various religious practices. The introduction of Christianity to the Indians was an issue which obviously produced considerable debate. The newcomers were telling the Indians their religion was unworthy of the Great Spirit, and that there was only one way to worship this spirit, and that was the Christian way. Red Jacket, a leader of the Iroquois Tribe, described American Indian perspectives well in this speech to a representative of the Boston Missionary Society, and I quote:

> Friends and Brother! It was the will of the Great Spirit that we should meet together this day. He orders all things, and he has given us a fine day for our council. He has taken his garment from before the sun, and caused it to shine with brightness upon us. Our eyes are opened that we see clearly. Our ears are unstopped that we have been able to hear distinctly the words you have spoken. For all these favors we thank the Great Spirit, and him only. . . .
>
> Brother! Continue to listen. You say that you are sent to instruct us how to worship the Great Spirit agreeably to his mind; and if we do not take hold of the religion which you white people teach, we shall be unhappy hereafter. You say that you are right and we are lost. How do we know this to be true? We understand that your religion is written in a book. If it was intended for us as well as for you, why has not the Great Spirit given it to us; and not only to us, but why did he not give to our forefathers the knowledge of that book, with the means of understanding it rightly? We only know what you tell us about it. How shall we know when to believe, being so often deceived by the white people?
>
> Brother! You say there is but one way to worship and serve the Great Spirit. If there is but one religion, why do you white people differ so much about it? Why do not all agree, as you can all read the book?
>
> Brother! We do not understand these things. We are told that your religion was given to your forefathers, and has been handed down from father to son. We also have a

> religion which was given to our forefathers, and has been handed down to us, their children. We worship that way. It teacheth us to be thankful for all the favors we receive, to love each other, and to be united. We never quarrel about religion. . . .

Mr. Speaker, these are only two examples of American Indian perspectives on cultural differences which arose between European settlers in America and the Indians who had been living here centuries before. As time permits during the remaining days of this session of Congress, I hope to provide further examples of these cultural differences and how the problems were perceived by the original inhabitants of our land.

☐ 1810

RECOGNIZING EDEN HOUSING, INC., FOR 25 YEARS OF SERVICE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. STARK], is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, today, I would like to congratulate Eden Housing, Inc., for its 25 years of providing affordable housing to the residents of Alameda County and other surrounding communities.

During this time, when many considered affordable housing an oxymoron, Eden Housing has provided over 2,000 units of quality housing to serve people with different housing needs: Low income families, seniors, and people who are physically and/or mentally disabled. Eden Housing developments include new construction and the acquisition and renovation of existing properties. Some are rental properties, others are built to be sold and include sweat equity housing and limited equity cooperatives.

In order to ensure the ongoing financial viability of its properties, Eden Housing created Eden Housing Management, Inc. This affiliate serves the tenants with sensitivity and care.

Eden Housing, Inc., was founded in April 1968 by community activists who had pursued various means during the 1960's to end housing discrimination and to build affordable housing in the East Bay area. The first governing board included Harold Mefford, George Simonds, Bill Vandenburgh, Marvin Olson, William Goetz, Albert Ronander, Arthur Alm, Mark Seaver, and Lucie Buchbinder. Bill Vandenburg and Harold Mefford continue to serve on the board to this day.

With the assistance of Housing and Urban Development section 221(h) funds, each original volunteer board member virtually adopted a house in Oakland, CA, that needed rehabilitation and a family to assist in becoming a firsttime homeowner. The project proved to be challenging, difficult, and successful; in September 1969, six homes were sold to low-income families.

The board almost immediately began its second project—the 150 unit senior housing complex named Josephine Lum Lodge in honor of the late Mrs. Josephine Lum. By the fall of 1973, the rental units were being occupied by low-income seniors. Within its first 5 years, Eden Housing was off to a flying start.

Now on its silver anniversary, Eden Housing celebrates the near opening of its 30th project—the Glen Berry Apartments in Hayward, CA. This project, like all other Eden Housing projects, is a clear example of why this organization has been so successful. Eden Housing has the ability to form good working partnerships with governmental agencies and other community-based organizations who also are committed to fulfilling the housing needs in the community. The Glen Berry Apartments were developed with the Family Emergency Shelter Coalition [FESCO] and this site is the 16th collaboration between Eden Housing and the city of Hayward.

Eden Housing also cares very much about the quality of its projects. This is evident when you walk into its office and see all the awards from the National Association of Housing and Redevelopment Officials and the Bay Area American Institute of Architects.

Mr. Speaker, I come before you today not just to recognize Eden Housing's achievements of the last 25 years, nor its ability to meet the housing challenges of the East Bay community, but also to commend the dedication and continuous commitment of its staff, board of directors, and supporters. I ask you and my colleagues to join me in congratulating this fine organization for all its accomplishments and its tenacious spirit and in wishing it well with its future plans.

RELIGION AND GOVERNMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 60 minutes.

Mr. BURTON of Indiana. Mr. Speaker, I have thought a long time about this special order. We are coming to the end of the session.

Mr. Speaker, behind me, above the lectern, are the words, "In God We Trust." We all read that every day and we hear the various pastors come before this body and give the morning prayer. As I read that, I think every day that many actions of this Congress and the courts fly in the face of that statement. Take for instance, a few examples.

The Federal courts have forbidden a fifth grade teacher in Denver to display his own Bible on his desk at school, even though the books dealing with other religions sat on nearby shelves.

In Washington, DC, the Department of the Interior has adopted regulations that prohibit free speech activities, including evangelism, on sections of Constitution Avenue. It does not stop with Federal action.

At Moorhead State University in Minnesota, officials sometime ago told a coed student that they could not include a fish in a mural on a dormitory wall because it was a religious symbol.

Finally, in Michigan a 5-year-old girl in kindergarten tried to thank her Lord before a Friday snack, and her teacher told her she had to stop because prayer is not allowed in school, and the little girl ended up going home.

This Nation has come a long, long way since our forefathers relied upon God Almighty to help set this Nation free.

I would like to quote a few of our forefathers for my colleagues so that they will remember over the Thanksgiving holiday what made this Nation great.

The last half of George Washington's farewell address to the Nation has not been included in American textbooks for the last 30 years because this is what he said:

> Of all the habits and dispositions that lead to political prosperity, religion and morality are indispensable supports. In vain would that man claim the tribute of patriotism who should labor to subvert these great pillars.

He knew as the Father of this Nation that we should have a firm reliance on God Almighty if we were to survive as a nation.

Abraham Lincoln said,

> We have been the recipients of the choicest bodies of Heaven. We have been preserved these many years in peace and prosperity. We have grown in numbers, wealth and power, as no other nation has ever grown, but we have forgotten God.

It seems today that it is even worse than back in those days.

James Madison, the single most important contributor to the U.S. Constitution said,

> We have staked the whole future of American civilization upon the altar of, upon the power of government. We have staked the future of all of our political constitutions upon the capacity of each and all of us to govern ourselves according to the Ten Commandments of God.

Benjamin Franklin, in his speech to the Constitutional Convention on Thursday, June 28, 1778, said,

> In the days of our contest with Britain, we were aware of a danger. We had daily prayers in this room for divine protection. Our prayers were heard, and they were graciously answered. Have we now forgotten our powerful Friend? I move that prayers imploring the assistance be held in this assembly every morning before we proceed with business.

He knew the importance of God Almighty.

Charles Finney once said,

> The church must take a rightful position in regard to politics. Politics are a part of religion in a country. Christians must do their duty to the country as a part of their duty to God.

John Jay, the first Chief Justice of the U.S. Supreme Court, said—one of the three men who gave us our Constitution—said,

> Providence has given to our people the choice of their rulers, and it is the duty as well as the privilege and interest of our Christian Nation to select and prefer Christians for their rulers.

In order to find out who influenced our political institutions, a study by the University of Houston looked into 3,000 of the most important writings of the Founding Fathers and their writings were that the Founding Fathers quoted the Bible 4 times more than Montesquieu, 12 times more often than Blackstone, 16 times more often than Locke, and these are the three most quoted men in history.

□ 1820

Fifty-two of the fifty-five signers of the Declaration of Independence were orthodox believers in Jesus Christ. Thirty-four percent of all quotes used by the Founding Fathers came directly from the Bible, the Old and New Testaments.

Sixty percent of the quotes of the Founding Fathers were quoting men who were quoting the Bible.

Ninety-four percent of the writings of the Founding Fathers were based on the Scriptures, and the idea for the three branches of Government came from the Bible in Isaiah 33:22.

The separation of powers came from Jeremiah 17, and tax exemptions for churches came from Ezra 7:24.

Finally, being a Christian, and I know we have many people who have different religious beliefs and I admire them for their beliefs, we have some differences of opinion, but one thing we all have in common is that we believe in God Almighty. We believe that if this Nation is to survive we have to have a firm reliance on the Almighty; but as a Christian I appreciate some other comments from Christians who led our country.

Benjamin Franklin said:

> Whoever will introduce into public affairs the principles of Christianity will change the face of the world.

John Quincy Adams said:

> The highest glory of the American Revolution is that it connected in one insoluble bond the principles of several government with the principles of Christianity.

Of course, the great leader, Patrick Henry, said on March 2, 1775, when we were about to start the American Revolution:

> We shall not fight alone. God presides over the destinies of nations. The battle is not for the strong alone. If life is so dear or peace so sweet as to be purchased at the price of chains and slavery, forbid it, Almighty God. Give me liberty or give me death.

Then I would like to conclude before I yield to my colleague, the gentleman from California [Mr. DORNAN], a few quotes from a speech given here on the House floor by the gentleman from West Virginia [Mr. RAHALL] when he was talking about America's Christian Heritage Week. He said:

> We find ourselves with heavy hearts watching our government succumb to the pressures to distance itself from God and religion.

He went on to say:

> And the freedom we especially celebrate on Thanksgiving Day is at stake when we can no longer hear a child's prayer in school or a benediction at a high school student's graduation ceremony.

We have rampant in our society pornography and violence and we wonder why we see the disintegration of many of our cities, the crime in our cities, when there is no moral foundation for many of our young people.

I submit to my colleagues that we as leaders of this Nation need to start talking about God more and start moving back toward the principles that made this country great, that are based upon Christian principles, that Judeo-Christian ethic and many of the great religions that we have in this country.

With that, Mr. Speaker, I yield to my colleague, the gentleman from California [Mr. DORNAN].

Mr. DORNAN. Mr. Speaker, first of all, I want to say, and I hope the gentleman from Indiana [Mr. BURTON] does not choke up now, but my respect for the gentleman truly goes up exponentially with each month that I serve with the gentleman from Indiana.

I think what the gentleman is discussing here is the core root of what is wrong with our Nation.

Now, our good colleague, the gentleman from Ohio [Mr. KASICH] is going to talk here for awhile about real fiscal sanity and saving our country from bankruptcy, and that is really important.

I hope everybody who is listening, and I hope it is still the usual C–SPAN audience, Mr. Speaker, of 1.2 or 1.3 million people.

I am going to take a special order following his. I was going to talk about Jimmy Doolittle, Cardinal John Joseph O'Connor up in New York and a speech of his that I want to read into the RECORD, not insert, but read it.

I wanted to talk about this term "politically correct." Here is what I would like to ask the gentleman from Indiana.

Does the gentleman believe that we should start to coin a phrase called "spiritually correct" to counter what is becoming idiotic, this term "politically correct," but it does have power. PC's have power. It is corrupting our colleague and our high school campuses.

What the gentleman really in essence is saying is that our Nation at its beginning tried to be spiritually correct before it thought about what was going to be in the Constitution. Is that not a fair analysis?

Mr. BURTON of Indiana. There is no question that our Forefathers, George Washington, Benjamin Franklin, Thomas Jefferson, and all of them, had a firm reliance on God and felt without His divine help, this Nation would never be free. That is why they implored His help continually, and because of that, they won some very important battles that they were not supposed to win, and I believe we did have divine help.

Mr. DORNAN. Well, we have been here long enough that the gentleman from Minnesota [Mr. PENNY] has arrived on the floor, so this is going to be a good special order that the gentleman has given them tonight.

One of our Protestant brothers gave this Irish Mick here an interesting little brochure, that when the gentleman from Indiana told me what he was going to speak on I ran out to the car and got it. It is just one of these typical four-page Bible tracts. It has a beautiful American Eagle on the cover with a representation of a nickel. There is Jefferson's face, right next to the words "In God We Trust" that the gentleman opened up mentioning.

You turn it again and there is our flag. It says "In God We Trust" again. It begins with a George Washington quote. I hope when I was out of here a second that the gentleman did not read this one, but it is worth being redundant with:

> It is impossible to rightly govern the world without God and the Bible.

That is George Washington.

I am going to read the rest of this pamphlet after our good conservative fiscal friend, the gentleman from Minnesota [Mr. PENNY], and the gentleman from Ohio [Mr. KASICH] are through here, but it has a little prayer at the end. It says:

> Dear God, forgive me and forgive our Nation for trying to live without you. I accept and believe in your Son, Jesus Christ, that he came to Earth to pay for the penalty of our sins. I repent of my sins and I ask that you will help our Nation to repent. Please make me a member of your family in the name of Jesus Christ.

We used to start all the meetings around this place, even when I got here, with prayers like that.

It goes on to quote Psalm 33:

> Blessed is the nation whose God is the Lord. Behold the eye of the Lord is upon them that fear him, upon them that hope in his mercy.

Two more, one that we see at baseball and football games all the time. You see these people humbly putting up John 3:16:

> For God so loved the world that he gave his only begotten Son, that whoever believeth in Him should not perish, but have life everlasting.

When Mike Wallace asked Ronald Reagan what was his favorite Biblical verse, that is the one he brought up.

Then here is the last one, John, chapter 3, verse 36:

> He that believeth on the Son hath everlasting life, and he that believeth not on the Son shall not see life, but the wrath of God abideth on Him.

I mentioned in our debate today that "Hard Copy" show last night that shows Denmark—I married a Dane, a Danish-American—Denmark utterly corrupting its children, 10, 11, 12, 13-year old girls holding up condoms to the camera, laughing about carousing and teen-age sex, drinking, and smoking.

And who did they get to approve all this? American ex-patriot liberals saying it is a great country and that is the way America should be, and it says, this guy is a psychologist, we have to think about being spiritually correct.

Mr. BURTON of Indiana. I agree with the prayers the gentleman quoted and the Scripture from the New Testament of the Bible.

Let me just say, as a strong Christian and one who believes very firmly in Jesus Christ, that we have other religions in this country who have a very strong moral statement that they want to make, and they know also very clearly that our Nation cannot survive without strong moral principles that are taught in all the great religions.

I just hope my colleagues, when they go home for Thanksgiving, will ponder these thoughts, because I think that we ought to start thinking about them if we are going to keep our country on the right course.

Mr. Speaker, I ask unanimous consent that the rest of the time on my special order be allotted to the gentleman from Ohio [Mr. KASICH].

The SPEAKER pro tempore (Mr. BARCA of Wisconsin). Is there objection to the request of the gentleman from Indiana?

There was no objection.

FISCAL SANITY

Mr. KASICH. Mr. Speaker, I appreciate the gentleman yielding the balance of his special order time to me.

It is a pleasure for me to come on the House floor tonight with my Democrat colleague, the gentleman from Minnesota [Mr. PENNY] in an effort to talk to the American people about the Penny-Kasich amendment.

Let me just say a few things before I yield to my colleague, the gentleman from Minnesota [Mr. PENNY]. The gentleman from Minnesota [Mr. PENNY] and I were able to work together with a group of 29 other Republicans and Democrats who are concerned about the financial direction of this country. In an unprecedented way, Republicans and Democrats came together to fashion a spending cut bill in the area of $100 billion in deficit reduction.

Republicans and Democrats together took a look at all the programs across the Federal budget, and we were able to fashion a program that reforms the operation of the Federal Government and really represents a small down payment on what we need to do in America to get this country moving again and to protect and to guarantee greater prosperity for every American.

□ 1830

It is couple-fold. One, it is reducing the overhead of the Federal Government, ending the choking regulations that keep businesses from being able to prosper, to expand, to hire more people, and taxation, which is also one of the worst things in terms of giving Americans incentives to be able to spend money the way they want to and to not choke businesses with further taxation in this country.

So, it is kind of a three-prong process, but the first stage is to begin to reduce the overhead of the Federal Government, and, as we know, in the Clinton budget, which cut nothing other than national security, over these next 5 years we will increase the national debt by $2 trillion, from $4½ trillion to $6½ trillion, and all the Penny-Kasich proposal represents is saving one penny on a dollar over the next 5 years.

Now this administration is doing everything that they possibly can to rev up the special interest groups in Washington, DC, to deny this House a real chance for change, and what they are doing is trying to rally the special interest groups to work over the Members of Congress, to say to the Members of Congress, "If you vote for this changed program, we're after you," and this is an orchestrated campaign that is coming from down Pennsylvania Avenue led by high officials of this administration that are afraid to cut a penny out of a dollar over the next 5 years.

Frankly, my colleagues, they ought to be embracing, they ought to be embracing this program. It is a commonsense program, a basic downpayment supported by Republicans, Democrats, conservatives, moderates, and liberals who come together in an effort to make a downpayment to preserve America's future.

What we really have to do in order to pass this program is call on the bulk of the American people, who do not represent special interests inside the beltway, to send a message over these walls, over these walls represented by this beltway, this I-95. We need them to send their message over those walls and to send clear messages to their Representatives in Congress that they would like to make a commonsense downpayment in reducing this deficit and preserving a future, a prosperous, good future for their children.

At this point I yield to my colleague, the Democrat gentleman from the State of Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Speaker, I thank the gentleman from Ohio [Mr. KASICH] for yielding.

Mr. Speaker, I want to start by admitting that I am tired. I am not tired because of the length of this work day. I am not tired because it is now 6:30 in the evening and I have not had a meal all day because of the press of activities surrounding our effort to present this spending reduction package. I am tired of this institution, and I am tired of the interest groups that dominate politics in America.

Mr. Speaker, we worked very hard this last summer on President Clinton's deficit reduction proposal. In the final analysis that plan represented approximately 500 billion dollars' worth of deficit reduction over the next 5 years. Some will dispute the basic numbers that comprise that package, but most of us proclaimed that that was a plan that was roughly 50 percent spending cuts, 50 percent tax increases and a package that did not sit well—as we discovered, that it was a package that did not sit well with the American public. It did not sit well for three fundamental reasons, Mr. Speaker:

First of all, folks did not view this as tough enough on spending. They wondered where the spending cuts were when no major weapon system in our arsenal was canceled, when no major big ticket science project was canceled, when no major portion of our bureaucracy was threatened, when not even the honey program was eliminated. Among all the departments, agencies, and programs in the Federal budget not a single one was canceled as a consequence of the cuts called for in the Clinton budget. They felt that the tax increases were too high, set aside the fact that other than the gas tax increase at 4.3 cents a gallon, which amounts to 10 cents per day per family, none of these tax increases were focused on anyone with less than $100,000 or $125,000 of income. They just felt that taxes, even if they were largely focused on the wealthy, were not the best way to deal with the deficit problem when it appeared that so little was being done to roll back Federal spending.

But beyond all that, Mr. Speaker, most Americans reacted negatively to the Clinton budget because it was very clear that, while we touted a $500 billion deficit reduction program over 5 years, that the best we would achieve with this plan was a gradual reduction from a deficit in the range of $265 billion in 1993 to a deficit of about $190 billion in fiscal year 1996, only to see the deficit then, once again, climb to beyond $300 billion at the turn of the century. People understood this was not a solution to our Nation's deficit dilemma.

Many Members of Congress voted against the plan because it did not have enough cuts. Some of us voted for the plan with great reluctance and only on the assurance that we would have a fair fight for deeper cuts before Congress adjourned this fall. I will give the administration credit for submitting a modest spending reduction bill to allow this process of extra spending cuts to move forward, but to my dismay all of the power of the leadership within my own party, and based on developments today, most of the machinery of the Clinton administration, and on top of that virtually all of the special interest groups that benefit from government spending, have now geared up in a full court press to not only delay consideration of this spending reduction package for a couple of days, but to use that delay as a means to oppose and defeat this spending reduction package.

What we did, based on this opportunity for deeper cuts, was what should have happened 10 years ago. We sat down in a room, roughly 15 Democrats and 15 Republicans, and we said, "We can't solve this problem without some bipartisanship. Let's work together. Let's put everything on the table. Let's forget about our parochial interests. Let's forget about partisan potshots. Let's set a goal of hundred billion, and even that won't solve the problem, but let's at least get a good start on this in a spirit of bipartisan trust."

Mr. Speaker, we found over 80 items in the budget that we, both Democrats and Republicans, were willing to cut, and we also discovered that the strength of the package did wonders. Each item in this package causes some pain, and there were people at that negotiating table that had problems with some of these 80 items on the list.

□ 1840

But when they saw the totality of what we were able to do by putting that many spending reduction items in one package, they swallowed the tough medicine and endorsed the entire plan, because they saw that the larger goal of $90 to $100 billion worth of deficit reduction was more important than the little bitty heartburn that one or two or three items might cause them.

When I said at the start that I am tired, I am tired of a process in Washington, DC, that does not allow that kind of good faith bipartisan effort to proceed. We are so bogged down in our partisan game playing and so captive to the special interests that dominate each political party that when it comes to making serious progress on spending cuts, we just run for cover.

The American people are not stupid. But for 10 long years we have treated them like idiots. We are afraid to tell them that yes, some of the programs you like have to be cut. We are afraid to tell them that it is our children that are suffering and will suffer from the debt we are handing to them.

People are not stupid. If we lay it on the line and tell them that yes, this pain is necessary in the near term to solve this problem, they will get behind the effort.

If we make it clear to them that the only way to save this country and to save this economy for future generations is to put our fiscal house in order today, they will get behind this effort.

It does not mean we will not take a little flak along the way, and you can bet your bottom dollar that the Penny-Kasich plan is going to be subject to an awful lot of flak in the next couple of days. But it is a plan that represents a solid bipartisan effort, 80 specific items, half of which apply to discretionary domestic and defense accounts, half of which apply to entitlement spending. And that is a fair distribution, because half of our budget is entitlement spending.

This is a plan that represents perhaps the best effort that I have seen put forward by a group of Democrats and Republicans in the 10 years I have been in Congress. I am gravely disappointed that the reaction to this plan is the same old stuff.

I offered 1 percent cuts and 5 percent cuts to appropriation bills for several years around here, only to have many of my colleagues vote against those measures and criticize me for these across-the-board efforts to cut spending.

Besides that, these across-the-board cuts were only offered to appropriation bills. Appropriation measures are perhaps 20 percent of the budget. You will never balance the budget by only going after appropriated accounts.

So now we have come up with a balanced package that goes after entitlements, the fastest growing element in this budget, and the very same Members are outraged, outraged, that we are going after these entitlement programs with the suggestions that we have put forward.

It comes down to this: a lot of people in Washington want to talk about deficit reduction and want to pretend that they are for deficit reduction, but really do not want to cast any vote that shrinks the size of Government and shrinks the size of this deficit.

Oh, they will cast a vote, as long as it does not pass. They will cast a vote, as long as it is not for real. They will cast a vote, as long as they know that the Senate will reject it or a conference committee will ignore it.

When it comes down to a serious package, they do not vote for it. The leadership in my party orchestrates this sort of opposition to fiscal sanity, and the interest groups in town, who have only their own efforts at heart, not the interests of the taxpayers, not the interests of future generations that will be burdened by this debt, will fight us on each and every detail.

It is tiresome. It has to end. On Sunday, or Monday, or whenever, when we finally get a vote on the Penny-Kasich plan, it will be the single most significant vote in the time that I have been in Congress in terms of defining who is serious about solving this problem and who is part of the problem.

That is the way we intend to cast this debate. That is the way we have to cast this debate, because there has to be accountability on this issue. We have to quit pretending that we are for deficit reduction and finally vote for some real deficit reduction, and we intend to offer that opportunity to the membership within the next few days.

Mr. KASICH. I want to say that those remarks by my colleague from Minnesota are some of the best I have ever heard on this House floor. And TIM PENNY is for real. He is for real. He is what people have said about him and written about him. TIM loves his country and wants to help his country. And he is right when he talks about the special interest groups.

Let me say, TIM, that I think it is important for us to spell out tonight what has got you revved up, and I guess me revved up, is the fact that they are using the same old game plan to try to sack the quarterback, to try to prevent change, to try to prevent the ball from being moved down field. They bring these special interest groups into the game and they start to begin to work over the Members of Congress.

The reason why a victory on Penny-Kasich is so important is that if we do not get to 218 Members, and we have got to walk back out those doors, losing another fight, that represents really an unprecedented fight. The public needs to understand that if Penny-Kasich passes, this does not go to committee chairmen, this does not go to committee staff. This has the force of law. We will have a quarter of a million fewer slots in the Federal Government. We will begin to privatize the public housing market. We will begin to reduce the field offices in the Department of Agriculture. We will begin to shrink the size of the field offices in the HUD operations. We will begin to privatize these pieces of the Federal Government.

This is what the people have been asking for. If we are not able to be successful at this moment in time, I say to the gentleman from Minnesota, what I get concerned about, if the American people, who want change in this town, what I get concerned about is if we cannot deliver that change, I say to the gentleman from Minnesota, whenever Members of this body want to bring change, they are going to look at what happened on Penny-Kasich, and they need to see some success. They need to see us win one in the name of change.

We do not want to have these special interest groups sitting in their offices here within the Beltway laughing that they just simply won another one. And it sends a message to Members of Congress who are in fact in favor of change, don't try us; you can't take us. You can't pin us. You can't beat us. Because any time you come with a program that represents change, we will figure out how to beat you up.

That is why this fight is even bigger, much bigger than Penny-Kasich, much bigger than $100 billion. This is a fight that is really trying to answer the call of the American people, who say I care about the future. I care about the kids.

As I say, this effort to try to revitalize America and to put us in a job-creating mode is not just cutting spending. It is other things as well. But cutting spending is an essential element.

I would say to the gentleman, this package is more sweeping in scope than any package that I think has come to this floor. I know BILL ARCHER says in his entire career, over two decades.

I would say to the gentleman that I think that the administration insults the Members of this House when they talk about the fact that there are items in this budget that if Members ever saw them, they would reject them.

□ 1850

The simple fact of the matter is, we as a group of Members of Congress, 31 Republicans and Democrats, systematically reviewed each and every single proposal specifically and it was voted. And it went through the entire process of being approved by a group of 31 Members of Congress on a bipartisan basis. And they insult the members of this task force, the Members of this body who put together a specific proposal that has been scored by the Congressional Budget Office very close to what we had predicted.

I would say to the gentleman, it is interesting that this morning Mr. GORE appeared on morning television. They asked him, how was it that the White House estimated that his reinventing government program would save $9 billion, but the Congressional Budget Office said that no, no, no, you are not going to save $9 billion. You are only going to save $300 million.

In fact, when the bill got done moving its way through the committees, we increase spending by $1.5 billion. We went from a $9 billion cut, under the Gore plan, to another $1½ billion to the American taxpayer.

Do you know what the Vice President said? "We can't trust the Congressional Budget Office." He said that here we have to trust our operation in the White House.

When President Clinton came to this floor for his State of the Union Message in February, he said:

> No longer will we rely on the White House Budget Office for numbers. We are going to rely on the Congressional Budget Office, the bible of budget estimates.

Once again, it is double talk.

I would say to the gentleman, it is going to be tough, but you see, I know him and he knows me. We are guys like Butch Cassidy and the Sundance Kid. We will go down in a shooting match here, if we go down. Frankly, I say to the gentleman, along with our team, you know you think about this today, Senator Tsongas came to endorse this package with this group, with this tremendous group of Democrats and Republicans who wanted to bring change. And these folks who have been criticized, they have gotten the phone calls. This group, this team is hanging together and they have got commitment.

When I think of Congressman CHRIS SHAYS from Connecticut and his commitment to this process and JIM WALSH and his commitment to this process, we are not going to quit. This group is not going to quit. We are going to fight like crazy until this vote is finished.

I guess all we ask is we are going to put the effort in, but we want the American people to call their Members of Congress and say, give this plan a chance. Cut one penny on the dollar over the next 5 years for the future of this country. Give some change to Washington, DC. We want to see a little reform. We want to see a good faith effort. Support this task force of Republicans and Democrats that want to deliver us some fiscal sanity.

We are just going to keep on plugging, and we are going to keep on talking about this plan. We are going to keep on talking about the opposition. As Senator Tsongas said today, we are going to know who the real people are and who the people are that have no interest in serving what the vast majority of the American public want.

Mr. Speaker, I yield to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Speaker, I thank the gentleman for yielding to me.

I want to reflect on his comparison to our effort as sort of akin to Butch Cassidy and the Sundance Kid. It was a great movie, but as I recall, at the end of the movie you were not sure whether they survived or got shot down. And we do not know a few days ahead of this vote on the Penny-Kasich budget reductions whether we will survive this fight or get shot down in the process. But we do know that we are in the fight, and we do know that the potential is there for this significant package of spending cuts to be adopted by this Congress.

We know that because over the course of the last few days, particularly the last few hours, it has become increasingly evident that every interest group that wants money from the Government, even if it means a higher deficit for this country, is gearing up to oppose this package. We know that because, unfortunately, while they have been supportive to some extent, the White House has now instructed various administrators in this administration to come out forcefully against this plan.

We know that because within the institution of Congress, a very strong whip effort on the part of the leadership has been initiated to defeat this plan.

We have the backing of folks that know an awful lot more about what it takes to build a strong future for America than most politicians in Washington know. The Concord Coalition does not have any ax to grind. The Concord Coalition devote voluntarily much of their time to the issue of deficit reduction. They have heightened American understanding of this issue, and I applaud former Senators Paul Tsongas and Warren Rudman for their efforts in that regard. We are delighted to have their support in this effort, because they have no personal stake in this. They are simply trying to sound an alarm, to alert the American public to what must be done to get our fiscal house in order. And they support this plan.

But within the institution, I am heartened to know that we have new legislators, Democrats and Republicans alike, who are serious about deficit reduction, who are serious about making tough votes to balance this budget, who are more interested in doing the job they were sent here to do than in keeping the job and all the perks and the power that comes with it.

If it were not for these freshman Republicans and freshman Democrats who have been really the energy behind this Penny-Kasich budget plan, we would not be here today with a package comprising almost 100 billion dollars' worth of spending cuts over 5 years. And these are tough choices. There is no denying it. But this package, in spite of its breadth, in spite of its credibility, still does not do all that needs to be done to eliminate the deficit that faces this country. But it is a major step, and it must be adopted, it must be adopted and voted for by anyone who claims to be serious about budget deficit reduction.

We do downsize the Federal work force. We do, for wealthy seniors, expect of them a little higher payment of some of their Medicare services so that lower income workers do not end up paying for wealthy seniors' health care.

We do ask that starting with new hires, that the rules about retirement for Federal workers, including Members of Congress, be changed so that we all, those of us coming into the system, have to wait a little longer to draw those benefits.

We do not change the rules for anybody in the game. That would be breaking a contract. But we say for the future, we have to make this change.

We do say that the Congress ought to set an example by cutting its own budget, and we slate the legislative budget for a 7½-percent cut, and our free mailing privilege will be reduced by 20 percent.

We cut the White House budget by 5 percent, as a way of allowing the administration to set an example.

Mr. KASICH. I want to say one thing about the Congress. And that is, we will not get a cost-of-living increase unless Federal workers get it. If Federal workers do not get it, we do not get it. So we are putting Congress in the barrel. I would hate for people to have to vote against putting Congress in the barrel under this plan.

□ 1900

Mr. PENNY. Mr. Speaker, I appreciate the gentleman's contribution to the listing that I am presenting. We also trim Federal overhead costs by about $2 billion over the course of 5 years. As the gentleman from Ohio [Mr. KASICH] mentioned earlier, we do eliminate field offices within the U.S. Department of Agriculture. We have about 12,000 field offices across the country. We would downsize that by about 1,200.

We consolidate HUD Department field offices. We eliminate various programs, including the Interstate Commerce Commission, which no longer has much of a mission, because we have deregulated the railroad and the trucking industry.

These are not pain-free changes, but they are achievable reductions in the size of this Federal Government. These are not draconian cuts. There is no poison pill here. This does represent a commonsense approach to dealing with this Nation's deficit problem. It does not solve the entire problem, but frankly, if we cannot begin by making these changes, we cannot pretend that we are serious about solving them.

I appreciate so much the bipartisan involvement, I appreciate so much the leadership of the gentleman from Ohio [Mr. KASICH]. He has been an inspiration to me because, in spite of the fact that he has been here as long as I have, he still has a freshness and a zeal and a level of enthusiasm that is absolutely required if we are to change the status quo. When I said at the start of my remarks some time ago that I was tired, I am tired of the status quo. This represents the best chance in a decade to break the status quo and to get real change and real deficit reduction.

Mr. KASICH. Mr. Speaker, I appreciate the gentleman being able to pronounce my name correctly.

I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding. I just want to point out that I have had the privilege of working with the gentleman from Ohio [Mr. KASICH] and the gentleman from Minnesota [Mr. PENNY] over the last several weeks in putting together this package. I think our colleagues need to know, Mr. Speaker, just how hard these two gentlemen have worked.

This has not been easy. As the gentleman from Minnesota [Mr. PENNY] just pointed out, there are a lot of very, very tough measures at issue. We do not cut $100 billion out of spending and not have it be some very, very tough things to do. These two gentlemen have worked, trying to listen to Members, trying to respond to what they thought were legitimate concerns in modifying their package. The fact is that all their hard work has paid off in the fact that they have produced something real.

I think that that should be underscored, because there is a lot that goes on around the House of Representatives and in the Congress as a whole that produces a lot of air, but nothing much real. There is a lot that goes on in this town. I am told, and the gentleman can tell me whether I am wrong, I am told that, for instance, after hearing about a $9 billion National Performance Review package that was going to save the taxpayers money, when we actually got it up here and got it scored by CBO, it ended up costing money.

I only point that out not to be pejorative, but to point out that there was an awful lot of hard work that went into the NPR. I think they probably all believed, based upon their own figures, that this was something that saved money. Yet when it got scored under the same procedures that the gentlemen who bring this proposal to the House had to have their proposal scored by, it turned out it did not save money, it cost money, so this is tough going. The fact is that both the gentleman from Minnesota and the gentleman from Ohio have done yeoman service.

Mr. Speaker, when we bring that particular proposal to the floor, we are going to end up having on the floor a real spending cut measure. It will be interesting to see how the House responds when they get a real spending cut measure before them. It will not be an easy vote. It will be a tough vote. The fact is, it is going to be a tough vote that a lot of people are going to be watching. It is not just going to be the people who want us to cut spending who are going to be watching it, it is going to be a lot of the special interest groups out there who do not want one dime cut from spending, who are going to be watching it, and who are going to respond very, very bitterly.

The administration is already making it clear that they are going to make this into a very tough vote for Members to cast on the floor. I hope that we have the courage of our convictions and do vote to approve the measure, but beyond that, I think we ought to also, as we do it, thank the two gentlemen, the gentleman from Minnesota [Mr. PENNY] and the gentleman from Ohio [Mr. KASICH], for all the work they have done. Win or lose, they have provided us with a real package, and I, for one, thank them for it.

Mr. KASICH. I appreciate the gentleman's remarks.

I am going to do a little disclaimer now. For those military retirees who have been calling all the offices saying that they should continue to get their pension and their COLA and they should not be impacted under this proposal, they have been removed from the package and will not be affected. Those Federal workers who were worried about their retirement are going from 55 to 65, they have also been removed from the package.

What we have said is that any changes in retirement age or COLA's will be prospective; in other words, will not affect anybody until 1994, new people entering these programs.

Mr. Speaker, I think it is important for that to be said.

Mr. PENNY. Will the gentleman yield on that?

Mr. KASICH. I yield to the gentleman from Minnesota.

Mr. PENNY. It does not hurt to say this six different ways to make sure people understand. No current Federal worker, no current military personnel, and no current retirees from the Federal work force or from the military are affected in the least by any changes in their benefits or their COLA's by this Penny-Kasich budget. We did make some changes that are prospective, for the future, but that is a new contract with new employees and new enlistees. It does not in the least modify the contract, the agreement, the trust that current workers and current military personnel and current retirees ought to have in this system.

Mr. KASICH. Mr. Speaker, I would just like to leave, close the special order, with just two thoughts. One, to our colleagues and their staff who may be watching this special order, we really want them to look at the package. It does represent change. If they have questions, they can see Mr. PENNY, myself, or members of the task force. We are ready to answer those questions.

These are well thought out proposals, most of which have been considered over the years. We just think it is time to stop considering and start doing.

Second, to the American people that are watching this special order tonight, we need your help. We need you to call your Representative in the Congress and we need you to tell them to give change a chance. Vote for Penny-Kasich. Support this program. Do something to help repair this country. Do something to guarantee a safer economic future for America.

This is not a panacea. It is only a first step in a continuing process. In order to make that final step, we have to take the first one. This is the first good, positive step that we can take to help this country.

I would say to the people, it is in their hands as to whether they drown out the calls of these special interests, so that the majority of people throughout this country will finally begin to get some of what they want from this Congress of the United States.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BARCA of Wisconsin). The Chair does caution Members not to address the viewing audience.

A BIPARTISAN OPPORTUNITY TO HELP AMERICA AND RENEW AMERICAN CIVILIZATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. GINGRICH] is recognized for 60 minutes.

Mr. GINGRICH. Mr. Speaker, I want to discuss a bipartisan opportunity to work together to help America and to renew American civilization. Mr. Speaker, I have decided to take this occasion to talk about the potential for bipartisan effort, because I had so many different Members of the House tell me that whatever side they were on last night on the NAFTA vote, they thought it was really healthy, it was a bipartisan debate and a bipartisan vote, that there were Democrats and Republicans on both sides, and they thought it was healthy for the country to have that kind of bipartisan effort.

In talking with a number of reporters today, I was asked again and again, does the fact that 138 Republicans voted with 102 Democrats to pass something in a genuinely bipartisan effort mean that there is a possibility for bipartisanship?

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What struck me was that there are a lot of opportunities for bipartisanship. My colleagues just heard a special order done by Mr. KASICH of Ohio, a Republican, and Mr. PENNY of Minnesota, a Democrat, about the Penny-Kasich proposal to cut spending, which is a bipartisan effort put together by Democrats and Republicans working in a room, trying to develop some real solutions and trying to do something which will help all Americans.

I think it is possible to develop a series of bipartisan efforts. In health care, for example, I know that there is a Cooper-Grandy bill. Mr. COOPER of Tennessee, a Democrat, and Mr. GRANDY of Iowa, a Republican, have worked on a managed competition approach to health care. And I am told that tomorrow there will be a Rowland-Bilirakis bill, Mr. ROWLAND a Democrat of Georgia and Mr. BILIRAKIS a Republican from Florida who have been working on a commonsense bill that would bring together good ideas in a positive way.

So there are opportunities for bipartisanship and for putting together in a bipartisan way real reforms.

The question I have been asked, of course, all day is are there opportunities for the House Republican leadership and for the House Republicans to work with President Clinton and with the Clinton administration on good, positive bipartisan efforts. And it seems to me that there are in fact many opportunities for us to work together.

I would suggest that what we need to do, in looking at next year as the President prepares his budget proposals, and as he looks forward to the State of the Union, as he considers legislative opportunities, is we need to recognize that we could work together to set an agenda for Americans that would be very, very powerful in a bipartisan way. We could agree I think, for example, that if NAFTA, the North American Free-Trade Agreement goes through, as apparently it will in the Senate on Saturday, that we need a bill, what I would call an economic growth after NAFTA, a bill designed to create jobs, to make American industry more competitive, to give American workers more job security, to create a better opportunity for Americans to compete both in the North American free-trade areas and in the world. And I believe as people watch the President in Seattle dealing with the Asian nations, and looking at trade in the Pacific, they will understand why we need an economic growth bill, a job creation bill designed really to follow Secretary Bentsen's advice to the Japanese.

The Secretary of the Treasury said recently that the Japanese need to cut spending and cut taxes and cut regulation and stimulate their economy. And I think that is advice, frankly, that we should take here at home.

I believe it ought to be possible to develop a real welfare reform bill to require work as a condition of getting money from the Government. And I think that the work which has been done by Congressman SANTORUM and Congressman SHAW and Congresswoman JOHNSON and Congressman GARY FRANKS of Connecticut have put together a welfare reform bill which I think if the President could look at he would find would be in fact a very, very useful beginning for a bipartisan effort to pass serious welfare reform, to take a first step toward saving the inner city.

I think also that in the area of health, I honestly believe that we in the House Republican leadership and on the task force led by Congressman BOB MICHEL, our leader, where we have worked for over 2 years to develop Affordable Health Care Now, a bill which uses personal responsibility and market forces to improve the health of Americans, a bill which has medical savings accounts, it has group insurance for small business, it eliminates preconditions so every American can buy insurance, it offers the same tax break for the self-employed that large corporations get, it is a bill which has malpractice reform to lower the cost of defensive medicine, and which eliminates antitrust problems for hospitals so that they can work together to buy the best equipment and to cooperate in community health programs. We believe that Affordable Health Care Now is a start.

But I believe further that if Secretary Bentsen were assigned the job of negotiating a health bill with his background on the Senate Finance Committee that we could in fact draft a health bill which would pass the House and the Senate, and which would become law, and which would have an overwhelming majority favoring it. There is an opportunity for bipartisanship.

I also believe that on crime the country wants very strong measures taken, particularly on violent crime. Congressman BILL MCCOLLUM and Congressman GEORGE GEKAS have been real leaders in developing the right kind of approach to lock up violent criminals, to build more prisons, to provide longer sentences, to have honesty in sentencing, to have an effective, believable death penalty. There are a number of steps we could take on crime that I think would have a bipartisan majority if the President would only help put it together.

I also think that it is possible for us to look at truly reinventing Government. The fact is we are going through an enormous information revolution, we are going through a period of tremendous change in which it is possible to provide more goods and services at lower cost, it is possible to use computers and information technology, to use fiber optics and satellites, that there are many, many steps that can be taken to improve the quality of Government without making it cost more.

But I believe that we have to face a central question here. When I am asked is it possible to have bipartisanship, my answer is yes, if that bipartisanship is based on principles that are at the center of American life.

Now what I mean by that is that if you go out and you ask the American people what they really believe in, they are actually remarkably common sensible. About 75 percent to 78 percent of all Americans want a balanced budget in their Government, because they know they have to have a balanced budget in their business and their family. About 77 percent of the American people believe in the death penalty as an effective deterrent for hardened criminals. Eighty-one percent of Southern blacks and 79 percent of Southern whites favor a work requirement for welfare, including for women with young children. About 78 percent of all Americans believe in voluntary school prayer, and believe that beginning the day with a voluntary prayer is a good thing, not a bad thing.

When you go through item after item after item, the number of Americans who believe that we should adopt much tougher laws on illegal aliens, that we should stem the tide of illegal immigration, an effort which in the House has been led by Republicans such as Congressman ELTON GALLEGLY of California and Congressman LAMAR SMITH of Texas, Congressman HENRY BONILLA of Texas, and Congressman BILL MCCOLLUM of Florida, overwhelmingly Americans believe, Americans of all backgrounds, including first generation immigrants believe that while we should defend unprotected rights of legal immigration, we should be much sterner and much tougher toward illegal aliens, and we should be effective in protecting this country's border from illegal immigration.

Again and again we find this 75 percent, 78 percent, 80 percent, 82 percent majority that consistently has a broad sense of values that would make sense, and that I regard as the center of American policy.

In that framework, if the President emphasized the "new Democrat" part of his administration, if he emphasized the reinventing part of his administration, if he emphasized the part that emphasizes change, I believe in that framework that it is possible for us to really make a difference.

But in order to understand the potential for that kind of bipartisan, centrist effort to replace the welfare state by genuinely reforming things, I think it is necessary to look at some of the steps that ought to be taken. And I would simply suggest that until we are prepared to look at those steps, nothing is going to happen.

Let me mention an example of an area where there is, I think, tremendous bipartisan support for change, but it is change which seems to be difficult to get in a Congress in which trial lawyers have too much power. We need malpractice reform. We need liability reform. Today our legal system has become a tax on working Americans. Every American pays a little more because we have a litigation system which is very destructive.

Edwards Deming, who fathered the quality movement and the man who taught the Japanese a set of profound knowledge on quality, asserted in his book, "Out of the Crisis," that reforming our litigation system was one of the two most important steps we could take to improve the American economy. The other was reforming health care.

Now let me give some examples where a recent study of what the litigation tax, and think of all of these extra Government requirements for lawsuits as a tax, a Government required expenditure of your money, and recently, and I believe this was reprinted in one of the news magazines, a study came out that looked at the litigation box. Here is what it found out: If you go and buy an 8-foot aluminum ladder and pay $119 in retail price, the true cost of that ladder is $95.

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You are paying, in effect, a $24 litigation tax, that is, the manufacturer of the ladder, the wholesaler who moved the ladder, and the retailer who is selling you the ladder are paying between them $24 in insurance against the cost of liability lawsuits. So you could buy the ladder for $95, but the American litigation system, the liability lawsuits that you read about, are costing you an additional $24.

It gets to be bigger when you get to a heart pacemaker. The current retail price for a heart pacemaker averages $18,000. The true cost is $15,000. The litigation tax is $3,000. That means that every person who is buying a pacemaker for their heart is paying $3,000 for the lawsuits, the liability and malpractice litigation that is all too common in America.

A 2-day maternity stay, the retail price averages $3,367. The true cost is $2,867, because there is a litigation tax, an extra charge, to make up for the cost of malpractice insurance of $500.

Just two more examples: A tonsillectomy retail price is $578. The true cost is $387. The litigation tax is $191.

A motorized wheelchair, retail price is $1,000. True cost, $830; litigation tax, $170.

Let me go through and summarize again just so you understand how big the opportunity is to help the American economy by lowering the cost of goods, making it easier to export and create jobs and lowering the cost to consumers, I am going to repeat what we are paying in a litigation tax in malpractice insurance and litigation insurance and liability insurance and in lawsuits for the way we have a lawyer-dominated political system, and here is an area where I believe we could have bipartisan reform in trying to pass a malpractice and liability reform, and we could put together a bipartisan coalition of Republicans and Democrats if only the Clinton administration would work with us.

Here are the tax numbers I mentioned: An 8-foot aluminum ladder, you are paying a litigation tax of $24; for a heart pacemaker, you are paying a litigation tax of $3,000; for a 2-day maternity stay, you are paying a litigation tax of $500; and for a motorized wheelchair, you are paying a litigation tax of $170.

All of that could be changed dramatically with a bipartisan Democrat and Republican effort to bring together votes from both parties to pass real reform at the center.

Let me give you a couple more examples. A bipartisan opportunity that I think could help us: I believe we could reshape our Foreign Service so it helps Americans create local jobs through world sales. I believe, for example, that we ought to introduce the idea, and I am preparing legislation to have a special ambassador for exports to Japan.

I think the Japanese market is so big and the invisible barriers to trade are so great that we ought to have an ambassador whose only assignment is to work on trade with Japan, and I would like to see somebody like Bob Galvin, the former leader of Motorola, one of the greatest export salesmen in the world, someone who is a mature senior exporter who has practical experience in a large corporation selling in the Japanese market, become the special ambassador for exports whose only job would be to get up every day and to find new ways to sell American goods in Japan, creating American jobs here at home.

There will be a bipartisan initiative that I would hope we could pass on a joint Republican-Democrat basis.

Second, I believe that we ought to design a new system where before a Foreign Service officer became an ambassador they were given a 1-year sabbatical to work in an American export company, that is, for 1 year we would allow them, and, in fact, require them to get to work learning what an export company is like, what it is like to sell American goods around the world so that when they became an ambassador they would have had a practical, commonsense real understanding of the world of sales, because it is by selling goods around the world that we create jobs here in the United States. I believe that would be something where we could, in fact, work together and where we could create the opportunity for Americans to see the Congress succeed as Democrats and Republicans work on a bipartisan basis to pass that kind of change.

My point is that there is a lot that can be done on a bipartisan basis. Last night did not have to be the only opportunity for us to work together.

But the Democrats who have been in control of the House for 40 years and who now control the House, the Senate, and the White House, I think, need to understand an old saying of a Democratic President. Lyndon Johnson used to say that if you wanted him to be in on the landing, he wanted to be in on the takeoff. What he meant by that is that he wanted to share in designing the plan, not just voting for the plan. He wanted a chance to have input in how everything was put together, not just have an input at the very end on whether to vote yes or no.

I believe that if the President would set up some bipartisan task forces that we could, in fact, have a number of bipartisan efforts that would get votes on both sides of the aisle, Republicans and Democrats together, to pass them.

I am very encouraged in that sense by a meeting that the gentleman from Illinois [Mr. MICHEL], the Republican leader, and I had recently with two Senators, Senator KERREY of Nebraska and Senator DANFORTH of Missouri. They have taken the lead in developing, with President Clinton's help, a bipartisan commission on entitlement reform. This is a commission to look at the whole area of entitlements, things which have been written into law so that people automatically are supposed to be getting, and what they are going to try to do on a bipartisan basis is review all the ways the Federal Government automatically spends money on individual entitlements. Now, there is a bipartisan opportunity which, if we can pursue it together and if we can find some commonsense solutions at the center, I think, could be very effective.

I would hope that over the next few months the American people will see us working together on that area.

So let me just summarize: I believe we could have a bipartisan effort on health. I believe we could have a bipartisan effort on economic growth and job creation, and after the passage of NAFTA, I think it is more important than ever we do that. I believe we could have a bipartisan effort on crime. I believe we could have a bipartisan effort on illegal aliens. I believe it is possible for us to work together on reinventing government to apply the principles of the information revolution and the contents of Alvin Toffler's third wave and Edwards Deming's concepts of quality and profound knowledge to truly have a revolution in the cost and quality of government.

I believe it is possible for us to work together on a bipartisan basis to save the inner city. I am prepared, and I think the gentleman from Illinois [Mr. MICHEL] and the entire Republican leadership is prepared, to work to have a genuine bipartisan effort next year. If that is the direction the Clinton administration wants to go, then it is important from the very beginning in planning next year's budget, in looking at next year's legislative initiatives, and developing the State of the Union, in a broad range of areas, it is very important that we be bipartisan from the beginning. It is very important that we work together.

I found, frankly, the last few weeks a very positive experience. I found working with the Clinton administration on the North American Free-Trade Agreement to be a good thing. I thought it was good for America to have Democrats and Republicans working in the same room trying to pass the same bill, trying to get something done.

I think it would be tragic if the administration now felt that it had to move to the left, that it had to become partisan, and that it could not continue that tradition.

And so I wanted to take just a few minutes this evening to encourage my friends on the Democratic side of the aisle to encourage the Clinton administration to continue this experiment in bipartisan effort. And I wanted to pledge on behalf of House Republicans that we would like to work together to see if we could not cut spending, increase the penalties against violent crime, stop illegal aliens from coming into the United States, pass a good health bill that would work, and that would help Americans and create jobs and economic growth, so America can compete in the world market.

We are pledged that we will work in that kind of a bipartisan way if we can get cooperation from the Democratic leadership and if the Clinton administration is willing to continue this experience in bipartisan effort.

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UNITED STATES SHOULD REJECT NEW DICTATOR IN NIGERIA, SUPPORT ELECTION OF PRESIDENT MOSHOOD ABIOLA

The SPEAKER pro tempore [Mr. BARCA of Wisconsin]. Under a previous order of the House, the gentleman from Louisiana [Mr. JEFFERSON], is recognized for 10 minutes.

Mr. JEFFERSON. Mr. Speaker, I rise today to urge President Clinton and the State Department to move quickly and hand-in-hand with the United Nations to institute broad-based diplomatic and economic sanctions against the latest military dictatorship in Nigeria headed by General Sani Abacha.

Once again, with a democratically elected President—Moshood K.O. Abiola—poised to take control of the reins of government in Nigeria, military generals have moved to take power and thwart the will of the Nigerian people.

I commend the Foreign Affairs Subcommittee on African Affairs for voting their support earlier this week when it approved House Concurrent Resolution 151 by Representative DONALD PAYNE, myself and more than 60 other Members which acknowledges President-elect Abiola's victory on June 12 and encourages the international community to accept only a democratically elected government in Nigeria.

The actions of Nigerian military over the last 72 hours underscores the need for immediate action by our Government and the United Nations and confirms that the current interim civilian government was nothing more than a puppet government for the generals.

Less than 7 days ago, Judge Dolapo Akinsanya who sits on the High Court in Lagos courageously ruled that military dictator Gen. Ibrahim Babangida had no authority to establish a puppet interim government and overturn results from the June 12 Presidential election earlier this year.

Judge Akinsanya's decision appeared to move Nigeria further down the road to democracy ruling that the 1989 Constitution, which is nearly identical to our Constitution, be put into effect.

To quote Judge Akinsaya's own words:

> A judge is not meant to shy away from the law of the state.

Based on last week's court decision, the actions this Congress took earlier this week takes on added significance. It sent a clear signal that those of us who know most about the benefits of democracy were unprepared to shrink from supporting and defending those who want to establish a government based on support from the people in Nigeria.

Mr. Speaker, I rise also to offer my continued support and encouragement to Moshood Abiola, who persists in his pursuit of the Nigerian Presidency. Mr. Abiola won the June Presidential election, only to have General Babangida, the outgoing military dictator, scrap the election and set up the hand-picked puppet government of Ernest Schonekan.

Mr. Speaker, last week Mr. Abiola praised Judge Akinsanya's decision in the lawsuit he brought in pursuit of his legitimate claim to be President of Nigeria. I quote from a Reuters news report and ask that four Reuters news reports on recent development in Nigeria be included in the RECORD.

> It takes us one step closer to the establishment of government based on the consent of the people.
>
> The high court has stated clearly and eloquently that ours must be a government based on civilized laws and not on the caprice of rulers.
>
> This is a significant victory for the people of Nigeria.

Mr. Speaker, it appears that Mr. Abiola's acknowledgement of the court decision taking Nigeria one step closer to democracy has been followed by the Nigerian military's two steps backwards to dictatorship.

While recent developments clearly demonstrate President-elect Abiloa's commitment to a democratic form of government in Nigeria similar to the United States and based on the Constitution of Nigeria which mirrors the United States Constitution, the Nigerian military clearly remains committed to military dictatorship.

The people of Nigeria and the courts in Nigeria have made a clear choice for government of the people, for the people and by the people.

Mr. Speaker, the full Foreign Affairs Committee, the United States Congress, and the President must now stand up for democracy in Nigeria, repudiate the new military dictatorship of General Abacha, and take the necessary steps to bring stable and democratic government to Nigeria.

NIGERIA DEMOCRACY GROUP HAILS SHONEKAN'S EXIT

> LAGOS, November 18.—Nigeria's pro-democracy alliance welcomed the exit of interim leader Ernest Shonekan and urged people to stay at home on Thursday until new military ruler General Sani Abacha unfolds his political plans.
>
> But it hinted that its response to Abacha would depend on his attitude to scrapped June 12 presidential elections.
>
> "We think Shonekan's resignation is a positive development," said Beko Ransome-Kuti, head of the Campaign for Democracy (CD). "We call on all Nigerians to continue to stay at home . . . until the broadcast of General Abacha later today believing the reasonable demands of the people will be met," he told Reuters.
>
> Ransome-Kuti said CD was hoping that Abacha, who became Nigeria's seventh military ruler on Wednesday, would uphold the results of the election widely believed to have been won by businessman Moshood Abiola. "If things turn out differently we have to react appropriately," he said.
>
> CD earlier in the week called for two days of protests from Thursday to Force Shonekan's interim government to rescind huge increases in fuel prices and to cede power to the winner of the election.
>
> Ransome-Kuti said the police arrested three people, including the president of the University of Lagos students union, during protests in Lagos on Thursday. Residents said protesters lit bonfires and marched in the university district.

Ransome-Kuti said there were protests in other areas of Nigeria's biggest city. "We had many rallies in different parts of Lagos," he said.

ARMY SAYS NIGERIAN INTERIM GOVERNMENT OUT

(By Tunde Obadina)

LAGOS.—Nigeria's new military leadership said Thursday the interim government no longer existed following the resignation of its head, Ernest Shonekan.

"With Chief Shonekan's resignation, the interim national government is also out," military spokesman Brigadier-General Fred Chijuka told reporters after a meeting between the new head of state General Sani Abacha and military brass.

Chijuka said Abacha had the full support of the armed forces and had met officers from the rank of brigadier upwards for nearly two hours.

"He was asking us for contributions on how we feel the government should be run," he said.

Many elected officials guessing Abacha's motives said they did not expect the general to embark on a one-man rule.

"I am sure he does not want to be another military dictator," said Senator Bola Tinubu.

"His utterances in the past have reflected his concern for discipline, honor and patriotism of the military," the Social Democratic Party senator told Reuters.

Abacha, the defense minister and only serving military officer in the unelected government, assumed power Wednesday after Shonekan's surprise resignation.

The industrialist threw in the towel amid a general strike over his government's widely unpopular decision to raise fuel prices sixfold. Pro-democracy activists also weighed in with more protests against his military-installed government, declared illegal by a Lagos high court last week.

Abacha was preparing his first national address as head of state and commander in chief of the armed forces Thursday.

Abacha, 50, has not signalled if his takeover amounts to a full return of rule by the army, which surrendered power in August leaving Nigeria in crisis over a successor.

Some politicians in the SDP and National Republican Convention parties created by the military fear Abacha will freeze a return to civilian rule and dismantle democratic institutions already put in place.

"The democratic institutions must not be tampered with. The military brought us into this mess and civilians should be allowed to solve the problem," Wole Osun, SDP Majority Whip in the House of Representatives, told Reuters in Abuja.

"Everyone here is confused and anxious. Many of us hope this is no military regime," said a senior member of the NRC.

The National Assembly in the inland capital Abuja did not sit Thursday. Armed police guarded the legislative building and searched people going in.

Abacha's takeover is a direct result of the political crisis left by previous military leader General Ibrahim Babangida, who annulled June 12 elections for a successor president as businessman Moshood Abiola headed for victory.

Abiola's supporters and pro-democracy campaigners have staged several protests over the poll cancellation. More demonstrations were held Thursday.

Most Nigerians are anxious to see what Abacha plans to do about the scrapped election. Abiola has not jet commented on the general's takeover.

The Defense headquarters in Lagos was a beehive of activity as the focus of power shifted, for the moment, from Abuja.

Despite anxiety over the change of leadership, hundreds of student marched near the University of Lagos, a hotbed of protests over the interim government and fuel prices.

ABIOLA HAILS COURT VERDICT ON NIGERIAN GOVERNMENT

LAGOS, November 10.—Moshood Abiola, Nigeria's thwarted presidential candidate, hailed a court ruling on Wednesday that the interim government was illegal and said he was nearing his goal of the presidency.

"It takes us one step closer to the establishment of government based on the consent of the people," Abiola said in a statement.

"The high court has stated clearly and eloquently that ours must be a government based on civilised laws, not on the caprice of rulers.

"This is a significant victory for the people of Nigeria." Abiola, a millionaire businessman, has been campaigning for the reversal of the annulment of the June presidential election which he claims to have won.

The election was scrapped by military ruler General Ibrahim Babangida when Abiola was heading for victory. Babangida later handed over to a handpicked government led by Ernest Shonekan.

Judge Dolapo Akinsanya of the Lagos high court declared that Babangida had no authority to install the interim government.

The government said it was appealing against the judgment.

LAGOS COURT RULES NIGERIAN GOVERNMENT ILLEGAL

(By James Jukwey)

LAGOS, November 10.—Nigeria faced a constitutional crisis on Wednesday after a Lagos court declared its military-appointed stopgap government illegal.

The government said it was immediately appealing against the verdict to a higher court.

Judge Dolapo Akinsanya issued the ruling in a Lagos High Court case brought by thwarted presidential contender Moshood Abiola.

She told a packed courtroom that military ruler Ibrahim Babangida, who stepped down on August 26, had no authority to install an interim government led by Ernest Shonekan in his place.

Thousands cheered the verdict and poured onto the streets of Lagos calling for Abiola's installation in the presidency, which he is widely believed to have won in the June 12 election annulled by Babangida.

"The government has taken immediate action to appeal against the decision," Mustapha Umara, secretary to the Shonekan government, said in a statement issued in the capital Abuja.

"The government appeals to the good people of Nigeria to remain calm because there is no cause for alarm," he said.

"It is the strong hope of the government that the higher interests of the nation, especially the imperatives of national stability and corporate existence, will continue to remain the decisive and critical factor in the parameters of governance of our country," the statement said.

Shonekan, also under fire for dissolving local councils and raising petrol prices, is due to make a "state of the nation" address to the elected national assembly on Thursday.

The address, his first to the assembly, would seek the assembly's support on a wide range of controversial issues.

The assembly will sit in a joint session of both the House of Representatives and the Senate, which has a new leadership largely favourable to the interim government.

Nigeria has been in crisis since June over the military's messy ending of its 10 year rule.

"President Babangida has no legitimate power to sign a decree after August 26, 1993, after his exit, so the decree is void and of no effect," Judge Akinsanya declared.

She ordered that a civilian constitution, which was drawn up under Babangida in 1989 but never implemented, should be put into effect.

Abiola, who was not in court, is now expected to press his claim to the presidency more forcefully.

His first court challenge of the annulment failed when Babangida was still in power and the Supreme Court ruled it lacked jurisdiction to hear the case.

Judge Akinsanya said on Wednesday: "A judge is not meant to shy away from the law of the state."

Shonekan's government, whose mandate ends on March 31, 1994, triggered a new controversy on Monday when it dissolved all local councils ahead of fresh presidential and local council polls in February.

Democracy activists have criticised the dissolution but State radio said local councils in some parts of the country were already handing over to senior bureaucrats.

The government plans to appoint administrators to oversee the local councils before the February 19 ballot.

It is now updating the register of voters but the registration process is being boycotted in southwestern Nigeria, Abiola's political stronghold.

Shonekan's government also faces possible strikes by unions over a 600 percent increase in domestic prices of oil products.

Petrol prices have risen to five naira (23 cents) a litre from 0.70 naira (three cents) a litre, doubling public transport fares nationwide.

But the government says the increase is needed to help refiners cover some of their costs and that otherwise Nigeria's oil industry would collapse.

Previous increases in fuel prices have provoked riots.

The unions plan to meet Thursday to decide their reaction.

□ 1930

NUCLEAR TEST BAN TREATY

The SPEAKER pro tempore (Mr. BARCA of Wisconsin). Under a previous order of the House, the gentleman from Oregon [Mr. KOPETSKI] is recognized for 60 minutes.

Mr. KOPETSKI. I thank the gentleman for raising this important issue and encouraging us and other members in the White House to take action in this important area of the world.

Mr. Speaker, tonight I would like to revisit the area of nuclear weapons testing. This House has given a significant amount of attention to this issue. As the House prepares to adjourn for the year, I would like to take this opportunity to examine recent events and, more importantly, to look forward to the first few months of 1994 and the beginning of comprehensive test bank talks at the conference on disarmament in Geneva.

In early July of this year President Clinton extended unilaterally the United States moratorium on nuclear weapons testing to September 1994. As you may recall, the House passed legislation and the Senate refined it, Senators HATFIELD, MITCHELL, and EXON in the other body took the legislation we passed in the House, and the full House concurred in their amendment and imposed in law the parameters of our nuclear weapons testing program, essentially saying we would end this testing of nuclear weapons on the test site of Nevada.

The President, in part of that legislation, said that we would have a 9-months' moratorium in the Nation's nuclear weapons testing.

The new President, President Clinton, then extended this moratorium through September 1994. This action and President Clinton's continued leadership has unleashed a global tide of support for a comprehensive test ban treaty. Already President Clinton has sent two delegations to discuss with the other nuclear powers—Britain, China, France, and Russia—this administration's commitment to nonproliferation efforts, like a comprehensive test ban and the renewal of a nonproliferation treaty.

The international drive for a comprehensive test ban now shifts to the Conference on Disarmament in Geneva. The Conference on Disarmament is an affiliate of the United Nations and the conference is composed of 39 nations, including the five nuclear powers—United States, Britain, China, France, and Russia.

In August of this year, following President Clinton's extension of the moratorium, the Conference on Disarmament for this first time in 12 years agreed to begin talks on a comprehensive test ban treaty. These talks are scheduled to begin in late January in Geneva, and since this body will not reconvene until about that time, I thought it was important to bring this matter to the attention of the Members and the American public.

The Clinton administration has committed to the Conference on Disarmament, has made the commitment that the Conference on Disarmament is the forum to negotiate a comprehensive test ban treaty. As mentioned, the administration has already sent two delegations to talk with other nuclear powers, participants at the Conference on Disarmament.

I call upon the administration and our partners at the conference to place talks on a comprehensive test ban on a fast-track process. This request is not unusual, and it comes with a precedent. The precedent is the partial test ban treaty.

After a series of failed discussions with the Soviet Union in 1962 and 1963, President Kennedy's personal emissary, Ambassador Averell Harriman, successfully negotiated the partial test ban treaty with Moscow in just 10 days, in 10 days, 240 hours. President Kennedy's administration, with impressive commitment and will, succeeded in banning all nuclear weapons testing in the atmosphere, in outer space, and in the oceans as well.

Of course, what is left is the underground testing programs.

President Kennedy's success occurred in the shadow of the Cuban missile crisis, the U-2 incident, and at the heart, the very heart and heat of the cold war.

Surely the political climate in the nuclear powers today facilitates the necessary leadership demonstrated previously by Presidents Kennedy and others. Today's crises pale in comparison to the climate faced by President Kennedy and Mr. Khrushchev.

Mr. Speaker, with the partial test ban treaty as the model, I call upon all of the nuclear powers to place the comprehensive test ban negotiations on a fast-track process.

Clearly, if we can do it in international trade, we can do it in international disarmament.

The Congress and the American people are watching the world's leaders at this crucial time. I reject those who argue the comprehensive test ban negotiation must have time to succeed, perhaps as much as 2 years. These calls for time are the delaying tactics of nations whose commitment to a comprehensive test ban is, at best, lukewarm. These calls for time are the tactics to maximize the potential for failure and the resumption of a nuclear arms race.

As Ambassador Harriman answered when queried about the partial test ban and its success being negotiated in only 10 days, he replied, "Because we wanted to do it." If nations want a comprehensive test ban, then it will occur and occur with all deliberate speed. Certainly we can match the 10 days of the 1960's.

Already, the Government of Sweden has submitted to the Conference on Disarmament a draft comprehensive nuclear test ban treaty. So the words are already written, the language is already there. You can tinker with the grammar, you can tinker with some of the statements, but most of the work is done.

□ 1940

Mr. Speaker, for insertion into the RECORD at this point, I will include a copy of the letter from Mr. Lars Norberg, Ambassador and head of the Swedish delegation to the Conference on Disarmament, and a copy of the draft proposal, and I will ask that be made a part of the RECORD.

LETTER DATED JUNE 3, 1993, FROM THE HEAD OF THE SWEDISH DELEGATION ADDRESSED TO THE SECRETARY-GENERAL OF THE CONFERENCE ON DISARMAMENT TRANSMITTING THE TEXT OF A DRAFT COMPREHENSIVE TEST-BAN TREATY

I have the honour to send you, enclosed, a draft Comprehensive Test-Ban Treaty, which will be introduced in the Conference on Disarmament and in the Ad Hoc Committee on a Nuclear Test Ban today. It should be noted that two protocols to the Treaty are to be added later on.

I should be grateful if the draft Treaty could be issued as an official document of the Conference as well as a Working Paper in the Ad Hoc Committee and translated into all the official language.

LARS NORBERG,
Ambassador, Head of the Swedish Delegation to the Conference on Disarmament.

DRAFT COMPREHENSIVE NUCLEAR TEST-BAN TREATY

The States Parties to this Treaty, hereinafter referred to as the "States Parties",

Convinced that recent fundamental international political changes provide opportunities to take further effective measure against the proliferation of nuclear arms,

Welcoming the conclusion of the START I and START II agreements, envisaging drastic reductions in present strategic nuclear arsenals,

Underlining the importance of the prompt implementation of these and other international disarmament and arms regulation agreements,

Stressing the need for further reductions of tactical and strategical nuclear weapons and their delivery systems,

Declaring their intention to undertake further measures towards nuclear disarmament and against the proliferation of nuclear weapons,

Recalling the determination expressed by the Parties in the Preamble to the 1963 Treaty Banning Nuclear-Weapons Tests in the Atmosphere, in Outer Space and Under Water to seek to achieve the discontinuance of all test explosions of nuclear weapons for all time, and to continue negotiations to this end,

Recalling that the Parties in the abovementioned Treaty undertake to prohibit, to prevent and not to carry out any nuclear-weapon test explosion, or any other nuclear explosion in the atmosphere, in outer space and under water,

Convinced that a ban on all nuclear-weapon test explosions, and any other nuclear explosions, is an important instrument in preventing the further proliferation of nuclear weapons,

Have agreed as follows:

ARTICLE I. BASIC OBLIGATIONS

1. Each State Party undertakes to prohibit, to prevent, and not to carry out, in any environment, any nuclear-weapon test explosion, or any other nuclear explosion at any place under its jurisdiction or control.

2. Each State Party undertakes, furthermore, to refrain from causing, encouraging, assisting, permitting or in any way participating in the carrying out anywhere of any nuclear explosion referred to in paragraph 1 of this Article.

ARTICLE II. IMPLEMENTATION

1. The States Parties, in order to achieve the objectives of the Treaty and to ensure the implementation of the provisions of the Treaty, entrust the International Atomic Energy Agency, hereinafter referred to as

the "Agency", with verification of compliance with the Treaty, as defined in Article III B.

2. The States Parties undertake to cooperate in good faith with the Agency in the exercise of its functions in accordance with this Treaty.

3. In order to fulfill its obligations under the Treaty, each State Party shall designate or set up a National Authority and shall so inform the Agency upon entry into force of the Treaty for such a State Party. The National Authority shall serve as the national focal point for liaison with the Agency and with other States Parties.

4. Each State Party undertakes to take any measure it considers necessary to prohibit and prevent any activity in violation of the provisions of the Treaty anywhere under its jurisdiction or control.

5. Each State Party shall inform the Depository of the legislative and administrative measures taken to implement the Treaty.

ARTICLE III. INTERNATIONAL COOPERATION

A. States Parties

1. Each State Party undertakes to cooperate in good faith with each other and the Agency to facilitate the verification of compliance with this Treaty through:

International exchange of seismological data;

International exchange of measurements on radionuclides in the atmosphere;

Additional relevant techniques, as specified in Protocol I, annexed to this Treaty.

The arrangements for these international cooperative measures are laid down in Protocol I.

Each State Party undertakes to establish the necessary facilities to participate in these cooperative measures and through its National Authority to establish the necessary communication channels with the Agency. These arrangements shall be operative on the entry into force of this Treaty.

2. Large non-nuclear explosions carried out by a State Party shall be conducted in accordance with provisions laid down in Protocol II, annexed to this Treaty.

B. The Agency

In the exercise of its functions in accordance with this Treaty, the Agency shall:

Coordinate international cooperative arrangements to exchange seismological data, data on radionuclides in the atmosphere and other data relevant to the monitoring of compliance with the Treaty;

Endeavour, through cooperation with the National Authorities of the States Parties and through other means, to clarify that no inconsistencies occur with regard to events relevant to compliance with the Treaty;

Verify, when inconsistencies are not clarified, compliance with the Treaty through on-site inspection in accordance with Article IV.

ARTICLE IV. VERIFICATION

1. Each State Party shall, in order to assist in the interpretation of an event that may be of relevance to the Treaty and has occurred at any place under its jurisdiction or control, provide such additional information that the Agency might request.

2. Each State Party may use national technical means of verification at its disposal in a manner consistent with generally recognized principles of international law to verify compliance with the Treaty.

3. If the nature of an event cannot be clarified through the measures specified in paragraphs 1 and 2 of this Article, each State Party is entitled to request an on-site inspection on the territory of any other State Party for the purpose of ascertaining whether or not a specified event was a nuclear explosion. The requesting State Party shall state the reasons for its request, including the evidence available. Such requests shall be addressed to the Director-General of the Agency, who shall bring the matter to the attention of the Board of Governors of the Agency.

4. If the Board of Governors decides to conduct an on-site inspection, the relevant State Party is under obligation to comply with the Board's decision. Such inspections shall be conducted by the Agency, and the result shall be reported to the Board of Governors and all States Parties. The Board of Governors shall report any findings to the Security Council of the United Nations. Procedures for such inspections, including the rights and functions of the inspecting personnel, are laid down in Protocol II.

5. A State Party, on whose territory an event has occurred, may invite the Agency to conduct an on-site inspection.

ARTICLE V. COMPLAINTS

Any State Party which finds that any other State Party is acting in breach of obligations deriving from the provisions of the Treaty, may lodge a complaint with the Security Council of the United Nations. Such a complaint shall include all possible evidence confirming its validity.

ARTICLE VI. PRIVILEGES AND IMMUNITIES

1. The States Parties to this Treaty shall grant privileges and immunities to the representatives of States Parties and the Director-General and the personnel of the Agency in accordance with the Vienna Convention on Diplomatic Relations of 18 April 1961 in order to enable them to carry out the functions entrusted to them under this Treaty.

2. Provisions regarding privileges and immunities to connection with on-site inspections are contained in Protocol II.

ARTICLE VII. ANNEXES

The Protocols I and II to this Treaty constitute integral parts of the Treaty.

ARTICLE VIII. AMENDMENTS

1. At any time after the entry into force of this Treaty, and State Party may propose amendments to the Treaty or to any annexed Protocol. Any proposal for an amendment shall be communicated to the Depositary, who shall circulate it to all States Parties and seek their views on whether a conference should be convened to consider the proposal. If a majority, that shall not be less than thirty of the States Parties, including the nuclear-weapon States, so agree, the Depositary shall promptly convene a conference to which all States Parties shall be invited. The Conference may adopt amendments proposed, if a majority of the States Parties present and voting, including the nuclear-weapon States, so agree. Amendments shall enter into force for each Party accepting them upon their adoption by the Conference and thereafter for each remaining Party on the date of acceptance of the amendments by such a Party.

2. Proposals for amendments of provisions of a technical nature to be specified in Protocols I and II will be subject to a simplified amendment procedure conducted and decided by the Board of Governors of the Agency.

ARTICLE IX. REVIEW OF THE TREATY

Five years after the entry into force of this Treaty, or earlier if it is requested by a majority of the States Parties to the Treaty by submitting a proposal to this effect to the Depositary, a conference of States Parties to the Treaty shall be held at ------------, to review the operation of the Treaty, with a view to assuring that the purposes of the preamble and the provisions of the Treaty are being realized. Such review shall take into account any new scientific and technological developments relevant to the Treaty. At intervals of five years thereafter, a majority of the Parties to the Treaty may obtain, by submitting a proposal to this effect to the Depositary, the convening of further conferences with the same objective of reviewing the operation of the Treaty.

ARTICLE X. ENTRY INTO FORCE

1. This Treaty shall be open to all States for signature. Any State which does not sign this Treaty before its entry into force in accordance with this Article may accede to it at any time.

2. This Treaty shall be subject to ratification by Signatory States.

3. This Treaty shall enter into force upon the deposit of instruments of ratification by 40 Governments, including the nuclear-weapon States. For the purposes of this Treaty, a nuclear-weapon State is one which has manufactured and exploded a nuclear weapon or other nuclear explosive device prior to 1, January 1967.

4. For those States who instruments of ratification or accession are deposited after the entry into force of this Treaty, it shall enter into force on the date of the deposit of their instruments of ratification or accession.

ARTICLE XI. DEPOSITARY

1. The Secretary-General of the United Nations shall be the Depositary of this Treaty and shall receive the instruments of ratification and instruments of accession.

2. The Depositary shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification or of accession and the date of the entry into force of this Treaty and of any amendments thereto, any notice of withdrawal, and the receipt of other notices. He shall also inform the Security Council of the United Nations of any notice of withdrawal.

3. This treaty shall be registered by the Depositary in accordance with Article 102 of the Charter of the United Nations.

ARTICLE XII. DURATION AND WITHDRAWAL

1. This treaty is of a permanent nature and shall remain in force indefinitely, provided that in the event of a violation, by any party of a provision of this Treaty essential to the achievement of the objectives of the Treaty or of the spirit of the Treaty, every other Party shall have the right to withdraw from the Treaty.

2. Withdrawal shall be effected by giving notice twelve months in advance to the Depositary who shall circulate such notice to all other parties.

ARTICLE XIII. OFFICIAL LANGUAGES

This Treaty, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send duly certified copies thereof to the Governments of the signatory and acceding States.

Mr. KOPETSKI. Mr. Speaker, clearly the international will amongst people exists at the Conference on Disarmament and within the United Nations to pursue aggressively and purposely a comprehensive test ban treaty and other important nonproliferation objectives.

The United States and other nuclear states, particularly Britain and France and other nuclear states, threaten to delay the process. These nations, particularly Britain and France, have a moral responsibility and a great power responsibility to provide the necessary leadership to lead the world away from the madness of nuclear weapons and the threat of additional nuclear proliferation.

Now, let me move on and discuss a few events related to a comprehensive test ban and the nonproliferation efforts around our planet Earth.

Here in the United States, Congress has supported President Clinton's leadership in pursuit of the CTB.

Legislation which I have introduced, House Concurrent Resolution 37, to encourage the President to negotiate the CTB already has 125 cosponsors.

Members of Congress have readily signed and sent a variety of letters to the President, either encouraging and supporting his decision to extend the testing moratorium, and also following the recent Chinese test, Members urged the President to continue the moratorium in pursuit of nonproliferation goals.

Within the people of America, the grassroots of America, support the U.S. moratorium and a comprehensive test ban is alive and growing amongst all the States in our great country.

I continue to receive letters from across this Nation urging Congress to push the administration and the world towards a CTB and a nonproliferation treaty extension.

Around the world, too, letters from Australia, Canada Britain, France and Russia, all write urging us to put pressure on our administration and the leaders of the nuclear weapons states to negotiate and negotiate quickly.

Let us look at other nuclear weapons states; first our longstanding partner and ally, Great Britain. In recent months Great Britain has been reluctant to support the United States and the President's testing moratorium, even going so far as to refer to last year's moratorium legislation adopted in the House and the Senate, signed into law by then-President Bush, as "unfortunate and misguided."

Let us not forget that Great Britain tests its nuclear bombs in the United States soil under the Nevada Desert, and with the support of the American taxpayer.

Earlier this year I introduced legislation, H.R. 1146, to require any foreign nation which tests nuclear bombs on U.S. soil that nation would be responsible to pay all the costs associated with the detonation of that nuclear bomb, including environmental restoration.

Just yesterday this House debated at great length our shared environmental problems with Mexico and Canada as part of the debate on the North American Free-Trade Agreement. These environmental problems pale in comparison to the destruction and long-term environmental threat that a nuclear bomb detonated under the Nevada Desert exerts.

It is only a matter of time before this issue, the environmental cleanup required in Nevada as a result of detonating over nearly a thousand nuclear bombs under the deset floor of Nevada before the American taxpayer is going to be faced with this bill.

It is only a matter of time before the taxpayers in Great Britain receive a bill for their portion of this environmental havoc.

This environmental cleanup bill will only increase if Great Britain is successful in its efforts to detonate additional nuclear bombs on United States soil.

To achieve a comprehensive test ban treaty and other nonproliferation objectives, the United States must enlist allied support. Our closest nuclear ally, without a doubt, is the United Kingdom. The British played a helpful and important role with President Kennedy in achieving the partial test ban treaty.

It has been pointed out to me by the British-American Security Information Council, as well as by the British Nuclear Test Ban Coalition, that from the time of President Kennedy and until 1980, the British continued to support strongly a comprehensive nuclear test ban treaty.

Times changed, of course, during the 1980's and today the situation is very different. The British are now reluctantly following President Clinton's position. This week the British Defense Secretary, Mr. Malcolm Rifkind announced some scaling back, 20 percent, of Britain's nuclear expansion plans. They scaled back their expansion by 20 percent.

He also stated:

> The United Kingdom is therefore ready to participate fully and constructively in negotiations to secure a comprehensive test ban. This has not been an easy decision for us.

But Mr. Speaker, is the British support full and constructive? I am not yet convinced of Great Britain's support for President Clinton's nonproliferation objectives. The Prime Minister has clearly stated that he opposes any time limit for the conclusion of the Comprehensive Test Ban Treaty negotiations, even after he consulted with the Clinton administration on this issue.

I call upon the British Government to support a quick timetable, a fast-track timetable for comprehensive test ban talks, in the spirit of conservative leaders, like Harold McMillan, who worked diligently with President Kennedy to achieve the partial test ban treaty.

Prime Minister Major has made it clear that Britain does not have a declared nuclear testing moratorium on nuclear weapons testing, unlike the policy of the United States, France, and Russia.

This lines the British up with the Chinese against the stated position of the United States.

Any nation who breaks the nuclear testing moratorium, any nation, as China has done, is acting as a rogue nation.

Great Britain would be a rogue nation if it conducted a nuclear weapons test.

It appears that the United States moratorium is the only reason currently deterring Great Britain from behaving and earning this rogue nation status and acting against the international will in support of a Comprehensive Test Ban.

Let me be more blunt about all this. Would Britain continue to test its nuclear bombs if they had to use their own soil to test these bombs? If they did, would they continue to test? Would the British people allow the detonation of nuclear bombs under their soil?

It is one thing if you can use another land's environment, another nation's sovereignty. It is quite another policy matter if you have to use your own.

□ 1950

And we, unfortunately, have been very generous in allowing them to use our testsite. Well, that is the question, one of the questions, that I think the people of Great Britain ought to ask their leaders because, if I have any say, any power, over who uses the Nevada test site, be it the United States, Great Britain, France, anybody else, I will do everything in my power to prevent any nation from detonating another bomb on the soil of the United States.

Our law today, Mr. Speaker, limits Great Britain to three tests if they meet our legal requirements for the need for a test. I have been made aware of British efforts through diplomatic efforts and weapons scientists communications; they do talk amongst themselves, to encourage, to encourage on behalf of the British, renewed nuclear weapons testing. I did do and have reminded my British friends that the legislation allowing three additional British nuclear weapons tests states that the American President must, quote, determine that it is in the national interest of the United States to do so; in other words, not in the interests of Great Britain to test, but it has to be in the United States', America's best interests that they conduct a test.

I believe that that decision will never come before this Congress, even if the U.S. moratorium were to end. The resumption, the attempt to resume British testing on United States soil, would draw strong protests, to say the least, from this Member, and, believe me, other Members of this body.

I also remind my British friends that according to United States law any nuclear weapons test authorized in the future must be for safety and reliability purposes only. Let me also point out that our law contradicts British plans for their testing program.

Here is a quote from the British Minister of Defense taken from a 1992–93 Government report entitled "The Progress of the Trident Program." The Minister of Defense says it remains the Government's view that to disclose financial information relating to the underground testing program, or any other aspect of the nuclear warhead program, could risk revealing the details of, for example, the direction our research and development program is taking or the level of nuclear capability of our forces. Such information could be useful to anyone constituting a potential threat to United Kingdom security interests, unquote.

Clearly the United Kingdom is engaged in weapons development and wants to continue this program with United States assistance, including the use of the United States nuclear weapons test site in Nevada. President Clinton has determined that weapons development is not in the U.S. national security interest. I think the President will have a hard time concluding weapons development by the United Kingdom could possibly be in the best interests of the United States.

In regard to the Chinese nuclear weapons test, while the United States and other nations protested vigorously the Chinese test, Prime Minister Major merely expressed his regret at the test by the Chinese. Again this appears to be an indication that the United Kingdom's secret desire to drag down and oppose the successful completion of a comprehensive test ban treaty, which is being advocated by and worked on by President Bill Clinton.

These are serious and critical issues. They indicate that the British line up with those who do not want and are doing their best to drag out the process. British officials have lobbied hard the Congress and the administration to oppose the moratorium imitated here by the people's body, the United States House of Representatives. The United States supports Britain's nuclear weapons state, and they do not support; in fact, they work against, the objectives of the United States Congress and President Clinton. Why is it in the interest of the United States to keep the British in the nuclear weapons business when they clearly do not support stopping nuclear weapons proliferation?

Mr. Speaker, my colleague, the gentlewoman from the great State of Oregon [Ms. FURSE], was not able to be here tonight, and she does have a statement for the RECORD which I submit at this time:

STATEMENT BY CONGRESSWOMAN ELIZABETH FURSE

Nuclear Non-Proliferation and a Nuclear Test Ban are crucial to the security of the United States. During our recess there will be much diplomatic activity on these issues, so it is important to address them now. For many years we have been allied in our nuclear policy with the United Kingdom. I also have a long standing family connection both to national security issues and to Britain. My grandmother was an Admiral in the British Royal Navy, founding the Women's Royal Naval Service, my father was an Admiral in the Royal Navy. Today I serve on the Armed Services Committee of this House.

I am concerned that today British nuclear policy may be obstructing our efforts on nuclear non-proliferation, while we are at the same time helping them expand their nuclear arsenal. As a result I am looking into the possibility of holding hearings on the U.S.-U.K. nuclear relationship.

There have been a few hopeful signs, and it is always best to begin with the good news. I noted with pleasure that the British Defence Secretary, Malcolm Rifkind, said this week that he was "thoroughly opposed" to "so-called 'usable' nuclear weapons—very low yield devices which could be used to carry out what are euphemistically called 'surgical' strikes." This is a clear endorsement of the measure I proposed, and which is now included in our defense authorization bill prohibiting the development of mininukes. It is also welcome that British leaders express public support for various measures, including extension of the Nuclear Non-Proliferation Treaty, the ultimate conclusion of a Comprehensive Test Ban Treaty, and a fissile material cut-off, to name a few. Nevertheless, these positive messages are outweighed by the lack of British plans to implement these policies.

On testing, Prime Minister John Major has made plain to the British Parliament that while Britain supports a nuclear test ban, the U.K. is not taking an active role in achieving a CTB. For example, Mr. Major said he does not support a test moratorium, does not support any deadline for concluding negotiations for a CTB, and he indicated that he did not contact China prior to its recent test to express concern over the implications of that test.

The British say they hope to play a constructive part in supporting the President's military fissile material cut-off. However, as in most U.K. non-proliferation policies, they are opposed to establishing deadlines to reach that end. With issues of such grave immediate importance, it is sometimes necessary to establish timelines as a means to encourage negotiations.

Then there is the issue of so-called civil plutonium production. The British will soon open a plant which will dump 60 tons of new plutonium into a world which cannot work out what to do with what it has. *I see from the British press that company managers from the THORP plant are looking forward to selling plutonium to South Korea, and South Korean sources are saying they will only buy this fuel if North Korea builds a nuclear weapon. This is simply madness.*

Then there are Britain's own nuclear weapons. Despite a welcome reduction in its planned Trident force, it is clear that the U.K. still plans to double the warheads in its strategic arsenal. As the opposition Labor Party spokesman, David Clark, said this week: "This decision could fatally undermine the Non-Proliferation Treaty . . . it seriously undermines our security by encouraging states to copy this massive increase in Britain's nuclear arsenal." I agree.

On all of these issues the British people have no right to freedom of information. It is a tragic irony that I as a member of Congress and the Armed Services Committee can be better informed on U.K. defence matters than a British citizen or Member of Parliament. In Britain there is no public discourse on many nuclear matters that we routinely discuss openly here in the U.S. The British people are not allowed even to know how many Trident nuclear missiles they are purchasing, how many warheads they will deploy, how much these items cost. The U.K. denies its citizens this type of information, which the U.S. routinely publicizes.

To help them I place in the record a copy of a U.S. Department of Defense Directive controlling the supply of nuclear weapons information to Britain. It may surprise some of my colleagues to learn that there are over forty Joint Working Groups with the British on nuclear weapons.

Britain has a long record of successful alliance with the United States and many glorious military and political episodes in its history. It also has its share of disasters. Fortunately, we in this House are in a position of some influence. We feed the British nuclear weapons complex, and right now they are biting the hand that feeds them.

Without our support it is questionable whether Britain could afford to remain a nuclear power. I tell you if the British did not have the bomb they would be the most enthusiastic supporters of nuclear non-proliferation. I believe that only if the British bureaucracy is confronted with this possibility will they take seriously the issues before us today.

U.S. cooperation with the British nuclear weapons program is enshrined in the 1958 agreement with Britain and is currently administered by the United States Navy and the Joint Atomic Information Exchange Group of the Defence Nuclear Agency. Article 1 of the Nuclear Non-Proliferation Treaty prohibits the "indirect" supply of nuclear weapons from one nuclear state to another. It seems to me that we need to investigate whether that is happening here.

I hope the British see sense and help us build a more secure future. It is clear that a little change has begun. But we do not have time to waste. I do not want to face up to a failed nuclear proliferation policy and find our closest ally tripped us up. The U.S.-U.K. special nuclear relationship now has to become a partnership for non-proliferation.

I also submit for the RECORD an article by the British-American Security Information Council.

[From: "The UK Trident Programme: Secrecy and Dependence in the 1990s," Basic Report 93.5, Sept. 1993]

U.S.-U.K. NUCLEAR RELATIONSHIP

The co-operation between the two countries on Trident is only a part of a much larger collaboration on nuclear weapons which dates back to the 1940s. For the most part, this co-operation has been conducted secretly, without public debate or awareness in either country. For example, an elaborate series of joint atomic working groups exists between the two nations to facilitate the transmission of nuclear weapons-related technologies and systems, including warhead design features, passing classified nuclear information freely across the Atlantic.

At first sight, this is hard to reconcile with either the spirit or letter of Article 1 of the NPT. A similar question mark hangs over direct or indirect transfer of control of U.K.

nuclear weapons to the U.S. during British testing at Nevada. In the report's final Chapter, we recommend that clarification of these two matters, and the U.S.-U.K. nuclear relationship in toto, be provided by the two Governments, or sought by Congress.

The following is an overview of the extent of the nuclear co-operation between the U.S. and U.K.

NUCLEAR TESTING

Since 1962, the United Kingdom has conducted all of its nuclear tests at the U.S. Nevada test site, with the close co-operation between scientists and engineers from the two countries. Much to the dismay of many U.K. Government leaders, the recent U.S. testing moratorium in reality also halts all U.K. testing.

POLARIS AND TRIDENT MISSILE SYSTEMS

Britain's Polaris and Trident submarines are scaled-down versions of U.S. designs. Polaris missiles were purchased from the U.S. and serviced in the U.K. Trident missiles are effectively leased from the U.S. and servicing will be carried out at Kings Bay, Georgia. Assistance also included submarine design data and the design for the Polaris warhead. Serious questions have been raised about the safety of the U.S. Trident missile system; because the U.K. and U.S. systems are so closely related, it is highly probable that many of these problems are to be found in the U.K. system as well, despite U.K. Government assurances to the contrary.

WARHEAD DESIGNS

The U.S. and U.K. share warhead design information (this co-operation is formalised in the 1958 Agreement for Co-operation on the Uses of Atomic Energy for Mutual Defence Purposes). In the 1960s, the U.K. was able to use this design information to deploy at least three new nuclear weapons designs while carrying out four nuclear tests, one of which was acknowledged to be a failure. Warhead collaboration also covers non-nuclear components-including assemblies to which the British only add the nuclear components. It is likely that the British Trident warhead is a derivative of the U.S. W76 used primarily on U.S. Trident I missiles. In 1987, the U.K. National Audit Office stated that "Most of the expenditure on development and production [of the Trident warhead] is incurred in the U.S."

TRANSFERS OF NUCLEAR MATERIALS

British plutonium, some from civil reactors, has been exchanged for American highly enriched uranium. The assurances given by U.S. authorities that the plutonium received by them was to be used only for civil purposes have been repeatedly questioned. At a minimum, it is clear that the British plutonium freed similar U.S. material, which could then have been used for nuclear weapons. Since 1971, this trade has continued using British military plutonium only.

SUBMARINE REACTOR TECHNOLOGIES

This resulted in the transfer to the U.K. of a U.S. Westinghouse S5W type 2 reactor for use in HMS *Dreadnought*. Rolls Royce & Associates, a U.K. company, then further developed this design. The derivatives of this reactor are now known to have serious coolant circuit problems which have caused the decommission of HMS *Warspite* and threatens the Polaris fleet.

Mr. KOPETSKI. Mr. Speaker, I want to take just a moment to talk about France. We have in this Chamber General Lafayette's portrait in a place of honor for the fact that they helped us become a nation state. No other nation has a portrait in this hallowed Chamber but France. They have been our friend and a friend sometimes we fought and argued, but we have always been friends, and I want to praise the words indeed of French President Mitterrand. President Mitterrand stated recently, quote,

> Since I have been President of the Republic I have always been told 'We have the capacity to assure deterrence, no-one would dare attack us.' So, from the point, as long as the Americans, the Russians and the British accept a test halt as long as we do, everything remains balanced here and there; for us and for them. That is why I believe that we should not recommence testing unless one of those countries recommences. The Chinese affair has muddled the waters, but China, according to our information, still lacks the capability to deploy nuclear weapons of the capability that we in the West have, therefore I can see no reason why we should begin testing again.

However, like Great Britain, I also have serious questions about the French commitment to the moratorium and nonproliferation objectives. For example, French Defense Minister Francois Leotard was recently quoted, "The question isn't whether it's necessary to resume, but when." The Defense Minister and the right-wing majority in Parliament clearly want to resume nuclear weapons testing. This desire to resume nuclear weapons testing is not shared by the residents of the South Pacific who have already endured years of French nuclear weapons testing.

This desire to resume nuclear weapons testing is not shared by the residents of the South Pacific who have already endured years of French nuclear weapon testing on their soil, not on France's soil, but on their soil. Recently 47 U.S. Senators sent a letter to the French National Assembly urging France to maintain its nuclear test moratorium.

□ 2000

This letter states in part,

> We urge your government to maintain France's current nuclear test moratorium and to work toward the earliest possible conclusion of a comprehensive test ban treaty. This position is consistent with that of our government. We believe that the requirement to strengthen the nonproliferation regime is far more compelling for global security than the perceived need to conduct additional nuclear tests. The nonproliferation treaty will only be renewed if a majority of its parties conclude that the treaty continues to promote their national security interests. If the United States, France, and other nuclear powers do not continue to distance themselves from the logic that a dynamic nuclear arms competition, fueled by nuclear testing programs, confers greater security than negotiated restraints, other nations will undoubtedly utilize the similar logic to rationalize decisions to pursue their own nuclear weapons programs.

Mr. Speaker, I will place a copy of this letter in its entirety in the RECORD.

Mr. Speaker, in Russia, the new nation state of Russia, the Russian nuclear testsite remains silent. President Yeltsin to date has been a constructive advocate and force in advocating for the comprehensive test ban treaty. The international community needs to recognize that a comprehensive test ban strengthens the hand of democracy in this republic, a piece of the former Soviet Union.

The forces for change in Russia are the environmentalists and the peace activists who continue to advocate a CTV.

Lest we should forget, the Ukraine. We should not, because often we talk of nuclear weapons in the former Soviet Union without mentioning this great new nation.

I want to commend the Ukranians for their willingness to cooperate with international arms control authorities as they seek to negotiate destruction of all their nuclear weapons on Ukrainian soil. I strongly encourage the people of the Ukraine to continue these efforts.

Further, it is important that the Ukraine and the state of the former Soviet Union are also included in international efforts to control the spread of nuclear technology.

Finally, let me talk about China for a second. Their unfortunate test on October 5, 1993, broke the global nuclear silence that lasted for more than a full year. Many have acted to condemn the actions by the Chinese in this test, for the message resulting from the Chinese test should be clear. While the Chinese action is unfortunate and irresponsible as a world leader, it does not warrant nuclear testing by other nations, and should serve as an additional incentive to get on with the CTV negotiations.

The world should give credit, however, to the Chinese for their work with the Clinton administration and the United States to bring the North Koreans back within the framework of the nonproliferation treaty. The Chinese have acted admirably and with great leadership, and with considerable skill, in working in concert with the United States to make the Korean peninsula safe from the nuclear weapons option.

I remind my colleagues of the fact there is a company in Britain poised and ready to make money by selling weapons-grade plutonium to South Korea. That is what we are talking about here when we talk about the madness, because this is how it began 48 years ago. One nation had the bomb and other nations did not.

There other nations, of course, involved in making certain that we come to closure on a comprehensive test ban treaty. Certainly North Korea and South Korea. Iran and Iraq. One of the more troubled spots in the world, of course, is India and Pakistan.

Theare are many nations in the world today, non-nuclear weapons states, including Mexico, Sweden, Indonesia, who have all worked hard and diligently in their own way to move toward nuclear disarmament. These nations have earned the respect of the American people and the community throughout this world that wants to rid this planet of nuclear weapons, from the trouble spots in the world, the hot spots, the nations who are courageous and demonstrate that this issue is of extreme international importance.

Let me remind this body and this world that the United States has over 10,000 nuclear warheads. Russia and the Commonwealth of Independent States it is estimated has 15,000 nuclear warheads. Great Britain, we understand they have 200 nuclear warheads. France has 524 nuclear warheads. China has 450 nuclear warheads.

At the time of the Cuban missile crisis, if my memory serves me correctly, the United States had about 500 nuclear warheads and the Soviet Union had approximately 300 nuclear warheads. It only takes one on each side.

The entire world is watching, watching what will happen beginning in January in Geneva, and it is asking for and demanding leadership, leadership to end the arms race and to take steps to end the madness.

I salute President Clinton's efforts to date. I call upon the President to increase his efforts. I call upon all the nuclear states to join the international tide in support of a comprehensive test ban treaty and action on the nonproliferation treaty.

The people of the United Kingdom should ask a couple of questions of their governmental leaders. Why are you, through the Thorp plant, anxious to sell plutonium to the South Koreans, whose stated purpose would be to build a nuclear weapon? Why is the leadership of the United Kingdom looking to develop new nuclear weapons systems, given that the cold war is over?

I think the people of Britain ought to ask, to whom are your nuclear bombs pointed? Who is the enemy? Who is the enemy that is so evil, that is such a threat to your national security, that you are willing to risk a nuclear confrontation, a nuclear holocaust?

To the American people and the people in every country, we must ask our government leaders, who is your leader? Who is the enemy today that requires continued testing and development of nuclear weapons?

To those nations that have a bomb, is not one enough? To those nations that do not have a bomb and potentially seek one, look at the amount of aggravation, look at the amount of stress and worry, consternation, peril, threat, evil, that having a nuclear bomb exerts within your own country and throughout the world. Why step into this madness?

Mr. Speaker, as I conclude my remarks this evening, I want to call upon the American public to continue its strong support for the comprehensive test-ban treaty. Your voices are heard here in Congress and in parliaments throughout the world. I can assure you that as we approach the new year and a new session of Congress, your voices will be heard in Washington, in London, Beijing, Paris, Moscow, and throughout the world.

Mr. Speaker, the documents referred to during my special order are included for the RECORD.

U.S. SENATE,
Washington, DC, November 5, 1993.

M. PHILIPPE SÉQUIN,
Président de l'Assemblée Nationale, Hôtel de l'Assay, 128, rue de l'Université, 75007 Paris, France.

MONSIEUR LE PRÉSIDENT: We commend your government's decision to enter into a nuclear test moratorium in April of last year, as well as your government's commitment to seek indefinite extension of the Nuclear Non-Proliferation Treaty at the forthcoming renewal conference in 1995.

We are concerned that China's October 5 nuclear test will undermine efforts to seek an early conclusion of a Comprehensive Test Ban Treaty by inducing other nations to resume their nuclear test programs. We believe that it is important for the governments of all nuclear powers to exercise restraint by not resuming nuclear tests in the wake of the recent Chinese nuclear test. As fellow legislators, we urge your government to maintain France's current nuclear test moratorium and to work toward the earliest possible conclusion of a Comprehensive Test Ban Treaty. This position is consistent with that of our government.

We believe that the requirement to strengthen the non-proliferation regime is far more compelling for global security than the perceived need to conduct additional nuclear tests. The Non-Proliferation Treaty will only be renewed if a majority of its parties conclude that the Treaty continues to promote their national security interests. If the United States, France, and other nuclear powers do not continue to distance themselves from the logic that a dynamic nuclear arms competition—fueled by nuclear testing programs—confers greater security than negotiated restraints, other nations will undoubtedly utilize a similar logic to rationalize decisions to pursue their own nuclear weapons programs.

Those aspiring nuclear powers would then view the nuclear powers—which would simultaneously be conducting nuclear tests and seeking to deny nuclear testing programs to other nations—as adhering to a double standard. Such an outcome will not enhance prospects for renewal of the Non-Proliferation Treaty. That is why conclusion of a Comprehensive Test Ban Treaty at the earliest possible time is essential.

We wish to express our strong support for the steps that France has taken on these important issues. We are committed to working with you to reduce the risk of nuclear war.

Best regards.

Sincerely,

John Glenn, Claiborne Pell, Bob Graham, Bill Bradley, John F. Kerry, Russell D. Feingold, Edward M. Kennedy, Daniel K. Akaka, J. Robert Kerrey, Thomas A. Daschle, Patty Murray, Frank H. Murkowski, Herb Kohl, Joseph I. Lieberman, Paul S. Sarbanes, David Pryor, Barbara A. Mikulski, Harris Wofford, Daniel K. Inouye, Max Baucus, Mark O. Hatfield, Paul Simon, Frank R. Lautenberg, James M. Jeffords, George J. Mitchell, John H. Chafee, Dennis DeConcini, J. James Exon, Tom Harkin, Daniel Patrick Moynihan, Wendell H. Ford, Carl Levin, Byron L. Dorgan, Dale Bumpers, Patrick J. Leahy, Howard M. Metzenbaum, Ben Nighthorse Campbell, Carol Moseley-Braun, Arlen Specter, Paul Wellstone, Donald W. Riegle, Jr., Joseph R. Biden, Jr., Christopher J. Dodd, Dave Durenberger, John C. Danforth, David L. Boren, Ted Stevens.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, October 15, 1993.

HON. WILLIAM J. CLINTON,
President of the United States, The White House, Washington, DC.

DEAR MR. PRESIDENT: We are writing to express our support for continuation of the U.S. nuclear testing moratorium, despite the recent Chinese nuclear test.

Earlier this year, you determined that U.S. national security interests were best served by a vigorous effort to control the spread of nuclear weapons, technology, and materials. Central to this effort are negotiation of a Comprehensive Nuclear Test Ban Treaty (CTBT), indefinite extension of the Nonproliferation Treaty (NPT), and greater controls over the proliferation of weapons-grade material and ballistic missile technology—all of which we strongly support.

Now that the Chinese have conducted a nuclear test, however, we know there will be individuals in and out of the government who will be calling for a tit-for-tat response: a U.S. test for a Chinese test. In our view, this makes no sense. If a Chinese test harms U.S. efforts to achieve its policy goals in this area, a U.S. test would make achievement of our objectives even more difficult. And there is still no compelling reason for tests to improve the safety and reliability of the U.S. nuclear arsenal.

We applaud your statement condemning the Chinese test. In addition, we believe the United States should announce its intention to continue the moratorium, urge other nuclear powers to desist from further testing, and finally, declare its commitment to the rapid conclusion of a CTBT.

Thank you for your attention to our request. We look forward to working with you on this vital matter.

Sincerely,

Martin Sabo, Martin Meehan, Howard Berman, Mike Kreidler, Eni F.H. Faleomavaega, Nancy Pelosi, Peter DeFazio, David Minge, Anna Eshoo, Richard Durbin, James Oberstar, Edward Markey, Jerrold Nadler, Ron Klink, Joe Moakley, Pat Schroeder, Jolene Unsoeld, William Ford, Eliot Engel, Dale Kildee, Earl Pomeroy, Maurice Hinchey, Charles Schumer, Dan Glickman, James Moran, Ron Wyden, Richard Gephardt,

Mike Kopetski, Bernard Sanders, Hamilton Fish, Pete Stark, Carolyn Maloney, Lane Evans, Connie Morella, Tom Andrews, Don Edwards, Julian Dixon, Lynn Woolsey, Vic Fazio, George Brown, Neil Abercrombie, Ben Cardin, Alan Wheat, Robert Underwood, Larry LaRocco, Ronald Coleman, Chris Shays, Collin Peterson, Bart Gordon, Jim Slattery, Peter Visclosky, Jim Leach, Barney Frank, Tony Beilenson, Major Owens, Edolphus Towns, Marjorie Margolies-Mezvinsky, Eleanor H. Norton, Tim Penny, Henry Waxman, Ed Pastor, Bruce Vento, Carrie Meek, George Miller, Albert Wynn, Bobby Rush, Louise Slaughter, Joseph Kennedy, John Olver, Patsy Mink, Elizabeth Furse, James Walsh, Leslie Byrne, Dave Obey, Melvin Watt, Thomas Foglietta, Glenn Poshard, Pat Williams.

CONGRESS OF THE UNITED STATES,
Washington, DC, September 21, 1993.

His Excellency LI DAO YU,
Ambassador, Embassy of the People's Republic of China, Washington, DC.

YOUR EXCELLENCY: For nearly twelve months, there has been no test explosion of a nuclear weapon anywhere in the world. This is the first year this has been true since 1959. In the case of the United States, the suspension of nuclear weapons testing was legislated by Congress and signed into law by President Bush a year ago. The U.S. moratorium has been extended by President Clinton for at least another year unless another nation tests. Two other nuclear states—Russia and France—have declared that they will not be the first to renew testing.

This unprecedented situation has created a favorable environment for the speedy negotiation of a Comprehensive Test Ban. Yet, if reports are correct, a nuclear weapons test may be imminent in the People's Republic of China.

The first nation to conduct a nuclear weapons test—whether it is one that has conducted nearly a thousand or one that has conducted only a few dozen tests—would bear the heavy responsibility of relating other nuclear state from their declared moratoria and of encouraging and strengthening those elements in each of the nuclear states that oppose a CTB, and will press promptly for renewed testing.

The result is likely to be a renewal of nuclear weapons testing by one or more additional nuclear powers and ultimately by all of them. That could only worsen the prospects for a Comprehensive Test Ban. An unprecedented opportunity would be destroyed. And the nation that initiated this chain of events would be widely and deservedly blamed for it.

We recognize the fact that China has conducted fewer nuclear weapons tests than any of the other nuclear powers. Moreover, we are aware that some of your weapons scientists are convinced that some further tests are justified for various reasons, including improved safety. But that latter point is equally true within the nuclear weapons laboratories of each of the nuclear states, including the two nations that have conducted more than twenty times as many tests as China.

In the United States, Russia and France, the present leaders have judged that the claimed safety benefits of further testing—however real they may be—are vastly outweighed by the dangers associated with renewed nuclear weapons testing and the loss of the present opportunity for negotiating a permanent end to nuclear weapons testing.

We share this judgment; indeed, we have urged it strongly upon our own President, just as we now recommend it to the leaders of each of the nuclear states. We feel sure that it holds true for China as well, believing as we do that Chinese leaders are sincere in their declarations that they share the goal of a negotiated Comprehensive Test Ban.

Moreover, with renewed testing taking place and with a CTB clearly put further off, the likelihood of extending, broadening membership, and strengthening the Non-Proliferation Treaty when it comes up for renewal in eighteen months is distinctly worsened. If China were to test now, the NPT it joined recently might have a short subsequent life and little prospect of strengthened effectiveness, depriving China of the benefits it hoped to achieve by joining, and making the world a more dangerous place for all.

It could have tragic consequences if the silence since last September at the world's five nuclear test sites is broken in the coming months or weeks by a nuclear explosion in China.

With respect, we ask you to convey this judgment, and our profound concern over this possibility, to your government.

Sincerely,

Mike Kopetski, Martin Sabo, Pete Stark, Ron Wyden, Pat Danner, Ron Dellums, Peter DeFazio, Dan Hamburg, Lane Evans, Eni F.H. Faleomavaega, Pat Schroeder, Joe Kennedy, John J. LaFalce, Pat Williams, Tom Lantos, Nancy Pelosi, Sam Farr, Ed Pastor, Dan Glickman, Romano Mazzoli, Charles Schumer, Doug Applegate, Jose Serrano, Sander Levin, G.V. (Sonny) Montgomery, Louis Stokes, Elizabeth Furse, Bernard Sanders.

DEPARTMENT OF DEFENSE DIRECTIVE, JULY 24, 1981

Subject: Disclosure of Atomic Information to Foreign Governments and Regional Defense Organizations.

References: (a) DoD Directive 5030.14, subject as above, March 24, 1971 (hereby canceled); (b) Dod Directive 5230.11, "Disclosure of Classified Military Information to Foreign Governments and International Organizations," March 2, 1979; (c) Atomic Energy Act of 1954, as amended.

A. REISSUANCE AND PURPOSE

1. This Directive reissues reference (a), authorizes the Joint Atomic Information Exchange Group (JAIEG), and transmits the DoD/DoE Agreement (enclosure 1) that sets forth the policies and procedures governing disclosures of atomic information to foreign governments and regional defense organizations.

2. Disclosures of classified military information that are not atomic information are governed by reference (b).

B. APPLICABILITY

The provisions of this Directive apply to the Office of the Secretary of Defense, the Military Departments, the Organizations of the Joint Chiefs of Staff, the Unified and Specified Commands, and the Defense Agencies (hereafter called "DoD Components").

C. DEFINITIONS

1. Agreement for Cooperation.—Agreement between the United States and another nation or regional defense organization for mutual defense purposes in which the President authorizes the sharing of atomic information or material with another government or organization. An agreement includes the terms, conditions, duration, nature, and scope of cooperation and a guaranty by the other government or regional defense organization that appropriate security standards and safeguards will be maintained. (See reference (c)).

2. Statutory Determination.—A written determination by the President, or those duly authorized by him, that the cooperation will promote and will not constitute an unreasonable risk to the common defense and security. (See reference (c)).

3. Sponsor.—Any DoD Component that formally proposes atomic information for disclosure under applicable agreements for cooperation and statutory determinations.

4. Technical Director.—Synonymous in meaning and function with the title "Deputy Chief, JAIEG."

D. POLICY

Under the terms of the Atomic Energy Act (reference (c)), the Department of Energy and the Department of Defense are responsible for controlling the dissemination of U.S. atomic information. In carrying out this responsibility within the Department of Defense, U.S. atomic information may not be disclosed to foreign nations or regional defense organizations unless it meets the criteria specified in applicable agreements for cooperation and statutory determinations and such disclosure is in accordance with any policy constraint imposed.

E. RESPONSIBILITIES

1. The Assistant to the Secretary of Defense (Atomic Energy) shall furnish policy guidance to the JAIEG. The Director of Military Application of the Department of Energy has been assigned the corresponding responsibility for that Department.

2. The Joint Atomic Information Exchange Group shall: a. Be organized under the Director, Defense Nuclear Agency; b. Review and make determinations as to the transmissibility of atomic information sponsored for disclosure, and perform the collateral functions related to the responsibility. In the absence from duty of either the Chief, JAIEG, or the Technical Director (Deputy Chief, JAIEG), no disclosure may be authorized without the specific concurrence of both the senior DoD and senior DoE employee on duty with the JAIEG.

3. Sponsors shall: a. Determine the recipient's need to know; b. Determine what portions of proposed disclosures, which are not under the sponsor's purview, have been authorized for inclusion in the release; c. Refer atomic information proposed for disclosure to the JAIEG for a determination as to whether disclosure is permissible; d. Release or authorize the JAIEG to release the atomic information, if the JAIEG determines it to be transmissible.

F. EFFECTIVE DATE AND IMPLEMENTATION

This Directive is effective immediately. Forward two copies of implementing documents to the Assistant to the Secretary of Defense (Atomic Energy) within 120 days.

FRANK C. CARLUCCI,
Deputy Secretary of Defense.

DOD/DOE AGREEMENT FOR THE OPERATION OF THE JOINT ATOMIC INFORMATION EXCHANGE GROUP

A. PURPOSE AND SCOPE

The purpose of this agreement is to establish policies and procedures for the operation of the DoD/DoE Joint Atomic Information Exchange Group (JAIEG) under the Director, Defense Nuclear Agency (DNA). The JAIEG will carry out for the Department of Defense (DOD) and the Department of Energy (DOE) certain responsibilities, as outlined herein, with respect to cooperation for mutual defense purposes with other nations and regional defense organizations pursuant to agreements for such cooperation made in accordance with the Atomic Energy Act of 1954, as amended.

B. DEFINITIONS

1. Atomic Information.—a. In the case of United States information, "atomic information" is Restricted Data, within the definition of Section 11y of the Atomic Energy Act of 1954, as amended, and information removed from the Restricted Data category in accordance with the provisions of section 142d of the Act (this is referred to as Formerly Restricted Data); b. In the case of foreign information, "atomic information" is defined in the applicable agreement for cooperation.

2. Transmissibility, Transmittal, Transit, Communicate, Communication.—As used herein, these terms refer to the actual exchange of information by representatives of one nation or regional defense organization with representatives of another nation or regional defense organization by any and all means, including documentary, visual, and oral.

3. Transmission Channel.—The agency, department, or office designated in accordance with an agreement for cooperation for mutual defense purposes as responsible for the actual transmission and initial receipt of atomic information under such agreement.

4. Security Assurance.—A certification by the nation or regional defense organization, which will receive atomic information, that its representatives have been specifically authorized to receive atomic information from the transmitting government in accordance with applicable agreements for cooperation.

C. MISSION AND FUNCTIONS

1. The mission of the JAIEG is to act as the agent of the DoD and the DoE in performing the following functions with respect to exchange of atomic information, except as provided in paragraph 2, pursuant to U.S. agreement for cooperation for mutual defense purposes with foreign governments and regional defense organizations made in accordance with the Atomic Energy Act of 1954, as amended. Specifically, the mission is to:

a. Review and determine transmissibility of all properly sponsored exchanges of atomic information from the U.S. to other nations or regional defense organizations under the terms of mutual defense agreements for cooperation and statutory determinations.

b. Be responsible for preparation for transmittal and such other aspects of release, including acting as a transmission channel, if requested by the sponsoring agency.

c. Establish and maintain records and appropriate administration for atomic information transmittals.

d. Conduct an annual review of its record holdings to eliminate all but essential records of atomic information transmittals, and to assure that retained records reflect the latest downgrading and declassification actions.

e. Support the DoD, and DoE, and other requesting U.S. agencies in implementation and formulation of administrative arrangements (such as reporting, accounting and dissemination procedures) with other nations or regional defense organizations.

f. Carry out such other functions or provide such other support as may be jointly directed by the DoD and the DoE.

2. The DoE will be responsible for all aspects of transmission of classified military reactor information in accordance with existing arrangements. With respect to this information, the DoE will provide copies of pertinent administrative papers (including, for example, transmittal lists, security assurances, identity data, visit information, summaries of information exchanged during visits, and summaries of materials and equipment exchanged) to the JAIEG.

D. ORGANIZATION

1. The JAIEG is assigned to the Director, DNA.

2. The organization shall be headed by a Chief, JAIEG who shall report to the director, DNA. Either a DoD employee/officer or DoE employee may be assigned as Chief, JAIEG.

3. A Technical Director shall be assigned to the Chief, JAIEG to serve as his advisor for all matters within the mission and functions of the JAIEG. An employee/officer from the agency not providing the Chief, JAIEG shall be assigned as Technical Director.

4. The Director, DNA is responsible for the JAIEG organization and staffing in accordance with agreements between the Assistant to the Secretary of Defense (Atomic Energy) (ATSD(AE)) acting for the DoD and the Director of Military Application (DMA) acting for the DoE.

E. POLICY

The JAIEG shall be operated in accordance with policy guidance furnished jointly by the ATSD(AE) for the DoD and DMA for the DoE to the Director, DNA.

F. PROCEDURES

All proposals by DoD and DoE to exchange atomic information subject to this agreement shall be processed in accordance with the following procedures. In the event other Federal Agencies submit such proposals to the JAIEG, they shall also be processed under these procedures.

1. Referral Procedures.—Each proposed communication of atomic information to another nation or regional defense organization pursuant to the appropriate agreements for cooperation shall be referred to the JAIEG for review to determine whether it is within the scope of statutory determinations and approved programs of atomic cooperation, and not within the scope of policy constraints provided to the JAIEG pursuant to Section E. Referral procedures in special situations are provided for as follows:

a. In programs under agreements for cooperation where the transmittal of atomic information is limited to repetitive data transmitted over an extended period of time, special arrangements may be worked out between the JAIEG and the agency, department or office engaged in such program.

b. In unusual circumstances when it becomes impossible to provide in advance a detailed text of atomic information proposed for transmittal by oral or visual means, the sponsor shall instead submit guidelines or similar delineations of areas of atomic information to be transmitted. In such cases transmissibility shall be determined on the basis of the guidelines. However, after each such transmittal, a verbatim transcript or summary memorandum for the record, setting forth in detail all atomic information communicated through oral, visual, or other means, shall be furnished to the JAIEG.

2. Review Procedures.—a. The JAIEG review shall be commensurate with the scope and sensitivity of information proposed for exchange; b. Upon completion of the review the Chief, JAIEG shall take one of the following courses of action:

(1) Make a determination, based on the recommendation of the Technical Director, that the proposed communication is transmissible, and so notify the sponsor.

(2) Make a determination, taking into account the recommendation of the Technical Director, that the proposed communication is not transmissible, and so inform the sponsor. If the sponsor does not agree, the decision may be appealed for further joint DoD/DoE consideration. Appeals from DoD sponsors shall normally be addressed to the ATSD(AE) and appeals from DoE sponsors to DMA. Copies of the appeals and decisions shall be furnished to the JAIEG.

(3) If unable to determine transmissibility or nontransmissibility, refer the issue through the Director, DNA to the ATSD(AE) and DMA for joint resolution.

c. The JAEIG shall have no responsibility with respect to the transmissibility of classified defense information other than the atomic information subject to review by the JAIEG under this agreement. The transmissibility of any classified defense information other than atomic information included in a proposed communication is the responsibility of the sponsor pursuant to the "National Policy and Procedures for the Disclosure of Classified Military Information to Foreign Governments and International Organizations (NDP-1)."

3. Release Authorization.—Upon notification that the proposed communication is transmissible, the sponsor may release the information or authorize the JAIEG to do so.

G. IMPLEMENTATION

1. All agencies, departments, and offices of the DoD and the DoE whose present directives and regulations are in conflict with this agreement shall revise such directives to conform to the provisions contained herein.

2. This agreement is effective immediately.

3. This agreement supersedes and cancels the agreement of April 7, 1980. "The DoD/DoE Agreement for the Operation of the Joint Atomic Information Exchange Group."

———.

Deputy Assistant Secretary for Military Application.

———.

Assistant to the Secretary of Defense (Atomic Energy).

□ 2010

IMPORTANT FIFTIETH ANNIVERSARIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 60 minutes.

Mr. DORNAN. Mr. Speaker, I hesitate to also take a special order when the House gets past 8 o'clock here on the east coast and our fabulous, and I mean that sincerely, fabulous staff has worked hard all day long, but we are getting down to the last days of the first session of the 103d Congress.

I have before me the schedule that was laid out here for Republicans on this side. It says we are going in at 10 tomorrow. We will do Youthful Offenders. What a sad subject that is. We will do the intelligence authorization conference report, which I just signed off as a member of that very important and sensitive committee. That should go through fast. And then we may or may not debate adding a 15th Cabinet position to the Office of the President of the United States. That would be another growth executive branch agency.

And then it says here, for us on this side, Saturday, Sunday, Monday, meeting times uncertain. Possible business includes, and it mentions, four things.

D.C. statehood. Let us see, the murder rate is running ahead of last year, a little bit behind the year before. But it looks like it may break all records. We lost nine people dead in the city here last week. It is going to blow through 450 again probably this year. So we are still the murder capital of the civilized world.

The population is shrinking from 600,000 to 570,000. My State has 32 million, 32 million citizens. That is not even counting illegal aliens, and we only have two Senators. And this D.C. city, which is supposed to be a Federal mandate, district, it wants to be a State, while its population is dropping and it is the murder capital of the free world. "I don't think so," as our people say.

Then comes Campaign Finance Reform. That will be a joke. That will be another incumbency protection act. Then Reinventing Government. The way to reinvent government is to freeze everything, but we will waste a lot of time on that. And then comes the Unemployment Conference Report, which should go through. And that is it.

Then it has a footnote that the Senate expects to adjourn sine die, without any more days, they are out of here. And then we will probably be driven by that and get out of here Sunday, even though everybody still is talking Monday or Tuesday.

We always have our business finished ahead of the other distinguished Chamber, so I would say we are out of here Saturday. That means tonight and tomorrow night are the last times I will have an opportunity to pay homage to the heroes of World War II, and we are going through, Mr. Speaker, some incredible anniversaries. All this year is the 50th anniversary of 1943 events. And if 1942 was the dark year, when the issue was in doubt, and the great Western statesman, Winston Churchill, called this year "the beginning of the beginning of the end," then we should have taken some time. Because most people are not around for 100th anniversaries, especially for those of us who were alive, even though we were children.

We should have taken pause, every week at some point in our schedule—they do not seem inclined to do it in the other Chamber—to pay homage to these people that lived and served and were wounded and, in the case of 312,000 of our fellow Americans, died to drive Hitler to suicide in less than 3 years and 5 months. Mussolini was through by this year. And the warlord Tojo was in jail in disgrace in Japan by next year, along with most of his warlords.

What a time of heroes. And that war began with about 134 million Americans. It ended in 1946. In those days the census did not count armed services people overseas. By the time we got all of our men back and all of our Army nurses and all of the other women that were serving overseas, our population, when Clinton was born in 1946 in August, the July census that year said we were pushing 147 million people. We jumped 13 million people from Pearl Harbor to the end of the war, by the time we got our forces home, 13 million. Hardly noticeable was the loss of life of 312,000. Hardly noticeable, unless you were a gold star mother or a widow or a child without a father, just a few momentoes coming home in a footlocker or even worse, in a tiny box.

If they were lost at sea, a few items from a ship; if they were a prisoner or missing, even worse, and they did not turn out to have been a prisoner and been released, if they were a prisoner under Hitler, we lost 1 percent in the camps. If they were a prisoner under the warlords of Japan, we lost almost 40 percent of those prisoners.

What a difference between the evils of Japanese imperialism and Nazism against our prisoners.

I stood up in a 1-minute this week, Mr. Speaker, and mentioned this report that the Pentagon had released, because of outside family pressure, that several hundred, I am quoting, "Several hundred United States prisoners in Korea were secretly taken to various places in the Soviet Union, mostly by rail; in many cases, through China," and that about 8,140 American servicemen are still officially unaccounted for. Those were, in many cases, the same heroes fighting the second war within 5 years.

I am going to speak on that and probably run out of time doing it, but before I do, I want to structure my remarks.

I want to do what is almost a mantra for me, Mr. Speaker, and mention that it is not just you and I, and when the camera pans the empty Chamber so ably manned by our terrific communications team down there, it is not an empty Chamber here. There are 1,200,000, that is a low-ball figure, 1,200,000 people watching.

Somebody bumped into me in the parking lot today and said, "Gosh, I love it when you are speaking. I feel so embarrassed for you that there is nobody there, none of your colleagues listening." Some of our Members, a little secret we keep around here, are living in their offices. They are not in bed yet. They keep the TV on. I know that a few watch. Many of their families are watching at home.

But the people that I think are in that C-SPAN audience, Mr. Speaker, who vote over 95 percent, they talk about a survey category of most likely to vote, these are some of the best citizens in our country. And if they will stay with us and follow the proceedings here, while I talk a little history that I love so much, thanks to my parents and great teachers, then here is the way I want to structure my time tonight.

First, I want to talk about the cultural war, because we had some of that on the House floor today. I started to write down political war as part 2, and I scratched it out, because nothing can equal the cultural war we are going through right now, except that part of it when we do ourselves dishonor in this Chamber. So I retitled it "Clinton and Political Skirmishes." I think I can go through that in about 5 minutes.

Then I want to get to the heroes, like Jimmy Doolittle, who died September 27 of this year, Pebble Beach, CA, 96 years of age, an original donor, a man who to me personally is someone I will treasure the rest of my life. I photographed his first $250 check, because I knew I would treasure it. I did not have a chance, with the rush of events the last few weeks, to other than put things in the Extension of Remarks. But I want to talk about what an inspiration Jimmy Doolittle was to young Americans of my vintage.

Then Tarawa, that battle is coming up the 50th anniversary in 2 days, day after tomorrow, on November 20. The story of our young Marines. And then the Army following up on another atoll island in that area.

I have a good friend who looks probably younger than I do who was there at 19 years of age hitting the beach 50 years ago. He is an assemblyman in California, Gil Ferguson, big, tall, tough marine, fought in three wars.

□ 2020

He and his wife Anita, what great Americans, what a public servant. He is on his way to Tarawa right now to be there at the 50th anniversary. I was supposed to go with him, but we are still in. We are supposed to be out, but no way.

I wish I could walk those beaches again, but I did get to walk them with one of the distinguished Members from the other side, who unfortunately was beaten last year. Steve Solarz and I walked the beaches of Tarawa, and a few days later we walked the battlefield of Guadalcanal. Steve was as moved as I was by the longest battle of American history. At this point the Solomon battle was in its 15th month. We moved up the chain to Bougainville. There was incredible fighting, still. New Guinea, we had been fighting there for, pushing on to almost 1 year and 9 months, and it was incredible. That was one of the least reported upon battles in the world, like Burma. New Guinea was to be constantly, always with us, but it did not have the romance of the Normandy invasion.

Normandy is never far from my mind, because not only is the 50th anniversary coming up next June, but Chris Heil, one of our reporters of debate, you may not know this, Mr. Speaker, hit the beach 3 hours before the landing, was one of those combat

Marine-Army guys that had to clear away the tank traps and the barbed wire so our guys could effect that landing. Today is the 50th anniversary of Sir Arthur, nickname "Bomber", Harris starting the Battle of Berlin. It was kind of a revenge title, because the Battle of Britain had almost lost all of Great Britain to Nazism. But the Battle of Berlin lasted until March of next year, it started today, we lost 600 planes, 600 aircraft lost over Nazi Germany, each plane going down, and if it was a 4-engine bomber, 9, 10, 11 crew members. Our B–17s had been joined by now by B–24's.

We were starting to do our share. By this time next year we would have eclipsed the British, but they were taking the brunt. That Battle of Berlin turned the air war. Then I will talk about Jimmy Doolittle. In case I forget, I want to say something about Doolittle right now. As an Air Force pilot, I just love this.

Washington lawyer Ramsey D. Potts, a retired Air Force major general who served in England with General Doolittle, believes the legendary aviator made one of the "critical tactical decisions of the war when he took charge of the 8th Air Force." The 8th Air Force was mostly bombers, but it had its fighter escort. The escort was medium bombers and fighters working as fighter-bombers.

PBS has had a special this week two nights in a row about a young pilot at that time, a P–47 Thunderbolt pilot, that just absolutely made clear to me that the fight on the ground was more deadly than the fight in the sky, and there were no aces down there. You flew and fought and tore up German armor until you got blown out of the sky, and there was little time for you to get your chute open if you were lucky enough to get out of the flaming cockpit.

To continue this, he says, "When Jimmy Doolittle took charge of the 8th Air Force, he ordered allies in P–51 Mustangs and P–47 Thunderbolts," don't leave out the P–38's here, Mr. Potts, the Lightnings, to go after the enemy fighters, to become aggressive and follow them to their bases after air battles. This aggression, American and British aggression, which meant the German Air Force became hunted over their own territory, was the key to our gaining air supremacy.

If we had not had air supremacy, we could never have invaded Europe. Remember the great Zanuck film, "The Longest Day"? Only Two enemy 109 Messerschmidts made it to strafe the beach at Normandy. As tough as that fight was on the ground, our guys only had to worry one short, brief 2 minutes when two Messerschmidts strafed the beaches, one of them a German fighter pilot that just died here a year ago. In the film he says contemptuously of Goering and his own Luftwaffe, "The Luftwaffe has had its day." And it was thanks to this young fighter pilot that Doolittle said, "After you are through in the air defending the bombers, go get them right in their own scorpion's nest." A lot of young guys got killed in 1943 doing that.

I want to talk at length about those heroes. Then I want to finish on Somalia, because I am not through with that issue. I have only got two more nights to discuss it, and I guess I am going to be frustrated and not get the investigation I want on Somalia.

Before I go back to the culture war, let me read a "Dear Colleague" that is going to circulate in the House tomorrow. I will read it in toto here, so that 1,200,000 Americans will know what I am driving for here before the Congress goes out. It is important.

JACK MURTHA, One of the most respected Members of this House, chairman of, I believe, because it involves national security, the most important subcommittee of the Committee on Appropriations, the Subcommittee on Defense, went to Somalia after that horrible firefight on October 3 and 4.

It was a real battle for me to get to hitchhike on an Air Force airplane to get over there. He, being a chairman, was able to go to Frankfurt and commandeer his own Gulfstream and get down there on his schedule. I had to wait to hitchhike on a big Galaxy C–5.

I got there about 3 days after he did, 4 days. He and I are the only two who have gone over there since these October casualties, going from 11 dead to 30 dead in just 3 days, killed; in cases, I think beaten to death and murdered. He put out a "Dear Colleague" earlier this week, the gentleman from Pennsylvania, JACK MURTHA, did. He said, "My colleagues, I brought back a letter from Major General William Garrison. He takes all the blame, and don't blame anybody in the Pentagon." For a lot of the Democrats and maybe Republicans that do not follow this, it was like that sets everything to rest and let us press on.

Here is my response to my dear friend that I admire very much a Marine Major from the Vietnam conflict: "Dear Colleague: Earlier this week my good friend and our well-respected colleague, Jack Murtha, sent you a letter concluding that officials at the Department of Defense were not responsible for the heavy casualties we encountered in Somalia on October 3d and 4th. As the only other Member of Congress to visit our forces there since that operation, I must take exception to my friend Jack's analysis.

"After personally talking to troops of all ranks involved in these operations, I am convinced that additional firepower and better planning from the Pentagon in Washington would have helped with the October 3d–4th Ranger Special Forces raid, as well as with other military missions in the Horn of Africa.

"U.S. Rangers were engaged for nearly 15 hours on the ground. I have spoken to Special Operations, 16th Special Ops Aviation Regiment, aviators who spent 17 to 18 hours in the air during the fight. Of course, they had a gung ho battle cry, 'Don't quit.' I visited with them at their base at Fort Campbell.

"For over 9 of the 15-plus hours during the firefight from hell," that is a magazine title, "Aideed's militia and civilians with automatic weapons pinned down our good guys while the U.N. forces awaited permission from their specific capitals—Rome, New Delhi—to release their tanks or armored vehicles. It is impossible to say that U.S. M1 Abrams tanks or M2 Bradley fighting vehicles could not have altered the outcome of events there and saved some lives, and dozens of others from being wounded, during the extraction, the exfiltration.

"During my trip to Somalia, one commander specifically brought up his request for armor. That was Major General Montgomery. I didn't have to ask, he brought it up. The commander of the forces who conducted the October 3d–4th operation made no mention to me about not needing armor to effect a rescue, and they mentioned nothing to me about a letter—he mentioned nothing to me about a letter to the President that he had sent out with Congressman MURTHA.

"At this point only two people have seen the now-famous letter, other than the writer, of course, because it has supposedly only been delivered to President Clinton. Les Aspin, our former colleague here, has not seen it, as Secretary of Defense."

☐ 2030

"I believe that in writing the letter General Garrison was being a good soldier and trying to take all of the blame upon himself. This commander was the last person BOB DORNAN saw in Somalia. He walked me to the C–5 as I left, and he said to me," and this is a verbatim quote. Few people in this Chamber challenge this Member's memory. "He said, 'Congressman, I must tell you something. That was a good mission. We completed our mission, and then we got in a hell of a firefight on the way out.' Agreed, but it's this quick reaction force, General Thomas Montogery, Silver Star, Vietnam rescue aspect that needed armor to break through roadblocks and to blast through the ambushes." And I don't have it here, but by that time it was in every single corner.

"The only day to clear up contradictions and prevent such operational problems from ever repeating themselves is for the highly decorated and superbly professional commander of the Special Ops to personally brief Members of Congress on the Somalia mission." I guess I am asking that he brief us in depth the way he appears to have briefed our respected colleague, JACK MURTHA. "He has returned stateside, this commander, and could easily be made available to Congress before Thanksgiving.

"I truly have the utmost respect for JACK MURTHA, but my own site investigation and my follow-up leads me to the inescapable conclusion that civilians in the Pentagon made serious and deadly errors by pulling out the AC–130 Specter gunships," and I could add my letter on August 23, last summer. The Rangers arrived and the Special Forces guys 2 days later, and the gunships were gone that they trained with regularly. And then, "By compounding that error, by refusing the request for armor made by combat commanders in the field, an error I believe which certainly cost American lives during the exfiltration phase.

"I do not necessarily believe anyone should resign over this single bloody firefight," nor have I hinted at it or called for it, nor joined with any other effort here in the House along those lines. "But what is important is that the American people and the families of the wounded and KIA get all of the facts about what happened out there and why, and how we can prevent it from happening. Let's get the facts."

I take to heart that motto with the 160th guys, the best pilots in the military, and that includes jet pilots. These helicopter pilots dazzled me, especially when I went and looked at their simulators, and flew one of the big simulators for the CH–47s, and then found out the process that they must go through to get included in that squadron.

So Somalia is important.

One thing I want to discuss is the Ia Drang Valley, November 14 to 18 of 1965 where we had the 28th anniversary last week, and I did not get a chance to mention it. But there was a lot of talk about the Ia Drang battle, the first battle in Vietnam where we came anywhere near losing more than five or six Americans in one fight. We lost 301. The one was an Air Force A–1 Sky Raider Sandy pilot who went in and crashed and was killed right in front of all of the men almost being overrun by two whole regiments of North Vietnamese Army soldiers, not Viet Cong. And that battle was talked about in the Pentagon during the whole month of October, maybe still this month because of the parallels over the casualties which were 19 compared to 301 killed in action. It looked like the events were getting ahead of us, just as it did in Vietnam.

So let me come back to this opening theme in the culture war. Today we have another one of these peculiar debates, a kind word, on abortion, where a lot of Members in this House were voting correct instead of what is spiritually correct. And I went into my pocket and I pulled out an article by Cardinal John Joseph O'Connor, His Eminence, the Archbishop of New York, a column that he wrote in the Archdiocesan Weekly called Catholic New York. His column is entitled "From My Viewpoint." It appeared in the September 9 issue. I have it courtesy of James McFadden, one of the clear-thinking Catholic laymen in this century, who put it into his great newsletter "Catholic Eye." And I have been carrying it around for almost a month and a half here, waiting to read this into the RECORD because it says an awful lot about this culture war that I alluded to so many times in the debate today, and particularly meaning the corruption of the beautiful little Nation of Denmark. That story has been rounded various times all across the country on I think I said Hard Copy today, but it is not. It is Inside Edition. And they showed these beautiful, even mentioned how beautiful these little children are there. Children are beautiful all over the world, anywhere, and they do not have to be blondes with blue eyes. But they showed these beautiful little tiny children, but they are still children, 10, 11, 12, 13, smoking, drinking. They showed a 10-year-old boy in a liquor store where he buys a fifth of something, buys cigarettes, comes out and is smoking, and the beautiful little children, girls, some the same age as my young granddaughter, talking about easy sex. Sometimes they say it was wrong. Sometimes they did not. Talking about how they lost their virginity. This is 12-, 13-, 14-year-olds, and showing them drunk in public, falling down, hugging one another. And then they cut to an American expatriate, an American psychologist saying this was all good and healthy, and they did not have the hangups like in America, and that is where we should be.

And then they were also showing how they all have condoms which they get from their school, or they get from their parents, and none of them have accents. It is amazing how English is such a second language in all of the Scandinavian countries now, and in Germany and in Switzerland. You have to listen to detect an accent. So there are these girls who are all being interviewed, and when the young boy is asked when his father gave him a condom what did he say, and he just said, "He said be careful." That is the slogan of America, play Russian roulette, if you get AIDS, well, you tried to be safe, or it failed because there is a big failure rate with condoms.

So here is my good friend, and the fighting Irish Archbishop of New York, John Cardinal O'Connor:

> I was hardly dressed for what was coming, in my miter, full vestments and holding my staff in hand, waiting outside Our Lady of Sorrows 125-year-old church to begin the anniversary Mass. Her look almost withered my miter. Her words withered my ears.
>
> "How many kids will die in these streets because you won't give out condoms in the schools?"
>
> I could have shrugged it off as the no-win "When are you going to stop beating your wife" question. I didn't. It disturbed me because she meant it and she was sincere. Nor is she alone in her thinking. Various school boards throughout the country are saying much the same; cheered on by editorials in some of the most important newspapers. I'm told a delegation of assemblymen from Albany want to come to see me to tell me that Catholic teaching on condoms is leading to genocide.

Dornan footnote to Archbishop O'Connor, there are going to be a lot of Judas Iscariot Catholics in this group coming to lecture this shepherd of Jesus.

Cardinal O'Connor says:

> I watched the entire Labor Day Parade from beginning to end. A lot of nice people marching, including a large contingent of the United Federation of Teachers, some with their own children. I spoke with a number and had pictures taken. They seemed to me like the kind of teachers who are serious about teaching youngsters in the classroom, just as they seemed serious about the care they were giving their own children. I didn't get any sense at all that they had become teachers to give out condoms.
>
> But now it would appear that the federal government itself wants to get behind condoms in a big way. I saw young kids on television enthusiastic over the idea; heard them say their parents should have nothing to say about it—"none of my parents' business."
>
> Good God! What are we doing to the young? They are crying for bread, and we're giving them stones. Who is killing them, not only physically, but morally and spiritually?
>
> I'm not going to argue that too many condoms are defective or improperly used, or induce a sense of false security, so that kids end up with AIDS or a venereal disease or get pregnant. Those arguments are absolutely true, but there's a much more critical argument about pushing condoms on kids: It's wrong! It's corrupting thousands of kids. It's telling them they have no personal moral responsibility for their actions. It's telling them that the only real sinners are those who deny them condoms! It says: "It's not your fault if you get AIDS or give someone else AIDS. It's the fault of those who try to push moral values down your throats—those killers—those Catholic priests and bishops, those Protestants and Jews and Muslims who believe in Divine Law and personal responsibility."

☐ 2040

William Murchison, I have had the honor of meeting this gentleman 25 years ago, 20 years ago, in one period of my life when I traveled the country fighting pornography, so I am glad the cardinal quotes him; William Murchison, syndicated columnist based at the Dallas Morning News, writes, "The times for the human life review," and I quote from his article in the latest issue, summer of 1993, an article titled "The Straight '90s," speaking of the striking down of all Louisiana sex education curriculum by a State court, State court, Murchison writes, "The curriculum recommends sexual abstinence as one means of preventing pregnancy and sexual disease. Ah, but the court reasons that the promotion of abstinence violates the taboo on interjecting religious beliefs and moral judgments into teaching. Such a finding is as interesting as it is outrageous. What the court has done is concede to religion the high ground of common sense."

In other words, it cannot be argued that abstinence does not work. Of course it works. Avoid sex and you will avoid the consequences of sex, but abstinence is also a moral proposition. In other words, morality equates with common sense; to do the right thing is to do the sensible thing, the thing that works.

The court's problem is that moral connection. The Constitution, on the court's showing, rules out the interjection of moral and religious beliefs into public discourse. This means, under the new order, that we cannot teach what works best. All we can teach is what works second and third best such as condoms, which are notoriously ineffective in preventing pregnancy much less AIDS. We rule out the best remedy as unconstitutional. We settle for runner-up remedies, not on account of their effectiveness but rather to facilitate the worship of ideological propriety, in other words, political correctness supersedes in an increasingly jaded nation, spiritual correctness and common sense. Back to the cardinal: "I even hear otherwise intelligence people argue, 'Well, kids are going to do what they are going to do, so at least we should give them some protection.' And with that well-meaning proverb, they buy into the quick fix; stop fighting the real problem, give up on any hope of goodness and decency and common sense, give up; let us face what we are really doing, give up on the antiquated notion that there is anything wrong with such normal, good, clean fun as sex outside of marriage, recreational sex, inevitable sex, everybody is doing it, so let's make it safe. It is that kind of safety, not Catholic teaching on sex and marriage, on purity and virtue, on Heaven and hell that kills. I have been scorned in some quarters before for saying it, but I will say it again and again, bad morality is bad medicine. I have only heard that ridiculed but never disproved. It is a sad, sad day when people really believe that the church is engaged in genocide by teaching that condoms are a formula for disaster. It admittedly hurts to be called a killer when you are all dressed up for mass with a miter on. It hurts even more to know that others share that opinion, but it would hurt far worse if I believed it myself. Sorry, lady, I think you are dead wrong."

The church is lucky in these troubled times to have cardinals like O'Connor and Cardinal Bernard Law up in Boston.

The bishops have been meeting in this town. The only quarrel I have with the bishops is their, I guess, is in what they call wisdom they are so slow to respond to the attacks upon our culture and the weakest of the bishops, and there are more than a few, the gutless ones, the ones that try to submerge the most serious issues, tearing us apart and mix it up with the Central American poverty issues that Jesus loved the poor. Nobody goes to hell for being poor.

This excuse that people are killing and raping and murdering and slaughtering one another in their own neighborhoods or ghettoes or barrios or poor white trash enclaves, they are all killing one another because they are poor; what a distortion of the humblest of our human family that are closest to God, and my remarks earlier, and I want to put that full brochure in now, Mr. Speaker, when I joined the gentleman from Indiana [Mr. BURTON] who said that I had this little Bible tract that a Protestant young scholar had given me out on the steps.

I want to read what was inside after that front page with the eagle and the Jefferson nickel with Thomas Jefferson looking almost right at the word "God," and the words "In God We Trust" that are above your head, and in the Senate they are on the south wall so that the presiding officer in the Senate, whether it is Vice President GORE, as the President of that group, whoever is sitting in for him, they look at "In God We Trust" all day long. It is right across from him, right above their eyes.

Here is what it says inside. I did mention the quote before to the gentleman from Indiana [Mr. BURTON], of George Washington, "It is impossible to rightly govern the world without God and the Bible." Here is what this beautiful Protestant little pamphlet says: "We have come a long ways from the old days when our government and its institutions openly admitted that we needed God to have this nation work. In our public life, we either ignore God or are openly hostile to Him. We live in a culture where the media has made the word 'Christian' have almost an insidious if not almost a hostile sound to it. They reject the word 'sodomite,' but they have made the word 'homosexual' destroying the adjective 'gay' making that out to be a cause as glorious as any cause of human or civil rights in all of history." Incredible. This goes on to say that symbols that remind us of God are not allowed in public places.

Well, this is a public place, and it is here, along the edge of our Gallery, and it is in the other Chamber, so they have not stripped it out of these places yet. We begin our sessions with a prayer, and the same for the Supreme Court, and the same for the U.S. Senate, but I am sure those are targeted traditions.

TV names Him frequently. Him with a capital "H," but usually as a curse.

When I watched the 25th anniversary for 2 hours on Sunday night of what is one of the top serious shows in America, sometimes the top of all the shows, "60 Minutes," here is Mike Wallace, a respected journalist saying "God" and then follows it with "damn it." Here is a woman saying "Bull" followed by a scatological four-letter for human excrement.

At least, when the First Lady was almost hit on the head with a lamp in that lay-down, powder-puff interview with the Governor of Arkansas when he was a candidate in New Hampshire, and his wife, at least when the lamp, or at least when the lamp almost hit her, she said, "Jesus, Mary, and Joseph," which can be called an ejaculation of respect of the tiniest of prayers, but all the way through this program rough, vile language, and several times taking God's name in vain.

What was their excuse? That this was off the record background film of their filmed meetings or something? I heard the "f" word used for the first time. I was sitting at the kitchen table doing some House floor work and I yelled to my wife, "Are you on cable?" She said, "I knew you would hear that. No, honey it is one of the networks. Make a note of the time. It is 9:40-something." There they were injecting the "f" word in, and it was because it was a wife-beating situation, and it was a run-on sentence, and I sent for the transcript, but right after "NYPD Blue" debuts with full nudity now, and they are trying to crank in every last, although still rare mercifully on federally regulated airwaves in the public interest, for the convenience and good learning of the American public, but on cable television, of course, anybody who turns on cable television, anybody who turns on MTV and then wonders why their beautiful little Pinocchio turns into a punk named Lampwick with a foul mouth, smoking cigars, and trying to nail every tiny little girl in his school, you had better wonder what kind of garbage is coming over your TV. And do not gripe later when you have lost the religious heritage that your parents raised you with as you turn your kids out into the world.

TV names Him frequently, but usually as a curse, even the 25th anniversary of "60 Minutes."

It is not unusual for a nation to ignore God. The story of nations is a story of unbelief.

Usually, as a nation prospers, the people ignore God, and it falls on bad times, and the people return to God.

The God we are talking about here is the God of Abraham; all of the Old Testament is replete over and over and over with the chosen people going into good times, rejecting God, and then slipping into bad times.

This pamphlet continues that we ignore God and His commandments, the Mosaic law, at our peril. There is

Moses up there looking down at you, the only one of our 23 great lawgivers in these beautiful marble bas-relief medallions, and Moses is the only one that looks down at you, Mr. Speaker.

□ 2050

When we ignore God and his Mosaic Commandments, it is at our peril. Families, institutions, whole cultures crumble, which is what our culture is doing, when they ignore God. Our complex problems of runaway crime, drug abuse, broken homes, teenage pregnancy, AIDS, rampant abortion, child abuse, hopelessness, they are all rooted in our choice—choice, there is that wonderful word—to ignore God. God is going to have the last word on our Nation as He has had on every nation in all of history. God will destroy this Nation if we continue to wallow in our sin. His desire throughout the history of nations and for our Nation today is that we repent, turn to Him and truly trust Him. To trust God is to take him at His word, accept his Son, Jesus Christ, and obey His Commandments. As DAN BURTON said, for all of the other great religions who believe Jesus is only a prophet, and some who believe He is just a soothsayer, a son of Abraham, but those Mosaic Commandments, the laws honed in the 11th century by the Rabbi Maimonides, whose great beautiful medallion is up in the northeast corner of the House, it is Abraham's God that was so respected when this country was formed. And it was the Judeo-Christian ethics, no New Testament, no Jesus without the Old Testament respecting the people of God when we take that Bible that most Bible holders still put their hands on when they swear to very high office.

Mr. Clinton was using his mother's Bible when he was sworn in last January 20. But then the pamphlet finishes: "God in His mercy has provided the solution to our personal and national sins. He sent His only Son, Jesus, to come and die for us so that everyone who believes in him can have his sins washed clean and become a permanent member of the family of God. When we are God's children, we learn what a relief it is to trust in God, living by God's desire we learn how to govern ourselves, our families, and our Nation. If you are ready to trust God with your life, here is a prayer to get you started."

I read that prayer earlier, and the three biblical passages, one from the Hebrew people, from Psalms, David, the shepherd boy who slew Goliath, and the other two from the beloved evangelist, John. I would put those in the record, too.

Mr. Speaker, in the cultural war that we saw played out today, again I come back to this tack by many Members who put a wet finger in the air—Margaret Thatcher used to call them "the wets," they were so weak, afraid of political correctness, and the police, especially in the media, the political thought control people coming down on him, heaping him with insult. They do not understand that the American people innately like someone who stands on their own convictions. I as a Catholic, I was not about to sell out my principle and become a weak, lousy or grubbing Catholic caving in to what is trendy in order to hold on to this seat. I have never had a seat that did not poll against me on abortion 2 to 1. I represent a Democrat seat. When I tell my colleagues on the other side of the aisle, they get shocked. My seat is 52 percent Democrat, 40 Republican. My trendy seat in West L.A., my first go-around here for 6 years, I was a congressman for not just Ronald Reagan but for Jane Fonda, Tom Hayden. They were organizing against me round the clock year in and year out. That is why I won my 51 percent, 52 percent, 53, 55. I have never hit 60; I came close 4 years ago, 60, but that was before Ross Perot organized a lot of people and did not get his target priorities straight.

Enough of the culture war. Now let me slide into part 2, what I call political skirmishes. That was a political and a cultural fight today.

Now, I faxed up to Rush Limbaugh—and I am going to be sitting in for him Christmas week, Mr. Speaker. I hope you will forgive this commercial, but I will be sitting in that chair talking to every square inch of America—Alaska, Hawaii, the great 49th and 50th States, every territory then, General Blaz's great island territory out there in Guam, the area of Mr. FALEOMAVAEGA, a great little area of American Samoa, Puerto Rico, which I hope will be a State soon, the Virgin Islands—all over there on this incredible phenomenon of Rush Limbaugh, 630 stations.

Now, I will be sitting there going over this again, but I faxed it up to him. It has to do with all the trauma and investigation of the alleged improprieties by my party in New Jersey's gubernatorial election.

Now, Haley Barbour, the chairman of our Republican Party, was here to talk to some of us today and said that it appears that not a dollar was spent to influence anybody. They have not come up with a single human being, not only not any black ministers—and we should think better of them than to think that they would take money to tell the people not to vote in these troubled times—they have not come up with a single person who has heard or who can name with an FBI anonymous name; nobody can find anybody that took any walking-around money.

So what happened to my friend, Ed Rollins? I will tell you what happened. What he would call 45 days out in the wilderness out there, he was in Texas with Ross Perot. He got to what is easy for all of us. James Carville, on the other side, has fallen victim to this sometimes; a little bragging, a little exaggerating. In this case, it seems to go way beyond exaggerating when you make something up out of whole cloth.

As Rush Limbaugh has said on the air, "Hey, go for it, try to undo the election, give more lawyers more money in the political field." I do not think it is going to work, I think Christy Whitman's victory will stand. But he understands them going after that electoral investigation where nobody was killed, nobody was injured, and they may not even find $1 of, not unethical money, because nothing is unethical in New Jersey, with this walking-around money, but even the unseemly passing of money to any reverends of any denomination of any church.

But, go for it, my colleagues in the Democrat Party. But here is what I faxed to Rush: "How about these 10 scandals"—and I am adding almost one a day as I think about this for my colleagues. What about scandals that are dragging on interminably and that would be major, huge scandals with independent counsels appointed by this Congress, with millions of dollars allocated like all these millions were squandered on this frivolous science fiction story called "The October Surprise," where George Bush as Vice President candidate in 1980 was bobbing around on an SR–71 trying to encourage the crazed Iranians to hold our hostages beyond election day so that Ronald Reagan could win. That nutty thing cost us taxpayers $3.5 million to $4 million.

Here are the ones that are out there, and I will try to make them brief: One, the House post office. I made a note next to that that there is hope that this may come to some resolution.

Two, the White House pay scandal. That is jacking up people's pay retroactively, jacking up consulting money. If that was the White House and we had this gridlock in government, believe me, Congress would be all over the White House like a cheap suit trying to get to the truth of that.

Three, the White House travel office, what the media call "travelgate," swept under a rug. Do not believe for a minute that a tall, handsome, Catholic father of three blew his brains out with an old 1913 pistol—speaking of Vincent Foster—because of the travelgate thing. There was a white paper swept under the rug. You will see that Foster comes up here later.

Now, Waco and the Branch Davidians. At least there was one M–1 tank there. NEWT GINGRICH thinks this is coming back. I do not know. It seems to me it was swept under the rug. Twenty children burned? One of my sons said to me, "Dad, little kids walk around in the adult world with their head back all the time, looking up to the big, tall adults for protection, inspiration and hope." Why did those 20 children have to burn to death in day 51 of this standoff when there was so much firepower outside this Branch Davidian Mt. Carmel compound? Where is the full, deep investigation and congressional hearings on that?

One of my colleagues here, the gentleman from Michigan [Mr. CONYERS], I was proud of him when he said he was going to get to the bottom of this. What happened to my colleague's investigation?

No. 5, Vince Foster, suicide; why? Why? Is it because of something that is coming up later?

Six, Ron Brown and the Vietnamese connection. The news magazines are already predicting, "Oh, this will all go away." This is the Secretary of Commerce, and he says he never discussed the trade implications of writing off all of our MIA's and getting in on the action, the bottom line, dealing with the brutal government in Hanoi that is still committing human rights violations every day. I am getting like a Clinton with these hands working out there in the air.

No. 7, White House health care task force meetings which were illegally not open to the public, no disclosure forms, no vouchers, no accounting, and a Federal judge has just said, "Give it to us." And there are the toughest confrontational words I have ever seen in ordering the White House to come forward, forthcoming with all that stuff.

No. 8, I read this at the opening of my special order: The AC-130 Spectre gunships were moved from Mogadishu 2 days before the Rangers and the Delta guys got there who train with them all the time. What was that all about? And the denial of the armor?

☐ 2100

I relate back to No. 4, the Waco death of 80-some people, not even one M-1 tank, not even the specially fixed up M-1 tank to pump noxious fumes out of the barrel as the Abrams systematically went around ripping the whole house apart. There are some videotapes around here of some film. I question some of the editing, but it is fascinating film that I have never seen on the news networks about what happened there outside of Waco. That is number eight.

Number nine. This may be the hottest of all. The Madison Guarantee Savings and Loan Bank in Little Rock, the White Water Real Estate deal where the attorney Power-of-Record was in a person named way back the Hillary Rodham-Clinton. You see, she used her name then. Sometime she signed it just Hillary Rodham, and then dumped it for the campaign as she took the name Clinton back for the first time in her life to win the Governor's seat back in 1982. There she is on all the documents. That is going to be fascinating.

And was Vincent Foster involved: Is this why this Christina gentleman blew his brains out, or was it just a Travelgate thing where all his friends were telling him it is a one-day story, put it behind you.

So that would be a major investigation with an independent counsel and millions of dollars put up by the House.

Then number ten. I only added this yesterday, this search of personnel files of Bush political appointees. Was this revenge for the so-called search of Clinton's passport file?

This week, Mr. Speaker, is the 24th anniversary, on the 15th or 16th, of the Clinton organizing demonstrations in England against his country's foreign policy. It would be fine if he stayed in the States to organize a big demonstration here on the 15th of 250,000 people, but after organizing it, he left for England to have the complimentary big demonstration in London in Grosvenor Square. Horses were stabbed, Bobbies were clubbed. The fight was on.

Clinton could not remember any of it until recently, and then he very cryptically said, "Well, I presented the casket to the Marines at the glass doors of the Embassy to stop the doors from all being destroyed and broken as more violent people were threatening."

Then the next day he had the prayer vigil on the 16th.

So that is 24 years and 2 days ago.

You know, this is one of those weeks where you wonder when you see the President on the news tonight, some of you will see it at 11, just wallowing in his victory that my party give him. One hundred and thirty-two of us gave him this huge NAFTA victory, saved him from what our former colleague, AL GORE, called a catastrophic devastating defeat, 102 Democrats, and there are 2 to 1 of those folks over us, and 132 Republicans, including myself, gave him this victory so he can go up to Seattle with his head held high; but I did not hear Andre Mitchell on the news talk about the Republicans gave him this chance to be the cock of the walk up there. All I heard was his reference to a bipartisan victory.

No, the majority of his own party was against him on that. That can cut several ways.

Here in the political skirmishes, I guess Oliphant is going to replace Conrad in the L.A. Times. It has Mr. Rollins, with beard, sitting on a bench with two little ministers in-between him and Mr. Clinton. Mr. Rollins is saying, "Ha, you should have seen me in New Jersey. I spread half a million of Whitman campaign funds around to suppress the black vote. Just kidding, just kidding."

And the President sitting on the other side of these two little very much in stature smaller ministers, he says, "Hey, that's what I did with NAFTA. I spread millions around in promise to Congress. Of course, I got these taxpayers' money. Just kidding, just kidding."

And here is that little Oliphant bird or duck. He said, "I take voting seriously. Just kidding, just kidding."

So the political skirmishes as a subset of the cultural war are fascinating.

Now, I knew that I would be left little time. That is why I am asking, I think it has already been filed for, a 1-hour special order tomorrow night where I will stay totally on the heroes of Somalia, Ia Drang, 1965 Vietnam, Italy in 1943. They were bogged down in the mud in the filthiest winter of all 50 years ago, the British 8th Army, the U.S. 5th Army slugging it out, the Germans fighting desperately. They were starting even to counterattack a little bit before the winter set in up in the bloodiest of conflicts in all the history of mankind, the Eastern Front where the Soviet Union lost in their conflict, not 20, but as we were told lately by Mr. Yeltsin, 30 million human beings.

The Solomons, I want to talk a little bit about the New Guinea, the Bouganville Campaign, Tarawa 1,123 Marines, sailors and Coast Guardsmen, really, taking in the landing barges.

Then I will start off tomorrow with my Jimmy Doolittle tribute, this wonderful man that God gave us for 96 years. His wife died on their wedding anniversary. What a lovely lady she was. Their 71st wedding anniversary 5 years ago. What a life he led.

And the humble title of his book, his book could have been just the word "Doolittle" and everybody would have known, but what it said was, "I never could be this lucky again." If you talk to him, what he meant by luck was his guardian angel, God, watching over him with all the scrapes he was in.

As a matter of fact, let me at least start that tonight to kind of end on a positive note, because tomorrow I am also going to talk about these hundreds of Americans who disappeared in Korea.

Let me give the title of hero. According to any dictionary, it is roughly this:

> A man of distinguished courage or ability, a man who is regarded as having heroic qualities and is considered a model or ideal.

I can think, Mr. Speaker, of yet another definition of a hero, a man whose name and accomplishments are synonymous with this one word, Doolittle, General James H. "Jimmy" Doolittle.

We all remember him as a three-star general, but he was given his fourth star in retirement, a full general.

He died September 27 at the age of 96 in Pebble Beach, CA. On Friday, October 1, he was buried among thousands of other brave American heroes at Arlington. And in a staff mistake, I missed his funeral. We were out that day. It breaks my heart to see the B-1's fly over following that beautiful B-25 Billy Mitchell, named after another great American hero, General Mitchell, who sacrificed his career. He predicted the Japanese attack at Pearl Harbor, pushing air power against the battleship admirals.

Let us briefly recount just a few of the many accomplishments of this great aviator, combat leader and a truly great American. I will just go the end of my special order talking here about Mr. Doolittle.

He was born December 14, 1896, at Alameda, CA. He died just a few miles away at Pebble Beach in his beloved golden State. Born 1896, so he was 4 years older than my dad. God gave my dad 83 years, gave Jimmy 96. Those 4 years put my dad in the trenches of Europe. When the war ended November 11, 1918, Harry Dornan was there with three Wound Chevrons, now they call them Purple Hearts.

Jimmy always hated that he missed that. He enlisted in the Signal Corps in 1917 at just 21 years of age. Though the war ended before he would see service in France, he decided to stay on as an instructor pilot, a real compliment to a guy that young.

That very same year he married his high school sweetheart, Josephine Daniels.

He keeps plugging away as an instructor, and in 1922 he flies from Jacksonville, FL, to Rockwell Field at San Diego, CA, in the first coast-to-coast flight in less than 24 hours. He did it in 22 hours and 30 minutes. That got him the Distinguished Flying Cross. We only give that for combat now, but in those days we thought there would never be another war. That is why we gave the great Lindbergh this Medal of Honor which most people get by giving their lives for their country.

In 1925 Doolittle wins the Schneider Cup Seaplane Race with a converted Curtiss R3C–2 landplane. What a gorgeous airplane. I got a whole book on these Curtiss racers at home.

Because of these and a lot of other races, the United States is able to lay the groundwork for the development of high-speed fighters, that although we got a late start, would later dominate the air in World War II, including the Lockheed P–38 "Lightning," the Republic P–47 "Thunderbolt" and the Rockwell P–51 "Mustang."

In 1928 he becomes the first pilot ever to perform an outside loop. I do not think I have ever done that. That is an extremely difficult and dangerous maneuver. you know, it is one thing to naturally take your airplane along the airflow of its lift into a loop, but to bend it forward toward the ground and come up the back side and around, I have some friends that have biplanes that can do that, but I do not think I have ever taken them up on it.

In 1929 he flies from takeoff to landing purely by reference to instruments and an early radio navigation set. This began what was to become known as instrument flight, still today a cornerstone of civilian air commerce and military flying. That would have been enough for anybody's career, Mr. Speaker, but he plunges on.

□ 2110

Nineteen thirty-two: He wins the Thompson Trophy at the national air races in a Geebee that killed a lot of good racing pilots, the R–1 Geebee racer. Sets a world speed record at 296. That is still a record for most helicopters.

Nineteen forty-two: He leads the now-famous raid on Tokyo which is hailed as both a strategic and a morale boosting, massive success.

Never before had a large bomber aircraft been launched from aircraft carriers. The Japanese, first boats it sighted, said, "There's two of our carriers."

One of the Japanese enlisted men said to one of these captains on these small boats, "Those aren't ours." He went down below deck and committed hara-kiri.

Never before had the Japanese mainland been attacked from the air. Of the 80 men on the Doolittle raid three died in the raid. My staff goofed up on this research. Four were beheaded. We lost eight overall of those courageous Doolittle raiders.

Jimmy Doolittle sat on his wrecked airplane in China after a rain storm. He said to his men, "Well, I guess this is the end of my career," but the lieutenant colonel was never to serve as an eagle bird colonel. He was promoted to brigadier and awarded the Congressional Medal of Honor.

I will pick up tomorrow, Mr. Speaker, his service in World War II and then go from Jimmy Doolittle into the heroes of what happened, what was happening 50 years ago, and close again with some mention of Ia Drang in Vietnam, how great our veterans are from that war, so disgraced and vilified over the years, but every bit the equal of the great rangers and delta guys that I saw in Somalia, and I will do that tomorrow night.

HOLLOW FORCES UPDATE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. TALENT] is recognized for 60 minutes.

Mr. TALENT. Mr. Speaker, several months ago I rose in the House to announce the formation of a committee called the Hollow Forces Update Committee. That was a committee which is going to report on the process by which America's armed services are inevitably hollowed out. Let me define once again what hollowing out the force means. It is a process by which you have a particular end strength, a number of troops, a number of sailors, soldiers, airmen and women, but you do not provide enough money to adequately fund, adequately equip, adequately train those forces, and you do not provide enough money to maintain quality personnel as you would like in those forces. So after a while they hollow out. In theory they are capable of accomplishing missions which forces of that size should be able to accomplish, but in practice they cannot do so because they do not have adequate training or equipment. As an analogy one might picture a home which on the outside looks perfectly good. It has a good coat of paint on the outside, the shingles seem fine on the roof, but, when you get inside, you see that the wallpaper is peeling, that there is no furniture or, even worse, that the plumbing is all out. In other words, it cannot do what a home is supposed to do. It is hollowed out from the inside.

Mr. Speaker, that is what is happening to America's armed services because of inadequate budgets, and the process is going to get worse as time goes on. Tonight I want to focus on a specific aspect of the hollowing out of the forces, the gutting of the modernization budget of the U.S. Army. Before I do that, Mr. Speaker, I need to digress and talk about end strength for the Army, and I will define that. End strength is simply the total number of troops or divisions that we have in the Army.

The Department of Defense earlier in the year conducted the celebrated Bottom-Up Review, a process by which the Department was supposed to look at the needs of America's armed services from the bottom up, consider what their missions were, and then report back to Congress and the President as to how much force was needed and how much was needed in funds to support that force. That is what was supposed to happen. Later on I will talk about what actually happened in the course of the Bottom-Up Review.

In doing the Bottom-Up Review, Mr. Speaker, the administration identified the mission of the Army as the ability to fight two contingency wars like Desert Storm at the same time while also maintaining peacekeeping activities in various parts of the world. Somalia is an example of that, the Golan Heights would be another, as would Bosnia, if we get involved there. That was the mission of the Army, In order to perform that mission the Bottom-Up Review reported that we would need about 10 active divisions in the Army or approximately 500,000 troops in the U.S. Army.

Recently, Mr. Speaker, the gentleman from Missouri [Mr. SKELTON], the chairman of the Military Forces and Personnel Subcommittee of the Committee on Armed Services, on which I have the privilege of serving, held a day of hearings in which the issue was whether the end strength of the Army, as projected by the Bottom-Up Review, would be adequate to accomplish that mission, which again is to fight two regional contingencies at the same time while also conducting peacetime activities. There were two panels who testified at that hearing. The first was made up of officials from the Department of Defense and active duty officers from the Army. The second was made up of distinguished retired general officers, by and large, of the Army including Gen. Carl Vuono, former Chief of Staff of the Army.

The conclusion at that hearing, Mr. Speaker, the undeniable, irresistible conclusion that I reached and, I think, the members of the committee reached was that the end strength projected by the Bottom-Up Review is completely inadequate to perform the mission that we have detailed for the U.S. Army. If one just used simple country arithmetic, one would find out that we cannot conduct two Desert Storms at the same time we have peacekeeping troops committed everywhere in the world. In fact, we probably cannot do it even without the peacekeeping forces.

I am not going to go into a great deal of detail on that. I want to discuss tonight two aspects, two of the mistakes which the Clinton administration makes in believing that 10 active divisions are adequate to perform these missions. These were detailed by General Vuono in his testimony. The first is the mistake of believing that troops detailed anywhere in the world can be picked up and quickly deployed anywhere else in the world and that in doing that we can count those troops toward the number of men that are needed in order to fight the two regional contingencies. General Vuono stated that this is simply impossible to do because of the logistics of moving troops and because of the necessity to retrain them. The peacekeeping troops are a classic example. We have troops in Somalia peacekeeping there. To move them to Korea, for example, or even to the gulf to take part in a battle would require picking them up, getting them out of Somalia, and then getting other allies to come in and take over the responsibility for peacekeeping there. We would have to take them someplace and retrain them because what it takes to do peacekeeping is very different from what it takes to fight a battle, and soldiers who have been used to peacekeeping and have been most recently trained to do that cannot easily move over into battle. If we move them directly into battle, they are not adequately trained, and we suffer an unnecessary amount of casualties. After we get them retrained, we have to go through the logistics of getting them back into the battle.

So the mistake that the Department of Defense and the Clinton administration is making is in counting peacekeeping troops toward the number of troops that they have available to fight the regional contingencies. We simply cannot do it.

Another mistake that was made and that will lead me into my subject for tonight is counting on force enhancements that are not presently developed and procured by the Army. Force enhancements are another word for modernization, and what the Department of Defense is doing in the Bottom-Up Review is saying,

> Look, we only need ten active divisions because we are going to bring on line modernizations, new weapon systems, new intelligence gathering systems, that will make each soldier so much more efficient, that will pack so much more firepower into each soldier that we do not need as many people.

In theory that will work. There is a question whether in practice we can cut things that fine. In theory it will work.

□ 2120

But it is absolutely essential that you already have the force enhancements before you draw down the troops in reliance upon the enhancements. You see, what the Clinton administration is doing is they have got the cart before the horse. They are saying we are going to draw down the number of troops to 10 active divisions, because we know that down the road we are going to have new helicopters, new modernization, which will enable us to make do with fewer numbers of people.

Again, in theory, that will work. But you have got to have the enhancements on line before you reduce the troops. It is a classic mistake to bet on the come, that you will get those enhancements and that will enable you to function with fewer people.

That leads me into my main subject for the evening, Mr. Speaker, because even that theory assumes that we are going to get the enhancements. And yet what is painfully obvious, if you look just at what has happened to the Army modernization budget this year, is that the Clinton administration is gutting that budget. The Army will not be able to modernize in even the minimal way necessary in order for it to perform its functions.

What is modernization? Again, very simply defined, modernization is a process by which the Army is able to function with fewer people because it is able to pack more firepower into each soldier. Modernization improves the Army's ability to move people. It improves its ability to coordinate the forces that it has. And by doing that, it is able to make do with fewer people.

Why is modernization necessary now? Well, I will be hitting on this several times this evening. But it is necessary for essentially two reasons. The first is that if we are to accomplish the mission of the Armed Forces with a much reduced Army, you have to be able to do more with fewer soldiers. And the only way to do that is to improve their technical capabilities.

The other key aspect of modernization, and everyone must keep this in mind, is that modernization saves lives. If the Army is to be able to perform its functions in the future, in battles like Desert Storm, it must be able to inflict casualties on the enemy at much, much greater numbers than it takes itself. It must be able to inflict casualties at 5 to 10 times the rate that it suffers. Otherwise, we simply are not going to be able to accomplish those missions, and, of course, what is most tragic, is that we will unnecessarily lose American lives.

So modernization is again the process of acquiring new weapons and information systems which permits the Army to function with fewer people, and, most crucially, with fewer casualties in the event of armed conflicts.

Before I get into the budgets, I want to go through the five principles of modernization that the Army is following.

The first principle is projecting and sustaining the force. The Army needs to be able to modernize so that it can better project and sustain the force. That is simply the process by which it moves troops to the location where they are going to have to be deployed. That means lift, airlift, typically. Projecting and sustaining also means moving soldiers more efficiently and more quickly and more exactly after they are deployed.

Projecting and sustaining also means enabling soldiers to carry more firepower, so that the Army does not need as many people in that particular area. That is projecting and sustaining the force.

The second key area of modernization is in protecting the force. In thinking about this, Mr. Speaker, we only have to look back to Desert Storm. What was the major threat to our forces deployed there? The major threat was long-range missile firings—the Scud missiles that Saddam Hussein had.

They did not have to be very accurate. He just launched them. Launch enough Scud missiles and you get a hit and kill hundreds of our soldiers.

The next Saddam Hussein, Mr. Speaker, will load up on Scud missiles. He will have three or four times what the last Saddam Hussein had. And so it is a key function of modernization, a key aspect of it, that the Army be better able to know where those threats are. It has to have the intelligence to be able to find those long-range threats, and then smart missiles, smart weapons, so it can seek them out and destroy them.

The third aspect is winning the information war. That means improving Army intelligence so that it knows what is going on in the battlefield, while at the same time it is rendering the opponent blind. In other words, it cuts off the opponent's intelligence so that he does not know where his forces are, and at the same time improves its own intelligence so the Army knows where its forces are, its tanks are, and is better coordinated.

Intelligence is key to every aspect of these modernization categories.

The fourth is the ability to conduct precision strikes. This is the ability to identify threats that are long range and knock them out without actually having to put our soldiers in harm's way. This means good intelligence, so you can identify targets when they are miles away, and then precise weapons so that you can line those targets up and hit them without putting our people in harm's way. Again, precise striking allows you to make do with fewer soldiers, and we hope and pray, with fewer casualties.

Finally, the last category, dominating the maneuver battle. This is again very dependent on better technology and better intelligence. If you know where the enemy's forces are on the battlefield itself and, equally crucial, you know where your own are, you can coordinate them more effectively.

Here is an example of that. If a tank commander has, let's say, 50 tanks under his command, with today's intelligence, he probably is doing very well if he can get 35 of those tanks engaged in 1 battle, because he may not know exactly where they are, and he may not be able to coordinate them properly.

With better intelligence, with digitized real time intelligence, so that our commanders know where our forces are and the enemy's forces are, and not an hour later but knows where they are and exactly when they are there, with that kind of intelligence you can get all the tanks coordinated into the battle, and then you need fewer tanks. Instead of needing 50, you only need 35 or 40, and you can make do with less. And it is the same thing with infantry. Of course, our soldiers are less vulnerable at the same time.

That is what modernization is. That is why it is absolutely key to performing the mission that we have set for the Army and absolutely key to doing it with fewer casualties. In fact, that is the point of it, to save lives.

What has happened, Mr. Speaker, to the modernization budget of the U.S. Army in the last 11 months? This graph shows it better than I can say it.

When President Bush left office, Secretary Cheney had signed off on a $68.10 billion modernization budget for the U.S. Army over the next 5 years.

President Clinton presented a budget in February 1993 that cut approximately $6 billion off of that modernization budget for a total of $62.52 billion over the next 5 years. But the budget went down further after that, and here I must link this process up with the bottom of review that was going on at the same time.

The bottom-up review, which I described before, of the Department of Defense, began approximately in the spring, after the budget had been approved for the next 5 years, at $62 billion.

Again, the point of that bottom-up review should have been and ostensibly was to identify the needs of the U.S. armed services, including the U.S. Army, and then to tell the President and Congress what those needs were and how much money would be necessary to fund them.

The point was not to have a budget number at the beginning and tell the service what that number was and then ask them what they could buy with that number. But that is exactly how this process was conducted. Because while the bottom-up review was going on, before the Army could present what it really need as a modernization budget, it was told how much it could spend. And, in fact over an additional $10 billion was cut out of the modernization budget from February through September 1993.

In April, the Army was told to cut another $2.7 billion out of the modernization budget for fiscal year 1994. In June they were told to cut another $9.8 billion over the next 5 years. And there were further rounds of cuts and negotiations. And eventually, over an additional $10 billion was cut from the Army modernization budget, leaving a budget for the next 5 years, as of September 1993, at $51.75 billion, or 25 percent less than the Army had been allowed only 10 months before. And remember this is in a crucial, absolutely crucial aspect, of the defense budget, if the Army is to accomplish its mission while saving the lives of its soldiers.

Mr. Speaker, what have those budget cuts actually meant in terms of programs that have had to be canceled? There have been dozens of modernization programs cut or substantially degraded, substantially reduced, as a result of these modernization cuts over the next 5 years.

□ 2130

I do not have time to discuss them all, but to highlight it, I want to discuss three of them tonight.

I talked about the five subareas of modernization: protecting and sustaining, protecting the force, winning the information war, precision strikes and dominating the maneuver battlefield.

I want to discuss three particular systems that are substantially degraded or going down altogether because of these modernization cuts.

The first is the Black Hawk helicopter, which is a key program to protecting and sustaining the force adequately.

The Black Hawk helicopter replaces the obsolete Vietnam era Huey helicopter. It can transport troops into battle and defend itself. It has more firepower than any other helicopter of its kind. It can carry four times the payload of the Huey. Now, why is that important to protecting and sustaining the force?

Because the faster you can get soldiers around in a battle area, the more firepower they can carry themselves and the less vulnerable they are when you are deploying them, the fewer people you need and the fewer casualties you are likely to suffer. Losing the Black Hawk means losing more American soldiers than you need to in a real battle.

The Clinton modernization cuts means the Army will stop buying Black Hawks in 1996, leaving the Army 557 helicopters short of what they had estimated to be their requirement. Again, I emphasize, this budget cut was not made because the bottom-up review produced a considered opinion on the part of the Department of Defense that they, for some reason, did not need these 557 helicopters. This cut was made because they were given a figure, apart from any estimation of need, and told to meet it in their budget cuts.

The next area is protecting the force. No more important area of modernization. This is the process, again, by which the Army protects its soldiers, our soldiers, our fighting men and women from long-range threats like missiles.

The Avenger is a key program in protecting the force. It provides air defense to ground troops. It protects against hostile aircraft and cruise missiles, and it is easily deployable. And it provides reliable protection for early entry troops. These are the troops who kick the door open, who go in initially when the situation is the most volatile and the least under control.

The Avenger is basically a missile which you can load up on the back of a vehicle. It is very easy to deploy. It has the most up-to-date technology, and it will protect our troops on the ground from aircraft, low-flying aircraft or cruise missiles.

The Clinton modernization cuts mean $338 million taken away from the Avenger, leaving the Army 130 units short of the requirements. Again, not as a result of a considered decision that they did not need as many or a decision to revise the missions so that the Army would not be entrusted with so many missions, but simply because they were given a budget number and told to meet it.

We have one more example I wanted to give, Mr. Speaker.

The Javelin, which is a key program in dominating the maneuver battlefield. Again, I discussed that before. That is the process by which the Army knows where its forces are and where the enemy's forces are and is able to coordinate our forces better so that it can get more people into battle and, at the same time, protect them, keep them from being killed.

The whole point of modernization, again, is to save American lives. The

Javelin is a shoulder-carried antitank system, which provides a revolutionary leap-ahead capability for our American soldiers and marines, especially those responsible for early-entry operations.

It is a shoulder-carried antitank weapons system. It allows troops to fire and immediately take cover. Anybody can understand the importance of this. Right now the antitank shoulder-carried weapon that is used is the Dragon. And among the Dragon's drawbacks is the fact that when you fire it, you have to guide it into its target.

Well, this is a battle situation. In order to fire the Dragon or any of these antitank shoulder-carried weapons, you have to move out from behind cover and fire. If you have to guide it in with the Dragon, it means you are remaining without cover. And you are vulnerable to being shot yourself, by a tank or by other infantry.

One of the key features of the Javelin, is that it allows soldiers to fire and forget, to fire and immediately take cover, which will cut down on casualties. And again, these are for early entry troops, the kind of troops who kick the door open in very volatile situations.

The Javelin would replace the obsolete Dragon, which is becoming increasingly ineffective and has only one-half the range. The further away you are from your target, the less vulnerable you are.

What about the Clinton modernization cuts? They take $834 million from the Javelin, leaving only one-third of the early entry, first-to-fight corps with this technology. Two-thirds of the soldiers we will expect to go in and land in hostile combat situations will have to use obsolete antitank weapons instead of one that would protect them and make them less vulnerable to becoming casualties.

What do these modernization cuts mean for America? They mean an American security which is less safe and less protected than it otherwise would be. And here it is important to remember, Mr. Speaker, that our armed services have two objectives.

One of them is to fight battles when they actually happen. But the other is to deter battles from ever happening.

Think of the analogy, if you have a big forest and you had a bunch of arsonists loose in the forest, the Saddam Husseins of the forest. And they like to start fires. But if they know that somebody is there and can put the fires out while they are still sparks, they are less likely to try and light the forest on fire in the first place. If they know that they can get a big fire going before somebody comes in, then they are much more likely to start the conflagration in the first place.

So it is absolutely vital that our armed services remain strong, not just to fight battles but to deter battles from ever happening. These cuts in the modernization budget of the U.S. Army, make America less secure and our allies and our interests less secure in the world also.

And even more tragically, these modernization cuts mean imperiled American lives. Mr. Speaker, I think that the U.S. Army will win in almost any situation eventually, because of the dedication and ability of our soldiers. But what will the cost be? Modernization not only ensures that we will win in situations where it is absolutely imperative to American interests that we win, but it ensures that we can win with the least loss of lives. That is the whole point of modernization—to allow us to defeat the enemy at casualty rates of 5 to 1 or 10 to 1 instead of 2 to 1 or 3 to 1.

It is very important, Mr. Speaker, that all of us in the Congress and in the executive branch avoid the temptation to think of our All-Volunteer Force as expendable. These people sign up, and they know what they are getting into; and it is all too easy and yet wrong for us to think of them as mercenaries whose lives can be put easily at risk and who we can put into any situation without very much regard for their training or for their equipment.

We have an absolute responsibility to provide them with what they need, if they are to do what we call on them to do.

In conclusion, Mr. Speaker, I want to make two points. I want to first of all quote a distinguished Member of the other body, Senator McCAIN, who produced a hollow forces report earlier in the year. He said, "It is not the politicians or the accountants who have to pay for hollow forces. It is the men and women of the armed services who go overseas to engage in battle on behalf of the United States and do not return."

I would also like to recount a story from a hearing of the Armed Services Committee earlier in the year. As a new member of the committee, this was an experience that had a profound effect on me.

Some retired officers were testifying. The issue is not really that important, but they testified passionately. They felt strongly about it.

Then they looked at the committee members up on the dais.

They said, "You know, being in the armed services is a sacrifice, but it is one that we gladly make. We sign up. We know what the life is. We are willing to endure the hardship for our families."

☐ 2140

"In fact, we love it. We know it is necessary to put our lives on the line." but then he said, "We count on you to protect us. We count on you to provide what we need to do what you have asked us to do."

That kind of statement should have a profound effect on all of us, Mr. Speaker. I do not believe that the trend toward hollowing out the forces is inevitable. I think there is still time to turn it around. I voted for the 1994 defense authorization bill, not because I was satisfied with the numbers in that bill, but because I believe people on both sides of the aisle on the Armed Services Committee are acting in good faith in difficult budgetary situations, and I believe there is still time to turn these trends around.

We still have a couple of years of grace left, maybe the rest of 1994 and part of 1995, before the force is hollowed out to the point where it will be very difficult to turn it around except with extraordinary effort and extraordinary expenditure of funds.

If we get to 1996 and 1997 and we have not availed ourselves of the opportunity to provide our soldiers with what they need, we will have abdicated on our primary responsibility to the country and also to the men and women of the American armed services.

I would put it this way, Mr. Speaker. In 1993, and now it looks like unless we do something differently, in 1994, we are sowing the wind for American security and for the men and women of the American armed forces. By 1996 or 1997, we will inevitably reap the whirlwind.

STATEHOOD FOR THE DISTRICT OF COLUMBIA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the District of Columbia [Ms. NORTON] is recognized for 60 minutes.

Ms. NORTON. Mr. Speaker, I have been coming before the House in a series of remarks designed to familiarize the House with conditions affecting the policy of the District of Columbia, about which most are unaware, and I do not blame my colleagues for being unaware. After all, the District of Columbia is a local jurisdiction, a district that is nobody's district but my own. Its internal affairs are no more familiar to my colleagues in general than are the internal affairs of the State of New Mexico or South Carolina or the State of Michigan or Washington State. Therefore, when I have spoken up for statehood for the District of Columbia I do not expect that instantly Americans, and not even my colleagues, will understand why such a request would be made by a Member of this body, a request to convert the neighborhoods of the District of Columbia, not the seat of government, but part of what is now considered the seat of government, into an independent State. What a strange idea. What would lead a perfectly sane Member of Congress, the Delegate from the District of Columbia, to make and offer such a proposition? I mean to indicate why this evening, Mr. Speaker.

Some of the Members may remember that we have recently gone through an appropriations battle over the District of Columbia. When the matter came before this House, it took up the time of this House, just as the defense appropriations, which my colleague has just spoken about, took up the time of this House, or the agriculture appropriation took up the time of this House, or the Health and Human Services budget, the largest in our country, took up the time of this House. This, mind you, is the smallest appropriation.

What most Americans who watched this battle did not know, Mr. Speaker, was that this was not your money, my colleagues, this was not the money of the United States of America, my colleagues. This was the money of the residents of the District of Columbia, paid for by District taxpayers, by District businesses.

What was this appropriation doing here in the House of Representatives, where only Federal matters are to be discussed? At the time of home rule, Mr. Speaker, there was included in the bill what you might have expected, to transfer all Federal jurisdiction to the District of Columbia. But in the haggling over whether or not to treat the residents of the District of Columbia the way we treat our other Americans, the Congress kept unto itself what no legislature has the right to keep unto itself, the right to say how local tax moneys shall be spent, when this body is not accountable to those from whom that money is raised.

If you will recall, it was that abuse that produced the United States of America. It was not freedom, it was not democracy, it was that the Crown, the British Crown, insisted upon taxing its subjects in America without giving them fair representation.

Who would have thought that 200 years later, the Congress of the United States would be guilty of the very same abuse, taxing people for whom there is no representation, or at least no full representation in this body, and worse, taking their own money, because most of the budget of the District of Columbia does not come from the Congress of the United States. Yet the Congress of the United States has the last word over how the budget will be spent. Even the King of England did not do as much.

Yes, my constituents want to become a State, but mind you, we have tried other routes. We have tried half loaves, for example, such as the attempt in the 1970's to get full voting rights in the House and Senate, and thank you, Mr. and Mrs. America, we got 16 States out of the 38 that were needed. Still, it would have been a partial loaf, because we would have had full representation here in the House and Senate, and yet the House and Senate could have done and would have done what it did a few weeks ago, and that is to decide how the residents of the District of Columbia would spend its own money. That part would not have been remedied by the voting rights amendment that was processed, but failed in the 1970's.

We have tried to gain gradual home rule. Let me say to you, Mr. Speaker, that those who oppose statehood but say, "By the way, we are for democracy. We will find some other way to bring democracy to the District of Columbia," those same Members, many of them from the Republican side of the aisle, have opposed each and every attempt to increase home rule and democracy short of statehood.

So, for example, instead of debating the internally raised budget of the District of Columbia here, for years we have proposed that that portion of our budget raised in the District of Columbia be subject only to D.C. public officials.

□ 2150

And let me tell you, Mr. Speaker, each and every time a budget autonomy bill for the District of Columbia comes before the District Committee, the members on the Republican side of the aisle vote against giving us exclusive jurisdiction over our own money. So much for your claims that you want to bring democracy to the District of Columbia. Give us then control over our own money.

That is not statehood. How can you possibly be against that?

Or what about the 30-day layover period? Try this on for size, my colleagues. My counsel passes a bill. It can be as large as its budget or as small as an alley closing. But that bill must come here for the 30 days, if it is a civil act, and 60 days if it is a criminal act to see if some Member of this body wishes to rise and undemocratically overturn the elected will of the residents of the District of Columbia.

And so we have said surely no American can justify that.

Let our laws become law without coming here the way they do in the 4 territories, the way they do in the 50 States, the way they do in every town and every city and every country and every State. And when our bill asking for elimination of any layover period for bills passed by the City Council, when our bill comes before the District Committee, each and every member on the Republican side of the committee votes against expanding home rule.

Is it no wonder that the residents of the District of Columbia are enraged? On the one hand there are Members who do not want to give us full equality with other Americans through statehood, and on the other hand these same Members do not want to give us partial equality by allowing us to have the final say over our own money and our own laws.

Who in this body, Mr. Speaker, would tolerate that? Stand up so we can see who you are. No one in America should tolerate that.

And I want to put this body on notice. We are not going to continue to tolerate it. It has got to fall. Slavery fell, restrictions on voting to white men failed, discrimination in the United States of America fell, and the outrageously undemocratic treatment of the capital city of a free Nation, that outrageously undemocratic treatment, it too shall fall. I only hope that you, my colleagues, are a part of this body when it falls, and that you can participate in the action that drives into history the notion that any part of America would have citizens declared unsuited for self-government.

Mr. Speaker, it was an experience to hear Members rise and declare that the Constitution of the United States gave them the authority to deny democracy to the residents of the District of Columbia. It just flowed out of their mouths. Had those words flowed from the mouths of Soviet dictators, my colleagues would have taken to the well to decry the outrageous notion that there were people who were not ready to govern themselves, or that there was any document, and certainly the extraordinary and cherished Constitution that could be used as the authority for saying that the Founders did not intend the residents of the District of Columbia to be equal to the residents everywhere else. Put that out of your mind, Mr. Speaker. The Framers did intend the Congress to have exclusive control over the seat of government, but in order to maintain a seat of government the Congress does not have to exert undemocratic control over the neighborhoods surrounding the seat of government. It can reduce the seat of government to a size sufficient to protect our cherished institutions and liberate the neighborhoods so that they can be like all other parts of our great country.

Do not cite the Constitution, my colleagues, ever for propositions that ring in tyranny. That does not resonate. That is a form of civic sacrilege when the names of the Founders are called down in that way. Citing the Constitution in that way is like the devil citing the Bible, yet I must say that too does occur, that too does occur.

I cannot say at this time because a final decision simply has not been made, whether I shall ask the Speaker to allow me to go to the floor for debate and a vote on statehood for the District of Columbia. I have not decided because the counts are still being taken.

I say to my colleagues when your colleagues come and ask you will you vote as a matter of principle for statehood for the District of Columbia, I hope you will say yes. I ask you to say yes. And I ask you to say yes not because when we look up at the lights I can tell you that there will be at least 218 of you, a majority of the House who will say yes, I ask you to say yes in our whip count as a matter of principle.

Yes, at some point I will seek a vote on the House floor, because you cannot continue to struggle in this way without coming to cloture on a vote at some point. The reason I would want a vote at some point is quite simply because it is virtually the only way to help our colleagues and our country understand the seriousness of the condition of the people of the District of Columbia, left completely outside in some kind of antidemocratic netherland. If the House can debate and vote on statehood, surely this is an idea worth the notice of our country, so a vote has become necessary. Whether it will occur this session, this year, next year, it has to occur. And I know that it will occur before we get close to a majority vote, but it must occur.

Last week I wrote to my constituents because I insist that they not be patronized. For me statehood is not some campaign slogan, some political notion to bandy around, some chant to shout. It is a responsibility that I have as the Member from the District of Columbia.

□ 2200

And so if I am considering something as serious as asking for the first vote on statehood for the District of Columbia in more than 200 years, I said to myself I ought to let my constituents know what my thinking is, because when you ask for a vote when you know you do not have a majority, there are benefits and there are risks. The benefits are clear.

We need to, as residents of the District of Columbia, at least understand what our options are. We need to see what we have to do and how far we have to go.

We, after all, have struggled for more than a dozen years here. If we have a vote, we will have some sense of what we have to do to bring us closer to statehood, and we will look seriously at all our options.

I am not unaware of what I am doing. I have read deeply on the history of States. Our most recent States took a very long time to become States: Hawaii, 56 years; Alaska, 41 years.

Our country, even for territories in the middle of the country, always had difficulty admitting States, frankly, for partisan reasons, but after all, the partisan, the political can never be shut out from a decision of this kind. But I must say to you, Mr. Speaker, there was never a territory that at the moment it asked to be admitted to the State already was paying Federal taxes to the Federal Treasury except one territory, and that is your Capital city.

You begin to pay taxes once you become a State in order to keep faith with that heritage, that great forming principle without which there would have been no United States of America, the principle of no taxation without representation.

There is but one territory of the United States in the whole history of this country that has been subjected to taxation without representation by the Government of the United States. I do not refer to the Crown of England at this time. Even the four territories pay no Federal taxes to the Federal Treasury.

This is an abuse and an anomaly, the status of the District, that is, that has to be cured if we are to hold our heads up much less try to justify such an exception to principles born with the Nation itself.

But I said to myself, as I think through the notion of whether to ask for a vote on the House floor, very few people know what is in my mind, and so I wrote my constituents a letter to talk about what was on my mind and what the factors were that would guide my decision.

If an unprecedented floor vote would help to educate my colleagues and help make the country and the world understand what our political condition and burdens were, there would always, as there are today, be risks associated for going for a vote when you do not have all the votes.

The District of Columbia at the moment is a city, and a large one, and there is no large city which is not now the victim of terrible crime and fiscal problems. We have not recovered, this city, nor many others, from the last recession. Recovery has been slow.

The difference between the District of Columbia and other cities is one, that is, that Members live here, and Members will be more critical of the District of Columbia than they are of the cities from which they come which are experiencing the very same problem. And so inevitably there will be District-bashing if I go for a vote.

There are Members who delight in pointing to whatever difficulties the District of Columbia is having, as if that could be a reason for denying residents their democratic rights.

The last time I heard, there was no test you had to pass before you were entitled to your democratic rights. I thought that was what this country was all about, and yet a Member was on the floor during the appropriation debate and said that he thought that home rule ought to be taken back from the District of Columbia. That was said in this Chamber, Mr. Speaker. That was said in the United States of America, Mr. Speaker, that the right to govern themselves ought to be taken back from the District of Columbia.

What my colleagues have to explain is why it took them to 1973 to give the District of Columbia the right every American citizen deserves in the first place. Don't you dare talk about taking back anybody's democratic rights, and certainly not any American's democratic rights. Do not talk about taking back democratic rights in China, in the Philippines, in Europe, or in Latin America, and certainly do not talk about doing it here in this country.

This country has led the fight to expand democratic rights. Do not defile our principles by suggesting that any rights we now have could be retrieved by this body or any body which, after all, was never entitled to sequester our rights in the first place.

Last year I sought a vote on the House floor, but then asked for a postponement. I did so in part because there were problems in this city, but, frankly, I did so because there were problems in this House as well. Last year was the year of the House bank when Members feared for their political lives, and I feared that Members would be fearful of voting even for a proposition such as one that said that motherhood is a good thing. So I said I would try again in another year.

This is another year, but I cannot in all candor say to you that the city or the country looks much better than last year. The economy still has not entirely recovered. Crime has spread through every hamlet of our country, it would seem, and certainly through every large city.

So that in making this decision, one thing I am not going to do is to assume that I can control events or that I should succumb to the notion that a vote for statehood should be conditioned on a Member's view of the District of Columbia.

I must say to you, my colleagues, you come from places and under circumstances where you would not now be a State if you had used the standard on yourselves. Let me prove that proposition.

Alaska, the arguments were made time and again in ways that resonate to the District-bashing I hear: Alaska's population was too small for statehood; the sources of revenue were not certain enough; there was too much Federal land.

Members from Arizona, you came into the Union in 1912. It took you 19 years.

These are the kinds of things they said about you: Indian uprising, and that is the functional equivalent of crime today; the Territory was said to lack sufficient resources to sustain a self-government. Oh, my, over and over again, the arguments come, and yet we admitted Arizona.

And, Colorado, watch out. They said the Indian wars were there. We did not want you in this United States of America, Indian wars.

□ 2210

Indian wars, the version of a crime epidemic; border disputes with Canada;

the State would have a disproportionate share of influence in Congress because of the size of its population.

Watch out, Florida: prosperous Florida, into the Union in 1845, took you 7 years; big fight in the Congress. Many said those Indian wars, "We don't want you in here," the functional equivalent of crime. Population too small. Florida now one of the most populous States of the Union. Glad you got in, glad that our vision was broad enough to see the great potential of Americans everywhere.

Oh, Hawaii, did they give you a hard time; 56 years of trying and almost every argument against admission was raised against Hawaii. That is, the small size of the territory, the racial composition of the Hawaiians, and the fact, of course, that Hawaii, you look very different because you are after all not contiguous to the territory. There were supposed to be Communists out there, and yet Hawaii was admitted in 1959.

It first applied for statehood in 1903.

Now, New Mexico: Oh, my, what they said about New Mexico. There were said to be land titles that were disputed, Spanish and Mexican land titles; Indian uprisings, again; the Spanish language. Oh, my, we must not have a State where everybody does not speak English.

Is it not interesting that it took 61 years—New Mexico. It looks like the more a State does not look like the rest of the States the longer it takes the State to get in.

New Mexico, Hawaii, the District of Columbia, we look a lot different too. Some 70 percent of us are African-Americans. We come from a city and would be a city-state.

Heaven help us, many of us are Democrats, thus the partisanship is on the very surface; not even hidden. Republicans deny us home rule, not just statehood; Democrats, some Democrats, a number of Democrats acting like Republicans, even though they imagine we too, if we enter the Union, would be Democrats. Totally partisan considerations, leaving aside the principles mouthed in this Chamber every day about freedom and democracy and our superiority as a society because of it.

South Dakota, it took South Dakota 6 years. The population was said not to be large enough; disproportionate influence in the Congress. But admitted, nevertheless, in 1889.

Oh, Utah, Utah, Utah, what a hard time you had, Utah; opposed straight out because of the Mormon religion. The population of the territory was said to be too small and the State would have a disproportionate share of influence in this House and in the Senate, given its population.

This beautiful State, it took you an awfully long time, almost 47 years, the manifest destiny notwithstanding; the notion that if you are in the territorial United States, somehow or another you are going to become a State, and that did not happen nearly as quickly as one would have thought. That is one reason, Mr. Speaker, that opposition to the District of Columbia leaves me undaunted, when I see States located where one would assume they would almost have to get into the Union. When I see what a struggle it was for them to take their rightful place, I am no ways tired, no ways tired as the spiritual says.

I know this will happen. I know it will happen in good time. Mr. Speaker, let me say it will happen, not in 46 years or 61 years; it will happen far sooner than the pessimists predict.

Mr. Speaker, the pattern is clear, and we fall straight into the pattern; the pattern of partisan opposition to a newcomer in the Union. It is awfully comfortable the way it is for those on the inside. Well, Mr. Speaker, the difference between the others on the outside and us is that you have extracted from us the same things you extract from yourselves on the inside. If we did not pay taxes, that might be something else, Mr. Speaker. But I bet if I were to put a bill before this House tomorrow asking that the District be exempt from taxes because we have no representation in the Senate and not full representation in the House, I bet you, Mr. Speaker, that I could not command a majority for that proposition though it flies in the face of every American principle to extract my taxes and not give me full representation in the House and in the Senate.

I bet you, Mr. Speaker, that there would be no vote where I would immediately command a majority for that proposition.

You cannot have it all ways, both ways, and every way; you cannot run around the world saying, "Democracy or nothing," without starting at the seat of Government in this Chamber, in this place. And I am asking, Mr. Speaker, that people cast a vote on principle for statehood for the District of Columbia should a vote be allowed in this Chamber; cast a vote for principle. It will not hurt you, it will not hurt those whom you represent. It will hurt us if we do not make a good showing, it will encourage us if we do. And think, as you consider the proposition of statehood for the District of Columbia, think about the history of your own State, I ask you this evening. Think about Michigan and Wisconsin and Minnesota, whose admission was held up because they gave aliens the right to vote; think about Louisiana, California, and Oregon, whose admission was held up because they were not then contiguous with the rest of the United States; think about Texas, whose admission was held up on the theory that Congress had no constitutional authority to admit a foreign nation.

□ 2220

Texas, what could be more American than Texas today, but then it was argued Congress did not have the authority to grant Texas admission.

Finally, though, by a majority vote, Texas was admitted in 1845.

Mr. Speaker, do you know that most Americans probably could not pass a civics test that asks them what does it take to get a State admitted to the Union? What it requires is a vote of the House by a majority, a vote of the Senate by a majority and the signature of the President of the United States, like any other bill. In that manner, each and every State has been admitted. Yet there are some who would say that the District of Columbia has to be admitted by a constitutional amendment.

I submit, Mr. Speaker, that if the District of Columbia is admitted by a constitutional amendment, that is unconstitutional, because that is not the process described by the Constitution of the United States. That is not the process by which each and every State has been admitted.

Some say that they are not sure, for example, that West Virginia is legally admitted even today. You will remember how we got a West Virginia. It broke off from Virginia in the middle of the Civil War. After the Civil War, the State of Virginia, of course, was a Yankee State of Virginia, so to speak. In any case, that Virginia ratified or consented to the formation of West Virginia, which of course had already broken off; but when old Virginia came back, they said, "We didn't consent to any such thing."

But would anybody suggest today that West Virginia should not be a free and indepdendent State of the United States of America?

Oh, the list is long and there was hardly a State that did not come in without a great struggle, Mr. Speaker.

President Clinton comes from Arkansas. Arkansas had a very hard time. It was said to be very poor and thus inevitably to become a drag on the U.S. economy. It was very poor then. It is very poor today, and yet I do not believe there is an American who would not want Arkansas, the home of President Clinton, in the Union.

Oh, but did they talk about Arkansas. At that time there were still duels, fighting and brawls involving elected officials, yet they had the temerity to want to become a State with all of that going on. Yes, they did become a State.

Mr. Speaker, while I mention Arkansas, do let me be clear that the President of the United States supports the admission of the District of Columbia as the 51st State, the State of New Columbia, and has said so and has repeatedly said so and has told me that he will be sending a letter to Members of the House to that effect. He just figured it out. He paid some considerable attention to the proposition in the way we have come to expect of him and says that he simply cannot justify today, if you ever could, any Americans who are less equal than other Americans in the civic recognition.

Too late? Perhaps you could rationalize it at some other period in American history. After all, we have rationalized all manner of lack of freedom.

As an amateur historian, one who studied history in undergraduate and graduate school, I have never believed that those of us who come in one era can be morally superior by requiring the people who lived earlier to observe the principles that we now observe, so that tough I am an African woman, I have read deeply enough in history to have an understanding of why some would have treated people of my race and my sex as they did. I have an understanding, even though I concede that I cannot embrace or ever justify what was done, but I know that I cannot superimpose the principles of 1990 on 1890 and expect it all to look the way it looks today, because in fact we learn from history and we learn as each day goes by and we see the meaning of oppression and people organize to overthrow oppression.

So I cannot understand, at least as an objective historical matter, that it might have been possible to be sane and to believe in democracy and believe that the District of Columbia could be governed by Congress and by a Commissioner.

I know that the Framers were very troubled by this. They thought they had to have an independent piece of land. They thought that the Congress would find a way to democratically govern that land. They really believed it. It was what they hoped.

As time went on and it became clear that Congress was in fact governing this territory, even though people did not have their full rights, people became troubled with it, but yet it was not until 1973 that something was done about it.

My colleagues, my fellow Americans, did you know that it was not until 1964 that the residents of the District of Columbia could vote for the President of the United States? Understand that all of this time, all of these 200 years, we were paying the same taxes that you pay. How many of you would condone that? No, none of you would condone that for your people. Do not expect me to condone it for mine.

Whatever has been the past, our country is a great country because it discards what is wrong in its past. I cannot say that of every country. Most countries have discarded what was wrong in their past by bloody revolution.

There is only one thing that was wrong in our past and it had the same effect, and that was, of course, the Civil War. We were unable to dispose of slavery peacefully, but the great test of this country is that it used law, it used the Constitution to bring freedom, not the gun.

Well, the residents of the District of Columbia ask you to use that same law to recognize our full equality as American citizens.

Late though it be, it is not too late. It must not become too late.

I do not know whether a vote on statehood for the District of Columbia will occur this session. I do not yet know. I do know that we are taking a count. I do know that we do not expect that we will have anything but a base line vote if we take a vote.

□ 2230

We are not crazy. I do know that, if it took New Mexico more than 50 years, if it took Hawaii and Alaska more than 50 years, that we cannot expect the first year we want to vote to be into the Union, but we can expect that those who believe in democracy, those Members of this House who believe that all citizens are equal, will cast a vote for statehood for the District of Columbia. It will be a vote on principle if we vote. It is only that vote on principle that I ask tonight.

It may be that there will not be a vote, in which case I say to my colleagues, if you want to register how you feel on principle, you will have to do it in some other way such as allowing the District laws and elected officials to lie in the District of Columbia, not here in the House. There will be other opportunities. But if the opportunity should come to vote on statehood for the District of Columbia, even if you have doubts, I ask you to vote "aye" because those doubts should not keep you from at least registering your principled view that all Americans should be treated equally as citizens.

Mr. Speaker, that is all the vote will mean. It will not mean that the District of Columbia will become a State. It will only be a vote for the principle of equality of citizenship when there is equality of burden of citizenship, and I ask my colleagues not to vote "no" on the proposition that democracy should apply to each and every American.

So, Mr. Speaker, if one of our colleagues comes around tomorrow and says, "If there were a vote on statehood for the District of Columbia, how would you vote," think about what it means to say that you would vote "no." Think about what it would mean to vote "no" when the people of the District of Columbia are paying more taxes per capita than all but two States. Think about what it would mean to vote "no" when my constituents were fifth per capita in the Persian Gulf. Think about what it means for an American to vote that another American is not entitled to full citizenship.

If we go for a vote, vote "yes" on the principle because that is all that will be at stake. The grant of statehood will not be at stake from this vote. I ask only for a vote for statehood as a way of endorsing the principle that the residents of the District of Columbia are entitled to full citizenship.

Mr. Speaker, I am fourth generation, have lived in the Capital City all my time, and my father all his life, and his father all his life, and his father all his life, and I have seen this Capital City convert itself from a sleepy, segregated southern town to the great metropolis, the diverse population, strong in economy, that today is the capital of this Nation. I graduated from segregated schools in the District of Columbia. My sister graduated from schools which had been declared, under the 14th amendment, to be open to all.

Mr. Speaker, I have seen my city change. I have seen us wipe away the irony of segregation in the capital of the free nations. I say to my colleagues: "If you have seen what I have seen, you will not be daunted by the proposition that our country would go the whole way for the residents of its Capital City. If you have seen what you and I have seen happen to South Africa in a half dozen years, you will not be daunted by what we now ask to happen to the capital City of this country."

Mr. Speaker, I watched this morning as the South Africans moved in a way I was sure they would not move in my lifetime as recently as 7 or 8 years ago. I refuse to give up a faith in my country, a faith that has been ratified by what I have seen during my own lifetime, what I have experienced.

I have come from being a girl going to segregated schools in the District of Columbia to being a woman who represents the District of Columbia in the Congress of the United States. When I was growing up in the District of Columbia, Mr. Speaker, there were no rights whatsoever that my city, my Capital City, had. This city was governed by commissions. The city had no city council and no mayor. Congress used the city for its own personal patronage. It was segregated. My Lord, it had more of the evils associated with tyranny than any other place in the United States of America. It had all of the segregation that the South had, and it had an absence of democracy that no part of the United States had, and yet today it is a city with the full right to govern itself. The Mayor of the District of Columbia and the city council of the District of Columbia in fact can run this city in the way that the mayor of any city and the council of any city can.

The problem is, Mr. Speaker, that they can be second guessed by the Members of this body. I say to my friends and colleagues: "You have much more to do than trouble yourselves with our troubles. The District will not be better governed tomorrow because you keep undemocratic control of your Capital City. You do nothing to govern it. You want to do nothing to govern it. You will not cure its crime. You will not cure its other ills. So let my people go. Do unto this city as you would want done unto the place where you reside. You who live by American principles, who vote them every day, let us live by those same principles."

I leave my colleagues not with the words of George Washington or Thomas Jefferson. I leave my colleagues not with the words of Frederic Douglass or Martin Luther King, Jr. Rather, I leave my colleagues with the words that are older than all of them in order to impress upon my colleagues this proposition I have argued before them this evening. The words are ancient, are as old as human longing for freedom.

Mr. Speaker, Aristotle said, "Democracy rises out of the notion that those who are equal in any respect are equal in all respects."

CONFERENCE REPORT ON H.R. 2330

Mr. GLICKMAN submitted the following conference report and statement on the bill (H.R. 2330) to authorize appropriations for fiscal year 1994 for the intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes:

CONFERENCE REPORT (H. REPT. 103–377)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2330), to authorize appropriations for fiscal year 1994 for the intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Intelligence Authorization Act for Fiscal Year 1994".

TITLE I—INTELLIGENCE ACTIVITIES

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 1994 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

(1) The Central Intelligence Agency.

(2) The Department of Defense.

(3) The Defense Intelligence Agency.

(4) The National Security Agency.

(5) The National Reconnaissance Office.

(6) The Department of the Army, the Department of the Navy, and the Department of the Air Force.

(7) The Department of State.

(8) The Department of the Treasury.

(9) The Department of Energy.

(10) The Federal Bureau of Investigation.

(11) The Drug Enforcement Administration.

(12) The Central Imagery Office.

SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.

(A) SPECIFICATIONS OF AMOUNTS AND PERSONNEL CEILINGS.—The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1994, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared to accompany the conference report on the bill H.R. 2330 of the One Hundred Third Congress.

(b) AVAILABILITY OF CLASSIFIED SCHEDULE OF AUTHORIZATIONS.—The Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.

SEC. 103. PERSONNEL CEILING ADJUSTMENTS.

(a) AUTHORITY FOR ADJUSTMENTS.—The Director of Central Intelligence may authorize employment for civilian personnel in excess of the number authorized for fiscal year 1994 under section 102 of this Act when the Director determines that such action is necessary to the performance of important intelligence functions, except that such number may not, for any element of the intelligence community, exceed 2 percent of the number of civilian personnel authorized under such section for such element.

(b) NOTICE TO INTELLIGENCE COMMITTEES.—The Director of Central Intelligence shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever the Director exercises the authority granted by this section.

SEC. 104. COMMUNITY MANAGEMENT ACCOUNT.

(A) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Community Management Account of the Director of Central Intelligence for fiscal year 1994 the sum of $113,800,000. Within such amounts authorized, funds identified in the classified Schedule of Authorizations referred to in section 102(a) for the Advanced Research and Development Committee and the Environmental Task Force shall remain available until September 30, 1995.

(b) AUTHORIZED PERSONNEL LEVELS.—The Community Management Account of the Director of Central Intelligence is authorized 222 full-time personnel as of September 30, 1994. Such personnel of the Community Management Account may be permanent employees of the Community Management Account or personnel detailed from other elements of the United States Government.

(c) REIMBURSEMENT.—During fiscal year 1994, any officer or employee of the United States or a member of the Armed Forces who is detailed to the Community Management Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1994 the sum of $182,300,000.

SEC. 202. TECHNICAL CORRECTIONS.

(a) IN GENERAL.—The Central Intelligence Agency Retirement Act is amended—

(1) in section 101(7) (50 U.S.C. 2001(7))—

(A) by striking the comma after "basic pay" and inserting in lieu thereof "and"; and

(B) by striking ", and interest determined under section 281";

(2) in section 201(c) (50 U.S.C. 2011(c)), by striking "the proviso of section 102(d)(3) of the National Security Act of 1947 (50 U.S.C. 403(d)(3))" and inserting in lieu thereof "section 103(c)(5) of the National Security Act of 1947 (50 U.S.C. 403–3(c)(5))";

(3) in section 211(c)(2)(B) (50 U.S.C. 2021(c)(2)(B)), by striking "the requirement under section 241(b)(4)" and inserting in lieu thereof "prior notification of a current spouse, if any, unless the participant establishes to the satisfaction of the Director, in accordance with regulations which the Director may prescribe, that the participant does not know, and has taken all reasonable steps to determine, the whereabouts of the current spouse";

(4) in section 221 (50 U.S.C. 2031)—

(A) by striking "(or, in the case of an annuity computed under section 232 and based on less than 3 years, over the total service)" in subsection (a)(4);

(B) in subsection (f)(1)(A)—

(i) by inserting "after the participant's death" before the period in the first sentence; and

(ii) by striking "after the participant's death" in the second sentence;

(C) by striking "(or is remarried" in subsection (g)(1) and inserting in lieu thereof "(or is remarried,"; and

(D) by striking "(except as provided in paragraph (2))" in subsection (j);

(5) in section 222 (50 U.S.C. 2032)—

(A) by striking "other" the first place it appears in subsection (a)(7) and inserting in lieu thereof "survivor";

(B) by inserting "the participant" before "or does not qualify" in subsection (c)(3)(C); and

(C) by inserting "spouse's or the" after "month before the" in subsection (c)(4);

(6) in section 224(c)(1)(B)(i) (50 U.S.C. 2034(c)(1)(B)(i)), by striking "former participant" and inserting in lieu thereof "retired participant";

(7) in section 225(c) (50 U.S.C. 2035(c))—

(A) by striking "other" the first place it appears in paragraph (3) and inserting in lieu thereof "survivor"; and

(B) by striking "1991" in paragraph (4)(A) and inserting in lieu thereof "1990";

(8) in section 231(d)(2) (50 U.S.C. 2051(d)(2)), by striking "241(b)" and inserting in lieu thereof "241(a)";

(9) in section 232(b)(4) (50 U.S.C. 2052(b)(4)), by striking "section 222" and inserting in lieu thereof "section 224";

(10) in section 234(b) (50 U.S.C. 2054(b)), by striking "sections 241 and 281" and inserting in lieu thereof "section 241";

(11) in section 241 (50 U.S.C. 2071)—

(A) by striking "A lump-sum benefit that would have been payable to a participant, former participant, or annuitant, or to a survivor annuitant, authorized by subsection (d) or (e) of this section or by section 234(b) or 281(d)" in subsection (c) and inserting in lieu thereof "A lump-sum payment authorized by subsection (d) or (e) of this secn 281(d) and a payment of any accrued and unpaid annuity authorized by subsection (f) of this section"; and

(B) by redesignating subsection (f) as subsection (g) and inserting after subsection (e) the following new subsection:

"(f) PAYMENT OF ACCRUED AND UNPAID ANNUITY WHEN RETIRED PARTICIPANT DIES.—If a retired participant dies, any annuity accrued and unpaid shall be paid in accordance with subsection (c).";

(12) in section 264(b) (50 U.S.C. 2094)—

(A) by inserting "and" after the semicolon at the end of paragraph (2);

(B) by striking "and to any payment of a return of contributions under section 234(a); and" in paragraph (3) and inserting in lieu thereof ", and the amount of any such payment;"; and

(C) by striking paragraph (4);

(13) in section 265 (50 U.S.C. 2095), by striking "Act" in both places it appears and inserting in lieu thereof "title";

(14) in section 291(b)(2) (50 U.S.C. 2131(b)(2)), by striking "or section 232(c)"; and

(15) in section 304(i)(1) (50 U.S.C. 2154(i)(1)), by striking "section 102(a)(3)" and inserting in lieu thereof "section 102(a)(4)".

(b) RETROACTIVE EFFECTIVE DATE..—The amendments made by subsection (a) shall take effect as of February 1, 1993.

SEC. 203. SURVIVOR ANNUITY, RETIREMENT ANNUITY, AND HEALTH BENEFITS FOR CERTAIN EXSPOUSES OF CENTRAL INTELLIGENCE AGENCY EMPLOYEES.

(a) SURVIVOR ANNUITY.—

(1) IN GENERAL.—

(A) ENTITLEMENT OF FORMER WIFE OR HUSBAND.—Any person who was divorced on or before December 4, 1991, from a participant or retired participant in the Central Intelligence Agency Retirement and Disability System and who was married to such participant for not less than 10 years during such participant's creditable service, at least five years of which were spent by the participant during the participant's service as an employee of the Central Intelligence Agency outside the United States, or otherwise in a position the duties of which qualified the participant for designation by the Director of Central Intelligence as a participant under section 203 of the Central Intelligence Agency Retirement Act (50 U.S.C. 2013), shall be entitled, except to the extent such person is disqualified under paragraph (2), to a survivor annuity equal to 55 percent of the greater of—

(i) the unreduced amount of the participant's annuity, as computed under section 221(a) of such Act; or

(ii) the unreduced amount of what such annuity as so computed would be if the participant had not elected payment of the lump-sum credit under section 294 of such Act.

(B) REDUCTION IN SURVIVOR ANNUITY.—A survivor annuity payable under this subsection shall be reduced by an amount equal to any survivor annuity payments made to the former wife or husband under section 226 of such Act.

(2) LIMITATIONS.—A former wife or husband is not entitled to a survivor annuity under this subsection if—

(A) the former wife or husband remarries before age 55, except that the entitlement of the former wife or husband to such a survivor annuity shall be restored on the date such remarriage is dissolved by death, annulment, or divorce;

(B) the former wife or husband is less than 50 years of age; or

(C) the former wife or husband meets the definition of "former spouse" that was in effect under section 204(b)(4) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees before December 4, 1991.

(3) COMMENCEMENT AND TERMINATION OF ANNUITY.—

(A) COMMENCEMENT OF ANNUITY.—The entitlement of a former wife or husband to a survivor annuity under this subsection shall commence—

(i) in the case of a former wife or husband of a participant or retired participant who is deceased as of October 1, 1994, beginning on the later of—

(I) the 60th day after such date; or

(II) the date on which the former wife or husband reaches age 50; and

(ii) in the case of any other former wife or husband, beginning on the latest of—

(I) the date on which the participant or retired participant to whom the former wife or husband was married dies;

(II) the 60th day after October 1, 1994; or

(III) the date on which the former wife or husband attains age 50.

(B) TERMINATION OF ANNUITY.—The entitlement of a former wife or husband to a survivor annuity under this subsection terminates on the last day of the month before the former wife's or husband's death or remarriage before attaining age 55. The entitlement of a former wife or husband to such a survivor annuity shall be restored on the date such remarriage is disolved by death, annulment, of divorce.

(4) ELECTION OF BENEFITS.—A former wife or husband of a participant or retired participant shall not become entitled under this subsection to a survivor annuity or to the restoration of the survivor annuity unless the former wife or husband elects to receive it instead of any other survivor annuity to which the former wife or husband may be entitled under the Central Intelligence Agency Retirement and Disability System or any other retirement system for Government employees on the basis of a marriage to someone other than the participant.

(5) APPLICATION—

(A) TIME LIMIT; WAIVER.—A survivor annuity under this subsection shall not be payable unless appropriate written application is provided to the Director, complete with any supporting documentation which the Director may by regulation require. Any such application shall be submitted not later than October 1, 1995. The Director may waive the application deadline under the preceding sentence in any case in which the Director determines that the circumstances warrant such a waiver.

(B) RETROACTIVE BENEFITS.—Upon approval of an application provided under subparagraph (A), the appropriate survivor annuity shall be payable to the former wife or husband with respect to all periods before such approval during which the former wife or husband was entitled to such annuity under this subsection, but in no event shall a survivor annuity be payable under this subsection with respect to any period before October 1, 1994.

(6) RESTORATION OF ANNUITY.—Notwithstanding paragraph (5)(A), the deadline by which an application for a survivor annuity must be submitted shall not apply in cases in which a former spouse's entitlement to such a survivor annuity is restored after October 1, 1994, under paragraph (2)(A) or (3)(B).

(7) APPLICABILITY IN CASES OF PARTICIPANTS TRANSFERRED TO FERS.—

(A) ENTITLEMENT.—Except as provided in paragraph (2), this subsection shall apply to a former wife or husband of a participant under the Central Intelligence Agency Retirement and Disability System who has elected to become subject to chapter 84 of title 5, United States Code.

(B) AMOUNT OF ANNUITY.—The survivor annuity of a person covered by subparagraph (A) shall be equal to 50 percent of the unreduced amount of the participant's annuity computed in accordance with section 302(a) of the Federal Employees' Retirement System Act of 1986 and shall be reduced by an amount equal to any survivor annuity payments made to the former wife or husband under section 8445 of title 5, United States Code.

(b) RETIREMENT ANNUITY.—

(1) IN GENERAL.—

(A) ENTITLEMENT OF FORMER WIFE OR HUSBAND.—A person described in subsection (a)(1)(A) shall be entitled, except to the extent such former spouse is disqualified under paragraph (2), to an annuity—

(i) if married to the participant throughout the creditable service of the participant, equal to 50 percent of the annuity of the participant; or

(ii) if not married to the participant throughout such creditable service, equal to that former wife's or husband's pro rata share of 50 percent of such annuity (determined in accordance with section 222(a)(1)(B) of the Central Intelligence Agency Retirement Act (50 U.S.C. 2032 (a)(1)(B)).

REDUCTION IN RETIREMENT ANNUITIES.—

(i) AMOUNT OF REDUCTION.—An annuity payable under this subsection shall be reduced by an amount equal to any apportionment payments payable to the former wife or husband pursuant to the terms of a court order incident to the dissolution of the marriage of such former spouse and the participant, former participant, or retired participant.

(ii) DEFINITION OF TERMS.—For purposes of clause (i):

(I) APPORTIONMENT.—The term "apportionment" means a portion of a retired participant's annuity payable to a former wife or husband either by the retired participant or the Government in accordance with the terms of a court order.

(II) COURT ORDER.—The term "court order" means any decree of divorce or annulment or any court order or court-approved property settlement agreement incident to such decree.

(2) LIMITATIONS.—A former wife or husband is not entitled to an annuity under this subsection if—

(A) the former wife or husband remarries before age 55, except that the entitlement of the former wife or husband to an annuity under this subsection shall be restored on the date such remarriage is dissolved by death, annulment, or divorce;

(B) the former wife or husband is less than 50 years of age; or

(C) the former wife or husband meets the definition of "former spouse" that was in effect under section 204(b)(4) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees before December 4, 1991.

(3) COMMENCEMENT AND TERMINATION.—

(A) RETIREMENT ANNUITIES.—The entitlement of a former wife or husband to an annuity under this subsection—

(i) shall commence on the later of—

(I) October 1, 1994;

(II) the day the participant upon whose service the right to the annuity is based becomes entitled to an annuity under such Act; or

(III) such former wife's or husband's 50th birthday; and

(ii) shall terminate on the earlier of—

(I) the last day of the month before the former wife or husband dies or remarries before 55 years of age, except that the entitlement of the former wife or husband to an annuity under this subsection shall be restored on the date such remarriage is dissolved by death, annulment, or divorce; or

(II) the date on which the annuity of the participant terminates.

(B) DISABILITY ANNUITIES.—Notwithstanding subparagraph (A)(i)(II), in the case of a former wife or husband of a disability annuitant—

(i) the annuity of the former wife or husband shall commence on the date on which the participant would qualify on the basis of the participant's creditable service for an annuity under the Central Intelligence Agency Retirement Act (other than a disability annuity) or the date the disability annuity begins, whichever is later; and

(ii) the amount of the annuity of the former wife or husband shall be calculated on the basis of the annuity for which the participant would otherwise so qualify.

(C) ELECTION OF BENEFITS.—A former wife or husband of a participant or retired participant shall not become entitled under this subsection to an annuity or to the restoration of an annuity unless the former wife or husband elects to receive it instead of any survivor annuity to which the former wife or husband may be entitled under the Central Intelligence Agency Retirement and Disability System or any other retirement system for Government employees on the basis of a marriage to someone other than the participant.

(D) APPLICATION.—

(i) TIME LIMIT; WAIVER.—An annuity under this subsection shall not be payable unless appropriate written application is provided to the Director of Central Intelligence, complete with any supporting documentation which the Director may by regulation require, not later than October 1, 1995. The Director may waive the application deadline under the proceeding sentence in any case in which the Director determines that the circumstances warrant such a waiver.

(ii) RETROACTIVE BENEFITS.—Upon approval of an application under clause (i), the appropriate annuity shall be payable to the former wife or husband with respect to all periods before such approval during which the former wife or husband was entitled to an annuity under this subsection, but in no event shall an annuity be payable under this subsection with respect to any period before October 1, 1994.

(4) RESTORATION OF ANNUITIES.—Notwithstanding paragraph (3)(D)(i), the deadline by which an application for a retirement annuity must be submitted shall not apply in cases in which a former spouse's entitlement to such annuity is restored after October 1, 1994, under paragraph (2)(A) or (3)(A)(ii).

(5) APPLICABILITY IN CASES OF PARTICIPANTS TRANSFERRED TO FERS.—The provisions of this subsection shall apply to a former wife or husband of a participant under the Central Intelligence Agency Retirement and Disability System, who has elected to become subject to chapter 84 of title 5, United States Code. For purposes of this paragraph, any reference in this section to a participant's annuity under the Central Intelligence Agency Retirement and Disability System shall be deemed to refer to the transferred participant's annuity computed in accordance with section 302(a) of the Federal Employee Retirement System Act of 1986.

(6) SAVINGS PROVISION.—Nothing in this subsection shall be construed to impair, reduce, or otherwise affect the annuity or the entitlement to an annuity of a participant or former participant under title II or III of the Central Intelligence Agency Retirement Act.

(c) HEALTH BENEFITS.—

(1) IN GENERAL.—Section 16 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403p) is amended—

(A) by redesignating subsections (c) through (e) as subsections (e) through (g), respectively; and

(B) by inserting after subsection (b) the following:

"(c) ELIGIBILITY OF FORMER WIVES OR HUSBANDS.—(1) Notwithstanding subsections (a) and (b) and except as provided in subsections (d), (e), and (f), and individual—

"(A) who was divorced on or before December 4, 1991, from a participant or retired participant in the Central Intelligence Agency Retirement and Disability System or the Federal Employees Retirement System Special Category;

"(B) who was married to such participant for not less than ten years during the participant's creditable service, at least five years of which were spent by the participant during the participant's service as an employee of the Agency outside the United States, or otherwise in a position the duties of which qualified the participant for designation by the Director of Central Intelligence as a participant under section 203 of the Central Intelligence Agency Retirement Act (50 U.S.C. 2013); and

"(C) who was enrolled in a health benefits plan as a family member at any time during the 18-month period before the date of dissolution of the marriage to such participant; is eligible for coverage under a health benefits plan.

"(2) A former spouse eligible for coverage under paragraph (1) may enroll in a health benefits plan in accordance with subsection (b)(1), except that the election for such enrollment must be submitted within 60 days after the date on which the Director notifies the former spouse of such individual's eligibility for health insurance coverage under this subsection.

"(d) CONTINUATION OF ELIGIBILITY.—Notwithstanding subsections (a), (b), and (c) and except as provided in subsections (e) and (f), an individual divorced on or before December 4, 1991, from a participant or retired participant in the Central Intelligence Agency Retirement and Disability System or Federal Employees' Retirement System Special Category who enrolled in a health benefits plan following the dissolution of the marriage to such participant may continue enrollment following the death of such participant notwithstanding the termination of the retirement annuity of such individual.".

"(2) CONFORMING AMENDMENTS.—(A) Subsection (a) of such section is amended by striking "subsection (c)(1)" and inserting in lieu thereof "subsection (e)".

(B) Subsection (e)(2) of such section (as redesignated by paragraph (1) of this section) is amended by inserting "or to subsection (d)" after "subsection (b)(1)".

(d) SOURCE OF PAYMENT FOR ANNUITIES.—Annuities provided under subsections (a) and (b) shall be payable from the Central Intelligence Agency Retirement and Disability Fund maintained under section 202 of the Central Intelligence Agency Retirement Act (50 U.S.C. 2012).

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), subsections (a) and (b) shall take effect as of October 1, 1994, the amendment made by subsection (c) shall apply to individuals on and after October 1, 1994, and no benefits provided pursuant to those subsections shall be payable with respect to any period before October 1, 1994.

(2) Section 16(d) of the Central Intelligence Agency Act of 1949 (as added by subsection (c) of this section) shall apply to individuals beginning on the date of enactment of this Act.

SEC. 204. CROSS-REFERENCE CORRECTIONS TO BE REVISED CIARDS STATUTE.

(a) ANNUAL INTELLIGENCE AUTHORIZATION ACTS.—Section 306 of the Intelligence Authorization Act, Fiscal Year 1990 (50 U.S.C. 403r–1) is amended by striking "section 303 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees" and inserting in lieu thereof "section 303 of the Central Intelligence Agency Retirement Act (50 U.S.C. 2153)".

(b) FOREIGN SERVICE ACT OF 1980.—The Foreign Service Act of 1980 is amended—

(1) in section 853 (22 U.S.C. 4071b), by striking "title II of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees" in subsection (c) and inserting in lieu thereof "title II of the Central Intelligence Agency Retirement Act (50 U.S.C. 2011 et seq.)";

(2) in section 854 (22 U.S.C. 4071c)—

(A) by striking "title II of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees" in subsection (a)(3) and inserting in lieu thereof "title II of the Central Intelligence Agency Retirement Act (50 U.S.C. 2011 et seq.)"; and

(B) by striking "title III of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees" in subsection (d) and inserting in lieu thereof "title III of the Central Intelligence Agency Retirement Act (50 U.S.C. 2151 et seq.)"; and

(3) in section 855 (22 U.S.C. 4071d), by striking "under title II of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees or under section 302(a) or 303(b) of that Act" in subsection (b)(2)(A)(ii) and inserting in lieu thereof "under title II of the Central Intelligence Agency Retirement Act (50 U.S.C. 2011 et seq.) or under section 302(a) or 303(b) of that Act (50 U.S.C. 2152(a), 2153(b))".

(c) INTERNAL REVENUE CODE OF 1986.—Section 3121(b)(5)(H)(i) of the Internal Revenue Code of 1986 is amended by striking "section 307 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees" and inserting in lieu thereof "section 307 of the Central Intelligence Agency Retirement Act (50 U.S.C. 2157)".

(d) SOCIAL SECURITY ACT.—Section 210(a)(5)(H)(i) of the Social Security Act (42 U.S.C. 410(a)(5)(H)(i)) is amended by striking "section 307 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees" and inserting in lieu thereof "section 307 of the Central Intelligence Agency Retirement Act (50 U.S.C. 2157)".

TITLE III—GENERAL PROVISIONS

SEC. 301. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW.

Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

SEC. 302. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.

The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States.

SEC. 303. TEMPORARY PAY RETENTION FOR CERTAIN FBI EMPLOYEES.

(a) IN GENERAL.—Section 406 of the Federal Employees Pay Comparability Act of 1990 (104 Stat. 1467) is amended to read as follows:

SEC. 406. FBI NEW YORK FIELD DIVISION.

"(a) The total pay of an employee of the Federal Bureau of Investigation assigned to the New York Field Division before the date of September 29, 1993, in a position covered by the demonstration project conducted under section 601 of the Intelligence Authorization Act for Fiscal Year 1989 (Public Law 100–453) shall not be reduced as a result of the termination of the demonstration project during the period that employee remains employed after that date in a position covered by the demonstration project.

"(b) Beginning on September 30, 1993, any periodic payment under section 601(a)(2) of the Intelligence Authorization Act for Fiscal Year 1989 for any such employee shall be reduced by the amount of any increase in basic pay under title 5, United States Code, including the following provisions: an annual adjustment under section 5303, locality-based comparability payment under section 5304, initiation or increase in a special pay rate under section 5305, promotion under section 5334, periodic step increase under section 5335, merit increase under section 5404, or other increase to basic pay under any provision of law.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as of September 30, 1993, and shall apply to the pay of employees to whom the amendment applies that is earned on or after that date.

SEC. 304. ANNUAL REPORT ON INTELLIGENCE COMMUNITY

(a) ANNUAL DCI REPORT.—Title I of the National Security Act of 1947 is amended by adding at the end the following new section:

"ANNUAL REPORT ON INTELLIGENCE COMMUNITY ACTIVITIES

"SEC. 109. (a) IN GENERAL.—The Director of Central Intelligence shall submit to Congress an annual report on the activities of the intelligence community. The annual report under this section shall be unclassified.

"(b) MATTERS TO BE COVERED IN ANNUAL REPORT.—Each report under this section shall describe—

"(1) the activities of the intelligence community during the preceding fiscal year, including significant successes and failures that can be described in an unclassified manner; and

"(2) the areas of the world and the issues that the Director expects will require increased or unusual attention from the intelligence community during the next fiscal year.

"(c) TIME FOR SUBMISSION.—The report under this section for any year shall be submitted at the same time that the President submits the budget for the next fiscal year pursuant to section 1105 of title 31, United States Code."

(b) CLERICAL AMENDMENT.—The table of contents in the first section of such Act is amended by inserting after the item relating to section 108 the following new item:

"Sec. 109. Annual report on intelligence community activities.".

SEC. 305. SECURITY REVIEWS.

(a) FINDINGS.—The Congress finds that—

(1) the President directed the Director of the Information Security Oversight Office to review Executive Order 12356 and other directives relating to the protection of national security information and to report no later than November 30, 1993; and

(2) the Secretary of Defense and the Director of Central Intelligence have established a joint security commission to conduct a review of security practices and procedures at the Department of Defense and the Central Intelligence Agency and to report within 1 year of the establishment of the commission.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Director of Central Intelligence, the Secretary of Defense, and the Director of the Information Security Oversight Office should conduct the reviews referred to in subsection (a) with maximum consultation with each other; and

(2) the results of these reviews should be incorporated into a consolidated recommendation for the President.

SEC. 306. REPORT ON UNITED STATES EFFORTS TO COUNTER TERRORISM.

(a) IN GENERAL.—The Secretary of State, the Attorney General of the United States, and the Director of Central Intelligence shall jointly submit to the Congress, not later than May 1, 1994, a report on United States Government programs to counter terrorism.

(b) MATTERS TO BE COVERED IN REPORT.—The report required by subsection (a) shall, at a minimum—

(1) identify Federal Government activities, programs and assets which are being utilized or could be utilized to counter terrorism;

(2) assess the processing, analysis, and distribution of intelligence or terrorism and make recommendations for improvement;

(3) make recommendations on appropriate national policies, both preventive and reactive, to counter terrorism;

(4) assess the coordination among law enforcement, intelligence, and defense agencies involved in counterterrorism activities and make recommendations concerning how coordination can be improved; and

(5) assess whether there should be more centralized operational control over Federal Government activities, programs, and assets utilized to counter terrorism, and, if so, make recommendations concerning how such control should be achieved.

SEC. 307. REPORT ON INTELLIGENCE GAPS.

(a) REPORT.—The Director of Central Intelligence and the Secretary of Defense jointly shall prepare and submit by February 15, 1994, to the Select Committee on Intelligence, the Committee on Armed Services, and the Committee on Appropriations of the Senate, and to the Permanent Select Committee on Intelligence, the Committee on Armed Services, and the Committee on Appropriations of the House of Representatives a report described in subsection (b).

(b) CONTENTS OF REPORT.—The report required by subsection (a) shall—

(1) identify and assess the critical gaps between the information needs of the United States Government and intelligence collection capabilities, to include the identification of topics and areas of the world of significant interest to the United States to which the application of additional resources, technology, or other efforts would generate new information of high priority to senior officials of the United States Government;

(2) identify and assess gaps in the ability of the intelligence community (as defined in section 3(4) of the National Security Act of 1947) to provide intelligence support needed by the Armed Forces of the United States and, in particular, by the commanders of combatant commands established under section 161(a) of title 10, United States Code; and

(3) contain joint recommendations of the Director of Central Intelligence and the Secretary of Defense on appropriate means, to include specific budgetary adjustments, for reducing or eliminating the gaps identified under paragraphs (1) and (2).

SEC. 308. INTELLIGENCE COMMUNITY CONTRACTING.

It is the sense of Congress that the Director of Central Intelligence should continue to direct that elements of the intelligence community, whenever compatible with the national security interests of the United States and consistent with the operational and security concerns related to the conduct of intelligence activities, and where fiscally sound, should award contracts in a manner that would maximize the procurement of products properly designated as having been made in the United States.

SEC. 309. AMENDMENT TO SECTION 307 OF THE NATIONAL SECURITY ACT.

Section 307 of the National Security Act of 1947 is amended by striking "provisions and purposes of this Act" and inserting in lieu thereof "provisions and purposes of this Act (other than the provisions and purposes of sections 102, 103, 104, 105 and titles V, VI, and VII)".

SEC. 310. RATIFICATION OF FUNDING TRANSACTION.

Funds obligated or expended for the Accelerated Architecture Acquisition Initiative of the Plan to Improve the Imagery Ground Architecture based upon the notification to the appropriate committees of Congress by the Director of Central Intelligence dated August 16, 1993, shall be deemed to have been specifically authorized by the Congress for purposes of section 504(a)(3) of the National Security Act of 1947.

SEC. 311. NATIONAL SECURITY EDUCATION TRUST FUND.

(a) REDUCTION OF AMOUNTS IN TRUST FUND.—The amount in the National Security Education Trust Fund established pursuant to section 804 of Public Law 102-183 (50 U.S.C. 1904) in excess of $120,000,000 that has not been appropriated from the trust fund as of the date of enactment of this Act shall be transferred to the Treasury of the United States as miscellaneous receipts.

(b) ANNUAL ASSESSMENT.—(1) Section 806 of such Public Law (50 U.S.C. 1903) is amended by adding at the end the following new subsection:

"(d) CONSULTATION.—During the preparation of each report required by subsection (a), the Secretary shall consult with the members of the Board specified in paragraphs (1) through (7) of section 803(b). Each such member shall submit to the Secretary an assessment of their hiring needs in the areas of language and area studies and a projection of the deficiencies in such areas. The Secretary shall include all assessments in the report required by subsection (a).".

(2) Section 802(a) of such Public Law (50 U.S.C. 1902(a)) is amended—

(A) in paragraph (1)(A), by inserting before the semicolon at the end the following: "in those language and study areas where deficiencies exist (as identified in the assessments undertaken pursuant to section 806(d))"; and

(B) in paragraph (1)(B)(i), by inserting before the semicolon at the end the following: "and in which deficiencies exist (as identified in the assessments undertaken pursuant to section 806(d))".

(c) FUNDING FOR FISCAL YEARS 1993 THROUGH 1996.—Title VIII of such Public Law (50 U.S.C. 1901 et seq.) is amended by adding at the end the following:

"SEC. 810. FUNDING.

"(a) FISCAL YEARS 1993 AND 1994.—Amounts appropriated to carry out this title for fiscal years 1993 and 1994 shall remain available until expended.

"(b) FISCAL YEARS 1995 AND 1996.—There is authorized to be appropriated from, and may be obligated from, the Fund for each of the fiscal years 1995 and 1996 not more than the amount credited to the Fund in interest only for the preceding fiscal year under section 804(e).".

(d) TECHNICAL CORRECTION.—Section 802(a)(1)(A) of such Public Law (50 U.S.C. 1902(a)(1)(A)) is amended by striking the comma after "term,".

TITLE IV—CENTRAL INTELLIGENCE AGENCY

SEC. 401. SUPPORT FOR SCIENCE, MATHEMATICS, AND ENGINEERING EDUCATION.

(a) GENERAL AUTHORITY.—In recognition of the importance of science, mathematics, and engineering to the national security and in order to encourage students to pursue studies in science, mathematics, and engineering, the Director of Central Intelligence may carry out a program in fiscal years 1994 and 1995 to award cash prizes and visits to the Central Intelligence Agency (including the payment of costs associated with such visits) for students who participate in high school science fairs within the United States.

(b) MERIT.—Awards made under subsection (a) shall be made solely on the basis of merit.

(c) EQUITABLE REGIONAL REPRESENTATION.—The Director shall ensure that there is equitable regional representation with respect to the program carried out under subsection (a).

(d) LIMITATION ON EXPENDITURES.—The Director may not expend more than $5,000 for each of the fiscal years 1994 and 1995 to carry out this section.

TITLE V—ADDITIONAL TECHNICAL AMENDMENTS

SEC. 501. CENTRAL INTELLIGENCE AGENCY ACT OF 1949.

The Central Intelligence Agency Act of 1949 is amended—

(1) in section 5(a) (50 U.S.C. 403f(a))—

(A) by striking "Bureau of the Budget" and inserting in lieu thereof "Office of Management and Budget"; and

(B) by striking "sections 102 and 303 of the National Security Act of 1947 (Public Law 253, Eightieth Congress" in the first sentence and inserting in lieu thereof "subparagraphs (B) and

(C) of section 102(a)(2), subsections (c)(5) and (d) of section 103, subsections (a) and (g) of section 104, and section 303 of the National Security Act of 1947 (50 U.S.C. 403(a)(2), 403–3, 403–4, and 405)";

(2) in the first sentence of section 6 (50 U.S.C. 403g)—

(A) by striking "the proviso of section 102(d)(3) of the National Security Act of 1947 (Public Law 253, Eightieth Congress, first session)" and inserting in lieu thereof "section 103(c)(5) of the National Security Act of 1947 (50 U.S.C. 403–3(c)(5))"; and

(B) by striking "Bureau of the Budget" and inserting in lieu thereof "Office of Management and Budget"; and

(3) in section 19(b) (50 U.S.C. 403s(b))—

(A) by striking "SECTION 231" in the heading after "(b)" and inserting in lieu thereof "SECTION 232";

(B) by striking "(50 U.S.C. 403 note)" in paragraph (2) and inserting in lieu thereof "(50 U.S.C. 2013)"; and

(C) by striking "section 231" in the matter following paragraph (4) and inserting in lieu thereof "section 232".

SEC. 502. NATIONAL SECURITY ACT OF 1947.

Section 103(d)(3) of the National Security Act of 1947 (50 U.S.C. 403–3(d)(3)) is amended by striking "providing" and inserting in lieu thereof "provide".

SEC. 503. CODIFICATION IN TITLE 10, UNITED STATES CODE, OF CERTAIN PERMANENT PROVISIONS.

(a) INTELLIGENCE-RELATED PROVISIONS.—(1) Chapter 21 of title 10, United States Code, is amended by inserting after section 424 the following new section:

"§425. Disclosure of personnel information: exemption for National Reconnaissance Office

"(a) EXEMPTION FROM DISCLOSURE.—Except as required by the President or as provided in subsection (b), no provision of law shall be construed to require the disclosure of the name, title, or salary of any person employed by, or assigned or detailed to, the National Reconnaissance Office or the disclosure of the number of such persons.

"(b) PROVISION OF INFORMATION TO CONGRESS.—Subsection (a) does not apply with respect to the provision of information to Congress.".

(2) The table of sections at the beginning of subchapter I of such chapter is amended by adding at the end the following new item:

"425. Disclosure of personnel information: exemption for National Reconnaissance Office.".

(b) CONFORMING REPEAL.—Section 406 of the Intelligence Authorization Act for Fiscal Year 1993 (Public Law 102–496; 10 U.S.C. 424 note) is repealed.

And the Senate agree to the same.

From the Permanent Select Committee on Intelligence, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

DAN GLICKMAN,
BILL RICHARDSON,
NORMAN D. DICKS,
JULIAN C. DIXON,
ROBERT G. TORRICELLI,
RONALD D. COLEMAN,
DAVID E. SKAGGS,
JAMES H. BILBRAY,
NANCY PELOSI,
GREG LAUGHLIN,
BUD CRAMER,
JACK REED,
LARRY COMBEST,
DOUG BEREUTER,
R. K. DORNAN,
BILL YOUNG,
GEORGE W. GEKAS,
JAMES V. HANSEN,
JERRY LEWIS,

From the Committee on Armed Services, for consideration of defense tactical intelligence and related activities:

RONALD V. DELLUMS,
IKE SKELTON,
FLOYD SPENCE,
Managers on the Part of the House.

From the Select Committee on Intelligence:

DENNIS DECONCINI,
JOHN GLENN,
BOB KERREY,
RICHARD H. BRYAN,
BOB GRAHAM,
JOHN F. KERRY,
MAX BAUCUS,
J. BENNETT JOHNSTON,
JOHN W. WARNER,
ALFONSE D'AMATO,
JOHN C. DANFORTH,
SLADE GORTON,
JOHN H. CHAFEE,
TED STEVENS,
RICHARD G. LUGAR,
MALCOLM WALLOP,

From the Committee on Armed Services:

SAM NUNN,
STROM THURMOND,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2330) to authorize appropriations for fiscal year 1994 for the intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I—INTELLIGENCE ACTIVITIES

Due to the classified nature of intelligence and intelligence-related activities, a classified annex to this joint explanatory statement serves as a guide to the classified Schedule of Authorizations by providing a detailed description of program and budget authority contained therein as reported by the Committee of Conference.

The actions of the conferees on all matters at difference between the two Houses are shown below or in the classified annex to this joint statement.

A special conference group resolved differences between the House and Senate regarding DoD intelligence related activities, referred to as Tactical Intelligence and Related Activities (TIARA). This special conference group was necessitated by the differing committee jurisdictions of the intelligence committees of the House and the Senate, and consisted of members of the House and Senate Committees on Armed Services and the House Permanent Select Committee on Intelligence.

The amounts listed for TIARA programs represent the funding levels jointly agreed to by the TIARA conferees and the House and Senate conferees for the National Defense Authorization Act for Fiscal Year 1994. In addition, the TIARA conferees have agreed on the authorization level, as listed in the classified Schedule of Authorizations, the joint statement, and its classified annex, for TIARA programs which fall into the appropriations category of Military Pay.

SECTIONS 101 AND 102

Sections 101 and 102 of the conference report authorize appropriations for the intelligence and intelligence-related activities of the United States Government for fiscal year 1994 and establish personnel ceilings applicable to such activities.

SECTION 103

Section 103 of the conference report authorizes the Director of Central Intelligence to make adjustments in personnel ceilings in certain circumstances. The intelligence committees are to be promptly notified whenever this authority is exercised.

The conferees emphasize that the authority conveyed by section 103 is not intended to permit the wholesale raising of personnel strength in any intelligence component. Rather, the section provides the Director of Central Intelligence with flexibility to adjust personnel levels temporarily for contingencies and for overages caused by an imbalance between hiring of new employees and attrition of current employees from retirement, resignation, or other means. The conferees do not expect the Director of Central Intelligence to allow heads of intelligence components to plan to exceed personnel levels set in the Schedule of Authorizations except for the satisfaction of clearly identified hiring needs which are consistent with the authorization of personnel strengths in this bill. In no case is this authority to be used to provide for positions denied by this Act.

SECTION 104

Section 104 of the conference report authorizes appropriations and personnel end-strengths for fiscal year 1994 for the Community Management Account. The Community Management Account consists of the Community Management Staff, the Center for Security Evaluation, the National Intelligence Council, the Advanced Research and Development Council, and the Environmental Task Force. The conference report authorizes $113,800,000 and 222 personnel for the Community Management Account, to be used in connection with the performance of some of the tasks associated with the responsibilities the Director of Central Intelligence (DCI) has for the management of the intelligence community. The conferees agreed that the amounts authorized for the Advanced Research and Development Committee and the Environmental Task Force identified in the classified schedule of authorizations which is incorporated into the bill by reference shall remain available until September 30, 1995. As part of the Office of the Director of Central Intelligence, the Community Management Account is administered in a manner consistent with the provisions of the National Security Act of 1947 and the Central Intelligence Agency Act of 1949.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

SECTION 201

Section 201 of the conference report authorizes appropriations for fiscal year 1994 of $182,300,000 for the Central Intelligence Agency Retirement and Disability Fund. Section 201 is identical to section 201 of the House bill and section 201 of the Senate amendment.

SECTION 202

Section 202 of the conference report makes technical amendments to the Central Intelligence Agency Retirement Act (50 U.S.C. 2001 et seq.). The majority of the technical changes included in section 202 of the House bill and section 202 of the Senate amendment were identical. The conference report adopts the provisions of the Senate amendment in subsections (a)(4)(C), (a)(4)(D), (a)(11)(D), and (b). The conference report also follows the Senate amendment, except for technical drafting modifications, in subsections (a)(3) and (a)(11)(A). Subsection (a)(5)(C) of the conference report clarifies that payment of a surviving spouse's additional survivor annuity terminates upon the surviving spouse's death or remarriage before age 55, in the same manner as a former spouse's additional survivor annuity terminates.

SECTION 203

Section 203 of the conference report authorizes retirement annuities, survivor annuities, and access to health insurance benefits for certain ex-spouses of participants in the Central Intelligence Agency retirement and Disability System (CIARDS). Section 203 would allow certain ex-spouses of participants in CIARDS who, on or before December 4, 1991, did not qualify as a former spouse because they failed to spend five years outside of the United States with the participant, to qualify for retirement, survivor, and other benefits available to a qualified former spouse starting on October 1, 1994. Section 203 is identical to section 203 of the House bill. The Senate amendment did not contain a similar provision.

SECTION 204

Section 204 of the conference report corrects references to the Central Intelligence Agency Retirement Act found in the Intelligence Authorization Act, Fiscal Year 1990, the Foreign Service Act of 1980, the Internal Revenue Code of 1986, and the Social Security Act. Section 204 is identical to section 204 of the House bill. The Senate amendment did not include a similar provision.

TITLE III—GENERAL PROVISIONS

SECTION 301

Section 301 of the conference report provides that appropriations authorized by the conference report for salary, pay, retirement and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in compensation or benefits authorized by law. Section 301 is identical to section 301 of the House bill and to section 301 of the Senate amendment.

SECTION 302

Section 302 of the conference report provides that the authorization of appropriations by the conference report shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States. Section 302 is identical to section 302 of the House bill and to section 302 of the Senate amendment.

SECTION 303

Section 303 of the conference report provides that employees of the FBI Field Division in New York who were receiving certain retention payments as part of a "demonstration project" authorized pursuant to the Intelligence Authorization Act for Fiscal Year 1989 will not suffer a loss in pay as a result of the termination of that project. Section 303 is identical to section 303 of the Senate amendment except for technical drafting changes. The House bill contained no similar provision.

Pursuant to authority contained in the Intelligence Authorization Act for Fiscal Year 1989, a five year demonstration project was established in the FBI Field Division in New York whereby employees assigned to that division received a one-time payment to relocate to the New York office and thereafter received periodic payments of up to 25 percent of their basic pay so long as their assignment to the division continued. The demonstration project terminated on September 29, 1993.

The Department of Justice and Office of Personnel Management recently concluded that in the absence of new legislation, the payments being made under the demonstration project had to terminate on the date the project itself terminated, i.e., September 29, 1993.

In order to avoid what in some cases would be a considerable loss of pay, the Administration requested that the Congress provide authority to continue the payments under the project to those who have been receiving them. Section 303 provides such authority; however, in the interests of fairness, it also provides that the basic pay of such employees shall not rise in the future until the level of payments being made under the demonstration project has been surpassed as a result of incremental increases in the compensation of the employees concerned.

Section 303 shall take effect as of September 30, 1993, the day after the demonstration project terminated and applies to the pay of affected employees that is earned on or after that date.

SECTION 304

Section 304 of the conference report requires the Director of Central Intelligence to submit an unclassified report to Congress annually on the activities of the intelligence community. The report is to be submitted with the President's budget submission for the next fiscal year, and is to describe the community's successes and failures for the preceding fiscal year as well as highlighting the areas of the world and the issues which will require particular attention in the next fiscal year. Section 304 is identical to section 304 of the House bill. The Senate amendment did not contain a similar provision.

SECTION 305

Section 305 of the conference report notes that there are two reviews relating to the protection of national security information underway in the executive branch, one being conducted by the Director of the Information Security Oversight Office and the other being conducted jointly by the Secretary of Defense and the Director of Central Intelligence. Section 305 expresses the sense of Congress that the officials responsible for conducting the reviews should do so in maximum consultation with each other and that the results of the reviews should be incorporated into a consolidated recommendation for the President. The section is not intended to delay the promulgation of a new executive order on the protection of national security information. Section 305 is identical to section 305 of the House bill. The Senate amendment did not contain a similar provision.

SECTION 306

Section 306 of the House bill expressed the sense of Congress that the President should establish a National Task Force on Counterterrorism to review all counterterrorism activities of the intelligence community. The Task Force was to prepare a report which, among other things, was to: assess the processing, analysis, and distribution of intelligence on terrorism and make recommendations for improvement; assess the coordination among law enforcement, intelligence and defense agencies involved in counterterrorism activities and make recommendations for improvement; and make recommendations on appropriate national policies, both preventive and reactive, to counterterrorism. The Senate amendment did not contain a similar provision.

The conferees agreed that a report on counterterrorism activities would be beneficial, but did not agree that it was necessary to create a commission to produce the report. Accordingly, section 306 provides that the Secretary of State, the Attorney General, and the Director of Central Intelligence shall jointly submit to the Congress, not later than May 1, 1994, a report on United States Government programs to counterterrorism. With the exception of a definition of domestic and international terrorism, which is not required, the report should address substantially the same issues as would have been covered in the report required in section 306 of the House bill.

SECTION 307

Section 307 of the conference report requires a joint report from the Director of Central Intelligence and the Secretary of Defense to the appropriate committees of the Congress by February 15, 1994, identifying gaps in U.S. information needs and the intelligence collection capabilities of the United States available to satisfy them. The joint report will also include actions recommended to eliminate or close such gaps in order to satisfy the requirements of both civilian policymakers and military commanders in the field. Section 307 is identical to section 304 of the Senate amendment. The House bill contained no similar provision.

SECTION 308

Section 308 reflects the conferees' agreement on matters contained in sections 604 through 606 of the House bill. The Senate amendment contained no similar provisions.

Section 604 of the House bill prohibited the expenditure of any funds authorized pursuant to the Intelligence Authorization Act for Fiscal Year 1994 (the Act) by an entity unless the entity agreed that the expenditures would comply with relevant provisions of the "Buy American Act." Section 605 expressed the sense of Congress that entities expending funds authorized by the Act should purchase only American-made equipment and products, and that the Director of Central Intelligence should provide entities expending funds authorized by the Act with notice of the sense of Congress. Section 606 prohibited the award of any contract or subcontract paid for with funds authorized pursuant to the Act to any person finally determined by a court or Federal agency to have intentionally affixed a label to a product indicating that it was made in the United States when that was not the case. The prohibition would only apply if such person had been debarred, suspended, or otherwise determined to be ineligible to contract with the Federal government pursuant to applicable regulations.

The conferees were aware that the intelligence community is already covered by Federal Acquisition Regulations which embody the requirements of the Buy America Act. In agencies like the CIA, existing policy is to procure products from United States firms except in circumstances where the product sought is not produced domestically or the product has to be procured overseas for security reasons. Accordingly, the conferees agreed to section 308 of the conference report which expresses the sense of Congress that the Director of Central Intelligence should continue to direct that elements of the intelligence community should award contracts in a manner that would maximize the procurement of products produced in the United States, when such action is compatible with the national security interests of the United States, consistent with operational and security concerns, and fiscally sound.

SECTION 309

Section 309 of the conference report amends section 307 of the National Security Act of 1947, which provides a general authorization for any funds "necessary and appropriate to carry out the provisions and purposes" of the Act, to make explicit in law what is already clear, that such a general authorization does not satisfy the requirements of the Act that funding for intelligence and intelligence-related activities has been "specifically authorized by Congress."

Section 309 is identical to section 305(a) of the Senate amendment. The House bill did not contain a similar provision.

SECTION 310

Section 310 of the conference report ratifies a previous transaction concerning obligation of certain funds for the Accelerated Architecture Acquisition Initiative of the Plan to Improve Imagery Ground Architecture, which was notified by the Director of Central Intelligence to the appropriate committees of the Congress on August 16, 1993. Section 310 would deem the funds involved in this transaction to have been specifically authorized by Congress for purposes of section 504(a)(3) of the National Security Act of 1947.

Section 310 is identical to section 305(b) of the Senate amendment. The House bill contained no similar provision.

SECTION 311

Section 311 of the conference report reflects the conferees' resolution of issues concerning the National Security Education Act of 1991 (the Act). Section 303 of the House bill would have repealed the Act in its entirety and would have returned the amounts remaining in the National Security Education Trust Fund (the Trust Fund) to the Treasury. Section 502 of the Senate amendment would have repealed subsection 804(b)(2) of the Act which requires an authorization to either appropriate amounts to, or obligate amounts from, the Trust Fund. The Senate amendment also contained a provision authorizing the Secretary of Defense to accept donations to the Trust Fund.

The conferees agreed to reduce the Trust Fund by the amount in excess of $120 million that is not appropriated as of the date of enactment of the Intelligence Authorization Act for Fiscal Year 1994. Such amount shall be transferred to the Treasury as miscellaneous receipts. The conferees do not intend that funds appropriated from the Trust Fund but not yet obligated as of the date of enactment of the Intelligence Authorization Act for Fiscal Year 1994 shall be transferred to the Treasury as miscelleneous receipts.

One of the purposes of the Act is to produce an increased pool of applicants for work in the departments and agencies of the United States Government with national security responsibilities. The conferees thus agreed to amend the Act to specify that the Secretary of Defense, in preparing the annual report required by the Act, shall consult with the government members of the National Security Education Board (which includes the Director of Central Intelligence) to obtain an assessment of the hiring needs of each of the agencies concerned in the area of language and area studies, and a projection of deficiencies in these areas. The assessments shall be reported to the President and the Congress as part of the annual report made by the Secretary. The conferees expect that these assessments will form the basis for the awarding of assistance under the National Security Education Act programs.

The conferees further note that the Secretary is to award scholarships for studies in countries which are not emphasized in other study abroad programs, and fellowships and grants in foreign language and area studies disciplines in which these are deficiences in learning or training. Since most study abroad programs for undergraduates now operate in certain Western European countries, the conferees expect that these countries will not be the countries where undergraduates will receive scholarships for study. In addition, the conferees believe that French, German and Spanish are not languages in which there is a deficiency in learning or training, and thus expect that there would be no fellowships or institutional grants in these languages unless funding for them is explicitly recommended by the National Security Education Board.

The conferees further agreed that amounts appropriated from the Trust fund for fiscal years 1993 and 1994 shall remain available until expended. Finally, the conferees agreed that amounts authorized to be appropriated from the Trust Fund during fiscal years 1995 and 1996 shall not exceed the amounts of interest credited to the Trust Fund for the preceding fiscal year.

The conferees note that a provision in the National Defense Authorization Act for Fiscal Year 1994 repeals the requirement in section 804 of the Act that no amount may be appropriated to, or obligated from, the trust Fund unless authorized by law. Authorizations for appropriations from the Trust Fund for fiscal years 1995 and 1996 are provided by the conference report and the conferees intend to examine the advisability of reinstating an authorization requirement in the law before those authorizations expire.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

SECTION 401

Section 401 of the House bill authorized the Director of Central Intelligence to carry out a program to award cash prizes to students who participate in high school science fairs within the United States. The Senate amendment did not contain a similar provision.

The conferees agreed to the House provision with several modifications. First, the conferees agreed to authorize the conduct of the program only for fiscal years 1994 and 1995, during which time its implementation is to be carefully examined by the committees. In addition, the conferees agreed to limit expenditures on the program to not more than five thousand dollars during each of the two fiscal years for which it was authorized. Finally, the conferees agreed that awards under the program are to be made solely on the basis of merit and are to be equitably distributed on a regional basis throughout the United States.

It is the intent of the conferees that the program not serve as a recruiting tool or incentive for the Central intelligence Agency or any other element of the United States intelligence community.

TITLE V—ADDITIONAL TECHNICAL AMENDMENTS

SECTION 501

Section 501 of the conference report makes conforming amendments to the Central Intelligence Agency Act of 1949 to reflect changes in the National Security Act of 1947 made by the Intelligence Organization Act of 1992 (Title VII of Public Law 102-496). Section 501 follows, with certain technical drafting changes, section 601 of the House bill and section 402 of the Senate amendment.

SECTION 502

Section 502 of the conference report corrects a technical drafting error in the National Security Act of 1947 (50 U.S.C. 403–3(d)(3)). Section 502 is identical to section 602 of the House bill and similar to section 402(b) of the Senate amendment.

SECTION 503

Section 503 of the conference report codifies section 425 of title 10, United States Code, and makes the conforming repeal. Section 503 is identical to section 503 of the House bill. The Senate amendment did not include a similar provision.

REPORT ON INSPECTORS GENERAL WITHIN THE INTELLIGENCE COMMUNITY

The conferees note that the reports accompanying the House and Senate authorization bills each included a requirement for a report relating to the performance of inspectors general within the intelligence community. The Senate report focused on the performance of "non-statutory" inspectors general of intelligence elements within the Department of Defense. The House report focused upon intelligence programs for which both the Director of Central Intelligence and the Secretary of Defense have responsibilities. These may not be adequately covered either by the Inspector General of the CIA, or by a "non-statutory" Inspector General of a DoD intelligence element.

The conferees agreed to modify the reporting requirements of both Houses by calling for a single joint report to be submitted by the Director of Central Intelligence and the Secretary of Defense to each committee no later than April 1, 1994. Such report shall, at a minimum contain:

(1) With respect to the "non-statutory" inspectors general at the Defense Intelligence Agency, National Security Agency, and National Reconnaissance Office: (a) a detailed description of the activities undertaken by each inspector general (IG) during calendar year 1993, including any significant actions taken by the respective agencies as a result of an IG audit, inspection, or investigation; (b) a breakdown of the personnel assigned to each IG office for the last three years; (c) an assessment of the performance of each IG office for the last three years; and (d) recommended actions to improve the effectiveness of the IGs concerned.

(2) With respect to the Inspector General of the Department of Defense (DoD IG): (a) a summary of the activities of that office with respect to DoD intelligence components over the past three years, including any significant actions taken by the intelligence components as a result of a DoD IG audit, inspection, or investigation; (b) a description of the DoD IG's role vis-a-vis DoD intelligence components; (c) a description of the DoD IG's role vis-a-vis the Assistant to the Secretary

of Defense for Intelligence Oversight; and (d) an assessment of whether the role of the DoD IG vis-a-vis DoD intelligence components or the Assistant to the Secretary of Defense for Intelligence Oversight should be altered.

(3) With respect to intelligence programs for which both the Director of Central Intelligence (DCI) and the Secretary of Defense have responsibilities: (a) an identification of such programs and the office which performs inspector general functions for each program identified; (b) a description of the IG activities performed with regard to each such program over the last year; and (c) recommended actions to improve the effectiveness of the inspector general function for such programs.

PERSONNEL MATTERS

The conferees wish to make clear as a matter of public record that the personnel actions reflected in the conference report (including the classified schedule of authorizations incorporated by reference in it) do not change the overall level of personnel reductions heretofore mandated by the Congress. Thus, the requirement to achieve an overall reduction of 17.5 percent in intelligence community personnel from fiscal year 1991 levels by the end of fiscal year 1997 is in no way affected by this Act.

The conferees express their strong interest in and concerns for ensuring that the intelligence community provides equal opportunity for all of its employees. The conferees were therefore disturbed by recent allegations of job hiring and personnel promotion discrimination against women and minorities at the National Security Agency (NSA). The conferees fully support the ongoing Department of Defense Inspector General investigation of these allegations and note that the Director, NSA, has publicly pledged to cooperate fully in this matter.

PROVISIONS NOT INCLUDED IN THE CONFERENCE REPORT

DISCLOSURE OF CLASSIFIED INFORMATION BY MEMBERS OF CONGRESS AND EXECUTIVE BRANCH OFFICERS AND EMPLOYEES

Section 307 of the House bill would have prohibited, during fiscal year 1994, any element of the United States Government for which funds are authorized by the Intelligence Authorization Act for Fiscal Year 1994 from providing any classified information derived from that element's intelligence or intelligence-related activities to a Member of Congress or to an officer or employee of the executive branch until that Member, officer, or employee had signed an oath of secrecy and the oath had been published in the CONGRESSIONAL RECORD. The Senate amendment did not contain a similar provision. The House recedes.

REPORTING ON INTELLIGENCE ACTIVITIES OTHER THAN COVERT ACTIONS

Section 502 of the House bill would have amended section 502 of the National Security Act of 1947 (the Act) to explicitly include within the definition of the term "intelligence activity" any deployment of military intelligence personnel serving in clandestine intelligence collection units. The Senate amendment did not contain a similar provision.

Section 502 of the House bill was a response to past occasions in which the House committee was not kept informed of the deployment for intelligence collection and related purposes of a particular military unit. When these occasions arose, some Department of Defense officials asserted that the deployments were not among the intelligence activities about which the Act required that Congress be notified. It is clear as a matter of law that the activities of the unit are intelligence activities subject to Title V of the Act.

On November 8, 1993, Assistant Secretary of Defense Emmett Paige, Jr. provided written assurances to the intelligence committees that the Department of Defense recognizes that the activities of the military unit in question are intelligence activities for the purposes of the reporting requirements of the Act. The text of Assistant Secretary Paige's letter, which was classified, appears in the classified annex to this joint explanatory statement. In light of the official acknowledgement that the activities of the unit are intelligence activities subject to Title V of the Act, the conferees agreed to exclude section 502 of the House bill from the conference report.

DISCLOSURE OF THE ANNUAL INTELLIGENCE BUDGET TOTAL

Section 306 of the Senate amendment expressed the sense of the Congress that, in each year, the aggregate amount requested and authorized for, and spent on, intelligence and intelligence-related activities should be disclosed to the public in an appropriate manner. The House bill contained no comparable provision.

The conferees note that in 1991, the Senate passed the Intelligence Authorization Act for Fiscal Year 1992 with a provision to require annual disclosure of the aggregate intelligence budget figure. The Committee of Conference on that bill substituted "sense of the Congress" language that, beginning in 1993 and each year thereafter, "the aggregate amount requested and authorized for, and spent on, intelligence and intelligence-related activities should be disclosed to the public in an appropriate manner."

Similar "sense of the Congress" language was also enacted by Congress the following year as part of the Intelligence Authorization Act for Fiscal Year 1993.

This year the Senate adopted a floor amendment to the FY 1994 bill which embodied essentially the same "sense of the Congress" language that had been enacted by the Congress the two previous years. This amendment was approved on two separate votes, by margins of 51–49 (defeating a motion to table) and 52–48 (adopting the amendment). Thus, while the amendment adopted by the Senate as a "sense of the Congress" was not legally binding upon the executive branch, it clearly expressed the sense of the Senate that the aggregate intelligence budget figure be disclosed to the public in an appropriate manner.

During the floor consideration of the House bill, an amendment was offered which would have required the public disclosure of the aggregate amounts requested and authorized for, and spent on, intelligence and intelligence-related activities. That amendment was rejected by a vote of 169–264. Although the mandatory language in the rejected House amendment clearly went beyond the "sense of the Congress" language in the Senate amendment, House conferees were of the view that, in light of the House vote, they could not agree to the inclusion in the conference report of the Senate's "sense of the Congress" provisions and therefore voted to insist on the House position. Nevertheless, the House conferees did state their willingness to entertain bill language expressing the "sense of the Senate" (as opposed to "sense of the Congress" expressing the views of both Houses) in favor of disclosure of the aggregate intelligence budget figure, but Senate conferees opposed to disclosure prevented agreement to such modification of the Senate amendment on an evenly divided vote of the Senate conferees. To resolve the impasse, the Senate conferees ultimately agreed to recede to the position of the House.

The conferees intend to revisit the issue of public disclosure of the intelligence budget in 1994. The chairmen of the Senate and House committees have each agreed to hold hearings on this issue early in 1994 in preparation for thoroughly evaluating a provision to require disclosure of the aggregate intelligence budget figure which may be considered during preparation of the Intelligence Authorization Act for Fiscal Year 1995.

CONFIRMATION OF THE GENERAL COUNSEL OF THE CENTRAL INTELLIGENCE AGENCY

Section 401 of the Senate amendment would have established the CIA General Counsel as a Senate-confirmed Presidential appointee position. The House bill contained no comparable provision.

A majority of the Senate conferees believe that the CIA General Counsel position should be made a Senate-confirmed Presidential appointee position for the reasons set forth in Senate report 103–115.

The House conferees believe that hearings should be held in the House Permanent Select Committee on Intelligence on whether the CIA General Counsel position and other CIA positions should be made Senate-confirmed Presidential appointee positions.

As a matter of comity and without prejudice to its position on the matter, the Senate recedes to the House on Section 401, to allow the House the opportunity to conduct its hearings on the matter. The conferees expect that the matter will be addressed in the process of considering the Intelligence Authorization Act for Fiscal Year 1995.

FOREIGN LANGUAGE PROFICIENCY PAY FOR MEMBERS OF THE RESERVE COMPONENTS OF THE ARMED FORCES

Section 501 of the Senate amendment provided the Secretaries of the Military Departments with authority to offer enhanced payments to members of military reserve components who qualify under the Foreign Language Proficiency Pay (FLPP) program. The House bill did not contain a similar provision.

The intelligence committees have long been concerned about the lack of adequate incentives to encourage active duty and reserve military linguists to maintain and increase their skills. The conferees are aware, however, that the National Defense Authorization Act for Fiscal Year 1994 contains a provision requiring the Secretary of Defense to devise and implement a test program to improve foreign language proficiency. An increase in proficiency pay will be evaluated as a part of this process. To give the results of the test program an opportunity to be fully evaluated, the conferees agreed to exclude from the conference report the enhanced authority which would have been provided by section 501 of the Senate amendment.

FEDERAL BUREAU OF INVESTIGATION COUNTERINTELLIGENCE ACCESS TO CONSUMER CREDIT RECORDS

Section 601 of the Senate amendment would have amended section 608 of the Fair Credit Reporting Act (15 U.S.C. 1681F) to grant the Federal Bureau of Investigation (FBI) access to consumer credit records in counterintelligence investigations. This provision would have provided a limited expansion of the FBI's existing authority in counterintelligence investigations to use a "National Security Letter," i.e. a written certification by the FBI Director or the Director's designee, to obtain certain information without a court order. The House bill did not contain a similar provision. The conferees are aware that a number of committees of the House of Representatives have an interest in any proposed expansion of the extraordinary authority provided by the "National Security Letter." As a matter of comity, the Senate receded to provide further time for the House committees to consider this matter.

From the Permanent Select Committee on Intelligence, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

DAN GLICKMAN,
BILL RICHARDSON,
NORMAN D. DICKS,
JULIAN C. DIXON,
ROBERT G. TORRICELLI,
RONALD D. COLEMAN,
DAVID E. SKAGGS,
JAMES H. BILBRAY,
NANCY PELOSI,
GREG LAUGHLIN,
BUD CRAMER,
JACK REED,
LARRY COMBEST,
DOUG BEREUTER,
R.K. DORNAN,
BILL YOUNG,
GEORGE W. GEKAS,
JAMES V. HANSEN,
JERRY LEWIS,

From the Committee on Armed Services, for consideration of defense tactical intelligence and related activities:

RONALD V. DELLUMS,
IKE SKELTON,
FLOYD SPENCE,
Managers on the Part of the House.

From the Select Committee on Intelligence:

DENNIS DECONCINI,
JOHN GLENN,
BOB KERREY,
RICHARD H. BRYAN,
BOB GRAHAM,
JOHN F. KERRY,
MAX BAUCUS,
J. BENNETT JOHNSTON,
JOHN W. WARNER,
ALFONSE D'AMATO,
JOHN C. DANFORTH,
SLADE GORTON,
JOHN H. CHAFEE,
TED STEVENS,
RICHARD G. LUGAR,
MALCOLM WALLOP,

From the Committee on Armed Services:

SAM NUNN,
STROM THURMOND,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. ROMERO-BARCELÓ (at the request of Mr. GEPHARDT) for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BURTON of Indiana) to revise and extend their remarks and include extraneous material:)

Mr. TORKILDSEN, for 5 minutes, on November 21 and 22.

Mr. KINGSTON, for 5 minutes, today.

(The following Members (at the request of Mr. KOPETSKI) to revise and extend their remarks and include extraneous material:)

Mr. FALEOMAVAEGA, for 5 minutes, today.

Mr. STARK, for 5 minutes, today.

Mr. KLINK, for 60 minutes, today.

Mr. HOYER, for 30 minutes, on November 19.

Mr. JEFFERSON, for 10 minutes, today.

(The following Member (at her own request) to revise and extend her remarks and include extraneous material:)

Ms. NORTON, for 60 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. TAYLOR of Mississippi, during debate on H.R. 3471 today.

(The following Members (at the request of Mr. BURTON of Indiana) and to include extraneous matter:)

Mr. GOODLING.
Mr. KASICH.
Mr. HUTCHINSON.
Ms. ROS-LEHTINEN.
Mrs. BENTLEY.
Mr. GALLEGLY in two instances.
Mr. MICHEL.
Mr. BLUTE.
Mr. BURTON of Indiana.
Mr. GILMAN in two instances.
Mr. PACKARD.
Mr. CRANE in two instances.

(The following Members (at the request of Mr. KOPETSKI) and to include extraneous matter:)

Mr. LANTOS.
Mr. NEAL of Massachusetts.
Mr. TRAFICANT.
Mr. JACOBS.
Mr. VISCLOSKY.
Mr. REED in two instances.
Mr. SERRANO.
Mr. OWENS.
Mrs. MALONEY.
Mr. PAYNE of New Jersey.
Mr. PICKETT.
Mr. SWETT.
Mr. MANN in two instances.
Mr. BILBRAY in two instances.
Mr. TOWNS in five instances.
Mr. LAROCCO.
Mrs. KENNELLY.
Mr. HAMILTON.
Mr. HALL of Ohio.
Mr. BOUCHER.
Mr. ENGEL.
Mr. LANCASTER.
Mr. DOOLEY.
Ms. MCKINNEY.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 986. An act to provide for an interpretive center at the Civil War Battlefield of Corinth, Mississippi, and for other purposes; to the Committee on Natural Resources.

ENROLLED BILLS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2401. An act to authorize appropriations for fiscal year 1994 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes;

H.R. 2677. An act to authorize the Board of Regents of the Smithsonian Institution to plan, design, and construct the West Court of the National Museum of Natural History building; and

H.R. 3341. An act to amend title 38, United States Code, to increase the rate of special pension payable to persons who have received the Congressional Medal of Honor.

ADJOURNMENT

Ms. NORTON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 40 minutes p.m.) the House adjourned until tomorrow, Friday, November 19, 1993, at 10 a.m.

EXECUTIVE COMMUNCIATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2169. A letter from the Acting Administrator, Farmers Home Administration, transmitting the FmHA Housing Demonstration Program for fiscal year 1993; to the Committee on Banking, Finance and Urban Affairs.

2170. A letter from the Interim CEO, Resolution Trust Corporation, transmitting the semiannual report on the Affordable Housing Disposition Program which covers the reporting period defined as January 1, 1993, through June 30, 1993, pursuant to Public Law 102-233, section 616 (105 Stat. 1787); to the Committee on Banking, Finance and Urban Affairs.

2171. A letter from the Executive Director, Committee For Purchase From People Who Are Blind Or Severely Disabled, transmitting the fiscal year 1993 annual report as required by the Inspector General Act Amendments of 1988, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

2172. A letter from the Acting Chief, U.S. Forest Service, transmitting the boundary descriptions for the Little Missouri River and the Cossatot River within the Ouachita National Forest in the State of Arkansas, pursuant to 16 U.S.C. 1271-1287; to the Committee on Natural Resources.

2173. A letter from the Assistant Secretary for Legislative Affairs, Department of State; transmitting a draft of proposed legislation entitled "Antarctic Environmental Protection Act of 1993"; Jointly, to the Committees on Merchant Marine and Fisheries, Science, Space, and Technology, Foreign Affairs, Natural Resources, the Judiciary, and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROWN of California: Committee on Science, Space, and Technology. H.R. 1994. A bill to authorize appropriations for environmental research, development, and demonstration for fiscal year 1994, and for other purposes; with amendments (Rept. 103–376). Referred to the Committee of the Whole House on the State of the Union.

Mr. GLICKMAN: Committee of Conference. Conference report on H.R. 2330. A bill to authorize appropriations for fiscal year 1994 for intelligence and intelligence-related activities of the U.S. Government and the Central Intelligence Agency Retirement and Disability System, and for other purposes (Rept. 103–377). Ordered to be printed.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 3505. A bill to amend the Developmental Disabilities Assistance and Bill of Rights Act to modify certain provisions relating to programs for individuals with developmental disabilities, Federal assistance for priority area activities for individuals with developmental disabilities, protection and advocacy of individual rights, university affiliated programs, and projects of national significance, and for other purposes; with an amendment (Rept. 103–378). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 3216. A bill to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to control the diversion of certain chemicals used in the illicit production of controlled substances such as methcathinine and methamphetamine, and for other purposes; with an amendment (Rept. 103–379, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. SWETT:

H.R. 3529. A bill to establish the President's Total Environmental Quality Award and the National Environmentally Sound Technology Award; to the Committee on Science, Space, and Technology.

H.R. 3530. A bill to provide for the use of Federal facilities to demonstrate environmental technologies; to the Committee on Science, Space, and Technology.

H.R. 3531. A bill to incorporate environmentally sound principles into certain ongoing programs; to the Committee on Science, Space, and Technology.

By Mr. BOUCHER (for himself, Mr. BROWN of California, and Mr. BOEHLERT):

H.R. 3532. A bill to implement the Protocol on Environmental Protection to the Antarctic Treaty, to enact a prohibition against Antarctic mineral resources activities, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries, Science, Space, and Technology, Foreign Affairs, and Natural Resources.

By Mr. ANDREWS of Texas:

H.R. 3533. A bill to amend the Internal Revenue Code of 1986 to treat geological, geophysical, and surface casing costs like intangible drilling and development costs, and for other purposes; to the Committee on Ways and Means.

By Mr. EDWARDS of California (for himself and Mr. COX):

H.R. 3534. A bill to amend the Export Administration Act of 1979 with respect to export controls on computers; to the Committee on Foreign Affairs.

By Mr. GENE GREEN of Texas (for himself and Mr. DEUTSCH, Mrs. MINK, Mr. FROST, Mrs. THURMAN, and Mr. BECERRA):

H.R. 3535. A bill to require the Secretary of Education to permit student loan borrowers to defer repayment during periods for which the borrower or a spouse is eligible for leave under the Family and Medical Leave Act of 1993; to the Committee on Education and Labor.

By Mr. KLEIN:

H.R. 3536. A bill to provide financial assistance for technology adaptation to promote exports; jointly to the Committees on Banking, Finance and Urban Affairs and Science, Space, and Technology.

By Mr. MANTON:

H.R. 3537. A bill to amend title 18, United States Code, to impose mandatory prison terms for possession or use of a firearm or a destructive device during conduct constituting a crime of violence or a drug trafficking crime under State law; to the Committee on the Judiciary.

By Ms. McKINNEY:

H.R. 3538. A bill to prohibit U.S. military assistance and arms transfers to foreign governments that are undemocratic, do not adequately protect human rights, are engaged in acts of armed aggression, or are not fully participating in the U.S. Register of Conventional Arms; to the Committee on Foreign Affairs.

By Mr. MENENDEZ:

H.R. 3539. A bill to amend the Federal Water Pollution Control Act to allow certain privately owned public treatment works to be treated as publicly owned treatment works, and for other purposes; to the Committee on Public Works and Transportation.

By Mrs. MORELLA:

H.R. 3540. A bill to coordinate the life-cycle assessment activities and resources of the Federal Government relating to environmental technologies; to the Committee on Science, Space, and Technology.

By Mr. NEAL of Massachusetts (for himself and Mr. MOAKLEY):

H.R. 3541. A bill to provide for the duty-free entry of methanol produced aboard U.S. vessels on the high seas or in foreign waters; to the Committee on Ways and Means.

By Mr. SCHUMER:

H.R. 3542. A bill to amend title 18, United States Code, to regulate the manufacture, importation, and sale of certain particularly dangerous bullets; to the Committee on the Judiciary.

By Mr. DINGELL (for himself, Mr. SWIFT, Mr. MOORHEAD, Mr. OXLEY, Mr. SHARP, Mr. BLILEY, Mr. WYDEN, Mr. SCHAEFER, Mr. RICHARDSON, Mr. HASTERT, Mr. BOUCHER, Mr. UPTON, Mr. TOWNS, Mr. GILLMOR, Mr. PALLONE, Mr. WASHINGTON, Mr. KREIDLER, and Ms. MARGOLIES-MEZVINSKY):

H.J. Res. 294. Joint resolution to express appreciation to W. Graham Claytor, Jr., for a lifetime of dedicated and inspired service to the Nation; to the Committee on Energy and Commerce.

By Mr. GILMAN (for himself, Mr. ROHRABACHER, Mr. ROTH, Mr. PORTER, Mr. FALEOMAVAEGA, and Mr. LANTOS):

H.J. Res. 295. Joint resolution expressing the sense of the Congress that the United States should not establish diplomatic relations with the Government of the Socialist Republic of Vietnam until that government abides by internationally accepted standards of religious liberty; to the Committee on Foreign Affairs.

By Mr. TORRICELLI:

H.J. Res. 296. Joint resolution designating March 21, 1994, as "National Single Parent Day"; to the Committee on Post Office and Civil Service.

By Mrs. VUCANOVICH:

H. Res. 315. Resolution expressing the sense of the House of Representatives that previously authorized construction to improve medical facilities administered by the Secretary of Veterans Affairs should not be delayed by the national health care reform debate; to the Committee on Veterans' Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. GONZALEZ:

H.R. 3543. A bill for the relief of Wolfgang Dietrich Hofman; to the Committee on the Judiciary.

By Mr. KASICH:

H.R. 3544. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade of the United States for the vessel *Mandiran;* to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 84: Mr. ROSE.

H.R. 214: Ms. DUNN.

H.R. 216: Mr. ZELIFF and Mr. SCHIFF.

H.R. 301: Mr. DOOLITTLE.

H.R. 302: Ms. FURSE.

H.R. 304: Ms. MARGOLIES-MEZVINSKY.

H.R. 324: Ms. MARGOLIES-MEZVINSKY.

H.R. 425: Mr. ENGEL, Mr. FRANKS of Connecticut, Mr. NEAL of North Carolina, Mr. ROMERO-BARCELÓ, Mrs. SCHROEDER, and Mr. WISE.

H.R. 426: Mr. MCDERMOTT.

H.R. 427: Mr. BEREUTER, Mr. ENGEL, Mr. FRANKS of Connecticut, Mr. NEAL of North Carolina, Mr. ROMERO-BARCELO, Mrs. SCHROEDER, and Mr. WISE.

H.R. 436: Mr. PAYNE of New Jersey, Mr. QUINN, Mr. DARDEN, Mr. JOHNSON of Georgia, Mrs. LLOYD, Mr. LIPINSKI, and Mr. ORTIZ.

H.R. 439: Ms. MARGOLIES-MEZVINSKY.

H.R. 441: Mr. KNOLLENBERG, Mr. HOEKSTRA, and Mr. GOODLATTE.

H.R. 465: Mr. SCHIFF.

H.R. 466: Ms. LONG.

H.R. 502: Mr. KLUG and Mr. BONILLA.

H.R. 702: Mr. PICKETT.

H.R. 711: Ms. MARGOLIES-MEZVINSKY.

H.R. 723: Mr. JACOBS.

H.R. 824: Mr. QUINN.

H.R. 883: Mr. ROYCE, Ms. DUNN, and Mr. HOEKSTRA.

H.R. 911: Mr. LEWIS of Florida.

H.R. 998: Mr. HOBSON.

H.R. 999: Mr. GOODLATTE.

H.R. 1126: Mrs. VUCANOVICH.

H.R. 1167: Mr. KLUG.

H.R. 1168: Mr. KLUG, Mr. SCHIFF, and Mr. WELDON.

H.R. 1182: Mr. LIPINSKI.

H.R. 1295: Mr. MANZULLO, Mr. ORTIZ, Mr. OBERSTAR, and Ms. LAMBERT.

H.R. 1482: Mr. ZIMMER.

H.R. 1483: Mr. ZIMMER.

H.R. 1486: Mr. ZIMMER.

H.R. 1487: Mr. KLUG, Mr. ZIMMER, and Mr. BROWN of Ohio.

H.R. 1504: Mr. DELAY, Mr. BOEHNER, Mr. BEREUTER, and Mr. MURPHY.

H.R. 1552: Mr. SANTORUM and Mr. GALLO.

H.R. 1608: Mr. STRICKLAND, Mr. GREENWOOD, and Mr. LEWIS of Florida.

H.R. 1620: Mr. HOBSON.

H.R. 1763: Ms. LAMBERT.

H.R. 1840: Mr. BEREUTER.

H.R. 1857: Mr. DOOLITTLE.

H.R. 1858: Mr. ZIMMER.

H.R. 1897: Mr. HOCHBRUECKNER.

H.R. 1921: Mr. ZELIFF.

H.R. 2012: Mr. CRAMER, Mr. GEJDENSON, Mr. BACCHUS of Florida, Mr. GIBBONS, Mr. LEWIS of Georgia, Ms. MCKINNEY, Mr. GUTIERREZ, Mr. ROSTENKOWSKI, Mr. CLAY, Mr. ENGEL, Mrs. MALONEY, Mr. OWENS, Mr. KOPETSKI, Mr. REED, Mr. EDWARDS of Texas, and Mr. MYERS of Indiana.

H.R. 2043: Ms. MARGOLIES-MEZVINSKY.

H.R. 2119: Mr. STARK.

H.R. 2135: Mr. INHOFE.

H.R. 2227: Ms. LAMBERT.

H.R. 2241: Mr. GEJDENSON.

H.R. 2292: Mr. BROWN of California.

H.R. 2418: Mr. HANSEN.

H.R. 2438: Ms. LAMBERT.

H.R. 2591: Ms. VELÁZQUEZ.

H.R. 2599: Mr. UNDERWOOD, Mr. KLUG, and Mr. ACKERMAN.

H.R. 2641: Mr. CLYBURN, Mr. KILDEE, Mr. CHAPMAN, and Mr. ENGEL.

H.R. 2788: Mrs. MINK.

H.R. 2803: Mr. FLAKE.

H.R. 2873: Mr. BACHUS of Alabama, Mr. STENHOLM, Mrs. MEEK, Mr. DERRICK, Mr. MINGE, Mr. TANNER, Ms. DUNN, Mr. CALVERT, Mr. VOLKMER, Ms. ROS-LEHTINEN, and Mr. TORRICELLI.

H.R. 2913: Mr. MICA, Mr. KINGSTON, Mr. STUMP, Mr. PORTER, Mr. YOUNG of Alaska, and Mr. CASTLE.

H.R. 2971: Mr. ENGEL.

H.R. 3024: Mr. EVERETT.

H.R. 3030: Mr. DELAY.

H.R. 3097: Mrs. SCHROEDER and Mr. LIPINSKI.

H.R. 3183: Mr. BATEMAN.

H.R. 3227: Mr. CARDIN, Mr. SCHUMER, Mr. GEKAS, Mr. MONTGOMERY, Mr. UNDERWOOD, Mr. TOWNS, Mr. EMERSON, Mr. PARKER, Mr. BARCIA of Michigan, Mr. HOBSON, Mr. ROMERO-BARCÉLO, Mr. LEWIS of Florida, Mrs. MEYERS of Kansas, Mr. ENGEL, Mr. PORTMAN, and Ms. PRYCE of Ohio.

H.R. 3228: Mr. GUTIERREZ and Mr. GENE GREEN of Texas.

H.R. 3271: Mr. SHAYS.

H.R. 3272: Mr. HUGHES and Mr. CANADY.

H.R. 3322: Mr. SCOTT, Mr. ACKERMAN, Mr. DIXON, Mr. PAYNE of New Jersey, Mr. FIELDS of Louisiana, and Mr. OBERSTAR.

H.R. 3342: Mr. BARCA of Wisconsin, Mr. CONYERS, Mr. CRAMER, Mr. GLICKMAN, Mr. APPLEGATE, Mr. MURTHA, and Mr. TORRES.

H.R. 3359: Mr. CRANE.

H.R. 3370: Ms. MCKINNEY.

H.R. 3389: Mr. ROMERO-BARCELO.

H.R. 3397: Mr. TRAFICANT, Mr. SCOTT, Mr. FILNER Mr. GALLEGLY, Mr. MURTHA, Mr. FROST, and Mr. BAESLER.

H.R. 3408: Mr. MCCRERY.

H.R. 3520: Mr. BEILENSON.

H.J. Res. 90: Mr. LIGHTFOOT, Mrs. BENTLEY, Mr. GUNDERSON, Mrs. JOHNSON of Connecticut, Mr. GILCHREST, Mr. GILMAN, Mr. HUNTER, Mr. BLUTE, Mr. MANN, Mr. SKEEN, Mr. GRAMS, Mr. TAYLOR of North Carolina, Ms. DUNN, Mr. BORSKI, Mr. BREWSTER, Mr. CLEMENT, and Mr. CLINGER.

H.J. Res. 131: Mr. SERRANO, Mr.. TALENT, Mr. BERMAN, Mr. INHOFE, Ms. MARGOLIES-MEZVINSKY, Mr. WATT, and Mr. CHAPMAN.

H.J. Res. 139: Mr. FRANKS of New Jersey, Mr. CAMP, Mr. NADLER, Mr. PETE GEREN of Texas, Mr. JEFFERSON, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. CHAPMAN, Ms. KAPTUR, Mr. DELLUMS, Mr. HYDE, Mr. STUPAK, Mr. BALLENGER, Mr. BILBRAY, Ms. BYRNE, Mr. MILLER of California, Mr. BARRETT of Nebraska, Mrs. BENTLEY, Mr. WHITTEN, Mr. HOYER, Mr. GEJDENSON, Mr. BERMAN, Mr. RIDGE, Mr. BARLOW, Mr. PASTOR, Mr. REGULA, Ms. ROYBAL-ALLARD, Mr. MORAN, and Mr. DURBIN.

H.J. Res. 159: Mr. STUDDS, Ms. SCHENK, Mr. STUMP, Mr. SLATTERY, Mr. GILLMOR, Mr. BAKER of California, and Mr. JOHNSTON of Florida.

H.J. Res. 165: Mr. GOODLING.

H.J. Res. 237: Mr. KASICH and Mr. HUNTER.

H.J. Res. 246: Mr. BEVILL, Mr. DEUTSCH, Mr. HALL of Ohio, Mr. HOYER, Mr. MINETA, Mr. PARKER, Mr. PETERSON of Florida, Mr. ROYCE, Mr. SWETT, Mr. TUCKER, Mr. WYNN, Mr. BACCHUS of Florida, Mr. CALVERT, Mr. CASTLE, Mr. CLINGER, Mr. CLYBURN, Mr. FORD of Tennessee, Mr. KASICH, Mr. SLATTERY, Mr. WYDEN, and Mr. YATES.

H.J. Res. 247: Mr. FARR, Mr. FORD of Michigan, Mr. FIELDS of Texas, Mr. ENGEL, Mr. STEARNS, Mr. VOLKMER, Mr. POMEROY, Mr. DINGELL, Mr. HALL of Texas, Mr. MCHUGH, Mr. EDWARDS of Texas, Mr. KING, and Ms. MOLINARI.

H.J. Res. 272: Mr. PORTER, Mr. ORTON, Mr. MANTON, Mr. KILDEE, Mr. LAZIO, Mr. GEPHARDT, Mr. TAYLOR of North Carolina, Mr. HALL of Ohio, Mr. FAWELL, Mr. TANNER, Mr. LAUGHLIN, Mr. ABERCROMBIE, Mr. BACCHUS of Florida, Mr. PACKARD, Mr. LEWIS of Florida, Mr. APPLEGATE, Mr. PAYNE of New Jersey, Mr. BILBRAY, Mr. LEWIS of California, Mr. FORD of Tennessee, Mr. CLYBURN, Ms. FURSE, Mr. BISHOP, Mr. ROGERS, Mr. RIDGE, Mr. BORSKI, Mr. QUILLEN, Mr. COYNE, Mr. BEVILL, Mr. WAXMAN, Mr. WYDEN, Mr. BEILENSON, Mr. SMITH of Iowa, Mr. GLICKMAN, Mr. NADLER, Mr. INSLEE, Mr. DORNAN, Mr. HUNTER, Mr. GONZALEZ, Mr. WISE, Mr. VENTO, Mr. WATT, Mr. COX, Mr. PARKER, Mr. TORRES, Mr. HANSEN, Mr. DOOLITTLE, Mr. RUSH, and Mrs. VUCANOVICH.

H. Con. Res. 4: Mr. FRANK of Massachusetts

H. Con. Res. 20: Mr. ANDREWS of Maine and Ms. MARGOLIES-MEZVINSKY.

H. Con. Res. 84: Mr. FAZIO.

H. Con. Res. 107: Mr. FARR.

H. Con. Res. 110: Ms. LAMBERT.

H. Con. Res. 123: Mr. ENGEL.

H. Con. Res. 166: Mr. KNOLLENBERG.

H. Con. Res. 171: Mr. MCNULTY, Mr. WAXMAN, Mr. LEWIS of Georgia, Mr. CARDIN, Mr. DELLUMS, and Mr. FISH.

H. Con. Res. 175: Mr. SHAYS, Mr. BEILENSON, Mr. FOGLIETTA, Mr. ABERCROMBIE, Mr. FRANK of Massachusetts, Mr. GLICKMAN, Mr. BORSKI, Mr. OLVER, Mrs. MALONEY, Mr. OWENS, Mr. HOCHBRUECKNER, Mr. FILNER, Mr. MCCURDY, Mr. LEACH, Mr. COOPER, Mr. TEJEDA, Mrs. MEEK, Mr. KING, Mr. FROST, Mr. TORRICELLI, Mr. WHEAT, Mr. MCNULTY, Ms. SLAUGHTER, Mr. CARDIN, Mr. PRICE of North Carolina, Mr. GENE GREEN of Texas, Mr. COPPERSMITH, Mr. HORN of California, Ms. SHEPHERD, Mr. FALEOMAVAEGA, Mr. PALLONE, Mr. BARTLETT of Maryland, Mr. HINCHEY, and Mr. KYL.

H. Res. 21: Mr. ZELIFF and Mr. KLUG.

H. Res. 234: Ms. MARGOLIES-MEZVINSKY and Mrs. FOWLER.

H. Res. 247: Ms. LAMBERT.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 300: Mr. COLLINS of Georgia.

SENATE—*Thursday, November 18, 1993*

(Legislative day of Tuesday, November 2, 1993)

The Senate met at 9:25 a.m., on the expiration of the recess, and was called to order by the Honorable HARRIS WOFFORD, a Senator from the State of Pennsylvania.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

In a moment of silence, let us commend to the Lord's care and love the mother of Senator MOSELEY-BRAUN.

***Our help is in the name of the Lord, who made heaven and earth.*—Psalm 124:8.**

Almighty God, Lord of history, Ruler of the nations, thank You for this reassurance from King David in the Psalms.

The Senate is a place of power. Powerful people are sometimes oblivious to their need for help, even the help of the Creator God. The subtle rationale is that dependence upon God weakens one's responsibility, despite the fact that the very opposite is true. Dependence upon God increases one's ability to respond effectively to crisis.

Patient Lord, help the Senators, however powerful they are, to be aware of their limitations. Help them to realize dependence upon God strengthens, rather than weakens, human potential. May we contemplate the words of one of our great Presidents, Abraham Lincoln: "I hold myself, in my present position and with the authority vested in me, as an instrument of Providence. I have my own views and purposes, I have my convictions of duty, and my notions of what is right to be done. But I am conscious every moment that all I am and all I have is subject to the control of a Higher Power, and that Power can use me, or not use me, in any manner, and at any time, as in His wisdom and might may be pleasing to Him."

In the name of the Lord who made Heaven and Earth. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, November 18, 1993.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HARRIS WOFFORD, a Senator from the State of Pennsylvania, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. WOFFORD thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

INDEPENDENT COUNSEL REAUTHORIZATION ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 24, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 24) to reauthorize the Independent Counsel Law for an additional 5 years, and for other purposes.

The Senate resumed consideration of the bill.

The ACTING PRESIDENT pro tempore. The Senate will now proceed to vote on S. 24 without any intervening action.

Mr. LEVIN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. LEVIN. Mr. President, I ask unanimous consent that I be allowed to proceed for 1 minute.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, this morning we are going to take a major action to restore public confidence in Government and to show that the lesson of Watergate has not been forgotten.

We have learned that persons who are close to the President must be investigated and where appropriate prosecuted by persons who are not appointed directly by the President. The high-level executive branch people cannot investigate and prosecute themselves.

Mr. President, it is 20 years since the Watergate break-in, and today's vote will show we have not forgotten the bitter lessons of that national tragedy. We need a mechanism for the appointment of independent counsel so that no administration, Democratic or Republican, will be in a position to investigate itself.

The bill before us today is a bipartisan effort. It is supported by President Clinton and Attorney General Reno. It will fill the gaping hole that has been on our books since the independent counsel law lapsed last year.

The public has great confidence in the independent counsel system. While the operation of the law has not been perfect, this bill contains many measures that will bring greater accountability to the system. It is my hope that the House can act before adjournment so that we can get this law back on the books.

Mr. METZENBAUM addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that I be permitted to speak for up to 1 minute.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I rise to express my appreciation and appreciation of all of us in the Senate for the tremendous leadership that the Senator from Michigan, Senator LEVIN, has given in connection with this matter.

When many others were prepared to let the whole issue of the independent counsel slide under the rug and forget about it, the Senator from Michigan with determination and without any reservation at all made up his mind that it was an obligation of this Congress to pass this legislation before we adjourn. He made it clear, also, that the legislation had to be applicable to the right of the independent counsel to investigate Congress if that be necessary and the circumstances called for it.

I just say that on behalf of all of us in the Senate once again the Senator from Michigan has indicated not only his independence, intelligence, and courage, but also his resolve and determination to speak out on behalf of the people of this country. We are all grateful to him.

Mr. LEVIN. I thank the Senator from Ohio.

Mr. DOLE. Mr. President, after watching Lawrence Walsh in action for the past 7 years and counting, you can put me down as a skeptic of any bill that would reauthorize the independent counsel statute.

Since December 1986, Mr. Walsh and his army of lawyers have destroyed reputations, harassed families, run up a tab of more than $40 million billed directly to the taxpayers, even left top-secret documents behind at an airport

taxi stand. And now, 7 years later, can any objective observer look at what Walsh has wrought and say "congratulations on a job well done?"

Obviously, I am no fan of Lawrence Walsh, and I am no fan of the independent counsel statute either. In my view, we ought to have confidence in our Nation's Attorney General—confidence that she can conduct criminal investigations with independence and without the intrusion of politics.

In fact, the Attorney General already has the authority to appoint special counsels in cases that merit an independent review. This authority exists, with or without an independent counsel statute, and it has been invoked by past Attorneys General, including Bush administration Attorney General William Barr who appointed special counsels to investigate the House bank scandal and the Inslaw case.

I am pleased that the managers of the bill, Senator COHEN and Senator LEVIN, have agreed to a number of amendments that I have suggested. Although these amendments will not remedy what I view to be a seriously flawed bill, they will help ensure that some of the abuses of the Lawrence Walsh 7-year witch hunt will not be repeated by future independent counsels.

I think they do help the bill and make it a little more palatable. I hope our conferees would insist that we not alter any of these provisions in conference.

AMENDMENT 1: THE FINAL REPORT

The first amendment narrows the permissible scope of the final report, which independent counsels are required to file prior to terminating their activities.

In my view, this final report requirement is unnecessary and it certainly can be expensive. Once again, we can look to the Lawrence Walsh experience:

After President Bush pardoned former Defense Secretary Cap Weinberger, Walsh spent nearly 8 months drafting his final report. This report has now been filed with the court of appeals here in Washington.

Although the Walsh report is supposed to be protected under a shroud of court-ordered secrecy, portions of the report have been leaked to the press as everything else is in this town, and judging by news accounts, it appears that the report is a self-serving testimonial to the heroics of the Independent Counsel's Office. Even worse, it is paid for by the American taxpayer.

It appears what has happened, we had Lawrence Walsh, who failed over and over again in an effort to get convictions, took care of all these people in his final report, and indicated what a great job he had done and how bad everybody else was. It seems to me he has given the special prosecutor a bad name for a long, long time.

Over and over again, Lawrence Walsh has failed in the courtroom of law. And now, desperate to revive his own sullied reputation, he is apparently seeking success in another venue—the courtroom of public opinion.

It is never easy for a prosecutor when he loses a case. But when the "not guilty verdict" is read, a prosecutor normally picks up his briefcase, hopefully learns from his mistakes, and moves on to the next file.

He does not spend 8 months, at taxpayer expense, writing a report, memoralizing his efforts and blasting the very people he failed to convict, an approach I suspect Mr. Walsh takes in his still-secret final report.

I had originally intended to offer an amendment that would have eliminated the final report requirement entirely, but I believe that the amendment accepted by the managers goes a long way toward accomplishing my intended goal. This modified amendment would retain the final report requirement, but would eliminate the language in the reauthorization bill that allows the independent counsel to describe, in the final report, the "reasons for not prosecuting any matter within the prosecutorial jurisdiction of such independent counsel."

If retained, this language would have been an open invitation to independent counsels to editorialize on cases that they, for whatever reason, chose not to bring, smearing hard-earned reputations in the process.

In the last administration, it was Republicans; in this administration it can be Democrats. I do not think it ought to happen to anybody, regardless of their party, if they have not committed any crime or if they are not indicted for some criminal activity.

As Senator COHEN said yesterday on the Senate floor:

> The final report should be a simple declaration of the work of the independent counsel, pertaining to cases in which he or she has sought indictments. * * * The purpose of the [Dole] amendment is to restrict the nature of the [final] report of the facts without engaging in either speculation or expressions of opinion as to the culpability of individuals unless that culpability * * * rises to the level of an indictable offense.

AMENDMENT 2: TIME AND COST LIMITATIONS

The second amendment attempts to impose stricter time and cost limitations on an independent counsel.

As originally drafted, the reauthorization bill authorizes the special court to determine whether an independent counsel should be terminated "no later than 3 years after the appointment of an independent counsel and at the end of each succeeding 3-year period." That was the original language. This amendment shortens the termination date, by allowing the court to terminate an independent counsel no later than 2 years after his appointment, or after the independent counsel has incurred $2 million in expenses, whichever occurs first.

The point is that Walsh went on for over 7 years, cost the taxpayers—we do not know—somewhere between $40 million and $100 million. Everybody said, "Oh, we can't do anything about it; we can't monitor; we can't do this; we can't do anything about it." This is an effort to tighten that up so we do not have another Lawrence Walsh experience in the next 5 years. I think by tightening up the requirements, it is a big step in the right direction.

Following this original 2-year period, the court could terminate an independent counsel at the end of each succeeding 1-year period, rather than the 3-year intervals proposed in the original reauthorization bill.

By tightening up these termination dates and by linking court reappointment to the expenses incurred by an independent counsel, this amendment should strengthen court oversight and make future independent counsels more accountable for their actions.

AMENDMENT 3: TERMINATION FOR CAUSE

The third amendment is also about accountability. The current independent counsel statute allows the Attorney General to remove an independent counsel for "good cause," but fails to specify what "good cause" means. So nothing ever happens.

This third amendment makes clear that it is "good cause" to remove an independent counsel if he fails to abide by the written guidelines of the Justice Department or if he violates professional canons of ethics. This modification has real-life consequences, since some experts have suggested that Lawrence Walsh violated professional ethics rules by appearing on national television after the pardon of Secretary Weinberger and suggesting that President Bush was the next target of his never-ending investigation.

This guy never stopped. It was a runaway investigation. It could go on forever and ever and ever. I do not want to impose this on Democrats now that they have the White House. I do not think it is fair to Republicans; it would not be fair to Democrats. We have to rein in these special prosecutors who seem to have a life of their own.

AMENDMENT 4: USE OF JUSTICE DEPARTMENT RESOURCES

The fourth and final amendment makes clear that independent counsels must use the resources of the Justice Department, including the use of Justice Department personnel. This amendment will allow independent counsels to tap into a talented pool of expertise, and reduce costs as well.

I have to believe there are a lot of good career people in the Justice Department—Democrats or Republicans—who can be used instead of going outside and hiring very expensive outside counsel and, in many cases, partisan counsel who have an ax to grind. That is not the purpose of the independent counsel.

CONCLUSION

I suggest that if we have learned anything from the Lawrence Walsh experience, it is that no prosecutor should be given an unlimited budget, unlimited time, and unlimited discretion—all in the name of "independence." It is not independent when all that happens.

Although I applaud some of the improvements that have been made to the independent counsel statute—for example, the requirement that independent counsels be housed in Federal office buildings, rather than in more expensive commercial office space, and the requirement that independent counsels comply with Justice Department spending policies—I continue to believe that the statute is fundamentally flawed and that we ought to trust the Attorney General to perform sensitive prosecutions, even of high-level Government officials.

For this reason, I will vote against reauthorization.

I still do not believe we need the independent counsel statute. I have some faith in the integrity of the Attorney General, Janet Reno, and the Clinton Justice Department. In my view, it is a waste of time and a waste of money. We can get justice without it. My colleagues feel differently.

I wish the next special prosecutor success, and I hope he stays within the limits spelled out in the statute.

VOTE ON S. 24

The ACTING PRESIDENT pro tempore. The Senate will now proceed to vote on S. 24 without any intervening action or debate.

The bill having been read the third time, the question is, Shall it pass?

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Oklahoma [Mr. BOREN], the Senator from North Dakota [Mr. DORGAN], and the Senator from Maryland [Ms. MIKULSKI] are necessarily absent.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 76, nays 21, as follows:

[Rollcall Vote No. 383 Leg.]

YEAS—76

Akaka
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Byrd
Campbell
Chafee
Coats
Cohen
Conrad
Coverdell
D'Amato
Daschle
DeConcini
Dodd
Domenici
Durenberger
Exon
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Grassley
Harkin
Hatch
Hatfield
Heflin
Hollings
Hutchison
Inouye
Jeffords
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mathews
McCain
Metzenbaum
Mitchell
Moseley-Braun
Moynihan
Murray
Nickles
Nunn
Packwood
Pell
Pryor
Riegle
Robb
Rockefeller
Roth
Sarbanes
Sasser
Simon
Simpson
Specter
Thurmond
Warner
Wellstone
Wofford

NAYS—21

Burns
Cochran
Craig
Danforth
Dole
Faircloth
Gramm
Gregg
Helms
Kempthorne
Lott
Lugar
Mack
McConnell
Murkowski
Pressler
Reid
Shelby
Smith
Stevens
Wallop

NOT VOTING—3

Boren
Dorgan
Mikulski

So the bill (S. 24), as amended, was passed, as follows:

S. 24

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Independent Counsel Reauthorization Act of 1993".

SEC. 2. FIVE-YEAR REAUTHORIZATION.

Section 599 of title 28, United States Code, is amended by striking "1987" and inserting "1993".

SEC. 3. ADDED CONTROLS.

(a) COST CONTROLS AND ADMINISTRATIVE SUPPORT.—Section 594 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(l) COST CONTROLS AND ADMINISTRATIVE SUPPORT.—

"(1) COST CONTROLS.—

"(A) IN GENERAL.—An independent counsel shall—

"(i) conduct all activities with due regard for expense;

"(ii) authorize only reasonable and lawful expenditures; and

"(iii) promptly, upon taking office, assign to a specific employee the duty of certifying that expenditures of the independent counsel are reasonable and made in accordance with law.

"(B) DEPARTMENT OF JUSTICE POLICIES.—An independent counsel shall comply with the established policies of the Department of Justice respecting expenditures of funds, except to the extent that compliance would be inconsistent with the purposes of this chapter.

"(2) ADMINISTRATIVE SUPPORT.—The Administrative Office of the United States Courts shall provide administrative support and guidance to each independent counsel. The Administrative Office shall not disclose information related to an independent counsel's expenditures, personnel, or administrative acts or arrangements without the authorization of the independent counsel, which shall not be withheld unless the Independent Counsel determines that such information would interfere with a pending investigation or prosecution.

"(3) OFFICE SPACE.—The General Services Administration, in consultation with the Administrative Office, shall promptly provide appropriate office space for each independent counsel. Such office space shall be within a Federal building unless the General Services Administration determines that other arrangements would cost less. Until such office space is provided, the Administrative Office of the United States Courts shall provide newly appointed independent counsels immediately upon appointment with appropriate, temporary office space, equipment, and supplies.".

(b) INDEPENDENT COUNSEL PER DIEM EXPENSES.— Section 594(b) of title 28, United States Code, is amended—

(1) by striking "(b) COMPENSATION.—An" and inserting the following:

"(b) COMPENSATION.—

"(1) IN GENERAL.—An"; and

(2) by adding at the end the following new paragraphs:

"(2) TRAVEL EXPENSES.—Except as provided in paragraph (3), an independent counsel and persons appointed under subsection (c) shall be entitled to the payment of travel expenses as provided by subchapter 1 of chapter 57 of title 5, United States Code, including travel expenses and per diem in lieu of subsistence in accordance with section 5703 of title 5.

"(3) TRAVEL TO PRIMARY OFFICE.—An independent counsel and persons appointed under subsection (c) shall not be entitled to the payment of travel and subsistence expenses under subchapter 1 of chapter 57 of title 5, United States Code, with respect to duties performed in the city in which the primary office of that independent counsel or person is located after 1 year of service under this chapter. The one year period may be extended by 3 months if the employee assigned duties under subsection (e)(1)(A)(iii) certifies that the investigation will likely be concluded within that time period.".

(c) INDEPENDENT COUNSEL EMPLOYEE PAY COMPARABILITY.—Section 594(c) of title 28, United States Code, is amended by striking the last sentence and inserting: "Such employees shall be compensated at levels not to exceed those payable for comparable positions in the Office of United States Attorney for the District of Columbia under sections 548 and 550, but in no event shall any such employee be compensated at a rate greater than the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5.".

(d) ETHICS ENFORCEMENT.—Section 594(j) of title 28, United States Code, is amended by adding at the end the following new paragraph:

"(5) ENFORCEMENT.—The Department of Justice and Office of Government Ethics have authority to enforce compliance with this subsection.".

(e) COMPLIANCE WITH POLICIES OF THE DEPARTMENT OF JUSTICE.—Section 594(f) of title 28, United States Code, is amended by—

(1) striking "shall, except where not possible, comply" and inserting "shall, except to the extent that to do so would be inconsistent with the purposes of this chapter, comply";

(2) adding at the end thereof the following: "To determine these policies and policies under subsection (l)(1)(B), the independent counsel shall, to the extent possible throughout his or her term of office, consult with the Department of Justice.";

(3) striking "An independent" and inserting the following:

"(1) IN GENERAL.—An independent"; and

(4) adding at the end thereof the following new paragraph:

"(2) NATIONAL SECURITY MATTERS.—An independent counsel shall consult with the Department of Justice with respect to national security matters and shall comply with guidelines and procedures utilized by the Department for the handling and use of classified material.".

(f) PUBLICATION OF REPORTS.—Section 594(h) of title 28, United States Code, is amended by adding at the end the following new paragraph:

"(3) PUBLICATION OF REPORTS.—At the request of an independent counsel, the Public

Printer shall cause to be printed any report previously released to the public under paragraph (2). The independent counsel shall certify the number of copies necessary for the public service, and the Public Printer shall place the cost of the required number to the debit of such independent counsel. Additional copies shall be made available to the public through the depository library program and Superintendent of Documents sales program pursuant to sections 1702 and 1903 of title 44.".

(g) ANNUAL REPORTS TO CONGRESS.—Section 595(a)(2) of title 28, United States Code, is amended by striking "such statements" and all that follows through "appropriate" and inserting "each quarter a report detailing all monies expended and annually a report on the activities of the independent counsel, including a description of the progress of any investigation or prosecution conducted by the independent counsel. Such report may omit any matter that in the judgment of the independent counsel should be kept confidential, but shall provide information adequate to justify the expenditures that the office of the independent counsel has made".

(h) PERIODIC REAPPOINTMENT OF INDEPENDENT COUNSEL.—Section 596(b)(2) of title 28, United States Code, is amended by adding at the end the following new sentence: "If the Attorney General has not made a request under this paragraph, the division of the court shall determine on its own motion whether termination is appropriate under this paragraph no later than 2 years after the appointment of an independent counsel or the reported expenditures by such independent counsel have reached $2,000,000, whichever occurs first, and at the end of each succeeding 1-year period.".

(i) AUDITS BY THE COMPTROLLER GENERAL.—Section 596(c) of title 28, United States Code, is amended to read as follows:

"(c) AUDITS.—By December 31 of each year, an independent counsel shall prepare a statement of expenditures for the fiscal year that ended on the immediately preceding September 30. An independent counsel whose office is terminated prior to the end of the fiscal year shall prepare a statement of expenditures by the date that is 90 days after the date on which the office is terminated. The Comptroller General shall audit each such statement and report the results of each audit to the appropriate committees of the Congress not later than March 31 of the year following the submission of any such statement.".

(j) THRESHOLD INQUIRY.—Section 591(d)(2) of title 28, United States Code, is amended by striking "15" each time it appears and inserting "30".

(k) CRIMINAL INTENT.—Section 592(a)(2)(B) of title 28, United States Code, is amended to read as follows:

"(B) After conducting an examination under section 591(d) or preliminary investigation under this subsection, the Attorney General shall not decline to proceed under this chapter based upon a lack of evidence that the subject acted with the state of mind required for a violation of criminal law, unless the Attorney General determines that, based upon the information obtained, there are no reasonable grounds to believe that the subject acted with the state of mind required for a violation of criminal law, and no reasonable possibility that further investigation would develop such evidence.".

(l) RECUSAL.—Section 591(e) of title 28, United States Code, is amended to read as follows:

"(e) RECUSAL OF ATTORNEY GENERAL.—

"(1) WHEN RECUSAL IS REQUIRED.—(A) If information received under this chapter involves the Attorney General, the next most senior official in the Department of Justice who is not also recused shall perform the duties assigned under this chapter to the Attorney General.

"(B) If information received under this chapter involves a person with whom the Attorney General has a personal or financial relationship, the Attorney General shall recuse himself or herself by designating the next most senior official in the Department of Justice who is not also recused to perform the duties assigned under this chapter to the Attorney General.

"(2) REQUIREMENTS FOR RECUSAL DETERMINATION.—Before personally making any other determination under this chapter with respect to a matter, the Attorney General shall determine under paragraph (1)(B) whether recusal is necessary. The Attorney General shall set forth this determination in writing, identify the facts considered by the Attorney General, and set forth the reasons for the recusal. The Attorney General shall file this determination with any notification or application submitted to the division of the court under this chapter with respect to the matter.".

(m) DISCLOSURE OF INFORMATION.—Section 592(e) of title 28, United States Code, is amended by inserting after "Except as otherwise provided in this chapter" the following: "or as necessary for law enforcement purposes".

(n) REQUIREMENT TO USE DEPARTMENT OF JUSTICE PERSONNEL.—Section 594(d)(1) of title 28, United States Code, is amended to read as follows:

"(1) REQUIRED USE.—An independent counsel shall request assistance from the Department of Justice in carrying out the functions of the independent counsel, and the Department of Justice shall provide that assistance, which may include access to any records, files, or other materials relevant to matters within such independent counsel's prosecutorial jurisdiction, and the use of the resources and personnel necessary to perform such independent counsel's duties.".

(o) ATTORNEY FEES.—Section 593(f) of title 28, United States Code, is amended—

(1) in paragraph (1), by inserting before the last sentence the following: "No award of attorneys' fees shall be made for any fees that would have been incurred by the individual if the investigation had been conducted by the Department of Justice."; and

(2) in paragraph (2), by striking everything after "subsection," and inserting the following: "addressing—

"(A) the sufficiency of the demonstration;

"(B) the need or justification for the underlying item;

"(C) whether the underlying item would have been incurred but for the requirements of this chapter; and

"(D) the reasonableness of the amount of money requested.".

(p) FINAL REPORT.—Section 594(h)(1)(B) of title 28, United States Code, is amended—

(1) by striking "fully and completely"; and

(2) by striking ", and the reasons" through the period and inserting a period.

SEC. 4. MEMBERS OF CONGRESS.

(a) DISCRETIONARY AUTHORITY.—Section 591(c) of title 28, United States Code, is amended to read as follows:

"(c) PRELIMINARY INVESTIGATION WITH RESPECT TO OTHER PERSONS AND MATTERS.—

"(1) IN GENERAL.—When the Attorney General determines that an investigation or prosecution of a person or matter by the Department of Justice may result in a personal, financial, or political conflict of interest, the Attorney General may conduct a preliminary investigation of such person or matter in accordance with section 592 if the Attorney General receives information sufficient to constitute grounds to investigate whether there may have been a violation of Federal criminal law other than a violation classified as a Class B or C misdemeanor or an infraction.

"(2) MEMBERS OF CONGRESS.—When the Attorney General determines that it would be in the public interest, the Attorney General may conduct a preliminary investigation in accordance with section 592 if the Attorney General receives information sufficient to constitute grounds to investigate whether a Member of Congress may have violated any Federal criminal law other than a violation classified as a Class B or C misdemeanor or an infraction.".

(b) POSTEMPLOYMENT COVERAGE.—Section 591(b) of title 28, United States Code, is amended by striking paragraphs (6) and (7) and inserting the following:

"(6) any individual who held an office or position described in paragraphs (1) through (5), for 1 year after leaving the office or position or until the President under whom the individual served leaves office, whichever period expires first;

"(7) any individual who held an office or position described in paragraphs (1) through (5) during the incumbency of 1 President and who continued to hold that office or position for not more than 90 days into the term of the next President, until the individual leaves such office or position; and".

SEC. 5. REPORT ON WHITE HOUSE OFFICE PERSONNEL.

(a) SUBMISSION OF REPORT.—Beginning on January 1, 1994, and again each 6 months thereafter, the President shall submit a report described under subsection (b) to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives.

(b) CONTENTS.—The report under subsection (a) shall include—

(1) a list of each individual—

(A) employed by the White House Office; or

(B) detailed to the White House Office; and

(2) with regard to each individual described under paragraph (1), such individual's—

(A) name;

(B) position and title;

(C) annual rate of pay; and

(D) amount of Federal pay received in the 3-month period immediately preceding the date of the submission of the applicable report required by this section.

SEC. 6. REMOVAL OF INDEPENDENT COUNSEL FOR GOOD CAUSE.

Section 596(a)(1) of title 28, United States Code, is amended by adding at the end thereof the following: "For purposes of this paragraph, the term 'good cause' includes, but is not limited to, (A) the failure of an independent counsel to follow written Department of Justice guidelines, subject to the limitations of sections 594(f)(1) and 594(l)(1)(B), respecting enforcement of the criminal laws, and (B) violations of canons of ethics governing the independent counsel and Federal prosecutors.".

SEC. 7. EFFECTIVE DATE.

The amendments made by this Act shall become effective on the date of enactment of this Act, except that the compensation restrictions added by section 3(c) of this Act shall apply only to employees appointed after the date of enactment of this Act.

Mr. COHEN. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1993

The ACTING PRESIDENT pro tempore. Under the previous order the Senate will now resume consideration of S. 1607, which the clerk will report.

The bill clerk read as follows:

A bill (S. 1607) to control and prevent crime.

The Senate resumed consideration of the bill.

The ACTING PRESIDENT pro tempore. Under the previous order there are 90 minutes remaining to be divided in the usual form.

Who yields time? The Senator from Delaware.

Mr. BIDEN. Mr. President, I suggest the absence of a quorum, the time to be equally divided.

The ACTING PRESIDENT pro tempore. Without objection, the time will be equally divided. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The PRESIDING OFFICER (Mrs. BOXER). Who yields time?

Mr. BIDEN. Madam President, I yield as much time as the Senator from West Virginia needs.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Madam President, I congratulate Senator BIDEN and Senator HATCH on their great work in connection with this bill. They brought it through the hearings, through the markup. They have managed it well on the floor. They have demonstrated excellent teamwork, and I know that it must be with some sense of relief that they now come to the end of the road, as far as the work in this body is concerned. They are to be highly commended. The Senate is in their debt and the people are in their debt. They still have hard work ahead of them, of course, in the conference.

Madam President, many of our colleagues have read stories of two comparative surveys, one done in 1940 and another in 1990. Of the top problems confronting teachers in our public schools in 1940, what teachers identified as their chief concerns were talking out of turn in class, chewing gum, making noise, running in the hallways, cutting into lines, dress code violations, and thoughtless littering. Those were the chief concerns of teachers 50 years ago.

In 1990, teachers identified as their most pressing behavioral concerns in our public schools: Drug abuse, alcohol abuse, teenage pregnancies, suicide, rape, robbery, and assault. In these shocking comparisons, the schools are but reflecting the overall deterioration, in our society at large, of the behavior of increasing numbers of people and the failure of conscience and a loss of a sense of personal responsibility among millions of people for their own behavior or for the quality of community life across our country.

According to FBI statistics, in 1960, with a total population of approximately 179 million, the United States experienced 288,460 reported violent crimes out of a total of roughly 3.4 million reported crimes nationwide.

In 1991, however, with a total population in excess of 252 million, FBI statistics indicate that the United States suffered the commission of more than 1.9 million violent crimes out of nearly 14.9 million reported crimes nationwide.

In essence, while our population increased roughly 41 percent in 31 years, the national crime rate for violent crimes leapt more than 500 percent and the overall crime rate jumped more than 300 percent.

For millions upon millions of law-abiding, responsible American citizens, crime and one's own vulnerability to crime are becoming among the most pressing concerns in their daily lives.

According to an FBI survey conducted in 1992, 29 percent of Americans have been either victims of crime or have had a family member who has been a victim of crime in the past 3 years; 55 percent of Americans fear that they will personally be victims of crime in the future; and 86 percent of Americans list their falling victim to crime as an important personal fear.

Further, on the basis of the additional 1.9 million violent crimes committed in 1992, the FBI asserts that: One violent crime is committed in this society every 22 seconds; one murder is committed in this society every 22 minutes; one forcible rape is committed in this society every 5 minutes; one robbery is committed in this society every 47 seconds; and one aggravated assault is committed in this society every 28 seconds.

Crime has reached epidemic proportions in our country. Every one of these statistics represents broken bodies; violated personalities; emotional scars that will never heal; a sense of real security forever shattered; families thrown into grief and mourning; neighborhoods cowed into suspicion and terror; millions upon millions of dollars in medical insurance, repairs, and financial restoration paid out to victims; hour upon hour of physical pain to survivors of gunshots, beatings, and rapes; or the loss of valuable property to burglars, muggers, and other assailants.

Madam President, no human society can long survive under the conditions that these statistics and atrocities represent.

Further, unless we somehow gain a genuine handle on controlling, reducing, and ending the rising flood of crime that is besetting America—mark my words well—the growing majority of victims of crime and of the fear of crime, will surrender even some of our most basic liberties to their desire to be rid of the suffering, chaos, pain, anxiety, and fear that the current crime rate is engendering in communities—small and large—from coast to coast.

In S. 1607, the Senate can demonstrate that we have heard, and are heeding, voices that are crying out across our country for action against this rising tide of criminal behavior and heinous personal irresponsibility among those in this society bent on placing our society in thrall to barbarism and criminal excess. Though S. 1607 is not a panacea for the crime plaguing our communities, this piece of legislation will serve as an ebenezer, to borrow Old Testament language—an unignorable monument—a signal that an era of sociological legerdemain and psychobabble is officially ended in crime fighting and that a new era of legal common sense, rationality, and toughness is dawning.

Madam President, I am glad that I was able to be helpful in the development of this legislation here on the floor through my amendment to establish a trust fund totaling more than $22 billion that will be accrued from savings from anticipated Federal personnel cuts accepted by the Senate and incorporated into S. 1607. This trust fund will make possible the enlisting of another 100,000 police officers nationwide to give law enforcement a greater advantage where it is most needed: on our streets and highways and in the neighborhoods and communities in which most Americans live.

The amendment provides funding for the construction and operation of new regional prisons, jails, "boot camps," and other minimum-security State and local facilities in which to house the lawless and the out-of-control miscreants who recognize no authority other than their own.

Again, my amendment in S. 1607 stipulates the use of $1.8 billion for programs aimed at ending violence against women and $500 million for the construction and operation of secure facilities to house violent juveniles.

An additional amendment that I cosponsored will ensure adequate resources to key Federal law enforcement entities such as the Federal Bureau of Investigation and the Bureau of Prisons which provide support to and work hand-in-hand with State and local governments in administering existing programs.

My hope is, Madam President, that some of the other measures included in

S. 1607 will spur States and Commonwealths to update their own criminal laws and to fashion legislation geared to reverse a tide that at times has appeared to favor criminals over both society and the victims of crime, and that too often has underestimated the depth of venality and viciousness attributable to criminal personalities in this society. Further, Mr. President, I hope that a majority of our colleagues will vote for S. 1607 in an action that will signal a cosmic revolution in the outplaying of the future of criminality, violence, murder, and social disruption in America.

Madam President, having said all of this, I should add that people seriously concerned about stemming the tides of crime and murder in this country realize that even measures such as S. 1607 are but substitutes for the real remedy for crime in our country, the restoration of the family in American life to the position it once enjoyed in shaping the personalities and values of the children before they become outlaws and murderers even at the tenderest ages.

Senator MOYNIHAN has spoken often and well on this subject, and he has impressed upon us the fact that the matrix in which children are intended to be shaped into useful, thoughtful participants in the larger society, is the family. If that tutelage is not served—if young boys and girls are not taught discipline in the home and not taught to respect their parents and their teachers and to respect authority—then no amount of money, even in the billions of dollars, will turn around the horrors that we now witness in our city streets, in the hallways of our school buildings, and in once peaceful communities across this Nation.

I thank Senator BIDEN for his courtesy.

Mr. BIDEN. Madam President, let me say while the Senator from West Virginia, the chairman of the Appropriations Committee, is here, notwithstanding the fact that the original Biden bill had all these elements in it, the truth is we would not be at this point were it not for the leadership and innovation shown by the Senator from West Virginia. This notion of a crime fighting trust fund to make happen what we all say on this floor—to use the vernacular, to put our money where our mouth is—is truly innovative and, I would argue, will be the essence of why this legislation takes hold to make society a little safer and a little better.

It is my hope and expectation that our colleagues in the House of Representatives, when we get to a conference with them, will understand this is not a negotiable point on the part of the Senate conferees. I am looking forward to this bill passing, but I am also looking forward to there being an absolutely united front among every member of the conference, Democrat and Republican on the Senate side, to keep in the Robert C. Byrd idea of a trust fund, because otherwise all we are doing is making a lot of promises and not having any realistic prospect of being able to fulfill them.

So I compliment the Senator from West Virginia for his significant contribution. I said earlier at the time we passed the trust fund notion as an amendment in this bill, that every time I have wanted to get—I have been here almost 20 years now, not nearly as long as my friend from West Virginia—every time there has been a tough problem to solve and every time I have needed assistance to get a difficult amendment passed or a new idea moved, the fellow I have always gone to is the distinguished Senator from West Virginia. I know of no one who is more effective in the Senate, I know of no one who is more consistent, and I know of no one who sticks to a commitment more than the Senator from West Virginia.

So I must tell you, Mr. President, I feel somewhat emboldened going to the House, God willing, when we pass this bill, knowing that everyone in the House also knows that the Senator from West Virginia is very committed to this notion of a trust fund.

Mr. BYRD. Madam President, will the Senator yield?

Mr. BIDEN. I will be delighted to yield.

Mr. BYRD. Madam President, I thank the Senator for his gracious remarks. I thank him, however, mostly for his leadership during this bill and for his strong support of having 100,000 policemen on the streets throughout this country. I also thank him for his assurance that the conferees will hold firm with respect to the authorization of $22 billion and with respect to the trust fund. I do not like to go in that direction. I have not approached any matter in that way thus far and may never again. But I felt it was important that this bill be funded so that the American people would really be able to gain hope from the actions taken in the Senate.

I again thank him for his leadership, and I thank the Senator from Utah.

Mr. BIDEN. Madam President, I have found in my experience, when the Senator from West Virginia thinks something is very important, the Senate tends to think it is important and, I am confident, the House as well. I think only on three occasions in my career on a critical matter have I been on the other side of the issue from the Senator from West Virginia, and in retrospect I have regretted all three. But I yield to my colleague from Utah.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, I am very proud of this Biden-Hatch bill. We have worked very hard to get it to this point. But it would not have come together in my opinion, and I think in the opinion of most observers, without the very important help of the distinguished Senator from West Virginia.

I have a great deal of admiration——

Mr. BYRD. Madam President, will the Senator yield?

Mr. HATCH. Yes.

Mr. BYRD. I would not want to sit idly by and not thank the distinguished Senator for his kind remarks. He has exhibited strong leadership on this bill and in this general area of legislation. I know that he, too, in conference will hold firm and try to retain the salient features that Senators have implanted in this legislation.

I also thank the Senator from Texas [Mr. GRAMM], and again Mr. HATCH for their tenacity in respect particularly to the money for prisons that is authorized in this legislation.

Mr. HATCH. I thank my colleague. I have tremendous respect for my senior colleague. I have watched him through the years when he was majority leader, now as chairman of the Appropriations Committee. There is nobody who works harder, nobody who understands the rules better, nobody who believes in this institution more, nobody who upholds it better.

With the help of this wonderful Senator from West Virginia, with the help of the distinguished Senator from Texas, who also is on the Appropriations Committee, I have to say we now have a trust fund, at least in the Senate bill, that I am going to fight with every fiber in my being to keep.

It would not have happened were it not for the leadership of our friend from West Virginia. He deserves credit for an awful lot of very important things that have happened in the Senate in the 17 years I have been here, and certainly even before then, but I think he can go down in history very proud that he helped put together the Senate bill in this particular case and helped to put the underpinnings together for the bill. If we can hold on to it, and we intend to, we are going to have a bill that will make a tremendous dent in crime in this society, and it could not without the funding mechanism of the distinguished Senator from West Virginia.

I am going to give credit to my friend from Texas as well.

I wish to express my personal admiration, which I have always had but never more than today, for my friend and colleague from West Virginia. I appreciate his kind remarks as well.

Mr. BYRD. Madam President, I again thank the Senator.

Mr. HATCH. Madam President, this is really an important bill. We have come a long way. Personally, I am exhausted. We have a wonderful purpose in this bill that I think will make it the finest crime bill in history. We intend to hold onto it. I hope our colleagues in the House will work with us because I believe the American people are starting to see that we mean business about crime, and that this bill is going to make a difference.

As in all bills, there may be some things that I do not particularly like. But, overall, this bill is a tremendous addition to the fight against crime. It is, I think, the finest anticrime bill in the history of this country.

At this point, I would like to yield 7 minutes to the distinguished Senator from Texas who also deserves a great deal of praise and credit for the hard work he has done, especially in the area of truth in sentencing and mandatory minimums, and helping in the financing of this particular bill.

So I particularly want to pay tribute to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized for 7 minutes.

Mr. GRAMM. Madam President, let me thank the distinguished Senator from Utah. This is one of those mornings that we have around here once in a while where we give each other kidney problems by patting each other on the back. But it is very seldom that we pass a bill that has so much bipartisan support and that represents a real commitment to do something.

At the risk of striking a discordant note, I want to talk about my concerns about what might happen to this bill when we go to conference with the House. I want to talk very briefly about a fundamental difference of opinion. Jefferson once said that good people with the same facts will come to a different conclusion.

But there is a fundamental difference in our approach to crime and punishment. The President came into office, and in his first budget, cut prison construction by $580 million. Immediately, the President and the Attorney General started talking about prison overcrowding and the need to modify or overturn mandatory minimum sentencing.

In this bill, on a bipartisan basis by overwhelming votes, we have again and again rejected President Clinton's position. We have said in this bill that we are going to build prisons, that we are going to cut existing spending programs to pay for them, and that we are going to set out in law a mandated reduction in the spending caps.

We have an enforcement mechanism. What that is going to do, if that survives our conference with the House, is to cut existing spending by almost $22 billion. We are going to use that money to build prisons and to put policemen on the streets. The American people strongly support those provisions.

I want to go on record as saying if those provisions are dropped, I intend to fight this bill when it comes back from conference. To try to perpetrate another hoax on the American people and imply that we are doing something about crime when we are not willing to put our money where our mouth is I think is totally unacceptable.

The administration is going in one direction. That direction basically is treating crime as a social problem. The country is going in another direction, and that direction is outrage at the fact that violent criminals, over and over and over again, are apprehended, convicted, and sent to jail; they get out of jail far before their terms are up, and they are right back out on the streets brutalizing our citizens. The American people want that changed.

We change it in this bill. We build prisons. But equally important, we have stiff mandatory minimum sentencing.

I am proud of the provisions in this bill that I originally authored that require 10 years in prison without parole for possessing a firearm during the commission of a violent crime or a drug felony; 20 years for discharging that firearm; life imprisonment for killing somebody; the death penalty in aggravated cases.

We have a three-time loser provision which says, when every study being done shows clearly and convincingly that we have about 7 percent of the criminals committing some two-thirds of the violent crimes in America—these 7 percent of the criminals are committing hundreds of crimes a year—that there is only one thing we should do about it; that is, grab them by the throat and not let them go, to get a better grip.

The three-time loser provision in this bill has life imprisonment without parole for anyone who is convicted of three serious violent crimes, and major drug felonies.

I want to make it clear to my colleagues that if we come back from conference with a bill that does not fund prisons, with a bill that does not enhance our mandatory minimum sentencing, with a bill that does not put somebody in prison for 10 years and keep them there if they are possessing a firearm during the commission of a violent crime or a drug felony, and the bill does not have at least life imprisonment for killing somebody, not only am I going to oppose this bill, but on every opportunity in the U.S. Senate, I am going to offer these mandatory minimum sentencing provisions.

So by next February, when people are tired of voting on those provisions, I want to remind everybody today that the Senate, by overwhelming vote, said it wanted mandatory minimum sentences. I know the President does not support them. I know the Attorney General does not support them. I know many people in the House do not support them. But unless those provisions are in the final version of this bill, we should vote on those provisions every single day until they become the law of the land.

I think the American people are outraged that we continue to talk tough about crime but we do not do anything about it.

There is a dispute here. I agree with the administration on crime. It is on punishment that we have a fundamental disagreement. But the Senate is not in disagreement. The Senate is united in favor of stiff mandatory minimum sentencing.

Finally, I would like to say something about guns. I am concerned that there is in our society an attempt to blame everybody but criminals. In the District of Columbia, we have a big debate going on about tinted windows on cars. Somehow, if we can just get rid of tinted windows, some say, that would solve the problem with criminals who are driving by and shooting people. What will solve our problem with drive-by shootings is when we arrest those people, give them a trial and put them in prison or put them to death. The idea of blaming tinted windows for people driving by shooting other people is absolutely outrageous.

We have a comprehensive gun ban in the District of Columbia. But it is still the murder capital of America. Why? Because we have crime without punishment.

I was listening to the radio here this morning. Somebody broke out of a minimum security jail who had been in jail for 9 months for armed robbery. Under the provisions of this bill, for armed robbery, that person would have gotten 10 years in a Federal penitentiary without parole for the gun violation, and probably 5 or 6 years in the State prison for the robbery.

That is the kind of provision we need.

Madam President, I do not support everything in this bill. I think the gun control provision in this bill is basically a copout. I am hopeful that it is going to be dropped in conference; that we are going to have a bill that deals with criminals, and does not contain another measure aimed at disarming law-abiding citizens.

But overall this is a good and strong bill. If we can take this bill to conference and come back with funding for prison construction, if we can keep our mandatory minimum sentencing provisions, if we can put more police officers on the streets, if we can fund more courts, have more prosecutors, if we will commit ourselves to be as outraged about crime as the victims are outraged, I believe we are going to begin to turn the tide, and I believe this bill is going to be an important part of it.

I yield the floor.

Mr. BIDEN. Madam President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Madam President, it has been a real pleasure to work with my friend from Texas. We most times are on opposite sides of the issue. This time we are on the same side. But I realize in this business it is difficult for us, notwithstanding the fact we are personally cooperating on this bill, to dismiss the prospect of some parts of it.

Let me set the record straight on this bill. The underlying bill, the Biden-Hatch bill, was the Biden bill. A Guy named BIDEN wrote that bill by sitting down with the President of the United States of America, not with his Attorney General or anybody else, but Bill Clinton, President of the United States of America. Between the time he got elected in November until the time he was sworn in, the President called me at my home on six separate occasions. He, unfortunately, does not need a lot of sleep because sometimes, literally—and I say this on the RECORD—he would call me as late as 11:30 at night to discuss why I was not moving quicker on the Biden crime bill. I sat with him, not his Attorney General.

He wanted 100,000 policemen. He does not view this as a social issue as opposed to trying to bring peace and security to the streets. As Governor of the State of Arkansas, he presided over the execution of individuals within the State. He supports the death penalty. He is the fellow who insisted that I bump this up. Initially, when I said where are we going to get the money, he said, "All I know is I want 100,000 cops. I made that commitment." He endorsed the Biden bill as a candidate when he ran. He is the one who talks about the need for stiffer penalties.

So notwithstanding the fact that some of the old Democrats and former Presidents who were Democrats before Carter, I suspect—I do not know what we are talking about here. But in the old days, it is true, when Richard Nixon was running for President, he used to talk about law and order, and the Democratic response was law and order with justice, whatever either one of those meant. I was running in 1972. I did not think Nixon knew what it meant for the opposition.

This President is very straightforward. He knows there are two steps. No. 1 is that you must take back the streets. You take back the streets by having more cops, more prisons, more physical protection for the people. He also understands what my friend from Texas understands, and he does not talk a lot about it, but he signed onto it in this bill—the need to keep people who are first-time offenders, who are nonviolent offenders or potential first-time offenders, who in fact are people getting themselves into the crime stream for the first time, that they should be diverted from the system.

So I hope this crime bill, when it passes, the Biden-Hatch crime bill, as it becomes law, God-willing, I hope that we will have ended once and for all this notion that is a hangover from the sixties, that somehow Democrats are weak on crime and Democratic Presidents are weak on crime and Republicans are tough on crime. The truth is that every major crime bill since 1976 that has come out of this Congress, and every minor crime bill, has had the name of the Democratic Senator from the State of Delaware, JOE BIDEN, on that bill and has had a majority vote of the Democratic Members of the U.S. Senate on the bill.

So one of the things I want to do, in addition to ending crime, is end the political carnage that goes on when we talk about crime. Crime is not Democrat or Republican. Making the streets safe is not a Democratic or Republican issue. This is one of those issues I hope passage of this bill will change, that it will be taken out of the gridlock category and moved into an emerging consensus, which is as follows, and then I will cease when I finish this statement.

First, we must take back the streets. It does not matter whether or not the person that is accosting your son or daughter or my son or daughter, my wife, your husband, my mother, your parents, it does not matter whether or not they were deprived as a youth; it does not matter whether or not they had no background that enabled them to become socialized into the fabric of society; it does not matter whether or not they are the victims of society. The end result is that they are about to knock my mother on the head with a lead pipe, shoot my sister, beat up my wife, take on my sons. So I do not want to ask what made them do this. They must be taken off of the street. That is No. 1. There is a consensus on that.

The Democratic chairman of the Judiciary Committee, the Democratic President of the United States of America, the Democratic Attorney General, the Republican leader, the Republican leader of this effort, Senator HATCH, and the Republican Senator from Texas all agree on that. We can find some fringe folks in the study groups on the right and left wings, Libertarians and left-wingers in my party who say, "No, that is not what we should do." But politically that consensus has been arrived at. There was not that consensus in the sixties. There is today.

There is a second thing we have all agreed upon. That is, unless we do something about the cadre of young people—tens of thousands of them, born out of wedlock, without parents, without supervision, without any structure, without any conscience developing because they literally have not been socialized, they literally have not had an opportunity. We should focus on them now, not out of a liberal instinct for love, brother, and humanity—although I think that is a good instinct—but for simple, pragmatic reasons. If we do not, they will—or a portion of them will—become the predators 15 years from now.

Madam President, we have predators on our streets, and society has in fact, because of its neglect, created that. It does not mean because we created them that we forgive them or do not take them out of society to protect my family and yours from them. They are beyond the pale, many of those people, beyond the pale. It is a sad commentary on society. We have no choice but to take them out of society.

The truth is that we do not very well know how to rehabilitate them at that point. That is the sad truth. You are looking at the fellow who is one of the primary architects of the sentencing commission. You know what the basic premise of that is? It was the first time in 8 years we rejected the notion that condition of sentencing must be related to how long it would take to rehabilitate. I am the guy that said rehabilitation, when it occurs, whether we do not understand it and notice it, and even when we do and know it occurs, we do not know why, you cannot make it a condition for release. That is why in our system, the Federal system, you serve 85 percent of your time.

I remember what was going on when I was making the arguments in the late 1970's. They called it "BIDEN's same time for the same crime" provision. It is a shame we do not know how to rehabilitate. There is a consensus—and I will soon cease—that we must make the streets safer. I do not care why someone is a malefactor in society. I do not care why someone is antisocial. I do not care why they become a sociopath. We have an obligation to cordon them off from the rest of society, try to help them, try to change their behavior.

That is what we do in the bill. We have drug treatment and others to try to deal with it. But they are in jail, away from my mother, your husband, our families. But we would be absolutely stupid as a society if we did not recognize that the condition that nurtured those folks still exists. And we must deal with that. I think there is a consensus among Republicans now. All barbwire Republican conservatives who once wanted to hang them high, even they are saying we have to deal with the root cause of this, not one or the other, but separately. Liberal Democrats who used to say "Let us look at the sociological underpinnings of why this occurred," they are now saying "you have to take back the streets." We will make that fight later. So there is a consensus.

I hope that the remainder of the discussion closing out the debate in this bill has weakened that old fight, that we can put it behind us and, hopefully, we will have, as the Senator from West Virginia said, "a historic moment on this bill," a consensus being reached. I think it is, but I think it is a historic moment for a political reason as well.

Hopefully we will end the discussion about whether or not Republicans are Neanderthal and only want to hang them high and Democrats are wacko liberals and only want to look at the causes. Those days are gone. Evidence of that is the Democratic Senator from Delaware and the Republican conservative Senator from Utah are united in a Biden-Hatch crime bill that does all the things that I just said.

So, as one of my relatives, who shall remain nameless, will say, God willing and the creek not rising, hopefully we will end this kind of debate and decide how we are going to deal with the problem from here on.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator has 21 minutes remaining.

Who yields time?

Mr. BIDEN. Madam President, I yield myself an additional minute.

WHAT THE CRIMINAL JUSTICE COMMUNITY IS SAYING ABOUT THE 1993 CRIME BILL

Police organizations, prosecutors, defense attorneys, and victims groups are all united in their support for the Violent Crime Control and Law Enforcement Act of 1993. Here is what the Nation's largest criminal justice organizations are saying:

Fraternal Order of Police:

On behalf of the Fraternal Order of Police, which represents 248,000 rank-and-file police officers nationwide, I am pleased to advise you of our support for the comprehensive omnibus crime bill which you are now guiding through the Senate. * * * The FOP regards S. 1607, as amended thus far, as the most significant federal effort to combat violent crime in America in recent memory. We would urge you to continue to resist any amendments which would alter the objectives of this legislation and, on behalf of the law enforcement community, we salute you for your efforts on our behalf.

National Association of Police Organizations:

Please be advised that the National Association of Police Organizations, representing over 145,000 sworn law enforcement officers in over 2,000 police associations throughout this country, enthusiastically gives its wholehearted and unqualified support for the passage of "The Violent Crime and Law Enforcement Act of 1993" (S.1607). * * * NAPO throws its support behind the most comprehensive anti-crime bill ever to have passed either body of Congress.

International Brotherhood of Police Officers:

The International Brotherhood of Police Officers represents more than 40,000 federal, state and local rank and file law enforcement officers across the country. IBPO is the largest law enforcement officers union in the United States. Today we write to inform you of the IBPO's strong support and endorsement of S. 1607, the Violent Crime Control and Law Enforcement Act of 1993. * * * S. 1607 is, by far, the most comprehensive legislation Congress has ever proposed to combat violent crime. The IBPO wishes to thank you for your continued dedication of the highest quality to law enforcement issues. We urge the Senate to take swift action to approve S. 1607.

International Association of Chiefs of Police:

The International Association of Chiefs of Police has watched with interest the development of your bill S. 1607, the "Violent Crime Control and Law Enforcement Act of 1993." IACP believes that the bill and the various amendments that have been debated and added over the last week will go a long way towards addressing violent crime in this country.

National Sheriffs' Association:

Sheriffs nationwide support the crime bill. We trust that your colleagues will agree with you and vote to enact legislation at the earliest possible date.

National Troopers Coalition:

Our organization is committed to continue working with you and the other congressional leaders in Congress to pass tough and effective crime legislation. We do support you on the Violent Crime Control and Law Enforcement Act of 1993.

Delaware State Troopers Association:

The Delaware State Troopers Association strongly supports your Crime Bill S. 1607. After many years of debate in Congress this bill is an important piece of legislation for law enforcement and the American public.

National Organization for Victim Assistance:

I write to commend you for the contents of Title IX ("Crime Victims") of S. 1488, the Violent Crime Control and Law Enforcement Act of 1993. That title's provisions offer one of the most consequential packages of victim rights and services that the Senate will have considered in several years.

National Victim Center:

Thank you for providing the National Victim Center with the opportunity to express our views and support for the victim-related provisions of the "Violent Crime Control and Law Enforcement Act of 1993." * * * [We] applaud you in your efforts to protect the rights and interests of our nation's crime victims with these important measures. * * * We ardently urge your colleagues in the Senate and House to pass these critical provisions.

National Association of Crime Victim Compensation Boards:

The National Association of Crime Victim Compensation Boards supports S. 1488, the Violent Crime Control and Law Enforcement Act of 1993, since it will make changes to the Victims of Crime Act of 1984 (VOCA) that will help federal, state and local government meet their responsibilities to provide assistance to the nation's crime victims. We thank you once again for your leadership in ensuring that victims receive the services and financial assistance they need to help in their recovery.

National Association of State Alcohol and Drug Abuse Directors, Inc.:

The creation of a grant program to states for residential substance abuse treatment for individuals in State prisons is a step in the right direction in terms of reducing crime. * * * the provision [for] drug treatment in prisons is an important component of crime reduction and recidivism.

I wish to put into the RECORD the endorsement letters from six major police organizations:

Fraternal Order of Police, National Association of Police Organizations, International Brotherhood of Police Officers, International Association of Chiefs of Police, National Sheriffs' Association, National Troopers Coalition, Delaware State Troopers Association, National Organization for Victim Assistance, National Victim Center, National Association of Crime Victim Compensation Boards, and National Association of State Alcohol and Drug Abuse Directors, Inc.

Madam President, we would not have this bill without the cooperation and support of the police. I worked for 5 years on this bill with the police of this Nation. The leaders of every one of those police organizations I have spoken about have sat in my office, in my conference room, in my inner office for literally, if you add it all up, several hundred hours. We would not be here were it not for the police helping fashion this bill. And I pay public tribute to them now.

Madam President, I ask unanimous consent that the letters associated with each of the organizations I listed be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

GRAND LODGE,
FRATERNAL ORDER OF POLICE,
Columbus, OH, November 9, 1993.

Hon. JOSEPH R. BIDEN, Jr.,
U.S. Senate,
Washington, DC.

DEAR SENATOR BIDEN: On behalf of the Fraternal Order of Police, which represents 248,000 rank-and-file police officers nationwide, I am pleased to advise you of our support for the comprehensive omnibus crime bill (S. 1607, as amended thus far) which you are now guiding through the Senate.

Although floor action on this important legislation is not yet completed, I did want to take opportunity to commend you for all that you have done to move this measure forward and to strengthen it along the way. We are particularly pleased with the funding language added last week which, at least in theory, would provide approximately $22 billion worth of various anti-crime initiatives. We also note the deletion of the Byrne Grant "hammer" as initially contained in the habeas corpus section of S. 1488, and applaud your efforts to remove this language.

While the crime bill now before the Senate is not perfect, it does represent the triumph of what is possible over what would be ideal. An ideal crime bill would contain a "Police Officers' Bill of Rights," a ban on certain types of semi-automatic assault weapons along the lines of legislation posed by Senator DeConcini, and the deletion of the "Police Pattern and Practice" language which originated in the House last session. Regardless of these problems, however, the legislation as it stands this afternoon is an important step forward and you are to be commended for it.

The FOP regards S. 1607, as amended thus far, as the most significant federal effort to combat violent crime in America in recent memory. We would urge you to continue to resist any amendments which would alter the objectives of this legislation and, on behalf of the law enforcement community, we salute you for your efforts on our behalf.

Sincerely,

DEWEY STOKES,
National President.

NATIONAL ASSOCIATION OF
POLICE ORGANIZATIONS, INC.,
Washington, DC, November 10, 1993.

Hon. JOSEPH R. BIDEN, Jr.,
Chairman, Committee on the Judiciary, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: Please be advised that the National Association of Police Organizations (NAPO), representing over 145,000 sworn law enforcement officers in over 2,000 police associations throughout this country, enthusiastically gives its wholehearted and unqualified support for the passage of "The Violent Crime and Law Enforcement Act of 1993" (S. 1607). NAPO is excited by the fact that this bill includes $22.3 billion to assist law enforcement in their anti-crime programs including: $8.9 billion to fund 100,000 local law enforcement officers; $6 billion in aid to state and local prisons, jails and military-style boot camps; and money that will address crime in rural America; drug court programs targeting drug offenders now released on probation; secure prisons for violent juvenile offenders; crime prevention in the nation's schools and combat violent youth gangs.

NAPO sincerely hopes that the Kohl amendment which prohibits the sale and possession of handguns by juveniles and the assault weapon amendment sponsored by Senators DECONCINCI, FEINSTEIN and METZENBAUM remain intact and is passed as part of S. 1607. Even though NAPO always has been and continues to oppose the Police Corps Program and additionally, NAPO was hoping to have included in this crime bill the Law Enforcement Officers Bill of Rights, NAPO still throws its support behind the most comprehensive anti-crime bill ever to have passed either body of Congress.

Sincerely,

ROBERT T. SCULLY,
Executive Director.

INTERNATIONAL BROTHERHOOD OF
POLICE OFFICERS,
Arlington, VA, November 10, 1993.

Hon. JOSEPH R. BIDEN,
Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The International Brotherhood of Police Officers (IBPO) represents more than 40,000 federal, state and local rank and file law enforcement officers across the country. IBPO is the largest law enforcement officers union in the United States. Today we write to inform you of the IBPO's strong support and endorsement of S. 1607, the Violent Crime Control and Law Enforcement Act of 1993.

The IBPO has long advocated comprehensive efforts to address violent crime where it occurs: at the state and local level. S. 1607 represents historic achievements to accomplish this goal. The bill fully funds a total of $22.3 billion in anti-crime programs. Most importantly, the bill provides $8.9 billion to fund 100,000 police officers. The decision to not only authorize but appropriate the resources required to put additional officers on the streets truly recognizes the importance of providing resources to state and local police who are responsible for over 95 percent of the arrests made in the United States.

S. 1607 provides $6 billion in aid to state and local prisons, jails, and boot camps, $150 million toward educational initiatives for current law enforcement officers, $100 million to combat violent youth gangs, $300 million to prevent crime in the nation's schools and $1.2 billion for drug courts that require drug testing, treatment and alternative punishment for young drug offenders.

In addition, S. 1607 takes other critical steps to combat crime. For example, S. 1607 enacts a ban on certain semi-automatic assault weapons. As you know from our recent testimony before the Senate Judiciary Committee, the IBPO supports reasonable efforts to curb proliferation of military-style assault weapons that have no legitimate sporting purpose. In addition, S. 1607 incorporates the provisions of the Violence Against Women Act, which takes a comprehensive approach to reducing domestic violence.

S. 1607 is, by far, the most comprehensive legislation Congress has ever proposed to combat violent crime. The IBPO wishes to thank you for your continued dedication of the highest quality to law enforcement issues. We urge the Senate to take swift action to approve S. 1607.

Sincerely,

KENNETH T. LYONS,
National President.

INTERNATIONAL BROTHERHOOD OF
POLICE OFFICERS,
Arlington, VA, October 22, 1993.

Hon. JOSEPH R. BIDEN, Jr.,
U.S. Senate,
Washington, DC.

DEAR SENATOR BIDEN: The International Brotherhood of Police Officers is an affiliate of the Service Employees International Union, the fourth largest union in the AFL-CIO. The IBPO represents over 40,000 state and local law enforcement officers across the United States and is the largest police union in the country. I am writing today to urge you to support S. 496, the Gun Dealer Licensing Reform Act, introduced by Senator Simon, which would create reforms to the Federal Firearm Licenses System.

S. 496 allows the Bureau of Alcohol, Tobacco and Firearms to effectively weed out those abusing the system from the majority of honest, law-abiding firearm dealers. S. 496 increases the license fee for firearm dealers from $10 to $750. The current fee has remained unchanged since enactment of the Gun Control Act of 1968; this increase accounts for inflation and additional costs associated with processing and inspection.

In addition, S. 496 tightens loopholes present in the current system. The bill drops the 45-day requirement for action on firearm dealer license applications, allows ATF agents to investigate a dealer more than once a year, if necessary, and requires dealers to report shortages in firearm shipments, or lost or stolen inventory to the Bureau. Finally, the bill would require dealers to certify that they are in compliance with state and local laws before receiving a new license.

Through these provisions, S. 496 prevents the circumvention of state and local laws and ensures the enforcement of federal firearms laws. For example, in the District of Columbia, local laws ban the sale of handguns, but a federal license can still be granted. Passage of S. 496 insures the rank-and-file officers we represent consistency in the enforcement of firearm laws.

Earlier this year, Senator Simon attempted to amend the FY94 Treasury and Postal Service Appropriations Bill to include an increase in the license fee. Although this amendment was defeated by a vote of 30–68, we thank you for your support and, in addition, urge your support for S. 496, a common sense and comprehensive package which allows legitimate gun dealers to continue their business and local law officers to enforce the law.

If you have any questions or comments, please do not hesitate to contact my Legislative Director, Chris Sullivan, at your convenience.

Sincerely,

KENNETH T. LYONS,
National President.

INTERNATIONAL ASSOCIATION OF
CHIEFS OF POLICE,
Alexandria, VA, November 10, 1993.

Hon. JOSEPH R. BIDEN, Jr.,
Chairman, Committee on the Judiciary, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN BIDEN: The International Association of Chiefs of Police (IACP) has watched with interest the development of your bill S. 1067, the "Violent Crime Control and Law Enforcement Act of 1993." IACP believes that the bill and the various amendments that have been debated and added over the last week will go a long way toward addressing violent crime in this country. You and your fellow Senators, especially Senator Hatch, are to be commended for your efforts.

We continue to have concerns about the funding levels and effectiveness of the Police Corps provisions. As you know, and as is articulated in the attached IACP resolution, we will continue to resist this proposal that we believe to be a wasteful use of scarce taxpayers' dollars. We are pleased however, by your assurances that the final bill will not include a "police officers bill of rights."

As was pointed out repeatedly during the debates, fighting crime in the United States occurs primarily at the state and local level. Strong actions and laws must begin at these levels. But the federal government can, and by this legislation will, provide coordinating leadership and needed funding to insure that the nation puts more police officers on the streets, incarcerates violent criminal offenders, provides remedial programs and treatment for non-violent offenders, and develops preventative programs to dissuade future generations from involvement with guns, gangs and drugs.

Again, the IACP commends the efforts of you and your colleagues in the Senate and look forward to working with you on other matters we have discussed to combat violent crime.

Sincerely,

SYLVESTER DAUGHTRY, Jr.,
President.

Attachment.

RESOLUTION—POLICE CORPS PROGRAM

Whereas, the International Association of Chiefs of Police greatly appreciates the intentions and efforts of those members of Congress who support the Police Corps concept, and

Whereas, it is the belief of IACP members that help is needed in recruiting, hiring, and retraining qualified candidates intent on making law enforcement a career; and

Whereas, the concept of a Police Corps does not address the needs and concerns of career, professional law enforcement officers; and

Whereas, IACP fully endorses the concept of improving the education of career police officers; and

Whereas, the monies dedicated to a Police corps could be applied to accomplish the goals of law enforcement in a more effective way; now, therefore be it

Resolved, That the International Association of Chiefs of Police reaffirms their opposition to the enactment of the Police Corps Program as currently proposed, but urges Congress to conduct hearings to address the concerns of law enforcement as it relates to the recruiting, hiring, education, and retention of qualified career law enforcement officers.

NATIONAL SHERIFFS' ASSOCIATION,
Alexandria, VA, November 10, 1993.
Hon. JOSEPH R. BIDEN, Jr.,
U.S. Senate, Washington, DC.

DEAR SENATOR BIDEN: Congratulations on your masterful work on the Crime Bill which is now before the Senate. The Sheriffs of the United States are deeply grateful for your commitment to legislation which will attack the crime problems which are of such concern to the entire nation.

We at the National Sheriffs Association are satisfied with the progress of the crime bill. Rural crime issues are being addressed in an appropriately aggressive fashion. Monies are being designated for much-needed jail and prison construction. We are pleased to note that the Triad amendment will direct attention to the concerns about crimes affecting the elderly.

Sheriffs nationwide support the crime bill. We trust that your colleagues will agree with you and vote to enact legislation at the earliest possible date.

Sincerely,
CHARLES B. MEEKS,
Executive Director.

NATIONAL TROOPERS COALITION,
Albany, NY, November 15, 1993.
Hon. JOSEPH R. BIDEN, Jr.,
U.S. Senate, Chairman, Committee on the Judiciary, Senate Dirksen Building, Washington, DC.

DEAR SENATOR BIDEN: We applaud you for your continuing efforts in combatting this nation's escalating crime problem. We know that you are deeply involved at the present time in attempting to work out an acceptable and effective crime bill. The National Troopers Coalition is extremely interested in the passage of legislation that will effectively deal with our nation's crime problem.

We stated the views of the NTC to you on S. 1488 a few weeks ago. Since that time, you have introduced a separate bill, S. 1607. In addition, it is our understanding that certain provisions of S. 1607 relating to habeas proposals have now been detached and will be considered separately.

Since events with respect to the crime bill are fast moving at this point, we wanted to simply restate the NTC's position on this legislation. First, the NTC strongly supports proposals that will provide for funding for additional state and local police officers. Second, the NTC supports funding to aid state and local prisons, jails and military style boot camps, and to construct regional prisons for state offenders from states which have truth-in-sentencing statutes with respect to violent offenders. Third, the NTC supports legislation that contains genuine habeas reform, which (a) preserves Supreme Court decisions, rather than retreating from them, (b) prevents relitigation of constitutional issues determined in state proceedings where the petitioner had a full and fair opportunity for review, (c) contains effective time limits on the filing of habeas petitions, and (d) does not impose cumbersome and costly counsel requirements in state capital cases. Fourth, the NTC supports legislation that would reform the exclusionary rule to allow the admissability of evidence seized under objectively reasonable circumstances. Fifth, the NTC supports the "Brady Bill" and wishes to compliment you on your tireless efforts on this particular legislation.

Our organization is committed to continue working with you and the other congressional leaders in Congress to pass tough and effective crime legislation. We do support you on the Violent Crime Control and Law Enforcement Act of 1993.

Sincerely,
JAMES A. RHINEBARGER,
Chairman.
JOHNNY L. HUGHES,
Chairman, Legislative and Congressional Affairs.

DELAWARE STATE TROOPERS ASSOCIATION,
Dover, DE, November 10, 1993.
Hon. JOSEPH R. BIDEN, Jr.,
Chairman, U.S. Senate Judiciary Committee, Washington, DC.

DEAR SENATOR BIDEN: The Delaware State Troopers Association strongly supports your Crime Bill S. 1607. After many years of debate in Congress this bill is an important piece of legislation for law enforcement and the American public.

We recognize that there will never be a perfect crime bill, however, S. 1607 contains many areas of Public Safety that are important in reducing crime in America. Everywhere in America crime is a major topic of discussion and concern. With the passage of this bill it will enable Law Enforcement to impact reducing crime.

We applaud the Senate Judiciary Committee and your efforts in pushing for passage. Please do not hesitate to call if we can be of any assistance to you or your staff in getting this Bill to the President.

Passage of this Bill is of major importance to all Americans.

Sincerely,
JOSEPH PAPILI,
President.

Mr. BIDEN. Madam President, I suggest the absence of a quorum and ask unanimous consent that the time be equally charged between the managers of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GORTON. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Madam President, I ask unanimous consent to be able to speak for 7 minutes on the time of the distinguished senior Senator from Utah.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator is recognized for 7 minutes.

Mr. GORTON. Madam President, nothing has shaken our neighborhoods, invaded our schools, overwhelmed our law enforcement officials or distressed our families more than violent crime. Even the simplest events in our lives are haunted by the constant and unpredictable threat of violence. Parents no longer let their children walk to school alone. Companies ask their employees to use the buddy system when walking to their cars. Policemen have become commonplace alongside the candy and magazines at our local grocery store checkout counters. School principals ask their students to walk through metal detectors before they walk to class. Women do not go jogging in their local parks anymore—even during the day. And people can no longer sit at a stoplight at night without wondering what every moving shadow might be.

Across America, feelings of fear have replaced feelings of security. This crime bill is a start toward giving law enforcement the tools it needs to restore America's sense of security and safety, and I am proud to vote for its passage.

More than $22 billion in Federal funds will be made available for 100,000 more police officers, innovative crime prevention grants to States and localities, and prison construction. The ultimate target of this effort is the relative small group of persistent violent offenders who commit more than two-thirds of all violent crimes. This legislation includes Federal sentencing measures that will take those repeat offender of Federal law, and those who use firearms illegally under Federal law, off the streets, permanently. Despite the fact that most convictions occur under State sentencing guidelines, these measures encourage States to adopt similar rough sentencing guidelines.

For example, the three strikes you're out amendment which I cosponsored parallels the initiative passed in my State of Washington to give three-time serious violent offenders sentences of life imprisonment without parole. The American people share the frustration of the people of Washington State who experience violence at the hands of individuals who, despite having served time in prison, strike again and again. The provision will send a strong signal to criminals that there is a clear line. Cross it, continue your criminal ways, and you will see only prison walls for the rest of your life.

In addition, I cosponsored an amendment to this bill which would set tough mandatory sentences for individuals convicted of gun related crimes under Federal law. Specifically, an individual possessing a firearm in commission of a felony would receive at least 10 years in jail; an individual firing a gun in commission of a felony would get 20 years in jail; an individual firing an assault weapon or using a silencer in commission of a felony will get 30 years; if the felony results in the death of an individual, the criminal would face the death penalty.

Madam President, this deals with gun control head on. While many may claim that punishing criminals who use firearms does not work, this measure will get the attention of every gangster, every career criminal, and every dangerous felon. If even one of them thinks twice about picking up an assault weapon or firearm, it will be worth it. And believe me, they do think twice about consequences of tough sentences. The first question that those arrested for drug offenses ask police is not "Where's my lawyer?," it's "Am I Federal or State?" Yes, there is a good reason why during pursuit from police, criminals toss their weapons away. This measure will help make criminals accountable for their actions and provide law enforcement with the resources it needs to nail the bad guys.

The legislation also includes two important measures which are of particular importance to the Pacific Northwest and Washington State.

The first will help law enforcement put clandestine drug labs out of business. For 3 years, I have sponsored legislation known as the ice breaker bill to: First, control the diversion of certain chemicals used in the illicit production of controlled substances; and second, provide greater flexibility in the regulatory controls placed on the legitimate commerce in those chemicals.

In short, this bill will provide law enforcement with the tools it needs to combat the deadly spread of methamphetamine, or ice, and will make lab operators liable for the environmental and health hazards they create. I am delighted that this legislation, which is the result of years of efforts by the Drug Enforcement Administration, the Chemical Manufacturers Association, the Nonprescription Drug Manufacturers Association, and the Clandestine Laboratory Investigators Association, has been adopted as part of this crime bill.

The second measure is based on current Washington State law and targets perhaps the most horrific criminals of our modern society: sexually violent predators. Far too often, convicted rapists and child molesters will be released from prison without being rehabilitated to walk the streets again as a threat in our parks, school grounds, and shopping center parking lots.

I sponsored an amendment, the Sexually Violent Predators Act, which will encourage States to establish monitoring systems for sexual predators. Under my amendment, law enforcement can keep track of the moves of a sexual predator and will be able to warn communities of his presence. Most importantly, the Federal Bureau of Investigation will both give and receive information about sexual predators to and from State and local law enforcement officials so that they can know if a sexual predator has crossed State lines.

We cannot accept the cynical view that our violent ways will never change. We must deal head on with violent crime, find innovative ways to outsmart the bad guys, and take our streets back.

With that in mind, I am holding a violent crime summit on December 13 in Yakima, WA, with the Washington State Association of Sheriffs and Chiefs of Police. Bringing local, State, and Federal law enforcement together with community leaders committed to fight crime is one way to help turn the tide against the violence we experience everyday. This unprecedented meeting will be an excellent opportunity to maximize the new Federal resources provided in this crime bill.

I would also like to applaud the heroic efforts of organizations such as Safe Streets in Tacoma or COPS West in Spokane to mobilize against crime. Each time I visit a block watch program in my State, I am inspired by its commitment to take back the streets, schoolyards, and neighborhoods. This crime bill will never match the deterrent effect of a community organized and motivated to prevent crime, but it will make its job easier and its streets safer. I am strongly committed to doing everything we can at the Federal level to help communities that want to help themselves.

I am pleased to support this crime bill. It rewards communities already fighting crime, helps the police on the front lines, and begins to eliminate the constant threat posed by repeat violent offenders. It is a substantial effort toward ensuring the ultimate goal of domestic tranquility for all Americans. Our children, our families, and our communities deserve no less.

Madam President, I suggest the absence of a quorum, with the time to be equally divided between the two managers.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Madam President, I yield myself such time as I may need.

Madam President, during the debate—I do not know how many days ago—on this legislation, I made a statement based on a statistic that was given to me in a hearing that more schoolteachers were killed in the line of duty than police were killed in the line of duty.

I would like to correct that statement. I have had my staff working with the Bureau of Justice Statistics and with the various agencies that maintain and compile these statistics. The number of policemen killed in the line of duty in 1991 was either 69 or 71, depending on which figure you accept. They were all, obviously, tragic losses.

Between the years 1986 and 1990, 71 teachers or students were killed in school or on school grounds, 201 students or teachers were severely wounded, and 242 teachers or students were held hostage.

I am going to have for the RECORD a much more detailed analysis of the exact breakdown. But the point is still the same: Teaching school today is a highly dangerous profession.

The notion that you would even be able to compare the risk that police officers faced in their line of duty and that a schoolteacher or student faced in the line of their duty of being a student or a teacher 30 years ago would have been preposterous. But the point is that it is not preposterous today, and it is getting worse. It is getting worse for schoolteachers, and it is getting worse for students, as we all know from just watching the television.

I will, at the appropriate point, place in the RECORD—and I am not prepared to do it at this moment—the various statistics, including testimony relative to the concern before my Judiciary Committee when I held a hearing on the issue of guns in schools, and the testimony of Ronald D. Stevens, executive director of the National School Safety Center.

I will do that because a number of people have asked me about it. They thought that was a startling figure. It startled me. That is why I mentioned it.

It may turn out not to be precisely as indicated—not by my staff, but by someone who testified before our committee—precisely as was advertised to me; that is, actually more teachers killed than police in the line of duty. But it is shamefully close, if it is not precisely accurate.

But I say this mainly because I want the American people to understand what they intuitively know, and that is that in places where we assumed there was safety, places where we assumed we would not have to worry, professions which we assumed would be able to be conducted without fear for physical safety, those assumptions are no longer accurate.

I know my friend from California knows all too well what happens in schoolyards with people wielding assault weapons and what happens to teachers in the inner city as well as, on a few occasions, in rural schools because of the availability of not only guns but the ethic of violence that permeates our society today.

I see my friend from New Mexico is on the floor.

I reserve the remainder of my time, and I would be delighted to yield to him.

The PRESIDING OFFICER. The Senator reserves the remainder of his time. The Senator has 12 minutes 54 seconds remaining.

Who yields time?

The Senator from New Mexico.

Mr. DOMENICI. Madam President, I believe I had 10 minutes reserved. If Senator HATCH thinks that is too much, he will walk on the floor and tell me not to speak that long.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 10 minutes.

Mr. DOMENICI. Senator BIDEN, as you leave the floor, let me thank you very much for your efforts on this bill and for your kind remarks in reference to how I felt. I hope I have been helpful, and I hope the managers' bill, as we contemplated last Thursday, at least would include a Domenici-Danforth-Dodd-Stevens-Kennedy, and others, provision. I hope it remains intact. I understand there is a little problem now, but I have every confidence that that kind of measure is going to be included.

Mr. BIDEN. If the Senator will yield, he has been incredibly helpful in the formation of this package. It is my intention that the provision that he referred to remain in the managers' package. But, as he said, we are working with 35 different Senators, all able to object if they wish. It is not the Senator from Delaware who wishes to object. I hope we can fulfill that.

Mr. DOMENICI. I understand. I will do my share to make sure a reasonable managers' package is not objected to.

Madam President, let me tell the Senate first about a rather enlightening and satisfying experience that I had about 7 weeks ago. I went to my home city, as I do frequently. I was honorary chairman of the second annual Youth Outstanding Unified Roundup or the "Y.O.U.R." Basketball Camp. The objective of this camp is to provide 250 financially deprived youth aged 6 to 16 with free basketball instruction and other life skills training that they could not otherwise afford. In addition, 150 pairs of basketball sneakers were given to those most in need.

It was truly remarkable to see the marvelous mix between a few stars from the university basketball team and a few high school basketball players, some good, young female athletes—all helping these young people over a 3-day period. It was a tremendous day. We hooked these kids in with the sports angle and while they were a captive audience, they were taught about the dangers of drugs, AIDS, dangers of gang violence, and crime prevention. It was a very successful event and demonstrated to me that these types of activities need to be replicated across this country and supported, where possible, by the Federal Government.

Prior to that event, it had dawned on me that we were going to pass a crime bill. I could see it coming. At that point I did not think we were going to have any money and we were just going to build a series of authorizing proposals.

Since then, if it works and if the House agrees, we are going to actually have some substantial money, maybe as much as $22 billion over a 5-year period, to be appropriated for the purposes of this bill as it attempts to address the problem of crime in the United States.

The funding source, through the crime bill, did not yet exist when I set about to think of something we ought to be doing that would be positive and preventive, with reference to the young people in this country. So many young people do not have anything to do after they get out of school and in many places have nothing to do on weekends. Clearly most of them, unless they get jobs, have little to do after school, on weekends or during the summer months. For many, few opportunities for recreation, academic enrichment, or positive reinforcement from caring adults exists outside of school.

The youth of today have been born into a society that provides little fertile ground for sound physical, mental, and spiritual development.

If they are fortunate to be born into a strong supportive family, or have adults in their lives who have taken a personal and committed interest in them, they may not remain untouched by society, however, they may grow up without permanent scars from their interaction with it.

Government cannot and should never try to replace the family. Yet we can put forth policies which we hope will strengthen the family or at the very least, fill in those gaps where children are not receiving the support or direction they need and inwardly crave.

My idea was very vague at first. I thought big. I thought maybe $3 or $4 billion out of a bill like this ought to go for prevention activities such as this. I still believe it should, because we have physical facilities going unused, worth billions of dollars in the public schools, in the private schools, in YMCA's and all kinds of facilities—junior high schools that have gyms and recreation facilities. There has been a tendency to say, "This is for the public schools, the athletic department," and we close them down at the end of the schoolday.

I used these facilities when I was a youngster. I was somewhat of an athlete. I was in and out of those when I grew up. Frankly, I was mostly outside because I played a little basketball for 10 or 15 years—in fact, a little bit of professional baseball.

When we were growing up the gyms were used on weekends for pick-up games. Frankly, the coaches knew all the kids in the neighborhood.

Now it is almost like, "These are ours, you get out of here. We do not want you messing up our gym floors and recreation facilities after school or weekends unless you are part of organized recreation." What has happened is recreational and postschool activities for our young people, latchkey and otherwise, have diminished rather than increased over time.

The U.S. Olympic Committee attests to that. There is less recreational activity available today for our young people. The peer pressure for drugs and gangs, and from those who say: "don't care about anything; whatever you want to do it's OK so long as you do not get caught"—is growing. The opportunities to use this extra spare time in orderly ways with adults helping you, to build your minds, build your bodies, centering around things like recreation and other kinds of recreational and academic opportunities are needed more than ever.

So I thought maybe we ought to draft up a bill to utilize the public facilities and center a national program on building community consensus and then managing a program using public schools and other facilities to rebuild this capability. In fact, if a university was around, it would be ideal for them to offer their PE department for this kind of effort.

I am very pleased that I now have a substantial number of cosponsors on both sides of the aisle. The effort itself builds upon the strengths of a proposal developed by my good friend from Missouri, Senator DANFORTH. He has worked tirelessly on his community schools legislation and I commend him for his vision. In addition, I would especially like to thank Senator BRADLEY, DODD, and STEVENS for their efforts.

I would like my colleagues to understand something. It costs the taxpayers an average of $300,000 to house a Federal prisoner for 1 year, far more expensive for violent offenders. We could do so much more on the prevention side with a small portion of those funds for each young person.

The American people often criticize us for "throwing money at problems." This criticism is warranted when the purposes and uses of funds are vague and not managed or evaluated properly.

Despite the legitimate criticism, the Federal Government has a strong role in promoting and supporting efforts to strengthen and oftentimes repair the fabric of our citizenry. Our role is especially acute in caring for the most vulnerable in society.

In general, this Senator is worried about spending, but I also know we are going to spend $22 billion in this crime bill. When we are going to build prisons all over America; when we are going to build regional prisons to help the States out; when we are going to put 100,000 cops on the beat, I am suggesting we ought to spend $100 million a year to see if we cannot put this kind of local consortia together, using some of our money and the available resources so we can help rather that wait around until our young people have committed crimes and then spend the taxpayers' money on that.

I am not opposed to the kind of hard-nosed nature of this bill. In fact, I believe when it comes to using pistols and guns by our young people and adults, the best medicine is for them to know it will cost them if they do. That is why I support a new concept of minimum sentencing. I support the D'Amato-Domenici amendment that even makes using funds in the commission of crime more and more a national offense so we can use the expedited procedures and proficiency of our Federal courts and Federal prisons to send this message: If you use guns and pistols you are going to pay. Whereas now it is kind of a joke among those who use them.

We can pass Brady. We are going to pass Feinstein. But essentially, until they know that when you get caught doing crime you are really going to get punished, guns are not going to stop being used in crime commission.

But I believe we owe a little more than that. I commend the chairman for trying, in this bill, to put some flexibility in where maybe some of this money going to policemen, going to these other things, could be used for programs that are preventive in nature, directed mostly at our young people, however, I think the Senator from Delaware will agree, in a $22 billion bill, we should be able to do a little better for our young people at risk of gang and drug involvement, than what is currently in the bill.

The proposal involves a matching grant program with a two-prong approach. The first prong provides grants to States through the application of a consortium of individuals interested in youth development. The consortium would establish youth sports, extracurricular, and academic enrichment programs that would operate on a year-round daily basis, on weekdays, weekends, and summers if funds permit.

This prong authorizes the larger portion of funding, $100 million per year over 4 years. Wherever possible, we encourage the use of local schools and other places where children meet.

The second part of it is equally as exciting. There is $50 million in for the first year and $25 million for 4 successive years, so the U.S. Olympic Committee, which has a marvelous national and international reputation, can establish what would be referred to as Olympic youth development centers. They are authorized to receive $50 million in the first year, and $25 million each of the subsequent 4 years. The USOC would be charged with establishing at least one such center in each State, more as funds increase. This effort would be part of this national buildup of recreation after school and on weekends for more and more of our young people in concert with the public schools and other entities that do this out there for our young people already.

All programs would provide to youth participants, a strong program of sports and recreational activity, other extracurricular and academic programs, coupled with a physical exam, and nutrition guidance.

In that regard, the U.S. Olympic committee—U.S. Olympic committee has written a letter to me on November 10. I am not going to read it all. The letter, from the executive director of the USOC, Dr. Harvey Schiller, begins as follows: "On behalf of the United States Olympic Committee, the athletes, and our affiliated organizations, I enthusiastically support" the amendment you are offering to the crime bill. "The intent of your proposal, to provide healthy and productive activities for young people as an alternative to destructive pursuits, is consistent with the most fundamental principles of the Olympic movement."

They have indicated to me privately in discussions that we need a lot more, not less, recreation, and they would love to be part of building this effort in the United States.

I ask unanimous consent the letter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

The PRESIDING OFFICER. I inform the Senator his 10 minutes has expired.

Mr. DOMENICI. I wonder if I might have 1 more minute?

Mr. HATCH. I yield 1 more minute.

Mr. DOMENICI. Before I close, I would like to recognize the accomplishments of one Senator in particular. Senator STEVENS has been working with me on this proposal. I want my colleagues to be aware of something very important that has happened in the life of Senator STEVENS.

Just 2 weeks ago he was the recipient of the highest honor given by the International Olympic Committee, the Olympic Order. Only 33 American recipients have received this honor, which is bestowed upon those who have illustrated the Olympic ideal through their actions, those who have achieved remarkable merit in the sporting world, and those who have rendered outstanding service to the Olympic cause. He is the only Member of Congress to receive that award and he wholeheartedly helped us and endorses building the Olympic concept into this two-pronged approach we just discussed.

I would just like to say I am so pleased to have such high caliber of bipartisan support for this amendment. With Senators BRADLEY, DODD, KENNEDY, KERRY, and BEN NIGHTHORSE CAMPBELL, Senator DANFORTH, and TED STEVENS, I have great hope for the success of this program.

For instance, one of our principal sponsors of this amendment is Senator BILL BRADLEY of New Jersey. Most people know him from his 10 years with the New York Knicks. However, Senator BRADLEY also served as the captain of the U.S. Olympic basketball team in 1964.

Another Olympic athlete in the Senate, BEN NIGHTHORSE CAMPBELL, was All-American in judo; a three-time U.S. judo champion; captained the U.S. Olympic judo team at the Tokyo Games in 1964: Gold-medal winner in the Pan-American Games of 1963; and he coached the U.S. international team.

Those of us who are sponsoring this amendment believe it is an idea whose time has come.

The problems of our young people turning toward delinquent behavior are everywhere, not just in the major U.S. cities. It is a crisis that we must try to address on the front end.

It may be hard for many of my colleagues to believe, but in New Mexico, we have a very serious gang problem. In Albuquerque alone, the police department has documented the existence of 155 gangs, with estimates of 6,000 or 7,000 members.

My strong belief in the need to reach these young people in New Mexico and across the country before they enter gangs, causes me to associate myself with the remarks of William Raspberry in his October 27 editorial in the Washington Post entitled "a Crime Bill With No Hope," where he says:

> We need to undertake the painstaking work of promoting our values, our unquestioned hope for the future, our taken-for-granted belief in mutuality. We need to give our young people both hope and a conscience. That takes attention and resources at the front end. The crime bill would make the principal investment at the back end—in the criminal justice system—where its already too late.

I appreciate the fact that a strong and growing bipartisan group of Senators is interested in youth development and crime prevention, and I thank my colleagues for supporting this amendment.

EXHIBIT 1

U.S. OLYMPIC COMMITTEE,
Colorado Springs, CO, November 10, 1993.

Hon. PETE DOMENICI,
U.S. Senate, Washington, DC.

DEAR SENATOR DOMINICI: On behalf of the United States Olympic Committee, the athletes, and our affiliated organizations, I enthusiastically support the Youth Development Centers Act of 1993 which you are offering as an amendment to S. 1607, the Omnibus Crime Bill.

The intent of your proposal, to provide healthy and productive activities for young people as an alternative to destructive pursuits, is consistent with the most fundamental principles of the Olympic Movement. As stated in the Olympic Charter, it is our goal to build a better world by educating youth through sport, using it as a means for the development of tomorrow's citizens.

The most visible function of the United States Olympic Committee is to support elite athletes for Olympic competition. But an equally important one is to encourage participation in sports at all levels. The United States Olympic Committee is eager to offer its resources, in cooperation with state and local consortia, in a comprehensive effort to create an environment where young people, especially those at considered risk, can freely participate in sports that would otherwise not be available to them. By targeting regional preference, each youth center would be equipped to provide a variety of programs appropriate to the constituent youth groups being served.

I am convinced that both of us share a mutual goal of stimulating greater participation in sports and health living as a positive alternative to the negative influences dominating our streets. At a time when crime is threatening a whole generation of American youth, we recognize that there exists a great opportunity for our organization to lend its assets to make a significant contribution to building a better tomorrow. Through this legislation we can deliver a desperately needed avenue of relief and opportunity to America's youth, and accept the challenge and responsibilities your proposal demands.

Sincerely,

HARVEY W. SCHILLER.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I yield 2½ minutes to the Senator from Montana.

The PRESIDING OFFICER. The Senator may proceed.

Mr. BURNS. Madam President, I thank my friend from Utah for yielding this period of time. I also commend my friend from Delaware who this year has brought to the floor—and I think we are fixing to pass—the best crime bill we have been able to fashion since I have been in this U.S. Senate.

It is tough. They set biases aside and wanted to present this country with the toughest crime bill we have ever been able to pass through this Senate.

It was alarming when I went home to Billings, MT, and found out that we have gangs—Billings, MT, with gangs. Some of that we can deal with, but most of the crime is kind of like politics: It is local.

With this crime bill, we do not want to send a wrong message to America. We have to start getting involved ourselves, whether we are in the enforcement business, or whether we are just a member of a neighborhood. We have to start getting involved, personally involved, in this crime fight. Each neighborhood is going to have to take that responsibility. It is sad when 60 percent of women in this country who are called and polled say they limit their activities because they are afraid to go out. What kind of America are we building here?

Also, another alarming statistic is nobody was arrested in 35 percent of the murders; nobody was arrested in 44 percent of aggravated assaults; and nobody was arrested in 76 percent of armed robberies. That is our responsibility and we can do something about this in our communities.

I am an old county commissioner. I am glad we are building prisons again. But we cannot outbuild crime. We have to outsmart it. I think in this bill we provided some ways to do that.

So I want to congratulate the managers of this bill for presenting a tough crime bill that I heartily support. Yes, there are some things in here I do not like. But I have never seen one go through here that there was not something in it I did not like. But I think on the whole, this does as much as we have done in the last decade to confront this terrible thing called crime.

I yield the remainder of my time, and I yield the floor.

Mr. HATCH. I yield 4 minutes to the distinguished Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator is recognized for 4 minutes.

Mr. SPECTER. Madam President, I support this crime bill because I think it makes a significant step forward in the fight against violent crime. More than two decades ago, in 1972, a national commission, on which I served, outlined a blueprint to reduce violent crime by more than 50 percent in America. I believe this crime bill takes a stride in that direction. It really is not enough, but it is a step in the right direction.

I especially think that the provision for 100,000 more police is very significant. In addition, there is $1.2 billion for early intervention for teams of police, social workers, and school teachers to identify troubled youngsters as a step in the right direction on crime prevention. The $1.2 billion for the guidance of new drug courts for drug treatment services to nonviolent first offenders is a step in the right direction. The $3 billion for boot camps is very, very important.

Madam President, the key to reducing violent crime by more than 50 percent is to provide realistic rehabilitation, where possible, to juveniles, first offenders, and second offenders. It is no secret that when someone leaves prison being a functional illiterate without a trade or a skill, and possibly being drug dependent, that person goes back to be a recidivist in the crime cycle. Criminal repeaters account for more than 70 percent of our violent crimes. Once a person becomes a habitual offender, then it is necessary to be very tough—tough sentences for tough criminals and life sentences for habitual offenders.

This bill provides $3 billion for the jailing of State prisoners who are serious and violent offenders and priority must be given to career criminals in that category. I regret that this bill does not take up the serious delays which are now present—up to 18 years—for those who sit on death row where capital punishment is an effective deterrent against violent crime. Even for those who disagree with the deterrent effect of capital punishment, there is no doubt that 37 States have expressed their laws to embrace capital punishment, more than 70 percent of the American people support capital punishment, and 73 Senators have gone on record in this bill as supporting the death penalty.

What we have to do now is fund it, and this is a step in the right direction.

In the remaining moment that I have, I want to call the attention of my colleagues and the Nation to a very serious crime in my home city, Philadelphia, where substantial evidence has been uncovered of vote fraud, a very serious crime, although not violent, which attacks the very underpinning of democracy in the United States. What is at issue is a special election for a State senate seat which would involve control of the State senate in Pennsylvania. There has been substantial evidence of widespread vote fraud in Philadelphia, which I regret to say is a pattern which has existed in Philadelphia for many years. When I was district attorney of Philadelphia, I investigated and prosecuted vote fraud.

Regrettably, Philadelphia has been a one-party town, controlled by Republicans for some 67 years up to 1952, and controlled for the last 40 years by the Democrats.

Madam President, I ask if I might have 2 additional minutes.

Mr. HATCH. Yes.

The PRESIDING OFFICER. The Chair informs the Senator from Utah he has 3 minutes 58 seconds remaining.

Mr. HATCH. Let me yield 2 minutes to the distinguished Senator, and I will have to ask unanimous consent for further time because I have others who want to speak.

The PRESIDING OFFICER. The Senator is recognized for 2 additional minutes.

Mr. SPECTER. Madam President, I thank the Senator. I will limit my comments to 2 minutes. I think this is important to finish.

Regrettably, when corruption exists in the voting process, it undermines the whole integrity of democracy and it can be as insidious and as serious as crimes of violence. This happens to be an election which, as I say, controls the Pennsylvania State Senate. Philadelphians have been victimized by vote fraud for decades, many of which I prosecuted when I was district attorney of Philadelphia for 8 years. Philadelphia was controlled by the Republicans for 67 years, up until 1952, and has been controlled by the Democrats for 40 years. Regrettably, big-city machine politics means vote fraud and corruption.

I ask unanimous consent to print in the RECORD, because of the limitation of time, accounts which have appeared in the Philadelphia Inquirer for November 16, 17, and 18—today—and copies of letters which I have sent, dated November 16, to the attorney general of Pennsylvania, the district attorney of Philadelphia, and the Attorney General of the United States dated November 17. I do this so we can get to the bottom of this important matter, which is a very important matter on crime, while we are talking about crime today, and it is an adjunct, of course, as to what we are doing here, but it is a matter of great importance.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Philadelphia Inquirer, Nov. 16, 1993]

VOTING "IN THE COMFORT OF OUR OWN HOME"

(By Jeff Gelles and Karen Quinones Miller)

The man who paid a visit in mid-October to Adamina Ayala and her son, Demaris Colon, came with promises.

What he delivered, they now say, was trouble.

"He said we could vote in the comfort of our own home," Colon, 20, of the 2800 block of Fairhill Street, in North Philadelphia's 19th Ward, recalled yesterday. "He came back a couple of days before the election with the ballots, and my mother and I filled them out."

"Ayala, 48, who speaks little English, was suspicious.

"My mother, she said to the man, 'Can I still vote at the school?' And he said no, this is your vote now. But my mother thought the whole thing was fishy, so even though she voted with him, she still went to the school and voted like she always does," Colon recalled.

The experience left Ayala anxious. "When I went to the school, my name was on the list like always. So I voted," she said. "I didn't mean to do anything wrong."

Her son is more angry than worried.

"So If I voted at home, then my vote doesn't count?" he said. "Now that's messed up. He wasted my time and my vote."

It's not clear yet whose votes will or will not count in the Nov. 2 election in the Second Senatorial District, a contest that will determine which party controls the Senate.

Without absentee ballots, Republican Bruce Marks led Democrat William Stinson by 562 votes. But Stinson's 1,391 absentee ballots, versus marks' 366, swung the election to Stinson—and put a focus on Marks' allegation that "massive fraud" took place in the absentee voting.

So far, only a handful of absentee ballots have been thrown out. A Common Pleas Court judge has sealed the ballots, and Marks has already taken his challenge of the voting to the state Supreme Court.

Yesterday, 16 of 25 voters interviewed by The Inquirer said campaign workers for Stinson or the Democratic Party gave them confusing, misleading information about absentee voting. Last week, most of three dozen voters interviewed gave similar accounts.

Ruben Liceaga, 62, of the 2900 block of North Orianna Street, said this year's election was the first in which he had voted absentee.

"Every year before this, I went to the machine on Third Street," Liceaga told a reporter. This year, someone came to his house with the paperwork to vote from home—a privilege that by law is restricted to voters unable to make it to the polls.

"I thought it was strange, but when I asked, they told me that certain people have privilege to vote in the home," Liceaga said. "The people, they say, who are longtime voters have this privilege. I have been voting for 20 years, so I have this privilege, they told me."

Liceaga said he did not know the name of the person who came to this house. "He told me he was a Democrat, and it was the Democrats who give this privilege to some people who vote a long time, but he didn't ask me how I vote."

For Rose Marie Cintron, 37, the opportunity to vote by absentee ballot was the perfect antidote to her night shift.

"These guys came around and said if I filled out the ballot at home I won't have to go out to vote, and since I work night shift, I said, 'Hey, this is great,'" said Cintron, who lives on Reese Street in the 19th Ward.

"That just goes to show you about something seeming too good to be true."

Cintron said the men who visited her said "this was a new system they had to make it easier for people who preferred not to go to the polling place, so they could avoid waiting in lines. I thought it was strange, but I sure liked the idea.

"In fact I filled out a ballot for me and my husband. When I was filling out my ballot, I couldn't figure out if I should go Republican or Democrat, and the guy said, 'Put Democrat, I'm a Democrat and the Democrats are better,' so that's what I did. After I filled out my ballot and my husband's ballot, I sealed them and gave them to the man and he left."

Some who voted absentee in the Second District clearly had reason to do so. Nine of the 25 people interviewed yesterday said they saw no sign of irregularities in the process.

Florence Irwin and her husband, Robert, of the 7200 block of Horrocks Street, in the Northeast, both voted by absentee ballot.

Florence Irwin said they couldn't have voted any other way. Her husband had open-heart surgery a year ago and has not fully recovered, and she has a bladder infection and a thyroid problem.

So Irwin was grateful when committeewoman Geraldine Penn provided her and her husband with absentee ballots.

"I was sick. I did not know at the time whether I could go vote. . . . If we did wrong, I certainly didn't intend to do anything wrong."

[From the Philadelphia Inquirer, Nov. 17, 1993]

TOP REPUBLICANS CALL FOR PROBES OF SECOND DISTRICT VOTING

(By Vanessa Williams)

State Senate Republican leaders descended on Philadelphia yesterday demanding that local, state and federal officials look into allegations of absentee-ballot fraud in the Second Senatorial District.

The lawmakers also said that Margaret Tartaglione, chairwoman of the City Commissioners, and Common Pleas Court Judge Eugene E.J. Maier, both Democrats, should withdraw from any proceedings involving Republican Bruce Marks' challenge to hundreds of absentee ballots cast in the Nov. 2 election.

Marks lost the race by 463 votes to Democrat William Stinson. Marks outpolled Stinson in machine balloting by 562 votes, but the Democrat got three times more absentee ballots.

The City Commissioners have declined to certify the election pending the outcome of Marks' legal challenge to the absentee ballots. The case had been before Maier until the Supreme Court took it for review Friday.

State Sen. Robert C. Jubelirer (R., Altoona), president pro tempore of the Senate, said federal authorities should look into voting rights violations, particularly in the Latino community.

During the last week, The Inquirer has interviewed 90 voters who said they were misled by Stinson campaign workers or Democratic committee persons into casting absentee ballots when they did not qualify to do so under state law.

The outcome of the election will determine which party takes control of the state Senate, which is scheduled to reconvene Monday. If Stinson's victory is upheld, the two parties will have an equal number of members and Democrats will retain control, because the lieutenant governor is a Democrat and can break ties on certain votes. If Marks prevails, the GOP will control the Senate.

In an effort to examine the absentee voter records, The Inquirer yesterday asked the state Supreme Court to direct the City Commissioners to make them available for public inspection.

The Inquirer's petition to the Supreme Court argued that the absentee-ballot records should be released because they are considered public records under state law. It noted that the City Commissioners do not object to the release of the records.

Whoever takes the seat will serve the remaining 14 months in the term of Sen. Francis J. Lynch, who died in May. A primary and general election for the full, four-year term will be held next year.

Jubelirer was joined by fellow Republicans Hank Salvatore, of Philadelphia; Joseph Loeper, of Delaware County; Richard Tilghman and Stewart J. Greenleaf, both of Montgomery County, and David Heckler, the newly elected lawmaker from Bucks County.

Each spoke at a news conference:

Jubelirer called on Tartaglione to withdraw from all proceedings in the dispute. He said that because Tartaglione is a ward leader in the district and because of "her potential responsibility for some of the lack of the ballot integrity . . . she cannot exercise the impartial judgment needed."

Salvatore called on State Attorney General Ernie Preate Jr. to impanel a special grand jury to investigate the allegations. "All we want is an honest election; win or lose, let it be honest," he said.

Loeper called for the Supreme Court to assign the case to a judge outside Philadelphia. He criticized Maier for not having disclosed that his wife got a patronage job at the Philadelphia Parking Authority and that he had applied for a federal judgeship before a panel whose members included the wife of State Sen. Vincent J. Fumo, a leading Stinson backer.

Chris Simeral, Stinson's campaign spokesman dismissed the complaints en masse: "The problem is Bruce Marks is all over the map. When he knows he's going to lose, he takes it to another body where he thinks he might do better."

If Marks demands that Tartaglione withdraw, Simeral said, he also should insist that John Kane, the Republican on the three-member commission who also is a ward leader in the district, withdraw too.

Simeral again complained that Marks' campaign workers had gone out in the district and intimidated voters into saying they had cast fraudulent ballots for Stinson.

Bill Davol, a spokesman for Philadelphia District Attorney Lynne M. Abraham, said that his office received requests yesterday from the Marks' campaign and from the Republican State Committee to investigate the voter-fraud allegations.

Davol said the matter would be forwarded to Preate because Abraham campaigned for Stinson, and she "just didn't want any perceptions of inappropriate behavior, conflict of interest."

Maier responded to Loeper's attack in a letter. He said it had been "widely reported to the media" that his wife, Constance W. Maier, is counsel to the Parking Authority, since she took the job in 1991.

Maier, a former chairman of the City Commission and a former Democratic ward chairman, also acknowledged that he had sought a seat on the federal bench, and had been interviewed by Jane Fumo. But, he said, the appointment went to Majorie O. Rendell, the mayor's wife.

"Neither of those circumstances would in any way affect my fairness or impartiality in this matter, or any other matter, coming before the Court," Maier stated, adding that "no recusal motion has been presented in this case." If such a motion is filed, he said, "I will carefully consider it and decide the motion at that time."

Ralph J. Teti, a former deputy city solicitor who is representing Stinson in the challenge, also dismissed Marks' complaints. "Every lawyer who loses thinks the judge is being unfair."

[From the Philadelphia Inquirer, Nov. 17, 1993]

MORE SECOND DISTRICT VOTERS DESCRIBE ABSENTEE-BALLOT BLITZ

(By Marc Duvoisin, Karen Quinones Miller and Lea Sitton)

As Carole Paxson recalls, the visitor knocked on her door the week before Election Day. He said he worked for the city. He showed her a form he said would allow her to vote in the hotly contested Second Senate District race without having to go to the polls.

He even helped her fill it out.

"Instead of me going around [to a polling place] to vote, I could fill this out and I wouldn't have to go around to vote," Paxson said yesterday, standing on the stoop of her North Philadelphia rowhouse.

Paxson was one of the 42 Second District voters interviewed yesterday who said they had been approached in the days and weeks preceding the Nov. 2 election and urged to vote by absentee ballot, even though they did not appear to meet the legal requirements for that form of voting. These are in addition to 48 similar accounts collected earlier by Inquirer reporters.

Some voters said the visitors—some calling themselves Stinson campaign workers, some saying they worked for the city, and others offering no identification at all—filled out their ballots for them or suggested how they should vote.

Several said that at the urging of these insistent strangers, they completed ballots for relatives—in one case, a husband in prison. One said she was told her vote was more likely to be counted if cast in absentia.

Absentee ballots are at the heart of a legal challenge to the election by Republican Bruce Marks, who narrowly outpolled Democrat William Stinson on the voting machines, but is trailing because the vast bulk of 1,700 absentee ballots were cast for Stinson.

In interviews yesterday, voters in the district, which spreads through North Philadelphia and the lower Northeast, described an intensive effort to get people to apply for and cast absentee ballots, often in seeming disregard of state election law.

It is not clear who directed and carried out the effort—or if any questionable ballots were counted. Records on absentee voting remained under seal yesterday by order of a Common Pleas Court judge.

By law, registered voters can vote by absentee ballot only if they are too sick to get to the polls or will be "unavoidably absent" for a legally acceptable reason, such as work-related travel or military service.

To receive ballots, voters must file written applications with the city commissioners, who oversee elections. It is illegal for someone to help a voter complete the ballot, except in cases involving severe disability.

In the heat of the campaign, these requirements may not always have been obeyed, according to accounts from voters.

In one part of East Frankford, residents described a blitz by unidentified street workers to get people to file requests for absentee ballots.

"We didn't even have to go to the polls. The polls came to us," Viola Hill said outside her home in the 1800 block of North Wilmont Street. "I thought it was something new that they had."

Hill said that in the weeks before the election, visitors brought absentee-ballot forms to her house. Hill said she, her adult daughter, Kimberly, and their neighbor Henry Lewis completed the applications, and the workers carried them off.

Hill quoted the visitors as saying: "'We're looking for absentee voters.'"

Several days later, the workers returned with absentee ballots. Hill said she knew nothing about the candidates and asked the visitors to help her decide. She said they told her that if they were voting, they would vote for Stinson.

Valerie Middleton, who lives in the nearby Whitehall Commons housing project, said a man brought her an absentee ballot, then helped her fill it out. Middleton said the man told her she had applied for a ballot the week before, though she did not remember doing so.

"He told me to put an X someplace, and he put an X someplace."

She said the man put an X beside one candidate's name, saying that was his boss. She said she could not remember who that was.

Mark Newman of the 4700 block of Mulberry Street said workers knocked on his door and told him he was required to vote by absentee ballot. Newman said he filled out and signed applications for himself and, at the visitors' request, for his brother, Frankie.

"I said, 'He's here sometimes, sometimes he isn't,'" Newman said. "They asked me could I fill it out."+

Workers brought two absentee ballots to the house several days before the election, Mark Newman said. He said he filled out his ballot and gave it to the workers. They also took with them his brother's unmarked ballot.

Several residents said refusing to vote by absentee ballot was not as easy as saying, "No thanks."

Thelma Butler of the 4700 block of Mulberry Street said she turned away a woman who wanted her to apply for an absentee ballot, only to have a man deliver one two days later. Butler said she took the ballot with her to the polls, where workers ripped it up.

Butler's neighbor Lilly Sharp, 71, who usually makes the trip with her, elected to vote absentee this year.

"They were telling me older people don't have to go," Sharp said.

In the 37th Ward in North Philadelphia, Linda Monroe, 52, of the 700 block of West Huntingdon Street, said she and her daughter, Erica, were approached by a man and woman before the election who told them absentee ballots were not only more convenient but also were less likely to be accidentally excluded from the count.

"They said when you go to the poll sometimes the machines get messed with and your vote don't get counted," Monroe said. "They said this was a quicker way for people to get their votes in."

Monroe said she became suspicious and refused to apply for a ballot.

Monroe's neighbor, Linda Bryant, 41, said she was visited by the same people, and took them up on their offer. She said she completed ballots for herself and her daughter, Shameka, 21, voting a straight Democratic ticket.

"They told me if I wanted to sign an absentee ballot, I wouldn't have to go out and vote," Bryant said. "so I just did it. I just signed my name and marked the boxes, sealed it and gave them the envelope."

Bryant said she completed Shameka's ballot after the visitors told her that was permissible. The daughter was not home at this time.

Farther down the block, Carmen Vasquez, 40, said she, too, was approached by a man talking urgently about voting. She said he completed for her what she believed was a ballot.

"He wrote everything for me, even marked the boxes because I didn't know who was who," Vasquez said. "All I did was sign my name."

Vasquez said the man told her to sign ballots for her daughters, Yesenia and Judith, who were not home. "He said it was OK, because I was their mama," she said with a shrug. "So I did."

Zoraida Rodriguez of the 2600 block of North Darien Street said she was playing with her four children outside her home when she was approached by two men who asked whether she wanted to sign up for an absentee ballot.

"I didn't really understand what they were talking about," she said, "but I said OK and I signed for one for me and for Carlos [Ramos]," her common-law husband, who was in prison.

Rodriguez said the men returned a few days before Election Day with absentee ballots for her, Carlos, and Carlos' brother, Francisco Ramos, who is also behind bars. She told them she didn't know how to fill out the ballot, and one of them helped her, she said.

"I told him I don't know who to vote for and he said, 'Well, vote for this person, because he's the one I work for,' so I did," Rodriguez said. She said could not remember which candidate she voted for.

Rodriguez said the man told her she should fill out Carlos Ramos' ballot as well, and she did.

"I told him that Carlos was locked up, and I didn't think it would be right, but he said anybody can fill out anybody's paper, so I did." Rodriguez said. "I wasn't trying to do anything wrong. I was just doing what he told me to do."

Rodriguez said she balked when the man told her to sign a ballot for her brother-in-law. "The man kept saying it was OK, but I wouldn't do it."

In the 3300 block of Mascher Street, Maritza Resto, 30, and her boyfriend, Victor Castro, 34, also filled out forms at the urging of two visitors.

"They said they were working for the city, and this was for us to vote," Resto said yesterday. "They didn't explain anything. They just said, 'Fill this out.'"

Resto said she thought she was applying for a new voter-registration card, not an absentee ballot. "They had me crazy," she said. "I'm not going to get in trouble, am I?"

A few blocks away, at 3301 N. Palethorp St., four members of the extended family of Thomas Trinidad signed up for absentee ballots—though none was bedridden or planning to be away on Election Day.

Thomas, 20, is the only member of the household who speaks English. He said that he, his mother, Inocencia, 61 and two of her cousins—Julia and Luis DeLeon, both in their 60s—signed what they thought were voter-registration forms.

They later got a second visit from two women bearing new forms—apparently the absentee ballots. Thomas said the women told him to sign so he could vote "in the home."

"They told me that if we vote in the house, we didn't have to go to the [polling] place to vote," he said. The idea appealed to him, he said, "because it's an easy way."

Carolyn Hinger of the 4200 block of Magee Street said a man visited her home a week before Election Day and asked her to sign absentee ballots for herself and her husband, Albert. She complied, she said yesterday, though she wasn't sure whom she voted for.

Hinger said and her husband never applied for absentee ballots.

"He just said he was from a political party; he didn't say Democrat, Republican or anything. . . . And he said, 'You might as well sign for him [Mr. Hinger], too,'" she said.

"He said he was doing this for the people who can't get to the polls, and I thought it was strange because my husband and I can both get to the polls. We can walk to the polls or get in the car."

[From the Philadelphia Inquirer, Nov. 18, 1993]

CITY RECORDS SUPPORT ABSENTEE-VOTE CLAIMS

(By Jeff Gelles and Marc Duvoisin)

Zoraida Rodriguez said the men dropped by her house shortly before Election Day and talked her into applying for absentee ballots for herself and her common-law husband, Carlos Ramos, who is in prison.

A few days later, she said in an interview Tuesday, they returned with the ballots and helped her fill them out—her husband's as well as her own.

Election records made public yesterday by the city Board of Elections lend support to her account and those of other voters in the Second Senate District who have told The Inquirer they were encouraged to cast absentee ballots, even though they were not legally qualified to do so.

Among stacks of absentee ballot records made public yesterday for the first time Since the Nov. 2 election was an envelope bearing Rodriguez's name, address and signature and another with the same information for Ramos. The handwriting and the signatures were vary similar, suggesting Rodriguez may in fact, have filled both out in violation of the law. Linda Bryant, 41, said in a separate interview that she filled out an absentee ballot at the urging of a man and woman who went door-to-door in her North Philadelphia neighborhood, telling resident they should vote from home.

Her 21-year-old daughter, Shameka, was not there, but the visitors said she could fill out a ballot for her as well, Bryant said. So she did.

The pile of ballots unsealed yesterday includes one each for Bryant and her daughter.

While the Democratic candidate, William Stinson, and other party leaders have dismissed reports of questionable absentee ballots, a preliminary review of election documents last night bore out important details of some of the accounts reported by Inquirer reporters over the last week.

Yesterday, fresh accounts continued to surface.

Take the 43d Ward, south of Roosevelt Boulevard around Hunting Park, which gave Stinson a 797-vote margin over Republican Bruce Marks, more than Stinson's 562-vote victory that day across the Second Senate District.

That was just on the voting machines.

In absentee ballots, Stinson did even better. He won almost 99 percent of them in the 43d Ward: 70 absentee votes versus 1 for Marks.

In interviews yesterday, 22 of the 43d Ward's voters cast doubt on how Stinson's campaign amassed that absentee landslide.

They told of being confused or misled into voting absentee by people who said they were working for Stinson, the Democratic Party, the city or who provided no identification.

Some said they were told it was a new way of voting. Some said they had no idea what they were filling out. Some apparently cast absentee ballots without realizing what they had done.

In the last week, The Inquirer has interviewed 112 voters in the Second District who have told similar stories.

In the 43d ward yesterday, Edwina McCall of the 3800 block of Darien Street said that she could have gone to the polling place, but that Barbara Landers, the Democratic committee-woman in the ward's 19th Division, told her she could vote at home instead.

Landers "said I could use the absentee ballot," McCall said. "Who wouldn't use the absentee ballot if they could? I did question it. She said I could do it. I said OK. I told her I wanted [to vote] Democrat. She checked it off for me. I signed my name."

A block away, Landers came out of her house on North Ninth Street and shouted at a reporter knocking on doors:

"Get out of here. Stop harassing people," Landers said.

Later, told that several neighborhood residents had said she told them they could vote absentee for convenience, Landers said: "It's their word against mine," adding: "I have done nothing wrong. I have nothing to talk about. As far as I'm concerned the election is over. I'm through talking about it."

A total of 156 voters in the 43d Ward—more than twice as many who eventually voted absentee—applied for absentee ballots ahead of time, according to computer lists compiled by city officials.

On Nov. 1 and on Election Day, Marks challenged 41 of the 71 absentee ballots cast.

Two of those were the votes of Luis Andujar and Yolanda Torres, neighbors in the 4800 block of North Fairhill Street who, according to city records, both applied for absentee ballots.

Yesterday, though, Andujar and Torres both said they had not even applied for the ballots.

"I guess [my mother] must have because I wasn't here," Torres said.

Maritza Santiago, for one, isn't quite sure whether she voted at all.

Santiago, of the 4200 block of North Fairhill, said she was visited twice before the election. The first time she was asked to register to vote. The second time, she said, a man instructed her to sign the back of an envelope.

"I asked him what is this?" Santiago said. "He said this is an application form for people who cannot go to the voting place to vote.

"I told him I can go vote myself, so why did he need to bring me that piece of paper to sign? He didn't say anything to me. He asked me to fill out the back of this envelope and then he left. It all happened so fast."

Shown a sample absentee-ballot application envelope, she said that was what she had signed.

"I thought it was the new way to vote," she said. "I was scared that I had not done the right thing. I was very confused."

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, November 17, 1993.

Hon. JANET RENO,
Attorney General, Department of Justice, Washington, DC.

DEAR ATTORNEY GENERAL RENO: In articles on November 15, 16 and 17, 1993 concerning Pennsylvania's state senatorial race between Bruce Marks and William Stinson, The Philadelphia Inquirer has reported that voters in Latino neighborhoods of the Second Senatorial District were misled into casting absentee ballots in the November 2 special election, although they did not qualify to file such ballots.

I have written Pennsylvania Attorney General Ernie Preate and Philadelphia District Attorney Lynne Abraham urging them to conduct investigations into alleged State election code violations.

The Philadelphia Inquirer articles suggest possible coercive or other actions resulting in the interference with the right of such persons to vote, which, as you know, violates federal civil and voting rights laws.

Accordingly, I urge that the Justice Department also conduct an investigation into this matter promptly.

Sincerely,

ARLEN SPECTER.

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, November 16, 1993.

Hon. ERNIE PREATE,
Attorney General, Commonwealth of Pennsylvania, Harrisburg, PA.

DEAR ATTORNEY GENERAL PREATE: In light of the evidence disclosed by State Senatorial candidate Bruce Marks in hearings in Common Pleas Court and in The Philadelphia Inquirer articles on November 15 and 16, I request your office to conduct an investigation into alleged violations of State election codes.

I am sending an identical request to District Attorney Lynne Abraham.

Sincerely,

ARLEN SPECTER.

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, November 16, 1993.

Hon. LYNNE ABRAHAM,
District Attorney,
Philadelphia, PA.

DEAR DISTRICT ATTORNEY ABRAHAM: In light of the evidence disclosed by State Senatorial candidate Bruce Marks in hearings in Common Pleas Court and in The Philadelphia Inquirer articles on November 15 and 16, I request your office to conduct an investigation into alleged violations of State election codes.

I am sending an identical request to Attorney General Ernie Preate.

Sincerely,

ARLEN SPECTER.

Mr. SPECTER. Madam President, for the reasons stated, I do support this bill. I congratulate the distinguished Senator from Utah for his leadership and the distinguished Senator from Delaware, the chairman of the committee, for his leadership on a bill which I think is highly likely to pass and be very effective in the fight against violent crime in this country.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Utah has 1 minute 51 seconds remaining.

Mr. HATCH. Madam President, I will take a few minutes of that, and then I will ask unanimous consent to yield some time to the distinguished Senator from Idaho.

I would like to make some closing remarks. I would feel badly if I did not stand up and say how much I admire my friend from Delaware and his ability to manage this bill on the floor and the work that he has put into it. I know it has been an exhausting 2 weeks, as we tried to come up with the best crime bill we possibly could.

It is a pleasure to work with him. It is a pleasure to work together on these provisions. I am proud that this can be called a Biden-Hatch bill because it has really turned out to be a good bill. That is assuming Brady is not added to it. But I have to say I have tremendous, inestimable respect for my friend from Delaware, his knowledge of this area, his particular commitment to try to get the best bill we can, and his willingness to go to conference and try to hold on to these matters for and on behalf of the President and everybody here.

I ask unanimous consent to yield 4 minutes to the distinguished Senator from Idaho, who has waited patiently all morning to be able to make his comments.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator from Idaho is recognized for 4 minutes.

Mr. CRAIG. Madam President, let me say at the very outset that I plan to vote for this crime bill—this crime bill—which the Senate over the last week has worked very earnestly to change from the original S. 1607 that was introduced by the chairman a week ago.

But in saying that, I have to recognize both the chairman, Senator BIDEN, and the ranking minority member, Senator HATCH, for their cooperation and the way they have worked together to produce what I really think ought to be called a historic crime bill in the fact that it truly moves this country toward some meaningful approaches to dealing with crime.

A year ago, as we debated crime in the Chamber, there was probably only one real definition, Madam President, and that was "esoteric jibberish." The American people did not understand it, and if it had passed, they would have said it does not make us safer and it will not make our streets safer.

But this bill will do that if it becomes law. For example, we have attacked head on what is perhaps the single biggest challenge to domestic peace, and that is the repeat offender who, statistics show, is committing a vast majority of the crimes in our country today. And you have heard our colleagues refer to that on the floor. It is called the three-strikes-and-you-are-out amendment, where you receive a life sentence if you are three times a felon. It is not just a matter of a turnstile that puts you back on the street, allowing you to commit ultimate crime and drive the crime rate up and put our law-abiding citizens in jeopardy.

We have also attacked a very troubling menace, and that is the haunting that has gone on in this country and in our communities as we have watched juvenile crime escalate almost out of definable proportions.

I joined with my colleague from Wisconsin in crafting legislation that says juveniles except under the right circumstances ought not have a firearm; 240,000 pistols going to America's public schools today just does not make any darned sense at all. This legislation deals with that.

But I must also say this legislation has perpetrated what is a great political hoax, and that is that yesterday we passed a semiauto ban on 19 different kinds of firearms that are used in less than one-half of 1 percent of the criminal activities where firearms are used in this country. I know we have to take all. Well, that treads on our constitutional rights, and it most assuredly is not going to make any street in America safer.

We recognize that, but we will play the game. But what I hope happens when this bill goes to conference is that games that will be played get discontinued.

I say that because if this bill comes back to this floor as a conference report and three times you are out is out and a lot of these other very real crime control measures are out, and guns are in, this is one Senator who will use all of the energy he has to stop this bill from final passage in the conference report.

Now, that is not a threat or a warning. That is practicality.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CRAIG. The American people deserve a tough real crime bill, and if this one stays on the books for us in a conference report, it is tough and it is real.

VICTIM RIGHTS AND RESTITUTION

Mr. NICKLES. Mr. President, while I truly believe there are improvements that could be made in S. 1607, the Violent Crime Control and Law Enforcement Act of 1993, I have come to the floor of the Senate today to laud the victim's rights and mandatory restitution provisions found in the legislation. Three years ago, I introduced the Victim's Rights and Restitution Act, and many of those victim's rights provisions passed as part of the 1990 crime bill. However, the restitution provisions have twice passed the Senate but subsequently been dropped in the conference. I am hopeful that this Congress will see fit to pass this legislation.

I wish to commend the chairman of the Judiciary Committee, Mr. BIDEN, the ranking member, Mr. HATCH, also Mr. THURMOND for their part in including this vital change in the package before us. Passage of this measure would signal a great victory for all victims of crime. If this bill becomes law, crime victims will enjoy rights at the Federal level that many states already guarantee. Most important are the act's restitution provisions, making criminals pay for their crimes. Under the legislation, crime victims will be entitled to receive full financial compensation directly from the criminal in the form of mandatory restitution.

Over the last several years, it seems we have continuously debated what should be done to improve our Nation's judicial system. Now perhaps we can do somthing about it. I strongly believe our judicial system needs fundamental reform to help our police officers and courts deal with the overwhelming increase in crime. Furthermore, it is crucial that while trying to facilitate more effective and efficient methods of dealing with criminals, we must not forget about the most important part of the crime-fighting equation: The victims.

In 1990, I authored the crime victim's bill of rights which passed as part of the 1990 crime bill. For crimes tried in Federal court, victims now have the right to be notified of and involved in court proceedings, the right to be protected from the accused, the right to be treated fairly and with respect, and the right to be informed of the detention status of the convicted criminal.

However, passage of the victims rights portion of my proposal left some unfinished business. Crime victims should be entitled to compensation for losses sustained from their victimization. To correct this glaring inequity, I am pleased that section 902 of the crime bill before us contains my remedy which mandates that courts order restitution in all Federal criminal cases. Victims would be able to recover financial losses resulting from the criminal act. This restitution order would be a condition of any form of release for the offender. The legislation would ensure that the criminal not only pays his debt to society, but he also pays his debt to his victim.

Section 902 also overturns the Supreme Court's ruling in the Hughey case which stated restitution could not be ordered for crimes beyond the scope of the offense of conviction. So, if a criminal is convicted of a criminal offense, but plea bargains his way out of a conviction on a second offense, he cannot be held responsible to repay the victim of the second offense. This obvious shortcoming is corrected by allowing the court to consider the course of criminal conduct and order restitution for crimes other than the offense of conviction. Plea bargains should not result in victims being denied the justice they deserve which certainly includes full restitution from the offender.

Mr. President, over the years mandatory restitution has received the written endorsements of victim rights experts across the Nation including the National Organization for Victim Assistance, the National Victim Center, Mothers Against Drunk Driving, and the National Coalition Against Sexual Assault.

I am pleased this landmark victim's legislation has been included in this year's crime bill. Mandatory restitution, which not healing all the wounds associated with a crime, will provide some compensation to help people who have been victimized and allow them to get their lives back in order.

LOCAL LAW ENFORCEMENT MUST REMAIN THE SOLE PREROGATIVE OF LOCAL GOVERNMENT

Mr. KEMPTHORNE. I would like to thank the chairman and ranking member for bringing to the Senate one of the most important crime bills in American history. They have done a great service for the American people in this legislation and I believe that the trust American people have placed in them in this process has been greatly justified.

I must say at the outset that there are things in this bill that I will have to think long and hard about before my vote on this bill. I wish that instead of starting on the slippery slope of gun control legislation we could give real punishment to violent criminals a chance to work. We must give the criminal justice system the ability to bring a degree of finality to American justice and assure the American people of the swift and sure nature of punishment for crime in America. I believe, however, that the final resolution of those portions of this legislation will come ultimately in the Supreme Court.

I wish that we had been able, as the minority bill did, to identify a source of funds to finance this bill. This is an important bill, a critical bill to the American people. It is important enough and critical enough to be paid for without adding to the deficit.

I come from a State that has, in comparison to some of the States represented here, a very low crime rate. As a State, we in Idaho unfortunately experienced, according to the 1992 crime statistics, 35 murders and believe me that is a terrible increase over previous years. In the big picture, those 35 murders are not even a month of murders in some States. Our problem in Idaho is drug crime, Idaho is a net exporter of some drugs and we need the Congress to recognize that crime in rural America represents a whole different set of problems than that experienced in urban America. I think this bill does that and I am gratified that for the first time in years I was a part of the Congress which brought it about.

I wish to thank the managers for including my sense-of-the-Senate resolution and my amendment raising the minimum allocation for cops on the street Federal grants into the managers' package.

This amendment will increase the minimum amount for each qualifying State for cops-on-the-beat grants from 50 percent to 80 percent of the total amount appropriated in the fiscal year for grants for that purpose. My reason for this amendment was to provide more moneys to small States like Idaho without raising the total amount authorized under the bill. As I said, I would prefer if we could find a way to pay for this bill and this fact will be a serious consideration as I weigh my vote, but, if we are to adopt this legislation then the distribution should be more fair to rural America.

The crime problems of urban areas today are the crime problems of America's rural areas tomorrow. We must assure that the firebreak of our attack on crime is built to protect rural America. Allowing State governments the ability and resources to address the problem is one of the means we must use to provide a safer America.

The crime bill before us today has stated as one of its purposes that the Senate wishes to send money back to States and local governments to rehire police officers who have been laid off as a result of State and local budget reductions. Furthermore, the act seeks to hire new additional police officers across the Nation.

This is a noble goal. On the floor of the Senate, in relation to this bill, the majority leader said that he wanted to reaffirm that local law enforcement must remain the sole prerogative of local government. I cannot agree more. I have asked for this sense of the Senate because I am alarmed at what I see as creeping federalism of State and local governments.

The best place to fight crime is in the streets. We cannot and should not presume that we can fight crime from Capitol Hill. This body believes that an important element to fighting crime in America is to put more police officers on the street. And we will, in an effort to fund more police officers in the short term, make funds available to local units of government for this purpose.

This is why I introduced a sense of the Senate asking that we address the issue of unfunded Federal mandates.

One of the long-term solutions to the long-term problems of funding law enforcement is that the Congress must move aggressively to address the issue of unfunded Federal mandates. Congress must resolve this problem and find a solution to it. The financial burden on local communities from unfunded Federal mandates must be reduced so that essential local services such as police protection can be prioritized and paid for at the local level.

The U.S. Conference of Mayors, on October 27, 1993, issued a study which outlined the cost of just 10 unfunded Federal mandates on the reporting cities. That study found the cost to those cities of paying for these unfunded Federal mandates to be $54 billion. The economic value to local governments of solving the problem of unfunded Federal mandates will more than outweigh any attempt we might make here, no matter how nobly inspired. Seventy-six cities responding to that survey said that if the burden of unfunded mandates were relieved they would add police officers. A partial list of just some of those cities is included here and I ask that that list be made part of the record.

In Fort Lauderdale, FL, one of those cities on the list, they're spending $7.6 million to meet Federal mandates this year. We've all heard the recent stories about crime in Florida. If they didn't have to pay millions for unneeded Federal mandates, Fort Lauderdale has said it could have used that money to hire 153 new police officers. But hiring more police officers is not an option. They must first comply with the Federal mandates before meeting their local problems head on.

But in this bill we are establishing the Federal Government as the middleman to return funds to the State government we shouldn't be forcing them to spend in the first place. Why are we establishing Congress as a middleman in a local government issue? Why are we using State and local officials as Federal tax collectors?

We are going to take $8.9 billion and pay 75 percent of the price of a police officer for 5 years to local government. At the International Association of Chief's of Police average of $32,000 for a police officer, salary and fringe, this bill will provide 74,000 police officers. But under this bill a city is on the hook for 25 percent of the cost of that police officer's salary, without considering the cost of equipping that officer.

If we would fund Federal mandates in the first place, we could leave more money at home for those local units of government to hire police officers or address other priorities.

During my first year in the Senate I have been gratified that 51 Senators are now cosponsors of S. 993, my bill to eliminate unfunded Federal mandates. While I have sought to bring this issue to the forefront, I have watched the Senate respond. Now almost every debate on the floor of the Senate includes a discussion of unfunded Federal mandates and their impact on States.

Right now, Congress can take an issue, debate it forcefully and passionately, and then resolve to do something about it—but not be responsible for the price tag. Congress gets the credit. Local officials get the tab.

What I asked for in this sense of the Senate is that we recognize the importance of local governments in the law enforcement process, that we recognize that one of the reasons for the drain on local government budgets is unfunded Federal mandates and that we pledge to aggressively address the issue of unfunded Federal mandates.

MANDATE POLICE PROTECTION

California: Chino, Fremont, Garden Grove, Gilroy, Irvine, Los Angeles, Lompoc, Newark, San Bernadino, San Francisco, Santa Monica, Upland, Vallejo.
Connecticut: Norwalk, Torrington.
Florida: Fort Lauderdale, Orlando.
Georgia: East Point.
Illinois: Chicago, Rock Island.
Indiana: Elkhart.
Kentucky: Louisville.
Louisiana: New Iberia.
Massachusetts: Brockton, Haverhill, Springfield.
Maryland: Hagerstown, Rockville.
Maine: Lewiston.
Michigan: Grand Rapids, Rochester Hills, Romulus, Warren.
North Carolina: Charlotte.
New Jersey: Jersey City.
Nevada: North Las Vegas.
New York: New York.
Ohio: Cleveland Heights, Lima.
Rhode Island: Cranston.
Texas: Amarillo, Brownsville, Fort Worth, Houston, Nacogdoches, Port Arthur, San Marcos.
Utah: Murray.

Mr. MCCONNELL. Mr. President, for too long we have debated crime bills designed to protect politicians from defeat rather than to protect Americans from crime. We must do better this time. Those matters that we can quickly reach bipartisan consensus on—more prisons, stiffer sentences, more police officers—must be enacted. This Congress. This year.

The crime debate is replete with statistics. But raw numbers, crime rates, recidivism rates—do not present a complete portrayal of the crime problem. The increasingly vicious nature of crimes cannot be quantified. The cool detachment of criminal predators does not lend itself to statistical analysis. The almost palpable fear gripping many neighborhoods cannot be conveyed on a floor chart.

Mr. President, Americans do not need reports from the Bureau of Justice Statistics to know there is a serious problem. They do not need Congress to declare it. They do not need GAO to study it. They live it, every day. They fear it, every night. It is pervasive in millions of Americans' daily lives. Fear is present when they walk through the parking lot, drive on the streets and highways, and sleep in their homes. Americans fear for themselves, and their loved ones. They feel for those they read about or see on the evening news—the statistics.

The floor statements over the last few days have forcefully and eloquently acknowledged the violent crime epidemic. It is difficult to put into words the rage, the frustration, which we all feel at the unending rampage of violence in this country. Conveying with words the brutality on our streets perhaps requires the literary skill of horror novelist Stephen King.

We have heard many horrendous events related on this floor. Some of us even have personal experiences, friends or family who have been victims. But I do not believe that most of us, Members or staff, can really understand the fear that grips the most dangerous neighborhoods. Can we truly imagine the terror that causes young children in urban war zones to sleep in the bathtub, so that spraying bullets will not strike them dead in their sleep? Have salesmen knocked on our doors to pitch life insurance policies in the event of our children's death?

Many of us, women particularly, probably have known the momentary terror of a strange noise in the dark. A menacing sound which makes the heart pound out of fear and causes the mind to conjure up terrible images. Who has not wondered for a moment whether to alert the police when a loved one is late returning home? It is a new dimension of life in America. The constitutional promise of life, liberty, and the pursuit of happiness has been violated by the fear of crime.

Fear, Mr. President. It's become an industry in America. Products such as Charlie Bars, double-keyed deadbolts, motion-detector lights, Central-monitored alarm systems, the Club, pepper spray—have become essential purchase for security-conscious, law-abiding, fearful Americans.

Fear did not used to be so commonplace. Crime did not used to be so pervasive. So random. So senseless. So inexplicable. What has caused this violence? There are more questions than answers.

But most of the social scientists who have studied the rising crime rate, including noted criminologist James Q. Wilson, have concluded that the heart of the problem lies in an eroding moral base.

One thing is for certain, Mr. President, someone with a fundamental sense of right and wrong, a shred of regard for human beings, does not drive by playgrounds and spray children with bullets. They do not rob, rape, or mug people.

How do we instill a basic respect and regard for the lives of human beings? This crime bill won't do it. Gun control won't do it. The truth is that government can't do it. Family, church, and society can. They used to.

For those who lack the moral base which might keep them from a life of crime, we must provide incentives. Incentives through penalties. Simply put, we cannot allow crime, to pay. Criminal acts must have legal consequences. Punishment must be swift, certain, and stiff. Even severe.

We need more police officers on patrol. We need to assure the police that they will not risk their lives only to see criminals turned loose. We need more prisons to hold the violent criminals that these police are going to arrest, if we are to make stiffer crime sentences a reality rather than a joke. These measures are essential. Are they the solution? Not entirely. But they are necessary to restore some semblance of order in our country.

Let me say, Mr. President, that I would like to commend the managers of the crime bill. Theirs is no easy task. Every Senator has strong personal views on the issue, many potential amendments, and constituents demanding action. The managers are trying to minimize partisan bickering, maneuvering, and amendments which would jeopardize passage of the crime package. I applaud their efforts.

Last week, unfortunately, the crime debate took a detour. A gun control detour.

However strongly the proponents of gun control may feel about their cause, they are aware that gun control amendments will, at the least, slow the anticrime bill down. It could stop it altogether in the Senate. It certainly stopped it in its tracks last week.

There is no reason that gun control must be debated on this bill. The principal sponsors of the assault rifle ban amendment are Members of the majority party. Their party controls the agenda. Their party controls the White House. Their party controls whether a single-issue gun control bill can be brought before the Senate.

Mr. President, the chairman and ranking member of the Judiciary Committee rightly sought to debate gun control on a separate track from the crime bill. These two Senators may be on different sides of the issue, but they agreed that the contentious, emotional tenor of the gun control debate was best kept separate from the anticrime measure.

In the interest of passing a crime bill with strong, bipartisan provisions on prisons, police officers, and tougher sentences, Republicans were even willing to handle habeas corpus on a different track rather than bog the Senate down in controversy—apparently to no avail. Gun control proponents seem to have decided that they just cannot wait. They have taken it upon themselves to jeopardize the entire crime bill.

Mr. President, with all due respect to the motivations of gun control proponents, if any members of the Crips and the Bloods gangs stumbled upon this gun control debate while they were flipping through the channels on their stolen TV's—they'd howl with laughter.

These gang members who are doing the drive-by shootings, who are executing people for $20, or a sliver of urban territory, will not be impeded by this bill. This bill will merely add to the cost of conducting their sick business. It will drive up the cost of some guns, make them even more of a status symbol. Thugs will have to mug even more people so they can afford the guns whose price will be inflated by this bill. The newly contraband guns.

Let's be realistic, Mr. President: Urban terrorists like the Crips and Bloods will not be deterred, nor impeded, by gun control. Criminal gangs, many of whom deal in illegal drugs, will have no difficulty getting access to illegal guns. The deranged individuals who were cited last week will accomplish their twisted objectives. Only law-abiding citizens will be denied the right to protect themselves by owning the gun of their choice.

We have heard a lot of heart-rendering accounts of killings in the course of this debate. We all feel for the victims. The terror, pain, the trauma, is almost unimaginable. But no Senator, Mr. President, no Senator is unique in his or her outrage. Gun control proponents do not have a monopoly on compassion.

The truth is that the assault rifle ban passed because it was PC. Clearly, PC does not stand for political courage. PC, as we have come to know it, stands for politically correct. And, in this instance, politically convenient.

The assault rifle amendment offered by the Senator from California is interesting in the way it deals with the inconvenience of the second amendment. Proponents of an assault rifle ban have found that assault rifle is not definable as a category of weapons. Assault rifles cannot be banned as a class of weapons because they are not definable as a class. So this amendment bans brand names and model names.

What my colleagues should take note of, Mr. President, is appendix A of the amendment. Appendix A lists the firearms that the Senate will graciously allow law-abiding Americans to own. As a sop to all those decent, taxpaying gun owners, the amendment includes 13 pages listing the firearms that law-abiding citizens may own. A total of 650 weapons, we were told. How generous.

The second amendment of the U.S. Constitution has come down to this: 13 pages in a Senate amendment which few people have read that is supposed to appease those law-abiding Americans who have the audacity to feel they have a right to own guns. A right to defend themselves with firearms. A right to hunt. A right to target practice. A right to shoot beer cans, if they so choose. Beer cans—such an uncouth image that projects. Perhaps if more people used old Evian Water bottles for target practice, gunowners would get more respect around here.

And we are not talking about a privilege of citizenship here, or even a civil right; we are talking about a constitutional right enshrined in one of mankind's most important documents by the Founders of this Nation. Yet with this amendment, we have reduced a constitutional right to a 13-page itemized shopping list. It certainly raises the question whether other portions of the Bill of Rights might be open to the same treatment.

Mr. President, assault rifles present sort of an "I-know-it-when-I-see-it" situation just like the pornography issue does. No one can define an assault rifle—but they know one when they see one. They are black and they have big banana clips. They are ugly and crude looking. Just by looking at them, you can tell they're not nice guns. Oh, and they are used a lot in the movies.

Speaking of the movies, Mr. President, a lot of people, including learned social scientists and Senators, think violence in the movies and television is a bigger problem than assault rifles. Using the Feinstein amendment as a model, perhaps we can refine the first amendment's free speech protections. After all, the Nation's Founders could not have conceived of movies or television when they wrote the first amendment. They probably were not thinking about "The Terminator" or "Robocop 3." And there is no question they did not anticipate circa 1990's pornography when they penned the first amendment of the Constitution.

So why don't we just ban pornography? Period. We can ban violence in the media. Period. We know it when we see it, but it is difficult to define, so we could just list the movies and shows to be banned. "The Taming of Rebecca" ought to be on that list; it's been implicated in several serial rape-murders in Delaware. But that task is cumbersome, so perhaps it would be easier to just list those TV shows and movies that we will generously allow Americans to view—such as "The Brady Bunch," "The Waltons," "The Sound of Music."

Speaking of music, we are all familiar with the controversy surrounding so-called rap music, songs that advocate killing police officers, wholesale killing of citizens, riots. Perhaps we should carefully regulate what music citizens can produce and listen to—particularly young people.

Again using the Senator from California's amendment as a guide, we could ban music which advocates violent crime. We could ban music which applauds the murder of police officers or violence against women.

Using the assault rifle amendment, rationale, we would seek to assure people they will have at least some music to listen to: Lawrence Welk, certainly. Anything by Frank Sinatra, except for "Guys and Dolls," which might promote street gangs. Classical music, of course; but not any of Verdi's operas: they're too violent.

Obviously, I am being facetious. But this is where we end up when we start reducing constitutionality rights down to mere shopping lists. If we can whittle the right to bear arms down to a list of congressionally approved guns, then surely we can whittle the right of free speech down to a list of congressionally approved topics, and the right to freedom of worship down to a list of congressionally approved religions.

The assault rifle amendment proposed by the Senator from California is a troubling constitutional precedent—one which fails to justify itself in terms of any realistic impact on deterring violent crime. For those reasons, I feel strongly compelled to oppose it.

Finally, Mr. President, we should maintain some perspective on just how much we can accomplish with any crime bill. Even with billions of dollars behind it, this crime package will not have any discernible effect on the crime rate any time soon.

When the President signs a crime bill at 1600 Pennsylvania Avenue Northwest, citizens at 1600 Pennsylvania Avenue Southeast may applaud, but they still will have to duck bullets for the foreseeable future. That is why it is imperative that a crime package pass as soon as possible so that prison construction can begin, police officers can be hired and trained, the criminal justice system can start using the tools we have provided, and citizens can have some hope that criminals will not have carte blanche in America.

We would greatly strengthen the U.S. Criminal Code with this bill, but our anticrime efforts must not end with this debate. As a nation, we must emphasize the moral code as well if we are to achieve and sustain any long-term victory in the war on crime. The U.S. Criminal Code tells what is illegal. A moral code should tell people what is right and wrong. The definitive answer to the crime problem cannot be found within the Senate. But we can get this country pointed in the right direction. And we can save some lives.

Mr. KOHL. Mr. President, violent crime in America is not just escalating. It has exploded. From our inner cities to our rural communities it is all the same. A world of threats and brutality and death. Our citizens are tired of living in fear, and they want Congress to do something about it. Because I believe S. 1607, our omnibus anticrime proposal, begins to move us in the right direction, I rise today to support it. And I rise to commend Chairman BIDEN for his diligent, ceaseless work on this measure.

During the half-hour I have waited on the floor to speak, 90 violent crimes, 60 aggravated assaults, 6 rapes and 2 deaths by gunshot are likely to take place. And the national statistics on youth violence are even more disturbing. In 1984, a total of 1,134 juveniles were arrested for murder. But by last year, however, that number had more than doubled—to 2,829. According to the Justice Department, the vast majority of these murders were committed with firearms, and most were committed with handguns.

Wisconsin's increase in crime was even worse: For example, the number of robberies committed in my State virtually doubled in the last 10 years, and we went from 12 juvenile murder arrests in 1982 to 94 in 1992. That is not just unacceptable. It is unconscionable.

This is not the kind of world that our citizens deserve. It is not the kind of world that our children should grow up in. But it is one that we can change. Not easily. Not quickly. Not painlessly. Not with a single simple solution. But we can change it.

Mr. President, the most important step this bill takes is to provide more resources to the people on the front lines—State and local governments. It would authorize more than $20 billion over 6 years to help States hire 100,000 more police officers. That works out to about 2,000 more police walking the beat in Wisconsin. It would fund new State drug courts so that repeat offenders will be tested, treated, and cured or jailed. And it would allow States to create more boot camps for young, nonviolent offenders. Through promising programs like these, we can catch some of these young lawbreakers before they become hardened criminals.

Beyond this, Mr. President, let me talk briefly about a few provisions that I helped author. The firearms theft section will allow the Federal Government to go after criminals who steal firearms and sell them across State lines. The community partnerships section will empower communities to come together to combat substance abuse and take drugs off the street. And the provisions targeting gang activity provide a balanced approach by attacking juvenile crime from both ends—punishment and prevention. They create new Federal penalties for violent crime by gang members and direct more money to States for their own antigang efforts. I can't tell you how critical these funds will be to police chiefs, principals, and parents in cities and towns across Wisconsin.

There are some provisions I am not comfortable with, Mr. President. And there are other areas where the bill needed strengthening. For example, it needed to do more to combat the deadly mix of kids and handguns, so I am pleased my Youth Handgun Safety Act was accepted as an amendment to the crime bill. My proposal would make it a Federal crime to sell or give a handgun to a minor under the age of 18, and for a minor to possess a handgun under most circumstances. The measure is supported by President Clinton, the FOP, and Sarah Brady. And since even the NRA says it is supportive, I am certain it will ultimately become law.

But because I believe that this omnibus legislation on balance does more good than harm, I will support it.

Let me conclude by stating the obvious: There are many causes for our epidemic of violence; and we need many different initiatives to solve it. But something has got to be done. We need to pass the types of measures that we are debating today and we need to pass the Brady bill.

Because unless we act now, the future we are creating is one that too many of our kids will not live to see. And it will also be a future we will not want to live in.

SUPPORTING BROWN AMENDMENT INCLUDED IN MANAGERS AMENDMENT.

Mr. LOTT. Mr. President. Federal Prison Industries [FPI] was developed by a wise Congress in 1934, almost 60 years ago. This program is time-tested and, according to every study of its effectiveness, works well. FPI puts prisoners to work to make products that can only be sold to other Federal agencies. As a result, FPI products do not find their way into the marketplace nor do they compete with the labors of honest working men and women in the commerce of our Nation. This program does not cost the taxpayer a single cent and on occasion has returned money to the Treasury.

Over the last several years, Federal Prison Industries has been buffeted by attacks from some who claim that the sale of prison made products to Federal agencies is an infringement on the rights of American working men and women. As a consequence, FPI has been hesitant in expanding prisoner work programs. With growing prison populations, FPI must continue to develop in an acceptably balanced manner.

The Brown amendment reaffirms the basic principle upon which FPI was established and seeks to continue this success in the future. If FPI is to continue to succeed in the future as prison populations grow, its program must be allowed to expand. Senator BROWN's amendment is a reasonable beginning which reiterates the view that all able-bodied prison inmates should work.

The Brown amendment establishes a goal of full Federal prison inmate employment. In order to meet this goal, this amendment requires the Attorney General to submit a report to Congress no later than March 31, 1994, which describes a strategy for employing more Federal prison inmates. In preparing the report, the Attorney General should consult with experts from within the administration, representatives of the private sector and from labor.

The report shall contain a review of existing lines of business of the Federal Prison Industries, consider the final report of the Summit of Federal Prison Industries—June 1992–July 1993 including, but not limited to, its findings and recommendations—and make recommendations for legislation and changes in existing law which may be necessary for the Federal Prison Industries to employ more Federal prison inmates. Finally, the report shall focus on the following: First, the creation of new job opportunities for Federal prison inmates; second, the degree to which any expansion of lines of business of the Federal Prison Industries may negatively impact the private sector or displace domestic labor; and third, the degree to which opportunities for partnership between FPI and small business can be fostered.

The chairman of the Senate Judiciary Committee has promised to hold hearings on the Attorney General's report after it is submitted. In addition, he has expressed a commitment to tackle the tough problems associated with rising prison populations and the necessity of work programs for able-bodied Federal inmates. I support Senator BROWN's efforts as well as the chairman in this area and I support this provision.

JUVENILE GANGS AND ASSISTED HOUSING

Mr. LAUTENBERG. Mr. President, I am very pleased that this amendment includes a provision I authored to address the serious problem of juvenile gangs and juvenile drug crime in federally subsidized housing projects.

Mr. President, the bill before us includes a grant program designed to address the problem of juvenile crime. Under that program, grants may be used for a variety of purposes, including efforts to reduce juvenile drug and gang-related activity in public housing projects.

My amendment expands those provisions to include programs to eliminate this kind of juvenile crime in privately owned, federally assisted low-income housing, such as section 8 projects. Under the amendment, funds could be used for a wide variety of enforcement and prevention initiatives, including youth sports, girls' and boys' clubs, Scout troops, and little leagues.

Mr. President, last year a resident of a Newark, NJ, assisted housing project came to my office, along with three managers of assisted housing in my State. They described life in a housing project where violence is routine, where children are afraid to leave their apartments at night, and where residents must deal with gunfire and drug dealing on a daily basis. The picture they painted, Mr. President, was of a nightmare come to life. Of housing that had deteriorated into a battlefield; an occupied territory ruled by drug dealers and armed criminals.

It's an absolutely outrageous situation, Mr. President, and one that a great country like ours must never tolerate.

Mr. President, when most people think of drug-related crime in subsidized housing, they think of public housing. But the problems in privately owned, federally assisted housing are also severe. In fact, it is not unusual for a section 8 project to exist immediately adjacent to a public housing project, and for gangs and drug dealers to operate out of both premises.

Mr. President, the owners and managers of assisted housing, in many cases public housing authorities themselves, are responsible for providing safe and secure housing for their residents. Yet many are faced with an exploding crime problem for which they are ill-equipped to address. Most are doing their best to cope. But too often, they are overwhelmed. And it's the residents who suffer.

Mr. President, we have a responsibility to do what we can to ensure that residents in federally subsidized housing, whether public housing or assisted housing, are freed from the grip of youth gangs and drug dealers. And it's not just the residents who must suffer with these criminals. It's also the millions of Americans who live near the projects or who travel through surrounding areas.

In fact, the ripple effects of youth gangs and drug dealers extend far beyond the projects themselves. By undermining hopes for economic growth and revitalization, these criminals are creating enormous social and fiscal problems for many of our cities and municipalities.

Mr. President, I am under no illusion that this antigang grant program will solve all these problems. But it's a positive and important stop in the right direction. And I think it makes sense to expand the program to include assisted housing, where much juvenile gang and drug activity is concentrated. The result should be better lives for residents, and substantially improved conditions in surrounding communities.

I thank both the distinguished chairman of the Judiciary Committee, Senator BIDEN, and the distinguished ranking member, Senator HATCH, for their cooperation in securing passage of this amendment.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. I ask unanimous consent that I be permitted to address the Senate on the bill for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. There are 12 minutes and 54 seconds remaining.

Mr. MITCHELL. No, Madam President, I asked unanimous consent for an additional 15 minutes.

The PRESIDING OFFICER. Additional time. Without objection, it is so ordered.

Mr. MITCHELL. Madam President, the crime bill before the Senate today differs in significant respects from earlier attempts by the Federal Government to deal with criminal violence.

For the first time in many years, it provides resources directly to the State and local authorities where almost all of those who commit acts of criminal violence are apprehended and prosecuted. This is a bill that directs the resources to where the problem is.

This bill includes the violent crime reduction trust fund, financed by reducing the number of Federal employees, to direct $22 billion exclusively to protecting law-abiding Americans against the criminals who prey on them.

The bill will provide the money to put 100,000 more police on the streets, walking the beat, getting to know neighborhoods and giving residents a sense of security and a place to turn when they see criminal violence occur. Too many city neighborhoods today know the police only as a response force, which arrives in squad cars after a shooting occurs.

The addition of 100,000 more officers means that police can go to court and testify when needed without leaving a beat unprotected. It will give residents the sense of security that their personal safety is a national priority that is being addressed.

The bill provides $3 billion over 5 years to regional consortiums of States to build prisons for housing the growing Federal and State criminal population. States now house almost a million felons, double the number since 1985, even though overall crime rates have fallen.

The fiscal toll on State residents is staggering. States spend a total of more than $20 billion a year keeping these felons housed, money that is not available for schools, for health care, for local street repair and the many other things local residents want from their local government.

The bill provides $3 billion over 5 years to take existing Federal facilities, including military facilities, and turn them into boot camps for the incarceration of first-time nonviolent drug offenders, so we can finally stop the circular process of jailing addicts and releasing other addicts back onto the city streets to commit more crimes.

About 160,000 of those in State prisons today are first-time nonviolent offenders. If they can be treated in boot camps, they open up a substantial number of prison beds for more serious, violence-prone felons at half the cost.

It is estimated that each addict commits 175 crimes a year to feed his addiction. If half of boot camp graduates don't return to addictive lifestyles, we will have saved enormous amounts of State, local and Federal resources in reindicting, reprosecuting and reimprisoning these people. Boot camps do not perform magic, but they can make a substantial difference at much less cost than regular prisons.

The bill provides $1.2 billion over 5 years for drug courts, an approach that seeks to cure addicts of their addiction and return them to society as persons who have some incentive to find and keep honest work and make decent lives for themselves.

The Miami Drug Court Program has a recidivism rate of just eleven percent, meaning that 89 percent of offenders who go through the drug court procedures do not revert to a criminal life. That is a major improvement in a system where regular courts and prisons see at least half of first-time offenders return as second- and third-time losers.

The bill provides funding for the Police Corps, a new program which will give inner city and other youth the ability to go to college and repay their tuition by serving in local law enforcement. It is a potentially powerful new tool to give inner city youths role models who are not drug dealers and pimps. In addition, Police Corps when fully operational will mean many more police on the streets and on the beat.

Police Corps can be a way to turn our inner cities around from the inside out, not by bringing in outside law enforcement but by empowering inner city residents themselves to take control of their own neighborhoods.

The bill funds the Violence Against Women Act, legislation that will substantially augment the ability of courts to deal with domestic violence and will give communities the resources to take preventive action in areas where crimes against women are endemic—bus stations, public transit areas, college campuses.

It will give States the resources they need to slow and hopefully reverse the domestic violence too often associated with family breakdown and separation and which too often threatens the safety of children as well as women.

The bill provides $500 million for the secure incarceration of violent and dangerous juveniles. Current law prohibits imprisoning juveniles with adults, but the reluctance or inability of States to invest in secure juvenile facilities has left too many of our Nation's neighborhoods a prey to violent juveniles whose activities pose a direct risk of serious injury to many of their neighbors.

In short, for the first time in many years, this crime bill seeks to directly address the violent crime that makes too many Americans prisoners in their own homes.

That was the Biden bill when it was introduced, and a bill on which the distinguished chairman of the Judiciary Committee, Senator BIDEN, worked for so long and so hard and led the way with the cooperation of the Senator from Utah, Senator HATCH.

Unfortunately, during debate in the Senate, provisions were added to this bill which make it a much less attractive bill. So now the bill contains provisions which I strongly oppose as well as provisions which I strongly favor.

In its initial version, and added on in the Senate, the bill contains new Federal death penalties. I oppose the death penalty, and have consistently opposed efforts to expand it. In addition, among the many amendments offered there were several which were accepted by the Senate with which I am in serious disagreement, and I want to mention just a few of them.

I opposed the amendment to extend the death penalty to cover carjackings which result in death, and homicide involving firearms which have crossed State borders. The federalization of homicides—that is what this is, the federalization of homicides—gives no meaningful new assistance to State and local police who apprehend murderers, no meaningful assistance to State courts where the overwhelming majority of homicides are prosecuted.

I voted against the amendment to make evidence of prior commission of alleged offenses admissible at certain trials. The amendment would fundamentally alter an established rule of evidence which permits the admission of prior similar act evidence to establish motive, opportunity, intent, preparation, plan, knowledge, identity, or mistake or accident. But the amendment would permit the introduction of any prior similar act testimony, proven or not.

The claim that rape and molestation cases are difficult to prosecute unless the prosecution's case can be buttressed by allegations of similar past acts is a claim that can be made about the prosecution of any criminal act. It is always easier to prosecute and gain convictions when judges and juries are given prejudicial information about a defendant. But the point of our system of justice is not to introduce prejudice into the fact-finding process; it is exactly to the reverse. The goal of our system of justice is to suppress personal prejudice in favor of the facts of the case, proven beyond a reasonable doubt.

The amendment would permit the simple allegation that a defendant had committed a similar act in the past, even if that act had never been charged as a crime, even if no complaint had ever been filed, to be used in evidence to judge guilt.

The amendment does not limit prior similar act testimony to prior convictions. It permits, in effect, allegations merely made and never proven, indeed allegations which have been disproven to nonetheless be brought up and used against an accused person. I very much regret that a majority of the Senate approved this change in the law.

I voted to table the Helms amendment, which introduces a novel and I believe, unconstitutional factor into our judicial system. It seeks to limit the ability of the Federal courts to fashion a remedy when the courts find an unconstitutional infringement on a protected right.

In no instance has the Congress sought to dictate to the judiciary in advance how courts may construct remedies or to place limits on the kinds of remedies they may construct when the underlying subject matters falls within the courts' jurisdiction.

The immediate target of the amendment was prison overcrowding. But the Supreme Court has already ruled to limit the ability of lower Federal courts to find an eighth amendment violation based on overcrowding alone. So the amendment will do absolutely nothing to affect prison overcrowding, one way or the other. What the amendment will do is impermissibly intrude on the right of the courts to find a constitutional violation and to fashion a remedy for that violation.

The men who wrote the American Constitution would be amazed at the proposition that the Congress can tell the courts in advance what is or is not constitutional.

I also voted against funding to encourage State efforts to prosecute violent juvenile offenders age 13 and over as adults. I also opposed the effort to federalize virtually all gang violence. I do not believe the answer to local crime is to shift its prosecution into Federal courts.

I was, however, in the minority on those votes, and the majority of the Senate saw fit to approve them. As a result, the crime bill includes provisions which I do not favor.

I have been both a State prosecutor, and a Federal prosecutor. I can say that this Chamber is filled with the myth—the myth—that you can do something about violent crime by simply declaring it to be a Federal crime as opposed to a State crime. Yet, we have heard that over and over here in the debate on this bill in what is clearly a political effort to appear to be doing something about crime by suggesting that simply denominating a criminal act a Federal offense, as opposed to a State offense, is going to solve the problem. It will do no such thing.

Mr. President, I was in the minority on those votes. And the majority of the Senate saw fit to approve them. I accept that result even though I disagree with it. But as a consequence, the bill now includes many provisions which I do not favor. But I do want to say that the bill as a whole—as a whole—I believe deserves support.

That is how we must vote on it, as we often do, on an entire bill.

So despite my strong reservations about the increasing tendency to federalize criminal offenses and to do so for what are obviously political purposes, I intend to vote for the bill because I think the positive programs in it are the most effective steps we have taken in many years to address the central issue of violent crime, and that is public safety.

The one thing citizens have a right to demand in return for their tax dollars is the right of personal security against random violence.

When our local governments and our States fail to provide that protection, as in too many cases they are failing today, it is not surprising that citizens are alienated.

The crime bill before us today seeks to address that fact with resources directed to the principal causes of public fear: By putting the most violent felons into secure confinement, by policing our communities more intensively, by dealing with the addictions that fuel so many criminal acts, this bill addresses the public demand for a swift response.

This bill addresses the public demand for response. The focus on Federal penalties in this bill obscures the fact that, in America, fighting crime is a State and local function and a State and local responsibility. More than 95 percent of all crimes are prosecuted under State law. The relative size of the felon population tells the whole story.

Since 1925, with very rare exceptions in a brief period in the 1940's, the Federal prison population has rarely been more than 10 percent of all prisoners. At present, the Federal prison population is about 6 percent of the total felon population of the States. Federal penalties affecting 6 percent of the felon population are not going to have much effect on the safety of our city streets. Very few Americans are at risk from persons who commit Federal felonies on Indian reservations or Federal lands. That is all that is covered by these Federal laws. Americans are principally at risk from criminals who prey on the streets of our cities.

Crime exists in all society. The question we, as Americans, face is why violent crime has become an epidemic in so many of our communities. The harsh reality today is that no one has the complete answer. There are theories on both sides about parental responsibility, lack of caring, culturally induced violence, and a host of other reasons. But no one has the certain answer. And that lack has for too many years resulted in simple-minded calls from one side for harsher penalties, and from the other side for a greater understanding of social breakdown. It is clear that neither harsh penalties alone nor social programs alone are the answer.

Let us be clear about one thing: Crime is not just caused by poverty. There are millions of Americans who are materially poor, but whose sense of self respect and pride do not even encompass the idea that they might become criminals to improve their place in life. It is a gross insult to millions and millions of low-income people in this country to suggest that not having money alone causes persons to become criminals. It does not. Most people who are poor are honorable, decent, and law abiding.

Violence is not cured by stricter sanctions alone either. The hardliners cannot come up with any credible evidence that their approach has any effect. You can just look at the statistics of the States in which criminal sanctions are more severe than others, and there is no evidence at all that violence is diminished as a result of that.

This crime bill, because it directs resources for combating criminal violence to the State and local level where most such violence occurs, is the first common sense response to violence that this Senate has approved in many decades. Therefore, this bill deserves to be approved, despite its imperfections. I urge my colleagues to give it their support.

I, again, commend the chairman of the Judiciary Committee, Senator BIDEN, whose outstanding leadership is the single most important reason why we are about to vote this crime bill today. As I said earlier, if we had just kept Senator BIDEN's bill and not added on these onerous and, in many cases, grandstanding provisions that do not do anything about crime and actually dilute the effectiveness of the original Biden bill, then I think we would be better off. I hope that the final product we get here does not include many of these provisions now added in the bill.

Mr. President, I conclude as I began, by thanking Senator BIDEN and by thanking Senator HATCH for their leadership on this matter. We do not agree on every one of these amendments or every one of these issues, but I think we do agree that there is no more serious problem in the country today, and we must address it. Overall, this bill addresses it in a very important way.

Mr. President, I yield the floor.

Mr. HATCH. Mr. President, I ask unanimous consent that I be given enough time to make my concluding remarks, which I estimate to be about 15 minutes.

The PRESIDING OFFICER (Mr. HEFLIN). Without objection, it is so ordered.

Mr. HATCH. Mr. President, I thank the majority leader for a cogent and very expressive statement about his position on this bill and for his willingness to support this bill, even though he differs with some provisions. I have to say that I differ with some provisions, too. But, on the whole, this is a terrific bill. I thank my colleague from Delaware for his leadership in this matter, along with other members of the Judiciary Committee. I particularly want to compliment Senator BIDEN because he has been willing to work on a lot of these provisions that are now in this bill that were not in his original bill. Still, he had constructed an original bill that had many salient, good points in it. He has been an excellent floor manager. I have particularly enjoyed working side by side with him, and I think, together, this Biden-Hatch bill gives us a chance of having one of the finest crimes bills in the history of this country. Certainly, I think it is a historic anticrime bill. I think it is the finest one that has ever come down the pike. I hope we can hold on to these provisions as we go through conference. I intend to do so.

The crime bill we are now sending to conference with the House of Representatives contains many tough-on-crime provisions originating from this side of the aisle. Many of these provisions are of great benefit to the people of my State of Utah and, I believe, every State in the Union.

There are significant authorizations for Federal and State prison expansion, which originated on this side of the aisle. There is a funding mechanism that originated from this side of the aisle, although that funding mechanism would never have worked without the support of the distinguished Senator from West Virginia. So I give him credit for it. Working with Chairman BIDEN, I, along with Senators PRESSLER and KEMPTHORNE, added a comprehensive program to address rural crime. I commend my colleague from Delaware for helping on this. Senators DOLE, BROWN, THURMOND, and I added a very tough antigang provision.

I do not agree with the distinguished majority leader that that federalizes gang activity. It just allows the Federal Government to help with regard to it. Right now, State and local governments in rural areas are having all kinds of trouble with gang activity that resources of the Federal Government can help with.

As a result of the efforts on this side of Senators GRAMM, D'AMATO, myself, and others, there are tough mandatory minimum penalties for violent criminals. At the same time, Federal judges are given some flexibility for a small group of first-time offenders who are not violent. We worked out an enforceable Federal death penalty provision with Chairman BIDEN. Senator DOLE had added a provision on rules of evidence for sexual assault and child molestation cases. Senator LOTT added a provision imposing a mandatory life sentence for persons convicted of a third violent penalty. Senators SMITH and SIMPSON added a strong provision aimed at protecting this country from alien terrorists. Senator D'AMATO added a provision providing for the death penalty for major drug traffickers—a provision apparently opposed by this administration.

The list of improvements goes on and on. The Hatch-Biden-Moseley-Braun-Bryan Senior Citizens Against Telemarketing Fraud is now part of this bill. We have worked closely with Senators BRYAN and MCCAIN, who were leaders on this subject and, I believe, contributed significantly to this.

We add money for Drug Enforcement Agents, the FBI, and Federal prosecutors. An amendment of mine, accepted by the chairman, provides funds to beef up the FBI's training facilities, which are used by law enforcement officers from every State and all over the world. The amendment assists the serial crime unit of the FBI. That amendment also provides funding to State and local law enforcement agencies for automation and technological improvements.

Thanks to the leadership of Senator GRASSLEY, the administration woke up and apparently will send us legislation seeking to toughen an anti-pornography statute weakened by its own interpretation of the current statute, which I think is adequate—the current statute. The better way to handle this is for the Justice Department to return to the interpretation of that statute as advanced by its Republican predecessor. There are other provisions in this bill that Members on this side added or significantly contributed to.

I want to make two overriding points at this time. First, the American people need to keep the pressure on Congress to carry the tough provisions of this bill through the conference with the House of Representatives. After all, there are many who believe that the House of Representatives has shown in the past that it has little interest in passing a tough anticrime bill. To date, it has only passed a handful of spending provision similar to those contained in the original Biden bill, which has now been changed.

In the last Congress, my friends on the other side of the aisle in both Houses controlled the conference, as they will this conference. In many cases, when there were competing provisions from the two bodies, the conference took the weakest provision available to them. If this happens again, the American people will be denied the benefits of a tough crime bill and they will hear about it. I will see that they do. I hope the President will help us avoid this result this time around.

Second, assuming these tough provisions survive the conference, the American people must keep the pressure on this administration to enforce and fund them. We have given the President many funding programs to assist law enforcement agencies, including some the administration preferred not be in the bill. The American people will not stand for the administration's failure to fund this bill's prison expansion, additional Federal law enforcement authorizations, the rural crime provisions, the telemarketing fraud provisions, the antigang provisions. Together with the tough, new Republican provisions creating new Federal gang offenses, and similar provisions provided under this bill, this crime bill will have a significant impact on our Nation's crime problem.

I think both sides can take a great deal of credit for this bill. Both sides deserve a great deal of credit for this bill. Without the help of Senators on both sides, we would not be where we are today. I make that clear.

I would add that the President campaigned on a platform that included adding 100,000 police officers to the streets. The Senate has given him his wish. Over the next few years, the American people will get to see whether this administration delivers on this promise. I hope that it does. In fact I am going to insist that it do that. I pray with all my heart that the President will do it as well.

And make no mistake about it, the other single largest crime-fighting provision in the bill is the $6 billion allocated for Federal regional prisons and for construction and operation of State prisons and boot camps. This provision is a Republican provision for which I and several Senators on this side pushed hard and fought for for a long time—in particular, Senator MACK of Florida and the Republican leader, Senator DOLE, and Senator BIDEN has certainly pushed hard for this and has been very cooperative, and frankly everyone knows I have from the beginning.

Let me describe the origins of this bill's now bipartisan prison provision. The Dole Hatch Republican Neighborhood Security Act, introduced in August, provided a total of $3 billion for prisons. Moreover, the Republican bill not only spend $2 billion of those dollars to create 10 regional prisons in which States could house violent criminals; our provision conditioned a State's ability to utilize this new Federal prison space on the adoption of truth-in-sentencing, wherein State prisoners serve at least 85 percent of their sentences and the States reform their bail laws. The Republican bill also provided $1 billion to assist States in the construction and operation of new prisons.

The administration first supported a bill which contained the paltry sum of $300 million for boot camps, an alternative sanction, and Federal prisons for drug offenders. As late as the week when we took up the crime bill, when the distinguished chairman of the committee, Senator BIDEN, introduced S 1607, this figure was increased to $2 billion, and I commend him for being able to do that.

On the day after the Senate took up the crime bill, I offered an amendment on behalf of myself, and Senators MACK and DOLE, which provided a total of $6 billion for prisons: $3 billion for the Dole-Hatch-Mack Federal regional prisons program and $3 billion for the State construction and operation of new State prisons, both components of the Republican crime bill with twice our original proposed funding. That could not have happened without my colleague from Delaware and others on both sides of the aisle. Our amendment also contained a funding mechanism so that this prison expansion would be paid for.

Now, the distinguished Senator from West Virginia has come up with an equally good if not better funding mechanism. We are very appreciative of him for that.

This amendment then paved the way for what eventually became the comprehensive Byrd amendment which was eventually added to the bill which I just mentioned. So I am delighted that my friends on the other side of the aisle went along with this provision, and I know they will fight to protect it in conference, and the distinguished majority leader indicated he will.

I also hope they will press the administration to spend this prison construction money. The American people expect no less.

We also responded to the growing plague of violent crime in rural America which, in many respects, exceeds that of our larger cities. Utah has a growing problem of youth gangs, which are coming to Salt Lake City from California and bringing their drug and crime activity with them. According to Salt Lake City officials, drive-by shootings are more common and national gangs like the Bloods and the Crips are present.

In an effort to bring greater assistance to rural areas, I offered an amendment along with Senator BIDEN, PRESSLER, and KEMPTHORNE which amends current State and local law enforcement grants programs to authorize an additional $250 million in grants for rural States over 5 years. It also authorized an additional $100 million over 5 years to hire additional DEA agents for drug investigations in rural and urban areas and directs the Attorney General to establish Rural Crime and Drug Enforcement Task Forces in every Federal judicial district that includes significant rural areas. I hope that this important measure, which aids rural areas, will survive conference and that the administration will implement these proposals. I believe that the President will be behind those proposals. They make sense. And the chairman and I are working together in trying to get them.

This bill also beefs up Federal antigang efforts. Senators DOLE and BROWN and I succeeded in attaching this tough antigang measure to this bill over the opposition of some of the other side of the aisle. There are at least 215 identified gangs in the Salt Lake City area with 1,700 members. This growth in gang activity and the drug abuse and violent crime it fosters face cities all across this Nation. The bill now makes it a Federal offense to engage in gang-related crime and subjects gang members to tough mandatory minimum penalties. For example, gang members who recruit others into criminal gangs or engage in criminal conduct shall be subject to a mandatory minimum penalty of 5 years imprisonment. If a gang offense involved attempted murder, the perpetrator faces a mandatory minimum 20 years imprisonment; and, if there is a murder, the gang member faces a possible death sentence.

The Republican gang measure provides $50,000,000 for additional Federal prosecutors who will be assigned to fight gang violence and establishes a $100 million grant program for efforts at the State and local level, and by private not-for-profit anticrime organizations to assist in prevention and enforcement programs aimed at fighting juvenile gangs. I can think of no area where there is a greater Federal interest than in assisting the States prosecute and incarcerate violent offenders, and I will insist that this measure survive conference and that it be funded.

A bipartisan measure which was added to this bill is the Violence Against Women Act. Senator BIDEN and I, with the assistance of Senator DOLE, have crafted a measure that gives recognition to the fact that violence against women is a national tragedy that warrants some Federal commitment. Despite some misconceptions, this measure does not make every sexual assault or rape a Federal offense. Rather, it recognizes that there is a proper role for the Federal Government in assisting the States in fighting violence against women. For example, the bill provides substantial grants to States to improve their response to sexual assault and domestic violence. In addition, the Violence Against Women Act makes it a Federal offense to cross State lines with the intent to commit violence against a spouse or former intimate partner or to violate the terms of a protection order—interstate stalking. In addition, the bill establishes a civil rights cause of action for crimes of violence motivated by an animus for the victims' gender. This civil rights remedy falls within established Federal jurisdictional principles governing civil rights remedies with its animating principle being a national ideal of equality. I expect that this measure will survive conference. I hope, moreover, that the administration works to fund the important grant programs this bill establishes.

The Senate also adopted the Hatch-Biden telemarketing fraud bill. This act, called SCAMS—the Senior Citizens Against Marketing Scams Act of 1993—authorizes additional Federal law enforcement resources to combat telemarketing fraud. SCAMS also creates a new Federal statute criminalizing telemarketing fraud, and it enhances penalties for these crooked acts when senior citizens are the principal victims.

Continued law enforcement and greater public education can bring about an end to these scams. Passage of this Hatch-Biden measure will help accomplish this goal. I am pleased that it has been incorporated into the crime bill.

(Mrs. MURRAY assumed the chair.)

Mr. HATCH. Finally, I believe I should say a word about the gun control measure added to this bill. As I stated earlier, the time for grandstanding and for feel-good measures that have no effect on controlling crime has long passed. It is my fervent view that a ban on assault weapons will do nothing to stem the tide of criminal violence in this country and that it will do much damage to the rights of law-abiding citizens. It is my hope that this measure will be dropped in conference. It should be. Banning these weapons will have no appreciable effect on the level of violent crime.

Very few legal weapons are used, or even rifles for that matter, in the overall crime of this country. Nevertheless, it is in here. Moreover, gun control strikes at the heart of our constitutionally protected right to keep and bear arms.

In closing, this crime bill is an unprecedented, bipartisan measure. I commend Senator BIDEN, the chairman of the Senate Judiciary Committee, for his leadership and hard work on this matter. Our work has provided the citizens of this Nation with a bill which, for the most part, provides needed assistance to neighborhoods and communities. In my view, this bill will make our Nation's streets safer—provided it is not gutted in conference and provided the administration actually funds its law enforcement programs. I urge my colleagues on the other side of the aisle to stand behind the tough provisions contained in this bill when we sit down with the House. And, I urge the Clinton administration to take a stand in support of these tough provisions and to make it clear that it expects the conference committee to adopt these much needed measures.

Let me personally thank Cynthia Hogan, Cathy Russell, Chris Putala, Demetra Lambros, and the rest of Senator BIDEN'S staff for their extraordinary efforts on this bill.

It has been a pleasure to work with them. They are class people. And I personally very much appreciate them and respect them.

On our side, while there is always danger in leaving out someone deserving of recognition, I would like to acknowledge the help and support of Senator DOLE's staff, especially Jim Whittinghill and Dennis Shea.

And, or course, I would like to offer my heartfelt thanks to my own staff on the Judiciary Committee. Along with staff on the other side, they have been burning the midnight oil over the last several weeks to put the finishing touches on this landmark crime bill. But, more than that, they have been working for months and months to help me develop legislation that will go a long way to making law-abiding Utahns safer in their own homes and communities and, thus, law-abiding Americans everywhere safer.

Manus Cooney, Mark Disler, Sharon Prost, Ed Whelan, Anna and Victor Cabral, Shawn Bentley, and Darrell Panthiere have been advising me on the substance of these provisions; Stacey Vargecko, Jenny Ward, Mike Kennedy, Quin Monson, Kristal Sanford, and Brad Wilson have contributed in various ways, including preparation of many of these materials and fielding hundreds of phone calls.

It takes an incredible amount of work to bring a piece of legislation like this to the Senate floor, and I want to express my deep appreciation to them.

Finally, I would just like to express my regard again, one last time, to my friend and colleague from Delaware, Senator BIDEN. He deserves a lot of credit on this bill. I am certainly lending my name to this in calling it the Biden-Hatch bill, because I believe we have done as good a job as can be done on this floor with the wide diversity of opinion and feeling that we have.

I think we have something here that really is a historic landmark and extremely important. I attribute a great deal of it to the distinguished Senator from Delaware. I want to thank him personally for his efforts in this regard.

Madam President, I yield the floor.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware has 12 minutes 54 seconds.

Mr. BIDEN. Madam President, I ask unanimous consent, in the spirit in which we have been moving, that we add an additional 5 minutes, not taken off my time, to be yielded to the Senator from Massachusetts for purposes of speaking on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts.

Mr. KERRY. Madam President, thank you very much. I thank the Senator from Delaware. I know that traditionally the managers wrap up, but I was tied up at a markup and I was not able to be here. I appreciate him accommodating me.

I would like to begin, Madam President, by thanking the Senator from Delaware and the Senator from Utah and congratulating both of them on bringing this bill to the point that it is. We are about to, presumably, pass it in the near term, depending on one or two decisions yet to be made.

But I would like to make a couple of comments about this bill, if I can.

At the beginning of the debate, I and some others said that it was really important that we in the Senate, in approaching the crime issue in the crime bill, offer America more than rhetoric; that we do something that is serious and real about crime. I think that we are on the verge of doing a great deal, but we still need to be very careful about what we are promising the American people that this will do.

In the first instance, let me say that I think this bill is indeed what some have called it. It is the most significant and important first step in the effort to do something serious about crime, because we have starved the States, where 95 percent of the battlefield is, over the course of the last years. And this is the first significant input of resources to the State and local governments to help them do something.

But I might also add there has been a sufficient degree of knee spasms and overblown rhetoric in the course of this process, so there has been attached to this bill a series of things, some of which test any theory of constitutionality, and some of which are counterproductive.

It simply does not make sense in some cases to create mandates that are so strict on the courts that they have no ability to meet them without overcrowding worse than it is and in effect doing damage to the effort to put people behind bars for the already existing mandatories and the level of crime that we have. So I hope, when we get into the conference process, that the Senator from Delaware and the Senator from Utah and others will succeed in stripping away some of those counterproductive measures.

It does not make sense for the Federal Government to suddenly be federalizing a whole lot of State crimes that district attorneys and attorneys general would love to prosecute today if only they had the resources. And to suddenly set up an equation where the Federal Government has joint jurisdiction so that a Republican U.S. Attorney can fight with a Democratic Attorney General over who is going to prosecute the crime and get the glory for it is not very productive in a world of law enforcement where you already have extraordinarily tough struggles between the 13 or 14 different agencies that have jurisdiction over one piece of the mosaic or another. So I hope we will pay attention to that.

I also hope that we will not just build monuments to our failures in other parts of society in prisons. We do need more prisons, and I voted for that. But some of those prisons can be modular. Some of those prisons can be temporary use of Federal facilities on our military bases so we take nonviolent, first-time offenders out of the system and open up beds for violent offenders, hoping and praying that, as we turn the curve of violence in this country, we will not need a long-term overhead of prison guards and prisons for the longrun in the Nation if we gain control of our streets and communities.

So we should approach those expenditures sensibly, and I hope that in the course of the conference that will happen.

There is not sufficient money yet for drug treatment, and that is a critical component of our capacity to deal with street violence and to send a message about seriousness.

Finally, Madam President, we really need to not kid ourselves about this bill overall and what is happening in America today. I showed some charts of what is happening in terms of family and illegitimate births in America. The level of illegitimate births, of kids being brought up without families, or with parents who are not home or in abused homes is so high in America today that we are raising sociopaths, kids who have no values, as we have heard on the floor of this Senate in this discussion about whom and for whom this bill does precious little.

And unless we recognize what is happening in our schools and in the unavailability of the sufficient resources necessary to help people to raise kids and deal with some of the value issues, then all we are going to do is start feeding a next generation of these kids, these sociopaths that we have allowed to be raised, into the hands of these new prisons and new police, and we will not have really done much for the long term.

So this is a critical first step in regaining control of communities.

This bill can buy us the opportunity to make those other investments and to make them meaningful as well as to make this bill meaningful. But if we ignore our responsibilities with respect to the kids, with respect to education, with respect to boys and girls clubs, with respect to summer programs and summer jobs, with respect to alternatives for counseling and diversion, then we will simply have created one more large expenditure that is doomed to demand of the American people a new judgment about failure because we did not do the complete job.

The PRESIDING OFFICER. The time of the Senator from Massachusetts has expired.

Mr. KERRY. Madam President, I ask for an additional 30 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. I think most of our colleagues here understand that. The real test is going to be whether we change the political equation that we have been working under for the last 12 years where we talk about these issues but fail to come here and really discuss how to provide the resources or the programs to deal with them.

This bill is an extraordinary downpayment on our ability to rebuild community in America. If we will now do the other part of it, the drug treatment dealing with those kids who are born into lack of opportunity and oblivion, if we will deal with the schools and begin to really build community on the foundation that the new police will help to give us, then we can tell America we have done something about crime and about our future.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BIDEN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Madam President, I realize I have 12 minutes left, as I understand it, on my time. I ask unanimous consent I be granted such additional time as I will need to finish my statement, which I estimate will be somewhere between 12 and 20 minutes total time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Madam President, we are finally here. If all goes as I assume it will, this will be the last statement on the crime bill before we move to final passage of this bill.

While I am speaking I am going to ask my staff, as I turn, to give me a list of all the staff members who I should recognize on this effort because at the outset, as the Senator from Utah knows, the amount of work that the staff have put in on this now roughly a 900-page bill that covers over $22 billion of potential expenditures over the next 5 years has been absolutely awesome. I know he agrees. I think it is very important the public understand that these professional people who work with us earn every penny that they get paid.

As a matter of fact, in the case of my staff and that of the Senator from Utah on the Judiciary Committee, the lawyers, professionals who work on our staff, in almost every instance—and speaking for myself, in every instance—they all took pay cuts to come here and take these jobs. This is not a situation where they are here because of the money. They have taken pay cuts to take the jobs. My chief counsel and others—these are women and men of great talent, and I want to make sure before we finally vote on this that I pay particular tribute to them.

Second, before I speak to the bill I might add that—although if you read the Almanac of American Politics or any other document that characterizes the Senators in terms of whether they are liberal, conservative, moderate, good, bad or indifferent, you would find if you were going to put people at opposite ends of the scale ideologically, in most pundit's minds that the Senator from Utah and the Senator from Delaware might be at opposite ends of that scale—the truth of the matter is, we are not.

But also the truth of the matter is that one of the reasons why this democracy of ours works as well as it does is we resolve our differences collegially in this country and in this body. Were we in Bosnia we might be at war. Over here we do not go to war. We trust each other. We work with each other. We fight like the devil with each other on matters of principle and we end up resolving our problems. I have found in my dealings with the Senator from Utah that he is as good as his word and he is a legislator. He wants to get things done.

So I am delighted that this bill has gone from being the Biden crime bill to the Biden-Hatch crime bill. It is good for the Senate and I presumptuously will suggest it is good for the country that people like he and I, who have very different views on a number of things, can come together on something as consequential as this legislation.

I point it out only to reinforce the point I made after the Senator from Texas spoke. We have finally crossed the divide, I think, in this country, in American politics, about the requirements necessary to deal with crime in America. The Senator from Utah is one who feels as strongly about dealing with the root causes of crime as he does about dealing with those who perpetrate crime.

As you heard the majority leader, the Senator from Maine saying, the days of debate are gone where all we talked about were the social conditions that caused crime and others only talked about the need to impose penalties on those who do commit crime. That hopefully is ended. Hopefully, passage of this bill will be the beginning of the end of that era of division in this country, about having a consensus on how to deal with public safety problems in this country—hopefully.

Hopefully, this will be the beginning of a second effort to deal with how we keep young people from getting into the crime stream and into the drug stream. Quite bluntly, that is the part that excites me most about what we are about to do, that we have finally, hopefully, ended the acrimony.

We will disagree and we do disagree. As we say in this body: I associate myself with the remarks of my close friend, the majority leader, Senator MITCHELL, when he pointed out, with the single exception of the death penalty that I happen to support, I agree with everything he had to say. I think the admissibility of evidence that we agreed to here in this body is absolutely outrageous as one of the amendments. The notion that someone, after 800 years of developing evidentiary rules through our English jurisprudential system, and having done it because it works and it works for one purpose—the rules of evidence have developed over these last 800 years in order to figure out how to best get at the truth and eliminate prejudicial material in a courtroom since prejudicial material denies you the prospect of getting at the truth or diminishes the prospect of getting at the truth—we here on the floor of the U.S. Senate blithely voted, overwhelmingly, I might add, to allow someone to walk into a courtroom in the midst of a trial for a particular crime and say, without ever having raised the issue before—it could be 2 years old, 20 years old, 50 years old—walk in with a prosecutor and say: By the way, the defendant did that to me—10, 12, 15 years ago.

You would be able to say why did you not say something 10, 12, 15 years ago? These are violent acts, violent crimes. This not harassment. These are violent crimes.

Obviously if you are in a jury box and you are listening to testimony from somebody saying John Doe did such and such to me and then they bring in a parade of people who never raised charges before, for which you have never been convicted—no one in his or her right mind could suggest that is not prejudicial. It is an outrage that we would pass something like that. I am chalking it off to the fact that people are busy here, that this is a 900-page bill, that 6,000 things are going on at the same time, and no one had the focus on it. Because I would be dumbfounded, and I refuse to believe that a majority of this body actually consciously thought this through. I hope that was not the case. I refuse to believe it.

Also, yesterday we decided that we are better able to determine what the eighth amendment means than the Supreme Court of the United States of America, when we did the prison cap amendment. Think about what we did. We fought for 15 years about court stripping and then in one fell swoop, with very little debate, we walk in here and a majority of Senators vote to strip the Supreme Court of the United States and all of the U.S. courts of the right to determine whether the eighth amendment has been violated.

If that is true, let me point out, we can do that with the fourteenth amendment, the first amendment, the second amendment, the fifth amendment. We can just say, "Hey, by the way, Supreme Court, the way you've ruled on the fourteenth amendment, we don't think is accurate, so you can't get to rule on it anymore. We think we know."

It is preposterous. It passed, though.

We also have in here a trend that disturbs me greatly that was added to the original Biden bill. All these things have been added to the underlying, original Biden bill. And that is we federalize everything that walks, talks or moves. My Lord, if it occurs, it must be a Federal problem. If it occurs, we must federally deal with it. A kid I went to grade school with used to say, "You just stood that on its head, boy." We just stood on its head the 200-some-year notion of federalism.

Montesquieu had a pretty good idea a long time ago, picked up by the Founding Fathers: The notion of a separated Government so power could not be concentrated in any one branch. It is to prevent abuse. It is called the notion of federalism. Maybe I am too much a product of teaching a course on federalism in law school, maybe I know too much about the issue. But it astounds me that we have decided to federalize everything and the people who, in fact, argue most on the floor to federalize, crimes and punishments and alternatives, are the people who, in my first 15 years in the Senate, were the States' righters, the people who were saying, "The State of such-and-such cannot be"—now they are saying, "Let's federalize it, make it a Federal crime." So much for States' rights.

The other thing that disturbs me that was added to the original Biden bill by amendments—and I hope the House does not see it the same way—is I have heard speech after speech after speech on this floor, particularly if a National Governors Conference is in town, from my Republican friends particularly, but also my Democratic friends, about "no more mandates to the States. We are not going to mandate the States to do anything anymore."

As a matter of fact, just before this crime bill was up—I do not know this for certain—but I am willing to bet if you go back and look at the Congressional RECORD for the previous 3 or 4 weeks, you can probably find 20 speeches on Federal mandates: "No more Federal mandates. Can't do that to the States; they are overburdened."

I might point out, the Governors, mayors and county executives define Federal mandates not only as mandates that tell you you must do something and give you no money, but they define a Federal mandate as a mandate that says you, in order to get any money, must spend more money than we are offering you. They count them both as Federal mandates.

Added to the Biden bill, now the Biden-Hatch bill, added to the bill were these incredible number of Federal mandates. The prison provision. There is one prison provision in here—I am the guy that 5 years ago wrote a bill that no one supported, Democrats or Republicans, that said we should build Federal regional prisons. Now we are hearing on the floor this great breakthrough that we need Federal regional prisons.

OK, great, so far so good. But there is a little difference this time. They say for a State to take advantage of putting a State prisoner in a Federal regional prison, they have to have a sentencing law in their State that is the same as a sentencing law federally, which I am wedded to. I along with three or four other people are the folks who wrote that sentencing legislation, including the Senator from South Carolina and the Senator from Massachusetts. That has been, what, 15 years, 10 years? I do not know how long ago now.

That is a great idea, but guess what? In order for those States to qualify to be able to send a State prisoner to that Federal prison which will be built if this passes and becomes law, probably in 3 years before any one is built, in order to be able to send them to that prison, for every dollar that we give them indirectly by spending on building that prison and maintaining it, they are going to have to spend $20, that is if you count just the $3 billion. Because how it works now is there is $3 billion for regional prisons, ostensibly to help the States, but they have to change their sentencing laws so that they serve 85 percent of their time. The net effect of the State sentencing law changes, in order to do that, requires them to double their prison population, which means they have to build enough prisons in their State to house twice as many criminals as they now house in order to get a chance to get some of their prisoners sent to a Federal prison.

Let me translate it in pure dollars. The States will have to spend $11.8 billion per year over the next 5 years in order to qualify to compete for $3 billion of Federal money. I call that a mandate. If I am Governor and one of these folks walks into me as an executive assistant and says, "Governor, I have good news for you. Congress just passed a bill to help you. You can build Federal regional prisons and we can put State prisoners in there," I would say, "Great, this is a big help." "We have one little caveat, Governor. You have to spend 20 bucks for every one you send over." I as Governor will say, "Great, I am going to tell the State legislature the good news: For us to compete for the $3 billion we have to spend $11.8 billion per year." The $3 billion is for 5 years; the $11.8 billion is per year. That is a Federal mandate as far as I am concerned.

I will make you a bet, if it becomes law as it is now, none of the States will take advantage of it. So the net effect will be we are not going to be helping the problem very much. But there are other provisions in there that do help:

Three billion dollars for boot camps that we give to the States. The thing I think we should do, to follow up on the majority leader's comments, Senator MITCHELL, is the thing that makes this bill so good is that it deals with something that does work, and that is, we have an obligation federally, in my view, to deal with the crime problem under the principles of federalism that have existed for over 200 years; and that is, it is totally consistent with the principles of federalism to say to the States: "This is a national problem, falling within your jurisdiction. We are going to send you help and let you implement it the way you think it best works."

The Biden-Hatch bill establishes a violent crime trust fund. There is a reason for doing that. The Senator from Utah and I concluded a long time ago, we are not going to walk on to this floor and ask people to vote for something in an authorization that we are not going to pay for. This should be truth in legislating, not just truth in sentencing.

Truth in legislating is if we are going to say we are going to do all this, we have to put our money where our mouth is. That is the phenomenal contribution the chairman of the Appropriations Committee came up with, which was against his instinct. As he pointed out on the floor, he was not anxious to set up a trust fund. I have been talking about a trust fund—and to be more precise, dedicated moneys to fight crime with the Senator from Massachusetts. Six years ago we came up with money for a drug program and came up with money for a crime program and said we will pay for it by a dedicated tax.

I know none of us are supposed to say we are for taxes, but he and I were for taxes to fight crime because we were tired of people coming on the floor talking tough, passing tough bills and then not coming up with the money for them. The Senator from West Virginia came up with a proposal that was one better than that; he set up a trust fund. I might add that John Hilley, of the majority leader's staff, was really the architect of that good idea.

This bill is different than any we have ever passed—because in the bill we spell out with specificity how we will pay for it. This year we have the chairman of the Appropriations Committee, who some might suggest is one of the more powerful Members of the U.S. Congress, signing on to that proposition. Actually, not only signing on, coming up with it.

The second reason why this bill is historic, in my view, is that it provides for 100,000 police officers. The 100,000 police officers is not just giving the States money to hire 100,000 police officers. One of the things we want to do, very bluntly which is consistent with the principles of federalism, is to use the carrot-and-stick approach. We say to the States, "All right, we know one thing: Community policing is more effective than the alternative; that is, not having community policing."

So given the choice of having 100 police officers either in squad cars, in cruisers, and/or behind desks, and 5 police officers behind desks and 95 walking the street, everybody knows, 5 behind desks and 95 walking the streets has a greater impact on diminishing crime and increasing apprehension than having them in cruisers and behind the desks. We need police in cruisers. We need police behind desks. But we need more police out on the beat, walking the street, interacting with the community.

So what do we do here? It is not merely that we follow through on the President's request to provide 100,000 local police officers. I wish to make it clear to the public. These police officers are not going to be wearing Federal uniforms. These are going to be local police officers hired under local rules, accountable to local political entities, accountable to local police departments. We are just providing the money, a part of the money. The States have to come up with the other part of the money, because I found in my years of experience here when you tell somebody the Federal Government is going to do it all, their sense of responsibility diminishes. When you tell them they have to put up 2 percent, 5 percent, 10 percent, 25 percent, it is amazing how it focuses their attention.

When I used to be a county council person in New Castle County in Delaware in 1970, people would come in and say, "We have a new program to build this park," or do that, and I or someone else would say, "Well, how much is it going to cost us?"

"Oh, it is not going to cost us anything. That is Federal money."

I kind of thought Federal money was my mother's money as much as State money was my mother's money because she pays taxes in both circumstances. So we find when we attach a requirement to participate, there is a greater degree of responsibility. And we do that.

But there is a second thing this does, beyond giving the financial help. A State, in order to get the money to hire more police officers, has to adopt the notion of community policing.

Now, a lot of States have not done that, a lot of localities have not, because it is harder to have a community policing operation than it is to have a standard operation.

Were I a police officer being put in harm's way the way all are—and I would not take that job for all the rice in China. Thank God there are women and men willing to do it. But were I a police officer, I would rather ride around in a squad car in a tough neighborhood than walk around with my leather boots or shoes on. I cannot blame them.

So a lot of police departments do not have community policing because the political entities—the mayor, the county executive, the Governors, whatever—sometimes do not have enough political clout to get the police department to do what they want done.

In this one, now the mayor is going to be able to go to the chief of police and say, "Hey, Chief, you want some more police officers?" The chief says, "Yeah, we need them." They are going to say, "We are going to change the way we police."

"I don't want to do that."

"No problem, Chief. No money. But if you want them, we have to have community policing."

So I believe there is a real multiplier effect, Madam President, in this. It is not merely the money we are sending. We are changing the philosophy of how to more effectively police our streets, our neighborhoods, and our communities.

Now, another item in this legislation that I think is different—I do not hear this much anymore, but when I first introduced the crime bill, editorial writers and others—not just editorial writers —said, "That's the same old thing, more cops, more whatever."

No one is saying that now that I am aware of. But to reinforce that, these are new ideas. We found out that one of the problems we had, to state the obvious, was prison overcrowding.

There is not a person in this country—whether they are visiting from out of town observing this, whether they are watching it on television, whether the press covering it or our colleagues who are participating in it—who has not seen a news report in the last 5, 6 years in their own media market where there is a story about how violent criminals have been let out of jail because there is no space for them. These are the people who are out recommitting the vast majority of crimes.

So we decided that it is time not only for us to get involved but to become cost-effective. And we found out, Madam President, that to build and maintain boot camps is more effective and cheaper than to build and maintain prisons. And we found, out of 840,000–850,000 people in State prison systems, 160,000 of them were first-time, nonviolent offenders.

Why should they be taking up space in a prison system requiring those folks to pay $30,000 a year to keep them there? Why not put them in a boot camp? Why not put them in a quonset hut? Why not put them behind barbed wire instead of a wall that is 20 feet high, 3 feet thick, and costs tens of thousands of dollars to build? These are people who are not a risk to the community, but they deserve to be punished.

So we provide $3 billion here to get those folks out of the prison system, creating up to 100,000 empty beds in the existing prison system at the State level, providing space for up to 100,000 violent criminals that can now be put in those spaces.

I am not suggesting it took a rocket scientist to think of that. The fact is we had not done it before, though. This is just plain old common sense. It is a lot cheaper, and it opens up over the next 5 years 100,000 beds behind bars, behind walls, behind gun turrets, behind guards, to put violent people who are now walking the street.

Now, there is the other $3 billion for prisons that I suggested, regional prisons. It will be there if it passes. I am skeptical that the States will take advantage of that piece. Maybe they will. By the way, the $3 billion for boot camps is money we give to the States to build State boot camps. I am also going to speak to some of the other aspects of this in a moment.

But let me go through another provision. There is a new idea here, new to the Federal level but not new to the States, called "drug courts." The crime bill includes $1.2 billion to help first-time, nonviolent drug offenders go straight.

Here again, with this innovative program, we give nonviolent drug offenders a chance and a choice. We put them in treatment or we put them in prison. It is their choice. Offenders who choose treatment are watched and tested and, if they fall off the wagon, we raise the stakes. We put them in boot camps—right now 600,000 of them are walking around the streets, no supervision—or we assign them to community service or community-based incarceration. If they flunk out of that program—and they flunk out by being tested on a weekly basis—if they test positive, if they either do not show up for the test and/or they come and they test and they test positive, then we put them in a prison.

When we put them in these prisons, we put them in drug treatment; give the States money to give them drug treatment.

When I said this 6 years ago, everybody thought I was nuts. I noticed—I think I am correct—as I was shaving this morning, watching local television, there was a raid where they arrested a number of guards at Lorton Prison, and they arrested a number of people involved with prisoners in Lorton Prison. I remember I said to Ted Koppel 4 or 5 years ago, when he called me and asked—because he heard me say that there are more drugs in prison than outside of prison, and a lot of the press, understandably, thought that was just a great, old, typical political statement. That is what the press thought, and lots of times they are right. This time they were not right. So they did a program on Night Line from Lorton Prison. They put all these folks in a room, all these hardened criminals. The room was packed. And Ted Koppel asked the question, almost apologetically—I am paraphrasing; I am characterizing, and he might suggest mischaracterizing—he said, "By the way, you get any drugs in prison?" And all these guys in that prison said, "Yeah, we get drugs."

Well, guess what? The D.C. police just arrested today an entire network of people for bribery and conspiracy for taking drugs into prisons. They are as plentiful in prisons as they are in the streets.

So if we do not get drug treatment for those people in prison, notwithstanding the fact they come out after serving their time, they are no less dangerous to you. They come out still addicted to drugs. They shoot you, maim you, rob you, burglarize your home. They are just back in the cycle again.

In these drug court programs we give these folks treatment, first-time offenders. We do not spend tens of millions of dollars housing them in maximum security facilities, and we provide actual probation officers who follow them. There is actual supervision.

We also have in here a major breakthrough, the assault weapons ban. The crime bill this year, I believe, has a chance of keeping this ban.

I commend Senators FEINSTEIN, DECONCINI, and METZENBAUM for shepherding this through the Senate. I hope we can keep it in conference. I plan on doing everything in my power to keep it in conference.

Also, we have the antigang provision, a $100 million program to prevent juvenile gangs from drug trafficking. There are far too many kids these days for whom gangs and drugs provide attractive alternatives to poverty, broken homes and peer pressure. These grant programs to States for gangs in the bill will help catch these kids before they get caught by gangs.

I will not take the time now to go into it, but one of the things we found out from the massive number of hours of study in the Judiciary Committee in hearings, that if you have the same profile of people in two different public housing projects, and you put a Boys Club and a Girls Club in one and you do not have one in the other, the rate of crime and the rate of drug abuse is significantly lower in the place where the Boys or Girls Club is. Again, no rocket scientist, just what your mom and your grandmom used to talk to you about. "An idle mind is a devil's workshop." An idle child living in a project with nothing else to do is a lot more inclined to get into trouble and drugs than a child that is in an organized program in their environment, no matter how deprived their environment is.

We provide for the ability to do that here in this bill.

The thing that I care most about, of all that is in this bill—and I know the Presiding Officer feels as strongly as I do—is the Violence Against Women Act. I have worked almost 5 years on that legislation.

Nothing comes easy in this place. We finally passed it with the great help and cosponsorship of the Senator from Utah. I consider it the proudest accomplishment—self-serving thing to say—proudest accomplishment of my career in the United States Senate, bringing this to the point where it is on the verge of being able to become law.

I want to take this opportunity to thank Senators HATCH and DOLE for working with me on this legislation as well as the 66 other cosponsors, including the Presiding Officer, which is now part of the omnibus crime bill.

I might note parenthetically that I was disappointed that the Judiciary Committee of the House of Representatives last night essentially emasculated the bill, in my view, taking out the single most important provision of the bill. But I can assure you that with every ounce of energy I have in me, when we get to conference on this bill, that this is a non-negotiable item as far as I am concerned because the fact of the matter is violence against women is epidemic in America. The numbers are staggering.

A woman is battered in this country every 18 seconds. In recent years, the number of women abused by their husbands is greater than the number of women who got married. Maybe there is a correlation there. Some 22 to 35 percent of all the women who visit emergency rooms—22 to 35, depending on which study you take, minimum 22, maximum 35 of all the women who visit an emergency room—are there because of violence. One million women a year must receive medical treatment because of injuries due to violent attacks.

The passage of the Violence Against Women Act will take an important step toward ending the cycle of terror and violence which has marked the lives of so many American women.

The act has three basic goals: To make streets and homes safer for women; to make the criminal justice system more responsive to the victims of these crimes; three, to extend to women victims the equal protection of our Nation's law.

I know this body is tired of hearing me talk about this. I have became a broken record on it. But the reason we need Federal legislation in this area is because the States have such a disparate and inequitable body of law as regarding women. For example, in my State of Delaware, if you are a voluntary social companion—meaning if you have gone out voluntarily with the man before, even if he rapes you, he cannot be convicted of first-degree rape. You can get him for second-degree rape, but not first-degree rape.

The underlying premise that rationalizes that position is sickening. But for every one of the examples I can give you in my State, my State relatively speaking is advanced compared to the vast majority of the States. So we need a Federal Government.

This legislation is a first comprehensive approach to fighting all forms of violence against women committing a broad array of needed reforms; new laws that focus on offender's conduct, rather than on the victim's character.

By the way, I do not care whether a woman is loose or prudish, I do not care whether she is good or bad, I do not care whether she is a mother or a saint or a sinner, no man has a right under any circumstances, other than in self-defense, to ever lay a hand on a woman; period; no right. It seems to be part of our ethic—I might add, no right to lay a hand on anyone else—but our ethic seems to be if it is a woman, somehow she is a chattel; she is somehow property.

How many times have you heard the expression "my woman"? What the hell does that mean, "my woman"? But that is part of the ethic. Part of the ethic is somehow it is OK.

I cite this again. I was dumbfounded to find out the origin of the phrase "rule of thumb." I held a hearing maybe 4 or 5 years ago, and one of the witnesses said, "Senator, do you know what the origin of the phrase 'rule of thumb' is?" This person held up the thumb.

I said, "No."

It goes back to the English common law when a woman was viewed as chattel; that is, owned as a piece of property that was not real estate, like a table or a light fixture. That is a chattel. A woman was the chattel of her husband.

So what happened was that the woman—the husband was able to use whatever force necessary, with his chattel. The chattel was his wife and his children. He could beat them; do whatever he wanted. But something started to happen. A lot of women were dying. So they decided they had to do something about this.

The first court of reform decided to set out a rule called the rule of thumb. It said that you can beat your wife with a stick, so long as the rod, or the stick you use, was not bigger than the circumference of your thumb.

I imagine a lot of women walked around checking their potential husband's hands before they agreed to marry. But think of that. That is where the phrase comes from.

We have to change the ethic. I believe this violence-against-women legislation is the most significant thing. And I think most people who have looked at it will acknowledge that it is the most significant thing to begin to change our attitude about violence with women; what is appropriate, and what is inappropriate.

There are many other provisions in this bill that I think warrant being pointed out that are different, that are new, like the ones I have mentioned, that are innovative.

Again, when I say innovative, I am not trying to claim credit for having this great incredible insight into the problem. I am not suggesting that they are innovative in the same sense that finding a cure for cancer is innovative. They are all common sense. But they are innovative in the sense they have not been tried before. They have not been done before. They have not been offered before.

One of those is, Madam President, I think until we start to pay attention to the rights of victims in our society, victims in the criminal justice system, that we are going to continue down the road of a disrespect for the law.

Think about it for a minute. What happened to us not many years ago—as a matter of fact, back again to our English jurisprudential history, in the beginning of the Colonies in this country, this is the way it used to work: The victim played a central role in the prosecution of a defendant. The way it used to work was if you assaulted me, Madam President, what I would do is go find a constable and hire that constable; I would actually pay him to go arrest you. Then I would pay the cost of taking you to trial before a judge, and if you were convicted, I had to pay the cost of putting you in prison. But I was a central piece of that whole process—the victim.

What happened was, we found it was not very equitable. I am oversimplifying this in the interest of time. What happened is they came along and said: Wait a minute, only wealthy people get to redress the grievances against them. From now on—they said —it would read, if it was a criminal case, for instance, it would be Biden versus Murray, as opposed to the State of Washington versus Murray or the State of Delaware versus Biden. It was the name of the victim versus the defendant. But at least the victim had an opportunity in that system to go through the psychological venting, if you will, of the harm done to them. When you beat somebody up, violate them or their property, it has a similar effect as if they have had any other tragedy that happens in their life. We discount that.

One of these people in Washington, DC, watching this debate, if they are mugged, they do not get a chance to determine when the trial will occur or to determine whether or not a plea bargain should be offered to that person. They do not get a chance to be part of the process. They are lucky if they get a phone call in any city in America to say what happened to the defendant. They may get a call that says: You know that person who beat you up? We did not think we had enough evidence, so we are not going to pursue the case.

That is what happens. No wonder people are callous and angry.

So, Madam President, what happened, as we changed in the name of providing more equity, we took the victim out of the process. Now it is the State of Delaware versus Jones, instead of Biden versus Jones. There is no psychic satisfaction that is necessary for the healing process of a victim, nor is there financial remuneration. In this bill we do both. We reinject the victim as part of the process. So that if the person is convicted, they can in fact get as part of the penalty a requirement or opportunity for the judge to say: You must pay back, provide restitution to the person you have done a wrong to.

What do we teach our children? We teach them that when they do something wrong, it is not sufficient to suffer the consequences. We take them back to the teacher and make them apologize. Right? We take them back to the store owner and have them say: I stole the candy bar. We make them do things, and those processes have developed over a thousand years for a simple reason: It is part of the healing process, the healing process for the victim. We do not do that now. In this legislation, we begin to do it again.

We have in here a bill that I worked very hard with Oprah Winfrey on. She is a woman truly dedicated to dealing with the abuse against children. This is not some phony show-biz, you know, I-have-my-cause routine with her. I have worked with her for too long. I know that part of her too well. So she came up with an idea to prove that not all these ideas come from me or my staff or others who are professionals. She asked, "Can we not do something about the fact that we have child molesters working in areas where in fact children reside?"

It is like that old sick saying applied to this, when they asked Willie Sutton, "Why do you rob banks?" He said, "That is where the money is." Well, the vast majority of people who take care of children are not child molesters, but if you are a child molester, your inclination is to go where the children are.

So in this legislation, we set up a national criminal background check system for those who care and provide for the children, the elderly, and the disabled. So that now if I am running a child care center, I want that protection; and if I want to hire John Jones, I want to be able to check his background. I do not want to hire John Jones if he has been convicted of child molestation. This provides the opportunity to find that out.

We also put a billion dollars more in for more FBI agents and prosecutors. One of the most important provisions of this bill that has been added is Senator KOHL's provision relating to children and guns. It prohibits and punishes people for the sale or transfer of a gun to a juvenile. To combat rural crime, there is $250 million. I had a lesser amount. Thanks to the Senator from Utah, we bumped it up for rural crime, where there are one- and two- and three-person police departments.

I know the State of the Presiding Officer relatively well. Once you get across Snoqualmie Pass, you get into small communities with one- and two- and three-person police departments. They are faced with the same problems the cities are. We provide help for rural communities in this bill.

There is also in this bill $100 million for safe-school programs, to fund crime and safety measures, and to develop in-school anticrime and antidrug and antigang programs. But they can do anything with this money at the local school level, from putting in a metal detector to hiring a guard to putting in a drug treatment program. Again, not rocket science, but important.

Now, let me conclude by suggesting that there is a lot in this bill that nobody has paid much attention to, and understandably. I am not being critical when I say that. I am going to submit this for the RECORD when I conclude. I title it—it was the "Biden bill" and now it will be the "Biden-Hatch bill." This is "The Biden-Hatch Bill: Beyond Crime and Punishment." To sum it up, it goes like this: Of this almost $23 billion, we are going to spend close to $5 billion of it for treatment prevention and programs to keep children and people from crime. This is not just cops and robbers stuff. This is very important stuff, along the lines the Senator from New Mexico spoke about this morning, and the Senator from Connecticut [Mr. DODD] spoke about last week, and the Senator from Missouri [Mr. DANFORTH] spoke about and will speak about again, and so on.

Most of my colleagues do not even realize it—and I understand it because they have other things to do—because we introduced the Biden bill of 500 pages, and they did not have a chance to look at it all. What happens in there—let us talk about the community policing and prevention programs. We have in here almost $9 billion to hire new cops. You have heard me talk about that. Of that, 15 percent, or $1.2 billion, can be used by the cities. Instead of hiring a cop, they can engage in innovative prevention programs, such as early intervention teams of police, doctors, or educators, and others, to enter into the early lives of juveniles, like in New Haven up at Yale. We provide money for that. We have proactive prevention programs. You are allowed to use this money to set up police athletic leagues, Big Brothers and Big Sisters programs, and Boys and Girls Clubs. They can use up to $1.2 billion of the money to do those things.

I might add, I thank CRAIG WASHINGTON, a leader, an incredibly articulate Congressman from the State of Texas, an African-American who is a leading member of the Black Caucus in the House of Representatives, for helping me focus on this. We also have alternatives to incarceration. We authorize $3 billion for States to operate these boot camps. But while they are in the boot camps, the States can use this money for aftercare services, such as job training, education, drug treatment, halfway houses, job placement programs, and self help and peer programs.

Of that $3 billion—this is not just more cops and robbers, in the drug court program, of the $1.2 billion they can use it for community service programs which employ offenders with nonprofit and community organizations. These are first-time offenders. That is community-based incarceration, like halfway houses, weekend incarceration, electronic monitoring and drug programs within the boot camps. It also provides for after-care services with that $1.2 billion for education and job training and self-help and peer programs.

(Mr. AKAKA assumed the chair.)

Mr. BIDEN. Mr. President, in addition, we have $100 million in here for juvenile gang prevention. We allow the States and the school districts to keep their schools open.

That is what the Senator from New Mexico wants to do. We have already done that in the bill. I welcome doing more of it. But it is already in the underlying bill.

So now, instead of closing, and it seems kind of silly to close a school in an inner-city, at 3:30 or 5 o'clock, why do not you keep it open all summer, not with the teachers having the responsibility? They have enough. Keep the schools open if the community wants to use those facilities, for after-school programs, for recreational programs.

For example, there is a program—I believe it is in Trenton, NJ, or maybe it is in Newark, NJ, Senator BRADLEY told me about, which they would be allowed to use the money for. What they do in very difficult neighborhoods with high crime rates is using the schools they set up programs after school where they have year-long team competition. They divide the neighborhood into all these teams. It is not just basketball teams. It is like the decathlon. They get so many points for basketball and baseball. And guess what else? They get points for having the grade-point averages in there. So every kid on this team brings to their team their report card as well as how many points they can score. And guess what happens? It is working. Kids take pride. They want to win.

So now, when a kid is going to flunk out of school and he is on the team, the rest of the kids say: "Hey, man. You're going to cost us, Jack."

It works. They will be able to do this with the juvenile justice portion.

We have pre- and post-trial drug abuse treatment for juvenile offenses, treatment for drug-dependent kids.

And the violence against women legislation, I might add, goes a long way toward prevention. It requires rape education on college campuses and schools. It also provides battered women shelters, the national violence hot line, which is Senator KENNEDY's idea, and youth education; $400,000 is provided for programs to educate youths and families about violence and abuse and safer colleges; $20 million is targeted to rape and violence prevention and education on college campuses.

In the safe schools program, $100 million can be used for drug and alcohol education, counseling programs for children who are victims of abuse and crime, programs that provide alternative constructive programs for youth at risk for gang recruitment.

THE BIDEN BILL: BEYOND CRIME AND PUNISHMENT

The Biden crime bill recognizes that there are two sides to solving the crime equation: punishing violent criminals is one part of the solution; reaching out to help those who have not committed crimes, but are at risk to do so, is the second part. Although much of the Senate floor debate focused on penalties and punishment because of the amendments offered by other Senators, the Biden crime bill contains many initiatives and considerable funding to deter crime by helping at-risk youth and nonviolent offenders.

The provisions in the Biden bill that address the underlying causes of crime include:

COMMUNITY POLICING PREVENTION AND TREATMENT PROGRAMS

Community policing for crime prevention: Of the total $8.9 billion authorized for community policing programs, $1.2 billion may be used to fund innovative prevention programs, such as:

Early intervention teams: Police, social workers, educators, and doctors working together to intervene early in the lives of juvenile victims and offenders—to help them turn their lives around.

Proactive prevention: Police involvement in prevention programs for youth, such as—the Police Athletic League; Big Brothers/Big Sisters programs; and Girls and Boys Clubs.

ALTERNATIVES TO INCARCERATION

Boot camps: The bill authorizes $3 billion for States to build and operate boot camps as an alternative to prisons to help get young, nonviolent offenders back on their feet. Offenders assigned to boot camps receive a reduced sentence—boot camp terms last no more than 6 months.

Boot camps must provide intensive drilling and supervision, involving work programs, education and job training, and drug treatment.

Boot camp participants must receive aftercare services, to be coordinated with human service and rehabilitation programs, such as: Educational and job training programs; drug counseling or treatment; halfway house programs; job placement programs; and self-help and peer group programs.

Drug courts: The bill authorizes $1.2 billion in grants to States for drug court programs to provide an alternative to prison and to help non-violent drug offenders get the treatment they need to get their lives back on track.

Instead of serving time, a drug offender is placed on probation with mandatory drug testing and treatment. If an offender fails the tests, he or she becomes subject to graduated alternative punishments, which intensify treatment and supervision, but stop short of traditional incarceration. The alternative punishments include: community service programs which employ offenders with nonprofit and community organizations; community-based incarceration like halfway houses, weekend incarceration, and electric monitoring; and boot camp programs.

If an offender fails the drug court program completely and is sentenced to prison, he or she receives treatment there—in facilities set apart from general prison population. The treatment programs should address the offender's social, behavioral, and vocational problems, as well as drug addiction.

Preference in making grants is given to States providing assurance that offenders are provided with aftercare services, such as: educational and job training programs; and self-help and peer group programs.

JUVENILE DRUG TRAFFICKING AND GANG PREVENTION

Gand and drug abuse prevention: the bill authorizes $100 million in State grants for drug and gang prevention programs, such as: education, prevention, and treatment programs for at-risk juveniles; academic, athletic, and artistic after-school activities; sports mentor programs where athletes serve as role models and counselors for kids at risk for gang and drug activity; alternative activities in public housing projects, such as Girls' and Boys' clubs, scout troops, and little leagues; education and treatment programs for juveniles exposed to severe violence; pre- and post-trial drug abuse treatment for juvenile offenders; treatment for drug-dependent pregnant juveniles and drug dependent juvenile mothers; and training for judicial and correctional agencies to identify, counsel, and treat drug-dependent or gang involved juvenile offenders.

DRUG TREATMENT AND PREVENTION

Community substance abuse prevention grants: The bill provides $60 million over 3 years for coalitions of community organizations—such as schools, health, and social service agencies, parents, civic groups, academics—to: plan and implement comprehensive long-term strategies for drug abuse prevention; and coordinate drug abuse services and activities, including prevention activities in schools.

Drug treatment in prisons: The bill establishes a schedule for drug treatment for all federal drug-addicted prisoners.

VIOLENCE AGAINST WOMEN

Grants to fight violence against women: The bill authorizes $870 million over 3 years for State grants to combat violence against women, with a special earmark for high intensity crime areas. Programs can include:

Expanding or strengthening victim services programs, such as rape crisis centers, battered women's shelters, and rape and family violence programs, including nonprofit organizations assisting victims through the legal process;

Training law enforcement officers to more effectively identify and respond to violent crimes against women; and

Expanding units of law enforcement officers specifically to target violent crimes against women.

Victim counselors: $1.5 million is provided for Federal victim/witness counselors in sex and domestic violence cases.

Indian tribes: $30 million is available over 3 years for grants to Indian tribes for programs to reduce violence against women.

Rape education: The bill authorizes $65 million for rape prevention and education programs, starting in junior high school, such as: educational seminars for students and training programs for professionals; and public awareness programs in under-served racial, ethnic, and language minority communities.

Help for the homeless and runaways: The bill provides $10 million for education and prevention grants addressing the problem of homeless and runaway women and girls, such as: street-based outreach and education programs; and treatment and counseling programs for runaway, homeless, and street youth who are at risk of being subjected to sexual abuse.

Battered women's shelters: The bill provides $300 million in grant money specifically for the operation of shelters for women and their children who are fleeing violent homes.

National family violence hotline: The bill authorizes $1.5 million.

Youth education: $400,000 is provided for programs to educate youth about family violence and abuse.

Safe colleges: $20 million is targeted to rape and violence prevention and education on college campuses.

SAFE SCHOOLS

Education and prevention in schools: The bill offers $100 million in local school and community grants, to be used for: drug and alcohol education and training programs; counseling programs for children who are victims of school crimes; and programs to provide alternative, constructive programs for youth at risk for gang recruitment.

SEXUAL VIOLENCE AND CHILD ABUSE

The "Oprah" bill: $40 million will pay for the development of a national criminal background check system for those who provide care to children, the elderly, or the disabled.

The Child Safety Act: $60 million in state grants is available to establish supervised child visitation centers for families with a history of violence or abuse.

I will not take any more time of the Senate, but let me conclude this portion by saying this is a solid piece of legislation.

I say to all those who are concerned about us not doing enough to deal with the causes of violence that we spend and allow the States to spend $4.2 billion to deal with the innovative approaches I have just spoken about. In addition, they will have available to them $18 billion to deal with actual law enforcement measures, more police, more prisons, et cetera.

So, Mr. President, let me again thank everyone for their cooperation.

I conclude by thanking particularly the majority leader. I thank him because occasionally I have gotten him in a little bit of hot water. I hope he does not get offended by what I am about to say. He has indicated to me for the last 4 years that although he wants to know what is going on he has never once attempted to overrule and/or interfere with anything substantively I have done in this crime legislation. As a matter of fact, he probably has second guessed himself whether or not he should have given me the carte blanche he has given me to negotiate and/or write the legislation. I hope it has not gotten me in too much trouble, although occasionally I know it has. I thank him for his cooperation and leadership because we would not be at this point—and we all saying this kind of thing almost sounds like a mutual admiration society but, as they say, I speak the truth on this point—we would not be at this point were it not for his great skill moving us through the morass. We would still be debating the first part of this legislation.

Hopefully, he is coming to the floor because he might have a breakthrough further on how we are going to enter into a time agreement on other parts of the bill.

I thank him and thank my colleagues, and I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

For the record, I assume that the thing that is holding up an agreement is not the actual crime bill but how to proceed relative to the Brady bill.

Mr. MITCHELL. That is correct.

Mr. BIDEN. I thank the leader.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I thank my friend and colleague for his comments.

Unfortunately, I am here to report that we do not have a breakthrough on how to complete action on this bill.

Therefore, I have decided, after consultation with Senator DOLE and other interested Senators that we should now begin the debate with respect to the North American Free-Trade Agreement and permit us to continue the discussions that are underway and that I think will be brought to a conclusion in a couple of hours. That will then permit us, I am confident, to vote final passage on the crime bill today and then to proceed to the Brady bill, one way or the other, either with agreement or without.

Mr. BIDEN. May I ask a question of the distinguished majority leader. Obviously I have no objection to that. I think it is a rational way to proceed.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the 2 hours between now and 3:07 p.m. today be for debate on the North American Free-Trade Agreement; that the statutory time limitation be reduced accordingly; and that the time during this 2 hours be controlled as follows:

Senator BAUCUS, or his designee, managing the bill and controlling the time for the Democratic proponents; Senator MOYNIHAN, or his designee, managing the bill and controlling the time for the Democratic opponents; Senator PACKWOOD, or his designee, managing the bill and controlling time for the Republican proponents, and a Republican Senator to be later designated by Senator DOLE managing the bill and controlling time for the Republican opponents.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

NORTH AMERICAN FREE-TRADE AGREEMENT IMPLEMENTATION ACT

Mr. MITCHELL. Mr. President, I yield the floor and Senator BAUCUS will be the manager of this bill and will control the time for the Democratic proponents for this bill or this agreement, I should say, and he is present and will begin the debate now.

As all of us know, the House last evening in a historic action approved the measure by a vote of 234 to 200. The Senate will in the near future complete the debate on the measure. That debate is limited in time pursuant to law.

I hope every Senator who wishes to do so will have the opportunity to express himself or herself on the subject.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Montana, [Mr. BAUCUS].

Mr. BAUCUS. Mr. President, the Senate is at this time considering the North American Free-Trade Agreement under the agreement just announced by the majority leader. We will now devote approximately 2 hours to debate on whether or not to ratify the North American Free-Trade Agreement.

I will make several remarks in favor of ratifying the agreement. Senator PACKWOOD is on the floor. He wishes to make some remarks.

I say to any Senator who wishes to speak on this subject this is a good time to come to the floor to take advantage of this period because we are not sure how many hours we are going to have and when we will have it.

Mr. President, this debate on whether or not to ratify the North American Free-Trade Agreement forces us as Members of the Senate, forces us as Members of the Congress, forces us as American people, to ask basic questions about ourselves, about our economic future, who we are as a people, who we are as a country, and forces us to dig down deep and ask those searching questions because whether we accept or whether we reject this agreement very much determines the answers to those questions.

For example, must we hang on to the past and preserve the status quo? The opponents of NAFTA ask us to do that; to hang on to the past, to preserve the status quo. Or, can we open new frontiers and find new opportunities? Those of us who advocate ratification of the North American Free-Trade Agreement very much believe that a vote in favor of the agreement is a vote to open new frontiers, find new opportunities for America.

Mr. President, these are very basic questions. They are questions that are fundamental to this agreement.

Last night the House of Representatives took the courageous first step. Last night the House of Representatives, by a vote of 234 to 200—a quite significant margin—voted for the future. The House voted to accept the challenge that global competition is forcing us to take up and meet. The House of Representatives decided to take that risk, to take that gamble; a risk, I might add, Mr. President, which actually is not that great.

The Mexican economy is only 4 percent the size of the American economy. The size of the Mexican economy is about the same size of the economy of the State of Ohio, just one State in the United States of America.

Nevertheless, I strongly believe that the vote by the House of Representatives last night was a vote for the future. The House decided to take that risk to believe in America and to force our country to move forward and meet international competition and international challenges as we take our first step with Mexico.

Let us look at some of the details with NAFTA. There has been a lot of talk about the North American Free-Trade Agreement, a lot of claims, some of them, I think, are quite accurate; some of them, I think, are a bit exaggerated.

What does NAFTA mean for our economy? Let me first take the manufacturing section. The U.S. International Trade Commission has concluded that the NAFTA will raise the U.S. exports by 16 percent or more in automobiles, auto parts, electronics, ceramics, computers, computer parts. Exports will increase under the NAFTA, according to the International Trade Commission, by 6 percent to 15 percent in bearings, machine tools, pharmaceuticals, chemicals, industrial machinery, and major household appliances.

What about employment? ITC again concludes that employment will rise—that is rise, not fall, rise—by up to 5 percent in steel, textiles, bearings, pharmaceuticals, machine tools, and chemicals. We will pick up 8,000 jobs, in addition, by partially opening PEMEX.

Now what is PEMEX? PEMEX is the monopoly, the oil and gas monopoly, State-controlled monopoly in Mexico, which controls oil and gas exploration, development, and production. Mexico has agreed to open up PEMEX to American investors—not entirely, but partially—so we can sell products to Mexico in that field.

We will pick up 8,000 jobs by partially opening up PEMEX. American technology firms will also find a huge new market in Mexico.

What about agriculture? NAFTA means big gains for the U.S. exports of wheat, feed grain, corn, beef, and other commodities. Why? Because Mexico's agricultural tariffs today average 16 percent. Let me repeat that, Mexico's agricultural tariffs today average about 16 percent. They go as high as 25 percent on frozen beef. That is, if we are trying to ship frozen beef to Mexico, Mexican tariffs today are 25 percent. NAFTA will bring all of these tariffs down to zero; all the way down to zero. And that means $2 billion to $2.5 billion more in agricultural exports every year.

What about the service industries like banks and insurance? NAFTA is the best opportunity in years for those industries.

Today, for example, only 20 percent of Mexican automobile drivers and 8 percent of Mexican homeowners have insurance. Very few Mexicans have insurance. American insurance companies will have the same access to Mexico that Mexican firms have today in the United States. As we are open, they are closed. This agreement now allows American companies to sell insurance, automobile insurance, homeowner insurance, for example, to Mexico.

Intellectual property. NAFTA is the best trade agreement ever concluded with respect to intellectual property. It brings Mexico up to the highest international standards, higher than the proposed so-called Dunkel text in the Uruguay round. Some people tout the Uruguay round and say we have to work to find a successful conclusion to the Uruguay round. And that is true, we must, although in so doing we have to be sure we get a good agreement. Because I firmly believe that no agreement is better than a bad agreement. We have to get a good agreement.

The intellectual property provisions in the Uruguay round are not as good as the intellectual property provisions in the NAFTA. In NAFTA, the intellectual property provisions defends the works and inventions of our writers, software authors, inventors, pharmaceutical firms, recording artists, protecting them from piracy. That means they will export more and create more jobs in America. Very important.

Now let us step back a bit and look at the whole picture. What does NAFTA mean for the United States of America?

Well, first it means more jobs. NAFTA means more jobs for Americans. The ITC finds that NAFTA will create a net of at least 95,000 new American jobs, on top of 700,000 American jobs that already depend on exports to Mexico and Canada. All will be threatened if we reject NAFTA. Nineteen of 20 studies say that NAFTA means more jobs. Nineteen of the 20 major studies on this subject say that NAFTA means more jobs; not less, more jobs.

Mr. President, I ask unanimous consent to have printed in the RECORD the Council of Economic Advisers' review of these studies.

There being no objection, the review was ordered to be printed in the RECORD, as follows:

[Council of Economic Advisers, Executive Office of the President, Oct. 20, 1993]

STUDIES OF THE ECONOMIC IMPACT OF NAFTA

SUMMARY

The NAFTA may be the most thoroughly studied trade agreement in history. A review of the major studies of NAFTA's economic impact indicate a broad consensus on key points in the NAFTA debate: (1) All three NAFTA countries gain from the agreement. (2) In the U.S., labor will gain through increased employment, increased wages, or both. (3) Increased investment in Mexico will not be at the expense of investment in the U.S. The few studies reaching contrary conclusions have been strongly criticized by academic and other professional economists.

In his speech signing the side agreements to NAFTA, the President stated that nineteen out of twenty serious studies showed that NAFTA was good for the U.S. economy in general and labor in particular. A list of the major studies of the economic impact of NAFTA is attached. Of the twenty comprehensive studies listed, nineteen find that NAFTA is good for U.S. labor, leading to either increased employment, increased wages, or both.

Both past experience with trade liberalization and economic theory indicate that increased international trade benefits all participants. Given the lessons from history, it is hardly surprising that virtually all the studies that analyze the potential gains from trade liberalization find that NAFTA would benefit all three countries.

In a recent letter to the President, 286 academic economists, including thirteen Nobel prize winners, expressed their support for NAFTA, stating: "While we may not agree on the precise employment impact of NAFTA, we do concur that the agreement will be a net positive for the United States, both in terms of employment creation and overall economic growth." The support for NAFTA among academic economists and serious researchers is simply overwhelming.

With the exception of a few studies, discussed below, the overwhelming conclusion from the large body of work assessing the economic effects of NAFTA is that NAFTA is good for all three countries.

All in all, an impressive array of academic, government, and business analyses of the economic impact of NAFTA have been done. NAFTA is probably the most thoroughly studied trade agreement in history. These studies have been extensively surveyed by impartial researchers at, for example, the International Trade Commission (ITC), the Congressional Budget Office (CBO), the General Accounting Office (GAO), and the Brookings Institution.

The ITC concludes: "Despite the different approaches taken in these studies, there is a surprising degree of unanimity in their results regarding the aggregate effects of a NAFTA. All three countries are expected to gain from a NAFTA. The greatest impact will be on the Mexican economy, with less impact on the Canadian and U.S. economies."

The CBO report concludes: "A thorough review of the myriad changes brought about by NAFTA, and of their interactions, leads to the single resounding conclusion that the net effect on the U.S. economy would be positive and very small. . . . Contrary to some commonly expressed concerns, the reallocation of resources would not be massive. Americans should not fear that NAFTA would cause a wholesale relocation of U.S. manufacturing plants and jobs to Mexico to take advantage of the lower average wage."

The Brookings Institution survey concludes: "A consensus emerged . . . that the direct economic effects of NAFTA will be small for both Mexico and the United States. . . . [M]any of the changes in commercial relations that are often associated with NAFTA in public discussions have already occurred, and others will be spread over future years. . . . The general consensus of the studies . . . is that NAFTA will raise the average wage of U.S. workers and that the effect on low-wage workers will be negligible."

The GAO review concludes: "With the exception of a few U.S. policy analysis groups, the economic researchers in general agree that NAFTA would bring a small overall economic benefit to the U.S. and Canadian economies, and a larger benefit to the Mexican economy."

The one comprehensive study that found negative results is a paper by the Economic Policy Institute (EPI), written by Jeff Faux and William Spriggs (item 17 on the attached list), which drew on a model developed by Raul Hinojosa and Robert McCleery. This study found that 550,000 jobs were "lost" due to NAFTA, a number which has been widely cited by EPI in various press releases. However, the number largely consists of jobs "lost" due to return migration of workers from the U.S. to Mexico. In the scenarios generating this result, growth in Mexico raises Mexican wages, yielding return migration and higher wages in the U.S. These are not jobs "lost" by American workers, but rather U.S. jobs foregone by Mexican workers for whom NAFTA will provide increased income at home.

Hinojosa and McCleery wrote a letter to Faux, the President of EPI, complaining about what they considered to be a gross misuse of their model. The ensuing debate is described in a recent article by Robert Wright in *The New Republic* (November 1, 1993, p. 42). Wright is very critical of the EPI work, using terms like "anti-NAFTA misinformation."

The studies listed under the heading "Studies with selective consideration of certain issues" are the ones often cited as indicating that NAFTA is bad for the U.S. There are two by the Economic Strategy Institute (ESI), whose President, Clyde Prestowitz, initially argued that NAFTA would be bad for the U.S. Since then, Prestowitz has changed his mind. In an article titled "Time for NAFTA" (Economic Strategy Institute, *News and Notes*, Vol. 1, No. 4, summer/fall 1993), he concludes: "Even with its imperfections, NAFTA will leave America better off than before." He notes: "The barriers that are being removed are mostly on the Mexican side. Ironically their removal may actually reduce incentives for U.S. firms to move south."

Critics of NAFTA, including EPI, often cite a study by Edward Leamer, a Professor at UCLA, as indicating that NAFTA will lower wages for nonprofessional workers in the U.S. by up to $1,000 a year. Those who have reviewed the Leamer paper note that it does not refer to NAFTA, but extrapolates from trends in the 1970s and 1980s. Robert Wright (*The New Republic*, Oct. 11, 1993, pp. 23–25) interviewed Leamer, who said that the use of his study by EPI was "extremely misleading." Leamer, in fact, supports NAFTA.

The study of NAFTA by Koechlin, Epstein, Bowles, and Larudee argues that NAFTA will lead to the loss of 290 to 490 thousand jobs in the U.S. The chain of argument in this article, however, is deeply flawed. They assume that: (1) NAFTA will generate increased foreign investment in Mexico; (2) much of this increased investment will come from the U.S.; and (3) increased U.S. investment in Mexico will reduce aggregate investment in the U.S. dollar for dollar, and lead to job losses as capital moves to Mexico. While the first two steps in this chain are reasonable, the final step is nonsense.

The Congressional Budget Office (CBO), in chapter 2 of their study of NAFTA (*A Budgetary and Economic Analysis of the North American Free Trade Agreement*), examined the question of investment diversion carefully, using a multicountry macro model. In a section entitled "Increased Investment in Mexico Is Not At the Expense of Investment in the United States" they conclude (p. 26):

"A popular view holds that individual plant migrations would combine in a 'great sucking sound' as large amounts of net investment and jobs flow out of the United States into Mexico. This view rests on a misconception. Particular events in which capital appears to move to Mexico would be offset by others in which new capital, some from outside North America, flows to new investment projects in the United States."

In a review of the Koechlin *et al.* model in a book edited by N. Lustig, B. Bosworth, and R.Z. Lawrence (*North American Free Trade: Assessing the Impact*), Hinojosa and Robinson (pp. 85–86) conclude:

"There is no theoretical or empirical reason to think that these investment changes will have any effect at all on aggregate investment [in the United States]. In fact, EC experience after Spanish and Irish accession suggests that NAFTA should increase direct foreign investment (DFI) into the United States."

NAFTA IMPACT STUDIES

NAFTA IMPACT STUDIES THAT PROVIDE RESULTS FOR THE U.S. ECONOMY

Comprehensive studies

Macroeconomic Models

1. INFORUM-CIMAT (Clopper Almon, Univ of Maryland).

2. DRI/McGraw-Hill.

Static Computable General Equilibrium (CGE) Models

3. Boyd, Krutilla, and McKinnery (Ohio Univ & Baylor).

4. U.S. International Trade Commission (USITC)—February 1991.

5. U.S. International trade Commission (USITC)—January 1993.

6. KPMG Peat Marwick (Bachrach & Mizrahi).

7. Hinojosa and Robinson (UC Berkeley).

8. Robinson, Burfisher, Hinojosa, and Thierfelder (UC Berkeley, USDA, UCLA, US Naval Academy).

9. Burfisher, Robinson, and Thierfelder (USDA, UC Berkeley, US Naval Academy).

10. Hinojosa, Robinson, and Wolff (UCLA and UC Berkeley).

11. Trela and Whalley (Univ of Western Ontario).

12. Brown, Deardorff, and Stern (Univ of Mich)—June 1991.

13. Brown, Deardorff, and Stern (Univ of Mich & Tufts)—Oct. 1992.

14. Roland-Holst, Reinert, and Shiells (Mills College & USITC).

15. Hunger, Markusen, and Rutherford (San Diego St, Colorado, Western Ontario).

Dynamic Computable General Equilibrium (CGE) Models

16. Hinojosa and McCleery (UCLA and East-West Center).

17. Economic Policy Institute (EPI). (NOTE:—This is the only comprehensive study finding a net job loss from NAFTA.)

18. McCleery (East-West Center).

Analogy to Other Liberalizations

19. Institute for International Economics—IIE (Hufbauer & Schott)—February 1992.

20. Institute for International Economics—IIE (Hufbauer & Schott)—February 1993.

Studies with selective consideration of certain issues

1. Economic Strategy Institute—ESI (Prestowiz et al.) (1991).

2. Economic Strategy Institute—ESI (Chimerine & Cohen) (1992).

3. Koechlin, Epstein, Bowles, and Larudee (Skidmore & Univ Mass).

4. Leamer (UCLA and NBER).

5. Choate (Ross Perot).

NAFTA IMPACT STUDIES THAT PROVIDE RESULTS ONLY FOR MEXICO

1. Adams, Alanis, and del Rio (Univ of Pennsylvania).

2. Kehoe (Univ of Minnesota).

3. Levy and van Wijnbergen (Boston Univ and World Bank).

4. Sobarzo (Colegio de Mexico).

5. Young and Romero (Univ of Texas and Colegio de Mexico).

NAFTA IMPACT STUDIES THAT PROVIDE RESULTS ONLY FOR CANADA

1. Cox and Harris (Univ of Waterloo and Simon Fraser Univ).

REVIEWS OF NAFTA IMPACT STUDIES

1. Brookings Institution—Lustig, Bosworth, and Lawrence.

2. Congressional Research Service (CRS)—Bolle.

3/4. Congressional Budget Office (CBO)—Arnold and staff study.

5. U.S. Department of Labor—Schoepfle & Perez-Lopez.

6. U.S. General Accounting Office—staff study.

7. U.S. International Trade Commission (USITC)—staff study.

NAFTA IMPACT STUDIES

NAFTA IMPACT STUDIES THAT PROVIDE RESULTS FOR THE U.S. ECONOMY

Comprehensive studies

Macroeconometric Forecasting Models

1. INFORUM-CIMAT (Clopper Almon, University of Maryland). Interindustry Economic Research Fund, Inc., "Industrial Effects of a Free Trade Agreement Between Mexico and the USA." Prepared under contract to the U.S. Department of Labor, Clopper Almon, University of Maryland, principal investigator, September 1990.

2. DRI/McGraw Hill. DRI/McGraw Hill, "The Impact of the North American Free Trade Agreement on U.S. Regional and Sectoral Labor Markets," Lexington, MA, August 1992, Appendix B in National Commission for Employment Policy, The Employment Effects of the North America Free Trade Agreement Recommendations and Background Studies, Special report No. 33 (Washington, DC: National Commission for Employment Policy, October 1992).

Static Computable General Equilibrium (CGE) Models

3. Boyd, Drutilla, and McKinnery (Ohio University and Baylor University). Boyd, Roy G., Kerry Drutilla, and Joseph A. McKinney, "The Impact of Tariff Liberalization between the United States and Mexico: An Empirical Analysis," Applied Economics 25 (1993), 81–89.

4. U.S. International Trade Commission (USITC)—February 1991. U.S. International Trade Commission, The Likely Effects on the United States of a Free Trade Agreement with Mexico, USITC Publication 2353 (Washington, DC February 1991).

5. U.S. International Trade Commission (USITC)—January 1993. U.S. International Trade Commission, Potential Impact on the U.S. Economy and Selected Industries of the North American Free-Trade Agreement, USITC Publication 2596 (Washington, DC, January 1993).

6. KPMG Peat Marwick (Bachrach and Mizrahi). KPMG Peat Marwick, Policy Economics Group, "The Effects of a Free Trade Agreement between the United States and Mexico," prepared under contract to the U.S. Council of the Mexico-U.S. Business Committee (Washington, DC, May 1, 1991); see also, Bachrach, Carlos, and Loris Mizrahi, "The Economic Impact of a Free Trade Agreement Between the United States and Mexico: A CGE Analysis," Pp. 39–79 in U.S. International Trade Commission, Economy-Wide Modeling of the Economic Implications of a FTA with Mexico and a NAFTA with Canada and Mexico, USITC Publication 2508 (Washington, DC: U.S. International Commission, May 1992).

7. Hinojosa and Robinson (University of California at Berkeley). Hinojosa-Ojeda, Raul, and Sherman Robinson, "Alternative Scenarios of U.S.-Mexico Integration: A Computable General Equilibrium Approach." Working paper No. 609, Department of Agriculture and Resource Economics, University of California at Berkeley, April 1991.

8. Robinson, Burfisher, Hinojosa, and Thierfelder (Univ of Calif at Berkeley and U.S. Department of Agriculture). Robinson, Sherman, Mary E. Burfisher, Raul Hinojosa-Ojeda, and Karen E. Theirfelder, "Agricultural Policies and Migration in a U.S.-Mexico Free Trade Area: A Computable General Equilibrium Analysis." Working paper No. 617, Department of Agricultural and Resource Economics, University of California at Berkeley, December 1991; also reprinted Pp. 457–507 in U.S. International Trade Commission, Economy-Wide Modeling of the Economic Implications of a FTA with Mexico and a NAFTA with Canada and Mexico, USITC Publication 2508 (Washington, DC: U.S. International Trade Commission, May 1992).

9. Burfisher, Robinson, and Thierfelder (US Dept. of Agric, UC Berkeley, US Naval Academy) Burfisher, Mary, Sherman Robinson, and Karen Thierfelder, "Agricultural and Food Policies in a U.S.-Mexico Free Trade Area," The North American Journal of Economics and Finance 3:2 (Fall 1992), 117–139.

10. Hinojosa, Robinson, and Wolff (University of California at Los Angeles and UC Berkeley). Hinojosa-Ojeda, Raul, Sherman Robinson, and Goetz Wolff, "The Impact of a North American Free Trade Agreement on California: A Summary of Key Research Findings." Working Paper No. 3, Lewis Center for Regional Policy Studies, Graduate School of Architecture and Urban Planning, University of California at Los Angeles, September 1992.

11. Trela and Whalley (University of Western Ontario). Trela, Irene, and John Whalley, "Bilateral Trade Liberalization in Quota Restricted Items: U.S. and Mexico in Textiles and Steel," paper presented at a conference titled "North American Free Trade: Economic and Political Implications," Center for Strategic and International Studies, Washington, DC, June 1991; see also, Trela, Irene, and John Whalley, "Trade Liberalization in Quota Restricted Items: U.S. and Mexico in Textiles and Steel," World Economy 15:1 (January 1992), 45–63.

12. Brown, Deardorff, and Stern (University of Michigan and Tufts University)—June 1991. Brown, Drusilla K. Alan V. Deardorff, and Robert M. Stern, "A North American Free Trade Agreement: Analytical Issues and a Computalization assessment," Institute of Public Policy Studies, mimeo, University of Michigan, June 24, 1991; and revised version, October 18, 1991; subsequently published in World Economy 15-1 (January 1992), 11–29.

13. Brown, Deardorff, and Stern (University of Michigan and Tufts University)—October 1992. Stern, Robert M. Alan V. Deardorff and Drusilla K. Brown, "A U.S. Mexico-Canada Free Trade Agreement: Sectoral Employment Effects and Regional/Occupational Employment Realignments in the United States," University of Michigan, Institute of Public Policy Studies, September 2, 1992, Appendix A in National Commission for Employment Policy, October 1992).

14. Roland—Holst, Reinert, and Shiella (Mills College and USITC). Roland-Holt, David, Kenneth A. Reinert, and Clinton R. Shiells, "North American Trade Liberalization and the Role of Nontariff Barriers." Pp. 523–580 in U.S. International Trade Commission, Economy-Wide Modeling of the Economic Implications of a FTA with Mexico and a NAFTA with Canada and Mexico, USITC Publication 2508 (Washington, DC: U.S. International Trade Commission, May 1992).

15. Hunter, Markusen, and Rutherford (San Diego State, Colorado, and Western Ontario). Hunter, Linda, James R. Markusen and Thomas F. Rutherford, "U.S.-Mexico Free

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Mr. BAUCUS. Mr. President, we have heard a little bit from some opponents of NAFTA who say that NAFTA cuts lots of deals. There is an agreement on this subject, another agreement on that subject, lots of side deals, but not one deal for workers. That is wrong.

There is one deal for workers, and let me tell you what it is. It is the whole NAFTA. NAFTA is the best deal for workers. So to all of those who say, "Oh, there is a side deal for sugar, there is a side deal for corn growers, a side deal for appliance manufacturers, but there is no deal for workers," I say—because this is the central heart of NAFTA—that NAFTA is the deal for workers. It creates more jobs for an American employee, provides more income security in the short term and the long term for American workers. The entire NAFTA is devoted to creating jobs for working people. NAFTA is a jobs agreement.

Second, NAFTA means more exports. NAFTA strengthens the trends that raised our exports to Mexico from $12.4 billion in 1987 to $40.6 billion last year, and converted a $5.7 billion trade deficit with Mexico to a $5.4 billion trade surplus this year.

That is a lot of numbers. What does is mean?

Very simply, since President Salinas and his very, very talented team have taken control of the reins of the Mexican economy, they have begun to sell off a lot of lazy, bloated State controlled industries. They have lowered their tariffs so that countries can compete. In that period of time, Mexico as a consequence, from the American perspective, has converted from a $5 billion trade deficit we had in about 1987 now to about a $5 billion trade surplus.

The Mexican economy is growing. It is thriving. I will not say it is thriving as much as some other economies, but it is definitely pointing upward very, very steeply. It is growing. That is the reason Mexican people are buying more products. They have more income. That is why, although we formerly had a $5 billion trade deficit we now have a $5 billion trade surplus with Mexico. Eighty percent of our growth in trade with Mexico has come from outside the maquiladora program. Why do I mention that? Because some say, "Sure, the United States exports to Mexico have increased; but," you will hear opponents say, "they have done a U-turn. It comes back to the United States. The Mexican people are not buying those exports; the exports go to the maquiladora program along the border, are put into products, and those products come back into the United States."

I say up to 85 percent of our trade growth in Mexico—I said 85 percent—up to 85 percent of our growth in trade with Mexico has come outside the maquiladora program. Most of our products go to Mexico and they stay in Mexico.

What about competitiveness? NAFTA helps American competitiveness. NAFTA enlarges our whole market by 88 million Mexican citizens. That means 88 million more people that American companies can sell to. Why? Because Mexico agrees to lower its trade barriers, lower its tariffs. Their tariffs are much, much higher than our American tariffs on Mexican products. We all come down virtually to zero. Those tariffs come down, we enlarge our markets, and we can sell American products to 88 million more people more easily. As they grow, they will create a boom in consumer goods that will last for decades, and NAFTA will give us a permanent advantage over Japan, the European Community, and east Asia in this market, this market we are creating with NAFTA.

Finally, NAFTA encourages growth. NAFTA raises our American gross domestic product permanently by one-half percent. That is $25 billion a year, every year, increase in American gross domestic product as a consequence of NAFTA. Since a bigger economy means more revenue, it cuts the Federal budget deficit at the same time. It is a win/win. No serious economist disputes that. Free trade means more economic activity, and that means more revenue for Uncle Sam. More trade, more economic opportunity, more sales, more profits, more revenue. Every major trade agreement has brought in revenue. And so will NAFTA.

Some opponents claim NAFTA is going to be costly. What is the wildest exaggeration of NAFTA's costs? Totaling every NAFTA-related expense and tariff loss plus billions we have to spend on border cleanup and adding a few more billion just for the fun of it, NAFTA opponents say it could cost $30 billion. The $25 billion a year in new growth matches that in a year and 3 months and just keeps on going every succeeding year and 3 months. Our investment starts paying very quickly and paying very, very handsomely.

NAFTA also better protects our environment. Today we have a disaster on the border, an environmental disaster on the Rio Grande. The General Accounting Office finds that 8 out of 10 maquiladora plants operating along the border operate in blatant violation of Mexican environmental law. These maquiladora plants are across the border, south of the Rio Grande. Last June I visited Juarez. I saw a lot of these plants. I smelled the stench, saw the pollution. It is obvious. You cannot get away from it.

It is true, the maquiladora program has created pollution of tragic proportions. Today, 55 million gallons of industrial waste and 24 million gallons of raw sewage pour out of Juarez into the Rio Grande. Today 55 million gallons of sewage will gush into the Tijuana River; yesterday the same amount; and tomorrow; every day 55 million gallons of sewage gushes into the Rio Grande. We cannot do a thing about that if NAFTA fails—nothing. If NAFTA fails, we do not do anything about that.

But if NAFTA passes, under the environmental side agreement we can demand that Mexico begin to enforce its environmental laws, and we Americans can impose trade sanctions if they do not.

Of course, NAFTA sets a precedent for including environmental issues in the GATT and all other future trade agreements. That is very important. The precedential value of the environmental side agreement goes a long way. It explained why I think and many think that NAFTA should be adopted.

The National Audubon Society explains it perfectly.

> NAFTA is a new kind of trade agreement—one which considers the environmental consequence of free trade, and one which attempts to change an unacceptable environmental status quo. * * * The interests of wildlife and the environment are better served with NAFTA and the side agreement than without them.

If some say, as some do, that this is still not enough, I say you are trying to achieve perfection, and you will make the perfect the bitter enemy of the good. Maybe you think the dispute resolution will take too long. Some folks in the environmental committee say just that: the dispute resolution settlement procedure takes too long, it does not sufficiently protect the environment. But I say what is the alternative? If we reject NAFTA, we have the status quo, and we will get enforcement right about the time the icicles are glittering on the roof of Hell. We will have to wait that long.

With NAFTA, Mexico will work with us to clean up the border. Without NAFTA we have to clean it up anyway. Mexico has no reason to help, and the maquiladora program, which NAFTA eliminates, will keep on pumping out garbage.

NAFTA is also a big step for helping labor standards in Mexico. The labor standards, the labor practices and abuses in Mexico are real. I have seen them. I have talked to Mexican child workers. You cannot help but be very empathetic with the labor abuses in Mexico when you are visiting plant workers, as I have and as many have. I was in one small home, 12, 15 people living there, just several small rooms. It is a cardboard paper construction; dirt floor. Out of the 12 people living there, only 3 were working, 3 girls. And you could tell the conditions they were working under were absolutely tragic, beyond description. I have seen it. I have talked to these people, and many, many have. The abuses are there right now and they are real.

But without NAFTA we can do nothing about them. The labor side agreement tackles, I must say, the worst abuses—that is child labor, evasion of minimum wage, unsafe worksites. If NAFTA passes, Mexico has pledged to tie its minimum wage to increases in productivity. All of these matters affecting working men and women will be improved with the passage of NAFTA because we will set a precedent for doing so, and there are actual provisions in the agreement to help make that happen.

There are some who say it is not enough, we have not included everything that we should have. We have not included the enforcement provisions to force Mexico to provide for collective bargaining. It is true that this could be better. It is true the labor side agreement could be better. It is true the environmental side agreement could be better. It is true other provisions of the agreement could be better. But the labor side agreement, the environmental side agreement, and the whole

NAFTA agreement are a dramatic, significant improvement over what we have today. Frankly, that is how things work. We never achieve perfection immediately. I do not think we ever achieve perfection. But trade agreements are—like most actions all of us take all the time—incremental, a step at a time. We reach progress, we become more successful, we advance the ball a step at a time. And NAFTA is a very major step forward, in helping working conditions in Mexico, in helping to protect the environment and provide for more jobs for Americans. It is a very significant step along the way. Altogether, NAFTA enlarges our home market from about 270 to 360 million consumers. It promotes U.S. exports in high tech, manufacturing, services, and agriculture. With side agreements, it makes Mexico meet high standards in environmental protection and labor rights.

NAFTA also does something else for us. It gives us some control over movements of capital. How does it do so? By allowing us as Americans to do in Mexico what Japan has done for itself in Thailand. There, Japanese companies have invested and assembled components shipped from Japan into products for export to the world. Japan thereby runs a trade surplus with Thailand while both their production and exports increase. Under NAFTA, United States firms should be able to do the same with Mexico; that is, run a surplus with Mexico while both production and exports increase.

In addition, Mr. President, it is important to note the European actions with respect to countries they brought into the community. The European Community brought Spain, Portugal, and Greece into the community when their wages were a third of Germany's. Since then, wages in both Germany and southern Europe have gone up. The same will happen here when we lower Mexican trade barriers and we can export more to Mexico.

It is very important to remember, in mathematician's terms, statistical terms, this is not a zero sum gain. That is, adding jobs in America does not mean fewer jobs in Mexico; adding more jobs in Mexico does not mean fewer jobs in the United States. Trade does not work that way.

Trade is a phenomenon where both countries find increased jobs and incomes rise with greater economic activity. That is important to know, and if it is a good agreement, that is what it will accomplish. In fact, all agreements are only agreed to in most cases and are good agreements if both sides gain. Mexico gains; the United States gains.

The United States gains more jobs, more income, better environmental protection. What does Mexico gain? Mexico gains increased wages, better living standards in Mexico and a better opportunity for investment. Both gain.

I say, Mr. President, since both gain, the agreement should be ratified.

I also say that if we reject this agreement, we will be sending a powerful signal to America, to the hemisphere and to the world that we Americans are beginning to retrench, we are beginning to be isolationists, we are beginning to be protectionist, we are beginning to abdicate our responsibility as a world leader.

I do not think that is a signal we want to send. I do not think that is something we want to do. I think, rather, the American people want to take the challenge of global trade; they want to accept the challenge that is presented to us because we Americans can compete with anybody in the world and we can compete very well and we can win the competition if we have the attitude—the positive can-do attitude—that we can go out there and get the job done.

That is why, Mr. President, I say we have no alternative but to follow the lead of the House of Representatives and vote to ratify the North American Free-Trade Agreement because that will be a ratification of our responsibility and a ratification of our belief in ourselves that we can meet the future and we can win.

I reserve the remainder of my time.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Oregon [Mr. PACKWOOD].

Mr. PACKWOOD. I thank the Chair. Mr. President, I yield myself such time as I may require.

There is a certain sense, I think, that the debate in the Senate is a bit anticlimactic to the debate yesterday in the House. I think the result is preordained in the Senate. I will be surprised if we have less than 60 to 65 votes to pass.

Anyone who watched the House yesterday saw the House of Representatives at its best. I thought that the debate on both sides was as elegant a debate as I have ever seen in any democracy, and the House can be proud of the way it conducted itself.

Today, I guess, is cleanup because, as I say, we know it is going to pass the Senate and it should pass. So let me just amplify a few points, realizing that they may be anticlimactic.

Let us take a look at Mexico first. We may have in this country a wrong idea of Mexico. We think of Mexico as a Pancho Villa-Emiliano Zapata country of ragged peasants revolting against a bureaucratic dictatorship and poverty throughout the country.

That is not Mexico today. This is not to say that Mexico is a rich country; it is not. But it is not Bangladesh; it is not Haiti. It is not poverty-ridden. It is perfectly able to take care of itself. It has extraordinary natural resources, and since they started in the mid-1980's to privatize and open the economy, both their economy and their wages have grown exceptionally.

They have become our third largest trading partner, and here I do not mean, Mr. President, per capita, I mean our third largest trading partner. That is a significant fact.

Do you know, Mr. President, that Mexico per person spends more money on American products every year than any country in Europe or Japan? And we think of Europe as rich, we think of Japan as rich, we think of Mexico as poor. Yet they buy per person more American products than any country in Europe or Japan.

A poverty-ridden country cannot do that. So let us dismiss this idea that they cannot buy our products. Our exports are up 240 percent to Mexico in the last 7 years. We have about 400,000 jobs in this country dependent on exports to Mexico, and we project another 200,000 will be created between now and 1995. When this agreement is in full effect, you will have an economy that today is about $6.5 trillion—counting Canada, the United States, Mexico—about 370 million people in a North American-wide free trade agreement.

I know one criticism: In some cases, it is not fast enough. The other case is, it is too fast. It depends upon the industry. Those who want access to the Mexican market and find that they are limited now by tariffs or nontariff barriers, would like to snap their fingers and eliminate tariffs and nontariff barriers today.

Those who have some misgivings about Mexican imports are saying we should phase this in over a longer period of time. I understand the President's dilemma and the U.S. Trade Representative Mickey Kantor's dilemma in trying to negotiate this agreement. It is not perfection. No one got everything they wanted.

There is basically a 0- to 15-year phaseout of barriers. Some of them occur immediately. Some of them occur over 5 years, some of them 10, the longest 15. But we can say this: 65 percent of all the tariff barriers to our industrial and agricultural products will be gone in 5 years. That is an immense step forward, and for the foreseeable future we are going to sell infinitely more to Mexico than we buy from Mexico.

Now the question arises: Are we going to lose some jobs to Mexico? And the answer is yes. These are jobs that we are already losing to Singapore or India or Pakistan, Sri Lanka or Bangladesh. They are basically not high-wage jobs. They are low-wage jobs that require a great deal of hand labor.

One of those industries is apparel, and I want to distinguish, however, apparel from textiles. Textiles, of course, is the making of the cloth. Apparel is the making of the garment.

A good example to consider in this situation is Japan. Twenty-five years ago, Japan was one of the top 10 producers of both textile and apparel exports to the world, both the cloth and the garment. Today, Japan is not in the top 25 of apparel exporters. I would defy you to go to any store and find a suit, a shirt, a pair of shoes that say "Made in Japan." They may be made in Korea. They may be made in the Philippines. They are not made in Japan.

The reason they are not is Japan realized that in the area of apparel low wages were an advantage, although I wish to emphasize this has never been a high-wage industry. Even in the unionized apparel industry in the United States it is not a high-wage industry. It is not a steelworker's wage, an auto worker's wage, a machinist's or a teamster's wage. It is a low-wage job.

Japan is still a top 10 producer in the export of textiles, however, because that is a capital-intensive, very modern industry. Indeed, the bulk of the textile industry in this country supports this agreement because they know full well that they can compete in Mexico with textiles made in the United States.

We are going to have to realize something. The era of the manufacturing economy as the predominant part of the economy is over. By this I do not mean to say that manufacturing is going to shrink. What I mean is, as a percent of the whole, other industries are coming along that were not here 10, 20, 30, 40 years ago. This country is still a manufacturing giant, because we have become increasingly more productive over the years. I do not know why we should not be proud of that.

I talk about agriculture. We boast of our agricultural productivity. While I do not remember the exact figures, 100 years ago something like one-half to two-thirds of the people in this country worked on the farm and barely produced enough to feed themselves. Now, barely 2 people in 100 work on the farm, and they feed us and the world because agriculture is so productive.

There are very few industries in this country, manufacturing, service, or otherwise, that are as productive as agriculture. A husband and wife and a couple kids can run a 2,000- or 3,000- or 4,000-acre wheat ranch with a tremendous capital investment in combines and tractors and equipment and can outproduce anybody in the world, no matter what the agricultural wages may be.

It is in the industries where we will be most productive that we will continue to be competitive. Some of those industries have never been included before in trade agreements. Always in the past, we thought of trade, by and large, in terms of goods—cars, machines, boats, things. That was understandable 30 years ago, 40 years ago, when the bulk of trade between countries was in goods like autos, machines, caterpillar tractors.

But we live now in a new era where trade involves infinitely more than goods. It involves what we call services—banks, insurance companies, communications, accounting, trucking. All of these were never considered in past agreements. All of these are now included in the North American Free-Trade Agreement. Every one of these industries is absolutely straining at the bit to get this agreement in place and get access to the Mexican market.

These are the industries, Mr. President, where we lead the world. There is no equivalent worldwide of American Express and its dominance, or Visa or Master Card. Those are American industries—service industries, granted, but American industries—that are tremendous dollar earners.

There is no industry worldwide that is the equal of Hollywood. Oh, sure, they make movies in Japan; they make movies in France. But do you know what industry dominates the world? The American entertainment industry does. In this agreement, there are vastly improved intellectual property rights for that industry. I wish we could get the same kind of protections in the so-called Uruguay round of the GATT, the General Agreement on Tariffs and Trade, that we have gotten in the NAFTA.

In the extremely well-paying, highly scientific industry of the manufacture of medical equipment, there is nobody that holds a candle to what American manufacturers of medical equipment do. We have a tremendous trade surplus in that business, which pays very high wages.

These are the kinds of things we can do, Mr. President. These are the kinds of things we ought to be concentrating on.

Now, let us look a moment at this argument about wages. You know the argument: 50-cents-an-hour labor in Mexico. First, it is not 50 cents an hour. But it is significantly lower than ours. The thing we have to realize is that in most industries wages are somewhere between 5 and 15 percent of total costs.

You go to any of your electronics industries and ask them what their floor labor costs are. By floor labor, they mean the manufacturing labor, the hands-on labor, not their research and development. They are not going to move their R&D or their management. Their floor labor costs. What are they? It does not matter whether we are talking about Hewlett-Packard, Techtronics, Intel: 6 percent, 7 percent, 8 percent, 9 percent of costs.

It is not worth moving your plant to a low-wage country for those differences in labor costs when labor is a small portion of your total costs.

I can give you a couple examples from Oregon. Freightliner Corp. in Portland has within the last year or so, become the largest manufacturer in the United States of big trucks on the roads. They have overtaken Navstar, the former International Harvester Co., as the biggest manufacturer. They have a large plant in Portland, organized by the Machinists Union, which assures that these jobs are high wage.

Freightliner at the moment is sending about 50 million dollars' worth a year of kits to Mexico to be assembled in Mexico for distribution there because current Mexican trade barriers.

When this agreement is in effect, they will not be shipping the kits to Mexico anymore. They will be manufacturing the trucks in the United States, which I hope will be in Portland, although they do have a plant in the Carolinas. They will be manufacturing the trucks in the United States, adding jobs, adding value, and sending the finished trucks down to Mexico for sale. They will not be going to Mexico to manufacture them.

I will give you another, much smaller company, Landa. They make waste water recycling products. Mexico has made an immense commitment to environmental cleanup, and waste water recycling is obviously a big part of environmental cleanup. Landa had been considering sending their products in kit form to Mexico just like Freightliner, to assemble them there. With this agreement in place, however, they do not plan to.

I could go down company by company in Oregon. For example, R.M. Wade, which makes irrigation equipment. Mexico has very poor irrigation facilities and not a lot of water, which they need to use more wisely. R.M. Wade sells its irrigation equipment all over this world—Egypt, the Middle East—and looks at Mexico as an absolute cornucopia of a market for irrigation equipment.

Take Sabroso, in Medford, OR. It makes fruit purees and nectars for fruit drinks and baby food. It is the largest supplier of this product to the three principal baby food manufacturers in the United States; as I recall, Beechnut, Heinz, and Gerber. It already trades freely overseas. A tremendous portion of its gross income is overseas. You can go through their plant and see labels in French for the Canadian market, in Spanish for Latin America, and in Italian for the Italian market. They sell everyplace and they look at Mexico, with its population, its very young population, and see it as a cornucopia of opportunity.

Now, this company is in Medford, OR, 300 miles south of Portland and roughly 400 miles north of San Francisco. It is served by an airline, which is not a major airline. It has a good airport, but is not Denver or Portland or Chicago. It is on the interstate highway and has good trucking facilities. But some people might say, well, it is out of the way. Medford is not out of the way, but it is not a major hub. Yet this company and this town, which can compete and are competing anyplace in this world, will compete in Mexico.

So I think any argument that relates to wages is simply fallacious except for those possible industries that are low wage, not high wage. You cannot afford to pay high wages in an industry that is not productive. You can only afford to pay them in industries that are productive. But in every trade agreement—every trade agreement—there are tradeoffs. You realize that it is not a zero sum game and each country is going to gain from an agreement. But in some industries, you are going to have some shifts. For that, to his credit, President Clinton is suggesting a rather significant worker retraining program.

No, this country does not need to worry. We have the best infrastructure of any country in the world. We have the best communications system. For all of our complaints about education, we have a very well-educated labor force. We can compete best of all in high-wage, high-productivity industries. That is what this agreement is going to give those industries an opportunity to do.

I will make this prediction, Mr. President, in closing. As we talk today, we have—let me address this question to Senator BAUCUS. How many more days do we have on GATT negotiations? About another 3 weeks or so?

Mr. BAUCUS. Three weeks.

Mr. PACKWOOD. About 3 weeks. Here is a massive trade agreement involving over 100 nations in the world that is supposed to be concluded in 3 weeks, and there are still significant issues left open. I cannot speak for the Senator from Montana, but if some of those issues are not satisfactorily resolved, I will not support the GATT agreement unless in the areas of agriculture, intellectual property, and some others, there is a satisfactory resolution. I am not going to vote for a bad agreement just to get an agreement.

Whether we can get an agreement in the next 3 weeks, I question. Whether we can get a really satisfactory agreement in the next 3 weeks, I seriously question. But I have no question about this North American Free-Trade Agreement. I will make this prediction: Once this is ratified, within 2 to 3 years, Chile will join and shortly thereafter Argentina. Within 5 to 10 years, we will have the makings—not completed and concluded, but the makings—of a Western Hemisphere free-trade agreement in which the United States will prosper by selling jet engines in Venezuela, oil rigging equipment in Ecuador, and services all over Latin America.

Mexico is just the first step, a good step, a big step. It is a big country. It is an important country. It is only fitting that the first expansion of the United States should be to Canada on the north and Mexico on the south. But I think this is the greatest opportunity for U.S. growth—and I will expand it and use the term American in the hemispheric sense—the greatest opportunity for American growth that we are going to see in this generation.

Again, I applaud House of Representatives. They had to take the initial step, and it was a courageous step. We will take this step tomorrow, and we will pass it by a handsome margin. I hope it will be in excess of two-thirds, but it will be close to it.

I am proud of the President, proud of this country, proud of what the House of Representatives did, and I am happy to strongly support the ratification of this agreement.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. How much time would the Senator from Vermont like?

Mr. JEFFORDS. Fifteen minutes, if that is all right.

Mr. PACKWOOD. Mr. President, could I say this: I forgot the Senator from Montana and I are on the same side of this, and the pro side only has an hour this afternoon. How much have we used up?

The PRESIDING OFFICER. The Senator from Oregon has 10 minutes and 28 seconds, and the Senator from Montana has 4 minutes and 20 seconds.

Mr. PACKWOOD. We cannot give the Senator 15 minutes.

Mr. BAUCUS. Mr. President, I think the only solution we have at this time, unless the majority leader wants to give some more time, is for perhaps the Senator from Oregon to yield as much time as he wants of the 10 minutes to the Senator from Vermont. I have to reserve some time for our side.

Mr. PACKWOOD. I yield the remaining 10 minutes that I have.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I thank the Senator from Oregon.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. JEFFORDS. Mr. President, it is with a sense of quiet confidence and satisfaction that I rise to endorse the North American Free-Trade Agreement. I feel it is in the best long-term interests of the United States and Vermont.

In the next several months Congress will have many historic votes. These votes will set the direction for the post-cold war era. NAFTA is one of these votes. It goes to the heart of our economic and foreign policy.

NAFTA will be the first time that two developed nations will be forming a free-trade agreement with a developing nation. It is for this reason that I have taken ample time to be sure of my decision.

Over the past few weeks, whether speaking with business men and women, or educators, or people concerned about foreign affairs, I have found myself time and again coming back to the thesis that our Nation has really two choices before it.

As we enter the 21st century, we can choose to continue to be engaged politically and economically in the more open world we have helped to create; or we can choose to turn inward and seek to shelter ourselves from the competitive and sometimes chaotic world beyond our shores.

I think we must choose engagement. Whether educating our children for the world of work, or determining our role in a pose-cold war world, we cannot withdraw from the world around us.

NAFTA will not solve the problems we face. But neither should it be the scapegoat of our fears. If the dire predictions are true, we can cancel the agreement in 6 months. But there is no way we can regain the opportunity lost if NAFTA is defeated.

The alternative to engagement, as Mr. Perot suggested the other day, is to erect a wall of tariffs around our country. The results of such a strategy would be disastrous. It might seem attractive for the near future, but gradually our competitiveness would suffer and eventually our standard of living would decline.

Politicians are often criticized for having vision that only extends to the November of their election. I think that Congress and the country must take a longer view. The benefits of NAFTA may not be apparent in the next 11 months, but I believe they will be apparent over the next decade and beyond.

This is certainly the view of those who have looked most closely at this issue. At last count, 22 of 23 of the major serious studies analyzing the probable impact of NAFTA predict increased employment, increased wages, or both. The support for NAFTA among academic economists and researchers is overwhelming.

Vermonters are obviously divided. I have had countless conversations with people, all with sincere, thoughtful, and diverse views on this subject. I've talked to employers and employees, members of United We Stand, farmers, environmentalists, and others. Every one of us is concerned about where this Nation is headed, and what this agreement would mean for our future.

None of us has a crystal ball. But I think the record of the past is clear: Free trade works. The economic gains we have achieved since World War II are largely due to the explosion in international trade since then.

The record in my home State of Vermont is equally clear. Only two States in the United States are more dependent on trade than Vermont: $1 out of every $8 of the business we do is based on exports, nearly triple the average of the Northeast; 19,400 Vermont jobs are supported by trade with Mexico and

Canada, jobs paying about 17 percent above average.

I think Vermont can look forward to growth under NAFTA in some of our most important manufacturing and service sectors such as computers and electronic goods, information systems, machine tools, and other industrial equipment, financial services, and medical devices. These sectors are all on the best prospects list as issued by the commercial section of the American Embassy in Mexico City.

More specifically, I think our dairy industry should benefit from NAFTA, indirectly if not directly. Mexico is a milk-deficient country and Mexican imports of United States dairy products are expected to grow moderately under NAFTA. Mexico is already far and away the best market for our milk, last year importing $160 million worth of our dairy products and this year headed toward a total well over $200 million.

In the 6 years since Mexico began to liberalize trade with the United States, Vermont's exports to Mexico have grown 723 percent. Mexico is our country's third largest—and fastest growing—export market, after Canada and Japan. Mexican per capita imports from the United States totaled $450 per year, more than Japan or Europe. And the bottom line is that we ran a net $6 billion trade surplus last year with Mexico.

We are running this surplus with the deck stacked against American workers and employers. Mexico's tariffs are 2½ times as high as ours and Mexico also relies heavily on nontariff barriers to keep our goods out. NAFTA will, over time, eliminate these Mexican tariffs and barriers.

It is hard to see how leveling the playing field will hurt us. There is no certainty, by definition, with a free-trade agreement. But neither is there any certainty to the status quo. American companies have and no doubt will continue to relocate in Mexico. Some companies' decisions are driven by labor costs, others need to be near the growing Mexican market. And still others must move to Mexico to surmount the trade barriers that NAFTA would strike down. Voting down NAFTA could have the perverse effect of accelerating this trend.

There is, however, one certainty in this debate. Voting down NAFTA will do grave damage to our relations with Mexico and Latin America. Mexico in recent years has taken fundamental steps on internal economic and political reform. It has adopted a much more open attitude to cooperation with the United States, which has put our relations on a far more constructive and mutually beneficial basis than they have been in the past.

NAFTA is essential if we are to consolidate these gains. It is also a key to encouraging through trade, not aid, the kind of economic growth in Mexico that can ensure a better life for the Mexican people and continued political stability on our southern border. Facilitating this growth and stability are vital to solving a number of knotty problems, such as the continuing cross-border flow of drugs and illegal immigrants.

Mexico has a long ways to go toward improving its environmental and labor standards. Our own record is far from perfect, and we must guard against pious preaching. But we can exercise leverage in both areas with this agreement. We will have a legitimate reason to insist that the Mexican Government enforce its own laws. Without NAFTA, we can probably count on Mexico's turning a deaf ear to our advice.

The rest of South America is watching. For years we have urged free market reforms on most of these countries, and held out the prospect of increased trade. A rejection of NAFTA, quite simply, would undermine such prospects, squander the opportunity for U.S. leadership, and cast a protectionist shadow not only on our future trading relationships in our own hemisphere, but on GATT and the world trading system in general.

Protectionism is a false promise. It is comfortable for the short term, but deadly in the long term. We cannot retreat from the world based on a pessimistic appraisal of our capabilities. They continue to be nearly endless—if we have the wisdom and will to make the most, rather than the least, of them.

Mr. RIEGLE. Mr. President, I ask unanimous consent to yield myself 15 minutes from the time under the control of Senator MOYNIHAN for the opponents of NAFTA.

The PRESIDING OFFICER (Mr. KOHL). Is there objection?

Without objection, it is so ordered.

Mr. RIEGLE. Mr. President, I want to start right in following my colleague from Vermont [Mr. JEFFORDS]. I hold the seat in the U.S. Senate once held by Senator Arthur Vandenberg, who clearly was a person known during his service for his outward looking view toward the rest of the world. When we dealt with the United States-Canadian Free-Trade Agreement in the Senate Finance Committee and on the floor of the Senate, I was one of those voting for it. But I am strongly opposed to the NAFTA agreement because it falls into an entirely different category, and I think it will be very, very damaging to our people and to our country.

I want to get into some of the reasons why. I want to say this to my friend from Vermont before he leaves the floor. When he talks about isolationism, our problem is not isolating ourselves from the rest of the world. We have spent billions of dollars around the world helping people in every kind of conceivable situation. We are a very outward-looking Nation. Our problem right now is really with isolating our own people within our own country. The growth of the underclass in America is not just in the cities, but in rural areas of Michigan and Vermont. There are the people who need work and cannot find it, such as a young college graduate coming out with excellent academic record, who has circulated resumes and is not finding a job and ends up moving back with his or her parents; white-collar professionals in the defense industry, or in banking, or in telecommunications, experts in computer technology, who have lost their jobs and bounce around for months on end, and if they are lucky, eventually they find a replacement job—usually at a much lower rate of pay.

The analysis of what is happening in America economically over the last, say, 20 years, is that we are grinding down the middle class. We have many people in our society sliding backward, out of the middle class and into lower income areas, no matter how hard they work. And there is a growing underclass of people who cannot get any jobs at all. So when we talk about isolationism, I think we first have to look at how we are isolating our own people.

NAFTA, at the end of the day, is a jobs program for Mexico. There will be many American jobs leaving and going to Mexico, as many hundreds of thousands already have. But that is only part of the problem. They are closing factories, plants, and businesses here and moving down to Mexico to take advantage of low-cost Mexican wages and low environmental standards, and other things of that kind. What is also going to happen is you are going to see the economic hydraulics between the two countries working a way to pull down wages and benefits for workers who stay here and work in the United States.

What is going to happen, and we have seen evidence of this already, is that in many areas of the country workers are going to be told that if they are not willing to settle for lower wages than they are now earning, or smaller benefits, reduced benefits than they are now receiving, they will be threatened with the prospect that their job will be moved to Mexico, or some competing firm in Mexico will take the market share and they will lose their jobs that way.

So you are going to see the continued downward pressure of wages and benefits for workers who are still working here in the United States. That is the hidden part of the NAFTA problem nobody is talking about.

It is easier to measure the problem of the company or plant that actually closes, as many have in Michigan, and moves to Mexico. But other people in this country are going to find their wages and benefits drawn down because of the low wages in Mexico.

Someone talked about the minimum wage in Mexico which is 58 cents an hour. Many work for $1.25 and $1.50 an hour.

I think, without in any way not having an outward-looking international view, we have to think about how this is going to work in terms of creating isolationism right here in the United States—with our own people, in urban areas and rural areas as well.

People in America today are desperate for work, and we do not have enough work to go around in many communities today. Where there is hard-core unemployment in inner cities, it is easier to find a gun than a job. That is not a prescription for a healthy society or a trend line we want this country to take in the future.

Recently, in Owosso, MI, I met with several women workers who lost their jobs because their plant closed and moved to Mexico. I do not have the notes with me of the conversations, but I will have later in this debate. I want to give first-person quotes they gave me. I remember some of them from memory. These women are poverty stricken today, trying to raise families, and they have no extra money. They tell me they buy all their clothes at yard sales, buying used clothes. They cannot afford, do not have the money, and cannot go out and shop in Kmart or other kinds of stores that other people shop at.

I asked if they ever imagined someday owning a new car. We heard talk earlier about selling more new cars down in Mexico. Frankly, I do not see much of a market down there because incomes are so low in Mexico.

Leaving that aside, how about having a job here in the United States so workers here have a prospect someday of being able to buy a new American car themselves.

These women raising families in Owosso, MI, are driving old cars, old rattletrap cars that ought to be off the road, but it is all they can afford. They have no money for anything more than that. They cannot find work that pays a living wage.

They talked about the prospects facing their children. They are having a hard time convincing their children to stay in high school because when they come out the only thing they have to look forward to is a minimum wage job in McDonald's or Burger King, if they are lucky enough to land one at all. There is not much prospect.

How about a jobs program for America? What NAFTA will do is bring 60 million Mexican workers into our work force: 60 million Mexican workers coming into our work force, competing for the jobs that are there now. And there are not enough jobs there now just for the American people, let alone adding 60 million new Mexican workers into our work force.

What do we get on the other side in exchange for those 60 million new workers who earn very low wages and very few benefits and workplace protections? We get a 4-percent increase in the market that we might sell into. That is a tiny increment of the available market, to the extent that we can perhaps sell more into it. But we are taking in all these additional workers at a time when the No. 1 problem in America is we do not have enough jobs to go around for our own people.

I said before on this floor, if you live in America today and you do not have a job and you cannot find a job you are nobody. It is like you are invisible.

I see that happening here. This is the case where the economic elitists have brought in the NAFTA, and it is directly against the working people of this country. It is the economic elitists against the working people of this country.

Around this city there is a beltway. There is a large superhighway that runs around here that is called the beltway. And you have heard the phrase many times "people inside the Beltway." It is a ring of golden privilege. Within this ring of golden privilege, you have all the economic elitists, those who live here, and all of them who are for NAFTA are out of the line of fire. They do not have to worry about losing their jobs, do not worry about the plant going to Mexico, do not worry about a $7-an-hour wage being reduced to $6 an hour, and the health care program they may have, which is anemic now, being reduced even further.

No. The people, the elitists here are out of the line of fire.

The reason I feel so strongly about it—and I admire the colleagues in the House, led by DAVID BONIOR, who fought valiantly against it—it reminds me very much of the Vietnam war, I say to my friend from Kentucky. I was here and served in Congress during the Vietnam war. I have been here with seven Presidents, starting with Lyndon Johnson. Back in that time during the Vietnam war many of the economic elitists thought the Vietnam war was a great idea. They did not have to go and fight it—or send their sons and daughters to go and fight it.

When you go down to the Vietnam Wall and read the 59,000 names of the rank-and-file people fed into the meat grinder of Vietnam, you do not find too many names of the economic elite of the country. You will find one here or there. There are very few because that was a war fought by rank-and-file people.

The number of jobs we are going to lose under NAFTA would create a new kind of Vietnam Wall. People who lose their jobs and lose their livelihoods will be 10 or 20 times larger than the number of names on the Vietnam Wall. There are 59,000 on the Vietnam Wall. I can easily foresee 500,000, perhaps as many as 5 million when this thing plays itself out in terms of people of this country who will lose their jobs and livelihood because of the tremendous pressure of these low wages and all this surplus labor in Mexico. But we are not going to build a wall and put all those names on it. We are not even going to know who the names are.

I will tell you they are not going to be the names of the economic elite, those out leading the charge for NAFTA, because they are all safely protected and out of the line of fire. It is going to be names of rank-and-file people from my home town of Flint. It is going to be the rank-and-file people from across the State of Kentucky, across the State of Vermont, all 50 States, who are going to be the ones who take it right between the eyes. We are going to tell them, well, you go ahead and believe in America; we do not have a job for you, do not have any plan to replace the jobs you are going to lose; but we want you to go ahead and be for NAFTA anyway.

It was so ironic, when I looked at the votes here yesterday, because when I see the President with Rush Limbaugh standing on one side, and NEWT GINGRICH, Senator PHIL GRAMM, and others standing on the other side. I know good and well that when we tried to get a job stimulus program earlier in the year to try to provide some jobs for our people, not for Mexican people, these same people were dead set against it, they blocked it. Now they provide most of the votes to pass the NAFTA in the House of Representatives yesterday. Most of the votes came from the Republicans who in turn are against any job program for this country.

There were 132 House Republicans who voted for it. And I say to the credit of the 43 Republicans who voted against it, thank you for standing up on this issue. There were only 102 Democrats who voted for it; 156 House Democrats voted against it—156 Democrats in the House voted against it—a substantial majority of the Democrats in the House, most of them coming from areas in the country where they represent working people and a large part of what is left of the middle class of this country.

That is who is being stepped on here. They are the ones who are going to lose their standard of living, in many cases are going to have their economic foundation ripped right out from under them. That, to me, is isolationism here at home, walking away from the jobs of our own people.

How about a jobs program for America for a change? But I will tell you this: If someone walked in here right now—and we cannot do it under the rules—but if someone walked in right now and offered an amendment to provide the money for a job program and a job retraining program and lifetime learning and all the other things that are being talked about for everybody that is going to lose their jobs under NAFTA, the votes are not here to pass it. And our friends on the other side of the aisle that want the NAFTA enacted, are not prepared, frankly, to vote for the kind of the help that all the displaced American workers are going to require.

So this NAFTA is really George Bush's revenge. He lost the election, but he left the poison cup in there on the desk in the White House and, unfortunately, this administration has come right along and taken the cup and moved ahead with consuming it. So now we are in a situation where we are going to face, I think, very damaging job losses in this country and we have no real strategy to deal with it.

I want to say one other story here in the time I have. I grew up in an industrialized neighborhood in Flint, MI—on Dakota Avenue. I went back the other day. When I grew up there, almost everybody worked in the Buick motor car factory in Flint. On the corner of Franklin and Dakota, about five houses from where I lived, I noticed something new there. What is new is a 24-hour-a-day laundromat. I was surprised to see that in a residential, essentially low-income neighborhood.

As I looked at it and I thought about it, I realized what has happened. What has happened is that more and more people in the neighborhood that I grew up in, working people, cannot afford to own their own washing machine and their own dryer. And as a result, because they do not have the income to be able to buy them, they have to take their clothes in clothes baskets down to the corner laundromat and drop quarters into the washers and dryers in order to get their clothes cleaned in that fashion.

Now, 40 years ago in this country, when I was growing up as a kid in that working class neighborhood, we did not have a lot of money, but we were well enough off that most of the people in my neighborhood could afford to buy a washing machine. It was the old kind with a wringer up at top where you squeezed the water out and so forth.

Today, I go back to my same neighborhood, people working harder today than they did then, and they cannot earn enough today to buy a washing machine to have in their own house or apartment. It is an illustration that we are sliding backward.

I can see why it is that people inside this golden ring here called the beltway do not understand it, living in the lap of luxury and privilege. Even U.S. Senators, who earn $133,000 a year, way beyond what most people in this country earn, if we had to settle for one-seventh or one-ninth of that, which is the prevailing wage scale in Mexico, if we were faced with a direct kind of competition for our jobs, people here would not like it very much, and they might see things a little differently.

The same is true for the editorial writers and the other big shooters in this country that think this NAFTA is such a great deal. They think it is, because it is good for them, not because it is good for the country. Because they do not understand what is going on in the country. They do not live out in the country. They do not have to live and survive like most of the other citizens in our country.

People talk about job retraining. For most people, it is a meaningless phrase. I got a letter the other day from a man in Texas with a master's degree who has been through three job retraining programs. He writes a very good letter. He cannot find a job. That is true all across the country. Yet we are going to create a situation where we are going to open up our job market to 60 million new workers coming in from Mexico. That is what we are talking about here. It makes no sense whatsoever.

I ask for 5 additional minutes off the time of the Senator from New York.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. I thank the Chair.

That is why yesterday in the House of Representatives the majority of the Democrats—156—and 43 Republicans, many of them coming from districts where working people are found in this country, these House Members who run every 2 years and are out there listening and watching what is happening—they understand the grave dangers of the further erosion of the job base of this country. They know NAFTA is going to make it worse, and that is why they came on in here to vote against it. And I applaud and admire each one of them for doing so, because there was a tremendous onslaught of pressure for House Members to vote for NAFTA. Tens of millions of dollars were spent by the Mexican Government. They came here to Washington inside this golden ring and they bought all the lobbying firms downtown, Republican and Democrat. The former Trade Ambassador for our country, William Brock, was hired at $30,000 a month by the Mexican Government; $360,000 a year. That is more than we pay the President of the United States.

But the Mexicans were happy to buy that kind of influence because they knew in the end it would yield votes here, and unfortunately it did.

Two weeks ago we had the votes in the House to defeat the NAFTA. What happened to change that? Every news outlet in America has reported that what happened to change it was the checkbook of the American taxpayer was opened up, and the administration began offering favors and promises, peeling off the votes they needed so they would have enough votes to turn this thing around. There are stories about airplanes, about aircraft carriers, this, that, and the other. It is well documented. As I say, every news outlet in the country has commented upon it. That is what turned the vote around.

I can tell you this: If those of us on the anti-NAFTA side, if we had the checkbook of the country—and we are not prepared to play that game, but had we had it and played that game, there is no way in the world this thing would have passed. That is what turned it around. But that is special-interest favors, and that is using the people's money against their own interest. And that is what happened here.

It is going to be the little people out across the country that take it right between their eyes, and they are going to be names we never even know. When somebody loses a job in a plant because it goes to Mexico, who is going to write their name down? How does their name get into the newspaper or get here on the Senate floor? No; they are going to be the anonymous losers in this whole thing, and the country is going to be the loser.

When the country of Turkey wanted to come into the European Common Market with wage and benefit differentials similar to ours and Mexico's, they were turned down by the Europeans. They were turned down because no country has ever gone into a free-trade agreement with a bordering country with standards on wages and workplace protections and environmental protections as low and as different as in the case of the United States and Mexico. It has never happened before.

You know why it has never happened before? Because it has never made sense before, and it does not make sense now.

So I realize that this is a game. It is Wall Street versus Main Street. And Wall Street has the money and the muscle to win this one. And they are in the process of doing it. Even though they did not have the votes 2 weeks ago, when the Government checkbook came out they were able to get the votes in the House of Representatives, sad as that may be to say.

And I suspect that when the votes are finally taken here, there may well be the votes in the Senate—it certainly looks that way now—to pass the NAFTA here.

But this is going to be very damaging to our country, and it is going to be an isolating experience for more and more people in America who need jobs to support themselves and to support their families.

I just hope that for the people out across the country right now who are struggling to get by, who cannot find work, or are working on a temporary basis because that is all they can find, or working at the minimum wage and cannot eke out enough money to even think about a downpayment on a house or buying a car or going out to shop like other people with higher incomes, I want that group to know that even though the fix is in on NAFTA because of all of this money pressure supporting it, that a day will come, a day will come—and it may be an election day, it may be some other time—when I think the working people of this country are going to find themselves back in a position of real power, and they are not just going to get mowed down and paved over here within this golden ring of privilege by those people who are supporting NAFTA today and using the resources of the Government, in fact, to line up the votes when the votes are not out there in the countryside.

So that is what is at stake here. I hope to speak more about it later, and I want to reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Oregon.

Mr. PACKWOOD. I have no time left, is that right?

The PRESIDING OFFICER. The Senator is correct.

Mr. PACKWOOD. I ask unanimous consent that I may be yielded 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. Mr. President, I have no objection, but if a minute is going to be added on one side, just in the name of fairness I want to make sure it is added to the other side.

Mr. PACKWOOD. I do not want to add. I would subtract it from the time that would be allocated to the Republican side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I have spoken earlier about the advantages to this country and Oregon. I want everyone to understand very clearly that in Oregon, about one job in six is dependent upon trade. NAFTA and free trade for Oregon are a lifeline and not a millstone. We are going to prosper greatly if this bill is passed, and I am confident the country may do the same.

Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be charged proportionately to those who are managing the time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. Mr. President, I want to just pose a question to the Chair and to my colleagues who are on the floor. Of the time that was divided, the time of the proponents is about to expire; the time of the opponents still has probably 40 minutes to run. When the time of the proponents has run down to zero, I would like the quorum call time not to be counted against our side at that point. I do not think it is fair to have that happen, because we have others who want to speak.

So I would rather that the time of the quorum call not be run against the clock of those of us who wish to speak against the NAFTA.

Mr. BAUCUS. Mr. President, the consent request which was agreed to was that the time be charged proportionately to the floor managers. I think that is the fair solution.

As a consequence, because there is very little time left for the proponents, as time is running there will still be some time left, not a lot. But time will also be—more time will be left to the opponents because the opponents now have so much more time remaining.

Mr. RIEGLE. I hear what is being said. I want to protect the time of our side so it is not just run off in a quorum call because we do not have Members here at the moment ready to speak.

Mr. BAUCUS. Naturally.

Mr. RIEGLE. I do not mind doing it for a short period of time, but if we are going to have additional time running against a quorum, I would like not to have it running against the NAFTA debate, at least for those of us who are opponents. I will leave it there, but I would like to serve notice I would like not to get into that situation because I do not think it is fair.

The PRESIDING OFFICER. Is the Senator from Michigan propounding a unanimous-consent request?

Mr. RIEGLE. Would it be appropriate for me to suggest that once the time has been drawn down now, of that that has been allocated to the side of the proponents of NAFTA, at that point we not continue to run the clock down against those of us who are opponents until such time as we go back on the subject? I would rather the time be charged against the Senate and not against our allotment of time as opponents of NAFTA once the time has been exhausted on the other side.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. If the Senator from Michigan were to make that request, I would have no choice but to object to that request because it is the intent of the agreement that the majority leader secured roughly an hour and a half ago that each side have the same amount of time, proponents and opponents. The proponents have used up most of that time. There is time remaining, more time remaining for the opponents. But if there is going to be a quorum call the only fair allocation is that the time be charged proportionately, that is in proportion to the amount of time remaining on each side.

Mr. RIEGLE. I will withdraw the request at this time. But I urge, then, Members who want to speak against the proposal—we now have time available to us; it has come rather quickly—I urge them to come to the floor so we do not have our time lost in a quorum call as opposed to the time when Members can present their views.

I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, it will be charged proportionately. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous-consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. I yield 5 minutes in opposition to the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana is recognized for 5 minutes.

Mr. BURNS. Mr. President, first I want to make it very clear that this Senator is very much a free trader, coming up through the free enterprise system and being in business in Montana. So I rise today to vote against what I think is a bad bill. It is not a bad idea, but I think it was a good idea that turned into a bad bill.

I have been sitting on the fence for the last 2 weeks not knowing what was going to come out of the House of Representatives until all the work was done last night. After we look at it now, after months of working to plug all of the holes in the NAFTA, I think the final product is going to put a lot of Montana jobs at risk and, overall, have a negative impact on our State's economy.

The Montana AFL-CIO estimates 7,000 Montana jobs are threatened by NAFTA. I have looked at this treaty every way from Tuesday. I have not found many reasons to question that number, and I have several reasons that convince me it is true.

I do not often stand with the Montana AFL-CIO, but I think I stand up for a whole lot of men and women who go to work every morning to earn the wages that feed their families. NAFTA is a bad deal for folks who eat their midday meal out of a dinner bucket.

Sure, big business tycoons, bankers and the like see NAFTA as right up their alley. "If it's good for General Motors, it's good for America," an extremely wealthy man said once. Well, NAFTA may be good for the stockholders at GM, but the men and women who work for wages might be a little disadvantaged and take the brunt of this agreement.

The U.S. House of Representatives approved the treaty Wednesday by a

234-to-200 margin. The President bought off a lot of votes with promises of pork. That whole episode disappointed me because I believe this is a vote of your conscience, not how much you can sell your vote for.

The U.S. Senate will vote on the treaty in the next day or so. It'll pass by a handy margin. But, it's going to pass without the support of the junior Senator from Montana, and I'd like to tell you why.

It is very clear that Montana jobs in the agriculture, mining, and gas and oil sectors will be put at risk because of Mexico's ability to produce wheat, corn, minerals, and energy in direct competition with Montana producers.

Montana's oil and gas industry is just now beginning to dig it's way out of the slump it's been in for almost a decade. A flood of cheap energy because of NAFTA may be good for American consumers, but it will continue our reliance on foreign sources of energy and spike any possible recovery in Montana's oil and gas industry. The recent announcement by oil companies of a possible $141 million investment in the Glendive area to open a new field indicates to me just how important it is that this industry remain active in our State. Under NAFTA, I could see the same companies head to Mexico with their investments—and jobs.

On top of this, the current push to restrict mining on public lands in Western States combined with the effects of NAFTA on Montana mining could be devastating. I can foresee a number of mining companies picking up their operations and moving them south of the Mexican border when existing mines are no longer productive because of changes in mining law. Montana currently employs 11,000 people directly and indirectly in the mining industry, and mining jobs are among the best paying in the State.

I'm glad President Clinton chose to address at least a couple of problems in industries important to Montana effected by NAFTA, such as sugar and wheat. But, I am not sure the wheat action will stand up—in fact, it probably will not—and I wish the effort had included all wheat, as well as barley.

NAFTA does not address problems with Canada's dumping of subsidized barley, cattle and softwoods that still exist. And we still have no effective way to really deal with these disputes. We are going to pass the NAFTA treaty, and here in Montana we will still be getting dumped on with subsidized wheat, barley, cattle and softwoods.

I believe Montana jobs will be lost and our economy hurt because we're not getting a fair deal for our farmers, ranchers, miners and timber workers.

The cost of implementing NAFTA has been estimated at around $20 billion. We can hear all kinds of figures, but that is around about the figure. But that was before my President started doing all this dickering to get the bill through the House of Representatives.

You can bet that several billion more was spent last night—your tax money, my tax money—just to get those votes to get it through the House of Representatives. We know one thing, that we are going to have new organizations, new faceless bureaucracies.

They are talking about paying for a little of the cost by putting a new tax on tourists coming into our country. This sure will not help boost tourism in a place where tourism dollars are precious, like Montana.

The agreement will not slow illegal immigrants into the United States. Even as far north as Montana—and it does not get much further north in this country—we're getting pinched by the illegal immigrant problem. Just ask some of the folks in Libby, where the Forest Service is hiring people to plant trees. Lincoln County, MT, with one of the State's highest unemployment rates, is getting hit by illegal immigrants being hired for jobs local residents could fill.

The NAFTA transfers some controls on trade decisions in our country to more nameless, faceless bureaucrats. It is my understanding some 24 new bureaucracies will be created. I know of three big ones already. They are very expensive. Maybe four: A new Export-Import Bank, and that will be funded by this Government to the tune of $1.5 billion. That is our commitment to it—a year.

We will see how these commissions operate and see if they are accountable to either country, both Mexico or the United States. We have seen how poorly they operate with the Canadian Free-Trade Agreement. Let me tell you, that has not worked all that well in my State of Montana.

It is my belief that Montana's concern and focus on trade still should be the Pacific rim. Our efforts to lower tariffs in places like Japan, Taiwan, and Korea should be strengthened. These are the countries that hold great potential for Montana products like beef, wheat, coal, minerals, and wood products.

There will be people in other parts of America who will find that NAFTA was a good deal, but when you implement it, and with the side bar deals and everything else, it does not measure up to the expectations of this agreement, I just do not think very many of those people will be in Montana. I am afraid we are in one of the places in America where NAFTA was a bad deal.

And the Montanans who work for a living know it. That is why I am voting against NAFTA.

I ask unanimous consent to print in the RECORD an article published today in the Great Falls Tribune written by a Canadian reporter titled "Montana is an Attractive Market for our Grain."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Great Falls (MT) Tribune, Nov. 17, 1993]

MONTANA IS AN ATTRACTIVE MARKET FOR OUR GRAIN

Canadian Agriculture Minister Ralph Goodale says Ottawa has nothing to fear from any investigation of alleged unfair trading practices affecting grain exports to the U.S.

Goodale this week described exports as "quality product that is fairly traded."

"Do we have a justifiable position? I have always maintained the Canadian position is very strong," Goodale said following a meeting of the federal cabinet in Ottawa.

Goodale refused comment on reports U.S. Agriculture Secretary Mike Espy is preparing to probe allegations of unfair subsidies and Canadian grain dumping into U.S. markets, but noted: "We believe we're ready and able to demonstrate our position."

Goodale expressed puzzlement over Montana producers' allegations of grain blending involving Canadian imports. "That is a novel point," he said.

The value of Canadian wheat exports to the U.S. has more than quadrupled, to $84.9 million a year, since the 1989 ratification of the U.S.-Canada Free Trade Agreement that removed grain export limits.

Canadian wheat exports, including durum, totalled 1,003,000 metric tons in 1991–1992, compared to 359,000 tons shipped to the U.S. in 1989.

But trade documents indicate exports of wheat, barley and other grains specifically to Montana have grown more significantly—from 1,592 tons to more than 42,000 tons in the 1989–92 period.

The value of grain exports from Alberta, alone, increased from less than $159,000 (Cdn.) to more than $2 million in the same four-year period, according to documents obtained from the Alberta Grain Commission.

Alberta exports last year accounted for 28 percent of the Canadian wheat, and 50 percent of the Canadian barley, sold in Montana.

Walter Paszkowski, Alberta's agriculture minister, defended trading practices as fair. And he denounced the prospect of a formal U.S. complaint over Canadian grain exports.

"We are not dumping. This issue has gone to a free trade tribunal on two previous occasions, and the allegation has never been upheld," Paszkowski said.

"One of the problems we have with the Canada-U.S. free trade deal is the fact you don't have to come up with any new evidence when it comes to launching an old complaint. You just keep reappealing."

Brian Downey, chairman of the Alberta Grain Commission, attributed the rise in exports to Montana on the impact of U.S. Export Enhancement Program (EEP) bonuses on domestic markets.

"That program tends to support domestic prices," Downey said, "There is no evidence of dumping—Montana is just an attractive market."

Lorne Hehn, chief commissioner of the Canadian Wheat Board, also cited the effect of EEP bonuses on creating "artificially high prices that have tempted Canadian exporters.

"We are selling into U.S. markets at what the mills are offering." Hehn said. "I don't call that dumping.

"But I can understand how Montana producers feel when grain is congesting their elevators and a local producer can't haul. Our farmers would view it in the same way if the situation was reversed," Hehn added.

Meanwhile, federal officials also dismissed claims of unfair subsidies for Canadian grain growers. The Department of Agriculture cited finding contained in an ongoing international farm subsidy review by the Organization for Economic Co-Operation and Development (OECD) that suggested Canadian and American wheat growers benefit from nearly identical levels of government support.

Subsidies for Canadian wheat growers in 1992 totalled the equivalent of $1.22 (U.S.) per bushel, compared to $1.28 for American producers, according to the OECD study.

Government support for European wheat growers was estimated at $3.39 a bushel.

The OECD study concluded government support for U.S. producers has paralleled or exceeded subsidies for Canadian growers in eight of the past 10 years.

Mr. BURNS. Mr. President, this shows the impact and lays it out in very specific numbers of how much grain is coming in from Canada into our State of Montana. I think when the year is all over, Montana may be the largest buyer or the largest export market of our neighbors to the North.

Yes, we are going to try to do something about that. That is only 11, we need more. I think if producers sit down producer to producer, we can probably work this out. Probably if cattle producers sit down cattle producer to cattle producer, Canadian to American, we can probably work it out. When we get governments and egos in the way, then we run into problems.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. BAUCUS. I might ask the Senator from Alabama whether he is in favor or against.

Mr. HEFLIN. I am against. I thought that was well known.

Mr. BAUCUS. Mr. President, might I ask of the Senator from Alabama how much time he wishes to take?

Mr. HEFLIN. I had asked I be allotted 30 minutes altogether in speaking. Right now, I understand at 3 o'clock they are going to go to something else, so I will not have time to speak on this. I will take 5 or 10 minutes right now.

Mr. BAUCUS. Mr. President, it is my understanding it is possible this 2-hour time allocated for NAFTA might be extended. For the time being, we have only until about 3 o'clock. It is my further understanding that the opponents have 7 minutes remaining. Might I inquire of the Chair.

The PRESIDING OFFICER. The Senator is correct.

Mr. BAUCUS. Might I suggest then, Mr. President, the Senator from Alabama be allocated whatever time he wishes to consume, and the time be taken from the opponents on the Democratic side.

UNANIMOUS-CONSENT AGREEMENT

Mr. PACKWOOD. Mr. President, I think we are ready to do this unanimous consent request to extend the time.

I ask unanimous consent that the debate time today on the NAFTA trade agreement be extended until the Senate resumes consideration of S. 1607, with the time used today charged against the statutory time limits and with time managed as under the previous consent agreement.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Chair now recognizes the Senator from Alabama.

Mr. HEFLIN. Mr. President, I rise in opposition to the North American Free-Trade Agreement. I want to begin my remarks by talking about shoes and pajamas. I use the word "pajamas" to represent all wearing apparel—shirts, gowns, slips; any type of wearing apparel that is made.

My purpose here is to show what has happened in the past. One says you have to look at history in order to be guided into the future. The shoe industry, I think, is very symbolic of relocation. Today, 87 percent of all the shoes that we sell in the United States are made in another country. This was not always the case. Most shoes were made in the United States.

A number of years ago, companies found that they could relocate to foreign countries and take advantage of cheap labor. It is my understanding that when the Brazilian economy absorbed a great portion of the shoe manufacturing market, they paid their workers $2 a day. Not $2 an hour, but $2 a day.

In Mexico today, the minimum wage is 59 cents an hour. Brazil has improved some, and it is my understanding that they are now paying their workers in the shoe industry at the rate of 94 cents an hour. There are other countries that are now in the shoe business. Included in the textile bills, when they came up, were efforts to save what was left of the shoe industry. But, unfortunately, the two textile bills were vetoed.

Today, we find that shoes are being made in other countries where they are paying their labor 50 cents an hour; in one country, 30 cents an hour.

It started out slowly, but eventually there was a domino effect in terms of companies moving out of the United States and into other countries. Now we are faced with the fact that there is virtually no shoe industry in the United States.

Some said, "Well, it will bring about consumer savings." The argument of consumer savings has also been made relative to NAFTA.

According to my information, a famous brand of shoes today costs less than $1 a pair to make. I think most people know what they have to pay for shoes. If you get a pair of shoes today for less than $50, you think you have a pretty good bargain. Some of these famous brands are well over $100 a pair.

So I think in this concept of consumer savings, somewhere between the manufacturing of the footwear and the time it is sold, someone is taking the money and using it for their own profit.

I think the concept of consumer savings that is being advocated relative to NAFTA may well result in the same situation that has taken place in the shoe industry, where people in the chain between the manufacturer and the purchaser keep a considerable amount of money.

I referred before to pajamas. Let us look at what has happened in the history of the wearing apparel business.

The wearing apparel business five or six decades ago—maybe four decades ago—was located primarily in the New England States. I do not think there is any question that we in the South, and particularly in the Southeast, made a big effort to move the wearing apparel business from the New England States to the Southeast. We adopted various bills that would provide for long-term leases, and then at the end of the leases, people could buy the plants for $1 when they were built by industrial development boards or similar entity. Industrial development bonds were issued pertaining to the building of these plants, and the companies usually bought these bonds.

As a result of this and labor savings, we saw the pajama industry—the apparel industry—move from the New England States to the Southeast. We had some of the relocation incentives like weather, lower utility costs, lower taxes, certainly lower ad valorem taxes on property and equipment, which are still very low in most of the Southern States and in my State of Alabama.

Relocation incentives were the history of the movement of the apparel business from the New England States to the South, to Alabama and elsewhere. When that happened, what happened in the New England States?

I have seen television documentaries talking about the depression that existed in those New England towns. I remember seeing one on Lowell, MA. In some of those towns, it was argued, they were going to be able to replace lost jobs with new electronic industries. But as I understand it, you can still go to many towns in the New England States where formerly the apparel business was and unemployment is at depression figures still today. I think that tells us something.

I would argue that there was also a domino effect here as well. There is a domino effect in that if you have one, two, three, or four companies moving into an area, it brings about the movement of other companies.

There is an element today that controls a lot of large businesses and corporations—pension and other funds—

that is demanding that there be a constant increase in the earnings by large corporations. This pressure will be applied, and when companies start moving to Mexico, competing companies will bring about a domino effect and they will all be moving there.

Now, let us turn to relocation incentives to move to Mexico. As I said, the minimum wage is 59 cents an hour. There are some companies who are paying more than that. However, in Mexico, there is the policy of no income tax being collected from employees at the minimum wage. If companies pay higher than the minimum wage, there is an income tax that takes place and it is triggered in. Some of the companies in the maquiladora program are paying employees extra income tax money.

Not only are there tremendous labor savings, but there are other incentives as well. What are some of these other relocation incentives to move out of Alabama or move out of Michigan or move out of any State? There are a great number of relocation incentives.

First, for all practical purposes, there is no OSHA law—occupational safety and health—in Mexico. The savings that will occur as a result are an incentive to relocate.

There is very little in the way of unemployment benefits. This will result in a savings for employers. Their workmen's compensation laws are practically nonexistent. They are tied in with their overall health program, but there are tremendous savings that can occur to a business by moving.

Another relocation incentive is Social Security. Today, employees in America contribute about 7.5 percent or maybe a little higher, and there is a matching amount from the employer. If that employer could save 7.5 percent on the payroll of all his employees, it would be a healthy relocation incentive.

There are no real costs involved in Mexico pertaining to having to install clean air facilities, or clean water facilities. All of these end up as savings and relocation incentives for the mover.

Some would say, well, they are not going to move; Mexico is a long way away. But from Lowell, MA, where the apparel industry once was, to Montgomery, AL, is 1,165 miles. From Montgomery, AL, to Juarez, Mexico, is only 20 miles further. The distance is not going to make any real difference.

These incentives are there. According to the Mexicans themselves—they have a chamber-of-commerce type of activity that makes studies and is advocating the movement there—under the maquiladora program today, each job can result in $15,000 per year in savings per job by moving to Mexico.

Every relocation incentive is there for labor-intensive industries to move to Mexico. To me, we are entering into an agreement where we are going to see, in my judgment, a substantial movement.

Some argue that companies are moving to Mexico already. The maquiladora program has been in effect about 30 years. But only since President Salinas has been in office has it grown and expanded to where it is today. The primary reason was that companies did not trust the Mexican Government until Salinas got there, and there started to be an atmosphere of protection. There was a fear up until Salinas came of the nationalization of industries. There were fears pertaining to many things, such as patent protection.

Think about what happens when Salinas' office comes up for election again. This is only a year away. And you are going to gamble on that?

He has made some progress. But still there is a substantial amount of uncertainty. The question arises: Can we, in effect, trust what is going on in Mexico?

I went down to Mexico in August. I talked to a number of attorneys. One of them told me the entire judicial system of Mexico is corrupt, and he is a proponent and supporter of NAFTA. He also told me about a large bank he had represented in New York where for 18 years he has been trying to foreclose the mortgage. But he was unable to foreclose that mortgage because of the constant delay, the "home cooking" that was taking place in the judicial system. Home cooking in a judicial system is widely known in a lot of areas. Home cooking is why, in the Federal courts, we have separate jurisdiction. Diversity and separation of jurisdiction are to prevent home cooking by allowing nonresidents to be able to move to Federal courts. But home cooking still exists in Mexico. It has improved under Salinas, but is still a major problem.

I was told first hand about this. There are three articles by Mike Royko of the Chicago Tribune, in which he speaks of what has occurred pertaining to complying with agreements. He points to the extradition treaty that the United States entered into with Mexico in 1979, in which both countries agreed to extradite those accused of 31 different felonies.

Since 1979, there has yet to be a single Mexican national extradited to the United States regardless of the heinousness of the crime—rapes, murders, drugs, or whatever it might be.

He wrote an article on October 12, where he talked about specific instances, and went into horrible details of crimes committed by Mexican nationals who moved into Mexico.

Then he was questioned by the Chicago counsel from Mexico regarding this. I quote here from Mr. Royko's article, where he says that the counsel general replied to him, saying "While it is true that Mexico has had a longstanding policy of not allowing its own nationals to be extradited, it is true that the extradition of its nationals is not illegal or unconstitutional under Mexican law."

Then he goes on to say that Mexico has had a longstanding policy of not allowing its own nationals to be extradited.

They entered into this agreement in 1979 pertaining to crime, the most serious issue we face. Of all the pressure that we have applied in the war on drugs, they have yet to extradite a Mexican national to the United States, to its courts, where the crime was committed here.

Are we going to expect Mexico to follow through on the NAFTA agreement and comply with it, particularly if the presidency is changed? The same party will be in power that has been in power since 1929. We are going to possibly have in power at that time, individuals who we do not know about, who we are gambling with, and yet we have a history dealing with extradition where they have not complied. And we are going to gamble that they will on NAFTA?

We attempted to try to get some agreements. I listened to Congressman RICHARD GEPHARDT last night in his speech about how he tried to get some labor agreements.

They claim to have organized labor in Mexico. They claim that they have unions. But information I gained when I was there was basically that it was not a union like we know in the United States. Rather, it was a situation where the people in Ramanos, Mexico said that the businesses had to turn to three labor bosses who were political cronies of the powers that be. These political cronies were who they called labor bosses. But there was no real participation by the workers. It was a political organization and a political activity.

I would like to ask at this time that these three articles by Mike Royko be made a part of the RECORD. And I would like to reserve about 15 more minutes at a later time to talk more pertaining to this matter.

The PRESIDING OFFICER (Mr. KERRY). Without objection, it is so ordered.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Chicago Tribune, Oct. 12, 1993]

MEXICO HAS LIMITS ON WHAT IT TRADES

(By Mike Royko)

If you listen to the economic experts who are in favor of the North American Free Trade Agreement, they seem to make a lot of sense.

But if you listen to the economic experts who oppose NAFTA, they seem to make a lot of sense.

That's the trouble with economic experts. You could probably find one who said both sides are wrong and he'd make a lot of sense too.

But after months of confusion, I've finally made up my mind, at least for the time being, which could be an hour or forever.

And my position has nothing to do with the arguments about the potential loss of jobs, the opening of new markets for exports, or any of the other widely debated points.

I am against NAFTA because of Serapio Zuniga Rios, 29, who is accused of being a really loathsome guy.

You've probably never heard of Serapio Zuniga Rios. I hadn't either, until a few days ago.

I was drowsily watching congressmen jabbering on C–SPAN, marveling that they get paid such handsome salaries and marvelous fringe benefits for making speeches so boring they would be barred by most Chicago taverns.

But then one of them got up and talked about Serapio Zuniga Rios.

It seems that this Rios fellow had been a migrant worker in California until about a year ago.

Then a terrible thing happened. A 5-year-old girl was kidnapped, sexually assaulted and left for dead. But she didn't die and the police say they have evidence that the crime was committed by Rios.

However, they couldn't arrest Rios because he scampered back to Mexico, his native land, before they could grab him.

Ah, but Rios was not too bright. He returned to his wife and family in Mexico and took a job driving a truck.

It wasn't that difficult tracking him down. The girl's family hired a private investigator, who slipped some money to Mexican cops and they pinpointed Rios' whereabouts.

So a request was made to have Rios arrested and extradited to this country so he could stand trial for the foul crime.

That seems like a reasonable request right? Especially between neighboring countries that have so close a relationship.

We ship things back and forth all the time. We ship thousands of tourists and hundreds of millions of tourist dollars to Mexico. We ship American industry and jobs to Mexico.

In turn, Mexico ships tons of drugs and hundreds of thousands of illegal aliens, especially to southern California, where the assault took place.

So there shouldn't be any big deal about Mexico shipping us one accused sex fiend named Rios.

Ah, it isn't that simple.

True, we have an extradition treaty with Mexico. And if citizens of the United States commit criminal acts in Mexico then run home, our government will send them to Mexico to stand trial. We have done that many times.

But despite the treaty, Mexico doesn't believe in sending Mexicans accused of crimes to this country.

Their position was explained by Bill Goold, an aide to Rep. George Brown, of California, who has been fighting to get Rios returned.

"There is a 1979 extradition treaty that says both countries are supposed to extradite those accused of 31 different felonies. There was a provision added later, for Mexico, that says either they extradite or prosecute the defendant in Mexican courts.

"But they're not doing either. Their position is that their constitution forbids extradition. But it's also a carry-over from the 'anti-gringo' legacy in Mexico. It is culturally unthinkable that any Mexican official would serve up a Mexican national to the United States. They have never extradited even one.

"We have extradited our citizens down there, handed people over to them. They've never given us anybody. The FBI in our region said they have dozens of cases involving Mexican nationals wanted for murder, aggravated assault and rape, and they can't get any help.

"But if we can't get them to cooperate with us in tracking down murderers and rapists, what confidence should American businesses have in the willingness and ability of Mexican officials to protect our interests?"

A reasonable question. You would think that if Mexico is so eager to get NAFTA approved that it has spent tens of millions of dollars lobbying our politicians, it could see its way clear to part with a few accused murderers and rapists.

So maybe the NAFTA agreement should be amended. For every job we let Mexico pluck from us, we expect one accused child rapist or murderer or other felonious type in return.

And maybe for every Mexican drug merchant the Mexican authorities arrest and convict, another job. For every shipment of dope the Mexican authorities intercept, another job.

I mean what are a few murderers, rapists, and drug merchants among friends and neighbors?

[From the Chicago Tribune, Oct. 13, 1993]

Mexican Felons Just Run for the Border

(By Mike Royko)

Many Southern Californians, politicians included, are being accused of lacking sensitivity and humanity because they are fed up with the stream of Mexicans who pour across the border.

Most complain about the hundreds of millions of their tax dollars that are spent on schooling, medical care and law enforcement for the illegal aliens.

But there is a lesser-known problem, which I touched on in yesterday's column.

And that is the ease with which some of the illegal aliens literally get away with murder and other crimes. The process is simple: You murder someone, then dash back across the border to Mexico, and you're home free.

That's because the Mexican government appears to believe that our extradition treaty is a one-way street. They expect the United States to send them American criminals who have committed crimes in Mexico. And we do that.

But Mexico doesn't believe in extraditing Mexicans who have committed crimes in this country.

In yesterday's column, I described the case of Seraplo Zuniga Rios, 29, who is accused of raping and almost killing a 5-year-old girl.

He ducked back to Mexico and is still at large, although Mexican authorities apparently knew where he could be found but did not grab him and ship him to California for trial.

But Rios is just one of many violent border-hoppers.

Recently a sampling of other crimes was put together by Sheriff Colis Byrd, of Riverside County. In each case, the suspected criminal went back to Mexico, safe from arrest and prosecution.

Here are thumbnail sketches of some of the crimes:

A man was robbed of $10,000. Then he was bound, gagged, set afire and burned to death. When police closed in on the suspected killer, he dashed for the border. As the report said: "Mexican authorities advised they would not extradite Mr. Marcos Garcia, as he is a Mexican national."

A woman accepted a lift home from a man she met in a bar. On the way, he raped her. When she jumped from the car to escape, the man ran her down with his car. She later died. The man headed for Mexico. California police contacted the Mexican police in the suspected killer's hometown. The Mexican police promised to question the man. The results? As the report said: "Investigators received a telephone call from a relative of the suspect. The relative said the Mexican police did contact the suspect and took him away for questioning. The suspect returned a short while later, explaining he bribed the police with 3 million pesos [$900] to let him go. The suspect fled to Mexico City."

A guy was waiting for his girlfriend outside of her home. An ex-boyfriend drove by. The ex-boyfriend was the jealous type and put five bullets into the new boyfriend. The report says: "The suspect fled to Vera Cruz, Mexico."

There was a poker game. One of the players was accused of cheating and there was a fistfight. The cheat lost. But he went home, got a gun, came back, and killed the guy who had punched him. The report says: "The suspect fled to Mexicali, Mexico."

Three men were shooting pool. They argued about the bets or some such thing. One of them left the bar angry. When the other two came out, the angry fellow was waiting and shot one of them to death. Says the report: ". . . Fled to Mexico and is believed to be in Guerraro."

The woman had borrowed $2,000. The two men came to collect. The woman said she didn't have the money and didn't know when she could pay. That made the men angry, so one of them shot her in the head. The report says: "Both are believed to have fled to Michoacan, Mexico."

Miguel is driving somewhere when he spots two men he believes recently stole something from him. Miguel is a man of action. He grabs his gun and blazes away at the car, killing both men. Report: "Believed to have fled to Juaregui, Mexico."

The list goes on and on. A man is killed because he tried to retrieve a stolen welding tool from a thief. Another is shot in a barroom brawl. A man doesn't like the way his sister is treated by her husband, so he kills the brother-in-law. Three boozers have a quarrel, and one of them is stabbed 24 times. A woman dumps her boyfriend, so he kills her. A woman chides her boyfriend for coming home drunk, so he shoots her and her sister and runs them over with his car.

And those are just some of the border-hopping criminals in only one California county.

Sheriff Byrd, sounding a bit frustrated, said in a letter to Congressman George E. Brown:

"The ability of offenders to flee to another country, * * * knowing that the crossing of a border is similar to entering a safe house, is not acceptable. * * * There should be no free zones where criminal offenders can hide from justice."

Mexican politicians and police don't agree, unless they want an American extradited. And they can get downright indignant when we want one of their criminally inclined citizens. When our narcs snatched a Mexican doctor, suspected of being involved in the murder of an American agent, Mexican politicians turned it into an international incident and insult.

But Rep. Brown is capable of indignation too. So he and several other congressmen have decided to use the timing of the NAFTA negotiations to call attention to the one-way extradition street. They argue that we can't trust Mexican politicians in a historic economic deal if we can't get them to ship us some murderers and rapists.

I don't know if that is a valid argument. But it might be effective. Most Americans aren't economists. But they know what rape and murder are. And what fairness is too.

[From the Chicago Tribune, Oct. 20, 1993]

MEXICAN OFFICIAL'S GRIPES DON'T ADD UP

(By Mike Royko)

Fairness requires that I print key parts of an indignant letter sent to my boss by the Mexican consul general in Chicago. Boy, is he mad at me.

Consul General Oliver A. Farres says my recent columns about Mexico's refusal to extradite criminals to this country "not only foster further misunderstandings between the governments and people of the United States and Mexico, but they are also based upon non-corroborated and superficial evidence.

"I was appalled, as any normal human being would be, by the criminal acts allegedly committed by Mr. Serapio Zuniga Rios, a Mexican citizen.

"But I was just as disturbed by Mr. Royko's unprofessional use of sources.

"He characterizes all Mexicans as criminals for no other reason than their nationality. Rapists and murderers are not an exclusive product of Mexico. To suggest all Mexicans are criminals and that the authorities are responsible for all of their criminal acts is outrageous."

I agree. It would be outrageous for me or anyone else to characterize all Mexicans as criminals.

But I don't understand what Farres is huffing and puffing about, since I didn't characterize "all Mexicans as criminals." I wrote about Mr. Rios, accused of raping a child, and other specific fugitives.

And I don't understand what he means by "Mr. Royko's unprofessional use of sources."

I wrote two columns about Mexican immigrants—legal and illegal—who commit crimes in this country, then go back to Mexico and safety.

They're safe because Mexico won't ship Mexicans to this country to stand trial.

My sources included two congressmen, who are furious about Mexico's sheltering criminals, and frustrated law enforcement officials.

True, I didn't interview the accused criminals, since they are hiding in Mexico. But if Farres wants to bring those creeps around to my office, I'll be glad to talk to them too.

These were not Mexican-bashing columns. Their point was that Mexico ignores its extradition treaty with the U.S.

And what does Consul General Farres have to say about that?

In what appears to be almost an afterthought, he writes:

"While it is true that Mexico has had a long-standing policy of not allowing its own nationals to be extradited, it is not true that the extradition of its nationals is illegal or unconstitutional under Mexican law, as Mr. Royko claims."

So he finally gets around to admitting that what I said was true: "Mexico has had a longstanding policy of not allowing its own nationals to be extradited * * *"

Then what are we quarreling about? I said Mexico won't extradite accused criminals. Now Farres says, yes, his country won't extradite accused criminals.

Obviously we agree. So why is he writing angry letters to my boss?

I don't know. Maybe writing such letters is how Mexican diplomats justify their existence and paycheck.

As for his squawk that it's not true that extradition is illegal or unconstitutional under Mexican law, I never said it was. A congressional aide said that might be the case. If he was wrong, it's no big deal. The point is the Mexican government has a rigid non-extradition policy.

That's why police, prosecutors and congressmen are justifiably angry that accused killers and sex criminals can hop back home to Mexico without fear of being shipped here for prosecution.

But what obviously bothers the consul general is that I suggested that before this country agrees to the North American Free Trade Agreement, which some people believe will ship American jobs to Mexico, it would be fair if Mexico agrees to ship accused fiends to this country.

He wrote: "We must consider NAFTA on its own merit and not allow unrelated facts to cloud our judgment."

My judgment isn't clouded. What I'm saying is, you want the jobs and the increased prosperity, OK; then send us the accused criminals. That seems like more than a fair deal.

The consul general has an answer to that. He says that Mexico authorities have another policy: If we provide the evidence, the accused criminals will be tried in Mexican courts for the crimes they committed in the United States.

There are several things wrong with that policy.

First: There is the bribe factor. Mexican cops and other officials are notorious for being on the take. Their justice system can't be trusted.

Second: Why should all the U.S. witnesses and police have to troop to Mexico for a trial? It's much easier to send the accused criminal here.

Third: So far, Mexico hasn't shown much enthusiasm for arresting and trying these fugitives.

So let us review this dispute:

The consul general accuses me of characterizing all Mexicans as criminals. I say he should learn to read.

The consul general says Mexico has a policy against extraditing Mexicans. Which is exactly what I said.

The consul general says this policy has nothing to do with NAFTA. I say that if the Mexican government is going to protest murderers and rapists, why should we trust them in a business deal?

The consul general says, don't worry, his country will prosecute the criminals. Sure, And Chicago aldermen can be trusted in zoning deals.

I'll end this by asking the consul general to send me a list of the criminals Mexico has prosecuted for crimes in this country.

That list shouldn't take long to compile. He can use a postcard.

Mr. BAUCUS. Mr. President, I yield to the Senator from Tennessee 10 minutes.

The PRESIDING OFFICER. The Senator from Tennessee is recognized for 10 minutes.

Mr. MATHEWS. Thank you, Mr. President. I appreciate the courtesy the chairman has shown by giving me an opportunity to speak this afternoon.

Unlike my colleague from Alabama, Mr. President, Tennessee views NAFTA as a beneficial program and an opportunity to participate more freely in the trade of this world.

Last evening, when the House of Representatives took its vote, the RECORD will indicate that all nine Tennessee Congressmen supported NAFTA, all nine voted in the affirmative. Three Republican Members and six Democratic Members all came to the same conclusion: that NAFTA offers an opportunity to open markets to sell Tennessee products.

This morning as I was going through my mail, one of the items that I had to answer was a multiple letter from our agricultural organizations in Tennessee. This letter was signed by 14 different persons all representing the different facets of agriculture, all in complete support of the program.

In the 10 months that I have served here in the Senate, I have seen and been a part of this Congress reaching a pivotal point in America's journey as a nation—and I mean pivotal in the strict and literal sense.

In dozens of areas—health care, Government reform, the phase down of military forces—we are turning off our old path onto a new one.

One of the brightest yet most anxious of America's new directions is the direction we could take and should take and that which the House of Representatives has already taken with approval of the North American Free-Trade Agreement.

Mr. President, I rise today because it is time to face down our fears and seize America's future. I speak for NAFTA because I have a vision for America.

That vision beholds a Nation made strong by the hard work, sharp minds and keen skills of American workers.

That America faces the world and confronts its competitors, challenges the global market, and brings the benefits of trade home to American cities and families.

I know those benefits are real, because North American trade has brought them home to Tennessee.

Canada and Mexico are Tennessee's No. 1 and No. 2 export customers.

They purchased more than $2 billion from Tennessee farms and factories last year. That is an increase of 175 percent in 5 years.

More than 20 sectors of the Tennessee economy have seen their exports to Mexico double since 1987. Those exports support 44,000 Tennessee jobs, and there is more where those came from: about three new jobs for every one lost.

There will be more jobs because NAFTA will open Mexican Government procurement and eliminate tariff and nontariff barriers to key Tennessee exports—exports like transportation equipment, paper products, industrial machinery and computers, chemical products, and fabricated metal products.

What has happened in Tennessee can happen for all America.

NAFTA will open markets for dairy items, tobacco, cattle and beef, and soybeans.

Content requirements will be a catalyst for manufacturers in all three

NAFTA nations to source more auto parts and components in North America than overseas.

Environmental side agreements will stimulate demand for pollution control equipment and services.

Consumer and household goods, mature products inside United States borders, will meet nearly 90 million new Mexican consumers.

Mexico lacks bridges and highways, telephones and viaducts and sewage treatment plants.

That is a bonanza for American cement and steel and construction equipment and telecommunications—as well as for American engineers and consultants and banks and brokerages.

To make that bonanza real, we have to do one thing: believe in America's ability to prosper from change.

Frankly, Mr. President, we have no other choice. In the world where America competes now, protectionism is a contradiction in terms.

Protectionism cannot protect anything.

French workers tried to turn back the industrial age by flinging wooden shoes into machinery. A vote against NAFTA is the same bootless folly.

Trade alliances and trade blocs are the truth and the fact of today's world. We see that convincingly in Europe and Asia.

Our President is leaving today for the APEC conference which I think has the potential of opening up markets in Asia as great as what we are talking about here, or greater than NAFTA.

Nations like Sweden and Switzerland that have defined themselves by neutrality now want to join a consolidated commercial Europe.

Countries as different as Australia and Korea and Chile have found a common identity as Pacific basin nations. When you open borders and blend cultures, you unearth mutual economic good. I understand why so many try to deny that. They fear a phlebotomy of jobs. They saw 2.6 million U.S. jobs leave America in the 1980's. They saw half of all American companies lay off workers between July of 1992 and June of 1993.

The American worker—white collar and blue collar alike—does not know whether the American economy is downsizing, rightsizing, or capsizing.

But I know what has happened in Tennessee. Foreign investment, foreign trade, and common cooperation between workers and companies made Tennessee a front-page story of economic success. Tennessee's unemployment rate just hit a 3-year low. Eighty-four percent of Tennessee's exports to Mexico are manufacturing exports.

Jobs created by those exports pay 17 percent more than the average hourly U.S. wage. And as I said: we expect NAFTA to create three jobs for every one lost.

I cannot guarantee that will be the ratio for everybody in the new world of North American trade, but I can guarantee that trashing NAFTA will not salvage one American job. Protectionism never created a job, and it never preserved one.

Expanding markets creates jobs, but only for nations that do not cower from their chances.

In the tough and competitive realm of trade, the meek do not inherit the Earth. They bite the dust.

Mr. President, outbursts against NAFTA are typical of America's reaction after great conflicts: after proving ourselves over a foreign foe, we retreat from our victory. We fold inward. We brood in suspicion and dread of foreigners. We clamor for a cloistered America. We become a nation unworthy of its victory.

The cold war was a war no less than any other, and we won it.

This time, let us not mire ourselves in pointless and self-destructive seclusion. Neither the gains nor the losses created by NAFTA will be immediate or immediately large.

An obsession about a Mexican menace is wildly misplaced. In the long run, time will adjust the losses and our gains will surpass them, as we produce more and sell more to the growing Mexican market.

But our vote on NAFTA will have an immediate effect because it is a bellwether vote. It ranks in parallel with Congress' decision to support NATO and the Marshall plan. Those votes defined the world we knew for two generations. They announced and confirmed that America would be a force to contend with on this globe.

Passing NAFTA will do the same.

Defeating NAFTA will declare that we abandon the field to nations with the courage and the capacity to define it.

The moment we decide on NAFTA is the moment we announce which mentality and whose vision will set America's course for generations ahead.

America cannot peep out at the 21st century from a bunker. We will not expand America's horizon by building a wall. Let us put false fears and flagrant rhetoric behind us and step into America's future.

Mr. President, I ask my colleagues to join me in supporting this agreement.

I yield the floor.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, the distinguished Senator from South Carolina has come to the floor and is prepared to speak for at least 1 hour. This is a speech we have looked forward to, and I am happy to yield 1 hour to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina [Mr. HOLLINGS] is recognized for 1 hour.

Mr. HOLLINGS. Mr. President, I thank the distinguished chairman of the Finance Committee. We could wrap up this debate in a single sentence, then rest our case, by quoting the distinguished Finance Committee chairman: "How can you have free trade with a country that is not free?" Mexico does not have free elections nor a free market. That is the crux of my objection to proceeding down the NAFTA route in our relations with Mexico.

Time and again, the pro-NAFTA crowd accuses anti-NAFTA advocates of raising people's fears. Let me plead guilty. I am fearful. I am very much imbued with fear of the economic consequences of unrestricted trade with Mexico.

Likewise I plead guilty to the charge of being a protectionist. On a selective and commonsense basis, I am indeed a protectionist. And I am in sound company.

I will never forget economics 101 and the doctrine of comparative advantage advocated by David Ricardo. He said nations should look to their comparative advantage in choosing which products to export. Nation A would export what it produces most economically, nation B will trade back what it produces best, and both nations will prosper.

The fact is the British proposed exactly this kind of trade relationship to Alexander Hamilton in the earliest days of our Republic. The British proposed that they would export manufactured goods in exchange for America's raw materials and agricultural products. Hamilton replied in a booklet titled "Report on Manufactures." In a word, Hamilton said, "Bug off. We are not going to remain your economic colony. We will develop our own manufacturing base."

The first congressional act pertained to posts and bills. But the second act passed by the new U.S. Congress, on July 4, 1789, was a protectionist bill, a bill that raised tariffs of up to 50 percent on some 30 articles ranging from iron to textiles. That was America's response to the British. Not willing to remain their economic colony, we chose to build up our own economic backbone.

I can also cite the example of President Lincoln just prior to the Civil War with respect to building the intercontinental railroad. Rather than import steel for the rails, he insisted that America build its own steelmaking capacity.

Likewise in agriculture. The United States has the greatest and most productive agriculture in the history of the world. This accomplishment is in no small measure the product of protectionist policies, import quotas, restrictive agreements and so on.

President Eisenhower back in 1955 put in protective quotas for oil imports so as to develop our domestic oil production.

Every nation has used protectionist policies in order to build up their domestic industries and agriculture. Certainly, Mexico has done so, and we understand it.

So, let us get away from this exaggerated reverence for free trade as though it were something holy and sacrosanct. It isn't.

I am reminded of the oath that you and I took, pledging to preserve, protect, and defend this country and Constitution.

We are at a crossroads in our history where, to uphold that oath, we must act to protect this economy. The truth is that our national security and our foreign policy are much like a 3-legged stool.

One leg, of course, is the values we uphold as a country, and those values are very strong.

The other leg is our military power. On that score, we are the only remaining superpower.

But the third leg of our national security is the strength of our economy. And I must say that this third leg is fractured and weakened as a result of some five decades of American efforts to spread capitalism and democracy the world around. Certainly, we have succeeded. The Marshall plan worked. The wall has fallen. Europe and the Pacific rim are robustly capitalist.

But, in the wake of the cold war, we look back and see key sectors of our economy that we sacrificed down through the years in order to advance our foreign policy objectives. America's textile industry has been depleted and devastated. More than two-thirds of the clothes worn in this Chamber today are imported; 86 percent of the shoes are imported.

I recall testifying before the old International Tariff Commission back in the fifties when Tom Dewey ran me around the hearing room. We were fearful at that time that imports would soon account for 10 percent of the textiles consumed in America. That was going to be a devastating prospect. Yet now imports account for two-thirds of our market.

At the time they made a wonderful argument, which had a certain logic to it. They said, what do you expect the Third World, the emerging nations to produce? Let them make the garments. Let them make the shoes. And we will make the computers, the airplanes, the high technology.

Now, yes, I am fearful. Those former poor relations are now making the planes, the computers and the high-tech thanks to government subsidies and industrial policies. The majority of computers are now manufactured out in the Pacific rim, Japan, Taiwan, and elsewhere. Japan makes the best of automobiles at low cost.

J.D. Powers did a study of 26 automobile manufacturers the world around. No. 6 in efficiency and productivity was the Ford plant down in Mexico.

Certainly as a Governor three decades ago, I developed the techniques and training for bringing rural folks in off the farms and turning them into the most productive workers in the entire world. Today, amen, we have BMW coming to my home State, and I am proud of that. South Carolina has 100 German plants, and we have 45 Japanese plants, the blue chip corporations.

But, yes, I am fearful for the future, because the plants and industries we brought to South Carolina over the last three decades are now heading to Mexico. The United Technologies auto parts plant in Bennettsville, SC, has closed, with its 420 jobs going to Mexico; Pratt & Reed, maker of Baldwin pianos in Liberty, SC, 450 jobs, gone to Mexico; Cummins Gear from Stutgartt, leaving Charleston now for Mexico. Rotron, the Japanese high-tech firm with a plant in Orangeburg, SC, has closed and moved its 260 jobs to Mexico. South Carolina textile jobs have also been lost to Mexico.

I am proud of my State's textile industry. I don't accept the cavalier attitude of those who say that textile jobs are on their way to Mexico anyway, with or without NAFTA. South Carolina has 40,000 garment jobs. These jobs are very important to an underemployed family, with the husband working on a farm and his wife working in the textile plant. Together they hope to save enough money to send their kid to Clemson.

The pro-NAFTA crowd dismisses those 40,000 jobs, saying we don't need them because we are repositioning for high technology. Nonsense. We are repositioning for bankruptcy. The high technology replacement jobs have already come and gone. They, too, are going to Mexico from South Carolina.

Somehow, some way, we must grasp that the economic leg of our national security is directly threatened. We must protect it or see it further crippled. And do not dismiss me with the label protectionist. I am proud of my efforts to protect the textile industry. But my protectionism is selective and based on common sense. I proudly voted for the free trade agreement with Canada because our two countries have a comparable standard of living, comparable economies and comparable political freedoms.

In contrast, down in Mexico you cannot belong to a free union movement. The unions are all controlled by the government. Mexico has no free press, and I speak here as a witness with first-hand experience.

Just 3 weeks ago we had a hearing of the Commerce, Science, and Transportation Committee. We hooked up via satellite with NAFTA critics in Mexico. After we got about 30 minutes into the hearing, the powers that be in Mexico obviously did not like the testimony because they pulled the plug on our satellite transmission.

The United States has a bad habit of latching onto Latin American strongmen. We threw in our lot with Samoza in Nicaragua, with disastrous consequences. Now we are touting Salinas as a democrat and reformer. Well, let me tell you about Salinas not in the words of Senator HOLLINGS but in the words of the Economist:

> The ugly truth is that Mr. Salinas and his band of bright technocrats, admired though they are by the great and good of the international conference circuit, wield power courtesy of PRI fixers and worse in the countryside.

Let me quote also from Business Week:

> In their drive to modernize Mexico, Salinas and his planners command nearly every variable of the economy to smother inflation and preserve Mexico's huge labor cost gap with the United States and other producers. Salinas fixes salaries through a complex business-labor-management agreement known as El Pacto. He anoints and picks out labor union bosses and State governments alike. In short Salinas and his number crunchers run a command economy much closer to the Asian model than any country in the West.

Fearful? Yes, indeed, I am fearful of NAFTA.

If I were your lawyer and my client asked me about NAFTA, "Lawyer HOLLINGS, what do you think?" I would say, "Wait a minute. The terms of this contract might be very good indeed, but let us look at the track record of the party you are dealing with."

Performance is better than promise. Look at Mexico's dismal performance in suppressing a free press, free elections, free union movements, free markets. "Oh, heavens, don't sign the contract."

I advocate an alternative approach to Mexico based on the Europeans' experience with their Common Market. I have introduced a bill to create a Common Market for the Americas, the premise of which is that to get economic reform, you first must achieve social and political reform.

We have tried the purely economic approach, to no avail. We tried it with President Franklin Roosevelt in the good neighbor policy. We tried it with Eisenhower and Operation Pan America. We tried it, of course, with President John F. Kennedy in the Alliance for Progress. We tried it with President Lyndon Johnson with the maquiladora program. We have tried it with President Reagan with the Caribbean Basin Initiative. In each case, the hope was to generate economic development that would build up a middle class, which in turn would develop democratic institutions. It has not worked. The time has come to place democratic and social reform at the front end of the development process.

We know that this approach can work. We have the example of Chile. We brought pressure for democratic reform. This, together with movement toward a free economy, produced tremendous results. Chile is looking forward to another election on December 11. I would be proud to enroll them as a charter member in the Common Market for the Americas this afternoon.

But, today, we are talking about Mexico and fear.

The human rights report of our own Department of State documents that 28 journalists have been killed since Salinas took office in 1988. In one case a journalist was murdered who had been pledged protection by Salinas.

Mexico does not have a free press. Nor does it have a free electoral process. As Morton Kondracke reported in Roll Call, the true victor in the Mexican election of 1988 was the opposition candidate Cardenas. But Salinas and the PRI brazenly stole the election from him. In the same manner, Salinas will hand pick his successor next year. The PRI will maintain its corrupt grip on power. The repression will continue. The torture will continue. The killings will continue. The market will continue to be controlled. Wages will be rigidly controlled.

It is just amazing to hear pro-NAFTA advocates saying it will create jobs. Haven't they seen the advertisements urging United States firms to take advantage of $1 per hour labor in Mexico. The advertisements crow, "Yes, we can in the Yucatan. Yes, we can in the Yucatan. We can save you up to $15,000 per worker as compared to what your labor costs are in the United States."

It is obvious what the Mexican Government is prepared to do in order to promote economic development. They will hold wages artificially low and not enforce their environmental standards. But the fruits of this development will not be shared with the ordinary Mexican worker.

So the United States, after devoting five decades to defeating communism and building democracy, at a time when we should insist on a tried and true Common Market arrangement with Mexico, instead we have this narrow NAFTA agreement which locks in the corrupt status quo in Mexico. It is a shame. And it comes at a most difficult time in our own history.

Mr. President, we have 10 million Americans out this afternoon looking for work. When I read the newspaper endorsements of NAFTA, I am impressed by the fact that editorialists are not going to lose their jobs. The lobbyists, the consultants, the fixers, the Fortune 500 executives, they are not going to lose their jobs. As Representative Dave Bonior said, the Fortune 500 owners are safe, but the unfortunate 500,000 are going to lose their jobs. From the Fortune 500, 250,000 jobs were lost in the first 6 months of this year. Oh, it is nice to call this by the euphemism "downsizing." But the truth is those workers were fired. And the workers that remained are feeling downward pressure on their wages. Every day, another thousand are being let go.

The pro-NAFTA people talk dismissively of fear as though it is some kind of psychological or emotional problem. It is indeed emotional. It is real, I can tell you that. This Senator has really been in a funk witnessing the fix being put in over on the House side, because we knew on the merits we had NAFTA whipped.

Let me congratulate the NAFTA opposition in the House of Representatives. Let me congratulate DAVE BONIOR in particular. He fought NAFTA on the merits. He did not have anything to give away. He did not have any bridges to offer, any peanut butter restrictions, any special deals on citrus, sugar, and so on.

The White House was wheeling and dealing. They would give you anything. But without anything to give away, relying strictly on the common sense of the American people and the merits of their case, they came close to defeating NAFTA. They held the line because they knew NAFTA was not in the interest of the United States.

So, yes, there is fear. We Senators love to go to graduations and tell the college graduates that the great future awaits them. But when they walk out the door they find there isn't any future for them. There are few good jobs for the next generation and the next leadership to come along.

We have a President who said he was going to protect and build the middle class. But last night he acted to harm the middle class. As James Carville said, "It's the economy, stupid." But last night, we heard from the pro-NAFTA people, "It's foreign policy, stupid."

That is what is happening to us here in the Senate, too. They are sure they have a fixed jury over here on the Senate side. So do not worry about making deals here. Because it is easier to fix this crowd. The Senate has more candidates for President than anywhere else, and all those would-be candidates for President fall all over themselves identifying with the god of free trade.

In describing the United States and the potential market in Mexico, bear in mind that our neighbor has a market only the size of Los Angeles. Their consumer market is tiny compared to ours.

But their population is exploding, with 1 million teenagers entering the work force each year. Edward Luttwak says the true number is 2 million new workers a year. We know the average age in Mexico is 15 years of age. But these people are by and large impoverished. They do not have sufficient income to be major consumers of U.S. goods.

Incidentally, the official Mexican labor statistics list 12-year-olds among their unemployed. Mexico's unemployment statistics expressly include children 12 years or older who didn't have a job the week before the survey and were looking for employment. Child labor is a given.

I ask unanimous consent to reprint in the RECORD a story from the Wall Street Journal about one child laborer, Vicente Guerrero, who quit school to work in a footwear plant.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Apr. 8, 1991]

WORKING CHILDREN: UNDERAGE LABORERS FILL MEXICAN FACTORIES, STIR U.S. TRADE DEBATE

(By Matt Moffett)

LEON, MEXICO.—When Vicente Guerrero reported for work at the shoe factory, he had to leave his yo-yo with the guard at the door. Then Vicente, who had just turned 12 years old, was led to his post on the assembly line: a tall vertical lever attached to a press that bonds the soles of sneakers to the uppers.

The lever was set so high that Vicente had to shinny up the press and throw all his 90 pounds backward to yank the stiff steel bar downward. It reminded him of some playground contraption.

For Vicente this would have to pass for recreation from now on. A recent graduate of the sixth grade, he joined a dozen other children working full time in the factory. Once the best orator in his school and a good student, he now learned the wisdom of silence: even opening his mouth in this poorly ventilated plant meant breathing poisonous fumes.

Vicente's journey from the front-row desk of his schoolroom to the factory assembly line was charted by adults: impoverished parents, a heedless employer, hapless regulators, and impotent educators. "I figure work must be good for me, because many older people have helped put me here," says Vicente, shaking his hair out of his big, dark eyes. "And in the factory I get to meet lots of other boys."

Half of Mexico's 85 million people are below the age of 18, and this generation has been robbed of its childhood by a decade of debt crisis. It's illegal in Mexico to hire children under 14, but the Mexico City Assembly recently estimated that anywhere from five million to 10 million children are employed illegally, and often in hazardous jobs. "Economic necessity is stronger than a theoretical prohibition," says Alfredo Farit Rodriguez, Mexico's Attorney General in Defense of Labor, a kind of workers' ombudsman.

Child labor is one of several concerns about standards in the Mexican workplace clouding the prospects for a proposed U.S.-Mexico free trade agreement. It is being seized upon, for example, by U.S. labor unions, which oppose free trade and fear competition from Mexican workers.

Recently, Democratic Sen. Lloyd Bentsen of Texas, the chairman of the Senate Finance Committee, and House Ways and Means Committee Chairman Dan Rostenkowski of Illinois warned President Bush in a letter of the major hang-up: "the disparity between the two countries in . . . enforcement of environmental standards, health and safety standards and worker rights." Mr. Bush yesterday reiterated his support for the trade pact.

Free-trade advocates argue that investments flowing into Mexico would ameliorate the economic misery that currently pushes Mexican children into the work force. Partisans of free trade also point to the aggressiveness Mexican President Carlos Salinas de Gortari has lately shown in fighting lawbreaking industries: Mexico added 50 inspectors to regulate foreign plants operating along the U.S.-Mexico border and shut down a heavily polluting refinery in Mexico City.

LITTLE FOXES

Young Vicente Guerrero's life exemplifies both the poverty that forces children to seek work and the porous regulatory system that makes it all too easy for them to find jobs. In the shantytown where Vicente lives and throughout the central Mexico state of Guanajuato, it is customary for small and medium-sized factories to employ boy shoemakers known as zorritas, or little foxes.

"My father says I was lucky to have so many years to be lazy before I went to work," says Vicente. His father, Patricio Guerrero, entered the shoe factories of Guanajuato at the age of seven. Three decades of hard work later, Mr. Guerrero lives in a tumbledown brick shell about the size and shape of a baseball dugout. It is home to 25 people, maybe 26. Mr. Guerrero himself isn't sure how many relatives and family friends are currently lodged with him, his wife and six children. Vicente, to get some privacy in the bedroom he shares with eight other children, occasionally rigs a crude tent from the laundry on the clotheslines crisscrossing the hut.

School was the one place Vicente had no problem setting himself apart from other kids. Classmates, awed by his math skills, called him "the wizard." Nearly as adept in other subjects, Vicente finished first among 105 sixth-graders in a general-knowledge exam.

Vicente's academic career reached its zenith during a speaking contest he won last June on the last day of school. The principal was so moved by the patriotic poem he recited that she called him into her office to repeat it just for her. That night, Vicente told his family the whole story. He spoke of how nervous he had been on the speaker's platform and how proud he was to sit on the principal's big stuffed chair.

After he finished, there was a strained silence. "Well," his father finally said, "it seems that you've learned everything you can in school." Mr. Guerrero then laid his plans for Vicente's next lesson in life. In a few weeks, there would be an opening for Vicente at Deportes Mike, the athletic shoe factory where Mr. Guerrero himself had just been hired. Vicente would earn 100,000 pesos a week, about $34.

At the time, money was tighter than usual for the Guerreros: Two members of the household had been laid off, and a cousin in the U.S. had stopped sending money home.

After his father's talk, Vicente stowed his schoolbooks under a junk heap in a corner of the hut. It would be too painful, he thought, to leave them out where he could see them.

Last August Vicente was introduced to the Deportes Mike assembly line. About a dozen of the 50 workers were underage boys, many of whom toiled alongside their fathers. One youth, his cheek bulging with sharp tacks, hammered at some baseball shoes. A tiny 10-year-old was napping in a crate that he should have been filling with shoe molds. A bigger boy was running a stamping machine he had decorated with decals of Mickey Mouse and Tinker Bell. The bandage wrapped around the stamper's hand gave Vicente an uneasy feeling.

Showing Vicente the ropes was the plant superintendent's 13-year-old son, Francisco Guerrero, a cousin of Vicente's who was a toughened veteran, with three years' experience in shoemaking.

When a teacher came by the factory to chide school dropouts, Francisco rebuked her. "I'm earning 180,000 pesos a week," he said. "What do you make?" The teacher, whose weekly salary is 120,000 pesos, could say nothing.

Vicente's favorite part of his new job is running the clanking press, though that usually occupies a small fraction of his eight-hour workday. He spends most of his time on dirtier work: smearing glue onto the soles of shoes with his hands. The can of glue he dips his fingers into is marked "toxic substances . . . prolonged or repeated inhalation causes grave health damage; do not leave in the reach of minors." All the boys ignore the warning.

Impossible to ignore is the sharp, sickening odor of the glue. The only ventilation in the factory is from slits in the wall where bricks were removed and from a window near Vicente that opens only halfway. Just a matter of weeks after he started working, Vicente was home in bed with a cough, burning eyes and nausea.

What provoked Vicente's illness, according to the doctor he saw at the public hospital, was the glue fumes. Ingredients aren't listed on the label, but the glue's manufacturer, Simon S.A. of Mexico City, says it contains toluene, a petroleum extract linked to liver, lung and central nervous system damage. The maximum exposure to toluene permitted under Mexican environmental law is twice the level recommended by recently tightened U.S. standards. And in any event, Deportes Mike's superintendent doesn't recall a government health inspector coming around in the nine years the plant has been open.

When Vicente felt well enough to return to work a few days later, a fan was installed near his machine. "The smell still makes you choke," Vicente says, "but *el patron* says I'll get used to it."

El patron, the factory owner, is Alfredo Hidalgo. "These kinds of problems will help make a man of him," Mr. Hidalgo says. "It's a tradition here that boys grow up quickly." Upholding tradition has been good for Mr. Hidalgo's business: Vicente and the other zorritas generally are paid less than adult workers.

Mr. Hidalgo doesn't see that as exploitation. "If it were bad for Vicente, he wouldn't have come back after the first day of work," he says. "None of the boys would, and my company wouldn't be able to survive."

"The system makes protecting the zorritas very, very difficult," says Teresa Sanchez, a federal labor official in Guanajuato state. The national labor code gives the federal government jurisdiction over only a limited number of industries that make up just 3% of businesses in the state. "The important industries, like shoes," she says, "are regulated by the states, and the states . . . " She completes the sentence by rolling her eyes.

At the state labor ministry, five child labor inspectors oversee 22,000 businesses. The staff has been halved in the decade since Mexico's economic crisis erupted, says Gabriel Eugenio Gallo, a sub-secretary. The five regulators make a monthly total of 100 inspections. At that rate it would take them more than two decades to visit all of the enterprises under state jurisdiction. Because child labor violations weren't even punishable by fines until very recently, state regulators say they have a hard time getting the tradition-bound employers they do visit to take them seriously. "Ultimately, the schools must be responsible for these kids," Mr. Gallo concludes.

Located just four blocks from where Vicente Guerrero labors, the Emperador Cuauhtemoc school employs two social workers to reclaim dropouts. (Children are required by law to stay in school through the sixth grade.) One-third of the students at Cuauhtemoc never finish the Mexican equivalent of junior high. With their huge caseloads, the two social workers certainly have never heard of Vicente Guerrero. "Ultimately, it's the boy's own responsibility to see to it that he gets an education," says Lourdes Romo, one of the counselors.

Vicente is still getting an education, but it's of a different sort than he would be getting in school. On a factory break, the superintendent puts a zorrita in a headlock to act out the brutal murder of a member of a local youth gang. This pantomime is presented to Vicente and a rapt group of boys as a cautionary tale. "Boys who don't work in the factory die this way on the street," the superintendent warns.

Vicente hasn't missed work again, though he always has a runny nose and red eyes. "One gets accustomed to things," he says. It's lucky for him that he is adaptable. The plant was expanded recently and Vicente's window, once his source of fresh air, now swings open onto a sewing room where several new boys labor.

The zorrita tradition is unlikely to fade any time soon. "We eat better now that Vicente works," says Patricio Guerrero, watching his wife stir a skillet of chicken in sweet mole sauce. "And Vicente has few pesos left over so he can enjoy being a boy."

But Vicente doesn't have the time. Even though he's the captain, he recently missed an important Saturday match of his soccer team. A rush order of soccer shoes had to be filled at Deportes Mike. His friends tell him that "I stink as bad as the patch on a bicycle tire," he says. "But I know that's just the smell of work."

Mr. HOLLINGS. Little Vicente asks his teacher, "How much do you make, teacher, a month; 350,000 pesos?" Little Vicente, the 12-year-old said, "I make 360,000." So he was already ahead of the teacher.

Fifty percent of the maquiladora workers do not have plumbing. One-third do not have running water. One-fourth of them, 25 percent, do not have electricity. All of these Fortune 500 lobbyists who have been running all over the Halls of Congress, I wish they would go down there and live in the maquiladora squalor.

In the 28 years since Lyndon Johnson began the maquiladora program, some 500,000 jobs have been created in Mexico. U.S. firms have built beautiful plants along the border, plants with green lawns and crisp flags flying. But all around the plants are miserable living conditions, with no paved streets, no plumbing, no running water, no toilet facilities, and very little electricity. Several of the places I visited recently in Tijuana are hovels made from five garage doors put together to make a home. In one such hovel, the family had a little car battery on top of the TV.

I asked, "Why?"

They say, "Well, if we turn on the TV and the light at the same time the light goes out. So, in order to see my TV and still have a light on at night I have to put a car battery in here."

So this is the kind of pathetic living conditions that have been created by the Fortune 500 in the maquiladoras.

As executives at Cummins Gear told me when they left Charleston for Mexico, they said they did not want to go to Mexico but their competition was already there and they had no choice but to follow suit. With NAFTA, more and more companies will be forced to depart for Mexico, even those that would otherwise prefer to stay in the United States.

Yes, let me plead guilty to being fearful because we are going to lose jobs. You can get into the statistical game of jobs won and lost under NAFTA. The studies showing job gains in the United States always assume constant growth, which is unrealistic. Consider the obvious. I do not know of any Mexican capitalist who is looking to build a plant in South Carolina. I know a lot of South Carolina industries that have gone down to Mexico. The jobs are heading south, not north.

The delegation of South Carolina understands this, despite all the pro-NAFTA newspaper editorializing. Of the eight members of the South Carolina delegation, seven of the eight are voting against NAFTA.

Pro-NAFTA advocates have pelted us with deceptions with respect to jobs, with respect to growth, with respect to fear. We have heard the slogans: "We chose to compete rather than retreat." "We have the most productive industrial worker in the world here in the United States."

We agree. We know that.

What is not competing is the U.S. Government. We know our workers can compete. Milliken & Co. in South Carolina won the Baldrige Award for excellence 3 years ago. Our textile industry has won a slew of similar awards. We know about productivity.

GE came to Florence, SC, where they make MRI's. They send over 55 percent of what their Florence production was to Tokyo. They have taken the market away from Toshiba. So do not tell me about competing and industrial workers. We are beating the Japanese.

But we cannot compete on an unfair playing field. We cannot compete against prison labor in China, child labor in Mexico, controlled labor in Mexico.

Another deception was with respect to immigration.

We have the testimony of none other than Doris Meissner, the Administrator of the Immigration and Naturalization Service—INS. She attested earlier in the year—and they jumped all over her—but she repeated it on the House side more recently, that, as a result of NAFTA, Mexican immigration is going to continue to increase.

Let me talk about the suppression of labor unions, because I saw it with my own eyes down in Tijuana.

There was a plant down there that had moved from Santa Ana, CA. It makes plastic coat hangers. In that plant, if you miss 1 day you are docked 3 days. So in January, with the heavy rains they got docked 4 days and they did not like that. Then another worker got his eye put out. He was not provided with any protective glasses. He lost his eye.

Then around late spring, a favorite supervisor, a woman expecting a child, became ill. She went to the boss and said, "Look, I have to rest."

He said, "Oh, no. You continue to work."

And she had a miscarriage and lost her child. Well, that was too much. Men and women, workers together all said, "We are going to get a union."

Do you know what, they discovered that their plant already had a union, the Government-controlled union. The workers did not know anything about it—but management did. They had had the union for 3 years. They had never seen the union contact, never heard of him, never knew about it.

Then they found out they were violating the law by trying to organize a new union in a shop that already had a union, albeit a government-controlled union, so they all got fired.

Those are the labor conditions. I told you about the hovels and squalor that they have down there. The average stay of a Mexican worker in the maquiladora plants is only 18 months. They learn a basic skill and don't want to stay there earning 80 cents an hour or $1.50 an hour when you can go up the highway to Los Angeles and get $7.50 an hour, plus education, safety protection, unemployment compensation and so on. This is exactly why NAFTA will spur a steady stream of Mexican immigration to the United States.

Meanwhile, this Congress makes U.S.-based industries less competitive. We say they must have strict environmental controls, Social Security, health care, a safe working place and safe machinery, parental leave, plant-closing notice, and on and on and on. These things all go into the cost of production. You do not have that in Mexico.

So that is why the Mexicans take our plants away by promising the Fortune 500, "Yes, you can in Yucatan." Heavens above, you can save $15,000 a worker. That is why the Mexican worker continues to emigrate to the United States. With 2 million coming into the work force each year, the jobs just aren't there. They would need at least 6 percent real growth for 20 years to keep up with this labor demand.

Then look at what will happen in agriculture under NAFTA. Experts project that America's super-productive agribusiness will drive out of business a million small unproductive farms down in Mexico. This will add millions more to the ranks of Mexicans heading northward. So instead of solving the immigration problem, NAFTA would compound the immigration problem.

I spoke to the distinguished ambassador for trade, the U.S. Trade Representative, the Honorable Mickey Kantor. I have the greatest respect for him individually. He has been my friend a long time. But I said: "Ambassador Kantor, the administration claims on TV that the Japanese and the Europeans are against NAFTA because they fear they will be on the outside looking in. False. Under NAFTA, the Japanese and the Europeans are going to be on the inside—in Mexico—shipping in, to the United States market."

Yesterday evening, the European Community sent congratulations to the House of Representatives on the passing of NAFTA. The European Community is gung ho for NAFTA. Why? Because they plan to transform Mexico into a duty-free platform from which they will export into the richest market in the world. Heavens above. The Europeans are wild about NAFTA.

I said to Ambassador Kantor, "Here is the headline and story, 'Bank of Tokyo Bullish on NAFTA'." I pointed out how Nissan is investing a billion bucks in Mexico, anticipatory not of the Mexican consumer market—Mexicans do not have enough money to buy a significant number of cars down there—but to try to export to the United States market. I pointed out that Volkswagen, too, is putting in a $1 billion expansion in Mexico, anticipating a flood of exports duty-free into the American market.

Finally, in addition to building the biggest yarn plant in all of Mexico, the People's Republic of China in September purchased 100,000 acres to develop an industrial park. China, too, is looking to use Mexico as a duty-free export platform into the United States.

So what NAFTA creates is not just a swooshing sound of jobs leaving; it is also a swooshing sound of investment pouring into Mexico. NAFTA is not a free trade agreement so much as it is the investment protection act. In the past, the Japanese and the Europeans have rebuffed Mexican invitations to invest. They had no interest. Why? Because the Mexicans have a reputation for being undependable. They seize the banks. The Japanese and Europeans said, "You get NAFTA, you get that compulsory arbitration so we know we can get our money back out, you get that NAFTA with the United States, and, uh-huh, we're coming."

So let's be done with this deception that, "The Japanese and Europeans are against NAFTA because they will be on the outside looking in." Nonsense. They are going to be on the inside shipping in.

Look at chapter 11 of NAFTA, Mr. President. Chapter 11 is the investment protection act for the country of Mexico. I cannot get over this thing. Here we ought to be building a job-growth program for the United States of America. This Congress needs it badly. We do nothing to encourage the industrial worker in this country. That is why the Senator from South Carolina voted against the parental leave bill. That was an additional cost on U.S. businesses making them just that much less competitive.

I must say that the deals that were cut to pass NAFTA in the House have made a mockery of fast track. Under fast track, we have limited time for debate and we cannot offer any amendments.

But, Mr. President, in recent days the White House has effectively amended NAFTA approximately every 10 minutes. Go over there to the White House Office of Congressional Liaison. They might still have the office open where you can get an aircraft carrier, a bridge, a special deal for durum wheat, sugar, you name it.

I am telling you, it is a wonderful bizarre. In fact, they had the unmitigated gall to put a tent out there and make it appear like a bizarre on the White House grounds. This was it. They said you all ought to come over here; we have a bazaar. We'll give you whatever you need to change your vote, because we are amending the bill right and left, left and right.

But the 535 Members of Congress, who under the Constitution have the responsibility for regulating commerce, we are not allowed to amend NAFTA one iota. Article I, section 8 of the Constitution says that the Congress of the United States may regulate foreign commerce, not the President of the United States. Heavens above, we should not be restricted by a procedure whereby we cannot even put in an amendment. You would not recognize the new NAFTA with all the amendments and deals that have been cut in recent days. You cannot recognize the bill. If you asked them to integrate these deals in a finished document and send it over here, they could not get it over here before Thanksgiving. Just type up all the promises.

I hope the White House will do that. I hope they will come and show me, as I asked Ambassador Kantor, show me where the Japanese and the Europeans are opposed to NAFTA.

They have not one iota of evidence about that, and they know it. But they keep coming up with these different deceptions and misrepresentations, and they mock us for being fearful. That is not a misrepresentation, because it is a studied and legitimate fear. They demean the labor movement.

I recall that the United Auto Workers, over the history of 50 years, from Walter Reuther forward, has been on the side of every free trade agreement. Why is it that the UAW opposes this particular free trade agreement? Because they realize that 71,000 jobs from General Motors, the largest employer, have disappeared, and that GM does not plan any new plants in the United States. Chrysler is not planning any new plants here. Ford is not planning any new plants here in the United States. But Chrysler is going to make its Neon in Mexico and Ford is going to make its truck in Mexico, and they pat you on the back and say, "Look, exports create jobs."

As the chairman of your Commerce Committee, I can tell you here and now that the CAFE standards are going to be compromised by NAFTA, as will safety standards. We had the hearing on it yesterday. The safety standards on trucks and the operation of vehicles are going to be compromised.

Do not give me the argument that United States firms are going to Mexico with or without NAFTA. NAFTA will be the catalyst for an exodus. United States, European and Asian firms are waiting on the Investment Protection Act known as NAFTA so that they can get the protection they now lack. Just at the time when we ought to be building up our economy, Mr. President, we really are going to be tearing it down and tearing down the middle class.

I put in a bill, after listening to the witnesses and watching the European system grow and prosper, a bill to create the Common Market for the Americas. The Europeans tried EFTA, the European Free Trade Agreement, and it did not work. As Lester Thurow of MIT says, free trade agreements never work, but common markets do. Thurow argues that you must first build up social and political reforms to get economic stability, and this is what they did in southern Europe. They provided a development fund to boost the economies of Greece, Portugal and Spain, and they demanded democratic reforms. They encouraged the institutions of a free society and free market so they could have, as we say in law, a meeting of the minds.

Under the law, a child cannot make a contract. I can tell you now Mexico cannot make a free trade agreement. They have no free elections. They have no free market. They have no free judiciary. They have no free labor. They have no free press.

And who is going to suffer? Not just the United States of America but the people of Mexico. Cardenas, from whom the presidential election was stolen back in 1988, favors the common market approach to build his country. He is a Mexican patriot and he has been berated because he dared to question NAFTA.

But the truth is I talked to the city councilman in Tijuana, and he said he was opposed to NAFTA. I talked to the workers. I said, "Aren't you all going to get these new jobs?" And they talked about how they were not getting anything out of new jobs, just a chance to get enough money to run up the highway to California and the United States to do better.

So NAFTA is really going to plant the seeds of violence down there, and discord, because the rich are going to get richer. Salinas has created 22 billionaires in the last 5 years. He has not privatized. He just divvied up the public enterprises among his friends. Salinas raised $750 million in political fundraising. That is what you are dealing with. Yet fewer that 10 percent of Mexicans have any significant purchasing power. That is equivalent to the population of Los Angeles. So don't expect an export boom to Mexico.

NAFTA will benefit Mexico because it is like clearing the decks and saying sooey pig, every greedy violator of the environment and exploiter of labor, you all come on down because, yes, we can in the Yucatan.

I yield the floor.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. Mr. President, might I ask the Senator from California how much time she would like to have?

Mrs. BOXER. I would appreciate having 20 minutes.

Mr. BAUCUS. Mr. President, I yield 20 minutes to be taken off the time of the opponents.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from California is recognized.

Mrs. BOXER. Thank you very much, Mr. President.

Before the Senator from South Carolina leaves the floor to attend to other business, I wanted to thank the Senator from South Carolina for his commonsense comments, his speech, and for his deep understanding of economics.

To me, it is always refreshing when the Senator from South Carolina speaks to us, because he speaks in plain English, having been an economics major myself many years ago. It took me a while to get out of that. And listening to the Senator, as I have since I came here, it is just a great pleasure. I am very proud to stand with him on this issue, even though we may not be on the same side. I am very proud to be with him on the Common Market for the Americas, which I think is the right way to proceed. We are not saying no. We are saying there is a better way.

Mr. HOLLINGS. Exactly. I thank the distinguished Senator from California.

Mrs. BOXER. Mr. President, I stand today on the Senate floor, having served 10 years in Congress, and having voted against every trade barrier and for free and fair trade, for reciprocal trade agreements which say America will treat our trading partners as they treat us. That is only right for America.

I remember on one occasion I voted against a textile bill, and labor was very angry with me. They said: Why are you doing this? They said they did not think that was the right approach.

But I am not for this NAFTA. And why? Because I care about my country, and I care about my State of California, and I care about the people of this country. I do not think NAFTA is good for our people, for California. I do not think it is good for our people in America. I care about them more than I do about some abstract theory of economics. I do not approach this job with green eyeshades on, as my friend, Senator MIKULSKI, says. I do not approach this job with an ideology stamped on my forehead that says "free trade at all costs."

I approach this job with an open mind. And when it comes to our people, I also have an open heart.

I will not turn my back on the people of California and the people of America, even for my President whom I greatly admire, whom I agree with so much on so many occasions and whom I congratulate on his tenacity and his leadership on this issue. But I cannot turn my back on real people who understand what is going on here. Our working people, whether unionized or not, are very smart. They are also very productive, Mr. President, the most productive in the world.

You know, they say to me: Senator, we do not need a Ph.D. to understand that if a company has a chance to move south of the border and pay workers 58 cents an hour minimum wage, or even $1 an hour, it is not a level playing field for us.

I think our workers deserve at the minimum a level playing field. I do not think it is a level playing field for our workers to compete with those who earn $4 a day. Is it a level playing field to compete with a country who has some of the worst environmental laws, and even though they are getting better, the worst enforcement record? I say no. And is it fair to our small businesses and medium-sized businesses who cannot afford to move to Mexico, and who live up to our tough environmental standards? Is it fair to them to have to compete with large companies who move to Mexico?

You see who is behind this NAFTA. Read some of the reports, as my friend, DAVE BONIOR, said. NAFTA is great for the Fortune 500, but it is not so great for the unfortunate 500,000.

Is NAFTA good for some of America? Yes; we know. I said Fortune 500, yes. Those who can afford to invest will do well. Those who will exploit those weak laws and low wages and decent, hardworking Mexican workers, it will be good for those investors. Let us make it clear. It will be good for those investors. And they are smiling today. Look, I do not blame them. They are smiling. But there are a lot of people in this country who are not smiling today.

You know, my dear good friends on both sides of this issue, NAFTA was the dream of President Ronald Reagan. It was so said on the House of Representatives floor last night by my friend, DAVID DREIER, Republican Congressman from California. He said, "I am so happy." He said, "The vision of Ronald Reagan is coming true."

I say to my colleagues, and to America, whatever your view of President Reagan, I do not think there is one person in America who would say that Ronald Reagan's legacy was raising the standard of living for real working families, or making a real impact on improving this environment. We know that. That is not the legacy of the Reagan Presidency. He was a President quite beloved by many, who lowered taxes on the wealthiest corporations and the wealthiest Americans. He was a President who believed that helping the wealthiest would trickle down to average working people.

I say that this NAFTA is the same principle. For it reaches out to the wealthiest among us, and says take advantage, my friends, of the low wages and the weak environmental laws of Mexico. Then it says further—here is the trickle-down part—perhaps in many years, as Mexican workers' wages rise, by the way, if that is allowed by the Mexican Government, because they set the wages, maybe then they will be able to buy our products in quantities that will impact our exports of consumer goods.

Let me repeat that. This is trickle-down trade prosperity, and we have had enough of trickle-down economics. It is not a level playing field for our workers, our small- and medium-sized businesses, and our environment. So that is what NAFTA is to me.

Mr. President, my mother taught me a very simple rule. Before you expand a relationship with a friend, be honest about what has come before. So I say, let us look at what has come before. Let us look at the maquiladora. People who have come back from there are stunned at what is happening on the border. Look at illegal immigration with our friends to the south.

I went to the border with Senator FEINSTEIN and with Attorney General Reno. I saw desperate, good, decent people waiting for the Border Patrol to turn their backs. And 2,000 every night run across the border to America. Illegal immigration is having a very rough impact on California's economy. These are good, decent, hard-working people who are desperate.

When Senator FEINSTEIN asked the President of Mexico if he would cooperate and help us with illegal immigration, the answer was no; the answer was no. We know that the head of the INS, Doris Meissner, said before the Judiciary Committee that for 20 years we are going to see increases in immigration, and in illegal immigration.

Let us look at pesticides. Have they outlawed the pesticides that we have outlawed in California? No.

Let us look at dolphin killing. Do they allow it? Yes.

Let us look at child labor laws. Do we outlaw child labor? Yes. Are they getting better? Yes. And I think a lot of credit goes to Chairman BAUCUS, who said, "I am going to try to make this the best side agreement I can in labor and environment."

Yes, we got a few things, and that is good—but it is not near enough.

Let us look at human rights. We know that Amnesty International and others have said there still is torture by local police officials. Human rights are still a problem.

Let us look at wages; 58 cents an hour, Mr. President.

So I agree things are getting better in Mexico, but what a golden opportunity this is for us to see that they get even better by joining with the Senator from South Carolina and setting up a common market for the Americas just like they did in Europe. When you lay down some markers that have to be met—markers on wage and labor standards, markers on how they are going to enforce their laws, environmental markers, human rights markers.

Use the leverage and the power of free trade to ensure that the disparity between our two countries decreases. That is a new way to lead—not this old-fashioned way. What would be more old fashioned than exploiting workers? This is a time for us to lead, to stand for something, for democracy and economic justice. Lay down the markers, and any country that wants to join the common market for the Americas meets those markers, and now we have something to be proud of, not just walking in and exploiting poor people, exploiting the fact that they will work for peanuts because they are desperate.

Let me say to the working people of America, I know that many of you feel betrayed. You have told me. I see it in your faces. You feel abandoned. You have told me that. I tell you, do not be afraid and I make a promise to you that whatever fallout I receive for standing with you and others in this Chamber who will stand with you, it does not matter to us that we are going to receive this criticism. We will not vote to put you at risk. We know that there is a better way—following the lead of the EEC, opening up those borders in an intelligent, orderly fashion, in a way that will not put downward pressure on your standard of living.

There is a whole slew of economists who have said that is what will happen. To anybody in this Chamber who says no economist is against NAFTA, I am going to insert in the RECORD the names of a half dozen that I found that say it will put downward pressure on wages.

So I say to my working friends, whether you are in a union or not: Hold your head up high. You have a right to be concerned and even angry, and you have a right to demand that your Government put you first.

I will work with this administration to cushion the blow that you will feel, to expand opportunities for you through investments in job producing needed projects, such as high-speed trains and buses, computers in every classroom, worker retraining, and the establishment of an economic growth fund through creative mechanisms, such as the use of pension funds. I see many of my friends who agree with me on this, and we will not sit around waiting for the standard of living in Mexico to rise so that maybe, just maybe, that trickle-down theory that we knew so well would kick in and they will buy some more of our products.

I am here to make life better for Californians and Americans now—not in 30 years from now, and not for an elite few. I want to say this to my friends in the environmental community who are very discouraged by these side agreements: I will be there for you. I want to become the NAFTA environmental watchdog. I am committed to ensuring that conditions on the border not worsen, and if they do, I will blow the whistle loud and clear and I will never forget the environmental promises made. I was in the room with Ambassador Kantor when he said: "We will cleanup the border if we get this NAFTA, and we will not allow dangerous pesticides in on the fruit and vegetables or allow California proposition 65 to be overridden." Promises on the environment.

When I read the side agreements, I will tell you it took a Ph.D. to understand them. The bureaucracy is unbelievable. If you have a complaint, it is probably going to take a couple of years to be heard by the authorities—some unelected group of people. I am very worried about that. I know there are those who are for NAFTA that think this is a landmark agreement and they disagree. I will work with them to make sure that I am not right.

The administration and other pro-NAFTA advocates have claimed that "all reputable economists say that there will be job gains as a result of NAFTA." This ignores a number of studies done by reputable economists which conclude that jobs will be lost to Mexico if NAFTA is passed.

I ask unanimous consent that a list of economists opposing NAFTA be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

Economic Strategy Institute: Estimates that NAFTA may cost up to 220,000 jobs over the next 10 years when the investment and trade flows are taken into account.

Timony Koechlin, Prof. at Skidmore College, and Mehrene Larudee, Prof. at Univ. of Massachusetts: Conclude that NAFTA will result in the loss of as many as 490,000 U.S. jobs over the next 10 years. They conclude that American and foreign investors will build new capacity in Mexico, rather than in the United States.

Economic Policy Institute: Estimates a shift of $44 billion worth of investment from the United States to Mexico over a decade. As a consequence, during the first 10 years of the agreement, 550,000 fewer high-wage jobs would be created in the United States.

Office of Technology Assessment found that "accelerating economic linkages with Mexico could reinforce downward pressure on U.S. wages and labor standards." Job losses will principally be in lower-skilled workers, especially apparel, auto parts and T.V. assembly.

Harley Shaiken, Prof. at UC-Berkeley found that productivity in Mexican manufacturing is as much as 80% of that in the United States, putting to rest the myth about the low-skill, low-productivity labor force in Mexico.

Lester Thurow, Nobel Prize winning economist testified before the Senate Commerce Committee that two-thirds of American workers would see lower wages if NAFTA is implemented.

Mrs. BOXER. So, my colleagues, I can count. I know the votes are here for NAFTA. But I ask you all to think long and hard before you vote. We have had enough of trickle-down economics. Our families deserve more, our workers deserve more, and they can have more if we embrace fair trade, reject this NAFTA, and get a fair deal for our people.

Mr. President, I yield the floor.

Mr. BAUCUS. Mr. President, I yield 20 minutes to the Senator from Illinois.

Mr. SIMON. Mr. President, I thank my colleague from Montana.

Mr. President, regarding NAFTA, I voted against fast track. I started out leaning against NAFTA because no two nations next to each other or anywhere in the world have as great a disparity in the quality of life as Mexico and the United States. But as I read, I started shifting. And then one week end, I just piled up about 10 inches worth of documents and got my old manual typewriter out, and as I analyzed, I wrote a statement. It was clear; it is not a close call, in my opinion, Mr. President. It is clear that the United States will benefit.

Will Mexico benefit more? Yes. But the United States will be clearly a beneficiary from all of this.

Last year, we had a balance of trade of $5.4 billion with Mexico—one of the few countries where we have a favorable balance of trade. Our problem in trade is not with the low-wage countries; it is with the high-wage countries.

Our deficit with Japan is greater than the next seven countries combined. And of the top 10, if you eliminate the oil-producing countries of the remaining seven, five are high-wage countries, two are low-wage countries. Our trade deficit problem is not with the Mexico-type country; it is with high-wage countries.

Secretary of Labor Robert Reich—and I believe you were there, Mr. President, when he said to us, speaking to our Labor and Human Resources Committee:

> If low wages determined where the manufacturing centers will be, then Haiti and Bangladesh would be the industrial centers of the world. Obviously that is not the case.

And he pointed out one company—I believe it was from Connecticut—facing a choice: Do we go to Mexico? Do we go to the United States? Or do we go to Germany?

German wages average, believe it or not—it is hard for me to imagine, having served in the Army right after World War II—German wages today are 60 percent higher than in the United States.

Where do we go?

They decided to put their plant in Germany because the workers were prepared, regardless of NAFTA. That is one of the lessons we have to learn. If we are prepared, we are going to do well. If we are not prepared, if we are not trained, we are not going to do well. That applies to individuals; it applies to a Nation.

As Secretary of Labor Bob Reich has said, "If you are well prepared, technology is your friend; if you are not well prepared, technology is your enemy."

The myth that plants are going to massively move to Mexico is precisely that. It is a myth. Three-fourths of our investment, U.S. investment, is in the developed countries, almost all of this Canada and western Europe. We do not invest much in poor countries.

Let me give you another practical illustration from Illinois. Quaker Oats is an Illinois corporation. Gatorade is manufactured here in the United States. Mexico charges 18 percent tariff. If NAFTA passes, and I think it is clear now it will, Quaker Oats is going to keep their plant in the United States. If NAFTA is defeated, Quaker Oats says they have no choice but to have a plant in Mexico.

And there are many other such illustrations.

As to the American car manufacturers, I heard a representative from General Motors this morning on national public radio saying they anticipate that they are going to sell $1 billion more in cars to Mexico under this and that means 15,000 more jobs. Right now we have a tariff of 2.5 percent on cars coming from Mexico into the United States; they have a tariff of 20 percent on cars that we make that go into Mexico. When you drop the tariff on both sides, clearly we are going to be a beneficiary. When you drop the price of

Fords and Chevrolets 20 percent, you are going to sell more FORDs and Chevrolets. It is just that simple.

Let me add as part of this and one of the things I have heard very little of in this debate: What if we turned it down? What if the Senate did in my opinion the wrong thing and turned this down? Is Mexico going to simply sit there and whittle their thumbs and smile and do nothing? I think it is highly unlikely.

I think the likely thing, if I were a Mexican leader, if we turned it down, I think the sensible thing for them to do is to enter into an agreement with Japan. Then, instead of a 20-percent drop in the tariff on Chevrolets and Fords there is a 20-percent drop on Hondas and Toyotas. And guess who is going to sell? You do not need any great imagination to understand this.

I have taken a look at the State of Illinois particularly because I represent the State and because it is a microcosm of the Nation and there is just a whole series of industries. Caterpillar says they will add 1,200 jobs if NAFTA is approved. I could give you a whole list of things like this.

My colleague from California, Senator BOXER—and I like the vivaciousness that she has added to the Senate—mentioned that there are economists opposed to it. Overwhelmingly, the economists are in favor of this. Every living Nobel Prize-winning economist favors NAFTA.

Illinois exports to Mexico increased 384 percent between 1987 and 1992.

And then we have to ask ourselves about the long term. I think it is clear short term we are going to gain jobs. What happens long term? Long term we have to ask the very basic question: Are we better off with a richer neighbor or a poorer neighbor? I think it is clear we are better off with a richer neighbor who can buy our products.

I do not want to exaggerate this thing because I think there has been some exaggeration on both sides. I think its impact on the United States will be limited. Its impact in Mexico will be greater. Yes, there will be some U.S. investment, for example, in telephones, and other things like that. But, on balance, it will help our economy.

I think there are other considerations, too. Let me address those very briefly.

Foreign policy considerations: Mexico right now has about 90 million people, a high birth rate but a declining birth rate. Mexico will eventually have over 200 million people.

I believe we have to think about our relationship long term with Mexico, and if we ask the question: Is our relationship helped or harmed by passing this or disapproving this? I think it is clear we help our relationship not only with Mexico, but all of Latin America.

What about the environmental factors? There is a mixed record on this in terms of the environmental groups. Seven of the 10 major environmental groups have endorsed it. I read Jessica Mathews' column in the Washington Post. She is probably the most prominent environmental writer in the Nation. I thought her column last week in the Washington Post where she said as a nation lifts its standards of living it becomes more and more concerned about environment, I think that is true.

And then, finally, there is one other factor that I think we have to look at, and that is there are going to be people who are going to be hurt. We ought to be looking at that. I like what the President said last night about retraining, but that is not enough, very candidly.

America needs a jobs program. Any welfare reform short of a jobs program is not real welfare reform. That is something we have not faced up to.

I believe we ought to have something similar to the old WPA of the 1930's where we guarantee a job to people who are out of work 5 weeks or longer, 4 days a week, and on the 5th day they have to be out trying to get a job in the private sector.

I think we have to turn the liability of unemployment into a national asset and give hope to people.

We have been talking about the crime bill. I read the Los Angeles Times story by a Catholic priest who serves the Fulsom State Prison in California. He asked the class of 40 prisoners what we ought to do about crime.

Interestingly, they came up with none of the things we have been talking about in the crime bill, with one exception. They said, No. 1, get jobs for people. Give them hope. No. 2, do something about guns. They also believe no matter how long the sentence is, it is not going to make any difference in terms of crime, and some of the other things that we have talked about. It is a very fascinating story.

We do need retraining.

I also believe, I might add, Mr. President—and two of the influential members of the Finance Committee are here right now. When I talk about a real welfare program being a jobs program, I want to pay tribute to Senator Pat MOYNIHAN, who has had more insight into the problems of the underclass in our society than not only any Member of Congress but anyone in our society that I know of.

But I also believe, in addition to having a modified WPA Program, we ought to have a small fund set aside for the President. Whenever unemployment reaches above a certain level, the President could automatically then have signed contracts for highways and sewer systems and do some of the things that need to be done in our society.

The problem we have now in dealing with these problems is it takes a long time for us to act here in Congress, and then by the time we act we are already pulling out of the recession. I think if we had something where the President could act very promptly, it would be helpful.

In any event, Mr. President, I think NAFTA will help this country. It is not going to be any huge change. It will help us. It will help Mexico more. And it will improve our relationship. I am very pleased to support it.

I wish I were not offending a lot of my good friends who feel very strongly and passionately on the other side. It is easier to pander to fear than to hope, but this is an instance where I think we have to respond to hope.

Historically, whenever we have turned down and gone in the wrong direction on trade, we have hurt the economy of our country. Smoot-Hawley is the great example. But there are other examples.

I think history teaches us—I think the sheer economics of this situation teach us that we ought to go ahead and approve NAFTA.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, I yield myself such time as I may require in opposition to the measure.

Mr. President, as you well know, earlier today, at about 11:30, the Committee on Finance, acting promptly, reported this measure to the floor. The vote was 16 in favor, 4 against. And while I do not know that the vote will be quite that on balance on the Senate floor itself, I think we are realists and we know what the outcome will be.

In any event, we have heard the President's concern that we act promptly, and we have done so. Not only did we report the bill out of the Committee on Finance this morning by an arrangement which was reached yesterday in anticipation of the House vote, it was arranged that the distinguished chairman of the Subcommittee on International Trade of the Committee on Finance, the Senator from Montana [Mr. BAUCUS], would manage the time in favor of the measure. I said that I would vote against the bill, as I voted 2½ years ago against the provision of the fast track authority under which we are operating, and that I would manage the time in opposition.

Senator PACKWOOD will do the same on the Republican side in favor.

We have had a civil debate. We are having one. There are 20 hours involved to be disposed of and I cannot doubt but that we will use the better part of that time.

In any event, the matter proceeds in an orderly and indeed an expeditious manner. And even so, I would like to take the case to expand at some length on the views I have on the subject and which I have expressed over the last 3 years in which we have been considering the subject.

I say again I voted "nay" this morning. I will vote "nay" tomorrow when the bill comes to a final vote.

I did not come to this position easily, much less casually. I have supported every previous trade liberalizing agreement we have considered since I came to the Senate 17 years ago and, indeed, was involved with those issues for a long period prior to that. For 17 years on the Finance Committee, now as chairman of the Finance Committee, I have supported the Trade Agreements Act in 1979 to implement the Tokyo round of the GATT—that is the General Agreement on Tariffs and Trade—the Israel-United States Free-Trade Agreement; and the Canada Free-Trade Agreement.

Mr. President, I would take a moment on that point. The Canada Free-Trade Agreement was not popular in this body. I recall, after the first day of our deliberations in the Senate Finance Committee—we would have 2 days and then vote up or down—returning to my office and calling first the United States Trade Representative and then the Canadian Ambassador to tell them both that we had three votes at that time.

The next day, a motion to disapprove failed on a tie vote, 10 to 10. And it was only the sense of duty, you might say, of our beloved former colleague, Spark Matsunaga, who in the end saved the agreement. It seemed to me elementally important that two great neighboring democracies whose trade was very much involved, whose trade unions were very much involved, ought to move in this direction.

And when we see the term "international" before the title of "trade union"—the International Brotherhood of Electrical Workers, the International Ladies' Garment Workers' Union—what that refers to is the fact that since the last century, the American labor movement and the Canadian labor movement have been partners, have been in many areas in the same movement. The president of the United Steelworkers Union today is a Canadian, Lynn Williams.

This movement back and forth in the labor movement has been a characteristic, as I say, since the end of the last century. And to consummate this in a free-trade agreement seemed to me to be very much in the interest of our own workers and of our two democracies.

And it is to that point that I will speak in a moment, as we propose to move to a free-trade agreement, as the Senator from South Carolina observed in the opening of his remarks—he was citing the Senator from New York—a free-trade agreement with a country that is not free.

Not to rattle on about past legislative undertakings, but I supported with equal enthusiasm the Generalized System of Preferences, which is an effort to encourage the development of developing economies, the poor economies—the Andean Trade Preference Initiative, the Caribbean Basin Initiative.

I led the committee this summer in extending the President's authority to negotiate the Uruguay Round Agreement under the General Agreement on Tariffs and Trade, with a deadline facing us of December 15.

I think the general case for such propositions is a compelling one. I have never doubted this.

On a bit of personal history, I learned of this subject, to the degree I can say I have learned it, immediately after World War II from Harry Hawkins, who had managed the Multilateral Trade Agreement Program for Cordell Hull when he was Secretary of State under President Roosevelt.

Indeed, when the world was reeling—not just the world, but the United States was reeling from the impact of the Smoot-Hawley tariff. And not to fault the Vice President for his performance the other evening—it was magnificent brio, as they would say at the Metropolitan Opera—but invoking Smoot-Hawley in the context of this agreement, it will not do.

Mr. Smoot was chairman of the Finance Committee, and his idea of what to do to protect American farmers—and the matter got spread much wider on the Senate floor—was to increase our tariffs; increase American tariffs by a third and sometimes even more. Indeed, that is the schedule of tariffs still on the books, as we have never let a tariff bill onto the Senate floor since. But we are not increasing any tariffs here. We have virtually no tariffs on Mexican goods, as it is. A few commodities have fairly substantial tariffs. In the main, however, we have none. There is a 3-percent level or something of inconsequence—of that order.

My concern has been on a different level. I have expressed these concerns over 3 years and more of this negotiation. They have yet to be addressed and they are not addressed in this agreement. During those 3 years, the Committee on Finance has held some 15 hearings on NAFTA—5 alone this year, the year I have been chairman. We have heard forceful, I would say sometimes impassioned arguments pro and con, from Ambassador Hills under President Bush and Ambassador Kantor under President Clinton. We have heard from other administration officials, from labor and business leaders, representatives of the environmental community, the agricultural community, and a considerable range of academic authorities.

The economics of this argument have been mired in a barrage of competing statistics and claims. Yet I think the sum of the studies yields one very clear conclusion. NAFTA's impact on the U.S. economy overall will be rather limited, but it will be devastating to blue collar manufacturing workers. That has been the concern of this Senator and of others like him.

My decision to oppose came down to two critical shortcomings. One is the failure of our own Government. The other is a fundamental problem—and one speaks with care about this and I hope a measure of respect—a problem with the Government of Mexico. With respect to the first of these, the U.S. Government still does not seem prepared to address the needs of those workers who will lose their jobs as a result of this agreement.

Thirty-two years ago, when I first came to Washington with the Kennedy administration, I was Assistant Secretary of Labor, and as Assistant Secretary of Labor, it fell to me to negotiate, in the company of Hickman Price, Jr., who was an Assistant Secretary of Commerce, and W. Michael Blumenthal, then a Deputy Assistant Secretary of State, later to be Secretary of the Treasury and to hold many other eminent positions—it fell to us to negotiate the Long-Term Cotton Textile Agreement, an agreement still in effect in the form of the Multi-Fiber Agreement. This was one of the crucial conditions for obtaining the passage of the Trade Expansion Act of 1962, which President Kennedy had sent to the Congress.

There had been a shift in the regional attitudes toward expanding trade. The Middle West, which had been deeply apprehensive of imports, which led the movement that encouraged and resulted in the Smoot-Hawley tariff—the Middle West was now exporting grain around the world, and very much in favor of such a proposal as President Kennedy sent forward.

On the other hand, the South, traditionally a free trading area—it had exported commodities, as the Middle West was now doing—imported machinery and had begun to develop a textile industry. The industries of Massachusetts had moved south. They had brought the mill to the cotton, as the word had it. And President Kennedy was faced with a simple proposition: Either there would be a quantified limit to the amount of cotton textiles and apparel made of cotton that came into the country, or he could not obtain the votes here on the Senate floor. I remember Senator Pastore, his great friend and leader in this regard, counting the votes and saying we had to have the agreement.

We got that agreement. And we got it not least because the American labor movement helped us get it. The American labor movement had supported every effort to expand international trade from the time of Cordell Hull. I went to Geneva as a representative of the Department of Labor. With me came representatives of the Amalgamated Clothing Workers and the International Ladies' Garment Workers.

Yes, they asked for some help, but nothing so voracious as their counterparts from North Carolina, if I can put it that way, the mill owners. Because in the end they thought it was in the interests of democracy in the world that trade expand with the United States. And they thought the interests of democracy in the world came first. They asked very little beyond that.

But they did have one idea and that was trade adjustment assistance. They said: It is in the nature of a trade agreement, the General Agreement on Tariffs and Trade, that if you lower some tariffs in your country in return for another country lowering some of theirs, you are going to lose some jobs in your country. On the whole, the economies will grow. Some sectors, some industries, some factories will decline and fall.

So you have made a public decision to put some men and women out of work in the interests of the larger community. It seemed only sensible that there should be some provision for those persons whom you have decided will lose their jobs.

President Kennedy had no problem with this whatever. I think the record is that the idea was first developed by the steel workers—by David MacDonald—in the 1950's. We put into place, in tandem with the Trade Expansion Act of 1962, which became the Kennedy round—we put trade adjustment into place. And it was there when, in the 1970's, with the labor movement solidly behind the Presidents who sought to increase trade, the Tokyo round came in the late 1970's. Already wages in the United States had ceased to grow. Already industries had begun to leave. The labor movement was solidly behind the Tokyo Round. I attest it could not have been enacted had the trade unions and the AFL-CIO—George Meany, Lane Kirkland, Thomas Donahue—those men stood with the President.

They had not worked for much, but something; a commitment to trade adjustment. And they had no more helped us pass the Tokyo round, then what did the next administration do? It began cutting and cutting and cutting to the vanishing point, that basic agreement—that elemental equity—that said if we trade away your job, we will help retrain you to get another one, if we trade away your job, which is what trade agreements involve in the larger interest.

Even, Mr. President, when President Bush proposed the North American Free-Trade Agreement, NAFTA, which we have here today—I would like the Senate to hear me on this because it is easily forgotten—President Bush proposed that we spend a third of a billion dollars a year for 5 years to phase in the effects of NAFTA on those workers who will lose their jobs; a third of a billion dollars a year, specifically $335 million a year. That, to a Republican administration, seemed elementally fair. This was a tradition, now eroding, but begun in 1962 by President KENNEDY.

Mr. President, can I ask, is there anyone in the Chamber who would wish to tell me the amount of Trade Adjustment Assistance that is provided to accompany this agreement with Mexico?

Mr. SARBANES. Fifty-eight million dollars.

Mr. MOYNIHAN. Fifty-eight million dollars says the distinguished Senator from Maryland. That is roughly the amount, based on how the Congressional Budget Office has estimated it.

That just will not do—in the aftermath of a tradition of the labor movement supporting opening trade for two generations.

Mr. President, I will move to a second level of concern. I said I speak with care, I hope, about the Government of Mexico. The American trade union movement has a long history of wanting to expand that relationship that went north across the Canadian border, south across the Mexican border. Our labor movement has not been antagonistic to Mexican workers. It has sought to join them.

Samuel Gompers, that great New Yorker—well, he was born, as he put it, in the east side of London, but he became a great New Yorker—he actually had a stroke on the Mexican side of the border in 1924, if I recall, where he was meeting with Mexican trade unions to work out ties between the two bodies. He asked to be carried across the Rio Grande so he could die in the United States. But the last moment in Samuel Gompers' life was spent meeting with Mexican trade unionists.

That is a history that few will know today, but the labor movement knows it. What they also know is that those trade unions they were meeting with in the early twenties, by the end of that decade had fallen under a form of state control that has no equivalent in the Western Hemisphere. You go down to Mexico City and you see murals, some of them wonderful murals—Diego Rivera, people as such, with great busts of Lenin and Trotsky and workers and hammers and sickles. Mr. Trotsky seems curiously out of place with the armies of Zapata and such like that you find there.

When Trotsky sought haven in the world after fleeing Stalin's Soviet Union, he went to Mexico. Yet, very much like the Soviet system, it was quickly corrupted, trade unions became the instruments of the party, so the trade unions of Mexico, I regret to say, became the instruments of this extraordinary institution called the Party of the Institutionalized Revolution, PRI, which brought stability to Mexico, but there is a form of stability that easily mutates into oppression and they call that peace.

(Ms. MOSELEY-BRAUN assumed the chair.)

Mr. MOYNIHAN. Madam President, these are not my views which I offer on the basis of any particular knowledge. I will cite references in what is now a great achievement of the world, those regular compendia which list, country by country, the conditions of human rights in those countries—Freedom House, still located on West 40th Street in Manhattan across from the great Public Library. Wendell Willkie became its head after the 1940 election.

Their authoritative survey, "Freedom in the World 1993," says this:

> Although President Carlos Salinas de Gortari has opened the Mexican economy, Mexico remains the most authoritarian state in Latin America outside of Cuba and Peru.

Could I ask, if there is any Member of the Senate present who would like to suggest what would be our reaction to a free trade agreement, if it were on the floor, with Cuba in which we entrusted our affairs to the mercies of their courts? We assume their trade unions would have the same freedoms our trade unions would have. Well, I do not have to ask the question. It answers itself.

Human Rights Watch, in its 1993 world report, says and I quote:

> The human rights landscape in Mexico continues to be marred by cases of torture, election-related violence, including extrajudicial killings, limitations on the right of assembly of workers, peasants, and indigenous people, attacks on journalists, and impunity for those responsible for all these acts.

Amnesty International, in its annual report for 1993, noted that Mexico's National Human Rights Commission—I quote—"* * * continued to receive thousands of complaints of human rights abuses [and] issued dozens of recommendations to the relevant authorities, but few of them were fully implemented."

Finally, Madam President, our own State Department's annual Country Report on Human Rights Practices, issued in February 1993, said as follows:

> There continue to be human rights abuses in Mexico, many of which go unpunished owing to the culture of impunity that has traditionally surrounded human rights violators.

Madam President, ought we to be rushing into an agreement of this magnitude with a government which has created, in the words of our own State Department, a "culture of impunity" against those who kill, torture, maim, disperse, outlaw activities we would consider as fundamental constitutional rights, which are indeed enshrined in their own statutes? But to violate those statutes is done with impunity, in a culture of impunity.

Again, Freedom House, about the courts. Across the park here there is that great Supreme Court building with that elemental assertion, "Equal justice under law."

What you will never get in a Mexican court is equal justice, and there will not be law either.

Here is Freedom House on the subject:

> Overall, the judicial system is weak, politicized, and riddled with corruption. Relatively few corrupt officials ever spend time in jail, and if they do it is often for minor offenses that serve to cut short investigations of serious crime. In many rural areas, respect for law by official agencies is nonexistent. Lower courts and law enforcement in general are undermined by widespread bribery, as is the State bureaucracy.

Now, your heart goes out to the 90 million Mexicans who live in that arrangement, not to those Mexicans who were invited to a fundraising dinner by the President, the ticket of which was $25 million per guest. You have a world where there is enough that is outrageous in political fundraising in the United States, but $25 million per ticket? That is outside any range of reference we have. It describes a world of immensely rich and getting richer, a class that owns a government and is increasingly, almost brutally indifferent to its own people; a country, Madam President, where they shoot cardinals and say they inadvertently got in the line of fire.

Now, your heart goes out to these people, but need we validate that arrangement as we do with this accord? Because that is what it is, Madam President. We would not sign an agreement with any such country anywhere else in the world. We have raised the banner of human rights, and properly so, and the American labor movement has done it with free-trade unions. The first international organization formed after World War II was the International Confederation of Free Trade Unions, 1948, at the London County Council Hall with the AFL–CIO and the British Trade Unions Congress, the two trade union movements that had survived World War II, bringing in the French, bringing in the Italians, could not get to Spain, helping to create trade unions in Japan, opening the world.

When I say AFL–CIO, of course, I include Canada. I do not want to say there are not autonomous trade union movements in Canada. There are. But there are the International Brotherhood of Electrical Workers as members in Toronto, and vice versa. As I noted earlier, the Steelworkers' president, Madam President, is Canadian, a very able, a very distinguished president, too, Mr. Lynn Williams.

Are we going to give up that for this? Those are battle honors, Madam President. Those men and women prevailed. Now we are saying, having won that war, those were not the issues we really cared about; it was something else?

No. No. And even in the last one we pleaded, the AFL–CIO pleaded, can we not get some labor agreements into this text? And they were told no, you cannot. No, you cannot. That is all.

But it was said that there would be a side agreement. We have that side agreement, Madam President, and I say to you it is embarrassing. The agreement lists 11 basic labor principles, such as restrictions on child labor and prevention of occupational accidents, occupational safety, things like that. And we have a tripartite tribunal made up of the labor ministers—the Secretary of Labor in our case—of the three governments, and they can hear complaints and they can actually vote if they feel that one party is in violation of these 11 principles.

No, Madam President, only eight of them. If it looks like your child labor laws are not being abided by, we can have a two-thirds vote to say stop that. If you are not really industrious enough in the matter of occupational safety, pull up your socks.

But, Madam President, the United States entered the agreement, called a labor agreement, in which there were 11 basic principles, 8 of which you might say could be adjudicated and decided, but 3 of which were exempted. Madam President, three. They were the core principles of freedom of association, which is the right to have a trade union; the right of collective bargaining, which is the right to use a trade union; and the right to strike, which is the right to withhold labor in the quest for a collective bargaining agreement—the three basic principles, the principles Samuel Gompers brought to the International Labor Organization charter in Paris in 1918 when an American President, Woodrow Wilson, made him head of the commission that would draw up a great organization as part of the League of Nations for the rights of labor with business and labor and government, a tripartite arrangement—Samuel Gompers, whose stroke took place in Mexico as he was working out cooperation with Mexican unions, Mexican unions which have been dispersed or absolutely clamped down upon, corrupted and controlled.

We have a tradition here. We do not want to trivialize it. We do not want to see all those years, all those struggles, all those hopes, all those successes, I would say victories, diminished in an inadequate—and in places, painfully compromised—document.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Madam President, will the distinguished Senator from New York yield me 10 minutes? I think I can do it in 10 minutes.

Mr. MOYNIHAN. The Senator from Maryland is free to have as much time as he wishes. I see other Senators may wish to speak. So shall we say 20 minutes? Senator WELLSTONE had asked first. He indicates that the Senator from Maryland should go first; the Senator is ready.

Mr. WELLSTONE. Madam President, I would be pleased if I could at least have my 10 minutes.

Mr. MOYNIHAN. Oh, the Senator shall have it. May I suggest 20 minutes.

Mr. SARBANES. I appreciate it very much.

Mr. MOYNIHAN. Will the Senator allow me one brief moment?

Madam President, I ask unanimous consent that an article by Larry Birns and Terrence J. Brunner of the Council on Hemispheric Affairs be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Times, Nov. 17, 1993]

LET US NOT REWARD MEXICO FOR ITS FAILURE TO REFORM

(By Larry Birns and Terrence J. Brunner)

Amidst all the speculation, oddsmaking, last-minute vote counts, pressure politics and the tidal wave of punditry being democratically offered to both sides as today's NAFTA vote is awaited, what is being overlooked is that the pact is little more than an old-fashioned trade arrangement that barely pecks at Mexico's deep and organic political, economic and social flaws.

NAFTA may not be as bad as some of its critics maintain, or as good as its proponents would have you believe, but demonstratively, it is inadequate to the mission assigned to it—the democratization of Mexico. The formulation of NAFTA offered a once-in-a-lifetime opportunity for its co-signatories to insist that corrupt institutions in Mexico's authoritarian society be reformed as a pre-condition for the pact to move ahead, but it was muffed by a too complaisant Washington and Ottawa. It is the lack of democratic compatibility, rather than economic disparities, that denies the United States and Canada a level playing field, to Mexico's overwhelming and unfair advantage.

Although poor, a society possessing a strong democratic system can embrace free-market reforms and encase them in equity. With Mexico in mind, Vice President Al Gore and other administrative figures mistakenly have presented Ireland's and Portugal's entry into the European Community as proof that a mass exodus of jobs from richer countries into poorer ones needn't occur when such an expansion occurs. But the flaw in this analogy is that those countries, at the time of their accession to the European Community, were flourishing democracies, with free trade union movements that could fairly engage in collective bargaining. Their commitment to an open society and the latitude of their democratic bona fides stand in stark contrast to authoritarian Mexico.

The facts are that even at this late date, at least eight years after major changes in the Mexican economic system were initiated, workers there lack basic labor rights and the lower middle class and the poor have yet to reap significant benefits. According to official statistics, the richest 10 percent of the country accounts for almost 40 percent of its income—with most of that in the hands of the top 1 percent and the concentration of wealth steadily intensifying. Symbolic of this, in the last several years the number of Mexican billionaires has swelled from three to seven.

A valid NAFTA containing strong social guarantees could have had a profoundly positive impact on the democratization of Mexican public life. Mr. Clinton's side agreements ostensibly were meant to remedy NAFTA's omissions, but they are weak, complex and probably unenforceable. They will not assist in the conversion of constitutionally-guaranteed rights into realities, because outside scrutiny over Mexico's collective bargaining process is explicitly exempted from purview. In the end, the Mexican worker is left with no real negotiating power to obtain the higher wages theoretically promised under NAFTA. Still, pact boosters illogically tell the U.S. and Canadian public that the agreement will alchemistically lift the Mexican worker from poverty.

NAFTA's fate profoundly will affect President Carlos Salinas' choice next year of his successor. When he lifts the cap of the destape (hooded one), who will it reveal? If NAFTA passes, it could be Luis Donaldo Colosio, his social development minister, who is a pragmatic politician who would most likely follow the Salinas line of guided democracy. If NAFTA is defeated, Mr. Salinas might very well give the nod to the current mayor of Mexico City, Manuel Camacho Solis, who seems more inclined to open government. In either eventuality, Mexico will not face a catastrophe.

If NAFTA is defeated, it will undoubtedly be looked upon with a yawn rather than a gasp—providing the makings of perhaps a week of headlines. The question of free trade among the United States, Canada and Mexico will continue on the agenda because it belongs there, with a solution to the issue meant to be a mixture of both balanced economics and politics, one that promotes real freedoms rather than their shadows.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. SARBANES. Madam President, first, I want to commend the very distinguished Senator from New York for his very thoughtful analysis and his very cogent statement.

Madam President, earlier when the issue was before us, I voted against doing the Mexican trade negotiations under fast track whereby the President concluded the agreement and then presented it to the Congress on a take it or leave it basis.

I have supported using fast track for the GATT negotiations because I do not see how you can negotiate with 108 countries, bring an agreement, and then alter it and do a complete renegotiation. I think we would have been far better off if the Mexican agreement had not been negotiated under fast track, which would have allowed us to amend it and to correct some of its more serious deficiencies. The arguments for fast track in a many country negotiation do not apply in a bilateral or trilateral negotiation.

Madam President, I am going to vote against this agreement for the following rationale: I agree with the distinguished Senator from New York. I think this agreement is going to result in a significant loss of employment opportunities in the manufacturing sector of our economy and that it would impact on blue-collar workers in an extraordinarily negative way.

I do not quarrel with the fact that there will be some who will gain jobs because of the agreement. There is no doubt about that. People in the investment banking industry, people in the insurance industry—a lot of people who provide those kinds of services will benefit.

But I think the production workers, the people on the production lines, are going to suffer, and suffer significantly.

Why do I say that? I really want to analyze the economics of the agreement. A lot of the arguments being made have departed from the economics of the agreement. Supporters of NAFTA have argued that the whole relationship with Mexico is at stake. The argument has been made that the American Presidency is at stake. All the ultimate arguments of catastrophic consequences are being used to divert our attention away from the basic economics of the agreement itself because the basic economics are not adequate to carry the agreement.

The fact is that there is an enormous gap between Mexican and U.S. wages: Mexican wages are about 15 percent of U.S. wages. However, productivity in the Mexican export sector is 80 to 100 percent of the U.S. level. If you take the productive facilities that are in Mexico today designed for the export market —facilities with modern plant and equipment—they can produce at 80 to 100 percent of the U.S. level, and yet pay only 15 percent of the U.S. wage.

Mexican productivity and quality are very competitive in those export sectors that compete directly with U.S. jobs and workers. That needs to be understood. Why would it not be the response of a logical business person to say "I am going to shift my production facilities to Mexico or build my next facility there? I will pay 15 percent of the wage and get 80 to 100 percent of the production"?

Well, some say low wages are not that significant. But low wages are important in location decisions, especially in manufacturing when the technology itself can be exported. In other words, you can put the necessary plant and equipment in there to produce at modern levels.

In fact, back in March in the New York Times, John Pearlman, chairman of Zenith Electronics Corporation, which has 20,000 employees in Mexico, said and I quote:

> When I factor in other nonlabor costs—less heat, cheaper land, and cheaper construction—there is no question that Mexico's lower labor costs are decisive.

Many supporters of this agreement say production facilities can be located in Mexico now. That is correct and in fact such facilities are being located there. But NAFTA provides two very important guarantees that are not now available and that I think will have an impact on increasing the flow of production facilities into Mexico. Actually from the Mexican point of view, the agreement is designed to attract investment. They make no bones about it. That is its purpose—to attract investment and to start building facilities and factories and manufacturing plants in Mexico. That is what they are seeking to do.

Now what are the two things that this agreement takes care of which will lead investors to put even more production facilities in Mexico?

First of all, it provides guaranteed access into the U.S. market.

Business people know that if they put their production facility in Mexico, they do not have to worry that somehow or other there will be restraints placed on the flow of their goods into the U.S. market. They are protected from the concern that this access into the American market will be impeded. They know they can put the plant in Mexico, pay 15 percent of the wage, get 80 percent of the production, and send those products into the U.S. without any impediment whatsoever.

Second, and perhaps more importantly, the agreement provides protections from the Mexican Government that are really extraordinary. The negotiators were really negotiating an investment agreement, and they have gotten tremendous protections for the investors. In fact, the administration's own statement in the NAFTA implementing legislation makes clear the added attraction NAFTA provides for U.S. investors in Mexico. And I quote:

> The NAFTA gives U.S. industries in Mexico and Canada the right to repatriate profits and capital and to obtain hard currency for all payments associated with an investment, and the right to international law protection against expropriation, including the right to compensation equal to the fair market value of their investment. The NAFTA also provides a strong dispute settlement mechanism that protects investors' rights by permitting investors to resort directly to international arbitration to resolve disputes with the host government. This will enable investors to obtain binding awards of money damages for violations of the NAFTA's investment provisions, and provide for enforcement of awards under both the NAFTA and relevant treaties.

These are extraordinary protections. And the contrast between protections for the investors and the lack of protection for workers is striking and dramatic.

As we all know, the industrial relations system in Mexico depresses wages. In fact, it is a Mexican strategy for their economic development to have a low-wage approach. The government in effect holds them down artificially. The workers have no way under the NAFTA legislation to effectively offset that. So the expectation is—looking out into the future—that Mexico will be able to continue to maintain this wage gap to which I have made reference.

The Roper polling organization did a survey last year, and 40 percent of business executives surveyed said they were very likely, or somewhat likely, to shift some production to Mexico should NAFTA pass; 55 percent of executives of companies with over $1 billion in annual sales said they were very likely, or somewhat likely, to shift some production to Mexico should NAFTA pass; and 24 percent of executives said they were likely to use NAFTA as a bargaining chip in their labor negotiations here in order to keep United States wages down.

I want to now turn to that latter possibility. The possibility I have focused on thus far is the actual location of production facilities in Mexico to take advantage of the wage gap. I think that is a powerful economic dynamic, particularly when the agreement eliminates two very large concerns that people previously had, namely, would they have assured access to the U.S. market for their production? And, second, what might the Mexican Government do in terms of impacting or impinging upon their investment? This NAFTA takes care of those two problems.

But the other issue is that even if production facilities do not locate in Mexico, this possibility will be used as a lever to hold down or to cut United States wages. It also could be used as a lever to bargain with local communities over taxes and environmental issues. In other words, factory owners could say: If you do not give me some breaks here, we are taking our production south of the border. The same threat could be used to leverage local suppliers. So you would face, one, the actual reality of the facilities being located in Mexico and, two, the threat that they will be, so that concessions will be extracted from United States workers, communities, and suppliers.

There are some who say that the impact on our economy from the Mexican economy will not be too great because it is only 5 percent of the United States economy—in terms of GDP. Incidentally, that is a strong argument against the assertion that Mexico is going to be a large consumer market for our exporters, particularly when Mexican wages are held down by a concerted government strategy. Most of the figures cited for current United States exports into Mexico, which are used to support the argument that Mexico could be a highly significant consumer market, do not take into account that those exports are primarily the shipping of intermediate goods—the maquiladora program—which are assembled and shipped back to the United States, and the shipping of capital equipment to establish the factories that are going to make the consumer goods to be sent into the United States. It is estimated that only 15 percent of what we send into Mexico is in the consumer sector.

The big thing to understand about the Mexican economy is not its GDP in relation to the United States, but the fact that the Mexican work force represents 30 percent of the United States work force. There is in Mexico a large underpaid, underemployed labor force and, therefore, one important potential impact upon the United States economy must be measured by the relative size of this potential work force—the downward impact it can have on the United States wage structure—especially since Mexico is following a low-wage strategy as an essential element of its economic development.

Some have said that if we do not do NAFTA, the Japanese will do it. The Japanese themselves dismiss that prospect. What opening would Japan provide into the Japanese market? The fact of the matter is that Japan and other nations are much more likely to increase their investment in Mexico under NAFTA.

Why do I say that? Because, they see the gap between low wages and good productivity in Mexico. They will locate production facilities in Mexico, take advantage of the wage gap, get a high level of productivity, and export products into the United States. The same rationale that would lead an American company to locate production facilities in Mexico, would lead Japanese and Germans and others around the world to locate their own production facilities in Mexico. They would gain access to the U.S. market, while reaping the benefits of low wages and the relatively good productivity. The Mexicans can produce quality goods given the proper plant and equipment. They can do it, and they have been doing it.

Finally, Madam President, let me turn to just one other consideration. I want to contrast what is being done here and what was done in the European Community when it sought to bring the southern tier countries—Spain, Portugal, and Greece—into the Community. There was a significant wage gap, although it was much less than the wage gap that exists between the United States and Mexico. Their wage gap was maybe two to one, perhaps less than that. As I said, our wage gap with Mexico is 7 or 8 to 1. However, even though the EC confronted a considerably smaller problem, it established a transition period extending over a decade or two, in which tens and tens of billions of dollars were invested by the northern tier countries into the southern tier countries in order to reduce the economic disparities. Before the EC brought these additional countries into the free-trade arrangement, they sought to bring them to a higher level of development, and made huge investments in order to do that.

Second, they worked out agreements regarding the terms and conditions of employment which the poorer countries had to meet before becoming full-fledged Community members. In all of the EC countries labor has the right of association, the right of collective bargaining, and they have strong free trade unions—a very dramatic contrast with the situation in Mexico. Furthermore, the work force involved was much smaller, in percentage terms, than the Mexican work force. As I have indicated, the Mexican work force is 30 percent of the United States work force, creating the potential of a tremendous depressant on wages in the United States.

Second, the European Community had another very essential requirement: A political dimension in that only democratic countries could be members of the Community. The European Community said in order to become part of our free trade arrangement you must first have a political democracy. I am not going to go into this issue at great length because it was addressed very effectively by the distinguished senior Senator from New York [Mr. MOYNIHAN] only a few minutes ago on the floor when he discussed the human rights problems in Mexico and the real failure for there to be a working democracy in that country.

Mr. WELLSTONE. Madam President, will the Senator yield for one question?

Mr. SARBANES. Certainly.

Mr. WELLSTONE. I do not mean to interrupt the flow of the Senator's presentation. But this will be on this question of wages, labor standards, and human rights.

As I analyze this debate, I think I was more influenced by Harley Shaiken than most anyone else. The Senator from Maryland knows, given his expertise in political economy, Professor Shaiken argues it is really a myth just to think about our losing unskilled jobs and what we gain is high-skilled, export-oriented jobs.

He has closely studied the auto industries and electronics industries as two examples. His argument—and I want to get the Senator's reaction to this—is what you see in the auto industry is you see the production of auto engines by a high-productivity labor force, a highly skilled labor force, but the comparison becomes between maybe $18 or so in our country, both wages and benefits, and a little over $2 in Mexico.

The question then becomes, why that differential, because clearly the average working people in our country are willing to compete in any international economic arena? And the answer to that question, I think, is that the people in Mexico do not have the right to belong to independent labor unions and, moreover, as a number of different organizations have pointed out, including a very fine organization of lawyers in Minnesota on human rights that issued two reports this past year. In Mexico seeking redress of grievances on labor or the environment can mean that you can be imprisoned.

Is there not there a connection between a trade agreement and our linking a trade agreement to democracy and the human rights, which is what I thought we were going to be all about in this post-cold war period? Is that not the core value of our country? Is not there a connection between that and what we stand for and the uplifting of the living standards of people in Mexico and our country as opposed to this trade agreement?

Mr. SARBANES. I would say to the Senator——

The PRESIDING OFFICER. The Senator from Maryland is advised he has spoken for 20 minutes.

Mr. MOYNIHAN. Madam President, I ask for 5 additional minutes to be available to the Senator from Maryland.

Mr. WELLSTONE. I will take 5 minutes off my time.

Mr. MOYNIHAN. No, that is not necessary.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. The Senator is absolutely right.

A good trade agreement like the European Community settlement was designed not to impose too heavy a burden on the advanced economies and at the same time to help lift up the economies of the other countries. And the Europeans had developed a program with which to do that. But in the developing countries, that program would not have worked if those countries had a structured system of industrial relations and political authoritarianism like Mexico that holds the workers in a low-wage posture.

Prof. Harley Shaiken of the University of California, Berkeley, said when he testified before the Senate Committee on Labor and Human Resources just a few weeks ago, and I quote:

> While the implications of NAFTA for United States jobs are central, understanding the possible impact of this agreement requires going beyond the conflicting predictions and looking at the underlying factors shaping manufacturing trade between the United States and Mexico.
>
> In the last decade or so a powerful new reality has emerged: Mexican export plants in industries from automobiles to electronics achieve productivity and quality comparable to the United States at one-seventh the wage levels. As a result of high productivity, Mexico's low wages translate into low unit cost in increasingly sophisticated production.
>
> Holding to an outdated vision, however, many assume that Mexican wages are low because Mexican productivity is low. In fact, in the export sector, Mexican wages are low for reasons that have little to do with productivity. Instead wages are artificially depressed by government policies and constricted labor rights, among other factors.
>
> Unless this frayed link between rising productivity and wages is repaired, then Mexico will be much more attractive as an export platform than as a consumer market. The result will not only throttle the development of Mexico's consumer market but could serve as a magnet for United States jobs and press down on United States wage levels.

That is the flaw in this NAFTA approach.

Let me close with reference again to the EC model. First of all, the EC economic approach was different in terms of how they sought to raise the level of the southern tier countries. The EC went through the important transition period I described before.

Second, the politics were different. It was premised on the proposition that only democratic countries would become part of the Community. Of course, if you have a democratic country, then the workers are in position to organize themselves and try to get a fair return for their labor. This, of course, is one of the fundamental differences with Mexico. The final thing which the European Community did was to establish a very effective worker training and retraining program.

The provisions that are being made in this country for that purpose are grossly inadequate, just absolutely grossly inadequate. What we needed was a NAFTA developed as carefully as the EC approach was developed. That would have represented true, meaningful economic progress and advancement.

This agreement has been sold with all kinds of arguments, most of them not related to any real economic analysis of the agreement and potentially what it would do.

I, like the distinguished Senator from New York, have supported trade agreements consistently in the Senate. I have sought for a more liberal international trading environment and a more open trading environment. In that regard, I think the GATT talks are far more important than NAFTA.

It is a great flaw in NAFTA that it was not developed in the same careful way that the European Community developed its expansion whereby the Community provided a fair balancing of the economic interests of all segments of the economy.

This agreement is going to impose a very heavy, disproportionate burden on production workers in this country.

Some say, why does that matter? They acknowledge we will lose in this area. They will not necessarily say this openly. But some will admit we will lose the production workers but say it will be more than compensated for because we will get all the service business—law, banking, insurance, etc.

But, Madam President, what happens eventually, as we have seen around the world, is that eventually the service businesses follow the production facilities. If the production facilities move, in time the service businesses move as well. We need to go back to the drawing board and come up with an agreement that serves the economic interest of the working people in all three countries.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank the Chair.

Madam President, there are not more than a dozen Members of the present Senate who had the privilege of serving with the late Senator Sam J. Ervin, Jr. I mention this because Senator Ervin was my senior colleague from North Carolina for 2 years before he retired on January 3, 1974, after having served more than 20 years in this Senate. Prior to that, this great American served for a long while on the supreme court of North Carolina.

Senator Ervin and I did not belong to the same party. Yet he was my friend and my mentor, my teacher, my role model. After he left the Senate, we talked by telephone at least two or three times a week. When a constitutional question was before the Senate, I unfailingly sought Senator Ervin's advice as well as the advice of some other constitutional scholars around the country, and I adopted a number of matters that Senator Ervin had uniquely defended—or opposed—as the case may have been.

One of Senator Ervin's greatest apprehensions was the potential for harm to the American people whenever U.S. negotiators sat down with representatives of foreign countries to negotiate treaties.

I can hear him now, with that chuckle, as he would so often say that the United States "never lost a war or won a treaty." I remember how faithfully he opposed, for example, the so-called Genocide Treaty. He contended, accurately, that this was one of those treaties that sounded good, was supported by a vast number of people who had never read it, and was advocated by editors and others in the news media who had taken somebody else's word that this was the "thing to do."

Now history has proved that Sam Ervin was right about the Genocide Treaty. His critics were wrong. And after Senator Sam left this Senate, when it came to issues of our national sovereignty, I did the best I could to uphold his point of view because it was also my point of view. Finally, the Genocide Treaty was revised and it was approved. The harmful potential to America's sovereignty was eliminated and the treaty was approved by the Senate. Nothing was lost by delaying approval by the Senate and a very great deal was gained.

I mention all of this, Madam President, as a prelude to my saying that I wish I could, in good conscience, support this North American Free-Trade Agreement. I wish I could be at least a fraction as certain, as some of my best friends seem to be, that NAFTA will be as good for America as they claim it will be. But the fact is it will not be good for America.

I have nagging doubts and increasing doubts the more I read and study the fine print in this agreement. Therefore, I cannot and will not support it.

Madam President, I came to this Senate in January of 1973 vowing to do the best I could to oppose tax increases, foreign aid, and treaties that undermine U.S. sovereignty. This NAFTA agreement will increase taxes, it will increase foreign aid, and it will undermine the sovereignty of this great country.

I know that some experts who have not read the treaty will contend otherwise. But the fact remains that all three of these things will happen.

The side agreements create powerful tri-national commissions authorized to determine whether the United States is doing enough to enforce the U.S. domestic laws. Now, if we are not doing enough to satisfy the Mexicans, these commissions can retaliate by fining the United States up to $20 million or by taxing our exports.

Vice President GORE conceded in his debate with Mr. Perot that with the side agreements, the United States could, as AL GORE put it, "compel Mexico to enforce its environmental laws." And, obviously, Mexico can and undoubtedly will do the same thing to us. International bureaucrats could be armed with the authority to second-guess U.S. agencies and overrule their decisions.

Madam President, as for foreign aid, the administration has agreed to an $8 billion foreign aid plan to clean up the Mexican border, providing $2 or $3 billion of American taxpayers money in grants and loans through two brand-new multinational institutions and another $2 billion through the World Bank.

Then there is the little matter of the tax increase. To pay for the loss in revenue from duties, the administration is going to raise taxes by $2.6 billion, and $1 billion of that will come from new fees on airline passengers.

I confess, Madam President, in conclusion, that I am troubled by reports that the administration has made a variety of deals to get the necessary House votes—deals on such things as sugar, wheat, tomatoes, and citrus, even airplanes. One NAFTA lobbyist put it candidly this way. He said, "We are doing this the old-fashioned way—one district, one deal at a time."

On the question of NAFTA, Madam President, I have had to agree to disagree agreeably with some of my best friends and colleagues. But, I am genuinely convinced that an acceptable agreement can be worked out. Unfortunately, this is not going to happen because the Senate is likely to approve NAFTA by an even wider margin than the House of Representatives did last night.

I thank the Chair and I yield the floor.

Mr. BRADLEY. Mr. President, I will withhold the bulk of my comments on the North American Free-Trade Agreement until tomorrow, when we have a more full-blown debate, I expect.

But I would like simply to introduce into the RECORD a few thoughts that address some of the points that have been made by the opponents of the North American Free-Trade Agreement, particularly when it comes to the issue of wages and productivity, because the opponents are arguing essentially that the great sucking sound is going to be because of low wages in Mexico. The number that is frequently thrown around ranges from 7 to 1 to 10 to 1.

I think it is important for us to focus on what some of the real facts are as it relates to the issue of wages and living standards between Mexico and the United States in order to ascertain whether this differential is as great as the opponents assert.

I think a frequent source of the confusion—and here I am simply sharing with the Senate, I think, a very thoughtful analysis of this offered by Mr. William Worm, where he points out that a frequent source of confusion is the dollar wage rate versus real income rates.

The 10-to-1 ratio that you hear Ross Perot throwing around often is most commonly cited, but is derived not from pay scales but from per capita domestic product, which in the late 1980's averaged around $2,000 in Mexico and around $20,000 in the United States.

More recently, that domestic product is about $3,000 in Mexico and $22,000 in the United States, thereby getting the 7-to-1 ratio, which I think the distinguished Senator from Maryland referred to in his remarks.

But that 7-to-1 ratio overstates the true differential. Any per capita calculation drags down Mexico because half the population of Mexico is under 18—in other words, they are not earning much money—and relatively few women are wage earners in Mexico.

In the United States, half the population is counted in the work force. In Mexico, about one-third of the population is counted in the work force, including the millions of subsistence farmers who are the poorest people on the entire continent. The equivalent of the United States welfare system is the Mexican rural labor dependency system.

A better comparison would be the real adjusted gross domestic product per industrial worker, dividing the total product of the country by industrial workers. There the gap is closing. It is no longer 7 to 1. It is just 2 to 1. And, significantly, that is also the average difference between the United States and Mexican productivity in advanced industrial installations. That is the concern.

And, ironically, or maybe predictably, that gap also shows up in the real world where a Connecticut factory relocated to Mexico not so long ago, paying $5 an hour to Mexican workers, as opposed to $10 per hour to the Connecticut workers. They soon came back to the United States because the productivity in Mexico in that plant was not as high as the productivity in the Connecticut plant. They went back to Connecticut and rehired the very workers whom they had fired to move to Mexico.

The 10-to-1 ratio cited by Perot and others faithfully does reflect the pay differences between border assembly plants of, say, General Motors and General Electric, two of the biggest maquiladora employers, and between those factories and their unionized factories in the United States.

Some of those operations are directly equivalent in terms of job description and productivity, and the comparison, therefore, is apt. But such plants are atypical. Most maquiladora's offer repetitive, unskilled, high-turnover, labor-intensive jobs that in the United States would start just above the minimum wage, not at a significantly higher level, and not at unionized rates three times as high. So that is one picture, one snapshot.

Another snapshot is minimum wage. There has been a rough 8-to-1 discrepancy between the United States and Mexican minimum wage. An entry level Mexican worker earns in a day what his United States counterpart earns in an hour. But the maquiladoras are now paying well above the minimum wage in an effort to reduce turnover. The benefits at an average maquiladora are about $12 a day, with skilled jobs paying twice that, and the minimum wage in the Mexican border zone is about $5 a day.

But if the issue is the employment threat to U.S. factory workers, minimum and maquiladora wages are not the best comparison. In other words, the opponents argue that what will happen is that you will find factory work jobs that are being paid $16, $17 an hour going to Mexico. The skilled factory worker, against whom the U.S. labor most directly competes, typically earns at least $20 a day, four times the legal minimum—in some places $30 a day. So, more relevant than either the minimum or the maquiladora wages, and a more relevant contrast between average manufacturing wages in the two countries is the following:

As recent as 1987 that gap was about 13 to 1. Four years later the Bureau of Labor Statistics put it at 7 to 1. American manufacturing workers earned an average hourly wage, that is direct payments to employees before tax deductions plus mandatory employer expenses for insurance and similar benefits, of $15.95 an hour in 1991 compared to $2.17 for average Mexican factory workers.

This gap appears consistent with the argument that was made by the distinguished Senator from Maryland and reported. For example, Ford said the UAW will pay its skilled workers in Mexico about $2.87 an hour, not including benefits, compared with the $20 an hour in the United States. So on the surface this appears to be the 7-to-1 differential that the distinguished Senator from Maryland referred to.

But the figures understate real wages—real wages in Mexico. Most of the typical Mexican industrial payroll goes toward fringe benefits such as subsidized food, transportation, and even housing, plus mandatory profit sharing and a required Christmas bonus equal to an additional month's pay. Mexican workers also get double pay for overtime, a minimum of 20 days paid vacation per year, and for women 12 weeks paid maternity leave. According to one analysis of this full picture, the benefit package given to Mexican industrial workers equals a startling 62 percent of base pay compared with 8 percent for American wage earners. So some even add the costs to the employer savings held to finance dismissals.

With all of these factors added in, some companies with manufacturing on both sides of the border contend the real wage differential is more like 3 to 1, with the gap closing all the time. And I think that is, basically, if you were comparing them after you have added all of these fringe benefits. And 3 to 1 is still a pretty broad gap, somebody would say. It is still a pretty broad gap. In fact, New England's textile industry was lured below the Mason-Dixon line by much less.

But that is not the whole picture because, while Mexican productivity is fast catching up with United States standards, most Mexican plants are not modern. The country's entire industry, industrial plant, is not about to be upgraded overnight or even within a decade. Manufacturers based in Mexico must overcome transportation bottlenecks, supplier scarcity, and other problems which wipe out any gains from labor savings.

Labor productivity is a function of technology. Mexican workers will be consistently outperformed by United States workers for decades to come. For low tech manufacturing—and this is a point a proponent of the NAFTA has to face up to and admit—for low tech manufacturing, whose payrolls represent half of their costs, a move to Mexico could amortize labor savings over a 3- to 4-year period. But for most advanced industrial installations the productivity gap remains, that the huge expense of moving south could not be justified even by savings of up to $15,000 to $20,000 per worker per year.

Ross Perot, in an attempt to demonstrate the impact of low wages, makes the case in his public appearances: Well, what if there was—and he then states what his view is of the minimum wage in Mexico. "What if it was in California? Do you not think jobs would go to California"?

An audience listening to that presentation automatically concludes: Yes, we think it would go to California. But, of course, California we think of today in its present state with the only change being the lower minimum wage. But in order for a job to go to California there would have to be adequate water—add about an $8 billion investment for the Central Valley Project; $4 to $5 billion for investment in public water infrastructure for other water supply systems; add about $30 to $50 billion for a power grid; add $20 to $30 billion for port investment.

The point is, the low wage is not going to attract jobs to a place that has no water, no adequate power grid, and not an adequate supply of natural gas or other forms of energy, and not adequate ports. In other words, even the low wages will not bring jobs if the infrastructure is not there. And in a lot of places it is not there.

One final comment on that. When we did the hearing in the Finance Committee a few weeks ago, the head of Texas Instruments was there. He was building a big manufacturing plant in Dallas, TX. He had a few of these low cost assembly plants in Mexico. The question was, why did you not put this manufacturing plant in Mexico, because the wages are lower?

His response was, "Lower productivity." And his second response was, "I do not have an adequate power source. In order to get an adequate power source it would require billions of dollars of investment." One American company puts it at about $34 billion in just power grid investment in the next decade.

Most of those turbines and equipment will come from U.S. manufacturers that are producing with workers that earn 17 percent more than workers in this country who produce nonexport jobs.

So, Madam President, I simply wanted to rise at this point to try to put in focus the argument of low wages. The low wage in Mexico has to be seen in its total context, in which a 7 to 1 quickly drops to a 3 to 1, and then if you add the tremendous demand and need for public infrastructure investment, you find the differential shrinks even more.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. Madam President, over the past few months we have heard many strong and persuasive arguments in support of the North American Free-Trade Agreement. Likewise, we have heard many reasoned, and, I believe, sincere arguments against it. Those of us sent to Congress to represent the interests of our constituents back home have listened carefully. We have met with key people concerned about NAFTA—agricultural and factory workers, policy makers, business men and women, union leaders, consumer groups, and many, many more. I have met with the good people of United We Stand, and listened to their sincere concerns.

I believe we can all agree that this debate has not been an easy one. Then again, debate that surrounds important legislation seldom is easy. In fact, my experience has shown me that at times like this, the best thing we can do is not lose sight of the most basic principles involved. In this case, the debate over whether NAFTA should pass or not comes down to a few simple questions: first, in this era of increasing global competition, will NAFTA make America more competitive? Will it increase our ability to sell more American-made products abroad and thus create more jobs here at home? Second, do the long-term advantages of NAFTA—an agreement that will move America into a new era of international economic relations—outweigh the short-term concerns?

Third, in this post-cold-war world—a time when the walls of conflict and isolation are giving way to bridges of reconciliation and economic cooperation—in this world of technological miracles and potential for prosperity, is America going to maintain its position of leadership and its promising standard of living? Or are we going to stand by—because we dare not be bold or visionary—and watch the nations of the Pacific and the nations of Europe continue to develop in a spirit of enterprise, economic growth, and productive multinational partnerships because they are willing to suffer the growing pains that attend such change while we are not?

The answers here are important to our debate. They're important because if we are resolved to make America more competitive, to begin laying the foundation for well-paying jobs and increasing opportunities in the future, then NAFTA makes sense. If we are resolved to maintain our position of leadership in the global economic community, NAFTA makes sense. To be the leader, we must remain competitive, productive, influential, and cooperative. If we do, we will, in turn, secure for our children a life, that I believe, is even better than that which we are blessed to live. If, on the other hand, we do not have the courage to overcome our short-terms fears for what will be long-term gain, we will run the risk of losing this tide of historic opportunity.

The North American Free-Trade Agreement will move America forward. It will help us maintain our world leadership. It will open up the economies of the United States, Canada, and Mexico and create new opportunities for growth and jobs here at home. It will benefit the consumer as well as the laborer; it will ease restrictions and tariffs on the small business man and woman. It will build strong cultural and economic relationships across our borders and demonstrate to the world that America is serious about strengthening trade relationships and encouraging prosperity rather than protectionism. This is why I support NAFTA.

Again, arriving at this decision has not been easy; it has been difficult for many of us. There are some very real concerns about the effect this agreement will have in the short term. It is likely that there will be job displacement. Regardless of the safeguards that have been built into the agreement, I believe that Congress must be sensitive to even one job that is lost. Certainly for the family of the worker who is laid off, the agreement—no matter what it might accomplish in the long term—is not worth the pain it will create within their home. For this reason, I was adamant in my support to assure that these families get trade adjustment assistance to help them retrain and reenter the work force.

Along with all of my colleagues, I am worried about any job loss that might occur in the short term; we will see displacement. Much of it will come with, or without, NAFTA, as some 25 million Americans change jobs every year. NAFTA will certainly be seen—with cause—as being responsible for some of the displacement in the next year or two, as our businesses, farmers, and manufacturers reshape their industries to embrace the potential of this agreement in the long term.

There is one concern, however, that is troubling many, and I would like to address it. Opponents of NAFTA are saying that once the agreement passes, all the good paying United States manufacturing jobs will disappear into Mexico where wages are lower; they warn that strong, high wage factory jobs in America will be lost.

That caution does not square with history; it does not square with the facts. First, American workers are the best, the most productive workers in the world; therein lies their power. The truth is, that any company desiring cheap labor can already set up a factory in Mexico, or any other country for that matter, to draw on the labor available there. But, with few exceptions, they do not. Why? Because labor costs are not the only determining factor when a company decides to locate a factory, or an office. There are many other considerations: Worker productivity, infrastructure, transportation costs, quality of living, just to mention a few. Many companies even now consider prevailing political attitudes and the interests and lifestyles of their employees. If the cost of labor was the only factor, every company in New York and New Jersey would have relocated long ago to the Western States where wages and salaries are much lower.

American companies would have fled to Bangladesh or Haiti, countries where the labor costs are very inexpensive. But they have not. The fact is, our workers are five times more productive than Mexican workers. We have the best, the brightest, the most productive workers in the world. That is why the reality is that companies like BMW and Mercedes Benz are coming to America for our people, because their dedication, training, and quality are unsurpassed in the global community.

These, of course, were only two of several concerns that I had as I carefully studied this agreement. There were others, and I will say that I believe NAFTA could be improved. It is not perfect. But after careful analysis, I am certain that its strengths—what it offers America, our future—far outweigh the weaknesses; its long-term potential is far greater than its short-term challenges. First, it will create the single largest, most powerful economy in the world, moving us toward a liberalized trade zone of some 360 million people in a $6 trillion market. We cannot even begin to understand what potential this has, especially in a world where international trade relations are quickly defining the future superpower nations.

Millions of American jobs—good paying jobs—are tied directly to trade. We are, in fact, the world's No. 1 trader. Almost a quarter of our gross domestic product is trade related. Over the past four decades, trade-related jobs in our country have grown three times faster than overall American job creation. I believe this is only the beginning. Just in the last 6 years, our exports to Mexico alone created more than 400,000 jobs here at home; this, despite the fact that those exports were taxed by Mexico with high tariffs at the border—despite the fact that our exports face difficult nontrade barriers in the Mexican market. We can only imagine what will happen when those tariffs and barriers are eliminated. And that is exactly what NAFTA does. It eliminates them. It will reduce the price of American goods to the consumer, it will expand markets in Canada and Mexico for our exports, and create opportunity here at home.

I am most encouraged by the potential NAFTA will have for Delaware. In the last 6 years, Delaware's exports have boomed by over 450 percent. Since 1987, my State's exports to Mexico have grown from $28 to $158 million. Consequently, Delaware companies, and particularly our agricultural sector, eagerly await increasing their exports as tariffs and barriers come crumbling down. In agriculture alone, it is anticipated that by the time NAFTA is implemented, revenues for coarse grain will increase by $400 to $500 million. Poultry will do ever better. Some say we will see a 150-percent jump in sales. Both of these items are important to Delaware. And we have other products that will find new markets.

For example, Jack Tarburton, the secretary of agriculture in Delaware, sees strong potential to export apples and other Delaware commodities. Beyond agriculture, Hewlett Packard, recently exported $2 million worth of product from its plant in Little Falls. DuPont expects to export $3 million in textile products to Mexico this year from its Seaford plant. Scott Paper, in Dover, anticipates $3 million in sales of Baby Fresh products this year. Once NAFTA eliminates the average 10 percent tariff that increases the price of products like these, the demand for Delaware exports will only expand.

The same holds for the auto industry in Delaware, an industry I have always been concerned about. In the 1980's, at the request of the UAW, I led the Republican side in the fight to save Chrysler. I was concerned about jobs, and was determined to protect them, so I fought for the bailout. Needless to say, it was a success. Look at Chrysler today, especially with its hot new LH line of automobiles. What we need to do now is expand the international markets for these quality and innovative American cars. At the moment, if we want to sell automobiles in Mexico, we must manufacture them in Mexico. That, of course, takes jobs away from Americans. NAFTA will break down the barriers. It will allow American cars to sell tariff-free in Mexico, the fastest growing auto market in the Western Hemisphere. to me, NAFTA does not break down the barriers quickly enough, as it will take 10 years to get rid of them completely.

I wanted to see this time shortened. But even with the phase out, American cars will immediately find a more open, receptive market. The Commerce Department forecasts that NAFTA will create $1 billion in the sale of new cars and auto parts to Mexico in 1995. This translates into 15,000 new jobs. The auto industry estimates that the United States will export some 60,000 cars to Mexico in NAFTA's first year alone. Last year, we only exported 4,000.

This is good for Delaware; it is good for our auto workers; it is good for our families, our businesses and our communities that support this important industry. Already, the Chrysler facility in Newark employs 3,600 men and women. Earlier this week, Robert Eaton, chairman of Chrysler, assured me that with NAFTA, that company will focus the LH car on the Mexican market. According to Mr. Eaton, based on the prospect of NAFTA's approval—and overall market conditions—Chrysler is planning to increase the potential production of the LH car in Newark by 100 percent, from 360 to 720 cars a day.

Part of this increase will be made possible because it's expected that by the time NAFTA is fully implemented, the Mexican auto market will have doubled. I want to see the Intrepids and Concordes made by Chrysler in Newark, and the Corsica and Berettas made by General Motors in Wilmington selling strongly in Mexico and bringing jobs home to Delaware. This is what NAFTA promises.

I intend to see this promise is kept. Because of a provision I insisted be included in the NAFTA implementing bill,the U.S.T.R. must report annually on the levels of United States auto exports to Mexico. The U.S.T.R. must report on whether the levels are in line with the export opportunities we are promised under the agreement. If they are not, then the U.S.T.R. must tell us what actions they will take to see that their forecasts are met.

Other industries in Delaware stand to benefit from NAFTA. Beyond our agriculture, our auto workers, our large chemical companies and those I have mentioned, NAFTA will also create growth opportunity for our small- and medium-sized businesses, as well as our manufacturing firms. For example MIDI, a small software company in Newark will benefit not only from the elimination of tariffs on its software exports to Mexico, but it will also be a main beneficiary of NAFTA's model intellectual property rights provisions. These are the highest level of intellectual property protection ever agreed to in any bilateral or multilateral trade agreement. Likewise, the Port of Wilmington, which depends on trade, will also benefit from NAFTA. Not only is it one of the largest ports-of-export for American-made automobiles, but it also specializes in fruit and meat trade, which is expected to grow under the agreement.

Needless to say, all of the firms and factories and farms that are strengthened under NAFTA will, in turn, strengthen the Delaware economy overall. Each of these is directly related to, and dependent upon, the suppliers, the service and entertainment industries and the other supporting entities within our state's economic community.

Madam President, what I have outlined are only a few of the reasons why I am going to vote for passage of the North American Free-Trade Agreement. Largely, these reasons concern increased jobs and opportunity in the United States, and particularly Delaware. But they are not the only reasons why, after careful study, I believe this agreement must be approved. Not only will NAFTA benefit the consumer, who now pays some $1,000 a year for trade tariffs, not only will it provide for long-term economic opportunity for our workers and entrepreneurs, not only will it benefit agriculture, but it communicates a clear signal: that America is out to sell its products to the world.

IMMIGRATION/LATIN AMERICA

NAFTA is a historical turning point in our relationship with Mexico and the rest of Latin America. After decades of suspicion and trade barriers, these countries are ready to establish positive and open ties with our country, both economically and politically. It is certainly to our long-term advantage to reciprocate. Our economy is 20 times larger than Mexico. U.S. tariffs are very low compared to the high tariffs they place on our goods. For example, we are giving up our 2.5 percent tariff on Mexican goods coming into America while Mexico is giving up its 20 percent tariff on American automobiles going south. While imports from Mexico represent less than 7 percent of our total imports, fully 70 percent of Mexico's imports come from the United States. If we help Mexico grow, we will grow—strengthened by the relationship.

History has proven that free trade between nations raises wages; it does not lower them. It has also proven that trade is not a zero-sum game. As conditions improve in Mexico, as standards of living are raised, our products will be in even greater demand. That demand will, in turn, increase opportunities for jobs and security here at home as we create businesses and factories to meet those demands.

Also as conditions improve south of the border, I believe we are likely to see control and restraint replace the current chaos in the flight of illegal immigrants into America. Our friends in Mexico will much more likely stay in Mexico when the promise of a job replaces the lack of opportunities that now brings them north.

APEC/URUGUAY ROUNDS

Now more than ever, American prosperity is linked to our overseas markets: trade accounts for some 25 percent of U.S. gross domestic product. For each extra billion dollars in goods we sell overseas, almost 20,000 jobs are created here at home. The question is: Do we move forward, building upon these successes, creating new realities, new opportunities and long-term relationships that will benefit all responsive trading partners? Or do we remain dormant, afraid to move and satisfied with less than what our potential offers? I believe we must move forward.

NAFTA is a demonstration of America's commitment and leadership. Even now as President Clinton meets with the ministers of the Pacific nations—one of the most dynamic economic regions in the world—as they meet in the Asian Pacific Economic Cooperation forum in Seattle, the passage of NAFTA signals America's commitment to productive trade relations. It signals our commitment to an environment where our products can sell and where jobs can be created here in the United States. Likewise passage of NAFTA signals to the nations now concluding the Uruguay round that America is dedicated, that we are serious, about seeing a successful conclusion of those most important negotiations. It creates a momentum that I believe is important, not only for America, but for the world—momentum that will lead us into a new era of dynamic economic relationships, lifting all nations, strengthening diplomatic ties, and creating opportunity and jobs here at home.

This is the potential NAFTA offers. It is in America's best interest to embrace this agreement. If we don't, it's likely that—given its potential—somebody else will. If we do, it will open a new, and I believe an exciting door, to our future.

Madam President, I yield the floor.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Madam President, I thank the Chair.

Madam President, I commend my colleague from Delaware for his very thoughtful presentation on NAFTA. Senator ROTH, with his long experience in this body, has earned a reputation as one who is extremely knowledgeable on economic matters, who has led the way in many areas of reform and economic progress.

I believe that when he speaks on this vital subject of creating jobs, economic growth, and opportunity for the United States and for Delaware, he speaks as a man whose credibility is assured and whose persuasiveness is quite clear.

Madam President, open markets and fair trade have created millions of American jobs in the past five decades. As Governor of Missouri and now as Senator, I have spent a good deal of my time trying to help create jobs in Missouri through expanding export markets. I have marveled at the economic progress that they have brought to our State.

I have been amazed at the opportunities that we continue to let go by in every area. There is much more that we can do to create more jobs through better access to the world markets, because American workers are the world's most productive, and they can compete and they can win in world markets if they are given a fair opportunity.

President Bush started the negotiations for the North American Free-Trade Agreement and President Clinton came along, gave it his strong support, and added the side agreements he felt were necessary to ensure that it would work well.

Madam President, we can all quibble, I am sure, with some elements here or there, and you have a major piece of agreement. You have extensive legislation—many, many pages. Certainly somebody could quibble with many different details.

But I support this agreement. I believe it is vitally important that this body go on record giving a strong endorsement to NAFTA and to the supporting legislation because I think it is vitally important that we show the world that we support President Clinton as he goes to the Asia Pacific economic cooperation meeting in Seattle; that this legislative body of the United States does support free and fair world trade.

Turning specifically to the agreement with Mexico, currently our second largest market for manufactured goods and our third largest market for agricultural exports, the total United States exports to Mexico increased from $12.4 billion in 1986 to over $40 billion annually in 1992. And in 1992, we ran a $5.6 billion trade surplus with Mexico.

Our success in exporting to Mexico has all come while the Mexicans have maintained higher tariff barriers to our products than we maintained to theirs, thus giving them a protectionist advantage, although I think we must in all fairness recognize and congratulate the Mexican Government for the major reductions and the major improvements that they have made in trade. They have brought barriers down.

President Salinas has been courageous in saying that economic progress and opportunity for the people of his country of Mexico can best come through free and fair world markets, and it is working.

Mexico's average tariff against United States exports is still about 10 percent, while the average United States tariff against Mexican goods is only 4 percent. That means that their tariff barrier walls to our products have been 2½ times as high as our walls to their products.

In agriculture, those walls are even more unbalanced. Mexico's average tariffs on United States agricultural exports are 16 percent. United States tariffs on Mexican farm products average 4½ percent. In other words, the Mexican barriers to our agricultural products are some 3½ times ours on their goods.

If this body, the United States Senate, were to reject NAFTA, we not only would give up the potential gains to be made by cutting their higher tariffs, but we would also jeopardize the huge existing market and the trade surplus which we currently have with Mexico.

Many United States manufacturers are now forced to open plants in Mexico to avoid these high tariffs and other restrictions. A good example is in automobiles, where a 20-percent Mexican tariff is applied to United States-produced cars. We have a tariff, as my colleague from Delaware has pointed out, of only 2.5 percent on cars produced there. To get around the tariff of 20 percent and the other restrictions, manufacturers have moved to Mexico to build their cars. NAFTA would reduce this incentive for manufacturers to move plants to Mexico.

Mexican law currently requires that autos sold in Mexico contain 36 percent Mexican parts content, and that United States auto companies export twice as many cars from Mexico as they import into Mexico. NAFTA would remove this incentive also for manufacturers to open plants in Mexico. American auto makers estimate they will export 60,000 United States made autos in the first year of the NAFTA to Mexico. The Chrysler Corp. plans to export about 10,000 more minivans to Mexico if NAFTA passes.

So, for those who are concerned about jobs, we need to focus on the jobs that can and will be created and to focus on the disincentives that now exist for creating those jobs in the United States to export to Mexico.

If we are successful in passing this agreement, Mexico's $6 billion telecommunications market will finally be open to United States competition. We will offer them everything from central office equipment and voice mail to private networks, data processing, gaining wide new markets, probably even video games for the young people of Mexico. They cannot export enough video games from the United States, as far as I am concerned. But maybe we can at least share some of the ones that our young people now enjoy.

For electronic equipment, the NAFTA will eliminate tariffs of up to 20 percent, open up Mexican Government procurement, eliminate nontariff barriers and technical standards, and; increase intellectual property protection.

With the North American Free-Trade Agreement, U.S. agricultural exports will expand by $2.5 billion. We believe in Missouri agricultural exports will expand by $45 to $60 million. U.S. cattle prices are expected to be 50 cents to $1 per hundredweight higher, and the beef industry revenues are expected to be $200 to $400 million higher than they would be if the NAFTA were not passed.

Cattle and calves are Missouri's leading generator of farm cash receipts. Under the NAFTA, Mexico immediately will eliminate current duties on live cattle, chilled and frozen beef, 15, 20, and 25 percent, respectively. The USDA predicts that by the end of 10 years, United States beef exports to Mexico will exceed 200,000 metric tons annually, or about triple the quantity exported last year. United States soybean prices are expected to be about 2 percent higher. Industry revenues are expected to be about $400 million higher. Under the NAFTA, U.S. soybean exports are expected to be about 20 percent above what they would be without the agreement. United States hog prices will likely be 50 cents to $1 a hundredweight higher. Industry revenues are projected to be $50 to $100 million higher. United States corn exports are likely to be 60 percent higher. United States corn prices are expected to be 6 cents a bushel higher than without the NAFTA. Mexico will eliminate its restrictive import licensing requirements and provide immediate duty-free access to 2.5 million tons of corn, double the amount the United States exported into Mexico in 1991 and 1992. United States exports of milk powder to Mexico will increase 50 percent. Exports of other dairy products are expected to increase 15 percent.

In my State, that not only means better jobs, better markets for Missouri dairy producers, but processors of milk products in Missouri tell me of plans to reopen plants that have been shut down, to process dairy products to send the value-added dairy products to Mexico. The NAFTA is a winner for the State of Missouri and for the United States.

It is clear that Mexico needs what we produce in this country, and our Missouri workers can take advantage of that, as well as workers around the country.

The question before this body when we come to a vote will be: Will we remain the leaders of the world, or do we retreat inward? The last time we fled from competition and built trade barriers around this Nation, it led us straight into the Great Depression. The American farmer remembers all too well the consequences of the more recent grain embargo of 1980.

If we are to compete in the 21st century, we must be willing to take head-on the competition from Japan, from growing Asian countries, and from countries all over the world. We should note that in terms of market access right now, Mexicans buy much more per capita—that is, each Mexican—on the average than the average consumer in Japan. We cannot afford to abandon this opportunity to sell more goods to Mexico, because every opportunity we miss, we can see our competitors taking full advantage of it. Whether they be from Japan or other countries, they will take advantage.

Without the NAFTA, I assume, and we can expect, that Japan will set up shop in our own backyard. Americans are and have been competitors. We are the world's most talented work force and most productive workers. Last fall, I had the pleasure of visiting a factory in the middle of Missouri. They had just closed down an operation in Mexico where wages were one-fifth of the wages paid to the workers in Sullivan, MO. They brought that production back because even with the wage differentials, the American workers—the workers in Sullivan, MO, were that much more productive for every dollar of labor input than were the workers with whom they were competing.

There is no reason for American workers to shrink from the future or to hide from challenges. For 50 years, we have fought to eliminate trade barriers around the world. We are supporting President Clinton in his efforts to move forward not only in the NAFTA, but with APEC in the GATT negotiations. We have led the world to free trade and created millions of American jobs in the last five decades.

Now we have the opportunity to go on record to lower trade barriers with our next-door neighbor, to export more American goods and services. I believe we must seize the opportunity to create jobs with this agreement and to lay the foundation for future job-creating agreements and progress in the future.

American workers are proud workers and they are productive workers; they can compete, and with the adoption of this agreement they will.

I yield the floor.

Mr. BAUCUS. Madam President, I yield 12 minutes to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. BINGAMAN. Madam President, I thank the Senator from Montana for the time.

I rise to speak in support of the North American Free-Trade Agreement. There are three basic reasons why I believe the agreement is in our best interests, both as a country and for the State that I represent.

First, I believe the United States can only prosper in this new and highly competitive global economy if we boldly step forward to compete, and forging closer ties with Mexico can be a significant help to us in that larger competition.

Second, this treaty will, I believe, provide new jobs for my home State of New Mexico, right along the border with Mexico.

Third, our common destiny with our neighbors, both to the south and to the north, dictates that we should strengthen our cooperation and our interaction with them, and this treaty can be a vehicle for us doing that.

Let me say a word about each of these reasons. First, the issue about the United States needing to step forward and compete in this highly competitive global economy. This year, and for the last decade, the United States has been running an enormous trade deficit. If the monthly trade deficit continues as expected through the remaining months of 1993, the deficit this year for our country will be in the range of $110 billion to $115 billion.

When we look at which countries are the source of that imbalance in our trade, we begin to see the proposed NAFTA agreement in the proper context. Mexico does not contribute to that deficit. In fact, it helps us to offset trade imbalances with other countries. Last year, we had a $5 billion trade surplus with Mexico. Our deficit in manufactured products relative to the rest of the world is almost exclusively a result of trade with Asian countries. In 1992, that same year, we had a $50 billion trade deficit with Japan and an $18 billion trade deficit with China. That same year, we had the surplus with Mexico. The deficit with China is expected to grow to near $25 billion during this calendar year.

The main changes in tariffs contained in NAFTA, as many of my colleagues have mentioned, are reductions in Mexican tariffs on United States and Canadian products. There are currently very minimal United States tariffs on what Mexico sells to us. Although the Mexican market is a small fraction of ours, a major challenge for United States business is to take advantage of this Mexican market as it continues to grow. No doubt jobs have been lost to Mexico under the maquiladora program and there will be additional jobs created by United States firms in Mexico for in the future. However, the increased opportunity for job creation in the United States in order for us to produce products and services for sale in Mexico is what is new under this new agreement.

Whether NAFTA is approved or not, it is clear that the United States ability to prosper in the global economy will depend on how effectively we can pursue an export strategy, not just an export strategy to Mexico, but an export strategy to the entire world. Our economic success during the first seven decades of this century led us to the conclusion that we could prosper, as individual companies and as a country, without an effective and a persistent and aggressive export promotion effort. That conclusion was false. Unless we recognize the need to concentrate on exports and to persist in pursuing exports, as our most successful trading partners have, we will continue to fall behind in global economic competition regardless of what we do in this NAFTA debate.

Not only does the approval of the NAFTA provide us with an opportunity to increase our exports to Mexico, it also provides us with an opportunity for all three countries, the United States, Canada, and Mexico, to combine and increase exports to the rest of the world. To put it simply, we can learn from what Japan has been able to accomplish with its investments in other parts of Asia, particularly in Thailand.

Japan has been able to invest in Thailand, send parts to Thailand for further assembly, and then to sell finished products in the world market. This arrangement has benefited the economies of both Thailand and Japan and it has helped to keep Asian-produced products competitive in the United States market even with the strength of the yen that we have seen in the last year. The greatest opportunity presented by NAFTA for all three of our countries is to make similar arrangements and to concentrate on exporting outside of North America to the rest of the world. In creating an arrangement similar to what Japan has done in Thailand, we can also ensure that the North American economy does not become a zero-sum game. In such an arrangement, job creation in Mexico does not mean job loss in the United States. Instead, both countries can increase jobs by exporting to the rest of the world.

Taking advantage of this important opportunity can be part of a much-needed strategy to bring some balance to our trade relations with Asia. While we are here debating tonight how we have maintained a reasonable balanced relationship with our neighborhoods to the north and the south, our trade relations with Asia continue to spiral out of control.

President Clinton traveled today to Seattle to attend a meeting of the Asian-Pacific Economic Cooperation Group. He is where he needs to be. Asia is where our trade problems exist.

We seem unwilling, unfortunately, to recognize that China does not have a fully market based economy. China maintains low wage rates and relatively little in the way of environmental regulations so as to ensure its products undersell all others in our market here in the United States. At the same time, the Chinese Government has put in place an elaborate array of restrictions on the sale of United States-made products in the Chinese market.

Madam President, I have seen the trend lines, and unless we significantly change our policies we should expect our trade deficit with China to exceed our trade deficit with all other countries before the end of this decade. China will replace Japan as the country with the greatest trade surplus with the United States. That is the source of the job loss that the NAFTA opponents are complaining about.

In the coming months, I hope to work with this administration to help solve that problem, just as I believe many of us are working with the administration to gain approval of the NAFTA in these final days of the session.

This treaty will provide the opportunity for new job creation in my home State of New Mexico and throughout the Nation.

Simply eliminating tariffs will not by itself result in increased exports from New Mexico—or any State, for that matter—to Mexico. Each State must be prepared to take advantage of the opportunities made available by NAFTA. Although New Mexico has not traditionally been a large trade State in the past, we are making progress in improving New Mexico's trade numbers. A few years ago I created a Border Business Task Force in New Mexico to help mobilize our businesses to export to Mexico. The Governor of New Mexico and I have both led trade missions to Mexico. Other groups in New Mexico, especially the Hispano Chamber of Commerce, have also been extremely active in cultivating a trade relationship between New Mexico and Mexico.

New Mexico, and the other States, must continue to pursue exports aggressively. In addition, we must strengthen our education and training efforts to enjoy that we maintain a productive, high-wage economy. And we must improve our trading infrastructure to support that economy.

In New Mexico, I have worked hard to improve the trading infrastructure. I have consistently fought for our ports of entry at Antelope Wells, Columbus, and Santa Teresa, and the propose port of entry at Sunland Park. I and other New Mexicans are anxious to further develop this trading infrastructure by creating a New Mexico-based customs district. Currently, all major decisions for New Mexico ports are made in Texas. If new Mexico is to become a major exporter, we need the decisions about trade and ports-of-entry to be made from within the State, in a New Mexico-based customs district. At the very least, we need to be assured if the customs personnel and resources necessary to handle the increased trade at New Mexico ports of entry. I have been assured by the Commissioner of Customs that the administration is committed to working with me in providing those resources.

I am also working on creating support for our natural and cultural resources along the border. The Rio Grande has been called by some the most endangered river in the United States. The NAFTA process provides us with an excellent opportunity to identify resources for addressing this and other pressing environmental and health issues along the border. The administration has expressed support for my proposal to create a private-public partnership—a trust, of sorts—to be a permanent resource and advocate for preservation of the Rio Grande River. This effort could help ensure a truly binational effort, for the first time, to preserve this great resource that our country shares with Mexico. I believe that this effort would also complement the other provisions in the NAFTA legislation to improve and preserve our border environment.

It is my hope that the administration will follow my recommendation for locating its new border EPA office, charged with addressing our border environmental challenges, in New Mexico. New Mexico is centrally located along the border, and would provide an ideal base for efforts to preserve our natural resources.

Our common destiny with our neighbors dictates that we should strengthen our cooperation and interaction, and this treaty can be a vehicle for doing so.

Mr. President, economic issues often cannot be separated from their political and socioeconomic context. That is certainly the case with NAFTA.

I was born and raised near the border with Mexico. And now, at the advanced age of 50, I have concluded that we are neighbors with Mexico in 1993, and more importantly, we are destined to remain neighbors for a very long time.

That fact gives our nations a common destiny. That fact means that to some significant extent our futures rise and fall together. If the United States loses its world economic leadership, Mexico will suffer and if Mexico is unable to pull its people out of poverty the United States will shoulder a heavy load in the decades ahead.

Speaking about our common destiny with Mexico comes easily to those of us from the Southwest. New Mexico was part of Mexico from the period 1821 to 1846. The same river known to the Mexicans as the Rio Bravo is known to us as the Rio Grande. For over two centuries the trade routes from Chihuahua north to Santa Fe, Espanola and Taos were better traveled than any route from English speaking America.

The NAFTA debate has, unfortunately, brought to the forefront some of the negative aspects of our joint relationship with Mexico. It is my hope that we can now use NAFTA as a tool for improving our relationship and understanding of each other. It is my hope that the trade routes from north to south can come alive again, and with it the channels of communication and cooperation between our countries.

CONCLUSION

Madam President, each of our three nations is home to proud people with a rich heritage. We each want a better life for ourselves and our children. NAFTA represents an opportunity for us to achieve that better life by working together.

Many of the votes we cast in this Senate cause us to choose between our hopes for what might be and our fears of the unknown. This is such a vote for me, Madam President, I choose to vote my hopes.

Thank you, and I yield the floor.

The PRESIDING OFFICER (Mr. MATHEWS). The Senator from Utah.

Mr. HATCH. Mr. President, I yield such time as I may need.

Mr. President, I am a strong supporter of the North American Free-Trade Agreement. I think it is something that we really have to do. If we do not pass this agreement, we will set back hemispheric relations at least 60 years at a time when we have an enlightened President of Mexico, who is bringing the Mexican people into an awareness of how much we north of the border reach those south of the border.

Frankly, I never thought these changes would be brought about in my lifetime, but they are happening. And the Mexican people are very, very supportive of the United States in many ways, and they are looking forward to working with us and having this free and open trade but, more important, all of the Central American and South American countries are likewise eager to see if we really mean what we say about free market economics and about democracy.

This particular debate is about the future. It is about whether we are going to really go forward into the future and be willing to compete with anybody, which we can easily do and do better than anyone else in the world, or retrench and become protectionist and start the downward trend that all countries who have done so have experienced.

On Sunday, August 29, 1993, I left for the Dallas-Fort Worth Airport, and then arrived a short while later at Love Field in Dallas. There I linked up with Senator DOLE, Senator GRAMM, Senator McCAIN, Senator CREGG and Congressman HENRY BONILLA. Congressman BONILLA is the first Republican Hispanic Congressman ever elected. I do not know when I have been so impressed with another individual as I was with him on this trip. But we got into one of our Air Force planes and flew into Mexico City where we met that evening with John Negroponte, the then-Ambassador to Mexico, at his residence. We had a quick country team briefing and then met with Mexican and American business leaders.

We had an interesting evening with them and we talked about the North American Free-Trade Agreement. This meeting involved the key Mexican Government leaders and representatives of both Mexico and the United States and respective business communities.

The next morning we got up early and we went to a breakfast meeting with the President of Mexico, President Carlos Salinas de Gortari, at Los Pinos. It was a terrific breakfast and we discussed with him these problems. I think this President of Mexico has placed everything on the line.

If the North American Free-Trade Agreement is not agreed to by the Congress, it will, like I say, set back Mexican-American relations and hemispheric relations at least 60 years.

One of the significant things that President Salinas said during this whole conversation was about Mr. Perot. After seeing the book that was written by both Mr. Perot and Pat Choate, the President of Mexico, speaking about Mr. Perot, said, "Has he no decency?"

I was interested in that because that seemed to be the perception of people in Mexico, and the top leader in Mexico, about some of the writings in that book.

Now, I happen to know Mr. Perot, and I like him very much. We have been friends ever since the Elizabeth Morgan legislation, which I pushed through Congress a number of years ago. He became convinced that she should not languish in jail on a simple contempt charge and he became one of the principal supporters of that legislation. I respect him for that.

But the President of Mexico felt that this book by Perot and Choate was isolationist, protectionist, and really wrong. And I was interested in that comment.

I have to say that the opponents of NAFTA have been ignoring some of the key facts. This will prove to be an excellent agreement that will be beneficial to the U.S. economy, U.S. workers, and the environment.

For instance, No. 1, NAFTA will create over 200,000 jobs in the immediate future. Already we have approximately 700,000 jobs that depend upon trade with Mexico; in other words, jobs that relate to exports to Mexico. Without the North American Free-Trade Agreement, not only would we lose these 200,000 additional jobs, but we are very likely to lose the 700,000 jobs that are dependent upon exports to Mexico.

No. 2, NAFTA creates a liberal playing field for U.S. exporters. For instance, NAFTA will reduce Mexico's trade barriers and, over a period of 10 years, reduce all of the Mexican tariffs which are now at 10 percent, which is 2½ times ours, at 4 percent. That will create plenty of jobs in this country, because naturally people in Mexico are going to buy more American goods which, of course, will put more Americans to work producing those goods.

No. 3, NAFTA will provide, according to the side agreements, better environmental protection because all three countries—Canada, the United States, and Mexico—will be much more concerned about the environment and will have greater obligations to produce a good and decent environment.

No. 4, we will be able to compete more effectively against foreign competition. NAFTA will create the world's largest trading market with 370 million people and an almost $7 trillion combined economy. That cannot be ignored. And we will be able to compete with any other force in the world. That is one of the progressive, forward-looking things that is good about this agreement.

No. 5, NAFTA will grant our country more access to sell United States products to Mexico's growing market of 90 million consumers. We cannot ignore that. And they love our products. Literally 70 percent of every dollar that is spent in Mexico for imported goods comes to the United States of America.

No. 6, U.S. workers will benefit from NAFTA's influence on the changing global economy. As I have said, it will create the most powerful economic market in the world, greater than the European Community, with 370 million people in a market with an almost $7 trillion gross domestic product.

No. 7, NAFTA will allow the United States to provide worldwide leadership during the post-cold war period so that the whole world will benefit.

We are finding our worldwide competitors, especially those in Europe and Asia, to sometimes be almost overwhelming. This is a good way to respond and be more competitive.

Although Mexico's average tariff is 2½ times higher than ours, over 50 percent of our imports from Mexico enter this country duty free. Our average tariff is 4 percent, while theirs is 10 percent. Mexico has complex domestic licensing requirements that impede our current ability to sell freely in Mexico. These will disappear under this agreement. The NAFTA agreement will expand our access to Mexico and open up trade with Mexico like never before.

It will eliminate these tariffs and, even more importantly, perhaps, the nontariff barriers, such as exist on automobiles and agriculture right now. We expect the NAFTA agreement to require Mexico to get rid of its protectionism and overregulation.

For instance, almost half of all United States exports to Mexico will be eligible for zero Mexican tariffs by January 1, 1994, the day NAFTA takes effect. The number of products that will be eligible for tariff free treatment to Mexico include medical devices—something very important for my home State of Utah, where we also have some of the most important software industries in the world. Other industries that will greatly benefit include semiconductors, also important to my home State of Utah and many other States—and computers, electronics, machine tools, telecommunications equipment, aerospace equipment, and other various types of equipment, all of which we do better than anybody else in the world.

After 5 years, two-thirds of our industrial exports to Mexico will enter Mexico duty free. What a benefit that will be to our manufacturers. Mexico, under NAFTA, will eliminate 70 percent of its duties over 5 years and will phase out most all of the rest within 10 years. Our service exports to Mexico were $8.9 million in 1992, and NAFTA will require Mexico to completely open its markets to United States services exports. This means telecommunications services, insurance, banking, accounting, and advertising services will be able to compete in Mexico.

If NAFTA is passed, we will have even greater access to Canada's services markets. It will be greater than under the current United States-Canadian Free-Trade Agreement. And that is something that not many have mentioned.

Under current law, Mexico requires United States companies in Mexico to purchase Mexican goods instead of United States-made components and equipment. Their laws require us to export their production, usually to the United States, instead of selling directly in the Mexican market. They currently require us to produce in Mexico in order to sell in Mexico. All of that will be eliminated by this NAFTA agreement.

Almost all of the economic studies show that the labor effects of NAFTA will result in increased jobs and increased real wages or both. We anticipate that, as I have said, there will be 200,000 more export-related jobs within 2 years to be added to the already estimated 700,000 jobs attributed to exports to Mexico as of last year. This will allow us to push our employment to 1 million jobs as a result of our NAFTA agreement.

If we do not enact NAFTA, I suggest there will be a reduction in exports and related jobs. We believe that Mexico will begin to turn elsewhere than to their neighbors to the north. Now our high paid workers compete with low paid Mexicans. If NAFTA is passed, we expect wages in Mexico to go up and jobs to be created there, as well. This will keep Mexicans in their own country instead of illegally migrating to the United States. That alone will benefit organized labor. It will benefit every working person in America, that we will not have low-cost labor coming into this country because they will want to stay in their own home country.

Those who argue that we cannot compete with low-wage Mexican workers are arguing untruths.

The White House is quick to point out that if low wages were the primary factor, then Haiti and Bangladesh would be job and manufacturing powerhouses, and as we all know, that is not the case. Our workers are five times more productive than the workers in Mexico.

However, if NAFTA passes, we can expect Mexican productivity to go up and it will probably keep Mexicans at home, rather than giving them incentives to illegally immigrate into our country.

Keep in mind, United States exports to Mexico have risen from $12.4 billion in 1986 to $28 billion in 1990. And as of 1992, $40.6 billion. That is a remarkable growth.

This now makes Mexico our third largest trading partner in the world. In fact, from a manufacturing standpoint, they are our second largest trading partner.

People in this country have not realized that. We really are expanding, and they are really growing, and we have to recognize it.

Our trade balance with Mexico has gone from a $5.7 billion deficit in 1987 to a $5.6 billion surplus in 1992. We expect it to be higher than that in 1993.

In other words, since 1986 our merchandise exports to Mexico have increased by 228 percent or 2.3 times faster than our exports to the rest of the world.

Our manufacturing exports to Mexico in 1992 were $34.5 billion. That makes Mexico the second largest market in the world after Canada for our manufactured exports.

Mexico is our third largest market for agricultural products. We sold to Mexico $3.7 billion in 1992, and that is a 242-percent increase since 1986.

As I pointed out before, and I think it is important to point out again, 70 cents of every $1 Mexico spends on foreign products goes to purchase United States goods. Because of our close proximity to Mexico and the renewed friendship that would occur from this agreement, we believe that this would continue to expand even faster.

As a comparison, each Mexican on the average purchases more than $450 of United States-made products each year. Japanese per capita expenditures on United States products are $385. So each Mexican spends $450 compared to Japanese expenditures of $385. That is interesting because the average Japanese income is five times higher than the average Mexican income.

What does it take for us to wake up? I have listened to some of the arguments on the other side and they do not make any sense when you start looking at the facts.

Mexico is also the U.S. telecommunications industry's second largest customer. Only Canada exceeds Mexico with regards to telecommunications.

We would expect that our small and medium-sized businesses would greatly benefit from the NAFTA agreement. First of all, they would, for the first time, be permitted to penetrate the Mexican market without having to invest in Mexico itself as required by the current nontariff barrier laws.

I think the administration makes a very great set of points in this one paragraph. They said in one of their brochures:

> NAFTA will create jobs and improve our competitiveness. It will create the largest, richest market in the world. Mexico's strong and growing demands for U.S. products has created $5.6 billion U.S. trade surplus. With a stronger Mexican economy and higher Mexican wages, demand for U.S. goods will continue to expand. Increased access to the rapidly growing Mexican market will create extraordinary new opportunities for U.S. companies and workers. Taking advantage of these opportunities will lead to increased prosperity in the United States. It will demonstrate American leadership in advancing open markets and promoting democracy here in our hemisphere. NAFTA is good for America.

That is about as good a summary paragraph as I have ever read with regards to NAFTA, put together by the Clinton administration, which I admire on this issue. The President is right on this issue.

I might say, because of some unions in our country, and some environmentalists as well, the NAFTA agreement has had to have environment and labor supplemental or side agreements.

Even though they have made a real effort in effectuating these side agreements, the unions and many of the environmentalists have not bought off on them. In fact, as was seen yesterday, DAVID BONIOR, the House majority whip, and a person I happen to admire, led a very interesting fight on this agreement, as did my other friend over there, the majority leader, RICHARD GEPHARDT, because those side agreements, they did not believe, were good enough.

I do not think they are good enough either. If I were to rewrite them, they would be written much differently. But they are written as well as they can be written between our two countries at this time and they are an agreement, after all.

I might say I am proud to see so many Republicans strongly in support of the NAFTA agreement. I am proud to see us supporting the President on this one because he is right. We have to distinguish this from the budget agreement, in which we felt he was definitely wrong.

During the meeting with President Salinas I particularly raised the fact that although Mexico has now enacted a new world class statute—that is using Carla Hill's terminology—but I agree with it—it is not being enforced. I am speaking, of course, of their intellectual property statute.

A number of years ago, when, according to President Salinas, I was the first Senator to visit the President of Mexico in 15 years—I brought up that they needed to change their intellectual property laws and update them. And they have decided to do so, because the Business Software Alliance filed software infringement cases in January 1992, and four new cases again in May 1993 against software dealers in Mexico. However, much more needs to be done. The Business Software Alliance knows of no seizures of counterfeit products or other enforcement actions to enforce these new laws. I brought that to his attention. He said they will try to do what they could about it.

The American Amusement Machine Association says that 500 to 2,000 pirated video game circuit boards arrive every week en route to the United States. The United States needs Mexico's help to keep out Okinawan and Taiwanese counterfeits coming through Germany and Mexico into the United States. He agreed to do something about that and I believe him. I think he will.

I also raised the point that patent agreements need much work as the Government of Mexico still has not approved legislation implementing their patent law.

I raised all these points with President Salinas including one other. Mexico has played a pivotal role in multiphased air surveillance of drug trafficking planes coming into Mexican airspace. They have to complete four radar installations. They have completed two of them. We brought up that they need to complete three and four. The last two phases will provide three radars, communications equipment, and a sector operation center and regional command center operated 24 hours per day by the Mexican Air Force.

The first two phases have been extremely important and successful. However, now the narcotraffickers are circumventing them by flying over the Yucatan and Acapulco regions. They fly around the radar which extends over 240 miles out to sea.

I have to say I suspect they are not very enthusiastic about having to spend another $80 million for phases three and four. However, it would only cost them 15 percent up front, or about $12 million, because the Eximbank would finance the rest.

Both the President and his Commerce Secretary, Jaime Serra Puche, took great note of this and indicated they will try to do something about it.

I might say, I did point out to them that Willie von Raab, my friend, the former Commissioner of Customs, has written an op-ed piece criticizing their failure to complete this radar.

But what we have to give the Mexicans credit for is how much they have done to interdict drugs that would have come to this country, and how much more they will do if we enter into this agreement; how much more cooperation we will have, with our Drug Enforcement Administration agents; how much more help we will have from them in trying to protect our kids in this country from illegal drugs.

That is something you cannot ignore. We need to effectuate this agreement so we can continue to fight this war against drugs. The Mexicans are tremendous allies in this war as of right now. As we pass this agreement, and it becomes implemented into law, I think they will become even more vociferous and helpful to us.

Some of the arguments against NAFTA are that it is going to cause a loss of U.S. jobs. I suspect that is true in part, but we will lose jobs no matter what we do. The fact is we are losing jobs in many respects now, without the forward, progressive approach that NAFTA will give us.

NAFTA opponents claim our market is going to be flooded with cheap Mexican imports produced by inexpensive Mexican labor. In fact, we are going to gain many more jobs under NAFTA than we will lose because freer trade with Mexico shows increases of jobs because of sales in Mexico of United

States goods and services, as I have pointed out. And I believe that since our exports to Mexico have increased since 1986 by 227 percent, which is twice as much as imports from Mexico to our country, that is going to continue.

The Congressional Budget Office and virtually every economist of note have found that we will have a net increase of jobs and income as a result of this agreement.

The U.S. International Trade Agreement said that all of the leading studies, "find that aggregate U.S. employment rises as a result of NAFTA."

Another argument opponents use is that we will suffer severe job losses in the short run even if we gain some jobs in the long run. In fact, increased exports to Mexico will bring between 200,000 and 300,000 new jobs by the end of 1995. Such job gains have already begun as many companies are increasing their production, believing that NAFTA will be approved. And it will be.

Another argument is that United States companies will move jobs to Mexico to take advantage of the low-wage Mexican workers. That is completely false. Our workers are five times as productive as Mexican workers. Frankly, there is nothing stopping United States companies from moving to Mexico right now. Why would they not do so since they have every right to? They do not need NAFTA in order to do so. If the moving of U.S. companies is determined by low wages, it seems to me that most of the Third World countries would be automatic superpowers because we would have moved most of our businesses already. That just simply is not the case.

Another argument is that NAFTA will result in the reduction of United States wages because United States workers would have to compete with lower paid Mexican workers. The exact opposite is true because Mexican wages are not nearly as low as some of our NAFTA opponents assert, and those wages are going to go up.

Another argument is that United States companies will divert investment in jobs from the United States to Mexico. Actually, the United States, by enacting NAFTA, will be able to attract more capital from all over the world. Our economy will not be harmed. The Congressional Budget Office asserts that investment in Mexico will "appreciate the Mexican peso and push Mexico's trade balance into deficit for some time. This scenario would benefit the United States by increasing exports to Mexico."

So since NAFTA will remove most Mexican tariffs, now 2.5 times greater than the average of United States tariffs, and, in addition, reduce nontariff barriers, which now require United States companies to build factories in Mexico in order to sell in Mexico, the United States naturally will benefit greatly.

NAFTA will also do away with Mexican laws that require United States companies in Mexico to buy Mexican components instead of products made in the United States by our own United States workers.

Another argument is that NAFTA will allow non-North American countries to use Mexico as an export platform so that they can gain duty-free entry into the United States. The fact is that NAFTA contains strict comprehensive rules of origin requiring goods to be made in North America in order to receive favored treatment under NAFTA. Two hundred pages of this agreement describe this particular rules-of-origin requirement.

Another argument is that NAFTA will not protect workers and import-sensitive industries. That is not true either. NAFTA's strict rules of origin will prevent Mexico from being an export platform for other countries. Also, NAFTA does extend transition periods for U.S. tariffs and nontariff barriers to imports that will give import-sensitive industries and workers time to adjust to this more competitive environment. There are also specific measures which are designed to prevent import surges during the transition period. These would prevent pre-NAFTA tariffs coming back into place if import surges begin to harm U.S. industries and workers. NAFTA also will improve worker retraining and adjustment assistance programs.

Some argue that our trade surplus with Mexico is a mirage because 85 percent of our current exports to Mexico are capital goods which are used to build factories that will in turn saturate United States markets with their own products. That is pure bunk. Only 33 percent of our exports to Mexico are capital goods. This is a decrease from 40 percent in 1987. Comparing this to other countries, capital goods now comprise 40 percent of our exports to all other developing countries and 39 percent of our exports to the world. Therefore, this argument has no validity and makes no sense. Even so, exports of capital goods are beneficial to our economy because they support high-wage jobs.

Another argument is that our exports to Mexico are nonbeneficial to our own economy because they are components that are shipped back to the United States in finished product form. The argument is that Mexicans themselves do not buy United States consumer goods. Give me a break. Consumer goods are the fastest growing export to Mexico, having quadrupled from $1.1 billion in 1987 to $4.4 billion in 1992, a quadrupling in 5 years.

Eighty-three percent of the growth in United States exports to Mexico over the last 5 years has been for Mexican consumption, not for reexport. In Mexico, United States consumer goods exports have grown at a 31-percent annual rate over the last 5 years. Compare that to the rest of the world at 17 percent, Japan at 15 percent, the European Community at 16 percent; in other words, 70 cents out of every Mexican dollar to purchase imports are spent on United States consumer goods.

Another argument is that NAFTA will cost U.S. jobs because buy-American laws will be eliminated. That is a joke. We have more to gain by opening up Mexico's Government procurement under NAFTA because Mexico remains an economy with a higher proportion of State-owned businesses than our own country. Also, Mexican Government procurement practices are more restrictive than in our country.

Our unions argue that NAFTA will allow entry of workers to break strikes. Exactly the opposite is the case. Workers may be denied temporary entry into the United States where the entry might affect adversely, the settlement of any labor dispute that is in progress at the place or intended place of employment or the employment of any person who is involved in such dispute.

The opponents argue that economic studies are flawed because they assume full employment and unchanged investment patterns. These leading studies by the nonpartisan Institute for International Economics, and others, have considered changes in employment rates and investment patterns, and they have all concluded that the United States will increase its exports and gain jobs, even though studies relying on computerized general equilibrium models do assume full employment. Such studies predict wage rates will increase, and that indicates an increase in demands for U.S. workers.

Another argument is that NAFTA will override U.S. financial regulations which we need for security and stability of the banking system. In fact, NAFTA preserves our own U.S. financial regulations.

Another argument is that NAFTA will eliminate the Border Patrol, enabling the free flow of drugs. In fact, NAFTA will help us in our drug interdiction efforts because it will facilitate the level of cooperation between Mexican and United States law enforcement authorities which is already going on. I have been there, I have seen it, and I know it is going on. I want to keep it going, and NAFTA will do so. If we do not enact NAFTA, the relationship between our two countries will become so bad that there will be an impact on solid law enforcement practices.

Another argument is that Mexican truckers with inferior trucks, not meeting United States safety standards, will have a right to use our roads. Our safety standards are not undermined by the NAFTA treaty. In fact, within 3 years of this agreement, Mexican trucks and drivers will have to meet all of our applicable standards on emissions, environmental pollution, safety inspections, maintenance, repair, brakes, securement of cargo, and driving preventions. Furthermore, Mexican trucks will not have full access to United States roads for at least 6 years.

The next argument against this agreement is that our consumer and environmental laws will be undermined. In fact, NAFTA specifically ratifies the right of each country, as well as all States and localities, to maintain their own level of health and consumer safety and environmental standards, and even to increase those standards.

Some argue that NAFTA will permit agricultural commodities with pesticide residues, such as DDT, to come into this country. Again, that is not true. The United States will be permitted to prohibit entry of goods not meeting its own health, safety, and environmental standards.

By the way, DDT is not permitted in farming practices in Mexico but is only used in southern Mexico to fight malaria-carrying mosquitoes. Our own General Accounting Office study shows that Mexico's overall system of controlling pesticides is quite equivalent to that of the United States.

Some argue that United States companies will try to avoid strict environmental regulations by investing in Mexico. Again, NAFTA requires each country to agree they will not use weakened enforcement of environmental laws to attract investment from other countries. Mexico already has environmental protection laws which are comparable to our own.

Others argue that the NAFTA agreement will result in harm to our North American environment. In fact, NAFTA has specific measures for the improvement of environmental protection and commits each country to the principle of sustainable development. Some say that NAFTA will overturn our own environmental laws. That just simply is not the case.

The labor side agreement restricts the application of trade sanctions to only 3 rather than the 11 areas sought by the unions in our country. The three areas that qualify for sanctions are workplace health and safety, minimum wage, and child labor.

To resolve any settlement disputes, a dispute settlement panel will arbitrate charges of violations in those three areas. If adverse findings occur, they could result in fines or sanctions if the country refuses to pay. For Mexico and the United States, sanctions could be imposed. However, for Canada, which refuses sanctions, payment of fines will be enforced through the Canadian domestic court system.

Now, Mr. President, we cannot impose all of our labor laws on Mexico. This is a country that is emerging as one of the great countries in the world. They should be able to determine their own laws. But we are imposing three of the most important areas, and they have agreed to the imposition. I have heard some argue that we ought to impose a lot more. The fact is we cannot be telling our neighbors to the south what they can and cannot do. What we can do is encourage them and that is what this side agreement does.

The environmental side accord excludes any domestic law with a primary purpose of managing the use of natural resources as opposed to protecting wildlife and stopping pollution.

The United States and Canada have used the definitions crafted by Mexico and cover domestic measures that prevent pollution, control hazardous materials, and protect flora and fauna. The public will not be able to file grievances. No government will be able to challenge NAFTA provisions managing commercial harvest or exportation of natural resources. There will be a North American Commission on the Environment called NACE. And the final text will allow a respondent government to request NACE to limit the scope of the demand for information on grounds that the request would be damaging to protected business interests or personal privacy.

The text also restricts NACE's access to national facilities or data. I strongly oppose NACE's visits to U.S. companies to collect data. If the data were refused, NACE, using the domestic process, could have ultimately resorted to an administrative subpoena to get information. As it is, NACE panels can claim violations only where "a persistent pattern or failure to effectively enforce" a domestic law by a member Government occurs. Unmet fines can lead to trade sanctions for Mexico and the United States only. Fine payments can be enforced for Canada in domestic courts.

Currently, the environmental community is generally opposed to some of that and has I think effectuated some changes that have worked.

Mr. President, in conclusion I just want to say that if you look at this trade agreement from a hemispheric relations standpoint, if you look at it from a neighbor-to-the-south standpoint, if you look at it from a business standpoint, if you look at it from an export standpoint, if you look at it from an interdiction of drugs standpoint, and if you look at it from a deterrent to illegal immigration standpoint, then I have to tell you that you really have to decide that this agreement is the right way to go.

I have said enough about it. I have taken enough time. But I especially wanted to make these points because I am the chairman of the Republican Senatorial Hispanic Task Force. I, frankly, feel very deeply about these matters. I would like to see us have better relations with our neighbors to the south. I respect President Salinas very much. I have visited Mexico almost every year for 5 years. Each time, the complete cabinet has made itself available. The President has met with me every time. And I have to say he has provided enlightened leadership that is pulling Mexico out of its difficulties, and bringing intellectual reform, patent reform, even electoral reform to that country.

I just want to see all of these reforms continue because they are progressive, they are the right way to go, and frankly, they are in the best interests of the United States as well.

I yield the floor.

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I see the Senator from Utah in the Chamber. I wonder if the Senator might withhold for just a minute.

Mr. President, there are some opponents of NAFTA who say "not this NAFTA," but a better NAFTA. And when they say a better NAFTA, they often point toward the Common Market. It is true that Europe admitted Spain and Portugal and Greece to the Common Market. They expanded significant transfer payments to help their economies, to raise the economies of those countries to a higher level than they would be otherwise.

Now, we are supposed to, therefore, conclude that we Americans should not conclude an agreement with Mexico until America spends tens of billions of dollars to help bring Mexico up to higher living standards.

Mr. President, in this time of big budget deficits, with the large national debt we have, I do not think the American people want that. We have a large national debt, a large deficit. We are operating under a very significant budget agreement which freezes discretionary spending, which means with inflation in effect it decreased in those accounts. I do not think we are at a time in American history where we can begin to think about transferring billions, maybe tens of billions, of dollars to Mexico, as aid.

But even more importantly, the Common Market, or European Community, is much different than North America.

Why do I say that? Look at the historic pressures in Europe to help bring Europe closer together. Mr. Monet, who is the father of the Common Market, nearly 40 years ago spoke of European unity. That was an idea that caught on. There is a common heritage to some degree in Europe; there is more of a unity and a sense of togetherness in that continent than there is in ours.

Therefore, those countries began to enact uniform or very similar laws.

One is their taxation law. Members of the Common Market have a value-added tax. There is not the same exact value-added tax in each country, but the same system. How many Americans want to have the same taxation system with Mexico and with Canada? I do not think very many do.

How many want a value-added tax? No, we do not have to have a value-added tax. I do not think many Americans want that.

In addition, in Europe, there is complete freedom of mobility of labor, which means that a Spaniard can get on a train in Madrid, ride that train across the border to France, to Germany, get off the train, and apply for a job in any plant—no green cards, no visas, no work permits, apply for a job. There is a complete freedom of mobility of labor. I do not think many Americans want that.

NAFTA is not that. NAFTA just says we are reducing some trade barriers. We are not saying that any Mexican worker, any Canadian worker without a visa, without a green card, without a work permit, can just willy-nilly cross the border and apply for a job. That is not what we are saying.

Almost all who say "not this NAFTA" and point to Europe, frankly, are suggesting something they would not want to pursue if they thought it through.

So I think it is important for people to realize that the United States is nowhere near adopting a policy that would create complete freedom of mobility of labor, a uniform tax system, or that would transfer tens of billions of dollars to another country. It is just not going to happen, and it should not happen, at least for the foreseeable future.

Maybe 50 years from now, it might make sense. We are talking about the 1990's into the next century. It is not going to happen.

Mr. President, opponents remark that Mexico is a poor country that has squalid conditions—I must say, using terms which I find not entirely diplomatic—that there is no way for Mexico to come back to the bargaining table and concede a lot more. It is just not going to happen. Rather, if we reject NAFTA, I think the probabilities are very high that Mexico is going to go somewhere else. They will look to another trading partner. They will feel they cannot trust Americans very much.

The fact is, we have already asked for more in this process. President Clinton said, "I do not like this agreement." The President pushed for side agreements on environment and labor. The Mexicans said OK. They came back to the table, and negotiated the side agreements on environment and also on labor.

So I think it is highly unlikely they will come to the table another time if we reject it. It is not going to happen.

The real choice is whether we accept NAFTA, a good-faith agreement with very intense negotiations on all sides—United States, Canada, and Mexico. Ambassador Mickey Kantor negotiated very aggressively. And many of us know Carla Hills, the previous USTR who negotiated the main agreement. We all know that Ambassador Hills is equally aggressive, equally tenacious, and will get the best deal for the United States.

We negotiated a good deal. If you look at the facts, the facts are very clear. This agreement tends to address the problems we have with Mexico. For example, under NAFTA there will be a lot of incentives for wages to increase faster in Mexico than there would be the case if there is no NAFTA. This means it is less likely under NAFTA that companies will move to Mexico.

I admit this is not a perfect agreement. But it is a good agreement. It does not do everything that some of us would want on environment, labor, and other provisions. But it is a lot better than the status quo. In trade negotiations, Mr. President, and in legislation, you take things a step at a time. You can never achieve perfection immediately, if at all. You have to steadily grow, steadily progress, build a step at a time.

This is obviously an agreement which progresses the ball further.

I was very struck, Mr. President, by a statement earlier this evening by the Senator from Illinois [Mr. SIMON]. Senator SIMON said that early on in the NAFTA process he had no idea what to do, whether to vote for NAFTA or against it. So what did he do? He went home one weekend, took a stack of documents on this question, sat down at his typewriter and just typed through the pros and cons of ratifying NAFTA.

He said after a weekend of doing so, it was clear. He said it is one of the easiest decisions he has ever made. The facts were undeniably clear that it makes more sense to pass NAFTA than reject it.

I think all of us who know Senator SIMON know that he is very intelligent, one of the most intelligent Members of this body, one of the most conscientious Members of this body, and has an open mind about matters. And I think if Senator SIMON took the time to read so much of the agreement and came to that conclusion, we should listen to him.

I thank the Senator from Utah for yielding this time to me. I wanted to make these points before the Senator from Utah makes his statement.

Mr. HATCH. Mr. President, I yield 10 minutes to the distinguished Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, thank you. I wanted to say while my Senator senior colleague from Utah is here that I listened to his comments with great interest, and he has made the substantive argument for NAFTA.

I just have a few additional comments. I want to indicate my gratitude to him for the thoroughness with which he has gone through all of this work. He has frankly saved me the effort to have to do it over again.

I rise to make several points in this debate. The first one is perhaps a comment, a holdover, if you will, from the debate in the House of Representatives.

A Member of the Congress, a Member of the House, told me the same story that we heard from the distinguished Senator from Montana about our colleague, Mr. SIMON, slightly different, but the same result.

There was a Congressman who had decided to vote against NAFTA and had announced that decision fairly early on. Within the last 10 days, he has changed his mind, and last night he voted in favor of NAFTA. When queried as to why he was to change his mind, he said everyone who has been to see me in opposition to NAFTA has threatened me. They have not concentrated on the arguments. They have concentrated on the threats of what will happen to me if I do not join with them in opposing this.

By contrast, everyone who has been to see me in support of NAFTA has said to me, "Congressman, we respect your judgment, we respect your ability to make a judgment, we simply want to lay before you the facts and we will trust your decision, and we will still be your friends when this is over if you make a decision different than the one we are asking for. We have that kind of respect for your analytical ability."

He said "I do not legislate under threats. I legislate on the basis of merits."

And on that basis he came to the conclusion that NAFTA should be supported. I think that is an interesting commentary today when the news is filled with comments by some of those who were opposing NAFTA, that they will respond by punishing the people who supported NAFTA at the polls.

I have had some of those same threats levied at me. There have been people who picketed my office in Salt Lake City and said, "We will see to it that you are defeated next time you run."

Well, Mr. President, the last time I ran, I ran in support of NAFTA. I campaigned as one who would vote for NAFTA. I made my intentions very clear right from the beginning. And I do not, in the face of threats, intend to change that position.

Moving to a more substantive matter, as I said, I will not go into all of the details. My senior colleague from Utah, Mr. HATCH, has already done that, I think very well and very extensively.

But I want to make a point about the nature of this situation. NAFTA, if you will, is a tax cut. It may, in some ways, be the only tax cut we are going to get out of this administration, if I may say so, as a member of this side of the aisle. If there is a transaction between Smith and Jones, Smith has $1,000 of money and Jones has a basket of goods that he prices at $1,000, and they trade back and forth in that fashion, that is free trade.

However, if Smith says, "I have 1,000 dollars' worth of money, give me your basket of goods," and the government steps in and says, "No, Mr. Smith, we are going to take $100 of your thousand dollars in taxes," Jones can now only get $900 for his goods. So Jones will change the nature of that basket of goods. He will either take some out, or he will substitute some goods of lesser value for those that are there—different quantity or different quality.

Now, if it is not between Smith and Jones, but between Smith and Sanchez over the border, that is exactly what is happening now, only instead of calling it a tax, we call it a tariff, but the result is exactly the same. So Mr. Sanchez, who wants to buy something from Mr. Smith, is told, "You may have $1,000 to spend but you are only going to get $900 worth of goods because the Government is going to take $100 off of the top."

Now, with the NAFTA, we are going to say the Government gets out of that transaction and the basket of goods being offered in the United States is therefore going to change. Either there is going to be more quantity in it to pick up that extra $100, or there is going to be more quality in it because Sanchez can now afford to pay more. And in the process of that change in the basket of goods, there is no question we are going to see a change in the kinds of jobs producing that basket of goods. I do not think there will be any job loss to Mexico because of companies moving down there, because they can do that now. But there will be a job shift, as some of the lower paying jobs will perhaps go out of existence because Sanchez is now getting $1,000 for his $1,000 instead of $900. But there will be jobs created. As people say now, we can put different products into that basket of goods, and the kinds of jobs that are likely to be created—being very blunt about it—are the kinds of jobs that do not lend themselves to union organization.

At base, I think this is the reason why the labor unions have been opposing NAFTA. They realize that the kinds of jobs that are easy for them to organize are probably going to go down, while the kinds of jobs filled by people who do not lend themselves to organized labor are going to go up. Net economic activity is going to go up. There will be more money spent in the United States as a result of this. There will be more economic benefit. But there will be a shift. There always is when there is a tax cut; the economy always changes.

So, Mr. President, I think we must recognize that the NAFTA will produce changes in our economy. I think they are changes that will be beneficial, because I would like to see the work force move from the lower paying jobs to the higher paying jobs. But there is no question that any kind of change is going to be painful for somebody. The question is: Do we want to stagnate in the present status quo because we do not want to cause anybody any kind of pain and thereby bring pain overall to everybody? Or do we want to move ahead with a dynamic economy and recognize that this is the price of progress? But the benefit of progress is a greater benefit for everybody in the long term.

The final observation I will make, Mr. President, is that, in my opinion, NAFTA really is not about trade. NAFTA is really not about Mexico. If it were just about trade and if it were just about Mexico, then those who say to us "not this NAFTA, let us get another one" might have a point. We might be able to negotiate a better trade circumstance in a vacuum. We might be able to have a better impact on Mexico in a vacuum.

But we do not live in a vacuum. In the world today, NAFTA has become—in addition to a trade agreement, in addition to a discussion about Mexico—a major symbol of America's willingness to confront the future. We are in a postwar world. Like every other war we have ever fought, we made no planning, no contingency for what would happen when the war would end. But the war has ended. We are in a new world now. The new form of competition is no longer military, it is economic.

The people in the southern half of this hemisphere where we live are looking to the United States to say: How will you behave in the postwar world? How will you behave in a new arena where the principal competition is economic? Will you begin to treat us as equals—maybe not equals monetarily, maybe not equals in productive ability, but equals nonetheless as players in the international game? Will you treat those of us who live to the south of the United States in this hemisphere with the same consideration that you have treated those who live to the north of the United States in this hemisphere, those whose skin color is the same as yours, those whose European ancestry seems to be the same as yours? You have been able to negotiate a treaty with the Canadians without all of this fuss. Can you now negotiate the same kind of treaty with those who live to the south as you have with those who live to the north?

I think it is a crossroads for the United States to say that we can play on the world stage with even handedness toward all nations. We can deal with those who live to the south of the United States with the same degree of honesty and integrity as with those in the north of the United States. That, in my opinion, is the overriding reason why NAFTA is crucial to us at this point, and why this NAFTA—not another NAFTA—is the one we must ratify at this point.

So, Mr. President, to summarize, like my friend in the House of Representatives, I do not legislate by threat. I legislate on the merits, and I am sure most of the Members of this body feel the same way. I am therefore unimpressed with those who threaten me that I might be defeated as the sole reason for me to vote against NAFTA. It is a good agreement. It will be good economically for the United States and for Mexico for the reasons I have outlined. But perhaps, most importantly, it is a symbol to the world of the fact that the United States is facing reality in the new economic era that we have entered in the postwar world, and it is an opportunity for us to step ahead in a way that we must not turn our back on.

For these reasons, Mr. President, I support and will vote for the North American Free-Trade Agreement.

Mr. BAUCUS. Mr. President, I yield whatever time the Senator from Rhode Island will take, which I assume will be taken off of the time of the Senator from Oregon.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. I thank the floor manager for that. I would appreciate it if the Chair will let me know at the end of 20 minutes.

Mr. President, many of our colleagues and my colleagues from Utah have spoken on this subject. They have pointed out the facts about what NAFTA is and what it will do. What it will do, Mr. President, is to eliminate tariffs and other trade barriers between the United States and Mexico and to some degree Canada, although that has been covered in the prior 1988 free-trade agreement with Canada. This will take place over a 15-year period. Most of these reductions will be undertaken by Mexico, since it is Mexico that imposes significant taxes or tariffs on our products at the border and maintains other barriers to our ability to sell to Mexico.

Thus, Mr. President, the NAFTA will level the playing field by taking down Mexican tariffs and other barriers to United States goods. It is that simple.

Mr. President, I want to take a couple of minutes to discuss what NAFTA and its enactment will mean to my State in New England, the State of Rhode Island. Our State has had a lot of economic difficulties over the past several years, and, indeed, currently our unemployment rate is greater than the national average; 8 percent of our work force is unemployed. The brightest spot in our economy is the phenomenal growth of exports. In the past 5 years, our exports have doubled from our little State. For the first time ever, Rhode Island has crossed the $1 billion mark in exports. We are outpacing our neighbors in New England in the growth of exports and indeed outpacing the growth rate in the United States as a whole.

This has been a spectacular surge in exports for us. And this growth has come about because our companies are finding demand for their products in the burgeoning markets of Mexico. I saw this when I visited Mexico last February. Mexican consumers are hungry for United States products and that includes Rhode Island-made goods.

Rhode Island has shared in the national export boom to Mexico. Our State's exports to Mexico have jumped by 182 percent since 1987, a rate of growth almost 90 percent faster than the export growth to the rest of the world. Mexico now ranks as our 7th ranking trading partner, up from 11th ranking just 5 years ago.

This kind of growth obviously means jobs. Indeed, many of our Rhode Island companies will tell you that if they had not started exporting to Mexico they would not have been able to maintain their current work force during this recession, or indeed to add to jobs that they did. Thanks to our exports to Mexico, there are now several thousand Rhode Islanders who have jobs—good well-paying jobs, since virtually all of our exports to Mexico are manufactured goods.

Rhode Island workers have done well from the economic changes wrought by the Salinas administration. But, as a Commerce Department 1993 foreign trade barrier report noted, significant barriers to our exports to Mexico still remain.

Moreover, the Salinas reforms easily can be undone by his successors—and indeed this is not uncommon in the history of Mexico. That is why NAFTA is so important. It not only will remove the remaining costly barriers to our exports, but will lock in all those changes, regardless of who succeeds President Salinas. This means that U.S. firms, and of particular interest to me, Rhode Island firms can count on access to an open, stable, and long-term market.

(Mr. FEINGOLD assumed the chair.)

Mr. CHAFEE. Mr. President, I would like to note that our State has many, many jobs involved with the jewelry industry. Indeed, that is the largest manufacturing employer in our State, with some 35,000 jobs. NAFTA will eliminate the 13- to 20-percent tariff rates currently levied on Rhode Island costume jewelry products going into Mexico. The Manufacturing Jewelers and Silversmiths of America, which represents 600 Rhode Island jewelry companies, says NAFTA will result in the creation of 300 to 500 new jewelry manufacturing and service jobs in our State. You might say, who cares about 300 to 500 jobs? But that is a lot of jobs for a little State like ours.

Our second largest manufacturing employer is the textile industry, employing some 7,800 Rhode Islanders. NAFTA encourages the sale of American made textiles, thanks to its strict rules of origin. The Northern Textile Association, which represents New England textiles, says that NAFTA will result in increased jobs for the domestic textile industry. Indeed, our textile manufacturers have come forward and echoed that. Firms like R.I. Textile Co. and Bradford Dyeing in our State have said that the North American Free-Trade Agreement will mean more jobs for those companies and others in the industry.

NAFTA will grant our financial services companies access to the Mexican market. We have a very large financial service industry in our State. Fleet Bank is the 14th largest bank in the Nation. Hospital Trust also is a sizable banking company. Together, they employ thousands of Rhode Islanders. They expect unprecedented access to the growing Mexican market.

Rhode Island's Byrant College has a well-known export assistance center. The director of this center noted recently that Rhode Island has "doubled its exports in the last 5 years, from $500 million to $1 billion." He went on to say that:

> Our goal, and expectation, is that we will double exports once again, to $2 billion, by the year 2000. $2 billion in exports will mean 20,000 new Rhode Island jobs—in other words, exports will be by far the biggest job creator in the State in the next decade. But if a No-NAFTA vote prevails, the trend in our increasing State exports could be reversed. The impact will be dramatic—and potentially disastrous—for economic growth in Rhode Island. That is a scary thought for Rhode Island workers.

And the director of the export center closed by saying, "We need NAFTA" in our State.

Now, Mr. President, let me take a moment to address the subject of the environment and NAFTA. I would like to set a few facts straight about NAFTA, Mexico, and the environment.

Far, far too much of this aspect of the debate has focused not on facts, but on fears. Not only is NAFTA not the environmental villain that some have made it out to be, but it is, in fact, an environmental helpmate, and one that has the potential to lay the groundwork for environment-friendly trade agreements in the future. All environmentalists should support this agreement.

I feel very strongly about the environment, and indeed that is one of the reasons I went down to Mexico last February to see for myself not only what is happening to the environment but what the potential is to do something about it.

It seems to me we ought to remember that Mexico is a developing country. To their credit, Mexican leaders are attempting, through NAFTA, to bring their nation into developed-nation status. They are experiencing economic growth and at the same time learning about environmental protection. This is a difficult combination. Indeed, it is one we wrestle with in our own Nation: How are we going to bring about at the same time preservation of the environment and economic development? That is something that Mexico now is facing likewise.

Mr. President, I would like to make this point. Many continuously deplore the fact that Mexico does not have the environmental enforcement that we have in our Nation and does not have the breadth of environment protection that we have. Just remember this: It was only in the past 20 years that every single one of our major environmental laws have come into effect in this Nation. Whether you are talking about the Clean Water Act or the Clean Air Act, whether you are talking about the Endangered Species Act, or whether you are talking about the Safe Drinking Water Act, every single one of those laws came into existence in this Nation of ours in the past 20 years. Twenty years ago there was not a single one of these laws on our books. This is despite the fact that our Nation has been a developed nation for as long as the word "developed" nation has been used.

So to those who carp and criticize Mexico, saying that you do not have clean air laws and enforcement that matches ours; you do not have a clean water act that matches ours; where is your endangered species act; I would say this: All of these will come about. But to expect that nation, a developing nation, to have what it took us decades to achieve is nonsense.

So, Mr. President, let us recognize that the best way to improve the environment in Mexico is to make Mexico more prosperous. Nobody expects Bangladesh to do anything about the environment. They cannot afford it. Poor nations do not take care of their environment. It is nations that are prospering and growing more prosperous that turn to their environmental problems and try to do something about it.

Economic growth and environmentalism can be partners. That is why practically every major environmental organization in the United States of America is supporting the NAFTA, the North American Free-Trade Agreement. Jay Hair, president of the National Wildlife Federation, put it best when he said in his 1991 editorial "Nature Can Live With Free Trade" the following: "[the] presumption that environmentalism and economics don't mix has been punctured."

Simply put, the best way for a nation to handle environmental challenges is for it to become wealthier and thus better positioned to attack environmental problems. This is not a theory that I created out of thin air. The direct relationship between increasing national income and decreasing levels of pollution has been proven by World Bank economists. Moreover, a prosperous nation finds greater popular support for environmental measures: Generally, as the prosperity of the citizenry rises, so does interest in a cleaner environment.

Thus, by raising Mexican wealth, the NAFTA will help Mexico join the world of developed nations and will encourage and enhance Mexican environmental protection.

I am at a loss when some of my colleagues present arguments that somehow the developing nation of Mexico may not join in free trade with the United States until it has cleaned up its environmental act. But how on Earth do we expect Mexico to have the wherewithal to clean up unless we help them, not through foreign aid, but through a chance to engage in trade with us?

Notwithstanding Mexico's current status as a developing nation, by any standard, Mexico has made phenomenal strides regarding the environment. In Mexico City $4.6 billion has been dedicated to environmental initiatives, including a 1-day-per-week ban on driving, and the introduction of unleaded and oxygenated gasoline. You might say unleaded gasoline; so what, we have had that for years here. We have, but certainly Europe has not. Europe, although it is thoroughly developed, is just now going to unleaded gasoline.

They have mandatory biannual vehicle emissions tests inspections. I have seen it. And by the way, as Yogi Berra said, "You can see a lot by looking." I encourage all my friends to go down to Mexico to take a look and see what they are doing.

They have closed down heavy industrial polluters. In Mexico City, they closed down the giant polluting PEMEX refinery. You would not see that take place in our country. No, there would be court appeals, and on and on it would go.

They have massive planting of pine and cedar trees to increase the oxygen.

At the border, $460 million has been committed to border cleanup projects. Mexico is working with the United States on enforcement.

They have taken numerous steps with regard to species conservation. Last June, at a ceremony attended by Interior Secretary Babbitt, President Salinas announced the creation of the Sonora Biosphere Reserve, which will provide protection for the endangered vaquita dolphin.

These and many other steps taken by the 5-year-old Salinas government reflect an environmental commitment that is steadfast and growing stronger.

Now there are NAFTA critics who dismiss President Salinas' initiatives, saying that they are window dressing. Somehow, if you take a step forward, it is called window dressing. But to thoughtful observers, this criticism rings hollow. Today's Mexico environmental investment totals nearly 1 percent of its GDP—hardly a faltering commitment. President Salinas has received international environmental awards: The 1991 Earth Prize and the 1992 World Conservation Leadership Award.

Perhaps most importantly, this criticism seems to ignore Mexico's growing domestic interest in the environment by the voting population. The Mexican green party won an unprecedented 5 percent of the vote in Mexico City's popular vote. You say, "Oh, 5 percent." I will tell you, 5 percent is a swing number. When 5 percent come out and say that is what we want, that is a growing popular party. It is the green party, which was never really heard from before in Mexico.

The NAFTA reflects the commitment Mexico has made to the environment. It is unlike any other trade agreement in its provisions to promote and protect the environment. NAFTA will enhance North American environment—including our environment. Without NAFTA, as Governor Ann Richards of Texas said recently before the Environment Committee, the United States-Mexican environmental problems that exist along the border in the Rio Grande and elsewhere, will fade from the radar screen. No one will pay any attention to them if NAFTA is defeated. It will no longer be a burning issue before this Congress of ours.

Mr. President, I would like to conclude with the following thought. At various times in our history, there is a conflux of events—a gathering of forces that become historic far beyond the original purposes envisioned.

Think just a moment about Gettysburg in 1863. No great battle was planned to be at Gettysburg. It was not a place where Lee's army and Meade's army were to meet. Lee's Army was headed north toward Harrisburg. Meade's army was trying to keep Lee from Washington. They were not destined to meet.

But, by chance, a foray by southerners into Gettysburg for shoes and a chance encounter there with Union forces escalated into the decisive battle of the war.

To some degree, that is the situation now with NAFTA. The agreement will not mean a rush of jobs to Mexico. Everybody knows that. Any firm can go to Mexico now that wishes to.

It will open job opportunities to U.S. manufacturers, trucking companies, bankers, and merchants. It is not going to solve all our economic problems. It will help.

But the historic conflux of events have raised approval of NAFTA to a level far beyond the modest number of jobs that are going to be affected by this agreement.

Quite literally, in my judgment, Mr. President, the future of open trading throughout the world hinges on what we do about this modest treaty. If we in the United States cannot even approve this small step, "Why," say the Europeans, "should we take the giant steps that you want us to take in the General Agreement on Tariffs and Trade?"

Our country, at the end of World War II, was blessed by leaders who had vision. That vision gave us a safer and a more prosperous world that we have enjoyed ever since 1945. Those leaders with vision came up with NATO, they came up with the World Bank, they came up with the Kennedy round in world trade.

The question now before us is: Are we willing to look ahead and provide a better world for our children, or are we going to retreat to the Island America?

Mr. President, I think the answer is an easy one. The answer is to look at what happened after the end of World War II, what those leaders did for us, what they provided for us and our children. I think it is time for us to step up to the plate likewise. I do hope that my colleagues will overwhelmingly approve this agreement.

I thank the Chair.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent to have printed in the RECORD an important and thoughtful article by our esteemed chairman of the Committee on Commerce, Science, and Transportation, Senator HOLLINGS, on foreign policy, entitled "Reform Mexico First."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

REFORM MEXICO FIRST

(By Ernest F. Hollings)

The foundation of American foreign policy has been our steadfast commitment to freedom and democracy. With the fall of the Berlin Wall we should be doing everything in our power to nurture the development of genuinely democratic governments around the world. Yet supporters of the North American Free Trade Agreement (NAFTA) would lead us in the opposite direction. They ignore America's commitment to freedom and human rights by entering into a "free trade agreement" that will principally benefit Mexico's ruling oligarchy. For the past 64 years, that oligarchy has systematically denied Mexican citizens free elections, free speech, basic civil liberties, and a genuinely free market.

Instead of pursuing the previous administration's narrow economic agreement, President Bill Clinton should enunciate a broad vision for the Americas that encompasses not just economics and trade, but also political and social reform. As then deputy secretary of state Warren Christopher said more than a decade ago, "Respect for human rights creates an atmosphere for stability in which business and investment can flourish." Now, as never before, the benefits of a truly free market will be enjoyed only when the market is buttressed by strong democratic institutions.

Previous American initiatives to boost democracy in Latin America fell short of their lofty goals. President Franklin Roosevelt's Good Neighbor Policy, President John Kennedy's Alliance for Progress, and President Ronald Reagan's Caribbean Basin Initiative all failed because our commitment to democratic and social reform never matched our rhetoric. Millions of dollars in aid money were squandered by corrupt regimes that were more interested in helping themselves than in raising living standards. For example, the United States embraced the Somoza oligarchy in Nicaragua and wound up with the evangelical Marxism of the Ortega brothers.

Today, we have a historic opportunity to foster democratic institutions and genuine economic development on our southern border. Our choice is clear: We can be a force for change to promote democracy and build a thriving middle class, or we can align ourselves with the ruling oligarchy that thwarts Mexicans' aspirations for representative democracy.

In some 2,000 pages of NAFTA's text, the word "democracy" does not appear. NAFTA only locks in Mexico's status quo. I propose an alternative approach that puts democracy first and rewards democratic progress with economic and trade privileges culminating in the creation of a Common Market for the Americas—a partnership whose membership is predicated upon a shared commitment to the basic principles of a democratic society: free elections, free speech, free press, and free markets.

Throughout Mexico's history, a number of leaders have promised to wipe out corruption and reform politics. Even Porfirio Diáz, Mexico's turn-of-the-century dictator, arranged electoral charades to create the illusion of democracy. While the current president, Carlos Salinas de Gortari, has instituted substantial reforms, he has been careful not to challenge the power structure.

Today, U.S. editorial writers hail Salinas and his American-educated technocrats as valiant reformers who have cleaned up a corrupt political system and overhauled an inefficient statist economic system. In truth, however, the "new" Mexico is strikingly like the old. Most of the political reforms undertaken by the Salinas administration are nothing more than window dressing designed to mollify NAFTA's U.S. critics. As the Salinas era ends, a careful examination of the record shows that actual political reforms have been modest and largely cosmetic. Human rights violations, electoral fraud, and corruption remain endemic. In the September/October 1993 Foreign Affairs, Professor Jorge Castańeda wrote:

"Mexico's underlying problems persist. It retains a largely corrupt and unchallenged state that possesses only the merest trappings of the rule of law. The enduring obstacles to Mexico's modernization—its repeated failure to transfer power democratically or to remedy the ancestral injustice of its society—remain and will require Mexico to continue to change itself, with or without a trade accord."

Even the Economist acknowledges, "The ugly truth is that Mr. Salinas and his band of bright technocrats, adored though they are by the great and good on the international conference circuit, wield power courtesy of PRI [Institutional Revolutionary Party] fixers and worse in the countryside."

While former U.S. presidents and secretaries of state praise Mexico's reforms, the State Department's 1992 annual report on human rights paints a starkly different picture. It details the Mexican government's complicity in electoral fraud, torture, politically motivated murders, suppression of independent labor unions, and systematic control of the news media. "To maintain power, the PRI has relied on extensive public patronage, the use of government and party organizational resources, and, according to respected independent observers, electoral fraud," the State Department report said.

Mexico's "reforms" are nothing new. Our neighbor has a long history of passing progressive legislation on labor and human rights and of signing international agreements that ostensibly guarantee those rights. Mexico also has a long history of failing to live up to such agreements.

In 1990, with great fanfare, Salinas presented a new Federal Code of Electoral Procedures and Institutions and established a Federal Electoral Institute. Those electoral reforms seemed dramatic. But in reality they are only designed to legitimize the status quo while creating a facade of fairness. The new Electoral Institute is not independent; instead, it is stacked with members of the ruling party. In addition, the final arbiter of elections is the minister of government—the Mexican official charged with maintaining domestic order. That position is currently held by Patrocinio González Garrido, former governor of the state of Chiapas. It is widely recognized that his term as governor was marked by widespread electoral fraud and the imprisonment of Indians, teachers, and Catholic priests who dared to challenge the ruling party.

Despite electoral reforms, Mexican elections continue to be exercises in deceit. As recently as 1992, gubernatorial elections in Michoacán were marked by widespread fraud and the PRI candidate was forced to step down, only to be replaced by another handpicked candidate.

This winter, the fraud will continue. Like the PRI's rulers before him, Salinas will engage in the Byzantine ritual of tapping his successor—a process appropriate for a Yale secret society, not a representative democracy. The state then will throw its tremendous financial and media resources behind the anointed successor, who, in all likelihood, will be another figurehead for Mexico's elite.

The State Department's human rights report notes that "several political and human rights activists were killed in 1992," and that "there continue to be cases of extrajudicial killing by police." Although Mexico has established an independent commission on human rights, the report states that many of its recommendations "have been implemented only partially."

According to the State report, other human rights abuses committed by the Mexican government include torture—"the most commonly used methods * * * include threats, beatings, asphyxiation, and electric shock"—and frequent "incidents of arbitrary arrest and imprisonment." In 1992, the United Nations Committee Against Torture strongly criticized Mexico's use of torture.

Mexico's ruling party also maintains power by tightly controlling access to the public news media. Until August 1993, one of Mexico's two principal television networks was owned by the government. The other network was safely controlled by one of the PRI's top fundraisers, Emilio Azcárraga Milmo. The Mexican government sold its network to Ricardo Salinas Pliego, who will continue its pro-government and pro-PRI slant. In fact, after gaining control of the network, Salinas Pliego frankly stated that he will have to continue its pro-government programming because Mexico is not yet ready for democracy. Although Mexico does have independent newspapers and magazines that give the appearance of a free press, the State Department reports "significant restrictions on these freedoms."

THE PERFECT DICTATORSHIP

Perhaps Peruvian writer Mario Vargas Llosa offered the best description of the Mexican political system: the "perfect dictatorship." Vargas Llosa said that it is "the permanence of a Party, not of a man, a Party that is unmovable, a Party that gives enough space to criticism, as long as it serves its interests, because in this way it shows that it is a democratic party; but suppresses by any means . . . the criticism that somehow endangers its permanence."

A fundamental question that has never been addressed is whether Mexico's tradition of authoritarian, one-party rule is compatible with the American form of democratic capitalism. Senate Finance Committee chairman Daniel Patrick Moynihan has succinctly framed the debate on NAFTA: "We are still being asked to approve a free trade agreement with a country that isn't free."

NAFTA's proponents argue that it will raise living standards and gradually harmonize wages and working conditions. Commentators are quick to praise the dramatic economic reforms that have transformed the Mexican economy. A recent column in Financial World proclaims:

"Over the past several years Salinas has moved with great domestic risk toward opening what once was one of the world's most protected, corrupt and government-controlled economies. Should NAFTA fail—or die a slow death at the U.S. equivocates—Salinas's efforts would be discredited and the old order could return."

The obvious flaw in that argument is that the old order has not been swept away; a tightly knit group still exercises political and economic power.

Augustín Legoretta, a prominent businessman and former president of Banamex (one of the leading banks in Mexico), provided this candid assessment of how the Mexican economy operates: A "very comfortable little group of 300 people make all the economically important decisions in Mexico." That comfortable group has acquiesced in the government's decision to tear down the "Gringo Go Home" sign and open their country to foreign investment by offering a low-wage, high-productivity platform for export into the United States. In return for supporting Salinas' economic reforms, Mexico's corporate elite have enjoyed a financial bonanza. Mexico's high-flying stock market, the Bolsa de Valores, has created paper millionaires and even billionaires. Before Salinas took office, Forbes listed one Mexican in its list of billionaires; five years later there are thirteen. Not surprisingly, the Salinas administration's ambitious privatization policy has rewarded many of the president's closest political associates: Carlos Slim Helu, a financier and PRI fundraiser who won control of the telephone company Telmex and one of the state-run banks; Pablo Bréner, another PRI fundraiser who was awarded Mexicana Airlines; and Jorge Larrea, a close friend who now owns the immense Cananea copper mine.

Questions have arisen over Mexico's privatization programs, including whether a truly competitive system of open bidding exists. In addition, U.S. companies are allowed to own only minority interests in those companies. Mexican NAFTA negotiators have been careful to protect the powerful interests that have benefited from the privatization. For example, if NAFTA passes, the Mexican conglomerate Vitro, a world-class maker of flat glass, would benefit from a 10-year phase-out of the tariff on flat glass while the U.S., as is the case now, would levy no tariff at all. Similarly, the recently privatized banking system will benefit from 10 years of protection, and U.S. banks will be strictly limited to a small percentage of the Mexican market. The PRI held an intimate—and expensive—dinner party for Mexico's top financiers, with guests pledging $25 million (more than 75 million pesos) each to the ruling party. Television baron Azcárraga even proclaimed that he would be willing to pledge three times that amount because he had prospered so handsomely under Salinas. While the proponents of NAFTA praise the "free market" reforms in Mexico, in reality Mexico pursues a development model that leaves very little to the magic of the marketplace.

As Business Week explained in a cover story:

"In their drive to modernize Mexico, Salinas and his planners command nearly every variable of the economy. To smother inflation and preserve Mexico's huge labor cost gap with U.S. and other producers, Salinas fixes salaries through a complex business labor agreement that's known as el pacto. He anoints—and boots out—labor union bosses and state governors alike. . . . In short, Salinas and his number-crunchers run a near-command economy, much closer to the Asian model than any country in the West."

Despite the international accolades, Mexico's growth has averaged only 2.8 percent for the past six years. During the dark days of import substitution, Mexico's gross domestic product (GDP) grew by more than 6 percent. However, much of the current growth is the result of flight capital drawn back by high interest rates.

The "elite 300" have reaped huge rewards from privatization. Unfortunately, much of their wealth has come at the expense of the Mexican worker. The World Bank noted that Mexico's 1992 per capita GDP was 5 percent below the 1980 level. Mexican workers' wages buy less than half of what they did in the early 1980s. In a country that already suffers from one of the worst income distributions in the Western Hemisphere, Mexico's development path has exacerbated the gap between rich and poor. Over the last decade, the richest 10 percent of the population saw its share of the national wealth increase by 15 percent; meanwhile, 25 percent of Mexico's tiny middle class fell into the ranks of the poor. Half of the people still lack electricity or running water; the state of Yucatan advertises labor for "under $1 an hour, including benefits"; and children as young as 12 are included in official Mexican labor statistics.

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To provide foreign investors with a pliant work force, the government has actively intervened to thwart the formation of independent trade unions. After a renegade labor leader led a successful strike at a maquiladora plant near the U.S.-Mexican border, the Mexican government promptly arrested him. When workers at a Ford plant sought to replace their local's leadership, gunmen from the national labor federation attacked strikers, killing one and wounding thirty. Smashing independent unions and freezing wages at Third World levels is not consistent with the stated goals of the economic opening, which in theory raises living standards. As Business Week noted, the irony of the Salinas era is that "many Mexican workers still can't afford to buy the products that they turn out."

Advocates of NAFTA believe the agreement will not spur the flight of jobs south of the border. They argue that NAFTA would boost U.S. exports to Mexico and thereby increase jobs in the United States. To support that claim, they point to our trade surplus with Mexico. Since Mexico opened its economy to U.S. exports, the American trade deficit has been replaced by a $5.4 billion surplus. Under Salinas, Mexico's trade picture has significantly deteriorated. In 1993, Mexico's overall trade deficit will balloon to an estimated $22 billion. Consumer demand, however, accounts for only a small portion of our trade with Mexico. According to Mexican trade statistics, 52 percent of U.S. exports never enter the Mexican market. Unlike U.S. figures, Mexican statistics include parts destined for "free trade zones" in Mexico's interior. They are simply parts shipped to gleaming U.S.-owned factories for assembly and reshipment to the United States.

This is how the Brookings Institution's Nora Lustig explains Mexico's current account deficit:

"The upsurge in imports is in part a response to the expansion of productive capacity in anticipation of Mexico's positive outlook. . . . The current large imbalance in the trade account may well be a one-time phenomenon in the sense that it is the result of the modernization of the productive plant that will soon render its fruits in the form of higher net exports."

U.S. trade data shows that the majority of U.S. exports fall into two categories: capital goods and industrial supplies. U.S. Trade Representative Mickey Kantor points with pride to the fact that the fastest growing segment of U.S. exports to Mexico is consumer goods. A close examination shows that they are growing from a small base and still account for a smaller overall percentage of exports to Mexico than industrial goods. With an average per capita income of about $3,000—5 percent below Mexico's 1980 level—and one of the Western Hemisphere's worst income distributions, Mexico may need decades to become a significant market for consumer goods.

The much-ballyhooed "giant sucking sound" of American jobs going to Mexico because of NAFTA will be heard loud and clear in another incarnation. NAFTA will suck foreign companies into Mexico so they can win cheap, duty-free entry into the U.S. market. For years, Asian investors, particularly Japanese burned by Mexico's debt crisis, have been reluctant to invest in Mexico without adequate protection. NAFTA will provide that protection, which is why Nikkei Weekly notes that the "Bank of Tokyo is Bullish" on Mexico. And that is why Volkswagen executives boast they will use Mexico as their launching pad into the U.S. market. But European and Japanese companies are not alone. The Korean government is providing tax incentives for companies that open plants in Mexico. Even China's communist government-owned textile company is opening a yarn-spinning operation in Mexico.

NAFTA supporters argue that our two economies are already being integrated. That is true, and it offers an unprecedented opportunity to encourage genuine political and economic reforms in Mexico. But NAFTA proponents have never advocated using the process to encourage fundamental change in Mexican society. Instead, the only type of transformation NAFTA is likely to cause is change for the worse. Hundreds of thousands of unemployed American workers have discovered that "highly skilled $18 an hour manufacturing jobs in the U.S. would be as vulnerable as less skilled $6 an hour occupations," as labor economist Harley Shaiken reported in a 1993 study.

Further, the administration and some members of Congress believe that tacking on hastily arranged side agreements on labor and the environment will correct an approach to hemispheric integration that would lock in Mexico's status as a low-wage export platform. But ill-conceived side agreements cannot rectify a pact based on a flawed premise. No side agreement can adequately redress the tremendous disparity between our economies. Nor will side agreements improve enforcement of labor laws or environmental regulations.

Mexico has adopted tough laws to protect labor and the environment, but its commitment to enforcement is inadequate. While the Mexican constitution provides impressive guarantees for independent labor unions, it is widely known that the PRI controls labor bosses. In addition, a 1992 U.S. General Accounting Office report found that none of the American-owned plants it surveyed in Mexico had prepared the environmental-impact appraisals required by Mexican law. The press has also documented the environmental disaster on the Mexican side of the border.

Finally, while NAFTA does not address immigration, the treaty's proponents proclaim that it will slow the wave of immigrants across the border. They argue that as new factories open in Mexico and jobs are created, immigration will ease because workers will choose to stay home. That prediction, however, is not borne out by recent history or demographics. The explosion of maquiladora plants along the Mexican border has only served as a training ground and springboard for Mexicans eager to flee squalor. Maquiladoras suffer tremendous turnover—at one maquiladora in 1988, workers typically stayed only six months before going back home or seeking higher wages in the United States. Moreover, Mexico's economy will have to grow more than 6 percent annually to accommodate the 1 million new workers that enter the work force each year and the hundreds of thousands of agricultural workers that will be displaced by the opening of Mexico's agricultural market. Since only rosy scenarios predict that the Mexican economy will grow by 6 percent a year, Mexico's surplus workers will likely head north.

If we rush to pass a NAFTA that sanctions a program of economic development based on the suppression of wages and living standards, we will be sowing seeds of discontent among the Mexican masses. Rather than building a stable economic partner, we will be creating conditions for civil unrest. Indeed, the classic prescription for such turmoil is an entrenched, aloof leadership that raises the expectations of its populace. When the expectations are not met, civil order breaks down.

As the PRI pursues a policy that beats down wages while demanding increases in productivity, the basic needs of the work force will go unfulfilled. Without democratic institutions to serve as a check against arbitrary power, Mexico will remain a haven for the exploitation of labor and the environment.

Instead of rushing pell-mell to integrate an underdeveloped economy with a developed economy, the United States should follow the example set by the European Community. The Community's decision to integrate Greece, Spain, and Portugal followed several years of intense negotiations. As a precondition of admission to the Community, those countries had no adopt significant economic reforms. Indeed, the European Commissions' opinion on the application of Spain and Portugal states, "The principles of pluralist democracy and respect for human rights form part of the common heritage of the peoples of the States brought together in the European Communities and therefore constitute essential elements of memberships."

The integration of Portugal and Spain involved a significant transfer of resources from the Community's developed regions. After the accession of those two states, outlays from the European Regional Development Fund and the European Social Fund roughly doubled, exceeding $5.4 billion a year. That money was used to assist both regions and individuals across Europe who might be harmed by each stage of trade liberalization. Funds from those organizations also helped stimulate investment and the development of infrastructure in these countries. The United States should adopt a similar policy for Mexico.

A common market for the Americas would require the countries of North America to enter into a social compact to establish minimum standards for labor rights and environmental protection as well as to protect the individual liberties that are the foundation of a democracy. A common market for the Americas, with a common external tariff, could be an effective vehicle for competing with the emerging trade blocs in Europe and Asia.

Before admitting Mexico—and, later, countries in Central and Latin America—the gross disparity in income levels must be addressed. To narrow the development gap, a fund similar to the European Regional Development Fund and the European Social Fund should be established. The proceeds from it would be used to upgrade Mexico's antiquated infrastructure and to clean up the environmental mess along the border.

Other development projects could be financed by swapping existing Mexican debt for development bonds backed by U.S. Treasury notes. In addition, the United States should expand debt relief proposals. Latin America's crushing debt burden is still a significant impediment to sustainable and equitable growth. Previous attempts at debt relief for Mexico failed to make a significant dent. Even after implementation of the Brady Plan, about 23 percent of Mexico's expert revenues are devoted to internal and external debt service. Thus, revenue generated by Mexico's outward-looking economic policy is flowing out of the country rather than being used to raise living standards in Mexico.

The integration of countries with such disparate levels of development will also require close coordination of macroeconomic and investment policies. Finance ministers should establish investment guidelines to prevent the wholesale de-industrialization of the developed areas of the common market for the Americas. In addition, exchange rate policy should be coordinated to prevent competitive devaluations that would depress wages and destabilize current accounts.

Finally, entry into the common market must be predicated on the adoption of real democratic reforms that produce free and fair elections. Only after Mexico becomes a functioning democracy will the gap in income levels and wage rates narrow. Once that is accomplished, Mexico, the United States, and Canada should proceed with wholesale elimination of tariff and nontariff barriers.

More than 30 years ago, another young, vigorous president offered the Americas a vision of shared destiny, but one that addressed both economic and social-political change. John Kennedy wrote:

"No program which is restricted to the technicalities of economic development can fully answer the needs of the Americas. Only an approach to economic progress and social justice which is based on a wide acceptance of the fundamental ideals of political democracy and human dignity can hope to conquer the many ills of our hemisphere and respond fully to the aspirations of our people."

After decades of ignoring the calls for reform, the United States should now align itself with the forces of change and renew its common commitment to economic and social progress. If we do not promote real democratic change in Latin America and champion economic growth at home, the United States could realize Harvard economist Richard Freeman's fear: "to become a class society like those in Latin America." NAFTA will head us down that path.

Mr. MOYNIHAN. Mr. President, I now have the pleasure to yield 20 minutes to the learned and formidable Senator from New Jersey [Mr. LAUTENBERG].

The PRESIDING OFFICER. The Chair recognizes the Senator from New Jersey for 20 minutes.

Mr. LAUTENBERG. Mr. President, I thank my distinguished colleague and friend from New York, the chairman of the Finance Committee, with whom I find myself in total agreement this day.

Mr. President, I rise today to discuss the North American Free-Trade Agreement.

Yesterday the House approved NAFTA, and here in the Senate it looks like the trade agreement will also pass. But I believe that whatever the inevitable outcome, it is my obligation to take a position based on principle and to explain that position in detail.

After considerable analysis and review, I have decided to oppose this agreement.

Mr. President, I did not reach this decision easily. Indeed, I approached the debate inclined to support NAFTA. I have long believed that free trade—as long as it is fair trade—will benefit America.

I have seen the evidence in my own State: Exports to Mexico from New Jersey have increased by more than 150 percent over the past 5 years. I know those exports have produced jobs in a State that lost 325,000 jobs during the recession.

I am not a protectionist. I support the Uruguay round of the GATT talks and want them to succeed. Four years ago, I was an enthusiastic supporter of NAFTA's predecessor, the Canadian Free-Trade Agreement. I voted to extend the President's fast track authority to conduct trade negotiations. I believe that expansion of trade with Pacific rim countries, with their vast market potential and growing economies, is a goal toward which we should strive.

We cannot ignore a central fact of our economic life: Expansion of markets, under the right conditions, creates jobs in America. In fact, it is central to our future economic growth and prosperity. We live in a global economy and must expand markets to create jobs for our people. Growing ties with developing nations, and their increasing prosperity and democratization, also lead to greater stability and peace in the world and add to America's national security.

But, Mr. President, despite these views, I am troubled by the NAFTA. It is one of the most complex and perplexing issues I have faced as a Senator. Over the past months, I have talked with people from all walks of life and with very different perspectives. And, as the Congress has moved toward a final decision on NAFTA, the agreement has been linked by some to broader foreign policy concerns and trade issues.

The argument is that if we reject the NAFTA, we will do irreparable harm to our relations with Mexico and other Latin American nations and disrupt ongoing, though unrelated, trade negotiations.

So, Mr. President, the debate on the NAFTA has become a complex and multifaceted debate. It has moved beyond evaluating the economic impact of the agreement itself, to potentially broader implications for our foreign and trade policies. A whole slew of issues has emerged beyond the initial focus on job creation and job loss. I would like to address these issues.

First and foremost, NAFTA is a trade agreement. It was advanced as a means of creating jobs for our people. I started my analysis of NAFTA asking two specific questions: What do we get? And what is the price for that? I approached it simply as a matter of good business; of costs and benefits.

I learned the primacy of those two questions when I was in business. For 30 years before I came to the Senate, I ran a company. In business it's not enough to know the benefits of an action; you have to decide whether the benefits are worth the costs. So, I asked myself a simple question: from the economic perspective, what do we Americans get from the NAFTA?

Despite all the claims being made by both proponents and opponents the objective answer is this: Not that much.

That was the response of the Congressional Budget Office, which concluded that:

> A thorough review of the myriad changes brought about by NAFTA, and of their interactions, leads to the single resounding conclusion that the net effect on the U.S. of NAFTA would be positive and very small.

It was also the answer of the General Accounting Office:

> NAFTA would bring a small overall economic benefit to the U.S. economy.

Few economists disagree. NAFTA's effect on our GNP will be miniscule. Over the next several years, it will boost the GNP by less than one half of one percent. That's 0.005—three decimal places.

Or consider another critical measure: jobs. There have been a lot of predictions and a lot of studies, and in candid moments many economists will say that it's very difficult, if not impossible, to predict how many jobs will be lost or gained. But, after examining all of them, the best guess is that NAFTA will create fewer than 400,000 jobs while eliminating about 200,000 jobs stateside. The net result, nationwide, will be an increase in new jobs of less than 200,000 after 5 years.

Mr. President, 200,000 jobs are not insignificant, but they must be considered in context. That's less than half the amount employment increased nationwide last month, when we were still in the midst of a so-called jobless recovery.

That is what we get. Objectively. We get a modest, in fact almost marginal, increase of jobs under NAFTA, based on the predictions—not all that much.

Which leads to the next question: how much will we have to pay for the modest, marginal gains generated by the NAFTA?

My conclusion, ultimately: too much.

This agreement focuses on reducing tariffs and other alleged barriers to trade with Mexico. But those barriers do not prevent trade with Mexico now. We already enjoy a substantial level of trade; in fact Mexico is one of the few countries with whom we have a trade surplus. In reviewing the trade patterns between our two countries, and the agreement, it seems that the real barrier to trade is not tariffs.

While Mexico's tariffs on our goods are higher than United States tariffs on Mexican goods, that has not been the most significant barrier to trade. The most significant barrier to trade is Mexico itself.

The problem is Mexico's inability to buy enough of our products. Mexico's disparity in incomes and relatively small middle class translates into insufficient demand. While the Mexican middle class has grown under the reforms in the economy initiated by President Salinas, there are still impediments in Mexico that will retard growth in the standard of living for the vast majority of Mexicans. So, it is not only tariffs that restrict our ability to sell in Mexico. Mexico's inability to buy restricts expansion of exports there.

That is why, in the final analysis, NAFTA is designed to improve Mexico's economy and to increase its national wealth, so that Mexicans can buy more of our products.

Now, Mr. President, every agreement has to give some benefits to each side in the deal. That is the way things work. But in this case, the deal is being made by two countries with radically different social and political systems and economic energy. Before we benefit a little, Mexico has to benefit a whole lot.

Mexican manufacturing workers earn an average of a little more than $2 per hour, while our workers earn an average of $16 per hour. Their workers lack the right to strike and the right to organize independent trade unions. And, while these issues were subject to negotiations with respect to the labor side agreement, Mexico refused to be bound by requirements that would democratize the political process and accord workers rights that we take for granted in our country.

Wages paid to Mexican workers in the free trade zone that already exists between our two countries are significantly lower than Mexico's average overall manufacturing wage. The kind of environmental, consumer, safety and health regulations that we have established in America do not exist in the maquiladora zone.

In Mexico, the major trade union is aligned with the government and both often work to discourage free collective bargaining agreements or strikes. The New York Times carried a story last week that described armed police cooperating with Volkswagen to lockout 15,000 striking workers protesting a change in work rules negotiated by their union, but kept a secret from them until the contract was signed.

Poor Mexican labor-management relations do not bode well for an Agreement whose premise is that jobs created in Mexico will significantly raise the standard of living of Mexican workers. And, it is a legitimate source of concern for American workers, who believe that NAFTA will not substantially raise wages or improve working conditions in Mexico, but will, instead, put downward pressure on wages and working conditions in the United States.

It is analogous to some of the disparities we have in our own country, where varying State laws and regulations provide an incentive for manufacturers to relocate to regions of the country where wages are lower, regulations are less stringent, and the cost of doing business is less. My own State of New Jersey has suffered job losses due to these factors and there is an analogy here that is not unfounded.

Mexico's environmental conditions are wretched because environmental law enforcement is virtually nonexistent. There is little in the environmental side agreements that will raise Mexico's environmental regulations to the level of our own. The NAFTA does not equalize regulations; it just asserts that each of the three nations party to it enforce their own regulations. Beyond that, the enforcement mechanism is weak.

Only a government can bring action for lack of environmental enforcement under the agreement. If it does, it has a heavy burden of proof to even bring a challenge. And, once it is brought, the procedure laid out for arbitrating it and securing action is torturous and without real muscle.

At the heart of concern about NAFTA is the fact that the United States and Mexico have vastly different social, legal, and economic systems and that Mexico's political system provides only a very limited arena for Mexican citizens to improve their lot. President Salinas' party, the PRI, has held power in Mexico for over 60 years. Amnesty International has documented human rights abuses in Mexico, and punitive action has been taken against labor leaders trying to establish independent unions and others pressing for political reform.

In the last presidential election in 1988, the Mexican Government refused to permit monitoring of the electoral process and there were charges of massive fraud. Mexico's political system, though improved in recent years, is not truly democratic and falls far short of our own American standards of openness and representation, making it awfully hard for the majority of Mexicans to secure reforms through the political process.

So, legitimate questions arise: will improve working conditions create new markets for our goods? Or, instead, will it just put more pressure on U.S. wages and serve to undermine American safety, consumer, and environmental standards? Will it build jobs here, or provide a seductive environment of low wages, more pollution, and poor living conditions to tempt even the most fair minded companies?

That raises the question of a safety net for our displaced workers. Any time a job disappears, someone suffers—and that suffering ripples through the economy. It affects that worker's family—not to mention those who work in the stores, restaurants, and banks that rely on these workers wages for their own livelihood.

NAFTA undeniably will cost some workers their jobs—and the job losses will come when the economy in New Jersey and the Nation remains fragile.

And, exacerbating the problem, those jobs losses will affect the most vulnerable members of our economy.

The people who will lose their jobs are workers with the lowest incomes and the least-developed skills. The workers least able to survive even a brief period of unemployment. The workers least able to find new jobs elsewhere.

If Government adopts policies that devastate a few in an effort to provide marginal benefits to many, we have to accept the obligation to offer the displaced security and hope for the future.

The best way to offer security and hope is through some kind of job creation or worker training program—a system that will soften the blow and equip those hurt with the skills and opportunity they need to obtain new jobs and compete in the economy. Without such a system, it is unjust to sacrifice these workers on the altar of free trade.

Do we have such a system? Well, we have proposals. We have promises. We have projections. But the fact is we do not have a system in place now.

The administration has proposed a $100 million training program specifically for workers displaced by NAFTA. In addition, the administration has announced that it will propose a comprehensive reemployment system to retrain and retool workers who lose their jobs for any reason. Those are proposals, and I believe the president means what he says.

But these are the facts. These programs will not be presented to the Congress until next year—after we have voted on NAFTA. And when they are presented, in these days of extraordinarily tight budgets, nobody knows whether the Congress will give its blessing to fund these programs. Many members who support NAFTA oppose job creation and worker retraining programs.

Mr. President, it is difficult for me to accept job loss in exchange for a retraining program I have not seen that is funded by dollars that do not yet exist.

Mr. President, I cannot go to a mill worker in Paterson or an apparel worker in Hudson County and say to them, "I'm going to do something that may cost you your job—but don't worry. Your child may have a better job in the years ahead. Or we may create some more jobs for Americans. You may not be the one to get one of those new jobs—but trust me. Sacrifice your job. It will be good for the country in the years ahead."

Not in this economy. Not in my State. Not now.

Mr. President, that leads logically to another issue that has not received the attention it deserves: the budgetary impact of NAFTA and its cost to the American taxpayer. There are expenditures intrinsic to enacting the implementing legislation itself, but even larger costs associated with the various side agreements and commitments that have been made since it was signed by President Bush last year.

At a time when we are cutting the bone and muscle from some Federal programs, and we cannot even pass an extension of unemployment benefits for our own unemployed workers due to a lack of identifiable funding, can we really afford these costs? Looked at in purely economic terms, if such expenditures are going to be made, could they be better applied in other ways to create jobs and stimulate our economy?

Funding of over $100 million has been proposed for retraining for workers who lose their jobs as a result of NAFTA. There is also the almost $3 billion in new revenues we need to find to offset the revenue lost when we eliminate our tariffs. Then there is the almost $8 billion proposed to clean up the environmental disaster on the Mexican-American border.

In the end, some of NAFTA's opponents have estimated that the total cost of implementing NAFTA could run as high as $30 or $40 billion. That is no great surprise, really. The European Community spent nearly $100 billion in 4 years to integrate economies that started out much closer to theirs than ours is to Mexico.

Mr. President, one has to ask if a 200,000 net job gain and a .005 increase in GNP, is a good return on an investment of $13 to $40 billion. When I think about the kind of economic jump we can get from that kind of investment, I do not think that is a sufficient rate of return.

Take a look at just one other option. Last spring, the Congress debated a $16 billion stimulus package that was eventually blocked. That bill, for less than the cost of NAFTA, would have quickly created 500,000 jobs. It would have produced real improvements in our infrastructure and improved the quality of life for our people. But it was defeated. I fear the programs associated with the NAFTA will suffer a similar fate.

In the past weeks, a new rationale for the NAFTA has emerged. Many analysts have argued that the NAFTA is less an issue of trade with Mexico, and the economic consequences that flow from it, than it is a foreign policy issue.

The issue here is the effect the approval or defeat of the NAFTA would have on economic and political developments in Mexico and on our relations with Mexico. Mexico is a country with which we have had a troubled past. It lies right on our border and could be a source of hemispheric instability, continued illegal immigration, and ongoing environmental problems or it could be a bridge to a stable and democratic Latin America.

Proponents of NAFTA feel it would be a slap in the face of Mexico to turn down this agreement at the last moment, when President Salinas has extended himself and staked his party's future on approval of the agreement. They argue that its rejection could set back economic development, political reform, and future Mexican-American relations for decades.

Others argue, including many in the opposition party in Mexico, that approval of NAFTA is regressive, and would reward the Mexican Government for policies and abuses that we have refused to tolerate in other countries seeking trade preferences with the United States.

They argue that NAFTA should have included stronger labor, environmental and health and safety protections along with provisions for political reform and human rights protections. Without these reforms built into the agreement, they feel NAFTA will ultimately breed discontent and instability in Mexico and impose an unreasonable competitive disadvantage on companies desirous of keeping their facilities in the United States. We should heed this warning.

Mr. President, there is an alternative to approving this NAFTA. This NAFTA offers, at best, only marginal economic benefits. It could also result, ultimately, in the assumption of power by political leaders that oppose the current system and view America's blessing of NAFTA as a setback to efforts at political reform in Mexico.

Rather than signing this agreement, could we have offered a deal that provided incentives for change generated within Mexico? Could we have structured a NAFTA that required improvements in Mexican environmental regulation, labor standards, and its political structure? And why not build in some help for our workers as part of the legislation approved by the Congress, so we have assurances that they will not be left out when the hard decisions have to be made?

That is what the European Community did with Spain, Portugal and Greece. The EC made these countries lock in certain economic and political reforms—and then allowed them entry into the Common Market. When the EC considered integrating southern European countries into the community, it was sensitive to the vast discrepancies in their economies, labor markets, wage rates, safety standards, and the like.

We have not followed the EC model. We have looked to NAFTA as an agent of change, but have not required reform prior to its implementation, nor even built in strong agreements that make reform likely. And that is a fundamental philosophical weakness in the NAFTA.

It is a philosophic weakness with practical consequences.

In closing, Mr. President, I want to respond to a recent argument that the rejection of this NAFTA would lead to the demise of ongoing GATT negotiations or could stymie efforts to develop greater trade with the Pacific rim nations with whom President Clinton will meet this weekend. I reject this prognosis.

In fact, I think our focus on NAFTA has become so overwhelming, it has put other, more important and promising trade negotiations on the back burner.

The GATT negotiations have been limping along now for upward of 7 years and have about a month to go. They are on a respirator, so to speak. GATT has problems of its own that will take strong American leadership to overcome. The U.S. Trade Representative Mickey Kantor was charged with leading the fight for NAFTA. He and his office have done a terrific job for the President.

However, that has meant devoting enormous energy to an agreement that will produce only marginal benefits while the Uruguay round of GATT, whose effect will be indescribably more profound, might fall apart.

It is also possible that some of the concessions made to pass NAFTA in the House could actually undermine GATT. In the process of trying to win support for NAFTA, we have taken steps that could harm GATT negotiations. Deals have been struck on sugar, wheat, citrus and other products—decisions that could make it more difficult to get fair trade rules on these and other items in GATT.

Congressional action on NAFTA, a singularly unique trade agreement, which has never enjoyed strong support in the Congress, should not be linked with U.S. policy on GATT or trade initiatives the President is undertaking with Pacific Rim countries.

These two initiatives, strongly supported by President Clinton, are the kind of forward—looking policies that can help our economy grow and create jobs. President Clinton has a lot of support in the Congress for his leadership on those trade policies and should be commended for them. I see no reason why they should be jeopardized by Congressional wishes to serve up a better NAFTA.

The NAFTA debate has transformed into something its drafters never imagined. It is hard, Mr. President, very hard. The agreement is, in theory, a good idea. Free trade is a desirable goal. NAFTA, as a whole, does offer some potentially real benefits to the Nation as a whole.

But that, Mr. President, is just not enough. Not when you look at what we are being asked to pay for what we are going to get.

So it is with some regret that I will vote against NAFTA.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER (Mrs. BOXER) The Senator from New York.

Mr. MOYNIHAN. May I congratulate the Senator from New Jersey for a thoughtful, carefully set forward statement that I hope will influence the body on the outcome of the vote which will not take place until tomorrow, I assume, but time enough.

I yield the floor.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. For Senator PACKWOOD, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

Mr. GRASSLEY. Madam President, I am going to support the North American Free-Trade Agreement as I stated a couple days ago on the floor of this body, but I now have reasons more directly related to my constituency, the progress that it will bring to the growth of our economy in the Middle West, and how it relates directly to the benefit of the people of my State.

I firmly believe that eliminating trade barriers with our neighbors to the north as well as the south will provide Iowa and the entire United States with a chance for advancing our economy very much, and in the process will make this the single largest trading market in the world. By lowering tariffs to zero on both sides of the border, I believe that history will prove free trade can help rich and poor nation alike, with the advancement of the respective economies for the help of all citizens within those territories.

However, the vote on NAFTA to me is more than just a vote for economic reasons or for economic growth. It is also a vote on whether we embrace positive change or whether we are going to stand for the status quo and perhaps even do it out of fear of what the future holds. Moreover, this vote will test the very fabric of our political, moral, economic, and foreign policy leadership, not only for our northern and southern neighbors but with our trading partners all over the world.

Mr. President, clearly there are differences of opinion in this body among men and women of good will on this issue. Even in my home State of Iowa a poll was conducted between October 27 and November 2 in which 36 percent of the people surveyed supported NAFTA and 37 percent opposed, with 28 percent not sure how they felt on the issue.

On the other hand, this is a dramatic change from past polls in which people were more opposed to NAFTA than in support of it. I think it parallels national polls which are showing that as people think about NAFTA and the benefits of it, it is gaining support throughout our populace. Yet, regardless of the even split on polls within my State, it seems that members of the agricultural, business and service industries in my State who have contacted my office or otherwise voiced their opinions in the various publications in my State more often than not support the establishment of a North American free-trade area. A sample of such support can be gained from the following quotes of economic leaders within my State.

I would quote Merlin Plagge, President of the Iowa Farm Bureau Federation:

> Our support [for NAFTA] is based on fact and figures that prove beyond a shadow of a doubt that this free trade agreement will be good for Iowa farmers, for American agriculture and the entire U.S. economy.

I would like to quote Glen Keppy, president-elect, National Pork Producers:

> How can any reasonable person in Iowa be against NAFTA? It will mean the opportunity for more rural development and jobs created by the sales of more of the agricultural products Iowa leads the nation in producing.

I would like to quote Charles S. Johnson, executive vice president, Pioneer Hi-Bred International:

> NAFTA will create unprecedented opportunities for Iowa's service industries, including banks, securities firms, insurance companies, telecommunications, trucking and rail transportation. Clearly, there are compelling economic reasons for Iowans to support NAFTA. However, just as compelling is the legacy we leave for our children and generations to come.

Fourth, I would like to quote Donald R. Beall, chairman and CEO, Rockwell International Corp.:

> NAFTA will strengthen the continued expansion of the Mexican marketplace for Rockwell's commercial products. In fact, we expect 104 percent growth over 4 years in U.S. based Rockwell jobs dependent on Mexican exports, and passage of NAFTA is key to fulfilling that prediction.

Let me say parenthetically that Rockwell has a major facility in my State as well.

Then, to quote from a smaller manufacturer in the State of Iowa which is doing business in Mexico, in one such letter from the president of an Emmetsburg, IA, firm he stated:

> Due to increased overall business that our Mexican plant has helped us win in less than two years, after its inception, our factory employment in Emmetsburg, Iowa increased from 84 to 147 people.

And, Mr. President, many companies all over this country, as a result of the anticipation of passage of NAFTA are moving jobs back to the United States:

AT&T brought 92 jobs from Mexico to Atlanta;

Halliburton of Texas is closing its maquiladora facility;

Tandem Computer of California has closed its Guadlajara, Mexico, facility in anticipation of lower tariffs;

Technol Medical Products of Texas brought 40 jobs back to Fort Worth; and

Quality Coils of Connecticut who moved their plant to Mexico are moving back to Stonington, CT, after realizing their mistake. It takes three Mexican workers to do the work of one Connecticut worker. And the list goes on Mr. President.

In the case of my home State of Iowa we have found our exports to Mexico grew by 203 percent from 1987 to 1992, 155 percentage points faster than export growth to the rest of the world. We have seen exports of industrial machinery and computers grow from $8 million to $44 million; chemicals from $2 million to $13 million; and transportation equipment from $646,000 to $10 million. Iowa, along with 17 other States now rank Mexico among our top 3 export markets.

If Mexico is our third largest trading partner, and it is that way without NAFTA, I think it is pretty easy to see that for my State, as well as for a lot of other States, NAFTA is very good for the prospects of future development in the export business.

Of course, I suppose we would all have to admit that NAFTA may not be a perfect document. Even in my home State, I had some reservations about the impact on major home appliance industries. And, of course, have no doubt in anybody's mind that I will be monitoring the negotiations for an acceleration of tariff reduction agreed to between Mexico and our Government in letters exchanged in recent weeks.

My vote for this agreement is best summed up by another Iowan who wrote me, in which she said:

> It is my belief that NAFTA is an important key to future economic prosperity for the United States, Mexico, and Canada. The only reason one would oppose NAFTA is fear. I do not believe that there will be a "giant sucking sound" coming from Mexico if NAFTA is imposed * * * except perhaps the sound of Mexico sucking up American products and services.

Mr. President, it is time we had a vision for this country that will take us into the 21st century. It is time to cast a vote that will raise the standards of living for every American working man and woman, their children and their children's children. Change is not easy and rarely without risks. The time is here for each of us to take that bold step for all mankind and cast a vote in support of NAFTA.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. Mr. President, I yield 10 minutes to the Senator from Wisconsin, and I ask the time be charged to the Senator from New York.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the Senator from Wisconsin for 10 minutes.

Mr. KOHL. I thank the Senator from Montana.

Mr. President, I rise today in opposition to the NAFTA.

I am a Senator who has never asked or taken a nickel from any PAC, let alone a labor PAC. So I do not speak here as a person who is interested in maximizing my monetary advantages with labor. In fact, when I ran for office in 1988, not only did I not get any money from labor, but in the primary I was not even supported by labor.

So I do not rise here in my own political self-interest; I think, politically speaking, I might be better off voting the other way. I rise today to speak against NAFTA out of a sincere conviction and a strong feeling that this is not the best trade arrangement for this country, nor the best trade arrangement that we could be making at this time for this country.

To me, in effect, what NAFTA is doing is making Mexico, for the purposes of trade, the 51st State. That is the goal of what we are trying to do here. We are trying to make it as easy—and, in fact, are making it almost as easy, if not as easy—to do business in Mexico as it is to do business in any of the 50 States. The goal here is to make it as simple a procedure to invest, to hire people, do business, and then transport your commodity between Mexico and the 50 States as it is between Wisconsin and Iowa or Wisconsin and California.

But, of course, there is one huge difference in this trade arrangement, and Mexico is very much aware of it. I think we need to recognize that this is a trade arrangement and it is a tough arrangement. It is not something that either country, certainly not Mexico, is entering into with soft and fuzzy feelings. They want this because they clearly are convinced that it is in their best interests, not in our best interests. Why do they feel this way? Because with this arrangement, they will be in a position for as long as the eye can see to make Mexico a less expensive, a cheaper place to do business than in the United States.

There is nothing in this agreement which will ever force them, if they do not wish, to raise their wages, or to raise their benefits or their environmental costs, or anything of that sort. They will raise only as they see fit, in my judgment, and only to the extent that they will continue to maintain a decided advantage in the cost of doing business.

So I expect, after this agreement is ratified, if it is, and we all expect that it will be, that they will advertise all over this country and they will be saying to American investors, American manufacturers, American people who want to go into business: Come to Mexico, and we will prove to you that it is a better place for you to do business and make money than it than is in the United States. And American investors—take General Motors, for example, who runs a plant in Janesville, WI, employing about 5,000 men and women. They are paying about $35 in wages and benefits. The comparable cost in Mexico is perhaps $5. You may say but they cannot get the same productivity in Mexico. That is not true. The work in that plant in Janesville, WI is work that with a few months training a literate Mexican will also be able to perform. The literacy rate in Mexico is 87 percent. Here it is 97 percent.

So why do we think that General Motors, when it comes time to build a new plant, will not calculate that they are better off building it in Mexico, selling into the Mexican market, being able to transport their product back into the United States at no cost? Why will they not be better off? And if they want to stay here to build a new plant, they can and will go to the union here in this country and say: Look, we can go to Mexico, but if we can make a deal with you, not at $35 an hour but at $20 an hour, we will stay here; otherwise, we will go to Mexico to build our new facility. And there is nothing wrong with that under this agreement. In fact, we encourage that under this agreement.

So, to me, this kind of an arrangement is very beneficial to Mexico. It is not nearly as beneficial to this country. It is a simple trade arrangement which, in my judgment, is heavily weighted in favor of the Mexicans, to the disadvantage of working people in this country all across the board. If we do not lose jobs—which we will—it certainly will have a depressing effect on the wage structure in this country, because we will have the colossal number of people—90 million people, soon to be 100 million people to our south, in the biggest "State" by far for trade, the "51st State," offering a cost of business which they can make lower than doing business in this country for as long as they wish. There is nothing in the agreement that prevents that. This, in my judgment, is not in our best interest.

One argument the administration has made that I think is particularly misguided is the argument that if it does not work, we can pull out. Well, nobody has said that here on the floor, and it is really not an honest argument to make. Let us imagine that 5 or 10 years from now, after American companies have invested hundreds of billions of dollars in Mexico, there is some clamor to pull out.

How will we do that? Will we just allow these American companies to be nationalized, to have their investments perhaps even taken away or penalized severely? There is nobody, in my judgment, in their right mind who really believes that once we enter into this agreement, we will pull out. That will not happen. It is an agreement for as far as the eye can see, if not in perpetuity.

I think we could have done a better job. I personally desperately wanted to vote for a free-trade agreement because I recognize, as I think all of us do, that we have to engage the world in trade. But it cannot be at any price. It has to make some sense. To me, this agreement, leaving Mexico with total autonomy over how they are going to run their country commercially, gives them an advantage which is just enormous, which I expect that they will use not to our benefit, but to the benefit of people in Mexico, to the detriment of people in our country.

So I am really sorry, and I regret that I must vote against this NAFTA. Thank you.

I yield the floor.

The PRESIDING OFFICER (Mr. FEINGOLD). Who yields time?

Mr. BAUCUS. Mr. President, I would like to address the question of wages for just a few minutes. A real concern among many Americans is that lower wages in Mexico are going to cause a lot of American jobs to go south, into Mexico. This concern is raised because wages in Mexico are in fact lower than wages in the United States.

Some Senators, however, say that the average wage rate in Mexico is 57 cents an hour. This is not accurate. The average wage rate in Mexico is about $2.32 an hour, and that wage rate is rising dramatically.

In about 1982, the world experienced oil shock, and Mexico particularly. This sent the Mexican economy into a tailspin. The depths of the depression in the Mexican economy as a consequence of the oil shock was so great that the standard of living in Mexico declined at a rate of about two to three times greater than did the U.S. economy during the Great Depression in the 1930's. The Mexican economy was in tough shape.

So it is true that after 1982 wage rates in Mexico declined. In 1987, however, when President Salinas came to power, the Mexican economy began to change, and it changed dramatically. Since 1987, the average wage rate in Mexico has risen approximately 132 percent, and it is continuing to rise. It is rising essentially because of the efforts of the Government of Mexico under the leadership of Salinas to get a hold of their economy, to get their act together. That is exactly what is happening.

The Mexican Government decided they are not going to be left behind in the world, that they are going to have to make changes. Since the mid-1980's they have privatized, selling off bloated, heavily subsidized state-run enterprises. And in 1986 they joined the GATT and began to very significantly lower tariffs. Essentially, they discarded and ejected import substitution policies which were the rule of the day in Mexico since the revolution.

The oligarchy that controlled Mexico for years liked the policy of import substitution, namely, subsidized local industry, protecting local industry with high tariffs, and so forth. And it worked for a while. But in the mid-1980's, President Salinas realized that it might make sense in the short run but not in the long run.

I might also say, Mr. President, that lower wage rates are not the sole reason why a company might move to another country where wages are in fact lower. Generally, lower wage rates also reflect lower productivity; it is a basic rule. In fact, most American executives will say that wage rates in Mexico are about one-fifth what they are in the United States, conversely, productivity in the United States is about five times what it is in Mexico. It is another way of saying that for one-fifth the wage rate in Mexico one-fifth the amount of products is produced. It is about the way it works, and that is why most companies, even though they see on paper lower wages in Mexico, do not go to Mexico.

Why is the productivity so much lower in Mexico than the United States? It is very clear. It is because of the additional costs that are associated with production. Infrastructure costs in Mexico are much higher than in the United States, telecommunications, absenteeism. Its work ethic is a bit different. There are all kinds of reasons why productivity is so much lower there than in the United States.

The Office of Technology Assessment, an arm of the Congress, did a study of this. It looked at the automobile production capabilities in Mexico and compared them with the United States. It looked at what it cost to produce a Ford in Mexico and what it cost to produce that very same car in the United States—all things considered, wage rates, power costs, health care costs, everything that goes into the production of a car. And guess what the OTA concluded? It concluded that it cost $410 more to produce that very same car in Mexico as it does to produce that car in the United States.

That is why, Mr. President, low wages are not enough to attract companies to Mexico. In most cases, it is not worth the American companies' effort to do so because of the productivity differential. The fact is, if low wages were the only determinant, companies would go to Bangladesh. They'd go to Bolivia. They'd go to Brazil. They would keep on going south. They would not stop in Mexico.

So I urge all my colleagues, urge everyone to think through all this argument about wages.

Let's be honest with ourselves. NAFTA is complex. There is no simple easy answer. On the one hand, higher Mexican tariffs are going to be eliminated, making it easier to export. One of the best examples of this is that the Department of Commerce projects there will be 2-billion additional dollars of automobiles manufactured in the United States, to Mexico. $2 billion; $1 billion in cars and $1 billion in trucks. Why? It is very simple.

Mexico today has a 20-percent tariff on autos; Twenty percent extra is added on to the cost of an automobile that the United States produces to try to ship to Mexico. That is going down to zero.

What is our tariff on Mexican autos? It is 2.5 percent. It is roughly one-tenth on Mexican cars in the United States.

So that partly explains why with the passage of NAFTA we can export more automobiles.

Why else? Well, Mexico has this auto decree. It says, among other things, that for every automobile produced in Mexico, you have to sell one in Mexico. It is a one for one. That is going to be phased out. And that is another reason that we will be able to sell a lot more autos to Mexico as a consequence of NAFTA.

Now, let me address the issue of investment. It is true that NAFTA has some investment relaxation provisions. That is whereas we today in the United States allow Mexicans to invest in the United States, Mexico has very tight restrictions, which makes it difficult for Americans to invest in Mexico.

Now, some argue that when Mexico relaxes its investment restrictions, there will be another giant sucking sound of investment going to Mexico. They say plants and equipment and jobs will go to Mexico that otherwise would be in the United States. The assumption is relaxation of investment restrictions in Mexico by definition that is taken away from the United States. It does not happen that way. It does not happen that way.

What is the evidence it does not happen that way? One bit of evidence is the common market. It is very dramatic evidence, and it is very interesting. When Spain, Portugal, and Greece entered the common market what happened? Investment increased in those countries. Investment also increased very much in Germany and Japan and the other countries. All countries gain.

So this whole discussion of mine, Mr. President, all started with the question of wages in this so-called giant sucking sound.

As the Treasury Secretary, Lloyd Bentsen, very accurately said, old Ross Perot has a hearing problem. The giant sucking sound is products going South, not jobs.

Ten years ago, before President Salinas started getting the programs in place, there was a $5 billion United States deficit with respect to Mexico. Today it is just the opposite. We Americans have a $5-billion surplus in products to Mexico. This will increase as tariffs are eliminated, and will create more incentive for many more products to go to Mexico. That means jobs to the United States of America.

Mr. WELLSTONE. Mr. President, will the Senator yield?

Mr. BAUCUS. I am happy to yield to the Senator from Minnesota.

Mr. WELLSTONE. I am trying to follow the flow of the Senator's argument. Is the Senator from Montana trying to compare NAFTA with the common market? He mentioned the common market as an example. I am under the impression with the common market you have a social contract where there are really rather clearly defined standards, health and safety and labor and environment, that all countries live up to, thus leading to an uplifting of living standards. My impression is that is not what NAFTA is about. I want to raise that question.

Mr. BAUCUS. I respond with the time equally charged to both sides during this dialog.

Mr. President, the main point I am making is that on the surface, because nominal wage rates in Mexico are lower than they are in the United States and it seems like there is appeal to the argument that more American jobs go south and more companies are going to locate their plants in Mexico. I am pointing out why generally, although it has been a little bit of that, once one thinks it through more clearly and thoroughly there are fewer reasons for a company to go south today, essentially because the productivity difference basically mirrors the wage rate difference.

I am further going on to say that NAFTA if all those problems existed today, and they are not near as great as some Americans think they are. NAFTA has the effect of increasing wage rates in Mexico faster than otherwise would be the case. There are all kinds of reasons we can get into if the Senator would like me to get into them.

Then I made the second point earlier that to those who say not this NAFTA, but the common market approach, I come back and say I do not know if that is really what you mean because the common market has the same taxation system, it is a VAT; the common market has complete freedom of ability of labor. Someone from Madrid can get on a plane and go to Italy, go to Germany, go to France, no visa, no green card, no work permit, nothing, get off the plane and apply for a job, which is not what we are doing here.

We are just saying we are going to have a bigger market because tariffs are down. But we are not going the steps that the European Common Market went because we do not have quite the same historic background antecedents for that kind of union. It may occur in this hemisphere 50 or 60 years from now, but it is certainly not in the cards for the next several years.

Mr. WELLSTONE. Mr. President, I actually just came down to see how the debate was going. I understand that I have some time.

I want to say to the Senator from Montana, it is less a question and more a point, that if we are going to talk about the Common Market, anybody who is watching this debate ought to understand that, No. 1, there is a contract that countries live up to; No. 2, the countries in the Common Market, not one of them denies people the right to join their own independent labor unions, as is the case in Mexico, as is not guaranteed in the North American Free-Trade Agreement but should have been guaranteed in the North American Free-Trade Agreement; and, No. 3, human rights organizations, in their reports on Mexico, talk about a persistent pattern of violation of human rights, so that even if you have environmental standards, though fairly weak, and labor standards, though fairly weak, then as a matter of fact when citizens seek redress of grievances regarding those standards, they can find themselves in prison.

That is not the experience of countries in the Common Market.

My final point is that I believe—I say this in the presence of some other Senators who have a record that I admire concerning human rights—that in the post-cold-war period the United States of America should sign trade agreements with other countries but not trade agreements that endorse repression of labor and the violation of human rights.

If the United States of America, in this new emerging world order, cannot sign a trade agreement linked in a principled way to human rights and democracy, I would suggest (a) we are violating the core values that we as a nation stand for; and, (b) what will happen is that this will set a precedent for similar agreements with Central American countries, South American countries, and for all I know with China, as well. And, as a matter of fact, average working people in this country will not be able to compete with those low wages in those countries where people cannot join labor unions, where they cannot express their rights. People of the United States, working class people, working families, will not have wages that will give them a decent standard of living or adequate purchasing power to participate meaningfully in the international economic arena.

I suggest further to my colleague who talked about careful study that there are people on both sides who have carefully studied this question.

I would one more time emphasize what I said earlier, which is that I know that when I visited Mexico, what I saw—I am sorry. I am taking too long; I apologize to the Senator from Arizona. I will be done in one second. What I saw, regardless of all the indices and definitions one might use to figure out average wages, was a check stub—this happened to be a Minnesota company that was located in Tijuana—indicating that for 48 hours, this woman made about $47.

I also saw the shanty towns. And I say to the Senator from Montana, because he has been a real leader on the environment, I saw some of the worst environmental degradation I have ever seen.

But I want to talk about the Government. The interesting thing is that when I visited Tijuana, a representative of the PRI—the Partido Revolutionario Institutional—the Salinas administration, met me and told me this was just fine. It was at a battery recycling plant. Yes, there were dairy farms next door and there were sometimes children playing nearby, but it was really fine. They had studied it and they could reassure people it was no problem. But local people told me no such study had been made available.

The most interesting point of all is that some weeks later, when Representative GEPHARDT came to visit the same site with a delegation, they were met by representatives of the same government dressed up in suits to protect them from what they said was too dangerous a site for the congressional delegation to visit.

I have to say to my colleague, it really saddens me that the United States of America is signing a trade agreement like this and we are not using our capacity and our leverage as a leader in the world community to sign a trade agreement linked to human rights. How can we do that? What do we stand for?

And when you talk about wage levels, I would match the work of Harley Shaiken against that of anybody. I have read his monographs. I think people are familiar with his work. His work demonstrates that it is not just a case of losing low-skilled jobs to Mexico, though if I was going to lose my job as a low-skilled worker, I would be worried because we do not have money for the displaced in this agreement. I think we are going to throw people out in the cold. I think we are going to spit them out into the economy. I see no guarantee of support for people who lose their jobs.

If anybody on the floor of the Senate says, "Oh, well, you shouldn't be so worried. You should understand in the long run we will be better off." Well, someone once said, in the long run we will all be dead.

If it was my family and I was worried about putting bread on the table, you can bet I would be worried about what would happen to me.

But take a look at the auto industry. Is it not true, I ask the Senator from Montana, that we now see in Mexico a skilled work force, with high levels of productivity, producing engines, producing Escorts, of high quality, at what wage? What do they make? $2 an hour versus what an auto worker in our country makes—$14, $15, $16 an hour. What explains that difference?

Let me answer that question. What explains that difference is that they cannot belong to an independent union. What explains that difference is the evidence in our human rights reports that when people have protested working conditions, when they have protested wages—I see the Senator smile; it is not really anything to smile about—they are often jailed. They are imprisoned. This is the country we are signing this trade agreement with? If we are so concerned about human rights in other countries, why are we not as concerned about human rights with our next door neighbor?

Finally, from the point of view of foreign policy, I think it can be argued in good faith, if we would care to talk to some other Mexican people rather than just representatives of the government, the people in Mexico are going to be worse off. We are locking them into an authoritarian political system with very little hope.

And I might say to my friends who are economists, the Mexicans thus are going to be making such sufficiently low wages for a long time that we are undercutting the very market we say we are going to create. When you talk about all the cars we are going to sell—it reminds me of a conversation between Walter Reuther, I think it was Walter Reuther, I say to the Senator from Michigan, and Henry Ford, or something like that, if I got the two of them together in the same historical period. Henry Ford was talking to Walter Reuther and showing him all the new automation and technology and said, "Well, Walter, what do you think of that?" And Walter Reuther said, "I think the problem is you are going to have to have workers who make enough to sell the cars to."

We are promised a great market. At 59 cents an hour or $1 an hour? In the auto industry or electronics industry with a high productivity work force, of $2 an hour.

I ask my colleagues, whatever happened to the vision of our country? I thought we were going to link human rights to trade agreements. How come all of the sudden we have turned our gaze away from that question? Until we do that, I think we betray the very core values of what our country stands for.

My final point, since I simply got the floor. I have used up my time for tomorrow. I will not use it tomorrow. I thank the Senator for his patience.

My final point is, I can say as a former teacher, which gives me no higher ground to stand on than anyone else here, but as somebody who has been interested in political economy that I have a fair amount of indignation about the way that people—and I am now talking about ordinary citizens, which I do not mean in a pejorative sense—have somehow been made to look stupid because they are worried about what might happen to themselves and their families.

Who speaks for these people in the U.S. Senate? Who speaks for the people who are worried about losing their jobs? Who speaks for working class people?

And I do not think it is just a question of unions, although I am very proud to support labor. It is a question of a huge segment of the population out there who are really worried about where this takes us in the future.

Do you know what? There is a rigorous, Keynesian economic analysis that says they have every reason to worry.

I hope I am wrong. But I would far prefer to represent those people tonight, and that is why I certainly will vote against this agreement.

I congratulate President Clinton for his strength of purpose and for his great ability in getting NAFTA passed in the House of Representatives. I just wish he would have used his skills to get a trade agreement signed which would have promoted human rights and democracy in Mexico, and would have led to an uplifting of the living standards of people in our country, Canada, and Mexico. He did not do so, and I think that is the tragedy of this agreement.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. I very much appreciate the remarks of the Senator from Minnesota. I think everyone of us here is trying to wrestle with a very difficult question, that is: Will this agreement help provide more jobs or will it not? It is not an easy matter. There are many studies, many arguments. We are all wrestling with this question. I believe, however, the passage of this agreement will help working men and women and help this country not only in the short run but also in the longer run.

I must say we all very much sympathize with the conditions in Mexico the Senator from Minnesota refers to, the environmental conditions. I have been there many times. I have been to the Rio Grande many times. I have been in these homes. These conditions are very poor, in addition to the human rights concerns we have. But I might add, in my judgment some of the problems—not all, but some of the problems the Senator referred to—will to some degree be addressed by the passage of this agreement. Not entirely, but we will begin to get at some of these problems. It will tend to address some of the civil rights problems as well as environmental problems. That is why President Jimmy Carter, who takes a back seat to no one promoting human rights around the world, is a fervent advocate or proponent of this agreement.

I yield 10 minutes to the Senator from Arizona.

Mr. DECONCINI. Mr. President, I want to congratulate my colleagues in the House for taking the important step in passing the NAFTA last evening.

This was a strong vote of support of opening markets around the world to American goods; of continuing our commitment to countries pursing economic reform and of choosing cooperative efforts with neighboring countries over isolationism.

Where American goods are allowed open access to foreign markets, our exports have soared. The goods that American workers produce can compete in any market in the world when they are given fair and open access.

It is no coincidence that as Mexico has taken steps to reduce its barriers to trade and investment over the past 5 years, American exports to our neighbor have increased by $26 billion. In my own State, our exports have increased by $1.2 billion over the past 5 years to $1.8 billion.

I believe some people involved in this debate have made NAFTA appear more complicated than it is. NAFTA is an opportunity to level the playing field in trade between the United States and Mexico. Mexico's tariffs are 2½ times higher on average than ours.

Simply stated, these tariffs and other barriers which Mexico currently maintains but would be done away with by the NAFTA, make our products more expensive and less competitive in Mexico. In fact, some requirements have forced manufacturers to move to Mexico in order to sell their products in Mexico. If we want to eliminate such incentives to relocate manufacturing to Mexico we must pass the NAFTA.

Another argument we have heard during this debate is "not this NAFTA." But we should all understand that we will not have an opportunity to have any other NAFTA. If we say no to this NAFTA, Mexico will not return to negotiate reduced trade barriers with the United States in the future; Mexico will simply turn to Japan or other countries who are ready and willing to accept the opportunity which NAFTA has first offered our country.

The United States can no longer take for granted its position as the largest, strongest, and most dynamic economy in the world. Meeting the challenges presented by the increasingly competitive world market requires the United States to strengthen trade relations and secure markets for U.S. exports. NAFTA is simply an opportunity we cannot afford to pass up.

The vote on NAFTA is about more than trade relations—it is also a vote to continue the historic and positive improvement in United States-Mexico relations. The cooperative efforts between the United States and Mexico on a number of issues—including labor, environmental, and narcotics—have taken our countries far beyond the days of mistrust that previously characterized our bilateral relations.

Rejecting NAFTA would most certainly play into the hands of those forces within Mexico who have opposed the efforts of Mexican President Salinas to reform the economy and to improve bilateral relations. Rejecting NAFTA would set back United States-Mexico relations and jeopardize bilateral cooperation.

One issue that has greatly concerned me since I first came to the U.S. Senate is illegal narcotics. We should not pretend that NAFTA is going to be the remedy for all of the drug problems in this country—it is not. But neither is NAFTA going to cause increased illicit drug trafficking. NAFTA reduces tariffs but it will not relax our border inspection requirements.

What we know for certain is increasing drug interdiction depends on an atmosphere of respect and cooperation with Mexico. Drug trafficking is an international problem and it requires that we closely cooperate with Mexico and other countries. Passage of NAFTA can help ensure such cooperation. Defeat of NAFTA will most likely erode the positive inroads we have made with Mexico for the past 10 years.

This vote is also a vote of support for Mexico and countries across Latin America who have taken what have been very difficult steps to reform their economies. For many years, the United States has urged countries around the world to achieve such reform by unloading inefficient State-run enterprises from their bloated economies, deregulating foreign investment and opening up their economies to foreign trade.

This is exactly what Mexico has done. There have been few economic success stories in recent history as great as Mexico's. News coming out of Mexico is no longer about economic stagnation, debt crisis and runaway inflation. It has been replaced by reports of real economic growth and improvement in economic conditions for the people of Mexico.

Coming from a State which borders Mexico and which has longstanding ties to Mexico, I can tell you that these reforms and the resulting economic growth has not benefited that country alone. It has directly benefited our country by allowing the people of Mexico to purchase more of the goods they prefer—American goods. This is reflected in the fact that we have gone from a trade deficit with Mexico in 1987 of $5.7 billion to a $5.6 billion trade surplus in 1992. Opponents of NAFTA who question the importance of our trading relations with Mexico should reflect on these figures as well as the fact that Mexicans purchase more on average in United States goods than the average Japanese or European.

Much has been said in this debate about environmental conditions in Mexico, especially along the United States-Mexican border. No one needs to tell Arizonans that environmental pollution does not respect political boundaries. Industrial behavior in Mexico directly affects the ecology of Mexican communities and their sister United States twin cities.

NAFTA presents an opportunity to address these environmental concerns. Like narcotics issues, the most sure way to improve environmental conditions on the border is to continue cooperative efforts with Mexico. This is not an issue we can solve by building a wall between our countries.

I am pleased that the NAFTA debate has brought much needed attention to environmental issues along the border. I look forward to working with the administration to ensure that we develop appropriate solutions to these problems and devote the needed funding to address these problems affecting communities on both sides of the border.

Rejection of the NAFTA would be a mistake of historic proportions. If we turn down this opportunity, our country might never again be given the chance to negotiate lower trade tariffs with this important trading partner, in fact, we might well face higher barriers in Mexico in the future if we reject NAFTA; Mexican forces opposing economic reform would be bolstered and improved relations between the United States and Mexico—indeed all of Latin America—would be jeopardized. I urge my colleagues to consider the historic importance if their vote on NAFTA and the gravity of rejecting this trade agreement.

Mr. BRADLEY. Will the Senator yield for a question?

Mr. DECONCINI. I will be glad to yield.

Mr. BRADLEY. I would like to take advantage of his presence on the floor to focus on something he is probably more familiar with than many people because he shares such a sizable border with the country of Mexico; and that is the familiarity with the Hermosillo Ford plant. I had the benefit of spending some time with your former Governor not so long ago and he described how——

The PRESIDING OFFICER. The time of the Senator from Arizona has expired.

Mr. BAUCUS. Mr. President, I yield 10 minutes to the Senator from New Jersey.

Mr. BRADLEY. Mr. President, the distinguished former Governor of Arizona described how, when he learned that a Ford plant was going to be built 50 miles from the Arizona border, he went right to Detroit and he went into the corporate offices and he started ranting and raving and saying, "Why didn't you build that in Arizona?"

Does the Senator recall that decision?

Mr. DECONCINI. That is a correct story. I have heard the same story. I live there, and I know it is accurate.

Mr. BRADLEY. The auto industry executives explained a fact of life in doing business in Mexico: If you want to sell an automobile in Mexico, you had to comply with the provisions of something called the auto decree. And the auto decree said for every two cars that you manufacture in Mexico, you have to export one. The result was that we exported virtually no cars to Mexico, Mexico exported up to 400,000 cars into the United States, and they produced cars for the domestic market.

The Senator is probably also aware that as a result of the North American Free-Trade Agreement that auto decree is gone—is gone—and in the first year of NAFTA's existence, the automobile companies estimate that 60,000 cars will be sold into Mexico.

There are no longer the rules of origin, production requirements, but 60,000 cars produced in the United States will be sold in Mexico in the first year. That adds up to, according to the Commerce Department, about 15,000 jobs in the United States in the auto industry and the suppliers of the industry for those cars in production. Those are good jobs.

So tomorrow we will have a chance to talk about the other sectors of the economy that have jobs generated as a result of this, and there are many. But suffice it to say, the distinguished Senator from Arizona is on the floor and I felt it was important to take advantage of his own knowledge of the Arizona/Hermosillo situation to highlight that fact.

I must say, as I have been listening to the debate about Mexico, I felt that there was a little absence of a kind of historical context—not even deep history, like back to the revolution. Not even that far back, but even back to, say, the late 1970's, the early 1980's. We had a Government in Mexico under Lopez Portillo that benefited from the oil boom. Vast petrodollars flowed into Mexico and, by and large, those petrodollars were not well spent, to say the least.

On top of that big flow of petrodollars into Mexico, Mexico got in the business of borrowing from international banks. It borrowed and borrowed and borrowed. In fact, the Finance Ministry in Mexico and other Latin American countries—you had bankers lined up in the late seventies and early eighties wanting, urging them to take out these loans from them.

The major banks in New York—I see the distinguished Senator from New York—Chase Manhattan, Citibank, and others—"take the loans."

Then, lo and behold, the crunch came. I remember in 1983, in the second row from the back, standing and making a speech saying that Mexico is on the brink of bankruptcy, and being visited within 2 weeks by the chairman of one of those large banks reassuring me, "No, no, there's no problem there; no problem there."

In fact, there was a problem and Mexico almost defaulted. The problem became so bad that Mexico was essentially in receivership and submitted almost its entire policymaking apparatus to control by the IMF because it needed capital. It could not get capital.

Banks were not lending any money anymore, and the IMF said:

> We'll devalue your currency, balance your budget and, of course, borrow more from the bank so you can keep current on your interest.

As a result of that genius policy, inflation skyrocketed to 160 percent. The peso went from 26 pesos to $1 to 2,300 pesos to $1 in a matter of 4 years, 5 years; $30 billion flowed out of Mexico, capital flight from Mexicans wanting to get out from under this disastrous economic policy.

The oil price collapsed. Interest payments stayed high, and illegal immigration to the United States accelerated, courtesy of the IMF, the international banks, and a disastrous set of domestic policies in Mexico.

Now, at that time real wages dropped in Mexico. We hear all the talk about wages, what happened to wages in Mexico. They are not as high as 1979.

No, no, of course not, because this is what transpired in the middle of this decade, in the middle of this decade. Real wages plummeted. And I must say I did not hear a lot of speakers on the Senate floor deploring the plight of the poor Mexican worker who was struggling with 2,600 to a dollar in peso exchange and a 160-percent inflation rate eating up any kind of wage he might get through whatever mechanism of bargaining. It was all gone because of the inflation.

Well, there was a budget director at that time in the De la Madrid administration named Carlos Salinas. He said we are going to have a different approach here. We will have a different approach. Instead of having a weak peso, we are going to have a strong peso. Instead of having inflation at 160-percent and giant walls of protection and the Government simply printing money and the politics of Mexico amounting to an argument over which monopolist got which subsidies, what we are going to do is bring down those walls. We are going to control inflation by international competition. We are going to have companies from other countries sell into Mexico, undercut the price of the monopolists in Mexico.

He said we are going to reduce the budget deficit by privatizing, selling off all those dinosaurs that remind me of steel works in Ukraine and were not too dissimilar to steel works in Ukraine. He said since the wage earner in this country at 160-percent inflation was not making anything anyway, maybe we could have an agreement to limit wages and we will limit prices, the so-called el pacto. And that, indeed, was the combination of policies that began to restore stability to the economy of Mexico.

Mr. WELLSTONE. Will the Senator yield?

Mr. BRADLEY. Not yet—that began to restore stability to the economy of Mexico. These were not easy decisions. They were not easy decisions.

Oh, by the way, and in the interim, in that same period, or a little bit later, Mexico cut its internal budget deficit by the equivalent of four Gramm-Rudmans. We huffed and puffed around here. Gramm-Rudman, in 5 years we were going to cut our budget deficit. Mexico went through four Gramm-Rudmans in that period—cut its tariffs from virtually 100 percent to 20 percent, opened up its economy to international competition, sold off all of the dinosaurs in the public sector, and began to restore real wage growth, not wage growth that was eaten up by inflation the following year or the following month or the following day but real wage growth. Indeed, since 1987, wages, real wages in Mexico, have gone up 28 percent. Wages have gone up 135 percent, but real wages have gone up 28 percent.

So, Mr. President, when we talk about the circumstances in Mexico——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BRADLEY. It is important to get a little historical perspective on where we come from.

I would ask for 2 additional minutes from the Senator.

And one of the issues that this little story has in relevance to some of the concerns expressed by the distinguished Senator from Minnesota is in the maquiladoras. The maquiladoras could broadly or charitably be called a policy to attract capital by advertising that you are a sweatshop and a cesspool.

But if your back is against the wall, and the international banks have cut you off, you cannot get any capital anywhere else, what is your alternative? Declare bankruptcy as a country? The policies that have been instituted since 1988, really 1987, are policies that bring some hope to Mexico, some real wage growth, a stronger peso, restored investor confidence worldwide.

Mexico is now back in the international capital markets. It is able to attract capital to fuel investment, to generate growth, that will generate growth in wages, that will generate purchase of U.S. exports. That is what the policy has been for the last 5 years, and that is what the hope is for NAFTA, to continue in that direction.

If we fail to approve NAFTA and we tell Mexico: Sorry, no more capital; no, even though you have followed a policy just as we have enumerated in the books you should follow and the world capital markets are responding and saying we are now sending capital into Mexico to invest and to buy exports, and we say no, forget it, do you know what Mexico will do? It will go right back—it will have no alternative—right back to the policy of the sweatshop and the cesspool.

So the opponents of this agreement who stand up and make big speeches—and I respect all of the opponents of this agreement, and I have the highest regard for their integrity and their good intentions, but when they stand up and make the case that somehow or another——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BRADLEY. The agreement is going to hurt the average working person in Mexico, my question to you is, What is the alternative?

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN addressed the Chair.

Mr. WELLSTONE. Could I have just 2 minutes?

Mr. MOYNIHAN. I yield 2 minutes to the Senator from Minnesota. After that, I would yield 15 minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. I thank the Senator. I only have 2 minutes to respond.

Let me just assure my colleague from New Jersey I do have a historical perspective. I do know about the 1910 revolution. I do know about one-party rule in Mexico. I do know about Lazaro Cardenas, Sr., who was I think one leader during that period of time who in fact responded to people in the country. I am a little bit surprised to hear the argument my colleague just made because what he is saying is that a lot has changed. He describes economic progress, which I think, by the way, is subject to debate. But what has not changed is authoritarian government.

I never thought I would hear my colleague from New Jersey say that if you have a successful economic policy—and I question that in the case of current Mexico—then it is OK that you have an authoritarian government; that you have one-party rule; that people cannot join their own independent labor union; that when people seek redress of grievances, they can find themselves in prison. That has not changed at all, and that was the major thrust of my argument.

I would make one other point with my colleague, which is this. He says, what is the alternative? I would say the alternative is to have a North American Free-Trade Agreement, a single, integrated North American economic unit where in fact you do have fair labor standards.

Mr. BRADLEY. Will the Senator answer a question?

Mr. WELLSTONE. No, I will not yield until I am finished—until you do have health and safety standards, until you do have respect for the environment, and most important of all because my colleague has stood for this, until you tie that trade agreement to and use the leverage for promotion of human rights and democracy. That is the kind of trade agreement we could have, and that is the tragedy of this one.

Mr. BRADLEY. May I ask the Senator, in this vision he is concocting, would he support, as in Europe, the free flow of people across national borders?

Mr. WELLSTONE. Within the common market?

Mr. BRADLEY. Between the United States and Mexico.

Mr. WELLSTONE. If in fact we had a single, integrated unit where we had countries with a comparable level of work conditions, wages, health and safety, and all the rest, that could be part of the future down the line. But right now we cannot negotiate an agreement with a country that violates the basic human rights of its citizens. As the Senator from New York said, how can you have a free-trade agreement with people who are not free.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from California is recognized for 15 minutes.

Mr. BRADLEY. Will the Senator from California yield for just 1 minute?

Mrs. FEINSTEIN. On the Senator's time.

Mr. BRADLEY. On my time.

I do not think the distinguished Senator from Minnesota and I disagree about the advisability of having democracy and human rights in Mexico. I think what we disagree on is the method by which you obtain it. Do you obtain it by engagement? Do you obtain it by working in countless ways on many levels in both the private and public sector with a country to bring it into a more representative democracy and a competitive election system or do you, the first time in 70 years it has extended its hand—the first time—its hand in partnership to the gringo so-called to the north, spit on that hand and say, "No, we don't want anything to do with you?"

You are going to have a lot of credibility down there at that point.

Mr. WELLSTONE. Could I have 1 minute to respond, someone?

The PRESIDING OFFICER. The Senator from California is recognized for 15 minutes.

Mr. WELLSTONE. Can I not have 1 minute, anybody?

Mrs. FEINSTEIN. All right, take a minute.

Mr. WELLSTONE. I will always believe in the Senator from California from now on. I thank her.

First of all, this whole issue of constructive engagement, I say to my friend that is the argument I hear made by people who want to have the Olympics in China. That is the same argument. It is the same argument.

My second point is if you want to talk about the alternative, there is not one of us, as we talk about alternatives, who is not interested in a trade agreement. There are good political scientists in Mexico—and the Senator from New Jersey has read some of their work—who argue that the best thing that could happen is not to sign this agreement, locking in an authoritarian government, but to make it clear to Mexico and other countries that the United States of America ties human rights and fair labor conditions to our trade agreements. That is what I thought was going to be the new world order. That is what we are about as a Nation.

Mr. MOYNIHAN. Mr. President, may I yield a full 15 minutes to the Senator from California? She has been very indulgent of a very important debate.

Mrs. FEINSTEIN. I thank the Senator very much.

The PRESIDING OFFICER (Mr. LAUTENBERG). The Senator from California is recognized for the full 15 minutes.

Mrs. FEINSTEIN. Thank you very much, Mr. President.

Mr. President, like so many others in this Chamber, I have been beset. I have met with the distinguished Secretary of the Treasury twice, three times with Ambassador Kantor. His staff prepared a breakdown on the tariffs under the agreement for me. I have met with think tank experts both on trade pro and con. I have met with economists both pro and con. I listened carefully to Vice President GORE. And I was importuned by the distinguished Senator from New Jersey, the highlight of my day one morning.

But, Mr. President, behind the abstraction, the theories, and the statistics of the North American Free-Trade Agreement, there is one inescapable factor; and that is, the real faces of the working men and women of this country, and what will happen to them.

I am not the Senator from Mexico. I am the Senator from the State of California.

My people are laboring on assembly lines, in garment factories, in hothouses riotous with flowers, and in fields laden with produce. They are behind cash registers in corner stores, at the pumps in local gas stations that serve those who work in the plants and packing sheds. They are riveting, fabricating, driving trucks, sewing on machines with children nearby. I have seen others in unemployment lines or sitting at home waiting for a phone call for a job.

I know engineers who have been out of work for more than a year who have sent out hundreds of résumés and are still looking for a job. Machinists and carpenters as well as engineers by the tens of thousands are looking for work in my State.

The faces of these workers are lined with worry and filled with anxieties not so widely experienced since the Great Depression.

In California, the Golden State, where optimism has always been high, persons with even secure jobs are now worried they might get pink slips.

I have been lobbied by companies who are changing their permanent workers to temporaries. They will not tell me they are not now going to move to Mexico. Their health plans have disappeared.

Unemployment in my State is 3 points above the national average. In all, 1½ million people are out of work. That is more than the people in 13 separate States. I can never remember it being this way.

And these numbers are going to swell because there is still $5 billion in Bush defense cuts yet to realize, and $11 billion in Clinton defense cuts yet to realize. California will bear 50 percent of that burden.

It is these faces I see when I look at NAFTA. Because of them, I have no alternative but to cast my vote against the agreement. I want to explain why.

NAFTA, I am concerned, will contribute in the immediate term to joblessness and economic dislocation in my State. In every study I have seen which says there will be job loss, California heads the list of States with jobs at risk under NAFTA.

A publication by America's Industry Relocation Service describes how relocating 100 workers in Mexico, is advertised to be just 6.67 percent of the yearly labor costs for 100 workers in the United States. How does that not move jobs south?

If the yearly labor cost per 100 workers in the United States is $3.1 billion, and if that yearly labor cost as remitted by relocation services is $200,000 in Mexico, that is a savings of $2,900,000 to a company with 100 workers earning those salaries that move south.

So I speak today as someone who is elected by the working men and women of the State of California, and elected not to preside over the diminution of their standard of living.

The beauty of this country is that you can be a laborer, an electrician, a bricklayer, and still own a home with a floor. You can buy a car. And yes, you can even send your kids to college. You cannot do that on $1 an hour. That has been the beauty of this country.

I am also concerned that as new plants are hastily built in Mexico without the proper sewage facilities, and as crops are dusted in Mexico with pesticides banned in this country, rivers that run north—and they do—will carry this pollution through prime agricultural land in California. There is no question that NAFTA fails to cover the full cost of the necessary infrastructure to safeguard the environment.

Perhaps if the California economy were stronger, if there were greater prospect of new jobs soon, greater security and prosperity for California's workers, I might be able to accept the gamble that NAFTA brings with it. But this is no time to gamble with uncertainty. And regretfully, NAFTA is filled with uncertainty.

No one can say for sure whether it will create jobs or lose jobs. No one can say for sure whether it will expand production in this country or see it move south of the border. The North American Free-Trade Agreement is like an imperfect diamond with facets and flaws that sparkle or not, depending in what light it is held. Those who support NAFTA say it may create 200,000 new United States jobs. Opponents say as many as 500,000 jobs can be lost. For California's stalled economy, opponents of the agreement see it prolonging the recession while proponents say it will provide the one sure road to economic recovery.

Opponents insist NAFTA will encourage businesses to relocate from this country to Mexico. Proponents maintain that with the reduction in Mexican tariffs under NAFTA, plants in this country will expand and hire more workers to keep pace with increased exports to Mexico. To find balance and consensus in this crossfire of claims and counterclaims is elusive.

I do not believe we should gamble with the livelihood of American workers with an agreement, the consequences of which are so problematic. Frankly, I had hoped the side agreements to NAFTA would resolve some of my concerns, but I find them weak, inadequate, and difficult to enforce. They provide no real teeth to compel enforcement of environmental protections; nor do they give Mexican workers the right to organize, bargain collectively, and withhold their labor—basic rights taken for granted in work forces throughout this country. Nor does NAFTA even make the smallest effort to raise a deplorably low minimum wage in Mexico so that there could be a level playing field.

It was my hope that the agreement would contain a reopener provision, whereby any shortcomings or adverse impacts could be corrected as we go and 3 years down the pike we could take a look at how California was impacted. But this agreement is forever; it cannot be amended if there are mistakes. And I have been around negotiators enough in my life to know they make mistakes. They cannot be corrected. Sure, Congress can cancel the agreement with 6-month notice. That is not going to happen. You and I both know that.

Furthermore, there is nothing in the agreement under which Mexico would enforce its own borders. Even studies by supporters of the agreement, such as the one by Philip Martin of the Institute of International Economics, expect an increase in illegal immigration into this country as the Mexican economy turns to manufacturing and displaces those Mexican agricultural workers whose crops are inefficiently grown. California is already spending $3 billion a year to provide for illegal immigrants, and 50 percent of the immigrants in this Nation reside within the borders of California.

I applaud the intentions of NAFTA to bring trade barriers down and open the world's market to freer trade. I have long advocated free trade. As Mayor of San Francisco, I led trade missions to China, Japan, Taiwan, Hong Kong, the Philippines, and Australia. I established relationships with Shanghai, Manila, and other major trading centers around the Pacific rim.

The negotiations on the General Agreement on Tariffs and Trade can still result, if we are willing to be tough, in a substantial lowering of tariffs throughout the world. And California can still thrive in global markets.

I, for one, will continue to fight for expanded markets and opportunities for industries and businesses in my State, to work with business people, industrialists, and investors to help them expand foreign markets for goods and services. But the time could not be worse. They say everything we do is opportunity and timing. What do you do with 1.5 million people out of work? What do you do when unemployment insurance is not extended for workers unemployed for more than 6 months? What do you do when hiring halls have 50 percent of their members unemployed? What do you do when you have big automobile plants and you have lost every one? It is difficult to take a gamble with so many people out of work.

I want to end with a statement. I read an interesting paper by Akio Morita, chairman of Sony. What he said is: "I fear that America cannot remain a world power if it loses its manufacturing base."

I see NAFTA as a major challenge to the manufacturing blue collar job base of this country that enables a laborer, a bricklayer, a machinist, an electrician, a plumber to buy a home, to educate their kids, and, yes, to even send them to college.

I yield the floor and I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. Mr. President, I yield 10 minutes to the Senator from Connecticut.

Mr. DODD. Mr. President, I thank my colleague from Montana.

Mr. President, I may not use all of the 10 minutes at this late hour in the evening. But I have been listening. I intend tomorrow to engage more directly and thoroughly in this debate. But I must respond to some of the things that have been said here this evening, because I find them offensive in many ways.

First of all, let me begin by saying that there are a lot of people claiming credit for the vote last evening in the House. Certainly President Clinton and others deserve a great deal of credit for the victory. But I think any discussion and debate of this issue must begin by commending the Chief Executive of the State of Mexico, Carlos Salinas. He has done more in the last 5 years than anyone else to bring us to the point we are today. When the history of this time is written, the name of Carlos Salinas, in my view, will be recorded among the great liberators in the Americas in the last 500 years. He has put everything on the line and radically changed the economic life of his country. He has dealt with social and political problems beyond the imagination of most people in this country.

I hope that people, as they discuss this issue and talk about our neighbor to the south, will keep in mind those changes and the efforts being made in Mexico to improve the quality of life for their people. We are not without fault, Mr. President. As I listen to these debates and when I see the photographs of the cardboard shacks in Mexico, I, too, could bring out photographs of shacks in my own State of Connecticut—in Hartford, New Haven, or Bridgeport. I see my colleague from Illinois. She can probably show photographs of Mother Cabrini Village in the State of Illinois or of the Bronx in New York or of south central Los Angeles.

How would we like it if in a debate in the Congress of Mexico, Mexican Senators were to stand up and show photographs of our country and our shortcomings and our flaws? Mexico is a nation struggling for its future, fighting to improve the quality of life of its people. And yet some people here speak with such arrogance about Mexico. They talk about the drug issue and say that Mexico is not doing enough in this area. I would ask, who the devil do you think they were selling the drugs to? It is not Mexican kids sticking needles in their arms and sniffing cocaine; it is in the rich suburbs in some of our cities and in the ghettos of our urban areas, that kids are doing these things. The people speak as if this was Mexico's fault. Because we had an addiction we could not cure, we blame Mexico for that problem.

People talk a great deal about corruption in Mexico. My God, hardly a day goes by that we do not read about a political scandal in this country in one place or another. What sort of arrogance is this, to be talking like that about a neighbor and a government that is trying to improve the quality of life? We sat here a few years ago considering most-favored-nation status for Romania and the People's Republic of China. The idea of comparing Mexico to China is outrageous? Does anybody really believe that that is a legitimate comparison? I think it is ridiculous to compare a totalitarian government that deprives its people of even the basic freedoms with our neighbor to the South, which is trying to achieve freedom and democracy for its people. It is insulting to hear that kind of discussion on this floor.

Mexico is a good neighbor, a neighbor that is trying desperately to make a difference for its people, and we ought to pay attention to the changes in Mexico and talk about how we can encourage more of them.

But we are not for NAFTA because it is good for Mexico. I agree with my colleague from California. None of us are Senators from Mexico. We represent our respective States and constituencies. I am a Senator from Connecticut, and my first responsibility is to my constituency.

I happen to believe that this agreement is good for the citizens of my State, and there is more than adequate proof to demonstrate that conclusion.

I also happen to believe this agreement is good for my country, because it opens up markets and expands opportunities. I will not sit by quietly while some pretend that only NAFTA opponents care about working people. I am proud of my record here for 14 years. I fight for working people. I think this agreement is good for the working people of my State—for the people who work in the machine shops and industrial centers of Connecticut.

The idea somehow that we do not care about what happens to the laid-off people in our State is unfounded; 200,000 Connecticut residents lost their jobs in the last 3 years. I care deeply about what happens to them. I wish I could magically provide a job for them tomorrow. I cannot.

I am almost tired of talking about training programs and diversification and conversion, because I know at the end of the road for some there really is no job. They may have better training, but not a job.

I do not believe that this NAFTA is necessarily going to produce jobs immediately, but it offers the hope that an expanded market will expand employment in our country. That is the essence of this. That is why it is good for us.

Let me just underscore what our colleague from New Jersey has said, and believe me when I tell you this. If you think somehow there is opportunity for a better NAFTA, you do not know our neighbor to the south, you do not know the Mexican people, you do not know the Mexican Government. They will go back to the old ways. There is no doubt in my mind. They will be returning to the days of government-owned enterprises, of controls on prices and wages, the very things that my colleagues are talking about. You will see a degradation of the environment. You will see child labor once again.

If that is what you want, then reject this agreement. That much I can guarantee you. That much I can predict for you. Vote against this, and that is what you are asking for. You are shutting the door to an expanding market, jobs for our own people and almost guaranteeing that our neighbor to the south will go back to its old ways. The Senator from New Jersey is absolutely correct in that regard.

This is not a leap of faith. This is not some great big chance we are talking here. This is an opportunity for us. This is our future. And Lord willing we will have an agreement that will reach out to some of these other Latin countries with improving conditions, such as Chile, Argentina, Bolivia, Brazil, Colombia, Venezuela. Such an agreement could encourage the other countries in the hemisphere to open up, change their ways, and move forward.

Mr. President, I remember a few years ago there were those who suggested that we should not have an arms control agreement with the Soviet Union because they were being too tough on the issue of Soviet Jewry. Yet we discovered once we had an arms control agreement that the very thing we worried about in human rights changed. A million people left the Soviet Union after the arms control agreement.

I would suggest to you here that if we enter into this agreement the very problems in Mexico that are being raised tonight about Mexico will actually improve. With NAFTA, there will be a greater chance that we will be able to have some impact and influence on the very issues that have been discussed.

Many of my colleagues—some of whom I see on the floor tonight—stood with me during the 1980's when we battled over El Salvador, Nicaragua, and Guatemala; 70,000 people lost their lives in El Salvador and 30,000 in Nicaragua. Many of us on this side of the aisle argued that it was not Marxism or Communism that created those revolutions. It was the social, economic, and political injustice that created the environment for revolution. We argued that if we would invest and begin to work on some of those areas we could eliminate the kind of problems that exploded into violent revolution.

I believed it in the 1980's. I believe I was right.

It is disappointing for me today to hear some of the people who stood with me then, now suggest when we have the opportunity to make a difference economically in this country that we should turn our backs on the very option that we argued for for so long.

So, Mr. President, I hope that as we debate during the remaining hours of this issue we would be temperate in our rhetoric when describing our neighbor to the south. They deserve much better than they are getting from some of our colleagues on the floor of the U.S. Senate.

Apart from the United States and Mexico, there have only been two other examples of industrialized nations sharing a common border with developing nations in the world—South Africa and its neighbors and Israel and its neighbors.

There have certainly been problems between the United States and Mexico. But nonetheless, we are a shining example of how two nations with different cultures and economies can live together and improve their relationship. We have certainly done far better than the other two examples.

My hope is we would hear some rhetoric during this debate about the good that is being done today in Mexico. We should also hear more about the benefits of the North American Free-Trade Agreement for workers in the United States. I see this agreement as a winner for Canada, a winner for Mexico, and a winner for the United States, and I urge its passage.

The PRESIDING OFFICER. The Senator's 10 minutes are concluded.

Mr. DODD. I thank the colleague from Montana.

The PRESIDING OFFICER. Who yields time?

The Senator from South Dakota.

Mr. BRADLEY. Mr. President, will the Senator from South Dakota yield for a brief unanimous-consent request?

Mr. PRESSLER. Mr. President, if it is a brief unanimous-consent request, I will do so.

PRIVILEGE OF THE FLOOR

Mr. BRADLEY. Mr. President, I ask unanimous consent that Fritz Meyer be allowed the privileges of floor throughout the debate on NAFTA.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I yield myself 10 minutes out of our time.

The PRESIDING OFFICER. The Senator from South Dakota has 10 minutes.

Mr. PRESSLER. Mr. President, I rise in strong support of the NAFTA.

I felt strongly as we entered the 1990's that GATT would go forward, NAFTA would go forward, and we would have more free trade. By free trade I mean fair trade.

Opening markets is being discussed at the APEC meeting which is going on this morning in Seattle with the Asian countries. But much of our trade with Asian countries is not free trade. We allow them to bring products here, yet they only take what products they want. Fortunately, they are importing a lot even with that. Much still needs to be done.

With China we have an immense deficit. I knew something was wrong when I was in Malaysia recently, and saw copies of the movie Jurassic Park for sale for $15. When I told Jack Valenti of the Motion Picture Association that, he became very upset because it is not available on VHS in this country yet.

The point I am making on intellectual property and computer programs is that a lot of countries do not pay U.S. companies for intellectual property.

Next week I am going to Spain to attend an economic conference under a new foundation set up by John Brademas. I have discovered in preparing for the conference that the Spanish take a lot of our computer programs and do not pay us for them.

So the point is there is a lot of unfair trade in the world, and the United States is a most generous country. At some point we have to have free trade.

This NAFTA agreement moves us in that direction. We have to trade. Free trade is the road to prosperity. There has never been any country or group of countries that have prospered in the long run by putting up tariff barriers. Indeed the Smoot-Hawley tariff may have led to the Great Depression.

Many years ago when I was a student in England, I wrote a paper with some professors on free trade. Although it is a painful thing, although it is much criticized, it is the way to prosperity for most countries. This can be seen from the time of the Germany trade unions when they broke down the protective barriers to modern times.

So I make that as a basic presumption. Certainly we should have free trade with our neighbors. I know there has been a lot of problems with Canada on wheat imports, but those are not problems of NAFTA. Those are problems of transportation subsidies and unfair pricing tactics. Those problems must be solved separately.

Small business in this country will benefit greatly. I serve as ranking member of the Small Business Committee, and perhaps no sector of our economy will benefit more than small business because small business is exporting and it must export.

We are in a situation that free trade and free enterprise are the key to the 1990's, and I fear that the GATT Treaty will not go forward. I fear very much that the protectionism of France in agricultural products and the protectionism of the rest of Europe will prevent us from going forward.

The president of the National Corn Growers recently wrote me a letter suggesting that the price of corn will be from 9 to 18 cents a bushel higher if NAFTA goes forward. The vast majority of all agricultural producer groups in the United States have endorsed NAFTA. The Farm Bureau has endorsed NAFTA; the cattlemen and the meat producers have endorsed NAFTA. My State of South Dakota exports 70 percent of its wheat and the wheat growers have endorsed NAFTA.

Now there is a problem with organized labor. Someone said, "Why has organized labor not endorsed NAFTA?" I think this is the reason. I think the leadership of organized labor is out of touch with the rank and file working people. NAFTA will mean higher wages and more benefits to all workers, union and nonunion. Most economists agree with that.

The labor leaders do not want higher wages for everybody because they will have a more difficult time organizing and getting people to join unions. And that is the truth of it. That is a hard one for them to admit.

But labor leaders actually want lower wages and chaos and suffering so they can organize easier. But organized labor will do fine. They will have to work harder and compete for members. They will have to show people reasons to join. As membership in organized labor has declined, they have become hysterical in trying to find ways to head off prosperity, because prosperity means less people will join labor unions.

I am not necessarily against labor unions, but I have been amazed at this phenomenon, the hysterical way organized labor has opposed this agreement. And the way they have threatened to cut off campaign funds to Members who do not vote with them, the way they have made outlandish statements against this agreement is something that should be analyzed.

What organized labor is really afraid of is that NAFTA will help wages rise in the United States, and they will have a harder time getting members to join their unions and they will have to work harder. I say to them they can still get their members, but they are going to have to compete and work harder like we all do.

Mr. President, I would conclude by saying that we should go forward with NAFTA and vote for NAFTA—I shall vote for NAFTA—because we have higher goals, higher ideals.

Anyone can criticize this agreement. The easy thing to do is to vote against it and then spend the next 3 or 4 years criticizing every part of it. The easy route is to vote against it, now that it is going to pass anyway, and say for the next 3 or 4 years everything that is wrong, that people are wrong or any trade adjustments that have to be made to make a big criticism about it.

But I say we should take the higher road, the more difficult road, and move towards free and fair trade with Mexico and with Canada. When it is all said and done, the Europeans are going to go their way with their trade agreement; the Asians, under APEC, are probably going to go their way.

We need a free trade zone between Canada, Mexico, and the United States. I hope someday we can extend that all the way throughout South America—a free trade zone of the Americas. That is the dream I have.

The Europeans, because of the French protectionism and the German protectionism and the unwillingness of the Europeans to compete, are going to keep us out of their markets, but it is also going to lead to a class of European economies. Because, unless they are willing to compete, I see a movement toward the Asians under APEC and so forth, the new tigers and the old tigers, when they get into real competition to form their own trade area.

But we will meet that competition with the best free trade zone in the world—Canada, the United States, Mexico and, hopefully, more of South America and Latin America. So, there will be many bumps along the path.

Let me say, I respect President Clinton's courage in this area. And I say that as one who has said some critical things about President Clinton on this floor.

I salute the large number of Republicans in the House of Representatives last night and the smaller number of Democrats who joined them to make this decision. This is both a Republican and a Democratic victory.

The President of the United States has taken on part of his basic constituency, organized labor, and also the environmentalists. I fear very much that the President will want to repay organized labor—I hope he does not—with all sorts of things, such as movement on the striker replacement and other legislation that they are trying to pass.

But I think he has gained a new respect in this country. I want the President of the United States to be successful. I want the President of the United States, a Democrat or a Republican, to have a good Presidency.

It was suggested to me that, next week in Spain, I be critical of the President as we begin an analysis. But I believe in the Vandenberg concept; that, once you go outside the United States, you do not criticize the President of the United States. And I am going to say positive things about him as a visiting Senator.

I do not mean you should not speak your mind. But I think the President has shown great courage on this trade agreement and he has drawn a lot of respect from me, from one U.S. Senator, that was not there before.

So, let us go forth and pass NAFTA. Let us insist on fair treatment. Let us insist on using our comparative advantages and letting them use theirs. Let us insist that Canada not use transportation subsidies for wheat or other things. There are many battles down the road. And in the next 4 or 5 years, we are going to hear the people who voted against it say, "I told you so," and so on and so forth. It is going to be a tough road, but it is the right road and it is the one we should be taking.

Mr. President, I ask that a fact sheet on South Dakota and NAFTA, a list of South Dakota groups supporting NAFTA, a letter from the National Corn Growers, a letter from the American Farm Bureau, and a letter from former U.S. Trade Representatives be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SOUTH DAKOTA AND THE NAFTA

Canada and Mexico are important export markets for South Dakota.

Canada and Mexico are South Dakota's first- and fifth-largest export markets. South Dakota's exports to Canada and Mexico were worth $122 million in 1992, 221 percent greater than the 1987 level of $38 million.

Manufactured exports to Canada and Mexico support an estimated 3,578 jobs in South Dakota. Approximately 2,419 of these have been created since 1987 by growth in South Dakota's manufactured exports to Canada and Mexico.

South Dakota's exports to Mexico are growing.

South Dakota's merchandise exports to Mexico have increased by 40 percent since 1987, rising from $5.4 million to $7.5 million.

Increased trade with Mexico since 1987 has benefited important South Dakota industries, and 8 sectors have seen their exports to Mexico more than double since 1987. Examples: transportation equipment up 27,414 percent to $1.4 million; fabricated metal products up 276,512 percent to $426,000; industrial machinery and computers up 189 percent to $1.7 million; and livestock up from $0.0 million to $399,000.

Reduction of trade barriers under the NAFTA will greatly benefit South Dakota's leading export industries.

For food products ($2.5 million in 1992 exports to Mexico), NAFTA will reduce tariffs of 10-20 percent and eliminate non-tariff barriers such as import licenses.

For industrial machinery and computers ($1.7 million in 1992 exports to Mexico), NAFTA will eliminate tariffs (e.g., 10-20 percent for computers), improve protection of intellectual property, and open up Mexican government procurement.

For transportation equipment ($1.4 million in 1992 exports to Mexico), NAFTA will open up Mexican government procurement and eliminate Mexican tariffs, quotas, and local content requirements (which require the use of Mexican instead of U.S. manufacturing components) on auto parts.

For electric and electronic equipment ($272,000 in 1992 exports to Mexico), NAFTA will eliminate tariffs of up to 20 percent, open up Mexican government procurement, eliminate nontariff barriers in technical standards, and increase intellectual property protection.

NAFTA will open up Mexican markets to South Dakota farmers by, for example, eliminating import licenses on corn and wheat, and eliminating tariffs (e.g. cattle, 15 percent; beef, 20-25 percent; slaughter hogs (non-pedigree) and pork, 20 percent; sorghum and soybeans, 15 percent (seasonal); oats; 10 percent) either immediately or over time.

NAFTA contains detailed provisions to eliminate barriers to trade in services, including liberalization of licensing requirements and other restrictions, that will help South Dakota banking, insurance and other financial services, telecommunications, and engineering and construction companies win more business in the $146 billion Mexican services market.

Commitments to clean up environmental hazards and improve environmental protection in Mexico and the border area will stimulate demand for South Dakota pollution control equipment and services.

South Dakota's textiles businesses will benefit from NAFTA's tough rules of origin for textiles and apparel, which ensure that non-NAFTA countries cannot use Mexico or Canada as an export platform into the U.S. These rules provide a strong incentive for manufacturers in all three NAFTA countries to source more textiles in North America, rather than overseas.

Increased exports to Mexico because of NAFTA mean more high-paying jobs for South Dakota.

94 percent of South Dakota's exports to Mexico are manufacturing exports, which provide jobs paying 17 percent more on average than the average U.S. wage.

NAFTA will lock in the South Dakota jobs already generated by trade with Mexico, and create new jobs that will offset any job losses by more than nine-to-one.

SOUTH DAKOTA SUPPORTERS OF NAFTA

South Dakota Farm Bureau.
South Dakota Pork Producers.
South Dakota Stockgrowers.
South Dakota Cattlemen Association.
South Dakota Retailers Association.
South Dakota Soybean Association.
South Dakota Wheat Growers Inc.
South Dakota Wheat Growers, Assn.
Minnehaha County Cattlemen's Association.
Aberdeen Development Corporation, Aberdeen, SD.
Air Products and Chemicals, Inc., Rapid City, SD.
Aman Collection Service, Inc., Aberdeen, SD.
American Delta Life, Watertown, SD.
AuriCHLOR, Inc., Rapid City, SD.
Best Business Products, Sioux Falls, SD.
Black Hills Forest Resource Association, Rapid City, SD.
Citibank, Sioux Falls.
Dakota Pride Cooperative, Winner, SD.
Daktronics, Inc., Brookings, SD.
Direct Transit, Inc., Sioux City, Iowa.
First State Bank of Warner, Warner, SD.
Fremar Farmers Coops, Inc., Marion, SD.
Frito-Lay, Inc., Aberdeen, SD.
Graco, Sioux Falls, SD.
Industry & Commerce Association of South Dakota, Pierre, SD.
Interbake Foods, North Sioux City, SD.
J.D. Byrider of Sioux Falls, SD.
M-tron Industries, Inc., Yankton, SD.
Magnum Diamond, Inc., Rapid City, SD.
Merillat, Rapid City, SD.
Midcom, Inc., Watertown, SD.
Morgen Manufacturing Co., Yankton, SD.
Northwestern Travel, Sioux Falls, SD.
Orthodontics, Sioux Falls, SD.
Pacer Corporation, Custer, SD.
Pizza Hut, Sioux Falls, SD.
Pope & Talbott, Inc., Spearfish, SD.
Pred's Coats, Aberdeen, SD.
Purina Mills, Inc., Platte, SD.
Rapid City Area Chamber of Commerce.
Reecy Farm Supply, Dell Rapids, SD.
Rosco Manufacturing Co., Madison, SD.
Shanzer Grain Dryer Division of D. & W. Industries, Inc., Sioux Falls, SD.
State Bank of Alcester, Alcester, SD.
Stone Container Corporation, Sioux Falls, SD.
Syncom, Mitchell, SD.
Terra Industries Inc., Sioux City,
Tescom Corporation, Watertown, SD.
The Farmers State Bank of Estelline, Estelline, SD.
The Princor, Financial Services Corporation, Sioux Falls, SD.
Watertown Monument Works, Inc., Watertown, SD.
Governor Walter Dale Miller.
South Dakota Department of Agriculture.
Sioux Falls Argus Leader.
Huron Daily Plainsman.

NATIONAL CORN
GROWERS ASSOCIATION,
Washington, DC, November 15, 1993.

Hon. LARRY PRESSLER,
U.S. Senate, Washington, DC.

DEAR SENATOR PRESSLER: Thank you for meeting with me last Thursday regarding the North American Free Trade Agreement (NAFTA). You are to be commended for your strong support of NAFTA.

As we discussed, if NAFTA passes, corn sales have the potential to increase fourfold in the first year of the Agreement to 2.5 million metric tons. That duty-free amount will increase by 3% per year over 15 years, with total free trade occurring at that time. The good news for corn doesn't stop with bulk sales because the value-added market in Mexico is vast, particularly in beef, pork, and poultry. Sales of these commodities result in the use of even more corn and just as importantly, create sorely needed jobs in rural America.

Mexico is a nation of 85 million consumers who love U.S. products. The average Mexican citizen spends more on American products than citizens in any other country. We simply cannot afford to turn our backs on this valuable market. If NAFTA is defeated, there is no question Mexico will turn to the EC, Japan, Australia or other countries to buy many of their products. Agriculture and rural America will be the big loser if NAFTA is defeated.

The National Corn Growers Association (NCGA) is working to create this market that will increase the price of corn between 9 and 18 cents a bushel. If we can be of assistance to you on this or any other issue, please don't hesitate to call.

Sincerely,

KEITH HEARD,
Executive Vice President.

FARM BUREAU,
Washington, DC, November 12, 1993.

Hon. LARRY PRESSLER,
U.S. Senate, Washington, DC.

DEAR SENATOR PRESSLER: On behalf of America's farmers and ranchers and the four million Farm Bureau member families, I wish to take this final opportunity to express our strong support for the North American Free Trade Agreement (NAFTA) and to urge you to vote for its implementation.

There are few new arguments that can be made on either side of the NAFTA debate, but I would urge you to carefully consider several crucial points.

NAFTA is in our national interest. It will help us retain our preeminent position in the world economy; its defeat would stun the world and help to elevate other countries and blocs as major forces in world trade.

NAFTA will strengthen our bilateral ties to Mexico and enable us to better deal with the many issues raised by NAFTA's opponents; its defeat would leave us with no leverage, no tool and no goodwill to resolve those problems.

NAFTA will create new jobs in the United States and protect the 700,000 jobs Americans now have as a result of exports to Mexico; its defeat could put many of those workers at risk. While there are adjustment assistance programs for people who lose their jobs to imports, there is no such program for people put out of work because we lose export markets—and there are people at risk in every state, if Mexico turns to other nations for its growing import needs.

NAFTA will protect our agricultural exports to Mexico; its defeat could turn our wheat sales over to Canada, France or others, our soybean sales over to Brazil, our beef sales over to Australia, our pork sales over to Denmark and on and on.

The warning sounds if NAFTA is rejected are loud and clear. We urge you not to ignore them, and to vote for NAFTA and for a strong, efficient and competitive economy.

Sincerely,

DEAN KLECKNER,
President.

NOVEMBER 15, 1993.

Hon. LARRY PRESSLER,
U.S. Senate,
Washington, DC.

DEAR SENATOR PRESSLER: We write to express our strong support for the North American Free Trade Agreement (NAFTA). As President Clinton has repeatedly stated, the NAFTA will help create new, better paying jobs in the United States.

As former United States Trade Representatives, we know how difficult it is to open markets, reduce tariff and non-tariff barriers, and strengthen intellectual property rules and enforcement abroad, as the NAFTA does. And yet we also know that exports are critical to the health of the American economy. Since 1988, the expansion of U.S. exports has been responsible for nearly 75 percent of our economic growth. Today, over seven million Americans owe their jobs to exports, and export-related jobs pay 17 percent more than the average U.S. wage.

Mexico is a very important market for U.S. entrepreneurs: it is our third-largest export market, and has surpassed Japan as our second-largest market for manufactured exports. Indeed, our exports to Mexico have been booming. Since 1987, U.S. merchandise exports to Mexico have more than tripled to $40.6 billion in 1992. At the same time, our trade balance with Mexico has shifted from a $6 billion deficit to a nearly $6 billion surplus. Today, exports to Mexico support more than 700,000 good U.S. jobs.

With the NAFTA, U.S. exports and jobs will continue to grow. The NAFTA opens up sectors of the Mexican economy—automotive, petrochemicals, and services such as construction, transport, and telecommunications—that are currently closed to U.S. producers. It eliminates tariffs on industrial and agricultural goods, protects U.S. copyrights, trademarks, and patents, and establishes an effective forum for resolving trade-related disputes between the United States, Mexico, and Canada.

Opponents claim that the NAFTA is an invitation to U.S. companies to relocate jobs to Mexico. In fact, the opposite is the case. There is nothing in the agreement that encourages companies to move; indeed, bringing down high Mexican trade barriers gives U.S. firms an unprecedented opportunity to sell to Mexico without having to move to Mexico. Without the trade agreement, many U.S. firms must move to Mexico to jump high trade barriers and gain access to the vibrant Mexican market.

President Salinas has done more to open the Mexican economy than any previous Mexican leader. The NAFTA will lock in many of these changes before his term ends in 1994. A strong Mexico strengthens our hand in fighting drugs, reducing illegal immigration, and protecting the environment. A stronger Mexican economy creates a more stable neighbor.

The NAFTA represents the efforts of decades of work between the United States and our neighbors. We urge you to support this historic agreement.

Sincerely,

Carla A. Hills, Clayton Yeutter, Bill Brock, Reubin O'D. Askew, Robert S. Strauss, Fred Dent, Bill Eberle, William M. Roth.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, earlier today, at the meeting of the Committee on Finance, a number of Senators asked the administration if it would be possible to have a complete set of letters that had been exchanged with Members of the House or Senate regarding the NAFTA agreement. The administration said it would be and that they would supply them.

I have here a letter from Ira Shapiro, the General Counsel who was present on that occasion, saying, in response to the request made by Senator RIEGLE and by me, that we have here enclosed copies of letters from administration officials, prepared in connection with the NAFTA debate, stating administration policy and objectives on a number of trade issues. Mr. Shapiro has also enclosed copies of letters sent by the administration to the Government of Mexico concerning sugar and frozen concentrated orange juice which have previously been transmitted to the Congress, along with the NAFTA and the supplemental agreements.

I ask unanimous consent that these letters be printed in the RECORD at this point so that there be a full statement of any such understanding.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

OFFICE OF THE U.S. TRADE REPRESENTATIVE, EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, November 18, 1993.

Senator DANIEL P. MOYNIHAN,
Chairman, Senate Committee on Finance, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN MOYNIHAN: In response to the request made by Senator Riegle and you during my appearance before the Finance Committee this morning, I am submitting to the Committee a set of letters from Administration officials, prepared in connection with the NAFTA debate, stating Administration policy and objectives on a number of trade issues. I have also enclosed copies of letters sent by the Administration to the Government of Mexico concerning sugar and frozen concentrated orange juice, which have previously been transmitted to Congress along with the NAFTA and the supplemental agreements.

Sincerely,

IRA S. SHAPIRO,
General Counsel.

THE U.S. TRADE REPRESENTATIVE, EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, DC.

Hon. JAIME SERRA PUCHE,
Secretary of Commerce and Industrial Development, Colonia Condesa, Mexico.

DEAR DR. SERRA: I have the honor to confirm the following understanding reached between the delegations of the United States of America and the United Mexican States with respect to the implementation of the Schedule of the United States to Annex 302.2 of the North American Free Trade Agreement ("NAFTA").

1. When the daily closing price for frozen concentrated orange juice for the nearby contract month on the New York Cotton Exchange for each of five consecutive business days is less than the most recent five-year average price for the corresponding month, the United States may apply a rate of customs duty to goods provided for in Harmonized System subheading 2009.11 that are originating goods that qualify to be marked as a good of Mexico in excess of 70 million gallons, single strength equivalent, during calendar years 1994 through 2002, and 90 million gallons, single strength equivalent, during calendar years 2003 through 2007.

2. Any rate of customs duty applied under paragraph 1 shall be no longer greater than the lesser of—

(a) the most-favored-nation (MFN) rate as of July, 1991; or

(b) the prevailing MFN rate.

3. The United States shall cease to apply the rate of customs duty specified in paragraph 2 if the daily closing price for frozen concentrated orange juice for the nearby contract month on the New York Cotton Exchange exceeds for each of five consecutive business days the most recent five-year average price for the corresponding month.

4. The term "frozen concentrated orange juice" means all products provided for in Harmonized System subheading 2009.11.

5. The term "nearby contract month" means the closest month in which contracts for frozen concentrated orange juice are being traded on the New York Cotton Exchange.

6. The term "five-year average price for the corresponding month" means the price determined by reviewing the monthly average of daily closing prices for the five most recent years, eliminating the highest and lowest monthly average prices and calculating the simple average of the remaining three monthly averages.

7. This agreement will enter into force on January 2, 1994 and terminate December 31, 2007 or as provided for in Article 2205 of the North American Free Trade Agreement, whichever is earlier.

I have the honor to propose that this letter, which is authentic in English, and your letter of confirmation in reply, constitute an agreement between our two governments.

Sincerely,

MICHAEL KANTOR.

THE U.S. TRADE REPRESENTATIVE, EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, DC.

Hon. JAMES SIERRA PUCHE,
Secretary of Commerce and Industrial Development, Colonia Condesa, Mexico.

DEAR DR. SERRA: I have the honor to confirm the following understanding reached between the delegation of the United States of America and the United Mexican States with respect to the implementation of Annex 703.2 of the North American Free Trade Agreement ("NAFTA").

Section A of Annex 703.2 of the NAFTA provides in part for market access between the United States of America and the United Mexican States with respect to "trade in sugar and syrup goods." The text generally provides, reciprocally for the United States and Mexico, that market access in sugar and syrup goods depends to a certain extent on whether the two countries have determined whether either has been or is projected to be a net surplus producer. "Net surplus producer" is defined as a Party that has a net production surplus.

"Net production surplus", in turn, is defined as "the quantity by which a Party's domestic production of sugar exceeds its total consumption of sugar during a marketing year, determined in accordance with [Section A of Annex 702.3]."

High fructose corn syrup is readily substitutable for sucrose sugar syrups, particularly in such uses as soft drinks. Such substitution could result in effects not intended by either Party. Accordingly, the United States of America and the United Mexican States agree that the determination of "net production surplus" for purposes of Section A of Annex 703.2 shall include consumption of high fructose corn syrup provided for in Harmonized system subheadings 1702.40, 1702.50 and 1702.60.

In addition, notwithstanding the provisions of paragraph 15(b) and (c) of Section A of Annex 703.2, the ceiling for each of the seventh through 14th marketing years shall be 250,000 metric tons, raw value, and paragraph 16 of Section A of Annex 703.2 shall not apply.

I would also like to take this opportunity to affirm the provisions in paragraph 6 of Section A of Annex 703.2 which provide that each Party may count the in-quota quantity under a NAFTA tariff rate quota toward the satisfaction of in-quota quantity commitments undertaken by the Party as a result of the Uruguay Round of multilateral trade negotiations under the General Agreement on Tariffs and Trade.

I have the honor to propose that this letter, which is authentic in English, and your letter of confirmation in reply, constitute an agreement between our two governments, to enter into effect upon the entry into force of the NAFTA for the United States and Mexico and to remain in effect through the fourteenth marketing year for such time as they remain parties to the NAFTA.

Sincerely,

MICHAEL KANTOR.

THE U.S. TRADE REPRESENTATIVE,
EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, DC.

Hon. JAIME SERRA PUCHE,
Secretary of Commerce and Industrial Development, Mexico City, Mexico.

DEAR JAIME: As you know, several United States industries have expressed an interest in obtaining more rapid elimination of tariffs on goods traded between the United States and Mexico than currently provided for in the NAFTA. I am sympathetic in particular to the U.S. producers of wine and brandy, flat glass, home appliances and bedding components such as springs, iron rails and wooden parts.

I believe the quick initiation of a tariff acceleration exercise, as called for in Article 302.3 of the NAFTA, would provide an excellent demonstration of the advantages of a trade relationship governed by the NAFTA. As a result, I am requesting your agreement to announce that the United States and Mexico will begin the first round of tariff accelerations in January 1994, immediately after the NAFTA is implemented, with intention of completing the exercise as soon as is feasible, but in any case in no more than one hundred and twenty days.

Sincerely,

MICHAEL KANTOR.

THE U.S. TRADE REPRESENTATIVE,
EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, DC, November 15, 1993.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This letter is to confirm the Committee's understanding that the United States Trade Representative and Mexico have agreed to meet immediately after January 1, 1994 to discuss the acceleration of the tariff reductions on a number of U.S. goods, including flat glass, and that these negotiations must be concluded within 120 days. I also confirm the Committee's expectation that the good faith negotiations of USTR and the Mexican government will produce a satisfactory agreement for all affected industries. Finally, I agree to the Committee's request that USTR issue a report to the Congress on the outcome of these tariff acceleration discussions within 30-45 days following the conclusion of the negotiations.

Sincerely,

MICHAEL KANTOR.

Hon. GLENN ENGLISH,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN ENGLISH: I have been briefed on the discussions that you have had recently with representatives of the U.S. Customs Service with regard to enforcement of tariff preference requirements in the NAFTA. The Administration understands your concern that non-Mexican agricultural products, including beef, wheat, and peanut products, may be illegally transshipped through Mexico into the United States under a false certification that they are actually products of Mexico.

In response, I am writing to assure you that Customs will implement enforcement actions to counter transshipment of agricultural commodities, especially peanuts and meats. Specifically, Customs will initiate the following continuing enforcement programs: at least ten visits to agricultural processing sites in Mexico; continuing audits of at least ten major agricultural products exporters; and investigations of suspected violations that may be uncovered through this process.

These site visits, audits, and investigations will be conducted under the new verification authority contained in the NAFTA, as well as under the authority of the current Customs Mutual Assistance Agreement with Mexico, a copy of which has already been provided to you. These actions will begin on the date of NAFTA implementation.

I also concur with your strong feelings that Customs will need a devoted cadre of auditors, import specialists, and agents to fulfill its commitment to country of origin enforcement under NAFTA. As a result, I can assure you that 350 such positions, in an appropriate mix to be determined by Customs, will be so assigned. This number will include at least 100 newly hired employees.

THE WHITE HOUSE,
Washington, November 15, 1993.

Hon. GLENN ENGLISH,
House of Representatives,
Washington, DC.

DEAR GLENN: I want to respond to the concerns you raised regarding imports of peanuts and peanut products from Canada as they relate to the North American Free Trade Agreement (NAFTA).

I know that peanut growers are concerned about imports of peanut butter and peanut paste as well as quality standards for peanut products. I am, therefore, instructing the Secretary of Agriculture to begin discussions with the Canadian government to seek to remedy the increase in imports of peanut butter and peanut paste and agree on appropriate quality standards for peanut products. I am also requesting the United States International Trade Commission (USITC) to commence, in 60 days, investigation under Section 22 of the Agricultural Adjustment Act (7 U.S.C. 624) to make findings and recommendations as to whether imports are being or are practically certain to be imported into the United States under such conditions, and in such quantities as to render or tend to render ineffective, or materially interfere with, the peanut program of the Department of Agriculture. I am also requesting the USITC to give precedence to this investigation. Such investigation is to begin unless I notify the USITC that, as a result of our consultations with Canada, and subsequent Canadian actions, an investigation is unnecessary.

Regarding the issue of quality standards for imported raw peanuts, Secretary Espy informs me that under the Food, Agriculture, Conservation and Trade Act of 1990—as affirmed in the proposed NAFTA implementing legislation—all peanuts, whether shelled or in-shell, imported into the United States will be inspected and handled as provided in, and fully comply with, Marketing Agreement No. 146.

I trust these actions and assurances will enable you to support the NAFTA implementing legislation.

Sincerely,

BILL CLINTON.

THE WHITE HOUSE,
Washington, November 15, 1993.

Hon. GLENN ENGLISH,
House of Representatives,
Washington, DC.

DEAR GLENN: I want to respond to the concerns you raised regarding the trade of wheat and the North American Free Trade Agreement (NAFTA).

Our mutual objective is to create a free and fair environment for the trade of wheat in North America. I am committed to making the NAFTA a reflection of the realities of the North American wheat market and ensuring that the benefits of the Agreement will accrue to U.S. wheat producers as intended. I know American wheat farmers would welcome a North American market free of barriers and distortions.

I am, therefore, instructing the Secretary of Agriculture to begin discussions with the Canadian government to seek to remedy the negative effects of their subsidy practices, including transportation subsidies and Canadian Wheat Board pricing practices (such as, the pricing of milling quality wheat). I am also requesting the United States International Trade Commission (USITC) to commence, in 60 days, an investigation under Section 22 of the Agricultural Adjustment Act (7 U.S.C. 624) to make findings and recommendations as to whether imports are being or are practically certain to be imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the wheat program of the Department of Agriculture. Such investigation is to begin unless I notify the USITC that, as a result of our consultations with Canada, and subsequent Canadian actions, an investigation is unnecessary.

With respect to end use certificates, NAFTA implementing legislation mandates the Secretary of Agriculture to require such certificates for wheat and barley imports from a country that itself requires end use certificates for those grains. The purpose of this requirement is to ensure that foreign agricultural commodities do not benefit from U.S. export programs. I am instructing the Secretary of Agriculture to act quickly to implement this requirement, and to make certain that it is effectively administered.

We are also working with the Government of Mexico to ensure wheat trade in North America is not distorted by unfair subsidy practices, and trade remedy laws will be effectively utilized to deal with this problem. In that context, it is my intention that the working group we are requesting be created under the NAFTA, to deal with issues relating to North American wheat trade, meet at least quarterly to review pricing and other policies that affect wheat trade in North America. We will also request that the Working Group on Agricultural Subsidies give particular attention to the elimination of all export subsidies affecting wheat trade between the parties.

I trust that these commitments will permit you to support enactment of NAFTA implementing legislation.

Sincerely,

BILL CLINTON.

THE U.S. TRADE REPRESENTATIVE,
EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, DC, November 16, 1993.

Hon. HENRY A. WAXMAN,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN WAXMAN: The President has asked me to respond to your letter to him regarding your decision to oppose the North American Free Trade Agreement (NAFTA). I was surprised by your decision, particularly because the reasons you give are primarily related to concerns about the environment.

I believe your opposition to the NAFTA package submitted by the President would be a grievous mistake. Approval of the NAFTA and the accompanying package of environmental and labor measures will advance the cause of environmental protection in the United States and the rest of North America. By contrast, rejecting it would be a setback for our country, our economy and our efforts to enhance protection of human health and the environment throughout our continent.

I have enclosed more detailed comments on the particular points you raise in your letter, because it seems that your criticisms are based on misconceptions of the NAFTA and the supplemental agreements, and of their effect on our existing relationship with Mexico. Certain points, however, warrant particular emphasis.

First, the NAFTA and the side agreements mark a major step forward in showing that the economic growth and development we seek for the United States and our neighbors by opening markets and expanding trade can be accompanied by enhanced environmental protection and cooperation. The NAFTA itself is the most environmentally sensitive trade agreement ever negotiated, including protection not only for our own environmental laws, but also for major international environmental agreements, as well as commitments to greater transparency and to refrain from relaxing environmental laws to attract investment. We have gone further in the environmental side agreement and in the bilateral agreement on border funding. Those agreements will encourage improved environmental laws and enforcement of those laws, lay a strong base for continued cooperation on the many transborder issues, and bring needed financial resources to improving the health and environment of the border. As the Natural Resources Defense Council said in announcing its support, "The Clinton Administration has successfully linked strong environmental measures, for the first time, to international trade and economic integration."

Second, rejecting NAFTA would not immunize our laws protecting health and the environment from trade challenge, as your letter seems to suppose, but rather will leave all such measures subject to challenge under the rules and processes of the GATT. The NAFTA's rules and dispute settlement processes are more environmentally sensitive than those of the GATT, owing largely to the significant role of environmental groups in advising U.S. negotiators of the NAFTA. At the suggestion of environmentalists, the United States insisted on the right to force any GATT challenge by Mexico or Canada about U.S. standards to be heard instead in the NAFTA.

Finally, it is a tempting but dangerous illusion to think that rejection of this NAFTA package will soon be followed by a replacement agreement which somehow keeps the virtues of the present accord while adding additional advantages in the different ways various critics see NAFTA as falling short of their respective ideals. The NAFTA package is the product of more than three years of tough negotiations under two U.S. Presidents. It is easy to forget that Mexico, which has its own history of mistrust of the United States, has committed to moving an enormous distance and in unprecedented ways in these negotiations.

The sometimes acrimonious debate in the United States, in which criticism has too often had more vehemence than logic or consistency, could hardly serve to encourage Mexico to quickly re-engage in negotiations with the United States. Even if there were such a disposition (and President Salinas has said there is not), we face a crowded domestic and international agenda, and Mexico will quickly be embroiled in the campaign to choose President Salinas' successor. In short there is neither time nor disposition to remake the NAFTA package, let alone to remake it in a way that keeps its virtues for the United States while satisfying all of the diverse and even conflicting critics.

This NAFTA package represents a once in a generation opportunity. It would be a tragic loss to reject this excellent deal because it falls short of the ideal, when the alternative will be to leave us with an unhappy or even deteriorating status quo.

Environmentalists from six major environmental groups, representing a majority of environmentalists in this country, understand that. As Kathryn Fuller of the World Wildlife Fund said on September 15 when endorsing NAFTA, "Our support of the NAFTA and the Agreement on Environmental Cooperation boils down to this: ultimately, the environment of North America will be better with the passage of NAFTA than without it."

I know and respect you as an individual deeply committed to the environment. For that very reason, I hope you will consider carefully the points raised in this letter and its attachment before casting your vote on Wednesday. I am convinced that a yes vote is the right vote for our country's future, including sustainable economic growth, enhanced environmental protection, and more and better jobs for our workers.

Sincerely,

MICHAEL KANTOR.

POINT-BY-POINT RESPONSE

Assertion: NAFTA opens the door to challenges to our health and safety standards.

Fact: This assertions misreads the NAFTA and its effect on the status quo in two ways: First, it appears to confuse the ability to challenge a U.S. law with the ability to win such a challenge. Second, NAFTA does not "open the door" to trade challenge. Those laws could be challenged now under the rules of GATT. Under NAFTA those U.S. laws are less likely to be challenged and a challenge is even less likely to succeed.

U.S. laws, such as the Clean Air Act, set requirements that are legitimate protections of the environment and food safety. They are not disguised restrictions on trade nor do they arbitrarily or unjustifiably discriminate against another country's goods and products. Because our laws are based on science and legitimate efforts to protect health and safety, they would not be successfully challenged under NAFTA.

The Consumers Union, which publishes Consumer Reports and has taken no position on the NAFTA, recently wrote to Reps. Matsui and Wyden saying "We have examined NAFTA's likely impact on food safety, and believe that the agreement offers adequate protection in this area."

NAFTA is intended to prevent a country from erecting protectionist barriers under the guise of health and safety standards. The fact is, some of our trading partners resort to this tactic. For example, one country prohibits imports of U.S. walnuts, purportedly because of coddling moth. However, there is no scientific basis for this barrier to U.S. exports since our shelled walnuts are not a host for coddling moth. Similarly, another of our trading partners has banned the importation of some of our wheat, claiming it contained prohibited pesticide residues, even though thorough evaluations by FDA scientists and six other scientific institutions in three countries unequivocally concluded it did not.

Many of the provisions cited as problematic are obligations the United States has lived under for years, both under the General Agreement on Tariffs and Trade (GATT) (in force since 1948) and the Standards Code (in force since 1980).

So, it is incorrect to say that "Mexico could for the first time challenge a U.S. law." Mexico or Canada can challenge a U.S. health standard right now under the GATT. Again, that does not mean they would win.

Assertion: NAFTA expressly requires the entire dispute settlement process to be shrouded in secrecy.

Fact: The NAFTA's dispute settlement procedures are not like a U.S. court case. The NAFTA dispute settlement mechanism is designed to help the NAFTA parties resolve their differences amicably, first through consultations and negotiations. Although panel hearings, like those of the GATT and our free trade agreement with Canada, are confidential, the Administration will follow its normal procedures of consultations with relevant Congressional committees and interested private parties during the course of such discussions, soliciting their views and keeping them fully abreast of developments.

If consultations fail, the NAFTA provides for non-binding arbitration. The panel of arbitrators is made up of private citizens, not judges, who will have expertise in international trade matters particularly germane to the case at hand. These panels have no authority to make "rulings," bind the parties, or order changes in the domestic law. The most they can do is recommend. Once those recommendations are tabled, it is up to the parties to decide—through further negotiations and consultations—what is to be done.

Although Canada and Mexico will have the right to maintain the secrecy of their own briefs, the United States has taken a commitment to make copies of its own submissions to international trade dispute settlement panels available to the public. This practice will continue under the NAFTA. Furthermore, the Administration has committed in its Statement of Administration Action to the fullest possible participation of state government representatives in all aspects of dispute settlement proceedings affecting their interests, including state government participation in panel hearings themselves.

In preparing briefs, the United States will continue its practice under the GATT and the U.S.-Canada Free Trade Agreement to give public notice of the dispute, receive comments on the dispute from interested parties, and solicit advice and input from relevant private groups in preparing U.S. briefs and oral arguments to dispute settlement panels. States or local governments whose laws are challenged will be part of the U.S. team defending the measures.

The NAFTA explicitly calls for the publication of panel reports (Article 2017) and explicitly provides for dissenting opinions (Article 2017) (1) & (2)).

Finally, as EPA Administrator Browner testified last week, the Administration is fully committed to transparent dispute settlement procedures under the environmental supplemental agreement.

Assertion: Most decision-makers would have little understanding of health or environmental laws.

Fact: NAFTA dispute settlement panelists cannot be characterized as "decision-makers". As noted above, panelists are private citizens whose role is to make non-binding findings and recommendations to the participating governments. Panelists have no power to "decide" anything for the parties or to compel any behavior.

Furthermore, the NAFTA does *not* require or favor the selection of panelists with trade as opposed to environmental or health expertise. In fact, the NAFTA explicitly states that NAFTA panelists may have expertise in ". . . law, international trade, or other matters covered by the Agreement . . ." Article 2009. Those matters obviously include health and environmental laws.

The administration has specifically committed under section 106(c) of the NAFTA implementing bill and in the Statement of Administrative Action to encourage the appointment of environmental experts in any panel convened to consider a U.S. environmental law. In addition, the NAFTA creates a unique mechanism, the "scientific review board," to assist panels in any case in which they need help in addressing environmental or other scientific issues.

The fact is that NAFTA, the implementing bill, and the environmental supplemental agreement contain numerous proenvironmental safeguards and procedures. The NAFTA package represents a true advance for environmental protection in an international trade context.

As the National Wildlife Federation has said, "NAFTA and the environmental side agreements clearly represent our best hope for coming to grips with trade and environmental issues in North America."

Assertion: The NAFTA enshrines GATT panel decisions that are unfavorable to the environment.

Fact: This assertion is based on the flawed assumption that GATT panels make "decisions" that are "enforced" and further assumes that the United States has agreed, or will agree, with the panel report on "tuna-dolphin."

It is disconcerting to see the flawed reasoning of the panel report in the tuna-dolphin dispute with Mexico portrayed as fact. That report has *not* been adopted by the GATT, much less put into effect in the United States. Indeed, this whole issue is currently being re-visited by another panel where the United States has refuted in detail the previous panel's reasoning. To imply that adverse GATT panel findings on this subject have somehow been carried into the NAFTA appears to pre-judge the outcome of the second proceeding.

If there are problems with the GATT panel reports, they must be fixed in the GATT. The NAFTA, which only applies among three countries, cannot fix the GATT rules or reports, which apply to over 100 countries. Our ability to accomplish reform of the GATT rules, either during the coming weeks in the Uruguay Round or in more substantive reforms in the coming years, will be seriously undermined if the Congress turns its back on the NAFTA. Our trading partners are watching closely; they will work with us if they know that our country is seriously committed to *both* trade liberalization and environmental protection.

To charge that the NAFTA somehow places at risk U.S. laws against the use of destructive driftnets is not accurate. Neither Canada nor Mexico use driftnets in their fisheries and thus would have no incentive to challenge U.S. laws against their use. Furthermore, Mexico has significantly improved its efforts to protect dolphins so that its dolphin protection is now roughly equivalent to, or in some cases even better than, that for the U.S. fleet.

Assertion: The NAFTA will not allow the United States to use trade sanctions under international environmental agreements.

Fact: The NAFTA is the first international trade agreement to protect precisely that right.

The NAFTA specifically exempts from trade the use of trade measures under the Montreal Protocol and other major international environmental accords. Making these agreements take precedence over NAFTA's trade rules—and over the GATT—is a major, precedent setting step forward in the effort to link environmental protection and trade. Furthermore, the NAFTA specifically provides for including additional agreements, including future agreements, in this list. In fact, we recently reached agreement with Mexico and Canada to add our treaties on migratory birds to the list.

The United States is committed to pursuing vigorous international environmental agreements. As later-in-time agreements, future Mexico agreements that include NAFTA countries would prevail over the NAFTA in the event of any conflict. Moreover, as noted in the Statement of Administrative Action submitted to the Congress, we do not foresee any conflict between the requirements of the NAFTA and the trade obligations imposed by the environmental agreements listed in Article 104 or by other agreements not currently listed.

Assertion: Even if the NAFTA has some good environmental provisions, future Administrations might not defend U.S. environmental laws as vigorously as this one.

Fact: This is an argument for abandoning all international trade agreements, since this one is by far the most pro-environment in history.

The NAFTA contains important, groundbreaking, specific provisions to protect the environment. The NAFTA is not a choice between promoting trade and threatening the integrity of U.S. environmental laws; it is just the opposite. The NAFTA itself begins with a commitment to promoting trade "in a manner consistent with environmental protection and conservation" and with the commitment of the NAFTA countries to promoting sustainable development. And the new institutions created under the supplemental agreements will help solidify U.S. commitments to environmentally sensitive trading regimes.

No one can guarantee what a future Administration, or a future Congress, will do. But this is no reason for abandoning the progress we have made in the NAFTA and leaving us solely with trade agreements that do not adequately take the environment into account. Taken to its logical conclusion, such an argument would suggest that we should abandon the world trading system that has contributed so greatly to this country's prosperity over the past 45 years.

Assertion: The NAFTA does not guarantee an increase in Mexican minimum wages.

Fact: While it is correct that the NAFTA does not guarantee that average Mexican wages will rise with productivity, the labor supplemental agreement fully addresses such concerns. The very day in mid-August that we initialled the supplemental agreements, President Salinas announced that increases in productivity will result in proportional increases in the Mexican minimum wage. This measure was subsequently adopted by Mexico's Wage and Price Board and is now binding law in Mexico. Moreover, increases in the minimum wage, linked to productivity, will echo throughout the Mexican economy because, unlike in the United States, many Mexican labor contracts and wages are expressed in terms of multiples of the minimum wage.

The supplemental agreement on labor cooperation obligates countries to enforce their own laws, including laws and regulations related to minimum wage. In the event that Mexico persistently failed to abide by this minimum wage policy, the United States would be able to pursue dispute settlement procedures—including the possibility of trade sanctions—under that agreement. In short, the Mexican commitment is a genuine commitment, and the U.S. has recourse to dispute settlement should Mexico fail to take it seriously.

The vast economic development generated by trade since 1945 increased wage rates wherever trade has been the greatest. It is well to remember that Japan and Germany were denounced only a few years ago as unfairly low-wage producers. No one makes that argument any more and yet those two countries continue to account for a very substantial amount of our trade deficit. Mexico, by contrast, is a net importer of U.S. products.

Assertion: The Administration did not bind the supplemental environment agreement to the NAFTA.

Fact: This statement is simply wrong.

We note at the outset that there is more than a little incongruity between an assertion that the supplemental agreement is inadequate and a complaint that the Administration did not do enough to make sure that it remains in force.

Section 101(b)(2) of the implementing bill provides that the NAFTA will not enter into force for the United States with respect to either Canada or Mexico unless that country has provided for the entry into force of the supplemental agreements on the environment and labor.

Furthermore, in the Statement of Administrative Action submitted to the Congress, the Administration specifically committed that if Canada or Mexico withdraws from a supplemental agreement on a non-consensual basis the United States will cease to apply the NAFTA to that country. With respect to the United States, if a further President were to terminate a supplemental agreement, Congress has more than sufficient authority to ensure that the United States could no longer apply the NAFTA as well. If NAFTA is rejected, the precedent-shattering environmental supplemental agreement will never even have a chance to prove its value.

THE U.S. TRADE REPRESENTATIVE,
EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, DC, November 9, 1993.
Hon. JOHN CONYERS,
Chairman, Committee on Government Operations, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I wanted to confirm that the procurement chapter of the North American Free Trade Agreement specifically excludes from coverage set-asides on behalf of small and minority businesses. As noted in the Statement of Administrative Action, this exclusion exempts from the chapter's rules U.S. Government procurement programs such as those which give preference to small businesses, business concerns and private and voluntary organizations owned or controlled by women or socially and economically disadvantaged individuals, historically black colleges and universities, and colleges and universities with substantial Hispanic or Native American enrollment.

These programs currently include, but are not limited to, those set forth in the following statutes: the Small Business Act, as amended (P.L. 85–536); section 1207 of the National Defense Authorization Act of 1987, as amended by subtitle A of the National Defense Authorization Act for Fiscal Year 1993 (P.L. 102–484); section 402 of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (P.L. 99–399); the Foreign Operations, Export Financing and Related Programs Appropriations Act for Fiscal Year 1989 (P.L. 100–461); appropriations for the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies for Fiscal Year 1991 (P.L. 101–507); appropriations for energy and water development for Fiscal Year 1993 (P.L. 102–377); sections 126, 136 and 301 of the Foreign Relations Authorization Act for fiscal year 1990 and 1991 (P.L. 101–246); sections 505(d) and 511(h) of the Airway and Airport Safety and Capacity Expansion Act of 1982, as amended (P.L. 97–248); section 106 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (P.L. 100–17), section 1003(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (P.L. 102–240), Title X of the Clean Air Act Amendments of 1990 (P.L. 101–549), section 3021 of the Energy Policy Act of 1992 (P.L. 102–486) and Title IV of the Resolution Trust Corporation Refinancing, Restructuring and Improvement Act of 1991 (P.L. 102–233).

Sincerely,

MICHAEL KANTOR.

THE WHITE HOUSE,
Washington, November 16, 1993.

DEAR JOHN: Thank you for your letter of November 10 concerning the Uruguay Round, NAFTA and questions concerning Customs Service enforcement of trade agreements affecting textiles and apparel. While I appreciate your concerns, I believe NAFTA will be a strong, positive opportunity for the textile and apparel industries and workers of the United States.

Let me respond to each of the points you have raised. First, regarding the enforcement of NAFTA, we believe the Customs Service procedures set out in the agreement are one of its strongest features, and a major improvement over the provisions of the U.S.-Canada Free Trade Agreement. I can assure you that I am committed to effective enforcement of NAFTA, and I am happy to work with your specific suggestions in order to ensure that you and other members are satisfied that the agreement will be properly implemented.

In response to your request regarding Customs Service funding, I can assure you that we will dedicate an additional $15 million supplement to the enforcement of textile and apparel regulations and rules, as well as related competitiveness trade matters. A substantial majority of these funds will be used for an increased number of audits, criminal investigations, identification of high risk shipments and "Jump Team" activities. Out of these added funds, Customs will provide for an additional 50 import specialists, agents, and inspectors to work exclusively, to the extent practical under the circumstances, on textile/apparel enforcement other than NAFTA. I will ensure that the Customs' commercial program associated with both the enforcement of NAFTA and other textile and apparel enforcement will be held harmless from our government-wide effort to reduce employment levels.

With respect to NAFTA enforcement efforts, I can pledge to you that the Customs Service will hire 136 new employees, fifty of whom will be dedicated to enforcing textile and apparel rules and regulations. Many of these new employees will be stationed along the Southwest border to handle the increased activity produced by NAFTA. Others will be placed where they can best be used to enhance our trade enforcement efforts.

Assuming NAFTA is passed, Secretary Bentsen assures me that we will have at least 50 new auditors, 41 import specialists, 25 additional agents, 10 new analysts and 10 new inspectors. These personnel are being recruited to improve our ability to ensure that our Customs rules, including particularly the rules of origin for textiles and apparel, are enforced.

The other suggestions you have made are within the administrative authority of the Customs Service, and I am pleased to consider implementation of your suggestions, with some minor modifications, as a way to ensure the integrity of the NAFTA agreement. The Customs Service will commit to issuing by April 1, 1994 proposed regulations on your suggestions for extension of the redelivery period, changes to the mitigation guidelines and issuance of certificates of origin/textile declarations on non-NAFTA qualifying shipments. Naturally, these proposed regulations would have to be subject to the normal administrative and legal procedures for issuing proposed regulations. But you should know that I am less certain of the merits of the suggestion for submission of these certificates "well in advance" of the goods arrival. This proposal must be reviewed with an awareness of possible burdens on the importing community.

Also Customs would be prepared to establish through a directive the necessary procedures for all U.S. Customs Districts, as well as foreign offices, to provide a monthly report to the Commissioner on all textile transhipment cases under investigation; and all results from Jump Team reports; seizures and shipments denied entry including the quantity and value of such shipments; and any indictments or fines and penalties with all appropriate details concerning the violation. As you are aware, U.S. Customs and the Committee for the Implementation of Textile Agreements (CITA) have recently signed a Memorandum of Understanding (MOU) detailing the types of information that will be provided in transhipment cases. U.S. Customs is committed to providing as much information as possible through this new procedure.

As to the Uruguay Round, I appreciate the difficulties faced by the textile and apparel sector in that negotiation. I am quite aware of the difficulty in asking the textile and apparel industries to agree to the phased elimination of the quote system and substantial tariff cuts simultaneously.

First, you mentioned the transition period for the phase out of the multifiber Arrangement and the implications for many nations, given the dominance of countries such as China in the marketplace. Let me note that we have pursued a very aggressive posture toward China in our bilateral textile discussions with them, due to the difficulties we are having with transhipment and overshipments from China. In addition, China would not be afforded the increased growth in its quotas provided for in the draft Uruguay Round agreement unless and until it becomes a full member of the General Agreement on Tariffs and Trade and agrees to open its markets to U.S. textiles and apparel.

With respect to the duration of the phase-out period, I can pledge to you that we will do all we can to achieve the longest possible phase-out period. I will ask Ambassador Kantor to explore the prospect of a 15-year phase out with those nations that you believe favor it, such as the ASEAN and Caribbean nations and Ireland: If we find sufficient support among these nations for 15-year phase-out period, we will put on the table, with their support, a proposal for a 15-year phase out, and will seek to negotiate acceptance of such a proposal. Failing that, we will work for acceptance of the longest-possible phase-out period that we believe can be achieved.

Second, we intend to work closely with the affected industry groups to ensure that the impact of the Uruguay Round is eased to the maximum extent possible, including specifically addressing the question of gradual and even staging of tariff reductions and quota integration. With respect to tariffs, this Administration has made it clear that the tariff cuts for textiles and apparel must be phased in over a longer period than many of the other tariff cuts in this Round and we have insisted that the tariff cuts should be staged over a period at least as long as the phase out of the MFA. As I mentioned, I do recognize and appreciate that the U.S. textile and apparel sector has been asked to make substantial concessions in the Uruguay round, and I am sympathetic to this request.

With respect to the integration of textiles and apparel into the GATT, we do not intend to integrate sensitive products until the end of the phase-out period. We will examine very carefully the sensitivity of products in our market, and we will work with the industry and interested members of Congress to determine which products should be left for integration at the end of the phase-out period.

Third, I am informed that the U.S. and EC industries have tried to put aside their differences on the subject of wool tariffs, and to work to find common ground and I do commend the industries for their leadership. While the EC Commission has not accepted at this point that the industry's discussions on the tariff issue merits their agreement, I would note that these discussions are still ongoing. If the industry's efforts are ultimately successful, we will work with the U.S. interests to ease to the extent possible the impact of any agreed-upon tariff cuts and would not anticipate going substantially beyond our current proposals on sensitive products.

Finally, we fully agree that effective market access commitments must be made by countries participating in the Round, both to reciprocate for our agreement to the phased elimination of the Multifiber Arrangement and to fulfill the commitment entered into at the outset of the Round that all participants would bring all measures under the discipline of the GATT.

THE U.S. TRADE REPRESENTATIVE,
EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, DC, November 15, 1993.

Hon. TOM LEWIS,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN LEWIS: This is in response to the concerns you expressed to me about establishing a mechanism for protecting Florida tomato growers against import surges from Mexico.

I want to assure you that H.R. 3450, the proposed NAFTA implementing legislation, contains an effective price- and volume-based snapback provision to deal with increased imports of fresh tomatoes and peppers. Specifically, Section 316 requires the U.S. International Trade Commission to monitor imports of tomatoes and peppers for 10 years. The purpose of this provision is to provide for an expedited determination concerning import relief for these commodities. Such monitoring would include both the price and volume of imports of these products. If these imports surge, current law authorizes the President to provide emergency import relief for perishable agricultural products, including these monitored products, within 28 days after an industry files a petition. This mechanism would allow us to provide for a snapback of tariffs reduced under the NAFTA. The relief provided may remain in effect for 3 years.

I hope that this provision will enable you to support approval of the NAFTA implementing legislation.

Sincerely,

MICHAEL KANTOR.

THE U.S. TRADE REPRESENTATIVE,
EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, DC.

Mr. BOBBY F. MCKOWN,
Executive Vice President, Florida Citrus Mutual, Lakeland, FL.

DEAR MR. MCKOWN: I am very much aware of your concern that concessions on citrus fruit and juices in the Uruguay Round, when combined with tariff phase-outs to which we are committed under the North American Free Trade Agreement, could impair Florida's ability to remain competitive in citrus production. Therefore, I want to assure you that the Administration will not agree to tariff cuts in the Uruguay Round that are greater than 15 percent ad valorem on the following sensitive items:

08051000—Oranges, fresh and dried; 08052000—Mandarins, tangerines, satsumas: clementines, fresh or dried; 08054040—Grapefruit, fresh or dried entered from 8/1–9/30; 08054060—Grapefruit, fresh or dried, entered in October; 08054080—Grapefruit, fresh or dried, at any other time; 20091100—Orange juice, frozen, not containing added spirit; 20091920—Orange juice, not concentrated or frozen; 20091940—Orange juice, not frozen, without added spirit, other; 20092020—Grapefruit juice, not concentrated, no added spirit; 20092040—Grapefruit juice, not containing added spirit, other.

In addition, I will recommend to the President that he not use his authority under 19 U.S.C. 2463 to designate these items as "eligible articles" for purposes of the Generalized System of Preferences program.

I trust that these commitments will permit you to support enactment of NAFTA implementing legislation.

Sincerely,

MICHAEL KANTOR.

THE UNITED STATES TRADE REPRESENTATIVE, EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, DC.

Mr. MICHAEL J. STUART,
Executive Vice President and General Manager, Florida Fruit and Vegetable Association, Orlando, FL.

DEAR MR. STUART: I want to respond to the concerns raised by the Florida Fruit and Vegetable Association regarding the North American Free Trade Agreement (NAFTA) and other developments affecting your industry.

Let me first respond to your concerns about the possible trade impact of NAFTA and other agreements. With regard to any potential harm from future increases in imports, I want to assure you the Administration will vigorously utilize the early warning import surge mechanism negotiated under NAFTA with respect to tomatoes and sweet peppers. I will also expedite any request for relief under the fast-track provisional relief procedures of Section 202(d) of the Trade Act of 1974. Since your products will, as a result of the NAFTA implementing bill, already be under the U.S. International Trade Commission (ITC) monitoring this will ensure a quick resolution of any such request. If, after investigation, the ITC determines that imports of tomatoes or sweet peppers are a substantial cause of serious injury, or threat thereof, to the domestic industry, I will recommend to the President that he proclaim provisional relief for the industry.

I am also very much aware of your concern that concessions on tomatoes and sweet peppers in the Uruguay Round, when combined with tariff phase-outs to which we are committed under the (NAFTA), could impair Florida's ability to remain competitive in the production of these crops. Therefore, I want to assure you that the Administration will not agree to tariff cuts in the Uruguay Round that are greater than 15 percent ad valorem on the following sensitive items:

0702.00.2000—Tomatoes, fresh/chilled, entered 3/1–7/14, inclusive, or 9/1–11/14, inclusive, in any year; 0702.00.4000—Tomatoes, fresh/chilled, entered 7/15–8/31, inclusive, in any year; 0702.00.6000—Tomatoes, fresh/chilled, entered 11/15, in any year, to the last day of the following February, inclusive; 0709.60.0040—Fruits of the genus Capsicum (peppers), other than chili, fresh/chilled; 0705.11.2000—Head lettuce, fresh/chilled, 11/1–5/30, inclusive; 0705.19.4000—Lettuce, not head lettuce, 11/1–5/30, inclusive; 0707.00.2000—Cucumbers, fresh/chilled, entered 12/1-last day of February, inclusive; 0707.00.4000—Cucumbers, fresh/chilled, entered 3/1–4/30, inclusive; 0707.00.5000—Cucumbers, fresh/chilled, entered 5/1–6/30, inclusive, or 9/1–11/30, inclusive; 0709.40.2000—Celery, fresh/chilled, reduced in size; 0709.40.6000—Celery, fresh/chilled, not reduced in size 8/1–4/14, inclusive; 0709.90.4070—Sweet corn, fresh/chilled.

In addition, I will recommend to the President that he not use his authority under 19 U.S.C. 2463 to designate these items as "eligible articles" for purposes of the Generalized System of Preferences program.

I know you are concerned about the expansion of Caribbean Basin Initiative (CBI) benefits in the region. As you may know, the countries currently eligible for CBI benefits are listed in the statute. I want to assure you that with regard to possible new participants in CBI because of developments in the hemisphere, we will not grant benefits on fruits and vegetables to any new entrant that would adversely affect your industry.

You have expressed an interest in participating in the Market Promotion Program (MPP) for enhancing agricultural exports by promoting U.S. agricultural goods in foreign markets. Since this program is administered by the U.S. Department of Agriculture, I have discussed your interest with Secretary Espy. The Secretary informs me that in order to be eligible for this program, your organization must make formal application and demonstrate a readiness to match promotion funds which would be provided by USDA. If your organization meets all the requirements, your application will be seriously considered by the Secretary.

I understand that you are concerned that there be adequate inspection by the Food and Drug Administration (FDA) of imported fruits and vegetables from Mexico. I have been advised by the FDA that they constantly monitor the level of imports of FDA-regulated products. The FDA has committed that if it sees a significant increase in imports from Mexico, it will adjust the import program devoted to inspection of these imports accordingly.

Insofar as Florida's representation on the Agricultural Policy Advisory Committee (APAC) and the Agricultural Technical Advisory Committee for Fruits and Vegetables (ATAC) is concerned, I would welcome the continued service of your association's representatives on these Committees. I will recommend to the President that such representatives be appointed.

I also want to respond to concerns you have raised with respect to several non-trade issues. First, regarding methyl bromide replacement, I have spoken with Secretary Espy and I want to assure you that the Administration is committed to full funding of research for alternative soil and post harvest substances that can be used for both soil and post-harvest fumigation. The Administration recognizes the potential harm to your industry and others unless a satisfactory solution is found, and the President has asked me to assure you that this effort will be given a very high priority. Attached is a breakdown of our current spending on such research in Florida, and Secretary Espy and I want to assure you that this research will be continued, and if necessary expanded in future years.

Under the proposed EPA regulations now being finalized for methyl bromide, there will not be any restriction on the manufacture or use until the year 2000, by which time we hope to have satisfactory alternatives. The President wants to assure you that if no satisfactory alternative is found, the Administration will consider appropriate action to guarantee that our agricultural producers are not left without a commercially viable means of achieving the necessary soil and post-harvest fumigation. Given the critical nature of this substance to our trade interests, you can be certain of my personal involvement in this matter to ensure that your commercial interests are not affected by any future restrictions.

With respect to the re-registration of minor use pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), the Administration has already proposed legislation to accommodate your concerns. We are willing to work actively with you to secure the earliest possible enactment of this legislation.

I am pleased to report that Secretary Espy is prepared to continue and expand purchases of fresh vegetables for the school lunch program, including a doubling of the purchases for fresh tomatoes and new purchases of sweet corn. In order to accomplish this, he will work with your industry to put in place the necessary changes in the current system to accommodate fresh vegetables. The Secretary is also committed to the completion of the U.S. Horticultural Research Station in Fort Pierce, Florida. The new facility is in the design stage and is expected to be completed in FY 1998 at a cost of $33 million. We will complete the construction of this facility and ensure its full funding. Once completed, this facility will expand considerably the number of research scientists working on vegetable research.

I trust that these commitments will permit you to support enactment of NAFTA implementing legislation.

Sincerely,

MICHAEL KANTOR.

RESEARCH ON METHYL BROMIDE ALTERNATIVES IN FLORIDA AGRICULTURAL RESEARCH SERVICE U.S. DEPARTMENT OF AGRICULTURE

Methyl bromide (MB) is a halogenated hydrocarbon used as a soil fumigant to control insects, weeds, and soil pathogens affecting production of vegetables and other crops and as a post-harvest fumigant for pest disinfestation of fruits for export and import. EPA has banned the use of MB by the year 2000 because of its ozone depletion potential.

Loss of MB as a soil and post-harvest commodity fumigant will adversely affect crop production in the United States and export/import trade between the U.S. and its trading partners. The development of alternative technologies to the use of MB is one of USDA's highest research priorities.

The Agricultural Research Service (ARS) of USDA carries out a $7.4 million research program (FY 1993) on MB alternatives at a nationwide network of research laboratories in fifteen States. An additional $1.0 million is planned for FY 1994, for a total of $8.4 million. ARS research programs in Florida on MB alternatives are:

Fiscal year 1993 base program:	
Orlando, Florida:	
Soil-borne diseases of citrus: detection and control	$204,000
Post-harvest quarantine treatment of fruits and vegetables for pest disinfestation	361,000
Miami, Florida:	
Post-harvest quarantine treatment of fruits and vegetables for pest disinfestation	1,232,000
Fiscal year 1993 total	1,797,000
Fiscal year 1994 program increase (additional to fiscal year 1993 recurring base program):	
Orlando, Florida:	
Control of soil-borne pests of tomatoes and peppers through development of resistant hosts, biological control agencies, and cultural practices	250,000
Fiscal year 1994 total	2,047,000

E.B. KNIPLING,
USDA/ARS.

NOVEMBER 8, 1993.

THE U.S. TRADE REPRESENTATIVE,
EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, DC, October 7, 1993.

Hon. BILL ARCHER,
Ranking Republican, Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR REPRESENTATIVE ARCHER: Thank you for your letter of September 23, 1993. As you know, I greatly appreciate your strong and longstanding support for the NAFTA. I also appreciate this opportunity to address the important issues that your letter addresses, particularly to dispel unjustifiable concerns that have been expressed about the effect of the NAFTA supplemental agreements on U.S. and state sovereignty.

In negotiating the supplemental agreements, the Administration sought to strike a delicate balance. On the one hand, we wanted to put in place mechanisms to help ensure that our NAFTA partners, particularly Mexico, would effectively enforce their own environmental and labor laws. At the same time, we were constantly mindful that the United States would have to live with anything that we asked Canada and Mexico to accept. Consequently, we had no intention of fashioning supplemental agreements that intruded on our sovereignty.

The supplemental agreements struck that delicate balance. They provide needed additional assurance that Mexico will enforce its environment and labor laws, by committing Mexico to strengthen its administrative and judicial procedures and to provide Mexican citizens with access to legal processes to help enforce Mexican laws. They also create a mechanism through which one NAFTA country can challenge a pattern of nonenforcement of the laws by another country. However, U.S. sovereignty is fully protected in these agreements. We insisted that no supranational body could usurp the right of each country to set its own laws, nor could such a body enforce our laws in place of federal, state, or local authorities. We retain all our legislative, judicial, and administrative prerogatives for creating and enforcing our own laws.

The supplemental agreements unequivocally affirm these rights. They make it explicit that each country is free to determine its own levels of environmental and labor protection for its citizens. Article 3 of the environmental agreement commits each government to "ensure that its laws and regulations provide for high levels of environmental protection" and to "strive to continue to improve those laws and regulations." At the same time, Article 3 explicitly recognizes "the right of each Party to establish its own levels of domestic environmental protection and environmental development policies and priorities, and to adopt or modify accordingly its environmental laws and regulations."

Similarly, Article 2 of the labor agreement commits the Parties to "ensure that [their] labor laws and regulations provide for high labor standards, consistent with high quality and productivity workplaces", and to "continue to strive to improve those standards in that light." At the same time, Article 2 explicitly recognizes each Party's right "to establish its own domestic labor standards", and its right "to adopt or modify accordingly its labor laws and regulations."

In sum, in the agreements the United States, Canada, and Mexico have committed themselves to ensuring that their laws and regulations provide for high levels of environmental protection and high labor standards; however, each country is free to establish its own laws and to modify them.

Finally, in both the environmental and labor agreements, we took steps to ensure that the commissions created would not preempt local, state and national enforcement authority. The Commission's role in enforcement is to determine whether a government has engaged in a pattern of nonenforcement. Neither the Commission nor its Secretariat can directly or indirectly enforce national or state and local laws.

Under the supplemental agreements, private citizens cannot initiate dispute settlement proceedings that could result in internationally authorized sanctions. Only governments can initiate such dispute settlement proceedings, by a two-thirds vote of the Council.

Private citizens can file submissions requesting that a factual report be prepared by the environmental Secretariat on enforcement concerns. The object of those proceedings is to examine such concerns through the development of a "factual record". Several provisions in the agreements are designed to guard against the Secretariat examining a particular matter if there are ongoing national or local enforcement proceedings or if the person filing the submission has failed to pursue available remedies. In addition, a matter cannot be submitted to the Secretariat unless the person making the submission has previously raised the matter in writing with the government concerned. (Env. Art. 14.)

These provisions do not constitute a rigid requirement for exhaustion of remedies, because a government interested in * * *.

The environmental Secretariat may request both public and non-public information that is in a government's possession. In addition, if the Secretariat requests information not in the possession of the government, the government must "take all reasonable steps" to make such information available. But no government is obligated to provide any information—such as business confidential information—that is protected from disclosure under its law or that could impede law enforcement. If a government or private party chooses to provide confidential information, both Secretariats must protect it from disclosure.

Furthermore, if a government believes that a request by the environmental Secretariat is unduly burdensome, it may notify the Council, and the Council can direct the Secretariat, by a two-thirds vote, to revise the scope of its request. (Art. 21, par. 2.) Ultimately, if a government refuses a request for information, it must explain the reasons why, in writing.

You are correct that under the NAFTA and the supplemental agreements the United States retains all its sovereign rights to take actions it considers necessary and appropriate to protect the welfare of its citizens.

The NAFTA explicitly affirms the right of each country (including states and localities) to establish its own levels of safety and of protection of human, animal or plant life or health, the environment or consumers, and its explicitly affirms the right of each government to take measures to achieve those levels of protection. The supplemental agreements also make explicit that each government to take measures to achieve those levels of protection. The supplemental agreements also make explicit that each country is free to determine its own levels of environmental and labor protection for its citizens.

Finally, nothing in the NAFTA automatically preempts federal or state law—even where a NAFTA panel determines that a measure may be inconsistent with the agreement. The NAFTA makes clear that a government may choose to allow another country to suspend trade benefits (such as tariff concessions) against it following an adverse panel report, in lieu of changing its domestic law.

We agree that private rights of action against the federal or state governments should not be allowed with respect to the side agreements—or the NAFTA itself. Article 38 of the environmental agreement and Article 43 of the labor agreement specifically say that no private right of action should be allowed in one country against any of the other Parties on grounds of behavior alleged to be inconsistent with these agreements. We favor including in the NAFTA implementing bill a provision to bar private rights of action with respect to NAFTA and with respect to the side agreements, and we would be pleased to work with you to achieve satisfactory language.

While the supplemental agreement represents a significant step forward in environmental cooperation and protection, neither the supplemental agreement on the environment nor the NAFTA itself requires the United States to prepare environmental impact statements, or to change its existing law with respect to environmental impact statements. In the supplemental agreement, the three governments have agreed to assess environmental impacts "as appropriate." We already meet that commitment. As part of its workplan, the Council of the Commission on Environmental Cooperation, including the U.S. EPA Administrator, can make recommendations regarding environmental impact assessments. Such recommendations would not bind the United States; we would be free to decide whether to adopt them in accordance with our laws and procedures.

We agree that in these times of budgetary constraints, the Secretariats of the respective commissions must be efficient and no larger than necessary to get the job done. The supplemental agreement on labor specifically sets the initial number of staff positions in the Secretariat at fifteen, with any change requiring Council approval. (The Council includes the U.S. Secretary of Labor.) The environmental Secretariat has broader duties and will probably be somewhat larger. The supplemental agreements explicitly provide that Secretariats can use outside expertise. The Councils of the respective commissions will approve the annual plan of activities and budget of the commissions.

Finally, as you know, the NAFTA will be formally approved under the fast-track, since it is a trade agreement and was negotiated under fast-track procedures. We agree with your assessment that the environmental and labor side agreements are not trade agreements negotiated pursuant to fast-track procedures, and therefore we will not ask Congress to approve the supplemental agreements as trade agreements pursuant to fast-track. Funding for the Commissions should come out of existing revenues and be subject to the normal budgetary processes. We do not expect significant outlays for this purpose.

I look forward to continuing to work with you on the approval and implementation of the NAFTA.

Sincerely,

MICHAEL KANTOR.

THE WHITE HOUSE,
Washington, DC, November 13, 1993.
Hon. EDWARD J. MARKEY,
House of Representatives, Washington, DC.

DEAR ED: I am writing in response to your concerns regarding published reports that the new Canadian government is seeking to renegotiate energy commitments already made under the United States-Canada Free Trade Agreement (CFTA) and carried forward in the North American Free Trade Agreement (NAFTA).

We have not been directly approached by the Canadian Government regarding the renegotiation of any aspect of the NAFTA. I have made it clear that, while the United States and Canada have an ongoing dialogue on trade matters, we will not weaken or renegotiate any energy provisions of the CFTA or the NAFTA. Specifically, we will not allow the Canadians to opt out of the "proportionality clause" (or to limit its coverage solely to oil) which they agreed to in the CFTA and which was included in the NAFTA under paragraph (a) of Article 605.

As you know, the CFTA has fostered the expansion of energy trade between the United States and Canada in an environment of growing demand, competitive prices, and additional pipeline capacity. For example, for the fifth consecutive year, natural gas imports from Canada have reached record levels.

The CFTA has worked well for both Canada and the United States in the energy sector, and I am committed to preserving all energy agreements made in both the CFTA and the NAFTA.

Sincerely,

BILL CLINTON.

THE U.S. TRADE REPRESENTATIVE,
EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, DC, November 10, 1993.
Hon. PETER HOEKSTRA,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN HOEKSTRA: I am writing in response to your question concerning whether the North American Free Trade Agreement requires the United States to sell or permit the diversion of its water resources to Mexico or Canada. The short answer to your question is that it does not.

The NAFTA does not give Mexico or Canada—or businesses in those countries—any right to the water in our lakes or streams or any other publicly-owned water resources. The NAFTA rules on this subject are the same as those of the GATT and the U.S.-Canada Free-Trade Agreement, which have never been considered to entitle one country to divert water resources from another.

For decades, the United States has been a party to agreements with Canada and Mexico concerning the disposition of boundary waters. These agreements are not affected by the NAFTA and will continue to control relations between the United States and the other NAFTA countries on water issues.

Sincerely,

MICHAEL KANTOR.

Mr. MOYNIHAN. Mr. President, I observe the distinguished Senator from Illinois has risen.

Do I understand that she would wish to speak on this matter?

Ms. MOSELEY-BRAUN. That is correct.

Mr. MOYNIHAN. Might I ask for how long?

Ms. MOSELEY-BRAUN. Well, I will attempt to make it brief. I would hope no more than 10 minutes.

Mr. MOYNIHAN. I yield 10 minutes, if that is sufficient for her purpose. If not, there will be more time available.

Mr. President, I yield 10 minutes and such time as she may require in advance to the Senator from Illinois

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The manager of the bill.

Mr. BAUCUS. Mr. President, just a little bookkeeping clarification.

I believe, Mr. President—I do not want to make too much out of something that is not very much—but I think the Senator from Illinois is in favor of NAFTA and I think it more appropriate that the time should be charged against the proponents on the Democratic side.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 10 minutes.

Ms. MOSELEY-BRAUN. Thank you very much, Mr. President.

I thank my friend, the Senator from New York, for his graciousness. We have been together on so many issues in the past that I think on this one he assumed that this would be another issue on which we would be together.

However, this issue, if nothing else, has divided people in curious kinds of ways. I have seen colleagues in the debate on this floor taking different positions based on their reading of this rather complicated issue.

But, Mr. President, I rise in support of the NAFTA. I am the product of a working class family. My folks had to work for everything to feed us, to keep us together.

From that background, I have reached the conclusion that the NAFTA is a good deal for America for three essential reasons.

The first, briefly stated, is that in the history of the world, when you remove trade barriers you increase trade. When you increase trade you create jobs. That is good for our country.

The second simply stated reason is the traditional notion that a rising tide lifts all boats. Certainly in this economy we can do with some rising tide. We need to expand this economy to promote job creation, to give our people the opportunity that so many of them fear is lost forever.

The third reason is simply that, it is that this debate about this agreement is whether we respond to our hopes for a brighter tomorrow, for job creation, or whether we will respond to our fears.

We heard an awful lot of fear on this floor. We have heard an awful lot of doubts and agonizing about whether or not there will be job loss, whether or not the NAFTA will hurt or help our country. * * * I believe this agreement is about preparing the United States for competition in the global marketplace. It is about confronting the fact that our economy is changing. In short, NAFTA is about our future, and about facing that future confidently and hopefully.

There is no doubt that international economic relationships are more closely intertwined than ever before. We can either prepare ourselves for this new global economic order, or we can try to maintain the status quo, which is futile, and which works to the disadvantage of American companies and American workers.

NAFTA is more than 1700 pages long, but if you cut through the complicated transitional rules designed to ease the process of change, the agreement is, at its heart, simple and rather modest. It eliminates Mexican tariffs, which are 2½ times greater on average than United States tariffs. And it eliminates Mexico's nontariff trade barriers, which include things like import licensing requirements for United States agricultural commodities, and requirements to establish plants in Mexico in order to do business in Mexico.

What did the United States give up to get this agreement? Almost nothing. The United States does not even have any major nontariff barriers to the import of Mexican products into the United States, or to Mexican investment in our country. So all we are really doing is eliminating tariffs on Mexican imports that average only 4 percent now, and which therefore keep no products of Mexican origin out of the United States.

And what will be the result of the agreement? Greater expansion of United States-Mexico trade, and greater exports of United States products to Mexico. That means growth in exports, and that means job growth in the United States.

One issue I would like to discuss at the outset, because I have heard more than a little discussion about the issue of the impact of the NAFTA on minorities. It has been referenced on this floor. Without the passion Senator DODD had in his speech a little while ago, I do want to speak about that because, frankly, I find the arguments by some NAFTA opponents that NAFTA will impact on minorities, and African-Americans in particular, in a more negative way is paternalistic and I would like to explore it. It is predicated that African-Americans and minorities in general are forever to remain in disproportionate numbers in the low-wage, low-skilled jobs that are vulnerable to being lost.

That arguments is wrong. It is wrong on facts, it is wrong on policy, it is wrong philosophically.

While it is true that our country has lost some low-skill low-wage manufacturing jobs to countries around the world, that has taken place without NAFTA. That has taken place without having this agreement in place. So killing NAFTA, therefore, will not change that phenomenon. Killing NAFTA will not protect American workers. It will not protect minority workers.

According to the President of the Joint Center for Political and Economic Studies which, as the President may know, is a prominent think tank on African-American issues—they examined the specific issue: Impact of NAFTA on minorities. Their statement was the fact is that NAFTA is more likely to create and protect jobs for minorities than to cause them to lose jobs.

This conclusion is based on the distribution of African-Americans throughout the various sectors of the labor market.

African-Americans are more likely to be in industries which will benefit from NAFTA. Mr. President, 9.3 percent of employees in the average industry exporting to Mexico are African-American. By contrast, only 7.4 percent of employees in the average industry competing with imports from Mexico are African-American.

Further, a large number of African-Americans are in service jobs, the great majority of which are not exportable. While representing 10 percent of the labor market, African-Americans are 15.2 percent of workers in public administration, 22.8 percent of those in building maintenance, and 26.4 percent of those in health service occupations.

Although I am not satisfied with this situation, and know we must work hard to open up every sector of our economy, tonight we are talking about the labor market and NAFTA, so it is important that we deal with the facts as they are, and not as some would speculate about them.

In manufacturing, African-Americans are disproportionately employed in the auto and auto parts industries, 13.4 percent of workers in transportation services are African-American. These industries will be among the first and biggest beneficiaries of NAFTA when Mexico removes its trade barriers.

There is no question that African-Americans were disproportionately affected in the last recession. The combination of discrimination and a contracting economy created intolerably large increases in African-American unemployment, a situation made even worse because every other group either gained or suffered little or no loss. Those statistics and conclusions were confirmed by a special investigation in a recent edition of the Wall Street Journal. And even now, although the recession has ended, African-Americans face unemployment of over 12 percent, twice as high as whites. However, all of that pain, all of that joblessness, happened with no NAFTA agreement in place. And is there anyone who really believes that defeating NAFTA now would help any minority American in any future recession? The answer to that is obvious. And the answer is "No".

We need to redouble our efforts to end discrimination, and to take full advantage of all of the abilities of every one of our people. President Clinton is committed to achieving these goals—and so am I.

We need policies that improve the education of our work force, that promote growth and development, and that enhance our international competitiveness. African-Americans, like other Americans, want the opportunity to succeed, and will benefit from the expanded opportunities to succeed. President Clinton is committed to improving education, to promoting growth and development, and to enhancing our international competitiveness—and so am I.

That is why the administration has proposed, and that is why I support, a transitional worker adjustment program in the NAFTA implementing bill. The legislation combines the best aspects of the Trade Adjustment Assistance Program and the Dislocated Worker Program. NAFTA impacted workers will get immediate assistance, including counseling, job placement assistance, job training, and additional income support for those enrolled in job training programs. When we return from recess, the administration will introduce a comprehensive bill for worker adjustment assistance regardless of the cause of job loss.

The truth is that NAFTA means increased trade, and increased trade means increased jobs for all Americans, and that includes African-Americans.

In fact, the liberalization now underway in Mexico that led to NAFTA is already producing benefits. Over the last 5 years, we have gone from a trade deficit with Mexico to a $5 billion plus trade surplus. Our trade deficits are with high wage countries in the East, countries that have already recognized the value of larger trading arrangements for global competition. NAFTA gives us a tool with which to meet in competition.

What does this mean for Illinois, and its businesses and workers? It means greater economic growth, more exports to Mexico, Canada and more jobs.

For example, Chrysler's Belvedere, IL, plant plans to export 5,000 additional Neon's if NAFTA is enacted, which means more U.S. jobs for all Americans. Mexico's current trade restrictions on import of American and other autos into that country forces Chrysler and other United States auto manufacturers to locate in Mexico in order to sell in Mexico. These restrictions will be eliminated under NAFTA.

A small Chicago x-ray equipment manufacturer, Summit Industries, expects its exports to Mexico to explode if NAFTA is enacted. During 1989 to 1992, Summits' exports to Mexico grew by more than 500 percent. And that means more jobs for all Americans.

Deere & Co. in Moline, IL, currently faces Mexican tariffs in the range of 10 to 15 percent on its agricultural equipment and 15 to 20 percent tariffs on its construction equipment. Under NAFTA, these tariffs would be eliminated.

Caterpillar also faces the same restrictive Mexican tariffs on its products. Currently Caterpillar's East Peoria-built large bulldozer faces a 10-percent Mexican duty. Their Aurora, IL-built excavator faces a 20-percent Mexican duty. On some larger machines, Mexican tariffs increase the price of the product by as much as $40,000 to $60,000. With NAFTA, some of Caterpillar's products will be $40,000 to $60,000 cheaper in Mexico. With price savings like this, Mexicans will buy United States made products over comparable Komatsu or other Japanese-manufactured heavy machines. And that means more jobs for all Americans.

Nalco Chemical Co., which is the world's largest supplier of specialty chemicals and services in water purification and waste treatment, would benefit under NAFTA. One of their products, nalcolyte 8103, a chemical used to purify drinking water and remove pollutants from wastewater, would see its 15-percent Mexican tariff eliminated. The additional money being spent on environmental cleanup along the border and in Mexico will lead to increased demand for such products.

For every $1 million in increased sales, Nalco creates five new jobs. Nalco estimates an increase in sales of about $75 to $100 million in the first 5 years alone if NAFTA is passed, which would create 300–500 new jobs for all Illinoisans, including minority Illinoisans.

S&C Electric Co. in Chicago specializes in manufacturing high-voltage switching and protection products. The company employs over 1,000 people. Approximately 25 United States jobs are directly supported by the company's sales to Mexico.

Motorola in Schaumburg, IL, a producer of cellular phones and other electronic equipment, sees big gains under NAFTA. Motorola already has 17,000 workers in Illinois. Mexico is already their second largest export market.

Decorel of Mundelein, IL, is the world's largest independent manufacturer of picture frames. Its U.S. manufacturing and distribution centers are in Illinois. Because of the potential in Mexico, Decorel is moving its work from Asia to Mexico. Decorel has built a new manufacturing facility in Mexico. In establishing the Mexican plant, not one job was transferred from the United States to Mexico. In fact, Decorel's jobs in the U.S. increased.

Moving jobs from Asia to Mexico has helped, not hurt, the United States. Mexican workers purchase United States products. Workers in the Far East are much less likely to do so. And unlike its Far East facilities, the Mexico plant primarily uses American materials and suppliers. And that means more jobs for all Americans.

Champion Pneumatic Machinery Co. of Princeton, IL, makes air compressors. According to Champion, in the last year, for the first time in many years, Mexican distributors are contacting Champion asking for quotes on their compressors. The Mexicans believe that American-made compressors will finally be competitive in Mexico, because of the elimination of the current 10–20 percent tariffs. And that means more jobs for all Americans. The Champion example also makes an important point regarding labor costs. The labor content of their product is only 6 percent of each sales dollar, and as such, they would never consider going to Mexico just for low-cost labor. However, they would consider going to Mexico to avoid the 10 to 20 percent duty that is currently in place.

The Tri-City Port in Granite City, IL, expects significant growth in barge traffic on the inland waterway system if NAFTA is enacted. Tri-City's regional port district estimates that for every 600-ton increase in traffic, one job is created. Freer trade with Mexico has already strained existing rail and highway transportation systems, and the inland waterways transportation system is one of the leading and most cost-effective routes for expanded trade, and stands to directly benefit if NAFTA is approved.

In the agricultural sector, Illinois is a clear winner. Under NAFTA, Illinois' top three agricultural commodities, corn, soybeans, and pork will face freer access to Mexico's growing markets. Under NAFTA, Mexico will eliminate its restrictive import licensing requirement on corn and provide immediate duty-free access for 2.5 million metric tons of corn. The current Mexican duty of 15 percent on soybeans will be lowered to 10 percent. The duty on oilseeds, as well as those on soybean meal and oil, will be eliminated after 10 years. Under NAFTA, Mexico will eliminate its tariffs on live hogs and pork, generally over a 10-year period. Ninety-seven thousand agriculture jobs in the United States are currently export related. This number will grow by an additional 54,000 in the first 5 years under NAFTA.

I could go on and on with additional specific examples, Mr. President, but what all they all demonstrate is that Illinois will benefit from NAFTA and the expansion of trade it will generate. In fact, Illinois is already benefitting. There are now almost 140,000 jobs supported by trade with Canada and Mexico. Illinois exports to Mexico have almost quadrupled over the last 5 years; and NAFTA will help ensure that trend continues.

But if NAFTA is good for the United States, good for Illinois, and good for American workers, as I believe it so clearly is, then why is there major opposition?

One answer is that Mexico is blamed for sucking jobs out of the United States but the United States has a trade surplus with Mexico, which means we get more jobs from trading with Mexico than they get from trading with us. Our real problem is with high-wage countries like Japan which, alone, accounts for 50 percent of our overall trade deficit, and not countries like Mexico.

Mexico is also seen as a low-wage country, and it is argued that the United States can't compete with Mexican wages. However, United States workers are between 2 and 7 times as productive as Mexican workers, which more than makes up for the fact that Mexican wages are lower. And Mexican wages are rising as fast as Mexican productivity is increasing.

There is no question that American workers have been hurt over the last decade and more. There have been layoff after layoff. There have been years of slow growth, or no growth here at home, and stagnant or declining wages.

But NAFTA did not cause those problems, so killing NAFTA won't solve them. The best proof of that is a look at the size of the United States and Mexican economies. The United States economy is over $5.7 trillion in size; the Mexico economy is about $300 billion. Is it really possible that an economy only a little over one-twentieth of our size, one that runs a trade deficit with the United States, can bring down our entire country? The answer to that is clearly "no."

Others argue that approving NAFTA means giving up too much of our sovereignty; and still others not enough. Some fear that NAFTA will undermine United States labor and environmental standards, and others argue that NAFTA must force Mexico to raise wages, improve human rights, and achieve United States-style labor and environmental rules.

NAFTA is not about creating a North American version of the European Economic Community. It is not about making Mexico part of the United States of America.

No trade agreement can instantly turn Mexico into the equivalent of New York or Illinois or New Mexico in per capita income, or labor law standards, or clean air or clean water. NAFTA is a trade agreement—nothing more, and nothing less.

Implementing NAFTA, however, will encourage Mexico to continue liberalizing its economy, to continue improving its labor standards, and to continue working to improve its environment.

We should not, therefore, let the best get in the way of the good. The fact that we cannot, in any single agreement, instantly create a Mexico with a standard of living equivalent to ours, and with an economy just like ours is no reason to defeat NAFTA.

NAFTA will help Mexico; it will help the United States; and it will help Canada. As I stated earlier, it will result in expanded trade, and that expanded trade will create new jobs, creating a win-win-win situation for all three countries. It's just that simple.

Mr. President, this agreement is about the future of America. My goal is to build a better future not just for the workers in my generation, but for our children. We must think about the future and how to prepare for what lies ahead. NAFTA is part of an economic policy that recognizes that we are a part of the global economy. NAFTA recognizes that trade barriers hurt, not help the United States, that the education of our people is critical to maintaining competitiveness, and that an expanded trading environment can be a win-win situation for both the United States and Mexico. NAFTA acknowledges that the rest of the world is busy forming trading blocs, and that enhancing our international competitiveness and our own economic security requires us to do the same.

NAFTA creates a regional trading partnership. It is not paternalistic, rather, it takes the diversity of this huge trading bloc into account, and builds on that diversity to improve the lives of the ordinary working people in all three countries.

The history of the world, and the history of our country, is a history that proves one thing: opening up trade increases economic growth. That is what this agreement does, that is all it does, but that is something very, very, important, indeed.

NAFTA is about an America that recognizes change and can move ahead to meet the changes. It is about expanding opportunities, creating jobs, and improving the standard of living for both Americans and Mexicans. Voting against NAFTA is about succumbing to the politics of fear. Voting for NAFTA is about meeting the challenges of a new global economic order. It is a trade policy for an outward-looking country like the United States. It is the right thing to do and I urge my colleagues to join with the President in preparing America to compete in the new global economic order.

I daresay, the message becomes the same one: When you increase trade, you create jobs. It is just that simple. When you create jobs, you improve the standard of living for all concerned and provide opportunity for people who would not otherwise be available.

Mr. President, I could go on with the comparisons. Our agricultural sector in Illinois is a clear winner. I will simply say, in agriculture, we stand to gain greatly by the export opportunities created by the NAFTA.

In that regard, I ask unanimous consent to print in the RECORD three letters from constituents, including one worker at one of the companies. He works for American Cyanamid Co. in Illinois.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NOVEMBER 10, 1993.

Hon. CAROL MOSELEY-BRAUN,
U.S. Senate, Washington, DC.

DEAR SENATOR MOSELEY-BRAUN: I am writing concerning the upcoming vote on NAFTA. This agreement deserves your strong support because it is good for agriculture and the United States.

The Mexican economy is poised for substantial growth because of changes in their government policies. They are freeing their economy from economic policies that have been stifling the country. They are decentralizing credit and allowing foreign investment. We can participate in this improvement in the Mexican economy or sit by and watch others move in.

NAFTA could help our exports by reducing their tariffs. I work for American Cyanamid Co. which could export more agricultural chemicals made in the U.S. These products have passed all U.S. EPA requirements. Our new products are very safe to the environment and humans. They are also used at very low dosage rates which reduces the total amount of chemicals entering the environment.

U.S. agriculture is very dependent on exports. The former Soviet Union has severe credit problems, so exports to them are declining. We need to be able to find increasing markets such as Mexico to keep existing exports of agricultural products.

This agreement is critical to opening free trade in other areas that will help our economy. I appreciate your support of this issue and ask that you help convince others on this key vote.

Sincerely,

BRUCE STIKKERS.

CHAMPION
PNEUMATIC MACHINERY CO., INC.,
Princeton, Illinois, July 16, 1993.

Hon. CAROL MOSELEY-BRAUN,
U.S. Senate, Washington, DC.

Re North American Free-Trade Agreement (NAFTA).

DEAR SENATOR: Champion Pneumatic Machinery Company, Inc. of Princeton, Illinois, is a manufacturer of Air Compressors. Champion asks that you support the North American Free-Trade Agreement (NAFTA). Our experience with the Canadian version of this bill has been increased sales of our compressors into Canada and our belief is that we will have a similar increase in business if NAFTA is expanded to include Mexico. Over the last year, for the first time in many years, Mexican Distributors are contacting Champion requesting quotations for our compressors. They have clearly stated to us that the only reason for this renewed interest in our products is the firm belief that NAFTA will be passed and that American products will finally be competitive in Mexico due to the decrease in Mexican import duty (currently 10 to 20%).

In our view, the passage of NAFTA will increase sales of U.S. made products into Mexico, will also stimulate the Mexican economy, will reduce the tendency of U.S. firms to set up manufacturing plants in Mexico (since the economic advantage of a high import duty will be gone), and will tend to reduce the problem of high immigration of Mexican citizens to the U.S.

Our firm belief is that U.S. firms can be competitive with Mexican firms, despite the difference in wage rates, due to the high productivity of American manufacturing firms. On the same point, it is interesting to note that at Champion our labor content is only 6% of our sales dollar. As a result, we would never consider going to Mexico just for low cost labor. However, we would consider going to Mexico to avoid the 10 to 20% duty that is currently in place.

At the present time the compressor market in Mexico is primarily served by imports coming from Japan, Korea and Germany. With the passage of NAFTA U.S. firms will have a significant advantage over our foreign competitors. This may sound unfair, but this advantage does meet GATT standards. In our view the passage of NAFTA will mean an increase in business for Champion and other Illinois manufacturers. I heartily endorse NAFTA and sincerely request your support of this critical bill.

Sincerely yours,

GILBERT D. WILLIAMSON,
President.

DECOREL CORP.,
October 6, 1993.

Senator CAROL MOSELEY-BRAUN,
S.O. Building, Washington, DC.

DEAR SENATOR MOSELEY-BRAUN: Decorel is the quintessential example why NAFTA is important to the United States.

We cordially invite you to visit our American factories in the Chicago, Illinois area and/or our new manufacturing plant in Durango, Mexico. You will see an example of increased jobs on both sides of the border in manufacturing facilities that are dedicated to environmentally sound principles.

Attached is further information regarding Decorel's history and operations. We hope you will take advantage of our invitation to show that NAFTA can expand the economies of Canada, the United States and Mexico simultaneously.

Sincerely,

STUART R. SCHEYER.

DECOREL/NAFTA INFORMATION

Decorel supports NAFTA. For reasons outlined in this letter, Decorel is an excellent example of the type of company that increases jobs on both sides of the border and is beneficial for the entire North American continent.

For background, Decorel is the world's largest independent manufacturer of picture frames. Although this is our 90th year in business, our sales have quadrupled in the last four years. Our 1,000 employees produce over 100,000 frames each day for sale through mass merchants, such as Kmart, Wal*Mart, Target, Osco, Eckerd, and similar retailers.

We have three manufacturing and distribution centers in the United States. We also recently made a significant investment in manufacturing facilities in Mexico. We now have 100% ownership of a 60,000 foot factory on 6.5 acres in Durango, Mexico with 200 employees. One of the reasons for setting up a factory outside of the U.S. was to gain better control of production of specialized products. Decorel has always manufactured 85% to 90% of our own merchandise in the United States, but the balance was purchased in the Far East. The new operation in Mexico supports our strong growth and will transfer jobs from the Far East back to North America.

Although we moved to Mexico before the NAFTA Agreement, we believe we are the quintessential example of the advantages of NAFTA! Consider the following benefits:

1. We are now moving jobs from Asia to the North American continent. (A Mexican worker purchases U.S. products. A Far East worker does not).
2. The 200 jobs that we have in Mexico are in addition to an increase in workers that we have in the Chicago area. We have not transferred a single job from the United States to Mexico.
3. By using our Durango factory as a base, Decorel is now selling U.S. manufactured products in Mexico. We are also vigorously expanding our exports to Canada.
4. We are now exporting material and components from the United States to Mexico in place of material that was purchased in the Far East. We are very familiar with the enormous amount of exports being made from the United States to Mexico; we understand that an improvement in the Mexican economy will further increase exports from the United States to Mexico.
5. We have dealt directly with many business people in Mexico, as well as a significant number of local, State and Federal officials. We have been treated with extraordinary courtesy, competence and a degree of honor that would make any United States locality proud. We have also been required to install and maintain labor and environmental standards that are comparable with U.S. requirements.

For reasons outlined above, we believe that NAFTA is good for Mexico, the United States and Canada. We will be very pleased to testify before any Congressional Committee regarding our specific experiences.

Ms. MOSELEY-BRAUN. Mr. President, I could go on with specific examples, but what they all demonstrate is Illinois will benefit from NAFTA and the expansion of trade it will generate. In fact, Illinois is already benefiting. There are now almost 140,000 jobs supported by trade with Canada and Mexico in my State. Illinois exports to Mexico have almost quadrupled over the last 5 years and NAFTA will help assure that trend continues. NAFTA is good for Illinois and it is good for American workers and, therefore, I believe that it is good for our country.

The question becomes, what about the opposition? I do not have a lot of time to talk about the issue of whether or not there is a sucking sound. Quite frankly, to talk about a sucking sound of an economy one-tenth the size of ours is like talking about a gnat trying to swallow an elephant. I do not believe it is possible. I believe it is really more a part of the fear mongering that has gone on about this issue.

Another point that has been raised in opposition to the NAFTA has been the notion that Mexico, particularly, does not have the same environmental and labor standards that we have in this country. We are not creating a European Community or the equivalent. We are not making Mexico and Canada the 51st and 52d States. They are sovereign nations. They will have their own operations. They have their own specific situations.

Quite frankly, to suggest that we can demand we have identical standards and completely harmonize our economies really is facetious. It would be the equivalent—as I said to my friend, Senator DODD, a while ago—it would be the equivalent of a Canadian saying we do not want to have a trade agreement with the United States because you have too many guns, too much crime and you do not have free health care. It does not make sense.

Mr. BAUCUS. Mr. President, I yield as many minutes as the Senator from Illinois wishes to have.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Ms. MOSELEY-BRAUN. Mr. President, I will wrap up and be brief.

Again, we are not talking about fully harmonizing. We are talking about opening up an opportunity to create a regional trading arrangement that will give us the ability to be competitive in this world market with other groups that have gone into regional trading arrangements. The Europeans have come together. Japan and the Pacific rim have come together. They recognize that to trade in this world economy, you are going to need as many partners as you can get.

NAFTA is about creating a partnership, creating a partnership in which we join with our neighbors to the north and our neighbors to the south in order to compete worldwide; that we have a regional trading bloc that will give us a tool. It will not be the total answer, but it will give us a tool to assist in our efforts to be competitive and to win in the global economy of the 21st century.

That is why I say, in conclusion, Mr. President, that this issue really comes down to whether or not you are going to be intimidated by fear or whether we are going to be emboldened by hope. That is the bottom line issue here. I think that we have the capacity in this great Nation to follow our hopes, to go forward with an agreement that allows us a broader playing field, that gives us greater tools in which to engage in this global competition, that offers hope and opportunity to the American people without regard to what part of the country you live in or what race or gender you are; that all Americans can benefit when we expand opportunity. As we expand trade and expand our capacity to compete, we will expand opportunity and that will be good for our country. That will give us the basis on which to move into the 21st century.

Mr. DODD. Will the Senator yield?

The PRESIDING OFFICER. Who yields time?

Mr. DODD. Will the Senator yield?

Ms. MOSELEY-BRAUN. Yes.

Mr. DODD. I just want to commend our colleague from Illinois for giving a very thoughtful and complete and thorough statement and an analysis of this issue, as it affects her own State, as it affects the country and our relationships in this hemisphere. She is to be commended for it.

I note, Mr. President, in the discussion specifically of the impact on the State of the Senator from Illinois, that she was talking about working people, real jobs, real people, people trying to make ends meet every single day.

I want to underscore her comments in that regard because too often in this debate there is a suggestion that those who are for NAFTA somehow do not care about those people. Those of us who are for it have analyzed very specifically the impacts within our States and within this country.

The Senator from Illinois very clearly pointed out how average working people will be the beneficiaries, we believe, of this agreement. I commend her for those remarks and the thoroughness of her statement.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I, too, want to commend the Senator from Illinois for a most thoughtful and most refreshing statement. I was quite struck, quite taken with her statement, and I very much commend her for it.

Ms. MOSELEY-BRAUN. Mr. President, I would like to especially thank the Senator from Montana for allowing me the additional time. I should have figured out that my speech would have been about 30 minutes if given as written, but at the same time I greatly appreciate his kindness and graciousness in allowing me to speak extemporaneously about this issue.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. BAUCUS. Mr. President, I yield off the time of the Senator from New York as much time as the Senator needs.

Mr. HEFLIN. Mr. President, I will probably reserve some time for tomorrow or later. I want to mention two or three things.

First, I want to mention the IVA which I have not heard much discussion of. The IVA is an incremental value added in Mexico. It is a 15-percent sales tax and it is charged today in the maquiladora program. NAFTA does not change this. It will still be for all goods going into Mexico that we might export, there will be a 15-percent value-added tax placed on it. For all goods coming out, it will also have the IVA added to it.

This may be and it could be declared to be a trade barrier. I mention that as a possibility. It can grow. Some of us attended the North Atlantic Assembly in Denmark. We, to our amazement, found they had a 25-percent value-added tax. Some of us visited Ireland this summer, and they had a 20-percent value-added tax. We do not have any in the United States. It is just a fact I think that ought to be made a part of the RECORD and be considered.

I want to talk about what I call the job-loss syndrome that we are in today.

We constantly read in the newspapers of layoffs that are taking place. We hear about the military downsizing and the loss of jobs that will occur as a result of downsizing of the military. The reinventing Government concept has come about and overall we are talking about 200,000 jobs being cut in Government. I am not saying that they do not need to be cut. I am just saying these are facts that are going to occur.

We have adopted a program in the crime bill in which you have created a trust fund that is based upon job displacement and job loss. We know that we are in a world in which automation is occurring and that automation basically moves toward job displacement. Sometimes I argue with that general concept, but it is present today.

There is a movement in Government in regards to cutting back research in the future. Research has basically produced jobs. But the movement toward cutting research is prevalent today. I do not want to argue the super collider. I do not want to argue the space station. But there basically is research. NASA has produced benefits in the amount of about 9 to 1.

Then Alan Greenspan came along recently and made a statement, and I have the Washington Post of Saturday, November 6, 1993, in which it says:

> Layoffs Become a Lasting Reality. Toll on Jobs Obscures Economic Gains Now to Come.

In the figures that he quoted:

> In 9 months in 1993, there were 449,364 layoffs that occurred in the United States.

Now, all of this is a part of a syndrome. Our population is increasing. We are talking about welfare reform which is greatly needed. But the concept is that there would be additional people added to those prospects for the jobs we have.

Then I look at our trade policy. I see that we have a deficit in relation to the import-to-export ratio. We look to Japan, and we see the trade deficit that we have. I have to ask the question: What country obviously has had the best trade policy for the last two decades or the last three decades? And there is no question that Japan has certainly been a country that has had an outstanding trade policy.

Now, I am not advocating that we adopt everything they have, but it seems to me we can look to Japan and get some ideas. I think it is time we began to rethink our trade policy in this country because we can learn from some other countries, certainly those countries where we have a deficit and to those countries that have lost their manufacturing base.

Now, some say, well, it depends on what position you are in. Some say we are going to lose manufacturing jobs. Others say we are going to gain them. But the figures seem to be generally universally accepted that for 100 manufacturing jobs you lose, you also lose 421 support jobs. For service jobs, if you lose 100 service jobs, you lose about 147 support jobs.

We have a situation in which you have to ask, is NAFTA going to result in a job loss or will it stay the same or will it be a gainer? In my judgment, it is a job loss. There are too many relocation incentives: Labor savings, the history that has occurred in so many different areas such as the shoe industry and the movement that has taken place where today 87 percent of all of the shoes bought in America are made in some country outside the United States. To me, with the relocation incentives—59 cents an hour minimum wage, savings on OSHA, savings on clean air, savings on clean water, savings on unemployment compensation, savings on Social Security taxes, and down the line you go—business wants to go to Mexico because they can make more profit. When they make more profit, they do it at the sacrifice of Americans and American jobs.

I reserve for later the remainder of the time that is reserved for me.

The PRESIDING OFFICER (Mr. SIMON). Who yields time?

Mr. LAUTENBERG. I wonder if I might have 3 minutes from the Senator from New York.

Mr. MOYNIHAN. Mr. President, I am happy to yield 3 minutes to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 3 minutes.

Mr. LAUTENBERG. I thank the Senator from New York, Mr. President.

I was sitting in the Presiding Officer's chair for about an hour listening very carefully to some of the speeches that were made. I began to hear a tone of what I will call discordant notes that were being echoed as people reviewed, to use the expression, the bidding so far, and statements made I think that reflected a little bit of the anxiety we are all experiencing as we review this bill.

Mr. President, I heard one of our Senate colleagues make some remarks that suggested there perhaps was a conspiracy of labor, of labor management, to keep people from having increased wages or better conditions so that labor leaders could in fact appeal to them to join the union.

I think it is an outrageous statement to make, Mr. President, and I hope the RECORD will reflect accurately the remarks made by the individual on the floor of the Senate.

Could there be a cynical labor leader who does not care? Sure. But to suggest that there is a plot afoot, a hoax being perpetrated on the working person to frighten them so that they raise their voices against NAFTA is an outrageous claim.

Mr. President, if our friends from labor, our friends from management have any review of the RECORD that is taking place this evening, I hope they will note this Senator objects to that kind of reference. I do not want to say that anyone who disagrees with me is arrogant or sanctimonious or hypocritical. That is not the basis for the discussion. But to suggest that there is kind of a wholesale thing taking place in labor leadership to scare people so that they come out against NAFTA is, I think, a deceptive statement to make.

Mr. President, I have looked into the faces of working people. Those are my roots. My father worked in a factory in New Jersey to try and make ends meet, to try to educate his children. He was not always successful, but he was honest and hard working, and the job that he had meant everything in the world to him.

I look in the faces of people, some of whom have been on jobs for decades, and they are frightened silly because they know that the job market is lean, that they are in danger of losing their jobs even without this trade agreement, and they are concerned. You cannot casually dismiss that concern. Perhaps from the fat stand that we take here with good, satisfactory pensions and pretty good salaries, yes. It is easy to look at the working people and say,"What do they know?"

They are being deceived by their leaders. People, Mr. President, are frightened about the job loss because the job loss today may mean the end to an opportunity to educate your child or to continue your health care or to be able to continue to make your house or your rent payments. This is a genuine concern that runs through working people across this country. Union members know about the fact that their jobs may be going south under their very nose. And they have a right to express that fear.

I for one respect it when someone says to me, "Senator, what about my job? My company has a plant in Mexico now, and I am afraid that if we go through with this they will move more of our jobs down there."

People in the glass business in New Jersey, management and union, came in to see me together to plead for us not to enter into this agreement because management saw an investment that was made through generations.

I ask if my colleague will yield me another 3 or 4 minutes.

Mr. MOYNIHAN. Another 3 minutes and there are other Senators.

Mr. LAUTENBERG. Mr. President, I met with management ownership of the company that had been a laborer family business for generations in south Jersey, a glass company, with an excellent employment record, joining with the labor leaders in that company coming to my office to plead with us. "Please, Senator, do not let this agreement go through because we know that these products can be made perhaps cheaper but with poorer quality and less concern for the working conditions."

So, Mr. President, before the tempers get away from us, just to make a statement clearly and, I hope, effectively, I am voting against NAFTA because I am concerned about the several things lost in the process, not the least of which is a de minimis paltry number of jobs to be added at the end of a 5-year period, about the workers' standards under which they toil, about whether or not their rights are observed to negotiate, to organize, and to bargain, and whether or not the $30 or $40 billion that it could cost this country of ours in direct cash investment is worth the kind of yield that we are going to get. But I think we ought to keep the insinuations and the accusations out of the dialogue.

I thank my colleague for permitting me to use the time.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. Mr. President, I want to make a relatively minor point. When the Senator from Alabama spoke earlier, he began his remarks by remarking on the IVA, and a lot of us are wondering what is the IVA. He mentioned the tax to Mexico. It is an incremental-value-added tax.

Essentially, Mr. President, all countries have value-added tax systems, and there are a good number of countries who do. The Common Market countries do. Many countries do. Essentially they assess the tax on the value added, which means that a car sold in Mexico produced in Mexico is assessed a value-added tax. A car produced in the United States sold in Mexico is assessed the same tax. It is a nondiscriminatory tax.

Frankly, it has nothing to do with NAFTA. NAFTA does not create this tax. NAFTA does not address this tax. It is a matter that is irrelevant to NAFTA.

It is also true, however, that countries that have a value-added tax are able to have the value added that is exported to another country rebated. In effect, it gives an incremental advantage to those countries to have a value-added tax system over countries that do not.

This is a problem that we have had in the United States in the last several decades with Europe because the Europeans are able to rebate the value that they add on exports to the United States, and we are unable to do the same. We tried to do somewhat the same in various ways. But they basically violate the GATT.

When the GATT was formed, essentially the value-added rebate portion is allowed to be retained by the value-added tax countries, whereas we in America are unable to do the same.

But I point all of this out because it really is a matter that has not a lot to do with NAFTA and is unaffected by NAFTA. I mention these points in case some Senators or people listening wonder what the effect of that might be on the proposed North American Free Trade Agreement.

Mr. President, I see no other speakers who wish to speak at this time. I suggest the absence of a quorum, and under the rule, I assume that the time is equally charged against all four sides.

The PRESIDING OFFICER. That will take unanimous consent.

Mr. BAUCUS. Mr. President, I make that unanimous-consent request.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. I object, Mr. President.

Mr. President, parliamentary inquiry: Is it not so that we are not on the bill?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. Then this Senator is of the opinion that it is possible for Senators to take time here that would be counted against time on the bill, but it is not possible to force the Senate to use time on the bill. So I would object. I do not have any problem about using the time, but I object to having time charged against the bill before the bill is before the Senate.

The PRESIDING OFFICER. Objection is heard.

Mr. MURKOWSKI. Mr. President, I wonder, since we are not on the bill, if I can ask unanimous consent that I might make a statement as if in morning business for time to——

Mr. MOYNIHAN. Reserving the right to object, I do not intend to object. Mr. President, we are on the NAFTA legislation.

The PRESIDING OFFICER. Objection is heard. Who seeks recognition?

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I request clarification from the Chair with regard to the point raised by my friend from New York. It is not clear to the Senator from Alaska what he is objecting to.

Mr. MOYNIHAN. I said reserving the right to object. I do not mean to object. I was trying to clarify the parliamentary situation. We had not filed the bill at the time we began debating. Is that correct? My friend from Alaska wants time.

The PRESIDING OFFICER. The Senate is not considering the bill at this point.

Mr. MOYNIHAN. Is time on the bill running, Mr. President?

The PRESIDING OFFICER. The Senator is correct.

Mr. MOYNIHAN. The time is running on the bill we are not considering?

Mr. STEVENS. Parliamentary inquiry, Mr. President. Is it not true that the time consumed by a Senator speaking on the bill is charged against the bill but the time is not running against the bill in the sense that any time used now is automatically charged against the bill?

Mr. BAUCUS. Mr. President, maybe I can clarify this. Mr. President, is it true that we are operating under a consent agreement where time is allocated? I only recall the unanimous consent requires the time be charged against, allocated to all four sides.

The PRESIDING OFFICER. That is the Chair's understanding. Let me check with the Parliamentarian.

The situation is that while we are technically not on the bill, under a unanimous-consent agreement, we are operating as if we were under the bill, and all quorum calls and everything else are charged to the time on the bill.

Mr. STEVENS. Will the Chair read that time agreement? That is not this Senator's understanding. I would have objected had that been spelled out. I have no objection against a Senator being allowed to charge time now against that bill. But that bill is not before us. I do not believe we can be compelled to use the time pursuant to the 1974 law before the bill has been called up.

The PRESIDING OFFICER. The Chair would advise the Senator from Alaska that with unanimous consent you can do many things in the Senate.

Mr. STEVENS. Except change the law.

The PRESIDING OFFICER. The Senator from Alaska may modify the unanimous-consent agreement.

Mr. STEVENS. I do not seek to modify it. I seek to enforce it. I want the bill called up. When the bill is called up, the provisions of the 1974 act apply.

The PRESIDING OFFICER. Under unanimous consent, the time is allocated on the bill as if the bill were under consideration by the Senate.

Mr. STEVENS. This Senator has an amendment to offer, and I cannot raise that amendment until the bill is called up. I want the bill called up. Then I will consent that the time can run.

The PRESIDING OFFICER. The Senator from Alaska has a right to ask by unanimous consent.

Mr. STEVENS. Meanwhile, I object to running the time against any time I control, and I control 5 hours, I think.

The PRESIDING OFFICER. Who seeks recognition?

Mr. MOYNIHAN. Mr. President, I understood that the Senator from Alaska sought to proceed as in morning business, and it seems to be a matter on which we ought to accommodate the Senator.

Mr. BAUCUS. I would have to object to that request.

Mr. MURKOWSKI. Mr. President, I impose a unanimous consent——

Mr. MOYNIHAN. I do not seek to disrupt our present procedure, but would it not be possible by unanimous consent for the Senator from Alaska to speak?

The PRESIDING OFFICER. Under unanimous consent, the Senate can do almost anything.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that since there is no Senator rising to speak on the bill, I might be allowed to speak as in morning business for not to exceed 5 minutes, with time not to be charged to either side.

Mr. BAUCUS. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. STEVENS. Parliamentary inquiry, Mr. President. Is this Senator's understanding correct that the Chair is ruling, based on the Parliamentarian's advice, that all time on this bill could be expended under this unanimous consent agreement before it is possible to offer an amendment and trigger the rights under the 1974 act?

The PRESIDING OFFICER. The Senator is correct. That could take place.

Mr. STEVENS. I respectfully say that is not correct. I am about ready to appeal the ruling of the Chair. I would hate to get too many Senators out of bed. I suggest that we find some way to settle the matter.

Mr. MOYNIHAN. Mr. President, I have to say to my friend from Alaska that there is no way to settle the matter. We have been proceeding in good faith, understanding that we were running time on a bill. Not every committee had worked out its final details.

The majority leader is on the floor. I suggest that he resolve this matter.

Mr. STEVENS. I am delighted to see my good friend, the majority leader, here. I cannot conceive that we would enter into an agreement that would deny a Senator a right to raise an amendment, as is contemplated by the 1974 act, by the device of saying that all time will be charged against the bill before we go on the bill. I cannot raise an amendment. I cannot trigger the provisions of that act until we are on the bill.

The PRESIDING OFFICER. Who seeks recognition?

Mr. BAUCUS. Mr. President, I see the Senator from Alaska now engaged. I was about to ask him a question on my time.

Mr. MOYNIHAN. Perhaps the Senator can ask me the question.

Mr. BAUCUS. I ask the Senator the question: What was the amendment or amendments the Senator from Alaska has in mind?

Mr. MOYNIHAN. I do not believe any amendments are in order.

Mr. BAUCUS. That is why I was going to ask that question. I do not know what amendments are in order.

Mr. MOYNIHAN. Had it been the intention of the Senator from Alaska—I am happy to answer it, but that seems to be the only answer available, that no amendments are possible. That is why it was on fast track.

Mr. BAUCUS. That is what I thought fast track meant. Perhaps other Senators might know what amendment the Senator from Alaska might possibly offer that might be in order.

The PRESIDING OFFICER. Does any Member of the Senate seek recognition?

Mr. MOYNIHAN. Mr. President, I rise once again to state the view that I have expressed. Senators from both sides have stated that the measure before us is deficient with respect to its provision for workers who inevitably will lose their jobs in the United States as a consequence of this trade agreement, as of any trade agreement. Such as that going back to 1962, the Kennedy Round Trade Expansion Act of 1962, which I had the privilege to be involved with as a member of the Kennedy administration. We have provided trade adjustment assistance, and even President Bush—I should not say even President Bush—contemplated a third of a billion dollars a year of trade adjustment assistance for this measure, and it has not been provided.

I believe there is a question that has been vigorously raised by other Senators as to the degree to which an agreement of this kind confirms current political, economic, civil rights, and human rights arrangements in Mexico, which ought to be resisted. That is the intent of our argument. We have made it through much of this day, from 1 o'clock this afternoon. I cannot doubt that we will continue until the 20 hours equally divided has been consumed.

I see other Senators. I do not know that any wish to seek recognition, but if any do, I would be happy to yield. The Senator from Michigan has risen. I am happy to yield to him.

Mr. RIEGLE. I wonder if you might yield me 3 minutes.

Mr. MOYNIHAN. I am happy to do it.

The PRESIDING OFFICER. If we can get in some attention, please.

Mr. RIEGLE. There has been much said today on both sides of this issue, but I think the critical issue is going to be the job loss here in America. First, we must be concerned with plants and operations that close in America and move to Mexico in order to take advantage of the lower labor costs, lower environmental and workplace standards, the lax law enforcement. But second, we must also be aware of the low wage levels in Mexico and 60 million workers down there.

NAFTA will result in tremendous downward pressure on wages and benefits for workers still working in the United States. Many workers will be told that if they do not accept lower wages and lower benefits, either a competitive firm in their industry will take away the business and their jobs by producing these alternative products in Mexico, or the company they work for will say simply that they cannot afford to maintain the wage levels in the face of tougher Mexican competition at lower prices.

So you are going to see a tremendous downward pressure on wages and benefits for workers here in the United States.

We have a terrible problem with unemployment right now. NAFTA is essentially a jobs program for Mexico. We need a jobs program for the United States. We do not have one.

The President earlier in the year tried to do a modest job stimulus program. It was voted down by many of the same people who now say they are for NAFTA. In fact, today NAFTA supporters are willing to do something to create jobs in Mexico, but they are not willing to create jobs here in the United States.

I think the most serious problem facing our country is the lack of a sufficient number of private sector jobs. People need work. They need it for dignity. They need it to support themselves and their families. They need it to have any meaningful way to live here in the United States in 1993.

You cannot function in any meaningful way if you do not have a job. If you are qualified, as so many millions of people are, to work by their past work experience and their job preparation and yet still cannot find a job, you have a situation that is really not tolerable.

I mentioned earlier today the explosive growth of the underclass here in the United States. We see it in our urban centers. There are unemployment rates of 50, 60, 70 percent among urban youth in our society. They cannot find jobs. It is easier for many people today to get a gun than it is to get a job.

It is not surprising we are seeing a breakdown of social order. We are seeing a classic "Clockwork Orange" society because we don't have an adequate job strategy that holds out the promises that work, education, and effort can lead to some meaningful employment. We sort of break the promise of America and break the bond of faith that has to be there if we expect to see people, in a sense, accepting responsibility, seeking work, working, building families, and holding families together.

You cannot do that if there is not work, and the NAFTA has to be seen in that sense. I hope that a maximum number of Senators will vote against it because it is bad for our country.

I thank the Chair.

The PRESIDING OFFICER. The time of the Senator has expired.

Who yields time?

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. For what purpose does the Senator from Alaska rise?

Mr. MURKOWSKI. The Senator from Alaska rises again to request unanimous consent that I may be allowed to proceed as if in morning business assuming there is no other Senator who wishes to speak and the time not being charged to either side.

Mr. BAUCUS. I object.

The PRESIDING OFFICER. Objection is heard.

Who yields time?

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The senior Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, based on assurances I have received from the majority leader, I yield to my colleagues such time as he might want, 5 or 10 minutes from the time I control on this bill.

The PRESIDING OFFICER. The junior Senator from Alaska is recognized for—how much time is yielded to the Senator?

Mr. STEVENS. Up to 10 minutes, please.

The PRESIDING OFFICER. The junior Senator from Alaska is recognized for 10 minutes.

Mr. MURKOWSKI. I thank my colleague from Alaska.

Mr. President, my intention is to proceed as if in morning business.

(The remarks of Mr. MURKOWSKI pertaining to the introduction of Senate Joint Resolution 153, S. 1684, and S. 1686 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. MURKOWSKI. Mr. President, I want to conclude by again thanking the senior Senator from Alaska, who, I might add, is celebrating his birthday today. I will leave it up to my colleagues to find out which one.

I thank the Chair.

The PRESIDING OFFICER. Who seeks the floor?

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I am about to suggest the absence of a quorum and ask unanimous consent that all time be charged equally among the four designees who are managing time.

Mr. MURKOWSKI. Mr. President, I object.

The PRESIDING OFFICER. The Senator from Alaska objects. The Chair is advised by the Parliamentarian, if a quorum call is called, it is automatically divided among all four groups.

Is there a question whether a quorum is present?

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The time will be charged to all four sides.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GRAMM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMM. Mr. President, each side is allocated time, both for and against NAFTA. We are somewhat limited in terms of time for those who want to speak for NAFTA, enlightenment being widely distributed through the Senate.

We have relatively few demands for time from those who want to speak against NAFTA. We have checked with the person who controls the time for those on our side of the aisle who will speak against the agreement. As long as their time does not drop below 2 hours, they have no objection to running the time while we are in a quorum simply against the opposition time on the Republican side of the aisle.

So I ask unanimous consent that, under the quorum which I will ask for when I finish speaking, time that will run off the clock on the Republican side of the aisle be charged against the opposition time, but that that process stops when that time is down to 2 hours remaining.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. GRAMM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Senator from New Jersey, Senator LAUTENBERG, be able to speak and that the time be equally charged among the four designees who have time allotted to them, and at the conclusion of Senator LAUTENBERG's remarks, that the Senate revert to a quorum call under the same provisions as requested by the Senator from Texas, Senator GRAMM.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator from New Jersey is recognized, for how long?

Mr. LAUTENBERG. At the most 6 minutes. I probably will use less, Mr. President.

The PRESIDING OFFICER. The Senator is recognized for 6 minutes.

CHUCK DEMARCO, AIDS AND TOTAL BODY HYPERTHERMIA

Mr. LAUTENBERG. Mr. President, I thank the Senator from Montana and my colleagues for permitting me to make a brief statement that is not related at all to the NAFTA discussion. But since the time is available, I am pleased to have the opportunity to talk about a constituent of mine whose name is Chuck DeMarco. He is from Union City, NJ. Chuck recently visited my office in Washington to inform me and representatives from the National Institutes of Health and the Food and Drug Administration about a potential revolutionary treatment for AIDS called total body hyperthermia.

I ask unanimous consent that an article that Mr. DeMarco wrote about his experience with AIDS and total body hyperthermia be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From People With AIDS Newsline, Oct. 1992]

IS HYPERTHERMIA AN EFFECTIVE TREATMENT FOR AIDS?

(By Chuck DeMarco)

One thing that all people have in common is survival. Everyone wants to live and achieve the goals we have in life. When I found out in the spring of 1988 that I had tested antibody positive for HIV, my best friend Mike and I began the quest to find a treatment that would be effective in combating this disease. Over the next two years, Mike and I researched and in some cases tried various therapies that were purported to help stop the progression of HIV, including: Typhoid vaccine therapy, lentinin, ozone therapy, oral alpha-interferon, macrobiotics and vitamin therapy. Of course none of these treatments worked for either of us, and we began to see a gradual decline in our CD4 counts, and a progression of ailments such as KS, pulmonary herpes, shingles and hair leukoplakia.

By this time Mike had developed several KS lesions on his face, for which he had undergone radiotherapy. Although the radiation lightened the lesions, more were appearing on other areas of his face and body. In my case, my first lesion appeared in my mouth, and things were further exacerbated by my contracting acyclovir-resistant herpes in my lungs. Our doctor one day in late December of 1990 told us about the story on Larry King Live about the experimental procedure that had been done to Mr. Carl Crawford in Atlanta utilizing heat as a therapy for his KS. It appeared that not only did the heat cause a total regression in Mr. Crawford's lesions, it also had the profound impact of sending him into complete remission. This sounded too good to be true, but as a layman at the time it did make sense. So, it was off to Atlanta to find out more about this procedure called hyperthermia.

In January of 1991, after scouring the newspapers for any information regarding hyperthermia, I located Dr. Kenneth Alonso who had performed the first hyperthermia treatment in February of 1990. I called him, and got an appointment for Mike and myself in the latter part of January. The quest had begun.

Arriving in Atlanta, I found Dr. Alonso to be a kind, courteous, very intelligent doctor. He proceeded to examine the two of us, and told us that in order for us to be eligible for hyperthermia he would have to biopsy one of our lesions to see if it was heat sensitive. If when it was subjected to heat the KS multiplied we would be ineligible. If it did nothing or the tumor shrunk we would be eligible. It then became a waiting process, as we waited for the next six days to see how our biopsies turned out. I remember the excitement on February 3rd, when Dr. Alonso called Mike to tell him his tumor responded favorably and he was eligible for hyperthermia. In my case, Dr. Alonso said that a few more days were necessary because there was as of then no activity occurring. On February 6th, I got the call that would make Mike and I medical pioneers. My biopsy responded favorably, and we were asked if we could travel to Italy to undergo hyperthermia on March 2, 1991.

Over the next several weeks, we went through a battery of tests to determine whether our bodies could handled the stress of undergoing the hyperthermia procedure. Besides the normal blood tests, a pulmonary function test, EEG and EKG tests were required. Since all the tests came back normal we were told we could withstand the procedure.

Presently, hyperthermia is being performed at two centers in Italy. In fact, it is an approved cancer treatment there, and total body hyperthermia, which is what Mike and I were doing, was done routinely, but still experimental for PWAs. Our procedure was going to be done in Rome at the European Hospital, which is part of the University of Rome. On Friday March 1st, we met with Dr. Paulo Pontiggia who looked over our medical records, did an examination of the two of us, and told us to check into the hospital the following morning at 9:30 a.m.

I think that any time a person is going to have any sort of a medical procedure there is some fear. I remember expressing my fears to Mike as he did the same to me, but we both realized that if we did not go through with this, there really was nothing yet on the horizon that might be able to help us. Yes, we were scared. One of the risks of undergoing any form of general anesthesia is death. If we did not take a chance with this, we may never get the opportunity to get into a trial ever again.

The next morning, Mike and I arrived at the hospital and were brought up to our room. What a beautiful hospital and grounds! I felt like a millionaire, each room with a marble bathroom, comfortable surroundings and spotless. Mike opted to go first. He was given two injections; one of heprine and one of morphine. About 45 minutes later he was wheeled down to the operating room for the procedure. Once in the OR, an IV was put into a vein in the arm, and after the anesthesia was administered, a catheter was inserted into the femoral artery in the groin. At this point the procedure is ready to begin. Once you are fully under general anesthesia, a thermometer is placed inside your stomach via your throat, one is inserted rectally, you are placed on a heart monitor, brain monitor and well ventilated. The procedure takes anywhere from 2 to 3 hours. It takes about 45 minutes for your body to be brought up to the desired temperature between 108° to 112°F. Mike was brought up to 110°F for two hours and ten minutes, and I was brought up to a staggering 112°F for one hour and 40 minutes. While this is happening, HIV and other viruses are being killed off, you turn red as a lobster and are sweating profusely. Then they slowly lower the temperature back down to normal, which takes about 20–30 minutes, remove the catheter and other medical devices and wake you up.

Now the good news! The first thing I noticed was the cough which I'd had for almost 1½ years was gone. It is now 18 months since hyperthermia, and I have not coughed once since March 2nd. The KS lesion in my mouth and on my leg were much lighter. My hairy leukoplakia was gone. In Mike's case, his hairy leukoplakia vanished, and his skin lesions on his face had white rings around them and were beginning to disappear. We both began to have incredible amounts of energy. Prior to the treatment we were sleeping between 14 and 18 hours a day. After the treatment we were sleeping less than 6 hours a day. We had our bloodwork done about six weeks after the treatment and noticed the following: CD4 count went from 220 prior to treatment to 851 after the treatment. CD8 counts went from 980 prior to 220 after the treatment. I was p24 antigen positive prior to the treatment and then p24 antigen negative afterwards. Similar things happened to Mike, except that he remained antigen positive.

As I said, it has been 18 months since I first underwent total body hyperthermia. To date 27 people have done hyperthermia in Italy, of which I have had the honor of knowing 3 and can tell you that 2 are still alive and doing well. I also have had the opportunity of meeting with Carl Crawford in July of this year at an International Conference on Hyperthermia. Let me tell you that after 29 months, he not only looks great, he is still quite healthy without any opportunistic infections and without taking any antivirals. As for myself, my CD4 and CD8 counts fluctuate but I never dip below 300 and my normal figure seems to be around 700. My cough is still gone and I am not on any medicine of any kind. I feel that hyperthermia has worked for me, not as a "cure" but as an effective treatment that for the past 18 months has kept my condition in check. If I had to have hyperthermia done again, would I do it? You better believe I would.

Mr. LAUTENBERG. Mr. President, as my colleagues will see if they read the article, Chuck DeMarco has responded incredibly well to the hyperthermia treatment that he received in Italy. At one point, he was near death, and now he is antigen negative and culture negative for the AIDS virus. Unfortunately, hyperthermia treatment is not available in the United States, even on an experimental basis.

However, Chuck DeMarco is working energetically with medical researchers and private companies to develop a proposal to submit to the National Institutes of Health or the Food and Drug Administration so that hyperthermia treatment for AIDS may begin in the United States.

I take this time to commend Chuck for all of the hard work he has done to help advance AIDS research. I also pay tribute to the great courage he has shown in his battle with AIDS.

I would like to inform my colleagues that Chuck and others have started a nonprofit organization to advance the cause of hyperthermia research in the United States. I encourage my colleagues to let any interested constituents know about Chuck's work to advance the cause of hyperthermia. The cause is to try to resolve the problem of AIDS and stop its deadly onslaught. He can be contacted at the Hyperthermia Education and Treatment Information Service, Inc., and that is at 1516 Manhatten Avenue, Suite B-W, Union City, NJ, 07087.

Mr. President, I thank the Senator from Montana for permitting me to make this statement.

NORTH AMERICAN FREE-TRADE AGREEMENT IMPLEMENTATION ACT

The PRESIDING OFFICER (Mr. FORD). The Senate now, under the previous unanimous consent agreement, will have a quorum call and the quorum call will be charged to the opponents of the North American Free-Trade Agreement on the minority side. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded and that I may be allowed to speak under the time allotted to me by the proponents of NAFTA.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Might I ask, the time is allocated to which side?

Mr. MURKOWSKI. For the proponents.

Mr. BAUCUS. Proponents.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. MURKOWSKI. It is my understanding that the time would be——

Mr. BAUCUS. Mr. President, I do not think I have the authority, but it is the understanding that the time would be allocated against the Senator from Oregon [Mr. PACKWOOD].

The PRESIDING OFFICER. Without objection, it is so ordered. The Chair would observe that someone who controls the time should yield the time. Under unanimous consent we can do most anything.

Mr. MURKOWSKI. I thank the Chair. I appreciate his willingness to recognize the reality that I am depending on my friend from Montana.

Mr. President, we have an emotional issue, a difficult issue with regard to NAFTA.

Oftentimes people do not really get exercised about our dry trade laws. On the other hand, when they begin to think about their jobs and what those trade laws mean they begin to react. We have seen that reaction of late, we have seen our President, we have seen our Vice President, we have seen Mr. Perot and a number of others, we have certainly seen Congress dealing with the problems associated with creating new jobs. Opening new markets to American products can create an environment in this country where new jobs can develop and Americans can become employed. So opening new markets to American products will provide tremendous juice, if you will, for our economy.

We have heard the fears of others who suggest that jobs will be sucked across our border. Others fear that the real danger lies in environmental groups who will use the side agreements like a club to foster their own interests.

My State of Alaska, obviously, is very concerned. My constituents have shared their concerns with me, and I take these concerns very seriously.

We have been watching attitudes in Alaska, watching polling. It is fair to say that polling information shows that Alaskans are split on the question of NAFTA.

I am concerned with some of the proposals to fund NAFTA. I do not agree with the tax on international travel. NAFTA should be paid for by spending cuts, Mr. President, and not new taxes.

I do not agree with the environmental side agreements which attempt to create a new international commission that can review implementation of U.S. environmental laws by basically setting up a trilateral international commission that can review the implementation of U.S. environmental laws.

I have asked the U.S. Trade Representative to assure me that environmental agreements will not interfere with the resource development in my State. I have been provided with those assurances.

Nothing in NAFTA, or its side agreements, allows any international body to override any Federal or State laws. Further, a country can change its environmental laws to allow for higher levels of resource development without risking fines or sanctions.

In addition, it is clear that private individuals cannot use the Commission on Environmental Cooperation to bypass or override State and Federal courts.

And further, the stiffest penalty that could be assessed against any country is a fine or trade sanction, and the fines or sanctions would apply only if a country exhibited a persistent pattern of disregarding its own laws and refuses to agree to implement those laws.

Mr. President, I ask unanimous consent that a statement from the U.S. Trade Representative regarding these specific questions asked at the October 27, 1993 Senate Foreign Relations Committee hearing concerning NAFTA be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPUTY U.S. TRADE REPRESENTATIVE, EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, DC, November 12, 1993.

Hon. FRANK H. MURKOWSKI,
U.S. Senate,
Washington, DC.

DEAR SENATOR MURKOWSKI: I appreciated the opportunity to testify before the Senate Foreign Relations Committee on October 27, 1993 regarding the North American Free Trade Agreement, and welcome this chance to further clarify the provisions of the NAFTA by providing answers to your follow-up questions from that hearing. I apologize that the demands of finalizing the implementing legislation and other elements of the NAFTA package of transmittal to Congress prevented me from responding sooner.

I trust that these answers will help with your consideration of the NAFTA, and hope that we can count on your support for this historic agreement.

Sincerely,

RUFUS YERXA.

Attachment.

WRITTEN QUESTIONS FOR ADMINISTRATION, FOREIGN RELATIONS COMMITTEE HEARING ON THE NAFTA, OCTOBER 27, 1993

1. As you know, Alaska and Canada share a large boundary. And over the years we have had our share of disputes. Rivers cross boundaries. Fish cross boundaries. Animals, such as the Porcupine Caribou Herd, cross boundaries in their migratory paths.

Does the newly or the Environmental Side Agreement give another country or a private party the right to block development in areas in Alaska which might serve as a migratory path for transboundary wildlife or fish?

Does the newly created Environmental Commission have the power to take away the control of Alaska over the management of natural resources that cross boundaries. Article 10, Subsection 7 of the Environmental Side Agreement provides the Council with the authority to develop recommendations regarding transboundary issues.

Who will be consulted in making these recommendations?

Will the U.S. federal government be making the recommendation on behalf of Alaska? And what happens when the State disagrees with the recommendations of the Panel?

Who has the ultimate authority to control natural resources under this newly devised system?

Answer: Neither the NAFTA nor the side agreements change the authority to control natural resources in the United States. The ultimate authority to control natural resources remains where it is today—in the hands of the federal and state governments. Also, neither agreement gives another NAFTA country, or a private citizen, any right to block development in the United States or any state thereof (or in Canada or Mexico).

There is no private right of action created in the agreements, and our implementing bill specifically prohibits private rights of action. Private citizens can ask the environmental commission to do a factual report on environmental problems, but these reports are not binding and are not subject to sanctions of other forms of enforcement.

Recommendations and decisions of NAFTA entities do not have the force of law in the United States. Thus another NAFTA government or a NAFTA commission or dispute panel could not have the right to block development in Alaska or elsewhere in our territory. Under the NAFTA and the side agreement, each country retains the right to determine the appropriate levels of environmental protection and to develop its laws accordingly.

The Commission on Environmental Cooperation does not replace the State of Alaska's authority over its resource management decisions. Article 10, subsection 7 of the Environmental Side Agreement commits the three governments to consider transboundary environmental issues and develop recommendations on how to address them.

The U.S. Commissioner on the Council, the Administrator of the Environmental Protection Agency, will be the U.S. representative in this activity. Any recommendations the Council may develop are just that: recommendations. Any decisions to implement such recommendations would have to be made by each country's relevant domestic authorities. Recommendations for legislative changes, for example, could only be implemented through actions of the U.S. Congress or relevant state legislatures.

In carrying out its responsibilities under the environmental side agreement, EPA will work closely with other interested federal agencies, and the Administration will consult fully with the states. The agreement explicitly acknowledges the importance of sub-federal consultation and advice in Article 18. EPA will provide, through new or existing advisory bodies, for full participation by state officials. Members of the public will also be consulted, through the Commission's Joint Public Advisory Committee and whatever additional domestic consultation processes each party chooses to provide.

2. As the Administration has tried to convince reluctant Senators and Representatives to vote yes on NAFTA, the press has been filled with reports of special deals being cut either outside of the NAFTA, or as part of the implementing legislation, or as a special addition to the side agreements. My concern about this horse trading is that we are taking the concept behind NAFTA, that is eliminating barriers to export and creating the world's largest market of 370 million people and 6.5 trillion dollars of production, and riddling it full of special deals for special interests.

Before I vote, I want this Administration to provide me with a list of every special deal that has been cut, either as part of the text, the side agreements, or the implementing legislation for particular industries or products since the signing of the supposedly "completed" text.

Answer: The NAFTA package that the President transmitted to Congress on November 3rd and 4th describes the complete set of agreements related to the NAFTA. These include the supplemental agreements on labor, the environment, and import surges; agreements concluded with Mexico relating to citrus products and to sugar and sweeteners; the border funding agreement with Mexico; letters agreeing to further negotiations to accelerate duty reductions, and a list of more technical letters related to NAFTA that have previously been provided to the Congress and that are already on file with the Senate Finance Committee. None of the letters pertaining to specific products contain permanent exceptions to free trade; all pertain to the transition from the status quo to free trade. As you know, the NAFTA already provides some differentiation in the pace of removal of barriers for different products and industries, depending on the sensitivity of those industries.

3. In material provided to my office, USTR indicated that NAFTA would have no effect

on the ability of the United States to utilize trade options such as those provided in the Pelly amendment to address environmental problems occurring outside the United States. However, in an Oct. 20 response to questions raised by Senator Stevens at a commerce Department hearing, the USTR indicated that any measure having an "environmental" purpose would be subject to the dispute settlement mechanism in Article 20 of NAFTA or Part 5 of the environmental side agreement. On its face, these statements appear contradictory. Please provide an explanation for this apparent conflict.

Answer: The apparent conflict between these statements is not a real one. First, the fact that procedures are available to the NAFTA countries to settle disputes in the event there is a challenge to a measure of one of the governments does not mean that a measure is affected by the NAFTA. We are not modifying the Pelly amendment as a result of the NAFTA; there is no amendment to Pelly included in the Proposed NAFTA implementing legislation. The NAFTA is not self-executing as a matter of U.S. law, and the implementing bill and Statement of Administrative Action make clear that the provisions of U.S. federal law prevail in the event of a conflict with the NAFTA.

As for the second statement, there appears to be a misunderstanding with regard to my earlier letter to Senator Stevens. The dispute settlement mechanism in Part Five of the *environmental side agreement* does not address the legitimacy of NAFTA-consistency of a Party's environmental laws; it addresses only the question whether a Party has engaged in a persistent pattern of failure to effectively enforce such laws. Most environmental laws are subject to this dispute settlement mechanism; however, laws whose primary purpose is "managing the commercial harvest or exploitation, or subsistence or aboriginal harvesting, of natural resources" are exempted.

My earlier answer to Senator Stevens concerned *Article 1114* of the NAFTA, in which the Parties agree not to relax "environmental measures" for the purposes of attracting investment. Article 1114 is *not* subject to NAFTA's Chapter 20 formal dispute settlement provisions. Article 1114 provides for consultations on request if one country believes another is not honoring this provision, but this article is not subject to dispute settlement or to trade sanctions.

For an environmental measure (or any other type of measure) to be subject to the dispute settlement provisions in Chapter Twenty of the NAFTA, it must be inconsistent with some provision of the NAFTA. With specific regard to issues raised by the Pelly Amendment, the Pelly Amendment already provides that action by the President is to be consistent with the GATT. NAFTA's rules in this regard are quite similar to those of the GATT.

4. Article 1114 of NAFTA prohibits the relaxation of environmental measures for the purpose of encouraging investment. However, it is unclear how this might be defined. For instance, if a restriction on U.S. activities in the EEZ (exclusive economic zone) were to be adopted for a conservation purpose—such as the existing regulation against taking of salmon in trawl fisheries—it would seem to fall under the dispute mechanism as an "environmental" measure.

What then, would occur if the United States subsequently decided it had a more desirable method of regulating trawlers, and allowed the retention of previously prohibited species?

Would one of the other principles be able to take that relaxation to dispute settlement?

What if one of the effects of the later action was, in fact, to stimulate investment by reducing fishery costs of operation—would that make a difference?

Answer: As an initial matter, choosing a more desirable way to achieve the same level of environmental protection would not be "relaxing" an environmental measure. Nor does it appear from the example cited that the purpose was to encourage investment.

Furthermore, an alleged infringement of the provisions of Article 1114(2) gives rise to an obligation to consult, but can not be taken to NAFTA dispute settlement and is not subject to trade sanctions.

5. As I understand it, there may be provisions subject to dispute settlement that are contained within an otherwise exempt statute, and vice-versa. Let's look at an example: the Marine Mammal Protection Act, which has as its purpose the conservation of marine mammals, but which also allows the Alaska Native Exemption, which allows unregulated harvests of marine mammals for subsistence and handicrafts. My understanding is that while the Act generally would be subject to dispute settlement, the specific provisions on Native harvests would be exempt. Is that your understanding?

What about a situation in which one of the other parties believes that Native harvests are having an adverse effect on the overall goal of the Marine Mammal Act?

Would that allegation be sufficient to bring the Native harvest provisions under the dispute settlement mechanism, and if not, where can that assurance be found?

Answer: For two independent reasons, the Marine Mammal Protection Act of 1972's Native harvest provisions would not be subject to dispute under the NAFTA side agreement on the environment.

First, the environmental side agreement contains an exemption for laws or provisions of laws whose primary purpose is "subsistence harvesting", which would include the Alaska Native Exemption from the MMPA.

Second, the dispute settlement provisions of the side agreement cannot be used to challenge a party's environmental laws, only the failure to effectively enforce those laws. Specifically, those provisions apply only to the question whether a party has engaged in a "persistent pattern of failure to effectively enforce" its own environmental laws. Even if native harvest provisions were viewed as environmental laws, there is no issue of failure of enforcement.

6. Has the USTR General Counsel prepared or received a legal analysis of the effect the NAFTA and/or the Environmental Side Agreement on state environmental regulations and state sovereignty? If such an analysis has been prepared, please provide my office with a copy.

Answer: No such analysis has been prepared. However, given the requirements and legal effect of NAFTA and the supplemental agreement, we do not believe that they will have any perceptible effect on state regulation or sovereignty in the environmental area. Chapters One, Seven B, and Nine of the Statement of Administrative Action provide an extensive discussion of NAFTA's effect on state laws and regulations.

As for the supplemental agreement, first, it has automatic preemptive effect in domestic U.S. law. Indeed, section 101(c) of the NAFTA implementing bill (S. 1627) specifically rules out any private cause of action against a state government under the agreement. Second, the agreement was drafted in a manner entirely consistent with state practice in the environmental area. The agreement sets certain very basic requirements of the kind routinely implemented in state and federal environmental law and practice.

Finally, only one requirement in the agreement can be subjected to dispute settlement—the obligation to enforce effectively existing federal and state environmental laws. That requirement was written in a way that fully respects state prerogatives regarding prosecutorial discretion and the prioritization of state resources.

In sum, we believe that for the United States, NAFTA and the side agreement represent a reaffirmation of existing federal and state practices in the environmental area, rather than any intrusion on federal or state decision-making.

7. The State of Alaska has instituted a geographically-limited wolf control program to allow a depleted caribou herd to recover. It has been alleged by opponents that the real reason for the State's actions is to enlarge the herd to make more caribou available to hunter and thereby increase State revenues. Under the provisions of the NAFTA and/or the Side Agreement, could a private party characterize Alaska's decision as an "environmental measure" designed to "encourage an investment" as provided under Article 1144 of the NAFTA, or any other provision of the NAFTA or the Environmental Side Agreement?

Answer: No. Private parties have no standing to institute dispute settlement proceedings under the NAFTA or the side agreements. Only governments engage in consultations under Article 1114. Private parties could ask the Environmental Commission to have the Secretariat do a factual report on this matter, but such a report could not require the state to change its programs.

While the situation you describe does not appear to fall within even the consultative provisions of NAFTA or the side agreements, we would note that for any consultations regarding a state measure, the United States will work closely with the relevant state both in preparing for such consultations and in seeking a satisfactory resolution of the situation. Chapter One of the Statement of Administrative Action sets forth the Administration's intent regarding consultations with states in the event that a state measure is the subject of a NAFTA dispute settlement; these same procedures would be used for consultations under Article 1114.

8. The provisions of the NAFTA seem to indicate that any federal rule considered "environmental" in nature is subject to the dispute settlement provisions. Is this a correct understanding of the relevant provisions?

What is unclear is whether the NAFTA dispute settlement provisions also apply to rules that result from a delegation of authority from the federal government to the state? For example, in certain crab fisheries in the EEZ (exclusive economic zone) off Alaska and/or in regulations such as those previously adopted by the State of Alaska to control fish and wildlife use pursuant to Title VIII of the Alaska National Interest Lands Act.

And finally, do the provisions apply to rules adopted by individual states where the authority to establish such rules derives from the authorities reserved to the states under the U.S. federal system?

Who decides if a state's rule is "environmental" in nature for purposes of the dispute settlement provisions?

Answer: Whether a measure is subject to NAFTA's dispute settlement provisions is not contingent on whether it is an "environmental measure". The only place where NAFTA uses the term "environmental measure" broadly is Article 1114, for which, as noted above, the available remedy is consultations between the parties, not formal dispute settlement or sanctions.

The United States does generally assume the obligations of the NAFTA for both federal and state laws, including both delegated programs and state laws subject to state jurisdiction. Accordingly, it is possible that a state measure could be the subject of a NAFTA dispute settlement proceeding if one of our trading partners believed that measure was inconsistent with the NAFTA. (This is no different from the current U.S.-Canada Free Trade Agreement, where we recently successfully challenged the Canadian provinces' practices relating to the sale and distribution of imported beer as an unfair trade barrier.) One exception is in the case of standards-related measures under Chapter Nine of the NAFTA. There, the obligation of the federal government is simply to "seek, through appropriate measures, to ensure observance" by state and local governments.

As set forth explicitly and at length in the Statement of Administrative Action for Chapter One of the NAFTA, the United States will seek to involve relevant state officials to the greatest extent possible at every stage of the proceeding if a state's measure becomes subject to challenge.

Finally, NAFTA dispute settlement panel reports have no effect under the law of the United States. Neither federal agencies nor state governments are bound by any finding or recommendation included in such reports (although a NAFTA country who successfully challenges a U.S. measure has a right to take retaliatory action equivalent to the trade damage caused by our action). Where the matter involves a law or regulation of a state, any resolution would be reached in consultation and coordination with the state concerned.

9. If Congress voted to waive a specific environmental provision to allow construction of, for example, a pipeline for petroleum products, could that action be challenged as a violation of the provisions of the NAFTA or the Environmental Side Agreement?

Answer: Congressional action to waive a specific environmental provision to allow construction of a petroleum pipeline would not be subject to challenge under the NAFTA dispute settlement provisions or those of the environmental side agreement. Governments remain free under the NAFTA and the side agreement to determine the level of environmental protection they determine appropriate, and to adopt or modify their laws accordingly. Accordingly, a government could provide a waiver or other derogation because it determined that was appropriate in light of the level of environmental protection it desired.

The environmental supplemental agreement affirms each country's rights to determine its own laws, while encouraging high standards and effective enforcement of those laws. (See Article 3, which explicitly recognizes "the right of each Party to establish its own levels of domestic environmental protection and environmental development policies and priorities, and to adopt or modify accordingly its environmental laws and regulations.")

As noted above, Article 1114 of the NAFTA does provide that parties should not relax their environmental standards in order to attract or retain investment, and provides a process for consultation between the parties if one country believes that the other is acting contrary to this provision. We do not believe the situation described falls within the ambit of Article 1114, but issues under that Article are not subject to dispute settlement in any event.

Mr. MURKOWSKI. Mr. President, still we have those who are concerned that the environmental agreement could be abused, that it could become a new avenue for environmental terrorism, so to speak. But I think it is fair to recognize that the head of the Environmental Protection Agency, who is the U.S. representative on the Environmental Commission, would have many, many more effective ways to stop development than through participation in the commission set up by the NAFTA environmental side agreement.

Despite these concerns, the future of my State of Alaska and of the great fortune of western America lies in open markets, responsible resource development, and greater exporting. Certainly my State which is exporting virtually all we produce—our fish, timber, our gas, oil, coal, with the exception of our oil—recognizes the importance of trade.

A North American Free-Trade Zone will soon become a reality. There is no question about that. The future lies in opening trade with the very countries that our President is meeting with today in Seattle, those in the Pacific rim.

So for Alaskans, Mr. President, this is particularly gratifying because Alaskans are free traders. Alaskans are independent, intelligent, aggressive, and they are risk takers. They are entrepreneurs as well.

Alaska's economy, most importantly, is based on export. Between 1982 and 1992, Alaska's exports grew 154 percent to reach $3.9 billion. If increased exports from Mexico would stimulate $2.5 million in new business in Alaska, imagine the effect of an Asian-Pacific-U.S. free trade zone. That is what the future is all about as we look towards tomorrow.

There is some indication that NAFTA may lead to the lifting of the ban on the export of oil from Alaska, a protectionist policy of the worst kind which denies Mexico the opportunity to sell its oil on the west coast of the United States and denies the State of Alaska the full value of its oil and the opportunity to have its oil priced on a free market system. We take the first step in that direction today.

And to those who are concerned about the aspects associated with union membership, I would encourage them to recognize the benefits of job creation associated with growth and what we can learn from history.

Mr. President, some people say we should learn from history. Others say we learn, but not much. It would do us all good to look back to the 1930's and recognize the implication of Smoot-Hawley, what it did to trade and commerce throughout the world and how it contributed to the Depression. We must recognize that we have in the past an experience that should teach us something about the merits of NAFTA today.

Mr. President, in conclusion, I think NAFTA is the right thing to do for the country, and that if it is not, I intend to be here in 6 months leading the fight to end our participation.

Mr. President, I further ask unanimous consent that a statement by the State of Alaska Governor's office evaluating the impact of NAFTA on Alaska be entered into the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATE OF ALASKA,
OFFICE OF THE GOVERNOR,
Washington, DC, November 8, 1993.

To: Gregg Renkes, Chief of Staff to Senator Frank Murkowski.
From: Mark Dinneen, Associate Director for Commerce, Finance and Transportation.
Through: John W. Katz, Director of State/Federal Relations and Special Counsel to the Governor.
Subject: NAFTA assessment.

Attached, as you requested, is a delineation and assessment of the most significant impacts the NAFTA would be expected to have on the State of Alaska.

NAFTA AND ALASKA

The original agreement, negotiated by the Bush administration, is issued in five volumes. The first volume, 22 chapters in eight parts, contains the provisions of the agreements. The other four volumes contain annexes and tariff schedules.

There are 3 supplemental agreements negotiated by the Clinton administration. They are: (1) Environmental Cooperation, (2) Labor Cooperation, and (3) Emergency Action (import surges).

Discussed below are the sections of the NAFTA which are seen to have a particular relevance to Alaskan interests. Those sections are: Chapter 3, National Treatment and Market Access for Goods; Chapter 6, Energy and Basic Petrochemicals; Chapter 12, Cross-Border Trade in Services; Chapter 14, Financial Services; and Side Agreement on Environmental Cooperation.

CHAPTER 3, NATIONAL TREATMENT AND MARKET ACCESS FOR GOODS.

NAFTA will not impact the ANS export ban, the Jones Act, the Merchant Marine Act or the Passenger Vessel Act. The Merchant Marine Act and the Passenger Vessel Act are specifically exempted. The U.S. must, however, define the terms "repair" and "rebuilding" as they relate to the two acts. Similarly, Mexico reserves to itself most vessel operations.

U.S. export of unprocessed logs is exempted from treatment by NAFTA, as are export of logs and unprocessed fish from Canada.

CHAPTER 6, ENERGY AND BASIC PETROCHEMICALS

Basic energy remains immune to free trade. Mexico reserves for Mexican firms and exploration and development of crude oil and natural gas. The NAFTA was partially successful in liberalizing cross-border trade in electricity and natural gas. The agreement permits U.S. and Canadian natural gas and electricity suppliers make contracts directly with Mexican firms. All agreements, however, must be reviewed by Pemex or CFE, which gives these national monopolies the ability to block or delay international contracts.

At present Alaska's most significant exports to Mexico are ammonia and urea from the Kenai Unocal plant. On average, less than $5 million of product a year is shipped to buyers in the trade free zone in north western Mexico. Unocal supports the NAFTA. Most especially because of plant capacity, however, it does not foresee any large scale increase in sales to Mexico from the Kenai plant.

The NAFTA was successful in liberalizing investment and trade in the coal industry. Mexico will eliminate its 10 percent tariff on coal immediately and will guarantee national treatment to coal imported from the United States or Canada. Though the agreement will give Alaskan coal an edge over non-NAFTA coal, the greatest barrier to the export of Alaska's vast coal reserves will remain the cost and availability of transportation to tidewater.

CHAPTER 12, CROSS-BORDER TRADE IN SERVICES

The gist of this chapter is to provide that a Canadian or Mexican professional would expect the same treatment as an American with respect to occupational licensing and certification in this country. Nothing in NAFTA waives the requirement for local license in order to practice a profession. In Alaska this would mean we would be expected to treat a Mexican or Canadian applicant no differently (positively or negatively) than an applicant from Alaska or another U.S. state.

Alaska would keep and maintain its own professional licensing and certification standards. Under NAFTA those standards are expected to be based on objective and self-evident criteria, such as competence and the ability to provide a service. The standards are not to be unnecessarily onerous, and are not to constitute a disguised restriction on the cross-border trade in services. Within one year of the passage of NAFTA, the state would have to declare any bona-fide restriction we intend to maintain against cross-border trade in services.

In the case of violation of this chapter, the penalty is but a countervailing restriction on Alaskans for whatever professional disciplines Mexicans or Canadians cannot get licenses for in Alaska.

CHAPTER 14, FINANCIAL SERVICES

One section of NAFTA that does suggest direct promise for Alaska is the Financial Services chapter. US financial service markets are much more sophisticated than Mexico's and to a smaller degree, more sophisticated than Canada's. The NAFTA would create economic development opportunities, especially in substantially under insured Mexico. Exploitation of these opportunities would, of course, be available to Alaska based firms.

Greater freedom for Alaskan firms to enter the Mexican market, of course, also means greater freedom for Canadian and Mexican firms to enter Alaska's markets. The Division of Insurance has reviewed NAFTA, and reports that the State of Alaska will retain authority over the insurance industry, and that the State's authority to regulate the industry will not be pre-empted by either the Federal Government or by NAFTA.

Most of our insurance laws are non-discriminatory, and apply equally to any insurer, State, domestic or foreign. As such our law and regulation would not be greatly impacted by NAFTA. The NAFTA provides for the State to reserve, or grandfather, provisions of our law which are in force within 1 year of the adoption of NAFTA. Although a complete review is not yet complete, it seems unlikely that much use of this reserve designation will be necessary. One possibility for reserve status is deposit requirements for non US insurers.

SIDE AGREEMENT ON ENVIRONMENTAL COOPERATION

Even without the additional side agreement, the NAFTA was heralded as a landmark accord for handling environmental issues in a trade agreement. The language would allow state government standards to be stricter than international standards when stricter measures are permitted under federal law.

The thrust of the environmental side agreement is to create a mechanism by which pressure could be exerted on a country to enforce its own environmental standards. A new commission, called the Commission for Environmental Cooperation (CEC) would be created by terms of the agreement. The CEC could be called upon when one country accused another of a persistent pattern of failure to effectively enforce its own environmental laws. The CEC could put forward a plan to resolve the claim, or the parties could agree to an action plan. If the plan were not implemented, a fine of up to $20 million could be imposed. If the country complained against (except Canada) continued to refuse to implement the plan, trade sanctions could be imposed in sufficient amount to pay the fine.

An additional function of the CEC would be to consider and develop recommendations regarding the environmental impacts of activities within one country that have or may have significant trans-boundary effects. It will also consider issues of public access to information, appropriate limits for specific pollutants, and reciprocal access rights and remedies for damage or injury resulting from trans-boundary pollution.

The CEC would be comprised of a ministerial council of the top environmental official of each country. The counsel would create a central secretariat staffed by nationals of each country (in direct proportion to population) and a Joint Public Advisory Committee of five public members from each country. Independent parties could submit information to the CEC, and the CEC could contract the work of experts. The agreement does not grant the CEC power to compel firms and municipalities to open their doors and books to provide information. The council will administer the agreement, including the dispute settlement procedures.

NAFTA AND ANWR

Perhaps the most contentious aspect of the NAFTA for Alaska is the suggestion that the NAFTA could restrict the development of ANWR. There is foundation in this concern, but it is important to understand the conditions and process under and by which an international dynamic would affect what is otherwise a domestic decision.

The main charge of Commission for Environmental Cooperation (CEC), is with respect to a country's enforcement of its own environmental laws and standards. Under this authority of the CEC, development of ANWR would first of all have to have been authorized by Congress. The subsequent exploration and development would have to then otherwise violate US law. The US would have to then be guilty of persistently failing to enforce its law and stem the violations. At this point, the CEC could be called into play, and the following would occur:

1. The Canadian or Mexican federal government would file a "submission" to the secretariat alleging a failure of the US to enforce a national environmental law.
2. The Secretariat would create a factual record. The factual record could be made public if 2 of the 3 NAFTA Commissioners agree.
3. The countries would then be given 60 days to consult.
4. If the dispute is not resolved, an arbitration panel would be established. This would require a 2/3 Commission vote. The panel would issue an initial report within 180 days. A final report would be issued within the following 60 days.
5. If the panel rules that there has been a persistent pattern of failure to enforce environmental law, the parties would be allowed to negotiate a mutually satisfactory settlement.
6. If there is no settlement, within 60 to 120 days, the panel would be reconvened to consider a plan.
7. If the plan adopted by the panel is not fully implemented, the panel can determine a fine, not to exceed $20 million per infraction.
8. If the fine is not paid, the complaining country could be allowed to invoke trade sanctions. Trade sanctions are limited to the withdrawal of NAFTA benefits in amount not to exceed the fine.

Otherwise, the CEC is charged with studying and issuing recommendations regarding trans-boundary and border environmental issues. It is conceivable that the US, Canada or Mexico could lead the CEC towards studying the trans-boundary effect of development of ANWR. Although the report have the imprimatur of the CEC, it would not otherwise have any effect with respect to the CEC's role in dispute settlement, unless the US Congress acted on a recommendation of the CEC to restrict development of ANWR.

NAFTA AND ANWR, CONCLUSION

Use of the NAFTA to restrict the development of ANWR, therefore, could occur under two different scenarios.

The first type of situation would first require that our own Congress had voted to permit development. Subsequent development would then have to violate federal environmental law. The US would then have to persistently fail to enforce its own law. This scenario seems very unlikely.

The more likely problem created by the NAFTA is the second possibility. That is the Commission for Environmental Cooperation is compelled to author a report which suggests an untoward trans-boundary impact of the development of ANWR. The ministers would have to agree that a report should be undertaken. Once written, unless all three CEC ministers agree to block the report, it would be published. Although the report would have no impact with respect to the violation of or enforcement of NAFTA provisions, it could be used to apply international pressure and attention on the Congress and the President.

Mr. MURKOWSKI. I thank the Chair. I yield the floor.

The PRESIDING OFFICER. Under the unanimous-consent agreement, the quorum call will be called, and the time will be charged to the opponents on the minority side.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. EXON. Mr. President, I am asking a question of the Chair, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. EXON. What is the pending business before the Senate?

The PRESIDING OFFICER. The unanimous-consent agreement to debate the North American Free-Trade Agreement.

Mr. EXON. Mr. President, a further parliamentary inquiry.

Do I understand that the time is further inquiry of the Chair.

The PRESIDING OFFICER. The Senator will state it.

Mr. EXON. Do I understand that the time on the amendment, which is limited, is being equally divided and charged to both sides under the present situation, including the quorum calls that we have been experiencing?

The PRESIDING OFFICER. The Senator is not correct. Under normal circumstances that would be the effect, but under the unanimous-consent agreement the roll calls are being charged to the opponents on the Republican side.

Mr. EXON. Mr. President, I ask unanimous consent of both sites that the Senator from Nebraska be allowed some time before the final vote, 10 minutes each, for a total of 20 minutes, 10 minutes from the proponents and 10 minutes from the opponents of the measure pending.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I have to object to that request.

I understand the Senator wants to speak. I might say to the Senator there are roughly 8 hours remaining on the North American Free-Trade Agreement. The Democratic side in favor has about 2 hours remaining. Senator MOYNIHAN, who is representing Senators on the Democratic side who are against it, have roughly a half hour remaining, and the remaining time is allocated somewhat proportionately on the Republican side.

I think we will find the time for the Senator from Nebraska. If he wishes to speak, I might suggest he make arrangement with whoever is managing the time on the side that the Senator from Nebraska finds himself voting on.

Mr. EXON. Suppose I advise the two Senators that the Senator from Nebraska has not yet made a determination.

Mr. BAUCUS. I respectfully suggest to the Senator from Nebraska the earlier he makes a determination the more easily he will find a solution to the Senator's problem.

Mr. EXON. I see with the time restraint that has been given out from time to time one has best go to the majority leader, who is supposed to divide the time. The Senator from Nebraska will do that and try. I thought that both sides could accommodate 10 minutes each to the Senator from Nebraska. If that is impossible, I will do whatever I can to overturn that.

Mr. BAUCUS. Mr. President, if I might make a suggestion, one would be if the Senator wishes to speak now.

Mr. EXON. I am not prepared to speak at this time. I am still considering my position. I want to write my talk. I simply am asking for 10 minutes from each side, a total of 20 minutes, to the Senator from Nebraska. I renew that request.

Mr. BAUCUS. I will say to the Senator I will make every effort to accommodate the Senator's request. There are various ways with which we can do it. For example, we could allocate the time equally among the four designees or maybe half and half. I think we will find a way to accommodate the Senator. I will make every effort to help the Senator find time to speak at least 10 or 15 minutes.

Mr. EXON. I thank the Chair.

COMMITTEE STATEMENTS ON THE NAFTA

Mr. MOYNIHAN. Mr. President, today the Committee on Finance, by a vote of 16 to 4, and other committees of jurisdiction reported S. 1627, the North American Free-Trade Agreement Implementation Act. I ask unanimous consent that the following statements by the Committee on Finance, Governmental Affairs, the Judiciary, and Foreign Relations, and the letter by the Congressional Budget Office be inserted in the CONGRESSIONAL RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

STATEMENT OF THE COMMITTEE ON FINANCE ON S. 1627 THE NORTH AMERICAN FREE TRADE AGREEMENT IMPLEMENTATION ACT (NAFTA)

The Committee on Finance, to which was referred the bill to approve and implement the NAFTA, having considered the same, reports favorably thereon and recommends that the bill do pass.

SUMMARY OF CONGRESSIONAL CONSIDERATION OF THE NAFTA

The various steps involved in Congressional consideration of the NAFTA, pursuant to procedures established in the Omnibus Trade and Competitiveness Act of 1988 and the Trade Act of 1974, are summarized below.

A. "Fast track" authority in general

The requirements for Congressional consideration of the NAFTA under expedited procedures (known as "fast track") are set forth in sections 1102 and 1103 of the Omnibus Trade and Competitiveness Act of 1988 and section 151 of the Trade Act of 1974.

Section 1102 of the Omnibus Trade and Competitiveness Act of 1988 authorized the President, prior to June 1, 1993, to enter into trade agreements with foreign countries providing for the elimination or reduction of tariffs and non-tariff barriers. (The Omnibus Trade and Competitiveness Act of 1988 provided fast track procedures through June 1, 1991, with the possibility that the fast track implementation process could be extended to trade agreements entered into prior to June 1, 1993 if the President so requested and neither House of Congress disapproved of such extension before June 1, 1991.)

On March 1, 1991, President Bush notified the Congress that he was requesting an extension of fast track procedures until June 1, 1993 in order to complete the Uruguay Round of Multilateral Trade Negotiations and to initiate and complete the NAFTA negotiations with Mexico and Canada. In mid-March, the Chairmen of the Senate Committee on Finance and the House Committee on Ways and Means, and the House Majority Leader, wrote to President Bush conveying a number of concerns about free trade with Mexico, particularly with respect to environmental and labor issues (addressing both concerns about lax Mexican enforcement and the need for an adequate U.S. program to assist workers adversely affected by an agreement). On May 1, 1991, the President responded to those letters with a set of "action plans" intended to address the environmental and labor concerns, as well as a statement of the Administration's views on the economic impact of the proposed agreement. On May 23, 1991, the House of Representatives, by a vote of 231-to-192, failed to disapprove the extension requested by President Bush. On May 24, 1991, the Senate, by a vote of 59-to-36, also failed to disapprove the extension request.

B. Notification prior to negotiations

Under section 1102(c) of the Omnibus Trade and Competitiveness Act of 1988, regarding bilateral trade agreements, the President must notify the Committees on Finance and Ways and Means concerning trade negotiations at least 60 days (including only days in which the particular House of Congress is in session) before he notifies the Congress of his intention to enter into any such trade agreement. Either Committee has the authority, under section 1103(c), to disapprove the negotiations during that 60-day period, the effect of which is to eliminate the application of "fast track" procedures to legislation to implement the agreement.

President Bush notified the two Committees on September 25, 1990 of his intention to begin negotiations with Mexico. (This followed a Joint Statement issued on June 11, 1990 by Presidents Bush and Salinas endorsing the objective of a free trade agreement; joint recommendations on August 8, 1990 to the Presidents from Ambassador Hills and Mexican Secretary of Commerce and Industrial Development Serra Puche concerning the initiation of trade negotiations; and a letter dated August 21, 1990 from President Salinas to President Bush formally proposing the initiation of free trade negotiations.) On February 5, 1991, President Bush notified the Committees that Canada (with which the United States had entered into a free trade agreement on January 2, 1988 that was subsequently approved by the Congress), also would participate in the negotiations. Neither Committee exercised its authority under section 1103(c) to disapprove the negotiations.

C. Notification of intent to enter into an agreement

Under section 1103(a) of the Omnibus Trade and Competitiveness Act of 1988, the President also is required to notify the Congress of his intent to enter into a trade agreement at least 90 calendar days before doing so. At the same time, the advisory committees on trade negotiations, established under the Trade Act of 1974, must submit reports on the agreement. During the period between notification and entering into the agreement, the President is required to consult with the appropriate Committees of jurisdiction concerning subject matter affected by the agreement.

The United States commenced the NAFTA negotiations with the Governments of Mexico and Canada in June 1991. The three Governments announced on August 12, 1992 that they had reached an agreement, and the Administration issued a negotiated summary of the agreement. President Bush notified the Congress on September 18, 1992 of his intent to enter into the NAFTA and submitted the required advisory committee reports, in accordance with the 90-day notice requirement. On October 7, 1992, Presidents Bush and Salinas and Canadian Prime Minister Mulroney met in San Antonio, Texas to discuss plans for implementing the NAFTA, and the three countries' trade ministers initialed the draft legal text of the NAFTA. On December 17, 1992, ninety days after President Bush had provided the required notice, the United States, Mexico, and Canada entered into the NAFTA.

Subsequently, the Clinton Administration negotiated supplemental agreements to the NAFTA on environmental cooperation and labor cooperation, as well as an understanding concerning emergency action under Chapter 8 of the NAFTA (special safeguards for unexpected import surges). The three Governments announced on August 13, 1993 that they had completed those negotiations. The supplemental agreements establish procedures for evaluating the adequacy of the three countries' enforcement of their environmental and labor laws. The agreements were signed on September 14, 1993. The United States and Mexico also subsequently negotiated a bilateral agreement for funding environmental infrastructure projects in the U.S.-Mexican border region.

D. Development of the implementing legislation

In practice under the "fast track," Congress and the Administration have worked together to produce the legislation to implement trade agreements. The drafting occurs in informal meetings of the Committees with jurisdiction over laws that must be amended to implement the agreement, and then in House-Senate conference meetings. The objective is to produce one bill to be transmitted by the House and Senate Leadership to the President as the recommended legislation to implement the trade agreement. The drafting is done in close consultation with the Administration in an effort to ensure that the legislation faithfully implements the agreement and that the Administration's subsequent formal submission is, to the greatest degree possible, consistent with the legislation recommended by the Congress.

In meetings in October 1993, the Committee on Finance considered and made recommendations for the implementing bill. Subsequent to those meetings, the Committees on Finance and Ways and Means resolved differences in the recommendations of the two Committees. Other Committees of the Senate and House also considered provisions of the implementing legislation within their respective jurisdictions.

On November 2, 1993, the Majority Leader of the Senate and the Speaker of the House transmitted proposed implementing legislation, containing the recommendations of the various Committees of jurisdiction, to the U.S. Trade Representative (USTR).

E. Formal submission of the agreement and legislation

When the President formally submits a trade agreement to the Congress under section 1103, he must include in that submission the final text of the agreement, together with implementing legislation, a Statement of Administrative Action (describing regulatory and other changes that are necessary or appropriate to implement the agreement), and other supporting information. The implementing bill itself must contain provisions formally approving the agreement and the Statement of Administrative Action and proposing amendments to current law or new authority necessary or appropriate to implement the agreement. The implementing legislation is introduced in both Houses of Congress on the day it is submitted by the President and is referred to Committees with jurisdiction over its provisions.

President Clinton transmitted the final text of the NAFTA, along with implementing legislation, a Statement of Administrative Action, and other supporting information, as required by section 1103(a) of the Omnibus Trade and Competitiveness Act of 1988, to the Congress on November 4, 1993. The legislation was introduced the same day in both the House and the Senate. (The supplemental agreements, along with the agreement with Mexico on border funding and other materials, were transmitted separately to the Congress by the President on November 4.) The implementing bill reported here, which approves the NAFTA and the Statement of Administrative Action and contains a number of additional provisions necessary or appropriate to implement the NAFTA into U.S. law, was referred to six Senate Committees of jurisdiction.

F. Committee and floor consideration

Where all of the preceding requirements have been satisfied, implementing revenue bills, such as the NAFTA bill, are subject under the "fast track" procedures of section 151 of the Trade Act of 1974 to the following schedule of Congressional consideration:

(1) House Committees have up to 45 days in which to report the bill; any Committee which does not do so in that period will be automatically discharged from further consideration.

(2) A vote on final passage by the House must occur on or before the 15th day after the Committees report or are discharged.

(3) Senate Committees must act within 15 days of receiving the implementing revenue bill from the House or within 45 days of Senate introduction of the implementing bill, whichever is longer, or they will be discharged automatically.

(4) The full Senate then must vote within 15 days.

Thus, Congress has a maximum of 90 days in which to complete action on the bill, although that time period can be shortened. (The 90-day period excludes the days either House is not in session because of an adjournment of more than three days to a day certain or an adjournment *sine die*, and any Saturday or Sunday when either House is not in session.)

Once the implementing bill has been formally submitted by the President and introduced, no amendments to the bill are in order in either House of Congress. Floor debate in each House is limited to no more than 20 hours.

The Committee on Finance ordered S. 1627 favorably reported on November 18, 1993.

COMMITTEE ON FINANCE ACTIONS

From February 1991 through September 1993, the Committee on Finance held 15 hearings on the NAFTA. Five of the hearings were held in 1993. In those hearings, the Committee heard testimony from Ambassadors Hills and Kantor, other officials of the Executive Branch, representatives of U.S. business, labor, agriculture, and environmental organizations, and academics concerning the NAFTA and the supplemental agreements on environmental cooperation and labor cooperation. In addition, the Committee held numerous executive sessions with Ambassadors Hills and Kantor, in which the Committee was briefed extensively on specific provisions of the NAFTA and the supplemental agreements on environmental cooperation and labor cooperation.

OVERVIEW OF THE NAFTA

A free trade agreement such as the NAFTA is an arrangement between two or more countries in which each removes tariff and other restrictions on trade between those countries. Article XXIV of the General Agreement on Tariffs and Trade (GATT) permits free trade areas as a deviation from the principle of non-discrimination (most-favored-nation (MFN) treatment) in Article I of the GATT if the agreement meets certain criteria. Most significantly: (1) the free trade area must eliminate duties and other restrictive measures on "substantially all" trade between the parties; and (2) duties and other regulations of commerce maintained by the parties may not be higher or more restrictive to the trade of third countries than they were prior to the agreement.

The NAFTA is the third free trade agreement to which the United States is a party, following the agreements concluded with Israel in 1985 and with Canada in 1988. (The relationship of the NAFTA to the U.S.-Canada Agreement is explained in the description of section 107 of this bill.)

The NAFTA is organized as follows: Part One includes the general objectives, including the NAFTA's relationship to other agreements, and definitions. Part Two, containing the Agreement's major trade liberalizing provisions, covers Chapters 3 through 8. These include provisions on the elimination of tariffs; drawback and other customs programs; rules of origin for determining whether goods have sufficient North American content to qualify for preferential treatment under the NAFTA; trade in automotive goods and in textiles; energy and petrochemicals; agriculture (including sanitary and phytosanitary measures); and emergency actions (bilateral and global safeguards).

Part Three concerns standards-related measures (technical barriers to trade). Part Four covers government procurement rules and procedures. Part Five establishes the rules governing investment, cross-border trade in services, telecommunications, financial services, competition policy, and the temporary entry of business persons. Part Six sets out the rules for protection of intellectual property rights. Part Seven establishes the procedures for review and dispute settlement in antidumping and countervailing duty matters, as well as the general institutional arrangements and dispute settlement procedures. Finally, Part Eight includes both the exceptions from NAFTA coverage and provisions on the entry into force and related matters.

In addition to the 22 chapters of text, the NAFTA includes the tariff schedules of each of the three parties, and annexes setting out the specific rules of origin and the reservations and exceptions taken by each country with respect to the commitments on investment, cross-border trade in services, and financial services.

Not all provisions of the NAFTA are reflected in the implementing legislation. In fact, most of the obligations do not require any U.S. action to effect implementation, because U.S. law and practice already are consistent with the terms of the NAFTA. Other obligations can be implemented through administrative action, as set forth in the Statement of Administrative Action submitted to the Congress with the NAFTA and implementing bill on November 4. Finally, many provisions of the NAFTA, in areas such as energy, investment, and financial services, only necessitate changes in the laws and regulations of Mexico.

GENERAL DESCRIPTION OF THE BILL

Section 1: Short title and table of contents

Section 1 entitles the Act the "North American Free Trade Agreement Implementation Act" and lists the Table of Contents.

Section 2: Definitions

Section 2 defines key terms used throughout the Act.

TITLE I—APPROVAL OF, AND GENERAL PROVISIONS RELATING TO, THE NORTH AMERICAN FREE TRADE AGREEMENT (NAFTA)

Section 101: Approval and entry into force

Approval.—Section 101(a) provides that, pursuant to the requirements of section 1103 of the Omnibus Trade and Competitiveness Act of 1988 and section 151 of the Trade Act of 1974, the Congress approves the NAFTA entered into on December 17, 1992 with the Governments of Canada and Mexico and submitted to the Congress on November 4, 1993, and the Statement of Administrative Action proposed by the Executive Branch to implement the NAFTA and submitted to the Congress on November 4, 1993.

Conditions for entry into force.—Section 101(b) establishes conditions for the NAFTA's entry into force, implementing Article 2203 of the NAFTA. It authorizes the President to exchange notes with the Government of Canada or Mexico providing for the NAFTA's entry into force, on or after January 1, 1994, with respect to such country, but establishing certain conditions for such entry into force.

First, the President shall determine that such country has implemented the statutory changes necessary to comply with its NAFTA obligations and has made provision to implement the Uniform Regulations on rules of origin under article 511 of the NAFTA. The President shall transmit a report to the Congress setting forth this determination, as well as a description of the measures taken by Mexico to bring its antidumping and countervailing duty laws into conformity with Annex 1904.15 of the NAFTA and to ensure effective implementation of the binational panel review process under Chapter 19 of the NAFTA.

Second, the Government of such country shall exchange notes with the United States providing for the entry into force, for that country and the United States, of the environmental and labor supplemental agreements (the North American Agreement on Environmental Cooperation and the North American Agreement on Labor Cooperation).

The purpose of this provision, coupled with commitments made in the Statement of Administrative Action, is to make clear that the President will exchange notes permitting the NAFTA's entry into force with respect to Canada or Mexico when such country has satisfied both of the above requirements, and the President has reported to Congress with respect to the first of these.

Section 102: Relationship of the NAFTA to the United States and State law

Relationship to U.S. law in general.—Section 102(a)(1) provides that no provision of the NAFTA, nor its application, which is inconsistent with any U.S. law shall have effect. Section 102(a)(2) provides that, unless specifically provided for in this implementing bill, nothing in this bill shall be construed to amend or modify any U.S. law, including any law concerning the protection of human, animal, or plant life or health, the environment, or motor carrier or worker safety.

These provisions conform with and reflect the Committee's understanding that any necessary changes in Federal laws must be enacted specifically by the Congress; the NAFTA is not self-executing and therefore has no independent effect under U.S. law. The Committee is not aware that any action, aside from what is included in this bill and the Statement of Administrative Action, is necessary to implement U.S. obligations under the NAFTA. If in the future a NAFTA dispute settlement panel were to determine that a particular U.S. law was inconsistent with the NAFTA, the Congress would retain the full authority to determine whether or not to amend or modify that law.

Section 102(a)(2) provides further that nothing in this bill shall be construed to limit any authority conferred under section 301 of the Trade Act of 1974. The Committee notes that the Statement of Administrative Action submitted to the Congress on November 4, 1993 expressly states that the NAFTA does not amend or limit remedies available under section 301, and that the USTR will maintain its full authority to take retaliatory actions and other measures under section 301 should another NAFTA country engage in practices that are subject to that provision. The Committee strongly believes that the NAFTA should not, and does not, in any manner restrict the remedies available to the U.S. Government under section 301.

Relationship to State law.—Section 102(b) sets out the relationship of the NAFTA to State law and defines the process for carrying out U.S. obligations under the NAFTA, as applied to the States, through extensive consultations with State officials.

Section 102(b)(1) expands significantly on the U.S.-Canada Free Trade Agreement Implementation Act of 1988 (the CFTA Act) in establishing a detailed process for Federal-State consultation. This process is elaborated upon in the Statement of Administrative Action.

The President shall consult with the States through the Intergovernmental Policy Advisory Committee on Trade (IGPAC) established under section 306(c)(2)(A) of the Trade and Tariff Act of 1984. In addition, the USTR shall establish an expanded consultative process to address particular issues that arise under the NAFTA. This process shall include (1) assisting the States in identifying measures that may not conform with the NAFTA but may be maintained because they were in effect prior to the NAFTA's entry into force (*i.e.*, those that are "grandfathered"); (2) informing the States concerning any matter arising under the NAFTA that directly relates to, or may have a direct impact on, them; (3) providing the States with the opportunity to submit information and advice with regard to such matters; (4) taking into account such information and advice in formulating U.S. positions; and (5) involving the States, to the greatest extent practicable, at each stage of the development of U.S. positions with respect to such matters (whether they are before a committee, subcommittee, or working group established by the NAFTA or are to be decided by a dispute settlement panel).

Section 102(b)(1) also clarifies that this Federal-State consultative process does not create an "advisory committee" under the Federal Advisory Committee Act.

Section 102(b)(2) establishes that no State law, nor its application, may be declared invalid on the ground of being inconsistent with the NAFTA, except in an action brought for such purpose by the United States. This provision makes clear that the NAFTA does not automatically preempt State laws that do not conform to its provisions—even if a NAFTA dispute settlement panel were to determine that a particular State measure was inconsistent with the NAFTA. In view of the extensive consultation procedures provided under section 102(b)(1), the Committee anticipates that only in rare instances will State laws be found to be inconsistent with the NAFTA. Should that occur, this bill envisions that the Federal Government will do everything possible to encourage voluntary compliance by the States with the NAFTA. It is the Committee's expectation that court actions to compel State adherence would be brought by the United States only in the most limited circumstances and only as a last resort.

Definition of "State law".—Section 102(b)(3) defines "State law"; the specific reference to any such law regulating or taxing the business of insurance is intended to address section 2 of the McCarran-Ferguson Act, which provides that no Federal statute is to be construed to supersede any State law regulating or taxing the business of insurance unless the Federal statute specifically relates to that business.

No private rights of action.—Section 102(c) provides that no person other than the United States shall be able to challenge any action or inaction by either the Federal or a State government (or its subdivision) on the ground that this is inconsistent either with the NAFTA or the environmental or labor supplemental agreement. This express preclusion of private rights of action based on the NAFTA or the supplemental agreements further clarifies the limited circumstances and defined procedures for challenges to U.S. or State laws based on their alleged inconsistency with the NAFTA.

Section 103: Consultation and layover requirements for, and effective date of, proclaimed actions

Certain actions that must be undertaken in order to implement the NAFTA pursuant to this bill are authorized to be proclaimed by the President rather than enacted directly. This bill authorizes the President to proclaim certain actions immediately. The President is further authorized, in certain circumstances, to take future actions by proclamation. In those circumstances, it is essential to ensure adequate consultation with the Congress and the private sector before the action is taken. This is accomplished by requiring both consultation and a layover period prior to Presidential proclamation.

Section 103(a) provides that, if a provision of the implementing bill subjects implementation of an action by Presidential proclamation to consultation and layover requirements, such action may be proclaimed only if three procedural requirements are met:

(1) the President has obtained advice regarding the proposed action from appropriate private sector advisory committees

and from the International Trade Commission (ITC);

(2) the President has submitted a report to the Committees on Finance and Ways and Means setting forth the proposed action and reasons therefor and the advice obtained; and

(3) at least 60 calendar days have expired since submission of the report, and the President has consulted the Committees during that period.

This three-step process applies to the following provisions: (1) tariff modifications, including any acceleration of tariff staging agreed to by the Parties; (2) modifications to specific rules of origin in Appendix 6.A of Annex 300-B and Annex 401, the automotive "tracing" requirements in Annexes 403.1 and 403.2, and the regional value-content provision in Annex 403.3 of the NAFTA; and (3) modifications in provisions of the bill that enact Article 415 (rule of origin definitions) agreed to by the Parties during the first year after enactment of the implementing bill.

Initial proclamations authorized in this bill (tariff modifications to implement schedules of duty reductions, basic and specific rules of origin, various customs provisions) that are not subject to these consultation and layover requirements may not take effect earlier than 15 days after the proclamation is published in the *Federal Register*.

The Committee notes further that this bill does not provide expedited legislative consideration for any changes in statutes needed for future amendments to the NAFTA. It is expected that normal legislative procedures would apply to any such legislation.

Section 104: Implementing actions in anticipation of entry into force and initial regulations

Section 104(a) provides that the President (subject to consultation and layover requirements and any other applicable restriction or limitation provided in the implementing bill) may proclaim such actions, and U.S. Government officers may issue such regulations, as may be necessary to ensure that any provision of the legislation that takes effect on the date the NAFTA enters into force is appropriately implemented on, but not prior to, that date.

Section 104(b) provides that initial regulations that are necessary or appropriate to carry out the Statement of Administrative Action shall, to the maximum extent feasible, be issued within one year after the NAFTA enters into force. However, interim or initial regulations on rules of origin (reflecting the Uniform Regulations required by article 511 of the NAFTA) shall be issued no later than the date of entry into force of the NAFTA. This is intended to respond to the Committee's concerns with respect to the lengthy delay in issuing U.S. regulations to implement the rules of origin set forth in the U.S.-Canada Free Trade Agreement (CFTA) subsequent to the CFTA's entry into force on January 1, 1989.

For any implementing action that takes effect after the entry into force, initial regulations shall, to the maximum extent feasible, be issued within one year after the relevant effective date.

Section 105: United States section of the NAFTA secretariat

Article 2002 of the NAFTA provides for the establishment of a Secretariat, comprised of national sections, to assist in the implementation and administration of the NAFTA, particularly with respect to the dispute settlement panels and committees established under Chapter 19 (for disputes involving the antidumping and countervailing duty laws) and Chapter 20 (for other disputes arising under the NAFTA).

Section 105(a) of this bill authorizes the President to establish, within any U.S. Government department or agency, a U.S. Section of the Secretariat established under Chapter 20 of the NAFTA. The U.S. Section shall facilitate the operations of Chapters 19 and 20, including the work of the panels and extra-ordinary challenge committees convened pursuant to those chapters.

Section 105(b) authorizes appropriations, for each fiscal year after fiscal year 1993, to the Department of Commerce (where the U.S. Section will be established) of the lesser of such sums as may be necessary or $2,000,000, for the establishment and operations of the U.S. Section and for payment of the U.S. share of expenses of binational panels and extraordinary challenge committees convened pursuant to Chapter 19 and dispute settlement proceedings under Chapter 20. The U.S. Section may retain and use funds provided by the Canadian and Mexican Sections for payment of their share of such expenses.

Section 106: Appointments to chapter 20 panel proceedings

Section 106(a) requires USTR to consult with the Committees on Finance and Ways and Means regarding the selection and appointment of candidates to the roster of panelists eligible to serve on dispute settlement panels in proceedings under Chapter 20.

Section 106(b) provides that the United States shall, to the maximum extent practicable, encourage the selection of environmental experts as panelists in proceedings under Chapter 20 involving challenges to U.S. or State environmental laws.

Section 107: Termination or suspension of the CFTA

Section 107 amends Section 501(c) of the CFTA Act to address the relationship of the CFTA to the NAFTA. It is structured to implement the understanding reached through an exchange of letters between the Governments of the United States and Canada on January 19, 1993, stating that the United States and Canada will arrange for the suspension of the CFTA upon the NAFTA's entry into force for the two countries, and that the suspension will remain in effect for such time as the two countries remain parties to the NAFTA.

Section 107 provides that, on the date that the United States and Canada agree to suspend the CFTA's operation by reason of the NAFTA's entry into force between them, the following provisions of the CFTA Act are suspended: sections 204 (a) and (b) (concerning drawback), section 205(a) (certificates of origin enforcement), section 302 (import relief measures), section 304(f) (biennial reports), section 404 (amendments to antidumping and countervailing duty laws), section 409 (subsidies), and section 410(b) (transition provisions). These shall remain suspended until such time as the suspension itself is terminated. It is the Committee's understanding that, in cases where the CFTA Act carries out U.S. obligations under the CFTA that will continue in effect under the NAFTA, those provisions of the CFTA Act either remain in place or are amended in this implementing bill.

Section 107 provides further that an agreement by the United States and Canada to suspend the CFTA shall not be deemed to cause the CFTA to cease to be in force. If, however, the CFTA does cease to be in force, all of the CFTA Act's provisions, with the exception of sections 410(b) and 501(c), shall cease to have effect.

Section 108: Congressional intent regarding future accessions

Section 108(a) provides that Congressional approval of the NAFTA may not be construed as conferring approval of its entry into force with respect to countries other than Canada and Mexico. This states the Committee's understanding that the Congress would review, and either approve or reject, proposals for accession by any other country to the NAFTA. Such a procedure is consistent with the language of Article 2204 of the NAFTA that any future accession shall be subject to approval in accordance with the applicable legal procedures of each NAFTA country.

Section 108(b) establishes a process for consideration of future free trade negotiations, based on findings by the Congress concerning the importance of trade agreements that provide greater market access for U.S. exports of goods and services and opportunities for export-related investment by U.S. persons. By May 1, 1994 and again by May 1, 1997, USTR shall submit to the President and the Committees on Finance and Ways and Means a report listing those countries that either (1) currently provide fair and equitable market access to U.S. exports, or (2) have made significant progress in opening their markets to U.S. exports, and the further opening of whose markets has the greatest potential to increase U.S. exports. On the basis of these reports, the President, by July 1, 1994 and July 1, 1997, is required to report to the Committees on Finance and Ways and Means regarding the countries with which the United States should seek to negotiate free trade agreements, and the objectives for such negotiations.

Section 108(b) also sets out several general U.S. objectives with respect to any such negotiations, including obtaining preferential treatment for U.S. goods, national treatment (and, where appropriate, equivalent competitive opportunity) for U.S. services and foreign direct investment by U.S. persons, the elimination of various foreign trade barriers to U.S. goods and services, adequate and effective protection of intellectual property rights for U.S. persons, the elimination of all export taxes (in particular, differential export taxes that disadvantage U.S. producers), and effective dispute settlement mechanisms to facilitate compliance with all of the listed objectives.

Section 109: Effective dates; effect of termination of NAFTA status

Section 109 provides that, with the exception of section 107, Title I takes effect on the date of enactment of the implementing bill. Section 107 takes effect on the date that the NAFTA enters into force between the United States and Canada. Sections 101 through 106 shall cease to have effect with respect to a country during any period in which that country ceases to be a party to the NAFTA.

TITLE II—CUSTOMS PROVISIONS

Section 201: Tariff modifications

Article 302 of the NAFTA is the cornerstone of the agreement between the three countries. It calls for the progressive elimination of tariffs according to the staging categories set forth in Annex 302.2 and in each Party's schedule to Annex 302.2. There are four basic staging categories: (1) immediate elimination of tariffs (category A); (2) five-year phase-out in equal, annual cuts of 20 percent (category B); (3) 10-year phase-out in equal annual cuts of 10 percent (category C); and (4) in the case of the most import-sensitive products, 15-year phase-out in equal, annual cuts of 6.67 percent per year (category C+). Goods that currently receive duty-free treatment will continue to receive duty-free treatment (category D).

Section 201 implements Article 302. Subsection (a) authorizes the President to proclaim such modifications or continuation of any duty, continuation of duty-free or excise treatment, or such additional duties as he determines to be necessary or appropriate to implement the NAFTA articles and annexes providing for the phase-out of tariffs.

Subsection (a) further requires the President to terminate Mexico as a beneficiary under the Generalized System of Preferences (GSP) program on the date the NAFTA enters into force between the United States and Mexico. The Committee believes that termination of Mexico's status as a GSP beneficiary is necessary to achieve the goals of the NAFTA, and the maximum possible benefits for the United States. The rules of origin under GSP are generally less stringent than the NAFTA rules of origin. The Committee believes that permitting Mexico to continue to receive GSP benefits would, therefore, undermine the NAFTA.

Section 201(b) authorizes the President, subject to consultation and layover requirements, to proclaim tariff modifications, including the accelerated phase-out of tariffs, that the President determines to be necessary or appropriate to maintain the general level of reciprocal and mutually advantageous concessions with respect to Canada or Mexico. Subsection (b)(2) provides, however, that for articles with a tariff phaseout period of more than 10 years, the President may not consider a new request to accelerate the staging of duty reductions if a request for acceleration has been denied with respect to that article in the preceding three years. The Committee believes that this restriction is necessary for the import-sensitive products subject to these gradual phaseout periods in order to prevent petitioners from filing annual requests for acceleration, even in the absence of changed circumstances, that would require the domestic industry to devote often-limited resources to oppose the acceleration request. The Committee believes that this three-year rule will still afford parties interested in seeking acceleration an ample opportunity to do so, without unduly burdening the domestic industry.

With respect to all requests for accelerated tariff reductions, it is the Committee's intent that USTR continue to use the same administrative procedures in considering such requests under the NAFTA as have been used under the CFTA, with respect to denying such requests when they are opposed by the domestic industry. It is the Committee's intention to use the consultation and layover period to screen for a second time any potentially controversial acceleration proposals.

At the same time, the Committee recognizes that the provisions for accelerated tariff reduction can have a beneficial effect. To that end, the Committee urges the Administration, beginning as soon as possible after the NAFTA's entry into force, to press Mexico for accelerated removal of tariffs on a number of U.S. products, particularly those for which reciprocal tariff concessions were not obtained from Mexico during the course of the NAFTA negotiations. In particular, the Committee urges USTR to request immediate consultations with Mexico to seek accelerated reductions of the tariffs on household appliances, flat glass, bedding components, and wine and brandy. This is consistent with the November 3, 1993 exchange of letters between USTR Kantor and Mexican Secretary of Commerce and Industrial Development Serra Puche, which provide that the two countries will begin the first round of tariff acceleration negotiations in January 1994, immediately after the NAFTA's entry into force, with the intention of completing them in 120 days or less. The Committee expects to consult closely with USTR concerning the outcome of those acceleration negotiations, and requests that USTR issue a report to the Committee within 30–45 days of their conclusion.

Section 201(c) authorizes the President to substitute for the base rate of certain textile and apparel articles covered by Annex 300-B an *ad valorem* rate equivalent to the base rate. The flexibility that this subsection provides is intended to implement an agreement between the United States and Mexico that the Committee understands has the full support of U.S. industry. (The base rates for customs duties, which are, in general, the rates of duty in effect on July 1, 1991, are set forth in each Party's Schedule to Annex 302.2.)

Section 202: Rules of origin

Section 202 enacts into law the general rules of origin set forth in Chapter 4 of the NAFTA, and authorizes the President to proclaim the product-specific rules of origin set forth in Annex 401. These rules are essential to ensure that the benefits of the NAFTA accrue primarily to North American producers, and the Committee intends that the Customs Service vigorously enforce them.

Subsections (a) through (l) and (p) enact NAFTA Articles 401 through 413, and NAFTA Article 415, into law. Subsection (a) sets forth the requirements that goods must meet to be considered "originating" goods and therefore eligible for preferential tariff treatment under the NAFTA. In general, a good may be considered an originating good if it falls into one of the following categories: (1) the good is wholly obtained or produced in the territory of one or more of the NAFTA Parties; (2) each of the non-originating materials used in the production of the good undergoes a change in tariff classification as a result of production that occurs entirely within one or more of the Parties or the good otherwise satisfies the origin requirements; (3) the good is produced entirely in one or more of the Parties exclusively from NAFTA-origin materials; or (4) in certain circumstances, the good is produced entirely in one or more of the NAFTA Parties but one or more of the non-originating materials that are provided for as parts under the Harmonized Tariff Schedule (HTS) and used in the production of the good does not undergo a change in tariff classification, but only if the regional value content of the good (labor performed and parts produced within NAFTA countries) meets certain thresholds (at least 60 percent of the value of the goods or 50 percent of their net cost).

Subsection (a) further provides, however, that NAFTA origin (and therefore NAFTA tariff benefits) may *not* be conferred on goods produced in foreign trade zones (FTZs) or subzones even if non-originating materials undergo an applicable change in tariff classification. This provision ensures that current law will continue to apply to goods produced in FTZs or subzones, *i.e.*, that full duties are owed on the value of foreign materials or components used in goods produced in FTZs or subzones when such goods are entered for consumption in the United States.

Subsection (b) enacts into law Article 402 of the NAFTA, which sets forth the formulas for calculating regional value content on the basis of the two methodologies approved by the NAFTA—the transaction value method and the net cost method. Using the transaction value method, as provided in subsection (b)(2), the regional value content is calculated by taking the difference between the transaction value of the good (adjusted to an f.o.b. (free on board) basis) and the value of non-originating materials used in the production of the good and dividing by the transaction value of the good. Under the net cost method, as described in subsection (b)(3), the regional value content is calculated by dividing the difference between the net cost of the good and the value of non-originating materials used in the production of the good by the net cost of the good.

Section 202(b)(4), as mandated by paragraph 4 of Article 402, provides that, except for certain motor vehicles and parts, the value of any non-originating materials used to produce originating materials subsequently used in the production of a good is excluded from the calculation of the regional value content.

Paragraph 5 of Article 402 requires that the net cost method be used to calculate regional value content in certain circumstances. As set forth in section 202(b)(5) of this bill, the net cost method must be used where there is no transaction value for the good or the transaction value is unacceptable under the Customs Valuation Code; the good is sold by a producer to a related person under specific circumstances; or the goods involved are certain motor vehicles, automotive components, footwear, or word processing machines. The net cost method must also be used if the exporter or producer chooses to accumulate the regional value content of the good or the good is designated as an intermediate material (as provided in paragraph 10 of Article 402) and is subject to a regional value content requirement.

Section 202(b)(6) allows an exporter or producer who has calculated regional value content based on transaction value to recalculate regional content using the net cost method if the exporter or producer is notified, during the course of a verification, that the transaction value or the value of any material used in the production of the good must be adjusted or is unacceptable. This provision implements paragraph 6 of Article 402. Subsection (b)(7), as required by paragraph 7 of Article 402, is intended to clarify that this provision is not to be construed to prevent any review or appeal available under NAFTA Article 510 with respect to an adjustment to, or a rejection of, the transaction value of the good or the value of any material used in the production of a good.

As provided in paragraph 8 of Article 402, section 202(b)(8) sets forth three methods for allocating costs when using the net cost method to calculate regional value content. This subsection allows producers to allocate costs by: (1) calculating total costs, subtracting non-allowable costs, and reasonably allocating the resulting net cost to the goods; (2) calculating total costs, reasonably allocating the total cost to the good and then subtracting non-allowable costs; or (3) reasonably allocating each allowable cost that forms part of the total cost so that the aggregate of the costs does not include any non-allowable costs.

Subsection (b)(9), implementing paragraph 9 of Article 402, establishes a hierarchy of methods for determining the value of materials. Value will generally be the transaction value of the material determined in accordance with Article 1 of the Customs Valuation Code. If the transaction value is unacceptable under that provision, the value should be determined in accordance with Articles 2 through 7 of the Code. Otherwise, value is to include certain specified costs set forth in the NAFTA and in subsection (b)(9).

With certain exceptions related to automotive goods, subsection (b)(10) allows a producer to designate, subject to certain restrictions, a self-produced material used in the production of a good as an intermediate material for purposes of calculating regional value content. Once it is determined that the intermediate material meets the applicable rule of origin, all costs in the production of the intermediate material are treated as originating costs. Sections 202(b) (11) and (12) provide rules for calculating the value of an intermediate material and an indirect material, respectively.

Section 202(c) implements Article 403, which sets forth special rules of origin for motor vehicles. The Committee understands that these rules were developed by the NAFTA negotiators in response to problems that have arisen in applying the rules of origin under the CFTA to motor vehicles. Subsection (c)(1) provides that, for passenger vehicles and light trucks and their automotive parts, the value of non-originating materials must be traced back through the production process when calculating regional value content. The tracing requirements under this subsection provide that the value of non-originating materials used in the production of the good is the sum of the values of all non-originating materials at the time such materials are received by the first person in the territory of a NAFTA country who takes title to them, that are imported from outside the NAFTA countries under the HTS provisions listed in Annex 403.1 and that are used in the production of the good or in any materials used in the production of the good.

Subsection (c)(2) sets forth less extensive tracing requirements for other vehicles and their parts. For these goods, the value of non-originating materials used by the producer is the sum of: (1) for each material listed in Annex 403.2, either the value of the material that is non-originating or the value of non-originating materials used in the production of such material, and (2) the value of any other non-originating materials used by the producer.

Section 202(c)(3) permits an auto producer to average its calculation of the regional value content of a motor vehicle over its fiscal year using any of the following categories: (1) over the same model line of motor vehicles in a single class produced in the same plant in a NAFTA country; (2) over the same class of motor vehicles produced in the same plant in a NAFTA country; or (3) over the same model line produced in the territory of a NAFTA country. Averaging may be done on the basis of either all motor vehicles in the category or only those vehicles exported to NAFTA countries. In addition, if certain conditions are met, vehicles produced by CAMI Automotive, Inc., in Canada may be averaged with vehicles produced by General Motors of Canada.

Subsection (c)(4) permits a producer to average the regional value content calculation of the automotive components listed in Annexes 403.1 or 403.2 over the fiscal year of the motor vehicle producer to whom the good is sold; over any quarter or month; or, if the good is sold as an aftermarket part, over its fiscal year. Producers may also calculate the average separately for goods sold to one or more motor vehicle producers or goods exported to a NAFTA country.

NAFTA Article 403 provides a stringent regional value content requirement for motor vehicles; the requirement is enacted into law in subsection (c)(5) of this bill. For passenger motor vehicles, light trucks, and their engines and transmissions, the regional value content is increased in stages from 50 percent for the first four years of NAFTA to 56 percent for the second four years to 62.5 percent thereafter. Other motor vehicles and other automotive parts are subject to a 50 percent regional content requirement for the first four years, 55 percent for the second four years, and 60 percent thereafter. Under section 202(c)(6), the required regional value content is temporarily reduced to 50 percent for a five-year period for investors establishing new plants to produce vehicles not previously made by that producer in the region and for a two-year period following refit of an existing plant to produce a new vehicle.

As a transitional measure, subsection (c)(7) provides that, for certain motor vehicles exported from Canada on or after January 1, 1989, and before date of entry into force of the NAFTA, the importer may elect to use the NAFTA rules of origin in lieu of the CFTA rules of origin and may elect to use either of the methods provided in the NAFTA for tracing the value of non-originating materials in automotive products for purposes of determining eligibility for preferential treatment under the CFTA. Election must be made within 180 days after NAFTA's entry into force and may be made only if the liquidation of an entry has not become final. This subsection implements a U.S. commitment contained in a December 15, 1992 letter from former Deputy USTR Katz to former Canadian Deputy Minister of International Trade Campbell.

Section 202(d), which implements NAFTA Article 404, clarifies that where more than one producer is involved in the production of a good, either in one NAFTA country or more than one NAFTA country, the producers may accumulate their regional processing in determining whether a good meets a required tariff classification change or regional value content requirement.

Unlike the CFTA, NAFTA Article 405 provides a *de minimis* rule for origin determinations. Subsection (e) provides that, with certain exceptions, goods may qualify as originating goods even if a small portion of the material (generally less than seven percent of the value or total cost of the good) fails to undergo an otherwise required change in tariff classification. For goods subject to a regional value content requirement, the calculation of that content is waived if the value of all non-originating materials is less than seven percent of the value or total cost of the good. The *de minimis* rule does not apply to certain agricultural products, home appliances, printed circuit assemblies, and other specified articles.

Subsection (f) implements Article 406. Under this provision, if originating and non-originating fungible materials are used in the production of a good or are commingled and exported in the same form, the origin determination may be made on the basis of any of the inventory management methods set out in the Uniform Regulations implementing the NAFTA rules of origin. (NAFTA Article 511 requires the Parties to establish and implement by January 1, 1994 Uniform Regulations regarding the interpretation and implementation of NAFTA Chapter 4 (Rules of Origin) and Chapter 5 (Customs Procedures)).

Section 202(g), implementing NAFTA Article 407, provides that accessories, spare parts or tools delivered with an originating good shall themselves be considered to be originating goods and shall be disregarded in determining whether all the non-originating materials used in the production of the good undergo an applicable change in tariff classification. These provisions apply only if the accessories, spare parts or tools are not invoiced separately from the good and the quantities and values are customary for the good. For goods subject to a regional value content requirement, the value of any accessories, spare parts or tools must be taken into account in calculating the regional value content.

Subsection (h), which implements Article 408, clarifies that indirect materials (generally, goods used in the production, testing, or inspection of a good but not physically incorporated into the good, or a good used in the maintenance or operation of buildings or equipment) are originating materials without regard to where they are produced.

Section 202(i) provides that, in determining whether all the non-originating materials used in the production of a good undergo the applicable change in tariff classification, packaging materials and containers associated with the retail sale are to be disregarded if they are classified with the good. However, if the good is subject to a regional value content rule, the value of the retail packaging materials is to be taken into account in calculating the regional value content. This subsection implements Article 409.

With respect to packing materials and containers in which a good is packed for shipment, subsection (j) provides that these are to be disregarded in determining whether the materials used in production meet the applicable change in tariff classification requirement or the regional value content requirement.

Subsection (k) prohibits the extension of NAFTA tariff preferences to goods shipped outside the territories of the NAFTA Parties for further processing. This subsection implements Article 411 of the NAFTA, which denies originating good status to such transshipped goods.

Subsection (l) implements Article 412 by providing that goods shall not be considered to be originating goods merely because they have been diluted with water or another substance or by reason of a production or pricing practice the object of which is to circumvent the NAFTA rules of origin.

Subsection (m) implements Article 413, which provides general rules for interpreting and applying the NAFTA rules of origin. These rules establish the Harmonized System as the basis for tariff classification under the NAFTA. Subsection (m) also provides rules for determining whether a heading or subheading provides for and specifically describes a good and its parts, as well as rules for applying the Customs Valuation Code.

Section 202(n) implements NAFTA Article 308 and Annex 308.1. These provisions phase in, over 10 years, a common external tariff for certain automatic data processing goods and their parts. As provided in paragraph 2 of Annex 308.1, when the MFN rate of duty applicable to these goods reaches the agreed level, these products will be deemed to be originating goods notwithstanding the rules of origin set forth in Chapter 4. Subsection (n) provides that, by operation of law, when the NAFTA Parties apply the agreed MFN rate to these products, they will be deemed to originate in a NAFTA country.

Under paragraphs 10 and 11 of Annex 703.2, the United States and Mexico may treat certain agricultural products (peanuts, peanut products, and sugar-containing products) as non-originating goods even if they meet the rules of origin set forth in Chapter 4. Section 202(o) implements these paragraphs. Under these provisions, the rules of origin applicable to these products will be stricter than the otherwise applicable rules. In order to qualify for NAFTA benefits, peanuts exported to the United States from Mexico must be harvested in Mexico, peanut butter and other peanut products must be made from peanuts harvested in Mexico, and the sugar used in sugar-containing products must have been harvested in Mexico.

Subsection (p) enacts as statutory provisions all of the definitions set forth in Article 415 of the NAFTA.

Subsection (q) provides the authority for the President to proclaim the specific rules of origin set forth in Annexes 401, 403.1, 403.2, and 403.3, as well as in Appendix 6.A of Annex 300-B. This subsection also authorizes the President, subject to consultation and layover requirements, to proclaim changes to the specific rules of origin for all products except textile and apparel products. For textile and apparel products, the President may proclaim, subject to consultation and layover requirements, changes to the rules only under two circumstances: (1) to implement such changes as agreed to by the Parties pursuant to Annex 300-B relating to agreements to modify the rules to address issues of availability of supply; or (2) to make purely technical corrections within one year after date of enactment of this Act. The Committee believes that these restrictions on the President's ability to modify the textile rules of origin are necessary to ensure that any proposals to make significant changes to these rules are scrutinized by the Congress. Finally, subsection (q) also authorizes the President to proclaim, subject to consultation and layover requirements, changes to the definitions set forth in Article 415 of the NAFTA, but only within one year after enactment of this Act.

Section 203: Drawback

Under current law, U.S. duty drawback programs provide for the refund of up to 99 percent of the duties paid on imported goods when such goods, or substituted domestic goods, are exported or incorporated in articles that are subsequently exported. Section 204 of the CFTA Act prohibits duty drawback on goods traded between the United States and Canada as of January 1, 1994, subject to limited exceptions. The NAFTA makes significant changes to the drawback rules that will apply to trade among the NAFTA countries.

NAFTA Article 303 strictly limits duty drawback on trade between the United States and Canada as of January 1, 1996, and on trade between the United States and Mexico as of January 1, 2001, with certain exceptions. For dutiable goods traded between the Parties, drawback will be limited to an amount that is the lesser of (1) the total amount of customs duties paid or owed on the non-NAFTA components initially imported; and (2) the total amount of customs duties paid to another Party on the good subsequently exported (hereafter called "NAFTA drawback formula). FTZs, maquiladoras, and other in-bond operations will be charged duty for non-NAFTA components used in goods that are sold to other NAFTA parties just as if the goods were sold into their domestic markets.

Section 203(a) defines the goods that are subject to the NAFTA drawback rules. In sum, all goods traded among the NAFTA countries are subject to the NAFTA drawback restrictions except for the goods identified in this subsection. The exceptions track those found in paragraph 6 of Article 303.

Section 203(b) amends the relevant provisions of the Tariff Act of 1930 and the Foreign Trade Zones Act (FTZ Act) to bring these statutes into conformity with the NAFTA drawback provisions. With regard to "manufacturing" drawback, section 203(b) amends section 311 of the Tariff Act of 1930 to provide that articles manufactured in a bonded warehouse from goods that are subject to NAFTA drawback are subject to duty upon withdrawal from the warehouse. Such duties must be paid within 60 days of exportation, except that duties may be waived, or reduced in an amount that does not exceed the amount stipulated in the NAFTA drawback formula. Subsection (b) also amends section 312 of the Tariff Act of 1930 to provide that duties must be paid, within 60 days of exportation to a NAFTA country, on metal-bearing materials that are refined or smelted in a bonded warehouse, except that such duties may be waived or reduced in an amount that does not exceed the amount provided for in the NAFTA drawback formula.

With respect to "substitution" drawback, subsection (b) amends section 313 of the Tariff Act of 1930 to provide generally that, for goods subject to NAFTA drawback, no customs duties may be refunded, waived or reduced in an amount that exceeds that provided for in the NAFTA drawback formula.

This subsection also amends section 562 of the Tariff Act of 1930, regarding "same condition" drawback, to provide that the NAFTA drawback formula applies to goods cleaned, sorted, or packed in bonded warehouses.

Section 203(b) also amends section 3(a) of the FTZ Act to bring that law into compliance with Article 303 of the NAFTA. Duties will be collected within 60 days of exportation to Canada or Mexico to the same extent as if the product were entered for domestic consumption, except that duties may be waived or reduced in an amount that does not exceed the amount provided for under the NAFTA drawback formula.

The amendments made to sections 311, 312, 313, and 562 of the Tariff Act of 1930 and to the FTZ Act apply on and after January 1, 1996 with respect to exports to Canada and on and after January 1, 2001 with respect to exports to Mexico.

Section 203(c) amends section 313(j) of the Tariff Act of 1930 to provide that, effective immediately, drawback may not be paid on exports to a NAFTA country of merchandise that is fungible with and substituted for imported merchandise. This subsection implements paragraph 2(d) of Article 303, which eliminates "same condition substitution" drawback on trade among the NAFTA Parties.

Consistent with paragraph 2(c) of Article 303, section 203(d) prohibits the Secretary of the Treasury from refunding or reducing a fee applied pursuant to section 22 of the Agricultural Adjustment Act for goods subject to NAFTA drawback. This restriction applies to any such goods exported to Canada after December 31, 1995 and any such goods exported to Mexico after December 31, 2000.

Subsection (e) clarifies that nothing in section 203 or the amendments made by section 203 authorizes the refund, waiver or reduction of countervailing or antidumping duties imposed on goods imported into the United States. This subsection implements paragraph 2(a) of Article 303. Current U.S. law does not, in any event, permit drawback of antidumping or countervailing duties.

The limitations on duty drawback are designed to promote the NAFTA's goal of creating an integrated market for North American products. The changes to the duty drawback regimes of the NAFTA countries will ensure that MFN tariffs will be assessed by all NAFTA countries on non-NAFTA components for final goods manufactured in their territories, whether those goods are ultimately sold in a NAFTA country's domestic market or sold in the markets of the other NAFTA countries. The requirement that duties must be paid on non-NAFTA components will create an incentive to use North American inputs and will help guard against the establishment of export platforms in Mexico by companies seeking to take advantage of NAFTA tariff preferences. At the same time, the NAFTA duty drawback formula eliminates double taxation on non-NAFTA inputs; tariffs will be collected only once for non-NAFTA inputs used in goods traded among the NAFTA Parties. This will help ensure that North American producers whose goods are not eligible for NAFTA tariff preferences (because they do not meet the NAFTA rules of origin) will not be disadvantaged when they compete with non-North American producers in the U.S. market.

Section 204: Customs user fees

Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) authorizes the Customs Service to collect certain user fees, including a merchandise processing fee, through September 30, 1998. NAFTA Article 310 requires the United States to phase out its merchandise processing fee with respect to Canadian originating goods according to the schedule set forth in CFTA Article 403, which requires the United States to eliminate the fee on goods originating in Canada by January 1, 1994. Article 310 also requires the United States and Mexico to eliminate their merchandise processing fees on originating goods by June 30, 1999.

To implement these provisions, section 204 amends the COBRA to provide that, effective January 1, 1994, the merchandise processing fee may not be imposed on Canadian goods that qualify under the rules of origin. It also provides that the fee may not be increased after December 31, 1993 with respect to Mexican goods that qualify under the rules of origin and may not be imposed on qualifying Mexican goods after June 29, 1999. In order to ensure that these provisions are consistent with GATT obligations, this subsection also prohibits the Secretary of the Treasury from using funds in the Customs User Fee Account to cover the costs of customs services provided in connection with imports from Canada or Mexico. This will ensure that amounts in that account will cover only the costs of processing imports from non-NAFTA countries which are not exempt from the merchandise processing fee.

Section 205: Enforcement

This section is intended to provide the Customs Service with the tools necessary to enforce the rules of origin and deter fraudulent claims. It implements Articles 501 and 502, which require Certificates of Origin for goods for which preferential tariff treatment under the NAFTA is claimed, Article 504, which requires penalties for false certifications, Article 505, which imposes recordkeeping requirements, and Article 508, which requires each Party to provide for penalties for violations of the laws and regulations relating to NAFTA Chapter 5.

Articles 501 and 505 of the NAFTA require the completion and maintenance of certain records, including Certificates of Origin, relating to claims for preferential tariff treatment under the NAFTA. Section 205(a) amends section 508 of the Tariff Act of 1930 to require U.S. exporters and producers who execute NAFTA Certificates of Origin to maintain records relating to those certifications for at least five years from the date a Certificate of Origin is signed. Under this subsection, a person who fails to comply with these recordkeeping requirements is subject to a penalty of $10,000 or the general recordkeeping penalty under the customs laws, whichever is higher.

Subsection (a) also includes a provision to assist the Customs Service in enforcing the NAFTA drawback provisions established under Article 303 and section 203 of this Act. Any person claiming drawback on an article must disclose to Customs, within 30 days of making a drawback claim, whether that person has prepared or has knowledge that another person has prepared a NAFTA Certificate of Origin for the article. If the drawback claimant subsequently prepares or learns that another person has prepared a Certificate of Origin for that article, the claimant must inform the Customs Service. This provision is necessary to ensure that a drawback claimant does not receive a greater refund or waiver than the claimant is entitled to under the NAFTA drawback formula. The potential for excess refunds or waivers exists because paragraph 3 of NAFTA Article 502 (as implemented by section 206 of this Act) provides that importers may file claims for preferential tariff treatment under the NAFTA within one year after a good is imported. Thus, at the time a drawback claim is filed, the drawback claimant may not have prepared a Certificate of Origin with respect to that good, or may not know that a Certificate has been prepared. If the good with respect to which a drawback claim has been filed is subsequently determined to qualify for NAFTA preferential tariff treatment in the importing country, the amount of drawback the claimant is eligible to receive may be reduced by operation of the NAFTA drawback formula. Accordingly, this subsection also authorizes the Customs Service to make adjustments regarding the previous customs treatment of the article, if necessary.

Section 205(b) amends section 509 of the Tariff Act of 1930 to authorize the Customs Service to summon persons who export merchandise to a NAFTA country. This provision is necessary to assist in enforcing the NAFTA rules of origin and customs provisions.

Subsection (c) implements Articles 502 and 504. Under section 592 of the Tariff Act of 1930, importers who make false declarations of NAFTA origin are subject to penalties for fraud, gross negligence, or negligence, as appropriate. Subsection (c) implements paragraph 2(b) of Article 502, which provides that importers shall not be subject to penalties for incorrect claims if they have reason to believe that the Certificate of Origin on which the claim is based contains incorrect information and voluntarily and promptly make corrected declarations and pay any duties they may owe.

Subsection (c) also implements Article 504 by subjecting persons who make false certifications in NAFTA Certificates of Origin to the penalties for fraud, gross negligence, and negligence, as appropriate, as established under section 592 of the Tariff Act of 1930. This subsection also provides, as required in paragraph 3 of Article 504, that a person may not be subject to penalties under these provisions if the information was correct at the time it was provided in a NAFTA Certificate of Origin but was later rendered incorrect due to changed circumstances and the person voluntarily and promptly provides written notice of the change to all persons to whom the certificate was provided.

Section 206: Reliquidation of Entries for NAFTA-origin Goods

Article 502 permits importers who did not claim preferential tariff treatment under the NAFTA at the time the good was imported to apply for a refund of excess duties paid if the good would have qualified as an originating good at the time of importation and the importer applies for a refund within one year of importation. Section 206 implements this provision by authorizing the Customs Service to reliquidate an entry and grant NAFTA tariff treatment to the entry if the importer, within one year of the date of importation, files a claim and provides such documents as may be required.

Section 207: Country of Origin Marking of NAFTA Goods

Section 207 implements both Article 311 (regarding country of origin marking requirements) and Article 510 (providing Mexican and Canadian exporters and producers a right to appeal marking determinations). Both obligations are implemented through amendments to section 304 of the Tariff Act of 1930.

Article 311 and Annex 311 require the NAFTA Parties to "accept any reasonable method of marking a good . . . including the use of stickers, labels, tags or paint, that ensures that the marking is conspicuous, legible, and conspicuously permanent." In order to comply with this obligation, section 207(a) authorizes, for NAFTA-origin goods, certain additional exemptions from the marking requirements of section 304 of the Tariff Act of 1930: (1) where the buyer reasonably knows (instead of "necessarily knows" as under current law), by reason of the character of the goods or the circumstances of their importation, that they are NAFTA-origin goods; (2) for original works of art; and (3) for ceramic bricks, semiconductor devices, and integrated circuits. Subsection (a) also provides that the special provisions regarding the marking of containers do not apply with respect to certain identified goods.

In accordance with Annex 311, section 207(a) also amends section 304 of the Tariff Act of 1930 to provide that certain pipes and fittings may be marked by means of continuous paint stenciling in addition to the methods provided in section 304(c)(1) and that certain manhole rings or frames may be marked with "an equally permanent method of marking" in addition to the methods currently provided in section 304(e). Conforming changes are also made to section 304(c)(2) of that Act. The Committee believes that, with respect to iron or steel pipes and tubes, continuous paint stenciling will best accomplish the requirements of section 304 of the Tariff Act of 1930 that goods be marked as legibly, indelibly and permanently as the article permits. The Committee believes that this requirement is fully consistent with NAFTA Annex 311. The Committee notes that continuous paint stenciling of technical information on the outside of the pipe is generally required by the ASTM and the API specifications that govern the production of the majority of these products. It is the Committee's belief that the additional continuous paint stenciling of the country of origin will not burden foreign producers and will contribute to the ability of the ultimate purchaser to know the origin of the product purchased.

Section 207(a) also implements Article 510, which gives Mexican and Canadian exporters and producers substantially the same rights of appeal under U.S. law as those available to importers for marking determinations. This subsection amends section 304 of the Tariff Act of 1930 to provide that, upon request, Customs will provide to an exporter or producer the basis for an adverse marking determination. If the importer of the merchandise protests the determination, the exporter or producer may intervene in the protest. In such cases, the rights of the exporter or producer are subordinate to the rights of the importer. If, however, the importer does not protest the determination, the exporter or producer may petition the Customs Service for review. If the determination upon review is contrary to the initial determination, the determination will become effective 30 days after notice is published in the FEDERAL REGISTER.

Section 207(b) provides that NAFTA-origin goods are exempt from the marking requirements of section 1907(c) of the Omnibus Trade and Competitiveness Act of 1988, in compliance with NAFTA Annex 311. However, such goods remain subject to the marking requirements of section 304 of the Tariff Act of 1930. The Administration, in the Statement of Administration Action accompanying the NAFTA, has stated its commitment to work with the Governments of Mexico and Canada to protect authentic products of Native Americans and to enforce strictly the marking requirements of section 304.

Section 208: Protests Against Adverse Origin Determinations

NAFTA Article 510 provides that Mexican and Canadian exporters and producers who have signed a NAFTA Certificate of Origin shall have substantially the same rights of appeal for NAFTA origin determinations as those available under U.S. law to importers. Section 208 implements this obligation by amending section 514 of the Tariff Act of 1930. The amendment also provides for consolidation of such protests. Section 508 further provides that, except where there are indications of a pattern of false or unsupported representations, an exporter or producer must be provided advance notice of an adverse origin determination.

In addition, section 208 implements paragraph 10 of Article 506 by amending section 514 of the Tariff Act of 1930 to permit the Customs Service, if it finds indications of a pattern of conduct by an exporter or producer of false or unsupported representations that goods qualify under the NAFTA rules of origin, to deny preferential treatment to entries of identical goods from that exporter or producer.

Section 209: Exchange of Information

Article 512 requires the NAFTA Parties to cooperate in the enforcement of their respective customs laws and regulations implementing the NAFTA, in the enforcement of prohibitions or quantitative restrictions to detect and prevent unlawful transshipments of textiles and apparel, and in the exchange of statistics and storage and transmission of customs-related documentation. Section 209 amends section 628 of the Tariff Act of 1930 (which permits the Secretary of the Treasury to authorize Customs Service officials to exchange certain information or documents with foreign customs or law enforcement officials) to authorize exchanges of information with other NAFTA countries if the Secretary believes such exchanges are necessary to implement Chapters 3, 4, and 5 of the NAFTA. The NAFTA country must, however, provide assurances that it will maintain the confidentiality of the information.

Section 210: Prohibition of Drawback for Television Picture Tubes

Paragraph 8 of Article 303 prohibits duty drawback on 14-inch or larger color picture tubes manufactured in a NAFTA country for use in standard or high definition televisions exported to another NAFTA country. Section 210 implements this prohibition, which is effective upon entry into force of the NAFTA.

Section 211: Monitoring of Television and Picture Tube Imports

Section 211 requires the Customs Service to monitor, for five years, imports of color televisions from NAFTA countries and to exercise all U.S. rights under Chapter 5, including conducting verifications, to ensure full compliance with the rules of origin and full implementation of the NAFTA duty drawback obligations so that Customs can make correct duty assessments. This section requires Customs to make the results of its monitoring and verification available to the President and to USTR. If, based on such information, the President has reason to believe that color picture tubes intended for ultimate consumption in the United States are entering another NAFTA country in a manner inconsistent with the provisions of the NAFTA, or that such tubes have been undervalued in a manner that may raise concerns under U.S. trade laws, the President shall promptly take such actions as are appropriate under relevant provisions of the NAFTA and applicable U.S. trade statutes.

The Committee has received a letter, dated November 17, 1993, from USTR Kantor regarding the interpretation and implementation of section 211. In that letter, Ambassador Kantor noted that the Statement of Administrative Action accompanying the NAFTA failed to provide a full statement of the Administration's intentions with respect to section 211 and that he was writing the Committee at the President's request to clarify the record and make the Committee aware of the clarification. The three paragraphs that follow, which were transmitted to the Administration as the joint recommendation of the Committees on Finance and Ways and Means with respect to section 211, represent the intentions of the Administration, as well as the intentions of the Committees, regarding the implementation of this section.

For five years from date of enactment of this Act, the Customs Service will monitor the volume of imports into the United States from other NAFTA countries under subheading 8528.10 (14" or larger color televisions) to verify compliance of such imports with the rules of origin in Annex 401 and to ensure full implementation of duty drawback commitments in Article 303 and Annex 303.8 by other NAFTA countries. If necessary to verify compliance and ensure full implementation, the United States will promptly invoke all U.S. rights under the NAFTA, including Articles 512 and 513.

In addition, the Customs Service will monitor, for five years, the value for duty assessment purposes of materials imported into other NAFTA countries under subheading 8540.11 (14" or larger color picture tubes) for incorporation into products imported into the United States under subheading 8528.10. If, based on such monitoring and on additional information supplied by the domestic industry, the Customs Service has reason to believe that such materials have been improperly valued at the time of importation into the territory of another NAFTA country, the United States will promptly invoke all U.S. rights under the NAFTA, including Articles 512 and 513, to achieve proper duty assessment.

To implement this section, the Customs Service will report the data collected under section 211(a) to USTR on a monthly basis for five years. If, during this period, the President has reason to believe, based on these data and upon any additional information supplied by the domestic industry, that material classified under subheading 8540.11 intended for ultimate consumption in the United States is entering the territory of a NAFTA country in a manner that is inconsistent with the provisions of the NAFTA, including those identified in section 211(a) of the implementing bill, or has been undervalued in a manner that may raise concerns under U.S. trade laws, the President will promptly take such actions as are appropriate under the authority of all relevant provisions in the NAFTA, including Article 317 and Chapter 20, and under applicable U.S. trade statutes.

These monitoring requirements are necessitated by the Committee's concern that U.S. antidumping orders continue to be circumvented. It is the Committee's expectation that this provision will give the Administration the tools necessary to ensure that any circumvention that is occurring within NAFTA countries will cease.

Section 212: Title VI amendments

Section 212 provides that, where the Customs Modernization Act provisions contained in Title VI of this Act amend the same laws as Title II, the amendments in Title II are to be executed after the amendments made by Title VI. This is necessary to ensure full compatibility between the provisions of Titles II and VI.

Section 213: Effective dates

This section sets forth the effective dates for the provisions in Title II.

Title III—Application of Agreement to Sectors and Services

SUBTITLE A—SAFEGUARDS

Most trade agreements to which the United States is a party include a safeguard provision (also referred to as an "escape clause") to address the concerns of workers and industries that believe they may be adversely affected by trade liberalization. These provisions permit the temporary imposition of import restrictions if industries have been injured by substantial increases in imports. Safeguards are permitted under GATT Article XIX, subject to certain restrictions, and are implemented in U.S. law under sections 201 through 204 of the Trade Act of 1974. The NAFTA, similar to the CFTA, includes provisions regarding the treatment of imports from Canada and Mexico in global safeguard actions taken under the authority of section 201. Part 2 of Subtitle A enacts these provisions (found in NAFTA Article 802) into law.

In addition, the NAFTA includes a special bilateral safeguard, which permits the temporary reimposition of MFN tariffs if a U.S. industry is harmed by imports from Mexico that have increased as a result of the NAFTA. The NAFTA bilateral safeguard is modeled after the bilateral safeguard established in the CFTA, with some modifications. Sections 301 through 307, described below, implement the bilateral safeguard provisions, as set forth in NAFTA Article 801 and Annex 801, that will apply to U.S.-Mexican trade and carry forward the bilateral safeguard provisions of the CFTA, which will continue to apply to goods from Canada.

Part 1—Relief from Imports Benefiting from the Agreement

Section 301: Definitions

Section 301 defines the terms "Canadian article" and "Mexican article" for purposes of applying the bilateral safeguard provisions set forth in Chapter 8 of the NAFTA and implemented in sections 302 through 307 of this bill.

Section 302: Commencing of action for relief

Section 302(a) authorizes an entity (including a trade association, firm, union, or group of workers) that is representative of an industry to file with the ITC a petition requesting relief from imports from a NAFTA country or countries for the purpose of adjusting to the obligations of the NAFTA. Subsection (a) also provides that petitioners may request provisional relief, as provided under section 202 of the Trade Act of 1974, from surges of imports of perishable products from Mexico or Canada after the ITC monitors imports of such products for at least 90 days. Petitioners may also apply for accelerated relief (within 127 days rather than the normal 240 days) with respect to imports of non-agricultural products from Mexico or Canada if they allege critical circumstances; such an allegation must, however, be made before the 90th day after an investigation is initiated.

Under subsection (b), upon the filing of a petition, the ITC shall investigate whether, as a result of a tariff reduction or elimination provided for under the NAFTA, a Canadian article or a Mexican article is being imported into the United States in such increased quantities, in absolute terms, and under such conditions that imports of the article, alone, constitute a substantial cause of serious injury or, in the case of a Mexican article, a threat of serious injury to a domestic industry producing a like or directly competitive article. The threat standard does not apply to imports from Canada because the NAFTA incorporates the CFTA bilateral safeguards provision which does not permit a bilateral safeguard action to be taken in the case of threat of injury as a result of imports from Canada.

For the purposes of the ITC injury determination, subsection (c) makes certain provisions of section 202 of the Trade Act of 1974 applicable to determinations in bilateral safeguard actions under the NAFTA. These provisions relate to: the factors to be taken into account in determining serious injury and, where applicable, threat of serious injury; the domestic industry; the definition of substantial cause and factors to be considered in determining substantial cause; and the requirement for public hearings and opportunity for comment.

Subsection (d) provides that these bilateral safeguard provisions do not apply to textile and apparel articles, which are subject to a separate safeguard provided under Chapter 3 of the NAFTA. In addition, as required by paragraph 2(d) of Article 801, relief under the NAFTA bilateral safeguard may be provided only once during the transition period against a particular good. (The transition period is 10 years, except for goods in the longer tariff phase-out schedules, in which case the transition period corresponds to the length of the tariff phase-out.)

Section 303: ITC action on petition

Section 303(a) requires the ITC to make its injury determination, as well as its determination with respect to an allegation that critical circumstances exist, within 120 days after an investigation is initiated. If the determination is affirmative, the ITC must, as provided under subsection (b), find and recommend to the President the amount of import relief that is necessary to remedy or, in the case of imports from Mexico, prevent the injury.

Subsection (c) requires the ITC to report to the President within 30 days after its determination, and, as required by subsection (d), make its report public (except for confidential information).

In the event that the ITC Commissioners are equally divided on the questions of injury or remedy, section 303(e) provides that the provisions of section 330(d) of the Tariff Act of 1930 will apply.

It is the Committee's intent that, for purposes of determining whether a reduction in duty has occurred (as required to trigger the bilateral safeguard under Article 801), the ITC shall consider the expansion of a quota under a tariff-rate quota as a reduction in a duty. The Committee endorses the Statement of Administrative Action's position with respect to this issue. The Committee also welcomes the Statement of Administrative Action's statement with respect to ITC review of import trends. The Committee believes that, in determining whether increased imports are a substantial cause of serious injury, or threaten serious injury, the ITC should examine trends in imports and changes in the marketplace over the most recent years. Particularly in the case of agricultural imports, where import volumes may have been affected by natural disasters, the fact that imports in a given year may be lower than in a prior year does not necessarily lead to the conclusion that imports have not been increasing. The Committee believes that bilateral safeguard action should not necessarily be precluded in such circumstances.

Section 304: Provision of relief

Section 304 includes provisions relating to the nature and duration of the relief that the President may provide. Within 30 days after receiving an affirmative determination from the ITC regarding a petition for a bilateral safeguard action, the President shall, under subsection (a), provide relief to the extent necessary to remedy or, in the case of imports from Mexico, prevent the injury. Action is not required, however, as provided in subsection (b), if the President determines that the provision of import relief will not provide greater economic and social benefits than costs.

Subsection (c) implements paragraph 1 of Article 801, which limits the types of relief that may be provided under the NAFTA bilateral safeguard. In general, relief is limited to the suspension of further duty reductions or an increase in the rate of duty to the lesser of the MFN rate of duty on the article at the time of the safeguard action or the MFN rate imposed on the date the NAFTA entered into force (for products from Mexico) or the date the CFTA entered into force (for products from Canada). For products subject to seasonal duties, the President may increase the rate of duty to a level that does not exceed the MFN rate of duty imposed on the product during the corresponding season before the NAFTA or CFTA, as applicable, entered into force.

As mandated by paragraph 2(c) of Article 801, subsection (d) provides that relief may not exceed three years except that a one-year extension is permissible for certain import-sensitive articles if certain conditions are met.

In addition, section 304(e) implements paragraph 2(e) of Article 801 which establishes the duty rates that will apply to articles from Mexico when a bilateral safeguard action terminates. Under this provision, the rate of duty that will apply for the remainder of the year after import relief is terminated will be the rate that would have been in effect one year after the bilateral safeguard action was initiated. For subsequent years, the President may impose either the rate of duty that conforms to the U.S. tariff phase-out schedule or the rate that will achieve the elimination of the tariff in equal annual stages by the date set out in the U.S. tariff phase-out schedule.

Section 305: Termination of relief authority

As is the case with respect to the CFTA bilateral safeguard, the NAFTA bilateral safeguard applies only during the transition period. Thus, section 305 provides that no import relief may be provided under the bilateral safeguard after December 31, 1998 for goods from Canada (the end of the CFTA transition period) or after the appropriate transition period under the NAFTA (10 years or, in the case of products with longer transition periods, the length of the transition period), unless Canada or Mexico consents to the application of the safeguard beyond those periods.

Section 306: Compensation authority

Paragraph 4 of Article 801 requires any NAFTA Party that takes a bilateral safeguard action to compensate the country whose goods have been affected by the action. Compensation shall take the form of concessions that have substantially equivalent trade effects or that are equivalent to the value of the additional duties expected to result from the safeguard action. Section 306 authorizes the President to provide such compensation.

Section 307: Submission of petitions

Section 307 allows a petitioner to submit petitions for bilateral and global safeguard actions separately or at the same time. If they are submitted at the same time, section 307 provides that the ITC will consider the petitions jointly.

Section 308: Special tariff provisions for Canadian fresh fruits and vegetables

Section 308 amends section 301(a) of the CFTA Act, which implements a provision of the CFTA that allows for imposition of a temporary duty (a "tariff snapback" up to the MFN rate of duty) on certain fresh fruits and vegetables if two conditions are met: (1) for each of five consecutive days, the import price of the Canadian product is below 90 percent of the corresponding five-year average monthly import price; and (2) the planted U.S. acreage for the product is no higher than the average planted acreage over the preceding five years (excluding the years with the highest and lowest acreage). Any duty imposed shall terminate by the earlier of the day following the last of five consecutive days in which the product's point of shipment price in Canada exceeds 90 percent of the corresponding five-year average monthly price, or the 180th day after the date on which the duty first took effect.

Section 308 establishes a three-step procedure for the imposition of this temporary duty. First, the the Secretary of Agriculture determines whether both of the above conditions exist and, on making such a determination, immediately submits it for publication in the *Federal Register*. Second, not later than six days after such publication, the Secretary shall decide whether to recommend to the President the imposition of a temporary duty. Third, if the Secretary makes such a recommendation, not later than seven days after receiving it the President shall decide whether to impose the temporary duty.

Section 308 provides further that the Commissioner of Customs and Director of the Census Bureau shall provide the Secretary with timely information concerning the importation of Canadian fresh fruits or vegetables, and importers shall report such information as the Commissioner of Customs requires.

This amendment, effective on the date of enactment of the implementing bill, is intended to improve the effectiveness of the tariff snapback by ensuring that relief is provided in a timely manner. This responds to concerns that application of section 301(a) of the CFTA Act may have been frustrated in the past because of administrative delays in deciding whether to recommend the granting of relief.

Section 309: Price-based snapback for frozen concentrated orange juice

Section 309 establishes a price-based tariff snapback applicable to U.S. imports of frozen concentrated orange juice from Mexico. The tariff on imports that exceed the threshold quantities—imports above 264,978,000 liters (70 million gallons) during 1994 through 2002 and 340,560,000 liters (90 million gallons) during 2003 through 2007—will "snap back" automatically, reverting to the lesser of (1) the prevailing MFN rate, or (2) the rate in effect on July 1, 1991, if the futures price for frozen concentrated orange juice in the United States falls below a historical average price for a period of five consecutive days. This temporary duty will cease to apply if the futures price then is above the historical average price for five consecutive days. The Secretary of Agriculture shall publish determinations that the tariff snapback has been triggered and removed in the *Federal Register*.

Part 2—Relief from Imports from All Countries

Sections 311 and 312 implement Article 802, which requires the President to exclude imports from Mexico and Canada from global safeguard actions unless certain conditions are met.

Section 311: NAFTA article impact in import relief cases under the Trade Act of 1974

Section 311(a) requires the ITC, at the time it makes an affirmative determination in an action initiated under section 201 of the Trade Act of 1974, to report to the President whether imports from a NAFTA country, considered individually, account for a substantial share of total imports of the article under investigation and whether such imports, considered individually or, in exceptional circumstances, considered collectively, contribute importantly to the serious injury or threat thereof.

Subsection (b) provides guidelines for determining whether imports from a NAFTA country account for a substantial share of total imports. Normally, such imports will not be considered to account for a substantial share of total imports if the country is not among the top five suppliers of the article subject to investigation during the most recent three-year period. Similarly, subsection (b) provides that the ITC normally will not consider imports from NAFTA countries to "contribute importantly" to injury or threat of injury if the growth rate of imports from such countries is appreciably lower than the growth rate of total imports from all sources over the same period. Subsection (c) defines "contribute importantly" to mean an important cause, but not necessary the most important cause; this is the same standard as is used in the CFTA.

Section 312: Presidential action regarding NAFTA imports

Section 312(a) requires the President to make essentially the same determination as the ITC as to whether imports from NAFTA countries represent a substantial share of total imports and whether they contribute importantly to the injury or threat of injury. The Committee expects that the President will take into account the determination made by the ITC with respect to these issues; however, the President is not bound by the ITC recommendation. If the President finds in the affirmative, he is required, under subsection (b), to exclude imports from NAFTA countries from any global relief imposed. However, if they are excluded and the President thereafter determines that a surge in imports from a NAFTA country is undermining the effectiveness of the relief, the President may take appropriate action to include such imports in the action.

The domestic industry on whose behalf the global action is taken may petition the ITC to investigate such an import surge. In such cases, the ITC must submit the findings of its investigation to the President within 30 days after the petition is filed. If a global safeguard action proclaiming a quantitative restriction is applied to imports of NAFTA countries, such action must, under subsection (d) and pursuant to paragraph 5 of Article 802, permit the importation of a quantity or value of the article from the relevant NAFTA country which is not less than the quantity or value of such article imported into the United States during the most recent representative period, with allowance for reasonable growth.

The Committee endorses the clarifications and commitments provided in the Statement of Administrative Action with respect to the application of bilateral and global safeguard actions to imports of certain major household appliances. The Committee intends to monitor any such safeguard actions closely to ensure that the ITC applies the guidelines set forth in the Statement of Administrative Action.

Part 3—General Provisions

Section 315: Provisional relief

Section 315 makes citrus products eligible for provisional relief under section 202(d) of the Trade Act of 1974, which provides for an expedited ITC investigation and determination with respect to perishable agricultural products. Citrus products that will be explicitly eligible under this provision for such procedures are processed oranges, processed grapefruit, and orange and grapefruit juice (including concentrate).

Section 316: Monitoring

Section 316 requires the ITC to monitor imports of tomatoes and peppers for 10 years. This will allow for an expedited determination concerning import relief with respect to these commodities. At the request of the ITC, the Department of Agriculture and the Customs Service shall provide it with information needed for such monitoring.

Section 317: Procedures concerning the conduct of ITC investigations

Section 317 requires the ITC to adopt such procedures and rules and regulations as necessary to bring its procedures into conformity with Chapter 8. Subsection (b) further provides that the procedures set forth in section 332(g) of the Tariff Act of 1930 concerning the release of confidential business information will apply to information received by the ITC in the course of investigations conducted under the NAFTA bilateral safeguard provisions and global safeguard provisions.

Section 318: Effective date

This section provides the effective dates for the provisions of Subtitle A.

Section 321: Agriculture

Section 321(a) amends the Meat Import Act of 1979 to exclude qualifying Mexican meat articles (as determined in accordance with the NAFTA's rules of origin) from that Act's formula calculations, which establish the quantities of meat articles that may be imported without triggering the imposition of an import quota. It also removes Mexico from the supplying countries to which any allocated meat import quota would apply; Canada already receives the same treatment pursuant to the CFTA Act. Finally, it authorizes the President to exclude from the import limitations certain high-quality beef specially processed into fancy cuts that originates in a NAFTA country under the NAFTA rules of origin.

The Meat Import Act's application to Canada continues to be subject to section 301(b) of the CFTA Act, including subsection (b)(5), which authorizes the President to impose restrictions on imports of Canadian meat articles where he determines this is necessary to prevent frustration of the Meat Import Act's limitations on imports from other countries.

The remainder of section 321's provisions on agriculture are not within the jurisdiction of the Committee on Finance.

Title IV—Dispute Settlement in Antidumping and Countervailing Duty Cases

Chapter 19 of the NAFTA, like Chapter 19 of the CFTA, establishes a mechanism for resolving disputes among the NAFTA countries arising from antidumping and countervailing duty determinations. In essence, judicial review of antidumping and countervailing duty determinations is replaced by a binational panel process. The process will operate, for the most part, as it operates under the CFTA. In addition, like the CFTA, the NAFTA includes extraordinary challenge procedures that will allow a Party to challenge binational panel decisions if there are allegations that a panel member was guilty of gross misconduct, bias or a serious conflict of interest, or a panel seriously departed from fundamental rules of procedure, or manifestly exceeded its powers, as long as other criteria are also met. Unlike the CFTA, the NAFTA expressly provides that a panel that fails to apply the appropriate standard of review may be determined to have manifestly exceeded its powers. In addition, the NAFTA includes a special safeguard for the binational panel process—a safeguard that is not included in the CFTA. Under Article 1905, if a Party alleges that another NAFTA Party has, through the application of its domestic law, frustrated the binational panel process, consultations are required. If these do not resolve the problem, the complaining Party may request the establishment of a "special committee" to review the allegation. If, after an affirmative determination by the special committee, the Parties are still not able to resolve the conflict, the complaining Party may suspend the operation of the binational panel process.

Title IV implements Chapter 19 by amending existing U.S. law relating to the CFTA binational panel process to reflect the extension of the process to goods from Mexico, establishing procedures for requesting binational panel review, providing an organizational structure for administering the binational panel process, and providing transitional provisions in the event that the binational panel review process is terminated as a result of action under Article 1905. Title IV also makes conforming changes to other U.S. laws to reflect the expansion to Mexico of the binational panel process established under the CFTA. Because the binational panel process under the NAFTA is modeled after the CFTA binational panel process, the Committee's report (Senate Report 100–509) accompanying H.R. 5090, the CFTA Act, continues to reflect the Committee's views with respect to those elements of the binational panel process that are carried forward to the NAFTA, where amendments have been made by this Title only to extend the process to goods from NAFTA countries.

SUBTITLE A—ORGANIZATIONAL, ADMINISTRATIVE, AND PROCEDURAL PROVISIONS REGARDING THE IMPLEMENTATION OF CHAPTER 19 OF THE NAFTA

Section 401: References in subtitle

Section 401 provides that, for this Subtitle, the terms "annex", "chapter" and "article" refer to provisions of the NAFTA.

Section 402: Organizational and administrative provisions

Annex 1901.2 of the NAFTA provides for the establishment of binational panels and the selection of individuals to serve as panelists. On the date the NAFTA enters into force, Annex 1901.2 requires the Parties to establish and thereafter maintain a roster of individuals to serve as panelists under Chapter 19. Unlike the CFTA, the NAFTA requires that these rosters shall include judges and former judges to the fullest extent practicable. The parties are required to consult in developing the roster of at least 75 candidates, with each Party selecting at least 25 candidates, all of whom must be U.S., Mexican, or Canadian citizens. As required by Annex 1901.2, panelists must be of good character, high standing and repute, and are to be chosen strictly on the basis of objectivity, reliability, sound judgment, and general familiarity with international trade law. Further, candidates may not be affiliated with, or take instructions from, a Party. Panels will be comprised of five persons. Within 30 days of a request for a panel, each involved Party will appoint two panelists, in consultation with the other involved Party. Each Party will have the right to exercise four peremptory challenges. If the involved Parties are unable to agree on the selection of a fifth panelist, the Parties will decide by lot which Party will select the fifth panelist.

For extraordinary challenge committees and special committees established under Articles 1904 and 1905, respectively, committee members will be selected from a 15-person roster comprised of judges or former judges. Each Party will name five persons to the roster. Committees will be comprised of three persons. Upon a request for the establishment of a special committee or extraordinary challenge committee, each Party will select one member from the roster and the involved Parties will decide by lot which Party will select the third member from the roster.

Section 402 sets forth the procedures the United States will follow in selecting individuals for placement on Chapter 19 rosters. One procedure, described in subsection (b), applies only to judges of courts created under Article III of the Constitution. The other procedure, provided in subsection (c), applies to all other persons, and is identical in most respects to the roster selection process established under the CFTA Act.

Subsection (a) provides that all candidates must meet the general selection criteria, as set forth in Annex 1901.2 (regarding the establishment of binational panels) and Annex

1904.13 (regarding the establishment of extraordinary challenge committees); these criteria are described above. This subsection also requires that the selection of individuals for placement on candidate lists and rosters and for appointment to binational panels, extraordinary challenge committees, and special committees must be made without regard to political affiliation.

Subsection (a) further provides that the rosters of potential panelists shall be comprised to the fullest extent practicable of judges and former judges and requires the USTR to appoint judges and former judges to serve on panels and committees convened under Chapter 19, subject to their availability. This subsection implements the obligations of Annex 1901.2, which, as described above, expresses a preference for the inclusion of judges and former judges on Chapter 19 rosters. In requiring the USTR to appoint judges where they are available, subsection (a) takes into account the existing canons of the Code of Conduct for United States Judges. Under Canon 5G, Federal judges may undertake responsibilities outside the scope of their judicial duties if Congress authorizes the appointment of judges as long as service would not, in the judge's view, interfere with the performance of judicial responsibilities or otherwise impair public confidence in their integrity or impartiality.

The Committee strongly believes that judges and former judges should be encouraged to serve on binational panels. As discussed in greater detail in a later section of this report, the Committee is concerned that binational panels constituted under the CFTA have, in several cases, failed to apply the appropriate standard of review. The Committee believes that this problem could be ameliorated to some extent through the participation of judges and former judges in the panel process. In addition, the Committee believes that the use of judges and former judges may avoid potential conflict of interest problems that may arise when members of the trade bar, trade consultants, or other experts in international trade are appointed to serve on binational panels and committees. The Committee recognizes that these individuals are sometimes called upon to make decisions regarding issues that may arise in other cases in which they or their firms are participating. It may be difficult to ensure that panelists fully segregate their client interests from their responsibilities on binational panels. Again, the Committee believes that appointing sitting judges to binational panels could help avoid potential conflicts. While the Committee recognizes that it is unlikely that judges will be available for service in sufficient numbers to ensure that only judges are selected for Chapter 19 panels, the Committee believes that the USTR should appoint the maximum number of judges and former judges possible. To this end, the Committee urges the USTR to look not only to sitting Article III judges, but also to Administrative Law Judges and retired judges who meet the qualifications set forth in Annex 1901.2.

Subsection (b) establishes a special process for the appointment of Article III judges to serve on Chapter 19 panels and committees. Under this subsection, the USTR is required to consult with the chief judges of the Federal judicial circuits regarding the interest in, and availability for, the participation in Chapter 19 panels and committees of judges within their circuits. The chief judge will identify interested and available judges for the Chief Justice of the United States, who may submit any names to the USTR. Any judges whose names are submitted shall be placed on the roster, and the names of such judges shall be forwarded to the Senate Committees on Finance and the Judiciary and House Committees on the Judiciary and Ways and Means. Before making an appointment to a panel, the USTR is required to consult with the judge to determine her or his availability. The Committee recognizes that these special procedures for the appointment of Article III judges have been developed to address potential separation-of-powers issues and take into account the workload of individual judges as well as the workload of the circuit in which they sit. Nonetheless, the Committee hopes that a substantial number of judges will be available for appointment to Chapter 19 panels and committees, particularly given the fact that, but for the binational panel process, appeals of antidumping and countervailing duty determinations would be heard in Federal courts.

Subsection (c) sets forth the selection process for individuals other than Article III judges. This process parallels the panelist selection process established in section 405 of the CFTA Act. The NAFTA selection process includes, however, one element not included in the CFTA Act. At the time that candidate lists are submitted to the Committees on Finance and Ways and Means, the USTR will be required to submit a statement of professional qualifications for each individual proposed to be included on the roster. The Committee's expectations are described more fully below.

Subsection (c) establishes the following procedures for placing individuals on Chapter 19 rosters:

(1) Establishment of an interagency group.—An interagency group chaired by USTR will: (a) prepare by January 3 of each year a list of individuals qualified to serve as members of binational panels, extraordinary challenge committees, or special committees convened under Chapter 19; (b) prepare by July 1 of each year a list of individuals qualified to be added to the final candidate list if the USTR so requests; (c) oversee the administration of the United States Section (authorized under section 105 of this bill); and (d) make recommendations to the USTR regarding the convening of extraordinary challenge committees.

(2) Preliminary candidate lists.—The USTR shall select individuals from the lists for placement on preliminary candidate lists to serve on panels or committees and, by January 3 of each year, shall submit these lists to the Committees on Finance and Ways and Means.

(3) Information required by Committees.—At the time the USTR submits candidate lists, it shall submit to the Committees on Finance and Ways and Means a statement of professional qualifications for each individual. The Committee intends that the statement include, in addition to a resume or general biographical data, a list of clients represented by the individual or her or his firm, or other information the Committee deems appropriate. The Committee believes that the Committee will be better able to ensure that the most qualified individuals are selected for placement on Chapter 19 rosters and to screen prospective panelists for potential conflicts of interest if this additional information is provided.

(4) Final candidate lists and amendments.—The USTR may add or delete individuals after consulting with the Committees and providing written notice of any addition or deletion. By March 31 of each year, the USTR shall submit to the Committees final lists of candidates selected by the USTR as eligible to serve on panels and committees convened under Chapter 19 during the one-year period beginning on April 1. An individual not on a preliminary list may be included on the final candidate list only if the USTR provided written notice of the addition to the Committees at least 15 days before submission of that final list. No additions may be made to the final lists for a particular year after they are submitted to the Committees unless the USTR, before July 1 of that year, determines that additional individuals are needed. A similar selection, Committee notice and consultation process then applies, and the USTR must submit the final form of any proposed amendment to a final candidate list to the Committees by September 30 of that year to take effect on October 1 for eligibility to serve during the next six months, to April 1 of the following year.

Section 402(d) provides that only the USTR is authorized to select individuals for placement on rosters or appoint individuals to binational panels, extraordinary challenge committees, or special committees on behalf of the United States. This provision tracks current law with respect to the CFTA panel process. Selection and appointment must be made from the lists of Article III judges provided to the Senate Committees on Finance and the Judiciary and House Committees on Ways and Means and the Judiciary or from the final candidate lists, or final forms of amendments to the candidates lists, submitted to the Committees on Finance and Ways and Means. The Committee recognizes that a need may arise for the selection of panelists during the three-month period after the NAFTA enters into force, and therefore before the process established in sections 402(b) and (c) can be completed. Accordingly, subsection (d) provides that individuals may, during that three-month period, be chosen from the preliminary candidate lists submitted to the Committees on Finance and Ways Means.

The selection process established in subsections (b) and (c) assumes that the NAFTA will enter into force on January 1, 1994. If the NAFTA enters into force at a later date, the roster selection process will have to proceed on a different timetable for the remainder of the calendar year in which the NAFTA enters into force. Subsection (e) sets out the transitional timetable.

Subsection (f) provides that, except for violations of protective orders or undertakings covering proprietary information, individuals serving as panelists, and the assistants to such individuals, shall be immune from suit and legal process relating to acts performed in their official capacity. This provision tracks existing law with respect to the CFTA panel process.

Under subsection (g), the administering authority (currently the International Trade Administration of the Department of Commerce), the ITC, and the USTR are authorized to issue such regulations as are necessary or appropriate to carry out their responsibilities under Chapter 19. Initial regulations, if any are required, are to be issued before the NAFTA enters into force.

Section 402(h) requires the USTR, at the time of submission of the final candidate lists and the final forms of amendments to candidate lists, to submit to the Senate Committees on Finance and the Judiciary and the House Committees on the Judiciary and Ways and Means a report on the efforts made to secure the participation of judges and former judges on binational panels, extraordinary challenge committees, and special committees. The Committee intends to review these reports carefully to ensure that the USTR is making best efforts to ensure that judges and former judges are serving on Chapter 19 panels and committees to the fullest extent practicable.

Section 403: Testimony and production of papers in extraordinary challenges

Paragraph 13 of Article 1904 provides that an extraordinary challenge committee may be convened if a NAFTA Party alleges that a panelist is guilty of gross misconduct, bias, or a serious conflict of interest, or otherwise materially violated the rules of conduct. Section 403 provides measures to assist an extraordinary challenge committee in investigating any such allegations; similar provisions were provided under section 407 of the CFTA Act. This section gives an extraordinary challenge committee access to relevant documents, and provides the authority to summon witnesses, take testimony, administer oaths, require the production of documents, issue subpoenas, and order depositions. Under this section, an extraordinary challenge committee may request the Attorney General to invoke the aid of any district or territorial court of the United States in compelling the attendance and testimony of witnesses and the production of documents.

The Committee recognizes that the right to invoke extraordinary challenge procedures is, under the NAFTA as under the CFTA, reserved to the Governments of the NAFTA countries. The Committee urges the Administration, however, to provide the private sector with guidance as to how private parties may request the Administration to pursue an extraordinary challenge. The Committee is mindful that the rights of private parties are at stake in the determinations made by the binational panels and the Committee believes, therefore, that interested parties should be heard by the Administration before it decides whether to request the establishment of an extraordinary challenge committee.

Section 404: Requests for review of determinations by competent investigating authorities of NAFTA countries

Section 404 sets forth the procedures for requesting binational panel review under Chapter 19. Subsection (b) authorizes the U.S. Secretary, as identified in Article 1908, to request binational panel review of final antidumping and countervailing duty determinations. Under subsection (c), a person within the meaning of paragraph 5 of Article 1904, may request binational panel review by filing a timely request with the U.S. Secretary; if such a request is filed, it will be deemed to be a request for binational panel review under Article 1904. Subsection (d) requires the U.S. Secretary to notify all persons who would otherwise be entitled under the law of the importing country to commence proceedings for judicial review of a determination whenever binational panel review of a final determination is requested. These procedures parallel the procedures established in section 408 of the CFTA Act.

Section 405: Rules of procedure for panels and committees

The Parties are required to develop rules of procedure for binational panels (in accordance with paragraph 14 of Article 1904), for extraordinary challenge committees (in accordance with paragraph 2 of Annex 1904.13), and for special committees (in accordance with Annex 1905.6). Binational panels rules are to be developed by January 1, 1994, and extraordinary challenge committee and special committee rules by the date of entry into force of the NAFTA. Section 405 authorizes the Department of Commerce to prescribe such rules and requires that they be published in the *Federal Register*.

Section 406: Subsidy negotiations

Article 1907(2) of the NAFTA provides that the NAFTA countries will consult on the potential for (1) development of more effective rules and disciplines on the use of government subsidies; and (2) reliance on a substitute system of rules for dealing with unfair transborder pricing practices and government subsidization. This revises the mechanism under Article 1907 of the CFTA, which established a working group to develop, within five-to-seven years, more effective rules and disciplines on government subsidies and a substitute system of rules for dealing with subsidization and unfair pricing. Pursuant to that provision, section 409(a) of the CFTA Act granted the President authority to negotiate an agreement with Canada to provide for increased disciplines on subsidies and to deal with subsidization and unfair pricing. The working group mechanism under Article 1907 of the CFTA, however, proved inadequate to address continuing problems related to high levels of Canadian subsidization.

Section 406 sets forth the negotiating objectives of the United States with respect to subsidies, for any future trade negotiations with a NAFTA country:

(1) achievement of increased discipline on domestic subsidies provided by a foreign government, including the provision of capital, loans, or loan guarantees on terms inconsistent with commercial considerations; the provision of goods or services at preferential rates; the grant of funds or forgiveness of debt to cover operating losses sustained by a specific industry; and the assumption of any costs or expenses of manufacture, production, or distribution;

(2) achievement of increased discipline on export subsidies provided by a foreign government, particularly with respect to agricultural products; and

(3) maintenance of effective remedies against subsidized imports, including, where appropriate, countervailing duties.

In the Committee's view, the more detailed negotiating objectives spelled out in section 406 reflect the importance to both the U.S. Government and U.S. industries of achieving more effective rules and disciplines concerning the use of government subsidies. At the same time, they build upon the concerns set out in section 409(a) of the CFTA Act with respect to obtaining greater disciplines on Canadian subsidy programs that adversely affect U.S. industries which directly compete with subsidized imports. These objectives are also consistent with the objectives on addressing unfair trade practices, including subsidies, set forth at section 1101(b)(8) of the Omnibus Trade and Competitiveness Act of 1988. The Committee anticipates close consultation with the Administration with respect to any future subsidy negotiations conducted pursuant to Article 1907.

Section 407: Identification of industries facing subsidized imports

Section 407, which is largely consistent with section 409(b) of the CFTA Act, establishes a process for the identification of domestic industries that are likely to face subsidized imports. It provides that an entity (including a trade association, firm, union, or group of workers) that is representative of a U.S. industry may file a petition if it has reason to believe that the industry:

(1) is likely to face increased competition from subsidized imports with which it directly competes from a NAFTA country or from any other country designated by the President as benefiting from a reduction of tariffs under a trade agreement that enters into force for the United States after January 1, 1994; and

(2) is likely to experience a deterioration of its competitive position before rules and disciplines relating to the use of government subsidies have been developed with respect to the United States and that country.

The industry may request that the USTR compile information or that the ITC conduct a study of the foreign practices, following the completion of which the USTR may take any appropriate action.

The Committee notes that the Statement of Administrative Action, submitted on November 4, 1993, provides that if, after receiving a petition, the USTR finds a reasonable likelihood that the industry may face both subsidization and deterioration of its competitive position but decides not to identify the industry, then it should monitor foreign government actions for potential subsidization (with particular attention to the provision of capital, loans, or loan guarantees on terms inconsistent with commercial considerations). It is the Committee's expectation that the USTR will undertake such monitoring if it finds such a reasonable likelihood but nevertheless does not identify the industry under the statute, including where they may be evidence of future subsidization but no subsidies actually have been provided at the time of the USTR's determination. This is consistent with the USTR's recent decision on the petition filed under section 409(b) of the CFTA Act by Vista Chemical Company concerning potential imports of linear alkylbenzene (LAB) production from Canada. Monitoring in that case will continue under section 407.

Section 408: Treatment of amendments to antidumping and countervailing duty law

NAFTA Article 1902 provides that amendments to the antidumping and countervailing duty laws of a Party shall apply to goods from NAFTA Parties only if the amendment explicitly states that it applies to such goods. Section 308 implements Article 1902 by requiring that any such amendments will apply to goods from a NAFTA country only to the extent specified in the amendment. This section tracks section 404 of the CFTA Act, which implements a similar provision in the CFTA.

SUBTITLE B—CONFORMING AMENDMENTS AND PROVISIONS

Section 411: Judicial review in antidumping and countervailing duty cases

Section 411 makes conforming changes to a number of provisions of section 516A of the Tariff Act of 1930, relating to judicial review of countervailing duty and antidumping duty proceedings. Generally, section 516A establishes the right of interested parties to judicial review of final antidumping and countervailing duty determinations. Normally, such determinations are reviewable by the Court of International Trade (CIT), whose decisions may in turn be appealed to the Court of Appeals for the Federal Circuit, and by certiorari to the U.S. Supreme Court. The CFTA Act amended section 516A to prohibit judicial review of antidumping and countervailing duty determinations involving merchandise from Canada where binational panel review was requested and to establish the rules and procedures for such binational panel review. Section 411 amends section

516A to implement the NAFTA binational panel process. For the most part, these changes merely reflect that the binational panel process will apply to goods from NAFTA Parties, just as it currently applies to goods from Canada under the CFTA.

Before describing these changes, the Committee notes that the extension of the binational panel process to merchandise from Mexico has afforded the Committee an opportunity to review the binational panel process as it has operated under the CFTA. The Committee wishes to highlight several concerns that have arisen in the course of its review.

At the outset, the Committee emphasizes that the NAFTA, just as the CFTA, *requires* binational panels to apply the same standard of review and general legal principles that domestic courts would apply. This requirement is the foundation of the binational panel system. The Committee believes, however, that CFTA binational panels have, in several instances, failed to apply the appropriate standard of review, potentially undermining the integrity of the binational panel process.

Specifically, the Committee believes that some binational panels have not afforded the appropriate deference to U.S. agency determinations required by the United States Supreme Court in the Chevron decision (*Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837, 844 (1984)) and its progeny. Absent a direct conflict with the plain language of the statute, panels, like the courts for which they substitute, are restricted to examining whether the agency's view is a permissible construction of the statute. The Committee emphasizes in this regard that it is the function of the courts, and thus panels, to determine whether the agency has correctly applied the law, not to make the ultimate decision that Congress has reserved to the agency.

Second, the Committee is concerned that, in several cases, binational panels have misinterpreted U.S. law and practice in two key substantive areas of U.S. countervailing duty law—regarding the so-called "effects test" and regarding the requirement that a subsidy must be "specific" to an industry. Thus, the Committee believes it is appropriate to clarify U.S. law and practice in these two areas, so that these misinterpretations can be corrected.

Economic Effects Test.—In a recent case (*Certain Softwood Lumber from Canada*, USA-92-1904-01, Decision of the Panel (May 6, 1993)), the binational panel misinterpreted U.S. law to require that, even after the Department of Commerce has determined that a subsidy has been provided, the Department must further demonstrate that the subsidy has the effect of lowering the price or increasing the output of a good before a duty can be imposed.

Such an "effects" test for subsidies has never been mandated by the law and is inconsistent with effective enforcement of the countervailing duty law. As the Department of Commerce explained in *Certain Flat-Rolled Carbon Steel Products from Austria* (General Issues Appendix), 58 Fed. Reg. 37217, 37260 (July 9, 1993):

Nothing in the statute directs the Department to consider the use to which subsidies are put or their effect on the recipient's subsequent performance. *See* 19 U.S.C. section 1677(6). Nothing in the statute conditions countervailability on the use or effect of a subsidy. Rather, the statute requires the Department to countervail an allocated share of the subsidies received by producers, regardless of their effect.

The Department went on to note, correctly, that Congress had explicitly rejected the use of "effects" tests in the Trade Agreements Act of 1979. As the Department noted in the "General Issues Appendix" in the *Flat-Rolled Carbon Steel Products from Austria* case (58 Fed. Reg. at 37261), "[b]ecause the statute, legislative history, judicial opinions, and the Department's regulations do not permit an analysis of the use and effect of subsidies, the Department does not attempt such an analysis."

From a policy perspective, the Committee believes that an "effects" analysis should not be required. First, "effects" analyses by nature are highly speculative. For purposes of administering the law, it is burdensome and unproductive for the Department of Commerce to attempt to trace the use and effect of a subsidy demonstrated to have been provided to producers of the subject merchandise. Second, a strict rule that the benefit received by foreign producers as a result of government action will be offset (or countervailed) acts as a deterrent to further subsidization.

Specificity.—The Committee agrees with current Department of Commerce practice with respect to specificity—whether a subsidy is provided only to a specific enterprise or industry. In its *Proposed Regulations* (54 Fed. Reg. 23366, 23379 (May 31, 1989)), the Department set forth four factors that *may* be considered in determining whether specificity exists. Under its current practice, the Department of Commerce may base a finding that a subsidy is specifically provided on one or more relevant factors.

Several recent binational panels (*e.g, Certain Softwood Lumber from Canada*, USA-92-1904-01, Decision of the Panel (May 6, 1993); *Live Swine from Canada*, USA-91-1904-04, Decision of the Panel (August 26, 1992)) have misinterpreted U.S. law and practice to require the Department to consider and weigh all relevant factors. However, another binational panel (*In the Matter of Pure and Alloy Magnesium from Canada*, USA-92-1904-03, Decision of the Panel 28-35 (August 16, 1993), correctly concluded that current Department practice is proper on the question of specificity. Due to this confusion, the Committee believes it is appropriate to clarify how U.S. law should be applied.

It has been, and remains the intent of Congress that the Department have wide discretion to determine whether specificity exists in any particular case, in light of the requirement of the countervailing duty law that the Department countervail fully subsidies that are conferred on particular industries or group of industries. A finding that benefits are limited by law to a particular industry is sufficient to support a specificity finding. Furthermore, in conducting a specificity analysis, the Department correctly will find *de facto* specificity where one or more of the four factors typically considered by the Department supports a finding of specificity. One factor alone could be sufficient for a *de facto* specificity finding. For example, the Department's longstanding policy and practice, based on a correct interpretation of the law and its purpose, has been that the fact that there are too few users of a subsidy program is, in and of itself, sufficient for a finding of specificity, without an analysis of whether, for example, the industry under investigation (or group of industries) is a dominant user of the benefits of that program. If analysis of any one factor is not dispositive, the Department may review multiple factors in conjunction with one another and weigh the factors as the Department deems appropriate. If *de facto* specificity exists, the cause of the *de facto* specificity (*e.g.*, the inherent characteristics of the subsidy) is irrelevant.

It is the Committee's expectation that, in the future, binational panels will properly apply U.S. law and the appropriate standard of review, giving broad deference to the decisions of both the Department of Commerce and the ITC. If they do not, the Committee expects the Administration to avail itself of the extraordinary challenge procedures set forth in Annex 1904.13. Paragraph 13 of Article 1904 specifically provides that extraordinary challenge procedures may be invoked where a panel has manifestly exceeded its powers, authority or jurisdiction by failing, for example, to apply the appropriate standard of review, where such action has materially affected the panel's decision and threatens the integrity of the binational panel process. Because the central tenet of Chapter 19 is that a panel must operate precisely as would the court it replaces, the Committee believes that misapplication of U.S. law in important areas is a clear threat to the integrity of the Chapter 19 process.

As provided under Annex 1904.13, the Committee believes that an extraordinary challenge committee should vacate an original panel decision or remand it to the original panel for action not inconsistent with the committee's decision if a binational panel has based its decision on a material misinterpretation of U.S. law or has failed to apply the appropriate standard of review. The Committee believes that the mere fact that a panel claims to have applied U.S. law and the proper standard of review is not a sufficient basis for an extraordinary challenge committee to uphold a panel decision if the committee's serious inquiry into the matter, as required under Annex 1904.13, reveals that the panel has not, in fact, properly applied U.S. law or the standard of review.

The paragraphs below describe the changes that section 411 makes to section 516A of the Tariff Act of 1930:

Time limits for commencing review.—Paragraph 1 of section 411 makes conforming amendments to section 516A(a) of the Tariff Act of 1930 to provide, as under the CFTA, that the 30-day time limit for requesting judicial review under section 516A shall not begin until the 31st day after the publication of notice of the antidumping or countervailing duty determination, or, in the case of scope rulings, the 31st day after notice is given to the appropriate NAFTA Government. This provision implements paragraph 15(c) of Article 1904, and recognizes that judicial review will continue to be available for antidumping and countervailing duty determinations involving merchandise from NAFTA countries if binational panel review is not requested. However, as required by Article 1904, procedures for commencing judicial review under these circumstances may not begin until after the period for requesting binational panel review has expired.

Paragraph 1 also includes a substantive change from the CFTA provisions regarding the time limits for requesting judicial review in cases where a binational panel has dismissed binational panel review for lack of jurisdiction. In such cases, if an interested party with standing to file a summons and complaint has given timely notice that it intends to seek judicial review, the time limit for filing a summons and complaint in the CIT will begin to run the day after the dismissal, rather than on the 31st day after the dismissal, as under the CFTA. However, if a request for an extraordinary challenge committee is made with respect to the dismissal, section 411(1) provides that judicial review will be stayed during the consideration of the request and the CIT shall dismiss the action if the committee vacates or remands the dismissal decision. In cases where review by the CIT is provided as a result of the suspension of the binational panel review process or because of a settlement with a NAFTA country pursuant to Article 1905(7) that specifically provides for CIT review, the period for requesting such review shall not begin until the day after the notice of suspension or settlement is published in the Federal Register.

Effect of panel decisions on other cases.—Section 411(2) makes conforming amendments to section 516A(b) of the Tariff Act of 1930 to provide that, in making a decision in any judicial review proceeding brought under section 516A(a), a U.S. court is not bound by (but may take into consideration) a final decision of a binational panel or extraordinary challenge committee. The Committee intends, as was the case under the CFTA, that a binational panel decision will be binding only with respect to the particular matter before the panel and that a U.S. court's consideration of panel decisions will be limited to the intrinsic persuasiveness of the statements in those decisions. A U.S. court should view panel decisions in the same fashion as it would view statements of respected commentators on the application of U.S. law. The binational panel process is not to effect any change in the substantive law of the United States or to provide any benefit to importers of goods from third countries. Thus, panel decisions will not be binding on the CIT, even if the same or related issues are raised in court actions reviewing determinations of the Department of Commerce or the ITC.

Definitions.—Paragraph 3 of section 411 amends paragraph (f) of section 516A of the Tariff Act of 1930 by adding a reference to the NAFTA in the definition of "United States Secretary", replacing the definition of "Canadian Secretary" with a definition of the "relevant FTA Secretary" to encompass all NAFTA Parties, and by defining the terms "NAFTA", "Relevant FTA Country", and "Free Trade Area Country", which are terms used in other sections of section 516A of the Tariff Act of 1930, as amended by this bill.

Review of antidumping and countervailing duty determinations involving merchandise from NAFTA countries.—Paragraph 4 of section 411 makes conforming amendments to subsection (g) of section 516A of the Tariff Act of 1930. Subsection (g) was added to the law in the CFTA Act; it represents the core of the rules and procedures established to implement the binational panel process. Section 411(4)(A) makes conforming changes to the subsection heading.

(1) *Definition of determination.*—Paragraph 4(B) of section 411 makes conforming amendments to subsection (g)(1), which identifies the determinations made by the Department of Commerce and the ITC that are subject to binational panel review. As defined in Annex 1911, the determinations reviewable by NAFTA binational panels are: final determinations by the Department of Commerce or the ITC under sections 705 or 735 of the Tariff Act of 1930; determinations by the Department of Commerce or the ITC under section 751 of the Tariff Act of 1930; and class or kind determinations by the Department of Commerce.

(2) *Exclusive review of determinations by binational panels.*—Section 411(4)(C) makes conforming amendments to section 516A(g)(2) of the Tariff Act of 1930 to provide that, as under the CFTA Act, final antidumping and countervailing duty determinations with regard to merchandise from a NAFTA country shall not be reviewable under section 516A, and no U.S. court has power or jurisdiction to review the determination on any question of law or fact by an action in the nature of mandamus or otherwise if binational panel review has been requested.

(3) *Exception to exclusive binational panel review.*—Paragraphs 4(D) and (E) of section 411 amend section 516A(g)(3) of the Tariff Act of 1930 to make conforming changes to the existing exceptions to the general rule that binational panel review replaces judicial review. These exceptions provide that determinations continue to be subject to judicial review under section 516A(a) if: (1) neither the United States nor the relevant NAFTA country requested review of the determination by a binational panel, but only if the Party seeking judicial review has provided timely notice of its intent to commence such review to the relevant Secretaries, all interested parties to the proceeding, and the administering authority or the ITC, as appropriate; (2) the determination is a revised determination issued as a direct result of judicial review if neither the United States nor the relevant NAFTA country requested review of the original determination; (3) the determination is issued as a direct result of judicial review that was commenced prior to entry into force of the NAFTA; or (4) the determination is not reviewable by a binational panel. Paragraph 4(D) provides a fifth exception to binational panel review to reflect the provisions of NAFTA Article 1905 safeguarding the binational panel process: judicial review is available if the binational panel process is suspended pursuant to paragraph 12 of Article 1905. These exceptions track the exceptions found in paragraph 12 of Article 1904.

(4) *Exception to exclusive binational panel review for constitutional issues.*—Paragraph 4(F) of section 411 makes conforming amendments to section 516A(g)(4) of the Tariff Act of 1930 to apply to the NAFTA binational panel process the procedures set up under the CFTA with regard to constitutional challenges to the binational panel system and to constitutional issues that may arise out of an antidumping or countervailing duty determination. Paragraph 4(F) also clarifies that the U.S. Court of Appeals for the District of Columbia Circuit has exclusive jurisdiction over any constitutional challenges to the binational panel system.

(5) *Liquidation of entries.*—Section 411(4)(G) makes conforming amendments to section 516A(g)(5) of the Tariff Act of 1930 to provide that, as under the CFTA Act, entries of merchandise covered by binational panel determinations shall be liquidated in a manner consistent with liquidation of entries subject to normal judicial review. Entries covered by such a determination that are entered prior to publication of a conflicting decision by a binational panel or extraordinary challenge committee shall be liquidated in accordance with the original determination. If the determination being reviewed by a panel is a determination in a section 751 review or a determination regarding the scope of an existing order, the Department of Commerce shall, upon request of an interested party who was a party to the proceeding and is a participant in the panel review, order continued suspension of liquidation of some or all entries pending final disposition of the panel review. Such actions shall not be subject to judicial review.

(6) *Injunctive relief.*—Paragraph 4(H) of section 411 makes conforming amendments to section 516A(g)(6) of the Tariff Act of 1930 to provide that, as under the CFTA Act, the provision of section 516A(c)(2) relating to injunctive relief shall not apply.

(7) *Implementation of international obligations under Article 1904.*—Section 411(4)(I) makes conforming changes to section 516A(g)(7) of the Tariff Act of 1930, which provides that, in the case of remands by a binational panel or extraordinary challenge committee, the administering authority or the ITC shall take action not inconsistent with the panel or committee determination within the time frame specified in the remand.

(8) *Requests for binational panel review.*—Paragraphs 4(J) through 4(L) of section 411 make conforming amendments to section 516A(g)(8) of the Tariff Act of 1930 to provide that an interested party who was a party to an antidumping or countervailing duty proceeding may file a request for a binational panel review of the determination with the U.S. Secretary within 30 days after publication of the notice of the final determination or, in the case of class or kind rulings, receipt of the notice of the determination by the Government of the relevant NAFTA country. Receipt of such a request from an interested party by the U.S. Secretary shall be deemed a request for binational panel review. The party making the request must notify any other interested party and the Department of Commerce or ITC, as appropriate. The U.S. Secretary must notify interested parties and the Department of Commerce or ITC, as appropriate, if an interested party files a request for binational panel review with a NAFTA Government. Absent a request by an interested party, the U.S. Government cannot request binational panel review. Paragraph J also provides that the time for requesting binational panel review shall be suspended during the pendency of any stay issued pursuant to Article 1905(11)(b).

(9) *Representation in panel proceedings.*—Section 411(4)(M) makes conforming amendments to section 516A(g)(9) of the Tariff Act of 1930 to provide, as under the CFTA Act, that interested parties have the right to appear and be represented by their own counsel before the binational panel. The administering authority (currently the Department of Commerce) and the ITC will be represented by attorneys who are employees of those agencies.

(10) *Notification of class or kind rulings.*—Paragraph 4(N) of section 411 amends section 516A(g)(10) of the Tariff Act of 1930 to require the Department of Commerce, upon request, to inform any interested persons of the date on which the Government of the relevant NAFTA country received notice of a class or kind ruling.

(11) *Suspension of binational panel process and provisions for judicial review in case of such suspension.*—As noted above, NAFTA Article 1905 includes special provisions for safeguarding the binational panel process if the application of the domestic law of a NAFTA country frustrates the binational panel system. If consultations fail to resolve the dispute, and if a special committee convened under Article 1905 finds that a NAFTA Party's domestic law has indeed frustrated the system, the complaining party may suspend the operation of the binational panel process. Section 411(4)(O) adds two new paragraphs—paragraphs 11 and 12—to section 516A(g) of the Tariff Act of 1930 to address

this possibility, as well as the possibility that such suspension may eventually terminate.

New paragraph 11 authorizes the USTR to suspend the operation of the binational panel process in the event of an affirmative finding by a special committee established under Article 1905. It provides further that such suspension shall be terminated if a special committee is reconvened and finds that the problem has been corrected.

New paragraph 12 provides that if the binational panel process is suspended, any final antidumping or countervailing duty determination that is pending before a binational panel or an extraordinary challenge committee shall be transferred to the CIT if requested by an authorized person. Persons authorized to make such a request are described in subparagraph (C) of paragraph 12. In addition, if a binational panel review was completed fewer than 30 days before the binational panel process was suspended and an extraordinary challenge committee has not been requested, paragraph 12 also provides that the final determination that was the subject of the binational panel shall be transferred to the CIT. Paragraph 12 also acknowledges that, in some circumstances, a settlement with a NAFTA country of a dispute arising under Article 1905 may include, as part of its terms, judicial review of certain determinations. In such cases, paragraph 12 provides that any final determinations that are the subject of binational panel review or review by an extraordinary challenge committee will be transferred to the CIT if the terms of the settlement provide for judicial review with respect to such determinations. Finally, new paragraph 12 also requires that notice be published in the *Federal Register* if the United States or a NAFTA country has suspended the binational panel process.

Section 412: Conforming amendments to other provisions of the Tariff Act of 1930

Section 412 makes conforming amendments to other provisions of the Tariff Act of 1930. Under section 502 of the Tariff Act of 1930, no ruling of the Secretary of the Treasury construing any law imposing customs duties shall be reversed or modified adversely to the United States, except in concurrence with an opinion of the Attorney General, a final CIT decision, or a final decision from a CFTA binational panel. Subsection (a) amends section 502 to include a reference to final decisions by NAFTA binational panels. This subsection also amends section 514 of the Tariff Act of 1930 to provide that Customs Service determinations made with respect to antidumping and countervailing duties are final and conclusive upon all persons unless a civil action contesting such a determination is filed in the CIT or binational panel review under the CFTA or the NAFTA is commenced.

Subsection (b) adds to the definitions in Title VII of the Tariff Act of 1930 (as set forth in section 771 of the Tariff Act of 1930) a definition of the term "NAFTA."

Subsection (c) amends section 777(f) of the Tariff Act of 1930 to include references to the NAFTA. Section 777(f) sets forth procedures for the protection of proprietary information. The amendments made by subsection (c) make it unlawful, as under the CFTA Act, for any person to violate any provision of a U.S. protective order or an undertaking with a NAFTA country to protect proprietary material. Any person who is found by the administering authority or the ITC (after notice and opportunity for a hearing) to have violated a provision of a protective order or undertaking shall be liable for a civil penalty of up to $100,000 for each violation and shall be subject to such other administrative sanctions (including disbarment from practice before the agency) as the administering authority or the ITC determines appropriate. Each day of a continuing violation constitutes a separate offense. The amendments made by subsection (c) also cover information provided in the course of extraordinary challenge proceedings.

In recognition of the fact that judges of the United States are subject to criminal proceedings for disclosure of confidential information (under 18 U.S.C. 1905), paragraph (8) of section 412(c) exempts Article III judges from civil sanctions for violations of protective orders when such judges serve as panelists or committee members in Chapter 19 proceedings. The Committee believes that the fact that criminal sanctions are available in such cases is sufficient to meet U.S. obligations under paragraph 8 of Annex 1901.2, which calls for appropriate sanctions in the event of violations of protective orders.

Section 413: Consequential amendment to the CFTA Act

Section 410(a) of the CFTA Act authorizes the establishment of a working group to discuss with Canadian officials, for a period of seven years, a substitute system for rules for antidumping and countervailing duties. Section 413 provides that any time during which the NAFTA is in effect with respect to Canada will be disregarded in computing the seven years.

Section 414: Conforming amendments to title 28, United States Code

Section 414 adds references to the NAFTA to amendments to Title 28 that were originally made in the CFTA Act. These provisions: (1) ensure that the residual jurisdiction of the CIT cannot be used to circumvent the binational panel system; (2) prohibit U.S. courts from ordering declaratory relief in antidumping or countervailing duty proceedings involving merchandise from NAFTA countries; and (3) give the CIT exclusive jurisdiction over civil actions to enforce administrative sanctions imposed for violations of protective orders.

Section 415: Effect of termination of NAFTA country status

Section 415 contains several transitional provisions for binational panel proceedings in the event that a NAFTA country ceases to be a NAFTA country. Subsection (a) provides that, on the date on which a country ceases to be a NAFTA country, the provisions of Title IV regarding the binational panel process and the amendments made by Title IV will cease to have effect with respect to that country.

Subsection (b) provides that if, at the time a country ceases to be a NAFTA country, proceedings are underway regarding the violation of a protective order, such proceedings shall continue and sanctions may be imposed. Subsection (b) also provides that determinations for which binational panel reviews or extraordinary challenge committee reviews are pending or have been requested will be reviewable under section 516A of the Tariff Act of 1930 if the involved country ceases to be a NAFTA country. In such cases, the time limit for requesting judicial review under section 516A will not begin to run until the date on which the NAFTA ceases to be in force with respect to that country.

Section 416: Effective date

Under section 416, the provisions of Title IV are to take effect on the date the NAFTA enters into force for the United States. However, the new provisions will not apply to: any final antidumping or countervailing duty determinations published before that date; scope determinations, notice of which was given to the Canadian Government before that date; or binational panel reviews or extraordinary challenges begun before that date.

TITLE V—NAFTA TRANSITIONAL ADJUSTMENT ASSISTANCE AND OTHER PROVISIONS

SUBTITLE A—NAFTA TRANSITIONAL ADJUSTMENT ASSISTANCE PROGRAM

Sections 501 through 506 of this bill amend the Trade Adjustment Assistance (TAA) statute to create a new subchapter D for a NAFTA-specific worker adjustment assistance program.

Estimates vary greatly concerning how many U.S. workers are likely to lose their jobs as a result of the NAFTA. However, even those studies that project significant net U.S. employment job gains from the NAFTA recognize that some American workers will lose their jobs as a result of either increased imports from Mexico or Canada or shifts in production to those countries. As the Congressional Budget Office (CBO) noted in a July 1993 study on the budgetary and economic effects of the NAFTA, these displaced workers are likely to be among the most vulnerable and may have greater than average difficulty in finding new employment.

This new NAFTA program is intended to ensure that those workers who are dislocated as a result of the NAFTA receive assistance that enables them to return to productive employment. By expanding eligibility to include those who lose their jobs as a result of shifts in production to Mexico or Canada, not only as a result of increased imports, the new program is designed to remedy what has been identified as one of the shortcomings of the current TAA program. By combining TAA benefits (including income support payments for eligible workers, training, employment services, and job search and relocation allowances) with rapid response and other basic readjustment services available under other Department of Labor programs (which would be offered prior to final certification of eligibility for TAA benefits), it is intended to ensure that affected workers have the broadest possible menu of benefits and services available to them.

The Committee also notes that, as set out in the Statement of Administrative Action, the Department of Labor plans to provide assistance through other programs that it administers to workers in firms that are indirectly affected by the NAFTA. These include workers at "secondary" firms: those that supply firms that are directly affected by increased imports or shifts in production, or that assemble products made by such firms. The workers would not be eligible for TAA benefits. This is intended to respond to concerns that the eligibility criteria under the new Subchapter D program not serve as a reason for depriving other NAFTA-affected workers of various benefits.

Section 501: Short title

Section 501 provides that Subtitle A may be cited as the "NAFTA Worker Security Act".

Section 502: Establishment of NAFTA transitional adjustment assistance program

Section 502 amends Chapter 2 of Title II of the Trade Act of 1974 to add a new Subchapter D establishing the NAFTA Transitional Adjustment Assistance Program. It provides that a group of workers shall be certified as eligible to apply for adjustment assistance under the new subchapter if the Secretary of Labor determines that a significant number or proportion of the workers in their firm (or its subdivision) have lost their jobs, or are threatened with such job loss, as a result of either (1) increased imports from Mexico or Canada of articles like or directly competitive with what their firm produces, or (2) a shift of production by their firm to Mexico or Canada of articles like or directly competitive with what their firm produces.

The first of these is the criterion used in the current TAA program. Like the current program, it must be coupled with a determination that the firm's sales or production have decreased in absolute terms and that the increase in imports contributed importantly to both the job loss and the decline in sales or production. The second expands upon current TAA eligibility to also reach workers who may be affected by production shifts as a result of the NAFTA.

Section 502 establishes that eligibility under the new program will be determined under a two-step process. Workers petition for certification of eligibility with the Governor of the State where the layoffs occurred. The Governor must make a preliminary finding regarding eligibility within 10 days of receiving the petition, and then transmit the petition and finding to the Secretary of Labor. If the Governor finds that the petition meets the eligibility criteria, the Governor shall ensure that the workers receive early readjustment services, including job search and placement assistance and career counseling. The Secretary of Labor then must make a final decision on the petition within 30 days of receiving it from the Governor. If certified as eligible by the Secretary, workers are entitled to the full range of current TAA services and benefits.

To remain eligible for TAA income support benefits under section 502, workers must enroll in a training program by the later of (1) the end of the 16th week of their period for receiving unemployment compensation, or (2) the end of the sixth week after they are certified as eligible for TAA benefits by the Secretary of Labor. However, the Secretary may extend the deadline for enrolling in training programs in extenuating circumstances for up to 30 days (such as where training courses are cancelled abruptly, or where there is a delay in the first available date of enrollment).

The requirement that workers enroll in a training program to remain eligible for income support is intended to address concerns about excessive waivers of the training requirement under the current TAA program. The Committee is concerned about abuses of the waiver authority, which were described in a September 30, 1993 report of the Department of Labor's Office of Inspector General. The TAA statute requires workers to enroll in approved training programs as a condition for receiving income support—unless they are specifically granted waivers from the training requirement. It is the Committee's view that the intent of the law was that such waivers be granted sparingly, not routinely. However, among the groups of TAA participants studied in the Inspector General's report, those who did not wish to attend training almost always were granted waivers from training without losing their entitlement to income support payments.

The Committee, therefore, welcomes the explicit linkage between continued eligibility for income support benefits and enrollment in training by a date certain that is set forth in section 502. It urges the Department of Labor to seek through administrative means to limit the waivers granted under the TAA program to the circumstances originally intended.

At the same time, the Committee is concerned that this training requirement not cause undue hardship for workers who, through no fault of their own (such as where training courses are cancelled abruptly, or where there is a delay in the first available date of enrollment), cannot meet the above deadline for enrolling in a training program. By authorizing the Secretary of Labor to extend the deadline for up to 30 days in extenuating circumstances, section 502 is intended to provide the Secretary with a degree of flexibility in order to reduce the likelihood that such concerns would arise.

Section 503: Conforming amendments

Section 503 makes several technical amendments to conform the new Subchapter D with provisions in the current TAA statute, and to clarify that no worker may receive assistance relating to the same layoff under both the current TAA program and the new program.

Section 504: Authorization of appropriations

Section 504 authorizes appropriations to the Department of Labor, for fiscal years 1994 through 1998, of such sums as may be necessary to carry out the new Subchapter D.

Section 505: Termination of transition program

Section 505 provides that the new program is authorized through September 30, 1998 (the current expiration date of the TAA program), or until legislation establishing a program providing dislocated workers with comprehensive assistance substantially similar to that provided under the new Subchapter D becomes effective, whichever is earlier. If a worker is certified on or before the termination date as eligible to apply for assistance under the new program, that worker shall remain eligible beyond such date.

The Committee notes that the Administration has stated that it hopes to have a comprehensive worker adjustment assistance program in place by July 1, 1995. Section 505 ensures that the new program under Subchapter D will remain in effect until that program is established and, should that not occur, through the end of fiscal year 1998.

Section 506: Effective date

Section 506(a) provides that the amendments made by sections 501 through 505 shall take effect on the date that the NAFTA enters into force for the United States.

Section 506(b) defines the workers who are covered by the new program. Workers can be certified as eligible for the benefits of the new program if they are laid off beginning on the date that the NAFTA enters into force. In addition, section 506(b)(2) provides a "reachback" for workers who lose their jobs between the date of enactment of this bill and the date of the NAFTA's entry into force; those workers also shall be eligible to receive the benefits of the new program. This ensures that if layoffs due to the NAFTA occur in the period between enactment of the bill and entry into force, the affected workers will be eligible for the benefits provided under Subchapter D.

Section 507: Treatment of self-employment assistance programs

Section 507 gives States the authority to establish self-employment assistance programs as part of the State unemployment compensation system. It allows States to pay a self-employment allowance in lieu of unemployment compensation to help unemployed workers while they are establishing businesses and becoming self-employed. The objective is to help expedite the transition of dislocated workers back into the work force.

Individuals are eligible for self-employment allowances if they are identified by a State worker profiling system as those who are likely to exhaust their regular 26 weeks of unemployment compensation; are participating in self-employment assistance activities, including entrepreneurial training, business counseling, and technical assistance; and are actively engaged on a full-time basis in activities relating to the establishment of a business and becoming self-employed.

The allowance payable to individuals who participate in a self-employment program is payable in the same amount, at the same interval, on the same terms, and subject to the same conditions as regular unemployment compensation under the State law, except that State requirements relating to availability for work, active search for work, and refusal to accept work are not applicable, and State requirements relating to disqualifying income are not applicable to income earned from self-employment.

The aggregate number of individuals receiving a self-employment allowance may not at any time exceed five percent of the number of individuals receiving regular unemployment compensation under the State law at such time. In addition, the program may not result in any cost to the Unemployment Trust Fund in excess of the cost that would be incurred by the State if the State had not participated in the self-employment program.

The authority for such programs will terminate five years after the NAFTA's enactment. Any State operating a self-employment program must report annually to the Secretary of Labor on the number of participants in the program, the number of individuals who are able to develop and sustain businesses, the operating costs of the program, and other information requested by the Secretary. The Secretary is required to report to Congress within four years of enactment of this bill on the operation of the program nationwide.

The Committee notes that, as indicated in the Statement of Administrative Action, providing States the authority to establish and operate these self-employment programs would benefit workers who may be dislocated as a result of the NAFTA. The traditional unemployment compensation system is designed mainly to provide income support for workers who are laid off temporarily or who expect to be unemployed for only a short period. Some workers, however, may lose their jobs permanently as a result of the NAFTA and will need additional tools—beyond basic income maintenance—in order to reenter the workforce. For some of these workers, access to a self-employment program may afford that opportunity.

SUBTITLE B—PROVISIONS RELATING TO PERFORMANCE UNDER THE AGREEMENT

Section 511: Discriminatory taxes

Section 511 expresses the sense of the Congress that discriminatory enforcement of sales or other taxes by a State, province, or other governmental entity of a NAFTA country, so as to afford protection to domestic production or domestic services providers, is in violation of the NAFTA. When this adversely affects U.S. firms, the USTR should pursue all appropriate remedies to obtain removal of such discriminatory enforcement.

This provision reflects the Committee's concern about an 11 percent sales tax imposed by the Province of New Brunswick, which Canadian Customs began collecting at the Maine-New Brunswick border on July 1, 1993, on certain goods including alcoholic beverages and tobacco products. This tax, imposed on purchases made in the United States but not on those made in other Canadian provinces, is the subject of formal USTR consultations with the Government of Canada.

Relationship between tax treaties and NAFTA.—Paragraph 2 of Article 2103 (Taxation) states that a tax convention, defined as a convention for the avoidance of double taxation or other international taxation agreement or arrangement, shall prevail to the extent of any inconsistency with NAFTA. The Committee understands that, in the case of parallel rights and obligations under a tax convention and NAFTA, only the tax convention's procedural provisions with respect to such rights and obligations shall be used and, thus, the tax convention, subject to certain provisions and understandings described below, will prevail.

As provided in paragraph 3, there are two exceptions to the primacy of a right under a tax convention or agreement: Article 301 (Market Access—National Treatment) and such other provisions as are necessary to give effect to that Article shall apply to taxation measures to the same extent as does Article III of the GATT; and Article 314 (Market Access—Export Taxes) and Article 604 (Energy—Export Taxes) shall apply to taxation measures. In addition, paragraph 6 of Article 2103 provides that Article 1110 (Expropriation and Compensation) shall apply to taxation measures subject to certain procedural rules.

The Committee understands that, with respect to rights and obligations not subject to a tax convention, those rights and obligations may be subject to NAFTA to the extent provided for in Article 2103. For example, the provisions of a tax convention requiring nondiscriminatory treatment may not address certain aspects of discrimination against foreign service providers resulting from a Party's grant of tax relief or reduction in income tax to consumers of that service. To the extent that such discrimination is not addressed in a tax convention, such discrimination may be subject to the provisions of NAFTA to the extent provided for in paragraph 4, which imposes certain national treatment and MFN requirements on taxation measures in certain cases.

Similarly, none of the provisions of tax conventions between Canada and the other NAFTA parties deal with taxes imposed by states, provinces, or local authorities. Thus under a tax convention between Canada and another NAFTA party, a property tax imposed by a province of Canada or a state of the United States of America or of Mexico would be subject to the national treatment obligation under Chapter 11 of NAFTA (Investment) if the tax was neither permitted under a "grandfather clause" nor allowed as an "equitable and effective imposition or collection of taxes" under paragraph 4(g) of Article 2103.

The Committee understands that rights or obligations in respect of a tax must be addressed by the terms of the tax convention if the tax convention is to prevail over NAFTA in accordance with paragraph 2. Examples of such provisions include business profits, dividend, interest, royalty, capital gains and other income provisions; provisions concerning dependent or independent services; and nondiscriminatory treatment provisions. Other examples are the provisions in present or proposed U.S. tax conventions with the other NAFTA Parties that allow a Party to tax its citizens and residents. A further example is a provision in the proposed U.S. tax convention with Mexico limiting the benefits of the convention to qualified residents of the treaty parties. Under such a limitation on benefits provision, for example, the right of a party to a tax convention to impose tax on a royalty arising in that party and paid to a resident of the other party is addressed by the convention and therefore is not subject to NAFTA, even in a case in which the resident of the other party is not entitled to the benefits of the convention under a limitation on benefits provision. In addition, pursuant to the provisions of the U.S. tax conventions with the other NAFTA Parties, either party to the tax convention is permitted to impose a branch profits tax. Similarly, the nondiscrimination provisions of Canada's tax conventions with the other NAFTA Parties state that corporations controlled by residents of the other party to the tax convention will receive treatment no less favorable than corporations controlled by residents of a third party; thus, either party to those tax conventions may implement special measures with respect to taxation or any requirement connected thereto applicable to corporations controlled by its own residents.

Under the terms of tax conventions between NAFTA countries, the competent authorities of the Parties are to resolve by mutual agreement any difficulties or uncertainty with respect to the interpretation or application of the tax conventions. Therefore, the Committee understands that the competent authorities designated by the terms of the tax conventions shall determine whether the tax convention is to prevail over NAFTA in accordance with paragraph 2.

The Committee intends that the competent authorities shall consult and determine whether the tax convention prevails in accordance with paragraph 2. With regard to taxes on income, capital gains or taxable capital of corporations, taxes on estates, inheritances, gifts and generation-skipping transfers and the asset tax under the Asset Tax Law ("Ley del Impuesto al Activo") of Mexico listed in paragraph 1 of Annex 2103.4 (other than measures subject to Article 2103(3)), the Committee understands that procedures may be initiated under NAFTA Article 2007 only if the consulting competent authorities agree that, with respect to the measure, the tax convention does not prevail over the NAFTA in accordance with paragraph 2 of Article 2103. With regard to other taxes, if, within three months after the issue of whether the tax convention prevails is brought to the attention of the competent authorities, the consulting competent authorities do not agree to consider the issue or, having agreed to consider it, fail to agree within six additional months whether the tax convention prevails over NAFTA, the Committee anticipates that procedures may be instituted under NAFTA Article 2007. The Committee understands that the time periods set out above may be altered in any particular case by mutual agreement of the consulting competent authorities.

National treatment with respect to cross-border trade in services, and financial services.—Subject to certain exceptions, Article 2103 provides that Article 1202 (Cross-Border Trade In Services—National Treatment) and Article 1405 (Financial Services—National Treatment) apply to taxation measures on income, capital gains or the taxable capital of corporations, and to the asset tax under the Asset Tax Law of Mexico, that relate to the purchase or consumption of particular services. With regard to Article 1405, the Committee wishes to clarify that it intends only the national treatment requirements of paragraph 3 of Article 1405 (relating to the treatment of cross-border financial service provisions of another Party) to apply to such taxation measures.

One exception to the application of these national treatment requirements to taxation measures concerns any new taxation measure aimed at ensuring the equitable and effective imposition or collection of taxes and that does not arbitrarily discriminate between persons, goods or services of the parties or arbitrarily nullify or impair benefits accorded those Articles, in the sense of Annex 2004. The Committee understands that measures which may be adopted by a Party that are directed at tax avoidance or abuse with respect to taxes described above levied by that Party will be considered to be taxation measures imposed in accordance with the exception described above. These measures include, for example, provisions relating to the proper characterization of payments between related parties and provisions for the determination of income and expenses in transactions between related parties. Further, in accordance with the exception described above, the Committee understands that a Party may condition the receipt, or continued receipt, of an advantage relating the contributions to, or income of, pension trusts or pension plans to a requirement that said Party maintain continuous jurisdiction over the pension trust or pension plan.

Further, the Committee understands that the requirements of national treatment described above shall not be construed to prevent a Party from conditioning the receipt or continued receipt of an advantage relating to the purchase or consumption of particular services on requirements to provide the service in its territory.

Section 512: Review of the operation and effects of the NAFTA

Section 512 requires the President, no later than July 1, 1997, to submit to the Congress a comprehensive study of the NAFTA's operation and effects. The study shall assess the extent of economic effects from the NAFTA, including on U.S. Gross National Product, trade and current account balances, and employment, as well as on the industries (including agriculture) that have experienced significant increases in either exports or imports as a result of the NAFTA. It shall also examine the NAFTA's impact on investment in U.S. production, including the extent to which such investment has been redirected to Mexico as a result of the NAFTA. Finally, it shall examine the extent to which the NAFTA has contributed to improvements in Mexican wages and working conditions, Mexican enforcement of labor and environmental laws, and the reduction in pollution along the U.S.-Mexico border.

The study shall attempt to distinguish between the NAFTA's effects and events that likely would have occurred without the NAFTA, and shall evaluate the effects relative to aggregate economic changes and the effects of factors such as international competition, reduced defense spending, the shift from "traditional manufacturing" to other economic activity, and the federal debt burden. This is intended to segregate the effects of the NAFTA on U.S. growth, trade, investment, employment, and productivity from other global and national economic factors.

Section 513: Actions affecting U.S. cultural industries

Article 2106 of the NAFTA, which carries forward Article 2005 of the CFTA, makes clear that should Canada take measures to discriminate against or restrict market access for U.S. "cultural industries" (including motion pictures, television, sound recordings, and print publications), the United States retains the right to respond aggressively with measures of "equivalent commercial effect."

Section 513 amends the Trade Act of 1974 to add a new section 182(f) to that statute. It provides that by no later than 30 days after submission to Congress of the annual National Trade Estimates report, USTR shall identify any act, policy, or practice of Canada adopted or expanded after December 17, 1992 affecting cultural industries (as defined in the provision), and which is actionable under Article 2106 of the NAFTA. Any act, policy, or practice so identified should be treated, for purposes of section 301, as the basis for Canada's identification under the "Special 301" law (section 182 of the Trade Act of 1974, as added by the Omnibus Trade and Competitiveness Act of 1988) as a "priority foreign country"—unless the United States has already taken action under Article 2106 in response to it. In determining whether to make such an identification, USTR shall consult with and take into account the views of the relevant U.S. industries, appropriate advisory committees, and appropriate Federal Government officials.

The Committee has had longstanding concerns about the practices of other countries affecting U.S. cultural industries, and about Canada's ability to exempt its cultural industries from coverage under the CFTA. Section 513 confirms that the United States is prepared to respond under Article 2106 to Canadian actions affecting these important U.S. industries. It also reflects the view of the Committee that Article 2106 of the NAFTA neither enlarges nor diminishes the rights and obligations of the United States and Canada under the CFTA, and that, consistent with the NAFTA, measures of "equivalent commercial effect" may be taken under U.S. trade laws (including both the new section 182(f) and section 301 of the Trade Act of 1974) should Canada act under Article 2106. Such measures could include those in areas covered by the NAFTA—such as services, intellectual property, investment, government procurement, and rules of origin—that were not covered by provisions of the CFTA.

Section 514: Report on impact of NAFTA on motor vehicle exports to Mexico

Section 514 requires USTR to report annually, for five years, on the effectiveness of the NAFTA's automotive trade provisions in expanding exports of U.S. motor vehicles and motor vehicle parts to Mexico.

Section 514(a) sets forth the findings of the Congress that automotive trade is one of the most restricted areas of trade between the United States and Mexico; the NAFTA's elimination over 10 years of Mexican barriers to such trade should increase substantially U.S. automotive exports; and that this expectation of the NAFTA's effects is consistent with recent estimates by the Department of Commerce (concerning the value of additional exports of vehicles and parts) and the U.S. auto industry (concerning the volume of additional vehicle exports).

Section 514(b) requires the USTR, beginning July 1, 1995 and annually thereafter through July 1999, to report to the Committees on Finance and Ways and Means on the effectiveness of the NAFTA's automotive trade provisions. These annual reports shall include information on current bilateral automotive trade levels and patterns; remaining barriers; the amount U.S. exports to Mexico have increased over the previous year; whether such increases meet the anticipated levels of new exports; and, if not, what actions the USTR is prepared to take (including, but not limited to, possible future negotiations with Mexico for the purpose of modifying the automotive provisions in the NAFTA) to realize the expected benefits.

The Committee anticipates that these reports will enable it to better evaluate whether the NAFTA, by gradually eliminating the significant current Mexican trade and investment barriers in the automotive sector, creates the benefits for U.S. motor vehicle and motor vehicle parts producers that both the Administration and the domestic industry have stated they expect.

Section 515: Center for the Study of Western Hemispheric Trade

Section 515 directs the Commissioner of Customs, after consultation with appropriate officials in Texas, to make grants to an institution (or a consortium of institutions) to assist in planning, establishing, and operating a Center for the Study of Western Hemispheric Trade in Texas. It sets forth selection criteria; identifies the Center's programs and activities; requires an annual report by the Commissioner to the Committees on Finance and Ways and Means on operations of the Center; and authorizes appropriations of $10 million for fiscal year 1994 and such sums as may be necessary in the three succeeding fiscal years. The Center's activities will include examining the NAFTA's effects on Western Hemisphere economies, and the negotiation of future trade agreements (including possible accessions to the NAFTA).

Section 516: Effective date

Sections 511 through 514 shall take effect on the date the NAFTA enters into force for the United States. Section 515 shall take effect on the date of enactment of the implementing bill.

SUBTITLE C—FUNDING

Section 521: Fees for certain customs services

Section 521 amends section 13031 of the COBRA to increase temporarily from $5.00 to $6.50 Customs user fees charged on passengers arriving in the United States from abroad on commercial vessels or aircraft. Section 521 also temporarily lifts the current exemption for passengers arriving from Mexico, Canada, Caribbean nations, and U.S. territories (other than Puerto Rico). Both changes are effective from the date of entry into force of the NAFTA through September 30, 1997. These increased user fee revenues will be dedicated, subject to appropriation, only to cover the costs of Customs inspections services that are not covered by the current user fee.

Finally, section 521 extends the Customs passenger processing and conveyance fees and the Customs merchandise processing fees, currently set to expire on September 30, 1998, through September 30, 2003.

Section 522: Authority to disclose return information to the Customs Service

Section 522 amends section 6103 of the Internal Revenue Code, which prohibits disclosure of tax returns and return information, except to the extent specifically authorized by the Code. Unauthorized disclosure is a felony punishable by a fine not exceeding $5,000 or imprisonment of not more than five years, or both (sec. 7213). An action for civil damages also may be brought for unauthorized disclosure (sec. 7431). In addition, no tax information may be furnished by the Internal Revenue Service to another agency unless the other agency establishes procedures satisfactory to the Internal Revenue Service for safeguarding the tax information it receives (sec. 6103(p)).

Under present law, the Customs Service, an agency within the Department of the Treasury, does not have access to tax information from the Internal Revenue Service for use in its civil investigations. The Customs Service may demand documentation from an importer to support the claimed value and has access to the importer's books and records. For fulfillment of the documentation requirement, the Customs Service may ask importers to disclose tax information voluntarily.

Under present law, importers subject to U.S. tax may not claim a transfer price for U.S. income tax purposes that is higher than would be consistent with the value they claim for customs purposes (sec. 1059A).

The Customs Service annually collects approximately $20 billion in duties, taxes, and fees from importers and international travelers. In almost all cases, the amount owed to the Customs Service is a percentage of the value of imported goods. While importers must disclose to the Customs Service the value of imported goods at the time the goods enter the United States, it is the Customs Service's responsibility to determine whether these claimed values are correct. The Customs Service currently conducts approximately 200 major import audits annually. In some cases, importers have voluntarily provided tax information to the Customs Service. The Customs Service, however, receives no voluntary tax information in about three-fourths of its 200 annual audits.

Section 522 permits the Secretary of the Treasury (or his delegate), upon written request from the Commissioner of Customs, to disclose return information solely for the purpose of, and only to the extent necessary in, (1) ascertaining the correctness of any entry in audits as provided for in section 509 of the Tariff Act of 1930, or (2) other actions to recover any loss of revenue, or to collect duties, taxes, and fees, determined to be due and owing pursuant to such audits. Disclosure would be made to officers and employees of the Department of the Treasury. Disclosure of return information would be permitted with respect to taxes imposed by Chapters 1 and 6. Accordingly, the provision generally would authorize the Secretary to disclose to the Customs Service, pursuant to regulations, those items of return information relevant and necessary to ascertain the correctness of declared values, and generally would allow the Customs Service to use this information in its audits of reported values and in certain actions resulting from such audits.

The bill contemplates neither disclosures of return information to the extent such disclosures would be inconsistent with a treaty or executive agreement to which the United States is a party nor disclosures of Advance Pricing Agreements (APA) (including any related information submitted or generated (except otherwise disclosable return information)). Under the APA program, companies and the Internal Revenue Service negotiate a pricing methodology for transactions between related entities. The effectiveness of the APA program relies on voluntary disclosure of sensitive information to the Internal Revenue Service; accordingly, information submitted or generated in the APA negotiating process should remain confidential.

Section 522 is effective on the date the NAFTA enters into force with respect to the

United States. Not later than 90 days after the date of enactment, the Secretary of the Treasury or his delegate must issue temporary regulations to carry out this provision.

Section 523: Use of electronic fund transfer system for collection of certain taxes

Employers presently are required to withhold income taxes and FICA taxes from wages paid to their employees. Employers also are liable for their portion of FICA taxes, excise taxes, and estimated payments of their corporate income tax liability. At present, they must deposit these taxes in a government depository (generally, a commercial bank or savings institution) within a period of time specified in Treasury regulations. Each deposit must be accompanied by a Federal tax deposit ("FTD") coupon, which supplies such information as the taxpayer's name, identification number, tax period, and type of tax. Depositories process the FTD coupon information and forward it to the IRS. Though taxpayers' accounts are debited for the deposited taxes on the date deposited, the amounts are generally not credited to the account of the Treasury until the following day.

The present FTD coupon system and use of Government depositories is paperwork-intensive. Phasing in a new electronic fund transfer system will significantly reduce paperwork and will result in greater accuracy. Technological advances in the electronic fund transfer process will permit businesses to utilize the electronic fund transfer system without needing to purchase new computers or equipment. Electronic fund transfers already occur throughout the economy and account for 55 percent of payments made to social security recipients and 84 percent of the Federal payroll. Most businesses currently utilize this system for some of their payments. Use of an electronic fund transfer system for the collection of tax will promote accuracy and efficiency in processing, and consequently, is expected to result in significant cost savings to the Government. Taxpayers will benefit from increased accuracy, reduction in paperwork burden, and availability of a user-friendly tax collection system.

Section 523 requires the development and implementation of a new system that uses electronic fund transfer ("EFT") to remit certain taxes and convey FTD coupon information directly to the Treasury. The new system must be designed by the Treasury to operate in such a manner as to ensure that these taxes are credited to the general account of the Treasury on the date on which such taxes would otherwise have been required to be deposited under the FTD system. The use of the EFT system thus would eliminate the paperwork burden inherent in the paper-based FTD system, the one-day delay in crediting tax funds to the Treasury, and the requirement that depositories function as FTD information processors. The taxes involved are: income taxes withheld from employees, the employer and employee portions of FICA taxes (both HI and OASDI), excise taxes, and corporate estimated tax payments.

To provide an orderly transition from the present-law FTD system to the new EFT system, the new system is phased in over a period of years. It is phased in by increasing each year the percentage of total taxes subject to the new EFT system. In the first year, three percent of the total taxes are required to be made by electronic fund transfer, increasing to 58.3 percent (60 percent for excise taxes and corporate estimated tax payments) for the fourth and fifth years, and increasing to 94 percent in the following years. The specific implementation method required to achieve the target percentages is to be set forth in Treasury regulations. It is anticipated that the phase-in will begin with the largest employers. It is also anticipated that small employers and other taxpayers for whom this system would prove unduly burdensome or impractical will be offered alternatives to or exemptions from the Treasury regulations.

Since one of the main goals of the provision is to reduce the paperwork burden on U.S. businesses, the Committee strongly encourages the Secretary to consider carefully the impact on small businesses of the anticipated regulations. The Committee intends that the regulations not create hardships for small businesses; the Committee generally intends that no small business would be required to purchase computers or would need access to any electronic equipment other than a touch-tone telephone. The provision grants the Secretary considerable flexibility in drafting the regulations, and the Committee urges the Secretary to take into account the specific needs of small employers, including possible exemptions for the very smallest businesses from the new electronic fund transfer system.

Section 523 takes effect on the date the NAFTA enters into force with respect to the United States. Not later than 210 days after the date of enactment, the Secretary of the Treasury (or his delegate) must issue temporary regulations to implement this provision. Those initial regulations must contain sufficient guidance to implement the provision for at least the first year it is effective. The Secretary may promulgate additional regulations at a later date to implement the provision for subsequent years. It is anticipated that any subsequent regulations will be issued sufficiently far in advance so as to give taxpayers adequate notice of their responsibilities under the provision.

TITLE VI—CUSTOMS MODERNIZATION

The Customs Service will bear the chief responsibility for implementing and enforcing the provisions of the NAFTA. In addition to implementing the tariff phase-out schedule for thousands of products, as set forth in Annex 302.2, the Customs Service will also be tasked with monitoring and verifying compliance with each of the product-specific rules of origin found in Annex 401, as well as compliance with the general rules of origin provided for in Chapter 4. NAFTA Article 303 imposes significant limitations on duty drawback to help achieve the NAFTA's goal of creating a more integrated North American market. The Customs Service will be the agency tasked with ensuring compliance with the duty drawback rules. The Customs Service will also be required to review and evaluate the Certificates of Origin that are required under Chapter 5 for goods for which NAFTA tariff preferences are sought. NAFTA Articles 502 and 504 set forth obligations relating to importations from NAFTA countries and exportations to NAFTA countries; again, the Customs Service is the agency charged with ensuring that these obligations are met. Under Article 509, the Customs Service will be required to provide advance rulings regarding compliance with the NAFTA rules of origin and the country of origin marking requirements found in Annex 311, as well as general eligibility for preferential treatment under Annex 302.2. And it will be the Customs Service that will assess the penalties required under Article 508 for noncompliance with the provisions of Chapters 3, 4, and 5 of NAFTA.

Apart from these provisions, the Customs Service will be required to ensure compliance with the NAFTA rules governing trade in agricultural goods (Section A of Chapter 7), as well as border compliance with U.S. laws and regulations implementing sanitary and phytosanitary measures. The increased responsibilities that the Customs Service will bear as a result of these specific NAFTA provisions must be evaluated in the context of increasing day-to-day responsibilities generally, due to the anticipated growth not only in U.S.-Mexican trade, but in global trade. The Customs Service will be required to carry out these additional responsibilities with fewer resources, as the agency implements measures to cut costs.

Title VI, the Customs Modernization Act, will significantly enhance the ability of the Customs Service to implement and enforce the NAFTA by increasing the agency's efficiency and productivity. Title VI accomplishes this goal by removing archaic statutory provisions requiring paper documentation and providing the full authority, under the National Customs Automation Program, for automated customs transactions. In return for facilitating the entry of merchandise through automation, Title VI contains a number of provisions to improve compliance with the customs laws, chiefly through penalties for failure to provide accurate information, including with respect to drawback claims, and for failure to keep the records that the Customs Service will require to audit or review entries of merchandise after they have been cleared and verify compliance with the NAFTA. Title VI also implements the concept of "informed compliance," which is premised on the belief that importers have a right to be informed about customs rules and regulations, as well as interpretive rulings, and to expect certainty that the Customs Service will not unilaterally change the rules without providing importers proper notice and an opportunity for comment. The Committee believes that these provisions, too, will improve compliance with the customs laws in general, as well as with the numerous rules and regulations that are specific to the NAFTA. Finally, Title VI includes a number of administrative modifications aimed at streamlining the agency's operations and improving the productivity of the Service. Taken together, the Committee strongly believes that the provisions of Title VI will assist the Customs Service in administering and enforcing the provisions of the NAFTA, as well as equipping the Service with the tools necessary to enforce effectively U.S. trade and customs laws in general, while facilitating imports from NAFTA countries and other trading partners.

Section 601: Reference

Section 601 provides that references in Subtitles A, B, or C to an amendment to, or repeal of, a part, section, subsection, or other provision, are references to a part, section, subsection, or other provision of the Tariff Act of 1930.

SUBTITLE A—IMPROVEMENTS IN CUSTOMS ENFORCEMENT

Section 611: Penalties for violations of arrival, reporting, entry, and clearance requirements

Section 436 of the Tariff Act of 1930 provides civil and criminal penalties for violating the provisions of that Act concerning the report of arrival of vessels, vehicles, and aircraft. These violations include the presentation of forged or altered documents. In order to bring uniformity to the penalty provisions that apply to the arrival, entry, clearance, and manifest laws, section 611 amends the law to provide penalties for violation of the arrival, entry, clearance, and manifest requirements consistent with the provisions of section 331(a) of the Anti-Drug Abuse Act of 1986 (Public Law 99-570; 100 Stat. 3207-81). Recognizing the use of electronic means of communications, section 611 also extends current penalties for presenting false or altered data or manifests to the electronic transmittal of such information.

Section 612: Failure to declare

Section 497 of the Tariff Act of 1930 provides for forfeiture and penalties for the failure to declare articles. If the article is a controlled substance, the current penalty is 1,000 percent of the value of the article. In order to ensure an adequate penalty for the importation of even a small amount of a controlled substance, section 612 establishes a minimum $500 penalty for the importation of controlled substances. Under this section, the penalty will be the greater of $500 or an amount equal to 1,000 percent of the value of the article. Section 612 also extends current penalties for failure to declare to electronic transmittal of entries and declarations.

Section 613: Customs testing laboratories; detention of merchandise

Section 499 of the Tariff Act of 1930 authorizes the Customs Service to conduct examinations and detain imported merchandise. Under the statute, not less than one package of every invoice and not less than one package of every 10 packages of merchandise shall be examined unless it is determined that a lesser number of packages can be examined. If there is evidence of fraud, the statute permits seizure of the merchandise. If there is no evidence of fraud, the value of an article omitted on the entry shall be added and the duties paid on that article. Current law also describes the circumstances under which the appraisement of merchandise shall *not* be held to be invalid.

Section 613 is intended to bring the law into conformity with existing Customs Service practice regarding the examination of merchandise by removing obsolete examination requirements. The bill requires the Customs Service to: (1) designate the packages or quantities of merchandise covered by an entry that are to be opened; and (2) order that such packages or quantities, and any additional packages or quantities that may be necessary, be sent to a designated examination site. This section requires the Customs Service to inspect a sufficient number of shipments and examine a sufficient number of entries to ensure compliance with the customs laws. Section 613 provides that any articles fraudulently omitted from an entry or invoice are subject to seizure, and that duties, fees and taxes must be paid on any articles that were omitted from an invoice or entry without fraudulent intent. It is the Committee's intent that, to ensure that adequate information is available to Customs Service officials responsible for conducting examinations, any required entry or manifest information that has been filed with the Customs Service, whether electronically or in paper form, be available to the appropriate official in the port of examination. It is the Committee's intent that the absence of any required entry or manifest information does not preclude or limit in any way the authority of the Customs Service to examine merchandise.

This section is also intended to codify Customs Service regulations and administrative guidelines concerning the use of commercial laboratories and gaugers. Section 613 authorizes the Customs Service to establish procedures for the accreditation of commercial laboratories and the approval of commercial gaugers, and for the suspension and revocation of accreditation or approvals, but such procedures will apply only when the determination of admissibility, quantity, or composition of imported merchandise is vested in or delegated to the Customs Service. Although the bill authorizes the Customs Service to impose a reasonable charge for accreditation or reaccreditation, it is the Committee's intent that these fees be equivalent to the costs incurred by the agency in performing such accreditation and reaccreditation. Section 613 provides that laboratories and gaugers that are currently accredited under Customs Service regulations will not be required to reapply, but will be subject to reaccreditation. This section also creates appeal rights for commercial laboratories and gaugers to challenge in the CIT any order or decision relating to their accreditation or reaccreditation or the assessment of a penalty within 60 days of its issuance. Section 613 provides that in the absence of Customs testing, the Customs Service shall accept quantity and analysis results from the laboratories and gaugers it accredits, but does not limit or preclude it or any other Federal agency from independently testing, analyzing, or quantifying any merchandise.

With respect to the suspension or revocation of accreditation, section 613 requires the Secretary of the Treasury to prescribe regulations regarding the conditions under which the Customs Service may suspend or revoke accreditation or impose monetary penalties. This section provides that, notwithstanding the provisions of section 592(d) of the Tariff Act of 1930, penalties may be assessed, but any monetary penalties may not exceed $100,000 and shall be in addition to recoveries of any actual or potential loss of revenue that may have resulted from an intentionally falsified report or analysis submitted by an accredited laboratory or gauger in collusion with the importer. It is the Committee's understanding that the Customs Service, within a reasonable period of time following enactment of this legislation, will publish guidelines governing penalties and any mitigating factors that it will consider in imposing any such penalties. The Committee expects that such guidelines will take into account the severity of the violation and the frequency of violations. As the statute provides, penalties are not to be assessed in cases of good faith differences of professional opinion.

This section also provides that testing procedures and methodologies will, unless developed by the Customs Service for enforcement purposes or proprietary to the holder of a copyright or patent, be made available upon request to laboratories, importers or their agents, and any others in the trade community expected to make use of such procedures or methodologies in connection with their import activities. It is the Committee's intent that the phrase "testing procedures and methodologies * * * developed by the Customs Service for enforcement purposes" be interpreted to mean only those circumstances where the revelation of such procedures or methodologies would be expected to materially aid an importer in potentially circumventing customs laws or regulations. Test results will be made available on request to the importer or its agents, unless they are proprietary to the holder of a copyright or patent or reveal information developed by the Customs Service for enforcement purposes. It is the Committee's intent that, where information relating to analytical methods and results can be provided, such information shall include data and other information supportive of laboratory results, in addition to the final laboratory report.

This section also sets forth procedures regarding the detention of merchandise by the Customs Service. These procedures compel the Customs Service to make a decision to release or detain merchandise within five working days after presentation of the merchandise for examination. The bill requires the agency to notify the importer of any detention within five working days. The Customs Service must provide copies of any Customs' testing results and a description of the analytical procedures and methodologies employed to any party having an interest in detained merchandise unless such disclosure reveals testing procedures and methodologies that are proprietary to the holder of a patent or copyright or are developed by the Customs Service for enforcement purposes.

Section 613 provides for expedited administrative and judicial review of detentions. Under this provision, the failure to make an admissibility decision concerning detained merchandise within 30 days after the merchandise has been presented for examination will qualify as a decision to exclude for purposes of the protest law (section 514 of the Tariff Act of 1930). If the protest is denied, the challenging party may institute suit in the CIT. During judicial review of a detention, the Customs Service has, notwithstanding 28 U.S.C. 2639, the burden of proof in demonstrating that it has good cause for not reaching an admissibility decision. However, the burden remains with the complainant, in accordance with 28 U.S.C. 2639, if a suit is commenced after a decision on admissibility has been reached. If the CIT determines that the Customs Service has not met its burden of showing good cause for not reaching an admissibility decision, it shall order the appropriate relief, which may include an order to release the merchandise. Once an action has commenced in the CIT, the Customs Service shall immediately notify the Court if a decision to release, exclude, or seize has been reached.

With respect to the "good cause" burden placed on the Customs Service relating to the admissibility decision, it is the Committee's intent that this burden may be satisfied by a showing that another Federal agency with jurisdiction over an admissibility decision has not yet reached the required determination.

The Committee understands that the Customs Service frequently detains merchandise on behalf of other agencies, including the Food and Drug Administration and the Department of Agriculture, and is not directly involved in the activities that result in an admissibility decision. The procedure provided in this section for recourse to the CIT is intended to apply only to admissibility determinations for which the Customs Service is responsible. The bill is not intended to change any existing procedures or relationships between the Customs Service and any other Federal agency.

Section 614: Recordkeeping

Section 508 of the Tariff Act of 1930 provides that any owner, importer, consignee, or agent must make, keep and render for examination and inspection records pertaining to any importation. Section 508(c) provides that records be maintained for a period not to exceed five years from the date of entry. Section 508(e) states that any person who fails to retain records of exports to Canada (as required under subsection (b)) shall be liable to a civil penalty not to exceed $10,000.

Section 614 imposes the recordkeeping requirements on parties whose activities require filing an entry or declaration, parties transporting or storing merchandise carried or held under bond, parties who file drawback claims, and parties who cause an importation or the transportation or storage of merchandise held under bond. This section also provides that information and data maintained in the form of electronically generated or machine readable data are "records" for purposes of the statute's recordkeeping requirements. Finally, section 614 provides that records pertaining to drawback claims shall be kept for three years from the date the claim is paid; all other records required to be kept by this section, including those pertaining to exportations to Canada, shall be retained for five years from the date of importation or exportation (to Canada), as appropriate. Section 205 of the implementing bill makes further changes to section 508 of the Tariff Act of 1930 to make the recordkeeping requirements applicable to exportations to NAFTA countries.

The Committee's amendments are intended to clarify recordkeeping requirements for the importing community, close existing loopholes and provide statutory recognition of electronically transmitted records. The Committee intends that the recordkeeping requirements and the examination authority of the Customs Service shall apply only to those records specifically identified in the statute.

Section 615: Examination of books and witnesses

Section 509(a)(1) of the Tariff Act of 1930 provides authority for the examination of records and witnesses. Section 509(a)(2) provides the authority to summon: an importer, or officer, employee, or agent of the importer; any person having possession, custody, or care of related records; or any other person; and to require the production of the records. Section 1509(c) defines the terms "records," "summons," and "third-party recordkeeper," and sets forth special procedures for third-party summonses.

Section 615 of this bill amends section 509(a) by providing that records maintained in the form of electronically generated or machine readable data fall within the purview of the statute, and that records required for the entry of merchandise, whether or not the Customs Service waived their presentation at entry, shall be produced for Service examination within a reasonable time after demand for their production, taking into account the number, type, and age of the item demanded. This section also requires that the Customs Service identify and publish in the "Customs Bulletin" a list of the records that are required for the entry of merchandise. The Committee intends that the list be published as soon as possible after the enactment of this legislation. Such records include, but are not limited to, commercial invoices, packing lists, certificates of origin, Form A, declarations of a foreign manufacturer, and any specific documents or other agency forms required pursuant to regulation for the admissibility into the United States of particular merchandise. The Committee intends that the Customs Service publish regulations in connection with this requirement at a later date. Once this list has been made public and importers have had an opportunity to familiarize themselves with the contents, the Committee expects that the person on whom a demand is made for the production of any of the records identified in the statute will furnish them within the "reasonable time" standard stipulated in the law. Failure to comply with a demand for the production of records required for the entry of merchandise may subject the noncomplying party to an administrative penalty. The Committee believes that the statute is relatively clear on how such factors as the number, type, and age of the items demanded will affect the obligation to produce. For example, a single request for a one-page document associated with a six-month-old entry should be produced within a matter of days, whereas the production of 50 commercial invoices relating to 50 entries that were filed two years before the documents were requested will take longer to produce—as long as two to four weeks, depending on whether the records had to be retrieved from storage and the method of storage involved. The Committee believes that the Customs Service and the importing community should be able to develop production schedules that do not adversely affect the day-to-day operations of the business while permitting the agency to verify in a timely manner the accuracy of information relating to import transactions.

This section also establishes procedures for conducting regulatory audits. These procedures require advance notification, entry and closing conferences, and preparation of a written audit report within 90 days following the closing conference. Section 615 requires that a copy of the audit report, subject to any applicable exemption from disclosure provided in the Freedom of Information Act (5 U.S.C. 552), be sent to the audited party within 30 days of completion, unless a formal investigation has been commenced. It is the Committee's intention that, in an era of "informed compliance," the Customs Service will make expanded use of its Regulatory Audit program. At the same time, the safeguards included in the implementing bill should enhance the value of the regulatory audit program in ensuring compliance with applicable laws and regulations. The bill makes clear that the Customs Service will not be required to hold a closing conference or complete and furnish a written audit report if a formal investigation is commenced. The Committee urges the Customs Service, however, to provide notice of the opening of a formal investigation as soon as possible, particularly where there is sufficient cause to believe that any required records would not be rendered unavailable or destroyed.

The Committee intends that the written audit reports will provide sufficient information and be of such quality as to further the "informed compliance" goals of this bill. The Committee further intends that any exemptions under the Freedom of Information Act be used judiciously and in a manner consistent with the "informed compliance" objective. If a Customs Service auditor believes, during a routine audit, that recordkeeping deficiencies exist, the Committee expects the auditor to point out any such deficiencies to the audited party. Where matters are more properly characterized as involving tariff classifications, valuation, or interpretations of law, the Committee expects such matters will be brought to the attention of the Customs Service official with the appropriate expertise.

Section 615 also establishes a new "Recordkeeping Compliance Program." The Customs Service shall establish this program, on a voluntary basis, after consulting with the importing community. Recordkeepers who are certified by the Customs Service may participate in the program or establish an alternative program suited to their and the Service's particular needs, if they can show, among other things, that they comprehend the legal recordkeeping requirements, have adopted procedures for explaining recordkeeping requirements to employees, have adopted procedures for the preparation, maintenance and production of required records, have designated an individual or individuals to be responsible for compliance with the recordkeeping program, have adopted procedures approved by the Customs Service for the maintenance of original records or alternative records, and have adopted procedures for notifying the Customs Service of variances to, or violations of, the recordkeeping compliance program, and for taking corrective action when notified by the Customs Service of violations or problems regarding the program. The Customs Service shall take into account the size and nature and volume of imports of an importing business when deciding to certify its program.

This section also provides for administrative penalties for the failure to comply with a lawful demand for records which are required for the entry of merchandise. The Committee believes that administrative penalties are warranted because, under current law, the Customs Service has no administrative recourse other than resorting to a summons when requests for records are ignored. If the recordkeeper ignores a summons, the Customs Service has no recourse but to go to court. The delay, burden and expense associated with enforcing a summons has meant that such actions have been rare. The Committee believes that administrative penalties will provide an effective mechanism for enforcing the recordkeeping requirements of the Customs Service. The Committee intends, however, that the availability of an administrative penalty shall not reduce or limit in any way the authority of the Customs Service to issue summonses. Further, it is the Committee's firm intention that only those records that are required for the entry of merchandise should be within the purview of the administrative penalty provided by this section. The Committee believes that these penalties will allow the Customs Service to reduce the paperwork demands on an importer because the agency can waive the production of the records at entry while retaining authority to demand their production at a later time.

Under this section, the imposition of a penalty for failure to comply is not mandatory, thus giving the Customs Service the discretion to decide whether a civil penalty is warranted. Where an importer has adopted a recordkeeping compliance program in consultation with the Customs Service, a penalty may be inappropriate. Specifically, recordkeepers who are certified by the Customs Service for participation in the recordkeeping compliance program and are in general compliance with the program, shall, in the absence of willfulness or repeated violations, be issued a written warning notice (in lieu of a penalty) if they fail to comply with a demand for the production of records required for the entry of merchandise. However, willfulness in failing to produce demanded records or repeated violations of law by a recordkeeper may result in the issuance of penalties and removal of certification for the recordkeeping compliance program. The Committee intends that the Customs Service should exercise tight control over the imposition of recordkeeping penalties and that, until the Customs Service gains experience in administering this penalty, no such penalty should be issued without prior Headquarters review and approval.

In addition, the bill makes clear that any penalty assessed by the Customs Service may be remitted or mitigated under section 618 of the Tariff Act of 1930. In all cases, the amount of the penalty will depend on whether the failure to produce the records is due to willful conduct or negligence.

This section further provides that no penalty shall be issued if the demand for records is substantially complied with by the production of other evidence satisfactory to the Customs Service, if an act of God or other natural casualty or disaster prevents compliance with a lawful demand, or if demanded information was previously provided to and retained by the Customs Service.

Under the implementing bill, any penalty imposed under this section shall be in addition to any other penalty provided by law, except where the Customs Service assesses a penalty for a violation of section 592 of the Tariff Act of 1930 for a material omission of demanded information, or where the Customs Service takes disciplinary action against a customs broker under section 641 of the Tariff Act of 1930. With respect to customs brokers, the Committee notes that under section 509 of the Tariff Act of 1930 as amended herein, customs brokers can be considered recordkeepers, and subject, therefore, to disciplinary action under this section. However, the Committee notes further that the conduct of customs brokers is controlled by section 641 of the Tariff Act of 1930, which specifies penalties for violations of the law. For reasons of commercial necessity, brokers may act as importers of record in cases where the actual importer does not have an entry bond. Their status as "brokers" does not change because of this and failure to maintain the records specified in this section should not automatically subject them to the penalties set forth in paragraph (g) of this section. The Committee intends that the Customs Service shall apply section 641 of the Tariff Act of 1930 to brokers, including those who act as importers of record, unless there are exceptional circumstances. These occur when there is an egregious, flagrant or willful violation of the requirements of section 509 of the Tariff Act of 1930, or when there is a pattern or practice of abuse occurring over a sustained period of time in willful disregard of the recordkeeping requirements. The recordkeeping penalty assessed under section 641 for failure to comply with a demand for information shall follow the same principles as is the case under section 509. Each failure of a broker to comply with a demand under section 509 shall be actionable under section 641, and subject the broker to revocation, suspension or monetary penalties in lieu of a penalty under section 509.

Section 616: Judicial enforcement

Section 510 of the Tariff Act of 1930 provides that a district court may issue a compliance order to a person who refuses to obey a summons issued under section 509 of the Tariff Act of 1930. The failure to abide by such court order may be punished as a contempt of court. Section 616 grants district court judges the authority to assess a monetary penalty for the failure to abide by a court order for the production of records, in addition to holding a non-complying party in contempt of court.

Section 617: Review of protests

Section 515 of the Tariff Act of 1930 provides procedures for review of protests, administrative review and modifications of decisions, and requests for accelerated disposition of protests. This section amends section 515 to allow importers to request that the Commissioner of Customs review a decision denying an application for further review. Review of such a request will be based solely on the basis of the record before the Customs Service at the time the application for further review was denied.

This section also authorizes the Customs Service, on its own initiative or pursuant to a request by a protesting party, to void a protest denied contrary to proper instructions. Proper instructions are only those instructions that are issued by an appropriate Customs Service official having the necessary authority vested by law or the Customs Service to issue such instructions. The Committee expects that, where an application is made, or the Customs Service on its own initiative reviews a protest denied contrary to proper instructions, the Customs Service will decide in a timely manner whether to void the denial of the protest. Finally, this section provides that all administrative action pertaining to a protest or application for further review will terminate when an action is commenced in the CIT arising out of such protests or applications and that any administrative action taken subsequent to the commencement of an action shall be null and void.

Section 618: Repeal of provision relating to reliquidation on account of fraud

If the Customs Service determines that there is fraud in a case, it may, under section 521 of the Tariff Act of 1930, reliquidate the entry within two years (exclusive of the time during which a protest is pending) after the date of liquidation or reliquidation. Section 618 of this bill repeals section 521, which is no longer necessary since the Customs Service may use section 592(d) of the Tariff Act of 1930 to recover duties.

Section 619: Penalties relating to manifests

Section 584 of the Tariff Act of 1930 provides penalties for failure to produce a manifest and for manifest discrepancies; it also provides penalty procedures. Section 619 amends section 584 to reflect that manifests, notices, statements, and claims may be electronically transmitted.

Section 620: Unlawful unlading or transshipment

Section 586 of the Tariff Act of 1930 provides penalties for: unlading prior to the grant of permission; transshipment to any vessel for purpose of unlawful entry; and unlawful transshipment to any U.S. vessel. An unlading or transshipment because of accident, stress of weather, or other necessity may not be subject to a penalty. In order to close existing loopholes, section 620 of this bill, amends section 586 to cover hovering vessels and vessels receiving merchandise outside U.S. territorial waters.

Section 621: Penalties for fraud, gross negligence, and negligence; prior disclosure

Under section 592 of the Tariff Act of 1930, if merchandise is entered, introduced, or attempted to be entered or introduced by a false document, oral or written statement, or act, or omission which is material, and the result of fraud, gross negligence or negligence, the person(s) responsible may be liable for a civil monetary penalty. In certain cases, the merchandise may be seized. Following written notice concerning the violation, a pre-penalty response and/or petition for relief may be filed requesting mitigation in accordance with established guidelines.

Section 621 of the implementing bill amends section 592 by prohibiting the electronic transmittal to the Customs Service of false information or data, and authorizing the Customs Service to recover underpayment or non-payment of taxes and fees resulting from a violation of section 592. The Committee believes that, in order for "informed compliance" to work, it is essential that the importing community share with the Customs Service the responsibility to ensure that, at a minimum, "reasonable care" is used in discharging the importer's responsibilities. These include classifying and appraising the merchandise, furnishing sufficient information to permit the Customs Service to fix final classification and appraisal of merchandise, taking measures that will lead to and ensure the preparation of accurate documentation, and providing adequate and accurate pricing and financial information to permit the proper valuation of merchandise. In meeting the "reasonable care" standard, the Committee believes that an importer should consider utilizing one or more of the following aids for proper compliance: seeking guidance from the Customs Service through the pre-import or formal ruling program; consulting with a customs broker, a Customs consultant, or a public accountant or attorney; using in-house employees, such as counsel, a Customs administrator, or if valuation is an issue, a corporate controller, who have experience and knowledge of Customs laws, regulations, and procedures; and, when appropriate, obtaining analyses from accredited laboratories and gaugers for determining technical qualities of an imported product. Where an importer chooses to use an outside expert, the importer is responsible for providing the expert with full and complete information to allow the expert to make entry or to provide advice as to how to make entry. If the above steps are taken, the importer will be presumed to have acted with "reasonable care" in making entry. The following are two examples of how the reasonable care standard should be interpreted by the Customs Service: (1) the failure to follow a binding ruling is a lack of reasonable care; and (2) an honest, good faith professional disagreement as to the correct classification of a technical matter shall not be considered to be lack of reasonable care unless such disagreement has no reasonable basis (*e.g.*, snow skis are entered as water skis).

If an importer fails to use reasonable care in classifying and valuing the merchandise and presenting other entry data, the Customs Service may impose a penalty under the appropriate culpability levels of section 592 of the Tariff Act of 1930. The Committee notes that the Customs Service uses the following definitions for the various culpability levels in administering the present penalty guidelines and expects the Service to continue to use these definitions in the administration of the penalty provisions:

(1) Negligence.—A violation is determined to be negligent if it results from an act or acts (of commission or omission) done through either the failure to exercise the degree of reasonable care and competence expected from a person in the same circumstances in ascertaining the facts or in drawing inferences therefrom, in ascertaining the offender's obligations under the statute, or in communicating information so that it may be understood by the recipient. As a general rule, a violation is determined to be negligent if it results from the offender's failure to exercise reasonable care and competence to ensure that a statement made is correct.

(2) Gross negligence.—A violation is deemed to be grossly negligent if it results from an act or acts (of commission or omission) done

with actual knowledge of or wanton disregard for the relevant facts and with indifference to or disregard for the offender's obligations under the statute.

(3) Fraud.—A violation is determined to be fraudulent if the material false statement or act was committed (or omitted) knowingly (voluntarily and intentionally), with an intent to deceive, mislead, or convey a false impression, as established by clear and convincing evidence.

The Committee also notes the recent decision of the CIT in *United States v. Thorson Chemical Corp.*, Slip Op. 92-84 (May 28, 1992) in which Judge Carman stated, "While the statute itself does not define [the three degrees of culpability], the Court is guided by case law and Customs' own regulations."

Section 621 of the implementing bill also provides that the mere non-intentional repetition by an electronic system of an initial clerical error does not constitute a pattern of negligent conduct. The Committee has included this provision in order to address concerns expressed by industry representatives that this form of conduct not be held to constitute a pattern of negligent conduct. The Committee recognizes that, with increased reliance on electronic systems, it is entirely possible that an initial clerical error could be repeated numerous times. For example, where an entry level clerk or typist prepares documents using a model format as a guide, it is possible that an initial error may be repeated many times over. In such cases, multiple repetitions of an initial clerical error may not constitute a pattern of negligent conduct. The Committee urges the Customs Service to examine the nature of the data transcription at issue, and to take into consideration the element of time and the number of importations involved.

The Committee also recognizes that repetitive human errors may not, in some cases, constitute a pattern of negligence. The Committee expects that the Customs Service will make its determination based on the existence and operation of quality control procedures, the nature of the data transmission, the number of importations handled, and the amount of time involved in the action creating the error. The Committee intends, however, that a failure to use reasonable care as required by section 484 of the Tariff Act of 1930, where such failure results in repetitive errors, shall constitute a pattern of negligent conduct.

The Committee notes that the element of time may affect the determination in at least two instances. If a repetitive error goes undetected for more than six months, the Committee believes that the Customs Service should consider this a pattern of negligent conduct. For example, the Committee believes that the exercise of reasonable care should catch an error repeated in daily entries of merchandise. However, if there was but a single entry during that six-month period, the converse would be true. If the Customs Service discovers cases where there are repetitive clerical errors in multiple entries, and such errors have not previously been disclosed by the importer in its exercise of reasonable care, the Committee does not intend that the importer will be shielded from a finding of negligent conduct.

The implementing bill further amends section 592 by defining the commencement of a formal investigation, for purposes of prior disclosure, as being the date recorded in writing by the Customs Service when facts and circumstances were discovered or information received to believe a possibility of a violation of section 592 existed. The Committee believes that there should be a clearly defined and objective standard by which to measure the date when a formal investigation has commenced. That standard must lie in the creation of a formal document or electronic transmission that will serve as evidence, if required, of the formal opening of an investigation. The Committee expects that such document or transmission will be maintained by the Office of Enforcement or other central unit designated within the Customs Service.

If a Customs official has reasonable cause to believe that a violation of section 592 has occurred, that official shall record the salient facts and present them to the Office of Enforcement or other central unit. That office shall determine whether the facts merit the commencement of a formal investigation. The Committee expects that Customs Service officials will exercise particular care in recording essential facts (including but not limited to names, types of issues (*e.g.*, undervaluation and marking), date and time the case is opened, and nature of investigation); this requirement for careful recordkeeping by the Customs Service should allay the trade community's concerns that the benefits of prior disclosure will be denied in the absence of tangible evidence.

The Committee does not intend that the Customs Service disclose to the target of an investigation the fact that a formal investigation has opened. But if the agency determines that it is appropriate to issue a prepenalty notice under section 592(b)(1), a copy of the written document or electronic transmission should be included as an exhibit. With that one document, it should be clear whether the alleged violation stems from information previously disclosed by the disclosing party. The time of disclosure will also be defined. If the importer's disclosure of the circumstances of the violation precedes the opening of the formal investigation, the case should be treated as one involving prior disclosure. But if the disclosure did not precede the opening of the formal investigation, the disclosing party will be left with the burden of proving that disclosure of the violation was made without knowledge that a formal investigation had been commenced.

Section 622: Penalties for false drawback claims

Section 622 creates, as part of the Tariff Act of 1930, a new section 593A to establish penalty provisions for the false submission of drawback refund claims and to establish a "Drawback Compliance Program" similar to the "Recordkeeping Compliance Program" described above. The Customs Service would be required under the voluntary program to inform potential drawback claimants clearly about their rights and obligations. The Committee believes that the provision of penalties and the establishment of a drawback compliance program will promote informed compliance while balancing both trade facilitation and trade enforcement concerns.

The maximum statutory penalty for violations based on fraud would be three times the loss of revenue. For negligence, a drawback claimant qualifying for the "Compliance Program" would be issued a warning notice for an alleged first violation and then would be issued the following penalties on an escalating scale:

Second case: Not to exceed 20 percent of the loss of revenue;

Third case Not to exceed 50 percent of the loss of revenue; and

Fourth and Subsequent: Not to exceed 100 percent of the loss of revenue.

A drawback claimant who does not qualify for the Compliance Program would be subject to an initial penalty not to exceed 20 percent of the loss of revenue. For a second violation, the penalty would be not to exceed 50 percent of the loss of revenue, with the penalty for third and subsequent violations not to exceed 100 percent of the loss of revenue.

For purposes of determining possible penalties, repetitive violations would be subject to a timeframe of a "rolling" three-year period (similar to a traffic violation) after which the "clock" would start over.

This section is to become effective on or after operational implementation by the Customs Service of a nationwide drawback selectivity program.

Section 623: Interpretive rulings and decisions; public information

Currently under section 625 of the Tariff Act of 1930, within 120 days after issuing any precedential decision (including any ruling letter, internal advice memorandum, or protest review decision), the Secretary of the Treasury is required to publish the decision in the "Customs Bulletin" or otherwise make it available for public inspection.

Section 623 of this bill reduces the time period for publication to 90 days. It further provides that adverse interpretive rulings may be appealed within the Customs Service, and requires that a ruling modifying or revoking an existing ruling be first published in the "Customs Bulletin" for notice and comment. The Secretary of the Treasury will give interested parties a 30-day period in which to submit comments. This section also requires the Customs Service to make available all information necessary for importers to comply with applicable laws and regulations. Any decision that limits the application of a court decision shall also be published for notice and comment in the "Customs Bulletin." It is the Committee's intent that the Customs Service will be deemed to have met its publication requirements under this section if it disseminates such information through the Customs Service electronic bulletin board if such information remains publicly available in an accessible, retrievable format.

Section 624: Seizure authority

Under section 595a(c) of the Tariff Act of 1930, any merchandise that is introduced or attempted to be introduced contrary to law (other than in violation of section 592 of the Tariff Act of 1930) may be seized and forfeited.

Section 624 of the implementing bill amends the seizure authority of the Customs Service to codify existing practice and clarify the circumstances under which merchandise may be seized and forfeited. Nothing in this section is intended to change existing procedures in effect between the Customs Service and other Federal agencies regarding the seizure, forfeiture or other disposition of merchandise. The Committee does not intend that this section change current law or Customs Service practice regarding parallel imports.

The section provides as follows: (1) merchandise that is stolen or smuggled or clandestinely imported, or that is contraband or a controlled substance, shall be seized and forfeited; (2) merchandise subject to a restriction or prohibition pertaining to health, safety, or conservation may be seized and forfeited if not in compliance with the restriction or prohibition; (3) merchandise which requires the authorization of a U.S. agency, but that is not accompanied by such, may be seized and forfeited; and (4) merchandise subject to copyright, trademark, trade name, or trade dress protection, and merchandise that is intentionally falsely marked with the name of a country which is not the country of origin in violation of section 304 of the Tariff Act of 1930 or for which the importer has received written notices that previous importations of identical merchandise from the same supplier were found to have marking violations may also be seized and forfeited.

In addition, this section provides that if merchandise is subject to quantitative restrictions requiring a permit and such document is not presented, the merchandise shall be detained unless the permit is counterfeit, in which case the merchandise shall be seized and forfeited. Also, if the merchandise is imported contrary to applicable laws governing the classification or appraisement of the merchandise and there are no issues concerning the admissibility of the merchandise, it may be seized only in accordance with section 592 of the Tariff Act of 1930.

SUBTITLE B—NATIONAL CUSTOMS AUTOMATION PROGRAM

Section 631: National customs automation program (NCAP)

This section is intended to give the Customs Service the direct statutory authority to implement the NCAP, which provides for full electronic processing of all Customs-related transactions. Section 631 defines the NCAP as an automated and electronic system for processing commercial importations and lists the existing and planned components of the program. The Committee understands that the list of planned components shall be expanded in the future as other components are initiated after the date of enactment. Participation in NCAP is voluntary, but the Customs Service will establish eligibility criteria for participation. Since NCAP is a single program encompassing all of the customs electronic processing procedures of the Customs Service, the Committee expects that filers will either use NCAP electronic procedures, or use current procedures for filing paper documents. It is the Committee's intention that nothing in this section shall preclude the current practice of filing paper documentation within a single district. The Committee intends, however, to encourage electronic filing whenever possible. The Committee expects that the Customs Service, in developing criteria for eligibility in NCAP, will qualify as broad a membership of the trade community as possible, including brokers, importers, express couriers, transportation companies, and foreign trade zone and sub-zone firms.

Section 631 identifies the goals of the NCAP as ensuring that all regulations and rulings administered or enforced by the Customs Service are administered or enforced in a manner that is uniform and consistent, minimally intrusive upon the normal flow of business activity, and ensures compliance with applicable laws and regulations.

This section requires the Customs Service to provide the Committees on Finance and Ways and Means with a number of reports relating to the implementation of the NCAP. The Committee will also ask the GAO to prepare an evaluation, as described below, of the remote entry filing component of the NCAP. The purpose of these reports is to provide the Committees with a comprehensive assessment of the progress achieved in implementing the NCAP and analyses of the effects the NCAP is having, or is expected to have, on the operations of the Customs Service, on the users of the program and on the trade community at large, including importers and small, medium-sized and large brokers.

First, the Customs Service must provide Congress an overall implementation plan for NCAP within 180 days of the enactment of this legislation. The overall implementation plan will include a general description of the NCAP, a brief description of each of the existing components of the program, and estimates regarding the stages on which planned components of the NCAP will be brought on line. In addition, the overall implementation plan will also include an analysis of the effects that the existing components of NCAP are having, and the effects the planned components are likely to have, on Customs Service occupations, operations, processes and systems, and on the trade community (including small, medium-sized and large brokers and importers) using, or likely to use, NCAP.

Second, for each planned NCAP component, including remote filing, the bill requires the Customs Service to prepare a separate implementation plan in consultation with the trade community, test the component, and transmit to Congress the implementation plan, testing results, and an evaluation report. The Committee intends that the Customs Service consult with all relevant parties, including small, medium-sized and large brokers, importers, express couriers, sureties, transportation companies, including air and sea carriers, the National Treasury Employees Union and foreign trade zone and sub-zone firms, as necessary, in developing the implementation plan for each of the components. The Committee expects that testing of all planned components, including remote filing, will be conducted under carefully delineated circumstances with objective measures of success or failure, a predetermined timeframe and a defined class of participants. And in preparing its evaluation report on each of the components, the Committee expects the Customs Service to solicit the views of all of the relevant parties, including but not limited to all of the parties with whom the Customs Service consulted in developing the implementation plan. The Committee expects these evaluation reports will include detailed information on the scope of the testing and the parameters under which any testing was conducted and an objective assessment of the results. The Committee expects the evaluation reports of each of the components to include summaries of the comments received by all relevant parties.

The implementation plan, the testing results and the evaluation report for each of the components will be transmitted to the Committees on Finance and Ways and Means.

Third, the GAO will also prepare an independent evaluation of the remote filing component of the program and transmit the report to the Committees on Finance and Ways and Means. In order to ensure that the GAO report and the Customs Service report will be available to the Committees at approximately the same time, the Committee expects the Customs Service to inform the Committee well in advance of the approximate date on which it expects to submit the implementation plan, testing results and evaluation of remote entry filing to the Committee so that the GAO may begin its evaluation in a timely manner.

In order to ensure that the Committee will have sufficient time to review the evaluation reports of the planned components, section 631 provides that the Customs Service may not implement the relevant program component on a permanent basis until 30 session days have elapsed after the submission of the relevant evaluation report. The Committee believes that it is necessary to establish a layover period during a time when Congress will be in session in order to provide Congress the opportunity to seek any necessary modifications to the program. However, the Committee intends that no further legislation is necessary before the Customs Service may implement the planned components of the program, and implementation may occur at any time after enactment as long as all of the requirements are met. The Committee intends that testing by the Customs Service of any planned NCAP component, including remote filing of paper documentation, shall not be limited by any provision in this section.

Fourth, the bill requires the Customs Service to develop a user satisfaction survey of parties participating in the program and evaluate the results of the survey every two years. Fifth, the Customs Service will also be required to submit a separate evaluation of the cargo selectivity component of the program. Sixth, beginning in fiscal year 1994 and annually thereafter through fiscal year 2000, the Customs Service will be required to transmit to the Committees on Finance and Ways and Means a written evaluation of all of the planned components of the program, with particular attention to remote entry filing. In preparing its reports, the Customs Service will be required to solicit public comments through the "Customs Bulletin," and shall consult with all relevant segments of the trade community, including small, medium-sized, and large brokers, importers, shippers and others.

Section 631 further provides that the Customs Service must publish a request for comments in the Customs Bulletin in order to solicit the views of the trade community concerning the implementation plan and evaluation of each of the planned components, and in preparing other required surveys, evaluations and reports. The Committee expects that the agency will also provide notice of the request for comments through other channels available to it, including electronic means. The Committee intends that the request for comments reach as broad an audience as possible.

This section establishes specific conditions for the remote location filing component of NCAP. If a filer qualifies and elects to file from a remote location, then the filer must present electronically specified core entry information on an entry-by-entry basis, including electronic entry of merchandise, electronic entry summary, automated invoice information (when required by the Customs Service) and electronic payment of duties, fees, and taxes. The Customs Service may expand this core entry list in the future by regulation as capabilities develop. If any of the above means for filing core entry information electronically are not used, then paper documentation shall be filed in the district designated for examination.

With respect to the core requirements, the Committee intends the following definitions to apply: electronic entry means electronic submission of Form 3461 or Form 3461 Alt. information; electronic entry summary means electronic submission of Form 7501 or Import Activity Summary Statement information; automated invoice information means use of Automated Invoice Interface, but only applies when required by the Customs Service; and electronic payment of duties, fees, and taxes means use of existing Automated Clearing House procedures.

To address concerns about remote location filing and about enforcement under the

NCAP, section 631 imposes several additional requirements relating to remote filing. First, this section mandates that the Customs Service may not permit any exemptions or waivers from the remote filing requirements. It also clarifies that participants eligible for remote location filing are limited to those who currently have the right to make entry under section 484(a)(2)(B) of the Tariff Act of 1930. Finally, section 631 of the implementing bill authorizes the Customs Service to deny participation in, or remove a participant from, remote filing should the agency have any concerns about enforcement.

After satisfying the core entry information requirements, filers must meet additional entry information filing requirements. These requirements will be published and periodically updated. Any additional entry information that must be presented before the acceptance of entry summary information and at the time of acceptance of entry summary information, may be filed from a remote location only if certain conditions are met. If the Customs Service can accept the information electronically, then it shall be filed electronically.

If the Customs Service cannot accept the additional information electronically, the circumstances under which filers may file remotely are limited. In all cases where a document that is necessary for the release of the merchandise cannot be electronically accepted, the paper documentation must always be filed in the Customs district designated by the entry filer for purposes of examination of the merchandise by the Customs Service. Before January 1, 1999, all other types of additional paper documentation must be filed in the district designated for examination. After January 1, 1999, only those paper documents that are not necessary for the release of the merchandise may be filed at a remote location. These dates reflect the Committee's view that an additional two years beyond the dates proposed by the Administration are necessary to allow the trade community to adjust to remote filing. It is the Committee's intent that all documents necessary for the release of goods, including those documents required by other Federal agencies for release, which the Customs Service cannot accept electronically, be filed in the district designated for release and not remotely.

Under this section, the importer may file any information required by the Customs Service after entry summary in a remote location, whether using paper or electronic means. The Committee will request the GAO to conduct a comprehensive review of the remote entry filing component two years after that component is implemented on a permanent basis. The Committee intends that the GAO evaluate the implementation of the component, including the extent to which remote filing is used, the effect remote filing has had on the operations of the Customs Service and the distribution of its workload and employees, the costs and benefits of remote filing to importers, small, medium and large brokers, transportation companies and foreign trade zone and sub-zone companies, and other relevant parties, and the impact, if any, that remote filing has had on the ability of the Customs Service to enforce our trade, customs and drug laws.

The Committee believes that NCAP will enable the Customs Service to make more efficient use of its import specialist work force by channeling work to remote locations. However, the Committee does not intend that this bill prompt the movement of Customs Service personnel from one location to another to implement the goals of the program. The Committee has received assurances from the Commissioner of Customs that the Customs Service will *not* remove import specialist positions from the Customs districts as a result of remote filing. The Committee expects that the agency will continue to use the full complement of import specialists at the district level.

Section 632: Drawback and refunds

Section 313 of the Tariff Act of 1930 permits drawback (a refund or remission) of the duties paid on imported merchandise when articles manufactured or produced with the use of such imported merchandise are exported and in certain other circumstances. Section 632 of the implementing bill contains provisions intended to expand U.S. exports and facilitate the use of drawback by easing administrative burdens while ensuring improved compliance (through increased penalties and informed compliance provisions) with the laws and regulations governing drawback.

Under current law, if dutiable raw materials and substituted domestic or duty-free raw materials of the same kind and quality are used by one manufacturer to make new articles that are exported, those articles are deemed to have been made with the dutiable raw materials and duty is refunded. Section 632 permits drawback upon exportation or where merchandise has been destroyed under customs supervision, if such articles have not been used prior to exportation or destruction. This section also enacts current practice to permit drawback for the substitution of any materials, not just domestic or duty-free materials.

Current law provides that an importer whose foreign supplier failed to follow the importer's purchase specifications or samples is entitled to a duty refund if the importer returns the imported merchandise to the Customs Service within 90 days after release, provides sufficient evidence to show that the foreign supplier failed to follow the importer's specifications or sample, and then exports the merchandise. The implementing bill amends the rejected merchandise drawback provisions to extend the period for return to the Customs Service to three years, to allow destruction of the imported merchandise as an alternative to exportation, and to allow the importer and foreign supplier to agree that the imported merchandise was defective without reference to purchase specifications or samples. If the importer and foreign supplier could not agree that the merchandise was defective, the Customs Service would be required to make that determination. Under this section, imported merchandise could be kept in the United States for up to three years, and the importer could get a duty refund if it was shown that the merchandise did not conform to specifications or sample or was defective at the time of importation.

Current law also provides for "same condition" drawback whereby dutiable articles or substitute fungible articles, when exported or destroyed, are eligible for duty refund if the exported or destroyed articles were not used in the United States and are in the same condition as the dutiable articles when they were imported. Under a recent court decision (*B.F. Goodrich v. United States*, 794 F. Supp. 1148 (CIT 1992)), any person who possessed the exported articles and paid the duty on the imported merchandise may claim the duty refund. Section 632 renames the same condition drawback provision "Unused Merchandise Drawback," and amends the provision in several ways. The provision will allow exporters to claim drawback on imported merchandise, or other domestic or imported merchandise that is substituted for the imported merchandise, that is not used within the United States before exportation or destruction, while removing the requirement that the merchandise be in the same condition. This allows for the possibility that drawback may be claimed on exported or destroyed unused merchandise that has physically deteriorated. Consistent with the recent court decision in *Central Soya v. United States*, 761 F. Supp. 133 (CIT 1991), affirmed 953 Fed. 2nd 630 (CAFC 1992), the provision provides that exporters may endorse this right to importers or any intermediate party, when substitution is not involved. In light of the *Goodrich* case, for substitution under this provision, the Committee intends that, as a general rule, the possessor of the exported merchandise must have paid duties on the imported merchandise or have received from the person who imported and paid the duties on the imported merchandise a certificate of delivery for the imported merchandise, commercially interchangeable merchandise, or any combination thereof.

Section 632 also changes the standard for substitution under same condition or unused merchandise drawback from "fungible" to "commercially interchangeable." It is the Committee's intent that "commercial interchangeability" does *not* mean interchangeable in all situations. The Committee intends that, in determining whether merchandise is "commercially interchangeable," the Customs Service should evaluate the critical properties of the substituted merchandise, rather than basing its determination on subjective standards. The Committee intends that, in determining the commercial interchangeability of two articles, the Customs Service should consider the following criteria, among other factors: governmental and recognized industry standards, part numbers, tariff classification, and relative values. The Committee intends that the test be more stringently applied if the article was destroyed rather than exported. This section permits certain incidental operations with respect to the merchandise.

Section 632 also permits the electronic filing of drawback claims.

For finished petroleum derivatives, an amendment to the drawback statute by the Customs and Trade Act of 1990 (Public Law 101–382, section 484A) was intended to establish monthly accounting procedures for drawback payments on the covered crude petroleum and petroleum derivatives stored in common storage with other crude petroleum and petroleum derivatives of the same kind and quality. Because of the requirement that the crude petroleum and petroleum derivatives must be withdrawn for export from the common storage facility where they are stored, effective use of the provision has proven impracticable (because the covered petroleum products may be stored at numerous common storage facilities before reaching the common storage facility from which they are exported and because of the recordkeeping requirements necessary to trace the covered petroleum products to the common storage facility from which they are exported). Section 632 of the implementing bill amends the petroleum drawback provision to implement the intent of the Congress as set forth in the Customs and Trade Act of 1990.

Specifically, section 632 allows accounting for crude petroleum and petroleum derivatives on a quantitative basis. The crude petroleum or petroleum derivatives would have to be exported: (1) within 180 days of the duty-paid entry of crude petroleum or petroleum derivatives of the same kind and quality; or (2) during the period of manufacture or within 180 days after the close of the manufacturing period for covered petroleum products manufactured under the drawback law. For purposes of the provision relating to the purchase or exchange of a covered manufactured petroleum product, the covered manufactured petroleum product may be identified by a bill of lading, or equivalent document of receipt, together with a waiver by the transferrer of any rights to drawback on the covered manufactured petroleum product.

Section 632 also amends the packaging material drawback provision to expand eligibility for dutiable packaging material if used in the packaging of either the dutiable imported article or its substitute article as long as that article was exported or destroyed.

This section also establishes a period of three years from the date of export or destruction in which to file a complete claim. By virtue of changes elsewhere in this bill, the Committee understands that the Customs Service would have three years from the date of payment of a claim to initiate the verification of that claim. The bill also provides that, if a drawback claim is made under one subsection of section 313 of the Tariff Act of 1930 but is denied, the claim will be deemed to have been filed under any other subsection if the claim is allowable under that subsection. The Committee understands that the Customs Service will not interpret this provision as imposing a requirement on it to investigate all alternatives in addition to the claimed basis before liquidating the drawback claim as presented, but will interpret the provision as allowing such a claimant to raise the alternative subsections by protest under section 514 of the Tariff Act of 1930.

Section 632 also allows a company to buy another company's factory and satisfy the "one manufacturer" requirement, under certain conditions. It also allows a person to buy a factory or division of another company and include a transfer of drawback rights. In all cases, the value of the realty and personalty transferred must exceed the value of the drawback rights transferred to prevent pure sales of drawback rights. The Committee intends that a Trustee in Bankruptcy who has succeeded to all of the assets of an entity in bankruptcy would be considered to be a drawback successor. This section also requires certifications against multiple claims of drawback rights.

Section 632 also requires any person who provided a certification of a fact which enabled another person to perfect a claim for drawback to keep records to show the validity of the certified fact. Section 632 codifies current Customs Service practice against "piggybacking" other duty exemption benefits (FTZs, bonded warehouses, and duty-free temporary importation) onto the drawback benefits and provides that only one drawback claim per exportation or destruction will be allowed, but provides for appropriate credit or deduction for claims covering components or ingredients.

With respect to the current practices of the Customs Service for auditing drawback claims, the Committee is concerned that the Service may be denying entire claims in cases where a claim is deficient only with respect to a small number of entries or due to minor omissions. The Committee expects that if the entire universe of the claimed import entries and exports is audited and the audit reveals that only a portion of a company's claims are deficient, drawback should be denied only on the deficient portion. If, however, a representative sample is audited and the audit reveals that a significant portion of the audited claim is deficient, then denial of a drawback claim may extend beyond the portion of the claim audited.

The Committee is also concerned with the lack of consistency with respect to the timeframes for record retention, submission of drawback claims and potential audit exposure. It is the Committee's expectation that the Customs Service will issue drawback regulations that take into consideration the various time limitations for recordkeeping, filing claims, amendments and clarifications and for auditing and liquidating drawback claims.

Section 632 enters into effect upon the date of enactment of the Act (see section 692). The Committee intends that this section is applicable to any drawback entry made on or after the date of enactment as well as to any drawback entry made before the date of enactment if the liquidation of the entry is not final on the date of enactment.

Section 633: Effective date of rates of duty

This section of the bill makes technical and conforming amendments to section 315 of the Tariff Act of 1930, which sets forth the effective date of the applicable rate or rates of duty imposed on any article of merchandise entered for consumption or withdrawn from warehouse for consumption. The implementing bill updates the language used in the section by substituting "Customs Service" for "the appropriate customs officer" to reflect agency's modernization and automation objectives, and changes a reference to the old Tariff Schedules of the United States (TSUS) to a reference to the equivalent provision in the Harmonized Tariff Schedule of the United States (HTSUS).

Section 634: Definitions

This section modifies section 401 of the Tariff Act of 1930, which sets forth definitions of certain terms used in the customs laws. The section amends the definition of "hovering vessel" to close certain loopholes in the law, and adds definitions of "electronic transmission"; "electronic entry"; "electronic data interchange system"; "National Customs Automation Program"; "import activity summary statement"; and "reconciliation."

Section 635: Manifests

Section 431 of the Tariff Act of 1930 currently requires the filing of a vessel manifest, and specifies requirements for the form, content, signing and delivery, and public disclosure of that manifest. Section 635 deletes the specific requirements for the contents of a manifest and instead authorizes the Secretary of the Treasury to prescribe the manifest form and content and the manner of production and delivery of the manifest. This will provide the Customs Service with authority to permit the electronic transmission of manifests. This section further provides that manifests may be supplemented by "bill of lading data" to be submitted with a manifest and clarifies responsibilities concerning production and delivery of manifests.

The Committee believes that these revisions to the manifest requirements will permit the Customs Service to link manifest production requirements to better target high risk shipments according to such criteria as type of merchandise and country of origin. The Committee understands that, in many cases, the form and content of manifests have been developed and stipulated in international treaties to which the United States is a signatory, and the Committee expects that the Customs Service will respect U.S. obligations under these treaties as it develops its manifest requirements.

The section also includes a provision for correcting a manifest discrepancy; that authority is currently provided in section 440 of the Tariff Act of 1930, which is repealed by this bill.

This section of the implementing bill will also allow summary manifesting by carriers, including express consignment companies, of letter and document shipments which are already exempt from Customs Service entry requirements. Letter packs and document packs would be required to be segregated according to size and country of origin. While the Committee believes that these changes are desirable because they will minimize the recordkeeping and data processing burdens on the affected industry, it is the Committee's firm intention that these changes not adversely affect the ability of the Customs Service to enforce the trade, customs and drug laws. The Committee understands that letter and document packs that may contain "merchandise," especially monetary instruments, are still subject to the current separate manifesting requirements. The Committee also understands that the Customs Service cannot guarantee overnight clearance of items subject to summary manifesting, since additional examination procedures may be required. Nonetheless, the Committee expects the Customs Service to make best efforts to achieve overnight clearance of such items in most instances.

Section 636: Invoice contents

Section 481(a) of the Tariff Act of 1930 provides for the mandatory production of an invoice and specifies the information that must be stated on the invoice. Subsection (b) provides the procedures for shipments not purchased and not shipped by the manufacturer. Subsection (c) provides procedures for merchandise purchased in different consular districts. Subsection (d) provides that the Secretary of the Treasury may provide exceptions to the requirements of this section by regulation. Section 636 of the implementing bill amends section 481 to allow importers to transmit invoices, bills and other documents to the Customs Service by electronic means. This section also authorizes importers and the Customs Service to use partial invoices and the electronic equivalent of invoices, bills, or other documents.

Section 637: Entry of merchandise

The essential requirements for the entry of merchandise are set forth in section 484 of the Tariff Act of 1930. Section 637 of the implementing bill amends the law in several respects. It authorizes importers to transmit entry documents and/or data electronically to the Customs Service. It also permits the periodic filing of entries by authorizing the Secretary to prescribe by regulation the time periods within which an entry must be filed. These regulations will provide that an importer may transmit electronically, by the 20th day following the end of a calendar month, an import activity summary statement covering all or some of the entries made during the calendar month. This electronic transmission would substitute for the filing of individual entry summaries. Whether an importer chooses to use the entry/entry summary procedure or the entry/import activity summary statement, reconciliation would be available. Reconciliation is designed to permit those elements of an entry, other than those elements relating to the admissibility of the merchandise, that are undetermined at the time an entry summary or an import activity summary statement is required to be submitted, to be provided to the Customs Service at a later date. Importers that elect to use the reconciliation procedures will be required to post a bond or security, unless the bond or security filed at the time of entry also covers reconciliation statements.

Section 637 also permits the use of the reconciliation procedures for antidumping/countervailing duties (AD/CVD) duty entries. The Customs Service will be able to use these procedures for AD/CVD duty entries by extending the time when a reconciliation is due for the AD/CVD entries, beyond the 15-month timeframe, to no later than 90 days after the Customs Service notifies an importer that a period of review has been completed. Section 637 amends section 771 of the Tariff Act of 1930 to define the term "entry" to include a reconciliation, and also requires the Customs Service to consult with the Department of Commerce in developing regulations to implement these procedures.

The Committee intends that the reconciliation procedures may apply to AD/CVD entries. The purpose of the reconciliation for AD/CVD cases will be for the importer to group entries together for purposes of assessment and liquidation. By amending section 771 to define the term "entry" to include a reconciliation, the Committee stresses that the reconciliation entry represents the importer's liability for AD/CVD duties; and therefore, the Customs Service may liquidate the underlying entries for purposes other than the collection of antidumping or countervailing duties. The Committee intends that the Customs Service work closely with the Department of Commerce in developing regulations to implement this concept.

Entries covered by an entry summary or an import activity summary statement will be liquidated in accordance with normal Customs Service procedures, or kept open at the importer's request. If an importer wishes to submit a reconciliation for a particular entry or entries, he may do so by specifying in the entry summary or import activity summary statement that he wishes to provide relevant data at a later time, that is, when it becomes available. When the importer files the reconciliation, the Customs Service will compare the information provided in the entry summary or import activity summary statement with the information provided in the reconciliation and make proper adjustments.

This approach permits the liquidation of an entry despite the fact that undetermined information has not been transmitted to the Customs Service through the reconciliation process. For example, if an entry covers merchandise for which the importer supplies "assists" which can only be calculated on an annual basis, the importer can indicate to the Customs Service that information contained in the entry is accurate for all purposes, other than its value which is to be adjusted by the undetermined assists, and should be liquidated. Upon liquidation of the entry, any decision of the Customs Service affecting that liquidation, for example classification, could be protested pursuant to section 514 of the Tariff Act of 1930. When the "assist" information is later furnished in the reconciliation statement, the reconciliation statement will be treated as an entry, and liquidated. The decisions of the Customs Service pertaining only to the information contained in the liquidated reconciliation would be the proper subject of a protest.

The Committee believes that the introduction of the import activity summary statement and the concept of reconciliation will permit importers and customs brokers who are capable of interacting electronically with the Customs Service to handle Customs transactions in a more efficient way, thus reducing paperwork and administrative costs.

Under this section, importers will be required to use "reasonable care" in making entry. In the Committee's view, this requirement establishes a "shared responsibility" between the Customs Service and the trade community, and allows the Customs Service to rely on the accuracy of the information submitted by importers. This should allow the Service to streamline entry procedures. It is the Committee's view that the concept of "shared responsibility" means, at a minimum, that "reasonable care" be used in discharging the activities for which the importer bears responsibility. These include providing the classification and valuation of the merchandise, the furnishing of information sufficient to fix the final classification and appraisal of merchandise by the Customs Service; taking measures that will lead to and ensure the preparation of accurate documentation; and providing sufficient pricing and financial information to permit proper valuation of merchandise. Failure to use reasonable care would be actionable under the appropriate culpability levels of section 592 of the Tariff Act of 1930.

When an importer elects to submit a reconciliation, the Committee intends that "reasonable care" be used in preparing information contained in the reconciliation and the information contained in the entry summary or import activity summary statement that is certified by the importer for liquidation. However, it is the Committee's intent that, in most cases, discrepancies and inaccuracies in information contained in entry summaries or import activity summary statements for which a reconciliation will be submitted should not be penalized under section 592 for failure to exercise reasonable care since the importer, by noting its intent to submit a reconciliation, is indicating that the information in the entry summary or import activity summary statement relating to the reconciliation is incomplete.

It is the Committee's intent that all certified electronic transmissions shall be binding and have the same force and effect as a signed paper document.

Section 638: Appraisement and other procedures

Under section 500 of the Tariff Act of 1930, the appropriate Customs Service official shall appraise merchandise, ascertain the classification and rate of duty, fix the amount of duty to be paid, and determine any increased or additional duties due or any excess of duties deposited, liquidate the entry, and give proper notice of liquidation. Section 638 of this bill updates the law to reflect automation and computerization realities and acknowledge that information and data may be electronically transmitted. As part of the "shared responsibility" concept, it is the intent of the Committee that the importer have the responsibility to correctly value and classify the merchandise. This section retains the requirement that the Customs Service has the responsibility to ensure that entry was made correctly and determine the amount of duties due, *i.e.*, that it fix the final classification, appraisement, and rate of duty on an entry, and liquidate the entry. The amendments made by this section also reflect changes in the law which require the Customs Service to assess user fees and taxes on entries. Finally, the bill authorizes the Customs Service to liquidate reconciliations and to give or transmit electronically notice of liquidation in such form and manner as is prescribed by regulation.

Section 639: Voluntary reliquidations

Under section 501 of the Tariff Act of 1930, a liquidation of any entry may be reliquidated within 90 days from the date on which notice of the original liquidation is given. Section 639 of this bill authorizes the electronic transmission of reliquidation notices.

Section 640: Appraisement regulations

Section 502(a) of the Tariff Act of 1930 provides that the Secretary of the Treasury shall issue regulations necessary to secure the proper appraisement, classification, and assessment of duties at the various ports of entry, and to direct any Customs officer to go from one port to another port to appraise the imported merchandise. Section 502(b) states that no ruling made by the Secretary of the Treasury imposing Customs duties shall be reversed or modified adversely to the United States except in concurrence with the Attorney General, or a final decision of the CIT, or a final decision of a binational panel pursuant to the CFTA.

Section 640 of the implementing bill amends section 502 to facilitate the implementation of remote filing under the NCAP by authorizing the Secretary to direct Customs officers at one port to review entries filed at another port. This section also repeals the requirement that the concurrence of the Attorney General be obtained prior to the reversal of a ruling by the Secretary construing any law imposing customs duties.

This section also authorizes the Secretary to prescribe regulations for the issuance of binding rulings prior to the entry of merchandise. The Committee expects that these changes will provide greater certainty to importers through the binding rulings program and facilitate the entry process.

Section 641: Limitation on liquidation

Section 504 of the Tariff Act of 1930 provides for the liquidation of entries within one year unless liquidation is extended or suspended. Liquidation can be extended by the Customs Service or the importer or suspended because of statute or court order. The Customs Service must provide notice of the extension or suspension of liquidation. Any entry not liquidated at the expiration of four years shall be deemed liquidated unless liquidation continues to be suspended. When the suspension is removed, the entry must be liquidated within 90 days.

In order to implement the reconciliation process, section 641 of the implementing bill makes conforming amendments regarding the reconciliation of entries and the liquidation of entries subject to reconciliation. It provides that a reconciliation shall be treated as if it were an entry summary, and subject to the normal extension, suspension and protest requirements under sections 504 and 514 of the Tariff Act of 1930. To reflect technological changes, this section also authorizes the electronic transmittal of notices of extension and suspension of liquidation.

In addition, section 641 changes the time period, from 90 days to six months, in which the Secretary of the Treasury must liquidate a suspended entry after the suspension is removed; the six-month period runs from the date the Customs Service is notified that the suspension has been removed.

The Committee has also made clear that the four-year limitation on unliquidated merchandise does not apply to suspended entries. This is intended to overturn the decision rendered in *Nunn Bush Shoe v. United States*, CIT, Slip Op. 92-5 (1992). The four-year limitation will apply only to extended entries, i.e., it sets the outer limit for extensions. Any entry whose liquidation is extended that is not liquidated within four years, and any entry whose liquidation is suspended and such suspension is subsequently removed but the entry is not liquidated within six months after the Customs Service receives notice of the removal, shall be treated as having been liquidated at the rate of duty, value, quantity, and amount of duty asserted by the importer of record at the time of entry.

In order to correct an omission in existing law and codify existing administrative practice, this section also provides that the Customs Service must inform sureties when a suspension is removed or extended. Currently, the agency is required only to provide notice of an extension of liquidation of an entry to sureties when the liquidation is suspended by statute or court order. This section also requires notice to be sent to the surety when liquidation is extended because the Customs Service requires additional information or when the importer has requested an extension. It further allows the Customs Service to extend liquidation when information needed for insuring compliance with applicable law is not available to or in the possession of the Customs Service.

The implementing provision retains the current authority for the Secretary of the Treasury to extend liquidation if sufficient information is not available to the Customs Service to ensure compliance with applicable laws or the importer requests an extension.

Section 642: Payment of duties and fees

Section 505(a) of the Tariff Act of 1930 provides that, unless merchandise is entered for warehouse or transportation, or under bond, the importer shall deposit at the time of entry or at such later time as the Secretary of the Treasury shall prescribe by regulation (but not to exceed 30 days after the date of entry) the duties estimated to be due. Section 505(b) provides that the appropriate Customs officer shall collect any increased or additional duties due or refund any excess duties deposited as determined by liquidation or reliquidation. Section (c) provides that duties due upon liquidation or reliquidation shall be due 15 days thereafter, and unless payment is received within 30 days after that date, duties shall be considered delinquent and bear interest from the 15th day after the date of liquidation or reliquidation.

Section 642 of the implementing bill provides the Customs Service with authority to permit the periodic payment of duties, taxes, and fees. The Committee believes that such periodic payments should permit the Customs Service to streamline entry procedures. Under this section, periodic payments may be made by filing a monthly import activity summary statement together with the amounts due. The section further provides that interest will accrue on periodic payments from the first day of the month the import activity summary statement is or should be filed until the day the statement is actually filed. These changes also stipulate that underpayment or overpayment of duties and fees determined at liquidation or reliquidation shall be collected or refunded together with interest, as appropriate. The Committee believes that these changes will provide equity in the collection and refund of duties and taxes, together with interest, by treating collections and refunds the same.

Section 643: Abandonment and damage

Section 506 of the Tariff Act of 1930 provides that allowance shall be made in the estimation and liquidation of duties for abandonment or damage to merchandise pursuant to regulations prescribed by the Secretary of the Treasury. Section 643 of the implementing bill deletes obsolete language, makes conforming amendments regarding entries and invoices, and authorizes communication between the Customs Service and the importing community through electronic means.

Section 644: Customs officer's immunity

Under current law (section 513 of the Tariff Act of 1930), immunity is provided to a Customs officer for any decision relating to appraisement, classification, or duties due on collection. Section 644 extends the immunity of Customs officers to include the collection of fees and taxes.

Section 645: Protests

Section 514 of the Tariff Act of 1930 provides that the decisions of the appropriate customs officer relating to appraisal, classification and rate and amount of duties chargeable, all charges or exactions within the jurisdiction of the Secretary of the Treasury, the exclusion of merchandise from entry or delivery or a demand for redelivery, the liquidation or reliquidation of an entry, the refusal to pay a drawback claim and the refusal to reliquidate an entry shall be final unless protested in accordance with the provisions of this section. Section 645 of the implementing bill provides that reconciliation decisions may be protested, but the protest may only concern the issues contained in the reconciliation. This section also authorizes the electronic transmittal of protests, and permits the Secretary of the Treasury, by regulation, to add requirements for the content of protests.

Section 646: Refunds and errors

Under current law (section 520 of the Tariff Act of 1930), the Secretary of the Treasury is authorized to refund duties or monies on (1) excess duty deposits as determined at liquidation or reliquidation; (2) erroneous or excessive fees, charges, or exactions; (3) remitted or mitigated fines, penalties, and forfeitures; and (4) duties, fees, charges, or exactions paid by reason of clerical error. Section 520(c) provides that, notwithstanding that a valid protest was not filed, the appropriate Customs officer may reliquidate an entry to correct a clerical error, mistake of fact, or other inadvertence not amounting to an error in the construction of law; or any assessment of duty on household or personal effects in which an application for refund has been filed. Section 520(d) provides that if a determination is made to reliquidate an entry as a result of a protest filed, or under section 520(c), or by court order, interest shall be allowed on any amount paid as increased or additional duties. Interest shall be calculated from the date of payment to the date of the refund or the filing of a summons, whichever occurs first. Section 646 of the implementing bill makes conforming amendments regarding reconciliations, and clarifies that clerical errors or other inadvertencies may result from or be contained in an electronic transmission. Section 520(d) is repealed in section 642 of this bill, which provides for interest payments.

Section 647: Bonds and other security

Section 623 of the Tariff Act of 1930 gives the Secretary of the Treasury the authority to require or authorize Customs officers to require bonds or other security to protect the revenue or to assure compliance with any provision of law, and to set the conditions and form of the bonds. Section 647 of this bill permits the Secretary of the Treasury to authorize the electronic transmittal of bonds to the Customs Service and clarifies that any bond electronically transmitted shall be binding on the parties thereto and have the same force and effect as if it were manually executed, signed, and filed. This provision confirms that electronic transmission to the Customs Service will bind both the principal and surety. This section is intended to eliminate potential defenses to claims raised by principals or sureties based solely on the contention that a bond is not valid because it is not physically signed. This provision is intended to avoid the situation which can arise with written bonds in which the principal may not be bound because of the improper execution or non-execution of a bond, while a surety, who properly signed the bond, finds itself solely liable on the obligation.

Section 648: Customhouse brokers

Section 641 of the Tariff Act of 1930 provides the procedures applicable to customs brokers, including the issuance of licenses and permits; disciplinary actions, including penalties, suspension or revocation of a license or permit; and fees to defray the costs of the administration of this provision. The implementing bill's amendments to this provision are intended to permit the Customs Service and the importing community to communicate electronically and to allow brokers to modernize by using computer technology in their recordkeeping operations rather than requiring the paper retention of documents. Section 647 clarifies that the definition of "customs business" does not include the mere electronic transmission of data received for transmission to the Customs Service.

This section also allows the Customs Service to issue national and single district permits to licensed brokers. The Committee intends that national permits are to be used solely for "remote location filing" under the NCAP. The Committee intends that single district permits will apply to brokers who do not participate in remote entry filing.

The section also provides for the appointment of broker subagents so that brokers with single district permits may serve as subagents for nationally permitted brokers. The bill also permits brokers to limit their liability contractually to other persons in the conduct of customs business. This section also expands the time, from 15 days to 30 days, within which a hearing must be held after a broker is notified by the Customs Service that a suspension or revocation hearing will take place.

The Secretary of the Treasury is also authorized to prescribe regulations concerning the conversion of data to electronic retention media and the use of centralized record retention systems.

Section 649: Conforming amendments

Section 649 makes technical and conforming amendments to sections 447 and 449 of the Tariff Act of 1930, which concerns the entry and unlading of vessels.

SUBTITLE C—MISCELLANEOUS AMENDMENTS TO THE TARIFF ACT OF 1930

Section 651: Administrative exemptions

Current law (section 321 of the Tariff Act of 1930) authorizes the Secretary of the Treasury to exempt from duty certain articles that do not exceed specified dollar amounts. Section 651 of the implementing bill increases the statutorily specified dollar amounts that trigger eligibility for such administrative exemptions. Although the dollar amounts were adjusted in 1975, 1978, and 1983, they have not kept pace with inflation and the current amounts are not sufficiently high to permit the Secretary to meet the statutory goal of limiting expense to the Government disproportionate to the revenue that is collected. The implementing bill also adds a new provision that will allow the Customs Service to waive collection of duty where the duty is so low that the expense and resources required to process the entry are disproportionate to the revenue that would be collected.

Section 652: Report of arrival

Section 433 of the Tariff Act of 1930 requires that arriving vessels, vehicles and aircraft be immediately reported, provides for the presentation to the Customs Service of necessary documents and prohibits the unauthorized departure of vessels, vehicles and aircraft and unauthorized discharge of passengers or merchandise. This section makes conforming amendments regarding hovering vessels and authorizes the electronic transmittal to the Customs Service of documents, papers, manifests, and other documents whose presentation is required by law.

Section 653: Entry of vessels

Sections 434 and 435 of the Tariff Act of 1930 provide the vessel entry requirements applicable to American and foreign vessels, and also provide for formal entry at the customhouse within 48 hours of arrival from a foreign port or place. Section 653 of the implementing bill amends antiquated provisions which prescribe vessel entry procedures with a degree of specificity that allows little or no administrative discretion. The implementing bill, by amending section 434 and repealing elsewhere in this bill section 435, consolidates in one section vessel entry requirements for American and foreign vessels. Under this section, the Secretary of the Treasury will have the authority to provide by regulation the specific procedures pertaining to vessel entry. These regulations will permit preliminary vessel entry in lieu of, or before, formal entry is made (preliminary entry is currently provided for in section 448 of the Tariff Act of 1930). This section also gives the Secretary authority to prescribe by regulation the place and the manner in which formal and preliminary vessel entries are to be made. This will authorize the Customs Service to permit formal or preliminary vessel entry to be made outside a designated port of entry. The implementing bill modifications also permit vessel entry to be made electronically.

Section 653 will also require the Customs Service, in permitting preliminary entry, to board a sufficient number of vessels to ensure compliance with the laws it enforces. It is the Committee's belief that a continuation of the Customs Service's current vessel boarding practices will aid that agency's enforcement efforts. The Committee is convinced that vessel boarding can, in certain circumstances, play an important role in detecting violations of the law. The Committee expects that, in the future and notwithstanding the Customs Service's increased reliance on electronic information processing, the Service will continue to board at least as many vessels as are currently boarded.

Section 654: Unlawful return of foreign vessel papers

Section 438 of the Tariff Act of 1930 provides for a penalty against a foreign consul who delivers vessel papers to a master of a foreign vessel before such master is able to produce a vessel clearance issued by the Customs Service. Section 654 makes technical conforming amendments.

Section 655: Vessels not required to enter

Section 441 of the Tariff Act of 1930 provides a list of types of vessels which are not required to make entry at the customhouse when arriving in the United States. Section 655 of the implementing bill makes these exceptions applicable to the clearance requirements. The Committee believes that these changes are needed to make the law consistent with current Customs Service practice and with changes made to the report of arrival requirements by section 3111 of the Anti-Drug Abuse Act of 1986 (Public Law 99-570, 100 Stat. 3207). This section also provides that the following types of vessels will not be required to meet vessel entry and clearance requirements: (1) vessels carrying passengers on excursion from the U.S. Virgin Islands to the British Virgin Islands and returning; and (2) U.S. documented vessels with recreational endorsement or undocumented U.S. pleasure vessels not engaged in trade. If either of these types of vessels carries on board an article that is required to be entered, this section requires that such entry be reported immediately upon arrival, rather than after 24 hours as provided under current law.

Section 656: Unlading

Current law (section 448 of the Tariff Act of 1930) provides the requirements for obtaining a permit from the Customs Service prior to unlading merchandise, passengers or baggage; provides that preliminary entry may be made aboard vessels (but such does not excuse a vessel operator from making formal vessel entry at the customhouse); and provides that merchandise unladen under a permit must be retained at the place of unlading until the merchandise is entered (which must occur within 48 hours). Section 656 of the implementing bill removes from section 448 the authority for granting a preliminary entry. (It will be provided for in section 434 of the Tariff Act of 1930, the substantive provision on vessel entry.) This section also eliminates the requirement that a boarding officer must examine the manifest before preliminary entry. The Committee notes, however, that the Customs Service will still have the authority to board vessels, and the Committee expects that the Customs Service will do so with such frequency as is warranted to ensure the effective enforcement of U.S. customs, trade and drug laws. As noted elsewhere in this report, the Committee expects that the Customs Service will continue to board in the future approximately as many vessels as it currently boards because the Committee is convinced that boarding, in some circumstances, can contribute substantially to the enforcement efforts of the Customs Service.

This section also authorizes the Customs Service to transmit electronically to carriers permits that allow them to unlade merchandise. These permits will be transmitted pursuant to authorized electronic data interchange systems. Carriers will be obligated to notify the Customs Service of unladen merchandise where entry has not been made. Failure to so notify the Customs Service will subject the owner or master of the vessel or vehicle or his agent to a civil penalty not to exceed $1,000 for each bill of lading for which notice is not given, and that party will be responsible for the unladen merchandise until removed from his control in accordance with section 490 of the Tariff Act of 1930.

Section 657: Declarations

Section 485 of the Tariff Act of 1930 requires the importer of record to make a declaration under oath setting forth specified facts relating to the imported merchandise. Section 657 of the implementing bill authorizes transmittals to be made electronically and makes technical conforming amendments.

Section 658: General orders

Current law (section 490 of the Tariff Act of 1930) requires the Customs Service to place general order (unclaimed) merchandise in a bonded warehouse at the expense of the consignee until entry can be made. Section 658 of the implementing bill eliminates a legal fiction by deleting the requirement that Customs Service officers take unentered merchandise into their custody and send it to a bonded warehouse; Customs officers do not actually take unentered merchandise into their custody. Instead, carriers will be required to notify a bonded warehouse of such unentered merchandise and the bonded warehouse shall arrange for the transportation of the unentered merchandise to its premises for storage at the risk and expense of the consignee. This section also codifies current practice whereby merchandise that cannot be entered because of an incomplete entry is transported to a bonded warehouse. The amendments also recognize that incomplete entries may result from lack of adequate electronically transmitted information. This section also authorizes the Secretary of the Treasury to establish procedures governing incomplete entries of merchandise consigned to or owned by the U.S. Government.

Section 659: Unclaimed merchandise

Under current law (section 491 of the Tariff Act of 1930), unclaimed merchandise shall be stored for a period of one year before it is considered abandoned to the Government and sold at a public auction. Section 659 of this bill reduces the waiting period from one year to six months. After six months in storage, the Customs Service may sell the merchandise at public auction or notify all known interested parties that, unless entered for consumption, title to the subject merchandise shall vest in the United States 30 days after such notice. If the latter option is exercised, the amendment vests title to the goods in the United States free and clear of any liens and encumbrances so that the Customs Service or a transferee of the merchandise receives clean title. It is the Committee's belief that these amendments will reduce storage and processing costs associated with unclaimed merchandise.

This section also allows the Government to retain the goods for official use or transfer them to any other Federal, State, or local agency in lieu of sale. All transfer and storage charges and expenses will be paid by the receiving agency. The rights of interested parties are protected in the same manner as if the goods were sold. Finally, the section provides that the Secretary may grant relief to parties who can establish they did not receive notice that title to the merchandise will vest in the United States unless entry of the merchandise is made. The Committee believes that these changes will streamline the disposition of unclaimed merchandise while providing appropriate safeguards for all interested parties.

Section 660: Destruction of merchandise

Section 492 of the Tariff Act of 1930 provides that any merchandise that is abandoned or forfeited to the Government which is subject to internal revenue tax and which the appropriate Customs Service official determines will not sell for a sufficient amount to pay such tax, shall be destroyed instead of being sold at auction. Section 660 of the implementing bill gives the Customs Service the option to retain or otherwise dispose of the property, rather than requiring destruction in all cases where the proceeds of sale are insufficient to cover taxes. The Committee believes that these amendments will provide for the more efficient disposition of abandoned or forfeited merchandise.

Section 661: Proceeds of sale

Section 493 of the Tariff Act of 1930 provides that the surplus of the proceeds of sale, after payment of storage charges, expenses, duties, and the satisfaction of any lien for freight, charges, or contribution in general average, shall be deposited in the U.S. Treasury. Under section 661, a priority is established for the disposition of any surplus proceeds of sale. Under this section, proceeds from the sale of unclaimed merchandise are to be used first to pay outstanding duties, fees, and taxes due on such merchandise. Thereafter, surplus proceeds may be applied to offset the expenses of sale and other liens, and any remaining surplus proceeds will be deposited in the U.S. Treasury.

Section 662: Entry under regulations

Current law (section 498 of the Tariff Act of 1930) permits the Secretary of the Treasury to issue regulations relating to the procedures for informal entry. Section 662 raises the informal entry qualification amount from $1,250 to an amount prescribed by regulations, but not more than $2,500. This section also permits the Secretary to prescribe the dollar limit for the informal entry of certain articles of U.S. origin as specified in the statute. The Committee intends that these modifications will streamline the entry process for informal entries.

Section 663: American trademarks

Section 526(e)(3) of the Tariff Act of 1930 provides that forfeited counterfeit trademark items shall be stored for a period of one year after the date of forfeiture before sale. Section 663 of the implementing bill reduces the storage period to 90 days to reduce storage costs to the Government and expedite the disposition of the forfeited merchandise.

Section 664: Simplified recordkeeping for merchandise transported by pipeline

Present law does not specifically provide for the transportation in bond of merchandise by pipeline. Present law governing transportation in bond generally (entry for immediate transportation and entry for transportation and exportation; sections 552 and 553 of the Tariff Act of 1930, respectively) does not permit the commingling of the merchandise transported.

Section 664 of the implementing bill permits accounting for merchandise in Customs Service custody (i.e., bonded merchandise) moved by pipeline (thus, in most cases, commingled) on a quantitative basis. That is, if it is established (by a bill of lading or equivalent document of receipt, issued by the pipeline carrier) that a given quantity of the bonded merchandise entered the pipeline, the Customs Service may accept a bill of lading or equivalent document of receipt, issued by the pipeline carrier and accepted by the consignee as identifying a like quantity being withdrawn from the pipeline. All involved parties would be subject to applicable recordkeeping requirements under sections 508 and 509 of the Tariff Act of 1930.

Section 665: Entry for warehouse

Under section 557(a) of the Tariff Act of 1930, merchandise withdrawn from a customs bonded warehouse is subject to entry and applicable duties, when withdrawn for consumption, at the time of such withdrawal. Under section 309 of the Tariff Act of 1930, merchandise withdrawn from a customs bonded warehouse for loading as supplies on qualifying aircraft is considered to be exported.

At most major airports, different "lots" (*i.e.*, categories, such as imported, bonded and domestic) of fuel are commingled in common storage systems. The Customs Service considers withdrawal of fuel from storage tanks at airports to be withdrawal from bonding. In order for exports of the bonded merchandise (imported fuel then used on international flights) to qualify for the duty-free treatment granted under section 309, the Customs Service requires daily accounting of the commingled fuel, and payment of duties for non-exported fuel by the following day. Section 665 of the implementing bill permits accounting on a monthly basis for turbine fuel withdrawn from a customs bonded warehouse for use as supplies on qualifying aircraft. That is, if turbine fuel withdrawn from a customs bonded warehouse could be shown to have been used as supplies on qualifying aircraft within 30 days after withdrawal, the turbine fuel would not be subject to duty. Turbine fuel not shown to have been so used in this 30-day period would be subject to duty, which would be required to be deposited by the 40th day after withdrawal and subject to interest as of the date of withdrawal.

Section 666: Cartage

Section 565 of the Tariff Act of 1930 requires merchandise entered for warehousing to be transported by a cartman licensed by the Customs Service, because the merchandise has not been released from Customs Service custody.

Section 666 of the implementing bill adds bonded carriers to the list of persons eligible to cart merchandise within the limits of a port. Under section 551 of the Tariff Act of 1930, bonded carriers may currently transport bonded merchandise between ports. The implementing bill eliminates the anomaly of separating intraport transportation from interport transportation. The Secretary has authority under the bonded carrier and cartage statutes to determine the eligibility of applicants for either category. This provision will result in savings of time and money for both the trade and Customs.

Section 667: Seizure

Section 612(b) of the Tariff Act of 1930 provides that if the expense of storing a seized conveyance or merchandise is disproportionate to its value, and the value is less than $1,000, the Customs Service may order its destruction. Section 666 of the implementing bill eliminates the requirement that the seized conveyance or merchandise must be less than $1,000 before it can be destroyed pursuant to this provision. The Committee believes that this will reduce storage costs by permitting destruction of merchandise in all cases where the expense of keeping the vessel, vehicle, aircraft, merchandise or baggage is disproportionate to its value. This section also provides that no Customs Service officer shall be liable for the destruction or other disposition of property pursuant to this statute.

Section 668: Limitation on actions

Section 621 of the Tariff Act of 1930 provides for a five-year statute of limitations for civil actions involving pecuniary penalties and forfeiture of property under the Customs laws. In order to provide importers with certainty regarding the extent of their liability for lawful duties, section 668 of the implementing bill creates a statute of limitations for the recovery of lawful duties of which the United States was deprived as a result of a violation of section 592 or 593A of the Tariff Act of 1930. The Committee intends that the Government initiate suit promptly or be foreclosed from recovering the duties.

Section 669: Collection of fees on behalf of other agencies

There is no provision in current law that requires other Government agencies to reimburse the Customs Service for the expenses it incurs in collecting fees on behalf of these Government agencies. Section 669 of the implementing bill creates a new provision, section 529 of the Tariff Act of 1930, which will require other agencies to reimburse the Customs Service for such expenses. The amounts reimbursed to the Customs Service shall come from the fees collected. This will ensure that the Customs Service recovers the costs incurred in administering fee collection programs on behalf of other Government agencies. The Committee believes that this requirement is needed to provide the Customs Service with additional resources for revenue collection. However, the Committee believes that the Customs Service should make a good faith effort to collect all duties, taxes and fees without regard to the likelihood of reimbursement.

Section 670: Authority to settle claims

Because of concerns that the Customs Service has little incentive to avoid damaging cargo during examinations, the Committee believes that it is necessary to enact legislation to provide recourse or compensation to importers whose merchandise is unnecessarily damaged during the course of an examination. Section 670 creates a new provision, section 630 of the Tariff Act of 1930, which grants the Secretary of the Treasury authority to settle claims for less than $50,000 against certain Customs Service employees who, while acting within the scope of their employment, cause damage to or loss of privately owned personal property. The statute will not apply to damage to commercial property, claims presented more than one year after the harm occurs, or if presented by a Government employee acting within the scope of employment. As provided in section 685 of the implementing bill, claims will be paid out of the Treasury Forfeiture Fund.

Section 671: Use of private collection agencies

The Committee believes that the Customs Service should be granted the authority, as a last resort, to contract with private collection agencies to attempt to recover the indebtedness which the agency currently writes off as uncollectible. Section 671 creates a new provision, section 631 of the Tariff Act of 1930, which allows the Secretary of the Treasury to contract with private agencies for collection services to recover indebtedness arising under the customs laws, provided that the private collection agencies are employed only after the Customs Service exhausts all administrative efforts to collect the indebtedness. The Customs Service must continue to attempt collection through applicable surety bonds prior to utilizing a private collection agency. The Secretary of the Treasury will retain authority to settle any claims or refer the matter to the Department of Justice for litigation. Finally, the private collection agency will be subject to the Freedom of Information Act (5 U.S.C. 552 et seq.) and all Federal and State laws and regulations related to debt collection practices.

SUBTITLE D—MISCELLANEOUS PROVISIONS AND CONSEQUENTIAL AND CONFORMING AMENDMENTS TO OTHER LAWS

Section 681: Amendments to the HTSUS

Under present regulations, shipments which leave the United States and are undeliverable to the country of destination (without having left the custody of the carrier or foreign customs service) are considered exports and have to be "re-entered" into the United States as imports. The Committee regards these entry requirements as unnecessary and section 681 of the implementing bill provides that such returned shipments will be exempt from entry requirements.

Current regulations also provide that rail equipment brought into the United States from Canada, while not subject to duty, is subject to entry requirements. Section 681 eliminates the entry requirements for rail cars and locomotives on which no duty is owed. This section authorizes the Secretary of the Treasury to impose reporting and bonding requirements to ensure that no duty is owed on rail cars brought into the United States without being entered and to develop regulations requiring the submission by railroads, equipment owners, and lessors of information demonstrating the rail equipment's eligibility for duty-free treatment. In addition, section 681 authorizes the Secretary to establish bonding requirements for companies to protect against rail equipment subject to a tariff from being brought into the United States without payment of duty.

This provision is intended to remove entry requirements that impede the use of Canadian freight cars and locomotives under the terms of the CFTA. While U.S. duties have been removed on most Canadian rail equipment, the Committee is concerned that railroads have been unable to take full advantage of the tariff removal because of the entry requirements. The Committee believes that entry of freight cars is impractical because the decision to use a freight car for domestic service, which would require entry, would be made after a rail car has crossed the border and been unloaded. The Committee understands that the entry requirements on locomotives and rail cars have been burdensome since equipment repeatedly crossing the border for subsequent use in domestic service in the United States must be entered each time. In developing the eligibility and bonding requirements described above, the Committee urges the Secretary to work closely with the railroads, equipment owners and lessors. The Committee is concerned that the Secretary not substitute new entry requirements for the old requirements or issue regulations that will make compliance difficult.

Under present regulations, instruments of international traffic, such as containers, rail cars and locomotives, truck cabs, and trailers, are exempt from formal entry procedures required of all merchandise entering the United States. This section of the implementing bill provides for the statutory exemption of these instruments from formal entry procedures. These instruments would be required to be accounted for when imported and exported into and out of the United States, respectively, through the manifesting procedures required of all international carriers with U.S. Customs. Fees associated with the importation of these instruments would be reported and paid on a periodic basis based on regulations issued by the Secretary of the Treasury and in accordance with international conventions on instruments of international traffic. The Committee intends that these privileges are to be extended to instruments of international traffic only when they are imported, and only so long as they are used, in international traffic. If they are imported for other use, or if they are diverted in the United States from use in international traffic, they are subject to the ordinary requirements for a consumption entry, duties and applicable fees.

Section 682: Customs personnel airport work shift regulation

Under current law, the Customs Service is required to consult with the Treasury-level Advisory Committee on Commercial Operations (COAC) prior to implementing changes of inspectional work shifts at airports. In some cases, this requirement has hampered the ability of the Customs Service to respond quickly and efficiently to changes in workloads at international airports. In some cases, after the need for a shift change becomes evident a full calendar quarter may elapse before the change can be implemented. To prepare for the quarterly COAC review, the Customs Service currently has to poll its field offices before each meeting to obtain details on inspectional shift changes at every international airport in the country.

Section 682 of the implementing bill repeals the consultation requirement with the COAC. The Committee believes that the elimination of the consultation requirement will enable a more rapid and efficient response at the local level to the need for shift changes.

Section 683: Use of harbor maintenance trust fund amounts for administrative expenses

The Internal Revenue Code of 1986, as amended, provides in section 9505(c) that amounts in the Harbor Maintenance Trust Fund ("Trust Fund") are available, as provided by appropriation Acts, for making expenditures:

(1) under section 210(a) of the Water Resources Development Act of 1986 (Corps of Engineers costs for dredging and maintaining harbors at U.S. ports);

(2) for payments of rebates of certain St. Lawrence Seaway tolls or charges; and

(3) for payment of expenses incurred by the Department of the Treasury in administering the harbor maintenance excise tax ("harbor tax") (but no more than $5 million per fiscal year) for periods during which no Customs merchandise processing fee applies under paragraph (9) or (10) of section 13031(a) of the COBRA.

The Customs merchandise processing fee was extended for three years by the Omnibus Budget Reconciliation Act of 1993 through September 30, 1998. Thus, since the Customs processing fee is currently in effect under COBRA, the Trust Fund is not permitted to be used for Department of the Treasury expenses for administering the harbor tax. The Customs Service generally has the responsibility for collecting and administering the harbor tax. The Corps of Engineers and the Department of Commerce generate certain data related to shipments of commercial cargo.

The Committee believes that additional enforcement resources are necessary for the Department of the Treasury to properly administer the harbor tax and to increase collection and audit efforts. This increased enforcement effort should result in the collection of additional tax revenues that are owed but are not being paid. Also, the Committee has determined that the Corps of Engineers and the Department of Commerce should be reimbursed for their expenses related to administering the harbor tax.

Section 683 of the implementing bill amends section 9505(c) to allow (subject to appropriations) up to $5 million per fiscal year from the Trust Fund to be used by the Department of the Treasury in administering the harbor tax to improve compliance. This is accomplished by removing the current Trust Fund restriction against such use while the Customs merchandise processing fee is in effect. Section 683 also specifies that such Trust Fund amounts are available to be used to reimburse the Corps of Engineers and the Department of Commerce for their administrative expenses related to harbor tax collection and enforcement efforts.

Section 684: Amendments to title 28, United States Code

In order to implement elements of the programs established for accreditation of and assessment of penalties on customs laboratories and the adjudication of the penalty provisions related to duty drawback, section 684 of the implementing bill makes a number of conforming changes to Title 28. 28 U.S.C. 1581 sets forth the actions in which the CIT is granted exclusive subject matter jurisdiction. Section 684 amends 28 U.S.C. 1581 to provide exclusive jurisdiction to the CIT with respect to any decision or order of the Customs Service to deny, suspend, or revoke accreditation of private laboratories. Currently, 28 U.S.C. 2631 sets forth the persons entitled to commence specified civil actions in the CIT. Section 684 amends that section of Title 28 to provide standing to commence a civil action to persons whose private laboratory accreditation was denied, suspended, or revoked by the Customs Service.

28 U.S.C. 2636 sets forth the time for commencement of specified actions in the CIT. Section 684 of the implementing bill provides that a civil action contesting the denial, suspension, or revocation by the Customs Service of a private laboratory's accreditation is barred unless commenced within 60 days after the date of the Customs Service decision or order and in accordance with the rules of the CIT. 28 U.S.C. 2640 sets forth the scope and standard of review of the CIT; section 684 of the implementing bill amends this section to provide that in any civil action commenced to review an order or decision by the Customs Service with respect to denial, suspension, or revocation of the accreditation of a private laboratory, the Court shall review the action on the basis of the record before the Customs Service at the time of issuing such decision or order. 28 U.S.C. 2642 authorizes the CIT to order an analysis of imported merchandise by U.S. agency laboratories. Section 684 expands the authorization by permitting the CIT to order reports of laboratories accredited by the Customs Service, in addition to ordering an analysis of imported merchandise.

Section 684 also amends 28 U.S.C. 1582(1) to expand the jurisdiction of the CIT to adjudicate drawback penalty provisions and amends 28 U.S.C. 2635(a) to provide for the filing of official documents with the CIT. With respect to the filing of documents with the CIT, the Committee believes that the Court should be provided with maximum flexibility to respond to the changes that have arisen and will continue to arise from the new automated and electronic system for processing commercial importations. This will permit the Court to respond promptly to unanticipated problems by exercising its rulemaking authority. The Court, after receiving recommendations from its advisory committees, will be able to prescribe rules regarding such matters as the information transmitted to the court; the manner and medium of the transmittal; the timing of the transmittal; and any other issue relating to the provision of the information necessary to ensure well-informed judicial review.

Section 685: Treasury forfeiture fund

The Treasury Forfeiture Fund is codified at 31 U.S.C. 9703; it replaced the Customs Forfeiture Fund, 19 U.S.C. 1613b. The proceeds of seizures and forfeitures are deposited into the Fund and subsequently allocated to cover certain Government expenses explicitly enumerated in the statute. This section of the implementing bill makes conforming amendments to the Treasury Forfeiture Fund regarding the payment of claims against Customs Service employees. Section 685 also permits, but does not require (as does current law), that excess monies in the Fund be invested in U.S. obligations.

Section 686: Amendments to the revised statutes of the United States

Section 4197 of the Revised Statutes, as amended (46 U.S.C. App. 91) provides the vessel clearance requirements for any vessel bound to a foreign port. Section 686 of the implementing bill amends section 4197 by consolidating the provision relating to vessel clearance and the departure provision of the permit-to-proceed requirements now found in section 443 of the Tariff Act of 1930 and 46 U.S.C. App. 313. Section 4197 will continue to contain the basic requirements for clearance and will be the counterpart to the basic vessel entry statute (section 434 of the Tariff Act of 1930, as amended). Penalties for violations of section 4197 will be provided in section 436 of the Tariff Act of 1930.

Section 686 of the implementing bill also provides that a vessel departing from a port or place in the United States bound outside the territorial sea to visit a hovering vessel or to receive merchandise while outside the territorial sea will be required to obtain Customs Service clearance. Furthermore, this section will give the Secretary authority to prescribe by regulation the manner in which clearance is to be obtained, including the documents, data, or information which must be submitted or electronically transmitted to obtain the clearance. This section will continue to permit, under certain circumstances, the granting of clearance before all of the requirements for clearance have been complied with. This section also authorizes the Customs Service to permit clearance to be obtained outside a designated port of entry.

This section also includes amendments to sections 2793, 3126, 3127, 4136, and 4336 of the Revised Statutes, as amended, that delete obsolete portions of those provisions. These sections contain various provisions relating to the entry and clearance of vessels.

Section 687: Amendments to title 18, United States Code

18 U.S.C. 965(a) imposes certain requirements on masters of vessels in connection with the delivery of cargo during times of war when the United States is a neutral party. Section 687 of the implementing bill adopts conforming amendments required by enactment of this legislation, along with amendments that correct outdated provisions.

Section 688: Amendment to the act to prevent pollution from ships

Current law (33 U.S.C. 1908(e)) authorizes the Secretary of the Treasury to revoke certain clearance and permit rights for ships subject to the MARCOL Protocol found to be liable for pollution-related violations. Section 688 of the implementing bill provides technical amendments required by this legislation, as well as amendments that correct outdated provisions.

Section 689: Miscellaneous technical amendments

Section 689 adopts conforming amendments and makes technical changes to the Act of October 3, 1913 (19 U.S.C. 128 and 19 U.S.C. 131) and to the Act of August 5, 1935 (19 U.S.C. 1704). These Acts contain various provisions regarding entry of foreign vessels and goods imported by such vessels.

The Customs Service is authorized, under the Act of November 6, 1966 (46 U.S.C. App. 817d(e) and 817(e)), to refuse departure or clearance for vessels that are not in compliance with provisions governing the financial responsibility of owners and charterers for death or injury to passengers or other persons and for indemnification of passengers for non-performance of transportation. Section 689 adopts necessary conforming amendments and amendments to correct outdated provisions.

Section 690: Repeal of obsolete provisions of law

This section of the implementing bill repeals a number of obsolete provisions of law.

Section 691: Reports to Congress

In order to address concerns with current compliance levels and the potential adverse impact that improved facilitation could have on the compliance efforts of the Customs Service, section 691 requires the Secretary of the Treasury to submit to the Congress reports concerning the collection of duties imposed under the antidumping and countervailing duty laws for entries liquidated after the effective date of this legislation and the total amount of Central Examination Stations fees collected nationwide annually and on the variations in such fees among Customs districts.

This section of the implementing bill also requires the Secretary of the Treasury to establish a Customs Compliance Program to assess the level of compliance with the laws enforced by the Customs Service. The Committee believes that compliance monitoring is best achieved by creating an objective, statistically based method of measurement. The Commissioner of Customs will also be required to initiate a compliance review of courier services operating under Part 128 of Title 19 of the Code of Federal Regulations and submit a report to the Congress on the results of the review. It is the Committee's intention that this review focus exclusively on the activities of the "on-board" couriers since there have been allegations of questionable compliance with the regulations.

Section 692: Effective date

Section 692 provides that this title shall take effect on the date of the enactment of the Act.

As a final matter, the Committee notes that there have been complaints from brokers that they do not get a fair and impartial hearing at the Headquarters level in broker penalty and liquidated damages claims. It is the Committee's intent that the Customs Service will continue its study of the procedures relating to these claims, especially with regard to the issue of the sufficiency of due process.

STATEMENT OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS ON S. 1627, THE NORTH AMERICAN FREE TRADE AGREEMENT IMPLEMENTATION ACT (NAFTA)

On November 18, 1993, the Committee on Governmental Affairs voted unanimously to report out, without recommendation, Section 381, Subtitle G of Title III of S. 1627—legislation to implement the North American Free Trade Agreement (NAFTA).

Section 381 makes the necessary changes to U.S. law to implement Chapter Ten of NAFTA on government procurement. This Chapter requires the U.S., Canada, and Mexico to eliminate many "buy national" restrictions on the purchases by their Federal governments of goods and services supplied by North American firms. The Chapter seeks to harmonize the respective procurement systems of the three nations; to expand the number of governmental and quasi-governmental entities covered; to establish a dollar threshold for application of the Agreement; to promote transparency, non-discriminatory treatment, and the redress of grievances in the procurement systems of the signatory nations; and to prohibit the use of "offsets" in the evaluation or award of contracts.

Chapter Ten allows the U.S. certain exceptions from coverage of its provisions. U.S. small business and minority preferences will continue to apply. Department of Defense purchases for national security reasons, Department of Agriculture farm support and human feeding programs, state and local government procurements, and foreign assistance purchases by the Agency for International Development—all are exempt from the requirements of the Chapter.

The Committee does have some concerns over Chapter Ten—particularly over whether the Chapter's provisions have enough flexibility to accommodate possible changes in the U.S. procurement system to streamline, simplify and make more efficient its operation. Also, advances in technology, particularly advances in information management and communications technology, could profoundly affect the procurement systems of each of the three countries. The Committee is concerned that the implementation of Chapter Ten might impede or restrict the integration of new technologies into the U.S. procurement system that would substantially improve its effectiveness and efficiency.

On October 25, Chairman John Glenn and Ranking Member William Roth wrote Ambassador Kantor raising these general concerns. More specifically, the letter pointed out the how Committee's legislative efforts to streamline Federal procurement procedures for purchases under $100,000 might conflict with the $50,000 threshold level proposed in NAFTA. Further, the letter posed the prospect of whether the 40 day waiting period put forth in Article 1012 of Chapter Ten would prevent the U.S. government from moving to an electronic data interchange system whereby decisions on the solicitation of bids and awarding of contracts would be made very quickly.

On November 11, Ambassador Kantor wrote back to Senators Glenn and Roth to address the issues raised in their letter. His response asserted USTR's belief that Chapter Ten's provisions, as well as those in the implementing legislation, excluding U.S. small business and minority preferences from coverage would also encompass a larger small purchases threshold needed to streamline Federal procurement.

The USTR letter, however, notes, "we recognize that some of the procedures in Chapter Ten will stand in the way of electronic tendering." In this regard, Ambassador Kantor pledges to work closely with the Administrator of the Office of Federal Procurement Policy and respective Canadian and Mexican officials to ensure that there is enough flexibility to permit technological advances in the U.S. government procurement system, consistent with the express terms of Article 1024 (5) ("The Parties shall undertake further negotiations, to commence no later than one year after the date of entry into force of this Agreement, on the subject of electronic transmission."). The Committee expects a good faith effort by USTR in this regard, as well as to be kept fully and currently informed on the progress of these deliberations.

STATEMENT OF THE COMMITTEE ON FOREIGN RELATIONS ON S. 1627—THE NORTH AMERICAN FREE TRADE AGREEMENT ACT

INTRODUCTION

On November 4, 1993, S. 1627—the North American Free Trade Agreement Implementation Act was introduced by Senator Mitchell, for himself and Senator Dole (by request). S. 1627 was jointly referred to six committees—Finance; Agriculture, Nutrition, and Forestry; Commerce, Science, and Transportation; Government Affairs; the Judiciary; and Foreign Relations.

S. 1627 was referred to the Committee on Foreign Relations because of provisions contained in Subtitle D—Implementation of NAFTA Supplemental Agreements. This subtitle provides the necessary authority for the United States to participate in the North American Agreement on Labor Cooperation, and the North American Agreement on Environmental Cooperation, the so called "Side Agreements" that were negotiated by the Clinton Administration to address concerns related to labor and the environment.

It also contains provisions which will enable the United States to participate in the Border Environmental Cooperation Commission and the North American Development Bank—two organizations established by the "November 1993 Agreement Between the United States of America and the Government of the United Mexican States Concerning the Establishment of A Border Environmental Cooperation Commission and a North American Development Bank".

COMMITTEE ACTION

On October 27, 1993, in anticipation of the referral of S. 1627, The Committee on Foreign Relations held a hearing on NAFTA, the Supplemental Agreements and the foreign policy implication of U.S. participation in NAFTA and related agreements. The following witnesses provided testimony before the committee: Deputy Secretary of State Clifton Wharton; Assistant Secretary of Treasury for International Affairs Jeffrey Shafer; Deputy Trade Representative Rufus Yerxa; William J. Cunningham, Legislative Representative, AFL-CIO; Stewart Hudson, Legislative Representative, International Programs Division, National Wildlife Federation; and Cameron Duncan, Coordinator of Trade and Environmental Policy, Greenpeace.

On November 4, 1993, S. 1627 was referred to the Committee on Foreign Relations. On November 18, 1993 the Committee reported S. 1627 favorably by a vote of 15 to 2; with Senators Pell, Biden, Dodd, Kerry, Simon, Robb, Mathews, Lugar, Kassebaum, Pressler, Murkowski, Brown, Jeffords, Coverdell, and Gregg voting aye; and Senators Feingold and Helms voting no.

COMMITTEE COMMENTS

The Committee on Foreign Relations focused on two principle areas during consideration of S. 1627; first, on the specific provisions contained in Subtitle D of the bill (which fall within the jurisdiction of the committee); and second, more broadly on the foreign policy implications of United States' participation in the NAFTA. The Committee believes that the Supplemental Agreements are an important and integral component of the NAFTA agreement. Finally, the Committee believes that the foreign policy interests for supporting NAFTA are compelling.

NAFTA: Supplemental Agreements on Labor and the Environment

The NAFTA Supplemental Agreements on Labor and the Environment were signed by the President on September 14, 1993. These agreements encourage Mexico, the United States, and Canada ("the Parties") to address labor and environmental issues in a cooperative and transparent process, and provide for strong dispute settlement procedures to promote improved enforcement of national standards. Thus, not only will NAFTA boost U.S. exports and its position in Latin America, but it will also ensure that American labor and environmental laws are not degraded, and that Mexican enforcement of its labor and environmental standards will improve significantly.

North American Agreement on Labor Cooperation

The North American Agreement on Labor Cooperation (NAALC) is designed to promote cooperation between the Parties and to ensure effective enforcement of labor laws. It creates a new Commission on Labor Cooperation, headed by a Council consisting of the labor ministers of each country. The Council is intended to be a forum for cooperation on issues such as occupational safety, child labor, minimum wages, and resolution of labor disputes. The Council will be supported by an independent Secretariat, headed by an Executive Director appointed by consensus of the Parties for a fixed term.

The Secretariat is charged with investigating and reporting on a range of labor issues, including labor law enforcement and labor market conditions. These reports will be publicly available. In addition, based on the findings of Council consultations, any member of the Council can request the convening of an independent committee of experts to investigate evidence of non-enforcement of labor laws. If a Party believes that another country is exhibiting a persistent pattern of non-enforcement in the areas of worker safety, child labor, and minimum wage law, it may invoke dispute resolution procedures, which may result in the imposition of fines or trade sanctions.

North American Agreement on Environmental Cooperation

The environmental supplemental agreement—the North American Agreement on Environmental Cooperation (NAAEC)—is designed to provide incentives for enforcement of national environmental regulations. It creates a new Commission on Environmental Cooperation, whose Council will consist of the top environmental officials of the three countries. A Joint Advisory Committee, consisting of nongovernmental organizations, will advise the Council. The heart of the Commission will be its Secretariat, whose Executive Director, while under the direction of the Council, will enjoy considerable independence.

The objectives of the Commission are to promote cooperation among the members; improve public access to information on hazardous materials; consider trans-boundary environmental problems; address public concerns about NAFTA's effects on the environment; and assist the dispute settlement panels. The Secretariat will produce fact-finding reports in response to public submissions. The Parties will discuss these reports within the forum of the Council. If a Party feels that such consultations have failed to address a pattern of non-enforcement, it may request the creation of a dispute settlement panel, possibly leading to the imposition of fines or trade sanctions.

Border Environment Commission and the North American Bank

In addition to the labor and environmental commissions established pursuant to the so call Side Agreements, the Governments of Mexico and the United States have also agreed on arrangements to assist communities on both sides of the border in coordinating and carrying out environmental infrastructure projects. This new agreement furthers the goals of the North American Free Trade Agreement and the North American Agreement on Environmental Cooperation.

The agreement provides for the establishment of two institutions:

(1) a North American Development Bank (NADBank), capitalized in equal shares by the United States and Mexico, that will provide some $2 billion or more in new financing to supplement existing sources of funds and foster the expanded participation of private capital; and

(2) a Border Environment Cooperation Commission (BECC) to assist local communities and other sponsors in developing and implementing environmental infrastructure projects, and to certify projects for NADBank financing.

The agreement provides up to 10 per cent of the NADBank capital to be used for community adjustment and investment programs in support of the purposes of the NAFTA.

The new agreement represents a significant additional commitment by Mexico and the United States to implement effective solutions to the environmental problems in the border region. It embodies the basic principles for coordinating and financing environmental infrastructure projects set forth by the two governments during their meeting on environmental cooperation in August, 1993. The two new institutions will help marshall resources from all sources, both public and private, to solve the environmental problems of the border region. The agreement is contingent on the entry into force of the North American Free Trade Agreement.

Border Environment Cooperation Commission

The Border Environment Cooperation Commission (BECC) will work with the affected states and local communities and nongovernmental organizations in developing effective solutions to environmental problems in the border region.

The BECC will provide technical and financial planning assistance for environmental infrastructure projects so as to enhance the environment in the border region for the well-being of the people on both sides of the border. The BECC will not itself develop or manage projects. Rather, it will assist, with their concurrence, states and localities and private investors proposing environmental infrastructure projects in coordinating environmental infrastructure projects; preparing, developing, and implementing projects; assessing their technical and financial feasibility; evaluating their social and economic benefits; and arranging public and private financing for such projects.

The BECC will certify projects to the NADBank and may do so for other financial institutions that elect to use the BECC's certification. The BECC may certify any project that meets the technical, environmental, and financial criteria applied by it. To be eligible for certification, projects shall be required to observe the environmental laws for the place where the project is to be located or carried out.

For a project with significant transboundary effects, an environmental assessment shall be presented and the Board shall determine, in consultation with affected states and localities, that the project meets the necessary conditions to achieve a high level of environmental protection for the affected area.

The BECC has no sovereign power. It can only offer its services to state and local bodies and assist them in cooperative activities. The BECC and the International Boundary and Water Commission will cooperate with each other in planning, developing, and carrying out border sanitation and other environmental activities.

The BECC will have a binational board of directors and decision-making procedures structured to ensure that the views of affected states, local communities, and members of the public will be fully taken into account. Each country shall have five members on the board of directors. Individuals selected to serve on the board shall have expertise in environmental, engineering, economic or financial matters. The board will be composed of the following members from each country:

The senior environmental official of the government (the Administrator of the Environmental Protection Agency for the United States and the Secretario de Desarollo Social for Mexico);

The commissioner of the International Boundary and Water Commission;

A representative from a border state;

A representative from a locality in the border region;

A member of the public who resides in the border region.

The BECC will be required to consult with an Advisory Council of 18 members—nine from each country—that will include representatives of state or local governments or community groups from each of the border states, and members of the public, including nongovernmental organizations. It will also establish procedures for public participation, including written notice and an opportunity to comment on general guidelines and on applications for certification of projects. The Commission's annual report will be made available to the public.

The BECC will be able to mobilize financing for environmental infrastructure projects from various sources, including the North American Development Bank; direct government support, such as grants, loans, and guarantees from federal, state and local governments; or the private sector. It will seek to mobilize private capital to the maximum extent possible in order to leverage government financing. Arrangements for servicing the debt will encourage reliance on fees paid by those causing pollution and those benefitting from the improved environment.

North American Development Bank

The North American Development Bank (NADBank) will be capitalized and governed by the two countries. Its purpose is to finance projects certified by the BECC. Based on its capitalization, it is envisaged that the NADBank will be able to make some $2 billion or more in loans and guarantees, with an upper limit of $3 billion.

The NADBank will use its own capital (contributed equally by the United States and Mexico), funds raised by it in the financial markets, and other available resources to finance public and private investment in environmental infrastructure projects; and encourage and supplement private investment in environmental infrastructure projects.

The NADBank will be governed by a six-member board, with an equal number of representatives from each country. The Bank will evaluate the financial feasibility of projects certified by the BECC and provide financing as appropriate.

Initial paid-in capital will be $450 million, with callable capital of $2.55 billion.

The United States and Mexico also have agreed that up to 10 per cent of the resources of the Bank will be made available, on an equal basis, for community adjustment and investment programs in both countries, which need not be in the border region. Each government will develop criteria and procedures for directing these resources through existing government programs.

The NADBank is intended to supplement existing sources of financing. It is designed to facilitate, not impair, the ability of governments and investors to seek financing from other institutions.

Foreign Policy Implications of NAFTA

The Committee gave careful consideration to the foreign policy implications of NAFTA and concluded that passage of NAFTA is crucial to U.S. foreign policy interests in Latin American and in the world as a whole.

The Committee believes that these interests were summarized best by Deputy Secretary of State Clifton Wharton during his appearance before the Committee on October 27, 1993. Deputy Secretary Wharton made the following points:

NAFTA puts aside the historical mistrust between the United States and Mexico, and solidifies a new relationship based on mutual respect and shared opportunity.

Passage of NAFTA will signal American support for the process of economic and political reform in neighboring Mexico. Defeat of NAFTA would deal a serious blow to those in Mexico who support continued liberalization.

In addition, passage of NAFTA will send a positive signal to those democratic leaders throughout Latin America and the Caribbean who have liberalized their economic systems and opened their markets to U.S. exports.

Although NAFTA is not an exclusionary bloc, improved economic cooperation in this hemisphere will enhance our negotiating position in the GATT Uruguay Round talks. This could provide the impetus for a breakthrough in the stalled negotiations.

Passage of NAFTA will establish the United States as the leader of a global movement toward economic cooperation and openness. International respect for the President's foreign policy leadership will increase, making other countries more receptive to U.S. foreign policy initiatives.

The Committee fully associates itself with these findings and believes that the Senate as a whole should give them serious consideration during its deliberations of S. 1627.

SECTION BY SECTION ANALYSIS

The following is a section by section analysis of Subtitle D—Implementation of NAFTA Supplemental Agreements.

Subtitle D—Implementation Of NAFTA Supplemental Agreements

Part 1—Agreements Relating To Labor And Environment

Sec. 531. Agreement on labor cooperation

Section 531 of the bill authorizes U.S. participation in the Commission for Labor Cooperation. This section would allow the President to designate the Commission and its employees to receive appropriate privileges and immunities, as required by the North American Agreement on Labor Cooperation, pursuant to the International Organizations Immunities Act, 22 U.S.C. 288 et seq.

Section 531 also authorizes $2,000,000 to be appropriated to the President for fiscal years 1994 and 1995 for payment of the U.S. assessed contributions to the Commission. It also clarifies that funds appropriated pursuant to the authorization are in addition to funds that may otherwise be available for the same purpose, such as funds appropriated to the contributions to the International Organization account or the International Conferences Contingencies account in the annual Department of State appropriations acts.

Sec. 532. Agreement on environmental cooperation

Section 532 authorizes U.S. participation in the Commission for Environmental Cooperation. This section would allow the President to designate the Commission and its employees to receive appropriate privileges and immunities, as required by the North American Agreement on Environmental Cooperation.

Section 532 also authorizes $5,000,000 to be appropriated to the President for fiscal years 1994 and 1995 for payment of the United States assessed contributions to the Commission for Environmental Cooperation. It contains the same clarification regarding funds appropriated pursuant to the authorization as set out in section 531.

Sec. 533. Agreement on Border Environmental Cooperation Commission

Section 533 authorizes U.S. participation in a bilateral Border Environmental Cooperation Commission ("BECC") with Mexico. The BECC will marshall funds, some of which will be provided through the North American Development Bank ("NADBank") as provided in Section 544, for environmental projects in the U.S.-Mexican border area. The BECC will initially give preference to waste water, water treatment and solid waste projects. Such facilities will be important to improve environmental conditions in the border area and to ensure that increased trade generated by the NAFTA does not adversely affect environmental quality in that region. The BECC will certify that projects seeking funding by the NADbank or other sources of financing comply with necessary environmental and financial standards.

Section 533 allows the President to designate the members of the BECC and its employees to receive appropriate privileges and immunities. The BECC's office will be located in the border region, along with a proposed EPA border office.

Section 533 authorizes $5,000,000 to be appropriated to the President for each fiscal year beginning with fiscal year 1994 for payment of U.S. assessed contributions to the BECC. It contains the same clarification regarding appropriated funds as set out in sections 531 and 532.

Section 533 also provides that for the purpose of any civil action brought by or against the BECC, the BECC shall be deemed to be an inhabitant of the federal judicial district in which the BECC's principal office in the United States, or its agency appointed for the purpose of accepting service or notice of service, is located. Any action to which the BECC is a party will be deemed to arise under the laws of the United States, and the federal district courts shall have original jurisdiction over such actions. The section specifies that state court actions against the BECC may be removed to federal court. Section 541 contains an analogous provision for the NADBank.

Part 2—North American Development Bank and Related Provisions

Sec. 541. North American Development Bank

Section 541 authorizes the President to accept U.S. membership in the NADBank and authorizes the Secretary of the Treasury to subscribe to the U.S. shares of the capital stock of the NADBank.

Section 541(b) provides that any such subscription will be effective only to such extent or in such amounts as are provided in advance in appropriations acts. This section also authorizes the appropriation of $1,500,000,000 (representing $225,000,000 in paid-in capital and $1,275,000,000 in callable capital) for the U.S. subscription to its shares of the NADBank. In addition, section 541(b) provides that, for fiscal year 1995, the Secretary of the Treasury will pay to the NADBank out of any sums in the Treasury not otherwise appropriated the sum of $56,250,000 for the paid-in share portion of the U.S. share of the capital stock of the NADBank, and will subscribe to the callable portion of the U.S. share of the capital stock of the NADbank in an amount not to exceed $318,750,000.

The NADBank will be governed by a six-member board, with three members appointed by Mexico and three by the United States.

Section 541(c) provides that the U.S. board members will not be entitled to any salary or other compensation from the bank or the United States for services as a board member.

Section 541(d) provides that the provisions of the Bretton Woods Agreements Act relating to the National Advisory Council on International Monetary and Financial Problems will apply with respect to the NADBank to the same extent as with respect to the World Bank and the International Monetary Fund.

Section 541(e) provides that, unless authorized by law, the United States may not subscribe to additional shares of stock to the NADBank, vote for or agree to any amendment of the agreement establishing the NADBank that would increase the obligations of the United States or change the purpose or functions of the NADBank, or make a loan or provide other financing to the NADBank.

Section 541(f) provides that any Federal Reserve bank that is requested to do so by the NADBank must act as its depository or as its fiscal agent, and that the Board of Governors of the Federal Reserve System will supervise and direct the carrying out of these functions by the Federal Reserve banks.

Section 541(h) extends to the NADBank certain exemptions from U.S. securities laws that have been given in the past to the various multilateral development banks, and establishes related reporting requirements.

Sec. 542. Status, immunities, and privileges

Section 542 provides that the status, privileges and immunities provisions of the agreement establishing the NADBank will have full force and effect in the United States.

Sec. 543. Community adjustment and investment program

Section 543(a) of the bill provides that the President may enter into an agreement with the NADBank that facilitates implementation by the President of a community adjustment and investment program in support of the NAFTA pursuant to the agreement establishing the NADBank. The agreement provides that the total amount of loans, guarantees and grants provided for community adjustment and investment must not exceed ten percent of the sum of the paid-in capital actually paid to the bank by the United States and the amount of callable shares for which the United States has an unqualified subscription.

In furtherance of this program, the President is authorized to receive from the NADBank ten percent of the paid-in capital actually paid to the bank by the United States and to transfer those funds to federal agencies that make or guarantee loans to pay the subsidy and, as appropriate, other costs associated with such loans or guarantees.

As specified in section 543(a)(4), such loans or guarantees will be subject to the restrictions and limitations that apply to the particular agency's existing loan or guarantee program, except that any funds transferred to an agency will be in addition to the amount of funds authorized in any appropriation act to be expended by that agency for its program.

Section 543(a)(5) provides that the President will establish guidelines for the loans and loan guarantees to be made by federal agencies under the community adjustment and investment program and endorse the grants and any loans or guarantees made by the NADBank for the community and investment program pursuant to the terms of the Border Environmental Cooperation Agreement.

Section 543(b) provides for the establishment of a public advisory committee in accordance with the Federal Advisory Committee Act. The committee will be composed of representatives of community groups whose constituencies include low-income families; nongovernmental organizations; business interests; and other appropriate entities, to be appointed by the President.

As set forth in section 543(b)(3), the advisory committee will provide advice to the President regarding the establishment of the community adjustment and investment program, including advice on the guidelines for loans and guarantees to be made under the program, advice on identifying the needs for adjustment assistance and investment in support of the goals and objectives of the NAFTA, taking into account economic and geographic considerations, and advice on such other matters as may be requested by the President. The advisory committee will also review, on a regular basis, the operation of the community adjustment and investment program and provide the President its conclusions.

Section 543(b)(4) provides, among other things, for the reimbursement of advisory committee members for travel, per diem and other necessary expenses incurred in the performance of their duties, and for the provision of a Secretariat and other services for the committee by appropriate federal agencies.

Under section 543(c), the President will appoint an ombudsman to provide the public with an opportunity to participate in the implementation of the community adjustment and investment program. The ombudsman will establish procedures for receiving comments from the public on the operation of the program, and will provide the President with summaries of those comments. The ombudsman will also perform an independent inspection and audit of the operation of the program and provide the President with the conclusions of the investigation and audit.

STATEMENT OF THE COMMITTEE ON THE JUDICIARY—SUMMARY OF SUBTITLE C—INTELLECTUAL PROPERTY PROVISIONS OF S. 1627, THE NORTH AMERICAN FREE-TRADE AGREEMENT IMPLEMENTATION ACT

1. TREATMENT OF INVENTIVE ACTIVITY

Section 331 of the bill amends 35 U.S.C. 104 to make it consistent with the requirements of Article 1709(7)of the Agreement, which requires patents to be available without discrimination as to the territory where the invention was made. Under current section 104, evidence of inventive activity outside the United States cannot be introduced in U.S. judicial or administrative proceedings for purposes of establishing the date of invention. Section 331 amends section 104 to provide that evidence of inventive activity in Mexico or Canada may be introduced for such purpose.

Concerns were raised that U.S. firms may be unable to probe and challenge adequately such evidence because they cannot obtain other information from Mexico or Canada relevant to the date of invention. The bill guards against such a possibility by including a provision that enables a party in such a proceeding to demonstrate that relevant information exists in Mexico or Canada and has been requested, that the information has not been made available under the laws and procedures of such country, and that the information would be "discoverable" in the United States. If the party can make this showing, the decision maker must draw appropriate inferences or take any other permissible action in favor of the party that requested the information in the proceeding. In deciding what inferences are appropriate, the decision maker should take into account all relevant facts, including the importance of the information that has not been made available, whether the information is in control of the party seeking to establish a date of invention prior to the filing date, and any other pertinent factor.

Consistent with the national treatment provisions of Chapter 17 of the Agreement, the bill extends the new section 104 provisions for those serving in the U.S. armed services to those serving in the armed services of other NAFTA countries.

2. RENTAL RIGHTS IN COMPUTER PROGRAMS AND SOUND RECORDINGS

Articles 1705(2) and 1706(1) require NAFTA governments to provide rental rights to authors of computer programs and producers of sound recordings; respectively. Current U.S. law provides rental rights for such works. Section 332 of the bill eliminates a "sunset" provision now contained in the Record Rental Amendment of 1984 so that producers of sound recordings will have rental rights on a permanent basis.

3. NON-REGISTRABILITY OF MISLEADING GEOGRAPHIC INDICATIONS

Under the current version of the Trademark Act of 1946, a mark is not registrable on the principal register if it is "primarily geographically descriptive" or "deceptively misdescriptive" unless the mark has become distinctive of the applicant's goods. Marks that are considered "primarily geographically descriptive" or "deceptively misdescriptive" are registrable on the supplemental register. Registration on the supplemental register may, in time, facilitate a showing of "distinctiveness" and, thus, qualify for registrability on the principal register.

Paragraphs two and three of Article 1712 require NAFTA governments to refuse to register marks that are deceptively misdescriptive in respect of geographic origin regardless of whether the mark has acquired distinctiveness. By contrast, the article does not prohibit the registration of primarily geographically descriptive marks.

In light of this difference in treatment, section 333 of the bill creates a distinction in subsection 2(e) of the Trademark Act between geographically "descriptive" and "misdescriptive" marks and amends subsections 2(f) and 23(a) of the Act to preclude registration of "primarily geographically deceptively misdescriptive" marks on the principal and supplemental registers, respectively. The law as it relates to "primarily geographically descriptive" marks would remain unchanged.

The bill contains a grandfather clause that covers U.S. marks containing geographical terms that are in use or registered prior to the date of enactment.

4. MOTION PICTURES IN THE PUBLIC DOMAIN

Annex 1705.7 of the Agreement requires the United States, subject to Constitutional and budgetary considerations, to restore copyright protection to certain motion pictures. These are films that fell into the public domain in the United States between January 1, 1978, and March 1, 1989, because of the failure of the motion picture to display a copyright notice as required under Title 17 of the United States Code as it existed prior to U.S. accession to the Berne Convention.

The obligation applies to all motion pictures produced in Mexico and Canada during that period and is not limited to motion pictures produced by nationals or residents of those countries. However, the commitment extends only to motion pictures—not to all audiovisual works.

Section 334 of the bill re-establishes copyright protection for such films by adding new subsection 104A to Title 17 of the U.S. Code. The new section covers only motion pictures produced between January 1, 1978, and March 1, 1989, the period during which section 405 provided a limited exception to the required use of the copyright notice to maintain protection.

Because certain related works typically are first published—and protected under copyright—along with the motion picture to which they pertain, Annex 1705.7 arguably requires that protection for related works be restored along with the motion pictures covered by the Annex. Accordingly, proposed subsection 104A provides copyright protection for such works if they fell into the public domain along with the relevant motion pictures. These works include the original music or dramatic text embodied in the sound track as well as the literary work on which the picture was based.

The bill takes into account U.S. Constitutional and budgetary considerations by providing notice to persons who are currently using the works covered by proposed subsection 104A(a) and by giving them a reasonable period in which to use or dispose of their stock. To this end, section 104A(b) of the bill provides that copyright owners of qualifying works and films must file a statement with the Copyright Office within one year of the effective date of the NAFTA providing notice that their works will no longer be in the U.S. public domain. Shortly following that period, the Copyright Office will announce in the Federal Register that those works will be protected pursuant to subsection 104A(a).

In addition, section 104A(c) of the bill provides that persons who are copying, performing or selling copies of such works may continue such activities for a period of one year following publication of the Federal Register notice. This "exhaustion of stock" provision applies only to copies produced or acquired before the enactment of this legislation.

CHAPTER SIXTEEN: TEMPORARY ENTRY FOR BUSINESS PERSONS

As provided in Article 1603 and Annex 1603, each NAFTA country will grant temporary entry to four categories of business persons:

Business visitors engaged in international business activities related to research and design, growth, manufacture and production, marketing, sales, distribution, after-sales service, and other general services, reflecting the activities in a complete business cycle;

Traders who carry on substantial trade in goods or services between their home country and the country they wish to enter, as well as investors seeking to commit a substantial amount of capital in that country, provided that such persons are employed or operate in a supervisory or executive capacity or one that involves essential skills;

Intra-company transferees employed by a company in a managerial or executive capacity or one that involves specialized knowledge and who are transferred within that company to another NAFTA country; and

Certain categories of professionals, set out in Appendix 1603.D.1, who meet minimum educational requirements or possess alternative credentials and who seek to engage in business activities at a professional level.

CHAPTER NINETEEN: DISPUTE SETTLEMENT IN ANTIDUMPING AND COUNTERVAILING DUTY CASES

SUMMARY OF NAFTA PROVISIONS

Chapter Nineteen largely duplicates, on a trilateral basis, procedures currently in effect between the United States and Canada under the CFTA for binational panel review of final antidumping ("AD") and countervailing duty ("CVD") determinations and for notification and review of trade law amendments. Except for certain innovations introduced in the NAFTA that are described below, the Statement of Administrative Action accompanying the CFTA Implementing Act, H.Doc. 100-216, 100th Cong., 2d Sess. 258–89 (1988), fully describes the panel system that will be established under the NAFTA.

Binational Panel Review.—The centerpiece of Chapter Nineteen of the NAFTA, like Chapter Nineteen of the CFTA, is the procedure described in Article 1904 whereby independent binational panels, composed of judges and experts from the two NAFTA countries involved, will review final AD and CVD determinations made by the relevant administering authorities in one country with respect to products from one of the other two countries. Nothing in Article 1904 or any other provision of Chapter Nineteen restricts in any way the right of a domestic industry to seek redress from unfair trading practices through national AD and CVD laws.

Article 1904 contains a few significant procedural changes from the comparable CFTA provision. Notably, the panels will continue to be binational in composition. One important improvement is the NAFTA's preference for appointing judges and former judges as panelists. Annex 1901.2 of the NAFTA provides that the roster for binational panels "shall include judges and former judges to the fullest extent practicable."

There are several advantages to having judges and former judges serve as panelists. For example, the participation of panelists with judicial experience would help to ensure that, in accordance with the requirement of Article 1904, panels review determinations of the administering authorities precisely as would a court of the importing country by applying exclusively that country's AD and CVD law and its standard of review. In addition, the involvement of judges in the process would diminish the possibility that panels and courts will develop distinct bodies of U.S. law.

For these reasons, the United States hopes not only to include judges and former judges on the roster to the fullest extent practicable as required by Annex 1901.2, but also to appoint judges and former judges to individual panels and committees whenever they are willing and available to serve.

To implement the new Annex 1901.2 obligation most effectively, section 402 establishes two separate procedures: the first for inclusion on the roster and appointment to panels of sitting Article III judges and the second for inclusion on the roster and appointment to panels of retired judges, former judges, and administrative law judges, as well as panelists who do not have judicial experience.

Sections 402(a) and 402(c) set forth procedures for the selection of prospective panelists and committee members other than sitting Article III judges. This selection system will operate substantially as it has under the CFTA. USTR will be required to submit the preliminary and amended candidate lists submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate along with a statement of professional experience for each candidate. The statement will, in general, consist of: a resume or comparable document that includes a list of the candidate's publications, and, in the case of a practicing attorney or consultant, a list of the clients represented by the candidate or the candidate's firm if there could be a conflict or the appearance of a conflict of interest.

The purpose of this requirement is to provide basic background information on the prospective candidates to the appropriate Committees in order to improve the consultative process established in the statute and to avoid conflicts and appearances of conflicts of interest. The requirement is not intended to establish a confirmation procedure or to discourage the participation of potential panelists.

Sections 402(a) and 402(b) establish a new procedure for the inclusion of sitting Article III judges on Chapter Nineteen rosters, notification of the rosters to Congress and appointment of such judges to panels or committees in specific cases. This procedure takes into account the special status of sitting Article III judges as well as other considerations (including their existing caseloads) and makes participation by sitting judges entirely voluntary.

Section 402(b) requires the U.S. Trade Representatives to adhere to the following procedures in including sitting Article III judges on rosters and appointing such judges to serve on specific panels or committees. First, the USTR will consult with the Chief Judges of the Federal circuits, or their designees, to discuss Article III judges' interest in and availability for sitting on binational panels, ECCs and special committees. If a Chief Judge determines that it is appropriate for one or more judges within that circuit to be included on a roster, the Chief Judge will submit a list of those judges to the Chief

Justice of the United States, who may submit the list to the USTR. It will be the decision of the Chief Justice of the United States whether the names of any judges from a federal court should be submitted to the USTR for inclusion on the roster.

The USTR will include those judges on a roster and provide a copy of the list of such judges to the Senate and House Judiciary Committees as well as the House Ways and Means and Senate Finance Committees at the time USTR submits final candidate lists and final forms of amendment to the appropriate committees. Thereafter, at the time the USTR proposes to include individual sitting Article III judges on a binational panel, ECC or special committee, USTR will consult with those judges to ascertain whether they are available to be appointed to the specific panel or committee.

Consistent with Annex 1901.2 and the procedures established under section 402 of the bill, USTR hopes to name as many sitting Article III and other judges as possible to the roster. Other judges that may be placed on the roster by virtue of their being included on a final candidate list in accordance with the procedures described at sections 402(a) and 402(c) include: retired federal judges under 28 U.S.C. 371(a); administrative law judges; and former judges. To be eligible for placement on the roster, these judges, like other candidates, must have general familiarity with international trade law, which includes relevant experience in administrative law or international commercial law matters. All judges are presumed to satisfy the other criteria set forth in Annex 1901.2 by virtue of their status as judges.

Section 402(a)(2) of the bill prescribes that the USTR will appoint judges to serve on a particular panel unless, based on the procedures set out above, the USTR ascertains that judges are not available to serve. In requiring the USTR to appoint judges to serve as panelists where they are available, section 402(a)(2) takes into account the existing canons of the Code of Conduct for United States Judges. Under Canon 5G, federal judges may undertake responsibilities outside the scope of their judicial duties if Congress authorizes appointment of judges, so long as service would not, in the view of the judge appointed, interfere with the performance of judicial responsibilities or otherwise impair public confidence in their integrity or impartiality.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 18, 1993.

Hon. DANIEL PATRICK MOYNIHAN,
Chairman, Committee on Finance,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1627, the North American Free Trade Agreement Implementation Act.

Section 12(c) of the concurrent resolution on the budget requires a determination of any legislative proposal's effect on the deficit for fiscal years 1999 through 2003. CBO estimates that this bill would not increase the deficit over this period.

Enactment of S. 1627 would affect direct spending and receipts. Therefore, pay-as-you-go procedures would apply to the bill.

Sincerely,

JAMES L. BLUM,
(For Robert D. Reischauer).

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 1627.

2. Bill title: North American Free Trade Agreement Implementation Act.

3. Bill status: As ordered reported by the Senate Committee on Finance on November 18, 1993.

4. Bill purpose: S. 1627 would approve the North American Free Trade Agreement (NAFTA) entered into on December 17, 1992, with the governments of Canada and Mexico. It would provide for tariff reductions and other changes in law related to implementation of the agreement. The bill also would create a transitional adjustment assistance program for affected workers, require the use of an electronic fund transfer system for collecting certain taxes, and increase certain customs user fees. It also would authorize appropriations for a number of agricultural and other programs.

5. Estimated cost to the Federal Government: The following tables summarize CBO's estimate of the budgetary impact of S. 1627. Table 1 shows the impact of the bill on direct spending and revenues. Table 2 details the estimated costs that depend on future appropriation actions.

TABLE 1.—CBO ESTIMATES OF CHANGES IN REVENUES AND DIRECT SPENDING ASSOCIATED WITH S. 1627

[By fiscal year, in millions of dollars][1]

	1994	1995	1996	1997	1998	Five-year total
CHANGES IN REVENUE (NET)						
Reduction in tariff rates	−214	−489	−547	−609	−672	−2,531
Electronic Federal tax deposit system:[2]						
On-budget	49	262	272	371	1,207	2,161
Off-budget	23	116	135	146	701	1,121
Customs enforcement initiative	17	22	22	23	23	107
Customs modernization provisions	−3	−3	−3	−3	−3	−15
CHANGES IN OUTLAYS						
Increases in customs fees (offsetting receipts)	−93	−203	−221	−241	0	−758
Increased spending for current trade adjustment assistance program[3]	10	25	25	20	25	105
New trade adjustment assistance benefits	([4])	7	8	9	9	33
Effects on agricultural price support programs	−64	−86	−66	−1	33	−184
North American Development Bank	0	54	2	0	0	56
Customs modernization provisions	−5	−5	−5	−5	−5	−25
EFFECT ON DEFICIT						
Net increase or decrease (−) in deficit:						
On-budget	−1	0	−1	0	−493	−495
Off-budget	−23	−116	−135	−146	−701	−1,121

[1] This table does not include any discretionary spending that would be associated with NAFTA

[2] Estimate provided by the Joint Committee on Taxation.

[3] Trade adjustment assistance (TAA) for training costs is currently limited by law to a maximum of $80 million a year. This estimate assumes that this cap is maintained. If it were raised or eliminated, CBO estimates that TAA costs resulting from NAFTA would be a total of $25 million higher over the 1994–1998 period than shown above.

[4] Less than $500,000.

TABLE 2.—CBO ESTIMATES OF AUTHORIZATIONS OF APPROPRIATIONS ASSOCIATED WITH S. 1627

[By fiscal year, in millions of dollars]

	1994	1995	1996	1997	1998	Five-year total
Agriculture programs:						
Estimated authorizations	96	22	22	22	22	184
Estimated outlays	18	61	34	37	22	172
North American Development Bank:						
Estimated authorizations	0	0	56	56	56	168
Estimated outlays	0	0	56	56	56	168
Other authorizations:						
Estimated authorizations	21	16	11	11	11	70
Estimated outlays	16	18	10	11	11	66
Total authorizations:						
Estimated authorizations	117	38	89	89	89	422
Estimated outlays	34	79	100	104	89	406

Basis of estimate:

CHANGES IN REVENUES

Tariff Rate Reductions.—Under NAFTA, all tariffs on U.S. imports from Mexico would be eliminated by 2008. Tariffs would be phased out for individual products at varying rates according to one of six different timetables ranging from immediate elimination to elimination over 15 years for some goods. Based on the composition of imports from Mexico in 1991, tariffs would be eliminated on about 60 percent of dutiable goods on January 1, 1994, and tariff revenue would be reduced by about 65 percent in calendar year 1994. By 1998, duties on about 70 percent of goods that are currently subject to duty would be eliminated, and tariff revenue would be about 85 percent lower than under current law.

Goods currently afforded duty-free treatment under the generalized System of Preferences (GSP) would receive permanent duty-free treatment under NAFTA. Under current law, the GSP program is scheduled to expire after September 30, 1994. Therefore, this estimate includes the revenue loss from extending duty-free treatment to GSP goods imported from Mexico past the GSP's expiration date under current law.

CBO estimates that the provisions of NAFTA that reduce tariff rates would reduce revenues by $2.5 billion over 1994 through 1998, net of income and payroll tax offsets. This estimate is based on Census Bureau data for 1991 and 1992 on imports from Mexico. This estimate includes the effects of increased imports from Mexico that would result from the reduced prices of imported products in the U.S.—reflecting the lower tariff rates—and has been estimated based on the expected substitution between U.S. products and imports from Mexico. In addition, it is likely that some of the increase in U.S. imports from Mexico would displace imports from other countries. In the absence of specific data on the extent of this substitution effect, CBO assumes that an amount equal to one-half of the increase in U.S. imports from Mexico would displace imports from other countries.

Electronic Federal Tax Deposit System.—The new federal tax deposit system would electronically transfer tax deposits to the Treasury, eliminating the need for banks to process paper coupons and checks. The change, which would be phased in gradually over several years, would allow deposits to be credited to the Treasury on the day of deposit instead of the day after deposit. Adoption of this system would not change the amount of taxes paid by taxpayers, but would shift the receipt by the Treasury of certain tax revenues from the beginning of one fiscal year to the end of the preceding year. The Joint Committee on Taxation has estimated that these changes would increase on-budget receipts by $2.2 billion and off-budget receipts by $1.1 billion over the fiscal year 1994 through 1998.

Customs Enforcement Initiative.—The bill would allow Customs Service auditors to access IRS income tax return information. This would allow auditors to use businesses' tax information on the valuation of imports and is expected to result in higher customs duty audit assessments. CBO estimates, net of income and payroll tax offsets, that the access to the information would result in increased receipts of $107 million over fiscal years 1994 through 1998.

Customs Modernization.—Title VI of S. 1627 would expand the base of goods eligible for customs duty drawbacks and would allow increased exemptions from duty on certain personal articles, decreasing customs duties by $7 million each year. Title VI also would require payment of interest on merchandise revaluations after entering an item through U.S. Customs, increasing receipts by $4 million each year. CBO estimates, net income and payroll tax offsets, these provisions would decrease receipts by $3 million each year.

CHANGES IN DIRECT SPENDING

Customs User Fees. S. 1627 would make several changes to user fees charged by the U.S. Customs Service, which are recorded in the budget as offsetting receipts. For the fiscal year 1994 through 1997 only, the current $5 passenger fee would be increased to $6.50 and the exemption granted to passengers arriving in the United States from Canada, Mexico, and the Caribbean would be removed. For fiscal years 1999 through 2003, customs user fees would be extended at the current $5 rate. (Under current law, these fees sunset at the end of fiscal year 1998.) CBO estimates that the $1.50 passenger fee increase and the removal of the exemption would result in additional fee collections of $758 million over the fiscal years 1994 through 1997.

Current Trade Adjustment Assistance (TAA) Program.—Under current law, the TAA program provides cash assistance and training to workers who can demonstrate that increased imports contributed importantly to the loss of their job. If NAFTA were to be approved, CBO estimates that approximately 4,500 additional workers annually for fiscal years 1995 through 1998 would become eligible for TAA. The additional workers would not qualify for TAA immediately because workers must exhaust their unemployment benefits prior to collecting TAA. The fiscal year 1994 estimate assumes approximately 1,000 workers would qualify for TAA, assuming that NAFTA becomes effective January 1, 1994. Under current law, TAA recipients are required to participate in job training unless they receive a waiver. Currently, about 60 percent of the recipients train and 40 percent receive waivers. The average training cost is approximately $4,000 per person. Based on an average cash benefit of $4,800, CBO estimates the additional TAA cash assistance would be $5 million in 1994 and $20 million each year for fiscal years 1995 through 1998, and we estimate the additional TAA training benefits would be $5 million in 1994 and $10 million each year for fiscal years 1995 through 1998, if all newly eligible workers were to receive their full training benefit.

Nevertheless, the TAA training is a capped entitlement. The training benefits are capped at $80 million in fiscal years 1994, 1995, 1996, and 1998. In fiscal year 1997, the cap on funding for TAA training is $70 million. Because CBO's baseline is $5 million below the cap in fiscal years 1994, 1995, 1996, 1998 and equal to the cap in fiscal year 1997, the estimated increase in TAA training costs with the existing caps would be $5 million each year in fiscal years 1994, 1995, 1996, 1998 and zero in fiscal year 1997.

New Trade Adjustment Assistance Benefits.—The bill would add a new sub-chapter to the TAA program to allow workers who lose their job because their firm shifts production to Mexico or Canada to qualify for TAA. In addition, workers would be required to enter a job training program by their sixteenth week of unemployment or their sixth week of TAA certification, whichever is later, to be eligible for benefits. Unlike the current TAA program, beneficiaries under this subpart could not receive a waiver from training and still collect cash assistance. TAA cash and training benefits under this amendment would be available to those who are displaced from their jobs between January 1, 1994, and September 30, 1998. CBO estimates that fewer than 1,000 workers annually would qualify for TAA payments under the provision. The average training benefit would be $4,000 per person, and the average cash benefit would be approximately $6,000 per person. CBO estimates that total TAA payments under this new sub-part would be less than $500,000 in fiscal year 1994, $7 million in fiscal year 1995, $8 million in fiscal year 1996, and $9 million in each of the fiscal years 1997 and 1998.

Effects on Agricultural Price Support Programs.—Gradual reductions in tariff and nontariff barriers on agricultural products under the North American Free Trade Agreement are expected to result in increased trade between the United States and Mexico. An estimated net increase in U.S. exports of commodities currently supported by agriculture programs would result in higher market prices and a reduction in government support payments. While lower acreage reduction program (ARP) requirements (to compensate for increased demand) would mitigate some of the price increase, the ARP level could not be reduced in some years.

The bill also would require end use certificates for imports of wheat and barley. Such certificates would tend to discourage imports and raise the price for domestically produced gains, resulting in slightly lower program payments.

CBO estimates that increased exports and higher prices, combined with the requirement for end use certificates on imports of wheat and barley, would reduce federal expenditures on agricultural programs by $184 million during 1994 through 1998. The majority of these savings would be derived from higher prices and lower program payments for feed grains. The dairy sector and other grains would benefit noticeably from increased exports, leading to a reduction in federal support purchases and lower program costs.

North American Development Bank.—Section 542 would authorize the President to accept membership in a North American Development Bank. The bank would be a multilateral bank with stock held by member states. The bill would authorize the United States to subscribe to 150,000 shares of capital stock and the appropriation of $1,500 million to purchase the stock. It would appropriate $56.25 million in 1995 for the first paid-in stock subscription, and would provide an authorization of appropriations for the remaining amount without fiscal year limitation.

The North American Development Bank would have the same structure as other regional development banks. Only 15 percent of the bank's stock would be paid-in, or purchased, by the member states. The balance would be callable capital. Callable capital would secure borrowing by the bank in private capital markets. The bank would relend the funds. Member states would make payments on callable capital subscriptions only to the extent that the bank could not service its debt from earnings on its investments.

The estimate assumes the U.S. government would subscribe to the capital stock in four equal annual installments. The first installment would be funded by the $56.25 million appropriated for paid-in capital and the authorization for callable capital subscriptions provided in section 541(a)(3) of this bill. The estimate assumes that the final three installments of paid-in capital would be provided in appropriations acts in 1996, 1997, and 1998. The estimate assumes that the appropriation for paid-in capital would represent outlays in the year provided. The authorization to subscribe to the callable capital stock is not expected to result in any appropriations or outlays during the period of the estimate.

Section 543 authorizes the President to enter into an agreement with the Bank to receive 10 percent of the paid-in capital actually paid to the Bank by the United States. The bill would authorize the President to use these funds, without further appropriation, to make loans or loan guarantees through existing federal programs to support the community adjustment and investment program defined in the Cooperation Agreement. CBO estimates this provision would result in a receipt to the government from the Bank of $5.6 million in 1995, and subsequent spending of the same amount through existing community development loan and loan guarantee programs.

Customs Modernization.—S. 1627 would make several changes in the administrative procedures of the Customs Service. Customs would be allowed to release unclaimed merchandise for sale or destruction after six months rather than the one-year period mandated by current law. CBO estimates that this provision would decrease storage costs by $6 million annually. In addition, the number of entries that could be filed informally would be increased. Informal entities are assessed a lower customs user fee, and we estimate that this provision would decrease fee collections by $1 million annually. The net effort of these changes would be an outlay reduction of about $5 million a year.

SPENDING SUBJECT TO APPROPRIATIONS ACTION

Agriculture.—Sections 321 and 361 of the bill would authorize a number of program changes that could increase federal outlays in agricultural programs by an estimated $172 million over the 1994–1998 period. The majority of costs would reflect authorizations for assistance to farm workers in markets adversely affected by increased trade with Mexico ($20 million per year) and the construction of a containment facility for agricultural products from Mexico. Other provisions would require the Secretary of Agriculture to provide information and report on various agriculture markets and to monitor end use certificates.

North American Development Bank.—Beyond the amount appropriated for 1994, S. 1627 would authorize additional appropriations of $168 million for paid-in capital of the bank.

Section 543 would authorize the President to enter into an agreement with the Bank to receive 10 percent of the paid-in capital paid to the Bank by the United States. The bill would authorize the President to use the 10 percent portion to make loans or loan guarantees through existing federal programs to support the community adjustment and investment program defined in the Cooperation Agreement. CBO estimates this provision would result in a receipt to the government from the Bank of $5.6 million annually over the 1996–1998 period, and subsequent spending of the same amount through existing community development loan and loan guarantee programs.

NAFTA Secretariat.—Title I would authorize the appropriation of up to $2 million to fund the United States section of the secretariat established by the agreement. These funds would be used to pay for the activities of the secretariat, as well as the commission, several committees and subcommittees, and various working groups subordinate to the secretariat. It also would allow the U.S. section to retain and spend reimbursements from the Mexican or Canadian section. We assume that the U.S. section of the secretariat would be established within the International Trade Administration of the Department of Commerce (DOC), and that the secretariat and the various committees under its jurisdiction would use the full $2 million authorized to pay for personnel and other costs.

Commerce Department Fees.—Title III (subtitle E) would require the DOC to make available to the public certain information relating to sanitary procedures and would permit the DOC to charge reasonable fees for this information. Such fees would raise $1 million to $2 million annually and would be available for spending under existing authority.

Customs Automation Program.—S. 1627 would establish the National Customs Automation Program, an automated and electronic system for processing information on commercial imports. We estimate that this program would cost $3 million in fiscal year 1994, assuming appropriation of the necessary funds.

Tax Collection Expenses.—The bill would authorize the Harbor Maintenance Trust Fund to use, for the first time, up to $5 million annually to cover the administrative costs of collecting the harbor maintenance tax. We estimate that this would result in costs of $5 million annually, assuming appropriation of the necessary funds.

Commissions.—Section 532 would authorize an annual appropriation of $5 million for 1994 and 1995 for the United States contributions to the annual budget of the Commission for Environmental Cooperation. This commission is described in article 43 of the North American Agreement on Environmental Cooperation; its purpose is to address environmental issues affecting the continent. Section 533 would authorize annual appropriations of $5 million, starting in 1994, for the Border Environment Cooperation Commission (BECC) that is established by the Border Environment Cooperation Agreement. This commission would assist in developing solutions to environmental problems in the U.S.-Mexico border region. The BECC would certify environmental construction projects for the North American Development Bank (established by section 541) and other financial institutions.

International Trade Commission.—Various provisions of the bill would require the International Trade Commission to monitor certain imports and to investigate and determine petitions for relief from imports benefiting from the agreement. Based on information supplied by the commission, CBO estimates that these duties will require an additional authorization of less than $1 million per year.

6. Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1998. CBO estimates that enactment of S. 1627 would affect direct spending and receipts. Therefore, pay-as-you-go procedures would apply to the bill. The following table summarizes CBO's estimate of the pay-as-you-go impact of S. 1627. These figures represent the direct spending estimates in Table 1, excluding the effects on off-budget revenues.

[By fiscal year, in millions of dollars]

	1994	1995	1996	1997	1998
Change in outlays	−152	−208	−257	−218	62
Change in receipts	−151	−208	−256	−218	555

7. Estimated cost to State and local governments: None.

8. Estimate comparison: None.

9. Previous CBO estimate: On November 4, 1993, CBO prepared an estimate, based on draft language, of the direct spending and revenue effects of the North American Free Trade Agreement Implementation Act. That estimate of revenues and direct spending is identical to the estimate for S. 1627.

On November 15, 1993, CBO prepared cost estimates for H.R. 3450, an identical bill ordered reported by the House Committee on Ways and Means, the House Committee on Banking, Finance and Urban Affairs, and the House Committee on Energy and Commerce. Those estimates are identical to this one.

10. Estimate prepared by: Kim Cawley, Mark Grabowicz, Mary Maginniss, Eileen Manfredi, Ian McCormick, John Webb, and Robert Sunshine, Cory Oltman, Melissa Sampson, Linda Radey and Joseph Whitehill.

11. Estimate approved by: C.G. Nuckols, Assistant Director for Budget Analysis.

PART X. REPORT OF THE COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

The Committee on Agriculture, Nutrition, and Forestry to which was referred the bill S. 1627, having considered the same, reports favorably thereon and recommends that the bill do pass.

BRIEF EXPLANATION

The implementing bill makes it necessary for appropriate changes in law to implement the North American Free Trade Agreement. The major provisions of the bill considered by the Committee on Agriculture, Nutrition, and Forestry are briefly described below.

The bill amends section 22 of the Agricultural Adjustment Act to authorize the President, pursuant to Article 309 and Annex 703.2 of the Agreement, to exempt any "qualifying good" from Mexico from import restrictions imposed under section 22.

The United States will convert its import quotas under section 22 of the Agricultural Adjustment Act to tariff rate quotas for imports from Mexico of dairy products, cotton, sugar-containing products and peanuts.

The bill directs the President to take such action as may be necessary to ensure that imports of goods subject to the tariff rate quotas established by the Agreement do not disrupt the orderly marketing of commodities in the United States.

The bill includes measures to ensure compliance with existing provisions concerning reentry of exported additional peanuts. In addition, the sense of Congress is expressed that the United States should request consultations with Mexico if imports of peanuts exceed the in-quota quantity of Mexican peanuts established under the Agreement.

The bill requires the Secretary of Agriculture to collect and compile certain information for fresh fruits and vegetables, processed citrus products, and cut flowers, and to designate an office to maintain and disseminate this information.

The bill establishes an end-use certificate requirement for wheat and barley imported by the United States from countries with similar requirements. The purpose of the U.S. end-use certificate requirement is to ensure that foreign agricultural commodities do not benefit from U.S. export programs.

The bill authorizes a fellowship program for individuals from other NAFTA countries to study agriculture in the United States, and for individuals in the United States to study agriculture in other NAFTA countries.

The bill authorizes the Secretary of Agriculture, subject to appropriation, to make available up to $20 million per year in grants to tax-exempt entities with experience in providing services to low-income migrant or seasonal farm workers, if NAFTA is determined to have caused such workers to lose income.

The bill requires the Secretary of Agriculture to submit a biennial report on the effects of NAFTA on U.S. agricultural producers and rural communities, with the first report due March 1, 1997.

The bill amends Title IV of the Trade Agreements Act of 1979 to add a new subtitle concerning standards and measures under the Agreement. Chapter 1 of the new subtitle contains provisions to implement Section B of NAFTA Chapter 7.

The bill provides a conforming change to amend the Federal Seed Act to remove the staining requirement for alfalfa and clover seed imported from Mexico.

The bill removes a blanket prohibition on the importation of animals which are diseased, infected with any disease, or which have been exposed to infection within 60 days prior to their exportation to the United States. The provision does not require the Secretary of Agriculture to permit the importation of such animals, but it permits the

Secretary to specify those circumstances in which such animals may be imported.

The bill authorizes the Secretary of Agriculture to promulgate regulations to permit the Secretary to waive certain regulations regarding shipments of ruminants and swine between the United States and Canada or Mexico.

The bill authorizes the Secretary of Agriculture to permit the importation of livestock and meat from regions of countries that are, and are likely to remain, free of foot-and-mouth disease and rinderpest. A similar provision allows the Secretary to permit the importation of honeybees or honeybee semen from regions of Canada and Mexico that are free of diseases, harmful parasites, and undesirable honeybee species or subspecies.

The bill amends the Poultry Products Inspection Act to implement NAFTA Article 714(2) on equivalence. The provision permits imports of poultry and poultry products from Canada or Mexico if they are processed in facilities and under conditions that meet standards equivalent to U.S. standards.

Likewise, the bill amends the Federal Meet Inspection Act to implement NAFTA Article 714(2) on equivalence. The provisions permit the importation from Canada or Mexico of meat, carcasses, and meat products upon certification that plants in Canada or Mexico have complied with requirements equivalent to the applicable U.S. requirements.

The bill requires that peanut butter and peanut paste be processed from peanuts meeting the standards of Marketing Agreement No. 146, except that imported peanut butter and peanut paste may, alternatively, comply with sanitary measures that provide at least the same level of sanitary protection.

The bill authorizes the Secretary of Agriculture, subject to appropriation, to make a grant to construct the "Southwest Regional Animal Health Biocontainment Facility" to conduct research in animal health and certain other biocontainment matters.

The bill mandates an annual report by the Secretary of Agriculture on the impact of NAFTA with respect to the inspection of imported meat, poultry, other foods, animals and plants.

PURPOSE AND NEED

S. 1627 approves and implements the North American Free Trade Agreement negotiated by the United States with Mexico and Canada.

The implementing bill makes certain changes in United States law that are necessary or appropriate to implement the Agreement. This report discusses section 321 (b) through (i), section 351, and section 361 of the implementing bill.

Most changes in United States law and regulation implementing the Agreement will apply only with respect to Mexico and Canada. United States law and practice with respect to other countries, their nationals, and firms will generally be left undisturbed.

Many provisions of the Agreement will not require any change in United States law or administrative procedure. Where United States law affords discretion to comply with the Agreement, the implementing agency will exercise its discretion in a manner consistent with the Agreement. In addition, some provisions of the Agreement impose obligations only on Mexico or Canada.

COMMITTEE CONSIDERATION

The Committee held a hearing on September 21, 1993, to discuss the implications of the proposed North American Free Trade Agreement.

Witnesses at the hearing included: Mickey Kantor, United States Trade Representative; Mike Espy, Secretary, United States Department of Agriculture; Bob Foster, Vice Chairman of the Board of Directors, Agrimark, Inc.; Leland Swenson, President, National Farmers Union; Mike Bauerle, Immediate Past Chairman, Nebraska Corn Development, Utilization, and Marketing Board; Dean Kleckner, President, American Farm Bureau Federation; Martha Roberts, Deputy Commissioner for Food Safety, Florida Department of Agriculture and Consumer Services; and Roger Stuber, President, National Cattlemen's Association.

The Committee met on November 18, 1993, and favorably reported section 321 (b) through (i), section 351, and section 361 of the implementing legislation, S. 1627, by voice vote. Senators Heflin, Feingold, and Conrad asked to be recorded as voting no.

ROLLCALL VOTES

In accordance with paragraphs 7(b) of Rule XXVI of the Standing Rules of the Senate, it is announced that no roll call votes were taken with respect to Committee action on S. 1627.

SECTION-BY-SECTION ANALYSIS

Section 321. Agriculture

Section 321(b) Section 22 of the Agricultural Adjustment Act

Section 321(b) of the implementing bill authorizes the President, pursuant to Article 309 and Annex 703.2 of the NAFTA, to exempt any article which originates from Mexico from any quantitative limitation or fee imposed pursuant to section 22 of the Agricultural Adjustment Act (7 U.S.C. 624), for so long as Mexico is a NAFTA country.

Section 321(c) Tariff Rate Quotas

Section 321(c) of the bill directs the President to take such action as may be necessary to ensure that imports of goods subject to tariff rate quotas do not disrupt the orderly marketing of commodities in the United States. Article 302(4) of the NAFTA permits the allocation of the in-quota quantity under these tariff rate quotas, provided that such measures do not have trade restrictive effects on imports additional to those caused by the imposition of the tariff rate quota. This provision will be implemented consistent with NAFTA Article 302(4). Any agency action pursuant to this provision will be taken in accordance with regulations promulgated after providing notice and opportunity for public comment.

Section 321(d) Peanuts

Section 321(d)(1) affirms that nothing in the Agreement or Act eliminates standard requirements for peanuts in the domestic market under Marketing Agreement No. 146.

Section 321(d)(2) affirms that nothing in the NAFTA or the implementing legislation affects the penalty applicable to an importer if any additional peanuts exported by a handler are reentered into the United States in commercial quantities. It also requires peanut importers to maintain such records and documents as the Secretary of Agriculture may require to ensure compliance with the provision concerning reentry of exported additional peanuts.

Section 321(d)(3) sets forth the sense of Congress that the United States should request consultations pursuant to the import surge supplemental agreement if imports of peanuts are entering at amounts in excess of the in-quota quantity established in the U.S. NAFTA Tariff Schedule for Mexican peanuts. The consultations would concern the question of injury to the domestic peanut industry and whether recourse to emergency action under either the NAFTA or GATT safeguard provisions is appropriate.

Section 321(e) Information Regarding Fresh Fruits, Vegetables, Citrus and Cut Flowers

Section 321(e) requires the Secretary of Agriculture to collect and compile certain information, if reasonably available, from United States and Mexican governmental agencies on fresh fruits and vegetables, processed citrus products and cut flowers. The Secretary is also to designate an office to maintain and disseminate this information.

Section 321(f) End-Use Certificates

Section 321(f) is intended to reflect the compromise language agreed by conferees to H.R. 2264, the Omnibus Budget Reconciliation Act of 1993. The following reflects the Statement of Managers that was to accompany section 1403 of H.R. 2264:

Section 321(f) of the bill is a free-standing provision that establishes an end-use certificate requirement for the following: (1) wheat imported into the United States from any foreign country or instrumentality that requires, as of the effective date of the subsection, end-use certificates on United States-produced wheat; and (2) barley imported into the United States from any foreign country or instrumentality that requires, as of the effective date of the subsection, end-use certificates on United States-produced barley. The purpose of the U.S. end-use certificate requirement is to ensure that foreign agricultural commodities are not used in U.S. export programs.

The Committee intends that the term "end-use" shall include the following: (1) exporting from the United States without the benefit of the Export Enhancement Program, export credit guarantee (GSM) program, and P.L. 480 according to procedures established in existing United States law; (2) feeding to livestock; (3) first stage processing for human consumption or industrial uses; and (4) other uses as determined by the Secretary of Agriculture. Commingling with like types of United States grains should not be considered an end use. The Committee intends that the certificate remain current and follow the commingling grain until its end-use. For foreign grain intended for multiple end users, each portion of the grain must be accompanied by an end use certificate until it reaches its end use.

The Committee intends that the Secretary of Agriculture shall prescribe by regulation such requirements regarding the information to be included in end-use certificates as may be necessary and appropriate such as the class, quantity, and country of origin of the covered commodity; importer and initial consignee of the commodity; and the end-use, if known at the time of importation of the commodity. Any transfers from the importer, initial consignee, or any subsequent consignee shall be documented on the end-use certificate. The Secretary may prescribe procedures, such as periodic reporting, as are necessary to ensure proper oversight of this section. The Secretary is expected to take all appropriate action to protect any business confidential information. The Secretary will ensure that end-use certificate forms will be made freely available to importers.

In order to protect United States agricultural producers, the Secretary may, after consulting with Congress and after consultation with producers and producer groups, suspend end-use certificate requirements if the requirements have directly resulted in: (1) the reduction of income to U.S. producers of agricultural commodities; or (2) the reduction of competitiveness of U.S. agricultural commodities in world export markets. In consulting with producers and producer groups prior to a suspension determination, the Secretary is expected to fully consider producers' views and concerns.

If a foreign country or instrumentality that requires end-use certificates for imports of U.S.-produced wheat as of the effective date of the subsection, eliminates this requirement, the Secretary is to suspend the U.S. end-use certificate requirement on wheat, effective 30 calendar days after the suspension by the foreign country or instrumentality. If a foreign country or instrumentality that requires end-use certificates for imports of U.S.-produced barley as of the effective date of the subsection, eliminates this requirement, the Secretary is to suspend the U.S. end-use certificate requirement on barley, effective 30 calendar days after the suspension by the foreign country or instrumentality.

The Secretary is required to submit a report to Congress detailing the reasons, including supporting data and analysis, for his determination to suspend, pursuant to paragraph 321(f)(3), requirements for end-use certificates.

Any person required to use an end-use certificate shall be subject to section 1001 of Title 18, United States Code if found to be engaging in fraud with respect to, or knowingly violating, the provisions in this section or regulations that implement this section.

The requirements of this section shall be effective 120 days after the date of implementation of this Act.

Section 321(g) Agricultural Fellowship Program

Section 321(g) of the bill authorizes a new fellowship program under which the Secretary of Agriculture will provide fellowships to individuals from other NAFTA countries to study agriculture in the United States and to individuals in the United States to study agriculture in other NAFTA countries.

Section 321(h) Assistance for Affected Farm Workers

Section 321(h) of the bill authorizes the Secretary of Agriculture, subject to appropriation, to make available up to $20 million per fiscal year in grants to tax-exempt entities that have experience in providing emergency services to low-income migrant or seasonal farm workers. The Secretary must first determine, however, that the NAFTA has caused such workers to lose income.

Section 321(i) Biennial Report on Effects of NAFTA

Section 321(i) of the bill requires the Secretary of Agriculture to submit a report every two years on the effects of NAFTA on U.S. agricultural producers and rural communities, beginning March 1, 1997. The requirement expires with the report due on March 1, 2011. The bill requires the report to assess the effects of the NAFTA on: (1) a commodity-by-commodity basis; (2) agricultural investments; (3) rural communities; and (4) agricultural employment. The Secretary may also include other appropriate information and data.

Section 351. Sanitary and Phytosanitary Measures

Section 351 of the implementing bill amends Title IV of the Trade Agreements Act of 1979 to add a new subtitle concerning standards and measures under the NAFTA. Chapter 1 of the new subtitle contains provisions to implement Section B of NAFTA Chapter Seven.

Title IV of the Trade Agreements Act of 1979 was enacted to implement the Tokyo Round Standards Code. Federal agencies have been subject to the requirements of Title IV since 1980. These existing provisions continue to apply to standards activities of federal agencies, which includes some of the standards-related measures under the NAFTA. However, the definitions and coverage of Chapter Seven differ from the definitions and coverage of the Standards Code, so it was necessary to provide separate legislative provisions in the Trade Agreements Act of 1979 to implement Chapter Seven.

Section 461 of the new subtitle states that no Federal or State agency engaging in activities relating to sanitary or phytosanitary measures are in any way limited in protecting human, animal, or plant life.

Section 462 of the new subtitle assigns to the standards information center established under section 414 of the Trade Agreements Act of 1979 additional duties regarding 1) any sanitary or phytosanitary measures of general application; 2) procedures and factors of any federal or State agency regarding risk assessment; 3) disseminating information regarding international, regional, or national sanitary or phytosanitary organizations and systems. The National Institute of Standards and Technology (NIST) under the Department of Commerce currently serves as the standards information center.

Section 463 of the new subtitle provides definitions of the terms used in chapter 2 of the new subtitle. These definitions are drawn from the definitions in the NAFTA. The definitions of "standard" and "technical regulation" are taken from the notes to Article 724 agreed to by the NAFTA countries set out after Chapter Twenty-Two of the NAFTA.

Section 361. Agricultural Technical and Conforming Changes

Section 361(a) Federal Seed Act

Section 361(a) of the bill provides a conforming change to amend the Federal Seed Act to remove the staining requirement for alfalfa and clover seed imported from Mexico. The CFTA Implementing Act made a similar conforming change to implement the CFTA.

Section 361(b) Importation of Animals

Section 361(b) of the bill amends section 6 of the Act of August 30, 1890, to authorize the Secretary of Agriculture, in accordance with such regulations as the Secretary may promulgate, to permit the importation of cattle, sheep, and other ruminants and swine, which are diseased or infected with any disease, or which have been exposed to such infection within 60 days prior to their exportation to the United States. This provision does not require the Secretary to permit the importation of such animals. The law had prohibited the entry of such animals, with a few limited exceptions, but a prohibition on importation from Mexico and Canada may not be needed for animal health purposes in all instances, nor may animal health concerns necessitate limiting imports from Mexico of certain cattle only to the State of Texas. Accordingly, the bill permits the Secretary to specify those circumstances in which such animals may be imported.

Section 361(c) Inspection of Animals

Section 361(c) of the bill amends section 10 of the same act to authorize the Secretary to promulgate regulations to permit the Secretary to waive certain requirements regarding shipments of ruminants and swine between the United States and Canada or Mexico.

Section 361(d) Disease-free Countries or Regions

Section 361(d)(1) of the bill amends section 306 of the Tariff Act of 1930 to implement NAFTA Article 716 regarding adaptation to regional conditions. The bill authorizes the Secretary to permit, subject to such terms and conditions as the Secretary determines appropriate, the importation of ruminants and swine and the fresh, chilled and frozen meat of such animals from regions of countries that are, and are likely to remain, free of foot-and-mouth disease and rinderpest. This provision does not require the Secretary to permit the entry of such goods but merely authorizes the Secretary to determine the appropriate terms and conditions for such entry.

Section 361(d)(2) of the bill amends the Honeybee Act to implement NAFTA Article 716. This provision permits the importation of honeybees and honeybee semen from regions of Canada and Mexico that are free of diseases or parasites harmful to honeybees and undesirable species or subspecies of honeybees.

Section 361 (e) and (f) Poultry and Meat Inspection

Sections 361 (e) and (f) of the bill amend, respectively, section 7(d) of the Poultry Products Inspection Act and section 20(e) of the Federal Meat Inspection Act to implement NAFTA Article 714(2) on equivalence. With respect to poultry and poultry parts and products, these provisions permit the importation from Canada or Mexico of such goods capable of use as human food if they are processed in facilities and under conditions that meet standards that are equivalent to U.S. standards. With respect to meat, carcasses and meat products, the bill would permit the importation from Canada or Mexico of such goods upon certification by the Secretary that plants in Canada or Mexico have complied with requirements equivalent to the applicable U.S. requirements.

The bill specifically authorizes the Secretary to treat an applicable standard of Canada or Mexico as equivalent to a U.S. standard or requirement if the exporting country provides the Secretary with scientific evidence or other information, in accordance with mutually agreed risk assessment methodologies, to demonstrate that the foreign standard achieves the level of protection that the Secretary deems appropriate. The Secretary remains free to determine, on a scientific basis, that the foreign standard does not achieve that level of protection.

Section 361(g) Peanut Butter and Peanut Paste

Section 361(g) establishes requirements for peanut butter and peanut paste in the domestic market. Peanut butter and peanut paste must be processed from peanuts meeting the standards of Marketing Agreement No. 146, except that imported peanut butter and peanut paste may, as an alternative, comply with sanitary measures that provide at least the same level of sanitary protection as is achieved by peanut butter and peanut paste processed from peanuts meetings the standards of Marketing Agreement No. 146. This provision is included to provide additional protection from risks associated with aflatoxin.

Section 361(h) Animal Health Biocontainment Facility

Section 361(h) of the bill authorizes the Secretary of Agriculture, subject to appropriation, to make a grant to a land grant college or university, located in a state adjacent to Mexico, that the Secretary determines has an established program in animal health research and education and a collaborative relationship with a Mexican university or veterinary school. The grant is for the construction of the "Southwest Regional Animal Health Biocontainment Facility," to conduct research in animal health and certain other biocontainment matters. In light of the increased U.S.-Mexico trade expected under the NAFTA, this facility will help to ensure the protection of animal and plant life and health in the border area.

Section 361(i) Inspection Reports

Section 361(i) of the bill mandates an annual report by the Secretary of Agriculture, in addition to the biennial report required pursuant to section 321(i), on the impact of NAFTA with respect to inspection of commercially significant quantities of imported meat, poultry, other foods, animals and plants into the United States. These reports are required beginning January 31, 1995, through 2004. The Secretary will consult with other appropriate agencies in preparation of the annual report.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee made the following evaluation of the regulatory impact which would be incurred in carrying out S. 1627.

The bill creates several new authorities and programs. Under the bill, several existing programs are modified for the purpose of implementing the Agreement.

The bill creates some additional regulatory requirements. For example, regulations will be necessary to implement the end use certificates authorized in Section 321(f).

The bill could result in some additional paperwork and record-keeping requirements, such as with respect to the reports required by Sections 321(i) and 361(i).

Mr. DODD. Mr. President, I rise today to once again address the North American Free-Trade Agreement.

In previous remarks, I have discussed the implications of our vote for our neighbors in the Western Hemisphere. I plan to return to that topic again before this debate ends.

Today, however, I want to bring this debate closer to home and talk about the benefits I see for my own State of Connecticut if we pass the other body's lead and pass the North American Free-Trade Agreement.

EXPORTS AND THE CONNECTICUT ECONOMY

Connecticut's economy has been battered since the current recession began in 1989. Since that time, my State has lost nearly 200,000 jobs, and despite the fact that the recession is 4 years old, the economic picture has hardly brightened.

In the midst of a gloomy economic picture, however, there has been one bright spot: Exports. Connecticut's exports have been expanding rapidly, and they are creating jobs at a time when they are sorely needed.

In 1992, Connecticut's exports totaled $5.2 billion. That was up from $2.65 billion in 1987, an increase of nearly 200 percent in just 5 years. One in every five Connecticut manufacturers exported products in 1992.

CONNECTICUT LEADING THE WAY

In fact, Connecticut is now second only to Washington State in the proportion of its civilian jobs that are export related. At a time when the United States is increasingly becoming part of the international marketplace, I am proud to say that Connecticut is one of the States leading the way.

This case was persuasively argued recently in the Journal of the Connecticut Business & Industry Association. An article entitled, "NAFTA: More Trade, More Jobs for Connecticut", demonstrated the gains Connecticut stands to reap if we adopt this trade agreement. I would ask unanimous consent that the text of this article be entered into the RECORD at the conclusion of my remarks.

CONNECTICUT WELL-POSITIONED FOR GROWTH

In this article, Dawn Rodriguez, manager of export development for the Connecticut Department of Economic Development, states that, "Connecticut is very well-positioned to increase its trade with Canada and Mexico—particularly the latter—and to create high-tech, high-skilled, high-value jobs in the process."

"Connecticut businesses of all sizes have been increasing their activity in Mexico recently," she goes on. "We led our first group of Connecticut business leaders to Mexico in December 1990. Now, we are taking three to four per year to trade shows—and we have a waiting list for our December 1993 trip."

This message comes straight from the Connecticut Department of Economic Development—the agency charged with expanding Connecticut's job base. The Connecticut Department of Economic Development knows that trade with Mexico is already creating jobs in my State and has the potential to create many, many more.

INCREASING EXPORTS TO MEXICO

Connecticut's exports to Mexico are not limited to one particular area. Rather, they cut across the economy, from chemicals to electronic equipment, from insurance to paper products, from agriculture to transportation equipment.

More and more Connecticut firms are realizing that the key to success in today's economy lies in finding new markets. And the new markets Connecticut firms are finding are increasingly in Mexico. In fact, Connecticut exports to Mexico have increased more than 140 percent since 1987.

EXAMPLES OF EXPORTS TO MEXICO

On previous occasions, I have talked about specific Connecticut companies that have already tapped into the Mexican market and that hope to expand their efforts in the years ahead. Today, I will briefly mention two more.

Lego, which manufactures the well-known building blocks and toys, already employs more than 1,000 people in Enfield, CT. If we pass the North American Free-Trade Agreement, Lego plans to dramatically boost sales to Mexico—and use its operations in Connecticut as a launching pad. That would expand the workforce at Lego's Enfield operation by 10 percent.

General Electric, based in Fairfield, CT, has tripled its sales to Mexico since 1986. GE had already sold hundreds of millions of dollars worth of locomotives, power generators, conveyor belts, kitchen appliances, and medical diagnostic equipment in Mexico. During the next decade, it expects to increase its sales to Mexico by 20 percent every single year. That translates into more and more jobs for Connecticut.

NAFTA'S SUPPORT FROM MAJOR NEWSPAPERS

So clear are this trade agreement's benefits for my State that a number of Connecticut newspapers—from all across the political spectrum—have endorsed the pact. The Hartford Courant, which often takes progressive positions on major issues, told its readers on September 26 that the North American Free-Trade Agreement is a vehicle for economic expansion. "For the United States, NAFTA is a test of economic leadership," the Courant stated. "Approval would help all North Americans compete in the global economy."

And the Connecticut Post, which is viewed as having a more conservative bent, stated on September 22 that "The North American Free-Trade Agreement would boost U.S. interests in economic growth, environmental, and social progress and national security. The bipartisan pact foresees inevitable changes in the world economy and power structure, and would harness those trends to our benefit."

I ask unanimous consent that the full text of both editorials appear in the RECORD at the conclusion of my remarks.

CONCLUSION

In closing, Connecticut has absolutely nothing to fear from free trade with Mexico and absolutely nothing to fear from the North American Free-Trade Agreement. To the contrary, Connecticut companies, Connecticut workers, and the Connecticut economy stand to make major gains with the approval of this agreement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Connecticut Business & Industry Association Journal]

NAFTA: MORE TRADE, MORE JOBS FOR CONNECTICUT

(By Arthur G. Sharp)

Connecticut's economy, already larger than the economies of many countries, stands to grow even more if the North American Free Trade Agreement among the United States, Canada and Mexico becomes reality, say business experts. And that will mean more jobs for Connecticut residents.

Exporting by Connecticut companies has always made a big contribution to the state's economic growth in terms of dollars coming into the state and jobs created. Exports to Canada and Mexico alone totaled $1.5 billion in 1991. Connecticut jobs supported by manufactured exports to those two countries numbered 44,000. Those figures will likely increase once NAFTA is implemented—assuming it's approved by Congress.

Canada, which has had a separate free trade agreement with the United States since 1989, has been Connecticut's No. 1 trading partner for years.

Trade with Mexico has proved lucrative, too, even in the absence of a free trade agreement. Mexico is now Connecticut's fifth highest-ranking trade partner. In 1992, exports by Connecticut companies to Mexico totaled $273.6 million, a 5.2 percent increase over 1991. Since every billion dollars in exporting creates 19,000 jobs, that translates into approximately 5,200 new jobs for Connecticut supported by Mexican trade.

"Connecticut is very well-positioned to increase its trade with Canada and Mexico—particularly the latter—and to create high-tech, high-skilled, high-value jobs in the process," says Dawn Rodriguez, the Connecticut Department of Economic Development's manager of export development.

In fact, she says, "Connecticut businesses of all sizes have been increasing their activity in Mexico recently," and their interest is growing. "We led our first group of Connecticut business leaders to Mexico in December 1990," Rodriguez says. "Now, we are taking three to four [groups] per year to trade shows—and we have a waiting list for our December 1993 trip."

Rodriguez says Mexico represents a valuable opportunity for Connecticut businesses, and Peter Gioia, CBIA's research director, points out two reasons why:

"The Mexican economy is expanding right now—there's high GDP [gross domestic product] growth. That means there's a demand for goods and services," he says. "And what's really important is that, unlike Pacific Rim consumers, Mexican consumers buy American—American goods have a lot of cachet there."

According to USA-NAFTA a group that's urging NAFTA's passage, the average Mexican spends $380 per year on U.S. goods and services. By contrast, the average Korean, who earns twice as much, spends $360. And the average Japanese, who earns 10 times as much, spends only $400.

What's more, in 1992 Mexicans bought $40.6 billion worth of American goods and services—$5.4 billion more than Americans bought from them.

It's no wonder, then, that many business leaders here are enthusiastic about NAFTA.

WHO STANDS TO BENEFIT?

Several state industries that will likely benefit from NAFTA, according to Rodriguez, include: financial and computer services, as well as manufacturing—particularly chemicals, machine tools, medical and laboratory equipment, and precision machinery. Also high on her list are environmental consulting services and pollution control products, both of which are timely because the Mexican government is currently investing money in environmental clean-up programs.

Companies, whether or not they already have a foot in the door in Mexico, should be able to take advantage of the increasing trade opportunities there.

Aetna Life & Casualty Co., for example, currently owns 30 percent of VAMSA, a Mexican multi-line insurance holding company that owns Mexico's third largest life insurance company and its second-largest bonding company. Pending approval of the Mexican government, Aetna could increase its ownership to 44.5 percent.

Similarly, software marketer Dataease International, based in Trumbull, already has one distributor in the country. Randy Newell, director of marketing says, "We're well-positioned to increase our presence there—and to use it as a jumping-off point to expand our business throughout the Northern Hemisphere."

Newell's statement points to another potential benefit of NAFTA. "Several South American countries, such as Chile, Argentina and Colombia, are interested in forming free trade agreements with the NAFTA countries," he says. "This will present added opportunities for Connecticut-based companies."

Certain industries may not benefit from NAFTA at the outset, but could in the long run. As Ray Oneglia, president and chairman of O & G Industries in Torrington, observes, NAFTA will have little or no immediate impact on Connecticut-based construction firms. Currently, public-sector construction projects such as roads, schools and bridges are awarded exclusively to Mexican firms.

That may change, however, since private construction jobs are open to outside firms. It's only a matter of time until public projects are, too—for example, in regard to construction engineering—or until NAFTA creates the many benefits its supporters predict.

NAFTA NOT A SURE THING

Those benefits, however, may never be realized because NAFTA is not yet a fait accompli. The agreement, well on its way to being ratified by the Canadian and Mexican governments, faces stiff opposition in the U.S. Congress.

"The passage of NAFTA is dependent on ancillary agreements involving environmental and labor concerns," says Willard Hill, Aetna Life & Casualty's Washington counsel for government relations. Another major obstacle to passage is the recent ruling by a federal judge requiring completion of an environmental impact statement before NAFTA can take effect. This ruling could intensify opposition to NAFTA.

"To date, opponents of NAFTA have been more vocal than supporters," says Hill.

Opponents claim that NAFTA will result in American jobs being lost to Mexico, where wages are lower, and that Mexico's lenient anti-pollution laws will put U.S. companies at a disadvantage. In fact, both fears may be unfounded.

NAFTA supporters say any jobs lost will come from the unskilled labor ranks and will be more than offset by an increase in the number of professional, high-tech positions. That would be good news for Connecticut, whose exporting industries, for the most part, involve a lot of professional high-tech jobs.

"Quantifying the number of newly created jobs will be difficult for the service sector," Hill admits. But, he adds, "At some point, increased exports will lead to profits that will expand the capital base. That will create jobs—quantifiable jobs."

As for the environmental concerns, Mexico is in the midst of an aggressive effort to eliminate pollution. Since 1989, it has increased its federal environmental budget elevenfold to more than $78 million in order to counteract pollution problems. Mexican government officials estimate that finishing the job will take billions of dollars and several decades—which will mean export opportunities for Connecticut companies in the environmental field.

One of Connecticut's strengths, points out CBIA's Gioia, is the number of technologically advanced companies involved in pollution control and environmental consulting. "These companies stand to benefit greatly from NAFTA," he notes. "I advise them to seek out opportunities in these areas."

What they should do, he says, is learn as much as they can about the expanded business opportunities in Mexico and take advantage of export assistance. "State businesses are just becoming aware of the opportunities available to them through trade with Mexico," he says. "If they want to take advantage of them, assistance is available through CBIA's International Trade Council and the Connecticut Department of Economic Development."

Gioia also emphasizes that they should take an active role in pushing for NAFTA's passage. Although Rodriguez, from the Economic Development Department, says that trade with Mexico will increase with or without NAFTA, Gioia says NAFTA is essential.

"Passage of NAFTA is important, not just to increase our exports to Mexico, but possibly to maintain current export levels," he says. "If Congress scuttles NAFTA, it could sour relations with the Mexican government, which could affect trade not only with Mexico, but with all of Latin America."

Aetna's Hill agrees on the urgency of passing NAFTA. He urges businesspeople interested in seeing NAFTA become reality to contact their U.S. senators and representatives to let them know how their companies will benefit from the agreement, and to push for its passage. "Otherwise," he says, "businesses may [wind up with] a costly missed opportunity."

[From the Hartford Courant, Sept. 26, 1993]

WHY OPPOSE FREE TRADE?

The vehemence of the opposition to the North American Free Trade Agreement is hard to understand.

One would think there would be overwhelming support for establishing on this continent the biggest common market in the world. Consumers benefit from trade. Quotas and tariffs cause inefficiencies, price increases—and job-busting recessions.

NAFTA is a vehicle for economic expansion. Yet its critics are spreading fears that approval of the agreement by Congress would bring about massive job losses in the United States and further environmental degradation and labor exploitation in Mexico.

Protectionists have always relied on fearmongering to keep markets closed.

Trade barriers between Mexico and the United States have been lowered substantially. Since President Carlos Salinas de Gortari began implementing his lower-tariff policies five years ago, the balance of U.S. trade with Mexico has shifted dramatically in our favor—from a $6 billion deficit to a $5 billion surplus.

Similarly, liberalized trade with Canada has increased U.S. exports to that country by 26 percent in four years.

The record for Connecticut, a major exporting state, is even more dramatic. Since 1987, our state's exports to Canada have grown by 141 percent and to Mexico by 175 percent. According to estimates from the U.S. Department of Commerce, some 90,000 manufacturing jobs in Connecticut last year were directly generated by exports to dozens of countries. Tens of thousands of additional jobs in service businesses (banks, insurance, communications) were indirectly sustained by exports.

Indeed, there would have been no recession in Connecticut had the rest of the economy enjoyed growth remotely similar to the growth in trade with Mexico and Canada.

If trade with those two countries is booming anyway, why do we need NAFTA?

The agreement is critical to Mexico. That country's government, business, academic and labor leaders consider NAFTA the key to improved relations with the United States. They want to develop their land with the help of free trade. They prefer to have such trade with their neighbor than with Japan, which has been knocking at Mexico's doors.

Improved living standards, in Mexico, a nation of some 90 million people, will serve U.S. interest well. More Mexicans could afford to buy U.S. goods and services. Illegal immigration would diminish.

Canada has already ratified NAFTA. There was considerable fearmongering in that country, too. Alarmists warned that Canadian businesses would be overwhelmed by the powerful and aggressive Yankees.

In the United States, alarmists warn that the world's biggest economy would be overwhelmed by cheap Mexican goods and injured deeply by a migration of companies in search of cheap labor.

That migration has taken place and will continue to take place, regardless of NAFTA. As for cheap goods, the age-old economic doctrine applies: Under NAFTA, it would be in the economic interest of each country to produce items in which it has comparative advantage.

Our future does not depend on nurturing businesses that rely on unskilled labor. It lies in developing and expanding businesses that require skilled and well-paid workers who are more productive than their foreign counterparts.

The Clinton administration is seeking money for job training to help workers dislocated by NAFTA. The dislocations would be limited. Unless several major studies of the agreement are off base, there will be a net gain in U.S. jobs as a result of the agreement.

For the United States, NAFTA is a test of economic leadership. Approval would help all North Americans compete in the global economy. Eventually, there could be a free-trade agreement encompassing the hemisphere.

[From the Connecticut Post, Sept. 22, 1993]

NAFTA IS A MEASURE OF FAITH IN THE FUTURE

The North American Free Trade Agreement would boost U.S. interests in economic growth, environmental and social progress and national security. The bipartisan pact foresees inevitable changes in the world economy and power structure, and would harness those trends to our benefit.

The biggest fear associated with NAFTA is that American jobs and industries will go south to take advantage of the cheap labor and scarce regulation in Mexico. What opponents don't say is that jobs and industries can do that now. Some have.

NAFTA, on the contrary, would impose stricter labor and environmental regulations on Mexico, especially in light of the spate of side agreements President Bill Clinton recently signed to strengthen those protections. There will be less reason, not more, for U.S. manufacturers to relocate south of the border.

While Connecticut sends a healthy $280 million worth of exports to Mexico. NAFTA would ensure almost all U.S. exports to our southern neighbor. Right now, it is easier for Mexican goods to meet the 4 percent U.S. tariff and be sold in the United States than for U.S. goods to meet the 10 percent Mexican tariff and be sold there. What NAFTA would do is eliminate virtually all of Mexico's protectionist tariffs on industrial and agricultural goods. American exports, economic analysis maintain, are now and will continue to be the fastest growing segment of our economy.

NAFTA would also open Mexican borders for the first time to U.S. service providers, who are all but prohibited now.

Wherever international agreements like NAFTA have been forged, participating countries have profited by the pacts. Germany, France, Italy, England and other European nations have the European Community pact. Their standards of living have improved, as have those of Japan, which is building a number of trade bridges throughout Southeast Asia.

In fact, the global economy is quickly congealing into clusters of trade alliances, and if any one North American nation is to survive the competition, it needs the additional monetary and natural resources of the other two.

Together, the combined United States, Canadian and Mexican market would wield greater financial clout than any of the other alliances and would include a whopping 360 million people. Sen. Bill Bradley, D-N.J., has noted that North American nations can be stronger together than they could ever be apart. Stronger than any conglomerate in the world.

GLOBAL ENVIRONMENTAL OPPORTUNITIES: SUSTAINABLE DEVELOPMENT AND FOREIGN AID

Mr. BAUCUS. Mr. President, In the past months I have spoken many times about the critical link between trade and the environment.

The NAFTA is a very good example. In strictly economic terms it is good for the United States. It will raise our rate of growth, help us export to a growing market, and create a net of 95,000 or more new jobs in the United States. And I am very pleased that the House passed the agreement last night.

It is a good agreement. But without the environmental side agreement, it was not good enough. It would have promoted development, but not sustainable development. The maquiladora program shows why. It created a lot of activity on the border. But because it came without any environmental enforcement provisions, some firms saw it as a way to evade environmental laws. And it caused a disaster on the border that will cost us as much as $30 billion to clean up.

With the side agreements, NAFTA will mean sustainable development. But it is just a beginning. All over the world, we face environmental catastrophe.

Unprecedented growth in the Pacific rim, overpopulation and poverty in developing countries all threaten not only the ordinary people of those countries, but the global environment and America itself.

ENVIRONMENTAL CRISIS IN EASTERN EUROPE AND THE FORMER SOVIET UNION

Nowhere is the problem worse than in the former Soviet Union and Eastern Europe. And nowhere is the need and opportunity to make our trade and foreign aid policies work for sustainable development greater than in these countries.

In his book "Ecocide in the USSR", Murray Feshbach writes:

> 70 million Soviets face life-shortening diseases from air that carries [more than] five times the allowed limit of pollution, and almost three-fourths of the nation's surface water is polluted.

That is a regionwide statistic. The catalog of individual environmental crimes and disasters is, if anything, even more shocking. Here are just a few:

The Aral Sea was once a source of fish and water for all of central Asia. Drained by intensive irrigation for cotton, it is now reduced to a third of its original volume, and its dry bed scatters salt and chemical waste across the region.

In the 1950's and 1960's, a nuclear bomb factory filled Russia's Lake Karachay with 1.2 billion curies of nuclear waste. That is 24 times the amount of radioactive debris spewed out by the Chernobyl reactor.

Since 1989, 73 former Soviet cities have suffered air pollution more than 15 times the allowable level.

Untreated human and industrial waste from cities along the Baltic Sea has caused diseases in local children and fish kills offshore. The Baltic fish catch fell from 777,000 tons in 1983 to 331,000 tons in 1989.

And when, back in 1988, a polling firm asked the citizens of a Russian city about their worst grievances with the government, they did not cite the KGB or the Communist Party—they said it was the industrial pollution which had made it impossible for them to go out in the forest to pick mushrooms.

This is a partial list. The full accounting must wait for years—since today these countries lack even the equipment to find out how polluted they are.

FOREIGN AID AND THE ENVIRONMENT

We rightly view the success of democracy in Eastern Europe and the former Soviet Union as crucial to world peace and economic development. So this year, America will send $2.5 billion to help Russia and the former Soviet Republics. We will send tens of millions more for Poland and other Eastern European nations. If this money is well spent, it is a good investment. But how will it be spent?

Much of it will build and repair infrastructure. It will lay new roads, put new powerplants on lien and set up new communications systems.

In principle this is all to the good. But in practice, if it is not carefully thought out, it could have consequences like those the maquiladora program had on our border. So if our aid is to work, it must be guided by the principle of sustainable development.

We know from our own history, and from watching the suffering of these countries, that you cannot sustain reckless industrial growth. Failing to protect the environment today means slower growth, higher health care costs, and expensive cleanups later on. Our aid to Eastern Europe, Russia, and the other former Soviet Republics must take this into account.

HELPING NEW DEMOCRACIES AND OURSELVES

Rebuilding these countries is a foreign policy priority. It is also an economic and environmental opportunity. Our firms lead the world in many environmental technologies. And we have the best environmental infrastructure in the world. If we think ahead, environmental aid can help us create jobs and strengthen our own economy while it helps the new democracies.

This means our aid should invest in new, efficient sectors like wind and solar energy, clean manufacturing and mass transportation. And it means we should apply American expertise and technology to cleaning up environmental problems.

Mr. President, we cannot let this opportunity slip away. We must strengthen our economy. We must do what we can to protect the global environment. And we must lead the world down the path of sustainable development. We can do all three with foreign aid policies that are based on sustainable development. Our aid to the new democracies gives us a chance to start.

Mr. RIEGLE. Mr. President, earlier today I spoke about my opposition to NAFTA. At this time, I would like to include in the RECORD articles from newspapers and magazines that further discuss the reasons for my opposition.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Nov. 14, 1993]

NAFTA AND JOBS: IN A NUMBERS WAR, NO ONE CAN COUNT

(By Louis Uchitelle)

If Congress gives in and approves the North American Free Trade Agreement, then the Clinton Administration undoubtedly will proclaim a new era for jobs. More than 400,000 already have been created from the expanding trade with Mexico and many more will come—unless the President has his math mixed up. But tens of thousands of jobs might in fact have disappeared, as the AFL-CIO insists. Could they both be right?

Probably they both are wrong. Abundant evidence is emerging that jobs are shifting across borders too rapidly to declare the United States a job winner or a job loser from the trade agreement. Counting the gains and losses could add jobs one year and subtract them the next, with this pattern persisting into the 21st century.

"The employment impact over the long run is likely to be small," said Robert M. Solow, a Nobel laureate in economics who favors the treaty, whatever the job count, on the ground that free trade is good policy.

But as the issue goes before the House of Representatives this week, millions of Americans are insecure about their jobs. That has made job creation the principal criterion for judging the free trade agreement.

The problem is that no one has measured the job flow with any precision. There has been no comprehensive head count since Mexico first began in the mid-1980's to allow American companies to operate in Mexico as if that country were part of the United States.

Rather than a head count, formulas are used—and perhaps because of their errors, they have failed to resolve the arguments over free trade. Economists feed the formulas into computers to simulate the impact of an open border on jobs. These simulations mostly conclude that the trade agreement will have created between 30,000 and 170,000 new jobs in the United States five years from now.

But the simulations make assumptions that are not always true. Many assume, for example, that American companies building factories in Mexico won't stint on investments in the United States. And that is an assumption that the AFL-CIO calls hocus-pocus.

What the union movement zeroes in on, instead, are the 500,000 low-wage workers in American-owned assembly plants in Mexico. These plants turn out products once made in the United States, at factories now closed.

"We think those jobs, in large measure, would have stayed at home if the Mexican Government had not made it so easy to move them across the border," said Mark Anderson, director of the AFL-CIO task force on trade. "And the free trade agreement locks in this arrangement."

The calculations go on and on. The Administration, resorting to another formula, declares that sure, jobs have migrated to Mexico, particularly low-wage assembly jobs, but exports to Mexico have also risen—and for every $1 billion rise in exports, American companies hire 17,600 people to make the exported products. That appears to be an overstatement at best. But it is this equation that allows the Administration to claim that expanded trade with Mexico has created more than 400,000 jobs.

On the plus side of the jobs calculation, at least from the United States' point of view, the Administration, the AFL-CIO and Congress seem to overlook a "bonus" from Canada. The free trade agreement between the United States and Canada, which went into effect in 1989, has encouraged the migration of thousands of jobs to the United States, where labor costs are lower than Canada's. In the overall job score, the migration from Canada has helped to offset losses to Mexico. That migration involves companies like Tridon Ltd., which shut down an auto parts operation with 550 workers in western Ontario and reopened it in Tennessee.

But again, neither the Canadians nor the Americans know with any precision how many Tridons there are and how many thousands of jobs might have migrated, although some Canadians are as angry about their losses as the AFL-CIO is about the shift to lower-wage Mexican workers.

"There is a dynamic in these free trade agreements that is always pushing wages downward," said Bruce Campbell, a research fellow at the Canadian Center for Policy Alternatives.

Putting aside the numbers, the free trade agreement has complicated the Administration's conduct of foreign policy in general. Pushing for passage, the President has repeatedly declared that American foreign policy would suffer a "profound setback" if Congress rejects the treaty.

One day later, Mr. Clinton goes to Seattle for the Asia Pacific Economic Cooperation forum, involving 15 nations. The agenda there is to talk, once again, about creating a free trade zone across the Pacific, very much like the North American Free Trade Agreement. Barriers that inhibit trade with Japan and China, for example, would come down, much as they have come down with Mexico.

Indeed, the Administration appears to have linked its efforts to increase exports elsewhere in the world to passage by Congress of the free trade agreement with Mexico. And in Congress, the job score, not foreign policy, is the big obsession.

In that debate companies like the Zenith Electronics Corporation represent perhaps the most difficult job counting problem. Some 10,000 Zenith jobs in the United States, mostly assembling television sets, have disappeared in recent years, only to reappear in Mexico as 18,000 jobs at Zenith assembly plants in that country. But Zenith continues to employ 6,000 Americans, and these jobs will be saved by the North American Free Trade Agreement, according to Jerry K. Pearlman, chairman of Zenith.

Many of the 6,000 work at factories in the Midwest that produce sophisticated TV tubes for the sets assembled in Mexico. The logic that saves their jobs goes this way. Right now, 3 million TV tubes are shipped to Mexico from the Far East. The free trade agreement, favoring North America, would raise tariffs of these Far Eastern tubes, and they would become too expensive. So companies that assemble television sets in Mexico would turn to Zenith and other American tube suppliers, and Zenith's tube sales would rise.

"We are already expanding our tube operation and that will mean 200 to 300 more American jobs for us," Mr. Pearlman said.

He took the argument one step further. Offering a theme frequently heard in the treaty debate, he argued that Zenith's 6,000 jobs in America might not exist today if Mexico had not gradually dismantled tariff barriers, allowing companies like Zenith to set up Mexican assembly plants so easily and staff them with low-wage workers.

"Without Mexico, we might have gone to the Far East to assemble television sets," Mr. Pearlman said. The tubes might then have been purchased from Far Eastern manufacturers, and the American operation shut, he added.

The Smith Corona Corporation complicates and skews the job count in another direction. Its actions challenge the Administration's contention that for every $1 billion of exported merchandise, nearly 17,600 jobs are created, on average, to produce the goods. Without such formula, and the big job count that it produces—over 700,000 based on total American exports to Mexico and not just the rise since the late 1980's—the trade agreement might be even harder to sell to Congress.

SAME SUPPLIES

But are the parts that are exported to Smith Corona's new typewriter plant in Mexico really exports? Until recently, Smith Corona purchased the same parts from American suppliers, who shipped them to the company's plant in Cortland, N.Y. That plant has closed, in favor of the Mexican facility. And the parts purchased from the supplies for Cortland are being rerouted to Mexico. The rerouting makes them job-creating exports, although the suppliers have not necessarily added workers.

"It is true that exports to Japan or Germany create jobs, but when nearly half of what we export to Mexico comes back as assembled products, that means that the trade agreement is getting credit for jobs that always existed," said Harley Shaiken of the University of California at Berkeley, an expert on Mexican labor issues.

Whatever the counting problems, the count seems certain to keep changing. Wal-Mart, for example, recently opened a super-center in Mexico City, and it has 13 other big stores in Mexico. Most of the merchandise is purchased from suppliers in the United States, but Wal-Mart also stocks its shelves with goods made by American companies at their Mexican factories. As these goods fill more and more Wal-Mart shelves, jobs should rise in Mexico and fall in the United States.

The free trade agreement also encourages some American companies to come home. The National Association of Manufacturers, in a recent survey, turned up seven companies in this category, companies that eliminated jobs in Mexico and recreated them the the United States. One of them is the McIlhenny Company, which has manufactured tabasco sauce in Mexico.

The plant had been located there to get around Mexican restrictions, just as Japanese auto companies put plants in the United States in the 1980's to get around quotas that limited imported Japanese cars. But now the Mexican restrictions are gone, and McIlhenny has shifted production to a Louisiana plant, deciding that it is more economical to serve both the United States and Canada from a single American factory.

However vague the numbers are, the jobs debate seems to have become a vehicle for venting other, harder-to-express concerns. The Zenith case, for example, illustrates the labor movement's main objection to free trade. More important than the job count, the approval of the treaty would be another defeat for labor in its struggle with management, says Mr. Anderson of the AFL-CIO. Companies gain the flexibility to move to Mexico if their American workers become too demanding, particularly over wages.

"What is unstated in the debate is that you are adding 50 million low-wage Mexican workers, many of them skilled, to the United States labor force," Mr. Anderson said. "They are not located across the Pacific, but in a country that is attached to ours, as if it were another state."

The unsteady American economy also seems to fuel the debate, in a nation where layoffs are now so commonplace. "We Americans have no confidence in the economy's future and that is making everyone anxious about Nafta," Professor Solow said. "If you are feeling genuinely nervous about life, then every time you cross the street, you are afraid you are going to be hit by a car."

The Canadians share this nervousness. The C.D. Howe Institute in Toronto says that about 50,000 Canadian jobs have disappeared as a result of the five-year-old trade agreement, with an unknown number of them gone forever.

American companies like the Gerber Products Company and the Gillette Company, for example, closed plants in Canada and turned to supplying their Canadian customers through exports, mostly from American factories.

Gillette phased out 590 jobs in Canada but created "no new jobs" in the United States, a company spokesman said. Still, the stepped-up razor production may have avoided layoffs in the United States—a plus for America in the job count that never stops.

[From the Wall Street Journal, Nov. 1, 1993]

CLINTON URGES FIRMS TO KEEP JOBS IN U.S.

(By Asra Q. Nomani)

WASHINGTON.—The Clinton administration is urging U.S. companies to pledge not to move jobs to Mexico if the North American Free Trade Agreement passes, but corporate America is balking at the request.

Administration officials said they are seeking such commitments to dispel widespread worries that trade liberalization in Mexico will open the floodgates for U.S. companies attracted to the low wages there. Although officials privately express doubts about the success of this effort, such corporate assurances would be particularly timely as the highly charged Nafta debate winds down before the House's expected vote on the pact Nov. 17.

William Daley, who is coordinating the White House campaign as Nafta "czar," said administration officials have raised the issue with a number of corporations and trade groups in meetings, briefings and phone calls. Those contacts began a couple of months ago, officials said, and the administration has revisited some of these companies recently. "There has been some interest, but no commitments," Mr. Daley said in an interview.

U.S. officials are secretive about which companies they have had the discussions with, but acknowledge the question has been broached with the Big Three auto makers, Chrysler Corp., General Motors Corp. and Ford Motor Co., which Nafta opponents have targeted as prime Candidates to relocate manufacturing jobs to Mexico. While making certain assurances that Nafta won't cost jobs, none of them have gone as far as administration officials would like.

"Companies have different reasons as to why they wouldn't consider" such pledges, said Mr. Daley. "Primarily, it's that businesses don't like to make blanket comments in a political realm. Companies that don't have any interest in moving anywhere still don't want to get in the middle of political debates."

The administration is suggesting U.S. companies issue commitments that they would relocate operations in Mexico back to the U.S., or that they would boost U.S. operations in response to increased exports to Mexico. They've secured some statements. Some companies, such as Ace Hardware Corp.; Springs Industries Inc. and Tyco Laboratories Inc., have said Nafta will prompt the creation of more jobs at their companies. Chrysler and Quaker Oats Co. have said Nafta wouldn't cost jobs at their U.S. operations. But the assurances aren't as plentiful and ironclad as many U.S. officials would prefer.

At the request of certain lawmakers, U.S. companies have even been asked if they would sign a version of the Sullivan Principles, guidelines laid out years ago for U.S. companies doing business in South Africa. The guidelines, devised in response to boycotts against companies that did business in South Africa, required nondiscriminatory business practices. But companies have balked at signing a new agreement, saying that the Sullivan Principles started as voluntary agreements and became mandatory, and they fear the same would happen with any Nafta-related guidelines.

Harry Freeman, a former American Express Co. executive and pro-Nafta trade consultant working with U.S. corporations' lobbying effort, said the idea of making pledges has fallen flat at Nafta strategy sessions he's participated in, because "It's foolish" from a corporate perspective.

"It's full of hazards to make a politically motivated announcement on a business matter which hasn't yet been decided," he said. "It gets you in trouble with your employees and your shareholders. You're asking for trouble."

Jim Jontz, who heads the anti-Nafta lobbying group Citizens Trade Campaign, said, "I don't think the public would believe it even if the companies did swear up and down that they wouldn't leave the U.S." Mr. Jontz, a former Indiana congressman, added, "The fact that they aren't going to move plants to Mexico is even more fuel on the fire."

Overall, corporate America hasn't gotten rave reviews for its part in pushing for congressional support for Nafta, which has to be cleared by both the House and the Senate. The House vote is considered a tossup, and many lawmakers are pulled by labor's argument that Nafta will be a job-loser.

In a speech Friday at the John F. Kennedy Library in Boston, Mr. Clinton repeated a refrain for companies to support a broad program to retrain workers who lose their jobs as a result of Nafta. He argued that companies "had no right to ask the American people—any of them, even one of them—to sacrifice unless we are going to make a common investment."

In a satellite "town meeting" today set up by the U.S. Chamber of Commerce, Mr. Clinton is readying to argue that opening the Mexican market is a crucial part of improving U.S. competitiveness in the global marketplace. His key point: that Japan and Europe will capture the Mexican market if the U.S. doesn't.

[From Challenge, July-Aug. 1993]

THE NAFTA ILLUSION

(By Jeff Faux)

Asking an economist to be part of the opening of a conference on the NAFTA proposal is like asking Neal Bush to address a conference on savings and loan deregulation; there is a lot of damage to explain.

Indeed, if NAFTA goes through as presently negotiated, and with side agreements only designed to paper over its fundamental weaknesses, there will be a lot of damage to explain. It is acknowledged widely, even by supporters of NAFTA, that in the United States, jobs will be lost, community tax revenue will shrink, wages will be reduced, and environmental standards will be undercut. It is admitted also by supporters that the damage to incomes and jobs will be concentrated on those who are least able to adjust—workers in the bottom two-thirds of the family income distribution. Although the vulnerable population includes many more people than those more traditionally thought of as disadvantaged, NAFTA will reduce especially employment in our troubled cities and areas of rural poverty. In a society that professes to believe that "the best anti-poverty program is a job," a policy that will further shrink jobs for low-income people must be examined very, very carefully.

IF IT AIN'T BROKE, DON'T FIX IT

Knowledgeable people provide detailed analysis of the economic, environmental, and social costs of NAFTA, but I want to focus here on the potential benefits. Given the grudging admission by NAFTA supporters that there will be substantial human and economic costs, the case for the Agreement now rests entirely on the proposition that the costs are compensated for by the long-run economic benefits to the United States. We have all read the editorials that repeat the conventional wisdom: "Many working families and communities may be hard-hit, but in the long run, most people will be better off." Among many Democrats, there is the feeling that the problem is simply that George Bush was insensitive to the "short-term" problems of workers and the environment. So, if we can ease just the short-term pain, the Agreement will be a long-term boon for Americans. I want to challenge that assumption.

First, a comment about the debate itself. There is a curious notion implicit in the inside-the-beltway discussion over NAFTA that it is up to the critics to prove that NAFTA is a bad deal. This is curious because, in the natural order of public debate, the burden of proof is on the advocates of a proposal. As the old saying goes: "If it ain't broke, don't fix it." So, I think we should set straight the terms of the debate. Given the certainty that NAFTA will cause economic and environmental loss to a significant number of Americans, the burden of proof is on those who advocate this proposal. They must tell us what is broke, and how NAFTA will fix it.

On neither count have the supporters of NAFTA made their case. They made many claims during the "fast-track" debates of two years ago. Today, after sifting through the evidence for long-term economic gain, one simply cannot come up with a credible economic argument that the benefits are worth the costs and the risks. And, believe me, if the benefits were there, the supporters would have found it. For at least two years, the economic and statistical resources of the U.S. Government, the Business Roundtable, and the largest, most generously supported think-tanks and economics departments of universities in America have devoted time, energy, and money to find all the identifiable benefits of NAFTA to the United States. The rewards of their efforts are embarrassingly trivial. I believe that there are few benefits to the people of Mexico and Canada as well, but it is not my place to address their situation. Representatives of both nations are analyzing their respective situations, and they can speak for themselves.

THE BENEFITS OF NAFTA?

Over the last two years, I have debated and discussed NAFTA with academicians, members of Congress, business and labor leaders, and numerous lobbyists in the pay of the Mexican Government. These are the major assertions they have made. And I will spell out why those assertions do not hold up.

First, there is the assertion that NAFTA, in the long run, will create many more jobs than it will destroy. The evidence does not support this claim. The U.S. International Trade Commission, after making several attempts to come up with estimates of big job gains, and after combing through all the economic models on this point, found that the highest estimate of a potential NAFTA contribution to employment in the United States was—are you ready?—eight one-hundredths of one percent.

The Hufbauer-Schott study, regarded as the definitive case for NAFTA, guesses that 316,000 jobs will be gained and 145,000 lost in the first five years—for a net increase of about 170,000 jobs. There are two things you should know about this study. First, it turns out that most of this job gain has already occurred because of the opening up of Mexico's market. NAFTA itself adds only about 25,000 more jobs. Hufbauer and Schott also assumed that, although foreign investment to Mexico would grow substantially, none of it would be diverted from the United States—a fact which few people find credible. But the most interesting thing about this study was what was not in it. As Thea Lee of the Economic Policy Institute discovered, the published version of the report omitted a table from an earlier manuscript that showed a job loss over the long term from NAFTA. One of the authors later said they dropped the table from the book because there wasn't enough room.

Note that I am focusing on the estimates of job gains by public advocates of NAFTA. Other reputable scholars have estimated job losses of 500,000 to almost one million.

The reason even the supporters can't find long-run job benefits for the United States in this agreement is that the current trade surplus with Mexico cannot last. The current surplus is a result of the fact that Mexican producers—many of them American-based firms—are now importing machinery and equipment and other capital goods. They are installing these capital goods in their new factories, which are being built in order to produce more consumers goods for export to the United States. Currently, the United States has a trade deficit with Mexico in practically every major category of consumer goods. Moreover, the Mexican peso is now overvalued; and that is now making U.S. exports cheaper. To some degree, this reflects the Mexican Government's desire to keep luxury imports inexpensive for the influential upper classes. After the next election, the peso will be devalued: that will help Mexican exports and hurt ours.

Second, there is the assertion that free trade will create higher-wage jobs for U.S. workers because Mexican workers will take jobs at the lower end of the skill ladder while U.S. workers will move up the ladder to higher-wage jobs. Again, there is no evidence for this claim. Historically, U.S. workers who lose jobs due to imports fall down the ladder, or off the ladder. Neither the ITC studies nor the Hufbauer-Schott report can substantiate this assertion. The latter flatly concludes that there will be no net change in the composition of wages one way or another. And Professor Ed Leamer of the University of California, a well-known advocate of free trade, concludes from his research that the effect of NAFTA will be an average wage loss of $1,000 per worker for seventy percent of the labor force.

This history of the NAFTA debate about wages is interesting. At the time of the fast-track vote, NAFTA advocates were dismissing concern over the large gap between U.S. and Mexican wages. Economic theory, they insisted, says that low wages reflect low productivity. From this, they argued that firms were not moving to Mexico for low wages, but to take advantage of the tiny Mexican consumer market. But evidence from the world now clearly shows that while the gap between U.S. and Mexican wages is enormous, the gap in productivity is much smaller. Moreover, in a growing number of industries, labor productivity in Mexico is equal to or, in some cases, higher than labor productivity in the United States. The work of Professor Harley Shaiken at the University of California at San Diego and an EPI study by Walter Russell Mead have been particularly useful in dispelling this myth. I would also recommend the several recent articles on this question by New York Times reporter Louis Uchitelle.

A few weeks ago, I accompanied Majority Leader Richard Gephardt and some other Members of Congress on a trip to the Maquila area in Tijuana, Mexico, which is south of San Diego. Unannounced, we went to a Sanyo plant that makes television parts and assembles television sets for shipment to the United States. We asked the manager of that plant, who is also an international vice-president of Sanyo, how labor productivity in his plant compared with that in the sister Sanyo plant in the United States. He replied that, after four and one-half years, productivity in the Mexican facility was one hundred percent of that of the U.S. plant.

Next question: "What is the ratio of entry wages in your plant versus entry wages in the United States plant?" Without blinking an eye, he said, "One to ten." This was no theoretical economist making that statement. This is the guy who runs the plant in Tijuana and signs the checks.

This point alone undermines much of the economic case for NAFTA. When confronted by the facts, economists who support NAFTA have no real answer. "It's a mystery," one economist said to me the other day. Another said weakly, "Well, it sort of happens like that under capitalism, I guess."

Third, there is the assertion that NAFTA will slow immigration. The same claim was made thirty years ago when the Maquila agreement with Mexico was made. The Maquiladora program actually increased immigration. It drew workers to the border areas (where most of Mexico's growth will continue to investors. Second, the assertion that history vindicates free trade is wrong. At best, history is ambivalent on this point. In some cases, and under certain controlled conditions (such as the integration of Western Europe), freer trade has been beneficial. But in more cases than not, the major industrial nations of the world developed their economies behind high walls of protection. This not only includes Japan, Korea, and Taiwan in our own century, but the United States of America (a thoroughly protectionist nation for over a hundred years prior to the end of World War II) as well. Third, in order for the free-trade case to work, you need some very rigid conditions, even in theory. If the following conditions are not met, you simply cannot tell what the effect of free trade will be. One condition is full employment on both sides of the border. I leave it to you to decide whether or not we have that condition fulfilled in Mexico, the United States, or Canada. Another condition is no mobility of capital between the countries. Again, it is obvious that this condition is not met.

But what if we give the proponents the benefit of all the doubt about free trade and NAFTA? In other words, what would the net benefits be to the United States if, for the sake of argument, we accepted their unrealistic assumptions?

Here is where it gets interesting. Economic theory tells us that the benefits of free trade will show up in lower prices to the consumer. This is a result of assuming that larger markets increase the economies of scale and increase competition.

Now, if I were to ask everyone in this room, in this city, or in this country to list on a piece of paper the ten major problems with the U.S. economy, where would they place the problem of the U.S. consumer market not being big enough? To ask the question is to answer it. We have, by far, the largest consumer market in the world, and foreigners who come here marvel at the high level of retail competition in the United States. If ever there was a trivial economic issue, this is it. Indeed, NAFTA is a solution in search of a problem.

Again, let's accept all the assumptions of the proponents and ask what is their estimate of the benefits to the American consumer. According to Hufbauer and Schott, the total "efficiency" benefit to American consumers comes to $2 billion. This is $2 billion in a $6 trillion economy. It works out to $8 a year for the average American (or two cents per day)—a number that is so small that you cannot find it in the economic data. It is smaller than the statistical margin of error in the Gross Domestic Product. Statistically speaking, it is nothing.

In the end, therefore, the best economic case they can make for NAFTA is that, if you accept all the assumptions of its supporters, you may get two-cents-a-day's worth of lower prices to the average consumer. This is the fabled long-term benefit that we are told justifies the risks of unemployment, community dislocation, environmental degradation, increased social disruption in Mexico, and the expanded immigration that will inevitably result.

But, there is one final desperate argument for NAFTA. It is not an economic argument; it is a political one. It is reflected in a discussion I had with a member of Congress who, after acknowledging that the economic case was weak, said, "But we have to do something for Salinas, don't we?" The sensible response to that question is to ask, "Why?"

DO IT FOR SALINAS

They reply that Salinas is a "good guy." He is a reformer. The people around him are young and smart, and are dedicated to the free market. The lobbyists in Washington virtually swoon over these "best and brightest" of all Mexicans. As one Washington lobbyist who works for the Mexican Government said to me about Salinas, "He's one of us. He went to Harvard!"

I suppose for some people that is enough of a credential to justify almost anything. But before you buy it, take a closer look. For example, read what the London Economist (a solid supporter of free trade) says about Salinas and his associates: "The ugly truth is that Mr. Salinas and his band of bright technocrats, adored though they are by the great and good on the international-conference circuit, wield power courtesy of PRI-fixers and worse in the countryside." It adds that, "Mexican politics is not without its violent side," and it refers to claims that 164 members of the opposition PRD party have been murdered since 1988.

I cannot judge these charges, nor do I know the truth about what goes on in Mexican politics behind the public-relations imagery. I am also certain that the members of Congress who are so solicitous about the welfare of Mr. Salinas similarly are ignorant of the murky details. But no one disputes that Mexico is a one-party dictatorship, and that it lacks free trade unions, an autonomous environmental movement, and an independent judiciary. It is also obvious that Salinas and the PRI are depending on NAFTA to secure their power for decades to come. So, the idea that, somehow, we might influence democratic reforms after we have rewarded the dictatorship with permanent economic benefits that, in practical terms, we can never take back, flies in the face of everything we know about human nature and politics. You don't change behavior by rewarding it.

NAFTA supporters gravely warn that Mexico will have an economic crisis if Salinas suffers a defeat. But Mexico is going to have a crisis with or without Salinas, and with or without NAFTA. The peso is overvalued, and real-estate markets and financial markets are going through speculative excess. These bubbles will burst as soon as the NAFTA issue is resolved. And what is the catastrophe if they do? Except for Americans who have bet on Salinas, it won't cause a ripple in the real economy of the United States, and investment will continue to flow to Mexico because labor will remain cheap. Salinas and the PRI may lose face; but how much pain and suffering is it worth to the bottom two-thirds of the U.S. labor force to keep a Harvard man and his cronies in political power in Mexico? And the notion, as some have asserted, that if we reject NAFTA, the United States won't be trusted in the world any more, is absurd. Indeed, it's not a bad lesson for other nations to learn that the last word on treaties and agreements lies with Congress, and that it is unwise to become partisan in U.S. politics—as Salinas' government did in the last election.

THE SIDE AGREEMENTS

Finally, can we fix NAFTA with side agreements? I am skeptical, but the President wants to try. At the very minimum, fixing it is going to require tough enforcement standards on labor and the environment—including a path to harmonization of minimum wages in the export sectors. It's also going to require an independent trinational commission to enforce those standards. And it's going to require us to pay for the costs of labor adjustment and environmental repair and upgrading out of taxes and tariffs on the increase of trade.

But supporters say that such demands will violate national sovereignty. Sorry, but with this Agreement as written, we have already crossed that bridge. Mexico's sovereignty has been violated by detailed requirements as to how American investors in Mexico are to be protected. U.S. state sovereignty (we are, after all, a nation of sovereign states) has also been violated by this Agreement that overrides state authority on issues from transportation to environmental regulation. U.S. national sovereignty has also been impaired. For example, the United States cannot have an industrial policy if NAFTA goes through, because the treaty prohibits policies that favor and subsidize domestic industries.

Let me leave you with the following thought: Rejecting NAFTA does not relieve us of the responsibilities for developing North America in concert with our neighbors to the North and to the South. I favor North American economic integration, but, in the words of Reverend Campbell whose wise words preceded me this morning, one that aims for "justice and sustainable development." This Agreement accomplishes neither goal. Any objective analysis will show that the benefits simply do not justify the costs.

[From the Kalamazoo Gazette, Oct. 13, 1993]

NAFTA (NAFIA) IS ABOUT INVESTMENT AND JOBS, NOT TRADE

(By Frederick R. Strobel)

As the current debate on NAFTA heats up, it should be noted that the treaty as such, North American Free Trade Agreement, is a misnomer. It should be labeled NAFIA, North American Free Investment Agreement. After reviewing a number of economic studies, I have come to this conclusion. Here is my reasoning.

First, trade with Mexico is already at a substantial level. In fact, such trade is now over $60 billion with the United States running a modest surplus. However, this hides the fact that many U.S. exports to Mexico have been in the form of capital equipment as American manufacturers move south. Once this equipment is put into place, it will begin manufacturing goods for export back to the United States.

Second, much is made about the removal of tariff barriers between the United States and Mexico to encourage more trade. However, tariffs are currently very low. U.S. tariffs average about 3.5 percent and Mexican tariffs average about 8.2 percent. Dropping tariff barriers alone is not what will increase trade.

Nonetheless, spokespersons for the Clinton administration and other independent economists still claim great benefits for the United States from the passage of NAFTA, generally from two sources. First, it cannot be denied that there will be some lower prices on goods in the United States and Mexico due to specialization as economic theory would predict. Second, pro-NAFTA folks frequently quote studies claiming mutual employment benefits. Approximately 15 studies have examined the question. Unfortunately they all tend to follow a similar methodology with models containing very limited assumptions.

Most of the studies commonly quoted were commissioned by the Bush administration and carried out under the auspices of the U.S. International Trade Commission. The reader can be the judge of the realism of their assumptions.

The models typically assume that investment patterns between the United States and Mexico, and the rest of the world and Mexico, will not change. In other words, there will be no increase of U.S. investment in Mexico, and investment that countries such as Germany, Japan and the United Kingdom would have made in the United States will not be diverted to Mexico! Second, the models typically do not allow for depreciation of capital goods, factories and property values in U.S. communities where firms have left to go to Mexico. Third, the studies assume constant employment, that is, anyone who loses a job in the United States as a result of investment diversion will be automatically re-employed immediately.

The most optimistic study shows a gain of 130,000 jobs in the United States. Much bigger gains in job growth go to Mexico. However, the Congressional Research Service of the Library of Congress reports that one study which did not allow for investment shifts, showed a United States job loss of 900,000 workers. This model considers potential investment shifts to Mexico at double the trend of the late 1980s.

Further, Pat Choate, a Washington-based economist, estimates that 5.9 million U.S. manufacturing production jobs are at risk from relocation to Mexico or due to low wage competition from Mexican-based facilities under the NAFTA.

Finally, Ricardo Grinspun, a Canadian economist, found that past records of similar models predicting the economic effects of the U.S. Free Trade Agreement with Canada had no correlation whatsoever with the results of those predicted 2½ years earlier.

Another fallacy is the claim that NAFTA would prevent or reduce Mexican illegal immigration to the United States. However, because of the enormous advantage that American agriculture has it is estimated that opening up free trade on one item, namely corn, will displace some 1.4 million Mexican farm workers. The total job gain to Mexico of the free trade agreement is estimated at 540,000. If many of these farm workers were immediately re-employed, Mexico will still have a net new unemployed farm population of 860,000 people.

Where will these workers go? If the past is any indicator, they will illegally migrate north, thus further depressing U.S. wages and taking U.S. jobs. It is instructive to note that employment in the maquiladoras—which assemble goods from U.S. components south of the border for re-export to the United States—grew by 431,000 between 1984 and 1991. Over that period, however, U.S. manufacturing jobs fell by over double that amount, namely 951,000. In 1992, American manufacturing employment fell by another 325,000.

Thus, it is my prediction that the following will occur if a NAFTA is signed. First, U.S. manufacturers will accelerate their movement of plant and equipment to Mexico driven by both wages and environmental concerns. Second, foreign investment previously aimed at the United States will also be diverted to Mexico. Some argue that this investment would have occurred anyway with a free trade treaty. However, this overlooks the fact that a massive U.S. presence in Mexico will attract still other foreign investment. Why? All will be under the military protection of the United States.

The lot of Mexican workers, despite the real economic development, is a miserable one. Real wages in Mexico have fallen by 38 percent since 1982. Union leaders in this one-party state in the recent past have been jailed. An insurrection requiring U.S. military assistance is not inconceivable.

NAFTA may being lower prices to the American consumer. However, the American consumer whose spending comprises 66 percent of the gross national product will only spend freely if he or she has an adequate income. Lower prices are a secondary consideration if that income is seriously threatened by NAFTA.

[From the Los Angeles Times, Sept. 20, 1993]

THE STICKER PRICE DOESN'T ADD UP

(By Harley Shaiken)

Proponents of the North American Free Trade Agreement argue that this accord will open a vast new market to U.S. firms and create hundreds of thousands of U.S. jobs in the process. Much of this argument is based on two misleading statistics: 700,000 U.S. jobs depend on exports to Mexico, and the average Mexican purchases $450 of U.S. goods a year.

Where does the 700,000 figure come from? The Commerce Department says that each $1 billion in exports supports 17,000 U.S. jobs. Multiply 17,000 by $40.6 billion, the amount of U.S. exports to Mexico last year. The implication is that 700,000 U.S. workers are employed feeding a Mexican consumer market.

The reality is far different. Most of these jobs are producing products for the U.S. market; they only "visit" Mexico for further processing. Since Mexican consumers never see these products, Mexico serves more as an export platform than a consumer market.

Let's examine this job creation estimate by using Mexican government data, which last year showed U.S. exports to Mexico of $44.2 billion—higher than the U.S. government's numbers—translating into about 750,000 U.S. jobs. However, $14 billion of these exports are parts shipped from U.S. plants to Mexican export assembly plants—maquiladoras—and then immediately back to the States. These transactions account for about 240,000 jobs, almost one-third of the total.

Many other Mexican-factories, such as auto engine plants, export to the United States but are not formally designated maquiladoras. These firms operate under a new Mexican government program called PITEX, the Spanish acronym for Temporary Import Permits for Export Products, which accounts for at least $7 billion more of U.S. exports to Mexico. This means an additional 120,000 U.S. jobs not related to the Mexican market, although this figure is undoubtedly low since many firms do not register under this program.

Another $6.6 billion in U.S. exports is capital goods—robots, lathes, computers—that in many cases will build products for export back to the United States. These goods involve 112,000 American jobs; if half result in products coming into the United States, then another 56,000 jobs have little to do with the Mexican consumer market.

At most, about 330,000 U.S. jobs supply the Mexican market itself.

The accounting behind the U.S. job "creation" numbers is bizarre. Example: When Smith Corona moved its typewriter plant from upstate New York to Tijuana, 850 U.S. jobs were eliminated. Let's say 2,000 workers at supplier plants produced parts for the New York facility. When these parts are shipped to Tijuana, the workers are reclassified as jobs "created" in support of the Mexican market. The loss of 850 jobs magically becomes a gain of 2,000.

Many more U.S. jobs have moved to Mexico than the 300,000 or so supplying the Mexican market. Overall, $1 billion in Mexican exports creates far more than 17,000 jobs. The maquiladoras last year, for example, produced $4.7 billion of value in Mexico and generated more than 500,000 jobs—that's 106,000 jobs per $1 billion of exports. This alone, without the rest of Mexico's export sector, dwarfs the number of U.S. jobs that actually produce goods for Mexico.

These numbers underscore Mexico's role as an export platform. Mexico is an excellent place to site a plant, since productivity and quality in new factories are often at U.S. levels, but it is a far less robust consumer market than is often portrayed. The tragic contradiction for both Mexico and the United States is that Mexicans who make televisions, autos and computers for Americans won't be buying these goods themselves. The average wage for Mexican maquiladora workers is about $1.15 an hour. At this rate, it would take about 6½ years of nonstop work for a maquiladora worker to buy a Ford Taurus—provided the worker doesn't eat.

How then does the average Mexican purchase $450 worth of U.S. goods a year? The answer is that the average Mexican doesn't. This figure is derived by dividing Mexico's total population into total U.S. exports to Mexico. If General Motors builds a factory in Matamoros, all of whose production is shipped back here, the import of new robots and computers by that factory counts as a "purchase" by Mexicans.

Increased trade with Mexico could bring real benefits to all countries in North America, but two very different kinds of trade are possible. One creates a low-wage export platform that throttles purchasing power in Mexico and threatens jobs in the U.S. The other approach would seek to expand purchasing power and the Mexican market to the benefit of people in both countries. NAFTA, with its weak labor side accords, does little to encourage Mexico to move in the direction of higher wages. A combination of government policies and lack of labor rights serves to artificially depress wages and, therefore, purchasing power, despite rising productivity. This kind of trade comes at the expense of Mexican workers and the middle class in the United States.

[From the Houston Chronicle, Feb. 22, 1993]

U.S. TRADE PACT GAINS SEEN AS TEMPORARY; EXPERTS: EMPLOYMENT WILL SUFFER

(By Keith Bradsher)

WASHINGTON.—The two most influential academic experts on the North American Free Trade Agreement, whose forecasts of short-term job gains were heavily cited by the Bush administration at congressional hearings and news conferences promoting the pact last year, have concluded that any net increase in job gains would evaporate after 15 to 20 years.

The two experts, Gary C. Hufbauer and Jeffrey J. Schott, who are both senior fellows at the Institute for International Economics in Washington have not included this conclusion in their new book on the pact, although they do mention that the short-term gains may not be permanent.

Schott said the long-term estimate was omitted because it relied on many complicated assumptions and because any economic forecast over such a long period was unreliable.

Hufbauer said that the long-term assessment was also omitted because the book was too long and the two men were in a rush to publish it. The book also mentions that the agreement's long-term effect on jobs are insignificant compared to the effects of broader economic trends.

While Bush officials relied extensively on the Hufbauer-Schott data, the Clinton administration, which has endorsed the pact contingent on completion of three supplemental agreements with Mexico, does not cite them.

The book, "NAFTA: An Assessment" (Institute for International Economics), was released on Wednesday. It repeated, with little change, the two men's forecast last year that, using 1990 job figures as a base, the pact would produce a net gain of about 175,000 jobs in the United States by 1995.

The long-term conclusion came to light because Hufbauer appeared on a panel of trade experts last month at a luncheon organized by the Women's National Democratic Club.

He distributed what was then a preliminary table from the book estimating that increased trade from the pact would provide jobs for 318,600 Americans by the year 2010, who would be producing goods for extra exports to Mexico that would not be possible without the reduction of trade barriers provided by the pact.

But the same table indicated that the agreement would also displace 324,000 jobs in the United States, as imports from Mexico replaced products made less efficiently by American factories, for a net loss of 5,400 jobs.

Schott said that the table was created only to analyze the effects of the pact on income distribution, not on overall employment, and had been used to determine that low-skilled workers and highly skilled workers would be equally affected by the agreement.

He said that he and Hufbauer had tried to figure out the effects on employment by industry if exports and imports each increased by $30 billion, roughly doubling their level in 1990.

The use of a $30 billion figure was arbitrary and not based on any computer modeling, Schott said.

Hufbauer said that the forecast of net job gains over five years assumed there would be a large American trade surplus with Mexico in 1995. The assessment of a tiny net job loss over the next two decades, he said, was based on the assumptions that Mexico's heavy dependence on foreign investment in the form of American factory equipment and other American exports, would fade as its economy grew and that imports and exports would be roughly balanced within 20 years.

[From the Economic Policy Institute, Oct. 23, 1992]

JOBS VULNERABLE TO RELOCATION DUE TO NAFTA: A STATE-BY-STATE BREAKDOWN

(By Thea Lee)

This study identifies those industries most likely to experience job losses if the North American Free Trade Agreement is ratified in its current form and then shows in which states and regions these potentially vulnerable jobs are located. This study does not predict the number of jobs each state is likely to lose, but only notes the present concentration of vulnerable jobs.

For the present purpose, we focus on gross job dislocation, rather than net. In other words, we do not calculate possible offsetting job gains as a result of NAFTA. The gross figures are important in determining the level of labor-market disruption likely to occur as trade and investment are liberalized further between the United States, Mexico, and Canada. Gross job loss figures can also be helpful in determining appropriate expenditure levels for worker retraining and adjustment assistance programs.

We identified eight industries that are likely to experience job loss if NAFTA is ratified. These are motor vehicles and equipment; electrical machinery, equipment, and supplies; apparel (plus miscellaneous finished textile products); food processing; furniture and fixtures (plus miscellaneous wood products).

Current trade with Mexico leads us to conclude that 7.4 million manufacturing jobs currently located in the United States are vulnerable to relocation to Mexico (either directly, as the parent company moves production across the border, or indirectly, as lower-priced imports displace U.S. production).

Again, it should be stressed that this is not a prediction of job loss: no one expects every single one of these jobs to move to Mexico in the next ten or even twenty years. The point is, however, that given the agreement Presidents Bush and Salinas and Prime Minister Mulroney negotiated, there are many reasons why the owners of factories producing these goods in the Untied States would be more tempted to relocate them to Mexico after NAFTA than before.

In some ways, these figures may understate the potential impact of NAFTA on the U.S. economy. Each one of the jobs we identified as vulnerable is linked to other supplier jobs that may also move to Mexico when the original job is lost. However, in the case of the United States and Mexico, this relationship is likely to be complex, rather than mechanical. For example, the U.S. textile and steel industries could move to Mexico to supply Mexican apparel and auto production respectively, but that is unlikely to occur in the near future, as the U.S. textile and steel industries are capital-intensive and highly efficient.

State/region/division	Vulnerable jobs as percent of State jobs	Number of vulnerable jobs
Northeast:		
New England:		
Maine	6.96	32,414
New Hampshire	8.60	42,560
Vermont	8.67	19,933
Massachusetts	6.61	158,812
Rhode Island	9.94	39,177
Connecticut	4.80	68,339
Middle Atlantic:		
New York	5.99	403,333
New Jersey	5.97	190,144
Pennsylvania	7.70	363,333
Midwest:		
East North Central:		
Ohio	9.31	406,667
Indiana	13.27	300,656
Illinois	7.87	380,000
Michigan	14.07	501,904
Wisconsin	10.29	212,259
West North Central:		
Minnesota	4.83	91,832
Iowa	9.27	103.735
Missouri	9.29	193,357
North Dakota	3.67	8,370
South Dakota	6.63	16,756
Nebraska	7.42	47,938
Kansas	5.10	50,759
South:		
South Atlantic:		
Delaware	8.16	24,123
Maryland	4.69	97,561
District of Columbia	0.50	1,158
Virginia	5.89	158,514
West Virginia	4.54	28,077
North Carolina	12.84	352,105
South Carolina	8.77	125,598
Georgia	7.84	203,402
Florida	4.77	233,333
East South Central:		
Kentucky	9.93	130,415
Tennessee	12.69	247,219
Alabama	9.70	148,669
Mississippi	12.86	120,428

[From the New York Times, Nov. 15, 1993]

A LOW-WAGE GAME PLAN

(By Samuel Bowles and Mehrene Larudee)

AMHERST, MA.—Americans justifiably worry that the North American Free Trade Agreement may provoke a flight of jobs to Mexico. But what's wrong with Nafta goes beyond lost jobs. In Mexico, Canada and the United States, even those seemingly unaffected by the agreement will be worse off if it is carried out. Nafta is Victorian economics and will foster Dickensian conditions.

Its proponents say the Nafta would open new markets for U.S. consumer goods. But more important, it would make it far easier for companies to move south and far more difficult for governments to enact coherent development policies.

The agreement would bind all three countries in the straitjacket of 19th-century free market economics, jeopardizing governmental efforts to promote long-term growth of productivity and better living standards throughout the continent.

And it would favor footloose corporations as they bargain with employees over wages and working conditions, with communities over taxes and environmental issues and with local suppliers over prices.

In October, when President Clinton sought pledges from major corporations not to move jobs to Mexico, not a single one signed up. Asked by the Roper polling firm in 1992 if their companies would "shift some production to Mexico . . . if Nafta is ratified," 40 percent of the top executives of U.S. manufacturing corporations answered that this was "very" or "somewhat" likely. For large companies, the figure was 55 percent.

Why do these companies need Nafta? Many have already moved to Mexico. But the agreement would greatly lower their risks, since it would lock the Mexican Government into business-friendly policies for the foreseeable future.

Supporters of Nafta say that few U.S. companies would actually make the move, preferring the vastly more productive American work force. But while average productivity in existing Mexican companies is relatively low, productivity and quality at new U.S.-owned companies there approaches that of those north of the border. Ford's plant in the town of Hermosillo has won quality awards for the Tracers and Escorts it exports to California.

For the boardroom, Mexico spells "workers," not "consumers": for every middle-class Mexican itching to buy a new U.S.-built car, there are dozens of low-wage or unemployed workers lining up for work at a sixth of U.S.-wages. Mexico's labor force is larger than the entire labor force in Michigan, Illinois, Ohio, Indiana and Pennsylvania combined. By contrast, the Mexican market, as measured by its gross domestic product, is smaller than New Jersey's.

No one knows how many U.S. jobs will be lost if Nafta is approved. No major studies of Nafta have estimated the number; following textbook assumptions, the models simply ignore the possibility that companies will move.

But the impact would be substantial even if, as seems unlikely, the flight of jobs were minor. What counts is not how many jobs actually leave but the fact that so many could leave. In the same Roper poll, 24 percent of business leaders candidly said that it was either very likely or somewhat likely that "Nafta will be used by [their] company as a bargaining chip to keep wages down in the U.S."

In Mexico, the battering ram that will keep wages down is not the threat to move but a flood of prairie-grown corn. It will bankrupt high-cost farmers, driving them to the cities in search of work and worsening an already severe labor surplus. Even if half a million new jobs open up in Mexico as U.S. companies move south, the number of displaced farmers will mount to twice and perhaps three times this number over a decade.

That would mean intensified competition for jobs and significant downward pressure on wages. Among the rosy projections offered by the pro-Nafta side, the assurance that Mexican wages will soar deserves the Pollyanna prize. Even Nafta supporters concede that the flow of grain south into Mexico will be matched by an increased northward flow of illegal immigrants in search of work. The Mexican labor surplus thus becomes a North American labor surplus.

But even Mexico cannot beat Sri Lanka or China at the low-wage game. None of the signatories to Nafta should try. The alternative—a high-wage, high-productivity strategy—requires the active involvement of governments at all levels. What boosts productivity is neither governments nor markets alone but a combination of market competition with effective intervention by a development-oriented government. The East Asian economic miracles should have pounded this lesson home.

Nafta would label many of the necessary governmental initiatives "barriers to trade" and could force their retraction. When in 1990 Ontario's provincial government proposed a universal public car-insurance system, U.S. insurance companies invoked the Canada-U.S. Free Trade Agreement and demanded $2 billion compensation. Ontario backed down. Any state in the U.S. that decided to convert to a single-payer health insurance program or to subsidize solar energy or recycling might suffer a similar fate.

Closer economic ties with the rest of the hemisphere are an essential part of any sound U.S. economic strategy. And protection of inefficient industries is no way to promote productivity in the long term.

But Nafta is a giant step down the wrong road. Its "let the chips fall where they may" low-wage game plan promises the continent not three nations but just two: the rich and the poor.

[From the Washington Post, Sept. 3, 1993]

NAFTA DELUSIONS

(By Jeff Faux)

The recent chorus of Post editorials and op-ed pieces supporting the North American

Free Trade Agreement reflects the widespread Washington delusion that the proposal is in trouble because labor unions, environmentalists and right-wing know-nothings are playing on the irrational fears of a public ignorant of economics. Nothing wrong with NAFTA, of course. George Will blames the opposition on "timid legislators" [op-ed, July 8]. The Post editorializes against a "new isolationism" [Aug. 18]. Gerald Ford complains that the White House is not making a hard enough sell [op-ed, Aug. 22].

But the Bush and Clinton administrations have been pitching NAFTA for three years. The Mexican government is spending at least $30 million to promote it, and U.S. corporations have added millions more. The interests behind NAFTA should save their money; polls show that the more average working people hear about NAFTA, the less they like it. Common sense tells them that they will be losers. They are right.

The central economic problem is that labor productivity in Mexico's export industries is typically 80 percent to 100 percent of U.S. levels, while wages are 10 percent to 15 percent. This encourages manufacturers to produce goods in Mexico for sale in the United States. It has already cost roughly 500,000 jobs here and downward pressure on wages.

The wage-productivity gap stems from the policies of the present authoritarian Mexican government. Through a variety of means, including use of the armed forces to intimidate workers and the establishment of business associations to fix wage rates, wages are kept low in order to attract foreign capital. The absence of an effective political opposition, an independent judiciary and independent labor and environmental organizations gives the government a free hand in economic policy. By guaranteeing Mexican producers access to the U.S. market in return for protecting U.S. investors against policy changes by future Mexican governments, NAFTA locks in the current low-wage policy.

Under such circumstances, free-trade models do not apply. Thus, despite efforts by NAFTA advocates to label all opponents as protectionists, it is perfectly consistent to be in favor of free trade and against NAFTA.

NAFTA supporters bombard us with a jumble of statistics. One op-ed writer says exports to Mexico are creating 400,000 jobs, another 700,000, two others, 800,000. About the jobs lost to imports from Mexico and the shift of investment from the United States to Mexico, there is silence. Supporters claim that the two-year-old trade surplus with Mexico "proves" that NAFTA will create jobs. But the surplus is not a result of trade liberalization. Rather it reflects an overvalued peso. Even pro-NAFTA economists have admitted that the peso is likely to fall 10 percent to 20 percent next year, which would more than wipe out all the advantage to the United States of eliminating Mexican tariffs. Moreover, the surplus is in capital goods, not consumer goods.

We are shipping machinery south to expand the capacity of Mexico's low-wage factories to produce consumer goods for sale back in the United States. The prize in NAFTA is not Mexico's market, it is Mexico's labor force, which is educated, disciplined and trainable. In fact, NAFTA provides more incentives for U.S. businesses to train Mexican workers than American ones; where labor is cheap to hire, it is cheap to train.

Thus, in the long run, NAFTA will undercut any chance we have to create a high-skill, high-wage American answer to global competition. It will encourage U.S. producers to compete by lowering wage costs rather than by increasing investment and organizing high-performance workplaces.

Unfortunately, the recently announced side agreements do nothing to address the question of suppressed wages in Mexico. They contain no labor standards and limit requirements that Mexico enforce its own laws to only three areas—minimum wage, health and safety, and child labor. Indeed, even the references to high wages and a fair distribution of income that were in the preamble of the original U.S. draft were stricken in the agreed-upon version.

The side agreements are also silent on questions of air pollution and wildlife protection. And they set up a bureaucratic maze that will make it all but impossible for redress of grievances even on those few topics it covers. The side agreements have already been mocked by the Mexican secretary of commerce, who recently assured Mexican legislators that "the time frame of the process makes it very improbable that the stage of sanctions could ever be reached."

We are told that defeating NAFTA will bring a crisis to Mexico. Henry Kissinger warns us darkly of President Carlos Salinas's "left-wing" opposition ready to "boil to the surface." But Mexico will be in a crisis anyway when the financial bubble promoted by foreign speculation bursts. It makes no sense for the administration to further load on to American workers—already facing slow job growth, continued erosion of incomes and the cost of paying for our own speculative excesses of the 1980s—the burden of saving Salinas and his corrupt party from the consequences of their own mistakes.

The next president of Mexico, whoever it is, will have to cooperate with the United States. In any case, the choice should be left to the Mexicans, not manipulated by a tired Washington foreign policy establishment with time on its hands now that the Cold War is over.

Congress should insist—as the European Community did before its economic integration with Spain, Portugal and Greece—that democracy in Mexico precede an agreement on a common North American market. Democracy, not side agreements that the Mexican ruling class has already shown it holds in contempt, is the only guarantee that freer trade will help the people on both sides of the border who work for a living. The first step down this more responsible path is to reject NAFTA.

[From the Orlando Sentinel Oct. 14, 1993]

THE U.S. STANDARD OF LIVING WILL DECLINE IF NAFTA IS APPROVED

(By Charley Reese)

Advocates of the North American Free Trade Agreement, unable to defend it on the basis of facts, are concentrating on attacking the critics as nativists, racists and whatever.

It's kind of a tough job because those opposed to NAFTA include such diverse people and groups as Sen. Howard Metzenbaum, Rep. David Bonior, the AFL-CIO, former California Gov. Jerry Brown, columnist Pat Buchanan, libertarian and Austrian school of economics proponent Murray N. Rothbard, consumerist Ralph Nader, businessman Ross Perot, Jesse Jackson and the Council of Mexican Bishops. That's among others.

Here are a few facts to keep in mind:

Mexican government figures show 61 percent of U.S. exports to Mexico are intermediate goods and 24 percent are capital goods. Intermediate goods are stuff that is to be assembled in Mexico and shipped back to the United States. Capital goods are factories and machines being sent down there to manufacture goods in Mexico. Thus, true exports from the United States to Mexico are only 15 percent of the figure cited by NAFTA propaganda. Even that figure is inflated because the Mexican peso is overvalued.

A report prepared by the U.S. Commerce Department during the Bush administration but never released to the public—so much for honesty—estimated the United States will lose 40 percent of our remaining jobs in autos, steel, textiles and apparel if NAFTA is ratified. Furthermore, between 1979 and 1991, America lost 2.6 million manufacturing jobs to Asia and Mexico. That's why the U.S. standard of living has gone down and will go down even further if NAFTA is ratified.

Apply some common sense. Ask a NAFTA supporter to explain to you why $1 billion invested in Mexico as opposed to being invested in California will create jobs in the United States. General Motors has announced it will eliminate 100,000 jobs in the United States. No surprise. General Motors is the largest employer in Mexico already. It has more than 50 plants there.

Apply some more common sense. After NAFTA shifts even more U.S. manufacturing plants to Mexico, why would a Mexican buy a product made in Detroit and shipped to him in Mexico when he can buy it in Mexico?

NAFTA will cost us 500,000 jobs and, except for a few lobbyists and Wall Street investors, it won't create anything in the United States but unemployment, higher welfare bills, lower government revenues and more crime.

The maquiladora program begun more than a decade ago was a test program for NAFTA. Under that program, the U.S. government encouraged multinationals to build plants on the Mexican side of the U.S. border. The deal is, production from them can come into the United States duty-free. That program has cost Americans about 500,000 jobs already, but here are the pertinent points:

Proponents of that deal, like proponents of NAFTA, said it would reduce illegal immigration. It did not. It increased illegal immigration by drawing people to border towns where they discovered that the jobs paid as little as 58 cents an hour. NAFTA will displace most of Mexico's agricultural workers. Guess where they will go to avoid starving.

Another fact to consider is that Mexico is run by a 50-year-old authoritarian regime, that it has a lousy human-rights record, that it has a 50-year history of corruption that make its laws and promises a bad joke. Mexican applications for political asylum have shot up recently; Mexican politicians routinely criticize any effort by the United States to control its borders. A Mexican big shot recently ridiculed the NAFTA side agreements in a speech to the Mexican legislature.

You should read the book The Myth of Free Trade by Dr. Ravi Batra, published by Charles Scribner's Sons. It's a wonderful summation of a terribly misguided policy that will reach a disastrous climax if NAFTA is ratified. Congress can kill NAFTA. If it doesn't, NAFTA will kill what's left of U.S. prosperity.

[From Business Week, Sept. 20, 1993]

SEEING THROUGH NAFTA'S NEW CLOTHES

(By Robert Kuttner)

To oppose the North American Free Trade Agreement (NAFTA) is to be labeled protectionist, jingoist, apologist for declining U.S.

industries, as well as callously indifferent to Mexico's poverty. I am none of these. Rather, my case against NAFTA is Keynesian.

Keynesian economics holds that total purchasing power (aggregate demand) needs to roughly balance the economy's capacity to produce; otherwise, supply exceeds demand and productive potential goes unfulfilled. To have a fiscal and monetary policy, not to mention a labor policy, you need a government. But North America is neither a country nor a government. The U.S., Canada, and Mexico have radically different laws, living standards, and notions of what is minimally decent. By pretending we are one country, we risk the country with the lowest wages and the fewest labor rights and environmental protections getting the jobs.

The good free-trader replies that by embracing open trade, we stimulate efficiency and thereby improve those very conditions. But the recent golden age of growth was the post-World War II boom—when trade was encumbered by relatively high tariffs and regulatory barriers that sheltered national economic-development strategies. There was growing global commerce, but it was far from free trade. The advanced nations all had wages that rose with productivity, completing the Keynesian virtuous circle. Japan and Korea, the growth leaders, were among the most highly protected. Mexico, with state-owned and heavily regulated industries, enjoyed annual growth rates in excess of 5%, despite or perhaps because of—economic nationalism.

FORCED CONVERSION

When Mexico abandoned its economic nationalism in the early 1980s, it was not because the policy had failed or because Mexican leaders had suddenly seen the light. It was because excessive foreign borrowing based on mistaken projections of oil prices—and crushingly high interest costs imposed by Paul A. Volcker's Federal Reserve Board—suddenly gave the U.S. leverage to demand that Mexico's leaders become converts to free-market policies.

In the 1980s, Mexico's real wages fell by over 30%. As interest rates have come down, Mexico has begun to recover, but real income is still well below its 1980 level. Against this history, NAFTA was devised as a reward for Mexico's forced conversion to the economic theories of the Reagan-Bush era. As repentant free-marketers, the Mexicans would enjoy preferential access to the U.S. market.

I offer this revisionist history not to commend protectionism but to suggest that the case for free trade is exaggerated. Extreme protectionism is surely bad. When every nation protects, as in the 1930s, the world economy contracts. But far more important than perfectly free trade is whether nations and the world system are pursuing high-growth, full-employment policies.

SHORT-LIVED BOOM

Defenders of NAFTA also claim that the gains of freer trade will be roughly symmetrical. As a poor, low-skill country, Mexico will attract low-skill country, Mexico will attract low-skill jobs, leaving better ones to materialize here. But as University of California at Berkeley researcher Harley Shaiken has shown, there is a huge divergence between Mexico's rising skills and lagging wages. It is precisely this disparity that makes relocation there so attractive. As skilled jobs in the auto and electronics industries move south, there is no pressure to raise Mexican wages because of its massive unemployment. And as long as Mexico's wages lag behind its productivity, the purchasing power necessary to import goods from the U.S. jobs—and hence to provide of setting U.S. jobs—will lag, too. The current boom in exports of U.S. capital goods to Mexico is likely to be short-lived as Mexico diversifies its suppliers.

Henry Ford's insight was Keynesian: It's smart to pay employees enough to enable them to buy the products they make. But Mexico's auto workers though nearly as productive as their U.S. counterparts, are paid under $2 an hour and cannot afford to buy the cars they build. As wages lag behind output, supply outstrips demand. And as Mexico becomes an adjunct of the U.S. economy, the low-wage drag on Mexico's prosperity becomes a drag on our own.

To date, there is one useful byproduct of the NAFTA debate. Last month, when the proposed side agreement on labor standards was shown to House Majority Leader and NAFTA critic Richard A. Gephardt (D-Mo.), he dismissed it as window dressing. After hastily consultations, Mexican President Carlos Salinas de Gortari offered a new concession: Mexican wages would begin rising in proportion to Mexican productivity. This unenforceable promise introduces a Keynesian test into the trade debate.

If we truly wish to improve living standards in Mexico, it is not smart to throw away our own. Rather, we might gradually liberalize U.S.-Mexico trade if Mexican wages and conditions rise with productivity. Please note that this Keynesian case against NAFTA is rather different from that of Ross Perot, who is no Keynesian. Presumably this strange bed-fellowship embarrasses Perot as much as it embarrasses me.

[From World Business, Sept. 24, 1992]

HEADING SOUTH—UNITED STATES COMPANIES PLAN MAJOR MOVES INTO MEXICO

(By George Anders)

Most U.S. companies see themselves as winners in a North American Free Trade Agreement—and 40% are inclined to move some manufacturing to Mexico in the next few years.

At the same time, more than one-third of U.S. companies think that a regional trade accord will be at least somewhat unfavorable for American workers. And the origins of any new jobs created in Mexico are likely to be contentious. Some jobs are likely to be ones that otherwise might have gone to Southeast Asia or other low-wage areas; others may represent a transfer of work from the U.S.

Those are some of the findings that emerge from a poll of 455 top U.S. executives, who were asked their opinions about steps being taken to cut tariffs and open up trading between the U.S., Mexico and Canada. The survey was conducted by Roper Organization for The Wall Street Journal. It encompasses companies in more than 20 industries, from electronics to tobacco.

Among the poll's conclusions:

Support for the North American trade pact is strongest among large companies. Apprehensions are higher for executives at small companies, particularly those who say they don't know much about the accord.

Telecommunications, banking and high technology are the U.S. Industries that are expected to benefit the most from the trade accord. No industry is rated as a victim by a majority of respondents, but more than a third of respondents think U.S. textile companies could suffer.

About one-quarter of U.S. executives say they are likely to make a capital investment in Canada in the next few years—significantly fewer than the percentage targeting Mexico.

The development of regional trading blocs is endorsed by a 2-to-1 margin, with executives saying they want a North American alliance that competes with similar groupings in Europe and Asia.

By a 3-to-2 margin, executives say they would support an even wider regional trade agreement that would cover all of Latin America.

In general, some 81% of executives said they are strongly or mostly in favor of the North American trade accord, Just 12% oppose the pact. The approval rating reached 86% from executives who say they knew at least a fair amount about the pact: some 64% of executives who say they knew little or nothing about the agreement are willing to endorse it.

Typical among the optimists is James F. McCann, president of Bridgestone/Firestone, Inc. "As we move more and more toward a common market for North America, that will generate more opportunities for business," Mr. McCann says. He's particularly bullish on Mexico, where his company already makes 1.5 million tires a year and might expand.

At Caterpillar Tractor Co., executives are similarly upbeat about Mexico. Last year, Caterpillar exported 1,200 units of earth-moving equipment to Mexico, for a total of more than $150 million in sales. The figure could rise further in the next few years, says Caterpillar trade specialist William Lane, once Mexico slashes or eliminates duties of 15% to 20% on imports from the U.S., thereby making U.S. goods even more competitive against Japanese imports.

Less sanguine, though, is Frederick Dint, chairman of Mayfair Mills Inc., in Arcadia, S.C. While Mr. Dint says he admires the principle of free trade, he adds that any agreement "has to be executed properly" before he can support it. And Mr. Dint observes that the U.S. textile industry already has been hardhit by competition from a wide range of low-wage countries, including Mexico.

Overall, Roper found, 71% of respondents feel the trade pact will be beneficial for their company. An additional 15% say they aren't sure what the impact would be, and just 14% say it could hurt their business.

Among companies with $1 billion or more in sales, some 95% endorse the trade pact. But at companies with fewer than 500 employees, only 70% of executives approve. And among companies in states that bordered on Mexico, one in five executives opposes the pact—one of the highest negative ratings.

In a sign of American eagerness to expand in Mexico, 40% of respondents say it's very likely or somewhat likely that they will shift some production to Mexico in the next few years. That share is even higher—55%—for executives at companies with $1 billion a year in sales.

Hoover Co., for example, plans to start making hand-held vacuum cleaners at a factory it operates in Ciudad Juarez, just across the border from El Paso, Texas. Hoover currently makes such products in Asia. But a recently completed internal analysis shows that it would be cheaper to switch production to Mexico, says Hoover President Brian Girdlestone.

Mr. Girdlestone acknowledges public concern about the loss of U.S. jobs, but he says that issue doesn't apply to Hoover's decision. "We're adding jobs in North America," he says. "We're bringing them back from Southeast Asia."

Firestone's Mr. McCann adds that it would be "shortsighted" to switch production to Mexico in an effort to capitalize on lower wage costs. Pay scales for skilled workers in the U.S. and Mexico already are closer than many people realize, he says. "And as Mexico gets more prosperous, wages are likely to rise," he says.

Still, some 39% of respondents say they think the trade pact would have a mostly unfavorable or very unfavorable impact on American workers.

About one-quarter of executives surveyed say they are very likely or somewhat likely to use the trade accord as a "bargaining chip" to try to hold down wages in the U.S. Another quarter say that such a tactic isn't too likely, and nearly half say it isn't likely at all.

While Mexico is the main area of focus, some executives signal increased interest in Canada as well. The U.S. and Canada significantly reduced trade barriers in 1988. The new North American trade pact aims to extend the terms of the 1988 accord and apply them throughout the continent.

Overall, 23% of executives say the 1988 agreement led them to increase exports to Canada. Some 9% say they invested more in Canada, and 7% say they faced increased competition from Canadian companies. But nearly two-thirds of the respondents say that the 1988 U.S.-Canada agreement hasn't affected their business.

Looking ahead, 27% of respondents say that they are very likely or somewhat likely to make a capital investment in Canada in the next few years. Several executives say the current recession in Canada has muted their interest in expanding there. Once Canada's economy picks up, they say, they are more likely to take advantage of any opportunities presented by liberalized trade.

Some critics of the North American trade accord have complained that it will encourage the development of regional trading blocs in Europe, North America and Asia, each pitted against the other. But some 56% of executives surveyed say that forming a North American regional bloc would be a good idea.

"The real, special value of [the trade pact] is that it makes the region more competitive vis-a-vis the rest of the world," says Nancie Johnson, head of trade policy or Du Pont Co. That might lead Du Pont to base a textile-fibers plant in Mexico, for example, she says, even though local Mexican demand alone couldn't support the facility. But if the plant could easily sell its output throughout North America, then it would be an attractive proposition.

Many companies, in fact, see the North American Free Trade Agreement as a first step toward a tariff-free common market that could cover all of the Western Hemisphere. Some 56% of all executives—and 70% of large-community executives—say they favor a trade accord that would include all of Latin America.

"If this is successful," says Sandra Masur, the chief Washington-based trade negotiator for Eastman Kodak Co., "what it accomplishes could potentially be applied to other markets like Brazil, which are chaotic now."

COST OF NAFTA

[From the New York Times, July 14, 1993]

A LOOK AT THE NORTH AMERICAN PACT'S ADDED COSTS

(By Keith Bradsher)

As the Clinton Administration and Congress grapple with the political problems of the North American Free Trade Agreement this summer, one issue keeps coming up: the potential cost of the pact to the Federal budget.

Estimates range up to $40 billion in lost tariff revenue, benefits for American workers who are unemployed as a result of new competition from Mexican factories, and bridges and highways to carry additional traffic.

Congressional pay-as-you-go budget rules require that such revenues be made up. This has produced an increasingly desperate search in Washington for ways other than Federal taxes to raise money. The Administration and Congress are looking for as much of this money as possible from state, local and private sources.

ONE OF SEVERAL ESTIMATES

In the Administration's first public discussion of some of the costs of the agreement, Commerce Secretary Ronald H. Brown said today that $15 billion to $20 billion would be needed over the next decade for roads, bridges, sewage-treatment centers, improved housing, electric-power plants and environmental cleanup projects along the Mexican border.

But he also said that the Administration expected business to provide most of that money, spurred by potential earnings from tolls and fees from the sewage and power facilities.

On Thursday and Friday, Mr. Brown said, Clinton Cabinet members will try to drum up commercial interest at a meeting in San Antonio with Mexican Cabinet ministers and with about 400 investment bankers, engineers and state officials.

The Secretary said that private companies had ignored the potential in border investments for many years and are now recognized it because of the proposed North American pact.

Others, though, questioned some of Mr. Brown's assumptions, including the idea that industry would step forward to provide services often supplied by the Government.

"If they're going to try to do this on the cheap, my vote counts and everyone else's vote counts show they come up short," said Charles Kamaski a vice president of the National Council of La Raza, a Hispanic advocacy group that supports the trade pact.

After several months of work, the Congressional Budget Office this week released a detailed analysis of the accord's prospective costs. It estimated a loss of $2 billion to $3 billion in tariff revenue over five years.

The pact would also result in extra spending on worker retraining, on agricultural programs and on transportation and environmental programs on the border, the budget office said. It provided few specific figures.

INTER-AMERICAN BANK'S OFFER

Another source of help is the Inter-American Development Bank, an institution like the World Bank, which seeks to help poor Western Hemisphere nations. It has quietly offered to create a $10 billion fund for project loans. The Federal Government would be required to contribute only $250 million of this, and the rest would be reissued through bond issues, an international financial official with a detailed knowledge of the plan said.

Representative Esteban Torres, Democrat of California, said today that he plans to introduce legislation this week to create a North American Development Bank. The bank would be set up with $1 billion in Federal money and would issue $5 billion in bonds to pay for transportation, environmental and community-development projects anywhere in North America, not just in border states.

Creation of that bank is the idea of Raul A. Hinojosa-Ojeda, an assistant professor of planning at the University of California at Los Angeles. Mr. Hinojosa-Ojeda has strong political ties in Washington and Mexico City, and this, combined with his connections with national Hispanic groups, have gained attention for his idea in the Administration and Congress.

Mr. Kamasaki said his group supported the new bank partly because its proposed charter would provide for extensive consultation with local businesses and residents.

DILUTING OPPOSITION

By making loans across the nation to communities struggling to cope with international competition, the bank could also lessen opposition to the trade agreement from members of Congress who feel that border states will be the main beneficiaries.

Representative Robert T. Matsui, a California Democrat who is organizing House support for the trade pact, said Congressional interest in the new bank was growing. But he said that a small tax on trade across the border might also be necessary.

Corporations bitterly oppose such a tax, arguing that it would undo part of the benefit of tariff reductions. Mr. Matsui said that a tax could be set as low as one-quarter of 1 percent.

Current United States tariffs on Mexican-produced goods average 4 percent, although a few items, like table glassware, face tariffs up to 30 percent.

FREE TRADE: THE COSTS

Lower tariff revenues: Estimated by the Congressional Budget Office at $2 billion to $3 billion over five years.

Retraining of workers who lose their jobs: Predicted by the Clinton Administration to exceed the $1.68 billion over five years that had been estimated by the Bush Administration.

Extra border bridges, highways and sewage treatment: Commerce Secretary Ronald H. Brown said today that it would cost $15 billion to $20 billion over the next decade.

Extra Customs Inspectors: Some in Congress want more staff members to prevent drug trafficking and other smuggling.

Extra Spending on Agricultural Programs: Price supports and export-finance programs would rise slightly, according to the Congressional Budget Office.

AND THE POTENTIAL REVENUE RESOURCES

International Border and Water Commission: This Mexican-American commission—whose limited authority along the border includes controlling the salinity of the Rio Grande, approving new bridges and maintaining boundary buoys—could issue bonds to pay for bridges.

North American Development Bank: A new institution, backed by taxpayer money from Canada, Mexico and the United States, would issue bonds to pay for projects anywhere in North America.

Inter-American Development Bank: An existing lending institution jointly controlled by Western Hemisphere governments. The bank's management has offered to create a $10 billion fund. Only $250 million in Federal money would be needed, and the rest could be borrowed using the bank's AAA credit rating.

Flat tax on cross-border trade in goods and services: Critics of the proposal by Senator Max S. Baucus and the House majority leader, Representative Richard A. Gephardt, say that it would merely replace tariffs with taxes.

[Press release from the Congressional Joint Economic Committee, Nov. 9, 1993]

JOINT ECONOMIC COMMITTEE STUDY WARNS OF $20 BILLION "NAFTA DEFICIT"—NEW ANALYSIS FINDS THAT LONG-TERM BUDGET COSTS OF FREE-TRADE AGREEMENT WILL LIKELY BE MUCH GREATER THAN PREDICTED

WASHINGTON, D.C.—Congressman Dave Obey (D-WI), Chairman of the Joint Economic Committee, released a new JEC staff study today that calculates the potential budget costs of the North American Free Trade Agreement (NAFTA). The study finds that the total amount of NAFTA-related costs that would have to be paid from the federal budget over the next decade could reach as high as $20.1 billion. Additionally, the direct costs of implementing NAFTA over the next five years could be 30 percent higher than the current estimates being used by the Administration.

The new JEC study examines two separate considerations of future NAFTA-related costs. The first is a calculation of the budget offsets that must be found in order to replace lost tariff revenues and other costs connected directly to the NAFTA implementing legislation. The second is a prediction of the total NAFTA-related costs over the next decade—including expenses that are not directly part of the implementing legislation such as further tariff losses, training and income support for dislocated workers, and environmental and infrastructure costs.

FIVE-YEAR DIFFERENCES

The Clinton Administration has estimated that the direct NAFTA implementation costs will be approximately $2.7 billion over a period of five years. But the JEC study finds that this figure is based on low tariff loss estimates and does not include the budget shortfall for the proposed U.S. contribution to the new North American Development Bank (NADBank). The Administration figure understates potential lost tariff revenues by as much as $700 million because it is not based on historical growth rates of Mexican imports to the U.S. The proposed NADBank would require U.S. contributions of $224 million over the next five years, but the current implementing legislation only includes $56 million of this total. Because the U.S. is already $819 million in arrears to international financial institutions, and that figure has more than doubled over the past fiscal year, it is difficult to see how this gap can be closed.

By combining the additional lost tariff revenues and the potential deficits in NADBank contributions, the JEC study finds that the total five-year costs connected directly to the NAFTA implementing legislation will be approximately 30 percent higher than the Administration estimate.

The JEC study also argues that the Administration allocation of $138 million, (28 million annually) for dislocated worker programs is extremely low, but this underestimate is not include in the JEC five-year calculations, because the additional costs of worker dislocation programs were not immediately required as part of the implementing legislation. By contrast, the Bush Administration originally proposed $335 million a year for NAFTA-related dislocated worker programs, more than twelve times what is now being suggested.

TEN-YEAR COST ESTIMATES

The ten-year cost estimates of the JEC study are based on three significant factors—further lost tariff revenues, additional dislocated worker program costs, and NAFTA related environmental and infrastructure expenses:

Total budget costs of NAFTA over the next decade

	Billion
Lost tariff revenues	$8.8
Dislocated worker assistance	3.9
Environmental and infrastructure gap	7.4
Total costs over 10 years:	20.1

The $8.8 billion tariff loss estimate from the JEC study is based on the rate of growth of Mexican imports over the past fifteen years projected over the next decade. Three factors drive the cost for an adequate dislocated worker program to $3.9 billion—the probability of greater job losses than expected, higher *per capita* program costs, and the cost of providing assistance to a higher percentage of affected workers than under current programs. The $7.4 billion in environmental and infrastructure costs represents a "financing gap" between available grants and loan funds and the likely costs for pollution control, border cleanup, and new roads and border crossings.

The JEC study cost predictions are conservative—estimates are made only for direct possible revenue losses or expenditures by the federal government. The total social and economic costs of NAFTA could be even higher if other factors are considered, especially the ripple effects on workers and communities indirectly affected by NAFTA and the potential downward pressure on U.S. wages.

"My purpose in releasing this analysis is not to persuade anyone on how they should vote on NAFTA. My purpose is to make sure that members of Congress have a full understanding of what we will have to pay out of the federal treasury should NAFTA be passed," Obey remarked. "No one should vote for NAFTA unless they are prepared to cough up the money necessary to make all the promises a reality," he added.

"Many economists who have endorsed NAFTA have done so with the expectation that Congress will take sufficient action to mitigate the short and long term impact of the agreement, but it's my judgement that many of the same members of Congress who will vote for NAFTA on the 17th are simply not prepared to vote to appropriate the funds that are necessary to meet NAFTA's true costs," Obey said.

THE ENVIRONMENT

[From the Washington Post, June 22, 1993]

CLOUD OVER TRADE PACT—TEXAS TOO; MEXICAN POLLUTION FUELS UNITED STATES CRITICISM

(By Tod Robberson)

A smoky gray cloud has formed on the horizon of this Rio Grande border community, and depending on which way the wind blows, it could cast a shadow over U.S.-Mexican relations at a crucial point in negotiations linked to the proposed North American Free-Trade Agreement.

The sulfury cloud comes from the smokestacks of two coal-fired electrical plants on the outskirts of Piedras Negras, and prevailing winds are carrying it straight across the border into Big Bend National Park, a wilderness area 100 miles to the northwest that is one of the most popular outdoor recreational sites in Texas.

The cloud and the smokestacks, which have virtually no anti-pollution devices and eventually could pump up to 230,000 tons of sulfur dioxide into Big Bend each year, are at the center of a controversy between Mexico and the United States over territorial rights to clean air. Sources at the U.S. Environmental Protection Agency said the problem threatens to bog down talks on an environmental side accord to the proposed free trade agreement, known as NAFTA.

President Clinton has said that without the environmental accord, as well as two other side agreements on labor issues and sudden cross-border trade surges, he will not submit NAFTA to a vote on Capitol Hill.

Critics of NAFTA have argued that Mexico-based companies already have a competitive advantage over their U.S. counterparts because of lax Mexican environmental standards, low wages and other factors that permit them to produce products much more cheaply. They have said NAFTA, which would eliminate tariffs and other trade barriers among the United States, Mexico and Canada, will encourage U.S. companies to relocate to Mexico, taking American jobs and capital with them.

Promoters of NAFTA say it will create the world's largest free-trade zone uniting more than 350 million consumers and eventually presenting dramatic opportunities for increased employment in all three countries. NAFTA promoters also point to the political capital that could accrue to the United States in Latin America with approval of the free-trade accord. In an interview earlier this year, Mexican President Carlos Salinas de Gortari called NAFTA a "historic window of opportunity" for the United States to improve the often uneven relations it has had with its neighbors to the south.

In many ways, the smokestacks at Piedras Negras are the NAFTA debate in miniature, pitting the economic goals of employment, free enterprise and increased cross-border commerce against concerns about unfair trade practices and the environment.

Environmental experts say air pollution at Big Bend would not pose a serious threat to the health of wildlife, vegetation or visitors. However, it would destroy the ambience that national parks are designed for: as a nature reserve where beautiful scenery and clean air can be enjoyed without the irritants normally associated with urban life—in this case sulfurous smoke.

If advisers to EPA Administrator Carol Browner get their way, at least one of the two border electrical stations will be closed or radically modified—at a cost of hundreds of millions of dollars—to meet U.S. environmental standards.

If Salinas gets his way, the power plants, known as Carbon I and Carbon II, will remain operative and unmodified. With much international fanfare, the Salinas administration announced in May that it would privatize Carbon II, half of which is still under construction, in an unprecedented move to open Mexico's government-owned power generators to free enterprise. Carbon I, a 1,200-megawatt station built in the mid-1980s, will remain under control of Mexico's national power utility, the Federal Electricity Commission.

If international financing can be arranged, the 1,400-megawatt Carbon II station will be sold to a private joint venture 49 percent owned by Mission Energy, a subsidiary of Southern California Edison, and 51 percent by Grupo Acerero del Norte, a big Mexican steel and mining corporation. Talks reportedly are underway to hook up Mexican border power plants to the U.S. power grid, enabling stations such as Carbon II to compete with U.S. utilities.

Nearly 10 percent of the electricity produced by Carbon II will go directly to steel mills owned by Grupo Acerero. The U.S. Department of Commerce placed sanctions against those same steel mills in January for dumping cheap steel products on the U.S. market.

The two power plants sit atop their own fuel source—a large vein of medium-sulfur, high-ash coal—that crosses under the Rio Grande and abuts the neighboring border community of Eagle Pass, Tex. If both power plants stay open, coal-mining operations here and in Eagle Pass could provide an important source of employment for decades to come. If the plants close, this already depressed region probably will sink further into poverty.

Despite the plant's potential economic infusion, specialists at EPA are warning of serious hazards posed by Carbon I and II, neither of which were built with stack scrubbers or other anti-pollution devices to control emissions of sulfur dioxide, nitrous oxide or ash, according to EPA documents obtained under the Freedom of Information Act.

Thomas Reed, Mission Energy's project director for Carbon II, said in a telephone interview that his company is not willing to spend the estimated $200 million to $300 million necessary to retrofit the plant with scrubbers and other anti-pollution devices. "Those plants were built to meet Mexican standards, and they meet those standards," he said.

Social Development Secretary Luis Donaldo Colosio, whose ministry oversees environmental protection, said in an interview last March that his country imposes standards that meet or exceed those of the United States. EPA officials, however, described Mexico's standards for coal-burning power plants as equivalent to what the United States imposed in 1970. U.S. standards have since been dramatically tightened.

Carbon II "does not meet EPA new source standards, and it will not do it without installing scrubbers," Reed acknowledged. A typical scrubber injects a watery spray containing a basic substance, such as lime that combines with the acids of sulfur dioxide to form a heavy compound. This compound, which is solid as opposed to the sulfur dioxide gas, is more easily collected before it leaves the smokestack.

Reed added that Carbon II's prospective new owners are under no obligation to meet U.S. standards—or even to supply EPA with data about the plant's design and emissions rates—because the plant is not located in U.S. territory. Aside from the standards set by the Mexican government, Reed said, the plant also must meet specifications set by the World Bank, which is considering financing the plant's privatization.

Nevertheless, Reed said his company's analysis indicates that "there will be no impact" on the environment.

But in a June 4 memorandum to EPA Administrator Browner, two assistant administrators and a regional administrator strongly disagreed with Reed's assessment.

"Despite Mission's assurances, EPA and National Park Service staff remain concerned that existing and planned units may significantly impact U.S. national park areas," administrators Alan Hecht, Michael Shapiro and Joe D. Winkle said in the memo. "Neither the existing facility nor the new units could be permitted anywhere in the U.S. because of their failure to meet EPA new source performance standards, let alone the best available control requirements mandated by the Clean Air Act."

The memo added, "Moreover, at this point we have no information indicating the facility would be barred by the Mexican government from burning even dirtier, higher sulfur coal" than what is being extracted from the Piedras Negras area.

Browner, a supporter of NAFTA who has praised Mexico's environmental cleanup efforts, has taken no position regarding Carbon II, EPA staff members said.

In other EPA internal memos, advisers to Browner appeared divided on whether to make a high-profile issue about Carbon II's problems or to be low-key for fear of impeding the progress of talks on the NAFTA environmental side accord. Asked whether the Clinton administration is concerned about repercussions that the Carbon II controversy could pose for NAFTA, and EPA staff member replied, "Absolutely, there's no question about it."

In hopes of making a more precise evaluation of Carbon II's environmental impact, EPA regional officer A. Stanley Meiburg sent a letter April 21 to Rene Altamirano, Secretary Colosio's environmental director, requesting various technical details about the power plant's design and test results on its emissions rates.

EPA staff members said that so far Altamirano and other Mexican officials have not acted on the request for reasons they could not explain. Altamirano was unavailable for comment in Mexico City.

An EPA source said it appeared that the Mexican government was withholding environmental impact data for fear it could negatively influence Mission's and Grupo Acerero's pending applications for international financing. Potential financiers include the International Finance Corp., the private arm of the World Bank; Barclays bank; Citibank, and two Mexican banks.

Susana Romero, spokeswoman for the International Finance Corp., declined to comment specifically on the Carbon II loan application but said environmental concerns always weigh heavily in World Bank loan considerations. Another World Bank source confirmed that the lack of scrubbers on Carbon II's smokestacks poses a serious impediment to financing. "No scrubber at all does not meet World Bank guidelines," the source said.

The source said the World Bank also is concerned that Carbon I and II could be closed as a result of the NAFTA environmental negotiations, which would mean that the plant's financiers could lose everything.

Reed said his company is prepared to pull out of the project altogether if the financiers or the Mexican government requires the plant to be retrofitted with scrubbers. "The economics of retrofitting are just not there," he said. Even if Mission withdraws from the privatization effort, he added, "the plant is going to run—regardless of who owns it. This is just a question of ownership."

One option, Reed explained, was a provision in the sales contract permitting the private owners to pass on the cost of retrofitting to the plant's customers. Under Mexican law, however, Carbon II would have only one customer—the government-owned electricity utility. Carbon II's owners plan to give nearly 10 percent of the electricity they produce to Grupo Acerero's steel mills under a "private service" contract unregulated by the government. Under current arrangements, Grupo Acerero would retain its source of cheap energy for steel production while the Mexican public would bear the cost of retrofitting the plant.

Meanwhile, pollution from Carbon I and II is having a negative ripple effect across the border in Texas. An EPA staff member said the federal and state governments impose "incremental" air-quality standards that must be met by all U.S. companies in Texas. Those standards are set by region, and when a region exceeds its pollution limit—regardless of whether the pollution comes from Mexico or Texas—Texas-based companies are required to reduce their own emissions to bring pollution levels down.

In the June 4 memo to EPA Administrator Browner, her senior advisers warned that Carbon I and II are already using up Texas' pollution increments. As a result, the state may have to cut back on new permits for industries and utilities hoping to open in southern Texas, while existing factories may have to reduce production to compensate for pollution produced by Mexico. "Thus, this source as presently configured can preclude industrial growth in the U.S.," the memo stated.

"This is unfair competition," said an executive with a major Texas utility. "What happens if they decide to export this electricity? There's no way we could compete."

The executive added, "We had hoped that with privatization, these environmental problems would be taken care of. But I guess now it will just be private companies invading our airspace."

[From the U.S. News & World Report, May 6, 1991]

POISONING THE BORDER

(By Michael Satchell)

With its manicured lawns and high tech ambience, the FINSA industrial park in Matamoros, across the Mexican border from Brownsville, Texas, gleams with ultramodern, American-owned manufacturing and assembly plants that turn out a variety of consumer and industrial products. Eager to cut costs, U.S. companies from Fortune 500 giants to small entrepreneurs began relocating to northern Mexico 25 years ago under a program called maquiladora—from an ancient custom of trading raw for finish goods. They have transformed once somnolent border towns like Matamoros into sprawling urban centers that annually attract thousands of job-hungry workers.

Close to 2,000 plants employing about half a million people are now strung along the 2,000 miles of border from Matamoros in the East to Tijuana in the West. Here, the industrial dynamism of the First World and the poverty of the Third dovetail in what is widely viewed as a mutually beneficial arrangement. U.S. companies enjoy cheap labor and generous tax breaks from both nations; Mexican workers get steady jobs and the chance to improve their lives. The program last year pumped $3.5 billion in foreign exchange into the Mexican economy—second only to the $9 billion from oil exports. Says Alfred Rich, president of the Western Maquila Trade Association: "This is a program in which everyone benefits."

But that portrait is incomplete. The border region is paying a growing environmental price for allowing the Mexican-based firms to operate beyond the restraints of the U.S. Environmental Protection Agency and the Occupational Safety and Health Administration. Some companies admit they have moved south to avoid expensive U.S. environmental requirements. The result: They are creating more pollution there than they would in the United States. And while Mexico enacted tough new cleanup laws in 1988, scant resources have been made available to enforce them.

As the Bush administration presses forward with plans for a free-trade pact with Mexico, critics in Congress and organized labor cite present environmental and social conditions as a reason to block the treaty. They point to a report last June by the American Medical Association, which described the region as "a virtual cesspool and breeding ground for infectious disease." The AMA concluded: "Uncontrolled air and water pollution is rapidly deteriorating and seriously affecting the health and future economic vitality on both sides of the border." Treaty opponents argue that conditions will worsen if the border is fully opened. And these growing concerns about pollution have prompted several federal agencies to consider whether U.S. Trade Representative Carla Hills should order an environmental impact statement, which could delay the pact for years.

Advocates of a free-trade agreement argue that economic development, while inevitably creating some pollution, frequently spurs prospering nations to significantly improve their environmental enforcement and to enact more stringent workplace rules. In addition, President Carlos Salinas de Gortari is more determined than any predecessor to clean up pollution, suggesting a brighter future for workers and the environment. But a U.S. News survey of current conditions reveals:

Indiscriminate dumping or long-term storage of industrial garbage and hazardous wastes is trashings the landscape and poisoning the water and soil.

A slumgullion of chemical-laced industrial waste water and raw sewage pumped into canals and rivers is causing widespread gastrointestinal illness, hepatitis and other long-term health problems—incuding a suspected increase in mortality form certain cancers.

Massive discharge of toxic fumes have occurred in chemical plants and other factories. In the Matamoros-Reynosa region alone, seven major accidents since 1986 have sent more than 350 people to hospitals and forced thousands to flee their homes.

Maquiladora employees—most of them women, who sometimes start work as young as 13 years old—are exposed to toxic substances and other workplace health hazards without being given safety instructions or basic protection like masks and gloves. There is also evidence of severe birth defects suffered by infants born to workers.

The maquiladoras—or maquilas, as they are commonly known—have sustained explosive growth of 15 to 20 percent over the past five years. As a result, tens of thousands of workers are now packed into shantytown colonias, living in hovels built form cinder blocks, tin sheets, scrap lumber, plastic, and cardboard without electricity, sewers or potable water.

Some of these conditions might be endurable if the prospect of upward economic mobility weren't so distant for most of the workers. Wages start at 82,000 pesos—$27—for a 49-hour week. The average weekly salary is about $47 in a border economy where food and other necessities often are as expensive as in the United States. The case of Yolanda Carrillo, who lives and works in the FINSA park, is typical. The 16-year-old began working at the MagneTek lighting plant at the age of 14 and earns the peso equivalent of about $46 a week wiring electrical coils. Home is a wooden shack with a dirt floor, cardboard covering the window holes and wind whistling through cracks in the walls. A colonia canal flows nearby, its milky water badly polluted by industrial wastes. "Even the goats won't drink it," says the young woman.

LITTLE MONEY

She shares the tumble-down structure with her blind, bedridden father, an older sister who also works in a maquila, four other female relatives and three sickly infants. There is no electricity, and water must be carried in plastic buckets from a standpipe three blocks away. Meals are cooked on an open fire or on a small propane burner. Despite two maquila salaries, Yolanda and her family live at little better than subsistence level. "The money," she shrugs, "isn't enough to make a change."

Questions about worker exploitation in a nation where unemployment is endemic draw ready rejoinders from maquila officials. "We're in a foreign country and it's a big mistake to impose U.S. values," says John Riley, vice president of Vertek, a Tijuana-based electronics company. Adds trade association chief Alfred Rich: "Are these people better off with me or without me? The small wage gives then the ability to enjoy a decent lifestyle. The may not be living in the lap of luxury, but they aren't starving."

Some, though, are getting sick. Interviews with dozens of employees in border communities turned up complaints of headaches, vision and respiratory problems and skin diseases caused by soldering fumes, solvents and other chemicals—particularly in the electronics-assembly industry. Some plants supply protective gloves, but few women wear them because they hamper dexterity and prevent the workers from maintaining the fast-paced production schedules. "They take advantage of us because women are more docile," says Reynosa worker Apolonia Resendiz, 39. "The men complain, so they don't get hired."

Catalina Denman, a professor at El Colegio de Sonora in Hermosillo, has studied health conditions among maquila women in Nogales since 1985. Among other problems, she finds that workers in the American-owned plants are three times as likely to give birth to infants of low weight as are other local women; half of these underweight babies are born prematurely. "We suspect toxics," Denman says. "We need to study just what the long-term effects are from being exposed to all these chemicals and fumes.

THE MALLORY CHILDREN

Dr. Isabel de la O Alonso knows all too well. Over the past eight years, she has pieced together evidence strongly suggesting an environmental tragedy that has gone largely unnoticed. In 1982, while operating the Matamoros school for special education, she began seeing retarded children with unusual physical characteristics that fell outside well-documented conditions such as Down's syndrome. The children, with degrees of retardation ranging from mild to profound, had broad noses, bushy eyebrows, thin lips, webbed and deformed hands and feet and other distinctive birth defects. A clinical history of their families revealed a single common thread: Each of their mothers worked during her pregnancy at a now defunct electrical components maquila then called Mallory Capacitors.

Dr. de la O has located 25 living Mallory children, has documented another half dozen who died shortly after birth and suspects there are several others. The mothers all told her their jobs involved washing capacitors—small devices that hold electrical charges—in a chemical mixture they knew only as *electrolito*. As they worked with the liquid it would cover their hands and arms and splash onto their faces.

Now in charge of special education for the state of Tamaulipas, Dr. de la O suspects that the women were exposed to polychlorinated biphenyls, or PBCs, widely used in the electrical components industry before they were banned by the United States in 1979. Today, the Mallory children have passed the age of puberty, and the insidious genetic defects continue. Most of the girls have not begun menstruation, and many of the boys have undescended testicles.

In the absence of tort laws or strictly enforced EPA- and OSHA-style regulations, U.S. companies in Mexico are under little more than a moral obligation to protect either their workers or the environment. Some corporations—Union Carbide for example—are lauded by activists for treating workers and the environment well. Others can't claim the same honors. And maquila owners say attempts to operate their plants up to EPA standards are sometimes stymied by the slovenly practices of workers. "There's a lot of ignorance on the shop floor and old habits die hard," says David Flowers, head of Pulse Engineering in Tijuana.

SEDUE is the acronym for the Mexican federal agency charged with enforcing the nation's environmental laws. René Altamirano, its director of pollution prevention, vows: "The border will never become a pollution haven for the United States." But despite the best of intentions, Altamirano concedes, his agency is under severe handicaps. SEDUE has multiple responsibilities nationwide, including housing and parks, but its entire annual budget is just $10 million. While the United States will spend $24.40 per capita this year on environmental protection, Mexico can afford to spend only 48 cents—a major increase from the 8 cents it spent in 1989. Altamirano's financially strapped agency, for example, has only two inspectors in each of the six border states to investigate and ferret out environmental scofflaws.

This inadequate supervision invites problems. Under a binational agreement, maquilas are required to ship their hazardous wastes back to the United States for disposal and to notify the EPA. But transportation and EPA-approved disposal of a single 55-gallon drum of hazardous waste can cost anything from $150 to $1,000. As a result, most maquila wastes are stockpiled, buried, dumped, flushed, burned or "donated" to charities for "recycling"—an environmental charade permissible under a loophole in Mexican law. In 1989, reports the EPA's Kathleen Shimmin, the agency received just 12 notifications of hazardous-waste shipments being returned to the United States across the California and Arizona borders. Last year, the total rose to 85. "That's a small drop in the bucket," Shimmin says. "Besides jawboning, we have no legal means to force these companies to comply."

Those who monitor the maquila industry believe that big corporations, with their modern plants and their keen eye on public image, are more likely than small factories to voluntarily follow EPA and SEDUE standards. Yet controversy has even tainted some of America's giants. General Motors, for example, operates 34 border plants employing 41,500 people. Spokesman John Mueller says the auto maker has factories in 35 nations and "complies with local environmental standards and cultural norms." At the FINSA industrial park in Matamoros, some 1,200 workers at GM's $80 million RIMIR plant manufacture 6,000 automobile bumpers daily. RIMIR officials say their hazardous wastes are recycled locally or repatriated to the United States, and the plant appears to be a model of industrial efficiency and environmental rectitude. "We play by the EPA and SEDUE rules, we have to keep our nose clean and we are the environmental leader of the other maquilas," says Chuck Almquist, RIMIR's managing director.

BATTLE OVER NUMBERS

Now, however, there is a dispute over the company's practices. Environmentalists claim their tests of discharges from the RIMIR plant showed much higher readings than GM's own tests. Last year, the Boston-based National Toxics Campaign Fund collected some 100 separate samples from discharge pipes at 22 U.S. plants in Mexico. Chemist Marco Kaltofen says NTCFs federally approved laboratory found that the RIMIR sample contained xylenes—common solvents that can cause lung, liver, kidney and brain damage—in a concentration of 2,800 parts per million (ppm). Kaltofen also says he measured discharges of ethyl benzene at 430 ppm, acetone at 56 ppm, methylene chloride at 41 ppm and toluene at 5.7 ppm. The EPA's cumulative permissible limit for all toxic organic chemicals discharged from industrial plants like RIMIR is 2.13 ppm, and some state standards are even lower. SEDUE's standards closely parallel the EPA's.

RIMIR officials say they are mystified by the high readings and are anxious to correct any deficiencies. Their routine tests conducted by an independent laboratory at roughly the same time as Kaltofen's last year showed xylene discharges of 0.56 ppm. Their tests for the other chemicals all showed reading of less than 1 ppm.

Pollution problems are evident elsewhere along the border. NTCF's tests at other plants found concentrations of hazardous materials in some samples that were too high to measure accurately. Water samples at 16 of the 22 sites, says the NTCF, violated Mexican and U.S. water-quality standards; some in Matamoros contained pH levels so severe they would cause acidic or caustic burns to skin.

Beyond the discharges, other practices by some U.S. firms also degrade the environment. Adjacent to the Reynosa industrial park that is home to several major corporations is a massive open dump that contains acre after acre of industrial detritus—plastic, metal, rubber, resins, paint sludge. Foul-smelling slime leaks from drums marked "Zenith Plant No. 12." Zenith Electronics Corp. spokesman John Taylor acknowledges that the company, which employs as many as 10,000 workers at its Reynosa facility, dumps its bathroom, kitchen, office and nonhazardous industrial trash here but says toxic wastes are returned to the United States. "This [site] is a SEDUE-licensed disposal facility and anything we do is in accordance with the law," Taylor says, "We are a good corporate citizen in Mexico." Both SEDUE and Reynosa municipal officials, however, say they have not authorized the area to be used as a dump.

The public-health threat from the kinds of solid wastes found at the Reynosa dump is generally confined to the local area. But polluted industrial effluent and untreated sewage from the exploding populations of the cities and colonias are migrating into the United States and creating serious water-borne health problems north of the border. In Tijuana, toxic effluent from the industrial park at Otay Mesa mixes with 12 million gallons of raw sewage discharged daily into the Tijuana River. The river then flows north before emptying into the Pacific Ocean at Imperial Beach, Calif., south of San Diego. Some 2.4 miles of shoreline are quarantined, and local officials estimate the closed beach and the area's befouled reputation cost more than $100 million a year in lost tourism and recreation opportunities.

California officials describe the New River, some 120 miles east of San Diego, as the filthiest waterway in the State—if not the entire United States. It flows north out of Mexicali, a booming maquila city, and into the Salton Sea, a large lake southeast of Palm Springs. Tests show the New River contains some 100 different industrial chemicals and 15 viruses capable of causing outbreaks of polio, dysentery, cholera, typhoid, meningitis and hepatitis.

Continuing east, the pattern is repeated. Up to 30 million gallons of untreated sewage flow out of Nogales each day and into Arizona's Santa Cruz River. An underground plume of carcinogenic solvents—including trichlorethylene—along with chromium, lead, manganese, cadmium, arsenic and mercury has badly polluted an aquifer that provides drinking water for thousands of colonia residents. The plume has migrated 10 miles beneath the border, forcing the closing of at least 12 wells on the U.S. side. In Texas, more than 100 million gallons of raw sewage laced with solvents, heavy metals and pesticides empty each day into the Rio Grande from Ciudad Juárez, Nuevo Laredo, Reynosa and other cities. Tissues of fish caught in the river show high levels of copper, selenium and mercury, and untreated human wastes turn the Rio Grande—literally—into the nation's biggest open sewer.

"This is a public-health disaster waiting to happen," says Dr. Reynaldo Godines, president of the Tri-County Medical Society in Laredo, Texas. The incidence of hepatitis between Brownsville and El Paso, he points out, is already six times the national average. In the El Paso colonia of San Elizario, 35 percent of children 8 years and under are infected with hepatitis A, and 85 to 90 percent of adults contract the disease by the age of 35. At the University of Texas Health Science Center at Houston, epidemiological studies by Dr. Irina Cech reveal significantly elevated liver and gall bladder cancer mortality rates in the 33 counties along the Rio Grande that get their drinking water from the river Dr. Cech suspects a combination of factors is responsible, including poor living conditions, high levels of fecal pollution in the water and toxic chemicals from the maquilas.

HEADING SOUTH

One fear of free-trade opponents—industries fleeing south to avoid U.S. environmental laws and the skyrocketing costs of waste disposal—has already been validated. Between 40 and 50 furniture manufacturers, unable to meet Southern California's air quality standards, have relocated in Mexico. Joseph Haring, director of the Pasadena Research Institute, monitors the trend and says furniture-industry employment in Southern California has shrunk from 85,000 workers in 1987 to 55,000 today. Over the next five years, he predicts, half of the region's 125,000 metal-finishing jobs will be lost to Mexico. "These industries can operate down there with fewer precautions and in fact, create pollution," Haring says, "Almost to a man, that's what happens." Analysts say other industries that generate large amounts of toxic garbage—metal plating, chemicals, plastics, fiberglass and electronics—are also migrating south.

What are the prospects for change? Observers like Roberto Sánchez of El Colegio de la Frontera Norte believe the Mexican government, eager to foster industrialization, will never lean hard on the plants unless forced to by massive environmental tragedy. There is some possibility, though, that the Bush administration will promise a more serious and comprehensive crackdown on polluters. Trade Representative Hills will unveil a proposal this week, designed to win the backing of Democrats for her trade talks with Mexico, that is expected to seek stronger bilateral enforcement of pollution standards and suggest that U.S. assistance might be available for environmental programs in Mexico.

The Bush administration is also being pressured by critics like the Coalition for Justice in the Maquiladoras—an umbrella lobbying group—to find ways to improve wages and conditions for the Mexican workers. And American companies are coming under increasing fire from liberal lobbying groups. For industry and the Bush administration, the challenge from opponents is clear. Find ways to clean up the *maquiladora* mess, or the prospects for a free-trade agreement will get worse.

[From the Toronto Star Newspapers, Ltd., Mar. 13, 1993]

MEXICO BEHIND THE MASK SERIES POLITICS POLLUTION INDUSTRY

(By Linda Diebel)

A bogus election in Tamaulipas state last November shows what happens to Mexicans who oppose the all-powerful governing party of President Carlos Salinas de Gortari.

There can be no doubt that it was bogus. Not necessarily for the reasons the opposition claims—that ballot boxes were stuffed, that voting lists were skewed, that the dead rose from their graves to vote for the governing party-but for the simple, irrefutable fact that most of the ballots were never counted.

Nobody disputes it; they went up in flames.

There was a riot, burning ballots were scattered all over the streets, and yet official winners were duly announced within a few days as if nothing had happened. They were all from Salinas's ruling Institutional Revolutionary Party, known by its Spanish acronym of PRI.

Federal authorities conveniently blamed the riot on the government's opponents and brought the full force of the law upon their hands. Charges were laid against 30 opposition members. And that was that.

Democracy in Mexico. Another round.

For the losers—candidates, organizers and grass-roots workers from the poor colonias (settlements)—the price was high. They've been arrested, allegedly beaten, thrown in jail and charged with everything from terrorism, arson and property damage to inciting mob violence and, in the case of a radio station owner and one of his journalists, obstructing the reporting of news.

Tamaulipas arcs along the Gulf of Mexico and the border with Texas. Mexico is virtually a one-party state in which the PRI has held power for more than 60 years.

In Tamaulipas, the story of opposition to its grip grew essentially from two things: disgust with the corruption among one-time PRI politicians like Jorge Cardenas Vasquez and worsening living conditions in the colonias, particularly in industrial border cities like Matamoros, across the Rio Grande from Brownsville, Texas.

There are reasons that political anger boiled up in Matamoros.

It's a maquiladora city, one of a string of Mexican border towns that offers cheap labor and lax environmental and working standards to an estimated 2,000 factories, mostly American, Canadian and Asian, in a largely tax-free zone.

Under the North American Free Trade Agreement (NAFTA), the maquiladora boom is expected to accelerate.

But it's a tinder box. Matamoros is a futuristic nightmare. Pollution is so bad it hurts to breathe. In the colonias, an estimated 500,000 people (some say a million now) live in a town designed for 40,000 at the most. Everything is covered with a dull, sick-brown mud—especially the children. They play near open sewers; they scavenge in garbage; they have open sores on their bodies, and big bellies bloated from malnutrition.

This is a big industrial town—supposedly the pride of the maquiladora industry—yet it has forgotten about its children. They get sick. Here, and on the Texas side of the border, for example, 64 babies have been born in the last three years with anencephaly, in which the brain stem fails to develop. Last year, one woman gave birth to an anencephalic baby that died shortly after birth; she became pregnant again, and that baby, too, was affected.

The cause is still unknown, although Brownsville environmentalist Domingo Gonzalez suspects airborne contaminants from the factories.

Matamoros is also home to the "Mallory Kids," the 54 children who were born during the 1980s with severe mental retardation, blindness and lack of muscle co-ordination. It was traced to the powerful solvents and pregnant women worked with at the Mallory radio parts plant. It has since been closed.

"We get very angry," says veteran political activist Juan Gutierrez Vasquez. "Mexico is such a rich country. Theoretically, we have everything we need. But we also have the PRI. And so you look around here in Matamoros and you see that the Mexican people have nothing at all."

Two years ago in Matamoros, a grass-roots movement began in opposition to Quimica Fluor, the chemical plant that produces highly corrosive hydrofluoric acid used in refrigeration and for refining gasoline. It can burn through skin and lead to a series of fatal diseases.

The Salinas government wants to expropriate more land around the plant—a so-called Intermediate Safeguard Zone—while residents say the plant should move.

The struggle has brought people together and led to a coalition of the left and right, the rich and poor.

For last year's state and local elections, two parties—the Party of the Democratic Revolution (PRD) on the left and the National Action Party (PAN) on the right—formed a joint coalition to fight the PRI.

Today, some of the opposition are out of prison on conditional bail and several prominent activists are seeking political asylum in the United States. Jorge Cardenas Gonzalez, the 67-year-old, right-wing, millionaire industrialist who "lost" the governor's race to the PRI, has been hounded out of politics.

"He's very depressed," says his son, Cardenas Gutierrez, who's seeking asylum in Texas. "My father has been in politics all his life. He is a fighter. But this time they would have taken away everything. They made him declare that he would retire from politics."

All face charges:

Ana Maria Guillen, from the colonias, soft-spoken, middle-aged woman whose political anger grew out of seeing her child and others have to walk a footbridge over raw sewage to get to school.

Gutierrez Vasquez, who says his ribs were broken after he was beaten by prison authorities following his arrest.

Cardenas Gutierrez, the wealthy, dapper radio station owner and son of the defeated gubernatorial candidate, who faces a possible 120 years in jail.

Rolando Martinez Calderoni, the defeated Matamoros mayoral candidate from the rightist PAN party, a successful architect and sole owner of an industrial group, who fled to the U.S. to escape jail with what he described as proof of electoral fraud and who is also seeking asylum.

Francisco Garcia, a radio journalist whose crime was to question the official election results in his commentaries on Cardenas Gutierrez's XEEW station in the days following the vote. He fled to Texas to escape jail. "You are guilty if the government says you are guilty," says Garcia. "I was telling the truth. That is all."

Three days after the election in Tamaulipas, on Nov. 11, returns were being counted in Matamoros. The problem was that electoral officials invited a handful of PRI and PRI-affiliated parties into the state electoral offices while the ballots were being counted. Representatives of both the PAN and the PRD were locked out and riot police were called in to enforce the blockade, with tear gas, truncheons and dogs.

People began to riot outside. Firebombs were thrown, the building went up in flames, ballot boxes were hurled into the street and people were left roughed up and bleeding.

Cardenas Gutierrez has hours of videotape of these events. A few critical points, quite clear in the tapes, would appear to prove that the government's charges were a fabrication:

Only three or four men—always the same ones—threw the firebombs that ignited the electoral offices. These men were unidentified and were not arrested. Yet opposition members ended up being charged with arson and the destruction of public property.

Cardenas Gutierrez, an organizer and scrutineer for his father's campaign, was trying to get into the electoral offices the day of the riot. The video shows him pushing forward in the melee and being pushed back by a man in camouflage. That appears to be the extent of his involvement.

Juan Gutierrez Vasquez was on the sidelines, or absent, for most of the rioting. But when the firetrucks finally arrived—two hours after the riots began—he is clearly seen trying to move the crowd aside to let the firetrucks pass. He is the only one doing so. Yet he is charged with arson. Unidentified men are seen trying to stop the trucks.

Guillen is charged with terrorism, destruction of property and inciting mob violence. In the very first moments of the riots, she was struck in the head and was bleeding. She reeled back dazed, and in subsequent frames, is seen holding her head and staggering. Her participation appears to have been quite limited.

"The government wants us to be afraid so that we will not participate any more," said Gutierrez Vasquez. "That would be their victory. They would have won. But we are not going to let that happen this time, no matter how difficult. We are going to keep working."

He had time to think in jail. He developed a plan for a new movement, Mexico Despierta (Mexico Awaken) to educate the population about how to vote in advance of next year's national elections.

"We Mexicans have been quiet for a long time," says Cardenas Gutierrez. "No more.

"We have been dealing with governments like this for a long time. And during that time, nobody cared. It makes me just crazy. You see what they do, what they get away with, and you just don't believe it.

"They have exploited our children, our natural resources and the futures of my sons, grandsons and great-grandsons. In 30 or 40 years, we are going to have nothing. If nothing changes, I see a very bad future. Well, I don't want that to happen."

In some ways, elections here in Tamaulipas weren't even the most violent. Last July, the PRI won in the state of Michoacan, west of Mexico City, despite allegations of widespread fraud.

According to several reports, among them the U.S.-based human rights group Americas Watch, four PRD members were gunned down in an ambush in the aftermath of the election, and five more were killed in the months that followed.

In a related case, Americas Watch reported: "On Sept. 23, 1992, Michoacan-based researcher and election observer Morelos Marx Madrigal Lachino was kidnapped in Mexico City by two armed men wearing caps like those often used by police. The kidnapping occurred while he was heading for the airport to fly to Ecuador to attend a religious conference. Madrigal was held incommunicado, beaten and interrogated for three days about his ties to the PRD and the nonpartisan Convergence of Civil Organizations for Democracy, which had co-ordinated independent election monitoring in Michoacan. He was then dumped, blindfolded, on a Mexico City street."

On Jan. 19, the Montreal-based Human Rights Social Justice Committee reported:

"The municipal elections in Michoacan this year were marked by severe violence and recurrent violations of the most basic human rights. Some of the atrocities which occurred during the months of December, 1992, and January, 1993, include the following:

The beating of Sergio Figueros Martinez in La Piedad by unknown people, which led to his death on Dec. 2, 1992.

The assassination of Noe Alejo Morano by eight members of the judicial state police on Dec. 24, 1992, in the community of Hurio, municipality of Parecho.

The assassination of Miguel Nipita Hernandez on Dec. 25 by a member of the municipal police in Charpan.

The assassination of Francisco Ayila Reyes on December 16, 1992, at 9 a.m., while on his way to work at the La Florida hacienda in Jungapeo."

Altogether, there were 47 people, all associated with the opposition, were killed.

Escalating political violence is the reason so many people are trying to flee to Canada. Ottawa lawyer and human rights activist Patti Strong testified about human rights abuses before the external affairs committee studying the NAFTA last month.

She tabled statistics from the Immigration and Refugees Board showing that, in the first nine months of 1992, 220 Mexican citizens applied for refugee status, a sharp increase over earlier years. Of those who applied, 192 succeeded in establishing a credible basis for their claims during initial hearings. Of the 79 claims for which decisions had been given by Sept. 30, 35 Mexicans were granted refugee status under the Geneva Conventions.

"We raise serious questions about the fact that the Canadian government is entering into a free trade agreement with a country which has become one of the major refugee-producing nations in this hemisphere," Strong told the committee.'

"On the subject of human rights, NAFTA is completely silent."

In Matamoros, environmentalist Gonzalez estimates it would take a minimum of $28 billion just to put in the water plants and proper sewage treatment to serve this community.

In the Colonia Popular, an open sewer runs across from the school. In the Colonia Chorizo, near the Quimica Fluor plant, people worry about poisoning. Fred Millar, director of Toxic Project for the Washington-based Friends of the Earth, has repeatedly warned of the potential for a disaster on the scale of Bhopal, India, where a poisonous gas leak killed at least 2,500 people.

There is the Finsa Industrial Park, where U.S. government testing in 1990 showed discharges of the solvent xylene, which causes brain damage, registering at 6,300 times U.S. drinking water standards.

And Chemical Row, where fumes from insecticides and herbicides hang in the air and make breathing difficult. Xylene in a drainage ditch here was measured at 53,000 times acceptable levels.

A recent study by the Centre for Frontier Projects and the Promotion of Human Rights at nearby Reynosa found that 80 per cent of all maquiladora workers are between the ages of 16 and 25. Most are female.

"Generally because of their age, they don't have labor experience and that does not give them a clear idea of their rights," said the report.

And, contrary to claims from the Canadian and Mexican governments and Canadian business groups, that the maquiladoras and the NAFTA are bringing such good times to Mexican workers, their lives aren't getting better. They're getting worse.

Between 1982 and 1991, for example, the real wages of Mexican workers, including maquiladora workers, have gone down by 65 per cent.

Maria Gabriella Violante Garcia, 19 and working since she was 15, looks wonderful in her houndstooth-check jacket and perfect makeup as she arrives for the afternoon shift at AT&T in Matamoros.

But, like most other workers, she goes home to a shack, without a toilet, without running water; there are five people in a room, all of them dependent on her for support.

Once, she dreamed of becoming a trial lawyer. She's had two jobs in just over a year. Companies like to transfer workers, without warning, just as they start to build seniority.

She makes roughly $13 a day ($1.62 an hour), part of it in scrip—the kind of money that companies used to dole out last century to cut costs and ensure that workers had nowhere to buy but the company store.

"She talks like an adult," Gonzalez says. "she has the responsibilities of an adult.

"But she is only a child. They are all children."

Maquiladora workers can organize. They organized under Agapito Gonzalez Cavazos, the legendary 77-year-old leader of the Union of Day Laborers and Industrial Workers, which represents 34,000 in Matamoros. His union is an offshot of the CTM, the main Mexican union that is controlled by the PRI.

"Because of Gonzalez's aggressive tactics, Matamoros had by 1991 become the most unionized town in the border zone," andrew Reding, a senior fellow for hemispheric affairs at new York's World Policy Institute recently told a U.S. congressional hearing on the NAFTA.

A couple of days after the union went on strike in January, 1992, "Gonzalez was arrested by federal police on an unrelated charge of income tax evasion. Though he was eventually released, the arrest served the intended purpose of curtailing the strike," Reding said.

"It was all a political show," he said in an interview. "I didn't play by the rules and that's how it works here."

In his office in the Edificio Cardenas Galvan, Gonzalez says he remains defiant. "If they pick me up again, I will go again. I am not afraid of anyone. I will go out fighting."

But the eight months of arrest last year and legal wrangling have taken their toll. His family had to work a complicated deal to get him released, and his son, union lawyer Agapito Gonzalez Benvavides, is still working out the details. The case takes their time away from union business.

On a flight out of Mexico, a Salvadoran industrialist who owns a lead foundry in Monterrey, an industrial city in the neighboring state of Nuevo Leon, explained that he is thrilled with his workers, particularly the women.

Sometimes, he said, the temperature reaches 120 degrees (Fahrenheit) but they just keep on working. They'd never do that in the States, he said.

And then, with pride, he added: "I sell sweat."

[From the New York Times, May 24, 1993]

FREE-TRADE TREATY MAY WIDEN TRAFFIC IN DRUGS, U.S. SAYS

(By Tim Weiner with Tim Golden)

WASHINGTON, May 23—Cocaine smugglers working with Colombian drug cartels are starting to set up factories, warehouses and trucking companies in Mexico to exploit the flood of cross-border commerce expected under the North American Free Trade Agreement, United States intelligence and law-enforcement officials say.

The Mexican smugglers are buying and setting up the companies "as fronts for drug trafficking," said a report written by an intelligence officer at the United States Embassy in Mexico City. The phenomenon was confirmed by a senior United States official who oversees enforcement of anti-drug laws and who spoke on condition that he not be named.

The cocaine traffickers "intend to maximize their legitimate business enterprises within the auspices of the new U.S.-Mexico free trade agreement," the report said. The report was released under the Freedom of Information Act to the National Security Archive, a private research group in Washington that seeks to declassify Government documents.

TAKING ADVANTAGE OF ADVANTAGE

The document said traffickers planned to invest in trucking and warehousing businesses in Mexico as conduits for drug shipments. They have also started to buy manufacturing and assembly plants known as maquiladoras as fronts for drug shipments, the senior United States official said.

Under a program established in 1965, the maquiladoras have special tariff exemptions, and the goods they produce move in and out of the United States with minimal inspection.

"A lot of intelligence demonstrates the drug traffickers' ties to maquiladoras," the United States official said. "They are investing in these plants for shipments to the United States ."

United States investigators said that they first noted the phenomenon 16 months ago and that the problem was growing; Mexican officials, who first heard of it six weeks ago from their United States counterparts, said they knew of only a few such cases.

The intelligence report, intended mainly as a warning, did not specify how widespread the problem was or which companies the smugglers were investing in. Law enforcement officials on both sides of the border said they did not know the scope of the threat.

"The free-trade agreement makes the United States more accessible and convenient for traffickers," said a United States official involved in fighting drug traffickers. "It gives these people better opportunities to smuggle drugs."

The trade agreement, which was signed in December by President Bush, President Carlos Salinas de Gortari and Prime Minister Brian Mulroney, awaits approval by Congress and by the legislatures of Mexico and Canada. Over the next 15 years, it would gradually eliminate tariffs on goods traded among the three nations and eventually allow Mexican truckers to drive their rigs anywhere in the United States and Canada.

A trade expert and two former United States trade negotiators said that while United States and Mexican officials had foreseen the possibility that drug traffickers would take advantage of the trade pact, the problem was not raised during the negotiations. In fact, the pact does not address law enforcement issues related to trade.

WHY IT WASN'T TALKED ABOUT

"This was in the 'too hot to handle' category," said Gary Hufbauer, a senior fellow at the Institute for International Economics and co-author of a favorable book about the trade pact. "It's a painfully obvious problem. The huge increases in traffic will provide a huge cover for drug traffickers."

The challenges facing customs inspectors are already daunting. Mexican smugglers working with the Medellín and Cali drug cartels in Colombia already ship 50 percent to 70 percent of the cocaine consumed in the United States, hauling roughly 200 tons a year over the border and pocketing billions of dollars in profit.

The maquiladoras have grown over the past decade into Mexico's most important source of foreign exchange after oil. More than 2,100 maquiladoras employ half a million workers to make components or finished products from materials that are allowed into Mexico duty-free. The products, from furniture and television sets to auto parts, are shipped back by truck or train, with duty payments only on the value added in Mexico.

A senior Mexican law enforcement official, speaking on condition that he not be named, said the United States officials' warning could "definitely" be well founded.

He said officials were investigating a report of a cocaine shipment hidden in electronics components, although he had not confirmed that any specific maquiladora was being used to smuggle drugs.

Since Mexico deregulated its trucking industry in 1989, each maquiladora has been allowed to operate its own truck fleet and set up its own trucking company. That alone might make them attractive to smugglers.

"The issue of the maquilas is a new one," the Mexican official said. "There is no hard evidence, but these guys are not stupid, and the path is very clear."

A senior Mexican customs official who, following the policy of the Finance Secretariat, also spoke on the condition that he not be named, said maquiladora commerce was being treated deferentially on both sides of the border. He said that the United States Customs Service has the right to inspect the plants and their shipments, but that in practice such checks were rare.

"I think the controls will, naturally, get looser" under the free-trade pact, the Mexican customs official said. "Control will be reduced."

Thus free-trade pact is likely to complicate life for customs supervisors like Bill Lackey in El Paso.

At Mr. Lackey's post of Friday, a line of tractor-trailers spewing diesel fumes stretched for a quarter of a mile across the Bridge of the Americas into Ciudad Juárez, Mexico, waiting for inspections by the two officials on duty.

About 1,700 trucks cross the bridge over the Rio Grande each day, almost all from maquiladoras making textiles and electronic components. Inspections last as little as five minutes.

CONFLICTING GOALS AT BORDER

"We understand they have to get in and get out," Mr. Lackey said. "That is their living. We respect each other. The people coming across understand our problems and adapt to that."

Customs officials are torn between the goals of stopping contraband and supporting commerce. Today "most trucks that go through customs go through almost unimpeded," said Mike Lane, the deputy customs commissioner at EL Paso.

But he said 300 new inspectors and new surveillance gear at the 22 customs posts between the Pacific and the Gulf of Mexico would help ferret out the smugglers.

Others familiar with the cocaine trade express doubts.

"The passage of NAFTA will clearly put additional strain on customs at the borders," said Assistant United States Attorney Glenn MacTaggart, who prosecuted members of the so-called Juárez cartel, one of the Mexican syndicates cited in the intelligence report.

THE 21-TON CACHE

The Juárez cartel imported the biggest cocaine cache ever seized in the United States, a 21-tone supply found in 1989 in a warehouse near Los Angeles.

"If NAFTA provides opportunity for legitimate businesses, it may clearly provide opportunities for illegitimate businessmen," Mr. MacTaggart said. "It's almost common sense."

Under the trade agreement, the export of Mexican products in Mexican trucks would vastly expand. Today, a tractor-trailer truck owned by a Mexican company cannot travel beyond a narrow commercial zone near the border, and trailers are transferred there to American haulers. If the pact is approved, a Mexican trucker will be able to travel to any point in California, Arizona, New Mexico and Texas by 1997, and answer in the United States and Canada by 2001.

American law-enforcement officials said they believed the cocaine belonged to a businessman who owns one of the biggest trucking companies in Mexico.

[From the Houston Chronicle, May 30, 1993]

DRUG ADDICTION IN LATIN AMERICA RUNS RAMPANT; CARTELS ABANDON TRADITIONAL STRONGHOLDS, CHANGE THEIR TACTICS

(By Carl Honore)

BUENOS AIRES, ARGENTINA.—In Latin America, drug addiction is no longer just a "gringo" problem.

From Mexico to Argentina, cocaine, heroin and other illegal drugs are making deep inroads in countries that once seemed immune.

Recent reports by the Organization of American States and the United Nations have warned that demand for drugs has outstripped every forecast.

Last month, a Gallup survey taken in Argentina put that change in context. Since 1985, the number of Argentine drug users describing cocaine as their preferred narcotic has jumped from 7 percent to 31 percent. And the proportion of 18-24 year olds who know an addict has doubled to 45 percent.

Elsewhere in Latin America, reports from Roman Catholic church groups, universities and local governments point in the same direction.

In neighboring Chile, cocaine rehabilitation centers have begun posting waiting lists. In Brazil, crack addition has reached "alarming proportions" among street children, according to a United Nations report.

In Colombia, 11 percent of working-class boys in Bogota have been hooked on cigarettes spiked with a cocaine paste known as basuko. In Peru, the local basuko market has doubled since 1988. In Venezuela, basuko use has trebled since 1989.

One study has uncovered cocaine use among 15 percent of the men in Colon, Panama. Up the coast, in Costa Rica, hospital emergency rooms are facing 10 times as many cocaine-related cases as in 1990.

And Mexico was stunned when Roman Catholic Cardinal Juan Jesus Posadas Ocampo, his driver and six other were killed during a drug-war shoot-out in the parking lot of Guadalajara's airport.

U.S. officials said Posadas, who was in a Grand Marquis, a big car commonly used by cocaine lords, likely was mistaken for a trafficker and shot dead in the confusion of the gunbattle. The Mexican government offered an unprecedented reward of $5 million for the capture of his killers.

Counselors and treatment specialists at the Youth Hope Foundation, a drug clinic tucked away on a side street in the northern suburbs of Buenos Aires, talk about the trend.

"Like everywhere else in the region, Argentina is living a cocaine boom," says Luis Poncino, a former addict who now works as a counselor at the clinic. "Coke is now public enemy No. 1."

Two years ago, the clinic dealt mostly with people suffering from alcoholism or pharmaceutical dependency. Today, the clinic's enrollment is up tenfold, mainly due to cocaine addiction.

"Reliable, overall statistics are hard to come by, but you don't need numbers to know that addiction is moving into the mainstream," says Dr. Alberto Calabrese, founder of Argentina's first drug rehabilitation clinic. "It's now a social problem that touches every class and every age group, even down to 11 year olds."

The new cocaine culture comes as no surprise. Social upheaval has created an avid market at a time when drug traffickers need new customers.

The dynamics of the drug trade have changed. Not only has demand in the United States diminished since hitting its peak in the mid-1980s, but the Bush administration's campaign to destroy Latin America drug crops and intercept drug shipments has taken a toll.

To escape attacks on their crops and laboratories, drug cartels are abandoning traditional strongholds in Peru, Colombia and Bolivia and setting up shop in neighboring countries. At the same time, tighter policing has forced suppliers to take long detours to the United States, often through countries that until recently had only read about drug addiction in the newspaper.

In Managua, Nicaragua, for instance, there were 55 deaths from drug overdose in 1992. A few years ago, there were none. Even small islands in the Caribbean are starting to report a rapid rise in drug traffic and cocaine addiction.

"One way or another, the drug machine has penetrated nearly every country in the region," says Hugo Migues, a psychologist here who has compiled narcotics surveys in several Latin American countries. "And the side effect is always the same: More people get involved and more of the product leaks out locally."

Much of that leakage is deliberate. Now that smuggling cocaine into the United States can cost twice as much as producing it in South America, drug barons are scrambling to defend their profit margins.

One way to raise cash fast is to sell some of the drug along the twisting supply routes to the United States. Paying carriers with cocaine instead of cash is another way to cut costs. It also creates a small army of local dealers.

The upshot is a massive injection of cheap cocaine. In Panama City, one gram costs $3, and a nugget of crack sells for 50 cents.

Although surveys say Buenos Aires is the ninth most expensive city in the world, cocaine costs about 80 percent less here than in the United States, authorities report.

"The drug cartels have created a local market through sale pricing," says Dr. Calabrese. "Cocaine is now a luxury good without the luxury price."

Socioeconomic unrest guarantees a stream of eager customers.

In many Latin American countries, economic reform has cost thousands of jobs and widened the gap between rich and poor.

Foreign investment is streaming in and economies are growing, but there is little trickling down to average people. As in 1980s America, the economic winners and losers are both turning to drugs, especially cocaine.

"Cocaine is now seen as a credit card, or a passport to prestige and social acceptance," says Dr. Calabrese. "To the rich it's a reward; to the poor, it's a way of escaping despair and sharing in the spirit of success."

That was how 35-year-old laborer Idelio Gauto saw it. Losing his job in the late 1980s was the first step on the slippery slope to addiction. Living hand to mouth on the streets of Buenos Aires, he turned to alcohol, marijuana and amphetamines. When the price of cocaine fell in 1988, he pounced on the drug.

After an evening of group therapy at the Youth Hope Foundation, Gauto lights a cigarette and explains the appeal.

"Everybody wants to do cocaine because it's glamorous and you feel it gives you status," he says. "For years it was only grown for the Yankees but now it's cheap enough that nearly anyone can get it, especially if they're willing to do a little trafficking on the side."

Across the continent, the numbers and testimony of people like Gauto, together with the sharp rise in drug-related violence, are waking governments from their slumber.

Tougher laws have been passed, the addiction debate is moving into the public arena and new money is earmarked for prevention, treatment and crime-fighting. Even so, much more is needed, experts say. In a recent report, the United Nations tempered its praise with warnings that the tide shows little sign of turning.

"Until we flush the cartels out of the jungle and give our peoples jobs and hope, we'll never solve the drug problem," says Calabrese. "At this rate, Latin America is on course for a worse crisis than exists in the United States."

[From the Dallas Morning News, May 29, 1993]

SALINAS URGES DRUG POLICY REVIEW AFTER PRELATE SLAIN

The brazen killing of Guadalajara's Cardinal Juan Jesus Posadas Ocampo points to the need for an urgent international review of strategies for fighting drug trafficking, Mexican President Carlos Salinas de Gortari said Friday.

Prosecutors in Guadalajara, meanwhile, said the gunmen responsible for the cardinal's murder may have escaped to Tijuana by boarding a commercial airliner minutes after the killing Monday. The Aeromexico flight, delayed on the runway by an airport official, was boarded by eight "nervous" men, including two without boarding passes, the prosecutors said.

Crew members identified one of the men as Javier Arellano Felix, who is one of four drug lords sought in connection with Cardinal Posadas' murder. The Mexican government has offered a $5 million reward for information leading to the capture of the four men.

Mr. Salinas told The Dallas Morning News that Cardinal Posadas was a personal friend who had worked with him on amending Mexico's constitution to give the Roman Catholic Church a freer role in Mexican society.

He said Mexican drug gangs make huge profits that enable them to buy the best arms and equipment, while leaving police vulnerable to corruption.

"We are outraged by what has happened. We are outraged at the presence of these drug bands in Mexico," Mr. Salinas told The Dallas Morning News. "The cost to Mexico to fight these bands in increasing in direct proportion to the profits they are making elsewhere."

"We must review very carefully how we fight narcotics trafficking, internationally," Mr. Salinas said. "We already are preparing a presentation for the United Nations for a review of strategies for fighting drug trafficking."

Friday's report by federal and Jalisco state prosecutors said the crew of Aeromexico Flight 110 said the eight men boarded the Tijuana-bound plane after the airport operations chief ordered the flight to delay its takeoff because of an emergency outside the airport.

The report did not say how the men were allowed aboard the plane or whether airport workers were under suspicion.

The Associated Press, citing the report, said a man arrested the day of the shooting, Jesus Alberto Vallardo Robles, admitted being part of the hit team. He said the gunmen were attempting to kill Joaquin "El Chapo" Guzman Loera, another Mexican drug lord, at the airport.

The prosecutors' report said Mr. Vallardo missed the escape flight in the confusion.

Mr. Vallardo, who had been drinking and was on drugs, said he worked for Arellano Felix and his brother, according to the report. It said he led police to a safe house where they discovered weapons, an armored pickup truck, and documents about Mr. Guzman and his activities.

The report said investigators discovered that the two federal judicial policemen based at the Guadalajara airport had failed to fire their weapons during the shootout.

It denied reports that any federal agents had been arrested in the case.

[From the Boston Globe, May 31, 1993]

CARDINAL'S DEATH STIRS OUTCRY AGAINST MEXICO DRUG CARTELS

(By Jordana Hart)

Five major drug cartels have operated in Mexico since the early 1980s with relatively little international attention, leaving a trail of kidnappings, torture and executions, most of which have gone unsolved and unpunished.

In this deeply Roman Catholic nation, the slaying of Cardinal Juan Jesus Posadas Ocampo, reportedly in a shootout here between warring drug traffickers a week ago today, has brought fear of narco-terrorism to a new height.

The death forced an unprecedented outcry against perceived inaction—and corruption—on the part of local officials and the federal government.

Three more people were arrested in the search for drug lords blamed for the killing, according to the Associated Press.

Two Mexican-Americans were arrested in the border city of Tijuana early Saturday in connection with the killings, the federal Attorney General's Office said in a weekend statement.

Juan Enrique Bazones Hernandez, 18, and Roman Torres Mendez, 23, were identified as gunman who participated in the May 24 shootout that killed Cardinal Posadas. The two worked for the rivals of drug lord Joaquin "El Chapo" Guzman, who police say was the intended target of the gunmen.

The arrests bring to four the number of people in custody. The fourth suspect, Jesus Alberto Vallardos, allegedly confessed that Guzman's rivals had given him $10,000 to hire 15 men to kill Guzman.

Basic questions remain unanswered. It is unknown at this point whether Cardinal Posadas, the populist archbishop of Guadalajara, was deliberately killed.

The cardinal and six others were shot to death in the parking lot of the city's airport after he arrived with his driver to pick up a papal envoy.

In several interviews last week, many in this city of 4 million people 280 miles northwest of Mexico City said the government's response has been, and continues to be, tragically inadequate.

Narco-terrorism "has become every day news for us and it does not seem to stop. The narcos have more money, more guns and more power than anyone else," said Maria Guadalupe Gonzalez Padilla, skimming the headlines of the daily El Sol newspaper at her corner kiosk. "Either the government cannot or will not stop them."

The church hierarchy, opposition leaders, the media and ordinary citizens are complaining louder than ever that Mexico's increasingly powerful drug cartels have an iron grip on some local government and security officials, leaving the defenses against cartel violence threadbare.

This month and last, two former public prosecutors from Sinaloa and Yucatan states, a local lawyer, a business leader and a number of others reportedly were executed gangland-style, with no arrests.

"Narco-traffic has penetrated so deeply here that those who are dedicated to it have not only been able to buy property, but also many consciences," a former legislator, Adalberto Rosas Lopez, said in an interview with the Mexican newsmagazine Proceso.

The drug war here is causing what many were calling the "Colombianization" of Mexico and, in particular, Guadalajara, a tourist mecca and the country's second-largest city after Mexico City.

As one tourist agent put it, this country of 85 million people and its major centers of commerce are becoming an offshoot of "Colombia and her mafia," referring to the powerful Medellin and Cali drug cartels.

The death of the country's second-most powerful Catholic prelate, and the general violence of narco-terrorism, add a jarring note to this 445-year-old Spanish colonial city of plazas and gardens. This haven of cultured, graceful civility draws visitors from everywhere, particularly the United States.

Mourners interviewed after Cardinal Posadas' funeral last Thursday voiced cynicism about promises by local officials to increase police surveillance around the city and create a new anti-narcotics agency.

Calls for the death penalty last week were seen largely as a smokescreen for governmental inaction.

The governor and chief prosecutor of the state of Jalisco, of which Guadalajara is the capital, flip-flopped on explanations about how and why the cardinal was killed.

They first said that Cardinal Posadas and the six other casualties were caught in a cross-fire of warring drug traffickers.

Then, when the medical examiner found evidence that the cardinal was shot from only 3 feet away, taking 14 bullets to the chest, officials said Cardinal Posadas was mistaken for a drug kingpin who was the intended victim that afternoon. The cardinal was 66 years old; the drug kingpin is 42.

The cardinal was wearing black clerical garb with a white priest's collar, but Leobardo Larios, the Jalisco chief prosecutor, had said "several drug traffickers are also accustomed to using suits of black clothing."

"I want to continue believing that the death of the cardinal was accidental, but it is difficult when the coroner says they killed him from one meter away, that it was not cross-fire," said Luis Reynoso, a bishop of Cuernavaca and an official of the Mexican Episcopal Conference.

The murder "sets a new height in narco-terrorism and human rights violations, and begins a new chapter in the life of the church in Latin America," said Roberto Gonzalez, the Boston auxiliary bishop who represented Cardinal Bernard F. Law at the funeral.

In interviews, many Guadalajarans blamed outsiders, particularly Colombians, for importing the destructive trade. But recent media reports and government information point to a homegrown version.

The five cartels, named after their home states—Juarez, Tijuana, Sinaloa, Jalisco (of which Guadalajara is the capital) and the Gulf—have distribution and transportation routes that crisscross the country. But they all eventually head north to the United States.

According to news reports, certain banks in Guadalajara, Hermosillo and other cities are involved in the laundering of drug money and a number of elected officials, judges and others have been charged with drug trade-linked corruption.

Guadalajara's recent drug battles stem from the rivalry between Sinaloa's vicious drug capos—Hector Salazar (El Guerro) Palma and Joaquin (El Chapo) Guzman—and the Tijuana cartel headed by the Arellano Felix brothers, nephews of the imprisoned Miguel Angel Felix Gallardo. He is considered by many to be the Mexican drug kingpin.

Last November, the Jalisco cartel sought vengeance after the Tijuana cartel stole a load of its cocaine. It massacred six people in a busy nightclub in nearby Puerto Vallarta, a tourist hotspot on the Pacific Ocean, as the cartel members tried to kill each other.

The kidnapping and torture-murder of US Drug Enforcement Administration agent Enrique Camarena in 1985 was one of the Guadalajara traffickers' most infamous acts.

Last December, the brother-in-law of a former Mexican president was convicted in Los Angeles of conspiring to kill Camarena. Others have also been convicted.

For its part, the Mexican government said it sought help from the United States in locating cartel leaders. It offered an unprecedented $5 million reward for the capture of those it holds responsible for the death of Cardinal Posadas and the six other victims.

Officials said they made numerous arrests of low-level traffickers in Tijuana late last week in connection with the gun battle.

The week before Cardinal Posadas was killed, the Pentagon released a formerly classified report stating that Mexican drug cartels, particularly those based in the border cities of Tijuana and Juarez, were preparing to buy land and build factories along the border.

The cartels were gearing up to take advantage of a more loosely guarded border under the North American Free Trade Agreement, the report says.

[From the Washington Post, May 31, 1993]

MEXICAN DRUG DEALERS CUT PERVASIVE PATH; NATION IS TOP NARCOTICS SUPPLIER TO U.S.

(By Tod Robberson)

International drug dealers, whose world of violence touched the Catholic Church last Monday with the killing of a cardinal, have within the past year turned Mexico into the number-one staging ground for multibillion-dollar trafficking operations aimed at the United States, regional drug experts say.

Using bribery, violence, threats and tremendous economic influence, Mexico's top drug cartels and their Colombian allies are penetrating this country's government and judiciary at almost every level, these experts say.

Diplomats and other observers say drug-related incidents such as last Monday's shooting death of Cardinal Juan Jesus Posadas Ocampo in the city of Guadalajara underscore the degree of lawlessness that exists in Mexico as well as the vulnerability of some of the country's institutions to exploitation by narcotics traffickers.

Mexican and U.S. drug enforcement officials say their antidrug efforts have been dwarfed by the resources available to narcotics cartels here and in Colombia, which have at their disposal tens of billions of dollars, huge weapons arsenals, sophisticated communications gear, a virtual air force of planes and executive jets and a web of connections in the Mexican government that enables them to operate with virtual impunity.

One example of the brazen attitude often exhibited by Mexican traffickers was the broad-daylight escape plan executed by gunmen immediately after Monday's drug-gang shootout a the Guadalajara airport in which Posadas was shot 14 times. The Mexican Justice Ministry said unidentified officials ordered a Tijuana-bound Aeromexico passenger jet delayed for 20 minutes during the shootout, enabling eight of the gunmen involved to board the jet and escape. At least two of the men were allowed on the plane without boarding passes, the ministry said Friday.

Even after it became apparent to investigators on the ground that some of the gunmen had escaped by airplane, Mexican officials apparently made no attempt to halt the Aeromexico jet or meet it upon arrival in Tijuana two hours later. To many Mexican observers, the failure by federal police to pursue the gunmen represented either gross incompetence or possible collusion.

The administration of President Carlos Salinas de Gortari is offering a $5 million reward for information leading to the capture of five reputed gang leaders allegedly involved in Posadas's killing, two of whom are identified as relatives of Mexico's top drug trafficker, Miguel Angel Felix Gallardo. Although Felix Gallardo is in jail awaiting sentencing for complicity in the 1985 torture-killing of U.S. drug enforcement agent Enrique "kiki" Camarena, law enforcement officials say they believe he is still in control of Mexico's biggest trafficking organization, known as the Guadalajara Cartel.

The killing of Posadas, coming on the heels of three other gangland-style shootouts elsewhere in the country in the past seven months, has prompted a debate among Mexican politicians about the "Colombianization" of Mexico—that is, the potential for drug cartels to immerse Mexico in the kind of violent anarchy that Colombia has experienced since the mid-1980s.

U.S. drug enforcement officials warn that, although some headway has been made in the war against trafficking here, the problems of drug-related violence, money-laundering and corruption remain at nightmarish proportions.

A U.S. State Department report released in April, as well as research by independent experts, provide some chilling statistics about the enormous scale of drug production and smuggling in Mexico:

The U.S. government estimates that 50 to 70 percent of all cocaine smuggled into the United States passed through Mexico. In 1988, according to drug-trafficking experts Peter Reuter and David Ronfeldt, the money earned by Mexican cocaine traffickers equaled as much as 20 percent of this country's total export income.

Although producers in Colombia, Bolivia and Peru have various routes to move cocaine northward via a complex distribution network, Mexico remains the easiest and most reliable doorway for smuggling into the United States, U.S. and Mexican law enforcement officials say.

The cartels operate an elaborate distribution network that exploits various points along the 2,000-mile U.S.-Mexico border, as well as the southern U.S. coast. Mexican officials have said the networks appear to aim mainly at the border area of Southern California and Arizona and employ as drug couriers the millions of illegal aliens who cross into the United States each year. Larger shipments come across the border in hidden compartments of vehicles, or even in their tires.

Mexico is the number-one source country for the opium gum that is refined into the heroin used in the United States, producing four to five tons of the drug annually since 1988. A Mexican law enforcement official said government seizures of heroin and raw opium are averaging only a half-ton per year—meaning that an estimated four tons still is reaching the open market.

Mexico also remains the number-one grower country of all marijuana entering the United States, with the plant cultivated throughout the country by peasant farmers as a highly profitable cash crop.

Mexicans play a crucial role in supplying the precursor chemicals used by South American producers of refined cocaine and heroin. "Most precursor and essential chemicals for heroin production are purchased in Mexico," the State Department report said. "Chemicals destined for cocaine laboratories in South America transit Mexican ports, but usually without passing Mexican Customs."

A Mexican law enforcement official described the production and trafficking operations of Mexico's biggest cartels as similar to those of a well-organized multinational corporation, but with the added advantage of low overhead and a high profit margin shared among relatively few stockholders.

To make such operations work smoothly, the official said, the cartels must maintain close ties with authorities throughout the Mexican government, judiciary and law enforcement branches.

Another senior law enforcement official identified the Mexican judiciary as highly susceptible to corruption and one of the main reasons drug traffickers behave with virtual impunity. "First of all, it is almost impossible to prove that judges are corrupt. They have ways of interpreting the law so traffickers can go free, and no one will ever know that a judge was paid off," the official explained. "Second, even if we know that a judge is corrupt, [federal police] are powerless to go after him. The judges are almost untouchable."

The State Department report was equally critical of the Mexican law enforcement system in this regard, noting that "despite efforts by President Salinas to eliminate official corruption, it is a deep-rooted and persistent threat to his antidrug program."

Another area in which the U.S. government has been highly critical of Mexico concerns "laundering," or the investment and spending of drug money so that its source is disguised. "Mexico is an increasingly important money laundering center, particularly for cash transactions by [currency-exchange houses] along the U.S. border," the State Department report said. "Mexican laws do not require banks to keep stringent records on large currency transactions or identify customers making them. There are no controls on the amount of money that can be brought into or transferred out of the country."

The U.S. government has pressed the Salinas administration to crack down on money laundering through more stringent legislation, but so far the Mexican government "has not moved in that direction," the report said.

"The Mexicans are the worst," said a U.S. drug enforcement agent. "They're moving so much drug money through Mexico that we need the [proposed North American Free-Trade Agreement] just to repatriate the funds they're taking out through drug sales."

A Mexican law enforcement official concurred, saying Mexico's major cartels are able to invest their drug profits with ease in all kinds of "clean" businesses, including restaurants, resort hotels and condominium projects. He added that the Mexican resort city of Cancun is among the most popular investment sites for cartel money laundering operations.

"It is one of our biggest problems," the official said. "Under Mexican law, profits from drug sales are not illegal. We are allowed to confiscate only property that is directly involved in an illegal activity, like a truck that is used to transport drugs. But if someone buys a house or car or hotel with drug profits, we cannot touch it."

And even some of the property that the government has confiscated has become subject to dispute. According to legal experts, some traffickers are taking advantage of a loophole in Mexican law that forbids the government to transfer title or permit third parties to use any property seized in a criminal action as long as the case is under court review.

Using this loophole, the traffickers have taken aim at a widely celebrated social welfare program designed by Salinas to reward poor peasant farmers with land confiscated by the government in drug raids. Claiming their constitutional rights were violated in the land seizures, the traffickers repeatedly have filed appeals that could tie the cases up in court for years. Ultimately, they may obtain court-sanctioned protection by federal police to kick the peasant farmers off the land, according to lawyers, Mexican law enforcement officials and members of Salinas's party.

Bribe-taking among police, judges and government officials also is hindering the administration's ability to combat drug traffickers. In the past 17 months, hundreds of Justice Ministry officials and federal judicial police have been discharged or are facing prosecution for alleged collusion with narcotics traffickers.

But with financial resources extending far beyond those of the government, traffickers are believed to have little difficulty finding willing accomplices inside the government, even at the highest levels of law enforcement.

For example, the Justice Ministry announced Friday that it had jailed a regional commander of the Federal Judicial Police, charging him with providing logistical support and protection for one of the nation's biggest opium and marijuana trafficking organizations.

[From the Washington Post, Aug. 15, 1993]

WILL NAFTA FREE THE DRUG TRADE? COCAINE BUSINESSMEN TOO WILL EXPLOIT OPEN BORDERS

(By William von Raab, F. Andy Messing Jr.)

The North American Free-Trade Agreement is now openly referred to as the "North American Drug Trade Agreement" by U.S. Customs and Drug Enforcement Agency personnel. This overt skepticism reflects discontent over the fact that national security concerns have been neglected in the NAFTA negotiations between Canada, Mexico and the United States. Two less-than-welcome imports are likely to increase under NAFTA: drug trafficking and violence.

In May, a New York Times story on NAFTA cited a U.S. government intelligence report which maintains that Mexican drug lords are buying so-called Maquiladora companies—firms that enjoy special exemptions from paying a portion of customs duties on goods they produce for shipment to the United States. The traffickers are then establishing trucking subsidiaries of the firms, ostensibly to ship the goods they produce. When NAFTA's provisions are fully implemented, the trucks operated by these firms will be able to ship goods virtually unimpeded to any point in the United States. The result is likely to be a sharp increase in the volume of drugs transported to the United States from Mexico.

As it is, a U.S. Embassy official in Mexico stated that 70 percent of the cocaine coming into this country enters via the Mexican border. Accordingly, most law-enforcement officials estimate that seized drugs represent at most, only 10 percent of the flow across these borders.

Evaluating the effectiveness of Mexico's anti-drug program is difficult. A recent congressional trip to Mexico with Reps. Dan Burton (R-Ind.) and John Duncan (R-Tenn.) left us with the impression that "soft-enforcement" measures were seeing a renewed, increasing effort. Soft enforcement is the seizure and eradication of drugs. Such efforts are easy to measure statistically and easy to implement politically.

Nothing we say or heard, however, led us to believe that Mexico had tacked "hard-enforcement," i.e. arresting significant drug figures, cracking down on money-laundering or disrupting drug enterprises. Without a real hard-enforcement anti-drug effort by the Mexicans, NAFTA will hurt.

More disturbing though, is the fact that the increased flow of drugs will probably be accompanied by a surge in uncontrolled violence. A tragic illustration was the May 25 killing of Cardinal Juan Jesus Posadas Ocampo and six other innocent bystanders. The cardinal was caught in the crossfire of two feuding drug factions in a shoot-out at Guadalajara International Airport.

Nonetheless, increased violence is not the only negative consequence of the NAFTA-drug connection. Under the best circumstances, vast differences between the ethical framework for doing business in Mexico and that in the United States create significant problems for American firms operating across the Rio Grande. For example, the tradition of paying public officials and business agents bribes (known as mordida or the bite) is common. American firms, however, risk civil and criminal penalties under U.S. law if they pay them. When the influence of narcotics traffickers is injected into this already corrupt business environment, it becomes almost impossible for U.S. firms to do business legitimately.

The epidemic of drug-induced corruption has left the Mexican judicial system in a shambles. In the words of Jorge Tello, director general of the National Center for Drug Control, the drug trade leaves "trails of corrosion" that "erode Mexico's sovereignty."

Finally, NAFTA is not essential to the reforms needed in the Mexican business system. These reforms have been implemented over the past 10 years, reform that will continue with or without NAFTA. Jaime Zabludovsky, a Mexican government official and chief NAFTA negotiator, told us that: "Trade has doubled in the last four years without NAFTA * * * Trade will keep growing without NAFTA." Accordingly, the passage of NAFTA now appears to be largely a psychological security blanket for business, an expensive ego trip for senior government officials—and surely an opportunity for drug traffickers.

In the war on drugs, reducing availability is of paramount importance. NAFTA in its present form is likely to promote a quantum increase in drug availability. To approve NAFTA, based on mostly on hypothetical, if not flawed, economic data without considering its social, political and security ramifications will be detrimental to the United States.

[From the Wall Street Journal]

MEXICO MOUNTS A MASSIVE LOBBYING CAMPAIGN TO SELL NORTH AMERICAN TRADE ACCORD IN U.S.

(By Bob Davis)

WASHINGTON.—Critics of the North American Free Trade Agreement charge that under the trade accord, Mexico will snatch U.S. jobs. But Mexico has already set off a boon in at least one U.S. industry: lobbying.

Mexico is bankrolling a nationwide campaign to sell the trade accord, and Mexico, to Americans. Crafting and carrying out the campaign is an impressive lineup of political heavyweights, including former U.S. Trade Representative William Brock; Toney Anaya and Jerry Apodaca, past governors of New Mexico; former Commerce Department trade chief Robert Herzstein; and retired Navy Secretary Edward Hidalgo.

According to Justice Department records, Mexico's government and business interests have hired no fewer than 24 lobbying, public relations and law firms to negotiate and promote the trade pact, at an annual cost of about $15 million. The campaign has been in high gear since 1991, and may run up a total tab of $45 million by the end of this year.

IMAGE PROBLEM

Charles Lewis, executive director of the Center for Public Integrity, which tracks lobbying, says the effort may be the single biggest foreign lobbying campaign ever. "With Mexico hiring a large number of former officials," he says, "it can look like they're trying to buy the treaty."

And that's the problem. Trade pact supporters are beginning to worry that the blitz could backfire by creating the impression that the trade accord is more in Mexico's interest than in the U.S.'s. For his part, Ross Perot, a tireless adversary of the accord, recently lectured a Senate committee, "Never forget the huge lobbying effort that Mexico is making."

If the foreign lobbying, rather than the merits of the trade accord, capture the limelight, "it could be a disaster," warns Harry Freeman, who lobbies on trade issues for big U.S. companies. Meanwhile, U.S. supporters of the accord, including the Clinton administration, have been less well-organized. And U.S. opponents, led by labor unions and environmental groups, are making an impact by arguing that the pact would cost U.S. jobs and undermine environmental standards.

The accord would phase out tariffs among the U.S., Canada and Mexico over 15 years. Many economists project all three countries would gain from the accord, but Mexico should gain the most because the pact guarantees continued access to the huge U.S. market and encourages investment south of the border.

THE POWER CORRIDOR

Herman von Bertrab, an urbane Mexican businessman who runs the Mexican Embassy's operations in support of the accord, arranges to work the power corridors in Washington while at the same time building a pro-accord Hispanic bloc around the country. U.S. public relations firms help to line up speaking engagements for Mexican officials throughout the U.S., the law firms analyze specifics in the trade deal and its various side agreements, and the former government officials map the larger strategy. Congressional lobbyists work Capitol Hill.

Is Mexico overdoing it? Mr. von Bertrab doesn't think so. "We gained an understanding of how this system worked," he says. "Lobbyists are a necessary evil in the U.S."

Every Monday, Mexico's five main congressional lobbying firms meet at Mr. von Bertrab's office to divvy up work. Joseph O'Neill, a former Senate aide to Treasury Secretary Lloyd Bentsen, and Gabriel Guerra-Mondragon, who was a Clinton transition official, focus on the Democrats. The firms led by former Nixon Treasury Department aide Charls Walker and former GOP Senate aide Howard Liebengood concentrate on Republicans. To bolster links to Democrats after the election, the Mexicans just hired Christopher "Kip" O'Neill, the son of former House Speaker Thomas P. "Tip" O'Neill. Another current goal is to build contacts with the 110 new House members, many of whom campaigned against the trade accord.

The lobbyists are nothing if not persistent. In the first half of last year, for example, one Mexican lobbyist, former Rep William Ratchford, conferred 15 times with John Scheibel, an aide to Rep. Sam Gejdenson, a Connecticut Democrat who heads a trade subcommittee, Justice Department records show. But Mr. Ratchford is no longer lobbying on the issue. Instead, he's taken a job in the Clinton administration as lobbyist for the General Services Administration.

Indeed, Mexico has become so taken with U.S.-style lobbying that a Mexican business alliance, called Coece, paid a former U.S. trade official, Tim Bennett, to lobby Mexico's negotiators during negotiations with the U.S. on the accord. Three years before signing up with Coece, Mr. Bennett was the U.S. trade representative's chief Mexico negotiator.

Mexico has appointed four former U.S. officials as senior advisers to work out strategy: Mr. Brock, the former U.S. trade representative who also has been a U.S. senator and chairman of the Republican National Committee; Mr. Herzstein, the Commerce trade official who is now a partner in the Mexicans' main law firm, Shearman & Sterling; Mr. Walker, the former Treasury aide; and Thomas Bell, a Senate aide to Mr. Brock who now is a senior official at Mexico's main public relations firm, Burson-Marsteller.

Mexican officials expect these wise men to tell them what to do about Mr. Perot's attacks on the accord and lobbyists. "Should we counterattack or just let it go?" frets one Mexican trade official. Keep cool, Mr. Brock counsels, "you can't respond to single individuals or single groups." Instead, he says, Mexico must show skeptical Americans it has "put its house in order" and is run by a "market-oriented, open-minded team of people."

To that end, Coece estimates it has treated 76 congressional aides to Mexican junkets to meet with government and business leaders. Other Mexican lobbyists have arranged tours for lawmakers and U.S. business officials. That's helped to erase Mexico's image as a "somnolent, slow-moving burrito-ville," says Mr. Bennett, the Coece lobbyist.

LACKLUSTER U.S. EFFORT

Compared with Mexico's lobbying drive, U.S. business efforts seem lackluster. Members of the Business Roundtable have raised about $2 million and set up a group called USA-Nafta, which claims 1,300 members, many of them small and medium-size businesses. But that number overstates the group's strength. To join USA-Nafta, companies simply fill out a form; no money or effort is required. "You can't expect a gun-blazing, 50-state effort at this point," says Sandra Masur, a trade official at Eastman Kodak Co. who heads USA-Nafta.

Democratic Sen. Bill Bradley of New Jersey, a staunch supporter of the accord, recently sent out a letter on USA-Nafta stationery asking companies to "let me know that you are willing to make the accord a high priority." If a vote on the pact were held today, he warned, "We would lose."

Meanwhile, the Mexican lobby seems pervasive. Mr. Anaya, a former New Mexico governor who's a friend of Jesse Jackson, tries to woo unionists and environmentalists. Mr. Apodaca, another former New Mexico governor, sets up seminars with Hispanic groups. Former Navy Secretary Hidalgo meets with mainstream Hispanic groups. Hispanic public relations firms in Florida, Texas and California are hired to burnish Mexico's image there. Leslie Pantin, who runs the Miami operations, says he is organizing a trip to Mexico next month for 60 Florida government and business leaders, including Gov. Lawton Chiles. Rodney Ellis, a black Texas lawmaker and former House aide, is hired to make overtures to blacks, including trips to Mexico for black leaders such as Agriculture Secretary Mike Espy.

Indeed, no opportunity for influence seems too remote for Mexico's legion of lobbyists. Kathleen Ann Griffith, a trade accord lobbyist paid to woo environmentalists, even published a pro-accord piece in the University of California's Journal of Environment and Development, with a circulation of 1,500.

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Big $$$ Lobbying in Washington—Can Mexico and Big Business USA Buy NAFTA?

(By Charles Lewis and Margaret Ebrahim)

In the summer of 1992 a Congressional aide boarded a plane at Washington's National Airport with some of her colleagues and flew down to Mexico City. Donsia Strong, a staffer with Representative John Bryant, a Texas Democrat, had been invited to take an all-expenses-paid fact-finding trip to Mexico to learn more about the North American Free Trade Agreement (NAFTA).

Her visit was arranged and paid for by a Mexican organization called the Coordinating Council for Export Business (COECE), which was created in 1990 to promote NAFTA and which works closely with the Mexican government. Strong's trip was one small part of a massive lobbying crusade waged by the Mexican government and Mexican corporation on behalf of NAFTA, which its supporters claim will create widespread prosperity and a free-trade zone linking the United States, Mexico and Canada. Opponents of the pact, including labor, consumer and environmental groups in this country and Mexico, contend that NAFTA will spur corporate flight to Mexico, hemorrhage jobs from the United States and undermine environmental, health and workplace safety regulations.

There was nothing illegal about Strong's trip—or for that matter in having a foreign business organization finance it. That's the way things are done in Washington, where lobbyists—legislative mercenaries—routinely rig debates for big-bucks clients. (Incidentially, Strong now works in Bill Clinton's White House; one of her areas of responsibility is preparing legislation to reform lobbying.) Strong was not the only U.S. government official to make a trip south of the border at Mexican expense. In the past two years, Mexican business interests have paid for so-called fact-finding trips by dozens of Congressional staff members, a handful of legislators and one governor. And this has been merely one tactic employed by Mexican corporate and government interests to influence policy-makers in Washington.

The debate over NAFTA, which will climax this fall when both the Senate and the House vote on the treaty, has yielded the most extensive—and expensive—foreign lobbying campaign on a specific issue ever seen in the capital. Since 1989 the Mexican government and business groups have spent at least $25 million to promote the development and enactment of NAFTA, hiring a phalanx of Washington law firms, lobbyists, public relations companies and consultants. That figure is conservative because it represents only the total that was reported to the Justice Department by Mexico and its hired guns.

To comprehend the magnitude of this effort, consider the costs of the three largest, most notorious foreign lobbying campaigns waged in Washington in the past quarter-century. In 1990 Hill and Knowlton was paid $10 million by the Kuwaiti government to persuade the American people of the need for U.S. military intervention in the Persian Gulf. In 1987, after the media disclosed that a Japanese company had illegally exported high-tech equipment to the Soviet Union, Japanese corporate interests initiated a major lobbying drive to prevent legislative retaliation. Up to $9 million was lavished on that campaign. And in the late 1970s, in the scandal that became known as "Koreagate," South Korean rice broker Tongsun Park acknowledged that he had distributed gifts and cash to thirty-one members of Congress from 1967 to 1977. Three Congressmen were officially reprimanded by the House of Representatives, and one was convicted of conspiracy to defraud the government. The value of Park's payments and gifts totaled roughly $850,000. Mexico's pro-NAFTA expenditures have already exceeded the combined resources of these three lobbying campaigns.

Hermann von Bertrab, a Mexican businessman who was enlisted by President Carlos Salinas de Gortari to be director of Mexico's Washington NAFTA office, acknowledges that the Mexican government alone will spend roughly $10 million on NAFTA-related activities in 1993 and that it spent about $18 million for 1991 and 1992. But he insists that only a small proportion of this money goes to lobbying. This is a common refrain of lobbyists when they describe their Washington operations. The trick is to define lobbying rather narrowly, excluding public relations, propaganda (called "education"), political intelligence and strategy development—all key aspects of lobbying.

The Mexican government and Mexican corporate interests have used much of those millions to purchase the expensive services of a potpourri of inside-the-Beltway specialists. Former U.S. government officials, who know how to massage the Washington political system, have been snatched up and placed on Mexico's payrolls. Indeed, since 1989 Mexican interests have hired thirty-three former U.S. officials who worked for a variety of government entities: Congress, the State Department, the Treasury Department, the Office of the U.S. Trade Representative and others. Their mission is to influence the political process for what is arguably the most significant trade issue to have faced the American people and their elected representatives in this century.

Why is the passage of NAFTA so important to Mexico? Because its government and corporations expect that a freshet of desperately needed U.S. investment and consumer dollars will flow into their country once the trade barriers between the two nations fall. A few million dollars is a small price to pay for what they hope will be a multibillion-dollar bonanza.

U.S. corporations that favor NAFTA—mainly companies eager to gain access to the labor and consumer markets south of the border—have mounted their own lobbying effort. Although there are practically no disclosure records now available to document expenditures, U.S. business interests are clearly spending millions of dollars. Large companies like Eastman Kodak, American Express and General Electric are members of an umbrella organization called USA*NAFTA that is waging a national campaign, and have hired the Wexler Group, the firm headed by superlobbyist Annie Wexler, the former Carter White House aide. The U.S. corporate effort works in close coordination with the Mexican government; one top Mexican official in Washington conducts liaison with the U.S. companies campaigning for NAFTA. Canada is more than adequately represented in Washington, but it has not been particularly aggressive in its lobbying for NAFTA. Canada, of course, already has a free trade agreement with the United States.

All this intensive lobbying by U.S. and Mexican interests is dedicated to drowning out any contrary or questioning voices in the United States. It is focused like a laser on the Washington power elite and aims to see that a treaty is approved that favors corporate interests.

"This is a David and Goliath fight," notes Pat Choate, a leading expert on foreign lobbying in Washington. "One side has money and the other doesn't. What you've got here is a lobbying blitzkrieg [by Mexico and by U.S. and Mexican corporations]. They are able to bring to bear the presence of the President of Mexico, the Cabinet of Mexico, the Ambassador from Mexico. They have the major think tanks, the Council on Foreign Relations, the International Institute of Economics, the Council of the Americas, full access to the editorial boards and pages of the major and regional newspapers in this country. They are utilizing the full lobbying resources of the Business Roundtable, the National Association of Manufacturers, the Chamber of Commerce and the 100 largest industrial corporations in the United States. In addition to that, they've hired as lobbyists on retainer every leading trade expert in this country. Finally, anyone who opposes NAFTA is described as a racist, a xenophobe or someone who is ignorant of economics."

THE MEXICANS ARE COMING

When Mexican President Salinas took office in December 1988, he was not enthusiastic about knocking down trade walls between his country and the economic behemoth to the north. But the views of this Harvard-educated economist changed. In early 1990, Salinas and several top ministers visited Europe and discovered that the Western Europeans were primarily interested in investment, trade and aid opportunities in the Eastern European nations breaking free of the Soviet Union. Salinas concluded that the world was dividing into trade blocs. He did not want to see Mexico left out. The only choice, he decided, was fuller economic integration with the United States.

While Salinas was contemplating the economic future of his country, officials in George Bush's State Department and National Security Council were kicking about various trade proposals, including extending the U.S.-Canada Free Trade Agreement, signed in 1988, into a wider pact that would include Mexico. Eventually, Salinas let Washington know he was thinking along the same lines. In June 1991, the three nations opened talks on a trilateral agreement. A year and a half later, the pact—drawn up under conditions of unprecedented secrecy—was signed by Salinas, George Bush and Canadian Prime Minister Brian Mulroney at a ceremony in Washington.

Once Mexico was committed to a treaty, it wasted little time in lining up influential Americans who could grease the wheels of Washington. In September 1990, Mark Anderson, the A.F.L.–C.I.O.'s veteran international trade analyst, received a telephone call at his Washington office from a Mexican Embassy official, asking whether he was willing to meet with Herminio Blanco, who would soon become Mexico's chief trade negotiator on NAFTA. Anderson agreed, and over breakfast at the Ritz Carlton Hotel, Blanco spoke of Mexico's keen interest in NAFTA, and the Mexican government's desire to make NAFTA a reality in Washington. Blanco told Anderson he was "in town lobbyist shopping." By any standard, the shopping became a spree.

In 1990 and early 1991, Mexico was confronted by a daunting task: figuring out where to apply influence so that the U.S. political system would work in its favor. According to von Bertrab, Mexico's NAFTA liaison in Washington, at the start of its pro-NAFTA drive Mexican officials realized they had very little experience and knowledge about the inner workings of the United States. "We really did not have a clue," he says. But clues could be bought very easily. There was another problem, though: the general perception of Mexico in the United States. The Salinas government hoped to change the view of Mexico as a low-wage, socially troubled, environmentally polluted country that exports illegal aliens to the United States.

The Mexican government, through it Ministry of Commerce and Industrial Development (SECOFI), opened a Washington office separate from its embassy and hired a number of well-connected Washington law, P.R. and lobbying firms. Their overlapping missions were influencing legislators, recasting Mexico's public image in the United States, establishing "grass roots" support for NAFTA in the fifty states, gauging actual U.S. negotiating strategy. In a short period of time, Mexico was wired.

Von Bertrab speaks almost daily with Jorge Montano, Mexico's Ambassador to the United States, and Jaime Serra Puche, who is in charge of SECOFI in Mexico. On most Fridays, von Bertrab meets with SECOFI's chief lobbyists working Capitol Hill. A larger group of consultants and analysts working for Mexico, NAFTA "allies," also meets at his office about once a week.

Von Bertrab also has his own intelligence-gathering system. Every week Stephen Lande, a former Assistant U.S. Trade Representative who now works for the consulting firm Manchester Trade, sends von Bertrab papers on specific NAFTA trade issues and strategy. One of von Bertrab's key aides maintains regular contact with Gail Harrison of the Wexler Group, which effectively runs USA*NAFTA, the umbrella organization of U.S. corporations supporting the agreement. Another source is Sandra Masur, director of international trade policy for Eastman Kodak, which has a substantial presence in Mexico. Kodak is deeply involved in the so-called grass-roots effort to promote NAFTA.

Mexico's NAFTA office retained the P.R. firm Burson-Marsteller—which has handled such clients as Shell Chemical Company, Saudi Basic Industries, Salomon Brothers and Bethlehem Steel—to sell the image of a "new Mexico." The flacks at Burson-Marsteller hope to promote Mexico as a modern, industrializing nation with a technically capable work force. As part of the general outreach strategy, SECOFI has hired at least three prominent Hispanic Americans: former State Department Chief of Protocol Abelardo Valdez, former New Mexico governor Toney Anaya and former Navy Secretary Edward Hidalgo. Von Bertrab's operation even boasts a staff member who handles liaison with U.S. environmental groups and high-tech environmental companies.

Burson-Marsteller, which has been paid almost $5.4 million in fees and expenses since October 1990 by SECOFI, took several other steps to refurbish its client's image. For example, the firm produced thousands of rosy brochures titled "Partners in Trade" and "Protecting the Environment." These brochures were distributed to government agencies, U.S. legislators and numerous pro-NAFTA organizations, including the Heritage Foundation, the U.S. Council of the Mexico-U.S. Business Committee, the U.S. Chamber of Commerce and many others. The Office of the President of Mexico—as opposed to SECOFI—paid Burson over $1.5 million in fees and expenses to create television and newspapers ads that promote Mexico's supposedly tough efforts to combat drug trafficking. For its account on NAFTA, Burson-Marsteller established a speakers bureau, monitored media coverage of the trade issue and produce speeches. Burson has also funneled monthly retainer fees to two lobbying firms working for SECOFI: the Brock Group ($300,000) and Gold and Liebengood ($27,000).

ROUND AND ROUND THE REVOLVING DOOR

Playing first violin in Maestro von Bertrab's Washington orchestra is Robert Herzstein, a former U.S. Under Secretary of Commerce in the Carter Administration. Herzstein, a lawyer with the firm of Shearman & Sterling, is the top American adviser to the NAFTA lobbying campaign of the Mexican government. Shearman is the only firm retained by Mexico to do both legal work and lobbying. During the NAFTA negotiations, Herzstein was the lead U.S. counsel to the Mexican negotiating team. Herzstein's colleagues call him "Mr. Mexico."

Herzstein is a poster boy for the Washington revolving door between government and the private sector. After working on trade policy for the government in the late 1970s, in the 1980s he and his firm made hundreds of thousands of dollars as Canada's lead counsel during negotiations of the U.S.-Canada Free Trade Agreement. Since 1991 SECOFI has paid more than $5 million in fees and expenses to Shearman & Sterling for help in negotiating and passing NAFTA, according to documents the firm has filed with the Justice Department under the Foreign Agent Registration Act. What Justice records do not reveal is that Shearman & Sterling has actively tracked members of Congress and their views on NAFTA, targeting those who are on the fence and then lobbying them. For example, this past February 24, one of the firm's representatives attended a private breakfast held by the U.S. Council of the Mexico-U.S. Business Committee at the National Democratic Club to persuade new legislators to support the treaty. It has contacted governors, state and city officials, and state economic development and commerce departments to determine local sentiment toward NAFTA. The firm forwards this intelligence to Mexico's NAFTA office in Washington. Then von Bertrab dispatches one or more of his many lobbyists to work on the appropriate state or local official.

Assisting Herzstein at Shearman & Sterling are longtime lobbyist Anita Epstein and political analyst David Parkhurst. Ironically, Parkhurst served on the presidential campaign of Ross Perot—a prominent opponent of NAFTA—and he was responsible for research and Perot position papers on foreign lobbying reform.

Mexico is not counting solely on Herzstein's influence-peddling acumen. In its pockets are many other high-powered revolving-door lobbyists, including Bill Brock, whom some people in Washington tout as the "father" of NAFTA. In 1982, as U.S. Trade Representative, Brock initiated official talks with Mexico on a bilateral free-trade agreement. Nine years later, as a private consultant on Mexico's payroll, he was helping the Bush Administration enact NAFTA.

His counseling firm, The Brock Group, is a good buy for Mexico. Since 1991, it has been assisting Burson-Marsteller and providing Mexico's NAFTA office what it calls (in documents filed with the Justice Department) "strategic counseling on trade, labor and political policy issues." The Brock Group has been contacting key players on the Hill, in the White House and at federal agencies. Brock personally discussed NAFTA with Senate minority leader Bob Dole and former Representative Donald Pease. The Brock Group is loaded with other former officials with trade experience who are working on the Mexican account: James Frierson, former chief of staff for U.S. Trade Representative Clayton Yeutter, and Otto Reich, former Ambassador to Venezuela. Reich, for one, knows how to skew a public debate. In the mid-1980s, he headed the State Department's Latin American Office of Public Diplomacy, which disseminated disinformation and propaganda to discredit the Sandinistas of Nicaragua and U.S. journalists reporting on the contra war.

Brock is one of those Washington eminences whose statements on trade matters receive serious consideration from lawmakers and opinion leaders. But not everyone he speaks to realizes he now has a personal and professional interest in NAFTA. In April 1991 Brock testified before the Senate Finance Committee. He was billed as a former U.S. Trade Representative, a specialist in the often arcane world of trade policy, someone to be heeded. He spoke favorably of a U.S.-Mexican free trade agreement. Mexican officials present must have been pleased to have such a high-profile U.S. trade expert make their case. He earned his paycheck that day. But not everyone in the committee room knew Brock was a hired gun. Brock neglected to mention he was receiving a large sum of money from Burson-Marsteller and the Mexican government at the time.

When asked later about his failure to disclose his financial link to Mexico, Brock maintained that since he had registered as a foreign agent for Mexico, his affiliation was no secret. But Congressional committee staff do not routinely trudge over to the Justice Department to check on the foreign ties of prospective witnesses. The conflicts of interest of witnesses are often not known to the committees that receive their testimony. In this case, nothing in the public record of the hearing revealed that Brock had financial loyalty to Mexico.

THE STROKING OF CONGRESS

When 122 new members of Congress were elected last November, Mexico's NAFTA team sprang into action—every new legislator was specifically targeted to be contacted by a lobbying firm retained by Mexico. One of these, Walker/Free Associates, took on the Midwesterners. Another, Public Strategies, was assigned to hammer the California and Texas members; Gold and Liebengood, Inc. was assigned the Senate Republicans and TKC International drew the new Hispanic members. These firms are considered to be among the most effective in the business. Charls Walker/Free Associates, Under Secretary of the Treasury and Deputy Secretary of the Treasury in the Nixon Administration, is one of the most renowned lobbyists in Washington. (His other clients have included Anheuser-Busch, AT&T, CBS Records, Columbia Pictures, Mitsubishi and CSX Corporation.) His associate Phil Potter is also a former Treasury Department official. Walker/Free Associates is handling much of the day-to-day schmoozing on the Hill, monitoring and lobbying new members. It has contacted more than 300 government officials over a two-year period, according to Justice Department records. Walker and his colleagues have contacted staff members of the Senate Finance Committee seventeen times and the House Ways and Means Committee eleven times.

Public Strategies is run by Joe O'Neill, once the top aide to Treasury Secretary Lloyd Bentsen when he was in the Senate. From June 1991 to October 1992, O'Neill's small firm was paid $455,771. For all that money, O'Neill visited a number of legislators to sell them on the wonders of NAFTA. Making the most of his old Bentsen ties, he contacted old friends in the former Senator's office sixteen times and contacted the Senate Finance Committee (on which Bentsen served) twenty-three times. He and his firm pitched NAFTA to Senators Brock Adams and Chuck Robb and Representatives Howard Berman, Bob Matsui, Richard Gephardt and Ron Wyden, among others.

SECOFI paid lobbyists Gold and Liebengood $523,000 in fees from June 1991 to December 1992. Howard Liebengood is a former Senate sergeant-at-arms. Many of his associates working the NAFTA beat are former government officials who have served as staff members in the House, the Senate and the Department of Health and Human Services. Gold and Liebengood contacted members of Congress and their staff nearly 500 times in a year and a half. Mary Latimer, a staffer formerly with Donald Pease and currently with the House Ways and Means Committee, was targeted fifteen times. Representative Jim Kolbe and his staff were contacted twenty-four times. According to Justice Department documents, key Senate Finance and Commerce Committee staff members were plied with "Christmas candy" from the government of Mexico, via Gold and Liebengood.

What was the need for such an army of lobbyists? For one thing, there is strength in numbers: The more lobbyists you can mobilize, the more officials you can see. And each lobbyist has—or likes to boast he or she has—special contacts with certain members of Congress or executive branch officials. Finally, that's the way things are done in this town. Von Bertrab has a simple explanation for Mexico's saturation strategy: "When in Rome, do as the Romans do."

THE SELLING OF THE PRESIDENT-ELECT

At the start of its pro-NAFTA drive, Mexico was fortunate not to have to worry about the White House. Bush was a solid friend of NAFTA. The punditrocracy pronounced him a sure two-termer. But then Bush's hold on the presidency began to weaken. And Mexico was not about to be caught flat-footed.

As Clinton's political fortunes ascended, pro- and anti-NAFTA forces launched intense efforts to win him over: Labor leaders met with Clinton and raised their objections to the treaty; unionists pressed anti-NAFTA position papers on his campaign aides. But they were outgunned by the Mexicans—who were egged on by U.S. lawmakers.

According to von Bertrab, Democratic members of Congress backing NAFTA urged Mexican government officials "to start having some connections with the [Democratic] party and the [Clinton] campaign." Von Bertrab admits he heeded the advice, but he will not say who in the campaign was approached by Mexican government reps. They had a wealth of choices. Several Clinton advisers were close to Mexican business interests or fans of NAFTA. (Some Clintonites were registered foreign agents.) One top adviser was Robert Rubin, who was at the time co-chairman of Goldman, Sachs and Company, the Wall Street investment banking firm. Rubin personally handled several of Goldman, Sachs' most important clients, including the government of Mexico. He would be named by Clinton to chair the National Economic Council. (He has since recused himself from matters involving Mexico.)

During the primaries, candidate Clinton hedged on the North American Free Trade Agreement, but he certainly was no critic. In the summer and early fall, after Ross Perot had infused the campaign with loosely populist soundbites about foreign lobbyists, job losses and cheap overseas labor markets, Clinton turned up the flame of his own rhetoric. Not only was he going to end "politics as usual" in Washington, Clinton would not back NAFTA unless certain concerns about U.S. jobs and the environment were met.

Around this time, Mexico was getting closer and closer to the next President of the United States. In September, National Journal reported that the Mexican government had retained O'Melveny and Myers, the law firm of future Secretary of State Warren Christopher, to advise Mexico on technical issues in the NAFTA negotiations, such as antidumping laws and countervailing duties. O'Melveny and Myers did not disclose these activities to the Justice Department.

That same month in Little Rock, Bill Clinton received a pro-NAFTA research paper written by two of his longtime friends, Paula Stern and her husband, Paul London. Stern had served on the International Trade Commission in the mid-1980s. She then became an economic consultant to several clients and lobbied her old agency on behalf of Japanese corporations who wanted to bring high-definition television technology to the potentially lucrative U.S. market. Stern had the embarrassing misfortune of seeing her labors exposed on an Emmy award-winning episode of Frontline. London, who has represented several overseas clients, including the Japan Society of Industrial Machinery Manufacturers, is currently in line to receive a top Clinton Commerce Department appointment.

These two F.O.B.s had been retained by the U.S. Council of the Mexico-U.S. Business Committee—pro NAFTA moneyed interests, many of which have operations in Mexico. Not surprisingly, the Stern Group's paper, titled "Investment, Trade and the U.S. Gains in the NAFTA," concluded that the treaty would have positive effects on the U.S. economy. Stern and London optimistically predicted that NAFTA would lead to the creation of 200,000 new U.S. jobs. (A number of economic studies have been published, forecasting everything from employment nirvana for U.S. workers, with thousands of new jobs created, to sheer hell, with millions of jobs lost.) Shortly after Clinton received this report, paid for by pro-NAFTA forces, he announced on October 4 his tentative support of the treaty. While he had some concerns about labor and environmental issues, ultimately the next President would help make NAFTA a reality. The public commitment was made.

Following Clinton's election, the Mexican government made its first direct approach. In November, Mexican President Salina's Chief of Staff, José Córdoba-Montoya, met in Washington with Clinton transition officials Samuel Berger and Barry Carter. Córdoba-Montoya pressed them to support President Bush's signing of NAFTA, which he did on December 17. Córdoba-Montoya also urged that Clinton commit himself to securing Congress's approval before this summer's recess. On January 9 President Salinas and Clinton met in Texas. The Mexican leader was the only head of state the President-elect met with before moving into the White House.

But that wasn't Mexico's only access to the Clinton government-in-waiting. It must have been reassuring to Mexican officials that several of the country's paid lobbyists served directly on the Clinton transition team. One of them was Gabriel Guerra-

Mondragon, a former special assistant to the U.S. Ambassador to Mexico in the 1980s and now president of two Washington-based consulting firms that have received a lot of money from Mexico. In the critical period of October-December 1992, Guerra & Associates received $81,000 from SECOFI to "make contact and meet with United States legislators and other public officials." At the same time, Guerra-Mondragon was a Clinton transition adviser on national security issues. In addition, his other firm, TKC International, has received $388,376 from SECOFI since August 1991 to lobby members of Congress, as mentioned earlier.

At Treasury, Secretary-designate Lloyd Bentsen brought in his former aide Joe O'Neill, head of the consulting firm Public Strategies, which was retained by Mexico, to assist in the transition. O'Neill interviewed prospective political appointees and helped Bentsen establish his Treasury operations.

After the inauguration, Charlene Barshefsky was nominated to be Deputy U.S. Trade Representative. She has been registered as a foreign agent for firms in Japan, Canada and Mexico. According to Justice Department records, she or her firm represented a broad coalition of Mexican companies pushing for NAFTA. When asked if Barshefsky's background posed any problem, a spokesperson for the office of the U.S. Trade Representative told The Wall Street Journal, "I believe it is a distinct advantage [to have] represented both domestic and foreign clients. That kind of well-rounded representation gives you insight." And Clinton nominated Daniel Tarullo, of Shearman & Sterling, as Assistant Secretary of State for Economic and Business Affairs. Tarullo will oversee the department's trade office. He reportedly worked for Mexico in its NAFTA trade negotiations with the United States.

FLY THE FRIENDLY SKIES

For the past two years, Mexican business interests, working in tandem with their government, have waged an elaborate campaign to "educate" U.S. government officials about the benefits of the proposed North American Free Trade Agreement. Between April 1991 and February 1993, the deep-pockets Mexican group COECE took fifty Congressional staffers—including Donsia Strong—on nine trips to Mexico. Although the Constitution prohibits members of Congress and their employees from receiving "any present * * * of any kind" from a foreign government without the consent of Congress, such trips apparently do not violate this provision because COECE is ostensibly a nongovernmental organization. However, it does have close ties to the Mexican government and advised it during the NAFTA negotiations. And its executive director, Guillermo Guemez, was formerly the executive vice president of Banco Nacional de Mexico, which until August 1991 was owned by the Mexican government.

So far the House members, the governor and nearly all of the Congressional staffers who have gone to Mexico have not publicly disclosed these activities. (Either they do not have to, or the deadline for disclosure has not yet passed—and in some cases, won't pass until after Congress has voted on the treaty.) In the Senate, staffers must receive authorization from the Ethics Committee before accepting foreign travel; their names are then published in the Congressional Record. So far, fourteen Senate staff aides have disclosed their participation in the trips.

Queries to roughly 200 Congressional aides reveal that forty-eight staff members went to Mexico on COECE's dime. Two of the most powerful committees in the House of Representatives were targeted by COECE. Bruce Wilson and Mary Latimer of the House Ways and Means Subcommittee on Trade journeyed to Mexico. So did Janet Potts, a staffer for John Dingell's House Energy and Commerce Committee.

To beef up its lobbying efforts in Congress, the Mexican business group enlisted the services of Ruth Kurtz, a well-connected former Senate aide and trade expert. Kurtz, hired for $80,000 a year, was a good catch. From 1970 to 1980, she was an international economist and U.S. trade negotiator at the Commerce Department. From 1980 to 1983 she served as a trade adviser to Paula Stern at the International Trade Commission. Then she joined the staff of Republican Senator William Roth, where she was a major author of the 1988 Omnibus Trade Act. Kurtz quit the Senate in 1989 and subsequently signed on with COECE.

Kurtz, who refused to be interviewed, earns her keep by schmoozing with former fellow trade specialists on Capitol Hill, the men and women advising legislators on NAFTA. From April 1991 through October 1992, according to Justice Department records, Kurtz or her principals discussed NAFTA in meetings with legislators on seventeen different occasions, There were two meetings with Senate minority leader Bob Dole. Others on the hit list include then-Senate Finance Committee chairman Lloyd Bentsen and Representatives Kika de la Garza, Bill Richardson and Robert Torricelli, But the real work on Capitol Hill occurs at the staff level, so the Mexican business group and Kurtz presented the merits of NAFTA to various House and Senate staffers on 220 occasions—in telephone conversations, at office meetings, over lunch. They held ten meetings with governors during this period, including two sessions with California Governor Pete Wilson. And they met with officials of the U.S. Trade Representative's office twenty-one times, including twice with Trade Rep Carla Hills. Kurtz's former employers at the Commerce Department heard her pitch on NAFTA nineteen times, including at one meeting with then-Secretary Robert Mosbacher. Nine conversations were held at the International Trade Commission. And the staff of Senator Roth, ranking minority member of the powerful Finance Committee, which has principal jurisdiction over trade matters such as NAFTA, was visited by alumna Kurtz twenty-two times.

Kurtz wined and dined some staffers at Washington's most popular restaurants: the Ritz Carlton, Sequoia, La Colline, Sam & Harry's, Joe & Mo's, Old Ebbitt Grill, the Monocle. Kurtz and her Mexican clients also played Santa Claus. According to Justice Department documents, they bought a "Christmas Gift for [a] Member of Congress" at Saks Fifth Avenue. Another Christmas gift was purchased for a Congressional staffer from Victoria's Secret, the lingerie chain. The recipients of the gifts were not named. (Congress is now considering a bill that will force lobbyists to disclose the recipients of such gifts.) Kurtz also worked the media, spinning positive stories about Mexico and with NAFTA.

But the centerpiece of Kurtz's campaign to win friends and influence Capitol Hill people was the trips to Mexico. Practically all of the trips were led and organized by Kurtz. Both Democrats and Republicans were invited on these visits. Some of the staffers work for legislators who have already decided their positions on NAFTA, and others work for legislators who are on the fence. One delegation included staffers for lawmakers concerned with Mexico's environmental record. Another brought together staff aides to members who car about Mexico's human rights record. And one tour consisted of staffers from offices that were openly anti-NAFTA.

These trips weren't junkets. Meetings were scheduled back to back. The agenda was loaded, and the visitors were exposed only to the business side of the issue. Very few meetings were held with Mexican anti-NAFTA groups, and these had to be organized independently by the staff members.

Many staffers say the experience made them better understand the importance of NAFTA to Mexico. Some left feeling unsure about NAFTA's environmental and job repercussions in the United States. But several staff aides note that they came home believing that if NAFTA is good for Mexico, it will be good for the United States. Philip Boyle, who was a legislative assistant for former Representative Frank Horton, says that Horton was undecided about NAFTA until Boyle participated in a 1991 COECE trip. Horton was among those who voted for giving President Bush fast-track authority, which allowed Bush to negotiate NAFTA without too much interference from Congress. Some staff people on the Hill report that the trips reinforced their already positive attitudes toward NAFTA. And clearly, the information they brought back made its way to the legislators. For example, Bruce Wilson, staff director of the House Ways and Means Committee's Subcommittee on Trade, says "staff findings" from these trips were shared with Dan Rostenkowski, chairman of the committee, and were made available to other committee members.

After the treaty was signed by Salinas, Bush and Canadian Prime Minister Brian Mulroney in December 1992, COECE shut down its Washington office. According to von Bertrab of Mexico's NAFTA office, the business group's primary purpose was to serve as a liaison between Mexican corporate interests and Mexican government negotiators. After the pact was signed, there was less need for the business-government interaction. But COECE still keeps Kurtz on its payroll—presumably to lobby members for the final ratification of NAFTA. While nations trying to work their way around Washington have occasionally operated through government-connected trade associations, Mexico has taken its persuasion efforts a step further. The trade analysts to the most powerful, relevant members of Congress were systematically led by the nose to Mexico to hear its carefully scripted story.

BIG BUSINESS WEIGHS IN BIG

Corporate Mexico and the Salinas government are not alone in the push for NAFTA. Hundreds of major U.S. companies, eyeing cheap labor, weak regulations and new consumers in Mexico, are crusading for the agreement. Flimsy disclosure laws make it difficult to calculate how much U.S. business interests are spending on pro-NAFTA activities. But the total runs into the millions of dollars.

The most prominent organizations pushing NAFTA are USA*NAFTA, the U.S. Council of the Mexico-U.S. Business Committee, Trade Partnership, the U.S. Chamber of Commerce, the National Foreign Trade Council, the Business Roundtable and the National Association of Manufacturers. USA*NAFTA is the largest. About 80 percent of the coalition members are companies and 20 percent of them are trade associations and what

USA*NAFTA euphemistically calls "consumer" groups, with names like Consumers for World Trade, Citizens for a Sound Economy and San Diegans for Free Trade. More than 2,000 plants operating in Mexico are owned by U.S. companies, and many of their parent companies are members of USA*NAFTA. Formed last October by Kay Whitmore, the chairman and C.E.O. of Eastman Kodak, and James Robinson, then head of American Express, USA*NAFTA claims to have raised $2 million. But according to the group, it has not yet spent much of this money. Gail Harrison of the Wexler Group, a well-connected public affairs consulting unit of Hill and Knowlton, manages an extensive grass-roots effort, which in part involves identifying companies in Congressional districts that are pro-NAFTA and enlisting them to bring local pressure to bear upon the relevant representative. USA*NAFTA also hired Mari Maseng Will of Maseng Communications as a media consultant and Chuck Levy of Wilmer, Cutler and Pickering as counsel.

USA*NAFTA is working with others in a unified network of business leaders and pro-NAFTA associations that its members have dubbed the Alliance. They have been conducting low-profile, behind-the-scenes lobbying. Within the Beltway, the Alliance has made the House of Representatives, where the treaty may be in trouble, its prime target. (NAFTA proponents believe they have a majority in the Senate.)

In this effort to woo the more volatile House, the U.S. Council of the Mexico-U.S. Business Committee, an Alliance member, sponsored a two-day event for new members of Congress, from both parties, at the National Democratic Club in Washington. The council made certain that local pro-NAFTA business leaders were present. At breakfast, lawmakers and their staffers sat surrounded by business people from their home district who praised NAFTA. Congressional NAFTA supporters, including Senator Bill Bradley, the chief Senate supporter of NAFTA, were the keynote speakers at the affair.

USA*NAFTA is building support for NAFTA at the state level. The group uses "state captains" to persuade local officials and business people to rally behind the treaty—and let their elected leaders know where they stand. The state captains are typically officials in companies that are commercially and politically influential within their states: BankAmerica in California; AT&T in Florida; Du Pont in Delaware; General Electric in Massachusetts; General Motors in Michigan; Eastman Kodak in New York; Caterpillar in Illinois.

According to USA*NAFTA's legal counsel, Chuck Levy, the U.S. business community organizations keep their activities separate from those of the Mexican government. But the Mexican NAFTA office communicates regularly with the U.S. business groups lobbying for the treaty. As with the Mexican government, U.S. corporations are spending large amounts of money to get NAFTA ratified, and their labors effectively complement Mexico's own extensive lobbying campaign. As von Bertrab says, Mexican officials are "less credible" than U.S. business people when extolling the benefits of NAFTA in the United States. U.S. companies are lobbying for what their officials believe is best for them—and, by extension, for the American people. Their entry into the fray further stacks the deck.

GOVERNMENT BY SPECIAL INTERESTS?

What has all this expensive hyperactivity wrought? The high-powered, moneyed interests have succeeded in making their agenda America's agenda—and even given it an apple pie-sounding name: North American Free Trade Agreement. William Greider has written about a sophisticated form of political manipulation he calls "deep lobbying," the purpose of which is to define public argument and debate. "It is another dimension of mock democracy—a system that has all the trappings of free and open political discourse but is shaped and guided at a very deep level by the resources of the most powerful interests."

For years, the logic, the assumptions and the seeming inevitability of NAFTA have been carefully constructed, and the reasonable concerns of environmental, labor, consumer and other groups have been brushed off as annoying but harmless gnats. Except for some token memberships on a few trade advisory committees, these modestly funded forces have been largely ignored by the trade professionals in the three governments, who have been working closely with the various North American corporations. Issues of greatest import to the great majority of people, such as the potential loss of jobs or lowered environmental standards, were treated as afterthoughts to the process. These concerns were given scant attention in the main body of the pact—hence the need for "side agreements" to NAFTA. The whole process has a cynical, cosmetic quality, with the pretense of responsible discourse included after the fact.

As with so many critical issues, the presence of a high-powered lobbying campaign makes it unlikely that decisions are being made on the merits. And that is perhaps the most damaging consequence of an operation like the selling of NAFTA. It undermines confidence in government.

NAFTA is a perfect issue for lobbyists. It is highly technical. The details are arcane. Trade matters are often disposed of far from public scrutiny. Even some members of Congress would rather not deal with them. How could the NAFTA process have evolved any differently, when so many of the former U.S. trade officials have been retained by Mexico or U.S. corporations with subsidiaries there? In such a setting, the right word from the right lobbyist can make a difference.

NAFTA is too important to leave to the lobbyists. The persuasion campaign conducted on its behalf may lead to passage of a treaty that could prove harmful to a vast number of Americans. This lobbying free-for-all is more evidence that the way Washington does business needs to change. Clinton's executive order banning former government officials from going to work for special interests may prevent future revolving-door shenanigans such as those evident in the NAFTA game. The lobbying disclosure bill now before Congress would shine a brighter light on the day-to-day activities of lobbyists in Washington. And some members of Congress are beginning to eschew all future privately funded travel by themselves and their staff. Such changes are overdue, but they are only a beginning: For as long as the present system remains in place, the public will rightly wonder whether all they are getting is the best legislation special-interest money can buy.

NAFTA'S OPPOSITION

In the past two years, an unusual anti-NAFTA coalition has emerged. People and organizations that formerly would never speak to one another are meeting on a regular basis. The opposition includes businesses, labor unions, environmental and consumer groups, and Ross Perot. Although the anti-NAFTA forces are substantially outspent by the paid lobbyists and consultants of Mexico and corporate America, their ability to mobilize their members makes them somewhat competitive.

Many NAFTA opponents belong to the Citizens Trade Campaign, a broad coalition of more than seventy national organizations. Its annual budget is a mere $200,000, and it employs only three full-time national staff members and fourteen field staffers. Former Democratic Congressman Jim Jontz of Indiana is the executive director.

The coalition has tried to generate opposition to NAFTA in public rallies and meetings across the nation by emphasizing the prospect of substantial loss of jobs and of international trade tribunals overruling U.S. regulations on workplace safety and the environment. Several unions have played an important role in the anti-NAFTA effort. The United Auto Workers, the International Ladies Garment Workers Union, the International Brotherhood of Electrical Workers, and the Machinists, Teamsters and others lobbied lawmakers and staged protests, sponsored petition campaigns and organized traveling anti-NAFTA caravans with displays, speakers and videos about worker exploitation in Mexico. The A.F.L.-C.I.O., like the U.S. business community, has taken out advertisements and worked with other groups—such as the nonprofit Congressional Economic Leadership Institute—in organizing trips to Mexico for legislators. A.F.L.-C.I.O. trade analyst Mark Anderson says the federation's opposition to NAFTA is largely unorganized and "a low-budget operation." If the federation fully mobilized its 14 million members, it could influence the NAFTA debate. Recently, however, the executive council decided to push for appropriate side agreements to the pact rather than launch a national campaign to derail it, as many union leaders have urged.

A few business organizations also oppose the treaty. The American Trade Council and the U.S. Business and Industrial Council view NAFTA as a potential threat to small and middle-sized U.S. companies less able to relocate to Mexico than big corporations. They also fear that the free-trade zone will enable overseas companies to use Mexico as an alternative staging area to circumvent U.S. import laws.

Cooperating with the anti-NAFTA business associations is Public Citizen, a Ralph Nader group. Until recently, Public Citizen has had one full-time person on the NAFTA case: Lori Wallach, who directs the trade program at Public Citizen's lobbying arm, Congress Watch. Wallach glories in being a troublemaker. During the highly secretive NAFTA negotiations in 1991 and 1992, Public Citizen and other opposition forces were locked out and complained that their concerns were not being addressed. No one would provide copies of position papers or other negotiating materials. In February 1992, Public Citizen receive a leaked copy of the NAFTA text. It released the document to the public, causing an uproar within the Bush Administration over the breach of security. The office of the U.S. Trade Representative immediately began tagging the NAFTA drafts with a secret code, so any leaked text could be traced back to the culprit. On Capitol Hill, Wallach has lobbied furiously, along with lobbyists from unions and other groups. But the money spent by the anti-NAFTA forces is a mere fraction of Mexican and U.S. corporate lobbying expenditures.

Environmentalists are split on NAFTA. Greenpeace, Friends of the Earth and the Sierra Club are active participants in the Citizens Trade Campaign. Their chief worry is that NAFTA will make it easier for U.S.-based corporations to move their operations to poorer countries with weaker environmental regulations, thereby sidestepping U.S. laws but also jeopardizing the safety and health of indigenous people in less-developed nations. A warning sign came in 1991 when Mexico challenged a U.S. law banning tuna imports from countries that killed more than 20,000 dolphins annually during tuna catches. The Mexicans argued that the law constituted an unfair trade barrier. An international trade panel ruled in favor of Mexico. Some environmentalists envision more such cases should NAFTA be ratified. But recently six large environmental organizations—the National Audubon Society, the Nature Conservancy, the National Wildlife Federation, the Environmental Defense Fund, the World Wildlife Fund and Defenders of Wildlife—announced they would support the treaty, as long as appropriate auxiliary agreements are negotiated.

The anti-NAFTA coalition has one potential wild card: Ross Perot, who has testified twice before Congress against the treaty. His organization, United States We Stand, America—with an estimated membership of 1-2 million—is campaigning against the treaty. On May 30, Perot will devote a thirty-minute infomercial on prime-time TV to NAFTA.

Recently, Perot joined with other NAFTA opponents for lunch, during which Ralph Nader warned that Mexico and U.S. corporations will "blitz" the network airwaves with TV commercials promoting NAFTA. Perot asked how much the pro-NAFTA forces might spend. Twenty-five million, Nader replied. Perot smiled and said, "I can do that."

THE PLAYERS: FORMER U.S. GOVERNMENT OFFICIALS WORKING FOR NAFTA'S PASSAGE, 1989 TO PRESENT,[1] AS REPORTED TO THE DEPARTMENT OF JUSTICE

Registrant and current firm	Former government position (years served)
Toney Anaya—Independent Lobbyist	Governor of New Mexico, 1983–87; Attorney General of New Mexico, 1975–79; Admin. Asst. to New Mexico Governor Bruce King, 1971–72; Leg. Counsel for Sen. Joseph Montoya, 1966–69; and Exec. Asst. to the Asst. Sec. of State, 1966.
Timothy Bennett—SJS Advanced Strategies	Deputy Asst., U.S. Trade Rep. for Mexico, 1985–88; U.S. Trade Attaché to the E.E.C., U.S. Trade Rep., 1981–85; and Exec. Dir., U.S. Generalized System of Preferences, U.S.T.R., 1980–81.
John Bode—Olsson, Frank, and Weeda	Asst. Sec. for Food and Consumer Services, U.S. Dept. of Agriculture, 1985–89.
William Brock—The Brock Group	Sec. of Labor, 1985–87; U.S. Trade Rep., 1981–85; Chairman, Republican Nat'l Comm., 1977–81; Sen., 1970–76; and Member, U.S. House of Reps., 1962–70.
Doral Cooper—Crowell & Moring International	Asst. U.S. Trade Rep., Office of Bilateral and Multilateral Affairs, 1981–85; Deputy Asst. Special Trade Rep. for Japan and Developing Countries, 1978–81; Economist and Exec. Dir. of the Generalized System of Preferences; Prog. U.S.T.R., 1977–78; and Economist for Int'l Finance and Trade Matters, Council of Econ. Advisers, 1975–77.
Peter Ehrenhaft—Bryan Cave	Deputy Asst. Sec. and Special Counsel (Tariff Affairs), Dept. of the Treasury, 1977–79.
James Free—Walker/Free Associates	Cong. Liaison to the White House (Carter Admin.).
James Frierson—The Brock Group	Coord., U.S. government's policy on the functioning of the GATT system in the Uruguay Round, 1987–89; Chief of Staff, Off. of the U.S. Trade Rep., 1985–89; and Special Asst. to Amb. William Brock, U.S. Trade Rep., 1981–85.
Lee Fuller—Walker/Free Associates	Majority Staff Dir. under Sen. Lloyd Bentsen, Sen. Comm. on Environment and Public Works, 1985–87; Minority Staff Dir., Sen. Comm. on Environ. and Pub. Works, 1978–85.
Peter Glavas—Gold and Liebengood	Special Asst. to Sen. David Boren, 1987–88; Tax Counsel, Sen. Boren, 1984–88; Chief of Staff, Sen. Boren, 1984–86; and Campaign Mgr. and Field Rep., Oklahomans for Boren, 1980–84.
Martin Gold—Gold and Liebengood	Legal Counsel for Sen. Howard Baker, 1981–82; Counsel for Floor Operators to Baker, 1979–80; Min. Staff Dir. and Counsel, Sen. Comm. on Rules & Administration, 1977–79; Staff, Sen. Intell. Comm., 1976; and Legal Asst. to Sen. Mark Hatfield, 1973–76.
Gabriel Guerra-Mondragon—Guerra & Associates, TKC International	Adviser on Nat. Security issues, Clinton transition team, 1992–93; Special Asst. to the U.S. Amb. to Mexico, 1980–83.
Robert Herzstein—Shearman & Sterling	Under Sec. for Int'l Trade, Dept. of Commerce, 1980–81.
Edward Hidalgo—Independent Lobbyist	Sec. of the Navy, 1979–81; Asst. Sec. of the Navy, 1977–79; Gen. Counsel and Cong. Liaison, U.S. Information Agency, 1973–76; Special Asst. to Director of the U.S. Information Agency, 1972; and Special Asst. to the Sec. of the Navy, 1945–46, 1965–66.
William Hildenbrand—Gold and Liebengood	Sec. of the Senate, 1980–84; Sec. for the Min., U.S. Senate, 1974–80; Chief of Staff, Sen. High Scott, 1969–74; Leg. Asst. to Sen. Caleb Boggs, 1961–68; Asst. Cong. Liaison, Dept. of Health, Education & Welfare, 1959–60; and Aide to Rep. H.G. Haskell, 1957–58.
Patricia Jarvis—Gold and Liebengood	Special Asst., Off. of Leg., Dept. of Health and Human Services, 1986–87.
Ruth Kurtz—Independent Lobbyist	Aide to Sen. William Roth, mid-1980s (left in 1989); Trade Adviser, Int'l Trade Comm., 1980–83; and Int'l Economist and U.S. Trade Neg., Dept. of Commerce, 1970–1980.
Stephen Lande—Manchester Trade	Assistant U.S. Trade Rep. for Bilateral Affairs (left 1982); Office of the Special Trade Rep., including Deputy Asst. U.S.T.R., 1973–82; State Dept., Chief of Econ. and Info. Services, U.S. Embassy, Luxembourg, 1970–73; and State Dept., Consular Off., Athens, Greece, 1966–68.
Howard Liebengood—Gold and Liebengood	Sergeant-at-Arms, U.S. Senate, 1981–84; Leg. Counsel to Sen. Min. Leader, 1977–81; Min. Staff Dir., Sen. Select Comm. on Intell., 1976–77; Consultant to Sen. Howard Baker, 1975–76; and Asst. Min. Counsel, Watergate, 1973–74.
George Mannina—O'Connor & Hannan	Chief Min. Counsel, House Merchant Marine and Fisheries Comm., 1983–85; Min. Counsel, House Subcomm. on Fisheries, Wildlife, Conservation and the Environment, 1975–83; Leg. Asst. to Rep. Edwin B. Forsythe, 1972–75; and Admin. Aide to Rep. Gilbert Gude, 1971–72.
Mary Lou McCormick—Formerly of Gold and Liebengood	Press Asst., Deputy Press Sec., and Press Sec. to Sen. Bob Packwood, 1981–87.
Joseph O'Neill—Public Strategies	Admin. Asst. to Sen. Lloyd Bentsen, 1980–84; Exec. Asst. to Sen. Bentsen's Texas office, 1972–79.
Phil Potter—Walker/Free Associates	Aide to Sen. Peter Dominick, 1969–70; Senior positions, Dept. of Treasury, 1970–71.
William Ratchford—Gold and Liebengood	Member, House of Reps., 1979–85.
Otto Reich—The Brock Group	Amb. to Venezuela, 1986–89; Special Adviser to the Sec. of State, Interagency Office of Pub. Diplomacy for Latin America and the Caribbean, 1983–86; Asst. Admin., U.S. Agency for Int'l Devel. Progs. on Latin America and the Caribbean, 1981–83; and Staff Asst., House of Reps., 1970–71.
Mark Robertson—Gold and Liebengood	Leg. Dir. for Rep. Stan Parris, 1980s.
John Scruggs—Gold and Liebengood	Asst. Sec. for Legislation, Dept. of Health and Human Services, 1983–84; Special Asst. to the Pres. for Leg. Affairs, 1981–82; Floor Asst. to House Republican Whip Trent Lott, 1980–81; and Staff Member of the House Rules Comm., late 1970s.
Peter Slone—Gold and Liebengood	Deputy, Nat'l Campaign Mgr., Mondale for President, 1984; U.S. House Approps. Comm. Assoc. Staff, and Cong. Liaison to the House Educ. and Labor Comm. and Select Comm. on Aging, office of Rep. William Ratchford, 1978–83.
James Smith—Walker/Free Associates	U.S. Compt. of the Currency, 1973–76; Deputy Under Sec., Treasury Dept., and Dir., Off. of Cong. Relations, Treasury Dept., 1969–73; Min. Counsel to the Sen. Subcomm. on Intergovt'l Rel., 1960–62; and Leg. Asst., Sen. Karl Mundt, 1957–60.
Michael Smith—SJS Advanced Strategies	Deputy U.S. Trade Rep., 1980–88; U.S. Amb. to GATT, Geneva, 1979–83; Chief, U.S. Textile Negotiator, 1975–1979; Deputy Chief, then Chief, Fibers and Textile Div., U.S. State Dept., 1973–74; Chief of Pres. Corres., for the White House, 1970–73; and Foreign Service, various positions, including Foreign Service Off., 1958–70.
David Tarullo—Shearman & Sterling	Nominated to be Asst. Sec. for Econ. and Bus. Aff., State Dept., 3/19/93; not confirmed as of press time. Chief Employ. Counsel of the Sen. Comm. on Labor and Human Resources, 1987–89; and Exec. Asst. to the Under Sec., Dept. of Commerce (Int'l Counsel), 1980–81.
Abelardo Valdez—Independent Lobbyist	Amb., Chief of Protocol, State Dept., 1979–81; Asst. Admin. for Latin America & the Caribbean, U.S. Agency for Int'l Devel., 1977–79.
Charls Walker—Walker/Free Associates	Deputy Sec. of the Treasury, 1972–73; Under Sec. of the Treasury, 1969–72; and Asst. to the Sec. of the Treasury, 1959–61.

[1] Chart reflects those who have lobbied or done other pro-NAFTA or trade-related work.

Mr. MOYNIHAN. Mr. President, earlier today the Committee on Finance and other committees to which the NAFTA was referred placed in the RECORD statements regarding S. 1627, the bill to implement the NAFTA. I ask unanimous consent that a statement by the Commerce Committee, now available, be inserted in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF THE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

At its executive session on Thursday, November 18, 1993, the Committee on Commerce, Science and Transportation considered the portions of S. 1627, legislation to implement the North American Free Trade Agreement (NAFTA), within the jurisdiction of the Committee, and ordered them reported without recommendation.

SUMMARY OF PROVISIONS WITHIN THE JURISDICTION OF THE COMMERCE COMMITTEE

The provisions of the bill considered by the Committee are briefly described below.

Corporate Average Fuel Economy (CAFE)

The Energy Policy and Conservation Act, as amended, requires that each auto manufacturer selling new cars in the U.S. achieve certain average new car and light truck fleet fuel economy standards. Under the Act, each manufacturer must separately achieve the required CAFE levels on its "domestic" and "import" fleets of cars and light trucks. Under existing law, an automobile is considered domestically manufactured if:

"At least 75 percent of the cost to the manufacturer of such automobile is attributable to value added in the United States or Canada, unless the assembly of such automobile is completed in Canada and such automobile is not imported into the United States prior to the expiration of 30 days following the end of such model year." 15 U.S.C. Section 2003(b)(2)(E).

Under NAFTA, Mexican value added to a vehicle's manufacture would be counted toward its domestic content for CAFE purposes. This change in law would be phased in over ten years. Thus, beginning with model year 2005, all U.S., Canadian or Mexican value added would be credited towards the vehicle's domestic content for CAFE calculation purposes, if such vehicles are sold in the United States. The phase-in period is designed to assist manufacturers who are currently dividing their vehicle production between the United States, Canada or Mexico to meet the CAFE law's requirements.

To implement these provisions of the NAFTA, section 371 of the bill adds Mexico to the United States and Canada in the Corporate Average Fuel Economy definition of "domestically manufactured" (15 U.S.C. 2003(b)(2)(G)). The existing CAFE definition of "automobiles," which includes both passenger automobiles and light trucks, is not affected by the proposed implementing bill or regulatory changes.

Manufacturers that began production of automobiles in Mexico before model year 1992 may make a one-time election at any time between January 1, 1997, and January 1, 2004, to apply the new definition beginning with the next model year after such election. For those not making such election, the new definition will apply beginning with the next model year after January 1, 2004.

For manufacturers that began or begin production of automobiles in Mexico after model year 1991, the new definition will apply beginning with the next model year after January 1, 1994, or the date that the manufacturing begins production of automobiles in Mexico, whichever is later.

Manufacturers that produce automobiles in Canada or the United States but not in Mexico (and that may procure inputs from Mexico) may make a one-time election at any time between January 1, 1997 and January 1, 2004, to apply to the new definition beginning with the next model year after such election. For those not making such election, the new definition will apply beginning with the next model year after January 1, 2004.

For manufacturers that do not produce automobiles in any NAFTA country (but that may procure inputs from Mexico), the new definition will apply beginning with the next model year after January 1, 1994.

Standards-related measures

Title IV of the Trade Agreements Act of 1979 implementation the obligations of the GATT Agreement on Technical Barriers to Trade, commonly referred to as the Standards Code, in U.S. law. The Standards Code seeks to eliminate national product standardization and testing practices and certification procedures as barriers to trade among the signatory countries and to encourage the use of open procedures in the adoption of standards. At the same time, it does not limit the ability of countries to reasonably protect the health, safety, security, environment, or consumer interests of their citizens. Since U.S. practices were already in conformity with the Standards Code, Title IV did not amend, repeal, or replace any previous law. It simply required all federal agencies to abide by the provisions of the Standards Code.

Chapter Nine includes similar obligations regarding standards-related measures for the three NAFTA countries. Section 351 of the implementing bill amends Title IV of the Trade Agreements Act of 1979 to add a new subtitle concerning standards-related measures under the NAFTA. Chapter 2 of the new subtitle contains provisions to implement NAFTA Chapter Nine.

Federal agencies have been subject to the requirements of Title IV since 1980. These requirements continue to apply to standards activities of Federal agencies, which include many of the standards-related measures under the NAFTA. However, the definitions and coverage of Chapter Nine differ from the definitions and coverage of the Standards Code, so it is necessary to provide separate legislative provisions in the Table Agreements Act of 1979 to implement Chapter Nine of the NAFTA.

Section 471 of the new subtitle contains general provisions. Section 472 of the new subtitle assigns to the standards information center established under Section 414 of the Trade Agreements Act of 1979 the additional duties prescribed under Chapter Nine. The National Institute of Standards and Technology (NIST) under the Department of Commerce currently serves as the standards information center.

Section 473 of the new subtitle provides definitions of the terms used in Chapter 2 of the new subtitle. These definitions are drawn directly from the definitions in the NAFTA. The definitions of "standard" and "technical regulation" are taken from the notes to Article 915 agreed to by the NAFTA countries.

Committee on Standards-Related Measures

Article 913 of the NAFTA establishes a trinational Committee on Standards-Related Measures, whose functions include facilitating the process by which the three NAFTA countries make compatible their standards-related measures and enhancing cooperation on the development, application and enforcement of standards-related measures. Subcommittees will be created to address specific issues, including land transportation, telecommunications, automotive standards and textile and apparel goods.

Section 352 of the bill provides that any regulations issued by the Secretary of Transportation implementing a recommendation of the Land Transportation Standards Subcommittee may not take effect before 90 days after issuance.

MORNING BUSINESS

Mr. BAUCUS. Mr. President, I ask unanimous consent to proceed as if in morning business and that the time not be charged against the North American free-trade agreement bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator may proceed.

THE DOMESTIC CHEMICAL DIVERSION CONTROL ACT OF 1993—S. 1663

Mr. RIEGLE. Mr. President, I rise today as a joint cosponsor of S. 1663, the Domestic Chemical Diversion Control Act of 1993 with Senator LEVIN.

In towns and communities across the upper peninsula of Michigan, we've witnessed a frightening rise in the abuse of methcathinone [cat]—law enforcement officers are overwhelmed with investigating these cases, prosecutors see no end in sight. Methcathinone has already become a regional epidemic, and is well on its way to becoming a national nightmare. As with its chemical analog methamphetamine, the production of methcathinone requires use of one critical component—the over-the-counter drug ephedrine. Our bill will allow the continued legal use of ephedrine as a bronchodilator, while giving the Drug Enforcement Agency the ability to attack illegal drug production.

Many Senators may never have heard of methcathinone, also called cat. Cat is a white power which is ingested by sniffing, like cocaine, or by dissolving it in water and shooting it intravenously. Intravenous use brings with it the added risk of transmission of the AIDS virus. This drug devastates its victims. Cat is a highly addictive drug, much more so than cocaine. The high lasts longer than cocaine and also causes a severe fall for the user. It is common for cat users to continuously get high for several days at a time, without sleeping or eating. According to prosecutors, the drug can cause severe disorientation and temporary paranoid schizophrenia; they indicate that many of the people arrested are starved, barely clothed, and can take 3-4 weeks to detoxify—much longer than with most other illicit drugs. Some former users have admitted that they would have continued doing the drug until they died—police arrest literally saved their lives.

By mixing ephedrine with other, easily obtained legal substances, traffickers product cat and methamphetamine in small laboratories. This abuse of ephedrine is so dire that some States have already passed legislation prohibiting over-the-counter sales—unfortunately, the ephedrine is still getting in. Our bill attacks this problem by putting an end to largely unregulated access to ephedrine—it will still be marketed as one of several active ingredients in asthma medicines, but the Drug Enforcement Agency will now have the necessary authority to supervise and regulate ephedrine distribution to prevent diversion and illegal use.

When I first learned of this epidemic this past summer, I listened to the opinions of the law enforcement officers and prosecutors who are battling this tragedy. They all agreed on one thing—that the Food and Drug Administration needed to elevate ephedrine from an over-the-counter [OTC] substance to a prescription drug. I immediately contacted both the Food and Drug Administration Commissioner, Dr. David Kessler, and Health and Human Services Secretary Shalala, outlining the issue and requesting that the FDA report back with a strategy to control access to ephedrine. While I understand that there is limited precedent for the FDA in this area, I feel strongly that the FDA must be responsive to issues of misuse and abuse of substances within their control. It is critical that the FDA reassess drug status final rulings when overwhelming evidence of drug misuse and abuse is presented, and I hope that Commissioner Kessler will work toward that goal.

Before I conclude, I would like to recognize the efforts of community groups like the Upper Peninsula Children's Coalition, police organizations, and the prosecutors who have worked so hard to combat the CAT epidemic. I am particularly pleased to recognize our Assistant United States Attorney Glenda Gordon, for her tireless efforts in prosecuting methcathinone cases. Ontonagon County Sheriff Jerry Kitzman, Marquette County Sheriff Joe Maino, and dozens of law enforcement officers have done outstanding work in investigating these drug cases and protecting our citizens in the

Upper Peninsula. I wholeheartedly support their efforts, and hope that our bill will assist them in eradicating the CAT drug epidemic.

TRIBUTE TO B'NAI B'RITH

Mrs. MURRAY. Mr. President, this year marks the 150th anniversary of B'nai B'rith. I would like to join in saluting this organization for its years of service to the international community. The oldest organization of its kind in the United States, B'nai B'rith transcends economic spheres, national borders, and religious diversities in its commitment to helping others.

Originally established in 1843 to address the needs of the Jewish people, B'nai B'rith has expanded its agenda to include education, social service, and countless other projects which benefit the community at large. Through the Senior Citizens Housing Program, B'nai B'rith has helped provide affordable housing and social services for the elderly and their families. Through their efforts, more than 3,000 apartments have been established across this country.

While never losing sight of its original purpose, B'nai B'rith has played and continues to play a pivotal role in fighting religious persecution, intolerance and discrimination. Since its establishment, B'nai B'rith has always held an open door to the disadvantaged and downtrodden. In response to the floods of new immigrants to this country in the late 19th century, B'nai B'rith opened the first free employment bureau, as well as manual and technical schools. After World War I, B'nai B'rith fed, clothed, and educated 600 orphaned European children until they were able to support themselves.

Through a century and a half of service, B'nai B'rith has repeatedly shown its ability to respond to the needs of the community—both in the United States and abroad. In 1868, B'nai B'rith successfully organized the first disaster relief campaign in the United States for victims of a Baltimore flood. More recently, B'nai B'rith provided relief for victims of Hurricane Andrew and those caught in the cross-fire in the former Yugoslavia.

As a pioneer in the field of youth services, B'nai B'rith addresses the needs of our world's teenagers and college students. The B'nai B'rith Youth Organization offers teens throughout the world opportunities to cultivate leadership skills, a positive Jewish identity, and a solid commitment to community service. The B'nai B'rith Hillel Foundation has chapters in over 400 universities around the world. Hillel focuses much of its energy on addressing social ills, promoting Holocaust awareness, and expanding interfaith dialogue.

B'nai B'rith has raised awareness and pride in the Jewish heritage, while making a real difference in the lives of countless numbers of people—Jews and non-Jews alike. I congratulate them on their accomplishments.

JUSTICE IN CHILE

Mr. KENNEDY. Mr. President, in September 1976, Orlando Letelier, the former Chilean Ambassador to the United States, and Ronni Moffitt, his American assistant, were brutally assassinated in the heart of our Nation's Capital by agents of the Chilean secret police. Since that day, I have pressed every administration in Washington and Santiago to ensure that the individuals responsible for this cold-blooded act of terrorism are brought to justice.

Last week, justice was served when Manuel Contreras, the former head of Chile's secret police, and Pedro Espinoza, his chief of operations, were sentenced to prison for ordering the Letelier-Moffitt murder.

At the time of the assassination, Chile was under the brutal military dictatorship of Gen. Agosto Pinochet, who had overthrown the democratically elected government of President Salvadore Allende through a bloody military coup. Orlando Letelier had served as Chile's Foreign Minister and as Ambassador to the United States under the Allende administration, and he had courageously challenged the Pinochet regime. At the time of his death he was working with many of us in Congress to promote democracy and respect for human rights in Chile. His patriotism and courageous leadership cost him his life.

Evidence from the crime in Washington clearly linked Chile's secret police with the assassination. Shortly after the murder, a Federal grand jury indicted Contreras, Espinoza, and a number of Pinochet's other henchmen for conspiring to murder Letelier. The Pinochet regime, however, refused to allow them to be extradited to the United States.

In response to the regime's intransigence, I sponsored legislation to prohibit United States assistance to Chile until progress had been made on this case and respect for democratic principles and human rights was reestablished in Chile. Tragically, throughout the next 14 years of the Pinochet dictatorship, the government in Santiago continued to shelter Contreras and Espinoza and to repress the forces of justice and democracy in Chile.

In 1990, Chile returned to the community of democratic nations following the election of President Patricio Aylwin. Sanctions against Chile were lifted as a vote of confidence by the United States in the Aylwin government and its commitment to democracy and human rights.

The Aylwin administration lived up to this commitment. In recognition of the Chilean Government's responsibility for the Letelier-Moffitt murders, it provided compensation to the families of Orlando Letelier and Ronni Moffitt and began criminal proceedings against Contreras and Espinoza. Last week, a federal judge sentenced Contreras to 7 years, and Espinoza to 6 years, in prison for their role in that atrocity.

I commend the bravery of the Aylwin administration and the integrity of the Chilean judiciary for ensuring that justice was finally achieved for the Letelier and Moffitt families and for doing so much to restore respect for democracy and human rights in Chile.

SENATE CONCURRENT RESOLUTION 31: EMANCIPATION OF THE IRANIAN BAHA'I COMMUNITY

Mr. LIEBERMAN. Mr. President, on a number of occasions over the past several years, many of my colleagues and I have condemned the Government of Iran for its repressive policies and actions toward its Baha'i community. The resolution we are acting on today is, in fact, the sixth such resolution this body has passed calling on Iran to change its repressive anti-Baha'i policies and to protect the rights of all its people including minorities such as the Baha'is.

Since the Senate passed it first resolution on the Baha'is in 1982, we have seen some improvement in the situation. Persecution of individual Baha'is seems to be less severe than in past years. Expressions of international outrage and the application of diplomatic pressure has had some effect—even on the isolated and close-minded regime in Iran. But the progress that has been seen is still not enough. It is not enough to say that the Government is not persecuting these people as much as they used to. It is not enough to say that only one Baha'i has been executed in the last 5 years for his religious beliefs when compared to many more executions before this. It is not enough to say that the Government of Iran is now willing, in the words of the recently disclosed 1991 policy document of the Government of Iran, to "permit them a modest livelihood." It is not enough that the Government of Iran is willing to allow Baha'is to be enrolled in schools. It is not enough when all of these rights are dependent on citizens not identifying themselves as Baha'is.

The real thrust of Iranian policy is seen in the provisions that say Baha'is "must be expelled from universities * * * once it becomes known that they are Baha'is" or that the Government will "deny them employment if they identify themselves as Baha'is." A policy which calls for a plan to "be devised to confront and destroy their cultural roots outside the country" and to "deny them any position of influence, such as in the educational sector, et cetera" is a policy of repression and denial of fundamental human rights.

Such a policy violates the obligations of sovereign states to uphold the Universal Declaration of Human Rights and other international agreements guaranteeing the civil and political rights of citizens. Such a policy must change if Iran is ever to rejoin the community of nations.

Our action today in passing this resolution is consistent with the actions of the U.S. Government and responsible international bodies for many years. The Reagan and Bush administrations worked to gain international support for the Baha'i community. In his speech dedicating the Holocaust Museum in Washington in April of this year, President Clinton cited "the abusive treatment of the Baha'i in Iran" as a critical human rights concern. The State Department has worked diligently to secure passage of U.N. resolutions condemning Iran for its persecution of the Baha'is and to raise the issue at all relevant international forums. The U.N. General Assembly has adopted five resolutions since 1985 condemning Iran's human rights abuses with specific reference to the Baha'is. The German Bundestag and the European Parliament have also adopted resolutions condemning Iran's treatment of its Baha'i community.

And so we come before the Senate once again with a resolution which will keep this critical issue in the public eye and will maintain international pressure on Iran to change its ways. The American people understand very well that if the rights of all members of a society are not protected, then the rights of no one in the society are secure. We do not expect Iran to become a Jeffersonian democracy. But we and the entire world community have a right to expect and to demand that it not persecute any of its peoples solely for their religious preferences. How can a society consider itself to be just and based on the law of God when it persecutes in a broad and systematic fashion 300,000 of its citizens who constitute the largest religious minority in Iran? Iran must end its bypocrisy and extend to the Baha'i community the rights guaranteed by the Universal Declaration of Human Rights and international covenants on human rights.

I urge my colleagues to support this resolution and our continuing effort to bring about change in Iran.

CAPITOL BICENTENNIAL CELEBRATION

Mr. BYRD. Mr. President, on September 18, 1793, President George Washington officiated at the laying of our Capitol building's first cornerstone. Two hundred years later, on the evening of September 17, 1993, the United States Capitol Historical Society hosted a bicentennial dinner in Statuary Hall to celebrate that historic event. The dinner followed an afternoon program during which Society President, former Representative Clarence J. Brown, presented a significant addition to the Capitol's art collection: a mural, located on the first floor of the House wing, entitled "Westward Expansion."

Mr. Brown invited former Senate Majority Leader Howard Baker and me, in after-dinner remarks, to offer our impressions, based on personal observation, of the development of Congress and the Capitol over the past 40 years. I found former Senator Baker's observations to be characteristically insightful and entertaining, and I would like to share them, along with my own, with the widest possible audience. Accordingly, I ask unanimous consent that the transcript of those remarks, along with those made earlier that day by Senate Historian Richard Baker, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CAPITOL CORNERSTONE DINNER, U.S. CAPITOL HISTORICAL SOCIETY, WASHINGTON, DC, SEPTEMBER 17, 1993

Former Senator Howard Baker. Brian Lamb, thank you so very much—and ladies and gentlemen, what a pleasure to be here—and Brian what a marvelous way to say that you did not like my picture. Congressman Brown, Senator Byrd, distinguished ladies and gentlemen, Members of Congress, and good friends:

It is an awesome thing to be here tonight and have this opportunity to speak to you on the occasion of the 200th anniversary of the laying of the cornerstone of the Capitol. But it is equally awesome to do so in the presence of George White, the Architect of the Capitol, and Bob Byrd who is the absolute master not only of the history of the Senate but of this institution, the Congress, and no doubt of this building, as well. But, my friends, I will do my very best.

When I first arrived in Washington as a Member of the United States Senate in January of 1967 and as a very junior Senator from Tennessee, and when anybody paid attention to me, as Brian said, usually did so as Ev Dirksen's son-in-law, rather than as a Senator, I remember distinctly traveling from what is now the Russell Building to the Capitol through the subway, up the elevators, and approached the Senate Chamber, and was promptly stopped by a Doorkeeper who thought I had no right to enter. Well, two things come to mind. First, I was then a young man, a condition from which I have now recovered. And second, to recall vividly that I said to the Doorkeeper: "Son, if you had any idea how hard I worked to get here, you'd have no notion that you could stop me now."

So, I took my place, received the Oath of Office from the Vice President of the United States, and began eighteen years of service in the United States Senate. I will always treasure that experience. It was, indeed, the high point of my public career. As Brian pointed out in his little vignette of my life, I have also had the opportunity to do other things, including being Chief of Staff to the President of the United States. But, my friends, nothing—nothing ever comes close to the opportunity to serve in the Congress of the United States. It is the highest estate that a public servant can attain and the greatest service that a private citizen can give to this republic. And I am awed with the opportunity to stand here and help you celebrate not only that tradition, but this building which has housed so much history and which is the home of that tradition, as well.

I remember, if you will let me wander for a few minutes, and then I will get on to the few remarks about the history of the Capitol—I remember once when I was Majority Leader of the United States Senate and my good friend Bob Byrd was then Minority Leader, that he and I agreed that I would keep (?skipped something) but the sun was setting gently behind this majestic scene, and I looked out the window with Reagan by my side and I said: "Mr. President, this is the best view in Washington." He said, "No, Howard, this is the second best view in Washington."

But you see, my friends, Ronald Reagan was wrong. This is the seat of the republic. This is the people's branch. And this is the locale of the strength and the wisdom of self-governance in this nation—this building which houses the people's branch. And what a magnificent opportunity for all of us to celebrate the beginnings of this structure—not the beginnings of the republic, and certainly not the beginnings of the concept of representative government—but this place where the American brand was put on that. Where we demonstrated our unique talent as Americans for self-government. Where we created an image that is now the envy of the entire world in terms of the elaboration and extension of individual rights. Where we created a nation from this place that is without peer in the annals of all the history of civilization. Where we suffered the divisive issues. Where we withstood the challenges of war. Where we extended the blessings of liberty and opportunity to the downtrodden. Where we provided for the freedom of every individual. Where we breathed life into the charter documents of the republic. That is what this place is. It is the home of America. It is the center of the nation. it is the height of the ambition of humanity, thus far in the history of civilization.

My friends, I stand here in the presence of these secular saints, and others who line the corridors to the Senate Chamber and to the Chamber of the House of Representatives, and luxuriate in the contributions that they made to this evolutionary dream, and acknowledge fully and freely that we are the fortunate legatees of their wisdom and of their dedication and sacrifice. That, too, is what this building is all about.

So, when I had an opportunity to visit with George White, the distinguished Architect of the Capitol, and ask him, as I did a little while ago, "George, have you really found the cornerstone of the Capitol?" and he gave me a long answer, as you would expect a thoroughly professional and distinguished architect to do—which I will not now repeat, except to say I declare that we found the cornerstone of the Capitol. And it may not be a piece of sandstone, therein partially buried under the earth. The cornerstone of this building, my friends, is the institution that it houses. And that truly is what we celebrate now on this 200th anniversary occasion.

Now let me tell you a few other reminiscences about this place as I knew it. First of all, forgive the immodesty, if it is immodest that I exhibit in saying that I feel a personal kinship to this place not only because of my service here, but because my father before me served in this place, in the

House of Representatives, as did my mother. My wife's father served here for many years and became before me the Republican Leader of the Senate. So, in many ways, I am a product of this place, and from earliest childhood I was imbued with the spirit of the Congress, the spirit of the republic, and the importance of this place.

So, it was a special, a very special time in my life, when I had the opportunity to serve, and a very special time when I was elected Minority Leader of the United States Senate and first occupied S. 230 in the Senate Wing of the Capitol. Some of you know perhaps, and I am fond of saying, and it is true that S. 230 served many purposes. It is, I believe, the first space that was occupied when this building was under construction, when the Congress came down from Philadelphia. It was then briefly the Library of Congress. By the way, there were only three-thousand volumes in the Library of Congress, and the bookcases were designed by Latrobe, and the original water color drawings still exist of those bookcases. S. 230 is the room to which the British repaired in August of 1814 to set fire to this structure. They took those books off the wall and made a bonfire and destroyed the building. Bob Byrd will be sympathetic when I say that when I was Leader, there were occasions when I was tempted to do the same.

I also like to tell the story, which is not true, in my moments of frustration (that this one is not true, the other one was true, but that's not bad on average for a politician)—but I like to tell the story in moments of frustration that when I was cleaning out my little private corner of the office—S. 230 that historic place—behind a baseboard, I found a letter from Thomas Jefferson to one of his brothers. And it said: "Dear George, I've stood about all this democracy stuff that I can handle." And I'll bet he felt that way sometimes because you see, my friends, this is the place where we thrash out the controversy, where we attenuate the gross instincts of humanity. This is the place where we formulate the public policy of the greatest nation on earth. But it is not easy. And don't let anybody ever tell you that people here are a people of privilege. Don't let anybody tell you that Congressmen and women are not hard working. They are the hardest working people I ever knew in my life. Don't anybody ever let'em tell you that Members of Congress are without honor. They are, by and large, the greatest, finest people I ever knew.

Will Rogers is represented, if not in this room, someplace in this building; and as you remember, he was a great philosopher from Oklahoma and also a reporter for the Claremore paper. And they tell the story on Will, that after he'd been there awhile, he went back to Ardmore, Oklahoma, and he was walking down the street, and somebody said: "Will, I want to know, is it true, since you've been there awhile, is Congress really made up of thieves and rascals?" Said Will, "Of course, it's true, but it's a good cross section of its constituency."

But, my friends, it is not true. The Congress of the United States is the essence of this nation. The Congress of the United States is, indeed, the people's branch. The Congress of the United States is the place from which the grandeur of this nation has emanated for more than 200 years. So, it's altogether fitting and appropriate, my friends, that we acknowledge this place as the symbolic center of the union. We acknowledge those who have gone before us; we celebrate the grandeur of this building; we revel and delight in 200 years of our history so far; and we look forward with calm assurance to a time of even greater accomplishment and achievement for this nation in the centuries ahead.

Thank you very much.

Senator ROBERT BYRD. Thank you, Brian. And I thank C-SPAN for what C-SPAN is doing to bring current history to the people of this nation. I thank Clarence Brown, President of the United States Senate Capitol Historical Society. I thank the man who has already performed the most important part of this program: the Reverend Mr. Ford, Chaplain of the House of Representatives. And I thank my friend Howard Baker for being here tonight, and for being a statesman upon a good many occasions when I worked with him as Majority Leader and as Minority Leader.

I served with Howard Baker, and I served with his father, and I served with his father-in-law. I was a new Member of the House and didn't know much about things there, and I can't recall much about my service with his father. But I recall my service with his father-in-law. And they were both leaders. They were leaders of their party in the Senate. And they were the kind of leaders that make one proud. I saw in those two leaders, two men who chose statesmanship on many occasions over partisanship. And I have to tell you, that kind of statesmanship has become pretty rare around here. Fame is a vapor, popularity an accident. Riches take wings. Those who cheer today may curse tomorrow. Only one thing endures: character. And Howard Baker has it.

Ladies and gentleman, the ancient Romans invented and developed the dome. In the second century A.D., Roman architects placed one of the largest and earliest domes in the world on the Pantheon, a structure still standing above the Tiber River in the Eternal City.

In that same spirit, throughout western history, people have placed domes on buildings in which vital and valued functions have taken place.

Thus, a great dome was placed on Hagia Sophia, Justinian's fabled church in Constantinople. That was followed more than one-thousand years later by the dome of St. Peter's in Rome, and even later by Christopher Wren's dome of St. Paul's in seventeenth-century London.

Our Founding Fathers were students of Roman history. And I wish that we had many more students of Roman history in this Congress today, and in this country. Montesquieu was a student of Roman history. As a matter of fact, Montesquieu wrote a history of the Roman people. For that reason, in part, we meet here tonight atop the rise that the Founding Fathers christened "Capitol Hill"—formerly called "Jenkins Hill," but renamed in honor of Rome's Capitoline Hill.

When architect Pierre L'Enfant first visited these grounds on which we assemble tonight, he described Capitol Hill as "a pedestal waiting for a monument." Here, the Capitol building was constructed, with its magnificent vistas down the mall toward the Potomac River.

Again, reflecting ancient Rome's influences, at the base of Capitol Hill, a little stream called Goose Creek separated Capitol Hill from the rest of the city. And with Rome on their minds, the city's planners retitled Goose Creek imperiously "Tiber Creek," although it has long since disappeared from view. Tiber Creek still flows under this city, channeled under the mall and around the foundations of our massive government buildings.

Not surprisingly, then, from the outset, America's Founding Fathers conspired and planned together for the domed "People's Palace" in which we have the good fortune to be gathered tonight.

That dome above us proclaims to all ages—past, present, and future—that the institution housed here is of paramount import to the system of government embodied in this capital city.

Tonight, we meet to commemorate the 200th anniversary of the launching of this mighty domed structure—the United States Capitol building.

This building was not constructed in a sweeping effort.

The first structure that was erected here—small and dwarfed by our current Capitol—was burned and largely destroyed by the British in the War of 1812.

Subsequently rebuilt, and expanded, less than a half century later, in the 1850's, new wings were constructed to house the much-enlarged Senate and House of Representatives—part of this construction being carried out under the auspices of then Secretary of War Jefferson Davis.

But, as if in dramatic defiance of the circumstances of the era, during the early 1860's, as the War Between the States was being fought, at times within earshot of the Capitol building itself, the familiar Capitol dome that today rises above us was being completed.

In the 1950's, after nearly a century of use and erosion, the deteriorating condition of the old sandstone East Front decreed its replacement with more durable materials. In the face of considerable controversy, the new East Front was also moved forward, to the consternation of traditionalists and preservationists.

During the 1960's, similar concerns were raised about the West Front, where again the sandstone was crumbling. In emergency response, the architect erected great wooden beams, ostensibly to keep the West Front pillars from collapsing in the event of a sonic boom. But this time, the preservationists won the struggle, and the West Front was restored, not replaced, leaving that front largely unchanged in appearance.

I know that you all join me in the sense of gratitude that we harbor toward all of those who have conjoined their talents, their influence, and their dedication to preserving and restoring this beloved structure. Certainly, the efforts of our generation to protect this sacred place against the ravages of time and the elements will ensure the Capitol's continued beauty and usefulness for many decades to come.

But from the beginning, the U.S. Capitol building has been both a practical facility and, to borrow a note from Howard Baker, the symbol of the living institution that physically resides here—the United States Congress—the Senate and the House of Representatives. There have been two great senates in the history of the world: the Roman Senate and the American Senate—the "people's branch," as my former colleague Howard Baker stated it—under our Constitution.

Democracy is a living form of government that must constantly adjust to the demands placed upon it by a changing society, and I have supported a number of reforms since I first entered the House of Representatives in 1953.

But as a student of history, I also know that the pages of history are replete with accounts of the collapse and fall of other great nations and civilizations. The mighty Roman Empire was for centuries the marvel of the world. And it is still the marvel of the world for those who are students of ancient history. But, as Edward Gibbon warns us, the decline of the Roman Empire began when public virtue and patriotism gave way to immorality and sedition, and when Roman citizens demanded free bread and circuses. The Roman Senate lost its dignity, its honor, its nerve; the Roman Senate likewise delivered its responsibilities and prerogatives into the hands of a line of Caesars and emperors, despots whose crimes, usurpations, and venalities have forever after become synonymous with tyranny and perversion. In the wake of that abdication of responsibility and leadership by the Roman Senate, Roman corruption and venality were enthroned in high places; laziness and indolence were rewarded; emperors were assassinated; citizens were massacred; civil wars were fought to benefit tyrants who were ambitious to secure the throne and to feel against their own flesh the intoxicating caress of the royal purple.

Some of the early symptoms that heralded Rome's decline can be seen in our own nation today. I have watched these come about now over a lifetime of more than seventy-five years, and I fear for my country. I believe it is our duty—as Senators, as Members of the House of Representatives, and as citizens who care, and into whose hands the stewardship for the future has been entrusted—to do all that we can to reverse, or at least arrest, the national decline in our moral and religious values, and in our educational and professional standards, and to reclaim and renurture the basic virtues that made America "the land of heart's desire." (applause)

In particular, I sometimes shudder at the misdirected attacks—perhaps, misinformed attacks—often, attacks from within—aimed at the integrity of Congress itself—attacks that too often advocate the weakening of Congress to the favor of the Executive Branch, most particularly.

How ironic, I sometimes muse, that some Americans—and particularly even those who are elected to serve in Congress—can wax so eloquent about their love for this building and rally to save it and restore it, while at the same time denigrating and slandering the democratic institution whose home this structure is—the Congress, the locus of our national will and the repository of real democracy under our system of checks and balances and separation of powers.

Another way of expressing these same thoughts is to recall that the Capitol building, *per se*, is not the jewel in America's crown. That jewel is the institution that here lives, and breathes, and struggles, and debates, and decides, and chooses, in order that the dreams that first gave inspiration to this great and mighty structure will not succumb to futility and tyranny as they have so often in the course of human history. The preeminent jewel in America's crown is the Congress of the United States—the much maligned Congress of the United States of America—(applause)—that institution that is coronated guardian of the highest aspirations of the American people by the Constitution itself, and the institution designated by none other than the Founding Fathers themselves as executors of the American heritage.

I can think of no words more eloquent by which to communicate my yearning to be understood on this crucial concern than some words from a speech delivered in 1832 by one of the mightiest figures ever to walk these corridors, Daniel Webster.

In his speech on the Centennial Anniversary of George Washington's birthday in 1832, Webster declared:

"Other misfortunes may be borne or their effects overcome. If disastrous war should sweep our commerce from the ocean, another generation may renew it.

"If it exhaust our Treasury, future industry may replenish it.

"If it desolate and lay waste our fields, still, under a new cultivation, they will grow green again and ripen to future harvests.

"It were but a trifle even if the walls of yonder Capitol were to crumble, if its lofty pillars should fall, and its gorgeous decorations be all covered by the dust of the valley. All these might be rebuilt.

"But who shall reconstruct the fabric of demolished government? Who shall rear again the well-proportioned columns of constitutional liberty? Who shall frame together the skilful architecture which unites national sovereignty with State rights, individual security, and public prosperity? No. If these columns fall, they will be raised not again. Like the Colosseum and the Parthenon, they will be destined to a mournful, a melancholy immortality.

"Bitterer tears, however, will flow over them than were ever shed over the monuments of Roman or Grecian art. For they will be the remnants of a more glorious edifice than Greece or Rome ever saw: the edifice of constitutional American liberty."

The Proverb admonishes us to "Remove not the ancient landmark, which thy fathers have set." We meet tonight to celebrate the endurance of one such ancient landmark, the United States Capitol building. Let us continue to revere and practice that system of self-governance bequeathed to us by the Founding Fathers—that system of government to whose practice this building and the institution resident herein are foremostly dedicated.

HISTORICAL SNAPSHOTS: CONGRESS AND THE CAPITOL, 1793–1993

(By Richard A. Baker, Senate Historian)

A snapshot is a photograph taken quickly and informally. This afternoon I wish to offer several historical snapshots of Congress and the Capitol. I have chosen to create these word-pictures in 50-year intervals, beginning with September 1793, the month that witnessed the placement of the Capitol's original cornerstone. We will then turn the pages of our history album, stopping at 1843, 1893, 1943, and concluding with a brief glance at images from our own era.

In September 1793 the nation consisted of 15 states, with a population of 4 million. The national government was still in what can only be described as its experimental stage, held together by the personal magnetism of George Washington. Major constitutional crises lurked not far ahead, waiting to confront the successors to the founding generation.

For the past two-and-a-half years—since 1790—Congress had been quartered in Philadelphia, the nation's temporary seat of government. On Sept. 18, 1793, a Yellow Fever epidemic gripped Philadelphia. Silence enveloped Congress Hall. The House and Senate had adjourned in March and, as the Constitution then specified, would not reconvene until the first Monday in December. Members of Congress generally enjoyed their spacious quarters in the recently constructed Philadelphia Court House—the second capitol under the new constitution. The 106 members of the House of Representatives met in a large first-floor court room, furnished with mahogany desks, black leather arm chairs, and a spectators' gallery that could accommodate 400 visitors. The Senate, traditionally known as the "upper house," occupied a smaller court room on the second floor. More elegantly appointed than the House chamber, the Senate's quarters—with desks for 32 senators and a staff of 6—lacked a gallery. All of its proceedings were to be conducted in secret. In those early days, the Senate was indeed the forgotten body. A Philadelphia newspaper described the setting in the chamber during a "debate" as one of "the most delightful silence, the most beautiful order, gravity and personal dignity of manner." Senators appeared "every morning full-powdered and dressed, as age or fancy might suggest, in the richest material. The very atmosphere of the place," the reporter continued, "seemed to inspire wisdom, mildness, and condescension." Many of the Constitution's framers had expected the Senate merely to serve as a council of revision, making minor adjustments in legislation hammered out in full public view in the noisy and turbulent House chamber one floor below.

Earlier in 1793, the Senate chamber had been the setting for George Washington's second inaugural address. It was certainly the shortest and most curious inaugural address ever delivered. The president, in less than two minutes, simply reminded members that they could deal with any perceived wrongdoing on his part through "constitutional punishment" as well as by the "upbraidings of all who are now witness to this solemn ceremony."

Six months later, on September 18, the president participated in a ceremony that would have far greater significance than the one launching his second administration. Joined by members of the Alexandria Volunteer Artillery and local Masonic lodges, President Washington, himself a 40-year Mason, moved in a grand procession up to the barren promontory known locally as Jenkins Hill where he placed a large engraved silver plate and lowered onto it a plain, cut cornerstone to mark the southeastern corner of the new national capitol building. Then, according to a local press account, "the whole congregation joined in reverential prayer, which was succeeded by Masonic chanting honors and volley from the artillery." Following the ceremonies, the entire crowd retired to feast on a barbecued 500-pound ox and then departed "with joyful hopes of the production of their labor."

On September 18, 1843 the nation consisted of 26 states—twice the original number, with a population of 18 million. Congress had expanded to 223 House members and 52 senators, with a permanent staff of approximately 20.

The Capitol of 1843 reflected the country it served—an orderly, self-contained, seemingly completed structure—but one that stood on the verge of great expansion. (On May 22, 1843, 1,000 easterners had departed from Independence, Missouri to settle the Oregon territory, marking the start of a epochal western migration—a migration that is romantically depicted in Emanuel Leutze's grand House wing mural "Westward the Course of Empire Takes Its Way.")

The Capitol's Senate wing had been largely completed in November 1800 when the government, reluctantly saying good-bye to its more comfortable quarters in Philadelphia, took up residence in the ragged Potomac River wilderness on the outskirts of Georgetown. A House wing opened in 1803 and both structures subsequently underwent major revision, particularly as a consequence of the

1814 conflagration at the hands of invading British troops. By 1826, the east portico and central rotunda, topped with Charles Bulfinch's wooden, copper-sheathed dome, stood ready to receive members and the public alike.

In September 1843, although Congress was not in session, the political climate of that era can only be characterized as tumultuous. The Whig party, less than a decade old and a coalition of anti-Andrew Jackson forces with a predominant representation among the nation's business and commercial classes, had for the first time taken control of the Senate, the House, and the presidency. but all was not well for that party. The nation's first Whig president, William Henry Harrison, had died in April 1841 after only a month in office and his successor, John Tyler, pleased neither Whigs nor Democrats in Congress.

The Senate in March 1843 dramatically expressed its displeasure by decisively rejecting President Tyler's nominee for Secretary of the Treasury—only the second of nine such cabinet rejections in American history. When Tyler showed his own irritation by resubmitting the same nomination within hours of its initial rejection, the Senate said "no" again, by an even larger margin. Enraged, the stubborn Tyler tried a third time. In the Senate even the nominee's most dedicated earlier supporters showed their disgust at the President's arrogant disregard of their constitutional prerogatives by joining the opposition to administer a final crushing defeat.

The Senate of 1843 was a vastly different body than its predecessor of a half-century past. Its chamber had been opened to the public years earlier and had become a grand theater for transfixing oratory and momentous debates about the very nature of our national union. In those years of its so-called "Golden Age," the Senate had emerged to eclipse the House and the presidency as the major forum for shaping solutions to crucial economic and sectional issues.

This was the era of the Senate's "Great Triumvirate"—Webster, Clay, and Calhoun—although in late 1843 all three were temporarily missing from the Senate chamber: Webster was serving as secretary of state, and Clay and Calhoun had just retired from the Senate to organize their respective 1844 presidential campaigns.

On the House side former President John Quincy Adams had become that chamber's loudest voice against the perpetuation of slavery. In 1836, despite his best efforts, a majority in the House had imposed a "gag rule" to suppress debate over anti-slavery petitions, either out of a desire to sustain the nation's precarious political equilibrium or a belief that Congress had no right to deal with the matter. By late 1843, Adams neared success in his campaign to lift the gag rule by arguing that regardless of how one felt about abolishing slavery, catering to the South's sensitivities on the subject eroded basic constitutional protections, such as the right to petition.

Within a year, Samuel Morse would demonstrate his newly developed telegraph on the ground floor of the Senate wing. This invention, together with new processes for printing newspapers, and the perfection of a shorthand reporting system that allowed reporters to capture the verbatim debate of House and Senate members, would provide speedy and accurate coverage of congressional action to citizens throughout the nation.

September 18, 1843 passed without any special celebration on behalf of the Capitol cornerstone's 50th anniversary. As Congress was not in session, members had dispersed around the country, and in the District of Columbia, a natural disaster preoccupied the citizenry. A week of heavy rains and high winds had produced severe flooding on the Potomac, soggy basements, and hundreds of uprooted trees. A real celebration would have to wait another half century.

As those of us over the age of 50 do not need to be reminded, a half-century brings enormous changes. The 50 years between 1843 and 1893 produced virtually a new nation—an industrialized giant that sprawled across the vast land mass from the Atlantic to the Pacific. Eighteen new states joined the 26 in place as of 1843. Infused by a swirling immigrant tide, the nation's population more than tripled, rising from 18 million to 63 million. A tragic civil war claimed 600,000 lives and irrevocably imprinted itself on the face of several generations. For all time, that conflict settled the issue of supremacy between the national and state governments, and it established the Republican party as the principal governing party for most of the half-century to come.

The Capitol reflected this profound change, with the addition of massive new wings, a commanding new dome, and landscaping appropriate to its new-found magnificence. Wars and treaties in the late 1840s brought new territories, which as states would soon send many new members to the already-crowded chambers of the House and Senate.

On July 4, 1851 another significant cornerstone was placed to mark the start of construction of new legislative chambers. On that occasion, an aging Daniel Webster recognizing slavery's grave threats to the nation's survival, proclaimed with shaky optimism,

"* * * that on this day the Union of the United States of America stands firm, that their Constitution still exists unimpaired, and with all its original usefulness and glory; growing every day stronger and stronger in the affections of the great body of the American people, and attracting more and more the admiration of the world. And all here * * * unite in sincere and fervent prayers that this deposit, and the walls and arches, the domes and towers, the columns and entablatures, now to be erected over it, may endure for ever!"

Twelve years later—in December 1863, as the grip of civil war began to ease from the capital city, sculptor Thomas Crawford's majestic 19-and-one-half-foot, seven-ton bronze statue of "Armed Freedom Triumphant in War and Peace" took its place atop Thomas Walter's newly completed cast-iron dome. And in 1874, Congress retained the services of noted landscape architect Frederick Law Olmsted to redesign the Capitol's grounds.

Inside the Capitol, for the quarter century following 1855, the Italian artist Constantino Brumidi along with other talented immigrant artisans decorated the building's walls and ceilings in fresco and oil, wisely ignoring the Washington Art Society's angry criticism of their work as "decorative trash that would not be tolerated in a large bar saloon."

By 1893, however, members complained that the enlarged and recently electrified Capitol offered insufficient space. These complaints came despite the addition, the year before, of Frederick Olmsted's west-front marble terrace honeycombed with new offices. Congress had added those offices to accommodate the burgeoning new House and Senate committees established particularly to justify office space and a combined total of 100 staff for their chairmen.

In September 1893, the nation—facing economic catastrophe—needed cheering up. The previous November the Democratic party had captured the presidency, and both houses of Congress for the first time in a third of a century. No sooner had the new administration of Grover Cleveland taken office, however, than a financial panic struck. Businesses collapsed. Banks called in their loans. Credit dried up. As one writer noted, by late 1893, "ruin and disaster ran riot over the land." President Cleveland called Congress into extraordinary session in August and that Congress was meeting on September 18—a day for optimism to banish despair.

Of all the major anniversaries commemorating the cornerstone placement, that of September 18, 1893 was surely the grandest up to our time. Very early in that sun-drenched morning, a crowd in a cheerful holiday mood began to seek out choice viewing space in the Capitol's east front plaza. The Capitol, like countless others among the city's public and private buildings, stood swathed in red, white, and blue bunting, with American flags resplendently displayed between the grand columns of the east portico.

At 1 p.m., the festivities officially got underway with the pealing of 13 "centennial" bells, mounted across the plaza on the west wall of the partially completed Library of Congress building. At that moment thousands of marchers, organized into four major divisions of a grand parade, picked up the cadence of massed bands and began the festive journey from the White House along Pennsylvania Avenue to Capitol Hill. Among the marchers were President Grover Cleveland, his cabinet, representatives of Congress, the judiciary, state and local governments, and countless civic groups. Cheering onlookers repeatedly mobbed Lawrence Gardner, a portly man of distinguished bearing, who served as general chairman of the day's celebration. These well-intentioned greeters simply mistook Gardner for President Cleveland, at a time before news photographs were available to implant the presidential image in the minds of most Americans.

Despite a traffic jam of carriages backed up on the Capitol's circular drives, the marchers made their way to the East plaza in time for the speeches that begin promptly at 2 p.m. The Senate and House had settled into their places on a large grandstand as Chairman Gardner opened the festivities with this proclamation: "A study of the history of legislative bodies in all lands and times will disclose none the superior of the American Congress, whether in intelligence, patriotism, or in purity of purpose." The fact that this accolade triggered vigorous applause, rather than derisive laughter, tells us a great deal about popular regard for Congress 100 years ago.

President Cleveland pleased the crowd by speaking informally for only five-minutes. The audience was less pleased, however, with the day's principal oration by a long-winded historian. William Wirt Henry, grandson of Revolutionary hero, Patrick Henry spoke for nearly an hour. One press account charitably described Henry's remarks as "lengthy, learned, and ornate." Military bands and a 1,500-member centennial chorus entertained the crowd for the remainder of this memorable day. To ensure that future generations would not forget the centennial, the arrangements committee placed a seven-foot bronze plaque on the cornerstone's presumed site, with the simple inscription, "On the 100th anniversary in the year 1893, in the presence of the Congress, the Executive, and the Judiciary, a vast concourse of the grateful people of the District of Columbia commemorated this event."

Fifty years later, on September 18, 1943, the country had grown to 48 states, with a population of 133 million. There were 435 representatives—a number permanently fixed in 1911—and 96 senators, with a combined congressional staff of about 1,800.

A visitor to the Capitol's eastern plaza on this cornerstone anniversary date would find no bunting, no specially erected platforms, no bands, and few people. During the darkest days of World War II, as the nation's attention focused on reports of imminent Allied landings on hostile Italian beaches, a Washington correspondent reported that there would be no ceremonies at the Capitol as long as "the very freedom it represents is under attack." Another observed that "Today the Capitol stands as a symbol of freedom to an agonized world." Architect of the Capitol David Lynn promised that as soon as the war emergency passed he would implement plans to excavate the area surrounding the 1793 cornerstone. Then all Americans could make a pilgrimage to this national shrine and see for themselves this venerable relic.

This somber and unheralded anniversary found Congress again meeting in emergency session deliberating on methods for stabilizing the wartime economy and the postwar world. Illinois Representative Everett Dirksen sounded an early call for congressional reform. The 10-year House veteran explained that the public held Congress in low esteem because the national legislature's "fear of doing something for itself as an institution." He continued, "It is a very natural apprehension, for when we do, we are often at the receiving end of a lot of spicy, derogatory comment that has a great deal of reader interest." Dirksen concluded that the only thing wrong with Congress was that it had "failed to equip itself to cope with growing executive power and the bureaucracy." Dirksen's concern would lead to the passage of the Legislative Reorganization Act of 1946, the single most important piece of institutional reform legislation in the history of Congress. This legislation, for the first time, authorized members and committees of Congress to hire staff experts at a level comparable to those available to the executive branch. It provided the structural foundation of the modern Congress that substantiates this recent assessment of a knowledgeable political scientist: "The U.S. Congress is the most independent, powerful, and professionalized legislature in the world."

In the half century since 1943, the nation's population has nearly doubled—from 133 million to more than 250 million. Although the number of senators and representatives has remained virtually constant, Congress as an institution has changed in ways that members of that wartime era could scarcely have imagined. These changes include regular year-round sessions thanks to air conditioning and a vastly expanded federal role in the daily lives of Americans. Also, among the innovations are televised floor proceedings; jet travel that permits and obligates members to return home in mid-session on a weekly basis, while spending less time with congressional colleagues; large, professional staffs numbering up to 20,000; and election campaigns that require candidates to raise astronomical sums. Congress continues to evolve while maintaining features recognizable to the Constitution's framers (who completed their work 206 years ago today).

So, too, has the Capitol continued to evolve. A survey in 1938 revealed that the ceiling supports in the House and Senate chambers had become badly corroded, threatening to drop tons of ceiling and debris onto the heads of hapless legislators. World War II interrupted reconstruction plans, so members convened during the 1940s under supporting steel beams that were likened to "barn rafters." After the war, Congress decided to expand the roof reconstruction project to encompass a major renovation of both chambers.

Completion of Thomas Walter's massive cast iron dome in 1863 opened a 90-year-long debate on extending the east and west fronts to put them in proper proportion to the new dome. Following renovation of the House and Senate chambers in the early 1950s, planning began for a 32-foot extension of the East Front—a project that was completed by 1962. For the West Front, Congress ultimately decided to restore rather than extend the original facade and that project was completed in 1987. Earlier this year the Olmsted terraces were restored, and terrace courtyards were converted to interior meeting space.

Today, on the occasion of its bicentennial, the Capitol stands completed. Or does it? Americans of 1843 and 1893 and 1943 certainly thought the building of their era was fixed for the ages. Yet, as the passage of a few years would demonstrate, great expansion and challenge lay ahead both for the nation and the Capitol that has become its abiding symbol. In 1901, architectural historian Glenn Brown wrote: "Repairs and alterations to the Capitol have been continuously made, and will be so as long as the nation lives and grows. When such alterations cease, the nation will be on the decline." Fred and Suzy Maroon, in their elegant new book entitled *The United States Capitol* offer a more familiar forecast. "It is safe to predict," they write, "that there will be no significant changes to the outward appearance of the Capitol in the future. It has evolved into a magnificent building, satisfying to both the eye and the hearts of its owners, the American people."

As to what the coming half-century holds in store for Congress and the Capitol, only the celebrants of the year 2043 will know for sure.

A PERSPECTIVE ON EXPANDING NATO

Mr. HEFLIN. Mr. President, the world today differs dramatically from what it was only 3 or 4 years ago, when our system of international security was based on the maintenance of a balance of forces between the North Atlantic Alliance and the Warsaw Pact countries. The mutual nuclear deterrence fostered by that balance of power has now been replaced by a process for establishing a new security framework in Europe and around the globe. Nowhere is this embryonic process more in evidence today than in the current dialog among leaders of the North Atlantic Treaty Organization nations.

During the recent annual session of the North Atlantic Assembly in Copenhagen, Denmark, one issue at the top of the crowded agenda was that of expanding the membership of NATO. After the breakup of the Warsaw Pact and the collapse of the Soviet Union, young independent States striving to pursue a policy of nonconfrontation have sprung up on the new political map. Naturally, many of these young nations are seeking to become members of NATO. The question of their admission to NATO was a major focus of the assembly's defense and security committee, and will likely remain at the top of the agenda during the NATO heads-of-state summit in January.

For many of us who lived through World War II, or who may have been born during this period, NATO has always symbolized European security and stability. The collapse of Soviet communism was a modern miracle, but that miraculous event does not mean that heavenly peace has replaced the threat that communism posed for 45 years. With the smashing of the Berlin Wall—a truly breathtaking event whose dimensions few of us have fully grasped—it seems that a Pandora's Box was unintentionally opened up, allowing nationalistic, religious, and ethnic conflicts to bloody the landscape and mar our hopes for a lasting peace, at least in the short term. These conflicts have taught us that peace is more than a matter of simply knocking down a concrete wall, as important symbolically as that was.

As the militarily neutral Swedish Defense Minister said during the assembly, the collapse of the Soviet empire showed that Europe could not remain half free and half unfree. Today, it is just as clear that Europe cannot be only 50 percent peaceful, stable, and affluent. If we cannot ensure stability in an easterly direction, instability will spread westward. The end of the cold war is a turning point for Europe and the world. It is also a turning point for NATO and for the possibilities of its having to take military action.

It is only natural for the question of expanding NATO to be on the minds of leaders as we struggle to make sense of the post-cold-war world and contemplate what NATO's role will be in that world. I must say at the outset, however, that I do not share many of my European counterparts enthusiasm for embracing new NATO members: On the contrary, I am very reluctant to endorse the idea of expanding NATO membership at this time.

What is vital to remember as we consider NATO's role and membership is that it is first and foremost a military alliance. It is not just an American-European United Nations. The signatories to the North Atlantic Treaty are bound militarily to defend one another should a member be attacked by a nonsignatory. There are many possible scenarios which should make us pause long and hard when we think about admitting new members to NATO, but the situation in the former Yugoslavia is probably the most vivid. For example, should the same kind of ethnic and religious battles erupt in the Czech Republic after it became a NATO member, serious security dilemmas would be posed not only for the alliance, but for the rest of the world.

I believe that before we rush to create new NATO members, we must be more clear about NATO's purpose and agenda in the post-cold-war era. NATO has made some important strides in adapting to the new security environment, but before we start speaking of inviting more nations to join the alliance, we must answer questions like, "Why does NATO exist in the absence of the Soviet Union?" and "What are the new threats to European security?"

In Copenhagen, one of the Russian Parliamentarians present as an observer offered the Defense and Security Committee a Russian perspective on NATO expansion. He suggested that instead of talking about expanding NATO—an alliance specifically created to counter the Soviet military threat—member nations should focus on creating, over time, an inclusive European security structure.

We should indeed be sensitive to the concerns of not only Russia but to the other New Independent States in Eastern Europe and the former Soviet Union who would not be considered ready for NATO membership at this time. Events over the last month are a powerful reminder of how delicate the situation remains in Moscow. We should not rush into any actions which could provoke the Russians and play into the hands of hardliners who still espouse the principle of containing and, where necessary, challenging NATO.

At the same time, we cannot ignore the great interest that a number of our Eastern European friends have in NATO membership. The North Atlantic Cooperation Council provides a forum for NATO to consult with its friends in Poland, Hungary, the Czech Republic, and other countries on security issues. All of our friends in the Council should be assured that NATO will work to strengthen those ties.

On October 20, the United States proposed that the NATO Alliance offer limited military partnerships to virtually any interested European nation, including Russia and the other former Warsaw Pact nations. Under the proposal presented to the allies by Secretary of Defense Les Aspin, partner nations would not be entitled to the automatic security provisions of the NATO treaty. However, NATO would consult with a partner country in the event its territorial integrity is threatened, and the alliance could conceivably take military action to protect that nation.

This proposal appears to be a wise and balanced effort to address concerns over long-term peace and security in post-cold war Europe and those concerns of the Eastern European countries seeking NATO membership. I view this arrangement as a cautious but positive step for both NATO and the new democracies as they seek to define their role in a new and rapidly changing world.

Any true expansion of NATO, however, should contribute to—and must be seen as contributing to—the overall stability and security of the new democracies to NATO's east, while also preserving the security and stability of NATO's current members. I am convinced that at this point in time, an expansion would not meet these minimum requirements.

HERB WHITE RETIRES FROM AUBURN UNIVERSITY

Mr. HEFLIN. Mr. President, I rise today to pay tribute to a man who has been around Auburn University as long as the university itself.

The executive director of Auburn University relations, J. Herbert White, is retiring after 33 years of service to Alabama's largest land-grant university. He has seen it develop from a college of some 9,000 students when he started working there in 1960—the same year its name changed from Alabama Polytechnic Institute to Auburn University—to more than 20,000 today.

During this time Herb White has played a significant role in not only the growth of Auburn's enrollment, but in its recognition as a great comprehensive university as well.

Since his senior year when he was editor of the Plainsman, Auburn's student newspaper, Herb White has held many positions at the university.

After graduating from Auburn in 1955, Herb returned to his beloved alma mater 5 years later when he was hired by the Auburn Alumni Association as a field secretary and was instrumental in the university's first capital gifts campaign.

In 1965, Dr. Harry Philpott, then the president of Auburn, named Herb White the director of university relations and AU's chief government relations representative at the Alabama State Legislature in Montgomery.

During his career with university relations, Auburn's annual appropriation from the State grew more than tenfold—to over $153 million.

Herb White and others are credited with forming the very successful grassroots lobbying program known as the County Auburn Committees. These groups of Auburn alumni in each of Alabama's 67 counties study the university's legislative program and then lobby their State legislators to support it.

University relations too has increased in size and productivity with Herb White at the helm. The office has received numerous awards, including the Silver Anvil Award from the Public Relations Society of America for its role in working with the alumni and passing a 1-cent sales tax for education in Alabama.

If you were to ask Herb White what is Auburn University's recipe for success, I am sure he would say "leadership." In a recent edition of the AU Report, a newspaper for the faculty and staff of Auburn University, Herb White said the university has been fortunate in selecting its leaders. And he should know, for during his tenure at Auburn he has served in the administrations of six university presidents.

"From Ralph B. Drauhon's leadership in handling integration of the university in 1964 to the problems of today, Auburn has always had strong leaders," he told the AU Report.

"The faculty was greatly strengthened in the Philpott administration and that process has continued," he said. "The recent administrations of Presidents Bailey, Martin, and now Dr. Muse have made it very rewarding to work at the university."

And although he is much too modest to admit, Herb White has been an important ingredient in that successful formula at Auburn. The countless hours he has worked with the media, the legislature, Congress, and others to make Auburn a great university is something that is deeply appreciated by those who consider themselves part of the very large and growing Auburn family of students, alumni, staff, and fans.

I congratulate Herb White for the many successes he has had through the years at Auburn and I wish him, his loving wife, Freda, and his lovely daughters and their families of whom he is so proud, all the best in the long and many years that lay ahead.

TOE THE LINE, MR. PRESIDENT

Mr. HELMS. Mr. President, President Clinton will meet with the President of China, Jiang Zemin, in Seattle tomorrow at the Asia Pacific economic cooperation forum summit. The plan is for the President to discuss proliferation, trade and human rights issues.

I understand that the administration may announce a package deal with China at the end of this meeting. Reports suggest that the administration will repeal the sanctions it imposed on China 3 months ago after the Communist Chinese were caught red-handed—no pun intended—transferring missile-related equipment to Pakistan. If this announcement is not made at the APEC summit, it is likely to be forthcoming after Congress adjourns for the year.

Mr. President, to demonstrate the effectiveness of this policy of imposing and then revoking sanctions on China, a recent example may be instructive: The previous administration, whose failed China policy I never agreed with, advocated a relationship of engagement with the communist Chinese. Administration officials wrung their hands in June 1991 when forced by Congress—and the laws of the United

States—to impose sanctions on the Communist Chinese for transferring missile technology to rogue regimes. The officials declared that it impeded opportunities to coax the Chinese into better behavior.

With much ado, 8 months later, that administration lifted the sanctions with the promise that the Chinese would abide by their commitments to nonproliferation. Where did that get us? Less than a year later, the Chinese were caught transferring the very high-technology components that they had promised months earlier not to sell.

Mr. President, I was heartened by the hard-line stance Candidate Clinton took toward China during his campaign along with his seeming dedication to nonproliferation. His now infamous characterization of the previous administration's policy of "coddling the dictator of Beijing" was one with which many Americans agreed. And, to my surprise, it appeared, albeit fleetingly that his campaign rhetoric had become a reality in August when he imposed sanctions on the Chinese.

But this reality evaporated in September when the Clinton administration ushered in a new era of closer, more open relations with China—a new policy of engagement. And to nobody's surprise, supporters of this policy of engagement are wringing their hands over these sanctions. It's deja vu all over again.

The Chinese break their promises to us, we impose sanctions and within a few months we revoke them. And for what—the opportunity to chat with Chinese leaders, a promise from the Chinese that they will not misbehave in the near future? All of this in light of reports that the Chinese are in the position to proliferate even more.

I disagreed with the revocation of sanctions under the last administration and I disagree with it now. Until the Chinese sign up and adhere to their commitments to nonproliferation, this administration should continue to toe a tough line—and that tough line must include penalties for wrongful acts.

Mr. President, I hope that the President will reconsider his actions when he meets with the Chinese President tomorrow and in his future formulation of United States-China policy.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, anyone even remotely familiar with the U.S. Constitution knows that no President can spend a dime of Federal tax money that has not first been authorized and appropriated by Congress—both the House of Representatives and the U.S. Senate.

So when you hear a politician or an editor or a commentator declare that "Reagan ran up the Federal debt" or that "Bush ran it up," bear in mind that it was, and is, the constitutional duty of Congress to control Federal spending. Congress has failed miserably in that task for about 50 years.

The fiscal irresponsibility of Congress has created a Federal debt which stood at $4,462,811,124,306.37 as of the close of business yesterday, November 17. Averaged out, every man, woman and child in America owes a share of this massive debt, and that per capita share is $17,374.56.

REGARDING THE SITUATION IN KASHMIR

Mr. WARNER. Mr. President, I rise today to bring attention to the continuing violence in the Indian State of Kashmir, which is located on the India-Pakistan border.

Recently, we have seen that violence flame up with the siege by Indian troops of the Hazratbal Mosque, the holiest mosque in Kashmir. It is my understanding that the siege recently ended; however, Indian troops are still holding several separatist leaders that were taken into custody at the start of the siege.

This incident is an example of the type of violence that has been taking place in Kashmir since 1989. Numerous human rights violations have also been frequently cited. All such violence must cease, including certain activities allegedly carried out by Moslem separatists.

The escalation of tensions in Kashmir has in turn created a deterioration in relations between Pakistan and India. With both India and Pakistan either possessing or being close to obtaining nuclear weapons, it is vital that we prevent a worsening of that already unstable relationship.

Therefore, Mr. President, I call on India to use restraint in its dealings in Kashmir. Nonviolent methods must be utilized by both sides to settle this dispute and calm tensions in the region.

TELEVISION VIOLENCE

Mr. SIMON. Mr. President, I want to mention to my colleagues that I have been working on this problem of television violence and the problem that entertainment violence glorifies violence in our society. The evidence is overwhelming on that.

I wrote a letter to the television stations and to a number of the cable stations around the Nation asking them: Will you please, one time a day, put a warning on saying you may harm yourself watching too much violence on television—or some kind of warning. It was a little like asking the cigarette manufacturers to put a label on, and I did not expect any response—or modest, if any.

But four stations have volunteered to do this. I want to mention them: WCEE-TV, Mt. Vernon, IL; WPSD-TV, Paducah, KY; WFMZ-TV in Allentown, PA, and GH Cable in Columbia, MS. I commend those four stations, and I hope there may be others that will follow.

ON THE DEATH OF ROBERT F. WAGNER, JR.

Mr. MOYNIHAN. Mr. President, the morning papers report a telephone conversation between President Clinton and the mayor-elect of New York City, Rudolph W. Giuliani, in which the President mentioned that they shared a number of mutual friends, among them, Robert F. Wagner, Jr. It fell to Mr. Giuliani to inform the President that Bob had died just this past Monday.

It would have been a blow to the President, as it was to Mr. Giuliani, as it was to me and so many of Bob Wagner's friends and admirers across the Nation, but most especially in his city of New York.

It happens I last saw him a week ago today. In the Chrysler Building, that magnificent art deco artifact that so defines New York. A practical work of art. He accompanied Mr. Giuliani, who came round to talk about the city whose leadership he will now assume. Rather, I should say, Bob arrived 20 minutes after Mr. Giuliani, late as usual, filled with unfinished thoughts from his last meeting, rushing into the details of the one just commenced. I told the mayor-elect of President Clinton's determination to keep his election season pledge to New York City to help with the recreation of the old Pennsylvania Station in what is now the Farley Post Office Building. The mayor-elect was obviously pleased and interested, but Bob Wagner was, well, thrilled. He knew what we had lost when the old station was torn down; he sensed what we might gain if it were somehow recovered.

I later told friends that Bob had fair-to-tapdanced on the ceiling at the prospect of getting something glorious going in New York City again.

On that occasion, in a corner office on the 41st floor of the Chrysler Building, with the city shining all about us, we talked a bit about politics. I had worked as a volunteer in his father's first campaign for mayor in 1953. It was my start in politics. I recalled the day after the election when I got a telephone call, far above my unpaid level, from the producer of a then-famous new television show called "I've Got A Secret." The idea was to get Bob and his brother Duncan on stage with the secret that their father had just been elected mayor of New York City. I sensibly told the producer I would call back and let the matter end there. But I was then outside the room where the mayor-elect, Carmine de Sapio, the head of Tammany Hall, and Sid Baron, the publicist, made the decision that with the election over and city hall in prospect, they would drop the "Jr." from the mayor-elect's name. I related this last Thursday and was tickled when Bob told me he had never known how exactly that had happened. And well that it did, for otherwise he would have had to go through life as Robert F. Wagner III, which would certainly not have done.

He, of course, devoted his life to the city as his father had, and his father before him. He was one of the last New Yorkers in public life who could remember that if we have been an idea, also, and possibly more importantly, we have been a place, a place of splendid artifact.

First the canal. The tall ships. Then the tall buildings. The bridge. The statute. The park. The subway. Yet taller buildings, greater bridges. Vast railroad terminals built on the example of Roman emperors. That energy has seeped out of our civilization, something Bob Wagner understood and lamented. He evidently hoped to become the new director of city planning, a quintessential New York idea of the turn of the century, now lost like some magnificent Mayan ruin behind the suffocating tendrils of ULURP. We have, for example, been trying to build or rather, rebuild, a trolley car across 42d Street for 15 years now. When his father was borough president, it would have taken 2 years at most. When his grandfather was a State senator and Charles Francis Murphy, the Democratic country leader, it would have been brought off in 6 months. Oh for the days when Croker built the IRT as a favor to a friend.

Which is only to say that Bob understood this aspect of the city as an expression of the creativeness of its people. People from all about. His grandfather was born in the Province of Hessen-Nassau in Germany; his grandmother was Irish. His beautiful mother Susan was what was then called Old American. In his own work Bob concentrated most on the needs of New Americans in the city, and he did what he could do, which is more than all but a very few persons of this generation. We will never know the loss we suffered when the bureaucratic idiocy of the State education commissioner decided that a public man of unmatched intelligence and range did not have enough credits to be schools chancellor. Earlier in 1977, he had run for the nomination as borough president of Manhattan. I supported him in the primary, which he narrowly lost, after that he returned to public service in the administration of Mayor Koch.

To declare my interests, as the lawyers say, I would have supported him anyway. But there was a special bond between us. When "Beyond the Melting Pot" appeared in 1963, it received an especially warm and welcoming review in a Harvard undergraduate journal from—who else—Robert F. Wagner, Jr.

I do not want to make him out to be too much a New Yorker. Cities everywhere called him, engaged him. He died in San Antonio, working on a book on urban America with Julia Vitullo-Martin.

I would ask his loving stepmother, Phyliss Cerf Wagner, to accept our homage even as we share her grief.

Mr. President, I ask unanimous consent that an editorial on Robert F. Wagner, Jr., that appeared in yesterday's Daily News be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A SON OF NEW YORK

Robert F. Wagner, Jr. never matched the elective successes of his father the mayor or his grandfather the senator. No matter. Bobby Wagner, as he was known to a legion of friends, served the city he loved in an extraordinary variety of posts—city councilman, chairman of the City Planning Commission, president of the Health and Hospitals Corp., deputy mayor, president of the Board of Education. And he served always with grace, skill and intelligence.

Among the thousands who grieve at Wagner's untimely death is Mayor-elect Rudolph Giuliani, who owed him a particular debt. When Wagner endorsed Giuliani last month, he made what was probably the most effective campaign commercial of the political season. Wagner simply looked into the camera with the same half-pained, old-beyond-his-49-years expression he usually wore and told how he had decided that New York needed better leadership. It worked in part because many New Yorkers associated him with his father and with Ed Koch. But it worked most of all because the honesty and conviction that characterized the man shone through.

Giuliani says he planned on making Wagner a deputy mayor. He would have been invaluable, not only for his great experience, but for the qualities Giuliani needs most—tolerance, perspective and, most of all, simple, humble kindness.

FLOOD UPDATE

Mr. BOND. Mr. President, in July of this year the country witnessed one of the worst floods in history. The President and Congress reacted quickly and passed the Emergency Supplemental Appropriations for Relief From the Major, Widespread Flooding in the Midwest Act of 1993.

This legislation provided the initial Federal assistance to people, communities, and businesses ravaged by the extensive flooding in the Midwest. More help may be needed to finish the job next year. From my experience with floods as Governor, I can tell you that flood recoveries are measured in months and years, not days. The Federal Government has a responsibility to help flood victims at the end of this recovery as it did at the beginning.

I believe that the strongest element of our Federal relief effort has been to let the people who have suffered through this tragedy make the choices about the recovery. There is a temptation in Washington to make decisions here about how people should live their lives. It's an elite temptation to say subtlely, and sometimes not so subtlely, that we in Washington know what's best for you. While Mother Nature was the Midwest's foe in the disaster, that elite Washington attitude is our foe during the recovery.

Choices about whether people should repair their levees, turn their lands into new wetlands, sell their lands to the Government, or move back into their homes belong to the families and communities that have suffered. I do not believe that I should make that decision for them, nor do I believe that some bureaucrat, environmentalist, or committee chairman should make it either.

No Missouri flood victim will profit from flood pork. Forty-seven people lost their lives and 55,000 families had their homes damaged. All total, our State suffered nearly $15 billion in economic losses. Federal assistance will not come close to compensating flood victims for their actual damages, let alone their suffering. People who call this humanitarian aid pork should be ashamed. Frankly, that's an argument which only people sitting high and dry in Washington or behind 30-foot-high, multimillion-dollar flood protection systems would so cavalierly make.

There is no single answer nor approach that is right for everyone along the river. Each family and community has its own unique situation and must make its own choices about its future. Policymakers or special interest groups in Washington should not try to use these families' personal tragedies as a way to further their political agendas. The disaster legislation Congress passed gave people many options for their future and we should continue that approach.

Buyouts: Helping communities along the river buyout flood-prone property would give families the choice of moving out of the flood plain. On November 15, the House of Representatives passed the Hazard Mitigation and Flood Damage Reduction Act of 1993. This vital buyout legislation must be passed in one form or another before Congress concludes this year.

I will be cosponsoring the buyout legislation offered by Senator HARKIN in consultation with Senator BAUCUS. I have talked with Chairman BAUCUS and have urged him and the administration to take care of their concerns about the House-passed buyout bill. We are working toward legislation that can be passed by Congress in the next few days and enacted quickly.

The victims of the widespread flooding in the Midwest need this option now, not this spring. Towns are trying to get their citizens back on their feet so they can become a productive part of the community again. For that to happen, many towns need this Federal assistance to get families, businesses, and homes out of harm's way. I appreciate the effort that the chairman of the Environment and Public Works Committee is making to enact this legislation before we adjourn for the year.

Wetlands: Turning flood-damaged lands into new wetlands should be another voluntary choice that Midwesterners have. The Wetlands Reserve Program is an essential option for the landowners in the Midwest who suffered from the flood. However, like the Hazard Mitigation Program, the Wetlands Reserve Program needs some immediate attention.

The Missouri SCS estimates that people with up to 50,000 acres in the Missouri River flood plain are interested in the Wetlands Reserve Program. Unfortunately, there is only enough money to pay for one-tenth of the land that could be enrolled in this program.

I urge both the chairman of the Agriculture Committee and the administration to look into the Wetlands Reserve Program so that the other 40,000 acres of land in the flood plain in Missouri will have the option to participate in this program. They will have my full support.

Levees: People should have the choice to participate in the Federal Levee Program and receive help in rebuilding their flood protection. Unfortunately, that choice is now being denied them. After assuring many flood-ravaged Missouri communities that it would assist them with levee rebuilding, the corps did a complete reversal on September 28. Under orders from Washington, the corps now refused to help communities that it had earlier pledged to assist. Small towns on the river like Orrick and Hardin that had been devastated by flooding have been left with nowhere to turn for help.

I want the corps to allow levees that are sponsored by communities and other public organizations to enter the Federal Levee Program and get rebuilding assistance. The public sponsors of levees entering the Federal program would be required to meet the corps' high standards for levees and abide fully by the program's requirements. Only publicly sponsored levees, not private levees, could participate and get Federal rebuilding assistance under my approach.

If the Federal Government does nothing to help repair these levees, then people in the Midwest will continue to suffer flood damages, costing the Government more in lost tax revenues, economic damages, and disaster assistance, until they are protected. It would also waste billions of dollars already invested in these communities and cause untold suffering.

If the Federal Government creates a new flood protection system, it would easily cost billions of tax dollars. We would need to buy out miles and miles of land, unless the environmentalists suggest that we just seize people's land. Then a new system of levees and wetlands would have to be constructed from scratch.

Simple common sense dictates that repairing our damaged levees is the most cost-effective way to protect people from flooding. Using information from the corps, I estimate that up to 482 publicly sponsored levees would enter the Federal program if they could at an average cost of $218,000 per levee. The total Federal cost could amount to $105 million. In short, we can either spend some tax dollars now to repair levees, or a lot now to create a new system, or a whole bunch down the road as the price of doing nothing.

I have discussed a compromise with the administration on levee repairs that would limit cost to taxpayers and protect the integrity of the Levee Rehabilitation Assistance Program. It would cap the cost of repairs on our damaged levees at $150 million and would set up a 75 percent Federal, 25 percent local cost share, instead of the normal 80–20 cost share. I believe they are negotiating in good faith and appreciate their willingness to work this problem out.

Since this program was put in place by Federal regulations in 1986 and newly interpreted by the administration in 1993, it can be changed by the administration with a stroke of the pen. I have asked them to do that. I trust the administration will do the right thing by changing the policy back to where it was this summer and helping the Midwest restore our flood protection.

Flood insurance: The Federal Government has a responsibility to help Americans who are the victims of a major natural disaster, whether they live in California, Florida, or Missouri. However, the Federal Government cannot and should not take full responsibility for disaster recovery or preparation. People who live in areas that are the most vulnerable to natural disasters also have a responsibility to prepare for a natural emergency. They must take personal responsibility for living and working in an area vulnerable to a disaster.

The recent flood has given this personal responsibility new meaning in the Midwest. Missourians who live in the flood plain should help protect themselves with flood insurance. We should take advantage of the unique protection offered by the National Flood Insurance Program [NFIP].

Unfortunately, Missourians simply are not insuring against the risk of flood as we should. The Federal Emergency Management Agency [FEMA] tells me that Missouri has fewer than 14,890 flood insurance policies, while Texas and Louisiana have over 200,000 active policies each. Of the 169,000 structures in communities where flood insurance can be purchased in our State, only 15,210 are covered by flood insurance.

Many of the homes damaged in the great flood of 1993 were without flood insurance. It is too late to insure these homes for that flood, but I want to stress that we need to reform the National Flood Insurance Program to insure these homes and other uninsured homes against the future risk of flooding. It is also critical to place the program on a sound financial footing, because there is little question that the National Flood Insurance Program is massively exposed. Bipartisan flood insurance reform should increase participation in the NFIP to protect people and insure the soundness of the fund to protect taxpayers.

I say this today because I am frustrated. Flood insurance reform legislation has been introduced on several occasions over the last several congresses and the needed reforms have not been enacted. Missouri and other States have suffered because the National Flood Insurance Program has not done its job in encouraging participation. Until Congress enacts meaningful and directed legislation, the National Flood Insurance Program will continue to fail and families and homes will continue to suffer from this failure.

The Banking Committee during this session began consideration of S. 1405, the National Flood Insurance Reform Act of 1993. While S. 1405 has some flaws, it also has many sound provisions which can provide a base for needed reforms to the National Flood Insurance Program. In particular, S. 1405 would provide stricter requirements to ensure the placement of insurance on properties in flood-prone areas; it would increase flood insurance coverage amounts; it would establish a community rating system to provide premium rate credits for communities that implement land use and loss control measures that exceed minimum criteria; and it would establish a new program for mitigation assistance. These are important reforms which I strongly support.

This Nation can ill afford to let flood insurance reform slip away in this Congress. Thus I will certainly join with other Senators interested in reforming the flood insurance program to see that the goals of an affordable, locally directed, and actuarially sound flood insurance program are enacted. I hope we can reach some agreement to move a meaningful reform package as soon as possible. Senators should not allow the search for the perfect to be the enemy of the good.

Those who choose to live and work in the flood plain have a responsibility to themselves, their families, and the taxpayers to insure against the possibility of flooding. And those who work here should help reform the program so that it will effectively protect the taxpayers.

I thank Senators for their willingness to help Midwesterners recover from this tragedy. There is still much to be done, but we have gone far in a short time. Midwesterners need choices for our families and communities, and in most cases, that's what we have helped them have.

STATEMENT ON THE NOMINATION OF CARL KIRKPATRICK

Mr. SASSER. Mr. President, I am very pleased that the Senate was able to approve last night the nomination of Carl Kirkpatrick as U.S. attorney for eastern Tennessee.

I was honored to nominate Carl Kirkpatrick for this position and I am confident he will be an outstanding U.S. attorney. He has already shown his potential during his distinguished service as a district attorney general in Sullivan County, TN. He was elected to that office in 1966 and swiftly reduced the backlog of over 300 cases that he faced.

Mr. Kirkpatrick is widely respected in our State as an effective prosecutor. Just to cite one example, in 1990, Carl Kirkpatrick secured convictions in 90 percent of the cases he tried. That's how you deter crime, Mr. President—effective prosecution.

Carl Kirkpatrick is a native of Kingsport and received his undergraduate and law degrees from Vanderbilt University. He has held all offices in the Tennessee District Attorneys General Conference. While he was president, he wrote and was instrumental in passing legislation to create an office of executive secretary of the Attorneys General Conference. Also during his tenure as president, he conducted the first annual statewide 3-day training session for district attorneys and their staffs.

Carl Kirkpatrick has been an instructor in numerous local police training seminars and a great lecturer at the Tennessee Bureau of Investigation academy, as well as East Tennessee State University. He has also taught criminal law and procedure at Virginia Intermont College for the past 3 years.

Mr. Kirkpatrick was instrumental in creating the Sullivan County Drug Education Council, which provided information services to the high schools in Sullivan County for several years. The council was so successful that it was taken over by, and is now part of, the school system.

Among many other activities, he is a member of the State Victims of Crime Act Policy Advisory Committee, the Governor's Drug-Free Tennessee Advisory Committee, and the Tennessee Child Abuse Advisory Committee. He has also been active in his community, receiving the American Legion Distinguished Service Award and the Kingsport Times News Award for Community Achievement.

Mr. President, I have known Carl Kirkpatrick for many years. He has the experience and temperament needed for this important position and I am confident he will be an outstanding U.S. attorney.

THE MEDICARE DATA BANK PENALTIES—S. 1668

Mr. LIEBERMAN. Mr. President, I thank the chairman for agreeing to discuss the Medicare/Medicaid data bank. In 6 weeks, small and large businesses across America must begin keeping detailed records on individuals for whom they provide health coverage—including employees, spouses, and dependents—and the period of coverage for each individual. This is a daunting, new paperwork burden for employers. And each employer will be subject to penalties of $100 per employee if they do not submit the proper forms for each and every person covered when the time comes to report in February 1995. Despite the fact that employers must begin keeping these records in just 6 weeks, most of them will know nothing about what to collect or how to submit it because the Health Care Financing Administration [HCFA] has done nothing to notify them of this liability, or tell them how to comply. HCFA has issued no guidance on what or how to file, and they have routinely rejected requests from the business community to meet and discuss the requirements.

It is simply a matter of fairness. It is unconscionable to impose penalties on business for not collecting information when we haven't told them what to collect or how to submit it. If HCFA can't issue final guidance to employers before January 1, penalties should be waived.

Mr. MOYNIHAN. I thank the Senator for raising this most important point. He is absolutely right that it is unfair to penalize businesses when we haven't advised them of their responsibilities. It was never the intent of the Finance Committee to put businesses in that kind of catch-22. If we discover that HCFA is penalizing businesses for not collecting or submitting information on employees and their families when HCFA has not given them instructions on how to file this information and has not given them appropriate time to respond, you can be sure that we will move quickly and firmly to address the problem, including the consideration of any legislation, if necessary.

RULES OF THE COMMITTEE ON FOREIGN RELATIONS

Mr. PELL. Mr. President, pursuant to the requirements of paragraph 2 of Senate rule XXVI, I ask to have printed in the RECORD the amendments to the rules of the Committee on Foreign Relations.

There being no objection, the rules were ordered to be printed in the RECORD, as follows:

RULES OF THE COMMITTEE ON FOREIGN RELATIONS

(Adopted November 18, 1993)

RULE 1—JURISDICTION

(a) *Substantive.*—In accordance with Senate Rule XXV.1(j), the jurisdiction of the Committee shall extend to all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

1. Acquisition of land and buildings for embassies and legations in foreign countries.
2. Boundaries of the United States.
3. Diplomatic service.
4. Foreign economic, military, technical, and humanitarian assistance.
5. Foreign loans.
6. International activities of the American National Red Cross and the International Committee of the Red Cross.
7. International aspects of nuclear energy, including nuclear transfer policy.
8. International conferences and congresses.
9. International law as it relates to foreign policy.
10. International Monetary Fund and other international organizations established primarily for international monetary purposes (except that, at the request of the Committee on Banking, Housing, and Urban Affairs, any proposed legislation relating to such subjects reported by the Committee on Foreign Relations shall be referred to the Committee on Banking, Housing, and Urban Affairs).
11. Intervention abroad and declarations of war.
12. Measures to foster commercial intercourse with foreign nations and to safeguard American business interests abroad.
13. National security and international aspects of trusteeships of the United States.
14. Ocean and international environmental and scientific affairs as they relate to foreign policy.
15. Protection of United States citizens abroad and expatriation.
16. Relations of the United States with foreign nations generally.
17. Treaties and executive agreements, except reciprocal trade agreements.
18. United Nations and its affiliated organizations.
19. World Bank group, the regional development banks, and other international organizations established primarily for development assistance purposes.

The Committee is also mandated by Senate Rule XXV.1(j) to study and review, on a comprehensive basis, matters relating to the national security policy, foreign policy, and international economic policy as it relates to foreign policy of the United States, and matters relating to food, hunger, and nutrition in foreign countries, and report thereon from time to time.

(b) *Oversight.*—The Committee also has a responsibility under Senate Rule XXVI.8, which provides that ". . . each standing Committee . . . shall review and study, on a continuing basis, the application, administration, and execution of those laws or parts of laws, the subject matter of which is within the jurisdiction of the Committee."

(c) *Advice and Consent" Clauses.*—The Committee has a special responsibility to assist the Senate in its constitutional function of providing "advice and consent" to all treaties entered into by the United States and all nominations to the principal executive branch positions in the field of foreign policy and diplomacy.

RULE 2—SUBCOMMITTEES

(a) *Creation.*—Unless otherwise authorized by law or Senate resolution, subcommittees shall be created by majority vote of the Committee and shall deal with such legislation and oversight of programs and policies as the Committee directs. Legislative measures or other matters may be referred to a subcommittee for consideration in the discretion of the Chairman or by vote of a majority of the Committee. If the principal subject matter of a measure or matter to be referred falls within the jurisdiction of more than one subcommittee, the Chairman or the Committee may refer the matter to two or more subcommittees for joint consideration.

(b) *Assignments.*—Assignments of members to subcommittees shall be made in an equitable fashion. No member of the Committee may receive assignment to a second subcommittee until, in order of seniority, all members of the Committee have chosen assignments to one subcommittee, and no member shall receive assignments to a third subcommittee until, in order of seniority, all members have chosen assignments to two subcommittees.

No member of the Committee may serve on more than three subcommittees at any one time.

The Chairman and Ranking Minority Member of the Committee shall be ex officio members, without vote of each subcommittee.

(c) *Meetings.*—Except when funds have been specifically made available by the Senate for a subcommittee purpose, no subcommittee of the Committee on Foreign Relations shall hold hearings involving expenses without prior approval of the Chairman of the full Committee or by decision of the full Committee. Meetings of subcommittees shall be scheduled after consultation with the Chairman of the Committee with a view toward avoiding conflicts with meetings of other subcommittees insofar as possible. Meetings of subcommittees shall not be scheduled to conflict with meetings of the full Committee.

The proceedings of each subcommittee shall be governed by the rules of the full Committee, subject to such authorizations or limitations as the Committee may from time to time prescribe.

RULE 3—MEETINGS

(a) *Regular Meeting Day.*—The regular meeting day of the Committee on Foreign Relations for the transaction of Committee business shall be on Tuesday of each week, unless otherwise directed by the Chairman.

(b) *Additional Meetings.*—Additional meetings and hearings of the Committee may be called by the Chairman as he may deem necessary. If at least three members of the Committee desire that a special meeting of the Committee be called by the Chairman, those members may file in the offices of the Committee their written request to the Chairman for that special meeting. Immediately upon filing of the request, the Chief Clerk of the Committee shall notify the Chairman of the filing of the request. If, within three calendar days after the filing of the request, the Chairman does not call the requested special meeting, to be held within seven calendar days after the filing of the request, a majority of the members of the Committee may file in the offices of the Committee their written notice that a special meeting of the Committee will be held, specifying the date and hour of that special meeting. The Committee shall meet on that date and hour. Immediately upon the filing of the notice, the Clerk shall notify all members of the Committee that such special meeting will be held and inform them of its date and hour.

(c) *Minority Request.*—Whenever any hearing is conducted by the Committee or a subcommittee upon any measure or matter, the minority on the Committee shall be entitled, upon request made by a majority of the minority members to the Chairman before the completion of such hearing, to call witnesses selected by the minority to testify with respect to the measure or matter during at least one day of hearing thereon.

(d) *Public Announcement.*—The Committee, or any subcommittee thereof, shall make public announcement of the date, place, time, and subject matter of any hearing to be conducted on any measure or matter at least one week in advance of such hearings, unless the Chairman of the Committee, or subcommittee, determines that there is good cause to begin such hearing at an earlier date.

(e) *Procedure.*—Insofar as possible, proceedings of the Committee will be conducted without resort to the formalities of parliamentary procedure and with due regard for the views of all members. Issues of procedure which may arise from time to time shall be resolved by decision of the Chairman, in consultation with the Ranking Minority Member. The Chairman, in consultation with the Ranking Minority Member, may also propose special procedures to govern the consideration of particular matters by the Committee.

(f) *Closed Sessions.*—Each meeting of the Committee on Foreign Relations, or any subcommittee thereof, including meetings to conduct hearings, shall be open to the public, except that a meeting or series of meetings by the Committee or a subcommittee on the same subject for a period of no more than fourteen calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in paragraphs (1) through (6) would require the meeting to be closed followed immediately by a record vote in open session by a majority of the members of the Committee or subcommittee when it is determined that the matters to be discussed or the testimony to be taken at such meeting or meetings—

(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(2) will relate solely to matters of Committee staff personnel or internal staff management or procedure;

(3) will tend to charge an individual with crime or misconduct; to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

(4) will disclose the identify of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(5) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if—

(A) an Act of Congress requires information to be kept confidential by Government officers and employees; or

(B) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person, or

(6) may divulge matters required to be kept confidential under other provisions of law or Government regulations.

A closed meeting may be opened by a majority vote of the Committee.

(g) *Staff Attendance.*—A member of the Committee may have one member of his or her personal staff, for whom that member assumes personal responsibility, accompany and be seated nearby at Committee meetings.

Each member of the Committee may designate members of his or her personal staff, who hold a Top Secret security clearance, for the purpose of their eligibility to attend closed sessions of the Committee, subject to the same conditions set forth for Committee staff under Rules 12, 13, and 14.

In addition, the Majority Leader and the Minority Leader of the Senate, if they are not otherwise members of the Committee, may designate one member of their staff with a Top Secret security clearance to attend closed sessions of the Committee, subject to the same conditions set forth for Committee staff under Rules 12, 13, and 14. Staff of other Senators who are not members of the Committee may not attend closed sessions of the Committee.

Attendance of Committee staff at meetings will be limited to those designated by the Staff Director or the Minority Staff Director.

The Committee, by majority vote, or the Chairman, with the concurrence of the Ranking Minority Member, may limit staff attendance at specified meetings.

RULE 4—QUORUMS

(a) *Testimony.*—For the purpose of taking sworn or unsworn testimony at any duly scheduled meeting a quorum of the Committee and each subcommittee thereof shall consist of one member.

(b) *Business.*—A quorum for the transaction of Committee or subcommittee business, other than for reporting a measure or recommendation to the Senate or the taking of testimony, shall consist of one-third of the members of the Committee on subcommittee, including at least one member from each party.

(c) *Reporting.*—A majority of the membership of the Committee shall constitute a quorum for reporting any measure or recommendation to the Senate. No measure or recommendation shall be ordered reported from the Committee unless a majority of the Committee members are physically present. The vote of the Committee to report a measure or matter shall require the concurrence of a majority of those members who are physically present at the time the vote is taken.

RULE 5—PROXIES

Proxies must be in writing with the signature of the absent member. Subject to the requirements of Rule 4 for the physical presence of a quorum to report a matter, proxy voting shall be allowed on all measures and matters before the Committee. However, proxies shall not be voted on a measure or matter except when the absent member has been informed of the matter on which he is being recorded and has affirmatively requested that he or she be so recorded.

RULE 6—WITNESSES

(a) *General.*—The Committee on Foreign Relations will consider requests to testify on any matter or measure pending before the Committee.

(b) *Presentation.*—If the Chairman so determines, the oral presentation of witnesses shall be limited to 10 minutes. However, written statements of reasonable length may be submitted by witnesses and other interested persons who are unable to justify in person.

(c) *Filing of Statements.*—A witness appearing before the Committee, or any subcommittee thereof, shall file a written statement of his proposed testimony at least 48 hours prior to his appearance unless this requirement is waived by the Chairman and the Ranking Minority Member following their determination that there is good cause for failure to file such a statement.

(d) *Expenses.*—Only the Chairman may authorize expenditures of funds for the expenses of witnesses appearing before the Committee or its subcommittees.

(e) *Requests.*—Any witness called for a hearing may submit a written request to the Chairman no later than 24 hours in advance for his testimony to be in closed or open session, or for any other unusual procedure. The Chairman shall determine whether to grant any such request and shall notify the Committee members of the request and of his decision.

RULE 7—SUBPOENAS

(a) *Authorization.*—The Chairman or any other member of the Committee, when authorized by a majority vote of the Committee at a meeting or by proxies, shall have authority to subpoena the attendance of witnesses or the production of memoranda, documents, records, or any other materials. When the Committee authorizes a subpoena, it may be issued upon the signature of the Chairman or any other member designated by the Committee.

(b) *Return.*—A subpoena, or a request to an agency, for documents may be issued whose return shall occur at a time and place other than that of a scheduled Committee meeting. A return on such a subpoena or request which is incomplete or accompanied by an objection constitutes good cause for a hearing on shortened notice. Upon such a return, the Chairman or any other member designated by him may convene a hearing by giving 2 hours notice by telephone to all other members. One member shall constitute a quorum for such a hearing. The sole purpose of such a hearing shall be to elucidate further information about the return and to rule on the objection.

(c) *Depositions.*—At the direction of the Committee, staff is authorized to take depositions from witnesses.

RULE 8—REPORTS

(a) *Filing.*—When the Committee has ordered a measure or recommendation reported, the report thereon shall be filed in the Senate at the earliest practicable time.

(b) *Supplemental, Minority and Additional Views.*—A member of the Committee who gives notice of his intentions to file supplemental, minority, or additional views at the time of final Committee approval of a measure or matter, shall be entitled to not less than 3 calendar days in which to file such views, in writing, with the Chief Clerk of the Committee. Such views shall then be included in the Committee report and printed in the same volume, as a part thereof, and their inclusion shall be noted on the cover of the report. In the absence of timely notice, the Committee report may be filed and printed immediately without such views.

(c) *Rollcall Votes.*—The results of all rollcall votes taken in any meeting of the Committee on any measure, or amendment thereto, shall be announced in the Committee report. The announcement shall include a tabulation of the votes cast in favor and votes cast in opposition to each such measure and amendment by each member of the Committee.

RULE 9—TREATIES

(a) The Committee is the only Committee of the Senate with jurisdiction to review and report to the Senate on treaties submitted by the President for Senate advice and consent. Because the House of Representatives has no role in the approval of treaties, the Committee is therefore the only congressional committee with responsibility for treaties.

(b) Once submitted by the President for advice and consent, each treaty is referred to the Committee and remains on its calendar from Congress to Congress until the Committee takes action to report it to the Senate or recommend its return to the President, or until the Committee is discharged of the treaty by the Senate.

(c) In accordance with Senate Rule XXX.2, treaties which have been reported to the Senate but not acted on before the end of a Congress "shall be resumed at the commencement of the next Congress as if no proceedings had previously been had thereon."

(d) Insofar as possible, the Committee should conduct a public hearing on each treaty as soon as possible after its submission by the President. Except in extraordinary circumstances, treaties reported to the Senate shall be accompanied by a written report.

RULE 10—NOMINATIONS

(a) *Waiting Requirement.*—Unless otherwise directed by the Chairman and the Ranking Minority Member, the Committee on Foreign Relations shall not consider any nomination until 6 calendar days after it has been formally submitted to the Senate.

(b) *Public Consideration.*—Nominees for any post who are invited to appear before the Committee shall be heard in public session, unless a majority of the Committee decrees otherwise.

(c) *Required Data.*—No nomination shall be reported to the Senate unless (1) the nominee has been accorded a security clearance on the basis of a thorough investigation by executive branch agencies; (2) in appropriate cases, the nominee has filed a confidential statement and financial disclosure report with the Committee; (3) the Committee has been assured that the nominee does not have any interests which could conflict with the interests of the government in the exercise of the nominee's proposed responsibilities; (4) for persons nominated to be chief of mission, ambassador-at-large, or minister, the Committee has received a complete list of any contributions made by the nominee or members of his immediate family to any Federal election campaign during the year of his or her nomination and for the 4 preceding years; and (5) for persons nominated to be chiefs of mission, a report on the demonstrated competence of that nominee to perform the duties of the position to which he or she has been nominated.

RULE 11—TRAVEL

(a) *Foreign Travel.*—No member of the Committee on Foreign Relations or its staff shall travel abroad on Committee business unless specifically authorized by the Chairman, who is required by law to approve vouchers and report expenditures of foreign currencies, and the Ranking Minority Member. Requests for authorization of such travel shall state the purpose and, when completed, a full substantive and financial report shall be filed with the Committee within 30 days. This report shall be furnished to all members of the Committee and shall not be otherwise disseminated without the express authorization of the Committee. Except in extraordinary circumstances, staff travel shall not be approved unless the reporting requirements have been fulfilled for all prior trips. Except for travel that is strictly personal, travel funded by non-U.S. Government sources is subject to the same approval and substantive reporting requirements as U.S. Government-funded travel. In addition, members and staff are reminded of Senate Rule XXXV.4 requiring a determination by the Senate Ethics Committee in the case of foreign-sponsored travel.

Any proposed travel by Committee staff for a subcommittee purpose must be approved by the subcommittee chairman and ranking minority member prior to submission of the request to the Chairman and Ranking Minority Member of the full Committee.

When the Chairman and the Ranking Minority Member approve the foreign travel of a member of the staff of the committee not accompanying a member of the Committee, all members of the Committee shall be advised, prior to the commencement of such travel of its extent, nature, and purpose.

(b) *Domestic Travel.*—All official travel in the United States by the Committee staff shall be approved in advance by the Staff Director, or in the case of minority staff, by the Minority Staff Director.

(c) *Personal Staff.*—As a general rule, no more than one member of the personal staff of a member of the Committee may travel with that member with the approval of the Chairman and the Ranking Minority Member of the Committee. During such travel, the personal staff member shall be considered to be an employee of the Committee.

"(d) Personal Representatives of the Member (PRM).—For the purposes of Rule 11 as regards staff foreign travel, the officially-designated personal representative of the member (PRM) shall be deemed to have the same rights, duties and responsibilities as members of the staff of the Committee on Foreign Relations. Furthermore, for the purposes of this section, each Member of the Committee may designate one personal staff member as the "Personal Representative of the Member."

RULE 12—TRANSCRIPTS

(a) *General.*—The Committee on Foreign Relations shall keep verbatim transcripts of all Committee and subcommittee meetings and such transcripts shall remain in the custody of the Committee, unless a majority of the Committee decides otherwise. Transcripts of public hearings by the Committee shall be published unless the Chairman, with the concurrence of the Ranking Minority Member, determines otherwise.

(b) *Classified or Restricted Transcripts.*—

(1) The Chief Clerk of the Committee shall have responsibility for the maintenance and security of classified or restricted transcripts.

(2) A record shall be maintained of each use of classified or restricted transcripts.

(3) Classified or restricted transcripts shall be kept in locked combination safes in the Committee offices except when in active use by authorized persons for a period not to exceed 2 weeks. Extensions of this period may be granted as necessary by the Chief Clerk. They must never be left unattended and shall be returned to the Chief Clerk promptly when no longer needed.

(4) Except as provided in paragraph 7 below, transcripts classified secret or higher may not leave the Committee offices except for the purpose of declassification.

(5) Classified transcripts other than those classified secret or higher may leave the Committee offices in the possession of authorized persons with the approval of the Chairman. Delivery and return shall be made only by authorized persons. Such transcripts may not leave Washington, DC, unless adequate assurances for their security are made to the Chairman.

(6) Extreme care shall be exercised to avoid taking notes or quotes from classified transcripts. Their contents may not be divulged to any unauthorized person.

(7) Subject to any additional restrictions imposed by the Chairman with the concurrence of the Ranking Minority Member, only the following persons are authorized to have access to classified or restricted transcripts.

(i) Members and staff of the Committee in the Committee rooms;

(ii) Designated personal representatives of members of the Committee, and of the Majority and Minority Leaders, with appropriate security clearances, in the Committee's Capitol office;

(iii) Senators not members of the Committee, by permission of the Chairman in the Committee rooms; and

(iv) Members of the executive departments involved in the meeting, in the Committee's Capitol office, or, with the permission of the Chairman, in the offices of the officials who took part in the meeting, but in either case, only for a specified and limited period of time, and only after reliable assurances against further reproduction or dissemination have been given.

(8) Any restrictions imposed upon access to a meeting of the Committee shall also apply to the transcript of such meeting, except by special permission of the Chairman and notice to the other members of the Committee. Each transcript of a closed session of the Committee shall include on its cover a description of the restrictions imposed upon access, as well as any applicable restrictions upon photocopying, note-taking or other dissemination.

(9) In addition to restrictions resulting from the inclusion of any classified information in the transcript of a Committee meeting, members and staff shall not discuss with anyone the proceedings of the Committee in closed session or reveal information conveyed or discussed in such a session unless that person would have been permitted to attend the session itself, or unless such communication is specifically authorized by the Chairman, the Ranking Minority Member, or in the case of staff, by the Staff Director or Minority Staff Director. A record shall be kept of all such authorizations.

(c) *Declassification.*—

(1) All restricted transcripts and classified Committee reports shall be declassified on a date twelve years after their origination unless the Committee by majority vote decides against such declassification, and provided that the executive departments involved and all former Committee members who participated directly in the sessions or reports concerned have been consulted in advance and given a reasonable opportunity to raise objections to such declassification.

(2) Any transcript or classified Committee report, or any portion thereof, may be declassified fewer than twelve years after their origination if:

(i) the Chairman originates such action or receives a written request for such action, and notifies the other members of the Committee;

(ii) the Chairman, Ranking Minority Member, and each member or former member who participated directly in such meeting or report give their approval, except that the Committee by majority vote may overrule any objections thereby raised to early declassification; and

(iii) the executive departments and all former Committee members are consulted in advance and have a reasonable opportunity to object to early declassification.

RULE 13—CLASSIFIED MATERIAL

(a) All classified material received or originated by the Committee shall be logged in at the Committee's offices in the Dirksen Senate Office Building, and except for material classified as "Top Secret" shall be filed in the Dirksen Senate Building offices for Committee use and safekeeping.

(b) Each such piece of classified material received or originated shall be card indexed and serially numbered, and where requiring onward distribution shall be distributed by means of an attached indexed form approved by the Chairman. If such material is to be distributed outside the Committee offices, it shall, in addition to the attached form, be accompanied also by an approved signature sheet to show onward receipt.

(c) Distribution of classified material among offices shall be by Committee members or authorized staff only. All classified material sent to members' offices, and that distributed within the working offices of the Committee, shall be returned to the offices designated by the Chief Clerk. No classified material is to be removed from the offices of the members or of the Committee without permission of the Chairman. Such classified material will be afforded safe handling and safe storage at all times.

(d) Material classified "Top Secret," after being indexed and numbered shall be sent to the Committee's Capitol office for use by the members and authorized staff in that office only or in such other secure Committee offices as may be authorized by the Chairman or Staff Director.

(e) In general, members and staff undertake to confine their access to classified information on the basis of a "need to know" such information related to their Committee responsibilities.

(f) The Staff Director is authorized to make such administrative regulations as may be necessary to carry out the provisions of these regulations.

RULE 14—STAFF

(a) *Responsibilities.*—

(1) The staff works for the Committee as a whole, under the general supervision of the Chairman of the Committee, and the immediate direction of the Staff Director; provided, however, that such part of the staff as is designated Minority Staff, shall be under the general supervision of the Ranking Minority Member and under the immediate direction of the Minority Staff Director.

(2) Any member of the Committee should feel free to call upon the staff at any time for assistance in connection with Committee business. Members of the Senate not members of the Committee who call upon the staff for assistance from time to time should be given assistance subject to the overriding responsibility of the staff to the Committee.

(3) The staff's primary responsibility is with respect to bills, resolutions, treaties, and nominations.

In addition to carrying out assignments from the Committee and its individual members, the staff has a responsibility to originate suggestions for Committee or subcommittee consideration. The staff also has a responsibility to make suggestions to individual members regarding matters of special interest to such members.

(4) It is part of the staff's duty to keep itself as well informed as possible in regard to developments affecting foreign relations and in regard to the administration of foreign programs of the United States. Significant trends or developments which might otherwise escape notice should be called to the attention of the Committee, or of individual Senators with particular interests.

(5) The staff shall pay due regard to the constitutional separation of powers between the Senate and the executive branch. It therefore has a responsibility to help the Committee bring to bear an independent, objective judgment of proposals by the executive branch and when appropriate to originate sound proposals of its own. At the same time, the staff shall avoid impinging upon the day-to-day conduct of foreign affairs.

(6) In those instances when Committee action requires the expression of minority views, the staff shall assist the minority as fully as the majority to the end that all points of view may be fully considered by members of the Committee and of the Senate. The staff shall bear in mind that under our constitutional system it is the responsibility of the elected Members of the Senate to determine legislative issues in the light of as full and fair a presentation of the facts as the staff may be able to obtain.

(b) *Restrictions.*—

(1) The staff shall regard its relationship to the Committee as a privileged one, in the nature of the relationship of a lawyer to a client. In order to protect this relationship and the mutual confidence which must prevail if the Committee-staff relationship is to be a satisfactory and fruitful one, the following criteria shall apply:

(i) members of the staff shall not be identified with any special interest group in the field of foreign relations or allow their names to be used by any such group;

(ii) members of the staff shall not accept public speaking engagements or write for publication in the field of foreign relations without specific advance permission from the Staff Director, or, in the case of minority staff, from the Minority Staff Director. In the case of the Staff Director and the Minority Staff Director, such advance permission shall be obtained from the Chairman or the Ranking Minority Member, as appropriate. In any event, such public statements should avoid the expression of personal views and should not contain predictions of future, or interpretations of past, Committee action; and

(iii) staff shall not discuss their private conversations with members of the Committee without specific advance permission from the Senator or Senators concerned.

(2) The staff shall not discuss with anyone the proceedings of the Committee in closed session or reveal information conveyed or discussed in such a session unless that person would have been permitted to attend the session itself, or unless such communication is specifically authorized by the Staff Director or Minority Staff Director. Unauthorized disclosure of information from a closed session or of classified information shall be cause for immediate dismissal and may, in the case of some kinds of information, be grounds for criminal prosecution.

RULE 15—STATUS AND AMENDMENT OF RULES

(a) *Status.*—In addition to the foregoing, the Committee on Foreign Relations is governed by the Standing Rules of the Senate which shall take precedence in the event of a clear inconsistency. In addition, the jurisdiction and responsibilities of the Committee with respect to certain matters, as well as the timing and procedure for their consideration in Committee, may be governed by statute.

(b) *Amendment.*—These Rules may be modified, amended, or repealed by a majority of the Committee, provided that a notice in writing of the proposed change has been given to each member at least 48 yours prior to the meeting at which action thereon is to be taken. However, Rules of the Committee which are based upon Senate Rules may not be superseded by Committee vote alone.

INDEPENDENT COUNSEL INVESTIGATION BY JUDGE LAWRENCE WALSH

Mr. LEVIN. Mr. President, earlier today the Senate passed by a large majority of 76–21 the bill to reauthorize the independent counsel law. During the debate on that bill yesterday afternoon and evening and earlier today, there was criticism of the work done by independent counsel Lawrence Walsh in the Iran-Contra matter. Senator COHEN and I responded to that criticism in part during our debate on the various amendments to the bill, but I would like to take a few minutes to complete the record on this particular issue.

Mr. Walsh has been described by his opponents as someone who "has given the independent counsel statute a bad name", as conducting a "witch hunt", as operating with political motivations and performing bad lawyering, and "having a record so lackluster that it would make a junior assistant D.A. blush".

Let's look at the facts.

First, who is Judge Walsh? He's a life-long Republican, the former President of the American Bar Association, a former prosecutor, a former diplomat, a former Deputy Attorney General, and a former judge. He was appointed by President Eisenhower to the Federal bench in 1954 and by President Nixon in 1969 to be an ambassador with the United States delegation to the Vietnam peace conference in Paris. His professional credentials are above reproach.

Second, what was the Iran-Contra investigation all about? It was about the White House selling weapons to a terrorist nation, trading arms for hostages, supporting a civil war despite a Congressional ban on doing so, and lying about its actions to Congress and the American people. It was about issues that are fundamental to the underpinnings of our democratic Government.

Third, what did Judge Walsh do as an independent counsel? He brought 14 indictments resulting in 11 convictions. There were no acquittals. One case was dismissed because the Justice Department refused to release classified materials; two defendants were given pardons just as their trials were about to begin. Two of the convictions were overturned on appeal because of the congressional grant of immunity.

The indictment of Caspar Weinberger who received one of the pardons has borne the brunt of particularly strong criticism. But let's look at the basis for bringing that indictment.

Secretary of Defense Weinberger was smack dab in the middle of the issues in Iran-Contra. He was deeply involved in the White House debate on selling arms to Iran and on the question of trading arms for hostages. He gave the right advice—that these were wrongheaded and potentially criminal activities—but when the White House went ahead anyway, there is a great amount of evidence that shows that he was a team player in covering up the White House role.

Despite repeated requests from the Senate and House Iran-Contra Committees and later requests of Judge Walsh's independent counsel staff, Secretary Weinberger stated that he had no written notes or jottings of the events involved in the investigation, beyond those he had already turned over. What he had not turned over were the 1,700 pages of detailed notes he made on a daily basis about the events of his day as Secretary of Defense.

Weinberger specifically told the independent counsel staff and a special agent of the FBI that it was misleading to infer that he had a habit of taking notes throughout his 7 years as Secretary of Defense because that was not the case. He repeatedly told the independent counsel's staff that he did not take notes—he didn't take notes of phone conversations, he didn't take notes or make a record of meetings he had attended, and that from 1981 to 1982 on he rarely took notes, period. When confronted by independent counsel staff that someone whom Weinberger would consider credible had alleged that Weinberger had withheld some of his notes, Weinberger said that was not true.

When asked by the Iran-Contra Committee, "Do you ever take notes that are not dictated or make jottings when you get back (from meetings)?", Weinberger replied: "Yes, occasionally, but comparatively rarely. I don't know we kept those in any formal way. * * * Occasionally take a few notes but not really very often."

In fact, Weinberger took notes every day, including weekends and Christmas, in pencil on 5 by 7 pads of paper. He had done so for more than 10 years. The notes are a very detailed account of how his time was spent, commonly one page for Sundays and up to 3 or 4, even 20 pages, on workdays. He kept the pads in his desk at the Pentagon and when the drawer was full of completed pads, he would clip the pads together and store them in a bedroom, adjacent to his Pentagon office. Independent Counsel Walsh's staff estimates that between 75–85 percent of these notes involved business and the rest were personal.

The independent counsel staff discovered these notes only after the congressional investigation had been completed and after approximately 5 years of the independent counsel investigation had transpired, and then they were discovered not because Weinberger told the independent counsel office about them, but because the independent counsel staff got a lead that these notes existed and confronted him with that fact.

The notes show that although Weinberger told Congress he didn't have any knowledge about the transfer of Hawk missiles from Israel to Iran in 1985, there were four detailed entries in his diary about the transfer. I ask that Weinberger's statement and the diary entries on the Hawk missiles be put in the RECORD at this time.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

WEINBERGER STATEMENT

July 31, 1987. Weinberger testified before House/Senate Iran-Contra Committee:

Q. The committee has also received testimony that on that weekend of November 23 and November 24 [1985], there was a shipment of 18 HAWK missiles from Israel to Iran * * * Let me just ask you: Did you have any knowledge that that transfer was to take place?

A. No, I did not.

THE FACTS (ACCORDING TO UNDISCLOSED WEINBERGER NOTES)

November 9, 1985: "Bud McFarline * * * wants to start 'negot.' exploration with Iranians (+ Israelis) to give Iranians weapons for our hostages—I objected—we'll talk later on secure."

November 10, 1985: "Bud McFarlane * * * negotiations are with 3 Iranian dissidents who say they want to overthrow government. We'll demand release of all hostages. Then we might give them—thru Israelis—Hawks but no Phoenix."

November 19, 1985: "Bud McFarlane fm Geneva—update [summit] meetings—all OK so far—Also wants us to try to get 500 Hawks for sale to Israel to pass on to Iran for release of 5 hostages Thurs."

"Colin Powell in office re data on Hawks—can't be given to Israel or Iran w/o Cong. notification,—breaking them up into several packages of 28 Hawks to keep each package under $14 million is a clear violation"

November 20, 1985: "Told him [McFarlane] we shouldn't pay Iranian anything—he said President has decided to do it thru Israelis."

"Bud McFarlane fm Geneva * * * Israelis will sell 120 Hawks, older models to Iranians—Friday [hostage] release * * * Called Colin Powell—re above."

Mr. LEVIN. Weinberger also told Congress that he didn't have any memory of the Saudis providing funds to the Contras. His notes show two specific references to his direct knowledge of this matter. I ask that Weinberger's statement and the diary entries on Saudia Arabia be put in the RECORD at this time.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

WEINBERGER STATEMENT

June 17, 1987. Testimony before House Iran-Contra Committee.

Q. Do you recall learning at some point that the Saudis or some people connected with the Saudis provided funds for the contras?

A. No. I don't have any memory of any contra funding or of anything connected with the Saudis that I can remember now.

THE FACTS (ACCORDING TO UNDISCLOSED WEINBERGER NOTES)

March 13, 1985:

"Jack Vessey in office alone—after meeting [with others]—Bandar [Ambassador of Saudia Arabia] is giving $25 million to Contras—so all we need is non-lethal aid

Called Bud McFarlane—out; l.w. [left word]

Called Bud McFarlane—passed on to him Jack Vessey's report that Bandar is giving $25 million to Contras . . .

March 14, 1985: Weinberger diary notes:

Called Bud McFarlane—No further news on Saudis gifts to Contras

Also on March 15, 1985. CIA Deputy Director McMahon record of meeting with Weinberger, Deputy Secretary of Defense William Howard Taft IV, and CIA Director Casey:

"Secretary [Weinberger] stated that he had heard that Bandar, Ambassador of Saudi Arabia, had earmarked $25 million for the Contras, in $5 million increments."

Mr. LEVIN. These inconsistencies and the failure of Weinberger to turn over his notes despite direct congressional and independent counsel requests and his denial that he had any such notes formed the basis of Judge Walsh's indictment.

Mr. President, in reviewing these facts, I think the decision of Judge Walsh to indict is well within the parameters of prosecutorial discretion.

I'd like to address a number of other specific criticisms of Judge Walsh as well and I'll go through them one at a time.

ALLEGATIONS CONCERNING WALSH'S IRAN-CONTRA INQUIRY

First, Walsh's actions, particularly the indictment of Caspar Weinberger, were politically motivated.

Walsh is a life-long Republican, a former Federal judge, former head of the American Bar Association, and a respected professional who was chosen to serve by the Special Court. There is no evidence of partisanship in his background or selection.

The charge of politicization arose mainly from the indictment of former Defense Secretary Weinberger. In fact, had Walsh been after Weinberger for political reasons, he would have focused on him much earlier in the process. The reason Walsh didn't pursue the issue of Weinberger's notes sooner was because he was not considered a likely target.

The heart of Walsh's case against Weinberger is that Weinberger did not produce the voluminous notes he had when they were requested by Congress and by the IC, and that he wrongfully denied their existence. The fact that the notes were not acknowledged or produced—while President Reagan and Secretary Schultz produced theirs—cannot be denied.

The timing of the second Weinberger indictment on October 30, 1992—a few days before the Presidential election—was the result of decisions made by the court, not a calculated maneuver on Walsh's part. The first count in the first indictment was dismissed on September 29, 1992, already well into the election season. At an October 22 status call, the court refused an IC to postpone a November 2 deadline for production of documents in the case, and defense counsel asked for the supplemental indictment "as soon as we can get it."

Second, Walsh and his staff lacked prosecutorial experience.

Walsh himself had prosecutorial experience, as did much of his staff.

Third, the Walsh inquiry lasted too long and cost too much.

The length and cost of cases depends on their complexity, whether they are handled by an IC or a career prosecutor. Iran-Contra was a very complex case that involved a large number of people, several foreign countries, and many classified documents. It's natural that it has taken a long time.

Iran-Contra is comparable to other complex cases handled by the Justice Department—like Abscam and Ill Wind—in terms of time and costs.

Fourth, Walsh delegated too much to his assistants.

The record shows that Walsh was involved in all the major decisions. Given the complexity of the inquiry, some delegation was necessary.

Fifth, Walsh and his staff were careless with classified material and made unauthorized disclosures.

A huge volume of classified documents were involved in Iran-Contra, and Walsh's office took its obligation to safeguard them seriously. They admit to a few inadvertent lapses, but their overall security record is good. Walsh's office actually uncovered security lapses at other agencies more significant than the ones they committed.

Press charges about security breaches by Walsh's office have been exaggerated:

Walsh did not personally lose classified documents through negligence at an airport in California on his way back to the District of Columbia;

Walsh's office did not disclose classified documents as "exhibits" to its court filings.

Sixth, Walsh and his staff interviewed some witnesses excessively, up to 20 times.

This charge has been made by Weinberger's attorney. James Brosnahan, the prosecutor who joined Walsh's team when Craig Gillen stepped aside, flatly denies that it happened.

Seventh, some of the counts Walsh brought against Weinberger would never have been brought by a career prosecutor, especially (i) making a false statement on a form 302, and (ii) lying when he said "I don't remember."

While such charges may not be common, they are not unprecedented and some prosecutors have told us that they are not "out of the mainstream."

It's a common defense counsel tactic to charge the prosecutors are abusing their discretion.

Eighth, Walsh tried to coerce false testimony from Weinberger during the preindictment phase of the case.

The record suggests that all that went on was the usual negotiation process. Potential defendants are supposed to be persuaded to plead guilty by the strength of the prosecutor's case, and defendants are often pressured into testifying against others.

Ninth, Walsh tried to evade taxes in the District of Columbia and New York.

This allegation was included in a Wall Street Journal op-ed piece. Walsh flatly denies it.

Walsh maintains that he never established residency in the District of Columbia and so did not owe D.C. tax. Under D.C. law, however, if you spend more than 183 nights in the District of Columbia, you are deemed a domiciliary for income tax purposes. When he learned this in 1992, he paid income tax and interest for 1988, the only time he spent enough time here. He was granted a waiver of any penalty since the violation was not willful.

Walsh's tax dispute with New York involves whether certain retirement benefits are an annuity taxable in Oklahoma or a distribution of New York, taxable in New York. Walsh has paid the taxes under protest in New York and there has been no penalty.

Tenth, Walsh and his staff obtained excess reimbursement from the Government for travel and subsistence expenses, including first-class air travel and an apartment at the Watergate that he kept even when he was out of town.

The GAO found some overpayments of travel and subsistence expenses, but it waived repayment under the statutory rules since there was no evidence of fraud or wrongdoing on the employees' part. GAO found (i) some of the distributions were based on erroneous advice from government officials—at the AO; and (ii) in some respects, the statute is unclear about what expenses are permitted.

Walsh's office has conformed its practices to GAO's recommendations.

S. 24 remedies the ambiguities flagged by GAO.

Eleventh, Walsh missed the opportunity to proceed first against North and Poindexter by not taking up the Senate committee's offer to hold off in deference to his prosecutions.

The Senate committee offer to wait only if Walsh was going to bring a quick indictment—for example, for shredding documents and obstruction—but Walsh concluded he needed to pursue a more time-consuming conspiracy charge.

The Senate did wait to allow the IC to "can" testimony before immunity was granted.

Twelfth, Walsh's conduct of a mock trial in preparation for the Weinberger case was overzealous and a waste of money.

In ordinary prosecutions, the Justice Department can use internal resources as a proxy for a mock trial—e.g., practicing aspects of its argument on nonlawyer staff members. ICs don't have this option.

The IC staffer who decided to use a mock trial came from a private trial practice where the use of mock trials is standard procedure.

Thirteenth, the jurisdiction given Walsh by the Special Court was overly broad.

Fashioning an appropriate statement of jurisdiction is within the Special Court's discretion.

Fourteenth, Walsh has been unprofessional in making comments to the press.

Walsh and his staff had little contact with the press until after the pardons, which present a prosecutor with a very unique circumstance.

And so, Mr. President, I believe it is important to have a fair record of the independent counsel investigation by Judge Walsh. In such a politically-charged investigation with so much at stake, it can be easier to attack the messenger in order to take public attention off the message. Iran-Contra was one of the most serious scandals affecting the conduct of foreign policy in our history. As the Iran-Contra Committee wrote in its executive summary of its report, "The full story of the Iran-Contra affair is complicated and, for this Nation, profoundly sad. * * * But enough is clear to demonstrate beyond doubt that fundamental processes of governance were disregarded and the rule of law was subverted."

1993 OMNIBUS CRIME BILL

Mr. FEINGOLD. I rise to express my opposition to the Violent Crime Control and Law Enforcement Act of 1993.

But before I begin to describe and express the concerns that I have with this bill, I would like to first praise the many provisions which I support, and commend the managers of this bill, the distinguished chairman and ranking member of the Judiciary Committee, for including them in the bill. Although I will not be able to support the bill as it currently stands. I respect the effort and amount of work they and their staffs have put into this package to assure its passage.

This bill, as amended, will now provide the funding necessary to place up to 100,000 additional police officers on the streets and highways of the United States. These additional men and women, some involved in community policing programs which are a proven effective crime deterrent in urban areas, will provide much needed relief to our Nation's urban, suburban, and rural communities' crime prevention efforts and will come as welcome reinforcements to the law enforcement officials who already serve and protect the public.

As far as I am concerned, this is one of the best components of the package. Additional law enforcement officers is one kind of help the American people want and need. It is about time that we provide meaningful crime prevention tools to our Nation's State and local governments rather than tough rhetoric coupled with the addition of offense after offense to an all but meaningless list of Federal crimes which will affect only a tiny fraction of street crimes. As the distinguished majority leader and a few others have pointed out on the floor urging this debate, the violent street crime that we are all concerned about is for the most part the responsibility of State and local law enforcement agencies. Additional police officers will definitely help in these efforts.

Local law enforcement efforts will also be enhanced by the provisions included in the rural drug enforcement title of the bill. The rural drug law enforcement title would authorize $50,000,000 for rural law enforcement agencies and their drug enforcement operations and training, and would establish drug task forces in rural areas of our Nation involving both Federal, State, and local law enforcement officials. These task forces would provide for greater cooperation and intelligence gathering capabilities in local and State law enforcement drug control efforts.

As I mentioned on the floor last week when describing the State of Wisconsin's State and local law enforcement efforts at controlling the new drug Methcathinone, I was encouraged to see that the distinguished managers of the bill had recognized the inherent difficulties involved in rural, State, and local drug law enforcement efforts by including these provisions and the precursor Chemicals Act in this bill as well.

I strongly support other parts of the package which assist State and local government's efforts in the prevention of youth crime as well, such as the funding to the States for enhanced school security measures and crime prevention programs and the youth gang enforcement and prevention initiatives.

In my view, these are the types of measures that will best alleviate the street crime which the American people are demanding action to be taken on.

Other provisions and concepts that I support are the bill's requirement of much-needed drug treatment for prisoners, a proven tool at reducing future drug use and its related crimes, and the bill's use of punishment alternatives to mandatory prison incarceration for nonviolent drug users, to name a few.

It is because of the merits of these and other provisions that I supported the funding of this anticrime package by voting for the amendment offered by the senior Senator from West Virginia which ensured the funding of this bill and provided the money necessary to place an additional 40,000 police officers on the streets as well as the construction of more prison space.

I voted for this $22 billion in funding because I recognize that we must act now to assist State and local governments help curb the growing violence that is plaguing our Nation.

It is unfortunate that we had to include symbolic measures on top of these real solutions to make the bill more compatible for sound-bite material.

Now I understand that the chairman of the Judiciary Committee has a job to do—get a crime bill passed. And the distinguished Senator from Delaware has probably best described the mood of this Chamber and its get-tough attitude when he speculated that if an amendment were proposed, barbwiring the ankles of anyone who jaywalks, it would pass.

But is it really necessary to expand the death penalty to at least 47 new offenses as the original bill did—not to mention those added by amendment?

It is vital that our Nation comes to grips with the rise in violent crime, and find solutions that will curb the growing violence that is gripping our Nation's communities. This rise in violent crime is disturbing and deserves our undivided attention and concerted action to seek and enact meaningful solutions—symbolic measures such as the death penalty do nothing more than divert our attention away from the real crime prevention efforts.

Debate on capital punishment has shown us the inherent flaws in the implementation of the death penalty. Not only does it increase the potential for mistakes, and ultimately the execution of an innocent individual—in my view one of the most tragic acts a government can take, but it also is carried out in a discriminatory fashion. The death penalty also has no proven deterrent effect and in fact only adds to a society's violence by teaching us, and especially our children, that the way to deal with violence and murder is with more death.

As I have stated several times during this bill's debate, I oppose the death penalty. And due to its inclusion and substantial expansion, I had already decided to vote against this bill even though it contains some very important crime prevention measures. But any doubt regarding this decision was completely wiped away when the Senate adopted the amendment offered by the junior Senator from New York which would allow the Federal prosecution of gun-related crimes that are presently under the jurisdiction of State law and local prosecutors.

It is one thing for us to beat our chests and get tough on crime by expanding the Federal death penalty for Federal crimes—for that is what we are all elected to do—work on Federal legislation—but to usurp the rights of State legislators that have decided in good conscience against imposing the death penalty by enacting legislation that would override State law and allow local prosecutors to decide who should be charged with the death penalty under Federal law rather than State law is not only going too far—it is an outrage.

As I stated during the debate of that amendment on the floor, I resent the idea that this body would try to overturn—and now has overturned—the will of my State of Wisconsin and its proud tradition of not having the death penalty on its books—a tradition of 140 years—longer than any other State and reaffirmed just months ago by the State legislature.

Previously I briefly mentioned the problems we have now in implementing the death penalty. The implementation of the death penalty has historically been tainted with racial disparities. Study after study including a 1990 GAO report have confirmed this. And even current Justice Department implementation of the drug kingpin law has been criticized for its racial bias. If these problems exist now—I cannot even begin to think of how these racial disparities will be exacerbated when a State or locally elected prosecutor is the one who decides who should and who should not be tried for a capital offense under Federal law.

As I previously stated, I strongly support many of the provisions included in this package and wish that the bill only contained these and other real crime prevention tools so that I could maintain the State of Wisconsin's fine tradition of seeking real solutions to crime problems rather than resort to symbolic solutions like the death penalty.

I can only hope that the conference report will not include this expansion of the death penalty and some of these other provisions which do nothing to but make us sound tough on crime, such as the hate crimes sentencing enhancement, which in my view leads us one step further toward the curtailment of one of our Nation's most treasured assets, the freedom of expression. The amendment which was passed which reversed the long standing legal principle of not admitting evidence of similar conduct to be offered against a defendant embodied in the Federal rules of evidence is yet another provision which sounds great at first—until you sit down and analyze its ramifications. Unfortunately, these are not the only flawed provisions which we have included in our rush to get an anticrime bill passed.

Although this has been the first crime bill debate that I have been involved with as a Member of this distinguished body, I have noticed that these crime bills that are passed including the present one are progressively tougher and tougher on crime. Yet from all indications, including the uniform crime reports, and most certainly by all the tragic detailed accounts depicted by various Members here on the floor, violent crime has not gone down—in fact it has tragically been on the rise.

So what is the solution? I certainly do not think it is the death penalty and its further expansion. And after we pass all of the sentences we have increased and have federalized almost every violent offense we can think of, what will we do if the next uniform crime report comes out and it shows us that violent crime is still on the rise and even more Americans than already now do live in fear?

If these severe measures that we will pass today are not adequate enough to deal with the violence in our society—what is?

It is in this vein that I urge my colleagues to explore other solutions in the upcoming years so that we can get at the root causes of this disturbing violence. Although it seems that the words root causes are somewhat of a taboo these days, this bill does authorize several commissions that will look into the seeds of crime. Although I realize that there will probably always be some type of crime—no matter what our society does, let's at least carefully examine the recommendations made by these commissions and try and work together on meaningful solutions to at least bring crime down to a manageable level. I look forward to working with each and every Member toward this goal.

GUN DEALER LICENSING AMENDMENT

Mr. LAUTENBERG. Mr. President, I rise to express my strong support for the amendment proposed by the Senator from Illinois, [Mr. SIMON] that will strengthen Federal regulation of firearm dealers. I am proud to be a cosponsor of the amendment, and to have worked extensively with Senator SIMON and other interested Senators on this issue.

Mr. President, the current system of regulating firearm dealers is a joke. A bad joke.

There now are more federally licensed firearm dealers than gas stations in this country. Some 287,000 now have licenses, and the number is growing rapidly.

Yet only about a quarter of these dealers, Mr. President, are operating legitimate storefront businesses. The rest, operating out of their homes, are known as kitchen table dealers. Most of these people obtain licenses in order to obtain guns tax-free by mail at wholesale prices, and to evade waiting periods, gun purchase limits, and other firearm laws.

Many firearms that are used in crimes are traceable to these kitchen table dealers. There are numerous examples of dealers who have provided huge numbers of guns to drug dealers, gang members, gun traffickers, terrorists, and other criminals.

To provide one illustration, consider the case of David Taylor, a resident of a South Bronx housing project. Taylor reportedly had a long criminal record that included an indictment for murder. Nevertheless, he was able to obtain a Federal firearm dealer license. In less than 1 year, Taylor bought more than 500 guns from wholesalers in other States. The guns were delivered by UPS in batches of up to 100 at a time. Taylor then sold the guns to drug dealers and other criminals.

This is not an unusual case, Mr. President. It is typical. And it suggests the importance of tightening up our regulatory system, which is far too loose.

Mr. President, becoming a kitchen table dealer is easy, quick and very inexpensive. All you have to do is fill out a form and send in $30, which covers the $10 annual fee for 3 years. There is no hassle, no fuss, and, most likely, no ATF agent will call.

That is generally not ATF's fault, either. The Bureau has simply lacked the resources to check out applicants, or to investigate many licensees. While the number of firearm dealers has increased by about 65 percent since 1980, the number of ATF investigators assigned to inspect these dealers has been reduced by 13 percent. As a result, fewer than 10 percent of dealer applicants undergo an actual inspection. And then, once licensed, the average dealer is audited only once every 20 years.

Clearly, Mr. President, the Bureau needs more agents and more funding to better police the system. And the best way to both provide those resources, and to limit the Bureau's burden, is to raise the licensing fee.

Mr. President, it is bad enough that innocent Americans are being placed at risk because the system of licensing firearm dealers is so lax. But adding insult to injury, the current $10 annual licensing fee does not even come close to paying for the system. In effect, hard working taxpayers are being forced to subsidize firearm dealers. It is an outrage.

Mr. President, a licensing fee should be sufficient to at least pay for the costs of administering the regulatory system. And, in my view, the social costs of dealing in firearms—such as the costs of crime and of health care for victims of gun violence—also should be factored in.

Unfortunately, Mr. President, the Simon amendment proposed to this crime bill does not include an increase in the fee. I am disappointed by that, and hope we will be able to gain support for a significant increase in the future.

The amendment does, however, contain several valuable measures.

For example, the amendment will ensure that license recipients are in compliance with State and local laws. Strange as it may seem, ATF now is issuing licenses even in cases where the Bureau expects that the licensee will operate in violation of State or local law. That does not make sense.

The amendment also will make it easier for ATF to complete a thorough background check, by extending from 45 to 60 days the period during which ATF must act on a license application.

The amendment also will require applicants for a dealer license to submit their fingerprints and a photograph. This should help ATF to better monitor licensees, and may discourage some individuals from seeking a license to pursue illegal ends.

Other provisions of the amendment will require dealers to report the theft or loss of a firearm within 48 hours of being discovered, and to respond to requests from ATF for information in a dealer's record within 24 hours. These measures will help ATF conduct timely and effective criminal investigations.

Mr. President, tightening the regulation of firearm dealers can make a real difference in the battle against gun violence. But, clearly, we have to do more. I am very pleased that this bill also includes measures to ban the manufacture of assault weapons and to prohibit the possession of handguns by juveniles. And I am hopeful that we will soon be approving the Brady bill,to establish a waiting period for handgun purchases.

Senator SIMON and I also have introduced legislation to limit handgun sales to one per month, to reduce interstate gun running. And we have proposed to close what I call the "guns for felons loopholes," Federal laws which allow even convicted violent felons to possess firearms. I will continue to push these proposals aggressively in the future.

In closing, let me again congratulate Senator SIMON for his outstanding leadership in this area. He and his excellent staff have devoted a great deal of time and effort to improving the regulation of firearm dealers, and they deserve great credit for their work. I am pleased to have had the opportunity to work with them on the initiative, and I look forward to continuing our joint efforts to raise the licensing fees for dealers, and to enact other measures to combat gun violence.

EXPANSION OF THE CRIME BILL

Mr. PELL. Mr. President, I would like to briefly outline the reasons why I felt I could not support the manner in which the crime bill was expanded when the Senate considered an agreement covering a package of core issues on November 4. First, I would like to state that there is much contained in this package that I support. I applaud the overdue and necessary addition of police officers and the efforts aided at providing post conviction supervision and treatment through drug courts to young, first-time offenders. I also am pleased that the Violence Against Women Act has been funded, a measure which combats the horrible and tragic problem of domestic violence and of which I am a cosponsor.

But in weighing the pros and cons of the entire amendment which placed such heavy emphasis on increasing incarceration space and incarceration time, I felt simply that a major piece of the crime-solving puzzle was left out. If our battle against the truly shocking and abhorrent level of crime in our society is to be successful, we must seriously address the root causes of crime such as poverty, lack of education, and lack of opportunity. We must also continue to explore serious efforts at rehabilitation of nonviolent offenders. This amendment failed to go enough in these areas.

We already have the highest incarceration rate of any developed country in the world. Indeed, over the last 10 years, incarceration has increased 73 percent but crime still spirals out of control. Make no mistake: I do believe that incarceration is appropriate and the only alternative for repeat violent offenders. The heinous acts occurring daily on our streets by previously convicted violent criminals who have been released early must stop and if it means keeping them in prison, we must do so. But we are also locking up thousands and thousands of nonviolent, first-time offenders at great cost without providing the rehabilitation and education that has been shown to work for such individuals. It costs more per year to send a person to jail than it does to educate one at Yale. Certainly any crime control measure which contemplates spending such extraordinary amounts of money on prison construction must also take more seriously the efforts to combat the root cases of crime and providing the opportunity for rehabilitation services for those who are likely to respond to it.

I look forward to continuing the work on this and other crime control measures. I am pleased that the Senate is moving forward on a comprehensive bill to finally address this tragic problem in our society. I regret not being able to support this particular amendment to this bill but am confident that the final package will be one that truly begins to make a serious dent in our Nation's crime problem.

MOTOR VEHICLE THEFT PROVISIONS

Mr. LAUTENBERG. Mr. President, the crime bill before us includes legislation I authored, the Motor Vehicle Theft Prevention Act, to address the growing national problem of motor vehicle theft.

The Motor Vehicle Theft Prevention Act, or MVTPA, would establish a national framework for State and local vehicle theft prevention programs. The legislation is based on programs operating in various jurisdictions around the country, typically called combat auto theft [CAT] or help end auto theft [HEAT].

Under these programs, a vehicle owner may voluntarily sign a form stating that his or her vehicle is not normally operated under certain conditions, typically between the hours of 1 a.m. and 5 a.m. Decals are then affixed to the vehicle. If a law enforcement officer later sees the vehicle being driven under the specified conditions, the decals provide grounds for establishing the reasonable suspicion necessary to stop the vehicle and make appropriate inquiries.

The MVTPA directs the Attorney General to develop a uniform design for decals and consent forms, so that the program can be taken nationwide. Participation will be entirely voluntary on the part of States, localities, and individual vehicle owners.

Mr. President, the problem of auto theft has increased substantially in recent years. According to the Uniform Crime Report, between 1984 and 1991 motor vehicle theft increased by 61 percent, to almost 1.7 million offenses per year. Around the country, there is an average of one motor vehicle theft every 19 seconds. The total value of stolen vehicles now exceeds $8 billion annually.

The vehicle theft problem is particularly serious in my state of New Jersey. Newark, NJ recently has had the highest rate of auto theft in the Nation. Several New Jersey cities also share the dubious distinction of being in the top ten. In addition, a large number of stolen cars are being exported from New Jersey's ports.

There are many dimensions to the vehicle theft problem. To a large extent, stealing cars has developed into a full-fledged industry, run by professionals. Criminal conspirators are stealing cars, sometimes after a buyer gives them an order for a particular part, and selling the parts on the black market. Chop shops are taking in stolen cars, breaking them down, and making large profits. And increasingly, organized rings of criminals are exporting cars abroad, where they may be worth three times more than in the United States.

In many parts of the country, the problem of auto theft is primarily one of juvenile crime. Children, some not even teenagers, are stealing cars at an appalling rate. They start young—sometimes they're barely tall enough to see over the steering wheel. Unfortunately, it doesn't take long for them to become experts, able to enter and steal a car in a matter of seconds.

Beyond the costs and inconvenience to owners, and the higher insurance rates that result, auto theft is also a highway safety problem. Auto thieves, particularly juveniles, often drive recklessly, sometimes to avoid the police, and that leads to death, injuries, and destruction of property.

Clearly, Mr. President, there's no magic formula for eliminating auto theft. Much of the responsibility rests with local and State law enforcement agencies. But auto theft is a crime with a clear interstate dimension. So the Federal Government also has an important role.

I am pleased that last year the Congress approved the Anti-Car Theft Act of 1992, legislation which I strongly supported and which included several proposals that I had sponsored. Among other things, the new law established federal criminal penalties for car jacking, authorized grants for anticar theft committees, tightened export controls, and strengthened the vehicle parts marking program.

The new law has sent a strong message to prospective car thieves, and I am hopeful that it will help reduce the incidence of this crime. However, more needs to be done. While the MVTPA is no cure-all, it can make an important contribution.

The concept for the MVTPA was first developed in New York City in the mid-1980's by State Senator Leonard Stavisky. New York's program allows law enforcement officials to stop the vehicles of participating owners if the vehicles are being operated between the hours of 1 a.m. and 5 a.m., the period during which most thefts are believed to occur. To participate, an owner must sign a consent form stating that the car is not normally driven during those hours. The owner then gets two decals to place on the rear and side windows, which tell the police that the car may be stopped during the designated hours. Participation is entirely voluntary.

It's a simple, inexpensive and innovative concept. And by all indications it's been extraordinarily successful.

In New York City, over 70,000 vehicles have participated in the program. In 1990, only 60 were stolen. Cars without decals were about 65 times more likely to be lost to theft.

The success of the program in New York has led to similar success stories around the country. Over 75 jurisdictions have adopted the program, including Dallas, Houston, Philadelphia, St. Louis, St. Paul, and San Diego. New Jersey and New York have programs that operate on a state-wide basis. The idea has even been adopted in England, Canada, and Australia.

As a testament to the program's effectiveness, several insurance companies have voluntarily reduced the insurance rates for vehicles that participate in the program.

As I have explained, Mr. President, the Motor Vehicle Theft Prevention Act directs the Attorney General to develop a uniform design for decals and consent forms, so that the program can be taken nationwide.

There are several benefits of establishing a national program. First, it will increase the use of this approach, by increasing its visibility and making it more practical and economical for jurisdictions to participate. Although the idea is spreading rapidly, many local officials remain unfamiliar with the concept. At the same time, many officials, particularly those in small towns, are interested in the program, but do not believe it is cost effective to develop and produce a decal when only a small number may be needed. A uniform decal design would encourage mass production of the decals and consent forms, which would enable many more municipalities, particularly smaller towns, to participate.

Greater participation in the program should mean reduced thefts, which also means saved lives, reduced insurance costs, and lower costs of enforcement to the law enforcement and judicial systems.

The second primary benefit of establishing a national framework for the program is that it will help law enforcement officials apprehend thieves who drive stolen cars across state or city lines. Currently, if a car is stolen in one town and driven into another, law enforcement officials in the second town may be unfamiliar with the decals used in the first town and may not be in a position to lawfully stop the car. A uniform design will eliminate this problem.

Mr. President, some have asked how a program like this works, since professional auto thieves should be able, with some work, to scratch off the decals. Most officials I have talked with believe that the program works because time is of the essence to auto thieves, who typically will enter a car and drive away in a matter of seconds. Many cars are stolen in exposed areas, such as shopping center parking lots. So thieves feel they cannot afford the time to get into a car, climb into the back seat, and scratch off two decals. Also, most decals are manufactured so as to be very difficult to dispose of, and many leave a mark even if they are scratched off.

The bottom line, in any case, is that the program works. The results speak for themselves. And under this bill, if State or local officials are skeptical about the program's likely effectiveness in their jurisdiction, they are free not to participate.

I would also note, Mr. President, that this type of program is entirely consistent with the Constitution's fourth amendment protection against unreasonable searches and seizures. Under well established constitutional law, the police may stop a vehicle if an officer has a reasonable suspicion of criminal activity. Under this bill, a law enforcement officer will be allowed to stop a car only if the car is being operated under conditions that create such a reasonable suspicion. It is also important to again emphasize that participation in the program is entirely voluntary.

Mr. President, the problem of auto theft is of great concern to law enforcement officials, the insurance industry and highway safety advocates. This proposal is supported by the Fraternal Order of Police, the Alliance of American Insurers, and Advocates for Highway and Auto Safety.

I also want to express my appreciation to Senator BIDEN for his support and assistance on the Motor Vehicle Theft Prevention Act.

Mr. President, I have prepared several questions and answers about the Motor Vehicle Theft Prevention Act that will help explain the legislation in greater detail. I ask unanimous consent that they be printed in the RECORD at this point, along with other materials related to the legislation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

QUESTIONS AND ANSWERS ON THE MOTOR VEHICLE THEFT PREVENTION ACT

Isn't it wrong to allow car owners to waive the constitutional rights of passengers, or people to whom they might lend their car?

According to well-established constitutional law, a person may consent to be searched under circumstances in which the search would otherwise be unconstitutional, so long as the consent is given voluntarily. However, a law enforcement officer may stop a vehicle without consent, if the officer has "reasonable suspicion" of criminal activity.

Vehicles may be stopped under the Motor Vehicle Theft Prevention Act (MVTPA) not simply because the owner has consented to be stopped, but also because the existence of a decal on a vehicle being driven under the specified conditions provides grounds for establishing a "reasonable suspicion" of criminal activity.

The "reasonable suspicion" arises because, in order to receive a decal, the owner must sign a certification establishing that: 1) the vehicle is not normally driven under the specified conditions, and 2) "the operation of the vehicle under those conditions would provide sufficient grounds for a prudent law enforcement officer to reasonably believe that the vehicle was not being operated by or with the consent of the owner". Therefore, if the vehicle has such a decal, and is being driven under those circumstances, there is an objective, reasonable basis for a police officer to suspect that the car is not being driven with the owner's consent.

To illustrate the point, the decal might be considered the functional equivalent of a large highly visible placard attached to the rear of a car that says: "If this car is being driven between 1 and 5 am, it probably has been stolen." If a police officer sees such a car being driven at 2 a.m. he or she will be entirely justified (perhaps even morally obligated) to stop the car and see if the car has been stolen. In fact, in the case of a decal under the Motor Vehicle Theft Prevention Act, the officer would have an even stronger basis for stopping a vehicle, since decals may be affixed to a vehicle only if the owner personally has signed a written statement certifying that the car is not operated under the specified conditions. In either case, the fact that a passenger has not personally consented to a stop, or may not have seen the placard or decal when he or she entered the car, does not affect a police officer's right to stop the vehicle.

Moreover, under the terms of the legislation, the decal design must include an express statement explaining that the vehicle may be stopped if operated under the specified conditions. The decal must be "highly visible". So, although this is not required by the Constitution, passengers (and drivers other than the owner) will get notice of the possibility that the car may be stopped under certain conditions.

How can this type of program be successful when thieves can just peel off the decals?

The primary goal of the program is not to apprehend auto thieves, but to protect vehicle owners from having their car stolen in the first place. The effectiveness of the program as a deterrent is well established.

In 1990, for example, of 71,000 vehicles participating in the C.A.T. program in New York City, only 60 were stolen. Vehicles without decals were 65 times more likely to be stolen. Many of the other 75-plus jurisdictions that have these programs [e.g. St. Paul, St. Louis, Dallas, Houston, Trenton] report similar success.

The demonstrated effectiveness of the program explains why several private insurance companies offer discounts to owners who participate. It also explains why the legislation is endorsed by the Alliance of American Insurers and State Farm, the nation's largest auto insurer, as well as the National Fraternal Order of Police and Advocates for Highway and Auto Safety. In addition, it explains why the concept is spreading so rapidly around the U.S. and abroad.

Why does the program work when professional thieves are able to remove decals? First, decals are produced so as to be very difficult to remove. While professional thieves are able to do so, most cannot afford to spend the time it takes to get into the back seat and scratch the decals off. Vehicles typically are stolen in a matter of seconds. From the perspective of a prospective thief, who needs to escape as soon as possible, the additional time it takes to scratch off the decals makes such a vehicle an unattractive target.

In any case, the bill is entirely voluntary. States and municipalities need not participate if they don't think the program will work. And even in States/municipalities that establish programs, vehicle owners who don't think the decals will help are also entirely free not to participate.

Who will produce the decals?

The legislation does not require the federal government to produce the decals. The Attorney General would have flexibility on this matter, but one option would be to allow private firms to produce the decals and then market them to municipalities and States. If the Attorney General so chose, I would urge her to consider the establishment of quality standards, under her general authority to promulgate regulations under the legislation.

For example, the Attorney General could require manufacturers to get approval for their decals before they are used by participating jurisdictions. This would ensure that decals used accurately reflect the Attorney General's design, and that the appearance of the decals produced by different manufacturers remains uniform.

Who would distribute the decals and consent forms at the State and local level?

That's left up to the State and local governments under the legislation, though nothing precludes the Attorney General from promulgating regulations on this matter, if necessary. In New York, administration is handled by police departments.

Would states and localities be allowed, or required, to charge a fee to participants in the consent-to-stop program?

States and localities may charge fees, but they are not required to do so. Many jurisdictions may be able to fund the program from private sector donations.

How can we be sure that law enforcement officials will know what the decals mean?

As a condition of participating in the program, a State or locality must agree to take reasonable steps to ensure that law enforcement officials throughout the State or locality are familiar with the program, and with the conditions under which motor vehicles may be stopped under the program.

Can the Attorney General establish more than one set of conditions under which vehicles may be stopped?

Yes. If the Attorney General does so, she must establish separate decal designs and consent forms for each set of conditions. For example, she might use different colored decals to designate different sets of conditions.

Typically, existing programs are based on the use of vehicles during late night hours. It may be best to at least start the program with only one set of conditions, such as driving during the hours between 1 AM and 5 AM. However, in drafting the legislation, I wanted to provide the Attorney General with the flexibility to establish other types of conditions, if they make sense.

For example, it may be appropriate to establish a decal design for vehicles that are not normally operated during business hours. I understand that a program operating in San Francisco in conjunction with the BART transit system operates during daytime hours—to protect owners who commute to work and who park in mass transit parking lots during the day.

Also, since many senior citizens and others do not drive on fast-moving highways, some have suggested that the Attorney General might consider a decal design that allows a vehicle to be stopped if operated on such a highway, or above a certain speed. Another possibility would be to establish a design indicating that the vehicle is not normally operated outside of a given geographical area, such as a county or state. Such a design could include a space for printing the name of the prescribed normal driving area.

Having raised these possibilities, I would urge the Attorney General to be cautious. Before adopting a wide variety of conditions, I would hope that she would take reasonable steps to ensure sufficient interest among vehicle owners. A plethora of conditions could prove needlessly confusing to law enforcement officers.

Can owners take decals off their car if they want to?

Yes. They need not inform anyone or do anything else, although conceivably the Attorney General, or a State or local government, might establish such a requirement.

What happens when you sell your car?

In New York, you must take the decals off when you sell your car. Under the legislation, the Attorney General would have the authority to promulgate regulations requiring owners to remove decals upon sale or transfer of the vehicle.

What if some kids, as a prank, get some counterfeit decals and start putting them on cars. And then someone driving in the car is stopped, without realizing that a decal has been put on his car. Wouldn't the stop violate the driver's constitutional rights, since he has not consented to be stopped?

No. The basis of the stop would be the officer's reasonable suspicion of unlawful activity, not the driver's consent. The presence of the decal will give an officer reasonable suspicion to stop the car (assuming it is being driven under the specified conditions). However, the legislation includes a provision that makes it illegal to affix a theft prevention decal to a motor vehicle unless authorized to so so under the law. The maximum penalty is $1000.

Once an officer has stopped the car, what kind of questions can he or she ask?

The legislation doesn't say anything about the questions that a police officer asks once the car has been stopped. Police will ask the same type of questions that an officer would ask now if the officer stops a car because of a suspicion that it has been stolen.

For example, the officer might ask the driver for his license and registration forms. If the driver says he doesn't have them, he can ask further questions like: 1) where do you live?, 2) how long have you owned the car?, 3) from whom did you buy the car?, 4) how much did you pay for the car?, 5) what model year is the car?

Most police can determine through such questions whether the driver is really the owner, or has the consent of the owner. Also, the police can call their office, which can check the National Crime Information Center (NCIC) computer data bank, which maintains records of cars reported stolen.

How long can an officer hold a car to ask such questions?

The legislation doesn't change the rules about how long the police can hold a car that has been stopped because they suspect it has been stolen. Generally, the stop can only be for a few minutes, unless the police, through questions or otherwise, determine that there's probable cause to detain the person further, or make an arrest.

Does the legislation seek to establish a new form of "reasonable suspicion"?

No, Congress may not change constitutional law, and this legislation does not seek to do so. The bill operates entirely within the existing structure of Fourth Amendment doctrine. It does not change the meaning of "reasonable suspicion"; it works by establishing the actual conditions that give rise to a "reasonable suspicion", as that term is currently defined.

What if a police officer sees a vehicle with a decal being driven under the specified conditions, but happens to know that the car is being *driven by the owner and the officer does not have a reasonable suspicion of criminal activity; does the legislation authorize the officer to stop the vehicle simply on the basis of the decal?*

No. Under the bill's language, the existence of a decal on a vehicle provides a basis for a stop-and-question procedure "to determine whether the vehicle is being operated by or with the permission of the owner". Signing a consent form constitutes consent to be stopped for this purpose, not to be stopped on an arbitrary basis. Where an officer already knows or believes that the car is being driven by or with the permission of the owner, and has no reasonable suspicion of criminal activity, the legislation does not authorize a stop.

Would police officers be allowed to stop a vehicle on the basis of the driver's race, gender or age?

No. The legislation makes clear that vehicles may not be stopped on the basis of race, color, national origin, gender or age. Stops would be allowed only on the basis of a reasonable suspicion that a vehicle has been stolen.

Are vehicle owners likely to be coerced by police officers to participate in the program?

No. I am not aware of any evidence that this has been a problem in the cities that have adopted CAT or HEAT programs, nor is there any reason to believe that police officers would want to coerce citizens to participate. Moreover, the legislation contains safeguards to ensure that owners understand that participation is entirely voluntary. Under the bill, before obtaining a program decal, an owner must sign a consent form that clearly states that participation in the program is voluntary.

What happens in those jurisdictions that already have consent-to-stop programs underway? Do they have to change their decals to conform to the uniform national decal design?

No, they can keep using their existing decals.

The legislation does not preempt existing State or local programs, nor does it require States or localities to adopt the uniform decal designs.

[From the New York Times, Oct. 2, 1988]

ANTIDOTE FOR AUTO THEFT

An innovative, inexpensive New York City program promises genuine relief for the epidemic of automobile thefts in American cities.

Last year, Americans reported 1.3 million stolen cars, an increase of 23 percent since 1983. Most were stolen during early morning hours, and a program called Combat Automobile Theft, conceived two years ago by State Senator Leonard Stavisky of Queens, seeks to take advantage of that fact. Car owners sign a consent form that allows the police to stop the vehicle if it's being driven between the hours of 1 A.M. and 5 A.M. Bright yellow decals affixed to the car's windows put thieves on notice that the owner has enrolled.

Normally, police are prohibited under the Fourth Amendment from stopping a car without cause. Some civil libertarians question whether a car's owner can waive the privacy rights of someone else who might drive the car. But a thief would have no privacy claim, and the owner's statement creates a reasonable suspicion that a crime is in progress.

The program began in 1986 in two Queens precincts and now has been expanded to include 28 precincts citywide. The decals have proved a remarkably successful deterrent. Of the 17,871 cars enrolled in the program citywide, only 18 were stolen in two years—a rate dramatically below the city average.

The Combat Auto Theft program isn't the full answer to the nation's rising auto theft problem. But it does afford a simple, creative way for car owners to better their odds.

Fraternal Order of Police, National Legislative Committee,
Stafford, VA, June 1991.

Hon. Frank Lautenberg,
U.S. Senate,
Washington, DC.

Dear Senator Lautenberg: It is with great pleasure that, on behalf of Dewey Stokes, National president of the 230,000 member Fraternal Order of Police, I write to you to endorse, and pledge our support for your "Motor Vehicle Theft Prevention Act".

Motor vehicle theft is a nationwide problem that effects a wide range of people, the insurance industry and the law enforcement community.

On an average, there is probably a motor vehicle stolen every minute of every day in this country. Every one of these thefts requires that a police officer take time away from protecting the citizens of this Country from the more serious crimes of violence and drug abuse. It also has a serious effect on the insurance industry. But, most importantly it is devastating to the victim; the sudden loss of possibly their only means of transportation to and from work and caring for family members.

We applaud your efforts and make ourselves available to assist in the passage of this important piece of legislation.

Yours truly,

Robert J. Robbins,
Legislative Committee Member.

Advocates for Highway, and Auto Safety,
Washington, DC, June 14, 1991.

Hon. Frank Lautenberg,
Hart Senate Office Building,
U.S. Senate, Washington, DC.

Dear Senator Lautenberg: Advocates is pleased to see your efforts to address the major national problem of auto theft through S. 1248, the Motor Vehicle Theft Prevention Act. According to the 1989 Uniform Crime Report, every 20 seconds, a car is stolen in the United States. Many are never recovered; they are either shipped overseas or carved up in "chop shops" and sold for parts and scrap metal. The annual cost to Americans of auto theft is more than $8 billion.

Some effective steps to stem such thefts such as marking automobile parts with the VIN (Vehicle Identification Number) have been taken, but much more can be done. One program to reduce auto theft which has been successful in a number of communities allows vehicle owners to authorize law enforcement officials to stop their vehicles when operated during late night hours.

Advocates supports the adoption of such programs, and endorses S. 1248, which will provide uniformity in these programs. Proposing guidelines for such programs, is an appropriate Federal role. Greater uniformity will lead to greater effectiveness of these efforts, and may also lead to wider adoption of these auto theft prevention programs.

We commend you for your vision in these efforts, and we look forward to working with you to assure the passage of this bill.

Sincerely,

Judith Lee Stone,
Executive Director.

Alliance of American Insurers,
Washington, DC, April 26, 1991.

Hon. Frank R. Lautenberg,
U.S. Senate,
Washington, DC.

Dear Senator Lautenberg: The Alliance of American Insurers is a national trade association representing 170 property and casualty insurers. As such, we are quite concerned about automobile theft and fully support your legislation, the Motor Vehicle Theft Prevention Act (MVTPA).

Several cities have adopted "consent-to-stop" programs, whereby the vehicle owner agrees that his car can be stopped if it is being operated during certain times or by certain age groups. These programs are showing significant success and should be encouraged in other jurisdictions. Your legislation will aid the formation of these programs and will provide some uniformity as the list of participating jurisdictions increases.

We appreciate the opportunity to participate in discussions on this and other auto issues. If we can be of any assistance, please let me know.

Sincerely,

Sara F. Clary,
Assistant Vice President,
Federal Affairs.

State Farm Insurance Companies,
Bloomington, IL, May 31, 1991.

Hon. Frank R. Lautenberg,
U.S. Senate,
Washington, DC.

Dear Senator Lautenberg: As the nation's largest automobile insurer, insuring more than 33 million automobiles, we have a deep and continuing concern about automobile theft. We have been actively involved at the local, state and national level in programs to combat automobile theft. Automobile theft is a multi-faceted problem which calls for a number of effective approaches to make significant headway in battling this serious problem.

We strongly support your legislation, the Motor Vehicle Theft Prevention Act, which will encourage development of programs which will have a significant positive impact on the problem of auto theft. The "consent-to-stop" programs which will be encouraged by this legislation have been used in a number of jurisdictions with positive results. Your legislation will add uniformity to these programs and encourage their adoption in other jurisdictions.

We would be happy to work with you and your staff on this legislation and other auto issues. Let us know if we can be of any assistance to you on your legislation.

Sincerely,

Herman Brandau.

[From the Wall Street Journal, Mar. 7, 1989]

CAR INSURERS TO CUT RATES FOR CUSTOMERS IN ANTI-THEFT EFFORT

(By Robin G. Blumenthal)

New York.—Units of Fireman's Fund Corp. and of Travelers Corp. announced a plan a give discounts to policy holders who register their vehicles in a program to combat auto theft.

The plan, outlined at a news conference with representatives of the companies: state Sen. Leonard P. Stavisky, a Queens, N.Y., Democrat: and the Automobile Club of New York would offer a 5% reduction on comprehensive automobile coverage to participants in the Combat Auto Theft, or CAT, program that Sen. Stavisky started more than two years ago.

Representatives of Fireman's Fund Insurance Cos., of Novato, Calif., and Travelers Cos., of Hartford, Conn., estimated an average savings to participating policy holders of about $20 to $30 a year on their comprehensive auto coverage, which costs an average of about $300 a year.

CNA Insurance Cos. of Chicago, a unit of Loews Corp., also is participating in the program.

Under the CAT program, car owners sign an informed consent statement issued by the police department that indicates their vehicles aren't usually used between 1 a.m. and 5 a.m., when officials say most thefts occurs. Decals are placed on the rear of the vehicle, so that officers spotting such a car in operation during those hours may stop the driver and request to see his license and registration.

According to Sen. Stavisky, "automobiles not registered in the program are 40 times more likely to be stolen than those that bear the police deacls." He likened parts of his constituent area in northeastern Queens to a "Ho Chi Minn trail for chop shops," which parts of stolen cars are stripped and later resold.

In addition to the New York metropolitan area, the CAT program is available in Philadelphia, Yonkers, N.Y., and East Brunswick, N.J. Scotland Yard also plans to begin a pilot project in the greatest London area. Sen. Stavisky said similar legislation is being introduced in California, New Jersey and Florida.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1994

Mr. LIEBERMAN. Mr. President, as the Senate considers passage of the National Defense Authorization Act for fiscal year 1994, I would like to elaborate on one particular provision of the conference report accompanying the act. The conferees agreed that the Navy may obligate $540.2 million, appropriated in Public Law 102-298, for advance procurement of long-lead items for a third *Seawolf* attack submarine, known as SSN-23. This action supports the Department of Defense Bottom-Up Review, which concluded that the most cost-effective way of preserving our Nation's capability to produce submarines is to construct a third *Seawolf*. However, the conferees indicated that they reserve judgment on reauthorizing SSN-23 until the Secretary of Defense requests full funding for this submarine in a future budget. Regarding this issue, it is important to note that the National Defense Authorization Act (H.R, 2100) passed in November, 1991, did authorize SSN-23. An fiscal year 1992 appropriation pursuant to this authorization was also passed in 1991, and I understand that there were significant expenditures of fiscal year 1992 funds for costs related to SSN-23. Subsequently, the remaining fiscal year 1992 appropriation for the *Seawolf* program was partially rescinded in Public Law 102-298, with $540.2 million left either to provide advance procurement for SSN-23 or to preserve the submarine industrial base, depending on a decision by the Secretary of the Navy. Thus, for a substantial period during fiscal year 1992, an SSN-23 appropriation existed in tandem with an SSN-23 authorization, and, in fact, fiscal year 1992 funds were used to purchase SSN-23 items. Since fiscal year 1992 funds were both authorized and appropriated, and some of those funds were actually spent, and neither the authorization nor the complete appropriation were rescinded, the original SSN-23 authorization would seem to remain valid. I make these points because I believe there is no specific legal requirement to reauthorize SSN-23.

THE CONVENTION ON BIOLOGICAL DIVERSITY; AND THE CONVENTION ON THE PROHIBITION OF THE DEVELOPMENT, PRODUCTION, STOCKPILING AND USE OF CHEMICAL WEAPONS AND ON THEIR DESTRUCTION

Mr. BAUCUS. Mr. President, as in executive session, I ask unanimous consent that when the Senate receives from the President the following two treaties during the sine die adjournment of the first session of the 103d Congress:

The Convention on Biological Diversity; and the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction; and that upon receipt by the Senate prior to or during the adjournment, the injunction of secrecy be removed from the two treaties, they be considered as having been read the first time; the treaties be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's messages be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE DOE MINORITY BANK PRESERVATION ACT OF 1993

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 1685, the DOE Minority Bank Preservation Act of 1993, a bill introduced earlier today by Senators MOSELEY-BRAUN and DOMENICI; that the bill be read three times, passed, the motion to reconsider laid upon the table; and that any statements relating to this measure appear in the RECORD at the appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 1685) was deemed read three times and passed.

(The text of the bill, as passed, will be printed in a future edition of the RECORD.)

Ms. MOSELEY-BRAUN. Mr. President, the legislation I am today introducing, along with my colleagues from New Mexico, Mr. DOMENICI, and Oregon, Mr. PACKWOOD, is designed to preserve an important source of community development capital, the Department of Energy minority bank assistance program.

Under this program, the Department of Energy is able to deposit funds from the Petroleum Pricing Violation Escrow Fund in minority banks around the country. These banks are able to use these deposits for a variety of community development needs.

The deposits the Department of Energy makes at the participating minority banks uses a revokable trust mechanism which allowed the Department to retain Federal deposit insurance for the full amount it deposited at each bank. The deposits at minority banks have been fully insured since the program first began in 1980. The Department of Energy has exercised considerable care in selecting the banks that receive the deposits, and the result has been that the program has been problem-free.

Unfortunately, however, the Federal Deposit Insurance Corporation Improvement Act of 1991 terminates the Department of Energy's ability to retain deposit insurance for deposits over $100,000 at any individual bank. The result of that action is that this valuable, long-standing community development program is threatened with extinction.

The DOE Minority Bank Preservation Act of 1993 resolves this community development dilemma in a very narrow, careful way, one that preserves the critical reforms made by the 1991 banking legislation. By preserving the Department of Energy's ability to retain deposit insurance for its funds, it thus makes it possible for the Department to continue to support this community development program, which currently makes available $186 million to communities that desperately need capital for housing, small business, and other important community development needs.

Mr. President, the Senate Banking Committee, on which I serve, has held a number of hearings on community development hearings. I could go on and on about the problems so many communities have in accessing our financial services system, and how that disadvantages those neighborhoods. However, the bottom line is very clear. Less access to our financial system means less home ownership, less jobs, and less economic development.

The Department of Energy program helps change that for neighborhoods that desperately need access to capital. It is a no-cost program, and is a perfect example of the kind of good that can be accomplished through a public-private partnership. I strongly urge the Senate to promptly enact this legislation, so that this program can continue to provide access to capital to neighborhoods that so need that kind of economic development help.

Mr. PACKWOOD. Mr. President, today, along with my colleague Senator DOMENICI, I am introducing the Department of Energy Minority Bank Preservation Act. This legislation will amend the Federal Deposit Insurance Act to permit the continued insurance of certain deposits in minority and women-owned banks.

Since 1980, the Department of Energy has assisted minority and women-owned financial institutions by depositing funds in these institutions through the Bank Deposit Financial Assistance Program [BDFAP]. These funds are placed in a revocable trust account in minority and women-owned institutions in Oregon and across the country. Until 1991, the Federal Deposit Insurance Corporation [FDIC] insured each trust separately up to $100,000.

In 1991, the Federal Deposit Insurance Corporation Improvement Act eliminated the insurability of funds held in revocable trusts. The FDIC, aiming to reduce its risk, unintentionally touched the Department of Energy's successful BDFAP program. This program will expire on December 20, 1993, if Congress does not pass legislation allowing the insurability of these accounts.

The legislation I am introducing provides for the continuation of the current level of insurance coverage for the Bank Deposit Financial Assistance Program. This program has provided deposits to more than 100 minority and women-owned banks serving inner-city communities. In Oregon, American State Bank, located in Northeast Portland, has used these important funds to assist the development of minority entrepreneurship. This fund constitutes almost 25 percent of American State Bank's loan capability. I will include a letter from Mr. Venerable F. Booker, President and Chairman of the Board of American State Bank, supporting the continuance of the BDFAP fund.

This bill will not stop the current credit crunch problem that exists in our country. However, if this bill does not pass, many communities, already facing capital shortages, will lose a major source of funds used to stimulate competitive development in their neighborhoods.

I urge my colleagues to join Senator DOMENICI and me in supporting the passage of this important time-sensitive legislation.

I ask unanimous consent that the letter from Mr. Booker be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICAN STATE BANK,
Portland, OR, September 29, 1993.

Hon. BOB PACKWOOD,
U.S. Senate, Washington, DC.

DEAR SENATOR PACKWOOD: Following up on our earlier discussions, this message explains the consequence to American State Bank of the loss of the Department of Energy's Bank Deposit Financial Assistance Program and the impact of terminating more than $170 million of stable deposits minority-owned Banks across the country use to spur competitive development in our nation's capital-starved inner cities.

American State Bank in Portland, Oregon's only Black-owned Bank, will see its service to Portland's inner-city community severely handicapped if we lose access to these stable, low-cost and competitive deposits from the Department of Energy. The BDFAP deposits are funding small business and consumer loans in Portland's inner city. They are helping to develop minority entrepreneurship and they are contributing significantly to building jobs and rebuilding our community. As a small bank, American State Bank and the people who depend on us will be particularly hard hit losing, over a six month period, losing almost 25% of our loan capability.

Please fight to preserve the Department of Energy's Bank Deposit Financial Assistance Program. The death of BDFAP means Portland's minority community, as well as minority communities across the country, will have fewer jobs, more unemployment, more hardship, more stress, less opportunity. In short, more of all the bad things that continue to ravage our inner cities.

Sincerely,

VENERABLE F. BOOKER,
President.

Mr. DOMENICI. Mr. President, the President has made community development an important priority with his initiative to create Community Development Financial Institutions. Secretary Cisneros has made reinventing HUD his mission.

While I support the creation of community development financial institutions and I wholeheartedly agree that HUD needs to be reinvented, my top priority as a member of the Housing Subcommittee is helping the South Valley of Bernillio County, New Mexico.

In the Housing, Banking and Urban Affairs Committee we spend a great deal of time working on ways to foster greater community development, and improved housing conditions for our Nation's people.

The Senate Housing Banking and Urban Committee spends a lot of time working on programs to increase the quality of life in our neighborhoods. These are the very same objectives I have for the South Valley.

The leadership of the Senate Banking Committee has been very committed and has gone the extra mile to help me.

There is a moratorium on building multifamily housing in this community until the water and sewage problem is corrected.

The situation is so bad there is almost a daily story in the New Mexico newspapers.

The headline on October 16: "South Valley Residents Blame Water for Girl's Illness."

The headline on October 18: "Residents learn to Live in Sewage."

The headline on October 30: "Living in a Cesspool."

Other recent headlines, "Girl's Illness may Remain Mystery"; "Pools of "Gray Water" surround Girl's Mobile Home"; "State seeks more extensive tests on the water from ill girl's house."

If you lived in this neighborhood, your drinking water well is probably on top of your next door neighbor's septic tank leach field.

In addition to the obvious health hazard, your drinking water is sewage scented.

You would live with murky pools of water in your yard. Your vegetable garden and flower garden struggle to co-exist with raw sewage. In addition to digging holes to plant tomatoes and peppers, sometimes you would have to dig a hole to bury a neighbor's overflowing sewage.

There is often a shortage of water so your daily shower is often cut short.

One of the provisions in this bill will authorize some of the money needed to improve the housing stock infrastructure and fund a waste water treatment and drinking water improvement program.

For almost 30 years this community has suffered deteriorating housing stock, and the health hazard of inadequate sewer and water facilities.

The situation is so critical that there is a moratorium on building desperately needed multifamily housing units. These are units that could greatly improve the housing stock of the area.

This community has been untiring in its efforts to help itself. So many times, its efforts have been ignored or rejected.

Nevertheless, its leaders should be commended. They never gave up.

The leaders of South Valley and I have been meeting on a regular basis for 9½ years to develop an action plan to address this problem.

There have been a few successes at the local level which include the following: The Bernalillo County Commission adopted a one-eighth cent tax on gross receipts in and for the unincorporated area of the South Valley to finance solid waste, water and sewer. The city of Albuquerque, in partnership with Bernalillo County, has contributed its sources in the areas of research planning and education. The University of New Mexico—Institute of Public Law—provided a joint study for the New Mexico Legislature which led to an appropriation of funds for this project. These funds must be spent by the end of 1994. This additional deadline makes timing critical to create this worthy partnership which would use local, State and Federal resources.

This authorization if it is enacted into law, will end 30 years of frustration, denial and avoidable health problems in this community.

Today, the Congress will be helping to make a better neighborhood and provide better housing conditions for the South Valley. Because of the conditions of the soil, the community is going to use technology that may be useful in other communities.

I want to thank Senate Housing, Banking and Urban Affairs Chairman RIEGLE and ranking member, Senator D'AMATO. I also appreciate the support of Senator SARBANES and Senator BOND who are the chairman and ranking member of the Housing Subcommittee. And I would be remiss if I didn't thank their staffs for all the help in getting this provision passed.

A second provision of this bill will allow the Department of Energy Bank Deposit Financial Assistance Program to continue.

The Department of Energy will begin terminating $186 million low-cost, stable deposits in more than 109 minority-owned banks serving inner-city communities and minority communities across the United States unless this bill is enacted by December 20, 1993.

The Department of Energy, since 1980, has assisted minority and women-owned financial institutions through its Bank Deposit Financial Assistance Program.

The program involves intermediary banks depositing funds in minority and women-owned banks in revocable trusts "petroleum violation escrow funds"—petroleum company overcharges.

The FDIC insures each trust separately up to $100,000. With each separate 6 month revocable trust deposit totaling $95,000, the safety of all the BDFAP funds has been assured.

Federal Deposit Insurance Corporation Improvement Act of 1991 [FDICIA] eliminates the insurability of funds held in revocable trusts effective December 20, 1993.

FDICIA, aiming to reduce FDIC risk unintentionally caught up the Department of Energy's Bank Deposit Financial Assistance Program.

Energy Secretary O'Leary want the program to continue.

The bill would permit continuation and expansion of this program.

This program meets the capital needs and has a proven track record to spur competitive development in their communities.

It has proven a successful government economic assistance targeting inner cities and minority communities at no cost to the taxpayer.

Institutions in New Mexico benefiting from this program include: Dona Ana Savings and Loan in Las Cruces, and El Pueblo State Bank, Espanola.

There are 109 minority banks through 32 "trustee" banks.

I want to compliment my colleague, Senator MOSELEY-BRAUN for her interest in getting this bill passed.

UNDERCHARGE EQUITY ACT OF 1992

Mr. BAUCUS. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on (S. 412), a bill to amend title 49, United States Code, regarding the collection of certain payments for shipments via motor common carriers of property and nonhousehold goods freight forwarders, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 412) entitled "An Act to amend title 49, United States Code, regarding the collection of certain payments for shipments via motor common carriers of property and nonhousehold goods freight forwarders, and for other purposes", do pass with the following Amendments: Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Negotiated Rates Act of 1993".

SEC. 2. PROCEDURES FOR RESOLVING CLAIMS INVOLVING UNFILED, NEGOTIATED TRANSPORTATION RATES.

(a) IN GENERAL.—Section 10701 of title 49, United States Code, is amended by adding at the end the following:

"(f) PROCEDURES FOR RESOLVING CLAIMS INVOLVING UNFILED, NEGOTIATED TRANSPORTATION RATES.—

"(1) IN GENERAL.—When a claim is made by a motor carrier of property (other than a household goods carrier) providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title, by a freight forwarder (other than a household goods freight forwarder), or by a party representing such a carrier or freight forwarder regarding the collection of rates or charges for such transportation in addition to those originally billed and collected by the carrier or freight forwarder for such transportation, the person against whom the claim is made may elect to satisfy the claim under the provisions of paragraph (2), (3), or (4) of this subsection, upon showing that—

"(A) the carrier or freight forwarder is no longer transporting property or is transporting property for the purpose of avoiding the application of this subsection; and

"(B) with respect to the claim—

"(i) the person was offered a transportation rate by the carrier or freight forwarder other than that legally on file with the Commission for the transportation service;

"(ii) the person tendered freight to the carrier or freight forwarder in reasonable reliance upon the offered transportation rate;

"(iii) the carrier or freight forwarder did not properly or timely file with the Commission a tariff providing for such transportation rate or failed to enter into an agreement for contract carriage;

"(iv) such transportation rate was billed and collected by the carrier or freight forwarder; and

"(v) the carrier or freight forwarder demands additional payment of a higher rate filed in a tariff.

If there is a dispute as to the showing under subparagraph (A), such dispute shall be resolved by the court in which the claim is brought. If there is a dispute as to the showing under subparagraph (B), such dispute shall be resolved by the Commission. Pending the resolution of any such dispute, the person shall not have to pay any additional compensation to the carrier or freight forwarder. Satisfaction of the claim under paragraph (2), (3), or (4) of this subsection shall be binding on the parties, and the parties shall not be subject to chapter 119 of this title.

"(2) CLAIMS INVOLVING SHIPMENTS WEIGHING 10,000 POUNDS OR LESS.—A person from whom the additional legally applicable and effective tariff rate or charges are sought may elect to satisfy the claim if the shipments each weighed 10,000 pounds or less, by payment of 20 percent of the difference between the carrier's applicable and effective tariff rate and the rate originally billed and paid. In the event that a dispute arises as to the rate that was legally applicable to the shipment, such dispute shall be resolved by the Commission.

"(3) CLAIMS INVOLVING SHIPMENTS WEIGHING MORE THAN 10,000 POUNDS.—A person from whom the additional legally applicable and effective tariff rate or charges are sought may elect to satisfy the claim if the shipments each weighed more than 10,000 pounds, by payment of 15 percent of the difference between the carrier's applicable and effective tariff rate and the rate originally billed and paid. In the event that a dispute arises as to the rate that was legally applicable to the shipment, such dispute shall be resolved by the Commission.

"(4) CLAIMS INVOLVING PUBLIC WAREHOUSEMEN.—Notwithstanding paragraphs (2) and (3), a person from whom the additional legally applicable and effective tariff rate or charges are sought may elect to satisfy the claim by payment of 5 percent of the difference between the carrier's applicable and effective tariff rate and the rate originally billed and paid if such person is a public warehouseman. In the event that a dispute arises as to the rate that was legally applicable to the shipment, such dispute shall be resolved by the Commission.

"(5) EFFECTS OF ELECTION.—When a person from whom additional legally applicable freight rates or charges are sought does not elect to use the provisions of paragraph (2), (3), or (4), the person may pursue all rights and remedies existing under this title.

"(6) STAY OF ADDITIONAL COMPENSATION.—When a person proceeds under this section to challenge the reasonableness of the legally applicable freight rate or charges being claimed by a carrier or freight forwarder described in paragraph (1) in addition to those already billed and collected, the person shall not have to pay any additional compensation to the carrier or freight forwarder until the Commission has made a determination as to the reasonableness of the challenged rate as applied to the freight of the person against whom the claim is made.

"(7) LIMITATION ON STATUTORY CONSTRUCTION.—Except as authorized in paragraphs (2), (3), (4), and (9) of this subsection, nothing in this subsection shall relieve a motor common carrier of the duty to file and adhere to its rates, rules, and classifications as required in sections 10761 and 10762 of this title.

"(8) NOTIFICATION OF ELECTION.—

"(A) GENERAL RULE.—A person must notify the carrier or freight forwarder as to its election to proceed under paragraph (2), (3), or (4). Except as provided in subparagraphs (B), (C), and (D), such election may be made at any time.

"(B) DEMANDS FOR PAYMENT INITIALLY MADE AFTER DATE OF ENACTMENT.—If the carrier or freight forwarder or party representing such carrier or freight forwarder initially demands the payment of additional freight charges after the date of the enactment of this subsection and notifies the person from whom additional freight charges are sought of the provisions of paragraphs (1) through (7) at the time of the making of such initial demand, the election must be made not later than the later of—

"(i) the 60th day following the filing of an answer to a suit for the collection of such additional legally applicable freight rate or charges, or

"(ii) the 90th day following the date of the enactment of this subsection.

"(C) PENDING SUITS FOR COLLECTION MADE BEFORE OR ON DATE OF ENACTMENT.—If the carrier or freight forwarder or party representing such carrier or freight forwarder has filed, before or on the date of the enactment of this subsection, a suit for the collection of additional freight charges and notifies the person from whom additional freight charges are sought of the provisions of paragraphs (1) through (7), the election must be made not later than the 90th day following the date on which such notification is received.

"(D) DEMANDS FOR PAYMENT MADE BEFORE OR ON DATE OF ENACTMENT.—If the carrier or freight forwarder or party representing such carrier or freight forwarder has demanded the payment of additional freight charges, and has not filed a suit for the collection of such additional freight charges, before or on the date of the enactment of this subsection and notifies the person from whom additional freight charges are sought of the provisions of paragraphs (1) through (7), the election must be made not later than the later of—

"(i) the 60th day following the filing of an answer to a suit for the collection of such additional legally applicable freight rate or charges, or

"(ii) the 90th day following the date of the enactment of this subsection.

"(9) CLAIMS INVOLVING SMALL-BUSINESS CONCERNS, CHARITABLE ORGANIZATIONS, AND RECYCLABLE MATERIALS.—Notwithstanding paragraphs (2), (3), and (4), a person from whom the additional legally applicable and effective tariff rate or charges are sought shall not be liable for the difference between the carrier's applicable and effective tariff rate and the rate originally billed and paid—

"(A) if such person qualifies as a small-business concern under the Small Business Act (15 U.S.C. 631 et seq.),

"(B) if such person is an organization which is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code, or

"(C) if the cargo involved in the claim is recyclable materials, as defined in section 10733.".

(b) CONFORMING AMENDMENT.—Subsection (e) of such section is amended by striking "In" and inserting "Except as provided in subsection (f), in".

(c) APPLICABILITY.—The amendments made by subsections (a) and (b) of this section shall apply to all claims pending as of the date of the enactment of this Act and to all claims arising from transportation shipments tendered on or before the last day of the 24-month period beginning on such date of enactment.

(d) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Interstate Commerce Commission shall transmit to Congress a report regarding whether there exists a justification for extending the applicability of amendments made by subsections (a) and (b) of this section beyond the period specified in subsection (c).

(e) ALTERNATIVE PROCEDURE FOR RESOLVING DISPUTES.—

(1) GENERAL RULE.—For purposes of section 10701 of title 49, United States Code, it shall be an unreasonable practice for a motor carrier of property (other than a household goods carrier) providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of such title, a freight forwarder (other than a household goods freight forwarder), or a party representing such a carrier or freight forwarder to attempt to charge or to charge for a transportation service provided before September 30, 1990, the difference between the applicable rate that is lawfully in effect pursuant to a tariff that is filed in accordance with chapter 107 of such title by the carrier or freight forwarder applicable to such transportation service and the negotiated rate for such transportation service if the carrier or freight forwarder is no longer transporting property between places described in section 10521(a)(1) of such title or is transporting property between places described in section 10521(a)(1) of such title for the purpose of avoiding the application of this subsection.

(2) JURISDICTION OF COMMISSION.—The Commission shall have jurisdiction to make a determination of whether or not attempting to charge or the charging of a rate by a motor carrier or freight forwarder or party representing a motor carrier or freight forwarder is an unreasonable practice under paragraph (1). If the Commission determines that attempting to charge or the charging of the rate is an unreasonable practice under paragraph (1), the carrier, freight forwarder, or party may not collect the difference described in paragraph (1) between the applicable rate and the negotiated rate for the transportation service. In making such determination, the Commission shall consider—

(A) whether the person was offered a transportation rate by the carrier or freight forwarder or party other than that legally on file with the Commission for the transportation service;

(B) whether the person tendered freight to the carrier or freight forwarder in reasonable reliance upon the offered transportation rate;

(C) whether the carrier or freight forwarder did not properly or timely file with the Commission a tariff providing for such transportation rate or failed to enter into an agreement for contract carriage;

(D) whether the transportation rate was billed and collected by the carrier or freight forwarder; and

(E) whether the carrier or freight forwarder or party demands additional payment of a higher rate filed in a tariff.

(3) STAY OF ADDITIONAL COMPENSATION.—When a person proceeds under this subsection to challenge the reasonableness of the practice of a motor carrier, freight forwarder, or party described in paragraph (1) to attempt to charge or to charge the difference described in paragraph (1) between the applicable rate and the negotiated rate for the transportation service in addition to those charges already billed and collected for the transportation service, the person shall not have to pay any additional compensation to the carrier, freight forwarder, or party until the Commission has made a determination as to the reasonableness of the practice as applied to the freight of the person against whom the claim is made.

(4) TREATMENT.—Paragraph (1) of this subsection is enacted as an exception, and shall be treated as an exception, to the requirements of sections 10761(a) and 10762 of title 49, United States Code, relating to a filed tariff rate for a transportation or service subject to the jurisdiction of the Commission and other general tariff requirements.

(5) NONAPPLICABILITY OF NEGOTIATED RATE DISPUTE RESOLUTION PROCEDURE.—If a person elects to seek enforcement of paragraph (1) with respect to a rate for a transportation or service, section 10701(f) of title 49, United States Code, as added by subsection (a) of this section, shall not apply to such rate.

(6) DEFINITIONS.—For purposes of this subsection, the following definitions apply:

(A) COMMISSION, HOUSEHOLD GOODS, HOUSEHOLD GOODS FREIGHT FORWARDER, AND MOTOR CARRIER.—The terms "Commission", "household goods", "household goods freight forwarder", and "motor carrier" have the meaning such terms have under section 10102 of title 49, United States Code.

(B) NEGOTIATED RATE.—The term "negotiated rate" means a rate, charge, classification, or rule agreed upon by a motor carrier or freight forwarder described in paragraph (1) and a shipper through negotiations pursuant to which no tariff was lawfully and timely filed with the Commission and for which there is written evidence of such agreement.

(f) PRIOR SETTLEMENTS AND ADJUDICATIONS.—Any claim that, but for this subsection, would be subject to any provision of this Act (including any amendment made by this Act) and that was settled by mutual agreement of the parties to such claim, or resolved by a final adjudication of a Federal or State court, before the date of the enactment of this Act shall be treated as binding, enforceable, and not contrary to law, unless such settlement was agreed to as a result of fraud or coercion.

(g) RATE REASONABLENESS.—Section 10701(e) of title 49, United States Code, is amended by adding at the end the following: "Any complaint brought against a motor carrier (other than a carrier described in subsection (f)(1)(A)) by a person (other than a motor carrier) for unreasonably high rates for past or future transportation shall be determined under this subsection.".

SEC. 3. STATUTE OF LIMITATIONS.

(a) MOTOR CARRIER CHARGES.—Section 11706(a) of title 49, United States Code, is amended by striking the period at the end and inserting the following: "; except that a motor carrier (other than a motor carrier providing transportation of household goods) or freight forwarder (other than a household goods freight forwarder)—

"(1) must begin such a civil action within 2 years after the claim accrues if the transportation or service is provided by the carrier in the 1-year period beginning on the date of the enactment of the Negotiated Rates Act of 1993; and

"(2) must begin such a civil action within 18 months after the claim accrues if the transportation or service is provided by the carrier after the last day of such 1-year period.".

(b) MOTOR CARRIER OVERCHARGES.—Section 11706(b) of title 49, United States Code, is amended by striking ". If that claim is against a common carrier" and inserting the following: "; except that a person must begin a civil action to recover overcharges from a motor carrier subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title for transportation or service—

"(1) within 2 years after the claim accrues if such transportation or service is provided in the 1-year period beginning on the date of the enactment of the Negotiated Rate Act of 1993; and

"(2) within 18 months after the claim accrues if such transportation or service is provided after the last day of such 1-year period. If the claim is against a common carrier".

(c) CONFORMING AMENDMENT.—Section 11706(d) of title 49, United States Code, is amended—

(1) by striking "3-year period" each place it appears and inserting "limitation periods";

(2) by striking "is extended" the first place it appears and inserting "are extended"; and

(3) by striking "each".

SEC. 4. TARIFF RECONCILIATION RULES FOR MOTOR CARRIERS OF PROPERTY.

(a) IN GENERAL.—Chapter 117 of title 49, United States Code, is amended by adding at the end the following:

"§ 11712. Tariff reconciliation rules for motor common carriers of property

"(a) MUTUAL CONSENT.—Subject to Commission review and approval, motor carriers subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title (other than motor carriers providing transportation of household goods) and shippers may resolve, by mutual consent, overcharge and undercharge claims resulting from incorrect tariff provisions or billing errors arising from the inadvertent failure to properly and timely file and maintain agreed upon rates, rules, or classifications in compliance with sections 10761 and 10762 of this title. Resolution of such claims among the parties shall not subject any party to the penalties of chapter 119 of this title.

"(b) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall relieve the motor carrier of the duty to file and adhere to its rates, rules, and classifications as required in sections 10761 and 10762, except as provided in subsection (a) of this section.

"(c) RULEMAKING PROCEEDING.—Not later than 90 days after the date of the enactment of this section, the Commission shall institute a proceeding to establish rules pursuant to which the tariff requirements of sections 10761 and 10762 of this title shall not apply under circumstances described in subsection (a) of this section.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 117 of title 49, United States Code, is amended by adding at the end the following:

"11712. Tariff reconciliation rules for motor common carriers of property.".

SEC. 5. CUSTOMER ACCOUNT CODES AND RANGE TARIFFS.

(a) CUSTOMER ACCOUNT CODES.—Section 10762 of title 49, United States Code, is amended by adding at the end the following:

"(h) CUSTOMER ACCOUNT CODES.—No tariff filed by a motor carrier of property with the Commission before, on, or after the date of the enactment of this subsection may be held invalid solely on the basis that a numerical or alpha account code is used in such tariff to designate customers or to describe the applicability of rates. For transportation performed on and after the 180th day following such date of enactment, the name of the customer for each account code must be set forth in the tariff (other than the tariff of a motor carrier providing transportation of household goods).".

(b) RANGE TARIFFS.—Such section is further amended by adding at the end the following:

"(i) RANGE TARIFFS.—No tariff filed by a motor carrier of property with the Commission before, on, or after the date of the enactment of this subsection may be held invalid solely on the basis that the tariff does not show a specific rate or discount for a specific shipment if the tariff is based on a range of rates or discounts for specific classes of shipments. For transportation performed on or after the 180th day following such date of enactment, such a range tariff must identify the specific rate or discount from among the range of rates or discounts contained in such range tariff which is applicable to each specific shipment or must contain an objective means for determining the rate.".

SEC. 6. CONTRACTS OF MOTOR CONTRACT CARRIERS.

(a) IN GENERAL.—Section 10702 of title 49, United States Code, is amended by adding at the end the following new subsection:

"(c) CONTRACTS OF CARRIAGE FOR MOTOR CONTRACT CARRIERS.—

"(1) GENERAL RULE.—A motor contract carrier providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title shall enter into a written agreement, separate from the bill of lading or receipt, for each contract for the provision of transportation subject to such jurisdiction which is entered into after the 90th day following the date of the enactment of this subsection.

"(2) MINIMUM CONTENT REQUIREMENTS.—The written agreement shall, at a minimum—

"(A) identify the parties thereto;

"(B) commit the shipper to tender and the carrier to transport a series of shipments;

"(C) contain the contract rate or rates for the transportation service to be or being provided; and

"(D)(i) state that it provides for the assignment of motor vehicles for a continuing period of time for the exclusive use of the shipper; or

"(ii) state that it provides that the service is designed to meet the distinct needs of the shipper.

"(3) RETENTION BY CARRIER.—All written agreements entered into by a motor contract carrier under paragraph (1) shall be retained by the carrier while in effect and for a minimum period of 3 years thereafter and shall be made available to the Commission upon request.

"(4) RANDOM AUDITS BY COMMISSION.—The Commission shall conduct periodic random audits to ensure that motor contract carriers are complying with this subsection and are adhering to the rates set forth in their agreements.".

(b) CIVIL PENALTY.—Section 11901(g) of such title is amended—

(1) by inserting "or enter into or retain a written agreement under section 10702(c) of this title" after "under this subtitle" the first place it appears; and

(2) by striking "or (5)" and inserting "(5) does not comply with section 10702(c) of this title, or (6)".

(c) CRIMINAL PENALTY.—Section 11909(b) of such title is amended—

(1) by inserting "or enter into or retain a written agreement under section 10702(c) of this title" after "under this subtitle" the first place it appears; and

(2) in clause (1) by inserting after "make that report" the following: "or willfully does not enter into or retain that agreement".

SEC. 7. BILLING AND COLLECTING PRACTICES.

(a) IN GENERAL.—Subchapter IV of chapter 107 of title 49, United States Code, is amended by adding at the end the following:

"§ 10767. Billing and collecting practices

"(a) REGULATIONS LIMITING REDUCED RATES.—Not later than 120 days after the date of the enactment of this section, the Commission shall issue regulations that prohibit a motor carrier subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title from providing a reduction in a rate set forth in its tariff or contract for the provision of transportation of property to any person other than (1) the person paying the motor carrier directly for the transportation service according to the bill of lading, receipt, or contract, or (2) an agent of the person paying for the transportation.

"(b) DISCLOSURE OF ACTUAL RATES, CHARGES, AND ALLOWANCES.—The regulations of the Commission issued pursuant to this section shall require a motor carrier to disclose, when a document is presented or transmitted electronically for payment to the person responsible directly to the motor carrier for payment or agent of such responsible person, the actual rates, charges, or allowances for the transportation service and shall prohibit any person from causing a motor carrier to present false or misleading information on a document about the actual rate, charge, or allowance to any party to the transaction. Where the actual rate, charge, or allowance is dependent upon the performance of a service by a party to the transportation arrangement, such as tendering a volume of freight over a stated period of time, the motor carrier shall indicate in any document presented for payment to the person responsible directly to the motor carrier for the payment that a reduction, allowance, or other adjustment may apply.

"(c) PAYMENTS OR ALLOWANCES FOR CERTAIN SERVICES.—The regulations issued by the Commission pursuant to this section shall not prohibit a motor carrier from making payments or allowances to a party to the transaction for services that would otherwise be performed by the motor carrier, such as a loading or unloading service, if the payments or allowances are reasonably related to the cost that such party knows or has reason to know would otherwise be incurred by the motor carrier.".

(b) CONFORMING AMENDMENT.—The analysis for such subchapter is amended by adding at the end the following new item:

"10767. Billing and collecting practices.".

(c) VIOLATION.—

(1) IN GENERAL.—Section 11901 of such title is amended by redesignating subsection (l) as subsection (m) and by inserting after subsection (k) the following:

"(l) RATE DISCOUNTS.—A person, or an officer, employee, or agent of that person, that knowingly pays, accepts, or solicits a reduced rate or rates in violation of the regulations issued under section 10767 of this title is liable to the United States for a civil penalty of not less than $5,000 and not more than $10,000 plus 3 times the amount of damages which a party incurs because of such violation. Notwithstanding any other provision of this title, the express civil penalties and damages provided for in this subsection are the exclusive legal sanctions to be imposed under this title for practices found to be in violation of the regulations issued under section 10767 and such violations do not render tariff or contract provisions void or unenforceable.".

(2) VENUE.—Section 11901(m)(2) of such title (as redesignated by paragraph (1)) is amended by striking "or (k)" and inserting "(k), or (l)".

SEC. 8. RESOLUTION OF DISPUTES RELATING TO CONTRACT OR COMMON CARRIER CAPACITIES.

Section 11101 of title 49, United States Code, is amended by adding at the end the following:

"(d) RESOLUTION OF DISPUTES RELATING TO CONTRACT OR COMMON CARRIER CAPACITIES.—If a motor carrier (other than a motor carrier providing transportation of household goods) subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title has authority to provide transportation as both a motor common carrier and a motor contract carrier and a dispute arises as to whether certain transportation is provided in its common carrier or contract carrier capacity and the parties are not able to resolve the dispute consensually, the Commission shall have jurisdiction to, and shall, resolve the dispute.".

SEC. 9. LIMITATION ON STATUTORY CONSTRUCTION.

Nothing in this Act (including any amendment made by this Act) shall be construed as limiting or otherwise affecting application of title 11, United States Code, relating to bankruptcy; title 28, United States Code, relating to the jurisdiction of the courts of the United States (including bankruptcy courts); or the Employee Retirement Income Security Act of 1974.

Mr. HOLLINGS. Mr. President, as chairman of the Committee on Commerce, Science, and Transportation, I am pleased that the Senate is considering final passage of S. 412, the Undercharge Equity Act of 1993. Legislation addressing the "undercharge" litigation crisis is not new: in July of this year the Senate passed S. 412, reported by the Commerce Committee on May 25, 1993. That measure was similar to S. 1675, the Undercharge Equity Act of 1992, which passed the Senate unanimously in the last Congress, but which the House did not consider prior to adjournment.

Over the past 3 years, since the Supreme Court's Maislin decision in 1990, the chairman of the Commerce Committee's Surface Transportation Subcommittee, Senator EXON, and others have worked to forge a bipartisan consensus on this legislation. The legislation we consider today incorporates the text of H.R. 2121, the House undercharge companion measure, which the House passed by a vote of 292 to 116 on November 15, 1993.

As the Commerce Committee has recognized for some time, the undercharge crisis reflects a broad spectrum of efforts by trustees for bankrupt motor carriers to collect from shippers additional payments for shipments which moved and were paid for years ago. I recognize the compelling nature of the unsecured claims of former drivers of now bankrupt trucking companies seeking unpaid wages, the pension funds left with unfunded liabilities, and the demands of other creditors. At the same time, the continually escalating undercharge litigation and collection spiral serves no useful purpose, and makes clear the long overdue need for a legislative solution to this problem. The Senate recognized this mandate for action in passing equitable undercharge resolution legislation in this Congress and in the last Congress. Now that the House also has acted, we have an opportunity to consider this measure for final passage in the 103rd Congress.

S. 412, as amended by the House, makes a number of changes in the legislation as passed by the Senate. Under the bill as amended, shippers may settle an eligible undercharge claim for 15 or 20 percent of the amount sought, depending upon the type of shipment (or 5 percent where a warehouseman is involved). Small businesses, charitable organizations, and recyclers (which includes recyclers of rubber) would be exempt from applicable undercharge claims. In addition, shippers facing an undercharge claim for transportation provided before September 1990 (when the Maislin case reversed five U.S. Circuit Courts of Appeal) would be permitted to argue before the Interstate Commerce Commission that the undercharge collection effort was an unreasonable practice. Other options for shippers, including pursuing existing legal rights and remedies, would be preserved.

In addition, S. 412 as amended incorporates other provisions addressing principally the legality and future requirements with regard to range rates, contract rates, coded rates, and accounting and collection practices. The legislation further addresses questions concerning unreasonable rates of operating motor carriers.

The legislation before us today represents a fair and equitable solution to the undercharge litigation problem gripping businesses across the country. I urge my colleagues to join me in voting for passage of this important and necessary legislation.

Mr. DANFORTH. Mr. President, today we may finally bring to an end an expensive nuisance for America's businesses that has resulted from the continued enforcement of outdated laws. Last fall, 60 Minutes ran a story entitled "You're Kidding." This story involved interviews with small businessmen hit with large freight bills related to shipments for which they had paid years ago. These shippers were asking how this could happen.

The answer requires a review of the law governing motor carriers' movement of freight. The Motor Carrier Act of 1980 substantially deregulated the trucking industry by eliminating most price and entry requirements. One significant regulation retained was the requirement that trucking companies file with the Interstate Commerce Commission [ICC] all tariffs governing shipments. Since enactment of the 1980 act, however, carriers have frequently negotiated lower rates with shippers but have not filed those rates with the ICC. In 1990, the Supreme Court, in Maislin Industries versus Primary Steel, held that shippers are required to pay the filed rate when the shipper and carrier have privately negotiated a lower rate, regardless of the equities involved. The trustees of bankrupt trucking companies that had negotiated such rates are now suing shippers for the difference. These suits are being brought years after payment for and delivery of the shipments.

Let me use a hypothetical to illustrate the absurdity of this situation. In my example, you bought a discounted airline ticket from Pam Am several years ago for $300. Subsequently, Pan Am liquidates. Pan Am's bankruptcy trustee notifies you that the nondiscounted price of the ticket you purchased was $600. The trustee says that Pan Am was supposed to file the discounted ticket price, $300, with a government agency, but he failed to do so. Thus, Pan Am's trustee says that you owe the difference between the agreed upon price and the nondiscounted fare. The bottom line is that those who are suffering are the ones who made a deal and fulfilled their obligations.

This problem spares no shipper no matter how noble its effort. In recent months, organizations such as the Red Cross, that use trucks to ship emergency relief supplies, have been hit with these unexpected bills.

The Maislin case has placed a heavy burden on many of our Nation's small businesses. In some instances, these suits are causing small businesses to enter bankruptcy. The ICC estimates that these claims may be worth $32 billion. The beneficiaries are not, however, the creditors or pension funds of the bankrupt carriers. According to the ICC, the attorneys and collection agents who have devised the rebilling suits collect between 55 percent and 80 percent of the proceeds.

Mr. President, today we are considering the House-passed version of undercharge legislation. This bill establishes settlement formulas for a variety of situations. Different approaches are taken with respect to truckload and less than truckload shipments, since carriers usually give shippers larger discounts on truckload shipments.

Claims relating to truckload shipments may be settled by simply paying 15 percent of the claimed undercharge. Claims relating to less than truckload shipments may be settled by paying 20 percent of the claimed undercharge. Furthermore, the legislation makes a distinction on the basis of the size of the shipper, totally exempting small shippers from undercharge claims. In addition, the bill exempts charitable organizations from these claims. Also, no claim is valid if it relates to transportation performed prior to the Supreme Court's Maislin decision.

This legislation also preserves a shipper's right to pursue an ICC determination of the reasonableness of the rate charged, if a shipper elects not to use the settlement formulas. It also eliminates lawsuits that bankruptcy trustees have brought to collect money from shippers related to code and range tariffs.

This legislation is the result of negotiations that have occurred over the last two Congresses. Although the Senate has reported legislation on three occasions to remedy this problem, this is the first opportunity we have had to send a bill to the President for signature.

Mr. President, I urge my colleagues to support this legislation to remedy a problem that is hurting thousands of small businesses around the country.

Mr. BAUCUS. Mr. President, I move that the Senate concur en bloc to the amendments of the House.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I move to reconsider the vote.

The PRESIDING OFFICER. Without objection, the motion to lay on the table is agreed to.

So the motion to lay on the table was agreed to.

THE CALENDAR

Mr. BAUCUS. I ask unanimous consent that the Senate proceed en bloc to the immediate consideration of Calendar Order Nos. 291, 292, and 293; that the committee amendments, where appropriate, be agreed to; that the bills be deemed read three times, passed, and the motions to reconsider laid upon the table en bloc; and further, that the consideration of these items appear individually in the RECORD, and any statements relative to the calendar items appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

LECHUGUILLA CAVE PROTECTION ACT OF 1993

The Senate considered the bill (H.R. 698) to protect Lechuguilla Cave and other resources and values in and adjacent to Carlsbad Caverns National Park which had been reported from the Committee on Energy and Natural Resources with an amendment to strike out all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE, FINDING, AND DEFINITIONS.

(a) SHORT TITLE.—This Act may be cited as the "Lechuguilla Cave Protection Act of 1993".

SECTION 1. SHORT TITLE.

This Act may be cited as the "Lachuguilla Cave Protection Act of 1993".

SEC. 2. FINDINGS.

Congress finds that Lechuguilla Cave and adjacent public lands have internationally significant scientific, environmental, and other values, and should be retained in public ownership and protected against adverse effects of mineral exploration and development and other activities presenting threats to the areas.

SEC. 3. LAND WITHDRAWAL.

(a) WITHDRAWAL.—Subject to valid existing rights, all Federal lands within the boundaries of the cave protection area described in subsection (b) are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws; from location, entry, and patent under the United States mining laws; and from disposition under all laws pertaining to mineral and geothermal leasing, and all amendments thereto.

(b) LAND DESCRIPTION.—The cave protection area referred to in subsection (a) shall consist of approximately 6,280 acres of lands in New Mexico as generally depicted on the map entitled "Lechuguilla Cave Protection Area" numbered 130/80,055 and dated April 1993.

(c) PUBLICATION, FILING, CORRECTION, AND INSPECTION.—(1) As soon as practicable after the date of enactment of this Act, the Secretary of the Interior (hereinafter referred to as the "Secretary") shall publish in the Federal Register the legal description of the lands withdrawn under subsection (a) and shall file such legal description and a detailed map with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives.

(2) Such map and legal description shall have the same force and effect as if included in this Act except that the Secretary may correct clerical and typographical errors.

(3) Copies of such map and legal description shall be available for inspection in the appropriate offices of the Bureau of Land Management.

SEC. 4. MANAGEMENT OF EXISTING LEASES.

(a) SUSPENSION.—The Secretary shall not permit any new drilling on or involving any Federal mineral or geothermal lease within the cave protection area referred to in section 3(a) until the effective date of the Record of Decision for the Dark Canyon Environmental Impact Statement, or for 12 months after the date of enactment of this Act, whichever occurs first.

(b) AUTHORITY TO CANCEL EXISTING MINERAL OR GEOTHERMAL LEASES.—Upon the effective date of the Record of Decision for the Dark Canyon Environmental Impact Statement and in order to protect Lechuguilla Cave or other cave resources, the Secretary is authorized to—

(1) cancel any Federal mineral or geothermal lease in the cave protection area referred to in section 3(a); or

(2) enter into negotiations with the holder of a Federal mineral or geothermal lease in the cave protection area referred to in section 3(a) to determine appropriate compensation, if any, for the complete or partial termination of such lease.

SEC. 5. ADDITIONAL PROTECTION AND RELATION TO OTHER LAWS.

(a) IN GENERAL.—In order to protect Lechuguilla Cave or Federal lands within the cave protection area, the Secretary, subject to valid existing rights, may limit or prohibit access to or across lands owned by the United States or prohibit the removal from such lands of any mineral, geological, or cave resources: *Provided*, That existing access to private lands within the cave protection area shall not be affected by this subsection.

(b) NO EFFECT ON PIPELINES.—Nothing in this title shall have the effect of terminating any validly issued right-of-way, or customary operation, maintenance, repair, and replacement activities in such right-of-way; prohibiting the upgrading of and construction on existing facilities in such right-of-way for the purpose of increasing capacity of the existing pipeline; or prohibiting the renewal of such right-of-way within the cave protection area referred to in section 3(a).

(c) RELATION TO OTHER LAWS.—Nothing in this Act shall be construed as increasing or diminishing the ability of any party to seek compensation pursuant to other applicable law, including but not limited to the Tucker Act (28 U.S.C. 1491), or as precluding any defenses or claims otherwise available to the United States in connection with any action seeking such compensation from the United States.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated such sums as may be necessary to carry out this Act; Provided, that no funds shall be made available except to the extent, or in such amounts as are provided in advance in Appropriation Acts.

So the bill (H.R. 698) was passed.

DESIGNATING THE RED RIVER AS PART OF THE WILD AND SCENIC RIVER SYSTEM

The bill (H.R. 914) to designate certain segments of the Red River in Kentucky as components of the National Wild and Scenic Rivers Systems, and for other purposes was considered, ordered to a third reading, read the third time, and passed.

Mr. MCCONNELL. Mr. President, anyone who has ever visited eastern Kentucky can testify to its rich natural beauty. But the residents of Powell, Wolfe, and Menifee Counties have long known about a special river that could be called the crown jewel of Kentucky's Daniel Boone National Forest. I am very proud to rise today in support of legislation that will protect this unique and unspoiled river so that it may inspire future generations as it has those of the past.

While it is not well known outside of my State, the Red River Gorge has been a source of pride for Kentuckians for generations. The gorge has rugged towering cliffs ascending from the edge of the Red River. Small streams rush down these steep cliffs to the river below. Taking millions of years to form, its cavernous overhangs made visitors take stock of the awesome hand of God, and the temporal nature of humans on this planet. The numerous natural bridges and the surrounding Clifty Wilderness have attracted outdoor enthusiasts from all over the Commonwealth.

The Red River provides recreational opportunities unique to the Eastern United States. Canoeing down the river as a young man, I quickly came to understand its unique place in the psyche of all Kentuckians. Portions of the river have crashing white waters that would cause even the experienced canoeist to take pause. Other stretches softly roll through enormous rock formations that dwarf passersby.

In addition to the gorge's irreplaceable geological value, the Red River is replete with a wide array of flora and fauna. The gorge has many ecological niches that provide ideal habitat for various species of birds, trees, shrubs, and flowers. Wildflowers are rampant throughout the area including blue violets, asters, foxgloves, and wild roses.

Native Americans discovered the gorge long before European settlers arrived in the New World. Rock shelters protected them from the elements and offered defense from hostile forces. During the Civil War, local residents mined nitrate from the gorge's jagged dens. The area was heavily logged near the turn of the century, but, slowly, it has grown back to its past rich texture of trees. It wasn't until 1934 that the U.S. Forest Service began purchasing land around the gorge in what is now a part of the Daniel Boone National Forest.

Today, the river links cohesive rural communities comprised of small family farms that exist tranquilly with the spectacular natural beauty of the waterway. The area harkens back to a simpler time before the bustle and noise of sprawling urbanization drowned out the quiet simplicity of rural America.

But it was not always so tranquil. Back in 1954, when a dam was proposed to create a Red River Lake, many local residents rose up in strong opposition, and in favor of protecting the gorge. Since then, controversial plans to build the dam have been delayed. By 1978, Congress called for a study of the river to be included in the National Wild and Scenic Rivers System, buying precious time for those who took up the cause of protecting the gorge. Finally, on January 7 of this year, after extensive study by the U.S. Forest Service, President Bush recommended that 19.4 miles of the Red River be designated as a national wild and scenic river to protect forever its unimpeded flow. Shortly thereafter, I introduced legislation to protect the Red River under the Wild and Scenic Rivers Act.

I am very pleased that the Senate Energy Committee moved quickly in conducting hearings and marking up legislation that does not significantly depart from my original bill. I firmly believe the bill before us is in the best long-term interest of the gorge, the river, and the citizens of Wolfe, Menifee, and Powell Counties. It will put to an end plans to flood the irreplaceable gorge, and will ensure the free flowing condition of this unbridled waterway. By adding the Red River to the National Wild and Scenic Rivers System, hikers, campers, canoeists, and other outdoor enthusiasts will always be able to enjoy its rugged and awesome beauty.

Initially, I had reservations about adding the Red River to National Wild and Scenic Rivers System. I was troubled that overzealous efforts to protect the river could preclude public enjoyment of this wonderful resource. I feared the local agricultural economy could be adversely affected if the river was indiscriminately locked up forever. I was also concerned that this Federal designation would violate the constitutional rights of nearby landowners by preventing use of land without full and fair compensation. Since these concerns have been allayed, I have been working diligently for Federal protection of the Red River.

Although landowners along the gorge are afforded significant protections by the Wild and Scenic Rivers Act, I felt the need to include additional safeguards to ensure the protection of private property rights. While lands protected river corridors have been known to increase in value, the Wild and Scenic Rivers Act allows federal acquisition of protected lands that could potentially leave private holdings unmarketable. The bill before us includes additional protections by limiting the acquisition of scenic easements that would effect any regular use of surrounding lands.

The national wild and scenic designation for the Red River allows for the development of recreational facilities as a part of the environmentally responsible management of the overall river ecosystem. Eco-tourism, as it is now called, is big business. Long-term protection of the Red River Gorge will provide a promising and sustainable economic future for the residents of the tricounty area. The potential for canoe excursions, guided tours, and interpretive centers will help support the local economy.

Small family farms dot the landscape around the river. For years, the rural farming communities of Powell, Menifee, and Wolfe Counties have played a critical role in protecting the Gorge. They must continue to be actively involved so that the intricate balance that has been achieved between protecting the river and maintaining a healthy rural economy will continue undisturbed.

Mr. President, a diverse array of citizens and grassroots organizations support the designation of the Red River as a national wild and scenic river. This proposal has been endlessly studied and debated.

With the Senate's approval today, we send to the President more than just a bill, we send him a promise: A promise that the Red River Gorge will remain forever as it always has been. I urge my colleagues to join me today in support of the Red River Designation Act.

DESIGNATING THE MAURICE RIVER AS PART OF THE WILD AND SCENIC RIVERS SYSTEM

The bill (H.R. 2650) to designate the Maurice River and its tributaries in the State of New Jersey as components of the National Wild and Scenic Rivers Systems was considered, ordered to a third reading, read the third time, and passed.

Mr. BRADLEY. Mr. President, I am very pleased that, today, the Senate has passed the South Jersey Wild and Scenic River Act. This legislation designates some 35 miles of the Maurice River and its tributaries as national wild and scenic rivers. With this bill, we bring to a close a legislative process begun in 1987. From start to finish, this process has been driven by the desires and needs of the affected communities. There are many, many citizens who deserve enormous credit. In the House, especially, Congressman HUGHES has been a true leader and he deserves acknowledgment for all he has accomplished.

Pristine doesn't capture the beauty of the Maurice and its tributaries: A great deal of this river system is in nearly the same condition as it was when the Dutch sailing ship *Prince Maurice* foundered here almost four centuries ago.

Its natural beauty and ecological value is irreplaceable. This is the last nesting site in New Jersey for the American bald eagle. It is a winter home for bald and golden eagles, peregrine falcons, and an enormous variety of waterfowl. The Maurice pours its clean waters into the Delaware Bay and fosters the growth of crabs and oysters, on which our watermen depend. Near these streams are perhaps the highest concentration of rare, threatened, or endangered species in the State.

We're at a crossroad: Our actions today will determine what these rivers will look like in the future. The natural qualities I've described have always been here. But they will continue to be here only because the citizens of this area decide positively that they commit themselves to a pristine future for the river.

For the last 6 years, the river's future has been debated. This has been a trying experience for many. There have been a lot of concerns expressed, fears of a heavy Federal hand, condemnation, new bureaucracy, hardship for private property owners, et cetera. Repeatedly, I have pledged to work with the communities to address these concerns and reduce them. Now, it will be up to all of us to see that the many fears aren't realized while the enormous promise is.

The towns involved have all endorsed this legislation. Many of the industries in the area support it. I especially commend the Atlantic City Electric Co., which has major land holdings in the area. In the end, they supported this bill as well. They are concerned that wild and scenic river States will interfere with or prevent the maintenance and care of their existing facilities and rights-of-way. This is not at all an intended result of the legislation. The Park Service has documented the many attributes of these rivers and these features exist notwithstanding the presence of the Atlantic Electric facilities.

Wild and scenic river statutes will not destroy the prospects of those who live, work, or own property along these rivers. On the contrary, their prospects will be enhanced and preserved. For everyone in these communities, the rivers provide a constant of natural beauty. It's always been this way. And, with this new land, it always will be this way.

VEGETABLE INK PRINTING ACT OF 1993

Mr. BAUCUS. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 278, S. 716, a bill to require the use of vegetable oil ink for all Federal lithographic printing; that the committee substitute amendment be agreed to; that the bill be read a third time and passed, the motion to reconsider laid upon the table, and any statements thereon appear in the RECORD at the appropriate place as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate considered the bill (S. 716) to require that all Federal lithographic printing be performed using ink made from vegetable oil and matrials derived from other renewable resources, and for other purposes, which had been reported from the Committee on Rules and Administration with an amendment to strike out all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Vegetable Ink Printing Act of 1993".

SEC. 2. FINDINGS.

The Congress finds that—

(1) more than 95 percent of Federal printing involving documents or publications is performed using lithographic inks;

(2) various types of oil, including petroleum and vegetable oil, are used in lithographic ink;

(3) increasing the amount of vegetable oil used in a lithographic ink would—

(A) help reduce the Nation's use of nonrenewable energy resources;

(B) result in the use of products that are less damaging to the environment;

(C) result in a reduction of volatile organic compound emissions; and

(D) increase the use of renewable agricultural products;

(4) the technology exists to use vegetable oil in lithographic ink and, in some applications, to use lithographic ink that uses no petroleum distillates in the liquid portion of the ink;

(5) some lithographic inks have contained vegetable oils for many years; other lithographic inks have more recently begun to use vegetable oil;

(6) according to the Government Printing Office, using vegetable-based ink appears to add little if any additional cost to Government printing;

(7) use of vegetable-based ink in Federal Government printing should further develop—

(A) the commercial viability of vegetable-base ink, which could result in demand, for domestic use alone, for 2,500,000,000 pounds of vegetable crops or 500,000,000 pounds of vegetable oil; and

(B) a product that could help the United States retain or enlarge its share of the world market for vegetable ink.

SEC. 3. FEDERAL PRINTING REQUIREMENTS.

(a) DEFINITION.—In this section, "Federal agency" means—

(1) an executive department, military department, Government corporation, Government-controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency; and

(2) an establishment or component of the legislative or judicial branch of the Government.

(b) VEGETABLE-BASED INKS.—

(1) IN GENERAL.—Notwithstanding any other law, beginning on the date that is 180 days after the date of enactment of this Act, all lithographic printing performed or procured by a Federal agency that uses oil in its ink shall use the maximum amount of vegetable oil and materials derived from other renewable resources that are technologically feasible and result in printing costs that are cost-competitive with printing using petroleum-based inks.

(2) MINIMUM PERCENTAGES.—Except as provided in paragraph (3), in no event shall a Federal agency use any ink that contains less than the following percentages of vegetable oil in its ink used for lithographic printing:

(A) In the case of news inks, 40 percent.

(B) In the case of sheet-fed inks, 20 percent.

(C) In the case of forms inks, 20 percent.

(D) In the case of heat-set inks, 10 percent.

(3) SUSPENSION OF EFFECTIVENESS OF PARAGRAPH (2).—(A) At any time at which a Federal agency determines that the cost of printing with vegetable-based ink is significantly greater than the cost of printing with petroleum-based ink, the Federal agency may perform or procure lithographic printing using ink that contains less than the percentages of vegetable oil in its ink than those specified in paragraph (a) until such times as the cost of printing with vegetable-based ink is not significantly greater than the cost of printing with petroleum-based ink.

(B) A determination made under subparagraph (A) shall be reviewed—

(i) at least once every quarter, for the performance or procurement of printing of materials that are printed on a regular basis; and

(ii) prior to performing or procuring the printing of particular material of significant size that is printed once or is printed at intervals of 6 months or more.

The title was amended so as to read: "A bill to require that all Federal lithographic printing be performed using ink made from vegetable oil and materials derived from other renewable resources, and for other purposes.".

So the bill (S. 716), as amended, was passed.

BILL READ THE FIRST TIME—H.R. 881

Mr. BAUCUS. Mr. President, I understand that the Senate has received from the House H.R. 881, a ban on smoking in Federal buildings. On behalf of Senator LAUTENBERG, I ask that the bill be read for the first time.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The legislative clerk read as follows:

A bill (H.R. 881) to prohibit smoking in Federal buildings.

Mr. BAUCUS. I now ask for its second reading.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. Mr. President, on behalf of Senator FORD, I object.

The PRESIDING OFFICER. I thank the Senator.

Objection is heard.

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1993

Mr. BAUCUS. Mr. President I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 275, S. 1299, a bill to reform the requirements for the disposition of multifamily property owned by the Secretary of Housing and Urban Development.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1299) to reform requirements for the disposition of multifamily property owned by the Secretary of Housing and Urban Development, enhance program flexibility, authorize a program to combat crime, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Banking, Housing and Urban Affairs with an amendment to strike out all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Housing and Community Development Act of 1993".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Definitions.

TITLE I—FHA MULTIFAMILY REFORMS

Sec. 101. Multifamily property disposition.
Sec. 102. Repeal of State agency multifamily property disposition demonstration.
Sec. 103. RTC marketing and disposition of multifamily projects owned by HUD.
Sec. 104. Civil money penalties against general partners and certain managing agents of multifamily housing projects.
Sec. 105. Models for property disposition.
Sec. 106. Preventing mortgage defaults.
Sec. 107. Interest rates on assigned mortgages.
Sec. 108. Authorization of appropriations.

TITLE II—ENHANCED PROGRAM FLEXIBILITY

Subtitle A—Office of Public and Indian Housing

Sec. 201. Revitalization of severely distressed public housing.

Sec. 202. Disallowance of earned income for residents who obtain employment.
Sec. 203. Ceiling rents based on reasonable rental value.
Sec. 204. Resident management program.
Subtitle B—Office of Community Planning and Development
Sec. 211. Economic development initiative.
Sec. 212. HOME investment partnerships.
Sec. 213. HOPE match requirement.
Sec. 214. Flexibility of CDBG program for disaster areas.
Sec. 215. Flexibility of HOME program for disaster areas.
Subtitle C—Community Partnerships Against Crime
Sec. 221. COMPAC program.
TITLE III—TECHNICAL AND OTHER AMENDMENTS
Subtitle A—Public and Assisted Housing
Sec. 301. Correction to definition of family.
Sec. 302. Identification of CIAP replacement needs.
Sec. 303. Applicability of public housing amendments to Indian housing.
Sec. 304. Project-based accounting.
Sec. 305. Operating subsidy adjustments for anticipated fraud recoveries.
Sec. 306. Technical assistance for lead hazard reduction grantees.
Sec. 307. Environmental review in connection with grants for lead-based paint hazard reduction.
Sec. 308. Fire safety in federally assisted housing.
Sec. 309. Section 23 conversion projects.
Sec. 310. Indemnification of contractors for intellectual property rights disputes.
Subtitle B—Multifamily Housing
Sec. 321. Correction of multifamily mortgage limits.
Sec. 322. FHA multifamily risk-sharing; HFA pilot program amendments.
Sec. 323. Subsidy layering review.
Subtitle C—Rural Housing
Sec. 331. Technical correction to rural housing preservation program.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) the term "FHA" means the Federal Housing Administration;

(2) the term "Secretary" means the Secretary of Housing and Urban Development; and

(3) the term "RTC" means the Resolution Trust Corporation.

TITLE I—FHA MULTIFAMILY REFORMS

SEC. 101. MULTIFAMILY PROPERTY DISPOSITION.

(a) FINDINGS.—The Congress finds that—

(1) the portfolio of multifamily housing project mortgages insured by the FHA is severely troubled and at risk of default, requiring the Secretary to increase loss reserves from $5.5 billion in 1991 to $11.9 billion in 1992 to cover estimated future losses;

(2) the inventory of multifamily housing projects owned by the Secretary has more than tripled since 1989, and, by the end of 1993, may exceed 75,000 units;

(3) the cost to the Federal Government of owning and maintaining multifamily housing projects escalated to approximately $250 million in fiscal year 1992;

(4) the inventory of multifamily housing projects subject to mortgages held by the Secretary has increased dramatically, to more than 2,400 mortgages, and approximately half of these mortgages, secured by projects with over 230,000 units, are delinquent;

(5) the inventory of insured and formerly insured multifamily housing projects is rapidly deteriorating, endangering tenants and neighborhoods;

(6) over 5 million very low-income families today have a critical need for housing that is affordable and habitable; and

(7) the current statutory framework governing the disposition of multifamily housing projects effectively impedes the Government's ability to dispose of properties, protect tenants, and ensure that projects are maintained over time.

(b) MANAGEMENT AND DISPOSITION OF MULTIFAMILY HOUSING PROJECTS.—Section 203 of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z–11) is amended to read as follows:

"SEC. 203. MANAGEMENT AND DISPOSITION OF MULTIFAMILY HOUSING PROJECTS.

"(a) GOALS.—The Secretary of Housing and Urban Development (hereafter in this section referred to as the 'Secretary') shall manage or dispose of multifamily housing projects that are owned by the Secretary or that are subject to a mortgage held by the Secretary in a manner that—

"(1) is consistent with the National Housing Act and this section;

"(2) will protect the financial interests of the Federal Government; and

"(3) will, in the least costly fashion among reasonable available alternatives, further the goals of—

"(A) preserving housing so that it can remain available to and affordable by low-income persons;

"(B) preserving and revitalizing residential neighborhoods;

"(C) maintaining existing housing stock in a decent, safe, and sanitary condition;

"(D) minimizing the involuntary displacement of tenants;

"(E) maintaining housing for the purpose of providing rental housing, cooperative housing, and homeownership opportunities for low-income persons; and

"(F) minimizing the need to demolish multifamily housing projects.

The Secretary, in determining the manner in which a project is to be managed or disposed of, shall balance competing goals relating to individual projects in a manner that will further the purposes of this section.

"(b) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(1) MULTIFAMILY HOUSING PROJECT.—The term 'multifamily housing project' means any multifamily rental housing project that is, or prior to acquisition by the Secretary was, assisted or insured under the National Housing Act, or was subject to a loan under section 202 of the Housing Act of 1959.

"(2) SUBSIDIZED PROJECT.—The term 'subsidized project' means a multifamily housing project receiving any of the following types of assistance immediately prior to the assignment of the mortgage on such project to, or the acquisition of such mortgage by, the Secretary:

"(A) Below market interest rate mortgage insurance under the proviso of section 221(d)(5) of the National Housing Act.

"(B) Interest reduction payments made in connection with mortgages insured under section 236 of the National Housing Act.

"(C) Direct loans made under section 202 of the Housing Act of 1959.

"(D) Assistance in the form of—

"(i) rent supplement payments under section 101 of the Housing and Urban Development Act of 1965;

"(ii) additional assistance payments under section 236(f)(2) of the National Housing Act;

"(iii) housing assistance payments made under section 23 of the United States Housing Act of 1937 (as in effect before January 1, 1975); or

"(iv) housing assistance payments made under section 8 of the United States Housing Act of 1937 (excluding payments made for tenant-based assistance under section 8);

if (except for purposes of section 183(c) of the Housing and Community Development Act of 1987) such assistance payments are made to more than 50 percent of the units in the project.

"(3) FORMERLY SUBSIDIZED PROJECT.—The term 'formerly subsidized project' means a multifamily housing project owned by the Secretary that was a subsidized project immediately prior to its acquisition by the Secretary.

"(4) UNSUBSIDIZED PROJECT.—The term 'unsubsidized project' means a multifamily housing project owned by the Secretary that is not a subsidized project or a formerly subsidized project.

"(c) MANAGEMENT OR DISPOSITION OF PROPERTY.—

"(1) DISPOSITION TO PURCHASERS.—The Secretary is authorized, in carrying out this section, to dispose of a multifamily housing project owned by the Secretary on a negotiated, competitive bid, or other basis, on such terms as the Secretary deems appropriate considering the low-income character of the project and the requirements of subsection (a), to a purchaser determined by the Secretary to be capable of—

"(A) satisfying the conditions of the disposition plan;

"(B) implementing a sound financial and physical management program that is designed to enable the project to meet anticipated operating and repair expenses to ensure that the project will remain in decent, safe, and sanitary condition;

"(C) responding to the needs of the tenants and working cooperatively with tenant organizations;

"(D) providing adequate organizational, staff, and financial resources to the project; and

"(E) meeting such other requirements as the Secretary may determine.

"(2) CONTRACTING FOR MANAGEMENT SERVICES.—The Secretary is authorized, in carrying out this section—

"(A) to contract for management services for a multifamily housing project that is owned by the Secretary (or for which the Secretary is mortgagee in possession), on a negotiated, competitive bid, or other basis at a price determined by the Secretary to be reasonable, with a manager the Secretary has determined is capable of—

"(i) implementing a sound financial and physical management program that is designed to enable the project to meet anticipated operating and maintenance expenses to ensure that the project will remain in decent, safe, and sanitary condition;

"(ii) responding to the needs of the tenants and working cooperatively with tenant organizations;

"(iii) providing adequate organizational, staff, and other resources to implement a management program; and

"(iv) meeting such other requirements as the Secretary may determine; and

"(B) to require the owner of a multifamily housing project that is subject to a mortgage held by the Secretary to contract for management services for the project in the manner described in subparagraph (A).

"(d) MAINTENANCE OF HOUSING PROJECTS.—

"(1) HOUSING PROJECTS OWNED BY THE SECRETARY.—In the case of multifamily housing projects that are owned by the Secretary (or for which the Secretary is mortgagee in possession), the Secretary shall—

"(A) to the greatest extent possible, maintain all such occupied projects in a decent, safe, and sanitary condition;

"(B) to the greatest extent possible, maintain full occupancy in all such projects; and

"(C) maintain all such projects for purposes of providing rental or cooperative housing.

"(2) HOUSING PROJECTS SUBJECT TO A MORTGAGE HELD BY THE SECRETARY.—In the case of any multifamily housing project that is subject to a mortgage held by the Secretary, the Secretary shall require the owner of the project to carry out the requirements of paragraph (1).

"(e) REQUIRED ASSISTANCE.—In carrying out the goals specified in subsection (a), the Secretary shall take not less than one of the following actions:

"(1) CONTRACT WITH OWNER.—Enter into contracts under section 8 of the United States Housing Act of 1937, to the extent budget authority is available, with owners of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure or after sale by the Secretary.

"(A) SUBSIDIZED OR FORMERLY SUBSIDIZED PROJECTS RECEIVING CERTAIN ASSISTANCE.—In the case of a subsidized project referred to in subparagraph (A), (B), or (C) of subsection (b)(2) or a formerly subsidized project that was subsidized as described in any such subparagraph—

"(i) the contract shall be sufficient to assist at least all units covered by an assistance contract under any of the authorities referred to in subsection (b)(2)(D) before acquisition, unless the Secretary acts pursuant to the provisions of subparagraph (C) of this paragraph;

"(ii) in the case of units requiring project-based rental assistance pursuant to clause (i) that are occupied by families who are not eligible for assistance under section 8, a contract under this subparagraph shall also provide that when a vacancy occurs, the owner shall lease the available unit to a family eligible for assistance under section 8; and

"(iii) the Secretary shall take actions to ensure the availability and affordability, as defined in paragraph (3)(B), for the remaining useful life of the project, as defined by the Secretary, of any unit located in any project referred to in subparagraph (A), (B), or (C) of subsection (b)(2) that does not otherwise receive project-based rental assistance under this subparagraph. To carry out this clause, the Secretary may require purchasers to establish use or rent restrictions on these units.

"(B) SUBSIDIZED OR FORMERLY SUBSIDIZED PROJECTS RECEIVING OTHER ASSISTANCE.—In the case of a subsidized project referred to in subsection (b)(2)(D) or a formerly subsidized project that was subsidized as described in subsection (b)(2)(D)—

"(i) the contract shall be sufficient to assist at least all units in the project that are covered, or that were covered immediately before foreclosure on or acquisition of the project by the Secretary, by an assistance contract under any of the authorities referred to in such subsection, unless the Secretary acts pursuant to provisions of subparagraph (C); and

"(ii) in the case of units requiring project-based rental assistance pursuant to clause (i) that are occupied by families who are not eligible for assistance under section 8, a contract under this paragraph shall also provide that when a vacancy occurs, the owner shall lease the available unit to a family eligible for assistance under section 8.

"(C) EXCEPTIONS TO SUBPARAGRAPHS (A) AND (B).—In lieu of providing project-based rental assistance under subparagraph (A) or (B), the Secretary may require certain units in unsubsidized projects to contain use restrictions providing that such units will be available to and affordable by very low-income families for the remaining useful life of the project, as defined by the Secretary, if—

"(i) the Secretary matches any reduction in the number of units otherwise required to be assisted with project-based rental assistance under subparagraph (A) or (B) with at least an equivalent increase in the number of units made affordable, as such term is defined in paragraph (3)(B), to very low-income persons within unsubsidized projects;

"(ii) the Secretary makes tenant-based assistance under section 8 available to low-income tenants residing in units otherwise requiring project-based rental assistance under subparagraph (A) or (B) upon disposition; and

"(iii) the units described in clause (i) are located within the same market area.

"(D) CONTRACT REQUIREMENTS FOR UNSUBSIDIZED PROJECTS.—Notwithstanding actions that are taken pursuant to subparagraph (C), in any unsubsidized project—

"(i) the contract shall be at least sufficient to provide project-based rental assistance for all units that are covered or were covered immediately before foreclosure or acquisition by an assistance contract under—

"(I) section 8(b)(2) of the United States Housing Act of 1937, as such section existed before October 1, 1983 (new construction and substantial rehabilitation); section 8(b) of such Act (property disposition); section 8(d)(2) of such Act (project-based certificates); section 8(e)(2) of such Act (moderate rehabilitation); section 23 of such Act (as in effect before January 1, 1975); or section 101 of the Housing and Urban Development Act of 1965 (rent supplements); or

"(II) section 8 of the United States Housing Act of 1937, following conversion from section 101 of the Housing and Urban Development Act of 1965; and

"(ii) the Secretary shall make available tenant-based assistance under section 8 of the United States Housing Act of 1937 to tenants currently residing in units that were covered by an assistance contract under the Loan Management Set-Aside program under section 8(b) of the United States Housing Act of 1937 immediately before foreclosure or acquisition of the project by the Secretary.

"(2) ANNUAL CONTRIBUTION CONTRACTS.—In the case of unsubsidized multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure or after sale by the Secretary, enter into annual contribution contracts with public housing agencies to provide tenant-based assistance under section 8 of the United States Housing Act of 1937 to all low-income families who are eligible for such assistance on the date that the project is acquired by the purchaser. The Secretary shall take action under this paragraph only after making a determination that there is an adequate supply of habitable housing in the area that is available to and affordable by low-income families using such assistance. Actions may also be taken pursuant to this paragraph in connection with not more than 10 percent of the aggregate number of units in subsidized or formerly subsidized projects disposed of by the Secretary in each fiscal year.

"(3) OTHER ASSISTANCE.—

"(A) IN GENERAL.—In accordance with the authority provided under the National Housing Act, reduce the selling price, apply use or rent restrictions on certain units, or provide other financial assistance to the owners of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure, or after sale by the Secretary, on terms that will ensure that at least those units otherwise required to receive project-based section 8 assistance pursuant to subparagraph (A), (B), or (D) of paragraph (1) are available to and affordable by low-income persons for the remaining useful life of the project, as defined by the Secretary.

"(B) DEFINITION.—A unit shall be considered affordable under this paragraph if—

"(i) for very low-income tenants, the rent for such unit does not exceed 30 percent of 50 percent of the area median income, as determined by the Secretary, with adjustments for family size; and

"(ii) for low-income tenants other than very low-income tenants, the rent for such unit does not exceed 30 percent of 80 percent of the area median income, as determined by the Secretary, with adjustments for family size.

"(C) VERY LOW-INCOME TENANTS.—The Secretary shall provide assistance under section 8 of the United States Housing Act of 1937 to any very low-income tenant currently residing in a unit otherwise required to receive project-based rental assistance under section 8, pursuant to subparagraph (A), (B), or (D) of paragraph (1), if the rents charged such tenants as a result of actions taken pursuant to this paragraph exceed the amount payable as rent under section 3(a) of the United States Housing Act of 1937.

"(4) TRANSFER FOR USE UNDER OTHER PROGRAMS OF THE SECRETARY.—

"(A) IN GENERAL.—Enter into an agreement providing for the transfer of a multifamily housing project—

"(i) to a public housing agency for use of the project as public housing; or

"(ii) to an owner or another appropriate entity for use of the project under section 202 of the Housing Act of 1959 or under section 811 of the Cranston-Gonzalez National Affordable Housing Act.

"(B) REQUIREMENTS FOR AGREEMENT.—The agreement described in subparagraph (A) shall—

"(i) contain such terms, conditions, and limitations as the Secretary determines appropriate, including requirements to assure use of the project under the public housing, section 202, and section 811 programs; and

"(ii) ensure that no current tenant will be displaced as a result of actions taken under this paragraph.

"(f) OTHER ASSISTANCE.—In addition to the actions required by subsection (e), the Secretary may take any of the following actions:

"(1) SHORT-TERM LOANS.—Provide short-term loans to facilitate the sale of multifamily housing projects to nonprofit organizations or to public agencies if—

"(A) authority for such loans is provided in advance in an appropriations Act;

"(B) such loans are for a term of not more than 5 years;

"(C) the Secretary is presented with satisfactory documentation, evidencing a commitment of permanent financing to replace such short-term loan, from a lender who meets standards set forth by the Secretary; and

"(D) the terms of such loans are consistent with prevailing practices in the marketplace or the provision of such loans results in no cost to the Government, as defined in section 502 of the Congressional Budget Act.

"(2) TENANT-BASED ASSISTANCE.—Make available tenant-based assistance under section 8 of the United States Housing Act of 1937 to very low-income families that do not otherwise qualify for project-based rental assistance.

"(3) ALTERNATIVE USES.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, and subject to notice to and comment from existing tenants, allow not more than—

"(i) 5 percent of the total number of units in multifamily housing projects that are disposed of by the Secretary during each fiscal year to be made available for uses other than rental or cooperative housing, including low-income homeownership opportunities, community space, office space for tenant or housing-related service providers or security programs, or small business uses, if such uses benefit the tenants of the project; and

"(ii) 5 percent of the total number of units in multifamily housing projects that are disposed

of by the Secretary during each fiscal year to be used in any manner, if the Secretary and the unit of general local government or area-wide governing body determine that such use will further fair housing, community development, or neighborhood revitalization goals.

"(B) DISPLACEMENT PROTECTION.—The Secretary shall—

"(i) make available tenant-based assistance under section 8 of the United States Housing Act of 1937 to any tenant displaced as a result of actions taken by the Secretary pursuant to subparagraph (A); and

"(ii) take such actions as the Secretary determines necessary to ensure the successful use of any tenant-based assistance provided under this subparagraph.

"(4) AUTHORIZATION OF USE OR RENT RESTRICTIONS IN UNSUBSIDIZED PROJECTS.—In carrying out the goals specified in subsection (a), the Secretary may require certain units in unsubsidized projects upon disposition to contain use or rent restrictions providing that such units will be available to and affordable by very low-income persons for the remaining useful life of the property, as defined by the Secretary.

"(g) CONTRACT REQUIREMENTS.—

"(1) CONTRACT TERM.—

"(A) IN GENERAL.—Contracts for project-based rental assistance under section 8 of the United States Housing Act of 1937 provided pursuant to this section shall be for a term of not more than 15 years; and

"(B) CONTRACT TERM OF LESS THAN 15 YEARS.—To the extent that units receive project-based rental assistance for a contract term of less than 15 years, the Secretary shall require that rents charged to tenants for such units shall not exceed the amount payable for rent under section 3(a) of the United States Housing Act of 1937 for a period of at least 15 years.

"(2) CONTRACT RENT.—

"(A) IN GENERAL.—The Secretary shall set contract rents for section 8 project-based rental contracts issued under this section at levels that, in conjunction with other resources available to the purchaser, provide for the necessary costs of rehabilitation of such project and do not exceed the percentage of the existing housing fair market rents for the area, as determined by the Secretary under section 8(c) of the United States Housing Act of 1937.

"(B) UP-FRONT GRANTS.—If such an approach is determined to be more cost-effective, the Secretary may utilize the budget authority provided for project-based section 8 contracts issued under this section to

"(i) provide project-based section 8 rental assistance; and

"(ii) provide up-front grants for the necessary costs of rehabilitation.

"(h) DISPOSITION PLAN.—

"(1) IN GENERAL.—Prior to the sale of a multifamily housing project that is owned by the Secretary, the Secretary shall develop a disposition plan for the project that specifies the minimum terms and conditions of the Secretary for disposition of the project, the initial sales price that is acceptable to the Secretary, and the assistance that the Secretary plans to make available to a prospective purchaser in accordance with this section. The initial sales price shall reflect the intended use of the property after sale.

"(2) COMMUNITY AND TENANT INPUT INTO DISPOSITION PLANS AND SALES.—

"(A) IN GENERAL.—In carrying out this section, the Secretary shall develop procedures to obtain appropriate and timely input into disposition plans from officials of the unit of general local government affected, the community in which the project is situated, and the tenants of the project.

"(B) TENANT ORGANIZATIONS.—The Secretary shall develop procedures to facilitate, where feasible and appropriate, the sale of multifamily housing projects to existing tenant organizations with demonstrated capacity or to public or nonprofit entities that represent or are affiliated with existing tenant organizations.

"(C) TECHNICAL ASSISTANCE.—

"(i) IN GENERAL.—To carry out the procedures developed under subparagraphs (A) and (B), the Secretary is authorized to provide technical assistance, directly or indirectly.

"(ii) TECHNICAL ASSISTANCE PROVIDERS.—Recipients of technical assistance funding under the Emergency Low Income Housing Preservation Act of 1987, the Low-Income Housing Preservation and Resident Homeownership Act of 1990, subtitle B of title IV of the Cranston-Gonzalez National Affordable Housing Act, shall be permitted to provide technical assistance to the extent of such funding under any of such programs or under this section, notwithstanding the source of funding.

"(iii) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 to carry out this subparagraph. In addition, the Secretary is authorized to use amounts appropriated for technical assistance under the Emergency Low Income Housing Preservation Act of 1987, the Low-Income Housing Preservation and Resident Homeownership Act of 1990, subtitle B of title IV of the Cranston-Gonzalez National Affordable Housing Act, for the provision of technical assistance under this section.

"(i) RIGHT OF FIRST REFUSAL.—

"(1) PROCEDURE.—

"(A) NOTIFICATION BY SECRETARY OF THE ACQUISITION OF TITLE.—Not later than 30 days after the Secretary acquires title to a multifamily housing project, the Secretary shall notify the appropriate unit of general local government and State agency or agencies designated by the Governor of the acquisition of such title.

"(B) EXPRESSION OF INTEREST.—Not later than 45 days after receiving notification from the Secretary under subparagraph (A), the unit of general local government or designated State agency may submit to the Secretary a preliminary expression of interest in the project. The Secretary may take such actions as may be necessary to require the unit of general local government or designated State agency to substantiate such interest.

"(C) TIMELY EXPRESSION OF INTEREST.—If the unit of general local government or designated State agency has expressed interest in the project before the expiration of the 45-day period referred to in subparagraph (B) and has substantiated such interest if requested, the Secretary shall notify the unit of general local government or designated State agency, within a reasonable period of time, of the terms and conditions of the disposition plan, in accordance with subsection (h). The Secretary shall then give the unit of general local government or designated State agency not more than 90 days after the date of such notification to make an offer to purchase the project.

"(D) NO TIMELY EXPRESSION OF INTEREST.—If the unit of general local government or designated State agency does not express interest before the expiration of the 45-day period referred to in subparagraph (B), or does not substantiate an expressed interest if requested, the Secretary may offer the project for sale to any interested person or entity.

"(2) ACCEPTANCE OF OFFERS.—If the Secretary has given the unit of general local government or designated State agency 90 days to make an offer to purchase the project, the Secretary shall accept an offer that complies with the terms and conditions of the disposition plan. The Secretary may accept an offer that does not comply with the terms and conditions of the disposition plan if the Secretary determines that the offer will further the goals specified in subsection (a) by actions that include extension of the duration of low-income affordability restrictions or otherwise restructuring the transaction in a manner that enhances the long-term affordability for low-income persons. The Secretary shall, in particular, have discretion to reduce the initial sales price in exchange for the extension of low-income affordability restrictions beyond the period of assistance contemplated by the attachment of assistance pursuant to subsection (e) or for an increase in the number of units that are available to and affordable by low-income families. If the Secretary and the unit of general local government or designated State agency cannot reach agreement within 90 days, the Secretary may offer the project for sale to the general public.

"(3) PURCHASE BY UNIT OF GENERAL LOCAL GOVERNMENT OR DESIGNATED STATE AGENCY.—Notwithstanding any other provision of law, a unit of general local government (including a public housing agency) or designated State agency may purchase multifamily housing projects in accordance with this subsection.

"(4) APPLICABILITY.—This subsection shall apply to projects that are acquired on or after the effective date of this subsection. With respect to projects acquired before such effective date, the Secretary may apply—

"(A) the requirements of paragraphs (2) and (3) of section 203(e) as such paragraphs existed immediately before the effective date of this subsection; or

"(B) the requirements of paragraphs (1) and (2) of this subsection, if the Secretary gives the unit of general local government or designated State agency—

"(i) 45 days to express interest in the project; and

"(ii) if the unit of general local government or designated State agency expresses interest in the project before the expiration of the 45-day period, and substantiates such interest if requested, 90 days from the date of notification of the terms and conditions of the disposition plan to make an offer to purchase the project.

"(j) DISPLACEMENT OF TENANTS AND RELOCATION ASSISTANCE.—

"(1) IN GENERAL.—Whenever tenants will be displaced as a result of the disposition of, or repairs to, a multifamily housing project that is owned by the Secretary (or for which the Secretary is mortgagee in possession), the Secretary shall identify tenants who will be displaced, and shall notify all such tenants of their pending displacement and of any relocation assistance that may be available. In the case of a multifamily housing project that is not owned by the Secretary (and for which the Secretary is not mortgagee in possession), the Secretary shall require the owner of the project to carry out the requirements of this paragraph.

"(2) RIGHTS OF DISPLACED TENANTS.—The Secretary shall assure for any such tenant (who continues to meet applicable qualification standards) the right—

"(A) to return, whenever possible, to a repaired unit;

"(B) to occupy a unit in another multifamily housing project owned by the Secretary;

"(C) to obtain housing assistance under the United States Housing Act of 1937; or

"(D) to receive any other available relocation assistance as the Secretary determines to be appropriate.

"(k) MORTGAGE AND PROJECT SALES.—

"(1) IN GENERAL.—The Secretary may not approve the sale of any loan or mortgage held by the Secretary (including any loan or mortgage owned by the Government National Mortgage Association) on any subsidized project or formerly subsidized project, unless such sale is made as part of a transaction that will ensure

that such project will continue to operate at least until the maturity date of such loan or mortgage, in a manner that will provide rental housing on terms at least as advantageous to existing and future tenants as the terms required by the program under which the loan or mortgage was made or insured prior to the assignment of the loan or mortgage on such project to the Secretary.

"(2) SALE OF CERTAIN PROJECTS.—The Secretary may not approve the sale of any subsidized project—

"(A) that is subject to a mortgage held by the Secretary; or

"(B) if the sale transaction involves the provision of any additional subsidy funds by the Secretary or a recasting of the mortgage;

unless such sale is made as part of a transaction that will ensure that such project will continue to operate at least until the maturity date of the loan or mortgage, in a manner that will provide rental housing on terms at least as advantageous to existing and future tenants as the terms required by the program under which the loan or mortgage was made or insured prior to the proposed sale of the project.

"(3) MORTGAGE SALES TO STATE AND LOCAL GOVERNMENTS.—Notwithstanding any provision of law that may require competitive sales or bidding, the Secretary may carry out negotiated sales of mortgages held by the Secretary that are secured by subsidized or formerly subsidized multifamily housing projects, without the competitive selection of purchasers or intermediaries, to units of general local government or State agencies, or groups of investors that include at least 1 such unit of general local government or State agency, if the negotiations are conducted with such agencies, except that—

"(A) the terms of any such sale shall include the agreement of the purchasing agency or unit of local government or State agency to act as mortgagee or owner of a beneficial interest in such mortgages, in a manner consistent with maintaining the projects that are subject to such mortgages for occupancy by the general tenant group intended to be served by the applicable mortgage insurance program, including, to the extent the Secretary determines appropriate, authorizing such unit of local government or State agency to enforce the provisions of any regulatory agreement or other program requirements applicable to the related projects; and

"(B) the sales prices for such mortgages shall be, in the determination of the Secretary, the best prices that may be obtained for such mortgages from a unit of general local government or State agency, consistent with the expectation and intention that the projects financed will be retained for use under the applicable mortgage insurance program for the life of the initial mortgage insurance contract.

"(4) SALE OF MORTGAGES COVERING UNSUBSIDIZED PROJECTS.—Notwithstanding any other provision of law, the Secretary may sell mortgages held on unsubsidized projects on such terms and conditions as the Secretary may prescribe.

"(l) PROJECT-BASED RENTAL ASSISTANCE FOR TERM OF LESS THAN 15 YEARS.—Notwithstanding subsection (g), project-based rental assistance in connection with the disposition of a multifamily housing project may be provided for a contract term of less than 15 years if such assistance is provided—

"(1) under a contract authorized under section 6 of the HUD Demonstration Act of 1993; and

"(2) pursuant to a disposition plan under this section for a project that is determined by the Secretary to be otherwise in compliance with this section.

"(m) REPORT TO CONGRESS.—Not later than June 1 of each year, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, a report describing the status of multifamily housing projects owned by or subject to mortgages held by the Secretary. The report shall include—

"(1) the name, address, and size of each project;

"(2) the nature and date of assignment;

"(3) the status of the mortgage;

"(4) the physical condition of the project;

"(5) an occupancy profile of the project, including the income, family size, and race of current residents as well as the rents paid by such residents;

"(6) the proportion of units in a project that are vacant;

"(7) the date on which the Secretary became mortgagee in possession;

"(8) the date and conditions of any foreclosure sale;

"(9) the date of acquisition by the Secretary;

"(10) the date and conditions of any property disposition sale;

"(11) a description of actions undertaken pursuant to this section, including—

"(A) a comparison of results between actions taken after the date of enactment of the Housing and Community Development Act of 1993 and actions taken in the years preceding such date of enactment;

"(B) a description of any impediments to the disposition or management of multifamily housing projects, together with a recommendation of proposed legislative or regulatory changes designed to ameliorate such impediments;

"(C) a description of actions taken to restructure or commence foreclosure on delinquent multifamily mortgages held by the Department; and

"(D) a description of actions taken to monitor and prevent the default of multifamily housing mortgages held by the Federal Housing Administration;

"(12) a description of any of the functions performed in connection with this section that are contracted out to public or private entities or to States, including—

"(A) the costs associated with such delegation;

"(B) the implications of contracting out or delegating such functions for current Department field or regional personnel, including anticipated personnel or work load reductions;

"(C) necessary oversight required by Department personnel, including anticipated personnel hours devoted to such oversight;

"(D) a description of any authority granted to such public or private entities or States in conjunction with the functions that have been delegated or contracted out or that are not otherwise available for use by Department personnel; and

"(E) the extent to which such public or private entities or States include tenants of multifamily housing projects in the disposition planning for such projects;

"(13) a description of the activities carried out under subsection (j) during the preceding year; and

"(14) a description and assessment of the rules, guidelines, and practices governing the Department's management of multifamily housing projects that are owned by the Secretary (or for which the Secretary is mortgagee in possession) as well as the steps that the Secretary has taken or plans to take to improve the management performance of the Department.".

(c) EFFECTIVE DATE.—The Secretary shall, by notice published in the Federal Register, which shall take effect upon publication, establish such requirements as may be necessary to implement the amendments made by this section. The notice shall invite public comments and, not later than 12 months after the date on which the notice is published, the Secretary shall issue final regulations based on the initial notice, taking into account any public comments received.

SEC. 102. REPEAL OF STATE AGENCY MULTIFAMILY PROPERTY DISPOSITION DEMONSTRATION.

Section 184 of the Housing and Community Development Act of 1987 (12 U.S.C. 1701z–11 note) is hereby repealed.

SEC. 103. RTC MARKETING AND DISPOSITION OF MULTIFAMILY PROJECTS OWNED BY HUD.

(a) AUTHORIZATION.—The Secretary may carry out a demonstration with not more than 50 unsubsidized multifamily housing projects owned by the Secretary, using the RTC for the marketing and disposition of the projects. Any such demonstration shall be carried out pursuant to an agreement between the RTC and the Secretary on such terms and conditions as are acceptable to the RTC and the Secretary. The RTC shall establish policies and procedures for marketing and disposition, subject to review and approval by the Secretary.

(b) RULES GOVERNING THE DEMONSTRATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), in carrying out the provisions of this section, the RTC shall dispose of unsubsidized multifamily housing projects pursuant to the provisions of section 21A(c) of the Federal Home Loan Bank Act.

(2) EXCEPTION.—Notwithstanding paragraph (1), a very low-income tenant currently residing in a unit otherwise required under subsection (e)(1)(D) of section 203 of the Housing and Community Development Amendments of 1978 to receive project-based rental assistance under section 8, shall upon disposition pay not more than the amount payable as rent under section 3(a) of the United States Housing Act of 1937.

(c) DETERMINATION OF PROJECTS INCLUDED.—In determining which projects to include in the demonstration, the Secretary and the RTC shall take into consideration—

(1) the prior experience of the RTC in disposing of other multifamily housing projects in the jurisdictions in which such projects are located; and

(2) such other factors as the Secretary and the RTC determine to be appropriate.

(d) REIMBURSEMENT.—The agreement entered into pursuant to subsection (a) shall provide that the Secretary shall reimburse the RTC for the direct costs associated with the demonstration, including the costs of administration and marketing, property management, and any repair and rehabilitation. The Secretary may use proceeds from the sale of the projects to reimburse the RTC for its costs.

(e) REPORTS.—

(1) ANNUAL REPORTS.—The Secretary and the RTC shall jointly submit an annual report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives detailing the progress of the demonstration.

(2) FINAL REPORT.—Not later than 3 months after the completion of the demonstration, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report describing the results of the demonstration and any recommendations for legislative action.

(f) TERMINATION.—The demonstration under this section shall not extend beyond the termination date of the RTC.

SEC. 104. CIVIL MONEY PENALTIES AGAINST GENERAL PARTNERS AND CERTAIN MANAGING AGENTS OF MULTIFAMILY HOUSING PROJECTS.

(a) CIVIL MONEY PENALTIES AGAINST MULTIFAMILY MORTGAGORS.—Section 537 of the National Housing Act (12 U.S.C. 1735f–15) is amended—

(1) in subsection (b)(1), by inserting after "mortgagor" the second place it appears the following: "or general partner of a partnership mortgagor";

(2) in subsection (c)—

(A) by striking the heading and inserting the following:

"(c) OTHER VIOLATIONS.—"; and

(B) in paragraph (1)—

(i) by striking "The Secretary may" and all that follows through the colon and inserting the following:

"(A) LIABLE PARTIES.—The Secretary may also impose a civil money penalty under this section on—

"(i) any mortgagor of a property that includes 5 or more living units and that has a mortgage insured, coinsured, or held pursuant to this Act;

"(ii) the general partner of a partnership mortgagor of such property; or

"(iii) any agent employed to manage the property that has an identity of interest with the mortgagor or the general partner of a partnership mortgagor of such property.

"(B) VIOLATIONS.—A penalty may be imposed under this paragraph for knowingly and materially taking any of the following actions:";

(ii) in subparagraph (B), as redesignated, by redesignating subparagraphs (A) through (L) as clauses (i) through (xii), respectively; and

(iii) by adding after clause (xii), as redesignated, the following new clauses:

"(xiii) Failure to maintain the premises, accommodations, and the grounds and equipment appurtenant thereto in good repair and condition in accordance with regulations and requirements of the Secretary.

"(xiv) Failure, by a mortgagor or general partner of a partnership mortgagor, to provide management for the project that is acceptable to the Secretary pursuant to regulations and requirements of the Secretary."; and

(iv) in the last sentence, by deleting "of such agreement" and inserting "of this subsection";

(3) in subsection (d)(1)(B), by inserting after "mortgagor" the following: ", general partner of a partnership mortgagor, or identity of interest agent employed to manage the property,";

(4) in subsection (d), by adding at the end the following new paragraph:

"(5) PAYMENT OF PENALTY.—No payment of a civil money penalty levied under this section shall be payable out of project income.";

(5) in subsection (e)(1), by deleting "a mortgagor" and inserting "an entity or person";

(6) in subsection (f), by inserting after "mortgagor" each place such term appears the following: ", general partner of a partnership mortgagor, or identity of interest agent employed to manage the property,";

(7) by striking the heading of subsection (f) and inserting the following: "CIVIL MONEY PENALTIES AGAINST MULTIFAMILY MORTGAGORS, GENERAL PARTNERS OF PARTNERSHIP MORTGAGORS, AND CERTAIN MANAGING AGENTS"; and

(8) in subsection (j), by striking "all civil money" and all that follows through the period at the end and inserting the following: "the Secretary shall apply all civil money penalties collected under this section, or any portion of such penalties, to the fund established under section 201(j) of the Housing and Community Development Amendments of 1978.".

(b) APPLICABILITY OF AMENDMENTS.—The amendments made by subsection (a) shall apply only with respect to—

(1) violations that occur on or after the effective date of this Act; and

(2) in the case of a continuing violation (as determined by the Secretary), any portion of a violation that occurs on or after such date.

SEC. 105. MODELS FOR PROPERTY DISPOSITION.

The Federal Housing Commissioner shall develop models which shall be designed to assist States and units of general local government in using other Federal programs for the purpose of acquiring, rehabilitating, or otherwise participating in—

(1) the disposition, pursuant to section 203 of the Housing and Community Development Amendments of 1978, of multifamily housing projects owned by the Secretary; or

(2) the sale, pursuant to section 203 of the Housing and Community Development Amendments of 1978, of multifamily housing projects subject to mortgages held by the Secretary.

SEC. 106. PREVENTING MORTGAGE DEFAULTS.

(a) MULTIFAMILY HOUSING PLANNING AND INVESTMENT STRATEGIES.—

(1) PREPARATION OF ASSESSMENTS FOR INDEPENDENT ENTITIES.—Section 402(a) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715–1a note) is amended by adding at the end the following: "The assessment shall be prepared by an entity that does not have an identity of interest with the owner.".

(2) TIMING OF SUBMISSION OF NEEDS ASSESSMENTS.—Section 402(b) of the Housing and Community Development Act of 1992 (12 U.S.C. 17152–1a note) is amended to read as follows:

"(b) TIMING.—To ensure that assessments for all covered multifamily housing properties will be submitted on or before the conclusion of fiscal year 1997, the Secretary shall require the owners of such properties, including covered multifamily housing properties for the elderly, to submit the assessments for the properties in accordance with the following schedule:

"(1) For fiscal year 1994, 10 percent of the aggregate number of such properties.

"(2) For each of fiscal years 1995, 1996, and 1997, an additional 30 percent of the aggregate number of such properties.".

(3) REVIEW OF COMPREHENSIVE NEEDS ASSESSMENTS.—Section 404(d) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715–1a note) is amended to read as follows:

"(d) REVIEW.—

"(1) IN GENERAL.—The Secretary shall review each comprehensive needs assessment for completeness and adequacy before the expiration of the 90-day period beginning on the receipt of the assessment.

"(2) INCOMPLETE OR INADEQUATE ASSESSMENTS.—If the Secretary determines that the assessment is substantially incomplete or inadequate, the Secretary shall—

"(A) provide the owner with a reasonable amount of time to resubmit an amended assessment; and

"(B) indicate to the owner the portion of the original assessment requiring completion or other revision.".

(4) REPEAL OF NOTICE PROVISION.—Section 404(f) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715–1a note) is hereby repealed.

(5) FUNDING.—Title IV of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–1a note) is amended by adding at the end the following new section:

"SEC. 409. FUNDING.

"(a) ALLOCATION OF ASSISTANCE.—Based upon needs identified in comprehensive needs assessments, and subject to otherwise applicable program requirements, including selection criteria, the Secretary may allocate the following assistance to owners of covered multifamily housing projects and may provide such assistance on a noncompetitive basis:

"(1) Operating assistance and capital improvement assistance for troubled multifamily housing projects pursuant to section 201 of the Housing and Community Development Amendments of 1978, except for assistance set aside under section 201(n)(1).

"(2) Loan management assistance available pursuant to section 8 of the United States Housing Act of 1937.

"(b) OPERATING ASSISTANCE AND CAPITAL IMPROVEMENT ASSISTANCE.—In providing assistance under subsection (a) the Secretary shall use the selection criteria set forth in section 201(n) of the Housing and Community Development Amendments.

"(c) AMOUNT OF ASSISTANCE.—The Secretary may fund all or only a portion of the needs identified in the capital needs assessment of an owner selected to receive assistance under this section.".

(b) FLEXIBLE SUBSIDY PROGRAM.—

(1) DELETION OF UTILITY COST REQUIREMENTS.—Section 201(i) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z–1a(i)) is hereby repealed.

(2) REPEAL OF MANDATORY CONTRIBUTION FROM OWNER.—Section 201(k)(2) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z–1a(k)(2)) is amended by striking ", except that" and all that follows through "such loan".

(3) FUNDING.—Section 201(n) of the Housing and Community Development Amendments of 1978 (42 U.S.C. 1715z–1a(n)) is amended to read as follows:

"(n)(1) For fiscal year 1994 only, in providing, and contracting to provide, assistance for capital improvements under this section, the Secretary shall set aside an amount, as determined by the Secretary, for projects that are eligible for incentives under section 224(b) of the Emergency Low Income Housing Preservation Act of 1987, as such section existed before the date of enactment of the Cranston-Gonzalez National Affordable Housing Act. The Secretary may make such assistance available on a noncompetitive basis.

"(2) Except as provided in paragraph (3), with respect to assistance under this section not set aside for projects under paragraph (1), the Secretary—

"(A) may award assistance on a noncompetitive basis; and

"(B) shall award assistance to eligible projects on the basis of—

"(i) the extent to which the project is physically or financially troubled, as evidenced by the comprehensive needs assessment submitted in accordance with title IV of the Housing and Community Development Act of 1992; and

"(ii) the extent to which such assistance is necessary and reasonable to prevent the default of federally insured mortgages.

"(3) The Secretary may make exceptions to selection criteria set forth in paragraph (2) to permit the provision of assistance to eligible projects based upon—

"(A) the extent to which such assistance is necessary to prevent the imminent foreclosure or default of a project whose owner has not submitted a comprehensive needs assessment pursuant to title IV of the Housing and Community Development Act of 1992;

"(B) the extent to which the project presents an imminent threat to the life, health, and safety of project residents; or

"(C) such other criteria as the Secretary may specify by regulation or by notice printed in the Federal Register.

"(4) In providing assistance under this section, the Secretary shall take into consideration—

"(A) the extent to which there is evidence that there will be significant opportunities for residents (including a resident council or resident management corporation, as appropriate) to be

involved in the management of the project (except that this paragraph shall have no application to projects that are owned as cooperatives); and

"(B) the extent to which there is evidence that the project owner has provided competent management and complied with all regulatory and administrative instructions (including such instructions with respect to the comprehensive servicing of multifamily projects as the Secretary may issue).".

(c) Implementation and Effective Date for Subsections (a) and (b).—

(1) In general.—The Secretary shall, by notice published in the Federal Register, which shall take effect upon publication, establish such requirements as may be necessary to implement the amendments made by subsections (a) and (b). The notice shall invite public comments and, not later than 12 months after the date on which the notice is published, the Secretary shall issue final regulations based on the initial notice, taking into account any public comments received.

(2) Contents.—The notice and the regulations shall describe the method by which the Secretary allocates assistance in accordance with section 409 of the Housing and Community Development Act of 1992 (as added by section 106(a) of this Act) and paragraphs (2) and (3) of section 201(n) of the Housing and Community Development Amendments of 1978.

(3) Annual publications.—The Secretary shall publish annually in the Federal Register—

(A) the method by which the Secretary determines which capital needs assessments will be received each year, in accordance with sections 402(b) and 404(d) of the Housing and Community Development Act of 1992; and

(B) a list of all owners of covered multifamily housing projects, by project, that have received funding under—

(i) section 409 of the Housing and Community Development Act of 1992 (as added by section 106(a) of this Act); or

(ii) paragraphs (2) and (3) of section 201(n) of the Housing and Community Development Amendments of 1978.

(4) Effective date.—

(A) In general.—Except as provided in subparagraph (B), the amendments made by subsections (a) and (b) shall take effect for amounts made available for fiscal year 1995.

(B) Exception.—Notwithstanding subparagraph (A), section 201(n)(1) of the Housing and Community Development Amendments of 1978 (as added by subsection (b)(3)) shall take effect on the date of enactment of this Act.

(d) Streamlined Refinancing.—As soon as practicable, the Secretary shall implement a streamlined refinancing program under the authority provided in section 223 of the National Housing Act to prevent the default of mortgages insured by the FHA which cover multifamily housing projects, as defined in section 203(b) of the Housing and Community Development Amendments of 1978.

(e) Partial Payments of Claim.—

(1) In general.—Notwithstanding any other provision of law, if the Secretary is requested to accept assignment of a mortgage insured by the Secretary that covers a multifamily housing project, as such term is defined in section 203(b) of the Housing and Community Development Amendments of 1978, and the Secretary determines that partial payment would be less costly to the Federal Government than other reasonable alternatives for maintaining the low-income character of the project, the Secretary may request the mortgagee, in lieu of assignment, to—

(A) accept partial payment of the claim under the mortgage insurance contract; and

(B) recast the mortgage, under such terms and conditions as the Secretary may determine.

(2) Condition.—As a condition to a partial claim payment under this section, the mortgagor shall agree to repay to the Secretary the amount of such payment and such obligation shall be secured by a second mortgage on the property on such terms and conditions as the Secretary may determine.

(f) GAO Study on Prevention of Default.—

(1) In general.—Not later than June 1, 1994, the Comptroller General of the United States shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report that evaluates the adequacy of loan loss reserves in the General Insurance and Special Risk Insurance Funds and presents recommendations for the Secretary to prevent losses from occurring.

(2) Contents.—The report submitted under paragraph (1) shall—

(A) evaluate the factors considered in arriving at loss estimates and determine whether other factors should be considered;

(B) determine the relative benefit of creating a new, actuarially sound insurance fund for all new multifamily housing insurance commitments; and

(C) recommend alternatives to the Secretary's current procedures for preventing the future default of multifamily housing project mortgages insured under title II of the National Housing Act.

(g) GAO Study on Actuarial Soundness of Certain Insurance Programs.—

(1) In general.—Not later than June 1, 1994, the Comptroller General of the United States shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report that evaluates, in connection with the General Insurance Fund, the role and performance of the nursing home, hospital, and retirement service center insurance programs.

(2) Contents.—The reports submitted under paragraph (1) shall—

(A) evaluate the strategic importance of these insurance programs to the mission of the FHA;

(B) evaluate the impact of these insurance programs upon the financial performance of the General Insurance Fund;

(C) assess the potential losses expected under these programs through fiscal year 1999;

(D) evaluate the risk of these programs to the General Insurance Fund in connection with changes in national health care policy;

(E) assess the ability of the FHA to manage these programs; and

(F) make recommendations for any necessary changes.

(h) Annual Actuarial Review.—

(1) Special risk insurance fund.—Section 238(c) of the National Housing Act (12 U.S.C. 1715z-3(c)) is amended by adding at the end the following new paragraph:

"(3) The Secretary shall undertake an annual review of the actuarial soundness of each of the insurance programs comprising the Special Risk Insurance Fund, and shall present findings from such review to the Congress in the FHA Annual Management Report.".

(2) General insurance fund.—Section 519 of the National Housing Act (12 U.S.C. 1735c) is amended by adding at the end the following new subsection:

"(g) Annual Actuarial Review.—The Secretary shall undertake an annual review of the actuarial soundness of each of the insurance programs comprising the General Insurance Fund, and shall present findings from such review to the Congress in the FHA Annual Management Report.".

(i) Alternative Uses for Prevention of Default.—

(1) In general.—Subject to notice and comment from existing tenants, to prevent the imminent default of a multifamily housing project subject to a mortgage insured under title II of the National Housing Act, the Secretary may authorize the mortgagor to use the project for purposes not contemplated by or permitted under the regulatory agreement, if—

(A) such other uses are acceptable to the Secretary;

(B) such other uses would be otherwise insurable under title II of the National Housing Act;

(C) the outstanding principal balance on the mortgage covering such project is not increased;

(D) any financial benefit accruing to the mortgagor shall, subject to the discretion of the Secretary, be applied to project reserves or project rehabilitation; and

(E) such other use serves a public purpose.

(2) Displacement protection.—The Secretary shall—

(A) make available tenant-based assistance under section 8 of the United States Housing Act of 1937 to any tenant displaced as a result of actions taken by the Secretary pursuant to paragraph (1); and

(B) take such actions as the Secretary determines necessary to ensure the successful use of any tenant-based assistance provided under this paragraph.

(3) Implementation.—The Secretary shall, by notice published in the Federal Register, which shall take effect upon publication, establish such requirements as may be necessary to implement the amendments made by this subsection. The notice shall invite public comments and, not later than 12 months after the date on which the notice is published, the Secretary shall issue final regulations based on the initial notice, taking into account any public comments received.

(j) Mortgage Sale Demonstration.—The Secretary may carry out a demonstration to test the feasibility of restructuring and disposing of troubled multifamily mortgages held by the Secretary through the establishment of partnerships between public, private, and nonprofit entities.

(k) National Interagency Task Force on Multifamily Housing.—

(1) Functions.—Section 543(e)(1) of the Housing and Community Development Act of 1992 (12 U.S.C. 1707 note) is amended—

(A) in subparagraph (D), by striking "and" at the end;

(B) in subparagraph (E), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(F) make available appropriate information to the Department of Housing and Urban Development that will assist in preventing the future default of multifamily housing project mortgages insured under title II of the National Housing Act.".

(2) Use of appropriations authority.—Section 543(h) of the Housing and Community Development Act of 1992 is amended by inserting after the first sentence the following: "The Secretary may use any non-Federal or private funding or may use the authority provided for salaries and expenses in appropriations Acts for activities carried out under this section.

SEC. 107. INTEREST RATES ON ASSIGNED MORTGAGES.

Section 7(i)(5) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(i)(5)) is amended by striking the first semicolon, and all that follows through "as determined by the Secretary".

SEC. 108. AUTHORIZATION OF APPROPRIATIONS.

(a) Special Risk Insurance Fund.—Section 238(b) of the National Housing Act (12 U.S.C.

1715z-3(b)) is amended by striking the fifth sentence.

(b) General Insurance Fund.—Section 519 of the National Housing Act (12 U.S.C. 1735c) is amended—

(1) by striking subsection (f); and

(2) by redesignating subsection (g) (as added by section 106(h)(2) of this Act) as subsection (f).

(c) Multifamily Insurance Fund Appropriations.—Title V of the National Housing Act (12 U.S.C. 1731a et seq.) is amended by adding at the end the following new section:

"SEC. 541. AUTHORIZATION OF APPROPRIATIONS FOR GENERAL AND SPECIAL RISK INSURANCE FUNDS.

"There are authorized to be appropriated $350,000,000 for fiscal year 1994 and $360,500,000 for fiscal year 1995, to be allocated in any manner that the Secretary determines appropriate, for the following costs incurred in conjunction with programs authorized under the General Insurance Fund, as provided by section 519, and the Special Risk Insurance Fund, as provided by section 238:

"(1) The cost to the Government, as defined in section 502 of the Congressional Budget Act, of new insurance commitments.

"(2) The cost to the Government, as defined in section 502 of the Congressional Budget Act, of modifications to existing loans, loan guarantees, or insurance commitments.

"(3) The cost to the Government, as defined in section 502 of the Congressional Budget Act, of loans provided under section 203(f) of the Housing and Community Development Amendments of 1978.

"(4) The costs of the rehabilitation of multifamily housing projects (as defined in section 203(b) of the Housing and Community Development Amendments of 1978) upon disposition by the Secretary.".

TITLE II—ENHANCED PROGRAM FLEXIBILITY

Subtitle A—Office of Public and Indian Housing

SEC. 201. REVITALIZATION OF SEVERELY DISTRESSED PUBLIC HOUSING.

(a) In General.—Section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v) is amended—

(1) by amending subsection (b) to read as follows:

"(b) [RESERVED].";

(2) in subsection (c)(2), by striking "$200,000" and inserting "$500,000";

(3) in subsection (c)(3)—

(A) by redesignating subparagraphs (E) through (I) as subparagraphs (F) through (J), respectively;

(B) by inserting after subparagraph (D) the following new subparagraph:

"(E) planning for community service and support service activities to be carried out by the public housing agency, residents, members of the community, and other persons and organizations willing to contribute to the social, economic, or physical improvement of the community (community service is a required element of the revitalization program);"; and

(C) in subparagraph (H), as redesignated, by striking "designing a suitable replacement housing plan," and inserting "designing suitable relocation and replacement housing plans,";

(4) in subsection (c)(4)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(B) by inserting after subparagraph (C) the following new subparagraph:

"(D) a description of the community service and support service planning activities to be carried out by the public housing agency, residents, members of the community, and other persons and organizations willing to contribute to the social, economic, or physical improvement of the community;";

(5) in subsection (c)(5)—

(A) by striking subparagraph (E) and redesignating subparagraphs (F) and (G) as subparagraphs (E) and (F), accordingly;

(B) in subparagraph (E), as redesignated, by inserting before the semicolon ", taking into account the condition of the stock of the public housing agency as a whole"; and

(C) by adding at the end the following:

"In making grants under this subsection, the Secretary may select a lower-rated, approvable application over a higher-rated application to increase the national geographic diversity among applications approved under this section.";

(6) in subsection (d)(2)—

(A) by redesignating subparagraphs (E) through (I) as subparagraphs (G) through (K), respectively;

(B) by inserting after subparagraph (D) the following new subparagraphs:

"(E) community service activities to be carried out by residents, members of the community, and other persons willing to contribute to the social, economic, or physical improvement of the community (community service is a required element of the revitalization program);

"(F) replacement of public housing units;"; and

(C) in subparagraph (K), as redesignated—

(i) by striking "15 percent" and inserting "20 percent"; and

(ii) by inserting before the period at the end the following: ", except that an amount equal to 15 percent of the amount of any grant under this subsection used for support services shall be contributed from non-Federal sources (which contribution shall be in the form of cash, administrative costs, and the reasonable value of in-kind contributions and may include funding under title I of the Housing and Community Development Act of 1974)";

(7) in subsection (d)(3)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(B) by inserting after subparagraph (C) the following new subparagraph:

"(D) a description of the community service and support service activities to be carried out by the public housing agency, residents, members of the community, and other persons and organizations willing to contribute to the social, economic, or physical improvement of the community;";

(8) in subsection (d)(4)—

(A) in subparagraph (D), by inserting "(with assistance from the Department of Housing and Urban Development if necessary)" after "applicant";

(B) by striking subparagraph (E) and redesignating subparagraphs (F) and (G) as subparagraphs (E) and (F), respectively;

(C) in subparagraph (E), as redesignated, by inserting before the semicolon ", taking into account the condition of the applicant's stock as a whole"; and

(D) by adding at the end the following:

"In making grants under this subsection, the Secretary may select a lower-rated, approvable application over a higher-rated application to increase the national geographic diversity among applications approved under this section.";

(9) in subsection (e), by adding at the end the following new paragraph:

"(3) Demolition and replacement.—

"(A) In general.—Notwithstanding any other applicable law or regulation, a revitalization plan under this section may include demolition and replacement on site or in the same neighborhood if the number of replacement units provided in the same neighborhood is fewer than the number of units demolished as a result of the revitalization effort.

"(B) Tenant-based assistance.—Notwithstanding the limitations contained in subparagraph (A)(v) or (C) of section 18(b)(3), a public housing agency may replace not more than one-third of the units demolished or disposed of through a revitalization project under this section with tenant-based assistance under section 8.";

(10) in subsection (h)—

(A) by amending paragraph (5) to read as follows:

"(5) Severely distressed public housing.—The term 'severely distressed public housing' means a public housing project or a building in a project—

"(A) that requires major redesign, reconstruction, redevelopment, or partial or total demolition to correct serious deficiencies in the original design (including inappropriately high population density), deferred maintenance, physical deterioration or obsolescence of major systems, and other deficiencies in the physical plant of the project; and

"(B) that either—

"(i)(I) is occupied predominantly by families with children that have extremely low incomes, high rates of unemployment, and extensive dependency on various forms of public assistance; and

"(II) has high rates of vandalism and criminal activity (including drug-related criminal activity); or

"(ii) that has a vacancy rate, as determined by the Secretary, of 50 percent or more;

"(C) that cannot be revitalized through assistance under other programs, such as the programs under sections 9 and 14, or through other administrative means because of the inadequacy of available funds; and

"(D) that, in the case of individual buildings, the building is, in the Secretary's determination, sufficiently separable from the remainder of the project to make use of the building feasible for purposes of this section."; and

(B) by adding at the end the following new paragraphs:

"(6) Community service.—The term 'community service' means services provided on a volunteer or limited stipend basis for the social, economic, or physical improvement of the community to be served.

"(7) Support services.—The term 'support services' includes all activities designed to lead toward upward mobility, self-sufficiency, and improved quality of life for the residents of the project, such as literacy training, job training, day care, and economic development. Such activities may allow for the participation of residents of the neighborhood."; and

(11) in subsection (i)—

(A) by striking paragraph (2); and

(B) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(b) Conforming Amendment.—The first sentence of section 25(m)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437w(m)(1)) is amended to read as follows:

"(1) The term 'eligible housing' means a public housing project, or one or more buildings within a project, that is owned or operated by a public housing agency that has been troubled for not less than 3 years and that, as determined by the Secretary, has failed to make substantial progress toward effective management.".

(c) Use of Tenant-Based Assistance for Replacement Housing.—Section 18(b)(3)(C)(i) of the United States Housing Act of 1937 (42 U.S.C. 1437p(b)(3)(C)(i)) is amended by striking "15-year".

(d) Replacement Housing Outside the Jurisdiction of the PHA.—Section 18(b)(3) of the

United States Housing Act of 1937 (42 U.S.C. 1437p(b)(3)), as amended by subsection (c), is amended—

(1) by redesignating subparagraphs (D) through (H) as subparagraphs (E) through (I), respectively; and

(2) by inserting after subparagraph (C) the following new subparagraph:

"(D) may provide that all or part of such additional dwelling units may be located outside of the jurisdiction of the public housing agency (the 'original agency') if—

"(i) the location is in the same housing market area as the original agency, as determined by the Secretary;

"(ii) the plan contains an agreement between the original agency and the public housing agency in the alternate location or other public or private entity that will be responsible for providing the additional units in the alternate location ('alternate agency or entity') that the alternate agency or entity will, with respect to the dwelling units involved—

"(I) provide the dwelling units in accordance with subparagraph (A);

"(II) complete the plan on schedule in accordance with subparagraph (F);

"(III) meet the requirements of subparagraph (G) and the maximum rent provisions of subparagraph (H); and

"(IV) not impose a local residency preference on any resident of the jurisdiction of the original agency for purposes of admission to any such units; and

"(iii) the arrangement is approved by the unit of general local government for the jurisdiction in which the additional units will be located;".

SEC. 202. DISALLOWANCE OF EARNED INCOME FOR RESIDENTS WHO OBTAIN EMPLOYMENT.

(a) IN GENERAL.—Section 3 of the United States Housing Act of 1937 (42 U.S.C. 1437a) is amended—

(1) by striking the undesignated paragraph at the end of subsection (c)(3) (as added by section 515(b) of the Cranston-Gonzalez National Affordable Housing Act); and

(2) by adding at the end the following new subsection:

"(d) DISALLOWANCE OF EARNED INCOME FROM PUBLIC HOUSING RENT DETERMINATIONS.—Notwithstanding any other provision of law, the rent payable under subsection (a) for any public housing unit by a family whose income increases as a result of employment of a member of the family who was previously unemployed for one or more years (including a family whose income increases as a result of the participation of a family member in the Family Self-Sufficiency program or other job training program) shall not be increased for a period of 18 months, beginning with the commencement of employment as a result of the increased income due to such employment. After the expiration of the 18-month period, rent increases due to the continued employment of such family member shall be limited to 10 percent per year. In no case shall rent exceed the amount determined under subsection (a).".

(b) APPLICABILITY OF AMENDMENT.—Notwithstanding the amendment made by subsection (a), any resident of public housing participating in the program under the authority contained in the undesignated paragraph at the end of section 3(c)(3) of the United States Housing Act of 1937 as such paragraph existed before the date of enactment of this subsection shall continue to be governed by such authority.

SEC. 203. CEILING RENTS BASED ON REASONABLE RENTAL VALUE.

(a) AMENDMENT.—Section 3(a)(2)(A)(iii) of the United States Housing Act of 1937 (42 U.S.C. 1437a(a)(2)(A)(iii)) is amended to read as follows:

"(iii) is not less than the reasonable rental value of the unit, as determined by the Secretary.".

(b) REGULATIONS.—

(1) IN GENERAL.—The Secretary shall, by regulation, after notice and an opportunity for public comment, establish such requirements as may be necessary to carry out the provisions of section 3(a)(2)(A) of the United States Housing Act of 1937, as amended by subsection (a).

(2) APPLICABILITY.—Except in the case of an Indian housing authority, the regulations issued pursuant to paragraph (1) shall not apply to scattered site public housing units.

(3) TRANSITION RULE.—Prior to the issuance of final regulations under paragraph (1), a public housing agency may implement ceiling rents which shall be—

(A) determined in accordance with section 3(a)(2)(A) of the United States Housing Act of 1937, as such section existed before the date of enactment of this Act; or

(B) equal to the 95th percentile of the rent paid for a unit of comparable size by tenants in the same project or a group of comparable projects totaling 50 units or more.

SEC. 204. RESIDENT MANAGEMENT PROGRAM.

Section 20(f) of the United States Housing Act of 1937 (42 U.S.C. 1437r(f)) is amended—

(1) in paragraph (2), by striking "$100,000" and inserting "$250,000"; and

(2) in paragraph (3), by adding at the end the following: "The Secretary may use not more than 10 percent of the amounts made available under this subsection for program monitoring and evaluation, technical assistance, and information dissemination.".

Subtitle B—Office of Community Planning and Development

SEC. 211. ECONOMIC DEVELOPMENT INITIATIVE.

(a) SECTION 108 ELIGIBLE ACTIVITIES.—

(1) IN GENERAL.—Section 108(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(a)) is amended—

(A) in the first sentence—

(i) by striking "or" after "section 105(a);"; and

(ii) by inserting before the period the following: "; (5) the acquisition, construction, reconstruction, or installation of public facilities (except for buildings for the general conduct of government); or (6) in the case of colonias, public works and site or other improvements"; and

(B) by striking the second sentence and inserting the following: "A guarantee under this section (including a guarantee combined with a grant under subsection (q)) may be used to assist a grantee in obtaining financing only if the grantee has made efforts to obtain the financing without the use of the guarantee (and, if applicable, the grant) and cannot complete the financing consistent with the timely execution of the proposed activities and projects without the guarantee (or, if applicable, the grant).".

(2) DEFINITION.—Section 102(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)) is amended by adding at the end the following new paragraph:

"(24) The term 'colonia' means any identifiable community that—

"(A) is in the State of Arizona, California, New Mexico, or Texas;

"(B) is in the United States-Mexico border region;

"(C) is determined to be a colonia on the basis of objective criteria, including lack of potable water supply, lack of adequate sewage systems, and lack of decent, safe, and sanitary housing; and

"(D) was in existence as a colonia before the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act.".

(b) ECONOMIC DEVELOPMENT GRANTS.—

(1) IN GENERAL.—Section 108 of the Housing and Community Development Act of 1974 (42 U.S.C. 5308) is amended by adding at the end the following new subsection:

"(q) ECONOMIC DEVELOPMENT GRANTS.—

"(1) AUTHORIZATION.—The Secretary may make grants in connection with notes or other obligations guaranteed under this section to eligible public entities for the purpose of enhancing the security of loans guaranteed under this section or improving the viability of projects financed with loans guaranteed under this section.

"(2) ELIGIBLE ACTIVITIES.—Assistance under this subsection may be used for the purposes of and in conjunction with projects and activities assisted under subsection (a).

"(3) APPLICATIONS.—Applications for assistance under this subsection shall be submitted by eligible public entities in the form and in accordance with the procedures established by the Secretary. Eligible public entities may apply for grants only in conjunction with a request for guarantee under subsection (a).

"(4) SELECTION CRITERIA.—The Secretary shall establish criteria for awarding assistance under this subsection. Such criteria shall include—

"(A) the extent of need for such assistance;

"(B) the level of distress in the community to be served and in the jurisdiction applying for assistance;

"(C) the quality of the plan proposed and the capacity or potential capacity of the applicant to successfully carry out the plan; and

"(D) such other factors as the Secretary determines to be appropriate.".

(2) CONFORMING AMENDMENT.—Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) is amended—

(A) in section 101(c) in the second sentence, by inserting "or a grant" after "guarantee"; and

(B) in section 104(b)(3), by inserting "or a grant" after "guarantee".

(c) USE OF UDAG RECAPTURES.—Section 119(o) of the Housing and Community Development Act of 1974 (42 U.S.C. 5318(o)) is amended by inserting before the period the following: ", except that amounts available to the Secretary for use under this subsection as of October 1, 1993, and amounts released to the Secretary pursuant to subsection (t) may be used to provide grants under section 108(q).".

(d) UDAG AMNESTY PROGRAM.—

(1) AMENDMENT.—Section 119 of the Housing and Community Development Act of 1974 (42 U.S.C. 5318) is amended by adding at the end the following new subsection:

"(t) UDAG AMNESTY PROGRAM.—If a grant or a portion of a grant under this section remains unexpended as of the issuance of a notice implementing this subsection, the grantee may enter into an agreement, as provided under this subsection, with the Secretary to receive a percentage of the grant amount and relinquish all claims to the balance of the grant within 90 days of the issuance of notice implementing this subsection (or such later date as the Secretary may approve). The Secretary shall not recapture any funds obligated pursuant to this section during a period beginning on the date of enactment of the Housing and Community Development Act of 1993 until 90 days after the issuance of a notice implementing this subsection. A grantee may receive as a grant under this subsection—

"(1) 33 percent of such unexpended amounts if—

"(A) the grantee agrees to expend not less than one-half of the amount received for activities authorized pursuant to section 108(q) and to expend such funds in conjunction with a loan guarantee made under section 108 at least equal to twice the amount of the funds received; and

"(B)(i) the remainder of the amount received is used for economic development activities eligible under title I of this Act; and

"(ii) except when waived by the Secretary in the case of a severely distressed jurisdiction, not more than one-half of the costs of activities under subparagraph (B) are derived from such unexpended amounts; or

"(2) 25 percent of such unexpended amounts if—

"(A) the grantee agrees to expend such funds for economic development activities eligible under title I of this Act; and

"(B) except when waived by the Secretary in the case of a severely distressed jurisdiction, not more than one-half of the costs of such activities are derived from such unexpended amount.".

(2) IMPLEMENTATION.—Notwithstanding subsection (f), not later than 10 days after the date of enactment of this Act, the Secretary shall, by notice published in the Federal Register, which shall take effect upon publication, establish such requirements as may be necessary to implement the amendments made by this subsection.

(e) GUARANTEE OF OBLIGATIONS BACKED BY SECTION 108 LOANS.—Section 108 of the Housing and Community Development Act of 1974 (42 U.S.C. 5308), as amended by subsection (b), is amended by adding at the end the following new subsection:

"(r) GUARANTEE OF OBLIGATIONS BACKED BY SECTION 108 LOANS.—

"(1) AUTHORIZATION.—The Secretary may, upon such terms and conditions as the Secretary deems appropriate, guarantee the timely payment of the principal of and interest on trust certificates or other obligations that—

"(A) are offered by the Secretary, or by any other offeror approved for purposes of this subsection by the Secretary; and

"(B) are based on and backed by a trust or pool composed of notes or other obligations guaranteed by the Secretary under this section.

"(2) FULL FAITH AND CREDIT OF THE UNITED STATES.—Subsection (f) shall apply to any guarantee under this subsection.

"(3) SUBROGATION.—If the Secretary pays a claim under a guarantee issued under this section, the Secretary shall be subrogated fully to the rights satisfied by such payment.

"(4) POWERS OF THE SECRETARY.—No Federal, State, or local law shall preclude or limit the exercise by the Secretary of—

"(A) the power to contract with respect to public offerings and other sales of notes, trust certificates, and other obligations guaranteed under this section upon such terms and conditions as the Secretary deems appropriate;

"(B) the right to enforce by any means deemed appropriate by the Secretary any such contract; and

"(C) the Secretary's ownership rights, as applicable, in notes, certificates, or other obligations guaranteed under this section, or constituting the trust or pool against which trust certificates or other obligations guaranteed under this section are offered.".

(f) EFFECTIVE DATE.—The Secretary shall, by notice published in the Federal Register, which shall take effect upon publication, establish such requirements as may be necessary to implement the amendments made by this section. The notice shall invite public comments and, not later than 12 months after the date on which the notice is published, the Secretary shall issue final regulations based on the initial notice, taking into account any public comments received.

SEC. 212. HOME INVESTMENT PARTNERSHIPS.

(a) PARTICIPATION BY STATE AGENCIES OR INSTRUMENTALITIES.—Section 104(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704(2)) is amended by inserting before the period at the end the following: ", or any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive to act on behalf of the State with regard to the provisions of this Act".

(b) SIMPLIFY PROGRAM-WIDE INCOME TARGETING FOR HOME RENTAL HOUSING.—Section 214(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12744(1)) is amended by striking "such funds are invested with respect to dwelling units that are occupied by" each place such term appears and inserting "(i) the families receiving such rental assistance are, or (ii) the dwelling units assisted with such funds are occupied by" in each such place.

(c) REMOVE FIRST-TIME HOMEBUYER LIMITATION FOR HOME UNITS.—Section 215(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12745(b)) is amended by striking paragraph (3) and redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(d) SIMPLIFY RESALE PROVISIONS.—Section 215(b)(3)(B) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12745(b)(4)(B)), as redesignated by subsection (c), is amended by striking "subsection" and inserting "title".

(e) STABILIZATION OF HOME FUNDING THRESHOLDS.—The Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12701 et seq.) is amended—

(1) in section 216, by striking paragraph (10);

(2) in section 217(b), by striking paragraph (4);

(3) in section 217(b)(3)—

(A) in the first sentence, by striking "only those jurisdictions" and all that follows through "allocation" and inserting "jurisdictions that are not participating jurisdictions that are allocated an amount of $500,000 or more and jurisdictions that are participating jurisdictions shall receive an allocation"; and

(B) in the last sentence, by striking ", except as provided in paragraph (4)"; and

(4) in section 216—

(A) in paragraph (3)(A), by striking "Except as provided in paragraph (10), a jurisdiction" and inserting "A jurisdiction"; and

(B) in paragraph (9)(B), by striking ", except as provided in paragraph (10)".

(f) COMPREHENSIVE AFFORDABLE HOUSING STRATEGY.—

(1) HOME PROGRAM.—Section 218(d) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12748(d)) is amended in the first sentence, by inserting "that it is following a current housing affordability strategy that has been approved by the Secretary in accordance with section 105, and" after "certification".

(2) HOMELESS ASSISTANCE PROGRAMS.—Section 401 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361) is amended to read as follows:

"SEC. 401. HOUSING AFFORDABILITY STRATEGY.

"(a) REQUIREMENT TO FOLLOW A CHAS.—Assistance may be made available under subtitle B to metropolitan cities, urban counties, and States receiving a formula amount under section 413, only if the jurisdiction certifies that it is following a current housing affordability strategy that has been approved by the Secretary in accordance with section 105 of the Cranston-Gonzalez National Affordable Housing Act.

"(b) REQUIREMENT FOR CONSISTENCY WITH CHAS.—Assistance may be made available under this title only if the application contains a certification that the proposed project or activities are consistent with the housing affordability strategy of the State or unit of general local government in which the project is located. The certification shall be from the public official responsible for submitting the strategy for the jurisdiction.".

(3) CONFORMING CHANGES.—Title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361 et seq.) is amended by striking sections 426(a)(2)(F), 434(a)(10), and 454(b)(9).

(g) HOME MATCHING REQUIREMENTS.—Section 220(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12750(a)) is amended to read as follows:

"(a) CONTRIBUTION.—Each participating jurisdiction shall make contributions to housing that qualifies as affordable housing under this title that total, throughout a fiscal year, not less than 25 percent of the funds drawn from the jurisdiction's HOME Investment Trust Fund in that fiscal year. Such contribution shall be in addition to any amounts made available under section 216(3)(A)(ii).".

(h) SEPARATE AUDIT REQUIREMENT FOR THE HOME PROGRAM.—Section 283 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12833) is amended—

(1) by striking the section heading and inserting the following:

"SEC. 283. AUDITS BY THE COMPTROLLER GENERAL.";

(2) by striking subsection (a);

(3) in subsection (b)—

(A) by striking "(b) AUDITS BY THE COMPTROLLER GENERAL.—"; and

(B) by redesignating paragraphs (1) and (2) as subsections (a) and (b), respectively; and

(4) in subsection (a), as redesignated by paragraph (3), by striking the second sentence.

(i) HOME ENVIRONMENTAL REVIEW AMENDMENTS.—Section 288 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12838) is amended—

(1) in subsection (a)—

(A) in the first sentence, by striking "participating jurisdictions" and inserting "jurisdictions, Indian tribes, or insular areas"; and

(B) by adding at the end the following: "The regulations shall—

"(1) provide for the monitoring of environmental reviews performed under this section;

"(2) at the discretion of the Secretary, facilitate training for the performance of such reviews; and

"(3) establish criteria for the suspension or termination of the assumption under this section.

The Secretary's duty under this subsection shall not be construed to limit any responsibility assumed by a State or unit of general local government with respect to any particular release of funds.";

(2) in subsection (b) in the first sentence, by striking "participating jurisdiction" and inserting "jurisdiction, Indian tribe, or insular area";

(3) in subsection (c)(4), by striking "participating jurisdiction" and inserting "jurisdiction, Indian tribe, or insular area"; and

(4) in subsection (d), by striking "ASSISTANCE TO A STATE.—In the case of assistance to States" and inserting the following: "ASSISTANCE TO UNITS OF GENERAL LOCAL GOVERNMENT FROM A STATE.—In the case of assistance to units of general local government from a State".

(j) USE OF CDBG FUNDS FOR HOME ADMINISTRATIVE EXPENSES.—Section 105(a)(13) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(13)) is amended by inserting after "charges related to" the following: "(A) administering the HOME program under title II of the Cranston-Gonzalez National Affordable Housing Act; and (B)".

(k) PROJECT DELIVERY COSTS.—Section 105(a)(21) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(21)) is amended—

(1) by inserting "in connection with tenant-based assistance and affordable housing projects assisted under title II of the Cranston-Gonzalez National Affordable Housing Act" after "housing counseling"; and

(2) by striking "authorized" and all that follows through "any law" and inserting "assisted under title II of the Cranston-Gonzalez National Affordable Housing Act".

SEC. 213. HOPE MATCH REQUIREMENT.

Section 443(c)(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C.

12893(c)(1)) is amended by striking "33" and inserting "25".

SEC. 214. FLEXIBILITY OF CDBG PROGRAM FOR DISASTER AREAS.

Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) is amended by adding at the end the following new section:

"SEC. 122. SUSPENSION OF REQUIREMENTS FOR DISASTER AREAS.

"For the duration of time during which an area has been declared a disaster area by the President under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, the Secretary may suspend all requirements for purposes of assistance under section 106 for that area, except for those related to public notice of funding availability, nondiscrimination, fair housing, labor standards, environmental standards, and requirements that activities benefit persons of low- and moderate-income.".

SEC. 215. FLEXIBILITY OF HOME PROGRAM FOR DISASTER AREAS.

Title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12721 et seq.) is amended by adding at the end the following new section:

"SEC. 290. SUSPENSION OF REQUIREMENTS FOR DISASTER AREAS.

"For the duration of time during which an area has been declared a disaster area by the President under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, the Secretary may suspend all requirements for purposes of assistance under this title for that area, except for those related to public notice of funding availability, nondiscrimination, fair housing, labor standards, environmental standards, and low-income housing affordability.".

Subtitle C—Community Partnerships Against Crime

SEC. 221. COMPAC PROGRAM.

(a) CONFORMING PROVISIONS.—Section 5001 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11901) is amended in the table of contents—

(1) by striking the item relating to the heading for chapter 2 and inserting the following:

"CHAPTER 2—COMMUNITY PARTNERSHIPS AGAINST CRIME";

(2) by striking the item relating to section 5122 and inserting the following:

"Sec. 5122. Purposes.";

and

(3) by adding the following after the item relating to section 5130:

"Sec. 5131. Technical assistance.".

(b) SHORT TITLE, PURPOSES, AND AUTHORITY TO MAKE GRANTS.—The Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11901 et seq.) is amended by striking the chapter heading for chapter 2, and by striking sections 5121, 5122, and 5123 and inserting the following:

"CHAPTER 2—COMMUNITY PARTNERSHIPS AGAINST CRIME

"SEC. 5121. SHORT TITLE.

"This chapter may be cited as the 'Community Partnerships Against Crime Act of 1993'.

"SEC. 5122. PURPOSES.

"The purposes of this chapter are to—

"(1) improve the quality of life for law-abiding public housing residents by reducing the levels of fear, violence, and crime in their communities;

"(2) expand and enhance the Federal Government's commitment to eliminating crime in public housing;

"(3) broaden the scope of the Public and Assisted Housing Drug Elimination Act of 1990 to apply to all types of crime, and not simply crime that is drug-related;

"(4) target opportunities for long-term commitments of funding primarily to public housing agencies with serious crime problems;

"(5) encourage the involvement of a broad range of community-based groups, and residents of neighboring housing that is owned or assisted by the Secretary, in the development and implementation of anti-crime plans;

"(6) reduce crime and disorder in and around public housing through the expansion of community-oriented policing activities and problem solving;

"(7) provide training, information services, and other technical assistance to program participants; and

"(8) establish a standardized assessment system to evaluate need among public housing agencies, and to measure progress in reaching crime reduction goals.

"SEC. 5123. AUTHORITY TO MAKE GRANTS.

"The Secretary of Housing and Urban Development, in accordance with the provisions of this chapter, may make grants, for use in eliminating crime in and around public and other federally assisted low-income housing projects (1) to public housing agencies (including Indian housing authorities), and (2) to private, for profit, and nonprofit owners of federally assisted low-income housing. In designing the program, the Secretary shall consult with the Attorney General.".

(c) ELIGIBLE ACTIVITIES.—Section 5124(a) of the Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11903(a)) is amended—

(1) in the introductory material preceding paragraph (1), by inserting "and around" after "used in";

(2) in paragraph (3), by inserting ", such as fencing, lighting, locking, and surveillance systems" before the semicolon;

(3) in paragraph (4), by striking subparagraph (A) and inserting the following new subparagraph:

"(A) to investigate crime; and";

(4) in paragraph (6)—

(A) by striking "in and around public or other federally assisted low-income housing projects"; and

(B) by striking "and" after the semicolon;

(5) in paragraph (7)—

(A) by striking "where a public housing agency receives a grant,";

(B) by striking "drug abuse" and inserting "crime"; and

(C) by striking the period at the end and inserting a semicolon; and

(6) by adding at the end the following new paragraphs:

"(8) the employment or utilization of one or more individuals, including law enforcement officers, made available by contract or other cooperative arrangement with State or local law enforcement agencies, to engage in community policing involving interaction with members of the community on proactive crime control and prevention;

"(9) youth initiatives, such as activities involving training, education, after school programs, cultural programs, recreation and sports, career planning, and entrepreneurship and employment; and

"(10) resident service programs, such as job training, education programs, drug and alcohol treatment, and other appropriate social services that address the contributing factors of crime.".

(d) APPLICATIONS.—Section 5125 of the Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11904) is amended—

(1) in subsection (a)—

(A) by striking "To receive a grant" and inserting the following:

"(1) APPLICATIONS.—To receive a grant";

(B) in the second sentence, by striking "drug-related crime on the premises of" and inserting the following: "crime in and around"; and

(C) by adding at the end the following new paragraphs:

"(2) ONE-YEAR RENEWABLE GRANTS.—

"(A) IN GENERAL.—Eligible applicants may submit an application for a 1-year grant under this chapter that, subject to the availability of appropriated amounts, shall be renewed annually for a period of not more than 4 years, if the Secretary finds, after an annual or more frequent performance review, that the public housing agency is performing under the terms of the grant and applicable laws in a satisfactory manner and meets such other requirements as the Secretary may prescribe.

"(B) PREFERENCE.—The Secretary shall accord a preference to applicants for grants under this paragraph if the grant is to be used to continue or expand activities eligible for assistance under this chapter that have received previous assistance either under this chapter, as it existed prior to the enactment of the Housing and Community Development Act of 1993, or under section 14 of the United States Housing Act of 1937. Such preference shall not unreasonably prejudice the opportunity for other public housing agencies to receive grants under this chapter.

"(3) PUBLIC HOUSING AGENCIES THAT HAVE ESPECIALLY SEVERE CRIME PROBLEMS.—The Secretary shall, by regulation issued after notice and opportunity for public comment, set forth criteria for establishing a class of public housing agencies that have especially severe crime problems. The Secretary may allocate a portion of the annual appropriation for this program for public housing agencies in this class.".

(2) in subsection (b)—

(A) by striking the introductory material preceding paragraph (1) and inserting the following: "The Secretary shall approve applications under subsection (a)(2) that are not subject to a preference under subsection (a)(2)(B) on the basis of—";

(B) in paragraph (1), by striking "drug-related crime problem in" and inserting the following: "crime problem in and around";

(C) in paragraph (2), by inserting immediately after "crime problem in" the following: "and around"; and

(D) in paragraph (4), by inserting after "local government" the following: ", local community-based nonprofit organizations, local resident organizations that represent the residents of neighboring projects that are owned or assisted by the Secretary,";

(3) in subsection (c)(2), by striking "drug-related" each place it appears; and

(4) by striking subsection (d).

(e) DEFINITIONS.—Section 5126 of the Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11905) is amended by striking paragraphs (1) and (2), and redesignating paragraphs (3) and (4) as paragraphs (1) and (2), respectively.

(f) IMPLEMENTATION.—Section 5127 of the Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11906) is amended by striking "Cranston-Gonzalez National Affordable Housing Act" and inserting "Housing and Community Development Act of 1993".

(g) REPORTS.—Section 5128 of the Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11907) is amended—

(1) by striking "The Secretary" and inserting the following:

"(a) GRANTEE REPORTS.—The Secretary";

(2) by striking "drug-related crime in" and inserting "crime in and around"; and

(3) by adding at the end the following new subsection:

"(b) HUD REPORTS.—The Secretary shall submit a report to the Congress describing the system used to distribute funds to grantees under this section. Such report shall include, at a minimum—

"(1) a description of the criteria used to establish the class of public housing agencies with especially severe crime problems and a list of such agencies;

"(2) the methodology used to distribute funds among the public housing agencies on the list created under paragraph (1); and

"(3) the Secretary's recommendations for any change to the method of distribution of funds.".

(h) AUTHORIZATION OF APPROPRIATIONS.—Section 5130 of the Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11909) is amended—

(1) in the first sentence of subsection (a), by striking "$175,000,000 for fiscal year 1993" and all that follows through the end of the sentence and inserting "$265,000,000 for fiscal year 1994 and $325,000,000 for fiscal year 1995."; and

(2) in subsection (b)—

(A) in the heading, by striking "SET-ASIDES" and inserting "SET-ASIDE"; and

(B) by striking the second sentence.

(i) REPEAL.—Section 520(k) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 11908) is hereby repealed.

(j) TECHNICAL ASSISTANCE.—The Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11901 et seq.) is further amended by adding at the end the following new section:

"SEC. 5131. TECHNICAL ASSISTANCE.

"Of the amounts appropriated annually for each of fiscal years 1994 and 1995 to carry out this chapter, the Secretary shall use not more than $10,000,000, directly or indirectly, under grants, contracts, or cooperative agreements, to provide training, information services, and other technical assistance to public housing agencies and other entities with respect to their participation in the program authorized by this chapter. Such technical assistance may include the establishment and operation of the clearinghouse on drug abuse in public housing and the regional training program on drug abuse in public housing under sections 5143 and 5144 of this Act. The Secretary is also authorized to use the foregoing amounts for obtaining assistance in establishing and managing assessment and evaluation criteria and specifications, and obtaining the opinions of experts in relevant fields.".

TITLE III—TECHNICAL AND OTHER AMENDMENTS

Subtitle A—Public and Assisted Housing

SEC. 301. CORRECTION TO DEFINITION OF FAMILY.

The first sentence of section 3(b)(3)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(3)(B)) is amended—

(1) by striking "means" and inserting "includes"; and

(2) by inserting "and" immediately after "children,".

SEC. 302. IDENTIFICATION OF CIAP REPLACEMENT NEEDS.

Section 14 of the United States Housing Act of 1937 (42 U.S.C. 1437l) is amended—

(1) in subsection (d)—

(A) by striking paragraph (2); and

(B) in paragraph (4)—

(i) by striking "and replacements,"; and

(ii) by striking "(1), (2), and (3)" and inserting "(1) and (3)"; and

(2) in subsection (f)(1)—

(A) by striking subparagraph (B); and

(B) in subparagraph (D), by striking "(1), (2), and (3)" and inserting "(1) and (3)".

SEC. 303. APPLICABILITY OF PUBLIC HOUSING AMENDMENTS TO INDIAN HOUSING.

(a) AMENDMENT.—Section 201(b) of the United States Housing Act of 1937 (42 U.S.C. 1437aa(b)) is amended to read as follows:

"(b) APPLICABILITY OF TITLE I.—Except as otherwise provided by law, the provisions of title I shall apply to low-income housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority.".

(b) APPLICABILITY OF AMENDMENT.—The amendment made by subsection (a) shall not affect provisions of the United States Housing Act of 1937 that were made applicable to public housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority in accordance with section 201(b)(2) of such Act, as such section existed before the effective date of this section.

(c) APPLICABILITY OF HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992.—Sections 103(a)(1), 112, 114, 116, 118, 903, and 927 of the Housing and Community Development Act of 1992 shall apply to public housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority.

SEC. 304. PROJECT-BASED ACCOUNTING.

Section 6(c)(4)(E) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)(4)(E)) is amended by striking "250" and inserting "500".

SEC. 305. OPERATING SUBSIDY ADJUSTMENTS FOR ANTICIPATED FRAUD RECOVERIES.

Section 9(a) of the United States Housing Act of 1937 (42 U.S.C. 1437g(a)) is amended by adding at the end the following new paragraph:

"(4) Adjustments to a public housing agency's operating subsidy made by the Secretary under this section shall reflect actual changes in rental income collections resulting from the application of section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988.".

SEC. 306. TECHNICAL ASSISTANCE FOR LEAD HAZARD REDUCTION GRANTEES.

Section 1011(g) of the Housing and Community Development Act of 1992 (42 U.S.C. 5318 note) is hereby repealed.

SEC. 307. ENVIRONMENTAL REVIEW IN CONNECTION WITH GRANTS FOR LEAD-BASED PAINT HAZARD REDUCTION.

Section 1011 of the Housing and Community Development Act of 1992 (42 U.S.C. 5318 note) is amended—

(1) by redesignating subsection (o) as subsection (p); and

(2) by adding after subsection (n) the following new subsection:

"(o) ENVIRONMENTAL REVIEW.—

"(1) IN GENERAL.—For purposes of environmental review, decisionmaking, and action pursuant to the National Environmental Policy Act of 1960 and other provisions of law that further the purposes of such Act, a grant under this section shall be treated as assistance under the HOME Investment Partnership Act, established under title II of the Cranston-Gonzalez National Affordable Housing Act, and shall be subject to the regulations promulgated by the Secretary to implement section 288 of such Act.

"(2) APPLICABILITY.—This subsection shall apply to—

"(A) grants awarded under this section; and

"(B) grants awarded to States and units of general local government for the abatement of significant lead-based paint and lead dust hazards in low- and moderate-income owner-occupied units and low-income privately owned rental units pursuant to title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (Public Law 102-139, 105 Stat. 736).".

SEC. 308. FIRE SAFETY IN FEDERALLY ASSISTED HOUSING.

Section 31(c)(2)(A)(i) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2227(c)(2)(A)(i)) is amended by adding "(or equivalent level of safety)" after "system".

SEC. 309. SECTION 23 CONVERSION PROJECTS.

(a) SECTION 23 CONVERSION.—

(1) AUTHORIZATION.—Notwithstanding contracts entered into pursuant to section 14(b)(2) of the United States Housing Act of 1937, the Secretary is authorized to enter into obligations for conversion of Leonard Terrace Apartments in Grand Rapids, Michigan, from a leased housing contract under section 23 of such Act to a project-based rental assistance contract under section 8 of such Act.

(2) REPAYMENT REQUIRED.—The authorization made in paragraph (1) is conditioned on the repayment to the Secretary of all amounts received by the public housing agency under the comprehensive improvement assistance program under section 14 of the United States Housing Act of 1937 for the Leonard Terrace Apartment project and the amounts, as determined by the Secretary, received by the public housing agency under the formula in section 14(k) of such Act by reason of the project.

(b) CONTRACT RENEWAL.—

(1) IN GENERAL.—Leased housing contracts under section 23 of the United States Housing Act of 1937, as such section existed before the date of enactment of the Housing and Community Development Act of 1974, that—

(A) were converted to section 8 contracts on terms similar to or the same as the terms of the section 8 new construction program; and

(B) expire during fiscal year 1994 or 1995;

shall be extended for a period not to exceed 5 years as if the rents on such projects were established under the section 8 new construction program, except that section 8(c)(2)(C) of the United States Housing Act of 1937 shall not apply to such contracts.

(2) BUDGET COMPLIANCE.—To the extent that paragraph (1) results in additional costs under this section, such paragraph shall be effective only to the extent that amounts to cover such additional costs are provided in advance in appropriation Acts.

SEC. 310. INDEMNIFICATION OF CONTRACTORS FOR INTELLECTUAL PROPERTY RIGHTS DISPUTES.

A recipient of Federal housing assistance may not use such funds to indemnify contractors or subcontractors against costs associated with litigating or settling disputes concerning the infringement of intellectual property rights.

Subtitle B—Multifamily Housing

SEC. 321. CORRECTION OF MULTIFAMILY MORTGAGE LIMITS.

The National Housing Act (12 U.S.C. 1701 et seq.) is amended in sections 207(c)(3), 213(b)(2), 220(d)(3)(B)(iii), and 234(e)(3) by striking "$59,160" each place it appears and inserting "$56,160".

SEC. 322. FHA MULTIFAMILY RISK-SHARING; HFA PILOT PROGRAM AMENDMENTS.

(a) IN GENERAL.—Section 542(c) of the Housing and Community Development Act of 1992 (12 U.S.C. 1707 note) is amended—

(1) in paragraph (1), by inserting after "qualified housing finance agencies" the following: "(including entities established by States that provide mortgage insurance)";

(2) in paragraph (2)—

(A) in subparagraph (C), by striking the last sentence and inserting the following: "Such agreements shall specify that the qualified housing finance agency and the Secretary shall share any loss in accordance with the risk-sharing agreement."; and

(B) by adding at the end the following new subparagraph:

"(F) DISCLOSURE OF RECORDS.—Qualified housing finance agencies shall make available to the Secretary such financial and other records as the Secretary deems necessary for program review and monitoring purposes.";

(3) in paragraph (7)—

(A) by striking "very low-income"; and

(B) by striking "(2)"; and

(4) by adding at the end the following new paragraphs:

"(9) ENVIRONMENTAL AND OTHER REVIEWS.—

"(A) ENVIRONMENTAL REVIEWS.—

"(i) IN GENERAL.—(I) In order to assure that the policies of the National Environmental Policy Act of 1969 and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the insurance of mortgages under subsection (c)(2), and to assure to the public undiminished protection of the environment, the Secretary may, under such regulations, in lieu of the environmental protection procedures otherwise applicable, provide for agreements to endorse for insurance mortgages under subsection (c)(2) upon the request of qualified housing finance agencies under this subsection, if the State or unit of general local government, as designated by the Secretary in accordance with regulations, assumes all of the responsibilities for environmental review, decisionmaking, and action pursuant to such Act, and such other provisions of law as the regulations of the Secretary may specify, that would otherwise apply to the Secretary with respect to the insurance of mortgages on particular properties.

"(II) The Secretary shall issue regulations to carry out this subparagraph only after consultation with the Council on Environmental Quality. Such regulations shall, among other matters, provide—

"(aa) for the monitoring of the performance of environmental reviews under this subparagraph;

"(bb) subject to the discretion of the Secretary, for the provision or facilitation of training for such performance; and

"(cc) subject to the discretion of the Secretary, for the suspension or termination by the Secretary of the qualified housing finance agency's responsibilities under subclause (I).

"(III) The Secretary's duty under subclause (II) shall not be construed to limit any responsibility assumed by a State or unit of general local government with respect to any particular property under subclause (I).

"(ii) PROCEDURE.—The Secretary shall approve a mortgage for the provision of mortgage insurance subject to the procedures authorized by this paragraph only if, not less than 15 days prior to such approval, prior to any approval, commitment, or endorsement of mortgage insurance on the property on behalf of the Secretary, and prior to any commitment by the qualified housing finance agency to provide financing under the risk-sharing agreement with respect to the property, the qualified housing finance agency submits to the Secretary a request for such approval, accompanied by a certification of the State or unit of general local government that meets the requirements of clause (iii). The Secretary's approval of any such certification shall be deemed to satisfy the Secretary's responsibilities under the National Environmental Policy Act of 1969 and such other provisions of law as the regulations of the Secretary specify insofar as those responsibilities relate to the provision of mortgage insurance on the property that is covered by such certification.

"(iii) CERTIFICATION. A certification under the procedures authorized by this paragraph shall

"(I) be in a form acceptable to the Secretary;

"(II) be executed by the chief executive officer or other officer of the State or unit of general local government who qualifies under regulations of the Secretary;

"(III) specify that the State or unit of general local government under this section has fully carried out its responsibilities as described under clause (i); and

"(IV) specify that the certifying officer consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 and under each provision of law specified in regulations issued by the Secretary insofar as the provisions of such Act or such other provisions of law apply pursuant to clause (i), and is authorized and consents on behalf of the State or unit of general local government and himself or herself to accept the jurisdiction of the Federal courts for the purpose of enforcement of the responsibilities as such an official.

"(iv) APPROVAL BY STATES. In cases in which a unit of general local government carries out the responsibilities described in clause (i), the Secretary may permit the State to perform those actions of the Secretary described in clause (ii) and the performance of such actions by the State, where permitted by the Secretary, shall be deemed to satisfy the Secretary's responsibilities referred to in the second sentence of clause (ii).

"(B) LEAD-BASED PAINT POISONING PREVENTION. In carrying out the requirements of section 302 of the Lead-Based Paint Poisoning Prevention Act, the Secretary may provide by regulation for the assumption of all or part of the Secretary's duties under such Act by qualified housing finance agencies, for purposes of this section.

"(C) CERTIFICATION OF SUBSIDY LAYERING COMPLIANCE. The requirements of section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 may be satisfied in connection with a commitment to insure a mortgage under this subsection by a certification by a housing credit agency (including an entity established by a State that provides mortgage insurance) to the Secretary that the combination of assistance within the jurisdiction of the Secretary and other government assistance provided in connection with a property for which a mortgage is to be insured shall not be any greater than is necessary to provide affordable housing.

"(10) DEFINITIONS. For purposes of this subsection, the following definitions shall apply:

"(A) MORTGAGE. The term 'mortgage' means a first mortgage on real estate that is—

"(i) owned in fee simple; or

"(ii) subject to a leasehold interest that—

"(I) has a term of not less than 99 years and is renewable; or

"(II) has a remaining term that extends beyond the maturity of the mortgage for a period of not less than 10 years.

"(B) FIRST MORTGAGE. The term 'first mortgage' means a single first lien given to secure advances on, or the unpaid purchase price of, real estate, under the laws of the State in which the real estate is located, together with the credit instrument, if any, secured thereby. Any other financing permitted on property insured under this section must be expressly subordinate to the insured mortgage.

"(C) UNIT OF GENERAL LOCAL GOVERNMENT; STATE. The terms 'unit of general local government' and 'State' have the same meanings as in section 102(a) of the Housing and Community Development Act of 1974.".

(b) DEFINITION OF MULTIFAMILY HOUSING Section 544(1) of the Housing and Community Development Act of 1992 (12 U.S.C. 1707 note) is amended to read as follows:

"(1) The term 'multifamily housing' means housing accommodations on the mortgaged property that are designed principally for residential use, conform to standards satisfactory to the Secretary, and consist of not less than 5 rental units on 1 site. These units may be detached, semidetached, row house, or multifamily structures.".

SEC. 323. SUBSIDY LAYERING REVIEW.

Section 911 of the Housing and Community Development Act of 1992 (42 U.S.C. 3545 note) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) CERTIFICATION OF SUBSIDY LAYERING COMPLIANCE. The requirements of section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 may be satisfied in connection with a project receiving assistance under a program that is within the jurisdiction of the Department of Housing and Urban Development and under section 42 of the Internal Revenue Code of 1986 by a certification by a housing credit agency to the Secretary, submitted in accordance with guidelines established by the Secretary, that the combination of assistance within the jurisdiction of the Secretary and other government assistance provided in connection with a property for which assistance is to be provided within the jurisdiction of the Department of Housing and Urban Development and under section 42 of the Internal Revenue Code of 1986 shall not be any greater than is necessary to provide affordable housing."; and

(2) by striking subsection (c) and inserting the following:

"(c) REVOCATION BY SECRETARY. If the Secretary determines that a housing credit agency has failed to comply with the guidelines established under subsection (a), the Secretary—

"(1) may inform the housing credit agency that the agency may no longer submit certification of subsidy layering compliance under this section; and

"(2) shall carry out section 102(d) of the Housing and Urban Development Reform Act relating to affected projects allocated a low-income housing tax credit pursuant to section 42 of the Internal Revenue Code of 1986.".

Subtitle C—Rural Housing

SEC. 331. TECHNICAL CORRECTION TO RURAL HOUSING PRESERVATION PROGRAM.

Section 515(c)(1) of the Housing Act of 1949 (42 U.S.C. 1485(c)(1)) is amended by striking "December 21, 1979" and inserting "December 15, 1989".

AMENDMENT NO. 1215

(Purpose: To make a series of corrections)

Mr. BAUCUS. Mr. President, on behalf of Senate RIEGLE and others, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS] for Mr. RIEGLE, for himself, Mr. D'AMATO, Mr. SARBANES, Mr. BOND, Mr. DOMENICI, and Mr. BINGAMAN, proposes an amendment numbered 1215.

Mr. BAUCUS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 80, after line 25, insert the following new paragraph:

"(3) FORECLOSURE SALE. In carrying out this section, the Secretary shall—

"(A) prior to foreclosing on any multifamily housing project held by the Secretary, notify both the unit of general local government in which the property is located and the tenants of the property of the proposed foreclosure sale; and

"(B) upon disposition of a multifamily housing project through a foreclosure sale, determine that the purchaser is capable of implementing a sound financial and physical management program that is designed to enable the project to meet anticipated operating and repair expenses to ensure that the project will remain in decent, safe, and sanitary condition.

On page 87, line 4, strike "unsubsidized".

On page 87, line 10, insert "otherwise" after "who are" .

On page 87, line 11, strike "such" and insert ", in accordance with the requirements of subparagraph (A), (B), or (D) of paragraph (1)," after "assistance".

On page 87, line 17, strike "Actions" and insert "With respect to subsidized or formerly subsidized projects, actions".

On page 87, line 17, strike "also".

On page 101, line 2, strike "disposition of, or" and insert "demolition of,".

On page 101, line 3, insert "or conversion in the use of," after "to,".

On page 101, lines 9 through 11, strike "not owned by the Secretary (and for which the Secretary is not mortgagee in possession)" and insert "subject to a mortgage held by the Secretary".

On page 101, line 13, insert ", if the Secretary has authorized the demolition of, repairs to, or conversion in the use of such multifamily housing project" before the period.

On page 103, line 16, insert ", unsubsidized," after "subsidized".

On page 105, line 20, insert ", on an aggregate basis, which highlights the differences, if any, between the subsidized and the unsubsidized inventory" before the period.

Beginning on page 105, strike line 21 and all that follows through page 106, line 12, and insert the following:

"(1) the average and median size of the projects;

"(2) the geographic locations of the projects, by State and region;

"(3) the years during which projects were assigned to the Department, and the average and median length of time that projects remain in the HUD-held inventory;

"(4) the status of HUD-held mortgages;

"(5) the physical condition of the HUD-held and HUD-owned inventory;

"(6) the occupancy profile of the projects, including the income, family size, race, and ethnic origin of current tenants, and the rents paid by such tenants;

"(7) the proportion of units that are vacant;

"(8) the number of projects for which the Secretary is mortgagee in possession;

"(9) the number of projects sold in foreclosure sales;

"(10) the number of HUD-owned projects sold;

On page 108, line 6, insert "and" after the semicolon.

On page 108, line 8, strike "(j)" and insert "(i)".

On page 108, line 8, strike "; and" and insert ".".".

On page 108, strike lines 9 through 15.

On page 113, line 9, before the period insert the following: ", except that nothing in this clause shall have the effect of altering the provisions of an existing regulatory agreement or federally insured mortgage on the property".

On page 114, line 15, strike "and".

On page 114, line 22, strike the period at the end and insert "; and".

On page 114, between lines 22 and 23, insert the following new paragraph:

(9) by adding at the end the following new subsection:

"(k) IDENTITY OF INTEREST MANAGING AGENT. For purposes of this section, the term 'identity of interest managing agent' means an ownership entity, or its general partner or partners, which has an ownership interest in and which exerts effective control over the property's ownership.".

On page 114, between lines 22 and 23, insert the following new subsection:

(b) IMPLEMENTATION.—The Secretary shall implement the amendments made by this section by regulation issued after notice and opportunity for public comment. A proposed rule shall be published not later than March 1, 1994. The notice shall seek comments primarily as to the definition of the terms 'ownership interest in' and 'effective control', as such terms are used in the definition of identity of interest managing agent.

On page 114, line 23, strike "(b)" and insert "(c)".

On page 115, line 2, strike "this Act" and insert "the final regulations implementing the amendments made by this section" before the semicolon.

On page 166, beginning on line 21, strike "Such preference" and all that follows through line 24 and insert the following: "Such preference shall not preclude the selection by the Secretary of other meritorious applications, particularly applications which address urgent or severe crime problems or which demonstrate especially promising approaches to reducing crime. Such preference shall not be construed to require continuation of activities determined by the Secretary to be unworthy of continuation.".

On page 177, between lines 8 and 9, insert the following new sections:

SEC. 311. ASSUMPTION OF ENVIRONMENTAL REVIEW RESPONSIBILITIES UNDER UNITED STATES HOUSING ACT OF 1937 PROGRAMS.

Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following new section:

"SEC. 26. ENVIRONMENTAL REVIEWS.

"(a) IN GENERAL.—

"(1) RELEASE OF FUNDS.—In order to assure that the policies of the National Environmental Policy Act of 1969 and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the expenditure of funds under this title, and to assure to the public undiminished protection of the environment, the Secretary may, under such regulations, in lieu of the environmental protection procedures otherwise applicable, provide for the release of funds for projects or activities under this title, as specified by the Secretary upon the request of a public housing agency under this section, if the State or unit of general local government, as designated by the Secretary in accordance with regulations, assumes all of the responsibilities for environmental review, decisionmaking, and action pursuant to such Act, and such other provisions of law as the regulations of the Secretary may specify, which would otherwise apply to the Secretary with respect to the release of funds.

"(2) IMPLEMENTATION.—The Secretary, after consultation with the Council on Environmental Quality, shall issue such regulations as may be necessary to carry out this section. Such regulations shall specify the programs to be covered.

"(b) PROCEDURE.—The Secretary shall approve the release of funds subject to the procedures authorized by this section only if, not less than 15 days prior to such approval and prior to any commitment of funds to such projects or activities, the public housing agency has submitted to the Secretary a request for such release accompanied by a certification of the State or unit of general local government which meets the requirements of subsection (c). The Secretary's approval of any such certification shall be deemed to satisfy the Secretary's responsibilities under the National Environmental Policy Act of 1969 and such other provisions of law as the regulations of the Secretary specify insofar as those responsibilities relate to the release of funds which are covered by such certification.

"(c) CERTIFICATION.—A certification under the procedures authorized by this section shall—

"(1) be in a form acceptable to the Secretary;

"(2) be executed by the chief executive officer or other officer of the State or unit of general local government who qualifies under regulations of the Secretary;

"(3) specify that the State or unit of general local government under this section has fully carried out its responsibilities as described under subsection (a); and

"(4) specify that the certifying officer—

"(A) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 and agrees to comply with each provision of law specified in regulations issued by the Secretary insofar as the provisions of such Act or other such provision of law apply pursuant to subsection (a); and

"(B) is authorized and consents on behalf of the State or unit of general local government and himself or herself to accept the jurisdiction of the Federal courts for the purpose of enforcement of his or her responsibilities as such an official.

"(d) APPROVAL BY STATES.—In cases in which a unit of general local government carries out the responsibilities described in subsection (c), the Secretary may permit the State to perform those actions of the Secretary described in subsection (b) and the performance of such actions by the State, where permitted by the Secretary, shall be deemed to satisfy the Secretary's responsibilities referred to in the second sentence of subsection (b).".

SEC. 312. INCREASED STATE FLEXIBILITY IN THE LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM.

Section 927 of the Housing and Community Development Act of 1992 (42 U.S.C. 8624) is amended—

(1) in subsection (a)—

(A) in the heading, by striking "(a) ELIGIBILITY.—" and inserting the following:

"(a) IN GENERAL.—";

(B) by striking "(including but not limited to the Low-Income Home Energy Assistance Program)"; and

(C) by inserting ", except as provided in subsection (d)" before the period at the end;

(2) in subsection (b)—

(A) by striking "such" and inserting "or receiving energy"; and

(B) by inserting before the period at the end "for any program in which eligibility or benefits are based on need, except as provided in subsection (d)"; and

(3) by adding at the end the following new subsection:

"(d) SPECIAL RULE FOR LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM.—For purposes of the Low-Income Home Energy Assistance Program, tenants described in subsection (a)(2) shall not have their eligibility automatically denied. States may consider the amount of the heating or cooling component of utility allowances received by such tenants when setting benefit levels under the Low-Income Home Energy Assistance Program. Any reduction in fuel assistance benefits must be reasonably related to the amount of the heating or cooling component of the utility allowance received. States shall ensure that the highest level of assistance will be provided to those households with the highest energy burdens, in accordance with section 2605(b)(5) of the Low-Income Home Energy Assistance Act of 1981.".

On page 187, strike line 11 and insert the following:

Subtitle C—Miscellaneous and Technical Amendments

On page 187, after line 16, insert the following new sections:

SEC. 332. CDBG TECHNICAL AMENDMENT.

Notwithstanding any other provision of law, the city of Slidell, Louisiana may submit, not later than 10 days following the enactment of this Act, and the Secretary of Housing and Urban Development shall consider and accept, the final statement of community development objectives and projected use of funds required by section 104(a)(1) of the Housing and Community Development Act of 1974 in connection with a grant to the city of Slidell under title 1 of such Act for fiscal year 1994.

SEC. 333. ENVIRONMENTAL REVIEW IN CONNECTION WITH SPECIAL PROJECTS.

(a) IN GENERAL.—

(1) RELEASE OF FUNDS.—In order to assure that the policies of the National Environmental Policy Act of 1969 and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the expenditure of funds for special projects appropriated under an appropriations Act for the Department of Housing and Urban Development, such as special projects under the head "Annual Contributions for Assisted Housing" in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993, and to assure to the public undiminished protection of the environment, the Secretary of Housing and Urban Development may, under such regulations, in lieu of the environmental protection procedures otherwise applicable, provide for the release of funds for particular special projects upon the request of recipients of special projects assistance, if the State or unit of general local government, as designated by the Secretary in accordance with regulations, assumes all of the responsibilities for environmental review, decisionmaking, and action pursuant to such Act, and such other provisions of law as the regulations of the Secretary specify, that would otherwise apply to the Secretary were the Secretary to undertake such special projects as Federal projects.

(2) IMPLEMENTATION.—The Secretary shall issue regulations to carry out this section only after consultation with the Council on Environmental Quality. Such regulations shall—

(A) provide for monitoring of the performance of environmental reviews under this section;

(B) in the discretion of the Secretary, provide for the provision or facilitation of training for such performance; and

(C) subject to the discretion of the Secretary, provide for suspension or termination by the Secretary of the assumption under paragraph (1).

(3) RESPONSIBILITIES OF STATE OR UNIT OF GENERAL LOCAL GOVERNMENT.—The Secretary's duty under paragraph (2) shall not be construed to limit any responsibility assumed by a State or unit of general local government with respect to any particular release of funds under paragraph (1).

(b) PROCEDURE.—The Secretary shall approve the release of funds for projects subject to the procedures authorized by this section only if, not less than 15 days prior to such approval and prior to any commitment of funds to such projects, the recipient submits to the Secretary a request for such release, accompanied by a certification of the State or unit of general local government which meets the requirements of subsection (c). The Secretary's approval of any such certification shall be deemed to satisfy the Secretary's responsibilities under the National Environmental Policy Act of 1969 and such other provisions of law as the regulations of the Secretary specify insofar as those responsibilities relate to the releases of funds for special projects to be carried out pursuant thereto which are covered by such certification.

(c) CERTIFICATION.—A certification under the procedures authorized by this section shall—

(1) be in a form acceptable to the Secretary;

(2) be executed by the chief executive officer or other officer of the State or unit of general local government who qualifies under regulations of the Secretary;

(3) specify that the State or unit of general local government under this section has fully carried out its responsibilities as described under subsection (a); and

(4) specify that the certifying officer—

(A) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 and agrees to comply with each provision of law specified in regulations issued by the Secretary insofar as the provisions of such Act or other such provision of law apply pursuant to subsection (a); and

(B) is authorized and consents on behalf of the State or unit of general local government and himself or herself to accept the jurisdiction of the Federal courts for the purpose of enforcement of the responsibilities as such an official.

(d) APPROVAL BY STATES.—In cases in which a unit of general local government carries out the responsibilities described in subsection (a), the Secretary may permit the State to perform those actions of the Secretary described in subsection (b) and the performance of such actions by the State, where permitted by the Secretary, shall be deemed to satisfy the Secretary's responsibilities referred to in the second sentence of subsection (b).

At the appropriate place, insert the following new section:

SEC. ___. MOUNT RUSHMORE COMMEMORATIVE COIN ACT.

(a) DISTRIBUTION OF SURCHARGES.—Section 8 of the Mount Rushmore Commemorative Coin Act (31 U.S.C. 5112 note) is amended by striking paragraphs (1) and (2) and inserting the following:

"(1) the first $18,750,000 shall be paid during fiscal year 1994 by the Secretary to the Society to assist the Society's efforts to improve, enlarge, and renovate the Mount Rushmore National Memorial; and

"(2) the remainder shall be returned to the United States Treasury for purposes of reducing the national debt.".

(b) RETROACTIVE EFFECT.—If, prior to the date of enactment of this Act, any amount of surcharges have been received by the Secretary of the Treasury and paid into the United States Treasury pursuant to section 8(1) of the Mount Rushmore Commemorative Coin Act, as in effect prior to the date of enactment of this Act, that amount shall be paid out of the Treasury to the extent necessary to comply with section 8(1) of the Mount Rushmore Commemorative Coin Act, as in effect after the date of enactment of this Act. Amounts paid pursuant to the preceding sentence shall be out of funds not otherwise appropriated.

At the appropriate place, insert the following new section:

SEC. ___. MINORITY COMMUNITY DEVELOPMENT GRANTS FOR COMMUNITIES WITH SPECIAL NEEDS.

(a) AUTHORIZATION.—There are hereby authorized to be expended from sums appropriated for water infrastructure financing and other wastewater activities for cities with special needs, not more than $25,000,000, for wastewater treatment projects, including the construction of facilities and related expenses in minority communities with special needs to—

(1) improve the housing stock infrastructure in the special needs communities; and

(2) abate health hazards caused by groundwater contamination from septage in arid areas with high groundwater levels.

(b) TREATMENT PROJECTS.—The wastewater treatment projects authorized under this section shall include innovative technologies such as vacuum systems and constructed wetlands.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "cities with special needs" includes minority communities with special needs;

(2) the term "minority" means an African-American, a Hispanic-American, an Asian-American, or a Native American; and

(3) the term "minority community with special needs" means an unincorporated community—

(A) that, based on the latest census data, has a minority population in excess of 50 percent;

(B) that has been unable to issue bonds or otherwise finance a wastewater treatment system itself because its attempts to change its political subdivision have been rejected by the State legislature; and

(C) for which the State legislature has appropriated funds to help pay for a wastewater treatment project.

On page 73, amend the table of contents by inserting after the item relating to section 310 the following:

Sec. 311. Assumption of environmental review responsibilities under United States Housing Act of 1937 programs.
Sec. 312. Increased State flexibility in the Low-Income Home Energy Assistance Program.

On page 73, amend the table of contents by striking the item relating to subtitle C and inserting the following:

Subtitle C—Miscellaneous and Technical Amendments

On page 73, amend the table of contents by inserting after the item relating to section 331 the following:

Sec. 332. CDBG technical amendment.
Sec. 333. Environmental review in connection with special projects.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1215) was agreed to.

Mr. RIEGLE. Mr. President, I would like to offer my strong support for S. 1299—the Housing and Community Development Act of 1993. This bill is critically important because it responds to the multi-family crisis confronting the Department of Housing and Urban Development [HUD].

This year the Banking Committee held hearings on problems in HUD's multi-family portfolio. testimony indicated that HUD has experienced a significant increase in loan loss reserves for 1992 from $5.5 billion to $11.9 billion, in order to cover anticipated losses from future defaults on mortgages insured by HUD. We also heard how problems in HUD's multi-family programs are exacerbated by the current rules governing property disposition.

S. 1299 addresses these issues by providing greater flexibility in the disposition of HUD-owned multifamily properties while protecting affordability and preservation objectives in current law. This bill gives the Department new tools to facilitate disposition. It increases the Department's flexibility in disposing of properties and expedites the sales of properties. The expedited sales of HUD-owned properties will reduce the costs of holding and maintaining the properties in the inventory. This will free up HUD's resources to focus on preventing defaults on currently insured mortgages. the bill also provides tools designed to prevent such defaults from occurring and to minimize losses.

The bill includes several other initiatives to enhance existing public housing programs—making these programs more workable and flexible in meeting the needs of individual communities. S. 1299 also expands the scope of the existing Public Housing Drug Elimination Grant Program to pursue preventive approaches to fighting, not just drug related crime, but all types of crime in and around public housing developments.

S. 1299 will help create jobs for people living in economically distressed communities. It contains an economic development initiative which will allow Community Development Block Grant recipients who use the Section 108 Loan Guarantee Program to use grants to create viable economic development projects. The bill includes a UDAG "Amnesty" program. This program will permit cities to trade in outstanding UDAG grants in exchange for funds for other economic development projects.

Lastly, the bill contains several technical amendments to the HOME program and other technical changes which correct errors in recent legislation.

This bill represents an important first step in providing HUD with the flexibility and the tools it needs to begin to confront the crisis in its multifamily programs, in particular, and its management problems, in general. I want to commend Housing and Affairs Subcommittee Chairman SARBANES and his ranking Republican member, Senator BOND, as well as Senator D'AMATO for the bi-partisan spirit with which they have worked to put this bill together.

Mr. SARBANES. Mr. President, I rise tonight to thank the Senate for passing S. 1299—the Housing and Community Development Act of 1993.

Throughout this year, the Housing Subcommittee's principal objective has been to assist Secretary Henry Cisneros in revitalizing the Department of Housing and Urban Development. We all realize that it is crucial to first restore HUD's credibility in order for the agency to reemerge as a participant in efforts to revitalize our Nation's communities. S. 1299 makes important strides toward addressing HUD's difficulties.

The passage of S. 1299 culminates a careful process that began with a series of hearings that looked into key HUD issue areas. In April, the Housing Subcommittee examined the implementation of the HOME Investment Partnership Program. In May, the Banking Committee highlighted HUD management issues in general and the management of the Public Housing Program. And, in June, the Housing Subcommittee held a hearing on FHA multifamily insurance programs.

The goal in these hearings was to build a constructive record. The Housing Subcommittee invited witnesses who represented the best in their fields. The witnesses made useful suggestions as to how to move forward.

The administration sent up the Housing and Community Development Act of 1993 on July 27, which addressed many of the issues developed during the hearings. At the Banking Committee hearing the next day, Secretary Cisneros ably put forward the case for this legislation. Senators RIEGLE and I introduced the administration's bill as S. 1299 the same day at the hearing.

The Senate Banking Committee then worked through the administration's bill in a bipartisan fashion, consulting with the Department and others, and produced a stronger bill that reflects the efforts and suggestions of many different people. On October 19, the Banking Committee held a markup on S. 1299 and it was passed by unanimous vote out of committee.

S. 1299 is a pivotal piece of legislation and packed with helpful reforms. This legislation allows Secretary Cisneros to move forward in solving some of the most intractable problems of HUD, and it sets the stage for the larger reauthorization effort next year.

At the core of this legislation is a set of reforms addressing the problems facing the Federal Housing Administration's [FHA] multifamily insurance programs.

The evidence of distress in the FHA programs is compelling: the HUD-owned inventory of multifamily properties tripled between 1989 and 1992 to over 30,000 units. By the end of this year, as a result of foreclosure actions, the HUD-owned inventory will have doubled again to over 75,000 units. The inventory is growing because HUD cannot sell properties without providing expensive section 8 subsidies. The appropriations necessary to meet the subsidy requirements in current law are not available.

Existing law embodies a noble impulse: it seeks to preserve as many units of affordable housing as possible. In many communities, the FHA properties are some of the only units affordable to very low-income housrholds—some relaxation in the current requirements is imperative. Evidence suggests that HUD is a poor manager of these properties; it is of no benefit to existing tenants if their houses are poorly managed and become run down.

S. 1299 fully protects the very low-income tenants who currently occupy subsidized affordable housing units. They will continue to pay rent that does not exceed 30 percent of their income. I want to emphasize this because the committee has been very concerned about assuring access to affordable housing and providing adequate protections to tenants.

This legislation reduces the cost of property disposition by removing the requirement for future subsidies for units that are not currently subsidized. This legislation also permits HUD to use shallower subsidies and tenant-based assistance in places where current law would otherwise require more expensive project-based section 8 subsidies. Using these authorities, HUD should be able to cut by more than half the appropriations required over the next 5 years to facilitate disposition. At the same time, new authorizations in this legislation will give HUD the flexibility to set-aside more units for low-income families than could be preserved under current law and to try some creative approaches to preserving low-income housing should appropriations be available.

Unfortunately, the problems in managing the HUD-owned inventory are only the tip of the iceberg: HUD owns and services mortgages with a face value of over $7 billion. some $6.2 billion of these mortgages are delinquent—covering properties with 230,000 units. Further, the 1992 audit of the FHA insurance funds required HUD to increase the loan loss reserves on FHA insurance-in-force from $5.5 billion to $11.9 billion.

S. 1299 also takes some important steps toward preventing some of the $11.9 billion in projected losses from occurring. This legislation requires HUD to develop a streamlined mortgage refinancing program to take advantage of current low interest rates. This legislation also more clearly ties existing assistance programs to default prevention strategies. Civil money penalties are increased and made applicable to general partners and certain managing agents. And, legislation gives HUD clear authority to sell mortgages it holds as a way to relieve its overworked staff of servicing those mortgages. If HUD can sell its performing mortgages, FHA multifamily staff will be able to focus on the troubled mortgages in the portfolio that really deserve attention.

In addition to the multifamily reforms, S. 1299 offers significant improvements to other important HUD programs. Local governments using the HOME program are given greater flexibility to meet their individual housing needs. Most notably, the cumbersome two-tiered match under the HOME program is eliminated, and participating jurisdictions will have more flexibility to assist homeownership for low-income families.

S. 1299 takes a pivotal step toward correcting disincentives in the public housing program for tenants to seek work. Under current law, residents of public housing must pay 30 percent of income for rent; this 30 percent marginal tax is a huge disincentive for public housing residents to go to work. The legislation allows a public housing authority to exclude earned income from the calculation of how much rent a tenant should pay for tenants who decide to go to work. This exclusion would last 18 months and then be phased out.

Improvements to the severely distressed public housing revitalization program will make that program the premiere tool for transforming the worst public housing developments into viable communities.

S. 1299 also addresses the pervasiveness of crime in and around many public housing developments. This legislation greatly enhances the drug elimination grant program—which is referred to as "Community Partnerships Against Crime" or "COMPAC"—and upgrades the program to cover all crime prevention activities occurring in public housing—not just those that are related to drugs. Grants will now cover an array of prevention activities, ranging from community policing and security fences, to youth services and alcohol and drug treatment. Most importantly, COMPAC replaces 1-year competitive grants with 5-year funding. This will allow PHAs to run ongoing programs and to leverage community support for their efforts.

Finally, S. 1299 creates a new grant program in support of the existing, but underutilized Section 108 economic development program. Grants will be used to reduce the risk of investing in these projects, providing a more powerful economic development tool for needy communities.

All in all, this is a balanced package. S. 1299 has been very carefully worked out and I believe it gives HUD some very important tools that will enable HUD to come to grips with some of the problems confronting it.

In closing, I would like to thank Senator RIEGLE, Senator D'AMATO, and Senator BOND, and especially Secretary Cisneros for their assiduous work on this legislative package, as well as the time and energy that their staffs spent working on this legislation with us. The successful working relationship established with this legislation bodes well for future efforts on housing legislation.

Mr. D'AMATO. Mr. President, I am pleased to support the Housing and Community Development Act of 1993. I would like to acknowledge the constructive and bipartisan manner in which the Housing Subcommittee—chaired by Senator SARBANES and Senator BOND as the ranking Republican member—has advanced this important housing initiative. Working together with the administration, I believe that the Committee has produced a significant and promising bill.

The Housing and Community Development Act addresses growing problems that greatly concern me involving the Federal Housing Administration [FHA] multifamily property disposition program. Title I would equip the Department with new tools and powers to facilitate disposition.

The legislation will also provide incentives to facilitate the transition from welfare to work. We cannot promote community development that does not encourage work and education.

This legislation builds upon the success of the Public and Assisted Housing Drug Elimination Act of 1990 to create an expanded crime prevention program that will focus on safety and security. Residents of public and assisted housing should be able to live in an environment free of drugs, guns, and gang activity. Repressing criminal activities should be a primary objective of any responsible housing plan.

Mr. President, the entire Banking Committee has worked diligently over the past 3 years to develop significant housing legislation. I hope that the Secretary will work as diligently to implement this initiative, as well as previous legislation, to address the needs of our Nation's communities.

Mr. BINGAMAN. Mr. President, I am pleased to join my colleagues today in the amendment to the Housing and Community Development Act of 1993 that will authorize the construction of needed wastewater treatment projects in poor, unincorporated, communities with minority populations who, in spite of their best efforts, are unable to raise the funds to provide for this basic service. These communities cannot be overlooked.

I am especially pleased that this amendment has been enacted as it complements my efforts to provide funding for unincorporated communities who are too small, too poor, and unable to finance sewage projects through the existing Federal loan program or who are slightly too large to qualify for grants. One such community is the South Valley, an unincorporated community in Bernalillo county, NM. This is a semirural community with a minority population which has traditionally relied on septic systems. However, increasing density, a combination of soil characteristics, and a shallow water table now make the area susceptible to groundwater contamination. The local papers frequently contain stories of children suffering mysterious diseases attributed to the unhealthy water. Local sanitation officials recommend boiling the water.

The South Valley, however, lacks the tax base and governmental structure to fund needed infrastructure improvements and prevent these terrible conditions. And so, the residents have suffered.

I look forward to our finally being able to remedy these conditions. I am pleased that combined efforts such as this amendment as well as the bill that I introduced to amendment the Clean Water Act to provide funding for unincorporated communities will be successful.

Mr. BOND. Mr. President, I state my strong support for S. 1299, the Housing and Community Development Act of 1993. This bill was reported out of the Committee on Banking, Housing, and Urban Affairs by unanimous vote on October 19, 1993. S. 1299, as amended in the full Committee, is a significant piece of legislation that addresses a number of issues that are central to the ability of the Department of Housing and Urban Development to carry out the requirements of a number of its programs. In particular, S. 1299 will provide HUD with needed flexibility in the disposition of its multifamily housing inventory, provide HUD with needed authority to help prevent the default of HUD-insured mortgages, make several reforms to the Public Housing and HOME programs, and establish the Community Partnership Against Crime [Compac] Program.

S. 1299, as amended, is designed, in particular, to address a crisis in HUD's FHA Multifamily Housing Property Disposition Program by providing HUD with significant flexibility to dispose of an ever-growing inventory of FHA insured multifamily housing projects which are acquired by HUD through either foreclosure or by assignment.

HUD testified before the Senate Housing Subcommittee on June 22, 1993, that the FHA Multifamily Housing Property Disposition Program is very costly to the Department and that section 203 of the Housing and Community Development Amendments of 1978 limits severely the ability of HUD effectively and efficiently to dispose of properties in its multifamily housing property disposition inventory. As a practical matter, HUD has construed section 203 of the 1978 amendments to require HUD to provide 15-year project-based section 8 assistance for most of the units in housing projects held by HUD in its multifamily housing inventory. HUD does not and will not have enough 15-year project-based section 8 assistance to meet the section 203 disposition requirements. As a result, HUD has become an involuntary landlord without the administrative capacity to maintain the physical needs of its projects.

In particular, as of April 1, 1993, HUD owned approximately 189 multifamily housing projects with some 31,652 units and was mortgagee-in-possession for approximately 102 other multifamily housing projects with some 15,667 units. Moreover, as of April 1, there were approximately 287 multifamily housing projects or some 42,738 units in the pipeline awaiting possible foreclosure by HUD. The cost of disposition of these units under section 203 is currently estimated at some $5.4 billion.

Moreover, HUD holds delinquent mortgages on properties containing more than 230,000 units. To cover these future estimated losses, HUD was required to increase the insurance loss reserves from $5.5 billion in 1991 to $11.9 billion in 1992.

These are significant and costly obligations. In response to these concerns, I introduced with Senator D'AMATO on July 22, 1993 S. 1279, the FHA Multifamily Housing Flexible Disposition Act of 1993. S. 1279 would have provided HUD, for 18 months, with complete flexibility to dispose of its multifamily housing property inventory while balancing the need to maintain the low-income nature of the housing. S. 1299, as amended, does not go as far as S. 1279. Nevertheless, S. 1299 responsibly addresses this crisis by providing HUD with significant flexibility to dispose of these multifamily housing projects while requiring HUD to continue to provide housing assistance or rent affordability to, at a minimum, the low-income households already receiving assistance. The new flexibility includes the use of section 8 project-based and tenant-based assistance, bridge loans to nonprofits and public entities, rehabilitation grants, discounted sales prices, and the use of rent restrictions in lieu of section 8 subsidies. I emphasize that these provisions are bipartisan, flexible, will help to guarantee good housing quality standards, and, most importantly, will protect low-income households already receiving housing assistance.

This bill also provides a number of modest changes to current housing law to help HUD assess and minimize the risk of mortgage default with regard to the FHA insured multifamily inventory. For example, the bill would make several noncontroversial revisions to the Flexible Subsidy Program to ensure that housing repair needs are better and more appropriately addressed.

I also mention several important legislative provisions which help reform the Public Housing Program. For example, the bill provides for an 18-month disallowance of income counting for rent in public housing for tenants who obtain employment where previously unemployed for one or more years. The bill also allows the reasonable use of ceiling rents in public housing based on market rental value. Both provisions are intended to encourage public housing tenants to seek employment and should result in better income mixes in public housing and positive role models. I strongly support these provisions, and I look forward to a larger dialogue on welfare reform, including public housing reform, during next year's housing and community development reauthorization bill.

This bill also makes a number of noncontroversial changes to the HOME Program which should help localities better use this program. In particular the HOME match will be a flat 25 percent local match as opposed to the current 2-tiered match, which includes a 30 percent local match for new construction. Moreover, a provision of mine is intended to provide communities which are declared Federal disaster areas with more flexibility in using their annual HOME and CDBG funding. In addition, I have proposed a provision to prevent the double payment of energy subsidies for certain residents of HUD assisted housing who also receive assistance under the Low-Income Home Energy Assistance Act [LIHEAP]. This provision should help ensure the equitable use of LIHEAP payments.

Finally, I want to mention the Community Partnership Against Crime [Compac] Program. COMPAC replaces the Public and Assisted Housing Drug Elimination Program. COMPAC is somewhat controversial because the fiscal year 1994 HUD/VA Appropriations Act provides a formula that ensures that large PHA's with 1250 or more units will receive 75 percent of drug elimination funding unless COMPAC provides otherwise. S. 1299, as amended, will provide HUD with the responsibility of determining the COMPAC funding formula, while, at the same time, providing a preference for PHA's, including small PHA's, with ongoing drug elimination programs. I am also encouraged that, under COMPAC, grants will be awarded based on 5-year plans. This will significantly reduce the administrative burden on small PHA's which do not have the resources to submit new drug elimination grant applications every year.

In conclusion, this bill is an excellent example of a bipartisan solution to the costly problem of HUD's disposition of its multifamily housing inventory. It also makes a number of other important, although noncontroversial, housing policy decisions. Nevertheless, I emphasize that I expect a substantial dialogue on housing and community development programs as part of next year's reauthorization bill. We need comprehensive approaches to housing and community development issues that work and work on the local level.

I urge my colleagues to support S. 1299. Thank you, Mr. President.

Mr. DECONCINI. Mr. President, I rise today to address one issue contained in S. 1299, The Housing and Community Development Act of 1993. In particular, I am concerned about the Community Partnerships Against Crime program, which is intended to replace the existing drug elimination grant program. At the outset, let me commend the Committee for the fine work it has done in crafting this comprehensive legislation and make it clear that I do not oppose it.

Nonetheless, I am concerned about the possible loss of funding for smaller PHAs under the Community Partnerships Against Crime program. According to the report accompanying S. 1299, it is expected that all large public housing authorities will be included in the high-crime category, and thus be eligible for funding. However, it is a fact of life that crime is not limited only to large public housing authorities, and I am concerned that in the rush to stop crime in large PHAs, smaller PHAs may be denied access to funding which they need to combat crime. I am thankful to the Committee for its explicit recommendation to HUD that they include some smaller housing authorities in the high-crime category.

If this legislation is enacted, I intend to urge the Secretary to make smaller PHAs eligible for funding under this program. To date, I have received letters from two of the rural communities in my state of Arizona expressing grave concern that they may not be able to acquire the funds necessary to make their housing authorities places where people can live free of fear of crime and violence. I do not rise to begrudge these large PHAs with high crime rates their funding; rather, I rise to note the need to make all PHAs, regardless of size and location, suitable places to live.

It is beyond dispute that one of the most pressing problems confronting this Nation is how to deal with crime. Crime in this Nation touches all walks of life, and all types of communities. For all Americans, whether they live in a large urban center, or in a rural town, the fear of crime is real and personal. An individual living in a small PHA who is victimized by crime, is no less worthy of our attention than is a victim living in a large urban PHA.

I want to reiterate that this is good legislation, which addresses many diverse and difficult issues. I will support this bill, and I will do so with the hope and expectation that Secretary Cisneros will make a portion of the money authorized under the Community Partnerships Against Crime program available to smaller PHAs such as those in Nogales and Chandler, Arizona.

Mr. DOMENICI. Mr. President, I am generally pleased with the bill we will pass here this evening, and I compliment the bipartisan approach of the Banking Committee and the Housing Subcommittee in achieving this compromise.

The proposal addresses the crisis in multifamily property disposition in a responsible way, providing the Secretary of HUD with the authority and flexibility which will allow speedier disposition of HUD's multifamily housing inventory.

Before I speak about the specific provisions which deal with HUD's multifamily inventory disposition, I want to talk about community development and housing priorities in general.

The President has made community development an important priority with his initiative to create Community Development Financial Institutions. Secretary Cisneros has made reinventing HUD his mission.

While I support the creation of community development financial institutions and I wholeheartedly agree that HUD needs to be reinvented, my top priority as a member of the Housing subcommittee is helping the South Valley of Bernillio county, New Mexico.

In the Housing Banking and Urban Affairs Committee we spend a great deal of time working on ways to foster greater community development, and improved housing conditions for our nation's people.

The Senate Housing Banking and Urban Committee spends a lot of time working on programs to increase the quality of life in our neighborhoods. These are the very same objectives I have for the South Valley.

The leadership of the Senate Banking Committee has been very committed and has gone the extra mile to help me.

There is a moratorium on building multifamily housing in this community until the water and sewage problem is corrected.

The situation is so bad there is almost a daily story in the New Mexico newspapers.

The headline on October 16: "South Valley Residents Blame Water for Girl's Illness."

The headline on October 18: "Residents Learn to Live in Sewage."

The headline on October 30: "Living in a Cesspool."

Other recent headlines, "Girl's Illness May Remain Mystery"; "Pools of 'Gray Water' surround Girl's Mobile Home"; "State seeks more extensive tests on the water from ill girl's house."

If you lived in this neighborhood, your drinking water well is probably on top of your next door neighbor's septic tank leach field.

In addition to the obvious health hazard, your drinking water is sewage scented.

You would live with murky pools of water in your yard. Your vegetable garden and flower garden struggle to co-exist with raw sewage. In addition to digging holes to plant tomatoes and peppers, sometimes you would have to dig a hole to bury a neighbor's overflowing sewage.

There is often a shortage of water so your daily shower is often cut short.

One of the provisions in this bill will authorize some of the money needed to improve the housing stock infrastructure and fund a waste water treatment and drinking water improvement program.

For almost thirty years this community has suffered deteriorating housing stock, and the health hazard of inadequate sewer and water facilities.

The situation is so critical that there is a moratorium on building desperately needed multifamily housing units. These are units that could greatly improve the housing stock of the area.

This community has been untiring in its efforts to help itself. So many times, its efforts have been ignored or rejected.

Nevertheless, its leaders should be commended. They never gave up.

The leaders of South Valley and I have been meeting on a regular basis for nine and one-half years to develop an action plan to address this problem. Together our efforts have led us down several paths with varying degrees of success.

There have been a few successes at the local level which include the following: The Bernalillo County Commission adopted a one-eighth cent tax on gross receipts in and for the unincorporated area of the South Valley for solid waste, water and sewer. The City of Albuquerque, in partnership with Bernalillo County, has contributed its resources in the areas of research, planning and education. The University of New Mexico (Institute of Public Law) provided a point study to the New Mexico Legislature which led to an appropriation of funds for this project. These funds must be spent by the end of 1994. This deadline makes timing critical to create this worthy partnership between state, local and federal resources.

This authorization, if it is enacted into law, will end thirty years of frustration, denial and avoidable health problems in this community.

Today, the Congress will be helping to make a better neighborhood and provide better housing conditions for the South Valley. Because of the conditions of the soil, the community is going to use technology that may be useful in other communities.

I want to thank Senate Housing, Banking and Urban Affairs Chairman Riegle and Ranking Member, Senator D'Amato. I also appreciate the support of Senator Sarbanes and Senator Bond who are the chairman and ranking member of the Housing Subcommittee. And I would be remiss if I didn't thank their staffs for all the help in getting this provision passed.

I now would like to speak on some of the other provisions included in this bill dealing with HUD multifamily crisis.

This bill will offer the Secretary the discretion to preserve the inventory of affordable housing upon sale of these properties by means other than mandating Section 8 subsidies. In doing so, the bill will assure protection to current tenants and the maintenance of our affordable housing inventory, even as it facilitates the sale of HUD-held multifamily properties.

This compromise bill will enhance HUD's ability to prevent future foreclosures on insured mortgages and other HUD assisted multifamily projects which are troubled.

The Secretary will have authority to use a variety of tools to meet the minimum subsidy requirements when disposing of HUD-held multifamily properties, while imposing maintenance standards to be met by the purchasers and managers of these properties.

Mr. President, this proposal to facilitate disposition of HUD's multifamily property inventory has met a high standard of balancing the federal budgetary concerns we all share with the need to provide and preserve affordable housing.

In addition, this bill makes important reforms to public housing programs, provides incentives for new community development activities, and authorizes the COMPAC program for crime prevention initiatives in public housing facilities.

I am particularly grateful to the managers for addressing my concerns about the distribution of funds for the COMPAC program. In this bill, there will be a preference under COMPAC for on going drug and crime reduction programs funded either under the drug elimination grant program or public housing modernization. The language of the bill will allow HUD to determine how to distribute COMPAC funds with the proviso that the HUD Secretary "shall accord a preference to applicants for grants under this paragraph if the grant is to be used to continue or expand activities eligible for assistance" under current law.

Mr. LAUTENBERG. Mr. President, I rise to highlight provisions included in the bill to authorize the Community Partnerships Against Crime [COMPAC] Act, which will expand and strengthen the Federal Government's commitment to fighting crime in public and assisted housing. COMPAC is based on legislation I developed with the Secretary of Housing and Urban Development, Henry Cisneros, and which I introduced as a freestanding bill, S. 1297, on July 27 of this year.

Mr. President, COMPAC builds on a program I created in 1988, the Public and Assisted Housing Drug Elimination Act, or PAHDEA. PAHDEA is a competitive grant program that provides funds to housing authorities and residents for a wide variety of anti-drug initiatives. Funds can be used to hire additional security personnel; to establish, equip and train tenant patrols; to make physical improvements designed to enhance security; and for initiatives designed to reduce the use of illegal drugs, such as prevention, referral and treatment programs.

PAHDEA has had a significant, positive impact in housing authorities throughout the country. Residents in many areas report substantial improvements in their living environments, as drug dealing and crime have been eliminated. However, the program remains limited in scope, and the need for assistance has overwhelmed available resources.

The Community Partnerships Against Crime would expand and enhance PAHDEA in several ways.

First, it would broaden PAHDEA's scope to apply to all types of crime, not simply crime that is drug-related. While drugs remain a serious problem in many housing developments, and are directly related to many crimes, there are other types of criminal activity that also demand a response.

Second, COMPAC would significantly increase the resources available to fight crime. In fiscal year 1993, $175 million was available for grants to public housing authorities under PAHDEA. This was sufficient to fund anti-drug programs at only 438 of the roughly 3200 housing authorities nationwide. The scarcity of funding has discouraged many authorities from even applying. Of those that have applied, 48 percent have been rejected, including some with serious crime problems.

In line with ongoing efforts to authorize COMPAC, Congress increased funding for PAHDEA in fiscal year 1994 to $265 million. This bill proposes to increase the program's authorization to $325 million in fiscal year 1995. If fully funded, this increase should better meet the demand for funding, though inevitably some needs will remain unmet.

A third feature of COMPAC is that it will encourage involvement of a broad range of community-based groups, and residents of neighboring HUD-owned or assisted housing, in the development and implementation of anti-crime plans. This reflects Secretary Cisneros's commitment to working on problems through a broad-based, community-wide approach. I agree entirely with this approach, and believe it is essential to the success of anti-crime programs. Under COMPAC, as under PAHDEA, authorities that involve the community will be at a significant competitive advantage in the grant selection process. The legislation goes beyond the existing program in highlighting the importance of involving not only community-based groups, but neighboring residents as well.

COMPAC also emphasizes the promotion of community policing initiatives involving interaction between law enforcement officers and members of the community on proactive crime control and prevention. Community policing has proven an effective approach in many parts of the country, and already is making a real difference in many housing projects.

The next major element of COMPAC would provide housing authorities with greater certainty of long-term funding once they win a grant under the program. This responds to concerns that have been raised by some housing authorities about the current program, which makes grants available for one- or two-year periods. Many authorities have found that the lack of long-term certainty has made it more difficult to hire drug counselors and other personnel, and to plan their anti-crime programs.

To respond to the need for greater certainty, COMPAC would allow housing authorities to apply for renewable grants. So long as they perform in a satisfactory manner, grantees would be assured of funding for five years, without the necessity of competing against other housing authorities for the scarce resources available.

In addition, the legislation allows the Secretary to provide a scoring preference to housing authorities seeking to extend programs funded by a prior grant. This also will provide greater long-term certainty for grantees. However, the preference would not preclude the selection by the Secretary of other meritorious applications. Nor would the preference be available for previously funded anticrime programs that have performed poorly, or which otherwise are unworthy of continuation.

I am hopeful that the language included in the manager's amendment will provide HUD with the flexibility necessary to balance our competing goals in allocating grants under the program. On one hand, as I've noted, housing authorities do need a reasonable degree of long-term certainty in planning and implementing their anticrime plans. On the other hand, especially given the scarcity of funds, it is important to target resources to those housing authorities with the greatest needs, the best anticrime plans, and the best working relationships with their residents and local communities.

I again want to emphasize this last point. Research has shown that for anticrime programs to work, it is essential that authorities work closely with their residents and with the local community. This means, for example, involving youth groups, drug counseling centers, and schools, enlisting the support of local elected officials, and ensuring that local law enforcement agencies are committed to addressing the crime problem in public housing. If properly implemented, the preference accorded in the legislation to previous grantees will not unreasonably reduce the programs's incentive to maintain aggressive outreach efforts.

Another element of COMPAC, Mr. President, is that it allows the Department to allocate a portion of appropriated funds to housing authorities with especially severe crime problems.

Mr. President, there has been considerable debate this year about the manner in which HUD has allocated grants between large and small housing authorities. For the past several years, most of the largest housing authorities have been successful in winning grants. This year, however, of the 149 large PHA's that applied for funding, 23 failed to win grants. Among those who failed to win grants were the housing authorities in Baltimore, Cleveland, Louisville, and Washington, DC.

Largely because of these rejected applications, some have suggested that the program has been unfair to the large housing authorities. If true, this would be disturbing, as most of the largest authorities do have severe crime problems.

The facts, however are not easy to pin down. It turns out that several of the large housing authorities that failed to win grants submitted deficient applications or were plagued by management problems. And while 85 percent of large PHA applicants won grants, the success rate for other housing authorities was less than 50%.

There has also been confusion over the relative crime rates in large and small housing authorities. Earlier this year, the VA, HUD and Independent Agencies Appropriations Bill for Fiscal Year 1994 set aside 75 percent of PAHDEA funding for the largest housing authorities. In justifying this allocation, the Senate report on the bill stated that HUD's figures show that 85% of crime in public housing is in the largest housing authorities.

HUD's actual estimate, however, is that about 75% of the crime problem is in the large public housing authorities. And even that figure is subject to dispute. HUD's estimate is based in large measure on data that reflects crime rates on a city-by-city basis. The smaller housing authorities dispute HUD's conclusion, and point out that many medium- and small-sized cities have low crime problems overall, but have serious problems in housing projects and other pockets of poverty.

Given the uncertainties involved, Mr. President, my preference has been to avoid an arbitrary statutory formula. In my view, Congress should leave HUD with the flexibility to determine an appropriate allocation after further consultation with interested parties, and exploration of the relative crime rates in more narrowly-defined areas.

While a 75% allocation to the largest authorities has already been established for fiscal year 1994 in the appropriations bill, this legislation would give HUD the discretion to determine an appropriate allocation of COMPAC funds in the future. Under the legislation, the Secretary would be allowed, but not required, to allocate a portion of annual appropriations for housing authorities with severe crime problems, which need not be limited to the largest authorities. Such an allocation could be made only by regulation issued after notice and opportunity for public comment. I think this kind of flexibility makes sense for now.

Mr. President, I want to thank Secretary Cisneros for his help and cooperation in putting together this legislation, and for his commitment to fighting crime in public housing. Assistant Secretary Joe Shuldiner, and the Director of the Office of Drug-Free Neighborhoods, Julie Fagin, also have been very cooperative in developing the bill, and I thank them for their help, and for their genuine commitment to the program.

I also want to express my appreciation to the Chairman of the Housing Subcommittee, Senator SARBANES, for his leadership and his support of the program. I look forward to continuing to work closely with him, and with Senator MIKULSKI, the Chairperson of the VA, HUD and Independent Agencies Subcommittee, to help ensure that COMPAC is a success.

Mr. LEAHY. Mr. President, I want to thank Senator SARBANES for including an amendment in the managers' package which will create jobs in Vermont. The measure will correct a ruling by the General Counsel's Office at the Department of Housing and Urban Affairs that has blocked the release of revolving loan funds across the country.

Mr. President, for several months, I have been trying to reverse a ruling that imposed an impossible catch-22 for releasing desperately needed capital. Unlike revolving loan funds under the CDBG program, the general counsel ruled that HUD could not permit the creation of a revolving loan fund from special purpose grants until an environmental assessment is completed on the projects capitalized under such a fund. That is an illogical and impossible condition for release. Environmental assessments cannot possibly be performed at sites which have not yet been identified, since HUD has not given approval for the loan fund.

Mr. President, the amendment offered by the managers to S. 1299 will put the responsibility of environmental assessments for special purpose revolving loans into the hands of States and local communities—not at HUD. I commend Senator SARBANES for including this provision and I thank him for his cooperation to eliminate this red tape.

Mr. SARBANES. Mr. President, as author and manager of S. 1299, I am pleased to have provided this assistance which is clearly important to Vermont. I would also note that Missouri faced a similar problem and Senator BOND has worked closely with the subcommittee on this matter.

The PRESIDING OFFICER. The question is on agreeing to the substitute amendment, as amended.

The substitute amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

(The text of the bill, as passed, will be printed in a future edition of the RECORD.)

Mr. BAUCUS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZING PRINTING OF SENATE DOCUMENT

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 168, a resolution authorizing the printing of the "Committee on Appropriations, U.S. Senate, 126th Anniversary, 1867–1993," submitted earlier today by Senators BYRD and HATFIELD, that the resolution be agreed to and the motion to reconsider laid upon the table, that any statements relating thereto be printed in the RECORD at the appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 168) was agreed to; as follows:

S. RES. 168

Resolved, That there be printed with illustrations as a Senate document a compilation of materials entitled "Committee on Appropriations, United States Senate, 126th Anniversary, 1867–1993", and that there be printed five thousand additional copies of such document for the use of the Committee on Appropriations.

ORDER TO PROCEED TO THE CONSIDERATION OF S. 1281 AND S. 1150 ON TUESDAY, JANUARY 25, 1994

Mr. BAUCUS. Mr. President, I ask unanimous consent that on Tuesday, January 25, at 2:30 p.m. the Senate turn to the consideration of S. 1281, the State Department authorization bill, and that upon the disposition of that bill the Senate turn to the consideration of Calendar No. 106, S. 1150, the Education 2000 legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Michele Payne, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive sessions the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON U.S. ACTIVITIES IN THE UNITED NATIONS—MESSAGE FROM THE PRESIDENT—PM-71

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations.

To the Congress of the United States:

I am pleased to transmit herewith a report of the activities of the United States Government in the United Nations and its affiliated agencies during the calendar year 1992. The report is required by the United Nations Participation Act (Public Law 264, 79th Congress; 22 U.S.C. 287b).

WILLIAM J. CLINTON.

THE WHITE HOUSE, *November 18, 1993.*

MESSAGES FROM THE HOUSE

At 1:03 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, each with amendments, in which it requests the concurrence of the Senate:

S. 412. An act to amend title 49, United States Code, regarding the collection of certain payments for shipments via motor common carriers of property and nonhousehold goods freight forwarders, and for other purposes.

S. 1534. An act to amend title 38, United States Code, to repeal a requirement that the Under Secretary for Health in the Department of Veterans Affairs be a doctor of medicine.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 898. An act to authorize the Air Force Memorial Foundation to establish a memorial in the District of Columbia or its environs.

H.R. 1425. An act to improve the management, productivity, and use of Indian agricultural lands and resources.

H.R. 3313. An act to amend title 38, United States Code, to improve health care services of the Department of Veterans Affairs relating to women veterans, to extend and expand authority for the Secretary of Veterans Affairs to provide priority health care to veterans who were exposed to ionizing radiation or to Agent Orange, to expand the scope of services that may be provided to veterans through Vet Centers, and for other purposes.

H.R. 3456. An act to amend title 38, United States Code, to restore certain benefits eligibility to unremarried surviving spouses of veterans.

ENROLLED BILLS SIGNED

At 6:06 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 2401. An act to authorize appropriations for fiscal year 1994 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

H.R. 2677. An act to authorize the Board of Regents of the Smithsonian Institution to plan, design, and construct the West Court of the National Museum of Natural History building.

H.R. 3341. An act to amend title 38, United States Code, to increase the rate of special pension payable to persons who have received the Congressional Medal of Honor.

The enrolled bills were subsequently signed by the President pro tempore (Mr. BYRD).

At 8:01 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3450. An act to implement the North American Free-Trade Agreement.

MEASURES REFERRED

The following measure was read the first and second times by unanimous consent, and referred as indicated:

H.R. 1425. An act to improve the management, productivity, and use of Indian agricultural lands and resources; to the Committee on Indian Affairs.

H.R. 3456. An act to amend title 38, United States Code, to restore certain benefits eligibility to unremarried surviving spouses of veterans; to the Committee on Veterans' Affairs.

MEASURES PLACED ON THE CALENDAR

The following measure was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3450. An act to implement the North American Free-Trade Agreement.

MEASURES READ THE FIRST TIME

The following measure, previously received from the House of Representatives, was read the first time:

H.R. 881. An act to prohibit smoking in Federal buildings.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1755. A communication from Secretary of Housing and Urban Development, transmitting, pursuant to law, annual report of data on program applicants and beneficiaries; to the Committee on Banking, Housing and Urban Affairs.

EC–1756. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on rescissions and deferrals; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, to the Committee on Agriculture, Nutrition and Forestry, to the Committee on Armed Services, to the Committee on Banking, Housing and Urban Affairs, to the Committee on Commerce, Science and Transportation, to the Committee on Energy and Natural Resources, to the Committee on Environment and Public Works, to the Committee on Foreign Relations, to the Committee on Governmental Affairs, to the Committee on the Judiciary, and to the Committee on Small Business.

EC–1757. A communication from the President of the United States, transmitting, pursuant to law, a report relative to Haiti; to the Committee on Banking, Housing and Urban Affairs.

EC–1758. A communication from the President and Chairman of the Export-Import Bank, transmitting, pursuant to law, notice relative to a transaction involving United States exports to the Republic of Korea; to the Committee on Banking, Housing and Urban Affairs.

EC–1759. A communication from the Interim Chief Executive Officer of the Resolution Trust Corporation, transmitting, pursuant to law, the semiannual report for the period January 1, 1993 through June 30, 1993; to the Committee on Banking, Housing and Urban Affairs.

EC–1760. A communication from the Under Secretary of Defense (Acquisition), transmitting, pursuant to law, the Selected Acquisition Reports for the quarter ending September 30, 1993; to the Committee on Armed Services.

EC–1761. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report to Congress on appropriations legislation within five days of enactment; to the Committee on Budget.

EC–1762. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report on the impact of increased aeronautical and nautical chart prices resulting from Public Law 99–272 on public sales and navigation safety; to the Committee on Committee on Commerce, Science and Transportation.

EC–1763. A communication from the Secretary of Energy, transmitting, pursuant to law, the annual report on the State Energy Conservation Program for calendar year 1992; to the Committee on Energy and Natural Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUYE, from the Committee on Indian Affairs, without amendment:

H.R. 1425. A bill to improve the management, productivity, and use of Indian agricultural lands and resources (Rept. No. 103–186).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 991. A bill to direct the Secretary of the Interior and the Secretary of Energy to undertake initiatives to address certain needs in the Lower Mississippi Delta Region, and for other purposes (Rept. No. 103–187).

By Mr. GLENN, from the Committee on Governmental Affairs, without amendment:

S. 1675. An original bill to reduce the costs and increase the effectiveness of the Federal Government, and for other purposes (Rept. No. 103–188).

By Mr. MOYNIHAN, from the Committee on Finance, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Commerce, Science, and Transportation, the Committee on Governmental Affairs, the Committee on the Judiciary and the Committee on Foreign Relations, jointly, without amendment:

S. 1627. A bill to implement the North American Free Trade Agreement (Rept. No. 103–189).

By Mr. INOUYE, from the Committee on Indian Affairs, without amendment:

S. 1501. A bill to repeal certain provisions of law relating to trading with Indians (Rept. No. 103–190).

By Mr. PELL, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Res. 160. A resolution expressing the sense of the Senate regarding the October 21, 1993, attempted coup d'etat in Burundi, and for other purposes.

S. Res. 162. A resolution relating to the treatment of Hugo Princz, a United States citizen by the Federal Republic of Germany.

S. Res. 165. A resolution to state the sense of the Senate with respect to the compliance of Libya with United Nations Security Council Resolutions.

By Mr. PELL, from the Committee on Foreign Relations, with amendments and an amended preamble:

S. Res. 167. A resolution expressing the sense of the Senate concerning the Iraqi Government's campaign against the Marsh Arabs of , from the Committee on Foreign Relations, without amendment:

S. Res. 169. An original resolution to establish a U.S.-Russia Nuclear Policy Review Group.

S. 1672. An original bill to revise obsolete laws related to the Cold War.

By Mr. PELL, from the Committee on Foreign Relations, with amendments and with a preamble:

S. Con. Res. 44. A concurrent resolution to express the sense of Congress concerning the International Year of the World's Indigenous Peoples.

By Mr. PELL, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Con. Res. 50. A concurrent resolution concerning the Arab boycott of Israel.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PELL, from the Committee on Foreign Relations:

George J. Kourpias, of Maryland, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 1994;

Lottie Lee Shackleford, of Arkansas, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 1995;

Mark L. Schneider, of California, to be an Assistant Administrator of the Agency for International Development;

Karin Lissakers, of New York, to be United States Executive Director of the International Monetary Fund for a term of two years;

L. Ronald Scheman, of the District of Columbia, to be United States Executive Director of the Inter-American Development Bank for a term of three years;

Larry E. Byrne, of Virginia, to be an Assistant Administrator of the Agency for International Development;

Jennifer Anne Hillman, of the District of Columbia, for the rank of Ambassador during her tenure of service as Chief Textile Negotiator;

Stuart George Moldaw, of California, to be an Alternate Representative of the United States of America to the Forty-eighth Session of the General Assembly of the United Nations;

John David Holum, of South Dakota, to be Director of the United States Arms Control and Disarmament Agency;

Robert S. Gelbard, of Washington, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Assistant Secretary of State for International Narcotics Matters;

John Chrystal, of Iowa, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 1994;

Marian C. Bennett, of the District of Columbia, to be Inspector General, United States Information Agency;

John F. Hicks, Sr., of North Carolina, to be an Assistant Administrator of the Agency for International Development;

M. Douglas Stafford, of New York, to be an Assistant Administrator of the Agency for International Development,

Brian J. Donnelly, of Massachusetts, to be an Alternate Representative of the United States of America to the Forty-eighth Session of the General Assembly of the United Nations; and

Thomas L. Siebert, of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Sweden.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Thomas L. Siebert.

Post: Sweden.

Contributions, amount, date, donee:

1. Self $250
2. Spouse
3. Children and Spouses Names
4. Parents Names
5. Grandparents Names
6. Brothers and Spouses Names
7. Sisters and Spouses Names

Contributions, amount, date, donee:

1. Self: Thomas L. Siebert $250, June 1993, Maryland Democratic Leadership Council; $2,000, March 1992, Ferraro for U.S. Senate; 1,000, June 1992, Lynn Yeakel for U.S. Senate; 1,000, June 1992, Clinton General Election Compliance Fund; 1,300, July 1992, Democratic Leadership Committee (Trustee Credentials); 2,000, July 1992, Democratic National Committee Victory Fund; 200, August 1992, MD Democratic Party/Federal Account; 1,000, September 1992, Democratic National Committee Victory Fund; 35, September 1992, Friends of Casper Weinberer; 500, September 1992, MD Democratic Party/Federal Account; 300, September 1992, Democratic National Committee Victory Fund/Federal Acct.; 250, October 1992, MD Democratic Party/Federal Account; 1,250, November 1992, Robert F. Kennedy Memorial Foundation; 1,500, February 1991, National Democratic Institute; 1,000, May 1991, Citizens for Harris Wofford; 1,000, October 1991, Campaign for Barbara Boxer, 1,000, November 1991, Clinton for President; 1,000, November 1991, Les AuCoin for Senate; 100, February 1990, Friends of Senator Levin; 1,000, January 1989, John Kerry for Senate; 250, April 1989, Citizens for Kathleen Townsend; 1,000, June 1989, Hagan for Mayor of Cleveland; 1,000, June 1989, Harvey Sloan for U.S. Senate; 1,000, October 1988, Friends of Tony Earl for U.S. Congress.

2. Spouse: Deborah S. Siebert, $2,000, June 1992, Clinton General Election Compliance Fund; 1,000, May 1991, Citizens for Harris Wofford; 1,000, October 1991, Campaign for Barbara Boxer, 1,000, December 1991, Clinton for President; $1,000, January 1989, John Kerry for Senate; 1,000, June 1989, Harvey Sloan or U.S. Senate.

3. Children and Spouses, none.

4. Parents: Virgil J. Siebert, $1,000, January 1991, Clinton for President.

5. Grandparents, none.

6. Brothers and spouses: Keith M. Siebert $1,000, January 1992, Clinton for President; $100, September 1992, Montgomery County Democratic Party. Elizabeth K. Siebert, $1,000, December 1992, Clinton for President. John V. Siebert, $1,000, December 1991, Clinton for President. Walta S. Siebert, $1,000, December 1991, Clinton for President. Craig L. Siebert, $1,000, January 1992, Clinton for President; 1,000, June 1992, Clinton General Election Compliance Fund; 2,000, July 1992, Democratic National Committee; 1,000, October 1992, Clinton/Gore Compliance Fund; 100, October 1992, Robert Neall for County Executive '94; 500 August 1990, Glen Gibbs for County Council; 100, December 1990, O.J. Lighthizer Tribute; 1,000, June 1989, Harvey Sloan for U.S. Senate; 1,000, October 1988, Friends of Tony Earl for U.S. Congress.

7. Sisters and spouses, none.

Leslie M. Alexander, of Florida, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Mauritius, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal and Islamic Republic of the Comoros.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate).

Nominee: Leslie M. Alexander.

Post: Mauritius/Comoros.

Contributions, amount, date, donee:

1. Self, none.
2. Spouse, none.
3. Children and spouses names, Natalia R. Alexander, none; Margaret F. Alexander, none.
4. Parents names, Leslie M. and Ginnette Alexander, none.
5. Grandparents names, Jean Guy and Artemise Chevalon, deceased; Leslie and Florett Alexander, deceased.
6. Brothers and spouses names, Steven Alexander, none; Bruce and Lisa Alexander, none; Michael and Lorri Alexander, none.
7. Sisters and spouses names, none.

Robert Gordon Houdek, of Illinois, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Eritrea.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Robert G. Houdek.

Post: Eritrea.

Contributions, amount, date, donee:

1. Self, none.
2. Spouse, none.
3. Children and spouses names, Pamela Lynn Houdek, none; William D. Houdek, none.
4. Parents names, George C. Houdek, Sr., deceased, none; Margaret Ann Munch, none.
5. Grandparents names, Mr. and Mrs. James Houdek, deceased, none; Mr. and Mrs. Otto Riepel, deceased, none.
6. Brothers and spouses names, Mr. and Mrs. George C. Houdek, Jr., none; Mr. and Mrs. Thomas J. Houdek, none.
7. Sisters and spouses names, none.

David P. Rawson, of Michigan, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Rwanda.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, donee:

1. Self, none.
2. Spouse, none.
3. Children and spouses names, Christina Marie Rawson, none; David Jonathan Rawson none.
4. Parents names, Amos P. Rawson, none; Lola M. Rawson, deceased.
5. Grandparents names, Edward and Helen Rawson, deceased; Howard and Mary Moore, deceased.
6. Brothers and spouses names, Edward and Joan Rawson, none; Perry and Carol Rawson, $25, last summer, to a candidate for Democratic primary elected in Oregon to the U.S. Senate. He cannot recall the candidate's name.

Mark Gregory Hambley, of California, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Lebanon.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Mark G. Hambley.

Post: Lebanon; Nominated 6/11/93.

Contributions, amount, date, donee.

1. Self, Mark G. Hambley, none.

2. Spouse, Patricia A. Hambley, none.

3. Children and spouses names, None. none.

4. Parents names: Ardella Hambley (mother), none; Gordon Hambley, father (deceased) none.

5. Grandparents names, all deceased.

6. Brothers and spouses names, none.

7. Sisters and spouses names, Patricia Cody, (remarried 1992; previously Lynn Denz), none; Ken Cody, (spouse), none.

Victor L. Tomseth, of Oregon, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Lao People's Democratic Republic.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the informaiton contained in this report is complete and accurate.)

Nominee: Victor Lloyd Tomseth.

Post: Laos.

Contributions, and amount.

1. Self, none.

2. Spouse, Wallapa Tomseth, nee Charoenrath, none.

3. Children and spouses, Christopher Jon Tomseth, son, single, none; Aranya Lynn Tomseth, daughter, single, none.

4. Parents, Hersey Fay Tomseth, father, deceased, none; Lyla Irene Tomseth nee Currant, mother, none.

5. Grandparents, Peter Marius Tomseth, paternal grandfather, deceased, none; Mina Tomseth nee Berg, paternal grandmother, deceased, none; Lloyd Maynard Currant, maternal grandfather, deceased, none; Justa Odessa Currant nee Garrett, maternal grandmother, deceased, none.

6. Brothers and spouses, Hersey Arne Tomseth, none; Kathleen Ann tomseth nee Avery, none.

7. Sisters and spouses, Daphne Lynn Prenevost nee Tomseth, none; Edward George Prenevost, none.

Edward P. Djerejian, of Maryland, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Israel.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Edward Peter Djerejian.

Post: Israel

Contributions, amount, date, donee:

1. Self, none.

2. Spouse, Francoise, none.

3. Children and spouses names, Gregory and Francesca none.

4. Parents names, Peter Djerejian, deceased; Mary Djerejian, none.

5. Grandparents names, deceased.

6. Brothers and spouses names, Robert Djerejian, divorced, $500, 1991, GOP.

7. Sisters and spouses names, N/A.

Theodore E. Russell, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Slovak Republic.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Russell, Theodore E.

Post: Bratislava, Slovakia.

Contributions, amount, date, and donee:

1. Self, $50, June 1993, DNC.

2. Spouse, none.

3. Children and spouses names Douglas R. & Richard M., none.

4. Parents deceased, names Dr. Paul F. & Phyllis A. Russell.

5. Grandparents deceased, names Rev. Samuel & Sarah W. Russell.

6. Brothers and spouses names Elsbeth G. & Christopher H. Russell, none.

7. Sisters and spouses, names, none.

Martin L. Cheshes, of Georgia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Djibouti.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Martin L. Cheshes.

Post: Republic of Djibouti.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, Marlyn Cheshes.

3. Children and spouses, names Jay Cheshes, none, Laura Palmer (nee Cheshes) none, Donald Palmer, $25. 7/93 Republican Nat'l Committee .

4. Parents, names, Edward Cheshes, deceased, Sylvia Cheshes, none.

5. Grandparents, names, Mr. & Mrs. Jacob Cheshes, deceased, Mr. & Mrs. Max Toffler, deceased.

6. Brothers and spouses names, none.

7. Sisters and spouses, names, none.

Marc Charles Ginsberg, of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Morocco.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Marc C. Ginsberg.

Post: Ambassador of Morocco.

Contributions, amount, date, and donee:

1. Self, Marc Ginsberg, $1,000, November 1991, Clinton for President. $250, November 1991, Kerry for President.

2. Spouse, Janet Ginsberg, $1,000, April 1992, Clinton for President.

3. Children and spouses, names Alexis Ginsberg, Grant Ginsberg, none.

4. Parents Harriet Ginsberg, names Lester Ginsberg (deceased), none.

5. Grandparents Murray & Ray, names Wendy (deceased), none.

6. Brothers and spouses, names Jay Ginsberg, Larry & ... Ginsberg, Mike Ginsberg, none.

7. Sisters and spouses, names none.

Nicholas Andrew Rey, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Poland.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Nicholas Andrew Rey.

Post: Poland.

Contributions amount date and donee.

1. Self: $250, 1989, Nita Lowey for Congress, $250, 1989, Friends of Robert Brodsky (County Supervisor), $250, 1990, Nita Lowey for Congress, $200, 1992, Democratic National Committee, $1,000, 1992, Clinton for President, $100, 1992, N.Y. State Democratic Party, $200, 1992, DNC Federal Account, $250, 1992, Nita Lowey for Congress, $250, 1992, Abrams '92, $25, 1993, Feinstein for Senate.

2. Spouse, Louisa M. Rey, $15 1990, N.Y. Democratic Party.

3. Children and spouses, names Cecilia (none); Michael (none) Anthony (none).

4. Parents, names, Andrew Rey (deceased), Maria Rey (deceased).

5. Grandparents, names Tabecki and Rey (do not have first names; all deceased at least since 1959).

6. Brothers and spouses, names none.

7. Sisters and spouses, names none.

Edward Elliott Elson, of Georgia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Denmark.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Edward Elliott Elson.

Post: Ambassador to the Kingdom of Denmark.

Contributor, amount, date, and donee:

Edward E. Elson, $500 1989, IMPAC, Inc., $1,000 1989, Sam Nunn Campaign Committee, $100 1989, Eisendrath for Congress, $500 1990, Citizens for Arlen Specter, $500 1990, David Smith for Congress, $500 1991, Friends of Al Gore, $250 1991, Citizens for Arlen Specter, $1,000 1991, Democratic Senatorial Campaign Committee, $250 1991, Wilder for President Committee, $500 1991, Wilder for President Committee, $1,000 1992, Worley for Congress '92, $1,500 1992, Democratic Senatorial Campaign Committee,* $12,000 1992, Democratic National Committee, $250 1992 Abrams '92, 40,000 1992 Democratic Victory Fund Non-Federal Acct, $5,000 1992, Democratic Senatorial Campaign Committee, $100 1992, John Lewis for Congress, $1,000 1992, Darden for Congress, $60,000 1992, D.N.C. Victory Fund Non-Federal Acct., $500 1993, Bill Bradley for Senate, and $1,000 1993, The Hyatt Committee.

Joint w/Spouse, $500, 1992, Cathey Steinberg for Congress, $10,814.37 1992, Cost of Pre-Election Dinner Party for 184 Guests in Honor of Hillary Clinton.

Spouse: Suzanne G. Elson, $1,000 1989, Sam Nunn Campaign Committee, $2,000 1990, Wyche Fowler for Senate, $500, 1990, Citizens for Arlen Specter, $200, 1990, Harvey Gantt for Senate, $250, 1991, Wilder for President, $100 1992, Geraldine Ferraro for Senate, $100, 1992, Lynn Yeakel Campaign, and $20,000, 1992, Democratic National Committee.

Children: Charles M. Elson, $500, 1990, Worley for Congress 1990, $250 1990, Worley for Congress 1990, $250 1992, Friends of Karen Moffitt, $500 1992, Worley for Congress 92, 50 1992, Kyle McSlarow for Congress, $250 1992, Worley for Congress 92.

Louis & Sarah Elson, $1,000, 1992, Wyche Fowler for Senate.

Harry Elson II, $1,000, 1992, Wyche Fowler for Senate.

Parents: Harry Elson (deceased), Esther Elson $250, 1989, Democratic National Committee, $250, 1989, ASDC/Democratic Victory Fund, $250 1989, Democratic National Committee, $250 1990, ASDC/Democratic Victory Fund, $1,000 1991, Democratic National Committee, $500 1991, Clinton for President, $500 1992, Clinton for President, $1,000 1992, Democratic National Committee, $10,000 1992, Democratic National Committee.

Grandparents: Myer Elson (deceased), Sadie Elson (deceased), Rose Cohen (deceased), Louise Cohen (deceased).

Brothers, none.

Sisters, none.

*An additional contribution of $8,000 was returned at my request. A contribution of $5,000 to the Democratic Party of Virginia was returned at my request.

• Sidney Williams, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Commonwealth of The Bahamas.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge the information contained in this report is complete and accurate.)

Nominee: Sidney Williams.

Post: Ambassador to the Commonwealth of the Bahamas.

Contributions, amount, date, and donee:

1. Self, None.

2. Spouse, None.

3. Children and spouses, Edward K. Waters, Karen Titus and, Earl Titus, Byron G. Williams, none.

4. Parents (deceased.).

5. Grandparents (deceased.)

6. Brothers and spouses, Elijah Williams, Jr. and Medoria Williams, none, Robert L. Williams (deceased.).

7. Sisters and spouses, Annie J. Gilliam, (unmarried), none.

K. Terry Dornbush, of Georgia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of the Netherlands.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Kirk Terry Dornbush.

Post: Ambassador to The Kingdom of The Netherlands.

Contributor, amount, date, and donee.

1. Kirk Terry Dornbush, $1,000, 89, Wyche Fowler for Senate, $500, 89, Wyche Fowler for Senate, $15,000, 89, Dem. Senatorial Camp. Cmte, $2,000, 89, Friends of Al Gore Jr., $400, 89, Darden for Congress, $1,000, 89, Sam Nunn Campaign Cmte, $1,000, 89, Cranston for Senate, $1,000, 89, Democratic Party of GA, $20,000, 90, Dem. Senatorial Camp. Cmte, $1,000, 90, Kerry Committee, $1,000, 90, Worley for Congress '90, $2,000, 90, Ben Jones for Congress, $500, 90, Darden for Congress, $500, 91, Dem. Party of GA Federal Acct, $500, 91, Voters for Choice, $1,000, 92, Tsongas Committee, $20,000, 92, DNC Victory Fund, $500, 92, Darden for Congress, $1,000, 92, Cathey Steinberg for Congress, $5,000, 93, Democratic Party of GA, $1,000, 93, Darden for Congress, $1,000, 93, Friends of Jeff Neubauer, $2,000, 93, Breaux Jt Cmte (sole designtn), $2,500, 93, Democratic Party of GA.

2. Marilyn P. Dornbush, $500, 89, Wyche Fowler for Senate, $1,000, 89, Wyche Fowler for Senate, $1,000, 89, Sam Nunn Campaign Committee, $1,000, 89, Cranston for Senate '92, $2,000, 89, Friends of Al Gore Jr., $1,000, 90, Wyche Fowler for Senate, $275, 90, Kerry Committee, $500, 90, Friends of Sen. Rockefeller, $1,000, 90, Re-elect Sen. Pell Committee, $500, 90, Sloane for Senate Committee, $500, 90, Worley for Congress '90, $1,000, 90, Harvey Gantt for Senate, $20,000, 92, DNC Victory Fund, $5,000, 1993, Democratic Party of GA, $1,000, 1993, Friends of Jeff Neubauer, $2,500, 1993 Democratic Party of GA.

3. Laura D. Iarocci, $1,000, 1990, Wyche Fowler for Senate; Joseph Iarocci, $100, 1990, NY Democratic Party, $1,000, 1990, Wyche Fowler for Senate, $1,000, 1992, Sanford Bishop for Rep, $1,000, 1992, John Lewis for Rep, $500, 1992, Tony Center for Rep, $500, 1992, Cathey Steinberg for Congress, $500, 1992, Buddy Darden for Congress, 10,000, 1992, DNC Victory Fund; and Kirk Dornbush, Jr., $500, 1989, Wyche Fowler for Senate, $1,000, 1989, Friends of Al Gore Jr., $175, 1990, Young for Governor, 500, 1992, Tsongas Committee, $1,100, 1992, Cathey Steinberg for Congress, $100, 1992, Emily's List, $20,000, 1992, DNC Victory Fund, $1,000, 1993, Friends of Jeff Neubauer, $1,607*, 1993, Friends of Jeff Neubauer, $100, 1993, Emily's List, $100, 1993, Ms. Shipneck; and Barbara B. Dornbush, $1,000, 1989, Friends of Al Gore Jr., $1,500, 1989, Wyche Fowler for Senate, $1,000, 1990 Wyche Fowler for Senate, $100, 1992 Dianne Feinstein, $20,000, 1992 DNC Victory Fund, $1,000, 1993 Friends of Jeff Neubauer; and Claire D. Archer, $1,000, 1989, Wyche Fowler for Senate, $1,000, 1990, Wyche Fowler for Senate, $20,000, 1992, DNC Victory Fund; and Burke Archer, $1,000, 1991 Wyche Fowler for Senate.

To be refunded.

4. Kirk Dornbush (deceased), Claire S. Dornbush (deceased).

5. George Dornbush (deceased), Sophie Dornbush (deceased), Eric Saperstein (deceased), Passie Saperstein (deceased).

6. Robert E. Dornbush, $1,000, 1989, Sam Nunn Campaign Committee, $1,000, 1989, Cranston for Senate 1992, $1,000, 1989, Friends of Al Gore Jr., $500, 1990, Wyche Fowler for Senate, $20,000, 1992, DNC Victory Fund, $1,000, 1992, Wyche Fowler for Senate; and Dianne S. Dornbush, $1,000, 1989, Sam Nunn Campaign Committee, $1,000, 1989, Cranston for Senate 1992, $1,000, 1989, Friends of Al Gore Jr., $500, 1990, Wyche Fowler for Senate, $20,000, 1992, DNC Victory Fund, $1,000, 1992, Wyche Fowler for Senate.

7. None.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

M. Larry Lawrence, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Switzerland.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: M. Larry Lawrence.

Post: Ambassador to Switzerland.

Contributions, date and donee, amount:

M. Larry Lawrence:

04/27/89—Friends of Tom Harkin	$1,000
05/01/89—Cranston for Senate '92	1,000
05/19/89—Senator John Glenn Committee	1,000
05/26/89—Levine for Congress	1,000
06/16/89—Cranston for President Committee[1]	10,000
06/25/89—Simon for Senate	1,000
10/31/89—Jim Bates for Congress—Primary	1,000
12/22/89—Bill Bradley for Senate—Primary	1,000
12/27/89—Bill Bradley for Senate	1,000
12/23/89—IMPAC '88	1,500
03/20/89—Gary K. Hart for Congress	100
04/25/89—John P. Vinich for Congress	500
10/05/89—Friends of Howell Heflin Committee	500
06/20/89—Citizens for Biden Committee—1990	500
03/22/99—Campaign to Re-Elect John Kerry	1,000
03/28/90—Speaker's Club (Demo. Cong. Comm.)	3,500
07/09/90—Jim Bates for Congress	1,000
07/09/90—Harvey Gantt for Senate	1,000
07/10/90—Democratic Senatorial Campaign Committee	1,000
07/11/90—Ted Muenster for Senate	1,000
10/05/90—Citizens for Harkin	1,000
01/31/90—Yates for Congress Committee	250
01/31/90—Friends of Senator Carl Levin	500
03/27/90—Richard Freiman for Congress Committee	250
05/04/90—Re-Elect Exon for U.S. Senate Committee	500
07/31/90—McMillen for Congress	100
08/30/90—New Mexicans for Tom Udall	200
08/29/90—Daniel K. Akaka for U.S. Senate	500
10/19/90—Lonsdale for Senate	500
10/31/90—Wellstone for Senate	500
04/17/90—Re-Elect Howard Wolpe	200
09/27/90—Dick Swett for Congress	100
11/07/90—Friends of Jim Moody	100
05/28/91—Citizens for Senator Wofford—Primary	1,000
09/19/91—Democratic Senatorial Campaign Committee	1,000
10/04/91—Deddeh for Congress	1,000
10/29/91—Citizens for Senator Wofford—General	1,000
12/10/91—Filner for Congress	1,000
01/21/92—Clinton for President	1,000
03/05/92—Lynn Schenk for Congress—Primary	
04/08/92—Kerrey for President	1,000
07/10/92—Lynn Schenk for Congress—General	1,000
08/12/92—Bob Filner for Congress	1,000
10/15/92—Sanford for Senate	500
09/14/92—Sanford for Senate	500
01/09/92—Gray Davis for U.S. Senate	500
02/03/92—Brock Adams Senate Committee	500
03/31/92—Friends of Jim Moody	500
03/16/92—Folks for Pat Williams	250
04/02/92—Levine Campaign Committee	500
08/13/92—Les AuCoin for Senate	500
06/09/92—Janet Gastil for Congress Committee	500
06/10/92—Friends of Patti Garamendi	250
06/09/92—Americans for Harkin	250
06/23/92—Friends of Jane Harman	500
06/22/92—Nancy Pelosi for Congress	500
08/25/92—Barbara Boxer for U.S. Senate	250
10/26/92—John Glenn for Senate Committee	500
03/11/93—Citizens for Joe Kennedy	1,000
03/26/93—Kerrey for U.S. Senate	1,000
06/21/93—George Mitchell for Senate	1,000
01/28/93—Bob Krueger Campaign	500
05/26/93—Lieberman '94 Committee	500

Shelia Davis Lawrence:

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[1] This donation was used to pay an FEC fine, and therefore does not count against the limit.

07/06/90—Jim Bates for Congress—Primary & General	$2,000
10/01/90—Campaign to Re-Elect John Kerry	1,000
10/04/90—Citizens for Harkin	1,000
10/25/90—Friends of Rosa DeLauro	1,000
05/29/91—Citizens for Senator Wofford	1,000
01/13/92—Feinstein for Senate	1,000
01/21/92—Clinton for President	1,000
04/15/92—Kerrey for President	1,000
04/15/92—Emily's List	1,000
04/30/92—DNC (exempt) (Convention)	2,600
05/21/92—Bill Clinton General Election Compliance	1,000
07/06/92—Faces of Change/U.S. Senate	1,000
07/10/92—Friends of Chris Dodd	1,000
08/25/92—Friends of Rosa DeLauro	1,000
10/08/92—Lynn Yeakel for Senate	1,000
01/09/92—Gray Davis for U.S. Senate	500
01/09/92—Ferraro for U.S. Senate Committee	500
06/09/92—Americans for Harkin	250
08/24/92—Barbara Boxer for U.S. Senate	250
03/15/93—Citizens for Joe Kennedy	1,000
03/20/93—Kerrey for U.S. Senate	1,000
06/01/93—Emily's List	1,000
06/07/93—Congressman Bob Filner—Debt Reduction '92	1,000
04/16/93—Democratic Congressional Dinner Committee	100
05/26/93—Lieberman '94 Committee	500

Leslie Caspi:

1989—	0
1990—	0
1991—	0
02/25/92—Clinton for President	$75
05/06/92—Feinstein for Senate	200
09/03/92—Feinstein for Senate	125
10/19/92—Lynn Schenk for Congress	150
10/21/92—Bob Filner for Congress	75
1993	0

Shlomo Caspi:

1989	0
1990	0
1991	0
04/02/92—San Diegans for Bob Filner	250
10/21/92—Bob Filner for Congress	75
1993	0

Robert S. Lawrence:

1989	0
1990	0
1991	0
1992—Congresswoman Lynn Schenk	$100
1992—Congressman Bob Filner	250
1993	0

Laurie Black:

1989	0
1990	0
1991	0
1992—Senator Bob Kerrey	$250
1992—Congresswoman Lynn Schenk	500
1992—Congressman Bob Filner	250
1992—President Bill Clinton	500
1993	0

Andrea Lawrence, none.

Spouse: No spouse.

Stephanie K. Lawrence, none.

4. Parents: Tillie Astor Lawrence, deceased, Sidney A. Lawrence, deceased.

5. Grandparents: Maternal: Jacob Astor, deceased, Sarah Astor deceased. Paternal: Maurice Lawrence, deceased, Rachel Lawrence, deceased.

6. Brothers and spouses: Sheldon F. Lawrence, deceased. Spouse: No spouse.

7. Sisters and spouses: No sisters.

(The above nomination was reported without recommendation.)

Mr. PELL. Mr. President, for the Committee on Foreign Relations, I also report favorably three nomination lists in the Foreign Service which were printed in full in the CONGRESSIONAL RECORDS of October 5 and 21, 1993, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORDS of October 5 and 21, 1993 at the end of the Senate proceedings.)

By Mr. PELL, from the Committee on Foreign Relations:

Treaty Doc. 103-8 Convention on the Marking of Plastic Explosives for the Purpose of Detection (Exec. Rept. No. 103-15).

Treaty Doc. 103-10 Convention on the Limitation Period in the International Sale of Goods, with Protocol (Exec. Rept. No. 103-16).

Treaty Doc. 102-39 Income Tax Convention with the Russian Federation (Exec. Rept. No. 103-17).

Treaty Doc. 102-41 Protocol Amending the 1984 Income Tax Convention with Barbados (Exec. Rept. No. 103-18).

Treaty Doc. 103-6 and 103-19 Tax Convention (and Protocol) with the Kingdom of the Netherlands (Exec. Rept. No. 103-19).

Treaty Doc. 103-7 Income Tax Convention with Mexico, with Protocol (Exec. Rept. No. 103-20).

Treaty Doc. 103-16 Protocol to the Tax Convention with the State of Israel (Exec. Rept. No. 103-21).

Treaty Doc. 103-17 Income Tax Convention with the Czech Republic (Exec. Rept. No. 103-22).

Treaty Doc. 103-18 Income Tax Convention with the Slovak Republic (Exec. Rept. No. 103-23).

By Mr. GLENN, from the Committee on Government Affairs:

Steven Kelman, of Massachusetts, to be Administrator for Federal Procurement Policy.

By Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry:

Barbara Pedersen Holum, of Maryland, to be a Commissioner of the Commodity Futures Trading Commission for the term expiring April 13, 1997;

John E. Tull, Jr., of Arkansas, to be a Commissioner of the Commodity Futures Trading Commission for the term expiring April 13, 1998;

Wally B. Beyer, of North Dakota, to be Administrator of the Rural Electrification Administration for a term of ten years;

Michael V. Dunn, of Iowa, to be Administrator of the Farmers Home Administration;

Grant B. Buntrock, of South Dakota, to be a Member of the Board of Directors of the Commodity Credit Corporation; and

Anthony A. Williams, of Connecticut, to be Chief Financial Officer, Department of Agriculture.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. BIDEN, from the Committee on the Judiciary:

Raymond A. Jackson, of Virginia, to be United States District Judge for the Eastern District of Virginia;

Richard G. Stearns, of Massachusetts, to be United States District Judge for the District of Massachusetts;

Lawrence L. Piersol, of South Dakota, to be United States District Judge for the District of South Dakota;

Donetta W. Ambrose, of Pennsylvania, to be United States District Judge for the Western District of Pennsylvania;

Wilkie D. Ferguson, Jr., of Florida, to be United States District Judge for the Southern District of Florida;

Nancy Gertner, of Massachusetts, to be United States District Judge for the District of Massachusetts;

Harry F. Barnes, of Arkansas, to be United States District Judge for the Western District of Arkansas;

Gary L. Lancaster, of Pennsylvania, to be United States District Judge for the Western District of Pennsylvania;

David W. Hagen, of Nevada, to be United States District Judge for the District of Nevada;

Reginald C. Lindsay, of Massachusetts, to be United States District Judge for the District of Massachusetts;

Kendall Brindley Coffey, of Florida, to be United States Attorney for the Southern District of Florida for the term of four years;

Patti B. Saris, of Massachusetts, to be United States District Judge for the District of Massachusetts;

Allen G. Schwartz, of New York, to be United States District Judge for the Southern District of New York;

Henry Lee Adams, Jr., of Florida, to be United States District Judge for the Middle District of Florida;

Susan C. Bucklew, of Florida, to be United States District Judge for the Middle District of Florida;

Gerlad Mann Stern, of California, to be Special Counsel, Financial Institutions Fraud Unit, Department of Justice;

John Joseph Kelly, of New Mexico to be United States Attorney for the District of New Mexico for the term of four years;

James Burton Burns, of Illinois, to be United States Attorney for the Northern District of Illinois for the term of four years;

Alan D. Bersin, of California, to be United States Attorney for the Southern District of California for the term of four years;

Sherry Scheel Matteucci, of Montana, to be United States Attorney for the District of Montana for the term of four years;

Donald Kenneth Stern, of Massachusetts, to be United States Attorney for the District of Massachusetts for the term of four years;

Loretta Collins Argrett, of Maryland, to be an Assistant Attorney General;

Walter Charles Grace, of Illinois, to be United States Attorney for the Southern District of Illinois for the term of four years;

Joseph Leslie Famularo, of Kentucky, to be United States Attorney for the Eastern District of Kentucky for the term of four years;

Joanna Seybert, of New York, to be United States District Judge for the Eastern District of New York, vice a new position created by Public Law 101-650 approved December 1, 1990;

Martha Craig Daughtrey, of Tennessee, to be United States Circuit Judge for the Sixth Circuit, vice a new position created by Public Law 101-650, approved December 1, 1990;

Thomas M. Shanahan, of Nebraska, to be United States District Judge for the District of Nebraska vice a new position created by Public Law 101-650, approved December 1, 1990;

David G. Trager, of New York, to be United States District Judge for the Eastern District of New York vice a new position created by Public Law 101-650, approved December 1, 1990;

Charles A. Shaw, of Missouri, to be United States District Judge for the Eastern District of Missouri vice a new position created by Public Law 101-650, approved December 1, 1990;

Claudia Wilken, of California, to be United States District Judge for the Northern District of California vice a new position created by Public Law 101-650, approved December 1, 1990;

Patrick Michael Patterson, of Florida, to be United States Attorney for the Northern District of Florida for the term of four years;

Charles Joseph Stevens, of California, to be United States Attorney for the Eastern District of California for the term of four years; and

Katrina Campbell Pflaumer, of Washington, to be United States Attorney for the Western District of Washington for the term of four years.

(The above nominations were reported with the recommendation that they be confirmed.)

By Mr. NUNN, from the Committee on Armed Services:

Joe Robert Reeder, of Texas, to be Under Secretary for the Army;

Togo Dennis West, Jr., of the District of Columbia, to be Secretary of the Army; and

Richard Danzig, of the District of Columbia, to be Under Secretary of the Navy.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. NUNN. Mr. President, from the Committee on Armed Services, I report favorably the attached listing of nominations.

Those identified with a single asterisk (*) are to be placed on the Executive Calendar. Those identified with a double asterisk (**) are to lie on the Secretary's desk for the information of any Senator since these names have already appeared in the CONGRESSIONAL RECORD of November 4, 1993 and to save the expense of printing again.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of November 4, 1993 at the end of the Senate proceedings.)

*In the Air Force there is 1 appointment to the grade of brigadier general (Peter F. Hoffman) (Reference No. 48-4).

*Major General Robert L. Ord III, USA to be lieutenant general (Reference No. 213).

*Captain Dennis Irwin Wright, USN to be rear admiral (lower half) (Reference No. 300).

*Colonel Vernon C. Spaulding, USA to be brigadier general (Reference No. 429).

*Major General Malcolm R. O'Neill, USA to be lieutenant general (Reference No. 567).

*Rear Admiral (lower half) Michael William Cramer, USN to be rear admiral (Reference No. 618).

*Lieutenant General Leon E. Salomon, USA to be general (Reference No. 710).

*Lieutenant General Wilson A. Shoffner, USA to be placed on the retired list in the grade of lieutenant general (Reference No. 711).

*Major General James E. Chambers, USAF to be lieutenant general (Reference No. 721).

*Brigadier General John R. Haack, ANG to be major general (Reference No. 737).

*Lieutenant General Eugene H. Fischer, USAF to be placed on the retired list in the grade of lieutenant general (Reference No. 780).

*Major General Marcus A. Anderson, USAF to be lieutenant general (Reference No. 781).

*Lieutenant General Teddy G. Allen, USA to be placed on the retired list in the grade of lieutenant general (Reference No. 782).

*In the Army Reserve there are 24 promotions to the grade of major general and below (list begins with Robert J. Byrne) (Reference No. 783).

**In the Air Force there are 44 promotions to the grade of colonel and below (list begins with Robert D. Blevins) (Reference No. 824).

**In the Navy there are 16 appointments to the grade of lieutenant (junior grade) and below (list begins with Robert K. Takesuye) (Reference No. 825).

**In the Navy and Naval Reserve there are 19 appointments to the grade of commander and below (list begins with John D. Sowers) (Reference No. 826).

**In the Navy there are 26 appointments to the grade of ensign (list begins with Ricky D. Allen) (Reference No. 827).

**In the Navy there are 7 appointments to the grade of ensign (list begins with Timothy F. Dolan) (Reference No. 828).

**In the Navy there are 51 appointments to the grade of ensign (list begins with Christopher J. Adams) (Reference No. 829).

**In the Navy there are 29 appointments to the grade of ensign (list begins with James L. Basford) (Reference No. 830).

**In the Marine Corps there are 377 appointments to the grade of second lieutenant (list begins with Harald Aagaard) (Reference No. 831).

**In the Navy there are 127 appointments to the grade of ensign (list begins with Scott M. Allen) (Reference No. 832).

**In the Navy there are 1,036 appointments to the grade of ensign (list begins with Aaron M. Abarbanell) (Reference No. 833).

**Rear Admiral Joseph W. Prueher, USN to be vice admiral (Reference No. 842).

Total: 1,770.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HARKIN (for himself, Mr. DANFORTH, Ms. MOSELEY-BRAUN, Mr. GRASSLEY, and Mr. SIMON):

S. 1670. A bill to improve hazard mitigation and relocation assistance in connection with flooding, and for other purposes; to the Committee on Environment and Public Works.

By Mr. COHEN:

S. 1671. A bill to require that promotional products for cigarettes bear labels warning the public of the health dangers associated with cigarette smoking, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. PELL:

S. 1672. An original bill to revise obsolete laws related to the Cold War; from the Committee on Foreign Relations; placed on the calendar.

By Mr. BREAUX (for himself and Mr. JOHNSTON):

S. 1673. A bill to designate the United States courthouse under construction at 611 Broad Street, in Lake Charles, Louisiana, as the "Edwin Ford Hunter, Jr., United States Courthouse", and for other purposes; to the Committee on Environment and Public Works.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 1674. A bill to limit the authority of the Secretary of the Army to acquire land adjacent to Abiquiu Dam in New Mexico; to the Committee on Environment and Public Works.

By Mr. GLENN:

S. 1675. An original bill to reduce the costs and increase the effectiveness of the Federal Government, and for other purposes; from the Committee on Governmental Affairs; placed on the calendar.

By Mr. MACK:

S. 1676. A bill to provide a fair, nonpolitical process that will achieve $65,000,000,000 in budget outlay reductions each fiscal year until a balanced budget is reached; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. HATFIELD:

S. 1677. A bill to prohibit United States military assistance and arms transfers to foreign governments that are undemocratic, do not adequately protect human rights, are engaged in acts of armed aggression, or are not fully participating in the United Nations Register of Conventional Arms; to the Committee on Foreign Relations.

By Mr. FAIRCLOTH (for himself, Mr. EXON, Mr. DURENBERGER, Mr. SIMPSON, Mr. GREGG, Mr. SHELBY, Mr. LUGAR, Mr. HELMS, Mr. CRAIG, Mr. THURMOND, and Mr. STEVENS):

S. 1678. A bill to amend the Immigration and Nationality Act to provide that public ceremonies for the admission of new citizens shall be conducted solely in English; to the Committee on the Judiciary.

By Mr. LAUTENBERG:

S. 1679. A bill to establish a program to develop and demonstrate innovative technologies to combat shoreline erosion, and for other purposes; to the Committee on Environment and Public Works.

S. 1680. A bill to amend the Toxic Substances Control Act to protect the public from health hazards caused by exposure to environmental tobacco smoke, and for other purposes; to the Committee on Environment and Public Works.

S. 1681. A bill to amend the Federal Water Pollution Control Act to allow certain privately owned public treatment works to be treated as publicly owned treatment works, and for other purposes; to the Committee on Environment and Public Works.

By Mr. MOYNIHAN:

S. 1682. A bill to unify the formulation and execution of United States diplomacy; to the Select Committee on Intelligence.

By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 1683. A bill to authorize the Secretary of the Interior to provide funds to the Palisades Interstate Park Commission for acquisition of land in the Sterling Forest area of the New York/New Jersey Highlands Region, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MURKOWSKI:

S. 1684. A bill to amend the Internal Revenue Code of 1986 to allow a taxpayer a deduction for equipment used for environmental purposes; to the Committee on Finance.

By Ms. MOSELEY-BRAUN (for herself, Mr. DOMENICI, Mr. PACKWOOD, and Mr. BINGAMAN):

S. 1685. A bill to amend the Federal Deposit Insurance Act to permit the continued insurance of deposits in minority-and women-owned banks by the Bank Deposit Financial Assistance Program; considered and passed.

By Mr. MURKOWSKI:

S. 1686. A bill to amend the Alaska Native Claims Settlement Act to settle claims arising from the contamination of transferred lands, and for other purposes; to the Committee on Indian Affairs.

By Mr. MURKOWSKI (for himself, Mr. GLENN, Mr. SIMPSON, Mr. HOLLINGS, Mr. AKAKA, Mr. D'AMATO, Mr. KOHL, Mr. HEFLIN, Mr. INOUYE, Ms. MIKULSKI, Mr. DURENBERGER, Mr. METZENBAUM, Mr. HATFIELD, Mr. GRASSLEY, Mr. REID, Mr. BENNETT, Mr. PELL, Mr. PRYOR, Mr. LEVIN, Mr. DOMENICI, Mr. BROWN, Mr. WARNER, Mrs. MURRAY, Mr. ROCKEFELLER, Mr. THURMOND, Mr. CHAFEE, Mr. PRESSLER, Mr. BINGAMAN, Mr. MOYNIHAN, Mr. RIEGLE, Mr. DOLE, Mr. SARBANES, and Mr. STEVENS):

S.J. Res. 153. A joint resolution to designate the week beginning on November 21, 1993 and ending on November 27, 1993, and the week beginning on November 20, 1994 and ending on November 26, 1994, as "National Family Caregivers Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BYRD (for himself and Mr. HATFIELD):

S. Res. 168. A resolution authorizing the printing with illustrations of a document entitled "Committee on Appropriations, U.S. Senate, 126th anniversary, 1867–1993"; submitted and read.

By Mr. PELL:

S. Res. 169. An original resolution urging a Cabinet-level review of United States-Russia nuclear fuel policy; placed on the calendar.

By Mr. LIEBERMAN:

S. Con. Res. 53. A concurrent resolution to commemorate the 50th anniversary of the heroic rescue of Danish Jews during World War II by the Danish people; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. COHEN:

S. 1671. A bill to require that promotional products for cigarettes bear labels warning the public of the health dangers associated with cigarette smoking, and for other purposes; to the Committee on Commerce, Science, and Transportation.

CIGARETTE PROMOTIONAL PRODUCT LABELING ACT

• Mr. COHEN. Mr. President, I introduce legislation to extend the current health warning requirements for cigarette packages and advertisements to items used to promote cigarette products, such as caps, T-shirts, sporting goods, and other merchandise.

Tobacco use is the No. 1 preventable cause of death in the United States today, accounting for almost 500,000 deaths a year and billions of dollars in health care costs. More people die each year in the United States from smoking than from AIDS, suicide, alcohol and drug abuse, car accidents, and fires combined. Tobacco use in this country carries a price tag of approximately $72 billion a year in direct health care costs and lost productivity.

Clearly, the single most effective thing we can do to improve our Nation's health and control health care costs is to stop smoking. Therefore, I am extremely concerned that recent studies show that smoking rates in the United States are going up, particularly among young people, after many years of decline. If we are to put an end to this preventable epidemic, we must accelerate our efforts not only to help more smokers quit, but also to keep young people from lighting up in the first place.

Tragically, over 3,000 American young people start smoking each day, and, despite extensive public health campaigns linking smoking to heart and lung disease, about one third of our teenagers do some smoking by the time they are 18. What is particularly alarming is that children, especially girls, are smoking at younger and younger ages. Tobacco addiction is increasingly a teen-onset disease: 90 percent of all smokers start before they are 21, 60 percent before they are 14, and 22 percent before they are 9.

I am particularly alarmed by the smoking rates for young people in my home State of Maine. Maine has the third highest smoking rate among 18- to 34-year-olds in the United States. Only Tennessee and Kentucky, both major tobacco-producing States, outrank it. Further, the proportion of young people in Maine who have tried smoking is 53.1 percent—the highest of any State in the country.

With more than 1,000 of the tobacco industry's best customers dying every day, and another 3,000 to 5,000 quitting because of health concerns, smokers are literally a dying breed. Therefore, the tobacco industry must find thousands of new customers a day, just to break even, and is now spending almost $4 billion a year on advertising and promotional campaigns to develop new markets.

The tobacco industry claims that it does not target image-conscious young people with its advertisements featuring rugged Marlboro men, model-thin Virginia Slim women, and super-cool cartoon characters. But, the evidence indicates otherwise.

A recent study published in the Journal of the American Medical Association shows that cigarette-smoking "Smooth Joe" Camel is as recognizable to 6-year-olds as Mickey Mouse. The tobacco industry claims that these ads are, in fact, directed to adults, but a second study reported that 94 percent of high school students were able to identify Smooth Joe, compared to 58 percent of adults over age 21.

Smooth Joe has obviously done his job, and the success of the campaign explains, in large part, why Camel cigarettes have become a top seller among teen smokers. Camel cigarettes are now smoked by 33 percent of smokers under 18, compared with less than 1 percent before the Smooth Joe campaign began in 1988.

The Federal Cigarette Labeling and Advertising Act requires that all cigarette packages and advertisements include a label warning that smoking is hazardous to your health. However, promotional products are not covered by the warning label requirement, and manufacturers have taken advantage of the loophole to create millions of walking billboards by outfitting customers in caps, T-shirts, windbreakers, and other merchandise sporting the cigarette brand name or logos.

Cigarette companies are expected to invest $600 million in these giveaway programs this year—up from $190 million in 1988. Meanwhile, spending on billboard, magazine, and bus-shelter advertising—all of which requires a warning label—has plunged 43 percent since 1988.

A number of brands—most notably Marlboro and Camel—have new giveaway campaigns in which they offer gear made for adventure and neat stuff in return for a specified number of coupons that can only be obtained by purchasing cigarettes. The more you smoke, the more neat stuff you can get. While the offer is supposedly only for cigarette smokers 21 and older, these campaigns are clearly targeted to young people, and, since the orders are placed by mail, there is no way of enforcing the age limit.

For example, Marlboro's Adventure Team campaign offers sporting goods such as sleeping bags, backpacks, and Swiss Army watches—all boldly emblazoned with the Marlboro logo—in return for coupons from specially marked packages of cigarettes. One coupon, worth 5 miles, comes with each pack, so the more you smoke, the better the prize.

You can order a Swiss army knife—customized for the Marlboro adventure team—for 210 miles or 42 coupons or a specially designed Marlboro adventure team sleeping bag for 1,350 miles, or 270 coupons. The offer is limited and orders must be received by February 28. That means a young person whose heart is set on the sleeping bag would have to smoke three packs a day between now and the end of February. This is too dear a price for any young person to pay.

Mr. President, the Cigarette Promotional Product Labeling Act which I am introducing today would require prominent health warning labels on all such promotional products. These items are clearly intended as advertisements and should therefore be treated no differently than billboard, magazine, or other more traditional forms of cigarette advertising.

Further, requiring warning labels on promotional products for cigarettes will not only make the treatment of cigarette advertising more fair, but it will also put a damper on promotional campaigns targeted to young people. In fact, when the Federal Trade Commission extended the warning label requirement for smokeless tobacco to promotional products, the industry largely abandoned its practice of offering free Skoal windbreakers, Copenhagen jean jackets, and other gear. As a smokeless tobacco company executive was quoted recently in the Wall Street Journal: "It would be silly to produce clothes that conspicusously display warning labels."

Mr. President, I urge my colleagues to join me in cosponsoring the Cigarette Promotional Product Labeling Act and ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1671

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cigarette Promotional Product Labeling Act".

SEC. 2. WARNING LABELS ON UTILITARIAN OBJECTS.

Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333) is amended—

(1) in subsection (a), by adding at the end the following new paragraph:

"(4) It shall be unlawful for any person to manufacture, package, or import for sale or distribution within the United States any object that is sold or given or caused to be sold or given by any manufacturer, packager, or importer to consumers for their personal use and that displays the brand name, logo, or selling message of any cigarette product, including pens, pencils, clothing, and sporting goods, unless such object bears, in accordance with the requirements of this section, one of the following labels:

SURGEON GENERAL'S WARNING: Smoking Causes Lung Cancer, Heart Disease, Emphysema, And May Complicate Pregnancy.

SURGEON GENERAL'S WARNING: Quitting Smoking Now Greatly Reduces Serious Risks to Your Health.

SURGEON GENERAL'S WARNING: Smoking by Pregnant Women May Result in Fetal Injury, Premature Birth, And Low Birth Weight.

SURGEON GENERAL'S WARNING: Cigarette Smoke Contains Carbon Monoxide.";

(2) in subsection (b), by adding at the end the following new paragraph:

"(4) The Federal Trade Commission shall promulgate and implement regulations governing the format of each label statement required by paragraph (4) of subsection (a), to appear—

"(A) in a conspicuous and prominent place on the object;

"(B) in a conspicuous format; and

"(C) in legible type in contrast with all other printed material on the object."; and

(3) in paragraph (1) of subsection (c), by striking "and (3)" each place the phrase appears, and inserting "(3), and (4)".•

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 1674. A bill to limit the authority of the Secretary of the Army to acquire land adjacent to Abiquiu Dam in New Mexico; to the Committee on Environment and Public Works.

WATER STORAGE AT ABIQUIU DAM

• Mr. DOMENICI. Mr. President, today I introduce a bill that clarifies the intent of Congress regarding Public Law 100-522, which was passed by the 100th Congress and signed into law in 1988. That law, which dealt with water storage at Abiquiu Dam in northern New Mexico, also authorizes the Army Corps of Engineers to acquire lands "necessary to assure proper recreational access" to the lake.

To implement this section, the corps produced a draft environmental impact statement and began holding public scoping hearings. In the course of numerous meetings with the residents of the area, it became obvious that they feared that the corps might proceed with condemnation of all 6,000 acres of flood easement lands around the lake. Such action would severely disrupt the established community.

In April of this year, the corps withdrew the draft EIS and set up a citizens advisory group to permit fuller community involvement and allow more time to resolve the issue. Representatives of the corps continue to meet with the citizens advisory group, in hopes that a solution may be found, but progress is slow, and the residents' concerns about condemnation of the lands are a continuing obstacle.

The legislation will limit the corps to acquiring lands "only from willing sellers." This action will ameliorate the relations between the corps and residents, and should result in a more timely establishment of appropriate recreational access.

In closing, let me reiterate that the original intent of Public Law 100-522 was to help alleviate the communities' problems caused by the lack of appropriate access to existing recreational facilities. I cannot stress enough the importance of reassuring our citizens that the Federal Government does not wish to impose undue hardships on a community, while ostensibly trying to solve their problems.

Mr. President, I urge that the Senate pass this legislation, to reassure our citizens and to facilitate the completion of this previously authorized recreational project.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1674

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LIMITATION ON LAND ACQUISITION.

Section 1 of the Act entitled "An Act to authorize continued storage of water at Abiquiu Dam in New Mexico", approved October 24, 1988 (43 U.S.C. 620a note), is amended by inserting immediately following "acquire lands" the following: "only from willing sellers".•

By Mr. GLENN:

S. 1675. An original bill to reduce the costs and increase the effectiveness of the Federal Government, and for other purposes; from the Committee on Governmental Affairs; placed on the calendar.

GOVERNMENT STREAMLINING AND REFORM ACT OF 1993

• Mr. GLENN. Mr. President, I introduce the Governmental Affairs Committee's Government Streamlining and Reform Act of 1993. This bill reflects the committee's bipartisan revision and consolidation of several bills to create a Commission to consider and make recommendations for reforming the organization and operations of the executive branch of the Federal Government. Joining me in introducing the bill are Senators ROTH, LIEBERMAN, COHEN, AKAKA, GRASSLEY, and KERREY.

We all know that the time is upon us to reform Government. The American people are insisting that we put our house in order and give them a Government that works, that delivers on its promises, that spends the public's tax dollars effectively and efficiently.

The bipartisan bill I am introducing today creates a mechanism to ensure that we make progress in this effort. The Commission established by the bill complements the President's National Performance Review. Moreover, the process for congressional consideration of the Commission's recommendations respects principles of legislative deliberation, while also assuring timely legislative action.

We all know that reforming the Government historically has proven to be very difficult. The bipartisan sponsors of this legislation believe, however, that the approach taken in this legislation provides a real opportunity for meaningful reform.

I ask unanimous consent that the text of the legislation be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1675

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND PURPOSE.

(a) SHORT TITLE.—This Act may be cited as the "Government Streamlining and Reform Act of 1993".

(b) PURPOSE.—The purpose of this Act is to reduce the costs and increase the effectiveness of the Federal Government by consolidating redundant programs and agencies, streamlining operations, improving management and personnel systems, and promoting economy, efficiency, consistency, and accountability in Government programs and services.

SEC. 2. THE COMMISSION.

(a) ESTABLISHMENT.—There is established an independent commission to be known as the Commission on Government Streamlining and Reform (hereafter in this Act referred to as the "Commission").

(b) DUTIES.—The Commission shall examine and make recommendations to reform the organization and operations of the executive branch of the Federal Government to improve governmental performance while reducing costs. Such recommendations shall promote economy, efficiency, effectiveness, consistency, and accountability in Government programs and services, and shall include and be limited to proposals to—

(1) consolidate or reorganize programs and agencies in order to—

(A) improve the effective implementation of their statutory missions;

(B) eliminate activities not essential to the effective implementation of statutory missions; or

(C) reduce the duplication of activities among agencies;

(2) reduce paperwork and regulatory requirements consistent with statutory missions that unreasonably burden either the public or Government;

(3) improve management capacity in agencies (including central management agencies) to maximize productivity, effectiveness, and accountability for program results, including the improvement of—

(A) personnel systems (including the appropriate use of contractors);

(B) budgetary systems;

(C) financial systems;

(D) information systems; and

(E) procurement systems;

(4) coordinate the delivery of Government services to improve procedural consistency and convenience to persons dealing with agencies; and

(5) propose criteria for use by the President and Congress in evaluating proposals to establish, or to assign a function to, an executive entity, including a Government corporation or Government-sponsored enterprise.

(c) LIMITATIONS ON COMMISSION RECOMMENDATIONS.—The Commission's recommendations or proposals under this Act may not provide for or have the effect of—

(1) continuing an agency beyond the period authorized by law for its existence;

(2) continuing a function beyond the period authorized by law for its existence;

(3) authorizing an agency to exercise a function which is not already being performed by any agency;

(4) eliminating the enforcement functions of an agency, except—

(A) such functions may be transferred to another executive department or independent agency; and

(B) the functions of an independent agency may only be transferred to another independent agency; or

(5) adding, deleting, or changing any rule of either House of Congress.

(d) APPOINTMENT.—

(1) COMPOSITION.—

(A) The Commission shall be composed of 9 members. No more than 5 members shall be affiliated with any one political party.

(B) Five members shall be appointed by the President, one of whom the President shall designate as the Chairman of the Commission. In selecting individuals for appointment to the Commission, the President shall consult with—

(i) the Majority Leader of the Senate concerning the appointment of one member;

(ii) the Speaker of the House of Representatives concerning the appointment of one member;

(iii) the Minority Leader of the Senate concerning the appointment of one member; and

(iv) the Minority Leader of the House of Representatives concerning the appointment of one member.

(C) One member shall be appointed by the Majority Leader and one by the Minority Leader of the Senate. One member shall be appointed by the Speaker and one by the Minority Leader of the House of Representatives.

(2) MEMBERSHIP.—A member of the Commission may be any citizen of the United States, including any elected or appointed public official, career civil servant, or private citizen.

(3) CONFLICT OF INTERESTS.—For purposes of the provisions of chapter 11 of part I of title 18, United States Code, a member of the Commission (to whom such provisions would not otherwise apply except for this paragraph) shall be a special Government employee.

(4) DATE OF APPOINTMENTS.—All members of the Commission shall be appointed prior to October 15, 1993.

(e) TERMS.—Each member shall serve until the termination of the Commission.

(f) VACANCIES.—A vacancy on the Commission shall be filled in the same manner as was the original appointment.

(g) MEETINGS.—The Commission shall meet as necessary to carry out its responsibilities. The Commission may conduct meetings outside the District of Columbia when necessary.

(h) PAY AND TRAVEL EXPENSES.—

(1) PAY.—(A) Except for an individual who is chairman of the Commission and is otherwise a Federal officer or employee, the chairman shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level III of the Executive Schedule under section 5314 of title 5, United States Code, for each day (including traveltime) during which the chairman is engaged in the performance of duties vested in the Commission.

(B) Except for the chairman who shall be paid as provided under subparagraph (A), each member of the Commission who is not a Federal officer or employee shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including traveltime) during which the member is engaged in the performance of duties vested in the Commission.

(2) TRAVEL.—Members of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(i) DIRECTOR.—

(1) APPOINTMENT.—The Commission shall appoint a Director of the Commission without regard to section 5311(b) of title 5, United States Code.

(2) PAY.—The Director shall be paid at the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(j) STAFF.—

(1) APPOINTMENT.—The Director may, with the approval of the Commission, appoint and fix the pay of employees of the Commission without regard to the provisions of title 5, United States Code, governing appointment in the competitive service, and any Commission employee may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that a Commission employee may not receive pay in excess of the annual rate of basic pay payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) DETAIL.—(A) Upon request of the Director, the head of any Federal department or agency may detail any of the personnel of the department or agency to the Commission to assist the Commission in carrying out its duties under this Act.

(B) Upon request of the Director, a Member of Congress or an officer who is the head of an office of the Senate or House of Representatives may detail an employee of the office or committee of which such Member or officer is the head to the Commission to assist the Commission in carrying out its duties under this Act.

(C) Any Federal Government employee may be detailed to the Commission with or without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(k) SUPPORT.—

(1) SUPPORT SERVICES.—The Office of Management and Budget shall provide support services to the Commission.

(2) ASSISTANCE.—The Comptroller General of the United States may provide assistance, including the detailing of employees, to the Commission in accordance with an agreement entered into with the Commission.

(l) OTHER AUTHORITY.—The Commission may procure by contract, to the extent funds are available, the temporary or intermittent services of experts or consultants pursuant to section 3109 of title 5, United States Code. The Commission shall give public notice of any such contract before entering into such contract.

(m) APPLICATION OF FEDERAL ADVISORY COMMITTEE ACT.—The Commission shall be subject to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).

(n) FUNDING.—There are authorized to be appropriated to the Commission such sums as are necessary to enable the Commission to carry out its duties under this Act, such sums to remain available until December 31, 1995.

(o) TERMINATION.—The Commission shall terminate no later than December 31, 1995.

SEC. 3. DEFINITION.

For purposes of this Act the term "agency" includes all Federal departments, independent agencies, Government-sponsored enterprises, and Government corporations.

SEC. 4. PROCEDURES FOR MAKING RECOMMENDATIONS.

(a) NATIONAL PERFORMANCE REVIEW.—

(1) SUBMISSION TO COMMISSION.—No later than October 31, 1993, the President may submit to the Commission a report making recommendations to reform the organization and operations of the executive branch of the Federal Government. Such report shall contain a single legislative proposal (including legislation proposed to be enacted) to implement those recommendations for which legislation is necessary or appropriate.

(2) COMMISSION REVIEW.—No later than December 31, 1993, the Commission shall submit to the President—

(A) a single legislative proposal (including legislation proposed to be enacted), which shall consist of all, or any part of, the legislative proposal received from the President under paragraph (1), and any recommendations for further revisions to the legislative proposal; or

(B) a message that the Commission was unable to agree on such a proposal.

(3) SUBMISSION TO THE CONGRESS.—No later than 30 calendar days after receiving a single legislative proposal (including legislation proposed to be enacted) from the Commission, the President shall—

(A) submit such legislative proposal without modification, except for any revisions consistent with the Commission's recommendations, to the Congress for legislative action under section 6; or

(B) transmit to the Congress a message stating that he is not transmitting such legislative proposal for legislative action under section 6, together with a statement of the reasons for doing so.

(b) IN GENERAL.—No later than March 31, 1995, the Commission shall prepare and submit no more than three preliminary reports to the President and Congress, each of which shall include—

(1) a description of the Commission's findings and recommendations regarding reform of the organization and operations of the executive branch, taking into account any recommendations submitted by the President to the Congress under subsection (a);

(2) reasons for such recommendations; and

(3) a single legislative proposal (including legislation proposed to be enacted) to implement those recommendations for which legislation is necessary or appropriate.

(c) COMMISSION VOTES.—No legislative proposal or preliminary or final report (including a final report after disapproval) may be submitted by the Commission to the President without the affirmative vote of at least 7 members.

(d) DEPARTMENT AND AGENCY COOPERATION.—All Federal departments, agencies, and divisions and employees of all departments, agencies, and divisions shall cooperate fully with all requests for information from the Commission and shall respond to any such requests for information within 30 calendar days or such other time agreed upon by the requesting and requested parties.

SEC. 5. PROCEDURE FOR IMPLEMENTATION OF REPORTS.

(a) PRELIMINARY REPORT AND REVIEW PROCEDURE.—Any preliminary report submitted to the President and Congress under section 4(b) shall be made immediately available to the public. During the 60-day period beginning on the date on which the preliminary report is submitted, the Commission shall announce and hold public hearings for the purpose of receiving comments on the reports.

(b) FINAL REPORT.—No later than 45 days after the conclusion of the period for public hearing under subsection (a), the Commission shall prepare and submit a final report to the President. Such report shall be made available to the public on the date of submission to the President.

(c) REVIEW BY THE PRESIDENT.—

(1) IN GENERAL.—No later than 15 calendar days after receipt of a final report under subsection (b), the President shall approve or disapprove the report.

(2) APPROVAL.—If the report is approved, the President shall submit the report to the Congress for legislative action under section 6.

(3) DISAPPROVAL.—If the President disapproves a final report, the President shall report specific issues and objections, including the reasons for any changes recommended in the report, to the Commission and the Congress.

(4) FINAL REPORT AFTER DISAPPROVAL.—The Commission shall consider any issues or objections raised by the President and may modify the report based on such issues and objections. No later than 30 calendar days after receipt of the President's disapproval under paragraph (3), the Commission shall submit the final report (as modified if modified) to the President. No later than 14 calendar days after receiving such final report, the President shall submit such report (without modification) for legislative action under section 6, or transmit a message to the Congress stating that he is not transmitting such report for legislative action under section 6 and stating the reasons for so doing.

SEC. 6. CONGRESSIONAL CONSIDERATION OF REFORM PROPOSALS.

(a) DEFINITIONS.—For purposes of this section—

(1) the term "implementation bill" means only a bill which is introduced as provided under subsection (b), and contains the proposed legislation—

(A) included in the final report submitted to the Congress under section 5(c) (2) or (4), without modification; or

(B) included in the recommendations submitted by the President under section 4(a)(3); and

(2) the term "calendar day of session" means a calendar day other than one on which either House is not in session because of an adjournment of more than three days to a date certain.

(b) INTRODUCTION, REFERRAL, AND REPORT OR DISCHARGE.—

(1) INTRODUCTION.—On the first calendar day of session on which both Houses are in session, on or immediately following the date on which a proposal is submitted to the Congress under section 4(a)(3) or a final report is submitted to the Congress under section 5(c) (2) or (4), an implementation bill shall be introduced (by request)—

(A) in the Senate by the Majority Leader of the Senate, for himself and the Minority Leader of the Senate, or by Members of the Senate designated by the Majority Leader and Minority Leader of the Senate; and

(B) in the House of Representatives by the Majority Leader of the House of Representatives, for himself and the Minority Leader of the House of Representatives, or by Members of the House of Representatives designated by the Majority Leader and Minority Leader of the House of Representatives.

(2) REFERRAL.—The implementation bills introduced under paragraph (1) shall be referred to the appropriate committee, or committees for consideration of those provisions within their respective jurisdictions. A committee to which an implementation bill is referred under this paragraph may report such bill to the respective House with amendments proposed to be adopted. No such amendment may be proposed unless such proposed amendment is germane to such bill.

(3) REPORT OR DISCHARGE.—If any committee to which an implementation bill is referred has not reported such bill by the end of the 30th calendar day of session after the date of the introduction of such bill, such committee shall be immediately discharged from further consideration of such bill, and upon being reported or discharged from all committees, such bill shall be placed on the appropriate calendar.

(c) SENATE CONSIDERATION.—

(1) IN GENERAL.—On or after the fifth calendar day of session after the date on which an implementation bill is placed on the Senate calendar under subsection (b)(3), it is in order (even if a previous motion to the same effect has been disagreed to) for any Senator to make a privileged motion to proceed to the consideration of the implementation bill (but only on the day after the calendar day on which such Senator announces on the floor of the Senate an intention to make such motion). The motion is not debatable. All points of order against the implementation bill (and against consideration of the implementation bill) other than points of order under Senate Rule 15, 16, or for failure to comply with requirements of this section are waived. The motion is not subject to a motion to postpone. A motion to reconsider the vote by which the motion to proceed is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the implementation bill is agreed to, the Senate shall immediately proceed to consideration of the implementation bill.

(2) DEBATE.—In the Senate, no amendment which is not germane to the bill shall be in order. A motion to postpone is not in order. A motion to recommit the implementation bill is not in order. A motion to reconsider the vote by which the implementation bill is agreed to or disagreed to is not in order.

(3) MOTION TO SUSPEND OR WAIVE APPLICATION.—No motion to suspend or waive the application of this subsection shall be in order, nor shall it be in order for the Presiding Officer to entertain a request to suspend the application of this subsection by unanimous consent.

(4) APPEALS FROM CHAIR.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to an implementation bill shall be decided without debate.

(d) CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.—

(1) IN GENERAL.—At any time on or after the fifth session day after the date on which each committee of the House of Representatives to which an implementation bill is referred has reported that bill, or has been discharged under subsection (b)(3) from further consideration of that bill, the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of that bill. All points of order against the bill, the consideration of the bill, and provisions of the bill shall be waived, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed 10 hours, to be equally divided and controlled by the Majority Leader and the Minority Leader, the bill shall be considered for amendment by title under the five-minute rule and each title shall be considered as having been read.

(2) AMENDMENTS.—Each amendment shall be considered as having been read, shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole, and shall be debatable for not to exceed 30 minutes, equally divided and controlled by the proponent and a Member opposed thereto, except that the time for consideration, including debate and disposition, of all amendments to the bill shall not exceed 20 hours.

(3) FINAL PASSAGE.—At the conclusion of the consideration of the bill, the Committee shall rise and report the bill to the House with such amendments as may have been agreed to, and the previous question shall be

considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

(e) CONFERENCE.—

(1) APPOINTMENT OF CONFEREES.—In the Senate, a motion to elect or to authorize the appointment of conferees shall not be debatable.

(2) CONFERENCE REPORT.—No later than 20 calendar days of session after the appointment of conferees, the conferees shall report to their respective Houses.

(f) RULES OF THE SENATE AND HOUSE.—This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of an implementation bill described in subsection (a), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

SEC. 7. IMPLEMENTATION.

(a) RESPONSIBILITY FOR IMPLEMENTATION.—The Director of the Office of Management and Budget shall have primary responsibility for implementation of the Commission's report and the Act enacted under section 6 (unless such Act provides otherwise). The Director of the Office of Management and Budget shall notify and provide direction to heads of affected departments, agencies, and programs. The head of an affected department, agency, or program shall be responsible for implementation and shall proceed with the recommendations contained in the report as provided under subsection (b).

(b) DEPARTMENTS AND AGENCIES.—After the enactment of an Act under section 6, each affected Federal department and agency as a part of its annual budget request shall transmit to the appropriate committees of Congress its schedule for implementation of the provisions of the Act for each fiscal year. In addition, the report shall contain an estimate of the total expenditures required and the cost savings to be achieved by each action, along with the Secretary's assessment of the effect of the action. The report shall also include a report of any activities that have been eliminated, consolidated, or transferred to other departments or agencies.

(c) GAO OVERSIGHT.—The Comptroller General shall periodically report to the Congress and the President regarding the accomplishment, the costs, the timetable, and the effectiveness of the implementation of any Act enacted under section 6.

SEC. 8. DISTRIBUTION OF ASSETS.

Any proceeds from the sale of assets of any department or agency resulting from the enactment of an Act under section 6 shall be—

(1) applied to reduce the Federal deficit; and

(2) deposited in the Treasury and treated as general receipts.•

By Mr. HATFIELD:

S. 1677. A bill to prohibit U.S. military assistance and arms transfers to foreign governments that are undemocratic, do not adequately protect human rights, are engaged in acts of armed aggression, or are not fully participating in the U.N. Register of Conventional Arms; to the Committee on Foreign Relations.

CODE OF CONDUCT ON ARMS TRANSFERS ACT OF 1993

• Mr. HATFIELD. Madam President, the debate on the North American Free-Trade Agreement has drawn us into a larger discussion of our role in the world and whether or not our trade and foreign policy will turn inward toward isolationism. This has been very much on my mind as I have worked on of the bill I am introducing today.

To put it simply, trade is not necessarily good for its own sake. There is one significant sector of our export economy which not only undermines our own security but contributes to destabilization in the developing world. I am talking about conventional arms transfers.

Gen. Dwight David Eisenhower framed the issue best in a statement he made 40 years ago. He said:

> Every gun that is made, every warship launched, every rocket fired signifies, in the final sense, a theft from those who hunger and are not fed, those who are cold and are not clothed. This world in arms is not spending money alone. It is spending the sweat of its laborers, the genius of its scientists, the houses of its children.

The end of the cold war has left our defenses and foreign policy in limbo. We no longer look at world crises through the lens of bipolar relations with the Soviet Union—it is not so simple as the United States versus the Evil Empire. We are facing wars caused by ethnic tensions and because basic human needs are not being met.

Against the backdrop of these conflicts we now struggle to define our national interests and to set perimeters for intervention. We consider many options: Do we act as the world's policeman? Or do we retreat into a new isolationism? And under what circumstances do we use force? When there is a threat to a fellow democracy? When human rights are abused? Or only when there are direct threats to U.S. territory or citizens?

Our effort to shape a new definition of security encompasses more than decisions about when we use our military. Our actions must conform with our desire to head off confrontations before they occur. This is why we have sought to eradicate weapons of mass destruction—nuclear, biological, chemical; they all present grave dangers as some nations rush to acquire technology. And due to our efforts we can point with hope to some success, such as the Chemical Weapons Convention, which is now open for signature.

We cannot discount conventional weapons proliferation as a lurking threat. Where does this military hardware come from? Mostly from the developed world. Seventy-five percent of all arms exports are sold by the so-called Permanent Five nations—those nations which sit on the U.N. Security Council. But arms are made everywhere. More than 30 developing nations also produce some type of conventional weapons.

Arms are bought everywhere, too. The largest purchases of conventional weapons are made in the most unstable regions of the world, such as the Middle East and Asia. A post-gulf war buying spree by Middle Eastern nations is winding down only after massive purchases of advanced weapons have been completed. The Saudi purchase of 72 F-15 fighters was promoted by then-President Bush as a jobs issue. The usual critics of sales to Arab countries were silenced by Saudi support during the war.

Asian arms purchases are escalating as the Koreas, India, Pakistan and other Asian nations now account for 35 percent of the world share of purchases. Conventional weapons sales threaten not only security from the outside, but also from within as the world's poorest nations expend the highest percentage of their government funds on the military and the servicing of debt—38 percent.

Even knowing these dangers, efforts to enforce embargoes on arms transfers are often less than vigorous. In former Yugoslavia, the Danube was clogged with ships containing arms and petroleum products in violation of the embargo—and many of the illegal shipments were initiated in countries allied to the United States. The first embargo of Haiti similarly had poor enforcement.

As we increase global scrutiny of conventional arms transfers, the place to seek change is in the United States. The unraveling of the Soviet Union has left the United States as the major weapons supplier. In 1992 the United States delivered more than 45 percent of all major combat systems worldwide. The U.S. share of arms sales agreements with the Third World increased in 1992 to over 56 percent.

There is a vacuum of leadership on the issue of arms transfers. Whenever a crisis emerges there is renewed interest in conventional nonproliferation but that interest soon fades as the spotlight turns to the shortsighted commercial question of who gets the jobs and the profits from arms exports, foreign policy nuances, or to technological advancement.

So on the one hand, you have the U.S. government comfortably establishing itself as the world's arms peddler, while at the same time there is little more than lipservice given to conventional nonproliferation initiatives.

I am stunned that the restraint of conventional arms is not our top priority. Conventional warfare is more than just a threat—it is a reality: it is responsible for the loss of over 40 million lives in the 150 conflicts since 1945.

But not only is this issue not our top priority, it is barely on our radar screen. Congress has oversight over Foreign Military Sales through the authorization and appropriations process. In addition, Congress has limited ability to block arms sales. But it is difficult for Congress to block such a sale because both the House and Senate must pass identical joint resolutions stating their opposition. Such a resolution may be vetoed by the President.

And despite the fact that oversight is conducted among the dozen Federal agencies which have responsibility over non-proliferation activities, no recent administration has developed comprehensive policies on arms sales or transfers. Instead, the agencies hold competing goals of restraining or promoting sales. During the previous administration the State Department Office of Munitions Control which licenses commercial defense trade was overhauled and renamed the Center for Defense Trade. More recently, the Commerce Department has reiterated its intent to actively promote U.S. weaponry to foreign clients, to the point of sending the Secretary to hawk U.S. technology at the Paris Air Show.

Clearly there needs to be an overhaul of our method of scrutinizing, approving or rejecting planned arms sales. We must reject the old excuse that "If the United States does not sell these weapons then another nation will." We must reject the idea that sensitive weapons sales are acceptable methods to achieve short-term foreign policy gains. It is time for arms control to take precedence over commerce. It is time we took seriously the questions about "Who armed Iraq?" or "Who armed Somalia?"

After all, during the 1980's, Somalia's dictator, Siad Barre, spent 38 percent of his budget on the military and in exchange for base rights the United States gave Barre $195 million in taxpayer-funded weapons. Our military now faces the heavily armed Somali thugs as the Barre dictatorship's downfall has led to a complete collapse of civil society.

I am not naive: If we are able to achieve the reform of U.S. arms transfer policy, we still will see only minimal impact unless we restrain the arms trade globally. Success ultimately depends upon multilateral cooperation. The United Nations Arms Register, which discloses arms sales by U.N. member nations and thus promotes transparency, is a good start. We need to focus on the creation of a global understanding that these arms are robbing us all of our true national security as defined in the broadest terms. And the United States, as the world's sole superpower, must lead this effort.

How do we lead? There are many proposals worthy of our consideration. We could consider regional agreements which commit nations to arms control goals. We can also promote more strongly defense conversion, which will lessen the interest in commercial sales as fewer U.S. companies manufacture arms. In addition, we should insist upon greater scrutiny of bilateral and multilateral loans to nations which expend excessively on armed forces, in the attempt to reduce militarization.

After reviewing the options, I have decided to focus on the proposal known as the Code of Conduct on Arms Transfers. This proposal has been promoted by arms control organizations in Europe and here in the United States. Its intent is to create a world-wide code of standards by which each nation judges the merits of a conventional weapons sale.

I have translated this proposal into the bill which I am introducing today. An identical bill is being introduced by my House colleague, Representative CYNTHIA MCKINNEY. The Code of Conduct creates specific criteria by which to judge each planned arms sale.

This Code of Conduct permits U.S. arms transfers only to democratic nations which respect human rights and have civilian control over the military. It would also prohibit arms exports to nations who are engaged in armed conflict or to nations which refuse to participate in the U.N. registry.

I have no illusions—I expect this proposal will meet stiff opposition by those who support arms sales. But this issue is too important to ignore. I believe that Congress is the change agent in this debate because no recent administration has been willing to tackle the problem. And I think that the American people are ready to decide whether or not they want their nation to continue its role as the world's weapons pusher.

A tremendous grassroots effort is already underway and I am pleased a number of international development, human rights, religious, arms control, and economic conversion groups have endorsed the Code of Conduct campaign. I thank them for all their efforts, which have been crucial to the development of this legislation.

I urge my colleagues to lend their name to this important effort.●

By Mr. FAIRCLOTH (for himself, Mr. EXON, Mr. DURENBERGER, Mr. SIMPSON, Mr. GREGG, Mr. SHELBY, Mr. LUGAR, Mr. HELMS, Mr. CRAIG, Mr. THURMOND, and Mr. STEVENS):

S. 1678. A bill to amend the Immigration and Nationality Act to provide that public ceremonies for the admission of new citizens shall be conducted solely in English; to the Committee on the Judiciary.

IMMIGRATION AND NATIONALITY ACT AMENDMENTS OF 1993

Mr. FAIRCLOTH. Mr. President, the United States is a unique Nation. Americans trace their ancestors to literally every part of the globe. Americans come in almost every race, nationality, and religion under the Sun. We are a very diverse people.

That is no small fact. The American experiment is about whether such a diverse collection of people can function as a nation. Most other nations in the world are far more homogeneous than the United States, and those that aren't are more often than not torn by ethnic and religious strife.

From Bosnia, to South Africa, to any one of a dozen other countries that have significant internal cultural differences, we learn over and over again that the United States is the exception, not the rule in its ability to assimilate people from many nations into a common society.

What makes America different is that we have come to accept, over time, a common set of rules by which we in our society interact with each other. We can tolerate our differences, because we have shared laws and customs that everyone is expected to live by.

Similarly, Mr. President, here in the Senate—where we represent different States, different parties, and different ideologies—the peoples' business gets conducted because we as Senators have agreed to a set of rules, a means by which Senate business is conducted in a civil manner.

The rules of society, like the rules of the Senate, are the glue that holds us together. Take away that glue, those laws and customs, and the American experiment fails. We would become another example of ethnic strife.

Mr. President, of those common values and accepted ways of conducting ourselves, perhaps the single greatest common thread that unites our diverse peoples is language.

For generations, immigrants coming into this country understood that if they studied hard, learned the English language, and applied themselves, then they could be whatever they wanted to be. They understood that if they failed to learn English—a big part of that cohesiveness which holds us together—and provides the cohesiveness that we need to function as one society—then they could never expect to achieve their full potential.

My own ancestors emigrated from Scotland and settled in eastern North Carolina. My grandmother spoke Gaelic fluently up until her death but she was taught English first because that was the most important thing for all new citizens to know—how to speak English. It was, and still is, the common bond that holds us together.

Immigrants understood that while they should be justifiably proud of their heritage and their native language, that they were now Americans. And being an American meant, among other things, speaking the language of America.

For generations, that was the bargain, the rich heritage that immigrants brought to the country made America stronger, and America gave those same immigrants a better way of life than they could possibly hope to attain in their native lands. But the price of that bargain was that people coming to America were expected to learn English, the language of America.

Now, however, a dangerous trend is occurring. People entering the United States sometimes no longer feel that it is necessary to learn the English language. What's worse, it is a trend which is being reinforced by the Immigration and Naturalization Service.

Earlier this year, INS for the first time began conducting Spanish language naturalization ceremonies for new citizens. By doing so, the Immigration and Naturalization Service is doing a grave disservice to those new citizens and to this Nation. It is leading those new citizens to believe that they do not have to be proficient in the English language in order to succeed and function in America, and it is undermining the common thread that binds us together and makes us all Americans.

Mr. President, the bill I am introducing today is simple. It does not require that new citizens speak English as a first language. But it does require that the Immigration and Naturalization Service's ceremonies for admission of new citizens be in the English language.

It is important that the Government of the United States be clear; if you are a legal immigrant, and meet the requirements of citizenship, you are welcome here. But no matter what your nationality, no matter what your first language, you are expected to become a part of American society, and that means that the tie that holds us together is English.

It just makes common sense that all citizenship ceremonies in this country should be held in the language of the United States, the English language.

Mr. President, I invite all other Members of the Senate to join me in this effort, and ask for their support for the bill.

By Mr. LAUTENBERG:

S. 1679. A bill to establish a program to develop and demonstrate innovative technologies to combat shoreline erosion and for other purposes; to the Committee on Environment and Public Works.

SHORELINE EROSION CONTROL DEMONSTRATION ACT OF 1993

• Mr. LAUTENBERG. Mr. President, I introduce legislation that will spur the development of innovative means to protect our shores from rapid erosion. The Shoreline Erosion Control Demonstration Act of 1993 draws upon a 5-year demonstration program enacted in 1974, which generated valuable information about low cost methods to retard the shoreline erosion process. The proposed program benefits from lessons learned in the first go-around.

Beach erosion is a serious threat to coastal communities throughout the United States and the world. Storms like last December's northeaster, which swept away beaches and sand dunes in my region of the country, cause endless cycles of erosion. To assist shorefront communities in combating erosion, the Federal Government has invested $8 billion in sand replenishment projects over the last two decades, and emergency management agencies, States and local communities have contributed billions more. While hauling in sand from other sites successfully extends the width of beaches, this sand can easily vanish with the next storm.

The bill I am introducing today will minimize this ongoing burden on taxpayers while developing innovative technologies to preserve our shoreline. It offers both alternatives to beach nourishment, and technologies that will work together with nourishment to keep the added sand from washing away as quickly. This would serve to extend the life of each costly nourishment project.

An example of such a technology is the beachsaver reef that was recently installed at a barrier island beach in Avalon, NJ, which is the first of three test sites in the State. The artificial reef is a ramp-shaped concrete structure comprised of interlocking modules. It is submerged at about 250 feet off the shore and parallel to it. The reef is intended to absorb the shock of crashing waves, creating a vertical curtain of water and preventing sand from moving off the shore.

Innovative technologies such as this can save millions of dollars in beach preservation costs that are expended in the interest of protecting shorefront habitats, residences and businesses. Beach preservation technology will also increase the shoreline's ability to support the tourism industry. In New Jersey, our shore is a vital part of our State's economy. Beach communities and shore-related businesses contribute over $9 billion to the State's $18 billion tourism sector. Over 350,000 people are employed serving this industry in some capacity.

The Shoreline Erosion Control Demonstration Act of 1993 will contribute to our economy in yet another way. Federal assistance will help small American companies to develop and prove technologies that are exportable to other countries experiencing severe erosion problems.

Mr. President, this bill does not authorize any additional appropriations for the demonstration program. By amending an existing small beach protection program, the bill enables the Corps of Engineers to more fully utilize the $30 million already authorized under that program. Only $1.5 to $2.5 million of the $30 million authorized has been appropriated in any given year.

This program is a fraction of the estimated $400 million that the Federal Government has spent annually on beach replenishment over the last two decades. Yet it will significantly reduce the amount that needs to be spent each year on replenishment by encouraging technologies that extend the life of ongoing replenishment projects. It is estimated that the beachsaver reef installed in Avalon will extend the life of each 5-year nourishment cycle by 3 years, thereby saving some $15 million over the 50-year life of the nourishment project. In a similar experiment at Palm Beach, FL, a 650-foot offshore reef already paid for itself over one winter, according to a town council member. She stated that "out of no beach—there were waves lapping at the base of a seawall at low tide—has emerged a good 60 feet of beach at mean high water." The bill that I am introducing today will drive the research, development and demonstration of such technologies.

The Shoreline Erosion Control Demonstration Act authorizes the Corps of Engineers, the Federal agency with expertise and experience in shoreline erosion, to award grants for planning, designing, constructing, and monitoring prototype shoreline erosion control devices and programs. The corps must also submit detailed reports on each project and coordinate technology transfers to private property owners and State and local entities.

The projects selected will emphasize natural designs or minimal permanent structural alterations at the site. The bill will promote projects that minimize any negative impact on adjacent shorefront communities and avoid impairing the aesthetic appeal of a site through their placement. In selecting projects, the Corps of Engineers will also consider the findings that evaluations of the original demonstration program provide.

Among the important lessons from the 1974 program is the need for adequate time to monitor demonstration projects. The program's final report to Congress stated that "many of the demonstration projects were maintained for less than one year and a fair evaluation may not be possible or presented in all cases." The report also mentions that "structures that can remain in place for the first few years will tend to remain in place for much longer than 10 years", indicating that a few years of monitoring is needed. To ensure that this program derives the maximum educational benefit from each project, the program is authorized for a total of 8 years, the final 3 of which are devoted exclusively to monitoring projects undertaken in earlier years.

I urge my colleagues to support this legislation, which would broaden the scope of more traditional Corps of Engineers activities to encourage innovation. The technology that is developed as a result of this program will not only benefit shorefront communities but can make a vital difference to all local and regional economies that depend on tourism for jobs and economic activity. It can also become a source of American exports as it promotes innovations in shore protection and replenishment.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1679

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Shoreline Erosion Control Demonstration Act of 1993".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that it is essential to develop, demonstrate, and disseminate innovative technologies to prevent and control shoreline erosion because of—

(1) the importance and increasing interest in the coastal and estuarine zone of the United States;

(2) the deterioration of the shoreline within the zone resulting from erosion;

(3) the harm to water quality and marine life from shoreline erosion;

(4) the loss of recreational potential resulting from shoreline erosion;

(5) the financial loss to private and public landowners resulting from shoreline erosion;

(6) the inability of private and public landowners to obtain satisfactory financial and technical assistance to combat shoreline erosion; and

(7) the loss of structures or landmarks of historic significance.

(b) PURPOSE.—It is the purpose of this section to establish a program to develop, demonstrate, and disseminate information about innovative technologies to combat shoreline erosion.

SEC. 3. NATIONAL SHORELINE EROSION CONTROL DEVELOPMENT AND DEMONSTRATION PROGRAM.

The Act of August 13, 1946 (60 Stat. 1056, chapter 960; 33 U.S.C. 426e et seq.), is amended by adding at the end the following new section:

"SEC. 5. NATIONAL SHORELINE EROSION CONTROL DEVELOPMENT AND DEMONSTRATION PROGRAM.

"(a) DEFINITIONS.—As used in this section:

"(1) SHELTERED WATERS.—The term 'sheltered waters' means tidal waters that are not exposed to the unmitigated forces of open ocean waves and currents.

"(2) COST EFFECTIVE SHORE PROTECTION.—The term 'cost effective shore protection' means the most efficient design that can solve the erosion problem at a given site, taking into account the life cycle cost of the project, including cleanup, maintenance, and amortization.

"(b) ESTABLISHMENT OF NATIONAL SHORELINE EROSION CONTROL DEVELOPMENT AND DEMONSTRATION PROGRAM.—The Secretary of the Army (referred to in this section as the 'Secretary'), acting through the Chief of Engineers, shall establish and conduct a national shoreline erosion control development and demonstration program (referred to in this section as the 'program') for a period of 8 years beginning on the date that funds are made available to carry out this section.

"(c) REQUIREMENTS.—

"(1) IN GENERAL.—The program shall include provisions for—

"(A) planning, designing, and constructing prototype engineered and vegetative shoreline erosion control devices and projects during the first 5 years of the program;

"(B) adequate monitoring of prototypes throughout the duration of the program;

"(C) detailed engineering and environmental reports on the results of each project in the program; and

"(D) technology transfers to private property owners and State and local entities.

"(2) EMPHASIS.—Demonstration projects established pursuant to this section shall emphasize, to the extent practicable—

"(A) the development and demonstration of innovative technologies;

"(B) cost effective shore protection;

"(C) natural designs, including the use of vegetation or temporary structures that minimize permanent structural alterations;

"(D) the avoidance of negative impacts to adjacent shorefront communities;

"(E) in areas with substantial residential or commercial interests adjacent to the shoreline, designs that do not impair their aesthetic appeal;

"(F) the potential for long-term protection afforded by the technology; and

"(G) lessons from evaluations of the original 1974 program, including—

"(i) adequate consideration of the subgrade;

"(ii) proper filtration;

"(iii) durable components;

"(iv) adequate connection between units; and

"(v) additional relevant information.

"(3) SITES.—

"(A) IN GENERAL.—Shoreline erosion control demonstration projects shall be undertaken at publicly or privately owned sites on open coast or sheltered waters.

"(B) SELECTION.—The Secretary shall develop site selection criteria, including—

"(i) a variety of geographical and climatic conditions;

"(ii) the size of the population that is dependent on the beaches for recreation, protection of homes, or commercial interests;

"(iii) the rate of erosion;

"(iv) significant natural resources or habitats and environmentally sensitive areas; and

"(v) significant threatened historic structures or landmarks.

"(C) AREAS.—Projects shall be undertaken at no less than 2 sites on each of the shores of—

"(i) the Atlantic, Gulf, and Pacific coasts;

"(ii) the Great Lakes; and

"(iii) the State of Alaska.

"(d) COOPERATION.—

"(1) PARTIES.—The program shall be carried out in cooperation with—

"(A) the Secretary of Agriculture, particularly with respect to vegetative means of preventing and controlling shoreline erosion;

"(B) Federal, State, and local agencies;

"(C) private organizations;

"(D) the Coastal Engineering Research Center established by the first section of Public Law 88–172 (33 U.S.C. 426–1); and

"(E) university research facilities.

"(2) AGREEMENTS.—Such cooperation may include entering into agreements with other Federal, State, or local agencies or private organizations, to undertake functions in subsection (c)(1) where appropriate.

"(e) REPORTS.—

"(1) IN GENERAL.—The Secretary, acting through the Chief of Engineers, shall annually prepare and submit a program progress report to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

"(2) GENERAL REPORT.—The final report shall be submitted not later than 60 days after the conclusion of the program, and shall include a comprehensive evaluation of the national shoreline erosion control development and demonstration program, and recommendations regarding its continuation.

"(f) FUNDING.—

"(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Federal share of the cost of a project under this section shall be determined in accordance with section 3.

"(2) RESPONSIBILITY.—The cost of and responsibility for operation and maintenance of a project not including monitoring, under the program shall be borne by non-Federal sponsors upon completion of construction of the project.

"(3) COST SHARE ADJUSTMENT.—The cost share requirements for projects on public lands that provide for full public access may be adjusted by the Secretary for projects in sponsoring communities that are experiencing financial hardship, as defined by the Secretary, at the time the project is selected.".

SEC. 4. CONFORMING AMENDMENT.

Section 1(e) of the Act of August 13, 1946 (60 Stat. 1056, chapter 960; 33 U.S.C. 426e(e)), is amended by striking "section 3" and inserting "sections 3 and 5".•

By Mr. LAUTENBERG:

S. 1680. A bill to amend the Toxic Substances Control Act to protect the public from health hazards caused by exposure to environmental tobacco smoke, and for other purposes; to the Committee on Environment and Public Works.

SMOKE-FREE ENVIRONMENT ACT OF 1993

• Mr. LAUTENBERG. Mr. President, I introduce the Smoke-Free Environment Act of 1993. It is fitting that I introduce this legislation today, because November 18 is the Great American Smoke Out: A day when many Americans will kick the habit and save their lives. They will decide to no longer inhale deadly tobacco smoke. That decision is commendable. But even after an individual makes that decision, they can still be forced to involuntarily inhale deadly tobacco smoke. I want to make sure that once people decide to quit smoking, they quit being exposed to smoke. And that is why I introduce this legislation that will make all public buildings smoke free and prevent people from being exposed to secondhand smoke.

Mr. President, secondhand smoke is a killer. It causes 3,000 lung cancer deaths per year. The EPA has classified secondhand smoke, which is also called environmental tobacco, as a group A carcinogen, like arsenic, benzene, and asbestos. Despite this classification, secondhand smoke is still prevalent in many of our public buildings.

This is why I rise today to introduce the Smoke-Free Environment Act of 1993. This bill will require all public facilities to be smoke free. The bill defines a public facility as any facility that is visited by 10 or more persons at least 1 day per week. In order to comply with this law, the owner or lessee of a public facility must either prohibit smoking indoors altogether or allow it only in a smoking room that is separately ventilated to the outdoors. The EPA Administrator could grant a waiver of this requirement to an entity if it can prove that unusual and extenuating circumstances prevent total compliance. Anyone who is aggrieved under this act may bring a suit to Federal Court. The court may issue a civil penalty of up to $5,000 per day to any person not complying with this act within 60 days after a suit has been filed.

Mr. President, an EPA report released on January 7, 1993, undeniably confirmed what public health officials have reported for several years, smoking kills those who smoke and those who breath secondhand smoke.

The evidence is also clear that secondhand smoke is taking an enormous toll on the health of Americans, particularly our children. According to the EPA report, 3,000 lung cancer deaths per year among nonsmokers result from exposure to secondhand smoke.

Mr. President, at this point I would like to remind my colleagues that in 1988 we passed the Clean Air Act to regulate 189 substances that caused 1,500 deaths per year. But we have done little to fight an indoor air pollutant that causes at least twice as many deaths per year.

Secondhand smoke also causes more than 200,000 lower respiratory tract infections in young children annually, including bronchitis and pneumonia, resulting in 7,500 to 15,000 hospitalizations.

Furthermore, secondhand smoke exacerbates asthmatic symptoms in children and is associated with 8,000 to 26,000 new asthma cases in children.

This EPA report was twice reviewed by an EPA Science Advisory Board and was approved unanimously by the scientists on this panel.

In a separate study, the American Heart Association concluded that exposure to secondhand smoke increases the risk of lung cancer, heart disease and emphysema. They reported that approximately 50 percent of all children are exposed to secondhand smoke.

Now that the evidence is in, it is time for the Congress to take action and protect Americans from this deadly substance.

This legislation takes an important first step to protect Americans from unwanted exposure to deadly secondhand smoke. This legislation expands the nonsmoking policy, that already is in place at the U.S. Department of Health and Human Services, the Environmental Protection Agency, the U.S. Postal Service, and the Veterans Administration to all public facilities, including those remaining Federal buildings.

This legislation simply builds on what the EPA is recommending. On July 21, 1993, the EPA issued a brochure making recommendations on how employers should deal with secondhand smoke. In the private workplace, EPA recommends:

> Prohibiting smoking indoors or limiting smoking to rooms that have been specially designed to prevent smoke from escaping to other areas of the building are two options that will effectively protect nonsmoker.

Furthermore, the Supreme Court recently ruled that it was cruel and unusual punishment for prisoners to be exposed to secondhand smoke. If it is cruel and unusual for prisoners, why can't we protect those who work and visit public facilities?

Once again, now that the studies are completed, it is time to take action to protect people from the dangers of secondhand smoke. The Department of Health and Human Services initially banned smoking in all of its buildings because our top health officials understand the danger of environmental tobacco smoke. We've banned smoking on all domestic airplane flights. It is time to afford this same protection to people who work and visit public facilities.

As a Department of Health and Human Services report notes:

> Twenty-five years ago, smoking in the workplace and public places was considered a virtual birthright. Today, acceptance of smoking in public places has largely disappeared, replaced by an increasing recognition of the right to breathe air free from the harmful effects of tobacco smoke.

We've come a long way, baby. But we still have a way to go.

This legislation has been endorsed by the American Heart Association, the American Lung Association, the American Cancer Society and the Building Owners and Managers Association [BOMA].

I ask unanimous consent that the text of this legislation be printed in the RECORD. I urge my colleagues to cosponsor this legislation.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1680

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Smoke-Free Environment Act of 1993".

SEC. 2. UNIFORM INDOOR AIR POLICY.

(a) IN GENERAL.—The Toxic Substances Control Act (15 U.S.C. 2601 et seq.) is amended by adding at the end the following new title:

"TITLE V—UNIFORM INDOOR AIR POLICY WITH RESPECT TO ENVIRONMENTAL TOBACCO SMOKE

"SEC. 501. PURPOSE.

"The purpose of this title is to establish a uniform indoor air standard for public facilities with respect to environmental tobacco smoke.

"SEC. 502. DEFINITIONS.

"As used in this title:

"(1) ENVIRONMENTAL TOBACCO SMOKE.—The term 'environmental tobacco smoke' means smoke emitted from a cigarette, cigar, or pipe, or any other combustion of tobacco.

"(2) PUBLIC FACILITY.—The term 'public facility'—

"(A) means a building regularly entered by 10 or more individuals at least 1 day per week, including a building owned by or leased to a Federal, State, or local government entity; and

"(B) does not include a building or portion of a building regularly used for residential purposes.

"(3) RESPONSIBLE ENTITY.—The term 'responsible entity' means, with respect to a public facility, the owner of the facility, except that in the case of a facility or portion of a facility that is leased, the term means the lessee of the facility.

"SEC. 503. UNIFORM INDOOR AIR POLICY.

"(a) REQUIREMENT OF POLICY.—

"(1) IN GENERAL.—Except as provided in subsection (b), the responsible entity for each public facility shall adopt and carry out at the facility a uniform indoor air policy that meets the requirements of paragraph (2).

"(2) ELEMENTS OF POLICY.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), each uniform indoor air policy for a public facility shall—

"(i) prohibit the emission of environmental tobacco smoke within the facility and on facility property within the immediate vicinity of the entrance to the facility; and

"(ii) post a clear and prominent notice of the prohibition specified in clause (i) in appropriate and visible locations at the public facility.

"(B) EXCEPTION FOR SPECIALLY DESIGNATED SMOKING AREAS.—

"(i) IN GENERAL.—A uniform indoor air policy may provide an exception to the prohibition specified in subparagraph (A)(i) for 1 or more specially designated smoking areas within a public facility if each area meets the requirements of clause (ii).

"(ii) REQUIREMENTS.—An area meets the requirements for a specially designated smoking area referred to in clause (i) if—

"(I) the area is ventilated in accordance with specifications issued by the Administrator that ensure that air from the area is directly exhausted to the outside and does not recirculate or drift to other areas within the public facility; and

"(II) nonsmoking individuals do not have to enter the area for any purpose.

"(b) WAIVERS.—

"(1) IN GENERAL.—A responsible entity for a public facility may petition the Administrator for a waiver from compliance with subsection (a). If the Administrator determines that the public facility is subject to unusual and extenuating circumstances that prevent the compliance, the Administrator may grant the waiver and instead require that the facility protect nonsmokers to the maximum extent practicable.

"(2) TERM OF WAIVER.—Each waiver granted under this subsection shall be for a period of not to exceed 1 year.

"(3) PUBLICATION.—Each petition for a waiver and a summary of subsequent actions taken by the Administrator shall be published in the Federal Register.

"(4) REPORT TO CONGRESS.—The Administrator shall annually report to Congress on all waivers granted during the preceding year.

"SEC. 504. ENFORCEMENT.

"(a) PENALTIES.—

"(1) IN GENERAL.—A person subject to section 503 who fails to comply with such section shall be liable to the United States for a civil penalty in an amount not to exceed $5,000 for each day during which the violation continues.

"(2) USE OF PENALTIES.—A court may order that a civil penalty imposed under this section be used for projects that further the purpose of this title. The court shall obtain the view of the Administrator in determining whether to issue an order described in the preceding sentence and in selecting the projects.

"(b) BRINGING OF ACTIONS.—

"(1) IN GENERAL.—Subject to paragraph (2), an action to enforce section 503 may be brought by a person aggrieved by a violation of such section, a State or local government agency, or the Administrator.

"(2) NOTICE.—An aggrieved person referred to in paragraph (1) shall give an alleged violator notice of the alleged violation not less than 60 days before bringing an action under this section. An aggrieved person may not bring an action under this section if the alleged violator complies with section 503 within the 60-day period and thereafter.

"(c) VENUE.—An action to enjoin a violation of section 503 or to impose a civil penalty for a violation of such section may be brought in a district court of the United States for the district in which the defendant resides or is doing business. The district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce section 503 and to impose civil penalties under this section.

"(d) COSTS.—In issuing a final order in an action brought under this section, a court may award costs of litigation (including reasonable attorney and expert witness fees) to a prevailing plaintiff, if the court determines that the award is appropriate.

"SEC. 505. PREEMPTION.

"Nothing in this title shall preempt or otherwise affect any other Federal, State, or local law that provides protection from health hazards from environmental tobacco smoke.

"SEC. 506. REGULATIONS.

"The Administrator may issue such regulations as the Administrator considers necessary to carry out this title.".

(b) EFFECTIVE DATE.—This section and the amendment made by this section shall become effective on the date that is 1 year after the date of enactment of this Act.•

By Mr. LAUTENBERG:

S. 1681. A bill to amend the Federal Water Pollution Control Act to allow certain privately owned public treatment works to be treated as publicly owned treatment works, and for other purposes; to the Committee on Environment and Public Works.

MUNICIPAL WASTEWATER TREATMENT PRIVATE INVESTMENT ACT

• Mr. LAUTENBERG. Mr. President, I introduce the Municipal Wastewater Treatment Private Investment Act. This bill will remove an impediment to private investment in municipal wastewater treatment facilities and in doing so, will improve water quality, provide increased fiscal flexibility to local governments, and create jobs.

Mr. President, our Nation's waters are a priceless resource, they provide recreational opportunities, habitat for fish and wildlife, and drinking water among other uses. but we cannot assure our citizens that our waterways will be clean unless we have adequate wastewater treatment facilities.

Our wastewater treatment needs are staggering. According to the 1992 EPA National Needs Survey, it will cost the United States $127.1 billion to build necessary wastewater treatment facilities. My State of New Jersey's wastewater treatment needs alone are $4.756 billion. This includes close to $2 billion for wastewater treatment plants necessary for compliance with the Clean Water Act and an estimated $1.29 billion to reduce discharges of bacteria, garbage, and other floatable debris and other untreated waste from combined sewer overflows. The remaining needs are to construct new sewers and repair existing sewers.

Federal dollars are necessary, but insufficient, to build these facilities. President Clinton has proposed to invest $2 billion a year for State municipal wastewater treatment facility revolving loan funds. This funding level alone is insufficient to pay the costs local communities will have to bear to comply with the Clean Water Act. In addition, State revolving loan assistance will have to address other water quality needs such as storm water and nonpoint source pollution.

Local communities are looking increasingly to privatization of local governmental programs as a way to pay for these programs. This is an obvious way for them to deflect the costs associated with Federal requirements, which are eating into their budgets. And the Federal Government should do everything possible to assist these efforts.

In 1992, President Bush issued Executive order 12803 which made it easier for local governments to privatize facilities that have received Federal financing—including wastewater treatment facilities. EPA Administrator Carol Browner has expressed her support to continue these efforts. In a letter she recently wrote to Mr. Edward Limbach, vice-president of the American Water Works Co. in Voorhees, NJ, Ms. Browner said:

> [W]e need to provide communities the opportunity to work more closely with the private sector in financing environmental infrastructure. Local officials are in the best position to develop capital financing structures that meet their particular needs. We find that communities throughout the Nation are taking the lead in "reinventing government" and acknowledging the ability of private capital to enhance public investment. The EPA is committed to supporting these communities and allowing them flexibility in financing the infrastructure systems needed to achieve the environmental protection our citizens demand.

EPA has an initiative underway to encourage private investment in wastewater treatment facilities.

I urge the Congress to join with the administration in providing flexibility to local officials struggling to address the wastewater needs of this country. One problem identified by EPA which requires legislation concerns the phrase publicly owned treatment works or POTW's. This is the phrase used in the Clean Water Act to identify what we all know to be municipal sewage facilities. Under the act, POTWs are required to provide a level of treatment known as secondary treatment. Other dischargers must comply with best available technology standards.

The various privatization and public-private partnership arrangements that communities seek to enter raise questions concerning which standards wastewater treatment facilities benefiting from private participation must meet. Since such a facility would not be a publicly owned treatment work, different environmental standards might apply to sewage plants solely based on ownership of the wastewater treatment facility rather than on the public and environmental benefit it serves. The uncertainty regarding the environmental standard governing such facilities is hampering private investment in wastewater treatment facilities.

My bill would define "publicly owned treatment works" to include wastewater facilities which are privatized or jointly owned by public and private partners. It would remove the uncertainty regarding the environmental standards governing privately owned wastewater treatment facilities providing municipal wastewater services. It would require the same environmental standards for municipal wastewater treatment facilities owned in whole or in part by private investors as would apply to publicly owned treatment works. Communities and their citizens should not face an additional burden imposed by the Federal Government simply because they are developing innovative means to pay for a clean environment.

This bill would have numerous positive benefits. It would lead to more construction of wastewater treatment facilities. According to a report done by NatWest Washington Analysis, potential private investment in municipal wastewater treatment facilities could reach $2 billion a year. This would double the Federal investment in wastewater facilities.

To the extent that this investment is in new facilities, there will be more treatment facilities and cleaner water. It would help private capital flow into wastewater systems facing upgrades and expansions and new requirements. Private and public/private facilities would have to comply with all of the same requirements that publicly owned facilities have to comply with. Industrial facilities discharging into sewers and treatment plants, whether public or private, would continue to be subject to the pretreatment requirements of the Clean Water Act.

It will also lead to additional jobs. According to a study prepared by Apogee Research, every $1 billion spent on wastewater facility investment generates 34,200 to 57,400 jobs.

It also would mean more capital investment to protect and prolong the extensive Federal investment in existing structures.

Privatization also gives local governments which must comply with the Clean Water Act an additional fiscal tool for construction and maintenance of these facilities. It provides equitable treatment of communities that choose to pursue alternative financing on their own rather then depending on limited Federal funds.

Mr. President, this bill will help the private sector provide the infrastructure financing which is essential for economic growth. It will give local governments with limited financial resources another tool to address their budgetary problems. It will generate jobs. And it will improve the quality of the nation's waters.

I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent that the text of the bill and additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1681

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Municipal Wastewater Treatment Facility Private Investment Act of 1993".

SEC. 2. FINDINGS.

Congress finds that—

(1) municipal wastewater treatment construction needs exceed $100,000,000,000;

(2) Federal assistance for State revolving loan programs will provide funding for only a portion of the municipal wastewater treatment facilities;

(3) increasing the amount of funds invested by the private sector in municipal wastewater treatment facilities would—

(A) help address the funding shortfall referred to in paragraph (2);

(B) stimulate economic growth;

(C) lead to an increase in the construction of wastewater treatment facilities and jobs;

(D) result in cleaner environment; and

(E) provide a greater degree of fiscal flexibility for local governments in meeting Federal mandates; and

(4) the most effective way to encourage an increase in the level of involvement of the private sector in the provision of municipal wastewater services is to provide for the uniform regulation of municipal wastewater treatment plants without regard to whether the wastewater treatment plants are publicly or privately owned or under the control of a public and private partnership.

SEC. 3 PUBLICLY OWNED TREATMENT WORKS DEFINED.

Section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362) is amended by adding at the end the following new paragraphs:

"(21) As used in titles I, III, and IV, and this title, the term 'publicly owned treatment works' means a device or system used in the collection, storage, treatment, recycling, or reclamation of municipal wastewater (or a mixture of municipal wastewater and industrial wastes of a liquid nature) with respect to which all part of the device or system—

"(A) was constructed and is owned or operated by a State or municipality;

"(B) was constructed, owned, or operated by a State or municipality and the ownership has been transferred (in whole or in part) to a private entity that is a regulated utility or that has in effect a contract with a State or municipality to receive municipal wastewater (or a mixture of municipal wastewater and industrial wastes of a liquid nature) from sewers, pipes, or other conveyances, if the facility is used in a manner prescribed in the matter preceding subparagraph (A) by the private entity; or

"(C) is owned or operated by a private entity that is a regulated utility or that has in effect a contract with a State or municipality to receive municipal wastewater (or a mixture of municipal wastewater and industrial wastes of a liquid nature) from sewers, pipes, or other conveyances within a service area that would otherwise be served by the State or municipality, if the facility is used in a manner prescribed in the matter preceding subparagraph (A).

"(22) The term 'regulated utility' means a person, firm, or corporation with respect to which—

"(A) a State water pollution control agency grants a license to own or operate (or both) a wastewater treatment facility; and

"(B) a State regulates the fees or other charges of the utility.".

NATIONAL ASSOCIATION
OF WATER COMPANIES,
Washington, DC, November 1, 1993.

Hon. FRANK LAUTENBERG,
U.S. Senate,
Washington, DC.

DEAR SENATOR LAUTENBERG: I am writing in support of a bill you will soon introduce to promote private sector participation in the provision of wastewater service. This bill would amend the Clean Water Act to provide a definition of "Publicly Owned Treatment Works" (POTW) based on purpose rather than ownership.

According to EPA's 1992 needs survey, $137.1 billion is needed to meet eligible projects under the Clean Water Act through 2012. With funding for the State Revolving Fund decreasing, alternative funding sources will be required to meet these needs.

This is where the private sector can help. Adoption of your legislation will provide a level regulatory playing field for POTWs whether publicly owned, privately owned, or under the control of a public-private partnership. Regulatory certainty of this kind provides an incentive to the private sector to bring its financial resources and managerial expertise to bear on this important environmental function.

The National Association of Water Companies is the trade association representing the nation's investor-owned water utilities. Its 360 members in 41 states provide safe, reliable drinking water to over 22 million Americans every day. Ten of our companies also provide wastewater service to over 350,000 persons nationwide, a number which is growing.

On behalf of our membership, I am pleased to endorse your legislation. I look forward to working with you on this important measure.

Sincerely,
JAMES B. GROFF,
Executive Director.

THE ASSOCIATED GENERAL
CONTRACTORS OF AMERICA,
Washington, DC, November 18, 1993.

Hon. FRANK LAUTENBERG,
U.S. Senate,
Washington, DC

DEAR SENATOR LAUTENBERG: The Associated General Contractors of America supports your legislation to clarify the definition of "publicly owned treatment works" (POTW) in the Clean Water Act. This initiative will make it more attractive to privatize POTWs by removing the possibility that different regulations will be applied to POTWs depending on their ownership. EPA's 1992 needs survey projects that $137.1 billion will be required over the next 20 years for POTWs to meet Clean Water Act standards. Since annual appropriations to the State Revolving Fund program are not likely to be sufficient to meet these needs, it is important that private financing become available to fill the funding gap.

AGC believes your legislation will assist in bringing private funds to the clean water effort and therefore supports it enthusiastically.

Sincerely,
STEPHEN E. SANDHERR,
Executive Director, Congressional Relations.

FIREMEN & OILERS,
Atlanta, GA, November 18, 1993.

Hon. FRANK LAUTENBERG,
U.S. Senate, Washington, DC.

DEAR SENATOR LAUTENBERG: I have recently learned that you are considering introducing an amendment to the clean Water Act that would clarify the definition of Publicly Owned Treatment Works (POTW). International Brotherhood of Firemen & Oilers supports your efforts to amend the Clean Water Act that would remove a major impediment to attracting private capital to fund the nation's wastewater infrastructure needs.

EPA has estimated that within the next 10 years a back log of up to 90 billion in wastewater projects will exist. In New Jersey alone approximately $4.4 billion will need to be invested in wastewater infrastructure. In 1993, over one billion in needed infrastructure improvements will go unfunded in New Jersey. This investment represents only the correction of current deficiencies and provisions of any new facilities to accommodate growth. Yet while New Jersey requires more money for wastewater infrastructure, it is faced with declining federal funding. In 1980 the federal government paid 75 percent of the states wastewater costs. Today about 33% of wastewater funding comes from the federal program.

Clearly, New Jersey and the country's wastewater infrastructure is in need of capital well beyond the resources available from the federal or state governments. Your amendment clarifying the definition of POTWs will attract a greater amount of private capital to fund to a larger portion of the country's wastewater infrastructure needs. Such investment translates into a healthier and more competitive economy and stimulates increased tax revenues.

I urge your favorable consideration to move forward with this amendment.

Sincerely,

MICHAEL A. MATZ,
International Secretary-Treasurer.

AMERICAN WATER WORKS CO., INC.,
Voorhees, NJ, October 28, 1993.

Hon. FRANK P. LAUTENBERG,
U.S. Senate, Washington, DC.

DEAR SENATOR LAUTENBERG: According to the USEPA projections, by the year 2000 the potential exists for a $90 billion backlog in wastewater infrastructure needs in the United States. To address this financial crisis, private sector capital must be attracted to wastewater infrastructure. The opportunity now exists to create a new United States industry—the investor-owned wastewater utility business. This new industry will provide the needed capital for wastewater infrastructure. This new industry will also be a source of millions of dollars of tax revenues for federal, state and local governments.

I believe it is fair to say that the USEPA supports the concept of private capital investment in wastewater infrastructure.

Recently EPA Administrator Carol Browner wrote to me expressing EPA's position. I quote the following from her letter:

"We find that communities throughout the nation are taking the lead in reinventing government and acknowledging the ability of private capital to enhance public investment. The EPA is committed to supporting these communities and allowing them flexibility in financing the infrastructure systems needed to achieve the environmental protection our citizens demand."

In order to open wastewater infrastructure to private capital investment, some legislative impediments need to be removed. One important change that is needed is to clarify the definition of a Publicly-Owned Treatment Works ("POTW") which is now based on the source of capital that financed the system rather than the public purpose which the wastewater facility is serving. Your proposed amendment to the Clean Water Act will clarify the definition and will remove a major impediment for attracting private capital to wastewater infrastructure.

I encourage you to go forward and introduce the amendment to the Clean Water Act. If we at American Water Works Company can be of any assistance in this effort, we will be most happy to help.

Sincerely,

EDWARD W. LIMBACH.

AMERICAN ANGLIAN,
ENVIRONMENTAL TECHNOLOGIES,
Voohees, NJ, November 1, 1993.

Hon. FRANK R. LAUTENBERG,
U.S. Senate,
Washington, DC.

DEAR SENATOR LAUTENBERG: The New Jersey based American Water Works Company and Anglian Water Plc of the United Kingdom have formed a joint venture company, AmericanAnglian Environmental Technologies, to pursue privatization opportunities in wastewater in the United States. The new joint venture company is headquartered in New Jersey.

We have been advised that you are considering an amendment to the Clean Water Act that will remove a major impediment to privatization of wastewater facilities by more clearly defining a publicly-owned treatment works. We encourage you to introduce this amendment which EPA supports.

If we at AmericanAnglian Environmental Technologies can be of any assistance in this effort, we will be most happy to help.

Very truly yours,

J. THOMAS GRIFFITHS.•

By Mr. MOYNIHAN:

S. 1682. A bill to unify the formulation and execution of U.S. diplomacy; to the Select Committee on Intelligence.

UNIFICATION OF U.S. DIPLOMACY ACT OF 1993

• Mr. MOYNIHAN. Mr. President, on the first day of the 102d Congress I introduced the End of the Cold War Act of 1991, S. 236. This legislation included a number of titles, each intended to address a situation or problem which had developed during the course of the cold war. And which, blessedly, we could now correct. As I said in introducing the bill, I believe that:

> The time has come to ask, with the cold war over, can we purge the vestiges of this struggle from our laws, our bureaucracy and, most importantly, from our way of thinking? Can we muster the will to redefine ourselves?

Among other things, the bill dealt with these important topics: First, cleaning up environmental messes justified during the cold war by alleged military necessity; second, the need to purge the infamous ideological lookout lists which barred entry into the United States of tens of thousands of persons posing no threat to the national security for the sole reason of their opinions; third, the desirability of informing the American people of the amount spent annually on intelligence activities as required by the Constitution; and fourth, the necessity of prohibiting executive branch agencies from carrying out clandestine operations with funds solicited from foreign powers.

I am pleased to note that the Congress has since acted on all of these problems. It has called for the publication of information about intelligence spending on several occasions. It adopted my amendment requiring the Department of State to purge the infamous McCarran-Walter lookout lists, while retaining information related to legitimate law enforcement purposes. The Congress has taken steps to address the environmental degradation of the cold war by adopting the Federal Facilities Compliance Act of 1992. And it adopted legislation prohibiting soliciting funds to carry out activities prohibited by Congress, although my amendment to go further and make such activity a criminal offense—which was vetoed by President Bush during the 101st Congress—has not been adopted.

There was, however, another initiative in the End of the Cold War Act of 1991. Title III of S. 236 was titled "Unification of United States Diplomacy" and would have transferred the functions assigned to the Director of Central Intelligence to the Secretary of State. This would have occurred after a 2 year period of consultation and planning to arrange for intelligence activities to be carried out under the direction of the Secretary in the most efficient manner. Needless to say, although this legislation attracted a certain degree of attention—some positive, some negative—it was not adopted. With the advent of the 103d Congress—and a new administration—it seemed reasonable to withhold reintroduction of the bill for a time. A year has now passed since the election and I think—if for no other reason than contributing to the debate over the future of the foreign policy institutions of this country—that the time has come to reintroduce this provision. So I am today introducing the Unification of United States Diplomacy Act of 1993.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1682

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I. SHORT TITLE

SEC. 101. This Act may be cited as the "Unification of United States Diplomacy Act of 1993".

TITLE II. UNIFICATION OF UNITED STATES DIPLOMACY

SEC. 201. Purpose. It is the purpose of this title to unify the formulation and execution of United States foreign policy by providing overall authority over intelligence activities to the Secretary of State.

SEC. 202. Findings. The Congress finds that—

(1) the creation of the Central Intelligence Agency as a separate entity during the Cold War undermined the role of the Department of State as the primary agency of the United States Government in formulating and conducting foreign policy and providing information to the President concerning the state of world affairs; and

(2) it is desirable for the Secretary of State to serve as the official primarily responsible for coordinating and managing the gathering of intelligence.

SEC. 203. Transfer of Intelligence Functions.—

(a) Not later than two years after the effective date of this Act there shall be transferred to and vested in the Secretary of State all of the functions, powers and duties of the Director of Central Intelligence, the Director of the Central Intelligence Agency and any officer or component of the Central Intelligence Agency.

(b) Not later than one year after the effective date of this Act, the Secretary of State, after consultation with the Director of the Central Intelligence Agency and other relevant officials, shall transmit to the Congress a plan for (1) effecting the transfer of functions under this section and (2) administering those functions. In designing the plan the Secretary shall also consult with the Congress, other relevant federal agencies and the President's Foreign Intelligence Advisory Board.

(c) The Secretary of State is authorized to conduct the functions transferred by subsection (a).

(d) The transfer of a function or office from an officer or agency to the Secretary of State includes any aspects of such function or office vested in a subordinate of such officer or in a component of such agency.•

By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 1683. A bill to authorize the Secretary of the Interior to provide funds to the Palisades Interstate Park Commission for acquisition of land in the Sterling Forest area of the New York-New Jersey Highlands Region, and for other purposes; to the Committee on Energy and Natural Resources.

THE STERLING FOREST AND NEW JERSEY WATERSHED PRESERVATION ACT

• Mr. BRADLEY. Mr. President, I introduce critical legislation to allow the preservation of the Sterling Forest along the New Jersey-New York border. The area affected by this bill represents some of the most important New Jersey watershed lands still undeveloped and in private hands. I am very pleased that Senator LAUTENBERG has joined me as a cosponsor of this bill. Also, in the House of Representatives, Congressman TORRICELLI has been thoroughly involved and is committed to action at the earliest date.

Sterling Forest represents the largest unbroken, undeveloped tract of forest land along the New York-New Jersey border. This 30 square mile parcel represents a complete range of wildlife habitat, hills, and wetlands. It's crossed in the north by the Appalachian Trail and is accessible potentially by the 1 of every 12 Americans that live within a 2 hour drive of its boundaries. This area is also home to a large number of threatened and endangered species.

Most important for New Jersey, though, are the billions of gallons of fresh, clean drinking water that flow from its boundaries. The Monksville/Wanaque Reservoirs, which draw from the Sterling Forest watershed, serve one in four New Jerseyans. To threaten this watershed is to threaten the livelihood and well-being of an extraordinary number of my constituents.

Of great concern to me and my constituents are development plans for this region. The proposal offered by the Sterling Forest owners calls for over 14,000 homes and 8 million square feet of commercial space to be built by 2020. Even if this development were concentrated in the least environmentally critical and most accessible tracts, this construction will irrevocably alter and degrade this land. You can't move 100,000 people into a pristine 30-square-mile parcel and seriously predict a limited impact on the environment.

This bill is a necessary step if we are to protect this habitat and watershed. It allows an appropriation of up to $35 million for land acquisition. Furthermore, it designates the Palisades Interstate Park Commission [PIPC], a Federal commission created in 1937, to manage this land. One of the issues that has to be addressed in any expansion to park land is management. We all know how taxed is the National Park Service. The presence of the PIPC eliminates any concerns over competence and capability. Right now, the PIPC manage 23 parks which spread over 82,000 acres and host in excess of 8,000,000 visitors annually. The PIPC has the interest and the track record necessary to give us all a level of comfort that these Sterling Forest tracts, once acquired, will be well managed and protected.

Before closing, I would like to acknowledge that there is a broader context that must be considered. The Sterling Forest is part of a large swath of green, known as the Highlands, that extends from northern New Jersey through New York to Connecticut. In New Jersey and in New York, a large effort is underway to provide a vision for the future of the Highlands. If Sterling Forest is protected, one piece of this puzzle is complete. But, there will be more to do and I expect to remain fully involved.

I urge my colleagues to consider this bill and pass it quickly. There is merit and there is need.

I ask unanimous consent that the text of bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1683

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Sterling Forest and New Jersey Watershed Protection Act of 1993".

SEC. 2. LAND ACQUISITION.

(a) AUTHORIZATION.—The Palisades Park Commission (referred to in this Act as the "Commission") is authorized to acquire from the Sterling Forest Corporation an open space tract of land comprising the Sterling Forest area of the New York/New Jersey Highlands Region.

(b) MANAGEMENT.—The Commission shall manage the land acquired pursuant to subsection (a) to enhance protection of watershed, outdoor recreational, wildlife habitat, and Appalachian Trail values in the Sterling Forest area of the New York/New Jersey Highlands Region.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to the Secretary of the Interior $35,000,000 for the purposes of acquiring the land described in section 2.

(b) TRANSFER OF FUNDS.—Of the sums made available pursuant to subsection (a), the Secretary of the Interior shall transfer to the Commission such sums as are necessary to carry out this Act.•

• Mr. LAUTENBERG. Mr. President, I am pleased to join Senator BILL BRADLEY in introducing legislation that would authorize the Federal Government to provide up to $35 million to purchase land in the Sterling Forest area of the New York/New Jersey region. These funds are critical to preserving the largest pristine private land area in the most densely populated metropolitan region of the United States.

The Sterling Forest is located in the Highlands region on the New Jersey and New York border, within a 2 hour drive for more than 20 million people. Two thousand acres on the New Jersey side were acquired by the State by eminent domain. However, the tract of land on the New York side, some 17,500 acres, is owned by a private corporation and is under constant threat of development.

The current owners of the land have mapped out an ambitious plan that, if implemented, would be the largest real estate venture in the United States. The plan calls for 14,200 houses and over 8 million square feet of commercial and light industrial space. The development would include schools, shopping malls, sewage plants, and residential areas.

The proposed development would also harm the environment: five million gallons of treated sewage effluent would be discharged daily into streams, and road salts, petroleum products, pesticides, and other contaminants would result in substantial non-point source pollution.

As damaging as that would be, I am most concerned about the potential effects on New Jersey's water supply. Sterling Forest is an important watershed for New Jerseyans. The forest provides 18 percent of the clean water flow into the Wanaque/Monksville reservoir system. The Wanaque system delivers drinking water to over 80 cities and towns in Northern New Jersey, which represent 25 percent of the State's population.

Mr. President, we ought not allow such desecration. Sterling Forest is worth preserving. It is nothing short of beautiful. Its rugged topography is good for wildlife (many threatened or endangered species), for hikers and naturalists and for the watershed—not for development.

That's why we need to do all we can to protect this resource. This bill authorizes up to $35 million to be provided to the Palisades Interstate Park Commission for the purchase of Sterling Forest. The Commission has played a critical role in negotiating among private and public parties to strike a compromise with the current owners of Sterling Forest. A compromise is possible. But we need the backing of these Federal funds to make it happen.

Mr. President, we need this bill to preserve not just an environmentally pristine tract of land, but also to ensure that one-quarter of New Jersey's residents' water supply is protect.•

By Mr. MURKOWSKI:

S. 1684. A bill to amend the Internal Revenue Code of 1986 to allow a taxpayer a deduction for equipment used for environmental purposes.

ENVIRONMENTAL PROTECTION ENCOURAGEMENT ACT OF 1993

Mr. MURKOWSKI. Mr. President, on June 30, 1993, the Alaska Pulp Corp. announced that it would indefinitely suspend its pulp mill operation in Sita, AK. That decision meant that some 400 Alaskans, employees of the mill in Sitka, would lose their jobs. To put that number into perspective, those 400 jobs represent a full 10 percent of the labor force in the Borough of Sitka. And that does not begin to measure the effects on the families of the workers and the ripple effects on the local economy of the loss of the jobs at the mill.

Mr. President, there are a number of reasons why the Alaska Pulp Corp. could no longer successfully operate in Sitka, but if there is one thread which ties all of those reasons together, it is the impact on the mill of the Federal Government. Whether the particular impact is the Forest Service's mishandling of the mill's 50-year timber contract or the ever-mounting costs to the mill of complying with Federal environmental regulations, the fact is that those 400 jobs would still be there were it not for the actions of the Federal Government.

That is why I am introducing today the Environmental Protection Encouragement Act of 1993. Mr. President, this country has the world's most stringent economic protections and while we can all take different sides on the issue of whether those regulations are too strict or not strict enough, no one can disagree with the simple premise that these regulations cost American jobs. The regulations cost American jobs because they put American companies, whether they are auto factories in Michigan, aircraft manufacturers in Washington, or pulp mills in Alaska, at a significant competitive disadvantage to overseas companies which simply do not have to live up to the same sort of standards which we force upon ourselves here in the United States.

My legislation does nothing to either weaken or strengthen American environmental law. What it does is take a small step towards giving American companies some parity with their overseas competitors. It does that by allowing American companies the ability to write off, on an accelerated basis, the costs of any equipment bought in order to comply with environmental regulations. Under current law, companies must wait 7 years to deduct the expense of equipment bought to comply with environmental regulations; my legislation would allow them to write off that expense in 1 year.

Mr. President, this is legislation which should be welcome by all parties. Working people and businesses should support this bill because it will allow American companies to stay competitive and, by being so, to stay in business. Environmentalists should support this bill because it will quicken the pace of the installation of environment protection equipment throughout the country. In short, Mr. President, this is a bill which seeks to address the concerns of all parties to the issue of the costs of complying with environmental regulations.

Mr. President, the pulp mill in Sitka remains closed today, and a small community in Alaska struggles with the impact of the loss of 10 percent of its jobs. That same mill has spent millions and millions of dollars in the last several years on everything from water treatment plants to emission monitoring systems. It may be that the mill would be closed even absent those costs, but I believe that we in Congress ought to be in the business of making life a little bit easier on the people out there beyond the beltway who are trying to make an honest living. That is what this legislation is designed to do.

I ask my colleagues for their support.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1684

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Environmental Protection Encouragement Act of 1993".

SEC. 2. ELECTION TO EXPENSE CERTAIN ENVIRONMENTAL PROPERTY.

(a) In General.—Part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by adding after section 179A the following new section:

"SEC. 179. ELECTION TO EXPENSE CERTAIN ENVIRONMENTAL IMPROVEMENT PROPERTY.

"(a) Treatment as Expenses.—A taxpayer may elect to treat the cost of any environmental improvement property as an expense which is not chargeable to capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which the environmental improvement property is placed in service.

"(b) Environmental Improvement Property.—For purposes of this subsection—

"(1) In general.—The term 'environmental improvement property' means tangible property which is acquired by purchase for use in the active conduct of a trade or business and which is—

"(A) of a character subject to the allowance for depreciation provided in section 167.

"(B) used for one or more of the following purposes—

"(i) source reduction,

"(ii) solid waste minimization,

"(iii) waste conversion or recycling,

"(iv) reduction of environmental hazards,

"(v) compliance with environmental permits, rules, and similar requirements,

"(vi) prevention, containment, or control of unplanned releases, or

"(vii) the manufacture, distribution, and sale of alternate fuels and blending stocks or fuel additives for reformulated fuels, and

"(C) located and used exclusively in the United States during the taxable year.

If only a portion of property described in subparagraphs (A) and (C) is described in subparagraph (B), such portion shall be treated as environmental improvement property. For purposes of this paragraph, the term 'United States' has the meaning given such term by paragraph (1) of section 638 (relating to continental shelf areas).

"(2) Other definitions.—For purposes of this subsection—

"(A) Source reduction.—The term 'source reduction' means reduction of the amount of regulated substances or other pollutants from fixed or mobile sources released into the environment if such reduction reduces hazards to public health or environment.

"(B) Solid waste minimization.—The term 'solid waste minimization' means the reduction in the generation of, or the recovery of commercially usable products from, residual materials which are classified as, or which if disposed would be classified as, solid wastes (within the meaning of the Resource Conservation and Recovery Act).

"(C) Waste conversion or recycling.—The term 'waste conversion or recycling' means the processing or conversion of liquid, solid, or gaseous wastes into fuel, energy, or other commercially usable products, and the production of such products if production occurs at the same facility as the conversion.

"(D) Abatement of environmental hazards.—The term 'abatement of environmental hazards' includes the abatement, reduction, monitoring, or stabilization of potential human exposure to toxic chemicals, hazardous or extremely hazardous substances, or harmful radiation.

"(E) Unplanned releases.—The term 'unplanned releases' means any release of regulated substances (except federally permitted releases), including indoor releases.

"(F) Regulated substance.—The term 'regulated substance' includes any substance the release or emission of which is prohibited, limited, or regulated by Federal or State law or by Federal regulations (as determined without regard to whether a particular release would have been prohibited or limited).

"(G) Release.—The term 'release' means any spilling, leaking, pouring, discharging, escaping, dumping, or disposing into the environment, including the abandonment or discarding of barrels or other closed receptacles.

"(c) Definitions and Special Rules.—For purposes of this section—

"(1) Purchase.—The term 'purchase' has the meaning given such term by section 179(d)(2).

"(2) Cost.—The cost of property shall not include so much of the basis of the property as is determined by reference to the basis of other property held at any time by the person acquiring the property.

"(3) Coordination with other provisions.—This section shall not apply with respect to any property with respect to which an election under section 169 or 179 applies."

(b) Conforming Amendment.—The table of sections for part VI of subchapter B of chapter 1 of such Code is amended by adding after the item relating to section 179A the following new item:

"Sec. 179B. Election to expense certain environmental improvement property."

(c) EFFECTIVE DATE.—The amendments made by this section applies to property placed in service in taxable years beginning after December 31, 1993.

By Mr. MURKOWSKI:

S. 1686. A bill to amend the Alaska Native Claims Settlement Act to settle claims arising from the contamination of transferred lands, and for other purposes; to the Committee on Indian Affairs.

THE ANCSA LAND TRANSFER EQUITY ACT OF 1993

Mr. MURKOWSKI. Mr. President, I rise today to introduce the ANCSA Land Transfer Equity Act of 1993. This legislation will correct a long standing injustice for the Alaska Native community.

Over 20 years ago, the Alaska Native Claims Settlement Act passed Congress and was signed into law by President Nixon. ANCSA, as the law is commonly referred to, granted Alaska's Natives 44 million acres (1/9 of Alaska) of land and approximately $1 billion in monetary compensation for the loss of title to their ancestral lands.

Enactment of ANCSA was a monumental event in Alaska. The land grants and compensation contained in ANCSA are unprecedented. ANCSA created business corporations based on existing Alaska Native communities instead of the old-style reservation system. The corporations created under ANCSA became responsible for managing and investing their assets to the benefit of their all-Native shareholders. ANCSA established a system whereby Alaska Natives could become self sufficient and thereby determine their own destinies.

Many in Congress believed ANCSA would not succeed. I am always happy to remind my colleagues in Congress that ANCSA is a successful law that provides unlimited opportunity for Alaska's Native community.

NEED FOR LEGISLATION

While ANCSA is a unprecedented law which is working extremely well, occasionally we find the need to amend the law.

Mr. President, the legislation I am introducing today will correct a long-standing injustice that has inhibited the ability of many of the Native corporations created under ANCSA to realize the full value of their lands as was intended by Congress.

Native corporations in Alaska have received title to approximately 34 million acres of their 44 million acre settlement.

Unfortunately, during recent years it has become apparent that the federal government transferred parcels of land to Native corporations that are contaminated with hazardous and toxic material.

Mr. President, clearly this was not the intent of Congress when ANCSA was enacted. The federal government entered into a contract with Alaska Natives when ANCSA was enacted and the federal government has acted in bad faith by transferring land to Native corporations with hazardous waste on it.

The purpose of ANCSA was to provide Alaska Natives with land and resources that would enable them to become self sufficient. The burden of hazardous waste liability seriously undermines this purpose and places a tremendous financial burden on Alaska's Natives.

IMPACT ON NATIVE LANDS

Native corporations in Alaska are just starting to discover the extent of hazardous waste sites on lands transferred to them by the federal government. The Shee Atika Native Corporation in Sitka, Alaska received the old Fort Ray site on the Alice and Charcoal Islands. There are 15 old transformers containing PCB-laden oil on the site and many of the buildings on this site are unusable due to asbestos contamination.

Twenty two sites contaminated with hazardous waste are already listed on a preliminary Bureau of Land Management report. Old lighthouses, old Army and Navy sites, old mining sites, old Bureau of Indian Affairs schools, old fish canneries. All of these sites were contaminated before the land was transferred from the federal government to Alaska Native corporations.

LEGISLATION

Mr. President, my legislation will address this situation in a simple and equitable manner.

An affected Native corporation will be required to notify the Secretary of the Interior of contaminated sites. Within one year of notification, the Secretary is then required to reach a settlement with the Native corporation under which the federal government either removes the hazardous substances or replaces the land with other contaminant-free lands of equal value. If the Native corporation contributed or generated hazardous waste, they would be responsible for their actions.

The purpose of ANCSA was to come to fair and just settlement of all aboriginal land claims by native groups of Alaska.

Transferring contaminated lands is not a fair settlement.

I urge my colleagues to support my legislation so Alaska's Natives can realize their full potential under the Alaska Native Claims Settlement Act.

By Mr. MURKOWSKI (for himself, Mr. GLENN, Mr. SIMPSON, Mr. HOLLINGS, Mr. AKAKA, Mr. D'AMATO, Mr. KOHL, Mr. HEFLIN, Mr. INOUYE, Ms. MIKULSKI, Mr. DURENBERGER, Mr. METZENBAUM, Mr. HATFIELD, Mr. GRASSLEY, Mr. RIED, Mr. BENNETT, Mr. PELL, Mr. PRYOR, Mr. LEVIN, Mr. DOMENICI, Mr. BROWN, Mr. WARNER, Mrs. MURRAY, Mr. ROCKEFELLER, Mr. THURMOND, Mr. CHAFEE, Mr. PRESSLER, Mr. BINGAMAN, Mr. MOYNIHAN, Mr. RIEGLE, Mr. DOLE, Mr. SARBANES, and Mr. STEVENS):

S.J. Res. 153. A joint resolution to designate the week beginning on November 21, 1993 and ending on November 27, 1993, and the week beginning on November 20, 1994 and ending on November 26, 1994, as "National Family Caregivers Week;" to the Committee on the Judiciary.

NATIONAL FAMILY CAREGIVERS WEEK

Mr. MURKOWSKI. Mr. President, I rise today to introduce, along with Senator JOHN GLENN, Senator STEVENS and 30 of our colleagues, legislation to proclaim the week of November 21 to 27, 1993 and the week of November 20 to 26, 1994 as National Family Caregivers Week.

The purpose of this week is to recognize those who sacrifice their time and energy to the care of elderly parents, relatives, friends and neighbors who need day to day assistance.

The number of Americans age 65 or older is growing dramatically; and the number of frail elderly age 85 and over is growing, too. Over 5 million elderly persons have disabilities that require daily care.

Eighty percent of these elderly receive care from family members—often wives, daughters, and daughters-in-law who sacrifice employment opportunities to provide care.

Their contributions help maintain strong family ties and provide an environment of caring and nurturing.

Not every person who requires care at home is elderly. I ask unanimous consent to insert in the RECORD at this point an article describing the challenges that faced a young couple, Suzanne and Steven Mintz, when Steven was diagnosed with multiple sclerosis.

These weeks, which my legislation sets aside, provides caregivers with needed recognition.

Similar legislation has been introduced in the House by the gentlewoman from Maine, Representative OLYMPIA SNOWE.

I urge my colleagues to cosponsor this important legislation.

Mr. President, I ask unanimous consent that the text of the joint resolution and additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S.J. RES. 153

To designate the week beginning on November 21, 1993, and ending on November 27, 1993, and the week beginning on November 20, 1994 and ending on November 26, 1994, as "National Family Caregivers Week".

Whereas the number of Americans who are age 65 or older is growing dramatically, with an unprecedented increase in the number of frail elderly age 85 or older;

Whereas approximately 5,200,000 older persons have disabilities that leave them in need of help with their daily tasks, including food preparation, dressing, and bathing;

Whereas families provide help to older persons with such tasks, in addition to providing between 80 and 90 percent of the medical care, household maintenance, transportation, and shopping needed by older persons;

Whereas 80 percent of disabled elderly persons receive care from their family members, most of whom are their wives, daughters, and daughters-in-law, who often must sacrifice employment opportunities to provide such care;

Whereas family caregivers are often physically and emotionally exhausted from the amount of time and stress involved in caregiving activities, and therefore need information about available community resources for respite care and other support services;

Whereas the contributions of family caregivers help maintain strong family ties and assure support among generations; and

Whereas there is a need for greater public awareness of and support for the care that family caregivers are providing older persons: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning on November 21, 1993 and ending on November 27, 1993, and the week beginning on November 20, 1994 and ending on November 26, 1994 are each designated "National Family Caregivers Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such weeks with appropriate programs, ceremonies, and activities.

IN SICKNESS AND IN HEALTH

(By Suzanne Mintz)

At first, when Steven felt the tingles all over his body, we didn't know what to make of them. He tried shaking his arms and legs, the way you do when your limbs fall asleep. But that didn't work. So we called our doctor, who sent Steven to George Washington University Hospital for tests.

That's where I found out. On a crisp sunny day in October, the physician in charge came over to me as I got off the elevator. "I was hoping I would see you," he said, guiding me to the waiting area, an uninviting space with chairs lined up in rows facing each other.

"Your husband has multiple sclerosis," he continued without emotion. "It's a debilitating and incurable neurological disease. I'm sorry." The memory of a neighbor sitting on her porch in a wheelchair flashed through my mind. I was 28, Steven was 31.

Not long after he was diagnosed, I heard that people with multiple sclerosis (MS) have a high divorce rate. Nineteen years later, I can understand why. The vagaries of the disease, its on-again-off-again nature and the fact that it attacks just when a person spreads his adult wings, all conspire to eat away at the tender core of a marriage.

MS has no specific prognosis, no timetable, no cure. If it's mild, symptoms may recede or go away entirely. If not, the damage accumulates.

When Steven came home from the hospital, nothing was different about him—yet. He'd stub a toe on a step now and then, but that was all. Why make anyone worry, we thought, deciding not to tell our parents or friends. But I desperately needed to feel I wasn't on my own in dealing with the situation. And so we took Steven's sister and brother-in-law into our confidence. It helped a little.

Outwardly, the pattern of our lives didn't change. Our daughter Darryn entered kindergarten. I completed my master's degree and got a job—my first since she was born. Steven worked as a government economist. We bought a house in Maryland, a ranch house, just in case Steven wouldn't be able to climb stairs one day.

Everything seemed normal, but nothing was. Our sensitivities were so heightened that the simplest question—"How was your day?"—took on a new significance. The response, "It was tiring," conjured up an invalid's lifestyle.

I was apprehensive, unsure of what might happen from day to day, unsure of every conversation, unsure of being too solicitious or not showing enough concern. Steven's health became a major topic of conversation. It consumed our attention and stifled me, but I couldn't admit it. I couldn't say. "Let's not talk about how you feel all of the time. Let's try and live as normal a life as possible."

Of course, we might have had problems without MS. This was the "70s"—Being unable to communicate was common among couples. For us, it was heightened by the fact that we dealt differently with our crisis. Steven turned inward for strength. I needed to reach out for support. It never occurred to us that we would end up waging an emotional war against each other, a war that would lead to a year-long separation, an 18-month truce and a two-year battle before it ended in reconciliation.

Like most couples, we'd married "for better or for worse, in sickness and in health." Nobody who marries at 21 believes that means anything more serious than a common cold. No young couple expects tragedy to happen.

I think the reason we got back together is that, underneath it all, we really are good for each other—plus, when you divorce you give up some of your memories, some of your connections. Neither one of us was willing to do that. Darryn said it best: "I knew you guys loved each other."

So after years of heartache, we were together, but the hardest part was still ahead.

Steven has the slow, progressive variety of MS—it's like a leaky faucet that attracts attention only after water collects in a basin. By 1979, Steven's basin was filling up. His gait was uneven, his balance a bit off. We couldn't hide it anymore. We told our parents and friends. Two years later, he started to use a cane. Toward the end of '82, he got a pair of crutches, the kind with arm supports for more stability.

Then, early in '85, about 10 years after he was diagnosed, Steven bought a motorized scooter to get around at work, in shopping malls and other places where lots of walking was required. The scooter was a relief. I no longer had to watch him struggle to walk a block, and we got back some freedom. But the scooter was also a reminder that MS was here to stay.

I had accepted the fact that Steven might end up in a wheelchair in his mid-50s. When he needed one 13 years ahead of my schedule, sadness—mixed with a lot of hidden anger—overtook me.

As things got worse, I channeled my anger into a drive toward success. I didn't set out to "make it"—to be the main breadwinner, to gain control—but that's what I was doing. If I concentrated on my career, I told myself, I wouldn't be able to focus on Steven's growing disability.

But pushing myself didn't make the pain go away. It turned anger into anguish and then into a depression so deep I needed psychiatric help to get out of it. For the first time, I let myself cry.

There's a delicate balance between giving in, hanging on and graciously accepting the inevitable. Steven and I had to learn to deal with these various perspectives. We had to recognize that our different emotional needs couldn't be ignored, not his, not mine.

Steven's a quiet fighter. He stretches his ability to the limit. I can't bear to watch him struggle each time his condition worsens. Years ago I would have nagged. Now, I let him deal with it his way—until either his safety is at risk or my stress level is so high that I have to call timeout. Then he knows it's time to do something, to get another aid, perhaps a new wheelchair, whatever will help.

Our lives are good for the time being. We share the things we've always liked: movies, mysteries, museums, good food, the ballet. Steven still works full time. Three days a week he drives a car with hand controls to the Department of Energy in Washington, DC, and two days he telecommutes by computer from our home. (Thank heaven for modern technology.) Darryn, 24, an honor student in college, has entered a management-training program. I'm the partner in charge of marketing for one of the top-100 interior-design firms in the country. And I have a new goal in life: to help other caregivers.

A few years ago, my friend Cindy Fowler and I went to the beach for the weekend, just to get away. Her mother, who lives with her, has Parkinson's disease. So Cindy and I were dealing with a lot of the same concerns. As we talked, we realized that, despite the differences in our lives, we shared a need for practical information and for emotional support. And we weren't the only ones.

Millions of people care for disabled husbands, wives, children, parents, sisters, brothers and companions at home. Most of us are women, our lives are hard, and we can get depressed. But hardly anyone notices. Friends are sure to ask, "How's John?" "How's Mary?" But they don't ask about us. We're invisible.

Cindy and I started a nonprofit organization, the National Family Caregivers Association, to let other caregivers know they're not alone and to help them make their lives better.

We don't suggest that giving care is as hard as needing it. But the caregiver gives up dreams, too. Becoming a caregiver means reevaluating priorities, making compromises, spending thousands of dollars on equipment your insurance doesn't cover. Caregiving is learning about drugs and emergency-alert systems. It's hard work and pain—and joy when your loved one has a good day.

Caregiving can go on for a few years or a lifetime. For me, it began with waiting and has grown into doing all the chores, helping Steven dress, going out less because he's tired more often . . . and wondering what comes next.

I don't look forward to the future. Some visions of old age fill me with dread, but they may not come to pass. Steven's MS may not get worse. A cure may be discovered. We may be able to live on together in the home we love. These things are all possible, but I try not to spend too much time thinking about them. I know that there's too much to do right now.

ADDITIONAL COSPONSORS

S. 27

At the request of Mr. SARBANES, the name of the Senator from New York

[Mr. MOYNIHAN] was added as a cosponsor of S. 27, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia.

S. 563

At the request of Ms. MOSELEY-BRAUN, the names of the Senator from Utah [Mr. BENNETT] and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of S. 563, a bill to require CBO analysis of each bill or joint resolution reported in the Senate or House of Representatives to determine the impact of any Federal mandates in the bill or joint resolution.

S. 634

At the request of Mr. GLENN, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 634, a bill to establish a program to empower parents with the knowledge and opportunities they need to help their children enter school ready to learn, and for other purposes.

S. 680

At the request of Mr. GORTON, the names of the Senator from Connecticut [Mr. LIEBERMAN] and the Senator from Connecticut [Mr. DODD] were added as cosponsors of S. 680, a bill to provide for toy safety, and for other purposes.

S. 717

At the request of Mr. PRYOR, the names of the Senator from Arkansas [Mr. BUMPERS] and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of S. 717, a bill to amend the Egg Research and Consumer Information Act to modify the provisions governing the rate of assessment, to expand the exemption of egg producers from such act, and for other purposes.

S. 773

At the request of Mr. LAUTENBERG, the names of the Senator from New York [Mr. MOYNIHAN], and the Senator from New Mexico [Mr. DOMENICI] were added as cosponsors of S. 773, a bill to require the Administrator of the Environmental Protection Agency to establish a program to encourage voluntary environmental cleanup of facilities to foster their economic redevelopment, and for other purposes.

S. 881

At the request of Mr. DODD, the name of the Senator from Utah [Mr. BENNETT] was added as a cosponsor of S. 881, a bill to amend the Elementary and Secondary Education Act of 1965 to reauthorize and make certain technical corrections in the Civic Education Program, and for other purposes.

S. 993

At the request of Mr. KEMPTHORNE, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 993, a bill to end the practice of imposing unfunded Federal mandates on States and local governments and to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations.

S. 994

At the request of Mr. PRYOR, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 994, a bill to authorize the establishment of a fresh cut flowers and fresh cut greens promotion and consumer information program for the benefit of the floricultural industry and other persons, and for other purposes.

S. 1408

At the request of Mr. LOTT, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 1408, a bill to repeal the increase in tax on Social Security benefits.

S. 1447

At the request of Mr. BRYAN, the names of the Senator from Maryland [Mr. SARBANES], the Senator from Arkansas [Mr. PRYOR], the Senator from Oklahoma [Mr. BOREN], and the Senator from Delaware [Mr. ROTH] were added as cosponsors of S. 1447, a bill to modify the disclosures required in radio advertisements for consumer leases, loans and savings accounts.

S. 1448

At the request of Mr. SASSER, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of S. 1448, a bill to establish a Police Corps Program and a Law Enforcement Scholarship and Employment Program.

S. 1458

At the request of Mrs. KASSEBAUM, the name of the Senator from Wyoming [Mr. WALLOP] was added as a cosponsor of S. 1458, a bill to amend the Federal Aviation Act of 1958 to establish time limitations on certain civil actions against aircraft manufacturers, and for other purposes.

S. 1463

At the request of Ms. MIKULSKI, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 1463, a bill to amend the Elementary and Secondary Education Act of 1965 to address gender equity in mathematics and science education and to assist schools and educational institutions in the elimination of sexual harassment and abuse.

S. 1506

At the request of Mrs. BOXER, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1506, a bill to amend the Public Health Service Act to provide for the training of health professions students with respect to the identification and referral of victims of domestic violence.

S. 1607

At the request of Mr. LIEBERMAN, his name was added as a cosponsor of S. 1607, a bill to control and prevent crime.

At the request of Mr. CONRAD, his name was added as a cosponsor of S. 1607, supra.

S. 1664

At the request of Mr. BRYAN, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 1664, a bill to amend subchapter II of chapter 53 of title 31, United States Code, to improve enforcement of anti-money laundering laws, and for other purposes.

SENATE JOINT RESOLUTION 52

At the request of Mr. PACKWOOD, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of Senate Joint Resolution 52, a joint resolution to designate the month of November 1993 and 1994 as "National Hospice Month."

SENATE JOINT RESOLUTION 55

At the request of Mr. HATCH, the name of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of Senate Joint Resolution 55, a joint resolution to designate the periods commencing on November 28, 1993, and ending on December 4, 1993, and commencing on November 27, 1994, and ending on December 3, 1994, as "National Home Care Week."

SENATE CONCURRENT RESOLUTION 34

At the request of Mr. BRADLEY, the names of the Senator from California [Mrs. FEINSTEIN] and the Senator from California [Mrs. BOXER] were added as cosponsors of Senate Concurrent Resolution 34, a concurrent resolution expressing the sense of the Senate regarding the accounting standards proposed by the Financial Accounting Standards Board.

SENATE CONCURRENT RESOLUTION 50

At the request of Mr. PELL, the name of the Senator from Wisconsin [Mr. FEINGOLD] was added as a cosponsor of Senate Concurrent Resolution 50, a concurrent resolution concerning the Arab boycott of Israel.

SENATE RESOLUTION 160

At the request of Mr. DURENBERGER, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of Senate Resolution 160, a resolution expressing the sense of the Senate regarding the October 21, 1993, attempted coup d'etat in Burundi, and for other purposes.

SENATE RESOLUTION 167

At the request of Mr. PELL, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of Senate Resolution 167, a resolution expressing the sense of the Senate concerning the Iraqi Government's campaign against the Marsh Arabs of Southern Iraq.

SENATE CONCURRENT RESOLUTION 53—TO COMMEMORATE THE 50TH ANNIVERSARY OF THE HEROIC RESCUE OF DANISH JEWS DURING WORLD WAR II BY THE DANISH PEOPLE

Mr. LIEBERMAN submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 53

Whereas in the fall of 1943, the Nazis occupied Denmark and issued orders that the Danes deport all Danish Jews to concentration camps where the Jews would eventually be exterminated;

Whereas the Danish people, as a result of the Nazi mandate, began a mission of mercy on October 1, 1943, smuggling Jews across the Oresund Strait to neutral Sweden via small boats and fishing cutters;

Whereas the Danish rescuers unselfishly risked their own lives, avoiding German patrols during the more than 2-month long rescue operations; and

Whereas approximately 90 percent of the Danish Jews were saved from certain death at the hands of the Nazis by the sheer courage and compassion demonstrated by the Danes: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) recognizes and commemorates the bravery and valor of those Danes who participated in the 1943 rescue operations that saved the lives of 7,300 Jews who would otherwise have perished in Nazi concentration camps; and

(2) declares that the world owes a great debt to these Danes who did not turn a blind eye on the dangers that faced Jews under Nazi occupation.

• Mr. LIEBERMAN. Mr. President, I submit today a concurrent resolution commemorating the 50th anniversary of the heroic rescue of Danish Jews during World War II by the Danish people. For more than 2 months beginning in October 1943, 7,300 Jews living in Denmark were smuggled past Nazi patrols and across the stormy waters of the Oresund Strait to Sweden so they could live free of the fear of extermination by the Nazis. The Danish people involved in this rescue did so at great risk to their own safety. Their courage, compassion, and refusal to turn a blind eye to the dangers which faced Jews under Nazi occupation set an example which the world should not forget. As we commemorate this 50th anniversary, we should recommit ourselves to the ideals which these brave men and women risked their lives for. I am proud to introduce this resolution and urge my colleagues to support it.•

SENATE RESOLUTION 168—AUTHORIZING THE PRINTING OF A DOCUMENT RELATIVE TO THE 126TH ANNIVERSARY OF THE APPROPRIATIONS COMMITTEE

Mr. BYRD (for himself and Mr. HATFIELD) submitted the following resolution; which was considered and agreed to:

S. RES. 168

Resolved, That there be printed with illustrations as a Senate document a compilation of materials entitled "Committee on Appropriations, United States Senate, 126th Anniversary, 1867–1993", and that there be printed five thousand additional copies of such document for the use of the Committee on Appropriations.

SENATE RESOLUTION 169—ORIGINAL RESOLUTION REPORTED TO ESTABLISH A UNITED STATES-RUSSIA NUCLEAR POLICY REVIEW GROUP

Mr. PELL, from the Committee on Foreign Relations, reported the following original resolution:

S. RES. 169

SECTION 1. CONGRESSIONAL FINDINGS.

The Senate finds that—

(1) Reducing the threat of nuclear proliferation remains one of our Nation's top priorities;

(2) While the nuclear arsenal of the former Soviet Union represented the single greatest threat of nuclear attack to the United States before the breakup of that country, reducing our two arsenals and disposing of the resulting weapons grade uranium and plutonium is one of the principal means by which the threat of nuclear proliferation can be reduced;

(3) While an agreement on the disposal of highly enriched uranium is under discussion by both the United States and the Russian Republic, a number of issues have slowed the finalization of the agreement;

(4) The prompt resolution of these issues is vital to U.S. national interests; and

(5) Although each agency has been working to resolve the issues within its jurisdiction, there exists no centralized, high-level mechanism within the Executive Branch by which these pressing nuclear issues may be quickly and efficient resolved.

SEC. 2. SENSE OF THE SENATE.

It is the sense of the Senate that—

(1) The President should establish immediately an extraordinary nuclear policy review group, to be chaired by the National Security Advisor and to be composed of high-level officials from relevant agencies, to seek to ensure that all outstanding issues between the United States and Russia relating to nuclear materials, including the highly enriched uranium agreement, are promptly addressed and resolved;

(2) The extraordinary nuclear policy review group should review in particular a range of nuclear policy matters that can and should be resolved by administrative procedures including the purchase agreement on highly enriched uranium and access to U.S. markets for Russian commercial grade uranium. Other programs to be reviewed include greater cooperation in technology transfer, nuclear safety and nuclear nonproliferation agreements; training and other programs to increase the stability of nuclear scientists and technicians of the former Soviet Union; and feasibility of additional efforts to accelerate the pace of dismantling the nuclear arsenal of the former Soviet Union.

(3) The President should provide a report to the appropriate committees of Congress within 90 days of enactment of this Act, detailing the findings of the extraordinary nuclear policy review group and its recommendations for resolving all outstanding issues between the United States and Russia relating to nuclear materials, including the recommendations for expedited administrative resolution of matters relating to the highly enriched uranium agreement and access to U.S. markets for Russian commercial grade uranium.

SEC. 3. APPROPRIATE COMMITTEES OF CONGRESS.

For purposes of this section the "appropriate committees of Congress" shall include the Foreign Relations Committee of the Senate and the Foreign Affairs Committee of the House of Representatives.

AMENDMENTS SUBMITTED

HUD HOUSING LEGISLATION

RIEGLE (AND OTHERS) AMENDMENT NO. 1215

Mr. BAUCUS (for Mr. RIEGLE for himself, Mr. D'AMATO, Mr. SARBANES, Mr. BOND, Mr. DOMENICI, and Mr. BINGAMAN) proposed an amendment to the bill (S. 1299) to reform requirements for the disposition of multifamily property owned by the Secretary of Housing and Urban Development, enhance program flexibility, authorize a program to combat crime, and for other purposes; as follows:

On page 80, after line 25, insert the following new paragraph:

"(3) FORECLOSURE SALE.—In carrying out this section, the Secretary shall—

"(A) prior to foreclosing on any multifamily housing project held by the Secretary, notify both the unit of general local government in which the property is located and the tenants of the property of the proposed foreclosure sale; and

"(B) upon disposition of a multifamily housing project through a foreclosure sale, determine that the purchaser is capable of implementing a sound financial and physical management program that is designed to enable the project to meet anticipated operating and repair expenses to ensure that the project will remain in decent, safe, and sanitary condition.

On page 87, line 4, strike "unsubsidized".

On page 87, line 10, insert "otherwise" after "who are"

On page 87, line 11, strike "such" and insert ", in accordance with the requirements of subparagraph (A), (B), or (D) of paragraph (1)," after "assistance".

On page 87, line 17, strike "Actions" and insert "With respect to subsidized or formerly subsidized projects, actions".

On page 87, line 17, strike "also".

On page 101, line 2, strike "disposition of, or" and insert "demolition of,".

On page 101, line 3, insert "or conversion in the use of," after "to,".

On page 101, lines 9 through 11, strike "not owned by the Secretary (and for which the Secretary is not mortgagee in possession)" and insert "subject to a mortgage held by the Secretary".

On page 101, line 13, insert ", if the Secretary has authorized the demolition of, repairs to, or conversion in the use of such multifamily housing project" before the period.

On page 103, line 16, insert ", unsubsidized," after "subsidized".

On page 105, line 20, insert ", on an aggregate basis, which highlights the differences, if any, between the subsidized and the unsubsidized inventory" before the period.

Beginning on page 105, strike line 21 and all that follows through page 106, line 12, and insert the following:

"(1) the average and median size of the projects;

"(2) the geographic locations of the projects, by State and region;

"(3) the years during which projects were assigned to the Department, and the average and median length of time that projects remain in the HUD-held inventory;

"(4) the status of HUD-held mortgages;

"(5) the physical condition of the HUD-held and HUD-owned inventory;

"(6) the occupancy profile of the projects, including the income, family size, race, and ethnic origin of current tenants, and the rents paid by such tenants;

"(7) the proportion of units that are vacant;

"(8) the number of projects for which the Secretary is mortgagee in possession;

"(9) the number of projects sold in foreclosure sales;

"(10) the number of HUD-owned projects sold;

On page 108, line 6, insert "and" after the semicolon.

On page 108, line 8, strike "(j)" and insert "(i)".

On page 108, line 8, strike "; and" and insert ".".".

On page 108, strike lines 9 through 15.

On page 113, line 9, before the period insert the following: ", except that nothing in this clause shall have the effect of altering the provisions of an existing regulatory agreement or federally insured mortgage on the property".

On page 114, line 15, strike "and".

On page 114, line 22, strike the period at the end and insert "; and".

On page 114, between lines 22 and 23, insert the following new paragraph:

(9) by adding at the end the following new subsection:

"(k) IDENTITY OF INTEREST MANAGING AGENT.—For purposes of this section, the term 'identity of interest managing agent' means an ownership entity, or its general partner or partners, which has an ownership interest in and which exerts effective control over the property's ownership.".

On page 114, between lines 22 and 23, insert the following new subsection:

(b) IMPLEMENTATION.—The Secretary shall implement the amendments made by this section by regulation issued after notice and opportunity for public comment. A proposed rule shall be published not later than March 1, 1994. The notice shall seek comments primarily as to the definition of the terms 'ownership interest in' and 'effective control', as such terms are used in the definition of identity of interest managing agent.

On page 114, line 23, strike "(b)" and insert "(c)".

On page 115, line 2, strike "this Act" and insert "the final regulations implementing the amendments made by this section" before the semicolon.

On page 166, beginning on line 21, strike "Such preference" and all that follows through line 24 and insert the following: "Such preference shall not preclude the selection by the Secretary of other meritorious applications, particularly applications which address urgent or severe crime problems or which demonstrate especially promising approaches to reducing crime. Such preference shall not be construed to require continuation of activities determined by the Secretary to be unworthy of continuation.".

On page 177, between lines 8 and 9, insert the following new sections:

SEC. 311. ASSUMPTION OF ENVIRONMENTAL REVIEW RESPONSIBILITIES UNDER UNITED STATES HOUSING ACT OF 1937 PROGRAMS.

Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following new section:

"SEC. 26. ENVIRONMENTAL REVIEWS.

"(a) IN GENERAL.—

"(1) RELEASE OF FUNDS.—In order to assure that the policies of the National Environmental Policy Act of 1969 and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the expenditure of funds under this title, and to assure to the public undiminished protection of the environment, the Secretary may, under such regulations, in lieu of the environmental protection procedures otherwise applicable, provide for the release of funds for projects or activities under this title, as specified by the Secretary upon the request of a public housing agency under this section, if the State or unit of general local government, as designated by the Secretary in accordance with regulations, assumes all of the responsibilities for environmental review, decisionmaking, and action pursuant to such Act, and such other provisions of law as the regulations of the Secretary may specify, which would otherwise apply to the Secretary with respect to the release of funds.

"(2) IMPLEMENTATION.—The Secretary, after consultation with the Council on Environmental Quality, shall issue such regulations as may be necessary to carry out this section. Such regulations shall specify the programs to be covered.

"(b) PROCEDURE.—The Secretary shall approve the release of funds subject to the procedures authorized by this section only if, not less than 15 days prior to such approval and prior to any commitment of funds to such projects or activities, the public housing agency has submitted to the Secretary a request for such release accompanied by a certification of the State or unit of general local government which meets the requirements of subsection (c). The Secretary's approval of any such certification shall be deemed to satisfy the Secretary's responsibilities under the National Environmental Policy Act of 1969 and such other provisions of law as the regulations of the Secretary specify insofar as those responsibilities relate to the release of funds which are covered by such certification.

"(c) CERTIFICATION.—A certification under the procedures authorized by this section shall—

"(1) be in a form acceptable to the Secretary;

"(2) be executed by the chief executive officer or other officer of the State or unit of general local government who qualifies under regulations of the Secretary;

"(3) specify that the State or unit of general local government under this section has fully carried out its responsibilities as described under subsection (a); and

"(4) specify that the certifying officer—

"(A) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 and agrees to comply with each provision of law specified in regulations issued by the Secretary insofar as the provisions of such Act or other such provision of law apply pursuant to subsection (a); and

"(B) is authorized and consents on behalf of the State or unit of general local government and himself or herself to accept the jurisdiction of the Federal courts for the purpose of enforcement of his or her responsibilities as such an official.

"(d) APPROVAL BY STATES.—In cases in which a unit of general local government carries out the responsibilities described in subsection (c), the Secretary may permit the State to perform those actions of the Secretary described in subsection (b) and the performance of such actions by the State, where permitted by the Secretary, shall be deemed to satisfy the Secretary's responsibilities referred to in the second sentence of subsection (b).".

SEC. 312. INCREASED STATE FLEXIBILITY IN THE LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM.

Section 927 of the Housing and Community Development Act of 1992 (42 U.S.C. 8624) is amended—

(1) in subsection (a)—

(A) in the heading, by striking "(a) ELIGIBILITY.—" and inserting the following:

"(a) IN GENERAL.—";

(B) by striking "(including but not limited to the Low-Income Home Energy Assistance Program)"; and

(C) by inserting ", except as provided in subsection (d)" before the period at the end;

(2) in subsection (b)—

(A) by striking "such" and inserting "or receiving energy"; and

(B) by inserting before the period at the end "for any program in which eligibility or benefits are based on need, except as provided in subsection (d)"; and

(3) by adding at the end the following new subsection:

"(d) SPECIAL RULE FOR LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM.—For purposes of the Low-Income Home Energy Assistance Program, tenants described in subsection (a)(2) shall not have their eligibility automatically denied. States may consider the amount of the heating or cooling component of utility allowances received by such tenants when setting benefit levels under the Low-Income Home Energy Assistance Program. Any reduction in fuel assistance benefits must be reasonably related to the amount of the heating or cooling component of the utility allowance received. States shall ensure that the highest level of assistance will be provided to those households with the highest energy burdens, in accordance with section 2605(b)(5) of the Low-Income Home Energy Assistance Act of 1981.".

On page 187, strike line 11 and insert the following:

"Subtitle C—Miscellaneous and Technical Amendments"

On page 187, after line 16, insert the following new sections:

"SEC. 332. CDBG TECHNICAL AMENDMENT.

"Notwithstanding any other provision of law, the city of Slidell, Louisiana may submit, not later than 10 days following the enactment of this Act, and the Secretary of Housing and Urban Development shall consider and accept, the final statement of community development objectives and projected use of funds required by section 104(a)(1) of the Housing and Community Development Act of 1974 in connection with a grant to the city of Slidell under title 1 of such Act for fiscal year 1994.

"SEC. 333. ENVIRONMENTAL REVIEW IN CONNECTION WITH SPECIAL PROJECTS.

"(a) IN GENERAL.—

"(1) RELEASE OF FUNDS.—In order to assure that the policies of the National Environmental Policy Act of 1969 and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the expenditure of funds for special projects appropriated under an appropriations Act for the Department of Housing and Urban Development, such as special projects under the head 'Annual Contributions for Assisted Housing' in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993, and to assure to the public undiminished protection of the environment, the Secretary of Housing and Urban Development may, under such regulations, in lieu of the environmental protection procedures otherwise applicable, provide for the release of funds for particular special projects upon the request of recipients of special projects assistance, if the State or unit of general local government, as designated by the Secretary in accordance with regulations, assumes all of the responsibilities for environmental review, decisionmaking, and action pursuant to such Act, and such other provisions of law as the regulations of the Secretary specify, that would otherwise apply to the Secretary were the Secretary to undertake such special projects as Federal projects.

"(2) IMPLEMENTATION.—The Secretary shall issue regulations to carry out this section only after consultation with the Council on Environmental Quality. Such regulations shall—

"(A) provide for monitoring of the performance of environmental reviews under this section;

"(B) in the discretion of the Secretary, provide for the provision or facilitation of training for such performance; and

"(C) subject to the discretion of the Secretary, provide for suspension or termination by the Secretary of the assumption under paragraph (1).

"(3) RESPONSIBILITIES OF STATE OR UNIT OF GENERAL LOCAL GOVERNMENT.—The Secretary's duty under paragraph (2) shall not be construed to limit any responsibility assumed by a State or unit of general local government with respect to any particular release of funds under paragraph (1).

"(b) PROCEDURE.—The Secretary shall approve the release of funds for projects subject to the procedures authorized by this section only if, not less than 15 days prior to such approval and prior to any commitment of funds to such projects, the recipient submits to the Secretary a request for such release, accompanied by a certification of the State or unit of general local government which meets the requirements of subsection (c). The Secretary's approval of any such certification shall be deemed to satisfy the Secretary's responsibilities under the National Environmental Policy Act of 1969 and such other provisions of law as the regulations of the Secretary specify insofar as those responsibilities relate to the releases of funds for special projects to be carried out pursuant thereto which are covered by such certification.

"(c) CERTIFICATION.—A certification under the procedures authorized by this section shall—

"(1) be in a form acceptable to the Secretary;

"(2) be executed by the chief executive officer or other officer of the State or unit of general local government who qualifies under regulations of the Secretary;

"(3) specify that the State or unit of general local government under this section has fully carried out its responsibilities as described under subsection (a); and

"(4) specify that the certifying officer—

"(A) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 and agrees to comply with each provision of law specified in regulations issued by the Secretary insofar as the provisions of such Act or other such provision of law apply pursuant to subsection (a); and

"(B) is authorized and consents on behalf of the State or unit of general local government and himself or herself to accept the jurisdiction of the Federal courts for the purpose of enforcement of the responsibilities as such an official.

"(d) APPROVAL BY STATES.—In cases in which a unit of general local government carries out the responsibilities described in subsection (a), the Secretary may permit the State to perform those actions of the Secretary described in subsection (b) and the performance of such actions by the State, where permitted by the Secretary, shall be deemed to satisfy the Secretary's responsibilities referred to in the second sentence of subsection (b).".

At the appropriate place, insert the following new section:

SEC. ___. MOUNT RUSHMORE COMMEMORATIVE COIN ACT.

(a) DISTRIBUTION OF SURCHARGES.—Section 8 of the Mount Rushmore Commemorative Coin Act (31 U.S.C. 5112 note) is amended by striking paragraphs (1) and (2) and inserting the following:

"(1) the first $18,750,000 shall be paid during fiscal year 1994 by the Secretary to the Society to assist the Society's efforts to improve, enlarge, and renovate the Mount Rushmore National Memorial; and

"(2) the remainder shall be returned to the United States Treasury for purposes of reducing the national debt.".

(b) RETROACTIVE EFFECT.—If, prior to the date of enactment of this Act, any amount of surcharges have been received by the Secretary of the Treasury and paid into the United States Treasury pursuant to section 8(1) of the Mount Rushmore Commemorative Coin Act, as in effect prior to the date of enactment of this Act, that amount shall be paid out of the Treasury to the extent necessary to comply with section 8(1) of the Mount Rushmore Commemorative Coin Act, as in effect after the date of enactment of this Act. Amounts paid pursuant to the preceding sentence shall be out of funds not otherwise appropriated.

At the appropriate place, insert the following new section:

SEC. ___. MINORITY COMMUNITY DEVELOPMENT GRANTS FOR COMMUNITIES WITH SPECIAL NEEDS.

(a) AUTHORIZATION.—There are hereby authorized to be expended from sums appropriated for water infrastructure financing and other wastewater activities for cities with special needs, not more than $25,000,000, for wastewater treatment projects, including the construction of facilities and related expenses in minority communities with special needs to—

(1) improve the housing stock infrastructure in the special needs communities; and

(2) abate health hazards caused by groundwater contamination from septage in arid areas with high groundwater levels.

(b) TREATMENT PROJECTS.—The wastewater treatment projects authorized under this section shall include innovative technologies such as vacuum systems and constructed wetlands.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "cities with special needs" includes minority communities with special needs;

(2) the term "minority" means an African-American, a Hispanic-American, an Asian-American, or a Native American; and

(3) the term "minority community with special needs" means an unincorporated community—

(A) that, based on the latest census data, has a minority population in excess of 50 percent;

(B) that has been unable to issue bonds or otherwise finance a wastewater treatment system itself because its attempts to change its political subdivision have been rejected by the State legislature; and

(C) for which the State legislature has appropriated funds to help pay for a wastewater treatment project.

On page 73, amend the table of contents by inserting after the item relating to section 310 the following:

Sec. 311. Assumption of environmental review responsibilities under United States Housing Act of 1937 programs.
Sec. 312. Increased State flexibility in the Low-Income Home Energy Assistance Program.

On page 73, amend the table of contents by striking the item relating to subtitle C and inserting the following:

Subtitle C—Miscellaneous and Technical Amendments

On page 73, amend the table of contents by inserting after the item relating to section 331 the following:

Sec. 332. CDBG technical amendment.
Sec. 333. Environmental review in connection with special projects.

OMNIBUS CRIME LEGISLATION

BIDEN AMENDMENT NO. 1216

Mr. BIDEN proposed an amendment to the bill (S. 1607) to control and prevent crime; as follows:

On page 122, line 23, strike "Grant" and insert "Subject to subsection (g), grants".

On page 122, after line 25, insert the following:

"(g) HANDGUNS IN SCHOOLS.—

"(1) IN GENERAL.—In any year after the first day of the first fiscal year after the expiration of the next regular session of the State legislature following the date of enactment of this subpart, the Administrator may award to a State that meets the requirement of paragraph (2) additional grant funds, from the funds reserved for the special discretionary fund established under subsection (e), in an amount equal to 25 percent of the amount of the grant that would be made without regard to this subsection.

"(2) STATE LAW.—A State meets the requirement of this paragraph if the law of the State provides that—

"(A) on receipt of notification from the principal (or equivalent official) of an elementary school or a secondary school in the State that a person was found in possession of a handgun on the premises of the school, the head of the State entity responsible for issuing driver's licenses shall, pursuant to such procedures as the State legislature and the head (or appropriate State entity) establishes—

"(i) in the case of a person who holds a driver's license issued by the State, revoke the person's driver's license for a period of 5 years, during which period the license may not be reissued except as provided under paragraph (3); and

"(ii) in the case of a person who does not hold a driver's license issued by the State, except as provided under paragraph (3), withhold for a period of 5 years or until the date on which the person attains the age of 18 years, whichever is longer, the issuance of a driver's license for which application may subsequently be made;

"(B) on receipt of notification from the principal (or equivalent official) of an elementary school or a secondary school in the State that a person was found in possession of a handgun on the premises of the school during a period of revocation or withholding of the issuance of a person's driver's license under subparagraph (A), the head of the State entity responsible for issuing driver's licenses shall, pursuant to such procedures as the State legislature and the head (or appropriate State entity) establishes, extend the period of revocation or withholding for an additional 10 years, during which period the license may not be reissued except as provided in paragraph (3); and

"(C) subparagraphs (A) and (B) do not apply to the possession of a handgun—

"(i) on private property that is not part of the premises of a school;

"(ii) if—

"(I) the person possessing the handgun is licensed to possess the handgun by the State in which the elementary school or secondary school is located or by a political subdivision of the State; and

"(II) the State or political subdivision of the State requires that, as a condition of the issuance of a driver's license, an appropriate law enforcement authority of the State or political subdivision of the State verify that the person is qualified under applicable law to hold the firearm license;

"(iii) that is—

"(I) not loaded; and

"(II) in a locked container or in a locked firearm rack that is on a motor vehicle;

"(iv) by a person for use in a program approved by the appropriate official of an elementary school or secondary school (or entity of the State or political subdivision of the State responsible for the administration of the elementary school or secondary school);

"(v) by a person in accordance with a contract that the appropriate official of the elementary school or secondary school (or entity of the State or political subdivision of the State responsible for the administration of the elementary school or secondary school) has entered into with the person or employer of the person;

"(vi) by a law enforcement officer acting in an official capacity; or

"(vii) that is unloaded and possessed by a person while traversing the premises of the elementary or secondary school for the purpose of gaining access to public or private lands open to hunting, if the entry on the premises of the elementary school or secondary school is authorized by the appropriate official of the school (or entity of the State or political subdivision of the State responsible for the administration of the elementary school or secondary school).

"(3) WAIVER.—A State law described in paragraph (2) may provide for a procedure under which the application of a portion of a revocation or withholding period under paragraph (2)(A) or (B) may be waived if—

"(A) at least 50 percent of the withholding or revocation period has expired; and

"(B) the person subject to the revocation or withholding period establishes, in a manner satisfactory to the head the State entity described in paragraph (2), that—

"(i) the person is not the subject of any criminal charge (other than a charge related to the possession of a handgun that resulted in the revocation or withholding);

"(ii) the person has not been the subject of a criminal conviction for engaging in a criminal activity during the withholding or revocation period (other than a conviction directly related to the possession of a handgun that resulted in the revocation or withholding); and

"(iii) there is a compelling reason to waive the remainder of the revocation or withholding period.

"(4) DUE PROCESS.—A State, in implementing a law described in paragraph (2), shall follow such procedures (including procedures to ensure that affected persons are afforded due process of law) as the Constitution may require.

"(5) DEFINITIONS.—In this subsection—

"'elementary school' has the meaning stated in 1471(8) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(8)).

"'handgun' means—

"(i) a firearm that has a short stock and is designed to be held and fired by the use of a single hand; or

"(ii) any combination of parts from which a firearm described in subparagraph (A) can be assembled.

"'premises', in reference to an elementary school or secondary school, includes the school building and the grounds of the school.

"'secondary school' has the meaning stated in section 1471(21) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(21)).

"(6) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to limit the authority of the government of a State or political subdivision of a State to enact and enforce a law that imposes a penalty that exceeds or supplements the penalties authorized under this subsection.

At the appropriate place in the bill, insert the following:

SEC. . AUTHORITY TO RELEASE CERTAIN CONFIDENTIAL INFORMATION RELATING TO ALIENS.

Section 245A(c)(5)(C) of the Immigration and Nationality Act (8 U.S.C. 1255a(c)(5)(C)) is amended by striking out "except that the Attorney General" and all that follows through "section 8 of title 13, United States Code." and inserting in lieu thereof "except that the Attorney General—

"(i) may authorize an application to a Federal court of competent jurisdiction for, and a judge of such court may grant, an order authorizing disclosure of information contained in the application of the alien (as a result of an investigation of the alien by an investigative officer or law enforcement officer) that is necessary to locate and identify the alien if (I) such disclosure may result in the discovery of information leading the location and identity of the alien, and (II) such disclosure (and the information discovered as a result of such disclosure) will be used only for criminal law enforcement purposes as against the alien whose file is being accessed.

"(ii) may furnish information under this section with respect to an alien to an official coroner (upon the written request of the coroner) for the purposes of permitting the coroner to identify a deceased individual; and

"(iii) may provide, in the Attorney General's discretion, for the furnishing of information furnished under this section in the same manner and circumstances as census information may be disclosed to the Secretary of Commerce under section 8 of title 13, United States Code.".

At the appropriate place insert the following:

Subtitle .—Deportation of Aliens Convicted of Crimes

SEC. . EXPANSION OF DEFINITION OF AGGRAVATED FELONY.

(a) EXPANSION OF DEFINITION.—Section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)) is amended to read as follows:

"(43) The term 'aggravated felony' means—

"(A) murder;

"(B) illicit trafficking in a controlled substance (as defined in section 102 of the Controlled Substances Act), including a drug trafficking crime (as defined in section 924(c) of title 18, United States Code);

"(C) illicit trafficking in firearms or destructive devices (as defined in section 921 of title 18, United States Code) or in explosive materials (as defined in section 841(c) of that title);

"(D) an offense described in section 1956 of title 18, United States Code (relating to laundering of monetary instruments) or section 1957 of that title (relating to engaging in monetary transactions in property derived from specific unlawful activity) if the amount of the funds exceed $100,000;

"(E) an offense described in—

"(i) section 842 (h) or (i) of title 18, United States Code, or section 844 (d), (e), (f), (g), (h), or (i) of that title (relating to explosive materials offenses);

"(ii) section 922(g) (1), (2), (3), (4), or (5), (j), (n), (o), (p), or (r) or 924 (b) or (h) of title 18 United States Code (relating to firearms offenses); or

"(iii) section 5861 of the Internal Revenue Code of 1986 (relating to firearms offenses);

"(F) a crime of violence (as defined in section 16 of title 18, United States Code, but not including a purely political offense) for which the term of imprisonment imposed (regardless of any suspension of imprisonment) is at least 5 years;

"(G) a theft offense (including receipt of stolen property) or burglary offense for which a sentence of 5 years' imprisonment or more may be imposed;

"(H) an offense described in section 875, 875, 877, or 1202 of title 18, United States Code (relating to the demand for or receipt of ransom);

"(I) an offense described in section 2251, 2251A, or 2252 of title 18, United States Code (relating to child pornography);

"(J) an offense described in—

"(i) section 1962 of title 18, United States Code (relating to racketeer influenced corrupt organizations); or

"(ii) section 1084 (if it is a second or subsequent offense) or 1955 of that title (relating to gambling offenses), for which a sentence of 5 years' imprisonment or more may be imposed;

"(K) an offense relating to commercial bribery, counterfeiting, forgery, or trafficking in vehicles the identification numbers of which have been altered for which a sentence of 5 years' imprisonment or more may be imposed;

"(L) an offense that—

"(i) relates to the owning, controlling, managing or supervising of a prostitution business;

"(ii) is described in section 2421, 2422, or 2423 of title 18, United States Code (relating to transportation for the purpose of prostitution) for commercial advantage; or

"(iii) is described in section 1581, 1582, 1583, 1584, 1585 or 1588, of title 18, United States Code (relating to peonage, slavery, and involuntary servitude);

"(M) an offense relating to perjury or subornation of perjury for which a sentence of 5 years' imprisonment or more may be imposed;

"(N) an offense described in—

"(i) section 793 (relating to gathering or transmitting national defense information), 798 (relating to disclosure of classified information), 2153 (relating to sabotage) or 2381 or 2382 (relating to treason) of title 18, United States Code; or

"(ii) section 601 of the National Security Act of 1947 (50 U.S.C. 421) (relating to protecting the identity of undercover intelligence agents);

"(O) an offense that—

"(i) involves fraud or deceit in which the loss to the victim or victims exceeds $200,000; or

"(ii) is described in section 7201 of the Internal Revenue Code of 1986 (relating to tax evasion) in which the revenue loss to the Government exceeds $200,000;

"(P) an offense described in section 274(a)(1) of title 18, United States Code (relating to alien smuggling) for the purpose of commercial advantage;

"(Q) an offense described in section 1546(a) of title 18, United States Code (relating to document fraud), for the purpose of commercial advantage;

"(R) an offense relating to a failure to appear before a court pursuant to a court order to answer to or dispose of a charge of a felony for which a sentence of 2 years' imprisonment or more may be imposed; and

"(S) an attempt or conspiracy to commit an offense described in this paragraph. The term applies to an offense described in this paragraph whether in violation of Federal or State law and applies to such an offense in violation of the law of a foreign country for which the term of imprisonment was completed within the previous 15 years.".

(b) Effective Date.—The amendments made by this section shall apply to convictions entered before, on, or after the date of enactment of this Act.

SEC. . DEPORTATION PROCEDURES FOR CERTAIN CRIMINAL ALIENS WHO ARE NOT PERMANENT RESIDENTS.

(a) Elimination of Administrative Hearing for Certain Criminal Aliens.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended by adding at the end the following new subsection:

"(c) Deportation of Aliens Who Are Not Permanent Residents.—

"(1) Notwithstanding section 242, and subject to paragraph (5), the Attorney General may issue a final order of deportation against any alien described in paragraph (2) whom the Attorney General determines to be deportable under section 241(a)(2)(A)(iii) (relating to conviction of an aggravated felony).

"(2) An alien is described in this paragraph if the alien—

"(A) was not lawfully admitted for permanent residence at the time that proceedings under this section commenced, or

"(B) had permanent resident status on a conditional basis (as described in section 216) at the time that proceedings under this section commenced.

"(3) No alien described in this section shall be eligible for any relief from deportation that the Attorney General may grant in his discretion.

"(4) The Attorney General may not execute any order described in paragraph (1) until 14 calendar days have passed from the date that such order was issued, unless waived by the alien, in order that the alien has an opportunity to apply for judicial review under section 106.".

(b) Limited Judicial Review.—Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a) is amended—

(1) in the first sentence of subsection (a), by inserting "or pursuant to section 242A" after "under section 242(b)";

(2) in subsection (a)(1) and subsection (a)(3), by inserting "(including an alien described in section 242A)" after "aggravated felony"; and

(3) by adding at the end the following new subsection:

"(d) Notwithstanding subsection (c), a petition for review or for habeas corpus on behalf of an alien described in section 242A(c) may only challenge whether the alien is in fact an alien described in such section, and no court shall have jurisdiction to review any other issue.".

(c) Technical Amendments.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended—

(1) in subsection (a)—

(A) by striking "(a) In General.—" and inserting the following:

"(b) Deportation of Permanent Resident Aliens.—

"(1) IN GENERAL.—"; and

(B) by inserting in the first sentence "permanent resident" after "correctional facilities for";

(2) in subsection (b)—

(A) by striking "(b) Implementation.—" and inserting "(2) IMPLEMENTATION.—"; and

(B) by striking "respect to an" and inserting "respect to a permanent resident";

(3) by striking subsection (c);

(4) in subsection (d)—

(A) by striking "(d) Expedited Proceedings.—(1)" and inserting "(3) EXPEDITED PROCEEDINGS.—(A)";

(B) by inserting "permanent resident" after "in the case of any"; and

(C) by striking "(2)" and inserting "(B)";

(5) in subsection (e)—

(A) by striking "(e) Review.—(1)" and inserting "(4) REVIEW.—(A)";

(B) by striking the second sentence; and

(C) by striking "(2)" and inserting "(B)";

(6) by inserting after the section heading the following new subsection:

"(a) Presumption of Deportability.—An alien convicted of an aggravated felony shall be conclusively presumed to be deportable from the United States."; and

(7) by amending the heading to read as follows:

"EXPEDITED DEPORTATION OF ALIENS CONVICTED OF COMMITTING AGGRAVATED FELONIES".

(d) Effective Date.—The amendments made by this section shall apply to all aliens against whom deportation proceedings are initiated after the date of enactment of this Act.

SEC. . JUDICIAL DEPORTATION.

(a) Judicial Deportation.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended by adding at the end the following new subsection:

"(d) Judicial Deportation.—

"(1) Authority.—Notwithstanding any other provision of this Act, a United States district court shall have jurisdiction to enter a judicial order of deportation at the time of sentencing against an alien whose criminal conviction causes such alien to be deportable under section 241(a)(2)(A)(iii) (relating to conviction of an aggravated felony), if such an order has been requested prior to sentencing by the United States Attorney with the concurrence of the Commissioner.

"(2) Procedure.—

"(A) The United States Attorney shall provide notice of intent to request judicial deportation promptly after the entry in the record of an adjudication of guilt plea. Such notice shall be provided to the court, to the alien, and to the alien's counsel of record.

"(B) Notwithstanding section 242B, the United States Attorney, with the concurrence of the Commissioner, shall file at least 20 days prior to the date set for sentencing a charge containing factual allegations regarding the alienage of the defendant and satisfaction by the defendant of the definition of aggravated felony.

"(C) If the court determines that the defendant has presented substantial evidence to establish prima facie eligibility for relief from deportation under section 212(c), the Commissioner shall provide the court with a recommendation and report regarding the alien's eligibility for relief under such section. The court shall either grant or deny the relief sought.

"(D)(i) The alien shall have a reasonable opportunity to examine the evidence against him or her, to present evidence on his or her own behalf, and to cross-examine witnesses presented by the Government.

"(ii) The court, for the purposes of determining whether to enter an order described in paragraph (1), shall only consider evidence that would be admissible in proceedings conducted pursuant to section 242(b).

"(iii) Nothing in this subsection shall limit the information a court of the United States may receive or consider for the purposes of imposing an appropriate sentence.

"(iv) The court may order the alien deported if the Attorney General demonstrates by clear and convincing evidence that the alien is deportable under this Act.

"(3) NOTICE, APPEAL, AND EXECUTION OF JUDICIAL ORDER OF DEPORTATION.—

"(A)(i) A judicial order of deportation or denial of such order may be appealed by either party to the court of appeals for the circuit in which the district court is located.

"(ii) Except as provided in clause (iii), such appeal shall be considered consistent with the requirements described in section 106.

"(iii) Upon execution by the defendant of a valid waiver of the right to appeal the conviction on which the order of deportation is based, the expiration of the period described in section 106(a)(1), or the final dismissal of an appeal from such conviction, the order of deportation shall become final and shall be executed at the end of the prison term in accordance with the term of the order.

"(B) As soon as is practicable after entry of a judicial order of deportation, the Commission shall provide the defendant with written notice of the order or deportation, which shall designate the defendant's country of choice for deportation and any alternate country pursuant to section 243(a).

"(4) Denial of judicial order.—Denial of a request for a judicial order of deportation shall not preclude the Attorney General from initiating deportation proceedings pursuant to section 242 upon the same ground of deportability or upon any other ground of deportability provided under section 241(a).".

(b) Technical Amendment.—The ninth sentence of section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) is amended by striking "The" and inserting "Except as provided in section 242A(d), the".

(c) Effective Date.—The amendments made by this section shall apply to all aliens whose adjudication of guilt or guilty plea is entered in the record after the date of enactment of this Act.

SEC. RESTRICTING DEFENSES TO DEPORTATION FOR CERTAIN CRIMINAL ALIENS.

(a) Defenses Based on Seven Years of Permanent Residence.—The last sentence of section 212(c) of the Immigration and Nationality Act (8 U.S.C. 1182(c)) is amended by striking "has served for such felony or felonies" and all that follows through the period and inserting "has been sentenced for such felony or felonies to a term of imprisonment of at least 5 years, if the time for appealing such conviction or sentence has expired and the sentence has become final.".

(b) DEFENSES BASED ON WITHHOLDING OF DEPORTATION.—Section 243(h)(2) of the Immigration and Nationality Act (8 U.S.C. 1253(h)(2)) is amended—

(1) by striking the final sentence and inserting the following new subparagraph:

"(E) the alien has been convicted of an aggravated felony."; and

(2) by striking "or" at the end of subparagraph (C) and inserting "or" at the end of subparagraph (D).

SEC. . ENHANCING PENALTIES FOR FAILING TO DEPART, OR REENTERING, AFTER FINAL ORDER OF DEPORTATION.

(a) FAILURE TO DEPART.—Section 242(e) of the Immigration and Nationality Act (8 U.S.C. 1252(e)) is amended—

(1) by striking "paragraph (2), (3), or (4) of" the first time it appears; and

(2) by striking "shall be imprisoned not more than ten years" and inserting "shall be imprisoned not more than four years, or shall be imprisoned not more than ten years if the alien is a member of any of the classes described in paragraph (1)(E), (2), (3), or (4) of section 241(a).".

(b) REENTRY.—Section 276(b) of the Immigration and Nationality Act (8 U.S.C. 1326(b)) is amended—

(1) in paragraph (1)—

(A) by inserting after "commission of" the following: "three or more misdemeanors involving drugs, crimes against the person, or both, or"; and

(B) by striking "5" and inserting "10";

(2) in paragraph (2), by striking "15" and inserting "20"; and

(3) by adding at the end the following sentence: "For the purposes of this subsection, the term 'deportation' includes any agreement in which an alien stipulates to deportation during a criminal trial under either Federal or State law.".

(c) COLLATERAL ATTACKS ON UNDERLYING DEPORTATION ORDER.—Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) is amended by adding after subsection (b) the following new subsection:

"(c) In a criminal proceeding under this section, an alien may not challenge the validity of the deportation order described in subsection (a)(1) or subsection (b) unless the alien demonstrates that—

"(1) the alien exhausted any administrative remedies that may have been available to seek relief against the order;

"(2) the deportation proceedings at which the order was issued improperly deprived the alien of the opportunity for judicial review; and

"(3) the entry of the order was fundamentally unfair.".

SEC. . MISCELLANEOUS AND TECHNICAL CHANGES.

(a) FORM OF DEPORTATION HEARINGS.—The second sentence of section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) is amended by inserting before the period the following: "; except that nothing in this subsection shall preclude the Attorney General from authorizing proceedings by electronic or telephonic media (with the consent of the alien) or, where waived or, agreed to by the parties, in the absence of the alien.".

(b) CONSTRUCTION OF EXPEDITED DEPORTATION REQUIREMENTS.—No amendment made by this Act and nothing in section 242(i) of the Immigration and Nationality Act (8 U.S.C. 1252(i)) shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

SEC. . CRIMINAL ALIEN TRACKING CENTER.

(a) OPERATION.—The Commissioner of Immigration and Naturalization, with the cooperation of the Director of the Federal Bureau of Investigation and the heads of other agencies, shall, under the authority of section 242(a)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(3)(A)), operate a criminal alien tracking center.

(b) PURPOSE.—The criminal alien tracking center shall be used to assist Federal, State, and local law enforcement agencies in identifying and locating aliens who may be subject to deportation by reason of their conviction of aggravated felonies.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 for fiscal year 1994 and $2,000,000 for each of fiscal years 1995, 1996, 1997, and 1998.

SEC. . EXPEDITED DEPORTATION FOR DENIED ASYLUM APPLICANTS.

(a) Section 208(a) of the Immigration and Nationality Act (8 U.S.C. 1158) is amended by adding at the end thereof the following:

"An applicant for asylum is not entitled to engage in employment in the United States. The Attorney General may authorize an alien who has filed an application for asylum to engage in employment in the United States, in the discretion of the Attorney General. The Attorney General may provide for the expedited deportation of asylum applicants whose applications have been finally denied, unless the applicant remains in an otherwise valid nonimmigrant status."

(b) There are authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 1994, 1995, 1996, 1997, and 1998.

SEC. . IMPROVING BORDER CONTROLS.

(1) There are authorized to be appropriated such sums as are necessary to increase INS's resources for the Border Patrol and the Inspections Program to apprehend illegal aliens who attempt clandestine entry into the United States or entry into the United States with fraudulent documents.

SEC. . EXPANDED SPECIAL DEPORTATION PROCEEDINGS.

(1) Subject to the availability of appropriations, the Attorney General may expand the program authorized by section 242A(d) of the Immigration and Nationality Act to ensure that such aliens are immediately deportable upon their release from incarceration.

(2) Authorization of appropriations. There are authorized to be appropriated such sums as necessary to carry out this section for each of fiscal years 1995 through 1998.

SEC. . CONSTRUCTION OF INS SERVICE PROCESSING CENTERS TO DETAIN CRIMINAL ALIENS.

AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary in fiscal year 1995 to construct or contract for the construction of two INS Service Processing Centers to detain criminal aliens and such sums as are necessary in fiscal year 1996 to construct or contract for the construction of two additional Service Processing Centers.

At the appropriate place in the bill, add the following new section:

AUTHORIZATION OF APPROPRIATIONS FOR THE DEPARTMENT OF THE TREASURY FOR EACH OF THE FISCAL YEARS 1994, 1995, 1996, 1997 AND 1998.

SEC. . (a)(1) The Secretary of the Treasury shall establish no less than 50 Gang Resistance Education and Training (GREAT) projects to be located in communities across the country. Such amount shall be in addition to the number of projects currently funded.

(2) Communities identified for such GREAT projects shall be selected by the Director of the Bureau of Alcohol, Tobacco and Firearms, acting through the Secretary of the Treasury, on the basis of gang-related activity in that particular community.

(3) The Secretary of the Treasury shall make available no less than $800,000 per project, subject to appropriation, and such funds shall be allocated fifty percent to the affected State and local law enforcement and prevention organizations participating in such projects, and fifty percent to the Bureau of Alcohol, Tobacco and Firearms for salaries, expenses, and associated administrative costs for operating and overseeing such projects.

(b) There are authorized to be appropriated $30,000,000 for salaries and expenses of the Bureau of Alcohol, Tobacco and Firearms for the hiring, training, and equipping of no less than 200 full-time equivalent agent positions for the investigation of the trafficking of guns to juveniles and gangs, and the tracing of firearms used in the commission of violent crimes, and no less than 100 full-time equivalent inspector positions for the Firearms Compliance program and dealer policing activities.

(c) There are authorized to be appropriated $6,000,000 for the salaries and expenses of the United States Secret Service for the hiring, training and equipping of additional full-time equivalent positions to supplement current investigative authorities.

At the appropriate place in the bill, insert the following:

Since we are losing control of our streets and our neighborhoods to gangs, drugs and violent crime;

Since Americans tolerate a level of violence 5 times that of Canada and 10 times that of England;

Since the Senate is about to adopt the Comprehensive Crime Control and Law Enforcement Act which establishes a $22,268,000,000 Violent Crime Reduction Trust Fund to combat the violent crime epidemic in this country;

Since the Comprehensive Crime Control and Law Enforcement Act authorizes the revenues to fund the Trust Fund be derived from savings resulting from a reduction in Federal personnel;

Since the Federal law enforcement agencies charged with carrying out the provisions of the Comprehensive Crime Control and Law Enforcement Act will require substantial manpower to implement the Act: Now, Therefore, it is the sense of the Senate that law enforcement personnel should not be reduced and calls upon the President of the United States to exempt Federal law enforcement positions from Executive Order 12839 and other Executive memoranda mandating reductions in the Federal workforce.

At the appropriate place in the bill, add the following new title:

TITLE —POLICE PARTNERSHIPS FOR CHILDREN

SEC. 01. SHORT TITLE.

This title may be cited as the "Police Partnerships for Children Act of 1993".

SEC. 02. FINDINGS.

Congress finds the following:

(1) Homicide is the second leading cause of juvenile injury deaths for all youth 15 to 24 years of age.

(2) Homicide rates for children and youth have more than doubled since 1950.

(3) Teenagers are more than twice as likely as adults to be victims of violent crime, such as rape, robbery or assault.

(4) Physical fighting severe enough to require medical treatment for at least one participant occurs among high school students in patterns similar to those of homicide. The incidence rates of such physical fighting are higher for males than females, higher for minorities than for nonminorities, and more frequent between acquaintances than among strangers.

(5) Children increasingly live amidst chronic community violence and experience trauma as a result of such violence. One survey of inner-city children 6 to 10 years of age found that over 90 percent had witnessed some type of violence. A Chicago housing project survey found that virtually all children in such survey had firsthand experiences with shootings by the age of 5.

(6) Children who have been the victims of, or who have witnessed violence, are at risk of becoming involved in further violence if the trauma such children have experienced is not addressed.

(7) Police frequently encounter children who have been the victims of violence or who have witnessed violence in the course of the police work, but the police often lack the resources necessary to adequately respond to such children's needs. Child and family service agencies have expertise in child development and family issues that could support police efforts.

(8) Community-based police, by their visibility at the neighborhood level and their engagement in benign activities, can provide role models and resources to promote the well-being of children and families, as well as to identify and refer those at risk for behavioral problems.

SEC. 03. PURPOSES.

The purposes of this title are to—

(1) augment law enforcement services and community policing efforts by providing accessible crisis intervention services for children who are involved in violent incidents, and training for law enforcement officers in child development, family, and cultural issues.

(2) identify children and families at high risk for developing behavorial or emotional problems resulting from exposure to community violence and provide mental health and other support services to such children and families, including crisis intervention for child witnesses and victims of violence;

(3) facilitate interaction between law enforcement agencies, child and family service organizations, local educational agencies, and other community members for the purpose of building coalitions for the prevention of community violence; and

(4) provide role models for high-risk children and youth and promote conflict resolution training for children and youth in local educational agencies.

SEC. 04. DEFINITIONS.

For purposes of this title:

(1) CHLD AND FAMILY SERVICE ORGANIZATION.—The term "child and family service organization" means a public or private nonprofit entity (such as child guidance centers, child psychiatry or child psychology departments of hospitals or university medical centers, or community mental health centers providing child and family services) that provides mental health services to children and families and that meets nationally recognized guidelines (such as guidelines prescribed for mental health centers and for child welfare and family service agencies) with respect to the services provided to children and families.

(2) COMMUNITY-BASED POLICING.—The term "community-based policing" means a commitment and an effort (within the confines of budget restrictions) made by a law enforcement agency to establish or expand cooperative efforts between the police and a community in order to increase police presence in the community, including—

(A) developing innovative neighborhood-oriented policing programs and community-based crime-prevention programs; and

(B) creating decentralized police substations throughout the community to encourage interaction and cooperation between the public and law enforcement personnel on a local level, including the permanent assignment of officers to a specific neighborhood or substation.

(3) LAW ENFORCEMENT AGENCY.—The term "law enforcement agency" means an entity that serves a specific community and has the routine responsibility of policing the activities of such community.

SEC. 05. GRANTS AUTHORIZED.

(a) IN GENERAL.

(1) ESTABLISHMENT GRANTS.—The Attorney General, in consultation with the Secretary of Health and Human Services, and where appropriate the Secretary of Education, shall, subject to availability of appropriations, award grants to law enforcement agencies determined to be eligible under section 06 for the establishment of law enforcement and child and family services partnership programs to carry out activities described in section 06.

(2) PRIORITY.—In awarding grants described in paragraph (1), the Attorney General shall give priority to a law enforcement agency that—

(A) is engaged in community-based policing; and

(B) intends to target such agency's programs at disadvantaged communities.

(b) GRANT AMOUNT.—

(1) IN GENERAL.—A grant awarded under this section shall be of sufficient size and scope to adequately support all anticipated activities.

(2) ADDITIONAL AMOUNTS.—

(A) IN GENERAL.—The Attorney General may award additional grant amounts for the purpose of enabling a law enforcement agency (as described in section 06(a)(1)) to provide mentoring or conflict resolution services.

(B) SPECIAL RULES.—

(i) PRIORITY FOR MENTORING SERVICES.—In awarding additional grant funds for the provision of mentoring services under subparagraph (A), the Attorney General shall give priority to a law enforcement agency (as described in section 06(a)(1)) that demonstrates commitments from a broad spectrum of community groups to participate in mentoring programs.

(ii) CONFLICT RESOLUTION SERVICES.—In awarding additional grant funds for the provision of conflict resolution services under subparagraph (A), the Attorney General may not award grant funds to a law enforcement agency (as described in section 06(a)(1)) unless such agency demonstrates a commitment from the local educational agency to provide conflict resolution programs in the schools in participation with such agency.

(c) FEDERAL SHARE.—

(1) IN GENERAL.—The Federal share of a grant made under this section may not exceed—

(A) with respect to the first fiscal year, 80 percent of the total costs of the projects described in the application submitted under section 06 for such fiscal year;

(B) with respect to the second fiscal year, 70 percent of the total costs of the projects described in the application submitted under section 06 for such fiscal year; and

(C) with respect to the third fiscal year, 60 percent of the total costs of the projects described in the application submitted under section 06 for such fiscal year.

(2) IN-KIND CONTRIBUTIONS.—The Attorney General shall accept the value of in-kind contributions made by the grant recipient as a part or all of the non-Federal share of grants.

(d) GRANT DURATION.—A grant awarded under this title shall be for a period of not less than 3 years.

SEC. 06. APPLICATIONS.

(a) IN GENERAL.—To be eligible for a grant under this section an entity shall—

(1) be a law enforcement agency that has entered into a partnership with a child and family service organization to carry out a program under this title; and

(2) prepare and submit to the Attorney General an application in such form, at such time, and in accordance with such procedures, as the Attorney General shall establish.

(b) ASSURANCES.—Each application submitted under subsection (a) shall provide the following assurances:

(1) There is a partnership established between the law enforcement agency and a child and family service organization.

(2) The management at the highest level of the law enforcement agency and the child and family service organization agrees to the establishment of such partnership, and ensures that such agency and such organization of such partnership will cooperate in carrying out the program.

(3) In developing the program, the applicant has coordinated with other segments of the community to ensure that the partnership efforts complement existing community anti-violence efforts.

(4) Programs established from funds received under grants awarded under this title will do the following:

(A) Be collaborative in nature, with respect to organizing and providing the necessary services to children and families.

(B) Provide response to crisis situations 24 hours a day.

(C) Provide confidentiality.

(D) Be able to provide adequate resources for training of law enforcement officers and for support of professional consultation services for children and families, including professionals licensed to provide child and family evaluations and treatment.

(E) Be able to respond to community needs in a manner reflecting sensitivity to the cultural diversity of that community.

(5) The partnership will provide the following program components:

(A) 24-hour consultation service that includes a team of child guidance professionals and specially trained law enforcement officers to respond to incidents where a child has been a perpetrator, a witness, or a victim of violence. Services by child guidance professionals may include in-home assessments, expedited referrals for treatment, treatment in a community where resources are not already available, consultations with parents and teachers, and on-the-spot crisis intervention.

(B) Training for law enforcement officers that includes instruction by child and family service organizations in the basic principles of human behavior, child psychology, and family systems. All training will be interactive and jointly taught by law enforcement officers and child guidance professionals, in order to make use of real-life examples drawn from officers' experience in the field.

(C) Weekly case conferences by the team of child guidance professionals and law enforcement officers described in subparagraph (A).

(D) Community activities for children and families that are designed jointly by the law enforcement and child and family services partnership, including conflict resolution training programs for children and youth, after-school activity and neighborhood recreation programs, and parent support groups co-led by child guidance and law enforcement professionals.

(6) The partnership will provide local matching funds in accordance with the Federal share requirement under section 05(c).

(7) The applicant will submit to the Attorney General, for each fiscal year for which a grant is received, a report in accordance with uniform standards prescribed by the Attorney General.

(c) ADDITIONAL ASSURANCES FOR MENTORING AND CONFLICT RESOLUTION SERVICES.—

(1) IN GENERAL.—Each application submitted under subsection (a) for additional funding for the provision of mentoring or conflict resolution services under section — 05(b)(2) shall provide assurances described in paragraph (2) or (3), whichever is applicable.

(2) MENTORING.—With respect to the provision of mentoring services, an applicant shall provide assurances that the partnership of the applicant and the child and family partnership organization will—

(A) provide formal mentoring programs that will include mentors such as police officers, child and family services staff, and community and business leaders through a partnership with corporations, universities, labor organizations, nonprofit entities (such as professional societies) or government agencies;

(B) recruit mentors who are representative of the cultural mix of the community such mentors serve;

(C) provide ongoing support services to mentors through the partnership, including a framework for understanding the issues such mentors may encounter in working with youth from deprived environments and ongoing support groups to provide mentors an opportunity to discuss the problems encountered in working with children;

(D) provide practical work experience and, to the extent possible, permanent career opportunities to older youth; and

(E) collaborate, when possible, with elementary and secondary schools, universities, corporations, labor organizations, or government agencies with respect to matters relating to the partnership's mentoring program.

(3) CONFLICT RESOLUTION.—With respect to the provision of conflict resolution services, an applicant shall provide an assurance that the child and family service organization and the law enforcement agency partnership, in collaboration with the local educational agency (hereafter referred to in this subparagraph as the "LEA") will support the LEA in the development and implementation of conflict resolution programs. The support provided to the LEA in the preceding sentence shall be tailored to the needs and resources of the local school district, and may include providing assistance to an ongoing conflict resolution program operated by such LEA, developing curricula for such a program in cooperation with the LEA, and providing such a program to an LEA.

SEC. 07. TRAINING AND TECHNICAL ASSISTANCE.

The Attorney General shall provide training and technical assistance to grantees and child and family service organization with which such grantees have formed a partnership.

SEC. 08. EVALUATION AND REPORTS.

(a) EVALUATION.—The Attorney General shall conduct evaluations to determine the effectiveness of the programs funded under this title.

(b) SUBMISSION OF REPORTS AND EVALUATIONS.—

(1) INTERIM.—Not later than December 31, 1995, the Attorney General shall prepare and submit to the appropriate committees of Congress an interim progress report based on information reported by the grantees and the results (as of the date of the submission of such report) of the evaluation conducted under subsection (a).

(2) FINAL.—Not later than December 31, 1998, the Attorney General shall prepare and submit to the appropriate committees of Congress a review and summary of the results of the evaluation conducted under subsection (a).

SEC. 09. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title, $20,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1998, of which not more than 10 percent shall be used for the mentoring and conflict resolution activities described in section 06(c).

On page 192, between lines 19 and 20, insert the following:

SEC. 903. SENSE OF THE CONGRESS CONCERNING THE RIGHT OF A VICTIM OF A VIOLENT CRIME OR SEXUAL ABUSE TO SPEAK AT AN OFFENDER'S SENTENCING HEARING AND ANY PAROLE HEARING.

It is the sense of the Congress that—

(1) the law of a State should provide for a victim's right of allocution at a sentencing hearing and at any parole hearing if the offender has been convicted of a crime of violence or sexual abuse;

(2) such a victim should have an opportunity equivalent to the opportunity to the offender's counsel to address the sentencing court or parole board and to present information in relation to the sentence imposed or to the early release of the offender; and

(3) if the victim is not able to or chooses not to testify at sentencing hearing or parole hearing, the victim's parents, legal guardian, or family members should have the right to address the court or board.

At the appropriate place insert the following:

SEC. . REVIEW BY THE ATTORNEY GENERAL OF FEDERAL PRISON CAPACITY AND CONSTRUCTION AND OPERATIONAL STANDARDS FOR STATE AND LOCAL CORRECTIONS FACILITIES.

(a) REVIEW OF FEDERAL PRISON CAPACITY.—The Attorney General shall conduct a review of—

(1) the capacity of the facilities of the Federal Bureau of Prisons;

(2) the number of inmates in those facilities; and

(3) the characteristics of those inmates relative to their likelihood of criminal behavior, and especially violent criminal behavior, if released from custody under supervision.

(b) REVIEW OF STANDARDS.—The Attorney General shall review the standards for construction and operation of State and local corrections facilities contained in the publications entitled "Standards for Small Jail Facilities" and "Standards for Adult and Local Detention Facilities" (3d ed.).

(c) REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Attorney General shall report to Congress on the reviews required under subsections (a) and (b).

(2) CONTENTS.—The report under paragraph (1) shall contain the Attorney General's recommendations for administrative and congressional initiatives to—

(A) release space in the Federal Bureau of Prisons for occupancy by inmates transferred from State correctional facilities, pursuant to section 1321; and

(B) modify standards for construction and operation of local and State correctional facilities.

At the appropriate plan in the bill insert:

Whereas various Federal land, especially environmentally sensitive Federal land, should be made available to the States and territories for certain programs for children and youth;

Whereas federally owned land, such as national parks, fish and wildlife refuges, Bureau of Land Management land, and National Forest Service land, offer an excellent option to solve the problems of siting and zoning commonly faced by programs for neglected, abused, runaway, homeless, disturbed, "at-risk", and delinquent children and teenagers;

Whereas Federal land and personnel administering it offer great educational and personal development opportunities for our young people, who offer in return significant work on the ecology and the promise of a planet-sensitive next generation;

Whereas wilderness settings provide the public security from seriously delinquent, violent teenagers for whom constructive discipline and a challenging environment are proven, effective correctional tools;

Whereas programs for youngsters who pose no threat to the public or themselves may be placed in less remote sites, even within communities: Now, therefore,

Resolved, It is the sense of the Senate that—

(1) the Departments of Justice, Interior, Defense, Agriculture, Commerce, Labor, Education, Health and Human Services, and any other executive branch agencies having properties or resources to devote to a project to make such properties and resources available to programs for children and youth are urged to act cooperatively in the establishment and ongoing support of such programs; and

(2) a nationwide network of small, specialized, residential or nonresidential programs, principally operated by the private sector, under State or local control, and Federal approval and supervision should be established and supported.

On page 447, after line 23, insert the following:

SEC. 2973. COORDINATION OF SUBSTANCE ABUSE TREATMENT AND PREVENTION PROGRAMS

The Attorney General shall consult with the Secretary of the Department of Health & Human Services in establishing and carrying out the substance abuse treatment and prevention components of the programs authorized under this Act, to assure coordination of programs, eliminate duplication of efforts and enhance the effectiveness of such services.

At the appropriate place, insert the following new title:

TITLE NATIONAL COMMUNITY ECONOMIC PARTNERSHIP

SEC. 01. SHORT TITLE.

This title may be cited as the "National Community Economic Partnership Act of 1993".

Subtitle A—Community Economic Partnership Investment Funds

SEC. 11. PURPOSE.

It is the purpose of this subtitle to increase private investment in distressed local communities and to build and expand the capacity of local institutions to better serve the economic needs of local residents through the provision of financial and technical assistance to community development corporations.

SEC. 12. PROVISION OF ASSISTANCE.

(a) AUTHORITY.—The Secretary of Health and Human Services (hereafter referred to in this title as the "Secretary") is authorized, in accordance with this subtitle, to provide nonrefundable lines of credit to community development corporations for the establishment, maintenance or expansion of revolving loan funds to be utilized to finance projects intended to provide business and employment opportunities for low-income, unemployed, or underemployed individuals and to improve the quality of life in urban and rural areas.

(b) REVOLVING LOAN FUNDS.—

(1) COMPETITIVE ASSESSMENT OF APPLICATIONS.—In providing assistance under subsection (a), the Secretary shall establish and implement a competitive process for the solicitation and consideration of applications from eligible entities for lines of credit for the capitalization of revolving funds.

(2) ELIGIBLE ENTITIES.—To be eligible to receive a line of credit under this subtitle an applicant shall—

(A) be a community development corporation;

(B) prepare and submit an application to the Secretary that shall include a strategic investment plan that identifies and describes the economic characteristics of the target area to be served, the types of business to be assisted and the impact of such assistance on low-income, underemployed, and unemployed individuals in the target area;

(C) demonstrate previous experience in the development of low-income housing or community or business development projects in a low-income community and provide a record of achievement with respect to such projects; and

(D) have secured one or more commitments from local sources for contributions (either in cash or in kind, letters of credit or letters of commitment) in an amount that is at least equal to the amount requested in the application submitted under subparagraph (B).

(3) EXCEPTION.—Notwithstanding the provisions of paragraph (2)(D), the Secretary may reduce local contributions to not less than 25 percent of the amount of the line of credit requested by the community development corporation if the Secretary determines such to be appropriate in accordance with section 16.

SEC. 13. APPROVAL OF APPLICATIONS.

(a) IN GENERAL.—In evaluating applications submitted under section 12(b)(2)(B), the Secretary shall ensure that—

(1) the residents of the target area to be served (as identified under the strategic development plan) would have an income that is less than the median income for the area (as determined by the Secretary);

(2) the applicant community development corporation possesses the technical and managerial capability necessary to administer a revolving loan fund and has past experience in the development and management of housing, community and economic development programs;

(3) the applicant community development corporation has provided sufficient evidence of the existence of good working relationships with—

(A) local businesses and financial institutions, as well as with the community the corporation proposes to serve; and

(B) local and regional job training programs;

(4) the applicant community development corporation will target job opportunities that arise from revolving loan fund investments under this subtitle so that 75 percent of the jobs retained or created under such investments are provided to—

(A) individuals with—

(i) incomes that do not exceed the Federal poverty line; or

(ii) incomes that do not exceed 80 percent of the median income of the area;

(B) individuals who are unemployed or underemployed;

(C) individuals who are participating or have participated in job training programs authorized under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) or the Family Support Act of 1988 (Public Law 100-485);

(D) individuals whose jobs may be retained as a result of the provision of financing available under this subtitle; or

(E) individuals who have historically been underrepresented in the local economy; and

(5) a representative cross section of applicants are approved, including large and small community development corporations, urban and rural community development corporations and community development corporations representing diverse populations.

(b) PRIORITY.—In determining which application to approve under this subtitle the Secretary shall give priority to those applicants proposing to serve a target area—

(1) with a median income that does not exceed 80 percent of the median for the area (as determined by the Secretary); and

(2) with a high rate of unemployment, as determined by the Secretary or in which the population loss is at least 7 percent from April 1, 1980, to April 1, 1990, as reported by the Bureau of the Census.

SEC. 14. AVAILABILITY OF LINES OF CREDIT AND USE.

(a) APPROVAL OF APPLICATION.—The Secretary shall provide a community development corporation that has an application approved under section ____13 with a line of credit in an amount determined appropriate by the Secretary, subject to the limitations contained in subsection (b).

(b) LIMITATIONS ON AVAILABILITY OF AMOUNTS.—

(1) MAXIMUM AMOUNT.—The Secretary shall not provide in excess of $2,000,000 in lines of credit under this subtitle to a single applicant.

(2) PERIOD OF AVAILABILITY.—A line of credit provided under this subtitle shall remain available over a period of time established by the Secretary, but in no event shall any such period of time be in excess of 3 years from the date on which such line of credit is made available.

(3) EXCEPTION.—Notwithstanding paragraphs (1) and (2), if a recipient of a line of credit under this subtitle has made full and productive use of such line of credit, can demonstrate the need and demand for additional assistance, and can meet the requirements of section ____12(b)(2), the amount of such line of credit may be increased by not more than $1,500,000.

(c) AMOUNTS DRAWN FROM LINE OF CREDIT.—Amounts drawn from each line of credit under this subtitle shall be used solely for the purposes described in section 11 and shall only be drawn down as needed to provide loans, investments, or to defray administrative costs related to the establishment of a revolving loan fund.

(d) USE OF REVOLVING LOAN FUNDS.—Revolving loan funds established with lines of credit provided under this subtitle may be used to provide technical assistance to private business enterprises and to provide financial assistance in the form of loans, loan guarantees, interest reduction assistance, equity shares, and other such forms of assistance to business enterprises in target areas and who are in compliance with section 13(a)(4).

SEC. 15. LIMITATIONS ON USE OF FUNDS.

(a) MATCHING REQUIREMENT.—Not to exceed 50 percent of the total amount to be invested by an entity under this subtitle may be derived from funds made available from a line of credit under this subtitle.

(b) TECHNICAL ASSISTANCE AND ADMINISTRATION.—Not to exceed 10 percent of the amounts available from a line of credit under this subtitle shall be used for the provision of training or technical assistance and for the planning, development, and management of economic development projects. Community development corporations shall be encouraged by the Secretary to seek technical assistance from other community development corporations, with expertise in the planning, development, and management of economic development projects. The Secretary shall assist in the identification and facilitation of such technical assistance.

(c) LOCAL AND PRIVATE SECTOR CONTRIBUTIONS.—To receive funds available under a line of credit provided under this subtitle, an entity, using procedures established by the Secretary, shall demonstrate to the community development corporation that such entity agrees to provide local and private sector contributions in accordance with sec tion 12(b)(2)(D), will participate with such community development corporation in a loan, guarantee or investment program for a designated business enterprise, and that the total financial commitment to be provided by such entity is at least equal to the amount to be drawn from the line of credit.

(d) USE OF PROCEEDS FROM INVESTMENTS.—Proceeds derived from investments made using funds made available under this subtitle may be used only for the purposes described in section ____11 and shall be reinvested in the community in which they were generated.

SEC. 16. PROGRAM PRIORITY FOR SPECIAL EMPHASIS PROGRAMS.

(a) IN GENERAL.—The Secretary shall give priority in providing lines of credit under this subtitle to community development corporations that propose to undertake economic development activities in distressed communities that target women, Native Americans, at risk youth, farmworkers, population-losing communities, very low-income communities, single mothers, veterans, and refugees; or that expand employee ownership of private enterprises and small businesses, and to programs providing loans of not more than $35,000 to very small business enterprises.

(b) RESERVATION OF FUNDS.—Not less than 5 percent of the amounts made available under section ____32(a)(2)(A) may be reserved to carry out the activities described in subsection (a).

Subtitle B—Emerging Community Development Corporations

SEC. 21. COMMUNITY DEVELOPMENT CORPORATION IMPROVEMENT GRANTS.

(a) PURPOSE.—It is the purpose of this section to provide assistance to community development corporations to upgrade the management and operating capacity of such corporations and to enhance the resources available to enable such corporations to increase their community economic development activities.

(b) SKILL ENHANCEMENT GRANTS.—

(1) IN GENERAL.—The Secretary shall award grants to community development corporations to enable such corporations to attain or enhance the business management and development skills of the individuals that manage such corporations to enable such corporations to seek the public and private resources necessary to develop community economic development projects.

(2) USE OF FUNDS.—A recipient of a grant under paragraph (1) may use amounts received under such grant—

(A) to acquire training and technical assistance from agencies or institutions that have extensive experience in the development and management of low-income community economic development projects; or

(B) to acquire such assistance from other highly successful community development corporations.

(c) OPERATING GRANTS.—

(1) IN GENERAL.—The Secretary shall award grants to community development corporations to enable such corporations to support an administrative capacity for the planning, development, and management of low-income community economic development projects.

(2) USE OF FUNDS.—A recipient of a grant under paragraph (1) may use amounts received under such grant—

(A) to conduct evaluations of the feasibility of potential low-income community economic development projects that address identified needs in the low-income community and that conform to those projects and activities permitted under subtitle A;

(B) to develop a business plan related to such a potential project; or

(C) to mobilize resources to be contributed to a planned low-income community economic development project or strategy.

(d) APPLICATIONS.—A community development corporation that desires to receive a grant under this section shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(e) AMOUNT AVAILABLE FOR A COMMUNITY DEVELOPMENT CORPORATION.—Amounts provided under this section to a community development corporation shall not exceed $75,000 per year. Such corporations may apply for grants under this section for up to 3 consecutive years, except that such corporations shall be required to submit a new application for each grant for which such corporation desires to receive and compete on the basis of such applications in the selection process.

SEC. 22. EMERGING COMMUNITY DEVELOPMENT CORPORATION REVOLVING LOAN FUNDS.

(a) AUTHORITY.—The Secretary is authorized to award grants to emerging community development corporations to enable such corporations to establish, maintain or expand revolving loan funds, to make or guarantee loans, or to make capital investments in new or expanding local businesses.

(b) ELIGIBILITY.—To be eligible to receive a grant under subsection (a), an entity shall—

(1) be a community development corporation;

(2) have completed not less than one nor more than two community economic development projects or related projects that improve or provide job and employment opportunities to low-income individuals;

(3) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a strategic investment plan that identifies and describes the economic characteristics of the target area to be served, the types of business to be assisted using amounts received under the grant and the impact of such assistance on low-income individuals; and

(4) have secured one or more commitments from local sources for contributions (either in cash or in kind, letters of credit, or letters of commitment) in an amount that is equal to at least 10 percent of the amounts requested in the application submitted under paragraph (2).

(c) USE OF THE REVOLVING LOAN FUND.—

(1) IN GENERAL.—A revolving loan fund established or maintained with amounts received under this section may be utilized to provide financial and technical assistance, loans, loan guarantees or investments to private business enterprises to—

(A) finance projects intended to provide business and employment opportunities for low-income individuals and to improve the quality of life in urban and rural areas; and

(B) build and expand the capacity of emerging community development corporations and serve the economic needs of local residents.

(2) TECHNICAL ASSISTANCE.—The Secretary shall encourage emerging community development corporations that receive grants under this section to seek technical assistance from established community development corporations, with expertise in the planning, development and management of economic development projects and shall facilitate the receipt of such assistance.

(3) LIMITATION.—Not to exceed 10 percent of the amounts received under this section by a grantee shall be used for training, technical assistance and administrative purposes.

(d) USE OF PROCEEDS FROM INVESTMENTS.—Proceeds derived from investments made with amounts provided under this section may be utilized only for the purposes described in this subtitle and shall be reinvested in the community in which they were generated.

(e) AMOUNTS AVAILABLE.—Amounts provided under this section to a community development corporation shall not exceed $500,000 per year.

Subtitle C—Miscellaneous Provisions

SEC. 31. DEFINITIONS.

As used in this title:

(1) COMMUNITY DEVELOPMENT CORPORATION.—The term "community development corporation" means a private, nonprofit corporation whose board of directors is comprised of business, civic and community leaders, and whose principal purpose includes the provision of low-income housing or community economic development projects that primarily benefit low-income individuals and communities.

(2) LOCAL AND PRIVATE SECTOR CONTRIBUTION.—The term "local and private sector contribution" means the funds available at the local level (by private financial institutions, State and local governments) or by any private philanthropic organization and private, nonprofit organizations that will be committed and used solely for the purpose of financing private business enterprises in conjunction with amounts provided under this title.

(3) POPULATION-LOSING COMMUNITY.—The term "population-losing community" means any county in which the net population loss is at least 7 percent from April 1, 1980 to April 1, 1990, as reported by the Bureau of the Census.

(4) PRIVATE BUSINESS ENTERPRISE.—The term "private business enterprise" means any business enterprise that is engaged in the manufacture of a product, provision of a service, construction or development of a facility, or that is involved in some other commercial, manufacturing or industrial activity, and that agrees to target job opportunities stemming from investments authorized under this title to certain individuals.

(5) TARGET AREA.—The term "target area" means any area defined in an application for assistance under this title that has a population whose income does not exceed the median for the area within which the target area is located.

(6) VERY LOW-INCOME COMMUNITY.—The term "very low-income community" means a community in which the median income of the residents of such community does not exceed 50 percent of the median income of the area.

SEC. 32. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out subtitles A and B, $40,000,000 for fiscal year 1994, and such sums as may be necessary for fiscal years 1995, and 1996.

(b) EARMARKS.—Of the aggregate amount appropriated under subsection (a) for each fiscal year—

(1) 60 percent shall be available to carry out subtitle A; and

(2) 40 percent shall be available to carry out subtitle B.

(3) AMOUNTS.—Amounts appropriated under subsection (a) shall remain available for expenditure without fiscal year limitation.

SEC. 33. PROHIBITION.

None of the funds authorized under this title shall be used to finance the construction of housing.

On page 413, line 24, strike "and" after the semicolon.

On page 414, line 3, strike the period and insert "and".

On page 414, between lines 3 and 4, insert the following:

"(5) to fund education programs to teach young individuals about the United States criminal justice system, including education about the applicable penalties for the use and sale of illegal drugs and the commission of violent or drug-related offenses.

On page 118, strike lines 7 through 11 and insert the following:

Subtitle B—Grants Under the Juvenile Justice and Delinquency Prevention Act of 1974

SEC. 611. JUVENILE DRUG TRAFFICKING AND GANG PREVENTION GRANTS.

Part B of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5631 et seq.) is amended—

On page 126, between lines 13 and 14, insert the following:

SEC. 612. GRANTS FOR YOUTH DEVELOPMENT CENTERS.

Part B of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42

U.S.C. 5631 et seq.), as amended by section 611, is amended by adding at the end the following new subpart:

"Subpart III—Youth Violence Prevention Block Grants

"Sec. 238. (a) In General.—The Administrator of the Office of Juvenile Justice and Delinquency Prevention shall subject to availability of appropriations make grants to States to assist the States in planning, establishing, operating, coordinating, and evaluating programs directly or through grants and contracts with public and private agencies for the development of more effective education, training, research, prevention, diversion, treatment, and rehabilitation programs in the area of juvenile violence.

"(b) Issues To Be Addressed.—A program funded under subsection (a) shall address issues identified as contributing to youth violence, which may include—

"(1) conflict resolution programs in schools;

"(2) alternatives to school suspension;

"(3) juvenile court diversion programs; and

"(4) other innovative projects.

"(c) Allocation of Funds.—The amount appropriated under this section for a fiscal year shall be allocated among the States by allocating to each State an amount that bears the same proportion to the amount appropriated as the number of residents of the State under the age of 18 years bears to the number of residents of all of the States under the age of 18 years.

"(d) Administration.—Grants made under this section shall be administered by the State office designated under section 507 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3757).

"(e) Applications by Public and Private Agencies.—

"(1) In general.—A public or private agency desiring to receive a grant or enter into a contract under this subpart shall submit an application at such time, in such manner, and containing such information as the office described in subsection (d) may prescribe.

"(2) Contents.—In accordance with guidelines established by the office described in subsection (d), an application under paragraph (1) shall—

"(A) set forth a program or activity for carrying out 1 or more of the purposes described in subsections (a) and (b) and specifically identify each such purpose that the program or activity is designed to carry out;

"(B) provide that the program or activity will be administered by or under the supervision of the applicant;

"(C) provide for the proper and efficient administration of the program or activity;

"(D) provide for regular evaluation of the program or activity;

"(E) provide an assurance that the proposed program or activity will supplement, not supplant, similar programs and activities already available in the community;

"(F) describe how the program or activity will be coordinated with programs, activities, and services available locally;

"(G) provide that regular reports on such program or activity shall be sent to the administering office named in subsection (d); and

"(H) provide for such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this subpart.

"(f) Matching Funds Requirements.—

"(1) Funds received under this subpart.—Funds received through a grant under this section may not be expended for more than 75 percent of the cost of any program that is so funded.

"(2) Funds from other sources.—In providing for the 25 percent share of the cost of a program from other sources, a State—

"(A) shall provide for such share through a payment in cash or in kind, fairly evaluated, including facilities, equipment, or services; and

"(B) may provide for such share through State sources, local sources, private sources, nonprofit sources, other Federal sources, or any combination of these sources.

"(g) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section $25,000,000 for each of fiscal years 1995 and 1996.".

At the end of subtitle C of title XV, add the following:

SEC. . DRUG PARAPHERNALIA AMENDMENT.

Section 422 of the Controlled Substances Act (21 U.S.C. 863) is amended by adding at the end the following new subsection:

"(g) Civil Enforcement.—The Attorney General may bring a civil action against any person who violates this section The action may be brought in any district court of the United States or the United States courts of any territory in which the violation is taking or has taken place. In an action under this section, the court shall determine the occurrence of a violation by a preponderance of the evidence, and shall have the power to assess a civil penalty of up to $250,000, and to grant such other relief, including an injunction, as may be appropriate. Such remedies shall be in addition to any other remedy available under other law.".

At the appropriate place, add the following:

SEC. . JUVENILE ANTI-DRUG AND ANTI-GANG GRANTS IN FEDERALLY ASSISTED LOW INCOME HOUSING.

Grants authorized in this Act to reduce or prevent juvenile drug and gang-related activity in "public housing" may be used for such purposes in federally assisted, low income housing.

On page 269, line 6, after "programs" insert "that provide assurances that appropriate aftercare services (such as educational and job training programs, drug counseling or treatment, parole or other post-release supervision programs, halfway house programs, job placement programs, and participation in self-help and peer group programs) will be made available".

At the appropriate place insert the following:

SEC. . BANKRUPTCY FRAUD.

(a) In General.—

(1) Offenses.—Chapter 9 of title 18, United States Code, is amended—

(A) by amending sections 152, 153, and 154 to read as follows:

"§ 152. Concealment of assets; false oaths and claims; bribery

"A person who—

"(1) knowingly and fraudulently conceals from a custodian, trustee, marshal, or other officer of the court charged with the control or custody of property, or, in connection with a case under title 11, from creditors of the United States Trustee, any property belonging to the estate of a debtor;

"(2) knowingly and fraudulently makes a false oath or account in or in relation to any case under title 11;

"(3) knowingly and fraudulently makes a false declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, in or in relation to any case under title 11;

"(4) knowingly and fraudulently presents any false claim for proof against the estate of a debtor, or uses any such claim in any case under title 11, in a personal capacity or as or through an agent, proxy, or attorney;

"(5) knowingly and fraudulently receives any material amount of property from a debtor after the filing of a case under title 11, with intent to defeat the provisions of title 11;

"(6) knowingly and fraudulently gives, offers, receives, or attempts to obtain any money or property, remuneration, compensation, reward, advantage, or promise thereof for acting or forbearing act in any case under title 11;

"(7) in a personal capacity or as an agent or officer of any person or corporation, in contemplation of a case under title 11 by or against the person or any other person or corporation, or with intent to defeat the provisions of title 11, knowingly and fraudulently transfers or conceals any of his property or the property of such other person or corporation;

"(8) after the filing of a case under title 11 or in contemplation thereof, knowingly and fraudulently conceals, destroys, mutilates, falsifies, or makes a false entry in any recorded information (including books, documents, records, and papers) relating to the property or financial affairs of a debtor; or

"(9) after the filing of a case under title 11, knowingly and fraudulently withholds from a custodian, trustee, marshal, or other officer of the court or a United States Trustee entitled to its possession, and recorded information (including books, documents, records, and papers) relating to the property or financial affairs of a debtor, shall be fined not more than $5,000, imprisoned not more than 5 years, or both.

"§ 153. Embezzlement against estate

"(a) Offense.—A person described in subsection (b) who knowingly and fraudulently appropriates to the person's own use, embezzles, spends, or transfers any property or secretes or destroys any document belonging to the estate of a debtor shall be fined not more than $5,000, imprisoned not more than 5 years, or both.

"(b) Person to Whom Section Applies.—A person described in this subsection is one who has access to property or documents belonging to any estate by virtue of the person's participation in the administration of the estate as a trustee, custodian, marshal, attorney, or other officer of the court or as an agent, employee, or other person engaged by such an officer to perform a service with respect to the estate.

"§ 154. Adverse interest and conduct of officers

"A person who, being a custodian, trustee, marshal, or other officer of the court—

"(1) knowingly purchases, directly or indirectly, any property of the estate of which the person is such an officer in a case under title 11;

"(2) knowingly refuses to permit a reasonable opportunity for the inspection by parties in interest of the documents and accounts relating to the affairs of estates in the person's charge by parties when directed by the court to do so; or

"(3) knowingly refuses to permit a reasonable opportunity for the inspection by the United States Trustee of documents and documents and accounts relating to the affairs of an estate in the person's charge,

shall be fined not more than $5,000 and shall forfeit the person's office, which shall thereupon become vacant."; and

(B) by adding at the end the following new sections:

"§ 156. Knowing disregard of bankruptcy law or rule

"(a) DEFINITIONS.—In this section—

"'bankruptcy petition preparer' means a person, other than the debtor's attorney or an employee of such an attorney, who prepares for compensation a document for filing.

"'document for filing' means a petition or any other document prepared for filing by a debtor in a United States bankruptcy court or a United States district court in connection with a case under this title.

"(b) OFFENSE.—If a bankruptcy case or related proceeding is dismissed because of a knowing attempt by a bankruptcy petition preparer in any manner to disregard the requirements of title 11, United States Code, or the Bankruptcy Rules, the bankruptcy petition preparer shall be fined under this title, imprisoned not more than 1 year, or both.

"§ 157. Bankruptcy fraud

"(a) OFFENSE.—A person who, having devised or intending to devise a scheme or artifice to defraud, or for obtaining money or property by means of false of fraudulent pretense, representation, or promise, for the purpose of executing or concealing such a scheme or artifice or attempting to do so—

"(1) files a petition under title 11;

"(2) files a document in a proceeding under title 11; or

"(3) makes a false or fraudulent representation, claim, or promise concerning or in relating to a proceeding under title 11, at any time before or after the filing of the petition, or in relation to a proceeding falsely asserted to be pending under that title,

shall be fined under this title, imprisoned not more than 5 years, or both.

"(b) REQUIREMENT OF INTENT.—

"(1) IN GENERAL.—The degree of intent required to be shown in the case of an offense described in subsection (a) is that which is generally required to be shown in cases of fraud.

"(2) VIOLATION NOT ESTABLISHED.—A violation of subsection (a) is not established if the defendant committed the act that is alleged to constitute fraud for a lawful purpose.

"(3) VIOLATION ESTABLISHED.—A violation of subsection (a) may be established if the defendant committed the act that is alleged to constitute fraud with a purpose of—

"(A) preventing the proper application of title 11 in a particular case; or

"(B) using a proceeding under title 11 in a manner that, while on its face may appear to be legitimate, is in fact part of a scheme to defraud.".

(2) TECHNICAL AMENDMENTS.—The chapter analysis for chapter 9 of title 18, United States Code, is amended—

(A) by amending the item relating to section 153 to read as follows:

"Sec. 153. Embezzlement against estate.";

and

(B) by adding at the end the following new item:

"Sec. 156. Knowing disregard of bankruptcy law or rule.

"Sec. 157. Bankruptcy fraud.".

(b) RICO.—Section 1961(1)(D) of title 18, United States Code, is amended by inserting "(except a case under section 157 of that title)" after "title 11".

On page 15, line 2, after "community" insert ", including programs designed to increase the level of access to the criminal justice system enjoyed by victims, witnesses, and ordinary citizens by establishing decentralized satellite offices (including video facilities) of principal criminal courts buildings".

The Dole amendment (No. 1140) agreed to November 10, 1993, is amended—

On page 21, between lines 20 and 21, insert the following:

"(5) To develop and provide parenting classes to parents of at-risk youth, giving parents the skills they need to provide adequate care and supervision of such youth and to counteract the influences leading youth to a life of gangs, crime, and drugs.

"(6) To develop and provide training in methods of nonviolent dispute resolution to youth of junior high school and high school age.

On page 21, line 21, strike "(5)" and insert "(7)".

On page 21, line 23, strike "(6)" and insert "(8)".

On page 22, line 7, strike "(7)" and insert "(9)".

On page 22, line 12, strike "(8)" and insert "(10)".

On page 22, line 17, strike "(9)" and insert "(11)".

On page 22, line 22, strike "(10)" and insert "(12)".

On page 23, line 3, strike "(11)" and insert "(13)".

On page 23, line 6, strike "(12)" and insert "(14)".

On page 227, line 8, after "officers" insert "or by officials or employees of any governmental agency with responsibility for the administration of juvenile justice or the incarceration of juveniles".

At the appropriate place insert the following new section:

SEC. . SENSE OF THE SENATE REGARDING A STUDY ON OUT-OF-WEDLOCK BIRTHS.

(a) FINDING.—The Senate finds the following:

(1) The National Center for Health Statistics has just reported that the out-of-wedlock birth rate reached 29.5 percent in 1991 (66.3 percent in Washington, D.C., 71.0 percent in Detroit).

(2) The out-of-wedlock birth rate has increased without interruption since 1970, and, as pointed out recently by George Will, "the rate of increase is not slowing even at extraordinarily high levels".

(3) Dr. Lee Rainwater of Harvard University predicts that the rate will reach 40 percent within 7 years.

(4) Professor James Q. Wilson has described the erosion of the family structure in the United States and many Western nations as "a major cultural convulsion" that is inextricably associated with the rise of violent urban crime.

(5) President Clinton has stated on the national television program "Meet the Press" that there is "absolutely" a correlation between crime and drugs and the breakdown of the family.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) The Secretary of Health and Human Services, in consultation with the National Center for Health Statistics, should prepare an analysis of the causes of the increase in out-of-wedlock births, and determine whether there is any historical precedent for such increase, as well as any equivalent among foreign nations, and

(2) The Secretary of Health and Human Services should report to Congress within 12 months after the date of the enactment of this Act on the Secretary's analysis of the out-of-wedlock problem and its causes, as well as possible remedial measures that could be taken.

At the end of the bill add the following:

Section 921(a)(17) of Title 18, United States Code, is amended by revising subparagraph (B) and adding a new subparagraph (C) to read as follows:

"(B) The term 'armor piercing ammunition' means—

"(i) a projectile or projectile core which may be used in a handgun and which is constructed entirely (excluding the presence of traces of other substances) from one or a combination of tungsten alloys, steel, iron, brass, bronze, beryllium copper, or depleted uranium; or

"(ii) a jacketed projectile larger than .22 caliber designed and intended for use in a handgun and whose jacket has a weight of more than 25 percent of the total weight of the projectile.

"(C) The term 'armor piercing ammunition' does not include shotgun shot required by Federal or State environmental or game regulations for hunting purposes, a frangible projectile designed for target shooting, a projectile which the Secretary finds is primarily intended to be used for sporting purposes, or any other projectile or projectile core which the Secretary finds is intended to be used for industrial purposes, including a charge used in an oil and gas well perforating device."

At the appropriate place in the bill, insert the following:

SEC. . CONGRESSIONAL APPROVAL OF ANY EXPANSION AT LORTON AND CONGRESSIONAL HEARINGS ON FUTURE NEEDS.

(a) CONGRESSIONAL APPROVAL.—Notwithstanding any other provision of law, the existing prison facilities and complex at the District of Columbia Corrections Facility at Lorton in Virginia shall not be expanded unless such expansion has been approved by the Congress under the authority provided to Congress in section 446 of the District of Columbia Self-Government and Governmental Reorganization Act.

(b) CONGRESSIONAL HEARINGS.—The Subcommittee on the District of Columbia of the Committee on Appropriations of the Senate shall conduct hearings regarding expansion of the prison complex in Lorton, Virginia, prior to any approval granted pursuant to subsection (a). The subcommittee shall permit interested parties, including appropriate officials from the County of Fairfax, Virginia, to testify at such hearings.

(c) DEFINITIONS.—For purposes of this section, the terms "expanded" and "expansion" mean any alteration of the physical structure of the prison complex that is made to increase the number of inmates incarcerated at the prison.

At the appropriate place, insert:

Subtitle A—Regional Prisons and State Prisons

SEC. 1331. REGIONAL PRISONS FOR VIOLENT CRIMINALS AND VIOLENT CRIMINAL ALIENS.

(b) CONSTRUCTION OF PRISONS.—The Attorney General may contract with the private sector to design, construct or provide any services associated with the regional prisons.

Subtitle B—State Prisons

SEC. 1321. BOOT CAMPS AND PRISONS FOR VIOLENT DRUG OFFENDERS.

(b) ESTABLISHMENT OF GRANT AND TECHNICAL ASSISTANCE PROGRAM.—

(3) UTILIZATION OF PRIVATE SECTOR.—Nothing herein shall prevent the utilization of

any grant funds to contract with the private sector to design, construct or provide any services associated with any facilities funded herein.

(*4*) UTILIZATION OF COMPONENTS.—

(c) STATE AND MULTI-STATE COMPACT APPLICATIONS.

(1) IN GENERAL.—To request a grant under this section, the chief executive of a State or the coordinator of a multi-State compact association shall submit an application to the Attorney General in such form and containing such information as the Attorney General may prescribe by regulation or guidelines. The chief executive of a State or the coordinator of a multi-State compact association may designate private sector participants for the design, construction or provision of services associated with any facilities for which funding is requested.

On page 15, line 2, insert ", such as a citizens police academy' " after "community".

On page 25, strike lines 22 and 23, and insert the following:

"SEC. 1710. DEFINITIONS.

"In this part—

" 'Career law enforcement officers' means

On page 26, line 2, strike the quotation mark and final period and insert the following:

" 'citizens police academy' means a program by local law enforcement agencies or private non profit organizations in which citizens, especially those who participate in neighborhood watch programs, are given training in police policy and procedure, criminal law, the legal system, crime awareness, personal safety measures, and ways of facilitating communication between the community and local law enforcement in the prevention of crime.' ".

Strike from line 17 on page 127 to line 20 on page 160 and insert the following:

Subtitle A—Maritime Navigation and Fixed Platforms

SEC. 701. OFFENSES OF VIOLENCE AGAINST MARITIME NAVIGATION OR FIXED PLATFORMS.

Chapter 111 of title 18, United States Code, is amended by adding at the end the following new sections:

"§ 2280. Violence against maritime navigation

"(a) OFFENSES.—

"(1) IN GENERAL.—A person who unlawfully and intentionally—

"(A) seizes or exercises control over a ship by force or threat thereof or any other form of intimidation;

"(B) performs an act of violence against a person on board a ship if that act is likely to endanger the safe navigation of that ship;

"(C) destroys a ship or causes damage to a ship or to its cargo which is likely to endanger the safe navigation of that ship;

"(D) places or causes to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or cause damage to that ship or its cargo which endangers or is likely to endanger the safe navigation of that ship,

"(E) destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if such act is likely to endanger the safe navigation of a ship;

"(F) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safe navigation of a ship;

"(G) injures or kills any person in connection with the commission or the attempted commission of any of the offenses set forth in subparagraphs (A) through (F); or

"(H) attempts to do any act prohibited under subparagraphs (A) through (G),

shall be fined under this title, imprisoned not more than 20 years, or both; and if the death of any person results from conduct prohibited by this paragraph, shall be punished by death or imprisoned for any term of years or for life:

"(2) THREAT TO NAVIGATION.—A person who threatens to do any act prohibited under paragraph (1) (B), (C) or (E), with apparent determination and will to carry the threat into execution, if the threatened act is likely to endanger the safe navigation of the ship in question, shall be fined under this title, imprisoned not more than 5 years, or both.

"(b) JURISDICTION.—There is jurisdiction over the prohibited activity in subsection (b)—

"(1) in the case of a covered ship, if—

"(A) such activity is committed—

"(i) against or on board a ship flying the flag of the United States at the time the prohibited activity is committed;

"(ii) in the United States; or

"(iii) the activity takes place on a ship flying the flag of a foreign country or outside the United States, by a national of the United States or by a stateless person whose habitual residence is in the United States;

"(B) during the commission of such activity, a national of the United States is seized, threatened, injured or killed; or

"(C) the offender is later found in the United States after such activity is committed;

"(2) in the case of a ship navigating or scheduled to navigate solely within the territorial sea or internal waters of a country other than the United States, if the offender is later found in the United States after such activity is committed; and

"(3) in the case of any vessel, if such activity is committed in an attempt to compel the United States to do or abstain from doing any act.

"(c) It is a bar to federal prosecution under subsection (a) for conduct that occurred within the United States that the conduct involved was during or in relation to a labor dispute, and such conduct is prohibited as a felony under the law of the State in which it was committed. For purposes of this section, the term 'labor dispute' has the meaning set forth in section 2(c) of the Norris-LaGuardia Act, as amended, (29 U.S.C. §113(c)).

"(d) DEFINITIONS.—In this section—

" 'covered' means a ship that is navigating or is scheduled to navigate into, through or from waters beyond the outer limit of the territorial sea of a single country or a lateral limit of that country's territorial sea with an adjacent country.

" 'national of the United States' has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

" 'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law.

" 'ship' means a vessel of any type whatsoever not permanently attached to the seabed, including dynamically supported craft, submersibles or any other floating craft, but does not include a warship, a ship owned or operated by a government when being used as a naval auxiliary or for customs or police purposes; or a ship which has been withdrawn from navigation or laid up.

" 'United States', when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas Islands and all territories and possessions of the United States.

"§ 2281. Violence against maritime fixed platforms

"(a) OFFENSES.—

"(1) IN GENERAL.—A person who unlawfully and intentionally—

"(A) seizes or exercises control over a fixed platform by force or threat thereof or any other form of intimidation;

"(B) performs an act of violence against a person on board a fixed platform if that act is likely to endanger its safety;

"(C) destroys a fixed platform or causes damage to it which is likely to endanger its safety;

"(D) places or causes to be placed on a fixed platform, by any means whatsoever, a device or substance which is likely to destroy that fixed platform or likely to endanger its safety;

"(E) injures or kills any person in connection with the commission or the attempted commission of any of the offenses set forth in subparagraphs (A) through (D); or

"(F) attempts to do anything prohibited under subparagraphs (A) through (E),

shall be fined under this title, imprisoned not more than 20 years, or both; and if death results to any person from conduct prohibited by this paragraph, shall be punished by death or imprisoned for any term of years or for life.

"(2) THREAT TO SAFETY.—A person who threatens to do anything prohibited under paragraph (1) (B) or (C), with apparent determination and will to carry the threat into execution, if the threatened act is likely to endanger the safety of the fixed platform, shall be fined under this title, imprisoned not more than 5 years, or both.

"(b) JURISDICTION.—There is jurisdiction over the prohibited activity in subsection (b) if—

"(1) such activity is committed against or on board a fixed platform—

"(A) that is located on the continental shelf of the United States;

"(B) that is located on the continental shelf of another country, by a national of the United States or by a stateless person whose habitual residence is in the United States; or

"(C) in an attempt to compel the United States to do or abstain from doing any act;

"(2) during the commission of such activity against or on board a fixed platform located on a continental shelf, a national of the United States is seized, threatened, injured or killed; or

"(3) such activity is committed against or on board a fixed platform located outside the United States and beyond the continental shelf of the United States and the offender is later found in the United States.

"(c) It is a bar to federal prosecution under subsection (a) for conduct that occurred within the United States that the conduct involved was during or in relation to a labor dispute, and such conduct is prohibited as a felony under the law of the State in which it was committed. For purposes of this section, the term 'labor dispute' has the meaning set forth in section 2(c) of the Norris—LaGuardia Act, as amended, (29 U.S.C. §113(c))."

"(d) DEFINITIONS.—In this section—

" 'continental shelf' means the sea-bed and subsoil of the submarine areas that extend beyond a country's territorial sea to the limits provided by customary international law as reflected in Article 76 of the 1982 Convention on the Law of the Sea.

" 'fixed platform' means an artificial island, installation or structure permanently attached to the sea-bed for the purpose of exploration or exploitation of resources or for other economic purposes.

"'national of the United States' has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

"'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law.

"'United States', when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas Islands and all territories and possessions of the United States.".

SEC. 702. TECHNICAL AMENDMENT.

The chapter analysis for chapter 111 of title 18, United States Code, is amended by adding at the end the following new items:

"2280. Violence against maritime navigation.
"2281. Violence against maritime fixed platforms.".

SEC. 703. EFFECTIVE DATES.

This subtitle and the amendments made by this subtitle shall take effect on the later of—

(1) the date of the enactment of this Act;or

(2)(A) in the case of section 2280 of title 18, United States Code, the date of the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation has come into force and the United States has become a party to that Convention; and

(B) in the case of section 2281 of title 18, United States Code, the date the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf has come into force and the United States has become a party to that Protocol.

Subtitle B—General Provisions

SEC. 711. WEAPONS OF MASS DESTRUCTION.

(a) Findings.—The Congress finds that the use and threatened use of weapons of mass destruction (as defined in section 2332a of title 18, United States Code, as added by subsection (b)) gravely harm the national security and foreign relations interests of the United States, seriously affect interstate and foreign commerce, and disturb the domestic tranquility of the United States.

(b) Offense.—Chapter 113A of title 18, United States Code, is amended by inserting after section 2332 the following new section:

"§ 2332a. Use of weapons of mass destruction

"(a) Definitions.—In this section—

"'national of the United States' has the meaning given in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

"'weapon of mass destruction' means—

"(A) any destructive device (as defined in section 921);

"(B) poison gas;

"(C) any weapon involving a disease organism; or

"(D) any weapon that is designed to release radiation or radioactivity at a level dangerous to human life.

"(b) Offense.—A person who uses, or attempts or conspires to use, a weapon of mass destruction—

"(1) against a national of the United States while such national is outside of the United States;

"(2) against any person within the United States; or

"(3) against any property that is owned, leased or used by the United States or by any department or agency of the United States, whether the property is within or outside of the United States;

shall be imprisoned for any term of years or for life, and if death results, shall be punished by death or imprisoned for any term of years or for life."

(c) Technical Amendment.—The chapter analysis for chapter 113A of title 18, United States Code, is amended by inserting after the item relating to section 2332 the following new item:

"2332a. Use of weapons of mass destruction.".

SEC. 712. ENHANCED PENALTIES FOR CERTAIN OFFENSES.

(a) Section 1705(b).—Section 206(b) of the International Economic Emergency Powers Act (50 U.S.C. 1705(b)) is amended by striking "$50,000" and inserting "$1,000,000".

(b) Section 1705(a).—Section 206(a) of the International Economic Emergency Powers Act (50 U.S.C. 1705(a)) is amended by striking "$10,000" and inserting "$1,000,000".

(c) Section 1541.—Section 1541 of title 18, United States Code, is amended—

(1) by striking "$500" and inserting "$250,000"; and

(2) by striking "one year" and inserting "5 years".

(d) Chapter 75.—Sections 1542, 1543, 1544 and 1546 of title 18, United States Code, are each amended—

(1) by striking "$2,000" each place it appears and inserting "$250,000"; and

(2) by striking "five years" each place it appears and inserting "10 years".

(e) Section 1545.—Section 1545 of title 18, United States Code, is amended—

(1) by striking "$2,000" and inserting "$250,000"; and

(2) by striking "three years" and inserting "10 years".

SEC. 713. TERRITORIAL SEA EXTENDING TO TWELVE MILES INCLUDED IN SPECIAL MARITIME AND TERRITORIAL JURISDICTION.

The Congress declares that all the territorial sea of the United States, as defined by Presidential Proclamation 5928 of December 27, 1988, is part of the United States, subject to its sovereignty, and, for purposes of Federal criminal jurisdiction of the United States wherever that term is used in title 18, United States Code.

SEC. 714. ASSIMILATED CRIMES IN EXTENDED TERRITORIAL SEA.

Section 13 of title 18, United States Code (relating to the adoption of State laws for areas within Federal jurisdiction), is amended—

(1) by inserting after "title" in subsection (a) the following: "or on, above, or below any portion of the territorial sea of the United States not within the territory of any State, Territory, Possession, or District"; and

(2) by inserting at the end the following new subsection:

"(c) Whenever any waters of the territorial sea of the United States lie outside the territory of any State, Territory, Possession, or District, such waters (including the airspace above and the seabed and subsoil below, and artificial islands and fixed structures erected thereon) shall be deemed for purposes of subsection (a) to lie within the area of that State, Territory, Possession, or District it would lie within if the boundaries of such State, Territory, Possession, or District were extended seaward to the outer limit of the territorial sea of the Untied States.".

SEC. 715. JURISDICTION OVER CRIMES AGAINST UNITED STATES NATIONALS ON CERTAIN FOREIGN SHIPS.

Section 7 of title 18, United States Code (relating to the special maritime and territorial jurisdiction of the United States), is amended by inserting at the end thereof the following new paragraph:

"(8) To the extend permitted by international law, any foreign vessel during a voyage having a scheduled departure from or arrival in the United States with respect to an offense committee by or against a national of the United States.".

SEC. 716. TORTURE.

(a) In General.—Part I of title 18, United States Code, is amended by inserting after chapter 113A the following new chapter:

"CHAPTER 113B—TORTURE

"Sec.
"2340. Definitions.
"2340A. Torture.
"2340B. Exclusive remedies.

"§ 2340. Definitions

"In this chapter—

"'Severe mental pain or suffering' means the prolonged mental harm caused by or resulting from—

"(A) the intentional infliction or threatened infliction of severe physical pain or suffering;

"(B) the administration or application, or threatened administration or application, of mind altering substances or other procedures calculated to disrupt profoundly the senses of the personality;

"(C) the threat of imminent death; or

"(D) the threat that another person will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind altering substances or other procedures calculated to disrupt profoundly the senses or personality.

" 'torture' means an act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control.

" 'United States' includes all areas under the jurisdiction of the United States including any of the places within the provisions of sections 5 and 7 of this title and section 101(38) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301(38)).

"§ 2340A. Torture

"(a) Offenses.—A person who outside the United States commits or attempts to commit torture shall be fined under this title, imprisoned not more than 20 years, or both; and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) Jurisdiction.—There is jurisdiction over the prohibited activity in subsection (a) if—

"(1) the alleged offender is a national of the United States; or

"(2) the alleged offender is present in the United States, irrespective of the nationality of the victim or the alleged offender.

"§ 2340B. Exclusive remedies

"Nothing in this chapter shall be construed as precluding the application of State or local laws on the same subject, nor shall anything in this chapter be construed as creating any substantive or procedural right enforceable by law by any party in any civil proceeding".

(b) Technical Amendment.—The part analysis for part I of title 18, United States Code, is amended by inserting after the item for chapter 113A the following new item:

"113B. Torture .... 2340.".

(c) Effective Date.—The amendment made by this section shall take effect on the later of—

(1) the date of enactment of this Act; or

(2) the date on which the United States has become a party to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

SEC. 717. EXTENSION OF THE STATUTE OF LIMITATIONS FOR CERTAIN TERRORISM OFFENSES.

(1) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by inserting after section 3285 the following new section:

"§ 3286. Extension of statute of limitations for certain terrorism offenses

"Notwithstanding the provisions of section 3282, no person shall be prosecuted, tried, or punished for any offense involving a violation of section 32 (aircraft destruction), section 36 (airport violence), section 112 (assaults upon diplomats), section 351 (crimes against Congressmen or Cabinet officers), section 1116 (crimes against diplomats), section 1203 (hostage taking), section 1361 (willful injury to government property), section 1751 (crimes against the President), section 2280 (maritime violence), section 2281 (maritime platform violence), section 2331 (terrorist acts abroad against United States nationals), section 2339 (use of weapons of mass destruction), or section 2340A (torture) of this title or section 902 (i), (j), (k), (l), or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1572 (i), (j), (k), (l), or (n)), unless the indictment is found or the information is instituted within ten years next after such offense shall have been committed.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 213 of title 18, United States Code, is amended by inserting after the item relating to section 3285 the following new item:

"3286. Extension of statute of limitations for certain terrorism offenses.".

SEC. 718. FBI ACCESS TO TELEPHONE SUBSCRIBER INFORMATION.

(a) REQUIRED CERTIFICATION.—Section 2709(b) of title 18, United States Code, is amended to read as follows:

"(b) REQUIRED CERTIFICATION.—The Director of the Federal Bureau of Investigation, or his designee in a position not lower than Deputy Assistant Director, may—

"(1) request the name, address, length of service, and toll billing records of a person or entity if the Director (or his designee in a position not lower than Deputy Assistant Director) certifies in writing to the wire or electronic communication service provider to which the request is made that—

"(A) the name, address, length of service, and toll billing records sought are relevant to an authorized foreign counterintelligence investigation; and

"(B) there are specific and articulable facts giving reason to believe that the person or entity to whom the information sought pertains is a foreign power or an agent of a foreign power as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801); and

"(2) request the name, address, and length of service of a person or entity if the Director (or his designee in a position not lower than Deputy Assistant Director) certifies in writing to the wire or electronic communication service provider to which the request is made that—

"(A) the information sought is relevant to an authorized foreign counterintelligence investigation; and

"(B) there are specific and articulable facts giving reason to believe that communication facilities registered in the name of the person or entity have been used, through the services of such provider, in communication with—

"(i) an individual who is engaging or has engaged in international terrorism as defined in section 101(c) of the Foreign Intelligence Surveillance Act or clandestine intelligence activities that involve or may involve a violation of the criminal statutes of the United States; or

"(ii) a foreign power or an agent of a foreign power under circumstances giving reason to believe that the communication concerned international terrorism as defined in section 101(c) of the Foreign Intelligence Surveillance Act or clandestine intelligence activities that involve or may involve a violation of the criminal statutes of the United States.".

(b) REPORT TO JUDICIARY COMMITTEES.—Section 2709(e) of title 18, United States Code, is amended by adding after "Senate" the following. "; and the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate,".

SEC. 718. VIOLENCE AT AIRPORTS SERVING INTERNATIONAL CIVIL AVIATION.

(a) OFFENSE.—Chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 36. Violence at international airports

"(a) OFFENSE.—A person who unlawfully and intentionally, using any device, substance, or weapon—

"(1) performs an act of violence against a person at an airport serving international civil aviation that causes or is likely to cause serious bodily injury (as defined in section 1365 of this title) or death; or

"(2) destroys or seriously damages the facilities of an airport serving international civil aviation or a civil aircraft not in service located thereon or disrupts the services of the airport,

if such an act endangers or is likely to endanger safety at that airport, or attempts to do such an act, shall be fined under this title, imprisoned not more than 20 years, or both; and if the death of any person results from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) JURISDICTION.—There is jurisdiction over the prohibited activity in subsection (b) if—

"(1) the prohibited activity takes place in the United States; or

"(2) the prohibited activity takes place outside the United States and the offender is later found in the United States.".

"(c) It is a bar to federal prosecution under subsection (a) for conduct that occurred within the United States that the conduct involved was during or in relation to a labor dispute, and such conduct is prohibited as a felony under the law of the State in which it was committed. For purposes of this section, the term 'labor dispute' has the meaning set forth in section 2(c) of the Norris-LaGuardia Act, as amended, (29 U.S.C. § 113(c))."

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 2 of title 18, United States Code, is amended by adding at the end the following new item:

"36. Violence at international airports.".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the later of—

(1) the date of enactment of this Act; or

(2) the date on which the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, done at Montreal on 23 September 1971, has come into force and the United States has become a party to the Protocol.

SEC. 720. PREVENTION ACTS OF TERRORISM AGAINST CIVILIAN AVIATION.

(a) IN GENERAL.—Chapter 2 of title 18, United States Code, as amended by section 719(a), is amended by adding at the end the following new section:

§ 37. Violations of Federal aviation security regulations

"A person who willfully violates a security regulation under part 107 or 108 of title 14, Code of Federal Regulations (relating to airport and airline security) issued pursuant to section 315 or 316 of the Air Transportation Security Act of 1974 (49 U.S.C. App. 1356 and 1357), or a successor part, shall be fined under this title, imprisoned for not more than 1 year, or both.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 2 of title 18, United States Code, as amended by section 719(b), is amended by adding at the end the following new item:

"37. Violations of Federal aviation security regulations."

SEC. 721. COUNTERFEITING UNITED STATES CURRENCY ABROAD.

(a) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by adding before section 471 the following new section:

"§470. Counterfeit acts committed outside the United States

"A person who, outside the United States, engages in the act of—

"(1) making, dealing, or possessing any counterfeit obligation or other security of the United States; or

"(2) making, dealing, or possessing any plate, stone, or other thing, or any part thereof, used to counterfeit such obligation or security,

if such act would constitute a violation of section 471, 473, or 474 if committed within the United States, shall be fined under this title, imprisoned for not more than 15 years, or both.".

(b) TECHNICAL AMENDMENTS.—

(1) CHAPTER ANALYSIS.—The chapter analysis for chapter 25 of title 18, United States Code, is amended by adding before section 471 the following new item:

"470. Counterfeit acts committed outside the United States.".

(2) PART ANALYSIS.—The part analysis for part I of title 18, United State Code, is amended by amending the item for chapter 25 to read as follows:

"25. Counterfeiting and forgery .... 470".

SEC. 722. ECONOMIC TERRORISM TASK FORCE.

(a) ESTABLISHMENT AND PURPOSE.—There is established an Economic Terrorism Task Force to—

(1) assess the threat of terrorist actions directed against the United States economy, including actions directed against the United States government and actions against United States business interests;

(2) assess the adequacy of existing policies and procedures designed to prevent terrorist actions directed against the United States economy; and

(3) recommend administrative and legislative actions to prevent terrorist actions directed against the United States economy.

(b) MEMBERSHIP.—The Economic Terrorism Task Force shall be chaired by the Secretary of State, or the Secretary's designee, and consist of—

(1) the Director of Central Intelligence;

(2) the Director of the Federal Bureau of Investigation;

(3) the Director of the United States Secret Service;

(4) the Administrator of the Federal Aviation Administration;

(5) the Chairman of the Board of Governors of the Federal Reserve;

(6) the Under Secretary of the Treasury for Finance; and

(7) such other members of the Departments of Defense, Justice, State, Treasury, or any other agency of the United States government, as the Secretary of State may designate.

(c) Administrative Provisions.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Economic Terrorism Task Force.

(d) Report.—Not later than 180 days after the date of enactment of this Act, the chairman of the Economic Terrorism Task Force shall submit a report to the President and the Congress detailing the findings and recommendations of the task force. If the report of the task force is classified, an unclassified version shall be prepared for public distribution.

SEC. 723. TERRORIST DEATH PENALTY ACT.

Section 2332(a)(1) of title 18, United States Code is amended to read as follows: "(1) if the killing is murder (as defined in section 1111(a)), be fined under this title, punished by death or imprisonment for any term of years or for life, or both;".

SEC. 724. SENTENCING GUIDELINES INCREASE FOR TERRORIST CRIMES.

The United States Sentencing Commission is directed to amend its sentencing guidelines to provide an appropriate enhancement for any felon, whether committed within or outside the United States, that involves or is intended to promote international terrorism, unless such involvement or intent is itself an element of the crime.

SEC. 725. ALIEN WITNESS COOPERATION.

(a) Establishment of New Nonimmigrant Classification.—Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) is amended—(1) by striking "or" at the end of subparagraph (Q), (2) by striking the period at the end of subparagraph (R) and inserting "; or", and (3) by adding at the end of the following new subparagraph: "(S) subject to section 214(j), an alien—"(i) who the Attorney General determines—"(I) is in possession of critical reliable information concerning a criminal organization or enterprise, and "(II) is willing to supply such information to Federal or State law enforcement authorities or a Federal or State court of law, and

"(ii) whose presence in the United States the Attorney General determines is essential to the success of an authorized criminal investigation or the successful prosecution of an individual involved in the criminal organization or enterprise,

and the spouse and minor children of the alien if accompanying, or following to join, the alien.".

(b) Conditions of Entry.—

(1) Waiver of grounds for exclusion.—Section 212(d) of the Immigration and Nationality Act (8 U.S.C. 1182(d)) is amended by inserting before paragraph (2) the following new paragraph:

"(1) The Attorney General may, in the Attorney General's discretion, waive the application of subsection (a) (other than paragraph (3)(E) thereof) in the case of a nonimmigrant described in section 101(a)(15)(S), if the Attorney General deems it in the national interest. Any such waiver shall be deemed a waiver of any comparable ground for deportation under section 241(a)(1)(A).".

(2) Numerical limitations; period or admission; etc.—Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended by adding at the end the following new subsection:

"(j)(1) The number of aliens who may be provided a visa as nonimmigrants under section 101(a)(15)(S) in any fiscal year may not exceed 100.

"(2) No alien may be admitted into the United States as such a nonimmigrant more than 5 years after the date of the enactment of this subsection.

"(3) The period of admission of an alien as such a nonimmigrant may not exceed 3 years. Such period may not be extended by the Attorney General.

"(4) As a condition for the admission, and continued stay in lawful status, of such a nonimmigrant, the nonimmigrant—

"(A) shall report not less often than quarterly to the Commissioner such information concerning the alien's whereabouts and activities as the Attorney General may require,

"(B) may not be convicted of any criminal offense in the United States after the date of such admission, and

"(C) must have executed a form that waives the nonimmigrant's right to contest, other than on the basis of an application for withholding of deportation, any action for deportation of the alien instituted before the alien obtains lawful permanent resident status.

"(5) The Attorney General shall submit a report annually to the Committees on the Judiciary of the House of Representatives and of the Senate concerning—

"(A) the number of such nonimmigrants admitted,

"(B) the number of successful criminal prosecutions or investigations resulting from cooperation of such aliens,

"(C) the number of such nonimmigrants whose admission has not resulted in successful criminal prosecution or investigation, and

"(D) the number of such nonimmigrants who have failed to report quarterly (as required under paragraph (4)) or who have been convicted of crimes in the United States after the date of their admission as such a nonimmigrant.".

(3) Prohibition of change of status.—Section 248(1) of the Immigration and Nationality Act (8 U.S.C. 1258(1)) is amended by striking "or (K)" and inserting "(K), or (S)".

(c) Adjustment to Permanent Resident Status.—

(1) In general.—Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is amended by adding at the end the following new subsection:

"(h)(1) If, in the opinion of the Attorney General—

"(A) a nonimmigrant admitted into the United States under section 101(a)(15)(S) has supplied information described in clauses (i) and (ii) of that section, and

"(B) the provision of such information has substantially contributed to the success of an authorized criminal investigation or the successful prosecution of an individual described in clause (ii) of that section,

the Attorney General may adjust the status of the alien and the spouse and child of the alien if admitted under such section) to that of an alien lawfully admitted for permanent residence if the alien is not described in section 212(a)(3)(E).

"(2) Upon the approval of adjustment of status under paragraph (1), the Attorney General shall record the alien's lawful admission for permanent residence as of the date of such approval, and the Secretary of State shall reduce by 1 the number of visas authorized to be issued under section 201(d) and 203(b)(4) for the fiscal year then current.".

(2) Exclusive means of adjustment.—Section 245(c) of the Immigration and Nationality Act (8 U.S.C. 1255(c)) is amended—

(A) by striking "or" before "(3)" and "(4)"; and

(B) by inserting before the period at the end the following: "; or (5) an alien who was admitted as a nonimmigrant described in section 101(a)(15)(S)".

(d) Extending Period of Deportation for Conviction of a Crime.—Section 241(a)(2)(A)(i)(I) of the Immigration and Nationality Act (8 U.S.C. 1251(a)(2)(A)(i)(I)) is amended by inserting "(or 10 years in the case of an alien provided lawful permanent resident status under section 245(h))" after "five years".

SEC. 726. PROVIDING MATERIAL SUPPORT TO TERRORISTS.

(a) Offense.—Chapter 113A of title 18, United States Code, is amended by adding the following new section:

"§ 2339A. Providing material support to terrorists

"(a) Definition.—In this section, 'material support or resources' means currency or other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, but does not include humanitarian assistance to persons not directly involved in such violations.

"(b) Offense.—A person who, within the United States, provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used in preparation for, or in carrying out, a violation of section 32, 36, 351, 844 (f) or (i), 1114, 116, 1203, 1361, 1363, 1751, 2280, 2281, 2331, or 2339 of this title or section 902(i) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472(i)), or in preparation for or carrying out the concealment of an escape from the commission of any such violation, shall be fined under this title, imprisoned not more than 10 years, or both.".

(b) Technical Amendment.—The chapter analysis for chapter 113A of title 18, United States Code, is amended by adding the following new item:

"2339A. Providing material support to terrorists."

At the appropriate place insert the following:

SEC. . ASSISTANT U.S. ATTORNEY RESIDENCY.

Section 545(a) of title 28, United States Code, is amended—

(1) by striking "and assistant United States attorney"; and

(2) by inserting the following after the first sentence: "Each assistant United States attorney shall reside in the district for which he or she is appointed or within 50 miles thereof.".

On page 425, strike lines 16 through 25 and insert the following:

SEC. 2904. PENALTIES FOR TRAFFICKING IN COUNTERFEIT GOODS AND SERVICES.

(a) In General.—Section 2320(a) of title 18, United States Code, is amended—

(1) in the first sentence—

(A) by striking "Whoever" and inserting "A person who"; and

(B) by striking "if an individual, be fined not more than $250,000 or imprisoned not more than 5 years, or both, and, if a person other than an individual, be fined not more than $1,000,000" and inserting "be imprisoned not more than 10 years, fined under this title, or both"; and

(2) in the second sentence by striking "if an individual, shall be fined not more than $1,000,000 or imprisoned not more than fifteen years, or both, and, if other than an individual, shall be fined not more than $5,000,000" and inserting "shall be imprisoned not more than 20 years, fined under this title, or both".

In section 1321(j)(1) (as added by amendment number 1103), strike "$2,000,000,000" and insert "$3,000,000,000".

In section 1321D(3) (as added by amendment number 1103), strike "$4,287,000,000" and insert "$4,267,000,000".

In section 1321(e) of the amendment No. 1103

On page 14, strike lines 4–19.

On page 14, line 20, strike "(4)" and insert "(2)".

On page 15, line 4, strike "(5)" and insert "(3)".

* * * * *

(4) DURATION OF GRANTS.—

(A) IN GENERAL.—A grant under the section may be renewed for up to 3 years beyond the initial year of funding if the applicant demonstrates satisfactory progress toward achievement of the objectives set out in an approved application.

(B) MULTIYEAR GRANTS.—A multiyear grant may be made under this section so long as the total duration of the grant, including any renewals, does not exceed 4 years.

(e) CONVERSION OF PROPERTY AND FACILITIES AT CLOSED OR REALIGNED MILITARY INSTALLATIONS, INTO BOOT CAMP PRISONS AND REGIONAL PRISONS.—

(1) DEFINITION.—In this subsection, "base closure law" means—

(A) title II of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note);

(B) the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note);

(C) Sec. on 2687 of title 10, United States Code and

(D) any other similar law.

(2) REPORT.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall prepare and disseminate to State and local officials a report listing any real property or facility located at a military installation to be closed or realigned under a base closure law that is suitable for use as a boot camp prison or regional prison. The Attorney General shall periodically update this report for dissemination to State and local officials.

(3) APPLICABILITY.—This subsection shall apply with respect to property or facilities located at military installations the closure or realignment of which commences after the date of enactment of this Act.

(f) PERFORMANCE EVALUATION.—

(10 EVALUATION COMPONENTS.—

(A) IN GENERAL.—Each boot camp prison, regional prison, and activated prison or boot camp facility program funded under this section shall contain an evaluation component developed pursuant to guidelines established by the Attorney General.

(B) OUTCOME MEASURES.—The evaluations required by this paragraph shall include outcome measures that can be used to determine the effectiveness of the funded programs, including the effectiveness of such programs in comparison with other correctional programs or dispositions in reducing the incidence of recidivism.

(2) PERIODIC REVIEW AND REPORTS.—

On page 413, line 19, strike "and illegal drugs" and insert "and use of illegal drugs".

On page 415, line 10, strike "filed" and insert "met".

On page 415, line 17, strike "Spanish." and insert "English and in other appropriate languages."

On page 416, line 22, strike "(3) POPULATION.—The number of students to be served by the plan required under section 2303(c)."

On page 419, line 6, strike "part U" and insert "part W".

At the appropriate place in the bill, insert the following:

"SEC. . Section 1009 of the National Narcotics Leadership Act of 1988 (21. U.S.C. 1506) is amended by striking "the date which is 5 years after the date of the enactment of this subtitle" and inserting "September 30, 1994".

Section 1008(d)(1) of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1502(d)(1)) is amended by striking "of such", and inserting, "subject to the availability of appropriations, of not less than 75 and such additional".

SEC. . That section 9(c) of the Act entitled "An Act relating to the policing of the building and grounds of the Supreme Court of the United States," approved August 18, 1949 (40 U.S.C. 13n(c)), is amended in the first sentence by striking out "1993" and inserting in lieu thereof "1996".

At the appropriate place, insert the following:

SEC. . EXTENSION OF FULL-TIME STATUS OF MEMBERS OF THE UNITED STATES SENTENCING COMMISSION.

Section 992(c) of title 28, United States Code, is amended in the second sentence by striking "six years" and inserting "seven years".

At the appropriate place in the bill, insert the following:

SEC. . CLARIFICATION OF DEFINITION OF A "COURT OF THE UNITED STATES" TO INCLUDE THE DISTRICT COURTS FOR GUAM, THE NORTHERN MARIANA ISLANDS, AND THE VIRGIN ISLANDS.

(a) Chapter 1 of title 18, United States Code, is amended by adding at the end thereof of the following new section:

"§ 23. Court of the United States defined

As used in this title, except where otherwise expressly provided the term 'court of the United States' includes the District Court of Guam, the District Court for the Northern Mariana Islands, and the District Court of the Virgin Islands.".

(b) The analysis for chapter 1 of title 18, United States Code, is amended by inserting at the end the following:

"23. Court of the United States Defined."

The Dole-Boxer-Feinstein Amendment (No. 1102) agreed to November 4, 1993, 18 amended—

(1) On page 1, line 6 by adding the words "not more than" before "ten years";

(2) On Page 1, line 11 by adding the words "not more than" before "twenty years";

(3) On page 2, line 10 by adding the words "not more than" before "ten years"; and

(4) On page 2, line 15 by adding the words "not more than" before "twenty years".

HATCH AMENDMENT NO. 1217

Mr. DOLE (for Mr. HATCH) proposed an amendment to the bill S. 1607, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. . SENSE OF THE SENATE THAT ABLE-BODIED CONVICTED FELONS IN THE FEDERAL PRISON SYSTEM WORK.

(a) FINDINGS.—The Senate finds that—

(1) Federal Prison Industries was created by Congress in 1934 as a wholly owned, nonprofit government corporation directed to train and employ Federal prisoners;

(2) traditionally, one-half of the Federal prison inmates had meaningful prison jobs; now, with the increasing prison population, less than one-quarter are employed in prison industry positions; and

(3) expansion of the product lines and services of Federal Prison Industries beyond its traditional lines of business will enable more Federal prison inmates to work, and such expansion must occur so as to minimize any adverse impact on the private sector and labor.

(b) SENSE OF SENATE.—It is the sense of the Senate that—

(1) all able-bodied Federal prison inmates should work;

(2) in an effort to achieve the goal of full Federal prison inmate employment, the Attorney General, in consultation with the Director of the Bureau of Prisons, the Secretary of Labor, the Secretary of Defense, the Administrator of the General Services Administration, and the private sector and labor, shall submit a report to Congress not later than March 31, 1994, that describes a strategy for employing more Federal prison inmates;

(3) the report shall—

(A) contain a review of existing lines of business of Federal Prison Industries;

(B) consider the findings and recommendations of the final report of the Summit on Federal Prison Industries (June 1992–July 1993); and

(C) make recommendations for legislation and changes in existing law that may be necessary for the Federal Prison Industries to employ more Federal prison inmates; and

(4) the report shall focus on—

(A) the creation of new job opportunities for Federal prison inmates;

(B) the degree to which any expansion of lines of business of Federal Prison Industries may adversely affect the private sector or displace domestic labor; and

(C) the degree to which opportunities for partnership between Federal Prison Industries and small business can be fostered.

The Dole amendment (No. 1140) agreed to November 10, 1993, is amended—

(1) on page 4, line 8, by inserting ", voluntary manslaughter," after "attempted murder";

(2) on page 9, between lines 13 and 14, by inserting the following:

"§ 1933. Joinder

"In a prosecution of an offense under this chapter charging a conspiracy to commit an offense, the trial of all of the alleged conspirators shall be joined in a single district court, and a motion to transfer shall not be granted unless the interest of justice so requires.";

(3) on page 10, line 2, by inserting "(1)" before "The"; and

(4) on page 10, between lines 14 and 15, by inserting the following:

(2) The United States Sentencing Commission shall review and, if necessary, amend its sentencing guidelines to provide that activity of a defendant as an organizer or leader of a criminal street gang shall be an aggravating factor in determining a sentence for an offense under chaper 26 of title 18, United States Code.

Where appropriate, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Recreational Hunting Safety and Preservation Act of 1993".

SEC. 2. FINDINGS.

Congress finds that—

(1) recreational hunting, when carried out pursuant to law (as implemented by the regulations of Federal and State wildlife management agencies) is a necessary and beneficial element in the proper conservation and management of healthy, abundant, and biologically diverse wildlife resources;

(2) recreational hunters (because of a generally demonstrated concern with the conservation of wildlife resources and preservation of habitat necessary for the breeding and maintenance of healthy wildlife populations, and through a familiarity with the resources gained from experience in the field) are a valuable asset in ensuring enlightened public input into decisions regarding management and maintenance programs for wildlife resources and habitat;

(3)(A) recreational hunting supports industries highly significant to the national economy through sales in interstate commerce of sporting goods; and

(B) the Federal excise taxes imposed on the sales provide a major source of funding for vital programs of wildlife conservation and management;

(4) various persons are engaging in (and have announced an intent to continue to engage in) a variety of disruptive activities with the premeditated purpose of preventing and interfering with the conduct of lawful recreational hunting on Federal lands, which activities—

(A) place both recreational hunters and the disruptive persons in imminent jeopardy of grave physical injury or death;

(B) disrupt the peaceful, lawful, and prudent conduct of wildlife population and habitat management programs by Federal and State wildlife management agencies; and

(C) ultimately may alter the planned program objectives, resulting in—

(i) undesirable patterns of activity within populations of wildlife;

(ii) the endangerment of the future viability of wildlife species; and

(iii) damage to habitat values;

(5) Federal lands comprise important wildlife habitat resources that—

(A) support many large, diverse, and vital populations of wildlife; and

(B) offer significant opportunities for legal recreational hunting as an important management tool to ensure the future viability of the wildlife populations;

(6) it is the right of citizens of the United States freely to enjoy lawful recreational hunting on Federal lands in accordance with regulations promulgated by Federal and State wildlife management agencies; and

(7) in many instances under current law, vagueness and ambiguity exist regarding the application of State laws and enforcement activities relating to—

(A) the safety of hunters; and

(B) the legal rights of recreational hunters to participate peacefully in lawful hunts on Federal lands.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) FEDERAL LANDS.—The term "Federal lands" means—

(A) national forests;

(B) public lands;

(C) national parks, and

(D) wildlife refuges.

(2) LAWFUL HUNT.—The term "lawful hunt" means an occasion when an individual is engaged in the taking or harvesting (or attempted taking or harvesting) through a legal means and during a specified legal season of a wildlife or fish, on Federal lands, which activity—

(A)(i) is authorized by or licensed under the law of the State in which it takes place; or

(ii) is regulated by game or fishing seasons established by the State in which it takes place;

(B) is not prohibited by a law of the Untied States; and

(C) does not infringe upon a right of an owner of private property.

(3) NATIONAL FOREST.—The term "national forest" means lands included in the National Forest System (as defined in section 11(a) of the Forest and Range land Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a))).

(4) NATIONAL PARK.—The term "national park" means lands and waters included in the national park system (as defined in section 2(a) of the Act entitled "An Act to facilitate the management of the National Park System and miscellaneous areas administered in connection with that system, and for other purposes", approved August 8, 1953 (16 U.S.C. 1c(a))).

(5) PUBLIC LANDS.—The term "public lands" has the same meaning as is provided in section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(e)).

(6) SECRETARY.—The term "Secretary" means—

(A) the Secretary of Agriculture with respect to national forests; and

(B) the Secretary of the Interior with respect to—

(i) public lands;

(ii) national parks; and

(iii) wildlife refuges.

(7) WILDLIFE REFUGE.—The term "wildlife refuge" means lands and waters included in the National Wildlife Refuge System (as established by section 4 of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd)).

SEC. 4. OBSTRUCTION OF A LAWFUL HUNT.

(a) VIOLATION.—It is unlawful for a person knowingly and with the intent of obstructing, impeding, or interfering with a lawful hunt by an individual to—

(1) obstruct, impede, or otherwise interfere with a lawful hunt by an individual;

(3) engage in activities that prevent or impede the reasonable and usual means of access by those individuals who intend to participate in a lawful hunt, whether the activities occur on Federal lands or upon a public or private road, highway, path, trail, or other normal route of access to Federal lands;

(4) take or abuse property, equipment, or hunting dogs being used in conjunction with a lawful hunt; or

(5) enter onto Federal lands or travel in interstate commerce, to further—

(A) a scheme or effort to obstruct, impede, or otherwise interfere with a lawful hunt; or

(B) the efforts of another person to obstruct, impede, or interfere with a lawful hunt.

(b) MULTIPLE VIOLATIONS.—The Secretary may consider participation by a person in more than one of the activities described in this section to constitute multiple violations.

SEC. 5. CIVIL PENALTIES.

(a) IN GENERAL.—A person who engages in an activity described in section 4 shall be assessed a civil penalty of not less than $500, and not more than $5,000, for each violation.

(b) VIOLATION INVOLVING FORCE OR VIOLENCE.—Upon a determination by a court that the activity involved the use of force or violence, or the threatened use of force or violence, against the person or property of another person, a person who engages in an activity described in section 4 shall be assessed a civil penalty of not less than $1,000, and not more than $10,000, for each violation.

(c) RELATIONSHIP TO OTHER PENALTIES.—The penalties established by this section shall be in addition to other criminal or civil penalties that may be levied against the person as a result of an activity in violation of section 4.

(d) PROCEDURE.—

(1) COMPLAINTS FROM GOVERNMENT AGENTS.—Upon receipt of a written complaint from an officer, employee, or agent of the Forest Service, Bureau of Land Management, National Park Service, United States Fish and Wildlife Service, or other Federal agency that a person violated section 4, the Secretary shall—

(A) forward the complaint to the United States Attorney for the Federal judicial district in which the violation is alleged to have occurred; and

(B) request the Attorney General of the United States to institute a civil action for the imposition and collection of the civil penalty specified in subsection (a) or (b).

(2) COMPLAINTS FROM INDIVIDUALS.—Upon receipt of a sworn affidavit from an individual and a determination by the Secretary that the statement contains sufficient factual data to create a reasonable belief that a violation of section 4 has occurred, the Secretary shall—

(A) forward a complaint to the United States Attorney for the Federal judicial district in which the violation is alleged to have occurred; and

(B) request the Attorney General of the United States to institute a civil action for the imposition and collection of the civil penalty specified in subsection (a) or (b).

(e) USE OF PENALTY MONEY COLLECTED.—After deduction of costs attributable to collection, money collected from penalties shall be—

(1) deposited into the trust fund established pursuant to the Act entitled "An Act to provide that the United States shall aid the States in wildlife-restoration projects, and for other purposes", approved September 2, 1937 (16 U.S.C. 669) (commonly known as the "Pitman-Robertson Wildlife Restoration Act"), to support the activities authorized by such Act and undertaken by State wildlife management agencies; or

(2) used in such other manner as the Secretary determines will enhance the funding and implementation of—

(A) the North American Waterfowl Management Plan signed by the Secretary of the Interior and the Minister of Environment for Canada in May 1986; or

(B) a similar program that the Secretary determines will enhance wildlife management—

(i) on Federal lands; or

(ii) on private or State-owned lands when the efforts will also provide a benefit to wildlife management objectives on Federal lands.

SEC. 6. OTHER RELIEF.

(a) INJUNCTIVE RELIEF.—Injunctive relief against a violation of section 4 may be sought by—

(1) the head of a State agency with jurisdiction over fish or wildlife management;

(2) the Attorney General of the United States; or

(3) any person who is or would be adversely affected by the violation, or a hunting or

sportsman's organization to which the person belongs.

(b) DAMAGES AND ATTORNEY'S FEES.—Any person who is or would be adversely affected by a violation of section 4, or a hunting or sportsman's organization to which the person belongs, may bring a civil action to recover—

(1) actual and punitive damages; and

(2) reasonable attorney's fees.

SEC. 7. RELATIONSHIP TO STATE AND LOCAL LAW AND CIVIL ACTIONS.

(a) LAW OR ORDINANCE.—This Act is not intended to preempt a State law or local ordinance that provides for civil or criminal penalties for a person who obstructs or otherwise interferes with a lawful hunt.

(b) CIVIL ACTION.—The bringing of an action pursuant to this Act shall not prevent an independent action against a person under a State law or local ordinance.

SEC. 8. REGULATIONS.

The Secretary may issue such regulations as are necessary to carry out this Act.

SEC. 632. PROHIBITION OF THE POSSESSION OF A HANDGUN OR AMMUNITION BY, OR THE PRIVATE TRANSFER OF A HANDGUN OR AMMUNITION TO, A JUVENILE.

(a) DEFINITION.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following new paragraph:

(29) The term 'handgun' means—

"(A) a firearm that has a short stock and is designed to be held and fired by the use of a single hand; and

"(B) any combination of parts from which a firearm described in subparagraph (A) can be assembled.".

(b) OFFENSE.—Section 922 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(s)(1) It shall be unlawful for a person to sell, deliver, or otherwise transfer to a person who the transferor knows or has reasonable cause to believe is a juvenile—

"(A) a hundgun; or

"(B) ammunition that is suitable for use only in a handgun.

"(2) It shall be unlawful for any person who is a juvenile to knowingly possess—

At the end of title XXVIII, insert the following:

SEC. . STATE LEADERSHIP ACTIVITIES TO PROMOTE SAFE SCHOOLS PROGRAM.

(a) SHORT TITLE; DEFINITIONS.—

(1) SHORT TITLE.—This section may be cited as the "State Leadership Activities to Promote Safe Schools Act".

(2) DEFINITIONS.—For the purpose of this section—

(A) the term "local educational agency" has the same meaning given such term in section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12));

(B) the term "Secretary" means the Secretary of Education;

(C) the term "State educational agency" has the same meaning given such term in section 1471(23) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(23)); and

(D) the term "State" means each of the 50 States, the District of Columbia and the Commonwealth of Puerto Rico.

(b) AUTHORITY.—The Secretary is authorized to award grants to State educational agencies from allocations under subsection (c) to enable such agencies to carry out the authorized activities described in subsection (e).

(c) ALLOCATION.—Each State educational agency having on application approved under subsection (d) shall be eligible to receive a grant under this section for each fiscal year that bears the same ratio to the amount appropriated pursuant to the authority of subsection (f) for such year as the amount such State educational agency receives pursuant to section 1006 of the Elementary and Secondary Education Act of 1965 for such year bears to the total amount allocated to all such agencies in all States having applications approved under subsection (d) for such year, except that no State educational agency having an application approved under subsection (d) in any fiscal year shall receive less than $100,000 for such year.

(d) APPLICATION.—Each State educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner and containing such information as the Secretary may reasonably require. Each such application shall—

(1) describe the activities and services for which assistance is sought;

(2) contain a statement of the State educational agency's goals and objectives for violence prevention and a description of the procedures to be used for assessing and publicly reporting progress toward meeting those goals and objectives; and

(3) contain a description of how the State educational agency will coordinate such agency's activities under this section with the violence prevention efforts of other State agencies.

(e) USE OF FUNDS.—Grant funds awarded under this section shall be used—

(1) to support a statewide resource coordinator;

(2) to provide technical assistance to both rural and urban local school districts;

(3) to disseminate to local educational agencies and schools information on successful school violence prevention programs funded through Federal, State, local and private sources;

(4) to make available to local educational agencies teacher training and parent and student awareness programs, which training and programs may be provided through video or other telecommunications approaches; and

(5) for other activities the State educational agency may deem appropriate.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for each of the fiscal years 1995 and 1996 to carry out this section.

The Byrd amendment (No. 1103) agreed to November 4, 1993, is amended in section 1331(b) of subtitle A (relating to regional prisons) by adding at the end thereof the following: "In making a determination as to the location of regional prisons, the Attorney General shall give appropriate consideration to the feasibility of converting Federal correctional complexes currently in the planning or construction phase.".

In section 1331(b) of the amendment—

(1) insert "IN GENERAL.—" before "The Attorney General"; and

(2) at the end of the subsection add the following:

(2) CONSIDERATION OF COST-EFFECTIVE ALTERNATIVES AND STATE AND LOCAL RE-USE PLANS.—(A) In determining where to locate any of the regional prisons authorized in paragraph (1), and in accordance with the Department of Justice's duty to review and identify a use for any portion of an installation closed pursuant to title II of the Defense Authorization Amendments and Base Closure and Realignment Act (P.L. 100-526) and the Defense Base Closure and Realignment Act of 1990 (Part A of title XXIX of Public Law 101-510) the Attorney General shall consider—

(i) whether using any portion of a closed military installation in the region or military installation scheduled to be closed in the region provides a cost-effective alternative to the purchase of real property or construction of new prison facilities; and

(ii) whether such use is consistent with a reutilization and redevelopment plan. Consent must be obtained from the local reuse authority for the military installation, recognized and funded by the Secretary of Defense, before the Attorney General may proceed with plans for the design or construction of a prison authorized in paragraph 1.

(iii) giving priority consideration to any installation located in a rural area whose closure under this title will have a substantial adverse impact on the economy of the communities for the economic recovery of such communities from such closure.

(B) Before proceeding with plans for the design or construction of a prison authorized in paragraph (1), the Attorney General shall submit to Congress a report explaining the basis of the decision on where to locate the new prison facility.

(C) If the Attorney General decides not to utilize any portion of a closed military installation or an installation scheduled to be closed for locating a regional prison, the report shall include an analysis of why installations in the region, the use of which as a prison would be consistent with a reutilization and redevelopment plan, do not provide a cost-effective alternative to the purchase of real property or construction of new facilities.

(D) The Attorney General shall obtain all information necessary to determine whether any portion of a closed military installation in the region or military installation scheduled to be closed in the region is a cost-effective alternative to the purchase of real property or construction of new prison facilities.

On page 14, between lines 3 and 4, insert the following:

"(c) TROOPS-TO-COPS PROGRAMS.—(1) Grants made under subsection (a) may be used to hire former members of the Armed Forces to serve as career law enforcement officers for deployment in community-oriented policing, particularly in communities that are adversely affected by a recent military base closing.

"(2) In this subsection, 'former member of the Armed Forces' means a member of the Armed Forces of the United States who is involuntarily separated from the Armed Forces within the meaning of section 1141 of title 10, United States Code.

On page 14, line 4, strike "(c)" and insert "(d)".

On page 15, strike lines 16 through 22 and insert the following:

"(e) PREFERENTIAL CONSIDERATION OF APPLICATIONS FOR CERTAIN GRANTS.—In awarding grants under this part, the Attorney General shall give preferential consideration, where feasible, to applications for hiring and rehiring additional career law enforcement officers that involve—

(1) a non-Federal contribution exceeding the 25 percent minimum under subsection (i); and

(2) hiring former members of the Armed Forces to serve as career law enforcement officers under subsection (c).

On page 15, line 23, strike "(e)" and insert "(f)".

On page 16, line 20, strike "(f)" and insert "(g)".

On page 16, line 23, strike "(g)" and insert "(h)".

On page 17, line 8, strike "(h)" and insert "(i)".

On page 17, line 21, strike "(i)" and insert "(j)".

On page 17, line 24, strike "(j)" and insert "(k)".

On page 347, strike line 6 and all that follows through page 365, line 3, and insert the following:

SEC. 1701. ESTABLISHMENT OF COMMISSION ON CRIME AND VIOLENCE.

There is established a commission to be known as the "National Commission on Crime and Violence in America". The Commission shall be composed of 25 members, appointed as follows:

(1) 7 persons by the President, 4 of whom shall be members of one major political party and 3 of whom shall be members of another major political party;

(2) 9 persons by the Speaker of the House of Representatives, 4 of whom shall be appointed on the recommendation of the minority leader; and

(3) 9 persons by the President pro tempore of the Senate, 5 of whom shall be appointed on the recommendation of the majority leader of the Senate and the chairman of the Committee on the Judiciary of the Senate and 4 of whom shall be appointed on the recommendation of the minority leader of the Senate and the ranking minority member of the Committee on the Judiciary of the Senate.

SEC. 1702. PURPOSE.

The purposes of the Commission are as follows:

(1) To develop a comprehensive and effective crime control plan which will serve as a "blueprint" for action in the 1990's. The report shall include an estimated cost for implementing any recommendations made by the Commission.

(2) To bring attention to successful models and programs in crime prevention and crime control.

(3) To reach out beyond the traditional criminal justice community for ideas when developing the comprehensive crime control plan.

(4) To recommend improvements in the coordination of local, State, Federal, and international border crime control efforts.

(5) To make a comprehensive study of the economic and social factors leading to or contributing to crime and specific proposals for legislative and administrative actions to reduce crime and the elements that contribute to it.

(6) To recommend means of targeting finite correctional facility space and resources to the most serious and violent offenders, with the goal of achieving the most cost-effective possible crime control and protection of the community and public safety, with particular emphasis on examining the issue of possible disproportionate incarceration rates among black males and any other minority group disproportionately represented in State and Federal correctional populations, and to consider increased use of alternatives to incarceration which offer a reasonable prospect of equal or better crime control at equal or less cost.

SEC. 1703. RESPONSIBILITIES OF THE COMMISSION

The commission shall be responsible for the following:

(1) Reviewing the effectiveness of traditional criminal justice approaches in preventing and controlling crime and violence.

(2) Examining the impact that changes to state and Federal law have had in controlling crime and violence.

(3) Examining the impact of changes in Federal immigration laws and policies and increased development and growth along United States international borders on crime and violence in the United States, particularly among our Nation's youth.

(4) Examining the problem of youth gangs and provide recommendations as to how to reduce youth involvement in violent crime.

(5) Examining the extent to which assault weapons and high power firearms have contributed to violence and murder in America.

(6) Convening field hearings in various regions of the country to receive testimony from a cross section of criminal justice professionals, business leaders, elected officials, medical doctors, and other citizens that wish to participate.

(7) Reviewing all segments of our criminal justice system, including the law enforcement, prosecution, defense, judicial corrections components in developing the crime control plan.

Subtitle B—National Commission to Study the Causes of the Demand for Drugs in the United States

SEC. 1711. SHORT TITLE.

This subtitle may be cited as the "National Commission to Study the Causes of the Demand for Drugs in the United States".

SEC. 1712. ESTABLISHMENT.

There is established a National Commission to Study the Causes of the Demand for Drugs in the Untied States (referred to in this subtitle as the "Commission").

SEC. 1713. DUTIES.

(a) IN GENERAL.—The Commission shall—

(1) examine the root causes of illicit drug use and abuse in the United States, including by compiling existing research regarding those root causes;

(2) evaluate the efforts being made to prevent drug abuse;

(3) identify the existing gaps in drug abuse policy that result from the lack of attention to the root causes of drug abuse;

(4) assess the needs of Government at all levels for resources and policies for reducing the overall desire of individuals to experiment with and abuse illicit drugs; and

(5) make recommendations regarding necessary improvements in policies for reducing the use of illicit drugs in the United States.

(b) EXAMINATION.—Matters examined by the Commission under this section shall include the following:

(1) CHARACTERISTICS.—The characteristics of potential illicit drug users and abusers or drug traffickers, including age and social, economic, and educational backgrounds.

(2) ENVIRONMENT.—Environmental factors that contribute to illicit drug use and abuse, including the correlation between unemployment, poverty, and homelessness on drug experimentation and abuse.

(3) ASSOCIATIONS AND SOCIAL RELATIONSHIPS.—The effects of substance use and abuse by a relative or friend in contributing to the likelihood and desire of an individual to experiment with illicit drugs.

(4) CULTURE.—Aspects of, and changes in, philosophical or religious beliefs, cultural values, attitudes toward authority, status of basic social units (such as families), and traditions that contribute to illicit drug use and abuse.

(5) PHYSIOLOGICAL AND PSYCHOLOGICAL FACTORS.—The physiological and psychological factors that contribute to the desire for illicit drugs.

(6) EFFORTS OF GOVERNMENTS.—The current status of Federal, State, and local efforts regarding the causes of illicit drug use and abuse, including a review of drug strategies being promoted by Federal, State, and local authorities to address the causes of illicit drug use and abuse.

SEC. 1714. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—

(a) IN GENERAL.—The Commission shall consist of 15 members, as follows:

(A) PRESIDENT.—Four individuals appointed by the President, 2 of whom shall be members of another major political party and 2 of whom shall be members of another major political party.

(B) SENATE.—Five individuals, 3 of whom shall be appointed by the majority leader of the Senate, after consultation with the chairman of the Committee on the Judiciary of the Senate, and 2 of whom shall be appointed by the minority leader of the Senate, after consultation with the ranking minority member of the Committee on the Judiciary of the Senate. At least 1 member appointed under this paragraph shall be a recovering drug user.

(C) HOUSE OF REPRESENTATIVES.—Five individuals, 3 of whom shall be appointed jointly by the Speaker and majority leader of the House of Representatives and 2 of whom shall be appointed by the minority leader of the House of Representatives. At least 1 member appointed under this paragraph shall be a recovering drug abuser.

(D) MINORITY CONGRESSIONAL LEADERSHIP.—One individual appointed jointly by the minority leader of the Senate and the minority leader of the House of Representatives.

(2) GOALS IN MAKING APPOINTMENTS.—In appointing individuals as members of the Commission, the President and the majority and minority leaders of the House of Representatives and the Senate shall seek to ensure that—

(A) the membership of the Commission reflects the racial, ethnic, and gender diversity of the United States; and

(B) members are specially qualified to serve on the Commission by reason of their education, training, expertise, or experience in—

(i) sociology;

(ii) psychology;

(iii) law;

(iv) bio-medicine;

(v) addiction; and

(vi) ethnography and urban poverty, including health care, housing, education, and employment.

(b) PROHIBITION AGAINST OFFICER OR EMPLOYEE.—Each individual appointed under subsection (a) shall not be an officer or employee of any government and shall be qualified to serve the Commission by virtue of education, training, or experience.

(c) DEADLINE FOR APPOINTMENT.—Members of the Commission shall be appointed within 60 days after the date of the enactment of this Act for the life of the Commission.

(d) MEETINGS.—The Commission shall have its headquarters in the District of Columbia, and shall meet at least once each month for a business session that shall be conducted by the Chairperson.

(e) QUORUM.—Seven members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(f) CHAIRPERSON AND VICE CHAIRPERSON.—No later than 15 days after the members of the Commission are appointed, such members shall designate a Chairperson and Vice Chairperson of the Commission.

(g) CONTINUATION OF MEMBERSHIP.—If a member of the Commission later becomes an officer or employee of any government, the individual may continue as a member until a successor is appointed.

(h) VACANCIES.—A vacancy in the Commission shall be filled not later than 30 days after the Commission is informed of the vacancy in the manner in which the original appointment was made.

(i) COMPENSATION.—

(1) NO PAY, ALLOWANCE, OR BENEFIT.—Members of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission.

(2) TRAVEL EXPENSES.—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

SEC. 1715. STAFF AND SUPPORT SERVICES.

(a) DIRECTOR.—The Chairperson shall appoint a director after consultation with the members of the Commission, who shall be paid the rate of basic pay for level V of the Executive Schedule.

(b) STAFF.—With the approval of the Commission, the director may appoint personnel as the director considers appropriate.

(c) APPLICABILITY OF CIVIL SERVICE LAWS.—The staff of the Commission shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

(d) EXPERTS AND CONSULTANTS.—With the approval of the Commission, the director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(e) STAFF OF FEDERAL AGENCIES.—Upon the request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of that agency to the Commission to assist in carrying out its duties under this Act.

(f) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, statistical data, and other information from the Library of Congress, as well as agencies and elected representatives of the executive and legislative branches of government. The Chairperson of the Commission shall make requests in writing where necessary.

(g) PHYSICAL FACILITIES.—The General Services Administration shall find suitable office space for the operation of the Commission. The facilities shall serve as the headquarters of the Commission and shall include all necessary equipment and incidentals required for proper functioning.

SEC. 1716. POWERS OF COMMISSION.

(a) HEARINGS.—The Commission may conduct public hearings or forums at its discretion, at any time and place it is able to secure facilities and witnesses, for the purpose of carrying out its duties.

(b) DELEGATION OF AUTHORITY.—Any member or agent of the Commission may, if authorized by the Commission, take any action the Commission is authorized to take by this section.

(c) INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this Act. Upon request of the Chairperson or Vice Chairperson of the Commission, the head of a Federal agency shall furnish the information to the Commission to the extent permitted by law.

GIFTS, BEQUESTS, AND DEVISES.—The Commission may accept, use, and dispose of gifts, bequests, or devices of services or property, both real and personal, for the purpose of aiding or facilitating the work of the Commission. Gifts, bequests, or devises of money and proceeds from sales of other property received as gifts, bequests, or devices shall be deposited in the Treasury and shall be available for disbursement upon order of the Commission.

(e) MAILS.— The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

SEC. 1717. REPORTS.

(a) MONTHLY REPORTS.— The Commission shall submit monthly activity reports to the President and the Congress.

(b) REPORTS.—

(1) INTERIM REPORT.—The Commission shall submit an interim report to the President and the Congress not later than 1 year before the termination of the Commission. The interim report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for legislative and administrative action based on the Commission's activities to date. A strategy for disseminating the report to Federal, State, and local authorities shall be formulated and submitted with the formal presentation of the report to the President and the Congress.

(2) FINAL REPORT.—Not later than the date of the termination of the Commission, the Commission shall submit to the Congress and the President a final report with a detailed statement of final findings, conclusions, and recommendations, including an assessment of the extent to which recommendations of the Commission included in the interim report under paragraph (1) have been implemented.

(c) PRINTING AND PUBLIC DISTRIBUTION.—Upon receipt of each report of the Commission under this section, the President shall—

(1) order the report to be printed; and

(2) make the report available to the public upon request.

SEC. 1718. TERMINATION.

The Commission shall terminate on the date which is 2 years after the Members of the Commission have met and designated a Chairperson and Vice Chairperson.

SUBTITLE C—NATIONAL COMMISSION TO SUPPORT LAW ENFORCEMENT

SEC. 1721. SHORT TITLE.

This subtitle may be cited as the "National Commission to Support Law Enforcement Act."

SEC. 1722. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) law enforcement officers risk their lives daily to protect citizens, for modest rewards and too little recognition;

(2) a significant shift has occurred in the problems that law enforcement officers face without a corresponding change in the support from the Federal Government;

(3) law enforcement officers are on the front line in the war against drugs and crime;

(4) the rate of violent crime continues to increase along with the increase in drug use;

(5) a large percentage of individuals arrested test positive for drug usage;

(6) the Presidential Commission on Law Enforcement and the Administration of Justice of 1965 focused attention on many issues affecting law enforcement, and a review twenty-five years later would help to evaluate current problems, including drug-related crime, violence, racial conflict, and decreased funding; and

(7) a comprehensive study of law enforcement issues, including the role of the Federal Government in supporting law enforcement officers, working conditions, and responsibility for crime control would assist in redefining the relationships between the Federal Government, the public, and law enforcement officials.

SEC. 1723. ESTABLISHMENT.

There is established a national commission to be known as the "National Commission to Support Law Enforcement" (referred to in this subtitle as the "Commission").

SEC. 1724. DUTIES.

(A) IN GENERAL.— The Commission shall study and recommend changes regarding law enforcement agencies and law enforcement issues on the Federal, State, and local levels, including the following:

(1) FUNDING.—The sufficiency of funding, including a review of grant programs at the Federal level.

(2) EMPLOYMENT.—The conditions of law enforcement employment.

(3) INFORMATION.—The effectiveness of information-sharing systems, intelligence, infrastructure, and procedures among law enforcement agencies of Federal, State, and local governments.

(4) RESEARCH AND TRAINING.—The status of law enforcement research and education and training.

(5) EQUIPMENT AND RESOURCES.—The adequacy of equipment, physical resources, and human resources.

(6) COOPERATION.—The cooperation among Federal, State, and local law enforcement agencies.

(7) RESPONSIBILITY.—The responsibility of governments and law enforcement agencies in solving the crime problem.

(8) IMPACT.—The impact of the criminal justice system, including court schedules and prison overcrowding, on law enforcement.

(b) CONSULTATION.—The Commission shall conduct surveys and consult with focus groups of law enforcement officers, local officials, and community leaders across the Nation to obtain information and seek advice on important law enforcement issues.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 29 members as follows:

(1) 9 individuals from national law enforcement organizations representing law enforcement officers, of whom—

(A) 2 shall be appointed by the Speaker of the House of Representatives;

(b) 2 shall be appointed by the majority leader of the Senate;

(C) 2 shall be appointed by the minority leader of the House of Representatives;

(D) 2 shall be appointed by the minority leader of the Senate; and

(E) 1 shall be appointed by the President.

(2) 9 individuals from national law enforcement organizations representing law enforcement management, of whom—

(A) 2 shall be appointed by the Speaker of the House of Representatives;

(B) 2 shall be appointed by the majority leader of the Senate;

(C) 2 shall be appointed by the minority leader of the House of Representatives;

(D) 2 shall be appointed by the minority leader of the Senate; and

(E) 1 shall be appointed by the President.

(3) 2 individuals with academic expertise regarding law enforcement issues, of whom—

(A) 1 shall be appointed by the Speaker of the House of Representatives and the majority leader of the Senate.

(B) 1 shall be appointed by the minority leader of the Senate and the minority leader of the House of Representatives.

(4) 2 Members of the House of Representatives, appointed by the Speaker and the minority leader of the House of Representatives.

(5) 2 Members of the Senate, appointed by the majority leader and the minority leader of the Senate.

(6) 1 individual from the Department of Justice, appointed by the President.

(7) 2 individuals representing a State or local governmental entity, such as a Governor, mayor, or State Attorney General, to be appointed jointly by the majority leader and the minority leader of the Senate.

(8) 2 individuals representing a State or local governmental entity, such as a Governor, mayor, or State Attorney General, to be appointed jointly by the Speaker and the minority leader of the House of Representatives.

At the appropriate place, insert the following:

SEC. . FIRST TIME DOMESTIC VIOLENCE OFFENDER REHABILITATION PROGRAM.

(a) Section 3561 of title 18, United States Code, is amended by—

(1) redesignating subsection (b) as subsection (c);

(2) inserting the following new subsection after subsection (a):

"(b) DOMESTIC VIOLENCE OFFENDERS.—A defendant who has been convicted for the first time of a domestic violence crime shall be sentenced to a term of probation if not sentenced to a term of imprisonment. The term "domestic violence crime" means a crime of violence for which the defendant may be prosecuted in a court of the U.S. in which the victim or intended victim is the spouse, former spouse, intimate partner, former intimate partner, child, or former child of the defendant, or any relative defendant, child, or former child of the defendant, or any other relative of the defendant.

(b) Section 3563 (a) of title 18, United States Code, is amended by—

(1) striking "and" at the end of paragraph (2);

(2) striking the period at the end of the paragraph (3) and inserting "; and" in lieu thereof; and

(3) by inserting the following new paragraph:

"(4) for a domestic violence crime as defined in section 3561 (b) by a defendant convicted of such an offense for the first time that the defendant attend a court-approved public, private, or private non-profit program, that has been authorized by the State Coalition Against Domestic Violence, and which is designed to rehabilitate such a defendant if an approved program is readily available within a 50-mile radius of the legal residence of the defendant.".

(c) Section 3583 of title 18, United States Code, is amended—

(1) in subsection (a) by inserting "or if the defendant has been convicted for the first time of a domestic violence crime as defined in section 3561(b)" after "statute"; and

(2) in subsection (d) by inserting the following after the first sentence: "The court shall order as an explicit condition of supervised release for a defendant convicted for the first time of a domestic violence crime as defined in section 3561(b) that the defendant attend a court-approved public, private, or private non-profit program, that has been authorized by the State Coalition Against Domestic Violence, and which is designed to rehabilitate such a defendant if an approved program is readily available within a 50-mile radius of the legal residence of the defendant.".

At the appropriate place, insert the following:

SEC. ESTABLISHMENT OF COMMUNITY PROGRAMS ON DOMESTIC VIOLENCE.

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.) is amended by adding at the end the following new section:

SEC. 316. DEMONSTRATION GRANTS FOR COMMUNITY INITIATIVE.

"(a) IN GENERAL.—The Secretary shall provide grants to nonprofit private organizations to establish projects in local communities involving many sectors of each community to coordinate intervention and prevention of domestic violence.

"(b) ELIGIBILITY.—To be eligible for a grant under this section, an entity—

"(1) shall be a nonprofit organization organized for the purpose of coordinating community projects for the intervention in and prevention of domestic violence;

"(2) shall include representatives of pertintent sectors of the local community, which may include the following—

"(A) health care providers;

"(B) the education community;

"(C) the religious community;

"(D) the justice system;

"(E) domestic violence program advocates;

"(F) human service entities such as State child services divisions;

"(G) business and civic leaders; and

"(H) other pertinent sectors.

"(c) APPLICATIONS.—An organization that desires to receive a grant under this section shall submit to the Secretary an application, in such form and in such manner as the Secretary shall prescribe through notice in the Federal Register, that—

"(1) demonstrates that the applicant will serve a community leadership function, bringing together opinion leaders from each sector of the community to develop a coordinated community consensus opposing domestic violence;

"(2) demonstrates a community action component to improve and expand current intervention and prevention strategies through increased communication and coordination among all affected sectors;

"(3) includes a complete description of the applicant's plan for the establishment and operation of the community project, including a description—

"(A) the method for identification and selection of an administrative committee made up of persons knowledgeable in domestic violence to oversee the project, hire staff, assure compliance with the project outline, and secure annual evaluation of the project;

"(B) the method for identification and selection of project staff and a project evaluator;

"(C) the method for identification and selection of a project council consisting of representatives of the community sectors listed in subsection (b)(2);

"(D) the method for identification and selection of a steering committee consisting of representatives of the various community sectors who will chair subcommittees of the project council focusing on each of the sectors; and

"(E) a plan for developing outreach and public education campaigns regarding domestic violence; and

"(4) contains such other information, agreements, and assurances as the Secretary may require.

"(d) TERM.—A grant provided under this section may extend over a period of not more than 3 fiscal years.

"(e) CONDITIONS ON PAYMENT.—Payments under a grant under this section shall be subject to—

"(1) annual approval by the Secretary; and

"(2) availability of appropriations.

"(f) GEOGRAPHICAL DISPERSION.—The Secretary shall award grants under this section to organizations in communities geographically dispersed throughout the country.

"(g) USE OF GRANT MONIES.—

"(1) IN GENERAL.—A grant made under subsection (a) shall be used to establish and operate a community project to coordinate intervention and prevention of domestic violence.

"(2) REQUIREMENTS.—In establishing and operating a project, a nonprofit private organization shall—

"(A) establish protocols to improve and expand domestic violence intervention and prevention strategies among all affected sectors; and

"(B) develop action plans to direct responses within each community sector that are in conjunction with development in all other sectors; and

"(C) provide for periodic evaluation of the project with a written report and analysis to assist application of this concept in other communities.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

"(1) $20,000,000 for fiscal year 1995; and

"(2) such sums as are necessary for fiscal years 1996, 1997, and 1998,

to remain available until expended.

"(i) REGULATIONS.—Not later than 60 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section. Not later than 120 days after the date of enactment, the Secretary shall publish final regulations implementing this section.".

At the appropriate place insert the following:

SEC. . SENSE OF THE SENATE.

(a) DECLARATIONS.—The Congress declares that—

(1) it is the stated purpose of this Act, in part, to rehire law enforcement officers who have been laid off as a result of State and local budget reductions in community-oriented policing and to hire new, additional career law enforcement officers for deployment in community-oriented policing across the Nation;

(2) this affirms that local law enforcement must remain the sole prerogative of local government under their respective jurisdictions and authorities;

(3) a key element to fighting crime in America is to put more police officers on the street, and the Senate, in an effort to help the States and localities hire additional police officers in the short term, will, through the trust fund established by this bill, make funds available to local units of government for this purpose;

(4) The Senate should not add to the financial burden on local communities is reduced so that essential local services can be paid for by local government;

(5) The United States Conference of Mayors, on October 27, 1993, issued a study outlining the cost of just 10 unfunded Federal mandates on the reporting cities, and found the cost to those cities to be $54,000,000,000.

(b) SENSE OF SENATE.—It is the sense of the Senate that—

(1) local law enforcement must remain the sole prerogative of local government under their respective jurisdictions and authorities; and

(2) one way of providing more funds to units of local government for law enforcement is aggressively address the issue of unfunded Federal mandates.

On page 16, line 25, strike "0.5" and insert "0.6";

On page 186, between lines 4 and 5, insert the following:

(4) in subsection (b)—

(A) by striking “and” at the end of paragraph (3);

(B) by redesignating paragraph (4) as paragraph (5); and

(C) by inserting after paragraph (4) the following new paragraph:

“(4) in any case, reimburse the victim for necessary child care, transportation, and other expenses related to participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense; and”.

On page 186, line 5, strike “(4)” and insert “(5)”.

On page 186, line 8, strike “(5)” and insert “(6)”.

On page 186, line 10, strike “(6)” and insert “(7)”.

On page 190, strike lines 21 through 25;

On page 191, strike lines 1 through 4.

At the appropriate place of the bill, add the following:

Subtitle —Correctional Job Training and Placement

SEC. . SHORT TITLE.

This title may be cited as the “Office of Correctional Job Training and Placement Act of 1993”.

SEC. . CORRECTIONAL JOB TRAINING AND PLACEMENT.

“(a) FINDINGS.—Congress finds that—

“(1) job training and placement are important to, and make a significant contribution to, the readjustment to society of incarcerated persons and ex-offenders; and

“(2) there is a growing need for immediate action by the Federal Government to assist State and local job training programs, and job placement programs, that provide services to incarcerated persons or ex-offenders.

“(b) PURPOSE.—It is the purpose of this section to encourage and support job training programs, and job placement programs, that provide services to incarcerated persons or ex-offenders.

“(c) DEFINITIONS.—As used in this section:

“(1) CORRECTIONAL INSTITUTION.—The term ‘correctional institution’ means any prison, jail, reformatory, work farm, detention center, or halfway house, or any other similar institution designed for the confinement or rehabilitation of criminal offenders.

“(2) CORRECTIONAL JOB TRAINING OR PLACEMENT PROGRAM.—The term ‘correctional job training or placement program’ means an activity that provides job training or job placement services to incarcerated persons or ex-offenders, or that assists incarcerated persons or ex-offenders in obtaining such services.

“(3) EX-OFFENDER.—The term ‘ex-offender’ means any individual who has been sentenced to a term of probation by a Federal or State court, or who has been released from a Federal, State, or local correctional institution.

“(4) INCARCERATED PERSON.—The term ‘incarcerated person’ means any individual incarcerated in a Federal or State correctional institution who is charged with or convicted of any criminal offense.

“(d) ESTABLISHMENT OF OFFICE.—

“(1) IN GENERAL.—The Attorney General shall establish within the Department of Justice an Office of Correctional Job Training and Placement. The Office shall be headed by a Director, who shall be appointed by the Attorney General.

“(2) TIMING.—The Attorney General shall carry out this subsection not later than 6 months after the date of enactment of this section.

“(e) FUNCTIONS OF OFFICE.—The Attorney General, acting through the Director of the Office of Correctional Job Training and Placement, in consultation with the Secretary of Labor, shall—

“(1) assist in coordinating the activities of the Federal Bonding Program of the Department of Labor, the activities of the Department of Labor related to the determination of targeted jobs credits under section 51 of the Internal Revenue Code of 1986 with respect to ex-offenders, and any other correctional job training or placement program of the Department of Justice or Department of Labor;

“(2) provide technical assistance to State and local employment and training agencies that—

“(A) receive financial assistance under this Act; or

“(B) receive financial assistance through other programs carried out by the Department of Justice or Department of Labor, for activities related to the development of employability;

“(3) prepare and implement the use of special staff training materials, and methods, for developing the staff competencies needed by State and local agencies to assist incarcerated persons and ex-offenders in gaining marketable occupational skills and job placement;

“(4) prepare and submit to Congress an annual report on the activities of the Office of Correctional Job Training and Placement, and the status of correctional job training or placement programs in the United States;

“(5) cooperate with other Federal agencies carrying out correctional job training or placement programs to ensure coordination of such programs throughout the United States;

“(6) consult with, and provide outreach to—

“(A) State job training coordinating councils, administrative entities, and private industry councils, with respect to programs carried out under this Act; and

“(B) other State and local officials, with respect to other employment or training programs carried out by the Department of Justice or Department of Labor;

“(7) collect from States information on the training accomplishments and employment outcomes of a sample of incarcerated persons and ex-offenders who were served by employment or training programs carried out, or that receive financial assistance through programs carried out, by the Department of Justice or Department of Labor; and

“(8)(A) collect from States and local governments information on the development and implementation of correctional job training or placement programs; and

“(B) disseminate such information, as appropriate.”.

At the appropriate place, add the following:

“SECTION 1. ASSET FORFEITURE.

(a) Section 524 of title 28, United States Code, is amended—

(1) by redesignating subsection (c)(1)(H) to be subsection (c)(1)(I); and

(2) by inserting a new subsection (c)(1)(H) as follows:

“(H) the payment of state and local property taxes on forfeited real property that accrued between the date of the violation giving rise to the forfeiture and the date of the forfeiture order; and”.

(b) The provisions of this section shall apply to all claims pending at the time of or commenced subsequent to the date of the enactment of this Act.

On page 127, after line 15, insert the following:

SEC. XXX. PROHIBITION OF THE SALE AND TRANSFER FOR CONSIDERATION OF A HANDGUN OR HANDGUN AMMUNITION TO A JUVENILE.

(a) Offense.—Section 922 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

“(t)(1) Except as provided in paragraph (3), it shall be unlawful for any person to sell or otherwise transfer for consideration to a person who the seller or transferor knows or has reasonable cause to believe is a juvenile—

“(A) a handgun; or

“(B) ammunition that is suitable for use only in a handgun.

“(2) For purposes of this subsection—

“(i) the term ‘juvenile’ means a person who is less than 18 years of age; and

“(ii) the term ‘handgun’ means—

“(I) a firearm that has a short stock and is designed to be held and fired by the use of a single hand; and

“(II) any combination of parts from which a firearm described in subclause (I) can be assembled.

“(3) This subsection shall not apply to a sale or a transfer of a handgun or ammunition if the sale or transfer was made in accordance with state and local law and with the prior consent of the juvenile's parent or legal guardian who is not prohibited by Federal, state, or local law from possessing a firearm.”.

(b) PENALTIES.—Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (1) by striking out “paragraph (2) or (3) of”; and

(2) by adding at the end the following new paragraph;

“(5)(A) Except as provided in subparagraph (B), whoever knowingly violates subsection (t) of section 922 shall be fined not more than $5,000, imprisoned not more than five years, or both.

“(B) Whoever knowingly violates subsection (t) of section 922 knowing or having reasonable cause to know that the juvenile to whom the handgun or ammunition was sold or otherwise transferred for consideration intended to carry, possess, discharge, or otherwise use such handgun or ammunition in the commission of a crime of violence, shall be fined under this title, imprisoned not more than 10 years, or both.”.

At the appropriate place add the following:

SEC. EXTRADITION.

(a) SCOPE.—Section 3181 of title 18, United States Code, is amended by—

(1) inserting “(a)” before “The provisions of this chapter”; and

(2) adding at the end thereof the following new subsections:

“(b) The provisions of this chapter shall be construed to permit, in the exercise of comity, the surrender of persons who have committed crimes of violence against nationals of the United States in foreign countries without regard to the existence of any treaty of extradition with such foreign government if the Attorney General certifies, in writing, that—

“(1) evidence has been presented by the foreign government which indicates that had the offenses been committed in the United States, they would constitute crimes of violence as defined under section 16 of this title; and

“(2) the offenses charged are not of a political nature.

“(c) As used in this section, the term ‘national of the United States’ shall have the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22).".

(b) FUGITIVES.—Section 3184 of title 18, United States Code, is amended—

(1) in the first sentence by inserting after "United States and any foreign government," the following: "or in cases arising under section 3181(b),";

(2) in the first sentence by inserting after "treaty or convention," the following: "or provided for under section 3181(b),"; and

(3) in the third sentence by inserting after "treaty or convention," the following: "or under section 3181(b),".

In lieu of the matter proposed to be inserted, insert the following:

SEC. . CHILD-CENTERED ACTIVITIES.

(a) SHORT TITLE.—This section may be cited as the "Community Schools Youth Services and Supervision Grant Program Act of 1993".

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) public-private partnerships between government and community-based organizations offer an opportunity to—

(A) empower distressed and disconnected communities to develop their resources and abilities in order to meet the needs of children;

(B) forge innovative solutions to the challenges confronting the development of the children in such communities; and

(C) create environments where children grow up learning a healthy respect for themselves, for neighbors, and for their communities;

(2) increased resources should be invested in public-private partnerships; and

(3) community-based organizations, acting through such public-private partnerships—

(A) should provide year-round supervised sports programs, and extracurricular and academic programs, for children in the communities; and

(B) in providing such extracurricular and academic programs, should promote the positive character development of such children through programs such as curriculum-based supervised educational, work force preparation, entrepreneurship, cultural, and health programs, social activities, arts and crafts programs, dance programs, tutorial and mentoring programs, and other related activities.

(c) FINDINGS.—The Congress finds that—

(1) parents are devoting less time than in previous generations to the supervision, education, and nurturing of their children;

(2) the lack of supervision and meaningful activity after school contributes to the spread of violent juvenile delinquency in the form of youth and gang violence, drug trafficking, dangerous and self-destructive behavior, and lack of hope among children in our Nation;

(3) every child has the capacity to be productive and law abiding and deserves to grow in a safe and protected environment;

(4) communities have a responsibility to develop the children of our Nation into productive adults;

(5) because of their centrality, public schools are among the best facilities that communities can use to provide needed space and support services for programs for children;

(6) schools are most effective at serving a community when the people of the community are involved in activities designed to fulfill the needs of children in the community; and

(7) activities provided in community centers, recreational facilities, and other places where children gather, have a significant impact and influence on the behavior and attitudes of children.

(d) DEFINITIONS.—As used in this section:

(1) COUNCIL.—the term "Council" means the Ounce of Prevention Council.

(2) CHILD.—The term "child" means an individual who is not younger than 5 and not older than 18.

(3) COMMUNITY-BASED ORGANIZATION.—The term "community-based organization" means a private, locally initiated community-based organization that—

(A) is a nonprofit organization, as defined in section 103(23) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(23)); and

(B) is operated by a consortium of service providers, consisting of representatives of 5 or more of the following categories of persons:

(i) Residents of the community.

(ii) Business and civic leaders activity involved in providing employment and business development opportunities in the community.

(iii) Educators.

(iv) Religious organizations.

(v) Law enforcement agencies.

(vi) Public housing agencies.

(vii) State Government.

(viii) Other public agencies.

(ix) Other interested parties.

(4) ELIGIBLE COMMUNITY.—The term "eligible community" means an area identified pursuant to subsection (g).

(5) POVERTY LINE.—The term "poverty line" means the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

(6) PUBLIC SCHOOLS.—The term "public school" means a public elementary school, as defined in section 1201(i) of the Higher Education Act of 1965 (20 U.S.C. 1141(i)), and a public secondary school, as defined in section 1201(d) of such Act.

(7) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, and the United States Virgin Islands.

(e) PROGRAM AUTHORITY.—

(1) IN GENERAL.—

(A) ALLOCATIONS FOR STATES.—For any fiscal year in which the sums appropriated to carry out this section equal or exceed $20,000,000, from the sums appropriated to carry out this subsection, the Council shall allocate, for grants under subparagraph (B) to community-based organizations in each State, an amount bearing the same ratio to such sums as the number of children in the State who are from families with incomes below the poverty line bears to the number of children in all States who are from families with incomes below the poverty line.

(B) GRANTS TO COMMUNITY-BASED ORGANIZATIONS FROM ALLOCATIONS.—For such a fiscal year, the Council may award grants from the appropriate State allocation determined under subparagraph (A) to eligible community-based organizations to pay for the Federal share of assisting eligible communities to develop and carry out programs in accordance with this section.

(C) REALLOCATION.—If, at the end of such a fiscal year, the Council determines that funds allocated for community-based organizations in a State under subparagraph (B) remain unobligated, the Council may use such funds to award grants to eligible community-based organizations in another State to pay for such Federal share. In awarding such grants, the Council shall consider the need to maintain geographic diversity among the recipients of such grants. Amounts made available through such grants shall remain available until expended.

(2) OTHER FISCAL YEARS.—For any fiscal year in which the sums appropriated to carry out this section are less than $20,000,000, the Council may award grants on a competitive basis to eligible community-based organizations to pay for the Federal share of assisting eligible communities to develop and carry out programs in accordance with this section.

(f) PROGRAM REQUIREMENTS.—

(1) LOCATION.—A community-based organization that receives a grant under this section to assist in carrying out such a program shall ensure that the program is carried out—

(A) where appropriate, in the facilities of a public school during nonschool hours; or

(B) in another appropriate local facility in a State, such as a college or university, a local or State park or recreation center, church, or military base, that is—

(i) in a location that is easily accessible to children in the community; and

(ii) in compliance with all applicable local ordinances.

(2) USE OF FUNDS.—Such community-based organization—

(A) shall use funds made available through the grant to provide, to children in the eligible community, services and activities that—

(i) shall include supervised sports programs, and extracurricular and academic programs, that are offered—

(I) after school and on weekends and holidays, during the school year; and

(II) as daily full-day programs (to the extent available resources permit) or as part-day programs, during the summer months; and

(B) in providing such extracurricular and academic programs, shall provide programs such as curriculum-based supervised educational, work force preparation, entrepreneurship, cultural, and health programs, social activities, arts and crafts programs, dance programs, tutorial and mentoring programs, and other related activities;

(C) may use—

(i) such funds for the renovation of facilities that are in existence prior to the operation of the program for which the organization receives the grant, purchase of sporting and recreational equipment and supplies, purchase (or lease) and repair of vehicles for transporting participants in the program, hiring of instructors and other staff, provision of meals for such participants, provision of health services consisting of an initial basic physical examination, provision of first aid and nutrition guidance and substance abuse treatment where appropriate

(ii) not more than 10 percent of such funds to pay for the administrative costs of the program; and

(D) may not use such funds to provide sectarian worship or instruction.

(g) ELIGIBLE COMMUNITY IDENTIFICATION.—

(1) IDENTIFICATION.—To be eligible to receive a grant under this section, a community-based organization shall identify an eligible community to be assisted under this section.

(2) CRITERIA.—Such eligible community shall be an area that meets such criteria with respect to significant poverty and significant juvenile delinquency, and such additional criteria, as the Council may by regulation require.

(h) APPLICATIONS.—

(1) APPLICATION REQUIRED.—To be eligible to receive a grant under this section, a community-based organization shall submit an application to the Council at such time, in such manner, and accompanied by such information, as the Council may reasonably require, and obtain approval of such application.

(2) CONTENTS OF APPLICATION.—Each application submitted pursuant to paragraph (1) shall—

(A) describe the activities and services to be provided through the program for which the grant is sought;

(B) contain an assurance that the community-based organization will spend grant funds received under this section in a manner that the community-based organization determines will best accomplish the objectives of this section;

(C) contain a comprehensive plan for the program that is designed to achieve identifiable goals for children in the eligible community;

(D) set forth measurable goals and outcomes for the program that—

(i) will—

(I) where appropriate, make a public school the focal point of the eligible community; or

(ii) make a local facility described in subsection (f)(1)(B) such a focal point; and

(ii) may include reducing the percentage of children in the eligible community that enter the juvenile justice system, increasing the graduation rates, school attendance, and academic success of children in the eligible community, and improving the skills of program participants;

(E) provide evidence of support for accomplishing such goals and outcomes from—

(i) community leaders;

(ii) businesses;

(iii) a school district;

(iv) local officials;

(v) State officials; and

(vi) other organizations that the community-based organization determines to be appropriate;

(F) contain an assurance that the community-based organization will use grant funds received under this section to provide children in the eligible community with activities and services that shall include supervised sports programs, and extracurricular and academic programs, in accordance with subparagraphs (A) and (B) of subsection (f)(2);

(G) contain a list of the activities and services that will be offered through the program for which the grant is sought and sponsored by private nonprofit organizations, individuals, and groups serving the eligible community, including—

(i) extracurricular and academic programs, such as programs described in subsection (f)(2)(B); and

(ii) activities that address specific needs in the community;

(H) demonstrate the manner in which the community-based organization will make use of the resources, expertise, and commitment of private entities in carrying out the program for which the grant is sought;

(I) include an estimate of the number of children in the eligible community expected to be served pursuant to the program;

(J) include a description of charitable private resources, and all other resources, that will be made available to achieve the goals of the program;

(K) contain an assurance that the community-based organization will use competitive procedures when purchasing, contracting, or otherwise providing for goods, activities, or services to carry out programs under this section;

(L) contain an assurance that the program will maintain a ratio of at least 1 staff member (including volunteers) for each 20 participants in the program;

(M) contain an assurance that the program will maintain an average attendance rate of not less than 75 percent of the participants enrolled in the program, or will enroll additional participants in the program;

(N) contain an assurance that the community-based organization will comply with any evaluation under subsection (m), any research effort authorized under Federal law, and any investigation by the Council.

(O) contain an assurance that the community-based organization shall prepare and submit to the Council an annual report regarding any program conducted under this section;

(P) contain an assurance that the program for which the grant is sought will, to the maximum extent possible, incorporate services that are—

(i) provided by program volunteers, parents, adult mentors, drug and alcohol abuse counselors, teachers, clergy, or other persons providing tutoring and college or vocational preparation; and

(ii) provided solely through non-Federal private or nonprofit sources; and

(Q) contain an assurance that the community-based organization will maintain separate accounting records for the program.

(3) PRIORITY.—In awarding grants to carry out programs under this section, the Council shall give priority to community-based organizations who submit applications that demonstrate the greatest effort in generating local support for the programs.

(i) ELIGIBILITY OF PARTICIPANTS.—

(1) IN GENERAL.—To the extent possible, each child who resides in an eligible community shall be eligible to participate in a program carried out in such community that receives assistance under this section.

(2) EXCLUSION.—

(A) NONDISCRIMINATION.—Except as provided in subparagraph (B), in selecting children to participate in a program that receives assistance under this section, a community-based organization shall not discriminate on the basis of race, color, religion, sex, national origin, or disability.

(B) EXCEPTION.—In selecting children to so participate, a community-based organization may exclude a child from participation in such a program if the organization determines that the child has behavior problems that pose an unacceptable risk of injury or illness to other participants or has a physical or mental disability so serious that the child would be unable to participate in the program with reasonable accommodation.

(C) PARENTAL APPROVAL.—To be eligible to participate in a program that receives assistance under this section, a child shall provide the express written approval of a parent or guardian, and shall submit an official application and agree to the terms and conditions of participation in the program.

(j) PEER REVIEW PANEL.—

(1) ESTABLISHMENT.—The Council shall establish a peer review panel that shall be comprised of individuals with demonstrated experience in designing and implementing community-based programs.

(2) COMPOSITION.—Such panel shall include at least 1 representative from each of the following:

(A) A community-based organization.

(B) A local government.

(C) A school district.

(D) The private sector.

(E) A charitable organization.

(F) A representative of the United States Olympic Committee, at the option of such Committee.

(3) FUNCTIONS.—Such panel shall conduct the initial review of all grant applications received by the Administrator under subsection (h), make recommendations to the Council regarding—

(A) grant funding under this section;

(B) a design for the evaluation of programs assisted under this section; and

(C) methods for achieving effective coordination between programs carried out under this section and programs carried out through Olympic Youth Development Centers under section .

(k) INVESTIGATIONS AND INSPECTIONS.—The Council may conduct such investigations and inspections as may be necessary to ensure compliance with the provisions of this section.

(l) FEDERAL SHARE.—

(1) PAYMENTS; FEDERAL SHARE; NON-FEDERAL SHARE.—

(A) PAYMENTS.—The Council shall, subject to the availability of appropriations, pay to each community-based organization having an application approved under subsection (h) the Federal share of the costs of developing and carrying out programs referred to in subsection (e).

(B) FEDERAL SHARES.—The Federal share of such costs shall be—

(i) 75 percent for each of the fiscal years 1994 and 1995;

(ii) 70 percent for fiscal year 1996; and

(iii) 60 percent for fiscal year 1997.

(2) NON-FEDERAL SHARE.—

(A) IN GENERAL.—The non-Federal share of such costs may be in cash or in kind, fairly evaluated, including plant, equipment, and services (including the services described in subsection (h)(2)(P)).

(B) SPECIAL RULE.—At least 15 percent of the non-Federal share of such costs shall be provided from private or nonprofit sources.

(m) EVALUATION.—The Council shall conduct a thorough evaluation of the programs assisted under this section, which shall include an assessment of—

(1) the number of children participating in each program assisted under this section;

(2) the academic achievement of such children;

(3) school attendance and graduation rates of such children; and

(4) the number of such children being processed by the juvenile justice system.

(n) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, from the amounts in the Violent Crime Reduction Trust Fund established under section 1115 of title 31, United States Code, $100,000,000 for each of the fiscal years 1994, 1995, 1996, and 1997 to carry out this section.

SEC. . OLYMPIC YOUTH DEVELOPMENT CENTERS.

(a) DEFINITIONS.—As used in this section:

(2) CHILD.—The term "child" means an individual who is not younger than 8 and not older than 18.

(3) COMMITTEE.—The term "Committee" means the United States Olympic Committee.

(b) GRANT.—The Council may make a grant to United States Olympic Committee for the purpose of establishing Olympic Youth Development Centers and carrying out programs through such centers.

(c) PROGRAM REQUIREMENTS.—

(1) LOCATION.—The Committee, on receiving a grant under this section to establish

such a center shall ensure that the center is established in an appropriate facility in a State, such as a college or university, a local or State park or recreation center, church, or military base, that is—

(A) in a location that is easily accessible to children in the community; and

(B) in compliance with all applicable local ordinances.

(2) CENTERS.—The Committee shall, subject to the availability of appropriations, not later than 1 year after the date of enactment of this Act, establish not fewer than 6 such centers, and shall, subject to the availability of appropriations, to the extent possible, establish not less than 1 such center in each State by fiscal year 1997. In selecting locations for such centers, the Committee shall consider the need to maintain geographic diversity, and to maintain a balance of urban and rural locations for such centers.

(3) USE OF FUNDS.—The Committee—

(A) may use funds made available through the grant to provide supervised sports and recreation programs that are offered—

(i) after school and on weekends and holidays, during the school year; and

(ii) as daily (or weeklong) full-day programs (to the extent available resources permit) or as part-day programs, during the summer months;

(B) may use—

(i) such funds for the renovation of facilities that are in existence prior to the operation of the program for which the Committee receives the grant, purchase of sporting and recreational equipment and supplies, purchase (or lease) and repair of vehicles for transporting participants in the program, hiring of instructors and other staff, provision of meals for such participants, provision of health services consisting of an initial basic physical examination, and provision of first aid and nutrition guidance; and

(ii) not more than 10 percent of such funds to pay for the administrative costs of the program; and

(C) may not use such funds to provide sectarian worship or instruction.

(4) DESIGNATION.—The Committee may, at the discretion of the Committee, designate facilities through which programs are carried out under the Community Schools Youth Services and Supervision Grant Program Act of 1993 as Olympic Youth Development Centers. Such designation shall not entitle the programs to receive assistance under this section.

(5) EXECUTIVE DIRECTOR.—The Committee shall appoint an Executive Director to coordinate the centers and programs described in subsection (b), and shall appoint a Director for each such center to carry out such programs at the center.

(d) APPLICATION.—

(1) IN GENERAL.—To be eligible to receive a grant under this section, the Committee shall submit an application to the Council at such time, in such manner, and accompanied by such information, as the Council may reasonably require, and obtain approval of such application.

(2) CONTENTS OF APPLICATION.—The application submitted pursuant to paragraph (1) shall—

(A) contain an assurance that the program to be carried out through the center for which the grant is sought will maintain an average attendance rate of not less than 75 percent of the participants enrolled in the program, or will enroll additional participants in the program;

(B) contain an assurance that the Committee will comply with any evaluation under subsection (i), any research effort authorized under Federal law, and any investigation by the Administrator;

(C) contain an assurance that the Committee shall prepare and submit to the Administrator an annual report regarding any program conducted under this section;

(D) contain an assurance that the program for which the grant is sought will, to the maximum extent possible, incorporate services that are—

(i) provided by program volunteers, parents, adult mentors, drug and alcohol abuse counselors, teachers, clergy, or other persons providing tutoring and college or vocational preparation; and

(ii) provided solely through non-Federal private or nonprofit sources;

(E) contain an assurance that the Committee will maintain separate accounting records for the program; and

(F) contain an assurance that the program will include outreach efforts in order to encourage participation in the program.

(e) ELIGIBILITY OF PARTICIPANTS.—

(1) IN GENERAL.—The Committee shall select children to participate in programs that receive assistance under this section without regard to the athletic ability of the children. In selecting children to participate in programs that receive assistance under this section, the Committee shall give priority to children from low-income communities and high-crime areas with demonstrated gang activity, as determined in accordance with regulations issued by the Council.

(2) EXCLUSION.—

(A) NONDISCRIMINATION.—Except as provided in subparagraph (B), in selecting children to participate in a program that receives assistance under this section, the Committee shall not discriminate on the basis of race, color, religion, sex, national origin, or disability.

(B) EXCEPTION.—In selecting children to so participate, the Committee may exclude a child from participation in such a program if the Committee determines that the child has behavior problems that pose an unacceptable risk of injury or illness to other participants or has a physical or mental disability so serious that a child would be unable to participate in the program with reasonable accommodation.

(C) PARENTAL APPROVAL.—To be eligible to participate in a program that receives assistance under this section, a child shall provide the express written approval of a parent or guardian, and shall submit an official application and agree to the terms and conditions of participation in the program.

(f) INVESTIGATIONS AND INSPECTIONS.—The Council may conduct such investigations and inspections as may be necessary to ensure compliance with the provisions of this section.

(g) FEDERAL SHARE.—

(1) PAYMENTS; FEDERAL SHARE; NON-FEDERAL SHARE.—

(A) PAYMENTS.—On approval of an application under subsection (d), the Council shall subject to the availability of appropriations pay to the Committee the Federal share of the costs of establishing the centers and carrying out the programs described in subsection (b).

(B) FEDERAL SHARE.—The Federal share of such costs shall be—

(i) 75 percent for fiscal years 1994 and 1995;

(ii) 70 percent for fiscal year 1996; and

(iii) 60 percent for fiscal year 1997.

(2) NON-FEDERAL SHARE.—

(A) IN GENERAL.—The non-Federal share of such costs may be in cash or in kind, fairly evaluated, including plant, equipment, and services (including the services described in subsection (d)(2)(D)).

(B) SPECIAL RULE.—The Committee may not charge fees for the participation of children in programs carried out under this section.

(h) REPORTS.—At the end of each fiscal year, the Council shall submit to Congress a report on the activities conducted under this section, including a summary of the information in the report submitted under subsection (d)(2)(C).

(i) EVALUATION.—The Council shall conduct a thorough evaluation of the programs assisted under this section, which shall include an assessment of—

(1) the number of children participating in each program assisted under this section;

(2) the academic achievement of such children;

(3) school attendance and graduation rates of such children; and

(4) the number of such children being processed by the juvenile justice system.

(j) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated, from the amounts in the Violent Crime Reduction Trust Fund established under section 1115 of title 31, United States Code, $25,000,000 for each of fiscal years 1994, 1995, 1996, and 1997, to carry out this section.

(2) AVAILABILITY.—Amounts appropriated to carry out this section shall remain available until expended.

On line 9 of page 28, after the word "code", delete the rest of the sentence and insert "$50,000,000 for fiscal year 1994 and $25,000,000 for each of fiscal years 1995, 1996 and 1997 to carry out this section."

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Thursday, November 18, 1993, at 3 p.m. in SR-332 on the nominations of John E. Tull, Jr., Barbara Pedersen Holum, Anthony A. Williams, Michael V. Dunn, Wally B. Beyer, and Grant B. Buntrock; S. 1627, Implementing legislation for the North American Free-Trade Agreement; and pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Armed Sevices be authorized to meet on Thurdsay, November 18, 1993, at 10 a.m., in open and executive session to consider the following nominations: Togo Dennis West, Jr., to be Secretary of the Army; Joe Robert Reeder, to be Under Secretary of the Army; and Richard Danzig to be Under Secretary of the Navy.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban

Affairs be authorized to meet during the session of the Senate Thursday, November 18, 1993, at 10 a.m. to mark up the committee prints on fair trade in financial services and interstate banking.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on November 18, 1993, at 10 a.m. on pending committee business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2 p.m., November 18, 1993, to receive testimony from Christine Ervin, nominee to be Assistant Secretary for Energy Efficiency and Renewable Energy, U.S. Department of Energy.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet today at 11 a.m. to consider S. 1627, the North American Free-Trade Agreement Implementation Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Thursday, November 18, 1993, at 4 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Thursday, November 18, 1993, at 10 a.m. to hold a business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BAUCUS. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee for authority to meet on Thursday, November 18, at 9:30 a.m., for a hearing on the subject: "Gun Violence: Do Stolen Military Parts Play a Role?"

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet on Thursday, November 18, 1993, at 2:30 p.m. for a hearing on the nomination of Steven Kelman, to be Administrator of the Office of Federal Procurement Policy.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet on Thursday, November 18, 1993, for a markup on the Governmental Affairs Committee portion of the NAFTA legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Judiciary be authorized to hold a business meeting during the session of the Senate on Thursday, November 18, 1993.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Indian Affairs and the House Subcommittee on Native American Affairs, Committee on Natural Resources, be authorized to meet on Thursday, November 18, 1993, beginning at 5 p.m., in HC–8 of the Capitol Building on H.R. 1268, the Indian Tribal Justice Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Thursday, November 18, 1993, beginning at 9:30 a.m., in 485 Russell Senate Office Building to consider for report to the Senate, S. 1618, Tribal Self-Governance; H.R. 1425, American Indian Agriculture Act of 1993; S. 1654, Technical Amendments; S. 1501, to repeal certain provisions of law relating to trading with Indians; and for other purposes, to be followed immediately by a hearing on S. 1345, the Equity in Educational Land-Grant Status Act of 1993.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on the Health Security Act and the needs of rural America, during the session of the Senate on November 18, 1993, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on the Health Security Act and the role of the pharmaceutical industry, during the session of the Senate on November 18, 1993, at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CONSUMER

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Consumer Subcommittee of the Committee on Commerce, Science, and Transportation be authorized to meet on November 18, 1993, at 10:30 a.m. on arson prevention.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL TRADE

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Subcommittee on International Trade of the Committee on Finance be permitted to meet today at 2 p.m. to hear witnesses testify on shipbuilding issues and legislation to address foreign shipbuilding subsidies.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., November 18, 1993.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SURFACE TRANSPORTATION

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Surface Transportation Subcommittee of the Committee on Commerce, Science, and Transportation be authorized to meet on November 18, 1993, at 2 p.m. on impact of recent diesel fuel price increases on the motor carrier industry.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON WATER RESOURCES, TRANSPORTATION, PUBLIC BUILDINGS, AND ECONOMIC DEVELOPMENT

Mr. BAUCUS. Mr. President, I ask that the Subcommittee on Water Resources, Transportation, Public Buildings and Economic Development, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, November 18, beginning at 10 a.m., to conduct a hearing to receive testimony from the General Services Administration regarding the public buildings projects in the fiscal year 1994 Treasury, Postal Service and General Government appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE 1993 GOLDEN APPLE AWARD WINNERS

• Mrs. MURRAY. Mr. President, countless times every day our communities are enriched by public schoolteachers who instill in our children the desire for knowledge, the challenge of learning, and the spark of creative problem solving. It is this daily effort by our schoolteachers that binds our communities into the rich, vibrant society our Nation is. The individual accomplishments of these teachers do count. As Robert F. Kennedy once said, each of these people "sends forth a tiny ripple of hope, and crossing each other from a million different centers of energy and daring, those ripples build a current that can sweep down the mightiest walls of oppression and resistance."

I stand before Congress today, in praise of specific teachers, schools, and institutions in Washington State who have excelled at furthering the responsibility of education in America. This is the second time during my tenure that I have had the honor of recognizing some of the people and institutions from my State for their achievements in the cause of public education.

Following are the 1993 winners and sponsors of Seattle's public broadcasting station KTCS's Golden Apple Awards to outstanding teachers and schools for exceptional teaching and educational innovation:

SARANN GRAHAM, NORTH CENTRAL HIGH SCHOOL, SPOKANE

Sarann Graham is "the Rover" of North Central, a program which provides one full-time teacher working throughout the school to meet the learning needs of students as well as the professional needs of teachers. As the "roving" teacher, Sarann provides support to classroom teachers as they explore and experiment with new teaching techniques and encourages successful learning experiences among students. The position has allowed Sarann to work in classrooms from Home Economics to Auto Shop and Social Studies helping teachers create better programs for their students.

WARREN LEVENHAGEN, TYEE HIGH SCHOOL, SEATAC

Three years ago during the remodeling of Tyee High School, physics and chemistry teacher Warren Levenhagen had an idea—to convert an outbuilding that was scheduled for demolition into an observatory. He did the design and planning, obtained the necessary permits, raised money, salvaged used materials, and then with the help of students, did all the construction. Tyee now boasts the only high school observatory in the state, part of an enhanced science curriculum at the school as well as a popular field trip destination for area elementary and middle schools.

JOE RICE, MADRONA SCHOOL, EDMONDS

Nine years ago, principal Joe Rice began to make changes in his school and now he has a waiting list of 500 students that want to attend his non-graded, multi-aged classes. Teachers at Madrona focus on the uniqueness and gifts of each child and the belief that all can and will learn. The result is a student population that is prepared for the 21st century—more self-directed, able to make wise decisions, and solve ever-changing problems.

RICHARD THOMPSON, INGRAHAM HIGH SCHOOL, SEATTLE

As head of Ingraham's award-winning auto shop and a teacher of technical science, Richard Thompson recognizes the value of vocational and technological education within an academic environment. He is a master teacher who has the ability to develop projects that allow students to be creative, excited about learning, and successful. Richard's have built and raced class project cars and set land speed records at the Bonneville Salt Flats, and for two years his students in Applied Physics have designed, built, raced, and won the state championship for radio controlled solar cars.

ELINOR VANDEGRIFT, SNOHOMISH SCHOOL DISTRICT, SNOHOMISH

As an adapted PE specialist, Elinor Vandegrift enables physically challenged students throughout the Snohomish school district to participate in physical activities. Her major objective is to empower students to participate in activities with their neighbors, their peers at school and their families by learning basic motor skills, applying them in non-competitive game situations. Elinor's students also benefit from Sno-Wheels, an after-school wheelchair activity group which meets weekly for fun and fitness activities.

CAROLE WILLIAMS, B.F. DAY ELEMENTARY SCHOOL, SEATTLE

As principal of B.F. Day Elementary School, Carole Williams has worked tirelessly to provide all her students, especially the large number of homeless children, a unique program which provides support and nurturing side by side with academics. Because of Ms. Williams' efforts over the past eight years, B.F. Day has grown from a racially and socio-economically divided school to one where everyone pulls together. Without exception, she and her staff go far beyond the norm to make learning accessible and meaningful to students who all too often slip through the cracks.

CONCRETE SCHOOL DISTRICT, DR. DON JEANROY

As the rest of the state debates school reform, Concrete School District is miles ahead of the game. In the past four years, parents, teachers and administrators in Concrete have worked together to make sweeping changes in the way they educate their children, including a complete restructuring of the elementary school program and training of faculty in new and innovative teaching strategies that has resulted in increased student achievement.

HUTCH SCHOOL, FRED HUTCHINSON CANCER RESEARCH CENTER, TERI HEIN

The Hutch School is a unique school program of Fred Hutchinson Cancer Research Center that serves children in grades K-12 who are bone marrow transplant patients and the children or siblings of transplant patients. For patient students, the Hutch School provides a program that is more than just academic, it is about hope for the future, normalcy, and distraction from the immediate pain they are feeling. Hutch School's family member school group is run from the immediate pain they are feeling. Hutch School's family member school group is run like a one-room schoolhouse with an ever-changing student population at different skill levels and needs, but all supporting each other. Teachers at the Hutch School go to incredible lengths to design innovative curricula and create opportunities for learning for their special students.

INTIMAN THEATRE'S LIVING HISTORY PROJECT, DANIEL RENNER

Since 1986, Intiman Theatre's Living History Project has reached over 75,000 students across the state with an exciting program that uses theatre to teach literature, history and social studies. Multi-racial teams of Intiman actor/teachers spend a week in high school classrooms where scenes from dramatic literature serve as a springboard for learning and discussion, encouraging students to employ critical thinking skills and express their opinions.

SEAGULLVILLE, JIM HASZ

Over ten years, Jim Hasz and hundreds of parent and community volunteers have built Seagullville, an authentic, life-size Washington frontier town where children can learn first hand about history and how to build a community. Seagullville has a mock city council, mayor, sheriff, barber, as well as gold fields, a trading post, bank, and three restaurants. The town is owned and operated by Jim Hasz's third grade class at Pinetree Elementary in Kent, and each year they play host to other elementary school classes who come and spend a day experiencing frontier life in Seagullville.

KCTS/9, SEATTLE

Founded in 1954, KCTS/9 is the premiere public television station in the Pacific Northwest. Each week, more than 2 million viewers in Washington and British Columbia turn to Channel 9 for the excellent science, nature, public affairs, and arts programming they have come to expect from public television. In addition to providing quality programming, KCTS works to link broadcast resources with community needs. As a founding member of the Public Television Outreach Alliance, KCTS is a leader among public television stations in producing national and local outreach projects on important issues such as AIDS, childcare, and the environment. The Golden Apple Awards are part of the station's ongoing efforts to support education in our community.

FIRST INTERSTATE BANK NORTHWEST REGION

First Interstate Bank's five-state Northwest Region is part of First Interstate Bancorp, the 13th largest commercial banking company in the United States. We provide financial products and services to more than one-third of the four million households alone within the NW Region. At First Interstate, we believe that the organization is only as strong as the communities serve and we are proud of our nearly 7,000 employees throughout the NW Region who are committed to making their neighborhoods better places to live and work. Local teams of employees throughout the region meet regularly to distribute both human and financial resources to our two areas of philanthropic focus—education and community development. The teams recognized sponsorship of the Golden Apple Awards as a significant way to help highlight some of the terrific things happening in our schools. We also believe the Golden Apple Awards promote outstanding examples of success that can be duplicated in other classrooms. From Yakima to Pocatello, Eugene to Oak Harbor, Kalispell to Seattle, employee leadership drives this commitment to community involvement.

CITIZENS EDUCATION CENTER

Citizens Education Center (CEC), founded in 1979, is the only independent, statewide, nonprofit organization dedicated to improving the quality of education for all children in Washington state through informed participation in education and the public policy process. CEC builds relationships among schools, families, businesses, and communities, helps schools become more effective and innovative centers of learning, and promotes a continual focus on what is in the best interest of children.

KSPS TV, SPOKANE

KSPS-TV, Channel 7, is the Spokane member of the Public Broadcasting Service. Licensed and funded in 1967 by the Spokane Public School District No. 81, it provides educational programs for classroom teachers on request via four cable channels and broadcasts a full complement of entertainment from PBS and other international and national sources. KSPS serves a broadcast market of 320,000 households and an additional 630,000 households through cable. Eighty-five per cent of the revenues for the station's $4 million annual budget comes from voluntary memberships to Friends of 7 from throughout the viewing area which includes the southeastern portion of British Columbia, all of Alberta, and parts of Idaho, Montana, Oregon, and Washington.

KYVE TV, YAKIMA

Licensed to the community of Yakima, KYVE was founded in 1962 by a consortium of Yakima Valley school districts to bring educational television into the classroom. KYVE is seen by approximately 200,000 viewers in Yakima County and parts of Kittitas, Benton, and Chelan counties. Under the leadership of general manager Warren Dean Starr, KYVE focuses on quality family and children's television. Local fundraising, in the form of memberships, an annual auction, and special events, enables KYVE to continue to enjoy one of the highest per capita support bases in the PBS system.•

LOWER TRUCKEE RIVER, NV

• Mr. REID. When the energy and water appropriations bill passed the Senate, it contained $400,000 to be used by the Army Corps of Engineers for the Lower Truckee River in Nevada. I would like to clarify the purpose of the appropriation. Was it the intent of the subcommittee that the funds were to be used for the resumption of the reconnaissance study of the river?

Mr. JOHNSTON. Yes; it was the subcommittee's intent that the $400,000 appropriation for the Lower Truckee River in Nevada was to be used to resume the reconnaissance study. The funds have been provided to the Secretary of the Army, acting through the Chief of Engineers, to complete the reconnaissance report within 12 months from the date of resumption.

Mr. REID. I thank the Senator for that clarification.•

STATEMENT UNDER SECTION 9 OF THE CONCURRENT RESOLUTION ON THE BUDGET

• Mr. SASSER. Mr. President, discharging my ministerial duty on behalf of the Committee on the Budget, under section 9 of the concurrent resolution on the budget, House Concurrent Resolution 64, I hereby submit revised budget authority and outlay allocations to the Senate Committees on Finance and Foreign Relations and budgetary aggregates in connection with H.R. 3450, the North American Free-Trade Agreement Implementation Act.

Section 9(g) of the budget resolution states:

> **SEC. 9. DEFICIT-NEUTRAL RESERVE FUND IN THE SENATE.**
>
> * * * * *
>
> (g) TRADE-RELATED LEGISLATION.—
>
> (1) IN GENERAL.—Budget authority and outlays may be allocated to a committee or committees and the revenue aggregates may be reduced for legislation to implement the North American Free Trade Agreement and any other trade-related legislation within such a committee's jurisdiction if such a committee or the committee of conference on such legislation reports such legislation, if, to the extent that the costs of such legislation are not included in this concurrent resolution on the budget, the enactment of such legislation will not increase (by virtue of either contemporaneous or previously passed deficit reduction) the deficit in this resolution for—
>
> (A) fiscal year 1994; and
>
> (B) the period of fiscal years 1994 through 1998.
>
> (2) REVISED ALLOCATIONS.—Upon the reporting of legislation pursuant to paragraph (1), and again upon the submission of a conference report of such legislation (if a conference report is submitted), the Chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under section 302(a) and 602(a) of the Congressional Budget Act of 1974 and revised functional levels and aggregates to carry out this subsection. Such revised allocations, functional levels, and aggregates shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations, functional levels, and aggregates contained in this concurrent resolution on the budget.
>
> (3) REPORTING REVISED ALLOCATIONS.—The appropriate committee may report appropriately revised allocations pursuant to section 302(b) and 602(b) of the Congressional Budget Act of 1974 to carry out this subsection.

The Committees on Agriculture, Nutrition, and Forestry; Commerce, Science, and Transportation; Finance; Foreign Relations; Governmental Affairs; and Judiciary have reported H.R. 3450, the North American Free-Trade Agreement Implementation Act, without amendment. Within the meaning of section 9(g) of the budget resolution, H.R. 3450 constitutes "legislation to implement the North American Free-Trade Agreement."

H.R. 3450 also meets the other requirement of section 9(g) of the budget resolution that—

> the enactment of such legislation will not increase (by virtue of either contemporaneous or previously passed deficit reduction) the deficit in this resolution for—
>
> (A) fiscal year 1994; and
>
> (B) the period of fiscal years 1994 through 1998.

As H.R. 3450 complies with the conditions set forth in the budget resolution, under the authority of section 9(g)(2) of the budget resolution, I hereby file with the Senate appropriately revised budget authority and outlay allocations under sections 302(a) and 602(a) and revised functional levels and aggregates to carry out this subsection.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

RESERVE FUND FILING PURSUANT TO SECTION 9 OF THE CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 1994

[In millions of dollars]

	1994	1994–98
AGGREGATE REVENUES		
Current revenue ceiling	905,500	5,153,400
Surplus spending cuts from H.R. 3450	(151)	(278)
Revised revenue ceiling	905,349	5,153,122
AGGREGATE SPENDING		
Current spending allocations:		
Budget authority	1,223,400	....
Outlays	1,218,300	....
Surplus spending cuts from H.R. 3450:		
Budget authority	(151)	....
Outlays	(151)	....
Revised spending allocations:		
Budget authority	1,223,249	....
Outlays	1,218,149	....
FOREIGN RELATIONS COMMITTEE ALLOCATIONS		
Current Foreign Relations Committee allocations:		
Budget authority	13,716	61,506
Outlays	14,161	65,188
Surplus spending cuts from H.R. 3450:		
Budget authority	0	56
Outlays	0	56
Revised Foreign Relations Committee allocations:		
Budget authority	13,716	61,562
Outlays	14,161	65,244
FINANCE COMMITTEE ALLOCATIONS		
Current Finance Committee allocations:		
Budget authority	529,934	3,064,919
Outlays	527,947	3,053,795
Surplus spending cuts from H.R. 3450:		
Budget authority	(151)	(334)
Outlays	(151)	(334)
Revised Foreign Relations Committee allocations:		
Budget authority	529,783	3,064,585
Outlays	527,796	3,053,461•

CONNECTICUT PERMANENT COMMISSION ON THE STATUS OF WOMEN

• Mr. LIEBERMAN. Mr. President, I rise today to recognize the achievements of Connecticut's Permanent Commission on the Status of Women, which today is celebrating 20 years of accomplishment in the struggle toward equality for women.

The Permanent Commission on the Status of Women, which was created by the State legislature to work to eliminate sex discrimination in Connecticut, has for two decades provided assistance, information, and advocacy on behalf of Connecticut women. Their work has resulted in many important legislative changes needed to gender neutralize existing State laws. Their current efforts also focus on working to ensure equality for Connecticut women in employment, housing, credit, education, and other areas.

In its 20 years of existence, this commission has worked to increase public awareness, assisted individuals who believe they have been the victim of sex discrimination, provided invaluable information about legislation that affects women, produced publications and information services for women, and provided a myriad of additional services and programs to fight injustice and assure that women are treated equitably under the law and in the workplace.

I congratulate the past and current members and staff of the Permanent Commission on the Status of Women. I applaud their achievements, and I am sure that the men and women of Connecticut will benefit greatly as they continue their critically important work.●

THE FREE LIBRARY OF PHILADELPHIA

● Mr. WOFFORD. Mr. President, today marks the 20th year of incorporation for the Free Library of Philadelphia. I ask my colleagues to join me in honoring the Friends of the Free Library for their commitment to preserving and expanding library services throughout the city of Philadelphia.

Philadelphia has a long and proud tradition of support for its public libraries. In 1731, Benjamin Franklin and his colleagues founded the first subscription library in America, the Library Company of Philadelphia. Over a century later, with Franklin's original idea in mind, the Free Library of Philadelphia was founded. Today, the Free Library of Philadelphia has over 3 million volumes and serves the needs of thousands of citizens each year.

During the 1960's, the Friends of the Free Library of Philadelphia formed as a citizens support group of the Free Library. After incorporation, the Friends of the Free Library worked to increase and improve the services of the library and to better inform citizens of the resources of the Free Library of Philadelphia—sponsoring cultural events; enlarging public support, understanding, and use of the library; and encouraging financial support. The Friends of the Free Library has since flourished as ardent supporters of a strong and vibrant citywide public library system.

The Friends of the Free Library fosters programs aimed at eradicating illiteracy in the community. The Friends of the Free Library administrates the Read Together Coalition, an organization comprised of 17 Delaware Valley organizations, institutions, and agencies concerned with literacy and education. Since its inception in 1985, the coalition has made a real difference in the lives of children and adults who have not acquired reading skills. The coalition strives to emphasize the importance of family literacy. Each February, the coalition's Love Is Reading Together Week, promotes adults and children reading together. The Friends of the Free Library have also donated dictionaries to needy students, and have awarded books to Vacation Reading Club participants. In addition, they sponsor the Young Library Leaders Program.

The Free Library of Philadelphia has grown and evolved to meet the changing needs of the community. Whether it is by expanding adult literacy, providing safe havens for children after school or improving services for senior citizens, our libraries have proved ready and able to adapt to the changing needs of those whom they serve. The Free Library now has specialized services for children, young adults, adults, and special groups, such as the blind, senior citizens, teachers, and various community groups. And its branch libraries enable more people to conveniently use its services.

The Friends of the Free Library is built on the premise that the library is the heart of the community. The growth of the Friends of the Free Library membership and of their programs reflect the dedication, enthusiasm, creativity, resourcefulness, and generosity of a diverse group of people from all walks of life. The breadth and depth of the friends' achievements provide an exemplary model for committed citizens nationwide and a firm foundation for future endeavors.

Mr. President, libraries enable us each to enrich our lives and expand our horizons. The Free Library of Philadelphia helps people, especially children, to learn the jobs of reading and the power of knowledge. I commend the Friends of the Free Library of Philadelphia for all they have done to strengthen the role of the library in the community. With their continued efforts, I know that the Free Library will continue to thrive into the next century.●

TRIBUTE TO JOAN THOMPSON NEUHAUS

● Mr. WARNER. Mr. President, last week during Veterans Day, I had the honor of joining the Vice President and several of my colleagues in dedicating the Vietnam Women's Memorial, a moving and long-overdue tribute to Americans in uniform who had been denied that honor—the women. Few would dispute that the efforts of women in uniform continue to be invaluable to our military missions in peace and in war.

Today, I would like to ask my colleagues to join with me in commending and congratulating a young woman who is continuing that fine tradition.

My good friend, Joan Thompson Neuhaus, a fifth generation native of Houston, TX, has devoted much of her life to assisting others, understanding the world around her, and promoting communications among diverse groups. I recently learned that, on September 16, in her native Houston, Ms. Neuhaus was honored by being commissioned in the U.S. Naval Reserve. As Ms. Neuhaus has stated, "I have been blessed with attributes and talents, as well as an obligation to put those gifts to the best use." She has chosen to execute that obligation in the service of her country.

I know that my colleagues will join with me in congratulating Joan Thompson Neuhaus upon her commission, and in extending every best wish for a fulfilling and rewarding naval career.●

BIPARTISAN BUDGET-CUTTING PACKAGE

● Mr. KERREY. Mr. President, last week several of my colleagues, including Senators BROWN, GRAHAM, GREGG, LIEBERMAN, and ROBB, joined me in proposing to cut $109 billion from federal spending over the next 5 years.

The arguments for making spending cuts are familiar. They have echoed through this chamber many times and have made their way into speeches and press releases in every state across the country.

Today it is time to take the argument a step further. Today, Mr. President, talk is not enough. The economy is suffering under the weight of massive federal borrowing, and we will not get it back on track until we do something to rein in the federal budget. The American people have demanded deep and serious and measurable cuts in the Federal budget and I suspect they are more interested in dollars and cents than in promises and parlance.

The Senate bipartisan budget-cutting plan we propose is designed to help revive the economy and meet those demands with $109 billion in specific, itemized cuts in the federal budget. Its authors are dead serious about making these cuts, Mr. President. We want the measure of our success to be the bottom line, not the headline.

These cuts are tough and serious and so, Mr. President, is the fiscal crisis they are designed to confront.

That crisis is no secret. New government borrowing artificially inflates interest rates and now consumes fully three out of every $4 in national savings—savings that would be used to create jobs and invest in the economy were they not being gobbled up by the Government.

This fiscal crisis is like an iron ball chained to the leg of the economy, which limps along carrying the weight of more than a decade of rampant deficit spending.

There is another crisis parallel to that in our finances: a crisis of public confidence. The American people have seen our promises to cut spending and heard our speeches about fiscal responsibility and yet they look to Washington and still see a city that borrows hundreds of millions of dollars against their children's credit every day. They see a city that pats itself on the back for passing a budget which still allows the Government to borrow hundreds of billions of dollars a year, which sounds like pocket change in Washington but is real money everywhere else. They are suffering under an economy that cannot grow sufficiently because the Federal Government is borrowing too much money. The result, Mr. President, is that many Americans simply no longer believe that their Government has the backbone to face up to the challenges that confront the Nation.

The bipartisan budget-cutting plan gives us an opportunity to make headway toward solving both of these crises. Doing so will require the courage to do what is right, the confidence to do it in a bipartisan fashion and the conviction to get the job done.

Let me outline some of the important features of this plan. It begins with the premise that we should not ask the American people to accept spending cuts unless we are first willing to make sacrifices ourselves. So we propose to cut legislative branch appropriations by 7.5 percent, the congressional franking budget by 20 percent and appropriations to the executive branch by 5 percent. These cuts amount to $675 million in savings.

This proposal delineates $5.9 billion in savings from consolidating and streamlining federal agencies by implementing proposals in the Vice President's National Performance Review, as well as other proposals.

There are billions of dollars in other cuts in this package that strike or scale back various programs and projects, some of which have outlived their usefulness and others of which are items which are defensible but which we can no longer afford.

But we also ask, as we must, that many Americans who are the recipients of some Federal spending sacrifice to get our finances back on track. Where we must make such cuts we have endeavored to make them as fair as possible.

We ask retirees who make more than $50,000 a year to pay more of their Medicare part B premiums. This provision saves $16.3 billion.

We ask Government retirees to accept limits in their cost-of-living allowances, saving $4 billion.

There are many other sacrifices we ask. In fact, Mr. President, we propose to cut in this package more from entitlement programs than from discretionary spending.

Many will say that such proposals are the kiss of death in our business. They may be right. Perhaps this explains why we have shrunk from such propositions before. But perhaps that explains why our national debt has been raging out of control for so long.

Make no mistake, Mr. President. These cuts are real and because they are real they will require sacrifice. We must accept the fact that every dollar cut from the federal budget causes discomfort for the person or program accustomed to receiving that dollar on the other end. Anyone who doubts this fact need only travel to Charleston, SC, or any other community affected by spending cuts.

But we must also confront the fact that rampant deficit spending is causing more pain for more people than cutting the Federal budget ever will.

Mr. President, I do not pretend that the spending cuts we are proposing are a cure-all, or that they are the end-all-be-all of deficit reduction. Indeed, such an outcome would be a failure. These cuts are only a step, a step that must be followed with real and decisive action to reduce the deficit further.

We took the first step with a tough vote on August 6 that produced a budget which, though it was not perfect, will reduce the deficit by nearly $500 billion over five years. We took that step because the President of the United States—however controversial his plan may have been—brought the issue of deficit reduction to the national table and forced the Congress to act on it.

I hope the second step will be passage intact of the bipartisan plan we are proposing.

The next step, and the one with more important consequences, will be mass reform of the nation's entitlement system. I look forward to helping craft that reform through the Kerrey-Danforth Commission, which I am chairing with my friend from Missouri.

Any discussion of the amendment we plan to introduce would be incomplete without mention of the process which brought it about. It began in August when I first discussed a new package of spending cuts with colleagues in the Senate and the other body. Many of the fruits of those discussions are in a rescission package in the other body, and I hope they meet with great success.

The dozens of hours over which we drafted our amendment also prove to me that we can act in bipartisan fashion when the needs of the country demand it. The colleagues with whom I have had the honor to work consistently put their country above their careers and their patriotism over their parties, and it was a pleasure to work with them.

Now I look forward to consideration of this amendment by the full Senate. I suspect we will learn a great deal in the process. Because the cuts we propose are real and bipartisan they force the Senate to stop talking about spending cuts and start voting on them. We believe the game of praising spending cuts in general but rejecting them in particular is up.

We did not provide much political cover in this package, Mr. President. We did not leave ourselves room to go home and brag to our constituents, as is too often customary, that we cut everyone's spending but their own.

What we did do was leave ourselves and our colleagues room to tell our constituents that we have heard their demands for spending cuts, that we intend to meet them and that doing so will require shared sacrifice.

If we pass these cuts we will take a step toward reducing the size of the Federal Government and renewing the American people's confidence in their Government. It is neither a tiny step nor a titanic one, but it is a real step that can be measured in real dollars and real cents.

If we succeed in taking it, the result will be $109 billion in spending cuts. The payoff will be more jobs, better wages and economic growth for the American people, who in turn will hold renewed confidence that their Government can face up to tough choices.

But if we let this opportunity pass us by, the consequences will be continued cynicism on the part of the American people and an economy mired in the same old stuff.

The choice is not at the mercy of political winds beyond our control, Mr. President. The choice is ours. With courage, confidence and conviction, we can make the right one. The economy needs it, Mr. President, and posterity demands it.●

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MATHEWS). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that upon the disposition of S. 1607, the Senate turn to the consideration of Calendar No. 21, S. 414, a bill to require a waiting period before the purchase of a handgun; that there be a time limitation of 2 hours for debate on the bill; that immediately upon the reporting of the bill the majority leader be recognized to offer a substitute amendment on behalf of himself and Senator DOLE; that upon the reporting of the amendment, the majority leader be recognized to offer an amendment striking the preemption language to be considered under a 1 hour time limitation; that at the conclusion or yielding back of time, the Senate, without any intervening action or debate, vote on the Mitchell preemption amendment; that upon the disposition of that amendment, Senator METZENBAUM, or his designee, be recognized to offer an amendment relative to sunsetting, to be considered under a 1 hour time limitation; that at the conclusion or yielding back of the time on that amendment the Senate, without any intervening action or debate, vote on the sunsetting amendment; that if either the preemption or the sunsetting amendment is agreed to, then upon the disposition of the sunsetting amendment, there be 30 minutes for debate prior to a vote on a motion to invoke cloture on the Mitchell-Dole substitute amendment, as amended; that if cloture is invoked, the Mitchell-Dole substitute amendment be agreed to, the Senate proceed to third reading of S. 414; the Senate then proceed to the consideration of the House companion, H.R. 1025, that all after the enacting clause be stricken and the text of S. 414, as amended, be inserted in lieu thereof, and the Senate vote on passage of the bill; that the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses and the Chair be authorized to appoint conferees, with the preceding all occurring without any intervening action or debate; that if both the preemption and sunsetting amendments lose, then the Mitchell-Dole substitute amendment be agreed to, the bill be read a third time, and the House bill be voted on under the same conditions as outlined above; that if the cloture vote on the Mitchell-Dole substitute amendment is not successful, then a second cloture vote occur thereon at 11 p.m. on Friday, November 19; that all times in this agreement be equally divided between the chairman and ranking member of the Judiciary Committee, or their designees, with the required quorums under rule XXII being waived; that the Senate now resume consideration of S. 1607; that there be 10 minutes for debate remaining on the bill equally divided between Senators BIDEN and HATCH; that at the conclusion or yielding back of time this evening, the bill be read a third time and the Senate vote on passage of H.R. 3355 in accordance with all of the provisions of the previous agreement at 9:45 a.m. on Friday, November 19.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. I shall not object, but I might be a little confused.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The text of the agreement follows:

Ordered, That upon the disposition of S. 1607, the Crime Bill, the Senate turn to the consideration of S. 414, a bill to require a waiting period before the purchase of a handgun, and that there be a time limitation of two hours for debate on the bill.

Ordered further, That immediately upon the reporting of the bill, the Majority Leader be recognized to offer a substitute amendment on behalf of himself and the Senator from Kansas [Mr. DOLE]; that upon the reporting of the amendment the Majority Leader be recognized to offer an amendment striking the preemption language, to be considered under a one hour time limitation; that at the conclusion or yielding back of time, the Senate, without any intervening action or debate, vote on the Mitchell preemption amendment; that upon the disposition of that amendment, the Senator from Ohio [Mr. METZENBAUM], or his designee, be recognized to offer an amendment relative to sunsetting, to be considered under a one hour time limitation; and that at the conclusion or yielding back of time on that amendment, the Senate without any intervening action or debate, vote on the sunsetting amendment.

Ordered further, That if either the preemption or the sunsetting amendment is agreed to, then upon the disposition of the sunsetting amendment, there be 30 minutes for debate prior to a vote on a motion to invoke cloture on the Mitchell-Dole substitute amendment, as amended.

Ordered further, That if cloture is invoked, the Mitchell-Dole substitute amendment be agreed to; the Senate proceed to third reading of S. 414; the Senate then proceed to the consideration of the House companion, H.R. 1025; that all after the enacting clause be stricken and the text of S. 414, as amended, be inserted in lieu thereof; that the Senate vote on passage of the bill; that the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and the Chair be authorized to appoint conferees.

Ordered further, That the preceding all occur without any intervening action or debate.

Ordered further, That if both the preemption and sunsetting amendments lose, then the Mitchell-Dole substitute amendment be agreed to, that the bill be read a third time, and that the House bill be voted on under the same conditions as outlined above.

Ordered further, That if the cloture vote on the Mitchell-Dole substitute amendment is not successful, then a second cloture vote thereon occur at 11:00 p.m. on Friday, November 19, 1993.

Ordered further, That all times in this agreement be equally divided between the Chairman and the Ranking Member of the Judiciary Committee, or their designees, with the required quorums under Rule 22 being waived.

Mr. MITCHELL. Mr. President, and members of the Senate, under this agreement, the Senate will now resume consideration of the crime bill. There will be 10 minutes of debate remaining on that bill, at which time the bill will proceed to third reading this evening.

The vote on final passage of the crime bill will occur at 9:45 a.m.—actually I said this evening. It is this morning. It will occur at 9:45 a.m. this morning. Following that vote—and therefore, at approximately 10:05 a.m. this morning the Senate will proceed to consideration of S. 414, the handgun waiting period bill.

Pursuant to this agreement, there will be 2 hours on the bill. There will be a substitute amendment offered by myself and Senator DOLE under the following circumstances: We have reached agreement on a substitute amendment with respect to all matters except two. Those two matters involve the preemption of State laws by the passage of a Federal law, and the sunsetting or automatic termination of the waiting period.

What we have agreed to do is to include those two provisions in the substitute even though I do not agree with those provisions. However, I have agreed to include them in the substitute for purposes of creating a mechanism for getting this matter before the Senate and disposing of it.

After that substitute is presented, I will then offer an amendment to strike the preemption provision from the substitute. Following a vote on that, Senator METZENBAUM will offer an amendment to strike the sunsetting provision from the substitute, and there will be 1 hour for debate on each of those amendments so we will be able to explain our respective positions on the substance of those matters tomorrow morning.

Then, if both of those efforts to strike fail, we will simply adopt the bill, the substitute including those two provisions.

Mr. DOLE. Excluding those two provisions.

Mr. MITCHELL. No, including. They are in the substitute. If we fail to strike them, they will stay in the substitute.

Mr. DOLE. Excuse me.

Mr. MITCHELL. And the bill will be passed including those two provisions. If we succeed in striking either or both of those provisions, then our colleagues have notified us that they would not permit the bill to proceed and would in fact use the rules of the Senate to prevent a vote on it, which requires us then to file a motion to invoke cloture to end debate so as to bring it to a conclusion.

Under the rules of the Senate, it would ordinarily take a 2-day period before we would have a vote on cloture, and then if we filed a second cloture petition, as I have stated would be our intention, that would follow the day after. However, because we are near the end of the session, we have agreed as part of this procedure to have the first cloture vote 30 minutes after we reach that point and then have the second cloture vote at 11 p.m. tomorrow evening.

Between those two—let me back up. If, on the first cloture vote, cloture is obtained, then we will pass the bill. If cloture is not obtained, it is my intention that we would then return to debate on the North American Free-Trade Agreement, and then have the second cloture vote at 11 p.m. We did not cover in here a brief period for debate prior to that second cloture vote, but I assume that is something we can agree on at that time.

I believe that I have stated this accurately, but I want to invite the Republican leader to indicate if there is any disagreement in the manner in which I have interpreted the agreement.

Mr. DOLE. Mr. President, I think the majority leader has properly interpreted it.

I want to commend our staff and others who have been working on this for 2 days. It has been a very difficult process. It seems to me it is fairly contrived and put together, and everybody will have an opportunity, and hopefully we can have it all resolved by some time tomorrow.

I assume it is the majority leader's intention to vote on the North American Free-Trade Agreement either before or after the second cloture vote.

Mr. MITCHELL. I have not made a decision on that. I will, as always, consult with the distinguished Republican leader. I think it will depend in part upon how much time has been used between the two cloture votes and how much time is remaining, whether or not any disposition on the part of Senators to yield back time or to want to use that time. I think we will know better through the day tomorrow.

As the Republican leader knows, there is at least one additional outstanding matter that we have not been able to resolve unrelated to these bills. We have one bill and two nominations.

It may therefore be necessary to return on Saturday to complete action on those. And, in that event, that may influence our judgment with respect to when we complete action. We will work on those tomorrow. My hope is that we can reach some agreement on that procedure during the day tomorrow and be in a position to make a better judgment sometime later in the day tomorrow.

Mr. DOLE. I am advised by the Parliamentarian that we have, I think, on this side 4 hours and 43 minutes in opposition, and a couple of hours in support of NAFTA. We have the bulk of the time. It may be necessary to yield some of that to the other side. But I do not believe that we will consume much over maybe, hopefully, a couple of hours, 2½ hours, on this side on the North American Free-Trade Agreement. It is a hope.

Mr. MITCHELL. Is the Senator calculating in that time the distinguished Senator from Alaska has indicated that he intends to utilize——

Mr. DOLE. I never totally calculate. But I have considered it.

Mr. MITCHELL. I want to thank all my colleagues. I am not going to try to name them because there have been so many involved in this discussion.

As the Republican leader said, the staff worked on this, now I think it has been closer to 3 days that we have been negotiating this. But I think special mention has to be made for the chairman of the Judiciary Committee, who is the one person I think we can safely say that without whom this would not have been possible, who has been as always extremely helpful and valuable in helping us put this together.

Therefore, Mr. President, I thank my colleagues for their cooperation.

I yield the floor.

The PRESIDING OFFICER. Is there further discussion?

Mr. BIDEN. Mr. President, as I understand it, under the unanimous consent agreement on the crime bill, that if we are able to return to the crime bill now that—

VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1993

The PRESIDING OFFICER. The Senator is correct. Under the agreement we just reached, we will return to S. 1607, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1607) to control and prevent crime.

The Senate continued with the consideration of the bill.

HATCH AMENDMENT NO. 1217, AND BIDEN AMENDMENT NO. 1216

Mr. BIDEN. Mr. President, under the unanimous-consent agreement, it was agreed that the managers and the majority and minority leader would agree on a so-called "managers' package" of amendments that we could accept.

I am prepared now to send to the desk a list of 21 Democratic amendments that have been accepted on both sides. I believe the distinguished Republican leader is prepared to send up a number of amendments. I beg your pardon. There are 26 plus 11 technical amendments in that batch that are sent up, plus, I believe, the Republican leader has Republican amendments agreed to as well.

The PRESIDING OFFICER. Is there objection on the part of the Republican leader?

Mr. DOLE. Let me send up on behalf of Senator HATCH a series of 20 amendments along with statements. I ask unanimous consent that the statements be printed in the RECORD at the appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I also send up a list of the amendments. It might be helpful to the clerks.

The PRESIDING OFFICER. Without objection, the amendments will be received and agreed to—both packages.

Mr. BIDEN. Mr. President, I also ask unanimous consent—I failed to do so—that all statements relating to each of the amendments be entered in the RECORD as well.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendments are printed in today's RECORD under "Amendments Submitted".)

ALTERNATIVE INCARCERATION

Mr. PELL. Mr. President, under Title VIII and Title XII of this bill, money would be made available to states for the operation of boot camp programs for nonviolent offenders. In general, the funding of these boot camp programs serves twin purposes of alternative and less costly punishment of convicted criminals.

The Family Court of Rhode Island, under the direction of Chief Judge Jeremiah S. Jeremiah, Jr., has developed through a collaborative effort with other public and private agencies in Rhode Island an innovative program, called JOIN, for the alternative incarceration and punishment of juvenile offenders. Similar to the goals of the boot camp prison, this program focuses on using the successes of the Outward Bound Program as a base while adding the involvement of police and social service agencies, to create a comprehensive alternative to incarceration which focuses on rehabilitation, self-esteem, and community integration while maintaining the goal of cost-effectiveness when compared to current means of incarceration.

It is unclear whether this program could be called a "boot camp" program under the current language and understandings of this bill. I would like the Chairman to clarify that point and to indicate whether or not the State of Rhode Island or any local jurisdiction receiving funds under this title could, at its discretion, choose to use such funds to fund this type of alternative incarceration.

Mr. BIDEN. The goals of Title VIII and Title XII of this bill are clearly in concert with the goals of the JOIN program which has been proposed in Rhode Island. If the State of Rhode Island or any other local jurisdiction chooses to allocate any funds that it may receive under this title for this or any other substantially similar program which combines the rigors of a boot camp-like training program, such as Outward Bound, and follows it up with post-release supervision, then it would not be in violation of the intent or spirit of this provision.

Mr. PELL. I thank the chairman for this clarification. It is clear from this exchange then that if the local officials coordinating the JOIN program wished to seek funds made available by this legislation for their project, they would do so from state and local authorities upon their receipt of such funds.

Mr. BIDEN. That is correct.

Mr. PELL. I thank the Senator for this exchange and for all your good work to advance alternative programs for the detention, punishment, and rehabilitation of juvenile offenders.

Mr. BINGAMAN. Mr. President, I rise today to commend the Chairman of the Senate Committee on the Judiciary, Senator BIDEN, and the distinguished

Senator from Utah, Senator HATCH, for their leadership on the comprehensive crime control legislation that is before the Senate today.

During the past several days of debate on the crime bill, many of my colleagues have come to the Senate floor to discuss the epidemic of violence that is plaguing our nation and killing our children. A number of amendments have been proposed to address this very serious problem and make our streets, homes, and schools safer.

I am pleased that the managers of the bill have agreed to accept an amendment I authored aimed at preventing youth violence and crime by imposing an immediate penalty on teens who bring handguns to school.

This amendment, unlike those offered by many of colleagues, does not involve the criminal justice system or require a lengthy and expensive prosecution. It will not toughen prison sentences or increase jail space. Instead, my amendment attempts to prevent violence by posing a penalty that is so immediate and so real it will deter handgun-related crime among our nation's youth.

This amendment contains incentives for states to impose an immediate penalty—the instantaneous revocation of a drivers license—on anyone who brings a handgun to an elementary or secondary school.

In my homestate of New Mexico, where violent teen deaths rank worst in the Nation, we need to do everything we can to discourage teens from carrying handguns and other weapons. This immediate penalty may be our most effective tool for keeping many children and teens safe from handguns. After all, the one thing teenagers want from government is a license to drive.

To my colleagues who say this penalty is not enough, I say that I know very well this measure is not the total solution to the very serious problem we face. To teenagers who are immersed in a life of crime, this additional penalty will mean little.

We need the tough prison sentences and strong penalties contained in Senator KOHL's "Youth Handgun Safety Act," which I am pleased to cosponsor.

We also need to give our children productive, life-enriching alternatives to crime. We need to support our schools as outlined in Senator DODD's "Safe School Act," which I am also proud to cosponsor. But I believe we can—and must—do more.

It is simply unrealistic to think that the criminal justice system can solve all the problems of crime in America. Our prisons are overcrowded, our courts are backlogged, and our police are overworked. Too few teens today respect law enforcement and the criminal justice system. Even fewer fear the penalties of the criminal justice system. Instead, they fear their classmates who come to school with loaded handguns in their backpacks and tucked into their pants.

Their fear is well-founded: before this day ends, 14 children will die in suicides, homicide, or accidental shootings. Between 90,000 and 135,000 guns will be brought into our Nation's schools today. These statistics are almost beyond belief to people who were in high school 15, 20, or 30 years ago. But if you doubt them, ask any teenager in school today.

Ask a teen for his or her impression of the Federal law establishing "gun-free school zones," which rely entirely on the criminal justice system for enforcement and punishment. It will be a sobering conversation. As members of the Florida State Legislature, who met last week during a special session to discuss youth violence and voted to suspend the drivers license of a teen caught with a gun. The suspension is part of a package of penalties, which also includes 100 hours of mandatory community service, to be assessed for violations of the State's new law banning minors from possessing guns.

Mr. President, as a Nation, we simply need to admit that violence—particularly gun-related violence—is more than our criminal justice system can handle. On November 1, the Surgeon General of the U.S. Public Health Service, Dr. Joycelyn Elders, discussed the extent of the problem during testimony before the House Committee on Government Operations.

Dr. Elders stated that since the 1950's, suicide rates among our youth have almost quadrupled. She reported that homicide rates among young men are 20 times as high as most other industrialized countries and 40 times higher in young African American males. According to the Department of Justice, the 50,000 juvenile weapons arrests in 1991 accounted for more than one in five weapons arrests. The Department also reports that 16,000 violent acts occur in our nation's schools every day.

As I stated earlier, these tragic statistics are hard to believe; but, unfortunately, they are all too familiar in my home State of New Mexico. New Mexico ranks worst in the country in violent teen deaths, with 121 deaths per 100,000 compared to the national average of 71 deaths per 100,000. More than twice as many New Mexico youth between 15 and 25 commit suicide than the national average.

It is as clear in my mind as it is in Dr. Elder's statement: The criminal justice approach simply is not enough. The criminal justice system comes too late for too many teenagers. The criminal justice system treats the problem after it occurs. We must, as Dr. Elders says, couple prevention with our criminal justice system of treatment.

Prevention is the cornerstone of this amendment. It will encourage states to enact laws that: require the revocation of an individual's drivers license if he or she brings a handgun into an elementary or secondary school zone; and stipulate for an individual under the state's legal driving age, that the period of revocation will be 5 years or until the age of 18, whichever is longer.

As I mentioned earlier, this revocation would be in addition to—not a substitute for—any other applicable penalties under state or federal law.

The revocation would be 5 years for the first offense, 10 years thereafter, upon notification by the school's principal to the State. Although we would, of course, expect the states to follow such procedures as may be required under the Constitution. Finally, the State would have the option of waiving a portion of the penalty if it is satisfied that a compelling reason exists for doing so and the individual has not been involved with the criminal justice system after the initial weapon possession.

To encourage states to adopt this law, the amendment states that the Administrator of the Office of Juvenile Justice and Delinquency Prevention may award a State a bonus grant for if the State has adopted an instant license revocation law.

That is the extent of my amendment. It is simple and straightforward. It focuses on a penalty that is very real to most of our youth. All kids, at one point or another, anticipate the day they will get their drivers license. To them, five years without a license is forever; but criminal penalties are often little more than a far-off maze of courts, delays, and loopholes.

Mr. President, we citizens have allowed this country to become a crying shame. It will only get worse if we do not use every tool available to us to restore values, control crime, and reduce violence. We need to do everything we can to discourage our children from choosing crime as a way of life.

We need to help our teachers, principals, and school counselors make schools a safer place in which to learn and grow. We need to be better parents and better role models for our children. In short, we need to help our children find the desire and courage to fulfill the potential that lives within each one of them.

I believe this amendment is one of the tools we need to accomplish these objectives. I had intended that this amendment include stronger incentives to states, but I understand the Chairman of the Committee had objections, and we have compromised. Nonetheless and despite our disagreement on some sections of this amendment and other sections of the underlying bill, I am pleased my colleagues have agreed to include this amendment in the Violent Crime Control and Law Enforcement Act of 1993.

Mr. REID. Mr. President, I am pleased to join as a sponsor with Senator BRYAN of this criminal alien amendment. As my colleagues know, I have spoken a number of times in recent weeks concerning the urgent need to reform our nation's immigrant policies. More importantly, I have introduced S. 1351, the Immigration Stabilization Act, which is a comprehensive bill to overhaul these outdated laws. Criminal aliens are an important aspect of the immigration crisis our nation is experiencing, and title IV of S. 1351 contains criminal alien reform provisions that embody the same basic concepts that are in this amendment, including: expanding the definition of an "aggravated felony"; streamlining the deportation and review procedures for aliens convicted of such felonies; allowing judges to issue deportation orders at sentencing hearings; restricting defenses to deportation for criminal aliens; and enhancing penalties for failing to depart or for reentering after final orders of deportation.

No one who serves in the Senate needs to be reminded that the people of this country are clamoring for something to be done about the plague of violent crime throughout our nation. No one who serves in Congress needs to be reminded that there is not nearly enough money for more police, more judges, more prisons and for all the other important social service and infrastructure needs facing our Nation—not at the federal level, not at the state level and not at the local level.

Yet, in spite of pandemic crime and increasingly limited resources to deal with it and other problems, we find that nearly a quarter of all the people in Federal prisons today are aliens. In places like California and Texas the figure approaches 50 percent. In New York, Governor Cuomo has estimated that incarcerating illegal aliens who have been convicted of felonies costs his cast-strapped state more than $65 million a year. Other states face similar high costs. The statistics are simply shocking. There can only be outrage that such conditions have been tolerated for as long as they have.

Some of the issues in the pending crime bill are ones about which reasonable people can disagree. However, criminal aliens are a large and growing problem for our country, and there should be no disagreement that Congress must act now to address this serious problem. These criminals, many of whom are illegally in the country to begin with, are responsible for inflicting unquantifiable pain and terror on law-abiding citizens. They cause countless millions of dollars in property loss and damage and countless millions more in legal and incarceration costs. But these outrages pale by comparison to one simple fact: our government has done virtually nothing to remove these people from our society. We have outdated and faulty procedures that alien criminals and their lawyers exploit with ease. We routinely release deportable aliens who have committed heinous crimes, back onto the streets of our nation's cities.

Mr. President, there is no excuse for failing to deport people who not only don't belong here, but who have demonstrated by their actions that they are a threat to public safety. We hold individuals and corporations responsible for failing to take reasonable precautions to protect public safety. Yet, the Federal Government has been grossly negligent in the way it deals with criminal aliens. Not only do we fail to keep such people out in the first place because we don't control our borders, but we often don't even kick these criminals out even after they have served jail terms for committing egregious felonies. The American people have every reason to be angry that the criminal alien who gets deported promptly is the exception, not the rule.

The amendment would make significant reforms in this outrageous practice of releasing criminal aliens back into American society. It would help ensure that there will be swift and irrevocable deportation immediately upon completion of their jail terms. No undue delays or appeals or special legal pleadings would be allowed to tie up the deportation process. Therefore, I strongly urge my colleagues to support this amendment. I also invite other Senators to join in the fight for comprehensive reform of our outdated immigration laws by becoming cosponsors of S. 1351, the Immigration Stabilization Act.

Mr. BRYAN. Mr. President, U.S. immigration policies and enforcement of those policies are not longer working in the best interests of our country.

Congress should make comprehensive reform of immigration laws a top priority for next year.

There is a role our country must play in allowing a reasonable level of immigration.

However, we must face the fact that problems associated with immigration, especially illegal immigration and political asylum, are out of control.

Today, I am asking the Senate to approve two immigration amendments which Senators BIDEN and HATCH have agreed to accept as part of their manager's amendment.

The first amendment I put together with Senator SIMPSON and others.

I thank Senator SIMPSON and his staff for their immense help.

I also thank the Clinton administration for their assistance and contributions.

The first amendment has two major components which hopefully will close loopholes in immigration laws:

(1) Procedures to speed up the deportation of criminal aliens convicted of aggravated felonies by combining their deportation hearing into their sentencing hearing.

Instead of first releasing the alien from prison and later holding a separate hearing as is being done now, often months or even a year or more later, those who break U.S. laws could be deported immediately after serving their prison sentence.

(2) Elimination of the granting of automatic work authorization permits to those who enter the United States and apply for political asylum.

Under the expedited deportation procedure, we are reforming and toughening the process under which convicted criminal aliens are deported back to their country of origin after serving their prison sentence.

Under current immigration law, an alien who has been convicted of an aggravated felony, is presumed to be deportable from the United States.

This means that in virtually every case, once an alien is convicted of an aggravated felony, a very serious crime, and the alien has served his or her prison time, they should be deported.

This is not happening.

The law envisions that a deportation hearing will be held while the alien is still in prison, and a judge will rule on deportation.

Instead, the system is so bogged down, no hearing is held while the alien is serving prison time, and the criminal alien is released to INS.

The INS is forced to again detain the already convicted alien at taxpayer expense until the system clears for a hearing to be scheduled.

Why is a separate deportation proceeding needed? Due Process? The alien received due process at the time he or she was sentenced for the aggravated felony.

A second hearing can be avoided by combining the deportation hearing with the alien sentencing.

A Federal judge can enter a final order of deportation at the same time the judge sentences the alien for committing an aggravated felony.

It currently costs the taxpayer an average of $60 to $70 per day to simply house convicted alien felons pending deportation, after completion of their prison sentence.

Not to mention the cost of the immigration judges, court staff, attorneys, interpreters, and facilities necessary to institute the deportation proceedings.

Such a system must come to an end.

Of the 36,000 aliens that were deported last year, 18,000 of those were criminal aliens.

There are 16,000 criminal aliens currently in our Federal prisons at taxpayer expense, and 41,000 criminal aliens in our State prisons.

Immigrating to America and joining our society is a privilege, not a right, and Congress should say clearly that if an alien is convicted of a felony, the alien forfeits that privilege and will be deported immediately upon completion of the prison sentence.

A few weeks ago, Attorney General Janet Reno was quoted as saying the

Federal Government should take more responsibility for deporting illegal aliens held in State prisons.

Under this amendment, the Attorney General can use an expedited process to speed up deportation of criminal aliens serving time in State and Federal prisons.

Also under my first amendment is the elimination of the granting of automatic work authorization permits to those who enter the United States and apply for political asylum.

Last year there were 150,000 asylum applicants who under current law get automatic work authorization permits before their asylum application hearings, regardless of the merit of their claim for asylum.

Under our amendment, a political asylum applicant can only obtain work permits by authorization of the Attorney General.

I will also ask that report language indicate that it is understood that such authorization will be the exception rather than the rule, and that permission to work only be granted in the most urgent of circumstances.

My second amendment, also accepted as part of the manager's amendment, permits law enforcement authorities access to immigration records to obtain information necessary to locate and identify an alien for criminal law enforcement purposes.

In the recent case of Mir Aimal Kanzi, the man responsible for the tragic walk-by shootings outside the CIA facility here in the Washington area, law enforcement authorities were unable to access Mr. Kanzi's naturalization file.

A provision in the 1986 Immigration Reform and Control Act requires strict confidentiality with respect to which persons and authorities can access an alien's application.

The law says a fine and or prison sentence will be imposed upon anyone, including the Attorney General, who releases information from legalization files for purposes other than processing an application.

Surely any privacy concerns that led to the passage of a provision such as this did not mean to preclude access to a file for purposes of apprehending a known terrorist.

An argument could be made that the denial of immediate access to this vital information contributed to Mr. Kanzi's escape from the United States.

Authorities were able to eventually access some information pertaining to Mr. Kanzi from a separate asylum application that he had filed, however one that was not required to contain a photo as was the file under the Immigration and Naturalization Act.

My amendment would allow the Attorney General or designee to give law enforcement authorities the ability to apply to a Federal court for an order, much like a search warrant, allowing disclosure of information necessary to locate and identify an alien for criminal law enforcement purposes.

The provision requiring application to a Federal court of competent jurisdiction will safeguard privacy concerns, thus ensuring information contained in an alien's file would not be used for purposes unrelated to law enforcement.

To sum up, my first amendment today will streamline administrative deportation proceedings for criminal aliens who are not permanent aliens, eliminating the redundant and bureaucratic system that exists today.

An alien convicted of an aggravated felony will be presumed to be deportable, and at sentencing in Federal court, the judge would have the ability to enter the final order of deportation at the same time they hand down the sentence.

This amendment also mandates that an applicant for asylum is not automatically entitled to work authorization simply by applying for asylum.

It will be in the discretion of the Attorney General when to grant work authorization.

It is my hope that the issues I have outlined will get the attention they deserve so we can develop a responsible long-term strategy to deal with immigration policy.

I especially want to thank Senators SIMPSON, BIDEN, HATCH, and KENNEDY for working with me on this effort.

I look forward to working with them and with the Clinton administration.

Thank you, Mr. President, and I yield the floor.

COMMUNITY POLICING

Mr. BRADLEY. I would like to congratulate my colleague, the distinguished Senator from Delaware and chairman of the Judiciary Committee, on the community policing provision of this bill. Strongly supported by President Clinton, this provision will certainly enhance the ability of our local police to prevent and respond to crime. Police who walk a beat understand the needs of a neighborhood better than those who cruise in squad cars. With community policing, they are not left to respond to crime, but can actively participate in preventing it.

When I introduced the Community Policing Assistance Act, I sought to foster stronger ties between local police departments conducting community policing and the communities they serve. Community-based organizations provide an important link in this relationship. My review of programs in New Jersey and across the country convinced me that grassroots, community-based organizations can be helpful in providing the police with the information they need to deter and eliminate crime. Under my bill, community-based organizations could have applied directly to the Justice Department for grant assistance to support activities which promote the general goals of community policing. I might note that the distinguished chairman and Senator SIMON were among the original cosponsors of that legislation.

Community organizations can play a very constructive role in a local police department's community policing strategy. They can identify criminals who operate in a particular neighborhood. They can let the police know when a building is being used for illegal purposes or when a particular corner has become an open-air drug market. They can organize civilian foot patrols to ensure that senior citizens and children are able to move about without fear of crime. And they can sponsor activities which foster better relations between the police and the community. While nothing is as effective at reducing neighborhood crime as a professional police force, community organizations can often act as partners with the police, helping them to do their job more effectively.

I am a strong supporter of this community policing provision. But I, and I believe the senior Senator from Illinois, would appreciate some clarification by the chairman of the Judiciary Committee on one aspect of the bill. It is my understanding that community-based organizations will be eligible for funds under this program which are not designated to hire police. I want to make sure that the chairman agrees with me that such groups play an important role in local community policing and should be funded under this program.

Mr. SIMON. I concur with the comments of the senior Senator from New Jersey. Like him, I envision a very constructive role for community-based organizations in community policing. I would appreciate some comment from the chairman about the likelihood that they will receive funds under this program.

Mr. BIDEN. I would like to thank the Senators from New Jersey and Illinois for their questions. It is my understanding that community-based organizations are eligible for the funds in this program which are not specifically designated for the hiring and rehiring of police. I believe some of the funds not designated for the hiring and rehiring of police should be channeled to these groups. I also agree that community-based organizations are uniquely positioned to enter into partnerships with local police departments involved in community policing. I believe Attorney General Reno shares this view.

Mr. SIMON. I thank the chairman and congratulate him on this program.

Mr. BRADLEY. I also thank the chairman and yield the floor.

POLICE PARTNERSHIPS FOR CHILDREN ACT

Mr. DODD. Mr. President, I rise today in support of my amendment that responds to the trauma experienced by many children living in communities beset by violence.

As we discuss this crime package, I think it is important for us to remember that it is children who are increasingly victims and witnesses to violent crime in this country. In some neighborhoods, children are afraid to set foot outside their homes for fear of being caught in the crossfire.

This fear can cause psychological trauma that will last a lifetime. My amendment, the Police Partnerships for Children Act, will give police and communities some tools to help these children.

COMPELLING CASE FOR ACTION

A quick review of some statistics demonstrates the need for such a measure.

One survey of inner-city children 6 to 10 years of age found that more than 90 percent had witnessed some type of violence.

A Chicago housing project survey found that virtually every child interviewed had firsthand experience with shootings by the age of 5.

Not only are children witnessing crimes in record numbers, but they are also becoming victims of crimes in record numbers.

American teens are more than twice as likely as adults to be victims of violent crime.

Every day in the United States, between 12 and 15 children and adolescents die as a result of violent crimes. That is 4,500 young lives a year—4,500 promises for the future that are lost to us forever.

CHILDREN OF WAR ZONES

Children who live in high-crime areas experience trauma not unlike children in war zones. A November 1st Washington Post story provided ample evidence that many American children are no longer planning for the rest of their lives. Instead, they are planning for their own deaths.

According to the Post article, children as young as age 10 are preparing for their own funerals.

Rather than deciding where they will go to college or what career they will pursue, these children are deciding which burial clothes they prefer and what kind of music they want played at their funeral.

Many of these children described by the Post live in inner-city Washington. We must not, however, dismiss violence as an inner-city problem, a minority problem, or a problem confined to poor neighborhoods. Violence permeates all areas of the country and all levels of society.

CYCLE OF VIOLENCE

Left untreated, children traumatized by violence may themselves become perpetrators of violence. The cycle continues because no one makes the effort to break it. As Surgeon General Joycelyn Elders has said: "It is often easier for our children to obtain a gun that it is for them to find a good friend."

ROLE POLICE OFFICERS CAN PLAY

My amendment, the Police Partnerships for Children Act, will help police and communities break the cycle of violence that traps many of our children. This amendment recognizes the valuable role police officers can play in this effort.

For it is police officers who come into frequent contact with children who have witnessed violence, children who have been its victims, and children who have lost someone they love.

Although police are often in the best position to assist such children, they often lack the resources to do the job. My amendment would provide $20 million in grants to law enforcement agencies that form partnerships with child and family service organizations in an effort to help children deal with the psychological effects of violence. Departments engaged in community policing would receive priority for these grants.

The amendment would also help mental health services providers connect with young victims, witnesses, and perpetrators of violence. These professionals can provide a guiding hand to children who without help may enter the cycle of violence.

CRISIS RESPONSE SERVICE

The centerpiece of such partnerships would be a 24-hour crisis response service that would provide counseling as well as followup services to children and families involved in a violent incident. The partnership also would provide training to police in child development and family issues, increasing their ability to respond to community members' needs. In addition, the amendment makes additional funds available to provide mentoring and conflict resolution services.

This legislation is modeled on a partnership between the New Haven Police Department and the Yale Child Study Center. This program is rooted in the concept of community policing—in which police, by their visibility in the neighborhood and their engagement in community activities, provide positive role models and resources to promote the well-being of children.

I have consulted with a number of police officers in developing this bill, beginning with Chief Nick Pastore in New Haven. At a hearing last spring, John Pritchard, New York City's first deputy police commissioner also offered his support.

TIME FOR ACTION

Mr. President, I hope my colleagues will keep in mind the gravity of this problem. Let me repeat the statistics: More than 12 children each day in the country die a violent death; for preschoolers in some neighborhoods, the experience of having seen someone shot is the rule, not the exception.

Clearly, there is no one answer to this complicated problem of violence, but we must make a start. For too long, we have thought of the children of war as the children of Sarajevo, Beirut, of Belfast. We must face the fact that they are now the children of Hartford, Washington, and Los Angeles—and countless other cities and towns across the country.

It is time we did more than just lock our doors and turn our heads away. It is time we help our children break this cycle of violence. I urge my colleagues to join me in supporting the Police Partnerships for Children Amendment.

LORTON EXPANSION

Mr. KOHL. Mr. President, the amendment by the Senator from Virginia is acceptable. The Senator is to be commended for bringing this amendment forward in this form. As chairman of the Appropriations Subcommittee on D.C., I will work with him to ensure that the needs of the city are met and that the concerns of his local community are addressed in a responsible way. His leadership on this matter should go a long way to making the intent of this amendment a reality.

D.C. is hard-pressed for space to house those convicted of violating its laws; it follows that we can not hamstring the city in its efforts to provide adequate prison space. The D.C. prison has been located on Federal land in Virginia for nearly a century. When it opened, the Lorton area was rural and out-of-the-way. In time however, the population of the area has grown. In recognition of this growth the D.C. government has taken steps to mitigate Lorton's impact and make the residents of the surrounding area more secure.

It has instituted a 24-hour hot-line for residents of the area to call when they hear sirens or see unusual activity at the prison. The D.C. government reimburses other local governments when their fire or police units must be called to the prison to respond to emergencies. Perimeter security has been enhanced, and guard towers are being renovated to provide better facility security.

Mr. President, it is no secret that Fairfax County would like to be rid of the Lorton prison. At this point, that is not an option. Nevertheless, it is appropriate, as the Senator's amendment provides, to ensure that expansion plans be approved by the Congress, as they have been in the past, through the city's budget process. D.C. and Fairfax County cooperate on many other efforts including Metro, other transportation problems, and wastewater treatment. The Lorton prison complex offers another opportunity for enhanced regional cooperation.

BOOT CAMP

Mr. LEVIN. Mr. President, I was very encouraged to hear the discussion about boot camps on the floor last week. I have been a supporter of boot camp prisons for a long time, because I think they fit the bill we are looking for when it comes to punishing young, non-violent criminals: the punishment is sure and swift; it is tough; it steers these young offenders away from a life of crime and toward taking responsibility for their actions; it provides discipline, structure, and self-respect; it keeps them away from the hardened career criminals; and it helps free up space in traditional prisons for more serious, violent criminals.

I have learned a lot about boot camp prisons over the last few years. About 26 states have boot camp prison programs now. These are intensive programs that typically lock up young, non-violent offenders for 90 days to six months. During that time these offenders are required to adopt regimented, military-style routines—they wake up early, perform drills and physical exercises, do heavy labor and community service projects, and study under close supervision. There is no TV and no lounging around.

What often gets the attention of the public and the press when it comes to boot camps is the image of a drill sergeant yelling in an inmate's face. But that's only a small part of what's going on. What's also going on is that young, non-violent offenders are being taught to take responsibility for their actions, to give up their street-smart attitudes and work as part of a team, and to perform community service instead of preying on the community. There are also literacy programs and drug treatment programs so that when these offenders get back out on the street, they will be less likely to commit new crimes because they will be equipped to function as productive members of society.

There is another benefit to boot camps, too—they help states stretch their corrections budgets further.

The Subcommittee on Oversight of Government Management, which I chair, held two hearings on boot camps back in 1989, one here in Washington and one in my home state of Michigan. I've personally visited boot camps in Michigan and Florida, too.

At the hearings, we heard from State corrections officials, from staff working in the trenches at these facilities, and from inmates themselves about the value of boot camp prisons. Some of corrections staff had also worked in traditional prisons, and they told us that the difference between boot camps and traditional prisons was like day and night—traditional prisons too often just warehouse people until their sentence is up, while at boot camps the staff saw changed behavior and attitudes, for the better. Inmates too told us what a shock it was to get to boot camp and to feel discipline for the first time. They told us that it was tough, and that they thought about quitting and going to regular prison where they could sit around and wait out their sentence. They told us that they were motivated to stick to the straight and narrow when they got out—many for the first time in their lives.

I have seen letters from former inmates to their drill sergeants saying "thanks"—that for the first time someone cared—and letters from parents saying their sons had changed dramatically for the better as a result of the experience.

One of the lessons I have learned is how important follow-up programs are to the boot-camp concept. Boot camp is an intense experience; it's a shock. The daily schedule is grueling—almost every minute is controlled and it usually involves intensive physical effort or hard study. Young offenders experience that for 90 days or more, and then they are released. Just when they get a sense of order and purpose, they are returned to their old environment.

Unless there is a structured post-release program for these boot camp veterans, it is too easy to return to life before boot camp, and then all that structure, all that intensity is lost. The recidivism rate is about the same between boot camp and traditional prison, once you control for factors like the prisoners' age and seriousness of offense. That's due in part to the absence of adequate follow-up and post-release programs. The experts who study these programs all point to the need for intensive follow-up or "aftercare."

"Aftercare" is the term that's been adopted to describe the post-incarceration phase of a boot camp program. As I said, one thing the States have learned in running these programs over the last 10 years is that boot camp alone is not enough to turn many young offenders around if they are then returned to the same environment they came from. The lessons of boot camp need reinforcement on the outside if they are going to stick.

Building on the Oversight Subcommittee's work, I offered an amendment to the 1990 crime bill with Senator COATS to create a grant program to encourage States to create or expand their boot camp prison programs. We included in that grant program the explicit requirement that the quality of the provisions for aftercare be considered as an important factor in evaluating the proposals for grants. Grants totalling over $2 million have been awarded under that program by the Justice Department, with more planned for 1994. These grants have gone to programs in Missouri, Illinois, Kentucky, California, and Pennsylvania.

The bill before us recognizes the important role that boot camp prisons can play in an overall corrections scheme and will add two major opportunities for boot camp funding to the program Senator COATS and I were able to get established in 1990. The pending bill would provide money to States for boot camps as part of a formula grant program for alternative forms of punishment—of which boot camps are one possible form—and would also provide grant money to States or groups of states for establishing or expanding boot camp programs.

Mr. President, I am offering a amendment to the bill, along with Senator COATS, to improve one of these boot camp provisions. One of the boot camp provisions already contains the necessary language, but, inadvertently I believe, the section called "Alternative Punishments for Young Nonviolent Offenders"—which is the formula grant program to State and local governments for a variety of "alternative" sanctions, including boot camp prisons—has no requirement that these boot camp programs include "after care" components. The amendment that Senator COATS and I are offering would require that any boot camp funded under this section also include follow-up programs. The post-release follow-up may be educational or job training, drug counseling or treatment, intensive supervision, halfway house programs, job placement, or other self-help or peer group programs.

Again, the bill already recognizes the importance of follow-up to a successful boot camp program in the other boot camp provision, and, as I mentioned, follow-up is part of the grant program already in place as a result of our 1990 legislation. The Levin-Coats amendment simply adds the same requirement to the "Alternative Punishments" section.

TO AMEND THE LAW ENFORCEMENT OFFICERS PROTECTION ACT OF 1985

Mr. MOYNIHAN. Mr. President, I am pleased that the Senate has approved today, as part of the crime bill, my amendment to the Law Enforcement Officers Protection Act of 1985. In 1986, the Senate passed that legislation by a vote of 97 to 1. The Act made it unlawful to manufacture or import armorpiercing ammunition. President Reagan signed the bill into law on August 8, 1986.

As I said in 1986, cop-killer bullets have no place in the arsenal of any sportsman or law abiding citizen. They have only one purpose—to injure or kill police officers, Federal law enforcement officers, or even Presidents when they are wearing bullet-proof vests. The Senate has the responsibility to protect the Nation's law enforcement officers.

We did this in 1986, and we have done so again today. It recently came to our attention that a Swedish-made bullet, the M39B, does not fall under the 1986 prohibition because of its composition. The M39B is a 9mm round capable of piercing the soft body armor worn by police because it has a thick steel jacket surrounding a lead core—rather than the hard projectile core in other armor-piercing rounds.

The bureau of Alcohol, Tobacco, and Firearms [BATF] supports the ban on the M39B, which is limited to this kind of ammunition only. The Fraternal Order of Police and the Federal Law Enforcement Officers Association have also endorsed this legislation.

We need this bill to protect our police officers. We cannot stand idly by, waiting for the day when M39B bullets fall into the hands of criminals. That day has not arrived yet, but it will if this amendment does not become law. We must ban the M39B now.

Mr. President, I would be remiss if I did not mention for the record the indispensable assistance of Phil Caruso, President of the New York City Police Benevolent Association, who was of tremendous help in this as in so many other efforts. My thanks also to John W. Magaw, Director of the Bureau of Alcohol, Tobacco, and Firearms, James Pasco of the BATF, Dewey R. Stokes, National President of the Fraternal Order of Police, and Victor Oboyski, Jr., Executive Vice President of the Federal Law Enforcement Officers Association. I ask unanimous consent that letters from BATF, the Fraternal Order of Police, and the Federal Law Enforcement Officers Association, and an article from today's Washington Post be printed in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE TREASURY, BUREAU OF ALCOHOL, TOBACCO AND FIREARMS,
Washington, DC, November 4, 1993.
Hon. DANIEL P. MOYNIHAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MOYNIHAN: As the Senate takes up the issue of controlling handgun ammunition, I would like to take this opportunity to make you aware of a particularly dangerous type of ammunition now coming into circulation.

The M39B is a 9mm Parabellum caliber cartridge which defeats police soft body armor, but which is not subject to current law governing armor piercing handgun ammunition. As you know, current law controls handgun ammunition when the projectile or projectile core is made entirely of one or more defined metals.

The M39B escapes being covered because it utilizes an overly thick steel bullet jacket. The core of the bullet is lead.

Clearly as 9mm handguns continue to expend their market share, we in law enforcement are faced with the threat of offenders armed with high capacity, rapid firing handguns filled with ammunition, each round of which will punch through a policemen's body armor.

I know you appreciate the seriousness of this issue, and I hope you find the information about this ammunition informative. Pleased be assured of our interest in working with you on this issue and of our willingness to answer any questions you may have.

Sincerely yours,

JOHN W. MAGAW,
Director.

GRAND LODGE,
FRATERNAL ORDER OF POLICE,
Columbus, OH, November 1993.
Hon. DANIEL P. MOYNIHAN,
U.S. Senate, Washington, DC.

DEAR SENATOR MOYNIHAN: On behalf of the Fraternal Order of Police, I applaud your efforts to address the increasing violence in this country by introducing legislation aimed at controlling the distribution of ammunition. I now request that you take your proposed legislation an extra step by banning the sale of the M39B bullet.

The M39B bullet is a 9mm Parabellum caliber cartridge that is able to penetrate soft body armor used by police departments. As you know, armor piercing ammunition is tightly regulated by the Gun Control Act. This particular bullet is not currently controlled by those regulations.

It is imperative that M39B ammunition be banned from use, for the protection of the men and women in law enforcement who are charged with protecting the citizens of the United States.

Your continued support of the law enforcement community is appreciated by the members of the Fraternal Order of Police.

Sincerely,

DEWEY R. STOKES,
National President.

FEDERAL LAW
ENFORCEMENT OFFICERS ASSOCIATION,
November 4, 1993.
Hon. DANIEL PATRICK MOYNIHAN,
U.S. Senate, Washington, DC.

DEAR SENATOR MOYNIHAN: On behalf of the Federal Law Enforcement Officers Association, I am writing to thank you for attention to the terrible threat gun violence has become to our Nation's health.

I also want to take this opportunity to ask you to examine what can be done to stop the sale of the M39B 9mm Parabellum round of ammunition.

The M39B effectively penetrates soft body armor; but because its steel jacket, rather than the bullet or core of the projectile, gives it this ability it is untouched by existing law.

This is a round of ammunition that has found its way through a loophole in the law and is aimed at the heart of police officers everywhere.

We thank you as always for your interest in the public safety and urge you to act to stop the spread of this new "cop killer" ammunition.

Sincerely,

VICTOR OBOYSKI, JR.,
Executive Vice-President.

[From the Washington Post, Nov. 18, 1993]

JUSTICE DEPARTMENT URGES PENTAGON NOT TO PURCHASE "COP-KILLER" BULLETS

(By Pierre Thomas)

Amid growing concern about military arms making their way into street crimes, the Justice Department has been trying to stop the Department of Defense from purchasing armor-piercing bullets that pose a threat to American law enforcement.

The Justice Department's concern about 9mm bullets like the Swedish M39B is in keeping with a broader federal attempt to develop more controls on a new class of "cop killer" ammunition for handguns capable of slicing through bulletproof vests. The bullets now fall into a loophole in federal gun regulations and are not restricted, officials say.

The fear is that the rounds, if purchased in large quantities by the Pentagon, might end up in the wrong hands and become more readily available to criminals, leaving police vulnerable. Theft and pilferage from military bases has been a mounting concern of law enforcement agencies, who have watched criminals gain access to stolen military parts Sen. John Glenn (D-Ohio) has scheduled a hearing today that will explore the widespread theft and illegal use of military equipment by street gangs and others.

Last week, President Clinton announced that Treasury Department officials were reviewing whether certain bullets, including the Swedish-made M39B, should be banned from sale, setting the stage for what could be the next major legislative battle in the gun control debate. The gun lobby has argued that tighter regulation of bullets will do little to address the surge in violent crime.

The Justice Department's concern about a possible Defense Department procurement of armor-piercing rounds for standard use by U.S. troops began during the Bush administration and has grown more intense as the ammunition undergoes military testing and review.

"Any bullet that can pierce the body armor that police depend on to protect their lives is one that has no business on the street," said a Justice Department statement released yesterday.

After a request by Attorney General Janet Reno, Secretary of Defense Les Aspin promised in August that any large procurement of armor-piercing bullets for handguns will be reviewed and approved by the undersecretary for acquisition. Special provisions may be made to ensure that the bullets are protected from theft and pilferage.

Law enforcement has strongly objected to a possible procurement by DOD. "We'd have grave concern over the mass acquisition of ammunition that could easily get into the wrong hands and then be used to defeat the bulletproof vests that have been an effective safety device for police," said Daniel Rosenblatt, executive director of the International Association of Chiefs of Police.

The Justice Department became aware of the Defense Department's consideration of the M39B rounds during the Bush administration. Former attorney general William P. Barr contacted former defense secretary Richard B. Cheney to object to the possible procurement but got little response, administration sources said.

In April, Reno wrote Aspin to ask that the issue be reconsidered. Reno said she understands the possible need for armor-piercing bullets in some combat situations. But she expressed fear that these bullets and others like them—already present in this country, but not generally available—could put police at greater risk.

In his August letter, Aspin also said defense officials will assess risks to civilian law enforcement, including the potential for pilferage and theft, and would work closely with the Justice Department as it conducts the review.

Yesterday, Army spokesman Maj. Mark Samisch said the M39B is still being evaluated and no final decision about the bullet has been reached.

Federal law has banned some "cop killer" bullets capable of slicing through police body armor since the mid-1980s. But the federal law about such handgun ammunition is precise, using specific definitions about design to determine which rounds are prohibited. The new class of 9mm armor-piercing bullets do not fall under the federal definitions.

The Justice Department is working on a number of other proposals to restrict sale of armor-piercing bullets.

A team of department firearms experts is developing a new standardized ballistics test that could be used to sort out bullets that can pierce body armor but do not fit under narrowly constructed federal definitions. The proposal represents a radical change in handgun ammunition regulation, which has focused on how a bullet is made rather than its performance.

If a test can be developed, the department likely will support legislation requiring manufacturers to test the piercing ability of bullets before they are sold to the public.

"Everytime you see a new bullet [armor piercing], you have to come up with a new definition," said David Boyd, director of the National Institute of Justice's science and technology division. "We need to develop an objective scientifically based test. We will never stay ahead of the technology."

BROWN SENSE OF THE SENATE RESOLUTION ON FEDERAL PRISON INDUSTRIES

Mr. RIEGLE. Mr. President, I rise to speak in opposition to a resolution, sponsored by Senator BROWN with regard to Federal Prison Industries [FPI], contained in the Republican manager's amendments to the crime bill. I have decided not to object to the package of amendments even though I have serious reservations about this amendment, and I am deeply disappointed that the efforts of private industry and labor did not result in much needed changes. It is especially regrettable because this is one issue upon which most of us generally agree. FPI is an invaluable program which constructively employs thousands of Federal inmates across the country.

The Brown amendment states that it is the sense of the Senate that able-bodied Federal prisoners should work. Now, I think that we can all agree on that idea. However, the resolution proceeds to say that all Federal inmates should work—clearly, this cannot safely be done. Maximum security Federal prisons cannot, and should not be expected to, accommodate an FPI production facility where high numbers of prisoners are in less-supervised circumstances. The combination could be dangerous for correctional officers, and could jeopardize the security of prison personnel.

The amendment goes on to require that the Attorney General file a report to Congress within 4 months, outlining a strategy for employing more Federal prisoners. There are two major errors in this provision. First, it gives the Attorney General total authority over the contents of the report; as many of my colleagues know, one major criticism of the current summit on Federal Prison Industries process has been that the Justice Department and its Bureau of Prisons have exercised undue control over the contents of the summit final report, released last month. Although I have the utmost respect for the Attorney General, and I have met with the Director of BOP and Assistant Attorney General Sheila Anthony on this very issue, the Secretary of Labor should be an equal partner in any assessment of Federal prison labor programs.

Second, this provision specifies that only certain named parties will be consulted, and does not require that those comments be included in the Attorney General's report. While the amendment was redrafted to correct the total exclusion of private industry and labor representatives, this list of consulted parties still excludes the administrator of the Small Business Administration, the Secretary of Commerce, and some of FPI's largest Federal agency customers. The impact of FPI expansion into private commerce upon private companies and upon American workers will not be guaranteed adequate consideration under this amendment as currently drafted. Both of these errors are major shortcomings, and I am disappointed that these errors were not rectified.

Another issue of concern is the narrow focus of this required report from the Attorney General. According to the resolution:

> (3) the report shall contain a review of existing lines of business of the Federal Prison Industries, consider the findings and recommendations of the final report of the Summit on Federal Prison Industries (June 1992–July 1993) and make recommendations for legislation and changes in existing law which may be necessary for the Federal Prison Industries to employ more federal inmates.

By specifying findings and recommendations of the final summit report, this amendment purposely excludes the comment section of the summit report, which contains all of the concerns and issues raised by private industry and labor participants. It is wholly unfair to exclude these legitimate concerns from consideration by the Attorney General. This provision does not require a review of FPI's current marketing practices, a matter which is essential in assessing future diversification and expansion, nor does it require any assessment of the FPI administrative structure to ensure fair representation of industry and labor interests.

On its face, the Brown amendment sounds like an excellent idea—everyone agrees that federal prisoners should be given meaningful work through Federal Prison Industries, and that FPI needs to be diversified and improved. My opposition to the Brown amendment does not stem from any disagreement with its general intent, and I wish to make that absolutely clear. In fact, last year 24 of my colleagues and I, Democrats and Republicans, cosponsored a bill to further that very goal. We would have welcomed the support and cosponsorship of our colleague from Colorado at that time. Any approach to this serious problem needs to be fairly balanced between the competing interests of the federal prison system and private industry and American workers. This amendment could have been improved to achieve that balance, and I regret that it was not. For that reason I oppose the Brown amendment.

Mr. DOLE. Mr. President, I am pleased to join with my distinguished colleagues, Senator SIMPSON and Senator BRYAN, in cosponsoring this amendment.

Aliens—both legal and illegal—constitute an inordinately large portion of our total prison population. For example, nearly 25 percent of the inmates in the Federal system have alien status. In Los Angeles County, it has been estimated that more than 10 percent of the inmates in the county jails were in the United States illegally at the time of their arrest.

This amendment attempts to address the criminal-alien problem by incorporating many of the provisions of the neighborhood Security Act, the anticrime bill that Senate Republicans introduced last August.

For example, the amendment would streamline the deportation procedures for illegal aliens convicted of an aggravated felony by allowing a deportation order to be carried out immediately upon the completion of the prison sentence. The amendment would also authorize Federal trial judges to issue a deportation order at the sentencing hearing. Prior to the issuance of the order, the trial judge must obtain the concurrence of the commissioner of the INS.

Both of these provisions are designed to ensure that, once they have served out their sentences, criminal aliens will return to their country of origin, rather than return to the streets of our country to commit acts of violence once again.

In addition, the amendment increases the penalties for criminal aliens who reenter the United States after being deported. An aggravated felon who reenters the United States after being deported would be subject to a maximum prison term of 20 years, up from the current term of 15 years. An alien convicted of a less serious felony would be subject to a maximum prison term of 10 years, up from the current term of 5 years.

Finally, the amendment provides $13 million in funding for a criminal alien tracking center that is designed to help Federal, State, and local law enforcement authorities determine whether an individual arrested for an aggravated felony is indeed an alien. Congress first authorized the establishment of the tracking center in the 1988 Antidrug Abuse Act, but the center has never been funded.

Mr. President, this amendment will not solve the criminal-alien problem overnight, but it does represent a step in the right direction. I want to congratulate my colleague from Wyoming, Senator SIMPSON, for his continuing leadership on this important issue.

Mr. SIMPSON. Mr. President, I am very pleased to join Senator BRYAN in offering this amendment.

This amendment addresses the serious national problem of aliens who commit serious crimes in the United States.

The attorney general has observed that 25 percent of the convicts in the Federal prisons are aliens, legal and illegal. Let me state very clearly that this constitutes a very small percentage of the legal aliens in the United States, the great majority of whom are productive, law-abiding residents, nevertheless, these criminal aliens constitute a significant percentage of Federal convicts. Many, many more aliens are incarcerated in State and local jails and penitentiaries.

This amendment will provide the means to expeditiously deport those who have violated the hospitality of this country by committing serious felonies in the United States, and it will make it more difficult for those criminal aliens to reenter the country.

This amendment expands the definition of aggravated felony so that expedited deportation hearings may be held at the end of the alien's prison sentence of those aliens who commit serious crimes in the United States.

It streamlines the deportation procedures for criminal aliens and allows the Federal district courts, at the request of the attorney general, to issue deportation orders at the sentencing hearing of aliens convicted of an aggravated felony.

It restricts the defenses to deportation of an aggravated felon alien who has been sentenced to 5 years or more, and it increases the penalties for criminal aliens who fail to leave the United States, or who leave and attempt to illegally reenter the United States after a final order of deportation.

Also, the amendment allows electronic or telephonic deportation proceedings, and, where the alien and Government agree, it permits deportation proceedings without the presence of the alien.

Finally, the amendment authorizes funds for 5 years for a 24-hour criminal alien tracking system which will assist Federal, State, and local authorities in determining whether an individual arrested for an aggravated felony is an alien, and it will assist in identifying deported aggravated felons attempting to reenter the country.

The first section applies the expedited deportation procedures in the immigration laws to the following felonies: firearms violations, failure to appear to answer a felony charge, demanding/receiving ransom money, RICO violations, certain immigration-related offenses including alien smuggling and sale of fraudulent documents, child pornography, owning or operating a prostitution business, treason, and tax evasion.

The second section provides for the streamlining of the deportation proceedings for any alien—except permanent resident aliens—convicted of an aggravated felony. The deportation order would be carried out immediately upon the end of the prison sentence.

This provision would also eliminate three types of review of the deportation order—before an immigration judge, before the board of immigration appeals, and before the Federal court—but it would allow a court review to assure that the person sought to be deported is an alien and has been convicted of an aggravated felony. The attorney general may not execute a final order of deportation for 14 days in order to allow the alien an opportunity to seek that Federal court review.

The third section allows Federal trial judges to issue a deportation order at the sentencing hearing of aliens convicted of an aggravated felony. Such an order must be requested by the U.S. attorney with the concurrence of the INS commissioner. Notice of intent to seek a judicial order of deportation must be given promptly after a guilt adjudication or plea. The Government must show that the alien is an aggravated felon alien.

Judicial deportation in those cases would replace current administrative deportation procedures. Aliens found deportable under this process would have the right to appeal their deportation to the appropriate Federal appeals court of appeals.

The fourth section restricts the defenses against the deportation of aggravated felons except those aliens who have been permanent residents for at least 7 years, have lived in the United States during those years, and have been sentenced to—not served—less than 5 years imprisonment. Currently, a permanent resident alien is ineligible for relief from deportation if the alien has served 5 or more years for one or more aggravated felonies. This section would amend the language to make aliens who have been sentenced to 5 or more years ineligible for relief from deportation relief.

This standard is more relevant to judging the seriousness of an offense since dangerous criminals are at times released prematurely due to prison overcrowding, or other reasons unrelated to the seriousness of crime.

The next section increases penalties for failing to leave the country, or for reentering, after a final order of deportation has been issued. Currently, an alien who is deportable for criminal offenses, document fraud, or as a security risk is subject to criminal penalties of up to 10 years imprisonment for failure to depart. However, there are no penalties for failure to depart for aliens deportable for other reasons. Subsection (a) retains the current 10 year penalty and provides criminal penalties of up to 4 years imprisonment for aliens who are issued deportation orders on other grounds, and who fail to depart.

Subsection (b) increases the penalties for criminal aliens who reenter the United States after being deported. Aggravated felons who re-enter the United States could be imprisoned for up to 20 years in prison currently the penalty is 15 years. An alien convicted of other i.e., nonaggravated felonies who re-enters the United States could be imprisoned for 10 years currently the penalty is 5 years and this penalty will also apply to aliens convicted of three or more misdemeanors.

Subsection (c) restricts the judicial review of a deportation order in a criminal proceeding against a deported alien who has re-entered the United States. A challenge is available only if it is established that the alien was improperly deprived of judicial review of the original deportation order, and that the order was fundamentally unfair.

The fifth section clarifies current practice—everywhere except in the 9th circuit—that allows deportation proceedings to be conducted by electronic or telephonic means. Currently, immigration judges circuit ride to conduct deportation proceedings. Not all aliens contest their deportation and will agree to conducting the proceeding by telephone or closed circuit cameras. Others wish to raise issues in the proceedings, but want the proceedings to be conducted as soon as possible, and will agree to electronic or telephonic proceedings.

This section makes clear—for all circuits—that the attorney general is authorized to conduct these types of proceedings. This section also allows deportation proceedings to be conducted, in the absence of the alien, where waived or agreed to by the Government and the alien. Again, at times aliens do not contest the proceedings and will allow the proceedings to proceed without them. This section allows efficient use of Government resources in those instances where the alien consents to the proceedings.

Subsection (b) clarifies that the ability to begin deportation proceedings quickly after a criminal conviction does not create a legally enforceable right to have the deportation proceedings conducted within a certain time frame.

The final section authorizes funds for 5 years to implement a 24-hour criminal alien tracking system which will: provide assistance to Federal, State and local authorities to determine whether an individual arrested for an aggravated felony is an alien, and develop a computerized system to identify deported aggravated felon aliens so that they can be identified if they illegally attempt to reenter the United States.

This tracking system was established in the 1988 Anti-Drug Abuse Act and a program has been structured, however, funds have never been provided. INS has indicated that this tracking center would be a valuable asset to promptly identify, and eventually deport, aliens convicted of aggravated felonies.

I urge my colleagues to support this amendment.

PROHIBITING THE SALE AND TRANSFER OF HANDGUNS TO JUVENILES

Mr. WARNER. Mr. President, the amendment which I have sent to the desk and which is now pending will make it a Federal crime for anyone to sell, or transfer for consideration, a handgun or handgun ammunition to any person under the age of 18 years, except when such a sale or transfer is permitted under applicable State and local law and the parent or guardian of the juvenile has given their prior consent to the sale or transfer. This amendment is designed to strike at the heart of the juvenile handgun problem—namely, the private, uncontrolled sales of handguns and handgun ammunition to juveniles for cash, drugs, and the like.

This deficiency in the Federal criminal statutes was brought to my attention in recent months during my consultations with Federal judges in their chambers in Virginia, as well as in meetings with prosecutors, Federal and State, and chiefs of police throughout the State. In short, the Federal law now prohibits the sale of a handgun to a juvenile by a licensed dealer, but Federal law does not prohibit private sales and transfer of handguns and handgun ammunition to juveniles. What a senseless omission in our Federal law. My amendment would fill that void.

The issues which arise from the uncontrolled sale and transfer of handguns and handgun ammunition to juveniles are numerous and complex, and I recognize that there are a number of different approaches to these issues. For example, last week the Senate agreed to an amendment offered by the senior Senator from Wisconsin, Senator KOHL, and others which focused on criminalizing the possession of a handgun by a juvenile. I spoke to that amendment during debate on November 8, 1993, and described how my amendment would be complementary. While that approach in the Kohl amendment may work, I offer this amendment so that the conference between the Senate and the House of Representatives can consider also my approach as they draft the conference report.

I am concerned whether, even if it is a wise use of the time of Federal prosecutors and courts to process potentially thousands of juvenile offenders for mere possession of a handgun or handgun ammunition, our Federal programs and facilities for probation, parole, and confinement are capable of handling this large influx of juvenile offenders. Additionally, there are a vast number of situations in our society in which mere possession of a handgun by a person under 18 years of age is perfectly reasonable, and should not be made criminal conduct. But it has been my experience that criminal statutes with large numbers of exceptions are often more difficult to enforce, and often result in less enforcement.

Therefore, I prefer to focus on this problem in a more direct way—by focussing the Federal criminal law on the source on the guns and on the types of transactions most often associated with juvenile handgun violence. My amendment would make it a Federal crime for anyone to sell, or transfer for any consideration, such as drugs or other contraband, a handgun or handgun ammunition to any person under 18 years of age. These are the types of transactions which most often are associated with juvenile violence, and the amendment focusses on the people who would transfer handguns to juveniles for personal gain. There would be only one exception to that prohibition—if the sale or transfer were permitted under State and local law and the sale or transfer were with the prior consent of the parent or guardian of the juvenile.

My approach to penalties is also simple and direct. Any person who sells or transfers a handgun or handgun ammunition to a juvenile in violation of the statute would be subject to a penalty of up to $5,000, or imprisonment for up to 5 years, or both. However, if the person who sold or transferred the handgun or handgun ammunition to the juvenile did so knowing or having reasonable cause to know that the juvenile intended to use the handgun or handgun ammunition in a crime of violence, that person would be subject to up to 10 years imprisonment, up to a $5,000 fine, or both.

I believe this direct, straightforward approach to the problems caused by the uncontrolled sales and transfers for consideration, such as drugs, of handguns to juveniles is enforceable and, therefore, has the best chance to be effective. I urge my colleagues to support this amendment.

FAMILY BREAKDOWN

Mr. DOLE, Mr. President, I am pleased to join with my distinguished colleague from New York, Senator MOYNIHAN, in offering this important amendment.

Last week, the Senate took a big step forward in the war against crime. We earmarked $8.9 billion in funding to help our States and localities put more cops on the beat. We allocated $6 billion in additional resources to build more prison space. We passed our Nation's first Federal anti-gang statute. We adopted the Republican truth-in-sentencing proposal, which will encourage the States to upgrade their own criminal laws so that violent criminals are kept behind bars where they belong.

And best of all, we have attempted to pay for these proposals by embracing the Federal work force cuts outlined in the national performance review.

Mr. President, if all these measures are signed into law, they will do doubt take a bite out of crime, in the short-term, that is.

For, when all is said and done, the best deterrent to crime is not police, or a police cell, but something called conscience—that little inner voice that says: "No, you better not do that. It's wrong." For generations, people have developed conscience through the church, the schools, and most importantly, through families and the set of values that families have traditionally transmitted to their children.

Unfortunately, the American family today is in tatters. More than two-thirds of all black children, and nearly 25 percent of all white children, are born to unwed mothers. In some inner-city communities, the illegitimacy rate is a staggering 80 percent, as thousands of children are born each year into a world without fathers and to mothers who are simply unprepared for the responsibilities of Motherhood.

The corrosive impact of family breakdown on inner-city life cannot be underestimated. Not only is there a clear link between family breakdown and poverty, as Senator MOYNIHAN pointed out some 28 years ago, there is also an indisputable link between family breakdown and crime.

President Clinton was right on the mark when he recently suggested on "Meet the Press" that there was a direct correlation between crime and drugs, on the one hand, and the collapse of the two-parent family, on the other. To find proof of this relationship, we need look on further than our State reformatories, where nearly 70 percent of the juveniles housed in the reformatories come from homes without fathers.

Mr. President, this amendment is important because it is the first time the Senate has gone on record acknowledging the enormous social costs associated with illegitimacy. Our country cannot continue down this path, producing generation after generation of children without families and without values.

This amendment directs the Secretary of Health and Human Services to prepare a report on the possible causes of the breakdown of the two-parent family and propose remedial measures. I look forward to this report, and hopefully, Congress will be able to use it as a basis for legislative action.

Obviously, Government is not the Nation's nanny. It cannot, and should not be, responsible for raising our Nation's children. No Government agency can implant personal morality, nor can a congressional committee build character.

But if we're really serious about addressing the root causes of crime, we need to go to the deepest root of all—the family.

My aim here is not to renew the debate over family values, but rather to emphasize that we ought to value the family as an essential ingredient of any long-term approach to the crime epidemic.

Finally, I want to commend my colleague from New York for his foresight in bringing this difficult issue to the attention of the Senate and the American people.

Too often, Senator MOHNIHAN has sounded the illegitimacy alarm in isolation, only to be greeted with either outrage or apathy. Today, in 1993, we ignore this alarm at our own peril.

THE LORTON CORRECTIONAL FACILITY

Mr. WARNER. Mr. President, I rise today to join with my colleague Senator ROBB in offering this amendment to the anticrime legislation pending before the Senate.

Mr. President, the maximum security prison in Lorton is overcrowded at this time. Security enhancements must be established and updated at the complex before an expansion of the complex is ever contemplated. The residents who live in the neighborhoods near the complex are fearful of many safety issues which may arise if the prison is expanded to house even more inmates at the complex.

Mr. President, recently U.S. District Judge T.S. Ellis III held hearings on a case involving a Lorton prisoner who has a drug problem. In one of Judge Ellis' writings, he said he heard inmates talk about the ready availability of drugs at the prison. Judge Ellis wrote that the testimony moved the court to label Lorton a public disgrace.

Mr. President, I believe Fairfax County and the Commonwealth of Virginia should have the right to review and approve any expansion of the Lorton Correctional Complex because of the impact such an expansion would have on the safety of the citizens of Virginia and the property values of the people who reside in the neighborhoods surrounding the complex.

For many years Mr. President, I have urged the District of Columbia and the Bureau of Prisons to construct a Federal prison in the District of Columbia and proceed to identify locations for the facility and also seek comments from the general public. The Bureau of Prisons had a sum of $84,000,000 set aside for the construction of a facility to be built in the District of Columbia. Mr. President, after much opposition from the District of Columbia, the funds were eventually rescinded by H.R. 2118, the first Supplemental Appropriation bill. How can anyone seriously consider expanding the Lorton facility when the District of Columbia turned its back on its responsibilities and on the $84 million available to build a prison in the District of Columbia?

Mr. President, I am totally against any expansion of the Lorton Correctional Complex. I urge the District of Columbia to live up to its responsibilities and select an appropriate site in the District for a future correctional facility to be constructed. The inmate population at the Lorton complex must be reduced and the complex must have its security requirements enhanced.

PROHIBITING THE SALE AND TRANSFER OF HANDGUNS TO JUVENILES

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This deficiency in the Federal criminal statutes was brought to my attention in recent months during my consultations with Federal judges in their chambers in Virginia, as well as in meetings with prosecutors, Federal and state, and chiefs of police throughout the State. In short, the Federal law now prohibits the sale of a handgun to a juvenile by a licensed dealer, but Federal law does not prohibit private sales and transfers of handguns and handgun ammunition to juveniles. What a senseless omission in our Federal law. My amendment would fill that void.

The issues which arise from the uncontrolled sale and transfer of handguns and handgun ammunition to juveniles are numerous and complex, and I recognize that there are a number of different approaches to these issues. For example, yesterday the Senate agreed to an amendment offered by the senior Senator from Wisconsin [Senator KOHL] and others which focused on criminalizing the possession of a handgun by a juvenile. I spoke to that amendment during debate on November 8, 1993, and described how my amendment would be complementary. While that approach may work, I offer this amendment so that the conference between the Senate and the House of Representatives can consider also my approach as they draft the conference report.

I am concerned whether, even if it is a wise use of the time of Federal prosecutors and courts to process potentially thousands of juvenile offenders for mere possession of a handgun or handgun ammunition, our Federal programs and facilities for probation, parole, and confinement are capable of handling this large influx of juvenile offenders. Additionally, there are a vast number of situations in our society in which mere possession of a handgun by a person under 18 years of age is perfectly reasonable, and should not be made criminal conduct. But it has been my experience that criminal statutes with large numbers of exceptions are often more difficult to enforce, and often result in less enforcement.

Therefore, I prefer to focus on this problem in a more direct way—by focusing the Federal criminal law on the source of the guns and on the types of transactions most often associated with juvenile handgun violence. My amendment would make it a Federal crime for anyone to sell, or transfer for any consideration, such as drugs or other contraband, a handgun or handgun ammunition to any person under 18 years of age. These are the types of transactions which most often are associated with juvenile violence, and the amendment focuses on the people who would transfer handguns to juveniles for personal gain. There would be only one exception to that prohibition—if the sale or transfer were permitted under State and local law and the sale or transfer were with the prior consent of the parent or guardian of the juvenile.

My approach to penalties is also simple and direct. Any person who sells or transfers a handgun or handgun ammunition to a juvenile in violation of the statute would be subject to a penalty of up to $5,000, or imprisonment for up to 5 years, or both. However, if the person who sold or transferred the handgun or handgun ammunition to the juvenile did so knowing or having reasonable cause to know that the juvenile intended to use the handgun or handgun ammunition in a crime of violence, that person would be subject to up to 10 years imprisonment, up to a $5,000 fine, or both.

I believe this direct, straightforward approach to the problems caused by the uncontrolled sales and transfers for consideration, such as drugs, of handguns to juveniles is enforceable and, therefore, has the best chance to be effective. I urge my colleagues to support this amendment.

PRISONERS SHOULD WORK SENSE OF THE SENATE RESOLUTION

Mr. BROWN. Mr. President, I rise in support of my sense of the Senate resolution which expresses the sense of the Senate that all able-bodied Federal prisoners should work. I am pleased that the managers of this crime bill, the Senator from Delaware [Mr. BIDEN], and the Senator from Utah [Mr. HATCH], have agreed to include this resolution in the managers' amendments package.

I am further pleased that the chairman of the Judiciary Committee, Senator BIDEN, has agreed to review this matter of expanding work opportunities for federal prisoners after the Attorney General makes her report to the Congress as called for by my resolution.

Mr. President, recently the Washington Post carried an article written by a convicted murderer which offered an account of the daily activities of prison inmates at a Federal penitentiary. I ask unanimous consent that the article entitled, "Menace II the Mind" appear in the RECORD immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BROWN. Frankly, Mr. President, I was appalled at what I read. The article stated that the principal occupation of inmates is watching television. The author added that inmates prefer to watch violent television and that when they do, they cheer the bad guys and boo law enforcement. This is unacceptable.

After reading this article, I asked my staff to determine what the existing situation was with respect to work programs for prisoners. I was disheartened at what I learned. Traditionally, one-half of the Federal prison inmates had meaningful prison jobs. Now, with the increased prison population, less than one-quarter are employed in prison industry positions.

Let me repeat that, Mr. President. Because there are insufficient jobs available to federal prison inmates, only 25 percent of them work. My sense of the Senate resolution seeks to remedy that situation and put more prisoners to work.

It directs the Attorney General, in consultation with other executive branch officials and the private sector and labor, to prepare and submit a report to Congress by March 31, 1994 which describes a strategy for employing more Federal prison inmates.

The report called for by the resolution also is required to consider the findings and recommendations of the summit on Federal prison industries.

It is expected that the summit will convene again in January to issue its final findings and recommendations with respect to how more Federal prison inmates can be put to work.

Further, the resolution calls for the Attorney General's report to Congress to make recommendations for legislation and changes in existing law which may be necessary to employ more federal prison inmates.

Finally, Mr. President, the resolution requires the Attorney General to weigh three considerations when making her recommendation to Congress.

First, the Attorney General should focus on the creation of new job opportunities for Federal prison inmates. Second, the Attorney General should identify the degree to which any expansion of lines of business that may negatively impact the private sector or displace labor. And third, Mr. President, the Attorney General is directed to assess the degree to which opportunities for shall business can be utilized.

Mr. President, the simply fact is that only 25 percent of Federal prisoners work. All should. This sense of the Senate resolution which I have authored attempts to move inmates from the television room and into the workroom. I look forward to working with my colleagues in the other body to ensure that this resolution is accepted by the conferees to the crime bill

Finally, Mr. President, I wish to note that my friend and colleague, the Senator from Mississippi, Senator TRENT LOTT, desires to be added as an original cosponsor of this resolution. I would ask unanimous consent that he be so added.

Thank you, Mr. President. I yield the floor.

EXHIBIT 1

MENACE II THE MIND—FOR A GENERATION OF BLACK MEN IN PRISON, TELEVISION IS THE DANGEROUS DRUG OF CHOICE

(By Larry Bratt)

The room is cavernous and filthy, its putrid yellow walls coated with the droppings of the pigeons who, impervious to the wiles of the guards, roam freely throughout the building. You would not think, by the looks of it, that this place would be a haven for hundreds of young, healthy black men. Yet most days every bench and picnic table in this room is filled. For this room houses the large-screen televisions. It is one of the most important places in the Maryland State Penitentiary.

When people outside the world of the maximum security prison imagine life within it, images of rock-breaking labor and back-breaking workouts probably spring to mind. As far as I can see, a more realistic image begins with the theme song of "America's Most Wanted." As the show blares on the rec area's set, raptness sets in. The inmates are intrigued by what criminal acts others are committing, hoping to pick up possible pointers on how to do whatever crime is being showcased. As importantly, they watch to see if anyone they know—perhaps even themselves—is being profiled.

As the show progresses, all spectators naturally cheer for the fugitive and applaud wildly when one of law enforcement's finest falls by either gunfire or by being outsmarted by the good guy—that is, the criminal. If the outlaw is finally apprehended, the hissing and booing last for minutes. Then, during the commercial break before the next show begins, comes serious discussion on how the criminal could have avoided capture.

I believe there is something wrong with this picture.

Every day America's 4,000 prisons and jails receive and influx of young African-American males as new inmates. Many of the million-plus inmates have been convicted of senseless crimes of violence. The majority of these young men first encountered crime and a glamorised view of the drug trade through a TV set. Inside—being "corrected"—they now spend the great bulk of their days watching TV.

Having been an eyewitness for the past 11 years, I don't need a newspaper to tell me why this is so. America's prison system is plagued by overcrowding and limited budgets for rehabilitation and counseling. This perhaps explains how TV—low-cost, low-maintenance, wildly popular—has become so central to our lives here. In institutions across America, it has emerged as the pacifier of choice for a population of uneducated and alienated black men. And that fact is not an accident.

In the Maryland penitentiary many of our actions and possessions are severely restricted. Yet every inmate is allowed a television as part of his personal property.

When men are locked in their cells they freely watch whatever they want. Between 3 and 4 in the afternoon, during the last daytime count to make sure all inmates are still in the institution, a great many men watch the soap operas. Myself included—I'm a "General Hospital" devotee. Afterwards at dinner one can overhear talk about what happened on such and such soap. The bottom line is that practically every inmate in this penitentiary watches television and weekend videos an average of eight hours per day.

This prison society of couch potatoes is a nationwide phenomenon. More than two-thirds of America's prisons are currently wired for cable. In-cell sets are commonplace, and the constant drone of public-area TV's no less than a necessity. This phenomenon is part of an unspoken correctional philosophy. As Donald Cline, associate superintendent at Missouri's Jefferson City Correctional Center, told Newsweek last year, "I don't want to call it a babysitter, but it's certainly an adult-tender." Unfortunately, it is exactly what the inmates I see here don't need.

The average age of African-American males entering prison today is approximately 20. The typical inmate has little more than an elementary education. Many do not even know the alphabet. Three-fourths are high school dropouts and an equal number have never held a job for any length of time. Most have grown up in a household without the benefit of male guidance. Is it possible that this lack of education and male supervision has left a void in these young black men? Could it be endless hours of adolescent TV viewing of murders, drug deals and other assorted crimes have simply made these children inured to right or wrong?

Despite recent confessions by network executives about the consequences of overexposure to TV violence, I'm not so naive as to place TV at the root of all criminal behavior. Yet when I spoke recently with six newly arrived teenage inmates—all serving life sentences for homicide—they each told the same story. They were raised by a mother who struggled to make ends meet. As children they spent their time going to school, roaming the streets and watching television. They struggled in schools where they felt like outcasts. Unable to relate to a curriculum that did not speak to their experience and their world, ignorant of any skills to make them employable, they sought solace and identity through television.

Seeing TV shows depict the rewards of a life of crime and drug dealing as financially profitable, each of these impressionable teens stated that the risks of death and or imprisonment were worth it, because they had nothing to live for. So they joined gangs and began dealing drugs for the local drug lords. Today, the general opinion is that when they are released the first thing they are going to do is get a gun. Then they are going to rob so that they can get money. Anyone who gets in their way is going to die.

If TV formed in some large or small way their values upon arrival here, the daily dose of it once inside only furthers that amorality—and adds to it the idea that they are so worthless to society that no effort is being made to educate or train them for something better. Since society considers them not worth saving, they reason, they will continue to treat that society with murderous disdain.

Their logic is not unsound. For at this institution, and many others, working or studying or otherwise improving oneself is a wholly optional activity—one for which there are only minimal rewards. This is why, out of a fluctuating population of around 950 men, fewer than a third have jobs, which range from print and sew-shop workers to janitors (we call them "tierman") to kitchen and yard workers. For these men, a typical day begins with breakfast, which is served in shifts starting at 5 a.m. The day's work begins at 8:30 and ends at 4:30, interrupted only for an 11 a.m. head count, lunch and a 2:30 lock-down allowing the guards to change shifts.

The non-workers rise for meals and come for head counts and lock-downs, of course, but their days are otherwise unstructured. They can take showers, use the phones or go outside in the yard. They can run, play softball or football depending on the season, lift weights or engage in the boxing and basketball competitions that are organized in some form all year long. But as often as not you can find them before the TV, which goes all day long. In the unbearably lonely and empty life of an inmate, "Oprah," game shows and the soaps provide a powerful distraction and consolation.

Even education, for the few who choose to obtain it, accommodates the TV lifestyle and offers little in the way of actual learning except for those truly determined to get it. At present there are roughly 120 men to General Equivalency Diploma, or GED, classes out of the total population of 950— a surprisingly small number considering the fact that school lasts only an hour and a half a day and earns you 95 cents a day. (The paycheck, as far as I can discern, is the chief reason inmates enroll.) Tests are usually open-book, and men are allowed to take them back to their cells, where cheating is, not surprisingly, rampant. When even this simple schedule grows oppressive, the men can easily receive a pass from a guard in order to go out and watch TV or play ball.

If a man wants to get an education, he can study and learn. For myself, prison has proved expansive of both girth and intellect. And approximately 150 other men—mostly older men—attend college courses that are conducted by instructors from Coppin State College and the Community College of Baltimore. These men often have jobs too. They tend to be very serious about getting a college degree, hoping it may one day make the difference in being granted parole. It may also, of course, keep them out of prison once that wish is granted. Nationwide, prisoners who earn a college degree have a recidivism rate of only 9 to 12 percent, compared to about a 65 percent recidivism rate for the uneducated prisoner.

The stakes for educating and training inmates are thus enormously high. Yet with a population that is 40 percent illiterate, the up-front costs are, too. Thus the incentives are rigged so that inmates are less inclined to remake their lives than to sit around and do what they've been doing for most of their lives—that is, nothing more useful than watching TV and scamming with the homeboys.

How to wean inmates from the electronic narcotic and its destructive influence? These young men have nothing but time; put it to productive use.

First, we must regulate their TV viewing and make schooling a mandatory requirement in their daily activities. Push young people to get not only their high school diploma, but a college degree. Convince them that the education they're getting is no joke. Staff the courses with trained, committed professionals who want to nurture these young wounded minds back into health, instead of handing out As and Bs for illiterate responses in open-book exams. Teach each one a marketable skill—one actually needed by society. Teach them, too, about their African heritage and its rich place in world and American history—and its role today. Give them a sense of racial and national pride.

And give them, above all, the right incentives to redeem themselves after so many years of bitterness, hatred and wasted time. As they progress with the program, let their efforts to succeed lead to a reduction in their sentences, a recovery of their futures. In short, turn off the tube and unlock the power of their minds. Who knows what good may come of it?

Yes, it will cost. But we are a nation known worldwide for our humanitarian efforts. Do we want to be remembered as a people which turned their backs on their own children? Can we allow an entire generation of African American youth to be lost because our officials have concluded that a real effort to reach them would cost a few thousand dollars too much?

And do we really want to suffer the consequences when those young men, gorged with television and starved of all real care, return to the 'hood? Do we really want to discover firsthand that the television culture of America's prisons cannot soothe the savage beast.

TRANSFERRING THE NAME OF THE ALBERT V. BRYAN COURTHOUSE

Mr. WARNER. Mr. President, I would like to bring to the Senate's attention my intention to offer legislation to transfer the name of the Albert V. Bryan Courthouse from its current location at 200 South Washington Street in Alexandria, VA, to the new Federal courthouse at Courthouse Square South and Jamieson Avenue.

The Congress approved in 1986 the designation of the Federal courthouse in Alexandria, VA, in honor of Judge Bryan's lifetime of public service. When the construction of the new Federal courthouse in Alexandria is complete, it is most appropriate that this building bear the name of Albert V. Bryan.

Judge Bryan was appointed to the U.S. District Court in 1947 by President Truman and promoted to the Appeals Court by President Kennedy in 1961. In his years on the bench, Judge Bryan developed a record as a legal conservative, yet his court was pivotal in ordering the integration of Virginia's public schools in the days of massive resistance.

Mr. BAUCUS. I thank the Senator from Virginia for bringing this matter before the Senate. As the Committee on Environment and Public Works is responsible for the naming of public buildings, I can assure the Senator that this matter will be considered by the Committee at its first appropriate business meeting in the next session.

THE BRYAN AMENDMENT ON THE RELEASE OF CERTAIN CONFIDENTIAL INFORMATION

Mr. SIMPSON. Mr. President, I rise in support of Senator Bryan's amendment.

This measure modifies the amnesty provisions of the Immigration Reform and Control Act of 1986.

In the legalization program under the act, we provided that all information disclosed by an illegal alien in the process of applying for amnesty would be confidential.

We included this provision to encourage people to come forward and apply, if they qualified, without fear that they would be disclosing themselves to immigration authorities, and be subject to deportation.

To help convince unauthorized aliens that it was truly an amnesty, we kept the legalization files confidential.

However, law enforcement officers have been placed in the frustrating position of trying to identify alien suspects in crimes—such as the recent CIA shooting—without the benefit of identifying information, such as photographs and fingerprints already in the government's possession.

This proposal to provide a narrow exception to this requirement of confidentiality, administered under the supervision of a Federal judge, for the purpose of locating aliens for law enforcement purposes, or to identify deceased persons, is acceptable.

As I mentioned, the purpose of the confidentiality of these files has largely been served—more than 3 million aliens felt secure in making an application for legalization—and I feel it is now appropriate to provide access to this confidential information under the limited circumstances provided in the amendment.

I support the amendment and urge my colleagues to support it.

TROOPS-TO-COPS

Mr. DOLE. Mr. President, Senate Republicans and President Clinton both understand that putting more cops on the street means more security for the American people.

Unfortunately, new police hires have not kept pace with a violent crime rate that has increased by 500 percent since 1960. Throughout the 1950's, for example, there were more than three police officers for every violent felony that was reported. Today, for every police officer, there are more than three violent crimes reported. If we are to win back our security, we must reverse this dangerous trend.

That is why Senate Republicans introduced the Neighborhood Security

Act. This comprehensive anticrime legislation authorized, and paid for, $2 billion in funding to put more men and women on State and local police forces.

One of the key proposals contained in the Neighborhood Security Act was a troops-to-cops program. The amendment I am offering today with my distinguished colleagues, Senator HATCH and Senator THURMOND, reflects this proposal.

Mr. President, the bottom line is that our fighting men and women have discipline and weapons training—two key skills necessary for effective law enforcement. The talents of these young men and women should not be wasted, but rather should be put to work fighting crime on our State and local police forces.

As a result, this amendment directs the Attorney General to allocate a portion of the $8.9 billion that has already been authorized for community-policing grants to help State and local governments hire former members of the armed forces who have been involuntarily discharged from the military as a result of the recent cuts in defense spending.

In making grants under this troops-to-cops program, the Attorney General may give priority to communities that are adversely affected by a recent military base closing.

One of the conditions for receiving grants under the program is an assurance that the new police hires will not displace those officers who are already on the job. In other words, the purpose of the grant is to augment existing police forces, not supplant police officers who are now at work fighting crime.

Mr. President, this is a common sense amendment that will achieve two goals at the same time: It will add another powerful weapon to our arsenal in the war against crime, while giving our veterans another opportunity to serve their country. I am pleased that the full Senate has endorsed the amendment.

INTERNATIONAL CHILD PORNOGRAPHY

Mr. GRASSLEY. Mr. President, the United States is today the world's most lucrative market for commercially produced child pornography. In this country, child pornography is a multibillion dollar business. And that figure does not include the very high costs to children of the abuse that they suffer in the production of these materials. Outside this country, unfortunately, American dollars are used to promote the abuse of children. Hundreds of thousands of children throughout the world are victimized in this trade, and many of them are abused for the purpose of child pornography destined to be sent to this country.

My amendment will raise significant barriers to the international trafficking in child pornography by making it a felony under United States law for any person outside the United States to produce or traffic in child pornography, with the intent that such materials are to be imported to the United States.

When I distributed my originally drafted amendment to Chairman BIDEN, this portion would not only have covered child pornography intended to reach the United States, but also would criminalize such material where the pornographer knows, or has reason to know, that the pornography will reach the United States. In the spirit of trying to work out some of Senator BIDEN's concerns, this portion of my amendment applies only if the individual actually intends that the materials reach the jurisdiction of the United States.

Federal law can extend criminal jurisdiction to off-shore production of these materials that are destined for this country, just as it can prohibit off-shore manufacture, production, and distribution of illegal drugs destined for the United States.

United States citizens also promote child prostitution abroad through pedophile sex tourism, a practice where Americans and tourists from other western nations travel overseas to places where children are readily available for purchase and abuse. My amendment will follow the Mann Act to prohibit overseas travel by Americans for the purpose of engaging in sexual acts with a minor where such activity would be a crime if it had been committed within Federal jurisdiction.

It is clear that Congress possesses the constitutional authority to criminalize acts committed by Americans in other countries, even where those acts might be legal under the laws of the jurisdiction where the act was committed. Think of the practical consequences if the law were otherwise.

It is not a crime under the law of foreign countries not to pay American income taxes. If Congress could not extend its criminal jurisdiction to Americans abroad, evading the tax laws without consequence would be very easy. All Americans would have to do, in the absence of any treaty, is live abroad, fail to pay taxes for the length of the period of the statute of limitations, and then return home.

The Mann Act itself prohibits certain immoral practices if they occur within foreign commerce. That act has been upheld against numerous constitutional challenges in the more than 80 years since it has been enacted. And the Federal Air Piracy Statutes do not apply only in American Jurisdiction nor even only against Americans.

Let me take a few moments to discuss some of the relevant case law. I do this because the chairman of the committee had some concerns about the constitutionality of my amendment. I hope this discussion will alleviate his concerns and make clear that this amendment is constitutional.

Apart from a long history of criminal statutes that apply overseas, the Supreme Court has expressly upheld the authority of Congress to pass such legislation. In 1922, a unanimous Supreme Court, one which included Justice Holmes and Justice Brandeis, decided United States versus Bowman. There, the Court upheld the convictions of defendants for conspiracy to defraud a corporation in which the United States is a shareholder. One of the crimes was committed in Brazil. The defendants argued that because the crime was committed in a foreign country, Federal Law could not reach them.

In an opinion by Chief Justice and former President Taft, that argument was rejected. The Court held that the application of a Federal criminal statute outside the United States was a Question of statutory construction—not one of Constitutional Law. For crimes against private persons—such as the one in my amendment—the Court stated:

> If punishment for them is to be extended to include those committed outside of the strict territorial jurisdiction, it is natural for Congress to say so in the Statute, and failure to do so will negative the purpose of Congress in this regard.

It might be objected that the Bowman case can be distinguished on the ground that a greater nexus with the United States existed there than with this Amendment, as the United States Government was a shareholder in the defrauded company.

That fact made a difference in the Court's holding, but only as to the relevant rule of statutory construction. In a case where the Government is involved, the statute is presumed to have effect outside the United States, unless Congress expressly states to the contrary. This is not a relevant issue for constitutional law purposes.

Indeed, Mr. President, as recently as this year, the Supreme Court ruled that the Sherman Antitrust Act, which of course contains criminal provisions, has effect outside the United States. As the Court noted, the Sherman Act applies to foreign conduct that was meant to produce, and did in fact produce, some substantial effect in the United States. That is also true of the conduct prohibited by this amendment.

Even the dissent in the antitrust case agreed that Federal criminal laws can apply even to noncitizens abroad. The power of Congress to enact such legislation derives from its article I authority to regulate commerce with foreign nations. The dissent noted that although extraterritorial statutes are construed to avoid conflict with international law, the American statute will prevail if it is reasonable. The key factors in determining reasonability are the character of the activity to be regulated and the importance of the regulation to the regulating State.

I believe that child sex tourism, which necessarily involves profit from the rape of children too young to consent, is vile. It is of a character that cries out for regulation. Moreover, I maintain that the importance of this regulation to the United States is great. In fact, I think it is so great that it is not merely enough to prohibit acts that take place in this country, but the gruesome act must itself be made illegal if committed by an American abroad. All those who agree with me that Americans should be stopped from traveling abroad to engage in sexual acts with children will agree with this amendment.

Finally, Mr. President, my amendment will also strengthen laws against child pornography and child exploitation at home. Although many States have enacted strong legislation on this subject, others have not. I had originally planned to condition certain future grants to States on enacting sufficiently tough legislation. Because Chairman BIDEN objected to that approach, I offered to merely have Congress recommend that enactment of such laws.

Instead, my amendment expresses the sense of Congress that States should enact laws protecting children under 18 From exploitation through child pornography. The States also should impose criminal penalties of a maximum sentence of at least one year and require the forfeiture of assets used or gained from the sexual exploitation of children.

Mr. President, I believe that this amendment will provide additional protection to children who face the horrors of exploitation through child pornography. It will cut down on the amount of child pornography that would otherwise enter this country. And it would hopefully lead to expanded protection for children at home from similar evils. I am grateful that my colleagues have agreed to take this necessary action, and I appreciate the efforts of the Chairman to reach an agreement acceptable to all concerned.

CRIME AMENDMENTS TO S. 1607

Mr. BROWN. Mr. President, I rise today to address the Dole-Hatch-Brown gang crime amendments to S. 1607. The gang crime epidemic that is claiming neighborhoods around Colorado and across the Nation. The Department of Justice reported there were 4,881 gangs, 249,324 gang members, 1,051 gang-related homicides, and 46,359 gang incidents in 1991. The problem of criminal street gangs is growing larger and larger as gangs extend their criminal networks across State lines into new drug and crime markets throughout the country.

No longer are criminal street gangs just a bunch of bullies loitering on the street corner. Criminal street gangs have become sophisticated criminal enterprises: They have large financial bases and money laundering operations, they are entrenched in the international drug trade, they recruit and employ minors to perform their criminal leg-work to shield the leadership from prosecution, and they are exporting their gangs across State lines into new territories and neighborhoods.

To successfully control criminal street gangs, we must first pass laws which treat gangs as organized crime. The prosecution of low level gang members has not been a successful criminal street gang control strategy. The gang problem defies traditional local law enforcement techniques, much like the Mafia was able to evade serious prosecution before the advent of RICO [The Organized Crime Control Act of 1970]. To remedy this problem, the Dole-Hatch-Brown gang crime amendment treats criminal street gangs as organized crime.

The Dole-Hatch-Brown gang crime amendment enables the successful prosecution of criminal street gangs in several ways: It makes it a crime to be a member of a criminal street gang, it makes it a crime to recruit gang members, it increases penalties for committing gang crimes and for leading or organizing gangs, it enables prosecutors to join the trials of gang members to expose the criminal leadership, it enhances penalties for selling drugs near playgrounds and public housing, and it allows the Government to seize the fruits of gang crimes.

The Dole-Hatch-Brown gang amendment is a bold initiative toward eliminating criminal street gangs. This amendment gives prosecutors the tools they need to get behind the lesser gang members and convict the leadership. By prohibiting membership to a criminal street gang, prosecutors will be able to prosecute more and more members of criminal street gangs. By joining the trials of gang members, the leadership of criminal street gangs can more easily be exposed. By punishing gang recruiters and organizers, the criminal street gangs will be stripped of their leadership for a long, long time.

It is our belief that this gang crime control amendment is a necessary and effective tool for law enforcement. Indeed, we must aggressively prosecute criminal gangs so that our inner-city children can quit planning their funerals at the age of 11.

Passage of this amendment stands for the proposition that we will not sit idly by as drive-by shootings kill innocent children, as crack houses decimate neighborhoods, as heartless, violent gangs recruit a generation of children into the underworld of crime, drugs and violence.

We need to punish gang members for recruiting kids into the criminal gang world of drugs and violence in order to give the next generation of Americans a chance. The Dole-Hatch-Brown gang crime amendment accomplishes this. Passage of the Dole-Hatch-Brown gang crime amendment is a strong first step toward eradicating gang crime and reclaiming America's neighborhoods.

BOOT CAMPS STATEMENT—LEVIN/COATS AMENDMENT

Mr. COATS. Mr. President, I am very supportive of the provisions in the crime bill on boot camps and am gratified that so many of my colleagues on both sides of the aisle see the potential in using boot camp programs. I believe this concept can provide enormous benefit to States and communities.

In 1989, I proposed the Innovative Boot Camp Prison Act to promote shock incarceration as an alternative to prisons for some individuals. I have offered amendments on boot camps in the past which have been overwhelmingly approved in this body. In 1990 Senator LEVIN and I offered an amendment to the crime bill which embodied much of my Innovative Boot Camp Prison Act language.

The provisions now contained in this crime bill build on what we have already achieved in boot camp funding. Through this authorization and because of the Byrd amendment's trust fund provision, $2 billion will now be available to States who wish to build boot camps or prisons for drug treatment. Another $200 million is available to States for a variety of programs—including boot camps—as alternative punishment for young nonviolent offenders.

I believe boot camps as an alternative to traditional incarceration is an idea which must be pursued. Our traditional method of locking criminals up seems not to deter future crime. We must be prepared therefore to explore new ideas.

Nonviolent offenders make up 50 percent of our prison population. While prison walls and cells serve the important purpose of isolating dangerous criminals from society, does it make sense to strip nonviolent prisoners of their privacy and possessions, expose them to constant threats of violence, warehouse them with hardened criminals, deprive them of meaningful work, and then expect a rejuvenation of morals and manners? Prisons protect society. They don't reform lives.

The boot camp concept is based on the notion that young drug users, white collar and petty criminal, and other first time nonviolent offenders should be given a chance to rehabilitate and reform themselves. Although each State's program varies, boot camps traditionally provide a short 90- to 180-day period imprisonment followed by a return to a community supervision for young adult recruits who have not been in prison before. The program includes a rigorous, military-style, physical regimen, discipline, hard labor, drill and ceremonial exercise. Programs also include drug testing and treatment, counseling, and education.

I believe that shock incarceration—as it is also called—is a more appropriate form of punishment for those persons who have been convicted of nonviolent crimes. These programs offer drug offenders, white collar criminals, petty thieves, and other first-time offenders in their late teens and twenties who are serving short sentences an opportunity to be rehabilitated. It is hoped that boot camps can help turn around young offenders before they have committed themselves to lives of crime. Boot camps can teach these individuals about the values of a work ethic and individual responsibility, a sense of self-worth, self-discipline, and an understanding of the consequences of criminal activity. They can also provide the education, skills, and other tools to become productive, contributing, and law-abiding members of society.

Boot camps as an alternative to imprisonment have been growing in appeal in recent years. In the last 3 years the number of States using boot camps has grown from 11 states to 26 while the total number of boot camps in the country have increased to 41 and 18. In addition two Federal boot camps—called intensive confinement centers—one for men and one for women opened in 1990. Each State's boot camp vary some in size, requirements, and program, but they all use military model as the focus.

The boot camp provisions in the crime bill establish the criteria by which States may apply for funds to build boot camps. It also provides for an evaluation to determine the success of these boot camps. I believe that giving States grants to open up boot camps is just the right approach to encourage States to explore this alternative.

Mr. President, I do not look at boot camps as a panacea for all our criminal justice problems. We continue to have a shortage of prisons for violent criminals. I believe that we need prisons to isolate violent and dangerous criminals from society. The more comprehensive law enforcement provisions of this bill will be meaningless if we cannot keep violent criminals behind bars.

According to Bureau of Justice statistics, violent criminals sentenced to an average of 7 years and 11 months actually only serve 2 years and 11 months, one-third of their sentence. Fifty one percent of violent offenders are released from prison before they serve 2 years; 76 percent are released before serving just 4 years.

I believe boot camps can provide enormous relief to States experiencing caps due to overcrowding. By using boot camps for nonviolent offenders, additional cell space is freed up in prisons for the more dangerous criminals. States who have released prisoners early because of overcrowding will be encouraged to keep violent offenders in prisons for their full terms.

We must be more serious about seeking cost-effective and longer term solutions to crime on our society. I believe boot camps can serve as an effective alternative to prisons for some individuals. Shock incarceration may play an important role in turning young offenders away from lives of crime—thereby saving communities the associated costs of recidivism and saving the lives of potential future victims. They also help States address their overcrowding problems. Moving eligible non-violent offenders to boot camps frees up places in prisons for those who commit violent crimes.

The GAO report of April of this year concluded that it is still too early to determine the effects boot camps are having on recidivism. This can only come with more time and study. However, State Administrators are seeing some positive results from the use of boot camps. And boot camps are cost effective.

The costs of running boot camps are far less than building prisons for nonviolent offenders. Assessments in early January of 1993, indicate that on average the cost of maintaining an inmate at a boot camp was $17,500 compared with $25,000 at a prison. Even if an overwhelming improvement in recidivism has not demonstrated yet, the cost savings alone are worth the effort, as its growing popularity among States clearly shows.

Mr. President, an essential element of a successful boot camp program is the aftercare program. If boot camps are really going to do the job in turning young offenders from crime, there must be more to the program than the actual boot camp experience. When individuals leave boot camps, they return to the same environment. This is where follow-up is so important.

The amendment that Senator LEVIN and I are offering to the bill would make clear that States must provide an aftercare program in order to receive funding under the alternative punishments section of the bill. The amendment simply adds that for boot-camps, States must provide assurance that aftercare services such as educational and job training programs, drug counseling or treatment, parole or other post-release supervision programs, halfway house programs, job placement programs, and participation in self-help and peer group programs will be available to those individuals going through a boot camp program.

I appreciate the willingness of the managers of the bill to accommodate this clarification.

AUTHORIZE APPROPRIATIONS FOR STATE LEADERSHIP ACTIVITIES TO PROMOTE SAFE SCHOOLS

Mr. COCHRAN. Mr. President, my amendment will authorize the Secretary of Education to allocate funds to States to promote and coordinate safe schools programs.

It is important to support initiatives to assess school violence problems, provide community education programs and teacher training for combatting and preventing school violence, and the acquisition of metal detectors and resources for hiring more security personnel for schools. Grants to local school districts made available on a competitive basis will be a big help.

The State leadership amendment I am offering authorizes $10 million in fiscal years 1995 and 1996, divided among all States who apply. The amount each State will receive will be determined by the percentage of funds that State receives under the Chapter 1 concentration grant formula, except that no State will receive less than $100,000. This will help States fight school violence until the more comprehensive safe schools act that is currently pending as part of the elementary and secondary act reauthorization is adopted.

The funds included in the Cochran amendment will be targeted for: Supporting the services of a statewide resource coordinator; providing technical assistance to both rural and urban local school districts; disseminating information on successful school violence prevention programs funded through other Federal, State, local or private sources; and funding other activities the State educational agency deems appropriate to assist in reducing school violence and crime.

Mr. President, America's school children should not fear for their lives on the way to school, once they get there, or on the way home. Parents and communities across the country are outraged because their children are not safe in their schools.

There are numerous examples in every State of senseless violence every day in our schools. To me, this is one of the most disturbing aspects of the violent crime epidemic. Children in schools are killing each other. We have people doing ride-by-shootings into playground areas at schools. Youth gangs on school property are a serious problem. These are not just the problems of the large cities but they plague our rural communities as well.

It comes as no surprise that students in violent schools are much less likely to concentrate on higher academic achievement, are less likely to stay in school and receive the educational preparation necessary to be successful members of our society.

The trends are alarming. According to the 1993 National Education Goals Report, 9 percent of 8th graders, 10 percent of 10th graders, and 6 percent of 12th graders brought a gun to school in the previous month in 1992. This is intolerable, and we must do something to stop it.

We expect students to be serious about school. But schools, and surrounding communities, also have an obligation to create an environment where teaching and learning can take place.

President Bush and the Nation's governors established six national education goals for elementary and secondary schools in 1989 at the historic Charlottesville education summit. The sixth goal is "by the year 2000, every school in America will be free of drugs and violence and will offer a disciplined environment conducive to learning."

In the 4 years since the education summit, we have made little progress in reducing school violence and crime. I believe this amendment will provide important support to the efforts of the States to deal with this most frightening problem in many of our schools.

PRISONERS MUST WORK

Mr. BROWN. Mr. President, I rise to thank my colleague, the Senator from Delaware, for agreeing to accept my sense-of-the-Senate resolution on expanding work opportunities for able-bodied Federal prisoners. I will insert at another point in the RECORD a short statement on this resolution, but for the moment I want to propound a question to the Senator.

Mr. BIDEN. I would be pleased to respond to the Senator's question.

Mr. BROWN. I thank the Senator. Is it the intention of the Senator from Delaware to have the Judiciary Committee review the matter of Federal prison inmate employment?

Mr. BIDEN. I say to the Senator from Colorado that it is this Senator's intention, as chairman of the Judiciary Committee, to review this matter once the Attorney General makes her report to the Congress and to take all necessary and appropriate action at that time.

Mr. BROWN. I thank the Senator and yield the floor.

Mr. D'AMATO. Mr. President, I rise today to speak on the Brown amendment to the crime bill.

Senator Brown's amendment aims at putting criminals to work. For this I commend my colleague and friend from Colorado. However, it is also imperative that we not let convicted prisoners displace even one job in non-criminal industries.

Federal Prison Industries, FPI, the Government corporation created in 1934 to train and employ Federal prisoners, needs to be looked at closely as a means of employment for criminals. Prison work should not be at the expense of hard-working, law-abiding citizens in this country. The way FPI is set up now, if a civilian contractor wants to bid on a contract with the Federal Government, it may, as long as FPI has not placed a bid already. If, however, FPI does want to bid on the contract, civilian contractors have no option except to withdraw their bids.

Also, if a civilian contractor already has an existing contract with the Federal Government and FPI decides they want to produce the same product, the civilian company is forced to halt production and hand over the contract to FPI.

Mr. President, I am reminded of an example in my own great State of New York where a small business owner, who manufactured communication cords for helicopters used in Operation Desert Storm, was forced out of business because he lost his contract to prisoners.

FPI came in and decided it wanted to sell the exact same product. The New York company was forced to stop production and turn over its business to FPI. However, the New York firm was able to provide the cable to the Government in similar quantities for under $40 per unit. Awards to FPI, depending on quantity, ranged from $45.88 per unit to $54.15 per unit. This is at least 14.7 percent higher. There was a high rejection rate by the Department of Defense and ultimately, FPI's intrusion into the communication cord business translated into greater costs to the Department of Defense and the placing of our pilots at greater risk. The end result was an inferior product at highly inflated prices.

Small business suffers when FPI is given an unfair advantage over noncriminal industry. FPI was created with the intention of rehabilitation of prisoners. Rehabilitation need not require that the man on the street be robbed twice.

REGIONAL PRISONS AMENDMENT

Mr. COCHRAN. Mr. President, I am pleased that the managers have accepted my amendment which will help provide Federal prison expansion quickly and at significant cost savings. It directs the Attorney General to consider the feasibility of converting Federal correctional complexes currently in the planning or construction phase to regional prisons.

Some Federal correctional complexes now under development or construction have already acquired sufficient land and met the necessary Federal, State, and local regulatory requirements. These facilities may provide an opportunity for conversion to regional prisons quickly, and at a substantially reduced cost.

There is no excuse for letting violent criminals roam the streets of our cities, and our towns, and our rural communities, preying on innocent victims when they ought to be in jail. If we need more prisons and jails, let's get with it and build more. This amendment will point the Attorney General toward expanding our prison space and creating regional prisons with additional prison cells for violent criminals.

I am pleased the Senate earlier accepted an amendment offered by my distinguished colleague from Ohio, Senator GLENN, which encourages the construction of innovative, low-cost prison facilities. That amendment directed the Attorney General to assess the cost-efficiency and utility of using modular construction as an alternative approach to conventional bricks-and-mortar construction.

I want to commend his efforts and express my support for accelerating prison construction through innovative and cost-efficient construction, such as modules and other technologies.

Again I thank the floor managers for accepting my amendment.

COMMUNITY SCHOOLS YOUTH SERVICES AND SUPERVISION GRANT PROGRAM AND OLYMPIC YOUTH DEVELOPMENT CENTERS

Mr. DANFORTH. Mr. President, I would like to say just a few words about the amendment offered by my friend and colleague Senator DOMENICI and I. This amendment builds on S. 1138, the Community Schools Act of 1993, introduced in June by myself and Senator BRADLEY with 20 cosponsors from both sides of the aisle.

At the core of community schools was a basic concept—unsupervised children are more likely to get involved in dangerous and illegal activities. Increasingly, parents are unavailable for their children, especially at 3:00 on weekday afternoons. And this problem is especially acute in economically depressed, high crime neighborhoods. Children suffer and grow up to perpetuate the cycle.

Sometimes, the absence of parents is a result of their own involvement in drugs or other illicit activities. Sometimes it is because they are struggling to make ends meet. But the issue is not why children are left alone, it is what we can do about it. The issue is: how can we help the children?

Children need attention, they need a family. They need encouragement and challenges. If they are not getting these from their parents, they will join up with groups of other kids. Unsupervised, and with only television as an influence, living in a world of drugs, sex, and guns, these groups have become what we all refer to as gangs. Drug dealers capitalize on the disenfranchisement of these kids and use them as pawns.

This is how the cycle of drugs and violence is perpetuated. In this crime bill, we are committing over $20 billion to control violent crime. The vast majority is going to police, prisons and rehabilitation programs of various types. I support these measures. We desperately need more police, more prison capacity, and creative programs to deal with offenders and victims.

But until we also address root causes as well, we are doomed to repeating the cycle. That is why this amendment is so vital. Prevention must be the centerpiece of any crime package. Police and prisons and alternative sentencing programs all treat symptoms. They are all initiatives directed at people who have crossed the line into criminal activity. This amendment treats the disease. It treats the disease of disenfranchisment and disconnection. And it goes farther. The first generation of children who are given safe, supervised lives will carry inside them the antibody and will transmit it to their own children. This approach carries the hope of actually breaking the cycle.

We are committing ourselves to spending billions on prison costing $100,000 for each cell. The cost of keeping a prisoner is $30,000 a year. Let us spend $500 million out of a multi-billion dollar package—just 2 or 3 percent of the package cost—to help kids stay out of trouble.

And let us capitalize on existing assets. Public schools are open roughly 7 hours a day, 170 to 180 days a year. Put another way, a quarter of a trillion dollars worth of public school buildings, classrooms, gyms, swimming pools, libraries and other facilities, are locked up and their owners—the communities—kept out, 85 percent of the time. Communities are clamoring for a place to nurture and protect their children and are ready to devote their own time and efforts. With grants provided under this amendment, the communities themselves will be able to keep their public school facilities open after 3:00 and all year round.

This is not a new idea. Hundreds of communities have implemented before- and after-school programs with a host of educational and recreational activities. Last year in Missouri alone, 675 public school buildings were kept open for community use after school hours and over 6,000 volunteers contributed almost 100,000 volunteer hours.

However, according to a study by the Carnegie Corporation's Task Force on Youth Development and Community Programs, nationally, those who need it most—kids in poverty—do not have such programs. There are exceptions and some, like St. Louis' Walbridge Caring Communities Program and Independence's Schools of the 21st Century Program, have shown how much impact a safe haven for at-risk children can have on a community. That is why the Community Schools Act of 1993 targets distressed areas.

This amendment does not tell communities how to reach their children. It does not set up a vast bureaucracy. It does not turn the government into a substitute parent. But if communities come together with a proposal we can now help them save their own children.

I want to thank Senator DOMENICI for his energy and commitment to working together with me and Senator BRADLEY on this project. I listened to Senator DODD on the floor today, and he has been a leader on this issue. In fact, we have incorporated his Ounce of Prevention Council into our amendment. I am certain that with his help and that of the rest of our coalition, including numerous and respected advocates for children, we will see this amendment survive intact through the conference committee.

This is an important fight, and if the final version of the crime bill contains provisions such as this amendment, I will have renewed confidence that Congress is truly trying to treat the terrible plague of violent crime in this country.

Mr. BIDEN. I thank the Chair.

Mr. DOLE. Have the amendments been agreed to?

The PRESIDING OFFICER. Yes.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CRIME AND ABUSE AGAINST PEOPLE WITH DISABILITIES

Mr. DOLE. Mr. President, despite all that has been said about the crime bill, at least one very important thing remains unsaid. For perhaps the first time people with disabilities have been explicitly included in a crime bill. I sponsored an amendment to collect statistics on hate crimes against the disabled, such as arson of group homes for people with mental retardation. Another provision stiffens penalties for such crimes. I was also pleased to join with Senators COHEN and HATCH to provide for criminal background checks on persons providing home care and personal assistance services. For many disabled persons, daily personal assistance is essential to independent living. That assistance should not be an invitation to exploitation.

It is not only these targeted provisions that are important to people with disabilities, but others concerning child abuse and sexual violence. We know too well that all Americans are vulnerable to crime, but people with disabilities are at special risk. For example, children with disabilities are almost twice as likely to be abused as other children, and disabled people are more than one and a half times likely to be victims of sexual violence.

I cannot tell you the extent of other crimes against the disabled because no one collects that information—but we should assume it is high. However, I do know that in a 1986 Louis Harris Survey of Disabled Americans, fear—fear of being hurt, fear of being a crime victim—was ranked as the No. 1 reason why they did not engage in social activities as often as other Americans—whether going to the movies or visiting with friends. Although the Congress has done much over the past 25 years to remove architectural barriers, people with disabilities rank these barriers only fifth among the reasons why they don't go out more. Yet, until now, almost no one has paid attention to what people with disabilities say is their biggest barrier.

Mr. President, 3 years ago we enacted the Americans with Disabilities Act, determined to pursue a national policy of full participation of people with disabilities in American society. But that policy will remain hollow if people with disabilities are afraid to leave their homes, or afraid of their personal assistants.

No doubt about it, this crime bill makes an important start in overcoming the barriers of fear faced by people with disabilities—if only because we can't begin to fix a problem until we recognize one exists. But this crime bill is only a start. We need to know much more about the risks of violence and abuse faced by the disabled, and we need good ideas for other solutions, particularly at the State and local level.

FEDERAL ANTIGANG STATUTE

Mr. DOLE. Mr. President, last week, the Senate adopted an amendment that would make it a Federal crime to participate in, or include others to participate in, a criminal street gang.

I want to take a moment to recognize my distinguished colleague from Colorado, Senator HANK BROWN, who was instrumental in drafting this historic legislation and in ensuring its adoption by the Senate. We all owe Senator BROWN a debt of gratitude for his work in helping make our neighborhoods safer from criminal street gang activity.

Mr. RIEGLE. The crime bill currently before the Senate contains dozens of provisions aimed at making our communities safer. Some of these provisions will be more effective than others. But our most important goal here should be to send increased Federal assistance directly to those communities facing the most serious crime problems. And some of those communities are scattered far beyond the city limits. We know that crime has grown exponentially all across our Nation—in southern towns, rural midwestern farmlands, and small New England villages.

Every Senator here has heard horror stories from their own home State, has met with constituents who live in fear every day, and has made promises to police officers to pass a crime bill which will tangibly improve our communities and our quality of life.

And what kind of quality of life do we have right now across America? We have cases like one involving the 14-year old in Detroit who unflinchingly murdered Elizabeth Alvarez, a pregnant mother, at a bank teller machine in broad daylight—he bragged about shooting her in the head to his friends. Or the case of Jon Gamble, a young Michigan teen who was shot dead after he accidentally brushed against the wrong person in a restaurant doorway. Or the four teenagers who confessed to killing and dismembering two young friends at the instruction of three adults. Or the latest case, just 2 weeks ago, of the young Ann Arbor woman who was kidnapped at gunpoint from her boyfriend's car, tied up, stuffed into the assailant's car trunk, taken to a remote area and repeatedly raped and beaten, and then thrown off a bridge into a river—and this woman actually survived. We must draw on the anger that we feel when hearing about crimes like these, and use that energy in moving this crime bill forward through conference, in joining together to end this insanity, to end this violence, and to break the cycle of crime in this country.

Today, we have the opportunity to pass crime legislation that will effectively fight crime, and nothing does that better than increasing funding for local community crime control efforts. Right now, State and local law enforcement agencies are struggling to stop the avalanche of crime that is falling upon them.

Communities with high violent crime rates often have the most underfunded schools and health facilities. These areas are also the ones with the most limited tax bases from which to meet their pressing crime control needs. Oftentimes the most painful choice these cities face is allocating limited funding to education on the one hand, and to law enforcement on the other. We must lend a helping hand to these areas, and I believe that the funding in this crime bill is a critical first-step toward that goal.

And violent crime does not stop at the city limits—suburban areas, small cities and towns have certainly not been spared the ravages of violent crime. Drug dealers are moving their operations to suburbs and rural areas to avoid big-city police departments. These areas often employ only a handful of law enforcement officers, and are particularly vulnerable to the criminal element. This bill will put thousands of police officers on the beat in cities, suburbs, and rural areas alike.

Many parts of this crime package bill have been contentious, both here and in our home States, and certainly each of us had our own wish list of things we would have liked included or excluded from this bill. But I am hopeful that the final result will take major steps to make our communities safer places to live for everyone.

The PRESIDING OFFICER. The clerk will read the bill for the third time.

The bill (S. 1607) was read for the third time.

ORDERS FOR FRIDAY

Mr. BIDEN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:15 a.m., Friday, November 19; that following the prayer, the Journal of proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; and that there then be a period for morning business not to extend beyond 9:45 a.m., with Senators permitted to speak therein for up to 5 minutes each, with the period for morning business under the control of Mr. MITCHELL, or his designee; and, that at 9:45 a.m., the Senate resume consideration of S. 1607.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

RECESS UNTIL 9:15 A.M., FRIDAY

Mr. BIDEN. Mr. President, if there is no further business to come before the Senate—and I hope there is none—to come before the U.S. Senate today, I ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 1:36 a.m., recessed until Friday, November 19, 1993, at 9:15 a.m.

NOMINATIONS

Executive nominations received by the Senate November 18, 1993:

DEPARTMENT OF STATE

SAM W. BROWN, JR., OF CALIFORNIA, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS HEAD OF DELEGATION TO THE CONFERENCE ON SECURITY AND COOPERATION IN EUROPE (CSCE).

EXPORT-IMPORT BANK OF THE UNITED STATES

MARIA LUISA MABILANGAN HALEY, OF ARKANSAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE EXPORT-IMPORT BANK OF THE UNITED STATES FOR THE REMAINDER OF THE TERM EXPIRING JANUARY 20, 1995, VICE CONSTANCE BASTINE HARRIMAN.

DEPARTMENT OF AGRICULTURE

FREDERICK GILBERT SLABACH, OF MISSISSIPPI, TO BE AN ASSISTANT SECRETARY OF AGRICULTURE, VICE FRANKLIN EUGENE BAILEY, RESIGNED.

EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

JAMES H. SCHEUER, OF NEW YORK, TO BE U.S. DIRECTOR OF THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT, VICE WILLIAM G. CURRAN, JR.

THE JUDICIARY

HELEN G. BERRIGAN, OF LOUISIANA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF LOUISIANA VICE PATRICK E. CARR, RETIRED.

TUCKER L. MELANCON, OF LOUISIANA, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF LOUISIANA VICE THOMAS E. STAGG, JR., RETIRED.

DEPARTMENT OF JUSTICE

ROBERT DALE ECOFFEY, OF SOUTH DAKOTA, TO BE U.S. MARSHAL FOR THE DISTRICT OF SOUTH DAKOTA FOR THE TERM OF 4 YEARS VICE GENE G. ABDALLAH.

ROSA MARIA MELENDEZ, OF WASHINGTON, TO BE U.S. MARSHAL FOR THE WESTERN DISTRICT OF WASHINGTON FOR THE TERM OF 4 YEARS VICE NOREEN T. SKAGEN.

ROBERT JAMES MOORE, OF ALABAMA, TO BE U.S. MARSHAL FOR THE SOUTHERN DISTRICT OF ALABAMA FOR THE TERM OF 4 YEARS, VICE HOWARD V. ADAIR.

JAMES ROBERT OAKES, OF LOUISIANA, TO BE U.S. MARSHAL FOR THE WESTERN DISTRICT OF LOUISIANA FOR THE TERM OF 4 YEARS, VICE BRIAN P. JOFFRION.

CLEVELAND VAUGHN, OF NEBRASKA, TO BE U.S. MARSHAL FOR THE DISTRICT OF NEBRASKA FOR THE TERM OF 4 YEARS VICE THOMAS A. O'HARA, JR.

RICHARD RAND ROCK II, OF KANSAS, TO BE U.S. MARSHAL FOR THE DISTRICT OF KANSAS FOR THE TERM OF 4 YEARS VICE KENNETH L. PEKAREK.

FEDERAL MARITIME COMMISSION

WILLIAM D. HATHAWAY, OF MAINE, TO BE A FEDERAL MARITIME COMMISSIONER FOR THE TERM EXPIRING JUNE 30, 1998. (REAPPOINTMENT)

IN THE COAST GUARD

THE FOLLOWING OFFICER OF THE U.S. COAST GUARD RESERVE FOR APPOINTMENT TO THE GRADE OF REAR ADMIRAL:

ROBERT E. SLONCEN

THE FOLLOWING OFFICER OF THE U.S. COAST GUARD RESERVE FOR APPOINTMENT TO THE GRADE OF REAR ADMIRAL (LOWER HALF):

RICHARD W. SCHNEIDER

THE FOLLOWING OFFICER OF THE U.S. COAST GUARD TO BE A PERMANENT COMMISSIONED OFFICER IN THE REGULAR COAST GUARD:

STEPHEN M. MIDAS

IN THE ARMY

THE FOLLOWING U.S. ARMY RESERVE OFFICER FOR PROMOTION TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 593(A), 3371 AND 3384:

To be brigadier general

COL. JAMES A. LASSART [redacted]

THE FOLLOWING NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTION 624, TITLE 10, UNITED STATES CODE:

JUDGE ADVOCATE GENERAL'S CORPS

To be colonel

GARTH K. CHANDLER [redacted]
MICHAEL C. CHAPMAN [redacted]
KENNETH CLEVENGER [redacted]
ROGER W. CORNELUIS [redacted]
VINCENT J. FAGGIOLI [redacted]
WILLIAM E. HARLAN [redacted]
GARY J. HOLLAND [redacted]
ROBERT F. HOLLAND [redacted]
FRANKIE D. HOSKEY [redacted]
JOHN E. KING [redacted]
MICHAEL R. NEDS [redacted]
LOUIE REYNA [redacted]
THOMAS J. ROMIG [redacted]
JAN W. SERENE [redacted]
GARY W. SMITH [redacted]
JOHN M. SMITH [redacted]
CHARLES E. TRANT [redacted]
MICHAEL D. WARREN [redacted]

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER OF THE MARINE CORPS FOR PERMANENT APPOINTMENT TO THE GRADE OF COLONEL UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

GUY B. ROBERTS [redacted]

THE FOLLOWING NAMED OFFICER OF THE MARINE CORPS RESERVE FOR PERMANENT APPOINTMENT TO THE GRADE OF COLONEL UNDER TITLE 10, UNITED STATES CODE, SECTION 5912:

JAMES R. SANDBERG [redacted]

THE FOLLOWING NAMED OFFICERS OF THE MARINE CORPS FOR PERMANENT APPOINTMENT TO THE GRADE OF LIEUTENANT COLONEL UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

WILLIAM F. CAMPBELL [redacted]
MICHAEL J. HEALEY [redacted]
THOMAS M. KINNEAR [redacted]
JOHN F. MACDONALD, JR. [redacted]
JAMES H. O'DONNELL [redacted]

THE FOLLOWING NAMED OFFICERS OF THE MARINE CORPS RESERVE FOR PERMANENT APPOINTMENT TO THE GRADE OF LIEUTENANT COLONEL UNDER TITLE 10, UNITED STATES CODE, SECTION 5912:

WALLACE J. HUGGIN, JR., [redacted]
CHARLES W. STRONG [redacted]

THE FOLLOWING NAMED OFFICERS OF THE MARINE CORPS FOR PERMANENT APPOINTMENT TO THE GRADE OF MAJOR UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

KELLY D. CROSS [redacted]
GUY F. HARTMAN [redacted]
MARK E. MAREK [redacted]
PATRICK D. NOONAN [redacted]
JAMES L. STALNAKER [redacted]
ROBERT E. TURNER, JR. [redacted]

IN THE NAVY

THE FOLLOWING-NAMED LIEUTENANT COMMANDER IN THE STAFF CORPS OF THE NAVY FOR PROMOTION TO THE PERMANENT GRADE OF COMMANDER, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 628, SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW:

JUDGE ADVOCATE GENERAL'S CORPS

To be commander

CHARLES M. CLOPTON

THE FOLLOWING-NAMED LIEUTENANT IN THE STAFF CORPS OF THE NAVY FOR PROMOTION TO THE PERMANENT GRADE OF LIEUTENANT COMMANDER, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 628, SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW:

MEDICAL CORPS

To be lieutenant commander

FLOYD A. DOUGHTY

THE FOLLOWING NAMED LINE OFFICER TO BE REAPPOINTED PERMANENT LIEUTENANT (JUNIOR GRADE) IN THE MEDICAL SERVICE CORPS OF THE U.S. NAVY, PURSUANT TO TITTLE 10, UNITED STATE CODE, SECTION 531:

MEDICAL SERVICE CORPS, USN, PERMANENT

To be lieutenant (junior grade)

DWAYNE LINDSEY

THE FOLLOWING NAMED LINE OFFICERS TO BE REAPPOINTED PERMANENT LIEUTENANT (JUNIOR GRADE) IN THE SUPPLY CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5582(B):

SUPPLY CORPS, USN, PERMANENT

To be lieutenant (junior grade)

MICHAEL W. BERNHARD
MATTHEW J. BROWNING
JAMES K. GOODALL
MICHAEL M. MALLOY
JEFFREY M. MILLER
THOMAS E. PARSHA
JONATHAN R. PFIFFNER
GREGORY G. RUSSELL
EDWARD E. SIMPSON, JR.
MICHAEL J. STIGLITZ

THE FOLLOWING NAMED LINE OFFICERS TO BE REAPPOINTED PERMANENT ENSIGN IN THE SUPPLY CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5582(B):

SUPPLY CORPS, USN, PERMANENT

To be ensign

STEPHEN E. ARMSTRONG
GARRY J. BAKER
CARLOS R. BARATA
TODD C. BIEBER
JOHN R. BRIEGEL
PATRICK A. BURSON
JAMIE A. CLARK
ERIC L. COHEN
MICHAEL R. CURTIS
BERNARD P. CYLC
DEAN W. DORCAS
SHANE E. HANNAFORD
KEITH S. HARRIS
DANIEL B. HODGSON
STEVE A. JOHNSON
MATTHEW K. LINCE
VERNON L. LOWE
DAVID W. LUTZ
BRIAN W. MILBY
ALEXIS R. MILLER
EDWARD G. MONINGER, III
TEOFILO C. NINO, JR.
JOSEPH T. PHILLIPS
JENNIFER J. ROWE
SHON M. SEILE
DAVID M. SILVERNAIL
JOHN B. THERIAULT
SHANE A. THRAILKILL
JAMES M. VANDERMEER
MERLE R. WILSON
SCOTT Y. YAMAMOTO

THE FOLLOWING NAMED NAVAL ACADEMY MIDSHIPMEN TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

STEVEN HARLOW DEMOSS
KIMBERLYN MICHELLE DRAYTON
DOUGLAS AARON FACTOR
GREGORY MICHAEL FALLON
THOMAS STEVEN REYNOLDS
DENISE ELLEN WOLFF

THE FOLLOWING NAMED NAVAL RESERVE OFFICERS TRAINING CORPS PROGRAM CANDIDATES TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

EDWARD T. ANDERSON
JAMES A. BEDARD
BRET E. BISHOP
WILLIAM A. BLACKMON
KEIR D. BREITENFELD
MYRA L. BURRIS
PETER G. COELHO
JOSHUA R. HEPOLA
GEORGE C. HOWELL, III
DONNA R. KUMBALL
CARY M. KNOX
SCOTT E. MEDLIN
HARRY T. PHELPS
ROBERT A. SCINICARIELLO
STEVEN K. SPEIGHT
NEIL S. WILLIANN
GREGORY J. WIRTH

THE FOLLOWING NAMED DISTINGUISHED NAVAL GRADUATES TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

ROLFE E. ASHWORTH
JUSTIN D. ELSON
WILLIAM L. HARDMAN
DENNIS J. KLEIN
MARK A. MENDELMAN
JERRY W. MILLER
DANNY A. WHITFIELD

THE FOLLOWING NAMED U.S. NAVY OFFICERS TO BE APPOINTED PERMANENT LIEUTENANT IN THE JUDGE ADVOCATE GENERAL CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

REBECCA A. CONRAD
JAMES A. PROTIN

THE FOLLOWING MEDICAL COLLEGE GRADUATE TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

CHARLES J. WOODS

THE FOLLOWING FORMER U.S. NAVAL RESERVE OFFICER TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

WILLIAM A. F. WOODS

THE FOLLOWING NAMED U.S. NAVY OFFICERS TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

JOHN I. FOSTER, III
KATHRYN L. JOHNSON
PATRICK M. MCQUILLAN

THE FOLLOWING NAVY ENLISTED COMMISSIONING PROGRAM CANDIDATE TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

WILLIAM J. KRAMER

THE FOLLOWING NAMED DISTINGUISHED NAVAL GRADUATES TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

ERIC L. ALTSHULER
BUDD E. BERGLOFF
BRENT J. BISCHOFF
SCOTT P. BONZ
JACK F. BROWN
SEAN J. CARROLL
ROBERT H. CASSOL
JEFFREY S. ELLSWORTH
PHILLIP L. FAUCHEUX
FULVIA M. FIORANI
JOHN A. GEARHART
GARTH D. GRIMM
ROBERT L. HENDRY
KENNETH R. KUBOWICZ
PHILLIP S. LODGE
JOHN A. MAKAR
STEVEN MANCINI
LARRY G. MCCULLEN
JEFFREY D. MCGEE
JOSEPH M. NAULT
CHRISTOPHER H. NEILL
KEVIN M. POLLO
RUEBEN REYNOLDS
STEVEN J. SKRETKOWICZ
ERIC A. SODERBERG

THE FOLLOWING MEDICAL COLLEGE GRADUATE TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

BRUCE R. BOYNTON

THE FOLLOWING NAMED U.S. NAVY OFFICERS TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

MICHAEL G. SENEFF
FREDERICK B. SHANNON

THE FOLLOWING U.S. NAVY OFFICER TO BE APPOINTED PERMANENT COMMANDER IN THE LINE OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

JAMES B. ANNIS

DEPARTMENT OF STATE

JOHN B. RITCH III, OF THE DISTRICT OF COLUMBIA, TO BE THE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE VIENNA OFFICE OF THE UNITED NATIONS AND DEPUTY REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE INTERNATIONAL ATOMIC ENERGY AGENCY, WITH THE RANK OF AMBASSADOR.

IN THE NAVY

THE FOLLOWING NAMED TEMPORARY LIMITED DUTY OFFICERS, TO BE APPOINTED PERMANENT LIEUTENANT IN THE LINE AS LIMITED DUTY OFFICERS OF THE U. S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5589(A):

LIEUTENANT, LIMITED DUTY OFFICERS, LINE, USN, PERMANENT

JOHNNY R. ADAMS
WILLIS R. AGEE
MELVIN L. AKINS
CONRADO K. ALEJO
SCOTT A. ALEXANDER
TIMOTHY S. ALEXANDER
CLAUDE A. ALLEN
BILLY G. ANDREWS, JR
HERBERT W. ARMSTRONG
THOMAS W. ARMSTRONG
WILLIAM D. BAILEY
CONSTANCE J. BAKER
KENNETH D. BAKER
WALTER L. BANKS
CHRISTOPHER J. BARBOUR
ANTHONY BARRY
VICTOR H. BECK
JAMES C. BEENE
RICHARD S. BEGGS
AUGUST J. BELLARDINE, JR
JOSE M. BERNARDO
BOYD J. BETTIS
MICHAEL P. BETTS
DEBORAH L. BOOTH
DANIEL P. BRANNICK
MICHAEL L. BRONS
ANTHONY C. BRUNER
KARL M. BRYAN
FRANK V. BULGES
ROBERT W. BULLEN
CHARLES R. BUNCH
JOHN N. BURK
CHRISTINE D. BUSSLER
GREGORY K. BYNUM
STEPHEN D. BYRD
WILLIAM T. BYRD, JR
PHILLIP L. CARD
DONALD W. CARR, JR
ALDEN E. CARVER
BRUCE D. CASPERS
RICHARD CERWINSKI
DAVID O. CHAMBERS
RICHARD B. CHAPMAN
DAVID E. CLARK
JOHN P. CLIFTON
RICHARD F. CLOUGH
ROBERT B. COCO
DONALD D. COLLETTE
DONALD E. COLLINS
FRANKLIN L. COLLINS
JOSEPH P. CONNORS
DANIEL B. CONRAN, JR
VICTOR M. CORA
BRUCE W. COSBY
JAMES B. COUNTS
BRUCE V. COX
ALLEN CRISP
JACKIE W. CRUSE
WILLIAM D. CURRY
KNARVELL DAILEY
MARCELO M. DALISAY, JR
JAMES V. DANIELS
JOSEPH G. DAVIS
MICHAEL D. DAWSON
ENRIQUE R. DELEON
DAVID L. DILLENSNYDER
DANNY J. DOBBINS
DENNIS J. DOERING
CHARLES H. DORSEY
ROSS A. DUNAKIN
DOUGLAS D. DUPLAYEE
DAVID K. DYE
KENNETH A. EPLING
DARREL E. ERICKSON
JOHN E. ERICKSON, JR
HILARIO A. ESTRADA
STEVEN J. FINNEY
JAMES R. FITZGERALD
CAROL S. FLYNN
BEN M. FORD
MARK J. FORSTER
ANITA L. FRANCIS
DONALD J. FRASER
ANTHONY W. FRAZIER
RONALD W. FREITAS
LEONARD M. FRIDDLE
ALAN D. FULLERTON
ANGELITO R. GALICINAO
DEBORAH R. GALUSHA
KYLE J. GALUSHA
WILLIAM J. GARLINGHOUSE
THOMAS P. GARRITY
RODNEY D. GATELEY
SCOTT D. GEGENWORTH
SHELDON GERINGER
ALAN E. GIBSON
ROBERT J. GIBSON, JR
HOWARD J. GILLESPIE
MICHAEL E. GOCHENOUR
EDWARD W. GOHRING
VANCE M. GOOCH
DENNIS H. GOSSETT, JR
WILLIAM E. GOSSETT
STEPHEN L. GRANDONA
GEORGE P. GREGOIRE
DONALD GRIFFIN
MICHAEL S. HAINES
WILLIAM B. HALE
KRIS B. HANCOCK
RHONDA K. HARDERS
FRANCISCO S. HARINA
JEFFERY L. HARMON
JEFFREY K. HAYHURST
RODNEY HEARNS
ROBERT C. HEGWOOD
REBECCA S. HERRINGTON
CRAIG L. HIGGINS
ALLAN A. HIPOLITO
TERRENCE L. HISSONG
JAMES E. HODGES
DOUGLAS J. HOLDERMAN
RANDALL J. HONCIK
ROBERT A. HORNBAKER
STEPHEN R. HUGHES
CHRISTOPHER L. HULL
CHRISTOPHER E. IMBACH
STEVEN L. ISAACSON
EDWARD S. JABLONSKI, II
DAVID V. JACKSON
ERIN L. JAMES
EDWARD J. JOHNSON
JAN L. JOHNSON
RICHARD D. JONES
JOSEPH M. KAMINSKI, JR
BARBARA A. KAPER
SHEILA KAPITULIK
DAVID L. KEESEE
HERBERT L. KENNEDY, III
CHARLES A. KEPLINGER
RICHARD J. KERZNER, JR
DANIEL D. KISICH
STEPHEN M. KOZLOWSKI
JOHN E. KRAUSE
BRIAN W. KUDRNA
HALLETT H. LAMM, JR
DAVID E. LAMME
CHRISTOPHER M. LATHEM
MICHAEL J. LEEGAN
THOMAS C. LETTIS
KEVIN C. LILEK
CHRISTOPHER LINDSEY
PATRICIA R. LOONAM
DOUGLAS B. LUKE
JON B. LUNDQUIST
CORAL L. MACINTOSH
CHRISTOPHER J. MADDEN
JANET K. MAHN
JOHN M. MAJOR
RAYMOND A. MARAGE
ROBERT M. MARCUS
HOWARD L. MARSHALL, JR
JEFFREY B. MARTIN
WILLIAM D. MAXWELL, III
DONALD H. MAY
WILLIAM H. MCBRIDE, III
JOHN K. MCCOY
RICHARD A. MCLEAN
ROBERT L. MEEKER, JR
JEFFREY A. MENDONCA
PORFIRIO MENDOZA, JR
EUGENE C. MERSHELL
MICHAEL V. MILLER
SUSAN M. MILLER
SAMUEL T. MILLS
KENNETH R. MINNARD
VAUGHN V. MONROE
GEORGE T. MOODY
BILLY W. MOORE
LINDA K. MOORE
SYLVESTER MOORE
DAVID C. MUNRO
JOHN S. MURGATROYD
ARON C. MUSE
ROBERT J. MYERS
NATHAN J. NASH, JR
ELMER M. NAVARRO
DONALD H. NELSON
WILLIAM K. NESMITH
JOHN P. NEWCOMER
ROBERT E. NOVOTNY
HAROLD O. OAKLEY
SUSAN J. OLSON
RICHARD R. OSIAL
ROBERT F. OTTEN
TERRENCE R. OWEN
NEIL T. PAGE
JAMES L. PARKER
KENNETH W. PARNELL
WAYNE M. PAULETTE
WILLIAM B. PENNINGTON
ROBERT E. PERRETT
NORMAN K. PETTIS
JEROME G. PHILLIPS
JOEY D. POLLOCK
THOMAS F. PORATH
SEAN R. PRASSER
RAY G. PRESSON
TERRY W. PULLIAM
LYNN D. RADKE
TIM RAINWATER
JEFFREY S. RANDALL
JAMES E. RANDLE
JAMES J. RASMUSSEN, JR
DENNIS A. REEVES
EARL G. REID, III
CRAIG REYNOLDS
MICHAEL H. ROBERTS
WILLIAM M. ROBERTS
RICHARD W. ROBISHAW
JOHN J. RODRIGUEZ
BERNHARD C. ROEVER
DARREN M. ROGERS
JEFFREY A. ROSS
STEPHEN K. SAULS
THERESA R. SCHAUDIES
FRANCIS M. SCHNEKSER
CHARLES L. SCHULTZ
DEBORAH K. SCOTT
KENNETH E. SHARP
GARY D. SHEKELS
DENNIS W. SICKEL
CHARLES R. SIKES, JR
KEVIN S. SIMOES
MICHAEL A. SKIBA
LOUIS F. SLAUGHTER
GUY K. SMALT
JAMES SMITH
JEFFREY A. SMITH
MARK A. SMITH
DANIEL SPAGONE
RONALD SPANO
RAYMOND J. SPICUZZA, JR
RICHARD A. STAKELUM
SUSAN M. STANFIELD
ROBERT W. STANLEY
KEVIN D. STARKS
STEVEN W. STEARNS
LEE C. STEPHENS
DANIEL J. STEPHENSON
RUSTIN E. STOBER
THOMAS L. STRAUB
MATTHEW D. SWANHART
ROBERT M. SYMULESKI
JOHN D. SZATKO
PETER J. TASSEY
STANLEY E. TENNYSON
PAUL M. TERHAAR
HENRY J. M. THAXTON
JOHN D. THOMAS
PETER H. THOMAS
RUDOLPH V. TOWNSELL
JAMES H. TRAVERS
KEVIN J. TREFETHEN
ALAN P. TUPMAN
NOELITO A. VALDEZ
ROBERT A. VANHOUTEN
CLINTON J. VANMARTER
FELIX VEGATORRES
GILBERT J. VETERE
JOE S. VILLANUEVA
WILLIAM E. WALDIN
CARL A. WALKER
KEITH W. WATSON
KARL A. WEILBACHER

THOMAS W. WICKES
JOHN B. WILLIAMS
ROBERT T. WINFIELD
MARVIN W. YOUNG
MICHAEL R. ZAHN

THE FOLLOWING NAMED TEMPORARY LIMITED DUTY OFFICERS, TO BE APPOINTED PERMANENT LIEUTENANT IN THE SUPPLY CORPS AS LIMITED DUTY OFFICERS OF THE U. S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5589(A):

LIEUTENANT, LIMITED DUTY OFFICERS, SUPPLY CORPS, USN, PERMANENT

CARMEL M. BELANGER
KEVIN J. BUCHLI
CHARLES G. DECLERCK
NESSIE P. MARTIN
VINCENT L. PHIPPS
JAMES E. WATTS

THE FOLLOWING NAMED TEMPORARY LIMITED DUTY OFFICERS, TO BE APPOINTED PERMANENT LIEUTENANT IN THE CIVIL ENGINEER CORPS AS LIMITED DUTY OFFICERS OF THE U. S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5589(A):

LIEUTENANT, LIMITED DUTY OFFICERS, CIVIL ENGINEER CORPS, USN, PERMANENT

JAMES E. BESSE
JAMES D. BYRNE

THE FOLLOWING NAMED TEMPORARY LIMITED DUTY OFFICERS, TO BE APPOINTED PERMANENT LIEUTENANT IN THE LAW PROGRAM AS LIMITED DUTY OFFICERS OF THE U. S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5589(A):

LIEUTENANT, LIMITED DUTY OFFICERS, LAW PROGRAM, USN, PERMANENT

GARY M. MAJOR
KEVIN D. STAMPHER

EXTENSIONS OF REMARKS

MINORITY VIEWS OF THE U.S. COMMISSION ON IMPROVING THE EFFECTIVENESS OF THE UNITED NATIONS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 18, 1993

Mr. GILMAN. Mr. Speaker, the final report of the United States Commission on Improving the Effectiveness of the United Nations, September 10, 1993, provides a thoughtful analysis of and multidimensional perspectives on the United Nations at a critical time in its history.

In particular, the views of a minority of the Commission, including Edwin J. Feulner, Jr., Alan L. Keyes, Jeane Kirkpatrick, Charles M. Lichenstein, Richard John Neuhaus, and José Sorzano, warrant the attention of the Congress and the public.

These views, I believe, present a realistic and fair perspective on the United Nations at a time when our foreign policy has increasingly centered upon and involved the world organization.

Accordingly, Mr. Speaker, in order to share this report with our colleagues, I request that these minority views be inserted at this point in the RECORD:

STATEMENT OF MINORITY VIEWS OF U.S. COMMISSION ON IMPROVING THE EFFECTIVENESS OF THE UNITED NATIONS

(By Commissioners Edwin J. Feulner, Jr., Alan L. Keyes, Jeane J. Kirkpatrick, Charles M. Lichenstein, Rev. Richard John Neuhaus, and José S. Sorzano)

IMPROVING THE EFFECTIVENESS OF THE UNITED NATIONS

The conventional wisdom is that the post-Cold-War world is ready for a revitalized United Nations. It is far from clear, however, that the United Nations is ready for the post-Cold-War world. The significance of the collapse of the Soviet empire and the reaffirmation of freedom and democracy as the organizing principles of human affairs cannot possibly be exaggerated. But this watershed has not suddenly transformed the U.N. into something it is not, and probably never can be.

The Commission's mandate, to recommend ways "to improve the effectiveness of the U.N.," is thus not as simple as it may appear. It rests on the unexamined assumption that the U.N. is in essence what the Charter says it is: an organization of peace-loving nations that genuinely subscribe to collective action against threats to peace, the protection of universally-applicable human rights, and efforts to improve the quality of life for people in free and autonomous societies around the world. These are in fact the principles of the U.N. Charter. But fidelity to these principles never has been a condition of U.N. membership. And that also is a fact, with a number of very practical consequences.

The United Nations is an organization of 184 member-governments. Notwithstanding the end of the Cold War and the momentum of the democratic revolution, the U.N. remains largely in the grip of a substantial majority of dictatorial, authoritarian and statist regimes. This majority controls the General Assembly, the allocation of U.N. resources and the staff and programs of the Secretariat—which is in itself the mirror-image of regional blocs of the Nonaligned, so-called, that compromise the General Assembly majority. Only rarely can the United States and its democratic allies build a constructive coalition in the face of this entrenched opposition. The difficulties are compounded because many of these allies, and sometimes the U.S. as well, engage more in appeasing the General Assembly majority than in advocating the democratic, free-market, rule-of-law principles on which their societies are founded. "Damage limitation," more often than not, is the best the U.S. can expect to accomplish. This does not at all mean that the United States should remain silent, or compromise its principles, or just "go along" for the sake of "getting along." It does mean, however, that the U.S. and this Commission should focus on those areas of the U.N.'s agenda where prospects for constructive action are greatest and where an "effective" U.N. can reasonably be expected to contribute to the principal interests of the United States. It also means that this Commission should be wary of loading additional responsibilities onto a U.N. organization that is having difficulty enough dealing with those already at its plate.

COLLECTIVE SECURITY

Among these responsibilities, none is more important to the United States than the U.N.'s mandate, by "collective measures," to "maintain international peace and security." Yet it is precisely here that the U.N.'s reach is beginning to exceed its demonstrated capabilities. Throughout most of the U.N.'s existence, these collective measures took the form of peacekeeping—more police actions than military operations. U.N. "blue helmets," typically drawn from the forces of smaller countries and assembled by the Security Council case-by-case, were interposed between the parties to a conflict—and with their agreement—to monitor the truce, enforce the cease-fire and make it possible for negotiations to take place toward a peaceful resolution. There were occasional outbreaks of violence, and loss of life, but over time U.N. peacekeeping became almost routine—and with a record of some success.

In the last several years, however, the peacekeeping envelope has been stretched to the bursting-point: nearly 80,000 troops already in the field, and the costs are now more than $4 billion a year and rising. Peacekeeping has become peace-enforcement, usually without the agreement of the contending parties. Policing has been transformed into full-scale warfare, and U.N. forces now are sometimes combatants (as in Somalia), sometimes designated targets (as in Bosnia). These forces generally contain military units of major powers, including those of the United States. Confusion at high levels of command and deficiencies in communications and headquarters-to-field coordination have produced mutual recriminations. Missions tend to expand and contract according to no discernible ground rules. The U.N.'s chief administrative officer, the Secretary-General, is assuming the new role of commander-in-chief.

A good deal of the fault for this dangerous incoherence in the U.N.'s collective security operations is that of the U.N.'s leadership: wholly inadequate command-and-control procedures, a widening gulf between "wanting" to respond to every call for help and the capability to respond effectively. But the Security Council, of course, is responsible for all U.N. collective security operations, whether peacekeeping or peace enforcement, and it is the members of the Council, and especially the Permanent Five, that have to take control of a deteriorating situation. For this Commission, the first order of business is to address the roles and responsibilities of the United States:

The basic, non-delegable obligation of the U.S. government is to protect the American territory and people, and to provide their interests. Sometimes this can be done through regional associations (the OAS, e.g.), sometimes through multinational alliances (NATO, e.g.), sometimes through ad hoc coalitions under banner of the U.N. (Korea and the Gulf war, e.g.), sometimes through the U.N. itself and as party to a U.N. operation (Cambodia, e.g.). And sometimes the U.S. must act alone. In all cases, of course, the action taken must be in accordance with applicable constitutional provisions and statute law.

When choosing the U.N. route, the United States has to make sure that the operation holds out a reasonable prospect of success toward clearly defined objectives, the troop commitments are sufficient to get the job done, and the rules of engagement are appropriate to the situation on the ground. Even if no U.S. forces are involved, agreement to a U.N. operation obligates the U.S. to pay at least 30 percent of the costs.

Under Article 51 of the Charter ("inherent right" of self defense), the Security Council supercedes unilateral action only insofar as it "*has taken measures necessary to maintain international peace and security*" (emphasis added). The definition of what is "necessary" remains with the U.S. and all other U.N. members: the President of the United States need not, and should not, seek the "permission" of the Secretary-General (as President Clinton reportedly has done regarding air strikes in Bosnia) to take action that clearly is necessary to enforce the U.N.'s own mandates.

Insofar as the U.S. acts as party to a U.N. operation, U.S. military personnel should serve under U.S. command. The only partial exception might be U.S. units in strictly and precisely-defined support roles (logistics, communications, intelligence), but even such units should remain under U.S. operational control.

Because every U.N. operation requires specific forces and capabilities, some of which are all but unique to the U.S. military, the United States should continue to discharge

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

its obligations under Article 43 of the Charter ("earmarked" forces "available on call") on a case-by-case basis.

In order to cast the U.S. vote responsibly, and to give informed consent to proposed U.N. peace-enforcement operations, U.S. representatives to the Security Council should be able to call on professional military advisors—posted to the U.S. Mission to the U.N.—from the earliest deliberations and throughout the duration of the operation.

From the U.N.'s perspective, what needs to be done is equally clear. A professional command-and-control center should be put in place in New York, with established lines of communication to the field. For this purpose, as for operational planning in general, a Military Staff Committee should be activated—"at the disposal of the Security Council" (as Article 47 specifies). An MSC could follow the design of Article 47—the chiefs or their representatives of the military staffs of the Permanent Five—or it could be broadened to include career military professionals from other countries. Either way, liaison officers should be assigned to the MSC by the troop contributors to all U.N. collective security operations.

Should the U.N. command an army of its own? The answer is no. The benefits claimed for such a rapid-deployment "U.N. legion"—on-site reconnaissance and fire-fighting early on, before the conflagration spreads—can be accomplished more effectively by the ready forces of U.N. member-countries, and at far less cost. Recruiting, training and equipping a legion of even 5,000 to 10,000 personnel would cost at least $400 million annually—without provision for air- and sealift—and, with nearly 80,000 "blue-helmets" already in the field, a U.N. legion might not be adequate for as much as a single mission. Once initiated, a U.N. standing-force would only grow. In any case, there is no evidence at all that the lack of such a force ever has barred or even deterred effective U.N. action to keep the peace: first there has to be a Security Council resolution to deploy the required force, if force in fact is the answer, to accomplish a particular mission. And that decision must remain exclusively with the United States, its colleagues among the Permanent Five and the other members of the Security Council. Once that decision is made, assembling a force never has been a major problem.

In this connection, one further question arises: should the Permanent Five become the Permanent Seven, or ten or any other number? Germany and Japan certainly have legitimate claims, reflecting the realities of world power, and the Clinton administration supports their permanent membership on the Security Council, but without the veto. They might or might not accede to this second-class status among the major powers. The more formidable obstacle, however, is that 123 of the present 184 U.N. members must agree to any Charter amendment, including all of the Permanent Five (China, France, Russia, the U.K. and the U.S.). Not only are several of the five cool to the idea of expansion; but also the Nonaligned Bloc—which numbers about 100 U.N. members—already has put forward its own proposal for not two but five additional permanent members (Brazil, India and Nigeria, as well as Germany and Japan), all with the veto, plus an increase in nonpermanent seats from ten to twenty. This 30-member, ten-veto Security Council would invite gridlock in the one U.N. body charged with collective security responsibilities, and the only one able to act with reasonable speed and effectiveness. Turning the Security Council into a mini-General Assembly would make an imperfect but tolerable situation worse. Yet, opening the door to Security Council expansion invites such an outcome.

HUMAN RIGHTS AND THE "RIGHT TO DEVELOPMENT"

The U.N.'s role in safeguarding and promoting human rights always has been more one of affirmation than of effective enforcement—for the obvious reason, as noted at the outset, that the dictators, authoritarians and statists constitute a continuing U.N. majority. These non- and openly anti-democratic forces increasingly have moved simply from denying the rights of speech, press, religion, assembly and political competition—on which their putative legitimacy and continuation in power depend—to an attempt to dilute the principle of the universality of human rights, by embracing a countervailing "right to development." They rely on a simplistic zero-sum formulation that accounts for poverty in the world by the very existence of abundance: the poor are poor *because* the rich are rich. This conflict came to a head in June at the U.N. Conference on Human Rights in Vienna.

The Clinton Administration, in a significant departure from its predecessors, acceded in Vienna to a "right to development"; it did so, however, in the relatively limited context of the U.N. General Assembly's 1986 declaration of the right "to participate in, contribute to and enjoy economic, social, cultural and political development," thus suggesting that development results from the activities of people in a free society and is neither grafted on from outside, nor the "gift" of a benign despotism. In Vienna, Secretary of State Warren Christopher affirmed the inherent relationship of development to democracy and human rights: "Democracy is the best means not just to gain * * * but to guarantee * * * human rights."

The high correlation between economic development and political freedom was demonstrated, moreover, when the U.N. Development Programme designed an Index of Human Freedom to measure respect for political, economic, juridical and personal rights, which then were related to leading indicators of economic development. Both 1991 and 1992 studies show a clear and powerful relationship: the poorest countries are those with the fewest political rights; citizens of the most highly developed countries, in contrast, enjoy the rights associated with democracy, rule of law, and market economics. The clear inference of all of the data is that greater respect for human rights leads to sustained development, which is the product in all societies of initiative, incentive, savings and work. There is no need to choose between freedom and development. The only realistic choice is both.

The United States has an obligation to hold the line against attempts to blur the correlation between freedom and development, and to dilute the principles of human rights as enunciated in the U.N.'s own charters and declarations. More specifically, U.S. contributions to U.S. development programs should be targeted expressly to the strengthening of free markets and entrepreneurship.

MANAGEMENT REFORM

In the most obvious sense, "effectiveness" for the United Nations means exactly what it does for any governmental or business organization: rational allocation of sources, cost-consciousness, productivity, competence, professionalism, good management. Yet Governor Dick Thornburgh's recent report, based on a year's experience as Under-Secretary-General for Administration and Management (and a management audit conducted by McKinsey & Co.), is only the latest evidence that U.N. mismanagement is pervasive, deep-rooted and running apparently out of control. This fundamental deficiency of the U.N. system undermines confidence in the U.N.'s competence across the entire range of its activities. It ought not to be tolerated by the United States, which contributes nearly 30 percent of the combined total of the U.N.'s administrative and peacekeeping budgets, which, together, are approaching $5 billion annually.

The Thornburgh Report calls for the creation of an Inspector General in the Secretariat. This is an obvious step toward management reform—but it is only one such step, and not necessarily the most important. Indeed, an Inspector General serves principally to identify deficiencies after the fact. More important is to prevent them from arising in the first place. And from this perspective, the Secretary-General has virtually plenary power to initiate and implement the management reforms now clearly required.

There is no great mystery about what is needed. The grip on the Secretariat of the "old-boy network" to which Governor Thornburgh refers has to be broken. (Old boy is right, moreover: the U.N. Secretariat has a dismal record regarding equal access for women in high-level posts.) Deadwood should be cleared out. Nonfunctioning offices, bureaus and special units, many of them set up decades ago to pursue long obsolete agendas, should be closed down. Overlap and duplication should be eliminated, along with "plum" jobs at the top bureaucratic hierarchy. Wasteful administrative procedures—Thornburgh notes the multi-layered, by-hand translation services—should be replaced by state-of-the-art technologies. Underutilized stand-by services (the print shop, *e.g.*) should be contracted out to the private sector, by open competitive bidding (which should apply in fact to all purchasing). A genuine career staff should be created, with entry by open competition and promotion on merit.

The Thornburgh Report has created the impetus for basic reform. If the momentum is to be sustained, an independent Inspector General could play a key role. To be effective, the Inspector General must indeed by independent of the Secretary-General; have explicit powers—in effect, those of subpoena—to examine budgets, ledgers, tables-of-organization, and personnel records throughout the Secretariat; and command sufficient resources to build highly professional staff of his or he own choice, and to engage outside expertise. All Inspector General findings and recommendations should be made public; it is especially important that they be available, with full documentation, to the duly constituted executive and legislative authorities of all U.N. member-governments. The Inspector General should be hired by and responsible to an executive committee comprising the Permanent Representatives of the ten-to-fifteen major contributors to U.N. budgets.

None of this will be easy. Opposition will come from an entrenched and largely autonomous bureaucracy, and from the General Assembly majority that will rightly equate management reform with the dilution of its own powers. But if the United States and its major allies are serious about working within and through a U.N. system to accomplish important foreign policy goals, the effort will be worth making.

THE U.S. ROLE IN THE U.N.

An increasing share of the world's public-sector political and economic business is being conducted through multilateral organizations like the U.N. Multilateral diplomacy is thus a growth industry, and it is complicated. It is not simply bilateralism writ large. It calls for special skills and hands-on experience. Yet, unlike most other world powers, the United States lacks a professional cadre of skilled and experienced multilateralists. This reduces U.S. influence in the U.N. system generally, and in other world and regional organizations. The problem is exacerbated by the relatively rapid turnover in U.S. political leadership. This puts a premium on professional career staff—which, however, is itself inexperienced in multilateral arenas. The careerists do not ameliorate the problem: they are part of the problem.

Career paths in the U.S. Foreign Service do not generally include more than one tour within the U.N. system. Such assignments are not in any case perceived as especially career-enhancing, and so they are not sought after by the best and brightest FSOs. The experience gained in such a tour is only rarely exploited later on. If, however, the United States wants to have a major influence in these increasingly important multilateral settings, this self-defeating situation needs change. It could be accomplished by the creation of a multilateral "career cone" for FSOs, or simply by making it clear that multilateral experience will be rewarded in future assignments—up to and including career ambassadorships. Either way, this is a matter that deserves attention at the highest levels of the U.S. government.

U.S. leadership in the world begins at home. The U.S. role in the United Nations can be effective only as it reflects clear and coherent U.S. foreign policies generally. It also has to be based on an informed assessment of what the U.N. can, and cannot, be expected to contribute to U.S. interests. The reverse also is true: an "effective" U.N. has to receive clear and coherent signals from the United States, among all of the world's major powers. A U.N. with strong U.S. leadership, and with a reasonable degree of managerial efficiency and a persistent focus on its collective security responsibilities, can make measured progress toward the goals of the Charter—which is important for the United Nations, and for the United States.

TRIBUTE TO EDWARD FREEMAN

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 18, 1993

Mr. TOWNS. Mr. Speaker, it is with great pleasure that I rise today to recognize a dear friend, great athlete, and outstanding educator, Mr. Edward Freeman. I pay tribute to this honorable man because he has unselfishly dedicated his time and expertise to so many of New York's youth.

Edward received his academic training at New York University, Texas State University, and Boston University. He concentrated his studies in the areas of sports medicine, biology, health, and physical education. Mr. Freeman played professional football with the Boston Patriots and New York Titans. He pursued his graduate studies and won an annual fellowship in safety education.

An exceptionally talented man, Mr. Freeman is ranked in the top 20 among USPTA Tennis Professionals—Pro 1. He has used his expertise in tennis to coach many youth groups, namely the Pee Wee program at Wimbledon, a group he created for children 3–6 years of age. He has also coached the boys and girls tennis teams at Hempstead Public High School, and the children of Roslyn Racquet Club.

When Edward is not coaching tennis, he is diligently committing himself to working with youth in community centers and participating in tennis tournaments. He annually participates in the Stop the World Hunger tennis tournaments. As a concerned and dedicated athlete and educator, Edward dedicates his summers to directing tennis camps and special youth programs. During the school year he teaches physical education.

I applaud Edward Freeman for his generosity and dedication to our children. He is rich in character and very deserving of each and every honor that is bestowed upon him. Please join me in commending Mr. Freeman on his outstanding achievements.

SALUTE TO THE VENTURA COUNTY PROFESSIONAL FIREFIGHTERS' ASSOCIATION

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 18, 1993

Mr. GALLEGLY. Mr. Speaker, I rise today to pay special honor to the members of the Ventura County Professional Firefighters' Association, who on Saturday will hold their second annual charity ball.

This year, some 350 people will attend the event, which will raise funds for a very special organization, the Alisa Ann Ruch California Burn Foundation. The foundation is a living memorial to an 8-year-old girl who was fatally burned in a common backyard barbecue accident—and to our heroic firefighters who are concerned about the prevention and proper treatment of burn injuries.

Since its inception in 1971, the foundation has grown to become the only agency providing burn assistance and burn prevention education throughout California. I'm sure my colleagues are aware that the foundation developed the nationally recognized Stop, Drop, Roll program that informs children what to do if their clothes catch fire.

I also want to take this opportunity to once again thank Ventura County's firefighters for their dedication and professionalism. Once again, during our recent series of devastating brushfires in southern California, the men and women of the Ventura County Fire Department made the heroic look ordinary as they battled the searing flames and gale-force winds that blackened so many thousands of acres. It is truly a monument to their skill and bravery that so few lives were lost and that so many homes were saved.

Mr. Speaker, I ask my colleagues to join me in honoring the members of the Ventura County Professional Firefighters' Association.

MICHAEL BROWN AND RAYMOND FIELDS, EAGLE SCOUTS

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 18, 1993

Mr. REED. Mr. Speaker, I rise today to salute two distinguished young men from Rhode Island who have attained the rank of Eagle Scout in the Boy Scouts of America. They are Michael Brown and Raymond Fields of Troop 2 Arctic in West Warwick and they are honored this week for their noteworthy achievement.

Not every young American who joins the Boy Scouts earns the prestigious Eagle Scout Award. In fact, only 2.5 percent of all Boy Scouts do. To earn the award, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. He must earn 21 merit badges, 11 of which are required from areas such as citizenship in the community, citizenship in the Nation, citizenship in the world, safety, environmental science, and first aid.

As he progresses through the Boy Scout ranks, a Scout must demonstrate participation in increasingly more responsible service projects. He must also demonstrate leadership skills by holding one or more specific youth leadership positions in this patrol and/or troop. These young men have distinguished themselves in accordance with these criteria.

For their Eagle Scout projects, Michael painted the lines on the much-used basketball court of St. John the Baptist Church, while Raymond spent his summer helping to clean up Phenix Square Park for residents to use.

Mr. Speaker, I ask you and my colleagues to join me in saluting Eagle Scouts Michael Brown and Raymond Fields. In turn, we must duly recognize the Boy Scouts of America for establishing the Eagle Scout Award and the strenuous criteria its aspirants must meet. This program has through its 80 years honed and enhanced the leadership skills and commitment to public service of many outstanding Americans, two dozen of whom now serve in the House.

It is my sincere belief that Michael Brown and Raymond Fields will continue their public service and in so doing will further distinguish themselves and consequently better their community. I join friends, colleagues, and family who this week salute them.

WORLD AIDS DAY

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 18, 1993

Mr. BILBRAY. Mr. Speaker, December 1, 1993 is World AIDS Day. Las Vegas, NV, my home town, has been exemplary in their struggle dealing with HIV/AIDS. Our community has shown compassion and diligence, providing one of the most comprehensive coordinated HIV/AIDS care programs in the Nation.

On this day, the Clark County Coalition of HIV/AIDS Service Providers will be sponsoring a gathering of local, State, and Federal agencies, community based organizations, as well as businesses that deal specifically with HIV/AIDS patients. The participants will be distributing literature and information to the public. The goal is to educate and enlighten the public to the facts about HIV and AIDS. I am delighted that my constituents will have the opportunity to live in the light of the truth.

World AIDS Day provides an opportunity to focus on HIV infection and AIDS; caring for people with HIV infection and AIDS, and learning about the disease. I urge all citizens to take part in activities and observances designed to increase awareness and understanding. Only through understanding will we be able to meet the challenge of HIV/AIDS.

THE 60TH ANNIVERSARY OF BOY SCOUT TROOP 131 IN CHICOPEE, MA

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 18, 1993

Mr. NEAL of Massachusetts. Mr. Speaker, it is with great honor that I pay tribute to Boy Scout Troop 131 in Chicopee, MA, on the celebration of their 60th anniversary. Troop 131 has provided countless young men over the past six decades with the opportunity to learn and cultivate useful and practical skills necessary in later life. Along with outdoor trades such as camping, hiking, pioneering, first aide, and orienteering, the Boy Scouts have provided these young men with invaluable leadership and communication skills.

What is even more remarkable than the unlimited skills and experiences the Boy Scouts provide is the context in which they are provided, community service. Troop 131 has provided the communities of western Massachusetts with endless services in the spirit of community service.

On November 20, 1993, at the St. Stanislaus School in Chicopee, MA, members of troop 131, past and present, and their families will gather together to celebrate their 60 year history and to being their next chapter in Scouting history.

Mr. Speaker, I ask that all my colleagues join me in congratulating Boy Scout Troop 131 in Chicopee, MA, on the event of their 60th anniversary.

HONORING THE WAKEFIELD TAXPAYERS AND CIVIC LEAGUE

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 18, 1993

Mr. ENGEL. Mr. Speaker, 80 years ago, a group of homeowners in the Wakefield community of the Bronx began meeting in informal settings to discuss ways of maintaining and improving their community. The group was formally incorporated in 1931 as the Wakefield Taxpayers and Civic League, and it has been a positive force in the community to this day. It is my pleasure to recognize the 80th anniversary of the group and commend its members for all their good works.

The league fights on behalf of the community for important things that effect everyday life—be it maintaining the number of police in the local precincts, protesting the spread of short-stay motels, or getting repairs for local schools and playgrounds. In 1984, the league established a safe way/safe home child protection program with the 47th precinct that became a model for similar city and State programs. The Wakefield Civilian Patrol, which merged with the league in 1988, has built a remarkable record of crime resistance.

It is groups like the Wakefield Taxpayers and Civic League that serve as our eyes and ears in the community and help maintain the viability of our neighborhoods. Government cannot do everything alone, nor can a single family or group of neighbors. But working together, our police departments, government agencies, and elected officials can join with neighborhood groups to address our mutual concerns.

I commend all the people who have contributed to the success story in Wakefield and pledge my continuing support to the members of the league.

MORE HUMAN RIGHTS ABUSES AGAINST SIKHS

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 18, 1993

Mr. BURTON of Indiana. Mr. Speaker, I rise today to direct your attention to the continued horror of life faced by Sikhs under the Indian Government. Despite increased international attention to atrocities committed by Indian security forces, and despite congressional passage of legislation to cut United States aid to protest India's human rights abuses, the violence against Sikhs continues unabated.

I have risen before to share with my colleagues examples of atrocities committed against the Sikh people. It saddens me to have to do so again. The Indian Government has 1.1 million troops in the northern states of Punjab and Kashmir. These troops have committed countless acts of terror against the civilian population—torture, rape, abductions in the dead of night and extra-judicial killings.

Now comes another grisly example. On October 30, according to newspaper accounts, a young man named Sarbjit Singh was brought to a hospital in Punjab by Indian police. The police claimed the young man was a militant killed in an encounter. As the doctors prepared to perform an autopsy, they discovered the young man was still alive, and began to revive him. When the police discovered this fact, they returned to the hospital and took Sarbjit Singh away. They returned the young man to the same hospital 2 or 3 hours later—dead. They then instructed the doctors to perform an autopsy, after which they took the body away to be cremated without allowing the family to see the body.

Mr. Speaker, we cannot turn a blind eye to such horrible acts. The entire world must protest these abuses.

Even peaceful demonstrators often feel the wrath of the Indian Government. In the last month, Indian troops rounded up and arrested a number of influential Sikh leaders because they were planning a peaceful march to New Delhi.

According to press reports, police raided the historic Gurusar Gurdwara—Sikh temple—on September 15. They interrupted the religious service and beat worshipers indiscriminately. Gurbachan Singh, a 75-year-old man, died as a result.

In response, the most influential Sikh leaders decided unanimously to organize a peaceful march to New Delhi to protest this sacrilege. To prevent this march, Indian authorities simply jailed all of the Sikh leaders. I contacted that State Department here in Washington and asked that our diplomatic officials in India inquire about this situation to see if anything could be done to secure their release. Our embassy officials inquired about the imprisonment of these leaders and were told by Indian authorities that these individuals were being held in prison, and that the government had no intention of releasing them. This was over a month ago, and they are still in prison.

Mr. Speaker, I call for the immediate release of all of these political prisoners. I also call on the Indian Government to rein in its security forces to stop them from committing more atrocities. Finally, I would urge each of my colleagues to cosponsor Congressman PETE GEREN'S resolution, House Concurrent Resolution 134, calling for a plebiscite to allow the Sikh people to determine their future in a peaceful and democratic way.

Mr. Speaker, I would like to submit for the RECORD a number of items: first, my statement regarding the arrest of the Sikh leaders; second, a newspaper account describing the murder of Sarbjit Singh; and third, a statement delivered by Dr. Gurmit Singh Aulakh to the Belgian Parliament on October 28.

BURTON CALLS FOR IMMEDIATE RELEASE OF SIKH LEADERS

WASHINGTON, DC, October 21, 1993—Representative Dan Burton (IN-6) called for the immediate release of several Sikh leaders who were arrested by the Government of India on October 20. The Sikh leaders had planned to peacefully march to New Delhi to protest the September 15, desecration of Sikh holy scriptures by the Punjab police at the Gurusar Gurdwara (temple) in Gujjarwal, Punjab.

"Every time someone in India plans to peacefully express their displeasure with government policies, the Government of India arbitrarily throws them in jail" said Burton. He added "the recent arrest of Gurcharan Singh Tohra, Prakash Singh Badal, Surjit Singh Barnala, and others is distressing but comes as no surprise to those familiar with India."

On September 15, Indian police raided the Gurusar Gurdwara and interrupted a continuous reading of the Guru Granth Sahib (Sikh holy scripture). Police entered the gurdwara and indiscriminately beat people. Gurbachan Singh, a 75 year old man, died as a result of the beating.

"Whether one looks at the 1984 attack on the Golden Temple at Amritsar, the recent incident at Gujjarwal, or the current siege at the Hazratbal Mosque in Kashmir, it doesn't take a rocket scientist to recognize that India has little tolerance for free speech" stressed Burton. Representative Burton called for the immediate release of all the innocent Sikhs who were arrested at the Gurusar Gurdwara and added, "the world must abide by one common standard for human rights, and the world includes India!"

[From the World Sikh News, Nov. 5, 1993]

Human Rights Situation Deteriorates in Punjab—Indian Police Picked Up and Killed Patient

Amritsar: The Indian police picked up Sarbjit Singh Waltoha from the government hospital at Patti in the presence of doctors, nurses and other witnesses and after a while brought this dead body in the same hospital, had postmortem on his body and cremated it on its own.

These sensational facts were released to the media early this week by none other than the pro-police Indian communist leader Satyapal Dang.

Dang explained that Sarbjit Singh along with another person had earlier been brought to the Patti hospital as "dead persons" by the police. They were supposed to be militants who had been "killed" in an encounter with a police party near Toot village. These bodies were brought to the Patti hospital by the police at 6:30 a.m. on Oct. 30. The doctor who was performing postmortem on one of the two bodies discovered that the Sikh youth was still alive. The youth was transferred from mortuary to a male ward for treatment. After a while, the youth was in his senses. He gave his name as Sarbjit Singh Waltoha. He told the doctor that one of the hospital nurses, Baljit Kaur, belonged to his village and that she should be called. The doctor sent a man to Baljit Kaur's residence but she was not present there. Instead, on hearing about the patient's condition, the nurse's husband, Mahavir Singh, came to the hospital. Mahavir Singh is the secretary of the C.P.I's area committee. The doctor sought Mahavir Singh's help in shifting the patient to the government hospital at Amritsar where better medical facilities were available. One person was sent to Sarbjit Singh's residence. But in the meanwhile, the Waltona police station S.H.O. along with force came to the hospital and forcibly took away the patient. After two or three hours, according to Dang, the S.H.O. returned along with the dead body of Sarbjit Singh. The police asked the doctor to conduct a postmortem on the body. The police then took away the body and cremated it without giving it to the relations of the Sikh youth.

Dang further revealed that Mahavir Singh sent telegrams to the President of India and chief justice of Punjab and Haryana high court as soon as the police took away the patient and informed the Indian authorities about this rep-reprehensible incident. An all-party deputation later met the Sub Divisional Magistrate who could not get in touch with the Tarn Taran police chief. The S.D.M. and the political parties then brought the matter to the notice of D.I.G., Border Range, Amritsar. The deputationists even complained to the D.I.G. that the S.H.O. even could harm the C.P.I. secretary too.

Dang said that Sarbjit Singh was not involved in any violent activity although he may have permitted certain militants to stay at his house.

Statement to Parliament of Belgium, October 28, 1993

(By Dr. Gurmit Singh Aulakh, President, Council of Khalistan)

Thank you Ladies and Gentlemen, Honorable Members of the Parliament.

I come to you today as the representative of Khalistan, the captive Sikh nation, to seek the support of the good people and Government of Belgium in the Sikhs struggle for freedom against the oppression of the Indian government.

Sikhs today are captives in their own homeland. Captives of an Indian government that does not allow us the rights to life, liberty and the pursuit of happiness. Captives of an Indian government that does not allow us the dignity of human birth. Captives of an Indian government which has killed over 110,000 Sikhs since 1984 alone.

On Wednesday, October 7, 1987, the Sikh nation declared its independence from India forming the sovereign country of Khalistan. The events leading up to our declaration of freedom are complex and span the history from 1947, when the Indian subcontinent won freedom from British rule, to the present. Let me say that the Sikh demand for Khalistan is not a reactionary one, nor the product of short-sighted wishful thinking. It is informed by 46 years of living under the tyranny of post-British India. I will give you a brief account of those events.

First, the Punjab is located in the northwest corner of present-day India, just east of Pakistan and South of Kashmir. It is the homeland of the world's 21 million Sikhs. It is the land of our history and sadly, in the past ten years, the killing fields of our brethren.

The Sikh nation took birth in the 15th century. As a nation, as well as a distinct faith and culture, the Sikh people grew to a formidable force in South Asia. The Sikhs ruled all of Punjab from 1765 to 1849 directly before the era of British colonial rule. Our reign extended well into present-day Pakistan and Kashmir, stopping at the Khyber Pass.

In the mid-19th century, British power and influence expanded on the Indian subcontinent. The British fought the famous Anglo-Sikh wars in order to conquer our homeland. Thus, let us remember that before the British conquered the Sikh nation in the mid 1800's, the Sikhs were recognized as a distinct, separate people, a sovereign nation with its own independent political system.

Remember, too, that the Sikh nation was the last nation on the Indian subcontinent to fall to British expansionism, and we were the first nation to raise the cry for freedom from British rule.

In 1947, when the subcontinent won its independence from British colonial rule, the British again recognized Sikh sovereignty by negotiating the transfer of power with three separate groups: the Muslims, the Hindus and the Sikhs. The Muslims got Pakistan and the Hindus took India. The Sikhs, though they had ample opportunity, did not opt for a separate country. Instead we joined India with our homeland Punjab, conditioned upon the solemn assurances by Mohandas K. Gandhi and the first Prime Minister of India, Jawarahal, Nehru, that no constitution unacceptable to the Sikhs would be adopted.

Nehru told us "The Congress (party) assures the Sikhs that no solution in any future constitution (of India) will be acceptable to the Congress which does not give the Sikhs full satisfaction." And it was Mohandas Gandhi who said to our nation, "Take my word that if ever the Congress or I betray you, you will be justified to draw the sword as taught by (your) Guru Govind [Singh]." Honorable Members of Parliament, the Sikh nation looked upon these words as a contract, a sacred covenant between India and the Sikh nation. We never dreamed of betrayal.

Yet, despite such promises, India ratified its constitution in 1950 against the expressed disapproval of the Sikh nation. The Indian constitution was so inimical to Sikh interests that the Sikh representatives at the Constituent Assembly refused to sign the document. To this day, no Sikh leader has signed the Indian constitution. To this day the Sikh nation remains under the illegal occupation of the Indian government. To this day, the Sikh nation does not consider the Indian constitution worth the paper it is written on.

Since 1950, India has persistently pursued a policy designed to dispossess the Sikhs as a separate culture, religion and nation. For example, the Indian government refuses to recognize the Sikh faith as a distinct religion.

Furthermore, Punjab was not recognized as a linguistic state while the rest of India was organized on the basis of language in 1956. Finally, in 1966, ten years later, after prolonged agitations by the Sikh nation, Punjab was recognized as a linguistic state. However, many Punjabi speaking areas were fraudulently gerrymandered out of present Punjab when two new states of Haryana and Himachal Pradesh were carried out of Punjab. Even the capital, Chandigarh, was taken away from Punjab and was reduced to the status of a union territory. This was all in an effort to diminish Sikh political power.

In addition, India has attempted to destroy Punjab's agricultural industry by illegally diverting 75% of its natural water resources to neighboring non-Sikhs states in direct violation of the riparian principle and of course without any compensation for Punjab.

Yet despite the second-class treatment Sikhs received after Indian independence, nothing could prepare us for the events of 1984. In June of 1984, the Indian government moved to silence the Sikhs once and for all. An all out military attack on the holiest of Sikhs shrines, the Golden Temple was ordered to be executed on a holy day when Prime Minister Indira Gandhi knew the Temple complex would be flooded with pilgrims. In addition to the Golden Temple, 38 other Sikh temples throughout Punjab were also attacked.

During the assault, a complete news blackout was ordered, and the killing began. Over 20,000 Sikhs were murdered. Ancient, irreplaceable original scriptures were destroyed. And the library containing original writings of the Sikh Gurus was completely annihilated.

Young Sikh boys were made to kneel before the military might of the Indian government. There they were given an ultimatum: renounce their faith or die. In at least one incident, Indian soldiers shot and killed over one hundred Sikh boys who had refused to forsake their faith. Young Sikh girls were raped. Hundreds of Sikhs at a time were crowded into rooms in the Golden Temple Complex designed to hold no more than 20 or 30 people; there they died of thirst or asphyxiation. To this day, the perpetrators of these crimes against humanity roam free in India.

Five months later Sikhs were made again to suffer the savagery of India. In November of 1984, after Indira Gandhi was assassinated by her Sikh bodyguards in retaliation for her attack on the Golden Temple, 40,000 Sikhs fell victim to scathing Hindu mobs instigated to mass murder by the exhortations of high level Congress party politicians. In Delhi alone, 20,000 Sikhs lost their lives. Again, girls were raped and Sikhs indiscriminately murdered. Some Sikhs were doused with gasoline and burned alive, others were scalped and left to die.

For three days these riots blazed. The Home Minister at the time refused to call out the army. Instead, he allowed slogans like "Blood for Blood" to be aired on state controlled television, fanning the flames of chaos. And where is that Home Minister today? He occupys the most powerful seat in the Indian government. His name is Prime Minister Narasimha Rao.

Distinguished members of the Parliament, I ask: How can the Sikh nation be expected to live under such conditions? Our holiest shrine can be attacked by the military, our heritage can be undermined as a matter of policy, tens of thousands of Sikhs at a time can be killed for being Sikhs. How can we be expected to remain under the rule of the Indian government?

I ask you to remember the names Sajjan Kumar and H.K.L Bhagat, two Members of Parliament actively involved in Delhi riots violence against the Sikhs. Last month, *India Today, reported on the Indian government's continued cover-up for these men. Even worse, the Chandigarh Tribune has reported that the Congress Party plans to nominate both men for the current Delhi Assembly elections.*

This is nothing new. India has been getting away with such crimes for years. I come to you today that you may know the real India. That you may see the plight of the Sikh nation under Indian occupation. That you may see the justice in the cause for Sikh freedom and lend your support accordingly.

As I have mentioned, since 1984, over 110,000 Sikhs have been killed by Indian police, paramilitary forces, death squads and vigilante mobs. Asia Watch reports that "Virtually everyone detained in Punjab is tortured." Amnesty International calls India's violation of human rights "endemic." It has reported that "Torture is widespread . . . the most common methods of torture include hanging people from the ceiling and beating them . . . rolling iron or wooden bars across the thighs [and] beating the genitals." Amnesty has issued these reports despite not being allowed to investigate human rights violations in India since 1978.

I ask: What kind of "democracy" does not allow human rights groups to investigate human rights violations within its borders? Surely that "democracy" is nothing more than a hypocrisy.

According to the Movement Against Repression, at least 70,000 Sikhs currently languish in Indian prisons without charge or trial under draconian, repressive laws. These "laws" have been condemned as "disturbing" and "completely unacceptable" by the United Nations Human Rights Commissions for falling short of international standards for the protection of human rights. As I speak, 500,000 Indian troops patrol the Punjab in what can only be described as a brutal police state designed to deny Sikhs any last vestige of freedom or human dignity. And last week on October 20 most of the Sikh leaders were arrested and put in jail because they planned to lead a peaceful march to New Delhi in protest of the sacrilege of the Sikh holy scripture by the Indian police.

Though the result has always been increased oppression, the Sikh nation remains resolute in its October 7, 1987 declaration of a free and independent Khalistan. On April 13, 1993, despite the omni-present threat of death, Sikh leaders including Simranjit Singh Mann, President Akali Dal (Mann), Gurcharan Singh Tohra, President Shiromani Gurdwara Prabhandak Committee and other Sikh leaders, declared their support for an independent Sikh state through peaceful, non-violent means. Clearly, we are united in our struggle for freedom. The Indian government must be made to understand that no amount of oppression will deny the Sikh nation its right to freedom.

Sikhs abroad are also helping to expose Indian government brutality and aid the struggle for the freedom of Khalistan. Due to our efforts, on October 1, 1993, President Bill Clinton signed into law a bill terminating 4.1 million dollars in U.S. aid to India in protest of its brutal denial of freedom and human rights against the Sikh nation. This is the first time ever Congress has voted to censure India for its violation of human rights.

Like the U.S. Congress, the Belgian Parliament must immediately cut aid to India for its human rights violations. Why should precious Belgian tax revenues go to nations which deny its citizens fundamental human rights?

Furthermore, on August 5, U.S. Congressman Pete Geren (D-TX) along with 12 other co-sponsors introduced House Concurrent Resolution 134 in the U.S. House of Representatives. The resolution recognizes Khalistan's right to self-determination and calls for a U.N.-sponsored plebiscite so Sikhs may "determine for themselves, under fair and peaceful conditions, their political future."

I hope the distinguished Members of Parliament see the far-sighted vision of the self-determination for Khalistan resolution. Self-determination is enshrined in Article One of the United Nations Charter. South Asia will continue to be a hotbed of instability until India's various nations can determine their own fate.

I am proud to announce that the self-determination for Khalistan resolution now has the wide support of sixteen co-sponsors. It is imperative that the Belgium Parliament take similar steps and introduce Khalistani self-determination legislation immediately. For the sake of peace, human rights, and the notion of "government by the people" it is only just that Belgium support the international recognized right to self-determination for the Sikh nation, Khalistan.

Please understand that India is a ill-conceived state, artificially combining many separate nations. Please look to the future. India will not hold together. It was never one nation and will not artificially remain as one country by the use of force. In the meantime, hundreds of thousands of Sikhs in Khalistan, Christians in Nagaland, tribal peoples in Assam and Muslims in Kashmir have already died for their god-given right to freedom. They have been murdered by the Indian government simply for the sake of holding together a country that was never one nation, a country with 18 official languages.

In short, if hundreds of thousands of Indian army soldiers were not forcibly holding Khalistan, Nagaland, Assam and Kashmir, those nations would long be free of the supposed state of "India." India is nothing more than an artificial conglomerate of nations, held together by the nexus of oppression.

Belgium can also see the brutal oppression Sikhs face under the tyranny of the Indian government. Sikhs refugees seeking asylum here is a common experience. Sikhs escaping torture, Sikhs whose families have been murdered, whose lives have been destroyed come to Belgium seeking refuge in a country where they know freedom and human rights are respected. Remember, nobody knows the tyranny of the Indian masters, better than their Sikh slaves. I thank you Belgium for being a gracious host, but asylum is not the solution to the oppression of a nation. I ask Belgium to recognize the suffering of the Sikhs under Indian rule. I ask Belgium to understand the justice of the struggle for Sikh freedom. And I ask Belgium to lend its support to the movement for Sikh freedom by extending diplomatic recognition for Khalistan immediately.

Diplomatic recognition of Khalistan by Belgium would go a long way in solving the human tragedy that is Punjab, Khalistan. Immediate diplomatic recognition would demonstrate to the world the long-term vision of the Belgian people and their concern for the fundamental right of all nations: freedom.

Belgium has always supported liberty, democracy, human rights, rule of law, justice and self-determination. Thus it is imperative that Belgium immediately extend full diplomatic recognition to the Sikh nation of Khalistan. Do not let the deaths of the Sikh people who have died and those who are currently dying to go in vain. The sooner you act, the sooner the bloodshed can end.

Today the Sikh nation turns to Belgium. India must receive the message that its misdeeds against the Sikhs are not going unnoticed by members of the international community or the Belgian people.

There are two paths for Belgium and the international community in regards to India. One is the status quo, where violence, agony, despair, and frustration continues to havoc India's shackled nations. The other is the road to peace and prosperity through freedom and self-determination. Clearly, morality, justice, and South Asian regional security demand Belgium to choose the second.

On behalf of the sovereign Sikh nation, I urge Belgium to support freedom for Khalistan by doing three things. First, extend full diplomatic recognition to Khalistan. Second, introduce legislation similar to the American legislation calling for a U.N.-sponsored plebiscite in Punjab, Khalistan. Third, cut all monetary aid to India because of its human rights violations against its minorities.

In closing, the Sikhs are the kind of people who remember their friends. We ask for Belgium's support and hope that very soon the sovereign nation of Khalistan will have the opportunity to return the favor tenfold to the good people and government of Belgium. Thank you and God bless you.

TRIBUTE TO HARRY KUBO

HON. CALVIN M. DOOLEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 18, 1993

Mr. DOOLEY. Mr. Speaker, I rise today to recognize and honor Harry Kubo of Parlier, CA, who has been chosen 1993 "Agriculturalist of the Year" for his longtime commitment to agriculture in Fresno County, CA. Mr. Kubo is being honored on November 18, 1993, during the AgFresno Farm and Equipment Exposition.

Harry Kubo is a well-known farming leader in the San Joaquin Valley, which is the richest agriculture-production region in the country. Twenty years ago he helped establish the Nisei Farmers League and has been the group's only president. The organization now has more than 1,000 farmer-members of all cultural backgrounds from throughout the valley.

Harry was born in 1922 in Sacramento, and he grew up and attended schools in the foothill country near here. He and his wife, Mary, have two sons and three daughters. He farms 120 acres of grapes, trees, and row crops in partnership with his son Larry and his brother George.

Harry's involvement with agriculture has reached far beyond his own farm and the Nisei Farmers League. He is a past president of the Agricultural Action Committee and represented the United States on the Commission of the Californias.

He is the current president of the Farm Labor Alliance and of California Fresh Fruit Growers, which seeks better marketing of products grown in the San Joaquin Valley. He also is a member of the board of the Fresno City and County Chamber of Commerce. In addition, Harry is chief operating officer of Agricultural Exports of California [AG–CAL], which works to enhance the export of California farm products to the Pacific rim.

Harry served for 18 years as a trustee of the Parlier Unified School District. He is a current board member of the State Center Community College Foundation.

Mr. Speaker and my colleagues, please join me in congratulating Harry Kubo upon his being honored as 1993 "Agriculturalist of the Year."

TRIBUTE TO BERNARD KING

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 18, 1993

Mr. TOWNS. Mr. Speaker, it is my pleasure to recognize the achievements of Bernard King, one of the most prolific scorers in the history of the National Basketball Association. Bernard was born in Brooklyn, NY and attended Fort Hamilton High School. He attended the University of Tennessee and was drafted in the first round by the New Jersey Nets in 1977.

Bernard's accomplishments warrant notice because he symbolizes the capacity within each of us to overcome personal, professional, and physical adversity. On and off the basketball court Bernard King has achieved excellence and individual growth.

After a star-studded career at the University of Tennessee, Bernard established his mark in the NBA as the consummate small forward, playing for the New Jersey Nets, the New York Nets, and the Washington Bullets. He holds the New York Knicks scoring record of 60 points in one game at Madison Square Garden. And he is 1 of only 4 players to score 50 points in back-to-back games. Among his other notable achievements, he is a four-time All-Star and was voted the Most Valuable Player for the NBA in the 1983–84 season. In his illustrious career Bernard scored over 19,000 points and overcame a career threatening knee injury. He is one of two NBA players to average 42 points in a playoff series.

However, there are a few qualities that set Bernard apart from some of his peers. He has unselfishly given of his time and resources to charitable causes such as the Juvenile Diabetes Foundation, the Brooklyn School for Special Children, the Boys Club, and the Bedford Stuyvesant Restoration, to name a few. Bernard is also a world traveler and an aficionado of art and culture.

In a time when so many young athletes forget or discount their stature as role models, Bernard continues to exemplify a standard he set as a professional. He is an articulate, industrious, compassionate, and positive role model. I am honored and pleased to highlight the achievements of Bernard King. He is a rare individual whose noteworthy achievements on the basketball court are matched by his contributions in private life.

STATEMENT ON DESIGNATING THE BRIEN McMAHON FEDERAL BUILDING

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 18, 1993

Mrs. KENNELLY. Mr. Speaker, I am proud to introduce legislation today which would name the Federal courthouse in Bridgeport, CT, after a distinguished former member of the U.S. Senate, Senator Brien McMahon. A native of Norwalk, CT, Senator McMahon was first elected in 1944 and was reelected in 1950. His Senate career was tragically cut short by his untimely passing on July 28, 1952, at the age of 48.

A Senator for only 8 years, Senator McMahon nonetheless left his mark on our country. Perhaps no area is so identified with him as atomic energy. Brien McMahon was responsible for the McMahon Act, also known as the Atomic Energy Act of 1946. In 1948, he became chairman of the Joint Committee on Atomic Energy, where he worked diligently to support the weapons program that would become the free world's security blanket for the next four decades.

But Brien McMahon's contributions extended far beyond atomic energy. He was the first Member of Congress to venture behind the Iron Curtain, where he negotiated an aid program with Marshall Tito, who had just broken with Stalin.

Senator McMahon was also a man of principle. He was one of the first Senators to challenge the activities of the late Senator Joseph McCarthy. Senator McCarthy even went to Connecticut to campaign against Senator McMahon.

It is particularly appropriate to name a courthouse for Senator McMahon. Before being elected to the Senate, he had a distinguished legal career. A graduate of Yale Law School, he practiced law in Norwalk, CT, where he became a city court judge in 1933. Later that same year, he was appointed special assistant to U.S. Attorney General Cummings. In 1935, Senator McMahon was appointed Assistant Attorney General in charge of the Criminal Division of the Department of Justice, where he served for 4 years. For all these reasons, it would be fitting to honor Senator Brien McMahon by naming this Federal courthouse in his memory.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States courthouse located at 915 Lafayette Boulevard in Bridgeport, Connecticut, shall be known and designated as the "Brien McMahon Federal Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the courthouse referred to in section 1 shall be deemed to be a reference to the "Brien McMahon Federal Building".

TRIBUTE TO DAVID W. HEINEMAN

HON. DAVID MANN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 18, 1993

Mr. MANN. Mr. Speaker, I rise today to congratulate David W. Heineman for earning the Boy Scouts of America Eagle Scout rank. David will be recognized for his achievement at a special Court of Honor ceremony on December 4.

David Heineman joined Troop 102 in 1989. Since then, he has held several positions of responsibility, from assistant patrol leader, to senior patrol leader. David has been inducted into the Scouts' honor campers group—the Order of the Arrow, and has helped staff the Brownsea Junior Leadership Training Camp.

David, like all other Eagle Scout candidates, was required to complete a community service project. He worked with the Fairview German Bilingual School to renovate the greenspace by the school's playground. The project involved new landscaping work which created additional play areas for children in the school and the surrounding community.

David Heineman also has been persevering to perform to the best of his abilities outside of Scouting. He is an honor student at St. Xavier High School, where he is a valued member of the freshman track and field, and the reserve cross-country teams.

I salute David on his accomplishment, as well as his parents and his Scout leaders whose support helped make it possible.

PRIVATE SECTOR FINANCING OF AFFORDABLE HOMES IN IDAHO

HON. LARRY LaROCCO

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 18, 1993

Mr. LaROCCO. Mr. Speaker, we all know, Federal, State, and local governments across the country are increasingly short on funds these days, and one of the areas that is often cut back, or neglected altogether, is affordable housing. But in Idaho, private sector businesses have found an answer to the dilemma of meeting the need for affordable housing when there isn't much left in the public coffers. In my State, some very creative people and the financial institutions they work for are taking a bold approach to help make sure that Idaho families of modest means can afford a decent dwelling.

This bold approach is called the Idaho Community Reinvestment Corporation [ICRC] which was unveiled at a press conference with Governor Cecil Andrus in Boise last week. Although the name sounds technical, the idea behind it is actually fairly simple. Several Idaho banks and some savings and loans got together and pooled $35 million to be used as a fund to finance the purchase, construction, rehabilitation, or refinancing of affordable multifamily apartment buildings. A key player in the home financing area, Fannie Mae, will buy mortgage loans made by the Idaho fund, thus replenishing the fund with cash that can then be lent out again. This will allow the $35 million pool to revolve and thereby provide a continuing source of permanent financing at attractive interest rates.

The Idaho fund will offer long-term financing to address the affordable housing credit needs of Idaho, including projects with as few as two units in rural areas. Interest rates will be set slightly below the conventional market, which will enhance long-term affordable to low- and moderate-income households. The Idaho Housing Authority will work toward combining Federal, State, and local housing programs with the Idaho fund's unique mortgage financing to stimulate higher levels of affordable rental housing production.

The financial institutions involved deserve praise for their initiative. These include Bank of America, Farmers & Merchants State Bank, First Federal Bank of Idaho, FSB, First Interstate Bank of Idaho, N.A., First Security Bank of Idaho, N.A., Ireland Bank, Key Bank of Idaho, U.S. Bank of Idaho, Washington Federal Savings, and West One Bank, Idaho.

Edmund Keane, Jr., chief executive officer of Key Bank of Idaho was elected chair of the Idaho Fund board of directors. Creation of the organization was led by a task force of Idaho lenders headed by Keane, Mark Literas, manager of the commercial banking division of First Security Bank, and Michael Dunn, manager of real estate administration at West One Bank of Idaho. Mike and Mark have worked many, many hours to make ICRC a reality. This method of financing affordable housing should serve as a model for communities throughout the Nation.

I would like to acknowledge Connie Hogland, the executive director of Boise Neighborhood Housing Services. Connie played a key role in developing the relationship between the ICRC and Fannie Mae. Connie is a champion for lower-income families and has worked constantly for many years to make sure that these families and individuals have access to affordable housing.

Congratulations and thank you to the businesses which have stepped up the plate. This is a good idea whose time has come.

INTRODUCTION OF CODE OF CONDUCT ON ARMS TRANSFERS

HON. CYNTHIA A. McKINNEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 18, 1993

Ms. McKINNEY. Mr. Speaker, as a member of the Georgia State Legislature I gave a controversial speech on the involvement of the United States in the gulf war. I believed then, as I believe now, that American soldiers should not be victims of a short-sighted foreign policy that provides American support for corrupt and antidemocratic regimes.

That was cold war thinking—the support of dictators, so long as they were friendly to the United States and unfriendly to the Soviet Union. Well, the Soviet Union no longer exists. It is time to end the cold war thinking that has influenced so much of our policy on arms transfers.

The Children's Defense Fund has a wonderfully provocative poster that reads: "Last year we gave $8 billion in military aid to countries our undereducated children can't even find on a map."

For the third year in a row, the United States retains the world championship in the arms dealing competition. Not only are we the No. 1 arms dealer in the world, but our sales exceed all other competitors combined.

Since the end of World War II, 40 million people have died in wars fought with conventional weapons.

Does selling these weapons make the world a safer place?

Does military aid and arms sales promote stability and economic progress in the developing world?

The Arms Control and Disarmament Agency estimates that each year about $1 trillion is spent on armed forces around the world. A staggering $200 billion of this is spent by developing countries, which is equal to about four times all the bilateral and multilateral foreign assistance they receive.

The arms race taking place in the Third World drains badly needed funds from infrastructure development, social spending, and business investment. Regional competitors strive to keep parity with one another. Sadly, the weapons are as likely to be turned on domestic populations as historic regional enemies.

We simply can not afford the arms sale frenzy in which we have been engaged. Our children cannot afford it. The children of the developing world cannot afford it.

For years we sold weapons to dictators and provided military training for their officers. We armed the Shah of Iran, we armed Iraq, we armed Panama, we armed Somalia and we armed Haiti. We continue to pay for these sales with American tax dollars and American lives.

There are presently some restraints an the arms trade. But the failures of the present regimen are all too apparent. In Haiti, the military that has overturned the elected government of President Aristide and scorned the Governor's Island accord is comprised of an officer corps trained in America.

At the very least, American arms should not be sold and U.S. military training should not be provided to governments that oppose American principles.

The United States has led the effort to establish the United Nations Register of Conventional Arms and this is an important achievement. The United States has engaged in negotiations to reduce the arms trade in volatile regions of the world. The Foreign Affairs Committee, on which I serve, has eliminated many of the earmarks for military aid to countries that abuse human rights and reduced security assistance. These are important actions.

Despite these efforts, the arms trade continues at an alarming level. Something more is needed to reduce the global trade in conventional arms.

The legislation I introduce today will establish a code of conduct for arms sales and transfers. An identical bill is being introduced by my Senate colleague, Senator MARK HATFIELD. I believe that this is a sensible approach that will increase the chances that we will at least think about what we are doing—to ourselves, to our children, to the world.

Essentially, the legislation would prohibit U.S. military assistance and arms transfers to foreign governments that are undemocratic, do not adequately protect human rights, are engaged in acts of armed aggression, or are not fully participating in the United Nations Register of Conventional Arms, unless the Congress acted to approve such a sale or transfer.

Change is always difficult. There are many interests that view arms as export products. I believe we must export products that reflect the American ideal of prosperity and the good life of all our neighbors wish to share.

A tremendous grassroots effort is already underway, and I am pleased to include in the RECORD a listing of religious, international development, human rights, and economic conversion groups who have endorsed the code of conduct campaign. I thank them for all their efforts, which have been crucial to the development of this legislation. The work of these citizen groups represents the best of our vital democracy.

We must end the U.S. role in promoting the global arms trade. Otherwise we will not be able to accomplish the most important jobs ahead of us—investing in our children's health and education, making sure we all have jobs and homes, making sure we have a global economy that is growing and producing markets for American products—and that every country on the map will be one that every child in America can identify.

I urge my colleagues to lend their name to this important effort.

CODE OF CONDUCT COSPONSOR LIST

Alliance for Child Survival.
Americans for Democratic Action.
Africa Faith and Justice Network.
Bread for the World.
British American Security Information Council.
Center for Defense Information.
Center for Development of International Law.
Center for Economic Conversion.
Church of the Brethren, Washington Office.
Committee for National Security.
Council for A Livable World.
Development-GAP.
Federation of American Scientists.
Foreign Bases Project.
Friends Committee on National Legislation.
Fund for Peace.
Fund for New Priorities in America.
Human Rights Watch.
Institute for Food and Development Policy (Food First).
Institute for Policy Studies (Global Economy Program).
International Human Rights Law Group.
Jesuit Social Ministries.
Maryknoll Justice and Peace Office.
Mennonite Central Committee.

National Commission on Economic Conversion and Disarmament.
National Council of Churches.
NETWORK: A Catholic Social Justice Lobby.
Peace Action.
Peace Dividend Campaign (Rockland County, NY).
Psychologists for Social Responsibility.
Physicians for Social Responsibility.
Project on Demilitarization and Democracy.
RESULTS.
20/20 Vision National Project.
United Church of Christ.
Unitarian Universalist Association of Congregations.
United Methodists Church (General Board of Church and Society).
Vietnam Veterans of America Foundation.
Westchester People's Action Coalition.
Women Against Military Madness.
Women's Action for New Directions.
Women Strike for Peace.
World Policy Institute.

ROUTE TO PEACE IN KASHMIR

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 18, 1993

Mr. MICHEL. Mr. Speaker, one of the less fortunate remarks ever uttered by a statesman was spoken by Prime Minister Neville Chamberlain of Great Britain when he said of Hitler's takeover of Czechoslovakia that it was "a controversy among people in a far-off land of whom we know nothing." This has become the classic statement of geopolitical shortsightedness.

We now live in a world of instant communication and travel at supersonic speeds, so in a sense there aren't any far-off lands. While we must be wise and prudent in our foreign policy, and always put our own Nation's interests and values first, we cannot ignore events in distant lands that involve those interests and values, even in what at first might seem to be a peripheral fashion.

These thoughts occurred to me when I read "Route to Peace in Kashmir" in a recent issue of the the Christian Science Monitor. The author, Sumit Ganguly, says it is imperative for "Indians, Pakistanis, and Kashmiri militants" to open talks "about fashioning medium- to long-term strategies to end seemingly endemic conflict."

I believe that it is in our national interests and reflective of our national values that charges of human rights abuses in Kashmir be examined and that the interested parties themselves attempt to fashion a peaceful, fair and just solution to long-standing problems. Making a definitive judgment on the various rights and wrongs of the complex situation in Kashmir demands time and patience and understanding. But allegations of human rights abuses, wherever they occur, deserve evenhanded investigations. Most importantly, the solution to these grave problems of this part of the world must come from the people directly involved.

At this point I wish to insert in the RECORD, "Route to Peace in Kashmir", by Sumit Ganguly, the Christian Science Monitor, Wednesday, November 17, 1993.

[From the Christian Science Monitor, Nov. 17, 1993]

ROUTE TO PEACE IN KASHMIR

(By Sumit Ganguly)

The standoff, finally ended, between India's security forces and certain Kashmiri Islamic militants at the Hazaratbal mosque in Srinagar, the capital of Kashmir, presents an interesting irony.

In December 1964 miscreants broke into the same mosque and stole the Mo-e-Mogdas, a relic of the Prophet Muhammad. Yet though riots followed in Srinagar and elsewhere in northern India in the wake of the theft, Kashmiris remained loyal Indian citizens. Pakistan's efforts to woo them failed miserably. Today, however, Islamic militants holed up in the mosque have significant support among Kashmiris; indeed autonomist and even separatist sentiments are widespread in the Kashmir Valley.

It is imperative that Indians, Pakistanis, and the Kashmiri militants open talks about fashioning medium- to long-term strategies to end seemingly endemic conflict. Failure to do so will result in the loss of more blood and treasure, perhaps leading to another Indo-Pakistani conflict over Kashmir.

The 1964 events at the Hazaratbal mosque contain lessons for the current crisis. Agents of the Indian Intelligence Bureau, in cooperation with the local Kashmiri police, were able to track down the perpetrators and restore the holy relic to the shrine. Meanwhile, riots broke out throughout the valley, as well as in a number of India's cities. On the other side of the Kashmir border, President Ayub Khan and other leaders of the Pakistani military mistakenly construed the disturbances in Kashmir as indicating support for Pakistani intervention. Accordingly, in the summer of 1965, they sent lightly armed Pakistani troops disguised as local tribesmen to wreak havoc in the valley.

Although some Kashmiris may have been disaffected with Indian rule, most remained loyal Indian citizens and turned in the infiltrators to the authorities. Despite the failure of this plan, war erupted between India and Pakistan in September 1965. The limitations of firepower, a US arms embargo, and Soviet mediation helped to end this conflict.

Today neither Indians nor Pakistanis actively contemplate starting another war. Nevertheless, two factors increase the threat of conflict. First, segments of the Kashmiri militants, particularly the *Hezb-ul-Mujahideen*, have strong allegiance to Pakistan. Second, considerable uncertainty exists about military doctrines in India and Pakistan. Cut off from their cold-war patrons, the military machines of both sides are in a state of flux. The situation in the region is uncertain.

Before the larger issue of Indo-Pakistani relations can be addressed, certain steps need to be taken to defuse the insurgency in Kashmir.

The Indian government needs to significantly alter its current counter-insurgency operations. The harsh "mailed fist" strategy that it adopted in dealing with the militants in the Punjab is inapplicable to Kashmir. In Punjab, deep-seated disaffection with Indian rule and support for an independent state of Khalistan was limited to a minority of the Sikh population. In the Kashmir Valley, however, the vast majority of people have some grievances against the Indian state. Unbridled police brutality only adds to the reservoir of disenchantment.

Persistent charges of torture and other human rights violations on the part of security forces need to be investigated and acted upon.

The government should consider offering an unconditional amnesty to the militants in exchange for a cease-fire for a specified period of time. During the cease-fire, serious negotiations can be started with the militants.

The government should move to restore Article 370 of the Indian Constitution to its original strength. Among other matters, Article 370 prohibits non-Kashmiris from purchasing land in Kashmir. Any restoration effort will generate considerable hostility on the part of the militant Hindu Bharatiya Janata Party. Nevertheless, their claim that the Muslims of Kashmir have been "pampered" is essentially without merit.

India should offer to hold an election in Kashmir in the presence of international observers. Non-governmental organizations from the United States and other nations can make a useful contribution to this end.

India needs to take advantage of the opportunity provided by the change in government in Islamabad to renew talks with Pakistan. In this regard too, the US can play a useful role. It can continue its pressure on Pakistan to cease support to the insurgents. Simultaneously, it can prod India to investigate charges of human rights violations and begin a meaningful set of negotiations with the militants.

None of these actions will be easy or popular for the weak regime of Indian Prime Minister P.V. Narasimha Rao. But maintaining the current strategy in Kashmir will restore neither law nor order. Instead, at best, India will continue to lurch from one crisis to another. At worst, the subcontinent may witness yet another costly war over Kashmir.

A LEGITIMATE WAITING PERIOD

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 18, 1993

Mr. CRANE. Mr. Speaker, this summer, the Census Bureau released a study which shows that single mothers were becoming more frequent among all races and income groups in American society. In a 10-year period from 1982 to 1992, the percentage of unwed mothers with at least 1 year of college education jumped from 5.5 to 11.3 percent. During the same period, single mothers with at least a high school diploma went from 17.2 to 32.5 percent. The most troubling statistic showed that over two-thirds, 67 percent, of children born to black women were illegitimate.

We saw during the last national election that national attention was focused on the single parent family. Unfortunately, there was more rhetoric than reality in the debate. What the majority of popular media failed to recognize was the potential for trouble among the children born to single mothers. Although Vice President Quayle attempted to discuss this fact, he was immediately vilified among the media elite for this insensitivity.

William F. Buckley Jr., writing it in the Washington Times, explains the findings of Prof. James Q. Wilson's book, "The Moral Sense." Mr. Wilson's research points out the problems typical of boys and girls who are raised from birth in families without fathers. The problem Mr. Wilson, Mr. Buckley, and Mr. Quayle are addressing is one of a lack of commitment. I would like to suggest that the only waiting period that the Nation should consider is one for parenthood.

I have included Mr. Buckley's column for the RECORD and I would like to commend it to your attention.

WHEN IT'S TIME TO SAY: "NO YOU DON'T"

(By William Buckley, Jr.)

It is increasingly recognized that the most readily identifiable tragedy in modern life is the illegitimate child. This advent, which was once a phenomenon, is becoming not merely commonplace, but overwhelming.

Although in the last 30 years illegitimate births among whites have tripled (to 19 percent), among blacks they are 65 percent; i.e., a majority. What then happens we also know: an extraordinary (600 percent) rise in crime, illiteracy, poverty and drug addiction.

Since everybody knows about the birds and the bees, we are prepared to reason with reference to the necessary antecedent event, which is sexual congress. And we are entitled to ask: What, other than sex education (in New York, we've had sex education for 25 years, with zero deterrent effect), is society supposed to do about single parenthood?

Professor James Q. Wilson's resoundingly important book, "The Moral Sense," sets out to discuss modern concerns after postulating that human beings are in fact born with a sense of morality. Children do not have to be taught that they should not steal or hit other children or cause suffering. They know this intuitively, even if they do not abide by their intuitive codes.

He reports on one study: "By the time the children entered the third grade, those who lived with their mothers alone were the worst off in terms of their socialization. After 10 years, the boys who had grown up in mother-only families * * * reported more delinquencies, regardless of family income, than those who had grown up in families with multiple adults, especially a father."

This, then, happens when there is a broken marriage, or no marriage at all. And this isn't just a Western peculiarity: "In virtually every society, the family is defined by marriage; that is, by a publicly announced contract that makes legitimate the sexual union of a man and a woman. Even in societies where men and women have relatively unrestricted sexual access to one another beginning at an early age, marriage is still the basis for family formation. It is desired by the partners and expected by society.

"Marriage, in short, is not simply a way of legitimizing sex, and so it cannot be dispensed with just because sexual activity need not be made legitimate. Marriage exists because people must take responsibilities for child care and assume economic obligations. Marriage, and thus the family that it defines, is a commitment."

Well, then, is there a role for society in reinforcing that commitment? Here the renowned professor reframes the question by asking: What do the American people want? And he answers it:

"They want our leaders, the media, television programs, and motion pictures to take their side in the war over what the family is. It is not one of several alternative lifestyles; it is not an arena in which rights are negotiated; it is not an old-fashioned and reactionary barrier to a promiscuous sex life; it is not a set of cost-benefit calculations. It is a commitment."

And what do you do to people who do not make or live up to a commitment? Well, of course, social recourses vary. You can hang them (if they do not live up to their commitment not to murder their neighbor), or you can sue them (if they do not live up to their commitment to honor their contract)—or you can register your disapproval in other ways. My guess is that, to give the above a little flesh-and-blood incarnation, David Duke does not have a wide variety of estimable friends who approve his Nazi-worship.

But traveling along the line of how do we express our disapproval, how do we do it to Hollywood stars, some of whom could not apparently care less whether their child has a resident father? How do we handle the Hollywood star for whom marriage is manifestly something less than a commitment?

Take Elizabeth Taylor. At her eighth wedding a couple of years ago, it would be fair to say the tons of money shelled out by People magazine to get inside access to the festivities registered a popular curiosity about the event that was never confused with popular disgust over someone for whom marriage is a commitment made about as solemnly as tomorrow morning's promise to ease up on the booze for a day or two.

But what is Mr. Wilson suggesting we do about the media and the motion pictures and the television programs, to lessen their enthusiasm for the lifestyle of Murphy Brown? Mr. Wilson, who is a warm and generous man, believes that those who in exchange for a night out on the town breed children who will not grow up with two parents should be scorned by their neighbors as selfish, irresponsible reprobates.

Does that summon the image of a censorious age? Censoriousness is not good. But there is a great deal going on that is properly censured.

DETOUR IN LIFE

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 18, 1993

Mr. JACOBS. Mr. Speaker, I place in the record a September 18 item published in the Indianapolis Star.

In the play, "Laura," Waldo Lydecker, national newspaper columnist, speaks harshly in the presence of the heroine. And she expresses her bewilderment inasmuch, she says, as he writes so sentimentally in his column. The writer replies, "Sentiment comes easily at $5 a word (adjusted for inflation)."

I didn't believe a word of it. Eloquence is nine parts heart and one part skill.

Writing doesn't and can't get any better than what follows.

[From the Indianapolis Star, Sept. 18, 1993]

NEW GRAD PAYS OFF AN OLD DEBT

(By Joe Gelarden)

Dear Dad, I finally did it. I really did.

A couple of weeks ago, I put on a black robe and a silly hat and marched up on a stage, and the university president handed me a diploma that said I was a college graduate. He congratulated me.

And my wife and kids and grandson cheered.

It only took 34 years.

Not bad, eh?

Actually, as you remember, Dad, things got sort of mixed up in the 1960's. And those of us in college at that time were faced with a whole lot of choices that other generations didn't know existed. A lot of the choices led to disaster. And you remember that I made a career of making wrong turns.

You just said: "Hang in there."

A DETOUR IN LIFE

And after they told me you had died, I tried to follow your advice, or I sort of tried to follow it. But I really didn't do very well.

Except for your admonition: "Don't let your grades get in the way of your education."

Well, I like that one, and didn't.

So somewhere in the middle of my third senior year, I left school; it was not long before Uncle Sam sent me a note and a ticket to the Marine Corps Recruit Depot at San Diego. It seems Mr. Nixon wanted to broaden my learning experience, and he suggested some world travel.

For the next two years, two months and 10 days, I was a member of a group that called itself Uncle Sam's Misguided Children. For the most part, they had me cleaning and polishing things and filling things and swating things and itching and being generally uncomfortable. I got real good at standing in line.

Then they sent me home and said thanks.

And I met this girl and we got married, and suddenly I was a husband and a father and had (and wanted) to do things for others, like buy groceries and pay the rent and coach Little League and play Scoutmaster and provide hugs and pretend to be a grownup.

And things went along pretty well until last December when this old judge died, and they buried him on your birthday, I remembered that I had made you a promise. A promise that I had forgotten or ignored.

WHY DO IT?

"Look, stupid, What does it matter? You have a job and are sort of respected, and they are not going to give you a raise if you finish." I argued with myself.

"But what about the promise to Dad?" I asked. And the question gnawed at me at night when I was alone on my side of the bed.

So, I wrote the little college in Cleveland, and the dean said if I was serious I could come back for a compressed summer session.

I called my old roommate, and he offered to put me up in his attic for three weeks. I went back to school and got two A's, the first of my career.

And the dean said I could write a paper for the last two credit hours, and I did that, too.

So last Friday, my bride and the kids (and one perfect grandson) and the neighbors and my old roommate and his bride went over to John Carroll University on Cleveland's east side. They watched me walk up on the stage. And they cheered.

And I looked up at the audience and saw all the strangers sitting there.

But, Dad, as I sat down on the folding chair, all I could think of was you.

And of promises made. And finally, promises kept.

Your son,

Joe.

REINVENTING AID

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 18, 1993

Mr. HAMILTON. Mr. Speaker, we are all concerned over the quality of government. The Clinton administration is attempting to address this problem through "Reinventing Government," led by Vice-President AL GORE.

The Committee on Foreign Affairs has been seeking to improve U.S. foreign assistance programs and policies through its 4-year odyssey to secure enactment of a rewrite of the Foreign Assistance Act of 1961, as amended. The Clinton administration has accepted that challenge and soon will send to the Congress a draft bill.

As part of the effort to reform U.S. foreign assistance, Brian Atwood, the Administrator of the Agency for International Development, has offered AID as a test case for reinventing government. He has been taking steps administratively to reorganize AID, revise its operating procedures, and streamline and reduce staffing.

To keep members apprised of the steps that are being taken to "reinvent AID," I insert the following letter from Brian Atwood enumerating the steps which he has taken to reform AID:

U.S. AGENCY FOR
INTERNATIONAL DEVELOPMENT,
November 10, 1993.

Hon. LEE HAMILTON,
Chairman, Committee on Foreign Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN, I am writing to update you on the progress we are making at the U.S. Agency for International Development (USAID) in reforming our development program to meet the challenges of the post-Cold War era.

On October 1, 1993, we released the final version of our reorganization plan. The result is a streamlined internal structure that eliminates unnecessary layers of administration and mandates interdependence and communication. Eight bureaus have been consolidated into four, and lines of authority have been clarified and simplified.

We now are in the process of "right-sizing" our offices, bureaus, and missions to ensure that their human and financial resources are appropriate in quantity and quality to the scope of their work. This process emphasizes the insights of the people of the Agency and the Vice-President's National Performance Review. We expect that this phase will be completed by January 15, 1994. By that time, we expect to have in place a new internal organizational structure for each bureau and office.

We have developed a plan to close and consolidate some 20 missions. This reduction will enable USAID to better concentrate its operating resources and personnel. As I have stated on many occasions, USAID must work where we can be effective. It is time now to acknowledge our successes in certain nations and reduce our presence. In other countries where governments have failed to involve themselves in the development process or to permit the participation of their own citizens in the development process, we will reallocate resources.

With your assistance the Administration is developing a proposal for a new Foreign Assistance Act, which will be provided to you for further consultation prior to adjournment. It would replace the FAA of 1961, a Cold War relic, and would redefine USAID and foreign assistance to meet the needs of the post-Cold War environment. We look forward to working closely with you to craft legislation that will meet this challenge.

We are in the final stages of developing strategies to implement our mandate of sustainable development. They have been widely circulated for comment and the private voluntary community has participated in the drafting process. The reaction to the draft papers has been positive, and the PVO community has been especially appreciative of our decision to engage and consult with them on this and other matters.

You have already received a draft of a strategic overview paper. We plan to provide the final version of this paper to you, along with the details of our strategic vision on the five issues that are critical to sustainable development: Population and Health, the Environment, Democracy, Broad-based Economic Growth, and Providing Humanitarian Assistance and Aiding Post-Crisis Transitions.

These strategies will enable us to establish unambiguous goals and judge whether we are achieving them in our aid programs. They will guide our missions and encourage closer collaboration with other donor agencies, including multilateral institutions. Subsequently, the new Bureau for Policy and Program Coordination (PPC) will develop implementation papers to apply the principles of the strategy papers to our programs and missions. These documents will translate the strategies into specific operational approaches that build indigenous capacity, empower people, and involve the recipients of aid in the design of programs that are intended to benefit them. PPC has also circulated a paper entitled "Enhancing A.I.D.'s Ability to Manage for Results" which describes a new system that will be introduced early next year.

I currently am reviewing a report to me on reforming our procurement and contracting system. We intend to implement new and simplified procedures that will encourage broader participation in our programs. We are also developing policies to prevent potential conflicts of interest in our procurement process. We believe that reform of these systems will help us minimize waste and eliminate profiteering and other contracting abuses.

In recent weeks, I have traveled to a number of cities throughout the United States, including St. Louis, San Diego, Los Angeles, San Francisco, Seattle, and Detroit. I have met with community leaders and newspaper editorial boards, discussing the contribution USAID makes to America's domestic interests, as well as our efforts to reform the Agency. I have found that our efforts are appreciated, and that there is considerable regard for the value of an effective program of foreign assistance. I have been much encouraged by this, and believe that our continued progress will enhance popular support for reform in the months ahead.

I continue to attach the highest priority to communication with the Congress, and I hope the level of contact during these changes is evidence of that commitment. I want to expand the consultation process, because I am convinced that we must achieve as broad a consensus as possible if we are to succeed. I very much appreciate your continued interest and support.

Sincerely,

J. BRIAN ATWOOD.

KEY DOCUMENTS PROVE INNOCENCE OF JOSEPH OCCHIPINTI

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 18, 1993

Mr. TRAFICANT. Mr. Speaker, as part of my continuing efforts to bring to light all the facts in the case of former Immigration and Naturalization Service agent Joseph Occhipinti, I submit into the RECORD additional key evidence in this case.

CONFLICT OF INTERSTATE/APPEARANCE OF IMPROPRIETY

1. In 1988/9 officer Occhipinti spearheaded two investigations implicating a Dominican Drug Lord and a former U.S. Attorney in drug trafficking activity and official corruption. The assigned prosecutor was Jeh Johnson who suspiciously closed down one of these investigations, "Project Esquire". Due to the nexus of these investigations to "Project Bodega" and the apparent conflict of interest, AUSA Johnson should have excused himself from prosecuting officer Occhipinti.

2. AUSA Jeh Johnson publicly admitted that he was the former law clerk and close family associate of the presiding trial judge, Constance Motley. This caused a perception of impropriety which was prejudicial to the defendant's case. It should be noted that there were a number of ex-parte communications with the trial judge evidencing said conflict of interest.

3. The official court interpreter at trial, Dalia Fernandez, was utilized by the US Attorney's Office during the course of their criminal investigation, Grand Jury proceeding, and pre trial preparation. These activities included interviewing the complainants and other witnesses in the field. In addition to performing the above mentioned services for the prosecution, she also testified as an expert prosecution witness against officer Occhipinti. I requested the judge to allow me to be present at the counsels table to monitor possible interpretation problems. My request was denied after I was served with a trial subpoena by the prosecution. They made me one of their witnesses, effectively removing me from court proceedings. I was never called to testify.

Many Hispanics attending court reported that there were incorrect translations, which we found highly suspect. While testifying, Ms. Fernandez admitted being personally involved in the prosecutions case, clearly a conflict of interest.

4. Jim Scherin, an agent on contract to the US Attorney's Office and a board member of the Federal Agents PBA, intentionally spread lies and rumors among the membership. He said that there were tapes made by the government allegedly showing officer Occhipinti's guilt. It should be noted that no such tapes ever existed or where turned over to the defense. This agent for the US Attorney's Office, after officer Occhipinti's indictment, intentionally and illegally attended a private PBA meeting where officer Occhipinti discussed his defense strategy. Officer Occhipinti was the President of the organization.

MISUSE OF THE GRAND JURY SUBPOENA PROCESS

1. The prosecutors subsequent to the Grand Jury indictment issued a variety of subpoenas to the IRS and various institutions regarding officer Occhipinti's income and finances. The prosecutor alleged on the trial record that issuance of said subpoenas were in connection with another investigation, which was blatantly false. The basis for this belief were statements made by the IRS case agent, which clearly showed that there was only one investigation.

INTENTIONAL MISREPRESENTATION TO THE COURT REGARDING MATERIAL FACTS

1. At officer Occhipinti's arraignment, AUSA Johnson made false representations to

the court regarding the law enforcement accomplishments of "Project Bodega." In essence, he stated that no arrest of illegal aliens or defendant convictions occurred in the enumerated counts of the indictment. In addition, AUSA Johnson reported to the court that officer Occhipinti willfully removed wall panels and floor boards causing physical damage in his searches. He failed to mention to the court that numerous arrests, both criminal and administrative, were made. In addition, behind the damaged wall panels and floor boards were voluminous amounts of hidden contraband. In addition to the voluminous amount of contraband and evidence of criminal activity found there, a "Safehouse" harboring undocumented Mexican aliens was also discovered. We believe that similar false representations and willful omissions were made to the Grand Jury in order to obtain an indictment against officer Occhipinti.

2. One of the enumerated counts in the indictment for which officer Occhipinti was convicted involved his obtaining an oral consent to search in connection with Project Kuala-Lampur. The prosecution told the jury in essence that no consent could have been given since the madam of the house of prostitution did not speak English. Post trial evidence revealed that a high ranking NYPD Internal Affairs Officer had consentually monitored the conversation with the madam, who was speaking to officer Occhipinti in English. That information was told to prosecutors one week before trial. Nevertheless, the prosecution disregarded the truth and misled the jury.

DIEGO RIVERA: AN ARTIST AND A STATESMAN

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 18, 1993

Mr. LANTOS. Mr. Speaker, I rise to honor one of the most innovative artists of the twentieth century, an artist who has brought together people of all ages and nationalities in admiration of his work.

Diego Rivera was an artist and a statesman, giving ordinary people an insight into his own Mexican culture as well as other cultures, both within and between national borders. His works depict the range of cultures on our continent, from Alaska to South America, blended into one scene, united in "the same urge but in a different form of expression," as the artist put it.

Since the height of his career in the 1930's, Diego Rivera's work has been some of the most sought after in the United States. In addition to numerous commissions for easel paintings, he received several commissions for murals in San Francisco and was given a one-person exhibition at the Museum of Modern Art in New York.

Also, he decorated the central court of the Detroit Institute of Arts, was invited by General Motors to create murals at the Chicago World's Fair, and painted murals at Rockefeller Center and the New Workers School in New York.

How blessed we are, then, to have the largest work by Diego Rivera outside Mexico hanging in the College Theatre of the San Francisco Community College District.

Diego Rivera's mural "Pan American Unity" was created in 1940 and placed in the College Theatre in 1962 where it has delighted faculty and staff as well as thousands of visitors from the community and around the world since then.

A new College Library is to be constructed over the next 2 years where a new work by living artists will reflect the concerns of society in the 1990's as Rivera's work did in the 1940's. Rivera's "Pan American Unity" shall remain in the College Theatre, which will be renamed the Diego Rivera Theatre and refurbished to accord it the honor it rightfully deserves.

I applaud the San Francisco Community College District for this ambitious and worthwhile project to keep alive Diego Rivera's dream of "Pan American Unity."

TRIBUTE TO MARTY GLICKMAN

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 18, 1993

Mr. TOWNS. Mr. Speaker, I rise today to honor a talented athlete and sports broadcaster, Mr. Marty Glickman. A native of Brooklyn, Marty was a pacesetter in a number of athletic fields. He chose to follow his variety of athletic interests by becoming one of our Nation's most recognized and respected sports announcers on television and radio.

After graduating from James Madison High School, Marty excelled in sports. He played both football and basketball at Syracuse University. He later played professional football for the Jersey City Giants. Marty graduated from Syracuse University in 1949, earning his bachelor of science degree in political science. He proceeded to the U.S. Marine Corps where he advanced to become a first lieutenant. He was released with an honorable discharge in 1946.

As a renowned broadcaster, Mr. Glickman has covered the New York Giants, Ivy League football, and the annual Rose Bowl Game. In baseball he has announced games for the Brooklyn Dodgers and N.Y. Yankees. For 7 years he was the coach of NBC Football announcers, and for 3 more years he was the coach of Madison Square Garden's Network sports announcers. He is also credited with broadcasting basketball, volleyball, water polo, lacrosse, skiing, and tennis events.

Mr. Speaker, it is with great respect and admiration that I rise today to honor Mr. Marty Glickman for his outstanding achievements.

FIFTH ANNUAL CONFERENCE ON HISPANIC CONCERNS

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 18, 1993

Mr. VISCLOSKY. Mr. Speaker, it is my distinct honor to recognize the Fifth Annual Conference on Hispanic Concerns, presented by the Northwest Indiana Hispanic Coordinating Council. The conference will be held on Saturday, November 20, 1993, and it will feature education and related educational opportunities.

The Northwest Indiana Hispanic Coordinating Council is composed of leaders from over 40 different Hispanic organizations. A common characteristic of these Hispanic leaders is their commitment to improve the standard of living for northwest Indiana residents, and in particular, that of the Hispanic community. Council president, Mr. Benjamin T. Luna, has exhibited exemplary leadership and virtuosity in his management of the organization.

Education and the promotion of financial aid awareness will be the primary focus of the Fifth Annual Conference on Hispanic Concerns. As education has become an issue of prominence throughout the country, northwest Indiana has made valiant efforts to increase the participation of its youth in diverse educational activities. I would like to take this opportunity to recognize two distinguished educators from northwest Indiana: Chancellor Hilda Richards, of Indiana University Northwest, and Chancellor James Yackel, of Purdue University Calumet. At the conference, they will address issues of cultural diversity in higher education, as well as the importance of leadership in ethnic communities.

I commend the efforts of these three outstanding proponents of educational excellence and the Hispanic community for their commitment to strengthening the link between the multicultural youth of northwest Indiana and education.

TRIBUTE TO EPWORTH UNITED METHODIST CHURCH ON ITS 91ST ANNIVERSARY

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 18, 1993

Mr. SERRANO. Mr. Speaker, I rise to pay tribute to the Epworth United Methodist Church, which on Sunday, November 21, 1993, will celebrate its 91st anniversary.

Epworth United Methodist Church is a small, close-knit church located in the heart of the South Bronx. Under the leadership of its pastor, Rev. St. Clair Moore, this venerable church continues to serve as a center of grace and charity in our community.

Mr. Speaker, I ask my colleagues to join me in honoring the clergy and congregation of Epworth United Methodist Church on its 91st anniversary.

FREEDOM OF ACCESS TO CLINIC ENTRANCES ACT OPPOSED

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 18, 1993

Mr. PACKARD. Mr. Speaker, I strongly oppose the Freedom of Access to Clinic Entrances Act. This bill unfairly singles out and harshly punishes citizens engaged in peaceful civil disobedience.

Civil disobedience by its very definition is unlawful. However, it is deeply rooted in our civilization and tradition. Civil disobedience has been used in the past to overturn unjust laws. Examples include the civil rights activists led by Dr. Martin Luther King, and the Indian nationalist movement led by Gandhi. We respect the motivation behind these protests. We recognize that sometimes people are so strongly bound by their philosophical, religious, or moral principles that they are driven to use unlawful but nonviolent means to protest. This act violates that tradition.

As I have followed this debate, I am struck that the Members who are supporting this bill are the very same Members who have so strongly supported Martin Luther King and the civil rights movement. Would these Members have opposed Rosa Parks or those young men and women sitting at the Woolworth's lunch counter? Of course not. We recognized and supported their protest grounded in moral, ethical, and constitutional rights.

I have heard arguments that this issue is completely different from the civil rights movement. Martin Luther King and his followers were trying to secure their legal rights while the pro-life movement is about denying abortion-seeking women their legal right. But that is not where the motivation of the pro-life movement stands. Just like civil rights proponents, pro-life proponents are trying to secure moral, ethical, and constitutional rights—the rights of the unborn.

I find it disturbing that this bill so entirely fails to differentiate between peaceful civil disobedience and violent criminal activity. I do not condone criminal behavior of any kind and I will always advocate swift, severe punishment for those who engage in such activities. However, I recognize that there is a real and fundamental difference between violent criminal actions and peaceful, nonviolent protest.

This poorly drafted bill would apply the same laws and punishment to a peaceful protestor as it would a violent offender. A young mother whose deep moral and religious principles motivate her fight for the unborn by passively sitting in front of an abortion clinic entrance could be imprisoned for a year and fined $100,000. Her second offense could send her to jail for 3 years and fined $250,000. We certainly can't equate her action with the actions of a violent protestor who hurls rocks through abortion clinic windows. But this bill does just that.

I am also deeply troubled that this bill violates equal protection under the law by so unfairly singling out one activist group. Many other groups or organizations use blockades and civil disobedience to promote their cause. For instance, consider labor union strikes. When factories hire alternate workers in response to a labor strike, striking workers will physically block access to the factory entrance. Strikers are preventing an individual from accessing their workplace, keeping an individual from earning a living for their family. If proponents of this bill are truly concerned, why isn't labor prevented from blocking access to a factory entrance thereby denying a person from their right?

We won't even be allowed to consider this issue because a Republican amendment defeated in committee was not made in order under the rule. By denying consideration of this amendment on the House floor, it's clear that bill proponents aren't really concerned about securing free access. Otherwise, labor and other groups that use similar methods would have been included. Bill proponents are just using this issue to promote their own personal agenda and opposition to the pro-life movement.

The violence that has been perpetuated at abortion clinics is a serious matter and must be quelled. However, this so-called Freedom of Access to Clinic Entrances tries to address that troubling issue with callous disregard for the rights of abortion protestors. I am concerned that this bill sets a dangerous precedent by infringing on one group's right to peaceful protest. Even when I am deeply divided against another's opinion, I will always support and respect their motivation and right to express that opinion in a peaceful manner. I only wish all of my colleagues could feel the same.

TRIBUTE TO DR. STEPHEN KOLLINS

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 18, 1993

Mr. BILBRAY. Mr. Speaker, I rise today to pay tribute to an outstanding Nevadan, Dr. Stephen Kollins. Dr. Kollins is a leader among medical professionals in southern Nevada. In addition to a successful practice, Steve Kollins enjoys medical teaching and is an associate clinical professor at the University of Nevada, Las Vegas. He has published several book chapters and scientific papers.

He joined desert radiologists in 1978 and has helped shape the growth of the practice into Nevada's largest diagnostic radiology and radiation oncology group practice. He shares clinical responsibility with his associates in a very innovative medical imaging practice at University Medical Center is southern Nevada, Desert Springs Hospital and in the group's affiliated offices. He has also served as department director for the radiology department at Southwest Medical Associates since 1985.

Dr. Kollins is an impassioned advocate for children. His efforts linked University Medical Center with the Children's Miracle Network Telethon. To date, over $2.2 million has been raised to support pediatrics at that overburdened medical facility.

Steve Kollins is a pillar of the Jewish-American community. He is a past president of Congregation Ner Tamid and has served on its board of directors since 1982. He is first vice president of the Jewish Federation of Las Vegas. He was instrumental in the creation of the federation's central offices and combining the offices of major public service organizations together, such as the Jewish Family Service Agency and B'nai B'rith.

Steve is blessed with three children: Michael, Lisa, and Judy.

Most recently, Dr. Kollins has been named "Man of the Year" by Hadassah in southern Nevada. I ask my colleagues to join me and the men and women of Hadassah in honoring a great man, and my friend.

MICHAEL AARON HULTQUIST, EAGLE SCOUT

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 18, 1993

Mr. REED. Mr. Speaker, I rise today to salute a distinguished young man from Rhode Island who has attained the rank of Eagle Scout in the Boy Scouts of America. He is Michael Aaron Hultquist of Troop 1 in East Greenwich and he is honored this week for his noteworthy achievement.

Not every young American who joins the Boy Scouts earns the prestigious Eagle Scout Award. In fact, only 2.5 percent of all Boy Scouts do. To earn the award, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. He must earn 21 merit badges, 11 of which are required from areas such as citizenship in the community, citizenship in the Nation, citizenship in the world, safety, environmental science, and first aid.

As he progresses through the Boy Scout ranks, a Scout must demonstrate participation in increasingly more responsible service projects. He must also demonstrate leadership skills by service projects. He must also demonstrate leadership skills by holding one or more specific youth leadership positions in his patrol and/or troop. These young men have distinguished themselves in accordance with these criteria.

For his Eagle Scout project, Michael designed and constructed a clothing distribution area at the East Greenwich State welfare office for their clients to use.

Mr. Speaker, I ask you and my colleagues to join me in saluting Eagle Scout Michael Aaron Hultquist. In turn, we must duly recognize the Boy Scouts of America for establishing the Eagle Scout Award and the strenuous criteria its aspirants must meet. This program has through its 80 years honed and enhanced the leadership skills and commitment to public service of many outstanding Americans, two dozen of whom now serve in the House.

It is my sincere belief that Michael Aaron Hultquist will continue his public service and in so doing will further distinguish themselves and consequently better their community. I join friends, colleagues, and family who this week salute him.

HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 18, 1993

Mr. NEAL of Massachusetts. Mr. Speaker, today, I am introducing legislation that would amend the Harmonized Tariff Schedule of the United States. This legislation addresses the production of methanol in international waters.

Clarification for methanol production is an issue because of increased technology. An American company located in Massachusetts proposes to build a fleet of ships relying on the admiralty doctrine of the Law of the Flag as a basis for doing business. The ship that would be used to collect the methanol would be documented as a U.S.-flag vessel and operated in international waters by an American crew.

Methanol is recognized as a premium fuel. However, it has been too expensive to be heavily used in transportation and power generation. New technology will allow for low cost production of methanol. The two primary cost components are the capital costs of the methanol production plant and the cost of methane gas feedstock to the production plant.

Natural gas is extracted from subsea sources then piped on board the ship which process the gas feedstock through a sophisticated refinery substantially transforming the gaseous raw material into liquid methanol. The capability exists today for a U.S.-flagged vessel to produce a U.S. product in international waters. The Harmonized Tariff Schedule of the United States does not appear to have an applicable provision for entry even though the finished product is a U.S. product.

This legislation amends the Harmonized Tariff Schedule of the United States to provide for the duty-free entry of methanol produced aboard United States vessels on the high seas or in foreign water. This legislation is necessary for the underwater production of methanol. I urge you to support this legislation.

NO RELATIONS WITH VIETNAM UNTIL RELIGIOUS LIBERTY, H.J. RES. 295

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 18, 1993

Mr. GILMAN. Mr. Speaker, today I am introducing H.J. Res. 295, legislation expressing the sense of the Congress that the United States should not establish diplomatic relations with the Government of the Socialist Republic of Vietnam until that Government abides by internationally accepted standards of religious liberty.

Mr. Speaker, it was reported in today's New York Times that four dissident Buddhist monks accused of inciting the largest public demonstration in Vietnam since the Vietnam War have been convicted and sentenced to prison terms of 3 and 4 years. The monks sentenced on Monday are associated with the Unified Buddhist Church of Vietnam, the largest Buddhist organization in Vietnam that has long resisted efforts by the Government to integrate it into the state-sponsored Vietnam Buddhist Church, which was created after North Vietnam overran the South in 1975.

In May of this year, 40,000 Hue residents marched for religious freedom. Authorities not only suppressed the protest, arresting hundreds of clergy and laity, the Government began an all out crackdown on religion that continues today—all in the name of social stability. Yet how can freedom to worship as one pleases, without harming others, be socially destabilizing? Even the Constitution of the Socialist Republic of Vietnam says freedom of religion is not destabilizing; it guarantees that right.

We often hear the Hanoi Communists insist on political stability to achieve economic development. If the Government's idea of economic development requires a political stability through violating the basic human right to practice ones religion, then such economic development is not intended for the Vietnamese people and such political stability is a euphemism for a political yoke.

Mr. Speaker, our Nation was founded on the basis of religious freedom. We abhor the repression the Communists in Vietnam propagate in the name of stability. The persecution, suppression and control of any religious group goes against the most fundamental beliefs of our citizens. The teachings of all great saints, sages and prophets consider the highest good to be compassion, tolerance and love for others. If, in order for United States businesses to benefit in Vietnam, our Government ignores what the Communists there do to Christians, Buddhists and other faiths, and we establish relations with that Government, then we become an element of the repressive structure. Our action will serve to diminish not only the hope religious practitioners in Vietnam have that the United States will support their meritorious efforts, it will also diminish the collective human spirit itself.

Accordingly, Mr. Speaker, I urge my colleagues to support H.J. Res. 295 to help ensure that our Government's policy is part of the solution to ending repression in Vietnam, not part of the problem.

I request that the full text of H.J. Res. 295 be printed in the RECORD at this point.

H.J. RES. 295

Whereas approximately 85 percent of the population of Vietnam belongs to the Buddhist faith;

Whereas at least 131 prominent leaders from the Buddhist, Catholic, and Protestant faiths are in prison or under house arrest for expressing their beliefs; and members of other faiths, such as Cao Dai and Hoa Hao, have also suffered persecution;

Whereas more than 500 Buddhists have been arrested protesting religious intolerance and government interference in religious affairs during the current crackdown in Hue and Baria (Vung Tau);

Whereas at least 5 Buddhist have self-immolated themselves since May 1993 to protest the repressive policies of the communist regime;

Whereas the Unified Buddhist Church of Vietnam was established in 1964 by leaders of the various sects and traditions of Buddhism in South Vietnam, in order to continue and strengthen Buddhism's 2,000 years tradition in the country;

Whereas the Unified Buddhist Church was recognized throughout the world during the Vietnam conflict for its integrity and its commitment to peace and human rights;

Whereas the Unified Buddhist Church of Vietnam's most prominent monk abroad, Thich Nhat Hanh, was nominated for the Nobel Peace Prize in 1967 by the Reverend Martin Luther King, Jr.; and 2 other Unified Buddhist Church monks, Thich Huyan Quang and Thich Quang Do, were also nominated for the Nobel Peace Prize in 1967 while they were in prison;

Whereas in November 1981, the Government of the Socialist Republic of Vietnam sponsored the creation of the Vietnam Buddhist Church, which declared in its founding charter that it was the only legitimate representative of Vietnamese Buddhism within the country and abroad;

Whereas the 2 most prominent leaders of the Unified Buddhist Church of Vietnam, Executive Director Thich Huyan Quang and Secretary General Thich Quang Do, were arrested in February 1982 for protesting the forced incorporation of their church into the state's Vietnam Buddhist Church and have remained under house arrest in subsequent years;

Whereas since April 1992, Venerable Thich Huyan Quang has made several statements publicly challenging the government's repression of Buddhists and asserting the right of the United Buddhist Church to exist and function independently of the government;

Whereas on August 3, 1993, the Government of the Socialist Republic of Vietnam responded with an order of its Religious Affairs Commission, ordering Venable Quang to stop all protests and stating that his attempts to revive the Unified Buddhist Church were illegal;

Whereas several other monks were arrested in Vietnam during 1993 for supporting Venable Quang's demands, including Venerable Thich Hai Tang, Venerable Thich Tri Tuu, Venerable Thich Hai Thinh, and Venerable Thich Hanh Duc;

Whereas 18 Catholic clergy and religious workers remain imprisoned or under house arrest solely for activities connected with their religious duties (such as translating and distributing spiritual literature from abroad, writing articles expressing their religious beliefs, and organizing adult religious education classes and other social programs);

Whereas Vietnamese authorities continue to restrict Catholic clergy (for example, by arbitrarily preventing the ordination of more than 20 seminarians on ideological grounds in June 1992, by refusing to allow Ho Chi Minh City Archbishop Francis Xavier Nguyen Van Thuan permission to return to Vietnam following a visit to the Vatican in 1991, and by refusing to permit clergy who were named to head dioceses by the Vatican to assume their posts);

Whereas Vietnamese authorities continue to persecute and harass Evangelical Protestants who worship in homes to avoid government oversight (for example by currently punishing as many as 35 church leaders with imprisonment, house arrest, or other restrictions, by closing house churches, and by particularly targeting those thought to have ties with or to receive funding from United States churches);

Whereas decree 69 of the Government of the Socialist Republic of Vietnam, adopted in 1991, strictly controls all religious activity, including worshiping, teaching, training and appointing clergy, publishing, preaching, and evangelizing;

Whereas decree 69 further allows the government to punish any religious activity construed as a threat to the regime;

Whereas the practice of one's religion and the adherence to a religious organization are fundamental rights that must be respected in all societies; and

Whereas it is a violation of these rights for a government to impose its own-established church on all followers of a particular region: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the sense of the Congress that the United States should not establish diplomatic relations with the Government of the Socialist Republic of Vietnam until—

(1) the demands of Venerable Thich Huyan Quang for the right of the Unified Buddhist

Church to exist and function in Vietnam are fully met;

(2) Venerable Quang and all other monks, as well as clergy of other religions, who have been detained for the nonviolent expression of dissent are released;

(3) the Government of the Socialist Republic of Vietnam abides by internationally accepted standards of religious liberty as outlined in the United Nations Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, including freedom of conscience and belief and the freedom to worship, to teach religion, to train and appoint clergy, to publish and express religious views, and to meet with coreligionists abroad; and

(4) other major issues of concern in United States bilateral relations with the Government of the Socialist Republic of Vietnam have been fully resolved.

TRIBUTE TO CALVIN RAMSEY

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 18, 1993

Mr. TOWNS. Mr. Speaker, it is with admiration that I bring to the attention of my colleagues Calvin Ramsey, a native of Selma, AL, who currently lives in Upper Manhattan. One of the city's best known and respected sports figures, he is the director of community relations for the New York Knicks. As the Knicks' goodwill ambassador within the community, his duties include emphasizing education, antidrug, and stay-in-school messages aimed at youth.

A graduate of Commerce, now Brandeis, High School, Cal was a three term basketball letterman at NYU. He earned all-Metro honors in three seasons and was named to the Helms All-American Team in 1959. A member of the Scholastic Honor Society, he graduated from NYU with a bachelor of science degree. Drafted in the second round by St. Louis, Cal played two NBA seasons—1959–60 and 1960–61—with the Hawks, Knicks, and Syracuse. After a knee injury cut his playing career short, Ramsey embarked on a new role as a teacher in the city's public school system, including a stint as acting principal at I.S. 201 in Manhattan in 1968–69.

Calvin is dedicated to positively affecting the lives of young people. Last year, he was instrumental in inaugurating such successful programs as the Footlocker/Knicks Stay-In-School Program, conducted in conjunction with the city's public school system, and the star studded "Stay-In-School Jam" at the Paramount Theater. Calvin's efforts as the director of community relations have been valuable in demonstrating the Knicks commitment to positive community relations.

For the past two decades, Ramsey has been an integral part of the Knicks scene. For 10 seasons—1972–1982, he served as the team's TV analyst. Since 1985, Ramsey has served his alma mater, New York University, as an assistant director of alumni relations.

In addition to Calvin's professional achievements, he is actively involved in the Special Olympics, and has numerous citations for his community service work. I hope my colleagues will join me in celebrating the efforts of Calvin Ramsey.

HONORING MARTIN AND GAIL DICK

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 18, 1993

Mr. ENGEL. Mr. Speaker, I wish to pay tribute today to two upstanding members of my home community of Co-op City, Martin and Gail Dick.

During more than two decades of living in Co-op City, they have been model citizens. They are deeply committed to the traditional synagogue, Young Israel of Baychester, where Martin serves as chairman of the synagogue board and Gail participates in the activities of the sisterhood. Their neighbors know them as people who are friendly and willing to lend a helping hand.

During their 32 years of marriage, the Dicks have experienced many happy times and some hard times. They have dealt with a family tragedy in a way that makes me admire their courage and strength. As their representative in Congress, I want to let Martin and Gail know that their community supports them and is appreciative of their good will. I wish them a happy 32d anniversary and hope their lives together are filled with nothing but joy from this day forward.

SALUTE TO NATIONAL FAMILY WEEK

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 18, 1993

Mr. GALLEGLY. Mr. Speaker, I am privileged to rise today to salute the people of Oxnard, Camarillo, and Port Hueneme, CA, who are gathering this Sunday to celebrate our families.

Our families are the basic building blocks of society. As our families go, so goes our Nation. And Mr. Speaker, I think it's safe to say that in too many of our communities, our families are not doing as well as we'd like.

But across our Nation, concerned Americans are fighting back. Americans know that a strong and healthy family is the key to a free and orderly society. And we cannot solve many of the problems plaguing our Nation until we restore a strong family to a position of honor.

I know the importance of family firsthand. Without the love and discipline my parents gave me, and without the strong support of my wife and children, I would not be a Member of this House. And it pains me to see so many of our young people without that kind of support.

More than 500 of my constituents will come together Sunday evening in this second-annual celebration of our families. Sponsored by the Committee for National Family Week and the Oxnard Press-Courier, this will be an inspiring event. I would like to pay special thanks to Mrs. Marcene Jardine of Oxnard, who almost single-handedly organized the event.

I would ask my colleagues to join me in honoring American families, and in proclaiming the week of November 21 as National Family Week.

DOCTOR JIM ARKINS

HON. Y. TIM HUTCHINSON

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 18, 1993

Mr. HUTCHINSON. Mr. Speaker, on October 24 the U.S. Marine Corps held its 18th annual marathon. As in past years, the event attracted participants from around the country. An estimated 13,000 individuals joined in running the race.

Unfortunately, this year's marathon was marred by the death of Julius Becza, a 58-year-old runner from New Jersey. However, as in most tragedies there are unsung heroes who rise out of the crowd to lend a hand to their fellow man. Dr. Jim Arkins of Arkansas is such a man. On October 24 when Mr. Becza collapsed with his heart attack, Dr. Arkins, a participant in the race himself, rushed to Mr. Becza's side and administered emergency medical assistance.

Dr. Arkins, who is from my hometown of Bentonville, is a graduate of the University of Arkansas Medical School. He is a family practitioner in northwest Arkansas and he and his family are active participants in local affairs. Dr. Arkins is recognized as a longtime community leader. He is active in the Rotary Club and an elder in his church. He also participates regularly in the annual Congressional Prayer Breakfast and through that association has become good friends with our colleague, TONY HALL.

Dr. Arkins' selfless response to Mr. Becza's need serves as an example to us all. I, along with TONY HALL, commend Dr. Arkins for his action.

TRIBUTE TO ROSY DIAZ-DUQUE OF THE ENGLISH CENTER, DADE COUNTY PUBLIC SCHOOLS

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 18, 1993

Ms. ROS-LEHTINEN. Mr. Speaker, it is with pleasure that I bring to the attention of the House the achievement of Ms. Rosy Diaz-Duque, principal of the English Center, of the Dade County Public Schools.

Ms. Diaz-Duque was recently awarded with the Office of Vocational, Adult, Career, and Community Education Award. The Dade Coalition of Community Education and the Dade County Public Schools bestowed this award on Ms. Diaz-Duque in recognition of her efforts in strengthening community education in Dade County.

The English Center has flourished under the guidance of Ms. Diaz-Duque and her dedication has successfuly lead the center in being an important educational institution in south Florida. Ms. Diaz-Duque's enthusiasm, innovation, and genuine concern for her community has made her the recipient of numerous recognitions.

Among these recognitions in the Adult and Community Educators of Florida Administrator of the Year Award. She was also named as Administrator of the Year by the Dade County Association for Counseling and Development for her commitment to serve the needs of the multiethnic student population in Dade County.

Mr. Robert P. Horton, assistant principal of the English Center, has worked closely with Ms. Diaz-Duque and has praised her leadership in creating a positive environment for learning.

The English Center advances the worth and dignity of the individual and attempts to encourage the social, emotional, and multicultural growth of the students. With the guidance and leadership so generously offered by Ms. Diaz-Duque, I am sure that the center will continue to flourish and meet the needs of the community

I am pleased to let the House and the American public know about the significant accomplishments of Ms. Diaz-Duque and the invaluable service that she provides through the English Center.

STATEMENT ON THE TRANSFER OF COMMANDER DOUGLAS S. ROARK FROM THE NAVY LEGISLATIVE AFFAIRS OFFICE TO NAVAL SURFACE FORCE ATLANTIC, READINESS SUPPORT GROUP

HON. OWEN B. PICKETT

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 18, 1993

Mr. PICKETT. Mr. Speaker, I rise today to recognize a truly outstanding naval officer, Comdr. Douglas S. Roark, supply corps, U.S. Navy, who recently completed his tour of duty as liaison officer at the Department of the Navy's office of legislative affairs. It is a privilege for me to recognize several of his many outstanding achievements.

A native of the tidewater area of Virginia, Commander Roark received an undergraduate degree in business administration from Old Dominion University in Norfolk, VA. After completing officer candidate school in Newport, RI, Doug was commissioned an ensign in September 1977. He subsequently attended the Navy's supply corps school in Athens, GA, completing the qualifications to be designated a supply corps officer. Commander Roark then reported on board the U.S.S. *San Diego,* a fast combat stores ship.

After 2 years of supplying stores and spare parts to the fleet, Doug entered the Navy Acquisition Contracting Internship Program at the Naval Air Systems Command where he was introduced to the world of Government procurement. Following this tour Commander Roark reported to the U.S.S. *Peterson,* a Spruance class destroyer, as the Top Chop a term designating to the senior supply officer aboard.

Due to his outstanding performance, Commander Roark earned the privilege of attending the naval postgraduate school in Monterey, CA where he was awarded a masters of science degree with emphasis in procurement management. Following the award of his masters degree, Doug spent 2 years at the Defense Logistics Agency in Alexandria, VA as executive assistant to the deputy director of DLA, a Navy Rear Admiral.

Commander Roark reported to the Navy legislative affairs office in March 1990. During his tenure Doug was considered the Navy's procurement expert to Capitol Hill. In addition to handling literally thousands of inquiries pertaining to Navy contracting, Commander Roark was responsible for flawlessly executing numerous Government procurement conferences in which small businesses around the country were educated in the rules and procedures relating to conducting business with the Government.

A naval officer of Commander Roark's integrity, commitment and talent is rare. While his expertise will be genuinely missed, it gives me great pleasure to recognize him before my colleagues and wish him fair winds and following seas.

PENWOOD CHRISTIAN CHURCH'S 60TH ANNIVERSARY

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 18, 1993

Mrs. BENTLEY. Mr. Speaker, I rise today to congratulate the Penwood Christian Church upon the celebration of its 60th anniversary on September 26, 1993.

I consider the role of the church in our community to be of the greatest importance. The foundation upon which our great Nation is grounded is dependant upon its very existence, and is symbolic of the constitutional freedoms we possess. Without it, we indeed would be a lesser nation. In the past, I have sponsored legislation designating a Freedom of Religion Day, which would acknowledge the liberties and freedoms guaranteed under the first amendment. So it is with great pleasure that I commend the parishioners of the Penwood Christian Church. Through their faith, charity, and reverence for God, they have made the small, but historic community of Penwood Terrace a better place to live.

Though it was 60 years ago, the thought of the depression still dwells deep in many minds. In November 1932, at the height of the great depression, most parents barely could feed their families, yet afford streetcar fare from Penwood Terrace to the churches at Sparrows Point. Seeking relief for others from the misery of urban blight, Mrs. Dale Warner, Sr., and Rev. C. D. Melton canvassed the neighborhood for parents and children interested in attending Sunday school. Through their religious convictions and obedience to Christian covenant, they were able to secure the support of 37 adults and children who attended the first Sunday school classes at the Warner residence.

With the help of the men of the community who offered their time and talent, the next year saw the erection of a church building, and, just in time for the service on Christmas Eve, the addition of electricity. For the next 49 years, Edna Warner remained the central figure of the church, serving as a Sunday school superintendent and teacher.

Since its founding, the church has striven to be a beacon of light in the Sparrows Point area. Committed and dedicated to the welfare of human kind, this growing mission has shown a compassion for needy and hurting people, beginning in historic Penwood Terrace and spreading to other parts of the world. This is evident when missions in Thailand and Mexico, as well the neighboring community, were established. Through their inspiration and the caring grace of God, they have been able to reach many under-privileged people throughout the globe.

For four generations, the Penwood Christian Church has been a place where new and lasting friends are made, and where ideas can be shared and exchanged about the problems that plague our society. The bell in the steeple, given to the church in 1933 by a local farmer, Bernard Foulke, still signifies the call to worship on Sunday morning, and serves as a friendly invitation to all those who wish to join with the present congregation. Thousands have attended the church, acquiring their religious training from faithful pastors and Sunday school personnel. Prayer support and Sunday school classes have taught moral values to our children and have created a positive image of society. In a time when moral values in our society are declining, it indeed is refreshing to hear about Penwood Christian Church's laudable efforts.

Its home missionary program has encompassed five nursing homes and the VA hospital at Fort Howard. Periodic visits and entertainment by the church choir and the donation of presents to over 1,575 hospital patients have enriched the lives of many ill people when it was needed most.

Through the able leadership of Pastor Jim Blevins, the church can look ahead into the 21st century with confidence and continued inspiration. Though the church has been through many hardships, including a fire that gutted the inside, the church has continued to thrive triumphantly and victoriously. Its strong concern and compassion for other has remained the same.

Mr. Speaker, it is with great pleasure that I congratulate the Penwood Christian Church on it's 60th anniversary and a job well done.

THE DISTINGUISHED SERVICE OF SALLY TRAUTWEIN

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 18, 1993

Mr. STARK. Mr. Speaker, today I would like to take a few minutes to recognize Sally Trautwein's distinguished career of service to the people of Castro Valley, CA.

For more than 9 distinguished years, Sally has served on the Castro Valley Unified School District Board of Education. In 1984 she was appointed to the board and continued to serve on the board after being elected to it in 1985 and again in 1989.

Even with all her duties at the mayor's office, Sally still found time to work and support many community-based programs. Sally has served on the boards of the United Way Review Committee, Planned Parenthood, the Alameda County Airport Land Use Commission and the Eden Hospital Foundation. She was also a cofounder and executive director of the Eden Information and Referral Agency during the first 7 years of that agency.

In addition, Sally has spent time as a social worker both in Vietnam in 1965 and also for the American Red Cross.

On November 30, Sally's colleagues will hold a retirement celebration to acknowledge her as an outstanding public servant. I want to join those who have commended her for her distinguished years of service.

Sally Trautwein will be sorely missed at the Castro Valley Unified School District Board of Education.

H.R. 3532

INTRODUCTION OF THE ANTARCTIC ENVIRONMENTAL PROTECTION ACT OF 1993

HON. RICK BOUCHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 18, 1993

Mr. BOUCHER. Mr. Speaker, today I am introducing a bill prepared by the administration to implement the Protocol on Environmental Protection to the Antarctic Treaty. The protocol was signed by the United States in October of 1991 and was approved by the Senate in October 1992. The State Department had determined that the protocol is not self executing and, therefore, requires legislation to ensure that all provisions of the protocol are applied to United States activities in Antarctica.

The protocol establishes specific principles and rules for protection of the Antarctic environment from the effects of human activities. It deals with protection of fauna and flora, imposes strict limitations on discharge of pollutants, and requires environmental impact assessment of planned governmental and nongovernmental activities. The protocol also prohibits all activities relating to Antarctic mineral resources, including prospecting or development, but excluding scientific research, and provides that this prohibition cannot be amended by less than unanimous agreement of the treaty parties for at least 50 years.

A particularly important aspect of the protocol is its reinforcement of the status of Antarctica as a natural reserve devoted to peace and science. This is entirely appropriate because Antarctica is a unique scientific laboratory of enormous value to the international community. The vast Antarctic ice sheet interacts with oceanic and atmospheric circulation to modulate global climate. Accordingly, the behavior of the ocean/atmosphere system in Antarctica is expected to provide an early warning of climate change. The 2-mile thick ice sheet covering the pole is also a repository of the past climate record of great benefit to climatologists in devising global climate models.

Antarctica is also a unique platform for conducting research in fields other than the earth sciences. The extremely stable, clean and dry atmosphere enables astronomers and astrophysicists to probe the universe with unprecedented precision from a ground-based site. It is an ideal biological laboratory for studying such effects as adaptation of organisms under extremes of light, temperature and moisture. And Antarctica's extreme climate, which can induce social, psychological and physiological stresses, provides an appropriate location to study human health and performance.

The value and importance of Antarctic research are well understood. Preservation of the unique environment is intrinsic to its value for scientific purposes, and the environmental protocol will help ensure that the pristine environment of the continent is preserved for future generations.

The bill which I am introducing was developed following extensive discussions among the Federal agencies which sponsor research in Antarctica, and the Departments of State and Justice and the Environmental Protection Agency [EPA]. I have some questions about whether a proper balance has been achieved in the legislation between the need for environmental protection and the ability of Federal agencies to carry out the U.S. research program in Antarctica. The legislation will be reviewed carefully to ensure that the proper balance is achieved.

Overall, the bill provides a comprehensive framework for the protection of the Antarctic environment based upon the environmental protocol. It prohibits certain actions in Antarctica, including mineral resource prospecting or development activities, the introduction of harmful substances, and open burning of waste. Other actions are allowed only with a permit, such as disposal of waste and interference with Antarctic flora and fauna.

In assigning responsibilities among Federal agencies for issuing regulations related to environmental protection, the legislation properly preserves the role of the National Science Foundation in sponsoring research and in managing the U.S. Antarctic Program, while ensuring that consultation occurs with other agencies, such as the Coast Guard, EPA and National Oceanic and Atmospheric Administration, which can provide special expertise and assistance. The bill also implements the provisions of the environmental protocol on environmental impact assessment in a way which is consistent with the National Environmental Policy Act of 1969, and amends the Act to Prevent Pollution from Ships to implement the protocol's provisions on marine pollution.

The bill provides for oversight of the U.S. Antarctic Program through on-site inspections and reports by Government and non-Government experts to assess the compliance of the program with the implementing legislation and the protocol.

The bill also includes provisions for citizen initiated judicial review of final regulations and final agency actions on permits, and provides for citizens' suits for permit violations. These provisions raise questions about whether the research program may be adversely affected by delays resulting from injunctive relief, which is often granted prior to a full hearing on the merits of the underlying suit. Such delays could seriously disrupt research activities. Planning for Antarctic research activities involves long lead times, careful coordination among projects, and narrow windows of opportunity to execute the research project—the short Antarctic summer. Any delay associated with litigation has the potential to cause serious disruption or even cancellation of projects, creating a general chilling effect on the willingness of scientists to participate in the program. Much of the research which could be disrupted is intended to advance our understanding of global climate change and to monitor the environmental effects of human behavior. The goal must be to weigh the environmental effects, and the mechanisms for enforcement of environmental protection measures, against the value of the science and develop workable approaches to minimize adverse effects while allowing the science to be pursued.

In reviewing the legislation, we will seek to ensure that the protocol is fully enforced, while not unnecessarily impairing the conduct of Antarctic research. Past environmental protection practices by the United States and other nations have not always been acceptable and must be improved. At the same time, it is recognized by all concerned parties that the research activities themselves will cause some environmental disturbance in this pristine region, where traces of human activity are preserved virtually forever.

Mr. Speaker, the Science Committee will work with the administration, other committees, and all interested groups in developing a final bill which will ensure a comprehensive implementation of the provisions of the environmental protocol and will allow for the continuation of a vigorous United States research program in Antarctica.

COMMEMORATING THE ACHIEVEMENTS OF THE MUTUAL HOUSING ASSOCIATION OF NEW YORK, INC./CHEMICAL BANK PARTNERSHIP

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 18, 1993

Mr. OWENS. Mr. Speaker, I rise to congratulate the Mutual Housing Association of New York, Inc. [MHANY]/Chemical Bank partnership for its efforts to create affordable housing. These efforts have resulted in the acquisition and rehabilitation of 55 units that currently are occupied by low-income families.

MHANY is a non-profit organization established in 1986 by ACORN Housing Corp., the Pratt Institute Center for Community and Environmental Development, and the Consumer Farmer Foundation. MHANY has helped many low-income families and individuals in my district in Brooklyn to get roofs over their heads and shelter from streets ridden with crime and drug abuse. For these families and individuals, obtaining housing is the first step toward gaining economic independence.

Chemical Bank has been an invaluable partner for MHANY, providing a $200,000 recoverable grant through the Consumer Farmer Foundation which was used to acquire the 55 units. Such strong commitments are needed to bring caring and dedicated homeowners back into the Nation's at-risk neighborhoods.

At a time in this country's history when violence and poverty are part of every day life, it is heartening to find a group of leaders which is willing to go the extra mile to improve the lives of ordinary citizens.

TRIBUTE TO A.B. WHITFIELD

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 18, 1993

Mr. TOWNS. Mr. Speaker, I rise today to pay tribute to an accomplished businessman, educator, athlete, and author, Mr. A.B. Whitfield. Mr. Whitfield is the president of A.B. Whitfield Photo Productions, and the founder of the Trey Whitfield Foundation.

A 1965 graduate of Elizabeth City State University, Whitfield holds a B.S. degree in elementary education. While in school, A.B. was very active in sports, becoming an All-Conference athlete in football, track and field, and wrestling. He proceeded to play professional football with teams in the National Football League and the Canadian Football League.

A.B. earned a M.S. degree in education from Long Island University in 1973. He has worked within the New York State Board of Education as a teacher for 18 years at York College, and also serves as an adjunct lecturer and wrestling coach. Mr. Whitfield has worked diligently within the educational system for 29 years.

A.B. has received numerous awards honoring his distinguished service for our youth. He has received the 1989 Distinguished Citizen Award from the Boy Scouts of America, the 1993 Kool Achievers Award, and was listed in the 1990 listing of "Oxford's Who's Who."

To top off an outstanding list of accomplishments, Whitfield is the author of a 500-page handbook entitled "The Pictorial History of CIAA Professionals from 1950–1984.

I salute the commitment, service, and meritorious achievements of Mr. A.B. Whitfield. He has proven to be an innovative thinker, laudable athlete, and a flourishing businessman.

DR. CHARLES PTAK HONORED FOR DISTINGUISHED CAREER

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 18, 1993

Mrs. MALONEY. Mr. Speaker, I rise today to bring to the attention of my colleagues the tremendous service which an important member of my community in Greenpoint, Brooklyn, Dr. Charles John Ptak, Jr., has given to our city and our country.

A native of Greenpoint, Dr. Ptak has been practicing oral and maxillofacial surgery in our community full-time for 9 years. His practice has been extremely successful, and a countless number of patients have Dr. Ptak to thank for improving their lives.

Dr. Ptak graduated with honors from the U.S. Merchant Marine Academy at Kings Point in 1969. He served in the Merchant Marine and the U.S. Navy from 1969 to 1974 as marine engineer and Navy lieutenant on active duty. Between 1975 and 1979, Dr. Ptak attended the State University of New York at Buffalo School of Dental Medicine, receiving his D.D.S. degree. Thereafter, Dr. Ptak served as a general practice dental resident at St. Charles Child's Hospital in Port Jefferson, NY from 1979 to 1980, and as chief resident for oral and maxillofacial surgery at St. Luke's Roosevelt Hospital in New York City.

Dr. Ptak has built a distinguished career and is a great credit to his profession. He is involved in community work, particularly agreeing to serve on my Military Appointments Advisory Committee. His considerable experience will be an asset to this committee, whose important mission it is to select the most qualified candidates to attend the military academies.

Therefore, I hope my colleagues will join with me in congratulating Dr. Ptak for his distinguished career and thank him for his long service to our community and our country.

TRIBUTE TO DR. JIM ARKINS

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 18, 1993

Mr. HALL of Ohio. Mr. Speaker, with current attention focussed on health reform, we sometimes read press reports which treat doctors and the medical profession in negative light. But we rarely hear about the individual cases of valor, those in which a doctor puts a patient above all else and tries to exercise his oath of responsibility.

I want to cite one such case. On October 24, the 18th Annual Marine Corps Marathon in Washington was marred by the tragic death of Julius Becza, a New Jersey college professor who suffered a heart attack while running the race. A good friend of mine. Dr. Jim Arkins, who resides in my colleague TIM HUTCHINSON's Arkansas district, stopped running after 23 miles to administer emergency assistance. Dr. Arkins' response was unhesitating. He delivered care and flew with the victim who was airlifted to Washington Hospital Center.

Mr. Speaker, Dr. Arkins' actions should not surprise us. Every good doctor would do what he did, stop and help a fellow man in trouble. Unfortunately, however, the cases that capture headlines are too often those in which no one helps and bystanders look the other way. Dr. Arkins' actions speak for themselves. I would like to join his own congressman, TIM HUTCHINSON, in commending him.

TRIBUTE TO JOHN THOMAS

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 18, 1993

Mr. GOODLING. Mr. Speaker, I would like to bring to the attention of our colleagues the accomplishments of Mr. John V. Thomas who resides in Mechanicsburg, PA, in the 19th Congressional District which I represent.

Mr. Thomas will be honored by his friends and family at a surprise retirement dinner on Sunday, December 5, 1993. He will be recognized for his outstanding dedication, commitment, and service to Hampden Township, Cumberland County, and the State of Pennsylvania.

Mr. Thomas has served as Hampden Township commissioner continuously since his election in 1978. During his tenure, he served as vice-president from 1978 to 1979 and president from 1980 to 1990. He has held office longer than any other commissioner in the history of Hampden Township. During this time, he has confronted the challenges of a growing population in a limited geographic area with a limited amount of resources. In addition, I was very proud of the way his community recently responded to the threat of a military base closure.

Mr. Thomas has done more than simply provide outstanding service to his constituents, he has served in leadership offices of several organizations to assist other local elected officials in confronting the challenges they face. He was elected president of the Pennsylvania State Association of Township Commissioners, president of the Central Pennsylvania Association of Township Commissioners, president of the Pennsylvania Council of Governments and president of the West Shore Council of Governments. Mr. Thomas has also served on the board of the Pennsylvania League of Government Investors and he was a charter member and president of the Mechanicsburg North Rotary Club.

After ably serving his community through good and bad times, Mr. Thomas has earned the opportunity to retire from this service and enjoy some of his hobbies such as tennis and bridge.

I am pleased that I am able to join family, friends, and community members in recognizing the accomplishments and service of John V. Thomas. We thank him for his dedicated service and wish him the very best of luck in his future endeavors.

GODSPEED STANLEY SALT

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 18, 1993

Mr. PAYNE of New Jersey. Mr. Speaker, I am pleased to bring to my colleagues' attention the distinguished career of Mr. Stanley H. Salt, District Director of the U.S. Small Business Administration [SBA], Newark, NJ office. Mr. Salt will be retiring following 36 years of distinguished service to the small business community.

Mr. Salt joined the SBA in New York in 1957 as a loan examiner trainee. He progressed rapidly in the organization, when in 1965 he became supervisory loan specialist in financing and in loan servicing. In 1967, Mr. Salt transferred to Newark where he rose through the ranks from Assistant District Director of Finance and Investment, to Newark

Deputy District Director in 1979, to Newark District Director in 1986, the position from which he now retires. It is a testament to his knowledge, management skills, and wisdom that he has worked in the same organization for his entire career.

Recently, I had the opportunity to talk with a former employee of Stanley's, Richard Gee. He could only say very positive things about Mr. Salt and his management style. Mr. Salt is an excellent fiscal analyzer and loan manager. He remembered the beginning of the Economic Opportunity Loan Program and the extra yard Mr. Salt would go for minority business owners who were trying to take advantage of the new programs. He explained that Mr. Salt would listen to the minority business person to understand their plans for their business; if he felt the project with this new explanation was valid he would reverse the refusal. He also said that Mr. Salt was always concerned about his employees and their development.

I am pleased to have been able to work so closely with Stanley Salt in his role as Newark District Director of the U.S. Small Business Administration especially during my tenure on the SBA Advisory Council. It has indeed been a pleasure to work with such a dedicated, wise man on these important issues. I ask my colleagues to join me as I wish godspeed and good luck to Stanley Salt as he begins his retirement. He now has the opportunity to spend more time with his wife Judy and their daughter, Carol.

IN HONOR OF RUTH FORBES' SERVICE TO HAYWARD, CA

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 18, 1993

Mr. STARK. Mr. Speaker, today I would like to take a few minutes to recognize Ruth Forbes' distinguished career of service at the mayor's office in Hayward, CA.

For more than 18 years, Ms. Forbes has worked for the city of Hayward as an administrative assistant for then Mayor Weinreb and as an administrative analyst.

In 1974, she came to work for the city as an administrative intern in the city manager's office and has been working on behalf of the people of Hayward ever since.

During her tenure with the city, Ms. Forbes has held a variety of positions and responsibilities. She oversees the cable television franchise, the Oakland Scavenger franchise, works with citizens to resolve complaints and problems with various departments within the city and with outside agencies and researches and analyzes State and Federal legislation for its impact on the city. She coordinates the city's annual cleanup campaign, is responsible for the mayor/council office administration and supervision, produces and edits the city employee newsletter, is the city's liaison to the Zucchini Festival, Sister City Committees, and Eden Area Jobs for Youth. She is also responsible for the live telecasting of city council, planning commission, and board of adjustments meetings.

Even with all her duties at the major's office, Ms. Forbes still found time to serve as a member on a number of professional and community organizations. She is the secretary of the Hayward Council for the Prevention of Substance Abuse and the past president of the San Francisco Bay Area Chapter of the American Society for Public Administration. Ms. Forbes is also a member of Municipal Management Assistants of Northern California, California Women in Government, Eden Hospital Foundation's Public Relations Committee, Chabot Junior College's Supervising Committee, the Community Child Care Coordinating Council of Alameda County, and a past member of ACTED/ACAP's Manpower Advisory Council.

The people of Hayward will miss this dedicated city employee who worked tirelessly on behalf of their needs. On November 30, the mayor's office is planning a dinner in her honor. I want to join with her colleagues and friends in commending Ruth Forbes for 18 years of distinguished service.

LOOK WHO'S SUPPORTING THE PENNY-KASICH PACKAGE TO CUT THE DEFICIT

HON. JOHN R. KASICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 18, 1993

Mr. KASICH. Mr. Speaker, I rise today to bring to the attention of my colleagues the letters I have received supporting the Penny-Kasich package.

It should come as no surprise that over 45 organizations—and the millions of individuals they speak for—have announced their support for the Penny-Kasich plan to cut spending by more than $90 billion over the next 5 years. They understand that our package represents our best chance to put aside the partisan bickering that has marked past spending debates, and to instead approve a series of spending cuts that are both significant and fair.

Please review the following letters. Then, if you have not done so already, I urge you to review our proposals. I think you will agree that trimming spending by just 1 cent on the dollar over the next 5 years is the least our constituents can expect from us.

AMERICANS FOR TAX REFORM,
Washington, DC, November 3, 1993.

Hon. JOHN KASICH,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN KASICH: Americans for Tax Reform applauds and endorses your legislation (as introduced) to cut $103 billion in federal spending over the next five years.

Passage of this legislation in its current form would represent the first major, sincere effort on the part of Congress to cut the bloated federal budget since 1985, when Gramm-Rudman was approved.

In 1992, voters demanded change. The American people clearly communicated their antipathy for big government and overspending and taxation. Your legislation is consistent with their desires. It breaks with the status quo. It represents change.

You, Congressman Penny, and the other sponsors of this legislation should be complimented for your hard work. Please let me know how our organization can be of assistance.

Best wishes.

Sincerely,

GROVER G. NORQUIST,
President.

ASSOCIATED BUILDERS
AND CONTRACTORS, INC.
Rossiyn, VA, November 1, 1993.

Hon. JOHN KASICH,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVES KASICH: On behalf of Associated Builders and Contractors (ABC) and its more than 16,000 member companies, I would like to thank you for including raising the Davis-Bacon threshold to $100,000 and reducing its paperwork burdens as part of your proposed additional budget cuts.

While ABC supports repealing the onerous law, we believe that raising the Davis-Bacon threshold to $100,000 and reducing the paperwork requirements is a strong first step toward alleviating the burdens on small contractors and bringing the law up-to-date.

We strongly support your efforts at streamlining the federal budget and are at your disposal to help in any way we can. Thank you again for your leadership in this regard.

Sincerely,

CHARLOTTE W. HERBERT,
Vice President, Government Relations.

CHRISTIAN COALITION,
Washington, DC, November 16, 1993.

DEAR MEMBER OF CONGRESS: On behalf of the 900,000 members and activists of the Christian Coalition, we urge you to support the Penny-Kasich Amendment.

This summer, Congress adopted the largest tax increase in American history. Yet, the budget package was woefully inadequate in the area of spending reductions. That is why we welcome and strongly support the bipartisan efforts of Congressmen Penny (D-MN) and Kasich (R-OH) to cut spending by $103 billion over the next five years. These proposed cuts affect nearly every part of the federal budget and are required to be used to reduce the deficit.

For our families' future, it is critical that we dramatically reduce the national deficit and debt. The interest payments on the national debt could cost today's child over $130,000 in extra taxes, on average, over his or her lifetime. To secure a sound fiscal future for our children and grandchildren, we urge you to take serious action against the debt and the deficit. Please vote "yes" on the Penny-Kasich Amendment.

Thank you for your consideration of this matter.

Sincerely,

MARSHALL WITTMANN,
Director, Legislative Affairs.
HEIDI SCANLON,
Director, Governmental Affairs.

COUNCIL FOR CITIZENS AGAINST
GOVERNMENT WASTE,
Washington, DC, November 5, 1993.

Hon. TIM PENNY,
Hon. JOHN KASICH,
House of Representatives,
Washington, DC.

DEAR TIM AND JOHN: The Council for Citizens Against Government Waste (CCAGW) fully endorses the Penny-Kasich "Common Cents Plan" to reduce the deficit by $103 billion over the next five years.

Your plan is the most important deficit reduction vote that the House of Representatives will take prior to the end of this session of Congress. CCAGW will rate the vote as part of its Congressional ratings. The decision for members of Congress is simple: are you for or against deficit reduction?

As part of an agreement with several members of Congress during the effort to obtain votes on the fiscal year 1994 Budget Reconciliation Act in early August, President Clinton said he would submit a package of further cuts for a vote prior to the end of the first session of the 103rd Congress. The White House package falls far short of the real deficit reduction in the Penny-Kasich proposal.

Last November, and this past Tuesday in major state and local elections, voters sent a clear message: cut spending before even thinking about raising taxes. The Penny-Kasich proposal is an opportunity for members of Congress to tell their constituents that they are serious about deficit reduction and that they will act on this message from the grassroots.

It is hard to imagine how a member of Congress can say that voting for cutting one cent on the dollar in federal spending over the next five years will devastate the economy of the ability to function here in Washington. It's time to be accountable for the deficit and national debt. There are no more excuses left: vote for Penny-Kasich.

CCAGW will continue to work with you and the other groups in the coalition supporting your proposal to assure its enactment.

Sincerely,

THOMAS A. SCHATZ,
President.

CITIZENS FOR A SOUND ECONOMY,
Washington, DC, November 4, 1993.

Hon. JOHN KASICH,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE KASICH: On behalf of our 250,000 members across the country, Citizens for a Sound Economy (CSE) supports your bipartisan effort to reduce the deficit as outlined in the Penny-Kasich "Common Cent$ Plan" document.

CSE is especially pleased that your initiative will apply savings only toward genuine deficit reduction, not to new spending initiatives. While CSE has not taken a position on each of the specific proposals in the package, we believe that as a whole it would go a long way toward reducing wasteful federal spending. It is highly encouraging that the bipartisan task force that produced this document wants to set an example within the halls of Congress and is willing to make necessary reforms concerning mandatory spending.

CSE looks forward to working with your office to make authentic spending cuts as regular an exercise on Capitol Hill as the appropriations process. We believe that the Penny-Kasich Bipartisan Task Force plan offers tremendous hope for doing that by the close of this session of Congress.

Sincerely,

PAUL BECKNER,
President.

COALITION FOR FISCAL RESTRAINT,
Washington, DC, November 18, 1993.

Hon. JOHN KASICH,
House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. KASICH: More than 30 members of the Coalition for Fiscal Restraint (COFIRE) today announced their support for the Penny-Kasich proposal to require almost $100 billion in real federal deficit reduction by specific cuts over five years in more than 80 federal spending categories.

We are pleased to join with other groups such as the Concord Coalition, the Business Roundtable, the American Business Conference and the Responsible Budget Action Group in urging passage of your legislation.

We believe it represents an excellent first step in moving toward responsibility in federal fiscal policy and away form the massive deficit spending which already threatens the security of future generations of Americans.

The primary objective of the Coalition for Fiscal Restraint is to promote deficit reduction through restraints in the growth of federal spending. The proposal which you and Representative Penny are sponsoring comes closer to meeting that objective than any other single piece of legislation since COFIRE was organized five years ago.

We believe that, if members of Congress are really serious about deficit reduction, they can prove it to the American people and to their own constituents by voting "aye" on Penny-Kasich.

Following is a list of those COFIRE member-organizations which, as of late Thursday, November 18, have endorsed the Penny-Kasich proposal:

American Association of Boomers.
American Furniture Manufacturers Association.
American Legislative Exchange Council.
American Rental Association.
Americans for a Balanced Budget.
Americans for a Presidential Line Item Veto.
Americans for Tax Reform.
Armstrong World Industries.
Associated Builders and Contractors.
Association of Concerned Taxpayers.
Automotive Service Association.
Baroid Corporation.
CNP Action, Inc.
Council for Citizens Against Government Waste.
Competitive Enterprise Institute.
Citizens for a Sound Economy.
Dairy and Food Industries Supply Association.
Helicopter Association International.
International Mass Retail Association.
Medford Corporation.
National-American Wholesale Grocers' Association.
National Association of Convenience Stores.
National Federation of Independent Business.
National Grange.
National Independent Dairy-Foods Association.
National Taxpayers Union.
National Limousine Association.
Philips Electronics.
Sybra Corporation.
United Bus Owners of America.
United Seniors Association.
United States Business and Industrial Council.
United States Federation of Small Business.
Valhi, Inc.

With best wishes.

Sincerely,

MICHAEL MONRONEY,
Chairman.

COMPETITIVE ENTERPRISE INSTITUTE,
Washington, DC, November 9, 1993.

Hon. JOHN KASICH,
Longworth House Office Building,
Washington, DC.

DEAR MR. KASICH: The Competitive Enterprise Institute strongly endorses your plan to cut federal spending by $100 billion over five years and dedicate the savings to deficit reduction. I only wish the package of cuts were larger! Cutting one cent from every dollar of federal spending over the next five years is hardly "slash-and-burn," as you point out.

What America really needs is a major downsizing of the federal establishment through deep cuts in overhead, personnel (via attrition), bureaucratic structures, and wasteful program spending. But one must begin somewhere, and your proposal is a genuine first step in the right direction.

Each year CEI evaluates congressional votes that affect the level of federal spending. We will certainly give close scrutiny to how members vote on this and other spending control measures that come before the House.

Sincerely,

FRED L. SMITH, Jr.

THE CONCORD COALITION,
Washington DC, November 18, 1993.

Hon. TIM PENNY,
Hon. JOHN KASICH,
House of Representatives,
Washington, DC.

DEAR TIM AND JOHN: The Concord Coalition stands proudly in support of your amendment to the rescission bill.

The Penny-Kasich amendment is bipartisan.

The Penny-Kasich amendment reduces the budget deficit by nearly $90 billion over five years.

The Penny-Kasich amendment consists entirely of spending cuts.

The Penny-Kasich amendment is the first true test this year of where Representatives stand on deficit reduction. It cuts spending and it locks in budget savings by reducing the existing caps.

In our view, anyone who does not support your amendment is not serious about deficit reduction. True, every Member can probably point to some item in your amendment as an excuse to vote against your package. But the days of "anonymous" deficit reduction are over. The items included in your amendment represent a sensible, balanced and fair package. Anyone who cares about deficit reduction, and indeed about the future of our nation, should join us at The Concord Coalition in support of your amendment.

Keep up the good work

WARREN B. RUDMAN,
CoChair.
PAUL E. TSONGAS,
CoChair.

FINANCIAL EXECUTIVES INSTITUTE,
Morristown, NJ, November 8, 1993.

Hon. TIMOTHY PENNY,
Hon. JOHN KASICH,
House of Representatives,
Washington, DC.

DEAR CONGRESSMEN PENNY AND KASICH: On behalf of Financial Executives Institute, I am writing to give FEI's strong support to the Penny/Kasich Deficit Reduction Plan that will be offered as an amendment to the President's "October Cuts" Rescission Package.

Financial Executives Institute is a professional association of over 14,000 senior financial executives from some 8,000 companies throughout the United States and Canada. Through it technical committees, FEI formulates positions on a wide range of economic, tax, and employee benefits-related issues of concern to American businesses.

We support your "Common Cents" Plan simply because it does what the President's proposal fails to do—significantly reduce the budget deficit over the next five years. You achieve real deficit reduction by making the difficult choices. It affects all aspects of the federal budget with honest, straightforward cuts of $100 billion. The Clinton package, by contrast, cuts only a fraction of that amount.

We also favor your plan because it is a truly bipartisan effort. It represents a broad cross-section of House Members from both sides of the aisle, who put aside their personal preferences to develop a package of federal spending cuts (many of which affect their constituents) which we believe is necessary for the long-term health of the economy.

The two of you should be commended for all of the hard work that you and your cosponsors have put into this only true choice for meaningful deficit reduction. FEI stands ready to provide any assistance we can to help you in this important effort.

Sincerely,

P. NORMAN ROY,
President.

INSTITUTE FOR RESEARCH
ON THE ECONOMICS OF TAXATION,
Washington, DC, November 18, 1993.

Hon. JOHN KASICH and TIMOTHY PENNY,
House of Representatives,
Washington, DC.

DEAR CONGRESSMEN KASICH AND PENNY: I commend you for the introduction of your bipartisan "Common Cent$ plan—For Cutting One Cent on the Dollar from Federal Spending over 5 Years."

This is a responsible, pro-growth step toward control of the federal budget that will produce real deficit reduction. One of the strengths of your plan is that it identifies many specific projects the federal government either should not undertake at all or should do more frugally. This bipartisan proposal is not draconian; its recommended belt-tightening is extremely modest relative to the cuts that households and businesses are routinely forced to make when they encounter financial difficulties. I applaud you for recognizing that government spending should not be put on a pedestal compared to household and business spending.

The Penny-Kasich plan represents a major improvement over the very meager spending cut package proposed by the Administration.

In my judgement, your plan on the whole is pro-growth, because by curbing the flow of resources into inefficient government spending programs, it would leave more resources available for productive private uses. By contrast, the Administration's budget strategy has been top heavy with tax increases. That is an unwise strategy because higher tax rates hurt everyone by slowing the economy. The negative incentives caused by higher tax rates also mean that actual revenue collections fall below official government revenue estimates. Further, the government has a track record of devoting added revenues towards more spending, not budget deficit reduction.

Your proposal correctly focuses on federal spending, not federal revenues. To ensure that the spending cuts achieved in some places would not be frittered away elsewhere, you are wise to adjust downward the discretionary spending caps and the PAYGO requirements. Those who disagree with this part of the plan reveal they really are not interested in deficit reduction.

I think your plan would be stronger if it did not include some disguised revenue raisers. Notwithstanding that, the Penny-Kasich plan is a needed step in the proper direction.

Sincerely,

NORMAN B. TURE,
President.

LEAD OR LEAVE,
Washington, DC, November 3, 1993.

Hon. JOHN KASICH,
U.S. Congress,
Washington, DC.

DEAR CONGRESSMAN: We write to give our strong endorsement to the Penny-Kasich Deficit Reduction Plan. It is a fair, bi-partisan effort to help reduce our runaway budget deficits—and should receive the vote of every House and Senate member who is committed to deficit reduction.

As you know, genuine deficit reduction—not the feel-good stuff of campaign rhetoric—requires tough and painful choices that will affect the lives of millions of Americans. The Penny-Kasich plan is honest about those choices, but would reduce the deficit in a way that clearly protects those least able to pay.

This package of spending cuts is the bare minimum that future generations deserve. Without deep cuts—and a commitment to shifting our spending priorities to invest more in the future—our generation, and those to come, will face an exploding national debt that will lower our living standards and jeopardize our dreams for a stronger America.

There's no good excuse to vote against Penny-Kasich, and anyone who does should be ashamed to look their kids, and grandkids, in the eye. Before this vote, members should ask themselves one question: what's the point of staying in office if I can't muster the political courage to make some tough choices?

If Washington buries this plan, America should get ready to throw in the towel on any serious, long-term deficit reduction effort.

Sincerely,

JON GOWAN,
President.
ROB NELSON,
Chairman.

NATIONAL ASSOCIATION
OF HOME BUILDERS,
Washington, DC, November 18, 1993.

Hon. JOHN R. KASICH,
House of Representatives, Longworth House Office Building, Washington, DC.

DEAR CONGRESSMAN KASICH: On behalf of the 165,000 member firms of the National Association of Home Builders (NAHB), I respectfully urge your support and vote for the Penny/Kasich "A Common Cents Plan" when it is offered to H.R. 3400, the "Government Reform and Savings Act of 1993".

The "Common Cents Plan," to be offered by Representatives Penny (D-MN) and Kasich (R-OH) would cut one cent on the dollar from federal spending over five years. The plan contains 80 proposals to cut $26 billion in discretionary savings, $50 billion in mandatory savings, and $27 billion in personnel savings, for a total of $103 billion in savings over five years.

The need for additional meaningful deficit reduction of this magnitude is long overdue. Our nation's four trillion dollar overall debt, and the annual interest payments on it, represent a painful reminder of the long-term problems facing our economy. Net interest charges on the debt now consume almost 14 percent of our annual budget.

This spiralling interest consumes resources that would otherwise be available for needed infrastructure, and other investments that affect our long-term competitiveness. Failure to support balanced, and bipartisan, approaches to lower our annual deficits only serve to compound the difficulties of sustained long-term economic growth, with low long-term interest rates.

Again, I urge your support and vote for the Penny-Kasich package during consideration of H.R. 3400, introduced by Representative Gephardt (D-MO), the "Government Reform and Savings Act of 1993".

Best regards,

J. ROGER GLUNT,
President.

NATIONAL FEDERATION
OF INDEPENDENT BUSINESS,
Washington, DC, November 18, 1993.

DEAR MEMBER OF CONGRESS: On behalf of the over 600,000 members of the National Federation of Independent Business (NFIB), I strongly encourage you to support the Penny-Kasich amendment to H.R. 3400, the Government Reform and Savings Act of 1993.

Eighty-eight percent of NFIB members voted that Congress should focus its attention primarily on deficit reduction, while only eight percent believe the deficit should be reduced through tax increases. Small business owners want to see significant cuts in federal spending before any new spending is proposed or their taxes increased.

The Penny-Kasich Deficit Reduction Plan guarantees that savings will be used to reduce the deficit rather than finance new spending. The bi-partisan amendment would cut the deficit by $103 billion over five years. The spending reductions include $26 billion in discretionary savings, $50 billion in mandatory savings and $27 billion in personnel cuts. The amendment cannot be counted against the Pay-As-You-Go budget formula under which savings from tax or entitlement legislation can be used for further entitlement spending.

In addition, the plan limits runaway entitlement spending which makes up the largest portion of the federal budget and until now has gone untouched. Seventy-one percent of NFIB members voted in favor of subjecting entitlement programs to budget caps.

Again, I urge you to vote for the Penny-Kasich amendment to H.R. 3400. This vote will be considered and NFIB Key Small Business Vote for the 103rd Congress.

Sincerely,

JOHN J. MOTLEY III,
Vice President, Federal Governmental Relations.

NATIONAL TAXPAYERS UNION,
Washington, DC, November 8, 1993.

Hon. JOHN KASICH,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE KASICH: The 250,000-member National Taxpayers Union strongly supports your Deficit Reduction Plan to reduce federal spending and the budget deficit by as much as $103 billion over the next five years. Your proposal is an important step forward on the long road to real deficit reduction.

The upcoming House vote on the Penny-Kasich Plan will be one of the most important, if not the most important, spending cut votes of 1993. A vote FOR the Penny-Kasich package will be scored as one of the most heavily-weighted pro-taxpayer votes in our 1993 Rating of Congress.

We appreciate the leadership you have demonstrated in proposing this sensible Deficit Reduction Plan. While your proposal is a good first step toward reducing spending and the deficit, more work will need to be done to control spending. We hope to support additional proposals by your colleagues to reduce spending.

Your proposal outlines significant spending cuts the federal government should implement over the next five years. Many of these proposals have been previously endorsed or recommended by National Taxpayers Union. The cuts, representing about one cent of every tax dollar spent, include savings from government management reforms and personnel reductions, as well as cuts in foreign aid. Other cuts are proposed for USDA, HUD, the arts and humanities, the Tennessee Valley Authority, and many other domestic programs. This across-the-board approach, which includes some needed reforms of entitlement spending, is clearly a bold step in the right direction and will provide a firm foundation for more budget cuts in the future.

Spending cuts approved by the House often have little or no effect on spending or the deficit because the cuts are offset by spending increases elsewhere in the budget. Your proposal would amend the "Pay-As-You-Go" and discretionary spending caps in order to ensure that these spending cuts actually reduce the deficit.

In last Tuesday's elections voters sent a clear message to Congress: "cut spending now!" Passage of your proposal would be a clear sign that Congress is responding to that message.

Sincerely,

JILL LANCELOT,
Director of Congressional Affairs.

RESPONSIBLE BUDGET ACTION GROUP,
Washington, DC. November 4, 1993.
Hon. TIM PENNY,
Hon. JOHN KASICH,
House of Representatives, Washington, DC.

DEAR TIM AND JOHN: Throughout the budget debate this year we argued that the President's economic program did not cut spending or the deficit enough. We were concerned that Congress never could enact the deep spending and the deficit reduction we believe to be necessary and appropriate except on a bipartisan basis.

When President Clinton submitted his budget to Congress, he said that further entitlement restraint and deficit reduction depended on health care reform. But the Administration's health care reform proposal actually would increase entitlement spending—would not reduce the deficit at all until after 1998—and then only modestly—even if the Administration's cost and savings estimates are right.

When Congress passed the reconciliation bill, the President promised to submit additional spending cuts this fall. But the Administration's rescission and REGO proposals would not reduce spending. The Administration proposes to cut some programs an redirect the savings to pay for other priorities. And the Administration proposals would have little or no affect on the growth in entitlement spending.

The Penny/Kasich amendment is a serious bipartisan effort. It would cut spending and the deficit by more than $100 billion over five years. We support your amendment.

Certainly, there is something in the package for almost anybody to dislike. But this amendment really would cut spending. Half the Penny/Kasich savings are in entitlements. Those savings would be locked into law immediately. The other half, in discretionary spending, also would be locked-in. Congress could change the mix in discretionary spending in future years, but they would have to stay within the new limits which would be established if the amendment is enacted.

How can anybody who called for more spending cuts earlier this year oppose Penny/Kasich? We don't know. For our part, we laud this effort. We support your amendment. We will do anything we can to help you in this important effort.

If you have any questions or if there is something more we can do in support of the amendment please call Carol Cox Wait or Susan Tanaka in our office.

Best regards,

ROBERT N. GIAIMO,
HENRY BELLMON.

THIRD MILLENNIUM,
New York, NY, November 9, 1993.
Representative JOHN KASICH,
Representative TIM PENNY,
House of Representatives,
Washington, DC.

DEAR CONGRESSMEN: Despite all the talk about "deficit reduction" in Washington, the federal government continues to add to the national debt at a stunning rate of nearly a billion dollars a day.

Your Common Cents Plan is an important step towards reversing this sell-out of America's future. On behalf of Third Millennium, I applaud your commitment to fiscal responsibility and unequivocally endorse this proposal.

When Third Millennium released the Third Millennium Declaration in July, we also issued a promise to our political leaders: "If you are ready to make the tough choices, we will support you. If you are ready to fight, we will join you. If you are ready to lead, we might in fact follow you. But if not, move out of the way."

You and the other supporters of The Common Cents Plan are showing a willingness to fight for the future by making politically difficult decisions today. Third Millennium will fight with you.

The Penny/Kasich plan will cut over $100 billion of federal spending (or, more accurately, borrowing) in the next five years by making significant cuts in both discretionary and entitlement spending. Some of the cuts affect popular programs and will undoubtedly be opposed by a wide array of interest groups.

But the bill for this spending will not be paid for by today's interests groups, today's lobbyists or today's taxpayers. It will be paid for by future generations who are completely unrepresented in today's deliberations.

On a purely practical level, laying such a heavy burden on future generations is reckless fiscal policy. In a historical context is "taxation without representation"—an issue so momentous that is sparked the Revolutionary War.

The Common Cents Plan is an important first step. But it must be seen as a first step. Even if this ambitious plan passes the Congress, the government will add over a trillion dollars to the national debt over the next five years. We must do more. And we must be willing to tackle other sacred cows—including Medicare, Social Security and agriculture subsidies.

Thank you.

Respectfully,

JONATHAN KARL,
Co-founder.

UNITED STATES BUSINESS
AND INDUSTRIAL COUNCIL,
Washington, DC, November 17, 1993.
Hon. JOHN KASICH,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN KASICH: I write to offer the endorsement of the United States Business and Industrial Council for the Penny-Kasich amendment, which will require more than $103 billion in federal spending reductions in over 80 specific spending categories. We also urge all your colleagues to support it as well.

The Council is an organization of 1000 CEO's of small- and medium-sized manufacturing and service companies in 44 states. These companies, like all small business, find themselves crushed under an ever-growing federal tax and regulatory burden. At the same time, they are obliged to compete with their own government for capital to grow their businesses and create jobs.

We believe deficit and debt reduction are critical to the long-term success of our members and the health of the American economy. Penny-Kasich represents the best opportunity in years to reduce the deficit the *right* way—by reducing spending, not raising taxes.

Sincerely yours,

C. BRYAN LITTLE,
Director of Government Relations.

HOUSE OF REPRESENTATIVES—*Friday, November 19, 1993*

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. GEPHARDT].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
November 19, 1993.

I hereby designate the Honorable RICHARD A. GEPHARDT to act as Speaker pro tempore on this day.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

PRAYER

Rabbi Milton Weinberg, Congregation Beth Haverim, Mahwah, NJ, offered the following prayer:

Ribon Haolam, Sovereign of the Universe, preserve and protect our beloved country.

For the magnificence of our country's landscapes;
the majesty of its mountains;
the openness of its plains;
the produce of its farms;
the strength of its rivers;
the tranquility of its lakes;
the beauty of its oceans' shores;
and the vibrancy of its cities,
we give thanks to You, Eternal God.

Bestow Your blessings upon the Government of this Republic and the President of these United States. Look with favor upon the distinguished Members of the House of Representatives—bless them and their loved ones. Give them the wisdom and insight to ever seek the welfare of all the inhabitants of our land.

May peace and security, happiness and prosperity, justice and equity, right and freedom abide forever in our midst. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. TRAFICANT. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. TRAFICANT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 238, nays 150, answered "present" 1, not voting 44, as follows:

[Roll No. 583]

YEAS—238

Abercrombie
Ackerman
Andrews (ME)
Andrews (TX)
Applegate
Archer
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Bateman
Becerra
Berman
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (FL)
Brown (OH)
Bryant
Byrne
Cardin
Carr
Clayton
Clement
Clyburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
English (AZ)
English (OK)
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Green
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Houghton
Hughes
Hutto
Hyde
Inglis
Inslee
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (CA)
Lewis (GA)
Lipinski
Livingston
Lloyd
Long
Lowey
Maloney
Mann
Markey
Martinez
Mazzoli
McCurdy
McHale
McInnis
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Mineta
Minge
Moakley
Montgomery
Moran
Murtha
Myers
Natcher
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pombo
Pomeroy
Poshard
Price (NC)
Rahall
Reed
Reynolds
Richardson
Roemer
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schumer
Scott
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Spence
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tauzin
Tejeda
Thompson
Thurman
Torres
Torricelli
Towns
Traficant
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Wheat
Wilson
Wise
Woolsey
Wyden
Yates

NAYS—150

Allard
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Camp
Canady
Castle
Clay
Coble
Cox
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Gilchrest
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Huffington
Hutchinson
Inhofe
Istook
Jacobs
Johnson (CT)
Johnson (GA)
Johnson, Sam
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lazio
Leach
Levy
Lewis (FL)
Lightfoot
Linder
Machtley
Manzullo
McCandless
McCollum
McDade
McHugh
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Morella
Murphy
Nussle
Oxley
Packard
Paxon
Petri
Portman
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Ridge
Roberts
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Santorum
Saxton
Schaefer
Schiff
Schroeder
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (OR)
Smith (TX)
Snowe
Solomon
Stearns
Stump
Sundquist
Talent
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (FL)
Zeliff
Zimmer

ANSWERED "PRESENT"—1

Matsui

NOT VOTING—44

Andrews (NJ)
Barton
Beilenson
Brown (CA)
Calvert
Cantwell
Chapman
Clinger
Cooper
Dickey
Dicks
Dingell
Dornan
Engel
Ford (MI)
Ford (TN)
Greenwood
Hoyer
Hunter
Jefferson
Kasich
Manton
Margolies-Mezvinsky
McCloskey
McCrery
McDermott
Mfume
Mink
Mollohan
Nadler
Pickle
Porter

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Rangel
Rogers
Serrano
Thornton
Torkildsen
Tucker
Velazquez
Washington
Whitten
Williams
Wynn
Young (AK)

□ 1026

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore (Mr. GEPHARDT). The gentlewoman from New Jersey [Mrs. ROUKEMA] will lead us in the Pledge of Allegiance.

Mrs. ROUKEMA led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

WELCOMING RABBI MILTON WEINBERG AS GUEST CHAPLAIN

(Mrs. ROUKEMA asked and was given permission to address the House for 1 minute.)

Mrs. ROUKEMA. Mr. Speaker, it is my sincere pleasure to welcome to the House as our guest Chaplain today, Rabbi Milton Weinberg, of Congregation Beth Haverim of Mahwah, NJ.

Rabbi Weinberg has played a very personal and vital role in the community life of Bergen County. Equally important, he has been counselor and friend to his congregation.

A native of New Jersey, Milton Weinberg was born and educated in Camden. Rabbi Weinberg was graduated from the City College of New York in 1960. He also attended Hebrew Union College-Jewish Institute of Religion in New York, graduating in 1965 with rabbinic ordination and with a master of arts and a master of arts in Hebrew literature.

Rabbi Weinberg has served as the rabbi for Beth Am Temple in Pearl River, NY, and Temple Beth El in Closter, NJ. In 1974 he became the first rabbi of Congregation Beth Haverim of Mahwah, NJ, where he continues to serve. Among his many community activities he has been especially active on behalf of Soviet Jewry.

He continues to be an active Biblical scholar, is secretary of the International Organization of Masoretic Studies, and has received an honorary doctor of divinity from Hebrew Union College-Jewish Institute of Religion in 1990.

His proudest achievement in his long and dedicated but public life is his family and his wife Laurie of more than 40 years. Milton and Laurie Weinberg reside just across the border in Monsey, NY, where they are represented by the gentleman from New York [Mr. GILMAN]. The Weinbergs have four children: Ariel, Rebecca, David and Hillel. Hillel, who resides in the Washington area with his wife Debra, currently works for Senator DURENBERGER in the other body.

Rabbi and Mrs. Weinberg are also the proud grandparents of three. This close knit family has been an inspiration to all who know them, an example of the bedrock of family values in which all Americans should take pride.

Mr. Speaker, I ask my colleagues to join me in welcoming Rabbi Milton Weinberg as our guest chaplain today.

Mr. Speaker, I yield to the gentleman from New York [Mr. GILMAN].

□ 1030

Mr. GILMAN. Mr. Speaker, I thank the gentlewoman for yielding to me.

Mr. Speaker, it is indeed a pleasure and an honor to join with the gentlewoman from New Jersey [Mrs. ROUKEMA] in welcoming Rabbi Milton Weinberg to our Chamber.

Congregation Beth Haverim in Mahwah, NJ, of which Rabbi Weinberg is the founding and current rabbi, is located in proximity to our New Jersey-New York border. Accordingly, many of the good rabbi's congregants are residents of my 20th Congressional District of New York, as is the rabbi himself. Indeed, Rabbi Weinberg and his wife, the former Laurie Muriel Kaufman, are among the leading residents and community leaders of Monsey, NY.

Mr. Speaker, I have long enjoyed close ties with Rabbi Weinberg and his family not only because of his spiritual and humanitarian leadership for a portion of my constituency, but also due to the fact that his son, Dr. Hillel Weinberg, was a former member of my congressional staff and subsequently our Foreign Affairs Committee staff for a total of some 7 years, before joining the Bush administration. Although Hillel is now employed in the other body by the senior Senator from Minnesota [Mr. DURENBERGER], I still often call upon him for his insight.

Mr. Speaker, I am pleased to join in welcoming my constituent, Rabbi Weinberg and his family to the House of Representatives, and we thank him for his inspirational words.

CONFERENCE REPORT ON S. 714, RESOLUTION TRUST CORPORATION COMPLETION ACT

Mr. GONZALEZ submitted the following conference report and statement on the Senate bill (S. 714), to provide for the remaining funds needed to assure that the United States fulfills its obligation for the protection of depositors at savings and loan institutions, to improve the management of the Resolution Trust Corporation [RTC] in order to assure the taxpayers the fairest and most efficient disposition of savings and loan assets, to provide for a comprehensive transition plan to assure an orderly transfer of RTC resources to the Federal Deposit Insurance Corporation, to abolish the RTC, and for other purposes:

CONFERENCE REPORT (H. REPT. 103-380)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 714), to provide for the remaining funds needed to assure that the United States fulfills its obligation for the protection of depositors at savings and loan institutions, to improve the management of the Resolution Trust Corporation ('RTC') in order to assure the taxpayers the fairest and most efficient disposition of savings and loan assets, to provide for a comprehensive transition plan to assure an orderly transfer of RTC resources to the Federal Deposit Insurance Corporation, to abolish the RTC, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Resolution Trust Corporation Completion Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Final funding for RTC.
Sec. 3. RTC management reforms.
Sec. 4. Extension of statute of limitations.
Sec. 5. Limitation on bonuses and compensation paid by the RTC and the Thrift Depositor Protection Oversight Board.
Sec. 6. FDIC—RTC transition task force.
Sec. 7. Amendments relating to the termination of the RTC.
Sec. 8. SAIF funding authorization amendments.
Sec. 9. Moratorium extension.
Sec. 10. Repayment schedule for permanent FDIC borrowing authority.
Sec. 11. Deposit insurance funds.
Sec. 12. Maximum dollar limits for eligible condominium and single family properties under RTC affordable housing program.
Sec. 13. Changes affecting only FDIC affordable housing program.
Sec. 14. Changes affecting both RTC and FDIC affordable housing programs.
Sec. 15. Right of first refusal for tenants to purchase single family property.
Sec. 16. Preference for sales of real property for use for homeless families.
Sec. 17. Preferences for sales of commercial properties to public agencies and nonprofit organizations for use in carrying out programs for affordable housing.
Sec. 18. Federal home loan banks housing opportunity hotline program.
Sec. 19. Conflict of interest provisions applicable to the FDIC.
Sec. 20. Restrictions on sales of assets to certain persons.
Sec. 21. Whistle blower protection.
Sec. 22. FDIC asset disposition division.
Sec. 23. Presidentially appointed inspector general for FDIC.
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Sec. 25. Due process protections relating to attachment of assets.
Sec. 26. GAO studies regarding Federal real property disposition.
Sec. 27. Extension of RTC power to be appointed as conservator or receiver.
Sec. 28. Final report on RTC and SAIF funding.

Sec. 29. General Counsel of the Resolution Trust Corporation.
Sec. 30. Authority to execute contracts.
Sec. 31. RTC contracting.
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Sec. 33. Sense of the Congress relating to participation of disabled Americans in contracting for delivery of services to financial institution regulatory agencies.
Sec. 34. Report to Congress by Special Counsel.
Sec. 35. Reporting requirements.
Sec. 36. Continuation of conservatorships or receiverships.
Sec. 37. Exceptions for certain transactions.
Sec. 38. Bank deposit financial assistance program.

SEC. 2. FINAL FUNDING FOR RTC.

Section 21A(i) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(i)) is amended—

(1) in paragraph (3), by striking "until April 1, 1992"; and

(2) by adding at the end the following new paragraphs:

"(4) CONDITIONS ON AVAILABILITY OF FINAL FUNDING IN EXCESS OF $10,000,000,000.—

"(A) CERTIFICATION REQUIRED.—Of the funds appropriated under paragraph (3) which are provided after April 1, 1993, any amount in excess of $10,000,000,000 shall not be available to the Corporation before the date on which the Secretary of the Treasury certifies to the Congress that, since the date of enactment of the Resolution Trust Corporation Completion Act, the Corporation has taken such action as may be necessary to comply with the requirements of subsection (w) or that, as of the date of the certification, the Corporation is continuing to make adequate progress toward full compliance with such requirements.

"(B) APPEARANCE UPON REQUEST.—The Secretary of the Treasury shall appear before the Committee on Banking, Finance and Urban Affairs of the House of Representatives or the Committee on Banking, Housing, and Urban Affairs of the Senate, upon the request of the chairman of the committee, to report on any certification made to the Congress under subparagraph (A).

"(5) RETURN TO TREASURY.—If the aggregate amount of funds transferred to the Corporation pursuant to this subsection exceeds the amount needed to carry out the purposes of this section or to meet the requirements of section 11(a)(6)(F) of the Federal Deposit Insurance Act, such excess amount shall be deposited in the general fund of the Treasury.

"(6) FUNDS ONLY FOR DEPOSITORS.—Notwithstanding any provision of law other than section 13(c)(4)(G) of the Federal Deposit Insurance Act, funds appropriated under this section shall not be used in any manner to benefit any shareholder of—

"(A) any insured depository institution for which the Corporation has been appointed conservator or receiver, in connection with any type of resolution by the Corporation;

"(B) any other insured depository institution in default or in danger of default, in connection with any type of resolution by the Corporation; or

"(C) any insured depository institution, in connection with the provision of assistance under section 11 or 13 of the Federal Deposit Insurance Act with respect to such institution, except that this subparagraph shall not prohibit assistance to any insured depository institution that is not in default, or that is not in danger of default, that is acquiring (as defined in section 13(f)(8)(B) of such Act) another insured depository institution.".

SEC. 3. RTC MANAGEMENT REFORMS.

(a) IN GENERAL.—Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by adding at the end the following new subsection:

"(w) RTC MANAGEMENT REFORMS.—

"(1) COMPREHENSIVE BUSINESS PLAN.—The Corporation shall establish and maintain a comprehensive business plan covering the operations of the Corporation, including the disposition of assets, for the remainder of the Corporation's existence.

"(2) MARKETING REAL PROPERTY ON AN INDIVIDUAL BASIS.—The Corporation shall—

"(A) market any undivided or controlling interest in real property, whether held directly or indirectly by an institution described in subsection (b)(3)(A), on an individual basis, including sales by auction, for no fewer than 120 days before such assets may be made available for sale or other disposition on a portfolio basis or otherwise included in a multiasset sales initiative, except that this subparagraph does not apply to assets that are—

"(i) sold simultaneously with a resolution in which a buyer purchases a significant proportion of the assets and assumes a significant proportion of the liabilities, or acts as agent of the Corporation for purposes of paying insured deposits, of an institution described in subsection (b)(3)(A); or

"(ii) transferred to a new institution organized pursuant to section 11(d)(2)(F) of the Federal Deposit Insurance Act; and

"(B) prescribe regulations—

"(i) to require that the sale or other disposition of any asset consisting of real property on a portfolio basis or in connection with any multiasset sales initiative after the end of the 120-day period described in subparagraph (A) be justified in writing; and

"(ii) to carry out the requirements of subparagraph (A).

"(3) DISPOSITION OF REAL ESTATE RELATED ASSETS.—

"(A) PROCEDURES FOR DISPOSITION OF REAL ESTATE-RELATED ASSETS.—The Corporation shall not sell real property or any nonperforming real estate loan which the Corporation has acquired as receiver or conservator, unless—

"(i) the Corporation has assigned responsibility for the management and disposition of such asset to a qualified person or entity to—

"(I) analyze each asset on an asset-by-asset basis and consider alternative disposition strategies for such asset;

"(II) develop a written management and disposition plan; and

"(III) implement that plan for a reasonable period of time; or

"(ii) the Corporation has made a determination in writing that a bulk transaction would maximize net recovery to the Corporation, while providing opportunity for broad participation by qualified bidders, including minority- and women-owned businesses.

"(B) DEFINITIONS.—In defining any term for purposes of subparagraph (A), the Corporation may, by regulation, define—

"(i) the term 'asset' so as to include properties or loans which are legally separate and distinct properties or loans, but which have sufficiently common characteristics such that they may be logically treated as a single asset; and

"(ii) the term 'qualified person or entity' so as to include any employee of the Thrift Depositor Protection Oversight Board or any employee assigned to the Corporation under subsection (b)(8).

"(C) EXCEPTIONS.—This paragraph shall not apply to—

"(i) assets that are—

"(I) sold simultaneously with a resolution in which a buyer purchases a significant proportion of the assets and assumes a significant proportion of the liabilities (or acts as agent of the Corporation for purposes of paying insured deposits) of an institution described in subsection (b)(3)(A); or

"(II) transferred to a new institution organized pursuant to section 11(d)(2)(F) of the Federal Deposit Insurance Act;

"(ii) nonperforming real estate loans with a book value of not more than $1,000,000;

"(iii) real property with a book value of not more than $400,000; or

"(iv) real property with a book value of more than $400,000 or nonperforming real estate loans with a book value of more than $1,000,000 for which the Corporation determines, in writing, that a disposition not in conformity with the requirements of subparagraph (A) will bring a greater return to the Corporation.

"(D) COORDINATION WITH PARAGRAPH (2).—No provision of this paragraph shall supersede the requirements of paragraph (2).

"(4) DIVISION OF MINORITIES AND WOMEN PROGRAMS.—

"(A) IN GENERAL.—The Corporation shall maintain a division of minorities and women programs.

"(B) VICE PRESIDENT.—The head of the division shall be a vice president of the Corporation and a member of the executive committee of the Corporation.

"(5) CHIEF FINANCIAL OFFICER.—

"(A) IN GENERAL.—The chief executive officer of the Corporation shall appoint a chief financial officer for the Corporation.

"(B) AUTHORITY.—The chief financial officer of the Corporation shall—

"(i) have no operating responsibilities with respect to the Corporation other than as chief financial officer;

"(ii) report directly to the chief executive officer of the Corporation; and

"(iii) have such authority and duties of chief financial officers of agencies under section 902 of title 31, United States Code, as the Thrift Depositor Protection Oversight Board determines to be appropriate with respect to the Corporation.

"(6) BASIC ORDERING AGREEMENTS.—

"(A) REVISION OF PROCEDURES.—The Corporation shall revise the procedure for reviewing and qualifying applicants for eligibility for future contracts in a specified service area (commonly referred to as 'basic ordering agreements' or 'task ordering agreements') in such manner as may be necessary to ensure that small businesses, minorities, and women are not inadvertently excluded from eligibility for such contracts.

"(B) REVIEW OF LISTS.—To ensure the maximum participation level possible of minority- and women-owned businesses, the Corporation shall—

"(i) review all lists of contractors determined to be eligible for future contracts in a specified service area and other contracting mechanisms; and

"(ii) prescribe appropriate regulations and procedures.

"(7) IMPROVEMENT OF CONTRACTING SYSTEMS AND CONTRACTOR OVERSIGHT.—The Corporation shall—

"(A) maintain such procedures and uniform standards for—

"(i) entering into contracts between the Corporation and private contractors; and

"(ii) overseeing the performance of contractors and subcontractors under such contracts and compliance by contractors and subcontractors with the terms of contracts and applicable regulations, orders, policies, and guidelines of the Corporation,

as may be appropriate in carrying out the Corporation's operations in as efficient and economical a manner as may be practicable;

"(B) commit sufficient resources, including personnel, to contract oversight and the enforcement of all laws, regulations, orders, policies,

and standards applicable to contracts with the Corporation; and

"(C) maintain uniform procurement guidelines for basic goods and administrative services to prevent the acquisition of such goods and services at widely different prices.

"(8) AUDIT COMMITTEE.—

"(A) ESTABLISHMENT.—The Thrift Depositor Protection Oversight Board shall establish and maintain an audit committee.

"(B) DUTIES.—The audit committee shall have the following duties:

"(i) Monitor the internal controls of the Corporation.

"(ii) Monitor the audit findings and recommendations of the inspector general of the Corporation and the Comptroller General of the United States and the Corporation's response to the findings and recommendations.

"(iii) Maintain a close working relationship with the inspector general of the Corporation and the Comptroller General of the United States.

"(iv) Regularly report the findings and any recommendation of the audit committee to the Corporation and the Thrift Depositor Protection Oversight Board.

"(v) Monitor the financial operations of the Corporation and report any incipient problem identified by the audit committee to the Corporation and the Thrift Depositor Protection Oversight Board.

"(C) FEDERAL ADVISORY COMMITTEE ACT NOT APPLICABLE.—The audit committee is not an advisory committee within the meaning of section 3(2) of the Federal Advisory Committee Act.

"(9) CORRECTIVE RESPONSES TO AUDIT PROBLEMS.—The Corporation shall—

"(A) respond to problems identified by auditors of the Corporation's financial and asset-disposition operations, including problems identified in audit reports by the inspector general of the Corporation, the Comptroller General of the United States, and the audit committee; or

"(B) certify to the Thrift Depositor Protection Oversight Board that no action is necessary or appropriate.

"(10) ASSISTANT GENERAL COUNSEL FOR PROFESSIONAL LIABILITY.—

"(A) APPOINTMENT.—The Corporation shall appoint, within the division of legal services of the Corporation, an assistant general counsel for professional liability.

"(B) DUTIES.—The assistant general counsel for professional liability shall—

"(i) direct the investigation, evaluation, and prosecution of all professional liability claims involving the Corporation; and

"(ii) supervise all legal, investigative, and other personnel and contractors involved in the litigation of such claims.

"(C) SEMIANNUAL REPORTS TO THE CONGRESS.—The assistant general counsel for professional liability shall submit to the Congress a comprehensive litigation report, not later than—

"(i) April 30 of each year for the 6-month period ending on March 31 of that year; and

"(ii) October 31 of each year for the 6-month period ending on September 30 of that year.

"(D) CONTENTS OF REPORTS.—The semiannual reports required under subparagraph (C) shall each address the activities of the counsel for professional liability under subparagraph (B) and all civil actions—

"(i) in which the Corporation is a party, which are filed against—

"(I) directors or officers of depository institutions described in subsection (b)(3)(A); or

"(II) attorneys, accountants, appraisers, or other licensed professionals who performed professional services for such depository institutions; and

"(ii) which are initiated or pending during the period covered by the report.

"(11) MANAGEMENT INFORMATION SYSTEM.—The Corporation shall maintain an effective management information system capable of providing complete and current information to the extent the provision of such information is appropriate and cost-effective.

"(12) INTERNAL CONTROLS AGAINST FRAUD, WASTE, AND ABUSE.—The Corporation shall maintain effective internal controls designed to prevent fraud, waste, and abuse, identify any such activity should it occur, and promptly correct any such activity.

"(13) FAILURE TO APPOINT CERTAIN OFFICERS OF THE CORPORATION.—The failure to fill any position established under this section or any vacancy in any such position, shall be treated as a failure to comply with the requirements of this subsection for purposes of subsection (i)(4).

"(14) REPORTS.—

"(A) DISCLOSURE OF EXPENDITURES.—The Corporation shall include in the annual report submitted pursuant to subsection (k)(4) an itemization of the expenditures of the Corporation during the year for which funds provided pursuant to subsection (i)(3) were used.

"(B) PUBLIC DISCLOSURE OF SALARIES.—The Corporation shall include in the annual report submitted pursuant to subsection (k)(4) a disclosure of the salaries and other compensation paid during the year covered by the report to directors and senior executive officers at any depository institution for which the Corporation has been appointed conservator or receiver.

"(15) MINORITY- AND WOMEN-OWNED BUSINESSES CONTRACT PARITY GUIDELINES.—The Corporation shall establish guidelines for achieving the goal of a reasonably even distribution of contracts awarded to the various subgroups of the class of minority- and women-owned businesses and minority- and women-owned law firms whose total number of certified contractors comprise not less than 5 percent of all minority- and women-owned certified contractors. The guidelines may reflect the regional and local geographic distributions of minority subgroups. The distribution of contracts should not be accomplished at the expense of any eligible minority- or women-owned business or law firm in any subgroup that falls below the 5 percent threshold in any region or locality.

"(16) CONTRACT SANCTIONS FOR FAILURE TO COMPLY WITH SUBCONTRACT AND JOINT VENTURE REQUIREMENTS.—The Corporation shall prescribe regulations which provide sanctions, including contract penalties and suspensions, for violations by contractors of requirements relating to subcontractors and joint ventures.

"(17) MINORITY PREFERENCE IN ACQUISITION OF INSTITUTIONS IN PREDOMINANTLY MINORITY NEIGHBORHOODS.—

"(A) IN GENERAL.—In considering offers to acquire any insured depository institution, or any branch of an insured depository institution, located in a predominantly minority neighborhood (as defined in regulations prescribed under subsection (s)), the Corporation shall give preference to an offer from any minority individual, minority-owned business, or a minority depository institution, over any other offer that results in the same cost to the Corporation, as determined under section 13(c)(4) of the Federal Deposit Insurance Act.

"(B) CAPITAL ASSISTANCE.—

"(i) ELIGIBILITY.—In order to effectuate the purposes of this paragraph, any minority individual, minority-owned business, or a minority depository institution shall be eligible for capital assistance under the minority interim capital assistance program established under subsection (u)(1) and subject to the provisions of subsection (u)(3), to the extent that such assistance is consistent with the application of section 13(c)(4) of the Federal Deposit Insurance Act.

"(ii) TERMS AND CONDITIONS.—Subsection (u)(4) shall not apply to capital assistance provided under this subparagraph.

"(C) PERFORMING ASSETS.—In the case of an acquisition of any depository institution or branch described in subparagraph (A) by any minority individual, minority-owned business, or a minority depository institution, the Corporation may provide, in connection with such acquisition and in addition to performing assets of the depository institution or branch, other performing assets under the control of the Corporation in an amount (as determined on the basis of the Corporation's estimate of the fair market value of the assets) not greater than the amount of net liabilities carried on the books of the institution or branch, including deposits, which are assumed in connection with the acquisition.

"(D) FIRST PRIORITY FOR DISPOSITION OF ASSETS.—In the case of an acquisition of any depository institution or branch described in subparagraph (A) by any minority individual, minority-owned business, or a minority depository institution, the disposition of the performing assets of the depository institution or branch to such individual, business, or minority depository institution shall have a first priority over the disposition by the Corporation of such assets for any other purpose.

"(E) DEFINITIONS.—For purposes of this paragraph, the following definitions shall apply:

"(i) ACQUIRE.—The term 'acquire' has the same meaning as in section 13(f)(8)(B) of the Federal Deposit Insurance Act.

"(ii) MINORITY.—The term 'minority' has the same meaning as in section 1204(c)(3) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

"(iii) MINORITY DEPOSITORY INSTITUTION.—The term 'minority depository institution' has the same meaning as in subsection (s)(2).

"(iv) MINORITY-OWNED BUSINESS.—The term 'minority-owned business' has the same meaning as in subsection (r)(4).

"(18) SUBCONTRACTS WITH MINORITY- AND WOMEN-OWNED BUSINESSES.—

"(A) GOALS AND PROCEDURES.—

"(i) REASONABLE GOALS.—The Corporation shall establish reasonable goals for contractors for services with the Corporation to subcontract with minority- and women-owned businesses and law firms.

"(ii) PROCEDURES.—The Corporation may not enter into any contract for the provision of services to the Corporation, including legal services, under which the contractor would receive fees or other compensation in an amount equal to or greater than $500,000, unless the Corporation requires the contractor to subcontract with minority- or women-owned businesses, including law firms, and to pay fees or other compensation to such businesses in an amount commensurate with the percentage of services provided by the business.

"(iii) EXCEPTIONS.—The Corporation may exclude a contract from the requirements of clause (ii) if the Chief Executive Officer of the Corporation determines in writing that imposing such a subcontracting requirement would—

"(I) substantially increase the cost of contract performance; or

"(II) undermine the ability of the contractor to perform its obligations under the contract.

"(B) LIMITED WAIVER AUTHORITY.—

"(i) IN GENERAL.—The Corporation may grant a waiver from the application of this paragraph to any contractor with respect to a contract described in subparagraph (A)(ii), if the contractor certifies to the Corporation that it has determined that no eligible minority- or women-owned business is available to enter into a subcontract (with respect to such contract) and provides an explanation of the basis for such determination.

"(ii) WAIVER PROCEDURES.—Any determination to grant a waiver under clause (i) shall be *made in writing by the Chief Executive Officer of the Corporation.*

"(C) REPORT.—Each quarterly report submitted by the Corporation pursuant to subsection (k)(7) shall contain a description of each exception granted under subparagraph (A)(iii) and each waiver granted under subparagraph (B) during the quarter covered by the report.

"(D) DEFINITIONS.—For purposes of this paragraph, the following definitions shall apply:

"(i) MINORITY.—The term 'minority' has the same meaning as in section 1204(c)(3) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

"(ii) MINORITY- AND WOMEN-OWNED BUSINESS.—The terms 'minority-owned business' and 'women-owned business' have the same meanings as in subsection (r)(4).

"(19) CONTRACTING PROCEDURES.—

"(A) PROCEDURES.—In awarding any contract subject to the competitive bidding process, the Corporation shall apply competitive bidding procedures that are no less stringent than those in effect on the date of the enactment of the Resolution Trust Corporation Completion Act.

"(B) COST TO TAXPAYER.—Nothing in this Act, or any other provision of law, shall supersede the Corporation's primary duty of minimizing costs to the taxpayer and maximizing the total return to the Government.

"(20) MANAGEMENT OF LEGAL SERVICES.—To improve the management of legal services, the Corporation—

"(A) shall utilize staff counsel when such utilization would provide the same level of quality in legal services as the use of outside counsel at the same or a lower estimated cost; and

"(B) may only employ outside counsel—

"(i) if the use of outside counsel would provide the most practicable, efficient, and cost-effective resolution to the action; and

"(ii) under a negotiated fee, contingent fee, or competitively bid fee agreement.

"(21) CLIENT RESPONSIVENESS UNITS.—The Corporation shall ensure that every regional office of the Corporation contains a client responsiveness unit responsible to the Corporation's ombudsman.".

(b) BORROWER APPEALS.—Section 21A(b)(4) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(4)) is amended by adding at the end the following new subparagraph:

"(C) APPEALS.—The Corporation shall implement and maintain a program, in a manner acceptable to the Thrift Depositor Protection Oversight Board, to provide an appeals process for business and commercial borrowers to appeal decisions by the Corporation (when acting as a conservator) which would have the effect of terminating or otherwise adversely affecting credit or loan agreements, lines of credit, and similar arrangements with such borrowers who have not defaulted on their obligations.".

(c) GAO STUDY OF PROGRESS OF IMPLEMENTATION OF REFORMS.—

(1) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a study of the manner in which the reforms required pursuant to the amendment made by subsection (a) are being implemented by the Resolution Trust Corporation and the progress being made by the Corporation toward the achievement of full compliance with such requirements.

(2) INTERIM REPORT TO CONGRESS.—Not later than 6 months after the date of enactment of this Act, the Comptroller General of the United States shall submit an interim report to the Congress containing the preliminary findings of the Comptroller General in connection with the study required under paragraph (1).

(3) FINAL REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to the Congress containing—

(A) the findings of the Comptroller General in connection with the study required under paragraph (1); and

(B) such recommendations for legislative and administrative action as the Comptroller General may determine to be appropriate.

(4) DISCLOSURE OF PERFORMING ASSET TRANSFERS.—

(A) REPORT REQUIRED.—The Comptroller General of the United States shall submit an annual report to the Congress on transfers of performing assets by the Corporation, categorized by institution, to any acquirer during the year covered by the report.

(B) CONTENTS.—Each report submitted under subparagraph (A) shall contain—

(i) the number and a description of asset transfers during the year covered by the report;

(ii) the number of assets provided in connection with each transaction during such year; and

(iii) a report of an audit by the Comptroller General of the determination of the Corporation of the fair market value of transferred assets at the time of transfer.

(d) UTILIZATION OF SERVICES.—Section 11(d)(2)(K) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(2)(K)) is amended—

(1) by inserting "legal," after "auction marketing,";

(2) by striking "if" and inserting "only if"; and

(3) by striking "practicable" and inserting "the most practicable".

(e) RTC NOTICE TO GSA.—

(1) IN GENERAL.—Within a reasonable period of time after acquiring an undivided or controlling interest in any commercial office property in its capacity as conservator or receiver, the Corporation shall notify the Administrator of General Services of such acquisition.

(2) CONTENTS OF NOTICE.—The notice required under paragraph (1) shall contain basic information about the property, including—

(A) the location and condition of the property;

(B) information relating to the estimated fair market value of the property; and

(C) the Corporation's schedule, or estimate of the schedule, for marketing and disposing of the property.

(3) COMPETITIVE BIDDING.—The Administrator of General Services, in compliance with regulations of the Resolution Trust Corporation, may bid on property described in the notice required under paragraph (1) that is otherwise subject to competitive bidding.

SEC. 4. EXTENSION OF STATUTE OF LIMITATIONS.

(a) IN GENERAL.—Section 21A(b) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)) is amended by adding at the end the following new paragraph:

"(14) EXTENSION OF STATUTE OF LIMITATIONS.—

"(A) TORT ACTIONS FOR WHICH THE PRIOR LIMITATION HAS RUN.—

"(i) IN GENERAL.—In the case of any tort claim—

"(I) which is described in clause (ii); and

"(II) for which the applicable statute of limitations under section 11(d)(14)(A)(ii) of the Federal Deposit Insurance Act has expired before the date of enactment of the Resolution Trust Corporation Completion Act;

the statute of limitations which shall apply to an action brought on such claim by the Corporation in the Corporation's capacity as conservator or receiver of an institution described in paragraph (3)(A) shall be the period determined under subparagraph (C).

"(ii) CLAIMS DESCRIBED.—A tort claim referred to in clause (i)(I) with respect to an institution described in paragraph (3)(A) is a claim arising from fraud, intentional misconduct resulting in unjust enrichment, or intentional misconduct resulting in substantial loss to the institution.

"(B) TORT ACTIONS FOR WHICH THE PRIOR LIMITATION HAS NOT RUN.—

"(i) IN GENERAL.—Notwithstanding section 11(d)(14)(A) of the Federal Deposit Insurance Act, in the case of any tort claim—

"(I) which is described in clause (ii); and

"(II) for which the applicable statute of limitations under section 11(d)(14)(A)(ii) of the Federal Deposit Insurance Act has not expired as of the date of enactment of the Resolution Trust Corporation Completion Act;

the statute of limitations which shall apply to an action brought on such claim by the Corporation in the Corporation's capacity as conservator or receiver of an institution described in paragraph (3)(A) shall be the period determined under subparagraph (C).

"(ii) CLAIMS DESCRIBED.—A tort claim referred to in clause (i)(I) with respect to an institution described in paragraph (3)(A) is a claim arising from gross negligence or conduct that demonstrates a greater disregard of a duty of care than gross negligence, including intentional tortious conduct relating to the institution.

"(C) DETERMINATION OF PERIOD.—The period determined under this subparagraph for any claim to which subparagraph (A) or (B) applies shall be the longer of—

"(i) the 5-year period beginning on the date the claim accrues (as determined pursuant to section 11(d)(14)(B) of the Federal Deposit Insurance Act); or

"(ii) the period applicable under State law for such claim.

"(D) SCOPE OF APPLICATION.—Subparagraphs (A) and (B) shall not apply to any action which is brought after the date of the termination of the Corporation under subsection (m)(1).".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 11(d)(14)(A)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(14)(A)(ii)) is amended by inserting "(other than a claim which is subject to section 21A(b)(14) of the Federal Home Loan Bank Act)" after "any tort claim".

SEC. 5. LIMITATION ON BONUSES AND COMPENSATION PAID BY THE RTC AND THE THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD.

(a) IN GENERAL.—Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by adding after subsection (w) (as added by section 3(a) of this Act) the following new subsection:

"(x) LIMITATION ON EXCESSIVE COMPENSATION AND CASH AWARDS.—

"(1) ESTABLISHMENT OF PERFORMANCE APPRAISAL SYSTEM REQUIRED.—The Corporation shall be treated as an agency for purposes of sections 4302 and 4304 of title 5, United States Code.

"(2) PROCEDURES FOR PAYMENT OF CASH AWARDS.—

"(A) IN GENERAL.—Sections 4502, 4503, and 4505a of title 5, United States Code, shall apply with respect to the Corporation.

"(B) LIMITATION ON AMOUNT OF CASH AWARDS.—For purposes of determining the amount of any performance-based cash award payable to any employee of the Corporation under section 4505a of title 5, United States Code, the amount of basic pay of the employee which may be taken into account under such section shall not exceed the amount which is equal to the annual rate of basic pay payable for level I of the Executive Schedule.

"(3) ALL OTHER CASH AWARDS AND BONUSES PROHIBITED.—Except as provided in paragraph (2), no cash award or bonus may be made to any employee of the Corporation.

"(4) LIMITATIONS ON CASH AWARDS AND BONUSES.—No employee shall receive any cash award or bonus if such employee has given notice of an intent to resign to take a position in the private sector before the payment of such

cash award or bonus or accepts employment in the private sector not later than 60 days after receipt of such award or bonus.

"(5) LIMITATION ON EXCESSIVE COMPENSATION.—Except as provided in paragraphs (6) and (7), no employee may receive a total amount of allowances, benefits, basic pay, and other compensation, including bonuses and other awards, in excess of the total amount of allowances, benefits, basic pay, and other compensation, including bonuses and other awards, which are provided to the chief executive officer of the Corporation.

"(6) NO REDUCTION IN RATE OF PAY.—The annual rate of basic pay and benefits, including any regional pay differential, payable to any employee who was an employee as of the date of enactment of the Resolution Trust Corporation Completion Act for any year ending after such date of enactment shall not be reduced, by reason of paragraph (5), below the annual rate of basic pay and benefits, including any regional pay differential, paid to such employee, by reason of such employment, as of such date.

"(7) EMPLOYEES SERVING IN ACTING OR TEMPORARY CAPACITY.—In the case of any employee who, as of the date of enactment of the Resolution Trust Corporation Completion Act, is serving in an acting capacity or is otherwise temporarily employed at a higher grade than such employee's regular grade or position of employment—

"(A) the annual rate of basic pay and benefits, including any regional pay differential, payable to such employee in such capacity or at such higher grade shall not be reduced by reason of paragraph (5) so long as such employee continues to serve in such capacity or at such higher grade; and

"(B) after such employee ceases to serve in such capacity or at such higher grade, paragraph (6) shall be applied with respect to such employee by taking into account only the annual rate of basic pay and benefits, including any regional pay differential, payable to such employee in such employee's regular grade or position of employment.

"(8) DEFINITIONS.—

"(A) ALLOWANCES.—For purposes of paragraph (5), the term 'allowances' does not include any allowance for travel and subsistence expenses incurred by an employee while away from home or designated post of duty on official business.

"(B) EMPLOYEE.—For purposes of this subsection and sections 4302, 4502, 4503, and 4505a of title 5, United States Code (as applicable with respect to this subsection), the term 'employee' includes any officer or employee assigned to the Corporation under subsection (b)(8) and any officer or employee of the Thrift Depositor Protection Oversight Board.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) AMENDMENT TO TITLE 5.—Section 5314 of title 5, United States Code, is amended by striking the following item:

"chief executive officer of the Resolution Trust Corporation.".

(2) FEDERAL HOME LOAN BANK ACT AMENDMENT.—Section 21A(a)(6) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(6)) is amended by adding at the end the following new subparagraph:

"(K) To establish the rate of basic pay, benefits, and other compensation for the chief executive officer of the Corporation.".

SEC. 6. FDIC-RTC TRANSITION TASK FORCE.

(a) ESTABLISHMENT REQUIRED.—The Federal Deposit Insurance Corporation and the Resolution Trust Corporation shall establish an interagency transition task force. The task force shall facilitate the transfer of the assets, personnel, and operations of the Resolution Trust Corporation to the Federal Deposit Insurance Corporation or the FSLIC Resolution Fund, as the case may be, in a coordinated manner.

(b) MEMBERS.—

(1) IN GENERAL.—The transition task force shall consist of such number of officers and employees of the Federal Deposit Insurance Corporation and the Resolution Trust Corporation as the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation and the chief executive officer of the Resolution Trust Corporation may jointly determine to be appropriate.

(2) APPOINTMENT.—The Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation and the chief executive officer of the Resolution Trust Corporation shall appoint the members of the transition task force.

(3) NO ADDITIONAL PAY.—Members of the transition task force shall receive no additional pay, allowances, or benefits by reason of their service on the task force.

(c) DUTIES.—The transition task force shall have the following duties:

(1) Examine the operations of the Federal Deposit Insurance Corporation and the Resolution Trust Corporation to identify, evaluate, and resolve differences in the operations of the corporations to facilitate an orderly merger of such operations.

(2) Recommend which of the management, resolution, or asset disposition systems of the Resolution Trust Corporation should be preserved for use by the Federal Deposit Insurance Corporation.

(3) Recommend procedures to be followed by the Federal Deposit Insurance Corporation and the Resolution Trust Corporation in connection with the transition which will promote—

(A) coordination between the corporations before the termination of the Resolution Trust Corporation; and

(B) an orderly transfer of assets, personnel, and operations.

(4) Evaluate the management enhancement goals applicable to the Resolution Trust Corporation under section 21A(p) of the Federal Home Loan Bank Act and recommend which of such goals should apply to the Federal Deposit Insurance Corporation.

(5) Evaluate the management reforms applicable to the Resolution Trust Corporation under section 21A(w) of the Federal Home Loan Bank Act and recommend which of such reforms should apply to the Federal Deposit Insurance Corporation.

(d) REPORTS TO BANKING COMMITTEES.—

(1) REPORTS REQUIRED.—The transition task force shall submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate not later than January 1, 1995, and a second report not later than July 1, 1995, on the progress made by the transition task force in meeting the requirements of this section.

(2) CONTENTS OF REPORT.—The reports required to be submitted under paragraph (1) shall contain the findings and recommendations made by the transition task force in carrying out the duties of the task force under subsection (c) and such recommendations for legislative and administrative action as the task force may determine to be appropriate.

(e) FOLLOWUP REPORT BY FDIC.—Not later than January 1, 1996, the Federal Deposit Insurance Corporation shall submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate containing—

(1) a description of the recommendations of the transition task force which have been adopted by the Corporation;

(2) a description of the recommendations of the transition task force which have not been adopted by the Corporation;

(3) a detailed explanation of the reasons why the Corporation did not adopt each recommendation described in paragraph (2); and

(4) a description of the actions taken by the Corporation to comply with section 21A(m)(3) of the Federal Home Loan Bank Act.

SEC. 7. AMENDMENTS RELATING TO THE TERMINATION OF THE RTC.

(a) AMENDMENT RELATING TO TRANSFER OF PERSONNEL AND SYSTEMS.—Section 21A(m) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(m)) is amended by adding at the end the following new paragraph:

"(3) TRANSFER OF PERSONNEL AND SYSTEMS.—In connection with the assumption by the Federal Deposit Insurance Corporation of conservatorship and receivership functions with respect to institutions described in subsection (b)(3)(A) and the termination of the Corporation pursuant to paragraph (1)—

"(A) any management, resolution, or asset-disposition system of the Corporation which the Secretary of the Treasury determines, after considering the recommendations of the interagency transition task force under section 6(c) of the Resolution Trust Corporation Completion Act, has been of benefit to the operations of the Corporation (including any personal property of the Corporation which is used in operating any such system) shall, notwithstanding paragraph (2), be transferred to and used by the Federal Deposit Insurance Corporation in a manner which preserves the integrity of the system for so long as such system is efficient and cost-effective; and

"(B) any personnel of the Corporation involved with any such system who are otherwise eligible to be transferred to the Federal Deposit Insurance Corporation shall be transferred to the Federal Deposit Insurance Corporation for continued employment, subject to section 404(9) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and other applicable provisions of this section, with respect to such system.".

(b) AMENDMENT RELATING TO DATE OF TERMINATION.—Section 21A(m)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(m)(1)) is amended by striking "December 31, 1996" and inserting "December 31, 1995".

SEC. 8. SAIF FUNDING AUTHORIZATION AMENDMENTS.

(a) AMENDMENT TO SAIF FUNDING PROVISION.—Section 11(a)(6)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(6)(D)) is amended to read as follows:

"(D) TREASURY PAYMENTS TO FUND.—To the extent of the availability of amounts provided in appropriation Acts and subject to subparagraphs (E) and (G), the Secretary of the Treasury shall pay to the Savings Association Insurance Fund such amounts as may be needed to pay losses incurred by the Fund in fiscal years 1994 through 1998.".

(b) CERTIFICATION OF NEED FOR FUNDS AND OTHER CONDITIONS ON SAIF FUNDING.—Section 11(a)(6)(E) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(6)(E)) is amended to read as follows:

"(E) CERTIFICATION CONDITIONS ON AVAILABILITY OF FUNDING.—No amount appropriated for payments by the Secretary of the Treasury in accordance with subparagraph (D) for any fiscal year may be expended unless the Chairperson of the Board of Directors certifies to the Congress, at any time before the beginning of or during such fiscal year, that—

"(i) such amount is needed to pay for losses which have been incurred or can reasonably be expected to be incurred by the Savings Association Insurance Fund;

"(ii) the Board of Directors has determined that—

"(I) Savings Association Insurance Fund members, in the aggregate, are unable to pay additional semiannual assessments under section 7(b) at the assessment rates which would be required in order to cover, from such additional assessments, losses which have been incurred or can reasonably be expected to be incurred by the Fund without adversely affecting the ability of such members to raise and maintain capital or to maintain the members' assessment base; and

"(II) an increase in the assessment rates for Savings Association Insurance Fund members to cover such losses could reasonably be expected to result in greater losses to the Government;

"(iii) the Board of Directors has determined that—

"(I) Savings Association Insurance Fund members, in the aggregate, are unable to pay additional semiannual assessments under section 7(b) at the assessment rates which would be required in order to meet the repayment schedule required under section 14(c) for any amount borrowed under section 14(a) to cover losses which have been incurred or can reasonably be expected to be incurred by the Fund without adversely affecting the ability of such members to raise and maintain capital or to maintain the members' assessment base; and

"(II) an increase in the assessment rates for Savings Association Insurance Fund members to meet any such repayment schedule could reasonably be expected to result in greater losses to the Government;

"(iv) as of the date of certification, the Corporation has in effect procedures designed to ensure that the activities of the Savings Association Insurance Fund and the affairs of any Savings Association Insurance Fund member for which a conservator or receiver has been appointed are conducted in an efficient manner and the Corporation is in compliance with such procedures;

"(v) with respect to the most recent audit of the Savings Association Insurance Fund by the Comptroller General of the United States before the date of the certification—

"(I) the Corporation has taken or is taking appropriate action to implement any recommendation made by the Comptroller General; or

"(II) no corrective action is necessary or appropriate;

"(vi) the Corporation has provided for the appointment of a chief financial officer who—

"(I) does not have other operating responsibilities;

"(II) will report directly to the Chairperson of the Corporation; and

"(III) will have such authority and duties of chief financial officers under section 902 of title 31, United States Code, as the Board of Directors of the Corporation determines to be appropriate with respect to the Corporation;

"(vii) the Corporation has provided for the appointment of a senior officer whose responsibilities shall include setting uniform standards for contracting and contracting enforcement in connection with the administration of the Fund;

"(viii) the Corporation is implementing the minority outreach provisions mandated by section 1216 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989;

"(ix) the Corporation has provided for the appointment of a senior attorney, at the assistant general counsel level or above, responsible for professional liability cases; and

"(x) the Corporation has improved the management of legal services by—

"(I) utilizing staff counsel when such utilization would provide the same level of quality in legal services as the use of outside counsel at the same or a lower estimated cost; and

"(II) employing outside counsel only if the use of outside counsel would provide the most practicable, efficient, and cost-effective resolution to the action and only under a negotiated fee, contingent fee, or competitively bid fee agreement.".

(c) AVAILABILITY OF UNEXPENDED RTC FUNDING FOR SAIF.—Section 11(a)(6)(F) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(6)(F)) is amended to read as follows:

"(F) AVAILABILITY OF RTC FUNDING.—At any time before the end of the 2-year period beginning on the date of the termination of the Resolution Trust Corporation, the Secretary of the Treasury shall provide, out of funds appropriated to the Resolution Trust Corporation pursuant to section 21A(i)(3) of the Federal Home Loan Bank Act and not expended by the Resolution Trust Corporation, to the Savings Association Insurance Fund, for any year such amounts as are needed by the Fund and are not needed by the Resolution Trust Corporation, if the Chairperson of the Board of Directors has certified to the Congress that—

"(i) such amount is needed to pay for losses which have been incurred or can reasonably be expected to be incurred by the Savings Association Insurance Fund;

"(ii) the Board of Directors has determined that—

"(I) Savings Association Insurance Fund members, in the aggregate, are unable to pay additional semiannual assessments under section 7(b) at the assessment rates which would be required in order to cover, from such additional assessments, losses which have been incurred or can reasonably be expected to be incurred by the Savings Association Insurance Fund without adversely affecting the ability of such members to raise and maintain capital or to maintain the members' assessment base; and

"(II) an increase in the assessment rates for Savings Association Insurance Fund members to cover such losses could reasonably be expected to result in greater losses to the Government;

"(iii) the Board of Directors has determined that—

"(I) Savings Association Insurance Fund members, in the aggregate, are unable to pay additional semiannual assessments under section 7(b) at the assessment rates which would be required in order to meet the repayment schedule required under section 14(c) for any amount borrowed under section 14(a) to cover losses which have been incurred or can reasonably be expected to be incurred by the Savings Association Insurance Fund without adversely affecting the ability of such members to raise and maintain capital or to maintain such members' assessment base; and

"(II) an increase in the assessment rates for Savings Association Insurance Fund members to meet any such repayment schedule could reasonably be expected to result in greater losses to the Government;

"(iv) the Corporation has provided for the appointment of a chief financial officer who—

"(I) does not have other operating responsibilities;

"(II) will report directly to the Chairperson of the Corporation; and

"(III) will have such authority and duties of chief financial officers under section 902 of title 31, United States Code, as the Board of Directors of the Corporation determines to be appropriate with respect to the Corporation;

"(v) the Corporation has provided for the appointment of a senior officer whose responsibilities shall include setting uniform standards for contracting and contracting enforcement in connection with the administration of the Fund;

"(vi) the Corporation is implementing the minority outreach provisions mandated by section 1216 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989;

"(vii) the Corporation has provided for the appointment of a senior attorney, at the assistant general counsel level or above, responsible for professional liability cases; and

"(viii) the Corporation has improved the management of legal services by—

"(I) utilizing staff counsel when such utilization would provide the same level of quality in legal services as the use of outside counsel at the same or a lower estimated cost; and

"(II) employing outside counsel only if the use of outside counsel would provide the most practicable, efficient, and cost-effective resolution to the action and only under a negotiated fee, contingent fee, or competitively bid fee agreement.".

(d) APPEARANCES BEFORE THE BANKING COMMITTEES.—Section 11(a)(6)(H) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(6)(H)) is amended to read as follows:

"(H) APPEARANCE UPON REQUEST.—The Secretary of the Treasury and the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation shall appear before the Committee on Banking, Finance and Urban Affairs of the House of Representatives or the Committee on Banking, Housing, and Urban Affairs of the Senate, upon the request of the chairman of the committee, to report on any certification made to the Congress under subparagraph (E) or (F).".

(e) AMENDMENTS TO AUTHORIZATION OF APPROPRIATION.—Section 11(a)(6)(J) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(6)(J)) is amended—

(1) by striking "There are" and inserting "Subject to subparagraph (E), there are"; and

(2) by striking "of this paragraph, except" and all that follows through the period and inserting the following: "of subparagraph (D) for fiscal years 1994 through 1998, except that the aggregate amount appropriated pursuant to this authorization may not exceed $8,000,000,000.".

(f) RETURN OF TRANSFERRED AND UNEXPENDED AMOUNTS TO TREASURY.—Section 11(a)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(6)) is amended by adding at the end the following new subparagraph:

"(K) RETURN TO TREASURY.—If the aggregate amount of funds transferred to the Savings Association Insurance Fund under subparagraph (D) or (F) exceeds the amount needed to cover losses incurred by the Fund, such excess amount shall be deposited in the general fund of the Treasury.".

(g) GAO REPORT.—Not later than 60 days after receipt of any certification submitted pursuant to subparagraph (E) or (F) of section 11(a)(6) of the Federal Deposit Insurance Act, the Comptroller General shall transmit a report to the Congress evaluating any such certification.

(h) ADJUSTMENT OF SAIF SCHEDULE.—Effective on the effective date of the amendment made by section 302(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991, section 7(b)(3)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(3)(C)) is amended by striking ", but such amendments may not extend the date specified in subparagraph (B)" and inserting "and such amendment may extend the date specified in subparagraph (B) to such later date as the Corporation determines will, over time, maximize the amount of semiannual assessments received by the Savings Association Insurance Fund, net of insurance losses incurred by the Fund.".

(i) TECHNICAL AND CONFORMING AMENDMENTS.—Section 11(a)(6)(G) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(6)(G)) is amended—

(1) by striking "subparagraphs (E) and (F)" and inserting "subparagraph (D)"; and

(2) in the heading, by striking "SUBPARAGRAPHS (E) AND (F)" and inserting "SUBPARAGRAPH (D)".

SEC. 9. MORATORIUM EXTENSION.

(a) Conversion Moratorium Until SAIF Recapitalized.—Section 5(d)(2)(A)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1815(d)(2)(A)(ii)) is amended—

(1) by striking "before the end" and inserting "before the later of the end"; and

(2) by inserting "or the date on which the Savings Association Insurance Fund first meets or exceeds the designated reserve ratio for such fund" before the period.

(b) Clarification of Definition.—Section 5(d)(2)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1815(d)(2)(B)) is amended—

(1) by striking the period at the end of clause (iv) and inserting "; and"; and

(2) by adding at the end the following:

"(v) the transfer of deposits—

"(I) from a Bank Insurance Fund member to a Savings Association Insurance Fund member; or

"(II) from a Savings Association Insurance Fund member to a Bank Insurance Fund member;

in a transaction in which the deposit is received from a depositor at an insured depository institution for which a receiver has been appointed and the receiving insured depository institution is acting as agent for the Corporation in connection with the payment of such deposit to the depositor at the institution for which a receiver has been appointed.".

(c) Technical and Conforming Amendments.—Section 5(d) of the Federal Deposit Insurance Act (12 U.S.C. 1815(d)) is amended—

(1) in clauses (ii) and (iii) of paragraph (2)(C); and

(2) in paragraph (3)(I)(i);

by striking "5-year period referred to in" and inserting "moratorium period established by".

SEC. 10. REPAYMENT SCHEDULE FOR PERMANENT FDIC BORROWING AUTHORITY.

Section 14(c) of the Federal Deposit Insurance Act (12 U.S.C. 1824(c)) is amended by adding at the end the following new paragraph:

"(3) Industry Repayment.—

"(A) BIF Member Payments.—No agreement or repayment schedule under paragraph (1) shall require any payment by a Bank Insurance Fund member for funds obtained under subsection (a) for purposes of the Savings Association Fund.

"(B) SAIF Member Payments.—No agreement or repayment schedule under paragraph (1) shall require any payment by a Savings Association Insurance Fund member for funds obtained under subsection (a) for purposes of the Bank Insurance Fund.".

SEC. 11. DEPOSIT INSURANCE FUNDS.

Section 11(a)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(4)) is amended to read as follows:

"(4) General Provisions Relating to Funds.—

"(A) Maintenance and Use of Funds.—The Bank Insurance Fund established under paragraph (5) and the Savings Association Insurance Fund established under paragraph (6) shall each be—

"(i) maintained and administered by the Corporation;

"(ii) maintained separately and not commingled; and

"(iii) used by the Corporation to carry out its insurance purposes in the manner provided in this subsection.

"(B) Limitation on Use.—Notwithstanding any provision of law other than section 13(c)(4)(G), the Bank Insurance Fund and the Savings Association Insurance Fund shall not be used in any manner to benefit any shareholder of—

"(i) any insured depository institution for which the Corporation or the Resolution Trust Corporation has been appointed conservator or receiver, in connection with any type of resolution by the Corporation or the Resolution Trust Corporation;

"(ii) any other insured depository institution in default or in danger of default, in connection with any type of resolution by the Corporation or the Resolution Trust Corporation; or

"(iii) any insured depository institution, in connection with the provision of assistance under this section or section 13 with respect to such institution, except that this clause shall not prohibit any assistance to any insured depository institution that is not in default, or that is not in danger of default, that is acquiring (as defined in section 13(f)(8)(B)) another insured depository institution.".

SEC. 12. MAXIMUM DOLLAR LIMITS FOR ELIGIBLE CONDOMINIUM AND SINGLE FAMILY PROPERTIES UNDER RTC AFFORDABLE HOUSING PROGRAM.

Section 21A(c)(9) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(9)) is amended—

(1) in subparagraph (D), by striking clause (ii) and inserting the following new clause:

"(ii) that has an appraised value that does not exceed—

"(I) $67,500 in the case of a 1-family residence, $76,000 in the case of a 2-family residence, $92,000 in the case of a 3-family residence, and $107,000 in the case of a 4-family residence; or

"(II) only to the extent or in such amounts as are provided in appropriation Acts for additional costs and losses to the Corporation resulting from this subclause taking effect, the amount provided in section 203(b)(2)(A) of the National Housing Act, except that such amount shall not exceed $101,250 in the case of a 1-family residence, $114,000 in the case of a 2-family residence, $138,000 in the case of a 3-family residence, and $160,500 in the case of a 4-family residence."; and

(2) in subparagraph (G)—

(A) by moving subclause (I) two ems to the left and redesignating such subclause as clause (i); and

(B) by striking subclause (II) and inserting the following new clause:

"(ii) that has an appraised value that does not exceed—

"(I) $67,500 in the case of a 1-family residence, $76,000 in the case of a 2-family residence, $92,000 in the case of a 3-family residence, and $107,000 in the case of a 4-family residence; or

"(II) only to the extent or in such amounts as are provided in appropriation Acts for additional costs and losses to the Corporation resulting from this subclause taking effect, the amount provided in section 203(b)(2)(A) of the National Housing Act, except that such amount shall not exceed $101,250 in the case of a 1-family residence, $114,000 in the case of a 2-family residence, $138,000 in the case of a 3-family residence, and $160,500 in the case of a 4-family residence.".

SEC. 13. CHANGES AFFECTING ONLY FDIC AFFORDABLE HOUSING PROGRAM.

Section 40(p) of the Federal Deposit Insurance Act (12 U.S.C. 1831q(p)) is amended in paragraphs (4)(A), (5)(A), and (7)(A), by inserting before "; and" each place it appears the following: "in its corporate capacity, its capacity as conservator, or its capacity as receiver (including in its capacity as the sole owner of a subsidiary corporation of a depository institution under conservatorship or receivership, which subsidiary has as its principal business the ownership of real property)".

SEC. 14. CHANGES AFFECTING BOTH RTC AND FDIC AFFORDABLE HOUSING PROGRAMS.

(a) Notice to Clearinghouses Regarding Properties Not Included in Programs.—

(1) RTC.—Section 21A(c) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)) is amended by adding at the end the following new paragraph:

"(16) Notice to Clearinghouses Regarding Ineligible Properties.—

"(A) In General.—Within a reasonable period of time after acquiring title to an ineligible residential property, the Corporation shall, to the extent practicable, provide written notice to clearinghouses.

"(B) Content.—For ineligible single family properties, such notice shall contain the same information about such properties that the notice required under paragraph (2)(A) contains with respect to eligible single family properties. For ineligible multifamily housing properties, such notice shall contain the same information about such properties that the notice required under paragraph (3)(A) contains with respect to eligible multifamily housing properties. For ineligible condominium properties, such notice shall contain the same information about such properties that the notice required under paragraph (14)(A) contains with respect to eligible condominium properties.

"(C) Availability.—The clearinghouses shall make such information available, upon request, to other public agencies, other nonprofit organizations, qualifying households, qualifying multifamily purchasers, and other purchasers, as appropriate.

"(D) Definitions.—For purposes of this paragraph, the following definitions shall apply:

"(i) Ineligible Condominium Property.—The term 'ineligible condominium property' means a condominium unit, as such term is defined in section 604 of the Housing and Community Development Act of 1980—

"(I) to which the Corporation acquires title in its corporate capacity, its capacity as conservator, or its capacity as receiver (including its capacity as the sole owner of a subsidiary corporation of a depository institution under conservatorship or receivership, which subsidiary corporation has as its principal business the ownership of real property);

"(II) that has an appraised value that does not exceed the applicable dollar amount limitation for the property under paragraph (9)(D)(ii)(II); and

"(III) that is not an eligible condominium property.

"(ii) Ineligible Multifamily Housing Property.—The term 'ineligible multifamily housing property' means a property consisting of more than 4 dwelling units—

"(I) to which the Corporation acquires title in its capacity as conservator (including its capacity as the sole owner of a subsidiary corporation of a depository institution under conservatorship, which subsidiary corporation has as its principal business the ownership of real property);

"(II) that has an appraised value that does not exceed, for such part of the property as may be attributable to dwelling use (excluding exterior land improvements), the dollar amount limitations under paragraph (9)(E)(i)(II); and

"(III) that is not an eligible multifamily housing property.

"(iii) Ineligible Single Family Property.—The term 'ineligible single family property' means a 1- to 4-family residence (including a manufactured home)—

"(I) to which the Corporation acquires title in its corporate capacity, its capacity as conservator, or its capacity as receiver (including its capacity as the sole owner of a subsidiary corporation of a depository institution under conservatorship or receivership, which subsidiary corporation has as its principal business the ownership of real property);

"(II) that has an appraised value that does not exceed the applicable dollar amount limitation for the property under paragraph (9)(G)(ii)(II); and

"(III) that is not an eligible single family property.

"(iv) INELIGIBLE RESIDENTIAL PROPERTY.—The term 'ineligible residential property' includes ineligible single family properties, ineligible multifamily housing properties, and ineligible condominium properties.".

(2) FDIC.—Section 40 of the Federal Deposit Insurance Act (12 U.S.C. 1831q) is amended by adding at the end the following new subsection:

"(q) NOTICE TO CLEARINGHOUSES REGARDING INELIGIBLE PROPERTIES.—

"(1) IN GENERAL.—Within a reasonable period of time after acquiring title to an ineligible residential property, the Corporation shall, to the extent practicable, provide written notice to clearinghouses.

"(2) CONTENT.—For ineligible single family properties, such notice shall contain the same information about such properties that the notice required under subsection (c)(1) contains with respect to eligible single family properties. For ineligible multifamily housing properties, such notice shall contain the same information about such properties that the notice required under subsection (d)(1) contains with respect to eligible multifamily housing properties. For ineligible condominium properties, such notice shall contain the same information about such properties that the notice required under subsection (l)(1) contains with respect to eligible condominium properties.

"(3) AVAILABILITY.—The clearinghouses shall make such information available, upon request, to other public agencies, other nonprofit organizations, qualifying households, qualifying multifamily purchasers, and other purchasers, as appropriate.

"(4) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

"(A) INELIGIBLE CONDOMINIUM PROPERTY.—The term 'ineligible condominium property' means any eligible condominium property to which the provisions of this section do not apply as a result of the limitations under subsection (b)(2)(A).

"(B) INELIGIBLE MULTIFAMILY HOUSING PROPERTY.—The term 'ineligible multifamily housing property' means any eligible multifamily housing property to which the provisions of this section do not apply as a result of the limitations under subsection (b)(2)(A).

"(C) INELIGIBLE SINGLE FAMILY PROPERTY.—The term 'ineligible single family property' means any eligible single family property to which the provisions of this section do not apply as a result of the limitations under subsection (b)(2)(A).

"(D) INELIGIBLE RESIDENTIAL PROPERTY.—The term 'ineligible residential property' includes ineligible single family properties, ineligible multifamily housing properties, and ineligible condominium properties.".

(b) AFFORDABLE HOUSING ADVISORY BOARD.—

(1) ESTABLISHMENT.—There is hereby established the Affordable Housing Advisory Board (in this subsection referred to as the "Advisory Board") to advise the Thrift Depositor Protection Oversight Board and the Board of Directors of the Federal Deposit Insurance Corporation on policies and programs related to the provision of affordable housing, including the operation of the affordable programs.

(2) MEMBERSHIP.—The Advisory Board shall consist of—

(A) the Secretary of Housing and Urban Development;

(B) the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation (or the Chairperson's delegate), who shall be a nonvoting member;

(C) the Chairperson of the Thrift Depositor Protection Oversight Board (or the Chairperson's delegate), who shall be a nonvoting member;

(D) 4 persons appointed by the Secretary of Housing and Urban Development not later than the expiration of the 90-day period beginning on the date of the enactment of this Act, who represent the interests of individuals and organizations involved in using the affordable housing programs (including nonprofit organizations, public agencies, and for-profit organizations that purchase properties under the affordable housing programs, organizations that provide technical assistance regarding the affordable housing programs, and organizations that represent the interest of low- and moderate-income families); and

(E) 2 persons who are members of the National Housing Advisory Board pursuant to section 21A(d)(2)(B)(ii) of the Federal Home Loan Bank Act (as in effect before the effective date of the repeal under subsection (c)(2)), who shall be appointed by such Board before such effective date.

(3) TERMS.—Each member shall be appointed for a term of 4 years, except as provided in paragraphs (4) and (5).

(4) TERMS OF INITIAL APPOINTEES.—

(A) PERMANENT POSITIONS.—As designated by the Secretary of Housing and Urban Development at the time of appointment, of the members first appointed under paragraph (2)(D)—

(i) 1 shall be appointed for a term of 1 year;

(ii) 1 shall be appointed for a term of 2 years;

(iii) 1 shall be appointed for a term of 3 years; and

(iv) 1 shall be appointed for a term of 4 years.

(B) INTERIM MEMBERS.—The members of the Advisory Board under paragraph (2)(E) shall be appointed for a single term of 4 years, which shall begin upon the earlier of (i) the expiration of the 90-day period beginning on the date of the enactment of this Act, or (ii) the first meeting of the Advisory Board.

(5) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(6) MEETINGS.—

(A) TIMING AND LOCATION.—The Advisory Board shall meet 4 times a year, or more frequently if requested by the Thrift Depositor Protection Oversight Board or the Board of Directors of the Federal Deposit Insurance Corporation. In each year, the Advisory Board shall conduct such meetings at various locations in different regions of the United States in which substantial residential property assets of the Federal Deposit Insurance Corporation or the Resolution Trust Corporation are located. The first meeting of the Advisory Board shall take place not later than the expiration of the 90-day period beginning on the date of the enactment of this Act.

(B) ADVICE.—The Advisory Board shall submit information and advice resulting from each meeting, in such form as the Board considers appropriate, to the Thrift Depositor Protection Oversight Board and the Board of Directors of the Federal Deposit Insurance Corporation.

(7) ANNUAL REPORTS.—For each year, the Advisory Board shall submit a report containing its findings and recommendations to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, the Federal Deposit Insurance Corporation, and the Resolution Trust Corporation. The first such report shall be made not later than the expiration of the 6-month period beginning on the date of the enactment of this Act.

(8) DEFINITION.—For purposes of this subsection, the term "affordable housing programs" means the program under section 21A(c) of the Federal Home Loan Bank Act and the program under section 40 of the Federal Deposit Insurance Act.

(9) SUNSET.—The Advisory Board established under this subsection shall terminate on September 30, 1998.

(c) TERMINATION OF NATIONAL HOUSING ADVISORY BOARD.—

(1) TERMINATION.—The National Housing Advisory Board under section 21A(d)(2) of the Federal Home Loan Bank Act shall terminate upon the expiration of the 90-day period beginning on the date of the enactment of this Act.

(2) REPEAL.—Effective upon the expiration of the period referred to in paragraph (1), paragraph (2) of section 21A(d) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(d)(2)) is amended to read as follows:

"(2) [Reserved]".

(d) PROVISION OF INFORMATION REGARDING SELLER FINANCING TO MINORITY- AND WOMEN-OWNED BUSINESSES.—

(1) RTC.—Section 21A(c)(6)(A)(ii) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(6)(A)(ii)) is amended by adding at the end the following new sentences: "The Corporation shall periodically provide, to a wide range of minority- and women-owned businesses engaged in providing affordable housing and to nonprofit organizations, more than 50 percent of the control of which is held by 1 or more minority individuals, that are engaged in providing affordable housing, information that is sufficient to inform such businesses and organizations of the availability and terms of financing under this clause; such information may be provided directly, by notices published in periodicals and other publications that regularly provide information to such businesses or organizations, and through persons and organizations that regularly provide information or services to such businesses or organizations. For purposes of this clause, the terms 'women-owned business' and 'minority-owned business' have the meanings given such terms in subsection (r), and the term 'minority' has the meaning given such term in section 1204(c)(3) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.".

(2) FDIC.—Section 40(g)(1)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1831q(g)(1)(B)) is amended by adding at the end the following new sentences: "The Corporation shall periodically provide, to a wide range of minority- and women-owned businesses engaged in providing affordable housing and to nonprofit organizations, more than 50 percent of the control of which is held by 1 or more minority individuals, that are engaged in providing affordable housing, information that is sufficient to inform such businesses and organizations of the availability and terms of financing under this subparagraph; such information may be provided directly, by notices published in periodicals and other publications that regularly provide information to such businesses or organizations, and through persons and organizations that regularly provide information or services to such businesses or organizations. For purposes of this subparagraph, the terms 'women-owned business' and 'minority-owned business' have the meanings given such terms in section 21A(r) of the Federal Home Loan Bank Act, and the term 'minority' has the meaning given such term in section 1204(c)(3) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.".

(e) AUTHORITY TO CARRY OUT UNIFIED AFFORDABLE HOUSING PROGRAM.—

(1) RTC.—Section 21A(c) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)) is amended by adding after paragraph (16) (as added by subsection (a) of this section) the following new paragraph:

"(17) UNIFIED AFFORDABLE HOUSING PROGRAM.—

"(A) IN GENERAL.—Not later than 4 months after the date of enactment of the Resolution Trust Corporation Completion Act, the Corporation shall enter into an agreement, as described in section 40(n)(3) of the Federal Deposit Insurance Act, with the Federal Deposit Insurance Corporation that sets out a plan for the orderly unification of the Corporation's activities, authorities, and responsibilities under this subsection with the authorities, activities, and responsibilities of the Federal Deposit Insurance Corporation pursuant to section 40 of the Federal Deposit Insurance Act in a manner that best achieves an effective and comprehensive affordable housing program management structure. The agreement shall be entered into after consultation with the Affordable Housing Advisory Board under section 14(b) of the Resolution Trust Corporation Completion Act.

"(B) AUTHORITY AND IMPLEMENTATION.—The Corporation shall have the authority to carry out the provisions of the agreement entered into pursuant to subparagraph (A) and shall implement such agreement as soon as practicable, but in no event later than 8 months after the date of enactment of the Resolution Trust Corporation Completion Act.

"(C) TRANSFER OF AUTHORITY.—Effective upon October 1, 1995, any remaining authority and responsibilities of the Corporation under this subsection shall be carried out by the Federal Deposit Insurance Corporation.".

(2) FDIC.—Section 40(n) of the Federal Deposit Insurance Act (12 U.S.C. 1831q(n)) is amended to read as follows:

"(n) UNIFIED AFFORDABLE HOUSING PROGRAMS.—

"(1) IN GENERAL.—Not later than 4 months after the date of enactment of the Resolution Trust Corporation Completion Act, the Corporation shall enter into an agreement, as described in paragraph (3), with the Resolution Trust Corporation that sets out a plan for the orderly unification of the Corporation's activities, authorities, and responsibilities under this section with the authorities, activities, and responsibilities of the Resolution Trust Corporation pursuant to section 21A(c) of the Federal Home Loan Bank Act in a manner that best achieves an effective and comprehensive affordable housing program management structure. The agreement shall be entered into after consultation with the Affordable Housing Advisory Board under section 14(b) of the Resolution Trust Corporation Completion Act.

"(2) AUTHORITY AND IMPLEMENTATION.—The Corporation shall have the authority to carry out the provisions of the agreement entered into pursuant to paragraph (1) and shall implement such agreement as soon as practicable but in no event later than 8 months after the date of enactment of the Resolution Trust Corporation Completion Act.

"(3) TERMS OF AGREEMENT.—The agreement required under paragraph (1) shall provide a plan for—

"(A) a program unifying all activities and responsibilities of the Corporation and the Resolution Trust Corporation, and the design of the unified program shall take into consideration the substantial experience of the Resolution Trust Corporation regarding—

"(i) seller financing;

"(ii) technical assistance;

"(iii) marketing skills and relationships with public and nonprofit entities; and

"(iv) staff resources;

"(B) the elimination of duplicative and unnecessary administrative costs and resources;

"(C) the management structure of the unified program;

"(D) a timetable for the unification; and

"(E) a methodology to determine the extent to which the provisions of this section shall be effective, in accordance with the limitations under subsection (b)(2).

"(4) TRANSFER TO FDIC.—Beginning not later than October 1, 1995, the Corporation shall carry out any remaining authority and responsibilities of the Resolution Trust Corporation, as set forth in section 21A(c) of the Federal Home Loan Bank Act.".

(f) LIABILITY PROVISIONS.—

(1) RTC.—Section 21A(c)(11) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(11)) is amended by adding at the end the following new subparagraph:

"(D) CORPORATION.—The Corporation shall not be liable to any depositor, creditor, or shareholder of any insured depository institution for which the Corporation has been appointed receiver or conservator, or of any subsidiary corporation of a depository institution under conservatorship or receivership, or any claimant against such an institution or subsidiary, because the disposition of assets of the institution or the subsidiary under this subsection affects the amount of return from the assets.".

(2) FDIC.—Section 40(m)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1831q(m)(4)) is amended to read as follows:

"(4) CORPORATION.—The Corporation shall not be liable to any depositor, creditor, or shareholder of any insured depository institution for which the Corporation has been appointed receiver or conservator, or of any subsidiary corporation of a depository institution under receivership or conservatorship, or any claimant against such institution or subsidiary, because the disposition of assets of the institution or the subsidiary under this section affects the amount of return from the assets.".

SEC. 15. RIGHT OF FIRST REFUSAL FOR TENANTS TO PURCHASE SINGLE FAMILY PROPERTY.

(a) RTC.—Section 21A(b) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)) is amended by adding after paragraph (14) (as added by section (4) of this Act) the following new paragraph:

"(15) PURCHASE RIGHTS OF TENANTS.—

"(A) NOTICE.—Except as provided in subparagraph (C), the Corporation may make available for sale a 1- to 4-family residence (including a manufactured home) to which the Corporation acquires title only after the Corporation has provided the household residing in the property notice (in writing and mailed to the property) of the availability of such property and the preference afforded such household under subparagraph (B).

"(B) PREFERENCE.—In selling such a property, the Corporation shall give preference to any bona fide offer made by the household residing in the property, if—

"(i) such offer is substantially similar in amount to other offers made within such period (or expected by the Corporation to be made within such period);

"(ii) such offer is made during the period beginning upon the Corporation making such property available and of a reasonable duration, as determined by the Corporation based on the normal period for sale of such properties; and

"(iii) the household making the offer complies with any other requirements applicable to purchasers of such property, including any downpayment and credit requirements.

"(C) EXCEPTIONS.—Subparagraphs (A) and (B) shall not apply to—

"(i) any residence transferred in connection with the transfer of substantially all of the assets of an insured depository institution for which the Corporation has been appointed conservator or receiver;

"(ii) any eligible single family property (as such term is defined in subsection (c)(9)); or

"(iii) any residence for which the household occupying the residence was the mortgagor under a mortgage on such residence and to which the Corporation acquired title pursuant to default on such mortgage.".

(b) FDIC.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by adding at the end the following new subsection:

"(u) PURCHASE RIGHTS OF TENANTS.—

"(1) NOTICE.—Except as provided in paragraph (3), the Corporation may make available for sale a 1- to 4-family residence (including a manufactured home) to which the Corporation acquires title only after the Corporation has provided the household residing in the property notice (in writing and mailed to the property) of the availability of such property and the preference afforded such household under paragraph (2).

"(2) PREFERENCE.—In selling such a property, the Corporation shall give preference to any bona fide offer made by the household residing in the property, if—

"(A) such offer is substantially similar in amount to other offers made within such period (or expected by the Corporation to be made within such period);

"(B) such offer is made during the period beginning upon the Corporation making such property available and of a reasonable duration, as determined by the Corporation based on the normal period for sale of such properties; and

"(C) the household making the offer complies with any other requirements applicable to purchasers of such property, including any downpayment and credit requirements.

"(3) EXCEPTIONS.—Paragraphs (1) and (2) shall not apply to—

"(A) any residence transferred in connection with the transfer of substantially all of the assets of an insured depository institution for which the Corporation has been appointed conservator or receiver;

"(B) any eligible single family property (as such term is defined in subsection (c)(9)); or

"(C) any residence for which the household occupying the residence was the mortgagor under a mortgage on such residence and to which the Corporation acquired title pursuant to default on such mortgage.".

SEC. 16. PREFERENCE FOR SALES OF REAL PROPERTY FOR USE FOR HOMELESS FAMILIES.

(a) RTC.—Section 21A(b) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)) is amended by adding after paragraph (15) (as added by section 15(a) of this Act) the following new paragraph:

"(16) PREFERENCE FOR SALES FOR HOMELESS FAMILIES.—Subject to paragraph (15), in selling any real property (other than eligible residential property and eligible condominium property, as such terms are defined in subsection (c)(9)) to which the Corporation acquires title, the Corporation shall give preference, among offers to purchase the property that will result in the same net present value proceeds, to any offer that would provide for the property to be used, during the remaining useful life of the property, to provide housing or shelter for homeless persons (as such term is defined in section 103 of the Stewart B. McKinney Homeless Assistance Act) or homeless families.".

(b) FDIC.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by adding after subsection (u) (as added by section 15(b) of this Act) the following new subsection:

"(v) PREFERENCE FOR SALES FOR HOMELESS FAMILIES.—Subject to subsection (u), in selling any real property (other than eligible residential property and eligible condominium property, as such terms are defined in section 40(p)) to which the Corporation acquires title, the Corporation shall give preference among offers to purchase

the property that will result in the same net present value proceeds, to any offer that would provide for the property to be used, during the remaining useful life of the property, to provide housing or shelter for homeless persons (as such term is defined in section 103 of the Stewart B. McKinney Homeless Assistance Act) or homeless families.".

SEC. 17. PREFERENCES FOR SALES OF COMMERCIAL PROPERTIES TO PUBLIC AGENCIES AND NONPROFIT ORGANIZATIONS FOR USE IN CARRYING OUT PROGRAMS FOR AFFORDABLE HOUSING.

(a) RTC.—Section 21A(b) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)) is amended by adding after paragraph (16) (as added by section 16(a) of this Act) the following new paragraph:

"(17) PREFERENCES FOR SALES OF CERTAIN COMMERCIAL REAL PROPERTIES.—

"(A) AUTHORITY.—In selling any eligible commercial real properties of the Corporation, the Corporation shall give preference, among offers to purchase the property that will result in the same net present value proceeds, to any offer—

"(i) that is made by a public agency or nonprofit organization; and

"(ii) under which the purchaser agrees that the property shall be used, during the remaining useful life of the property, for offices and administrative purposes of the purchaser to carry out a program to acquire residential properties to provide (I) homeownership and rental housing opportunities for very-low-, low-, and moderate-income families, or (II) housing or shelter for homeless persons (as such term is defined in section 103 of the Stewart B. McKinney Homeless Assistance Act) or homeless families.

"(B) DEFINITIONS.—For purposes of this paragraph, the following definitions shall apply:

"(i) ELIGIBLE COMMERCIAL REAL PROPERTY.—The term 'eligible commercial real property' means any property (I) to which the Corporation acquires title, and (II) that the Corporation, in the discretion of the Corporation, determines is suitable for use for the location of offices or other administrative functions involved with carrying out a program referred to in subparagraph (A)(ii).

"(ii) NONPROFIT ORGANIZATION AND PUBLIC AGENCY.—The terms 'nonprofit organization' and 'public agency' have the same meanings as in subsection (c)(9).".

(b) FDIC.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by adding after subsection (v) (as added by section 16(b) of this Act) the following new subsection:

"(w) PREFERENCES FOR SALES OF CERTAIN COMMERCIAL REAL PROPERTIES.—

"(1) AUTHORITY.—In selling any eligible commercial real properties of the Corporation, the Corporation shall give preference, among offers to purchase the property that will result in the same net present value proceeds, to any offer—

"(A) that is made by a public agency or nonprofit organization; and

"(B) under which the purchaser agrees that the property shall be used, during the remaining useful life of the property, for offices and administrative purposes of the purchaser to carry out a program to acquire residential properties to provide (i) homeownership and rental housing opportunities for very-low-, low-, and moderate-income families, or (ii) housing or shelter for homeless persons (as such term is defined in section 103 of the Stewart B. McKinney Homeless Assistance Act) or homeless families.

"(2) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

"(A) ELIGIBLE COMMERCIAL REAL PROPERTY.—The term 'eligible commercial real property' means any property (i) to which the Corporation acquires title, and (ii) that the Corporation, in the discretion of the Corporation, determines is suitable for use for the location of offices or other administrative functions involved with carrying out a program referred to in paragraph (1)(B).

"(B) NONPROFIT ORGANIZATION AND PUBLIC AGENCY.—The terms 'nonprofit organization' and 'public agency' have the same meanings as in section 40(p).".

SEC. 18. FEDERAL HOME LOAN BANKS HOUSING OPPORTUNITY HOTLINE PROGRAM.

The Federal Home Loan Bank Act (12 U.S.C. 1422 et seq.) is amended by inserting after section 26 the following new section:

"SEC. 27. HOUSING OPPORTUNITY HOTLINE PROGRAM.

"(a) ESTABLISHMENT.—The Federal Home Loan Banks shall, individually or (at the discretion of the Federal Housing Finance Board) on a consolidated basis, establish and provide a service substantially similar (in the determination of the Board) to the 'Housing Opportunity Hotline' program established in October 1992, by the Federal Home Loan Bank of Dallas.

"(b) PURPOSE.—The service or services established under this section shall provide information regarding the availability for purchase of single family properties that are owned or held by Federal agencies and are located in the Federal Home Loan Bank district for such Bank. Such agencies shall provide to the Federal Home Loan Banks the information necessary to provide such service or services.

"(c) REQUIRED INFORMATION.—The service or services established under this section shall use the information obtained from Federal agencies to provide information regarding the size, location, price, and other characteristics of such single family properties, the eligibility requirements for purchasers of such properties, the terms for such sales, and the terms of any available seller financing, and shall identify properties that are affordable to low- and moderate-income families.

"(d) TOLL-FREE TELEPHONE NUMBER.—The service or services established under this section shall establish and maintain a toll-free telephone line for providing the information made available under the service or services.

"(e) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(1) FEDERAL AGENCIES.—The term 'Federal agencies' means—

"(A) the Farmers Home Administration, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the General Services Administration, the Department of Housing and Urban Development, and the Department of Veterans Affairs;

"(B) the Resolution Trust Corporation, subject to the discretion of such Corporation; and

"(C) the Federal Deposit Insurance Corporation, subject to the discretion of such Corporation.

"(2) SINGLE FAMILY PROPERTY.—The term 'single family property' means a 1- to 4-family residence, including a manufactured home.".

SEC. 19. CONFLICT OF INTEREST PROVISIONS APPLICABLE TO THE FDIC.

(a) IN GENERAL.—Section 12 of the Federal Deposit Insurance Act (12 U.S.C. 1822) is amended by adding at the end the following new subsection:

"(f) CONFLICT OF INTEREST.—

"(1) APPLICABILITY OF OTHER PROVISIONS.—

"(A) CLARIFICATION OF STATUS OF CORPORATION.—The Corporation is, and has been since its creation, an agency for purposes of title 18, United States Code.

"(B) TREATMENT OF CONTRACTORS.—Any individual who, pursuant to a contract or any other arrangement, performs functions or activities of the Corporation, under the direct supervision of an officer or employee of the Corporation, shall be deemed to be an employee of the Corporation for purposes of title 18, United States Code and this Act. Any individual who, pursuant to a contract or any other agreement, acts for or on behalf of the Corporation, and who is not otherwise treated as an officer or employee of the United States for purposes of title 18, United States Code, shall be deemed to be a public official for purposes of section 201 of title 18, United States Code.

"(2) REGULATIONS CONCERNING EMPLOYEE CONDUCT.—The officers and employees of the Corporation and those individuals under contract to the Corporation who are deemed, under paragraph (1)(B), to be employees of the Corporation for purposes of title 18, United States Code, shall be subject to the ethics and conflict of interest rules and regulations issued by the Office of Government Ethics, including those concerning employee conduct, financial disclosure, and post-employment activities. The Board of Directors may prescribe regulations that supplement such rules and regulations only with the concurrence of that Office.

"(3) REGULATIONS CONCERNING INDEPENDENT CONTRACTORS.—The Board of Directors, with the concurrence of the Office of Government Ethics, shall prescribe regulations applicable to those independent contractors who are not deemed, under paragraph (1)(B), to be employees of the Corporation for purposes of title 18, United States Code, governing conflicts of interest, ethical responsibilities, and the use of confidential information consistent with the goals and purposes of titles 18 and 41, United States Code. Any such regulations shall be in addition to, and not in lieu of, any other statute or regulation which may apply to the conduct of such independent contractors.

"(4) DISAPPROVAL OF CONTRACTORS.—

"(A) IN GENERAL.—The Board of Directors shall prescribe regulations establishing procedures for ensuring that any individual who is performing, directly or indirectly, any function or service on behalf of the Corporation meets minimum standards of competence, experience, integrity, and fitness.

"(B) PROHIBITION FROM SERVICE ON BEHALF OF CORPORATION.—The procedures established under subparagraph (A) shall provide that the Corporation shall prohibit any person who does not meet the minimum standards of competence, experience, integrity, and fitness from—

"(i) entering into any contract with the Corporation; or

"(ii) becoming employed by the Corporation or otherwise performing any service for or on behalf of the Corporation.

"(C) INFORMATION REQUIRED TO BE SUBMITTED.—The procedures established under subparagraph (A) shall require that any offer submitted to the Corporation by any person under this section and any employment application submitted to the Corporation by any person shall include—

"(i) a list and description of any instance during the 5 years preceding the submission of such application in which the person or a company under such person's control defaulted on a material obligation to an insured depository institution; and

"(ii) such other information as the Board may prescribe by regulation.

"(D) SUBSEQUENT SUBMISSIONS.—

"(i) IN GENERAL.—No offer submitted to the Corporation may be accepted unless the offeror agrees that no person will be employed, directly or indirectly, by the offeror under any contract with the Corporation unless—

"(I) all applicable information described in subparagraph (C) with respect to any such person is submitted to the Corporation; and

"(II) the Corporation does not disapprove of the direct or indirect employment of such person.

"(ii) FINALITY OF DETERMINATION.—Any determination made by the Corporation pursuant to this paragraph shall be in the Corporation's sole discretion and shall not be subject to review.

"(E) PROHIBITION REQUIRED IN CERTAIN CASES.—The standards established under subparagraph (A) shall require the Corporation to prohibit any person who has—

"(i) been convicted of any felony;

"(ii) been removed from, or prohibited from participating in the affairs of, any insured depository institution pursuant to any final enforcement action by any appropriate Federal banking agency;

"(iii) demonstrated a pattern or practice of defalcation regarding obligations to insured depository institutions; or

"(iv) caused a substantial loss to Federal deposit insurance funds;

from performing any service on behalf of the Corporation.

"(5) ABROGATION OF CONTRACTS.—The Corporation may rescind any contract with a person who—

"(A) fails to disclose a material fact to the Corporation;

"(B) would be prohibited under paragraph (6) from providing services to, receiving fees from, or contracting with the Corporation; or

"(C) has been subject to a final enforcement action by any Federal banking agency.

"(6) PRIORITY OF FDIC RULES.—To the extent that the regulations under this subsection conflict with rules of other agencies or Government corporations, officers, directors, employees, and independent contractors of the Corporation who are also subject to the conflict of interest or ethical rules of another agency or Government corporation, shall be governed by the regulations prescribed by the Board of Directors under this subsection when acting for or on behalf of the Corporation. Notwithstanding the preceding sentence, the rules of the Corporation shall not take priority over the ethics and conflict of interest rules and regulations promulgated by the Office of Government Ethics unless specifically authorized by that Office.".

(b) AMENDMENTS TO DEFINITIONS.—

(1) FEDERAL BANKING AGENCY.—Section 3(z) of the Federal Deposit Insurance Act (12 U.S.C. 1813(z)) is amended to read as follows:

"(z) FEDERAL BANKING AGENCY.—The term 'Federal banking agency' means the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Board of Governors of the Federal Reserve System, or the Federal Deposit Insurance Corporation.".

(2) COMPANY.—Section 3(w) of the Federal Deposit Insurance Act (12 U.S.C. 1813(w)) is amended by adding at the end the following new paragraph:

"(7) COMPANY.—The term 'company' has the same meaning as in section 2(b) of the Bank Holding Company Act of 1956.".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply after the end of the 6-month period beginning on the date of enactment of this Act.

SEC. 20. RESTRICTIONS ON SALES OF ASSETS TO CERTAIN PERSONS.

(a) IN GENERAL.—Section 11(p) of the Federal Deposit Insurance Act (12 U.S.C. 1821(p)) is amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3); and

(2) by inserting before paragraph (2), as redesignated, the following new paragraph:

"(1) PERSONS WHO ENGAGED IN IMPROPER CONDUCT WITH, OR CAUSED LOSSES TO, DEPOSITORY INSTITUTIONS.—The Corporation shall prescribe regulations which, at a minimum, shall prohibit the sale of assets of a failed institution by the Corporation to—

"(A) any person who—

"(i) has defaulted, or was a member of a partnership or an officer or director of a corporation that has defaulted, on 1 or more obligations the aggregate amount of which exceed $1,000,000, to such failed institution;

"(ii) has been found to have engaged in fraudulent activity in connection with any obligation referred to in clause (i); and

"(iii) proposes to purchase any such asset in whole or in part through the use of the proceeds of a loan or advance of credit from the Corporation or from any institution for which the Corporation has been appointed as conservator or receiver;

"(B) any person who participated, as an officer or director of such failed institution or of any affiliate of such institution, in a material way in transactions that resulted in a substantial loss to such failed institution;

"(C) any person who has been removed from, or prohibited from participating in the affairs of, such failed institution pursuant to any final enforcement action by an appropriate Federal banking agency; or

"(D) any person who has demonstrated a pattern or practice of defalcation regarding obligations to such failed institution.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 11(p) of the Federal Deposit Insurance Act (12 U.S.C. 1821(p)) is amended—

(1) in paragraph (2) (as redesignated by subsection (a))—

(A) by striking "individual" and inserting "person"; and

(B) by striking "paragraph (2)" and inserting "paragraph (3)";

(2) in paragraph (3) (as redesignated by subsection (a))—

(A) by striking "individual" each place such term appears and inserting "person"; and

(B) by striking "Paragraph (1)" and inserting "Paragraphs (1) and (2)";

(3) by adding at the end the following new paragraph:

"(4) DEFINITION OF DEFAULT.—For purposes of this subsection, the term 'default' means a failure to comply with the terms of a loan or other obligation to such an extent that the property securing the obligation is foreclosed upon."; and

(4) by striking the heading and inserting the following new heading:

"(p) CERTAIN SALES OF ASSETS PROHIBITED.—".

SEC. 21. WHISTLE BLOWER PROTECTION.

(a) AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.—Section 33(a) of the Federal Deposit Insurance Act (12 U.S.C. 1831j(a)) is amended—

(1) in paragraph (1)—

(A) by striking "regarding" and all that follows through the end of the sentence and inserting the following: "regarding—

"(A) a possible violation of any law or regulation; or

"(B) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;

by the depository institution or any director, officer, or employee of the institution."; and

(B) by adding at the end the following:

"(f) BURDENS OF PROOF.—The legal burdens of proof that prevail under subchapter III of chapter 12 of title 5, United States Code, shall govern adjudication of protected activities under this section."; and

(2) in paragraph (2)—

(A) by striking "or Federal Reserve bank" and inserting "Federal reserve bank, or any person who is performing, directly or indirectly, any function or service on behalf of the Corporation";

(B) by striking "any possible violation of any law or regulation by" and inserting "any possible violation of any law or regulation, gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety by";

(C) in subparagraph (B), by striking "or" at the end;

(D) in subparagraph (C), by striking the period at the end and inserting "; or"; and

(E) by adding at the end the following new subparagraph:

"(D) the person, or any officer or employee of the person, who employs such employee.".

(b) AMENDMENTS TO THE FEDERAL HOME LOAN BANK ACT.—Section 21A(q) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(q)) is amended—

(1) in paragraph (1), by striking "regarding" and all that follows through the end of the sentence and inserting the following: "regarding—

"(A) a possible violation of any law or regulation; or

"(B) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;

by the Corporation, the Thrift Depositor Protection Oversight Board, or such person or any director, officer, or employee of the Corporation, the Thrift Depositor Protection Oversight Board, or the person."; and

(2) by inserting after paragraph (4) the following:

"(5) BURDENS OF PROOF.—The legal burdens of proof that prevail under subchapter III of chapter 12 of title 5, United States Code, shall govern adjudication of protected activities under this subsection.".

SEC. 22. FDIC ASSET DISPOSITION DIVISION.

(a) IN GENERAL.—Section 1 of the Federal Deposit Insurance Act (12 U.S.C. 1811) is amended—

(1) by striking "SEC. 1. There is hereby created" and inserting the following:

"SECTION 1. FEDERAL DEPOSIT INSURANCE CORPORATION.

"(a) ESTABLISHMENT OF CORPORATION.—There is hereby established"; and

(2) by adding at the end the following new subsection:

"(b) ASSET DISPOSITION DIVISION.—

"(1) ESTABLISHMENT.—The Corporation shall have a separate division of asset disposition.

"(2) MANAGEMENT.—The division of asset disposition shall have an administrator who shall be appointed by the Board of Directors.

"(3) RESPONSIBILITIES OF DIVISION.—The division of asset disposition shall carry out all of the responsibilities of the Corporation under this Act relating to the liquidation of insured depository institutions and the disposition of assets of such institutions.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on July 1, 1995.

SEC. 23. PRESIDENTIALLY APPOINTED INSPECTOR GENERAL FOR FDIC.

(a) AMENDMENTS TO THE INSPECTOR GENERAL ACT OF 1978.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in section 11—

(A) in paragraph (1), by striking "the chief executive officer of the Resolution Trust Corporation;" and inserting "the chief executive officer of the Resolution Trust Corporation; and the Chairperson of the Federal Deposit Insurance Corporation;"; and

(B) in paragraph (2), by inserting "the Federal Deposit Insurance Corporation," after "Resolution Trust Corporation,";

(2) by inserting after section 8B the following new section:

"SEC. 8C. SPECIAL PROVISIONS CONCERNING THE FEDERAL DEPOSIT INSURANCE CORPORATION.

"(a) DELEGATION.—The Chairperson of the Federal Deposit Insurance Corporation may delegate the authority specified in the second sentence of section 3(a) to the Vice Chairperson of

the Board of Directors of the Federal Deposit Insurance Corporation, but may not delegate such authority to any other officer or employee of the Corporation.

"(b) PERSONNEL.—Notwithstanding paragraphs (7) and (8) of section 6(a), the Inspector General of the Federal Deposit Insurance Corporation may select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office of Inspector General and to obtain the temporary or intermittent services of experts or consultants or an organization of experts or consultants, subject to the applicable laws and regulations that govern such selections, appointments, and employment, and the obtaining of such services, within the Federal Deposit Insurance Corporation.";

(3) by redesignating sections 8C through 8F as sections 8D through 8G, respectively; and

(4) in section 8F(a)(2), as redesignated, by striking "the Federal Deposit Insurance Corporation,".

(b) POSITION AT LEVEL IV OF THE EXECUTIVE SCHEDULE.—Section 5315 of title 5, United States Code, is amended by inserting after "Inspector General, Small Business Administration." the following:

"Inspector General, Federal Deposit Insurance Corporation.".

(c) TRANSITION PERIOD.—

(1) CURRENT SERVICE.—Except as otherwise provided by law, the individual serving as the Inspector General of the Federal Deposit Insurance Corporation before the date of enactment of this Act may continue to serve in such position until the earlier of—

(A) the date on which the President appoints a successor under section 3(a) of the Inspector General Act of 1978; or

(B) the date which is 6 months after the date of enactment of this Act.

(2) DEFINITION.—For purposes of paragraph (1), the term "successor" may include the individual holding the position of Inspector General of the Federal Deposit Insurance Corporation on or after the date of enactment of this Act.

SEC. 24. DEPUTY CHIEF EXECUTIVE OFFICER.

Section 21A(b)(8) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(8)) is amended by adding at the end the following new subparagraphs:

"(E) DEPUTY CHIEF EXECUTIVE OFFICER.—

"(i) IN GENERAL.—There is hereby established the position of deputy chief executive officer of the Corporation.

"(ii) APPOINTMENT.—The deputy chief executive officer of the Corporation shall—

"(I) be appointed by the Chairperson of the Thrift Depositor Protection Oversight Board, with the recommendation of the chief executive officer; and

"(II) be an employee of the Federal Deposit Insurance Corporation in accordance with subparagraph (B)(i).

"(iii) DUTIES.—The deputy chief executive officer shall perform such duties as the chief executive officer may require.

"(F) ACTING CHIEF EXECUTIVE OFFICER.—In the event of a vacancy in the position of chief executive officer or during the absence or disability of the chief executive officer, the deputy chief executive officer shall perform the duties of the position as the acting chief executive officer.".

SEC. 25. DUE PROCESS PROTECTIONS RELATING TO ATTACHMENT OF ASSETS.

Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended—

(1) by striking subsection (i)(4)(B) and inserting the following new subparagraph:

"(B) STANDARD.—

"(i) SHOWING.—Rule 65 of the Federal Rules of Civil Procedure shall apply with respect to any proceeding under subparagraph (A) without regard to the requirement of such rule that the applicant show that the injury, loss, or damage is irreparable and immediate.

"(ii) STATE PROCEEDING.—If, in the case of any proceeding in a State court, the court determines that rules of civil procedure available under the laws of such State provide substantially similar protections to a party's right to due process as Rule 65 (as modified with respect to such proceeding by clause (i)), the relief sought under subparagraph (A) may be requested under the laws of such State."; and

(2) in subsection (b), by adding at the end the following new paragraph:

"(10) STANDARD FOR CERTAIN ORDERS.—No authority under this subsection or subsection (c) to prohibit any institution-affiliated party from withdrawing, transferring, removing, dissipating, or disposing of any funds, assets, or other property may be exercised unless the appropriate Federal banking agency meets the standards of Rule 65 of the Federal Rules of Civil Procedure, without regard to the requirement of such rule that the applicant show that the injury, loss, or damage is irreparable and immediate.".

SEC. 26. GAO STUDIES REGARDING FEDERAL REAL PROPERTY DISPOSITION.

(a) RTC AFFORDABLE HOUSING PROGRAM.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study of the program carried out by the Resolution Trust Corporation pursuant to section 21A(c) of the Federal Home Loan Bank Act to determine the effectiveness of such program in providing affordable homeownership and rental housing for very low-, low-, and moderate-income families. The study shall examine the procedures used under the program to sell eligible single family properties, eligible condominium properties, and eligible multifamily housing properties, the characteristics and numbers of purchasers of such properties, and the amount of and reasons for any losses incurred by the Resolution Trust Corporation in selling properties under the program.

(2) REPORT.—Not later than 6 months after the date of enactment of this Act, the Comptroller General shall submit a report to the Congress on the results of the study required under paragraph (1), which shall describe any findings under the study and contain any recommendations of the Comptroller General for improving the effectiveness of such program.

(b) SINGLE AGENCY FOR REAL PROPERTY DISPOSITION.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study to determine the feasibility and effectiveness of establishing a single Federal agency responsible for selling and otherwise disposing of real property owned or held by the Department of Housing and Urban Development, the Farmers Home Administration of the Department of Agriculture, the Federal Deposit Insurance Corporation, and the Resolution Trust Corporation. The study shall examine the real property disposition procedures of such agencies and corporations, analyze the feasibility of consolidating such procedures through such single agency, and determine the characteristics and authority necessary for any such single agency to efficiently carry out such disposition activities.

(2) REPORT.—Not later than 12 months after the date of enactment of this Act, the Comptroller General shall submit a report to the Congress on the study required under paragraph (1), which shall describe any findings under the study and contain any recommendations of the Comptroller General for the establishment of such single agency.

SEC. 27. EXTENSION OF RTC POWER TO BE APPOINTED AS CONSERVATOR OR RECEIVER.

(a) EXTENSION OF DUTY TO BE APPOINTED AS CONSERVATOR OR RECEIVER.—Section 21A(b) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)) is amended—

(1) in paragraph (3)(A)(ii), by striking "October 1, 1993" and inserting "such date as is determined by the Chairperson of the Thrift Depositor Protection Oversight Board, but not earlier than January 1, 1995, and not later than July 1, 1995"; and

(2) in paragraph (6), by striking "October 1, 1993" each place such term appears and inserting "such date as is determined by the Chairperson of the Thrift Depositor Protection Oversight Board under paragraph (3)(A)(ii)".

(b) APPOINTMENT OF A RECEIVER BY THE DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION.—Section 11(c)(6)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(6)(B)) is amended—

(1) in clause (i), by striking "October 1, 1993" and inserting "such date as is determined by the Chairperson of the Thrift Depositor Protection Oversight Board under section 21A(b)(3)(A)(ii) of the Federal Home Loan Bank Act";

(2) in clauses (ii) and (iii), by striking "after September 30, 1993" each place such term appears and inserting "on or after the date determined by the Chairperson of the Thrift Depositor Protection Oversight Board under section 21A(b)(3)(A)(ii) of the Federal Home Loan Bank Act"; and

(3) in clause (ii), by striking "on or before" and inserting "before".

SEC. 28. FINAL REPORTS ON RTC AND SAIF FUNDING.

(a) IN GENERAL.—

(1) RTC REPORT.—The Chairperson of the Thrift Depositor Protection Oversight Board shall prepare and submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, a final report containing a detailed description of the purposes for which the funds made available to the Resolution Trust Corporation under this Act were used.

(2) SAIF REPORT.—The Chairperson of the Federal Deposit Insurance Corporation shall prepare and submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a final report containing a detailed description of the purposes for which the funds made available to the Savings Association Insurance Fund under this Act were used.

(b) TIME FOR SUBMISSION.—The reports described in subsection (a) shall be transmitted—

(1) not later than 45 days after the final expenditure of funds provided for under this Act by the Resolution Trust Corporation; and

(2) not later than 45 days after the final expenditure of funds authorized to be provided under this Act by the Savings Association Insurance Fund.

SEC. 29. GENERAL COUNSEL OF THE RESOLUTION TRUST CORPORATION.

Section 21A(b)(8) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(8)) is amended by adding after subparagraph (F) (as added by section 24 of this Act) the following new subparagraph:

"(G) GENERAL COUNSEL.—There is established the Office of General Counsel of the Corporation. The chief executive officer, with the concurrence of the Chairperson of the Thrift Depositor Protection Oversight Board, may appoint the general counsel, who shall be an employee of the Federal Deposit Insurance Corporation, in accordance with subparagraph

(B)(i). The general counsel shall perform such duties as the chief executive officer may require.".

SEC. 30. AUTHORITY TO EXECUTE CONTRACTS.

Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by adding after subsection (x) (as added by section 5 of this Act) the following new subsection:

"(y) AUTHORITY TO EXECUTE CONTRACTS.—

"(1) AUTHORIZED PERSONS.—A person may execute a contract on behalf of the Corporation for the provision of goods or services only if—

"(A) that person—

"(i) is a warranted contracting officer appointed by the Corporation, or is a managing agent of a savings association under the conservatorship of the Corporation; and

"(ii) provides appropriate certification or other identification, as required by the Corporation in accordance with paragraph (2);

"(B) the notice described in paragraph (4) is included in the written contract; and

"(C) that person has appropriate authority to execute the contract on behalf of the Corporation in accordance with the notice published by the Corporation in accordance with paragraph (5).

"(2) PRESENTATION OF IDENTIFICATION.—Prior to executing any contract described in paragraph (1) with any person, a warranted contracting officer or managing agent shall present to that person—

"(A) a valid certificate of appointment (or such other identification as may be required by the Corporation) that is signed by the appropriate officer of the Corporation; or

"(B) a copy of such certificate, authenticated by the Corporation.

"(3) TREATMENT OF UNAUTHORIZED CONTRACTS.—A contract described in paragraph (1) that fails to meet the requirements of this section—

"(A) shall be null and void; and

"(B) shall not be enforced against the Corporation or its agents by any court.

"(4) INCLUSION OF NOTICE IN CONTRACT TERMS.—Each written contract described in paragraph (1) shall contain a clear and conspicuous statement (in boldface type) in immediate proximity to the space reserved for the signatures of the contracting parties as follows:

"'Only warranted contracting officers appointed by the Resolution Trust Corporation or managing agents of associations under the conservatorship of the Resolution Trust Corporation have the authority to execute contracts on behalf of the Resolution Trust Corporation. Such persons have certain limits on their contracting authority. The nature and extent of their contracting authority levels are published in the Federal Register.

"'A warranted contracting officer or a managing agent must present identification in the form of a signed certificate of appointment (or an authenticated copy of such certificate) or other identification, as required by the Corporation, prior to executing any contract on behalf of the Resolution Trust Corporation.

"'Any contract that is not executed by a warranted contracting officer or the managing agent of a savings association under the conservatorship of the Resolution Trust Corporation, acting in conformity with his or her contracting authority, shall be null and void, and will not be enforceable by any court.'.

"(5) NOTICE OF REQUIREMENTS.—Not later than 30 days after the date of enactment of this subsection, the Corporation shall publish notice in the Federal Register of—

"(A) the requirements for appointment by the Corporation as a warranted contracting officer; and

"(B) the nature and extent of the contracting authority to be exercised by any warranted contracting officer or managing agent.

"(6) EXCEPTION.—This section does not apply to—

"(A) any contract between the Corporation and any other person governing the purchase or assumption by that person of—

"(i) the ownership of a savings association under the conservatorship of the Corporation; or

"(ii) the assets or liabilities of a savings association under the conservatorship or receivership of the Corporation; or

"(B) any contract executed by the Inspector General of the Corporation (or any designee thereof) for the provision of goods or services to the Office of the Inspector General of the Corporation.

"(7) EXECUTION OF CONTRACTS.—For purposes of this subsection, the execution of a contract includes all modifications to such contract.

"(8) EFFECTIVE DATE.—The requirements of this subsection shall apply to all contracts described in paragraph (1) executed on or after the date which is 45 days after the date of enactment of this subsection.".

SEC. 31. RTC CONTRACTING.

Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by adding after subsection (y) (as added by section 30 of this Act) the following new subsection:

"(z) ADDITIONAL CONTRACTING REQUIREMENTS.—

"(1) IN GENERAL.—No person shall execute, on behalf of the Corporation, any contract, or modification to a contract, for goods or services exceeding $100,000 in value unless the person executing the contract or modification states in writing that—

"(A) the contract or modification is for a fixed price, the person has received a written cost estimate for the contract or modification, or a cost estimate cannot be obtained as a practical matter with an explanation of why such a cost estimate cannot be obtained as a practical matter;

"(B) the person has received the written statement described in paragraph (2); and

"(C) the person is satisfied that the contract or modification to be executed has been approved by a person legally authorized to do so pursuant to a written delegation of authority.

"(2) WRITTEN DELEGATION OF AUTHORITY.—A person who authorizes a contract, or a modification to a contract, involving the Corporation for goods or services exceeding $100,000 in value shall state, in writing, that he or she has been delegated the authority, pursuant to a written delegation of authority, to authorize that contract or modification.

"(3) EFFECT OF FAILURE TO COMPLY.—The failure of any person executing a contract, or a modification of a contract, on behalf of the Corporation, or authorizing such a contract or modification of a contract, to comply with the requirements of this subsection shall not void, or serve as grounds to void or rescind, any otherwise properly executed contract.".

SEC. 32. DEFINITION OF PROPERTY.

(a) Section 9102(e) of the Department of Defense Appropriations Act, 1990 (16 U.S.C. 396f note) is amended by striking "real, personal," and inserting "real, personal (including intangible assets sold or offered by the Federal Deposit Insurance Corporation or the Resolution Trust Corporation, such as financial instruments, notes, loans, and bonds),".

(b) Section 12(b)(7)(vii) of Public Law 94-204 (43 U.S.C. 1611 note) is amended by striking "real, personal," and inserting "real, personal (including intangible assets sold or offered by the Federal Deposit Insurance Corporation or the Resolution Trust Corporation, such as financial instruments, notes, loans, and bonds),".

SEC. 33. SENSE OF THE CONGRESS RELATING TO PARTICIPATION OF DISABLED AMERICANS IN CONTRACTING FOR DELIVERY OF SERVICES TO FINANCIAL INSTITUTION REGULATORY AGENCIES.

(a) FINDINGS.—The Congress finds that Congress, in adopting the Americans with Disabilities Act of 1990, specifically found that—

(1) some 43,000,000 Americans have one or more physical or mental disabilities, and this number is increasing;

(2) discrimination against individuals with disabilities persists in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and access to public services;

(3) individuals with disabilities continually encounter various forms of discrimination, including outright intentional exclusion, the discriminatory effects of architectural, transportation, and communication barriers, overprotective rules and policies, failure to make modifications to existing facilities and practices, exclusionary qualification standards and criteria, segregation, and relegation to lesser services, programs, activities, benefits, jobs, or other opportunities;

(4) census data, national polls, and other studies have documented that people with disabilities, as a group, occupy an inferior status in our society, and are severely disadvantaged socially, vocationally, economically, and educationally;

(5) individuals with disabilities are a discrete and insular minority who have been faced with restrictions and limitations, subjected to a history of purposeful unequal treatment, and relegated to a position of political powerlessness in our society, based on characteristics that are beyond the control of such individuals and resulting from stereotypic assumptions not truly indicative of the individual ability of such individuals to participate in, and contribute to, society;

(6) the Nation's proper goals regarding individuals with disabilities are to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for such individuals; and

(7) the continuing existence of unfair and unnecessary discrimination and prejudice denies people with disabilities the opportunity to compete on an equal basis and to pursue those opportunities for which our free society is justifiably famous, and costs the United States billions of dollars in unnecessary expenses resulting from dependency and nonproductivity.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that the chief executive officer of the Resolution Trust Corporation, the Director of the Office of Thrift Supervision, the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the Chairperson of the Federal Housing Finance Board should take all necessary steps within each such agency to ensure that individuals with disabilities and entities owned by individuals with disabilities, including financial institutions, investment banking firms, underwriters, asset managers, accountants, and providers of legal services, are availed of all opportunities to compete in a manner which, at a minimum, does not discriminate on the basis of their disability for contracts entered into by the agency to manage the institutions and their assets for which the agency is responsible or to perform such other functions authorized under any law applicable to such agency.

SEC. 34. REPORT TO CONGRESS BY SPECIAL COUNSEL.

(a) REPORT.—Not later than 90 days after the date of enactment of this Act, the Special Counsel appointed under section 2537 of the Crime

Control Act of 1990 (28 U.S.C. 509 note) shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report on the status of its efforts to monitor and improve the collection of fines and restitution in cases involving fraud and other criminal activity in and against the financial services industry.

(b) CONTENTS.—The report required under subsection (a) shall include—

(1) information on the amount of fines and restitution assessed in cases involving fraud and other criminal activity in and against the financial services industry, the amount of such fines and restitution collected, and an explanation of any difference in those amounts;

(2) an explanation of the procedures for collecting and monitoring restitution assessed in cases involving fraud and other criminal activity in and against the financial services industry and any suggested improvements to such procedures;

(3) an explanation of the availability under any provision of law of punitive measures if restitution and fines assessed in such cases are not paid;

(4) information concerning the efforts by the Department of Justice to comply with guidelines for fine and restitution collection and reporting procedures developed by the interagency group established by the Attorney General in accordance with section 2539 of the Crime Control Act of 1990;

(5) any recommendations for additional resources or legislation necessary to improve collection efforts; and

(6) information concerning the status of the National Fine Center of the Administrative Office of the United States Courts.

SEC. 35. REPORTING REQUIREMENTS.

The Resolution Trust Corporation shall provide semi-annual reports to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives. Such reports shall—

(1) detail procedures for expediting the registration and contracting for selecting auctioneers for asset sales with anticipated gross proceeds of not more than $1,500,000;

(2) list by name and geographic area the number of auction contractors which have been registered and qualified to perform services for the Resolution Trust Corporation; and

(3) list by name, address of home office, location of assets disposed, and gross proceeds realized, the number of auction contractors which have been awarded contracts.

SEC. 36. CONTINUATION OF CONSERVATORSHIPS OR RECEIVERSHIPS.

Section 21A(b)(6) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(6)) is amended—

(1) by striking "If the Corporation" and inserting the following:

"(A) IN GENERAL.—If the Corporation"; and

(2) by adding at the end the following new subparagraph:

"(B) SAIF-INSURED BANKS.—Notwithstanding any other provision of Federal or State law, if the Federal Deposit Insurance Corporation is appointed as conservator or receiver for any Savings Association Insurance Fund member that has converted to a bank charter and otherwise meets the criteria in paragraph (3)(A) or (6)(A), the Federal Deposit Insurance Corporation may tender such appointment to the Corporation, and the Corporation shall accept such appointment, if the Corporation is authorized to accept such appointment under this section.".

SEC. 37. EXCEPTIONS FOR CERTAIN TRANSACTIONS.

(a) TRANSACTIONS INVOLVING CERTAIN INSTITUTIONS.—Section 11(a)(4)(B) of the Federal Deposit Insurance Act shall not prohibit assistance from the Bank Insurance Fund that otherwise meets all the criteria established in section 13(c) of such Act from being provided to an insured depository institution that became wholly-owned, either directly or through a wholly-owned subsidiary, by an entity or instrumentality of a State government during the period beginning on January 1, 1992, and ending on the date of enactment of this Act.

(b) TRANSACTIONS INVOLVING THE FDIC AS RECEIVER.—Notwithstanding the extension, pursuant to section 27, of the Resolution Trust Corporation's jurisdiction to be appointed conservator or receiver of certain savings associations after September 30, 1993, no provision of this Act or any amendment made by this Act shall invalidate or otherwise affect—

(1) any appointment of the Federal Deposit Insurance Corporation as receiver for any savings association that became effective before the date of enactment of this Act; or

(2) any action taken by the Federal Deposit Insurance Corporation as such receiver before, on, or after such date of enactment.

SEC. 38. BANK DEPOSIT FINANCIAL ASSISTANCE PROGRAM.

(a) IN GENERAL.—Effective December 19, 1993, section 7(i) of the Federal Deposit Insurance Act (12 U.S.C. 1817(i)) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2), the following new paragraph:

"(3) BANK DEPOSIT FINANCIAL ASSISTANCE PROGRAM.—Notwithstanding paragraph (1), funds deposited by an insured depository institution pursuant to the Bank Deposit Financial Assistance Program of the Department of Energy shall be separately insured in an amount not to exceed $100,000 for each insured depository institution depositing such funds.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 11(a)(1)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(1)(C)) is amended by striking "section 7(i)(1)" and inserting "paragraph (1) or (2) of section 7(i) or any funds described in section 7(i)(3)".

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same.

For consideration of the Senate bill, and the House amendment, and modifications committed to conference:

HENRY GONZALEZ,
STEVE NEAL,
JOHN J. LAFALCE,
BRUCE F. VENTO,
CHARLES SCHUMER,
BARNEY FRANK,
PAUL E. KANJORSKI,
JOE KENNEDY II,
FLOYD H. FLAKE,
JAMES A. LEACH,
MARGE ROUKEMA,
DOUG BEREUTER,
RICHARD H. BAKER,

For consideration of section 13 of the Senate bill, and section 23 of the House amendment, and modifications committed to conference:

JOHN CONYERS,

For consideration of sections 18 and 22 of the Senate bill, and sections 4 and 19 of the House amendment, and modifications committed to conference:

JACK BROOKS,
BILL HUGHES,
RICK BOUCHER,
Managers on the Part of the House.

DON RIEGLE,
PAUL SARBANES,
CHRISTOPHER DODD,
ALFONSE D'AMATO,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 714) to provide funding for the resolution of failed savings associations, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

SUMMARY OF MAJOR PROVISIONS

FUNDING FOR RTC

The legislation allows the Resolution Trust Corporation ("RTC") to use up to $18.3 billion to resolve failed thrifts by removing the April 1, 1992 limitation on funds previously provided under the RTC Refinancing, Restructuring and Improvement Act of 1991.

As a condition for the release of any funds in excess of $10 billion, the Secretary of the Treasury must certify to the Congress that the RTC has taken such actions as may be necessary to comply with management reforms required by this bill, or that, as of the date of certification, the RTC is continuing to make adequate progress toward full compliance with such requirements.

AMENDMENTS RELATING TO THE TERMINATION OF THE RTC

The RTC's authority to take institutions into conservatorship or receivership is extended through a date between January 1, 1995 and July 1, 1995. The Chairperson of the Thrift Depositor Protection Oversight Board will select the date.

The bill moves up the closing of the RTC by a year from December 31, 1996 to December 31, 1995.

SAIF AUTHORIZATION

The legislation reduces the maximum authorization of $32 billion in current law for the Savings Association Insurance Fund ("SAIF") to $8 billion through fiscal year 1998, or until the reserve ratio of the SAIF equals 1.25 percent, whichever occurs earlier, and limits the use of the funds to paying for losses.

The bill contains an authorization only; it does not appropriate any funds for SAIF.

The Chairperson of the Federal Deposit Insurance Corporation ("FDIC") must certify that the funds are needed to pay for losses of the SAIF; that SAIF members are unable to pay additional premiums to cover such losses without an adverse affect on the institutions; and that the premium increase could reasonably be expected to result in greater losses to the government. In addition, the Chairperson must certify that the FDIC has taken several management reform measures, including: appointing a chief financial officer, a senior contracting officer and an assistant general counsel for professional liability; responding to audit recommendations of the General Accounting Office; and implementing minority outreach provisions.

Any of the funds not used by the RTC may be transferred to the SAIF to protect depositors of savings associations, subject to certification requirements similar to those for SAIF expenditures.

Any funds that are not needed to protect depositors must be returned to the Treasury.

RTC MANAGEMENT REFORMS

The bill requires the RTC to make a significant number of reforms to provide badly needed improvements in the management of the RTC.

The bill requires the RTC to establish and maintain a comprehensive business plan for the remainder of its existence. It also requires the RTC to market all assets consisting of real property (excluding assets transferred in purchase and assumption transactions) on an individual basis for at least 120 days before marketing them on a portfolio basis or otherwise including them in a multi-asset sales initiative. In addition, the bill requires the RTC to devise management and disposition plans for certain categories of real property and nonperforming loans, subject to an exception tied to maximizing returns while providing for broad participation by qualified bidders.

The bill requires the RTC to revise its procedures for reviewing and qualifying applicants for eligibility for subsequent contracts in a specified service area (basic ordering agreements) to assure that small businesses, minorities and women are not inadvertently excluded from participation, to strengthen contractor systems and oversight, and to maintain uniform procurement guidelines to prevent the acquisition of goods and services at widely different prices.

The bill requires the Thrift Depositor Protection Oversight Board ("Oversight Board") to establish an audit committee for the RTC and requires the RTC to maintain procedures which provide for a prompt and determinative response to problems identified by auditors and to maintain effective internal controls designed to prevent, identify, and correct fraud, waste, and abuse.

The bill requires the RTC to appoint a general counsel and an assistant general counsel for professional liability within its Division of Legal Services. It requires the RTC to improve its management of legal services and also requires that reports on the actions of the Division be provided to Congress.

The bill requires the RTC to maintain an effective management information system, appoint a chief financial officer, and include in its annual report an itemization of the expenditure of funds appropriated under this bill and a disclosure of the salary/compensation of executives and directors of institutions in RTC conservatorship or receivership.

The legislation also requires the RTC to implement and maintain a process for non-defaulting business and commercial borrowers to appeal decisions by the RTC to terminate or otherwise adversely affect their credit or loan agreements.

The bill requires the RTC to maintain a Division of Minorities and Women Programs headed by a vice-president of the RTC who also must be a member of the RTC's executive committee. The RTC is also required to improve and enhance its minority- and women-owned business programs.

The RTC is also required to establish client responsiveness units in each regional office. The units are responsible to the RTC's ombudsman.

NO FUNDS FOR SHAREHOLDERS OF FAILED OR FAILING INSTITUTIONS

None of the funds of the RTC or the FDIC may be used in any manner to benefit shareholders of failed or failing depository institutions.

LIMITATION ON BONUSES AND COMPENSATION PAID BY THE RTC AND THE THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD

The legislation generally prohibits the RTC from giving bonuses in amounts that exceed those given at other government agencies. It also prohibits the payment of bonuses to employees who have given notice that they intend to resign to take positions in the private sector. In addition, the bill, without reducing the current compensation of any employee below that in effect on the date of enactment, prohibits the compensation of RTC employees from being greater than that of the RTC's Chief Executive Officer.

FDIC-RTC TRANSITION

The legislation requires the FDIC and the RTC to establish an interagency transition task force for the purpose of facilitating the transfer of RTC operations and personnel to the FDIC or the FSLIC Resolution Fund in a coordinated manner. The task force will examine the operations of the RTC and the FDIC, evaluate the differences, and recommend which RTC operational systems should be preserved for use by the FDIC.

The bill requires the transfer to the FDIC of any beneficial RTC management, resolution, and asset-disposition systems in a manner which preserves the integrity of the systems. Eligible RTC personnel involved with such systems will also be transferred to the FDIC for continued employment with such systems.

MORATORIUM EXTENSION ON CONVERSION FROM SAIF TO BIF

The legislation extends the moratorium on SAIF members converting to Bank Insurance Fund ("BIF") membership, and vice versa, until the SAIF has achieved its designated reserve ratio of 1.25 percent.

CONFLICT OF INTEREST PROVISIONS APPLICABLE TO THE FDIC

The bill applies the conflict of interest rules of the RTC to the FDIC. The FDIC will be required to prescribe regulations governing conflicts of interest, ethical responsibilities, post-employment restrictions for officers and employees (including contractors), and the use of confidential information by independent contractors.

In addition, the bill requires the FDIC to prescribe regulations ensuring that individuals performing any function or service for the FDIC meet minimum standards of competency, experience, integrity, and fitness, and prohibiting those individuals who fail to meet the tests from contracting with or becoming employee's of the FDIC.

WHISTLEBLOWER PROTECTION

The bill applies the whistleblower protection applicable to RTC contractors to FDIC contractors and bank regulators. It also expands whistleblower protection to include information regarding gross mismanagement, gross waste of funds, abuses of authority and substantial and specific dangers to public health and safety to conform them to government-wide whistleblower standards under title 5, United States Code.

FDIC ASSET DISPOSITION DIVISION

The bill establishes a separate Division of Asset Disposition within the FDIC which will carry out the responsibilities of the FDIC relating to the liquidation of insured depository institutions and the disposition of their assets.

PRESIDENTIALLY-APPOINTED INSPECTOR GENERAL OF THE FDIC

The bill makes the inspector general of the FDIC a presidential appointment, rather than an agency appointment.

SENSE OF THE CONGRESS RELATING TO DISABLED AMERICANS

The bill expresses the sense of Congress that individuals with disabilities should, at a minimum, be able to compete for contracts with the Federal banking agencies on a nondiscriminatory basis.

SPECIAL COUNSEL REPORT

The bill requires the Special Counsel appointed under the Crime Control Act of 1990 to report on the status of efforts to improve the collection of fines and restitution in cases involving the financial services industry.

AFFORDABLE HOUSING

The conference report modifies the Affordable Housing Programs of the RTC and the FDIC to make properties under these programs more accessible to low income and homeless populations and provides for the unification and eventual transition of these programs to the FDIC.

Among the major changes to the Affordable Housing Programs made by the conference report are the following:

Raises the RTC's maximum dollar limit on properties eligible for the RTC's affordable housing program, to enable low income persons living in high cost areas to participate in the program.

Establishes a new Affordable Housing Advisory Board to advise the Thrift Depositor Protection Oversight Board and the FDIC on affordable housing issues. Terminates the current National Housing Advisory Board.

Requires the RTC and the FDIC to periodically provide information on seller financing to minority and women-owned businesses engaged in providing affordable housing.

Requires the RTC and the FDIC to enter into an agreement four months after the enactment date setting out a plan for the orderly unification of the affordable housing programs, taking into account the RTC's substantial experience in operating an affordable housing program. Requires the implementation of the agreement, as soon as practicable, but no later than eight months after enactment date. Requires authority to carry out the affordable housing program to be transferred to the FDIC by October 1, 1995.

Requires that tenants be given a right of first refusal to purchase single family properties in which they reside and which are owned by the RTC and the FDIC.

Requires the RTC and the FDIC to give a preference in the sale of any real property, to purchasers that would use the property to provide housing or shelter for the homeless.

Requires the RTC and the FDIC to give a preference in the sale of eligible commercial real property to offers by agencies and nonprofit organizations for use as offices, and for other administrative purposes, to carry out programs designed to provide housing opportunities for low and moderate income populations or to provide shelter for the homeless.

For consideration of the Senate bill, and the House amendment, and modifications committed to conference:

HENRY GONZALEZ,
STEVE NEAL,
JOHN J. LAFALCE,
BRUCE F. VENTO,
CHARLES SCHUMER,
BARNEY FRANK,
PAUL E. KANJORSKI,
JOE KENNEDY II,
FLOYD H. FLAKE,
JAMES A. LEACH,
MARGE ROUKEMA,
DOUG BEREUTER,
RICHARD H. BAKER,

For consideration of section 13 of the Senate bill, and section 23 of the House amendment, and modifications committed to conference:

JOHN CONYERS,

For consideration of sections 18 and 22 of the Senate bill, and sections 4 and 19 of the House amendment, and modifications committed to conference:

JACK BROOKS,
BILL HUGHES,
RICK BOUCHER,
Managers on the Part of the House.

DON RIEGLE,
PAUL SARBANES,
CHRISTOPHER DODD,
ALFONSE D'AMATO,
Managers on the Part of the Senate.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I have asked for this time for the purpose of inquiring of the distinguished majority leader how the schedule will unfold for the balance of this weekend, and hopefully that we will adjourn in time for Thanksgiving as soon as possible.

Mr. Speaker, I am happy to yield to the distinguished majority leader.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for yielding to me.

Our schedule is to take up today the Alternative Punishment for Youthful Offenders Act, which failed to go forward on suspension last week. Apparently it has a number of amendments that will take the better part of the day.

We also have the possibility of an intelligence conference report, but that may not be today.

We will be out by 6 p.m., or at the latest by 7 p.m. today.

On Saturday, the House will meet at 10 a.m. We will start with suspensions, and I will talk more about the suspension procedure in a moment.

We will try to hold votes until after noon. We have Members who have some events in the morning and we are trying to deal with that, but we will be out on Saturday around the 4 o'clock area, could be as late as 5 o'clock, but we are trying to get that day to be short.

We will have the intelligence conference report, the D.C. statehood rule, and general debate only.

On Sunday the House will meet at 2 p.m. We will vote on D.C. statehood.

We will have the rule and the bill on campaign finance reform. There will also likely be some suspensions on that day as well. That day could go past the normal 6 o'clock time.

On Monday, the House will meet at noon. It could be earlier than that. It will be a late night. We hope to finish that night.

We will take up lobby reform, reinventing government and the rescissions bill and the unemployment conference report.

Other conference reports will come as they are available. RTC is expected.

We also have the remaining matter of the EPA Cabinet level. It is possible that there could be only a rule, but we will continue to consult with the minority about the bill and rule.

There will be a list of suspensions provided in the Cloakrooms prior to the close of business. The list will be compiled in cooperation with the minority leader.

Mr. MICHEL. Mr. Speaker, I thank the gentleman for that last comment particularly, because as we know when we wind up the session there are always so many suspensions being offered in great number and it is rather difficult for Members to keep track.

So I assume from what the gentleman has said that we will have the suspensions that would be coming up tomorrow, we will have full notice of those in both Cloakrooms by this evening or by the time we leave.

Mr. GEPHARDT. That is right.

Mr. MICHEL. How about those for Sunday?

Mr. GEPHARDT. The same procedure as the day before.

Mr. GINGRICH. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Georgia.

Mr. GINGRICH. I just want to say, I think this week we had a lot of praise for the spirit of bipartisanship we had on NAFTA where Members on both sides acted with great comity, where we had people on both sides of an issue. I hope there is going to be a similar spirit of bipartisanship when we take up the Penny-Kasich and campaign reform later this weekend.

But I think as we go through these last 4 days, I just wanted to say to my friends in the Democratic leadership that to maintain a spirit of comity, one of our Members, a very distinguished Member who is the ranking member on the Committee on Government Operations is in the hospital, the gentleman from Pennsylvania [Mr. CLINGER]. As I mentioned yesterday in our meeting, I think it is very, very important in terms of protecting his rights and recognizing his contribution that neither the rule nor the bill on EPA come up, because it is not going to go to conference. The other body is leaving tomorrow, on Saturday. We are prepared to stay and work until late Monday. We are trying to maintain a spirit of comity in doing it.

But I think comity has to be a two-way street. It would be very, very unfair to the gentleman from Pennsylvania [Mr. CLINGER], and I think every House Republican would want to take whatever steps are necessary to protect his position on both the rule and the bill.

I would hope that the Democratic leadership would keep that in mind as they consider the schedule.

Mr. GEPHARDT. Mr. Speaker, if the gentleman will yield further, the gentleman's concerns were heard yesterday and the gentleman from Illinois, the distinguished minority leader and I obviously will continue to consult with the minority and try to work our way through that matter.

Mr. UPTON. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Michigan.

Mr. UPTON. Mr. Speaker, I wonder if the leadership has given any consideration to perhaps roll the votes from tomorrow, Saturday, that we have a number of suspensions, the rule and general debate only on D.C. statehood.

Would there be something wrong with rolling those votes until Sunday at 2 o'clock to allow us to spend Saturday with our families, wherever they may be?

Mr. GEPHARDT. Mr. Speaker, If the gentleman will yield, our problem, and we have announced this from some time ago, that we are trying to get through a number of pieces of legislation and also get Members out of here on Monday night, which we very much want to be able to do.

In order to successfully get through that, it is not only the matters that are on the floor on tomorrow, it is the matters that we have to process either through committees or the Rules Committee in order to be able to carry on the rest of the program on Sunday and Monday.

Obviously, if we could let people go on Saturday and not be here, we would do that. We are not doing it just to maintain a schedule and to bother people, but we are really trying to get all the steps taken to allow the rest of the schedule to go forward.

We think we can get out of here at a very reasonable hour on Saturday. We intend to do that, but the last 2 days are going to be ambitious and Saturday becomes a launching day to get things ready to go on Sunday and Monday.

Mr. UPTON. Mr. Speaker, I thank the gentleman.

Mr. MICHEL. Mr. Speaker, I yield back the balance of my time and thank the distinguished majority leader.

ADJOURNMENT OF THE HOUSE FROM SATURDAY, NOVEMBER 20, 1993, TO SUNDAY, NOVEMBER 21, 1993

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns on Saturday, November 20, 1993, it adjourns to meet at 2 p.m. on Sunday, November 21, 1993.

The SPEAKER pro tempore (Mrs. FIELDS of Louisiana). Is there objection to the request of the gentleman from Missouri?

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Michele Payne, one of his secretaries.

□ 1040

SOLUTIONS FOR OUR ECONOMY OFFERED IN AMENDMENTS TO RESCISSION PACKAGE

(Mr. SWETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SWETT. Mr. Speaker, on NAFTA it appears that the lobbyists carried the day. Now it is the common American citizen's chance to be heard. Penny-Kasich will be voted on this Monday, as was just mentioned. If there is the same outcry for sound fiscal management as proposed in Penny-Kasich, or even in the Frank alternative, from voters across this land, as there was on NAFTA from corporate America, then this Nation has a chance of solving its problems.

Everyone must chip in. We must take a pragmatic look at sharing the burdens. In northern New England we rely on volunteer fire departments to stop fires in our communities. We all must volunteer to stop the financial fire that is devouring our economic warehouse, or else this country will face the most dire fire sale it has ever held.

Vote yes on amendments to the rescission package.

WHITE HOUSE CONSISTENCY

(Mr. ARMEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARMEY. Mr. Speaker, in case you came into the White House tax-and-spend saga late, let me catch you up.

In the heat of August, on a strictly partisan Democrat vote, the White House pushed through the largest tax increase in U.S. history on the promise of spending cuts to come.

Now it is the cold reality of November, and instead of deliver, the Democrat leaders would rather depart.

In August, they passed a tax increase worth hundreds of billions of dollars; in November, they come up with spending cuts worth just hundreds of millions.

Now just a week before the holiday shopping season, Democrat leaders are so afraid someone is going to cut up their credit cards that they have postponed the vote on a spending cut bill.

You could say a lot of things about the White House based on this experience of tax-and-spend and promise-and-bend, but you can't say they aren't consistent.

Having already canceled a vote on a balanced budget amendment in the Senate, they are now postponing a vote on real spending cuts in the House: the Kasich-Penny bill of over $90 billion.

So just remember, America, as you get ready to start your holiday shopping season, the White House intends their shopping season to last all year long. Thanks to the Democrat guardians of gridlock.

STRIKERS' JOBS GONE

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, look at today's USA-Today: "Airline: Strikers' Jobs Gone."

The paper goes on to read:

> American Airlines is playing hardball with its flight attendants, whose strike is creating havoc for travelers on one of the USA's biggest airlines.

Mr. Speaker, the airline is telling strikers their jobs will not be there to come back to.

Mr. Speaker, the House has twice passed a bill called the striker replacement bill which basically stops companies from hiring replacement workers when those workers legitimately go out on strike. If the right to strike means anything in America, Mr. Speaker, having a law which permits replacing those strikers is wrong, and it demeans the right of collective bargaining.

So, I urge the President of the United States to get personally involved in this issue, to let the leaders of the other body know that he cares very much about this issue, that in fact we ought to pass striker replacement legislation, that it should not be stopped in the Senate of the United States so that when people legitimately have a collective bargaining agreement, the right to strike will mean something.

HOW SMALL IS IT?

(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

Mr. HEFLEY. Mr. Speaker, the date has been set, the contenders have been weighed, the rules agreed upon, and we are ready for the big fight.

In this corner, we have Kasich-Penny, an upstart from outside the Beltway, weighing in at a healthy $90 billion.

In the other corner, we have the Gore report, the hometown favorite, completely lost in his shorts at a petite $305 million.

In the battle to cut the deficit, the Congressional Budget Office has weighed the contenders, and while Kasich-Penny qualifies as a true heavyweight, the Gore challenger doesn't even tip the scales.

Mr. Speaker, what happened to the Gore report? What happened to reinventing government? Where did 6 months of work go?

When Clinton presented the report, they brought it in on forklifts. The bill sent to Congress, however, doesn't even require a stamp.

The contenders to take on the deficit have hardly been announced, but the fight is over. In the battle to cut the deficit, Penny-Kasich is in a class by itself. Is it any wonder Clinton is lobbying so hard against meaningful cuts?

IT IS TIME TO FIND THE TRUTH ABOUT JOHN DEMJANJUK

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the Court of Appeals in Cincinnati said the Justice Department railroaded John Demjanjuk. They withheld evidence that proved him innocent. They perpetrated a crime, a fraud, on the courts. My colleagues, now the only piece of physical evidence against Demjanjuk, the Travniki ID card, has been determined to be a forgery by German experts who certainly do not want to get involved in this convtroversy.

My colleagues, I do not blindly support Demjanjuk. Did he lie to conceal a Nazi past? Then threw him out. But if he lied to avoid a firing squad, let us give this man his day in court.

There is supposed to be justice for all in America. That means everybody.

I think it is time for a special prosecutor to find the truth. Israel found the truth and let him go.

THE $90 BILLION DEFICIT REDUCTION AMENDMENT

(Mr. BOEHNER asked and was given permission to address the House for 1 minute.)

Mr. BOEHNER. Mr. Speaker, the American people have spoken loudly and clearly about how this Congress ought to deal with the budget deficit that we have before us. It made very clear that they want to cut spending, and they want it done now.

We hear a lot of rhetoric here in the Congress about let us cut spending, let us cut spending, and yet, when the bills come here to cut spending, the votes never seem to be here.

Well, Mr. Speaker, now we have an opportunity. We have a bipartisan $90 billion deficit reduction amendment that is going to be before this Congress on Monday, and we are going to find out who are the Members who really want to cut spending and who are those who just want to continue to talk about it.

Monday is the day. Monday Congress will become accountable for the real deficit reduction. Those Members who are willing to stand up and cut, we will see who they are, and those who just want to talk about it, we will see who they are as well.

UNEMPLOYED FACING A BLEAK THANKSGIVING

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, I am very happy to hear the distinguished majority leader get up and mention that on Monday we will have an opportunity to vote on the unemployment compensation bill. But we must keep the pressure on.

Let me say this:

We spent $14 billion this year for every other country in the world in foreign aid. We passed NAFTA to help the Mexican economy. It is going to cost us $30 billion. We sent troops and money to Somalia to help feed those people, and yet we are having difficulty in getting an unemployment compensation bill out to help America's unemployed, and there are 250,000 every month that are going out.

So, let us cut the political B.S. and pass the bill, and I will say this to my colleagues, "If you don't do it, don't go home because these unemployed are going to be facing a very bleak Thanksgiving and a very bleak Christmas, and let me tell you this: They have got very long memories."

□ 1050

A PLEA FOR ADOPTION OF THE PENNY-KASICH AMENDMENT

(Mr. LINDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LINDER. Mr. Speaker, in the beginning, it was cut spending first. Then, Congress passed the largest tax increase ever—$255.3 billion to be exact—and it became cut spending second.

Now, after the House Democrat leadership's recent delay of a vote on the Clinton rescission bill and the Penny-Kasich amendment, and the Senate Democrat leadership's cancellation of a vote on a balanced budget amendment, it is cut spending third. How long America, before it becomes cut spending never?

Mr. Speaker, Christmas is coming and the American people can ill afford to wait for a Penny-Kasich amendment which will reduce Federal spending by $90 billion over the next 5 years. So, let us give them something to be really thankful for next Thursday, let's pass the Penny-Kasich amendment now.

HUNGER AND HOMELESSNESS AWARENESS WEEK

(Mr. CLYBURN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. CLYBURN. Mr. Speaker, having often made this mistake, I thought I should remind my fellow Members that regardless of the tough work we have ahead this weekend we must all remember to eat and get enough sleep.

Likewise we must remember it is our duty to ensure that every citizen of this country can also eat and sleep in safety.

Alice Roosevelt Longworth explained her philosophy on life was to "Fill what's empty. Empty what's full. And scratch where it itches."

Mr. Speaker, I believe we must work to fill the plate of every hungry man, woman, and child.

We must work to empty this Government of the waste and neglect that has prevented thousands of Americans access to safe, affordable housing.

And we must scratch the itch of desperation that is causing too many of those who have been denied these fundamental rights to turn to crime and violence.

As we close out Hunger and Homelessness Awareness Week, let us rededicate ourselves to life, liberty, and the pursuit of happiness.

MAKING THE HARD CHOICES

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. THOMAS of Wyoming. Mr. Speaker, President Clinton and Speaker FOLEY got the Democrat votes they needed to pass the Clinton tax plan last August, by promising spending cuts later in the year. And they were necessary. Because despite all the talk of fiscal restraint, the Clinton tax plan cuts only defense, and increases spending everywhere else in the Government.

Now the Democrat leadership in Congress is chomping at the bit to go home. And they, and the President, are doing everything in their power to prevent a plan for real spending cuts, the Penny-Kasich plan, from coming up for a vote. The question is will Congress make the tough choices and cut spending first? Or will cuts be put off another day, another year, until American zeal for spending cuts just goes away?

Mr. Speaker, the consideration of issues is a little like a rain dance. The timing has a great deal of influence on the outcome.

Mr. Speaker, you and the President must keep your pledge to cut spending and keep the Penny-Kasich plan before the House.

TRIBUTE TO THE RHODE ISLAND VOLUNTEER GROUP

(Mr. REED asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. REED. Mr. Speaker, I rise today to pay tribute to the members of the Rhode Island volunteer group. The men and women who make up this unique organization deserve to be honored not only for their bravery, but also for their compassion.

Over the past several years we have all been witness to the terrible violence and destruction that has occurred in the former Yugoslavia. While the nations of the world remain unable to reach a consensus on what should be done, a select group of volunteer firefighters from Rhode Island and other States have been risking their lives to save the people and the structures of the historic city of Sarajevo.

With support from their friends and family in Rhode Island, and led in the field by James Jordan and here at home by Beth Hoban, the Rhode Island volunteer group has responded to fire after fire in the city even as they come under sniper attack while they battle the flames. Despite the danger they face, Mr. Jordan and his fellow firefighters refuse to let these attacks jeopardize their humanitarian mission to save all the residents of the city.

As the ravages of the Balkan winter approach, it is more important than ever to protect the homes and shelters of Sarajevo from the fires of the war. Unfortunately, the RIVG's attempts to prevent the residents of the city from becoming refugees are being seriously undermined by shortages of equipment and, in particular, of diesel and all-wheel-drive vehicles.

The contributions to Sarajevo made by the RIVG go beyond the many lives and homes they have saved from mortar attacks and the resulting flames. In fact, the RIVG recently held a fire fighting training session attended by both Muslims and Serbs that was marked by a degree of cooperation not seen in Sarajevo since before the war. In a region torn apart by deadly ethnic divisiveness, this was indeed a remarkable achievement and one that has given the citizens of Sarajevo a glimmer of hope for the future of their city.

Mr. Speaker, I believe the Rhode Island volunteer group stands as a shining example of the power of individuals to help their fellow human beings. I hope that my colleagues will join me today in saluting the humanitarian spirit of this tremendous organization.

PROCRASTINATORS ANONYMOUS

(Ms. PRYCE of Ohio asked and was given permission to address the House for 1 minute and to revise and extend hear remarks.)

Ms. PRYCE of Ohio. Mr. Speaker, Americans think they're watching live, gavel-to-gavel coverage of the House of Representatives. But they're really watching another gathering of procrastinators anonymous.

Don't do today what can be put off forever. Especially those pesky spending cuts. The President and Speaker FOLEY promised to do spending cuts this year. But we're so tired of having to vote day after day after day. So let's put off any plan to cut spending, especially that pesky Penny-Kasich plan to cut Government spending $90 billion, let's do that next year or the year after that. Or maybe we'll hope Americans will forget about spending cuts entirely.

Mr. Speaker, Americans hold Congress in low regard, because they see us live, on TV, dodging the tough choices. Before this House goes home for Thanksgiving, let the members vote on a real plan to cut spending, or should we ask America to tune in next time for another edition of procrastinators anonymous.

TRADE DEFICIT CLIMBS

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, the trade deficit figures for September have just been released, and the results are devastating. Our trade deficit is rising dramatically again. And remember, for every billion dollars of deficit, America loses another 23,500 jobs.

The monthly deficit surged to $10.9 billion in September, and we are headed for an annual trade deficit of imports over exports of over $117 billion this year.

In September we ran a $101 million deficit with Mexico, the first since March 1991. And despite all our efforts to open markets, Japan remains the source of our largest deficit, year to date over $42 billion, up almost $8 billion last year. And China now is the source of our second largest, at over $16.7 billion.

We must end trade deals that force our workers to compete on an unlevel playing field, with low-wage workers, undemocratic nations, and nations that close their markets.

SUPPORT PENNY-KASICH BUDGET CUTTING PLAN

(Mr. WALSH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALSH. Mr. Speaker, I rise in strong support of the Penny-Kasich budget cutting plan. We were promised a vote on this important budget cutting measure, and we will have it. Yesterday we held a press conference with former Senator Paul Tsongas, cochair of the Concord Coalition, a group of concerned Americans who are working to save our children from these huge debt payments on our national debt.

We must vote on this plan today. Our country cannot wait any longer. The straightforward measure cuts spending over the next 5 years by only 1 percent.

Mr. Speaker, if we fail to pass this very reasonable plan, how can we seriously say we are in favor of balancing our budget? Let us work now and begin to restore fiscal responsibility to our Government.

DETROITERS LINE UP FOR JOBS

(Miss COLLINS of Michigan asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Miss COLLINS of Michigan. Mr. Speaker, as many economists tout a recovery sweeping the land, I want to remind my colleagues that the recovery has bypassed my district.

In Detroit, the unemployment rate nears 15 percent; for my African-American constituents it is over 19 percent. Detroit has not seen unemployment numbers in the single digits in 15 years.

Recently, in response to an ad for 4,500 jobs in a proposed casino, 10,000 people poured in. This comes on the heels of a similar event just a few weeks earlier, when my constituents by word-of-mouth heard that the U.S. Postal Service was giving a jobs-eligibility exam and 20,000 people showed up.

The Detroit News pointed out that the 10,000 job-seekers last Thursday would have stretched for more than 4 miles, the length of 60 football fields. The applicants would have filled half of Joe Louis Arena or 24 Boeing 747 airplanes.

These job lines are testament to the anemia afflicting many pockets of our economy. These job lines are a living drama of the pain filling the lives of many of our families. These job lines speak louder than words to the aspirations and determination of many Americans who will stand in line in the cold for hours in hopes of a chance for a good job.

CUT SPENDING LAST?

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, it appears now that the last thing we will do this session is vote on spending cuts. Once again, the Democrat majority wants to cut spending last.

Well, Mr. Speaker, Republicans want to cut spending first. The Republican leadership supports the Penny-Kasich plan to cut $90 billion over the next 5 years. We support the idea of slowing the growth of government. We embrace the philosophy of returning the hard-earned money of the taxpayer to the taxpayer.

Unfortunately, the White House and the Democrat leadership are working feverishly to stymie this effort to cut spending. That is why they want to put it off to the last possible moment.

Mr. Speaker, this is a cynical ploy to give political cover to Democrat Members while insuring that this legislation is not enacted into law.

I urge the Speaker to listen to the will of the American people. Cut spending first and let the House vote on the Penny-Kasich amendment.

AMAZEMENT

(Mrs. VUCANOVICH asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. VUCANOVICH. Mr. Speaker, now I understand why the people are frustrated with their government. After observing the administration and the Democrat Majority dance around the issue of spending cuts, I can only shake my head in amazement.

Remember the President's proposal to reinvent government? It was supposed to cut spending by $9 billion or so over 5 years. Well, after the Congressional Budget Office got a look at it, it was discovered that this plan would save, only $350 million.

And now, after this legislation has made its way through the committee process, it will end up costing the taxpayer an additional $1.2 billion.

Mr. Speaker, this exemplifies all that is wrong with the government today. Over bloated claims, combined with sweet deals, bolstered by political cowardice translates into more spending and more taxes for the American people.

And to top it off, any vote on the Penny-Kasich amendment to this package will come on the last day of the session, when the Democrat majority is convinced it won't become law. Sometimes you just have to shake your head.

UNEMPLOYMENT BENEFITS

(Mr. GENE GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Speaker, I rise today to call upon my colleagues to pass an emergency unemployment benefit extension before we adjourn for the year, without the excess issues that we have considered earlier. We are preparing to go home yet we have not finished our work. By not passing this benefit legislation we signal to the American people that this Congress is insensitive to the needs of struggling families.

As we begin the holiday season we must remember that families with an unemployed worker face uncertainty and are fighting not only to find new jobs to support their families, but to retain their dignity. Unemployment benefits allow families to retain their dignity and get through tough times. By passing this legislation we can make this Thanksgiving and Christmas a little brighter for families all across our country.

Mr. Speaker, I say to the members that next week when we sit down to give thanks, remember that we can be thankful for our jobs. Many of our constituents do not have that to be thankful for and we should not forget this fact next Thursday.

THE AMERICAN FAMILY

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, the American family is under ore pressure today than at any other time in the history of the country. The Senate is going to pass a bill today to spend $22 billion to fight crime and build more prisons. Cannot this Congress give the American family and children a tax break by increasing the personal exemption for children?

I have a bill that has 201 cosponsors. I ask that every Member, before they go home for Thanksgiving, cosponsor this bill or else do not go back and give speeches about the American family.

We cannot put the American family in prison with all the money the Senate wants to spend, we can do all that. Ten-year-olds are using guns, using marijuana, and the family is coming apart.

If we want to do something, we cannot restore spiritual values in this body, but the one thing we can do is we can increase the personal exemption for children from the current $2,300 to $3,500. Had the personal exemption kept pace with inflation, it would be worth $8,200. It is not worth very much.

I ask all Members, Republicans and Democrats, please cosponsor our bill, H.R. 436, before they go home for the Thanksgiving break.

THE PENNY-KASICH AMENDMENT HAS PROBLEMS

(Mr. SABO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SABO. Mr. Speaker, on Monday the House will vote on the Penny-Kasich amendment.

What it does is fundamentally cut Medicare and sabotage the attempt to pass health care reform. It has many specific problems.

One of the basic ones, as it relates to their Medicare changes, it would ask many Americans to actually pay 150 percent of their actual costs of part B premiums on Medicare.

REINVENTING SPENDING

(Mr. DOOLITTLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOOLITTLE. Mr. Speaker, will the President and the Democrat majority reinvent government? Are you kidding?

Let us look at the facts.

The President's proposal to cut spending and reinvent government started out as a bold plan to save the taxpayer $9 billion over the next 5 years. But after the budget analysts looked it over, it was discovered that it would only save $350 million.

And now, after it has made it through the committee process, this spending cut plan will actually cost the taxpayer about a billion bucks.

In fact, the Congress cannot even reinvent itself. The Joint Committee on the Organization of Congress started meeting last January to find ways to improve this institution. But the majority Members voted against the most important reforms, such as a ban on proxy voting and a series of sunshine law amendments.

Mr. Speaker, as the Congress has once again proved, the only thing it can reinvent is more wasteful Government spending.

REPUBLICANS HELP CLINTON KEEP HIS PROMISES

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, 2 days ago House Republicans saved one of President Clinton's major campaign promises by delivering most of the votes to pass NAFTA.

Now we would like to help him keep another promise: the one he made to the American people and to Congress. He made it during the campaign to get elected; he made it again in January when he was inaugurated; and he made it again in August to get his tax package passed. The promise was to cut spending.

The bill he introduced would cut spending only $300 million. That's one one-thousandth of the hundreds of billions in tax increases in the Clinton budget package.

So a disappointed bipartisan group of Members came up with more than $90 billion in real spending cuts. The Penny-Kasich legislation will give Congress the opportunity to keep Mr. Clinton's promise for him.

But as has happened so many times in the past, the budget-cutters have been blocked by the big spenders in the Democratic leadership. They are stalling a vote on the Penny-Kasich amendment until they can figure out a way to kill it, because they like spending cuts better in word than in deed.

Mr. Speaker, this is one promise that President Clinton should keep whether he likes it or not. Stop the stalling. Give us a fair vote on real spending cuts.

WHY IS PENNY-KASICH NOT ON THE CALENDAR?

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, earlier today we heard the calendar set by the majority party. It is a politically safe assortment of lightweight bills designed to make the American people think that we are doing something. And we will be working through the weekend, again, in a desperate attempt to show people how hard this job is.

But the American people are smarter than that. They know that our last-minute chaos reflects our disorganization and not our dedication.

What is worse, conspicuously absent from the calendar that we heard this morning was, there will not be a vote on the Penny-Kasich budget deficit reduction bill.

□ 1110

The gentleman from Ohio, JOHN KASICH, has had a deficit reduction plan since February. It was too hard at first for some Members in the majority party, so he came back with a bipartisan plan.

In addition to this plan, STEVE HORN has a plan that cuts the budget by $136 billion; MATT COLLINS has a plan; DAN BURTON has a plan.

Mr. Speaker, I know the American people are desperate to make Washington, DC, a State. But let us also vote on deficit reduction and not just play politics in the next 3 days.

WITLESS IN WASHINGTON

(Mr. BAKER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAKER of California. Mr. Speaker, Americans may have enjoyed the film "Sleepless in Seattle." But the more they hear about how Speaker FOLEY and the Clinton administration are trying to kill a plan to cut Federal spending—and work toward a balanced budget—Americans will be sure that they are watching "Witless in Washington."

When the Clinton $255 billion job crushing tax plan passed in August, Speaker FOLEY promised a bill on spending cuts before this year is out. Well, this year is almost out. And Congressmen Democrat TIM PENNY and Republican JOHN KASICH have put together a bipartisan spending cut plan, that cuts almost $100 billion from the Federal budget. Unlike the Clinton taxes, the Penny-Kasich plan cuts spending first. But as if to prove their spinelessness, the Clinton administration says these spending cuts will—kill health care, damage the national defense, and quicken the heartbreak of psoriasis.

Mr. Speaker, Americans want us to live within our means, cut spending first. Before this Congress goes home let us have an up or down vote on the Penny-Kasich spending cuts. Let us end gutlessness in Washington. Stop deficit spending. Stop putting the burden on our grandchildren. Approve the Penny-Kasich plan.

PASS AN UNEMPLOYMENT COMPENSATION EXTENSION

(Mr. LEVIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVIN. Mr. Speaker, it is time to release the hostages. In September alone, 252,000 additional Americans exhausted their unemployment compensation benefits. These are people who are out of work through no fault of their own. Their benefits have been held hostage for other issues.

I do not mean to demean the importance of those other issues. But we are approaching Thanksgiving. And this Congress should act.

These long-term unemployed people are not asking for a handout, but for benefits to tide them over. They deserve more than an empty plate for Thanksgiving.

Let us act on the extension of unemployment compensation benefits. We must do it before we conclude our legislative business for the year.

THE FIRST THANKSGIVING PROCLAMATION

(Mr. CRANE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. CRANE. Mr. Speaker, on the eve of our adjournment and in anticipation of Thanksgiving, I would like to read into the RECORD the first Thanksgiving proclamation issued by President George Washington in 1798.

THE FIRST THANKSGIVING PROCLAMATION

(Issued by President George Washington)

Whereas, it is the duty of all nations to acknowledge the providence of Almighty God, to obey His will, to be grateful for His benefits and humbly to implore His protection and favor; and

Whereas, both houses of Congress have, by their joint committee, requested me "to recommend to the people of the United States a day of public thanksgiving and prayer, to be observed by acknowledging with grateful hearts the many and signal favors of Almighty God, especially by affording them an opportunity peacefully to establish a form of government for their safety and happiness."

Now, Therefore, do I recommend and assign Thursday, the twenty-six day of November next to be devoted by the people of these States to the service of that great and glorious Being who to the beneficent author of all the good that was, that is, or that will be; that we may then all unite in rendering unto Him our service and humble thanks for His kind care and protection of the people of this country previous to their becoming a nation; for the signal and manifold mercies and the favorable interpositions of His Providence in the course and conclusion of the late war; for the great degree of tranquility, union and plenty which we have since enjoyed; and the civil and religious liberty with which we are blessed, and the means we have of acquiring and diffusing useful knowledge; and, in general, for all the great and various favors which He has been pleased to confer upon us.

And also that we may then unite in most humbly offering our prayers and supplications to the great Lord and Ruler of Nations, and beseech Him to pardon our national and other transgressions, to enable us all, whether in public or private stations, to perform our duties properly and punctually; to render our National Government a blessing to all the people by constantly being a government of wise, just and constitutional laws, directly and faithfully executed and obeyed; to promise the knowledge and practice of true religion and virtue and the increase of science among us; and generally, to grant unto all mankind such a degree of temporal prosperity as He alone knows to be best.

Given under my hand, at the city of New York, the third day of October, A.D. 1789.

—George Washington

U.S. TOP THREE TRADING PARTNERS HAVE TRADE SURPLUS

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, the NAFTA vote is over and now we learn that all of those rosy trade figures with Mexico may have been stretched a bit—as many of us believed.

After all one of the big selling points by the pro-NAFTA forces was that the United States had a trade surplus with Mexico and Canada—the third partner—on a regular basis.

However, the September trade figures show a $100.1 million deficit with Mexico, which is a drastic switch from a $100.0 million surplus in August or, in other words, a reversal of $200 million in our trade figures with Mexico in 60 short days?

And rosy figures with Canada also was part of the sales pitch and now we learn that there also was a trade deficit with Canada in both August and September.

That deficit doubled from $583 million in August to $1.12 billion in September. Interestingly we not only have recent trade deficits with both NAFTA partners but also one of $5.26 billion with Japan. So, our top three trading partners all have a surplus over the U.S. Something is wrong!

CUTTING SPENDING

(Mr. HOKE asked and was given permission to address the House for 1 minute.)

Mr. HOKE. Mr. Speaker, the NAFTA debate is over, thank goodness. And now it is time to move on to other issues that are important to the American people like, for example, cutting spending.

Unfortunately, the administration and the leadership is delaying a vote in this area. It appears that the last thing that we are going to act on this session is the President's sham recession bill. It seems that we will only vote on cutting spending after the Senate has safely gone home, ensuring that we will not ever really cut spending in this Congress.

And worse, the President and the leadership are lobbying against a vote on the Penny-Kasich amendment at all, which would actually really cut spending.

Mr. Speaker, on Wednesday we spent 13 hours debating a measure that may or may not have a profound impact on most Americans. Now what I want to know is if we can do that on Wednesday, why is it that we spend all of this time on an issue that may or may not have impact on Americans, but we cannot find the time to act on the one issue that is more important than any other to the American people; namely, the grotesque, bloated, obese size of the Federal Government?

VOTE FOR THE FUTURE—VOTE TO CUT SPENDING

(Mr. PENNY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENNY. Mr. Speaker, on Monday we will have a vote on additional spending cuts, and the debate will come down to this simple question: Do you believe we have done enough to cut the deficit or do you believe that more must be done to rein in the red ink?

All of those who oppose the Penny-Kasich spending reduction package are content with the status quo. They believe that the budget recently adopted by this Congress and supported and promoted by this President is the end of the debate on deficits. They believe that deficits that go down slightly over the next few years, only to climb beyond $300 billion by the turn of the century, are just fine because they are afraid to face the tough question of reducing spending. They would rather cater to the special interests that want to keep soaking up Federal money for their own needs rather than to respond to the long-term interests of the young men and women who need a stronger economy in the future.

We are burdening our children and our grandchildren with this debt. It is the height of irresponsibility.

Members have one vote before this Congress adjourns to prove that they are on the side of the future. The vote is to cut the deficit. On Monday they will either define themselves as Members who are serious about solving problems or Members who are a part of the problem.

□ 1120

MEDICAL LIABILITY REFORM

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, health care reform is a test of legislative seriousness. Liability reform is a good example.

The President makes a pretense of seriousness on medical liability. His plan includes caps on attorneys' fees, collateral source offsets, alternative dispute resolution, and requires certificates of merit for lawsuits.

But, these reforms are less than meets the eye. The cap on fees codifies industry standards and therefore offers no real reform. The certificate of merit, required for lawsuits, is not required for alternative dispute resolution, where most claims would be settled.

Worse, the President dodges the big issues. His plan includes no cap on noneconomic damages for pain and suffering—the one reform that would have the greatest impact on reducing wasteful defensive medicine.

Nor does the President propose to reform joint and several liability which encourages lawsuits because it assesses penalties without regard to degree of fault.

Mr. Speaker, we cannot be serious—we cannot have real health care reform—without real liability reform, including caps on noneconomic damages and elimination of joint and several liability.

VOTE FOR THE PENNY-KASICH SPENDING CUTS

(Mr. ZELIFF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ZELIFF. Mr. Speaker, "The Penny-Kasich spending cuts are unnecessary and excessive," and that "budget-cutting has gone awry if it directs savings to deficit reduction." That is a quote from our House Speaker.

Apparently the Democrats do not have the votes to kill the Penny-Kasich $90 billion spending cuts. They have delayed the vote until Monday. They want more time for the vested interests to pressure Congress.

The reasons for opposing spending cuts show that they are out of touch with the American people.

The distinguished Senator from West Virginia declared, and I quote, "We have already cut discretionary spending to the bone."

The press reports that the appropriators are irritated about the spending-cut plan. Democratic leaders are quoted as announcing that they are likely to block efforts to slice the budget.

These same Democratic leaders claim that sweeping cuts will constrict the economy.

Mr. Speaker, the Joint Economic Committee's assertion that the plan to cut 1 cent on the dollar from spending will slam the brakes on the economy is just not true. Accountability is what this is all about.

We were sent down here to be accountable. We were sent down here to do the job, to live within our spending, to cut spending—$20 billion a year over 5 years is pennies on the dollar.

I urge my colleagues to vote for the Penny-Kasich budget amendment. It is a vote for our children. It is a vote for our future.

PASS THE UNEMPLOYMENT COMPENSATION EXTENDED BENEFITS LAW

(Mrs. JOHNSON of Connecticut asked and was given permission to revise and extend her remarks.)

Mrs. JOHNSON of Connecticut. Mr. Speaker, I am calling again for you to join me in opposing adjournment until the House passes an extension of our unemployment compensation extended benefits law.

Last week the House voted to recommit the conference report, because the majority wanted a vote on the amendment codifying the President's promise to cut the Federal work force by 252,000 over the next 5 years.

From 1991 to 1992, in only 1 year under a Republican administration, the executive branch added almost 29,000 jobs.

In a time when companies in our districts are going through painful streamlining to remain globally competitive and people's salaries are no longer rising, it makes sense to require the Federal Government to do the same kind of downsizing. Unfortunately, this is not easily done by any administration. That is why we need to enact this amendment and thereby assure that the executive branch plans for what must be done so attrition, not layoffs, can accomplish our goal.

My colleagues, the unemployment compensation extension bill could and should have been passed 8 weeks ago. Now it is tangled in this new debate. But our constituents can wait no longer. Families in my district will literally be homeless by Christmas if we do not act.

I urge you to show compassion and common sense by joining me in urging the Speaker to bring this bill to the floor today when we have very little other business.

AN OATH OF SECRECY

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, if you blinked, you missed the unanimous-consent request to bring forward the intelligence conference report. The RECORD should show, however, consent is not unanimous.

I am deeply troubled by the conferees' decision to abandon the House's commitment to protect classified information. The conferees deleted a simple, but meaningful, requirement that Members of Congress sign an oath of secrecy if they wish to work with classified, sensitive material.

Sadly, we have just witnessed again another round of damaging and embarrassing disclosures or leaks, as they are called, as one day's classified briefing on Haiti became the next day's headline followed by several days more of charges and allegations.

I do not know the extent of the damage done from that, but I do know that 341 Members of this body voted on August 4 to implement the oath of secrecy.

I urge my colleagues not to abandon that commitment when we take up the intelligence conference report before we go home.

BRING UP THE PENNY-KASICH AMENDMENT TODAY

(Mr. EWING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EWING. Mr. Speaker, I am sure you have heard a lot today about the Penny-Kasich bill, and a lot of people have spoken out about the unfair treatment that they feel this measure is receiving before this House. I think that is very true.

The President and the Speaker, yes, are using their power to try and get this vote on a time when it will surely fail. A vote on the Penny-Kasich amendment to cut $90 billion has long been planned for tomorrow, Saturday, November 20.

When the opponents found that it was going to probably be too popular and pass, they started using their authority to delay it, delay it until Monday when everybody will want to get out of here.

This is a violation of the spirit of the promise of President Clinton to those who voted for his tax increase, but that does not matter. It is just another promise broken.

I guess that the truth is, Mr. Speaker and ladies and gentleman of this

House, we really do not care about the deficit. The administration does not, and the leadership of this House does not.

We are not concerned about doing anything about the national debt the deficit, and you know, the more we spin our wheels, the bigger and deeper hole we get into.

It is time; we should have taken that up today.

STOP PLAYING THE GAMES

(Mr. BUYER asked and was given permission to address the House for 1 minute.)

Mr. BUYER. Mr. Speaker, I stand and rise also in bitter disappointment for the delay on the vote on the Penny-Kasich budget.

Many of us here within this body received a very clear message from the American people, and that is to cut the spending first. That is what many of us seek to do in a bipartisan way.

To move this vote to a later date which jeopardizes the bipartisan spirit that even America had the opportunity to see during the NAFTA debate is flat-out wrong. This body continues to act as if we cut spending and then we take the money and spend it on other things.

This project cuts the money, takes that $90 billion, and puts it right on deficit reduction. Those who oppose it want to take that $90 billion and spend it on other things and play other games.

That is wrong. That is why we have the deficits we have today.

Let us show the American people we can work in a bipartisan way and truly act with fiscal responsibility and truly say, "Let us cut the spending first." Let us stop playing the games.

THE CONSUMER CHOICE HEALTH SECURITY ACT OF 1993

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, this weekend, Senator NICKLES and I will be introducing the Consumer Choice Health Security Act of 1993. This comprehensive health care reform legislation the Republican leader's "Action Now" proposal and enjoys the hand-in-hand support of 24 Senators including that of Senator DOLE, and 16 of our colleagues here in the House. While the NAFTA debate has occupied much of our time and attention this past week, I encourage my colleagues to review the summaries on this sweeping legislation.

Mr. Speaker, the President stated that he would not sign health care reform legislation unless it contained universal coverage, simplicity, security, choice, portability, and affordability. We have risen to the challenge and met each and every one of those goals. In fact, we've gone even further than the President's challenge.

Instead of handing over the personal and private decision of health care to the Federal Government and life-long bureaucrats, this legislation puts the individual consumer in the driver's seat and allows every American the right to choose his/her health plan that best fits their needs and that of their families. We believe that Americans know best when it comes to their health care. Just like they know which car insurance policy and home insurance policy is best for them.

Mr. Speaker, let us give the American people the same choices President Clinton and all Members of Congress have when it comes to choosing our health insurance. Americans are already skeptical of the Government. What is going to make them think that bureaucrats and politicians know better than they do when it comes to health insurance? If the President can choose his own health plan, so should the American people.

SOUTH AFRICAN DEMOCRATIC TRANSITION SUPPORT ACT OF 1993

Mr. JOHNSTON of Florida. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 3225) to support the transition to nonracial democracy in South Africa.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3225

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "South African Democratic Transition Support Act of 1993".

SEC. 2. FINDINGS

The Congress makes the following findings:

(1) After decades of apartheid, South Africa has entered a new era which presents a historic opportunity for a transition to a peaceful, stable, and democratic future.

(2) Through broad and open negotiations, the parties in South Africa have reached a landmark agreement on the future of their country. This agreement includes the establishment of a Transitional Executive Council and the setting of a date for nonracial elections.

(3) The international community has a vital interest in supporting the transition from apartheid toward nonracial democracy.

(4) The success of the transition in South Africa is crucial to the stability and economic development of the southern African region.

(5) Nelson Mandela of the African National Congress and other representative leaders in South Africa have declared that the time has come when the international community should lift all economic sanctions against South Africa.

(6) In light of recent developments, the continuation of these economic sanctions is detrimental to persons disadvantaged by apartheid.

(7) Those calling for the lifting of economic sanctions against South Africa have made clear that they do not seek the immediate termination of the United Nations-sponsored special sanctions relating to arms transfers, nuclear cooperation, and exports of oil. The Ad Hoc Committee on Southern Africa of the Organization of African Unity, for example, has urged that the oil embargo established pursuant to a 1986 General Assembly resolution be lifted after the establishment and commencement of the work of the Transitional Executive Council.

SEC. 3. UNITED STATES POLICY.

It is the sense of the Congress that—

(1) the United States should—

(A) strongly support the Transitional Executive Council in South Africa,

(B) encourage rapid progress toward the establishment of a nonracial democratic government in South Africa, and

(C) support a consolidation of democracy in South Africa through democratic elections for an interim government and a new nonracial constitution;

(2) the United States should continue to provide assistance to support the transition to a nonracial democracy in South Africa, and should urge international financial institutions and other donors to also provide such assistance;

(3) to the maximum extent practicable, the United States should consult closely with international financial institutions, other donors, and South African entities on a coordinated strategy to support the transition to a nonracial democracy in South Africa;

(4) in order to provide ownership and managerial opportunities, professional advancement, training, and employment for disadvantaged South Africans and to respond to the historical inequities created under apartheid, the United States should—

(A) promote the expansion of private enterprise and free markets in South Africa,

(B) encourage the South African private sector to take a special responsibility and interest in providing such opportunities, advancement, training, and employment for disadvantaged South Africans,

(C) encourage United States private sector investment in and trade with South Africa,

(D) urge United States investors to develop a working partnership with representative organs of South African civil society, particularly churches and trade unions, in promoting responsible codes of corporate conduct and other measures to address the historical inequities created under apartheid;

(5) the United States should urge the Government of South Africa to liberalize its trade and investment policies to facilitate the expansion of the economy, and to shift resources to meet the needs of disadvantaged South Africans;

(6) the United States should promote cooperation between South Africa and other countries in the region to foster regional stability and economic growth; and

(7) The United States should demonstrate its support for an expedited transition to, and should adopt a long term policy beneficial to the establishment and perpetuation of, a nonracial democracy in South Africa.

SEC. 4. REPEAL OF APARTHEID SANCTIONS LAWS AND OTHER MEASURES DIRECTED AT SOUTH AFRICA.

(a) COMPREHENSIVE ANTI-APARTHEID ACT.—

(1) IN GENERAL.—All provisions of the Comprehensive Anti-Apartheid Act of 1986 (22

U.S.C. 5001 and following) are repealed as of the date of enactment of this Act, except for the sections specified in paragraph (2).

(2) EFFECTIVE DATE OF REPEAL OF CODE OF CONDUCT REQUIREMENTS.—Sections 1, 3, 203(a), 203(b), 205, 207, 208, 601, 603, and 604 of the Comprehensive Anti-Apartheid Act of 1986 are repealed as of the date on which the President certifies to the Congress that an interim government, elected on a nonracial basis through free and fair elections, has taken office in South Africa.

(3) CONFORMING AMENDMENTS.—(A) Section 3 of the Comprehensive Anti-Apartheid Act of 1986 is amended by striking paragraphs (2) through (4) and paragraphs (7) through (9), by inserting "and" at the end of paragraph (5), and by striking "; and" at the end of paragraph (6) and inserting a period.

(B) The following provisions of the Foreign Assistance Act of 1961 that were enacted by the Comprehensive Anti-Apartheid Act of 1986 are repealed: subsections (e)(2), (f), and (g) of section 116 (22 U.S.C. 2151n); section 117 (22 U.S.C. 2151o), relating to assistance for disadvantaged South Africans; and section 535 (22 U.S.C. 2346d). Section 116(e)(1) of the Foreign Assistance Act of 1961 is amended by striking "(1)".

(b) OTHER PROVISIONS.—The following provisions are repealed or amended as follows:

(1) Subsections (c) and (d) of section 802 of the International Security and Development Cooperation Act of 1985 (99 Stat. 261) is repealed.

(2) Section 211 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (99 Stat. 432) is repealed, and section 1(b) of that Act is amended by the striking the item in the table of contents relating to section 211.

(3) Sections 1223 and 1224 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (101 Stat. 1415) is repealed, and section 1(b) of that Act is amended by striking the items in the table of contents relating to sections 1223 and 1224.

(4) Section 362 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (105 Stat. 716) is repealed, and section 2 of that Act is amended by striking the item in the table of contents relating to section 362.

(5) Section 2(b)(9) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(9)) is repealed.

(6) Section 43 of the Bretton Woods Agreements Act (22 U.S.C. 286aa) is amended by repealing subsection (b) and by striking "(a)".

(7) Section 330 of H.R. 5205 of the 99th Congress (Department of Transportation and Related Agencies Appropriations Act, 1987) (22 U.S.C. 5056a) as incorporated by reference in section 101(l) of Public Law 99–500 and Public Law 99–591, and made effective as if enacted into law by section 106 of Public Law 100–202, is repealed.

(8)(A) Section 901(j)(2)(C) of the Internal Revenue Code of 1986 (26 U.S.C. 901(j)(2)(C) is repealed.

(B) Subparagraph (A) shall not be construed as affecting any of the transitional rules contained in Revenue Ruling 92–62 which apply by reason of the termination of the period for which section 901(j) of the Internal Revenue Code of 1986 was applicable to South Africa.

(9) The table in section 502(b) of the Trade Act of 1974 (19 U.S.C. 2462(b)) is amended by striking "Republic of South Africa".

(10) The undesignated paragraph entitled "STATE AND LOCAL ANTI-APARTHEID POLICIES" in chapter IX of the Dire Emergency Supplemental Appropriations and Transfers, Urgent Supplementals, and Correcting Enrollment Errors Act of 1989 (22 U.S.C. 5117) is repealed.

(11) Section 210 of the Urgent Supplemental Appropriations Act, 1986 (100 Stat. 749) is repealed.

(c) SANCTIONS MEASURES ADOPTED BY STATE OR LOCAL GOVERNMENTS OR PRIVATE ENTITIES.—The Congress urges all State or local governments and all private entities in the United States that have adopted any restriction on economic interactions with South Africa, or any policy discouraging such interaction, to rescind such restriction or policy.

(d) CONTINUATION OF UN SPECIAL SANCTIONS.—It is the sense of the Congress that the United States should continue to respect United Nations Security Council resolutions on South Africa, including the resolution providing for a mandatory embargo on arms sales to South Africa and the resolutions relating to the import of arms, restricting exports to the South African military and police, and urging states to refrain from nuclear cooperation that would contribute to the manufacture and development by South Africa of nuclear weapons or nuclear devices.

SEC. 5. UNITED STATES ASSISTANCE FOR THE TRANSITION TO A NONRACIAL DEMOCRACY.

(a) IN GENERAL.—The President is authorized and encouraged to provide assistance under chapter 10 of part I of the Foreign Assistance Act of 1961 (relating to the Development Fund for Africa) or chapter 4 of part II of the Act (relating to the Economic Support Fund) to support the transition to nonracial democracy in South Africa. Such assistance shall—

(1) focus on building the capacity of disadvantaged South Africans to take their rightful place in the political, social, and economic systems of their country;

(2) give priority to working with and through South African nongovernmental organizations whose leadership and staff represent the majority population and which have the support of the disadvantaged communities being served by such organizations;

(3) in the case of education programs—

(A) be used to increase the capacity of South African institutions to better serve the needs of individuals disadvantaged by apartheid;

(B) emphasize education with South Africa to the extent the assistance takes the form of scholarships for disadvantaged South African students; and

(C) fund nontraditional training activities;

(4) support activities to prepare South Africa for elections, including voter and civic education programs, political party building, and technical electoral assistance;

(5) support activities and entities, such as the Peace Accord structures, which are working to end the violence in South Africa; and

(6) support activities to promote human rights, democratization, and a civil society.

(b) GOVERNMENT OF SOUTH AFRICA.—

(1) LIMITATION ON ASSISTANCE.—Except as provided in paragraph (2), assistance provided in accordance with this section may not be made available to the Government of South Africa, or organizations financed and substantially controlled by that government, unless the President certifies to the Congress that an interim government that was elected on a nonracial basis through free and fair elections has taken office in South Africa.

(2) EXCEPTIONS.—Notwithstanding paragraph (1), assistance may be provided for—

(A) the Transitional Executive Council;

(B) South African higher education institutions, particularly those traditionally disadvantaged by apartheid policies; and

(C) any other organization, entity, or activity if the President determines that the assistance would promote the transition to nonracial democracy in South Africa.

Any determination under subparagraph (C) should be based on consultations with South African individuals and organizations representative of the majority population in South Africa (particularly consultations through the Transitional Executive Council) and consultations with the appropriate congressional committees.

SEC. 6. UNITED STATES INVESTMENT AND TRADE.

(a) TAX TREATY.—The President should begin immediately to negotiate a tax treaty with South Africa to facilitate United States investment in that country.

(b) OPIC.—The President should immediately initiate negotiations with the Government of South Africa for an agreement authorizing the Overseas Private Investment Corporation to carry out programs with respect to South Africa in order to expand United States investment in that country.

(c) TRADE AND DEVELOPMENT AGENCY.—In carrying out section 661 of the Foreign Assistance Act of 1961, the Director of the Trade and Development Agency should provide additional funds for activities related to projects in South Africa.

(d) EXPORT-IMPORT BANK.—The Export-Import Bank of the United States should expand it activities in connection with exports to South Africa.

(e) PROMOTING DISADVANTAGED ENTERPRISES.—

(1) INVESTMENT AND TRADE PROGRAMS.—Each of the agencies referred to in subsection (b) through (d) should take active steps to encourage the use of its programs to promote business enterprises in South Africa that are majority-owned by South Africans disadvantaged by apartheid.

(2) UNITED STATES GOVERNMENT PROCUREMENT.—To the extent not inconsistent with the obligations of the United States under any international agreement, the Secretary of State and the head of any other department or agency of the United States carrying out activities in South Africa shall, to the maximum extent practicable, in procuring goods or services, make affirmative efforts to assist business enterprises having more than 50 percent beneficial ownership by South African blacks or other nonwhite South Africans, notwithstanding any law relating to the making or performance of, or the expenditure of funds for, United States Government contracts.

SEC. 7. INFORMATION AND EDUCATIONAL EXCHANGE PROGRAMS.

The Director of the United States Information Agency should use the authorities of the United States Information and Educational Exchange Act of 1948 to promote the development of a nonracial democracy in South Africa.

SEC. 8. OTHER COOPERATIVE AGREEMENTS.

In addition to the actions specified in the preceding sections of this Act, the President should seek to conclude cooperative agreements with South Africa on a range of issues, including cultural and scientific issues.

SEC. 9. INTERNATIONAL FINANCIAL INSTITUTIONS AND OTHER DONORS.

(a) IN GENERAL.—The President should encourage other donors, particularly Japan and the European Community countries, to expand their activities in support of the transition to nonracial democracy in South Africa.

(b) INTERNATIONAL FINANCIAL INSTITUTIONS.—The Secretary of the Treasury should instruct the United States Executive

Director of each relevant international financial institution, including the International Bank for Reconstruction and Development and the International Development Association, to urge that institution to initiate or expand its lending and other financial assistance activities to South Africa in order to support the transition to nonracial democracy in South Africa.

SEC. 10. CONSULTATION WITH SOUTH AFRICANS.

In carrying out this Act, the President should consult closely with South African individuals and organizations representative of the majority population in South Africa (particularly consultations through the Transitional Executive Council) and others committed to abolishing the remnants of apartheid.

The SPEAKER pro tempore. The gentleman from Florida [Mr. JOHNSTON] is recognized for 1 hour.

Mr. JOHNSTON of Florida. Mr. Speaker, I yield 30 minutes to the gentleman from New York [Mr. GILMAN], pending which I yield myself such time as I may consume.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. JOHNSTON OF FLORIDA

Mr. JOHNSTON of Florida. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. JOHNSTON of Florida:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "South African Democratic Transition Support Act of 1993".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) After decades of apartheid, South Africa has entered a new era which presents a historic opportunity for a transition to a peaceful, stable, and democratic future.

(2) The United States policy of economic sanctions toward the apartheid government of South Africa, as expressed in the Comprehensive Anti-Apartheid Act of 1986, helped bring about reforms in that system of government and has facilitated the establishment of a nonracial government.

(3) Through broad and open negotiations, the parties in South Africa have reached a landmark agreement on the future of their country. This agreement includes the establishment of a Transitional Executive Council and the setting of a date for nonracial elections.

(4) The international community has a vital interest in supporting the transition from apartheid toward nonracial democracy.

(5) The success of the transition in South Africa is crucial to the stability and economic development of the southern African region.

(6) Nelson Mandela of the African National Congress and other representative leaders in South Africa have declared that the time has come when the international community should lift all economic sanctions against South Africa.

(7) In light of recent developments, the continuation of these economic sanctions is detrimental to persons disadvantaged by apartheid.

(8) Those calling for the lifting of economic sanctions against South Africa have made clear that they do not seek the immediate termination of the United Nation-sponsored special sanctions relating to arms transfers, nuclear cooperation, and exports of oil. The Ad Hoc Committee on South Africa of the Organization of African Unity, for example, has urge that the oil embargo established pursuant to a 1986 General Assembly resolution be lifted after the establishment and commencement of the work of the Transitional Executive Council.

SEC. 3. UNITED STATES POLICY.

It is the sense of the Congress that—

(1) the United States should—

(A) strongly supported the Transitional Executive Council in South Africa,

(B) encourage rapid progress toward the establishment of a nonracial democratic government in South Africa, and

(C) support a consolidation of democracy in South Africa through democratic elections for an interim government and a new nonracial constitution;

(2) the United States should continue to provide assistance to support the transition to a nonracial democracy in South Africa, and should urge international financial institutions and other donors to also provide such assistance;

(3) to the maximum extent practicable, the United States should consult closely with international financial institutions, other donors, and South African entities on a coordinated strategy to support the transition to a nonracial democracy in South Africa;

(4) in order to provide ownership and management opportunities, professional advancement, training, and employment for disadvantaged South Africans and to respond to the historical inequities created under apartheid, the United States should—

(A) promote the expansion of private enterprise and free markets in South Africa,

(B) encourage the South African private sector to take a special responsibility and interest in providing such opportunities, advancement, training, and employment for disadvantaged South Africans,

(C) encourage United States private sector investment in and trade with South Africa,

(D) urge United States investors to develop a working partnership with respsentative organs of South African civil society, particularly churches and trade unions, in promoting responsible codes of corporate conduct and other measures to address the historical inequities created under apartheid.

(5) the United States should urge the Government of South Africa to liberalize its trade and investment policies to facilitate the expansion of the economy, and to shift resources to meet the needs of disadvantaged South Africans;

(6) the United States should promote cooperation between South Africa and other countries in the region to foster regional stability and economic growth; and

(7) the United States should demonstrate its support for an expedited transition to, and should adopt a long term policy beneficial to the establishment and perpetuation of, a nonracial democracy in South Africa.

SEC. 4. REPEAL OF APARTHEID SANCTIONS LAWS AND OTHER MEASURES DIRECTED AT SOUTH AFRICA.

(a) COMPREHENSIVE ANTI-APARTHEID ACT.—

(1) IN GENERAL.—All provisions of the Comprehensive Anti-Apartheid Act of 1986 (22 U.S.C. 5001 and following) are repealed as of the date of enactment of this Act, except for the sections specified in paragraph (2).

(2) EFFECTIVE DATE OF REPEAL OF CODE OF CONDUCT REQUIREMENTS.—Sections 1, 3, 203(a), 203(b), 205, 207, 208, 601, 603, and 604 of the Comprehensive Anti-Apartheid Act of 1986 are repealed as of the date on which the President certifies to the Congress that an interim government, elected on a nonracial basis through free and fair elections, has taken office in South Africa.

(3) CONFORMING AMENDMENTS.—(A) Section 3 of the Comprehensive Anti-Apartheid Act of 1986 is amended by striking paragraphs (2) through (4) and paragraphs (7) through (9), by inserting "and" at the end of paragraph (5), and by striking "; and" at the end of paragraph (6) and inserting a period.

(B) The following provisions of the Foreign Assistance Act of 1961 that were enacted by the Comprehensive Anti-Apartheid Act of 1986 are repealed: subsections (e)(2), (f), and (g) of section 116 (22 U.S.C. 2151n); section 117 (22 U.S.C. 2151o), relating to assistance for disadvantaged South Africans; and section 535 (22 U.S.C. 2346d). Section 116(e)(1) of the Foreign Assistance Act of 1961 is amended by striking "(1)".

(b) OTHER PROVISIONS.—The following provisions are repealed or amended as follows:

(1) Subsections (c) and (d) of section 802 of the International Security and Development Cooperation Act of 1985 (99 Stat. 261) is repealed.

(2) Section 211 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (99 Stat. 432) is repealed, and section 1(b) of that Act is amended by striking the item in the table of contents relating to section 211.

(3) Sections 1223 and 1224 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (101 Stat. 1415) is repealed, and section 1(b) of that Act is amended by striking the items in the table of contents relating to sections 1223 and 1224.

(4) Section 362 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (105 Stat. 716) is repealed, and section 2 of that Act is amended by striking the item in the table of contents relating to section 362.

(5) Section 2(b)(9) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(9)) is repealed.

(6) Section 43 of the Bretton Woods Agreements Act (22 U.S.C. 286aa) is amended by repealing subsection (b) and by striking "(a)".

(7) Section 330 of H.R. 5205 of the 99th Congress (Department of Transportation and Related Agencies Appropriations Act, 1987) (22 U.S.C. 5056a) as incorporated by reference in section 101(l) of Public Law 99-500 and Public Law 99-591, and made effective as if enacted into law by section 106 of Public Law 100-202, is repealed.

(8)(A) Section 901(j)(2)(C) of the Internal Revenue Code of 1986 (26 U.S.C. 901(j)(2)(C)) is repealed.

(B) Subparagraph (A) shall not be construed as affecting any of the transitional rules contained in Revenue Ruling 92-62 which apply by reason of the termination of the period for which section 901(j) of the Internal Revenue Code of 1986 was applicable to South Africa.

(9) The table in section 502(b) of the Trade Act of 1974 (19 U.S.C. 2462(b)) is amended by striking "Republic of South Africa".

(c) SANCTIONS MEASURES ADOPTED BY STATE OR LOCAL GOVERNMENTS OR PRIVATE ENTITIES.—

(1) POLICY REGARDING RESCISSION.—The Congress urges all State or local governments and all private entities in the United States that have adopted any restriction on economic interactions with South Africa, or any policy discouraging such interaction, to rescind such restriction or policy.

(2) REPEAL OF PROVISIONS RELATING TO WITHHOLDING FEDERAL FUNDS.—Effective October 1, 1995, the following provisions are repealed:

(A) The undesignated paragraph entitled "STATE AND LOCAL ANTI-APARTHEID POLICIES" in chapter IX of the Dire Emergency Supplemental Appropriations and Transfers, Urgent Supplementals, and Correcting Enrollment Errors Act of 1989 (22 U.S.C. 5117).

(B) Section 210 of the Urgent Supplemental Appropriations Act, 1986 (100 Stat. 749).

(d) Continuation of UN Special Sanctions.—It is the sense of the Congress that the United States should continue to respect United Nations Security Council resolutions on South Africa, including the resolution providing for a mandatory embargo on arms sales to South Africa and the resolutions relating to the import of arms, restricting exports to the South African military and police, and urging states to refrain from nuclear co-operation that would contribute to the manufacture and development by South Africa of nuclear weapons or nuclear devices.

SEC. 5. UNITED STATES ASSISTANCE FOR THE TRANSITION TO A NONRACIAL DEMOCRACY.

(a) In General.—The President is authorized and encouraged to provide assistance under chapter 10 of part I of the Foreign Assistance Act of 1961 (relating to the Development Fund for Africa) or chapter 4 of part II of that Act (relating to the Economic Support Fund) to support the transition to nonracial democracy in South Africa. Such assistance shall—

(1) focus on building the capacity of disadvantaged South Africans to take their rightful place in the political, social, and economic systems of their country;

(2) give priority to working with and through South African nongovernmental organizations whose leadership and staff represent the majority population and which have the support of the disadvantaged communities being served by such organizations;

(3) in the case of education programs—

(A) be used to increase the capacity of South African institutions to better serve the needs of individuals disadvantaged by apartheid;

(B) emphasize education within South Africa to the extent that assistance takes the form of scholarships for disadvantaged South African students; and

(C) fund nontraditional training activities;

(4) support activities to prepare South Africa for elections, including voter and civic education programs, political party building, and technical electoral assistance;

(5) supper activities and entities, such as the Peace Accord structures, which are working to end the violence in South Africa; and

(6) support activities to promote human rights, democratization, and a civil society.

(b) Government of South Africa.—

(1) Limitation on assistance.—Except as provided in paragraph (2), assistance provided in accordance with this section may not be made available to the Government of South Africa, or organizations financed and substantially controlled by that government unless the President certifies to the Congress that an interim government that was elected on a nonracial basis through free and fair elections has taken office in South Africa.

(2) Exceptions.—Notwithstanding paragraph (1), assistance may be provided for—

(A) the Transitional Executive Council;

(B) South African higher education institutions, particularly those traditionally disadvantaged by apartheid policies; and

(C) any other organization, entity, or activity if the President determines that the assistance would promote the transition to nonracial democracy in South Africa. Any determination under subparagraph (C) should be based on consultations with South African individuals and organizations representative of the majority population in South Africa (particularly consultations through the Transitional Executive Council) and consultations with the appropriate congressional committees.

(c) Ineligible Organizations.—

(1) Acts of violence.—An organization that has engaged in armed struggle or other acts of violence shall not be eligible for assistance provided in accordance with this section unless that organization is committed to a suspension of violence in the context of progress toward nonracial democracy.

(2) Views inconsistent with democracy and free enterprise.—Assistance provided in accordance with this section may not be made available to any organization that has espoused views inconsistent with democracy and free enterprise unless such organization is engaged actively and positively in the process of transition to a nonracial democracy and such assistance would advance the United States objective of promoting democracy and free enterprise in South Africa.

SEC. 6. UNITED STATES INVESTMENT AND TRADE.

(a) Tax Treaty.—The President should begin immediately to negotiate a tax treaty with South Africa to facilitate United States investment in that country.

(b) OPIC.—The president should immediately initate negotiations with the Government of South Africa for an agreement authorizing the Overseas Private Investment Corporation to carry out programs with respect to South Africa in order to expand United States investment in that country.

(c) Trade and Development Agency.—In carrying out section 661 of the Foreign Assistance Act of 1961, the Director of the Trade and Development Agency should provide additional funds for activities related to projects in South Africa.

(d) Export-Import Bank.—The Export-Import Bank of the United States should expand its activities in connection with exports to South Africa.

(e) Promoting Disadvantaged Enterprises.—

(1) Investment and trade programs.—Each of the agencies referred to in subsections (b) through (d) should take active steps to encourage the use of its programs to promote business enterprises in South Africa that are majority-owned by South African disadvantaged by apartheid.

(2) United states government procurement.—To the extent not inconsistent with the obligations of the United States under any international agreement, the Secretary of State and the head of any other department or agency of the United States carrying out activities in South Africa shall, to the maximum extent practicable, in procuring goods or services, make affirmative efforts to assist business enterprises having more than 50 percent beneficial ownership by South African blacks or other nonwhite South Africans, notwithstanding any law relating to the making or performance of, or the expenditure of funds for, United states Government contracts.

SEC. 7. INFORMATION AND EDUCATIONAL EXCHANGE PROGRAMS.

The Director of the United States Information Agency should use the authorities of the United States Information and Educational Exchange Act of 1948 to promote the development of a nonracial democracy in South Africa.

SEC. 8. OTHER COOPERATIVE AGREEMENTS.

In addition to the actions specified in the preceding sections of this Act, the President should seek to conclude cooperative agreements with South Africa on a range of issues, including cultural and scientific issues.

SEC. 9. INTERNATIONAL FINANCIAL INSTITUTIONS AND OTHER DONORS.

(a) In General.—The President should encourage other donors, particularly Japan and the European Community countries, to expand their activities in support of the transition to nonracial democracy in South Africa.

(b) International Financial Institutions.—The Secretary of the Treasury should instruct the United States Executive Director of each relevant international financial institution, including the International Bank for Reconstruction and Development and the International Development Association, to urge that institution to initiate or expand its lending and other financial assistance activities to South Africa in order to support the transition to nonracial democracy in South Africa.

(c) Technical Assistance.—The Secretary of the Treasury should instruct the United States Executive Director of each relevant international financial institution to urge that institution to fund programs to initiate or expand technical assistance to South Africa for the purpose of training the people of South Africa in government management techniques.

SEC. 10. CONSULTATION WITH SOUTH AFRICANS.

In carrying out this Act, the President should consult closely with South African individuals and organizations representative of the majority population in South Africa (particularly consultations through the Transitional Executive Council) and others committed to abolishing the remnants of apartheid.

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Mr. JOHNSTON of Florida. Mr. Speaker, this morning I rise in support of legislation that is of paramount significance to a country that is one of the most important in Africa—South Africa. This bill, H.R. 3225 is also of great relevance to Americans, many of whom fought in the courageous antiapartheid movement here so that South Africans would achieve the universal aspirations of human rights and dignity which were proscribed by the racially-defined brutality of apartheid. H.R. 3225 the South African Democratic Transition Support Act of 1993 is symbolic of the end of these laudable struggles both the South Africa and the United States. Tremendous change is underfoot in South Africa, and this bill was introduced in recognition of this historic transition.

H.R. 3225 is directly responsive to statements by Nelson Mandela, President of the African National Congress and other representatives of the black majority in South Africa. The bill repeals the remaining economic sanctions that have been imposed on South Africa by the Comprehensive Anti-Apartheid Act of 1986. The bill will also set the parameters for future foreign aid to South Africa, underlining a strong U.S. commitment to and support for the on-going transition in South Africa as well as for the new postapartheid democracy. H.R. 3225 will also encourage investment and trade activities in South Africa with the support of international financial institutions. Just as important, the bill will urge State and local governments to repeal restrictions that have been imposed on economic interactions with South Africa.

Mr. Speaker, we have witnessed dramatic events in South Africa since Nelson Mandela's release from prison over 3½ years ago. Just this week, negotiators representing 21 different political parties agreed on an interim constitution. And soon, after more than 340 interminable years, black South Africans will be granted basic human and civil rights including the right to vote. Very few people would have predicted that this country, once an international pariah, would move from the dark ages to the 21st century in just 3 short years.

But while this transformation has been magnificent, it has also been very painful. About 15,000 people have died in political violence stemming from the trauma of the historic transition to a nonracial democracy. And the struggle is not over. Some reports indicate that future scenarios may be even bloodier as next year's April election approaches.

But as Mr. Mandela so eloquently stated, "the countdown to democracy has begun." And I firmly believe that despite perceived setbacks, this momentum will not be stopped. Furthermore, the United States has a responsibility to stand by South Africa as it prepares for its elections and the ultimate goal of a nonracial democratic government in a postapartheid era.

H.R. 3225 will do much to support the transition in South Africa by forging a renewed partnership between our two countries. I urge my colleagues to join Nelson Mandela, the Congressional Black Caucus, and members of the antiapartheid movement and support H.R. 3225.

Mr. Speaker, I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the South African Democratic Transition Support Act is part of our commitment to the people of South Africa. Our former imposition of sanctions expressed our belief that South African society must accept the equality of all its citizens, allow for their full participation in the political process, provide equal protection of the law, and permit equality of opportunity in the economic market place.

I believe South Africa has made fundamental and irreversible strides in achieving those objectives. An important milestone in that process will be the April elections, wherein, for the first time in South African history, all members of that society will have the opportunity to decide the direction of South Africa's future.

Frankly, there are many of us in this body who did not believe we would see such an event during our service in Congress. We knew that one day the equality of all South Africans would be achieved; but that this is happening on our watch makes the event all the more exciting, as well as making it all the more imperative that we act to support the democratic transition process.

Mr. Speaker, I want to commend my colleagues on the Foreign Affairs Committee for their long-term interest and involvement in the South Africa issue. I also want to express my gratitude to the committees with which we shared jurisdiction for promptly moving this important piece of legislation.

H.R. 3225 answers the pleas of all South Africans who want the democratic process in their country to succeed. South Africa's economic development and growth will help that country emerge from its legacy of racial separation and inequality. The United States has a continuing contribution to make to that process. This legislation places us on the right side of history in South Africa.

Accordingly I urge the adoption of H.R. 3225.

Mr. Speaker, I reserve the balance of my time.

Mr. JOHNSTON of Florida. Mr. Speaker, I yield 4 minutes to the gentleman from New Jersey [Mr. PAYNE], a distinguished member of the Subcommittee on Africa, who for the last 2 decades has worked very hard against apartheid in South Africa and was very instrumental in the sanctions being imposed in 1986.

Mr. PAYNE of New Jersey. Mr. Speaker, as a cosponsor of H.R. 3225 I proudly rise to support the passage of this bill which will lift most sanctions on South Africa.

This is indeed an historic occasion when a member of the Congressional Black Caucus, the same group, which under the leadership of Congressman RONALD DELLUMS was so instrumental in the passage of the Comprehensive Anti-Apartheid Act of 1986, which imposed sanctions, now along with other CBC colleagues I support their repeal.

Yes, history has been made in these 9 years since sanctions were imposed. History will record that sanctions do work when sufficient time is allowed for their effect to take course.

History will also record Nelson Mandela served 26 years in prison, never giving up his commitment to a nonracial society for South Africa. Many times he was offered release early if he would agree to renounce his ANC affiliation and not partake in political activity.

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Fortunately for the world, Nelson Mandela did not give in to these temptations. Upon his release, Mr. Mandela has provided a statesmanship like the world has seldom seen, perhaps only before with Mahatma Gandhi and Dr. Martin Luther King, a statesmanship that embraced reconciliation, and always appealing to the better instincts of human kind. In the 3 years since his release ANC President Nelson Mandela called for peace when numerous actions of the white government police were found in complicity for inciting black on black violence. And, yes, even when a white man assassinated ANC leader Chris Hani it was Nelson Mandela that held South Africa together.

This leadership has now brought about an accord just signed yesterday—Thursday—by President de Klerk and Mr. Mandela. The accord will extend the vote to South Africa's black majority for the first time in their 340-year history. The accord calls for a multiparty transitional government of national unity which will rule for 5 years. The Cabinet will reflect proportional strengths of all parties that win more than 5 percent of the total vote scheduled for April 27, 1994. This will assure a white minority voice in the government. The accord also provides a bill of rights that will give black South Africans constitutional protection from discrimination and provide equality before the law, and a process for the restitution of land for the disposed since 1913.

Mr. Speaker, I support the dropping of the sanctions specified in this bill because Nelson Mandela and ANC has made it clear that the transition to democracy will not work unless the economy receives an early boost. There are many of us who would have rather waited until the interim government was elected and in place. But yesterday's news of the signing of the accord reinforces Mr. Mandela's wish, and should give us the assurance that a positive gesture now may help to avoid the potential violence of right wing forces in both the white and black communities.

Mr. Speaker, I want to commend the gentleman from Florida [Mr. JOHNSTON], our esteemed chairman of the Subcommittee on Africa of the Committee on Foreign Affairs, for his hard work in bringing this bill to the floor. His commitment to his chairmanship on the Subcommittee on Africa has been appreciated, not only by members of the Congressional Black Caucus, but all Members of the House.

Several amendments were made in this bill to insure bipartisan support, as we have heard from the gentleman from New York [Mr. GILMAN], as well as an amendment by my colleague, the gentleman from Illinois [Mr. RUSH], from the Committee on Banking, Finance and Urban Affairs, to expand technical assistance to South Africa to further insure a growing economy.

Mr. Speaker, I urge all my colleagues on both sides of the aisle to support the courageous leadership of ANC President Nelson Mandela, and President de

Klerk, and vote yes on H.R. 3225 for a future nonracial society in South Africa.

Mr. GILMAN. Mr. Speaker, I am pleased to yield as much time as he may consume to the gentleman from Indiana [Mr. BURTON], the ranking member of the Subcommittee on Africa of the Committee on Foreign Affairs.

Mr. BURTON of Indiana. Mr. Speaker, I thank my colleague and friend, the gentleman from New York [Mr. GILMAN] for yielding this time to me.

Mr. Speaker, I am pleased to offer my full support for this very worthy legislation. The historic agreement announced in Johannesburg this week represents, we all hope, another step forward to democracy.

While the agreement holds great promise and contains many positive elements, there are some important constituencies that have been cut out of the process. Inkatha, a party that has the support of many of South Africa's Zulus, and other political groups have raised legitimate concerns regarding federalism, civil liberties, and other constitutional issues.

I fear that if these concerns are not taken into account, South Africa could descend into a bloody civil war, a development that would be a great tragedy for the southern part of the Continent.

Mr. Speaker, if the people of South Africa are to have any chance at all at a decent political and economic recovery, the remaining sanctions must be lifted.

Most of the international community has already moved to eliminate the restrictions on investment and commerce in South Africa. The zero-growth South African economy must be allowed to develop, for the sake of the citizens of South Africa, as well as those of the other nations on the Continent. It has long been recognized that South Africa has the potential to serve as a powerful engine of economic progress for the whole region.

The needs are many: In housing, in education, in health care, in job training. Black South Africans have suffered greatly because of apartheid, but also because of sanctions that created so much misery and deprivation. This is the very reason that I, and many others, including Helen Suzman, perhaps the greatest hero of the antiapartheid struggle, opposed the imposition of those sanctions.

Even the elimination of sanctions however, will not by itself insure a prosperous, stable, democratic future for the people of South Africa. Such a future will only come about if the democratically elected government in that country is truly committed to civil liberties, respect for private property and a free market, and human rights.

In all candor, Mr. Speaker, the track record of the African National Congress on this score is not a good one at all. If the ANC indeed wins the election next April, as is expected, we here in the United States Congress must make it clear to them that without a solid commitment to these principles, and without consistent adherence to them, they cannot count on our support or our assistance.

Mr. Speaker, when this legislation was marked up in the Foreign Affairs Committee, I offered an amendment to prohibit any United States assistance from going to the South African Communist Party. My amendment failed by one vote, on a party-line vote pretty much, and I have reason to believe that it would have passed overwhelmingly on the floor.

Some of my Democratic colleagues and members of the administration implored me to withdraw my amendment, contending that such controversy would be harmful to the negotiations process in South Africa. I agreed to withdraw my amendment in the interest of going forward with this crucial lifting of sanctions, which I do not want to hinder. In return for my agreement, I was assured by the State Department that there is no intention to give direct assistance to the South African Communist Party, and I received a letter from Secretary Christopher spelling out the conditions that would have to be met by the South African Communist Party, and other extremist groups before they would be eligible to benefit from United States assistance to the democratic transition in South Africa. I would like to read a portion of that letter and then enter it in total into the RECORD.

Secretary Christopher said:

> Our political and economic objectives, however, require us to impose two important conditions. First, assistance will only be available to organizations that are participating actively and positively in the process of transition to a nonracial democracy. Second, with respect to any group that has engaged in armed struggle or other acts of violence, we will only provide assistance if the group is committed to a suspension of violence. Unless these conditions are met, we will not make direct transfers of funds to such groups as the Pan Africanist Congress and the South African Communist Party.

I appreciate the Secretary sending that letter to me.

I also would hope that my colleagues would agree that any United States assistance to the South African Communist Party, an organization that espouses an evil, failed, and discredited philosophy that has caused untold suffering all over the world, would be completely repugnant to the vast majority of the American people.

And before I close, I would just like to correct a number of my colleagues who, at the full committee debate over this issue, made an extremely fallacious argument. They claimed that opposing assistance to the South African Communist Party was just like withholding support for Boris Yeltsin, because at one time in the past, he was a member of the Communist Party.

I think that is wrong. There is absolutely no parallel there. Boris Yeltsin renounced communism. His entire political existence is based on undoing the damage caused by 70 years of Communist oppression. On the other hand, Joe Slovo, Chris Hani, when he was alive, and other members of the South African Communist Party, still adhere to communism. They still believe it is valid, despite the tens of millions of people that were tortured and killed in its name, and despite the fact that its nonsensical economic ideas failed everywhere they were applied. That is the reason, Mr. Speaker, that I am so vehemently opposed to any U.S. taxpayers dollars going to that organization.

With that, Mr. Speaker, I wholeheartedly endorse this legislation. I commend my colleagues, the gentleman from Florida [Mr. JOHNSTON] and the gentleman from Indiana [Mr. HAMILTON] for their excellent work in bringing it to the floor, and I urge its unanimous adoption.

Mr. Speaker, I include the following material on this subject:

THE SECRETARY OF STATE,
Washington, DC, November 3, 1993.

Hon. DAN BURTON,
House of Representatives,
Washington, DC.

DEAR MR. BURTON: As South Africa moves towards the first nonracial elections in its history, the United States has a unique opportunity to promote the values of democracy and free enterprise for which we stand. H.R. 3225, a bill to support South Africa's transition to nonracial democracy, makes an important contribution to the formulation of U.S. policies during the transition period. The Administration is pleased with the spirit of cooperation in which the legislation has been approached in the House and the Senate by both majority and minority members. I appreciate your own efforts in this regard.

H.R. 3225 contains a road map for U.S. assistance to South Africa during the transition period leading to nonracial elections. One important provision authorizes assistance to "support activities to prepare South Africa for elections, including voter and civic education programs, political party building, and technical electoral assistance." In general, these programs aim to include as many as possible of those who have been denied participation in the political process under apartheid. Our political and economic objectives, however, require us to impose two important conditions. First, assistance will only be available to organizations that are participating actively and positively in the process of transition to a nonracial democracy. Second, with respect to any group that has engaged in armed struggle or other acts of violence, we will only provide assistance if the group is committed to a suspension of violence. Unless these conditions are met, we will not make direct transfers of funds to such groups as the Pan Africanist Congress and the South African Communist Party.

Sincerely,

WARREN CHRISTOPHER.

STATEMENT OF HON. DAN BURTON, NOVEMBER 18, 1993

Mr. Speaker, the agreement on the Constitution announced in Johannesburg by F.W. De Klerk and Nelson Mandela is a welcome historical development that we all hope represents a breakthrough on the road to democracy. The negotiators from the Government and the A.N.C. worked long and hard on this agreement and ought to be commended.

The agreement does indeed contain many positive elements, such as a Bill of Rights and other constitutional guarantees. Nevertheless, legitimate concerns have been expressed by the freedom alliance, a coalition of groups with important constituencies that was not a party to the constitutional agreement.

These important reservations, involving civil liberties, federalism, and judicial integrity should be taken into serious consideration by the negotiators, and by the new Government in South Africa, in order to insure freedom and justice for all people in South Africa, as well as long-term stability.

Unless these concerns are seriously addressed, I fear that the entire democratization process could unravel, and South Africa could be plunged into civil war.

I would like to commend to the attention of my colleagues a statement by the freedom alliance outlining their reservations as well as several articles relevant to the democracy-building process in South Africa.

FREEDOM ALLIANCE ANNOUNCES "BOTTOM-LINE" NEGOTIATING POSITION—REASONABLE DEMANDS FOCUS OF BILATERAL, MULTILATERAL TALKS

MMABATHO, BOPHUTHATSWANA, November 15, 1993.—At the conclusion of a two-day leadership summit in Bophuthatswana, the multipartisan and multiracial Freedom Alliance announced its "bottom-line" negotiating position in the constitutional talks scheduled to conclude this week in Johannesburg. The Freedom Alliance is made up of the Governments of Bophuthatswana, Ciskel, and Kwazulu; the Conservative Party and the Inkatha Freedom Party: and the Africaner Volksfront.

Freedom Alliance (FA) Chairman Rowan Cronje said in a prepared statement issued in advance of a Tuesday (November 16) meeting with South African government negotiators: "The Freedom Alliance has left no stone unturned in its quest to find a negotiated solution that will meet the legitimate aspirations of all the people of southern Africa."

Cronje stated four issues that the Freedom Alliance considers non-negotiable in the creation of a South African constitution that protects minority rights and individual liberty:

(1) "Our insistence is that the exclusive powers granted to regions should be clearly spelled out, enshrined, and protected in the draft constitution and be 'tamper proof.'"

(2) "The right of regions, entrenched in the constitution, to levy their own taxes and to raise additional funds autonomously," so that regional governments are not subject to abuse by a central government that controls the regional pursestrings.

(3) "it is imperative that states must have the power to adopt and amend their own constitutions, as long as this is consistent with the Bill of Rights and the main provisions of the national constitution."

(4) "The FA is of the view that if the Constitutional Court was seen by us to be satisfactorily impartial and free from political taint, we would feel more confident about making possible compromises, knowing that we would have recourse to an impartial court to protect us."

Cronje noted in his statement that the Freedom Alliance's strongly held position that the new South African constitution must guarantee a federal system of government is shared by other leading figures, including "some members of the South African Cabinet, the Nationally Party caucus, provincial administrations, as well as many top constitutional experts." He added that South Africa's largest newspaper, the Sunday Times, stated in a front-page story on November 14 that the South African government had capitulated to the African National Congress on key checks and balances in the new constitution and that the current constitutional proposals under consideration by the government and the ANC were "far from Federalism."

Cronje concluded by saying that "care must be taken that the negotiation process does not become a game in itself. The findings of theoretical and academic compromises," he said, "is not difficult at all. We wish to emphasize in the strongest terms, however, that the constitutional dispensation and other related issues will affect the quality of life, freedoms, and the rights of every man, woman, and child in southern Africa."

[From the (Alexandria) Metro Herald, July 23, 1993]

FEDERALISM AND SOUTH AFRICA: IS UNITED STATES POLICY CONFUSED?

(By Richard Sincere)

U.S. involvement in the negotiations for South Africa's constitutional future has been appropriately circumscribed. The U.S. government has kept at arms length from the negotiators, trying to deal with all the parties evenhandedly and without prejudice (although more weight has been given to the South African government and the African National Congress (ANC) than to other groups involved in the process). This does not mean, however, that U.S. diplomats have been silent. U.S. officials have felt free to comment about blockages in the process. Still, the U.S. government has made its views known on only one issue of substance: its support for federalism.

The question of whether South Africa will be a federal or unitary state has been of vital importance. In a country populated by many ethnic and cultural groups, the issue of local autonomy has long loomed large. Several major players on the South African scene have insisted that federalism be part of the negotiations or else. Several of these organizations have formed the Concerned South Africans Group (COSAG), which includes the Inkatha Freedom Party, led by Chief Mangosuthu Buthelezi; the Conservative Party; and the government of Bophuthatswana, a homeland granted independence from South Africa in 1977, which recognizes that reincorporation of Bophuthatswana into a larger South African state is inevitable—but wants that to occur on terms favorable to the Tswana people and their neighbors.

As anyone can see, the desire for local autonomy under a federal scheme has illustrated the cliche that "politics makes strange bedfellow," for COSAG consists of both white and black members who until a few years ago would have been at each others' throats.

The ANC, which expects to win next April's countrywide elections, has long advocated a unitary state, where power emanates from a central government to which local authorities must answer. In its view, under South Africa's "new dispensation," it is the ANC's turn to take a share of the patronage pie that has been controlled by Afrikaner-dominated governments for the past 45 years. This the ANC has been reluctant to include federalism in the current discussions—its leaders know that a decentralized, federal government will reduce the power and influence of the party that controls the central government.

To satisfy vocal critics of federalism within its own ranks, the ANC leadership has used the term "regionalism" as an alternative. Conceptually, federalism and regionalism are different in substance and effect. "Regionalism" is top-down government; "federalism" is bottom-up. Under a "regional" system, a country is divided up into "regions" for administrative reasons. Regional officials are appointed by, and answerable to, the central government. Some local governments may be elected but ultimately are responsible to the decisions of the central authority.

In a federal system, by contrast, states or provinces enjoy considerable autonomy and are substantially independent from the central government. Local and regional officials are selected by local voters from among themselves, not appointed by the country's president. Decisionmaking is in the hands of local governments and not dependent on the wishes of the central government. This is the system we have in the United States. It is also the system used, in an even looser form, by Switzerland (where the central government is quite weak in comparison to the cantons). States or provinces grant limited authority to the central government (say, in foreign affairs) rather than the other way around.

President Lucas Mangope of Bophuthatswana said in a recent speech: "We believe that in federalism we have the recipe for the only viable solution leading to a lasting and meaningful settlement of the problems of this region. A unitary state is the dream of the foolish, naive, and opportunistic."

To my dismay, a senior U.S. State Department official told me recently that the U.S. government is satisfied that all the parties there have accepted the idea of federalism, even if they use the term "regionalism," and that there is no conceptual difference between them. It worries me that U.S. government officials may think they are promoting a constitutional system while not understanding the system at all. To the extent that the U.S. government accepts "regionalism" and "federalism" as synonyms, it ill-serves both South Africans and Americans, because confusion in these concepts erodes the local autonomy and individual liberty federalism is designed to protect.

Unless federalism is seriously and substantively considered as the foundation of South Africa's new constitution, no other system can be made to work. And if U.S. diplomats cannot understand either the difference between regionalism and federalism or the deep-rooted concerns of federalism's advocates, its role in South Africa will be marginal. That will be no good for the future of U.S.-South African relations in a post-apartheid era.

[From Business Day, Sept. 17, 1993]

NP FAILS TO DELIVER ON PROMISES OF FEDERALISM

(By John Kane-Berman)

This column predicted in January that "negotiations in 1993 could well see a steady wilting away of the NP's short-lived flirtation with federalism". Three drafts of the transitional constitution later, federalism is far from being in place.

One reason for the NP's ineffectiveness in fighting for federalism is its own confusion. Last weekend Constitutional Development Minister Roelf Meyer was quoted as saying government wanted even greater regional powers to be entrenched, but Dawie de Villiers said there were very few powers that could be given exclusively to regions.

Meyer's statement that even greater powers must be given to regions implies that some great powers have been given to regions already. This is not so, because of the wide-ranging powers of override which the third draft of the interim constitution gives to central government even over issues misleadingly described in the document as "exclusive" to regions. The NP is now tabling fresh proposals about regions, but failure to deliver on its federal commitments has been a leitmotif of its performance so far.

One of the President's bottom lines in the white referendum in March last year was that regional and local government must have "maximum" powers. In October 1992 he said that agreement had to be reached on the "institution of strong regional governments with constitutionally entrenched authority, coupled with adequate sources of revenue and vested with wide and meaningful powers and functions".

In May this year we were told that excellent progress had been made in multiparty negotiations on the establishment of regional government and that "a regional dispensation which has the hallmarks of federalism is in sight".

Also in May, it was reported that the ANC had conceded that the central government would have overriding powers only in areas such as security and education policy. A month ago it was reported that the second draft of the constitution had spelt out the areas over which regional legislatures would have exclusive powers.

At the end of August, the President reiterated that federalism meant "a high degree of autonomy, reasonable sources of taxation, meaningful functions on a wide range of matters, exclusive powers in respect of certain functions" and the "security" that these things could not be taken away.

It is now 18 months since De Klerk's referendum statement about maximum powers for regions. Yet not only are there no exclusive regional powers in the transitional constitution, but no region may levy taxes without approval of the central government. It is difficult to see how such regions can be said to have "a high degree of autonomy".

As for the statement that powers given to regions may not be removed, certain safeguards are provided by the constitutional principles that will bind the elected constitutional assembly, but there is nothing to guarantee extensive or exclusive regional powers in the first place.

A fortnight ago Meyer told the NP's Free State congress that the negotiators were very close to an agreement over federalism that would fully satisfy the NP. He also told the congress that "we can even be naughty and say that on certain issues we achieved more than we set out to". Unnamed people described in a news report as "NP negotiators" were at the same time said to have complained that they could not disclose their "considerable successes" at the talks because they did not want to alert their opponents to their underlying "game plan".

These are puzzling statements. It is by no means clear any more who the NP's "opponents" are. If the NP has the Inkatha Freedom Party in mind, it is hard to believe that Inkatha is not alert to the game plan. Indeed, it would seem to be precisely because it objects to the game plan that it is boycotting the negotiations.

If the NP's "opponents" are the ANC, it is hard to believe anyone seriously thinks they can fool the ANC's negotiating team. After all, the ANC's chief negotiator Cyril Ramaphosa brings to the World Trade Centre years of negotiating experience as a mining trade unionist, whereas the NP brings four decades of experience in banning, detaining and house-arresting opponents, not negotiating with them.

In June, Olaus van Zyl said regarding losses of support by the NP that once the negotiations were over the party would be able to show its supporters "in chapter and verse" what victories had been achieved at the negotiating table. Must these "victories" be hidden in the meantime for fear of alerting anyone to the game plan? What reaction does the NP expect from the ANC and its supporters when they wake up?

Vague talk of success seems somehow to be obfuscating the NP's failure—so far at any rate—to secure the entrenchment of federalism promised in the referendum and repeatedly thereafter. No wonder, as the report said, "the result has been confusion among the NP faithful".

One of the most significant aspects of the entire process is the success with which negotiators at the World Trade Centre, and sections of the Press, have succeeded in creating the impression that federalism has been entrenched. Words such as "breakthrough" abound in newspaper headlines. But invariably, when agreements are studied, the supposed breakthroughs are accompanied by sheer fudge or enough small print to make them meaningless.

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Mr. GILMAN. Mr. Speaker, we have no further requests for time on this side, and I reserve the balance of my time.

Mr. JOHNSTON of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in closing I would like to thank the chairmen and ranking Republican members of the other committees to which this legislation was referred: The gentleman from Texas [Mr. GONZALEZ] and the gentleman from Iowa [Mr. LEACH] of the Committee on Banking, Finance and Urban Affairs, the gentleman from Illinois [Mr. ROSTENKOWSKI] and the gentleman from Texas [Mr. ARCHER] of the Committee on Ways and Means, and the gentleman from Michigan [Mr. DINGELL] and the gentleman from Pennsylvania [Mr. SHUSTER] from the Committee on Public Works and Transportation.

Mr. MFUME. Mr. Speaker, I rise today in strong support of H.R. 3225, which lifts the sanctions that currently exist against South Africa.

As my colleagues are no doubt aware, I have been a fierce and tireless supporter of the economic sanctions against South Africa. Local grants—college campuses. The sanctions were one way of protesting the racist policies of apartheid. At that time I felt, as I still do, that we as a nation cannot and should not condone racism in any form. At that time racism was the proper policy to pursue.

Things in South Africa have changed, however, for the better. Although black people in South Africa are still repressed by a number of legal, economic, and social elements there is hope.

Just yesterday the South African Multi Party talks were completed and, as a result, the nation is poised to receive a new constitution that will allow multiracial democracy to become the law of the land. Although the constitution has not yet been ratified by the Parliament and although the national elections are 5 months away, South Africa's current course is unmistakable.

As Nelson Mandela said at the completion of the negotiations on the constitution,

> We have reached the end of an era. We are at the beginning of a new era. Whereas apartheid deprived millions of people of their citizenship, we are restoring that citizenship. Whereas apartheid sought to fragment our country, we are reuniting our country.

Mr. Speaker, colleagues, the people of South Africa are to be congratulated on the progress they have made to date and they should be supported in their efforts.

As recently as last year sanctions were the correct policy for the United States. However, in light of the new era which the people of South Africa are embracing it is time to revisit and revise that policy. Just as we helped the indigenous people of South Africa obtain their fundamental rights as human beings we must now help all South Africans move forward toward economic and political stability.

It is time that we lift the sanctions. It is time that we let the people of South Africa know that we support their efforts to end the racism and the bloodshed.

As I said earlier, I realize that there are still a number of serious problems facing black South Africans. I am convinced, however, after discussing the matter with Nelson Mandela and others, that we will be in a better position to help the people of South Africa if the sanctions are eliminated.

Now that many of the political barriers to racial equality have been removed, I look forward to working with the people of South Africa as well as with my colleagues here in Congress and the administration to do what we can to see that black South Africans make gains in other areas as well.

Mr. Speaker, I support the bill and urge my colleagues to do so as well. American economic sanctions against South Africa played a vital role in bringing an end to apartheid, and I am proud to know that America contributed to bringing an end to this hateful policy. It is time, however, to change our policy to meet the new challenges that face South Africa. It is time to remove the sanctions.

Mr. HASTINGS. Mr. Speaker, I rise to express my strong support for H.R. 3225, legislation to support nonracial democracy in South Africa.

Apartheid and sanctions are the two major impediments toward a true democracy in South Africa. The South African Government has clearly made substantial progress toward abolishing apartheid. Now it is our turn to lift sanctions.

We must be a full partner in building democracy in South Africa. Not only is it important for the Clinton administration to work with Congress and antiapartheid groups to develop support measures, but it is imperative that the private sector invest in their future.

It is time for us all to join the inexorable march toward freedom and democracy in South Africa. Thus, I urge my colleagues to support H.R. 3225 and forge a peaceful transition from apartheid to a nonracial democracy in South Africa.

Mr. ROSTENKOWSKI. Mr. Speaker, H.R. 3225, as introduced by Congressman HARRY JOHNSTON, and as laid before the House for consideration today, contains a number of provisions that fall within the jurisdiction of the Committee on Ways and Means. In general, these provisions would repeal or amend, as of the date of enactment of H.R. 3225, many of the current statutory provisions that grant the authority for imposing sanctions against South Africa. Specifically, this bill would amend or repeal provisions in the Comprehensive Anti-Apartheid Act of 1986, the Trade Act of 1974, and the Internal Revenue Code.

Many of the provisions in U.S. law that H.R. 3225 would repeal or amend have already been terminated under Executive authority; so, for the most part, this bill, if enacted, would merely be clearing out deadwood from the United States Code.

That noted, I would add that H.R. 3225 does contain a number of revenue provisions. The members of the Committee on Ways and Means are reluctant to send this or any revenue measure to the Senate at this late point in the session. However, recognizing that the administration and the primary sponsors of this bill want to see it moved in its present form, that is, including the revenue provisions, before my committee took up H.R. 3225 for formal consideration, I spoke with Senator MITCHELL about the manner in which this bill would be processed in the other body. Senator MITCHELL gave me his commitment that he would not bring up H.R. 3225 for a vote on the Senate floor unless and until he had a unanimous-consent agreement stating that the members of the Senate would not amend this bill by attaching revenue provisions to it.

Based on this commitment, I support the passage of H.R. 3225 in the form under consideration in the House today.

Mr. MINETA. Mr. Speaker, I rise in support of H.R. 3225, the South African Democratic Transition Support Act of 1993, as amended.

Generally, the purpose of this bill is to set forth a framework to guide the efforts of the United States in helping to bring an end to apartheid in South Africa and establish a nonracial, democratic form of government. The bill sets out United States policy toward the Government of South Africa, the victims of apartheid, and the other States in southern Africa. It also provides the President with additional authority to work with other industrial democracies to help end apartheid and establish democracy in South Africa.

The bill was jointly referred to the Committees on Foreign Affairs, Banking, Finance and Urban Affairs, Ways and Means, and Public Works and Transportation. On October 26, the Public Works and Transportation Committee favorably reported the bill with an amendment.

H.R. 3225 contains three provisions that fall within the jurisdiction of the Public Works and Transportation Committee. Section 4(b)(7) repeals a law that prohibits landing rights for South African aircraft. Additionally, section 4(a), which repeals the Comprehensive Anti-Apartheid Act of 1986, also repeals some general prohibitions relating to landing rights for South African aircraft in the United States and reciprocal rights for United States aircraft in South Africa. In fact, we are simply repealing these laws because they no longer have any effect. On July 10, 1991, President Bush overturned several laws in Executive Order 12769, which repealed various sanctions against South Africa once certain criteria were met including reinstating landing rights, and South African airlines have been landing in the United States since 1991.

Section 4(c)(2)(A) repeals a law which permits States, and localities to enforce State or local antiapartheid policies prohibiting the procurement of products manufactured or fabricated in South Africa without affecting Federal transportation moneys.

Section 4(c)(2)(B) also repeals a law which protects New York City from possible Federal penalties to which it might otherwise be subject to due to contracting restrictions imposed by various city antiapartheid ordinances and policies.

My amendment that was adopted at full committee seeks to delay the timing of the repeal of sections 4(c)(2) (A) and (B) until the end of fiscal year 1995. This will allow the 179 non-Federal entities that maintain some type of restrictions on banking, investment, and procurement practices related to South Africa, time to repeal their own laws without the risk of losing any Federal transportation funds, and in the case of New York City, risk losing any Federal penalty or loss of any Federal funds. Since some non-Federal legislatures do not meet with frequency, they may have difficulty repealing their laws immediately.

It was the intent of the drafters of this bill to establish a new policy toward South Africa that supports the transition to a nonracial democracy in that country. It is in that context that it is no longer appropriate to provide special protection with respect to possible violations of Federal contracting procedures to States and localities with policies that discourage investment in South Africa.

Accordingly, the bill as amended by our Committee allows for the repeal of relevant Federal laws and implicitly encourages non-Federal entities to repeal their own relevant laws as soon as possible and, in doing so, gives them enough time to act so they are not exposed to the possibility of losing Federal funds.

Again, H.R. 3225 was formulated in response to the progress that has recently occurred in South Africa, particularly the fact that black South Africans for the first time will have a direct voice in governing their own country.

Mr. Speaker, with the action taken by the House today on this legislation, I am hopeful that these events will help put South Africa on a secure path toward nonracial democracy.

I urge adoption of H.R. 3225, as amended.

Mr. JOHNSTON of Florida. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GILMAN. Mr. Speaker, I, too, yield back the balance of my time.

Mr. JOHNSTON of Florida. Mr. Speaker, I move the previous question on the amendment and on the bill.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the amendment in the nature of a substitute offered by the gentleman from Florida [Mr. JOHNSTON].

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AGREEMENT BETWEEN THE UNITED STATES AND THE RUSSIAN FEDERATION AMENDING AND EXTENDING THE AGREEMENT ON MUTUAL FISHERIES RELATIONS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Merchant Marine and Fisheries and ordered to be printed:

To the Congress of the United States:

In accordance with the Magnuson Fishery Conservation and Management Act of 1976 (Public Law 94-265; 16 U.S.C. 1801 *et seq.*), I transmit herewith an Agreement Between the Government of the United States of America and the Government of the Russian Federation Amending and Extending the Agreement on Mutual Fisheries Relations of May 31, 1988. The agreement, which was effected by an exchange of notes at Washington on March 11 and September 15, 1993, extends the 1988 agreement through December 31, 1998. This agreement also amends the 1988 agreement by simplifying the provisions relating to the issuance of licenses by each Party to vessels of the other Party that wish to conduct operations in its 200-mile zone and by adding the requirement that the Parties exchange data relating to such fishing operations. The exchange of notes together with the present agreement constitute a governing international fishery agreement within the meaning of section 201(c) of the Act.

The agreement provides opportunities for nationals and vessels from each country to continue to conduct fisheries activities on a reciprocal basis in the other country's waters. The agreement also continues a framework for cooperation between the two countries on other fisheries issues of mutual concern. Since the 1988 agreement expired

October 28, 1993, and U.S. fishermen are conducting operations in Russian waters, I strongly recommend that the Congress consider issuance of a joint resolution to bring this agreement into force at an early date.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *November 19, 1993.*

ALLOWING GRANTS FOR DEVELOPING ALTERNATIVE METHODS OF PUNISHMENT FOR YOUNG OFFENDERS

Mr. GORDON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 314 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 314

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 3351) to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants for the purpose of developing alternative methods of punishment for young offenders to traditional forms of incarceration and probation. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and the amendments made in order by this resolution and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill, modified by the amendment printed in part 1 of the report of the Committee on Rules accompanying this resolution. The committee amendment in the nature of a substitute, as modified, shall be considered as read. No amendment to the committee amendment in the nature of a substitute, as modified, shall be in order except those printed in part 2 of the report of the Committee on Rules. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against the amendment numbered 5 in part 2 of the report are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Tennessee [Mr. GORDON] is recognized for 1 hour.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Florida [Mr. GOSS], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 314 provides for the consideration of H.R. 3351, the Alternative Punishments for Youthful Offenders Act.

The rule provides for 1 hour of general debate which is to be equally divided and controlled by the chairman and ranking minority member of the Judiciary Committee.

The rule makes in order the Judiciary Committee amendment in the nature of a substitute now printed in the bill, as modified by the amendment printed in part 1 of the report to accompany the rule, as an original bill for the purposes of amendment. The substitute, as modified, shall be considered as read.

House Resolution 314 makes in order only those amendments printed in part 2 of the report to accompany the rule, to be considered in the order and manner specified, with debate time also specified in the report. The amendments shall be considered as read, are not subject to amendment, and are not subject to a demand for a division of the question.

Finally, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, H.R. 3351 is a forward thinking response to the rehabilitation of young Americans who find themselves in trouble with the law. This legislation encourages State and local governments to examine alternatives to traditional incarceration and probation for youthful offenders. Among the numerous alternatives are: boot camps, work programs, educational and vocational training programs, and restitution.

I encourage my colleagues to read the committee report which accompanies H.R. 3351. I would like to highlight one of the committee's examples of how alternative punishment programs can and do work.

During the 102d Congress when the House first passed similar legislation, Derrick Thomas, a member of the Kansas City Chiefs football team, testified about how he benefited from an alternative punishment program in his youth.

Mr. Thomas testified that at the age of 14 he had been arrested on a burglary charge. A local judge ordered him to undergo training at a Florida marine institute where the instruction of seamanship and boating skills were used to build character. Derrick Thomas testified that he credited this program for redirecting his life.

I urge my colleagues to adopt this rule so that we can debate this important legislation.

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on November 3 this House bucked a leadership attempt to force quick passage of H.R. 3351 under the ultimate closed rule—the suspension of the rules process, which allows for no amendments and only limited debate. Given that signal—sent by nearly 200 Members of this House—I hoped the Rules Committee would allow this bill to come forward under an open rule. But today we have a restrictive rule that constrains Members' full participation. The honorable chairman of the Rules Committee, Mr. MOAKLEY, expressed his interest in making only those amendments in order that comply with the standing rules of this House. While that is a noble goal, it is unfortunately only upheld on certain bills, at certain times and for certain reasons. It is a seemingly arbitrary hit or miss formula. On its face, this bill sounds promising—it addresses alternate punishments for young offenders. We are all extremely troubled by the mounting incidence of violent crime involving our Nation's youth—and the tragic waste involved for victims, the criminals, and their families. Society loses several times over when a young person chooses crime. We need desperately to develop effective and creative means to combat juvenile crime. In my own area of southwest Florida, the boot camp concept is taking hold and the community is pulling together in an effort to help turn people around before it is too late. I strongly support these efforts. But, Mr. Speaker, in our zeal to pass look-good, feel-good anticrime legislation, we must be careful not to lose our perspective. In many instances young people are committing crimes—many repeatedly—because they believe the risk of serious punishment is relatively small. In the minds of many offenders old enough to know better, crime still does pay. That is why so many Members have voiced serious qualms about this bill—which opens the door for reduced sentences and more lenient penalties for criminals 22 years old and younger.

Mr. Speaker, in this country you are entrusted with the rights to vote and defend your country when you reach the age of 18. You are given the responsibility for driving a car in some States as early as the age of 15. To send the signal that people under the age of 22 will not be treated as adults when they commit a crime—especially a violent crime—is to further erode our effort to install individual accountability for one's actions. I am pleased that this House will have a chance to amend this measure to address this serious shortcoming.

Mr. Speaker, there is another very serious concern with this bill. As

Americans are demanding tough action to fight crime; as they are voting in record numbers in support of tough new anticrime measures; and as the other body is tackling this challenge head on—we in this House continue to hide behind paper tigers, small-time bills that will do little to address our big-time problems with crime.

We had an opportunity in the Rules Committee to make in order two extremely important—and relevant—amendments. But the Rules Committee has once again ignored the MCCOLLUM proposals, a comprehensive approach to fight crime through expanded use of the death penalty and other mandatory sentences, habeas corpus reform and changes in the exclusionary rule.

Perhaps more troubling is the decision by the majority to prohibit consideration of the Livingston "LIFER—3 strikes and you're out" legislation to lock up three-time repeat offenders and throw away the key. This measure has already passed the other body by an overwhelming majority and the voters of Washington State have made it their law.

Finally, we will not have a chance today to clarify our stance toward the reprehensible crime of child pornography—something the other body has already done by a unanimous vote. What is it going to take before this House will stand up to its responsibilities?

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Mr. Speaker, I urge a no vote on this rule, and I strenuously urge it. I would like to defeat this rule so that before we go home, we can go back to the drawing board and do a real crime bill, a crime bill that deals with the three strikes and you are out, the LIFER bill. One that deals with the death penalty and habeas corpus change. One that deals with the evidentiary rules change, the Regional Crime Prison Task Force ideas, the Crime Victims Fund, and the use of closed military bases, possibly. One that deals with public housing evictions related with youthful crime, and one that deals with pornography control.

Mr. Speaker, these are ideas whose time has come, but we are not going to take them up today, because the majority on the Committee on Rules said no. No, they are not germane. But they sure are relevant to life in America.

Mr. Speaker, I am going to urge the defeat of this rule so we can do our job properly.

Mr. Speaker, I include for the RECORD the following documents:

Rollcall Votes in the Rules Committee on Amendments to the Proposed Rule on H.R. 3351 Alternative Punishments for Young Offenders

1. Open rule—This amendment to the proposed rule provides for one-hour, open rule and makes the Judiciary Committee amendment in the nature of a substitute in order as an original bill for the purpose of amendment under the five-minute rule.

Vote (Defeated 2-6): Yeas—Quillen, Goss; Nays—Moakley, Beilenson, Frost, Hall, Gordon, Slaughter. Not voting: Derrick, Bonior, Wheat, Solomon, Dreier.

2. (en bloc)

McCollum (FL) #5—Requires the Attorney General to establish a Regional Prison Task Force to plan a nationwide regional prison system. Establishes a federal Regional Prison Fund consisting of appropriated funds—authorizes the fund through FY 2004 with $1 billion for each of FY 1994—FY 1996 criminal fines in the Crime Victims Fund above $150 million, and funds in the Justice Asset Forfeiture Fund after certain distributions. Sets eligibility requirements on States (including minimum mandatory sentences and pretrial detention).

McCollum (FL) #6—Adds the text of the Republican crime bill (H.R. 2782).

Regula (OH) #7—Grants authority to the Secretary of Defense to transfer part or all of military bases slated for closing and surplus military equipment to the States and localities for use as military-style boot camp prison facilities; Also authorizes the Secretary of Defense to detail members of the military to these camps to serve as instructors and advisers on a temporary and voluntary basis.

Livingston (LA) #12—Requires life imprisonment upon conviction of a third violent felony if the previous violent felonies were committed during at least two separate criminal episodes.

Machtley (RI) #14—Codifies the priority of the Rhode Island Claims Settlement Act over the Indian Gaming Regulatory Act. The Settlement Act establishes state and local jurisdiction over tribal lands of Rhode Island's Narragansett Indian Tribe. The Narragansett Indians are attempting to establish a high-stakes casino despite local opposition.

Machtley (RI) #16—Provides for expedited eviction procedures of federal public housing and section 8 assisted housing tenants engaged in firearm-related criminal activities. Prohibits for 3 years the granting of any public housing preference to former tenants evicted for firearm-related criminal activities.

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 58, Feb. 2, 1993	MC	H.R. 1: Family and medical leave	30 (D–5; R–25)	3 (D–0; R–3)	PQ: 246–176. A: 259–164. (Feb. 3, 1993).
H. Res. 59, Feb. 3, 1993	MC	H.R. 2: National Voter Registration Act	19 (D–1; R–18)	1 (D–0; R–1)	PQ: 248–171. A: 249–170. (Feb. 4, 1993).
H. Res. 103, Feb. 23, 1993	C	H.R. 920: Unemployment compensation	7 (D–2; R–5)	0 (D–0; R–0)	PQ: 243–172. A: 237–178. (Feb. 24, 1993).
H. Res. 106, Mar. 2, 1993	MC	H.R. 20: Hatch Act amendments	9 (D–1; R–8)	3 (D–0; R–3)	PQ: 248–166. A: 249–163. (Mar. 3, 1993).
H. Res. 119, Mar. 9, 1993	MC	H.R. 4: NIH Revitalization Act of 1993	13 (d–4; R–9)	8 (D–3; R–5)	PQ: 247–170. A: 248–170. (Mar. 10, 1993).
H. Res. 132, Mar. 17, 1993	MC	H.R. 1335: Emergency supplemental Appropriations	37 (D–8; R–29)	1(not submitted) (D–1; R–0)	A: 240–185. (Mar. 18, 1993).
H. Res. 133, Mar. 17, 1993	MC	H. Con. Res. 64: Budget resolution	14 (D–2; R–12)	4 (1-D not submitted) (D–2; R–2)	PQ: 250–172. A: 251–172. (Mar. 18, 1993).
H. Res. 138, Mar. 23, 1993	MC	H.R. 670: Family planning amendments	20 (D–8; R–12)	9 (D–4; R–5)	PQ: 252–164. A: 247–169. (Mar. 24, 1993).
H. Res. 147, Mar. 31, 1993	C	H.R. 1430: Increase Public debt limit	6 (D–1; R–5)	0 (D–0; R–0)	PQ: 244–168. A: 242–170. (Apr. 1, 1993).
H. Res. 149 Apr. 1, 1993	MC	H.R. 1578: Expedited Rescission Act of 1993	8 (D–1; R–7)	3 (D–1; R–2)	A: 212–208. (Apr. 28, 1993).
H. Res. 164, May 4, 1993	O	H.R. 820: Nate Competitiveness Act	NA	NA	A: Voice Vote. (May 5, 1993).
H. Res. 171, May 18, 1993	O	H.R. 873: Gallatin Range Act of 1993	NA	NA	A: Voice Vote. (May 20, 1993).
H. Res. 172, May 18, 1993	O	H.R. 1159: Passenger Vessel Safety Act	NA	NA	A: 308–0 (May 24, 1993).
H. Res. 173 May 18, 1993	MC	S.J. Res. 45: United States forces in Somalia	6 (D–1; R–5)	6 (D–1; R–5)	A: Voice Vote (May 20, 1993)
H. Res. 183, May 25, 1993	O	H.R. 2244: 2d supplemental appropriations	NA	NA	A: 251–174. (May 26, 1993).
H. Res. 186, May 27, 1993	MC	H.R. 2264: Omnibus budget reconciliation	51 (D–19; R–32)	8 (D–7; R–1)	PQ: 252–178. A: 236–194 (May 27, 1993).
H. Res. 192, June 9, 1993	MC	H.R. 2348: Legislative branch appropriations	50 (D–6; R–44)	6 (D–3; R–3)	PQ: 240–177. A: 226–185. (June 10, 1993).
H. Res. 193, June 10, 1993	O	H.R. 2200: NASA authorization	NA	NA	A: Voice Vote. (June 14, 1993).
H. Res. 195, June 14, 1993	MC	H.R. 5: Striker replacement	7 (D–4; R–3)	2 (D–1; R–1)	A: 244–176.. (June 15, 1993).
H. Res. 197, June 15, 1993	MO	H.R. 2333: State Department. H.R. 2404: Foreign aid	53 (D–20; R–33)	27 (D–12; R–15)	A: 294–129. (June 16, 1993).

Vote (Defeated 2-6): Yeas—Quillen, Goss; Nays—Moakley, Beilenson, Frost, Hall, Gordon, Slaughter. Not voting: Derrick, Bonior, Wheat, Solomon, Dreier.

3. Smith (NJ) #21—Expresses the Sense of the Congress that child pornography is a crime deserving full prosecution under the federal child pornography statute (U.S.C. sec. 2256) and the Justice Department misinterprets this statute in *Knox* v. *U.S.*, 977 F. 2d 815, at 820–823, (3rd Cir., 1992).

Vote (Defeated 3-5): Yeas—Quillen, Goss, Hall; Nays—Moakley, Beilenson, Frost, Gordon, Slaughter. Not voting: Derrick, Bonior, Wheat, Solomon, Dreier.

4. Adoption of rule—

Vote (Adopted 6-2): Yeas—Moakley, Beilenson, Frost, Hall, Gordon, Slaughter. Nays—Quillen, Goss. Not voting: Derrick, Bonior, Wheat, Solomon, Dreier.

OPEN VERSUS RESTRICTIVE RULES 95TH–103D CONG.

Congress (years)	Total rules granted[1]	Open rules		Restrictive rules	
		Number	Percent[2]	Number	Percent[3]
95th (1977–78)	211	179	85	32	15
96th (1979–80)	214	161	75	53	25
97th (1981–82)	120	90	75	30	25
98th (1983–84)	155	105	68	50	32
99th (1985–86)	115	65	57	50	43
100th (1987–88)	123	66	54	57	46
101st (1989–90)	104	47	45	57	55
102d (1991–92)	109	37	34	72	66
103d (1993–94)	50	12	24	38	76

[1] Total rules counted are all order of business resolutions reported from the Rules Committee which provide for the initial consideration of legislation, except rules on appropriations bills which only waive points of order. Original jurisdiction measures reported as privileged are also not counted.

[2] Open rules are those which permit any Member to offer any germane amendment to a measure so long as it is otherwise in compliance with the rules of the House. The parenthetical percentages are open rules as a percent of total rules granted.

[3] Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules, as well as completely closed rule, and rules providing for consideration in the House as opposed to the Committee of the Whole. The parenthetical percentages are restrictive rules as a percent of total rules granted.

Sources: "Rules Committee Calendars & Surveys of Activities," 95th–102d Cong.; "Notices of Action Taken," Committee on Rules, 103d Cong., through Nov. 17, 1993.

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.—Continued

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 199, June 16, 1993	C	H.R. 1876: Ext. of "Fast Track"	NA	NA	A: Voice Vote. (June 22, 1993).
H. Res. 200, June 16, 1993	MC	H.R. 2295: Foreign operations appropriations	33 (D–11; R–22)	5 (D–1; R–4)	A: 263–160. (June 17, 1993).
H. Res. 201, June 17, 1993	O	H.R. 2403: Treasury-postal appropriations	NA	NA	A: Voice Vote. (June 17, 1993).
H. Res. 203, June 22, 1993	MO	H.R. 2445: Energy and Water appropriations	NA	NA	A: Voice Vote. (June 23, 1993).
H. Res. 206, June 23, 1993	O	H.R. 2150: Coast Guard authorization	NA	NA	A: 401–0. (July 30, 1993).
H. Res. 217, July 14, 1993	MO	H.R. 2010: National Service Trust Act	NA	NA	A: 261–164. (July 21, 1993).
H. Res. 218, July 20, 1993	O	H.R. 2530: BLM authorization, fiscal year 1994–95	NA	NA	
H. Res. 220, July 21, 1993	MC	H.R. 2667: Disaster assistance supplemental	14 (D–8; R–6)	2 (D–2; R–0)	PQ: 245–178. F: 205–216. (July 22, 1993).
H. Res. 226, July 23, 1993	MC	H.R. 2667: Disaster assistance supplemental	15 (D–8; R–7)	2 (D–2; R–0)	A: 224–205. (July 27, 1993).
H. Res. 229, July 28, 1993	MO	H.R. 2330: Intelligence Authority Act, fiscal year 1994	NA	NA	A: Voice Vote. (Aug. 3, 1993).
H. Res. 230, July 28, 1993	O	H.R. 1964: Maritime Administration authority	NA	NA	A: Voice Vote. (July 29, 1993).
H. Res. 246, Aug. 6, 1993	MO	H.R. 2401: National Defense authority	149 (D–109; R–40)		A: 246–172. (Sept. 8, 1993).
H. Res. 248, Sept. 9, 1993	MO	H.R. 2401: National defense authorization			PQ: 237–169. A: 234–169. (Sept. 13, 1993).
H. Res. 250, Sept. 13, 1993	MC	H.R. 1340: RTC Completion Act	12 (D–3; R–9)	1 (D–1; R–0)	A: 213–191–1. (Sept. 14, 1993).
H. Res. 254, Sept. 22, 1993	MO	H.R. 2401: National Defense authorization		91 (D–67; R–24)	A: 241–182. (Sept. 28, 1993).
H. Res. 262, Sept. 28, 1993	O	H.R. 1845: National Biological Survey Act	NA	NA	A: 238–188 (10/06/93).
H. Res. 264, Sept. 28, 1993	MC	H.R. 2351: Arts, humanities, museums	7 (D–0; R–7)	3 (D–0; R–3)	PQ: 240–185. A: 225–195. (Oct. 14, 1993).
H. Res. 265, Sept. 29, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	A: 239–150. (Oct. 15, 1993).
H. Res. 269, Oct. 6, 1993	MO	H.R. 2739: Aviation infrastructure investment	N/A	N/A	A: Voice Vote. (Oct. 7, 1993).
H. Res. 273, Oct. 12, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	PQ: 235–187. F: 149–254. (Oct. 14, 1993).
H. Res. 274, Oct. 12, 1993	MC	H.R. 1804: Goals 2000 Educate America Act	15 (D–7; R–7; I–1)	10 (D–7; R–3)	A: Voice Vote. (Oct. 13, 1993).
H. Res. 282, Oct. 20, 1993	C	H.J. Res. 281: Continuing appropriations through Oct. 28, 1993	N/A	N/A	A: Voice Vote. (Oct. 21, 1993).
H. Res. 286, Oct. 27, 1993	O	H.R. 334: Lumbee Recognition Act	N/A	N/A	A: Voice Vote. (Oct. 28, 1993).
H. Res. 287, Oct. 27, 1993	C	H.J. Res. 283: Continuing appropriations resolution	1 (D–0; R–0)	0	A: 252–170. (Oct. 28, 1993).
H. Res. 289, Oct. 28, 1993	O	H.R. 2151: Maritime Security Act of 1993	N/A	N/A	A: Voice Vote. (Nov. 3, 1993).
H. Res. 293, Nov. 4, 1993	MC	H. Con. Res. 170: Troop withdrawal Somalia	N/A	N/A	A: 390–8. (Nov. 8, 1993).
H. Res. 299, Nov. 8, 1993	MO	H.R. 1036: Employee Retirement Act–1993	2 (D–1; R–1)	N/A	A: Voice Vote. (Nov. 9, 1993).
H. Res. 302, Nov. 9, 1993	MC	H.R. 1025: Brady handgun bill	17 (D–6; R–11)	4 (D–1; R–3)	A: 238–182. (Nov. 10, 1993).
H. Res. 303, Nov. 9, 1993	O	H.R. 322: Mineral exploration	N/A	N/A	A: Voice Vote. (Nov. 16, 1993).
H. Res. 304, Nov. 9, 1993	C	H.J. Res. 288: Further CR, FY 1994	N/A	N/A	
H. Res. 312, Nov. 17, 1993	MC	H.R. 3425: EPA Cabinet Status	27 (D–8; R–19)	9 (D–1; R–8)	
H. Res. 313, Nov. 17, 1993	MC	H.R. 796: Freedom Access to Clinics	15 (D–9; R–6)	4 (D–1; R–3)	
H. Res. 314, Nov. 17, 1993	MC	H.R. 3351: Alt Methods Young Offenders	21 (D–7; R–14)	6 (D–3; R–3)	

Note.—Code: C-Closed; MC-Modified closed; MO-Modified open; O-Open; D-Democrat; R-Republican; PQ: Previous question; A-Adopted; F-Failed.

Mr. Speaker, I reserve the balance of my time.

Mr. GORDON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to take just a moment to clear up some of the misunderstandings that my friend, the gentleman from Florida [Mr. GOSS], has brought forward.

As the gentleman knows, as he well pointed out, with all rules that come to the floor and all matters to be debated, as the gentleman very well said, you deal with them differently. Sometimes they are open rules, and sometimes they are closed rules, and that is a matter of good policy to make those determinations.

In this situation the majority of the Committee on Rules did not say what was germane and what was not germane. It was the Parliamentarian. It is very clear. So let me point out that every amendment that is germane, that is relevant to this bill, is made in order. Only those amendments that are not germane were not allowed, and the Committee on Rules did not determine what was germane and what was not germane. That was done by the rules of this House. So all amendments that are germane are made in order.

Mr. Speaker, why do you have germane rules? So that every bill that comes here does not become a Christmas tree. So that someone says, "Well, let's build a bridge in California," or, "Let's talk about bees in Florida." There has to be some order so that every bill here does not become a Christmas tree.

The points and the issues that the gentleman from Florida [Mr. GOSS] pointed out are significant and they need to be brought up. That is why, as the gentleman knows, there is a suspension calendar, where many of these bills could be brought up immediately and discussed on their own merits, as they deserve to be, rather than being a Christmas tree ornament for a bill in which they are not germane. So let us put that aside. Every amendment that was germane, that is relevant to this bill, as determined by the Parliamentarian, not by the Committee on Rules, was made in order.

Mr. GOSS. Mr. Speaker, will the gentleman yield?

Mr. GORDON. I yield to my friend from Florida.

Mr. GOSS. Mr. Speaker, I would just state to the gentleman that we have a procedure in the Committee on Rules that is as the gentleman has outlined, but we have found it many times in the best interests of the legislation and the deliberative process of this House to protect certain amendments that are presented to us which are not germane, for a technical reason or some other reason, but, nevertheless, of value to the legislation. I would hate to think how many times the Committee on Rules has actually protected nongermane amendments. To say that is not our way of business, we do that routinely, as the gentleman knows.

Mr. Speaker, I am delighted to hear the gentleman say that we are basically going to follow through the procedures that Members on our side have been arguing for, and that we are just simply not going to do that anymore. I do not think the gentleman is saying that. I think the gentleman very well understands that we are going to continue to provide protection for nongermane amendments, and that is the decision of the majority. That is where my complaint lies.

Mr. GORDON. Mr. Speaker, reclaiming my time, I would say certainly. I am just clarifying the point that my friend from Florida, Mr. GOSS, tried to make when he said that the majority of the Committee on Rules determined that these were not germane. That is not correct. It was the Parliamentarian, the rules of the House, that determined that these amendments were not germane, that is, not relevant to this particular bill. Whether or not they could have or should have been overruled is a different matter. The question before us is whether or not they were germane. That was determined by the Parliamentarian.

Mr. Speaker, another item of interest that I should clear up was there was some dispersion cast upon how suspensions are some horrible closed rule, that the worst of all closed rules is a suspension.

Let me remind my friend again from Florida, Mr. GOSS, that a suspension is only put on the calendar when both the minority and the majority leadership agree to it, and that it has to get two-thirds of the votes of the House to pass.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. GORDON. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Speaker, I beg to differ with the gentleman. There have been many suspensions put on the calendar that the minority did not agree to, and we have defeated them on a party line vote.

Mr. GORDON. Mr. Speaker, reclaiming my time, they are agreed to not in substance, but having them put on the calendar. I stand corrected. I know there is always consultation with the minority on those.

Mr. BURTON of Indiana. If the gentleman would yield further, but not always agreement.

Mr. GORDON. Not always agreement. Just like in my family, we do not always agree either. But the point is, it takes two-thirds to pass those bills, and that is the protection that we all have in this House.

So now that we have cleared up that this is not some horrible effort to try to stop debate, I would encourage my friend, the gentleman from Florida [Mr. GOSS], to do as I did in the Committee on Rules, and that we could bring some of these up, such as the pornography bill, for example, that has passed in the Senate, on suspensions.

□ 1210

We are going to have some more suspensions before we close this year. I think that is a very good place for that. I think he is going to get strong support. Now let us get to this bill.

Another mischaracterization was that somehow this bill, this boot camp bill, this bill to try to give States and communities more flexibility in dealing with young offenders, somehow is mandating that States and communities treat someone that is 21 or 22 years old as if they are a minor. That is not the case whatsoever.

This bill simply gives the States the right to do that, if they choose to. It does not require them to do that.

Mr. Speaker, I just wanted to take a moment to clear up some, I think, miscommunication on this bill.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. GORDON. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I just was up and discussed some matters with regard to this rule with the Parliamentarian. I just want to clarify for the RECORD here what is happening in this rule, and I want the gentleman to confirm it.

If I understand correctly, the Schumer amendment with regard to definitions of young offenders is enacted as soon as we pass the rule; is that correct?

Mr. GORDON. Mr. Speaker, that is correct.

Mr. WALKER. Mr. Speaker, if the gentleman will continue to yield, it makes in order the Solomon amendment later on. It is my understanding that the Solomon amendment, as structured in this rule, would then wipe out the Schumer amendment. Is that true?

Mr. GORDON. Mr. Speaker, that is my understanding, yes.

Mr. WALKER. And then the McCollum amendment that is also in the rule would then wipe out the Solomon amendment.

Mr. GORDON. That is my understanding.

Mr. WALKER. So that we have a rule that essentially takes a side with a self-enacting amendment, and then by giving the gentleman from New York [Mr. SOLOMON] an opportunity to offer his amendment on drugs, we have to knock out the language with regard to sexual assaults, use of a firearm in the commission of a crime and a crime of violence in order to get drugs included; is that right?

Mr. GORDON. It is my understanding that that is what the gentleman from New York [Mr. SOLOMON] is trying to do, when he goes after the age requirement.

Mr. WALKER. Mr. Speaker, the gentleman from New York [Mr. SOLOMON] is not going after the age requirement. The gentleman from New York [Mr. SOLOMON] is trying to include language that would make drug possession offenses a part of the definition here as well. But in order for him to do that, he has to knock out sexual assaults and the use of a firearm in the commission of a crime or a crime of violence; is that correct?

Mr. GORDON. Mr. Speaker, it appears that is correct.

It also appears that the gentleman from New York [Mr. SOLOMON] should have drawn his amendment more narrowly.

Mr. WALKER. The gentleman from New York [Mr. SOLOMON] was attempting to do something which is real, and the committee, in its bill, is putting the Schumer amendment in and not allowing the Schumer amendment to compete equally on the floor.

And then they go one step further, if I understand it correctly, if the House decides that drug possession is, in fact, real and needs to be adopted, then they put the gentleman from Florida [Mr. MCCOLLUM] in the position of having to wipe out the drug language in order to get his language in to lower the age; is that correct?

Mr. GORDON. Mr. Speaker, we were both here during the time of the debate when this bill was on suspension, and the primary concern at that time was the age. This was an attempt to reduce that age, because many Members on the gentleman's side of the aisle said that the original, I guess it was 28 years old, was too old. And in an attempt to, again, accommodate many of the gentleman's concerns, this was reduced down to age 22.

Mr. WALKER. Mr. Speaker, the gentleman is absolutely right, and I appreciate his continuing to yield. We are concerned about the age.

I am concerned about 22-year-olds being called teenagers, too.

Mr. GORDON. Only if the State or the community, in other words, if Pennsylvania wanted to do that, then this would allow them to do it. The important thing is, this does not require any State or community to do it but, rather gives them that right, additional State and community right.

Mr. WALKER. Mr. Speaker, I understand that, but a little while ago we had a bill out here that called 30-year-olds teenagers, and now we are calling 22-year-olds teenagers, and now we are calling 22-year-olds teenagers. We are extending teenagers all over the place here.

My real concern, in this particular sequence, is the way the Committee on Rules has structured this. It appears to me that they have taken two steps to assure that the gentleman from New York [Mr. SOLOMON] cannot get drug offenses into the bill. And that does concern me, because it looks to me as though there was an absolute attempt here on the part of the Committee on Rules to structure this rule in a way that drug offenses are not given a fair shot of being included as a part of the definition of young offender.

Mr. GORDON. Mr. Speaker, as my friend from Pennsylvania knows, all amendments that were germane, that is, all amendments that were relevant to this bill were made in order. And as a matter of fact, interestingly, the gentleman from Florida [Mr. MCCOLLUM] can take that age level down to 17.

Mr. WALKER. Mr. Speaker, I understand the gentleman's point, but that is the trouble with structured rules.

The problem here is, not everybody is out here competing equally. And they have structured a rule in a way that does, in fact, totally diminish, if not eliminate, the ability of the gentleman from New York [Mr. SOLOMON] to deal with drug offenses. And so the only point I am making is, I just want Members to understand, when they vote for this rule, they are voting for a rule which, once again, undermines our ability to deal with drug problems in this country.

Mr. Speaker, I thank the gentleman for yielding to me.

Mr. GORDON. Mr. Speaker, what Members are also, when they vote for this rule, what they are also voting for is a rule that allowed all amendments that were relevant, that were introduced, to be made in order. So every amendment that was relevant to this bill was made in order. That is what they will be voting for.

What they will be voting against is making amendments that are not relevant, amendments that might say that we are going to go to the Moon in 2 years, that we are going to plant a tree in the backyard of the White House. This is not a Christmas tree bill. This is a bill in which all amendments that are relevant will have a chance to be fairly debated.

Mr. HUGHES. Mr. Speaker, will the gentleman yield?

Mr. GORDON. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Speaker, I thank the gentleman for yielding to me.

I do not want to take a lot of his time, but let me just say, I do not want to weigh in at this point on the argument about the rule. Members from the Committee on Rules can make those arguments.

But the gentleman from Pennsylvania mischaracterizes, it seems to me, what is done in this bill about youthful offenders. We are not making in this bill adults teenagers. What we are doing is, we are saying to the States, if a youngster who happens to be 19 years old and 2 days is the type of a candidate that should go through this program, because he has no previous record, but he has committed some offenses, then the States have discretion to do that.

Now, the gentleman has been around long enough to know that there are a lot of youthful offenders that should be treated as adult offenders. And nobody is saying otherwise. But there are certain categories of youthful offenders that are prime candidates for this type of a program.

And the problem with the system today is that we have lost the element of certainty in the criminal justice system, certainty that those that commit offenses are going to get caught and, second, certainty that once caught they are going to be punished.

The judges in this country, unfortunately, have one of two options: To either send the youthful offender back home to the same bad environment. And it should not be any surprise if we have him back in the system, perhaps 14 and 15 times, as is presently the case, before we realistically can deal with them. Or the judge can send them to jail, where they come out worse for the experience.

So this is a program that, first of all, would take a serious look at the criminal justice system for youthful offenders and try to make some major structural changes.

Mr. GORDON. Mr. Speaker, reclaiming my time, I, in no way, want to cut off my friend, the gentleman from Pennsylvania. This is my time that we have been working on here for a while.

If I might suggest, I am going to reclaim my time from the gentleman from New Jersey [Mr. HUGHES], allow the gentleman then to gain time from the gentleman from Florida [Mr. GOSS] and continue with, I am sure, a constructive discussion.

Mr. Speaker, I reserve the balance of my time.

Mr. GOSS. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from New York [Mr. FISH], the ranking member of the Committee on the Judiciary.

□ 1220

Mr. FISH. Mr. Speaker, H.R. 3351 is a bill from the Committee on the Judiciary dealing with alternative methods of punishment for young offenders. Before the Committee on Rules, I urged an open rule on this legislation. I specifically asked that amendments by Mr. MCCOLLUM, Mr. LIVINGSTON, and Mr. REGULA be made in order. None was made in order. The legislation before us is meritorious in its own right. It also had the prospect of being a vehicle on which the House could consider far more important and sweeping anticrime provisions. This opportunity has been lost, and I urge a "no" vote on the rule.

Mr. Speaker, as the Members know, this legislation failed to receive the requisite two-thirds vote under suspension of the rules on November 3. This occurred, in part, because H.R. 3351 defined a "young offender" as an individual of 28 years of age or younger. Alternative methods of punishment for young offenders—such as boot camps—may make sense, but not for individuals of 28 years of age, who may well have committed one or more serious crimes on previous occasions. The rule does address this problem.

But this legislation also failed to pass because many Members of this House are upset about the overall procedure on crime legislation. Unfortunately, the Judiciary Committee has not taken up the omnibus crime legislation introduced by the gentleman from Texas [Mr. BROOKS]—H.R. 3131. That omnibus legislation would have permitted the gentleman from Florida [Mr. MCCOLLUM] to offer the Republican crime bill (H.R. 2872) as a germane substitute. Instead, we found ourselves considering six comparatively narrow grant proposals, including H.R. 3351. Meanwhile, the other body is legislatively addressing the problem of violent crime in a broad and comprehensive manner.

Mr. Speaker, the Members of the House of Representatives also deserve the opportunity to address the major problems facing our criminal justice system. Everyone fully understands that the serious and tragic problem of violent crime in our society must be confronted.

The Committee on Rules has the authority to make in order amendments that will allow this House to address crime as it should be addressed. For example, Congressman MCCOLLUM submitted the text of the Republican crime bill for their consideration. This Crime Control Act of 1993—H.R. 2872—is an excellent piece of legislation and the House should have an opportunity to make a judgment on its merits. Congressman MCCOLLUM also submitted an amendment that would establish a nationwide system of regional prisons and provide $1 billion to finance these badly needed facilities. As everyone knows, over 70 percent of the crime committed in America is committed by repeat offenders. These felons often go free because of a lack of prison space or overcrowded facilities. We must deal realistically with the perpetrators of violent crime. The regional prisons concept is an idea whose time has come.

I urge that the Rules Committee make in order Congressman LIVINGSTON's proposal requiring life imprisonment for offenders convicted of a felony for a third time. This three-strikes-and-you're-out proposal overwhelmingly passed in a referendum in the State of Washington on November 2 and overwhelmingly passed the Senate last week. I also urge the Committee to make in order a proposal submitted by Congressman REGULA that would allow military bases slated for closing to be used as military-style boot camp facilities.

Mr. Speaker, we have only a few days left. It is a travesty that we have allowed the other body to totally determine the contents of the crime bill. This coequal House should have had its opportunity to address this tragic national problem as well.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Texas [Mr. BROOKS], chairman of the Committee on the Judiciary.

Mr. BROOKS. Mr. Chairman, I rise in support of the rule on H.R. 3351, a rule which I believe is eminently fair to all points of view on the legislation.

H.R. 3351 provides a grant program to assist States and local governments in developing methods of punishment for young offenders in addition to the traditional punishments of incarceration or probation.

Many of the amendments filed with the Rules Committee on H.R. 3351 were nongermane to the subject matter of the bill, but several others were pertinent and deserved consideration by the full House.

The majority of this body has already indicated their support for H.R. 3351. The only real issue raised is how a "young offender" is to be defined. The rule clearly permits the Members to work their collective will on this matter.

I think it is a good rule and a fair rule. I urge its adoption.

I want to say that it is typical of the fine, careful craftsmanship of the chairman, the gentleman from Massachusetts [Mr. MOAKLEY], his full committee, and his staff.

Mr. BURTON of Indiana. Will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Speaker, I just would ask the gentleman to restate that. What was that, the fine, what was that, craftsmanship?

Mr. BROOKS. Fine and careful craftsmanship.

Mr. BURTON of Indiana. If the gentleman will continue to yield, I just wanted to make sure that I got that correct.

Mr. BROOKS. Spelled with a C.

Mr. GOSS. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Pennsylvania [Mr. GOODLING], the ranking member of the Committee on Education and Labor.

Mr. GOODLING. Mr. Speaker, the problem we are faced with today is, we have a rule that will do in the Vice President's whole idea of reinventing government. The ideas are very good in 3351. The problem is, they are exactly, almost exactly, the same as legislation which is already on the books and which is in operation, which most of us voted for last year when we reauthorized the juvenile justice legislation. The Juvenile Delinquency Prevention Act was reauthorized in the 102d Congress.

In that plan, in that law, the State plan section of the Juvenile Justice and Delinquency Prevention Act, as amended by Public Law 102-586, provides for the funding of programs which recognize the varying degrees of seriousness of delinquent behavior and provides for alternative methods of punishing illegal activities based on the crimes such youth have committed.

Current law specifically encourages courts to develop and implement a continuum of post-adjudication restraints that bridge the gap between traditional probation and confinement in a correctional setting, including expanded use of probation, remediation, restitution, community service, treatment, home detention, intensive supervision, electronic monitoring, boot camps, and similar programs and secure community-based treatment facilities linked to other support services such as health, education, and job training.

In addition, in the law which is presently on the books, part H institutes a program to establish up to 10 military-style boot camps for juvenile delinquents. All of this is presently in the legislation that is presently on the books and presently in operation.

What we do here to mess up reinventing government. If you remember, the Vice President used a quote when he talked about the National Performance Review Report. I quote:

> Government programs accumulate like coral reefs—the slow and unplanned accretion of tens of thousands of ideas, legislative actions, and administrative initiatives * * * now we must clear our way through those reefs.

Mr. Speaker, to continue with that metaphor, this coral reef already exists. There is no need to create another reef could be a hazard to ships in the sea. We all agree with the thrust of the legislation. The problem is, we already have the exact remedies on the books. As I said before, now we will get competing jurisdictions, we will get people competing for the same funds, and I guess we will then develop several different bureaucracies to do exactly the same.

□ 1230

I am sure the chairman of our committee would love to have an opportunity to work this out with the Judiciary Committee so that we are not in competition, but as a matter of fact we are working together for the same goal.

Mr. GOSS. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I thank my colleague from Florida for yielding me this time.

Mr. Speaker, I think it was very humorous what my good colleague and good friend, the gentleman from Texas [Mr. BROOKS], said, that the Rules Committee was carefully crafting this rule. It smacks of hundreds and probably thousands of rules that have come out of the Rules Committee over the past several years that are closed. They do not really allow the minority or Members who oppose pieces of legislation the ability to propose amendments on the floor, and I think that to describe that as craftsmanship stretches that word beyond the definition found in the dictionary. For that reason alone I oppose this rule.

But I would like to talk about another issue that I think is very, very important, and that is boot camps. One of the things that the legislation that is to be before us shortly talks about is authorizing $200 million in three straight fiscal years for grants to States to develop alternative methods of punishment for young offenders, and the States can apply for that money, and then local communities can apply to the State for those moneys. But none of the money can be used for land acquisition, construction projects, and it limits administrative overhead.

Now I do not mind the limiting of administrative overhead, but how are we going to provide a facility at which you can train these youthful offenders and bring them back into the mainstream of public life unless we have a building, we have to have some kind of a facility outside of a jail.

What I have proposed this year in H.R. 1957 is allowing these closed military bases around the country to be used at least in part for these youthful offender boot camps. And I would say to my colleagues, I have talked to the gentleman from New Jersey [Mr. HUGHES] about this, and I will be discussing this with him later on in the debate on the actual bill, and I talked to the gentleman from California [Mr. DELLUMS], chairman of the House Armed Services Committee about using these military bases. They are both inclined to want to do that.

But I just would like to say this legislation that is going to be before us does not provide a mechanism for buildings and other infrastructure that will provide a place for these people to be trained and to bring them back into the mainstream of society. So I would like to urge my colleagues to give long and careful thought to using parts of military installations that are going to be closed, allowing the States to have first bid on these properties so that they can use them for these boot camps. If we were to do that, we could cut out a lot of unnecessary expenditures that are going to have to be made to provide facilities for this.

We have the facilities already. They are there and they are going to be closed down. Why not use those military installations for a very worthwhile purpose?

So I would say to my colleagues, think about H.R. 1957, because it ought to be a part of this mix.

Mr. GOSS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Ohio [Mr. KASICH], the ranking minority member of the Committee on the Budget.

Mr. KASICH. Mr. Speaker, I appreciate the gentleman yielding me the time.

Mr. Speaker, I like the concept, but once again Congress is treading in the area of not paying for something. And I certainly hope we are not going to try to use Vice President GORE's reinventing government as a way to pay for it, because as we all know, the Vice President sent a package up here that was supposed to save $9 billion. And now that the package has woven its way through the various committees in Congress, first of all it was dehabilitated from $9 billion in savings for America down to $300 million, $9 billion to $300 million. I mean, that is the rapidly shrinking savings bill.

Then after the bill wound its way through seven various congressional committees, it is actually going to cost us $1.5 billion. So we went from $9 billion in savings for America to $1.5 billion in increased deficits for America.

The Vice President also went on to say that we should not use the Congressional Budget Office, the bible of the Clinton administration in terms of guaranteeing the sanctity of budget numbers. Now he wants to get off the CBO estimate formula, and do my colleagues want to know something? That makes me very happy that we are no longer going to use CBO, and we are going to use our own scoring methods.

But once again, this legislation underscores the fact that we do not want to pay for anything in this city. We are going to have one opportunity to pay for things, and it is coming on Monday, and that is a vote for the Penny-Kasich amendment to try to reduce the Federal deficit by $90 billion and restore some fiscal sanity to the operation of our Government.

Mr. GOSS. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, I thank my friend for yielding the time.

Mr. Speaker, with scant notice, the Justice Department filed a brief with the U.S. Supreme Court in September asking the High Court to remand the

Knox child pornography case—a conviction that was upheld by the Third Circuit Court of Appeals—to apply a substantial weakened statement than what has been in existence over the past decade in both the Bush and Reagan administrations.

The Justice Department action—through its interpretation of our Nation's child porn laws—was, is, and will continue to be absolutely unwarranted, giving protection to the child pornography peddlers and the pedophiles at the direct expense of exploited children. Stunned and outraged by this, close to 200 Members of the House have either signed on to the resolution that the gentleman from California [Mr. DOOLITTLE] and I have introduced House Resolution 281, or sent letters off to the Justice Department demanding that this reinterpretation of the Nation's child pornography laws be abandoned.

Regrettably, the Justice Department has responded following a letter from Mr. Clinton to Janet Reno with new legislation. The President's letter to Reno indicated that he agreed with the Reno Justice Department interpretation; that he agreed with the Knox brief that the statute was not broad enough to cover the child pornography which we have prosecuted successfully for the past decade. The Reno legislation constitutes a rewrite of the child porn law, which would do more damage than Members can possibly imagine.

Pat Trueman, head of the Child Exploitation and Obscenity Office at the Bush Justice Department, has written, and I quote: "Attorney General Reno's proposed child pornography legislation is unnecessary and would cause child pornographers to go free." He points out that this will happen if the Reno legislation passes because the many cases pending or recently decided would have a strong argument that the Federal law was unclear and insufficient until Congress' clarification. Mr. Speaker, the law is clear enough to have withstood judicial scrutiny for a decade.

Passage of the Reno legislation would be a boon to the pornographers and pedophiles who have been rightfully prosecuted by the Reagan and Bush Justice Departments. As Senator HATCH stated during debate on this issue on the Senate floor earlier this month:

> It is abominable that we have to be in a position where the Government is aiding with the position and the defense of pedophiles and of the child pornographers, rather than siding with the position and the beliefs on the side of the child and the clear intent of the law.

The Reno Justice Department has fabricated out of whole cloth a new two-part test for determining what it considers child pornography and what it will prosecute as such. The Reno Justice Department believes that only materials which include nudity or visibility—as through a veil—of the genitals or pubic area should be considered child pornography. This rules out materials obviously meant to pander to pedophiles—such as those in this very case—in which the pornographer focuses unnaturally on the private parts of a young girl or boy set to suggestive music. This also rules out those materials—again including those in the *Knox* case—in which the children are scantily clad in skimpy bikinis, underwear, or other abbreviated and revealing clothing.

In addition, as the second part of this new two-part test is created, the Justice Department is requiring that the child be engaged in a lascivious action. The Justice Department shifts the burden of guilt from the pornographer to the exploited child. This is a broad departure from the current interpretation by which lasciviousness is defined by the actions of the pornographer and the intent to sexually arouse the viewer. Senator BOND appropriately addressed this matter on the Senate floor earlier this month:

> American criminal law has traditionally focused on the intent of the criminal, rather than that of the victim. This is not the time to alter that tradition, when the welfare and the safety of our Nation's children are at stake.

This second part of the test carriers with it the most danger for our children. Most child pornography involves children acting innocently, even sleeping; but the pornographer changes the focus of the materials through his actions. All in all, Mr. Speaker, the Justice Department's misinterpretation of the Child Protection Act of 1984 would give the green light to child pornographers by making a substantial part of child porn nonprosecutable and legal.

An action of this magnitude from an administration which has continually claimed its strong advocacy for protecting children, breaches the border of hypocrisy. A front page article in today's Washington Times outlines the anatomy of how this brief came to be in the Clinton Justice Department in some detail. While the talk of the administration has been admirable, the actions—including the nomination of key members of its staff, such as the Deputy Solicitor General—speak volumes, none of them all that admirable. Talk, is cheap, Mr. Chairman; actions speak louder than words.

The Knox brief constitutes a complete falsification of the congressional intent of passing the Child Protection Act of 1984. Yet, President Clinton is trying to blame the Congress for his inaccurate interpretation. The true intent of Congress has been the prosecution policy of the past decade and has been upheld time and time again at the lower court level. The Clinton Justice Department has completely reinvented child porn policy and in doing so has put children in danger. Now the administration is trying to backtrack and shift the blame to Congress by saying the law is broken. I say to my colleagues: the law is not broken; we need to enforce the current statute which has been upheld by the courts and not look for political cover while the pedophiles and pornographers go greed. We ought not rewrite he law; we ought to demand a correct enforcement of the current law.

Let me just say, Mr. Chairman, that I went before the Rules Committee to make the language of the Smith-Doolittle resolution in order as an amendment to H.R. 3351. Since there is no omnibus crime bill that this Chamber will consider this year, the gentleman from California [Mr. DOOLITTLE] and I asked a very modest request on behalf of the children of this Nation that we be allowed to offer our resolution, which has close to 200 cosponsors. This clearcut sense of Congress resolution calls on the administration to simply continue with the prosecution policy which was even in place during the early weeks of the Clinton administration and to abandon its misinterpretation of the statute.

Furthermore, Mr. Chairman, allow me to point out that the Senate by a vote of 100 to 0 went on record to say that it is not the law that is the problem; it is the interpretation that is flawed.

□ 1240

We are asking for the very basic right to make that kind of statement here today, and we have been denied that by way of this rule. My hope is—because I think the rule will probably pass—that the Judiciary Committee will move expeditiously to allow this resolution to get floor consideration.

Forget the politics. Let us think about the exploited and abused children. And let us remember those pedophiles and child pornographers who have been given the green light to do the kind of horrible atrocities to those children that they routinely engage in for profit.

Mr. Speaker, I ask that this resolution, House Resolution 281, be brought before the House immediately so we can go on record on the side of the exploited children; in solidarity with those kids who will be exploited by child pornographers and pedophiles; and against the reinterpretation by Mr. Clinton and Ms. Reno which is totally unwarranted; and against the Reno legislation which, if passed, will likely lead to those who have been convicted under the law going free.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New Mexico [Mr. SCHIFF].

Mr. SCHIFF. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I regretfully rise to speak against this rule. I say regretfully because I support the basic concept of the bill that is being presented in terms of this rule.

I believe that there should be alternative forms of punishment and of rehabilitation for young offenders. Similarly, I believe that with our most violent offenders we need to keep them off the streets longer.

Probably the No. 1 problem to law enforcement today is the early release of violent criminals right back onto the street, and that is why I favor truth in sentencing which simply says convicted criminals in this country should serve at least 85 percent of the time imposed by a judge or jury as a sentence and not be released earlier.

My problem with this rule, however, very simply is that I do not think it is clear that the various amendments add to each other rather than might replace each other. In other words, different amendments would change the age for youthful offenders, different amendments would change the requirements for an offender to fit into a young offender rehabilitation program. I am very much concerned that the way the rule is drafted that inadvertently if we passed one amendment and then we passed a second amendment, the second amendment will totally replace the first amendment rather than adding terms and conditions onto it.

Therefore, I think we do not know what we are going to have in this bill until we figure out which amendment passes last. I do not think it was the intent of the Committee on Rules to give us a king-of-the-hill rule here in which deliberately it is the last amendment that passes. Therefore, again, with the greatest amount of reluctance, I ask for rejection of this rule, but if it is rejected, I hope it can be rewritten and come back to us during this session.

Mr. GOSS. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I heard the bill described a few minutes ago as an object of legislative craftsmanship. I think I might change that a little bit and call it crafty, because this is a very, very interesting rule.

First of all, the rule itself has a self-enacting provision. The self-enacting provision says that we are going to define 22-year-olds, in other words, adults, as teenagers for the purposes of this particular bill. So right away we are adopting in the rule the concept that people who are adults by age and by the way in which they interact in our society are now going to be treated like teenagers.

We have done this before, but I would suggest it is a bad practice. So we do that in the rule.

Then we turn around and we say that those adults that if they have been convicted of sexual assault, use of a firearm in the commission of a crime, a crime of violence, then they cannot be regarded as a young offender. Well, I happen to think that that is right. I think that the age ought to be 18, but people who are convicted of crimes of violence or sexual assault ought not be regarded in this young-offender program.

But then they make some amendments in order later on. One of the things that we want to get into this, in addition to sexual assault and crimes of violence, is drug-possession offenses and convicted of offenses of sale of drugs.

The problem we have right now in this town, in addition to backtracking on child pornography laws, this administration has been backtracking in a big way on drug laws. They have backtracked on drug enforcement. They have backtracked on drug treatment. They are backtracking on the drug program all over the country, and now we have this particular amendment that did not allow drugs to be an offense that keeps people out of the young-offender program. But in order to get drugs in, you have to knock out sexual assaults, firearms, and crimes of violence. This is a pretty tough test to do.

But I think that that is something that someone along the line had in mind, pretty crafty, and then if you put drugs into the bill, you have got another amendment that comes along that those of us who want to lower the age from 22 to 18, in other words, to say let us not have adults being treated as teenagers, let us bring it back down to teenager, then you have got to wipe out the drug offense in order to get to the 18-year-old amendment. I mean, that is real clever, folks. That is a real nice way to go.

But it certainly makes this rule into something that can be almost described as a pro-drug rule, because it means that you cannot get to the drug offenses as a part of this rules process in any kind of meaningful way, and yet the committee has taken it upon itself to define some categories and also to define 22-year-olds as teenagers.

I would suggest the best way to solve some of these problems is to defeat this rule, send it back to the Committee on Rules, get something that allows drug offenses to be included in the definition, allow us to deal with sexual assault and firearms crimes, and then we can have a debate, a real debate, about whether or not the age should be 22 or 18.

I think in that debate I think that we will reflect the will of the vast majority of middle-class Americans when we say that we want teenagers to be teenagers.

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

To close this down on our side, it is sort of ironic that we have already dealt with the subject of trying to provide funds for drug programs for people in jail, and here we are talking about a youthful-offender program where we need it the most, and we have crafted a rule that one way or another seems to leave us with a HOBSON'S choice on whether we are going to be able to do that. What we have is a stealth king-of-the-hill rule, whether we intended to have it or did not intend to have it, but it is what we have got, which is probably why many of us voted against this bill in committee.

I did want to say that the freedom-of-access bill that came through yesterday was basically a committee substitute, and all points of order were waived against it, because it was not germane, it is technically true to say that the Committee on Rules does not make the distinction on germaneness, but it is absolutely true to say that the Committee on Rules has the power to protect against arguments of germaneness.

So while we have cleared that point up, we did have the authority, the ability, and the opportunity to make in order many of these amendments that would have given us the opportunity to debate some serious way to get tough on crime.

I think that is what America wants. They are asking us to do that. If we defeat this rule, we will have the opportunity to craft those measures for floor debate.

Mr. Speaker, I yield back the balance of my time.

Mr. GORDON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, earlier inadvertently I guess I cut off my friend, the gentleman from Pennsylvania, from speaking. I have some time now, and I have no further speakers. I would like to offer him now that we know we have some time, and I will be glad to yield.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. GORDON. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman. I think I made my point a minute ago. I thank him very much for his courtesy on that.

Mr. GORDON. Mr. Speaker, in conclusion, let me just say there were a number, I think, of worthwhile suggestions of legislation presented here today. I like the idea that the gentleman from Indiana [Mr. BURTON] presented of using some of the abandoned military bases for boot camps. I have recommended that, and I hope we can move forward with that type of legislation as well as some of the other suggestions.

But that is not the question before us today. The question before us is a bill entitled H.R. 3351, the Alternative Punishment for Youth Offenders Act.

Let me say that, again, in conclusion, that every amendment that was brought to this committee that was relevant, germane, and pertinent to this bill was made in order.

You know, I am sorry that people who did not draw their amendments in such a way to make them in order, but every amendment that the Parliamentarian of this House said was relevant, pertinent, and germane to this bill was made in order. That is the question before us in whether or not, in a vote for this rule, is a vote to make every amendment that was brought before this body that was relevant, germane, and pertinent to this bill available for debate.

Mr. Speaker, that is the conclusion of my remarks.

Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. GOSS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 238, nays 179, not voting 16, as follows:

[Roll No. 584]

YEAS—238

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (FL)
Brown (OH)
Bryant
Byrne
Cardin
Carr
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English (AZ)
English (OK)
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Hutto
Inslee
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Murtha
Nadler
Natcher
Neal (MA)
Neal (NC)
Oberstar
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Pickett
Pickle
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Slaughter
Smith (IA)
Spratt
Stark
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tauzin
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Whitten
Williams
Wise
Woolsey
Wyden
Wynn
Yates

NAYS—179

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Coble
Collins (GA)
Combest
Cox
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lancaster
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Machtley
Manzullo
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Morella
Murphy
Myers
Nussle
Oxley
Packard
Paxon
Peterson (MN)
Petri
Pombo
Porter
Portman
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Talent
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—16

Andrews (TX)
Boehner
Brown (CA)
Cantwell
Clinger
Cooper
Dicks
Kennelly
McDermott
Moran
Obey
Slattery
Stokes
Washington
Wheat
Wilson

□ 1310

The Clerk announced the following pair:

On this vote:

Mr. Stokes for, with Mr. Boehner against.

Mr. SMITH of Texas and Mr. TAYLOR of Mississippi changed their vote from "yea" to "nay."

Mr. HILLIARD changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider laid on the table.

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to House Resolution 314 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3351.

□ 1311

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3351) to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants for the purpose of developing alternative methods of punishment for young offenders to traditional forms of incarceration and probation, with Mrs. CLAYTON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 30 minutes, and the gentleman from Wisconsin [Mr. SENSENBRENNER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I rise in support of H.R. 3351. This bill provides a grant program to assist states and local governments in developing methods of punishment for young offenders in addition to the traditional punishments of incarceration or probation.

The thrust of the legislation is twofold: To reclaim young offenders from becoming repeat, hardened criminals and to make sure that punishment and retraining is indeed imposed—rather than the unsupervised probation that masquerades as punishment in so many jurisdictions.

Alternative punishments can include such punishments as boot camps, community-based incarceration, and community service programs structured to intercept youth who are starting down the path of no return to a lifetime of crime.

Neither the communities in which youthful offenders live—no society as a whole—can afford to lose young people to lives of crime. Once incarcerated with career criminals, youthful offenders often become hardened criminals themselves and return to their communities with no further hope of becoming law-abiding, productive citizens.

All steps to turn young offenders around must be taken now, before we lose another generation to this vicious cycle. This bill is just one attempt by the Federal Government to help the states and local governments achieve this crucial goal.

I thank the gentleman from New York [Mr. SCHUMER], who is the distinguished chair of the Judiciary Committee's Subcommittee on Crime and Criminal Justice, as well as the members of the subcommittee for their leadership on this important issue.

I urge support for this proposal.

Madam Chairman, I reserve the balance of my time.

☐ 1320

Mr. SENSENBRENNER. Madam Chairman, I yield myself 3 minutes.

Madam Chairman, the Committee on the Judiciary has brought to the House of Representatives another hollow shell in its efforts to fight crime on behalf of the American people. What we have just heard the distinguished gentleman from Texas [Mr. BROOKS] say about this bill sounds very good. It does authorize $200 million for each of the next 2 fiscal years to establish alternative methods of incarceration for youthful offenders, but it does not provide one dime to incarcerate one youthful offender or to give to the States to do the same thing. So once again Congress is fighting crime by getting people's expectations up that something is going to be done, when in fact nothing meaningful is done.

Earlier this week the chairman of the relevant appropriations subcommittee, the gentleman from Iowa [Mr. SMITH], was quoted in the newspaper as saying that unless those who are pushing anticrime legislation develop a funding mechanism, there is not enough money left in the budget to fund any of these anticriminal activities. Not this one, and not the ones we passed on Tuesday of last week.

So again the debate is going to be hollow, because there is not going to be one penny appropriated from the U.S. Treasury to back up all of the nice things that are being said about this legislation.

There are further problems with the legislation, however. This bill sets the age for youthful offenders at 22 years old. That means that someone who can vote, who can serve on a jury, who is responsible for his or her contracts, will still be punished as a youthful offender so long as they are less than 22 years old.

Many of the perpetrators of the most heinous crimes in our communities fall into this category. These are the people who, in my opinion, should be facing the traditional means of incarceration, and that is being locked up in prison, and being locked up in prison for a long period of time.

I do not think that they should be eligible for the alternative methods of punishment, whether it is community-based rehabilitation centers, boot camps, or the like. I think that this legislation should be drafted to ensure that the alternative methods of punishment for those who do fit in this category should be for nonviolent crimes, and should be targeted at those who have got the greatest chance of rehabilitation, rather than being used as a copout for repeat offenders, those who have committed violent crimes, simply because it is more expensive to put them in a prison.

I am also concerned that the 22-year-old age limitation is too high. The original version of this bill set it at 28, which was outrageous, but the self-executing amendment contained in the rule took care of that. There will be amendments later on today to reduce that age to 18. That is a youthful person. A 22-year-old is not.

Madam Chairman, I reserve the balance of my time.

Mr. BROOKS. Madam Chairman, I yield 3 minutes to the distinguished gentleman from Texas [Mr. LAUGHLIN].

Mr. LAUGHLIN. Madam Chairman, I thank the chairman of the Committee on the Judiciary and the distinguished dean of the Texas delegation [Mr. BROOKS] for yielding.

Madam Chairman, as I listened to Chairman BROOKS talk about the boot camps operated by the Marine Corps from 1941 to 1944, it reminded me of the days when I was an assistant district attorney in Houston, TX, where each day I had the obligation to prosecute many felonies. I agree with the proposition put forth in this bill that crimes involving sex, crimes involving assault on human beings, those criminals should not be eligible for boot camp.

Madam Chairman, I take with great pride the fact that during my days as a prosecutor, I sent many people to the penitentiaries of Texas for assaults, robberies, murders, and crimes involving abuse of human beings. But one crime sticks out in my mind with particular pride, and it involved an 18-year-old youngster whose parents were deceased and who was raised by an elderly relative and had no discipline in his life.

Madam Chairman, he was arrested and charged with 18 different felonies. Not one of those involved abuse of any human being. Not one of those involved drugs or narcotics or sex crimes. They were all mischief, in tearing up property that belonged to other people.

Because of his background, I took a risk. I took a risk of allowing him to go into the Marine Corps, where he had to go to boot camp. A complaint was made against me to the district attorney of Harris County for discharging those 18 felonies. I admit, Madam Chairman, I was nervous about that. But when we got the Marine Corps in, we found out that this young man, under threat from me that he would go to the penitentiary if he did not serve with honor and distinction in the Marine Corps, we found that he finished the boot camp of the Marine Corps with honor, being the No. 1 graduate in the boot camp.

He was then sent to advanced Marine Corps training where he finished number one. Then at the time of the investigation, he was an honor graduate in an advanced communication school.

Madam Chairman, here is an example of a young man who would have been in the penitentiary learning the crimes of the future, how to rob and kill and how to abuse human beings, but instead he got valuable lessons from boot camp.

I am a strong supporter of boot camp, because we have too many youngsters running around who have no discipline, who do not know how to take a bath, who do not know what it is to clean up, and do not know what it is to do anything by way of educating themselves. I think boot camps should have a mandatory requirement that they learn to read and write in order to get out of boot camp.

Mr. SENSENBRENNER. Madam Chairman, I yield 4 minutes to the distinguished gentleman from Pennsylvania [Mr. GOODLING], the ranking Republican on the Committee on Education and Labor.

Mr. GOODLING. Madam Chairman, I do not rise in opposition to the thrust of the legislation. What I am concerned about is the fact that you are duplicating something that is already law. If you want to take the time to look at what many of you voted on last year, Public Law 102-586, November 4, 1992, exactly what the chairman was mentioning is what this law is all about.

Madam Chairman, what I wish we would have had is all those people who are enthused about boot camps going before the Committee on Appropriations this year, because, as I said, we have got $107 million to do everything that the chairman mentioned, but we sure could have used some help before the Committee on Appropriations to do some more than what we have done.

Let me talk about boot camps. It sounds like boot camps are something new. Again, in the law that you passed, if you will read it, it tells you how you establish the boot camp, it tells you where you establish the boot camp, it tells you who can be a participant in the boot camp, and it tells you the capacity. It tells you that you can use former Army bases for this purpose.

All of this is already in the legislation, and that is why I say it is so foolish for us to come here and try to find ways to get groups competing for the same dollar. And that is what we are doing. We are competing for exactly the same dollar that is in legislation that is already law, that has $107 million appropriated for it next year.

What is very good about the law as it is presently on the books is that it does some of the things that the minority member just spoke of.

□ 1330

What it does in this law, it says it provides for the funding of programs which recognize the varying degrees of seriousness of delinquent behavior and provides for alternative methods of punishing illegal activities based on the crimes such youth have committed. And that is very important.

Let me just mention some of the things, again, that are already in the books that the chairman talked about, already in law.

Current law specifically encourages courts to develop and implement a continuum of postadjudication restraints that bridge the gap between traditional probation and confinement in a correctional setting, including expanded use of probation, detention, remediation, restitution, community services, treatment, home detention, intensive supervision, electronic monitoring, boot camps, and similar programs and secure community-based treatment facilities linked to other support, not only to the incarcerated but also to the family.

As I indicated before, in Part H of the law, the program is there, military style boot camps. So again, I would call on all of my colleagues not to put another piece of legislation on the books with authorization, when we already have the same legislation on the books as law with appropriation. And that is the big difference.

It was mentioned that this is a hollow effort. It is a hollow effort. We are talking about authorization to do exactly the same thing we now have funds appropriated to do.

I would ask my colleagues, do not put another piece of legislation on the books authorizing something that is presently law, where we are already fighting in order to get the appropriations to provide the necessary services that are in this law.

Please, colleagues, read the law we have passed last year. Most everybody supported it. Again, everything that we are talking about in authorization is presently part of this law. Just help us get more funding, if that is the way we want to go. Do not just give us more legislation to do the same without any appropriation.

Mr. BROOKS. Madam Chairman, I yield 5 minutes to the gentleman from New York [Mr. SCHUMER], the distinguished chairman of the Subcommittee on Crime and Criminal Justice, who is an expert on crime.

Mr. SCHUMER. Madam Chairman, I would first like to thank and commend the gentleman from Texas, Chairman BROOKS, for his steadfast support in bringing this important bill to the floor today, for this bill responds to a critical need in our criminal justice system.

Too often, Madam Chairman, young offenders in our Nation get no more than the proverbial slap on the wrist. The systems are so crowded that when they commit a low-level crime, they are simply told, go off on probation. They hardly ever see a probation officer. And then they think, oh, I may as well commit a bigger crime because nothing will happen to me then.

This is the wrong message at the wrong time.

Without meaningful alternatives, the judges simply give the unrestricted probation I mentioned and instead of learning that crime does not pay, these youthful offenders often come to believe that the system has no teeth.

On the other hand, some offenders learn too well that the system can be tough. Lacking any real alternative, the judge sentences these kids to prison, even though they pose no threat to the community and, with some work, may be salvageable from a life of crime.

These young people end up occupying expensive prison cells learning to be expert criminals and, tragically, the need to make room for these youthful offenders often results in the early release of truly dangerous and violent criminals.

There are a few areas in the country where experiments with alternative sentencing has worked well, toughening up the system and taking youths who might go one way or the other and making them into productive citizens, not criminals. The State of Georgia, the locality of Quincy, MA, each have programs involving boot camps, work. Someone puts graffiti all over a wall, they have to work for 12 weeks to erase that graffiti and other graffiti like it. Where the punishment is real and fits the crime, the young person learns the system has teeth. And at the same time, we are not sending people to hardcore facilities where they are not going to improve but come out even worse criminals. And they never stay there for a very long period of time anyway.

So we have put together this bill to model itself and help spread these good works in other parts of the country. The bill is much needed. It makes clear that only young, nonviolent offenders will qualify for these programs.

Young offenders is defined, under the bill, as an individual who is 22 years old or younger, has not been convicted for sexual assault or a crime involving firearms and who has no previous conviction for any crime of violence punishable by imprisonment for a year or more.

Boot camps work. Boot camps often work better than prison for many offenders. The hard, rigorous life that one must do at a boot camp not only is punishment of a sort but also makes the person stronger so when he or she comes out, they may not lead a life of crime.

Workfare, working, making someone work off their crime works. Sometimes house arrest works. These are the kinds of things that our system ought to try.

By providing an incentive, by giving some funding to the localities, what we will learn, what we will do is teach localities these innovative and successful methods in the criminal justice system.

In health care, for instance, I have studied the criminal justice system for a while, in health care, if an advance in heart surgery occurs in San Diego, it spreads to Boston in a minute. But somehow, with the criminal justice system, localities that have done innovative and successful things for years, somehow those successful programs do not spread.

This bill will help it spread. This is the kind of innovation that can make our criminal justice system work.

Madam Chairman, I urge my colleagues to support the bill.

Mr. BROOKS. Madam Chairman, will the gentleman yield?

Mr. SCHUMER. I yield to the gentleman from Texas.

Mr. BROOKS. Madam Chairman, to my distinguished friend, knowing of his long interest in boot camps and their long history in this country, I wanted to say, does he agree that the Federal program we have where they have a regimen of physical training and labor-intensive work assignments 6 days a week, education, vocational training, substance abuse treatment, life skills programs, that is what they have in the Federal boot camps. It is a 6-month program.

They tell me that the success rate of these facilities in deterring the return of these individuals to the Federal prison system is 93 percent. If we can do that in boot camps around the United States, would it not save us untold anguish and troubles and moneys and problems?

Mr. SCHUMER. Madam Chairman, the gentleman is exactly correct. These boot camps really do work. What we are trying to do here is take programs that work and help other local and State areas implement them.

Mr. SENSENBRENNER. Madam Chairman, I yield myself 30 seconds.

Apparently, my friends over on the other side of the aisle were not listening to what the gentleman from Pennsylvania [Mr. GOODLING] said.

The gentleman from Pennsylvania [Mr. GOODLING] said we already passed the authorization legislation and got it funded to the tune of $107 million. So all the good things that they are talking about this legislation doing have already been done.

This debate this afternoon merely duplicates existing law.

Madam Chairman, I yield 4 minutes to the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Madam Chairman, of course, that is exactly the point I was trying to raise. The law is already on the books.

Beyond the boot camp program, we also have a Job Corps Program. I fought during the last administration, on my side of the aisle, to keep those Job Corps programs, because they are boot camps also. And in some instances, as a matter of fact, it is the last resort for those young people.

In some instances, it is the alternative to some kind of sentencing, an excellent program, a demanding program. Again, I cannot emphasize enough, I do not disagree with what they are saying and what the thrust is.

□ 1340

My concern is we already have a law. We already have an authorization. We already have an appropriation. I do not know why we get into this competition business for the same bucks. We probably can end up having a bureaucracy on either side and forcing both.

Everything that has been mentioned by the chairman, by the gentleman from New York, is positively a part of the legislation that is now law, which is Public Law 102-586. I wish people would read it. I wish we would have an opportunity to work together to put this legislation together, because we are just now duplicating, only they in an authorization effort. We have already gone beyond the authorization period. We have gotten the appropriation.

I think we should move ahead with the law that is on the books, rather than authorizing a repeat.

Mr. BROOKS. Will the gentleman yield?

Mr. GOODLING. I am happy to yield to the gentleman from Texas.

Mr. BROOKS. Madam Chairman, I want to first congratulate my friend, the gentleman from Pennsylvania [Mr. GOODLING] for his perception and his awareness of the benefits of boot camps for juveniles. I would say that it is an excellent program, a wonderful idea. This program simply extends the usefulness of reclaiming youths who stray early in life to those young men and women who are between the ages of 18 and 22. Obviously, this program is different because is goes beyond the age limits of a juvenile to those young adults up to age 22.

Mr. GOODLING. Madam Chairman, I would say to the gentleman, if all he wanted to do was to extend the age, then that is all he had to do, just say, "We will amend Public Law 102-586 by increasing the age.

My whole argument is that what we are going to do here is get into competition over the very same dollars, scarce dollars, I might add. I had to fight time and time again to keep the dollars going to the Job Corps, because I realize Job Corps is expensive, but the alternative is much more expensive.

What we are doing here again, I repeat, all we are doing is drawing up competition for the same dollars. The gentleman has already gotten $107 million. Let us come back if we need more and get more, but let us not compete against each other for the same dollars to do exactly the same thing.

Mr. BROOKS. Madam Chairman, I yield 1 minute to the distinguished gentleman from Virginia [Mr. SCOTT], a member of the Committee on the Judiciary.

Mr. SCOTT. Madam Chairman, it is a pleasure for me to rise in support of this legislation and to congratulate the chairman, the gentleman from Texas [Mr. BROOKS] and the gentleman from New York [Mr. SCHUMER] for taking action which will actually reduce crime.

We have heard a lot of situations where juveniles are committing their 10th offense. What happened on the first offense? What happened was that the judge had the opportunity to either give a slap on the wrist or put the person in jail with incorrigibles. This legislation will provide the funding for the development and funding of innovative programs that will give the judge alternatives, alternatives outside of the juvenile court, in criminal court, where the judge will have an opportunity to provide a sanction that will do some good when it can do some good, before the young person is going to be completely incorrigible.

Madam Chairman, I rise in complete support of this legislation, and congratulate again the chairman and the gentleman from New York [Mr. SCHUMER] for their leadership on this issue.

Mr. SENSENBRENNER. Madam Chairman, I yield 4 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Madam Chairman, I thank the gentleman for yielding time to me. I doubt I will need that much time.

Madam Chairman, I would like to say to the chairman of the Committee on the Judiciary and the ranking Republican, and those who are involved in this legislation, that one of the problems that we have with this bill, as I see it, is that the $200 million that is going to be authorized in fiscal years 1994 and 1995 and 1996 cannot be used for the construction of buildings or other infrastructure that might be necessary for the boot camp portion of this proposal.

Therefore, I would like to suggest, and I wish I could have the attention of the chairman of the committee, the gentleman from Texas [Mr. BROOKS] and the gentleman from New Jersey [Mr. HUGHES], one of the things, and I touched on this with the gentleman from New Jersey a few moments ago, since the money cannot be used for infrastructure, we should work together with the Committee on Armed Services to get an agreement in legislative form that will allow the States to be able to, as a priority, get parts of these military bases for the boot camp proposal.

We have base closings all around the country. Many parts of those bases would be ideal. They have barracks that could be used. I would just like to suggest that.

Mr. BROOKS. Will the gentleman yield?

Mr. BURTON of Indiana. I am happy to yield to the gentleman from Texas.

Mr. BROOKS. Madam Chairman, in reply to my distinguished friend, the gentleman from Indiana [Mr. BURTON], the committee has already initiated discussions with the Committee on Armed Services. I am particularly willing to work in that area. The important thing to remember is that if States receive grants under this program, and thus are able to use the Federal money for boot camp programs, that would free other money within those States on a matching basis to buy land, build buildings. The notion of using vacant military installations as a result of downsizing is a worthwhile suggestion, but not quite as simple as it sounds.

Mr. BURTON of Indiana. I understand. That is why we need to get the Committee on Armed Services involved.

Mr. BROOKS. That is right. We need their full support.

Mr. BURTON of Indiana. There does not need to be a large expenditure of funds, because these structures are already there. It is just a matter of getting cooperation with the Department of Defense and the gentleman's committee and others, so we can get the job done.

Mr. BROOKS. I understand.

Mr. HUGHES. Will the gentleman yield?

Mr. BURTON of Indiana. I am happy to yield to the gentleman from New Jersey.

Mr. HUGHES. Madam Chairman, the gentleman is absolutely right. Indeed, I think it was 3 or 4 years ago, with the chairman's help, we were able to get some language in the correctional options program that would give the States, for that program, a priority in securing surplus, excess military facilities around the country. The gentleman is right. Many of them are ideally suited for that. Indeed, the National Institute of Corrections has done quite a bit of work in this area, working with the States and trying to identify those opportunities.

Committees already have a priority, as the gentleman from Indiana [Mr. BURTON] knows, in opting for excess military facilities, but I think we do need to work more closely with the Committee on Armed Services. I think the gentleman is right on target.

In many instances the facilities are not suitable, as the gentleman knows, but there are many facilities that are suitable, and States should be aware of those and enjoy a priority, so we can indeed rate those kinds of facilities.

Mr. BURTON of Indiana. If I can just say to my colleagues, when we come back in January or February, could we get together with the gentleman from California [Mr. DELLUMS] and see if we cannot work out some legislation that will facilitate this as soon as possible?

Mr. HUGHES. If the gentleman will continue to yield, that is an excellent suggestion.

Mr. BURTON of Indiana. I thank my colleague.

Mr. BROOKS. Madam Chairman, I yield 1 minute to the gentleman from Arizona [Mr. PASTOR].

Mr. PASTOR. Madam Chairman, I just want to let the gentleman from Indiana [Mr. BURTON] and other people know that we have a base in Mesa, AZ, Williams Air Force Base, that is going to be closed down. Right now we started a program, and in place there is a program that is being administered by the DOD, Department of Defense, through Air Force, where we are taking dropouts and kids who have had problems with the law, and they are going through a boot camp, so it has been relatively successful. We think it is a very great idea, and we support the chairman's bill.

Mr. BROOKS. Madam Chairman, may I ask how much time we have remaining?

The CHAIRMAN. The gentleman from Texas [Mr. BROOKS] has 7 minutes remaining, and the gentleman from Wisconsin [Mr. SENSENBRENNER] has 15 minutes remaining.

Mr. BROOKS. Madam Chairman, I yield 1 minute to the distinguished gentleman from Florida [Mr. PETERSON].

Mr. PETERSON of Florida. Madam Chairman, I thank the gentleman for yielding time to me.

Madam Chairman, I rise in strong support of this measure. These alternatives are absolutely necessary. The point we have to make here is that we are making investments. These are not costs. We are into a position here where we have got youths out on the streets that have no programs, no abilities to get jobs. We have to repair that.

It is particularly important to extend the age for a juvenile opportunity to participate in these programs from 18 to 22. I ran a program for 5½ years in juvenile rehabilitation, and there just was not any place to put these youngsters after having reached the age of 19. My experience tells me that 70 percent of the youthful offenders can be repaired, can be put back out on the street, can become productive citizens. This is incredibly the right thing to do. If we do not take advantage of this opportunity, we will have missed the mark. We will have relegated a relatively major part of the productive population to oblivion.

Madam Chairman, I share with the chairman strong support for this bill, and wish everyone would give a serious and a yes consideration.

□ 1350

Mr. SENSENBRENNER. Madam Chairman, I yield 7 minutes to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Madam Chairman, I thank the gentleman for yielding me the time.

Madam Chairman, the bill that is before us today is not inherently a bad bill. It is indeed a good bill in the sense that it addressed the concerns many of us have about young offenders who are first time offenders or maybe second time offenders who get in trouble at a youthful age and really should have alternatives to prison incarceration or routine prison incarceration to try to get them on the right track to rehabilitate them at the earliest age and divert them away from the life of crime they otherwise would get into in a major prison system. The boot camp concept has been tried in my State and elsewhere, and it is a good idea.

There are, however, a couple of major problems with the bill. One of them, as pointed out by the gentleman from Pennsylvania [Mr. GOODLING] earlier, is that we already have this in legislation, and we do not need to repeat or reinvent the wheel.

Second, I am going to offer an amendment shortly to address the other big problem. The bill is directed at those who are 22 years of age and under. Truly, the problem today that we have with youthful offenders are those who are the juveniles, under the age of 18. And that is a sad story, but it is true that we have had a dramatic increase in violent crime and other crimes by those who are under that age. And I would cite a few statistics to show that.

The fact of the matter is that between 1985 and 1991 the number of 17-year-olds arrested for murder increased by 121 percent, the number of 16-year-olds by 158 percent, the number of 15-year-olds by 217 percent, and the number of the rest of the boys under 12 doubled during that timeframe and in the Nation as a whole. And I would submit they get even worse in the last couple of years since these statistics were taken.

We need to be concerned about those who are under the age of 18. We only have limited resources. We do not need to be expanding to 28, as the bill originally had, or 22, as it has now has. We need to focus limited resources in this area on where they should be focused.

But I would like to make a bigger point. This bill is simply not addressing the major problem the American public is concerned most with. It is a pygmie bill along with the other five little bills that were put out here a week or so ago on suspension, this one being defeated on suspension so that we could bring it to the floor, debate it under a rule and amend it. None of the bills addresses really the big problem. The big problem we have in this Nation today with crime, and violent crime in particular, is the revolving door of all of these folks who are committing these violent crimes, who go out quickly, do not serve nearly all of their sentences, and they are released again and commit crimes over and over and over again.

It is only a fraction of people who commit the crimes in this country, commit most of the crimes, 80 percent of the violent crimes, and they are released again and again. Our prisons are overcrowded, and we do not have a criminal justice system that works.

Where is the beef? Where is the bill, I would suggest, that would address this? The chairman has said to us in the past, and I am sure he will say it to us again today, we are going to produce some of these bills next spring, or a comprehensive bill. But the fact is that today as we go out on recess we do not have the beef, we do not have the comprehensive bill to address the violent crime crisis in America in the House. The other body has been addressing that. We have not. And it really is shameful that we do not have the issue before us today to address it.

Let me give a citation very quickly on the juvenile area that we are dealing with here today. Not only do 7 percent of the criminals account for 80 percent of violent crime in this country, what we face with the juvenile problem in this country is the fact that 29 percent of those arrested for most violent crime were under the age of 18 in this country between 1987 and 1992. Only about 7 percent of young offenders are responsible for up to three-quarters of violent crimes committed by juveniles. The fact about the matter is that we have this same problem with these violent youthful offenders, young people 12, 13, 14, 15 years of age. We need to take those very violent criminals, whatever age they are off the streets, lock them up and throw away the key. We need to address that problem.

We need to have what the Republicans proposed in our prison alternative in our comprehensive bill, and that is a prison system of cooperative partnership with the States, a system that says the Federal Government will pay for half of the cost of the building of regional prisons to house State-convicted violent criminals, if in return for it the States agree that for those particular types of criminals, and the sexual offenders of a violent nature, that they will have truth in sentencing, that they will require those criminals to serve at least 85 percent of their sentences instead of allowing them back on the streets, and again in turn agree to minimum mandatory sentences for the folks that we are concerned about.

We need to have the three-time offender, three-time felon violent crime offender law that the other body has adopted, and the State of Washington adopted and the American public wants, and that the gentleman from Louisiana [Mr. LIVINGSTON] first authored, and I gather now several others on the other side have come up with. We need to have measures that will take these violent criminals off the streets. That is the No. 1 problem that is not out here today. Whether they are juveniles or not, they are the big problem that America sees first.

Then we need to be able to get to the other problems that are here. In addition, we need to reform the laws that are in the way of the appeals process and of carrying out the sentences of those who serve on death row. In order to put swiftness and certainty of punishment back into our criminal justice system, to fix, in order to have deterrence in the system again, to deter crime, we have to stop these endless appeals. We have to make sure that the sentences that are given are carried out, and to make sure those who are given regular sentences deserve their sentences, and make it so that the law does not impede carrying out the death penalty so that these people know when they commit to these heinous crimes they are going to get the full measure of the law. That is not out here today. We do not have the opportunity to vote on it in this session of Congress.

That is the problem with this bill. It is not the fact that the bill itself is inherently flawed in anything other than the age, but it is a fact that we are not talking about the major crime legislation that Americans think of when they think of violent crime, and when they think of juveniles today, sadly, because it is violent crime that this small portion but significant portion of juveniles are committing that are making the headlines and that is indeed increasing the risks for Americans on the streets of this country today. And it is shocking that it is this young, youthful group that are committing the greatest percentage of these heinous crimes, and those young people, I submit, are not going to be reformed and rehabilitated with boot camps or anything of that nature. They need to be treated as adults, they need to be taken off the streets and locked up.

Then we need to supplement the laws that are already on the books with programs like in this bill here today. Republicans already, we are waiting to see the beef, we are waiting to see the really tough measures that we need to restore faith in our criminal justice system and make it work again. And when we see that, out here we will all be a lot happier about what is going on.

Mr. BROOKS. Madam Chairman, I yield 1 minute to the distinguished gentleman from California [Mr. LEHMAN].

Mr. LEHMAN. Madam Chairman, I do not know what I am hearing here. It sounds to me like we have a very good bill, and some Members in this House do not know how to deal with that.

Madam Chairman, I rise to express my strong support for this legislation.

Boot camps are a sound idea and a concept that has broad public support. I believe boot camps will be extremely effective in combatting crimes in areas like my district in central California. Fresno has witnessed a dramatic rise in gang membership among our local youth. This increase in gang activity has literally turned many of our local streets into war zones.

Some time ago I asked our local police chief if a child who stole a car for the first time was a criminal, and the police chief said no, but by the time he steals the fifth or the sixth car he is.

The problem is that today we have absolutely nothing to intercede and prevent the juvenile delinquent from becoming a full-fledged criminal. Our juvenile halls are overcrowded and inadequate, and our criminal justice system only has the resources to deal with the worst offenders. Without programs specifically designed to deal with juvenile crime I believe that violence will escalate to unmanageable levels in the not-too-distant future.

This is an important bill. Let us pass it.

Mr. SENSENBRENNER. Madam Chairman, I yield 4 minutes to the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Madam Chairman, I thank the gentleman for yielding the time.

Madam Chairman, I would like to take this time to ask the gentleman from Texas [Mr. BROOKS], the gentleman from New Jersey [Mr. HUGHES], and the gentleman from New York [Mr. SCHUMER] a question, and I have three very specific questions.

I would ask Chairman BROOKS, your bill, H.R. 3351 says "to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants for the purpose of developing alternative methods of punishment for young offenders to traditional forms of incarceration and probation."

In Public Law 102-586 it says,

> (i) encourage courts to develop and implement a continuum of post-adjudication restraints that bridge the gap between traditional probation and confinement in a correctional setting (including expanded use of probation, mediation, restitution, community service, treatment, home detention, intensive supervision, electronic monitoring, boot camps and similar programs, and secure community-based treatment facilities linked to other support services such as health, mental health, education (remedial and special), job training, and recreation)* * *

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Now, my three questions are: First, how does H.R. 3351 complement Public Law 102-586; second, will the two bills, or will your bill be in competition for dollars? Will H.R. 3351 be in competition for dollars between Public Law 102-586; and the third question, could we have just raised the age of 19 to 22?

But my most important question is: Will these two laws be in competition for the same dollars if they are supposed to do the same thing?

Mr. HUGHES. Madam Chairman, will the gentleman yield?

Mr. GILCHREST. I yield to the gentleman from New Jersey.

Mr. HUGHES. Madam Chairman, I think I can explain it.

A number of years ago, and I think it has been 3 or 4 years ago, we developed that at a time when I chaired the Subcommittee on Crime, and we developed that program by way of a demonstration program. And this is a general program for the country, not a demonstration program. That is, in essence, the biggest difference.

Mr. GILCHREST. Is the gentleman saying that Public Law 102-586 is a demonstration program, and that this particular bill makes it permanent?

Mr. HUGHES. That is right; that is right. This is permanent legislation. This is generic legislation. It is not a demonstration program.

We had developed a number of demonstration programs in that law. This is a generic program for the country.

Mr. GILCHREST. Public Law 102-586, I assumed, and I did not see anything in the law that said it was temporary, or a demonstration project, and I assumed that it was law, and it was a permanent program for young offenders up to the age of 19. If it is, and I understand that it is, if it is a permanent program up to the age of 19, my question is: How does the new bill complement this public law? And will they be in competition for the dollars?

Mr. HUGHES. I can tell the gentleman, if the gentleman will yield further to me, that the law that was developed, I think it was of the 1989 crime initiative, was a demonstration program, period. That was developed and worked out in conference between the House and the Senate, as I recall, and it was a demonstration program. This is generic in nature, and it will enable us to develop these programs throughout the country, not as by way of demonstration grants, but all States can apply.

Mr. GILCHREST. So the gentleman is saying that this 3351 complements the existing law to change it? I do understand that a public law is permanent, that the appropriation for this funding can be ongoing.

Mr. HUGHES. If the gentleman will yield further, but because of the limited resources, we limited the number of grant applications in various regions. This eliminates those artificial barriers.

Mr. GILCHREST. So the way this new legislation complements the old is that there are not a limited number of grants?

Mr. HUGHES. There are other differences, but that is the primary difference.

Mr. GILCHREST. I thank the gentleman.

Mr. SENSENBRENNER. Madam Chairman, I yield myself 1 minute.

The $200 million contained in this bill, if it is divided into the 50 States, that is an average of $4 million per State. You do not buy much boot camp with $4 million per State.

The question that has not been answered that the gentleman from Maryland [Mr. GILCHREST] has been raising is why set up another program besides the one that has been the law for almost a year and have them in competition for dollars with each other. That will further disperse the amount of money that is available and make whatever good that is done by the boot camps much, much less effective.

Mr. BROOKS. Madam Chairman, I yield 2 minutes to the distinguished gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Madam Chairman, I rise today in strong support of the legislation before us today. Our Nation's crime problem is worsening, Americans are rightly concerned, and it is time to directly confront the problems we face.

Of course, we need additional prison space. We need to provide the resources for additional law enforcement personnel. But, while punishing violent offenders is a critically important part of the fight against crime, we also need to consider preventative measures in the fight against crime. This country simply cannot afford to allow young nonviolent offenders to drift toward a life of violent crime. It is a mistake to simply give up on these young offenders and label them criminals, when a second chance and a strict discipline may prevent them from becoming a much bigger burden on society later in life. Grants to establish boot camps, substance abuse treatment and technical training programs for young offenders can help reduce crime now and allow them a chance to assume a constructive role in our society. Let us pass this forward-thinking legislation and give States the flexibility and resources to develop programs which address their crime-fighting needs. I urge my colleagues to support H.R. 3351. This bill lets the States decide if a youthful, nonviolent crime offender should be in these programs. Madam Chairman, I talked to my brother Jack Bailey a short time ago. He is chief states attorney for the State of Connecticut. He is in complete support of this legislation—he has heard all the horror stories about boot camps. Take a guilty man give him a place in a boot camp and he comes out rested and in good shape to be a second story burglar—this is not correct and no State would be part of such a program.

Mr. SENSENBRENNER. Madam Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. RAMSTAD].

Mr. RAMSTAD. Madam Chairman, I thank the gentleman for yielding me this time.

Madam Chairman, I understand firsthand the value of treatment for chemical dependency, because I have been there, and I also understand that 60 percent of the adolescent treatment centers in America have closed in the last 3 years. I also understand that 50 percent of the treatment centers for adults in this country have closed over the last 5 years, and as the Department of Health and Human Services study showed recently, there are 5.5 million addicts in America.

Madam Chairman, it is no wonder that we have an epidemic of violent crime. As any police chief or any cop in America will tell you, 85 to 90 percent of violent crime is tied indirectly or directly to the drug problem.

So we have to deal with the underlying cause of crime, which is clearly the drug problem.

I commend the people working together on this bill for providing the alternative methods of punishment for young offenders. We truly do need to do everything possible to provide treatment to these youthful offenders who need and want help. That is what this bill does, and that is why I support it.

Mr. BROOKS. Madam Chairman, I yield such time as she may consume to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. Madam Chairman, I rise in strong support of H.R. 3351, and I urge my colleagues to vote for its approval.

Madam Chairman, I rise in strong support of H.R. 3351 and urge my colleagues to vote for its approval.

I am especially supportive of provisions of this bill which authorize funding for boot camp style prisons.

Let's face it—for many young kids who have been convicted of a first-time, nonviolent offense, our traditional prisons do not work. Our prisons are violent, overcrowded, and hardly conducive to rehabilitation.

The only role models for young offenders are those who are serving lengthy sentences for violent and brutal crimes. There are gangs in prisons and there are drugs. In fact, a Federal judge recently refused to send an individual back to one prison because of excessive drug dealing that was occurring within that prison's walls.

With such an environment, is it any wonder that so many youths released from prisons will return within a few years after committing a more serious, and often violent crime? We are not rehabilitating youths in our prisons, we are allowing them to become career criminals.

That is why it is so important that we utilize alternatives to traditional incarceration, such as tough boot camp prisons. The atmosphere of boot camp-style prisons emphasizes respect for authority and self-discipline.

Inmates are forced to examine their own attitudes about crime. They have no time to get into trouble, almost every waking minute is scheduled with physical conditioning, hard work, and counseling. In many boot camps, the instructors serve as role models for the inmates.

But boot camp inmates do more than work. They receive counseling, they receive drug and alcohol treatment, they receive job training and education.

I will be offering an amendment later to clarify that boot camps and other alternative sentencing programs should include a strong job training and education component, and to provide the Job Corps Program as an excellent model for such job training and education activities.

Job Corps is the Nation's most successful comprehensive training program for disadvantaged youth.

Youths emerge from properly structured boot camp prisons mentally and physically ready to lead productive lives and avoid the elements which first brought them into conflict with the law.

If we are serious about controlling the violent crime in our communities, we must prevent at-risk youths from developing into adults that put our communities at risk. I urge my colleagues to support this tough alternative to traditional incarceration by voting for H.R. 3351.

Mr. BROOKS. Madam Chairman, I yield 1 minute to the distinguished gentleman from Texas [Mr. SARPALIUS].

Mr. SARPALIUS. Madam Chairman, I, too, rise in support of this legislation.

I think one important part that all of us need to recognize is that this bill is relating to nonviolent criminals. We are going to continue to send violent criminals to jail.

We are talking about alternatives for nonviolent criminals. It just does not make sense to take a young person who has committed a nonviolent crime and put him in a cell with a person who knows all the tricks of the trade.

I strongly support this bill. We will have some opportunities to improve on this bill with some additional amendments that will put more emphasis on vocational training, education, helping individuals with drug and alcohol problems, and for once this Congress is beginning to focus on our kids and their problems, and I strongly support the bill.

Mr. SENSENBRENNER. Madam Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOKS. Madam Chairman, I yield 5 minute to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Madam Chairman, first, I want to thank the distinguished chairman of the Committee on the Judiciary for yielding me time and congratulate him and the gentleman from New York [Mr. SCHUMER], who is the chairman of the Subcommittee on Crime and Criminal Justice, for crafting this particular bill. It is a good bill.

Madam Chairman, I found the argument being presented today by my colleague, the gentleman from Florida [Mr. McCOLLUM], very interesting, because he did not take much time to talk about the bill before us. He talked about a whole host of other initiatives he preferred to be before us, but what he did not mention to you is that many of those provisions are very controversial.

The death-penalty provisions are very controversial. I happen to support them. But they were part of the reason we did not end up with a crime bill in the last Congress.

I would say that Members on his side of the aisle in the other body filibustered it to death. So we did not get many of those provisions.

Today we do not have an omnibus crime bill because of some of that opposition.

But this bill is probably one of the most important ingredients of the crime bill, contrary to what has been suggested.

You know, if we could do something in this country about youthful offenders, those between 12 and 25, we would solve 80 percent of the crime problem.

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You know, 70 percent of the offenders today are drug-related offenders. They are swelling our prisons because we have not dealt with their problems. We have youthful offenders coming into the system not very far from here, 10 times, 15 times, before the courts do anything about it, because judges have one of two options today. They can either send that youthful offender back home to the same bad environment, or they send them off to jail where they come out worse for the experience. While in jail, we are not dealing with the immediate problems that they have. They go into jail illiterate, they come out illiterate; they go into jail without skills and they come out without skills; they go into jail with drug problems and they come out with drug problems. We should not marvel at the fact that we are seeing the same young people over and over again in the system. Part of the problem is the 12-year-old offender today that we cut loose and we see at 15 is the one we see when he is 16, the one we see when he is 17, only when we see him at age 18, he has committed a violent offense. This is what this program will do.

Now, the argument about whether or not we are going to permit 19-year-olds to come in or not to come in is ludicrous. I know that my colleague, the gentleman from Florida [Mr. McCOLLUM], for whom I have the greatest respect, is making an argument that they are not youthful offenders.

Let me tell you something: We are talking about nonviolent offenders, those who are not carrying handguns, we are not talking about sex offenders; we are talking about youthful offenders. And if the States believe that a 19-year-old is fit for a boot camp, then the State should make that decision. We should not make it for them.

So this is a category of offenders that are nonviolent, that are not sex offenders, that have not carried a weapon, and the State can decide, up to 22 years of age, whether they are suitable for this particular program.

Now, not all youngsters ages 15 to 22 are the kind of offenders that we want in these programs. The States can make those decisions within the broad guidelines.

Mr. SCHUMER. Madam Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the subcommittee chairman, the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. I thank the gentleman for yielding.

Madam Chairman, I just want to commend the gentleman for his statement. As most in this Chamber know, he has been a leader in the area of boot camps and, of the two Federal laws on the books, one is the gentleman from New Jersey's and one is mine. We have worked together.

The gentleman has really pioneered the idea of alternatives to incarceration. I welcome not only his support on this bill but his help in amending it and his guidance to putting it together, and I thank him for his leadership on this matter.

Mr. HUGHES. Let me tell you, I think of all the provisions that we have, there are a lot of very good provisions that I congratulate the chairman for, the cops on the beat, the efforts and initiatives to deal with gangs. I believe this particular bill is the most important we have in the package, and for this reason, if we do not do something about our youthful offenders, we are going to lose another generation, another generation of young Americans. And if we have learned nothing else, we should have learned that we need to start dealing with them early, we need to start intervening earlier with these youthful offenders. We need to deal with their problems; their illiteracy, their lack of skills, their drug problems, psychological problems, psychiatric problems. And then we start doing that and develop the after-care that we need, the network of community-based services which I am going to be addressing later by way of an amendment. When we do that, we will start addressing some very serious problems that exist in the criminal justice system. We have lost the element of certainty in the system, and this will help us put it back into the system.

Mr. HORN. Madam Speaker, I will vote for H.R. 3351, the Alternative Punishments for Young Offenders Act. This legislation authorizes $200 million a year for 3 years to encourage the State and local governments to develop alternative methods of punishments to traditional forms of unsupervised probation through incarceration.

This grant program comes none to soon as we see thousands of missed opportunities as to how we handle young offenders at the present time. Our State prisons and our county jails are filled with those who began their criminal behavior at an early age. Individuals who are incarcerated for serious crimes are being let go for the latest arrivals.

What is needed is a program to identify and classify the serious early offenders from the less serious ones. First offenders do not need boot camp. First offenders need help and diversion.

Recently, I had the opportunity to chat with Dr. Michael Schumacher, the chief probation officer of Orange County, CA, which is adjacent to my congressional district. His department, which includes both juvenile and adult probation, has recently completed a study which is significant. The records for the period 1985 through 1992 were analyzed. This extensive study involved 6,400 cases. In three studies, it turned out that an average of 8 percent of the juveniles created an average of 55 percent of all the subsequent cases and costs over this 7-year period. Those included in the study ranged in age from 13 through 18; 71 percent of the first offenders never came back into the juvenile justice system; 21 percent came back two or three times.

The problem cases who returned more than three times included those who were part of a disruptive family, those who were involved with drugs and alcohol, those who were failing in school, and those who hung around with peers who had similar characteristics. Of this problem 8 percent among the 14 year olds, only 16 percent were in gangs. By 16 years of age, 65 percent were in gangs. The period from 14 to 16 years of age is the pivotal period. Officials generally give youth in this age group a break. A true break would be to analyze the family, substance abuse, education, and other problems, and then involve the whole family in helping to remedy the problem and thus to reverse this cycle that all too many families go through. When this is done, juveniles get out of the system; overall 92 percent came into contact and through the system two or three times and were never seen again.

Barry Nidorf, the chief probation officer of Los Angeles County, which is adjacent to Orange County, has informed me that under a grant from the National Institute of Corrections his county will validate the findings which I have mentioned above. In a recent review of a 6-month period of juvenile delinquency in Los Angeles County, 16 percent of the juveniles were responsible for consuming 67 percent of the resources from arrest through incarceration and probation.

Madam Chairman, I have seen a lot of creativity at the State and local level when it comes to corrections. Over two decades ago, I was honored to be one of the original cofounders and board members of the National Institute of Corrections which was originally suggested by the Honorable Warren Burger, then Chief Justice of the United States, and John Mitchell, then Attorney General. During my 18 years of service on the advisory board to the institute including the chairmanship of various committees, task forces, and the institute itself, I had the opportunity to see sheriffs, police chiefs, chief probation officers, directors of corrections, and mental health at State and local levels, wardens, superintendents, district attorneys, judges, and many others in city, county, and State government who cared and who in their own way were working to stem the tide of juvenile misbehavior.

This legislation will provide encouragement where dedicated public servants are on the firing line. They are our present bulwark between a peaceful civilization and chaos. I am confident that the type of study which was undertaken in Orange County, CA, will provide the type of analysis as to what works and what does not. Those are the success stories that the American taxpayer needs to see.

Mr. SANDERS. Madam Chairman, I rise today in support of H.R. 3351, which would provide $200 million each year for the next 3 years in grants to States to develop alternative punishments for young offenders. It is clear that our judicial system, which already puts more of our population in jail than any industrialized nation except for South Africa, is not working to stop crime. This bill will allow the States to further develop innovative programs for alternative punishment of young offenders, such as boot camps, requiring restitution to victims, and community service.

In my own State of Vermont, substantial success has already been achieved with alternative forms of punishment. One example of these is the Court Diversion Program, applied in several counties, which diverts the cases of first-time offenders out of the standard court system and into an alternative process. This program, started in 1979, has significantly lessened the burden on State courts. In Chittenden County, for example, 2,589 juvenile offenders have gone through the court diversion program, with 98 percent of them successfully completing their contracted obligations and only a 3 percent recidivism rate.

This is a good example of the kinds of innovative alternative we should be exploring, and H.R. 3351 will help encourage it. I urge my colleagues to support this bill, and strike a real blow against crime.

Mr. KNOLLENBERG. Madam Chairman, I rise today in opposition to H.R. 3351 because it is not the kind of strong action the American people are demanding.

As every American is painfully aware, our Nation is gripped by a wave of violent crime. Every day through our TV sets, we are bombarded by the violent images of carnage on our streets. Poll after poll shows that the American public is more concerned about this issue than any other. Yet, in the face of this crisis, the Democrat leadership offers us what amounts to an aspirin for a gunshot wound.

I oppose this bill for two reasons. First, it is really nothing more than political grandstanding. The language offers nothing new or innovative in the way of alternative sentencing, and instead mirrors Public Law 102-586 which has already established grant programs for boot camps and other forms of incarceration for youthful offenders.

Second, this legislation has been offered in lieu of a serious, comprehensive crime bill. The bill before us does not address prison overcrowding, it does not impose mandatory minimum penalties for violent crimes, it does not place any limits on endless death row appeals, and it does not eliminate the needless loopholes in our search and seizure laws.

These are the reforms that the American people expect from us—not the window dressing before us today.

I am ready to do whatever it takes to make America's communities safe again, but I cannot in good conscience support legislation which seeks to deceive the American people into thinking the House is tough on violent crime.

Mr. ROSTENKOWSKI. Madam Chairman, I rise in strong support of H.R. 3351, which provides alternative punishment programs for youthful offenders. This legislation establishes new programs to alleviate the pressing needs of our overcrowded prisons, while at the same time providing a program to redirect young lawbreakers before it is too late.

In the inner city today, many youths are without proper role models outside of the gang leaders who often serve as surrogate families, providing acceptance and encouragement for criminal acts, which can only lead young, impressionable individuals into drugs, jail, and sadly—death. Right now, the only thing first-time offenders learn in prison is how to be a better criminal—so judges are faced with the decision to either send first- or second-time lawbreakers to prison, or simply release them back on the streets.

An excellent example of alternative punishment for young offenders is the correctional boot camp. Currently 22 States enjoy success with boot camps and I am pleased to report that one is currently underway in my hometown of Chicago. These facilities place misguided young offenders into a rigorous program of military discipline and instill in these young people goals of self-worth and pride in group effort.

The boot camp will place nonviolent inmates into a military-style barracks, directing them through a 16-week program of physical, motivational, and educational training to be followed by a 14-week program of community service. The Cook County program and other alternative programs envisioned in this bill offer an innovative approach to break the crime cycle. These approaches deserve our support.

Mr. GENE GREEN of Texas. Madam Chairman, I rise today in support of H.R. 3351, the Alternative Punishment for Youth Offenders Act. As a State legislator I spent a great deal of time working on criminal justice issues, especially on matters that related to juvenile justice matters. In my last term as a State senator, I was proud to have worked on a crime package that not only addressed the issue of juvenile boot camps, but drug treatment facilities as well.

Juvenile boot camps have proven an effective alternative for youthful offenders. Our prison system is far too crowded to continue packing them with juvenile offenders when more effective alternatives exist. Furthermore, our prisons have become a training ground for young criminals as well as a recruiting tool for gangs. By separating youths from this environment we increase the chances that they can be truly rehabilitated.

There are a lot of different ideas about the best way to treat young offenders. With the rising rate of violent crime we hear repeated calls for action yet the solutions have proven illusive. Boot camps are one effective method and should be encouraged as a means to reduce violent crime and rehabilitate young offenders.

I encourage my colleagues to support this bill because it addresses the problem of juvenile crime with proven solutions. Our States have already created these boot camps and Federal assistance will help strengthen those efforts. Thank you.

Mr. BROOKS. Madam Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill, modified by the amendment printed in part 1 of House Report 103-374, is considered as an original bill for the purpose of amendment and is considered as read.

The text of the amendment in the nature of a substitute, as modified, is as follows:

H.R. 3351

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CERTAINTY OF PUNISHMENT FOR YOUNG OFFENDERS.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), is amended—

(1) by redesignating part Q as part R;

(2) by redesignating section 1701 as section 1801; and

(3) by inserting after part P the following:

"PART Q—ALTERNATIVE PUNISHMENTS FOR YOUNG OFFENDERS

"SEC. 1701. GRANT AUTHORIZATION.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance (referred to in this part as

the 'Director') may make grants under this part to States, for the use by States and units of local government in the States, for the purpose of developing alternative methods of punishment for young offenders to traditional forms of incarceration and probation.

''(b) ALTERNATIVE METHODS.—The alternative methods of punishment referred to in subsection (a) should ensure certainty of punishment for young offenders and promote reduced recidivism, crime prevention, and assistance to victims, particularly for young offenders who can be punished more effectively in an environment other than a traditional correctional facility, including—

''(1) alternative sanctions that create accountability and certainty of punishment for young offenders;

''(2) boot camp prison programs;

''(3) technical training and support for the implementation and maintenance of State and local restitution programs for young offenders;

''(4) innovative projects;

''(5) correctional options, such as community-based incarceration, weekend incarceration, and electronic monitoring of offenders;

''(6) community service programs that provide work service placement for young offenders at nonprofit, private organizations and community organizations;

''(7) demonstration restitution projects that are evaluated for effectiveness; and

''(8) innovative methods that address the problems of young offenders convicted of serious substance abuse (including alcohol abuse, and gang-related offenses), including technical assistance and training to counsel and treat such offenders.

"SEC. 1702. STATE APPLICATIONS

''(a) IN GENERAL.—(1) To request a grant under this part, the chief executive of a State shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

''(2) Such application shall include assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

''(b) STATE OFFICE.—The office designated under section 507 of this title—

''(1) shall prepare the application as required under subsection (a); and

''(2) shall administer grant funds received under his part, including review of spending, processing, progress, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

"SEC. 1703. REVIEW OF STATE APPLICATIONS.

''(a) IN GENERAL.—The Director, in consultation with the Director of the National Institute of Corrections, shall make a grant under section 1701(a) to carry out the projects described in the application submitted by such applicant under section 1702 upon determining that—

''(1) the application is consistent with the requirements of this part; and

''(2) before the approval of the application, the Director has made an affirmative finding in writing that the proposed project has been reviewed in accordance with this part.

''(b) APPROVAL.—Each application submitted under section 1702 shall be considered approved, in whole or in part, by the Director not later than 45 days after first received unless the Director informs the applicant of specific reasons for disapproval.

''(c) RESTRICTION.—Grant funds received under this part shall not be used for land acquisition or construction projects, other than alternative facilities described in section 1701(b).

''(d) DISAPPROVAL NOTICE AND RECONSIDERATION.—The Director shall not disapprove any application without first affording the applicant reasonable notice and an opportunity for reconsideration.

"SEC. 1704. LOCAL APPLICATIONS.

''(a) IN GENERAL.—(1) To request funds under this part from a State, the chief executive of a unit of local government shall submit an application to the office designated under section 1701(b).

''(2) Such application shall be considered approved, in whole or in part, by the State not later than 45 days after such application is first received unless the State informs the applicant in writing of specific reasons for disapproval.

''(3) The State shall not disapprove any application submitted to the State without first affording the applicant reasonable notice and an opportunity for reconsideration.

''(4) If such application is approved, the unit of local government is eligible to receive such funds.

''(b) DISTRIBUTION TO UNITS OF LOCAL GOVERNMENT.—A State that receives funds under section 1701 in a fiscal year shall make such funds available to units of local government with an application that has been submitted and approved by the State within 45 days after the Director has approved the application submitted by the State and has made funds available to the State. The Director shall have the authority to waive the 45-day requirement in this section upon a finding that the State is unable to satisfy such requirement under State statutes.

"SEC. 1705. ALLOCATION AND DISTRIBUTION OF FUNDS.

''(a) STATE DISTRIBUTION.—Of the total amount appropriated under this part in any fiscal year—

''(1) 0.4 percent shall be allocated to each of the participating States; and

''(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each of the participating States an amount which bears the same ratio to the amount remaining funds described in this paragraph as the number of young offenders of such State bears to the number of young offenders in all the participating States.

''(b) LOCAL DISTRIBUTION.—A State that receives funds under this part in a fiscal year shall distribute to units of local government in such State for the purposes specified under section 1701 that portion of such funds which bears the same ratio to the aggregate amount of such funds as the amount of funds expended by all units of local government for correctional programs in the preceding fiscal year bears to the aggregate amount of funds expended by the State and all units of local government in such State for correctional programs in such preceding fiscal year.

''(2) Any funds not distributed to units of local government under paragraph (1) shall be available for expenditure by such State for purposes specified under section 1701.

''(3) If the Director determines, on the basis of information available during any fiscal year, that a portion of the funds allocated to a State for such fiscal year will not be used by such State or that a State is not eligible to receive funds under section 1701, the Director shall award such funds to units of local government in such State giving priority to the units of local government that the Director considers to have the greatest need.

''(c) GENERAL REQUIREMENT.—Notwithstanding the provisions of subsections (a) and (b), not less than two-thirds of funds received by a State under this part shall be distributed to units of local government unless the State applies for and receives a waiver from the Director of the Bureau of Justice Assistance.

''(d) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 1702(a) for the fiscal year for which the projects receive assistance under this part.

"SEC. 1706. EVALUATION.

''(a) IN GENERAL.—(1) Each State and local unit of government that receives a grant under this part shall submit to the Director an evaluation not later than March 1 of each year in accordance with guidelines issued by the Director and in consultation with the National Institute of Justice.

''(2) The Director may waive the requirement specified in paragraph (1) if the Director determines that such evaluation is not warranted in the case of the State or unit of local government involved.

''(b) DISTRIBUTION.—The Director shall make available to the public on a timely basis evaluations received under subsection (a).

''(c) ADMINISTRATIVE COSTS.—A State and local unit of government may use not more than 5 percent of funds it receives under this part to develop an evaluation program under this section.''.

(b) CONFORMING AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), is amended by striking the matter relating to part Q and inserting the following:

''PART Q—ALTERNATIVE PUNISHMENTS FOR YOUNG OFFENDERS

''Sec. 1701. Grant authorization.
''Sec. 1702. State applications.
''Sec. 1703. Review of State applications.
''Sec. 1704. Local applications.
''Sec. 1705. Allocation and distribution of funds.
''Sec. 1706. Evaluation.

''PART R—TRANSITION—EFFECTIVE DATE—REPEALER

''Sec. 1801. Continuation of rules, authorities, and proceedings.''.

(c) DEFINITION.—Section 901(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)), is amended by adding after paragraph (23) the following:

''(24) The term 'young offender' means an individual, convicted of a crime, 22 years of age or younger—

''(A) who has not been convicted of—

''(i) a crime of sexual assault; or

''(ii) a crime involving the use of a firearm in the commission of the crime; and

''(B) who has no prior convictions for a crime of violence (as defined by section 16 of title 18, United States Code) punishable by a period of 1 or more years of imprisonment.''.

SEC. 2. AUTHORIZATION OF APPROPRIATION.

Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793) is amended by adding after paragraph (10) the following:

''(11) There are authorized to be appropriated $200,000,000 for each of the fiscal years 1994, 1995, and 1996 to carry out the projects under part Q.''.

The CHAIRMAN. No amendment to the substitute, as modified, is in order except the amendments printed part 2 of House Report 103-374. Each amendment may be offered only by a Member designated in the report, shall be considered as read, is not subject to amendment, and is not subject to a demand for a division of the question.

Debate time on each amendment will be equally divided and controlled by the proponent and an opponent of the amendment.

It is now in order to consider amendment No. 1, printed in part 2 of House Report 103-374.

AMENDMENT OFFERED BY MR. HUGHES

Mr. HUGHES. Madam Chairman, I offer an amendment made in order under the rule.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. HUGHES: Page 3, line 20, strike "and".

Page 3, line 25, strike the period and add "; and".

Page 3, after line 25, insert the following:

"(9) the provision for adequate and appropriate after care programs for the young offenders, such as substance abuse treatment, education programs, vocational training, job placement counseling, and other support programs upon release.

The CHAIRMAN. Pursuant to the rule, the gentleman from New Jersey [Mr. HUGHES] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Madam Chairman, I yield myself such time as I may consume.

I rise in support of my amendment to H.R. 3351.

The amendment offered today will make a good bill better. I compliment Chairman BROOKS and subcommittee Chairman SCHUMER for bringing this bill to the floor. Programs that provide alternatives to traditional incarceration for youthful offenders are essential in our criminal justice system and often a more appropriate response for youthful offenders.

My amendment speaks to an important component of these correctional programs. Youthful offenders, even more than adults, need followup support and supervision to ensure that peer pressure does not lead to backsliding into criminal conduct. There must be support provided in reentering the community and in facing the attendant pressures which initially led to the wrong choices. The amendment would encourage the Bureau of Justice Assistance to consider the provisions of after care as an important component of an alternative program.

The National Institute of Corrections, a recognized expert in the field of evaluating corrections programs, strongly recommends that no alternative programs, including boot camp type programs, be operated without an aftercare program. To a great extent, the success of the alternative programs is based on the aftercare component.

One program which provides an example of this success is the New York State program which operates the New York City shock supervision unit. The shock programs, such as boot camp, are followed by supervision after release to the community. According to a 1992 evaluation of the New York program, "shock graduates were more likely than comparison group members to be successful after release, despite having spent considerably less time in State prison * * * Success rates exceeded those of the comparison groups after 12, 24, and 36 months of followup."

It is essential that the programs be designed with a required aftercare component. This amendment would assist in promoting after care as an element to be included in order for a program to qualify for funding.

I urge adoption of this amendment.

Mr. SENSENBRENNER. Madam Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. I thank the gentleman for yielding.

Madam Chairman, I think that this amendment adds to this bill, and we certainly support it on this side of the aisle.

Mr. BROOKS. Madam Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the chairman.

Mr. BROOKS. Madam Chairman, I rise in strong support of this amendment offered by the gentleman from New Jersey [Mr. HUGHES].

Followup care for the young people involved in the Certainty of Punishment Program would be an important component of that program. It does not take a social scientist to know that subsequent followup supervision and evaluation is critical to prevent a slide back to past patterns of antisocial behavior.

Professionals in the Criminal Justice System support such a component for grant programs, because it allows them to lend a steadying hand as offenders make the adjustment back to a normal life in their communities.

I compliment the gentleman from New Jersey for bringing this matter before us, and I urge adoption of this amendment.

Mr. SCHUMER. Madam Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from New York.

Mr. SCHUMER. I thank the gentleman for yielding.

Madam Chairman, I want to compliment the gentleman from New Jersey. The programs like boot camp or even drug treatment in the prisons work much better when there is aftercare as well, helping the person who gets out adjust to his new life and keeping him off drugs. It is an excellent addition. I support the amendment and commend the gentleman.

Mr. HUGHES. I thank all the Members for their support and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey.

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 2, printed in part 2 of House Report 103-374.

AMENDMENT OFFERED BY MRS. LOWEY

Mrs. LOWEY. Madam Chairman, I have an amendment made in order under the rule.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mrs. LOWEY: Page 3, line 7, after "programs" insert "that include education and job training activities such as programs modeled, to the extent practicable, after activities carried out under part B of title IV of the Job Training Partnership Act (relating to Job Corps) (29 U.S.C. 1691 et seq.)".

Page 3, line 11, after "projects" insert ", such as projects consisting of education and job training activities for incarcerated young offenders, modeled, to the extent practicable, after activities carried out under part B of title IV of the Job Training Partnership Act (relating to Job Corps) (29 U.S.C. 1691 et seq.)".

The CHAIRMAN. Pursuant to the rule, the gentlewoman from New York [Mrs. LOWEY] will be recognized for 5 minutes, and a Member in opposition will be recognized for 5 minutes.

The Chair recognizes the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I want to congratulate and take this opportunity to thank Chairman SCHUMER, Chairman HUGHES, Chairman BROOKS, and Chairman PAT WILLIAMS for their leadership on the Job Corps, for their outstanding leadership on the boot camp proposals that have been offered in this Congress.

Madam Chairman, I rise to offer my amendment to H.R. 3351 to clarify that boot camps and other alternative sentencing programs should include a strong job training and education component, and to provide the Job Corps Program as an excellent model for such job training and education activities. Why?

Because unless we make available education and training for real jobs, the shock of boot camp incarceration will inevitably wear off.

Because the present revolving-door Juvenile Justice System is failing miserably and at a devastating price.

And because Job Corps is the Nation's most successful comprehensive training program for disadvantaged youth.

Madam Chairman, if we are serious about intervening in the lives of troubled youth before they have been lost to the streets, we had better base our efforts on the most effective strategies for helping disadvantaged young people succeed.

Job Corps has had unparalleled success serving these populations and has done so for the last 30 years at a net savings to the taxpayer. Its methods should be replicated in the boot camps and innovative projects authorized under this important bill.

Madam Chairman, we all agree that instilling better discipline and physical conditioning is an important aspect of the boot camp concept. However, if offenders do not also gain academic, vocational, and social skills to enable them to obtain a decent job when they get out, they will simply be in better physical condition when they return to criminal life.

Without access to the kinds of services provided under Job Corps, most of these juvenile offenders get warehoused in youth detention centers or other facilities.

Then, most youth offenders are released at the age of 21, poorly educated, unskilled, and unprepared to enter the work force.

H.R. 3351, and the amendment which I am offering, do not reward criminal activity—they recognize that unless we move forcefully and creatively to intervene, we will lose a generation of young people to crime and hopelessness.

Madam Chairman, it is easy to talk tough about crime. It is more difficult to do something real to provide youth with a tangible alternative to crime. I believe that this bill, strengthened by my amendment, will do just that.

I understand that the chairman of the full committee and the chairman of the subcommittee have no objection to the amendment. I appreciate their leadership and support. I also want to acknowledge the work of Chairman WILLIAMS, chairman of the subcommittee with jurisdiction over Job Corps, with whom I have worked on this concept.

I urge my colleagues to support this amendment.

Mr. BROOKS. Madam Chairman, will the gentlewoman yield?

Mrs. LOWEY. I yield to the chairman of the committee.

Mr. BROOKS. Madam Chairman, I rise in strong support of the amendment offered by the gentlewoman from New York [Mrs. LOWEY].

Counselors at existing boot camp programs have expressed to the committee their frustration that skills training is not given a greater role in the programs. These professionals see such training as crucial to rehabilitation of young offenders, and I certainly agree with their assessment.

This amendment is an important step to help correct the situation. I compliment the gentlewoman from New York for offering it, and I urge its adoption.

Mr. SENSENBRENNER. Madam Chairman, will the gentlewoman yield?

Mrs. LOWEY. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. I thank the gentlewoman for yielding.

Madam Chairman, let me say that we have no objection to this amendment on this side of the aisle. I think it adds to the bill, but as the gentleman from Pennsylvania [Mr. GOODLING] will say shortly, it is already in the law.

Mr. SCHUMER. Madam Chairman, will the gentlewoman yield?

Mrs. LOWEY. I yield to the gentleman from New York.

Mr. SCHUMER. I thank the gentlewoman for yielding. I also thank the gentlewoman for this amendment.

Madam Chairman, the Job Corps is a superb program, one of the few job training programs that works well. I think the gentlewoman has shown a great deal of perspicacity in combating the boot camp program and the Job Corps; it is an excellent addition and I urge its adoption.

Mr. GOODLING. Madam Chairman, will the gentlewoman yield?

Mrs. LOWEY. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. I thank the gentlewoman for yielding.

I too agree that it is a good amendment. What I want to say in relationship to the amendment offered by the gentleman from New Jersey [Mr. HUGHES], and to the gentlewoman's amendment, is that it is exactly what is in the legislation which she helped us put together last year, which is now law and which has $107 million appropriated. Both amendments are good amendments because they are exactly the same as she helped us put in the legislation last year when she served on the committee.

Mrs. LOWEY. I thank the gentleman from Pennsylvania. I feel that this legislation is important because, in light of the important appropriation, this amendment will clarify and further define what a boot camp is. As the gentleman and I know, boot camps are so very important that we feel, I feel, we are allocating funds and it is very important to show leadership and to make clear what these boot camps do.

□ 1420

Mr. GOODLING. Madam Chairman, will the gentlewoman yield?

Mrs. LOWEY. Certainly, I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Madam Chairman, I agree wholeheartedly, and as I said, the definition that the gentlewoman helped us put in the legislation last year is perfect legislation. It is in the legislation that is already appropriated.

Mrs. LOWEY. Madam Chairman, I yield back the balance of my time.

The CHAIRMAN. Does anyone in opposition seek time?

If not, the question is on the amendment offered by the gentlewoman from New York [Mrs. LOWEY].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 3 printed in part 2 of House Report 103-374.

For what purpose does the gentleman from Rhode Island rise?

Mr. MACHTLEY. Madam Chairman, I ask unanimous consent to take my amendment out of order after the Solomon amendment. This is amendment No. 3.

PARLIAMENTARY INQUIRIES

Mr. SENSENBRENNER. Madam Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his inquiry.

Mr. SENSENBRENNER. Madam Chairman, is it in order for the gentleman from Rhode Island to ask that the other two amendments that are made in order under the rule come up first and that his amendment come up after the last amendment made in order under the rule, which is the amendment to be offered by the gentleman from Florida [Mr. MCCOLLUM]?

The CHAIRMAN. The Chair cannot grant that request. The Committee must stay with the order that has been established by this rule.

Is the gentleman from Rhode Island offering his amendment now?

Mr. MACHTLEY. Madam Chairman, I ask unanimous consent to revise my amendment which is now at the desk.

The CHAIRMAN. The Clerk does not have the gentleman's modification.

Mr. MACHTLEY. Madam Chairman, I would like to make a verbal modification of my amendment that is now in order, pending the arrival of the written modification.

Mr. BROOKS. Madam Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his inquiry.

Mr. BROOKS. Madam Chairman, is it true that the gentleman is making a unanimous-consent request to modify the language of the amendment made in order under the rule as amendment No. 3, the Machtley amendment?

The CHAIRMAN. Is the gentleman from Rhode Island seeking to modify his amendment in writing?

Mr. MACHTLEY. I am seeking to revise my amendment which is at the desk, that is correct.

The CHAIRMAN. There is no modification at the desk. The Chair is trying to understand what the modification is.

Mr. MACHTLEY. I have an amendment at the desk, Madam Chairman. The original amendment is at the desk.

The CHAIRMAN. Would the gentleman please send up his modification? We only have the original amendment.

AMENDMENT OFFERED BY MR. MACHTLEY

Mr. MACHTLEY. Madam Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MACHTLEY: Page 8, after line 11, insert the following:

"(e) LIMITATION.—Notwithstanding subsections (a) and (b), no State or unit of local government that receives funds from such State shall be eligible to receive funds under this part unless such State has in effect throughout such State a law or policy which—

"(1) requires that a student who is in possession of a firearm or other weapon on school property or convicted of a crime involving the use of a firearm or weapon on school property—

"(A) be suspended from school for not less than a 10-day period; and

"(B) lose driving license privileges;

"(2) bans firearms and other weapons in a 100-yard radius of school property, except as provided by the Attorney General of the United States; and

"(3) requires mandatory sentences for crimes involving the use of a firearm or other weapon on school property.

The CHAIRMAN. Pursuant to the rule, the gentleman from Rhode Island will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

Mr. BROOKS. Madam Chairman, will the gentleman yield?

Mr. MACHTLEY. I yield to the gentleman from Texas.

Mr. BROOKS. Madam Chairman, has the amendment been read, and is it modified?

Mr. MACHTLEY. The original amendment has not yet been modified. We are waiting for legislative counsel to make the modification which we discussed, so I am going to discuss the amendment which is going to be modified.

Mr. SENSENBRENNER. Madam Chairman, I rise in opposition to the amendment, and I claim the time.

The CHAIRMAN. The gentleman from Wisconsin [Mr. SENSENBRENNER] will be recognized for 10 minutes.

Mr. BROOKS. Madam Chairman, does the gentleman intend to modify the amendment?

Mr. MACHTLEY. The gentleman does intend to modify it, Madam Chairman, as soon as legislative counsel provides us with the modified version of the amendment.

Mr. BROOKS. The language is there now?

The CHAIRMAN. The language of the original amendment is here now.

MODIFICATION OF AMENDMENT OFFERED BY MR. MACHTLEY

Mr. MACHTLEY. Madam Chairman, I offer a modification to the amendment.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification of amendment offered by Mr. MACHTLEY: In line 2 of the original amendment strike "no State" and all that follows through "unless such" on line 4 and insert "in awarding grants the Director shall consider as an important factor whether".

On line 6 strike "student" and insert "juvenile".

On line 10 strike "for not less than a 10-day period" and insert "for a reasonable period of time".

Mr. BROOKS (during the reading). Madam Chairman, I ask unanimous consent that the modification be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The gentleman from Rhode Island [Mr. MACHTLEY] is recognized for 10 minutes.

Mr. MACHTLEY. Madam Chairman, I rise today to offer an amendment which seeks to address the growing and quite frankly frightening problem of violence in our schools today.

The modification to my amendment does several things and I will explain those as I discuss this amendment.

Although H.R. 3351 is admittedly a grant program for punishment alternatives for youthful offenders, I think it is incumbent upon us as a United States Congress to do everything that we can to try and stem the tide of violence which is occurring in our schools, because it is a horrendous problem.

It seems like every day we are reading in newspapers and watching on TV the violence which is occurring with weapons inside our school systems.

Just yesterday a student went into a high school in my community in Rhode Island. I could stand here all day and give you examples of the most horrendous crimes which are occurring in our school systems. Every Member in this Congress probably could cite examples which are occurring in their districts.

Granted this is not just a control problem. It is much larger than that. It is not just the violence in the inner city urban areas, it is in our suburbs.

Listen to the first paragraph of a November 8, 1993, U.S. News & World Report article:

> Security guards were unnecessary at 1,100-student Dartmouth High School, in a pretty university town 50 miles south of Boston, where the sons and daughters of professors studied alongside the sons and daughters of yacht owners and fishermen. The federal government honored the school for excellence in 1985. So it was a shock when two Dartmouth students and a third teenager burst into James Murphy's government class on April 12 armed with a bat, a billy club and a hunting knife. Police say they attacked freshman Jason Robinson, 16; one went after him with the bat, and as Murphy wrestled with the assailant, a second plunged the knife into Robinson's abdomen, killing him. Robinson's friend Shawn Pina, 15, had fought with one of the accused attackers earlier. A student in Murphy's class, Pina had been suspended after the fight and was not present when the three arrived allegedly looking for revenge.

What was the provocation for the killing of this student? Because Robinson asked why they wanted to see Pina.

Until recently, violence has not been associated with our schools, but today more than 3 million crimes a year are committed in our 85,000 schools in this Nation.

Two weeks ago New York Mayor David Dinkins announced plans to station city cops in all of their New York public schools at an estimated cost of $60 million.

This trend is terrifying. We as a Congress must do something.

When we read studies, such as a Michigan study which reports that 9 percent of 8th graders carry a gun, knife, or club to school at least once a month. In all an estimated 270,000 guns go to school every day.

These days attending school represents an act of courage for many students. Sixteen percent of 8th graders, 14 percent of 10th graders and 12 percent of 12th graders told University of Michigan researchers that they fear for their safety in our school systems.

So what can we as a U.S. Congress do about this problem?

□ 1430

Can we cope and develop solutions? The problem admittedly, as I indicated, goes well beyond criminal laws. It involves the breakdown of family, it involves unstructured, undisciplined lives in many of your young people, it involves the violence inciting wrath, it involves violence on TV, and regrettably and unfortunately it involves young people who, in the words of a recent article, "suddenly and chillingly respect for life has ebbed strongly among teenagers." If our schools cannot teach brotherly love, and if they cannot teach the Golden Rule, at least they ought to make sure that the students understand that, if they commit an act of violence with a weapon in the school, there will be swift and unpleasant justice for them.

As our States are trying to cope with this enormous problem, Madam Chairman, we, as a Congress, must address it, and we must do all we can. My amendment says that, if States are going to qualify for these monies under this bill in 3351, as a factor for consideration, which is the first change which we just amended, they must, first, provide that if a juvenile is in possession of a firearm or other weapon on school property or convicted of a crime involving the use of a weapon on school property, they would be suspended for a reasonable time. Second, the school would determine that the assailant would lose driving license privileges for a reasonable time as well. Finally, the ban, this amendment which has been revised, bans firearms and other weapons in a 100-yard radius around the school property except, and this is an important exception, that the State may allow exceptions for school sponsored activities as well as other reasonable exceptions. This would take into consideration the person who has a home next to a school, a car which is parked across the street or some other incidental act. We are not banning weapons which are intended for legitimate purposes, but what we are saying is that we have had it with weapons and violence in school, and we are going to begin to take a stand.

Madam Chairman, I believe that my amendment is an important amendment today and that it needs to be addressed by the U.S. Congress, and this is the beginning. While there are some who might suggest that the Gun-Free School Act of 1990 already takes into consideration what I am suggesting, that particular bill has been determined by the U.S. court in California, the district court, as unconstitutional, as exceeding the U.S. Congress' power under the Commerce Act. My bill, by linking the ability to get these monies under this bill in fact will not be a constitutional problem.

Madam Chairman, I believe that my amendment is timely, and I believe it is in the best interest of the country, certainly in the best interest of education.

Mr. BROOKS. Madam Chairman, will the gentleman yield?

Mr. MACHTLEY. I yield to the gentleman from Texas.

Mr. BROOKS. Madam Chairman, I looked at the language of the amendment, and it seems to me that the gentleman has tried to be as constructive as possible. I think his motivation is excellent. I think it is a sense of Congress, in effect, that may give some guidance to the States that will be useful to them, and I have no objection to the amendment. I hope that we can pass it promptly and go on to the amendment to be offered by the gentleman from Florida [Mr. MCCOLLUM] and wrap this package up.

Mr. SCHUMER. Madam Chairman, will the gentleman yield?

Mr. MACHTLEY. I yield to the gentleman from New York.

Mr. SCHUMER. Madam Chairman, I agree with the chairman, the gentleman from Texas [Mr. BROOKS]. I think now the language does not impose mandates on the system, it is advisory, and it is advisory in a good direction. I compliment the gentleman from Rhode Island [Mr. MACHTLEY] for his change.

Mr. MCCOLLUM. Madam Chairman, will the gentleman yield?

Mr. MACHTLEY. I yield to the gentleman from Florida.

Mr. MCCOLLUM. Madam Chairman, I just want to join in the celebration of the amendment being offered by the gentleman from Rhode Island [Mr. MACHTLEY]. I think it was a good amendment in its original form. I do not have a problem with its being amended. They key to this is we want to try everything we can to get youthful offenders from being out there in the school area. We need to do everything we can to protect them and to stop the crime around our schools, which the gentleman indeed is directing us to do, and I think it is a constructive amendment.

But while we are talking about this, Madam Chairman, I think we have to remember again that this bill, except for the gentleman's amendment, as the gentleman from Pennsylvania [Mr. GOODLING] said a little earlier, is a repeat of the Juvenile Justice Assistance Act that is already law. Once the gentleman's is adopted, this is going to be the only thing new about this bill, so it is a very positive thing the gentleman is putting in here, but it is the only new thing there.

But I support this, and I strongly support this, and I commend the gentleman from Rhode Island [Mr. MACHTLEY] for offering it as a very constructive thing.

Mr. MILLER of California. Madam Chairman, will the gentleman yield?

Mr. MACHTLEY. I yield to the gentleman from California.

Mr. MILLER of California. Madam Chairman, I thank the gentleman from Rhode Island [Mr. MACHTLEY] for yielding, and I rise in support of the gentleman's amendment.

Madam Chairman, I was hoping this amendment could have been mandatory. I think the time has come to realize that we have got to provide a very stringent policy with bright lines as to those students who make a conscious decision to bring guns into our schools and that those students have got to be barred from participation, I think, for a rather lengthy period of time in the school-day program. We have millions of young children who come from very difficult neighborhoods, very difficult families, very difficult environments, who do not decide to bring guns to school. They decide to bring themselves and the desire to learn, and they are not being overridden in that educational opportunity, that desire for an education, by very few students who are very dangerous because they choose to bring guns into the school environment.

Madam Chairman, I will propose on the Elementary Secondary Education Act a mandatory 1-year suspension for a student who brings a gun onto school premises because the time has come to recognize that these students do not come to school for education. They come to eat their lunch, get out of the rain, see their boyfriend or girlfriend, or kill somebody.

Mr. SENSENBRENNER. Madam Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. SANGMEISTER].

Mr. SANGMEISTER. Madam Chairman, the purpose of my rising is to enter into a colloquy with the sponsor of the amendment.

I say to the gentleman, "I think things have been clarified here with your amendment. As you know, you just filed that, so I just want to make sure because in Illinois we have a case that has been decided by the Illinois Supreme Court that says you cannot forfeit a driver's license unless that offense that you are being convicted of is somewhat related to driving, and, as I read your amendment, possession of a gun in a school by a student has nothing to do with driving privileges, and what I was going to say is, if our State has to pass a law to that effect, we cannot because it would be unconstitutional. Now further I understand you have amended this, that this will only be a factor for a State to consider; is that correct?"

Mr. MACHTLEY. Madam Chairman, will the gentleman yield?

Mr. SANGMEISTER. I yield to the gentleman from Rhode Island.

Mr. MACHTLEY. That was the reason for changing the mandate to a factor because there are States which would have a difficult time in implementing it exactly as it was drafted. Sop, it is not a requirement. It is only a factor, and I say to the gentleman, "If your State has a statute or a court decision which would prohibit any of these, that obviously would be submitted along with the application."

Mr. SANGMEISTER. OK.

So, to make it very clear, the State of Illinois, which does have a Supreme Court decision that says, "You cannot do this," will not affect the right of the State of Illinois to obtain funds to go forward with this program.

Mr. MACHTLEY. That is correct. That is only a factor.

Mr. SENSENBRENNER. Madam Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. GRAMS].

Mr. GRAMS. Madam Chairman, I want to thank the gentleman from Rhode Island [Mr. MACHTLEY] for the amendment, and I support it strongly. I did have some earlier concerns dealing with many of the school-based firearms safety courses and competitions that I believe are very useful and enhance the proper use and safe use of firearms, and that was a question I had about the gentleman's amendment. But I know now it is amended to make the language clearer that such programs would still be permitted and sanctioned and firearms could be used for those purposes.

Mr. MACHTLEY. And even more important, it is the State that is going to determine what is the appropriate exception as opposed to the Federal Government. This should be a States rights issue.

Mr. GRAMS. Right, and I appreciate that this has been made clear and included in as part of the gentleman's amendment.

Mr. SENSENBRENNER. Madam Chairman, I yield myself the balance of my time.

Madam Chairman, I support this amendment as it has been modified. I am a strong supporter of local control schools, and I have strenuously fought, and will continue to fight, trying to manage local schools from Washington. The original draft of the gentleman from Rhode Island's amendment attempted to do that by imposing mandates on local school systems. I think that this amendment is a very constructive addition because it merely gives factors in how these grants are to be considered, and it will be up to the Federal Government in deciding how to parcel out whatever money becomes available to take into account local issues such as the one that has been raised by the gentleman from Illinois [Mr. SANGMEISTER] because it is no longer a mandate and because it does not retain the right of States and communities to control their own schools. I believe now that the modified amendment is a worthwhile addition to the bill and support it.

□ 1440

I yield to the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Madam Chairman, to my distinguished friend, I want to commend him on his evaluation of the amendment in its original form. I was going to use as my principal argument the fact that if it mandated these provisions, it would have emasculated every school district in the United States by taking away their authority, and it would have been just what the gentleman said it was, a real disgrace to do that to every school district in the United States, in your district or mine. And I love that argument. I am glad we were able to work that out.

Mr. SENSENBRENNER. Madam Chairman, I thank the gentleman from Texas [Mr. BROOKS]. This is part of the bipartisan spirit that has permeated this House this week, and which I hope will continue.

Madam Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The Clerk will report the amendment as modified.

AMENDMENT OFFERED BY MR. MACHTLEY, AS MODIFIED

The Clerk read as follows:

Amendment offered by Mr. MACHTLEY, as modified: Page 8, after line 11, insert the following:

"(e) CONSIDERATION.—Notwithstanding subsections (a) and (b), in awarding grants under this part, the Director shall consider as an important factor whether a State has in effect throughout such State a law or policy which—

"(1) requires that a juvenile who is in possession of a firearm or other weapon on school property or convicted of a crime involving the use of a firearm or weapon on school property—

"(A) be suspended from school for a reasonable period of time; and

"(B) lose driving license privileges for a reasonable period of time;

"(2) bans firearms and other weapons in a 100-yard radius of school property, but the State may allow exceptions for school-sponsored activities, as well as other reasonable exceptions.

"(f) DEFINITION.—For purposes of this part, 'juvenile' means 18 years of age or younger.

Page 10, after line 3, insert the following:

SEC. 3. SENSE OF THE CONGRESS.

It is the sense of the Congress that States should impose mandatory sentences for crimes involving the use of a firearm or other weapon on school property or within a 100-yard radius of school property.

Mr. MACHTLEY (during the reading). Madam Chairman, I ask unanimous consent that the amendment, as modified, be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from Rhode Island [Mr. MACHTLEY].

The amendment, as modified, was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 5 printed in House Report 103-374.

AMENDMENT OFFERED BY MR. MC COLLUM

Mr. MCCOLLUM. Madam Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MCCOLLUM:

Page 9, strike lines 13 and 14, and insert the following:

"(24) The term 'young offender' means an individual, convicted of a crime, less than 18 years of age—

"(A) who has not been convicted of—

"(i) a crime of sexual assault; or

"(ii) a crime involving the use of a firearm in the commission of the crime; and

"(B) who has no prior convictions for a crime of violence (as defined by section 16 of title 18, United States Code) punishable by a period of 1 or more years of imprisonment.".

The CHAIRMAN. The gentleman from Florida [Mr. MCCOLLUM] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

Mr. BROOKS. Madam Chairman, I am opposed to the amendment.

The CHAIRMAN. The gentleman from Texas [Mr. BROOKS] will be recognized for 10 minutes in opposition.

The Chair recognizes the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I rise to explain my amendment very briefly to the body. This bill, as we have said earlier, is an offender bill, a youthful offender bill, designed to have alternatives, such as boot camps and a number of other things, for those who are nonviolent youthful offenders, and to provide grants to the States to support those programs.

As I have said earlier, I believe this bill does not do what we really need to do in the area of criminal law reform. We need to be getting at the truly violent criminals, and many of them, unfortunately, are youthful offenders.

We need to be stopping the revolving door of allowing the prisoners to go back out again and again who commit these violent crimes. There are a number of ways in the Republican alternative legislation, that is not out here today and is not going to be out here, unfortunately, this session, that would address that problem.

But dealing with what we do have out here today, this bill, and I must say, by the way, the bill itself is not really necessary, as the gentleman from Pennsylvania [Mr. GOODLING] has explained, because the juvenile assistance bill that we passed last year already appropriates $107 million, and what is in this bill is already authorized and appropriated for.

But, nonetheless, I find nothing that is offensive about the bill, except the fact that the age in this bill is at 22 years of age. And I believe very sincerely that we should be dealing with the limited resources we have and using those limited resources for those who are truly juveniles.

Virtually every State in the Union defines a juvenile as somebody under the age of 18. That is a typical age for a majority. It is also that age group where most of the problem is with crime today, especially violent crime.

Now, this bill does not deal with violent crime. But those who commit these first-time and second time offenses, that get started on the path to be eligible for the care that is provided in this bill, are the ones that, if untreated, are going to go on to commit the violent crimes.

So the shocking fact that we have so much violent crime today by those who are 12, 13, 14, 15, 16, and 17 years of age, is reason enough to focus the resources, the limited resources we have at the Federal level, to help the States deal with that problem, to divert these particular youths who commit their youthful offenses, their first-time offenses, away from the way of crime. In other words, rehabilitate them with boot camps and so on. We ought to devote it to that group so we do not get them to turn into violent offenders that are so rampant in this country.

Madam Chairman, that is why I think my amendment is important. It seems small. This bill though started at 28. We moved it down by the other side's voluntary efforts to 22. It really should be under 18. It should be the teenagers today.

The Wall Street Journal has said, and it is correct, "Throughout the country, district attorneys are naming juvenile crime as the No. 1 crime problem, and reform of the juvenile justice system as their top priority."

But they are not talking about 21- and 22-year-olds. They are talking 12-, 13-, 14-, 15-, 16-, and 17-year-olds. Even sometimes younger. That Is where the problem is. That is where the focus of attention is. And the reason for that is that between 1987 and 1992, 29 percent of those arrested for most violent crimes were under the age of 18.

It is also a fact that between 1985 and 1991, the number of 17-year-olds arrested for murder increased 121 percent, the number of 16-year-olds by 158 percent, the number of 15-year-olds by 217 percent, and the number of arrests for murder by boys 12 and under doubled.

In Florida alone, arrests of juveniles aged 10 to 17 increased in the 10-year period from 1982 through 1992 for murder by 151 percent; for attempted murder by 1777 percent in my home State; for drug felonies, not including marijuana, by 667 percent; for auto theft, 304 percent; for carrying a concealed weapon, 348 percent; for robbery, 151 percent; for sexual assault, 127 percent; for sexual crimes, 173 percent; for sexual battery, 72 percent. These are in Florida alone in a 10-year period. That has been the increase in the rate of these crimes by those who are under 18 years of age. That is shocking. That is the reason why so much public attention in the law enforcement community is being devoted to correcting our juvenile justice system.

Let us give them the help they need for the juvenile justice system. Let us apply what little resource promotion we have here for grant programs in this bill to those who are truly juveniles. Not 22-year-olds, not 21-year-olds, but those who are under the age of 18, as commonly defined by most people in most States as juveniles.

Madam Chairman, that is all my amendment does, is simply change the provision of this bill that says youthful offenders are defined as 22 years of age, to those who are under 18.

I reserve the balance of my time.

Mr. BROOKS. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I rise in strong opposition to the amendment offered by the gentleman from Florida [Mr. McCollum].

The only issue before us is—how old is too old to be considered a young offender? Reasonable people can disagree on this. The bill, as introduced, established 28 years of age or younger as the appropriate target population for this program of alternative punishments. Others, including the gentleman from Florida, disagreed.

Even though the bill passed the committee with the age limit set at 28, we worked after the committee markup with the gentleman from Florida, a member of the committee, to address the concerns he raised. Not just on the appropriate age, but also on the type of crime required for eligibility. At that time, the gentleman from New York [Mr. Schumer] and I thought we had reached an agreement with the gentleman from Florida on both of these concerns, but other developments obviously intervened.

I think we need to keep in mind what we are trying to do here. This country cannot afford to continue to lose young people to lives of crime. We do not want them becoming hardened criminals in prison and returning to their communities with no further hope of becoming law-abiding, productive citizens.

I would urge my colleagues that young persons age 22 are not past the age where they can be reclaimed and rechannelled to useful and productive pursuits in our society.

There are few among us who would not consider college-aged students to be young people, who have yet formed their adult identities. We should not give up on this age group. Unfortunately, the McCollum amendment would write these young people off.

Let us not lose them. For this reason, I urge my colleagues to cast a "no" vote on the amendment before the House.

□ 1450

Mr. McCOLLUM. Madam Chairman, I yield myself 1 minute.

The chairman well knows that there was an agreement reached. We attempted to do it. I am very appreciative of what modifications were made, because the bill, as it was written originally, did have the opportunity for youthful offenders to include those who committed some heinous crimes. That was not the intent any of us wanted to reach. So I think the chairman and the subcommittee chairman, the gentleman from New York [Mr. Schumer] both did an act that was appropriate by modifying, in the rule and the bill today, those provisions that I would have otherwise done in this amendment besides the age. But the point is still critical on the age.

States out there can do what they want with 22-year-olds, but we need to focus what limited resources of the Federal Government there are to those that are there that are younger than 18, those that are really the problem area today, to try to stop the 7 percent of the youthful offenders that are committing most of the violent crimes in their category from ever getting to that stage. We need to devote those resources there.

There is an article in the Wall Street Journal, September 8, by Ms. Cramer, that says that today studies of urban violence on juveniles say the optimal age for intervention has been revised downward to age 8.

My amendment is a modest effort to direct resources where they should be directed.

Madam Chairman, I yield 3 minutes to the gentleman from New Mexico [Mr. Schiff].

Mr. SCHIFF. Madam Chairman, I thank the gentleman from Florida for yielding time to me.

I appreciate his leadership on this issue. I want to say, I certainly support the effort of the chairman of our full committee, the gentleman from Texas [Mr. Brooks], and the chairman of our subcommittee, the gentleman from New York [Mr. Schumer], for their efforts in this area, but I support providing alternative sentences to young offenders particularly, of course, young nonviolent offenders.

Nevertheless, I want to speak up for the McCollum amendment for two reasons.

First, although I think this has been adopted now by the committee and may be a resolved issue, we want to make clear that offenders eligible for alternative sentencing under this bill at least are, in fact, nonviolent offenders. And I think that the McCollum amendment has gone a long way, and I think the gentleman from New York [Mr. Schumer] earlier accepted similar language to eliminate the possibility that violent offenders could be given boot camp under this bill.

I have to say that as I read the amendment, I think that that possibility might still exist, because I believe the wording now says, individuals who are convicted of an offense with a firearm are not eligible. Individuals convicted of sexual assault are not eligible, and individuals with a prior conviction for any violent offense are not eligible.

If I am reading that right, that is a loophole that if someone's current offense is violent but it is not with a firearm and it is not sexual assault, suppose the offender murdered somebody with a knife but they have no prior violent convictions, they are now eligible for this program.

Mr. McCOLLUM. Madam Chairman, will the gentleman yield?

Mr. SCHIFF. I yield to the gentleman from Florida.

Mr. McCOLLUM. Madam Chairman, the gentleman is correct.

Mr. SCHIFF. Madam Chairman, I think that could be repaired, though, in conference with the other body, if we pass this bill.

I think the other issue that is before us, at what age do we want to refer to someone as a youthful offender. I believe that in the minds of most people, when we talk about the remedies we are discussing here, particularly something like a boot camp, I think the public expects that we are talking about teenagers, probably those 15, 16, and 17 years old. I do not think that the public believes that we are talking about those still more old enough to know what they are doing and to be more accountable and that accountability does not have to mean prison. It just means not necessarily eligible for this kind of youthful alternative sentencing.

For that reason, I think the amendment of the gentleman from Florida should be adopted, and I support it. And if it is adopted, I urge support of the bill.

Mr. BROOKS. Madam Chairman, I yield 2 minutes to the gentleman from New York [Mr. SCHUMER], the distinguished chairman of the subcommittee.

Mr. SCHUMER. Madam Chairman, I thank the gentleman for yielding time to me.

First, I want to rise in opposition but say that I think my colleague from Florida has already had a constructive effect on this bill by the changes.

Let us talk about what this bill would do. No one convicted for sexual assault, a crime involving a firearm, no one convicted of a crime of violence is going to be eligible for boot camp at all.

What we are talking about is 19-, 20-, 21-year-olds who are committing their first crime, a nonviolent crime. And some of them may be much better to go to boot camp. Not all will go, that will be up to the judge. That will be up to the penal authorities. But for some, a boot camp may be better than prison.

But I would make another argument to my colleagues. If we pass the McCollum amendment, most of them will not get any sentence at all, at least in the large cities, the city that I live in.

I will give my colleagues an example. A 19-year-old kid vandalizes a store front, knocks out the windows, sprays graffiti all over it. If this amendment passed, the kid would get probation. That means nothing. It means once every so often a probation officer visits them.

Under the bill, that person could go to boot camp. And that is the whole point. It is very anomalous to say everyone under 18 deserves boot camp or everyone 18 or younger deserves boot camp, but no one over 18 deserves boot camp. There is a spectrum. There is a gray area.

There are probably some below 18 that I would not want to send to boot camp. They might deserve prison, depending on the crime they committed. But there are some above 18 who might be better suited for the boot camp.

And so I understand, once again, there is going to be demagoguery on this, not by the gentleman from Florida, I must say, to his credit. But there is going to be demagoguery on this.

We will say this weakens the law. It does not. The actual effect of this bill, without the amendment, is that it will be tougher than the bill with the amendment. Because anyone 19, 20, or 21, first crime, nonviolent, will get no punishment at all, instead of the boot camp or other alternative that they might deserve.

Mr. BROOKS. Madam Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. SABO].

Mr. SABO. Madam Chairman, my apologies for not listening to the details of the bill.

Does this bill authorize some new expenditures to fund the camps?

Mr. SCHUMER. Madam Chairman, will the gentleman yield?

Mr. SABO. I yield to the gentleman from New York.

Mr. SCHUMER. Madam Chairman, it is an authorization, yes.

Mr. SABO. Madam Chairman, of how much?

Mr. SCHUMER. Madam Chairman, if the gentleman will continue to yield, I believe it is $200 million.

Mr. SABO. Madam Chairman, what happens to our ability to actually fund this, if we reduce the discretionary funding caps.

Mr. SCHUMER. Madam Chairman, the gentleman brings up a good point. It is our hope, of course, we are authorizing this year, we could be funded in appropriation next year.

If we reduce the descretionally funding caps that some are proposing, this program and so many of the others, the cop on the beat, the regional prisons, the drug treatment in the prisons, so many of the others that we have would not be able to be funded or it would be far more difficult, if we want the dollars.

I want to compliment the other side. For the first time they have started to say, we do need money as well as tough penalties, my belief as well, to fight crime.

□ 1500

They are putting their money where their mouth is. The discretionary caps would really shut that down significantly.

Mr. MCCOLLUM. Would the Chair indicate how much time each side has remaining?

The CHAIRMAN. The gentleman from Florida [Mr. MCCOLLUM] has 1½ minutes remaining, and the gentleman from Texas [Mr. BROOKS] has 3 minutes remaining.

Mr. BROOKS. Madam Chairman, I yield 1 minute to the gentleman from Maryland [Mr. WYNN].

Mr. WYNN. Madam Chairman, I did not actually intend to speak on this amendment, but after listening to parts of the debate, I thought it appropriate in that the State of Maryland, which I represent, has had some experience with this matter. Our experience has actually been in the opposite direction of this amendment.

Madam Chairman, we found in Maryland that it was advisable to actually raise the age of participation in the boot camp program, because there are, in fact, the category of young adult offenders who can benefit from this program. What we found is that if the offender was physically capable of participating in a rigorous program, such as the boot camp offered, that significant benefits could accrue to that particular inmate. It seems to me if we look at the figures, that they do not reflect that of crime just by 18-year-olds, but in fact reflect crimes by a group of young adults that actually fall under the age of 28.

It seems to me that anything that would reduce the eligibility for boot camps would be movement in a bad direction, in the opposite direction of what we should be doing. If anything, we should be expanding.

I would just like to rise in strong opposition to this amendment based on our practical experience in Maryland where we actually raised the admission to boot camps in Maryland, and the fact that it actually worked and served a very useful purpose.

Mr. MCCOLLUM. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I simply would like to make a point in this. That is, that we are not debating anything but the question of how much money we are going to devote, how much of our limited resources, to what category. States are free, as the gentleman just testified, to include in boot camps and alternative programs all kinds of ages. They can go up to 28, they can be at 25, they can be somewhere else. We already have $107 million appropriated for programs like this out there in another bill that was authorized last Congress. This bill would, if any moneys are available, allow up to a couple of hundred million more for essentially the same purpose. It may not be that it is necessary, but if we go forward and do this, all I am suggesting is that let us target that where it is most needed, with the Federal dollars.

The States can still divert others if they want to, but from our perspective with the limited Federal money, we do not have a lot to use in this area because we have so many other important areas to utilize our funds in, so let us give it to the juveniles, as everybody understands them, where the crisis is, those under 18, those teenagers under 18 that are shockingly increasing their violent crimes.

Let us get them caught into a system of alternatives before they get to be these hardened criminals committing these really bad crimes we are reading about every day. Let us take our little bit of money under this bill and say, "Target it, States. You can do what you want beyond this, but with these Federal dollars, target the money to those where it is most needed, clearly most needed right now," and see if we can in some way reduce the number of young people who are getting into the crimes of violence that we are reading about in the headlines every day.

I implore my colleagues, my amendment is a good amendment because it targets where our money is going to the most critical area of concern, the only reason I am offering it. Let us adopt this amendment and lower the age of qualification under 18, to the teenagers, where the biggest problem is.

I urge the adoption of the amendment.

Mr. BROOKS. Madam Chairman, I yield the remaining time to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Madam Chairman, I thank the distinguished chairman of the Committee on the Judiciary for yielding time to me.

Madam Chairman, this is a bad amendment. It is a bad amendment for many of the reasons that have already been articulated by the gentleman from Texas [Mr. BROOKS] and the gentleman from New York [Mr. SCHUMER]. I have four youngsters. They are all different. What is the difference really, generically, between someone who is 17 years and 11 months and somebody who is 18 years and 1 month? I know youngsters, I have seen youngsters who are mature at the age of 16, and I have seen them when they are not very mature at the age of 25.

All we do in this legislation is to give the States the discretion as to who is a fit subject for this type of an alternative to institutionalization. We give them the discretion. Not every youthful offender, and that is what we are talking about, we are not talking about teenagers, we are not talking about juvenile offenders, we are not decriminalizing, as seems to be suggested.

What we are doing is giving the States the opportunity to take a look at a pool of offenders, youthful offenders, up to the age of 22, and determine whether or not they are eligible, whether they are a fit subject for this type of punishment. That is all we have done. When we narrow it, as I think the distinguished gentleman from Maryland [Mr. WYNN] has just indicated, when we narrow that pool we are restricting basically the pool that will be eligible for this particular alternative to institutionalization.

As the distinguished subcommittee chairman indicated, in many instances what we are going to find is, they are going to be cut loose because the judge is not going to want to send them to jail. They are going to send them right back to the same bad environment at home that caused many of their problems. It is a bad amendment because it is bad policy.

It seems to me that what we need to do is reject this overwhelmingly, because it does do some harm, really, to this program because it denies the States the kind of flexibility they need to select those that are fit for the program.

Do not do that to this bill, because I think it really seriously undermines what we are all trying to do. I urge rejection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. MCCOLLUM].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MCCOLLUM. Madam Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 201, noes 228, not voting 9, as follows:

[Roll No. 585]

AYES—201

Allard
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barlow
Barrett (NE)
Bartlett
Barton
Bateman
Bereuter
Bevill
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Brewster
Browder
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Coble
Collins (GA)
Combest
Condit
Cooper
Costello
Cox
Cramer
Crane
Crapo
Cunningham
DeLay
Deutsch
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Emerson
English (OK)
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hayes
Hefley
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
LaFalce
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Machtley
Manzullo
McCandless
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Murphy
Myers
Nussle
Orton
Oxley
Packard
Paxon
Peterson (MN)
Petri
Pombo
Porter
Portman
Pryce (OH)
Quinn
Ravenel
Regula
Richardson
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stenholm
Stump
Sundquist
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Torricelli
Traficant
Upton
Valentine
Vucanovich
Walker
Walsh
Weldon
Williams
Wilson
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—228

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Barca
Barcia
Barrett (WI)
Becerra
Beilenson
Bentley
Berman
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brooks
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cardin
Carr
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coppersmith
Coyne
Danner
Darden
de la Garza
de Lugo (VI)
Deal
DeFazio
DeLauro
Dellums
Derrick
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English (AZ)
Eshoo
Evans
Faleomavaega (AS)
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamburg
Harman
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Hutto
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson,E.B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murtha
Nadler
Natcher
Neal (MA)
Neal (NC)
Norton (DC)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Pickett
Pickle
Pomeroy
Poshard
Price (NC)
Quillen
Rahall
Ramstad
Rangel
Reed
Reynolds
Roemer
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Slaughter
Smith (IA)
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tejeda
Thompson
Thornton
Thurman
Torres
Towns
Tucker
Underwood (GU)
Unsoeld
Velázquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Wheat
Whitten
Wise
Wolf
Woolsey
Wyden
Wynn
Yates

NOT VOTING—9

Cantwell
Clinger
Dicks
Herger
McDermott
Romero-Barcelo (PR)
Slattery
Stearns
Washington

□ 1528

The Clerk announced the following pair:

On this vote:

Mr. Stearns for, with Mr. Cantwell against.

Mrs. LOWEY, Mr. FOGLIETTA, Mr. FORD of Tennessee, Ms. KAPTUR, Ms. MARGOLIES-MEZVINSKY, Mr. ROSE, and Mr. CLEMENT changed their vote from "aye" to "no."

Messrs. BREWSTER, GOODLING, COX, and DEUTSCH, and Mrs. LLOYD changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as modified, as amended.

The committee amendment in the nature of a substitute, as modified, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

☐ 1529

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. GEPHARDT) having assumed the chair, Mrs. CLAYTON, Chairwoman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 3351) to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants for the purpose of developing alternative methods of punishment for young offenders to traditional forms of incarceration and probation, pursuant to House Resolution 314, she reported the bill back to the House with an amendment adopted in the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute, as modified, adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on engrossment and third reading of the bill.

The bill was ordered to be read a third time and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. MC COLLUM

Mr. McCOLLUM. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. McCOLLUM. I am, in its present form, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

Mr. McCOLLUM moves to recommit the bill (H.R. 3351) to the Committee on the Judiciary, with instructions to report the bill back to the House forthwith, with the following amendment:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Crime Control Act of 1993".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Section 1. Short title and table of contents.

TITLE I—PROTECTION OF NEIGHBORHOODS, FAMILIES, AND CHILDREN

Subtitle A—Safe Schools

Sec. 101. Increased penalties for drug trafficking near schools.
Sec. 102. Federal safe school districts.
Sec. 103. Enhanced penalty for violation of the Gun-Free School Zones Act.

Subtitle B—Secure Neighborhoods

Sec. 111. Enhanced local law enforcement.
Sec. 112. Authorization of appropriations.
Sec. 113. Community policing grants.
Sec. 114. Criminal street gangs offenses.
Sec. 115. Drive-by shootings.
Sec. 116. Addition of anti-gang Byrne grant funding objective.
Sec. 117. Increased penalties for drug trafficking near public housing.

Subtitle C—Crimes Against Children

Sec. 131. Death penalty for murder during the sexual exploitation of children.
Sec. 132. Increased penalties for sex offenses against victims below the age of 16.
Sec. 133. Penalties for international trafficking in child pornography.
Sec. 134. State legislation regarding child pornography.
Sec. 135. National registration of convicted child abusers.
Sec. 136. Increased penalties for assaults against children.
Sec. 137. Offense of inducing minors or other persons to use steroids.
Sec. 138. Increased penalties for drug distribution to pregnant women.
Sec. 139. Interstate enforcement of child support orders.
Sec. 140. Crimes involving the use of minors as RICO predicates.
Sec. 141. Increased penalties for using minors in drug trafficking and drug distribution to minors.
Sec. 142. Increased penalties for using a minor in commission of a Federal offense.
Sec. 143. International parental kidnapping.
Sec. 144. State court programs regarding international parental child abduction.

Subtitle D—Punishment of Serious Juvenile Offenders

Sec. 151. Serious juvenile drug offenses as armed career criminal act predicates.
Sec. 152. Adult prosecution of serious juvenile offenders.
Sec. 153. Amendments concerning records of crimes committed by juveniles.

TITLE II—EQUAL PROTECTION FOR VICTIMS

Subtitle A—Victims' Rights

Sec. 201. Right of the victim to fair treatment in legal proceedings.
Sec. 202. Right of the victim to an impartial jury.
Sec. 203. Victim's right of allocution in sentencing.
Sec. 204. Enforcement of restitution orders through suspension of Federal benefits.
Sec. 205. Prohibition of retaliatory killings of witnesses, victims and informants.

Subtitle B—Admissibility of Evidence

Sec. 211. Admissibility of evidence of similar crimes in sex offense cases.
Sec. 212. Extension and strengthening of rape victim shield law.
Sec. 213. Inadmissibility of evidence to show provocation or invitation by victim in sex offense cases.
Sec. 214. Admissibility of certain evidence.

Subtitle C—Protecting the Integrity of the Judicial Process

Sec. 221. General safeguards against racial prejudice or bias in the tribunal.
Sec. 222. Protection of jurors and witnesses in capital cases.
Sec. 223. Protection of court officers and jurors.
Sec. 224. Death penalty for murder of Federal witnesses.

TITLE III—PROTECTION OF WOMEN

Subtitle A—Spouse Abuse and Stalking

Sec. 301. Interstate travel to commit spouse abuse or to violate protective order; interstate stalking.
Sec. 302. Full faith and credit for protective orders.

Subtitle B—Victims of Sexual Violence

Sec. 311. Civil remedy for victims of sexual violence.
Sec. 312. Extension and strengthening of restitution.
Sec. 313. Pre-trial detention in sex offense cases.

Subtitle C—Punishment of Sex Offenders

Sec. 321. Death penalty for rape and child molestation murders.
Sec. 322. Increased penalties for recidivist sex offenders.
Sec. 323. Sentencing guidelines increase for sex offenses.
Sec. 324. HIV testing and penalty enhancement in sexual offense cases.

TITLE IV—PREVENTION OF TERRORISM

Subtitle A—Enhanced Controls on Entry into the United States

Sec. 401. Exclusion based on membership in terrorist organization advocacy of terrorism.
Sec. 402. Admissions fraud.
Sec. 403. Inspection and exclusion by immigration officers.
Sec. 404. Judicial review.
Sec. 405. Conforming amendments.
Sec. 406. Effective date.

Subtitle B—Deportation of Alien Terrorists

Sec. 411. Removal of alien terrorists.

Subtitle C—Penalties for Engaging in Terrorism

Sec. 421. Providing material support to terrorism.
Sec. 422. Sentencing guidelines increase for terrorist crimes.
Sec. 423. Extension of the statute of limitations for certain terrorism offenses.
Sec. 424. Enhanced penalties for certain offenses.
Sec. 425. Implementation of the 1988 Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation.
Sec. 426. Amendment to Federal Aviation Act.
Sec. 427. Offenses of violence against maritime navigation or fixed platforms.
Sec. 428. Weapons of mass destruction.
Sec. 429. National task force on counterterrorism.
Sec. 430. Death penalty for death caused by the use of a bomb or other destructive device.

TITLE V—CRIMINAL ALIENS AND ALIEN SMUGGLING

Subtitle A—Deportation of Criminal Aliens

Sec. 501. Expediting criminal alien deportation and exclusion.
Sec. 502. Authorizing registration of aliens on criminal probation or criminal parole.
Sec. 503. Expansion in definition of "aggravated felony".
Sec. 504. Deportation procedures for certain criminal aliens who are not permanent residents.
Sec. 505. Judicial deportation.
Sec. 506. Restricting defenses to deportation for certain criminal aliens.

Sec. 507. Enhancing penalties for failing to depart, or reentering, after final order of deportation.
Sec. 508. Miscellaneous and technical changes.
Sec. 509. Authorization of appropriations for criminal alien information system.

Subtitle B—Prevention and Punishment of Alien Smuggling

Sec. 511. Border patrol agents.
Sec. 512. Border patrol investigators.
Sec. 513. Including alien smuggling as a racketeering activity for purposes of racketeering influenced and corrupt organizations (RICO) enforcement authority.
Sec. 514. Enhanced penalties for employers who knowingly employ smuggled aliens.
Sec. 515. Enhanced penalties for certain alien smuggling.
Sec. 516. Expanded forfeiture for smuggling or harboring illegal aliens.

TITLE VI—TAKING CRIMINALS OFF THE STREET

Subtitle A—Expanding Prison Capacity

Sec. 601. Use of private activity bonds.
Sec. 602. Federal-State partnerships for regional prisons.
Sec. 603. Non-applicability of Davis-Bacon to prison construction.

Subtitle B—Miscellaneous

Sec. 611. Restricted Federal court jurisdiction in imposing remedies on State and Federal prison systems.

TITLE VII—PUNISHMENT AND DETERRENCE

Subtitle A—Capital Offenses

Sec. 701. Procedures for enforcing death penalty.
Sec. 702. Equal Justice Act.
Sec. 703. Prohibition of racially discriminatory policies concerning capital punishment or other penalties.
Sec. 704. Federal capital cases.
Sec. 705. Extension of protection of civil rights statutes.
Sec. 706. Federal death penalties.
Sec. 707. Conforming and technical amendments.

Subtitle B—Violent Felonies and Drug Offenses

Sec. 711. Drug testing of Federal offenders on post-conviction release.
Sec. 712. Life imprisonment or death penalty for third Federal violent felony conviction.
Sec. 713. Strengthening the Armed Career Criminals Act.
Sec. 714. Enhanced penalty for use of semiautomatic firearm during a crime of violence or drug trafficking offense.
Sec. 715. Mandatory penalties for firearms possession by violent felons and serious drug offenders.
Sec. 716. Mandatory minimum sentence for unlawful possession of a firearm by convicted felon, fugitive from justice, or transferor or receiver of stolen firearm.
Sec. 717. Increase in general penalty for violation of Federal firearms laws.
Sec. 718. Increase in enhanced penalties for possession of firearm in connection with crime of violence or drug trafficking crime.
Sec. 719. Smuggling firearms in aid of drug trafficking or violent crime.
Sec. 720. Definition of conviction under chapter 44.
Sec. 721. Definition of serious drug offense under the Armed Career Criminal Act.
Sec. 722. Definition of burglary under the Armed Career Criminal Act.
Sec. 723. Temporary prohibition against possession of a firearm by, or transfer of a firearm to, persons convicted of a drug crime.

Subtitle C—Enhanced Penalties for Criminal Use of Firearms and Explosives

Chapter 1—Instant Check System for Handgun Purchases

Sec. 731. Definitions.
Sec. 732. State instant criminal check systems for handgun purchases.
Sec. 733. Amendment of chapter 44 of title 18, United States Code.
Sec. 734. Establishment and operation of criminal history system.
Sec. 735. Operation of system for purpose of screening handgun purchasers.
Sec. 736. Improvement of criminal justice records.
Sec. 737. Access to State criminal records.
Sec. 738. Improvements in State records.
Sec. 739. Funding of State criminal records systems and dedication of funds.
Sec. 740. Authorization of appropriations.

Chapter 2—Other Firearms Provisions

Sec. 741. Increased penalty for interstate gun trafficking.
Sec. 742. Prohibition against transactions involving stolen firearms which have moved in interstate or foreign commerce.
Sec. 743. Enhanced penalties for use of firearms in connection with counterfeiting or forgery.
Sec. 744. Increased penalty for knowingly false, material Statement in firearm purchase from licensed dealer.
Sec. 745. Revocation of supervised release for possession of a firearm in violation of release condition.
Sec. 746. Receipt of firearms by nonresident.
Sec. 747. Disposition of forfeited firearms.
Sec. 748. Conspiracy to violate Federal firearms or explosives laws.
Sec. 749. Theft of firearms or explosives from licensee.
Sec. 750. Penalties for theft of firearms or explosives.
Sec. 751. Prohibition against disposing of explosives to prohibited persons.
Sec. 752. Prohibition against theft of firearms or explosives.
Sec. 753. Increased penalty for second offense of using an explosive to commit a felony.
Sec. 754. Possession of explosives by felons and others.
Sec. 755. Possession of explosives during the commission of a felony.
Sec. 756. Summary destruction of explosives subject to forfeiture.
Sec. 757. Elimination of outmoded parole language.

Subtitle D—Miscellaneous

Sec. 761. Increased penalties for travel act crimes involving violence and conspiracy to commit contract killings.
Sec. 762. Criminal offense for failing to obey an order to land a private aircraft.
Sec. 763. Amendment to the Mansfield amendment to permit maritime law enforcement operations in archipelagic waters.
Sec. 764. Enhancement of penalties for drug trafficking in prisons.
Sec. 765. Removal of tv broadcast license contingent on broadcast of public service announcements regarding drug abuse.

TITLE VIII—ELIMINATION OF DELAYS IN CARRYING OUT SENTENCES.

Subtitle A—Post Conviction Petitions: General Habeas Corpus Reform.

Sec. 801. Period of limitation for filing writ of habeas corpus following final judgment of a State court.
Sec. 802. Authority of appellate judges to issue certificates of probable cause for appeal in habeas corpus and Federal collateral relief proceedings.
Sec. 803. Conforming amendment to the rules of appellate procedure.
Sec. 804. Discretion to deny habeas corpus application despite failure to exhaust State remedies.
Sec. 805. Period of limitation for Federal prisoners filing for collateral remedy.

Subtitle B—Special Procedures for Collateral Proceedings in Capital Cases.

Sec. 811. Death penalty litigation procedures.

Subtitle C—Funding for Litigation of Federal Habeas Corpus Petitions in Capital Cases.

Sec. 821. Funding for death penalty prosecutions.

TITLE IX—PUBLIC CORRUPTION

Sec. 901. Offenses.
Sec. 902. Interstate commerce.
Sec. 903. Narcotics-related public corruption.

TITLE X—FUNDING

Sec. 1001. Reduction in overhead costs incurred in federally sponsored research.
Sec. 1002. Overhead expense reduction.

TITLE XI—PUNISHMENT FOR YOUNG OFFENDERS

Sec. 1101. Certainty of punishment for young offenders.
Sec. 1102. Authorization of Appropriation.

TITLE I—PROTECTION OF NEIGHBORHOODS, FAMILIES, AND CHILDREN

Subtitle A—Safe Schools

SEC. 101. INCREASED PENALTIES FOR DRUG TRAFFICKING NEAR SCHOOLS.

Section 419 of the Controlled Substances Act (21 U.S.C. 860) is amended—

(1) in subsection (a) by striking "one year" and inserting "3 years"; and

(2) in subsection (b) by striking "three years" each place it appears and inserting "5 years".

SEC. 102. FEDERAL SAFE SCHOOL DISTRICTS.

(a) ELECTION TO QUALIFY.—

(1) IN GENERAL.—By decision of a local educational agency or by referendum of the voters in a school district served by a local educational agency, a school district may elect to qualify as a Federal safe school district under this section.

(2) DEFINITION.—For purposes of this section, the term "local educational agency" shall have the meaning given such term in section 1471(12) of the Elementary and Secondary Education Act of 1965.

(b) FUNDING FOR ENHANCED SCHOOL SECURITY.—

(1) IN GENERAL.—The Attorney General may make a grant to a local educational agency serving a Federal safe school district or to a local law enforcement agency with jurisdiction over the school district, as appropriate, to pay for enhanced school security measures.

(2) ENHANCED SCHOOL SECURITY MEASURES.—The measures that may be funded by a grant under paragraph (1) include—

(A) equipping schools with metal detectors, fences, closed circuit cameras, and other physical security measures;

(B) providing increased police patrols in and around schools, including police hired pursuant to this title;

(C) mailings to parents at the beginning of the school year stating that the possession of a gun or other weapon in school will not be tolerated by school authorities;

(D) signs on each school indicating that the school is part of a Federal Safe School District; and

(E) gun hotlines.

SEC. 103. ENHANCED PENALTY FOR VIOLATION OF THE GUN-FREE SCHOOL ZONES ACT.

(a) IN GENERAL.—Section 924(a)(4) of title 18, United States Code, is amended—

(1) by striking "not more than 5 years" the 1st place such term appears and inserting "not less than 5 years and not more than 10 years"; and

(2) by striking the 3rd sentence.

(b) TECHNICAL AMENDMENT.—Section 924(a)(1)(B) of such title is amended by striking "(q)" and inserting "(r)".

Subtitle B—Secure Neighborhoods

SEC. 111. ENHANCED LOCAL LAW ENFORCEMENT.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(1) by redesignating part Q as part R;

(2) by redesignating section 1701 as section 1801; and

(3) by inserting after part P the following:

"PART Q—COPS ON THE STREET GRANTS

"SEC. 1701. GRANT AUTHORIZATION.

"The Director of the Bureau of Justice Assistance may make not less than 50, but not more than 100 grants to units of local government for the purposes of increasing police presence in the community.

"SEC. 1702. APPLICATION.

"(a) IN GENERAL.—To be eligible to receive a grant under this part, a chief executive of a unit of local government, shall submit an application to the Director. The application shall contain the information required under subsection (b) and be in such form and contain such other information as the Director may reasonably require.

"(b) GENERAL CONTENTS.—Each application under subsection (a) shall include a crime reduction plan which includes—

"(1) a request for funds available under this part for the purposes described in section 1701;

"(2) a description of the areas and populations to be served by the grant and a description of the crime problems within the areas targeted for assistance;

"(3) information required to be considered by the Director under section 1704;

"(4) assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part;

"(5) detailed accounts of expenditures for law enforcement for the preceding 5-year period prior to receiving a grant under this part;

"(6) detailed accounts of local expenditures for law enforcement during any prior years in which grants were received under this part;

"(7) a description of how a portion of the grant would be used to ensure the safety of public and private elementary and secondary schools; and

"(8) an evaluation component, including performance standards and quantifiable goals to be used to determine project progress and the data to be collected to measure progress toward meeting the plan's goals.

"SEC. 1703. ADMINISTRATIVE COSTS; GRANT RENEWAL.

"(a) ADMINISTRATIVE COST LIMITATION.—The Director shall use not more than 5 percent of the funds available under this part for the purposes of administration, technical assistance, and evaluation.

"(b) RENEWAL OF GRANTS.—A grant under this part may be renewed, subject to the availability of funds, if the Director determines that the funds made available to the recipient during the previous year were used in a manner required under the approved application and the requirements of this part.

"SEC. 1704. SELECTION OF RECIPIENTS.

"In awarding grants to units of local government under this part, the Director shall consider—

"(1) the crime rate per capita in the unit of local government for violent crime, including murder, rape, robbery, assault with a weapon, and kidnapping; and

"(2) the rate of increase of violent crime in such unit of local government over the most recent 3-year period for which statistics are available.

"SEC. 1705. REPORTS.

"(a) REPORT TO DIRECTOR.—Recipients who receive funds under this part shall submit to the Director not later than March 1 of each year a report that describes progress achieved in carrying out the plan required under section 1702(b).

"(b) REPORT TO CONGRESS.—The Director shall submit to the Congress a report by October 1 of each year that shall contain a detailed statement regarding grant awards, activities of grant recipients, and an evaluation of projects established under this part.

"SEC. 1706. DEFINITION.

"For the purposes of this part, the term 'Director' means the Director of the Bureau of Justice Assistance."

(b) CONFORMING AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by striking the matter relating to part Q and inserting the following:

"PART Q—COMMUNITY POLICING; COP ON THE BEAT GRANTS

"Sec. 1701. Grant authorization.
"Sec. 1702. Application.
"Sec. 1703. Allocation of funds; limitation on grants.
"Sec. 1704. Award of grants.
"Sec. 1705. Reports.
"Sec. 1706. Definitions.

"PART R—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 1801. Continuation of rules, authorities, and proceedings.".

SEC. 112. AUTHORIZATION OF APPROPRIATIONS.

Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793) is amended by adding at the end the following:

"(12) There are authorized to be appropriated $330,000,000 for each of the fiscal years 1994 through 1998 to carry out the projects under part Q.".

SEC. 113. COMMUNITY POLICING GRANTS.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 112(a), is amended—

(1) by redesignating part R as part S;

(2) by redesignating section 1801 as section 1901; and

(3) by inserting after part Q the following new part:

"PART R—COMMUNITY POLICING GRANTS

"SEC. 1801. GRANT AUTHORIZATION.

"(a) GRANT PROJECTS.—The Director of the Bureau of Justice Assistance may make grants to units of local government and to community groups to establish or expand cooperative efforts between police and a community for the purposes of increasing police presence in the community, including—

"(1) developing innovative neighborhood-oriented policing programs;

"(2) providing new technologies to reduce the amount of time officers spend processing cases instead of patrolling the community;

"(3) purchasing equipment to improve communications between officers and the community and to improve the collection, analysis, and use of information about crime-related community problems;

"(4) developing policies that reorient police emphasis from reacting to crime to preventing crime;

"(5) creating decentralized police substations throughout the community to encourage interaction and cooperation between the public and law enforcement personnel on a local level;

"(6) providing training and problem solving for community crime problems;

"(7) providing training in cultural differences for law enforcement officials;

"(8) developing community-based crime prevention programs, such as safety programs for senior citizens, community anticrime groups, and other anticrime awareness programs;

"(9) developing crime prevention programs in communities that have experienced a recent increase in gang-related violence; and

"(10) developing projects following the model under subsection (b).

"(b) MODEL PROJECT.—The Director shall develop a written model that informs community members regarding—

"(1) how to identify the existence of a drug or gang house;

"(2) what civil remedies, such as public nuisance violations and civil suits in small claims court, are available; and

"(3) what mediation techniques are available between community members and individuals who have established a drug or gang house in the community.

"SEC. 1802. APPLICATION.

"(a) IN GENERAL.—(1) To be eligible to receive a grant under this part, a chief executive of a unit of local government, a duly authorized representative of a combination of local governments within a geographic region, or a community group shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(2) In an application under paragraph (1), a single office, or agency (public, private, or nonprofit) shall be designated as responsible for the coordination, implementation, administration, accounting, and evaluation of services described in the application.

"(b) GENERAL CONTENTS.—Each application under subsection (a) shall include—

"(1) a request for funds available under this part for the purposes described in section 1801;

"(2) a description of the areas and populations to be served by the grant; and

"(3) assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(c) COMPREHENSIVE PLAN.—Each application shall include a comprehensive plan that contains—

"(1) a description of the crime problems within the areas targeted for assistance;

"(2) a description of the projects to be developed;

"(3) a description of the resources available in the community to implement the plan together with a description of the gaps in the plan that cannot be filled with existing resources;

"(4) an explanation of how the requested grant shall be used to fill those gaps;

"(5) a description of the system the applicant shall establish to prevent and reduce crime problems; and

"(6) an evaluation component, including performance standards and quantifiable goals the applicant shall use to determine project progress, and the data the applicant shall collect to measure progress toward meeting project goals.

"SEC. 1803. ALLOCATION OF FUNDS; LIMITATIONS ON GRANTS.

"(a) ALLOCATION.—The Director shall allocate not less than 75 percent of the funds available under this part to units of local government or combinations of such units and not more than 20 percent of the funds available under this part to community groups.

"(b) ADMINISTRATIVE COST LIMITATION.—The Director shall use not more than 5 percent of the funds available under this part for the purposes of administration, technical assistance, and evaluation.

"(c) RENEWAL OF GRANTS.—A grant under this part may be renewed, subject to the availability of funds, if the Director determines that the funds made available to the recipient during the previous year were used in a manner required under the approved application and if the recipient can demonstrate significant progress toward achieving the goals of the plan required under section 1802(c).

"(d) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 1802 for the fiscal year for which the projects receive assistance under this part.

"SEC. 1804. AWARD OF GRANTS.

"(a) SELECTION OF RECIPIENTS.—The Director shall consider the following factors in awarding grants to units of local government or combinations of such units under this part:

"(1) NEED AND ABILITY.—Demonstrated need and evidence of the ability to provide the services described in the plan required under section 1802(c).

"(2) COMMUNITY-WIDE RESPONSE.—Evidence of the ability to coordinate community-wide response to crime.

"(3) MAINTAIN PROGRAM.—The ability to maintain a program to control and prevent crime after funding under this part is no longer available.

"(b) GEOGRAPHIC DISTRIBUTION.—The Director shall attempt to achieve, to the extent practicable, an equitable geographic distribution of grant awards.

"SEC. 1805. REPORTS.

"(a) REPORT TO DIRECTOR.—Recipients who receive funds under this part shall submit to the Director not later than March 1 of each year a report that describes progress achieved in carrying out the plan required under section 1802(c).

"(b) REPORT TO CONGRESS.—The Director shall submit to the Congress a report by October 1 of each year containing—

"(1) a detailed statement regarding grant awards and activities of grant recipients; and

"(2) an evaluation of projects established under this part.

"SEC. 1806. DEFINITIONS.

"In this part—

"'community group' means a community-based nonprofit organization that has a primary purpose of crime prevention.

"'Director' means the Director of the Bureau of Justice Assistance.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 112(b), is amended by striking the matter relating to part R and inserting the following:

"PART R—COMMUNITY POLICING GRANTS

"Sec. 1801. Grant authorization.
"Sec. 1802. Application.
"Sec. 1803. Allocation of funds; limitations on grants.
"Sec. 1804. Award of grants.
"Sec. 1805. Reports.
"Sec. 1806. Definitions.

"PART S—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 1901. Continuation of rules, authorities, and proceedings.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)), as amended by section 112(c), is amended—

(1) in paragraph (3) by striking "and Q" and inserting "Q and R"; and

(2) by adding at the end the following new paragraph:

"(13) There are authorized to be appropriated $70,000,000 for each of the fiscal years 1994 through 1998.".

SEC. 114. CRIMINAL STREET GANGS OFFENSES.

(a) OFFENSE.—Title 18, United States Code, is amended by inserting after chapter 93 the following:

"CHAPTER 94—PROHIBITED PARTICIPATION IN CRIMINAL STREET GANGS AND GANG CRIME

"Sec.
"1930. Prohibited activity.
"1931. Penalties.
"1932. Investigative authority.

"§ 1930. Prohibited activity

"(a) DEFINITIONS.—As used in this chapter—

"(1) the term 'predicate gang crime' means—

"(A) any act or threat, or attempted act or threat, which is chargeable under Federal or State law and punishable by imprisonment for more than 1 year, involving murder, assault, kidnapping, robbery, extortion, burglary, arson, property damage or destruction, obstruction of justice, tampering with or retaliating against a witness, victim, or informant, or manufacturing, importing, receiving, concealing, purchasing, selling, possessing, or otherwise dealing in a controlled substance or controlled substance analogue (as those terms are defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

"(B) any act, punishable by imprisonment for more than 1 year, which is indictable under any of the following provisions of title 18, United States Code: sections 922 and 924(a)(2), (b), (c), (g), or (h) (relating to receipt, possession, and transfer of firearms); section 1503 (relating to obstruction of justice); section 1510 (relating to obstruction of criminal investigations); section 1512 (relating to tampering with a witness, victim, or informant); section 1513 (relating to retaliating against a witness, victim, or informant); or

"(C) any act indictable under subsection (b)(5) of this section;

"(2) the term 'criminal street gang' means any organization, or group, of 5 or more individuals, whether formal or informal, who act in concert, or agree to act in concert, for a period in excess of 30 days, with a purpose that any of those individuals alone, or in any combination, commit or will commit, 2 or more predicate gang crimes, one of which must occur after the enactment of this chapter and the last of which occurred within 10 years (excluding any period of imprisonment) after the commission of a prior predicate gang crime;

"(3) the term 'participate in a criminal street gang' means to act in concert with a criminal street gang with intent to commit, or that any other individual associated with the criminal street gang will commit, 1 or more predicate gang crimes; and

"(4) the term 'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

"(b) UNLAWFUL ACTS.—It shall be unlawful—

"(1) to commit, or to attempt to commit, a predicate gang crime with intent to promote or further the activities of a criminal street gang or for the purpose of gaining entrance to or maintaining or increasing position in such a gang;

"(2) to participate, or attempt to participate, in a criminal street gang, or conspire to do so;

"(3) to command, counsel, persuade, induce, entice, or coerce any individual to participate in a criminal street gang;

"(4) to employ, use, command, counsel, persuade, induce, entice, or coerce any individual to commit, cause to commit, or facilitate the commission of, a predicate gang crime, with intent to promote the activities of a criminal street gang or for the purpose of gaining entrance to or maintaining or increasing position in such a gang; or

"(5) to use any communication facility, as defined in section 403(b) of the Controlled Substances Act (21 U.S.C. 843(b)), in causing or facilitating the commission, or attempted commission, of a predicate gang crime with intent to promote or further the activities of a criminal street gang or for the purpose of gaining entrance to or maintaining or increasing position in such a gang. Each separate use of a communication facility shall be a separate offense under this subsection.

"§ 1931. Penalties

"(a) PENALTIES OF UP TO 20 YEARS OR LIFE IMPRISONMENT.—Any person who violates section 1930(b) (1) or (2) shall be punished by imprisonment for not more than 20 years, or by imprisonment for any term of years or for life if the violation is based on a predicate gang crime for which the maximum penalty includes life imprisonment, and if any person commits such a violation after 1 or more prior convictions for such a predicate gang crime, that is not part of the instant violation, such person shall be sentenced to a term of imprisonment which shall not be less than 10 years and which may be for any term of years exceeding 10 years or for life.

"(b) PENALTIES BETWEEN 5 AND 10 YEARS.—Any person who violates section 1930 (b)(3) or (b)(4) shall be sentenced to imprisonment for not less than 5 and not more than 10 years, and if the individual who was the subject of the act was less than 18 years of age, such person shall be imprisoned for 10 years. A term of imprisonment under this subsection shall run consecutively to any other term of imprisonment, including that imposed for any other violation of this chapter.

"(c) PENALTIES OF UP TO 5 YEARS.—Any person who violates section 1930(b)(5) shall be punished by imprisonment for not more than 5 years.

"(d) ADDITIONAL PENALTIES.—In addition to the other penalties set forth in this section—

"(1) any person who violates section 1930(b) (1) or (2), 1 of whose predicate gang crimes involves murder or conspiracy to commit murder which results in the taking of a life, and who commits, counsels, commands, induces, procures, or causes that murder, shall be punished by death or by imprisonment for life;

"(2) any person who violates section 1930(b) (1) or (2), 1 of whose predicate gang crimes involves attempted murder or conspiracy to commit murder, shall be sentenced to a term of imprisonment which shall not be less than 20 years and which may be for any term of years exceeding 20 years or for life; and

"(3) any person who violates section 1930(b) (1) or (2), and who at the time of the offense occupied a position of organizer or supervisor, or other position of management in that street gang, shall be sentenced to a term of imprisonment which shall not be less than 15 years and which may be for any term of years exceeding 15 years or for life.

For purposes of paragraph (3) of this subsection, if it is shown that the defendant counseled, commanded, induced, or procured 5 or more individuals to participate in a street gang, there shall be a rebuttable presumption that the defendant occupied a position of organizer or supervisor, or other position of management in the gang.

"(e) FORFEITURE.—Whoever violates section 1930(b) (1) or (2) shall, in addition to any other penalty and irrespective of any provision of State law, forfeit to the United States—

"(1) any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, as a result of the violation; and

"(2) any property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, the violation.

The provisions of section 413(b), (c), and (e) through (p) of the Controlled Substances Act (21 U.S.C. 853(b), (c), and (e) through (p)) shall apply to a forfeiture under this section.

"§ 1932. Investigative authority

"The Attorney General and the Secretary of the Treasury shall have the authority to investigate offenses under this chapter. This authority shall be exercised in accordance with an agreement which shall be entered into by the Attorney General and the Secretary of the Treasury.".

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item for chapter 93 the following:

"94. Prohibited participation in criminal street gangs and gang crimes 1930".

(c) SENTENCING GUIDELINES INCREASE FOR GANG CRIMES.—The United States Sentencing Commission shall at the earliest opportunity amend the sentencing guidelines to increase by at least 4 levels the base offense level for any felony committed for the purpose of gaining entrance into, or maintaining or increasing position in, a criminal street gang. For purposes of this subsection, "criminal street gang" means any organization, or group, of 5 or more individuals, whether formal or informal, who act in concert, or agree to act in concert, for a period in excess of 30 days, with the intent that any of those individuals alone, or in any combination, commit or will commit, 2 or more acts punishable under State or Federal law by imprisonment for more than 1 year.

SEC. 115. DRIVE-BY SHOOTINGS.

(a) OFFENSE.—Chapter 44 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 931. Drive-by shootings

"(a) Whoever knowingly discharges a firearm at a person—

"(1) in the course of or in furtherance of drug trafficking activity; or

"(2) from a motor vehicle;

shall be punished by imprisonment for up to 25 years, and if death results shall be punished by death or by imprisonment for any term of years or for life.

"(b) For purposes of this section, the term 'drug trafficking activity' means a drug trafficking crime as defined in section 929(a)(2) of this title, or a pattern or series of acts involving one or more drug trafficking crimes.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 44 of title 18, United States Code, is amended by adding at the end the following:

"931. Drive-by shootings.".

SEC. 116. ADDITION OF ANTI-GANG BYRNE GRANT FUNDING OBJECTIVE.

Section 501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751) is amended—

(1) in paragraph (20) by striking "and" at the end;

(2) in paragraph (21) by striking the period and inserting "; and"; and

(3) by inserting after paragraph (21) the following new paragraph:

"(22) law enforcement and prevention programs relating to gangs, or to youth who are involved or at risk of involvement in gangs.".

SEC. 117. INCREASED PENALTIES FOR DRUG TRAFFICKING NEAR PUBLIC HOUSING.

Section 419 of the Controlled Substances Act (21 U.S.C. 860) is amended—

(1) in subsection (a) by striking "playground, or within" and inserting "playground, or housing facility owned by a public housing authority, or within"; and

(2) in subsection (b) by striking "playground, or within" and inserting "playground, or housing facility owned by a public housing authority, or within".

Subtitle C—Crimes Against Children

SEC. 131. DEATH PENALTY FOR MURDER DURING THE SEXUAL EXPLOITATION OF CHILDREN.

Section 2251(d) of title 18, United States Code, is amended by adding at the end the following: "Whoever, in the course of an offense under this section, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.".

SEC. 132. INCREASED PENALTIES FOR SEX OFFENSES AGAINST VICTIMS BELOW THE AGE OF 16.

Paragraph (2) of section 2247 of title 18, United States Code, as so redesignated by section 403(a) is amended—

(1) in subparagraph (B) by striking "or" after the semicolon;

(2) in subparagraph (C) by striking "; and" and inserting "; or"; and

(3) by inserting a new subparagraph (D) as follows:

"(D) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;".

SEC. 133. PENALTIES FOR INTERNATIONAL TRAFFICKING IN CHILD PORNOGRAPHY.

(a) IMPORT RELATED OFFENSE.—Chapter 110 of title 18, United States Code, is amended by adding at the end the following:

"§ 2258. Production of sexually explicit depictions of a minor for importation into the United States

"(a) Any person who, outside the United States, employs, uses, persuades, induces, entices, or coerces any minor to engage in, or who has a minor assist any other person to engage in, or who transports any minor with the intent that such minor engage in any sexually explicit conduct for the purpose of producing any visual depiction of such conduct, shall be punished as provided under subsection (c), if such person intends, knows, or has reason to know that such visual depiction will be imported into the United States or into waters within a distance of 12 miles of the coast of the United States.

"(b) Whoever, outside the United States, knowingly receives, transports, ships, distributes, sells, or possesses with intent to transport, ship, sell, or distribute any visual depiction of a minor engaging in sexually explicit conduct if the production of such visual depiction involved the use of a minor engaging in sexually explicit conduct, shall be published as provided under subsection (c), if such person intends, knows, or has reason to know that such visual depiction will be imported into the United States or into waters within a distance of 12 miles of the coast of the United States.

"(c) Any individual who violates this section, or conspires or attempts to do so, shall be fined under this title, or imprisoned not more than 10 years, or both, but, if such individual has a prior conviction under this chapter or chapter 109A of this title, such individual shall be fined according to the provisions of this title, or imprisoned not less than five years nor more than 15 years, or both.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 110 of title 18, United States Code, is amended by adding at the end the following:

"2258. Production of sexually explicit depictions of a minor for importation into the United States".

(c) TECHNICAL AMENDMENT.—Section 2251(d) of title 18, United States Code, is amended—

(1) by striking "not more than $100,000" and inserting "under this title";

(2) by striking "not more than $200,000" and inserting "under this title"; and

(3) by striking "not more than $250,000" and inserting "under this title".

(d) SECTION 2251 PENALTY ENHANCEMENT.—Section 2251(d) of title 18, United States Code, is amended by striking "this section" the second place it appears and inserting "this chapter or chapter 109A of this title".

(e) SECTION 2252 PENALTY ENHANCEMENT.—Section 2252(b)(1) of title 18, United States Code, is amended by striking "this section" and inserting "this chapter or chapter 109A of this title".

(f) CONSPIRACY AND ATTEMPT.—Sections 2251(d) and 2252(b) of title 18, United States

Code, are each amended by inserting ", or attempts or conspires to do so," after "violates" each place it appears.

(g) RICO AMENDMENT.—Section 1961(1) of title 18, United States Code, is amended by striking "2251-2252" and inserting "2251, 2252, or 2258".

(h) TRANSPORTATION OF MINORS.—Section 2423 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whoever"; and

(2) by adding at the end the following:

"(b) Whoever travels in interstate or foreign commerce, or conspires to do so, for the purpose of engaging in any sexual act (as the term 'sexual act' is defined in section 2245 of this title) with a person under 18 years of age which would be in violation of chapter 109A of this title if such sexual act occurred in the special maritime and territorial jurisdiction of the United States," after "offense,".

SEC. 134. STATE LEGISLATION REGARDING CHILD PORNOGRAPHY.

(a) IN GENERAL.—Not later than the end of the 18th month beginning after the date of the enactment of this Act, each State shall enact legislation complying with guidelines established under subsection (b), and maintain such legislation in effect thereafter. Compliance with the preceding sentence shall be a condition to the receipt by a State of any grant, cooperative agreement, or other assistance under—

(1) section 1404 of the Victims of Crime Act (42 U.S.C. 10603); and

(2) the Child Abuse Prevention and Treatment Act (42 U.S.C. 1501 et seq.).

(b) GUIDELINES.—The Attorney General shall establish guidelines for State legislation prohibiting the production, distribution, receipt, or possession of materials depicting a person under 18 years of age engaging in sexually explicit conduct and providing for a maximum imprisonment of at least one year and for the forfeiture of assets used in the commission or support of, or gained from, such offenses.

SEC. 135. NATIONAL REGISTRATION OF CONVICTED CHILD ABUSERS.

(a) STATES TO REGISTER PERSONS CONVICTED OF OFFENSES AGAINST CHILDREN.—

(1) IN GENERAL.—Each State shall establish and maintain a registration program under this section requiring persons convicted of a criminal offense against a victim who is a child to register a current address and other information that the Attorney General deems relevant, with a designated State law enforcement agency for 10 years after being released from prison or otherwise being freed from detention after the conviction becomes final.

(2) ATTORNEY GENERAL TO ESTABLISH GUIDELINES.—The Attorney General shall establish guidelines for State registration programs under this section.

(3) MANDATORY ELEMENTS OF GUIDELINES.—Such guidelines shall include provision for—

(A) a requirement that the State obtain the fingerprints, physical description, and current photographs of each registered person;

(B) annual updating of the information contained in the registry by each registered person; and

(C) criminal penalties for failing to comply with the registration requirements.

(b) STATES TO REPORT.—

(1) IN GENERAL.—Each State shall report to the Attorney General, in such form and manner as the Attorney General shall prescribe—

(A) information about each conviction for a criminal offense against a victim who is a child; and

(B) the information on the registry that State is required to establish and maintain under subsection (a).

(2) ANNUAL SUMMARY OF CONVICTIONS.—The Attorney General shall publish an annual summary of convictions for offenses involving the physical, psychological, or emotional injuring, sexual abuse or exploitation, neglectful treatment, or maltreatment, of children, based on information reported under this section.

(c) SANCTION FOR NONCOMPLIANCE BY STATE.—If a State fails to comply with an obligation under subsection (a) or (b) during the period that begins 3 years after the date of the enactment of this Act, the allocation of funds under section 506 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756) shall be reduced by 25 percent, and the unallocated funds shall be reallocated to the States complying with those obligations.

(d) BACKGROUND CHECKS.—

(1) IN GENERAL.—A State may permit qualified entities to obtain from an authorized agency of the State a nationwide background check for the purpose of determining whether there is a report that a provider has been convicted of a background check crime.

(2) ATTORNEY GENERAL TO PROVIDE INFORMATION.—The Attorney General, in accordance with such rules and subject to such conditions as the Attorney General shall prescribe, shall provide to authorized agencies of States information possessed by the Department of Justice that would enable the agency to make the background check described in paragraph (1). In making such rules and setting such conditions, the Attorney General shall take care to assure—

(A) the currency and accuracy of the information; and

(B) that the States maintain procedures to permit providers to check and correct information relating to such providers.

(e) DEFINITIONS.—As used in this Act—

(1) the term "child" means a person who has not attained the age of 18 years;

(2) the term "State" includes the District of Columbia, Puerto Rico, and any other territory or possession of the United States;

(3) the term "authorized agency of the State" means the agency of the State the State designates to carry out the background checks described in section 5;

(4) the term "qualified entity" means a business or organization of any sort that provides child care or child care placement services, including a business or organization that licenses or certifies others to provide such services;

(5) the term "provider" means any person who—

(A) seeks or has contact with a child while that child is receiving care from a qualified entity; and

(B) seeks employment or ownership of a qualified entity; and

(6) the term "background check crime" means, with respect to a provider, any crime committed by that provider that, as determined under rules prescribed by the Attorney General, may affect the safety of children under the care of a qualified entity with respect to which that provider has a relationship described in paragraph (5).

SEC. 136. INCREASED PENALTIES FOR ASSAULTS AGAINST CHILDREN.

(a) SIMPLE ASSAULT.—Section 113(e) of title 18, United States Code, is amended by striking "by fine" and all that follows through the period and inserting "—

"(A) if the victim of the assault is an individual who has not attained the age of 16 years, by a fine under this title or imprisonment for not more than one year, or both; and

"(B) by a fine under this title or imprisonment for not more than three months, or both, in any other case.".

(b) ASSAULTS RESULTING IN SUBSTANTIAL BODILY INJURY.—Section 113 of title 18, United States Code, is amended by adding at the end the following:

"(7) Assault resulting in substantial bodily injury to an individual who has not attained the age of 16 years, by a fine under this title or imprisonment for not more than 5 years, or both.".

(c) TECHNICAL AND STYLISTIC CHANGES TO SECTION 113.—Section 113 of title 18, United States Code, is amended—

(1) in paragraph (b), by striking "of not more than $3,000" and inserting "under this title";

(2) in paragraph (c), by striking "of not more than $1,000" and inserting "under this title";

(3) in paragraph (d), by striking "of not more than $500" and inserting "under this title";

(4) in paragraph (e), by striking "of not more than $300" and inserting "under this title";

(5) by modifying the left margin of each of paragraphs (a) through (f) so that they are indented 2 ems;

(6) by redesignating paragraphs (a) through (f) as paragraphs (1) through (6); and

(7) by inserting "(a)" before "Whoever".

(d) DEFINITIONS.—Section 113 of title 18, United States Code, is amended by adding at the end the following:

"(b) As used in this subsection—

"(1) the term 'substantial bodily injury' means bodily injury which involves—

"(A) a temporary but substantial disfigurement; or

"(B) a temporary but substantial loss or impairment of the function of any bodily member, organ, or mental faculty; and

"(2) the term 'serious bodily injury' has the meaning given that term in section 1365 of this title.".

(e) ASSAULTS IN INDIAN COUNTRY.—Section 1153(a) of title 18, United States Code, is amended by inserting "(as defined in section 1365 of this title), an assault against an individual who has not attained the age of 16 years" after "serious bodily injury".

SEC. 137. OFFENSE OF INDUCING MINORS OR OTHER PERSONS TO USE STEROIDS.

Section 404 of the Controlled Substances Act (21 U.S.C 844) is amended by inserting after subsection (a) the following new subsection:

"(b)(1) Whoever, being a physical trainer or adviser to a person, attempts to persuade or induce the person to possess or use anabolic steroids in violation of subsection (a), shall be fined under title 18, United States Code, imprisoned not more than 2 years (or if the person attempted to be persuaded or induced was less than 18 years of age at the time of the offense, 5 years), or both.

"(2) As used in this subsection, the term 'physical trainer or adviser' means a professional or amateur coach, manager, trainer, instructor, or other such person who provides athletic or physical instruction, training, advice, assistance, or any other such service to any person.".

SEC. 138. INCREASED PENALTIES FOR DRUG DISTRIBUTION TO PREGNANT WOMEN.

The United States Sentencing Commission shall amend the sentencing guidelines to increase by at least 4 levels the base offense level for an offense under section 2241 (relating to aggravated sexual abuse) or section

2242 (relating to sexual abuse) of title 18, United States Code, and shall consider whether any other changes are warranted in the guidelines provisions applicable to such offenses to ensure realization of the objectives of sentencing. In amending the guidelines in conformity with this section, the Sentencing Commission shall review the appropriateness and adequacy of existing offense characteristics and adjustments applicable to such offenses, taking into account the heinousness of sexual abuse offenses, the severity and duration of the harm caused to victims, and any other relevant factors. In any subsequent amendment to the sentencing guidelines, the Sentencing Commission shall maintain minimum guidelines sentences for the offenses referenced in this section which are at least equal to those required by this section.

SEC. 139. INTERSTATE ENFORCEMENT OF CHILD SUPPORT ORDERS.

(a) TITLE 28 AMENDMENT.—Chapter 115 of title 28, United States Code, is amended by inserting after section 1738A the following new section:

"§ 1738B. Full faith and credit given to child support orders

"(a) GENERAL RULE.—The appropriate authorities of each State shall enforce according to its terms, and shall not modify except as provided in subsection (e), any child support order made consistently with the provisions of this section by a court of another State.

"(b) DEFINITIONS.—As used in this section, the term—

"(1) 'child' means any person under 18 years of age, and includes an individual 18 or more years of age for whom a child support order has been issued pursuant to the laws of a State;

"(2) 'child's State' means the State in which a child currently resides;

"(3) 'child support order' means a judgment, decree, or order of a court requiring the payment of money, or the provision of a benefit, including health insurance, whether in periodic amounts or lump sum, for the support of a child and includes permanent and temporary orders, initial orders and modifications, ongoing support, and arrearages;

"(4) 'child support' means a payment of money or provision of a benefit described in paragraph (3) for the support of a child;

"(5) 'contestant' means a person, including a parent, who claims a right to receive child support or against whom a right to receive child support is claimed or asserted, and includes States and political subdivisions to whom the right to obtain a child support order has been assigned;

"(6) 'court' means a court, administrative process, or quasi-judicial process of a State which is authorized by State law to establish the amount of child support payable by a contestant or modify the amount of child support payable by a contestant;

"(7) 'modification' and 'modify' refer to a change in a child support order which affects the amount, scope, or duration of such order and modifies, replaces, supersedes, or otherwise is made subsequent to such child support order, whether or not made by the same court as such child support order; and

"(8) 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United States, and Indian country as defined in section 1151 of title 18.

"(c) REQUIREMENTS OF CHILD SUPPORT ORDERS.—A child support order made by a court of a State is consistent with the provisions of this section only if—

"(1) such court, pursuant to the laws of the State in which such court is located, had jurisdiction to hear the matter and enter such an order and had personal jurisdiction over the contestants; and

"(2) reasonable notice and opportunity to be heard was given to the contestants.

"(d) CONTINUING JURISDICTION.—A court of a State which has made a child support order consistently with the provisions of this section has continuing, exclusive jurisdiction of that order when such State is the child's State or the residence of any contestant unless another State, acting in accordance with subsection (e), has modified that order.

"(e) AUTHORITY TO MODIFY ORDERS.—A court of a State may modify a child support order with respect to a child that is made by a court of another State, if—

"(1) it has jurisdiction to make such a child support order; and

"(2) the court of the other State no longer has continuing, exclusive jurisdiction of the child support order because such State no longer is the child's State or the residence of any contestant, or each contestant has filed written consent for the State to modify the order and assume continuing, exclusive jurisdiction of such order.

"(f) ENFORCEMENT OF PRIOR ORDERS.—A court of a State which no longer has continuing, exclusive jurisdiction of a child support order may enforce such order with respect to unsatisfied obligations which accrued before the date on which a modification of such order is made under subsection (e).".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 115 of title 28, United States Code, is amended by inserting after the item relating to section 1738A the following:

"1738B. Full faith and credit given to child support orders.".

SEC. 140. CRIMES INVOLVING THE USE OF MINORS AS RICO PREDICATES.

Paragraph (1) of section 1961 of title 18, United States Code, is amended—

(1) by striking "or" before "(E)"; and

(2) by inserting before the semicolon at the end of the paragraph the following: ", or (F) any offense against the United States that is punishable by imprisonment for more than 1 year and that involved the use of a person below the age of 18 years in the commission of the offense".

SEC. 141. INCREASED PENALTIES FOR USING MINORS IN DRUG TRAFFICKING AND DRUG DISTRIBUTION TO MINORS.

(a) DRUG DISTRIBUTION TO MINOR BY RECIDIVIST.—Section 418(b) of the Controlled Substances Act (21 U.S.C. 859(b)) is amended by striking "one year" and inserting "3 years".

(b) USE OF MINOR IN TRAFFICKING BY RECIDIVIST.—Section 420(c) of the Controlled Substances Act (21 U.S.C. 861(b)) is amended by striking "one year" and inserting "3 years".

(c) CONCURRENT VIOLATION OF PROHIBITION OF USE OF MINORS AND TRAFFICKING NEAR SCHOOLS.—Section 419(b) of the Controlled Substances Act (21 U.S.C. 860(b)) is amended by inserting ", or under circumstances involving a violation of section 420(a)," before "is punishable".

SEC. 142. INCREASED PENALTIES FOR USING A MINOR IN COMMISSION OF A FEDERAL OFFENSE.

(a) IN GENERAL.—Chapter 1 of title 18, United States Code, is amended by adding at the end the following:

"§ 21. Use of children in Federal offenses

"(a) Except as otherwise provided by law, whoever, being at least 18 years of age, uses a child to commit a Federal offense, or to assist in avoiding detection or apprehension for a Federal offense, shall—

"(1) after a previous conviction under this subsection has become final, be subject to 3 times the maximum imprisonment and 3 times the maximum fine otherwise provided for the Federal offense in which the child is used; and

"(2) in any other case, be subject to 2 times the maximum imprisonment and 2 times the maximum fine for such offense.

"(b) As used in this section—

"(1) the term 'child' means a person who is under 18 years of age; and

"(2) the term 'uses' means employs, hires, uses, persuades, induces, entices, or coerces.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1 of title 18, United States Code, is amended by adding at the end the following new item:

"21. Use of children in Federal offenses.".

SEC. 143. INTERNATIONAL PARENTAL KIDNAPPING.

(a) IN GENERAL.—Chapter 55 (relating to kidnapping) of title 18, United States Code, is amended by adding at the end the following:

"§ 1204. International parental kidnapping

"(a) Whoever—

"(1) removes a child from the United States or retains a child (who has been in the United States) outside the United States—

"(A) in order to obstruct the lawful exercise of parental rights that are established in a court order;

"(B) in order to obstruct the lawful exercise of parental rights by the mother of that child, in the case of a child—

"(i) whose parents have not been married;

"(ii) with regard to whom paternity has not been judicially established; and

"(iii) whose custody has not been judicially granted to a person other than the mother; or

"(C) in order to obstruct the lawful exercise of parental rights during the pendency of judicial proceedings to determine parental rights; or

"(2) in any other circumstances removes a child from the United States or retains a child (who has been in the United States) outside the United States, in order to obstruct the lawful exercise of parental rights;

shall be fined under this title or imprisoned not more than 3 years, or both.

"(b) As used in this section—

"(1) the term 'child' means a person who has not attained the age of 16 years; and

"(2) the term 'parental rights', with respect to a child, means the right to physical custody of the child—

"(A) whether joint or sole (and includes visiting rights); and

"(B) whether arising by operation of law, court order, or agreement of the parties.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 55 of title 18, United States Code, is amended by adding at the end the following:

"1204. International parental kidnapping.".

SEC. 144. STATE COURT PROGRAMS REGARDING INTERNATIONAL PARENTAL CHILD ABDUCTION.

There is authorized to be appropriated $250,000 to carry out under the State Justice Institute Act of 1984 (42 U.S.C. 10701-10713) national, regional, and in-State training and educational programs dealing with criminal and civil aspects of interstate and international parental child abduction.

Subtitle D—Punishment of Serious Juvenile Offenders

SEC. 151. SERIOUS JUVENILE DRUG OFFENSES AS ARMED CAREER CRIMINAL ACT PREDICATES.

Section 924(e)(2)(A) of title 18, United States Code, is amended—

(1) by striking "or" at the end of clause (i);

(2) by adding "or" at the end of clause (ii); and

(3) by adding at the end the following:

"(iii) any act of juvenile delinquency that if committed by an adult would be a serious drug offense described in this paragraph;".

SEC. 152. ADULT PROSECUTION OF SERIOUS JUVENILE OFFENDERS.

Section 5032 of title 18, United States Code, is amended—

(1) in the first undesignated paragraph—

(A) by striking "an offense described in section 401 of the Controlled Substances Act (21 U.S.C 841), or section 1002(a), 1003, 1005, 1009, or 1010(b)(1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, 960(b)(1), (2), (3))," and inserting "an offense (or a conspiracy or attempt to commit an offense) described in section 401, or 404 (insofar as the violation involves more than 5 grams of a mixture or substance which contains cocaine base), of the Controlled Substances Act (21 U.S.C. 841, 844, or 846), section 1002(a), 1003, 1005, 1009, 1010(b)(1), (2), or (3), of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, 960(b)(1), (2), or (3), or 963),"; and

(B) by striking "922(p)" and inserting "924(b), (g), or (h)";

(2) in the fourth undesignated paragraph—

(A) by striking "an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841), or section 1002(a), 1005, or 1009 of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 955, 959)" and inserting "an offense (or a conspiracy or attempt to commit an offense) described in section 401, or 404 (insofar as the violation involves more than 5 grams of a mixture or substance which contains cocaine base), of the Controlled Substances Act (21 U.S.C. 841, 844, or 846), section 1002(a), 1005, 1009, 1010(b)(1), (2), or (3), of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 955, 959, 960(b)(1), (2), or (3), or 963), or section 924(b), (g), or (h) of this title,"; and

(B) by striking "subsection (b)(1)(A), (B), or (C), (d), or (e) of section 401 of the Controlled Substances Act, or section 1002(a), 1003, 1009, or 1010(b)(1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 959, 960(b)(1), (2), (3))" and inserting "or an offense (or conspiracy or attempt to commit an offense) described in section 401(b)(1)(A), (B), or (C), (d), or (e), or 404 (insofar as the violation involves more than 5 grams of a mixture or substance which contains cocaine base), of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A), (B), or (C), (d), or (e), 844, or 846) or section 1002(a), 1003, 1009, 1010(b)(1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 959, 960(b)(1), (2), or (3), or 963)"; and

(3) in the fifth undesignated paragraph by adding at the end the following: "In considering the nature of the offense, as required by this paragraph, the court shall consider the extent to which the juvenile played a leadership role in an organization, or otherwise influenced other persons to take part in criminal activities, involving the use or distribution of controlled substances or firearms. Such a factor, if found to exist, shall weigh heavily in favor of a transfer to adult status, but the absence of this factor shall not preclude such a transfer.".

SEC. 153. AMENDMENTS CONCERNING RECORDS OF CRIMES COMMITTED BY JUVENILES.

(a) IN GENERAL.—Section 5038 of title 18, United States Code, is amended by striking subsections (d) and (f), redesignating subsection (e) as subsection (d), and by adding at the end new subsections (e) and (f) as follows:

"(e) Whenever a juvenile has been found guilty of committing an act which if committed by an adult would be an offense described in clause (3) of the first paragraph of section 5032 of this title, the juvenile shall be fingerprinted and photographed, and the fingerprints and photograph shall be sent to the Federal Bureau of Investigation, Identification Division. The court shall also transmit to the Federal Bureau of Investigation, Identification Division, the information concerning the adjudication, including name, date of adjudication, court, offenses, and sentence, along with the notation that the matter was a juvenile adjudication. The fingerprints, photograph, and other records and information relating to a juvenile described in this subsection, or to a juvenile who is prosecuted as an adult, shall be made available in the manner applicable to adult defendants.

"(f) In addition to any other authorization under this section for the reporting, retention, disclosure, or availability of records or information, if the law of the State in which a Federal juvenile delinquency proceeding takes place permits or requires the reporting, retention, disclosure, or availability of records or information relating to a juvenile or to a juvenile delinquency proceeding or adjudication in certain circumstances, then such reporting, retention, disclosure, or availability is permitted under this section whenever the same circumstances exist.".

(b) REPEAL.—Section 3607 of title 18, United States Code, is repealed, and the corresponding item in the chapter analysis for chapter 229 of title 18 is deleted.

(c) CONFORMING AMENDMENT.—Section 401(b)(4) of the Controlled Substances Act (21 U.S.C. 841(b)(4)) is amended by striking "and section 3607 of title 18".

TITLE II—EQUAL PROTECTION FOR VICTIMS

Subtitle A—Victims' Rights

SEC. 201. RIGHT OF THE VICTIM TO FAIR TREATMENT IN LEGAL PROCEEDINGS.

The following rules, to be known as the Rules of Professional Conduct for Lawyers in Federal Practice, are enacted:

"RULES OF PROFESSIONAL CONDUCT FOR LAWYERS IN FEDERAL PRACTICE

"Rule 1. Scope
"Rule 2. Abuse of Victims and Others Prohibited
"Rule 3. Duty of Enquiry in Relation to Client
"Rule 4. Duty to Expedite Litigation
"Rule 5. Duty to Prevent Commission of Crime

"Rule 1. Scope

"(a) These rules apply to the conduct of lawyers in their representation of clients in relation to proceedings and potential proceedings before Federal tribunals.

"(b) For purposes of these rules, 'Federal tribunal' and 'tribunal' mean a court of the United States.

"Rule 2. Abuse of Victims and Others Prohibited

"(a) A lawyer shall not engage in any action or course of conduct for the purpose of increasing the expense of litigation for any person, other than a liability under an order or judgment of a tribunal.

"(b) A lawyer shall not engage in any action or course of conduct that has no substantial purpose other than to distress, harass, embarrass, burden, or inconvenience another person.

"(c) A lawyer shall not offer evidence that the lawyer knows to be false or attempt to discredit evidence that the lawyer knows to be true.

"Rule 3. Duty of Enquiry in Relation to Client

"A lawyer shall attempt to elicit from the client a truthful account of the material facts concerning the matters in issue. In representing a client charged with a crime, the duty of enquiry under this rule includes—

"(1) attempting to elicit from the client a materially complete account of the alleged criminal activity if the client acknowledges involvement in the alleged activity; and

"(2) attempting to elicit from the client the material facts relevant to a defense of alibi if the client denies such involvement.

"Rule 4. Duty to Expedite Litigation

"(a) A lawyer shall seek to bring about the expeditious conduct and conclusion of litigation.

"(b) A lawyer shall not seek a continuance or otherwise attempt to delay or prolong proceedings in the hope or expectation that—

"(1) evidence will become unavailable;

"(2) evidence will become more subject to impeachment or otherwise less useful to another party because of the passage of time; or

"(3) an advantage will be obtained in relation to another party because of the expense, frustration, distress, or other hardship resulting from prolonged or delayed proceedings.

"Rule 5. Duty to Prevent Commission of Crime

"(a) A lawyer may disclose information relating to the representation of a client to the extent necessary to prevent the commission of a crime or other unlawful act.

"(b) A lawyer shall disclose information relating to the representation of a client where disclosure is required by law. A lawyer shall also disclose such information to the extent necessary to prevent—

"(1) the commission of a crime involving the use or threatened use of force against another, or a substantial risk of death or serious bodily injury to another; or

"(2) the commission of a crime of sexual assault or child molestation.

"(c) For purposes of this rule, 'crime' means a crime under the law of the United States or the law of a State, and 'unlawful act' means an act in violation of the law of the United States or the law of a State.".

SEC. 202. RIGHT OF THE VICTIM TO AN IMPARTIAL JURY.

Rule 24(b) of the Federal Rules of Criminal Procedure is amended by striking "the Government is entitled to 6 peremptory challenges and the defendant or defendants jointly to 10 peremptory challenges" and inserting "each side is entitled to 6 peremptory challenges".

SEC. 203. VICTIM'S RIGHT OF ALLOCUTION IN SENTENCING.

Rule 32 of the Federal Rules of Criminal Procedure is amended—

(1) by striking "and" at the end of subdivision (a)(1)(B);

(2) by striking the period at the end of subdivision (a)(1)(C) and inserting "; and";

(3) by inserting after subdivision (a)(1)(C) the following: "(D) if sentence is to be imposed for a crime of violence or sexual abuse,

address the victim personally if the victim is present at the sentencing hearing and determine if the victim wishes to make a statement and to present any information in relation to the sentence.";

(4) in the penultimate sentence of subdivision (a)(1) by striking "equivalent opportunity" and inserting "opportunity equivalent to that of the defendant's counsel";

(5) in the last sentence of subdivision (a)(1) by inserting "the victim," before ", or the attorney for the Government."; and

(6) by adding at the end the following new subdivision:

"(f) DEFINITIONS.—For purposes of this rule—

"(1) 'crime of violence or sexual abuse' means a crime that involved the use or attempted or threatened use of physical force against the person or property of another, or a crime under chapter 109A of title 18, United States Code; and

"(2) 'victim' means an individual against whom an offense for which a sentence is to be imposed has been committed, but the right of allocution under subdivision (a)(1)(D) may be exercised instead by—

"(A) a parent or legal guardian if the victim is below the age of 18 years or incompetent; or

"(B) one or more family members or relatives designated by the court if the victim is deceased or incapacitated,

if such person or persons are present at the sentencing hearing, regardless of whether the victim is present.".

SEC. 204. ENFORCEMENT OF RESTITUTION ORDERS THROUGH SUSPENSION OF FEDERAL BENEFITS.

Section 3663 of title 18, United States Code, is amended—

(1) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(2) by inserting after subsection (f) the following new subsection:

"(g)(1) If the defendant is delinquent in making restitution in accordance with any schedule of payments or any requirement of immediate payment imposed under this section, the court may, after a hearing, suspend the defendant's eligibility for all Federal benefits until such time as the defendant demonstrates to the court good-faith efforts to return to such schedule.

"(2) For purposes of this subsection—

"(A) the term 'Federal benefits'—

"(i) means any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or appropriated funds of the United States; and

"(ii) does not include any retirement, welfare, Social Security, health, disability, veterans benefit, public housing, or other similar benefit, or any other benefit for which payments or services are required for eligibility; and

"(B) the term 'veterans benefit' means all benefits provided to veterans, their families, or survivors by virtue of the service of a veteran in the Armed Forces of the United States.".

SEC. 205. PROHIBITION OF RETALIATORY KILLINGS OF WITNESSES, VICTIMS AND INFORMANTS.

Section 1513 of title 18, United States Code, is amended—

(1) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively; and

(2) by inserting a new subsection (a) as follows:

"(a)(1) Whoever kills or attempts to kill another person with intent to retaliate against any person for—

"(A) the attendance of a witness or party at an official proceeding, or any testimony given or any record, document, or other object produced by a witness in an official proceeding; or

"(B) any information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole or release pending judicial proceedings given by a person to a law enforcement officer;

shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under this subsection is—

"(A) in the case of a killing, the punishment provided in sections 1111 and 1112 of this title; and

"(B) in the case of an attempt, imprisonment for not more than twenty years.".

Subtitle B—Admissibility of Evidence

SEC. 211. ADMISSIBILITY OF EVIDENCE OF SIMILAR CRIMES IN SEX OFFENSE CASES.

The Federal Rules of Evidence are amended by adding after Rule 412 the following new rules:

"Rule 413. Evidence of Similar Crimes in Sexual Assault Cases

"(a) EVIDENCE ADMISSIBLE.—In a criminal case in which the defendant is accused of an offense of sexual assault, evidence of the defendant's commission of another offense or offenses of sexual assault is admissible, and may be considered for its bearing on any matter to which it is relevant.

"(b) DISCLOSURE TO DEFENDANT.—In a case in which the government intends to offer evidence under this Rule, the attorney for the government shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least 15 days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) EFFECT ON OTHER RULES.—This Rule shall not be construed to limit the admission or consideration of evidence under any other Rule.

"(d) DEFINITION.—For purposes of this Rule and Rule 415, 'offense of sexual assault' means a crime under Federal law or the law of a State (as defined in section 513 of title 18, United States Code) that involved—

"(1) any conduct proscribed by chapter 109A of title 18, United States Code;

"(2) contact, without consent, between any part of the defendant's body or an object and the genitals or anus of another person;

"(3) contact, without consent, between the genitals or anus of the defendant and any part of another person's body;

"(4) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on another person; or

"(5) an attempt or conspiracy to engage in conduct described in any of paragraphs (1) through (4).

"Rule 414. Evidence of Similar Crimes in Child Molestation Cases

"(a) EVIDENCE ADMISSIBLE.—In a criminal case in which the defendant is accused of an offense of child molestation, evidence of the defendant's commission of another offense or offenses of child molestation is admissible, and may be considered for its bearing on any matter to which it is relevant.

"(b) DISCLOSURE TO DEFENDANT.—In a case in which the government intends to offer evidence under this Rule, the attorney for the government shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least 15 days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) EFFECT ON OTHER RULES.—This Rule shall not be construed to limit the admission or consideration of evidence under any other Rule.

"(d) DEFINITION.—For purposes of this Rule and Rule 415, 'child' means a person below the age of 14 years, and 'offense of child molestation' means a crime under Federal law or the law of a State (as defined in section 513 of title 18, United States Code) that involved—

"(1) any conduct proscribed by chapter 109A of title 18, United States Code, that was committed in relation to a child;

"(2) any conduct proscribed by chapter 110 of title 18, United States Code;

"(3) contact between any part of the defendant's body or an object and the genitals or anus of a child;

"(4) contact between the genitals or anus of the defendant and any part of the body of a child;

"(5) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on a child; or

"(6) an attempt or conspiracy to engage in conduct described in any of paragraphs (1) through (5).

"Rule 415. Evidence of Similar Acts in Civil Cases Concerning Sexual Assault or Child Molestation

"(a) EVIDENCE ADMISSIBLE.—In a civil case in which a claim for damages or other relief is predicated on a party's alleged commission of conduct constituting an offense of sexual assault or child molestation, evidence of that party's commission of another offense or offenses of sexual assault or child molestation is admissible and may be considered as provided in Rule 413 and Rule 414 of these Rules.

"(b) DISCLOSURE TO OTHER PARTIES.—A party who intends to offer evidence under this Rule shall disclose the evidence to the party against whom it will be offered, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least 15 days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) EFFECT ON OTHER RULES.—This Rule shall not be construed to limit the admission or consideration of evidence under any other Rule.".

SEC. 212. EXTENSION AND STRENGTHENING OF RAPE VICTIM SHIELD LAW.

(a) AMENDMENTS TO RAPE VICTIM SHIELD LAW.—Rule 412 of the Federal Rules of Evidence is amended—

(1) in subdivisions (a) and (b), by striking "criminal case" and inserting "criminal or civil case";

(2) in subdivisions (a) and (b), by striking "an offense under chapter 109A of title 18, United States Code," and inserting "an offense or civil wrong involving conduct proscribed by chapter 109A of title 18, United States Code, whether or not the conduct occurred in the special maritime and territorial jurisdiction of the United States or in a Federal prison,";

(3) in subdivision (a), by striking "victim of such offense" and inserting "victim of such conduct";

(4) in subdivision (c)—

(A) by striking in paragraph (1) "the person accused of committing an offense under chapter 109A of title 18, United States Code" and inserting "the accused"; and

(B) by inserting at the end of paragraph (3) the following: "An order admitting evidence under this paragraph shall explain the reasoning leading to the finding of relevance, and the basis of the finding that the probative value of the evidence outweighs the danger of unfair prejudice notwithstanding the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased inferences."; and

(5) in subdivision (d), by striking "an offense under chapter 109A of title 18, United States Code" and inserting "the conduct proscribed by chapter 109A of title 18, United States Code,".

(b) INTERLOCUTORY APPEAL.—Section 3731 of title 18, United States Code, is amended by inserting after the second paragraph the following:

"An appeal by the United States before trial shall lie to a court of appeals from an order of a district court admitting evidence of an alleged victim's past sexual behavior in a criminal case in which the defendant is charged with an offense involving conduct proscribed by chapter 109A of this title, whether or not the conduct occurred in the special maritime and territorial jurisdiction of the United States or in a Federal prison.".

SEC. 213. INADMISSIBILITY OF EVIDENCE TO SHOW PROVOCATION OR INVITATION BY VICTIM IN SEX OFFENSE CASES.

The Federal Rules of Evidence are amended by adding after Rule 415 (as added by section 421 of this Act) the following:

"Rule 416. Inadmissibility of evidence to show invitation or provocation by victim in sexual abuse cases

"In a criminal case in which a person is accused of an offense involving conduct proscribed by chapter 109A of title 18, United States Code, whether or not the conduct occurred in the special maritime and territorial jurisdiction of the United States or in a Federal prison, evidence is not admissible to show that the alleged victim invited or provoked the commission of the offense. This Rule does not limit the admission of evidence of consent by the alleged victim if the issue of consent is relevant to liability and the evidence is otherwise admissible under these Rules.".

SEC. 214. ADMISSIBILITY OF CERTAIN EVIDENCE.

(a) IN GENERAL.—Chapter 223 of title 18, United States Code, is amended by adding at the end the following:

"§3510. Admissibility of evidence obtained by search or seizure

"(a) EVIDENCE OBTAINED BY OBJECTIVELY REASONABLE SEARCH OR SEIZURE.—Evidence which is obtained as a result of a search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the fourth amendment to the Constitution of the United States, if the search or seizure was carried out in circumstances justifying an objectively reasonable belief that it was in conformity with the fourth amendment. The fact that evidence was obtained pursuant to and within the scope of a warrant constitutes prima facie evidence of the existence of such circumstances.

"(b) EVIDENCE NOT EXCLUDABLE BY STATUTE OR RULE.—Evidence shall not be excluded in a proceeding in a court of the United States on the ground that it was obtained in violation of a statute, an administrative rule or regulation, or a rule of procedure unless exclusion is expressly authorized by statute or by a rule prescribed by the Supreme Court pursuant to statutory authority.

"(c) RULE OF CONSTRUCTION.—This section shall not be construed to require or authorize the exclusion of evidence in any proceeding.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 223 of title 18, United States Code, is amended by adding at the end the following:

"3510. Admissibility of evidence obtained by search or seizure.".

Subtitle C—Protecting the Integrity of the Judicial Process

SEC. 221. GENERAL SAFEGUARDS AGAINST RACIAL PREJUDICE OR BIAS IN THE TRIBUNAL.

In a criminal trial in a court of the United States, or of any State—

(1) on motion of the defense attorney or prosecutor, the risk of racial prejudice or bias shall be examined on voir dire if there is a substantial likelihood in the circumstances of the case that such prejudice or bias will affect the jury either against or in favor of the defendant;

(2) on motion of the defense attorney or prosecutor, a change of venue shall be granted if an impartial jury cannot be obtained in the original venue because of racial prejudice or bias; and

(3) neither the prosecutor nor the defense attorney shall make any appeal to racial prejudice or bias in statements before the jury.

SEC. 222. PROTECTION OF JURORS AND WITNESSES IN CAPITAL CASES.

Section 3432 of title 18, United States Code, is amended by inserting before the period the following: ", except that such list of the veniremen and witnesses need not be furnished if the court finds by a preponderance of the evidence that providing the list may jeopardize the life or safety of any person".

SEC. 223. PROTECTION OF COURT OFFICERS AND JURORS.

Section 1503 of title 18, United States Code, is amended—

(1) by designating the current text as subsection (a);

(2) by striking "fined not more than $5,000 or imprisoned not more than five years, or both." and inserting "punished as provided in subsection (b)."';

(3) by adding at the end the following:

"(b) The punishment for an offense under this section is—

"(1) in the case of a killing, the punishment provided in sections 1111 and 1112 of this title;

"(2) in the case of an attempted killing, or a case in which the offense was committed against a petit juror and in which a class A or B felony was charged, imprisonment for not more than twenty years; and

"(3) in any other case, imprisonment for not more than ten years."; and

(4) in subsection (a), as designated by this section, by striking "commissioner" each place it appears and inserting "magistrate judge".

SEC. 224. DEATH PENALTY FOR MURDER OF FEDERAL WITNESSES.

Section 1512(a)(2)(A) of title 18, United States Code, is amended to read as follows:

"(A) in the case of murder as defined in section 1111 of this title, the death penalty or imprisonment for life, and in the case of any other killing, the punishment provided in section 1112 of this title;".

TITLE III—PROTECTION OF WOMEN

Subtitle A—Spouse Abuse and Stalking

SEC. 301. INTERSTATE TRAVEL TO COMMIT SPOUSE ABUSE OR TO VIOLATE PROTECTIVE ORDER; INTERSTATE STALKING.

(a) OFFENSE.—Part 1 of title 18, United States Code, is amended by inserting after chapter 110 the following:

"CHAPTER 110A—DOMESTIC VIOLENCE AND OFFENSES AGAINST THE FAMILY

"Sec.

"2261. Domestic violence and stalking.

"§2261. Domestic violence and stalking

"(a) OFFENSE.—Whoever, in a circumstance described in subsection (c), causes or attempts to cause bodily injury to, engages in sexual abuse against, or violates a protective order in relation to, another shall be punished—

"(1) if death results, by death or by imprisonment for any term of years or for life;

"(2) if permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years;

"(3) if serious bodily injury results, or if a firearm, knife, or other dangerous weapon is possessed, carried, or used during the commission of the offense, by imprisonment for not more than 10 years; and

"(4) in any other case, by imprisonment for not more than five years.

If, however, the defendant engages in sexual abuse and the penalty authorized for such conduct under chapter 109A exceeds the penalty which would otherwise be authorized under this subsection, then the penalty authorized for such conduct under chapter 109A shall apply.

"(b) MANDATORY PENALTIES.—A sentence under this section shall include at least 3 months of imprisonment if the offense involves the infliction of bodily injury on or the commission of sexual abuse against the victim. A sentence under this section shall include at least 6 months of imprisonment if the offense involves the violation of a protective order and the defendant has previously violated a protective order in relation to the same victim.

"(c) REQUIRED CIRCUMSTANCES.—The circumstance referred to in subsection (a) of this section is that the defendant traveled in interstate or foreign commerce, or transported or caused another to move in interstate or foreign commerce, with the intention of committing or in furtherance of committing the offense, and—

"(1) the victim was a spouse or former spouse of the defendant, was cohabiting with or had cohabited with the defendant, or had a child in common with the defendant; or

"(2) the defendant on two or more occasions—

"(A) has caused or attempted or threatened to cause death or serious bodily injury to or engaged in sexual abuse in relation to the victim; or

"(B) has engaged in any conduct that caused or was intended to cause apprehension by the victim that the victim would be subjected to death, serious bodily injury, or sexual abuse.

"(d) DEFINITIONS.—As used in this section—

"(1) the term 'protective order' means an order issued by a court of a State prohibiting or limiting violence against, harassment of, contact or communication with, or physical proximity to another person;

"(2) the term 'sexual abuse' means any conduct proscribed by chapter 109A of this title, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States or in a Federal prison;

"(3) the terms 'serious bodily injury' and 'bodily injury' have the meanings, respectively, given those terms in section 1365(g) of this title; and

"(4) the term 'State' has the meaning given that term in section 513(c)(5) of this title.".

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of Part 1 of title 18, United States Code, is amended by inserting after the item for chapter 110 the following:

"110A. Domestic violence and offenses against the family .... 2261".

SEC. 302. FULL FAITH AND CREDIT FOR PROTECTIVE ORDERS.

(a) REQUIREMENT OF FULL FAITH AND CREDIT.—Chapter 110A of title 18, United States Code, as enacted by section 141 of this Act, is amended by adding at the end the following:

"§2262. Full faith and credit for protective orders

"(a) A protective order issued by a court of a State shall have the same full faith and credit in a court in another State that it would have in a court of the State in which issued, and shall be enforced by the courts of any State as if it were issued in that State.

"(b) As used in this section—

"(1) the term 'protective order' means an order prohibiting or limiting violence against, harassment of, contact or communication with, or physical proximity to another person; and

"(2) the term 'State' has the meaning given in section 513(c)(5) of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 110A of title 18, United States Code, as enacted by section 141 of this Act, is amended by inserting at the end the following:

"2262. Full faith and credit for protective orders.".

Subtitle B—Victims of Sexual Violence

SEC. 311. CIVIL REMEDY FOR VICTIMS OF SEXUAL VIOLENCE.

(a) CAUSE OF ACTION.—Whoever, in violation of the Constitution or laws of the United States, engages in sexual violence against another, shall be liable to the injured party in an action under this section. The relief available in such an action shall include compensatory and punitive damages and any appropriate equitable or declaratory relief.

(b) DEFINITION.—For purposes of this section, "sexual violence" means any conduct proscribed by chapter 109A of title 18, United States Code, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States or in a Federal prison.

(c) ATTORNEY'S FEES.—The Civil Rights Attorney's Fees Award Act of 1976 (42 U.S.C. 1988) is amended by striking "or" after "Public Law 92-318" and by inserting after "1964" the following: ", or section 411 of the Sexual Assault Prevention Act of 1993,".

SEC. 312. EXTENSION AND STRENGTHENING OF RESTITUTION.

Section 3663 of title 18, United States Code, is amended—

(1) in subsection (b), by inserting "or an offense under chapter 109A, chapter 110, or section 2261 of this title" after "an offense resulting in bodily injury to a victim" in paragraph (2);

(2) in subsection (b)—

(A) by striking "and" at the end of paragraph (3);

(B) by redesignating paragraph (4) as paragraph (5); and

(C) by inserting after paragraph (4) the following:

"(4) in any case, reimburse the victim for lost income and necessary child care, transportation, and other expenses related to participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense; and"; and

(3) in subsection (d), by inserting at the end the following: "However, the court shall issue an order requiring restitution of the full amount of the victim's losses and expenses for which restitution is authorized under this section in imposing sentence for an offense under chapter 109A, chapter 110 or section 2261 of this title, unless the Government and the victim do not request such restitution.".

SEC. 313. PRE-TRIAL DETENTION IN SEX OFFENSE CASES.

Section 3156(a)(4) of title 18, United States Code, is amended—

(1) by striking ", or" at the end of subparagraph (A) and inserting a semicolon;

(2) by striking the period at the end of subparagraph (B) and inserting "; or"; and

(3) by adding after subparagraph (B) the following:

"(C) any felony under chapter 109A, chapter 110, or section 2261 of this title.".

Subtitle C—Punishment of Sex Offenders

SEC. 321. DEATH PENALTY FOR RAPE AND CHILD MOLESTATION MURDERS.

(a) OFFENSE.—Chapter 109A of title 18, United States Code, is amended by redesignating section 2245 as section 2246, and by adding the following new section:

"§2245. Sexual abuse resulting in death

"Whoever, in the course of an offense under this chapter, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 109A of title 18, United States Code, is amended by striking the item for section 2245 and adding the following:

"2245. Sexual abuse resulting in death.
"2246. Definitions for chapter.".

SEC. 322. INCREASED PENALTIES FOR RECIDIVIST SEX OFFENDERS.

(a) REDESIGNATION.—Sections 2245 and 2246 of title 18, United States Code, as so designated by section 137, are redesignated sections 2246 and 2247, respectively.

(b) PENALTIES FOR SUBSEQUENT OFFENSES.—Chapter 109A of title 18, United States Code, is amended by inserting the following new section after section 2244:

"§2245. Penalties for subsequent offenses

"Any person who violates this chapter, after a prior conviction under this chapter or the law of a State (as defined in section 513 of this title) for conduct proscribed by this chapter has become final, is punishable by a term of imprisonment up to twice that otherwise authorized.".

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 109A of title 18, United States Code, as amended by section 137, is amended—

(1) by striking "2245" and inserting "2246";

(2) by striking "2246" and inserting "2247"; and

(3) by inserting after the item relating to section 2244 the following:

"2245. Penalties for subsequent offenses.".

SEC. 323. SENTENCING GUIDELINES INCREASE FOR SEX OFFENSES.

The United States Sentencing Commission shall amend the sentencing guidelines to increase by at least 4 levels the base offense level for an offense under section 2241 (relating to aggravated sexual abuse) or section 2242 (relating to sexual abuse) of title 18, United States Code, and shall consider whether any other changes are warranted in the guidelines provisions applicable to such offenses to ensure realization of the objectives of sentencing. In amending the guidelines in conformity with this section, the Sentencing Commission shall review the appropriateness and adequacy of existing offense characteristics and adjustments applicable to such offenses, taking into account the heinousness of sexual abuse offenses, the severity and duration of the harm caused to victims, and any other relevant factors. In any subsequent amendment to the sentencing guidelines, the Sentencing Commission shall maintain minimum guidelines sentences for the offenses referenced in this section which are at least equal to those required by this section.

SEC. 324. HIV TESTING AND PENALTY ENHANCEMENT IN SEXUAL OFFENSE CASES.

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end the following:

"§ 2248. Testing for human immunodeficiency virus; disclosure of test results to victim; effect on penalty

"(a) TESTING AT TIME OF PRE-TRIAL RELEASE DETERMINATION.—In a case in which a person is charged with an offense under this chapter, a judicial officer issuing an order pursuant to section 3142(a) of this title shall include in the order a requirement that a test for the human immunodeficiency virus be performed upon the person, and that follow-up tests for the virus be performed six months and twelve months following the date of the initial test, unless the judicial officer determines that the conduct of the person created no risk of transmission of the virus to the victim, and so states in the order. The order shall direct that the initial test be performed within 24 hours, or as soon thereafter as feasible. The person shall not be released from custody until the test is performed.

"(b) TESTING AT LATER TIME.—If a person charged with an offense under this chapter was not tested for the human immunodeficiency virus pursuant to subsection (a), the court may at a later time direct that such a test be performed upon the person, and that follow-up tests be performed six months and twelve months following the date of the initial test, if it appears to the court that the conduct of the person may have risked transmission of the virus to the victim. A testing requirement under this subsection may be imposed at any time while the charge is pending, or following conviction at any time prior to the person's completion of service of the sentence.

"(c) TERMINATION OF TESTING REQUIREMENT.—A requirement of follow-up testing imposed under this section shall be canceled if any test is positive for the virus or the person obtains an acquittal on, or dismissal of, all charges under this chapter.

"(d) DISCLOSURE OF TEST RESULTS.—The results of any test for the human immunodeficiency virus performed pursuant to an order under this section shall be provided to the judicial officer or court. The judicial officer or court shall ensure that the results are disclosed to the victim (or to the victim's parent or legal guardian, as appropriate), the attorney for the Government, and the person tested.

"(e) EFFECT ON PENALTY.—The United States Sentencing Commission shall amend existing guidelines for sentences for offenses under this chapter to enhance the sentence if the offender knew or had reason to know that he was infected with the human immunodeficiency virus, except where the offender did not engage or attempt to engage in conduct creating a risk of transmission of the virus to the victim.".

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of chapter 109A of title 18, United States Code, is amended by inserting at the end the following new item:

"2248. Testing for human immunodeficiency
virus; disclosure of test results
to victim; effect on penalty.".

TITLE IV—PREVENTION OF TERRORISM

Subtitle A—Enhanced Controls on Entry into the United States

SEC. 401. EXCLUSION BASED ON MEMBERSHIP IN TERRORIST ORGANIZATION OF ADVOCACY OF TERRORISM.

Section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)) is amended—

(1) in clause (i)(II) by inserting "or" at the end;

(2) by adding after clause (i)(II) the following:

"(III) is a member of an organization that engages in terrorist activity or who actively supports or advocates terrorist activity,";

(3) by adding after clause (iii) the following:

"(iv) Terrorist organization defined.—As used in this Act, the term 'terrorist organization' means an organization which commits terrorist activity as determined by the Attorney General, in consultation with the Secretary of State.".

SEC. 402. ADMISSIONS FRAUD.

(a) Exclusion for Fraudulent Documents and Failure To Present Documents.—Section 212(a)(6)(C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)) is amended—

(1) by striking "(C) Misrepresentation" and inserting in lieu thereof the following:

"(C) Fraud, misrepresentation, and failure to present documents";

(2) by adding at the end the following new clause:

"(iii) Fraudulent documents and failure to present documents.—

"(I) Any alien who, in seeking entry to the United States or boarding a common carrier for the purpose of coming to the United States, presents any document which, in the determination of the immigration officer, is forged, counterfeit, altered, falsely made, stolen, or inapplicable to the alien presenting the document, or otherwise contains a misrepresentation of a material fact, is excludable.

"(II) Any alien who, in boarding a common carrier for the purpose of coming to the United States, presents a document that relates or purports to relate to the alien's eligibility to enter the United States, and fails to present such document to an immigration officer upon arrival at a port of entry into the United States, is excludable.".

(b) Availability of Asylum and Other Discretionary Relief.—

(1) Section 208 of the Immigration and Nationality Act (8 U.S.C. 1158) is amended by adding at the end the following new subsection:

"(e)(1) Application of Fraud Exclusion.—Notwithstanding subsection (a) and except as provided in paragraph (2), any alien who is excludable under section 212(a)(6)(C)(iii) or section 212(a)(7)(A)(i) may not apply for or be granted asylum.

"(2) Exception.—The limitation under paragraph (1) shall not apply if the action upon which the exclusion is based was pursuant to direct departure from a country in which (A) the alien has a credible fear of persecution, or (B) there is a significant danger that the alien would be returned to a country in which the alien would have a credible fear of persecution.

"(3) Definition.—As used in this subsection, the term 'credible fear of persecution' means (A) that it is more probable than not that the statements made by the alien in support of his or her claim are true, and (B) that there is a significant possibility, in light of such statements and of such other facts as are known to the officer about country conditions, that the alien could establish eligibility as a refugee within the meaning of section 101(a)(42)(A).".

(2) Section 212(c) of the Immigration and Nationality Act (8 U.S.C. 1182(c)) is amended in the third sentence by inserting before the period "or to any alien who is excludable pursuant to section 212(a)(6)(C)(iii)".

SEC. 403. INSPECTION AND EXCLUSION BY IMMIGRATION OFFICERS.

Section 235(b) of the Immigration and Nationality Act (8 U.S.C. 1225(b)) is amended to read as follows:

"(b) Inspection and Exclusion by Immigration Officers.—

"(1) An immigration officer shall inspect each alien who is seeking entry to the United States.

"(2)(A) If the examining immigration officer determines that an alien seeking entry—

"(i)(I) is excludable under section 212(a)(6)(C)(iii), or

"(II) is excludable under section 212(a)(7)(A)(i),

"(ii) does not have any reasonable basis for legal entry into the United States, and

"(iii) does not indicate an intention to apply for asylum under section 208,

the alien shall be specially excluded from entry into the United States without a hearing.

"(B) The examining immigration officer shall refer to an immigration officer, specially trained to conduct interviews and make determinations bearing on eligibility for asylum, any alien who is (i) excludable under section 212(a)(6)(C)(iii) or section 212(a)(7)(A) (i) and (ii) who has indicated an intention to apply for asylum. Such an alien shall not be considered to have entered the United States for purposes of this Act.

"(C) An alien under subparagraph (B) who is determined by an immigration officer, specially trained to conduct interviews and make determinations bearing on eligibility for asylum, to be excludable and ineligible for the exception under section 208(e)(2), shall be specially excluded and deported from the United States without further hearing.

"(3)(A) Except as provided in subparagraph (B), if the examining immigration officer determines that an alien seeking entry is not clearly and beyond a doubt entitled to enter, the alien shall be detained for a hearing before an immigration judge.

"(B) The provisions of subparagraph (A) shall not apply—

"(i) to an alien crewman,

"(ii) to an alien described in paragraph (2)(A) or (2)(C), or

"(iii) if the conditions described in section 273(d) exist.

"(4) The decision of the examining immigration officer, if favorable to the admission of any alien, shall be subject to challenge by any other immigration officer and such challenge shall operate to take the alien, whose privilege to enter is so challenged, before an immigration judge for a hearing on exclusion of the alien.

"(5) The Attorney General shall establish procedures that ensure that aliens are not specially excluded under paragraph (2)(A) without an inquiry into their reasons for seeking entry into the United States.

"(6)(A) Subject to subparagraph (B), an alien has not entered the United States for purposes of this Act unless and until such alien has been inspected and admitted by an immigration officer pursuant to this subsection.

"(B) An alien who (i) is physically present in the United States, (ii) has been physically present in the United States for a continuous period of one year, and (iii) has not been inspected and admitted by an immigration officer may be said to have entered the United States without inspection. Such an alien is subject to deportation pursuant to section 241(a)(1)(B).".

SEC. 404. JUDICIAL REVIEW.

Section 235 of the Immigration and Nationality Act (8 U.S.C. 1225) (as amended by section 732) is amended by adding after subsection (c) the following new subsections:

"(d) Habeas Corpus Review.—Notwithstanding any other provision of law, no court shall have jurisdiction to review, except by petition for habeas corpus, any determination made with respect to an alien found excludable pursuant to section 212(a)(6)(C)(iii) or section 212(a)(7)(A)(i). In any such case, review by habeas corpus shall be limited to examination of whether the petitioner (1) is an alien, and (2) was ordered excluded from the United States pursuant to section 235(b)(2).

"(e) Other Limits on Judicial Review and Action.—Notwithstanding any other provision of law, no court shall have jurisdiction (1) to review the procedures established by the Attorney General for the determination of exclusion pursuant to section 212(a)(6)(C)(iii) or section 212(a)(7)(A)(i), or (2) to enter declaratory or injunctive relief with respect to the implementation of subsection (b)(2). Regardless of the nature of the suit or claim, no court shall have jurisdiction except by habeas corpus petition as provided in subsection (d) to consider the validity of any adjudication or determination of special exclusion or to provide declaratory or injunctive relief with respect to the special exclusion of any alien.

"(f) Collateral Enforcement Proceedings.—In any action brought for the assessment of penalties for improper entry or reentry of an alien under section 275 or 276, no court shall have jurisdiction to hear claims collaterally attacking the validity of orders of exclusion, special exclusion, or deportation entered under sections 235, 236, and 242.".

SEC. 405. CONFORMING AMENDMENTS.

Section 237(a) of the Immigration and Nationality Act (8 U.S.C. 1227(a)) is amended—

(1) in the second sentence of paragraph (1) by striking out "Deportation" and inserting in lieu thereof "Subject to section 235(b)(2), deportation"; and

(2) in the first sentence of paragraph (2) by striking out "If" and inserting in lieu thereof "Subject to section 235(b)(2), if".

SEC. 406. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this subtitle shall take effect on the date of the enactment of this Act and shall apply to aliens who arrive in or seek admission to the United States on or after such date.

Subtitle B—Deportation of Alien Terrorists

SEC. 411. REMOVAL OF ALIEN TERRORISTS.

The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting the following new section:

"REMOVAL OF ALIEN TERRORISTS

"Sec. 242C. (a) Definitions.—As used in this section—

"(1) the term 'alien terrorist' means any alien described in section 241(a)(4)(B);

"(2) the term 'classified information' has the same meaning as defined in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App. IV);

"(3) the term 'national security' has the same meaning as defined in section 1(b) of the Classified Information Procedures Act (18 U.S.C. App. IV);

"(4) the term 'special court' means the court described in subsection (c) of this section; and

"(5) the term 'special removal hearing' means the hearing described in subsection (e) of this section.

"(b) APPLICATION FOR USE OF PROCEDURES.—The provisions of this section shall apply whenever the Attorney General certifies under seal to the special court that—

"(1) the Attorney General or Deputy Attorney General has approved of the proceeding under this section;

"(2) an alien terrorist is physically present in the United States; and

"(3) removal of such alien terrorist by deportation proceedings described in sections 242, 242A, or 242B would pose a risk to the national security of the United States because such proceedings would disclose classified information.

"(c) SPECIAL COURT.—(1) The Chief Justice of the United States shall publicly designate up to 7 judges from up to 7 United States judicial districts to hear and decide cases arising under this section, in a manner consistent with the designation of judges described in section 103(a) of the Foreign Intelligence Surveillance Act (50 U.S.C. 1803(a)).

"(2) The Chief Justice may, in his discretion, designate the same judges under this section as are designated pursuant to 50 U.S.C. 1803(a).

"(d) INVOCATION OF SPECIAL COURT PROCEDURE.—(1) When the Attorney General makes the application described in subsection (b), a single judge of the special court shall consider the application in camera and ex parte.

"(2) The judge shall invoke the procedures of subsection (e), if the judge determines that there is probable cause to believe that—

"(A) the alien who is the subject of the application has been correctly identified,

"(B) a deportation proceeding described in sections 242, 242A, or 242B would pose a risk to the national security of the United States because such proceedings wculd disclose classified information, and

"(C) the threat posed by the alien's physical presence is immediate and involves the risk of death or serious bodily harm.

"(e) SPECIAL REMOVAL HEARING.—(1) Except as provided in paragraph (4), the special removal hearing authorized by a showing of probable cause described in subsection (d)(2) shall be open to the public.

"(2) The alien shall have a right to be present at such hearing and to be represented by counsel. Any alien financially unable to obtain counsel shall be entitled to have counsel assigned to represent such alien. Counsel may be appointed as described in section 3006A of title 18, United States Code.

"(3) The alien shall have a right to introduce evidence on his own behalf, and except as provided in paragraph (4), shall have a right to cross-examine any witness or request that the judge issue a subpoena for the presence of a named witness.

"(4) The judge shall authorize the introduction in camera and ex parte of any item of evidence for which the judge determines that public disclosure would pose a risk to the national security of the United States because it would disclose classified information.

"(5) With respect to any evidence described in paragraph (4), the judge shall cause to be delivered to the alien either—

"(A)(i) the substitution for such evidence of a statement admitting relevant facts that the specific evidence would tend to prove, or (ii) the substitution for such evidence of a summary of the specific evidence; or

"(B) if disclosure of even the substituted evidence described in subparagraph (A) would create a substantial risk of death or serious bodily harm to any person, a statement informing the alien that no such summary is possible.

"(6) If the judge determines—

"(A) that the substituted evidence described in paragraph (4)(B) will provide the alien with substantially the same ability to make his defense as would disclosure of the specific evidence, or

"(B) that disclosure of even the substituted evidence described in paragraph (5)(A) would create a substantial risk of death or serious bodily harm to any person,

then the determination of deportation (described in subsection (f)) may be made pursuant to this section.

"(f) DETERMINATION OF DEPORTATION.—(1) If the determination in subsection (e)(6)(A) has been made, the judge shall, considering the evidence on the record as a whole, require that the alien be deported if the Attorney General proves, by clear and convincing evidence, that the alien is subject to deportation because he is an alien as described in section 241(a)(4)(B).

"(2) If the determination in subsection (e)(6)(B) has been made, the judge shall, considering the evidence received (in camera and otherwise), require that the alien be deported if the Attorney General proves, by clear, convincing, and unequivocal evidence, that the alien is subject to deportation because he is an alien as described in section 241(a)(4)(B).

"(g) APPEALS.—(1) The alien may appeal a determination under subsection (f) to the court of appeals for the Federal Circuit, by filing a notice of appeal with such court within 20 days of the determination under such subsection.

"(2)(A) The Attorney General may appeal a determination under subsection (d), (e), or (f) to the court of appeals for the Federal Circuit, by filing a notice of appeal with such court within 20 days of the determination under any one of such subsections.

"(B) When requested by the Attorney General, the entire record of the proceeding under this section shall be transmitted to the court of appeals under seal. If the Attorney General is appealing a determination under subsection (d) or (e), the court of appeals shall consider such appeal in camera and ex parte.".

Subtitle C—Penalties for Engaging in Terrorism

SEC. 421. PROVIDING MATERIAL SUPPORT TO TERRORISM.

(a) OFFENSE.—Chapter 113A of title 18, United States Code, is amended by adding the following new section:

"§ 2339A. Providing material support to terrorists

"Whoever, within the United States, provides material support or resources or conceals of disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used to facilitate a violation of section 32, 36, 351, 844(f) or (i), 1114, 1116, 1203, 1361, 1363, 1751, 2280, 2281, 2331, or 2339 of this title, or section 902(i) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1472(i)), or to facilitate the concealment or an escape from the commission of any of the foregoing, shall be fined under this title, imprisoned not more than 10 years, or both. For purposes of this section, material support or resources shall include, but not be limited to, currency or other financial securities, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 113A of title 18, United States Code, is amended by adding the following:

"2339A. Providing material support to terrorists.".

SEC. 422. SENTENCING GUIDELINES INCREASE FOR TERRORIST CRIMES.

The United States Sentencing Commission is directed to amend its sentencing guidelines to provide an increase of not less than three levels in the base offense level for any felony, whether committed within or outside the United States, that involves or is intended to promote international terrorism, unless such involvement or intent is itself an element of the crime.

SEC. 423. EXTENSION OF THE STATUTE OF LIMITATIONS FOR CERTAIN TERRORISM OFFENSES.

(a) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by inserting after section 2385 the following:

"§ 3286. Extension of statute of limitations for certain terrorism offenses

"Notwithstanding the provisions of section 3282, no person shall be prosecuted, tried, or punished for any offense involving a violation of section 32 (aircraft destruction), section 36 (airport violence), section 112 (assaults upon diplomats), section 351 (crimes against Congressmen or Cabinet officers), section 1116 (crimes against diplomats), section 1203 (hostage taking), section 1361 (willful injury to government property), section 1751 (crimes against the President), section 2280 (maritime violence), section 2281 (maritime platform violence), section 2331 (terrorist acts abroad against United States nationals), section 2339 (use of weapons of mass destruction), or section 2340A (torture) of this title or section 902 (i), (j), (k), (l), or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1572 (i), (j), (k), (l), or (n)), unless the indictment is found or the information is instituted within 10 years after such offense shall have been committed.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 213 of title 18, United States Code, is amended by inserting below the item for:

"3285. Criminal contempt."

the following:

"3286. Extension of statute of limitations for certain terrorism offenses.".

SEC. 424. ENHANCED PENALTIES FOR CERTAIN OFFENSES.

(a) TITLE 50.—(1) Section 1705(b) of title 50, United States Code, is amended by replacing "$50,000" with "$1,000,000".

(2) Section 1705(a) of title 50, United States Code, is amended by replacing "$10,000" with "$1,000,000".

(b) TITLE 18.—(1) Section 1541 of title 18, United States Code, is amended by replacing "$500" with "$250,000" and by replacing "one year" with "five years".

(2) Sections 1542, 1543, 1544 and 1546 of title 18, United States Code, are each amended by replacing "$2,000" with "$250,000" and by replacing "five years" with "ten years".

(3) Section 1545 of title 18, United States Code, is amended by replacing "$2,000" with $250,000" and by replacing "three years' with "ten years".

SEC. 425. IMPLEMENTATION OF THE 1988 PROTOCOL FOR THE SUPPRESSION OF UNLAWFUL ACTS OF VIOLENCE AT AIRPORTS SERVING INTERNATIONAL CIVIL AVIATION.

(a) OFFENSE.—Chapter 2 of title 18, United States Code, is amended by adding at the end the following:

"§ 36. Violence at international airports

"(a) Whoever, in a circumstance described in subsection (b) of this section, unlawfully and intentionally, using any device, substance or weapon—

"(1) performs an act of violence against a person at an airport serving international civil aviation which causes or is likely to cause serious injury or death; or

"(2) destroys or seriously damages the facilities of an airport serving international civil aviation or a civil aircraft not in service located thereon or disrupts the services of the airport;

if such an act endangers or is likely to endanger safety at that airport, or attempts to do such an act, shall be fined under this title or imprisoned not more than 20 years, or both, and if the death of any person results from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) The circumstances referred to in subsection (a) of this section are—

"(1) the prohibited activity takes place in the United States; or

"(2) the prohibited activity takes place outside of the United States and the offender is later found in the United States.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 2 of title 18, United States Code, is amended by adding at the end the following:

"36. Violence at international airports.".

(c) EFFECTIVE DATE.—This section shall take effect on the later of—

(1) the date of the enactment of this Act; or

(2) the date the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, done at Montreal on 23 September 1971, has come into force and the United States has become a party to the Protocol.

SEC. 426. AMENDMENT TO FEDERAL AVIATION ACT.

Section 902(n) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472(n)) is amended by—

(1) striking out paragraph (3); and

(2) redesignating paragraph (4) as paragraph (3).

SEC. 427. OFFENSES OF VIOLENCE AGAINST MARITIME NAVIGATION OR FIXED PLATFORMS.

(a) OFFENSE.—Chapter 111 of title 18, United States Code, is amended by adding at the end the following:

"§ 2280. Violence against maritime navigation

"(a) Whoever, in a circumstance described in subsection (c) of this section, unlawfully and intentionally—

"(1) seizes or exercises control over a ship by force or threat thereof or any other form of intimidation;

"(2) performs an act of violence against a person on board a ship if that act is likely to endanger the safe navigation of that ship;

"(3) destroys a ship or causes damage to a ship or to its cargo which is likely to endanger the safe navigation of that ship;

"(4) places or causes to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or cause damage to that ship or its cargo which endangers or is likely to endanger the safe navigation of that ship;

"(5) destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if such act is likely to endanger the safe navigation of a ship;

"(6) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safe navigation of a ship;

"(7) injures or kills any person in connection with the commission or the attempted commission of any of the offenses set forth in paragraphs (1) to (6); or

"(8) attempts to do anything prohibited under paragraphs (1) through (7);

shall be fined under this title or imprisoned not more than 20 years, or both, and if the death of any person results from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) Whoever threatens to engage in conduct prohibited under paragraphs (2), (3) or (5) of subsection (a) of this section, with apparent determination and will to carry the threat into execution, if the threatened conduct is likely to endanger the safe navigation of the ship in question, shall be fined under this title or imprisoned not more than five years, or both.

"(c) The circumstances referred to in subsection (a) are—

"(1) in the case of a covered ship—

"(A) such activity is committed—

"(i) against or on board a ship flying the flag of the United States at the time the prohibited activity is committed;

"(ii) in the United States; or

"(iii) by a national of the United States or by a stateless person whose habitual residence is in the United States;

"(B) during the commission of such activity, a national of the United States is seized, threatened, injured or killed; or

"(C) the offender is later found in the United States after such activity is committed;

"(2) in the case of a ship navigating or scheduled to navigate solely within the territorial sea or internal waters of a country other than the United States, the offender is later found in the United States after such activity is committed; and

"(3) in the case of any vessel, such activity is committed in an attempt to compel the United States to do or abstain from doing any act.

"(d) The master of a covered ship flying the flag of the United States who has reasonable grounds to believe that he has on board his ship any person who has committed an offense under Article 3 of the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation may deliver such person to the authorities of a State Party to that Convention. Before delivering such person to the authorities of another country, the master shall notify in an appropriate manner the Attorney General of the United States of the alleged offense and await instructions from the Attorney General as to what action he should take. When delivering the person to a country which is a State Party to the Convention, the master shall, whenever practicable, and if possible before entering the territorial sea of such country, notify the authorities of such country of his intention to deliver such person and the reason therefor. If the master delivers such person, he shall furnish the authorities of such country with the evidence in the master's possession that pertains to the alleged offense.

"(e) As used in this section, the term—

"(1) 'ship' means a vessel of any type whatsoever not permanently attached to the seabed, including dynamically supported craft, submersibles or any other floating craft, but such term does not include a warship, a ship owned or operated by a government when being used as a naval auxiliary or for customs or police purposes, or a ship which has been withdrawn from navigation or laid up;

"(2) 'covered ship' means a ship that is navigating or is scheduled to navigate into, through or from waters beyond the outer limit of the territorial sea of a single country or a lateral limit of that country's territorial sea with an adjacent country;

"(3) 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

"(4) 'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law; and

"(5) 'United States', when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas Islands and all territories and possessions of the United States.

"§ 2281. Violence against maritime fixed platforms

"(a) Whoever, in a circumstance described in subsection (c) of this section, unlawfully and intentionally—

"(1) seizes or exercises control over a fixed platform by force or threat thereof or any other form of intimidation;

"(2) performs an act of violence against a person on board a fixed platform if that act is likely to endanger its safety;

"(3) destroys a fixed platform or causes damage to it which is likely to endanger its safety;

"(4) places or causes to be placed on a fixed platform, by any means whatsoever, a device or substance which is likely to destroy that fixed platform or likely to endanger its safety;

"(5) injures or kills any person in connection with the commission or the attempted commission of any of the offenses set forth in paragraphs (1) to (4); or

"(6) attempts to do anything prohibited under paragraphs (1)-(5);

shall be fined under this title or imprisoned not more than twenty years, or both; and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) Whoever threatens to engage in conduct prohibited under paragraphs (2) or (3) of subsection (a), with apparent determination and will to carry the threat into execution, if the threatened conduct is likely to endanger the safety of the fixed platform, shall be fined under this title or imprisoned not more than five years, or both.

"(c) The circumstances referred to in subsection (a) are—

"(1) such activity is committed against or on board a fixed platform—

"(A) that is located on the continental shelf of the United States;

"(B) that is located on the continental shelf of another country, by a national of the

United States or by a stateless person whose habitual residence is in the United States; or

"(C) in an attempt to compel the United States to do or abstain from doing any act;

"(2) during the commission of such activity against or on board a fixed platform located on a continental shelf, a national of the United States is seized, threatened, injured or killed; or

"(3) such activity is committed against or on board a fixed platform located outside the United States and beyond the continental shelf of the United States and the offender is later found in the United States.

"(d) As used in this section, the term—

"(1) 'continental shelf' means the sea-bed and subsoil of the submarine areas that extend beyond a country's territorial sea to the limits provided by customary international law as reflected in Article 76 of the 1982 Convention on the Law of the Sea;

"(2) 'fixed platform' means an artificial island, installation or structure permanently attached to the sea-bed for the purpose of exploration or exploitation of resources or for other economic purposes;

"(3) 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

"(4) 'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law; and

"(5) 'United States', when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas Islands and all territories and possessions of the United States.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 111 of title 18, United States Code, is amended by adding at the end the following:

"2280. Violence against maritime navigation.
"2281. Violence against maritime fixed platforms.".

(c) EFFECTIVE DATES.—This section shall take effect on the later of—

(1) the date of the enactment of this Act; or

(2)(A) in the case of section 2280 of title 18, United States Code, the date the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation has come into force and the United States has become a party to that Convention; and

(B) in the case of section 2281 of title 18, United States Code, the date the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf has come into force and the United States has become a party to that Protocol.

SEC. 428. WEAPONS OF MASS DESTRUCTION.

(a) OFFENSE.—Chapter 113A of title 18, United States Code, is amended by adding at the end the following:

"§ 2339. Use of weapons of mass destruction

"(a) Whoever uses, or attempts or conspires to use, a weapon of mass destruction—

"(1) against a national of the United States while such national is outside of the United States;

"(2) against any person within the United States; or

"(3) against any property that is owned, leased or used by the United States or by any department or agency of the United States, whether the property is within or outside of the United States;

shall be imprisoned for any term of years or for life, and if death results, shall be punished by death or imprisoned for any term of years or for life.

"(b) For purposes of this section—

"(1) 'national of the United States' has the meaning given in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

"(2) 'weapon of mass destruction' means—

"(a) any destructive device as defined in section 921 of this title;

"(b) poison gas;

"(c) any weapon involving a disease organism; or

"(d) any weapon that is designed to release radiation or radioactivity at a level dangerous to human life.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113A of title 18, United States Code, is amended by adding the following:

"2339. Use of weapons of mass destruction.".

SEC. 429. NATIONAL TASK FORCE ON COUNTERTERRORISM.

(a) ESTABLISHMENT.—The President shall establish a National Task Force on Counterterrorism comprised of the following seven members: the Deputy Attorney General of the United States, the Deputy Director of Operations of the Central Intelligence Agency or the Deputy Director of Central Intelligence, the Coordinator for Terrorism of the Department of State, an Assistant Secretary of Commerce as designated by the Secretary of Commerce, the Secretary of Defense for Special Operations Low Intensity Conflict, the National Security Advisor or the Deputy National Security Advisor for Special Operations Low Intensity Conflict, and the Assistant Secretary of Treasury for Enforcement. The Deputy Attorney General shall serve as the Chairperson of the Task Force and shall coordinate all antiterrorism activities of the intelligence community of the United States Government.

(b) DUTIES.—The National Task Force on Counterterrorism shall—

(1) formulate a definition as to what constitutes terrorism;

(2) define those intelligence assets dedicated for collection of information on terrorism;

(3) define the methods for the Task Force to be the central processor and distributor of intelligence on terrorism;

(4) outline all preventive and reactive policy issues with regards to terrorism;

(5) define the methods for the Task Force to have overall operational control for counterterrorist and terrorist anti-proliferation operations, both overt and covert;

(6) report to Congress no later than six months after the date of enactment of this Act, and each 90 days thereafter for the remainder of the two-year period beginning on such date, as to how the Task Force will implement paragraphs (1) through (5) of this section; and

(7) beginning 60 days after the date on which the report is submitted under paragraph (6), implement paragraphs (1) through (5) in accordance with the report.

(c) CHIEF AND DEPUTY CHIEF OF STAFF.—The National Task Force on Counterterrorism shall have a chief of staff and a deputy chief of staff who shall be appointed by the task force. The chief of staff shall be paid at a rate not to exceed the rate of basic pay payable for the highest rate payable for the Senior Executive Service.

SEC. 430. DEATH PENALTY FOR DEATH CAUSED BY THE USE OF A BOMB OR OTHER DESTRUCTIVE DEVICE.

Section 924 of title 18, United States Code, is amended by adding at the end the following:

"(i) CAUSING DEATH THROUGH THE USE OF A BOMB OR OTHER DESTRUCTIVE DEVICE.—

"(1) PENALTY.—

"(A) IN GENERAL.—Subject to subparagraph (B), a person who intentionally or with reckless disregard for human life causes the death of a person through the use of a bomb or other destructive device shall be sentenced to life imprisonment without release or to death if it is determined that imposition of a sentence of death is justified.

"(B) LIMITATION.—No person may be sentenced to the death penalty who was less than 18 years of age at the time of the offense.".

TITLE V—CRIMINAL ALIENS AND ALIEN SMUGGLING

Subtitle A—Deportation of Criminal Aliens

SEC. 501. EXPEDITING CRIMINAL ALIEN DEPORTATION AND EXCLUSION.

(a) CONVICTED DEFINED.—Section 241(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1251(a)(2)) is amended by adding at the end the following new subparagraph:

"(E) CONVICTED DEFINED.—In this paragraph, the term 'convicted' means a judge or jury has found the alien guilty or the alien has entered a plea of guilty or nolo contendere, whether or not the alien appeals therefrom.".

(b) DEPORTATION OF CONVICTED ALIENS.—

(1) IMMEDIATE DEPORTATION.—Section 242(h) of such Act (8 U.S.C. 1252(h)) is amended—

(A) by striking "(h) An alien" and inserting "(h)(1) Subject to paragraph (2), an alien"; and

(B) by adding at the end the following new paragraph:

"(2) An alien sentenced to imprisonment may be deported prior to the termination of such imprisonment by the release of the alien from confinement, if the Service petitions the appropriate court or other entity with authority concerning the alien to release the alien into the custody of the Service for execution of an order of deportation.".

(2) PROHIBITION OF REENTRY INTO THE UNITED STATES.—Section 212(a)(2) of such Act (8 U.S.C. 1182(a)(2)) is amended—

(A) by redesignating subparagraph (F) as subparagraph (G); and

(B) by inserting after subparagraph (E) the following new subparagraph:

"(F) ALIENS DEPORTED BEFORE SERVING MINIMUM PERIOD OF CONFINEMENT.—In addition to any other period of exclusion which may apply an alien deported pursuant to section 242(h)(2) is excludable during the minimum period of confinement to which the alien was sentenced.".

(c) EXECUTION OF DEPORTATION ORDERS.—Section 242(i) of such Act (8 U.S.C. 1252(i)) is amended by adding at the end the following: "An order of deportation may not be executed until all direct appeals relating to the conviction which is the basis of the deportation order have been exhausted.".

SEC. 502. AUTHORIZING REGISTRATION OF ALIENS ON CRIMINAL PROBATION OR CRIMINAL PAROLE.

Section 263(a) of the Immigration and Nationality Act (8 U.S.C. 1303(a)) is amended by striking "and (5)" and inserting "(5) aliens who are or have been on criminal probation or criminal parole within the United States, and (6)".

SEC. 503. EXPANSION IN DEFINITION OF "AGGRAVATED FELONY".

(a) EXPANSION IN DEFINITION.—Section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)) is amended to read as follows:

"(43) The term 'aggravated felony' means—

"(A) murder;

"(B) any illicit trafficking in any controlled substance (as defined in section 102 of the Controlled Substances Act), including any drug trafficking crime as defined in section 924(c) of title 18, United States Code;

"(C) any illicit trafficking in any firearms or destructive devices as defined in section 921 of title 18, United States Code, or in explosive materials as defined in section 841(c) of title 18, United States Code;

"(D) any offense described in sections 1951 through 1963 of title 18, United States Code;

"(E) any offense described in—

"(i) subsections (h) or (i) of section 842, title 18, United States Code, or subsection (d), (e), (f), (g), (h), or (i) of section 844 of title 18, United States Code (relating to explosive materials offenses),

"(ii) paragraph (1), (2), (3), (4), or (5) of section 922(g), or section 922(j), section 922(n), section 922(o), section 922(p), section 922(r), section 924(b), or section 924(h) of title 18, United States Code (relating to firearms offenses), or

"(iii) section 5861 of title 26, United States Code (relating to firearms offenses);

"(F) any crime of violence (as defined in section 16 of title 18, United States Code, not including a purely political offense) for which the term of imprisonment imposed (regardless of any suspension of such imprisonment) is at least 5 years;

"(G) any theft offense (including receipt of stolen property) or any burglary offense, where a sentence of 5 years imprisonment or more may be imposed;

"(H) any offense described in section 875, section 876, section 877, or section 1202 of title 18, United States Code (relating to the demand for or receipt of ransom);

"(I) any offense described in section 2251, section 2251A or section 2252 of title 18, United States Code (relating to child pornography);

"(J) any offense described in section 1084 of title 18, United States Code, where a sentence of 5 years imprisonment or more may be imposed;

"(K) any offense relating to commercial bribery, counterfeiting, forgery or trafficking in vehicles whose identification numbers have been altered, where a sentence of 5 years imprisonment or more may be imposed;

"(L) any offense—

"(i) relating to the owning, controlling, managing or supervising of a prostitution business,

"(ii) described in section 2421 through 2424 of title 18, United States Code, for commercial advantage, or

"(iii) described in sections 1581 through 1585, or section 1588, of title 18, United States Code (relating to peonage, slavery, and involuntary servitude);

"(M) any offense relating to perjury or subornation of perjury where a sentence of 5 years imprisonment or more may be imposed;

"(N) any offense described in—

"(i) section 793 (relating to gathering or transmitting national defense information), section 798 (relating to disclosure of classified information), section 2153 (relating to sabotage) or section 2381 or section 2382 (relating to treason) of title 18, United States Code, or

"(ii) section 421 of title 50, United States Code (relating to protecting the identity of undercover intelligence agents);

"(O) any offense—

"(i) involving fraud or deceit where the loss to the victim or victims exceeded $200,000; or

"(ii) described in section 7201 of title 26, United States Code (relating to tax evasion), where the tax loss to the Government exceeds $200,000;

"(P) any offense described in section 274(a)(1) of the Immigration and Nationality Act (relating to alien smuggling) for the purpose of commercial advantage;

"(Q) any violation of section 1546(a) of title 18, United States Code (relating to document fraud), for the purpose of commercial advantage; or

"(R) any offense relating to failing to appear before a court pursuant to a court order to answer to or dispose of a charge of a felony, where a sentence of 2 years or more may be imposed;

or any attempt or conspiracy to commit any such act. Such term applies to offenses described in this paragraph whether in violation of Federal or State law and applies to such offenses in violation of the laws of a foreign country for which the term of imprisonment was completed within the previous 15 years.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to all convictions entered before, on, or after the date of enactment of this Act.

SEC. 504. DEPORTATION PROCEDURES FOR CERTAIN CRIMINAL ALIENS WHO ARE NOT PERMANENT RESIDENTS.

(a) ELIMINATION OF ADMINISTRATIVE HEARING FOR CERTAIN CRIMINAL ALIENS.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended by adding at the end the following:

"(c) DEPORTATION OF ALIENS WHO ARE NOT PERMANENT RESIDENTS.—

"(1) Notwithstanding section 242, and subject to paragraph (5), the Attorney General may issue a final order of deportation against any alien described in paragraph (2) whom the Attorney General determines to be deportable under section 241(a)(2)(A)(iii) (relating to conviction of an aggravated felony).

"(2) An alien is described in this paragraph if the alien—

"(A) was not lawfully admitted for permanent residence at the time that proceedings under this section commenced, or

"(B) had permanent resident status on a conditional basis (as described in section 216) at the time that proceedings under this section commenced.

"(3) The Attorney General may delegate the authority in this section to the Commissioner or to any District Director of the Service.

"(4) No alien described in this section shall be eligible for—

"(A) any relief from deportation that the Attorney General may grant in his discretion, or

"(B) relief under section 243(h).

"(5) The Attorney General may not execute any order described in paragraph (1) until 14 calendar days have passed from the date that such order was issued, in order that the alien has an opportunity to apply for judicial review under section 106.".

(b) LIMITED JUDICIAL REVIEW.—Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a) is amended—

(1) in the first sentence of subsection (a), by inserting "or pursuant to section 242A" after "under section 242(b)";

(2) in subsection (a)(1) and subsection (a)(3), by inserting "(including an alien described in section 242A)" after "aggravated felony"; and

(3) by adding at the end the following new subsection:

"(d) Notwithstanding subsection (c), a petition for review or for habeas corpus on behalf of an alien described in section 242A(c) may only challenge whether the alien is in fact an alien described in such section, and no court shall have jurisdiction to review any other issue.".

(c) TECHNICAL AND CONFORMING CHANGES.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended as follows:

(1) In subsection (a)—

(A) by striking "(a) IN GENERAL.—" and inserting "(b) DEPORTATION OF PERMANENT RESIDENT ALIENS.—(1) IN GENERAL.—"; and

(B) by inserting in the first sentence "permanent resident" after "correctional facilities for";

(2) In subsection (b)—

(A) by striking "(b) IMPLEMENTATION.—" and inserting "(2) IMPLEMENTATION.—"; and

(B) by striking "respect to an" and inserting "respect to a permanent resident";

(3) By striking out subsection (c);

(4) In subsection (d)—

(A) by striking "(d) EXPEDITED PROCEEDINGS.—(1)" and inserting "(3) EXPEDITED PROCEEDINGS.—(A)";

(B) by inserting "permanent resident" after "in the case of any"; and

(C) by striking "(2)" and inserting "(B)";

(5) In subsection (e)—

(A) by striking "(e) REVIEW.—(1)" and inserting "(4) REVIEW.—(A)";

(B) by striking the second sentence; and

(C) by striking "(2)" and inserting "(B)";

(6) By inserting after the section heading the following new subsection:

"(a) PRESUMPTION OF DEPORTABILITY.—An alien convicted of an aggravated felony shall be conclusively presumed to be deportable from the United States."; and

(7) The heading of such section is amended to read as follows:

"EXPEDITED DEPORTATION OF ALIENS CONVICTED OF COMMITTING AGGRAVATED FELONIES".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to all aliens against whom deportation proceedings are initiated after the date of enactment of this Act.

SEC. 505. JUDICIAL DEPORTATION.

(a) JUDICIAL DEPORTATION.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended by inserting at the end the following new subsection:

"(d) JUDICIAL DEPORTATION.—

"(1) AUTHORITY.—Notwithstanding any other provision of this Act, a United States district court shall have jurisdiction to enter a judicial order of deportation at the time of sentencing against an alien whose criminal conviction causes such alien to be deportable under section 241(a)(2)(A)(iii) (relating to conviction of an aggravated felony), if such an order has been requested prior to sentencing by the United States Attorney with the concurrence of the Commissioner.

"(2) PROCEDURE.—

"(A) The United States Attorney shall provide notice of intent to request judicial deportation promptly after the entry in the record of an adjudication of guilt or guilty plea. Such notice shall be provided to the court, to the alien, and to the alien's counsel of record.

"(B) Notwithstanding section 242B, the United States Attorney, with the concurrence of the Commissioner, shall file at least 20 days prior to the date set for sentencing a charge containing factual allegations regarding the alienage of the defendant and satisfaction by the defendant of the definition of aggravated felony.

"(C) If the court determines that the defendant has presented substantial evidence to establish prima facie eligibility for relief from deportation under section 212(c), the Commissioner shall provide the court with a recommendation and report regarding the alien's eligibility for relief under such section. The court shall either grant or deny the relief sought.

"(D)(i) The alien shall have a reasonable opportunity to examine the evidence against him or her, to present evidence on his or her own behalf, and to cross-examine witnesses presented by the Government.

"(ii) The court, for the purposes of determining whether to enter an order described in paragraph (1), shall only consider evidence that would be admissible in proceedings conducted pursuant to section 242(b).

"(iii) Nothing in this subsection shall limit the information a court of the United States may receive or consider for the purposes of imposing an appropriate sentence.

"(iv) The court may order the alien deported if the Attorney General demonstrates by clear and convincing evidence that the alien is deportable under this Act.

"(3) NOTICE, APPEAL, AND EXECUTION OF JUDICIAL ORDER OF DEPORTATION.—

"(A)(i) A judicial order of deportation or denial of such order may be appealed by either party to the court of appeals for the circuit in which the district court is located.

"(ii) Except as provided in clause (iii), such appeal shall be considered consistent with the requirements described in section 106.

"(iii) Upon execution by the defendant of a valid waiver of the right to appeal the conviction on which the order of deportation is based, the expiration of the period described in section 106(a)(1), or the final dismissal of an appeal from such conviction, the order of deportation shall become final and shall be executed at the end of the prison term in accordance with the terms of the order.

"(B) As soon as is practicable after entry of a judicial order of deportation, the Commissioner shall provide the defendant with written notice of the order or deportation, which shall designate the defendant's country of choice for deportation and any alternate country pursuant to section 243(a).

"(4) DENIAL OF JUDICIAL ORDER.—Denial of a request for a judicial order of deportation shall not preclude the Attorney General from initiating deportation proceedings pursuant to section 242 upon the same ground of deportability or upon any other ground of deportability provided under section 241(a).".

(b) TECHNICAL AND CONFORMING CHANGES.—The ninth sentence of section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) is amended by striking out "The" and inserting in lieu thereof, "Except as provided in section 242A(d), the".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to all aliens whose adjudication of guilt or guilty plea is entered in the record after the date of enactment of this Act.

SEC. 506. RESTRICTING DEFENSES TO DEPORTATION FOR CERTAIN CRIMINAL ALIENS.

(a) DEFENSES BASED ON SEVEN YEARS OF PERMANENT RESIDENCE.—The last sentence of section 212(c) of the Immigration and Nationality Act (8 U.S.C. 1182(c)) is amended by striking out "has served for such felony or felonies" and all that follows through the period and inserting in lieu thereof "has been sentenced for such felony or felonies to a term of imprisonment of at least 5 years, provided that the time for appealing such conviction or sentence has expired and the sentence has become final.".

(b) DEFENSES BASED ON WITHHOLDING OF DEPORTATION.—Section 243(h)(2) of the Immigration and Nationality Act (8 U.S.C. 1253(h)(2)) is amended by—

(1) striking out the final sentence and inserting in lieu thereof the following new subparagraph:

"(E) the alien has been convicted of an aggravated felony."; and

(2) striking out the "or" at the end of subparagraph (C) and inserting "or" at the end of subparagraph (D).

SEC. 507. ENHANCING PENALTIES FOR FAILING TO DEPART, OR REENTERING, AFTER FINAL ORDER OF DEPORTATION.

(a) FAILURE TO DEPART.—Section 242(e) of the Immigration and Nationality Act (8 U.S.C. 1252(e)) is amended—

(1) by striking out "paragraph (2), (3), or 4 of" the first time it appears, and

(2) by striking out "shall be imprisoned not more than ten years" and inserting in lieu thereof, "shall be imprisoned not more than two years, or shall be imprisoned not more than ten years if the alien is a member of any of the classes described in paragraph (2), (3), or (4) of section 241(a).".

(b) REENTRY.—Section 276(b) of the Immigration and Nationality Act (8 U.S.C. 1326(b)) is amended—

(1) in paragraph (1), by (A) inserting after "commission of" the following: "three or more misdemeanors or", and (B) striking out "5" and inserting in lieu thereof "10",

(2) in paragraph (2), by striking out "15" and inserting in lieu thereof "20", and

(3) by adding at the end the following sentence:

"For the purposes of this subsection, the term 'deportation' shall include any agreement where an alien stipulates to deportation during a criminal trial under either Federal or State law.".

(c) COLLATERAL ATTACKS ON UNDERLYING DEPORTATION ORDER.—Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) is amended by inserting after subsection (b) the following new subsection:

"(c) In any criminal proceeding under this section, no alien may challenge the validity of the deportation order described in subsection (a)(1) or subsection (b) unless the alien demonstrates—

"(1) that the alien exhausted the administrative remedies (if any) that may have been available to seek relief against such order,

"(2) that the deportation proceedings at which such order was issued improperly deprived the alien of the opportunity for judicial review, and

"(3) that the entry of such order was fundamentally unfair.".

SEC. 508. MISCELLANEOUS AND TECHNICAL CHANGES.

(a) FORM OF DEPORTATION HEARINGS.—The second sentence of section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) is amended by inserting before the period the following: "; except that nothing in this subsection shall preclude the Attorney General from authorizing proceedings by electronic or telephonic media (with or without the consent of the alien) or, where waived or agreed to by the parties, in the absence of the alien.".

(b) CONSTRUCTION OF EXPEDITED DEPORTATION REQUIREMENTS.—No amendment made by this Act and nothing in section 242(i) of the Immigration and Nationality Act (8 U.S.C. 1252(i)), shall be construed to create any right or benefit, substantive or procedural, which is legally enforceable by any party against the United States, its agencies, its officers or any other person.

SEC. 509. AUTHORIZATION OF APPROPRIATIONS FOR CRIMINAL ALIEN INFORMATION SYSTEM.

There is authorized to be appropriated to carry out section 242(a)(3)(A) of the Immigration and Nationality Act, $5,000,000 for fiscal year 1994 and $2,000,000 for each of the fiscal years 1995, 1996, 1997, and 1998.

Subtitle B—Prevention and Punishment of Alien Smuggling

SECTION 511. BORDER PATROL AGENTS.

In addition to such amounts as are otherwise authorized to be appropriated, there is authorized to be appropriated for each of the fiscal years 1994, 1995, 1996, 1997, 1998, for salaries and expenses of the Border Patrol such amounts as may be necessary to provide for an increase in the number of agents of the Border Patrol by 3,000 full-time equivalent agent positions beyond the number of such positions at the Border Patrol on July 1, 1993.

SEC. 512. BORDER PATROL INVESTIGATORS.

In addition to such amounts as are otherwise authorized to be appropriated, there is authorized to be appropriated for each of the fiscal years 1994, 1995, 1996, 1997, 1998, for salaries and expenses of the Border Patrol such amounts as may be necessary to provide for an increase in the number of investigators of the Border Patrol by 1,000 full-time equivalent investigator positions beyond the number of such positions at the Border Patrol on July 1, 1993.

SEC. 513. INCLUDING ALIEN SMUGGLING AS A RACKETEERING ACTIVITY FOR PURPOSES OF RACKETEERING INFLUENCED AND CORRUPT ORGANIZATIONS (RICO) ENFORCEMENT AUTHORITY.

Section 1961(1) of title 18, United States Code, is amended—

(1) by striking "or" before "(E) any act", and

(2) by inserting before the period at the end the following: ", or (F) any act which is indictable under section 274(a)(1) of the Immigration and Nationality Act (relating to alien smuggling)".

SEC. 514. ENHANCED PENALTIES FOR EMPLOYERS WHO KNOWINGLY EMPLOY SMUGGLED ALIENS.

(a) ADDITIONAL CRIMINAL PENALTY.—Section 274(a)(1) (8 U.S.C. 1324(a)(1)) is amended—

(1) by striking "or" at the end of subparagraph (C),

(2) by striking the comma at the end of subparagraph (D) and inserting "; or",

(3) by inserting after subparagraph (D) the following:

"(E) contracts or agrees with another party for that party to provide, for employment by the person or another, an alien who is not authorized to be employed in the United States, knowing that such party intends to cause such alien to be brought into the United States in violation of the laws of the United States,", and

(4) by striking "five years" and inserting "ten years".

(b) TREATMENT OF SMUGGLING AS AN AGGRAVATED FELONY.—The first sentence of section 101(a)(43) (8 U.S.C. 1101(a)(43)) is amended by inserting "or any offense under section 274(a)" before "for which the term of imprisonment".

SEC. 515. ENHANCED PENALTIES FOR CERTAIN ALIEN SMUGGLING.

Section 274(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1324(a)(1)) is amended by striking "five years" and inserting "ten years".

SEC. 516. EXPANDED FORFEITURE FOR SMUGGLING OR HARBORING ILLEGAL ALIENS.

Subsection 274(b) of the Immigration and Nationality Act (8 U.S.C. 1324(b)) is amended—

(1) by amending paragraph (1) to read as follows:

"(b) SEIZURE AND FORFEITURE.—(1) Any property, real or personal, which facilitates or is intended to facilitate, or which has been used in or is intended to be used in the commission of a violation of subsection (a) or of sections 274A(a)(1) or 274A(a)(2), or which constitutes or is derived from or traceable to the proceeds obtained directly or indirectly from a commission of a violation of subsection (a), shall be subject to seizure and forfeiture, except that—

"(A) no property, used by any person as a common carrier in the transaction of business as a common carrier shall be forfeited under the provisions of this section unless it shall appear that the owner or other person in charge of such property was a consenting party or privy to the illegal act;

"(B) no property shall be forfeited under the provisions of this section by reason of any act or omission established by the owner thereof to have been committed or omitted by any person other than such owner while such property was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States or of any State; and

"(C) no property shall be forfeited under this paragraph to the extent of an interest of any owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of the owner, unless such action or omission was committed by an employee or agent of the owner, and facilitated or was intended to facilitate, or was used in or intended to be used in, the commission of a violation of subsection (a) or of section 274A(a)(1) or 274A(a)(2) which was committed by the owner or which intended to further the business interests of the owner, or to confer any other benefit upon the owner.";

(2) in paragraph (2)—

(A) by striking "conveyance" both places it appears and inserting in lieu thereof "property"; and

(B) by striking "is being used in" and inserting in lieu thereof "is being used in, is facilitating, has facilitated, or was intended to facilitate";

(3) in paragraphs (4) and (5) by striking "a conveyance" and "conveyance" each place such phrase or word appears and inserting in lieu thereof "property"; and

(4) in paragraph (4) by—

(A) striking "or" at the end of subparagraph (C),

(B) by striking the period at the end of subparagraph (D) and inserting "; or", and

(C) by inserting at the end the following new subparagraph:

"(E) transfer custody and ownership of forfeited property to any Federal, State, or local agency pursuant to the Tariff Act of 1930, as amended (19 U.S.C. 1616a(c)).".

TITLE VI—TAKING CRIMINALS OFF THE STREET

Subtitle A—Expanding Prison Capacity

SEC. 601. USE OF PRIVATE ACTIVITY BONDS.

(a) IN GENERAL.—Subsection (a) of section 142 of the Internal Revenue Code of 1986 (defining exempt facility bond) is amended by striking "or" at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting ", or", and by adding at the end thereof the following new paragraph:

"(13) correctional facilities."

(b) DEFINITION.—Section 142 of such Code is amended by adding at the end thereof the following new subsection:

"(k) CORRECTIONAL FACILITIES.—For purposes of subsection (a)(13), the term 'correctional facilities' means facilities for the confinement or rehabilitation of offenders or individuals charged with or convicted of criminal offenses, including prisons, jails, detention centers and drug and alcohol rehabilitation centers. Correctional facilities shall be treated in all events as serving the general public."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 602. FEDERAL-STATE PARTNERSHIPS FOR REGIONAL PRISONS.

(a) CREATED BY ATTORNEY GENERAL.—The Attorney General shall—

(1) establish a Regional Prison Task Force comprised of—

(A) the Director of the Federal Bureau of Prisons; and

(B) a senior correctional officer of each State wishing to participate, who is designated for this purpose by the Governor of the State; and

(2) create a plan, in consultation with the Regional Prison Task Force for the establishment of a nationwide regional prison system, and report that plan to the Committees on the Judiciary and Appropriations of the House of Representatives and the Senate not later than 180 days after the date of the enactment of this Act.

(b) SCOPE OF PLAN.—The plan shall—

(1) define the boundaries and number of regions in which regional prisons will be placed;

(2) establish the terms of the partnership agreements that States must enter into with the Attorney General in order to participate in the regional prison system;

(3) set forth the extent of the role of the Federal Bureau of Prisons in administering the prisons;

(4) determine the way 2 or more States in a region will share responsibility for the activities associated with the regional prisons; and

(5) specify both the Federal responsibility and the State responsibility (which shall not be less than 50 percent) for construction costs and operating costs of the regional prisons.

(c) STATE ELIGIBILITY.—No State may send any prisoner to be held at a regional prison established under this section unless such State, as determined by the Attorney General—

(1) enters into a partnership agreement under subsection (a) and abides substantially by its terms;

(2) establishes minimum mandatory sentences of 10 years for persons who are convicted of a serious felony and are subsequently convicted of a crime of violence involving the use of a firearm or a crime of violence involving a sexual assault;

(3) establishes a truth in sentencing policy under which offenders will serve no less than 85 percent of the term of imprisonment to which they are sentenced—

(A) after the date the State enters into the partnership agreement, with respect to crimes of violence involving the use of a firearm or a crime of violence involving a sexual assault; and

(B) after a date set by the State which is not later than 2 years after that State enters into such agreement, with respect to all other crimes of violence and serious drug trafficking offenses;

(4) provides pretrial detention similar to that provided in the Federal system under section 3142 of title 18, United States Code;

(5) takes steps to eliminate court imposed limitations on its prison capacity resulting from consent decrees or statutory provisions; and

(6) provides adequate assurances that—

(A) such State will not use the regional prison system to supplant any part of its own system; and

(B) funds provided by the State for the construction of regional prisons under this section will be in addition to what would otherwise have been made available for the construction and operation of prisons by the State.

(d) PRISONER ELIGIBILITY.—A State which is eligible under this section may send prisoners convicted of State crimes to serve their prison sentence in the regional prison established under this section if—

(1) the prisoner has been convicted of not less than 2 crimes of violence or serious drug trafficking offenses and then commits a crime of violence involving the use of a firearm or a crime of violence involving a sexual assault; or

(2) the prisoner is an illegal alien convicted of a felony offense punishable by more than 1 year's imprisonment.

(e) DEFINITIONS.—As used in this section—

(1) the term "crime of violence" is a felony offense that is—

(A) punishable by imprisonment for a term exceeding one year; and

(B) a crime of violence as defined in section 16 of title 18, United States Code;

(2) the term "serious drug trafficking offense" is a felony offense that is—

(A) punishable by imprisonment for a term exceeding one year; and

(B) defined in section 924(e)(2)(A) of title 18, United States Code;

(3) the term "serious felony" means a felony punishable by imprisonment for a term exceeding 1 year, or any act of juvenile delinquency involving the use or carrying of a firearm, knife, or destructive device that would be punishable by imprisonment for such term if committed by an adult, that—

(A) has as an element the use, attempted use, or threatened use of physical force against the person of another;

(B) is burglary, arson, or extortion, involves use of explosives, or otherwise involves conduct that presents a serious potential risk of physical injury to another; or

(C) involves conduct in violation of section 401 of the Controlled Substances Act that consists of illegal distribution of a controlled substance;

(4) the term "crime of violence involving a sexual assault" is a crime of violence that is an offense as defined in chapter 109A of title 18, United States Code; and

(5) the term "State" includes the District of Columbia, Puerto Rico, and any other territory or possession of the United States.

(f) REGIONAL PRISON FUND.—There is established in the Treasury the Regional Prison Fund. The Regional Prison Fund shall consist of—

(1) sums appropriated to it by Act of Congress;

(2) notwithstanding section 1401 of the Victims of Crime Act of 1984 (42 U.S.C. 10601) or any other provision of law, the total of criminal fines deposited in the Crime Victims Fund during each fiscal year (beginning after the date of the enactment of this Act) that exceeds $150,000,000; and

(3) notwithstanding any other provision of law, any portion of the Department of Justice Asset Forfeiture Fund that the Attorney General determines is remaining after distributions of—

(A) funds to be shared with State and local law enforcement;

(B) funds to pay warehouse and appraisal fees and innocent lien holders; and

(C) funds for Federal law enforcement.

(g) TRANSFERS.—The Secretary of the Treasury shall from time to time make appropriate transfers between funds to implement subsection (f).

(h) USE OF REGIONAL PRISON FUND.—The Attorney General may use any sums in the Regional Prison Fund to carry out this section.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Regional Prison Fund—

(1) $1,000,000,000 for each of fiscal years 1994 through 1996; and

(2) such sums as may be necessary thereafter through fiscal year 2004.

SEC. 603. NON-APPLICABILITY OF DAVIS-BACON TO PRISON CONSTRUCTION.

(a) FEDERAL PRISON CONSTRUCTION.—Section 1 of the Davis-Bacon Act of March 3, 1991 (46 Stat. 1494, as amended, 40 U.S.C. 276a) is amended by adding at the end the following new subsection:

"(c) The requirements of this section shall not apply to contracts for construction, alteration, and/or repair of institutions used to incarcerate persons held under authority of any enactment of Congress.".

(d) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on the date of enactment of this Act.

Subtitle B—Miscellaneous

SEC. 611. RESTRICTED FEDERAL COURT JURISDICTION IN IMPOSING REMEDIES ON STATE AND FEDERAL PRISON SYSTEMS.

(a) IN GENERAL.—Title 28, United States Code is amended by inserting after chapter 176 the following new chapter:

"CHAPTER 177—ACTIONS CHALLENGING CONDITIONS OF CONFINEMENT

"Sec.
"3401. Limitations on remedies.
"3402. Consent decrees.
"3403. Modification of orders or decrees.

"§ 3401. Limitations on remedies

"(a)(1) If the district court, in any action challenging the constitutionality of conditions of confinement in any prison, jail, detention facility, or other correctional institution housing persons accused or convicted of a crime or juveniles adjudicated delinquent, finds that one or more conditions of confinement are in violation of the United States Constitution, the court shall narrowly tailor any relief to fit the nature and extent of the violations and shall make the order no more intrusive than absolutely necessary to ensure that the violations are remedied. The court shall have no jurisdiction—

"(A) to impose a ceiling on the population of any institution or to require any adjustment of the release dates of inmates; or

"(B) to prohibit the use of tents or prefabricated structures for housing inmates.

"§ 3402. Consent decrees

"(a) No consent decree in any action challenging the constitutionality of conditions of confinement in any prison, jail, detention facility, or other correctional institution housing persons accused or convicted of a crime or juveniles adjudicated delinquent shall provide relief greater than the minimum required to bring the conditions of confinement into substantial compliance with the United States Constitution.

"(b) In entering a consent decree, the court shall make a written finding that the relief provided in the decree is no greater than the minimum required to bring the conditions of confinement into substantial compliance with the United States Constitution. If it appears to the court that the relief provided in the decree is greater than the minimum required, the court may recommend changes in the decree.

"§ 3403. Modification of orders or decrees

"(a)(1) Upon motion of a defendant at any time, the court may conduct a hearing on whether an order or decree described in section 3401 or 3402 of this title should be modified in light of—

"(A) changed factual circumstances affecting the operation of the order or decree, whether or not foreseeable;

"(B) a change or clarification of the governing law, whether or not foreseeable;

"(C) a succession in office of an official responsible for having consented to a decree;

"(D) the government's financial constraints or any other matter affecting public safety or the public interest; or

"(E) any ground provided in Rule 60(b) of the Federal Rules of Civil Procedure.

"(2) The court shall conduct such a hearing if the motion was filed more than one year after the date of the order or decree or the date on which the last previous modification hearing was conducted, whichever is later.

"(b) If the court denies a motion to modify an order or consent decree under subsection (a) of this section, the court shall make a written finding that the relief provided in the order or decree, as of the date of decision, is no greater than the minimum required to bring the conditions of confinement into substantial compliance with the United States Constitution.".

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of part VI of title 28, United States Code, is amended by inserting after the item relating to chapter 176 the following:

"177. Actions Challenging Conditions of Confinement .... 3401".

TITLE VII—PUNISHMENT AND DETERRENCE

Subtitle A—Capital Offenses

SEC. 701. PROCEDURES FOR ENFORCING DEATH PENALTY.

Title 18 of the United States Code is Amended—

(1) by adding the following new chapter after chapter 227:

"CHAPTER 228—DEATH PENALTY PROCEDURES

"Sec.
"3591. Sentence of death.
"3592. Factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of a sentence of death.
"3597. Use of State facilities.
"3598. Appointment of counsel.
"3599. Collateral attack on judgment imposing sentence of death.
"3600. Application in Indian country.

"§ 3591. Sentence of death

"A defendant who has been found guilty of—

"(1) an offense described in section 794 or section 2381 of this title;

"(2) an offense described in section 1751(c) of this title if the offense, as determined beyond a reasonable doubt at a hearing under section 3593, constitutes an attempt to murder the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President;

"(3) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under the conditions described in subsection (b) of that section which involved not less than twice the quantity of controlled substance described in subsection (b)(2)(A) or twice the gross receipts described in subsection (b)(2)(B);

"(4) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under that section, where the defendant is a principal administrator, organizer, or leader of such an enterprise, and the defendant, in order to obstruct the investigation or prosecution of the enterprise or an offense involved in the enterprise, attempts to kill or knowingly directs, advises, authorizes, or assists another to attempt to kill any public officer, juror, witness, or members of the family or household of such a person;

"(5) an offense constituting a felony violation of the Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.), where the defendant, intending to cause death or acting with reckless disregard for human life, engages in such a violation, and the death of another person results in the course of the violation or from the use of the controlled substance involved in the violation; or

"(6) any other offense for which a sentence of death is provided, if the defendant, as determined beyond a reasonable doubt at a hearing under section 3593, caused the death of a person intentionally, knowingly, or through recklessness manifesting extreme indifference to human life, or caused the death of a person through the intentional infliction of serious bodily injury;

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified. However, no person may be sentenced to death who was less than eighteen years of age at the time of the offense.

"§ 3592. Factors to be considered in determining whether to recommend a sentence of death

"(a) MITIGATING FACTORS.—In determining whether to recommend a sentence of death, the jury, or if there is no jury, the court, shall consider whether any aspect of the defendant's character, background, or record, or any circumstance of the offense that the defendant may proffer as a mitigating factor exists, including the following:

"(1) MENTAL CAPACITY.—The defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired.

"(2) DURESS.—The defendant was under unusual and substantial duress.

"(3) PARTICIPATION IN OFFENSE MINOR.—The defendant's participation in the offense, which was committed by another, was relatively minor.

"(4) NO SIGNIFICANT CRIMINAL HISTORY.—The defendant did not have a significant history of other criminal conduct.

"(5) DISTURBANCE.—The defendant committed the offense under severe mental or emotional disturbance.

"(6) VICTIM'S CONSENT.—The victim consented to the criminal conduct that resulted in the victim's death.

"(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether to recommend a sentence of death for an offense described in section 3591(1), the jury, or if there is no jury, the court, shall consider any aggravating factor for which notice has been provided under section 3593 of this title, including the following factors:

"(1) PREVIOUS ESPIONAGE OR TREASON CONVICTION.—The defendant has previously been convicted of another offense involving espionage or treason for which a sentence of life imprisonment or death was authorized by statute.

"(2) RISK OF SUBSTANTIAL DANGER TO NATIONAL SECURITY.—In the commission of the offense the defendant knowingly created a grave risk to the national security.

"(3) RISK OF DEATH TO ANOTHER.—In the commission of the offense the defendant knowingly created a grave risk of death to another person.

"(c) AGGRAVATING FACTORS FOR HOMICIDE AND FOR ATTEMPTED MURDER OF THE PRESIDENT.—In determining whether to recommend a sentence of death for an offense described in paragraph (2) or (6) of section 3591 of this title, the jury, or if there is no jury, the court, shall consider any aggravating factor for which notice has been provided under section 3593 of this title, including the following factors:

"(1) CONDUCT OCCURRED DURING COMMISSION OF SPECIFIED CRIMES.—The conduct resulting in death occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 32 (destruction of aircraft or aircraft facilities), section 33 (destruction of motor vehicles or motor vehicle facilities), section 36 (violence at international airports), section 351 (violence against Members of Congress, Cabinet officers, or Supreme Court Justices), section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property by explosives), section 844(i) (destruction of property affecting interstate commerce by explosives), section 1116 (killing or attempted killing of diplomats), section 1118 (prisoners serving life term), section 1201 (kidnapping), section 1203 (hostage taking), section 1751 (violence against the President or Presidential staff), section 1992 (wrecking trains), chapter 109A (sexual abuse), chapter 110 (sexual abuse of children), section 2261 (domestic violence and stalking) section 2280 (maritime violence), section 2281 (maritime platform violence), section 2332 (terrorist acts abroad against United States nationals), section 2339 (use of weapons of mass destruction), section 2381 (treason), or section 2423 (transportation of minors for sexual activity) of this title, section 1826 of title 28 (persons in custody as recalcitrant witnesses or hospitalized following insanity acquittal), or section 902 (i) or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1472 (i) or (n) (aircraft piracy)).

"(2) INVOLVEMENT OF FIREARM OR PREVIOUS CONVICTION OF VIOLENT FELONY INVOLVING FIREARM.—The defendant—

"(A) during and in relation to the commission of the offense or in escaping or attempting to escape apprehension used or possessed a firearm as defined in section 921 of this title; or

"(B) has previously been convicted of a Federal or State offense punishable by a term of imprisonment of more than one year, involving the use or attempted or threatened use of a firearm, as defined in section 921 of this title, against another person.

"(3) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(4) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of two or more Federal or State offenses, each punishable by a term of imprisonment of more than one year, committed on different occasions, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) or the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(5) GRAVE RISK OF DEATH TO ADDITIONAL PERSONS.—The defendant, in the commission of the offense or in escaping or attempting to escape apprehension, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"(6) HEINOUS, CRUEL OR DEPRAVED MANNER OF COMMISSION.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim.

"(7) PROCUREMENT OF OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(8) COMMISSION OF THE OFFENSE FOR PECUNIARY GAIN.—The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

"(9) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation.

"(10) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(11) TYPE OF VICTIM.—The defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice President-elect, the Vice President-designate, or, if there was no Vice President, the officer next in order of succession to the office of the President of the United States, or any person acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A) of this title, if that official was in the United States on official business; or

"(D) a Federal public servant who was outside of the United States or who was a Federal judge, a Federal law enforcement officer, an employee (including a volunteer or contract employee) of a Federal prison, or an official of the Federal Bureau of Prisons—

"(i) while such public servant was engaged in the performance of his official duties;

"(ii) because of the performance of such public servant's official duties; or

"(iii) because of such public servant's status as a public servant.

For purposes of this paragraph, the terms 'President-elect' and 'Vice President-elect' mean such persons as are the apparent successful candidates for the offices of President and Vice President, respectively, as ascertained from the results of the general elections held to determine the electors of President and Vice President in accordance with title 3, United States Code, sections 1 and 2; a 'Federal law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution of an offense; 'Federal prison' means a Federal correctional, detention, or penal facility, Federal community treatment center, or Federal halfway house, or any such prison operated under contract with the Federal Government; and 'Federal judge' means any judicial officer of the United States, and includes a justice of the Supreme Court and a United States magistrate judge.

"(12) PRIOR CONVICTION OF SEXUAL ASSAULT OR CHILD MOLESTATION.—

"(A) IN GENERAL.—In the case of an offense under chapter 109A (sexual abuse) or chapter 110 (sexual abuse of children), the defendant has previously been convicted of a crime of sexual assault or crime of child molestation.

"(B) DEFINITIONS.—As used in this paragraph—

"(i) the term 'crime of sexual assault' means a crime under Federal or State law that involves—

"(I) contact between any part of the defendant's body or an object and the genitals or anus of another person, without the consent of that person;

"(II) contact between the genitals or anus of the defendant and any part of the body of another person, without the consent of that person;

"(III) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on another person; or

"(IV) an attempt or conspiracy to engage in any conduct described in subclauses (I) through (III) of this clause;

"(ii) the term 'crime of child molestation' means a crime of sexual assault in which a child was the victim of the assault, and for the purposes of this clause, a child shall be considered not to have consented to any of the contact referred to in clause (i); and

"(iii) the term 'child' means a person below the age of 14 years.".

"(d) AGGRAVATING FACTORS FOR DRUG OFFENSE DEATH PENALTY.—In determining whether to recommend a sentence of death for an offense described in paragraph (3), (4), or (5) of section 3591, the jury, or if there is no jury, the court, shall consider any aggravating factor for which notice has been provided under section 3593 of this title, including the following factors:

"(1) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(2) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of two or more Federal or State offenses, each punishable by a term of imprisonment of more than one year, committed on different occasions, involving the importation, manufacture, or distribution of a controlled substance (as defined in section

102 of the Controlled Substances Act (21 U.S.C. 802)) or the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(3) PREVIOUS SERIOUS DRUG FELONY CONVICTION.—The defendant has previously been convicted of another Federal or State offense involving the manufacture, distribution, importation, or possession of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which a sentence of five or more years of imprisonment was authorized by statute.

"(4) USE OF FIREARM.—In committing the offense, or in furtherance of a continuing criminal enterprise of which the offense was a part, the defendant used a firearm or knowingly directed, advised, authorized, or assisted another to use a firearm, as defined in section 921 of this title, to threaten, intimidate, assault, or injure a person.

"(5) DISTRIBUTION TO PERSONS UNDER TWENTY-ONE.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 418 of the Controlled Substances Act which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(6) DISTRIBUTION NEAR SCHOOLS.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 419 of the Controlled Substances Act which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(7) USING MINORS IN TRAFFICKING.—The offense or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 420 of the Controlled Substances Act which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(8) LETHAL ADULTERANT.—The offense involved the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), mixed with a potentially lethal adulterant, and the defendant was aware of the presence of the adulterant.

"§3593. Special hearing to determine whether to recommend a sentence of death

"(a) NOTICE BY THE GOVERNMENT.—Whenever the Government intends to seek the death penalty for an offense described in section 3591, the attorney for the Government shall file with the court and serve on the defendant a notice of such intent. The notice shall be provided a reasonable time before the trial or acceptance of a guilty plea, or at such later time before trial as the court may permit for good cause. If the court permits a late filing of the notice upon a showing of good cause, the court shall ensure that the defendant has adequate time to prepare for trial. The notice shall set forth the aggravating factor or factors the Government will seek to prove as the basis for the death penalty. The factors for which notice is provided under this subsection may include factors concerning the effect of the offense on the victim and the victim's family. The court may permit the attorney for the Government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—When the attorney for the Government has filed a notice as required under subsection (a) and the defendant is found guilty of an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. Prior to such a hearing, no presentence report shall be prepared by the United States Probation Service, notwithstanding the provisions of the Federal Rules of Criminal Procedure. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under the section is necessary; or

"(3) before the court alone, upon motion of the defendant and with the approval of the attorney for the Government.

A jury impaneled pursuant to paragraph (2) shall consist of twelve members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—At the hearing, information may be presented as to—

"(1) any matter relating to any mitigating factor listed in section 3592 and any other mitigating factor; and

"(2) any matter relating to any aggravating factor listed in section 3592 for which notice has been provided under subsection (a) and (if information is presented relating to such a listed factor) any other aggravating factor for which notice has been so provided.

The information presented may include the trial transcript and exhibits. Any other information relevant to such mitigating or aggravating factors may be presented by either the Government or the defendant. The information presented by the Government in support of factors concerning the effect of the offense on the victim and the victim's family may include oral testimony, a victim impact statement that identifies the victim of the offense and the nature and extent of harm and loss suffered by the victim and the victim's family, and other relevant information. Information is admissible regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The attorney for the Government and for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in that case of imposing a sentence of death. The attorney for the Government shall open the argument. The defendant shall be permitted to reply. The Government shall then be permitted to reply in rebuttal. The burden of establishing the existence of an aggravating factor is on the Government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the evidence.

"(d) FINDINGS OF AGGRAVATING AND MITIGATING FACTORS.—The jury shall return special findings identifying any aggravating factor or factors for which notice has been provided under subsection (a) of this section and which the jury unanimously determines have been established by the Government beyond a reasonable doubt. A mitigating factor is established if the defendant has proven its existence by a preponderance of the evidence, and any member of the jury who finds the existence of such a factor may regard it as established for purposes of this section regardless of the number of jurors who concur that the factor has been established.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If an aggravating factor required to be considered under section 3592 is found to exist, the jury, or if there is no jury, the court, shall then consider whether the aggravating factor or factors found to exist under subsection (d) outweigh any mitigating factor or factors. The jury, or if there is no jury, the court shall recommend a sentence of death if it unanimously finds at least one aggravating factor and no mitigating factor or if it finds one or more aggravating factors which outweigh any mitigating factors. In any other case, it shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants.

"(f) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether to recommend a sentence of death, it shall not be influenced by prejudice or bias relating to the race, color, religion, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question regardless of the race, color, religion, national origin, or sex of the defendant or of any victim. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that prejudice or bias relating to the race, color, religion, national origin, or sex of the defendant or any victim did not affect the juror's individual decision and that the individual juror would have recommended the same sentence for the crime in question regardless of the race, color, religion, national origin, or sex of the defendant or any victim.

"§3594. Imposition of a sentence of death

"Upon the recommendation under section 3593(e) that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without the possibility of release.

"§3595. Review of a sentence of death

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal of the sentence must be filed within the time specified for the filing of a notice of appeal of the judgment of conviction. An appeal of the sentence under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other non-capital matters in the court of appeals.

"(b) Review.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) Decision and Disposition.—

"(1) If the court of appeals determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor;

"(B) the evidence and information support the special findings of the existence of an aggravating factor or factors; and

"(C) the proceedings did not involve any other prejudicial error requiring reversal of the sentence that was properly preserved for and raised on appeal;

it shall affirm the sentence.

"(2) In any other case, the court of appeals shall remand the case for reconsideration under section 3593 or for imposition of another authorized sentence as appropriate, except that the court shall not reverse a sentence of death on the ground that an aggravating factor was invalid or was not supported by the evidence and information if at least one aggravating factor required to be considered under section 3592 remains which was found to exist and the court, on the basis of the evidence submitted at trial and the information submitted at the sentencing hearing, finds no mitigating factor or finds that the remaining aggravating factor or factors which were found to exist outweigh any mitigating factors.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"§3596. Implementation of a sentence of death

"(a) In General.—A person sentenced to death under this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States Marshal. The Marshal shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed, or in the manner prescribed by the law of another State designated by the court if the law of the State in which the sentence was imposed does not provide for implementation of a sentence of death.

"(b) Special Bars to Execution.—A sentence of death shall not be carried out upon a person who lacks the mental capacity to understand the death penalty and why it was imposed on that person, or upon a woman while she is pregnant.

"(c) Persons May Decline to Participate.—No employee of any State department of corrections, the Federal Bureau of Prisons, or the United States Marshals Service, and no person providing services to that department, bureau, or service under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participate in any execution' includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

"§3597. Use of State facilities

"A United States Marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"§3598. Appointment of counsel

"(a) Representation of Indigent Defendants.—This section shall govern the appointment of counsel for any defendant against whom a sentence of death is sought, or on whom a sentence of death has been imposed, for an offense against the United States, where the defendant is or becomes financially unable to obtain adequate representation. Such a defendant shall be entitled to appointment of counsel from the commencement of trial proceedings until one of the conditions specified in section 3599(b) of this title has occurred. This section shall not affect the appointment of counsel and the provision of ancillary legal services under section 848(q) (4) through (10) of title 21, United States Code.

"(b) Representation Before Finality of Judgment.—A defendant within the scope of this section shall have counsel appointed for trial representation as provided in section 3005 of this title. At least one counsel so appointed shall continue to represent the defendant until the conclusion of direct review of the judgment, unless replaced by the court with other qualified counsel.

"(c) Representation After Finality of Judgment.—When a judgment imposing a sentence of death has become final through affirmance by the Supreme Court on direct review, denial of certiorari by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the Government shall promptly notify the district court that imposed the sentence. Within ten days of receipt of such notice, the district court shall proceed to make a determination whether the defendant is eligible under this section for appointment of counsel for subsequent proceedings. On the basis of the determination, the court shall issue an order: (1) appointing one or more counsel to represent the defendant upon a finding that the defendant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel; (2) finding, after a hearing if necessary, that the defendant rejected appointment of counsel and made the decision with an understanding of its legal consequences; or (3) denying the appointment of counsel upon a finding that the defendant is financially able to obtain adequate representation. Counsel appointed pursuant to this subsection shall be different from the counsel who represented the defendant at trial and on direct review unless the defendant and counsel request a continuation or renewal of the earlier representation.

"(d) Standards for Competence of Counsel.—In relation to a defendant who is entitled to appointment of counsel under this section, at least one counsel appointed for trial representation must have been admitted to the bar for at least five years and have at least three years of experience in the trial of felony cases in the federal district courts. If new counsel is appointed after judgment, at least one counsel so appointed must have been admitted to the bar for at least five years and have at least three years of experience in the litigation of felony cases in the Federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet these standards, but whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration of the seriousness of the penalty and the nature of the litigation.

"(e) Applicability of Criminal Justice Act.—Except as otherwise provided in this section, the provisions of section 3006A of this title shall apply to appointments under this section.

"(f) Claims of Ineffectiveness of Counsel.—The ineffectiveness or incompetence of counsel during proceedings on a motion under section 2255 of title 28, United States Code, in a capital case shall not be a ground for relief from the judgment or sentence in any proceeding. This limitation shall not preclude the appointment of different counsel at any stage of the proceedings.

"§3599. Collateral attack on judgment imposing sentence of death

"(a) Time for Making Section 2255 Motion.—In a case in which sentence of death has been imposed, and the judgment has become final as described in section 3598(c) of this title, a motion in the case under section 2255 of title 28, United States Code, must be filed within ninety days of the issuance of the order relating to appointment of counsel under section 3598(c) of this title. The court in which the motion is filed, for good cause shown, may extend the time for filing for a period not exceeding sixty days. A motion described in this section shall have priority over all noncapital matters in the district court, and in the court of appeals on review of the district court's decision.

"(b) Stay of Execution.—The execution of a sentence of death shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 2255 of title 28, United States Code. The stay shall run continuously following imposition of the sentence, and shall expire if—

"(1) the defendant fails to file a motion under section 2255 of title 28, United States Code, within the time specified in subsection (a), or fails to make a timely application for court of appeals review following the denial of such motion by a district court; or

"(2) upon completion of district court and court of appeals review under section 2255 of title 28, United States Code, the motion under that section is denied and (A) the time for filing a petition for certiorari has expired and no petition has been filed; (B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or (C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a district court, in the presence of counsel and after having been advised of the consequences of his decision, the defendant waives the right to file a motion under section 2255 of title 28, United States Code.

"(c) Finality of the Decision on Review.—If one of the conditions specified in subsection (b) has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless—

"(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings;

"(2) the failure to raise the claim was (A) the result of governmental action in violation of the Constitution or laws of the United States; (B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or (C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim in earlier proceedings; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

"§ 3600. Application in Indian country

"Notwithstanding sections 1152 and 1153 of this title, no person subject to the criminal jurisdiction of an Indian tribal government shall be subject to a capital sentence under this chapter for any offense the Federal jurisdiction for which is predicated solely on Indian country as defined in section 1151 of this title and which has occurred within the boundaries of such Indian country, unless the governing body of the tribe has made an election that this chapter have effect over land and persons subject to its criminal jurisdiction."; and

(2) in the table of chapters at the beginning of part II, by adding the following new item after the item relating to chapter 227:

"228. Death penalty procedures .... 3591.".

SEC. 702. EQUAL JUSTICE ACT.

(a) Death Penalty for Civil Rights Murders.—

(1) Conspiracy against rights.—Section 241 of title 18, United States Code, is amended by striking "shall be subject to imprisonment for any term of years or for life" and inserting "shall be punished by death or imprisonment for any term of years or for life".

(2) Deprivation of rights under color of law.—Section 242 of title 18, United States Code, is amended by striking "shall be subject to imprisonment for any term of years or for life" and inserting "shall be punished by death or imprisonment for any term of years or for life".

(3) Federally protected activities.—Section 245(b) of title 18, United States Code, is amended by striking "shall be subject to imprisonment for any term of years or for life" and inserting "shall be punished by death or imprisonment for any term of years or for life".

(4) Damage to religious property; obstruction of the free exercise of religious rights.—Section 247(c)(1) of title 18, United States Code, is amended by inserting "the death penalty or" before "imprisonment".

SEC. 703. PROHIBITION OF RACIALLY DISCRIMINATORY POLICIES CONCERNING CAPITAL PUNISHMENT OR OTHER PENALTIES.

(a) General Rule.—The penalty of death and all other penalties shall be administered by the United States and by every State without regard to the race or color of the defendant or victim. Neither the United States nor any State shall prescribe any racial quota or statistical test for the imposition or execution of the death penalty or any other penalty.

(b) Definitions.—For purposes of this subtitle—

(1) the action of the United States or of a State includes the action of any legislative, judicial, executive, administrative, or other agency or instrumentality of the United States or a State, or of any political subdivision of the United States or a State;

(2) the term "State" has the meaning given in section 541 of title 18, United States Code; and

(3) the term "racial quota or statistical test" includes any law, rule, presumption, goal, standard for establishing a prima facie case, or mandatory or permissive inference that—

(A) requires or authorizes the imposition or execution of the death penalty or another penalty so as to achieve a specified racial proportion relating to offenders, convicts, defendants, arrestees, or victims; or

(B) requires or authorizes the invalidation of, or bars the execution of, sentences of death or other penalties based on the failure of a jurisdiction to achieve a specified racial proportion relating to offenders, convicts, defendants, arrestees, or victims in the imposition or execution of such sentences or penalties.

SEC. 704. FEDERAL CAPITAL CASES.

In a prosecution for an offense against the United States for which a sentence of death is authorized, the fact that the killing of the victim was motivated by racial prejudice or bias shall be deemed an aggravating factor whose existence permits consideration of the death penalty, in addition to any other aggravating factors that may be specified by law as permitting consideration of the death penalty.

SEC. 705. EXTENSION OF PROTECTION OF CIVIL RIGHTS STATUTES.

(a) Section 241.—Section 241 of title 18, United States Code, is amended by striking "inhabitant of" and inserting in lieu thereof "person in".

(b) Section 242.—Section 242 of title 18, United States Code, is amended by striking "inhabitant of" and inserting in lieu thereof "person in", and by striking "such inhabitant" and inserting in lieu thereof "such person".

SEC. 706. FEDERAL DEATH PENALTIES.

(a) Murder by Federal Prisoners.—Chapter 51 of title 18, United States Code, is amended—

(1) by adding at the end the following:

"§ 1118. Murder by a Federal prisoner

"(a) Whoever, while confined in a Federal prison under a sentence for a term of life imprisonment, murders another shall be punished by death or by life imprisonment without the possibility of release.

"(b) For purposes of this section—

"(1) 'Federal prison' means any Federal correctional, detention, or penal facility, Federal community treatment center, or Federal halfway house, or any such prison operated under contract with the Federal Government;

"(2) 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death."; and

(2) by amending the table of sections by adding at the end:

"1118. Murder by a Federal prisoner.".

(b) Murder of Federal, State, and Local Law Enforcement Officers.—Section 1114 of title 18, United States Code, is amended by striking "be punished as provided under sections 1111 and 1112 of this title, except that" and inserting ", or any State or local law enforcement officer while assisting, or on account of having assisted, any Federal officer or employee covered by this section in the performance of duties, in the case of murder as defined in section 1111 of this title, be punished by death or imprisonment for life, and, in the case of manslaughter as defined in section 1112 of this title, be punished as provided in that section, and".

(c) Homicides and Attempted Homicides Involving Firearms in Federal Facilities.—Section 930 of title 18, United States Code, is amended—

(1) in subsection (a), by striking "(c)" and inserting "(d)";

(2) by inserting after subsection (b) the following:

"(c) Whoever kills or attempts to kill any person in the course of a violation of subsection (a) or (b), or in the course of an attack on a Federal facility involving the use of a firearm or other dangerous weapon, shall—

"(1) in the case of a killing constituting murder as defined in section 1111(a) of this title, be punished by death or imprisoned for any term of years or for life; and

"(2) in the case of any other killing or an attempted killing, be subject to the penalties provided for engaging in such conduct within the special maritime and territorial jurisdiction of the United States under sections 1112 and 1113 of this title.";

(3) in subsection (d)(2), by striking "(c)" and inserting "(d)";

(4) in subsection (g), by striking "(d)" each place it appears and inserting "(e)"; and

(5) by redesignating subsections (c), (d), (e), (f) and (g) as subsections (d), (e), (f), (g), and (h), respectively.

(d) Death Penalty for Civil Rights Murders.—

(1) Conspiracy against rights.—Section 241 of title 18, United States Code, is amended by striking "shall be subject to imprisonment for any term of years or for life" and inserting "shall be punished by death or imprisonment for any term of years or for life".

(2) Deprivation of rights under color of law.—Section 242 of title 18, United States Code, is amended by striking "shall be subject to imprisonment for any term of years or for life" and inserting "shall be punished by death or imprisonment for any term of years or for life".

(3) Federally protected activities.—Section 245(b) of title 18, United States Code, is amended by striking "shall be subject to imprisonment for any term of years or for life" and inserting "shall be punished by death or imprisonment for any term of years or for life".

(4) Damage to religious property; obstruction of the free exercise of religious rights.—Section 247(c)(1) of title 18, United States Code, is amended by inserting "the death penalty or" before "imprisonment".

(e) Death Penalty for Gun Murders.—Section 924 of title 18, United States Code, as amended by section 430 of this Act, is amended by adding at the end the following:

"(j) Whoever, in the course of a violation of subsection (c) of this section, causes the death of a person through the use of a firearm, shall—

"(1) if the killing is a murder as defined in section 1111 of this title, be punished by death or by imprisonment for any term of years or for life; and

"(2) if the killing is manslaughter as defined in section 1112 of this title, be punished as provided in that section.".

(f) Murder by Escaped Prisoners.—

(1) In general.—Chapter 51 of title 18, United States Code, as amended by section

110, is amended by adding at the end the following:

"§ 1119. Murder by escaped prisoners

"(a) Whoever, having escaped from a Federal prison where such person was confined under a sentence for a term of life imprisonment, kills another shall be punished as provided in sections 1111 and 1112 of this title.

"(b) As used in this section, the terms 'Federal prison' and 'term of life imprisonment' have the meanings given those terms in section 1118 of this title.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 51 of title 18, United States Code, is amended by adding at the end the following:

"1119. Murder by escaped prisoners.".

(g) TORTURE.—

(1) IN GENERAL.—Part I of title 18, United States Code, is amended by inserting after chapter 113A the following new chapter:

"CHAPTER 113B—TORTURE

"Sec.
"2340. Definitions.
"2340A. Torture.
"2340B. Exclusive remedies.

"§ 2340. Definitions

"As used in this chapter—

"(1) the term 'torture' means an act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control;

"(2) the term 'severe mental pain or suffering' means the prolonged mental harm caused by or resulting from—

"(A) the intentional infliction or threatened infliction of severe physical pain or suffering;

"(B) the administration or application, or threatened administration or application, of mind altering substances or other procedures calculated to disrupt profoundly the senses or the personality;

"(C) the threat of imminent death; or

"(D) the threat that another person will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind altering substances or other procedures calculated to disrupt profoundly the senses or personality; and

"(3) the term 'United States' includes all areas under the jurisdiction of the United States including any of the places within the provisions of sections 5 and 7 of this title and section 101(38) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1301(38)).

"§ 2340A. Torture

"(a) Whoever, outside the United States and in a circumstance described in subsection (b) of this section, commits or attempts to commit torture shall be fined under this title or imprisoned not more than 20 years, or both, and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) The circumstances referred to in subsection (a) of this section are—

"(1) the alleged offender is a national of the United States; or

"(2) the alleged offender is present in the United States, irrespective of the nationality of the victim or the alleged offender.

"§ 2340B. Exclusive remedies

"Nothing in this chapter shall be construed as precluding the application of State or local laws on the same subject, nor shall anything in this chapter be construed as creating any substantive or procedural right enforceable by law by any party in any civil proceeding.".

(2) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item for chapter 113A the following new item:

"113B. Torture .... 2340.".

(3) EFFECTIVE DATE.—This subsection shall take effect on the later of—

(1) the date of enactment of this section; or

(2) the date the United States has become a party to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

(h) CARJACKING RESULTING IN DEATH.—Section 2119 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whoever";

(2) by striking ", possessing a firearm as defined in section 921 of this title,";

(3) by striking "shall—" and all that follows through the end of the existing section and inserting "shall be punished as provided in subsection (c) of this section."; and

(4) by adding at the end the following:

"(b) Whoever, in furtherance of a State or Federal crime of violence, obstructs, impedes, or makes unauthorized physical contact with, a motor vehicle of another, if such vehicle has been transported, shipped, or received in interstate or foreign commerce, shall be punished as provided in subsection (c) of this section.

"(c) A person violating this section shall—

"(1) be fined under this title or imprisoned not more than 15 years, or both;

"(2) if serious bodily injury (as defined in section 1365 of this title) results, be fined under this title or imprisoned not more than 25 years, or both; and

"(3) if death results, be fined under this title or imprisoned for any number of years up to life, or both, and shall be subject to the penalty of death.".

SEC. 707. CONFORMING AND TECHNICAL AMENDMENTS.

(a) DESTRUCTION OF AIRCRAFT OR AIRCRAFT FACILITIES.—Section 34 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and all that follows through the end of the section and inserting a period.

(b) ESPIONAGE.—Section 794(a) of title 18, United States Code, is amended by striking the period at the end of the section and inserting the following: ", except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds beyond a reasonable doubt at a hearing under section 3593 of this title that the offense directly concerned nuclear weaponry, military spacecraft and satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; sources or methods of intelligence or counterintelligence operations; or any other major weapons system or major element of defense strategy.".

(c) TRANSPORTING EXPLOSIVES.—Section 844(d) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(d) MALICIOUS DESTRUCTION OF FEDERAL PROPERTY BY EXPLOSIVES.—Section 844(f) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(e) MALICIOUS DESTRUCTION OF INTERSTATE PROPERTY BY EXPLOSIVES.—Section 844(i) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(f) MURDER.—Section 1111(b) of title 18, United States Code, is amended to read as follows:

"(b) Within the special maritime and territorial jurisdiction of the United States—

"(1) whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life; and

"(2) whoever is guilty of murder in the second degree shall be imprisoned for any term of years or for life.".

(g) KILLING OFFICIAL GUESTS AND INTERNATIONALLY PROTECTED PERSONS.—Subsection (a) of section 1116 of title 18, United States Code, is amended by inserting a period after "title" and striking the remainder of the subsection.

(h) KIDNAPPING.—Section 1201(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(i) HOSTAGE TAKING.—Section 1203(a) of title 18, United States Code, is amended by inserting after "or for life" the following "and, if the death of any person results, shall be punished by death or life imprisonment".

(j) MAILABILITY OF INJURIOUS ARTICLES.—The last paragraph of section 1716 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and all that follows through the end of the paragraph and inserting a period.

(k) PRESIDENTIAL ASSASSINATION.—Subsection (c) of section 1751 of title 18, United States Code, is amended to read as follows:

"(c) Whoever attempts to murder or kidnap any individual designated in subsection (a) of this section shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life if the conduct constitutes an attempt to murder the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President.".

(l) MURDER FOR HIRE.—Section 1958(a) of title 18 of the United States Code is amended by striking "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting "and if death results, shall be punished by death or life imprisonment, or shall be fined in accordance with this title, or both".

(m) VIOLENT CRIMES IN AID OF RACKETEERING ACTIVITY.—Paragraph (1) of subsection (a) of section 1959 of title 18, United States Code, is amended to read as follows:

"(1) for murder, by death or life imprisonment, or a fine in accordance with this title, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine in accordance with this title, or both;".

(n) WRECKING TRAINS.—The second to the last paragraph of section 1992 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and all that follows through the end of the section and inserting a period.

(o) BANK ROBBERY.—Section 2113(e) of title 18, United States Code, is amended by striking "or punished by death if the verdict of the jury shall so direct" and inserting "or if death results shall be punished by death or life imprisonment".

(p) TERRORIST ACTS.—Section 2332(a)(1) of title 18, United States Code, is amended to read as follows:

"(1) if the killing is murder as defined in section 1111(a) of this title, be fined under this title, punished by death or imprisonment for any term of years or for life, or both;".

(q) AIRCRAFT HIJACKING.—Section 903 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1473), is amended by striking subsection (c).

(r) CONTROLLED SUBSTANCES ACT.—Section 408 of the Controlled Substances Act is amended by striking subsections (g)–(p), (q) (1)–(3) and (r).

(s) GENOCIDE.—Section 1091(b)(1) of title 18, United States Code, is amended by striking "a fine of not more than $1,000,000 and imprisonment for life;" and inserting "death or imprisonment for life and a fine of not more than $1,000,000;".

(t) INAPPLICABILITY TO UNIFORM CODE OF MILITARY JUSTICE.—Chapter 228 of title 18, United States Code, as added by this Act, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801 et seq.).

Subtitle B—Violent Felonies and Drug Offenses

SEC. 711. DRUG TESTING OF FEDERAL OFFENDERS ON POST-CONVICTION RELEASE.

(a) DRUG TESTING PROGRAM.—(1) Chapter 229 of title 18, United States Code, is amended by adding at the end the following:

"§3608. Drug testing of Federal offenders on post-conviction release

"The Director of the Administrative Office of the United States Courts, in consultation with the Attorney General and the Secretary of Health and Human Services, shall, as soon as is practicable after the effective date of this section, establish a program of drug testing of Federal offenders on post-conviction release. The program shall include such standards and guidelines as the Director may determine necessary to ensure the reliability and accuracy of the drug testing programs. In each district where it is feasible to do so, the chief probation officer shall arrange for the drug testing of defendants on post-conviction release pursuant to a conviction for a felony or other offense described in section 3563(a)(4) of this title.".

(2) The table of sections at the beginning of chapter 229 of title 18, United States Code, is amended by adding at the end the following:

"3608. Drug testing of Federal offenders on post-conviction release.".

(b) DRUG TESTING CONDITION FOR PROBATION.—

(1) Section 3563(a) of title 18, United States Code, is amended—

(A) in paragraph (2), by striking out "and";

(B) in paragraph (3), by striking out the period and inserting "; and"; and

(C) by adding after paragraph (3) the following:

"(4) for a felony, an offense involving a firearm as defined in section 921 of this title, a drug or narcotic offense as defined in section 404(c) of the Controlled Substances Act (21 U.S.C. 844(c)), or a crime of violence as defined in section 16 of this title, that the defendant refrain from any unlawful use of the controlled substance and submit to periodic drug tests (as determined by the court) for use of a controlled substance. This latter condition may be suspended or ameliorated upon request of the Director of the Administrative Office of the United States Courts, or the Director's designee. In addition, the Court may decline to impose this condition for any individual defendant, if the defendant's presentence report or other reliable sentencing information indicates a low risk of future substance abuse by the defendant. A defendant who tests positive may be detained pending verification of a drug test result.".

(2) DRUG TESTING FOR SUPERVISED RELEASE.—Section 3583(d) of title 18, United States Code, is amended by inserting after the first sentence the following: "For a defendant convicted of a felony or other offense described in section 3563(a)(4) of this title, the court shall also order, as an explicit condition of supervised release, that the defendant refrain from any unlawful use of a controlled substance and submit to periodic drug tests (as determined by the court), for use of a controlled substance. This latter condition may be suspended or ameliorated as provided in section 3563(a)(4) of this title.".

(3) DRUG TESTING IN CONNECTION WITH PAROLE.—Section 4209(a) of title 18, United States Code, is amended by inserting after the first sentence the following: "If the parolee has been convicted of a felony or other offense described in section 3563(a)(4) of this title, the Commission shall also impose as a condition of parole that the parolee refrain from any unlawful use of a controlled substance and submit to periodic drug tests (as determined by the Commission) for use of a controlled substance. This latter condition may be suspended or ameliorated as provided in section 3563(a)(4) of this title.".

(c) REVOCATION OF RELEASE.—

(1) REVOCATION OF PROBATION.—The last sentence of section 3565(a) of title 18, United States Code, is amended by inserting "or unlawfully uses a controlled substance or refuses to cooperate in drug testing, thereby violating the condition imposed by section 3563(a)(4)," after "3563(a)(3)".

(2) REVOCATION OF SUPERVISED RELEASE.—Section 3583(g) of title 18, United States Code, is amended by inserting "or unlawfully uses a controlled substance or refuses to cooperate in drug testing imposed as a condition of supervised release," after "substance".

(3) REVOCATION OF PAROLE.—Section 4214(f) of title 18, United States Code, is amended by inserting after "substance" the following: ", or who unlawfully uses a controlled substance or refuses to cooperate in drug testing imposed as a condition of parole,".

SEC. 712. LIFE IMPRISONMENT OR DEATH PENALTY FOR THIRD FEDERAL VIOLENT FELONY CONVICTION.

Section 3581 of title 18, United States Code, is amended by adding at the end the following:

"(c) PUNISHMENT OF CERTAIN VIOLENT FELONS.—

"(1) GENERAL RULE.—Notwithstanding any other provision of this title or any other law, in the case of a conviction for a Federal violent felony, the court shall sentence the defendant to prison for life if the defendant has previously been convicted of two other violent felonies and if a death results from the violent felony, the defendant shall be subject to the death penalty.

"(2) DEFINITION.—As used in this section the term "violent felony" is a State or Federal crime of violence (as defined in section 16 of this title)—

"(A) that involves the threatened use, use, or the risk of use of physical force against the person of another;

"(B) for which the maximum authorized imprisonment exceeds one year; and

"(C) which is not designated a misdemeanor by the law that defines the offense.

"(3) RULE OF CONSTRUCTION.—This subsection shall not be construed to prevent the imposition of the death penalty.".

SEC. 713. STRENGTHENING THE ARMED CAREER CRIMINALS ACT.

Section 924(e)(2)(A) of title 18, United States Code, as amended by section 151 of this Act, is amended—

(1) in clause (ii), by striking "or" at the end;

(2) in clause (iii), by adding "or" at the end; and

(3) by adding at the end the following:

"(iv) an offense under State law which, if it had been prosecuted as a violation of the Controlled Substances Act at the time of the offense and because of the type and quantity of the controlled substance involved, would have been punishable by a maximum term of imprisonment of ten years or more;".

SEC. 714. ENHANCED PENALTY FOR USE OF SEMIAUTOMATIC FIREARM DURING A CRIME OF VIOLENCE OR DRUG TRAFFICKING OFFENSE.

(a) ENHANCED PENALTY.—Section 924(c)(1) of title 18, United States Code, is amended by inserting ", or semiautomatic firearm," after "short-barreled shotgun".

(b) SEMIAUTOMATIC FIREARM DEFINED.—Section 921(a) of such title is amended by adding at the end the following:

"(29) The term 'semiautomatic firearm' means any repeating firearm which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge.".

SEC. 715. MANDATORY PENALTIES FOR FIREARMS POSSESSION BY VIOLENT FELONS AND SERIOUS DRUG OFFENDERS.

(a) 1 PRIOR CONVICTION.—Section 924(a)(2) of title 18, United States Code, is amended by inserting ", and if the violation is of section 922(g)(1) by a person who has a previous conviction for a violent felony (as defined in subsection (e)(2)(B) of this section) or a serious drug offense (as defined in subsection (e)(2)(A) of this section), a sentence imposed under this paragraph shall include a term of imprisonment of not less than five years" before the period.

(b) 2 PRIOR CONVICTIONS.—Section 924 of such title, as amended by sections 430 and 706(e) of this Act, is amended by adding at the end the following:

"(k)(1) Notwithstanding subsection (a)(2) of this section, any person who violates section 922(g) and has 2 previous convictions by any court referred to in section 922(g)(1) for a violent felony (as defined in subsection (e)(2)(B) of this section) or a serious drug offense (as defined in subsection (e)(2)(A) of this section) committed on occasions different from one another shall be fined under this title, imprisoned not less than 10 years and not more than 20 years, or both.

"(2) Notwithstanding any other provision of law, the court shall not suspend the sentence of, or grant a probationary sentence to, a person described in paragraph (1) of this subsection with respect to the conviction under section 922(g).".

SEC. 716. MANDATORY MINIMUM SENTENCE FOR UNLAWFUL POSSESSION OF A FIREARM BY CONVICTED FELON, FUGITIVE FROM JUSTICE, OR TRANSFEROR OR RECEIVER OF STOLEN FIREARM.

(a) IN GENERAL.—Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (1), by striking "paragraph (2) or (3) of"; and

(2) by adding at the end the following:

"(5) Whoever knowingly possesses a firearm in violation of paragraph (1) or (2) of section 922(g), or in violation of subsection

(i) or (j), shall be imprisoned not less than 5 years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person convicted under this paragraph, nor shall the term of imprisonment imposed under this paragraph run concurrently with any other term of imprisonment imposed under any other provision of law.".

SEC. 717. INCREASE IN GENERAL PENALTY FOR VIOLATION OF FEDERAL FIREARMS LAWS.

Section 924(a)(1) of title 18, United States Code, is amended—

(1) by striking "$5,000" and inserting "$10,000"; and

(2) by striking "five" and inserting "10".

SEC. 718. INCREASE IN ENHANCED PENALTIES FOR POSSESSION OF FIREARM IN CONNECTION WITH CRIME OF VIOLENCE OR DRUG TRAFFICKING CRIME.

Section 924(c)(1) of title 18, United States Code, is amended—

(1) by striking "five" and inserting "10"; and

(2) by striking "twenty" and inserting "30".

SEC. 719. SMUGGLING FIREARMS IN AID OF DRUG TRAFFICKING OR VIOLENT CRIME.

Section 924 of title 18, United States Code, as amended by sections 430, 706(e), and 715(b) of this Act, is amended by adding at the end the following:

"(l) Whoever, with the intent to engage in or to promote conduct which—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3) of this section;

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned for not more than ten years, fined under this title, or both.".

SEC. 720. DEFINITION OF CONVICTION UNDER CHAPTER 44.

Section 921(a)(20) of title 18, United States Code, is amended in the 3rd sentence by inserting "(other than for a violent felony (as defined in section 924(e)(2)(B)) involving the threatened or actual use of a firearm or explosive, or for a serious drug offense (as defined in section 924(e)(2)(A)))" after "Any conviction".

SEC. 721. DEFINITION OF SERIOUS DRUG OFFENSE UNDER THE ARMED CAREER CRIMINAL ACT.

Section 924(e)(2)(A) of title 18, United States Code, as amended by sections 151 and 713 of this Act, is amended—

(1) by striking "or" at the end of clause (iii);

(2) by inserting "or" at the end of clause (iv); and

(3) by adding at the end the following:

"(v) an offense under State law that, if it were prosecuted as a violation of the Controlled Substances Act (21 U.S.C. 801 et seq.) as that Act provided at the time of the offense, would be punishable by a maximum term of imprisonment of 10 years or more;".

SEC. 722. DEFINITION OF BURGLARY UNDER THE ARMED CAREER CRIMINAL ACT.

Section 924(e)(2) of title 18, United States Code, is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(3) by adding at the end the following:

"(D) the term 'burglary' means a crime that—

"(i) consists of entering or remaining surreptitiously in a building that is the property of another person with intent to engage in conduct constituting a Federal or State offense; and

"(ii) is punishable by a term of imprisonment exceeding 1 year.".

SEC. 723. TEMPORARY PROHIBITION AGAINST POSSESSION OF A FIREARM BY, OR TRANSFER OF A FIREARM TO, PERSONS CONVICTED OF A DRUG CRIME.

(a) TEMPORARY PROHIBITION.—Section 922 of title 18, United States Code, is amended by adding at the end the following:

"(s)(1)(A) Except as provided in paragraph (2), it shall be unlawful for any individual who has been convicted in any court of a drug crime to possess a firearm during the period described in subparagraph (B).

"(B) The period described in this subparagraph is the period that begins with the date the individual committed the drug crime and ends 5 years after the most recent date (occurring after the commission of such crime) on which the individual has committed a drug crime or has violated any Federal or State law relating to firearms.

"(2) Paragraph (1) shall not apply with respect to convictions occurring on or before the date of the enactment of this subsection.

"(t)(1)(A) Except as provided in paragraph (2), it shall be unlawful for any person to transfer a firearm to any individual knowing or having reasonable cause to believe that the individual is under indictment for a drug crime.

"(B)(i) Except as provided in paragraph (2), it shall be unlawful for any person, during the period described in clause (ii), to transfer a firearm to any individual knowing or having reasonable cause to believe that the individual has been convicted in any court of a drug crime.

"(ii) The period described in this clause is the period that begins with the date the individual committed the drug crime and ends 5 years after the most recent date (occurring after the commission of such crime) on which the individual has committed a drug crime or has violated any Federal or State law relating to firearms.

"(2) The second sentence of subsection (d) shall apply in like manner to paragraph (1) of this subsection.".

(b) PENALTY.—Section 924(a)(1)(B) of such title, as amended by section 103(b) of this Act, is amended by striking "or (r)" and inserting "(r), (s)(1), or (t)(1)".

(c) ENHANCED PENALTIES FOR POSSESSION OF A FIREARM DURING A DRUG CRIME.—Section 924 of such title, as amended by sections 430, 706(e), 715(b), and 719 of this Act, is amended by adding at the end the following:

"(m) Whoever, during and in relation to a drug crime (including a drug crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which he may be prosecuted in a court of the United States, possesses a firearm, in addition to the punishment provided for such drug crime, may be sentenced to imprisonment for not less than 15 days and not more than 2 years, and shall be fined not less than $2,500 and not more than $10,000, and if the firearm is a machine gun, or is equipped with a firearm silencer or firearm muffler, shall be sentenced to imprisonment for 15 years. In the case of a second or subsequent conviction under this subsection, such person shall be sentenced to imprisonment for not less than 15 days and not more than 2 years, and shall be fined not less than $2,500 and not more than $10,000, and if the firearm is a machine gun, or is equipped with a firearm silencer or firearm muffler, shall be sentenced to imprisonment for 30 years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person convicted of a violation of this subsection, nor shall the term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the drug crime in which the firearm was possessed.".

(d) DEFINITION OF DRUG CRIME.—Section 921(a) of such title, as amended by section 714(b) of this Act, is amended by adding at the end the following:

"(30) The term 'drug crime' means any offense (other than a drug trafficking crime) punishable by imprisonment under—

"(A) any Act specified in section 924(c)(2); or

"(B) any State law involving the possession, distribution, or manufacture of a controlled substance (as defined in section 102 of the Controlled Substances Act).".

Subtitle C—Enhanced Penalties for Criminal Use of Firearms and Explosives

Chapter 1—Instant Check System for Handgun Purchases

SEC. 731. DEFINITIONS.

As used in this chapter:

(1) The term "background check crime" means a crime punishable by imprisonment for a term exceeding 1 year within the meaning of section 921(a)(20) of title 18, United States Code.

(2) The term "handgun" has the meaning given such term in section 921(a)(31) of title 18, United States Code.

(3) The term "licensee" means a licensed importer, licensed manufacturer, or licensed dealer, as defined in paragraphs (9), (10), and (11), respectively, of section 921(a) of title 18, United States Code.

(4) The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territories of the Pacific.

SEC. 732. STATE INSTANT CRIMINAL CHECK SYSTEMS FOR HANDGUN PURCHASES.

(a) IN GENERAL.—Not later than the date that is 12 months after the date of the enactment of this chapter, each State shall establish and maintain a system that, on receipt of an inquiry from a licensee pursuant to section 922(u)(1)(A) of title 18, United States Code, immediately researches the criminal history of a prospective handgun transferee, advises the licensee whether its records demonstrate that such transferee is prohibited from receiving a handgun by reason of subsection (g) or (n) of section 922 of such title, and, if such transferee is not so prohibited, provides the licensee a unique identification number with respect to the transfer.

(b) ADDITIONAL REQUIREMENTS.—A State instant criminal check system shall—

(1) provide for the privacy and security of the information contained in the system at least to the extent of the protections and remedies provided in section 552a(g) of title 5, United States Code;

(2) ensure that information provided to the system by a licensee pursuant to section 922(u)(1)(B)(i) of title 18, United States Code, is not retained in any form whatsoever, is not conveyed to any person except a person who has a need to know to carry out the purpose of that section, and is not used for any

purpose other than to carry out that section; and

(3) provide to a prospective handgun transferee who is denied receipt of a handgun on the basis of information provided by the system a procedure for the correction of erroneous information as otherwise set forth in this chapter.

(c) PROHIBITIONS ON USES OF INFORMATION.—

(1) RECORDATION BY THE GOVERNMENT.—No record or portion thereof generated by an inquiry concerning or a search of the criminal history of a prospective transferee under a State instant criminal check system established under subsection (a) shall be recorded at or transferred to a facility owned, managed, or controlled by the United States or any State or political subdivision thereof.

(2) REGISTRATION OF OWNERSHIP.—Neither the United States, nor a State, nor any political subdivision thereof may use information provided by a licensee pursuant to a State instant criminal check system established under subsection (a) of this section to establish any system for the registration of handguns, handgun owners, or handgun transactions or dispositions, except with respect to persons who are prohibited from receiving a handgun by reason of subsection (g) or (n) of section 922 of title 18, United States Code.

SEC. 733. AMENDMENT OF CHAPTER 44 OF TITLE 18, UNITED STATES CODE.

(a) DEFINITIONS.—Section 921(a) of title 18, United States Code, as amended by sections 714(b) and 723(d) of this Act, is amended by adding at the end the following:

"(31) The term 'handgun' means—

"(A) a firearm (other than a firearm that is a curio or relic under criteria established by the Secretary by regulation) that has a short stock and is designed to be held and fired by the use of a single hand; and

"(B) any combination of parts designed and intended to be assembled into such a firearm and from which such a firearm can be readily assembled.".

(b) IDENTIFICATION PROCEDURE.—Section 922 of such title, as amended by section 721(a) of this Act, is amended by adding at the end the following:

"(u)(1) Upon a State instant criminal check system becoming operational pursuant to chapter 1 of subtitle C of title VII of the Crime Control Act of 1993, and notice by an appropriate State official by certified mail to each licensee in the State that such system is operational, a licensed importer, licensed manufacturer, or licensed dealer shall not knowingly transfer a handgun from the business inventory of such licensee to any other person who is not licensed under this chapter before the completion of the transfer unless—

"(A) the licensee contacts the State instant criminal check system; and

"(B)(i) the State system notifies the licensee that the system has not located any record that demonstrates that the receipt of a handgun by such other person would violate subsection (g) or (n); or

"(ii) at least 8 hours have elapsed since the licensee first contacted the system with respect to the transfer, and the system has not notified the licensee that the information available to the system demonstrates that the receipt of a handgun by the person would violate subsection (g) or (n).

"(2) Paragraph (1) shall not apply to a handgun transfer between a licensee and another person if—

"(A) the other person presents to the licensee a valid permit or license issued by the State or a political subdivision of the State in which the transfer is to occur that authorizes the person to purchase, possess, or carry a firearm;

"(B) the Secretary has, under section 5812 of the Internal Revenue Code of 1986, approved the transfer;

"(C) the ability of the licensee to exchange information with the system described in paragraph (1) is impaired for a period of more than 8 hours due to natural or human disaster, insurrection, riot, hurricane, other act of God, or other circumstance beyond the control of the licensee; or

"(D) on application of the licensee, the State instant criminal check system has certified that compliance with paragraph (1)(B)(i) is impracticable because of the inability of the licensee to communicate with the system due to the remote location of the licensed premises.

"(3) If the State instant criminal check system notifies the licensee that the information available to the system does not demonstrate that the receipt of a handgun by the person would violate subsection (g) or (n), and the licensee transfers a handgun to the person, the licensee shall include in the record of the transfer the unique identification number provided by the system with respect to the transfer.

"(4)(A) If the licensee knowingly transfers a handgun to a person and willfully fails to comply with paragraph (1) with respect to the transfer and, at the time of the transfer, the State instant criminal check system was operating and information was available to the system demonstrating that receipt of a handgun by the person would violate subsection (g) or (n), the Secretary may, after notice and opportunity for a hearing, suspend for not more than 12 months or revoke any license issued to the licensee under section 923, and may impose on the licensee a civil fine of not more than $10,000.

"(B) Any action by the Secretary under subparagraph (A) of this paragraph shall be subject to the procedures and remedies provided in subsections (e) and (f) of section 923.

"(5) A State employee responsible for providing information through a State instant criminal check system shall not be liable in an action at law for damages for failure to prevent the sale or transfer of a handgun to a person whose receipt or possession of a handgun is unlawful.

"(6) Notwithstanding any law, rule, or regulation of a State or political subdivision of a State that requires a waiting period prior to the receipt or sale of a handgun, after a State instant criminal check system has been placed in operation, a licensee may transfer, and a person may receive, a handgun immediately upon notification of the licensee pursuant to subparagraph (1)(B)(i). No permit or license shall be required by any State or political subdivision of a State for such transfer or receipt.".

(c) PENALTIES.—Section 924(a) of title 18, United States Code, as amended by section 716(a) of this Act, is amended by adding at the end the following:

"(6) A person who willfully violates section 922(u) shall be fined not more than $2,000, imprisoned not more than 1 year, or both.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 120 days after the date of the enactment of this chapter.

SEC. 734. ESTABLISHMENT AND OPERATION OF CRIMINAL HISTORY SYSTEM.

(a) ESTABLISHMENT OF THE SYSTEM.—Each State shall establish a system accessible by telephone, and may establish other electronic means in addition to telephonic communication, that any licensee, law enforcement officer, or court of law may contact for criminal history information. Information available to a licensee shall be limited to information concerning a background check crime or other information concerning whether receipt of a handgun by a prospective transferee would violate subsection (g) or (n) of section 922 of title 18, United States Code. Information available to law enforcement officers and to courts of law shall include information concerning any arrest or conviction for any crime.

(b) CONTINUOUS OPERATION.—Each State shall take such steps as are necessary to ensure that the system operates continuously and without closing, at all times and days of each year for purposes of inquiries from law enforcement officers, licensees, and courts.

SEC. 735. OPERATION OF SYSTEM FOR PURPOSE OF SCREENING HANDGUN PURCHASERS.

(a) ACCURACY OF RESPONSES.—Each State shall take such steps as are necessary to ensure that not more than 2 percent of initial telephone responses of the system contain erroneous determinations that receipt of a handgun by a prospective handgun transferee would violate subsection (g) or (n) of section 922 of title 18, United States Code.

(b) NOTIFICATION OF LICENSEES.—On establishment of a system under this section, each respective State shall notify the Secretary of the Treasury, and the Secretary shall notify each licensee, of the existence and purpose of the system and the telephone number and other electronic means that may be used to contact the system.

(c) OPERATION OF THE SYSTEM.—

(1) REQUIREMENTS FOR PROVISION OF INFORMATION.—The system established under this section shall not provide information to any person who places a telephone call to the system with respect to a person unless—

(A) the system verifies that the caller is a licensee; and

(B) the licensee—

(i) states that a person seeks to purchase a handgun from the licensee; and

(ii) provides the name, birth date, and social security account number (or if the transferee does not have a social security account number, other identifying information about the proposed transferee as required to make a valid identification).

(2) INFORMATION TO BE PROVIDED.—

(A) IN GENERAL.—If the system receives a telephone call with respect to the transfer of a handgun to a person and the requirements of paragraph (1) of this subsection are met, the system shall, in accordance with subparagraph (B) of this paragraph—

(i) if the receipt of a handgun by the person would violate subsection (g) or (n) of section 922 of title 18, United States Code, inform the licensee that the transfer is disapproved; and

(ii) if such a receipt would not be such a violation—

(I) assign a unique identification number to the transfer;

(II) provide the licensee with the number; and

(III) destroy all records of the system with respect to the call (other than the identifying number and the date the number was assigned) and all records of the system relating to the person or the transfer.

(B) TIMING.—

(i) PROMPT RESPONSE REQUIRED.—The system shall make every effort to provide to the caller the information required by subparagraph (A) immediately or by return telephone call without delay.

(ii) RULES GOVERNING DELAYED RESPONSES.—If the system is unable to respond immediately to the inquiry due to circumstances beyond the control of the system, the system shall—

(I) advise the caller that the response of the system will be delayed and state the reasons for the delay and the estimated length of the delay; and

(II) make every effort to provide the information required by subparagraph (A) within 8 hours after the licensee first contacted the system with respect to the transfer.

(d) CORRECTION OF ERRONEOUS SYSTEM.—

(1) ADMINISTRATIVE PROCEDURES.—If the system established under this section informs a licensee that receipt of a handgun by a person would violate subsection (g) or (n) of section 922 of title 18, United States Code, the person may request the system to provide the person with a detailed explanation, in writing, of the reasons therefor. Within 5 days after receipt of such a request, the system shall comply with the request. The requestor may submit to the system information to correct, clarify, or supplement records of the system with respect to the requestor. Within 5 days after receipt of such information, the system shall consider such information, investigate the matter further, correct all erroneous records relating to the requestor, and notify any department or agency of the United States or of any State or political subdivision of a State that was the source of the erroneous records or such errors.

(2) PRIVATE COURSE OF ACTION.—After all administrative remedies are exhausted and such records are not corrected, a person disapproved for the purchase or receipt of a handgun because the system established under this section provided erroneous information relating to the person may bring an action in any court of competent jurisdiction against the United States, or any State or political subdivision of a State that is the source of the erroneous information, for damages (including consequential damages), injunctive relief, mandamus, and such other relief as the court may deem appropriate. If the person prevails in the action, the court shall allow the person a reasonable attorney's fee as part of the costs.

SEC. 736. IMPROVEMENT OF CRIMINAL JUSTICE RECORDS.

The Attorney General shall expedite—

(1) the incorporation of the remaining State criminal history records into the Federal criminal records systems maintained by the Federal Bureau of Investigation; and

(2) the development of hardware and software systems to link State criminal history check systems into the National Crime Information Center.

SEC. 737. ACCESS TO STATE CRIMINAL RECORDS.

(a) MEANS OF COMMUNICATION.—Not later than 60 days after the date of the enactment of this chapter, the Attorney General shall—

(1) determine the type of computer hardware and software that shall be used to operate the Federal criminal records system and the means by which State criminal records system shall communicate with the Federal system;

(2) investigate the criminal records system of each State and determine for each State the extent of such accessible criminal records that each State shall be able to provide thereafter to the Federal system by the effective date of section 733; and

(3) notify each State of the determination made pursuant to paragraphs (1) and (2).

(b) FEDERAL SYSTEM.—Not later than the effective date of section 733, the Attorney General shall provide to each State access to the Federal Crime Information Center, including the records of other States through a network, for the purpose of permitting the State to conduct instant criminal background checks required by that section.

SEC. 738. IMPROVEMENTS IN STATE RECORDS.

(a) IN GENERAL.—Section 509(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3759(b)) is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) the improvement of State record systems and the sharing of all of the records described in paragraphs (1), (2), and (3) and the records required by this Act with the Attorney General for the purpose of implementing this Act.".

(b) ADDITIONAL FUNDING.—Section 509 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3759) is amended by adding at the end the following:

"(e) In addition to other funds authorized in this Act, there are authorized to be appropriated for fiscal year 1994, to be available until expended, $21,000,000 for the purpose of implementing subsection (b)(4).".

(c) WITHHOLDING FUNDS.—

(1) Effective on the effective date of section 733 of this Act, the Attorney General may refuse to make grants under title I of the Omnibus Crime Control and Safe Streets Act of 1968 to a State that does not establish and operate a State criminal background check system in compliance with this chapter. No State that receives funds pursuant to this chapter may charge more than $3 per transaction to check for the existence of a felony record of a prospective purchaser of a handgun.

(2) Effective 1 year after the date of the enactment of this chapter, the Attorney General may reduce by up to 10 percent the allocation to a State for a fiscal year under title I of the Omnibus Crime Control and Safe Streets Act of 1968 of a State that is not in compliance with this chapter, and the portion of the amounts that are appropriated for allocation to the States under such title for the fiscal year that is equal to the amount of the reduction shall thereby be rescinded.

SEC. 739. FUNDING OF STATE CRIMINAL RECORDS SYSTEMS AND DEDICATION OF FUNDS.

(a) INCREASE IN SPECIAL ASSESSMENTS.—Section 3013(a) of title 18, United States Code, is amended—

(1) in paragraph (1)(A)(iii), by striking "$25" and inserting "$30";

(2) in paragraph (2)(A), by striking "$50" and inserting "$75"; and

(3) in paragraph (2)(B), by striking "$200" and inserting "$250".

(b) SYSTEMS FOR SCREENING HANDGUN PURCHASERS AND FOR CRIMINAL JUSTICE PURPOSES.—Notwithstanding any other law, $5 of each assessment collected under section 3013(a)(1)(A)(iii) of title 18, United States Code, $25 of each assessment collected under subsection (a)(2)(A) of that section, and $50 of each assessment collected under subsection (a)(2)(B) of that section shall be paid to the States, in proportion to the respective populations thereof, for the purposes of carrying out this chapter.

SEC. 740. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this chapter.

(b) LIMITATION ON USE.—No appropriation, grant, or fund authorized under this chapter shall be used for any purpose other than the creation, maintenance, and operation of systems for access to criminal history records and screening systems for handgun purchasers as provided in this chapter.

Chapter 2—Other Firearms Provisions

SEC. 741. INCREASED PENALTY FOR INTERSTATE GUN TRAFFICKING.

Section 924 of title 18, United States Code, as amended by sections 430, 706(e), 715(b), 719, and 723(c) of this Act, is amended by adding at the end the following:

"(n) Whoever, with the intent to engage in conduct which constitutes a violation of section 922(a)(1)(A), travels from any State or foreign country into any other State and acquires, or attempts to acquire, a firearm in such other State in furtherance of such purpose shall be imprisoned for not more than 10 years.".

SEC. 742. PROHIBITION AGAINST TRANSACTIONS INVOLVING STOLEN FIREARMS WHICH HAVE MOVED IN INTERSTATE OR FOREIGN COMMERCE.

Section 922(j) of title 18, United States Code, is amended to read as follows:

"(j) It shall be unlawful for any person to receive, possess, conceal, store, barter, sell, or dispose of any stolen firearm or stolen ammunition, or pledge or accept as security for a loan any stolen firearm or stolen ammunition, which is moving as, which is a part of, which constitutes, or which has been shipped or transported in, interstate or foreign commerce, either before or after it was stolen, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.".

SEC. 743. ENHANCED PENALTIES FOR USE OF FIREARMS IN CONNECTION WITH COUNTERFEITING OR FORGERY.

Section 924(c)(1) of title 18, United States Code, is amended by inserting "or during and in relation to any felony punishable under chapter 25," after "United States,".

SEC. 744. INCREASED PENALTY FOR KNOWINGLY FALSE, MATERIAL STATEMENT IN FIREARM PURCHASE FROM LICENSED DEALER.

Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (1)(B), by striking "(a)(6),"; and

(2) in paragraph (2), by inserting "(a)(6)," after "subsection".

SEC. 745. REVOCATION OF SUPERVISED RELEASE FOR POSSESSION OF A FIREARM IN VIOLATION OF RELEASE CONDITION.

Section 3583 of title 18, United States Code, is amended by adding at the end the following:

"(h) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant is in actual possession of a firearm (as defined in section 921) at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to subsection (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on post release supervision.".

SEC. 746. RECEIPT OF FIREARMS BY NONRESIDENT.

Section 922(a) of title 18, United States Code, is amended—

(1) in paragraph (7), by striking "and" at the end;

(2) in paragraph (8), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(9) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, who does not reside in any State to receive any firearms unless such receipt is for lawful sporting purposes.".

SEC. 747. DISPOSITION OF FORFEITED FIREARMS.

Section 5872(b) of the Internal Revenue Code of 1986 is amended to read as follows:

"(b) DISPOSAL.—In the case of the forfeiture of any firearm, where there is no remission or mitigation of forfeiture thereof—

"(1) the Secretary may retain the firearm for official use of the Department of the Treasury or, if not so retained, offer to transfer the weapon without charge to any other executive department or independent establishment of the Government for official use by it and, if the offer is accepted, so transfer the firearm;

"(2) if the firearm is not disposed of pursuant to paragraph (1), is a firearm other than a machine gun or a firearm forfeited for a violation of this chapter, is a firearm that in the opinion of the Secretary is not so defective that its disposition pursuant to this paragraph would create an unreasonable risk of a malfunction likely to result in death or bodily injury, and is a firearm which (in the judgment of the Secretary, taking into consideration evidence of present value and evidence that like firearms are not available except as collector's items, or that the value of like firearms available in ordinary commercial channels is substantially less) derives a substantial part of its monetary value from the fact that it is novel, rare, or because of its association with some historical figure, period, or event, the Secretary may sell the firearm, after public notice, at public sale to a dealer licensed under chapter 44 of title 18, United States Code;

"(3) if the firearm has not been disposed of pursuant to paragraph (1) or (2), the Secretary shall transfer the firearm to the Administrator of General Services, who shall destroy or provide for the destruction of the firearm; and

"(4) no decision or action of the Secretary pursuant to this subsection shall be subject to judicial review.".

SEC. 748. CONSPIRACY TO VIOLATE FEDERAL FIREARMS OR EXPLOSIVES LAWS.

(a) FIREARMS.—Section 924 of title 18, United States Code, as amended by sections 430, 706(e), 715(b), 719, 723(c), and 741 of this Act, is amended by adding at the end the following:

"(o) Whoever conspires to commit any offense punishable under this chapter shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.".

(b) EXPLOSIVES.—Section 844 of such title is amended by adding at the end the following:

"(k) Whoever conspires to commit any offense punishable under this chapter shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.".

SEC. 749. THEFT OF FIREARMS OR EXPLOSIVES FROM LICENSEE.

(a) FIREARMS.—Section 924 of title 18, United States Code, as amended by sections 430, 706(e), 715(b), 719, 723(c), 741, and 748(a) of this Act, is amended by adding at the end the following:

"(p) Whoever steals any firearm from a licensed importer, licensed manufacturer, licensed dealer, or licensed collector shall be fined under this title, imprisoned not more than ten years, or both.".

(b) EXPLOSIVES.—Section 844 of such title, as amended by section 748(b) of this Act, is amended by adding at the end the following:

"(l) Whoever steals any explosive material from a licensed importer, licensed manufacturer, licensed dealer, or permittee shall be fined under this title, imprisoned not more than ten years, or both.".

SEC. 750. PENALTIES FOR THEFT OF FIREARMS OR EXPLOSIVES.

(a) FIREARMS.—Section 924 of title 18, United States Code, as amended by sections 430, 706(e), 715(b), 719, 723(c), 741, 748(a), and 749(a) of this Act, is amended by adding at the end the following:

"(q) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not less than two nor more than ten years, fined under this title, or both.".

(b) EXPLOSIVES.—Section 844 of such title, as amended by sections 748(b) and 749(b) of this Act, is amended by adding at the end the following:

"(m) Whoever steals any explosive materials which are moving as, or are a part of, or which have moved in, interstate or foreign commerce shall be imprisoned not less than two nor more than ten years, fined under this title, or both.".

SEC. 751. PROHIBITION AGAINST DISPOSING OF EXPLOSIVES TO PROHIBITED PERSONS.

Section 842(d) of title 18, United States Code, is amended by striking "licensee" and inserting "person".

SEC. 752. PROHIBITION AGAINST THEFT OF FIREARMS OR EXPLOSIVES.

(a) FIREARMS.—Section 924 of title 18, United States Code, as amended by sections 430, 706(e), 715(b), 719, 722(c), 741, 748(a), 749(a), and 750(a) of this Act, is amended by adding at the end the following:

"(r) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not less than two nor more than ten years, fined under this title, or both.".

(b) EXPLOSIVES.—Section 844 of such title, as amended by sections 748(b), 749(b), and 750(b) of this Act, is amended by adding at the end the following:

"(n) Whoever steals any explosive materials which are moving as, or are a part of, or which have moved in, interstate or foreign commerce shall be imprisoned not less than two nor more than ten years, fined under this title, or both.".

SEC. 753. INCREASED PENALTY FOR SECOND OFFENSE OF USING AN EXPLOSIVE TO COMMIT A FELONY.

Section 844(h) of title 18, United States Code, is amended by striking "ten" and inserting "twenty".

SEC. 754. POSSESSION OF EXPLOSIVES BY FELONS AND OTHERS.

Section 842(i) of title 18, United States Code, is amended by inserting "or possess" after "to receive".

SEC. 755. POSSESSION OF EXPLOSIVES DURING THE COMMISSION OF A FELONY.

Section 844(h) of title 18, United States Code, is amended—

(1) in paragraph (2), by striking "carries" and inserting "possesses"; and

(2) in the 3rd sentence, by striking "carried" and inserting "possessed".

SEC. 756. SUMMARY DESTRUCTION OF EXPLOSIVES SUBJECT TO FORFEITURE.

Section 844(c) of title 18, United States Code, is amended—

(1) by inserting "(1)" before "Any"; and

(2) by adding at the end the following:

"(2) Notwithstanding paragraph (1), in the case of the seizure of any explosive materials for any offense for which the materials would be subject to forfeiture where it is impracticable or unsafe to remove the materials to a place of storage, or where it is unsafe to store them, the seizing officer is authorized to destroy the explosive materials forthwith. Any destruction under this paragraph shall be in the presence of at least one credible witness. The seizing officer shall make a report of the seizure and take samples as the Secretary may by regulation prescribe.

"(3) Within sixty days after any destruction made pursuant to paragraph (2), the owner of, including any person having an interest in, the property so destroyed may make application to the Secretary for reimbursement of the value of the property. If the claimant establishes to the satisfaction of the Secretary that—

"(A) the property has not been used or involved in a violation of law; or

"(B) any unlawful involvement or use of the property was without the claimant's knowledge, consent, or willful blindness,

the Secretary shall make an allowance to the claimant not exceeding the value of the property destroyed.".

SEC. 757. ELIMINATION OF OUTMODED PAROLE LANGUAGE.

Section 924 of title 18, United States Code, is amended—

(1) in subsection (c)(1), by striking "No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed herein."; and

(2) in subsection (e)(1), by striking ", and such person shall not be eligible for parole with respect to the sentence imposed under this subsection".

Subtitle D—Miscellaneous

SEC. 761. INCREASED PENALTIES FOR TRAVEL ACT CRIMES INVOLVING VIOLENCE AND CONSPIRACY TO COMMIT CONTRACT KILLINGS.

(a) TRAVEL ACT PENALTIES.—Section 1952(a) of title 18, United States Code, is amended by striking "and thereafter performs or attempts to perform any of the acts specified in subparagraphs (1), (2), and (3), shall be fined not more than $10,000 or imprisoned for not more than five years, or both." and inserting "and thereafter performs or attempts to perform—

"(A) an act described in paragraph (1) or (3) shall be fined under this title, imprisoned not more than 5 years, or both; or

"(B) an act described in paragraph (2) shall be fined under this title, imprisoned for not more than 20 years, or both, and if death results shall be imprisoned for any term of years or for life.".

(b) MURDER CONSPIRACY PENALTIES.—Section 1958(a) of title 18, United States Code, is amended by inserting "or who conspires to do so" before "shall be fined" the first place it appears.

SEC. 762. CRIMINAL OFFENSE FOR FAILING TO OBEY AN ORDER TO LAND A PRIVATE AIRCRAFT.

(A) IN GENERAL.—Chapter 109 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 2237. Order to land

"(a)(1) A pilot or operator of an aircraft that has crossed the border of the United States, or an aircraft subject to the jurisdiction of the United States operating outside the United States, who intentionally fails to obey an order to land issued by an authorized Federal law enforcement officer who has observed conduct or is otherwise in possession of information establishing reasonable suspicion that the aircraft is being used unlawfully in violation of the laws of the United States relating to controlled substances as that term is defined in section 102(6) of the Controlled Substances Act, or section 1956 or 1957 of this title (relating to money launderings), shall be fined under this title, or imprisoned for not more than 2 years, or both.

"(2) The Secretary of the Treasury and the Secretary of Transportation, in consultation with the Attorney General, shall make rules governing the means by which a Federal Law enforcement officer may communicate an order to land to a pilot or operator of an aircraft.

"(3) This section does not limit the authority of a customs officer under section 581 of the Tariff Act of 1930 or another law the Customs Service enforces or administers, or the authority of a Federal law enforcement officer under a law of the United States to order an aircraft to land.

"(b) A foreign nation may consent or waive objection to the United States enforcing the laws of the United States by radio, telephone, or similar oral or electronic means. Consent or waiver may be proven by certification of the Secretary of State or the Secretary's designee.

"(c) For purposes of this section—

"(1) the term 'aircraft subject to the jurisdiction of the United States' includes—

"(A) an aircraft located over the United States or the customs waters of the United States;

"(B) an aircraft located in the airspace of a foreign nation, when that nation consents to United States enforcement of United States law; and

"(C) over the high seas, an aircraft without nationality, an aircraft of the United States registry, or an aircraft registered in a foreign nation that has consented or waived objection to the United States enforcement of United States law; and

"(2) the term 'Federal law enforcement officer' has the same meaning that term has in section 115 of this title.

"(d) An aircraft that is used in violation of this section is liable in rem for a fine imposed under this section;

"(e) An aircraft that is used in violation of this section may be seized and forfeited. The laws relating to seizure and forfeiture for violation of the customs laws, including available defenses such as innocent owner provisions, apply to aircraft seized or forfeited under this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 109 of title 18, United States Code, is amended by adding at the end the following new item:

"2237. Order to land."

SEC. 763. AMENDMENT TO THE MANSFIELD AMENDMENT TO PERMIT MARITIME LAW ENFORCEMENT OPERATIONS IN ARCHIPELAGIC WATERS.

Section 481(c)(4) of Public Law 87-195 (22 U.S.C. 2291(c)) is amended by inserting ", and archipelagic waters" after "territorial sea".

SEC. 764. ENHANCEMENT OF PENALTIES FOR DRUG TRAFFICKING IN PRISONS.

Section 1791 of title 18, United States Code, is amended—

(1) in subsection (c), by inserting before "Any" the following new sentence: "Any punishment imposed under subsection (b) for a violation of this section involving a controlled substance shall be consecutive to any other sentence imposed by any court for an offense involving such a controlled substance.".

(2) in subsection (d)(1)(A) by inserting after "a firearm or destructive device" the following, "or a controlled substance in schedule I or II, other than marijuana or a controlled substance referred to in subparagraph (C) of this subsection";

SEC. 765. REMOVAL OF TV BROADCAST LICENSE CONTINGENT ON BROADCAST OF PUBLIC SERVICE ANNOUNCEMENTS REGARDING DRUG ABUSE.

Section 311 of the Communications Act of 1934 is amended by adding at the end the following new subsection:

"(e)(1) As part of its obligations to ensure that broadcast licenses are issued consistent with the public interest, convenience, and necessity, the Commission shall, in its review of any application for renewal of a commercial or noncommercial television broadcast license, consider the extent to which the licensee has participated in efforts to educate and inform the public as to the dangers of drug abuse and appropriate methods for obtaining treatment. The Commission shall not find that a renewal of such a license is consistent with the public interest, convenience, and necessity unless the applicant demonstrates that the station has broadcast public service announcements concerning drug and substance abuse and treatment during each hour of its broadcasting day, and that the duration of such announcements is equal to not less than 5 percent of the duration of the commercial advertisements broadcast by that station during that hour.

"(2) The Commission shall, in each annual report submitted under section 4(k) after the date of enactment of this subsection, include an analysis of broadcasters' progress in meeting the requirements of this subsection. Such report shall include statistics concerning the proportion of broadcast time devoted to public service announcements generally, and to meeting the requirements of this subsection.".

TITLE VIII—ELIMINATION OF DELAYS IN CARRYING OUT SENTENCES.

Subtitle A—Post Conviction Petitions: General Habeas Corpus Reform.

SEC. 801. PERIOD OF LIMITATION FOR FILING WRIT OF HABEAS CORPUS FOLLOWING FINAL JUDGMENT OF A STATE COURT.

Section 2244 of title 28, United States Code, is amended by adding at the end the following:

"(d) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of the following times:

"(1) The time at which State remedies are exhausted.

"(2) The time at which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, where the applicant was prevented from filing by such State action.

"(3) The time at which the Federal right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable.

"(4) The time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.".

SEC. 802. AUTHORITY OF APPELLATE JUDGES TO ISSUE CERTIFICATES OF PROBABLE CAUSE FOR APPEAL IN HABEAS CORPUS AND FEDERAL COLLATERAL RELIEF PROCEEDINGS.

Section 2253 of title 28, United States Code, is amended to read as follows:

"§2253. Appeal

"(a) In a habeas corpus proceeding or a proceeding under section 2255 of this title before a circuit or district judge, the final order shall be subject to review, on appeal, by the court of appeals for the circuit where the proceeding is had.

"(b) There shall be no right of appeal from such an order in a proceeding to test the validity of a warrant to remove, to another district or place for commitment or trial, a person charged with a criminal offense against the United States, or to test the validity of his detention pending removal proceedings.

"(c) An appeal may not be taken to the court of appeals from the final order in a habeas corpus proceeding where the detention complained of arises out of process issued by a State court, or from the final order in a proceeding under section 2255 of this title, unless a circuit justice or judge issues a certificate of probable cause.".

SEC. 803. CONFORMING AMENDMENT TO THE RULES OF APPELLATE PROCEDURE.

Federal Rule of Appellate Procedure 22 is amended to read as follows:

"RULE 22

"HABEAS CORPUS AND SECTION 2255 PROCEEDINGS

"(a) APPLICATION FOR AN ORIGINAL WRIT OF HABEAS CORPUS.—An application for a writ of habeas corpus shall be made to the appropriate district court. If application is made to a circuit judge, the application will ordinarily be transferred to the appropriate district court. If an application is made to or transferred to the district court and denied, renewal of the application before a circuit judge is not favored; the proper remedy is by appeal to the court of appeals from the order of the district court denying the writ.

"(b) NECESSITY OF CERTIFICATE OF PROBABLE CAUSE FOR APPEAL.—In a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court, and in a motion proceeding pursuant to section 2255 of title 28, United States Code, an appeal by the applicant or movant may not proceed unless a circuit judge issues a certificate of probable cause. If a request for a certificate of probable cause is addressed to the court of appeals, it shall be deemed addressed to the judges thereof and shall be considered by a circuit judge or judges as the court deems appropriate. If no express request for a certificate is filed, the notice of appeal shall be deemed to constitute a request addressed to the judges of the court of appeals. If an appeal is taken by a State or the Government or its representative, a certificate of probable cause is not required.".

SEC. 804. DISCRETION TO DENY HABEAS CORPUS APPLICATION DESPITE FAILURE TO EXHAUST STATE REMEDIES.

Section 2254(b) of title 28, United State Code, is amended to read as follows:

"(b) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that the applicant has exhausted the remedies available in the courts of the State, or that there is either an absence of available State corrective process or the existence of circumstances rendering such process ineffective to protect the rights of the applicant. An application may be denied on the merits notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the State.".

SEC. 805. PERIOD OF LIMITATION FOR FEDERAL PRISONERS FILING FOR COLLATERAL REMEDY.

Section 2255 of title 28, United States Code, is amended by striking the second paragraph and the penultimate paragraph thereof, and by adding at the end the following new paragraphs:

"A two-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of the following times:

"(1) The time at which the judgment of conviction becomes final.

"(2) The time at which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, where the movant was prevented from making a motion by such governmental action.

"(3) The time at which the right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable.

"(4) The time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.".

Subtitle B—Special Procedures for Collateral Proceedings in Capital Cases

SEC. 811. DEATH PENALTY LITIGATION PROCEDURES.

Title 28, United States Code, is amended by inserting the following new chapter immediately following chapter 153:

"CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

"Sec.
"2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment.
"2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions.
"2258. Filing of habeas corpus petition; time requirements; tolling rules.
"2259. Evidentiary hearings; scope of Federal review; district court adjudication.
"2260. Certificate of probable cause inapplicable.
"2261. Application to State unitary review procedures.
"2262. Limitation periods for determining petitions.
"2263. Rule of construction.

"§ 2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment

"(a) This chapter shall apply to cases arising under section 2254 brought by prisoners in State custody who are subject to a capital sentence. It shall apply only if the provisions of subsections (b) and (c) are satisfied.

"(b) This chapter is applicable if a State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation and payment of reasonable litigation expenses of competent counsel in State postconviction proceedings brought by indigent prisoners whose capital convictions and sentences have been upheld on direct appeal to the court of last resort in the State or have otherwise become final for State law purposes. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(c) Any mechanism for the appointment, compensation and reimbursement of counsel as provided in subsection (b) must offer counsel to all State prisoners under capital sentence and must provide for the entry of an order by a court of record: (1) appointing one or more counsel to represent the prisoner upon a finding that the prisoner is indigent and accepted the offer or is unable competently to decide whether to accept or reject the offer; (2) finding, after a hearing if necessary, that the prisoner rejected the offer of counsel and made the decision with an understanding of its legal consequences; or (3) denying the appointment of counsel upon a finding that the prisoner is not indigent.

"(d) No counsel appointed pursuant to subsections (b) and (c) to represent a State prisoner under capital sentence shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(e) The ineffectiveness or incompetence of counsel during State or Federal collateral postconviction proceedings in a capital case shall not be a ground for relief in a proceeding arising under section 2254 of this chapter. This limitation shall not preclude the appointment of different counsel, on the court's own motion or at the request of the prisoner, at any phase of State or Federal postconviction proceedings on the basis of the ineffectiveness or incompetence of counsel in such proceedings.

"§ 2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions

"(a) Upon the entry in the appropriate State court of record of an order under section 2256(c), a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed under section 2254. The application must recite that the State has invoked the postconviction review procedures of this chapter and that the scheduled execution is subject to stay.

"(b) A stay of execution granted pursuant to subsection (a) shall expire if—

"(1) a State prisoner fails to file a habeas corpus petition under section 2254 within the time required in section 2258, or fails to make a timely application for court of appeals review following the denial of such a petition by a district court;

"(2) upon completion of district court and court of appeals review under section 2254 the petition for relief is denied and (A) the time for filing a petition for certiorari has expired and no petition has been filed; (B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or (C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a court of competent jurisdiction, in the presence of counsel and after having been advised of the consequences of his decision, a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254.

"(c) If one of the conditions in subsection (b) has occurred, no Federal court thereafter shall have the authority to enter a stay of execution or grant relief in a capital case unless—

"(1) the basis for the stay and request for relief is a claim not previously presented in the State or Federal courts;

"(2) the failure to raise the claim is (A) the result of State action in violation of the Constitution or laws of the United States; (B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or (C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State or Federal postconviction review; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

"§ 2258. Filing of habeas corpus petition; time requirements; tolling rules

"Any petition for habeas corpus relief under section 2254 must be filed in the appropriate district court within one hundred and eighty days from the filing in the appropriate State court of record of an order under section 2256(c). The time requirements established by this section shall be tolled—

"(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a State prisoner files the petition to secure review by the Supreme Court of the affirmance of a capital sentence on direct review by the court of last resort of the State or other final State court decision on direct review;

"(2) during any period in which a State prisoner under capital sentence has a properly filed request for postconviction review pending before a State court of competent jurisdiction; if all State filing rules are met in a timely manner, this period shall run continuously from the date that the State prisoner initially files for postconviction review until final disposition of the case by the highest court of the State, but the time requirements established by this section are not tolled during the pendency of a petition for certiorari before the Supreme Court except as provided in paragraph (1); and

"(3) during an additional period not to exceed sixty days, if (A) a motion for an extension of time is filed in the Federal district court that would have proper jurisdiction over the case upon the filing of a habeas corpus petition under section 2254; and (B) a showing of good cause is made for the failure to file the habeas corpus petition within the time period established by this section.

"§ 2259. Evidentiary hearings; scope of Federal review; district court adjudication

"(a) Whenever a State prisoner under a capital sentence files a petition for habeas corpus relief to which this chapter applies, the district court shall—

"(1) determine the sufficiency of the record for habeas corpus review based on the claims actually presented and litigated in the State courts except when the prisoner can show that the failure to raise or develop a claim in the State courts is (A) the result of State action in violation of the Constitution or laws of the United States; (B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or (C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State postconviction review; and

"(2) conduct any requested evidentiary hearing necessary to complete the record for habeas corpus review.

"(b) Upon the development of a complete evidentiary record, the district court shall rule on the claims that are properly before it.

"§ 2260. Certificate of probable cause inapplicable

"The requirement of a certificate of probable cause in order to appeal from the district court to the court of appeals does not apply to habeas corpus cases subject to the provisions of this chapter except when a second or successive petition is filed.

"§ 2261. Application to State unitary review procedure

"(a) For purposes of this section, a 'unitary review' procedure means a State procedure that authorizes a person under sentence of death to raise, in the course of direct review of the judgment, such claims as could be raised on collateral attack. The provisions of this chapter shall apply, as provided in this section, in relation to a State unitary review procedure if the State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation and payment of reasonable litigation expenses of competent counsel in the unitary review proceedings, including expenses relating to the litigation of collateral claims in the proceedings. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(b) A unitary review procedure, to qualify under this section, must include an offer of counsel following trial for the purpose of representation on unitary review, and entry of an order, as provided in section 2256(c), concerning appointment of counsel or waiver or denial of appointment of counsel for that purpose. No counsel appointed to represent the prisoner in the unitary review proceedings shall have previously represented the prisoner at trial in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(c) Sections 2257, 2258, 2259, 2260, and 2262 shall apply in relation to cases involving a sentence of death from any State having a unitary review procedure that qualifies under this section. References to State 'post-conviction review' and 'direct review' in those sections shall be understood as referring to unitary review under the State procedure. The references in sections 2257(a) and 2258 to 'an order under section 2256(c)' shall be understood as referring to the post-trial order under subsection (b) concerning representation in the unitary review proceedings, but if a transcript of the trial proceedings is unavailable at the time of the filing of such an order in the appropriate State court, then the start of the one hundred and eighty day limitation period under section 2258 shall be deferred until a transcript is made available to the prisoner or his counsel.

"§ 2262. Limitation periods for determining petitions

"(a) The adjudication of any petition under section 2254 of title 28, United States Code, that is subject to this chapter, and the adjudication of any motion under section 2255 of title 28, United States Code, by a person under sentence of death, shall be given priority by the district court and by the court of appeals over all noncapital matters. The adjudication of such a petition or motion shall be subject to the following time limitations:

"(1) A Federal district court shall determine such a petition or motion within 180 days of filing.

"(2)(A) The court of appeals shall hear and determine any appeal relating to such a petition or motion within 180 days after the notice of appeal is filed.

"(B) The court of appeals shall decide any application for rehearing en banc within 30 days of the filing of such application unless a responsive pleading is required in which case the court of appeals shall decide the application within 30 days of the filing of the responsive pleading. If en banc consideration is granted, the en banc court shall determine the appeal within 180 days of the decision to grant such consideration.

"(b) The time limitations under subsection (a) shall apply to an initial petition or motion, and to any second or successive petition or motion. The same limitations shall also apply to the re-determination of a petition or motion or related appeal following a remand by the court of appeals or the Supreme Court for further proceedings, and in such a case the limitation period shall run from the date of the remand.

"(c) The time limitations under this section shall not be construed to entitle a petitioner or movant to a stay of execution, to which the petitioner or movant would otherwise not be entitled, for the purpose of litigating any petition, motion, or appeal.

"(d) The failure of a court to meet or comply with the time limitations under this section shall not be a ground for granting relief from a judgment of conviction or sentence. The State or Government may enforce the time limitations under this section by applying to the court of appeals or the Supreme Court for a writ of mandamus.

"(e) The Administrative Office of United States Courts shall report annually to Congress on the compliance by the courts with the time limits established in this section.

"§ 2263. Rule of construction

"This chapter shall be construed to promote the expeditious conduct and conclusion of State and Federal court review in capital cases.".

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of part VI of title 28, United States Code, is amended by inserting after the item relating to chapter 153 the following new item:

"154. Special habeas corpus procedures in capital cases .... 2256".

Subtitle C—Funding for Litigation of Federal Habeas Corpus Petitions in Capital Cases

SEC. 821. FUNDING FOR DEATH PENALTY PROSECUTIONS.

Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end the following new section:

"SEC. 515. Notwithstanding any other provision of this subpart, the Director shall provide grants to the States, from the funding allocated pursuant to section 511, for the purpose of supporting litigation pertaining to Federal habeas corpus petitions in capital cases. The total funding available for such grants within any fiscal year shall be equal to the funding provided to capital resource centers, pursuant to Federal appropriation, in the same fiscal year.".

TITLE IX—PUBLIC CORRUPTION

SEC. 901. OFFENSES.

(a) OFFENSES.—Chapter 11 of title 18, United States Code, is amended by adding at the end the following:

"§ 226. Public corruption

"(a) STATE AND LOCAL GOVERNMENT.—

"(1) HONEST SERVICES.—Whoever, in a circumstance described in paragraph (3), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State of the honest services of an official of that State, shall be fined under this title, or imprisoned for not more than 10 years, or both.

"(2) FAIR AND IMPARTIAL ELECTIONS.—Whoever, in a circumstance described in paragraph (3), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State of a fair and impartially conducted election process in any primary, run-off, special, or general election—

"(A) through the procurement, casting, or tabulation of ballots that are materially false, fictitious, or fraudulent, or that are invalid, under the laws of the State in which the election is held;

"(B) through paying or offering to pay any person for voting;

"(C) through the procurement or submission of voter registrations that contain false material information, or omit material information; or

"(D) through the filing of any report required to be filed under State law regarding an election campaign that contains false material information or omits material information;

shall be fined under this title or imprisoned for not more than 10 years, or both.

"(3) CIRCUMSTANCES IN WHICH OFFENSE OCCURS.—The circumstances referred to in paragraphs (1) and (2) are that—

"(A) for the purpose of executing or concealing a scheme or artifice described in paragraph (1) or (2) or attempting to do so, a person—

"(i) places in any post office or authorized depository for mail matter, any matter or thing to be sent or delivered by the Postal Service, or takes or receives from any such post office or depository, any such matter or thing, or knowingly causes to be delivered by mail according to the direction on the mail, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing;

"(ii) transports or causes to be transported any person or thing, or induces any person to travel in or to be transported in, interstate or foreign commerce; or

"(iii) uses or causes the use of any facility in interstate or foreign commerce;

"(B) the scheme or artifice affects or constitutes an attempt to affect in any manner or degree, or would if executed or concealed so affect, interstate or foreign commerce; or

"(C) in the case of an offense described in paragraph (2), an objective of the scheme or artifice is to secure the election of an official who, if elected, would have some authority over the administration of funds derived from an Act of Congress totaling $10,000 or more during the 12-month period immediately preceding or following the election or date of the offense.

"(b) FEDERAL GOVERNMENT.—Whoever deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of the United States of the honest services of an official of the United States shall be fined under this title or imprisoned for not more than 10 years, or both.

"(c) OFFENSE BY AN OFFICIAL AGAINST AN EMPLOYEE OR OFFICIAL.—

"(1) CRIMINAL OFFENSE.—Whoever, being an official of a State or the United States, directly or indirectly, discharges, demotes, suspends, threatens, harasses, or, in any manner, discriminates against another official of a State or the United States, or endeavors to do so, in order to carry out or to conceal a scheme or artifice described in subsection (a) or (b), shall be fined under this title or imprisoned for not more than 5 years, or both.

"(2) CIVIL ACTION.—(A) Any official who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against because of lawful acts done by the official as a result of a violation of subsection (a) or (b) or because of actions by the official on behalf of himself or herself or others in furtherance of a prosecution under subsection (a) or (b) (including investigation for, initiation of, testimony for, or assistance in such a prosecution) may, in a civil action, obtain all relief necessary to make such individual whole, including—

"(i) reinstatement with the same seniority status the official would have had but for the violation of paragraph (1);

"(ii) 3 times the amount of back pay;

"(iii) interest on the back pay; and

"(iv) compensation for any special damages sustained as a result of the violation of paragraph (1), including reasonable litigation costs and reasonable attorney's fees.

"(B) An individual is not eligible for relief under subparagraph (A) if that individual participated in the violation of subsection (a) or (b) with respect to which such relief is sought.

"(C) A civil action or proceeding authorized by this paragraph shall be stayed by a court upon the certification of an attorney for the Government that prosecution of the action or proceeding may adversely affect the interests of the Government in a pending criminal investigation or proceeding. The attorney for the Government shall promptly notify the court when the stay may be lifted without such adverse effects.

"(d) DEFINITIONS.—As used in this section—

"(1) the term 'official' means—

"(A) in the case of an official of a State—

"(i) any person employed by, exercising any authority derived from, or holding any position in the government of a State, including any department, independent establishment, commission, administration, authority, board, or bureau, or a corporation or other legal entity established and subject to control by a State for the execution of a program of such State;

"(ii) a juror;

"(iii) any person acting or pretending to act under color of official authority; and

"(iv) any person who has been nominated, appointed, or selected to be an official described in clause (i), (ii), or (iii) or who has been officially informed that he or she will be so nominated, appointed, or selected; and

"(B) in the case of an official of the United States—

"(i) an officer or employee or person acting for or on behalf of the United States, or any department, agency, or branch of the United States Government in any official function, under or by authority of any such department, agency, or branch of Government;

"(ii) a juror;

"(iii) any person acting or pretending to act under color of official authority; and

"(iv) any person who has been nominated, appointed, or selected to be an official described in clause (i), (ii), or (iii), or has been officially informed that he or she will be so nominated, appointed, or selected;

"(2) the term 'person acting or pretending to act under color of official authority' means any person who represents that he or she controls, is an agent of, or otherwise acts on behalf of an official;

"(3) the term 'State' means a State of the United States, the District of Columbia, any commonwealth, territory, or possession of the United States, and any political subdivision of such State, District, commonwealth, territory, or possession; and

"(4) the term 'uses any facility in interstate or foreign commerce' includes the intrastate use of any facility that may also be used in interstate or foreign commerce.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—(1) The table of sections at the beginning of chapter 11 of title 18, United States Code, is amended by adding at the end the following item:

"226. Public corruption.".

(2) Section 1961(1) of title 18, United States Code, is amended by inserting "section 226 (relating to public corruption)," after "section 224 (relating to sports bribery),".

(3) Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 226 (relating to public corruption)," after "section 224 (bribery in sporting contests),".

SEC. 902. INTERSTATE COMMERCE.

(a) IN GENERAL.—Section 1343 of title 18, United States Code, is amended—

(1) by striking "transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds" and inserting "uses or causes to be used any facility in interstate or foreign commerce (as defined in section 226(d)(5) of this title)"; and

(2) by inserting "or attempting to do so" after "for the purpose of executing such scheme or artifice".

(b) CONFORMING AMENDMENTS.—(1) The section caption for section 1343 of title 18, United States Code, is amended to read as follows:

"§ 1343. Fraud by use of facility in interstate commerce".

(2) The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by striking the item relating to section 1343 and inserting the following:

"1343. Fraud by use of facility in interstate commerce.".

SEC. 903. NARCOTICS-RELATED PUBLIC CORRUPTION.

(a) IN GENERAL.—Chapter 11 of title 18, United States Code, is amended by inserting after section 219 the following:

"§ 220. Narcotics and public corruption

"(a) OFFENSE BY PUBLIC OFFICIAL.—Any public official who, in a circumstance described in subsection (c), directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person in return for—

"(1) being influenced in the performance or nonperformance of any official act; or

"(2) being influenced to commit or to aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State;

shall be guilty of a class B felony.

"(b) OFFENSE BY PERSON OTHER THAN A PUBLIC OFFICIAL.—Any person who, in a circumstance described in subsection (c), directly or indirectly, corruptly gives, offers, or promises anything of value to any public official, or offers or promises any public official to give anything of value to any other person, with the intent—

"(1) to influence any official act;

"(2) to influence the public official to commit or aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State; or

"(3) to influence the public official to do or to omit to do any act in violation of such official's lawful duty;

shall be guilty of a class B felony.

"(c) CIRCUMSTANCES IN WHICH OFFENSE OCCURS.—The circumstances referred to in subsections (a) and (b) are that the offense involves, is part of, or is intended to further or to conceal the illegal possession, importation, manufacture, transportation, or distribution of any controlled substance or controlled substance analogue.

"(d) DEFINITIONS.—As used in this section—

"(1) the terms 'controlled substance' and 'controlled substance analogue' have the meanings given those terms in section 102 of the Controlled Substances Act;

"(2) the term 'official act' means any decision, action, or conduct regarding any question, matter, proceeding, cause, suit, investigation, or prosecution which may at any time be pending, or which may be brought before any public official, in such official's official capacity, or in such official's place of trust or profit;

"(3) the term 'public official' means—

"(A) an officer or employee or person acting for or on behalf of the United States, or any department, agency, or branch of the United States Government in any official function, under or by authority of any such department, agency, or branch of Government;

"(B) a juror;

"(C) an officer or employee or person acting for or on behalf of the government of any State, or any political subdivision of a State, in any official function, under or by the authority of any such State or political subdivision; and

"(D) any person who has been nominated or appointed to a position described in subparagraph (A), (B), or (C), or has been officially informed that he or she will be so nominated or appointed; and

"(4) the term 'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(b) TECHNICAL AMENDMENTS.—(1) Section 1961(1) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "Section 201 (relating to bribery),".

(2) Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "section 201 (bribery of public officials and witnesses),".

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 11 of title 18, United States Code, is amended by inserting after the item for section 219 the following:

"220. Narcotics and public corruption.".

TITLE X—FUNDING

SEC. 1001. REDUCTION IN OVERHEAD COSTS INCURRED IN FEDERALLY SPONSORED RESEARCH.

(a) CBO SCORING.—The Congressional Budget Office estimates that the reduction in overhead payments for federally funded university research required by this section will produce savings of $1,540,000,00 over 5 years ($150,000,000 for fiscal year 1994, $310,000,000 for fiscal year 1995, $350,000,000 for fiscal year 1996, $360,000,000 for fiscal year 1997, and $370,000,000 for fiscal year 1998).

(b) LIMITATION.—Notwithstanding any other law, on and after the date of the enactment of this Act, each head of a Federal agency making a grant to or entering into a contract with, an institution of higher education for research and development, shall reduce the overhead payment rate under the grant or contract to 90 percent of the current level and return the amount saved to the general fund of the Treasury.

(c) DEFINITIONS.—In this section—

(1) the term "institution of higher education" has the meaning stated in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)); and

(2) the term "Federal agency" means a department, agency, or instrumentality of the Federal Government (including an executive agency (as defined in section 105 of title 5, United States Code)).

SEC. 1002. OVERHEAD EXPENSE REDUCTION.

(a) CBO SCORING.—The Congressional Budget Office estimates that the reduction in administrative costs required by this section will produce savings of $6,000,000,000 over 5 years ($1,200,000,000 in each of fiscal years 1994, 1995, 1996, 1997, and 1998).

(b) REDUCTION.—The overhead expenses identified and reduced by the President in Executive Order 12837 are hereby reduced by an additional 5 percent. The reduction required by this section shall be taken from the total of such expenses before the reduction by the President.

SECTION 1101. CERTAINTY OF PUNISHMENT FOR YOUNG OFFENDERS.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), is amended—

(1) by redesignating part Q as part R;

(2) by redesignating section 1701 as section 1801; and

(3) by inserting after part P the following:

"PART Q—ALTERNATIVE PUNISHMENTS FOR YOUNG OFFENDERS

"SEC. 1701. GRANT AUTHORIZATION.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance (referred to in this part as the 'Director') may make grants under this part to States, for the use by States and units of local government in the States, for the purpose of developing alternative methods of punishment for young offenders to traditional forms of incarceration and probation.

"(b) ALTERNATIVE METHODS.—The alternative methods of punishment referred to in subsection (a) should ensure certainty of punishment for young offenders and promote reduced recidivism, crime prevention, and assistance to victims, particularly for young offenders who can be punished more effectively in an environment other than a traditional correctional facility, including—

"(1) alternative sanctions that create accountability and certainty of punishment for young offenders;

"(2) boot camp prison programs;

"(3) technical training and support for the implementation and maintenance of State and local restitution programs for young offenders;

"(4) innovative projects;

"(5) correctional options, such as community-based incarceration, weekend incarceration, and electronic monitoring of offenders;

"(6) community service programs that provide work service placement for young offenders at non-profit, private organizations and community organizations;

"(7) demonstration restitution projects that are evaluated for effectiveness; and

"(8) innovative methods that address the problems of young offenders convicted of serious substance abuse (including alcohol abuse, and gang-related offenses), including technical assistance and training to counsel and treat such offenders.

"SEC. 1702. STATE APPLICATIONS.

"(a) IN GENERAL.—(1) To request a grant under this part, the chief executive of a State shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(2) Such application shall include assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(b) STATE OFFICE.—The office designated under section 507 of this title—

"(1) shall prepare the application as required under subsection (a); and

"(2) shall administer grant funds received under this part, including review of spending, processing, progress, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

"SEC. 1703. REVIEW OF STATE APPLICATIONS.

"(a) IN GENERAL.—The Director, in consultation with the Director of the National Institute of Corrections, shall make a grant under section 1701(a) to carry out the projects described in the application submitted by such applicant under section 1702 upon determining that—

"(1) the application is consistent with the requirements of this part; and

"(2) before the approval of the application, the Director has made an affirmative finding in writing that the proposed project has been reviewed in accordance with this part.

"(b) APPROVAL.—Each application submitted under section 1702 shall be considered approved, in whole or in part, by the Director not later than 45 days after first received unless the Director informs the applicant of specific reasons for disapproval.

"(c) RESTRICTION.—Grant funds received under this part shall not be used for land acquisition or construction projects, other than alternative facilities described in section 1701(b).

"(d) DISAPPROVAL NOTICE AND RECONSIDERATION.—The Director shall not disapprove any application without first affording the applicant reasonable notice and an opportunity for reconsideration.

"SEC. 1704. LOCAL APPLICATIONS.

"(a) IN GENERAL.—(1) To request funds under this part from a State, the chief executive of a unit of local government shall submit an application to the office designated under section 1701(b).

"(2) Such application shall be considered approved, in whole or in part, by the State not later than 45 days after such application is first received unless the State informs the applicant in writing of specific reasons for disapproval.

"(3) The State shall not disapprove any application submitted to the State without first affording the applicant reasonable notice and an opportunity for reconsideration.

"(4) If such application is approved, the unit of local government is eligible to receive such funds.

"(b) DISTRIBUTION TO UNITS OF LOCAL GOVERNMENT.—A State that receives funds under section 1701 in a fiscal year shall make such funds available to units of local government with an application that has been submitted and approved by the State within 45 days after the Director has approved the application submitted by the State and has made funds available to the State. The Director shall have the authority to waive the 45-day requirement in this section upon a finding that the State is unable to satisfy such requirement under State statutes.

"SEC. 1705. ALLOCATION AND DISTRIBUTION OF FUNDS.

"(a) STATE DISTRIBUTION.—Of the total amount appropriated under this part in any fiscal year—

"(1) 0.4 percent shall be allocated to each of the participating States; and

"(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each of the participating States an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the number of young offenders of such State bears to the number of young offenders in all the participating States.

"(b) LOCAL DISTRIBUTION.—(1) A State that receives funds under this part in a fiscal year shall distribute to units of local government in such State for the purposes specified under section 1701 that portion of such funds which bears the same ratio to the aggregate amount of such funds as the amount of funds expended by all units of local government for correctional programs in the preceding fiscal year bears to the aggregate amount of funds expended by the State and all units of local government in such State for correctional programs in such preceding fiscal year.

"(2) Any funds not distributed to units of local government under paragraph (1) shall be available for expenditure by such State for purposes specified under section 1701.

"(3) If the Director determines, on the basis of information available during any fiscal year, that a portion of the funds allocated to a State for such fiscal year will not be used by such State or that a State is not eligible to receive funds under section 1701, the Director shall award such funds to units of local government in such State giving priority to the units of local government that the Director considers to have the greatest need.

"(c) GENERAL REQUIREMENT.—Notwithstanding the provisions of subsections (a) and (b), not less than two-thirds of funds received by a State under this part shall be distributed to units of local government unless the State applies for and receives a waiver from the Director of the Bureau of Justice Assistance.

"(d) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 1702(a) for the fiscal year for which the projects receive assistance under this part.

"SEC. 1706. EVALUATION.

"(a) IN GENERAL.—(1) Each State and local unit of government that receives a grant under this part shall submit to the Director an evaluation not later than March 1 of each year in accordance with guidelines issued by the Director and in consultation with the National Institute of Justice.

"(2) The Director may waive the requirement specified in paragraph (1) if the Director determines that such evaluation is not warranted in the case of the State or unit of local government involved.

"(b) DISTRIBUTION.—The Director shall make available to the public on a timely basis evaluations received under subsection (a).

"(c) ADMINISTRATIVE COSTS.—A State and local unit of government may use not more than 5 percent of funds it receives under this part to develop an evaluation program under this section.".

(b) CONFORMING AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), is amended by striking the matter relating to part Q and inserting the following:

"PART Q—ALTERNATIVE PUNISHMENTS FOR YOUNG OFFENDERS

"Sec. 1701. Grant authorization.
"Sec. 1702. State applications.
"Sec. 1703. Review of State applications.
"Sec. 1704. Local applications.
"Sec. 1705. Allocation and distribution of funds.
"Sec. 1706. Evaluation.

"PART R—TRANSITION—EFFECTIVE DATE—REPEALER

"Sec. 1801. Continuation of rules, authorities, and proceedings.".

(c) DEFINITION.—Section 901(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)), is amended by adding after paragraph (23) the following:

"(24) The term 'young offender' means an individual, convicted of a crime, less than 18 years of age—

"(A) who has not been convicted of—

"(i) a crime of sexual assault; or

"(ii) a crime involving the use of a firearm in the commission of the crime; and

"(B) who has no prior convictions for a crime of violence (as defined by section 16 of title 18, United States Code) punishable by a period of 1 or more years of imprisonment.".

SEC. 1102. AUTHORIZATION OF APPROPRIATION.

Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793) is amended by adding after paragraph (10) the following:

"(11) There are authorized to be appropriated $200,000,000 for each of the fiscal years 1994, 1995, and 1996 to carry out the projects under part Q.".

Mr. McCOLLUM (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

POINT OF ORDER

Mr. BROOKS. Mr. Speaker, I make a point of order that the motion is nongermane.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. BROOKS. Mr. Speaker, it is the entire Republican crime bill tacked onto this bill, which is not pertinent to all of those programs and is well beyond the scope of the bill that is before us.

The SPEAKER pro tempore. Does the gentleman from Florida [Mr. McCOLLUM] wish to be heard?

Mr. McCOLLUM. I do wish to be heard, Mr. Speaker, on the point of order. This bill on the motion to recommit involves a number of provisions that are very vital to this House and that we have not had a chance to vote on today, including measures that are very definitely related to the high rate of juvenile crime we have in this country. In fact, the juvenile crime rate, which is what we are talking about—the juvenile crime rate in this country is where the big problem is today, sadly. It is there we have the violent crimes that are causing a great deal of concern among our American citizenry.

We have such an enormous growth in violent crime in this country among juveniles that it is a sad story that the Wall Street Journal reports that the district attorneys around this Nation say the single most important issue facing them is revising the laws of this Nation to solve that problem.

So I propose today in this motion to recommit one simple thing, something that has not been out here on the floor before that should have been long ago, something that addresses the violent crime problem among the youth of this country and the violent crime problem generally in the only way we can get at it. It addresses the problem of the revolving door.

The SPEAKER pro tempore. The gentleman will please focus his remarks on the question before the House.

Mr. McCOLLUM. If I might, Mr. Speaker, I am on that point of order question.

This proposed motion to recommit is in order, it is the comprehensive Republican crime proposal. It is in order, I would submit to the Speaker, because it is indeed the root cause of the problems being addressed in this bill. It is the only way to get at it. We have all kinds of ways of getting at that. And the scope of the bill before us today is indeed broad enough to encompass this entire problem.

The crux of this matter is that we have not faced the issue squarely. We need to face the fact we do not have enough prisons to house these folks in. We have a revolving door that basically the motion to recommit would establish that. We need to mend the law of the endless appeals of habeas corpus appeals by death row inmates, restore the death penalty at the Federal level. We have not had a vote on any of that in this session of Congress out on the floor, and this is one opportunity to have that vote today on this motion to recommit. It should be made in order, it should be put out. I tried to get it before the Rules Committee. We do not have it out here, and I submit this is the only way that this body can really address the violent crime problem facing our country today, Mr. Speaker.

The SPEAKER pro tempore (Mr. GEPHARDT). The Chair is prepared to rule.

The gentleman from Texas makes the point of order that the amendment proposed in the motion to recommit offered by the gentleman from Florida is not germane to the bill.

The test of germaneness in the case of a motion to recommit with instructions is the relationship of those instructions to the bill as perfected in the House.

In order to be germane, an amendment must relate to the subject matter under consideration. The bill as perfected narrowly amends the Omnibus Crime Control and Safe Streets Act of 1968 to establish a program of grants to States and local governments to develop alternatives to traditional incarceration of and unsupervised probation for youthful offenders.

On the other hand, the amendment proposed in the motion offered by the gentleman from Florida goes beyond the subject of alternative punishments for youthful offenders and proposes and omnibus crime bill.

Accordingly, the Chair finds that the amendment is not germane and, therefore, that the motion to recommit is not in order.

Mr. McCOLLUM. Mr. speaker, I respectfully appeal the ruling of the Chair.

Mr. BROOKS. Mr. Speaker, I move to lay on the table the motion to appeal the ruling of the Chair.

The SPEAKER pro tempore. The question is on the motion to table, which is a nondebatable motion.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. McCOLLUM. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 251, noes 172, not voting 10, as follows:

[Roll No. 586]

AYES—251

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cardin
Carr
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English (AZ)
English (OK)
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Hutto
Inslee
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murphy
Murtha
Nadler
Natcher
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel

Reed
Reynolds
Richardson
Roemer
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slaughter
Smith (IA)
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOES—172

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Coble
Collins (GA)
Combest
Cox
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Machtley
Manzullo
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Morella
Myers
Nussle
Oxley
Packard
Paxon
Petri
Pombo
Porter
Portman
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stump
Sundquist
Talent
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—10

Cantwell
Clinger
Dicks
Gingrich
Hall (OH)
McDermott
Pickle
Slattery
Stearns
Washington

☐ 1555

Mr. MACHTLEY changed his vote from "aye" to "no."

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

MOTION TO RECOMMIT OFFERED BY MR. MC COLLUM

Mr. McCOLLUM. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore (Mr. GEPHARDT). Is the gentleman opposed to the bill?

Mr. McCOLLUM. I am, Mr. Speaker, in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. McCOLLUM of Florida moves to recommit the bill (H.R. 3351) to the Committee on the Judiciary, with instructions to report the bill back to the House forthwith, with the following amendment:

Page 9, strike lines 13 and 14, and insert the following:

"(24) The term 'young offender' means an individual, convicted of a crime, less than 18 years of age—

"(A) who has not been convicted of—

"(i) a crime of sexual assault; or

"(ii) a crime involving the use of a firearm in the commission of the crime; and

"(B) who has no prior convictions for a crime of violence (as defined by section 16 of title 18, United States Code) punishable by a period of 1 or more years of imprisonment.".

Page 10, after line 3, insert the following:

SEC. 3. FEDERAL-STATE PARTNERSHIPS FOR REGIONAL PRISONS.

(a) PLAN CREATED BY ATTORNEY GENERAL.—The Attorney General shall—

(1) establish a Regional Prison Task Force comprised of—

(A) the Director of the Federal Bureau of Prisons; and

(B) a senior correctional officer of each State wishing to participate, who is designated for this purpose by the Governor of the State; and

(2) create a plan, in consultation with the Regional Prison Task Force for the establishment of a nationwide regional prison system, and report that plan to the Committees on the Judiciary and Appropriations of the House of Representatives and the Senate not later than 180 days after the date of the enactment of this Act.

(b) SCOPE OF PLAN.—The plan shall—

(1) define the boundaries and number of regions in which regional prisons will be placed;

(2) establish the terms of the partnership agreements that States must enter into with the Attorney General in order to participate in the regional prison system;

(3) set forth the extent of the role of the Federal Bureau of Prisons in administering the prisons;

(4) determine the way 2 or more States in a region will share responsibility for the activities associated with the regional prisons; and

(5) specify both the Federal responsibility and the State responsibility (which shall not be less than 50 percent) for construction costs and operating costs of the regional prisons.

(c) STATE ELIGIBILITY.—No State may send any prisoner to be held at a regional prison established under this section unless such State, as determined by the Attorney General—

(1) enters into a partnership agreement under this section and abides substantially by its terms;

(2) establishes minimum mandatory sentences of 10 years for persons who are convicted of a serious felony and are subsequently convicted of a crime of violence involving the use of a firearm or a crime of violence involving a sexual assault;

(3) establishes a truth in sentencing policy under which offenders will serve no less than 85 percent of the term of imprisonment to which they are sentenced—

(A) after the date the State enters into the partnership agreement, with respect to crimes of violence involving the use of a firearm or a crime of violence involving a sexual assault; and

(B) after a date set by the State which is not later than 2 years after that State enters into such agreement, with respect to all other crimes of violence and serious drug trafficking offenses;

(4) provides pretrial detention similar to that provided in the Federal system under section 3142 of title 18, United States Code;

(5) takes steps to eliminate court imposed limitations on its prison capacity resulting from consent decrees or statutory provisions; and

(6) provides adequate assurances that—

(A) such State will not use the regional prison system to supplant any part of its own system; and

(B) funds provided by the State for the construction of regional prisons under this section will be in addition to what would otherwise have been made available for the construction and operation of prisons by the State.

(d) PRISONER ELIGIBILITY.—A State which is eligible under this section may send prisoners convicted of State crimes to serve their prison sentence in the regional prison established under this section if—

(1) the prisoner has been convicted of not less than 2 crimes of violence or serious drug trafficking offenses and then commits a crime of violence involving the use of a firearm or a crime of violence involving a sexual assault; or

(2) the prisoner is an illegal alien convicted of a felony offense punishable by more than 1 year's imprisonment.

(e) DEFINITIONS.—As used in this section—

(1) the term "crime of violence" is a felony offense that is—

(A) punishable by imprisonment for a term exceeding one year; and

(B) a crime of violence as defined in section 16 of title 18, United States Code;

(2) the term "serious drug trafficking offense" is a felony offense that is—

(A) punishable by imprisonment for a term exceeding one year; and

(B) defined in section 924(e)(2)(A) of title 18, United States Code;

(3) the term "serious felony" means a felony punishable by imprisonment for a term exceeding 1 year, or any act of juvenile delinquency involving the use or carrying of a firearm, knife, or destructive device that would be punishable by imprisonment for such term if committed by an adult, that—

(A) has as an element the use, attempted use, or threatened use of physical force against the person of another;

(B) is burglary, arson, or extortion, involves use of explosives, or otherwise involves conduct that presents a serious potential risk of physical injury to another; or

(C) involves conduct in violation of section 401 of the Controlled Substances Act that consists of illegal distribution of a controlled substance;

(4) the term "crime of violence involving a sexual assault" is a crime of violence that is

an offense as defined in chapter 109A of title 18, United States Code; and

(5) the term "State" includes the District of Columbia, Puerto Rico, and any other territory or possession of the United States.

(f) Regional Prison Fund.—There is established in the Treasury the Regional Prison Fund. The Regional Prison Fund shall consist of—

(1) sums appropriated to it by Act of Congress;

(2) notwithstanding section 1401 of the Victims of Crime Act of 1984 (42 U.S.C. 10601) or any other provision of law, the total of criminal fines deposited in the Crime Victims Fund during each fiscal year (beginning after the date of the enactment of this Act) that exceeds $150,000,000;

(3) notwithstanding any other provision of law, any portion of the Department of Justice Asset Forfeiture Fund that the Attorney General determines is remaining after distributions of—

(A) funds to be shared with State and local law enforcement;

(B) funds to pay warehouse and appraisal fees and innocent lien holders; and

(C) funds for Federal law enforcement.

(g) Transfers.—The Secretary of the Treasury shall from time to time make appropriate transfers between funds to implement subsection (f).

(h) Use of Regional Prison Fund.—The Attorney General may use any sums in the Regional Prison Fund to carry out this section.

(i) Authorization of Appropriations.—There are authorized to be appropriated to the Regional Prison Fund—

(1) $1,000,000,000 for each of fiscal years 1994 through 1996; and

(2) such sums as may be necessary thereafter through fiscal year 2004.

SEC. 4. OVERHEAD EXPENSE REDUCTION.

(a) CBO Scoring.—The Congressional Budget Office estimates that the reduction in administrative costs required by this section will produce savings of $6,000,000,000 over 5 years ($1,200,000,000 in each of fiscal years 1994, 1995, 1996, 1997, and 1998).

(b) Reduction.—The overhead expenses identified and reduced by the President in Executive Order 12837 are hereby reduced by an additional 5 percent. The reduction required by this section shall be taken from the total of such expenses before the reduction by the President.

Mr. McCOLLUM (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

POINT OF ORDER

Mr. BROOKS. Mr. Speaker, I have a point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. BROOKS. Mr. Speaker, I make the point of order that the motion to recommit is not germane.

The SPEAKER pro tempore. Does the gentleman from Florida [Mr. McCollum] wish to be heard?

Mr. McCOLLUM. I do wish to be heard, Mr. Speaker, on that.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Florida [Mr. McCollum].

Mr. McCOLLUM. Mr. Speaker, the motion to recommit that I have offered would require that the Committee on the Judiciary take this bill back and report back to us an amendment to the bill, an addition to the bill, which would encompass a regional prison system being a partnership with the States whereby the Federal Government would pay 50 percent of the cost of building these regional prisons and the States would pay 50 percent to house violent criminals and sexual abusers who qualify in those States where the States have adopted truth in sentencing by requiring that all of those who are convicted who are eligible for these prisons serve at least 85 percent of their sentences, and it would require that they adopt minimum mandatory sentences for those individuals that would be sent to these regional prisons.

This amendment, this provision that would be adopted by my motion to recommit, Mr. Speaker, is the only way we are going to get at the real problem here that is facing the country today of the revolving door, and it is germane to this bill today because this bill addresses crime and youthful offenders, and the only way to effectively stop youthful offenders who commit violent crimes, and that is the crisis today most Americans see, is by building the prison that we need in America, going into a cost-sharing partnership with the States and taking these violent youthful offenders off the streets, locking them up, and throwing away the keys. We are not doing that today, Mr. Speaker.

If this is ruled out of order, which would be the second one today which we have tried to put out here, we will not be effectively dealing with the violent crime problem facing this Nation in this session of Congress. The American public demands that we have that opportunity, and that is why I am offering this motion to recommit today in the hopes that this body, with my colleagues' blessing, today will address the really critical problem of the revolving door of violent criminals and especially the violent crime among the youth today. We need the prisons. That is all this does is establish that which we have not brought out here.

Let me point out to my colleagues in closing that in 6 months from now, by the statistics we have, because it is violent crimes that are being committed in this country at a rate of 160,000 a month, if it takes 6 months to get this out here, this kind of a bill, if we do not do it tonight, we do not address the crime problem tonight with the bill I propose here, there will be over 966,000 more violent crimes a committed in that 6-month period.

☐ 1600

It is shameful that we do not address it, Mr. Speaker. That is why I am offering it. That is what it is. I believe it is very germane to this crime bill today, because this crime bill, as it is tonight, really only addresses a very minor part of the problem.

The SPEAKER pro tempore (Mr. Gephardt). The point of order of the gentleman from Texas [Mr. Brooks] has been heard. For the reasons stated on the prior point of order, the Chair rules that this point of order is well-taken, and that the motion is not germane. A program to establish a regional prison system to be used by States that establish certain standards for incarceration of prisoners generally goes beyond the subject of alternative punishments for youthful offenders.

Mr. McCOLLUM. Mr. Speaker, I move to appeal the ruling of the Chair.

Mr. BROOKS. Mr. Speaker, I move to lay the motion to appeal on the table.

The SPEAKER pro tempore. The gentleman from Texas [Mr. Brooks] moves to lay the appeal on the table. The question is not debatable.

The question is on the motion offered by the gentleman from Texas [Mr. Brooks] to lay on the table the motion to appeal the ruling of the Chair.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. McCOLLUM. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 251, noes 171, not voting 11, as follows:

[Roll No. 587]

AYES—251

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cardin
Carr
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English (AZ)
English (OK)
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Hutto
Inslee
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos

LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murphy
Murtha
Nadler
Natcher
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slaughter
Smith (IA)
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Valentine
Velázquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOES—171

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Coble
Collins (GA)
Combest
Cooper
Cox
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
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Grandy
Greenwood
Gunderson
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Kolbe
Kyl
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Machtley
Manzullo
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Morella
Myers
Nussle
Oxley
Packard
Paxon
Petri
Pombo
Porter
Portman
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stump
Sundquist
Talent
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—11

Cantwell
Clinger
Dicks
Gingrich
Hall (OH)
Knollenberg
McDermott
Slattery
Stearns
Washington
Weldon

□ 1616

Mr. WOLF and Mr. SMITH of Michigan changed their vote from "aye" to "no".

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

MOTION TO RECOMMIT OFFERED BY MR. MCCOLLUM

Mr. McCOLLUM. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore (Mr. GEPHARDT). Is the gentleman opposed to the bill?

Mr. McCOLLUM. In its present form, I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. McCOLLUM of Florida moves to recommit the bill (H.R. 3351) to the Committee on the Judiciary, with instructions to report the bill back to the House forthwith, with the following amendment:

Page 9, strike lines 13 and 14, and insert the following:

"(24) The term 'young offender' means an individual, convicted of a crime, less than 18 years of age—

"(A) who has not been convicted of—

"(i) a crime of sexual assault; or

"(ii) a crime involving the use of a firearm in the commission of the crime; and

"(B) who has no prior convictions for a crime of violence (as defined by section 16 of title 18, United States Code) punishable by a period of 1 or more years of imprisonment.".

Page 10, after line 3, insert the following:

SEC. 3. NATIONAL TASK FORCE ON COUNTERTERRORISM.

(a) ESTABLISHMENT.—(1) The President should establish a National Task Force on Counterterrorism comprised of the following nine members: the Deputy Attorney General of the United States, the Deputy Director of Central Intelligence, the Coordinator for Terrorism of the Department of State, an Assistant Secretary of Commerce as designated by the Secretary of Commerce, the National Security Advisory or the Deputy National Security Advisory for Special Operations Low Intensity Conflict, the Assistant Secretary of the Treasury for Enforcement, the Director of the Federal Bureau of Investigation, the Vice Chairman of the Joint Chiefs of Staff, and an Assistant Secretary of Transportation appointed by the Secretary of Transportation.

(2) The Deputy Attorney General and the Deputy Director of Central Intelligence shall serve as the Co-Chairs of the Task Force which shall coordinate all counterterrorism activities of the intelligence community of the United States Government.

(b) DUTIES.—The National Task Force on Counterterrorism shall prepare a report to the Congress which shall—

(1) define terrorism, both domestic and international;

(2) identify Federal Government activities, programs, and assets, which may be utilized to counter terrorism;

(3) assess the processing, analysis, and distribution of intelligence on terrorism and make recommendations for improvement;

(4) make recommendations on appropriate national policies, both preventive and reactive, to counter terrorism;

(5) assess the coordination among law enforcement, intelligence and defense agencies involved in counterterrorism activities and make recommendations concerning how coordination can be improved; and

(6) assess whether there should be more centralized operational control over Federal Government activities, programs, and assets utilized to counter terrorism, and if so, make recommendations concerning how that should be achieved

(c) SUPPORT.—(1) The National Task Force on Counterterrorism shall have a Chief of Staff appointed by the Director of Central Intelligence and a Vice Chief of Staff appointed by the Attorney General. The Chief of Staff and the Vice Chief of Staff shall be paid at a rate not to exceed the rate of basic pay for the highest rate payable for the Senior Executive Service.

(2) The Task Force shall hire or have detailed to it from other agencies such staff as necessary to carry out its functions.

(3) The staff of the National Task Force on Counterterrorism shall coordinate all activities of the Task Force and act as the liaison for all agencies involved.

(d) REPORT.—The Task Force shall—

(1) report to Congress no later than 6 months after the date of enactment of this Act as to the review and recommendations outlined in subsection (b) and how the Task Force will implement those recommendations,

(2) beginning 60 days after the date on which the report is submitted under paragraph (1), implement the recommendations outlined in subsection (b) in accordance with the report, and

(3) beginning 180 days after the date on which the report is submitted under paragraph (1), report to Congress every 120 days on the progress of Task Force in implementing its recommendations.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the National Task Force on Counterterrorism for fiscal year 1995 $5,000,000, which shall remain available until expended.

Mr. McCOLLUM (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

POINT OF ORDER

Mr. BROOKS. Mr. Speaker, I rise to a point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. BROOKS. Mr. Speaker, I make a point of order that the motion to recommit is not germane.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Florida [Mr. McCOLLUM].

□ 1620

Mr. McCOLLUM. Mr. Speaker, unfortunately, I am rising a third time today to take up the Members' time, but the reason I am doing that is because we are not addressing the serious crime issues today, and we have not done so in this Congress so far.

The SPEAKER pro tempore (Mr. GEPHARDT). If the gentleman will please focus his comments on the point of order.

Mr. McCOLLUM. Mr. Speaker, I am, if the Chair will please indulge me. I am just laying the predicate. Because of your leadership, we do not have the bills out here to address the serious crime issues.

The SPEAKER pro tempore. The gentleman will please focus his remarks on the point of order.

Mr. McCOLLUM. What this proposed motion would do today will be to send this bill back to the Committee on the Judiciary to report it back with a very straightforward amendment to it that is one which would address the problem of terrorism at the World Trade Center. It would set up an interagency task force, among other things, to coordinate efforts so we do not have something like what happened at the World Trade Center.

You are probably going to rule it out of order, like you have ruled the other two out of order, Mr. Speaker, and I respect that, but the fact is that the people who were involved with that World Trade Center and a lot of other Americans would like to see that issue addressed. We should be addressing the real crime issues tonight and not the issues that are out here.

I have nothing else to say on it. I am sorry I have to do that, but that is the only effort we have got we can make. I respectfully suggest this ought to be ruled in order. It is a tough violent crime question.

The SPEAKER pro tempore (Mr. GEPHARDT). The Chair has heard the argument on the point of order. The Chair rules that the motion to recommit is not germane for the similar reasons that were given on the other two points of order.

The amendment proposed in the motion to recommit offered by the gentleman from Florida [Mr. McCOLLUM] goes beyond the subject of alternative punishments for youthful offenders and establishes a National Task Force on Counter-Terrorism to study and report to Congress its assessment of existing Federal counterterrorism efforts and to make recommendations for improvements to those efforts.

Accordingly, the Chair finds that the amendment is not germane, and therefore, that the motion to recommit is not in order.

Mr. McCOLLUM. Mr. Speaker, I appeal the ruling of the Chair.

MOTION OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Speaker, I move to lay on the table the motion to appeal the ruling of the Chair.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] to lay on the table the motion to appeal the ruling of the Chair.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. McCOLLUM. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 246, nays 171, not voting 16, as follows:

[Roll No. 588]

AYES—246

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cardin
Carr
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeLauro
Dellums
Deutsch
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English (AZ)
English (OK)
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Hutto
Inslee
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-
Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murphy
Murtha
Nadler
Natcher
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slaughter
Smith (IA)
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOES—171

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Coble
Collins (GA)
Combest
Cooper
Cox
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Kolbe
Kyl
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Machtley
Manzullo
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Morella
Myers
Nussle
Oxley
Packard
Paxon
Petri
Pombo
Porter
Portman
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stump
Sundquist
Talent
Taylor (NC)
Thomas (WY)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—16

Cantwell
Clinger
DeFazio
Derrick
Dicks
Gingrich
Hall (OH)
Johnson, E.B.
Knollenberg
McDermott
Mineta
Slattery
Stearns
Thomas (CA)
Valentine
Washington

□ 1638

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, during rollcall vote No. 588 on H.R. 3351 I was unavoidably detained. Had I been present, I would have voted "yea."

MOTION TO RECOMMIT OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore (Mr. GEPHARDT). Is the gentleman opposed to the bill?

Mr. SENSENBRENNER. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. SENSENBRENNER moves to recommit the bill H.R. 3351 to the Committee on the Judiciary with instructions to report the bill back to the House forthwith, with the following amendment: On page 10, line 3, before the period, insert "*Provided*, That 90 percent of the funds authorized under this Act be used to fund boot camp procedures authorized by Sec. 1701(b)(2):".

Mr. SENSENBRENNER (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

□ 1640

The SPEAKER pro tempore (Mr. GEPHARDT). The gentleman from Wisconsin [Mr. SENSENBRENNER] is recognized for 5 minutes.

Mr. SENSENBRENNER. Mr. Speaker, this is a germane motion to recommit which deserves the support of all Members of this House.

The motion to recommit channels 90 percent of the funds authorized by the bill into boot-camp prison programs. All of the support in discussion on this bill on both sides of the aisle has been in support of boot camps, and boot camps, in my opinion, have a very worthwhile function in trying to rehabilitate youthful offenders.

However, this bill is a lot broader than boot camps, and I would direct the attention of the membership to the various types of programs that are authorized on page 3 of the bill which include alternative sanctions on financial accountability, technical training, and support for the implementation of State and local restitution programs, innovative projects, whatever that means, community-based incarceration, weekend incarceration, and electronic monitoring, community service programs, demonstration restitution programs, and innovative methods that include youthful offenders getting involved with serious substance abuse.

I would remind the membership that only $200 million per year is authorized in this bill, which is an average of $4 million per State per year. With all of these other types of authorizations, it is obvious that this money can be diffused quickly. Most of the support of this bill is because of its authorization in boot camps.

My motion to commit will mean that 90 percent of the funds will go for boot camps. I think that that way the boot camps can make an impact in the States.

I would urge support of my motion to recommit.

Mr. Speaker, I yield back the balance of my time.

Mr. MFUME. Mr. Speaker, I ask unanimous consent that any and all votes with regard to passage of H.R. 3351 be reduced to 5 minutes.

The SPEAKER pro tempore. The Chair would state to the gentleman from Maryland that the Chair has the option of doing that and intends to do that.

Mr. MFUME. In that case, Mr. Speaker, I would withdraw the request. I thank the Chair.

The SPEAKER pro tempore. The gentleman from Texas [Mr. BROOKS] is recognized for 5 minutes.

Mr. BROOKS. Mr. Speaker, I rise in opposition to the motion to recommit and would say very briefly that this would eliminate seven of the eight alternatives and initiatives we have for treating young offenders.

There are eight listed in the bill. They include things like innovative programs by various States. Some of them are community projects work programs, shock incarceration, ankle monitors, anything under the sun to try to save these people. Different States have different programs. This includes technical training, and you have drug training, and now if you put it all in a boot-camp program, you eliminate the option of States to decide how is the best way for them to deal with their young offenders. This we do not want to do.

I would say that it would be foolishness to do that only and eliminate every other idea in the world.

I would ask Members to vote against this motion to recommit.

Mr. Speaker, I yield to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, let me just add my words to that of the chairman in opposition to this motion.

The bill is grants to the States for innovative programs. Some States do boot camps very well, but there are other very good, very tough programs. For instance, in Quincy, MA, a youngster writes graffiti on the wall. They force him to work and clean the graffiti off on 12 weekends in a row.

In some States they will have somebody wear a bracelet around their ankle or around their arm so that they cannot leave their home for the weekend even if they do not have boot camps.

There are many innovative programs that may not be boot camps, and I do not see why we should constrict the States that 90 percent of the money has to go to boot camps when some States have very innovative programs that are not boot camps but that are tough, that work, that prevent kids from getting off with just a slap on the wrist.

I would urge the defeat of the motion to recommit.

Mr. BROOKS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. SENSENBRENNER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of passage.

The vote was taken by electronic device, and there were—ayes 177, noes 243, not voting 13, as follows:

[Roll No. 589]

AYES—177

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Coble
Collins (GA)
Combest
Condit
Cooper
Cox
Crane
Crapo
Cunningham
DeLay
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Emerson
English (OK)
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gekas
Geren
Gilchrest
Gillmor
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Kolbe
Kyl
Lazio
Leach
Lehman
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Machtley
Manzullo
McCandless
McCollum
McCrery
McCurdy
McDade
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Myers
Nussle
Orton
Oxley
Packard
Paxon
Peterson (MN)
Petri
Pombo
Porter
Portman
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Roth
Roukema
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Skelton
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stenholm
Stump
Sundquist
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Torricelli
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—243

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Bereuter
Berman
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cardin
Carr
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English (AZ)
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gallo
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Horn
Hoyer
Hughes
Hutto
Inslee
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson,E.B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McHale
McKinney
McNulty
Meehan
Meek
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murphy
Murtha
Nadler
Natcher
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Pickett
Pickle
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Slaughter
Smith (IA)
Smith (MI)
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tejeda
Thompson
Thornton
Thurman
Torres
Towns
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—13

Cantwell
Clinger
Diaz-Balart
Dicks
Gingrich
Hall (OH)
Knollenberg
McDermott
Menendez
Ros-Lehtinen
Slattery
Stearns
Washington

□ 1701

Ms. PRYCE of Ohio changed her vote from "aye" to "no."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SENSENBRENNER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 336, noes 82, not voting 15, as follows:

[Roll No. 590]

AYES—336

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Baker (LA)
Barca
Barcia
Barlow
Barrett (WI)
Bateman
Becerra
Beilenson
Bentley
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clyburn
Coble
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Crapo
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dingell
Dixon
Dooley
Duncan
Durbin
Edwards (CA)
Edwards (TX)
Engel
English (AZ)
English (OK)
Eshoo
Evans
Everett
Ewing
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gallo
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Gilman
Glickman
Goodlatte
Gordon
Grams
Green
Greenwood
Gutierrez
Hall (TX)
Hamburg
Hamilton
Harman
Hastert
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hutto
Hyde
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kingston
Kleczka
Klein
Klink
Klug
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (FL)
Lewis (GA)
Lipinski
Livingston
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCrery
McCurdy
McDade
McHale
McKeon
McKinney
McMillan
McNulty
Meehan
Meek
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Nadler
Natcher
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roberts
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schroeder
Schumer
Scott
Sharp
Shaw
Shepherd
Sisisky
Skaggs
Skeen
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Snowe
Spence
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Sundquist
Swett
Swift
Synar
Talent
Tanner
Tauzin
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (FL)
Zimmer

NOES—82

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bereuter
Boehner
Bonilla
Bunning
Burton
Collins (GA)
Combest
Cox
Crane
Cunningham
DeLay
Dickey
Doolittle
Dornan
Dreier
Dunn
Emerson
Fawell
Fields (TX)
Gekas
Gilchrest
Gonzalez
Goodling
Goss
Grandy
Gunderson
Hancock
Hansen
Hefley
Herger
Hoke
Hutchinson
Inglis
Inhofe
Johnson, Sam
Kim
King
Kolbe
Kyl
Lewis (CA)
Lightfoot
Linder
McCollum
McHugh
McInnis
Meyers
Mica
Michel
Miller (FL)
Molinari
Myers
Nussle
Packard
Paxon
Pombo
Quillen
Rohrabacher
Royce
Schiff
Sensenbrenner
Shays
Shuster
Skelton
Smith (TX)
Solomon
Stump
Taylor (MS)
Taylor (NC)
Vucanovich
Walker
Williams
Young (AK)
Zeliff

NOT VOTING—15

Cantwell
Clinger
Diaz-Balart
Dicks
Gingrich
Hall (OH)
Hunter
Knollenberg
McDermott
Menendez
Ros-Lehtinen
Serrano
Slattery
Stearns
Washington

□ 1714

The Clerk announced the following pairs:

On the vote:

Mr. Washington for, with Mr. Knollenberg against.

Mr. Cantwell for, with Mr. Stearns against.

Mr. BEREUTER changed his vote from "aye" to "no."

Mr. ROBERTS changed his vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore (Mr. GEPHARDT). Is there objection to the request of the gentleman from Texas?

There was no objection.

PATENT AND TRADEMARK OFFICE AUTHORIZATION ACT OF 1993

Mr. BROOKS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2632) to authorize appropriations for the Patent and Trademark Office in the Department of Commerce for fiscal year 1994, with a Senate amendment thereto, and concur in the Senate amendment with amendments.

The Clerk read the title of the bill.

The Clerk read the House amendments to the Senate amendment as follows:

House amendments to Senate amendment: In lieu of the text proposed to be inserted by the Senate amendment, insert the following:

SEC. 5. INTERIM PATENT EXTENSIONS.

Section 156 of title 35, United States Code, is amended—

(1) in subsection (c)(4) by striking out "extended" and inserting "extended under subsection (e)(1)";

(2) in the second sentence of subsection (d)(1) by striking "Such" and inserting "Except as provided in paragraph (5), such"; and

(3) by adding at the end of subsection (d) the following new paragraph:

"(5)(A) If the owner of record of the patent or its agent reasonably expects that the applicable regulatory review period described in paragraph (1)(B)(ii), (2)(B)(ii), (3)(B)(ii), (4)(B)(ii), or (5)(B)(ii) of subsection (g) that began for a product that is the subject of such patent may extend beyond the expiration of the patent term in effect, the owner or its agent may submit an application to the Commissioner for an interim extension during the period beginning 6 months, and ending 15 days, before such term is due to expire. The application shall contain—

"(i) the identity of the product subject to regulatory review and the Federal statute under which such review is occurring;

"(2) the identity of the patent for which interim extension is being sought and the identity of each claim of such patent which claims the product under regulatory review or a method of using or manufacturing the product;

"(iii) information to enable the Commissioner to determine under subsection (a)(1), (2), and (3) the eligibility of a patent for extension;

"(iv) a brief description of the activities undertaken by the applicant during the applicable regulatory review period to date with respect to the product under review and the significant dates applicable to such activities; and

"(v) such patent or other information as the Commissioner may require.

"(B) If the Commissioner determines that, except for permission to market or use the product commercially, the patent would be eligible for an extension of the patent term under this section, the Commissioner shall publish in the Federal Register a notice of such determination, including the identity of the product under regulatory review, and shall issue to the applicant a certificate of interim extension for a period of not more than 1 year.

"(C) The owner of record of a patent, or its agent, for which an interim extension has been granted under subparagraph (B), may apply for not more than 4 subsequent interim extensions under this paragraph, except that, in the case of a patent subject to subsection (g)(6)(C), the owner of record of the patent, or its agent, may apply for only 1 subsequent interim extension under this paragraph. Each such subsequent application shall be made during the period beginning 60 days before, and ending 30 days before, the expiration of the preceding interim extension.

"(D) Each certificate of interim extension under this paragraph shall be recorded in the official file of the patent and shall be considered part of the original patent.

"(E) Any interim extension granted under this paragraph shall terminate at the end of the 60-day period beginning on the date on which the product involved receives permission for commercial marketing or use, except that, if within that 60-day period the applicant notifies the Commissioner of such permission and submits any additional information under paragraph (1) of this subsection not previously contained in the application for interim extension, the patent shall be further extended, in accordance with the provisions of this section—

"(i) for not to exceed 5 years from the date of expiration of the original patent term; or

"(ii) if the patent is subject to subsection (g)(6)(C), from the date on which the product involved receives approval for commercial marketing or use.

"(F) The rights derived from any patent the term of which is extended under this paragraph shall, during the period of interim extension—

"(i) in the case of a patent which claims a product, be limited to any use then under regulatory review;

"(ii) in the case of a patent which claims a method of using a product, be limited to any use claimed by the patent then under regulatory review; and

"(iii) in the case of a patent which claims a method of manufacturing a product, be limited to the method of manufacturing as used to make the product then under regulatory review.".

SEC. 6. CONFORMING AMENDMENTS.

Section 156 of title 35, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking "(d)" and inserting "(d)(1)"; and

(B) in paragraph (3) by striking "subsection (d)" and inserting "paragraphs (1) through (4) of subsection (d)";

(2) in subsection (b) by striking "The rights" and inserting "Except as provided in subsection (d)(5)(F), the rights"; and

(3) in subsection (e)—

(A) in paragraph (1) by striking "subsection (d)" and inserting "paragraphs (1) through (4) of subsection (d)"; and

(B) in paragraph (2) by striking "(d)" and inserting "(d)(1)".

SEC. 7. PATENT TERM EXTENSIONS FOR AMERICAN LEGION.

(a) BADGE OF AMERICAN LEGION.—The term of a certain design patent numbered 54,296 (for the badge of the American Legion) is renewed and extended for a period of 14 years beginning on the date of enactment of this Act, with all the rights and privileges pertaining to such patent.

(b) BADGE OF AMERICAN LEGION WOMEN'S AUXILIARY.—The term of a certain design patent numbered 55,398 (for the badge of the American Legion Women's Auxiliary) is renewed and extended for a period of 14 years beginning on the date of enactment of this Act, with all the rights and privileges pertaining to such patent.

(c) BADGE OF SONS OF THE AMERICAN LEGION.—The term of a certain design patent numbered 92,187 (for the badge of the Sons of the American Legion) is renewed and extended for a period of 14 years beginning on the date of enactment of this Act, with all the rights and privileges pertaining to such patent.

SEC. 8. INTERVENING RIGHTS.

The renewals and extensions of the patents under section 6 shall not result in infringement of any such patent on account of any use of the subject matter of the patent, or substantial preparation for such use, which began after the patent expired, but before the date of the enactment of this Act.

Amend the title so as to read: "A bill to authorize appropriations for the Patent and Trademark Office in the Department of Commerce for fiscal year 1994, and for other purposes.".

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the House amendments to the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Texas?

Mr. MOORHEAD. Mr. Speaker, reserving the right to object, and I shall not object, I ask the chairman of our Committee on the Judiciary for an explanation.

Mr. BROOKS. Mr. Speaker, will the gentleman yield?

Mr. MOORHEAD. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Speaker, H.R. 2632 authorizes $103 million for the activities of the Patent and Trademark Office for fiscal year 1994. It was adopted by the House under suspension of the rules on October 12, 1993.

The Senate, on November 11, added a private patent extension to the legislation. The House amendment which we are now considering deletes this private extension and replaces it with an amendment to the Patent Term Restoration Act of 1984. Under that act, products in the regulatory approval process in 1984 were made eligible for a 2 year patent extension if the patent had not expired at the time of regulatory approval. No provision was made for products for which the regulatory review is so long that the 17 year patent expires before approval.

The House amendment allows patent holders who are eligible for a patent extension under the 1984 legislation to receive—prior to the expiration of the patent—an interim patent extension while awaiting regulatory approval. When such approval is received, the patent could then be extended pursuant to the Patent Term Restoration Act.

Mr. HUGHES. Mr. Speaker, will the gentleman yield?

Mr. MOORHEAD. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Speaker, I want to take the opportunity to thank the gentleman from California [Mr. MOORHEAD] for his work on this and so many other issues before the Subcommittee on Intellectual Property and Judicial Administration. I thank the gentleman.

Mr. MOORHEAD. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Texas?

There was no objection.

A motion to reconsider was laid on the table.

MAKING IN ORDER ON SATURDAY, NOVEMBER 20, 1993, CONSIDERATION OF MOTIONS TO SUSPEND THE RULES

Mr. FAZIO. Mr. Speaker, I ask unanimous consent that it be in order on tomorrow, Saturday, November 20, 1993, for the Speaker to entertain motions to suspend the rules pursuant to clause 1 of rule XXVII and act to pass the following bills:

H.R. 1133, violence against women;

H.R. 324, Crimes Against Children Registration Act;

H.R. 3378, international parental kidnaping;

H.R. 3098, youth handgun safety;

H.R. 1237, National Child Protection Act;

H.R. 783, Nationality and Naturalization Act;

H.R. 897, Copyright Reform Act;

H.R. 3515, the Omnibus Agriculture Research and Promotion Improvements Act;

H.R. 2811, National Oceanic and Atmospheric Administration Atmospheric and Satellite Program Authorization;

H.R. 1994, Environmental Research and Development and Demonstration Authorization Act;

H.R. 3512, the National Environmental Policy Act administrative reorganization amendments;

H.R. 3402, the Fountain Darter Captive Propagation Research Act of 1993;

H.R. 2457, the Winter Run Chinook Salmon Captive Broodstock Act of 1993;

H.R. 3509, the governing international fisheries agreement between the United States and Russia;

H.R. 58, the Merchant Marine Memorial Enhancement Act of 1993;

H.R. 1250, the United States Flag Passenger Vessel Act of 1993;

H.R. 3474, Community Development Banking and Financial Institutions Act of 1993;

H.R. 2960, Amendments to the Competitiveness Policy Council Act;

H.R. 2921, authorize appropriations for restoration of historic buildings at black universities;

H.R. 2947, 2-year extension of authorization for black revolutionary war memorial;

H.R. 486, addition of Truman farm to Harry Truman National Historic Site in Missouri;

H.R. 3505, developmental disabilities reauthorization;

H.R. 3216, Domestic Chemical Diversion Control Act;

H. Con. Res. 131, regarding Sudan; and

H. Con. Res. 175, antiboycott resolution.

□ 1720

The SPEAKER pro tempore (Mr. GEPHARDT). Is there objection to the request of the gentleman from California?

Mr. WALKER. Mr. Speaker, reserving the right to object, and I shall not object, I just wanted to clarify something. It is my understanding that we will proceed with the suspensions that the gentleman has asked be brought up by unanimous consent until a time certain tomorrow, and then at that point we will cut off the suspensions and move on to the intelligence bill. Is that correct?

Mr. FAZIO. Mr. Speaker, if the gentleman will yield, the time certain would be about 1 o'clock.

Mr. WALKER. We would move the intelligence bill. We would then go to the D.C. rule?

Mr. FAZIO. That is my understanding.

Mr. WALKER. We would not go back then to any bills left over that day off the Suspension Calendar, is that right?

Mr. FAZIO. Mr. Speaker, we have not had a chance to consult with the minority about any additional bills.

Mr. WALKER. I am suggesting if we do not complete these 25 bills, we would not go back to them later in the day?

Mr. FAZIO. Not without further consultation with the minority.

Mr. WALKER. Then there is the possibility those would come up on Sunday?

Mr. FAZIO. I think there is that possibility. Again, I assume it would be after consultation with the minority.

Mr. WALKER. Mr. Speaker, I would ask the gentleman, it would require further unanimous consent to do that?

Mr. FAZIO. It would require further request for unanimous consent, in concert with the minority.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

CLARIFYING REGULATORY OVERSIGHT EXERCISED BY RURAL ELECTRIFICATION ADMINISTRATION

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent for the immediate consideration in the House of the bill (H.R. 3514) to clarify the regulatory oversight exercised by the Rural Electrification Administration with respect to certain electric borrowers.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. ROBERTS. Mr. Speaker, reserving the right to object, and I do not object, I yield to the distinguished chairman of the Committee on Agriculture to explain the bill.

Mr. DE LA GARZA. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, H.R. 3514 simply clarifies a provision in the Rural Electrification Loan Restructuring Act, which is now Public Law 103-129, which was recently signed into law.

We would clarify the regulatory authority of the REA, basically in the loan structure with respect to a borrower whose net worth exceeds 110 percent of the outstanding principal balance of all loans made or guaranteed by the REA.

The REA and the Department of Agriculture felt that the legislation was too broad, and this clarifies that. Basically, that is the intent and thrust of the bill.

Mr. Speaker, H.R. 3514 simply clarifies a provision in the Rural Electrification Loan Restructuring Act (Public Law 103–129) which was recently signed into law.

Under H.R. 3514, we would clarify the regulatory authority the Rural Electrification Administration is to exercise with respect to a borrower whose net worth exceeds 110 percent of the outstanding principal balance of all loans made or guaranteed to the borrower by REA.

H.R. 3514 would amend section 306E of the recently signed REA lending law. This provision seeks to ensure the elimination of unnecessary and burdensome requirements and controls imposed on those REA borrowers whose net worth exceeds 110 percent.

Since enactment of the legislation, the Department of Agriculture has brought to our attention its concern that section 306E is overly broad. The committee, after consultation with the administration, agreed upon the bill we now have before us to clarify section 306E. The bill amends section 306E of the Rural Electrification Act of 1936 to make it clear that REA is to minimize the regulations imposed on any REA borrower whose net worth exceeds 110 percent of the borrower's outstanding loan balance; and the Administrator of

REA is to ensure that the security for any loan made or guaranteed by REA is adequate.

H.R. 3514 further states that nothing in the new proposed section 306E limits the authority of the REA Administrator to establish terms and conditions with respect to the use by borrowers of the proceeds of loans made or guaranteed by REA or to take any other action authorized by law.

Mr. Speaker, H.R. 3514 will ensure that REA has the authority it needs to protect the public interest. This bill was reported out by voice vote of the Committee on Agriculture. H.R. 3514 also has the support of the administration and the National Rural Electric Cooperative Association, the organization that represents REA borrowers. I urge passage of the bill.

Mr. ROBERTS. Mr. Speaker, I thank the chairman for his explanation, and withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. POMEROY). Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3514

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADMINISTRATIVE PROHIBITIONS APPLICABLE TO CERTAIN ELECTRIC BORROWERS.

Section 306E of the Rural Electrification Act of 1936 is amended to read as follows:

"SEC. 306E. ADMINISTRATIVE PROHIBITIONS APPLICABLE TO CERTAIN ELECTRIC BORROWERS.

"(a) IN GENERAL.—For the purpose of relieving borrowers of unnecessary and burdensome requirements, the Administrator, guided by the practices of private lenders with respect to similar credit risks, shall issue regulations, applicable to any electric borrower under this Act whose net worth exceeds 100 percent of the outstanding principal balance on all loans made or guaranteed to the borrower by the Administrator, to minimize those approval rights, requirements, restrictions, and prohibitions that the Administrator otherwise may establish with respect to the operations of such a borrower.

"(b) SUBORDINATION OR SHARING OF LIENS.—At the request of a private lender providing financing to such a borrower for a capital investment, the Administrator shall, expeditiously, either offer to share the government's lien on the borrower's system or offer to subordinate the government's lien on that property financed by the private lender.

"(c) ISSUANCE OF REGULATIONS.—In issuing regulations implementing this section, the Administrator may establish requirements, guided by the practices of private lenders, to ensure that the security for any loan made or guaranteed under this Act is reasonably adequate.

"(d) AUTHORITY OF THE ADMINISTRATOR.—Nothing in this section limits the authority of the Administrator to establish terms and conditions with respect to the use by borrowers of the proceeds of loans made or guaranteed under this Act or to take any other action specifically authorized by law.".

SEC. 2. ISSUANCE OF REGULATIONS.

The Administrator of the Rural Electrification Administration shall issue interim final regulations implementing this Act not later than 180 days after enactment. If the regulations are not issued within such period of time, the Administrator may not, until the Administrator issues such regulations, require prior approval of, establish any requirement, restriction, or prohibition, with respect to the operations of any electric borrower under the Rural Electrification Act of 1936 whose net worth exceeds 100 percent of the outstanding principal balance on all loans made or guaranteed to the borrower by the Administrator.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 1268, INDIAN TRIBAL JUSTICE ACT

Mr. MILLER of California submitted the following conference report and statement on the bill (H.R. 1268) to assist the development of tribal judicial systems, and for other purposes:

CONFERENCE REPORT (H. REPT. 103-383)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1268) to assist the development of tribal judicial systems, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Tribal Justice Act".

SEC. 2. FINDINGS.

The Congress finds and declares that—

(1) there is a government-to-government relationship between the United States and each Indian tribe;

(2) the United States has a trust responsibility to each tribal government that includes the protection of the sovereignty of each tribal government;

(3) Congress, through statutes, treaties, and the exercise of administrative authorities, has recognized the self-determination, self-reliance, and inherent sovereignty of Indian tribes;

(4) Indian tribes possess the inherent authority to establish their own form of government, including tribal justice systems;

(5) tribal justice systems are an essential part of tribal governments and serve as important forums for ensuring public health and safety and the political integrity of tribal governments;

(6) Congress and the Federal courts have repeatedly recognized tribal justice systems as the appropriate forums for the adjudication of disputes affecting personal and property rights;

(7) traditional tribal justice practices are essential to the maintenance of the culture and identity of Indian tribes and to the goals of this Act;

(8) tribal justice systems are inadequately funded, and the lack of adequate funding impairs their operation; and

(9) tribal government involvement in and commitment to improving tribal justice systems is essential to the accomplishment of the goals of this Act.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) The term "Bureau" means the Bureau of Indian Affairs of the Department of the Interior.

(2) The term "Courts of Indian Offenses" means the courts established pursuant to part 11 of title 25, Code of Federal Regulations.

(3) The term "Indian tribe" means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native entity, which administers justice under its inherent authority or the authority of the United States and which is recognized as eligible for the special programs and services provided by the United States to Indian tribes because of their status as Indians.

(4) The term "judicial personnel" means any judge, magistrate, court counselor, court clerk, court administrator, bailiff, probation officer, officer of the court, dispute resolution facilitator, or other official, employee, or volunteer within the tribal justice system.

(5) The term "Office" means the Office of Tribal Justice Support within the Bureau of Indian Affairs.

(6) The term "Secretary" means the Secretary of the Interior.

(7) The term "tribal organization" means any organization defined in section 4(l) of the Indian Self-Determination and Education Assistance Act.

(8) The term "tribal justice system" means the entire judicial branch, and employees thereof, of an Indian tribe, including (but not limited to) traditional methods and forums for dispute resolution, lower courts, appellate courts (including intertribal appellate courts), alternative dispute resolution systems, and circuit rider systems, established by inherent tribal authority whether or not they constitute a court of record.

TITLE I—TRIBAL JUSTICE SYSTEMS

SEC. 101. OFFICE OF TRIBAL JUSTICE SUPPORT.

(a) ESTABLISHMENT.—There is hereby established within the Bureau the Office of Tribal Justice Support. The purpose of the Office shall be to further the development, operation, and enhancement of tribal justice systems and Courts of Indian Offenses.

(b) TRANSFER OF EXISTING FUNCTIONS AND PERSONNEL.—All functions performed before the date of the enactment of this Act by the Branch of Judicial Services of the Bureau and all personnel assigned to such Branch as of the date of the enactment of this Act are hereby transferred to the Office of Tribal Justice Support. Any reference in any law, regulation, executive order, reorganization plan, or delegation of authority to the Branch of Judicial Services is deemed to be a reference to the Office of Tribal Justice Support.

(c) FUNCTIONS.—In addition to the functions transferred to the Office pursuant to subsection (b), the Office shall perform the following functions:

(1) Provide funds to Indian tribes and tribal organizations for the development, enhancement, and continuing operation of tribal justice systems.

(2) Provide technical assistance and training, including programs of continuing education and training for personnel of Courts of Indian Offenses.

(3) Study and conduct research concerning the operation of tribal justice systems.

(4) Promote cooperation and coordination among tribal justice systems and the Federal and State judiciary systems.

(5) Oversee the continuing operations of the Courts of Indian Offenses.

(6) Provide funds to Indian tribes and tribal organizations for the continuation and enhancement of traditional tribal judicial practices.

(d) NO IMPOSITION OF STANDARDS.—Nothing in this Act shall be deemed or construed to authorize the Office to impose justice standards on Indian tribes.

(e) ASSISTANCE TO TRIBES.—(1) The Office shall provide technical assistance and training

to any Indian tribe or tribal organization upon request. Technical assistance and training shall include (but not be limited to) assistance for the development of—

(A) tribal codes and rules of procedure;

(B) tribal court administrative procedures and court records management systems;

(C) methods of reducing case delays;

(D) methods of alternative dispute resolution;

(E) tribal standards for judicial administration and conduct; and

(F) long-range plans for the enhancement of tribal justice systems.

(2) Technical assistance and training provided pursuant to paragraph (1) may be provided through direct services, by contract with independent entities, or through grants to Indian tribes or tribal organizations.

(f) INFORMATION CLEARINGHOUSE ON TRIBAL JUSTICE SYSTEMS.—The Office shall maintain an information clearinghouse (which shall include an electronic data base) on tribal justice systems and Courts of Indian Offenses, including (but not limited to) information on staffing, funding, model tribal codes, tribal justice activities, and tribal judicial decisions. The Office shall take such actions as may be necessary to ensure the confidentiality of records and other matters involving privacy rights.

SEC. 102. SURVEY OF TRIBAL JUDICIAL SYSTEMS.

(a) IN GENERAL.—Not later than six months after the date of the enactment of this Act, the Secretary, in consultation with Indian tribes, shall enter into a contract with a non-Federal entity to conduct a survey of conditions of tribal justice systems and Courts of Indian Offenses to determine the resources and funding, including base support funding, needed to provide for expeditious and effective administration of justice. The Secretary, in like manner, shall annually update the information and findings contained in the survey required under this section.

(b) LOCAL CONDITIONS.—In the course of any annual survey, the non-Federal entity shall document local conditions of each Indian tribe, including, but not limited to—

(1) the geographic area and population to be served;

(2) the levels of functioning and capacity of the tribal justice system;

(3) the volume and complexity of the caseloads;

(4) the facilities, including detention facilities, and program resources available;

(5) funding levels and personnel staffing requirements for the tribal justice system; and

(6) the training and technical assistance needs of the tribal justice system.

(c) CONSULTATION WITH INDIAN TRIBES.—The non-Federal entity shall actively consult with Indian tribes and tribal organizations in the development and conduct of the surveys, including updates thereof, under this section. Indian tribes and tribal organizations shall have the opportunity to review and make recommendations regarding the findings of the survey, including updates thereof, prior to final publication of the survey or any update thereof. After Indian tribes and tribal organizations have reviewed and commented on the results of the survey, or any update thereof, the non-Federal entity shall report its findings, together with the comments and recommendations of the Indian tribes and tribal organizations, to the Secretary, the Committee on Indian Affairs of the Senate, and the Subcommittee on Native American Affairs of the Committee on Natural Resources of the House of Representatives.

SEC. 103. BASE SUPPORT FUNDING FOR TRIBAL JUSTICE SYSTEMS.

(a) IN GENERAL.—Pursuant to the Indian Self-Determination and Education Assistance Act, the Secretary is authorized (to the extent provided in advance in appropriations Acts) to enter into contracts, grants, or agreements with Indian tribes for the performance of any function of the Office and for the development, enhancement, and continuing operation of tribal justice systems and traditional tribal judicial practices by Indian tribal governments.

(b) PURPOSES FOR WHICH FINANCIAL ASSISTANCE MAY BE USED.—Financial assistance provided through contracts, grants, or agreements entered into pursuant to this section may be used for—

(1) planning for the development, enhancement, and operation of tribal justice systems;

(2) the employment of judicial personnel;

(3) training programs and continuing education for tribal judicial personnel;

(4) the acquisition, development, and maintenance of a law library and computer assisted legal research capacities;

(5) the development, revision, and publication of tribal codes, rules of practice, rules of procedure, and standards of judicial performance and conduct;

(6) the development and operation of records management systems;

(7) the construction or renovation of facilities for tribal justice systems;

(8) membership and related expenses for participation in national and regional organizations of tribal justice systems and other professional organizations; and

(9) the development and operation of other innovative and culturally relevant programs and projects, including (but not limited to) programs and projects for—

(A) alternative dispute resolution;

(B) tribal victims assistance or victims services;

(C) tribal probation services or diversion programs;

(D) juvenile services and multidisciplinary investigations of child abuse; and

(E) traditional tribal judicial practices, traditional tribal justice systems, and traditional methods of dispute resolution.

(c) FORMULA.—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary, with the full participation of Indian tribes, shall establish and promulgate by regulation, a formula which establishes base support funding for tribal justice systems in carrying out this section.

(2) The Secretary shall assess caseload and staffing needs for tribal justice systems that take into account unique geographic and demographic conditions. In the assessment of these needs, the Secretary shall work cooperatively with Indian tribes and tribal organizations and shall refer to any data developed as a result of the surveys conducted pursuant to section 102 and to relevant assessment standards developed by the Judicial Conference of the United States, the National Center for State Courts, the American Bar Association, and appropriate State bar associations.

(3) Factors to be considered in the development of the base support funding formula shall include, but are not limited to—

(A) the caseload and staffing needs identified under paragraph (2);

(B) the geographic area and population to be served;

(C) the volume and complexity of the caseloads;

(D) the projected number of cases per month;

(E) the projected number of persons receiving probation services or participating in diversion programs; and

(F) any special circumstances warranting additional financial assistance.

(4) In developing and administering the formula for base support funding for the tribal judicial systems under this section, the Secretary shall ensure equitable distribution of funds.

SEC. 104. TRIBAL JUDICIAL CONFERENCES.

The Secretary is authorized to provide funds to tribal judicial conferences, under section 101 of this Act, pursuant to contracts entered into under the authority of the Indian Self-Determination and Education Assistance Act for the development, enhancement, and continuing operation of tribal justice systems of Indian tribes which are members of such conference. Funds provided under this section may be used for—

(1) the employment of judges, magistrates, court counselors, court clerks, court administrators, bailiffs, probation officers, officers of the court, or dispute resolution facilitators;

(2) the development, revision, and publication of tribal codes, rules of practice, rules of procedure, and standards of judicial performance and conduct;

(3) the acquisition, development, and maintenance of a law library and computer assisted legal research capacities;

(4) training programs and continuing education for tribal judicial personnel;

(5) the development and operation of records management systems;

(6) planning for the development, enhancement, and operation of tribal justice systems; and

(7) the development and operation of other innovative and culturally relevant programs and projects, including (but not limited to) programs and projects for—

(A) alternative dispute resolution;

(B) tribal victims assistance or victims services;

(C) tribal probation services or diversion programs;

(D) juvenile services and multidisciplinary investigations of child abuse; and

(E) traditional tribal judicial practices, traditional justice systems, and traditional methods of dispute resolution.

TITLE II—AUTHORIZATIONS OF APPROPRIATIONS

SEC. 201. TRIBAL JUSTICE SYSTEMS.

(a) OFFICE.—There is authorized to be appropriated to carry out the provisions of sections 101 and 102 of this Act, $7,000,000 for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000. None of the funds provided under this subsection may be used for the administrative expenses of the Office.

(b) BASE SUPPORT FUNDING FOR TRIBAL JUSTICE SYSTEMS.—There is authorized to be appropriated to carry out the provisions of section 103 of this Act, $50,000,000 for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.

(c) ADMINISTRATIVE EXPENSES FOR OFFICE.—There is authorized to be appropriated, for the administrative expenses of the Office, $500,000 for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.

(d) ADMINISTRATIVE EXPENSES FOR TRIBAL JUDICIAL CONFERENCES.—There is authorized to be appropriated, for the administrative expenses of tribal judicial conferences, $500,000 for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.

(e) SURVEY.—For carrying out the survey under section 102, there is authorized to be appropriated, in addition to the amount authorized under subsection (a) of this section, $400,000.

(f) INDIAN PRIORITY SYSTEM.—Funds appropriated pursuant to the authorizations provided by this section and available for a tribal justice system shall not be subject to the Indian priority system. Nothing in this Act shall preclude a tribal government from supplementing any funds received under this Act with funds received from any other source including the Bureau or any other Federal agency.

(g) ALLOCATION OF FUNDS.—In allocating funds appropriated pursuant to the authorization contained in subsection (a) among the Bureau, Office, tribal governments and Courts of

Indian Offenses, the Secretary shall take such actions as may be necessary to ensure that such allocation is carried out in a manner that is fair and equitable to all tribal governments and is proportionate to base support funding under section 103 received by the Bureau, Office, tribal governments, and Courts of Indian Offenses.

(h) NO OFFSET.—No Federal agency shall offset funds made available pursuant to this Act for tribal justice systems against other funds otherwise available for use in connection with tribal justice systems.

TITLE III—DISCLAIMERS

SEC. 301. TRIBAL AUTHORITY.

Nothing in this Act shall be construed to—

(1) encroach upon or diminish in any way the inherent sovereign authority of each tribal government to determine the role of the tribal justice system within the tribal government or to enact and enforce tribal laws;

(2) diminish in any way the authority of tribal governments to appoint personnel;

(3) impair the rights of each tribal government to determine the nature of its own legal system or the appointment of authority within the tribal government;

(4) alter in any way any tribal traditional dispute resolution forum;

(5) imply that any tribal justice system is an instrumentality of the United States; or

(6) diminish the trust responsibility of the United States to Indian tribal governments and tribal justice systems of such governments.

And the Senate agree to the same.

GEORGE MILLER,
BILL RICHARDSON,
CRAIG THOMAS,
Managers on the Part of the House.

DANIEL K. INOUYE,
PAUL SIMON,
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PETE V. DOMENICI,
NANCY LANDON KASSEBAUM,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1268) to assist the development of tribal judicial systems, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

There are two principle differences between the House bill and the Senate amendment. The first difference concerns the establishment of and funding for tribal judicial conferences. The Senate amendment includes a provision which authorizes tribal judicial conferences to contract for funding under the Indian Self-Determination Act to perform any function of the Office of Tribal Judicial Support, except for the administration of base support funding. The House bill does not include similar provisions for tribal judicial conferences. The House Subcommittee on Native American Affairs receive testimony from tribal court judges who opposed similar provisions in H.R. 1268 as introduced. Concerns were also expressed regarding the authority of tribal judicial conferences under the bill. However, communications with tribal judges since the measure passed the House indicate support for some form of tribal judicial conferences. Consequently, the Conference substitute authorizes tribal judicial conferences to receive funds under this Act pursuant to the Indian Self-Determination Act. The substitute specifically states the types of activities which can be performed by tribal judicial conferences under this Act. The provisions of the Substitute address the concerns raised in the House Subcommittee on Native American Affairs and is consistent with the intent of the Senate amendment.

The second principle difference between the House bill and the Senate amendment is Title IV of the Senate amendment which authorizes a study of Federal court review of tribal court decisions and tribal court enforcement of the Indian Civil Rights Act (25 U.S.C. 1301–1341). This study provision is widely opposed by Indian tribes and is contrary to the recommendations of the United States Commission on Civil Rights.

The differences between the text of the House bill, the Senate amendment thereto, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by reason of agreements reached by the conferees, and minor drafting and clarifying changes.

SECTION 1. SHORT TITLE

House bill

Section 1 provides that this legislation may be cited as the "Indian Tribal Justice Act."

Senate amendment

The Senate amendment provides that this legislation may be cited as the "Indian Tribal Justice Systems Act".

Conference agreement

Same as House bill.

SECTION 2. FINDINGS

The House bill (H.R. 1268), the Senate amendment, and the Conference substitute set forth identical findings of the Congress.

SECTION 3. DEFINITIONS

The House bill, the Senate amendment, and the conference agreement set forth identical definitions for the terms "Bureau", "Courts of Indian Offenses", "Indian Tribe", "judicial personnel", "Office", "Secretary", "tribal organization", and "tribal justice system".

TITLE I—TRIBAL JUSTICE SYSTEMS

SECTION 101. OFFICE OF TRIBAL JUSTICE SUPPORT

House bill

The House bill authorizes the Office of Tribal Justice Support to provide funds to Indian tribes and tribal organizations for the "continuation and enhancement of traditional tribal judicial practices", but is otherwise identical to the Senate amendment.

Senate amendment

The Senate amendment does not separately authorize assistance for traditional tribal judicial practices, but is otherwise identical to the House bill.

Conference agreement

The conferees agree to the language of the House bill because it is consistent with the intent of the Senate amendment.

SECTION 102. SURVEY OF TRIBAL JUDICIAL SYSTEM

House bill

The House bill does not provide a time certain by which the Secretary must notify the Congress of the results of the initial survey or the annual updates, but it is otherwise identical to the Senate amendment.

Senate amendment

The Senate amendment is identical to the House bill except that it requires the Secretary to file the results of the initial survey and any annual update with the Congress within twelve months of the date on which a contract is executed for the conduct of the survey.

Conference agreement

The conferees agree to the language of the House bill because it clearly provides for an annual needs survey, the results of which must be filed with the Congress. The survey is intended to provide the Congress with reliable data on which to assess the continuing funding needs of tribal judicial systems. A key component of every annual survey will be the required consultation with Indian tribes and tribal organizations. The conferees want to make sure that such consultation is not hampered by an arbitrary time constraint. At the same time, it is the intention of the conferees that the annual survey results be provided to the Congress at such times as are consistent with legislative decisions relating to annual appropriations levels.

SECTION 103. BASE SUPPORT FUNDING FOR TRIBAL JUSTICE SYSTEMS

House bill

The House bill provides that the Secretary is authorized, to the extent provided in advance in appropriations acts, to enter into grants or contracts with Indian tribes or tribal organizations under the Indian Self-Determination and Education Assistance Act for the performance of any function of the Office of Tribal Justice Support and for the development and operation of tribal justice systems.

Senate amendment

The Senate amendment does not expressly authorize the Secretary to enter into Self-Determination grants or contracts with tribes or tribal organizations to perform the functions of the Office of Tribal Justice Support nor does it condition the Secretary's authority on the availability of appropriations. In all other respects the Senate amendment is identical to the House bill.

Conference agreement

The conferees agree to the provisions of the House bill because they conform to the intent of the Senate amendment and serve to make that intent explicit.

SECTION 104. TRIBAL JUDICIAL CONFERENCES

House bill

No provision.

Senate amendment

The Senate amendment provides that when two or more governing bodies of Indian tribes establish a judicial conference, the conference shall be considered a tribal organization eligible to enter into Self-Determination contracts for funds to perform the duties of the Office of Tribal Justice Support, except for the administration of base support funding.

Conference agreement

The conferees have agreed to provisions which are substantially the same as those in the Senate amendment, with the exception that the substitute states with particularity those activities which may be undertaken by tribal judicial conferences pursuant to a contract with the Secretary under the Indian Self-Determination and Education Assistance Act.

STUDY OF TRIBAL/FEDERAL COURT REVIEW

House bill

No provision.

Senate amendment

Title IV of the Senate amendment requires a comprehensive study of the treatment by tribal justice systems of matters arising under the Indian Civil Rights Act and other Federal laws subject to enforcement in tribal justice systems. The study is to be conducted by an eight member panel composed of four representatives of tribal governments and four judges of the Federal Courts of Appeal.

Conference agreement

The Conferees agree that the provisions of Title IV of the Senate amendment should not be adopted. The study authorized under this title is strongly opposed by Indian tribes throughout the country. In addition, this study duplicates the work of the United States Commission on Civil Rights and is contrary to the Commission's findings. The United States Commission on Civil Rights conducted many hearings over a five year period which focused on the enforcement of the Indian Civil Rights Act by tribal courts. After five years of study the Commission concluded:

"Although the Commission received testimony from several witnesses who supported Federal court review of ICRA claims, most of them indicated that amending the statute to provide for such review should be a means of last resort. The Commission believes that respect for tribal sovereignty requires that prior to considering such an imposition, Congress should afford tribal forums the opportunity to operate with adequate resources, training, funding, and guidance, something that they have lacked since the inception of the ICRA.

"With a renewed commitment by Congress to provide adequate funding, training, and resources to tribal governments such that their judicial systems might achieve the respect that is due them, as well as congressional support for the recognition of tribal court judgments by state courts and authorities, the Commission hopes that the current trend towards the narrowing of tribal jurisdiction will be reversed, and that, instead, the future will become one of promise and greater respect for tribal sovereignty and authority." "The Indian Civil Rights Act," A Report of the United States Commission on Civil Rights, June 1991, p. 74.

The Congress has not provided adequate resources, training, funding and guidance to Indian tribes for the development and enhancement of tribal justice systems. The Conferees agree that Indian tribes must be given an opportunity to develop tribal justice systems with adequate funding, support and statutory authority. The Conferees believe that the provisions of the Conference substitute will provide the appropriate statutory framework and the badly needed financial and technical resources for the continued development and enhancement of tribal justice systems. It is the decision of the Conferees that the provisions of Title IV of the Senate amendment are not timely. Prior to any examination of the possibility of Federal court review of tribal court decisions, the Congress must first provide adequate resources, training and funding to Indian tribes for the further enhancement of tribal justice systems.

The Conferees recognize the long standing principle that Indian tribes retain all sovereign authority not expressly divested by the Congress. This principle was articulated by the Supreme Court in *Iowa Mutual Ins. Co.* v. *La Plante*. 480 U.S. 9 (1987). The Supreme Court recognized that civil jurisdiction on an Indian reservation "presumptively lies in tribal court, unless affirmatively limited by a specific treaty provision or federal statute." 480 U.S. 9 (1987) at 18. The Conferees note that even in mandatory Public Law 83–280 states, Indian tribes still retain concurrent civil and criminal adjudicatory jurisdiction. The Conferees are concerned that prior policies may have precluded certain Indian tribes located in Public Law 83–280 states from receiving assistance for the development and operation of tribal justice systems. The Conferees direct the Bureau of Indian Affairs to provide financial and technical assistance to any eligible Indian tribe for the development, operation and enhancement of tribal justice systems.

TITLE II—AUTHORIZATION OF APPROPRIATIONS

SECTION 201. TRIBAL JUSTICE SYSTEMS

House bill

The House bill authorizes $7 million for each fiscal year from 1994 through 2000 for technical assistance and training and $50 million per year over the same period for base support funding to tribal judicial systems. Administrative expenses of the Office of Tribal Justice Support are authorized at $500,000 per year from fiscal year 1994 through 2000. The sum of $400,000 is authorized for the initial survey of needs of tribal judicial systems. Any funds appropriated pursuant to this section are not to be subjected to the Indian Priority System or offset against other funds otherwise available for use in connection with tribal justice systems. All funds appropriated pursuant to this section are to be allocated fairly and equitably by the Secretary among the Bureau, Office, tribal governments and Courts of Indian Offenses.

Senate amendment

The Senate amendment is identical to the House bill except that it includes authorizations for such sums as may be necessary to carry out the Tribal/Federal Review Study and $500,000 per year for fiscal years 1994 through 2000 for the administrative expenses of the tribal judicial conferences. In addition, the Senate amendment authorizes $400,000 for each of the six fiscal years to conduct the needs survey, rather than the one year provided in the House bill.

Conference agreement

The conference substitute adopts the provisions of the House bill with the addition of the provision from the Senate amendment which authorizes $500,000 in each fiscal year for the administrative expenses of the tribal judicial conferences.

TITLE III—DISCLAIMERS

SECTION 301. TRIBAL AUTHORITY

The House bill, the Senate amendment and the Conference agreement provide that nothing in the Act shall be construed to: diminish the authority of each tribal government to determine the nature of its own legal system, including the role of the justice system within the tribal government and the authority to appoint personnel within the government; alter any traditional tribal dispute resolution mechanism; imply that a tribal justice system is an instrumentality of the United States; or diminish the trust responsibility of the United States to Indian tribal governments and justice systems.

GEORGE MILLER,
BILL RICHARDSON,
CRAIG THOMAS,
Managers on the Part of the House.

DANIEL K. INOUYE,
PAUL SIMON,
DANIEL K. AKAKA,
PAUL WELLSTONE,
BYRON L. DORGAN,
BEN NIGHTHORSE CAMPBELL,
JOHN MCCAIN,
FRANK H. MURKOWSKI,
THAD COCHRAN,
PETE V. DOMENICI,
NANCY LANDON KASSEBAUM,
Managers on the Part of the Senate.

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that it be in order to immediately consider the conference report on the bill (H.R. 1268) to assist the development of tribal judicial systems, and for other purposes, and that it be considered as read.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MILLER of California. Mr. Speaker, we have before us a bill and conference report representing the culmination of 6 years of work between the committees of the House and Senate. Over the last two Congresses, both the House and Senate have passed versions of legislation designed to support the development and enhancement of tribal justice systems. We have finally reached agreement with the Senate on substantive legislation to provide funds to Indian tribes for the development, enhancement, and continuing operation of tribal judicial systems. This legislation will provide badly needed resources to Indian tribes to improve the administration of tribal courts and provide for the fair dispensation of justice in Indian country.

This legislation has the overwhelming support of Indian country and the support of the administration. It also is consistent with the recommendations of the U.S. Commission on Civil Rights. The U.S. Commission on Civil Rights after 5 years of exhaustive hearings on tribal courts and the Indian Civil Rights Act found that for 20 years the Federal Government has failed to provide adequate resources for the operation of tribal justice systems. The Commission expressed its strong support for legislation to authorize spending for tribal courts in amounts equal to that of an equivalent State court and provides for the equitable distribution of funds based on objective criteria.

This compromise reflects the strong recommendations of the U.S. Commission of Civil

Rights and the wishes of Indian country. I believe this bill and conference report represent a fair and reasonable compromise and I urge my colleagues to support it.

The conference report was agreed to.

A motion to reconsider was laid on the table.

EXPRESSING APPRECIATION TO W. GRAHAM CLAYTOR, JR.

Mr. SWIFT. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be discharged from further consideration of the joint resolution (H.J. Res. 294) to express appreciation to W. Graham Claytor, Jr., for a lifetime of dedicated and inspired service to the Nation, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. MOORHEAD. Mr. Speaker, reserving the right to object, while I will not object, I take this reservation for the purpose of asking the gentleman from Washington [Mr. SWIFT] to explain what is in this bill.

Mr. SWIFT. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I think in my service here, one of the great men, one of the great personages that I have had the opportunity to serve with, was not in the Congress, but in fact was somebody I worked with in the administration, W. Graham Claytor, Jr. He has announced his retirement at age 81 as president of the National Railroad Passenger Corporation, better known as Amtrak. I am privileged to chair the subcommittee with jurisdiction over Amtrak, and I have served, as has the gentleman from California [Mr. MOORHEAD], as the ranking Republican on the full Committee on Energy and Commerce, with him, as president and chairman of the board of Amtrak since 1982.

What is interesting about this man, who is now retiring at age 81, is that what we just said about him caps the career, but does not even begin to discuss the breadth and the scope of his career.

It has included service in the U.S. Navy. It has included a brilliant legal career. It has included leadership of one of the Nation's largest private railroads, service as Secretary of the Navy, as Acting Secretary of Transportation, as Deputy Defense Secretary, and, of course, stewardship of Amtrak.

While he was in the Navy, he is credited with having saved almost 100 survivors from a sinking heavy cruiser, the U.S.S. *Indianapolis*, which had been torpedoed in shark-infested waters in the Pacific, by decisively changing the course of his ship. He did receive orders to do that several hours later.

I think this is a man whose service to this country in so many capacities, in both the public and the private sector, is a model for so many of us who provide public service, and I am enormously pleased tonight to bring this joint resolution recognizing his years of service to the floor.

Mr. Speaker, I thank the gentleman very much for yielding on his reservation.

Mr. MOORHEAD. Mr. Speaker, continuing my reservation of objection, I strongly support the request of the gentleman from Washington. This resolution honors Graham Claytor for his long and distinguished service at the head of Amtrak. It is primarily his achievement that Amtrak is so much closer to self-sufficiency today and requires far less direct Federal support than when he took over in 1982. Those of us on the Energy and Commerce Committee have worked closely with Graham Claytor on numerous occasions, and we have seen first hand that he is bright, able, and totally trustworthy and honorable in his dealings with the Congress. We commend him for his outstanding service as president of Amtrak.

But Amtrak is only Mr. Claytor's most recent career. Before that, he was among other things, law clerk to Learned Hand and Louis Brandeis, a partner in the Washington law firm of Covington & Burling, the highly decorated skipper of a Navy destroyer that led the rescue of survivors from the torpedoing of the cruiser U.S.S. *Indianapolis* in shark-infested Pacific waters, president of Southern Railway, and Secretary of the Navy. Few Americans have achieved so much in either the public or private sector, much less both. We honor Graham for his years of faithful service to the United States in many capacities, and we wish him well on his retirement.

Mr. DINGELL. Mr. Speaker, the resolution we are calling up today expresses appreciation to a dear personal friend of mine who has announced his retirement at the age of 81 from the National Railroad Passenger Corporation, better known as Amtrak. W. Graham Claytor, Jr., has served ably and well as president and chairman of the board since 1982 after a long and successful career.

Graham Claytor has provided remarkable, inspired, and even heroic service to the Nation during a career that has included service in the U.S. Navy, a brilliant legal career, leadership of one of the Nation's largest private railroads, service as Secretary of the Navy, Acting Secretary of Transportation, and Deputy Secretary of Defense.

There wouldn't be a national passenger rail system today if it weren't for Graham. He understands railroads and is directly responsible for the dramatic improvement in the economics, quality, and marketability of rail passenger service that has occurred over the last decade. Through his vision of leadership Graham is personally responsible for having enabled Amtrak and Congress to withstand zealous attempts to eliminate the Nation's rail passenger system. We will miss his dedication and superb service to this Nation.

Mr. Speaker, I urge you and my House colleagues to join in support of this joint resolution.

Mr. MOORHEAD. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 294

Whereas W. Graham Claytor, Jr., has announced his retirement at age 81 from the National Railroad Passenger Corporation, better known as Amtrak, where he has served as President and Chairman of the Board since 1982;

Whereas W. Graham Claytor, Jr., has provided remarkable, energetic, inspired, and at times heroic service to the Nation during a career that has included service in the United States Navy, a brilliant legal career, leadership of one of the Nation's largest private railroads, service as Secretary of the Navy, Acting Secretary of Transportation, and Deputy Secretary of Defense, and stewardship of Amtrak during a period that witnessed the rebirth of the Nation's passenger rail system;

Whereas W. Graham Claytor, Jr., has brought to his work enormous intellectual and analytical skills developed at the University of Virginia, where he received his bachelor's degree in 1933, and Harvard Law School, where he graduated in 1936 summa cum laude and as President of the Harvard Law Review;

Whereas W. Graham Claytor, Jr., worked as a law clerk for two of the finest and most brilliant jurists in this nation's history, Judge Learned Hand of the United States Court of Appeals for the Second District in 1936–1937, and Supreme Court Justice Louis D. Brandeis in 1937–1938, and later as an associate and partner at the law firm of Covington & Burling;

Whereas W. Graham Claytor, Jr., served his Nation during World War II, advancing in the United States Navy from ensign to lieutenant commander, and held commands of the U.S.S. SC–516, the U.S.S. Lee Fox, and the U.S.S. Cecil J. Doyle;

Whereas W. Graham Claytor, Jr., is credited with having saved almost 100 survivors of the sinking heavy cruiser U.S.S. Indianapolis, which had been torpedoed in shark-infested waters in the Pacific, by decisively changing the course of his ship, the U.S.S. Doyle, to rescue the survivors hours before receiving orders to take part in the rescue;

Whereas W. Graham Claytor, Jr., retired in 1977 as Chairman and Chief Executive Officer of Southern Railways, where he also had served as Vice President of Law and President, and was responsible for revamping the corporation's management style, planning, and long-term focus, and for making the railroad one of the largest and most successful in the Nation;

Whereas W. Graham Claytor, Jr., brought his experience as a decisive Naval officer and premier corporate manager to bear on the challenge of shaping a strong, versatile, modern Navy through his appointment by President Jimmy Carter and confirmation by the Senate in 1977 as Secretary of the Navy, and on the challenge of providing for a strong defense within mounting budgetary constraints in 1979 as Deputy Secretary of Defense, as well as serving as Acting Secretary of Transportation;

Whereas W. Graham Claytor, Jr., was appointed President and Chairman of the Board of Amtrak in 1982 at the age of 71, and is directly responsible for the dramatic improvement in the economics, quality, and marketability of rail passenger service that has occurred over the last decade, and in the resurgence of demand for Amtrak service as a means of addressing growing highway and airport congestion across the Nation;

Whereas the vision of leadership of W. Graham Claytor, Jr., is responsible for having enabled Amtrak and Congress to withstand zealous attempts to eliminate the Nation's rail passenger system by demanding of his corporation that Amtrak operate as a private business with strict attention to the bottom line and to improvements in efficiency and quality of service, and by engineering a substantial reduction in the corporation's revenue-to-cost ratio and in level of Federal support required to operate the system;

Whereas W. Graham Claytor, Jr., has positioned Amtrak to be the Nation's leader in the development of high-speed rail for the next century and has overseen development of the Northeast Corridor as the Nation's premier rail passenger line and a model for high-speed operations across the country; and

Whereas the retirement of W. Graham Claytor, Jr., will mean the loss of one of the Nation's most knowledgeable, inspiring, and persuasive voices in government service and of a close, personal friend to many in Congress, the Government, and business: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress recognizes the critical role of Amtrak in the Nation's transportation system, and that the Nation profoundly thanks W. Graham Claytor, Jr., for a lifetime of dedication and superb service to this Nation, for his willingness to assume major new public challenges at a time when his peers had long ago retired, for his ability to profoundly change the course of events, from the lives of the sailors of the U.S.S. Indianapolis to the preservation of national rail passenger service, and for his brilliant stewardship of Amtrak over the past decade.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SWIFT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on House Joint Resolution 294, the joint resolution just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

SUNDRY DEFERRALS OF BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States, which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report four new and two revised deferrals of budget authority, totaling $7.8 billion.

These deferrals affect International Security Assistance programs as well as programs of the Agency for International Development, the Department of State, and the General Services Administration. The details of these deferrals are contained in the attached report.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *November 19, 1993.*

□ 1100

THE ARAB BOYCOTT OF ISRAEL

(Mrs. UNSOELD asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous matter.)

Mrs. UNSOELD. Mr. Speaker, prospects for peace in the Middle East are greater today than at any other time in living memory. Israel is holding meaningful talks with her neighbors, and Jews and Palestinians are working toward a mutual understanding.

That is why the continuation of the Arab boycott of Israel is so unfortunate. It was outrageous even in an era of open conflict. Today, it is an impediment to the reconciliation all sides are working to achieve.

Many Americans do not know that this Arab boycott is aimed directly at us. United States companies that do business with Israel are put on an Arab blacklist and are not allowed to sell products or operate in Arab States.

A long list of American businesses have chosen to disregard the threat, and as a result they have been blacklisted. I would like to insert into the RECORD a list of many of these companies.

The boycott is not in the spirit of the times. I urge my colleagues to join with President Clinton and send a message that the Arab States must end this ugly instrument of confrontation.

American Companies Boycotted by the Arab League

Accent Intl. Inc.—DE, Acme Servcs. & Containers—MI, AEL Industries Inc., Aetna Life and Casualty, Aerodynamics Industries Inc., Agfa Gavert—New York, Albi Enterprises Inc., Aldrich Chemical Co. Inc., All State, Ambrint Sugars Inc., Amerex Fire Intl. Inc., American Sys. Cope Maker Inc., American Elec. Laboratories—PA, American Express, American Motors Gnrl., American Motors Corp., American Products Company, American Tank Terminals, Inc., Amplica Inc.—California, April Music Inc.—Connecticut.

AGA-Alucirisse of America Inc., AGA Aluewiss Metal Inc., Alaska Packers Association, Apex-Automotive Warehouse, Aqua Chem Inc., Armstrong Machine Works, Arrow Inter-American Inc., AT&T, Atlantic Products—NJ, Atzmon Bros., Avia, Avon, Award, Baise Truck & Equipment, Banana Processors Inc., Barreto Peat Inc., Basco Division, Baxter Laboratories, Bell Laboratories, Bellows Gin, Bellows Vodka. Bell Telephone Laboratories, Berken Ellerman, Bio Lab Inc., Black Box, Blackword Music Inc.—CT.

B.L.D., Blue Flame Gas Corp.—DE, B&M Oil Inc., Briggs & Stratton Corp., Bulova Watch Company, Butler King, California Pretzel Co. Inc., Calpak Properties Inc., Calverpeat Inc., Carte Blanche, Cannon Group, C.B.S. Record Ltd.—NY.

C.B.S., C.B.S./EVR Inc.—NY, C.B.S. Holt Group, C.B.S. Films Inc.—CA, C&C Manufacturing, C.D.C., Certronics Data Computer, C. Gnrl. Corp., C. Gnrl. Intgrtd. Sys.—TX, Chanel Industries Gas Corp., C.H. Masland and Sons, Chapman Services Ltd., Chromellloy American Corp., Chrysler, Clayson Hrvstrs. Eqpmnt., Cluett Peabody and Co., Clupak Inc., Colgate Palmolive, Collins Pipeline Co., Colt Industries.

Colt Industries Operating, Compugraphic Corp., Comsat, Concept Industries, Concept Intl. Sales, Condec Corp., Connecticut Gnrl., Consolidated Aluminum, Consolidated Control Corp., Consolidated Diesel Elec., Contenental Grain, Controls Corp., Conval Corp., Conval Intel. Ltd., Conval Ohio Inc., Convers Rubber Company, Cooper Lazer Sonics, Cooper Med. Corp.

Creative Playthings Inc., Crosley Intl. Inc., C. Telesystems Inc., Currier Smith Corp., C. World System Division, Data Intl. Corp., David Mikael Inc., Date Limited, Davol Industries, D.C.M. Trading Corp., De Lew Cather, Del Monte Corp., Dexter Corp., Direct Oil, Inc.—FL, Distribution Management, Distribution Systems, Dover, Doric Corp., Drukker, Dubledee Diamond Corp.

Du-Pont, Dwyer Instruments, East Tennessee Natural Gas, E.I. Dupont Nemours, Eltra Corp., Eltran, Emerald Trading Corp., Endico Potatoes Corp., Energy Products Holding Inc., Eschem, Ersh Inc.—NY, Esl Incorporated, Eamark Inc., Estech Inc., Estech Intl. Corp., Estech Investments Inc., Export Agencies Corp., Fairbanks, Fenchurch Risk Managers, Fidelty Mutual & Mutual Life.

Field & Co. Fruit Merchants Ltd., Field & Stream Pop. Gardening, Filbrelite Corp., Fisher Controls Co., Fisher Intl., Fisher Service, Fisher Mills, Ford Motors, Foster Grant Co. Inc., Gabriel Industry Inc., G.A.F. Corporation, Garland Industries, Garlock, G.D. Searle & Co., Gnrl. Electric Corp., Gnrl. Form Plastics Corp., Gnrl. Form Corp.—NY, Gnrl. Motors Overseas, Gnrl. Refractories Company, Gnrl. Telephone Electronics.

Genesco Inc., Gerber Products, Gilbey's Gin, Graphic Credit Corp., Granny Goose Foods Inc., Great Lakes Container Corp., Grefco Intl. Inc., Grove Intl., G.R.X. Export Corp., G.T.E. Intl. Inc., G.T.E. Credit Corp., G.T.E. Sylvania Inc., G.T.E. System Security Products, G.T.M. Dandy, Guinness Peat Aviation, Guit Company Inc., Gulf & Western Industries, Hammond Valve Corp.

Handiman Industries Inc., Hans Corp., Hartol Petroleum Corp., Harry Winston Inc., Heath Co.—MI, Helena Rubenstein Inc., Helene Curtis Inc., Henry C. Lytton & Co., Heritage Company of Houston, Hertz Corp., Heyden Newport Chemical Corp., Heward Robinson Co. Inc., H.F. Staiger Co. Inc., H.I.C. Inc., Hilton Hotels, H.M.W. Industries Inc., Holt Rinehart & Winston, Horizon Industries Inc., H.T. Gathering Co., Hughes Aircraft Systems.

I.B.M., I.D.A. Co., Idaho Falls Trunk & Eqpmt., I.M.I. U.S.A. Co., Inta Lite Co., Intl. Finance, Intl. Hydron, Intl. Laboratories, Intl. Maritime Industries, Intl. Minerals & Chemical, Intl. Paper Co., Intl. Playtex Co., Intl. Sales Co., Irdium, J.B. Williams Corp., J.T. Case Co., Johnson Controls Inc., J. Schaeneneman Inc., Kaiser Jeep Corp., Kazser Roth, K.D.I., Kem Intl.

Kentro Inc., Kern Inc., Kern County Land Co., Keystone American Corp., Keystone Camera Corp., Keystone Lighting Corp., Kid California Inc., Kid Texas Inc., Lane, Langford Service Systems, Levi Strauss, Lewis Elec. Instrumentation, Lewis Investments Inc., Lewis Le Peat Inc.—IL, Lewis Metals Inc., Lewis Pharmaceutics Inc.

Lewis Trading Inc., Lima Electronics Co., The Lincoln Electronic Co., Lincoln Dealer Leasing, Lincoln Mercury Division, Lomex Inc., Lonza Inc., Lily Minerals, Louis Dreyfuss U.S.A., Louisville Fertilizer Co., Lukenheimer Valve Corp., Mallinkrodt Inc., Manufacturers Junctionary, Mansanto, Mapleton Development Co., Maremont Corp., Marion Laboratories, Marion Manufacturing, Marline Drilling Co. Inc., Maxwell Products Co.

Mattel Inc., Medtronic Inc., Meinkaralty Corp. Inc., Midwestern Gas Transmission, Metalstitch U.S.A., Microwave Assots. Comm., Midwesco Enterprise, Miles Laboratories Inc., Milwaukee Die Casting Inc., Mine Publication Inc., Mitchell Supreme Fuel Co., M. Lowenstein Corp., Monroe Auto Equipment, Monsanto Co., Motorola Electronics Ltd., Mr. Tire Inc., Nabisco Inc., National Political Action, National Distillers Products, National Packing Co., National Patent Dvlpmnt., NCR Corp.

Nelson Concepts Inc., Nelson Stud Welding Division, Neuromedics Inc., Newport News Shipbldg & Dry Dock, New York Yankees Inc., Noonan Astley Le Penrce, North America Glass Industries, North Cliff Thayer Inc., N.W. Arkansas Truck & Eqpmt, N.R.M., Oak Grove Trucking Company, O'Brien Spotorno Mitchell, One Systems Inc., Operates Inc., Olmet Corp.

O-S Petrolum Inc., Overseas Marine Services, Packing Corp. of America, Paddison Truck Lines Inc., Palmolive U.S., Paramount Cards Inc., Paramount Pictures Inc., Pearlson Engineering—FL, People Fertilizer Co., Perkin Elmer Corp., R.J. Reynolds, Tenneco Chem., T.R.W., Zenith.

BIPARTISAN REFORM: A NEW OPPORTUNITY

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include extraneous matter.)

Mr. GINGRICH. Mr. Speaker, I was very saddened to hear the Budget chairman's comments just now. We have a new opportunity for bipartisan reform.

The gentleman from Minnesota [Mr. PENNY], a Democrat, and the gentleman from Ohio [Mr. KASICH], a Republican, have led a bipartisan group in writing a $90 billion spending cut to reduce the deficit. Our former colleague, Vin Weber, in today's Wall Street Journal, has written an appeal for a bipartisan reform coalition.

Mr. Vin Weber is right. We can work together in a bipartisan effort to cut spending, reform health, replace welfare with work, create jobs, and increase economic growth.

On Monday, every Member will have a chance to vote for spending cuts to reduce the deficit. I hope every Member who wants to reduce the deficit will vote "yes" on Penny-Kasich.

Mr. Speaker, I include for the RECORD the article to which I referred.

[From the Wall Street Journal, Nov. 19, 1993.]

CLINTON'S WINNING COALITION

(By Vin Weber)

With the passage of the North American Free Trade Agreement, President Clinton stands at a crossroads. In fighting for Nafta, he bucked the intense opposition of organized labor and the liberal establishment of his party, and succeeded in passing his first notable "New Democrat" initiative. It was a major victory—and a major shift in direction for a president who had all but abandoned the New Democrat agenda he campaigned on a year ago.

Now Mr. Clinton must make a crucial decision: Work to sustain the centrist political coalition that came together to pass Nafta? Or move back to the left and spend the rest of his presidency making up for doing the right thing on Nafta? How he chooses will have tremendous implications for the future of his administration, his party and the country.

The liberal wing of the Democratic Party is already on the offensive to regain its hegemony in the Clinton White House, attacking the coalition that passed Nafta as an unsustainable anomaly. Many of the president's liberal advisers are urging him to part with the coalition of Republicans and centrist Democrats that delivered the vote on Nafta, and move to "heal the wounds" of his party's left wing. If the president wants to govern as a New Democrat, he should resist this advice.

The Nafta coalition is not an aberration. This alliance is indeed sustainable and represents a potentially powerful centrist political force. The president can tap into this force and produce real change for America in the coming three years.

The Democratic Party's left wing argues that Mr. Clinton would be foolish to cast his lot with the Nafta coalition—that while Republicans supported Mr. Clinton on Nafta, they will not help him on other issues such as health care and the economy. This is simply not the case. If anything, the Nafta vote proves that when the president champions an approach to government that favors free trade and free enterprise, a majority of congressional Republicans will support him.

During the internal debate over Nafta, some House Republicans did argue that the GOP should abandon Nafta, even if the party agreed with the principles of the treaty, so as to deny Mr. Clinton the "big win" that would salvage his weakened presidency. But when it came time to vote, this argument found little currency. Republicans put principle over politics and voted for Nafta by a margin of 132–43. If the president gives them a reason to, they'll do it again.

There are several reasons to believe this is so. First, Republicans don't want to just oppose—they want to govern. The GOP has been in the minority in the House since 1954. If Republicans agree with the agenda, and are made real partners in pursuing it, they will jump at the chance to be part of a governing majority.

Second, the next Republican leader, Newt Gingrich, is prepared to go this route. Just as Mr. Clinton stands at a crossroads today. Mr. Gingrich was at a crossroads several months ago over Nafta. Many of his colleagues advised him that GOP members might react negatively to the idea of their next leader rescuing an incumbent Democratic president. But Mr. Gingrich opted for statesmanship and delivered the Republican vote. He is ready today to lead the GOP into a partnership for change with Mr. Clinton—provided it is real change and a real partnership.

Mr. Clinton should not turn away from this opportunity now. Rather, he should examine other issues on which the Nafta coalition can unite to pass real reforms for America. Some possibilities include:

The Economy. The reason Republicans have thus far opposed Mr. Clinton on his domestic agenda, while supporting his position on foreign trade, is that Mr. Clinton has pursued divergent policies in these two areas. In making the case for Nafta, Mr. Clinton found himself championing traditionally conservative economic principles: removing government barriers to free trade and free markets; creating incentives for productivity and investment; cutting taxes and removing barriers to entrepreneurship. These are core principles that Republicans will support on other issues as well.

But while Mr. Clinton supported these policies of lowering taxes and reducing government interference in international trade, he has thus far supported higher taxes and big government at home. If Mr. Clinton applies the principles he championed in the Nafta fight to his domestic economic agenda, the Nafta coalition will help him pass a pro-growth economic agenda in 1994.

Specifically, just as the president championed lowering taxes on businesses trading with Mexico (tariffs are taxes), he should pursue a policy of lower taxes on all American businesses. The one area where he could accomplish this—and where the Nafta coalition would eagerly help him—is in cutting the capital gains tax.

A capital gains tax cut is the logical extension of the trade policy Mr. Clinton has pursued with Nafta. Most of our major competitors in the new global economy, including Japan, Germany and Mexico, have a capital-gains tax rate of near zero. Having just had the vision to commit us to compete more freely in the global marketplace, Mr. Clinton must also realize that America cannot successfully compete with countries that have a zero tax on capital formation while we tax capital at 28 percent.

There is a precedent for Mr. Clinton to champion a capital-gains tax reduction: In 1978 a Democratic Congress passed, and a Democratic president signed into law, the ground-breaking Steiger capital-gains tax cut. Mr. Clinton should do it again . While George Bush was unable to get such a cut through Congress, if he harnesses the Nafta coalition, Mr. Clinton could.

Health Care. When he presented his health care proposal to Congress, the president said that, except for the principle of universal coverage, everything is on the table. This ensured that the final product of next year's health care debate in Congress will be a compromise plan. Mr. Clinton thus faces a choice: He can compromise to either the right or the left.

The president's liberal advisers want him to compromise left. Mr. Clinton's pollster, Stan Greenberg, argues that there is "no Nafta block of Republicans for health care" and is advising the president to find common ground with liberals in his party who advocate a Canadian-style single-payer program. This is bad advice. If the president chooses to follow a New Democrat path, however, he can tap into the Nafta coalition to pass legislation that provides coverage for uninsured Americans while still using the power of the market to protect quality and choice.

Welfare Reform. During the presidential campaign, Mr. Clinton promised that his administration would pursue real welfare reform and stated his support for a two-year time limit on welfare recipients. To his credit, the president recently approved a trial reform program in Wisconsin, proposed by Republican Gov. Tommy Thompson, that would impose such a limit. If Mr. Clinton is prepared to work toward real reforms of the welfare system on the national level, the Nafta coalition could be harnessed to support and pass such legislation in Congress.

Further Trade Liberalization. Mr. Clinton should claim that the support of the Nafta coalition is a mandate for him to pursue the next step in building a hemispheric free trade zone—negotiations to incorporate Chile, Argentina and Venezuela into the Nafta trading bloc. The Nafta coalition could provide him with the votes he needs to get "fast track" authorization from Congress for such an effort, and to pass a final free trade agreement before the end of his first term.

All this is not only wise policy—it is smart politics. As the Democrats' collapse in the 1993 elections shows, the American people are dissatisfied with the leftward direction the Clinton administration has taken during its first year. Clearly voters are still angry and want change. But the change they are looking for still has not occurred. If the president chooses to return to his New Democrat roots, he can deliver the kind of real change Americans are looking for. And he will reap the political benefits.

This strategy is not without risk for the president. There is real danger that, were he to follow through with such a New Democrat agenda for the next three years, it would lead to an old Democrat primary challenge in 1996. But the president should realize that the opportunity here is not just tactical—it is historic. The chance to change the direction of the country, to build a new bipartisan political coalition, does not come along every day.

If Mr. Clinton does choose this course, it will require skill, courage and fortitude. It will infuriate many traditional constituencies and special interests in his party that want to resist change. But it could also mean the difference between being remembered as another Jimmy Carter, or earning a place in history as a modern John F. Kennedy.

HORN BUDGET DEFICIT REDUCTION PLAN

(Mr. HORN asked and was given permission to address the House for 1 minute and to revise and extend his remarks, and include extraneous matter.)

Mr. HORN. Mr. Speaker, Penny-Kasich is one answer; it is not the only answer. There are several possible answers to achieve the goal of balancing the budget, cutting this horrendous annual deficit and beginning reduction of the national debt, now $4 trillion headed to $5 trillion.

Instead of the pretense of acting in a few hours, why not take several days, permit ideas to cut the deficit to be voted up or down by a majority vote without a closed rule that denies the people's representatives the opportunity to act?

Some of us have offered a proposal and will before the Rules Committee this morning, the Horn-Barlow-Stearns-Kingston et al. proposal which would cap growth at 2 percent to the year 2000, but which would exclude Social Security; exclude Medicare; exclude all of the civil, military, and veterans retirement funds; exclude Head Start and exclude the payment of interest. And we would achieve a cut and a savings of $136.1 billion over the fiscal year 1994 through 1998 five year period. This proposal saved more than any other proposal before the House.

I include for the RECORD the Congressional Budget Office assessment of this plan as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 18, 1993.

Hon. STEPHEN HORN,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN: The Congressional Budget Office has reviewed a draft of your proposed amendment to H.R. 3400, with modifications specified by your staff, that would set limits on discretionary spending and on total spending for certain mandatory programs, and would enforce those limits with a reduction of nonexempt spending through a sequestration process. The limits and cuts would apply to virtually all discretionary programs (Head Start is exempt from cuts) and to mandatory programs listed in the legislation (Social Security, Medicare, and a number of other mandatory programs are not included in the list).

CBO is unable to estimate the effect of enactment of this proposal on discretionary and mandatory spending because it is likely that the sequestration procedure would not work as intended. There are a number of potential flaws in the sequestration mechanism specified in the draft amendment we reviewed, but the most fundamental relates to reductions in entitlement spending that would be required by the proposal. Instead of specifying how any required cuts in particular entitlement programs are to be achieved, the legislation provides general authority for executive agency heads to adjust benefits and eligibility requirements in order to achieve the savings. This implied repeal of the entitlement status of the affected programs is insufficient to override the specific language in individual laws that guarantees specified benefits to anyone who meets specified eligibility standards.

Nonetheless, for illustrative purposes, we have calculated the reductions in spending below CBO's September, 1993, baseline that would result if discretionary spending and spending for mandatory programs listed in the proposal were actually limited to the levels specified in the draft amendment. Those reductions are shown in the enclosed table.

I hope this information is helpful. If you have any questions we will be happy to answer them. The CBO staff contact is Jim Horney, who can be reached at 226-2880.

Sincerely,
ROBERT D. REISHAUER,
Director.

ILLUSTRATIVE SAVINGS FROM REDUCING SPENDING TO THE LEVELS SPECIFIED IN DRAFT OF HORN AMENDMENT TO H.R. 3400

[By fiscal year, outlays in billions of dollars]

	1994	1995	1996	1997	1998
Discretionary spending:					
CBO September 1993 baseline for total discretionary spending[1]	542.4	541.7	547.8	546.8	547.3
Limits specified in Horn amendment	537.0	537.0	537.0	537.0	537.0
Reductions below baseline required to comply with limits in Horn amendment	−5.4	−4.7	−10.8	−9.8	−10.3
Mandatory spending:					
CBO September 1993 baseline for mandatory spending subject to proposal[2]	243.5	252.2	261.2	287.1	308.2
Limits specified in Horn amendment	241.6	246.4	251.3	256.3	261.5
Reductions below baseline required to comply with limits in Horn amendment	−1.9	−5.8	−9.9	−30.8	−46.7
Total reductions below baseline	−7.3	−10.5	−20.7	−40.6	−57.0

[1] CBO's baseline for total discretionary spending equals the estimated end-of-session limits on total discretionary spending under the Balanced Budget and Emergency Deficit Control Act.

[2] This represents CBO's September 1993 estimate of spending for all of the accounts listed in the proposal as being subject to the mandatory spending limit.

Source: Congressional Budget Office.

Total five year savings = $136.1 billion.

MEASSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Ms. Michele Payne, one of his secretaries.

□ 1730

VACATING OF SPECIAL ORDER AND REINSTATEMENT OF SPECIAL ORDER

Mr. VENTO. Mr. Speaker, I ask unanimous consent to vacate my 60-minute special order tonight and, in lieu thereof, be permitted to address the House for 5 minutes.

The SPEAKER pro tempore (Mr. POMEROY). Is there objection to the request of the gentleman from Minnesota?

There was no objection.

REALLOCATION OF SPECIAL ORDER

Mr. VENTO. Mr. Speaker, I ask unanimous consent that the special order for the gentleman from Michigan [Mr. BONIOR], on Nov. 19, 1993, be allocated to the gentleman from New York [Mr. HINCHEY].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

H.R. 2923, THE DIETARY SUPPLEMENT CONSUMER PROTECTION ACT OF 1993

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Illinois [Mrs. COLLINS] is recognized for 5 minutes.

Mrs. COLLINS of Illinois. Mr. Speaker, an ounce of prevention is worth a pound of cure. This aphorism which most of our mothers used is now a growing and important health care approach. Today lots of Americans use dietary supplements at least occasionally in an effort to lose weight. As many as 60 million Americans take dietary supplements daily every day of their lives. Obviously, they rightfully believe that they should be proactive in their approach to health care and do all the they can to prevent the onset of disease. I also believe that we should do whatever we know to do in order to prevent the onset of illnesses and deaths.

But what happens if the supplements that we take are not what they claim to be? What if they are not manufactured correctly or they are not appropriate for certain segments of our public? What happens if the products that we buy make claims that cannot be substantiated? These are all real problems that must be addressed. Because of these potential problems, and others, I have introduced H.R. 2923, the Dietary Supplement Protection Act which would set standards for the manufacture of dietary supplements so that the consumer can be confident that she or he is receiving the health benefits that she or he intended to derive from the purchase.

There are a number of products which are very helpful under certain circumstances but can be dangerous to large classes of consumers under other circumstances.

For example, products which contain ingredients with naturally occurring forms of aspirin can be detrimental to children with Reyes syndrome. They should contain appropriate labels. My bill would mandate that appropriate warnings be placed on products that should have them.

In a recent study of supplements claiming to contain L-carnitine, a majority of the brands surveyed contained less than 60 percent of the L-carnitine that they claimed. This could prove fatal to Americans who suffer from carnitine deficiency and who rely on these products to adequately supply their needs.

Clearly, the vast majority of dietary supplements are safe and helpful. They are an important component of many preventive and curative regimes; but, as with any industry, there are a few bad actors, a few shady manufacturers whose product labels make claims for which there is no substantiation, others whose products do not indicate when a product may lose its potency, and so on. My bill would ensure that these manufacturers act more responsibly.

Responsibility is a two-way street. If industry is to act responsibly, we must be certain that the agencies overseeing their actions also are responsible. Now let me make it clear that my next statement is not in any way meant to speak negatively about actions taken by the FDA under the very confusing legislative authority that they have had.

However in an attempt to bring clarity and to insure that they act reasonably, I have included a provision in my bill which would create an advisory committee which will include members from the dietary supplement industry and nutrition experts knowledgeable about supplements appointed by the Secretary of HHS—not by the FDA—to ensure that the regulations established are not onerous to the industry and that they are in accord with the legislative intent of the Congress.

The FDA knows that given the controversy this issue has caused, their actions will be closely watched to ensure that the actions they take are not extreme, unnecessary or out of line with congressional intent.

Mr. Speaker, every person has a right to choose what is best for his or her body. In order to exercise that right it is essential that the consumer of a dietary supplement be certain that the product they purchase is manufactured correctly and that they have accurate information about what it can or can not do. H.R. 2923 is a start that will help us reach these goals.

HUNGER AND HOMELESSNESS AWARENESS WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota [Mr. VENTO] is recognized for 5 minutes.

Mr. VENTO. Mr. Speaker, I rise for special orders tonight to highlight Hunger and Homelessness Awareness Week. I would like to thank all of the Members who expressed a willingness to participate and who are submitting statements now or throughout the week to help draw attention and awareness to the plight of homeless and hungry Americans across this country.

I would also like to recognize the organizations that have been highly visible and vocal advocates for this week and year 'round, mobilizing support and interest for those in our society who are so often without a voice: the National Coalition for the Homeless, OXFAM International, and the National Student Campaign Against Hunger and Homelessness.

As chairman of the Speaker's Task Force on Homelessness I've spent a considerable amount of time this past year along with other Members, Representatives BLACKWELL, KENNEDY, FRANK, COLLINS, EVANS, KILDEE, REYNOLDS, and GONZALEZ, examine new and past initiatives to deal with the problems of homelessness. I've had the opportunity to study and review the work I and others have done during the past 10 years. I certainly am not satisfied that we have found ironclad solutions. What I've learned anew is that there are no simple answers or programs to meet the myriad of problems that the homeless encounter. Yesterday, two new studies were released that demonstrate that we have a long way to go. They add a new urgency for the task force and this Congress to lead the way with innovative new initiatives that work.

The research released yesterday is not uplifting. The reports found that a startling 26-million Americans have been homeless at some time in their lives, close to half of whom have stayed in a shelter or on the street; 4.6 percent or 8.5 million of our fellow citizens reported being homeless within the past 5 years. Almost 86,000 persons in New York City using the shelter system each year. And in 3 years, 43,395 people, nearly 3 percent of Philadelphia's population have stayed in shelters. Further, these ground-breaking studies found that these Americans have been less victims of mental illness or substance abuse and move victims of growing poverty. This is disturbing, but it should be a call to action to evaluate and change our policy paths to meet the needs of people who are homeless where they are at.

Some policies are changing. I hope we have the patience and the political will in Congress to follow this call for change. Change involves risk—and when you are all done taking risks, then you are all done. The people we represent are not ready to throw up their hands. I am ready to try again to move beyond the McKinney Act and other laws that have been the first tentative steps to deal with temporary homelessness.

As Chairman of the Speaker's Task Force on Homelessness, I will next month renew the call for homeless prevention and for a strong national response to the crisis on our urban city streets and the quiet desperation along the rural routes of America. Some policymakers may evidence compassion fatigue for the homeless. But the personal, silent crisis—of good people—working people, some with disabilities, some with children thown in the nightmare of being homeless by a structural economic recession.

The Speaker's task force has been working since March with our various Members tasked out to particular issues or interest or expertise—be it housing, health care, education, public assistance, or a study of model programs around the country. We have immersed ourselves in the current programs—serving the homeless and near homeless, scheduling meetings, site visits, briefings, and hearings. We have been focusing on what is out there and how to improve upon it.

We have been examining the roots and causes of homelessness and the links between them—as in affordable housing, health care, mental health care, drug treatment, job training, underemployment, and the lack of a safety-net problem. We have been determining which programs work and are now developing our recommended changes to homeless and mainstream programs—like SSI, WIC, Food Stamps, EITC, housing assistance, Medicaid or Emergency Assistance—that will reduce homelessness through better services, prevention, and intervention.

I am hopeful that our task force report will help us to reinvent and reinvigorate our Federal policies and programs that assist our greatest asset—our own people. We need a well-balanced approach to the multiple problems with which we are faced. We need to address people holistically and get at the root problems of poverty, crime, affordable housing, quality education, and lack of jobs.

We must rethink the boundaries of federal policies—not just those serving Americans who are already homeless—providing decent housing is a key goal—but we must assure access to appropriate services.

We need to balance Federal guidelines and standards with State and local flexibility—integrating all our systems and services to reduce economic dependence and to alleviate poverty. And especially to integrate with social welfare programs and services already in place—eliminate overlap and streamline coordination in these difficult budget times.

Together we must do so within the context of an overall domestic policy stressing human investment, job creation, education, affordable health care, and stronger economic growth. The time is now to reduce our human deficit along with the looming Federal deficit that threatens the future lives and lifestyles of our children.

Our task, our goals are clear: to answer the challenge that confronts our society; to preserve existing families; care for one another; enable and empower people to care for themselves and their families; and to help mend the frayed and torn social fabric of our Nation. This is an effort worthy of our most effective advocacy and strongest leadership in which we can and must engage the American people and our resources.

Again, I want to thank everyone who is participating to make National Hunger and Homelessness Week one that will touch the lives of many.

□ 1740

Mr. FALEOMAVAEGA. Mr. Speaker, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from American Samoa.

Mr. FALEOMAVAEGA. Mr. Speaker, I thank the gentleman for yielding to me. I certainly want to commend him for the outstanding job that he has done over the years with our fellow colleagues in taking care of providing for the homeless. I want to submit an article that was an editorial under the Minneapolis Star Bulletin and Star Tribune on November 18 which speaks very well to the gentleman's efforts dealing with the problem of hunger and homelessness.

Mr. Speaker, I am pleased to join my distinguished colleagues this evening to speak about the plight of the homeless and the hungry, in conjunction with the National Hunger and Homelessness Awareness Week, sponsored by the National Coalition for the Homeless, The National Student Campaign against Hunger and Homelessness, and OXFAM America.

It is unfortunate that it has to take a nationally coordinated week to get the leaders and citizens of this country to focus their attention on the silent crisis of hunger and homelessness which has affected millions of our fellow citizens every year. Hunger and homelessness are a national problem now affecting various segments of society, including families with children and the working poor. This was once thought to be a temporary crisis, but has proven to be an enduring problem—and only through heightened public concern and increased attention will our leaders begin to find a solution to end this problem.

In the last few years, Congress began to debate this issue and responded to the acute and varied needs faced by the homeless by passing legislation such as the Steward McKinney Act, which provides a comprehensive set of services to address the needs of those without a stable home or enough to eat.

I am grateful to some of my colleagues who have been in the forefront of this issue in the past few Congresses. To name a few, Representative TONY HALL, past chairman of the recently discontinued House Select Committee on Hunger, and now chairman of the Hunger Caucus, has traveled to many places in the country and around the world to examine the causes of hunger, and the ability of a community to respond to those conditions; Representative BRUCE F. VENTO, chairman of the Speaker's task force of homelessness, who has spent a substantial amount of time examining new and past initiatives to deal with the problems of homelessness; and the late Representative Mickey Leland, who was a vocal and visible advocate for the hungry and homeless during his tenure as chairman of the House Select Committee on Hunger.

Mr. Speaker, researchers have noted that among the homeless are those who suffer from chronic unemployment and other economic problems, those who experience family crisis, those displaced by changes in the housing market, those with disabilities, and some with children. They are people who are both heterogeneous in their backgrounds and diverse in their life courses. The recently released figures are startling. A total of 26 million Americans—about 10 percent of the U.S. population, have been on the streets or in a shelter at some time in their lives.

I want to thank the three national groups who work on these for their collaborative efforts in introducing the first National Hunger and Homelessness Awareness Week to promote this important and urgent problem and increase awareness across the country.

As a member of the hunger caucus, I urge my colleagues to recognize this frighting nightmare faced by millions of Americans and to work collectively in finding solutions to end the enduring problems of hunger and homelessness.

Mr. Speaker, I want to submit the following article from the editorial of the Minneapolis Star Tribune of November 18, 1993—which speaks of Mr. VENTO'S tireless work and efforts on hunger and homelessness.

[From the Minneapolis Star Tribune, Nov. 18, 1993]

THE HOMELESSNESS—THIS WEEK, SEE YOUR UNLUCKY NEIGHBORS

As you hurry along a downtown sidewalk this week, chances are good you'll rush past someone with nowhere to go. Even in the frigid and compassionate north, homelessness is a year-round reality. It's too easy to sidestep that fact, to race past a mittenless family before the depth of their want becomes plain. Yet if the anguish of America's unluckiest citizens is ever to end, they must first be seen.

That's one reason to welcome National Hunger and Homelessness Awareness Week which began last Sunday and continues through Saturday. It offers well-meaning people a needed opportunity to dwell on an affliction they are tempted to ignore.

At Monday's kickoff press conference in Washington convened by Rep. Bruce Vento and the National Coalition for the Homelessness. A study from Columbia University, for issuance, suggests that as many as 5.7 million Americans—3.1 percent of the population—have been homeless in the last five years. That group includes only people who have spent time on the streets or in emergency shelters—not the millions more who moved in temporarily with friends or family.

It's hard to shrug off a problem that afflicts so many. And it's shameful to shrug when children suffer most. A study by the University of Pennsylvania found that approximately 7 percent of African American children in Philadelphia and New York City had spent time in shelters between 1990 and 1992.

The reasons for homelessness are nearly as numerous as its victims. Some of the homeless lack education and marketable skills; some are addicts; some are mentally or physically ill; some are victims of domestic violence; some are casualties of divorce. Most are losers in a world with fewer jobs than job-seekers, in a competition that requires more cunning and cash than they can muster.

America has shrugged off the Reaganesque notion that these unfortunate people have chosen their fate. That illusion has been replaced by a tired despair—a sense that, no matter what we do, deepening poverty and homelessness will remain immutable facts of modern life. That assumption is as irrational as it is unkind.

As Rep. Vento has long maintained, there's nothing mysterious about surmounting this crisis. For years, the St. Paul congressman has led federal efforts to provide emergency assistance to the homeless. As chairman of the new Speaker's Task Force on Homelessness, Vento has argued for reaching beyond stopgap measures to prevention. Striking at the roots of homelessness, he insists, means assuring the vulnerable poor what they lack: job training, medical care, housing assistance and social services. That's the goal of a new federal grant to Hennepin County, announced by HUD Secretary Henry Cisneros last month. The $1.4 million program is meant to help the county work with 30 chronically homeless families—offering them all they need to create and maintain stable households.

Prevention is the ultimate answer to any disaster, and Vento deserves praise for pressing the point. Yet Americans aren't likely to reach out to their unlucky neighbors if they don't take time to notice them first. This week before Thanksgiving is a good time to do precisely that.

Mr. MFUME. Mr. Speaker, in a corner of my district in Baltimore, there's a little soup kitchen called Viva House. They serve meals 3 days a week, operating from donations from the people and businesses of Baltimore.

The man and woman who run Viva House, Brendan and Willa, have been there for a number of years, trying to stem the tide of the hungry in southwest Baltimore. I wish I could say they are succeeding.

In 1989, they served 122 people three meals a week out of the little house on Mount Street.

In 1990, they served 140.

In 1991, they served 168.

In 1992, they served 196.

This year, Brendan and Willa are serving 250 meals a day, 3 days a week, and the number does not show signs at all of decreasing. In 5 years, they've seen more than a 100-percent increase in hungry people lining up to be fed outside the brick walls of their humble home.

This is National Hunger and Homeless Awareness Week in the United States, and across the country, attention is being focused on the problem of those without food, of those without homes, of those who almost do not have lives.

Studies show 13.5 million Americans have lived on the streets or in homeless shelters at some point in their lives. In one night 3 years ago, the Census Bureau counted 230,000 homeless people across the country. Although some may dispute the numbers, the underlying facts are clear.

Something is wrong, something is very wrong.

Too often the cries for help and the calls for change go unheard and unheeded. Too many jobs are lost and too many families are destroyed. We cannot go on attempting to forge ahead in a war for economic success if we leave behind the casualties of the battles for economic survival.

Most of the homeless are not mentally retarded. Most of the homeless are not addicted to drugs. Most of the homeless are people seeking any way possible to regain their dignity and move forward to productive and enriching lives.

We must all look at ourselves and where we live. We must go back there and look to see what we've been looking over and looking past. Who hides in the crevices of our existence? Where are those people we have walked by whom we could help if we stopped to try?

For every hungry person, there can be food. For every homeless person, there can be a job, a home, a life.

On Mount Street, outside the plain wooden doors of Viva House, the cure for what ails us is plainly stated by Brendan Walsh.

He says, "The only solution is for people to be able to work."

If that is not done, he will be feeding even more people by the time next year is through.

Mr. CLYBURN. Mr. Speaker, having made this mistake myself recently, I thought I should remind my fellow Members that regardless of the tough work we have ahead this weekend, we must all remember to eat and get enough sleep.

Likewise we must remember our duty as Congresspersons to ensure that every citizen of this country can also eat and sleep in safety.

Alice Roosevelt Longworth explained her philosophy on life was to "Fill what's empty. Empty what's full. And scratch where it itches."

Mr. Speaker, I believe we must work to fill the plate of every hungry man, woman, and child.

We must work with the Vice President to empty this Government of the waste and neglect that has prevented thousands of Americans access to safe, affordable housing.

And we must scratch the itch of desperation that is causing too many of those who have been denied these fundamental rights to turn to crime and violence.

Please join me today and for the rest of the week in recognizing Hunger and Homelessness Awareness Week.

Mr. FLAKE. Mr. Speaker, I rise today in honor of National Hunger and Homelessness Awareness Week in recognition of so many Americans who struggle each day for decent shelter and nourishment. So many of these Americans are children who sleep in the streets or in dirty unsafe shelters and do not know when their next meal will be. In a country as rich as ours, this is intolerable. This week should be dedicated to finding solutions.

Finding decent and affordable housing has been one of my top priorities since arriving in Congress 7 years ago. During this time I have served on the Banking Subcommittee on Housing and have been involved in drafting and fostering a variety of legislation addressing the vast housing needs of this Nation. A group of concerned Congresspersons and I drafted the comprehensive Mickey Leland Housing Act of 1990 in order to provide shelter for every person in this country in a humane and cost-effective manner. The goal of this bill was to be carried out through securing and improving existing and low income or moderate income housing while providing the necessary resources for new development and construction. I remain committed to the goal of this legislation, including finding a permanent and more humane shelter alternative to welfare hotels.

Because there are over 562 families living in welfare hotels in Queens, NY, today, I requested the Government Operation's Subcommittee on Employment, Housing and Aviation to hold a hearing on November 19, 1993, to address the unacceptable use of welfare hotels in this country. This hearing will be the first time the assistant secretaries from both HUD and HHS come together to address the alleviation of welfare hotels. The two assistant secretaries will be pivotal in enacting solutions to alleviate welfare hotels. This is real movement toward reinventing government in an effort to better and more efficiently serve this Nation.

Because the responsibility of welfare hotels straddle two agencies and because so many Americans are in desperate need of basic shelter, I clearly understand that alleviating welfare hotels has been complex yet long overdue. We must find a solution that spans jurisdictional issues. The common mission of these two agencies are to meet the basic needs of this Nation.

One point is clear, we cannot continue this cycle of throwing away millions of Government dollars with absolutely no return on our investment. In New York, we are spending an average of $2,640 per month for 1,442 families. With this kind of money, we could live in a mansion or decently house three or four families. But with the current spending structure, at the end of the year we have nothing to show for these millions of dollars.

Beyond inefficiencies and government waste, there are real people behind these statistics, many of whom are children. Yes, welfare hotels do provide a temporary roof. However, in many cases hotels do not provide a kitchen, provisions for basic health care, education and jobs, sanitation, safety, or security. Often these hotels are rodent ridden, filled of crime and prostitution. Studies have shown time and again that children cannot thrive in this kind of atmosphere. Without hope, we cannot expect these children to thrive and eventually become productive and well-adjusted adults. We are allowing a generation of innocent children to slip away from us when it is within our power to stop this cycle.

I am not interested in pointing fingers and placing blame, but in looking forward to permanent solutions. I have been working on legislation for more effective use of these funds and will continue in my commitment to address the decent and affordable housing needs of this Nation.

As we recognize Hunger and Homelessness Awareness Week and begin the holiday season, we must remember the millions of Americans and children who have nothing and nowhere to celebrate this year. We must work together and remain committed to finding decent shelter and nourishment for every American.

Mr. FALEOMAVAEGA. Mr. Speaker, I am pleased to join my distinguished colleagues this evening to speak about the plight of the homeless and the hungry, in conjunction with the National Hunger and Homelessness Awareness Week, sponsored by the National Coalition for the Homeless, The National Student Campaign against Hunger and Homelessness, and OXFAM America.

It is unfortunate that it has to take a nationally coordinated week to get the leaders and citizens of this country to focus their attention on the silent crisis of hunger and homelessness which has affected million of our fellow citizens every year. Hunger and homelessness are a national problem now affecting various segments of society, including families with children and the working poor. This was once thought to be a temporary crisis, but has proven to be an enduring problem—and only through heightened public concern and increased attention will our leaders begin to find a solution to end this problem.

In the last few years, Congress began to debate this issue and responded to the acute and varied needs faced by the homeless by passing legislation such as the Steward McKinney Act, which provides a comprehensive set of services to address the needs of those without a stable home or enough to eat.

I am grateful to some of my colleagues who have been in the forefront of this issue in the past few Congresses. To name a few, Representative TONY HALL, past chairman of the recently discontinued House Select Committee on Hunger, and now chairman of the Hunger Caucus, has traveled to many places in the country and around the world to examine the causes of hunger, and the ability of a community to respond to those conditions; Representative BRUCE F. VENTO, chairman of the Speaker's Task Force on Homelessness, who has spent a substantial amount of item examining new and past initiatives to deal with the problems of homelessness; and the late Representative Mickey Leland, who was a vocal and visible advocate for the hunger and homeless during his tenure as chairman of the House Select Committee on Hunger.

Mr. Speaker, researchers have noted that among the homeless are those who suffer from chronic unemployment and other economic problems, those who experience family crisis, those displaced by changes in the housing market, those with disabilities, and some with children. They are people who are both heterogeneous in their backgrounds and diverse in their life courses. The recently-released figures are startling. A total of 26 million Americans—about 10 percent of the U.S. populations, have been on the streets or in a shelter at some time in their lives.

I want to thank the three national groups who work on these for their collaborative efforts in introducing the first National Hunger and Homelessness Awareness Week to promote this important and urgent problem and increase awareness across the country.

As a member of the Hunger Caucus, I urge my colleagues to recognize this frightening nightmare faced by millions of Americans and to world collectively in finding solutions to end the enduring problems of hunger and homelessness.

Mr. GUTIERREZ. Mr. Speaker, first, I want to thank Congressman VENTO and Congressman HALL for all of their work on the issues of hunger and homelessness. I believe their efforts have positively impacted the quality of life for many of the hungry and homeless people in this country. However, this issue must be made a higher priority. The people of this country must be made aware of the suffering, for it is through the efforts of average Americans that the greatest strides will be made in housing the homeless and feeding the hungry.

It saddens me greatly that in this country, with all of our wealth and resources, we have yet to successfully address the problem of homelessness. There was a time when New York was thought to be the only city in our Nation with a large homeless population, but all one has to do now is walk down Pennsylvania Avenue in Washington, LaSalle Street in Chicago, or through small towns in South Carolina and Missouri to find that this just is no longer the case. Homelessness is a nationwide problem, affecting urban and rural areas alike.

It seems ironic that with all of the new construction during the 1980's, much of which is now vacant, virtually none was directed for the purpose of serving those who needed it the most, our homeless men, women, and children. Unfortunately, this is a pretty good indication of where this country's priorities have been for the past decade.

In March of this year, a single-room occupancy hotel in Chicago burned to the ground, killing 19 people and leaving many others homeless once again. Another SRO in Chicago burned this summer, leaving many others without a place to call home. The tragedy for these people is not only the loss of shelter, but the loss of any stability and support they may have established. You and I may not be able to understand this because we have a home to go home to, a place to share a meal with family or friends, and a place to sleep. The homeless of our country do not have these simple luxuries. They wander all day, share a meal, if they can find it, with other homeless, and sleep under bridges, in parks, or in vacant shelter beds. There is no consistency or safety to their lives, making it very difficult for these citizens to look for work or keep themselves clean.

Chicago has taken some small steps toward helping the homeless. The city has allocated $5 million in home funds specifically to build and rehab SRO units. This is not the case for many other cities. Only 10 States reported using CDBG funds for homeless programs. The President's recent efforts, particularly the DC Initiative, are symbolic of the importance this issue has in the present administration. Congress is also working hard to ensure that this country recognizes and assists its homeless by requiring the army to follow Federal law that permits homeless providers to acquire Federal land before private interests. However, many obstacles to completing our mission still exist. For example, the Senate VA–HUD Appropriations Subcommittee cut off funding for the interagency council on the homeless. This is a setback, but only temporary. The White House and HUD are working together to ensure that this agency is not extinguished; again, proving the commitment of President Clinton and Secretary Cisneros.

I commend Congressman VENTO and Congressman HALL for their hard work on the problem of homelessness and for arranging this special order. I believe that with more than 700,000 people homeless in this country, we must make it all of our problem.

Mr. SYNAR. For too many Americans, a home or enough food to eat are fantasies that they have no hope of enjoying.

There are many statistics out there: 1 in 5 children live in poverty, 30 million Americans go hungry, requests for emergency food assistance increased by nearly 20 percent last year, millions are homeless. The exact number of people in need is in dispute all the time.

Statistics and numbers, however, are not the issue. People are. People who, without reason, are in need. America is the richest country in the world, yet some of our people lack the most basic of needs.

For most Americans hunger and homelessness are only statistics. Economically, geographically, and psychologically they are separated from the hungry and homeless. They've never been hungry a day in their lives. They cannot fathom how a person can come to live on the streets or not be able to support themselves.

A question I've sometimes heard is why don't the hungry or homeless just get a job, any job? The sad fact is that even if a person worked full time at minimum wage he or she still would find it difficult to support him or herself, afford a place to live, or enough to eat. For many working Americans, its just a short trip from self-sufficiency to bankruptcy. A doctor's bill, auto repair, or illness that forces them to miss work, can mean bills get unpaid. And once behind, they have no way of catching up. The result is that for many poor, life becomes a choice between having enough to eat or someplace to sleep, until finally, something's got to give. And people end up statistics.

For some of our people, the problem of hunger reaches beyond money. In rural areas, many elderly go hungry not from a lack of money, but from a lack of transportation and services such as shopping, meals-on-wheels, and community feeding programs. The problem is mostly unseen, and unfortunately, mostly ignored.

Even when one sees people on the street, its difficult to comprehend. An old man carries a sign stating he's hungry and homeless as he walks between stopped cars, cup in hand. A woman sleeps on a sidewalk while a family pitches a tent in a city park. How did they get on the street? Where were they before? Why don't they have friends and family to keep them from this sort of life? Why aren't they in shelters? There are so many of them, its overwhelming. And they're scary. They aren't clean. Sometimes they smell bad. Their clothes are ragged, their hair a mess. Perhaps they're mentally ill. Or maybe, we think, they're just drunks and drug addicts.

And so, all too often, we walk on by. Head down, eyes averted.

But pretending a problem doesn't exist won't make it go away. As a Nation we must look the hungry and homeless straight in the eye. As individuals we must put aside our prejudices and fears, forget the statistics, and see the people.

And in addressing the problems of hunger and homelessness, we must do more than work at the symptoms. Shelters and food banks are important, but they do not address the root causes of these problems. We must look at our society, with all its wealth, and ask ourselves why people are doing without and what we can do to fix it.

Mr. STOKES. Mr. Speaker, I would like to commend my distinguished colleague from Ohio, TONY HALL, and my distinguished colleague from Minnesota, BRUCE VENTO, for their effort to increase public awareness of homelessness and hunger by introducing the first nationally-coordinated Hunger and Homelessness Awareness Week.

Hunger and Homelessness are two of the most troubling epidemics plaguing the modern world. In the past, when we thought of the homeless, the image of a single individual asleep on a park bench or heating grate came to mind. Today, this image has been replaced in many parts of the country by entire families forced to live on the street.

The numbers are growing. A new study from Columbia University reveals that on any given day, an estimated 13.5 million Americans are homeless. Moreover, current census figures reflect an astounding 32 million Americans 1 out out of 7 are living below the poverty line. It is inexcusable that people in the United States, the richest country in this world, should go hungry or homeless. Yet, this is the situation we confront today. Our economy is mired in a lackluster recovery, the budget deficit is staggering, and drugs, hunger and homelessness are the scourge of our cities.

My colleague, TONY HALL, demonstrated his commitment to combating hunger as chairman of the Select Committee on Hunger before it was disbanded by Congress. I am glad to see him today continuing his crusade against hunger.

Almost all American families feel the squeeze of rising house costs and stagnating incomes, but the families with the fewest resources suffer the worst consequences. For the homeless, shelter services can create additional problems. In many cities, shelters require individuals to leave by 7 a.m. and wait in line at night to ensure a hot meal and a place to sleep. Even shelters that allow for the homeless to stay during the day often do not allow children to remain at the site unattended. Child care is not provided at these sites, discouraging many from the job search.

Mr. Speaker, in their respective capacities as chairman of the Task Force on Homelessness and chairman of the hunger caucus, my colleagues have recognized the need to address such a critical issue. I strongly support them in their efforts and would again like to thank them for acknowledging those without the basic necessities of life. Although we have chosen to designate this week as National Hunger and Homelessness Awareness Week, we cannot stop at merely a designation. This designation should catalyze and spur our efforts to remedy this situation.

Mr. STARK. Mr. Speaker, it is fitting that, as we prepare to give thanks for the blessings in our lives, we remember the people in our country who will not have the warm comfortable environment that must of us will have in which to enjoy our Thanksgiving dinner.

It is for this reason that in 1974 Oxfam America instituted its annual Fast for a World Harvest to take place on the Thursday before Thanksgiving. People are invited to give up a meal or to fast the entire day and to give the money that would have been spent on food to Oxfam America to be used to fund projects that help people living in poverty become self-sufficient.

This year, as in the past, Members of Congress, their families, and staff have the opportunity to attend the Fifth Annual Oxfam America Mickey Leland Memorial Hunger Banquet on Thursday, November 18. The meal will give the participants the chance to visualize and experience the way the world's resources are divided. Fifteen percent of the participants will enjoy a gourmet meal, 25 percent will eat a simple meal, and the remaining 60 percent will have only rice and water to eat.

In 1988, D.C. area employees of Fannie Mae choose the week before Thanksgiving to initiate a program they named Help the Homeless. The purpose of the program was to raise money for local nonprofit organizations that help homeless individuals and families get back on their feet and return to independent living. The program included a week of educational and fundraising activities and culminated in a 5-mile walk on Saturday.

The program has continued and it has expanded to involve area corporations, businesses, law firms, and nonprofits, so that over 50 groups sponsored the program last year. It has gone from raising $90,000 in 1988 to raising nearly $400,000 in 1992. It helped 4 organizations the first year and 59 local homeless service providers in 1992. The goal is to raise $500,000 this year. The walkathon will take place on Saturday, November 20, at 10 a.m. on the Mall. Additional information is available through my office.

This year for the first time—through the efforts of the National Student Campaign Against Hunger and Homelessness, Oxfam America and the National Coalition for the Homeless—the week November 14–20 is being promoted as National Hunger and Homelessness Awareness Week. Thanks to the chairman of the Speaker's Task Force on Homelessness and the chairman of the hunger caucus, Members of Congress have been encouraged to focus this week on the problems brought about because of hunger and homelessness so that we might more tirelessly and effectively work to find solutions.

Most of us know the groups in our congressional districts that are making a difference in the lives of hungry and homeless individuals. It is the people who work day in and day out with needy people that best know what works and what doesn't work. We need to continually find ways of supporting them and their work. We can donate money or goods, we can donate our time and energy and we can let other people know of the good work an organization does. When a program is successful and can be replicated, we can help facilitate the process. Last, we can take the time to thank them for their care and hard work. This is a good week to do it.

Mr. SAWYER. Mr. Speaker, I would like to applaud my colleagues, Congressmen BRUCE VENTO and TONY HALL, for their efforts to bring about a week of national recognition of the problems of hunger and homelessness.

One of the most significant achievements we as a nation can realize this week is to increase our understanding of who the homeless are.

Recent research helps to dispel traditional stereotypes about this population. The homeless are not simply a few men, drinking alcohol, sitting on a city park bench. The population is diverse, both demographically and geographically. It includes women, youth, and families, both urban and rural, all across the country. In fact, the number of women and children in poverty, and therefore at risk of homelessness, continues to increase faster than for the rest of the population.

Conventional notions may not have been all that wrong in the past; we don't really know. Information about the homeless has been spotty at best. In fact, we've never even reached an agreed upon definition of the homeless.

The 1990 census was the first systematic attempt to include visible segments of that population in a national population count. Despite a great deal of effort, that attempt was not successful. The census data don't tell us much about that population at all. In fact, some have tried to use that data to develop policies about the homeless. It simply can't be done in good conscience. Faulty information can sometimes do more harm than good.

The research community has come a long way in developing reliable counting methods since the 1990 operation was planned. In fact, the Census Bureau recently brought together a group of experts to talk about what we need to know about the homeless and how we can gather that information reliably. Those efforts will help us to do a better job in the 2000 census and in other efforts designed specifically to learn about the homeless.

Research conducted since the 1990 census has led to some remarkable findings. We are learning that established definitions have been far too narrow to understand fully the dimensions of homelessness. Tragically, over the course of a lifetime, many of us may experience literal homelessness. This phenomenon is far more pervasive than we as a nation have acknowledged.

In fact, I believe that many of the millions not counted in the 1990 census were missed precisely because they were not part of the traditional American portrait of an intact family living in a conventional housing unit. Rather, those people exist somewhere between that ideal and literal homelessness. They are at risk of falling into literal homelessness, and we don't understand their condition very well.

I am hopeful that the new generation of research being conducted now will continue to increase our understanding of this population. That information is crucial both to establish effective programs and to dispel the stereotypes that have caused us to consider hopelessness a far away problem.

Once again, I am grateful for the efforts of my colleagues and the many organizations who are providing a meaningful opportunity to develop effective strategies for eliminating one of our Nation's most serious problems.

Mr. YATES. Mr. Speaker, November 18 has always been an ordinary day on our national calendar, falling midway between Veteran's Day, when we proudly honor the men and women who have served the Nation in our Armed Forces, and Thanksgiving Day, when families across America gather to give thanks for the bountiful good they have been blessed with. This year, Thursday, November 18 will take on a meaning closely related to the holidays on either side of it. On that day radio stations throughout the country will feature a classic American song familiar to all of us, one whose opening verse is the cry of those Americans who are unemployed, who are poor, and who are homeless:

They used to tell me
I was building a dream
And so I followed the mob

When there was earth to plough
Or guns to bear
I was always there
Right there on the job
They used to tell me
I was building a dream
With peace and glory ahead
Why should I be standing in line
Just waiting for bread?

Those poignant words are from the song "Brother, Can You Spare a Dime?," with lyrics by E.Y. "Yip" Harburg and music by Jay Gorney, written more than 60 years ago, in 1932, for the Broadway review "Americana." This great song standard will be heard and played, not only on Thursday, November 18, but throughout the month of November as the linchpin of a unique national fundraising project to benefit the homeless: "Brother, Can You Spare a Dime" Day. It will be a day to raise not only money, but consciousness, not only to assist, but to recognize the worth and dignity of a fast-growing segment of our population. If November days are set aside to honor our veterans and to celebrate good fortune, what a fitting idea to use one more November day to consider our homeless, many of whom are veterans, all of whom have precious little to be thankful for. The chorus of the song tells us:

Once I built a railroad
Made it run
Made it run against time
Once I built a railroad
Now it's done
Brother can you spare a dime?

Once I built a tower
To the sun
Brick and rivet and lime
Once I built a tower
Now it's done
Brother can you spare a dime?

Once in khaki suits
Gee, we looked swell
Full of yankee doodle-de-dum
Half a million boots went sloggin' thru hell
I was the kid with the drum

Say, don't you remember
They called me "Al"
It was "Al" all the time
Say, don't you remember
I'm your pal
Buddy, can you spare a dime?

The tragedy of working people compelled by larger social and economic forces to live and beg on the streets of our cities is as starkly real today as it was back in 1932, when "Brother, Can You Spare a Dime?" was written. Listening to the unemployed on Manhattan's streets asking for a dime inspired Harburg and Gorney to create this classic. Its poetic but direct words and moving melody touched a responsive chord in the suffering American people in the fall of 1932 when a recording of the song by a young crooner named Bing Crosby swept the country. Scores of other recordings have been made in the ensuing 60 years by singers and instrumentalists.

Yip Harburg and Jay Gorney are no longer with us but each is survived not only by a wonderful musical legacy, but also by family members who share their strong concerns for social justice. In recent years Mr. Gorney's widow, Sondra, noticed that performance and recording royalties for "Brother, Can you Spare a Dime" had risen, as they had in past times of economic recession. Feeling uneasy and eager to do something constructive on behalf of her fellow citizens who were being hit the hardest, she contacted Yip Harburg's son, Ernie, who heads the Harburg Foundation, which in turn hired the entertainment publicist Morton Dennis Wax. Mr. Wax, then conceived the idea of using the song which best expressed the plight of the homeless to raise funds on their behalf through the National Coalition for the Homeless, the Nation's leading advocacy group and social service conduit for the homeless. His thought was to compile a special promotional compact disc containing notable recordings of "Brother, Can You Spare a Dime" recorded over the years which would not be offered for sale but would instead be mailed to over 5,000 radio stations in major cities throughout the country to be used by disc jockeys to solicit contributions from listeners. At the same time, specially designed posters and collection centers would be set up at major record stores throughout the country. Fred Karnas, executive director of NCH, became the cohost of this effort.

The broad base of support from the music and broadcasting organizations, retailers, record companies, and celebrities is a textbook example of how a single industry can unite behind a vital social cause. All administrative expenses for securing rights, mastering, manufacture and mailing of the CD's have been borne by the various host organizations—the Harburg Foundation, the Recording Industry Association of America, the Hit Factory, which mastered the CD, Polygram Group Distribution, which cut the CD's, and the National Coalition for the Homeless. Simultaneously, five major retail record chains—Tower Records, HMV Stores, Strawberries, Maxie Waxie's, and Rose Records—have agreed to distribute and display "Brother, Can You Spare a Dime" Day posters and envelopes to over 1,500 retail stores. The printing of posters and envelopes, featuring an artistic photograph of a homeless mother and child taken by Joseph Sorrentino, was paid for by the Harburg Foundation.

Broadcast personalities Phil Donahue and Sally Jessy Raphael prepared public service announcements heralding the project. And the cutting-edge singer, songwriter and actor Tom Waits recorded a new version of "Brother" at his own expense especially for the project. The Harburg and Gorney Estates have arranged with ASCAP, the performing rights organization, to earmark any royalties generated by the song in November 1993, and in all forthcoming Novembers for the National Coalition for the Homeless. Every dollar and dime raised by this project will go directly to the National Coalition for the Homeless for disbursement to the organizations and individuals who need it most.

The versions of "Brother, Can You Spare a Dime?" included on the promotional disc are by the following artists: Tom Waits, Abbey Lincoln, Bing Crosby with the Lenny Hayton Orchestra, Judy Collins, Al Jolson, Mandy Pantinkin, Peter Yarrow, Cathy Chamberlain, Rudy Vallee, Odetta and Dr. John, the Weavers, Pat Harvey and Orchestra, Phil Harris and Orchestra, Phil Alvin, Barbara Streisand, Dave Brubeck, Sonny Criss, Bob Wilber, and a rare performance of "Brother, Can You Spare a Dime" by Yip Harburg, himself. The artists represent a cross-section of American pop, jazz, big band, rock, blues, and folk musicians; this is yet another indication of the broad and undying appeal of this American standard.

America's journalists and publishers have played an important role in this admirable and unique campaign by giving it wide and supportive publicity. The National Press Club here in Washington was the site of a special kick-off theatrical concert on November 16, conceived by Deena Rosenburg Harburg, founding Chair of the Musical Theatre Program at New York University's Tisch School of the Arts, and Broadway director Mel Marvin, featuring top Broadway performers, vocalists from the Broadway stage. The event is cohosted by Arena Stage Theatre, with opening remarks by Zelda Fichandler, its cofounder, and Fred Karnas of the National Coalition for the Homeless.

"Brother Can You Spare A Dime?" Day will take place every November 18 until that time when all Americans partake fully of the American Dream.

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order tonight.

The SPEAKER pro tempore (Mr. POMEROY). Is there objection to the request of the gentleman from Minnesota?

There was no objection.

REALLOCATION OF SPECIAL ORDER TIME

Mr. KASICH. Mr. Speaker, I ask unanimous consent that I may claim the time of the gentleman from Indiana [Mr. BURTON].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

URGING PASSAGE OF THE STRIKER REPLACEMENT BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. FORD] is recognized for 5 minutes.

Mr. FORD of Michigan. Mr. Speaker, American Airlines' plan to hire and train permanent replacements for its striking flight attendants underscores the urgent need for passage of the striker replacement bill.

Twice the House of Representatives has passed this simple and fair piece of legislation, which would bar employers from hiring permanent replacements for workers who go on strike legally. The House has awaited Senate action since it passed the bill in June. But a minority of Senators has prevented the bill from coming to a vote by threatening a filibuster.

President Clinton has endorsed the striker replacement bill. Labor Secretary Robert Reich has spoken strongly and repeatedly in favor of its passage. As he told my Committee on Education and Labor earlier this year, the administration has no need to study this issue further, because the president has made up his mind: the bill should become law.

Press reports indicate that American has warned its employees that when they return to work at the end of this announced 11-day strike, some jobs probably would have been eliminated because it has a surplus of employees. At the same time, it has begun training replacements.

This is a blatant threat, against a group of employees who have been forced into concessions on pay and working conditions for years. It is also an empty threat, since American cannot finish training replacements in time for any of them to start flying before the strike ends. Under Federal law, they can be replaced if they are striking, but they cannot be fired if they have returned to work before replacements have taken their jobs.

I expect that the threat to hire permanent replacements will be used in the future to intimidate employees, since the workers American is now recruiting could be kept up to training standards should the Association of Professional Flight Attendants call another strike in the future.

Furthermore, if American's strategy of replacing many of its experienced flight attendants with hastily trained workers were to succeed, the airline would not be serving the interests of its customers. They certainly would feel the effects of demoralized flight attendants working alongside scabs.

I also want to voice my solidarity with these striking employees. The chief issue in this strike is American's desire to diminish staffing on flights to intolerable levels for both its employees and its customers. If the flying public has been wondering why it is becoming increasingly difficult on an airplane to get a meal on time or a second cup of coffee, it is because the airline industry, in an effort to cut costs, it reducing staff. The natural targets of passengers' growing ire are the hardworking employees who provide for their comfort and safety: The flight attendants.

Mr. Speaker, as chairman of the House Committee on Education and Labor, I urge American Airlines to return to the bargaining table and resolve these issues. The flight attendants have shown tremendous courage in going out on strike. That they have no strike fund is testament to the desperate course they have been forced to choose.

DO YOU HAVE A SUPERFUND SITE IN YOUR DISTRICT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington [Mr. SWIFT] is recognized for 5 minutes.

Mr. SWIFT. Mr. Speaker, the Penny/Kasich amendment to H.R. 3400 would weaken existing cleanup standards designed to protect human health and the environment in a way that could affect every Superfund hazardous waste site with an ongoing cleanup. In addition, the amendment would undermine ongoing efforts to develop a balanced and comprehensive Superfund reauthorization bill. I urge my colleagues to reject this proposal.

The current Superfund law includes a preference for cleanup remedies which are permanent and which provide for treatment of hazardous waste. Penny/Kasich, however, would eliminate this preference and substitute a preference for institutional controls such as fences and guards—and containment methods—such as caps which leave waste in place. It would also eliminate the need to comply with existing Federal and State cleanup standards.

EPA has opted for containment-style remedies where appropriate. In fact, in fiscal year 1992, EPA selected treatment-only remedies only 30 percent of the time, while on numerous other occasions it opted for either containment or a combination of treatment and containment. There are, however, a number of reasons why the Penny/Kasich proposal creating a preference for containment and controls is a bad idea:

First, institutional controls and containment do not adequately protect human health or the environment at many sites. Controls and containment leave hazardous waste in place. Fences or warnings. however, may not do a good enough job of keeping people away from contamination, and containment may fail due to the passage of time or a specific event such as a flood. Every congressional district with an ongoing Superfund cleanup—especially if the site is in a floodplain or wetlands—will be subject to these risks.

Second, the many new companies which have been working to develop innovative treatment technologies would be severely impacted. Jobs would be lost, and our ability to develop this technology for export would be decreased. These changes could hurt over 100 companies in over 30 States.

Third, reliance on containment and institutional controls would create yet another unfunded mandate for the States. States now pay all operation and maintenance costs at Superfund-financed cleanup sites. Because containment and control remedies are dependent on long-term maintenance, States could end up with a greater share of the cost of cleaning up sites.

Fourth, the proposal would make it more difficult to redevelop contaminated sites and could disproportionately affect minority communities. A shift to containment and control remedies would impede redevelopment of contaminated sites, and would also impose a greater burden on nearby residents.

Fifth, it is unclear if there would be any actual savings to the Federal Treasury. The vast majority of Superfund expenditures do not come from general revenues. Moreover, there are still thousands of sites which still need to be cleaned up. This proposal will simply allow lax cleanups with little or no reduction in budget outlays.

Sixth, because waste would be left in place, the cost of cleanup would simply be passed on to our children. Ultimately, the overall costs of containment, including failed remedies and long term operation and maintenance, may prove more expensive than the judicious use of treatment technologies.

Let me give an example to illustrate these points. At the French Limited site in Harris County, TX, a bioremediation technology was selected to clean up sludge, soil, ground water and surface water contaminated with volatile organic compounds [VOCs], phenols, heavy metals and PCBs. This technology was suggested by the parties paying for the cleanup because it was more cost effective. Containment was not appropriate because the existing disposal pits were leaking contaminants which were difficult to contain, and because the site was within the San Jacinto floodplain.

Delaying the Penny/Kasich changes until October of next year as provided for in the amendment does not solve the problems with the amendment. Instead, parties who should be cleaning up contaminated sites will be thinking of ways to drag out cleanups until the new standards take effect. Even sites where a cleanup remedy is in place are not safe, because challenges to that remedy could be made based on the new standards. The only people to benefit will be the lawyers who think up new ways to slow down cleanups.

Congress and the administration are currently working to change Superfund to achieve real savings, for both the Federal treasury and private parties involved in cleanups. Passage of changes to the statute such as those in Penny/Kasich, however, makes it far more difficult to enact comprehensive and balanced changes to the statute this Congress. There is considerable room for thoughtful change and streamlining of current Superfund procedures, including changes to the way in which Superfund remedies are selected, but those require much more debate and consideration than can be achieved by the one-sided and simplistic solutions set forth in Penny/Kasich.

Attached to this statement are some of the many letters of protest I have received in response to this amendment. If you have a Superfund site in your district, or even a potential site, please consider what this amendment will do to slow down and weaken cleanups, and vote "no" on Penny/Kasich.

ENVIRONMENTAL PROTECTION AGENCY,
Washington, DC, November 19, 1993.

Hon. AL SWIFT,
House Energy and Commerce Committee, House of Representatives, Washington, DC.

DEAR CONGRESSMAN SWIFT: I am writing with regard to the Penny/Kasich amendment to H.R. 3400. My understanding is that Section 217 of the Penny/Kasich amendment would change the preference from permanent remediation to containment at Superfund sites. It removes consideration of other Federal and state standards in selecting Superfund remedies. It also places a cap on EPA's annual Superfund appropriation.

I share the Penny/Kasich Task Force's goal of reducing spending and reforming the Comprehensive Environmental Response. Compensation and Liability Act (CERCLA). As you are aware, I have made Superfund reauthorization a top priority at EPA, and the Administration is actively engaged in formulating an ambitious reauthorization proposal.

As part of these on-going reauthorization deliberations, I am considering how to better balance permanence and treatment with long-term reliability and containment remedies. I am looking at how to foster economic redevelopment and how to more effectively incorporate land use planning into Superfund remedy decisions. I share the President's and the Vice President's interest in fostering innovative technologies, and believe we can accomplish this at Superfund sites. And I am committed to addressing the concerns of the environmental justice community with the Superfund program.

The proposal the Administration is developing will unite each of these complex and critical interests into a faster, fairer, more efficient and more responsive environmental program. Each of these aspects of the Superfund reauthorization debate would be affected by the Penny/Kasich proposal; they deserve a full discussion within the Administration, with Congress, and with Superfund stakeholders. I do not believe it is appropriate to make sweeping policy changes to the Superfund program outside of our ongoing comprehensive reform efforts. Further, it is too early to estimate the budget ramifications of the various options under consideration.

For this reason, I oppose Section 217 of the Penny/Kasich Amendment and ask for your support as we proceed with CERCLA reauthorization.

Sincerely,

CAROL M. BROWNER,
Administrator.

ASSOCIATION OF STATE AND TERRITORIAL SOLID WASTE MANAGEMENT OFFICIALS,
Washington, DC, November 16, 1993.

Hon. AL SWIFT,
Chairman, Transportation and Hazardous Materials Subcommittee, Energy and Commerce Committee, House of Representatives, Washington, DC.

DEAR CHAIRMAN SWIFT: The purpose of this letter is to urge that you oppose incorporation of a potential amendment, drawn from the Penny-Kasich Plan, addressing Superfund permanence criteria should it be proposed in amendment form to modify HR 3400, the Government Reform and Savings Act of 1993 Rescissions.

The Association of State and Territorial Solid Waste Management Officials (ASTSWMO) is a non-profit association which represents the collective interests of waste program directors of the nation's States and Territories. Besides the State cleanup and remedial program managers, ASTSWMO's membership also includes the State regulatory program managers for solid waste, hazardous waste, underground storage tanks, and waste minimization and recycling programs. Our membership is drawn exclusively from State employees who deal daily with the many management and resource implications of the State waste management programs they direct. Working closely with the U.S. Environmental Protection Agency (U.S. EPA), we share the objectives of the Congress and the public in providing for safe, effective and timely investigation and cleanup of the many contaminated sites throughout the nation. ASTSWMO has a fundamental interest in the legislative dialogue surrounding Superfund issues and we believe we can offer a unique perspective to this debate.

It is our understanding that the House will soon be considering HR 3400, and that the Penny-Kasich Deficit Reduction Plan will, in some form, be considered as an amendment or amendments to HR 3400. We have reviewed the Penny-Kasich Plan and were disappointed to find that it contains yet another ill-advised assault on the integrity of the federal Superfund program in the form of its Proposal No. 20, title "Emphasize Land Use and Containment in Superfund". That innocuous title conceals a pernicious effect if this proposal were to be adopted, overturning the current statutory preference for permanence in cleanup requirements in favor of a blanket use of institutional controls.

It is our view that this issue is far too complex and controversial to be resolved as a part of a fast-moving fiscal bill. While there is a great deal to be debated and resolved concerning the issues of permanence, and such alternative considerations as future land use, containment and institutional control mechanisms, the entire matter of how clean is clean must be resolved in the context of Superfund reauthorization. We believe there is considerable room for thoughtful change in and streamlining of the current procedures, but those require much more integration of effort and reciprocal cleanup procedures than can be achieved by this one-sided, simplistic Penny-Kasich proposal.

Such a fundamental change in direction for Superfund cleanups, as proposed in the Penny-Kasich plan, would cause major confusion in the implementation of the statute. We believe this confusion would result in demands for reevaluation at those fund lead sites that are now in the process of being cleaned up, and in delays at other sites which are near the start of remedial construction. Additionally, responsible parties are likely to seek similar relief at those sites they are currently addressing.

Consequently, we urge you to use your considerable influence to stop this potential amendment proposal from becoming a part of this important recession legislation. Its inclusion can only harm the swift adoption of the entire bill, and add a level of controversy to the eventual conference proceedings with the Senate. We look forward to continued participation in the Superfund debate within the proper forum—the authorization committees and subcommittees. Thank you for your continued leadership in this vital environmental legislative effort.

Sincerely,

DANIEL J. EDEN,
President.

NOVEMBER 18, 1993.

MEMBERS,
U.S. House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE: Late this week, the House will vote on H.R. 3400, the "reinventing government" legislation. During that debate, Representatives Penny and Kasich are expected to offer an amendment which we believe is a backdoor attempt to gut Superfund. We urge you to vote No on Penny-Kasich.

The Penny-Kasich amendment would significantly weaken fundamental principles of current law, although this amendment is being proposed completely outside of the ongoing legislative process on Superfund. Short-cutting the normal legislative process in this way completely excludes our chance for input while jeopardizing our neighborhoods and communities. This is an outrageous way for Congress to proceed, whatever your views on Superfund.

Like all Americans, we support the goals of reinventing government and reducing the deficit. But unlike many other Americans and certainly many of you who spend much of your time in Washington, we are personally touched by Superfund. We live, work and go to school near Superfund sites. We live in the communities which have been burdened with the polluting activities that created these sites; we live in the communities where the Superfund cleanup is disposed of; and we will most likely stay in these communities long after the polluters and the regulators have gone home.

We believe you should be working to make government more effective and reduce the deficit, but we urge you not to do this by adding to the burdens we have already borne. The price of reinventing government should not be the future well being of our families and our communities. Don't balance the budget by making our communities national sacrifice zones.

There has been much debate on how to "fix" Superfund, for there is much that can be done to make this program more effective. But that debate should continue, not be cut short by an "end run" around the legitimate legislative process. Superfund legislation should be considered by the proper committees of Congress and in a forum which allows participation by those most directly affected.

The wrong way to modify Superfund is with H.R. 3400. This is a huge bill to reinvent government and stop certain wasteful or unneeded government programs. Reps. Penny and Kasich propose to add an amendment to change or cancel dozens more government programs. Buried in their amendment is a proposal to fundamentally change Superfund law, eliminating the law's goal of permanent remedies. No environmentalist has seen the legislative language they propose on Superfund. Neither the Environmental Protection Agency nor the congressional committees with jurisdiction have reviewed it. During debate H.R. 3400 and the Penny-Kasich amendment, there will be no time to adequately discuss or understand the provisions that gut the Superfund law.

We strongly oppose the Penny-Kasich amendment, and we urge you to vote NO.

Sincerely,

John Bowman, Environmental Pollution and Health Concerns Coalition, Oklahoma City, OK. Barbara Miller, Silver Valley Idaho Citizens Network, Kellogg, ID. Lorena Pospisil, Concerned Citizens of CENLA, Libuse, LA. Penny Newman, Concerned Neighbors in Action, Riverside, CA. Patsy Oliver, Friends of the Earth, Texarkana, TX. Mary Brasseaux, Help Our Polluted Environment (HOPE), Crowley, LA. Cora Tucker, Citizens for a Better Environment, Halifax, VA. Flo Gossen, Save Our Homes and Land, Lafayette, LA. Leah Wise, Southerners for Economic Justice, Durham, NC. Florence Robinson and Katherine Jones, North Baton Rouge Environmental Association, Baton Rouge, LA. Beth Gallegos, Citizens Against Contamination, Commer City, CO. Mary Ellender, People United to Restore the Environment (PURE), Sulphur, LA. RaJendra Samana and Robin Cannon, Concerned Citizens of South Central LA, Los Angeles, CA. Jerry Wattigny, Citizens Recycling and Environmental Advisory Committee, New Iberia, LA. Linda Price-King, Environmental Health Network, Chespeake, VA. Carol Savoy, Concerned Citizens of Cameron, Lake Charles, LA. Fred Dye, Mountain Empire Environmental Team, Saltville, VA. Clara Baudoin, Cankton Cleaners Land Air and Water (CCLAW), Carencro, LA. Scott Mikros, South Cook County Environmental Action Coalition, Evergreen Park, IL. Mary Tutwiler, Acadiana Citizens for the Environment, New Iberia, LA. Joan Robinett, Concerned Citizens Against Toxic Waste, Loyall, KY. Gay Hanks, Vermillion Association to Protect the Environment (VAPE), Kaplan, LA. Kaye Kiker, West Alabama/East Mississippi Community Action Network (WE CAN), York, AL. Marie Flickinger and Catherine O'Brien, Texans for a Health Environment, Houston, TX.

Kathy Lanier, El Vos Del Pueblo, Tucson, AZ. Chris Shuey, Southwest Research and Information, Albuquerque, NM. (Representing citizens across the State of New Mexico.) Cheryl Graunstadt, Concerned for the Health and the Environment of Our Community's Kids (CHECK), Westland, MI. Nanna Mason, Garden Community Environmental Citizens' Group, Oklahoma City, OK. Dave Dempsey, Clean Water Action of Michigan. (Representing citizens throughout the State of Michigan.) Cha Smith, Washington Toxics Coalition. (Representing community groups and individuals in Washington State.) Tom Dent, New Mexico PIRG Fund, Albuquerque, NM. (Representing citizens across the State of New Mexico.) C.B. Pearson, Clark Fork Coalition, Missoula, MT. Esperanza Maya, People for Clean Air and Water El Pueblo, Kettleman City, CA. Ted Smith, Silicon Valley Toxics Coalition, San Jose, CA.

HAZARDOUS WASTE
TREATMENT COUNCIL,
Washington, DC, November 19, 1993.

Re proposal No. 20 of the Penny/Kasich taskforce amendment is economically and environmentally unsound.

Hon. AL SWIFT,
Longworth House Office Building,
Washington, DC.

DEAR REPRESENTATIVE SWIFT: The Hazardous Waste Treatment Council (HWTC) urges you to OPPOSE Proposal No. 20 of the Penny/Kasich Taskforce Amendment to H.R. 3400, which would repeal the preference in the Federal Superfund law for permanent, effective cleanups of dangerously contaminated sites. Contrary to the intent of the Taskforce members, the Proposal will increase government spending, cost industry jobs, and decrease environmental protection.

The HWTC is a national association of companies committed to protecting human health and the environment through the use of the best available technologies to safely treat, recycle and dispose of hazardous wastes. Our members have invested literally hundreds of millions of dollars to develop pollution control technologies that have become the envy of the world.

We strongly oppose Proposal No. 20 because it would:

Destroy jobs, discourage investment in innovation, and abandon the competitive edge the U.S. currently has in this rapidly growing field. Precisely because of the current preference in the Superfund law for permanent treatment, preference in the Superfund law for permanent treatment, since 1986 companies have invested heavily in developing new and improved methods for treating hazardous wastes. Repealing that statutory provision will suppress demand for treatment services, create powerful disincentives for any continued investments in this area, cause huge losses in high-tech jobs, and diminish our nation's leading role in the multi-billion dollar global market for pollution control services.

Actualy increase government and private sector spending at contaminated sites. Ironically, while Proposal No. 20 is offered as a "spending cut," it will drive up cleanup costs dramatically through its ill-advised reliance on "containment" methods rather than permanent treatment of hazardous wastes.

Rely on deceptively costly "containment systems" that frequently fail, thereby increasing cleanup costs well beyond that for permanent treatment. Over the short-term only, containment systems seem less costly than certain treatment methods. However, over the long-term, the exact opposite is the case because containment systems by definition do not diminish the toxicity of on-site contamination. Containment systems that were touted as safe have in some cases already failed and required additional cleanup activities by EPA. For example, EPA's containment remedy at the Bruin Lagoon, PA site cost an estimated $1.5 million, but an additional $2.7 million had to be spent four years later when the containment system failed.

Increase spending associated with more expensive maintenance requirements. Unlike sites that have been permanently cleaned through actual destruction or removal of contamination, "contained" sites require costly operation and maintenance expenditures for decades to come. For example, maintenance costs for the containment systems at the Charles George, MA; Wade, PA; and Ludlow Sand & Gravel, NY sites are estimated at $200,000, $320,000 and $450,000 per year for at least 30 years.

Advance an environmentally irresponsible method for addressing Superfund sites. Congress enacted the current statutory preference for treatment after hearing extensive expert testimony that all containment systems will ultimately fail. Merely "isolating" contaminated sites without treatment of toxics will create environmental "dead zones" that are forever undevelopable. Moreover, these so-called contained sites will become the burden of our children and grandchildren.

For these reasons, as well as those outlined by Administrator Browner of the EPA, the Association of State and Territorial Solid Waste Management Officials, many State environmental agencies, and over a dozen national environmental and social activist groups, we urge you to oppose Proposal No. 20 of the Penny/Kasich Amendment.

Sincerely,
RICHARD C. FORTUNA,
Executive Director.

NATURAL RESOURCES DEFENSE COUNCIL, SIERRA CLUB, UNITED METHODIST BOARD OF CHURCH AND SOCIETY, CITIZENS' ENVIRONMENTAL COALITION, HAZARDOUS WASTE TREATMENT COUNCIL, HUDSON RIVER SLOOP CLEARWATER, ENVIRONMENTAL DEFENSE FUND, PHYSICIANS FOR SOCIAL RESPONSIBILITY, FRIENDS OF THE EARTH, NATIONAL COUNCIL OF CHURCHES, IZAAK WALTON LEAGUE OF AMERICA, U.S. PUBLIC INTEREST RESEARCH GROUP,
NOVEMBER 16, 1993.

Re oppose proposal No. 20 of the natural resources section of the Penny/Kasich amendment to H.R. 3400 that would create "environmental dead zones" rather than clean up contaminated waste sites.

DEAR REPRESENTATIVE: We are writing to urge you, in the strongest possible terms, to oppose Proposal No. 20 of the Natural Resources Section of the Penny/Kasich Amendment to repeal an essential provision in the Superfund law that requires the Superfund program to actually clean-up Superfund sites using real, permanent treatment. By contrast, Natural Resources Proposal No. 20 advocates lowering clean-up standards to rely on "containment" of hazardous wastes—a "duck and cover" approach to the dangers of hazardous waste that is unreliable, has already been shown to fail, and rarely protects communities from long-term risks of leaving hazardous wastes on-site.

The worst tragedy for this program would be for the "clean-ups" of today to become the leaking and contaminated sites of tomorrow. The Penny/Kasich Amendment will reverse national policy, returning us to the "head in the sand" approaches that created many of these sites in the first place—containment and institutional land-use controls (deed restrictions, etc.).

"Containment" actions leave hazardous waste in communities they threaten by attempting to prevent the waste from leaking off-site. "Containment" was the preferred "clean-up" method of the Gorsuch-Lavelle era in the early 1980s. In response to containment's poor track record and extensive expert testimony that all containment systems would ultimately fail, in the 1986 Superfund Reauthorization, Congress inserted a preference for treatment into the law to encourage the selection of permanent solutions to the nation's hazardous waste dumpsite problems. Proposal No. 20 would eliminate this vital standard, and with it, the statutory assurance to communities that Superfund clean-ups will protect their health in the long term.

This issue requires reasoned debate and discussion—currently ongoing in the committees with proper jurisdiction in both the House and Senate—to craft a method to reform the Superfund program without destroying its mission: providing communities real protection from the long-term risks of hazardous waste. Arguing that the proposal would short-circuit more reasoned attempts at reform, the national association of state hazardous waste officials (ASTSWMO) has urged its members to contact their state delegations to oppose the Penny/Kasich proposal.

Most importantly, Proposal No. 20 is poor public policy because it would:

Seriously threaten public health. In the name of short-term cost savings, Proposal No. 20 would remove existing requirements for protective cleanups and allow contamination to remain in place, which will lead to future threats to public health if the containment systems fail. Failure has already occurred at some "contained" sites (see below). Eighty-three percent (83%) of all Superfund sites have residences adjacent or nearby the contaminated property, according to EPA. Proposal No. 20 would result in leaving contamination in or near these numerous residential areas.

Employ failure-prone cleanup methods at the majority of Superfund sites. Although these systems will supposedly control contamination for generations to come, "containment" systems have already failed at numerous Superfund sites within only years of installation. Documented cases abound of leakage through supposedly "impermeable" caps caused by damage from floods, rodents, erosion and man-made factors.

Lead to the declaration of environmental "dead zones" where serious contamination could be left uncleaned. Rather than remove and destroy pollutants, the "containment" approach essentially writes off contaminated areas from ever being useful resources again, irresponsibly transferring the uncertainties and burdens to future generations.

Rely on inadequate institutional controls that can shut out the voices of affected communities. Proposal No. 20 would try to keep people away from contamination using institutional controls, such as zoning or deed restrictions. There is no mechanism to ensure that local citizens will have an adequate voice in the decision to create permanent dead zones in their communities. All too frequently, "contained" dead zones further burden economically disadvantaged areas and communities of color that are already saddled with serious toxic exposure and pollution problems. Moreover, unless real treatment is used, many sites will remain contaminated long after some restrictions could be changed or will expire.

Fail to deliver the cost savings promised. Containment "caps" often have to be repaired or replaced soon after installation, at a cost of millions of dollars. The Penny/Kasich cost estimates ignore these costs by assuming that containment systems never fail and will never have to be replaced or significantly repaired (*See* "Estimation of Resource Requirements for NPL Sites," Univ. of Tennessee, Knoxville). Moreover, unlike permanently treated sites, "contained" sites require long-term, continuous monitoring and maintenance at high annual costs. For these reasons, containment systems may well prove more expensive than permanent solutions.

Undermine investment in "green" technologies. A policy that penalizes investments in advanced pollution control technologies would create powerful disincentives for continued development of effective methods to solve our pollution problems.

Proposal No. 20 inappropriately attempts to resolve this complicated issue in a precipitous, knee-jerk fashion that loses sight of the goal of the Superfund program—protection of human health and the environment. A national cleanup program can only achieve the goal of providing real protection of public health and the environment if it employs effective and reliable clean-up strategies. Spending significant public and private funds on ineffective, inadequate remedies squanders scarce resources while providing little or no benefit to society or the environment.

For these reasons, we urge you to oppose Proposal No. 20 of the Natural Resources Section of the Penny/Kasich Amendment to H.R. 3400.

Sincerely,

Linda E. Greer, Senior Scientist, Natural Resources Defense Council. Peter Tyler, Associate Director for Policy, Physicians for Social Responsibility. Velma Smith, Director, Groundwater and Drinking Water Project, Friends of the Earth. Richard C. Fortuna, Executive Director, Hazardous Waste Treatment Council. Marchant Wentworth, Legislative Director, Izaak Walton League of America. Carolyn Hartmann, Staff Attorney, U.S. Public Interest Research Group. Bill Roberts, Legislative Director, Environmental Defense Fund. A. Blakeman Early, Washington Dir., Pollution and Toxics Program, Sierra Club. Paz Artaza-Regan, Program Director, United Methodist Board of Church and Society. Anne Rabe, Executive Director, Citizens' Environmental Coalition. Mary Anderson Cooper, Associate Director, Washington Office, National Council of Churches. Bridget Barclay, Environmental Director, Hudson River Sloop Clearwater.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 51, PROVIDING FOR ADMISSION OF STATE OF NEW COLUMBIA INTO THE UNION

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103–384) on the resolution (H. Res. 316) providing for consideration of the bill (H.R. 51) to provide for the admission of the State of New Columbia into the Union, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON S. 714, RESOLUTION TRUST CORPORATION COMPLETION ACT

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103–385) on the resolution (H. Res. 317) waiving points of order against the conference report to accompany the Senate bill (S. 714) to provide funding for the resolution of failed savings associations, and for other purposes, which was referred to the House Calendar and ordered to be printed.

UPDATE ON THE PENNY-KASICH GROUP BUDGET PROPOSAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. KASICH] is recognized for 60 minutes.

Mr. KASICH. Mr. Speaker, I wanted to just spend a little bit of time giving an update to the House about the development of the Penny-Kasich group budget proposal. It is interesting, because now the White House, and by the way, let me recap for a second. There are 31 Republicans and Democrats who, together, wrote a $90 billion budget reduction plan. That is less than 1 penny on the dollar over 5 years. It is really unprecedented, the way it worked.

Frankly, we were a group of 31 ragtag Members drinking cold coffee out of a paper cup, and over the course of the last several days the Secretary of the Treasury, the Secretary of Defense, the Secretary of HHS, the First Lady, the President of the United States, have all begun to unleash attacks on the work product of the Kasich-Penny group.

Mr. Speaker, I must say that the charges that have been made by this administration have been wildly inaccurate, starting today with Secretary Aspin's claim that we are cutting somewhere between $25 billion and $30 billion out of national security. Our plan cuts a total of $1.5 billion out of inventory and a bloated cash fund at the Pentagon.

This administration and the Secretary of Defense, unfortunately, had better go back and re-read our plan, and then he had better take a deep breath when he goes back to read the plan that the administration advanced by slashing defense by $130 billion.

The effort by the Penny-Kasich budget group to reduce Federal spending by less than one penny on a dollar over 5 years is something the American people have been calling for. Now the White House has unleashed the most furious of attacks on this plan, and they have done it by rallying those special interest groups who feed at the Federal trough, who have interests in trying to preserve the status quo in Washington, DC, and prevent any change. Those folk now are starting to work over the Members of Congress and trying to tell them that they should not vote for this and they should not vote for that, and if they do, they will be threatened at the polls, the same kind of practices this administration condemned just a short week ago.

In fact, the charges by Secretary Shalala and Mr. Bensen and Mr. Panetta all the way up the line really are the politics of fear. This is an administration that argued against the politics of fear, but now is beginning to perfect the politics of fear by trying to make a number of wild claims about the impact of the Penny-Kasich group proposals on all of these areas of Federal spending.

What is going to work for us, in our effort to win this fight, and frankly, we do not have the votes yet, but we know the opponents do not have the votes yet. That is why we cannot get a Committee on Rules meeting and we cannot get scheduled to have a vote tomorrow, like we have been promised, because the administration is trying to unleash all the ghosts and goblins to try to scare the Members of Congress into voting against this modest proposal to save less than one penny on a dollar over 5 years.

It is going to be up to the American people, as my colleague, my distinguished colleague from Pennsylvania, has said to me, "John, the key is to bring the revolution outside the city over the walls of the beltway into this city, so that the American people will begin to be heard and they will drown out the cries of the special interest groups."

I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding to me.

As a member of the group that helped draft this proposal, Mr. Speaker, I am not certain that I appreciate being called a member of a ragtag group, but I did appreciate the opportunity to work in this particular effort. As I pointed out yesterday when we were doing a similar kind of effort here on the floor, the gentleman from Ohio [Mr. KASICH] and his partner, the gentleman from Minnesota, are to be congratulated for the work that went into this.

Mr. KASICH. Mr. PENNY.

Mr. WALKER. Mr. PENNY that is correct.

The issue is, I think, as the gentleman describes it. We are now confronted with the issue of whether or not the special interest power in this town is going to prevail over the public will to do something about deficit spending.

□ 1750

Too often when we talk about spending deficits and debt in this country there is a belief that there is some magic silver bullet that can be shot that somehow will all of a sudden bring down the budget to balance and will in fact put us into a position where we can be all things to all people, that we can find a solution to our spending crisis without really cutting any real spending. If you have worked on this long enough, you realize that that just cannot happen, that ultimately it gets down to specifics. Whether you do across-the-board cuts or whether you go through program by program and try to figure out what can be cut and what can be eliminated, the fact is that you have to do the tough work at some point, and there are some special interest groups who are always going to be unhappy, because all of them are going to get hit somehow. That is what is happening here. You have kind of a witch's brew of the special interest groups, the administration, and those in Washington who simply like bigger Government, who now have decided that this particular proposal is unacceptable. Any proposal to cut spending in any kind of major way will be unacceptable to them.

Meantime, you have the groups around this town and out across the country who have been attempting to cut spending, who are making this suspending cut vote of the year. And it seems to me that we have to weigh those two, because on the one hand the special interest powers are going to be demanding their pound of flesh, they are going to be demanding a "no" vote because it is their desire to see that spending continue at whatever rate. But there is also the counterpressure that I think is welling up from the country to suggest that if you do not vote for Penny-Kasich that you are going to end up at some point being one of those people who is against doing something real about deficit numbers. And it seems to me that we will end up with a very clear choice.

My concern, I would say to my friend, is I am not certain we are going to get to that choice. It seems to me that the administration is playing not only the game outside where they are attempting to torpedo this effort, but it appears to me as though there is an inside game going on here as well that is drawing out the time at which we are going to have this vote, and is attempting to cook up some kind of a deal that will not allow the stark contrast to be there, will not allow us to clearly identify which the real deficit-cutting vote is. And I wonder if the gentleman has had any experience in the course of the day today which would indicate to him that we are going to enthusiastically bring this proposal to the floor and allow the membership to work their will by voting up or down on this $90 billion of spending cuts?

Mr. KASICH. They are about as enthusiastic in bringing this bill to the floor as a schoolteacher is in bringing her kids in for a final exam. I mean the bottom line is they are trying to avoid a vote on this proposal.

We were supposed to have a meeting in the Rules Committee yesterday to fashion the amendment. That was canceled. We were supposed to meet in the Rules Committee today to decide what we were going to do. That was canceled. The vote was originally scheduled for tomorrow. That was moved to Monday. And now the Rules Committee meeting is scheduled for tomorrow, the day and the time at which we were supposed to vote on this proposal.

I think that the Democrat leadership, which is committed to more spending, this scares them. You see, what this represents, I will say to my friend from Pennsylvania, is that there are some temors on the ground right now. If you walk around here in Washington there are some tremors, and the tremors represent change, and it is starting to scare people, the way that the tremors that precede an earthquake begin to scare people. And if in fact the Penny-Kasich group budget that cuts only less a penny on the dollar over 5 years would pass, these tremors would translate into a full-scale earthquake, high on the Richter scale. So they are working both outside and inside to sabotage this plan.

Mr. WALKER. If the gentleman will yield, is it not interesting that when change was a political slogan they were all for it. When change is a real opportunity, they are very much against it.

Mr. KASICH. That is exactly right.

Mr. WALKER. Now it seems to me that that is what the American people need to focus on, that you have a political campaign that talked a lot about change. What the American people were really saying when they wanted things changed was they wanted this effort in Washington to constantly grow Government bigger and raise taxes and raise spending all the time, they wanted that stopped. And now when somebody comes along and suggests that we are going to reduce the size of the Government a little bit over 5 years, we are going to reduce the spending a little bit over 5 years, we are going to do so without raising taxes, well my goodness, we cannot have that kind of a change that is real.

Mr. KASICH. I would say to the gentleman that they are suggesting, each of these Cabinet officials has suggested that if we cut less than a penny on the dollar over the next 5 years that this will eventually end civilization as we know it.

Mr. WALKER. We ought to clarify what the gentleman is talking about. The gentleman is talking about a penny on the dollar over a 5-year period. That is basically one-fifth of 1 cent a year.

Mr. KASICH. That is correct.

Mr. WALKER. We are not talking about a penny each year so that it adds up to 5 cents after 5 years on the dollar. We are talking about one-fifth of a cent each year that ends up being 1 penny over a 5-year period. And the gentleman is right. I mean to hear them talking you would think that that kind of spending cut is going to absolutely emasculate the ability of the Government to provide services to the American people and to provide the common defense and all of the rest of the things that the Congress guarantees that it will do. What nonsense.

Mr. KASICH. Really the cuts represent only basically a spit in the ocean, and people may say or colleagues may say well, why are you so revved up about this and why do you feel so passionately about it then? Well, there is this three-legged stool, and it all needs to be attended to. One is to reduce the overhead of the Federal Government. Second is to end the choking accumulation of Federal regulations snuffing out jobs and killing small business. Third is the ever-growing tax burden on the American people and American business that creates jobs. And it has got to be our effort to reduce the overhead of the Federal Government, to reduce the tax burden on individuals and businesses, and to provide incentives to give businesses a reason to hire more people so we can have a more prosperous civilization. Finally we need to work on eliminating the costly regulations that choke off expansion in this country.

What this represents is a strong but relatively small first step to reducing the overhead of the Government. When we talk about reducing $90 billion in spending over 5 years, that is all set by a $2.5 trillion increase in the national debt. This is just mind-boggling, and they will not even agree, I say to the gentleman from Pennsylvania, to make the most sensible, modest amounts of reductions in the overhead of this Federal Government.

Mr. WALKER. The American people need to focus on this in terms of some real realities too. There is a lot of talk across the country that people want a balanced budget amendment to the Constitution. The gentleman does; I do. There are many of our colleagues who have lined up on the idea of a constitutional amendment to achieve a balanced budget.

You know we all talk about balanced budgets. I even talked some about cutting the debt. But let us be real about this when we talk about it. That means major changes in the cuts. Instead of the kind of cuts, the $90 billion that the gentleman is talking about over 5 years, if you were going to balance the budget within 5 years you would have to talk more in terms of a $700 billion cut over 5 years. You would have to talk about something that is many times more.

Mr. KASICH. I think the gentleman ought to reemphasize those numbers again.

Mr. WALKER. If we are being real about a balanced budget, if this is not some sort of phony exercise, and we are really going to balance the budget, we have to talk not about a $90 billion cut over the 5 years, as it is in the Penny-Kasich proposal, but we have to talk more in terms of $650 billion to $700 billion in cuts over a 5-year period.

□ 1800

Mr. KASICH. The gentleman is not suggesting that there would be people who would vote for the balanced-budget amendment that would call for $700 billion in cuts over 5 years who would be reluctant to vote for $90 billion?

Mr. WALKER. Well, I am not so certain that that is the case, because I am hopeful that many of our colleagues will come to the determination that this is real, and that they want it done.

I am suggesting, however, that there are some people who are representing special-interest power who are talking to the membership at the present time who have no intention of ever seeing us move toward a balanced budget.

The gentleman would be interested and would be fascinated to know that I spent the day today down in the Committee on the Reorganization of Congress, the congressional reform committee, that is supposedly going to make this institution work better, and we were going through a series of amendments, and what suddenly occurred to me in the course of going through those amendments that we were being offered, amendments by the Democrats in particular, one Democrat in particular, that were aimed at preserving the spending machine in the Congress, that we were trying to figure out ways to assure that Congress would continue to spend and spend and spend and would give the membership here less ability to get in the way of the spending machine.

I am telling you that is the kind of attitude we are dealing with, and it is going to be difficult. If you take a look at the people who want to continue to spend the money, the people who really do believe the way to make the country better is to grow the Government bigger, the people who really do believe that you can spend Government money and somehow it is all for free, the people who really do believe that you can continue to rob working families, working middle-class families in this country of their resources and spend it better in Washington, that those folks have an awful lot of power in this town, and they are now all coming down around the Penny-Kasich proposal, and that is what we are going to have to deal with.

I do not know, maybe we have a majority of Members who are willing to stand up against that kind of pressure. I hope so, because the only way you will break the back of that pressure is to stand up against it and do something real in terms of cutting spending over a 5-year period.

Mr. KASICH. I say to the gentleman, now, the interest groups, some of whom have very legitimate concerns, others who never want to get their snout out of the trough regardless of whether their programs work or not, that Members like the gentleman from Minnesota [Mr. PENNY] and Members like the gentleman and Members like me were willing to work with reasonable proposals to make their programs work better, to preserve the programs for the people who really need the help. We are not interested in slashing and burning and disrupting the way programs work. That is why we are here with a program that cuts less than a penny over 5 years out of a dollar, and it is important though that we win this fight against these special interests so that they do not go back to their offices smug with the fact that they were able once again to beat down the forces of change.

What makes this so unique is that you have got Republicans and Democrats who together came together to fashion this proposal, and that is why we need it.

You know, I say to the gentleman that it is up to the American people. They have got to start calling their Members of Congress between now and Monday to let them know that they ought to vote for the Penny-Kasich proposal, that they ought to begin to move in the direction of some fiscal sanity in this country, because if we do not, we are hard charging toward bankruptcy.

I yield to the gentleman from Michigan [Mr. UPTON].

Mr. UPTON. Well, I thank the gentleman for yielding.

I was sitting in my office finishing a long week here in session, and I caught some of this debate on C-SPAN, and I thought I had to come over.

I have been a very strong supporter of the Penny-Kasich approach. It is about time this Congress makes some tough choices on reducing spending, and as I sat there watching, talking to my staff, a couple of thoughts came to my head.

First of all, we have taken some actions to cut spending, but we do not really hear from our folks at home, the taxpayers, for the thanks that we should have received, I think, for cutting the spending.

A couple of examples, the beekeepers. The gentleman from New Jersey [Mr. ZIMMER] and I took on the beekeeper subsidy. We survived, and we were able to have a success that ended up winning. The only people we heard from were the beekeepers in our own districts who chastised us for taking away the subsidy, something that had been around too long for decades.

Mr. KASICH. In other words, the beekeepers do not call you honey anymore?

Mr. UPTON. That is right, and it was a pretty sweet deal.

The wool and mohair folks, again a subsidy that lasted way too long, and the only people that we heard from were sheepherders back home who were upset that finally this subsidy was over.

I would hope that the people watching this in their homes across the country tonight would see Congress is close to actually taking some concrete action on cutting spending first.

This is a very solid package, over $100 billion in cuts.

But who are we hearing from? We are hearing from all of the lobbyists that are coming down the hall saying, "Wait a minute, even though this is $100 billion in cuts, my program has a $3 million hit here," $3 million out of $100 billion. "You have got to vote no."

Those of us who opened up the Washington Post the last couple of days have seen the press beginning to chastise this process, and I would hope that those Members who will truly stand for a balanced-budget amendment, those Members who want to do something about reducing the deficit, this is our chance. I would hope the phones will be ringing in our offices when we go into session tomorrow morning at 10 o'clock and on Sunday at 2, from our constituents across the country, urging their Member of Congress to vote "yes" on this very sound proposal that I know the gentleman from Ohio and the gentleman from Pennsylvania and others have worked very hard on.

Mr. WALKER. If the gentleman will yield further, the gentleman from Michigan makes a very valuable point, because I want to add to it.

You know, the gentleman was talking about the cuts that took place, and they did, and there have been some valuable things. And guess what, the world did not come to an end. I mean, when we were doing those cuts, there were people in here saying the world as we know it is about to end because of these dramatic and drastic cuts that are being proposed on the floor. We made the cuts, the world goes on, the Government has not fallen, and the fact is that there are lots of other things we can do now. We may have to reform some structures; you might have to have a true revolution where you actually privatize some of what Government is now doing. There are a number of things that you have to do in order to cut spending and yet keep things going on.

But it is not the end of the world when you cut the spending. The fact is that there are ways of accommodating this in a big society like ours, and the gentleman makes, I think, an excellent point that all you get is the criticism from the people who are getting hurt. The rest of the world ought to look around and say, "Hey, they cut that spending and all of those terrible things they told us were going to happen did not really take place."

Mr. KASICH. Let me say this, not only is it a matter of the world will continue to go on, but all over the world governments that have relied on big government to try to solve their problems have moved in the direction of chopping government and privatizing government and trying to develop and create a program that leads to greater prosperity.

This is not a matter of just trimming back government for the heck of it. We want to trim it back because we want to reduce the overhead. We want to get rid of government that gets, in many cases, in people's way, and we want to get a system going that reduces our debt, continues to keep inflation low, interest rates low, and let people have some prosperity in this country.

People do not have any confidence in this economy. That is why we are not in a job-creating mode in this country.

I yield a second time, and this truly is a miracle, on Michigan weekend, I am going to yield to the gentleman; the gentleman from Columbus, and Ohio State, is going to yield to the gentleman from Michigan a second time.

Mr. UPTON. I want to make one further point, and that is that there is hardly a spending cut out there that will not impact someone's district in some way. I would just hope that Members would stand up to some of these special interests that are patrolling the hallways looking for us, looking to get a pass on this issue, and in fact vote, "yes," on this package, and I would only hope, coming from Michigan, that we would be able to eliminate the TVA, that that was probably one cut that does not impact my district.

Mr. KASICH. I would say to the gentleman that, of course, change here is tough. In this package, and the gentleman has been here since the early 1980's working in this town for people who were kind of revolutionaries, I think the gentleman would have to say this $90 billion package with its ability to go into law with the breadth across the Federal Government is probably the most sweeping proposal we have seen in several decades here, and because this will not go to committee, there will be no committee chairman that will try to kill it or water it down.

I would say to the gentleman though that in the process of doing the $90 billion, we had to make accommodations, because if we did not make some accommodations, we could not win the votes, and so we changed it, the provision as it applies to Federal employees and what their retirement age ought to be, and the military retirees and their COLA's. We have taken them out of the mix. And we made all of the changes prospectively, first, because we needed votes, and second, it was a fairness question. The people raised legitimate questions about it.

In terms of Tennessee and the TVA, the TVA and the Tennessee water programs have taken some cuts in this proposal, but perhaps not as big as the gentleman from Michigan and I would like, but they are included. They are in the bill, and it is a start, and in order to have change, you have got to turn around and walk in the other direction, and that is all we are trying to do and take the first step. That is all we are trying to do.

Mr. UPTON. Mr. Speaker, I thank the gentleman for yielding, and I would just pass along the last words, Go Blue, beat the Bucks.

Mr. KASICH. I appreciate the contribution offered by the gentleman from Michigan.

Let me say, Mr. Speaker, in concluding this special order, that we are not going to conclude it yet because my colleague from Connecticut has just arrived. Let me yield to the gentleman from Connecticut as he rumbles onto the floor here, to make a comment about what the task force is doing, and he is a member of the task force, the gentleman from Connecticut.

I want to say this, and I know for people who watch special orders, they say that everybody is always complimenting one another, and maybe that is true, and it gets to the point where it makes you sick, but I have got to say something here about this gentleman from Connecticut. He is intellectually honest, committed to this country, and he is a great person and a great friend, and I love working with him every day on this Committee on the Budget trying to solve our fiscal problems.

I yield to the gentleman from Connecticut [Mr. SHAYS].

□ 1810

Mr. SHAYS. I thank the gentleman for yielding.

Mr. Speaker, I have been in this Chamber as a Congressman for about 6 years, and I remember when Mr. KASICH would introduce his budget-cutting amendments a few years ago and there would be maybe 30 people who would support him. The reason why he offered those amendments was that he knew, just as some of the authors of some of these various books have pointed out—that is, Peter Gray's pointing out that we are burning money, "The Waste of Your Tax Dollars," "The Government Racket: Washington Waste from A to Z," by Martin Gross, Harry Figge, "Bankruptcy in 1995." You go through these books and you know what is happening. What is happening is we are getting to a point where we are spending so much money, far more than we raise in revenue, that our national debt keeps going up and up and up.

The exciting thing for me is that Mr. KASICH and others have come to the point where there are not just 30 Members supporting these amendments. There were 30, now there are 60, then there were 90, then over 120, and early on we get up to about 160.

Now we have a chance, the majority of Members of Congress, Republicans and Democrats, have come together with an amendment that would cut $100 or $90 billion from the national debt over the next 5 years. That is a beginning, it is not the whole thing, but it is a beginning. It is the first time we have done it, and we have done it on a bipartisan basis; that is, rank-and-file Members. The leadership on the other side now is finding ways to just kind of hold things back. I just pray that this Congress has the courage to do what is right and to vote out the package offered by Kasich-Penny on a bipartisan passage and truly it has the support of more than a majority of Members of Congress.

I was looking recently at some of the endorsements that we have, and they are awesome: the Concord Coalition, the National Federation of Independent Businesses, the National Taxpayers Union, Citizens Against Government Waste, United Seniors Association—you know, I look at that and I say, seniors not caring about what happens to our country? No senior wants to grow up and think that they are taking, and their children and their children's children are going to have to pay for it. They care about this deficit as much as anyone else.

Americans for Tax Reform, Lead or Leave, Competitive Enterprise Institute, Coalition for Restraint, Responsible Budget Action Group, the Associated Builders and Contractors, the Third Millenium. The Third Millenium is a group of people who are relatively young who are wondering what is going to happen when we get into the next century and we have to start paying this back.

The list goes on: Americans for a Balanced Budget, Citizens for a Sound Economy, Financial Executive Institute, Business Roundtable.

Now, I do not think we are going to be bankrupt in 1995 because Congress keeps pushing things back a little bit further. I honestly believed that President Clinton would come in and say to the American people, "I didn't create this deficit, I was a Governor, I wasn't in the White House, I wasn't in Congress." I felt that this President would say, "I wasn't here, but we have got to deal with it." And I felt that he would say, "I am going to veto budgets until this Congress begins to control the growth in spending."

What is amazing to me is—and some of us went to the administration to say, "You have a group that you should nurture, you have the Penny-Kasich group. This Penny-Kasich group wants to cut spending. It is generating from the Congress. You know, you want that. You want Congress to do it.

"Now, we are going to share in the hits with the White House, and you should join us. At least, if you are not going to join us, allow it to go forward and do not try to kill it."

So the White House comes in with a package, and the package is only $2 billion or so. Then you have a group of Republicans and Democrats who are willing to come in with $90 billion of cuts. And the White House says "no." I do not understand it, because some of them are the same ideas that they have thought about. And it would be blame shared by all of us.

Mr. KASICH. I yield to the gentleman from Pennsylvania.

Mr. WALKER. One of the concerns I have is what I have been reading in recent days, that the intention here is to use whatever savings they have come up with in order to spend more in other places. In other words, it is a real complaint about Penny-Kasich that it ends up being that they do not want to allow us to get these savings against the deficit because they have plans for that money later on, to spend it elsewhere.

Well, the fact is that is not the way you get deficit reduction. And if we cannot find it and make real savings out of it, you do not get it reduced. Simply transferring it over to spending out of another pot does not make it happen.

So, one of the most disturbing things I have seen from the administration in recent days is the unwillingness to consider deficit reduction, meaning real spending cuts.

Mr. SHAYS. That was a real surprise to us because what we felt when we came forward with this program was, as you know as a part of this group, this group of 30 Republicans and Democrats, that we needed to lower the cap so it would not be spent somewhere else, because we felt the whole intent was to reduce the deficit.

Each year we have our deficits, and at the end of the year our annual revenue is here, our spending is here, and that just goes and adds on to our total national debt.

With the President's passage that passed earlier this year, the national debt will increase in the next 5 years to $1.6 trillion. That is a 40-percent increase in the national debt. Some said, "Well, it is only a 40-percent increase. We had greater percentage in past years." But that was on a lower base. This is the largest increase in the national debt in any 5-year period.

So what we needed to do was to bring down those caps so that when we made these real cuts, real tough cuts, they were not spent somewhere else, because that would defeat the purpose of it.

Mr. KASICH. I yield to the gentleman from Pennsylvania.

Mr. WALKER. What is interesting to me is what I have seen happening here that is that Washington, on some of these economic issues and budget issues, is really divided into a couple of different groups. One of the problems that we have is that we have often described the political dialog in this town as being liberal or conservative. A lot of these issues, I am not so certain that those labels fit anymore, because I think maybe the real battle is between those who sincerely believe that you can make the country better by growing the Government bigger and on the other hand those who believe that the Government is too big and spends too much.

I mean those classifications are far more important to this debate than the old bounds of liberal and conservative, that if what you want to do is have a real debate in this town, you have to decide whether or not you are on the side of those who believe Government is too big and spends too much and therefore spending should come down, or those who sincerely believe—I think wrongly—but sincerely believe that the country will get better as the Government grows bigger.

It is a fascinating change in the dialog on a lot of these issues.

I thank the gentleman for yielding.

Mr. SHAYS. I notice my colleagues on the other side have been working on this, Mr. SWETT, Mr. FINGERHUT, and the exciting thing, the thing we want to nurture, is that Republicans and Democrats, rank-and-file Members of Congress, want to put an end and want to begin to address more our deficit problem. I just thank my colleagues on the other side of the aisle for being such a close part of this and making it work.

Mr. KASICH. I say to the gentleman from Connecticut, who sat on the Budget Committee and watched the most partisan operation ever, can you imagine that we got DICK SWETT and Congressman FINGERHUT, two Democrats who worked on this package, gave a little, took a little, worked together, we stood on platforms together, fighting together for this plan. Is this not what it is all about, I say to the gentlemen?

I yield to the gentleman from New Hampshire.

Mr. SWETT. I thank the gentleman for yielding.

First, I just want to say that I came from Congressman PENNY's office, and he apologizes for not being here tonight because he is a den master or den leader for his young son's Cub Scout groups and he had other obligations that took him away from being able to be here and speak.

Having gotten that out of the way, the one thing that strikes me about the whole conversation we are having right now—and I would like to address a larger audience than just my colleagues who are here with me today—is that if we had the opportunity of having cameras in when we were negotiating the cuts that we picked to put into this package, the American public, although on particular issues would have great difficulty, I think in general would have been impressed by the comity, the ability to work together, the desire to reach some kind of consensus that this group of Republicans and Democrats reflected.

□ 1820

That is, I think, a very important message that we have not really gotten through to the American public.

I also want to say that that openness of debate and discussion was very real to me, because when I first started my second term in the House, one of the first things I did was to gather a list of expenditures, wasteful expenditures, unnecessary expenditures that we have engaged in over the years that appear on all the different cut lists, whether you are talking the CBO, whether you are talking the taxpayers' groups, whether you are talking individual Members' cut lists. I gathered all those things that appeared on 75 percent of nearly a dozen different lists for cuts.

I sent that list to my voters, to all the people in my district who are interested in what I am doing in Government and want not only to take a responsible view of how to implement programs to solve problems, but also are interested in monitoring the outcomes of those programs so that wasteful spending and unnecessary spending whenever possible are eliminated.

The responses from well over 20,000 recipients of this letter and this list was extremely positive.

What I am also very happy to say is that it served as a basis for me to come into this bipartisan group and argue decisively, with the backing of my voters, for those reductions that I feel would make a significant impact—not so much on the deficit; after all, we have to remember this is less than a penny on every dollar of spending reduction. This is a very minor amount of reduction, but it is a significant change in how we address the process of management in Government, where we are beginning to look at outcomes. We are beginning to look at the pragmatic side of things, whether a program is necessary or not, and we are beginning to put people in a position where they have to make decisions about how to manage and how to move forward those expenditures, the use of taxpayers' dollars, that heretofore was only motivated to get out into programs and get the money spent.

Mr. SHAYS. I just want to say that one of the parts of this that I think all of us would make clear is that we as individuals do not like 100 percent of the package. I can tell you there are hundreds of millions of dollars that I would not have put in that package, in the $90 billion.

I had one constituent come to me and tell me about a part that she did not like. I agreed with her. I had to agree with her. It would not have been my choice, but I said, "Am I going to vote against the entire $90 billion reduction in spending over the next 5 years because there is $100 million that I want to keep in?"

Mr. SWETT. Mr. Speaker, if the gentleman will yield further, we had this discussion in the meetings. We all thought about whether we should do this as a single package or as individual votes on individual line items, and it was very clear to the group that, had we broken this down into individual line items, we would have ended up not passing anything, and that there is a real necessity for putting together this ship, so to speak, understanding that on the crew of that ship there are going to be a couple individuals who are a little difficult to deal with and whom we would rather not have onboard, but it makes no sense to sink the ship just because we cannot get along with one of the crewmembers.

Mr. SHAYS. Well, I just would elaborate on that. The point is that everyone in Congress can find something they do not like in a package. If people want to escape accountability by voting against this package because they find one, two, or three things they do not like, that would just be a continuation of the status quo. That is why we have these incredible increases in the national debt over, really, the last 20 years, but particularly over the last 14. It simply cannot be allowed to continue.

Mr. SWETT. Well, if I can just conclude with my image. This is a ship that is helping this country sail into the future.

I look at my children, all six of them. I look at my potential grandchildren, which I think are going to be many if my prodigy has anything to do with that. I think we are going to see great improvements in how Government operates because of legislation like that. I want that ship not only to stay afloat, I want it to chart a good course for the future.

I am also very proud and happy to have one of my colleagues, the gentleman from Ohio [Mr. FINGERHUT] here with me to help represent the Democratic side.

Mr. KASICH. We are going to yield to the gentleman, but before we yield to the gentleman from Connecticut, I just want to get one commitment out of the gentleman from New Hampshire about these elbows in the congressional basketball game.

They will be a little less sharp the next time around. Did I hear that?

Mr. SWETT. Well, I will tell you, I will wait to see who votes for this and who votes against it.

Mr. KASICH. That is a good point.

Mr. SWETT. That is certainly going to depend on how this plays.

I was easy on the gentleman yesterday afternoon, I am sure.

Mr. SHAYS. Mr. Speaker, let me say that the gentleman from Ohio [Mr. FINGERHUT] has been fantastic in working with this group and even before and speaking out about a number of issues that Congress needs to address. The gentleman has made such a difference in making this a bipartisan effort. I just am grateful the gentleman is here tonight.

Mr. FINGERHUT. Mr. Speaker, if the gentleman will yield further, I wanted to jump in on the point the gentleman was just making before and that the gentleman from New Hampshire [Mr. SWETT] was making before about the fact that we do not all like everything that is in this package.

In fact, there are some things in this package that we may not like very much.

I was late joining this special order, I say to the gentleman from Ohio [Mr. KASICH], because I was on the telephone with a constituent, not just a constituent, but a friend, someone who I really respect and admire and who has been a supporter of mine.

This gentleman called about an issue that I knew I was going to get the phone call about sooner or later. It is one of the items that we proposed some cuts in this package, and he made his pitch.

I explained to him what this effort was all about, that is was about responding to two fundamental points.

The first point is the simple morality of the deficit.

You know, I have been here for 10 months now. As the issue of the deficit has been discussed and as I have learned more about the deficit, I have moved away from thinking of it first and foremost as an economic issue or even a governmental issue or management issue and thinking about it just as a sheer morality issue.

Every day that we fail to address these questions, every day that we fail to ask for sacrifice from ourselves and sacrifice from our citizens, our constituents, we are leaving the bill for our children.

I know that the gentleman from New Hampshire [Mr. SWETT] mentioned how many grandchildren he would like to have someday. He has a lot of children already. I do not have any, but I would like to have some one day, but I know when I go home and when I go to the schools and when I go to the clubs and go door to door and talk to my constituents, I look those children in the eye. They are the ones we are leaving the bill for. That is what this is about.

The second point this is about is everywhere I have gone, people have said to me, "Congressman, why can't Congress work together? Why can't Republicans and Democrats put aside their differences and work together to solve this problem in the country's interest?" And here we are doing that.

So when I finished my answer to my friend who called me to complain about one of the elements, he said "ERIC, not only do I understand, but I support your decision in this case. I am going to go back and tell the other people involved in the cause that I am involved in that they should support this decision as well."

Mr. SHAYS. Just on that point, I always believe that if you tell the American people the truth, they will ask you to do the right thing. Sometimes I have a constituent who will tell me something that is pretty outrageous, and I will say, "Where did you learn that?"

She said she was listening to something, some commentator said this, or maybe even some Congressman said it, and it is so off base, and based on what they were told or what they believed, they came to a conclusion.

When you just go through the facts, they are very clear on what they want.

Now, the one thing we do not have to teach the American people, we have to teach people down here more about, I am someone who loves Congress and I am not bashing Congress. I just want the American people who respect the American flag, which is a piece of cloth, but a very important symbol, to respect the institution of the Constitution, which is reflected in that flag and the Congress of the United States. I want to reflect us.

We do not have to tell them about the deficit, but sometimes when we go through and explain to them why we are doing exactly what we are doing, just as the gentleman has done, they tell us to do it.

I really believe that if more Members in this House had the same experience the gentleman had or arguing that side of the issue, we would be cutting a lot more and getting our financial house in order a lot sooner.

Mr. FINGERHUT. Mr. Speaker, if the gentleman will yield further just briefly, just to conclude, the gentleman mentioned about bashing Congress and the concern people have about this institution.

I am convinced that it comes from the fact that they do not care whether we are Republicans or Democrats. They do not care whether we are liberals or conservatives, as the gentleman said earlier, they simply want to see us working together for the best interests of this country and for the future.

So I hope that if they tune in tonight, they will see people who do not always agree standing together and working together in a manner that they would expect us to for their children.

I just want to say before I conclude that I really do admire the efforts of my colleague, the gentleman from Ohio [Mr. KASICH].

□ 1830

As my colleagues know, when we went through this budget debate in the spring it was contentious, it was highly partisan. The gentleman from Ohio [Mr. KASICH] distinguished himself on the Republican side, and frankly, and let us be honest about it, could have taken his marbles and gone home and said, "I did everything that I needed to do toward trying to address the deficit this year. I put up my package." Instead, when we on this side of the aisle, the gentleman from New Hampshire [Mr. SWETT], the gentleman from Minnesota [Mr. PENNY], and others, were able to obtain the opportunity for an amendment to be offered next week that would be unlimited in the scope, only limited by what we were able to put together, and, when he was asked to come to the table, he did so. This bipartisan coalition led by my friend, the gentleman from Minnesota [Mr. PENNY], and the gentleman from Ohio [Mr. KASICH] that includes the gentleman very prominently, the gentleman from Connecticut [Mr. SHAYS], and the gentleman from New Hampshire [Mr. SWETT] and 30-some others is really, I think, what my constituents have been hoping we would do all year, and they are willing to accept some pain, and they are willing to accept the fact that there might be something in this that will affect them, and they want us to get on with this.

Mr. SWETT. Mr. Speaker, if the gentleman would yield, I agree with everything that has been said here. I know this is not going to be an easy thing for us to do. We are not engaged in this debate because it is easy.

When I was young, Mr. Speaker, I understood that the most important decisions in my life were those decisions when I had two choices to make. I was choosing the more difficult one to make. I am very concerned about those people who do not have the kind of safety net that this Government should be providing, but right now I do not see us providing that safety net if we continue with the status quo.

I think the Penny-Kasich legislation, this amendment, is the most balanced, the most effective. It is the most efficient way to start whittling down and bringing some good new priorities into our system of Government so that we can begin to address those people who have not so far, in the recent years that I have been involved in Government, been able to be addressed. I think that we have the bill that will change that status quo. I think that the process of government is going to start changing because of this, and I think, most importantly, we are going to begin to look at how we can bring about this change by providing people with tools with which they can utilize and help themselves, not by just giving them things that they have not asked for, they do not know how to use, and it puts them in a position where they are really rather quite resentful of the programs and situations that they find themselves in.

I believe the challenge that we face on Penny-Kasich is a challenge that is going to get to the foundations of Government, that it is going to change the way Government is operated. It is going to put before the people this new bipartisan approach, this balanced approach, this approach that says we are going to be responsible for our actions, we are going to do what we think is right, and we are going to tell the American people the truth about it.

In the end, Mr. Speaker, I also think that the American people, before Monday, are going to bring together their collective thoughts and let their Congress men and women know that this is the right way to solve these problems and that beyond that everyone who has participated in this debate is going to be viligant and active to ensure that we protect those people in this country who need that protection most.

We have already made adjustments in this to protect military retirees. We have already made adjustments in this to protect Federal employee retirees. We have set limits for those things, and, more importantly, I think we have established the atmosphere and the attitude toward health reform, health care reform, that is going to ultimately help the President's health care reform package by putting us in a position where we have begun to look responsibly at the ways that we can manage our spending.

We are not looking at the same dollars. I do not think the argument holds water. We are really comparing apples and oranges. We have an opportunity to start the proper habits today so that we can maintain good health tomorrow in the health care reform package.

Mr. Speaker, I commend my colleague from Ohio [Mr. KASICH]. I am also extremely proud of the work of my colleague, the gentleman from Minnesota [Mr. PENNY], and I think that without their leadership we could not have moved this country even this far down the road toward a more accountable, a more responsible, a more balanced and, hopefully, more successful future.

Mr. SHAYS. Mr. Speaker, I would just like to thank the gentleman from Ohio [Mr. KASICH], and I know we have others who want to talk on very important efforts to cut spending that are not just this bipartisan effort. I am part of an effort by the gentleman from Massachusetts [Mr. FRANK] to cut the space station, and do some burden sharing and so on, but I just want to also conclude by saying to the gentleman, "Mr. KASICH, you make my being in Congress far more worthwhile. You're kind of one of my heroes because you spoke out a long time ago, and you haven't given up, and once in a while I hear you say you might give up, but we kind of chastise you when you do that because, if you weren't doing what you were doing, we wouldn't be here tonight, and we wouldn't have this amendment to offer, and this country would be a lot worse off, so I just want to thank you."

Mr. KASICH. Mr. Speaker, I yield to the gentleman from Georgia [Mr. KINGSTON].

Mr. KINGSTON. Mr. Speaker, this is a good and a very important thing which these gentlemen are doing, as you know. I have had some problems along with everybody else that we have had some problems with some of the cuts in the Penny-Kasich budget. I appreciate these gentlemen working with us on it, and I appreciate the continuing dialog we are having with that because there are some problems I would like to get addressed, but I think, more importantly than the problems that affect the First Congressional District of Georgia is the debt, and I say to the gentleman, "As you have pointed out earlier, Mr. SHAYS, there is this great book by Harry Figgie on the national debt."

Mr. Speaker, I want to show, and I do not know if the camera would pick this up or not, but this long line, that is our annual deficit and the interest on it, and it is not getting worse. This book right here, I can promise my colleagues if people read it, they would not go to sleep at night. This is terrifying. Getting our financial house in order is our No. 1 problem right now. It is the big issue. Everything else is academic if we go bankrupt.

The other thing that is interesting in the wake of the great NAFTA debate and so forth is this book will show my colleagues that the United States has a larger public debt than any of our other countries that we are trading with. Now what would be the international implications if all of a sudden America went bankrupt, we have a lot of imbalances in our trade with our partnership nations and they were holding some of our T-bills? We would be in a tremendous amount of trouble.

I am very disturbed about this. I am also disturbed about the fact that here we have a calendar for the next couple of days. Tomorrow we are going to debate D.C. statehood, which is a city that can show they cannot even run a city, and now they want to become a State. Not only tomorrow are we going to debate D.C., but we are going to give time to that Sunday.

Mr. Speaker, the Penny-Kasich bill is not on the calendar right now. That is horrifying. What misplaced priorities do we have? Everybody across America, from New York, to California, to Maine, to Florida, everybody, is screaming for debt reduction and to get our house in order, and yet we are going to spend 2 of the last 3 days of Congress debating D.C. statehood.

So, while I still have some problems with it, I appreciate these gentlemen working with me on the areas that we are trying to address, but I want my colleagues to know that I believe they are going in the right direction, and this is the No. 1 issue that faces America today.

Mr. SHAYS. Mr. Speaker, I thank the gentleman for his comments.

The bottom line for us is it is an extraordinary beginning. If we cannot make this step, what other steps are we going to be able to make in the future?

Mr. KASICH. Mr. Speaker, I yield to the gentleman from New York [Mr. McHUGH].

Mr. McHUGH. Mr. Speaker, I thank the gentleman from Ohio [Mr. KASICH] for yielding.

I was in my office doing paperwork, and I heard this special order. I wanted to come over and just make a very brief observation.

I heard the gentleman from Ohio mention that perhaps on the floor of this Chamber we throw out kudos too easily. As one of the newer Members, Mr. Speaker, I am not sure I will accept blame for that trend as yet, but I do want to say in all sincerity how much I appreciate the incredible work that has been put forth by principally the gentleman from Ohio and the gentleman from Minnesota, but so many others on this task force to put together what we have all heard here this evening and we know in our hearts is a difficult package.

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But nevertheless, one which is very, very important to the future of our country. I would note that before I came to Congress, I had some power. I was on a State legislative staff, and we spent a great deal of our time trying to help our bosses maintain their integrity, and, most of all, their credibility. And those of us who are in this public service realm, who earn our living and make our ways of life in elected office, recognize, particularly now, and it is a good thing, that the American people are looking for credibility and integrity. And while I reflect on the gentleman's comments from Connecticut when he says he is not a Congress basher, I would state that neither am I. But I think it is important that we have to begin to do some things that send a message about the credibility of this House, all of us, Republican, Democrat, Independent, conservative, liberal, and talk about the need of putting our fiscal house in order.

Talk is cheap. This bill takes a very real step toward ensuring our credibility and our integrity by putting forward a plan that I think goes a long way toward recapturing the economic stability of America.

One more brief observation. Two days ago we had a very contentious debate in this House on the North American Free-Trade Agreement. Many of us had differing opinions as to the objectives, as to the means, the vehicle. But all of us, on both sides of the aisle, had a primary concern and recognized that the fears that evolved out of that debate came about the security or lack of security of the economy of this country and in the future. I would humbly suggest to the gentleman that perhaps this debate and, more importantly, this bill, can serve as the first step toward bringing us together again in ensuring the credibility and the future of America and in eliminating or alleviating whatever concerns exist around that North American Free-Trade Agreement. Because without economic stability, without having this budget of this great Nation in order, there will be no future for any of us.

Mr. Speaker, I want to commend the gentleman for his effort.

Mr. KASICH. Mr. Speaker, that is a beautiful statement. I want to say to the speaker that my colleagues ought to vote for Penny-Kasich, a proposal that reduces spending a penny on a dollar over 5 years for change for this country, and for some rational thinking in this town. It is up to us to listen to our constituents outside the beltway, rather than the special interests inside.

TRIBUTE TO THE LATE HONORABLE IRIS FAIRCLOTH BLITCH

The SPEAKER pro tempore (Mr. POMEROY). Under a previous order of the House, the gentleman from Georgia [Mr. ROWLAND] is recognized for 5 minutes.

Mr. ROWLAND. Mr. Speaker, Iris Faircloth Blitch will be remembered as one of Georgia's great citizens. She served four terms in the House of Representatives between 1955 and 1963 from the Eighth Congressional District, the district I now have the honor of representing. Prior to that, she served in both the Georgia Senate and the Georgia House of Representatives. She also held State and National Democratic Party positions. And she still had time to actively work with her husband, Brooks Blitch, in the family farming and business operations.

She was a fighter. She strongly believed in protecting the prerogatives of State and local governments, and you would invariably find her in the middle of the fray when these prerogatives were threatened.

She was also determined to help diversify the economy of rural south Georgia and lift the standard of living of the people she represented and loved. Her contributions to the growth of business and industry that began to occur in many communities of south Georgia in the post-World War II years were very significant. In fact, people today still benefit from the things she did to help expand job opportunities for rural Americans.

She retired from public life after the 87th Congress, ending a career marked by courage and effectiveness. For those of us who followed in her footsteps, she left a high standard to strive for.

Mr. Speaker, Iris Faircloth Blitch will be remembered in the hearts of her fellow Georgians.

Mr. Speaker, I yield to my colleague from the First Congressional District of Georgia [Mr. KINGSTON].

Mr. KINGSTON. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I am going to have to claim a little bit of pride here, too, because part of the First Congressional District of Georgia, which I have the honor of representing, was also represented by Congresswoman Blitch. So I am entitled to a few bragging rights, and I wish to talk about her, too.

Mr. Speaker, in August, Georgia lost one of our great leaders and political pioneers in the life of former U.S. Congresswoman Iris F. Blitch.

Mrs. Blitch was amazing in many ways. She was a self-reliant and independently thinking woman who overcame personal adversity to become a great Georgian and national leader.

At 9 years of age, she was an orphan and forced to complete school by rotating terms with her older sister. At 17, she married and helped her husband in the family drugstore. As a businessowner, she knew the needs and demands of both small businesses and their customers. She was never a stranger to hard work and this experience strengthened her self-reliant convictions.

In addition to business, she became active in politics and served as a member of the National Democratic Committee from 1948 to 1956 and addressed two national conventions.

In 1947, she was elected to the Georgia Senate to represent Ware, Clinch, and Atkinson Counties. At the time Georgia had a law against Senators running for reelection so, as was customary at the time, popular Senators were elected to the House for a term. After she served in the House, she was returned to the Senate in 1953. In doing so, she became the first woman to serve two terms in the Georgia Senate.

As a member of the Georgia General Assembly, she was instrumental in giving women the long overdue right to serve on juries. She also helped create the Jekyll Island Authority which I believe was crucial to us still being able to enjoy the natural beauty of the island today.

After completing her second Senate term, Mrs. Blitch won a seat in the U.S. Congress and served four terms. As a Congresswoman, she sponsored a project to build the Okefenokee Swamp perimeter road, helping to preserve the pristine splendor of that great national resource. As a newcomer to Congress and a representative of the Okeefenokee, I understand her devotion to those 600,000 acres of water, raccoons, cyprus, and alligators and I pledge to do everything I can to continue the legacy of Mrs. Blitch.

A final political note on the career of Mrs. Blitch, which I think is relevant today, is her independence. Although she was active in Democratic Party politics, her loyalty to ideas and philosophy came first. In 1964, she supported Barry Goldwater over Lyndon Johnson for President and always based her votes on the issue, not on political expediency. This type of independence is the same thing the voters are crying for in 1993.

The fact that Mrs. Blitch was an accomplished businesswoman and politician is tremendous; but like the rest of us, her greatest achievement and pride came from her family. Her daughter, Betty B. Dabbert, is doing well in San Diego. Her son, Judge Brooks E. Blitch, III, is in Homerville where he is married to State Senator Peg Blitch.

Mr. Speaker, Dr. Rowland and I would also like to submit for the RECORD this nice editorial written by Mr. Jim Pinson, editor emeritus of the Waycross Journal-Herald.

[From the Waycross Journal-Herald]

IRIS BLITCH OPENED UP NEW POLITICAL VISTAS

(By Jim Pinson)

Iris Faircloth Blitch, who died last week in California where her daughter lives, was as much a pioneer in Georgia politics as John Glenn and his astronaut compatriots were in space exploration.

She broke new ground in the post-World War II period when she was elected to the Georgia Senate from the 5th District comprising Atkinson, Clinch and Ware counties. The year was 1947.

She followed up her initial political triumph when she was reelected for the 1953-54 term, becoming the first woman to serve two terms in the State Senate.

In the interim, she won a seat in the Georgia House of Representatives from her home county of Clinch. At that time the Senate seat was rotated among the counties of a Senate district.

As a state legislator, she was instrumental in the passage of a measure giving Georgia women the right to serve on juries.

But there were other heights beckoning. Mrs. Blitch won the 8th District congressional race in 1954 and served from Jan. 1955 to 1962, when she retired for health reasons.

This clarification of an historical note: Although she was Georgia's fourth congresswoman, she was the first to win a scheduled election and to serve a full term (four in all) in Washington.

One of her accomplishments while in Congress was the sponsorship of a measure, signed by President Dwight D. Eisenhower, to build the 700-square-mile Okefenokee Swamp perimeter road as a fire break and access route for firefighters. (There had been major fires which ravaged vast areas of the "Land of Trembling Earth" in the early '50s.)

The legislation also provided for sills and dikes, later to become controversial among environmentalists, on the Suwannee River to retain water as a safeguard against periodic droughts.

She was a signer of the "Southern Manifesto" which decried interference by outsiders in Southern affairs, noting at the time that federal court rulings had caused great harm to "amicable relations between blacks and whites."

"Miss Iris," as some of her friends and neighbors called her, was well-known in Waycross and Ware County. A special friend was the later Journal-Herald farm and feature writer Laurie Lee Sparrow, who often accompanied her on political and civic appearances in the area.

A Southern-style conservative, she took issue with many of the "Fair Deal" programs of Democratic national party leaders and gave her support to the candidacy of Republican Sen. Barry Goldwater when he battled Lyndon B. Johnson, the successor to the assassinated John F. Kennedy.

Mrs. Blitch's friends and followers in Southeast Georgia kept in touch with her following her retirement from public life. Her husband was the late Brooks Erwin Blitch, a Homerville druggist and timberfarm operator. Her son, Brooks E. Blitch III, serves as a Superior Court judge in the Alapaha Circuit.

Her daughter-in-law, Peg Blitch, following in her footsteps, currently serves as state senator from the 7th District after earlier holding a seat in the House of Representatives.

Iris Blitch had lived at St. Simons Island before moving to San Diego, Calif., to be near her daughter, Betty Dabbert, and her family.

She was adept at divining the public mood of her time, the era of the Talmadge political dynasty in Georgia. She caught the fancy of and inspired many women with her famous quip (or something to this effect), "A woman's place is in the House as well as in the home."

Iris Blitch was a trailblazer for women who aspire to public office. And she won her spurs here in south Georgia. May she rest in peace.

Mr. ROWLAND. Mr. Speaker, I thank the gentleman for his remarks. Iris Blitch was indeed a wonderful lady, who contributed a great deal to her State and country.

Mr. KINGSTON. It gives us both a lot to live up to.

AMENDMENT TO H.R. 3400

(Mr. SHAYS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHAYS. Mr. Speaker, I include for the RECORD an amendment to H.R. 3400 which is being offered by the gentleman from Massachusetts [Mr. FRANK] and myself to cut approximately $17 billion from the Federal budget during the next 5 years.

At the end of the bill, add the following new title (and conform the table of contents accordingly):

TITLE XVIII—ADDITIONAL DEFICIT REDUCTION PROVISIONS

SEC. 18001. RESCISSION OF FUNDS AND CANCELLATION OF SPACE STATION.

(a) CANCELLATION.—The Space Station program is hereby canceled.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator of the National Aeronautics and Space Administration—

(1) $500,000,000 for costs associated with carrying out subsection (a) of this section; and

(2) $300,000,000 for each of the fiscal years 1994 through 1998 for carrying out the responsibilities of the National Aeronautics and Space Administration.

(c) RESCISSION OF FUNDS.—Of the funds made available under the heading "National Aeronautics and Space Administration—Research and Development" in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1994 (Pub. L. 103-124), $1,946,000,000 is rescinded, to be derived from the redesigned space station.

SEC. 18002. RESCISSION OF FUNDS AND REDUCTION OF AUTHORIZATION FOR BALLISTICS MISSILE DEFENSE PROGRAM.

(a) FISCAL YEAR 1994 RESCISSION.—Of the funds made available under the heading "Research, Development, Test and Evaluation, Defense-Wide" in the Department of Defense Appropriations Act, 1994 (Public Law 103-139), $350,000,000 is rescinded, to be derived from the Ballistic Missile Defense Program.

(b) FISCAL YEAR 1995 AUTHORIZATION REDUCTION.—The total amount authorized to be appropriated to the Department of Defense for fiscal year 1995 for the Ballistic Missile Defense Program (including research, development, test, and evaluation; procurement; and other programs, projects, and activities) may not exceed $2,500,000.

(c) FISCAL YEAR 1996 AUTHORIZATION REDUCTION.—The total amount authorized to be appropriated to the Department of Defense for fiscal year 1996 for the Ballistic Missile Defense Program (including research, development, test, and evaluation; procurement; and other programs, projects, and activities) may not exceed $2,450,000,000.

(d) FISCAL YEAR 1997 AUTHORIZATION REDUCTION.—The total amount authorized to be appropriated to the Department of Defense for fiscal year 1997 for the Ballistic Missile Defense Program (including research, development, test, and evaluation; procurement; and other programs, projects, and activities) may not exceed $2,400,000,000.

(e) FISCAL YEAR 1998 AUTHORIZATION REDUCTION.—The total amount authorized to be appropriated to the Department of Defense for fiscal year 1998 for the Ballistic Missile Defense Program (including research, development, test, and evaluation; procurement; and other programs, projects, and activities) may not exceed $2,350,000,000.

SEC. 18003. RESCISSION OF FUNDS AND CANCELLATION OF ADVANCED LIQUID METAL REACTOR PROGRAM.

(a) IN GENERAL.—The Secretary of Energy shall take such actions as are necessary to terminate, as soon as possible, the civilian portion of the advanced liquid metal reactor/integral fast reactor program of the Department of Energy, including the program's promotion of the use of such reactors for the disposal of high-level radioactive waste and Department of Energy support for regulatory applications to the Nuclear Regulatory Commission for design certification for advanced liquid metal reactors or related licensed facilities.

(b) Rescission of Funds.—

(1) Fiscal year 1994.—Subject to subsection (c), of the funds made available under the heading "Department of Energy—Energy Supply, Research and Development Activities" in the Energy and Water Development Appropriations Act, 1994 (Pub. L. 103-126), $141,900,000 is rescinded, to be derived from the advanced liquid metal reactor/integral fast reactor program.

(2) Prior fiscal years.—Of the funds made available under the heading "Department of Energy—Energy Supply, Research and Development Activities" in appropriations Acts for fiscal year 1993 and prior fiscal years, the unobligated balance available on the date of the enactment of this Act for the advanced liquid metal reactor/integral fast reactor program is rescinded.

(c) Termination Costs.—Subsection (b)(1) shall not apply to the amount of the funds, not exceeding $96,600,000, required for termination of the advanced liquid metal reactor/integral fast reactor program.

SEC. 18004. REDUCTION OF FORCES IN EUROPE.

(a) Effective Date for Requirement for Reduction to 100,000 Military Personnel in Europe Changed From Fiscal Year 1996 to Fiscal Year 1995.—Section 1303(b) of the National Defense Authorization Act of Fiscal Year 1993 (Public Law 102-484; 22 U.S.C. 1928 note) is amended by striking out "October 1, 1995" and inserting in lieu thereof "October 1, 1994".

(b) Further End Strength Reductions Required.—Notwithstanding section 1002(c)(1) of the National Defense Authorization Act, 1985 (22 U.S.C. 1928 note), for each fiscal years 1995, 1996, 1997, and 1998, the Secretary of Defense shall reduce the end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of the North Atlantic Treaty Organization in accordance with subsection (c).

(c) Reduction Formula.—For each percentage point that the allied contribution level is below the goal specified in subsection (d) of the end of a fiscal year, as determined by the Secretary of Defense, the Secretary of Defense shall reduce the end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO by 1,000 for the next fiscal year. The reduction shall be made from the end strength level in effect, pursuant to section 1002(c)(1) of the National Defense Authorization Act of 1985 (22 U.S.C. 1928 note), and subsection (b) of this section (if applicable), for the fiscal year in which the allied contribution level is below the goal specified in subsection (d).

(d) Annual Goals for Force Reduction.—The President is urged to seek, in continued efforts to enter into revised host-nation agreements as described in section 1301(e) of National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2545), to have European member nations of NATO assume an increased share of the nonpersonnel costs of United States military installations in those nations in accordance with the following timetable:

(1) By September 30, 1994, 18.75 percent of such costs should be assumed by those nations.

(2) By September 30, 1995, 37.5 percent of such costs should be assumed by those nations.

(3) By September 30, 1996, 56.25 percent of such costs should be assumed by those nations.

(4) By September 30, 1997, 75 percent of such costs should be assumed by those nations.

(e) End Strength Authority.—Notwithstanding reductions required pursuant to subsection (b), the Secretary of Defense may maintain an end strength of at least 25,000 members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO.

(f) Allocation of Force Reductions.—To the extent that there is a reduction in end strength level for any of the Armed Forces in Eueopean member nations of NATO in a fiscal year purusant to subsection (b)—

(1) half of the reduction shall be used to make a corresponding reduction in the authorized end strength level for active duty personnel for such Armed Forces for that fiscal year, and

(2) half of the reduction shall be used to make a corresponding increase in permanent assignments or deployments of forces in the United States or other nations (other than European member nations of NATO) for each such Armed Force for that fiscal year, as determined by the Secretary of Defense.

(g) Definitions.—For purposes of this section:

(1) Allied contribution level.—The term "allied contribution level", with respect to any fiscal year, means the aggregate amount of nonpersonnel costs for United States military installations in European member nations of NATO that are assumed during that fiscal year by such nations.

(2) Nonpersonnel costs.—The term "nonpersonnel costs", with respect to United States military installations in European member nations of NATO, means costs for those installations other than costs paid from military personnel accounts.

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EXCHANGE OF SPECIAL ORDER TIME

Mr. DORNAN. Mr. Speaker, my special order is going to be longer than the distinguished gentleman from American Samoa. I ask unanimous consent that our order of being called be reversed and that I give my position to the gentleman from American Samoa [Mr. Faleomavaega], without losing my position after him.

The SPEAKER pro tempore (Mr. Pomeroy). Is there objection to the request of the gentleman from California?

There was no objection.

AMERICAN INDIAN HERITAGE MONTH—ON NEZ PERCE TRIBE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from American Samoa [Mr. Faleomavaega] is recognized for 60 minutes.

Mr. FALEOMAVAEGA. Mr. Speaker, again I am taking this special order as a way to share with my colleagues and the American people—a special tribute to native American Indians, and in doing so to recognize this month, the month of November as National American Indian Heritage Month.

Mr. Speaker, because of the limited time allotted to me last night, I want to complete the speech given by one of the famous Iroquois chiefs—Chief Red Jacket. Chief Red Jacket made a speech to a missionary minister who was a member of the Boston Missionary Society, relative to things of the spirit, i.e., an American Indian's perspective on spiritual matters. And I quote Chief Red Jacket's speech.

> Friend and Brother! It was the will of the Great Spirit that we should meet together this day. He orders all things, and he has given us a fine day for our council. He has taken his garment from before the sun, and caused it to shine with brightness upon us. Our eyes are opened that we see clearly. Our ears are unstopped that we have been able to hear distinctly the words you have spoken. For all these favors we thank the Great Spirit, and him only. * * *
>
> Brother! Continue to listen. You say that you are sent to instruct us how to worship the Great Spirit agreeably to his mind; and if we do not take hold of the religion which you white people teach, we shall be unhappy hereafter. You say that you are right and we are lost. How do we know this to be true? We understand that your religion is written in a book. If it was intended for us as well as for you, why has not the Great Spirit given it to us; and not only to us, but why did he not give to our forefathers the knowledge of that book, with the means of understanding it rightly? We only know what you tell us about it. How shall we know when to believe, being so often deceived by the white people?
>
> Brother! You say there is but one way to worship and serve the Great Spirit. If there is but one religion, why do you white people differ so much about it? Why do not all agree, as you can all read the book?
>
> Brother! We do not understand these things. We are told that your religion was given to your forefathers, and has been handed down from father to son. We also have a religion which was given to our forefathers, and has been handed down to us, their children. We worship that way. It teacheth us to be thankful for all the favors we receive, to love each other, and to be united. We never quarrel about religion.

Mr. Speaker, this was an example of an American Indian's perspective on cultural differences which arose between European settlers in America and American Indians who have been living here centuries before.

Mr. Speaker, tonight I would like to share with my colleagues a summary of the problems the Nez Perce Indian Tribe had with European settlers, their efforts to resolve these differences, and finally the wars which followed. I will conclude by reading excerpts from Chief Joseph's speech before Congress. This material is taken primarily from the book "Native American Testimony," published by Viking Penguin and edited by Peter Nabokov and from the U.S. Department of the Interior publication "Famous Indians: A Collection of Short Biographies."

Mr. Speaker, Indians baptized as Christians often had a hard time being totally accepted by either culture. The

Fox, or Mesquakie, Indians of the southern Great Lakes region provide the following anonymous story about one baptized Indian and his acceptance by others:

> Once there was an Indian who became a Christian. He became a very good Christian; he went to church, and he didn't smoke or drink, and he was good to everyone. He was a very good man. Then he died. First, he went to the Indian hereafter, but they wouldn't take him because he was a Christian. Then he went to Heaven, but they wouldn't let him in—because he was an Indian. Then he went to Hell, but they wouldn't admit him there either, because he was so good. So he came alive again, and he went to the Buffalo Dance and the other dances and taught his children to do the same thing.

Mr. Speaker, on that note, let me turn to some of the more solemn times in Indian history. The story of Chief Joseph of the Nez Perce tribe is instructive and a classic example of our Government's mistreatment of native American people.

For many generations the Nez Perce roamed the grassy hills and plateaus in the region where the States of Idaho, Washington, and Oregon now meet. They were a strong tribe which established friendships with whites as early as Lewis and Clark. The tribe gave up most of its gathering territory to the United States in a treaty in 1855. The most powerful band of the Nez Perce occupied their ancestral lands in Oregon's fertile Wallowa Valley. Their leader was Chief Joseph, a Christian convert and the lifelong friend of white missionaries, settlers and explorers.

When gold was discovered in the region, prospectors swarmed onto tribal territory. The Nez Perce demanded their rights under the treaty of 1855, but the U.S. Government was not willing to enforce those rights. Instead, the meeting was called with the intention of "adjusting" the tribal boundaries to an area less than one-fourth the size of the 1855 treaty boundaries.

Not all the chiefs of the Nez Perce were in agreement on what to do. One leader, Lawyer, accepted the terms of the new treaty in return for promises of cash and other benefits. Chief Joseph did not, and he and his followers continued to occupy their lands for several years.

White lawyers, claiming that Lawyer's signature gave away the lands of Chief Joseph also, remained intent on evicting the remaining Indians so that mining activities could expand. The old Joseph, knowing he would die soon, counseled his son, a young chief who had assumed the elder's role, concerning what he knew would happen in the future. It was this one who became known as the famous Chief Joseph.

> "When I am gone, think of your country. You are the chief of these people. They look to you to guide them. A few more years and the whites will be all around you. They have their eyes on this land. My son, never forget my dying words: never sell the bones of your father and mother."

Not long after the older Chief Joseph died, the valley of the Nez Perce was opened to homesteaders, and removal of the Indians became a higher priority for the U.S. Government. Joseph refused to move, saying: "I believe the (1863) treaty has never been correctly reported. If we ever owned the land we own it still, for we never sold it."

Joseph counseled his people to be patient, continued to move as settlers entered the tribal lands, and appealed to Federal authorities to enforce the terms of the 1855 treaty. Finally, in 1877 he was given an ultimatum: leave within 30 days, or be removed by the Army. Joseph counseled his people to move peacefully. As the time drew near, a group of angry Nez Perce killed several whites. Troops sent to the area were all but annihilated by Joseph's warriors in the Battle of White Bird Canyon. In 18 subsequent battles, the Indians continued to outmaneuver white soldiers.

Joseph, as the leader of the Nez Percés, was assumed by whites to be the band's military genius. But, in fact, Joseph was not a war chief. The military victories were won by chiefs known as Five Wounds, Toohoolhoolzote, Looking Glass, and others. The U.S. Army was unaware of this, and Joseph's fame grew to legendary proportions.

In 1877, General O.O. Howard and 600 men sent to capture Joseph fought a 2-day battle with Nez Perce warriors. Rather than surrender, Joseph chose a retreat that ranks among the most masterly in U.S. military history.

He took his 750 followers and headed for the Canadian border. The retreat went across four States, twice across the Rockies, through what is now Yellowstone Park, and across the Missouri River, a journey of more than 1,500 miles. Joseph took charge of the non-warrior group, and his brother and other war chiefs fought the soldiers along the way.

On October 5, 1877, within about 30 miles of the Canadian border, his band was cut off by fresh Government troops, and Joseph was forced to surrender. But even in military surrender he did not lose his pride:

> "Tell General Howard I know his heart. What he told me before I have in my heart. I am tired of fighting. Our chiefs are killed. Looking Glass is dead. Toohoolhoolzote is dead. The old men are all dead. It is the young men who say yes and no. He who led the young men is dead. It is cold and we have no blankets. The little children are freezing to death. My people, some of them, have run away to the hills, and have no blankets; no food; no one knows where they are, perhaps freezing to death. I want to have time to look for my children and see how many I can find. Maybe I shall find them among the dead."
>
> "Hear me, my chiefs. I am tired. My heart is sick and sad. From where the sun now stands, I will fight no more forever."

In 1879, Chief Joseph was invited to speak before the U.S. Congress about why his people had gone on the warpath 2 years earlier. This is a portion of Chief Joseph's speech, and I quote,

> It has always been the pride of the Nez Percés that they were the friends of the white men. When my father was a young man there came to our country a white man [the Reverend Mr. Spaulding] who talked spirit law. He won the affections of our people because he spoke good things to them. At first he did not say anything about white men wanting to settle on our lands. Nothing was said about that until about twenty winters ago, when a number of white people came into our country and built houses and made farms. At first our people made no complaint. They thought there was room enough for all to live in peace, and they were learning many things from the white men that seemed to be good. But we soon found that the white men were growing rich very fast, and were greedy to possess everything the Indian had. My father was the first to see through the schemes of the white men, and he warned his tribe to be careful about trading with them. He had suspicion of men who seemed so anxious to make money. I was a boy then, but I remember well my father's caution. He had sharper eyes than the rest of our people.
>
> Next there came a white officer [Governor Stevens], who invited all the Nez Percés to a treaty council. After the council was opened he made known his heart. He said there were a great many white people in the country, and many more would come; that he wanted the land marked out so that the Indians and white men could be separated. If they were to live in peace it was necessary, he said, that the Indians should have a country set apart for them, and in that country they must stay. My father, who represented his band, refused to have anything to do with the council, because he wished to be a free man. He claimed that no man owned any part of the earth, and a man could not sell what he did not own.
>
> Mr. Spaulding took hold of my father's arm and said, "Come and sign the treaty." My father pushed him away, and said: "Why do you ask me to sign away my country? It is your business to talk to us about spirit matters, and not to talk to us about parting with our land." Governor Stevens urged my father to sign his treaty, but he refused. "I will not sign your paper," he said; "you go where you please, so do I; you are not a child. I am no child; I can think for myself. No man can think for me. I have no other home than this. I will not give it up to any man. My people would have no home. Take away your paper. I will not touch it with my hand."
>
> My father left the council. Some of the chiefs of the other bands of the Nez Percés signed the treaty, and then Governor Stevens gave them presents of blankets. My father cautioned his people to take no presents, for "after a while," he said, "they will claim that you have accepted pay for your country." Since that time four bands of the Nez Percés have received annuities from the United States. My father was invited to many councils, and they tried hard to make him sign the treaty, but he was firm as the rock, and would not sign away his home. His refusal caused a difference among the Nez Percés.
>
> Eight years later (1863) was the next treaty council. A chief called Lawyer, because he was a great talker, took the lead in this council, and sold nearly all the Nez Percés country. My father was not there. He said to

me: "When you go into council with the white man, always remember your country. Do not give it away. The white man will cheat you out of your home. I have taken no pay from the United States. I have never sold our land." In this treaty Lawyer acted without authority from our band. He had no right to sell the Wallowa [winding water] country. That had always belonged to my father's own people, and the other bands had never disputed our right to it. No other Indians ever claimed Wallowa."

In order to have all people understand how much land we owned, my father planted poles around it and said: "Inside is the home of my people—the white man may take the land outside. Inside this boundary all our people were born. It circles around the graves of our fathers, and we will never give up these graves to any man."

The United States claimed they had bought all the Nez Percés country outside of Lapwai Reservation, from Lawyer and other chiefs, but we continued to live in this land in peace until eight years ago, when white men began to come inside the bounds my father had set. We warned them against this great wrong, but they would not leave our land, and some bad blood was raised. The white men represented that we were going upon the warpath. They reported many things that were false.

The United States Government again asked for a treaty council. My father had become blind and feeble. He could no longer speak for his people. It was then that I took my father's place as chief.

In this council I made my first speech to white men. I said to the agent who held the council: "I did not want to come to this council, but I came hoping that we could save blood. The white man has no right to come here and take our country. We have never accepted any presents from the Government. Neither Lawyer nor any other chief had authority to sell this land. It has always belonged to my people. It came unclouded to them from our fathers, and we will defend this land as long as a drop of Indian blood warms the hearts of our men."

The agent said he had orders, from the Great White Chief at Washington, for us to go upon the Lapwai Reservation, and that if we obeyed he would help us in many ways. "You must move to the agency," he said. I answered him: "I will not. I do not need your help; we have plenty and we are contented and happy if the white man will let us alone. The reservation is too small for so many people with all their stock. You can keep your presents; we can go to your towns and pay for all we need; we have plenty of horses and cattle to sell, and we won't have any help from you; we are free now; we can go where we please. Our fathers were born here. Here they lived, here they died, here are their graves. We will never leave them." The agent went away, and we had peace for a little while.

Soon after this my father sent for me. I saw he was dying. I took his hand in mine. He said: "My son, my body is returning to my mother earth, and my spirit is going very soon to see the Great Spirit Chief. When I am gone, think of your country. You are the chief of these people. They look to you to guide them. Always remember that your father never sold his country. You must stop your ears whenever you are asked to sign a treaty selling your home. A few years more, and white men will be all around you. They have their eyes on this land. My son, never forget my dying words. This country holds your father's body. Never sell the bones of your father and your mother." I pressed my father's hand and told him I would protect his grave with my life. My father smiled and passed away to the spirit-land.

I buried him in that beautiful valley of winding waters. I love that land more than all the rest of the world. A man who would not love his father's grave is worse than a wild animal.

For a short time we lived quietly. But this could not last. White men had found gold in the mountains around the land of winding water. They stole a great many horses from us, and we could not get them back because we were Indians. The white men told lies for each other. They drove off a great many of our cattle. Some white men branded our young cattle so they could claim them. We had no friend who would plead our cause before the law councils. It seemed to me that some of the white men in Wallowa were doing these things on purpose to get up a war. They knew that we were not strong enough to fight them. I labored hard to avoid trouble and bloodshed. We gave up some of our country to the white men, thinking that then we could have peace. We were mistaken. The white man would not let us alone. We could have avenged our wrongs many times, but we did not. Whenever the Government has asked us to help them against other Indians, we have never refused. When the white men were few and we were strong, we could have killed them all off, but the Nez Percés wished to live at peace.

If we have not done so, we have not been to blame. I believe that the old treaty has never been correctly reported. If we ever owned the land we own it still, for we never sold it. In the treaty councils the commissioners have claimed that our country had been sold to the Government. Suppose a white man should come to me and say, "Joseph, I like your horses, and I want to buy them." I say to him, "No, my horses suit me, I will not sell them." Then he goes to my neighbor, and says to him: "Joseph has some good horses. I want to buy them, but he refuses to sell." My neighbor answers, "Pay me the money, and I will sell you Joseph's horses." The white man returns to me, and says, "Joseph, I have bought your horses, and you must let me have them." If we sold our lands to the Government, this is the way they were bought.—Chief Joseph, Nez Percé.

Mr. Speaker, Chief Joseph's speech did not move Congress to correct any of the wrongs against the Nez Percé. Joseph remained a prisoner in the State of Kansas. Five of his children died of disease there. He was moved to the State of Washington, and having never again seen his homeland, he died in 1904.

Mr. Speaker, as this session of Congress and National American Indian Heritage Month draw to a close, I want to again thank you and my colleagues for the opportunity to bring to the attention of my fellow Americans few of the noteworthy actions by the forefathers of today's proud American Indians. Sometime next week when our national leaders and when millions of families throughout America once again prepare that huge 12-pound turkey with all the trimmings befitting Thanksgiving Day and related activities and parades and so forth—I ask my colleagues and the good people of this great Nation of ours to also give thanks and remembrance to our fellow native American Indians for their support and providing food to the starving Pilgrims who settled in the New World.

□ 1910

AMERICAN HEROES

The SPEAKER pro tempore (Mr. POMEROY). Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 60 minutes.

Mr. DORNAN. Mr. Speaker, last night I ended a special order talking about American heroes.

Mr. FALEOMAVAEGA. Mr. Speaker, will the gentleman yield.

Mr. DORNAN. I yield to my friend from America Samoa.

Mr. FALEOMAVAEGA. Mr. Speaker, I want to say for the record that the gentleman from California was instrumental, along with the chairman of the Subcommittee on Asian and Pacific Affairs of the Foreign Affairs Committee, and outstanding in his assistance and contributions that he made to the extent that sometime this month we will be commemorating the 50th anniversary of the Battle of Guadalcanal. I want to say for the record that the gentleman's help in providing the appropriations that the Congress funded so that a commoration for the men who sacrificed their lives in the Second World War, particularly in the Solomon Islands and Guadalcanal that will be dedicating a new Parliamentary Building in the Solomon Islands for that government, I want to say thanks for the tremendous help and assistance of the gentleman from California on that piece of legislation, and I just want to note that for the record and pay special tribute to my friend from California.

Mr. DORNAN. I thank the gentleman for that recognition. May I add to that the great help of our Pennsylvania colleague, a great Democrat, JACK MURTHA, who was the key man in making sure that that wonderful idea that we sort of all came together on went forward, and remember, it was because we went to Papua, New Guinea first, and saw that the Australians in pulling out of this colony that they had held for many decades left behind as a parting gift, and all Colonialists should leave in this way, by building one of the most beautiful natural wooden assemblies or parliaments of any young emerging nation in the world. So in Papua, New Guinea they gave us the idea, and when we suggested it to the wonderful legislature there in the Solomon Islands that took us around, we simply suggested that if we help you with a parliament, do you think that we could also make it a memorial to all of the American kids that died in the longest fought battle of World War II from August 7, 1942, to February 9 of this year, the 50th anniversary this year, and they said excellent. So everybody is pleased, and it will be someplace for marines and their loved ones and families, and the Army guys that fought there, and the Army Air Corps pilots, and the marine heroes like John Foss and all of the great marine aces in the Cactus Air Force. When they go back there they will see there a memorial and always an American flag flying in front of the island nation of the Solomon Islands.

Mr. FALEOMAVAEGA. I want to say that if it had not been for the assistance of my good friend and colleague from California that that appropriation which now results in the building of the Parliamentary Building for the Government of the Solomon Islands as a commemorative to the tremendous historical events that occurred there in the Solomon Islands would not have occurred. Maybe some of our colleagues do not realize that this is where President Kennedy's PT boat had operated, out of the Solomons. But also the famous Battle of Guadalcanal is going to be commemorated this year, the 50th anniversary of that famous battle, where we were very much a part of that offensive unit and movement, and I want to pay tribute to my friend from California, a very knowledgeable person, certain of military history. And I want to thank the gentleman for that.

Mr. DORNAN. I thank the gentleman. And I am going to tell a little secret how I learned how to master pronouncing your name. I said the only way that I could master Eni's last name was by using a Cary Grant rhythm, FALEOMAVAEGA. I got it right.

Mr. FALEOMAVAEGA. I thank the gentleman for his very concise and precise pronunciation of my name. And it is correct.

Mr. DORNAN. I thank the gentleman from American Samoa [Mr. FALEOMAVAEGA].

As the gentleman leaves the Chamber he will hear my mantra every time I speak of 1,200,000 or 300,000 fellow Americans, from American Samoa to Guam on the other side of the international dateline, from Kennebunkport to Puerto Rico to the Virgin Islands, thousands and tens of thousands listening.

Mr. FALEOMAVAEGA. And I want to say to the gentleman that I did listen to his masterpiece last night, and I want to thank him for giving the remembrance for those of us who came from the insular areas. And I know that the gentleman appreciates the fact that we do make a contribution to the needs of our country, particularly in defense of our country, and I thank the gentleman.

Mr. DORNAN. Thank you, ENI, and I treasure your friendship, as you know.

As you leave the Chamber you are going to be hearing the words of Abraham Lincoln, who although not a great orator was probably the greatest thinker and one of the greatest writers this country has known certainly in the field of politics. And Abraham Lincoln once said when somebody asked about his gift for communication, he said well, he was a self-educated man, never had even gone to grade school, and he studied at home. You know, the legend of the charcoal bricks and the shovel, that was probably a little on the mythic side. But he said quite seriously many times in his legal career that he studied the Bible and Shakespeare, and he said Shakespeare for rhythm and beauty of language, and the Bible for rhythm and beauty of language, but for content the Bible.

Mr. FALEOMAVAEGA. I want to add to the gentleman's comment that certainly he is one of my favorite personalities, President Lincoln. He also was a very well-noted reader of Aesop's fables, and that is where I think his sense of humor always seems to come in in humoring the situation when the atmosphere gets a little thick at times.

But the gentleman is sharing with our colleagues this personality, and certainly it is a favorite American President of mine, Abraham Lincoln, and I thank the gentleman.

Mr. DORNAN. As the gentleman takes his leave, learn with me today. There is always something to learn about Lincoln. He wrote five different versions of the Gettysburg Address. I have two of them before me. I will only read one. Actually I have it memorized, but I do not want to make any mistakes.

He had in his hand the second version that is before me, but the fifth version that I am going to cite perhaps represents the speech exactly as most people remember him giving it.

But I know the reason I memorized it was not because I was a studious lad at Good Shepherd School in Beverly Hills, CA when it was a village, long before the debauchery of 90210. We did not have zip codes in those days. Sister Mariam Rita, long gone to her heavenly reward, sent me in the hall and said you are not coming back into the class until you master this. And I thought I had mastered it and I came back in, and maybe some of my colleagues will find this difficult to believe, but I got a mental block right after "fourscore."

Back into the hall, and by the end of the day, I had mastered it.

But this is the 130th anniversary. I was invited, as was every Congressman and Senator, Mr. Speaker, to go up this morning at 10 o'clock to the beautiful inspiring national military park and cemetery at Gettysburg. There will be a parade there tomorrow morning in that still small town, and the 10 o'clock ceremony this morning was a reenactment, a reenactment in full costume of Lincoln's Gettysburg Address on this 130th anniversary. But we were not supposed to be in session when we were invited. Now we are going to be in Saturday, and Sunday, and Monday, and hopefully Monday we will be able to cut maybe $90 billion in government spending. If that is what is keeping us in, it is well worth it.

But here is what happened, and again this morning and often I have wondered if Lincoln had started out saying 87 years ago our forefathers, which would have been politically incorrect, he would have to say and foremothers, I wonder would it have been as memorable a speech. He did not think that it was particularly memorable. He said it was just a big nothing, or colloquial words to that effect. And it turns out that this very short, I think about 260-some words, address is probably one of the most powerful secular documents ever delivered to the human family.

But he began, because of his biblical study, because of his self-study, he began,

> Four score and seven years ago our fathers brought forth on this continent, a new nation, conceived in Liberty, and dedicated to the proposition that all men are created equal.
>
> Now we are engaged in a great civil war, testing whether that nation, or any nation so conceived and so dedicated, can long endure. We are met on a great battlefield of that war. We have come to dedicate a portion of that field, as a final resting place for those who here gave their lives that that nation might live. It is altogether fitting and proper that we should do this.
>
> But, in a larger sense, we can not dedicate—we can not consecrate—we can not hallow—this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note, nor long remember what we say here, but it can never forget what they did here. It is for us the living, rather, to be dedicated here to the unfinished work which they who fought here have thus far so nobly advanced. It is rather for us to be here dedicated to the great task remaining before us—that from these honored dead we take increased devotion to that cause for which they gave the last full measure of devotion—that we here highly resolve that these dead shall not have died in vain—that this nation, under God, shall have a new birth of freedom—and that government of the people, by the people, for the people, shall not perish from the earth.

□ 1920

He sat down. One of the great orators of that day got up and spoke for 2 hours. I think he spoke obviously before the President, and when the President said, "Well, I guess that wasn't anything memorable," the man said, "Mr. President, your speech will ring through history. Mine is the oratorical speech that will disappear into the mists of time." That great orator was correct.

I began yesterday by talking about the culture war that we are in. Every day, and I used to say this monthly and then weekly, but now every single day comes before us through the news or on our TV screens some unbelievable offense against children or American cruelty to one another, that that is why in this end of the first session of the 103d Congress I want to concentrate on some heroes.

When I went on Veterans Day to the unveiling of the Vietnam Memorial for Women who fought in Vietnam, and there are eight names of ladies on that wall which I will submit an article about tomorrow in the CONGRESSIONAL RECORD, eight women on the Vietnam wall, many others wounded, the unveiling was wonderful, but for me it took on an extra dimension because, as the ceremony was beginning, I walked past a soldier in uniform. I noticed first his 1st Cavalry patch, because this is the 28th anniversary month of the first major battle in Vietnam, the first battle when more than a handful of people were killed, the Ia Drang battle from November 14 through 18 of 1965, and here was a 1st Cavalry person who looked about my vintage, and I looked at his nametag, and there was the name Dolby, and I vaguely remembered this, and then my eye caught, which is very easy to, the beautiful powder blue and stars of the Medal of Honor. I introduced myself to David Charles Dolby, Medal of Honor winner.

As all of the speeches were being made and at the moment of unveiling, I was honored to be standing next to a senior sergeant in full uniform. He looked like he could have been my brother. His beard was red like mine, going gray, although he is much younger, red hair, butch military-type haircut, handsome looking fellow, and I said he looked like my brother, but not that I do not have handsome brothers, but comparing myself to him, and I asked his name, and it was Sammy Davis, Sammy L. Davis. I vaguely remembered his story.

He wanted me to give a message, because I asked him if he minded if I looked up his Medal of Honor award story from a book I have at home of all of the Medal of Honor winners, and he said he would be honored. He said, "But do one thing for me, Congressman. If you mention my name on the House floor, tell America that I, Sgt. Sammy Davis, believe that there are live Americans left behind, and I think some are probably still alive, and I mean to help get them out," still a dedicated soldier.

Let me go back first to David C. Dolby, sergeant, then specialist 4th class, U.S. Army, Company B, 1st Battalion, Airborne, 8th Cav of the 1st Cavalry Division. Then it was the Army's only airborne helicopter assault division. Date and place of Medal of Honor deed, Republic of Vietnam, 21 May 1966. He entered service Philadelphia, PA. He was born 14 May of 1946, which means he was 20 years old and precisely 1 week, 1 week past his 20th birthday. He was born in Pennsylvania, Norristown.

Citation:

For conspicuous gallantry and intrepidity at the risk of life above and beyond the call of duty. When his platoon, while advancing tactically, suddenly came under intense fire from the enemy located on a ridge immediately to the front. Six members of the platoon were killed instantly, and a number were wounded including the platoon leader. Sergeant Dolby's every move brought fire from the enemy. However, aware that the platoon leader was critically wounded and that his platoon was in a precarious situation, Specialist 4th Class Dolby moved wounded men to safety and deployed the remainder of the platoon to engage the enemy.

By the way, Mr. Speaker, this is a characteristic of the American fighting man, superior to any other fighting men in history, even the best the Germans had to offer, certainly far superior to Russian soldiers or any Koreans or North Vietnamese we ever went up against. American soldiers, down to the last private, when people are being wounded, have this amazing capacity for taking command at the junior ranks and leading men to victory and to survival. So here is a specialist 4th class taking over.

Subsequently his dying platoon leader ordered Dolby to withdraw the forward elements to rejoin the platoon. Despite the continuing intense fire, with utter disregard for his own safety, Sergeant Dolby positioned able-bodied men to cover the withdrawal of the forward elements, assisted the wounded to the new position, and he alone attacked enemy positions until his ammunition was expended. Replenishing his ammunition, he returned to the area of the most intense action and singlehandedly killed three enemy machine-gunners, neutralized the enemy fire, thus enabling friendly elements on the flank to advance on the enemy redoubt. He defied the enemy fire to personally carry a seriously wounded soldier to safety where he could be treated, and returning to the forward area, he crawled through withering fire to within 50 meters of the enemy bunkers and threw smoke grenades to mark the bunkers for air strikes. Although repeatedly under fire at close range from enemy snipers and automatic weapons, Sergeant Dolby directed artillery fire——

Then sergeant when he got the award.

on the enemy and succeeded in silencing several weapons. He remained in his exposed location until his comrades had displaced to more secure positions. His actions of unsurpassed valor during 4 hours of intense combat were a source of inspiration to his entire company and contributed significantly to the success of the overall assault on the enemy position and were directly responsible for saving the lives of a number of his fellow soldiers. Sergeant Dolby's heroism was in the highest tradition of the United States Army.

And a striking-looking figure he was on Veterans' Day, November 11, at the unveiling of the latest beautiful memorial to honor the men and women who have gallantly worn the uniform of our country.

Now, Sammy Davis, my fellow redhead, who still spends every day thinking about how to resolve the saddest chapter of the whole Vietnam war, that we left some Americans behind, certainly left them behind in Laos alive, Sammy L. Davis, sergeant, U.S. Army, Battery C, 2d Battalion, 4th Artillery, 9th Infantry Division, which although it has been shut down, Mr. Speaker, in recent months, still has one brigade as they close down the infantry division totally; one brigade is left, I believe, at Fort Richardson in Arkansas.

□ 1930

No, I am incorrect. I believe the 9th Division was totally shut down, no brigade. It was the 6th Division, that is at Fort Richardson. The place and date of his act of heroism is west of Cai Lay, on the 18th of November 1967—and I had hoped to do this yesterday, but 1 day off the anniversary of his heroism is not bad—so it was 26 years and 1 day ago. He entered the service at Indianapolis, IN. He was born November 1 of 1946. So, like Sergeant Dolby, he was a young man, just after his 21st birthday, exactly 17 days after. He was born in Dayton, OH. And here is his citation for the Medal of Honor, which is often called incorrectly the Congressional Medal of Honor, but now that I am in Congress I do not mind that title because it was authorized by an Act of Congress.

"For conspicuous gallantry and intrepidity in action at the risk of his life and beyond the call of duty, Sergeant Davis, then Private 1st Class," and I am going to change this designation as I read it. It is a tradition that you use the current rank of the person when they were given the award. But I think it gives impact to the heroism to say "PFC."

PFC Davis distinguished himself during the early morning hours while serving as a cannoneer with Battery C at a remote fire support base. At approximately 0200 hours, the fire support base was under heavy enemy mortar attack. Simultaneously, an estimated reinforced Viet Cong battalion launched a fierce ground assault upon the fire support base. The attacking enemy drove to within 25 meters of the friendly positions. Only a river separated the Viet Cong from the fire support base. Detecting a nearby enemy position, Private Davis seized a machinegun and provided covering fire for his gun crew. As he attempted to bring direct artillery fire on the enemy, despite his efforts, an enemy recoilless rifle round scored a direct hit upon his artillery piece. The resultant blast hurled the crew from their weapon and blew PCF Davis into a foxhole. He struggled to his feet, returned to the howitzer, which was burning furiously. Ignoring repeated warnings to seek cover, Private 1st Class Davis rammed a shell into the gun, disregarding the withering hail of enemy fire directed against his position, he aimed and fired the howitzer, which rolled backward, knocking PFC Davis violently to the ground. Undaunted, he returned to the weapon to fire again when an enemy mortar round exploded within 20 meters of his position, injuring him painfully. Nevertheless, PFC Davis loaded the artillery piece again, aimed and fired. Again he was knocked down by the recoil——

This is one tough redhead.

In complete disregard for his safety, PFC Davis loaded, fired three more shells into the enemy. Disregarding his extensive injuries and his inability to swim, PFC Davis picked up an air mattress and struck out across the deep river to rescue three wounded comrades on the far side. Upon reaching the three wounded men, he stood upright and fired into the dense vegetation of the jungle to prevent the Viet Cong from advancing. While the most seriously wounded soldier was helped across the river, PFC Davis protected the two remaining casualties until he could pull them across the river to the fire support base. Though suffering from painful wounds he refused medical attention. Joining another howitzer crew which fired at the large Viet Cong force until it broke contact and fled. Sergeant Davis's extraordinary heroism at the risk of his life are in keeping with the highest traditions of the military service and reflect great credit upon himself and the U.S. Army.

Let me check these dates at the beginning, Mr. Speaker, because they always put the date the award was given. You want to make sure I did not mix up the date with the award. No, it happened 18 November 1967, and his birthday is 1 November 1946. Quite a guy.

Right below him is a good friend of mine, now a top lawyer down in Florida, who won the Medal of Honor after ejecting from the F-100 aircraft, the Supersabre that I flew on in active duty in peacetime. I do not have the other page. I just want to think about this hero, "Bud" Day, George E. Day, "Bud." What a hero.

So I am restricted to the first paragraph: "U.S. Air Force forward air controller pilot of an F-100." Most people do not know we use supersonic jets as FAC aircraft. Most FAC pilots were courageous 01 and 02 pilots, right down in the weeds flying those single-engine and two-engine Cessnas. But he created a program called Misty FAC and then Super Misty FAC forward air controller. It was in that role that he got shot down.

He wrote the book on forward air controlling with jet aircraft.

His award date is 26 August 1967, North Vietnam. "Bud" Day entered service at Sioux City, IA, born February 24, 1925. So he is just a few months younger than George Bush, who was born about 7 months earlier. That is Sioux City, IA. On 26 August 1967 Colonel Day was forced to eject from his aircraft over North Vietnam when it was hit by ground fire. His right arm was broken in three places, his left knee was badly sprained. And he was immediately captured by—and I do not have the rest of the story, but let me see if I can recall memory.

He was captured, taken to the village of Binh, he was taken into a school house, his arms were tied behind him, and he was lifted off the ground Nazi Gestapo-style, this way, bringing great pain to your arms until they finally dislocate. When he looked down at the stage, below him was a pool of sweat, probably what you learn from reading about Jesus Christ on the Via Dolorosa, which is pain, mixed sweat with blood. The pool turned red as he was bleeding into it, and the major who was conducting the torture session and beating him with a bamboo whip in front of a whole school full of people eating their lunch while they were watching this torture. He looks over, and in his pain hanging by his arms a foot above the stage and he sees the major, obviously a sadist—and this is tough language, but I am discussing heroism now—masturbating behind the desk that hid him from the audience while he tortured "Bud" Day.

When he was taken north—and my memory fails me here—he escaped at some point and made it all the way back over 30 days, after a considerable loss of weight, all the way back to the DMZ, crossed the DMZ to a forward U.S. helicopter base where he could see the helicopters circling, the Huey helicopters, when all of a sudden a North Vietnamese forward patrol starts working its way through the DMZ near him. He was that close to freedom, saving himself 5½ years of captivity and more torture. He just lay there still, and all of a sudden he looked over his fingers and there is this boot. He looked up, and it was a North Vietnamese soldier with an AK-47 on him. He is captured. And then begins the heroism of his unbelievable resistance to the insane cruelty that was being a captive in North Vietnam. So there is an extra little hero story.

Now, when I broke off the special order last night, I was speaking of one of the heroes of my youth, my middle age and my early congressional service, as he was a supporter and a donor to my very tough campaigns when I represented him and his lovely wife, Josephine Daniels Doolittle, when they lived in Santa Monica, which was their home for the rest of their lives. I think I left off in 1942 after the amazing Doolittle raid, as it became known throughout all of history. I had the honor on the 50th anniversary of going out on my nephew's aircraft carrier, an AWACS pilot on the *Ranger*. We went out on the *Ranger* with my older brother Don, the father of Don, Jr., who had 30-plus missions in the Persian Gulf during Desert Storm. We went out on the carrier to watch B-25's for the first time since 50 years earlier—this is last year—take off from the San Diego coast, turn their noses into the wind at that angle—and the B-25's looked so small as they did on the deck of the 26,000-ton *Hornet*, the original *Hornet* aircraft carrier. Off they took—I wanted to be in one of those B-25's because they turned north and they were joined by six or seven others in the flight, there were Corsairs, there were Mustangs. Most of them went all the way up north to Carmel, came down low, got FAA clearance and buzzed Jimmy Doolittle's house where he, I believe, was out waving at all of them. What a great respect to live 50 years after this great deed in his life, and he was already—let me see if I can go back to his birthday here—1896. He was already 46 years of age at the time of the Doolittle raid.

□ 1940

So this was incredible that he got to see this great memorial, and they did it again this year with B-25's again, but he was too ill to wave to them this time, and the lone B-25 that flew up the Potomac and over Arlington at his funeral last October 1.

Let me pick up where I left off last night I will put in the whole speech again so it has some continuity. I merely titled it "Jimmy Doolittle—Hero", and I will pick it up at World War II.

Later in World War II he would command the 8th Air Force, the 12th and 15th Air Forces in the Mediterrean, the 8th of course throughout all of East Anglia and other bases in Great Britain.

As Commander of the 8th, and I am repeating this from last night, but there may be new additions to the audience of a million people watching tonight, a million plus, he would make one of the most critical tactical decisions of the war by ordering the P-38's, the P-47's and the B-51's to go after enemy fighters and drive them and follow them back to their bases, enter the traffic pattern, shoot them down, tear up their hangers, shoot down the ones taking off. This resulted in the German Air Force, the hunters from the Spanish Civil War in 1936-37, all the way up until 1943, they were the world's greatest aerial hunters. Several of their aces, three of their top aces mostly from the Eastern Front, had 250 victories in the air, and I have met that gentleman, 275 and their top one, the Goldern Knight of Germany, 352 victories. They thought they were the best of the best, and for awhile they were, but now Jimmy Doolittle was giving the order, hunt down the hunters over their own territory.

Eric Hartman was lucky. He stayed on the Eastern Front or he would never have gotten the kills and victories that he got there if he had been flying against our young pilots in Jimmy Doolittle's 8th Air Force.

By the way, General Doolittle foresaw the future. Today's newest, most advanced jet fighter, I went with my sons up to the first flight at Edwards Air Force Base, the new U.S. Air Force F-22 is designed to do exactly what General Doolittle ordered in Europe, engage the enemy deep in their own territory and gain air supremacy.

They believed that is what gave us supremacy in 1944 in time for the Normandy landings, where I repeat what I said last night, two lonely German fighters showed up. I could not remember the German pilot's name. It just popped in my head, Pitts, I think. This

Luftwaffe captain said, "The Luftwaffe has had its day," after one pass down the beach.

Then after World War II, Jimmy Doolittle would become the director and vice president of the Shell Oil Company. That is when I first met him. Chairman of the Board of Space Technology Laboratories, and serve on a number of other boards and government advisory policies.

He also worked for the great insurance company, Omaha of Nebraska. That is when I met him at Labrea and Wilshire Boulevard near my old high school up in that old high school up in that old building. It was a skyscraper at one time, about six or seven stories.

With all these accomplishments, a close friend of Doolittle's indicated the General thought his biggest contributions to aviation took place in peacetime, instrument flying and the development of high octane gasoline at Shell.

I will explain what he meant by that. It says this gasoline proved vital to the future and continued development of high-performance aircraft.

The Germans did not understand in the battle of Britain toward the end how the Spitfires and the Hawker Hurricanes could suddenly have gained 10 knots in speed, 10 to 15 knots. That might not sound like much to the average person, but if you are in the Indianapolis Speedway Race and you are going 200 miles an hour and somebody else is going 215 miles an hour, he is going to lap you in a very short time.

That little extra kick in the Battle of Britain and the whole rest of the war was kept top secret then of high octane, 110 octane gasoline, a 100 and then 110 octane gasoline, gave our fighters the edge, because the Messerschmidt 109 was certainly equal to the Spitfire, but not with that high octane fuel in the Spit and in the Hurricane.

Let me jump forward.

In 1985 it was President Reagan who promoted Jimmy Doolittle to a four-star general in the Air Force Reserve, just as Eisenhower had restored dignity to the Lone Eagle and had promoted the first man to fly alone across the Atlantic, Charles Augustus Lindbergh, whose father, Charles Augustus Lindbergh, senior, had served in this Chamber, in this very room for 10 years as a U.S. Congressman from Minnesota, I do believe.

President Reagan gave Doolittle that honor that he really should have achieved in the war, but I guess he stepped on too many toes, being a combat general and not a political general.

In 1989 President George Bush presents Doolittle the Presidential Medal of Freedom. I do not have an image of that scene taking place. I wonder if President Bush went out to his home in Carmel, CA, to give him that award or if Jimmy was able to make it back.

At this point, I want to tell you one of my last good memories, and I will change the blasphemy to the letters G.D., because it was not Doolittle saying it.

But he came to break the first shovel full of dirt in my prior district over in that great aerospace district in West Los Angeles in the great independent city of El Segundo, which means second, the second refinery on the West Coast.

El Segundo has a great corporation that does 95 percent of its work for the Air Force, called Aerospace Corp, a not-for-profit think tank, a great place. They did and I believe still do tremendous work in intelligence. They built an intelligence top secret building and they named it the Jimmy Doolittle Building. Everybody who flies out of L.A. Airport sometimes is looking right down at it and not knowing what they are seeing.

In those days, this would have been 1979, '80, '81 in there, General Doolittle was still up and about regaling people in his humble, yet glorious way, with all the adventures of his life.

Again, the title of his book that I recommend to everyone is "I could never be that lucky again."

His humility comes through in that title, meaning as he told me that his life was always right there in God's hand.

But here is something right out of a movie. You do not see it, it is in his book. You do not see it in many of the quick biographies when a great hero passes on.

I was asking about some of his early adventures. I bailed out of a jet twice in peacetime, so I said to him, "What were some of your peacetime close calls?"

He said, "Well, the worst one is kind of like a bad Hollywood movie. I was testing a new fighter in front of an array of generals. The biplane fighters stayed so close to the field that it was actually the way it was pictured with Clark Gable in movies like Dive Bomber, Test Pilot. The Generals all lined up. They are looking at the airplane."

He goes up. There is a high power dive, never leaves your sight, unlike today's high-speed supersonic cruise jets, like the F-22 Lightning II.

He goes up in this airplane. He said, "I'm coming into a power dive. I'm watching the instruments, and all of a sudden the wings rip off."

I said, "Excuse me. I did see that in a Clark Gable movie."

Well, he said, "There I am. I turned the airplane into a bullet. The wings rip off and I had trouble getting out of the airplane and the airplane was about to hit when I got out of it at the last minute, manually popped my chute and barely got a half a swing out of the chute and I hit the ground."

He said, "It helps to be small stature and I didn't break a bone, but I had gone down behind this little rise on the horizon of the airport and everybody thought I had bought it, literally bought the farm, because it was farmland."

So one of his best friends who retired later as a three-star general, I am sorry I do not remember his name, I hope he is still alive. Being senior to Doolittle, he would have to be in his 100's, but this General did not wait for anybody, jumped in a big Phaeton car, a four-door convertible, and just fires it up, jams it in gear and goes racing in the general's direction where he thinks Jimmy Doolittle has died.

This general was a bad stutterer. Doolittle said, "He comes roaring over this hill. By then I had my parachute on my head and I'm walking back in the general direction of the airplane and here comes my pal. He puts on the brakes and slides this big Phaeton sideways and comes running over to me and says, "Gd-Gd-God-damn it, did you get out of it okay, Jimmy?"

I did use the words. God forgive me, but people say expletives invoking God more as a prayer than anything else in moments like that.

□ 1950

"But did you get out of it OK?"

And Doolittle told me he looks right, and he looks left, and just kind of acknowledges, "Yeah, I got out of it OK."

So that shows you that this man was in God's palm. How many people bail out of an airplane with the wings ripped off and get one swing on their parachute before they hit the ground?

Most will remember our beloved Jimmie for his famous raid of Tokyo. It really represented America's first major victory in World War II. It was perhaps the most daring air mission in the history of air warfare given that they took off in heavy swells, rough seas, 6 hours before their intended takeoff time from what Roosevelt romantically called Shangri-la to torment the Japanese warlords. Some tend to downplay the strategic importance of that 1942 event, instead stressing the overwhelming positive effect it had on U.S. morale. Some historians correctly point out that this raid helped press the Japanese way ahead of schedule to attack Midway Island resulting in that major battle in the first week of June, just 6 weeks after the Doolittle raid, June 3, 4, 5, 6, 7 in that little Pacific atoll which is actually the top island in the Hawaiian chain, although way out in the Pacific, and that was the turning point in the war.

As Herman Wouk says in his great book "Winds of War and Remembrance" that happened in the Pacific, the turning point, and set the stage for October when three great battles began, Stalingrad, the buildup of El Alamein was well under way in North Africa, and the third one would be landings at Guadalcanal. All those three battles turned the war, but it began on the seas with the Battle of Midway, so to think that Jimmie Doolittle played a role in the greatest naval battle of all time, as far as historical importance, that is really something.

Still the importance of these raids to morale cannot be overstated of course. According to retired Air Force Gen. John Gray, I do not know anything that did as much to improve the morale of the men and women in the U.S. military at any point in history as the knowledge of that magnificent raid.

According to one of the great, and another tiny in stature, but big in spirit and accomplishments, Bull Halsey, Adm. William "Bull" Halsey, wonderfully played by Jimmy Cagney in that great motion picture, as much a documentary as it was a great Hollywood film, one of the greatest naval fighting commanders of all time, he said of the Doolittle raid, "I do not know of any more gallant deed in history than that performed by our squadron, sir, and that it was successful is entirely due to the splendid leadership on your part. You have struck the hardest blow of the war directly at the enemy's heart. You have made history."

And of course it was Bull Halsey who gave the order when he was spotted by some Japanese fishing ships and naval trawlers, as I said last night. The commander of one of them committed suicide within minutes of realizing they were American carriers, not Japanese. Halsey was the one who gave the order to his naval commanders:

"Tell Lieutenant Colonel Doolittle to launch."

Jimmie was truly an American hero, a great pilot, great warrior and a great man who was instrumental in making this country an aerospace leader both in war and peace, and I have a quote of his that I think I am going to be using next year quite frequently, and I will keep reminding, if I get to call in plays here occasionally. I did not forget the cloakroom number in 1983 and 1984 when I had a little break in service here due to not defeat at the polls, but reappointment. I called in plays to my great marine hero, JERRY SOLOMON sometimes, and a fighting new Member, DAN BURTON, so I will be—if I ever leave here, I will be calling in plays, and this is a Doolittle quote that I think we should all have on our walls that write our Nation's laws. Doolittle said:

"If we should have to fight, we should be prepared to do so from the neck up instead of from the neck down."

As much as we love our grunts, and our gyrenes, our GI's and our people in harm's way, and that now includes women, let us think with our brains on how to fight the next war, not refight the last war.

Before I came out here and one of the reasons I was gracious to the gentleman from American Samoa [Mr. FALEOMAVAEGA] is that I was speaking again to one of the widows of this last cycle of American heroes getting killed in Vietnam, and Keith Pearson's widow, Jody, courageous, young, American wife of one of the fighting men who gave their lives in Somalia, her husband was the driver of the hummer, what the guys call a humvee, the armored; it is not armored. It is a personnel carrier, the super jeep, the red one that Arnold Schwartzenegger drives around and the one that was last Christmas in the Dallas Neiman Marcus catalogue. That is what the MP's have, that is what the rangers had as their only vehicle in Somalia until the last few weeks, but he was the driver of that humvee that was blown apart by an auto-detonated land mine on August 8, and it turns out that his platoon leader was a lady, 1st Lt. N-e-y-s-a, B-i-a-n-c-h-i, and Lieutenant Bianchi was in the humvee right behind Keith's and did not hear or sense the explosion. She has written a beautiful letter to Jody, called the father and said, "Is there anything I could do? Do you want me to tell you about the event," and the military these days is very uptight partly because of its civilian leadership, and they never really gave a thorough, in-depth briefing to the families, so the father told Jody, and Mr. Pearson told Jody, and Jody wrote and said, "Yes, I would like to know. The whole event is a blank slate."

I have since shown her photographs of the site. The remains of her husband's humvee are still in the middle of the street all these months later, since August 8, but Lieutenant Bianchi wrote to her, and this fine young female MP officer could have been one of the dead ones because her humvee was immediately behind Keith Person's, and, when it blew up, she wrote that she was not aware of an explosion, did not feel it, sense it, but the whole world went gray in front of her vehicle, and she told the gunner on the small turret up top to start firing, and they fought their way though this. They did not realize it was an intersection, and then, when they got through and out of the smoke from the explosion, the streets filled with dust and dirt over there so every explosion, and it was one of the helicopter problems on October 3 creating what they call a grayout.

They realized that Keith Pearson's humvee was not in front of them, so she turned back, called the home base at the airport, said, "We're going back to find what happened to Pearson's humvee," and when she got back to the site, she found one deceased MP in the street. This is a little bit at odds with what the helicopter pilot told me who was flying me around who said he landed at the intersection, was the first air on the ground, the first MP's back or any fighting person was Lieutenant Bianchi's humvee, and she jumped out of the humvee, had her guys firing in all directions, tried to set up a little defense perimeter, and she saw someone lying next to a building, ran over and turned this body over, and it was Keith, and he was still alive, he was conscious, he eyes were open, and although he did not speak, she told him, "Don't worry, hang on, you're going to make it. We've called for a medic."

Another humvee got there. That is probably the time the helicopter, Black Hawk, was landing. They put Keith into another vehicle and got him back to the hospital, the 46th Field Medical Hospital. When they took him, or when they took him actually from the airport over to the hospital, they said, "Only the doctors can ride on the chopper," but the chaplain at the hospital told Lieutenant Bianchi, and he passed this on to Jody, that he gave this young Methodist MP the last rites and was with him, holding his hand, until he died.

Now I do have a gripe here. I am talking about heroes, and I think that, as President George Bush did, with every family that lost a loved one in the Panama operation, 23 plus, Lt. Roberto Paz who was executed at the gate, at a checkpoint murdered actually from shots in his departing vehicle disregarding the orders of a Noriega thug government, those 24 families all heard from President Bush personally.

□ 2000

I have yet to hear from a single person that has been called by Mr. Clinton. He has written to them all, but that is a staff written letter. We all know that. He did not sit down like Abraham Lincoln in his letter to Mrs. Bixby who lost five sons in the Civil War and write it personally.

I have got an article here which I will put in the RECORD, Mr. Speaker, about the big silly Halloween party at the White House where everybody dressed up on the White House staff in these big gaudy costumes. Gergen came as Richard Nixon. What was that, a little act of disloyalty there? They call him "the Cat" over at the White House because he glides in and out of every meeting.

Somebody turned up as Yasser Arafat, his wife as Yitzhak Rabin. The high school quarterback was Mac McLarty. Somebody came as Michael Jordan. I see the Thomases are welcome back at the White House. They came all dressed to the nines. Hillary's mom, Dorothy Rodham, was dressed as a Mother Superior. What is that supposed to mean?

The First Lady was dressed as Dolly Madison. Well, depending on what book you read on Dolly Madison, some of that might be apropos.

But they had Mr. Clinton dressed as James Madison, the Father of the Constitution of the United States.

What hurts me is they are having all these giddy Halloween party games at the White House, but all these Rangers and Special Forces guys that I met with told me about all of the 19 that were killed, the first ones killed after Keith Pearson and his three MP colleagues, and then the three that died in the helicopter on September 25. They have never heard anything personally from the White House. But the 18 Rangers and Special Forces guys and air crews from the 160th Soar, none of their colleagues were contacted. And on Halloween, all of their little children, because most of them were married, a lot of them have young kids where Halloween is a big event, were those families trying to take their kids out to trick or treat and forget the agony that they were going to have, the saddest coming Thanksgiving and Christmas of their lives? I wonder what they felt, picking up this magazine and reading about this jackass jack-o-lantern party at the White House, without a call to any of them.

Oh, but on Veterans Day, Mr. Speaker, conjuring up hard memories of marines in battle fatigues being ordered to the White House south lawn to perform for a photo op for their erstwhile Commander in Chief, what does President Clinton do to the Rangers? He invites 30 of them to the Oval Office. I met some of them that afternoon, the same afternoon, November 11, and they said, "Well, it was an honor to be there. It is probably the only time we will ever be in the Oval Office."

I wish more military heroes would run for political office, and even set that ultimate goal in their sights.

But they said, "You know, it is kind of funny that he cannot call our dead colleagues' families, but he can have us there for a photo op." And it was reported all over the country that he had welcomed the Rangers into the Oval Office.

I wonder if they discussed—I found out they did not—why his civilian people at the Pentagon did not give them armor for a rescue extraction mission when the commander of the quick reaction force, Gen. Thomas Montgomery, had asked for it. Or, worse yet, as they told me, why did they jerk out the AC-130 Specter gunships that fly above RPG, rocket-propelled grenades, and ground fire altitude, to give them the support that certainly, as I said yesterday, would have saved the lives of some of the men that were killed, and dozens wounded in the extraction-exfiltration phase of that 15-hour firefight.

So I would like to read part of and then put in the RECORD an article by a distinguished fellow of the Army War College; he was an infantry officer in Korea and Vietnam and, for this retired reserve officer, is the best analyst of the military scene today. He has picked up in my life where S.L.A. Marshall, the great history writer who wrote so much for the L.A. Times, left off when he retired. Harry G. Summers, Jr., retired colonel, is as good as they get.

Here is what he put in the Air Force Times issue that is still current. It is dated the Kennedy assassination date, November 22, 1993, if you want to look up this issue.

"Clinton can't abdicate command responsibility.

"As a people, we are singularly uninterested in war," says Colonel Harry Summers.

General Fred Weyand, a former Army Chief of Staff, observed in the wake of Vietnam that Americans have a long and proud history of antimilitarism. It is a prejudice that extends to the top. As Harold Brown, President Carter's Secretary of Defense, once said with a sniff, Presidents have better things to do than worry about the military and the mechanics of national defense.

Those words seem to describe as well the attitudes of the Clinton White House. The constitutional requirement that the President be the Commander in Chief once again has been delegated to bureaucrats while Clinton concentrates on what he sees as more pressing concerns of health care reform and other domestic issues.

And the Republicans saving his Presidency with 132 of us voting for NAFTA.

"Lost is General Douglas MacArthur's warning in 1932"—that is going back, the year I was conceived—"that 'the selection of national objectives and the determination of the general means and methods to be applied in obtaining them are decisions to be made by the head of state. The issues involved are so far-reaching in their effect and so vital in the life of the Nation, that coordinating Army and Navy efforts should not be delegated by the Commander in Chief to any subordinate authority.'" Not even a Secretary of Defense.

"'Any such attempt would not constitute delegation, but rather abdication.'" Doug MacArthur. Hence, the title of Harry Summers' article here.

During the Senate hearings over his relief from command during the Korean War for challenging President Truman's strategic direction, MacArthur was confronted with his remarks of two decades earlier: "As I look back, Senator, upon my rather youthful days then, I am surprised and amazed how wise I was."

That is as close to a humble apology, I guess, as that maybe greatest of American general, could be.

But that wisdom did not endure. Despite President Johnson's boast that he personally would approve the bombing of every outhouse—

Those are Johnson's own nonclassy words—

The truth is that the direction of U.S. strategy was so ignored in Vietnam that 70 percent of the generals would complain that they were unsure of U.S. military objectives.

The direction of foreign and military policy was abdicated to what came to be known as the National Command Authority, the euphemism for whoever it was, if anybody, who was making the decisions in Washington. General William Westmoreland—

A great general—

His request that the battlefield be isolated by extending the Demilitarized Zone into Laos and Thailand, for example, neither was approved nor disapproved. It merely disappeared into the labyrinth of the bureaucracy. The situation did not improve after Richard Nixon took office.

Mr. Speaker, I am told the former President, Richard Nixon, watches this House regularly on C-SPAN, watches these special orders. He told me to my face at his gallant wife Pat Nixon's funeral that he watches, even discusses some things I have said on the floor. If that former President is watching, Mr. Speaker, I hope he can write to me and comment on this line for history, that the situation did not improve after Richard Nixon took office, about this delegation of authority.

There was no doubt, however, during the Persian Gulf war who was running the show. Instead of National Command Authority, the strategic direction of the war was given personally by President Bush.

But National Command Authority is once more in vogue. As was revealed in the aftermath of the Mogadishu, Somalia, tragedy, no one seems to be in charge. Like Westmoreland's request for a change in strategy, the request from the field for armored vehicles to protect the troops disappeared into the bureaucratic labyrinth.

Clinton, no doubt truthfully, denied any knowledge that such a request had been made. But while he cannot delegate his authority as Commander in Chief to the bureaucracy, Clinton has learned that MacArthur was right. The American people will not allow him to abdicate his responsibility.

Mr. Speaker, time goes by fast when you are talking about heroes. I will enter the following articles into the RECORD.

[From Time, Nov. 8, 1993]

CLINTONISM: TRICK OR TREAT?

(By Michael Duffy)

Hillary Clinton may have suspected a ruse when aides hurried her out of the White House up to a conference on Capitol Hill last Tuesday afternoon—only to find the room completely empty. Arriving back home minutes later, she received further evidence that something was afoot when her husband, dressed as James Madison, urged her into a costume suitable for Dolley. It was, after all, Mrs. Clinton's birthday.

The night before he formally unveiled his health-care reform plan, the President pulled off what looked to some like the second biggest initiative of his presidency: a surprise party for his wife. Just when the Clinton White House seemed set to return to its truest, all-work-and-no-play self, more than 150 people waited in the dark as the perhaps not totally unprepared Mrs. Clinton descended the main staircase.

Meeting her was a line of staff members dressed as Hillarys of one sort or another: Hillary at Wellesley, Hillary the lawyer, Hillary on her wedding day, Hillary on a bad-hair day, Hillary at the Inaugural.

Every costume told a story. David Gergen disguised himself as Richard Nixon, his hands rising in the famous V-for-victory gesture. The much feared adviser and friend Susan Thomases was a Pilgrim. Affable communications director Mark Gearan became a gorilla, while mild-mannered personnel chief Bruce Lindsey wore a man's habit. Pirate George Stephanopoulos huddled with media whiz Mandy Grunwald, who looked for all the world like a health security card. White House decorator Kaki Hockersmith—Scarlett O'Hara—had her dress made from fabric matching the curtains in the Lincoln Bedroom.

For his costume, power lawyer Vernon Jordan adopted the uniform of power forward Michael Jordan; he could be seen talking to a helmeted Hope High School Bobcats quarterback who distinctly resembled Mack McLarty. Sandy Berger, the deputy National Security Adviser, turned up as Yasser Arafat, his wife as Yitzhak Rabin. Arkansas pals Diane and Jim Blair pretended to be James Carville and Mary Matalin. Webb Hubbell and his wife came as the Devil and the Deep Blue Sea, and one guest, dressed as Lincoln, passed out little cards that read, "They have a nice bedroom in his house."

Gladys Knight—the real Gladys Knight—sang Happy Birthday to the First Lady, and a three-person band from Memphis played jazz, blues and Motown in the East Room until well past midnight.

Everyone danced. When one of the first on the floor turned out to be Hillary's mom, Dorothy Rodham (dressed as a mother superior), Dolley Madison exclaimed in mock horror, "That's my mother!"

The Blue, Red and Green rooms were dark and forbidding, what with the stuffed ghosts and goblins guarding the French doors on Louis XIV chairs. As one servant who started with L.B.J. put it, "I've never seen anything like it."

[From the U.S. News and World Report, Oct. 25, 1993]

EYE ON THE '90'S—MASK ARRAYED

Every year, as Halloween approaches, costume shops around the nation's capital do a brisk business in masks of various political figures, and this year is no exception. But the cast of characters have changed somewhat since this time last year. A bulb-nosed Bill Clinton is the hottest seller, with first lady Hillary Rodham Clinton and Palestinian leader Yassir Arafat also attracting many takers. Ross Perot and Richard Nixon remain favorites, while the Whoopi Goldberg mask has emerged as a fast-selling item—especially for Halloween revelers who are choosing to take a pass on Ted Danson's blackface option. But it has been hard to disguise one of this season's definite duds: the mask of Vice President Al Gore. "Gore is just too stiff," explains Sandy Duraes of Washington's Backstage Inc. "He doesn't have any characteristics that really stand out, so the mask is average looking."

[From the Air Force Times, Nov. 22, 1993]

CLINTON CAN'T ABDICATE COMMAND RESPONSIBILITY

(By Harry G. Summers Jr.)

As a people, we are singularly uninterested in war. Gen. Fred Weyand, a former Army chief of staff, observed in the wake of the Vietnam War that Americans have a long and proud history of anti-militarism. It is a prejudice that extends to the top. As Harold Brown, President Carter's secretary of defense, once said with a sniff, presidents have better things to do than worry about the military and the mechanics of national defense.

Those words seem to describe as well the attitudes of the Clinton White House. The constitutional requirement that the president be commander in chief once again has been delegated to bureaucrats while President Clinton concentrates on what he sees as more pressing concerns of health-care reform and other domestic issues.

Lost is Gen. Douglas MacArthur's warning in 1932 that "the selection of national objectives and the determination of the general means and methods to be applied in obtaining them . . . are decisions to be made by the head of state. . . . The issues involved are so far-reaching in their effect and so vital in the life of the nation that coordinating . . . Army and Navy efforts should not be delegated by the commander in chief to any subordinate authority. Any such attempt would not constitute delegation but rather abdication."

During the Senate hearings over his relief from command during the Korean War for challenging President Truman's strategic direction, MacArthur was confronted with his remarks of two decades earlier. "As I look back, senator, upon my rather youthful days then," he said, "I am surprised and amazed how wise I was."

But that wisdom did not endure. Despite President Johnson's boast that he personally would approve the bombing of every "outhouse" in Vietnam, the truth is that the direction of U.S. strategy was so ignored that 70 percent of the generals would complain they were unsure of U.S. military objectives.

The direction of foreign and military policy was abdicated to what came to be known as the "national command authority," the euphemism for whoever it was, if anybody, who was making the decisions in Washington.

Gen. William Westmoreland's request that the battlefield be isolated by extending the demilitarized zone across Laos into Thailand, for example, neither was approved nor disapproved. It merely disappeared into the labyrinth of the bureaucracy. The situation did not improve after Richard Nixon took office.

There was no doubt, however, during the Persian Gulf War who was running the show. Instead of "national command authority," the strategic direction of the war was given personally by President Bush.

But "national command authority" is once more in vogue. As was revealed in the aftermath of the Mogadishu, Somalia, tragedy, no one seems to be in charge. Like Westmoreland's request for a change in strategy, the request from the field for armored vehicles to protect the troops disappeared into the bureaucratic labyrinth.

Clinton, no doubt truthfully, denied any knowledge that such a request had been made. But while he can delegate his authority as commander in chief to the bureaucracy, Clinton has learned that MacArthur was right. The American people will not allow him to abdicate his responsibility.

LET'S GET THE REAL FACTS ABOUT WHAT HAPPENED IN SOMALIA

DEAR COLLEAGUE, earlier this week my good friend and our well respected colleague, Jack Murtha, sent you a letter concluding that officials at the Department of Defense were not responsible for the heavy casualties we encountered in Somalia on October 3, & 4. As the only other member of Congress to visit our forces there since that operation, I must take exception to Jack's analysis.

After personally talking to troops of all rank involved in these operations, I am convinced that additional firepower and better planning from Washington would have helped with the Oct 3/4 Ranger/Special Forces raid as well as with other military missions in the Horn of Africa. U.S. Rangers were engaged for nearly 15 hours. I have spoken to Special Operations 160th SOAR aviators who spent 17 to 18 hours in the air during the fight (of course, they have a gung ho battle cry—"Don't Quit"). For over nine of these hours during the "fire fight from hell" Aidid's militia and civilians with automatic weapons pinned down our good guys while U.N. forces awaited permission from their respective capitals to release their tanks or armored vehicles. It is impossible to say that U.S. M-1 "Abrams" tanks and M-2 "Bradley" fighting vehicles could not have altered the outcome of events and saved some lives and dozens of others from being wounded.

During my trip to Somalia, one commander specifically brought up his request for armor. The commander of the forces who conducted the October 3/4 operation made no mention to me about not needing armor rescue or a letter to the President (all we know for sure at this point is that only two people have seen the letter). I believe that in writing the letter he was being a "good soldier" and trying to take all the blame upon himself. This commander was the last person I saw in Somalia and he said, "Congressman, that was a good mission. We completed our mission and then got into a hell of a fire fight on the way out." Agreed. But it's this Quick Reaction Force/rescue aspects that needed armor to break through roadblocks and blast through ambushes. The only way to clear up the contradictions and prevent such operational problems for ever repeating themselves is for the highly decorated and superbly professional commander to personally brief members of Congress on the Somalia mission. He has since returned stateside and could easily be made available to Congress before Thanksgiving.

I truly have the utmost respect for Jack Murtha, but my onsite investigation and follow up leads me to the inescapable conclusion that civilians in the Pentagon made serious and deadly errors by pulling out the AC-130 "Spectre" gunships and by compounding that error by refusing the request for armor made by combat commanders in the field—an error that I believe certainly cost American lives during the exfiltration phase. I do not necessarily believe anyone should resign over this single bloody firefight. What is important is that the American people and the families of the wounded and KIA get all the facts about what happened out there . . . and why . . . and how we can prevent it from happening again.

Let's get the facts,

ROBERT K. DORNAN.

[From the Air Force Times, Nov. 22, 1993]

BROKEN PROMISE—CLINTON ASSAILED FOR NOT NAMING VETS TO KEY POSTS

(By Nick Adde)

WASHINGTON.—A prominent Vietnam veteran who supported candidate Bill Clinton in 1992 is urging his fellow veterans to vote against him in 1996.

At issue is the Clinton administration's alleged practice of discriminating against veterans, said John Wheeler, an attorney who graduated from the Military Academy at West Point, N.Y., in 1966.

"In this administration, veterans are second-class citizens," said Wheeler, an Army officer in Vietnam in 1969 and 1970.

He made the comments at a Nov. 9 news conference here sponsored by the Vietnam

Veterans Institute, a nonprofit organization that promotes education and research for veterans.

DIFFERING VIEWS

Wheeler's contention came during a week of Veterans Day commemorative ceremonies in Washington. But his view of the Clinton administration's attitude toward veterans is far from universally supported by veterans' organizations.

"President Clinton has lived up to the promises he made to veterans when he spoke at the American Legion convention as a candidate," said Steve Robertson, the Legion's legislative director.

The same week Wheeler issued his remarks, the president made visible efforts to ease his strained relationship with the nation's veterans, brought on largely because of his opposition to the Vietnam War. On Veterans Day, Clinton signed a bill that gave disabled veterans a cost-of-living raise, laid a wreath on the Tomb of the Unknown Soldier at Arlington National Cemetery, Va., and visited a veterans hospital in Martinsburg, W.Va.

The White House had no comment on Wheeler's charges by press time.

An active member of the institute, Wheeler made his comments as he presented a white paper he wrote on discrimination against veterans.

Wheeler said his conclusions are based largely upon evidence he gathered from articles in the National Journal, an independent weekly magazine that reports on politics and government affairs, and interviews he conducted with White House staff members and active-duty military people.

When he made an informal head count of Clinton's political appointees, Wheeler said, the number of veterans, specifically those who served in Vietnam, was unsatisfactory.

Wheeler said that of the 60 million Americans who reached adulthood during the Vietnam War, 10 million served in the military, and 3 million served in the war zone. By his estimates, one-third of all presidential appointments should go to veterans, and one-tenth of all such appointments should go to Vietnam veterans, he said.

Wheeler calculated that of 92 White House staff appointees, only seven are veterans; three served in Vietnam. There should be 22 veterans, including seven with Vietnam service.

In the 14 cabinet departments, he said, the first 330 appointments have included 18 veterans, 11 of whom served in Vietnam. At the Defense Department, he said, 11 veterans have been appointed to 33 slots, exceeding his expectations.

Two Clinton appointees, Surgeon General Joycelyn Elders and Secretary of Veterans Affairs Jesse Brown, are highly qualified Vietnam veterans, Wheeler said, but they are not enough.

But one fellow veterans' advocate is satisfied.

During his speech to the American Legion national convention in August 1992, the future president promised he would appoint a veterans' advocate as VA secretary. The candidate also assured that veterans' needs would be carefully considered during health care reform.

The Legion's Robertson gives Clinton high marks on both promises.

"As far as funding for VA is concerned, this is the best president's budget in 10 years," Robertson said. "And 80 percent of what the Legion wanted is included in his health care proposal."

[From the Army Times, Nov. 22, 1993]

COMMAND IN SOMALIA WAS DIRECT, TIGHT

(By Maj. Gen. Thomas Montgomery, Deputy Commander, U.N. Operation in Somalia II, and Commander, U.S. Forces Somalia)

Sean D. Naylor's article in the Nov. 1 Army Times, "U.S. forces commander never led Rangers," presents a misdirected view of the facts. Specifically, his assertions concerning the U.S. chain of command and availability of intelligence information are wrong.

The Ranger Task Force chain of command was the most direct possible. The Joint Special Operations Task Force, or JSOTF, commander in Somalia answered directly to the commander in chief of U.S. Central Command, as is customary for highly specialized operations of this nature. The JSOTF augmented U.S. Forces Somalia, which coordinated closely on all Ranger Task Force activities.

Mr. Naylor's conclusion that a lack of involvement by me as deputy commander of [U.N. Forces in Somalia] II and Commander of U.S. Forces Somalia, contributed to the events of Oct. 3 is in error.

It is true that I personally had shorter notice than usual due to my being out of Mogadishu until shortly before the decision to launch the operation was made. However, my operations officer was "in the loop" an hour and thirty minutes prior. The standard [U.S. Forces Somalia] response for "spinning up" the quick reaction force to support the Rangers worked as usual. Quick reaction force units were put on alert before the mission was actually initiated, and the quick reaction force was ready to respond when ordered to do so.

Also contrary to Mr. Naylor's assertions, the men of the Ranger Task Force had the best intelligence available to U.S. and U.N. forces in Somalia. The entire U.S. intelligence effort had been focused on the JSOTF mission since late August. The JSOTF Commander had additional sources at his disposal, which in fact enabled the Ranger Task Force to apprehend 19 members of the [Somali National Alliance] SNA in the Oct. 3 operation and move them out of the target area safely.

While U.N. command arrangements can be challenging, to suggest that U.S. command arrangements or intelligence channels contributed to the tactical situation which ensued after the capture of SNA personnel misses the point. Moreover, it is a disservice not only to our commanders and intelligence personnel in Somalia, who have done excellent work, but also to those who fought so heroically on the streets of Mogadishu.

[From the Army Times, Nov. 22, 1993]

SKIRMISHES SHATTER CALM IN MOGADISHU

(By Katherine McIntire)

WASHINGTON.—Two separate exchanges between U.S. troops and Somali militia in the capital city of Mogadishu left at least one Somali dead and two wounded, said the spokesman for U.S. troops there, Col. Steven Rausch. No American troops were wounded in the fighting.

In the first exchange U.S. soldiers shot and wounded two Somalis Nov. 12 after observing a group loading a rocket-propelled grenade, or RPG, launcher and a heavy machine gun into a vehicle at about 3:20 p.m. near the K-4 traffic circle.

The Somalis fired an RPG and small arms at the soldiers. The U.S. soldiers fired back and above the crowd and again took fire from another RPG at about 4 p.m., Rausch said.

In the second incident, U.S. soldiers at an observation post on top of the embassy compound saw a Somali with an RPG launcher just southeast of the compound at about 3:40 p.m. Nov. 13. The soldiers fired on the gunman and killed him.

They also fired at a second gunman but missed, Rausch said. Soldiers began receiving small arms fire from the same area and fired at a weapon pointed from a window. They hit the weapon, which fell from the window but was not recovered. Rausch could not confirm that a woman was struck and killed in the crossfire.

"Clearly it's alarming that these weapons are in the open, and that we are engaging them," he said. "Under the rules of engagement U.S. troops are allowed to engage heavy weaponry," Rausch said.

Soon after each exchange, the streets were calm, he said.

For the most part, American soldiers have been keeping a low profile since the deadly Oct. 3 battle between U.S. Rangers and Somali militia loyal to Gen. Mohammed Farah Aideed. Eighteen U.S. soldiers died and more than 100 were wounded in the battle, while relief agencies estimated about 300 Somalis were killed and about 700 wounded.

Intelligence sources speculated that Aideed has maintained a low profile since then to reestablish his power and fortify his troops.

Since the arrival of heavy armor, a Navy aircraft carrier and two Marine expeditionary units in late October, U.S. troops have begun conducting joint exercises and patrolling between the port and the airport and up to the compound just north of Mogadishu, called Victory base, Rausch said.

The compound was constructed by Army engineers for the armored force. "We're still committed to keeping the main lines of communication open, but as far as going into the city, that will be some time," Rausch said. Press reports that suggest U.S. troops are patrolling the streets of Mogadishu are overstated, he said.

Rausch said there is concern about Aideed's public statements that he would view U.S. street patrols as a provocation and would retaliate. At daily staff briefings, the situation is regarded as "red and unstable," he said.

Although Mogadishu remained relatively calm, crowds of Somalis began gathering at the gates to U.S. compounds in Mogadishu in mid-November, apparently looking for jobs, Rausch said.

In an attempt to foster peace in the beleaguered capital, Rausch said the United States, at the request of Aideed loyalists and in conjunction with the United Nations, created a working group to discuss issues of concern to Aideed supporters. Ali Mahdi's supporters showed up for the meeting, but Aideed's did not, he said.

"The working group was supposed to meet on Monday [Nov. 8], but we were stood up for that one," Rausch said. "The purpose was to discuss the security situation in the city. It also provides us a forum to inform the Somalis of military exercises and [U.N.] activities so there will be no misunderstanding," he said.

[From the Army Times, Nov. 22, 1993]

PROBE OF OCTOBER 3 DISASTER SET

(By Katherine McIntire)

WASHINGTON.—Two powerful senators announced Nov. 9 the Armed Services Committee will investigate the role of U.S. troops in Somalia and the circumstances surrounding the Oct. 3 battle that claimed 18 Rangers' lives there.

Sens. Sam Nunn, D-Ga., and Strom Thurmond, R-S.C., the chairman and ranking minority member of the Armed Services Committee, respectively, said they have sent a comprehensive list of questions to Defense Secretary Les Aspin.

The committee has held several hearings on Somalia, including closed-door testimony from the Joint Chiefs of Staff and from Marine Corps Gen. Joseph Hoar, commander-in-chief of Central Command, regarding the Oct. 3 Ranger raid.

Also on Nov. 9, 41 House Democrats, including Majority Leader Richard Gephardt of Missouri, sent a letter to President Clinton defending the actions of Aspin against a group of House Republicans who earlier had called for Aspin's resignation. The Republicans said Aspin's refusal to meet requests to send armor to Somalia in September led to the casualty-plagued firefight of the Oct. 3 raid.

"The commander who planned and executed the mission . . . concludes that our tanks and armored personnel carriers would not have changed the outcome significantly," the letter said.

[From the Air Force Times, Nov. 22, 1993]

READINESS CONCERNS SPARK ACTION ON HILL—FUNDS SHIFTED TO PAY RAISE, EQUIPMENT REPAIR

(By Grant Willis)

WASHINGTON.—Some military analysts here think they may have discovered a new law of science:

Expanding militaries are plagued by weapons-buying problems while shrinking militaries worry constantly about losing their readiness to fight.

A sign of those readiness worries appeared here Nov. 4, when the House-Senate conference committee on the 1994 defense authorization bill approved a package of budget and policy initiatives designed to enhance readiness.

The committee's recommendations are expected to come to final votes in the full House and Senate this month. They include:

A directive for the Joint Chiefs of Staff to report to Congress each year in detail on "any degradation of critical readiness indicators."

A requirement for the Pentagon to report twice each year any diversions of congressionally approved training money into other less essential operations and maintenance programs.

Budget shifts. The compromise bill recommends canceling $3 billion in what it calls "excessive overhead and infrastructure" spending for operations and maintenance. Part of the cancellation would pay for the 1994 military pay raise.

Lawmakers said the remainder would be earmarked for other "readiness enhancements," such as more repairs to critical equipment and bringing usable equipment back from Europe.

SECRETARY FOR READINESS NAMED

Across the Potomac River, Defense Secretary Les Aspin sought to move readiness higher on the Pentagon's agenda by installing a former aide in a new position, deputy assistant secretary for readiness.

The new deputy, Louis Finch, works under Edwin Dorn, the assistant secretary of defense for personnel and readiness. Finch comes from the office of the deputy assistant secretary for strategy, requirements and resources, where he wrote a memorandum in early 1993 that prompted Aspin to form a special panel of outside experts and former military officers to monitor readiness.

In a drawdown, "the way you get in trouble is in creating hollow forces," Finch told Air Force Times on Nov. 9. "There is a general recognition that . . . that's the biggest danger you face and is structurally the most difficult thing to manage."

Dorn said in a Nov. 3 interview he sees at least two potential readiness problems resulting from the transition to a 1.4 million member force by the end of the decade. Those problems are the fatigue caused by more frequent deployments and the turmoil that can occur when the departures of key personnel leave some jobs unfilled or filled by different people.

ANXIETY IS 'UNDERSTANDABLE'

"One understandable source of anxiety has to do with the turbulence when units are moved about and downsized," Dorn said. Service members worry when they see their unit has too many NCOs or not the right number of officers, he said.

"At a broad, statistical level, the unit fills are not bad," he said. "We're close to where we want to be, but some individual units may be experiencing some problems."

Finch will have "a huge coordinating task" as he looks for remedies to these and other readiness problems, Dorn said. He said the policies Finch helps develop will have to address the main strategic threats Aspin has identified: nuclear weapons and other weapons of mass destruction, regional dangers from anti-American governments, reversals of reform in the former Soviet bloc, and economic instability in the United States.

[From the Air Force Times, Nov. 22, 1993]

DEFENSE BUDGET SIGNED INTO LAW—$19 BILLION FUNDS MOST AIR FORCE PROGRAMS IN 1994

(By Steven Watkins)

WASHINGTON.—President Clinton Nov. 11 signed into law a $241 billion defense-spending package for fiscal 1994 that fully funds the military services' readiness needs and planned troop levels.

The law reflects Congress' and the Clinton administration's stated priority to not allow the armed forces to go "hollow," but cuts into modernization programs.

The law funds all of the active, reserve and guard personnel levels requested in Clinton's proposed budget.

The Air Force will have the following troop levels in fiscal 1994: 425,700 in the active Air Force, 81,500 in the Air Force Reserves and 117,700 in the Air National Guard.

But while the spending plan will protect planned force levels and readiness goals, it cuts about $2.8 billion from the requested budget to buy new weapons, modernize existing weapons and develop future weapons.

The spending package was passed by Congress on Nov. 10 and signed into law on Veterans Day.

The law authorizes $19.1 billion on Air Force training, operations and maintenance, about a half-billion dollars more than the administration's requested amount.

Although the law will cut spending for procurement and modernization programs, it funds most of the major Air Force programs—the C-17 Globemaster III transport, the B-2 stealth bomber, the F-16 Fighting Falcon, the E-8B Joint Surveillance and Target Attack Radar System, the AIM-120A Advanced Medium-Range Air-to-Air Missile and the Navstar Global Positioning System.

Following are the law's highlights affecting Air Force programs:

The C-17. The law funds the purchase of four to six aircraft. The actual number to be bought is up to the Pentagon's acquisition chief, Undersecretary of Defense John Deutch, who has been reviewing the program for the past six months.

The E-8B Joint STARS. The spending package requires the Air Force to buy two more aircraft instead of one.

The B-2. The law funds most of the request to continue production of the B-2. The law also funds the Air Force's program to develop a new precision bomb and precision-bomb targeting system for the bomber.

The F-22. The law funds most of the requested money for the F-22 development program. The administration asked for $2.3 billion; Congress approved $2.1 billion.

The F-16. The law will pay for 12 planes rather than the 24 requested by the administration. House Armed Services Committee Chairman Ronald V. Dellums, D-Calif., said they will be the final 12 F-16s to join the Air Force.

Space systems. The law cancels the last planned Defense Support Program missile early-warning satellite and continues its replacement, the controversial Follow-on Early Warning System.

[From the Air Force Times, Nov. 22, 1993]

TEST OF B-1B DEMANDED BY CONGRESS MAY CRIPPLE FLEET

(By Steven Watkins)

WASHINGTON.—Lawmakers plan to put the bedeviled B-1B Lancer to a test of its readiness, which could cripple much of the fleet in the process.

Eight-five of the heavy bombers, which have been haunted by funding and logistics woes, are operational at four Air Force bases.

Congress is ordering the test as it considers whether to fund a 10-year, $3.9 billion B-1B improvement program that will equip the planes with precision-guided weapons and a new radar jamming system to defend itself and buy logistics support equipment and spares that the Air Force needs to maintain the planes without expensive contractor support.

But before lawmakers decide to pay for the improvements, they want to know whether the plane will be ready for war if it gets all the maintenance equipment that is being asked for by the Air Force.

The 1994 defense authorization bill, a key step in the elaborate Department of Defense budget process, orders Air Force Secretary Sheila Widnall to find out whether one wing of B-1B bombers can achieve the high readiness rates that are expected of the planes.

But carrying out the test may force readiness rates to fall for the rest of the B-1B fleet, a problem the bill acknowledges.

"The plan to concentrate the planned level of spare parts and other support at one wing will likely require some drawdown in the stocks at the other bases," the bill says. "This, at a minimum, could further reduce readiness levels at nontest bases, and, at worst, affect aircrew proficiency at those bases."

HOARDING PARTS

As part of the test, one squadron of B-1Bs would fly to a remote airfield to test the plane's ability to conduct numerous missions in a wartime setting. Lawmakers said they expect the six-month test to determine whether the Air Force's planned level of B-1B spares, logistics support equipment and maintenance staffing will prepare the plane to perform its "workhorse" bomber role in future wars.

The Air Force's goal is to have 75 percent of the B-1B fleet war-ready at any time.

Reacting to Air Force concerns that the test could "compromise national security" by ruining the readiness of the B-1B fleet, the lawmakers gave wide latitude to Widnall in forging the rules and timing of the test.

Widnall would be able to postpone the test if she judges that it cannot be conducted or continued without causing "unacceptable risk to the readiness or safety of those elements of the B-1 force not included in the test," the bill says.

TEST CRITICAL

The test results will be critical in helping Congress decide whether to proceed with plans to improve and modernize the B-1B fleet, a Senate staffer said in a Nov. 5 interview.

The 10-year, $2.5 billion B-1B improvement program has increased to $3.9 billion, said congressional staffers familiar with the bill.

The B-1B has been a controversial plane in Congress. Its supporters hail the long-range bomber's agility and ability to deliver mass firepower while its detractors argue that the plane is plagued with faulty systems and requires expensive contractor-supplied maintenance and logistics support.

SUPERSECRET—COMPANY CLAIMS MODEL REPRESENTS NEW SPY PLANE, BUT THE AIR FORCE SAYS THE AIRCRAFT DOES NOT EXIST

(By Vago Muradian)

WASHINGTON.—Does the Aurora exist?

The Air Force says no, but a manufacturer of model airplanes says yes and is selling Aurora kits for $10 to $30 each. The kits come in three versions.

"People always want to have things surrounded by mystery; 'black' programs are always good (for model sales)," said John Andrews, division manager for plastic kits at Testor Corp., a Rockford, Ill.-based model maker. "Black" military programs are those that are developed in secrecy.

But the Air Force says it is in the dark on the Aurora.

"They (the model company) can call it anything that they want, but it is not modeled on anything that exists, or at least the Air Force has," said Maj. Monica Alosio, an Air Force spokeswoman.

SUCCESSOR TO BLACKBIRD

To shed some light on the issue, the Aurora is an alleged secret project aimed at developing a successor to the SR-71 Blackbird, which completed its service in 1990.

But the Air Force says a successor to the Blackbird never will get off the ground.

"The Air Force has no follow-on to the SR-71, and we do not own the name because we do not own the program," Alosio said.

The flap over the Aurora started earlier this month when Testor officials unveiled a model of the alleged plane and launched a publicity campaign. Although the secret spy plane program is known as the Aurora, Testor is calling their rendition of the new spy plane the SR-75 Penetrator, which the company says can launch a smaller aircraft dubbed the XR-7 Thunder Dart.

Andrews makes no secret of the company's motives. Plastic model sales of military equipment have been down since the end of the Cold War, and the Aurora just may lift them, Andrews said.

HOPE FOR SALES

Testor officials hope the model will be as big a seller as their 1986 model of the F-117, which Testor then called the F-19 Stealth Fighter, which ranks as the best-selling model plane in history with combined sales of almost 1 million units. The Air Force did not officially acknowledge the existence of the F-117 until 1988.

But despite the profit motive, Andrews claims the Aurora is hardly a figment of his imagination.

"This is not out of imagination. . . . We get information from people who live in the desert and love airplanes," Andrews said. "We get messages, phone calls and memos, and we also read the trade press and technological papers."

He speculated that development of the aircraft probably began in 1983, with prototypes flying in 1987 and operational aircraft entering service around 1990.

SPECULATION SINCE 1986

In a telephone interview, retired Gen. Larry D. Welch, Air Force chief of staff from 1986 to 1990, said speculation over the Aurora's existence started in 1986 when "someone saw a name like [Aurora] in the budget."

Welch said that Donald B. Rice, former Air Force secretary, publicly denied the existence of the Aurora in late 1992.

Andrews said unusual reconnaissance aircraft definitely exist even if they are not called the Aurora and have been sighted across the United States and around the world.

He said that on two visits to the Air Force' Area 51 at Groom Lake, Nev., he heard an engine undergoing tests that did not sound like any conventional jet engine.

Since entering the model kit design business in 1957, Andrews has developed accurate model versions of such aircraft as the U-2, the F-117 stealth fighter and the B-2 stealth bomber years before Air Force officials publicly acknowledged their existence.

In 1959 Andrews designed a model of the then-secret U-2 spy plane. Andrews submitted a version of his designs to Lockheed Corp., Calabasas, Calif, the builder of the U-2 which asked Andrews not to release the model kit.

"They said it would be better if I did not build it now," Andrews said. "They treated me like a gentleman, and I chose not to do it until Gary Powers was shot down."

Francis Gary Powers, a former Air Force first lieutenant employed by the government to fly the U-2, was shot down by Soviet air defense forces near Sverdlovsk in May 1960 while flying a reconnaissance mission.

□ 2010

A RATIONAL FOREIGN POLICY FOR THE NEW WORLD DISORDER

The SPEAKER pro tempore (Mr. POMEROY). Under a previous order of the House, the gentleman from Georgia [Mr. JOHNSON] is recognized for 60 minutes.

Mr. JOHNSON of Georgia. Mr. Speaker, this month marks the fourth anniversary of the collapse of the Berlin wall. The live news coverage remains vividly in our memories of a man chiseling away at that dire symbol of Communist oppression and over 40 years of exceptionally tense, dangerous, and costly East-West brinkmanship. I remember sharing the shock and joy of millions around the globe that the cold war was finally ending. I also remember feeling hope. Hope for a new era. An era without the relentless, gnawing fear of a nuclear war between superpowers, each pursuing magnificently insane but inevitable policies of mutually assured destruction. An era where the domestic budgets of both the United States and the Soviet Union would not be drained by combined annual military expenditures in excess of half a trillion dollars. An era where the great nations could finally work together to promote democracy and the economic well-being of all nations.

This hope in some cases gave way to euphoria. President Bush and others began to talk of a new world order with the United States at the helm.

To be sure there are signs that we are entering a new era of international relations where world war and thermonuclear extinction are perhaps less threatening. The Persian Gulf war offered evidence—if only for one brief, shining moment—that violations of international law can be punished and corrected when there exists broad and effective multinational cooperation. The agenda of the North Atlantic Treaty Organization no longer includes discussions of how to contain the Warsaw Pact countries but rather how to absorb them. Russia and other new independent states along with many of their former Eastern bloc allies now send delegates to NATO meetings with hopes of joining the ranks of the free market, democratic world. And the recent Rabin-Arafat handshake, chaperoned by Russia and the United States on the White House lawn, offers the most significant hope in decades for peace in the Middle East, the region which in the post-war years has posed perhaps the greatest threat to world peace.

Yet, as hopeful as these signs are, we must consider them in the context of a world in transition—a world where the old threats are being supplanted by new ones with destructive capabilities yet unknown. The global threat of Soviet nuclear and conventional forces has been replaced with the threat that comes with instability in the struggle for democracy in the New Independent States of the former Soviet Union. Add to that the uncertainty as to who is in charge there of the more than 30,000 nuclear warheads aimed at the vital interests of the United States. The threat of expanding Soviet hegemony is gone, but it has been replaced with the threat of explosive regional conflicts arising from ethnic, religious, or nationalistic aggressions that were restrained under the bipolar system. The most ominous current example of this is the recent belligerence of North Korea, which menaces the entire Pacific region, as well as American critical interests and world peace.

It should be clear that despite our fondest hopes for a new world order, the collapse of the bipolar system has produced a new world disorder to which we have not yet adapted. Indeed, I share the frustrations of many Americans over the inability of the present administration to focus its efforts on this problem. It is widely perceived that the United States lacks a cohesive foreign policy. For many, American policies on Bosnia, Somalia, and Haiti have become synonymous with uncertainty, poor judgment, and indecision. After bold commitments to a new order and multilateral solutions, the foreign policy actions of this administration have instead given the appearance of confusion and ambivalence. The fallout from these mistakes should give a wakeup call to the policymakers of this country and a sharp warning that despite our hopes and euphoria all is not right with the world. Our national security is at risk and we need some assurance that our policies have some coherent direction in addressing that risk.

In his beginning days of teaching at the law school at the University of Georgia in the early 1970's—a time when the policies which got us into the Vietnam war were widely disparaged—Dean Rusk used to warn us not to shun the mistakes of our fathers simply to adopt those of our grandfathers. As with so much of the wisdom he imparted, Secretary Rusk was right in advising against reverting to the isolationist and protectionist sympathies of the thirties. But he was also correct in recognizing the need for the warning. American foreign policy has at least since the turn of the century swung from interventionist to isolationist from one generation to the next.

Theodore Roosevelt in an address to Congress in 1904 spoke of the duty of the United States to exercise police power in combating what he called chronic wrongdoing in the hemisphere. His big stick policies backed up those words. The generation that followed Roosevelt's in the two decades after World War I blinded itself in splendid isolation to the German and Japanese aggression which led to World War II. An example was Charles Lindbergh, who used his popular appeal and the susceptibility of Americans to anti-foreign biases to promote American isolationist policies during this period. And leading the next generation was John Kennedy, an admirer of Theodore Roosevelt, who in his inaugural address vowed to every nation that "we shall pay any price, bear any burden, meet any hardship, support any friend, oppose any foe to assure the survival and success of liberty * * *."

There are many now who would like to see our foreign policy be nothing more than a large wall around the country. An interesting parallel can be drawn between the efforts of Lindbergh in the thirties and those of Ross Perot today. On the other hand, there are also many in this country who would have us exercise police powers and pay any price or bear any burden to correct chronic wrongdoings around the world. It should be obvious that neither of these extremes fit the needs and capabilities of this generation. In searching for a strategy that does fit we should first reassess what our foreign policy ought to be about.

In its most basic and honest essence our foreign policy is about self-preservation. It is about protecting the interests of American citizens in an orderly scheme of priorities consistent with the availability of American resources. It is important to emphasize this basic premise because there are some who would cast our foreign policy goals dangerously beyond this. We are especially susceptible to this malady now when the United States is the sole reigning world superpower.

In his book, "The Arrogance of Power," former Senator J. William Fulbright warned of the tendency of great nations to equate power with virtue and major responsibilities with a universal mission. The proponents of intervention in fact often have a missionary tone to their arguments. After victory in the Spanish-American War, President McKinley justified the annexation of the Philippines on the grounds that he had been told by the Lord that it was America's duty to educate the Filipinos, and uplift and civilize and Christianize them, and by God's grace do the very best we could by them, as our fellowmen for whom Christ also died. In a more secular missionary vein, President Wilson urged entry into World War I because, the world must be made safe for democracy.

I am not suggesting here that we adopt a purely selfish foreign policy that ignores the moral implications of our actions abroad. A successful policy must have sustained public support and the American people will not tolerate official action that has no moral justification. The problem is that foreign policy with a missionary zeal, whether secular or religious, often takes on a life of its own that is irrelevant, and quite often detrimental, to the interests of the country from which it emanates. There are many examples in history where countries have been ruined by their foreign exploits. It was fine for President Wilson to urge committing U.S. troops to make the world safe for American democracy but quite another thing if he meant democracy throughout the world. As Rome and Great Britain both ultimately learned, the costs of world responsibility can be devastating.

States do not have the same rights as individuals in pursuing abstract moral or philosophical principles. An individual is perfectly free to sacrifice his or her life for a moral cause, as many Americans did in taking part in the Spanish civil war in the thirties. But the state has no right to risk lives and resources except in the cause of national survival. As a Congressman in 1848, Abraham Lincoln argued for the principle of national self-determination, which he said gave people the right to rise up and shake off the existing government, and form a new one that suits them better. But when confronted with the application of this principle to the secession of the Southern States, President Lincoln was obligated to uphold the far less abstract moral principle of national preservation.

In addition to abstract principles we must also be wary of our human emotions in constructing and implementing our foreign policy. This is what Senator SAM NUNN was referring to recently when he wisely cautioned against allowing CNN to dictate our foreign policy decisions. The attention given to emotional visuals from around the world can and has influenced political decisionmaking to a degree that is not justified under objective analysis. Clearly, human feelings such as compassion, pride, and honor must be considered in all decisions made by public officials representing a compassionate, proud, and honor bound Nation like ours. But they must not be allowed to override reason and lead us into what could be fatal mistakes.

What then are the vital interests necessary for self-preservation upon which our foreign policy must be framed. There are many ways these can be stated, but I would order them in the following way. First are the lives of our people and the physical integrity of the Nation. Next, and closely associated with the first, is our political independence, that is, freedom from foreign interference in choosing how we govern ourselves internally. Third, we have a critical interest in the rights and benefits we derive from the current international system. This includes the benefits of international security and stability, environmental protection, world trade, foreign investment, natural resource access and the like. And finally, we have an interest in maintaining our standard of living and the prosperity we enjoy. There will be times when this interest should be given equal or higher priority over our interest in maintaining the international system, but experience has shown that adjustments to standards of living may be justified if international security is at risk, such as in World War II.

In making a rational foreign policy decision, the second question to be answered after assessing the interests involved is what resources do we have available to support it. The United States is, with all its current economic agonies, the richest nation on Earth. Yet, as indicated by current significant reductions in military spending and other budget reductions generally, this question will always be problematic. An illustration of this problem is currently at hand.

Recently, Secretary of Defense Les Aspin completed his much awaited bottom-up review of U.S. military strategy and force structure. Acknowledging the need to balance the revitalization of the U.S. economy with the capability to meet future threats, the review concluded that the U.S. military should be reduced to 1.4 million personnel, 10 army divisions, 20 air wings, and 12 carriers.

Secretary Aspin has also committed to a so-called win-win strategy, where we should be able to engage in and win two near simultaneous major regional conflicts such as with North Korea and Iraq. Based on the numbers I have seen, I am skeptical that we can realistically engage successfully in two major conflicts with the force structure that has been proposed. Several of my colleagues on the House Armed Services Committee share this sentiment.

Considering the precarious nature of the current international environment, the New World Disorder—if you will—and the vital interests we have at stake and the diminishing resources we have available to protect these interests, it is critically important for us to focus and adapt our policies to the new reality in a rational, unemotional way. What I am urging here is not interventionism but rather a policy of assertive engagement. I suggest four initiatives.

First, we must build upon and become more engaged with our current alliances, particularly NATO. There was a time after the fall of the Berlin Wall when it appeared that NATO might fall apart. But with the problems being experienced with the new democracies in Eastern Europe and the former Soviet Union, among other problems, the Europeans clearly see the need for strengthening the alliance and so should we. At a minimum, this alliance is needed to provide the vital support to U.S. forces in the event we face two major regional conflicts at the same time. The NATO allies share a long-established execution of joint force operations. They also share a common vision of democratic principles and free-market economies.

We also must build upon and expand our national security and trading alliances in the Far East. This would include a renewed effort in pursuing a mutually beneficial relationship with China, both in trade and security issues. The potential risks associated with North Korea make this initiative imminently important. Even so, I do not believe that an initiative to the East should be pursued at the expense of our commitment to NATO and the European trading markets. It is a mistake to think that tilting toward Asia and away from Europe will enhance our position in trade negotiations with Europe as some have suggested in the State Department. It is not necessary and, I believe, counterproductive.

Second, I believe we need to become more engaged in the decisionmaking process at the United Nations. The United Nations has an important role to play in peacekeeping, humanitarian, and other broad-based international functions, but we must understand its limitations. The Security Council must begin to exercise more control in the process. The credibility of the institution is now strained by its appetite for additional responsibilities.

Third, I strongly support the administration's efforts in supporting the struggle for stability in Russia. When the elections are over this December we must immediately renew our efforts on nuclear nonproliferation in the former Soviet Union. In this regard, let me commend the innovative effort at the University of Georgia's Center for East-West Trade to establish a nonproliferation center in Minsk to encourage the control of nuclear materials and technology exports.

Finally, we must continue our assertive engagement in the international marketplace. An important element of our cold war strategy following World War II was to promote the growth of strong free market economies among our democratic allies and previous enemies. We are now to some degree the victim of our own success in this policy. With the growing strength of the European and Pacific rim markets following the lowering of cold war trade barriers, the strength of our domestic prosperity depends upon our competitive engagement overseas.

There should be no question that it is in our interest to pursue the elimination of trade barriers both in our GATT negotiations and in NAFTA. The United States is now the lead player in the international economy and we cannot extract ourselves from it. We should not hamstring the American industries which are most competitive in this market by trying to fight the free-market economic forces which have made some of our industries less competitive. This is a fight that cannot be won by protectionist policies. We have to recognize that industries at risk would not have been saved by rejecting NAFTA. American industry can compete and win in the global economy if given a fair shot at open markets, and that's what NAFTA gives us.

In conclusion, those of us prone to criticize the administration's foreign policy must acknowledge the realities of decisionmaking in this area. Despite every effort at designing foreign policy proposals, the Secretary of State's workday often begins not with some plan he desires to implement, but rather with reacting to some action already being implemented by some other nation's foreign minister. He also has to distinguish between the policy most desirable and what is possible under the given circumstances. Former Secretary of State Kissinger put it this way:

> The policymaker must be concerned with the best that can be achieved, not just the best that can be imagined. He has to act in a fog of incomplete knowledge without the information that will be available later to the analyst. He knows—or should know—that he is responsible for the consequences as well as for the benefits of success. He may have to qualify some goals, not because they would be undesirable if reached but because the risks of failure outweigh potential gains. He must often settle for the gradual, much as he might prefer the immediate. He must compromise with others, and this means to some extent compromising with himself.

What I am urging here is unemotional focus and assertive engagement. The basis for this policy is an old one. Let us remember the words of John Quincy Adams that America should be "the well-wisher to the freedom and independence of all" but the "champion and vindicator only of her own."

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. WASHINGTON (at the request of Mr. GEPHARDT) for November 19, 20, and 21 on account of official business.

Mr. ROMERO-BARCELÓ (at the request of Mr. GEPHARDT) for today on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MOORHEAD) to revise and extend their remarks and include extraneous material:)

Mr. KASICH, for 60 minutes, today.

Mr. SHAYS, for 60 minutes, today.

(The following Members (at the request of Mr. VENTO) to revise and extend their remarks and include extraneous material:)

Ms. MCKINNEY, for 5 minutes, today.

Mr. STARK, for 5 minutes, today.

Mr. FORD of Michigan, for 5 minutes, today.

Mr. SWIFT, for 5 minutes, today.

Mr. FALEOMAVAEGA, for 60 minutes, today.

Mr. HOYER, for 30 minutes, on November 20.

Mr. GONZALEZ, for 60 minutes each day, on November 20, 21, and 22.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. ROWLAND, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. DORNAN, for 60 minutes each day, on November 20 and 21.

(The following Member (at the request of Mr. JOHNSON of Georgia) to revise and extend his remarks and include extraneous material:)

Mr. HINCHEY, for 30 minutes, on November 20.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. MOORHEAD) and to include extraneous material:)

Mr. PACKARD.
Mr. HOBSON.
Mr. SOLOMON.
Mr. PETRI in two instances.
Mrs. BENTLEY.
Mr. FRANKS of New Jersey.
Mr. BURTON of Indiana.
Mr. CRAPO.
Mr. KNOLLENBERG.
Mr. KINGSTON.
Mr. UPTON.
Mr. BOEHLERT.
Mrs. MEYERS of Kansas.
Mr. EMERSON.

(The following Members (at the request of Mr. VENTO) and to include extraneous material:)

Mr. KANJORSKI.
Mr. FORD of Michigan.
Mr. MILLER of California.
Mr. TRAFICANT.
Mr. WYDEN.
Ms. BYRNE.
Mr. DIXON.
Mr. UNDERWOOD.
Mr. HOYER.
Mr. MINETA.
Mr. JOHNSTON of Florida.
Mr. MARKEY.
Mr. BILBRAY.
Mr. HOCHBRUECKNER.
Mr. SLATTERY.
Mr. COYNE.
Mr. TAUZIN.
Mr. BRYANT.

(The following Members (at the request of Mr. JOHNSON of Georgia) and to include extraneous material:)

Mr. MENENDEZ.
Mrs. SCHROEDER.
Mr. POMEROY.
Mr. ACKERMAN.
Mr. SCHUMER.
Mr. STARK.
Mrs. JOHNSON of Connecticut.
Mr. COLLINS of Georgia in two instances.
Mr. SWETT.
Mr. NADLER.
Mr. BROWN of California.
Mrs. COLLINS of Illinois.
Mr. KILDEE.
Ms. ESHOO.
Mr. TOWNS.
Mr. RICHARDSON.
Mr. KREIDLER.

ADJOURNMENT

Mr. JOHNSON of Georgia. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 32 minutes p.m.) the House adjourned until tomorrow, Saturday, November 20, 1993 at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2174. A letter from the Acting Comptroller General, the General Accounting Office, transmitting a review of the President's first special impoundment message for fiscal year 1994, pursuant to 2 U.S.C. 685 (H. Doc. No. 103–171); to the Committee on Appropriations and ordered to be printed.

2175. A letter from the Director, Office of Management and Budget, transmitting OMB estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1998 resulting from passage of S. 616, pursuant to Public Law 101–508, section 13101(a) (104 Stat. 1388–582); to the Committee on Government Operations.

2176. A letter from the Director, Office of Management and Budget, transmitting OMB's estimate of the amount of discretionary new budget authority and outlays for the current year (if any) and the budget year provided by H.R. 2520, and H.R. 3116, pursuant to Public Law 101–508, section 13101(a) (104 Stat. 1388–578; to the Committee on Government Operations.

2177. A letter from the Chairman, Panama Canal Commission, transmitting the semiannual report of the Office of the Inspector General for the period April 1, 1993 through September 30, 1993, pursuant to Public Law 95–452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

2178. A letter from the Director, Office of Personnel Management, transmitting the agency's annual report on drug and alcohol abuse prevention, treatment, and rehabilitation programs and services for Federal civilian employees covering fiscal year 1992, pursuant to 5 U.S.C. 7363; to the Committee on Post Office and Civil Service.

2179. A letter from the Administrator, Health Care Financing Administration, Department of Health and Human Services, transmitting a report on the cost effectiveness of extending Medicare coverage for therapeutic shoes to beneficiaries with severe diabetic foot disease, pursuant to 42 U.S.C. 1395 note; jointly, to the Committees on Ways and Means and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. GONZALEZ: Committee of conference. Conference report on S. 714. An act to provide funding for the resolution of failed savings associations, and for other purposes (Rept. 103–380). Ordered to be printed.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 3514. A bill to clarify the regulatory oversight exercised by the Rural Eletrification Administration with respect to certain electric borrowers (Rept. 103–381). Referred to the Committee of the Whole House on the State of the Union.

Mr. STUDDS: Committee on Merchant Marine and Fisheries. H.R. 3509. A bill to approve a Governing International Fisheries Agreement; with an amendment (Rept. 103–382). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee of conference. Conference report on H.R. 1268. A bill to assist the development of tribal judicial systems, and for other purposes (Rept. 103–383). Ordered to be printed.

Mr. MOAKLEY: Committee on Rules. House Resolution 316. Resolution providing for the consideration of the bill (H.R. 51) to provide for the admission of the State of New Columbia into the Union (Rept. 103–384). Referred to the House Calendar.

Mr. DERRICK: Committee on Rules. House Resolution 317. Resolution the title of which is not available (Rept. 103–385). Referred to the House Calendar.

Mr. CLAY: Committee on Post Office and Civil Service. H.R. 3345. A bill to amend title 5, United States Code, to eliminate certain restrictions on employee training; to provide temporary authority to agencies relating to voluntary separation incentive payments, and for other purposes (Rept. 103–386). Referred to the Committee of the Whole House on the State of the Union.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X the following action was taken by the Speaker:

The Committee on the Judiciary discharged from further consideration of H.R. 3. Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. HYDE (for himself, Mr. MICHEL, Mr. GINGRICH, Mr. ARMEY, Mr. HUNTER, Mr. MCCOLLUM, Mr. DELAY, Mr. PAXON, Mr. FISH, Mr. MOORHEAD, Mr. GEKAS, and Mr. LIVINGSTON):

H.R. 3545. A bill to reauthorize the independent counsel statute, and for other purposes; to the Committee on the Judiciary.

By Mr. TAUZIN (for himself, Mr. OXLEY, Mrs. FOWLER, Mr. ENGLISH of Oklahoma, Mr. JEFFERSON, Mr. SMITH of New Jersey, Mr. UPTON, Mr. JACOBS, Mr. BARCIA of Michigan, Mr. BACHUS of Alabama, Mr. BEVILL, Mr. GILMAN, Mr. STUMP, Mr. DICKEY, Mr. HANCOCK, Mr. MCCRERY, Mr. INHOFE, Mr. PAYNE of Virginia, Mr. EMERSON, Mr. SKELTON, Mr. LANCASTER, Mr. BRYANT, and Mr. BISHOP):

H.R. 3546. A bill to provide for the establishment of a program for safety, development, and education in the propane gas industry for the benefit of propane consumers and the public, and for other purposes; jointly, to the Committees on Energy and Commerce and Science, Space, and Technology.

By Mr. WYDEN:

H.R. 3547. A bill to amend the Federal Food, Drug, and Cosmetic Act to ensure that human tissue intended for transplantation is safe and effective, and for other purposes; to the Committee on Energy and Commerce.

By Mr. KENNEDY (for himself, Mr. BONIOR, Mr. MONTGOMERY, Mr. RIDGE, Mr. PAYNE of Virginia, and Mr. PETERSON of Florida):

H.R. 3548. A bill to require the Secretary of the Treasury to mint coins in commemoration of the 250th anniversary of the birth of Thomas Jefferson, Americans who have been prisoners of war, the Vietnam Veterans Memorial on the occasion of the 10th anniversary of the memorial, and the Women in Military Service for America Memorial, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. COLLINS of Georgia:

H.R. 3549. A bill to amend the Internal Revenue Code of 1986 to provide that certain transportation expenses of employers incurred for the participation in the former Soviet Union of their employees in professional or technical programs are allowable as a business deduction; to the Committee on Ways and Means.

By Mr. KANJORSKI (for himself, Mr. GEPHARDT, Mr. BONIOR, Mr. BROWN of California, Mr. VALENTINE, Mr. RICHARDSON, Mr. RIDGE, Mrs. ROUKEMA, Mr. HOYER, Mr. MFUME, Mr. KLINK, Mr. KLEIN, Ms. KAPTUR, Ms. MCKINNEY, Mr. HINCHEY, Ms. SCHENK, Mr. MURTHA, Mr. BORSKI, Mr. HOLDEN, Mr. FOGLIETTA, Mr. MCHALE, Mr. MURPHY, Mr. BLACKWELL, Mr. FINGERHUT, Mr. BARCA of Wisconsin, Mr. ANDREWS of New Jersey, Mr. BACCHUS of Florida, Mr. STUPAK, Mrs. THURMAN, Mr. BARRETT of Wisconsin, Mrs. UNSOELD, Ms. MARGOLIES-MEZVINSKY, Mr. ROTH, Mr. SHAYS, Mr. DOOLEY, Mr. DERRICK, Ms. VELÁZQUEZ, Mr. MCDADE, Mr. WELDON, Mr. TAYLOR of Mississippi, Mr. SAWYER, Mr. BILBRAY, Mr. MORAN, Ms. SLAUGHTER, Mrs. MINK, Mr. ORTON, Mr. FAZIO, Ms. SHEPHERD, Mr. LEWIS of Georgia, and Mr. BISHOP):

H.R. 3550. A bill to foster economic growth, create new employment opportunities, and strengthen the industrial base of the United States by providing credit for businesses and by facilitating the transfer and commercialization of Government-owned patents, licenses, processes, and technologies, and for other purposes; jointly, to the Committees on Banking, Finance and Urban Affairs, Science, Space, and Technology, the Judiciary, and Ways and Means.

By Mr. COLLINS of Georgia:

H.R. 3551. A bill to amend title XVIII of the Social Security Act to require renal dialysis facilities to make services available on a 24-hour basis as a condition of participation under the Medicare Program; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mrs. COLLINS of Illinois:

H.R. 3552. A bill respecting market exclusivity for certain drugs; to the Committee on Energy and Commerce.

By Mr. COSTELLO:

H.R. 3553. A bill to provide for a competition to select the architectural plans for a museum to be built on the East St. Louis portion of the Jefferson National Expansion Memorial, and for other purposes; to the Committee on Natural Resources.

By Mr. CRAPO:

H.R. 3554. A bill to require the exchange of National Forest System lands in the Targhee National Forest in Idaho for non-Federal lands within the forest in Wyoming; to the Committee on Natural Resources.

By Ms. ESHOO:

H.R. 3555. A bill to coordinate environmental technology and research of the Federal Government, and for other purposes.

By Mr. FRANKS of Connecticut:

H.R. 3556. A bill to provide for, and to provide constitutional procedures for the imposition of, the death penalty for causing death through the use of a bomb or other destructive device; to the Committee on the Judiciary.

H.R. 3557. A bill to require the establishment of a Federal system for the purpose of conducting background checks to prevent the employment of child abusers by child care providers, to establish a Federal point-of-purchase background check system for screening prohibited firearms purchasers, to provide accurate and immediately accessible records for law enforcement purposes, to assist in the identification and apprehension of violent felons, and to assist the courts in determining appropriate bail and sentencing decisions; to the Committee on the Judiciary.

H.R. 3558. A bill to provide Federal penalties for drive-by shootings; to the Committee on the Judiciary.

By Mr. HALL of Ohio:

H.R. 3559. A bill to amend the Dayton Aviation Heritage Preservations Act of 1992, and for other purposes; to the Committee on Natural Resources.

By Mr. HEFLEY:

H.R. 3560. A bill to establish certain requirements relating to the transfer or disposal of public lands managed by the Bureau of Land Management, and for other purposes; to the Committee on Natural Resources.

By Mrs. JOHNSON of Connecticut (for herself, Mr. GREENWOOD, Ms. MCKINNEY, Ms. VELÁZQUEZ, Mr. ACKERMAN, Mr. BEILENSON, Mr. FILNER, Mr. HOCHBRUECKNER, Mr. SCOTT, Mr. SERRANO, Mrs. UNSOELD, Ms. WATERS, and Ms. WOOLSEY):

H.R. 3561. A bill to amend the Public Health Service Act to reauthorize adolescent family life demonstration projects, and for other purposes; to the Committee on Energy and Commerce.

By Mr. KILDEE (for himself and Mr. FORD of Michigan):

H.R. 3562. A bill to provide for the collection and dissemination of statistics designed to show the condition and progress of education in the United States, to promote and improve the cause of education throughout the Nation, and for other purposes; to the Committee on Education and Labor.

By Mr. KINGSTON:

H.R. 3563. A bill to provide for an exemption for certain U.S.-flag ships from radio operator and equipment requirements; to the Committee on Energy and Commerce.

By Mr. LIPINSKI:

H.R. 3564. A bill to amend section 255 of the National Housing Act to make homeowners who are at least 50 years of age and disabled or blind eligible for home equity conversion mortgages insured under such section; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MARKEY:

H.R. 3565. A bill to provide regulatory incentives to promote national treatment by foreign countries to U.S. providers of certain financial and communications services, and for other purposes; to the Committee on Energy and Commerce.

By Mr. MEEHAN:

H.R. 3566. A bill to amend the Federal Election Campaign Act of 1971 and related laws to establish incentives to limit the cost of campaigns for the Congress, and for other purposes; jointly, to the Committees on House Administration, Post Office and Civil Service, and Energy and Commerce.

By Mr. MINETA (for himself, Mr. MCDADE, Mr. WILSON, Mr. VENTO, Mr. TRAFICANT, Mr. DUNCAN, and Ms. NORTON) (all by request):

H.R. 3567. A bill to amend the John F. Kennedy Center Act to transfer operating responsibilities to the Board of Trustees of the John F. Kennedy Center for the Performing Arts, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. MINGE:

H.R. 3568. A bill to support and develop environmentally advanced technologies education curricula; jointly, to the Committees on Education and Labor and Science, Space, and Technology.

By Mrs. MORELLA:

H.R. 3569. A bill to amend the Public Health Service Act to provide for an increase in the amount of Federal funds expended to conduct research on alcohol abuse and alcoholism among women; to the Committee on Energy and Commerce.

By Mr. PETRI (for himself, Mr. COX, Mr. ARMEY, Mr. LEVY, and Mr. ROHRABACHER):

H.R. 3570. A bill to amend the Federal Deposit Insurance Act to provide for a system of insuring the deposits of depository institutions through a self-regulating system of cross-guarantees, to protect taxpayers against deposit insurance losses, and for other purposes; jointly, to the Committees on Banking, Finance and Urban Affairs, the Judiciary, and Ways and Means.

By Mr. POMEROY:

H.R. 3571. A bill to amend the Federal Election Campaign Act of 1971 to limit expenditures in House of Representatives elections; to the Committee on House Administration.

By Mr. RICHARDSON (for himself, Mr. BOUCHER, Mr. BROWN of Ohio, Mr. MANTON, Mr. MARGOLIES-MEZVINSKY, and Mr. WELDON):

H.R. 3572. A bill to establish minimum standards for the training and certification of environmental professionals performing phase I environmental site assessments; to the Committee on Energy and Commerce.

By Mr. ROWLAND (for himself and Mr. BILIRAKIS):

H.R. 3573. A bill to amend title XIX of the Social Security Act to promote demonstrations by States of alternative methods of delivering health care services through community health authorities; to the Committee on Energy and Commerce.

By Mrs. SCHROEDER:

H.R. 3574. A bill to amend title 10, United States Code, to provide improved benefits for former spouses of certain members of the uniformed services voluntarily or involuntarily discharged during the reduction in levels of military personnel; to the Committee on Armed Services.

By Mr. STENHOLM:

H.R. 3575. A bill to amend title 18, United States Code, to provide more complete protection to animal enterprises and the people associated with them; to the Committee on the Judiciary.

By Mr. TAUZIN:

H.R. 3576. A bill to clarify the tariff classification of certain organophosphorous compounds and preparations thereof; to the Committee on Ways and Means.

By Mr. WASHINGTON (for himself, Mr. FRANKS of Connecticut, and Mr. TOWNS):

H.R. 3577. A bill to establish a center for rare disease research in the National Institutes of Health, and for other purpose; to the Committee on Energy and Commerce.

By Ms. WATERS:

H.R. 3578. A bill to authorize appropriations for the California Afro-American Museum; to the Committee on Natural Resources.

By Mr. ACKERMAN:

H.R. 3579. A bill to renew and extend patents relating to certain devices that aid in the acceleration of bodily tissue healing and the reduction of pain; to the Committee on the Judiciary.

By Mr. COOPER (for himself and Mr. Flake):

H.J. Res. 297. Joint resolution to designate 1994 as "the Year of Gospel Music"; to the Committee on Post Office and Civil Service.

By Mr. ORTON:

H.J. Res. 298. Joint resolution proposing an amendment to the Constitution of the United States to limit the terms of Representatives and Senators, and to provide for a 4-year term for Representatives; to the Committee on the Judiciary.

By Mr. MARKEY (for himself, Mr. Hoyer, Mr. Wilson, Ms. Norton, Mr. Klein, Mr. Smith of New Jersey, Mr. Synar, Miss Collins of Michigan, Mr. Levy, Mrs. Lloyd, Mrs. Meek, Mr. Reynolds, Mr. Olver, Mr. Solomon, Mr. Dornan, Mr. Sabo, Mr. Oberstar, Mr. Rahall, Mr. Ortiz, Mr. Kennedy, Mr. Royce, and Ms. Molinari):

H. Con. Res. 183. Concurrent resolution expressing the sense of the Congress regarding the impeded delivery of natural gas for heating to the civilian population of Bosnia and Herzegovina; to the Committee on Foreign Affairs.

By Mrs. MEYERS of Kansas:

H. Con. Res. 184. Concurrent resolution expressing the sense of Congress that the U.S. Trade Representative should establish a new position of Assistant U.S. Trade Representative for Small Business; to the Committee on Ways and Means.

By Mr. FRANKS of Connecticut:

H. Res. 318. Resolution expressing the sense of the House of Representatives that, by January 1, 1998, States should eliminate the use of cash for payment of welfare benefits; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 6: Mr. McCloskey, Mr. Engel, and Mr. Markey.

H.R. 8: Mr. Evans.

H.R. 66: Mr. Engel.

H.R. 68: Mr. Engel.

H.R. 133: Mr. Allard, Mr. Zeliff, and Mr. Goodlatte.

H.R. 214: Mr. Goodlatte.

H.R. 324: Mr. Hoyer.

H.R. 429: Mr. Hobson, Mr. Schaefer, Mr. Schiff, and Mrs. Vucanovich.

H.R. 431: Mr. Owens.

H.R. 476: Mr. Klug, Mr. Hilliard, Mr. Montgomery, Mr. King, and Mr. Abercrombie.

H.R. 522: Mr. Hughes and Mr. Andrews of Maine.

H.R. 602: Mr. Upton and Mr. Knollenberg.

H.R. 606: Mr. Coleman and Mr. Hamburg.

H.R. 657: Mr. Goodlatte.

H.R. 662: Mrs. Vucanovich.

H.R. 799: Mr. Slattery.

H.R. 830: Mr. Engel, Ms. Margolies-Mezvinsky, and Mr. Johnston of Florida.

H.R. 967: Ms. Furse and Mr. Mica.

H.R. 1055: Mr. Johnston of Florida, Mr. Evans, Mr. Scott, and Mr. Hughes.

H.R. 1080: Mrs. Vucanovich.

H.R. 1108: Mr. Kim.

H.R. 1133: Mr. Gillmor.

H.R. 1141: Ms. Lambert.

H.R. 1156: Mr. Moorhead.

H.R. 1300: Mr. Doolittle and Mr. Goodlatte.

H.R. 1421: Mr. Thompson.

H.R. 1455: Mr. Brown of California.

H.R. 1457: Mr. Hamburg.

H.R. 1461: Mr. Bilbray.

H.R. 1490: Mr. Camp, Mr. Solomon, Mr. Crane, Mr. Lightfoot, and Mr. Barrett of Nebraska.

H.R. 1504: Mr. Royce.

H.R. 1534: Ms. Furse and Mr. Romero-Barceló.

H.R. 1566: Mr. Chapman.

H.R. 1607: Mr. Klug.

H.R. 1627: Ms. Long.

H.R. 1697: Mrs. Schroeder.

H.R. 1702: Mr. Zimmer and Mr. Zeliff.

H.R. 1705: Mr. Matsui, Mr. Bilbray, Ms. Byrne, Mr. Wilson, Mr. Barca of Wisconsin, Mr. Evans and Mr. Hochbrueckner.

H.R. 1706: Mr. Conyers.

H.R. 1722: Mr. Ford of Michigan, Mr. Andrews of Maine, Mr. Rush, Mr. Machtley, Mr. McCloskey, Ms. Velazquez, Mr. Boucher, and Mr. Glickman.

H.R. 1770: Ms. Lambert.

H.R. 1771: Ms. Lambert.

H.R. 1795: Mr. Engel.

H.R. 1897: Mr. Lancaster.

H.R. 1900: Mr. Hinchey, Mr. Thompson, and Mr. Dixon.

H.R. 1910: Mr. Taylor of North Carolina, Mr. Cox, Mr. Dreier, Mr. Ackerman, Mr. Ravenel, Mr. Cunningham, Mr. Baker of California, Ms. Pryce of Ohio, and Mr. Bilirakis.

H.R. 1933: Mr. Gutierrez, Mr. Mfume, and Mr. Synar.

H.R. 1968: Mr. Sundquist.

H.R. 2014: Mr. Zimmer.

H.R. 2031: Mr. Ravenel.

H.R. 2032: Mr. Klug, Mr. Montgomery, Mr. Vento, Mr. Frost, and Mr. Evans.

H.R. 2064: Mr. McHugh, Mr. Levy, Mr. Torkildsen, Ms. English of Arizona, and Mr. Machtley.

H.R. 2135: Mr. Kildee.

H.R. 2140: Mr. Engel.

H.R. 2148: Mr. Portman.

H.R. 2169: Mr. Furse and Mr. Hilliard.

H.R. 2171: Mr. Clyburn, Mr. Orton, and Mr. Houghton.

H.R. 2260: Mr. Klug.

H.R. 2331: Mr. Engel.

H.R. 2375: Mr. Romero-Barcelo.

H.R. 2394: Mrs. Thurman.

H.R. 2395: Mrs. Thurman.

H.R. 2396: Mr. Andrews of Maine.

H.R. 2414: Mr. Engel.

H.R. 2455: Mr. Kildee.

H.R. 2467: Mr. Bilirakis, Mr. Dixon, Mr. Engel, Ms. Furse, Mr. Gejdenson, Mr. Gibbons, Mr. Klug, Mrs. Mink, Ms. Molinari, Mr. Porter, Ms. Slaughter, and Ms. Snowe.

H.R. 2481: Mr. Engel

H.R. 2512: Mr. Herger of California.

H.R. 2623: Mr. Grams, Mr. Hinchey, Mr. Armey, and Ms. Kaptur.

H.R. 2720: Ms. Lambert.

H.R. 2727: Mr. Andrews of Maine.

H.R. 2759: Mr. Callahan, Mr. Coleman, and Mr. McDermott.

H.R. 2927: Mr. Sensenbrenner, Mr. Ewing, and Mr. Lewis of Florida.

H.R. 2958: Ms. Furse.

H.R. 3017: Mr. Glickman.

H.R. 3043: Mr. Murphy.

H.R. 3080: Mr. Crapo, Mr. McCandless, and Mr. Smith of Oregon.

H.R. 3087: Mr. Sabo, Mr. Olver, and Mr. Abercrombie.

H.R. 3088: Mr. Gunderson, Mr. Quinn, Ms. Velazquez, and Mr. Paxon.

H.R. 3098: Ms. Furse.

H.R. 3109: Mr. Goodling.

H.R. 3130: Mr. Murphy and Ms. Molinari.

H.R. 3146: Mr. Armey.

H.R. 3183: Mr. Portman and Mr. Bilirakis.

H.R. 3224: Mr. Dellums, Mr. Lancaster, Mr. Kopetski, and Mr. Stark.

H.R. 3225: Mr. Flake.

H.R. 3233: Mr. Fields of Texas and Mr. Whitten.

H.R. 3246: Mr. Coppersmith and Mr. Frost.

H.R. 3269: Mr. Bonior, Mrs. Mink, and Mr. Johnson of Florida.

H.R. 3283: Mr. Meehan.

H.R. 3328: Mr. Klug.

H.R. 3342: Mr. Ortiz, Mr. Serrano, Mr. Washington, Mr. Gordon, Mr. Payne of New Jersey, Mr. Becerra, Mr. Brown of Ohio, Ms. Brown of Florida, Mr. Coppersmith, Mr. Penny, Ms. Byrne, Mr. Costello, Mr. de Lugo, Mr. Coyne, Mr. Sabo, Mr. Parker, Mr. Synar, Mr. Coleman, Mrs. Morella, Mr. Goss, Mr. Hefley, Mr. Rahall, Mr. Packard, Mr. Pickle, Mrs. Schroeder, Mr. Lazio, Mr. Torricelli, Ms. Kaptur, Mr. Laughlin, Mr. Myers of Indiana, Mr. Hunter, Mr. Dingell, Mrs. Meek, Mr. Skelton, Mr. Weldon, Mrs. Bentley, Mr. Portman, Mr. Horn of California, Mr. Bartlett of Maryland, Mr. Ravenel, Ms. Snowe, Mr. Dornan, Mr. Whitten, Mr. Hutto, Mr. Richardson, Mr. Hansen, Mrs. Lloyd, Mr. Ballenger, Mr. Coble, Mr. Skeen, Mr. Towns, Mr. Kopetski, Mr. Lewis of Georgia, Mr. Flake, Mr. Carr, Mr. Hefner, Mr. Lehman, Mr. Neal of Massachusetts, Mr. Meehan, Mr. Taylor of Mississippi, Mrs. Unsoeld, Ms. Molinari, Mr. Paxon, Mr. Mineta, Mr. Frost, Mr. Boehlert, Mr. Quillen, Mr. Duncan, Ms. Norton, Mr. Oberstar, Mr. Mazzoli, Ms. Eshoo, Mr. Gunderson, Mr. Fingerhut, Mr. Nussle, Mr. Visclosky, Mr. Clyburn, Mr. Martinez, Mr. Sanders, Mr. Clay, Mr. Wise, Mr. Hamburg, Mr. McCloskey, Mr. Manton, Mr. Sundquist, Mrs. Mink, Mr. Beilenson, Ms. Pelosi, Mr. Volkmer, Mr. Bishop, Mr. Moakley, Mr. Smith of Michigan, Mr. Mfume, Mr. Price of North Carolina, Mr. Vento, Mr. Mann, Mrs. Collins of Illinois, Mr. Brown of California, Mr. Faleomavaega, Mr. Stupak, Mr. Moran, Mr. Jacobs, Mr. Lipinski, Mr. Clement, Mr. Deutsch, Miss Collins of Michigan, Mr. Williams, Mr. Derrick, Mr. Oxley, Mr. Lewis of California, Mr. Hobson, Mr. Gilman, Mr. Collins of Georgia, Mr. Wilson, Mr. Klink, Mr. Livingston, Mr. Yates, Mr. Evans, Mr. Borski, Mr. Inhofe, Mr. Thornton, Ms. McKinney, Ms. Waters, Ms. Harman, Ms. Woolsey, Ms. Eddie Bernice Johnson of Texas, Mr. Durbin, Mr. Hastings, Mr. Murphy, Mr. Hyde, Mr. Regula, Mrs. Johnson of Connecticut, Mr. Blute, Mr. McCurdy, Mr. Hayes, Mr. Rohrabacher, Mr. Kim, Mr. Kanjorski, Mr. Barton of Texas, Mr. Hughes, Mr. Edwards of California, Ms. DeLauro, Ms. Slaughter, Mrs. Clayton, Ms. Roybal-Allard, Mr. Miller of California, Mr. Stokes, Mr. Holden, Ms. Shepherd, Mr. Scott, Mr. Valentine, Mr. Barcia of Michigan, Mr. Engel, Mr. Mollohan, Ms. Dunn, Mr. Berman, Mr. Bilbray, Mr. Franks of Connecticut, Mr. Tucker, Mr. Foglietta, Mr. Stump, Mr. Blackwell, and Mr. Jefferson.

H.R. 3392: Mr. Gillmor, Ms. Danner, Mr. Parker, Mr. Blute, Mr. Ballenger, Mr. Volkmer, Mr. Lightfoot, Mr. Nussle, Mr. Condit, Mr. Kyl, Mr. McCurdy, Mr. Stearns, and Mr. Sarpalius.

H.R. 3424: Mr. Lewis of Florida, Mr. Bryant, Mr. Ramstad, and Mr. Franks of New Jersey.

H.R. 3434: Mr. Ackerman, Mr. Edwards of California, Mr. Evans, Mr. Faleomavaega, Mr. FILNER, Mr. FROST, Mr. MATSUI, Mr. OWENS, and Mr. YATES.

H.R. 3440: Mr. BERMAN, Mr. CUNNINGHAM, Mr. DELLUMS, Mr. KOPETSKI, Mr. LANCASTER, Mr. STARK, and Mr. TORRES.

H.R. 3490: Mrs. MORELLA, Mr. ROSE, Mr. BOUCHER, Mr. GRANDY, Mr. HEFNER, Mr. QUILLEN, and Mr. SPENCE.

H.R. 3498: Mr. BEILENSON, Mr. ROMERO-BARCELO, Mr. LAROCCO, and Mr. BACCHUS of Florida.

H.R. 3509: Mr. TAUZIN, Mr. COBLE, and Mr. LIPINSKI.

H.J. Res. 90: Mr. EVANS, Mr. DUNCAN, Mr. SCHIFF, Mr. ROMERO-BARCELO, and Mr. SHAW.

H.J. Res. 175: Mr. BAKER of California, Ms. DUNN, Mr. DIAZ-BALART, Mr. CONDIT, Mrs. LLOYD, Mr. MYERS of Indiana, Mr. MCCRERY, Mr. OLVER, Mr. SARPALIUS, Mr. STENHOLM, Ms. SNOWE, Mr. WILSON, Mr. ZIMMER, Mr. BECERRA, Mr. DURBIN, Mr. DORNAN, Ms. CANTWELL, Mr. COPPERSMITH, Mr. FLAKE, Mr. INSLEE, Mrs. MINK, Mr. RUSH, Mr. RAHALL, Mr. STARK, Mrs. UNSOELD, Mr. HOAGLAND, Mr. HOYER, Ms. ENGLISH of Arizona, Ms. MCKINNEY, Mr. MILLER of California, Mr. REYNOLDS, Mr. ROEMER, Mr. SANGMEISTER, Mr. TUCKER, Mr. CRANE, Mr. ARCHER, Mr. GIBBONS, Mr. SMITH of Iowa, Mr. HAMBURG, Mr. STUDDS, Mr. TAYLOR of North Carolina, Mr. TAYLOR of Mississippi, and Mr. BARRETT of Wisconsin.

H.J. Res. 257: Mr. HOEKSTRA, Mr. FRANKS of New Jersey, Mr. SMITH of Texas, Mr. APPLEGATE, Mr. PALLONE, Mr. ORTIZ, Mr. NEAL of Massachusetts, Mr. VOLKMER, Mr. BORSKI, Mr. SCHIFF, Mr. GINGRICH, and Mr. CHAPMAN.

H.J. Res. 266: Ms. SNOWE and Mr. HOYER.

H.J. Res. 272: Mr. LEHMAN, Mr. RAHALL, Mr. SLATTERY, Mr. BARTLETT of Maryland, Mr. BROWN of California, Mr. RICHARDSON, Ms. SCHENK, Mr. HAMBURG, Mr. LEWIS of Georgia, and Mr. LAFALCE.

H.J. Res. 278: Mr. RAHALL, Mr. BORSKI, Mr. TALENT, Mr. OBERSTAR, Mr. MCDERMOTT, Mr. VALENTINE, and Mr. HUGHES.

H.J. Res. 285: Mr. BLUTE, Mr. CRAMER, Mr. SARPALIUS, Mr. POSHARD, Mr. TAYLOR of North Carolina, Mr. MCCLOSKEY, and Mr. HEFNER.

H. Con. Res. 4: Mr. HASTINGS.

H. Con. Res. 20: Mr. MANTON.

H. Con. Res. 110: Mr. PETE GEREN of Texas, Mr. CHAPMAN, and Mrs. MEEK.

H. Con. Res. 131: Mr. BATEMAN, Mr. STARK, Mr. PRICE of North Carolina, Mr. PAYNE of Virginia, Mr. SENSENBRENNER, Mr. SCHUMER, Mr. RAHALL, Mr. PENNY, Mr. SAWYER, Mr. FORD of Michigan, and Mr. SWETT.

H. Con. Res. 166: Mr. LIPINSKI.

H. Con. Res. 167: Mr. PALLONE, Mr. GEJDENSON, Mr. ANDREWS of Maine, Mr. MFUME, Mr. JOHNSON of South Dakota, Mr. ENGEL, Mr. FILNER, Mr. MINETA, Mr. MINGE, Mr. BROWN of Ohio, Mr. BARCIA of Michigan, Mr. WISE, Mr. ABERCROMBIE, Mr. BECERRA, Mr. VENTO, Mr. HINCHEY, Mr. OLVER, Mr. INSLEE, and Mr. LIPINSKI.

H. Res. 225: Mr. ALLARD, Mr. GUTIERREZ, Mr. KLUG, Ms. SHEPHERD, Mr. ZELIFF, and Mr. STRICKLAND.

H. Res. 234: Mr. BOEHNER, Mr. VENTO, Mr. REED, Mr. ARMEY, and Mr. GILLMOR.

H. Res. 290: Mr. SOLOMON, Mr. WALKER, Mr. BOEHNER, Ms. PRYCE of Ohio, and Mr. CRAPO.

SENATE—*Friday, November 19, 1993*

(Legislative day of Tuesday, November 2, 1993)

The Senate met at 9:15 a.m., on the expiration of the recess, and was called to order by the Honorable RUSSELL D. FEINGOLD, a Senator from the State of Wisconsin.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Come unto me, all ye that labour and are heavy laden, and I will give you rest.—Matthew 11:28.

God of our fathers, Father of all peoples, these have been days filled with hard work and long hours. And the Senators' work does not stop when the Senate is in recess or adjournment. Give the Senators wisdom and grace to accomplish the work they have to do, and grant that adjournment will be a profitable time for the Senators themselves, their families, and their constituents at home.

Sovereign Lord, our lives are like an open book to You. Thou knowest us in microscopic detail—past, present, and future. Aware of this, grant us openness to Your love, mercy, and grace, and help us to realize that Thou art not only a God far removed, but a Friend close at hand.

We pray this in His name who is Love Incarnate. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, November 19, 1993.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable RUSSELL D. FEINGOLD, a Senator from the State of Wisconsin, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. FEINGOLD thereupon assumed the Chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for not to extend beyond the hour of 9:45 a.m. with Senators permitted to speak therein for not to exceed 5 minutes each, with the time being controlled by the majority leader or his designee.

Mr. REID. Mr. President, I have been designated by the majority leader to handle the morning business time this morning, and I at this time give to myself whatever time I may consume.

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

HEALTH CARE FOR CHILDREN

Mr. REID. Mr. President, 23 years ago, I was elected Lieutenant Governor of the State of Nevada. It was, of course an exciting time in my life. I can remember, though, the first time I was brought back to reality. It was shortly after the Nevada State legislature was convened, and I was the presiding officer of that legislative body. The first day we were in session, a woman came to see me. She proceeded to tell me that if anyone knew she was there, she would get fired. She wanted me to keep in confidence those things that she told me, and I said I would do that.

She came to talk to me about children. She worked for the Nevada State Welfare Department, and she dealt principally with kids. She told me what the State of Nevada did not have is the ability for kids who were on welfare to have their teeth taken care of, and she proceeded to give me the names and histories of children who had rotting teeth, crooked teeth, and how it affected their lives.

Children would talk with their hands over their mouths all the time and, in effect, they became in many instances—especially those she related to me—social outcasts.

What she was asking me to do was to intercede with the Governor and the legislature to allow the State of Nevada to provide dental care for children. I was struck by her sincerity and her cause. As a result of that, I met with the Governor and I met with the State legislative leaders and we were able that year to have the State of Nevada change a long policy and provide dental benefits for children on welfare.

This was extremely important to the State of Nevada. There are people, as a result of the action taken by that legislature, who are now adults, 20 years old, 25 years old, who are leading normal productive lives, as a result of the fact that the State of Nevada allowed those kids to have dental work done for them.

Mr. President, I am pleased to see that President Clinton also recognizes the importance of dental services for our Nation's children. Under the President's health care reform proposal all children under 18 will receive coverage for dental care as part of the guaranteed benefits package. The benefit includes prevention and diagnosis, emergency dental treatment, and treatment of dental disease, all of which are extremely important and, as I outlined before, can mean the difference between a young person having a fulfilled life or one of social problems including staying in the welfare system their whole life, being involved in the criminal justice system and certainly being a burden on the educational system. So it is good that these proposals are part of the President's package.

Proper dental care and prevention is important for our children's health, appearance, and, as I mentioned, self-esteem.

Mr. President, Congress recently designated this Sunday, November 21, as National Children's Day. We have had Father's Day and we have had Mother's Day, but it is only during the past 5 years that we have had National Children's Day.

One of the most important issues facing American children today, however, is health care. In the United States, the greatest country in the history of the world, 12 million Americans under age 21 have absolutely no health insurance. Nine million children, 18 and under, have no coverage and 58 percent of uninsured children are dependents of full-time, full-year workers. Let me repeat that. Fifty-eight percent of uninsured children have parents who work full time.

The current discriminatory and unaffordable system affects children profoundly. President Clinton's proposal for universal coverage and comprehensive benefits adequately provides our children with the security and health care they so desperately need and have needed for a long period of time.

Something like this is long overdue and the longer we debate this issue, the longer we talk about this issue, the more our children will fall between the cracks. We must move forward with health care reform for children. Access to quality care for our children is essential to the fabric and future of our Nation.

In testimony before the Labor and Human Resources Committee, Dr. Howard Pearson, immediate past president of the American Academy of Pediatrics stated:

> The importance of addressing child health issues must not be viewed simply as an act of compassion. Providing children and adolescents access to quality health care, with an emphasis on prevention, is the single most important economic decision that will be made in the health care reform debate.

Dr. Pearson, Mr. President, has hit the nail on the head. What we do not provide our children today we will pay a far greater price for in the future.

A key example of how our system is letting our children down is in the area of immunizations. About half of all 2-year-olds in our country are not adequately protected from wholly preventable diseases, a fact which places this Nation third from the bottom of all countries in this Western Hemisphere.

The President's health care plan aggressively addresses this problem. Under the President's plan, immunizations will be fully covered and included in the benefits package. I say here also, as was said by Dr. Pearson, past president of the American Academy of Pediatrics, this is more than compassion. It is important because it will save this country money and make the United States a more productive country.

Under the President's plan there will be no copayment or deductible for this important preventive service. The President clearly recognizes that $1 invested today in a child's health will save $10 tomorrow on a sick child's medical costs. There cannot be enough emphasis placed on the importance of increased access and affordability of childhood immunizations. Failure to vaccinate children on time was found to be the primary cause of the 1989 measles epidemic, which was an epidemic that afflicted over 55,000 people by 1991, swallowed $160 million in health care costs alone, and claimed the lives of over 100 children under age 5.

The President's health care plan benefits children in other ways as well. One out of four children under age 6 rely upon Medicaid for basic health care benefits, but private physicians are turning these children away because Medicaid underpays a doctor by nearly $40 an individual per visit. Under the Health Security Act proposed by this administration, low-income families will have the same choice of plans as other families in the area. The disincentive for providing care to children on Medicaid will be erased. Low-income children will be able to receive the same treatment and coverage as other children.

The effects of integrating Medicaid into a new health care system will also relieve a great fiscal burden on State governments. By integrating Medicaid, slowing the growth in Medicare, pooling insurance purchasers, and reducing administrative costs, the President's plan will free needed funds in State budgets.

After reform, State dollars that were previously spent on health care can now be spent on education. Our children deserve safe classrooms, more classrooms, learning tools and technology, and a committed and compensated teaching force.

Mr. President, every child deserves a healthy start, but today approximately 15 million women of childbearing age in the United States have no insurance. When they give birth, most arrive at hospitals never having seen a doctor. For every $1 spent on prenatal care, at least $3 is saved in medical costs in the first year alone.

The President's health care plan will provide complete prenatal care to all families. This is significant. Mr. President, the average cost of prenatal care in our country is $400. It is an average. It is more some places, it is less in others. But think how much a premature birth costs. I was recently contacted, visited by two neonatologists from Nevada, and they confirmed what I just stated, that many women, especially teenagers who come to a hospital for delivery, have never seen a physician, and think how much that costs. If we could prevent premature births we would save $1,000 a day minimum for that child. There are many million-dollar premiums—that is the hospital and doctor bills of the first visit cost over $1 million. We simply need to stop that.

The President's plan also provides our Nation's adolescents with access to mental health care services and treatment for drug and alcohol abuse. On public radio today there was an account about the District of Columbia, how during the last 2 years marijuana abuse has gone up among teenagers from 5 percent to almost 50 percent in 2 years. It cannot be denied that our Nation's youth face many challenges today. With violence increasing in our schools, and a quarter of America's teenagers admitting to the use of illegal drugs under the age of 17, and a third of teenagers reported to be binge drinkers of alcohol, it is important we provide these services to our youth. That is, mental health services and treatment for alcohol and drug abuse.

We need to offer them help and extend an opportunity to reach their fullest potential.

That is another reason we should all join to support the administration's health care package. Remember, we are faced every day with lobbyists, lobbying for this special interest and that special interest. Children have no lobbyist, we must speak out for them.

We owe a safe and healthy future to our children. We must ensure that while we continue the debate on health care reform that we do not lose sight of the central issue of reform—health security—security in providing our children with a safe and healthy childhood. Every dollar we invest today to achieve that goal, we will reap at least tenfold in the future.

It is much easier on the wallet and the heart to keep a child well, healthy, and happy.

Mr. President, I yield 10 minutes to the junior Senator from Pennsylvania.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania is recognized for 10 minutes.

Mr. WOFFORD. I thank the Senator from Nevada.

FACES OF THE HEALTH CARE CRISIS—BLACK LUNG BENEFITS ACT

Mr. WOFFORD. Mr. President, as we wind up this session, we are considering vital legislation like the crime bill, which is crucial to improving the quality of life for families across this country. And it, too, is a health bill in a sense that if you go into an emergency room in a hospital today, you see the victims of violent crime and the cost to our society of violent crime. So action against crime is action for the health of the American people.

But I believe when we come back in January after the crime bill, as I wrote to the President yesterday, the next main order of business in this Congress and our country must be to enact a comprehensive health care reform plan which controls costs and guarantees coverage for every American throughout their lives and regardless of where they live or work, no matter whether they are sick or retired, no matter whether they are children or older Americans.

The debate over the Health Security Act will now proceed—and I believe, be completed—next year. In the meantime, we have to move forward on other pieces of legislation which will address the health care needs of Americans who have especially difficult problems.

For example, earlier this year I came to this floor to introduce legislation to deal with the plight of millions of retirees who face the prospect of losing the health care benefits they worked for and were promised.

I know this morning's focus is on children and, as a cosponsor of the National Children's Day resolution, I believe nothing's more important than ensuring that health care reform meets primary and preventive care needs of American children, so many of whom are today uninsured. But this morning I want to talk about another group—and one person in particular, who embodies the reality of the health care crisis at the other end of the age spectrum. For one of the concerns of children as they grow up is the health care of their parents and their grandparents as they reach the end of their working lives.

The issue of health care reform is often filled with complicated jargon and reams of overwhelming statistics. But behind the numbers, there is a more important bottom line: The cost that our current system is inflicting on millions of families in Pennsylvania and across the country.

For nearly a century, Pennsylvania coal miners provided the fuel that powered our Nation's factories and built our prosperity. Armand Brunozzi, of Jessup, PA, outside of Scranton, worked in the coal mines for nearly 40 years, starting when he was just 14 years old.

In the 1960's, Armand began to experience the symptoms of pneumoconiosis, which afflicts so many former miners after inhaling coal dust day after day, year after year. It is better known as black lung. Armand's father was also a miner, and he died from respiratory problems when Armand was only 4 years old. But there was no universal health insurance to take care of either one of them.

Today, at the age of 78, Armand has a serious respiratory problem. He cannot go for a long walk, especially in a strong wind. In fact, he can only walk for about a half a block before he can hardly breathe. He has trouble climbing steps and coughs and wheezes heavily and frequently.

The Federal Black Lung Program was created in 1969 to compensate miners like Armand Brunozzi, who find themselves severely disabled after years of hard work in dangerous conditions. But the Federal Black Lung Program has become a cumbersome and unresponsive bureaucracy. It does not do enough for the people it was meant to help. Armand Brunozzi is a perfect example.

Armand first filed for Federal black lung benefits in March 1979. That was the beginning of a 14-year legal battle which he is still fighting today. He has yet to see a single dime in benefits.

Twice he filed claims with a local office of the Department of Labor. And twice he was denied. That took 5 years.

Armand then got a hearing before an administrative law judge, but was again denied. Then he appealed to the Department of Labor's Benefits Review Board.

The Board sat on the case for nearly 2 years, asking over and over again for extensions.

Another administrative law judge denied Armand's claim in September of this year. The medical evidence was mixed, they said. Evidence often is. But the bottom line is this: Armand Brunozzi has had trouble breathing for over 25 years. He has offered plenty of medical evidence to prove that his condition is a direct result of years of inhaling coal dust. But Social Security remains his only source of income. He is still waiting for some compensation after nearly a decade and a half of battling the system.

Even if Armand finally wins his case, he may never be compensated as far back as 1979, when he first filed his claim. For years of discomfort, Armand Brunozzi may get nothing.

To help miners like Armand Brunozzi recover the benefits they deserve, I am joining with Senator SIMON and Senator ROBB today to introduce the Black Lung Benefits Restoration Act.

As Armand's case shows, the deck is often stacked against former miners when they file for benefits. The long odds have made it tough for many claimants to find lawyers willing to take their cases. This bill will level the playing field and make the process of applying for benefits simpler and fairer.

The bill also restricts the number of medical opinions that the Government or other defendants can submit as evidence; it helps widows and children collect benefits; and allows victims to refile cases.

In return for four decades of dangerous, back-breaking work, northeastern Pennsylvanians like Armand Brunozzi and southwestern Pennsylvanians like groups I will be speaking to later this morning gathered in Ebensburg and Belle Vernon have been mistreated by the system. These miners, like Armand Brunozzi, deserve the care they need to live a decent life. We owe them that. To those who will argue that we cannot afford to change, the real faces of the health care crisis answer that we cannot afford not to.

I yield the floor.

Mr. DASCHLE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from South Dakota.

Mr. DASCHLE. Let me commend the distinguished Senator from Pennsylvania for an excellent statement. His commitment to health care is second to none in this Chamber and it was again very indicative this morning.

LET US GIVE EVERY CHILD A HEALTHY START

Mr. DASCHLE. Mr. President, this Sunday America will pay tribute to its children with the observance of National Children's Day.

This day will give us the opportunity to reflect on the importance we place on our young people, who are 33 percent of the population but 100 percent of our future. As we celebrate our children and their potential, let us not forget that too many of them live in poverty, too many of them go hungry every day, and too many lack access to basic health care services that children of all other western nations take for granted.

Indeed, America's enormous strengths and its frustrating weaknesses are nowhere more evident than in the lives of its children.

Many of the problems our youth face are deeply rooted. They will require generations to reverse. Poverty, violence, and the disintegration of the family are not matters that public policies can easily solve in the short run.

The solution to one problem is within our grasp, however. That problem is the lack of access to health care.

Many nations with far fewer resources than the United States have guaranteed all of their citizens, especially their children, access to comprehensive health care services. No other western nation shuts the door on pregnant women in need of prenatal care, erects barriers to children obtaining immunizations, and forces its citizens to wait until they are ill before they can seek care.

America can do better.

THE SOLUTION: HEALTH REFORM

Fortunately, health care reform that brings with it guaranteed coverage of all children is finally within our reach. A growing number of Members of this body are now committed to reforming our country's health care system and ensuring that all Americans have access to a comprehensive set of benefits that will guarantee all of our children a healthy start in life.

They share a common view that any health reform proposal must be grounded in the principles of prevention, health security, and cost control.

Prevention, because it is far less costly and far more humane to prevent illnesses rather than treat them once they occur.

Health security, because only when all Americans have health coverage that can never be taken away, can our families prosper and our children be guaranteed a healthy start in life.

And cost control, because we must slow the growth in health care spending to reverse the erosion in wages and health benefits that hurts our workers and their families.

The Health Security Act introduced by this administration and cosponsored by 31 Senators, furnishes complete prenatal and well-baby care, immunizations, and preventive services, at no cost to the family. Today these services are covered by only about one-third of private insurance plans.

Most importantly, the bill assures our children and their families that their health care can never be taken away, regardless of their health or employment status.

Marian Wright Edelman, the president of the Children's Defense Fund and one of our country's most outspoken advocates for young people, recently noted that:

> Obtaining access to quality health care for all American children and pregnant women is something child advocates have dreamed of and worked toward for decades. Now, at long last, there is a real possibility of making that dream a reality * * * Child advocates must not allow this opportunity to be wasted.

The American Academy of Pediatrics shares Ms. Edelman's view. This week the academy issued a report card comparing how the major reform plans address children's health. Only the President's proposal showed progress or significant improvement in every category listed, from guaranteeing coverage to all Americans to preserving choice of providers and promoting health lifestyles.

Only the single-payer plan came close to getting the high marks the President's proposal received. Other plans fell disappointingly short on far too many categories important to our Nation's children.

THE PULS FAMILY

As we think about health reform and how it will benefit our Nation's citizens, we should ask ourselves: Who are we really trying to help?

We have all heard the statistics: Over 9 million of our Nation's children have no health insurance, and 500,000 pregnant women lack coverage that entitles them to basic prenatal care services. Tens of millions of families slip in and out of the ranks of the uninsured each year.

But let us not forget that behind each of these statistics is real person or family that has been deeply affected by our health system's failings.

A particular case of a family I met this past weekend in Sioux Falls, SD, comes to my mind. A family whose plight is sadly all too common.

Jean and Greg Puls have a 10-year-old son, Matthew, who has had diabetes since he was four. Matthew had coverage under a policy issued by Mrs. Puls' former employer, Sioux Valley Hospital. The family didn't dare drop this policy, because they feared they would have trouble finding another insurer willing to cover their son. They were right.

Their troubles started when Sioux Valley Hospital switched its health insurer, and the new company agreed to cover Matthew only until the family's health insurance contract expired in early 1994. Fearing any gaps in coverage, the family began a frantic search for an alternative insurance plan.

Company after company refused them coverage because of Matthew's health condition. The Puls watched the rejection letters pile up, feeling more discouraged with each new notice. Mrs. Puls describes this experience as frustrating and discouraging.

With the deadline for their policy's expiration approaching, Mr. and Mrs. Puls finally found a company, based in another State, that would insure Matthew, but only with a waiver specifying that coverage for Matthew's diabetes would not kick in for 1 year. During this year, the family would be financially vulnerable to all expenses associated with his condition—expenses for which coverage is most important.

Mr. and Mrs. Puls also fear what may lie in the policy's fine print, since their old plan had clauses that excluded coverage of necessary items like the syringes and test strips that Matthew must use regularly. And their fear of being without coverage caused them to overlap their two policies, for extra protection. This means they are now paying over $600 per month for duplicative coverage.

The Puls family has little trust in a health care system and an insurance industry that has caused them so much anxiety and frustration. Jean Puls notes that, for all of the money they have put into the health care system, they have not been able to get the simple peace of mind they seek.

We need to reform our health care system so that the energetic and otherwise healthy Matthew Pulses of our country are allowed to achieve their full potential. Matthew and his family do not deserve to be dragged down by a health condition over which they have no control, and a health care system that protects only the healthy.

While we are a country that reveres youth and deeply cares about our children, our actions do not always reflect this commitment to our young ones. We have far too many children afflicted with diseases and disabilities that could easily have been prevented with a simple immunization or basic prenatal care services.

As we collectively reflect on the importance we place on our Nation's children, let us make a commitment to give our youth one of the most important gifts we can promise them—health security.

The President and First Lady have taken the first step by presenting to Congress a plan that will reverse the trends we see now. Let's take the challenge. If we do, our Nation and its children will be the biggest beneficiaries.

NATIONAL CHILDREN'S DAY

Mr. KENNEDY. Mr. President, this Sunday we honor our most precious national resource—our children—with National Children's Day. We do so at a time of great challenge and great hope. Overburdened schools, unsafe streets, and inadequate health care jeopardize the lives and dreams of too many children. But we are also taking important steps to meet these challenges.

Earlier this month, the Senate voted to expand and strengthen immunization programs for children. Congress is now considering important legislation on education reform. The Family and Medical Leave Act, now sighed by President Clinton, enables parents to be at home with children after birth or during a critical illness, without fear of losing their jobs. And most important, Congress is now beginning action on President Clinton's health reform bill; among its most significant provisions are those which will provide comprehensive, basic care for all children.

There is a great deal to be done to protect the lives and futures of our children. Now we have an administration which has made the well-being of children a high priority. I look forward to working with my colleagues and President Clinton to translate our attention on National Children's Day to a year-round commitment.

I ask unanimous consent to include in the RECORD the following remarks printed in the health care policy briefing issue of Roll Call, October 18, 1993:

HEALTH CARE REFORM AND CHILDREN

(By Senator Edward M. Kennedy)

The debate on health care reform now beginning in Congress bears enormous significance for the country's future. The choices we make now have the potential to achieve lasting health security for all Americans, just as Medicare fulfilled that promise for elderly citizens a generation ago. But perhaps no aspect of the coming reform will be more important for our future than the quality of care we provide for children. Every childhood dream and talent that is blighted by needless disease is a tragedy that saps our strength and spirit. Every child that we save today represents new hope for tomorrow.

The current flawed state of care for children is a shocking indictment of the present health care system. A few years ago, a measles epidemic affected 55,000 children, leaving over 130 dead and many others with permanent disabilities. This epidemic didn't have to happen. With adequate immunization, we could have prevented it. But we are lagging far behind where we should be in reaching the goal of comprehensive immunization. The Centers for Disease Control and Prevention estimate that only half of two-year-olds in this country are adequately immunized, with rates as low as 10% in many urban areas. That deplorable situation ranks us behind all but two other countries in the Western hemisphere.

Infant mortality and low birthweight also continue to be serious problems. One of every hundred newborn American children dies in the first year of life, and the infant mortality rate for black children is twice as high. Nineteen other nations do better. One in seven children is born weighing less than 5.5 pounds, with severe consequences for long-term health. We know that adequate prenatal care and well-baby care can cut all these rates dramatically. But 25% of pregnant women do not receive such care.

Adolescent health is another neglected area. The CDC estimate that 2.5 million teenagers contract a sexually transmitted disease each year. Left undetected or untreated, STDs can have long-term effects on fertility and on infants born to infected mothers. Substance abuse among adolescents continues to be a major issue. A quarter of adolescents report they have used illegal drugs by age seventeen; a third of high school seniors admit to being binge drinkers of alcohol. We know how to reduce these numbers substantially—by better preventive care and health education.

In the last two years, we have made progress in meeting some of these challenges. We have expanded prenatal and postnatal health programs through community health centers and home visiting programs. We have improved access to substance abuse programs for pregnant women. Increased bulk purchases of vaccines have ensured more adequate supplies for state and local health departments.

Health promotion and disease prevention make economic sense as well. Each dollar spent on comprehensive maternity care for pregnant women saves three dollars in later health costs. A dollar spent on childhood immunization saves ten dollars. By investing early in children's health, we can save unnecessary pain and suffering, while at the same time saving billions of dollars in health care costs.

Unfortunately, our present patchwork health insurance system has so many holes that it fails to promote prevention and to achieve these savings. In 1991, more than eight million children were not covered by either health insurance or Medicaid. For these children, preventive care is a luxury. Visits to a doctor or nurse are usually delayed until there is a serious problem, and the emergency room is often the only family doctor these children know. The consequences of these delays are costly for the health care system, and often devastating for the children and their families.

Even for families who have insurance, parental unemployment or job changes can lead to gaps in coverage. Children may not receive consistent preventive care during this period, and if a serious illness results, it is often impossible for parents to obtain new insurance.

These problems are not the fault of dedicated medical professionals. The system is the villain. Our challenge is to ensure that all children have access to timely, affordable, and comprehensive care. Fortunately, the health reform plan proposed by President and Mrs. Clinton is well-designed to reach these goals.

By ensuring that all children are covered—without interruption—from the moment of birth, the plan will put an end to the national shame of children without insurance. Parents will no longer worry that the loss of a job will endanger their children's health—let alone their own. Nor will parents of seriously ill children be locked into a job by the fear that if they leave for a better position, their new employer's insurer may refuse them coverage.

By emphasizing preventive care, the benefit package will dramatically improve infant and childhood health. The package covers prenatal care, immunizations, diagnostic tests, regular checkups, vision and hearing tests, and preventive dental care. There is no copayment for these services, so that parents will not hesitate to use them. The plan will also phase in benefits for mental health and substance abuse treatment that will help teenager as well as adults.

By increasing support for community health centers and the National Health Service Corps, the plan will improve access to essential services for children among underserved populations, who are frequently at highest risk.

In other key areas, Congress should continue to work with the Administration to find ways to address some important remaining issues. The benefit package should include an adequate number of clinician visits for preventive health care. To the maximum extent possible, health services should be available to adolescents in the places where they are most likely to use them, especially in their schools. We must pay careful attention to the plan's provision for children with special health care needs, including rehabilitation services and equipment and devices for children who have impaired hearing or speech. Children who now receive these services under Medicaid should not lose them in health reform. Finally, we must be certain that copayments and deductibles do not disadvantage low-income families and children with special health care needs.

Overall, the Administration's plan is an historic opportunity for America's children. If Congress meets its responsibility as effectively as the President and the First Lady have met theirs, the decades-long battle for genuine health reform will finally be won, and this generation of children may well be the greatest beneficiaries of all.

SECURE CHOICE LEGISLATION

Mr. SIMPSON. Mr. President, I rise to cosponsor the secure choice long-term care bill, which was introduced by Senators DOLE and PACKWOOD on October 28, 1993. This bill confronts the challenge of providing long-term care services to our Nation's senior citizens and disabled individuals. It is a thoughtful and comprehensive three-part legislative plan, which tackles the explosive demand for affordable long-term care services. The philosophy behind this legislation is that the Federal Government should limit its role in furnishing long-term care to providing assistance to individuals who have low-incomes and assets either because of their financial situation or because of catastrophic long-term care expenses.

First, the bill provides for nursing home care and expanded home and community-based care for functionally impaired individuals with incomes below the Federal poverty level, $6,970 in 1993, through a new title of the Social Security Act. Long-term care services now provided under Medicaid would be moved to this new title XXI.

Second, Secure Choice creates a public-private partnership to assist Americans with moderate incomes less than 300 percent of the Federal poverty level—about $21,000—to purchase long-term care insurance. This bill would make it more affordable because the Federal and State governments would join together to pay part of the cost of long-term care services when they are needed.

Finally, Secure Choice clarifies that all long-term care services—medical care and personal care—are treated as medical expenses under the tax law. This would allow individuals to take tax deductions for out-of-pocket long-term care expenses and insurance premiums—to the extent they exceed 7.5 percent of adjusted gross income. It further provides that employer-paid long-term care services and insurance would be a tax-free employee benefit. By removing barriers that presently discourage employers from offering long-term care benefits to their employees these reforms will assist in the development of the private long-term care insurance market.

The bill also specifies consumer protection standards for long-term care insurance policies. It would protect consumers by guaranteeing policy renewability and portability, and by requiring policies to meet standards developed by the National Association of Insurance Commissioners. Policies that do not meet these standards would be denied the favorable tax treatment. These standards would protect consumers from unscrupulous sales practices and would enable consumers to get more of their money's worth from the purchase of a long-term care insurance policy.

With the elderly population skyrocketing, the need for long-term care grows, especially, the need for home and community-based care. We must find ways to make long-term care more affordable, and this legislation is a good step in the direction of providing much more affordable long-term care benefits for the elderly and functionally disabled of our country.

TRIBUTE TO JAMES S. FREE

Mr. HEFLIN. Mr. President, earlier this month, I had the opportunity to attend an 85th birthday party for James Stillman Free, a native of Gordo, AL, and, for 33 years, the Washington correspondent for Birmingham News. Jim has enjoyed a rich and colorful career as a journalist and historian, and it was a wonderful experience for his many friends and associate as we gathered with him to celebrate and reflect.

Jim's 33 years as the Birmingham News' Washington correspondent, was the longest tenure for any Washington correspondent for Alabama newspapers. He spent a total of 35 years with that newspaper. He also served as the Washington correspondent for the Chicago Sun, Raliegh News and Observer, and Winston-Salem Journal during the 1940's and 1950's.

His coverage extended from the Great Depression and New Deal; through World War II preparations and his own participation; the McCarthy "Red Scare" era; the civil rights movement; the assassinations of John and Robert Kennedy and Martin Luther King; and all national defense, medical, educational, and environmental issues that affected Alabama. He was an on-the-scenes, eye witness to much of the social change and history of this century.

His many "scoops" included President Truman's 1946 order for the Army to take over strike-threatened railroads, and he led the national press with his stories on the Justice Department's civil rights decisions. Jim filed overseas reports on the 1957 Berlin crisis and NATO operations in the North Sea, Western Europe, and the United Kingdom in 1966. He has served as the historian for the Gridiron Club and was the author of "The First One Hundred Years: A Casual Chronicle of the Gridiron Club." He is also the author of three other books.

It is an understatement to say that Jim Free is a highly regarded and respected figure. He is an all-around great fellow. As one former Member of Congress told me, Jim never tried to purposely hurt anyone through his reporting. His professional ethics dictated that he would let the facts speak for themselves. He never tried to find dirt on every Government official as some reporters today do. He was not a practitioner of "gotcha" journalism.

Jim is a gentleman who possesses all the traits that one would expect to find in a gentleman—civility, an educated mind, sensitivity, courteousness, and a healthy respect for the views of others.

I am proud to congratulate Jim Free on his lifetime of service to the cause of informing citizens about the world around them, and again extend my best wishes to him on the occasion of his recent birthday. I look forward to celebrating many, many more with him in the years to come.

ESTELLE STACY CARRIER

Mr. WALLOP. Mr. President, anyone who has been involved in Republican politics in Wyoming for the last 25 years knew Estelle Stacy Carrier. Estelle was a constant, principled Republican who did not tolerate adventure in the party. She was extremely passionate about the things she stood for. This passion was apparent not only in her service to the State of Wyoming but to America. Her service as vice chairman of the Wyoming Republican State Committee and president of the board of trustees of the Converse County Library, just to name a few of her endeavors, made her well known to many around the State. This same devotion was displayed at the national level where she served as Republican National Committeewoman and was appointed to the U.S. Defense Department's Defense Advisory Committee on Women in the Services. Mrs. Carrier has been listed in "Who's Who in America," and "Who's Who in Politics."

People like Estelle Carrier sustained the tradition of strength and equality that Wyoming was built upon and still stands for. One cannot help but draw a correlation between her and another strong woman in Wyoming history, Nellie Tayloe Ross. Both dedicated their lives to their community and State and became an inspection to all who live in Wyoming. They both forged the future for a proud and hearty breed of Wyoming women.

As a dedicated mother and career women, Estelle Stacy Carrier lived a full life. Her husband John lives in Casper and works as a petroleum geologist. Her son Richard resides in Cheyenne and is the U.S. attorney for Wyoming. Following the death of her first husband, Leonard Stacy, she continued to run an oil and mineral exploration company that they started in 1963 until her death last Sunday.

Estelle was able to touch many people in her life and affect them profoundly. She will be missed and rightly so.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt stood at $4,468,602,585,525.99 as of the close of business yesterday, November 18. Averaged out, every man, woman, and child in America owes a part of this massive debt, and that per capita share is $17,397.10.

CLARIFYING THE WOOL PROVISIONS

Mr. BAUCUS. I want to clarify three issues in regards to the relationship of the wool provisions of the 1994 Agriculture appropriations bill to the wool provisions in S. 1458, which authorized the wool program to continue until December 31, 1995.

First, is the recourse loan created in S. 1458 for the 1994 marketing years intended to operate at no cost to the Government in fiscal year 1994 by means of the Secretary of Agriculture charging participating wool and mohair producers a fee to cover the cost of administering the recourse loans, and requiring repayment of the loans within the same fiscal year that the loan is made?

Mr. LEAHY. The Senator is correct

Mr. BAUCUS. Second, is the purpose of incentive payments paid to wool or mohair producers in the 1994 and 1995 marketing years other than to support the price of wool or mohair?

Mr. LEAHY. The Senator is correct.

Mr. BAUCUS. Third, is the Secretary of Agriculture prohibited from making loans or payments which are not obligated by December 31, 1995, during the 1996 calendar year, but is required to make 1995 marketing year loans or payments already obligated by December 31, 1995, during calendar year 1996?

Mr. LEAHY. The Senator is correct.

WORLD AIDS DAY AT BRYANT COLLEGE

Mr. PELL. Mr. President, I would like to call the attention of the Senate to the efforts of Bryant College in Smithfield, RI, in connection with World AIDS Awareness Day on December 1, 1993.

On that day, Bryant College will have the distinction of being the only site in Rhode Island, and the only college or university in the country, to be designated an official U.S. postal station for the purposes of issuing a special commemorative cancellation of the new AIDS awareness stamp.

For that one day, the Smithfield campus will be designated "Bryant College Station," and the sale of commemorative cachets will serve as a fundraiser for AIDS education programs offered on the Bryant campus, and by Rhode Island Project AIDS. Classes that day will also be devoted to discussion of the medical, social, and financial impacts of the AIDS pandemic.

Bryant College is a leader in AIDS education efforts. The official unveiling of the new AIDS awareness stamp and its accompanying commemorative cancellation will focus attention on the Bryant's efforts to combat the scourge of AIDS and promote preventive measures to avoid exposure to the HIV virus.

Bryant will conduct AIDS education programs for its residence assistants and staff over the next several months to help them answer confidential questions from their peers. Bryant's fraternities and sororities have worked to raise awareness of a number of AIDS-related issues, and are sponsoring speakers and funding programs on the AIDS crisis.

To quote Bryant College President William E. Trueheart,

> AIDS does not discriminate. The HIV virus that causes AIDS can strike anyone, regardless of income, age, gender, race, or sexual orientation. Young people are especially vulnerable, and we need to help them understand that they are at risk, despite their youth, health, and vitality.

President Trueheart's words of warning are confirmed all too alarmingly by figures released by the Centers for Disease Control and Prevention which show that AIDS is the leading cause of death among American men aged 25 to 44, and the fourth leading cause among American women of that same group.

In 1990, CDC analyzed blood samples from 35 universities throughout the country and found that 1 of every 500 students tested positive for HIV, the virus which leads to AIDS. And while CDC cautions that this statistic does not indicate students' chances of being infected with HIV, CDC does warn that the chance of infection depends on their age, sex, and location—and most importantly, on their behavior.

The risk of exposure shows no sign of abating. Yet, as Doris Horridge, a health educator at Bryant, noted, "The risk can be minimized through awareness and education."

Mr. President, Bryant College has been widely recognized as one of the finest business education schools in the United States. The college has built a proud record of educating men and women who have become leaders in the field of business, industry, government, and society. I am very pleased that the school is now undertaking such an aggressive program in student health.

As we prepare to debate the merits of the various health care proposals which are before this Chamber, I would point out that Bryant College's health care system contains many features that will be critical to include in any national reform plan: it is available to all, at a reasonable cost, and engages in an active program of health education to foster preventive care.

I commend Bryant College for their efforts to raise the issue of AIDS awareness and education to the forefront of their college community's discussion. I urge other institutions of higher education to follow Bryant College's example in protecting the men and women who will lead this country into the next century.

COSPONSORSHIP OF S. 1614, THE BETTER NUTRITION AND HEALTH FOR CHILDREN ACT OF 1993

Mr. DURENBERGER. Mr. President, I rise today to announce my cosponsorship of S. 1614, the Better Nutrition and Health for Children Act of 1993.

S. 1614 was introduced by my distinguished colleague from Vermont, Senator LEAHY, on November 2. This bill amends the Child Nutrition Act of 1966 and the National Lunch Act to promote healthy nutrition for children and authorizes full funding for WIC.

Mr. President, I have always supported responsible legislation that promotes better nutrition and better health for children. The programs targeted for increases by this bill have proven to be successful and worthwhile investments of public funds in dealing with child nutrition.

That is why in my 15 years as a Senator I have consistently supported both programmatic improvements and increased funding levels for these programs, including my cosponsorship earlier this year of the sense-of-the-Senate resolution on the Every Fifth Child Act.

The WIC Program provides nutritious supplemental foods to low-income pregnant, postpartum and breast feeding women, and to children up to age five who are determined to be at nutritional risk. Recipients also receive nutrition education, advice and assistance on the importance of breast feeding, and referrals to the health care system.

The WIC Program also has fiscal benefits. A Department of Agriculture study found that for every dollar invested in WIC up to $4 is saved by the Federal Government.

While I fully and wholeheartedly support these programs, I must also say I have severe concerns about its funding expectations. I believe deficit reduction is just as vital an investment in our children's future as direct program expenditures. So, while I have cosponsored this legislation, I cannot emphasize enough the need to address our growing national debt, as we strive to deliver on the funding expectations of this bill.

I also believe, Mr. President, that we must view expansion of valuable programs like WIC in the larger context of governmental reform and welfare reform.

During this coming year, the Congress will be asked to consider a major initiative from the Clinton administration to create new incentives for able bodied low-income persons to become self-sufficient.

We may also be asked to shift more authority to States and local communities for establishing priorities for spending money now earmarked for dozens of categorical programs that serve families and children.

Both of these initiatives represent opportunities to not only achieve the goals and potential of WIC, but to do so in a more effective and efficient manner.

Overall, Mr. President, I believe that this legislation establishes sensible priorities that will expand the effectiveness of the WIC Program.

I look forward to working with my colleagues on both sides of the aisle to create an environment in which we can work together on these and other pressing human needs in a fiscally responsible manner.

I yield the floor.

AN INTERNATIONAL MORATORIUM ON LANDMINE EXPORTS

Mr. LEAHY. Mr. President, last week I introduced in the United Nations a resolution on behalf of the U.S. Government calling on all countries to agree to an international moratorium on exports of antipersonnel landmines. I am pleased to say that yesterday the resolution was passed by consensus by the U.N. Disarmament Committee. From there it goes to the General Assembly, where I am confident it will also pass by consensus.

This resolution is based on the U.S. moratorium on exports of antipersonnel landmines which became law last year. Two months ago, the Senate unanimously extended the U.S. moratorium for another 3 years. That amendment will become law when the President signs the 1994 Defense authorization bill.

Thanks to the strong support and hard work of Ambassador Madeline Albright, Ambassador Karl F. Inderfurth, and their staffs, over 70 countries cosponsored the U.S. resolution in the United Nations. This resolution, for the first time in history, puts all 184 U.N. member nations on record supporting a global halt to the trade in antipersonnel landmines, which have killed and injured hundreds of thousands of innocent people around the world.

Over 100 million of these weapons are scattered in over 60 countries. A landmine is not itself a weapon of mass destruction, but millions of millions of mines waiting to explode have the same effect over a period of years. I doubt many people realize that more civilians may have been killed or maimed by landmines than all the chemical and biological weapons combined.

Mr. President, there are two challenges ahead. First, is to get rid of the millions of m lying in wait for unsuspecting victims, in many places long after the conflict has ended and the reasons for it have been forgotten. Clearing the mines is an enormously costly, dangerous, and time-consuming task. For $3 you can buy a landmine that will kill or horribly maim a child. Ym a child. Yet to get rid of that one mine in countries like Cambodia or Angola or Bosnia costs upward of $1,000.

Recently, U.N. Undersecretary General for Humanitarian Affairs Jan Eliasson, wrote an article on the scourge of landmines and makes the case for a concerted, international effort to deal with it. I ask unanimous consent that the text of Mr. Eliasson's article be printed in the RECORD at the end of my remarks.

The second challenge is to ensure that the old mines are not replaced with new ones. An international moratorium on exports is an important first step, and yesterday's action in the United Nations is very encouraging. But it is only a first step. Next we must deal with the difficult issues of production, possession and use of landmines. Our own troops have as much to gain from this as the people in the countries where mines are used, and where U.N. and U.S. peacekeeping forces may be sent in the future. According to retired Marine Corps Commandant, Gen. Al Grey, "We kill more Americans with our mines than we do anybody else."

Mr. President, every month thousands of innocent people become the latest victims of landmines. If they are lucky enough to survive, their lives are shattered. We can stop this.

The Congress has made it clear that it wants the United States to be a leader in stopping this senseless slaughter. Last week at the White House I spoke with President Clinton. He shares this goal. So do Vice President GORE and Secretary of State Christoper. People everywhere want this.

Let us work together so that by the end of this decade—by the beginning of the next century—innocent people will no longer have to live in fear of landmines.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Herald Tribune, Nov. 4, 1993]

THE LAND-MINE PLAGUE

(By Jan Eliasson)

UNITED NATIONS, NY.—The United Nations General Assembly turned its attention recently to the legacy of death from 100 million land mines sown across the globe. Calling for a report by next year on improving international mine-clearing efforts, the Assembly formally recognized the need to assist the estimated 62 countries afflicted by this scourge.

Eighty-eight countries co-sponsored a resolution, introduced by the European Community, focusing on the human tragedy caused by the failure to remove mines.

Land mines have turned large areas of the world into a permanent no-man's-land. Most mines lie buried and unmarked, part of a deliberate strategy to terrorize civilians, continuing to kill innocent people long after wars end. (Mines laid in Poland during World War II killed 4,000 people after 1945.)

Many of the world's 19 million refugees and 25 million displaced persons are unable to return home for fear of death or dismemberment by these weapons. In Cambodia, people are still dying because of the 4 million mines left after two decades of civil war. In Angola, fertile lands lie fallow because farmers fear to tread on them. More than 20,000 Angolian amputees—most of them women and children—bear witness to the danger.

Mines continue to be planted all over the world. To slow the proliferation, some manufacturing countries have imposed export bans, and the United States is calling for a worldwide export moratorium. But 35 countries continue to manufacture these indiscriminate weapons—many of which are designed to maim rather than kill.

Little research has been done to develop new technology for mine clearance. Mostly people must still prod the ground, sometimes assisted by dogs sniffing out the explosives, to locate mines; a slow and dangerous process. In Kuwait, where up to 7 million mines were sown during the Gulf War, 84 demining experts were killed or injured while clearing them. At least 30 people have died in UN demining operations in Afghanistan.

A 1980 UN treaty prohibits the use of land mines against civilians, and directs governments to destroy mines after conflicts end. But only 39 countries have ratified the treaty. Many governments are calling for it to include verification measures and a clause to ensure that mines are built to be detectable and easily removed once a war is over.

Most urgent is the need for development of new mine-clearing technology and local training campaigns to detect and disarm mines. The international community must join to bring the plague to an end.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1993

The ACTING PRESIDENT pro tempore. Under the previous order the Senate will now resume consideration of S. 1607 which the clerk will report.

The bill clerk read as follows:

A bill (S. 1607) to control and prevent crime.

POLICING GRANT PROCEDURES

Mr. HOLLINGS. Mr. President I would like to take a few minutes to clarify the application process for the community policing and cops on the beat programs with regard to communities with a population less than 150,000. It is my understanding The Violent Crime Control and Law Enforcement Act of 1993 provides that local governments with a population less than 150,000 must initially submit their application to the State office, as designated in section 507. It is this State office which will perform the initial review.

Mr. BIDEN. Exactly. That is my understanding.

Mr. HATCH. The Senator from South Carolina is correct.

Mr. HOLLINGS. As I understand the bill, this initial review by the State office will proceed pursuant to regulations and criteria specified by the U.S. Attorney General. After this initial review, the State office will submit to the U.S. Attorney General a list of all applications and all supporting materials, in order of their likelihood of achieving the program's goals. I would like to stress that all applications must be forwarded to the Attorney General. The State office is not to determine which communities will receive grants, rather they are to perform only preliminary reviews for the U.S. Attorney General.

In this regard, I want to emphasis the need to institute safeguards which assure that every application and all supporting materials received by the State office are forwarded to the Attorney General. Recently, in my own State of South Carolina, a grant application made pursuant to the Police Hiring Supplement, was lost between the State office and the Department of Justice. It is imperative that the regulations promulgated by the Attorney General institute measures to ensure that this cannot occur.

Mr. BIDEN. I agree with the Senator from South Carolina.

Mr. HOLLINGS. Additionally, it is my understanding that although the State offices may, on a voluntary basis, recommend specific applications which they believe are particularly meritorious, they may not recommend that some applications not be funded.

Mr. BIDEN. The Senator from South Carolina is correct, the State office is required to forward all applications to the Attorney General. The State office does not have authority to pick and choose which applications will be submitted.

Mr. HATCH. That is my understanding.

Mr. HOLLINGS. Once all applications, supporting material, and the State office's list are submitted, then the U.S. Attorney General makes the determination which communities will receive grants. This decision is completely within the discretion of the Attorney General. Having broad latitude, the Attorney General is not bound by the rankings provided by the State office. That is my understanding.

Mr. BIDEN. That is correct.

Mr. HATCH. That is exactly how I understand the procedure to work.

PRISONERS MUST WORK SENSE-OF-THE-SENATE RESOLUTION

Mr. BROWN. Mr. President, I rise to thank my colleague, the Senator from Delaware, for agreeing to accept my sense-of-the-Senate resolution on expanding work opportunities for able-bodied Federal prisoners. I will insert at another point in the RECORD a short statement on this resolution, but for the moment I wanted to propound a question to the Senator.

Mr. BIDEN. I would be pleased to respond to the Senator's question.

Mr. BROWN. I thank the Senator. Is it the intention of the Senator from Delaware to have the Judiciary Committee review the matter of Federal prison inmate employment?

Mr. BIDEN. I would say to the Senator from Colorado that it is this Senator's intention, as chairman of the Judiciary Committee, to review this matter once the Attorney General makes her report to the Congress and to take all necessary and appropriate action at that time.

Mr. BROWN. I thank the Senator and yield the floor.

Mr. BIDEN. Mr. President, I ask unanimous consent that a letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL ORGANIZATION OF
BLACK LAW ENFORCEMENT EXECUTIVES,
Alexandria, VA, November 10, 1993.

Senator JOSEPH R. BIDEN, Jr.,
Chairman, U.S. Senate, Committee on the Judiciary, Washington, DC.

DEAR SENATOR BIDEN: On behalf of the membership of NOBLE, I write to commend you for your untiring efforts with respect to the most significant comprehensive anti-crime bill that has ever been considered in the United States.

Furthermore, we urge Congress to include a ban on the manufacture and sale of military-style assault weapons. Candidly, we are puzzled as to why anyone would consider to do otherwise, unless they were directly involved in the manufacturing and/or sale of weapons of that type.

Also, we strongly support the inclusion of boot camps, innovative drug programs, and creative efforts to negate the violent activity of youths.

Keep up the good work and let us know what we can do to assist in getting the crime bill passed now.

Take care and best regards.

Sincerely,

JOSEPH M. WRIGHT,
Executive Director.

Mr. DECONCINI. Mr. President, I rise today to express my support for S. 1607, the Violent Crime Control and Law Enforcement Act of 1993. I look forward to the day this legislation, combined with the crime packages already passed by the House of Representatives, will be signed into law by President Clinton.

I am especially pleased to see some of my proposals contained in the final version of this bill. Included in the crime package will be an amendment to provide funding for native Americans, an amendment creating a task force to help locate missing and exploited children, a resolution regarding the exemption of Federal law enforcement personnel from budget cuts, and an amendment creating a gang resistance education and training program. I would like to take this opportunity to enter my statements regarding all of the above into the RECORD.

FUNDING FOR NATIVE AMERICANS

Mr. President, I rise with my distinguished colleagues, Senators DASCHLE, REID, INOUYE, and CAMPBELL, to speak on an amendment regarding funding for native Americans that was accepted last week.

As the Senate continues consideration of S. 1607, the Violent Crime Control and Law Enforcement Act of 1993, we will hear numerous proposals, ideas, and solutions, from both sides of the aisle, aimed at fighting the rising tide of crime plaguing our Nation today.

Some of the most important provisions that will be offered would increase the number of police officers on our Nation's street corners and authorize funding for State and local law enforcement to support police, rural anticrime efforts, and drug treatment in the criminal justice system.

But I want to take this opportunity to turn the focus of these efforts in a different direction. While crime in our inner cities and other communities is a familiar sight to us all, not so visible is the plight of the equally crime-ridden Indian reservations.

The need for more law enforcement personnel and funding in Indian country is desperate and immediate. Due to the geographic size of many reservations, it is difficult, if not impossible, for tribal police officers to effectively combat crime.

For example, the Navajo Nation—land comparable in size to the State of West Virginia—has only 337 commissioned Navajo tribal police officers and 28 criminal investigators to cover the entire area.

For many tribes, the situation is even more dangerous. Three years ago, in my home State of Arizona, two of the smallest Indian tribes in my State faced a similar dilemma. Two reservations, located next to each other and spanning 1.1 million acres with a combined population of 2,200, shared one law enforcement agent. This agent worked around the clock, 24 hours a day, 7 days a week, until we could finally get the tribe a portion of money to hire a second officer.

Mr. President, this is appalling. Because of these shortages, tribal law enforcement agents have no choice but to put crime prevention on Indian land secondary to responding to everyday calls for service. And, preventive law enforcement on most Indian lands by the Bureau of Indian Affairs and tribal police officers is non-existent.

The incidents and types of crimes that occur in Indian country are not unique. Nor is having an insufficient number of law enforcement personnel. But what is unique are some of the obstacles that stand in the way of Indian tribes' easy access to Federal funds for law enforcement purposes. Our amendment that was accepted last week will begin to eliminate some of these obstacles.

For example, if an Indian tribe wished to submit a grant application to apply for funds under the "Cops on the Beat" provision of S. 1607, the application would need to be submitted through a State office. State review would be required even though Indian tribes are distinct sovereign governments and are not part of any State governmental system or subject to State authority.

Our amendment would allow for Indian tribes to apply directly to the Attorney General for funding.

A second obstacle that may prevent Indian tribes from receiving the funding they deserve is the inability of tribes to meet the matching requirements required by most Federal funding programs.

Practically all funding for law enforcement programs on Indian lands comes from congressional appropriations to the Department of the Interior. As a result, Indian tribes have little—if any—non-Federal sources of funds with which they can meet matching requirements.

Our amendment would provide Indian tribes with the same abilities to meet matching requirements as the District of Columbia now possesses. The District of Columbia can use funds appropriated by Congress for law enforcement purposes to provide the non-Federal share of the cost of certain programs or projects. Indian tribes should be accorded this same privilege.

Mr. President, the extraordinary need for more law enforcement personnel in Indian country is clear. I would like to commend President Zah, leader of the Navajo Nation, in his efforts to make Congress aware of the dire situation that exists in Indian country today. It is imperative that obstacles to funding be removed and that any application for funding from an Indian tribe for law enforcement purposes be given the utmost consideration.

Mr. President, I would also like to mention that I am a cosponsor of an amendment of my distinguished colleague and friend, Senator INOUYE, chairman of the Indian Affairs Committee, which was also accepted last week.

Senator INOUYE'S amendment takes the provisions of our amendment and applies them across the board to ensure that native Americans benefit from these provisions to the highest degree. I am glad that Senator INOUYE and I were able to work together to coordinate our joint efforts for native Americans.

The adoption of these amendments will ensure that the Violent Crime Control and Law Enforcement Act of 1993 will be as effective a tool to Indian nations in combating crime as it will be in fighting crime nationwide, and I thank my colleagues for their support.

INTRODUCTION OF THE "MISSING AND EXPLOITED CHILDREN TASK FORCE ACT OF 1993"

Mr. President, on September 30, 1993, around 10:30 at night, 12-year-old Polly Klaas and two of her girlfriends had just settled down for a late night card game at a spur-of-the-moment Friday night slumber party. Not more than an hour later, Polly's mother was awakened by one of the girls who stood by her bedside, wide-eyed and terrified, and related a story of how a man, armed with a knife, had broken into the Petaluma, CA home, forced the girls to lie on the bed, covered their heads with pillowcases, tied their wrists behind their backs, and then fled the house with Polly. Only a month before, on the other side of the country in a small town in New York, another 12-year-old girl disappeared while biking the mile-long trip between her home and the church where her father is pastor. Police found Sara Anne Wood's pink-and-white mountain bike abandoned in a nearby ditch, along with some papers she had been carrying.

Polly Klaas and Sara Anne Wood are just two of the estimated 4,600 children abducted each year by nonfamily members. Neither of the girls was more than a mile away from their small-town homes when the abductions occurred, and, in both instances, the small communities from which they came mobilized immediately to assist local law enforcement in the investigations. Merchants from both areas immediately donated space and resources including phones, fax machines, copy machines, and supplies, while townspeople from all over took vacation time to donate endless hours stuffing envelopes, making phone calls, posting signs, and knocking on doors, In spite of these efforts, helpful leads in both cases have been few and far between, and resources and manpower are slowly diminishing.

Mr. President, the victimization of children in our Nation has reached epidemic and terrifying proportions. Recent Department of Justice figures show that in 1988, 4,600 children were abducted by nonfamily members, 450,700 ran away, and over 354,000 were abducted by family members. It is painfully clear that the time has come to increase and unite our efforts to solve and prevent such savage crimes against our children. I rise today to introduce a bill that will assist in the resolution of such crimes against our Nation's children and, ultimately, aid in the prevention of future and repeated crimes. The Missing and Exploited Children Task Force Act of 1993 would create a team of active Federal agents who would work with the National Center for Missing and Exploited Children [NCMEC] in assisting State and local law enforcement agents in their most difficult missing and exploited child cases.

The task force would be headed by a representative from the Federal Bureau of Investigation and would be comprised of two representatives from each of the following Federal agencies: The Federal Bureau of Investigation, the Secret Service, the Bureau of Alcohol, Tobacco, and Firearms, the U.S. Customs Service, the Postal Inspection Service, the U.S. Marshals Service, and the Drug Enforcement Administration.

Each participating agency would nominate agents who possess some area of specialized expertise, including behavioral sciences, crimes against children, sex offenses, forensics, international investigative experience, and other areas that would be particular value to investigations of this nature. Each member would serve a 1-year term, with an option to extend for a year, and would be compensated by their respective agencies. Most importantly, task force members would retain full authority, be on active duty status, and retain access to appropriate data bases.

Precedent for the implementation of such a program—where Federal investigators and other law enforcement agents are assigned for a period of time to other agencies and offices in order to lend their support and expertise—has been established in other successful programs. One example is the Organized Crime Drug Enforcement Task Force [OCDETF] Program, established in 1983. The OCDETF Program consists of a nationwide structure of 13 regional task forces which utilize the combined resources and expertise of its member Federal agencies in cooperation with State and local investigators and prosecutors to target and destroy major narcotic trafficking and money laundering organizations. Since its implementation, the program has experienced immense success. Through their comprehensive and orchestrated attack on crime, the task forces have been successful in initiating 5,101 investigations, which resulted in 13,995 indictments and an 84.6 percent conviction rate.

Another program, Project Alert, which Senator ALFONSE D'AMATO, Treasury Secretary Nicholas Brady, Representative Matthew Rinaldo, and I helped develop in June 1992, enlists retired law enforcement officials from around the country to help police officers investigate some of their toughest missing children cases and bridge the gap between the NCMEC and police departments. Project Alert volunteers are certified through the NCMEC and have been extremely valuable in assisting active law officers in evaluating leads, investigating long-standing, unsolved cases, promoting community awareness and prevention programs, and using the latest in scientific technology to help track the swelling ranks of missing children. Members of the Missing and Exploited Children Task Force would have similar responsibilities.

Task force members would use their expertise, data access, and official authority to work on cases chosen and updated by NCMEC as their most difficult cases. Members would also be available to go on location to assist local or State investigators, but only after a full prior consultation with the lead investigator on the case, local, State, or Federal in no instance would task force members attempt to takeover an investigation, nor would they be allowed to agree to do so if faced with such an offer.

If such a task force had been in place at the times of the Klaas and Wood abductions, members would have been immediately assigned to begin assisting the NCMEC and local law enforcement agents in both Petaluma and in Litchfield, NY. Task force members—such as the FBI, the Secret Service, and the Drug Enforcement Administration—would have been able to use their extensive databanks to pool information on missing persons, disturbed people, and convicted criminals—information that may not be so readily available to State or local law enforcement personnel. Once leads were found, the authorities of the U.S. Marshals Service may come into play, and if the Postal Service is used in any manner, Postal Inspection Service agents would have immediate access to a myriad of resources.

It is this sort of collaborative effort that would make such a task force invaluable and indispensable in the fight against the victimization and exploitation of our Nation's children. While local and State law enforcement agencies are to be commended for their efforts in such cases, missing children investigations would benefit highly from a coordinated law enforcement effort. By supplementing our Nation's 17,000 police departments—a majority of which have 10 or fewer officers—with task force members and resources, we can unite our Nation's best in the fight against such reprehensible crimes and increase the chances of our Nation's missing children being returned to their homes and families.

GREAT PROGRAM

Mr. President, every law enforcement, education, and social agency in the Government is scrambling to find ways to address the ever-growing problem of violence among this country's young people. We all realize that there is no single answer or magic formula to cure this dilemma.

One solution that is working as a preventive measure is the Gang Resistance Education and Training Program—known as the GREAT Program. I highly endorse and support this program as a way to educate schoolchildren encouraging them to repudiate the negative aspects of gangs.

In 1991, the Bureau of Alcohol, Tobacco and Firearms [ATF] and the local law enforcement officers in Phoenix, AZ, began a pilot program as an educational, school-based gang prevention effort. The GREAT Program is designed to help seventh-graders set goals for themselves, resist peer pressure, learn to resolve conflict without violence, and understand how gangs and youth violence impact the quality of their lives.

For the GREAT Program in fiscal year 1993, ATF entered into cooperative agreements with police department in the Phoenix and Albuquerque metropolitan areas, as well as the State of Hawaii. Funding to educate the local police officers and support the agreements was provided by the Federal Government. In total, 99 police officers in those areas received training, and over 100,000 schoolchildren were exposed to the program.

Other police departments have started implementing the GREAT Program without funding. ATF has supported these efforts with training programs for a total of approximately 300 police officers from nonfunded cities.

The successes of the GREAT Program are not just measured in numbers, The Arizona State University recently completed its evaluation of the program. This evaluation produced several findings showing that methods used in the GREAT Program are highly effective in teaching children responsibility, and giving them the life alternatives and law enforcement role models needed to deter their participation in gang violence.

The successes of the GREAT Program lead me to recommend its expansion into a nationwide program to prevent gang violence. I recommend that the top 80 highest-crime metropolitan areas in this country be included in this program. I recommend that the Federal Government assist these cities through training of their police officers and through funding of their efforts. This is time and money well-spent for our children of today and the future of this country.

The amendment I am offering to this bill, along with my colleague from Missouri, Mr. BOND, would authorize no less than 50 additional GREAT projects to be funded around the country. This would bring to 58 the total number of GREAT instruction projects available in communities selected by the Director of ATF because of the high prevalence of gang activity. The amendment requires the Secretary of the Treasury to provide up to $800,000 per project, subject to appropriations, to be allocated 50-50 between the Federal sponsoring agency and the State and local law enforcement and prevention organizations. The amendment authorizes $40 million a year and 225 full-time equivalent positions for this purpose.

This amendment also authorizes $30 million and 300 full-time equivalent positions for the Bureau of Alcohol, Tobacco and Firearms for expanding investigations into juvenile and gang criminal violations involving firearms and for enhanced firearms tracing and compliance activities. Finally, the amendment authorizes $6 million a year for the U.S. Secret Service for enhancing its investigations in counterfeit, fraud, and other illegal activities.

I urge the adoption of this amendment.

SENSE-OF-THE-SENATE RESOLUTION ON FEDERAL LAW ENFORCEMENT PERSONNEL

Mr. President, we are losing control of our streets and our neighborhoods to gangs, drugs, and violent crime. Americans should not have to tolerate a level of violence 5 times that of Canada and 10 times that of England. Americans should not have to tolerate a murder rate, which—if unabated—will see 100,000 Americans murdered in the next 4 years.

I think it is encouraging that our political leaders are beginning to understand that the crime problem in this country needs to be addressed.

President Clinton has mandated a reduction in the Federal work force of 252,000 positions over the next 5 years. These actions dovetailed into the National Performance Review recommendations to reinvent Government. I applaud these initiatives as I believe the Federal Government has an obligation to make sacrifices, streamline its operations to make it easier for the public to deal with the Government, and reduce the Government's costs of doing business. However, what these initiatives fail to recognize is the burden they are placing on law enforcement and the criminal justice system as a whole.

These executive actions contradict the President's plan to put 100,000 more police officers on the beat and the authorizations we have included in this crime bill. I don't know how we can look the American public in the eye and say we are serious about reducing crime and drug trafficking in this country and then turn around and cut the very agencies who are charged with carrying out these responsibilities. It just doesn't make sense.

I see no way that we can dedicate $22 billion to Federal grant programs, law enforcement, regional prisons, and boot camps, without making a conscious policy decision to exempt law enforcement from personnel cuts. There is no way that I know of to effectively implement anticrime programs without people.

For this reason, I am proposing a sense of the Senate resolution which calls upon the President to exempt Federal law enforcement personnel from executive actions mandating reductions in the Federal work force and I urge its adoption.

SENSE-OF-THE-SENATE RESOLUTION THAT ABLE-BODIED CONVICTED FELONS IN THE FEDERAL PRISON SYSTEM WORK

Mr. KENNEDY. Mr. President, the managers' package of amendments includes a sense-of-the-Senate resolution offered by Senator BROWN to express the Senate's concern that all able-bodied prisoners in the Federal prison system should work. I commend my colleague for addressing the problems of prison overcrowding and idleness by encouraging the work programs of the Federal Prison Industries and other systems. But the resolution does not take into proper account the concerns of business and labor. We must accomplish these goals in ways that do not mean that private sector businesses will lose their contracts and free working men and women will lose their jobs.

The national unemployment rate is 6.9 percent. The expansion of prison labor should not contribute to that unemployment. The Federal Prison Industries must address the real concerns involved in any program expansion. That means intensive consultation with the Departments of Labor and Commerce, and with the Small Business Administration. It means serious and careful consideration of the interests of private business and free labor, so that expansion of the Federal Prison Industry Program will not cause the unemployment in the private sector. Without careful oversight of the activities of prison industries, prison workers will replace free workers.

Last month, a small furniture manufacturer testified before the Senate Labor and Human Resources Committee. He said that in November 1992, he had submitted a bid, along with 22 other furniture manufacturers, to provide dormitory furniture to Michigan State University for 1,600 rooms. He made the low bid—of the private sector companies. But he was underbid by Michigan State prison industries by 20 percent. As a result, the employer laid off more than half of his 65 employees.

Several years ago, the Federal Prison Industries sought to produce leather footwear for the Army at wages of approximately $1 per hour. It claimed that since footwear was no longer a significant domestic industry, the prison industry would not be competing with the private sector. We all know that a reduced but viable domestic leather footware industry continues to exist. A coalition of business and labor unions worked together to stop this effort, and it was stopped. But as this case and other cases indicate, Federal Prison Industries sometimes overreaches in its efforts to secure work for prison inmates, and enters into unfair competition with the private sector.

The recent 1993 summit on Federal industries addressed some of these issues—but its findings and recommendations were frequently disputed by a number of participants. No consensus was reached, so substantial additional work on this issue is needed.

Any report produced as a result of this provision on the expansion of Federal prison work must address the current marketing practices of Federal Prison Industries and ensure that any expansion of the programs is carefully assessed. I look forward to working with my colleagues to achieve a fair resolution of these complex issues.

Mr. THURMOND. Mr. President, I rise today in support of final passage of the Violent Crime Control and Law Enforcement Act of 1993. Working with our colleagues on the other side of the aisle in a bipartisan spirit, we have produced an anticrime bill worthy of the American people.

Central to this proposal is extensive funding for putting additional police officers on the streets to protect the law-abiding citizens from the violent criminal. Also, we have authorized $6 billion for construction of regional prisons and for the maintenance and operation of State prisons.

The Senate has moved decisively to hold the violent offender accountable for his actions. This legislation provides mandatory minimum sentences for drug felons and violent criminals who use firearms and mandatory minimum sentences for selling drugs to minors. Additionally, we provide life imprisonment for three time violent offenders and drug traffickers.

Our distinguished Senate Republican leader, Senator DOLE, offered an amendment which I cosponsored to extend Federal law to gang violence. This amendment, which was adopted, authorizes additional funding for prosecution of cases involving criminal street gangs. This provision also makes it a Federal crime to recruit juveniles into a gang.

Mr. President, there are many provisions in this bill which I believe will provide valuable assistance to law enforcement in their efforts to keep our communities and neighborhoods safe from violent crime.

While I do not agree with every item contained in this legislation, overall it is a significant step to address the growing crisis of violence across this Nation. We have worked together and this proposal contains many provisions to reduce crime, including enforceable death penalties, drug treatment and prevention programs, grants to public schools for safety measures, rural crime task forces and prohibition on transfering firearms to juveniles.

Mr. President, there is no room for retreat in our fight against the violent predators who prey on the law-abiding citizens. This legislation will provide law enforcement additional resources to allow them to do their job and I support its adoption.

Mr. HATFIELD. Mr. President, few things are more certain than the need for this Nation to come to grips with the violent crime problem that is suffocating our citizenry. The crime bill before us today contains many worthy provisions which resulted from the hard work of the chairman, ranking member, and other members of the Judiciary Committee. I support the Violence Against Women Act now included in this bill, which enhances penalties and authorizes resources to improve the safety of women. I am also pleased that the Senate agreed to include the Domestic Violence Community Initiative Act of 1933 which I introduced last month. This act attempts to disrupt the cycles of abuse in the home by creating a coordinated community-based response to domestic violence. And, I am gratified that this bill includes a program called Safe Return designed to assist local law enforcement authorities in locating victims of Alzheimer's disease who have wandered from home.

But, I must emphasize that I have serious concerns about the course the Senate is choosing to take with this bill. In my view it relies too heavily on shallow symbols like the death penalty which only serve to further pummel the battered fabric of our decreasingly civilized society while focusing the debate away from the real issues at stake.

As the bill managers noted last week, the Federal Government can only aim to influence a small portion of the crime in America. Many penalties in this bill would apply only to the 1 percent of crimes which fall into Federal jurisdiction. In this way, many proposals in this bill are mostly symbolic. This dangerous trend focuses the debate away from the real problems facing neighborhoods all across this country.

Using symbols to fight crime can be dangerous in another way. Researchers have documented over 400 cases of people wrongly convicted of capital offenses in the United States, with 23 of these actually executed. Such a gruesomely barbaric proposition is so abhorrent to us that we do not like to admit that it is even possible. Yet, it is possible. It is utterly reprehensible. And, worst of all, this mistake cannot be corrected.

This bill takes an extremely misguided step by creating almost 50 additional capital offenses. Many times have I noted the immorality I find in the notion of a government that kills for revenge. But, in very practical terms: there is no logical reason for the death penalty. State-sponsored executions have never been shown to have a deterrent effect, and they cost us more money to administer than life in prison without parole. Why do we keep pretending that the emperor is wearing clothes here? To continue this charade of State-sponsored killing when most industrialized nations in the world recognize the futile brutality of it is a true travesty of justice. It is plain wrong.

Earlier, I expressed my concern about creating a crime trust fund that has no outside source of funding, puts programs on automatic pilot, and endangers other priorities of domestic spending. Of course all of us support wise expenditures for criminal justice programs. But, new funds for police, just as new death penalties, will do little by themselves to fight crime in this country of 250 million people because by the time these tools are applied it is already too late. As Camus wrote:

> Society proceeds sovereignly to eliminate the evil ones from her midst as if she were virtue itself. Like an honorable man killing his wayward son and remarking: "Really, I didn't know what to do with him."

Once again, we are focusing on the wrong end of the problem. By the time a child is old enough to wield a gun and shoot someone over a vial of crack or over a pair of basketball shoes, we have already lost them. The death penalty will not outweigh their concern about the bullets of a rival gang member. They are not going to stop and think about the death penalty any more than they stop and think about spending their prime of life going nowhere in a crowded Federal prison like the one I visited last week in Sheridan, OR.

If we are going to face the realities of neighborhood crime, we are going to have to quit clinging to symbolic gestures and admit the frightening truth that there is only so much the Government can do with penalties and prisons. More importantly, the Federal Government may not possess the tools needed to address the real cause of crime in society: namely, the erosion of our moral fiber. Large sums of money and penalties affecting small numbers of offenders will not halt the deterioration of a society that not only tolerates but embraces violence in all of its forms.

We may need more police on the streets at this time. But, how did we get here? We haven't been taking them off the streets in most places. We just have more criminals. That face should not surprise us because we are breeding criminals—criminals that start as lookouts or couriers at age 8, criminals without families, criminals without an education, criminals without moral foundation, and criminals without remorse—but, criminals with Uzis, with expensive cars, and with cellular phones and pagers for instant accessibility at anytime.

Of course we should focus on supporting strong law and order; we should firmly prosecute wrongdoers and help build the necessary prison space to hold them. But, we can not take on those daunting tasks at the expense of trying to stop the cycle of despair. The only way to cut away at this monstrous vine is to attack it at its roots. We can keep building jails, and we will keep filing them up. We can shrug our shoulders and call it a deterrence or detention or incarceration problem. And, we could keep throwing billions at this problem for the rest of our lives. But, where would that leave us? Perhaps with more people wasting away in prisons. But, it would not leave us with more people who have a family structure, a decent public education, a well-paying job, and a moral direction to their life.

I live right across the street from the Nation's Capitol Building. But, I know I cannot safely take a stroll at night in my neighborhood. I know that people are mugged and raped and killed within blocks of this Chamber. These are not isolated incidents; these are regular events. We hear the sirens every night.

As Americans, we zealously protect our rights and freedoms. But, I begin to wonder what type of freedom we want in this country. Freedom to bombard our children with violent television images? Freedom to idolize movie stars who die of drug overdoses of rap singers who degrade women and glorify cop killing? This does not stir me with patriotism. And, freedom to peer through the bar covered windows of our self-imposed prisons in urban neighborhoods offers little solace.

The responsibility belongs to each of us, individually, to stand up for the values that have been the bedrock of this Nation and have seen it through all of its crises for over two centuries. We can no longer tolerate dehumanization in our communities. We have a tradition of rising to all challenges. And, confronting the crisis of spirit which underlies the horrible violence in our society may be our biggest challenge yet.

Mr. CHAFEE. Mr. President, when the Senate began consideration of the crime bill, I announced my intention to offer an amendment to ban the possession of firearms by persons who are subject to certain restraining orders. I am pleased that my amendment was accepted, and is part of the crime bill package that the Senate will approve today.

Under current Federal law, certain persons are banned from possessing a firearm. These "prohibited persons" include convicted felons; drug addicts; illegal aliens; those who have been found mentally incompetent; those who have been dishonorably discharged from the Armed Forces; and those who have renounced their U.S. citizenship.

My amendment adds to this category those individuals who are subject to a court restraining order for harassing, stalking, threatening, or engaging in other such conduct; and whom the court has deemed a credible threat to another person's safety.

There have been far, far too many dreadful cases in which innocent people—and usually they are women—have been wounded or killed by a former boyfriend or girlfriend, partner, or other intimate using a gun—despite the fact that the attacker was subject to a restraining order.

All of us were shocked and saddened by the terrible death of young Kristin Lardner, who was shot in Boston last year by an ex-boyfriend against whom a permanent restraining order had been issued 2 weeks earlier. Ms. Lardner, just 21 years old, had received the restraining order against Michael Cartier on May 19, and a friend said "she felt very relieved that she had [it]." Another friend said she was "the most optimistic and happiest she'd been in months." But in the late afternoon of May 30, as she returned to her workplace to meet a friend, she was shot from behind by Cartier, and died instantly. This bright, intelligent young woman—killed by a man who had been stalking her for weeks, and who had been found to be a danger to her by a court. Apparently he had bought the murder weapon—a Colt .38—for $750 about 2 weeks before the murder.

As horrible and dreadful as Ms. Lardner's death is, even more appalling is the fact that Ms. Lardner's case is not unique. Just 3 weeks ago, on October 19, 25-year-old Kimberly Globis of Chicago was shot and killed by her former boyfriend, against whom a restraining order was pending. Ms. Globis applied for and received a court order of protection against him in August, after he entered her apartment with a knife and after she filed two battery complaints against him. She was due in court the day after she was shot to seek an extension of the order.

In my State of Rhode Island, all of us were horrified by the shooting death of 30-year-old Marie Willis, of Middletown, earlier this year. Mrs. Willis was living in South Carolina with her husband, an enlisted man at Myrtle Beach Air Force Base. She left him and returned to Rhode Island with her 6-year-old son after her husband repeatedly abused her—abuse that included twice choking her in front of her son, and burning her legs with a propane torch. At the urging of the Bristol police, Mrs. Willis obtained a restraining order against her husband.

On January 3, Marie Willis flew to Myrtle Beach to testify at a military evidentiary hearing for a possible court-martial of her husband. At 8:15 a.m. on January 4, Senior Airman Willis walked into the hearing with a 9-millimeter pistol and opened fire. Mrs. Willis was hit twice in the head and once in the chest; she was pronounced dead at the hospital at 11:30 a.m.

Bristol police described this as "a tragedy that never should have happened." At the funeral, Marie Willis' family said "words cannot express or describes the amount of grief we feel for the loss of our only daughter and sister, Mary Ann Raffa Willis." What a terrible loss for her family and her young son.

The deaths of these women are tragedies. And it is particularly tragic that in each of these situations, the woman knew that she was in danger of physical attack and had sought legal protection in the form of a restraining order. Yet they remained vulnerable.

I might note that it is not easy for women to receive a restraining order. Many women file for a restraining order as a last resort, when there seems to be no other way to ensure their safety. In part this may be a result of the distinctive nature of these disputes: these emotionally charged situations often involve two people who were intimately related and whose relationship has ended or is in the process of ending. Or they may involve an individual obsessed with another person, be they a friend, an acquaintence or a stranger.

Moreover, the very nature of the conduct—following, harassing, threatening—does not automatically result in a restraining order. This is because an action that is quite alarming still may not be illegal; in fact, it may be constitutionally protected action. That means that women must suffer distressing or even frightening treatment that cannot be legally prevented until it crosses the line into harmful conduct. Even after a court restraining order is issued, this may still be the case: the courts and law enforcement agencies often cannot act until the harasser violates the restraining order by attacking the woman—and then, especially when a gun is involved, it may be too late. What a terrible catch-22.

It is that situation—where there is a restraining order in force against someone who poses a clear threat—that my amendment is intended to address. Restraining orders are issued for the express reason that a woman sincerely believes—and a court agrees— that she is in imminent danger of being harmed, attacked or killed. It therefore is nothing short of insanity for Federal law to allow such dangerous persons to possess a gun. And it has lead to the senseless and horrible deaths of many, many young women in this country.

My amendment is simple and straightforward. It would ensure that a person whom the court says is a threat may not have a gun during the time that he or she is subject to the restraining order.

For those who may argue that a harasser will simply use another weapon, I would say first of all that that is a ludicrous rationale for arguing in favor of allowing the potential attacker to have a gun.

Second, consider this: Guns are just about the must lethal and efficient weapon around. In fact, studies of weapons involvement and injury outcomes in family or other intimate assaults show that chances of being killed if a gun is involved are 12 times greater than if another weapon is involved.

Moreover, a gun can be fired from far away, with some anonymity, and without much visual warning. A knife or other weapon requires that the attacker actually approach the victim, which may mean the intended victim has a chance to recognize the attacker and react.

There simply is no rational reason whatsoever to allow persons who have been deemed a clear and present danger to another person, usually a woman, to have a gun. None at all. Hence my amendment.

My amendment by itself cannot solve the problem of stalking or harassment, nor provide an obsolute guarantee of a woman's safety. But it will remove weapons that are extremely lethal from the reach of these dangerous persons, and give law enforcement one more tool to combat this terrible problem. And it will give women some assurances that the law will provide some definite protection—and that the law takes their safety and well-being seriously.

I thank the managers of the bill for their support of this amendment.

Mr. DURENBERGER. Mr. President, I have watched a number of my colleagues come to the Senate floor over the past several days to decry the problem of crime in America. I share their frustration. I do not believe there is a household in America that has not been touched in some way by the consequence of violent behavior and by crime.

It's not new. It has grown substantially in one generation. We're aware of it as brothers, sisters, parents, partners, neighbors, news definers, and representatives.

We want desperately to tell the American people that the U.S. Congress is doing something about crime. So the Senate is considering a piece of legislation called the crime bill. But I am afraid we are trying to sell our constituents a political placebo, not a cure for crime.

We see senseless acts of violence. The temptation is to react with anger. We have to get tougher on crime, it is said. Build more prisons. Toughen sentences. Federalize crimes. Have more death penalties. Or maybe it would be enough just to put more police on the streets.

My quarrel with this whole line of reasoning is that it fails to address the problem at its most basic level. To use an analogy from health care, it's like saying we could cure disease if only we had enough hospital beds.

And make no mistake—crime as a disease of the social organism is not that different from a disease of the human body.

In an even more literal sense, violence in America is a public health crisis—just as certainly as the AIDS epidemic. The second leading cause of death among American young people is homicide. For young black males, it is the leading cause of death.

We will not be able to deal with crime and violence effectively until we consider strategies to prevent crime in terms of America's public health.

I have a deep conviction that matters of public health are dealt with most effectively at the local level—in States, cities, and communities—where the people closest to the problem are able to tailor the solutions.

This conviction comes from serving and observing the people of my home State. Minnesota has a long tradition of finding innovative solutions to problems. The area of criminal justice and crime prevention is no exception.

First, there is a recognition in my State that an investment in crime prevention strategies is more effective than incarceration as a crime-fighting tool. In a 1991 poll of Minnesota residents, 80 percent responded that education, job training, and community programs were the best investments to reduce crime. Sixteen percent chose prisons.

Among industrialized nations, the United States ranks first in the rate of incarceration—and first in the percentage of children living below the poverty line. Can this be a coincidence?

Is it a coincidence that participants in preschool programs like Head Start are 40 percent less likely to be arrested as teenagers?

Or that participants in the Job Corps are one-third less likely to be arrested in the year following their Job Corps experience?

Minnesota has discovered that a wise investment in children, youth and family yields higher returns than spending on prison beds. Minnesota ranks high in graduation rates and high in overall child well-being—but low in violent crime. In fact, of the States with a major metropolitan area—and 60 percent of Minnesotans live in the Minneapolis/St. Paul metropolitan area—only Wisconsin ranks lower in the rate of violent crime. At the same time, States which have responded to crime by investing most heavily in prisons are the States with the greatest increase in violent crime over the past 12 years.

The creativity of Minnesotans on this issue is far from exhausted. There is a growing movement in Minnesota toward a concept called Restorative Justice.

Restorative Justice is a framework for looking at the criminal justice system in a different way. It focuses on injuries to the victim and the community as well as punishment of the offender. In my view, all three should be included in the response to crime.

The outcome of a criminal case, therefore, is measured not solely by how much punishment was inflicted, but by how much reparation has been made to the victim and the community. In order to restore wholeness, the offender must accept responsibility for the harm and must take action to repair it.

The community must support the process of healing for the victim, and enable the offender to repair the harm. And the role of government is to ensure community safety and protect individual rights during the process of restoration.

In this model, the importance of the victim is elevated. Restoration of the victim—and the offender's acceptance of responsibility—are higher priorities than punishment of the offender. Restorative justice involves the entire community in holding the offender accountable, in acknowledging community responsibility for the social conditions which affect the offender's behavior, and in starting the healing process.

The Minnesota Citizens' Council on Crime and Justice has been a leader in advocating principles of restorative justice. As a result, our criminal justice system has become a model for States across America. Our State prison system has been reserved for violent offenders who are a danger to the community. Nonviolent offenders are eligible for intermediate sanctions that are less costly, more effective at reducing recidivism, and more beneficial to the victim and community.

Promoting innovative State and local solutions like those that are working in Minnesota by adapting them to every community via categorical programs is not the best Federal role in reducing the problem of crime. National mandatory sentencing rules don't work any better to cure or deter locally experienced criminal activity. But there are important national strategies that could help in more effective ways. The bill does contain some provisions that work thoughtfully to that end.

I am especially pleased that the bill contains that Jacob Wetterling Crimes Against Children Act, a piece of legislation that I first introduced in 1991. I believe the Wetterling bill will help communities break the vicious cycle of child sexual victimization, by requiring people who are convicted of sex offenses against children—and these offenders are a group especially prone to recidivism—to register with law enforcement agencies every time they change address, for a period of 10 years after their release.

I am also grateful for the adoption of an amendment I proposed to prevent children from becoming the indirect victims of their parent's crime. This amendment is based on a bill I introduced earlier this year—the Family Unity Demonstration Project Act—which would authorize demonstration projects that would allow nonviolent incarcerated mothers to serve their sentences in supervised community programs with their children.

These programs will provide the children with pediatric care and an environment supervised by child development specialists. The offending parent will participate in parenting classes, substance abuse treatment, support groups and individual counseling, as well as educational and vocational training.

This amendment is a serious solution to a serious problem. Children who are separated from incarcerated parents have a high risk of developing social and emotional problems, of dropping out of school—and of becoming criminals themselves. These demonstration projects will minimize the trauma to children—and place them in a stable, caring, healthy environment.

In addition to being a more cost-effective alternative to incarceration, these supervised programs produce results. According to testimony presented to the Judiciary Committee, the participants are much less likely to repeat their crimes and more likely to emerge from the program as better parents and productive members of society.

Make no mistake about it, the bottom line on crime prevention is predictable consequences. And let me be absolutely clear on this point. People should be required to pay for their crimes. Communities have to protect themselves from threats to their safety.

That's why I believe in a strong and well-trained law enforcement community. But I also believe that the general tone of the debate on this bill has cheated the American people out of equally real and equally important solutions to crime.

Mr. President, I ask unanimous consent that a Washington Post article from this morning be printed in the RECORD at the conclusion of my remarks, describing Supreme Court Justice Harry A. Blackmun's recent reevaluation of whether the death penalty can actually be constitutionally imposed.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

Mr. DURENBERGER. Nowhere has the tone of the debate on this bill gotten more carried away than on the whole question of the death penalty. There is no evidence that the death penalty is a deterrent to crime—yet this bill began by expanding the Federal death penalty to nearly 50 offenses and the list kept growing.

Similarly, there is no evidence that increasing the rate of incarceration decreases violent crime. In fact, an unbiased look at our current system of incarceration would indicate that prisons accomplish little more than teach less experienced criminals to become more proficient criminals.

On this bill, we have been out to prove that we are tough on crime. Any amendment that sounds tough on crime has been likely to pass—by a wide margin, and without any thoughtful debate. It somehow makes us feel better, but it is a terrible way to legislate.

I am particularly disturbed the way we frantically moved to federalize crimes on this bill. My good friend Judge Paul Magnuson, a distinguished Federal judge, pointed out to me that he has tried 33 jury trials so far this year, and only two of them were civil cases. And he believes his caseload is an exception because many judges have probably handled no civil cases.

The point is, of course, that as we load up the Federal courts with more and more criminal matters, we are approaching the point where we do not have a civil judiciary in this country.

We have hundreds of State court judges in Minnesota and only five Federal judges. Shouldn't we be leaving a few crimes for our State judiciary system to handle?

And let me point out another portion of this bill that I believe was ill conceived. One night during debate on a crime bill authorizing $12 billion in Federal expenditures, we created a $22 billion trust fund for crime that will require corresponding cuts in our discretionary spending caps over the next 5 years.

I applaud that we are trying to find ways to pay for our legislation. But I cannot endorse this course as responsible or effective.

The trust fund is supposed to be financed by implementing a provision of the administration's "reinventing government" proposal that imposes caps on the Federal work force. Unfortunately, CBO has estimated that "reinventing government" scheme will save much less money than the administration had estimated. OMB had claimed that the entire proposal would save $9.1 billion over 5 years, but the CBO estimates that only $305 million will be saved.

It wasn't wise to adopt this kind of funding mechanism, late at night, without the benefit of any hearings. It is clearly possible that we will be diverting dollars into the trust fund that might be more effectively spent in discretionary programs like Headstart and job training that do a better job at preventing crime. Over the next 5 years, those proven programs will have to compete for a smaller pot of money because we fell all over ourselves one night to show our commitment to the problem of crime.

To conclude, then, Mr. President, it looks to me like this bill is coming up with a lot of wrong answers. And it has been my experience over nearly six decades that when you consistently get wrong answers, it's a sign that you are probably asking the wrong questions.

In this case, we are looking to Members of Congress to do things that the average American citizen can do much better than a politician: Love and support our children. Look out for our neighbors, and care about what happens to their kids. Take an interest in our community.

Congress can provide some leadership and resources, but we can't legislate that sense of community.

So what are we left with? Every year, the crime bill becomes a competition to see who can talk the toughest on crime. But often, the most courageous voices are not the ones appealing to our lust for vengeance.

Rather, the voice of courage is the one that finds the answer not in a Federal crime bill—but in ourselves. Our communities. Our families. And our own creativity.

Our best hope—and the proper focus of our efforts in Washington—lies in enabling communities to develop creative strategies to present and respond to crime. The death penalty—to take the most egregious example—is not a creative strategy. It is not even an effective strategy. In fact, it would not be an exaggeration to call it a demagogic strategy.

To illustrate the environment of the debate on this bill, a colleague suggested jokingly that he had an amendment to require severing hands from thieves.

I will vote against this bill because it is a wrong-headed approach. Let us find the courage to look for what works. Not what works in focus groups, not what works in poll numbers—but in plain facts and in the truth that is written in our hearts. Until we find the courage to do this, I think the prudent course would be to rely on the communities across this country that are taking the lead.

Perhaps—if those in Minnesota and elsewhere continue to lead—someday the men and women of this Chamber will follow.

EXHIBIT 1

[From the Washington Post, Nov. 19, 1993]

BLACKMUN REEVALUATING HIS DEATH PENALTY STAND

Supreme Court Justice Harry A. Blackmun is reevaluating his views on capital punishment and is no longer "certain at all that the death penalty can be constitutionally imposed," he told ABC's "Nightline" last night.

Blackmun's reconsideration of the death penalty would not produce a change in the law; the majority of justices, including Blackmun, has since 1976 voted to uphold it with no sign of reversal. But it is unusual for justices to voice their views about issues in public interviews.

"I'm not sure the death penalty as administered is fairly administered," Blackmun said. "I think it comes close to violating the Equal Protection Claus of the Constitution. . . . I haven't taken that position yet, but I'm getting close to it," he said, according to a transcript of the interview that was taped in advanced.

Blackmun, 85, said he is particularly concerned about studies suggesting that blacks disproportionately suffer from application of the death penalty. There are "disturbing statistics that come in when one considers race. . . . And, of course, some people can rationalize that to their satisfaction. But there it stands, and I'm bothered by it. I don't like death penalty cases," he said.

"I cringe every time we get them, and in some states particularly Texas, they're moving along so that in some weeks we have more than one."

Asked if he thought innocent people were executed, Blackmun responded: "Yes." Asked how he could live with that belief, he said: "Well, you stay awake, there's no doubt about it, but there's just not much you can do except make a noise about it probably.

"On the other hand, I can understand and sympathize completely with the victims, if they have survived, or with the victim's family and the anguish that they have gone through. And I can understand why our legislator at the state level and the Congress on occasion have imposed the death penalty."

Over the past two decades, only Justice William J. Brennan Jr., now retired, and the late Justice Thurgood Marshall have voted to strike down capital punishment as a violation of the Eighth Amendment's ban on cruel and unusual punishment.

Blackmun said he never agreed with Marshall and Brennan, because the Fifth Amendment specifically makes reference to capital crimes, thus in his view giving sanction in the Bill of Rights to the death penalty. "But it always bothers me," he said. "These cases are wretched."

Mr. KENNEDY. Mr. President, I intend to vote for final passage of this measure, because it contains major steps forward in the fight against crime: a ban on semiautomatic assault weapons, new Federal support for community policing, the creation of a far-reaching Police Corps, efforts to deal more effectively with domestic violence and violence against women, and a welcome emphasis on drug treatment for nonviolent criminals.

I am also pleased that the bill now includes a reauthorization of the Community Development Corporation program. Economic development is the first line of defense against crime.

On the other hand, there are aspects of the bill that deeply trouble me. It would effectively override States' laws by extending the Federal death penalty to homicides in all 50 States. It would create new mandatory minimum sentencing laws, and limit due process in deportation cases. These are tough sounding policies, but they will do nothing to prevent crime and make our streets safer.

We will have an opportunity in conference to address the ill-advised aspects of this bill, while strengthening the provisions that will really promote public safety. I intend to do all I can to see that this outcome is achieved.

Our current anticrime strategy is characterized by the same excessive emphasis on incarceration that marred the war on crime in the 1980's and that clearly has not worked. During the last decade, the Nation's prison population more than doubled. The total number of Americans in jails and prisons now exceeds 1 million, and the United States has surpassed South Africa and the former Soviet Union in the rate at which we incarcerate our citizens.

It is not the case that our prisons are bulging at the seams with violent criminals. In 1991, the National Council on Crime and Delinquency found that less than 20 percent of the State prison inmates had been convicted of violent crimes. Fifty-three percent were sent to prison for minor theft or drug crimes. At the same time, studies show that over 70 percent of defendants in some jurisdictions test positive for drugs after their arrest.

So we have unwittingly adopted a national policy of packing prisons to the rafters with nonviolent drug addicts, many of whom had no access to drug treatment in the community. This policy is not only expensive and ineffective—it actually jeopardizes public safety. To make room for the surge of nonviolent prisoners, some States have cut sentences served by murderers, rapists and robbers by as much as 40 percent. As a result, the rate of violent crime continues to rise, especially among juveniles.

Lengthy incarceration should continue to be the sanction for violent career criminals. But for many other offenders, there are less expensive, more constructive approaches. Prisons are a scarce and costly resource. While it may be necessary to devote a portion of the $22 billion trust fund to prison construction, we cannot spend our way out of a crime wave with bricks and mortar. Prison cells must be used in a way that reflects a rational set of priorities in an effective battle against crime.

If we really want to be tough on crime, we will do what it takes to prevent crimes before they occur, instead of just ratcheting up punishment for the few criminals who are caught. That means getting guns off the street, putting more police on the street, and getting drug addicts into treatment. Those three goals will do more to promote public safety than all the death penalty laws we can possibly pass.

The crime bill before us today makes progress on all three fronts. First, it contains serious restrictions on the manufacture, sale, transfer and possession of assault weapons.

The causes of crime are complex, but there is no doubt that the easy availability of firearms contributes to the mounting toll of death and injury. And no weapons bear more responsibility for the continuing carnage than military-style assault weapons.

These weapons have no legitimate sporting purpose. They are instruments specifically designed to kill other human beings with speed and efficiency. They have their place in the Armed Forces and on the battlefield, but they have no place in schoolyards, on the streets of our cities, or in our towns, and neighborhoods. The assault weapons ban is a genuine breakthrough in the war on crime, and it should have been enacted long ago.

Community policing is another major crime fighting tool. It was pioneered by Lee Brown, who is now serving as Director of National Drug Control Policy. This innovative strategy has led to measurable declines in crime rates in Houston, New York and other cities in which it has been used. Boston's new police commissioner, William Bratton, has brought community policing to his department, and the early results are encouraging.

Community policing means more than just more police. It means officers walking the beat and having a stake in the neighborhoods they patrol. It means asking the police to recognize the early warning signs of crime, and encouraging them to take steps before a crime is committed, before an arrest is necessary.

This bill contains $8.9 billion for community policing over the next 5 years, and it will be money well spent on crime prevention.

One of the most important features of the community policing initiative is the creation of the police corps. Under this program, which is modeled after successful public service scholarship programs like the National Health Service Corps, participants will receive Federal aid to attend college, in exchange for a pledge to spend 4 years as a police officer after graduation. The plan will expand educational opportunities for disadvantaged youth and add thousands of well-qualified, well-trained young men and women to the ranks of overburdened local police.

The third worthwhile initiative in this bill is the new emphasis on reducing violence against women. The act offers a comprehensive approach including new Federal offenses, a new civil cause of action for victims and increased funding for prevention and victims' services. I am pleased that the bill includes funding for a national, toll-free domestic violence hotline, an idea that started in Massachusetts.

The fourth major crime prevention initiative in the pending bill is a requirement that Federal prisoners receive drug treatment if they need it, and support for State programs in this area.

As chairman of the Senate Labor and Human Resources Committee, which has jurisdiction over the Federal effort to support and improve drug treatment, I have heard firsthand from the foremost treatment professionals in the country. The evidence is clear: treatment works.

Like many medical interventions, drug treatment is not a panacea and does not have a 100-percent success rate. But treatment is especially useful in the criminal justice system. Two-thirds of drug addicts who complete a therapeutic community program in prison remain drug-free and arrest-free for at least 3 years. But if addicts get out of prison without undergoing treatment, two out of every three will commit new crimes and be back in prison within 3 years.

It is disappointing that this bill does not pledge more Federal support for community-based drug treatment, so that we can treat more addicts before they are ever arrested. It will be a strange irony if the only way an addict can get off a waiting list and into treatment is by committing a crime. This is one of the flaws in the bill that must be addressed in conference.

There are other problems in the bill. The Senate's bold actions to prevent crime through gun control, community policing, the police corps, and drug treatment have not been matched by a willingness to face reality in other areas.

I oppose the wholesale expansion of the death penalty contained in this bill. It is wrong for the Federal Government to impose this penalty, let alone do so in a way that tramples federalism by imposing it on States like Massachusetts that have refused to enact it.

The Nation's history is replete with instances in which innocent persons have been put to death because of mistaken or perjured testimony. The death penalty also carries a shameful legacy of racial discrimination that this bill does not address.

And there is no convincing evidence that the death penalty deters crime. In general, States that authorize capital punishment have higher murder rates than those that do not. If anything, Government sanctioned killing actually fosters the culture of violence that plagues our society.

Another unwise and unfortunate feature of the legislation is its expansion of mandatory minimum sentencing. The Senate is simply ignoring the growing outcry against mandatory sentencing from judges, prosecutors, including the Attorney General, and defense lawyers. These laws do not mandate punishment at all—they just shift the key decision from judges to prosecutors, who determine what offenses will be charged and what plea bargain will be accepted.

These cases are clogging our courts and prisons with small-time, nonviolent defendants serving 10- or 20-year sentences. Meanwhile, many dangerous, career criminals serve less time.

There is a better way, and in fact Congress found it 10 years ago. In the Sentencing Reform Act of 1984, we abolished parole, established the U.S. Sentencing Commission, and created a strict guideline system for Federal sentencing.

The guidelines provide an appropriate degree of uniformity and toughness. They also give judges the tools they need to avoid injustice and disparity, subject to appellate review.

Now that we have an effective guideline system, mandatory sentencing laws are unnecessary and counterproductive.

Our head-in-the-sand unwillingness to abandon these self-defeating laws—and our foolish expansion of them in each new crime bill—are making judges ask whether the memory of Congress is so short that we have forgotten the system we created in 1984.

At a recent conference, Chief Justice Rehnquist pointed out that mandatory minimum sentences "frustrate the careful calibration of sentences, from one end of the spectrum to the other, that the guidelines were intended to accomplish." And no one thinks Chief Justice Rehnquist is soft on crime.

Several weeks ago, Senators SIMON, THURMOND, SIMPSON, LEAHY, and I introduced a bill to create a so-called safety valve exemption from mandatory sentencing for low-level drug offenders. Even this minimal improvement has not survived consideration of the bill in a meaningful form. This is another matter we must address in conference.

The bill is also a radical departure from traditional allocations of responsibility for enforcing criminal laws. By creating Federal jurisdiction over every crime committed with a gun, this bill abandons basic principles of federalism. It requires States to substantially revise their criminal laws and enact mandatory sentencing laws as a condition of Federal aid.

These presumptuous and unjustifiable assertions of Federal power are as unwise as they are unworkable. The Federal Government's power to print money does not give it the expertise or the legitimacy to rewrite the criminal codes of the 50 States.

There are many other objectionable provisions in this bill. I voted against, and I continue to oppose, the provision to try 13-year-old children as adults in Federal courts.

I oppose the immigration provisions of the bill that establish secret administrative tribunals to deport aliens suspected of terrorist offenses. And while I strongly support the Violence Against Women Act included in the bill, I regret that it was amended in a closed door agreement to provide criminal penalties for transmission of the AIDS virus, and to expand AIDS testing based on irrational fears.

We all agree that inaction is unacceptable in the face of the epidemic of violent crime plaguing the country, and so this bill must move forward. The worthwhile proposals in this bill should be strengthened in conference, and the bad provisions dropped. I look forward to the conference, and to enacting a bill that will make the Federal Government a constructive partner with States and local governments in a war we have to win—the war on crime and violence in our society.

Mr. LEVIN. Mr. President, it does not take someone on Capitol Hill to explain to people throughout the country what crime is and the effect it is having on the daily lives of millions of Americans. They know it can make their elderly parents prisoners in their own homes, make their young children victims in their own schools, and make themselves casualties in their own neighborhoods. They know that crime is all too likely to be something that happens not only to someone else, but also that can happen to themselves and their loved ones.

The bill we are passing today is not a cure-all. It cannot replace a stable family life. It does not deal with the poverty of material goods or the poverty of the spirit which foster crime. It can assist State and local governments, but it cannot replace them in their primary role on the frontlines in the battle against crime.

But, within those limits, the bill before us includes some provisions that can make a meaningful difference in preventing and punishing criminal activity.

First and foremost is the authorization and actual Federal funding to assist local communities in putting more police on the streets. It has been proven that increasing the number of police on the streets reduces crime. By increasing police visibility in communities, this bill does more than send the signal that we want to take our neighborhoods back. It increases the tools to do it.

Second, the bill includes an assault rifle provision, which restricts the manufacture, transfer, and possession of certain semiautomatic assault weapons by specifying 19 weapons that would be restricted along with other weapons which meet specified characteristics. At the same time, the amendment makes clear that it does not place restrictions on the firearms that are used for hunting and sporting purposes.

I was pleased to work with Senator FEINSTEIN in getting this provision included through a floor amendment. It is critical component of this crime bill. Any legislation worthy of the title "crime bill" must have this provision in it that allows us to stand with our police in the all too real battle that they face every day on the streets. We have not successfully defused the nuclear arms race with the former Soviet Union only to lose it in the streets of our cities and towns.

Third, this bill contains initiatives to reduce gang violence through increasing penalties and through grants to encourage young people to direct their energies to alternative associations and activities. It also takes steps to improve the safety in our schools so that students can concentrate on learning for the next century instead of worrying about the violence in the next hallway.

Fourth, this bill includes a provision to stop the illegal use of ephedrine tables in the production of methcathinone, commonly referred to as CAT. CAT is a highly addictive drug and is a more potent stimulant than cocaine. Its use is growing at an alarming rate across the Upper Peninsula of my home State of Michigan and threatens to spread to other areas of the country as well. I have introduced a freestanding bill embodying the substance of this provision.

Fifth, the bill also includes an amendment that I offered requesting that the FBI report to the Congress by June 1994 regarding how it can accelerate and improve automatic fingerprint systems at the State and Federal level in order to use fingerprints found at the scene of a crime to identify more criminal suspects more quickly and effectively. I believe that improving the technology in this area may offer significant promise in preventing crimes because it could make it more likely that the criminal who commits one crime will be apprehended before he or she can commit too many more.

Sixth, I am pleased that the crime bill recognizes the important role that boot camp prisons can play in the corrections system. The bill adds two major opportunities for Federal funding of State boot camp prisons. I have been an early supporter of boot camp prisons because they offer an innovative approach to punishing, young nonviolent offenders. These facilities offer a tough program that teaches discipline and responsibility as well as keeps young offenders away from hardened career criminals. The bill before us includes an amendment that I offered with Senator COATS to improve the Boot Camp Grant Program by ensuring that States offer appropriate postincarceration programs to make sure that the lessons of boot camp stick.

As a consistent opponent of the death penalty, I wish this bill did not contain the new provisions to impose the death penalty. As I indicated when I offered the amendment to replace the death penalty provisions with life in prison without the possibility of release, I oppose the death penalty because the irreversibility of the death penalty is inconsistent with the possibilities of error in the criminal justice system. Each year that we have debated this issue has added to the list of cases in which individuals who had been put on death row were later released because the evidence would no longer support their conviction. The death penalty doesn't deter crime. In fact of the 14 States with the highest murder rates, 13 have the death penalty and 1 State does not have the death penalty.

Mr. President, since on balance, I believe this bill will improve our capacity to fight crime and merits our support, I will vote for it.

Mr. CHAFEE. Mr. President, today I will be voting in favor of S. 1607, the crime bill. In many ways it is a good bill and it incorporates a number of provisions which I support.

First of all, the bill includes an amendment to Federal firearms law that I authored. My amendment ensures that those persons who are subject to a restraining order for conduct such as stalking and harassing, and whom the court has deemed to be a threat to another person, are prohibited from possessing or buying a firearm. It makes no sense whatsoever for these dangerous persons to have a gun; and I am pleased my amendment was adopted.

The bill also contains a number of other measures of which I am a strong supporter, and indeed a cosponsor. It includes the Violence Against Women Act, which I believe represents a good first step toward curtailing the terrible violence and fear that women endure every day.

It includes the Feinstein assault weapons ban amendment, which bans these lethal military-style weapons, which in my view have no place in a civilized society. And it includes the Kohl amendment, a commonsense measure to keep handguns out of the hands of children and teens.

The bill also provides funds to help local law enforcement agencies put more police on the streets and to establish alternative incarceration facilities for first-time nonviolent offenders.

I must say, however, that I vote for this bill with some real reservations. It authorizes the spending of billions of dollars to be drawn from savings which we have not yet achieved. Furthermore, I am deeply concerned about amendments, adopted during the course of the debate, which are intended to curb various violent crimes simply by federalizing them. This seems to me to be an extremely unwise course to take and I hope that these amendments will be removed from the bill in conference.

As an opponent of the death penalty, I also am troubled by the vast expansion of Federal death penalty in this bill. About five dozen existing and new Federal crimes specified in the bill, now will be punishable by death.

And finally, I am concerned about the continued use of mandatory minimum sentences. These laws may sound tough on crime, but they tie the hands of our judges; waste the scarce resources of our court systems; and overcrowd our jails, often forcing the release of far more dangerous criminals. Moreover, they can result in punishment which is grossly disproportionate to the crime. Consider this example: a man could receive a mandatory 10-year sentence without parole for growing marijuana for his own use. Yet another man apprehended for selling heroin—albeit in a much smaller quantity—would draw only a 3-year sentence.

In sum, I will be voting for the crime bill this morning, but with the reservations noted above.

Mr. PELL. Mr. President, today the Senate has reached agreement on a comprehensive crime bill for the first time in over 8 years. It could not come at a better time and indeed, is long overdue. The levels of crime and violence in this country are staggering and the stories of tragedy that take place daily in our streets and neighborhoods are appalling and demand attention. With this bill, we will take a meaningful and serious step forward in the fight against crime and while issues that have been left out of this bill must also be addressed, I applaud what is accomplished here. I would add that Senator BIDEN did a brilliant job of managing it.

In particular, I was very pleased that the bill contains funds which can be used for an innovative alternative incarceration program for juveniles developed by Chief Judge Jeremiah Jeremiah of the Family Court of Rhode Island and JOIN, a collaboration of local public and private agencies. This program, which combines the rigors of the Outward Bound Program with extended supervision and proven rehabilitation techniques, and which is much less costly than incarceration, would be available for young, first-time offenders. Its goal is to provide a rehabilitative alternative to prison life, which all too often simply creates career criminals out of our wayward youth. We need programs like this so that we can provide such opportunity to delinquent youths who can be reformed. After working with the Judiciary Committee, I entered into a colloquy with the chairman, Senator BIDEN, to secure the availability of funds distributed to States under the boot camp and drug court portions of this bill for this program. As a result, Rhode Island will have the resources to implement this creative proposal. At the conculsion of my remarks, and per my colloquy with Senator BIDEN, I will submit materials relating to this program for the RECORD.

With regard to the broader provisions of this legislation, I am pleased that this bill commits sufficient resources to place up to 100,000 additional police officers on our streets. Studies have shown that the presence of officers on the beat reduces crime in troubled neighborhoods. Crime is prevented and the crime that does occur stands a better chance of being prosecuted and punished. Moreover, local jurisdictions are currently strapped for the money to keep adequate personnel on their payrolls and this will provide a big boost to make sure we have the police protection we need.

I am also pleased that the bill contains the Violence Against Women Act of which I was an original cosponsor. This provision represents the first time that a comprehensive effort has been made on the Federal level to address the growing problem of domestic violence and crimes against women. Too often, such violence has been either ignored or trivialized and it is time that we do something to recognize and act to eliminate it.

I was also pleased that two amendments, which I cosponsored, to prohibit the possession of firearms by minors and to ban the manufacture and sale of assault weapons in the United States were included in this bill. While we will address further the issue of gun control at a later date, I believe that these measures are important steps forward in the effort to get some kind of control over the weapons which proliferate in our society.

I am also pleased that we are including funds for innovative drug court programs which stress followup supervision and rehabilitation for young, first-time, nonviolent drug offenders. The bill also contains money to support safe schools programs so that anticrime, safety, and drug prevention efforts will restore some sanity in our schools. And as I have indicated, I am pleased that the bill includes money for boot camp programs which offer alternative means of incarceration with the aim of providing an environment which aims to provide discipline and structure that prisoners may take with them after they leave. These measures focus on prevention and rehabilitation and will assist in the crime fight. I must state that I wish there were more provisions of a similar nature in the bill, but these are good, innovative beginnings.

There are things about the bill, however, that I do find disturbing and were it not for the inevitability of their inclusion and the countervailing good done by the rest of the bill, I would be inclined to oppose this measure. Two of them are particularly troubling. First is the drastic expansion of the death penalty contained within this bill. I am opposed to the death penalty, do not believe it serves as a deterrent, and regret that this country continues to endorse it as a means of punishment. While punishment must be sure, swift, and commensurate with the crime—including life imprisonment without parole—the death penalty is irreversible and, I believe, should not be part of our criminal justice system.

The second area of concern, and one which I addressed earlier, was my discomfort with the extreme focus on committing billions and billions of dollars to prison construction and the housing of ever-increasing numbers of criminals while failing to consider using some of those resources for prevention efforts aimed at the root causes of crime. By providing education, opportunity, and alleviating poverty, we will go a long way toward preventing crime from happening in the first place. It seems to me that prior to expending such exhorbitant sums of money to house and guard criminals, we should dedicate some of those resources in effort to prevent criminal behavior in the first place.

But ultimately, the good of this bill outweighs the bad and given the pervasive and unavoidable reality of crime in this country we must act to stem the violence. I believe that this bill will begin that process and I commend the leadership and the Judiciary Committee for their excellent work. With this and other subsequent crime measures, such as the Brady bill, we in the Senate are facing up to our responsibility to really do something about crime and I look forward to continuing this work.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Family Court State of Rhode Island and Providence Plantations for the U.S. Justice Department, September 30, 1993]

PROPOSAL FROM JOIN (JUVENILE OFFENDERS; INTERVENTION AND NEW ALTERNATIVES)

1. SUMMARY

Herein follows a collaborative, government and private sector, series of creative strategies dealing with juvenile delinquency in the State of Rhode Island. The proposal will involve three inter-related subdivisions aimed at Rhode Island black, Hispanic, white and Southeast Asian gangs.

The subdivisions include (a) a caseworker and outreach program aimed primarily at intensive follow-up of offenders and closely maintaining their behavior contracts; (b) innovative programs especially involving the schools, police, and family court for status and first offenders; (c) an alternative for the Rhode Island Training School.

The program will involve 60 individuals, especially high risk youth under 17 years of age, active in the streets and in crime in Rhode Island; the program includes 20 serious voluntary status offenders, and 40 adjudicated delinquent individuals who will be given the opportunity to choose under court mandate this program. These individuals, court mandated felons, would return to the Training School if they break their contract.

This is a comprehensive, collaborative, multi-ethnic group proposal from Rhode Island under the leadership of the Rhode Island Family Court and may serve as a model for other cities and states searching for ways to deal with gangs and juvenile delinquent. Generally the ethnic background of the participants will be multi-racial.

The major focus of this program will be to enhance inter-ethnic respect and cooperation. For instance, the staff will train together and meet regularly. So too the participants will have an opportunity to deal with their own racial rivalries and build a team cooperative commitment.

The projects theoretical model will depend heavily upon the Outward Bound experience, involving Outward Bound experts with a long history in the treatment of status and adjudicated felons. The staff, the serious second or third-time offenders, and the adjudicated delinquents all will be involved in the Outward Bound experience.

The innovation here involves a very close relationship with the indigenous case managers and Outward Bound experts, and the Family Court and members of JOIN, the police school and community.

JOIN may form a 501-C-3 status, to serve as fiscal agent.

The Outward Bound program which will be subcontracted originates from Thompson Island in Boston Harbor. Peter Willauer, an early Outward Bound founder with extensive experience throughout the entire east coast, treating status and adjudicated felons will be the overall Outward Bound coordinator. He has assembled a team of Outward Bound staff that will combine the Outward Bound philosophy of self-discovery by stretching limits and by building trust and cooperation while developing compassion. Outward Bound will have a consultative staff team involving many of the founders of Outward Bound.

The intensive aftercare in Providence will be significantly important and continue for a minimum of at least a year, depending upon court mandate. This is an holistic model in that the Providence case manager staff will often be visiting the Outward Bound experience and the enrolled individuals, and the Outward Bound staff will often be in Rhode Island visiting particular participants, either before or after the actual Outward Bound experience.

Finally, it cannot be said enough that the success of this program depends upon the interaction and cooperation of the Family Court with private agencies and the Outward Bound program. Of course this includes an ongoing cooperative relationship with the staff of the state Training School.

FAMILY COURT OF THE
STATE OF RHODE ISLAND,
Providence, RI, September 29, 1993.

Hon. JANET RENO,
Attorney General, Department of Justice, Washington, DC.

DEAR ATTORNEY GENERAL RENO: Attached is a proposal that was developed through a collaborative effort by private and public agencies and the Rhode Island Family Court. This pilot project has been developed to provide a comprehensive treatment program that meets the needs of status offenders and adjudicated juvenile offenders.

The Rhode Island juvenile justice system is struggling to provide the juveniles referred to the Family Court with meaningful sanctions and alternatives to incarceration.

Unfortunately, the state does not have all the necessary treatment slots available to meet the needs of these young offenders. This proposal will provide the juvenile justice system with an appropriate rehabilitative option.

I appreciate your consideration of this proposal, and I strongly encourage you to support this effort. The implementation of this proposal will provide juvenile offenders with an appropriate alternative to help them bring about change in their lives.

Sincerely yours,
JEREMIAH S. JEREMIAH, Jr.,
Chief Judge.

THOMPSON ISLAND,
OUTWARD BOUND EDUCATION CENTER,
Boston, MA, September 28, 1993.

Judge JEREMIAH S. JEREMIAH, Jr.,
Chief Judge, Family Court of Rhode Island, Providence, RI.

DEAR JUDGE JEREMIAH: Thompson Island Outward Bound Education Center is pleased to support the effort your group has undertaken to develop alternatives to the Training School program for male delinquents and provide interventions for male status offenders involved with the Family Court of Rhode Island.

We expect great success for the programs you are proposing based on the Outward Bound model which has been proven to reduce recidivism in a cost effective manner.

I look forward to continued cooperation with your Juvenile Offenders program.

Kindest personal regards,
PETER O. WILLAUER,
President.

Mr. SIMON. Mr. President, I want to address two aspects of S. 1607, the Violent Crime Control and Law Enforcement Act of 1993. Title X of S. 1607 includes the DNA Identification Act of 1993, a provision I authored to encourage the use and databanking of forensic DNA tests.

In 1989, I held the first ever congressional hearings on forensic DNA tests. The testimony received at that hearing convinced me of the scientific soundness of these tests and their immense crime-fighting potential. The DNA Identification Act passed the Senate twice last Congress as part of anticrime legislation. This provision is strongly supported by the FBI and the Illinois State Police.

As included in S. 1607, the DNA Identification Act directs the Director of the FBI to appoint an advisory board on DNA quality assurance methods and, after taking its recommendations into account, to issue quality assurance standards including standards for proficiency testing of forensic laboratories and analysts. The bill specifies that the advisory board shall include as members, scientists from State, local, and private forensic laboratories appointed from among nominations proposed by the head of the National Academy of Sciences.

Private sector representation on the advisory board was added in recognition of the fact that a growing number of for-profit laboratories have entered the field of forensic DNA analysis. This was done with some hesitation, however, because of the legitimate concerns about the potential for ethical and conflict of interest problems which would arise from the presence of a board member who has a financial interest, or whose employer has a financial interest, in a particular DNA analysis method, protocol or product. This concern, of course, is not limited to board members from the private sector.

Consequently, in making appointments to the advisory board on DNA quality assurance methods, it is my expectation that the Director of the FBI will adhere strictly to all applicable conflict of interest and ethics laws. In particular, the FBI Director must take appropriate steps to ensure that no member of the board has a commercial or proprietary interest in matters addressed by the board. This may require the Director to obtain disclosure statements from board nominees. A review of any potential conflict of interest or ethical questions should be conducted with the assistance of the Bureau's Legal Counsel Division, with the Director retaining final authority over appointments to the board.

Mr. President, the development of quality assurance methods and standards is critical to the performance of high quality forensic DNA analysis. According to a 1990 Office of Technology Report, "setting standards for forensic DNA analysis is the most urgent policy issue and needs to be resolved without further delay." I wanted to take a moment to address this issue because of the importance of the task facing the DNA advisory board and the necessity that any decisions it makes are free from even the appearance of a conflict of interest.

Finally Mr. President, the DNA Identification Act also directs the National Institute of Justice to study the feasibility of establishing and, if appropriate, to undertake to establish, a blind external proficiency testing program. It is the intent that any blind external proficiency testing program established through the National Institute of Justice would become self-sustaining, through fees paid by public and private laboratories participating in the program. It is not the intent to require participation in such a blind, external proficiency testing program by State, local and private laboratories—participation would be voluntary for such laboratories. Furthermore, State and local laboratories receiving grants under the bill and any laboratory which submits data to the national DNA index would not be required by this legislation to participate in any blind, external proficiency testing program. It is expected that most laboratories would voluntarily choose to participate in such a program. That decision, however, remains outside of the scope of this legislation.

Mr. President, I want to commend the chairman of the Senate Judiciary Committee, Senator BIDEN, for his extraordinary efforts these past few weeks in bringing the crime bill to a final vote. He has been forced to walk through a minefield, artfully moving between controversies from gun control to habeas corpus reform. He has shown once again that few, if any, Members of this body can match his breadth of knowledge about crime and violence in America.

Having said that, I must admit that I do not find this vote to be an easy one. On one hand, there is much in this bill that I believe in strongly.

The bill includes many provisions that I have sponsored, including legislation that would impose tough new restrictions on gun dealers, another that would require during testing of all Federal prisoners, a measure that would permit the Government to more easily trace drug money, and a grant program to evaluate whether alternative programs for nonviolent offenders would help reduce recidivism and save money.

Moreover, the bill includes other provisions that I have long supported, such as the Violence Against Women Act. It includes funds for 100,000 additional police on the streets of our Nation, which will surely help in the fight against street crime across America. It provides grants for certain innovative enforcement projects—such as a drug court for nonviolent substance abusers and a boot camp program for young offenders. And, the bill enacts long overdue gun control provisions, such as a ban on assault weapons.

And yet. And yet, I am troubled by the package that lies before the Senate today. I am troubled because, in too many ways, this package represents an approach to crime control that I sincerely believe is misguided and ineffective. In large measure, this package rests on the seductive belief that we can fight crime simply by passing tougher and tougher sentencing laws.

What have we done?

First, we have passed 50 new death penalties to show that we will be ruthless with murderers and drug dealers. I have spoken out in the past about my opposition to the death penalty. But even supporters of the death penalty must recognize that these 50 new death provisions represent little more than posturing. Studies show that, in general, the death penalty has negligible, if any, deterrence effect. At the Federal level, the death penalty will assuredly have no more than symbolic value, since the provisions will apply only to an exceedingly small number of offenders.

And the symbol that we have conveyed is one of ruthlessness. In our rush to be tough, we have pushed aside meaningful habeas corpus reform, increasing the risk that a tragic error will occur. I am troubled deeply that our desire for revenge is not matched by our desire for justice.

Second, I am troubled by the extraordinary funds we have authorized for new regional prisons. Over $3 billion, Mr. President. In 1970, we had 134 people per 100,000 in our prisons and jails. Last year, we had over 500 per 100,000. Is Washington, DC, safer as a result? Is Chicago safer? New York? Los Angeles? As our prison rates have mushroomed, so have violent crime rates, increasing by over 75 percent during the past decade.

It is a fantasy to think that the regional prisons will relieve prison overcrowding in our State systems. The strict truth in sentencing provisions that the States will be forced to accept in order to use the regional prisons will likely increase prison populations far beyond the 25,000 additional beds promised in this proposal.

Indeed, the best and most cost-effective way to reduce overcrowding in the State systems is to become smarter about the way we use our scarce prison resources. For the past 10 years, we have wasted prison space on an increasing number of nonviolent offenders. Between 1980 and 1990, the number of offenders sentenced to prison for drug crimes increased from 9,000 per year to 108,000, rising from 7 to 32 percent of all prison admissions. At the same time, the percentage of admissions for violent offenses fell from 48 to 32 percent.

We are not going to reduce overcrowding by building regional prisons. We will do it only by being smarter about the way we spend our prison resources.

In the long run, violent crime will fall only when we begin to bring some semblance of hope and opportunity to our inner cities. To that worthy objective, this crime bill offers crumbs. Indeed, by carving out a separate trust fund for these prison building measures, we have guaranteed that future cuts in discretionary spending will be taken out of programs like education grants and Head Start. In a very real sense, then, we have begun the process of turning our schools into prisons.

Third, I am troubled by the Senate's rush to federalize crimes that historically have been prosecuted as State offenses. One notable provision in the crime bill, for example, provides that any crime committed with a weapon is now a Federal offense. The chairman of the Judiciary Committee observed last week that this could potentially reach hundreds of thousands of firearm offenses now treated in State courts. Another provision will criminalize certain gang crimes, such as murder, robbery and arson.

No one has made a persuasive case for why these cases should come before a Federal court. I fear that in our desire to sound tough on crime we will simply overwhelm the Federal system with cases that are more appropriately—and more commonly—heard in State court. I fear that we will spend enormous sums of taxpayer dollars in the hope of appearing tough on crime regardless of the effectiveness of these policies.

Finally, I am troubled by our preference for punishment over prevention in dealing with illegal immigration. Amidst the current fervor over immigration, we have threatened to deny local and State governments help in crime prevention if they do not identify and locate undocumented aliens. Rather than force school teachers, public health nurses, and even playground directors to turn over the names of people suspected of being undocumented aliens to the Immigration and Naturalization Service, I believe that we should more effectively enforce our immigration laws at the border and find ways to reduce illegal immigration altogether.

Another unwise provision would impose jail sentences of up to 4 years on people who enter the United States after they have been deported on the grounds of overstaying their visa or illegally getting married. It also authorizes additional penalties upon a finding that an individual is an "aggravated alien felon," a finding that may be based on the existence of a criminal conviction in a foreign country as far back as fifteen years ago.

With my colleagues on the Immigration Subcommittee, I have worked to address immigration enforcement issues. It is my hope that the objectionable provisions can be dropped from this bill, studied and modified by subcommittee members and other interested Senators and added to comprehensive asylum reform legislation that would have bipartisan, bicameral and administration support.

Mr. President, I believe that we can do better. The public is rightfully fearful about crime. They sense that the fabric of their community is frayed and insecure. But I am afraid that our response to those fears has been ill-considered and precipitous.

We will not cultivate individuals who value justice, if we continue to sanction the death penalty without just procedures. We will not reduce violent crime in our communities, if we continue to waste prison space on nonviolent offenders serving long mandatory minimum sentences. We will not stop the use of guns in our streets, if we do not take further steps to limit the sale of firearms and counter the despair that ravages our youth.

Someday I hope we will have another debate about crime. A debate about the need to match punishment with prevention, retribution with justice. That day, clearly, has not yet come.

I will cast my vote against S. 1607.

Mr. DOLE. Mr. President, one of the most accurate reflections of our society and our culture is the newspaper.

Open up any newspaper, on any day, in any city, and crime is there—in our neighborhoods, on our streets, even in our schools. And crime is not just a problem limited to our cities and our suburbs. It's a rural problem as well. In Wichita, KS, for example, the number of drive-by shootings—one of the most cowardly and vicious of all crimes—is at an all-time high.

Mr. President, this bill will obviously not end crime in America. It will not stop the bleeding on our streets, but it is a much needed bandage, a tourniquet, some short-term relief to help restore order to our streets and communities.

It is fitting that this bill has been drafted—and will pass—on a bipartisan basis. Although we have our differences, crime prevention should not be a partisan issue: a mugger does not ask you if you are a Democrat or a Republican before he sticks a gun in your ribs.

From day one, Republicans have insisted that any anticrime bill we pass must be fully paid for. Security has a price and it is a price we at least attempt to pay by establishing a violent crime reduction trust fund. In the months ahead, we will see whether we live up to the trust fund commitment.

Like President Clinton, Republicans also believe that more cops on the street means more security in our neighborhoods.

That is why the Neighborhood Security Act, introduced by Senate Republicans last August, proposed to put more police on the streets through a Community Policing Program, a Troops-to-Cop Program, and the Police Corps. And that is why we support the adoption of these programs as part of the bipartisan anticrime package.

I am also pleased that the package contains the Republican truth-in-sentencing proposal, which would encourage each of the States to adopt laws requiring that their most violent criminals serve at least 85 percent of their prison sentences.

All too often, vicious criminals enter our criminal justice system, only to slide through its revolving doors—legally, and with tragic consequences.

It is no secret that a criminal kept behind bars will not terrorize a single—not one—law-abiding citizen. So, it is my hope that the Republican truth-in-sentencing plan will take off at the State level, for this is one area where the States should follow the Federal Government's lead.

In addition, I am pleased that many of the proposals originally introduced in the Women's Equal Opportunity Act of 1991, and earlier this year, in the Sexual Assault Prevention Act of 1993, have become part of this package.

These proposals include doubling the maximum penalties for recidivist sex offenders; authorizing the HIV-testing of sex offenders and disclosing the results of these tests to the victims; amending the Federal rules of evidence to allow the admissibility of similar past offenses in sexual assault and child molestation cases; and the establishment of a 12-member National Commission on Violence Against Women.

The package also includes additional funding for important programs designed to prevent, and provide assistance to the victims of, sexual assaults and domestic violence.

And, Mr. President, I would like to acknowledge the leadership of both Senator BIDEN and Senator HATCH in giving the issue of violence against women the national attention it deserves.

The bipartisan package contains other important provisions—a Federal antigang statute crafted by myself, Senator HATCH, and Senator BROWN; the death penalty for drug kingpins, sponsored by my colleague from New York Senator D'AMATO; the three-time loser provision offered by my colleague from Mississippi, Senator LOTT; Senator DOMENICI's amendment on afterschool mentoring programs; and, of course, the amendment offered by my distinguished colleague from Iowa, Senator GRASSLEY, that ultimately forced the Justice Department to reverse its position on the enforcement of our child pornography laws.

These proposals are important steps in the right direction. They can make a difference.

But, Mr. President, when all is said and done, the most effective deterrent to crime is not police or a prison cell, but a strong family and the values that strong families transmit to their children.

Values count. Character counts. Families count. And they count far more—and are far more effective—in reducing and stopping crime than any law enforcement proposal Congress can devise.

This is our next and more difficult challenge—as illegitimacy rates reach historic highs, Government at all levels must focus not only on building prisons, but also on developing sensible strategies to build—and rebuild—families. In too many of our communities, the two-parent family is the tragic exception, rather than the rule—and the result has been a generation of children without families and without values.

If we want to go to the root causes of crime, we need to go to the deepest root of all—the family.

Finally, Mr. President, I want to commend my distinguished colleagues, Senator HATCH and Senator BIDEN, for their hard work and perseverance in managing this bill.

There are few Senators who are more committed to effective and tough law enforcement than my friend and colleague from Utah, Senator HATCH. With the passage of today's anticrime package, America owes him a debt of gratitude.

The ACTING PRESIDENT pro tempore. Under the previous order the Senate will proceed to the immediate consideration of H.R. 3355. The clerk will report.

The bill clerk read as follows:

A bill (H.R. 3355) to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants to increase police presence, to expand and improve cooperative efforts between law enforcement agencies and members of the community to address crime and disorder problems, and otherwise to enhance public safety.

The ACTING PRESIDENT pro tempore. Under the previous order, all after the enacting clause is stricken and the text of S. 1607, as amended, is inserted in lieu thereof.

The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

Mr. BIDEN. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The bill having been read the third time, the question is on passage of the bill as amended.

The clerk will call the roll.

The bill clerk will call the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. DORGAN], is necessarily absent.

The PRESIDING OFFICER (Mr. GRAHAM). Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 95, nays 4, as follows:

[Rollcall Vote No. 384 Leg.]

YEAS—95

Akaka
Baucus
Bennett
Biden
Bingaman
Bond
Boren
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Danforth
Daschle
DeConcini
Dodd
Dole
Domenici
Exon
Faircloth
Feinstein
Ford
Glenn
Gorton
Graham
Gramm
Grassley
Gregg
Harkin
Hatch
Heflin
Helms
Hollings
Hutchison
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
Mathews
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sarbanes
Sasser
Shelby
Simpson
Smith
Specter
Stevens
Thurmond
Wallop
Warner
Wellstone
Wofford

NAYS—4

Durenberger
Feingold
Hatfield
Simon

NOT VOTING—1

Dorgan

The bill (H.R. 3355), as amended, was passed.

Mr. BIDEN. Mr. President, I move to reconsider the vote.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table is agreed to.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senate will insist on its amendments, request a conference with the House on the disagreeing votes, and the Chair is authorized to appoint conferees on the part of the Senate.

The Senator from Delaware.

Mr. BIDEN. Mr. President, I ask unanimous consent that S. 1607 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, let me thank Senator HATCH particularly. This piece of legislation started off—and I will be very blunt about it—in an atmosphere of partisanship in that I just wrote a crime bill and I did not consult with my Republican friends in any way because, quite frankly, in my view they had filibustered the last crime bill for 2 years.

I figured that there was no way we could get to the end point. There was no desire to cooperate. But as we introduced the Biden bill, endorsed by the President, and we started this process, we found there was a great deal more cooperation.

So I would like to ask unanimous consent now that on the underlying bill that we passed, the lead sponsor listed as myself, the Biden bill and others, I would like to list as the Biden-Hatch bill, if we can.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMENDATION OF THE STAFF

Mr. BIDEN. Mr. President, I would also like to—I know we always go through this, and the public listens to this and probably thinks this is all perfunctory.

I want to talk 3 brief minutes to thank the staff who worked on this bill. Even those who have observed this gigantic bill as it was wended its way through here—I think appreciate may be the wrong word—understand this was an incredibly time-consuming, complicated process.

So I want to start off by thanking first and foremost the chief counsel of the Judiciary Committee, Cynthia Hogan, who has been the mastermind behind all of this. I cannot thank her enough, and to be very blunt about it, I do not think that the Senate could thank her enough. For all those who voted for this bill, they got a chance to do it because of Cynthia Hogan.

Also, I would like to thank, with the permission of the majority leader, John Hilley. John Hilley is the best I have ever worked with. Were it not for leadership coming out of the majority leader's office—

The PRESIDING OFFICER. Would the Senator from Delaware please withhold? The Senate is not in order. Those who have business other than that currently before the Senate, please move to the Cloakroom.

The Senator from Delaware.

Mr. BIDEN. Mr. President, I also want to thank, as I am sure Senator HATCH will—and this may hurt his reputation—Mark Disler, who is Senator HATCH's chief of staff; and Manus Cooney, who I worked with when he ran the similar operation for Senator THURMOND. Both these men are bright, tough, and absolutely, totally, completely honorable. I have never once had a discussion—there have been some very difficult discussions that we have had on this bill, that I have not been able to walk away from the conversation knowing what they told me would precisely happen. For that I thank them.

I also want to thank Sharon Prost, Ed Whelan, and Victor Cabral of Senator HATCH's staff.

I want to thank Anita Jensen, who is the majority leader's staff person who handles criminal justice issues, and many other issues. I think that her reputation has been damaged because she has been with our staff so much lately they think she works with me. I wish she did. She is absolutely first-rate.

I would like to thank the entire floor staff for helping me bumble through the parliamentary snags that I know a lot less about than I do about the criminal justice system.

Also, Jim English of the Appropriations Committee, and Dorothy Seder. Again, they probably thought she was on my staff. She sat here on the floor the entire time these last so many days until 12, 1 and 2 at night.

Also Larry Stein, of the Budget Committee and Bill Dauster of the Budget Committee.

Last, but not least, my staff: Chris Putala, who has worked with the police organizations; Demetra Lambros, a woman who has come on in the last 8 months in this office, and probably will not regret if she never, ever sees a crime bill again—all the work she has put in—for years; and Cathy Russell, who has had the dubious and difficult job of having to satisfy, I think, something on the order of 45 Senators by getting their amendments negotiated and in the managers' package, a job you would not wish on anyone, but a job that I would give to her again because I know no one else could do it.

James Cooper, who is a first-rate lawyer, who has handled a major portion of this; and Tracey Doherty, a young woman not even out of law school yet. She is going full time to George Washington University. She is working full time on the committee staff. She is one of 12 children, an incredible kid—incredible woman. She is not a kid any more. She is so young, and I want to thank her.

Also Lisa Monaco, Dave Long, Nancy Solomon, and John Earnhardt of my staff.

Last, but not least, I want to thank the majority leader for his graciousness and being willing to let me take another massive bill to the floor, not knowing where in God's name it was likely to go.

Mr. President, I ask unanimous consent that the Senate amendment to H.R. 3355 be printed as passed by the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. I yield the floor. I thank the Chair.

Ms. MOSELEY-BRAUN. Today, Mr. President, the Senate has passed a crime bill that, for the first time in years, has a very real chance of becoming law. This could not occur at a better time. As we have heard over and over again during the past 3 weeks, violent crime is simply out of control. Each day in America a violent crime occurs every 22 seconds. That includes one murder every 22 minutes, one rape very 5 minutes and one aggravated assault every 28 seconds.

Fifty-nine percent of city residents and 57 percent of suburban residents fear becoming a victim of a crime. Sixty percent of all Americans limit the places they travel alone. We are in danger of becoming a society of victims.

But I truly believe that the crime bill passed today will make a very real difference in the daily lives of all Americans. This bill will put 100,000 additional police on the streets and build more prisons for hard-core criminals. It will establish boot camps for first time offenders and expand treatment for drug addicted prisoners.

In addition, this bill will increase penalties for a number of offenses, ranging from hate crimes to arson. Finally, the bill signals the Senate's intention to get serious about gun violence, by banning both the possession of handguns by minors and the manufacture and the sale of deadly semiautomatic weapons.

I would like to take this time to pay tribute to the chairman of the Judiciary Committee, Senator BIDEN. It is largely through the efforts of the Senator from Delaware that we have a crime bill at all. I want to thank him today for his steadfastness and his dedication in ensuring that this bill passed the Senate.

I am also pleased that I was able to make a contribution to the crime bill, by offering a number of amendments to deal with the most disturbing trend in America's crime wave, the rise in violent juvenile crime.

Almost 2 weeks ago the Senate adopted—by a vote of 64 to 23—an amendment I offered, directing U.S. Attorneys to try juveniles 13 years and above who commit a murder, attempt a murder or use a firearm in the commission of a violent crime as adults. I would like to take this moment to briefly discuss what this amendment does and doesn't do.

This amendment was not intended to abolish the juvenile justice system. As a matter of fact the first juvenile court was started in my home State, in Cook County, IL, in 1899. I am proud that it was my home State that saw a need for a separate court system to function as a surrogate parent for wayward youth. I am proud that my State sparked a revolution that quickly spread throughout the country, forcing States to focus individualized attention on the needs of each child, to spare children the trauma of contact with the criminal justice system and to avoid stigmatizing a child by branding him or her a criminal.

At the same time, I believe we must realize that the nature of the Juvenile criminal is changing. In 1903—or even as recently as 1963—a youth in the juvenile justice system was most likely charged with shoplifting, truancy, simple assault or burglary. However, in 1993 that crime can just as easily be aggravated assault, forcible rape or even murder. The fact of the matter is that there is a small but rapidly increasing group of violent juvenile offenders who arm themselves with handguns, sawed-off shotguns or semiautomatic weapons and roam the streets with absolutely no respect for human life. The juvenile justice system simply was not created for this growing population of youths committing adult crimes. It is those juveniles—and those juveniles only—that my proposal was intended to address. But that amendment was just one small part of a larger package I offered to extend a helping hand to those youngsters and their families who are in need of assistance. We must never forget that it is always better to prevent a crime than to punish a criminal. For that reason, I proposed an amendment specifying that 20 percent of juvenile drug trafficking and gang prevention grants must be used to provide parenting classes to high risk families and nonviolent dispute resolution to junior high and high school students. These classes can teach our children a very important lesson, one that is all too often lacking among today's youth—that every dispute need not be settled with a gun.

However, we must also recognize that the schools—or the Government or society—can go only so far in teaching children to avoid a life of crime and violence. Juvenile violence has not reached epidemic levels simply because the schools are not doing their job. Juvenile violence has reached epidemic levels because parents have failed in their basic duties to supervise their children, and to teach them right from wrong.

Along with my distinguished colleague from Arizona, Senator McCAIN, I proposed an amendment to the crime bill that will impose civil fines or community service on the parents of juveniles who commit Federal crimes. The purpose of this amendment is simple—to make parents accept greater responsibility for the actions of their children.

Of course, no parent can control every action of his or her child, and at times, even children of the best parents will make mistakes. But parenting requires more than merely feeding or clothing your children. We can no longer allow parents to distance themselves from responsibility for their minor children who terrorize entire communities. I firmly believe that if the Government is going to be successful in the fight against juvenile crime, it must have the aid of the Nation's parents. My amendment is designed to give parents an added incentive to exercise proper control and supervision over their minor children.

Another critical step in controlling youth violence is getting guns out of the hands of our 17-year-olds, our 16-years-olds, and yes even our 12 and 13-year-olds. The fact of the matter is that, today, our Nation's schools are looking less and less like halls of learning and more and more like armed camps. We cannot expect our children to learn or thrive in that environment.

I am proud to have been a cosponsor of Senator KOHL's legislation to ban the transfer or possession of a handgun by a minor. I worked with Senator KOHL to strengthen this ban, by including an enhanced penalty for adults who provide a firearm to a juvenile to be used in a crime. We can no longer afford to be lenient on adults who are arming our children, cynically using them as mules and lookouts to earn their drug money. This legislation sends a very important message. If you are a kid with a gun, or you give a kid a gun, you will be punished.

Finally, because of the strong evidence that minority youth receive disparate treatment in many juvenile justice systems across the country, I have sponsored a provision to allow the Attorney General to intervene where a pattern and practice of discriminatory treatment of can be shown. Unfortunately, in many jurisdictions, blacks are much more likely than whites to be referred to court, formally charged, and institutionalized in the juvenile justice system. While whites account for 70 percent of juvenile arrests nationwide, they make up only 35 percent of youth in custody. Blacks account for only 25 percent of juvenile arrests, yet account for 44 percent of the youth in custody. This provision provides a method for the Attorney General to ensure that, to the extent that this crime bill causes more youth to come into contact with the juvenile justice system, it will affect all youth equally, and not discriminate on the basis of race.

I would also like to speak about an amendment I cosponsored with two of my colleagues, Senator DURENBERGER of Minnesota and my Senior Senator from Illinois, Senator SIMON. This provision incorporated within the crime bill will establish five demonstration projects—four at the State level and one at the Federal level—where nonviolent female offenders can reside with their young children. In these centers, women can not only bond with their young children and keep their families together, but they can receive parenting classes, drug treatment, job training and other educational opportunities.

By allowing nonviolent offenders to live in the community with their children, we can help maintain more stability than if the mother and the child were separated. This serves two very important purposes. First, by allowing the mother to form strong bonds and attachments with her child, we can give the mother a strong incentive to go straight, and help make it less likely that she will become a repeat offender. And second, we can prevent the child from being shuffled endlessly through the foster and group home system that we all know creates so many problems for young children.

The majority of women prisoners are nonviolent offenders, jailed for property or drug crimes. These women can serve their time in the community, alongside their children, without posing any risk to society. I do not mean to say that these women should not pay for their crimes—of course they should. But why should their innocent children also be made to suffer, particularly when keeping a family intact can give a solid foundation for a happy and productive life.

Two other amendments which I have proposed and have been included in the manager's package also merit a brief mention here. The first bill will provide assistance to States to increase the level of access to the justice system for witnesses, victims, and ordinary citizens, by establishing decentralized court facilities in individual neighborhoods. Simple common sense tells us that residents will take a much more active role in the justice system when the local courthouse is across the street, not across town. The second amendment provides that any study of the role of race in a State's criminal justice system will expressly consider the role that race plays in the jury selection process.

Before I conclude, I would like to speak for a moment on one provision I was not able to place in the crime bill, expressing the sense of Congress that all incarcerated juveniles should receive education at least equivalent to the standards of the local school district. According to the Department of Justice, only 55 percent of all juveniles in detention facilities receive an adequate education. That means 45 percent of all incarcerated juveniles—slightly less than half—are not receiving an adequate education.

We cannot afford to give up on a child merely because he or she has had a brush with the law. If we truly want these young people to have a chance at reforming themselves, we must provide them with a quality education. Individuals who do not receive a quality education are much more likely to return to the juvenile justice system, or to be committed to adult prisons later in life. When the Senate returns next year I intend to call for hearings on this problem, with the help of Senator KOHL, who chairs the Judiciary Committee's Subcommittee on Juvenile Justice. We must act quickly to correct this deficiency, before an entire generation of incarcerated youth is wasted.

In closing, I would like to once again commend Senator BIDEN for his leadership in this area. The time has come for us to reclaim our streets. I believe the crime bill passed today represents a significant step in that effort, and I am proud to have played a part in enacting this legislation.

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BRADY HANDGUN VIOLENCE PREVENTION ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 414, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 414) to amend title 18, United States Code, to require a waiting period before the purchase of a handgun.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, parliamentary inquiry: Am I correct in my understanding that, pursuant to the previous order, it is now appropriate for me to offer an amendment in the nature of a substitute in my behalf and that of Senator DOLE?

The PRESIDING OFFICER. The majority leader is correct.

AMENDMENT NO. 1218

(Purpose: Substitute amendment)

Mr. MITCHELL. Accordingly, Mr. President, I offer an amendment in the nature of a substitute for myself and for Senator DOLE.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for himself and Mr. DOLE, proposes an amendment numbered 1218.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. MITCHELL. Mr. President, I have just presented, and there is now before the Senate, an amendment in the nature of a substitute which was offered by myself and Senator DOLE.

This is the culmination of several days of negotiation and discussion, and represents the best way that we could devise to bring this matter before the Senate and to a conclusion.

At the outset, I want to make it very clear that when I agreed to cosponsor this compromise, I fully reserved my right to vote to eliminate two new provisions in this compromise with which I wholly disagree.

The provisions are those which preempt State and local laws, and the so-called sunsetting provision. I agreed to go forward in this way, reserving my right to work to eliminate those two provisions in the interest of moving the Brady bill through the Senate at this time.

Mr. President, as attempts were made over the past several days to reach agreement on a procedure by which the Senate could debate the Brady bill, it became clear that unless some mechanism were found to move forward on a bipartisan basis at least procedurally, it would not have been possible to complete the Brady bill this year.

It was, therefore, a choice between seeking some form of compromise, or not completing action on the Brady bill in any form this year.

Rather than allow yet another year to elapse without Senate action on the Brady bill, I agreed to join, Senator DOLE in fashioning this means of moving the Brady bill to the Senate floor so that the areas in which there are irreconcilable differences between us can be determined, as they should be in a democracy, by a vote.

Therefore, I will move to strike from this substitute the preemption language which is now in the substitute.

The agreement under which we will debate the bill provides that a later motion to strike or amend the so-called sunsetting language is also in order, and I intend to vote for that effort as well.

Mr. President, the agreement provides that if either or both of these efforts to eliminate these provisions are successful—in other words, if we strike the preemption of State laws, or if we strike the sunsetting language, or if we strike both—then we will face a filibuster by our Republican colleagues. They have made it clear that if we succeed in eliminating either of these provisions, they will filibuster this bill. And, therefore, we will need to have 60 votes to end the filibuster to pass the bill and send it to the House.

Mr. President, I will shortly move to strike the language which would preempt State laws, and I would like to address myself to that subject now. The underlying Brady bill, without the preemption language and without the automatic cutoff date, is one of the best known and most broadly supported pieces of anticrime and antiviolence legislation in this country. Public opinion polls find that 92 percent of Americans favor a required 5-day waiting period so that purchasers of handguns may undergo a background check; 68 percent of members of the National Rifle Association favor passage of the Brady bill requiring a waiting period and a background check; 84 percent of all gun owners favor the Brady proposal to require a waiting period and a background check.

Let me repeat those figures for the benefit of the Senate. Polls show that 92 percent of all Americans, 84 percent of all gun owners, and 68 percent of National Rifle Association members favor the waiting period for the purchase of handguns.

Public opinion polls have consistently shown that among gun owners and non-gun owners alike across the entire country, in every State, substantial majorities of Americans agree that keeping handguns out of the hands of convicted felons is something that makes sense and should be done. Disagreement over reaching that goal was, for many years, stalled as two alternatives were presented, which some claimed were mutually incompatible. The first was to demand a waiting period for prospective handgun purchases. The second was to institute an instant check system of buyers to weed out convicted felons and others not eligible to own firearms.

But in 1991, the Senate demonstrated, by a large margin, that these two alternatives were not mutually incompatible. A bipartisan group of Senators, including the leadership and colleagues with strongly held views on both sides of the issue, developed a measure which would have achieved both goals more certainly and more quickly than either side had so far done alone. The result was a 1991 Senate version of the Brady bill, sponsored by myself, Senator DOLE, Senator METZENBAUM, and Senator KOHL. Senator METZENBAUM has been the leader of this effort for years and was the prime author of that amendment, and Senator KOHL was one of the most valuable contributing members to that process.

That 1991 compromise demonstrated its broad appeal when 67 Members of the Senate, on a bipartisan basis, voted for it. Its premise was simple. There would be a waiting period of 5 business days during which police would check existing records to determine if a buyer was ineligible to purchase a handgun; specifically, if the buyer was a convicted felon.

Simultaneously, a carefully drawn timetable and a system of grants to States would enable the Attorney General to move the States toward a fully automated criminal record system, accessible on a national basis. When that national instant check system was on line, the waiting period would no longer be necessary and would be terminated.

The 1991 Senate compromise Brady bill contained incentives and penalties designed to move both the National Government and the States to reach this goal in a timely and realistic and achievable way. It protected the rights of buyers wrongly denied the right to purchase. It was not an unfunded mandate on the States, since it authorized funds for the upgrading of criminal records and, most important, it contained achievable and reasonable standards to judge when a background check system was so reliable that a waiting period was no longer necessary.

It is my judgment, despite what we now have as new objections to that bill, that very broad and substantial areas of agreement still exist. Americans still support the idea of keeping handguns out of the hands of felons. So does every Member of the Senate. A majority of Americans supports the idea of a waiting period to allow a background check as a reasonable way to achieve that goal. So does a majority of the Senate. An overwhelming majority of Americans is angry at the escalating gun violence in our society. So are Senators.

So, despite the new provisions which have been put in this package, the basis for compromise and reaching a favorable result remains strong. But there can be no compromise on the question of preempting State laws. There was no preemption of State law in the 1991 bill, for which 67 Senators voted. There should be no preemption of State law in this bill either.

I ask those Senators who voted in 1991—the 67—for a bill without preemption, why do they now feel it is necessary to include a provision that is to back off from the position taken then? The provision which I will move to strike provides that, notwithstanding any provision in the law of any State or political subdivision—and that means every city, every town, every county, every unincorporated district in America; anyone who has chosen to require a local waiting period for handgun purchases or other weapons purchases—that the Federal law will supersede all of those laws as soon as some version of a national instant check system is in place.

The language in this package further provides that no State, no city, no town—no one—is permitted, even if they want to, to reinstate such a requirement until at least a year has gone by.

I want my colleagues, every Member of this Senate, to be very clear about the meaning of this provision. It means that, notwithstanding what your State legislature may have found to be appropriate for your home State, notwithstanding what the citizens of your States and cities may have decided about the conduct of their affairs, this provision says their views do not matter; their decisions do not count. It is hard to imagine a more inappropriate inversion of the proper role of the State and Federal Governments.

Supreme Court rulings as recently as 1983 have refused to overturn local ordinances directed at firearms and the public safety. Despite what may be the wishes of some Members of the Senate, the Supreme Court has implicitly said that it is the business of local residents, if they choose to do so, to regulate local commerce in firearms.

Mr. President, let us not be mistaken about this. The target of this provision is clear. It is States like California, which have chosen to adopt and preserve a waiting period for gun purchases. It is cities like Atlanta, GA, which has adopted a handgun purchase waiting period.

Proponents of this provision are asking the Senators from Georgia to tell the people of Atlanta that how they want to regulate their own affairs does not matter. They are asking the Senators from Alabama to tell their State residents that they do not have a right to make decisions about their own actions. And they are asking the Senators from Florida to tell every Florida citizen who voted for the handgun waiting period referendum in December 1990 that their votes do not count.

The people of Florida—and that is a State with an instant check system that has been held up as a national model—nonetheless, in 1990, by voter referendum, chose to amend their State's constitution and add a waiting period to the instant check. The people of Florida changed their constitution by a vote of the people of Florida, and this preemption language now would override Florida's constitution and the clearly expressed will of the people of Florida.

I cannot believe the Senator from Florida would vote for that or would say to the people of his own State: What you want to do does not matter even in a referendum of all of the voters of the State, even when you amended your constitution.

The preemption language of this bill is squarely directed at the citizens of about 20 States. A majority of those States disagree with those who want this preemption provision, and those States include Connecticut, Oregon, Delaware, Florida, Hawaii, Iowa, Illinois, Indiana, Massachusetts, Maryland, Minnesota, Missouri, Nebraska, North Carolina, New Jersey, New York, Pennsylvania, South Dakota, Tennessee, and Washington. Every one of those States has chosen to implement some form of purchase delay for some class of firearm. The proponents of this preemption provision are saying that what the people of those States want to do in their own business, in their own commerce, does not matter.

Are Senators from these States going to say to their own constituents: You do not know what you are doing; you do not know what is good for yourself; we know here, and we are going to override anything you decide to do?

Further, Mr. President, incredibly enough, this provision says that the State legislatures of those 20 States can come back into session at least a year or more from now and rewrite the State laws that they never wanted to repeal in the first place.

Talk about unfunded mandates. Adoption of this preemption provision would mean that we are not only directing what local laws a State can pass, we are telling them when they can do it.

Can anybody here remember that? Not only are we dictating to States about what they can and cannot pass, we are telling them when they can do it.

The States which have chosen to apply laws to the commerce on firearms within borders run the gamut. They are urban and rural. They are Eastern and Northern. They are in the heartland and the Deep South. They are representative of every region of America. And their citizens have chosen on their own to implement some form of waiting for guns, handguns, and in some cases for all gun sales.

Mr. President, this preemption language ought to be stricken from the bill. I will move to strike it, and I urge my colleagues to support the motion to strike.

The people of the States have a right to decide for themselves what to do in this area. Many of them have chosen to do so. Others have chosen not to do so. Let us let permit the States to exercise their judgment when they choose to do so.

Mr. President, I reserve the remainder of my time, and I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, first let me express my appreciation on behalf of all of those concerned in passing the Brady bill to the leader because the leader has been resolute, not alone in this session but in previous sessions as well, in providing the helpfulness in order to bring about the passage of the Brady bill. Time and time again it is he and his staff that have walked into the breach in order to keep this issue alive and it is he who has been a real force to bring us to the point that we are at today.

Mr. President, before I address myself to the substance of the Brady bill, I will take a short moment to comment on the procedural situation we have agreed to today.

We have taken some unusual steps to que up the series of votes we will soon take—steps well worth taking in an effort to bring debate on this important matter to a close before we recess.

The chairman of the Judiciary Committee has been also extremely helpful staying here late hours into the night working as hard as anybody could possibly work in order to bring us to this point today in his support for the Brady bill. So I publicly acknowledge the help and the assistance that both the leader and the chairman of the Judiciary Committee have given us during the most fractious moments of these negotiations.

But quite often in the U.S. Senate when we conclude a measure we at that point arise and indicate our appreciation to the staff that had been involved. The staff of Senator MITCHELL and Senator BIDEN have indeed been extremely helpful but no single individual has worked harder to bring us to this point that we are at at this moment than my administrative assistant Joe Johnson, who is seated beside me. The night before last he was in the meetings until 4:30 in the morning, last night until 2:30 in the morning. I only say publicly to his wife my apologies, but I think in the long run you would agree that his efforts have been in the country's interest and I know how supportive you have been of him, and I am very grateful to him and the country owes him a great debt of gratitude.

At times, these talks were as difficult and tortured as any attempt at a Bosnian cease-fire. And while the Republican leader and I will cross swords shortly on two of the provisions of this substitute, it is safe to say we would not be in a position to pass this bill today if he did not want to allow it, and I am appreciative of that.

And even though the procedure today might seem a bit confusing—the drill is really very simple if you support the Brady bill—vote with the leader on a motion to strike the preemption provision, vote to strike the sunset provisions of the Dole substitute, and vote to invoke cloture on the bill. Three votes, and at the conclusion of those three votes, the President will take pen in hand and make the Brady bill the law of the land, because I do not anticipate any problem in the conference with the House on this subject.

Let us talk about the substance of why we are here and why we need the Brady bill. Mr. President, over 177,000 handgun deaths ago, I first introduced the Brady bill in the Senate—that was 6 years ago, on February 4, 1987.

It was about that time that Jim Brady and his wife Sarah—Jim who had paid with such a high price at the time during the Reagan administration when he himself was personally shot—came forward to provide the leadership to pass what we now call the Brady bill.

There are few bills in the Congress that have the names of a particular individual or individuals. When they do have such names usually they are the name of some Senator or some Congressperson, but in this instance these two individuals have given of so much of their time and effort and dedication in order to get the American people aware of what the issues are about and the need to pass the Brady bill.

I for one speak for all Americans when I say we express our gratitude and appreciation to both Sarah and Jim Brady. Without you we would not be where we are today. This is the fourth consecutive Congress in which we have debated this bill. In 1987, there were a limited number of original cosponsors. Some have claimed that there were no original cosponsors, and I am not sure of that fact.

Today, 31 Senators have joined as cosponsors of this bill. In the last Congress, 67 Senators voted in favor of the Brady bill. And now, in this Congress, the House has already passed the Brady bill.

Every year in this country, over 24,000 people are killed with handguns. That means that about 65 people are killed with handguns per day, or almost 3 per hour. Every year, handguns are involved in an average of 9,200 murders; 12,100 rapes; 210,000 robberies; and 407,600 assaults. Thousands more are killed in handgun suicides. Some of these tragedies could have been prevented if a waiting period had been in effect. And that is all we are saying. We are not claiming that all of them would have been eliminated, but a substantial number of them would not have occurred had there been a waiting period in effect.

Some people's lives would have been saved if Americans would be willing just to wait a few day to get a gun. As Senator MITCHELL has already pointed out the overwhelming majority of Americans, the overwhelming majority of Americans, are willing to wait, and the overwhelming majority of gun owners in this country are willing to wait. The Brady bill would do nothing more than that, provide for a national 5 business day waiting period prior to the sale of a handgun, during which time local law enforcement would be required to conduct a background check on the potential purchaser.

This waiting period requirement would be removed once a computerized nationwide instant background check systems is operational.

I think the American public is fed up with the refusal of the NRA and some Members of Congress to finally give the people the bill they have demanded for years. As previously stated, polls show that nearly 95 percent of the American people support the Brady bill. Eighty-seven percent of gun owners support it. Every single major law enforcement organization in the country supports it.

Dozens of leading labor, medical, religious, civil rights, and civic groups support the Brady bill.

Four former Presidents—Presidents Reagan, Carter, Ford, and Nixon—support it. And President Clinton certainly supports it in the strongest possible way.

I can think of no other piece of legislation that enjoys such support from such a broad cross-section of the American public. The broad and always growing support for the Brady bill should come as no surprise. Very simply, it is sensible public policy. It is absolutely incredible that we have had such a hard time over the years trying to make someone wait a few days to get a deadly weapon so that the police could make sure he or she is not a dangerous criminal.

Finally, we have a President who is not afraid of the NRA. Finally, we have a President who has said to Congress: "If you send me the Brady bill, I'll sign it."

We have a President who calls a press conference in his office, with Jim and Sarah Brady and the chairman of the Judiciary Committee and I and a few others, to indicate how strongly he feels about the need to pass the Brady bill. This is a President who says, "I want the Brady bill. Send it to me." I believe we should do exactly that and do it as quickly as possible. We cannot prolong the waiting period for this legislation any more. Somewhere, somehow, at some time, someone's life depends on it.

I know that by now many of you are familiar with the Brady bill. Some of you may be less familiar. Let me take a few moments to explain exactly what the Brady bill would do.

When the Brady bill is the law of the land, if an individual wishes to buy a handgun, he or she merely walks into a gun store, picks out the gun, and shows a photo ID with the person's name, address, and date of birth. The buyer then is asked to fill out a form stating whether he or she falls under any one of the categories that would, under current Federal law, prohibit possession of a firearm, such as felons.

The purchaser signs this form and leaves the store without a handgun. The dealer then sends the form to the local police. The police then have 5 business days to perform a background check on the purchaser. In that time, the police must check criminal records to see if the purchaser has a felony record. If, after 5 business days, a gun dealer has received no information from law enforcement which indicates that the sale would be illegal under Federal, State, or local law, then the transaction may go through. If the police can conduct this background check in less than 5 business days, then the sale can go through sooner.

If the police find that the purchaser lied on the form and is in fact prohibited from possessing a firearm, they would so notify the gun dealer. The dealer would then be prohibited from selling a handgun to the would-be purchaser.

The Brady bill applies only to handgun sales by licensed dealers to nondealers. It would not affect secondary transfers. In addition, the Brady bill does not apply in States that require their own background checks.

And that has to do with the preemption issue that we are talking about on a Mitchell amendment knocking out the preemption issue.

I also want to make clear that the Brady bill waiting period does not apply in situations involving a known threat to personal safety. Should an individual require access to a handgun because of a threat to his life or the life of a member of his household, he may obtain a statement from local law enforcement that would exempt him from the waiting period.

What the Brady bill will do is help reduce handgun violence. It will stop thousands of illegal handgun purchases.

No one argues that a national waiting period will stop all criminals determined to get a handgun, just as America's drug laws don't stop all drugs, but stronger laws will put a significant obstacle in the criminal's path to the tools of his trade. Enactment of the Brady bill will go far in stemming the flow of guns into the black market.

The NRA claims that there is no evidence of this, that there is no evidence to show that the Brady bill will keep guns out of the hands of criminals. As usual, the truth is just the opposite.

Law enforcement officials from across the Nation report that felons and other prohibited persons are caught by the thousands in States which currently have waiting periods and/or background checks.

For example, California has a 15-day waiting period that has prevented 5,859 illegal firearm sales during 1991 and 5,763 during 1992. Those stopped from buying guns since 1991 include 71 murderers; 14 kidnapers; 203 rapists; 141 under restraining order for domestic violence; 884 burglars and robbers; 1,283 convicted of dangerous drug offenses; 5,772 convicted of assault, and 537 juveniles.

A lot of numbers, a lot of mumbo jumbo, but, in fact, reality is it stopped a lot of people who have criminal records from getting guns and probably keeping them from causing more harm and more deaths in our society.

New Jersey has required a background check for handgun purchases for more than 20 years. According to the New Jersey State Police, more than 10,000 convicted felons have been caught trying to buy handguns.

Maryland has had a 7-day waiting period since 1966. In 1990, more than 750 prohibited persons were caught trying to buy handguns.

So the Brady bill will help reduce gun violence in this country. It is the least we can do. If you cannot do it for yourself, do it for your children and your grandchildren, who would live in a little safer world with the Brady bill as a part of our national laws.

Mr. President, I yield the floor.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

AMENDMENT NO. 1219 TO AMENDMENT NO. 1218

Mr. MITCHELL. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL] proposes an amendment numbered 1219 to amendment No. 1218.

On page 15, strike lines 4 through 18.

The PRESIDING OFFICER. Who yields time?

The Senator from Idaho.

Mr. CRAIG. Mr. President, I yield myself such time as I might consume.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, we are engaging in a very important debate this morning and into the afternoon of the final days of this session of the U.S. Congress. It is an important debate but it is not an unfamiliar debate to most Senators and certainly to any citizens of our country who may be listening or watching.

The Brady bill itself, by name, as most people understand it today, is reasonably well understood. And, as you have heard this morning from the Senator from Ohio and the Senator from Maine, most people say, when asked, "Do you support the Brady bill?", and the answer is "Yes."

But it is interesting to me that to be able to even get to the floor to pass or to become close to being able to pass a Brady-like bill, the majority leader and the minority leader had to largely rewrite the entire bill.

I say that because S. 414, which the Senator from Ohio on many occasions has introduced, really is a shell. It is a shell that has created a political image that largely will not serve what most Americans believes the Brady bill might accomplish. I think all of us have tremendous respect for Sarah and Jim Brady and all that they have been involved in and all that has brought them to this debate and what they have done nationwide to raise the consciousness of Americans as it relates to violence and criminal activity in this country. But I think it would be a tremendous disappointment, in passing legislation and creating an illusion that somehow Americans were going to be safer tomorrow, if the President were allowed to sign a Brady bill that really did nothing but create a 5-day waiting period.

So, through the course of the debate this morning, I will, I believe, provide ample information that is factual, that certainly can be backed up, that would demonstrate that unless you go after a thorough background check, that unless you go after the knowledge of who is buying the weapon, that you really have accomplished nothing and that the streets of America will not be any safer.

Senator KOHL, who is on the floor, and I joined in what I believe was a very historic effort over the course of the last several days to put meaningful law in place to deter criminal activity. We were able to do that in a variety of ways, but one of the most significant and one of the ones that is bothering Americans today is the fact that juveniles are gaining phenomenal access to firearms and in so doing—I think I have used the quote and Senator KOHL has used the quote that over 200,000 handguns a day come into the public schools of this country. And we know that is wrong. But tragically enough the debate over the next couple of hours would have done and would do nothing, if it became law, to deter that, because most of those young people are buying guns illegally off the streets and out of the trunks of cars that are on the streets of America. I say that because it is a fact. It is a documentable statistic.

We will use a lot of statistics today. Certainly my colleagues have already engaged in that gamesmanship—and it is appropriate. But, doggone it, if we are going to tell the American people that we are treading on their constitutional right, we ought to do it in a way that in fact works, that is real, that makes sense. We have historically taken away rights of American citizens under the Constitution. We can do that. But we must be awfully careful in doing it. And, when we do, clearly the majority of the American people must respond by saying it was worthwhile; you have done it because it was worthwhile and it worked.

S. 414 will not work. The reason it will not work is because it does not even require—oh, it speaks to a background check, but it knows under the 10th amendment of the Constitution it cannot force it. It can bring about a waiting period of 5 days. But attorney after attorney who at least we think know something about our Constitution and State law and Federal law have said you can say you can do it, but—even the Senator from Maine said today that court decision after court decision has said you cannot tell local communities and States to do something from the Federal level.

So the alternative, the Dole-Mitchell gun control measure—because it is a form of control but it is really a background check—says to States that, if you are willing to engage in this, we will help you. We will work with you and pay you to bring about an instantaneous record check that will produce what we need. It will produce the background information on the person who is out there to purchase a handgun through legal means, an understanding of whether he or she is a felon or not. And that is what Americans want. That is what this argument is all about.

Fear of violent crime is rising in this country; 57 percent of our American citizens are now concerned about becoming a victim of crime. Americans do not believe, though, that guns are the major cause of crime. Yet, day after day as we debate gun issues on the floor of the United States Senate, somehow we always get to that point where it is the gun that creates the crime or that causes the crime.

Americans know better than that. They say that erosion in moral values create 59 percent of our crime rate, that economic conditions create another 15 percent of our crime rate, and then, when asked about solutions, they say that 7 percent of our crime rate is a result of guns.

What are they saying is the most effective solution? The Brady bill is not at the top of the list. What is at the top of the list are prevention programs and education. What is also at the top of the list is what we have been doing for the last several days here, putting tougher penalties into the prosecution of that law and the enforcement of that law.

Just a few minutes ago we did pass a historic crime bill. There is tough language in it—three times up, three strikeouts and you are out as a citizen. You are out as a citizen if three times you become a felon.

That is tough and that is what the American citizens are saying really brings about quality crime control of the kind that we want. Teaching values, believe it or not, is 16 percent. Gun control—that is what we are talking about today—the American citizens when polled as recently as 6 months ago said, well, that is about 9 percent. It might work. But only 9 percent of them believe that it would work.

So when anyone stands on the floor and says that S. 414 will work and the streets of America will be safer, the American public does not believe it. That is why we are not even going to debate that one today. Yet it has tied us up year after year. Yet we know and the American people know it will not work because it does not require a background check, it plays games with a waiting period, it does some other things, but it is a political shell.

What will work? Let us talk for a moment about what will work. Will the Mitchell-Dole or the Dole-Mitchell substitute amendment 1218 work? It has a 5-day waiting period for the purchase of a handgun after the 90 days from its enactment. States with instant check systems are exempt. Does it preempt States? Yes, it does. But those who have instant checks it does not.

It is also interesting, when you hear this strong argument about preemption that the Senator from Maine made, why, he says, it wipes out State law. What about those States who have no waiting period? It preempts their choice not to have it. In other words, it forces them to have a waiting period just as much as it forces those who do have a waiting period to conform to a 5-day period. It cannot be good for one and bad for the other. You cannot play the preemption game for just some without admitting that, when you put in a mandatory Federal 5-day Federal waiting period on those States that do not have it, that is a preemption of State law, because we must assume—and I think properly so—the State legislatures have already considered the idea of a waiting period in almost all of our States, and many have said no—while others have said yes.

What we do by preemption is exactly what the Brady bill proponents have argued for years now—a uniform Federal law or a uniform law. So I am a little confused by the Senator from Maine and the Senator from Ohio when they talk about how terrible a preemptive clause is in the substitute when in fact for a good number of years they have said uniformity is the key.

We all know we live in or around the District of Columbia, and part of the frustration in the movement of guns in a city that has some of the strongest gun control language in the Nation is—and we have heard it said—"Well, they come in from Virginia, and if we had the same laws in Virginia that we had in Washington, DC, it would be different." Or, "They come in from Maryland." In other words, there is no uniformity within the area in which the crime rate is the highest in the Nation.

So I think we better be awfully careful when we are talking about preemption this morning, that we are contradicting ourselves because, as I mentioned, the argument by the Brady bill proponents for years has been standardization, uniformity. Those were key. That is what the substitute offers: The building of uniformity as we move toward what will accomplish keeping handguns out of the possession of criminals, and that is an instantaneous background check.

Let me walk with you for a few moments down through what the Dole-Mitchell substitute should be able to accomplish.

As I mentioned, there is a 5-day waiting period. But that begins to short-circuit very quickly when States develop a master name list and move toward an instant background check, so that we can bring up nationwide a computerized system so that truly we can get at those who are acquiring guns through a gun store as felons in an illegal way.

Twenty-four months after the enactment, or whenever the computer system contains State records covering 80 percent of the U.S. population and violent crimes with 70 percent accuracy of case disposition within the last 5 years, when their records are up and doing that, they are exempt from this law; they are on their own; they are doing the instant background check. They are bringing that kind of thing on line.

Instant check preempts State and local waiting periods, as we have mentioned, except waiting periods that are enacted 12 months later. In other words, to create the uniformity that the Senator from Ohio has always talked about, we are saying we will bring up the instant check and we are preempting State law, but after the period of time that you have seen it working, if it does not work, you have the right to go back and reinstate a waiting period.

We have worked hard at trying to create the uniformity that we want so that we have a nationwide grid of informational flow that really will be able to check whether a person who is acquiring a gun is in-State, where he or she ought to be, and whether they are a felon or not, whether they comply with what constitutes legal in relation to acquiring a handgun.

The Attorney General will review the statutes and criminal records of the States and set a timetable for each State to provide the records to the national system. That is Attorney General Reno we are talking about. Why is this possible to do? Because for the last 5 years, the Congress of the United States has put Federal tax dollars to building a unified informational system.

The Brady bill, as was mentioned, S. 414, creates a mandate but does not put any money with it. It says to the States, "You do it." But it also is saying, when it says you do it, it says you pull law enforcement officers off the streets and send them to their desks to devise the computer system and to go through the current informational systems to bring up a master name list.

What we are saying is, no, you do not have to do that. It is very important we say that. We just said we are going to put 100,000 new law enforcement officers on the streets when we voted for the crime bill. Senator METZENBAUM, by his bill, would say: Take them off the streets and put them at the desks to do these informational checks. We are saying, no, we are going to give you, provide for you $200 million in grants to States to update your criminal records, to bring them up to standard, to fit into the instant check, to do the kinds of things that are necessary.

It is a mandate with money, and that is the way mandates ought to be if we collectively believe that this is for the general good of our country. State and local law enforcement grants may be cut because of the failure of a State to establish a timetable within the necessary period of time. If instant check is not operating within 24 months, the Justice Department may then administer funds by a reduction of 5 percent, and after 36 months, a reduction of 10 percent.

The reason this timetable is put in place is that we are pushing States toward bringing the instant check up because this bill has a 5-year sunset provision in it, as does the House version of Brady. In other words, we are saying after 5 years, it goes away. But what we are doing is putting money and the force of law in a cooperative effort with State and local law enforcement agencies to bring about what we want, and that is the ability, in an instant way, to find out whether that person who is attempting to acquire a handgun has a record, a felonious record.

Americans do not believe gun control measures to be effective in the battle against crime. Eighty-two percent believe a waiting period will only affect law-abiding citizens and that criminals will still be able to purchase guns. The American people are a bright lot. They do not read the polls. They have a gut instinct, and their gut instincts are accurate.

Here is a statistic to tell you how accurate it is; 86 to 90 percent of people in our prisons today serving time, felonious records, admit that they do not acquire or did not acquire their handguns legally. Is it not interesting that criminals do not walk boldly through the light of day into a gun shop and say, "I want to buy a firearm"? The reason they do not is because of current systems that cause some effort at a background check and, most important, criminals just simply do not play by the rules. I think that is how you define criminal: Somebody who breaks the law. So he or she goes to the streets of America or to the back alleys where there remain an abundant supply of handguns and other forms of firearms, and that is where they buy them.

So American citizens say, "Well, yes, we do support Brady, but it won't work. You have to do some other things."

What they do support is a screening mechanism, an instant background check that says: Identify us; do not prohibit us, do not restrict us, but identify those who are attempting to acquire firearms to see whether they, in fact, have a record.

I believe that is the substance of the debate. There will be ample opportunity to discuss other issues as we work this debate today. But what I do believe is important is to try to understand what we want to accomplish versus what is the politically popular thing to do. So if you decide to vote to strike State preemption today, you are deciding to vote against uniformity. You are saying to those who have waiting periods, you can keep them. And you are saying to those who said, "We do not want a waiting period," but you have to have one.

So I hope if anyone comes to the floor to use their arguments again, they need to be a little broader in their explanation.

What we are saying in a State preemptive clause is uniformity, and we are setting in motion a very strict and exacting timetable to move us toward an instant background check.

All 50 States and the District of Columbia have established central repositories for their local and State criminal records. That started happening 5 years ago when we put money behind the ability of States, along with the FBI, to begin to clean up their record systems. In all those States, criminal justice agencies are required to report arrests and the disposition of the data to a central repository for all serious offenses.

Mr. President, 45 million individuals are on the criminal history files now; 60 percent of the records are automated; 47 States and the District of Columbia have some automation already up right now.

Why am I giving you these statistics? Because they are important to understand when we argue instant background check and the ability to bring it on line in a reasonably short period of time by the establishment of a master name index.

How many of you—probably all of us—have pulled out your credit card and watched that clerk run it through the machine and almost instantly your credit history is before them in the form of saying you are qualified or you do not qualify for the amount of the purchase. That is computerism today. That is modern society. What we are saying is that in nearly that form, within 24 months, with the money we have provided, it is reasonable to assume, based on where we are today and with the 5 years of effort that have already been underway and the money the Federal Government has put behind it already, it is possible to have that kind of, or nearly that kind of automated screening system for the average citizen, and the substitute provides that.

The Dole-Mitchell substitute recognizes the importance of that. S. 414 does not. It does it in a way that, as I mentioned, offers the carrot and offers the stick and moves us clearly as a nation in a direction of uniformity for the purpose of building that kind of an informational base so that we can truly screen out those citizens attempting to acquire their handguns who might have a record or who might attempt to use that gun for illegal purposes.

There are a good many others who are here to debate this important issue. It is an important issue. None of us make lightly of it. It is clearly our responsibility to attempt to create a safer society. None of us deny that. But it is also our responsibility to do it in a way that is not illusionary but that works, that the citizens say, "That's working. Congress, you did a good job. There are fewer crimes being committed today. There is less violence in America. And Congress and U.S. Senate, you were able to do that without treading all over the rights we hold dear, these constitutionally important rights that say we can be what we are and we can do certain things."

One of those happens to be the second amendment. And while I stand on this floor and defend it, I also recognize that we are smart enough, we are good enough, we are far enough along in the world of automation and information that we do not have to tread on rights anymore to be able to create a background check system to allow our citizens the security of understanding that fewer criminals might be unable to get handguns.

I reserve the remainder of my time.

Mr. KOHL addressed the Chair.

The PRESIDING OFFICER (Mr. MATHEWS). Who yields time?

Mr. METZENBAUM. I yield the Senator from Wisconsin 5 minutes.

Mr. KOHL. I thank the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized for 5 minutes.

Mr. KOHL. Mr. President, I rise today to urge my colleagues to strike the language of Senator DOLE's substitute that would preempt State waiting periods. Simply put, I believe that preemption would in fact turn the Brady bill upside down. Let me tell you why.

The Dole language would preempt at least 25 existing State waiting periods. It would shatter, for example, the 15-day waiting period in California which has helped stop 16,000 illegal gun purchases since January of 1991. It would demolish the 20-year-old waiting period in New Jersey which has helped stop 18,000 illegal gun purchases. And it would destroy the 2-day handgun waiting period and background check in my own State of Wisconsin, which has prevented more than 500 convicted felons from buying guns over the last 2 years.

Wisconsin's legislature enacted a waiting period in 1986, long before it established a background check for handgun purchases, because it knew that cooling off periods indeed help save lives. Congress should not strike down this crucial Wisconsin law.

No one is more sensitive to the evils of Federal preemption than my good friend, Senator ALAN SIMPSON of Wyoming. Let me tell you what he said about preemption during our last Brady bill debate just 2 years ago:

> The Federal Government should never preempt State laws without strong and compelling reasons to do so. When we preempt, we wipe out a State law—erase it—nullify it. We substitute our judgment for the decisions made by the duly elected representatives of State government. When we preempt, we are, indeed, big brother. Only in most rare and extreme circumstances should we exercise that awesome Federal power over the States.

Senator SIMPSON and I may disagree over the merits of this Brady bill, but I believe he is right on point when he says we should not substitute our beliefs for those of our colleagues in the States.

Finally, Mr. President, thus far Senate debate on crime policy has been the embodiment of bipartisan cooperation. We ought to make sure it stays that way. I know there are good things in the Dole modification to Brady, and I am certain that we can accept some of the provisions of his proposal. But Jim Brady would not stand behind this attempt to preempt State laws. He would repudiate it because, if the Dole language remains, this will not be a Brady bill anymore. Instead, in my opinion, it would be anti-Brady bill.

I urge my colleagues to support this amendment to strike the Dole preemption language.

I thank the Chair. I yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I yield to the Republican leader such time as he may need.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, I thank my colleague.

Mr. President, this is a very important debate. Many of us know what gunshots will do to a person. I had intended to offer an amendment to the crime bill which would have dealt with a number of real problems, what I call access to firearms. In fact, I think we want to keep in mind this is a very broad amendment. It is not limited to preemption or sunsetting. There are a lot of features in this substitute that are very good.

Had we offered this to the crime bill, it would have been subject to amendments that included bans of certain types of firearms, restrictions on obtaining ammunition, requirements of securing liability insurance, on and on and on.

I believe it is time to separate fact from hysteria and do something about the real problem of firearms—keeping the wrong people from getting access to them.

So I wish to say just a word about the amendment that was adopted on so-called assault weapons, the Feinstein amendment, before moving ahead.

For the first point I am going to make, let us separate all firearms into two categories: Those that fire a stream of bullets when the trigger is pulled and those which fire only once per trigger pull.

There is a lot of confusion about this on this Senate floor.

The first category are called automatics or machine guns. We began regulating them in 1939. Then since that time there is no evidence that even one legally owned machine gun has been used in the commission of a crime.

Let me repeat that so we can discuss facts. Since 1939, no legally owned machine gun has been used in a crime.

But that was not good enough for some, so in 1986 we banned the future manufacture of these firearms that were not and still are not being used in crimes. Then we patted ourselves on the back for that stroke of genius. We banned guns not being used in crimes. "Boy, wasn't that a great thing we did."

Some have begun to call firearms in the second group, those which fire only one shot when the trigger is pulled, automatic weapons—they are not automatic weapons, but that does not make any difference; Members do not make any distinction. So there is a lot of hysteria out there—or machine guns or machine pistols. Well, they are not automatic or machine anything, but they are used in crime and we need to find some way to reduce the chance that they will be.

Now, one line of thinking is that we can somehow wrongly label a firearm in group two, we can somehow ban it and end crime in America.

Unfortunately, injecting falsehoods only guarantee failed results. We can ban all the group 2 guns we want and new ones will appear. That approach is quite simply again a dog chasing its tail. There are other ideas, like "Let them keep their guns, we'll ban the bullets." Mr. President, maybe we should go ahead and debate the real issue. We ought to repeal the second amendment that has been referred to by my colleague from Idaho. Let us have that debate, and get it behind us once and for all. The last time I checked, the second amendment is still part of the Constitution. So like it or not, there are going to be guns around. There are going to be guns around.

But we still have the problem of guns being used in crime. We still have to find some way to address that problem not with hysteria but with a reasoned approach that addresses reality.

We have heard a lot about something called the Brady bill. I know Jim Brady. He is an outstanding person. I knew him when he worked for the distinguished Senator from Delaware [Mr. ROTH]. I knew him when he worked for President Reagan in the communications office.

Some really believe that passing the Brady bill, whatever is in it, is going to end crime because it has the name "Brady" on it. There are two problems with that line of thinking.

First, it is not exactly clear what the Brady bill is. I doubt if anybody here can—well, maybe a few could.

Second, whatever it is, it is not going to end the use of guns in crime.

We have had a lot of changes in Brady bills over the years. They have gotten better. The first one was nothing more than a Federal waiting period prior to the purchase of a handgun, but, unfortunately, a waiting period in itself does not do anything.

I was opposed to the first Brady bill because I genuinely believe it is better to do nothing than to do something that will have no useful impact and no useful effect. To the contrary, with the Drug Enforcement Education Control Act of 1986, Congressman BILL MCCOLLUM and I added an amendment calling on the Department of Justice to begin gathering information to assemble a nationwide computer background check on potential firearm purchasers. We have been at that now since 1986. It has been discussed at length by the distinguished Senator from Idaho [Mr. CRAIG].

Ever since that time, I have insisted the first step in corralling gun violence is to enforce a law we already have on the books, the 1968 Gun Control Act. That law was passed in response to America's outrage at gun violence in the deaths of Bobby Kennedy and Martin Luther King, Jr. Unfortunately, the key provision in that law has remained virtually unenforced; the provision that prohibits criminals from buying firearms.

In most of America today, a convicted felon can walk into a gun store, check a box on a paper form saying he is not a felon and walk out with a gun. Mr. President, man first walked on the moon a year after the 1968 Gun Control Act became law. Yet, 25 years after the law was passed the key provision remains unenforced and violence committed by those who misuse firearms has become rampant. That must change, and our priorities must change.

In 1991, I sponsored a plan that eventually became known as the Brady bill.

An amendment was offered with the distinguished majority leader just as we have done today. Today, we have just two differences. In all of this legislation in the entire package, we have just two, I think, differences. In all of this legislation in the entire package, we have just two, I think, differences that ought to be worked out so everybody could support this legislation—only two differences, minor differences. We made exceptions to the so-called preemptive statute.

But in any event, in 1991, we sponsored this bill but instead of a simple waiting period, it called for a nationwide computer file of convicted felons and others who cannot legally obtain firearms. Further, it required that once operational, that file had to be checked before the purchase of any handgun would be allowed.

Now it is applied to all firearms, any gun—any gun. If you go in to buy any kind of a gun, you put your little card in there, and if its says "tilt," just like your credit card would say "tilt," you do not get any credit, you do not get any gun. That is the instant check. That is the check we ought to have. Finally, prior to the system becoming operational there would be a Federal, 5 business day waiting period, but the Federal waiting period and all other State and local waiting periods would be eliminated once the background check system started operating.

So, that too was called the Brady bill. The first part of the amendment I am now offering is also called the Brady bill. I have not sought the support or endorsement of Jim Brady.

But I think he would be happy at least for the first part of it, I think with most of it, except one little area called preemption. I think the rest of it is not objectionable to anybody. I would like to support whatever the name of this bill is. If we can prevail on preemption and sunsetting, there will be a big, big vote for this bill. It will send a much stronger message than might be sent otherwise.

So what we have done today, working with the majority leader and other Senators who are on the floor today on both sides of the aisle, we have tried to craft a bill where we could bring in some new measures, new provisions, and still have a strong gun bill.

So this amendment preserves the structure in the Brady bill I offered last year. It also requires the Justice Department to work with the States to update criminal records.

In fact, it is going to provide $200 million to do that. We had $100 million in the bill. The distinguished Senator from Kentucky [Mr. FORD] said it ought to be increased. So we raised it to $200 million. So we have the money in the bill.

It requires the Justice Department to work with other Federal agencies to update records for illegal aliens, those dishonorably discharged from the military, Federal felons, and all others who have given up their right to own a handgun. There are six or seven categories, and maybe eight now.

It then requires an instantaneous computer background check prior to the purchase of a handgun.

During the estimated 24 months of record collection, there would be a 5-business day waiting period. However, once the instant check was up and running, the Federal waiting period and all State and local waiting periods would be preempted. It is very similar to the provisions of lasts year's Brady bill which eventually passed this body overwhelmingly.

The most divisive remaining issue on the Brady bill is whether to preempt State and local waiting periods. But, it should not be divisive at all. The backers of the other Brady bill have already agreed that once a computer check is in place, no waiting period is necessary. And, if any State has an instant check system, it needs no waiting period. So, if we pass a law that requires a computer check for every handgun purchase, regardless of location, why would we need a waiting period in some areas of the country and not the others? The fact is, waiting periods do not work, they don't accomplish anything. So why should not we put that issue behind us, and join together and pass this commonsense piece of legislation.

I think this is the point that I do not want people to overlook, my colleagues to overlook. We significantly reduced the preemption in this amendment. People should take a look at it. So it includes only waiting periods.

I met with Congressman SCHUMER in the cloakroom the other night to see if we could not work out something in conference yet this year. We would like to see it done this year before we leave here tomorrow or Monday.

So we were out there just visiting. How can we do this? How can we put this together? We have reasonable people on both sides of the aisle. This cuts across party lines, philosophy or anything else.

He told me that it was not only the waiting periods that take time. He mentioned fingerprinting, licenses, permits, safety courses, a whole list of things that are exempt from the waiting period. They are not preempted.

So the States can still do those things. State and local governments are free to impose new waiting periods. Also, after the interest check goes on line, which we think would take about a year, if the States want to go back, reimpose the waiting periods, they certainly have that right.

So we have tried to change it in every way to satisfy the opposition. We recognize that States have rights. We recognize that other communities have rights.

Mr. President, I hope the people will read the language carefully because we have sought to address the primary concerns that have been expressed.

We hope that the amendment to strike "preemption" fails. We hope the amendment to strike "sunsetting" fails. If that is the case, under the agreement, the bill is agreed to, and it goes to conference, we could complete action before we leave late tonight or tomorrow.

Let me tell you what else is in this substitute offered by the majority leader and myself. The Brady bill was drafted in this amendment, if we are still calling it the Brady bill. It has gone far beyond the original Brady bill—the Federal waiting period. It is going to help reduce some access to handguns by those who want handguns for criminal purposes. But most violent offenders do not obtain handguns in retail establishments. If you want a gun and you are going to commit a crime, or if you are a criminal to start with and have repeated offenses, you are not going to worry about what is legal or illegal. You will find a way to complete your task.

So we have added a number of other provisions to this amendment which recognize other avenues by which handguns find their way onto the streets and are involved in crime.

First, current law requires that if a gun dealer sells more than one handgun to an individual in any 5-day period, notification must be sent to the Bureau of Alcohol, Tobacco and Firearms. The problem we have is that these postcard notifications are filed away in shoe boxes at a warehouse in some out-of-the-way location—they are not used for anything other than an occasional after-the-crime review.

The amendment I am offering changes that. It proposes adding the requirement that State and local police departments be notified. It also requires that no record can be kept at the State and local police departments, which eliminates the concern that this would be back door gun registration.

There is a growing business in black market gun sales. It works in various ways—using straw man purchasers, using counterfeit or deceptive driver's licenses, and on and on—but, to be profitable, it always involves multiple sales.

This provision—which is a new provision and one you ought to look at carefully—would allow police to get a better handle on the individual who buys four or five handguns this week and sells them on the street for an inflated price, and then buys eight handguns next week and sells them on the street for an inflated price. Someone ought to knock on the door of that fellow and ask him if he is a legitimate collector or a trafficker.

Let me say clearly that there is nothing wrong with multiple handgun purchases. It is legal, proper. and should be allowed to continue. It is the illegal activity of reselling the handguns to those bent on the improper use of handguns we must stamp out.

The amendment includes a section on updating Federal firearm licenses—so-called FFL's—and related materials. A number were included in the Simon-Bennett amendment and have been deleted from this amendment.

To address the real problem of gun theft, the first part of the title includes several provisions concerning the theft of firearms which are not contained in current law. The first relates to a requirement in current law that dealers and manufacturers must notify interstate carriers when packages contain firearms. This has led to the carriers requiring that the packages contain labels and tags to clearly identify that firearms are inside. Well, if you ever wanted an invitation to somebody, just put on there "firearms inside." If you are a thief and you want to steal some firearms, you have the box already marked for you. And you guessed it—these packages have been disappearing in ever-increasing numbers. The amendment prohibits these labeling requirements, since it is already against the law to send loaded firearms, and the only real effect of the labels is to invite theft.

Second, it requires a "paper trail" when firearms are sent by carrier. Regardless of industry, most businesses require paper trails on important documents. It seems reasonable to us to require that the same be done on firearms. At least then, we would know if these firearms are stolen and know when they enter the black market.

Third, BATF interprets a part of the current law to require dealers from different States to use common carriers in all sales. The amendment allows the direct, face-to-face transfer of firearms when dealers are from different States. This would reduce the chance of theft while the firearm is in the possession of the carrier.

Fourth, current law prohibits the knowing sale or transfer of stolen firearms. The law does not prohibit stealing the firearms from a dealer or a manufacturer in the first place. This amendment changes that and establishes the penalty for theft from gun stores at 10 years in prison, $10,000, or both. These are all very good provisions, all part of this bill. Call them what you will. Call it the Brady bill, or call it modified Brady bill.

I almost cannot believe it, but there are criminals out there, who rob gun stores. They do not burglarize, but commit armed robbery. I cannot think of a more violent criminal. Obviously, the clerk in the gun store has a high probability of being armed; yet, these criminals shoot their way through the theft knowing in advance that this violence will occur. For those criminals and those stealing firearms in a riot, the penalty is 30 years, and life with no parole if the crime results in a loss of life.

Finally, this part of the FFL title explicitly allows States to prosecute—under State laws—these same violations, which we think is satisfactory.

The next part of the FFL title eliminates the current distinction between pawnbrokers and dealers and raises the fees to $200 for the initial application and $90 for renewal.

The following section will reduce the number of individuals who need FFL's by updating the definitions for "antique firearms." Current law exempts these individuals from needing a dealer's license, and this amendment moves the date forward in the definition of these guns.

In an effort to ensure that dealers follow all of the rules and fully assist the BATF in our efforts to reduce firearms falling into the wrong hands, BATF is required to send the new regulations to all FFL's. The cost of this provision is offset by the new higher fees.

Mr. President, the original amendment ordinary by myself and the majority leader also included a youth handgun safety provision, a concept originated by the Arizona Governor, Fife Symington. That part was similar in nature to the Kohl juvenile handgun amendment. It is a good amendment, and I congratulate the Senator from Wisconsin for adding that to the crime bill. We think it ought to be in this bill because this bill is going to pass, we hope, today and become law this year. But it is in the crime bill, and I think it will stay there.

Mr. President, finally I say this: We should move this debate forward in a nonpartisan way. Gun violence is calling out for realistic answers. They do not separate Republicans from Democrats when somebody is out there with a gun firing away at somebody. They do not ask your party affiliation—well, Maybe in some rare case they might. They do not ask if you are an independent, or a Republican or a Democrat. This is not partisan issue. It seems to me that we can take a big constructive step forward.

Up front, I will say that some may want to make a issue over State and local waiting periods. I do not think they should. The waiting period concept has already been abandoned in other Brady bills. We ought to allow that issue to pass and get on with addressing the real problems.

I am going to speak a little later on preemption, specifically, and sunsetting. The House has adopted a sunsetting provision, and we have cleaned it up a little. We thought it lacked something. I do not think that is a big issue in the Senate. I do not think there is much question about what will happen on the sunsetting. I think it is going to pass.

On preemption, take a careful look at the amendment. Do not look at the newspapers, take a look at the amendment, and take a look at the summary and the analysis of the bill, which should be on everybody's desk. If you do not have the amendment, take a look at all of the exemptions we have offered. Try to make it acceptable.

We believe that if we can come together sometime today, we can pass a bill out of this Chamber, maybe by a unanimous vote, 99 to 0, or 100 to 0. To me, that would be the strongest signal we can send as we wrap up the Congress—that we came together on a bill that everybody supports—almost everybody. Maybe some would not vote for it, but almost everybody supports it. I think it would and should have the support of the Bradys, who have done good work. But we would like to have them just take a look and give a little bit, just give a half inch, and there would not be any debate on this floor—except the debate we are having now, which is constructive. We would not debate sunsetting and preemption. We should not be debating those issues. I hope when the time comes, my colleagues will not strike preemption from the bill offered by myself and the distinguished majority leader and will not strike sunsetting.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. WELLSTONE. Mr. President, I say to the Senator from Ohio that I know the Senator from Nevada wants to speak. I will try to do it in 3 minutes.

Mr. METZENBAUM. Mr. President, I yield 3 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, I rise to support the Mitchell amendment, which opposes the Federal preemption, for several reasons.

First of all, I support the Mitchell amendment and a strong Brady bill out of deep respect for Sarah and Jim Brady and all they have done.

Second of all, I support the Mitchell amendment because handguns were used to murder 13,220 people in our country, the United States of America, in 1992, and we ought to make this as strong a bill as possible.

Third of all, I rise to support the Mitchell amendment because when I talk to law enforcement people in my State and when I talk to law enforcement people in the United States of America across the board, there is a strong consensus to pass as strong a Brady bill as possible. It is not the be-all or end-all, but all law enforcement people tell us they need it as a tool to fight crime and make our streets safer. I think we have to respect that judgment.

I rise to support the Mitchell amendment and a strong Brady bill because we passed on the floor of the Senate the other night important legislation that deals with domestic violence, that says when there is a history of a conviction within a family because of violence against a spouse or a child, that person cannot own or obtain a gun. There is no way we can protect women and children unless we have the Brady bill to enforce this. For many, many women the difference between being a battered woman and a dead woman is a gun.

Finally, I rise to support this amendment because in my State of Minnesota we have a 7-day waiting period, and it has worked well. We went through the sharp debate in the 1970's, but since about 1976 we have had essentially the Brady bill—7 days. You can talk to sportsmen, you can talk to owners of gun shops, you can talk to people in Minnesota. They will tell you it worked well because it enabled us to do the check on people with a history of violence.

I support the Mitchell amendment. I think it is vital that we pass the Brady bill intact. People in the country have responded for it, and we should respond.

The PRESIDING OFFICER (Mr. KOHL). Who yields time?

Mr. REID. Mr. President, I ask the Senator from Ohio to yield me 6 minutes.

Mr. METZENBAUM. I yield the Senator from Nevada 6 minutes.

The PRESIDING OFFICER. The Senator from Nevada is recognized for 6 minutes.

Mr. REID. Mr. President, I never visited with Jim or Sarah Brady or even talked to them on the telephone.

For many years the National Rifle Association has exerted a significant political influence in the State of Nevada, and I say that in a positive sense. I have supported the NRA in my 11 years in Congress without exception.

But there comes a time when a person's conscience will not let him walk that plank anymore. Today, I am announcing that I am not going to walk the plank on the Brady legislation that is now before the Senate.

I voted with the NRA in this matter previously, and at that time the NRA indicated to me and another Senator that the vote was appropriate. We later learned that whoever we talked with was speaking without authority.

Mr. President, in 1969, when I was a freshman legislator in the Nevada State legislature, I introduced legislation that created a waiting period in the largest county in Nevada, Clark County, where Las Vegas is located. I introduced that legislation on behalf of the Clark County Sheriff Department. That legislation passed. Clark County has had for 25 years a waiting period for the purchase of a handgun.

The main reason I introduced that legislation was to provide a cooling-off period to prevent people from buying a gun in the heat of passion and using it improperly. It was not just to stop those with criminal records, even though that was a reason, or to stop those who had mental problems from purchasing a handgun.

As I indicated, my legislation 25 years ago was supported by the largest police organization in the State of Nevada, the Clark County Sheriff Department. They still support legislation dealing with the cooling-off period for the purchase of handguns. To vote to preempt this law in Nevada would, to me, be irrational. To vote against a waiting period would be irresponsible and contrary to my previous record and contrary to my belief.

The last time this legislation was before this Senate, there was a debate. I did not participate in that debate. The people, as I have stated, in the largest county in Nevada have lived with a waiting period for 25 years, and it has worked quite well. This has not affected the sale of handguns.

Even Ronald Reagan supports this legislation. I also support this legislation. I will today vote with the majority leader in this instance. I will vote to invoke cloture. I will vote against State preemption. I will vote for the laws for State control after the sunset period takes place. This is done by me with a great deal of thought. It is something that is very difficult for me to do, but I feel that it is the right thing to do. Whatever political consequences flow from this, I am willing to accept them.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. METZENBAUM. Mr. President, first, I congratulate the Senator from Nevada for the statement. It took a lot of courage. It was a very difficult one to make. I think all of us in public life owe a great deal of gratitude to the Senator.

Mr. President, I yield 3 minutes to the Senator from Tennessee.

The PRESIDING OFFICER. The Chair recognizes the Senator from Tennessee.

Mr. MATHEWS. Mr. President over the past few legislative sessions our colleagues have proposed and passed a flurry of measures intended to drive crime—especially gun-related crime—from the fears of Americans. Many times over those days, our debate has centered upon one issue: How to keep guns out of the hands of felons.

Before us now is a measure that turns its whole intent to that purpose: S. 414, the Brady bill. This bill takes two long overdue and highly deserving steps. It requires a 5-day waiting period in which law enforcement officers can conduct background checks to identify felons and prevent them from purchasing handguns.

And it provides grants with which States can upgrade and computerize record systems to make a point-of-sale determination more effective and more immediate. Under the guidance of the Attorney General, this computerized confirmation system would produce a nationwide system for preventing handgun purchases by felons.

Mr. President, this bill is important, vitally necessary, and vastly popular among the majority of the American people. That's why we must not agree to language in this bill that would sterilize its effectiveness. The bill as presented calls for sunset provisions that would terminate the bill's waiting period requirement after 5 years regardless of whether the national confirmation system is operational.

Also, it calls for a preemption provision that would make Federal standards supersede State standards, even when State standards are more stringent. Mr. President, adopting these provisions would negate everything this bill can accomplish.

This bill would require each State's computerized system to contain the disposition of 80 percent of arrests made during the preceding 5 years. We must not include an unrealistic sunset provision in this measure because it is a virtual certainty that all 50 States cannot meet that requirement by 5 years from now.

At present, only 11 States meet the minimum requirement of the national system. Only four States regularly computerize the name of a felony arrest within a week of the arrest. Only 11 States computerize felony arrests within 2 weeks. In many States, it takes a year or more to enter felony arrest information.

Like many States, Tennessee has a backlog in recording specific data about violent crimes. The reasons are common. Like New York and Illinois, we have small, sparsely populated counties and large metropolitan areas. They have very different capacities for keeping prompt track of violent crimes. Tennessee is eager to get a statewide felon-check system up and running to meet the requirements of this bill.

But having the necessary hardware and software won't speed the process. Helpful as the grant provisions will be, grants will not buy our way to a satisfactory solution. Getting an adequate system in place will take long, grueling data entry by hand to get current information into the system.

Yet a restrictive sunset provision disregards the burden of compliance. It says, "No matter if the system isn't ready. Five years from now the waiting period expires." And if at the end of 5 years the system isn't up to speed, felons will be buying guns and using them on the street before the system even records they were arrested.

The original bill contained a provision for the 5-day waiting period to fade once the computerized system is adequately operating. But everything the Brady bill accomplishes will be voided if we banish the waiting period before the computerized system meets its potential.

The most effective way to prevent that from happening is to maintain the one method that will screen out ineligible handgun buyers—the waiting period that gives local officials time to conduct a check. The importance of local officials enforcing local laws is also the reason why we must exclude a preemption provision from this measure. I believe it is entirely appropriate for Federal legislation to set minimum standards. It does so in countless matters affecting every aspect of our national life.

But it is not acceptable for the Federal Government to set a maximum allowable standard when local citizens want higher standards.

In effect, that's a Federal preemption provision added in this bill would do. My home State of Tennessee is an excellent example. We were the first State in the Union to pass a waiting period for the purchase of handguns. We established a 3-day waiting period back in 1959 and our current 15-day waiting period became law in 1961.

Citizens in many States don't share the emphasis we've placed, and the Brady bill would bring them to a higher plateau. But the people of Tennessee have set a standard more stringent that theirs and a standard more stringent than the Brady bill. It's a standard we've honored for 30 years. Along with citizens in many States, the people of Tennessee have chosen to be leaders in handgun restraint.

It's not right when the Federal Government effectively revokes Tennesseans demand for a higher degree of accountability and control in the sale of handguns.

Mr. President, the arguments in favor of the Brady bill are clear, and Americans know it. Nationwide polls repeatedly show that 90 percent and more of Americans favor 5-day waiting periods for checks of handgun buyers. The arguments against provisions that make this bill rickety are equally clear.

There's no point in mandating a computerized felon identification system if we abort that system before it can work. There's no merit in forcing local citizens defining their interests to accept less stringent standards.

If we do our job, the Brady bill will do its job. Let's pass S. 414 and turn aside sunset provisions and preemption clauses that weaken it.

I thank the Chair.

Mr. President, I rise this morning to ask that in the process of setting a minimum standard, that this body not also set a maximum standard.

My home State of Tennessee, I believe the RECORD will show, was the first State in the Union to adopt a waiting period for the purchase of handguns.

In the year 1959, our State adopted a 3-day waiting period, and this served us for a couple of years until the lawmakers of our State decided that perhaps that was too short, and at that period of time we increased that 3-day period to a 15-day waiting period. For the last 35 years our State has chosen to maintain this period of time, and it has served the citizens of our State well.

The preemption amendment that is before us is going to say to Tennesseans, "You cannot have that type of waiting period. Your program that has been effective in selecting sales of handguns is going to be decreased. Instead of your being able to effectively control this measure, we are going to pull it down to 5 days, and in addition to that, if you do not get your record—you have 24 months to get your records in order and then we are going to start cutting out even more."

Mr. President, in all the Federal programs with which I am familiar, in none of the others have we set maximum standards. I think we as the Federal Government have a duty, a responsibility, to set minimum standards for the performance of services in this country. We have done that in areas such as the underground petroleum storage tank; we have done that in clean water, in ADA; we have done it in EPA and any number of services. But to the best of my knowledge we have never said to a State, "You cannot get above mediocrity. You cannot move higher than the lowest standard in this country."

Mr. President, I will support the Brady bill as it was introduced. I will resist with every ounce that I have these two amendments, the preemption and the other one.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. METZENBAUM. Mr. President, I yield 5 minutes to the Senator from California.

The PRESIDING OFFICER (Mr. MATHEWS). The Chair recognizes Senator FEINSTEIN from California.

Mrs. FEINSTEIN. I also thank Senator METZENBAUM very much for his generosity in yielding me time. Thank you, Mr. President.

Mr. President, I rise to support the Brady bill and to oppose any "poison pill" provisions, or any other measure, that would diminish its effectiveness. Mr. President, I come from a State, California, which already has a 15-day waiting period for the purchase of a handgun. There are those who would say that the Brady bill will not work. To determine whether they are correct, all one need do is examine the experience of States that have waiting periods. All we need ask is whether a waiting period keeps guns out of the hands of the criminals? Out of the hands of juveniles? And out of the hands of people with a history of mental incapacity?

Mr. President, I want to present the truly impressive results from one State, California. The chart beside me has been prepared by the State's Department of Justice.

It reflects these facts: Between January 1991 and September 1993, California's 15-day waiting period kept "handguns" out of the hands of 8,060 people previously convicted of assault or homicide. It kept handguns out of the hands of 1,859 people convicted of drug offenses; 1,752 people convicted of theft, burglary, robbery or who had prior weapons offenses; 827 people with records of mental disorder or mental illness; 720 minors; and 618 persons convicted of kidnaping, sex crimes or who had restraining orders entered against them. And it has kept handguns out of the hands of 2,584 people convicted of having made other illegal purchases.

Mr. President, I ask unanimous consent that a table listing this data be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mrs. FEINSTEIN. Mr. President, I would submit that the data summarized in this chart makes a myth of the suggestion that handgun purchase waiting periods do not work. A 15-day waiting period in the largest State in the Union kept guns out of the hands of some 16,420 criminals in just 33 months. These are not my figures. These are not the Senate figures. These are the figures from the California Department of Justice. They are accurate, and they are persuasive.

Make no mistake. The crime rate in California is unacceptably high. I would like to see it go down. What these statistics prove, however, is that it could have been much worse.

Mr. President, I would just like to say this. The people of America, in overwhelming numbers, want both Houses of Congress to take action that keeps weapons out of the hands of those who are most apt to commit crimes. I believe, as many Americans do, that if you are a law-abiding, stable citizen you should be able to purchase legally a handgun, rifle, or shotgun.

But present law does not facilitate the adequate screening of gun purchasers. Adoption of a national minimum waiting period can, has, and will do just that. In California, a waiting period of 5 days successfully kept more than 16,000 unstable people who committed murder, assault, robbery, kidnaping, sex crimes, and other felonies from buying handguns.

Of course, California is not alone in its experience with a successful waiting period.

New Jersey's 20-year-old waiting period law has thwarted more than 10,000 attempted handgun purchases by criminals.

Atlanta's 15-day waiting period and related checks stop almost 5 percent of all handgun sales attempted there each year.

Maryland's 7-day waiting period bars roughly 4 percent of all sales every year. In 1990, that meant that 750 persons who should not have had—or were already legally barred from owning—a firearm were appropriately prevented from getting one.

Illinois, Nebraska, and Oregon report similar experience with their respective waiting period laws.

I am opposed to any amendment today that weakens the Brady bill or prevents States from adopting stronger provisions.

California's attorney general wrote to me just 10 days ago that my State's 15-day waiting period has: "Been responsible for keeping guns out of the hands of 350 persons with severe mental health problems. During the same period, it also has denied these deadly weapons to over 2,200 persons who have been convicted of violent misdemeanors and over 210 persons who were already forbidden firearms possession by domestic violence restraining orders."

The House resisted efforts to encumber the Brady bill with a preemption clause. I feel very strongly that the Senate has the opportunity and the responsibility to do the same.

I am also opposed to prematurely phasing out the 5-day waiting period required by the Brady bill.

It just is not realistic to expect that a national instant check system will be ready in 5 years. Only 15 States today have fully automated criminal record histories, just 11 have fully automated master name indexes and only 30 identify which criminals in their databases are felons.

As Attorney General Reno recently wrote to Congressman SCHUMER:

> * * * It is an absolute certainty that a national instant check system is more than five years away from becoming operational because enormous tasks remain.

Why should Congress deliberately create a gap in the protection provided to the public by a reasonable handgun purchase waiting period?

There is absolutely no reason to tolerate that risk and, therefore, absolutely no reason not to strike the sunset provision of this bill.

Second, I am not at all convinced that an instant check system is an acceptable substitute for a reasonable waiting period.

An instant check system, once up and running, will give gun sellers access to computerized State and Federal criminal history records. It would not, however, provide access to other information routinely checked by State law enforcement authorities, such as: "Noncomputerized files; local arrest information not yet entered into State or Federal databases; noncriminal records, like the mental health data that in California has barred more than 800 handgun sales since January 1991; and fingerprint data—automated and not."

The bottom line on sunsetting is simply this. If the American people could cast a vote in the Senate they would not accept any law engineered to permit more felons and mentally unstable people to readily obtain handguns.

That is what the arbitrary sunset clause in this bill will do. The Senate should vote to strike it.

Passage of the Brady bill—an undiluted Brady bill—is years overdue.

The American people have said so loudly and clearly.

A 5-day waiting period for the purchase of handguns has the unqualified support of 92 percent of the American public, and 84 percent of gun owners according to a March 1993 CNN/USA Today poll.

The Brady bill also is backed by every major national law enforcement organization.

Fraternal Order of Police; National Association of Police Organizations; National Sheriffs Association; National Association of Black Law Enforcement Executives; Police Executive Research Forum; International Association of Chiefs of Police; The Police Foundation; and Federal Law Enforcement Officers' Association.

They are joined by:

Five former Presidents; Six former Attorneys General; the National PTA; American Association of Retired Persons; the NAACP; National Organization for Women; American Medical Association; American Nurses Association; and the American Academy of Pediatrics, which notes that one in six pediatricians has treated a child for gun-related injuries.

Religious groups, such as:

The American Jewish Congress;

United Methodist Church;

U.S. Catholic Conference; and

Southern Christian Leadership Conference also overwhelmingly support a strong Brady Bill

The Children's Defense Fund, the National League of Cities, Urban League, and the U.S. Conference of Mayors also support the Brady bill.

The Brady bill's time has come. The Senate should have the wisdom and the grace, indeed has the responsibility, to enact the strongest and most effective version of it possible.

I strongly urge my colleagues not only to support the bill itself, but to vote with me to strike what the attorney general of California so accurately called the poison pill amendments with which it has been burdened.

EXHIBIT 1

TABLE 1. ILLEGAL GUN PURCHASES STOPPED BY CALIFORNIA'S 15-DAY WAITING PERIOD (JANUARY 1991 THROUGH SEPTEMBER 1993)

Prior conviction	Purchases denied
Assault/homicide	8,060
Drug offense	1,859
Theft, burglary, robbery, weapons offense	1,752
Mental disorder/illness	827
Under age 21	720
Kidnaping, sex crime, subject to restraining order	618
All other violations	2,584
Total	16,420

Source: California Department of Justice.

The PRESIDING OFFICER. Who yields time?

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I yield 3 minutes to the Senator from Alaska

The PRESIDING OFFICER. The Senator from Alaska [Mr. STEVENS], is recognized.

Mr. STEVENS. Mr. President, as a former California resident, I have listened with interest to my good friend from California, and I find it interesting that there is still this concept of support for waiting periods. California's homicide rate went up 132 percent despite the waiting period in California law.

What we have been talking about now for some time is to have the information generated from a national system that would eliminate the need for waiting periods, would have instant background checks, and could have additional information that would even keep guns from people who otherwise should not have them beyond some of the restrictions that are even in the California law.

I find no incidents that increasing the waiting period in California decreased the crime rate. That is really the basic problem here.

But what is more deep seated in those of us who believe in the second amendment, is the feeling that what people are doing with this bill is, they are not really interested in the waiting period, they are building up a Government base of the information necessary to determine who owns guns in this country. An armed citizenry, people who have the ability to defend themselves, are not going to become an oppressed citizenry. That has been our basic assumption throughout this whole concept.

There is really no great correlation between gun ownership and crime. There is a correlation between criminal possession of guns and crime. And that is what we have been trying to do. We have been trying to make certain that there is a system that will give us the information on those who seek to acquire guns.

I would say that the concept of such an information base has been supported. Two years ago, I stood out here and offered an amendment quite similar to that now offered by the Senator from Maine and the Senator from Kansas, our two leaders. It was defeated.

The real problem we have now is that there are provisions in this bill that has been introduced by the two leaders, both the sunset provision and the preemption provision. Clearly those of us who do not believe in waiting periods at all, we do not believe in it for the reason they do not accomplish anything. What accomplishes something is giving information to the person who has the gun and the ability to sell it as to whether the person who wants to buy it ought to be able to buy a gun.

Now, the waiting period is not going to give them any more information, but the new system will.

I hope Members will keep in mind that without the sunset provision and without the preemption provision, this is a bad bill. Clearly, it is a bad bill and ought not to even be considered for a final vote. And I say that advisedly.

I am going to withhold my final support for this bill to see what it looks like after a series of amendments that are being offered here now.

But, clearly, if there is a mood here in the Senate to try to get a compromise that might work, the sunset provision and the preemption provision must stay in the bill.

The PRESIDING OFFICER. Who yields time?

Mr. MITCHELL. Mr. President, I ask unanimous consent that 15 minutes of time on the pending amendment be under Senator LEAHY's control and that such time be available to Senator LEAHY, notwithstanding the pendency of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I have discussed this with the distinguished Senator from Idaho. All this means is that even though this time was not used on the amendment—we have been taking time off the bill—it will be available after the amendment is disposed of. It does not add to the time. It simply means the time will be used in a properly allocated manner.

Mr. CRAIG. I have no objection.

The PRESIDING OFFICER. Who yields time?

Mr. CRAIG. Mr. President, as debate has progresses this morning, I think it becomes quite obvious that there are some very real and different distinctions between what we attempt to accomplish here today, between those who will still argue that a waiting period has some value versus those of us who recognize that what is important is making sure that those who acquire firearms are legitimate and legal and that we would propound to devise as quickly as possible an instant background check that would provide that flow of information.

Why do we do that? You have heard the Senator from California speak to a waiting period in her State and a frustration that what we would do today might cause some limits to the State of California.

Yet, what is very interesting in that argument is that if we have a waiting period, which is an artificial barrier, versus an instant background check which seeks to sort out the individuals, here is what happens. I reference a quote from USA Today, Los Angeles. We all remember those horrendous riots they had out there and the great damage they did, the number of lives that were lost, the looting that went on and the destruction of private property. Let me read from that article.

> Many hundreds of people, alarmed by law enforcement's inability to control chaos, took up weapons throughout the riot. Police were grateful. "You get a guy standing over you with a gun and you are not going to loot his property."

That is a quote from one of the police—George Wright, Sergeant, Los Angeles police.

> The rush to weapons began almost immediately after the riot's first vivid images went out across television in the Los Angeles area. Shopkeepers said some gun buyers were lifelong gun control advocates running to buy an item they thought they would never need, only to find out that the legislation that requires Californians to wait 15 days had blocked them from acquiring a firearm to protect themselves or their property.

What happened at that point though, and I found it was interesting, because in the State of California that waiting period does not affect antique weapons, they bought older weapons so they could have a firearm.

Why do I make that point? I make that point to argue that waiting periods have never served the purpose. They are obsolete in all arguments. What we are attempting to do is what the American people want us to do, and that is to keep firearms out of the hands of criminals and in the hands of law-abiding citizens who know how to use them properly.

Why should we do that? Here is a reason we should do it. Gary Kleck, who is a known criminologist from Florida State University who, by the way, is no gun-toting criminologist, who believes in forms of gun control, has looked at this objectively. Here is what he said.

He estimates there were about 645,000 defensive uses of handguns against persons per year, excluding police and military uses. Kleck said that the use of long guns also was a part of that, in the protection.

But the point he is making is that adding it together, Kleck estimates that guns of all types are used for defensive purposes about a million times a year. That is called folks protecting themselves, protecting their property, stopping a perpetrator of crime as that person enters their property or might attempt to take their life. That is what we are saying. And that guns of all types are used substantially, more often defensively than criminally.

Kleck estimates that annually, gun wielding civilians, in defense or some other legal, justified cause, kill between 1,500 and 2,800 felons a year. Not innocent people, but felons who are attempting to do that individual wrong. And 2½ to 7 times as many criminals are shot by police. You see, there is a legitimate use of weapons in this society. Law enforcement does break down, and we know that.

We also have citizens arming themselves at an extremely high rate today and finding ways to train so they can understand the responsible and effective use of firearms. Kleck estimatcs there are 7,800 to 16,000 responsible uses a year. That is what the second amendment is all about.

So we ought not be limiting the responsible use. We ought to be going at the criminal. And the substitute to the Brady bill, offered by the Republican leader and the Democratic leader here in the Senate, does just that. It creates a mechanism that moves us very rapidly in that direction. And I will tell my colleagues, if preemption stays in to create uniformity and if sunset stays in, we have a bill.

We have the potential of doing good here today. And if it is out, then this bill will probably fail and that would be a tragedy, at a time when we are now nearly ready to bring instant background check on line and we can create this kind of uniformity to do the responsible screening that I think all of us would expect, and certainly the American people want.

The PRESIDING OFFICER. Who yields time? The Senator from Ohio.

Mr. METZENBAUM. Mr. President, the preemption provision is totally unacceptable. A preemption feature failed in the House and if it were adopted, it would effectively destroy the Brady Bill and the States' efforts to combat gun violence.

This provision would have the national instant check system preempt State regulation of handgun purchases.

For a very good reason, the Brady bill would not preempt State laws that would supplement the instant check system. When the national instant check systems is established, it only will be able to check computerized criminal history files at the State and Federal levels.

It will not check noncomputerized criminal history files kept by the State, which local background checks can search.

The national system also will not check noncriminal records such as mental health records, which can be checked by local authorities.

And the national system will not check fingerprint identification, which is only possible through local background checks.

It may be amazing to many Americans to know that there is no way of having a national fingerprint check system in place.

Even if this provision only preempted State and local waiting periods, rather than all types of handgun regulations, it would still abolish laws in 25 States.

It would wipe out a waiting period by any State or locality no matter how severe the crime problems may be in that State or locality. It would wipe out State or local background checks designed to stop the sale of guns to noncriminals who are prohibited under Federal or State law from purchasing a gun, including drug addicts, illegal aliens, the mentally defective, spouse abusers, and minors using false identification. And it would wipe out some gun licensing requirements that seek to screen out felons through fingerprint identification.

So an instant check system is a valuable law enforcement tool, but it is no substitute for local background checks. A national instant check system will never have access to as much information as is available to local law enforcement officials. Supplemental State and local regulation is necessary to establish a fully effective nationwide means of reducing gun violence. This amendment would deal a major blow to the States.

Madam President, how much time does the Senator from Ohio have remaining on the amendment?

The PRESIDING OFFICER (Mrs. BOXER). There is no time on the amendment; there is 22 minutes and 52 seconds on the bill.

Mr. METZENBAUM. No time on the amendment?

The PRESIDING OFFICER. That is correct. The Senator is correct. There is no time left on the amendment on either side. The Senator has 22 minutes left on the bill. The Senator from Idaho has 32 minutes left on the bill.

Mr. BUMPERS. Parliamentary inquiry, Madam President?

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. BUMPERS. Under the unanimous consent agreement, would the Senator from Ohio be allowed to yield time off his second amendment before it is presented?

The PRESIDING OFFICER. That would require unanimous consent.

Mr. STEVENS. You can use the bill.

Mrs. KASSEBAUM addressed the Chair.

Mr. METZENBAUM. I yield 5 minutes to the Senator from Kansas.

Mrs. KASSEBAUM. Madam President, I would like to state a few points I think are particularly important. There is no one on this Senate floor who would think that a 5-day waiting period for the purchase of handguns will stop all violent crime. On the other hand, I think we all recognize that crime is a complex problem and has to be approached from many different angles.

We have just passed this morning a tough crime bill which I strongly supported. More money for prisons, more money for community police, tougher enforcement of laws, tougher sentencing.

It seems to me that this 5-day waiting period for the purchase of handguns, until instant check is nationally available, is a complement to that tough crime bill we just passed this morning. They are not mutually exclusive. They address the same subject but from different angles. What the Brady bill attempts to do and what we would hope that it would do is to keep guns out of the hands of criminals.

For the life of me, I cannot understand why this does not make good sense. I cannot understand why we would not believe this was a very small, tiny step to take as one component of addressing a problem, escalating violent crime. This is not a camel's nose under the tent, and I am amazed at the argument of those who would like to see preemption of State and local law, something that we have always tried to protect here with great caution. Preemption is not an answer to what I think should be a very strong and clear vote in support of a 5-day waiting period for the purchase of handguns.

Mr. President, I rise today to speak in support of the legislation commonly known as the Brady bill.

As we all know, the purpose of the Brady bill is to give law enforcement officials an opportunity to check whether or not a person attempting to buy a handgun is mentally ill, a convicted felon, or a minor. While purchases by such persons are already prohibited under Federal law, there is no enforcement mechanism.

The Brady bill would remedy this situation by establishing a 5-day waiting period during which time a background check on the handgun purchaser would be conducted. Persons who require access to a handgun because of a threat to their life or the life of a member of their household may be exempted from the waiting period by local law enforcement officials. The 5-day waiting period will sunset once the nationwide instant felon identification system becomes operational and is used by dealers. Individual States can be exempted from Brady prior to completion of the nationwide system by establishing their own instant check or permit-to-purchase system.

The Brady bill is not an unreasonable restriction on the ability of law abiding citizens to obtain firearms. The law would only apply to handgun purchases, therefore persons wishing to buy shotguns and rifles would not be affected by its provisions. For those who need a handgun immediately for personal safety reasons, the law provides an exemption. Requiring others to wait 5-days for their handgun so that we can help prevent incidents such as the August shooting at the Federal building in Topeka does not seem an undue burden. In that incident, a felon purchased several handguns at a retail store the day before he entered the Federal courthouse and killed a guard.

Over the years, many constituents have stated that a waiting period and background check will not keep all criminals from obtaining handguns, and therefore no such legislation should be enacted. I reject this argument, just as I reject the argument that, if drug users are able to buy drugs illegally, we should make drugs legal. No law is going to be completely effective. However, if passage of the Brady bill prevents even one death, I believe it is worthwhile.

I have also heard from a number of constituents who say that the answer to violent crime is tougher law enforcement, not gun legislation. I strongly agree that law enforcement is important, and I supported virtually every get tough amendment offered to the crime bill. But I have never viewed law enforcement and the Brady bill as mutually exclusive.

Crime is a complex problem, and it must be attacked from a number of different directions. That is why I believe the Brady bill should be enacted in addition to, not instead of, other law enforcement measures.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Will the Senator from Ohio yield me 5 minutes?

Mr. METZENBAUM. I think I only have about 22 minutes.

Mr. BUMPERS. I will try to cut it down.

Mr. METZENBAUM. Three minutes?

Mr. BUMPERS. Three minutes.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Madam President, I have not customarily engaged in the debate over this amendment. I voted for it. I voted to eliminate assault weapons, and I intend to keep doing it until both of these times are secure and placed in law.

I must say that in my mind, I find it difficult to believe that we have to debate something like the Brady bill. I find it even more incredulous that we have to debate a preemption clause. We have granted California the right to have stricter environmental standards than we have; we grant all kinds of States' rights to States to have almost anything, if it is more stringent than the Federal standard. And yet, when it comes to guns, solely because of the National Rifle Association, and solely because the people around here are scared to death of that organization, we have to debate this issue while the American people cry out for some sane, rational resolution of violence in this country. The Brady bill can hardly be considered a panacea. People asked me on the street: "Do you really think that bill is going to be effective?" "I don't know what you mean by 'effective.' If it will save one life, it is worth all the time we have spent on it."

To suggest, as the National Rifle Association has, that this is another "nose under the tent" to keep guns out of the hands of people who want to protect their families, is the same debate that took place when I first came here. At that time the debate was: "All you poor little hunters out there are going to get your rifles and shotguns taken away from you." Now 19 years later, we have 200 million handguns floating around the country, and they are saying, "Don't let them take your right to protect your family away from you."

The truth of the matter is, it is those very families that are most in danger when a lunatic can walk into a gun shop and say, "No, I'm not a felon; where do I sign?" He can be 30 minutes out of any prison in Arkansas.

I never will forget when I was Governor, we had an escapee from one of our mental hospitals. He stole a car, drove 1 hour north of Little Rock, AR, walked in, bought one of the most lethal weapons that could be bought and 1 hour later, three people in Harrison, AR, were dead in a random killing.

The PRESIDING OFFICER. The Senator's 3 minutes has expired.

Mr. BUMPERS. I regret my time is up, Madam President. I will just close by saying that I cannot envision anybody not voting for the Mitchell proposal to strike the preemption clause in this bill.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. CRAIG. Madam President, we have just heard a very passionate plea from the Senator from Arkansas, and I think all of us are tremendously concerned that we see crime rampant on the streets of America today; that American citizens are frightened and frustrated because the law enforcement community seems unable to respond in a way that the average citizen wants them to and expects them to keep their property, their life, and their families safe.

Does a waiting period create safety? The answer in all those States that have them in which all of the crime rates are going up at astronomical rates says no, it does not work. Again, it creates that illusion, if you will, that there is some level of safety out there.

What does work is the crime bill we just passed, real teeth, real law which says criminals will be treated this way and they will not be back on the streets of America. But it is also true that what will work is a mechanism, a method by which we can detect those criminals who are using the legal avenues to acquire a handgun or a weapon, and that is the instant background check. That is how you do it.

They are doing it in the State of Virginia with reasonable success now in a new system that is coming up to speed. They are doing it in the State of Delaware and in a lot of other States. They are bringing their records up to speed today so they can make those kinds of informational decisions and fill in the background.

That is what the substitute is all about. It says there is a timeframe—5 years—in which we will have a 5-day waiting period, but we are going to create uniformity. We are going to say that during that period of time, all States will be alike.

Let me tell you, putting in the preemption clause says to California, we are going to bring you down a little, but it says to my State of Idaho, we are going to reinstate something on you; we are going to bring you up to a 5-day waiting period. I do not like that. I have never supported waiting periods because I read the facts and the facts say: "Don't do it because it doesn't work."

But what I am willing to do, during this hiatus in which we put together and force with $200 million to bring this informational service up, that we will create equity across the board and uniformity. That is important because that is what the Brady advocates have been saying for a decade: Give us uniformity in the law. And now that we argue uniformity, they say, "Oh, no, don't do that, we can't do that, that is unfair, that is preempting State authority."

What about the State that said no waiting period and we are just putting one on them? What does that do to State authority? I do not like it either, but I think we have a common mind here and the common mind is to get the gun out of the hand of the criminal. That is what the substitute will do with preemption in it and with the sunset in it.

Mr. BUMPERS. Will the Senator yield for a question?

Mr. CRAIG. Only briefly.

Mr. BUMPERS. It will be very brief. I understand the argument the Senator closed with that if a State normally has something less than the Federal standards, we do not permit that; we preempt it. But it is only when there is a common purpose and a national goal and it is for the benefit of the public that we do that. There are instances where we allow the States to continue with something—we grandfather States in all the time—where the national purpose is thwarted. It is really not a question but an observation.

Mr. CRAIG. The Senator from Arkansas is absolutely right. We do it both ways. We also say to States you cannot do things, as often as we say you can do that at that level or more. So we do it both ways.

This time we are saying that for the good of what we are attempting to accomplish here—and that is a national informational network—uniformity is extremely valuable and we make that choice.

Mr. BUMPERS. If I may make one other observation—

Mr. CRAIG. Only on the time of the Senator from Ohio.

Mr. BUMPERS. Will the Senator from Ohio yield me 30 seconds?

Mr. METZENBAUM. Yes.

Mr. BUMPERS. Many of the letters I receive point to the murder rate in Washington, DC, which has one of the highest murder rates in America. That point taken alone is legitimate.

It just so happens that the District of Columbia is surrounded by States, most notably Virginia, which has some of the most lax gun laws in the United States, and you only have to drive 5 minutes to get there. That is one of the most important reasons to do this on a national basis.

The PRESIDING OFFICER (Mrs. MURRAY). Who yields time?

Mrs. BOXER. I wonder if the Senator from Ohio will yield me 1 or 2 minutes?

Mr. METZENBAUM. I yield the Senator from California 2 minutes.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Madam President, I want to thank the Senator for his continued leadership on this issue. I know it was lonely for him for quite a while, but he has some good company.

I just want to say to my colleagues that the idea that we would preempt a longer waiting period makes me outraged.

Mr. President, I wish to tell you that in the State of California we have seen death from people who have no right to have firearms, who walked into restaurants, who walked into post offices, who walked into children's areas in schools, law offices. My son lost his best friend. And what you are saying to me is that California should go from 15 days to a 5-day waiting period so it puts more pressure on; they might miss someone and some crazy lunatic can get a gun in that 10 days that you are taking away from my State.

For the NRA to shout and say the background checks do not work, we know in California they work. From January 1991 through September 1993, California's waiting period stopped 7,000 convicted felons and 7,000 people convicted of misdemeanors from purchasing guns. Maybe the Senator from Idaho does not know that.

From January 1991 to September 1993, 16,000 illegal gun purchases were stopped by California's 15-day waiting period, and over 8,000 of those denials were due to homicide convictions, 2,000 because of drug convictions, 2,000 due to theft, burglary, robbery, and weapons offense convictions, 1,000 due to mental illness, another 720 were under age, and 618 kidnapping.

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. BOXER. I ask for 20 additional seconds.

Mr. METZENBAUM. I yield the Senator 20 seconds.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. In summary, the idea that we would stop the States from adding a longer waiting period is an absolute outrage, and we will have blood on our hands if we do not support the Senator from Ohio and the Senator from Maine.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. CRAIG. Madam President, I note the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CRAIG. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. BOXER). Without objection, it is so ordered.

Mr. CRAIG. Madam President, as we continue the debate on this important legislation, I think there is something that has to be understood about the unanimous consent agreement that was brought about by our leadership.

We are, in a few moments, going to have a motion to strike preemption, and I would certainly hope that as key to this legislation we are able to keep in preemption. But if it fails or if we are not able to keep the sunset provision in, there will be a cloture vote, and I hope that we can retain that. That cloture vote will happen sometime following those motions to strike. That would then move us, if we can deny cloture, to another cloture vote sometime late this evening.

What the unanimous consent agreement that put this together is silent to is what happens to the bill after the second cloture if we are able to block the cloture effort. What I would like, and what I think most of us would like to see happen is that we set in motion an additional negotiation to resolve this issue. Certainly this is not now tied to the crime bill. It was the option of the Republican leader to do that. He chose not to do that in cooperation with the majority leader and the Senator from Ohio, that this be a freestanding piece of legislation so that it can go to conference with the House because I think all of us are extremely concerned that we get at the criminal and that law-abiding citizens not be prohibited in their right to exercise their constitutional right and to be able to do so in a way that is unfettered by some extraneous law, for example, like a waiting period.

That is what we are trying to accomplish today, and I hope we can get that done. Certainly the debate is valid, but we all know that if we strive for uniformity and we force those issues and we put some money behind the mandate—and we have, $200 million to go out to States under a formula to allow them to bring up their systems. The Senator from Ohio knows, and we have worked cooperatively on this; we both supported legislation over the past 5 years, we have put over $20 million already into the refinement and the modernizing of these records.

So when he suggests that is somewhere off in the undeterminable future, everyone who is dealing with it down at the FBI and everyone across the States dealing with it says if we put our minds to it within at least 24 months we can have pretty much running across the Nation the kind of informational service that brings about the instant background check which I think all of us would like to see, because we have already heard the facts on the waiting period.

In every State that has had them, whether they have had them for 5 years or 10 years, all crime rates are going up. Crimes in which a handgun, an illegal handgun is used, are going up.

Why, if we are sitting here debating a waiting period as the most fundamental and important thing to deter crime in our Nation, is it not working?

The reason it is not working is because they cannot effectively check the background of these individuals. Tragically enough, the gentleman who fired the shot that hit Jim Brady, which has started all of this in motion—it has been argued if we just had a background check, we could have caught him.

No, we could not have because he was in and out of one address or another. Yes, he had a Texas driver's license. He bought the gun in Dallas, but he was living in Lubbock.

No, it would not have caught him. That is a false argument. But what we have found, if he had a criminal record, there would have been a quality background check.

We even add in this bill those who have mental conditions, that have been so adjudicated, become part of the national recordkeeping system. That is what is extremely valuable about this process. That is why we need uniformity which is created by State preemption, why we need the sunset provision to force our FBI and the Attorney General, the Justice Department to bring all these on board and to work with our States to create this kind of informational flow. We have States that are doing it now because they put their mind to it and it worked.

That is what this is all about. It is not about waiting period, and it should not be about waiting period. But if that becomes the debate and if State preemption goes down and sunset goes down, then I think we have effectively lost the opportunity to create a measure to take criminals with illegal guns off the streets.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. METZENBAUM. Madam President, I yield the Senator from Rhode Island 2 minutes.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 2 minutes.

Mr. CHAFEE. I thank the Chair. I thank the managers of the bill.

I find this preemption very confusing. Maybe the Senator from Idaho would give me a hand here.

As I understand it, in the State of Rhode Island where we now have a waiting period of 7 days which applies to all guns, not just to handguns, this preemption clause, as I understand it, would not only wipe out the 7-day period that we have but would also wipe out the provisions that apply to other than handguns. Am I correct in that? In other words, our provision of 7 days applies to all guns. Now if you preempt from the Brady bill, if that goes into effect, we would be cut down not only to 5 days, but it would eliminate the waiting period for all guns except for handguns. Am I correct in that?

Mr. CRAIG. The bill reads only in the case of handguns. And it also goes on to avoid, and expressly states, that any other processes that States have put in place, like fingerprinting or tests or any of that, are not preempted.

Mr. CHAFEE. So as I understand it, what you are telling me——

Mr. CRAIG. It would be from 7 to 5 in your case.

Mr. CHAFEE. The Senator is saying there could be a 7-day waiting period for rifles?

Mr. CRAIG. As I read the legislation.

Mr. CHAFEE. But we have chosen in our State to have 7 days waiting for handguns. Why should we not be able to do that? Why is Big Brother in Washington, DC, telling us we cannot have the longer period?

Mr. CRAIG. I think the Senator, and I, and others have always been engaged in trying to decide how we create uniformity when we have a national situation on our hands——

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. CHAFEE. Let me just say—if I could have 30 seconds, Madam President; I know we are short of time here—that I find it distressing that here in Washington, DC, we are telling my State, which chooses to have a 7-day waiting period, carefully considered by the legislature, that is what they want, and yet here we are saying, oh, no, you cannot have that. You can only have 5 days. I do not see that it is necessary in the interest of national unity to cut back Rhode Island's waiting period.

So I am not in favor of that provision and will vote contrary to it.

The PRESIDING OFFICER. Who yields time?

Mr. METZENBAUM. Madam President, I suggest the absence of a quorum and ask that the time be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Madam President, I yield the Senator from Washington 3 minutes.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Thank you, Madam President.

Madam President, I rise in support of S. 414, the Brady bill, and the Mitchell amendment that is in front of us. For more than a week, the opponents of this commonsense measure have tried to delay it.

I had planned to be in Seattle yesterday to welcome President Clinton to the Asian Pacific Economic Cooperation Council meeting—a historic trade meeting with 15 heads of Asian nations. But I stayed here because of the Brady bill. All day yesterday, we were promised the bill would come up. We waited late into the evening. I am glad we can finally have a full and open debate on why we need this bill.

We need this bill because every 14 minutes, someone in this Nation dies from a gunshot wound.

We need this bill because every single day, 14 children are killed with guns, and more than a quarter million of them take guns to school each day.

We need this bill because there are already 71 million handguns in this country.

We need this bill because gun violence, especially among our Nation's youth, is out of control.

We need to restore some sanity to our society. We need to stop settling disputes with guns instead of dialog.

We need to start talking about the responsibility of owning a gun, not just the constitutional right to own one.

Gun violence is also costing our health care system at least $3 billion a year. At Harborview Hospital in Seattle, both the number of gunshot victims and the cost of treating them have doubled in the last 7 years. Every one of us pays the cost of gun violence through higher taxes, increased insurance fees, or in money not spent on other health care needs. Taxpayers should not have to subsidize 80 percent of the health care costs of gun violence.

That is the point of the Brady bill. Like a similar law in my State of Washington, the Brady bill requires a mandatory, 5-day waiting period and background check for anyone seeking to buy a handgun in this country. It will provide funds to law enforcement agencies to perform these checks.

Alone, the Brady bill will not stop the violence. But it is an important step. It requires a cooling-off period so that someone in a rage cannot get immediate gratification by buying a gun. What we really need is a nationwide ceasefire, but at least the Brady bill will give us a national cooling-off period.

Like everyone I know, I want to be able to go home and say to my own family—the world is a safer place.

The Brady bill, together with Senator FEINSTEIN's ban on assault weapons and Senator KOHL's ban on the possession of guns by children under 18 years old, are steps in making some headway against gun violence in this Nation. We still have a long way to go, but these first steps are critical.

The PRESIDING OFFICER. Who yields time?

Mr. MITCHELL. Madam President, I have discussed the matter with the distinguished managers and with the minority leader staff. I believe that we are at the point where we can proceed, or just about at the point where we can proceed, to a vote on this matter.

So for the information of Senators and their offices, this vote will occur at 12:45. Indeed, Madam President, I now ask unanimous consent that a vote on the Mitchell amendment occur at 12:45.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Madam President, have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not been ordered.

Mr. MITCHELL. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MITCHELL. So we will now await if any Senator wishes to comment during this period. The vote will begin at 12:45. For the moment, I suggest the absence of the quorum, the time to run against each side.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Madam President, I wonder if the Senator from Idaho will yield me some time.

Mr. CRAIG. Madam President, I yield such time as he may need to the Senator from Alaska.

Mr. STEVENS. Madam President, I mentioned an amendment that I offered in a previous Congress, and I think it is important to note that this is an amendment offered by both leaders trying to find some way to meet the objectives of those who want a waiting period and those of us who want an instant check.

It does appear to me that there may be some misunderstanding. If the sunset provision and the preemption provision stay in the bill, those of us who have opposed this bill because of the failure to have the support necessary to create the national instantaneous check provision—that will provide us the ability for a gun dealer to literally be able to check the background of the person that seeks to buy a gun instantly, eliminating the need for a waiting period—have agreed to the waiting period in order to get this bill to conference. I think people ought to keep in mind that the bill still has to go to conference and will be substantially reviewed in conference. But we are looking to get the bill to conference.

The two provisions to get it to conference are the sunset and preemption provisions. If the people who have been talking about delay and opposition want to try to work out a fair compromise between the House and Senate and all of us on this and satisfy the demand for this kind of a concept, then they should support getting the bill to conference. I hear people say "they take out the two provisions that have led us to the point where we have agreed to go to conference and still they want to force us to conference." I think everyone ought to be fully aware—and if I can count—this bill is not going to go to conference if sunset or preemption come out. If they stay in, we are willing to go to conference and try to work out a bill that will meet the objectives of those who sought a waiting period under the Brady concept and a national instant check concept, such as I introduced with the assistance of the NRA in drafting it 2 years ago, and such as my colleague from Idaho has done this year. Is that not correct?

Mr. CRAIG. That is correct.

Madam President, I yield myself 1 minute.

Let me repeat again what the Senator from Alaska, [Mr. STEVENS], has just said that is very important. If we are to in fact build an instant check system and a national informational system to be able to screen citizens who attempt to buy firearms—in this case handguns—and if the preemption motion to strike is successful, we have started a very long process that ultimately will defeat this legislation. If preemption stays in, and if the sunset clause stays in, we move this legislation to conference with the House, and we will have a bill that produces that instant background check and that national informational service that all of us are seeking. That is what this argument is all about. As the majority leader said to me a few moments ago, we can oftentimes agree 99 percent or 98 percent on public policy, and it is the 1 or 2 percent that makes the difference.

Madam President, it is the 1 or 2 percent in this instance that may kill this bill if everyone votes for a motion to strike.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MITCHELL. Madam President, I ask unanimous consent to be able to proceed for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. I merely point out that 2 years ago we went through a similar process. Senator DOLE and I had long negotiations, and we reached a compromise. It did not include preemption, and 67 Senators voted for it; 67 Senators voted for a compromise that did not include preemption.

What has occurred in the intervening time to cause those Senators now to insist that preemption be in the bill? No objective criteria, no facts—merely a change as a result of pressure being put on.

So I say that if a Senator voted for this bill without preemption in 1991, that Senator should be consistent and vote for this bill without preemption in 1993.

I yield the remainder of my time.

Mr. BIDEN. Mr. President, I want to clarify a point that was raised earlier in this debate by Senator MITCHELL. States such as Delaware, which already have an instant background check system in place, are exempt from the national waiting period and will not be affected by preemption.

Mr. SIMPSON. Mr. President, this is an issue filled with passion. Many of us know Jim Brady personally. He is a bright, fine, sensitive man who has suffered a great tragedy. His recovery has been near miraculous.

We have also come to admire his wife, Sarah Brady as one of the most diligent, sincere and articulate advocates of any legislation. She and Jim are delightful people and lovely friends. I commend them both for their many talents—particularly in the legislative arena.

We genuinely disagree on whether this bill will accomplish what the sponsors say it will; but we do communicate in a most cooperative manner. That is often too rare in this town with folks who disagree on controversial issues.

I rise in support of the substitute legislation offered by our distinguished Republican leader.

I am very much aware of how the great majority of my constituents—who also happen to be very sincere and sensible gunowners, feel about the bill offered by Senator METZENBAUM. They are just as concerned as most Americans about preventing felons from being able to purchase handguns over the counter.

Most gunowners who I know are good, honest, and thoughtful people. I believe they would eagerly support a Brady bill if it accomplished what our leader's would do: It would create a system of instant background checks and provide the financial assistance to the States to do exactly that. Anything less is simply another unfunded mandate that we have all harshly criticized these past few weeks.

Without that assistance, many States will be unable to adequately update their record systems in order to comply with any background check: whether the State is given 5 days or 5 weeks.

This substitute would have the effect of temporarily preempting some laws which require longer waiting periods. However, once a national instant check system is on line, all waiting periods will be lifted.

I believe that if the Federal Government is going to enact a uniform law in this area, then it should truly be uniform.

But this is not preemption in the way we commonly use that term. This provision will allow States to come back—if they wish—after the bill is enacted and adopt longer waiting periods. They can do that under this bill.

This legislation simply affords an opportunity for the States—all of the States—to examine the true effectiveness of this waiting period and compare it with the instant check system to see which works better.

It is my hunch that those few States which currently have longer waiting periods will realize that an instant check system will be more effective in identifying felons who are trying to purchase handguns—if the infrastructure is there in the first place. If a State or locality wants to enact longer waiting periods afterwards, they will be able to subsequently enact them.

In addition, it is important to recognize that it is only a waiting period that would be temporarily lifted under the terms of this legislation.

If any State wants to enact other procedures which delay the purchase of a handgun, such as fingerprinting, permitting, licensing, and the like, those States can do that, as they have done traditionally, and those procedures are not affected one bit by this substitute.

So, Mr. President, this is not a preemption in the sense that the Federal Government is permanently and completely taking away the jurisdiction over the matter completely away from the States.

Instead, this substitute simply tells the States to pause and consider whether this might not work out better for you. If not, the States will be able to extend their period.

In the meantime, we provide the financial assistance to allow the States to establish fair and reasonable systems to conduct instant background checks.

What is equally important, Mr. President, is that we will be complying with the goal that our distinguished chairman of the Judiciary Committee suggested yesterday: "Truth in legislating."

I strongly urge my colleagues to join with us to adopt the Dole substitute.

The PRESIDING OFFICER. Under the previous order, the question occurs on amendment No. 1219 offered by the majority leader.

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. DORGAN], is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 54, nays 45, as follows:

[Rollcall Vote No. 385 Leg.]

YEAS—54

Akaka
Biden
Bingaman
Boren
Boxer
Bradley
Bryan
Bumpers
Byrd
Chafee
Danforth
Daschle
DeConcini
Dodd
Durenberger
Exon
Feingold
Feinstein
Glenn
Graham
Harkin
Hatfield
Inouye
Jeffords
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lugar
Mathews
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Sarbanes
Sasser
Simon
Warner
Wellstone
Wofford

NAYS—45

Baucus
Bennett
Bond
Breaux
Brown
Burns
Campbell
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Dole
Domenici
Faircloth
Ford
Gorton
Gramm
Grassley
Gregg
Hatch
Heflin
Helms
Hollings
Hutchison
Johnston
Kempthorne
Lott
Mack
McCain
McConnell
Murkowski
Nickles
Packwood
Pressler
Roth
Shelby
Simpson
Smith
Specter
Stevens
Thurmond
Wallop

NOT VOTING—1

Dorgan

So the amendment (No. 1219) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GRAHAM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. HOLLINGS). The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1220

(Purpose: To strike the sunset provision)

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM], for himself and Mr. KOHL, proposes an amendment numbered 1220.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, lines 10 through 12, strike "either on the day before the date that is 60 months after such date of enactment or".

On page 2, lines 14 and 15, strike "whichever occurs earlier,".

Mr. METZENBAUM. Mr. President, the amendment I just sent to the desk on behalf of myself and Senator KOHL would, if adopted, strike a major blow against the Brady bill.

This provision would prematurely sunset the waiting period and background check provisions of the Brady bill, which would result—which would result—in people being killed by persons who would have been denied a handgun.

The Brady bill that I have introduced in this Congress itself contains a sunset for this waiting period, which would be phased out as soon as a nationwide instant felon identification system becomes operational. The Attorney General is directed to review each State's criminal recordkeeping system and to establish a timetable for each State to link those records with the national system.

The Attorney General would certify that the national system is operational as soon as, but not before, the system is ready and the States are in compliance with their timetables. At that point, the national system goes into effect and the waiting period is superseded for all States that are in compliance with their timetables. For States not in compliance with their timetables, the waiting period would continue to apply until they achieve compliance.

Under the Brady bill, the earliest possible time that the national system could go into effect is 30 months after enactment. But it actually will take much longer than that because most States are way behind in their criminal recordkeeping. The best estimates are that the national system will not be ready for at least 5 years, and it may be much longer than that.

But this provision would prematurely sunset the waiting period after 5 years and automatically switch to the national system regardless of whether the national system was ready or not.

The premature sunset would cripple the effectiveness of the Brady bill. What would happen is that people would start relying on a national instant check system without regard to the adequacy of State criminal record reporting. We would have a bogus national instant check system that would instantly check nothing. Thousands of felons and other prohibited purchasers would continue to elude detection and purchase guns.

It makes no sense to rely on an instant check system that is not reliable. We cannot let the waiting period and background check sunset until the instant check system is ready. It is as simply as that.

I urge all friends of the Brady bill to reject this provision and strike it from the bill. On behalf of Sarah and Jim Brady, I urge you to strike the automatic sunset.

More important than Sarah and Jim Brady, on behalf of your children and your grandchildren, I urge you to strike the sunset. It is the right thing to do.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. I yield the Republican leader as much time as he may desire.

Mr. DOLE. Mr. President, I almost cannot believe we are having a debate on this matter. Let me set the stage. All parties supposedly agreed that we would have a computer check of all potential purchasers of firearms beginning 24 months after enactment of this bill. However, that date could be delayed if the criminal records for States covering at least 80 percent of the U.S. population, representing at least 80 percent of the reported violent crime were not at least 70 percent accurate.

That goal is within reach. We can, especially with the $200 million provided for State record upgrades, meet that goal. However, I know first hand that, for reasons I have never been able to determine, the U.S. Department of Justice has resisted checking criminal convictions of potential purchasers.

We already have, today, the computerized records of over 18 million offenders—it is in one place, it is called the felon identification in firearms sales [FIFS] file in the FBI's NCIC computer system. I have repeated several things today, but this really bears repeating. We have the criminal files on over 18 million people—many of whom are already prohibited from buying firearms. But we are not checking, we are delaying.

To get this compromise, we had to agree not to begin checking whether these 18 million were buying firearms for at least 24 months. That is right—today we could be checking on whether these 18 million individuals were buying firearms, but the other side says "no" we must have at least 24 months for a waiting period. So, the criminals walk in, buy guns, and we wait, and the American people wait.

We already agreed to wait 24 months—24 months in which we could be stopping the sale of firearms to criminals. But to wait more is unconscionable. What those on the other side are for is to just wait and wait and wait—never act—just wait.

In the negotiations on this compromise, they proposed inserting language they admitted would force us to wait at least 5 years. Why? We can check now. We can check on 70 percent of the population, representing 70 percent of reported violent crime with 70 percent accuracy. Asking us to wait at all seems unbelievable, but we agreed so we can get to the check, get to keeping guns away from criminals as fast as possible.

Let me be as clear as I know how. Those voting to extend the wait, those favoring no check just wait, are voting to keep the computer records locked away from the public being preyed upon. We know who most of the violent offenders are, we have their names in the computer today, we have the potential to stop them from getting guns now. Do not make us wait any longer than 24 months.

The PRESIDING OFFICER. Who yields time?

Mr. METZENBAUM. I yield to the Senator from Arkansas 4 minutes.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, back in August a poll was conducted by Time and CNN. That poll indicated that some 92 percent of the American people at this time in our country "support a 5-day waiting period." A CNN/USA Today poll conducted during the month of March this year found that 84 percent of the gun owners of America support a 7-day waiting period before a purchase of a pistol can take place.

A poll recently conducted by L.H. Research, Inc., found that 68 percent of the NRA respondents—those who belong to the National Rifle Association—supported a 7-day waiting period before a pistol can be bought.

I think this speaks for itself.

Mr. President, I think today we have a critical decision to make because I think we can stand here all day and all night, all weekend and all next week, if necessary, and talk about the need or the lack of need for some form of gun sanity to be breathed into our gun purchasing in America. I am willing to have that debate.

I do not think that there is one Member of the U.S. Senate who today wants to take away the guns of sportsmen or hunters. I do not think that there is one Member of the U.S. Senate today—this Senator, of course, included—who desires to take away the right of any American to protect themselves.

But the time has come for us to talk some sense about gun ownership and the ability for anyone at any time, with no checks and no system, to walk in and purchase guns, especially handguns.

Just the other day in the mail, I received this little publication, this little poster: "Citizens of Arkansas, U.S. Senator David Pryor wants to take away your guns. Vote against him at the next election."

There it is. I do not know who put that out, but it is said it was done by a hunting club. Senator PRYOR does not want to take away the gun of any legitimate hunter. He does not want to disarm any citizen who is there to protect himself. This poster is 100 percent wrong—make no mistake about it.

We have a rare opportunity right now to take out of this legislation this sunset provision which would be extremely detrimental to the final passage of this gun legislation—the Brady bill—that we are now supporting.

Let's be clear about this vote. This is a vote for the Fraternal Order of Police; the National Association of Police Organizations; the National Sheriffs Association; the National Organization of Black Law Enforcement Executives; the Police Executive Research Forum; the International Association of Chiefs of Police; the Major City Chiefs of Police Organization; the Police Foundation; and the Federal Law Enforcement Officers Association.

Let us not be sidetracked. Let us vote to remove this 5-year sunset from this proposal that is today before the U.S. Senate. This 5-year sunset in the bill simply means criminals will be allowed to buy handguns 5 years from now. This is not progress. I support the amendment to strike the sunset provision.

Mr. President, I yield the floor and I yield back the remainder of my time to the distinguished Senator from Ohio.

The PRESIDING OFFICER. Who yields time? The Senator from Idaho.

Mr. CRAIG. Mr. President, I just heard the Republican leader make what I think is a statement that has to be repeated: Why take away this sunset provision? This is the stick. This says to States: "Here is the money, get in line."

Why are we denying to move this issue forward with some rapidness and some force? The FBI is sitting downtown right now with 18 million names in a computer, and what we are saying by this amendment is do not use it. I thought we wanted to get the guns out of the hands of criminals instead of play political games about a waiting period. That is what we are talking about.

This is not an impossible goal. Just a couple of years ago, the State of Virginia went on line with an instant background check. It cost them $310,000 to bring it up, and they are up and running today and they are able to screen nearly instantly the background of an individual who walks into a gun shop and says, "I want to buy that pistol." That is what this debate is all about. Anything that deters us from moving a national detection system of the kind we are talking about is beyond me, unless you are just hung up on a debate that has gone on way too long about an issue that does not make a lot of sense anymore.

Purchasers complete the purchaser's section of the Virginia firearms transaction form; consent to a criminal history record check; provide at least two forms of ID, and the process begins to work. Nonresidents of Virginia must request the check in writing. The Department of State Police notifies the dealer within 10 days for the nonresidents, but the dealer on the instant background check for the residents begins to move directly. If the ID's match, however, the computer responds, the sale goes forward. If they do not, the sale does not go forward. That is in the State of Virginia. It is working.

The State of Florida has a similar kind of thing. They can do an approval in 3 to 5 minutes to know whether that person has a felonious record or not. Are we just wanting States to amble along and the Attorney General just to kind of plod along here, all in the name of a waiting period and all in the name of a Brady bill? Or do we really want it in the name of keeping criminals with guns off the streets and pushing the mandate with the money to all of these States to assist them in the law enforcement communities of those States to get their records up to speed?

The State of Florida did it; the State of Virginia did it; the State of Delaware has done it. Dealers call an 800 number that provides the purchaser the demographics. The State bureau then checks all the criminal files. The purchaser is denied if he has been convicted of a felony or a drug or assault misdemeanor. That is all done in a very short period of time in the State of Delaware. They are doing it.

In the State of Illinois, the dealers are required to call the State police for the approval of a firearms sale on a 900 number. It costs $2 and it lasts about 52 seconds on the average. That is really getting to the root cause of our problem and yet, the Senator from Ohio, by his amendment, says no, let us just kind of move it along, just a little bit. Let us not put teeth in it, let us not enforce it, let us not bring this together.

We now have ample information based on what I mentioned some time back in the earlier debate that the $20 million we started spending in 1988 has produced a record system across this country, it has helped law enforcement, it has helped the FBI, and we moved a long way along.

As I said, all 50 States and the District of Columbia have established a central repository as a result of that effort. Forty-nine million individual criminal history files are now up, but the key to this that a lot of people do not understand as to why we can move it quickly and why we ought to force quick movement—how many of you remember some years ago going into a store using your credit card and they picked that booklet out from under the cash register and flipped through those names, those lists to see if you were on the list? That was before they had their computer systems up to where they could do it instantly. They wanted to see if you were a violator and they flipped through the list.

You call that a master name index, but it was a check. What we are talking about being able to do almost instantaneously is building and producing that master name index list, the equivalent to flipping through that little book on credit card violations.

That can be done within 24 months. That way then those checking the background have the name and then they can revert to the record if that name comes up. Until all of the records are fed into the system, with the money we are providing in this legislation, we have the ability to move quickly.

So anybody who argues that it cannot be done is not arguing fact because there is now clear evidence the material is there, the information is there. The FBI is ready to do it. What we need to say is do it, not wait and wait again and wait a little more.

I agree with the Senator from Ohio, Sarah and Jim Brady need the satisfaction of us moving quickly so that they know they will have been part of making the streets of America safer not because we restricted law-abiding citizens from their rights but because we took the guns out of the hands of criminals.

The PRESIDING OFFICER. Who yields time?

Mr. KOHL addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Wisconsin?

Mr. METZENBAUM. Mr. President, I yield to the Senator from Wisconsin 4 minutes.

Mr. KOHL. I thank the Senator very much.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Mr. President, I rise today to urge my colleagues to vote for the amendment which is on the floor.

Our amendment would strike the provision in the Dole substitute that automatically sunsets the waiting period after 5 years, regardless of the status of the instant check system.

Mr. President, the waiting period, as envisioned by the authors of the Brady compromise, is a core component of the Brady bill. Americans of widely divergent backgrounds have embraced the waiting period in the Brady bill, and so have I. Let me tell you why.

First, I believe a reasonable waiting period of 5 business days will help reduce crimes of passion and other impulse killings. Do not just take my word for it. Many, many people agree. Former Presidents Nixon, Ford, Carter, and Reagan have endorsed this legislation, every major business organization has backed it, and over 80 percent of gun owners across the country support it.

Mr. President, even the NRA once recognized the value of waiting periods. In 1976, a publication by the NRA entitled "On Firearms Control" stated the following:

> A waiting period could help in reducing crimes of passion and in preventing people with criminal records or dangerous mental illness from acquiring weapons.

NRA was right then, and I believe it is wrong now.

Second, as a practical matter, we need a waiting period until an accurate instant check system is established on a national basis. Because if criminal records are not fully computerized, police will therefore not be able to perform a reliable immediate background check.

The Dole language, however, would sunset the waiting period in 5 years, whether or not we have developed an accurate instant check system. That does not make sense, and I believe it would undermine a key premise of the original Brady bill compromise.

Let me point out, Mr. President, that the newest Dole substitute already lowers the standards under which the waiting period would end and the instant check system would go into effect. By my count, the minority leader has tried to terminate waiting periods by sunsetting them, by preempting them, and by plunging the standards under which they would expire.

What then does his support for the Brady bill mean?

Third, the Dole language would leave us with a bill that does not meet the expectations of the American people. Polls and surveys consistently indicate that a majority of the American people believe that the Brady bill contains a waiting period for handgun purchases. In fact, a recent Time/CNN poll found that 92 percent of Americans support a 5-day waiting period. Let me assure my colleagues that the American public would not approve of a watered-down bill that terminates the waiting period before the instant check system is up and running. In fact, I believe the American people will someday come back with a vengeance if we lose on this amendment. They will demand a waiting period on handguns that is permanent, uniform, and very long.

Mr. President, we all know that the House has passed its version of the Brady bill and that the House-approved measure contains a 5-year automatic sunset provision. I am sure—and it is only natural—that many Members of this body feel we should just go along with this amendment to put a quick end to this whole debate.

However, we should not. The Senate should not slavishly follow the whims of the House.

The waiting period is a fundamental part of this legislation. It allows us to phase in the instant check system; it allows for a cooling off period; and perhaps most importantly, it is what an overwhelming majority of the American people expect to be part of this legislation.

I, therefore, urge my colleagues to strike the provision that would sunset the waiting period.

I thank the Senator. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. METZENBAUM. Mr. President, I yield the Senator from New Jersey 5 minutes.

Mr. LAUTENBERG. I thank the Senator from Ohio.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. I thank the Chair.

I rise as an original cosponsor of the Brady bill to express my strong support for the original bill and for the amendment to eliminate the sunsetting of the waiting period.

Now, last year handguns were used—last year—to murder over 13,000 people in this country. I think it is an outrage, and I think it is time to fight back. That is what the American public wants from us.

Mr. President, waiting periods cannot eliminate all handgun violence, but they can help prevent the purchase of guns by people acting in the heat of passion or in the depths of depression. We should have a permanent waiting period. And I urge my colleagues to support the Metzenbaum amendment.

While I have the opportunity, Mr. President, I also want to point out that there is a weakness in even the strongest version of the Brady bill.

The Brady bill is intended to keep guns out of the hands of felons. But while felons generally are prohibited from owning guns, there is a loophole—a loophole that would not be closed by the Brady bill.

If the felon's criminal record has been expunged, or his basic civil rights have been restored under State law—that is, rights like the right to vote, the right to hold public office, and the right to sit on a jury—then the conviction is wiped out and all Federal firearm rights are restored automatically.

Now some of my colleagues may think that's OK, and that even convicted violent felons should be able to get their guns back if they are reformed. But even for those inclined to be lenient with convicted murderers, rapists, and the like there is a problem.

The problem is that many states now expunge the records or restore the civil rights of convicted felons in an automatic fashion. Sometimes this happens immediately after the felon serves his or her sentence. Sometimes, the felon must wait a few years. But too often, there is no individualized determination that a given criminal has reformed.

As a result of this loophole, which was added with little debate in 1986, even dangerous criminals convicted of violent felonies can legally obtain firearms. And that will still be true even if the Brady bill is enacted.

Mr. President, according to the Justice Department, of State prisoners released from prison in 1983, 62.5 percent were rearrested within only 3 years. Knowing that, how many Americans would want convicted violent felons carrying firearms around their neighborhood?

This guns for felons loophole also is creating a major obstacle for law enforcement. ATF officials report that many hardened criminals are escaping prosecution under the Armed Career Criminal Act, which prescribes stiff penalties for repeat offenders, because the criminals' prior convictions automatically have been nullified by State law.

The presidents of the Fraternal Order of Police, the National Association of Police Organizations, and the International Brotherhood of Police Officers also have written that the loophole is having terrible results around the country, and rearming people with long criminal records.

Mr. President, I have worked hard in an effort to offer an amendment to the crime bill and the Brady bill to close this guns for felons loophole. Unfortunately, there are those among us who apparently want to keep the loophole open, and I have been told that even offering such an amendment would interfere with efforts to pass both the crime bill and the Brady bill. I think that is unfortunate, but there's no way I want to risk passage of either bill.

In any case, Mr. President, I wanted to bring this loophole to my colleagues' attention, and I hope we can close it before long.

But the most important point to make today is that we should support the strongest Brady bill possible.

And, in particular, we should reject the proposal to sunset the waiting period prematurely. Too many gun crimes are committed by people in the throws of passion. A cooling off period is critically important.

I have a report that we have all probably seen: In 1990, handguns killed 22 people in Great Britain, 13 in Sweden, 91 in Switzerland; in Japan, almost two-thirds our size, 87 people were killed; but in the United States, 10,500 people in 1990 were murdered with handguns. In light of these figures, how can any of my colleagues object to the adoption of a waiting period to provide a cooling off period and to provide an opportunity to ensure that a prospective buyer is not a convicted felon, or someone else who should not have a gun?

And, incidentally, how can we have a law on the books that requires the Bureau of Alcohol, Tobacco and Firearms to go out and spend thousands of dollars searching backgrounds so that they can give some poor felon his gun? That is another loophole we ought to close. Senator SIMON and I have succeeded in blocking the use of appropriated funds for this purpose in fiscal year 1994. But we ought to end that program permanently.

Mr. President, some of the arguments we have heard for sunsetting the waiting period prematurely are really silly. I am especially skeptical of arguments that we should just have blind faith in the instant check system.

Mr. President, I come from the computer business. Everybody here knows about that. I hear about this wonderful system that is set up in Virginia, and I give Virginia credit for trying to deal with it. But I also know that it has been common for gunrunners to go to Virginia and buy a carload of weapons, and then take them to New York and New Jersey or other States around the country.

When I was in the computer business, we had thousands of people working on keeping the records up to date every minute. But we knew very well that there was a chance of error, even though it was reduced, because that was the principal nature of our business.

How many people ever had a false vehicle registration attributed, or received a ticket or a summons that did not belong to them, or received a bill from the tax collector that was not theirs?

It is a constant problem with our technological society. And this again, Mr. President, comes from someone who has the reputation for having been a founder of the computer service industry. My name is not in a hall of fame that excites people, but it is in the Information Processing Hall of Fame in Dallas, TX. I happen to be a member. My distinguished colleague from New Jersey is a member of the Basketball Hall of Fame and that gets a lot of attention. But New Jersey has two Members in the Hall of Fame, Mr. President.

The fact is, I know something about recordkeeping. That company I started provides 14 million people a week their paychecks, 14 million each and every week. So when I hear about how good these instant checks are going to be and how you will be able to pull up somebody's character, somebody's background before you give them a weapon of destruction that could wipe out a life—well, I think it is silly.

What we ought to do is establish an instant check system and then evaluate how it works. If it is really working well; maybe the proponents of the sunset provision would have a stronger argument, though I still believe there is value in maintaining a cooling off period. But at the least, we should keep a waiting period until then, to let every criminal, every felon know that we are serious about checking their background.

In New Jersey, there have been thousands of gun permits denied because when checking the background of applicants we found out that they were convicted felons, or they were not stable people, and they did not deserve to have a gun.

No one wants to take away the weapons from the sportsman or the hunter or those people who can, I assume, wait 5 days—5 days—to get their mitts on a gun. I do not understand what the rush is, I must tell you. But I come perhaps from a different part of the country, from New Jersey, where we have had more than enough gun violence in our society.

So, Mr. President, I wish to commend the Senator from Ohio. We are grateful to him for his diligence about so many things, his ever watchful eye. We are going to miss him when he retires at the end of this session.

The PRESIDING OFFICER (Mr. LIEBERMAN). The time allocated to the Senator has expired.

The PRESIDING OFFICER. Who yields time?

Mr. COCHRAN. Mr. President, I inquire how much time remains on this side of the issue?

The PRESIDING OFFICER. Nineteen minutes 15 seconds.

Mr. COCHRAN. On the other side?

The PRESIDING OFFICER. Twelve minutes 26 seconds.

Mr. COCHRAN. Mr. President, with the authority of the manager on this side, I yield myself such time as I may consume.

Mr. President, not having participated in the debate on this specific issue until now, I am reluctant to discuss all the reasons why we oppose the amendment of the Senator from Ohio for fear I will retrace ground that has already been covered. But let me make a few points even at the risk of saying some things that might already have been said.

The Senate seems to agree that there ought to be identity and background checks of those purchasing firearms from dealers. The argument is over whether or not we are going to do it as quickly as possible with an instant or nearly instant check to see if the person seeking to buy the gun is obviously dangerous to the community, mentally imbalanced, or has had a record of violence. We all support the notion that a background check is important to undertake.

But this issue raises a different question. Do we put pressure from the Federal level on developing the data base and the technology and the capability to make that check as quickly as possible? That is what this issue is about. On this side of the issue, we say, "yes." We support putting the force of a deadline, the force of Federal incentives and encouragement behind the effort to develop and use the modern technology we have, the record base that has been accumulated in the States and at the local level and at the FBI. By doing that, we can do a better job of finding out, who is dangerous, and who should not be able to buy a gun, because these individuals would be prohibited persons under the terms of existing law that was passed back in 1968. The Gun Control Act of 1968 suggested that there are persons who ought to be prohibited by law, and are, in fact, from buying guns at retail outlets. Inquiries ought to be made under the intent of this law.

So, what we are saying is not that we have to get ourselves locked in forever to a waiting period of any particular duration. We are referring now, of course, to the 5-day waiting period under the so-called Brady version.

I hope the Senate will look at the amendment and decide that we do not want to back away from the commitment to force local jurisdictions and the Federal authorities at will to do everything necessary to have the capacity to do instant or nearly instant background checks. It seems to me that everybody ought to agree that that is a worthy goal. That is the purpose of the provision in the bill.

I know that it is not persuasive evidence, necessarily, just because the House has agreed to it. But because the other body supports it and included it in this bill, this provision would be a part of the law if it remains in the Senate bill.

But this amendment seeks to take it out. The Senator from Ohio is saying "no" to the pressure and the incentives that are included in this bill.

The substitute offered by the leadership, Senators MITCHELL and DOLE, give the States resources to do this job; $200 million for records improvement is included in the Mitchell-Dole substitute. This is just another point of pressure and an incentive necessary to have the threat of sunset hanging over the process.

I hope that if other Senators want to express themselves on the subject of the Metzenbaum amendment, they will let us know. I do not know how many speakers the other side may have or whether we are compelled to try to use all the time allocated under the agreement. But until other Senators express their interest in speaking on the issue, Mr. President, I will reserve the remainder of our time.

The PRESIDING OFFICER. Who yields time? The Senator from Ohio has spoken 32 minutes and 26 seconds, the Senator from Idaho, 13 minutes 52 seconds.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that a quorum call be entered and the time be charged against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, there may be some who are not clear as to what this amendment does. Let me spell it out as clearly as I can.

If the sunset provision is adopted, there will be a felon 5 years from now who could get a gun that he would not have gotten if the Brady waiting period and background check were still in effect. He will kill someone, maybe more than one, maybe some tourists, maybe a child.

When you make this vote, just remember, what we are talking about is having in effect this whole provision with respect to checking for 5 years and then for some reason eliminate it. Well, if we can live with it for 5 years, if it does not work, we can come back and change the law. But my opinion is it will work. My opinion is it is the right way to go, but if it does not work, we will come back here and change it. Why should we provide for a sunset provision for it automatically to go out of effect? I just believe if we can live with it for 5 years, we can live with it for far longer than that. If not, the Members of Congress are certainly in a position to change the law at that time. But to have an automatic sunset on a provision of this kind, in my opinion, is absurd, and I hope the Members of this body will see fit to adopt the amendment that Senator KOHL and I have sent to the desk.

Mr. COCHRAN. Mr. President, I yield 5 minutes to the distinguished Senator from Alaska [Mr. STEVENS].

Mr. STEVENS. Mr. President, Virginia has a back-check system, and it is working. As a matter of fact, they are exempted from the bill because it works.

We find a situation that there are some people here that believe in a waiting period. They do not want a check; they want a waiting period because they want to amass a whole array of information about gun owners. And over a period of time, if the waiting period stays in place, there would be a whole array of information about gun purchasers that is not required under the 1968 law.

What we are seeing here now—and my friend from Ohio demonstrates it—is a commitment that we put up $200 million and put into effect an instant check, and after it is working the waiting period ends. Mind you, the sunset is unnecessary if the system works, right? But the system only works if the money is provided and if the people in the administration make it work. It has already been made to work in Virginia, and it can work nationally. But some people in this administration do not believe in that system.

This sunset is there as a trigger stating: Get this system up and make it work within 5 years, or else take down the waiting period and stop this rhetoric. We do not believe waiting periods keep guns from criminals. We believe instant checks will keep guns from criminals. We do not believe waiting periods decrease crime, and we can show that is the case. We believe instant checks decrease crime, and we can show that is the case.

The people who want to take out this sunset want to defeat this bill. That is all there is to it. They do not believe in an instant check. Otherwise, they would not be against a sunset. The Senator from Ohio says, why do we have to have this sunset? It is to test the bona fides of the people trying to work out a compromise.

My amendment, 2 years ago, did not have any waiting period. It had an instant check. Now we have a temporary waiting period which comes down when the instant check works. It is erased automatically.

Suppose the administration will not put it into effect; suppose they will not spend the money; they will not make it work. It works in every store. You just put a credit card in and dial a few numbers and, guess what? Out comes the information about a individual. It is as simple as ABC to have an instant check. It depends upon the people enforcing this law, and they can make it work. It works in Virginia and it will work nationally if they will spend the money. If they want to keep up this business about a waiting period and keep the waiting period in effect forever, they will not make it work. That is the simple answer. The Senator from Ohio wants to know why the sunset is in there. It is to make you keep your word.

Mr. METZENBAUM. Will the Senator yield for a question?

Mr. STEVENS. Certainly.

Mr. METZENBAUM. I want to be clear as to the position of the Senator from Alaska. When he first spoke on the floor, he talked about the preemption provision and this provision that I am attempting to knock out as being important to remain in the bill. My question to you is: If the preemption provision was eliminated, do I understand the Senator to say if the amendment of the Senator from Ohio is not adopted, he intends to vote for cloture.

Mr. STEVENS. If I did not make myself clear, let me make it plain: No, that is not the case. I still will not support the bill, but I hope that the Senate might reconsider its position on preemption before the day is over. The people who want to get this bill to conference, and to have the House and Senate—remember, there are different points of view in the House. We are willing to take this bill to conference with sunset and preemption. I think the Senate, in its wisdom, may reconsider preemption.

The PRESIDING OFFICER. Who yields time.

Mr. COCHRAN. Mr. President, may I inquire how much time remains on both sides.

The PRESIDING OFFICER. The time controlled by the Senator from Idaho is

8 minutes 53 seconds. The time controlled by the Senator from Ohio is 9 minutes 13 seconds.

Mr. COCHRAN. I thank the Chair.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged equally against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SMITH. Mr. President, I rise in opposition to the underlying legislation—S. 414, Senator METZENBAUM's Brady bill.

Mr. President, the Senate just passed a major, comprehensive crime bill that includes highly significant—indeed, historic—steps in the right direction. Our crime bill includes stronger, tougher mandatory minimum sentences for violent criminals who commit crimes with guns. The Senate-passed crime bill also provides a strong incentive to the States to adopt the same approach by providing new Federal regional prisons to which States that adopt truth-in-sentencing and tough sentences for violent crimes can send their prisoners.

In view of the fact that we just passed that tough crime bill, Mr. President, I find it a bit ironic that the Senate would immediately take a step backward by turning to the consideration of a gun control bill that takes exactly the wrong approach to the crime problem.

With all due respect to my colleagues on the other side of this issue, the basic premise of the Brady bill is fundamentally flawed. That premise is that criminals who want to buy guns with which to commit crimes are going to line up at their local gun stores, dutifully comply with the identification requirements of the Brady bill, and then wait patiently for 5 business days before they can go back and pick up their guns.

But criminals do not buy guns that way now, Mr. President, and they certainly will not buy them that way if the Brady bill becomes law. No, Mr. President, by and large, criminals buy their guns on the black market and they steal them.

What the Brady bill really would do, Mr. President, is to force millions of law-abiding Americans to go through a bureaucratic hassle and then wait for 5 business days to get their guns. Many of these Americans, Mr. President, may well be harmed by this waiting period because they may have an urgent need for a gun to protect themselves against an immediate threat.

Mr. President, I want no part of the Brady bill charade. It is about time that the Congress fully realized what the American people, in their wisdom, already know. We need to control crime by cracking down on criminals, not guns.

Criminals commit crimes, Mr. President. Guns do not commit crimes. It is the criminal intent of the criminal who uses the gun that causes the crime.

Mr. President, because roughly 80 percent of all illegally used firearms are acquired illegally, gun control legislation will do little—if anything—to curb the incidence of violent crime on America's streets. That reality is illustrated even more clearly by the fact that virtually every jurisdiction that has enacted or extended a waiting period for a firearm purchase—including States such as Connecticut, California, and Washington—has witnessed an increase in violent crime substantially exceeding the national average.

So if the waiting period approach works, Mr. President, why has it not worked in Indiana, California, Minnesota, New York, and Connecticut—all of which have waiting periods? For the period between 1967 and 1989, these waiting period States all witnessed homicide increases exceeding the national average. In Indiana, homicide rates rose 70 percent; in California, they rose 82 percent, in Minnesota, homicide rates were up 56 percent; in Connecticut, they rose 146 percent; and in New York, the Citadel of the gun control States, the homicide rate rose 131 percent.

Mr. President, let us consider the homicide rates over the same period in States with no waiting periods. In Alaska, the homicide rate dropped 16 percent. In Nevada, they were down 24 percent. Prior to the adoption of its waiting period, Delaware's homicide rates dropped 35 percent. Vermont's rate was down 39 percent and Idaho's rate dropped 40 percent.

Violent crime statistics, Mr. President, tell the same story. States with waiting periods have experienced vast increases in violent crime compared to States without them. In New Jersey, violent crime rose 223 percent between 1967 and 1989. In Massachusetts, 429 percent. And in Connecticut, the rate of violent crime soared 434 percent.

To put it simply, Mr. President, waiting periods do not work.

Worse than that, however, Mr. President, waiting periods may well be more dangerous to the law-abiding public than they are helpful. An exhaustive study by David B. Kopel published by the Independence Institute of Denver, CO, illustrates this point. Mr. Kopel's study shows that complying with bureaucratically cumbersome waiting period law requirements actually distract law enforcement officials from what ought to be their real focus—catching criminals and getting them off the streets.

Let me quote briefly from the Independence Institute's introduction to Mr. Kopel's study:

> A waiting period has strong initial appeal. The tradeoffs appear positive: relatively small costs in exchange for significant gains in public safety. But an exhaustive study of the issue by attorney and gun control expert David Kopel concludes that this perception is misleading. When all the evidence is dispassionately weighed, all the consequences traced, Kopel finds that there is a very real possibility that waiting periods threaten public safety. The reason: law enforcement resources diverted and law-abiding citizens disarmed.

In conclusion, Mr. President, let us show the American people that the Congress has gotten the message that it is time to crack down on criminals, not guns, by rejecting the misguided Brady bill.

Mr. METZENBAUM. Mr. President, with the understanding that the manager of the other side is prepared to yield back his time, I am to prepared to do the same.

Mr. COCHRAN. We are happy to yield back our time on the amendment.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second.

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FORD. I announce that the senator from North Dakota [Mr. DORGAN] is necessarily absent.

The PRESIDING OFFICER (Mr. REID). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 43, nays 56, as follows:

[Rollcall Vote No. 386 Leg.]

YEAS—43

Akaka
Biden
Boxer
Bradley
Bumpers
Byrd
Chafee
Danforth
Daschle
Dodd
Durenberger
Feingold
Feinstein
Glenn
Graham
Harkin
Hatfield
Inouye
Jeffords
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Levin
Lieberman
Mathews
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Sarbanes
Simon
Wellstone

NAYS—56

Baucus
Bennett
Bingaman
Bond
Boren
Breaux
Brown
Bryan
Burns
Campbell
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
DeConcini
Dole
Domenici
Exon
Faircloth
Ford
Gorton
Gramm
Grassley
Gregg
Hatch
Heflin
Helms
Hollings
Hutchison
Johnston
Kempthorne
Leahy
Lott
Lugar
Mack
McCain

McConnell
Murkowski
Nickles
Nunn
Packwood
Pressler
Roth
Sasser
Shelby
Simpson
Smith
Specter
Stevens
Thurmond
Wallop
Warner
Wofford

NOT VOTING—1

Dorgan

So the amendment (No. 1220) was rejected.

Mr. DOLE. Mr. President, I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senate is advised that the time remaining on the bill: 14½ minutes controlled by Senator CRAIG, 2 minutes controlled by Senator METZENBAUM, and Senator LEAHY has 15 minutes reserved by unanimous consent.

The Senator from Ohio.

CLOTURE MOTION

Mr. METZENBAUM. Mr. President, I send a cloture motion to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the Mitchell-Dole substitute amendment to S. 414, the Brady Bill:

Joe Biden, Dianne Feinstein, Christopher Dodd, George Mitchell, Harlan Mathews, Barbara Boxer, Edward Kennedy, Frank R. Lautenberg, Carl Levin, Howard Metzenbaum, Herb Kohl, Bill Bradley, John Glenn, Claiborne Pell, J. Lieberman, Patty Murray.

The PRESIDING OFFICER. Under the previous order there is now 30 minutes equally divided on the motion to invoke cloture.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum with the time to be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I want to note my support for the Violent Crime and Law Enforcement Act for 1993. I voted for this because we need to take strong steps to address the violence that plagues our country. I want to compliment Senator BIDEN for his impressive and tireless work. He moved the crime bill with great dispatch. That is obvious when the Senate voted with such bipartisan support for it. This bill does many, many good things. It is going to put 100,000 police on the streets. It includes my computer abuse bill. It includes innovative programs like drug court, boot camps, the Police Corps, the Violence Against Women Act. That is an essential piece of legislation. And one of the most important provisions for my State is the title on rural crime.

I commend Senator BIDEN for including this provision in his bill which I have cosponsored in the past. I commend Senator HATCH for his fine amendment which would increase funding for rural law enforcement. Well before Senator HATCH and I held a field hearing on rural crime in Montpelier VT, his dedication and leadership in this area was unquestionable.

I should note we always focus, and the press always focuses, on the crime in our cities. But crime is rising faster in rural America than anywhere else in this country. Those of us who live in rural America are justly concerned. The $10 million grant program for rural States that I sponsored to develop cooperative projects will please prosecutors, victim advocates and others. It is very, very important.

My amendment creates a program to fund rural domestic violence and child abuse enforcement.

This amendment establishes a grant program for rural States to develop cooperative projects between police, prosecutors, victim advocates, and other related parties such as counselors or relevant State agencies to investigate, prosecute and treat child abuse and domestic violence.

These funds can also be dedicated to developing community-based strategies to prevent family violence and educate the public about its causes, results and cures.

The police components of these projects can be funded by the authorized grant money or by the community policing funds.

These are just a few of the many worthwhile provisions this crime bill includes.

There are some provisions in this bill that were added to show how tough we could be on crime. I think they were unnecessary.

I do not speak to this from some abstract perspective. I spent nearly a decade as a prosecutor. I am one of the few people in this Chamber who has actually prosecuted murder cases. I am one of the few people in this Chamber who has actually prosecuted armed robberies, assaults, rapes, and child abuse. I probably am one of the few people in this Chamber who have had attempts made on his life because of his role as prosecutor.

Provisions in this bill would impose a Federal death penalty for virtually any homicide committed with a firearm. For a State which does not have a death penalty, like mine, that means we here in the Senate said: Goodbye with your legislature, goodbye with your laws; we have just overridden your State.

Some of these who have voted for that provision speak strongly of their conservative nature and their protection of individual States' rights. But they ignored it in that regard. They also ignored it when they made burglary to gas station stickups Federal offenses, even though the States always handled this. They overrode the States again.

As a former prosecutor, it troubles me. We need Federal law enforcement to do what it alone can do: Prosecute large-scale interstate and international drug trafficking, complex white collar crime, racketeering and money laundering, take on organized crime, and savings and loan crime. Let the local authorities do the rest.

I will vote for this bill because, on balance, it contains many, many more good provisions than bad.

This is a bill in process. I think it is a good start. As one who will be a conferee on it, I hope to make it better. I am voting to move this significant legislation forward so we can take the strong steps needed to make our cities and towns safe.

Let me say a few more words about gun control. As I spoke about my experience as a prosecutor before, I also speak from my experience as a gun owner. I own a lot of guns. I own handguns and long guns, semiautomatics, and single actions. I have fired virtually every type of weapon that we have heard described on this floor.

I have owned guns since I was about 12 or 13 years old. I was a champion shooter in college. In fact, it helped put me through college, and I am proud of that.

I have been skeptical about the practical effect of gun control measures that we debate in the Senate on reducing violent crime. That is not a fashionable, politically correct position. But it is what I think. I am one of the relatively few Democrats who does not support the Brady bill.

I feel very much for those who are concerned about the terrible crime on our streets. But let us face it, as a matter of policy, Brady is a symbol.

There is no waiting period, as we know, for criminals. In this city which has the toughest gun control laws, I believe, in the country, every one of us could walk out of here dressed in any type of clothes we want, with enough money in our hand, and buy handguns. We know we could do it. We would not buy them legally, but we could do it.

When Brady is signed into law, as we know it will be, criminals will still have ready access to handguns. They will get friends who have no criminal record to buy guns for them in gun stores, they will buy them out of the trunk of a car or from the guy on the street corner. Let us not kid ourselves, there will be no wait and therefore no background check, for the criminal who wants a gun.

So I do not think that the waiting period portion of the Brady bill will really do anything.

The Brady bill also requires the creation of a national system of instant background checks. Let me say that I am not thrilled about this either. I am concerned about giving every gun dealer in the country access to people's private lives. Doing a background check on a person purchasing a handgun is appropriate. My concerns are that access to the background check system may be abused and not limited to these purposes.

Or somebody is a neighbor and says, "I really don't care too much for those people who moved down the street. Check them out for me." I find that a little bit unsettling.

I also have concerns about the costs to the States. My State is not a wealthy State. We have a lot of gunowners in my State. We also have the second lowest crime rate, I should point out, in the country. Let me emphasize that. We have probably the highest percentage of gunowners, but the second lowest crime rate in the country. I wonder how many Vermonters there are who feel as I do, that they would like to see their money going into cleaning up Lake Champlain, improving their schools or whatever.

I want to be very clear. I do not doubt the significance of the symbolism. I said the other day on this floor, as we were having one of our late-night sessions, that we necessarily had to have because of the press of business, a lot of us leave here at midnight or 1 o'clock in the morning and we go right down these well-lit steps surrounded by armed police officers, get into our car, lock the doors, drive like a bat out of hell and get out of here. None of us are willing to walk 4 or 5 blocks if our car is parked there. Sometimes we might ask ourselves why we are willing to let our staff do that. We should be concerned about that. So people are concerned about their safety. They do not want to have armed fortresses as our cities have become.

I do not question the motivation of those who want to give a symbol of hope, but if we are going to expend this kind of energy and effort, why not have substance instead of symbolism?

I will vote, obviously, against this symbol. I will vote against the Brady bill. I will not vote for a filibuster. Instead, I will vote for cloture because we ought to have a chance to vote up or down on the merits of this legislation. This issue has been fully debated. There is not a person in this Chamber who does not know how he or she is going to vote. We ought to vote, but let us not slap ourselves on the back and say we have done something wonderful to stop crime, because we have not. The Brady bill will pass, but we will have passed a symbol. We will not have passed anything substantive to stop crime.

I want to mention the Feinstein-DeConcini assault weapon amendment. It is a measure that goes beyond symbolism. A semiautomatic, incidentally, is not a machinegun. I own a lot of semiautomatics; I do not own a machinegun. A semiautomatic is a lot different than that. People use it for everything from skeet shooting to hunting.

There are other weapons, however, whose only purpose is for killing people: the Street Sweeper, for instance. There is no need whatsoever for any individual to own a weapon like that. These are weapons that have no place outside of a target range or a battlefield. Those kinds of things should be kept out of an individual's hands. It is not going to trample the rights of law-abiding gunowners who spend their whole lives around guns but never would even dream of pointing one at a human being.

I was speaking to a policeman here in DC the other day. He said, "You know, when I am out on the street in my uniform, I draw a lot of attention. Usually I don't mind it; it is part of the job. But sometimes it is scary to stand out like that. That is why I think you guys should do something about these kind of weapons."

I agree. We do need to reduce the firepower on our streets, firepower too often used by kids out of control, kids who make the sorry results of their crimes so tragic and lethal, kids with too easy access to too much firepower. I thank the good Lord that this is a problem that has not afflicted Vermont the way it has other parts of the country. But everyday people in our cities—rich people, poor people, old, young, famous and unknown—walk in fear. And we cannot ignore that.

One subject I know about and feel comfortable with from a lifetime of experience is guns. Some will say they have a right to have whatever gun they want as a matter of absolute principle. I do not agree. Our country faces a terrible crime problem. The carnage in our cities has made them fortresses of fear. We as Vermonters cannot just stand by pretending it is not our problem.

Incidentally, it is not a position I would have taken 19 years ago when I came to the Senate. But ours is a different country than it was 19 years ago. That is why I supported the Feinstein-DeConcini amendment. It is not going to solve all violent crime but it will make people's lives safer.

That is also why I oppose the Brady bill. It is a symbol, a misguided message that will not make people's lives safer even though it will make some of us feel happier in passing it.

Mr. President, do I have time remaining of my 15 minutes?

The PRESIDING OFFICER. Three minutes remaining.

Mr. LEAHY. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. I yield myself such time as I might consume.

Mr. President, we now have a cloture motion filed at the desk. Of course, this is to force the whole of the issue on this very important debate. I appreciate the experiences of my colleague from Vermont and his observations, but I think it is important to say in my relationship with owning guns and with the gun community and those who strongly believe in our second amendment rights, that in all of those instances, with all of those people and with a vast majority of the American citizenry, there is one thing that we all agree on, and that is that criminals ought not have guns, convicted felons, and that we really need to work to try to devise a reasonable system that provides us with a quick check.

We are in the days of computers. We are in the days in which we can retrieve information instantaneously if it is put together in a coordinated way. That is, frankly, what this legislation is really about now. We have debated Brady for years. As many have said, it went from a waiting period, but that really broke down because crime kept moving on and criminals kept getting guns and they were able to slide through waiting periods. But, of course, we know nearly 90 percent of them do not wait, they just go to the street and buy one; that it was really inflicting upon the private law-abiding citizen a new law, a new regulation that was stylistic, if you will, or symbolic, but it did not work.

Finally, as this issue has evolved, now we are down to really putting it in action. By that I mean putting the money and the mandate and the technology together to do a background check.

I know that my colleague from Vermont worries about the building of those kinds of records—privacy and all of that type of thing—and yet we say very quickly in all of this that those records will not stand. It is a matter of law that they should not stand once the background check is done, so that there not be a fear that somebody were compiling a master list of guns and gunowners. That is not the intent and the law clearly understands that.

As proposed, the intent here is to find out who is legally eligible to own a gun and who is not. It is amazing that we would argue in effort to deny the technology that is now available, and that could more than likely be brought up to speed within 12 to 24 months. We denied sunset just a moment ago, and the reason we denied it is because that is the club tied with the money and the mandate that forced the States to work together to come into compliance.

The Senator from Vermont talked about a concern for cost for a small State like Vermont, not much larger or smaller than a State like Idaho. What I would say to the Senator from Vermont, we are handing your law enforcement community the money to put their records together in a systematic way with the Department of Justice to have that system. That is the importance of bringing this together.

But what is the cloture all about? It is important for Senators to understand that if we could bring preemption back to this bill we would be off to conference right now, we would be moving for final passage on an instant background check Brady bill with all of the provisions in it that we have all talked about and that ultimately this legislation has evolved to over the last 5 to 6 years.

But the reason we are at cloture now is because some of us say you have to put it all together. Let us quit the PC stuff, the politically correct symbolism, that has become so embodied in this legislation. Let us get down to doing what Americans want done, and that is putting a system together that produces that check. Why? Because 90 percent of American citizens—90 percent—believe they have the right to own a gun; 76 percent believe that the Constitution guarantees that right; 57 percent believe that the Brady bill contains a background check, and we know it does not. You cannot trample on 10th amendment rights unless you handle them appropriately; and 43 percent say, "Well, it will not work."

That is why we are here. That is why this issue is very important, and that is why cloture says let us come to terms. Let us come to terms by putting preemption back in this legislation, by bringing all of this together in a narrow timeframe—5 years—when all States are uniform, when we have the background check.

That is a tough call for me, Mr. President, because I would argue States rights. But I also know this as an overpowering national issue. Instead of sending out the mandate without the money, I am one of those who says if you are going to require the mandate, put the money with it. Work with the States, cooperate with the States. They want this kind of informational background. They want to use it for their purposes. They want a comprehensive, criminal, instant, informational retrieval system. They want a master name list. They are all working for it now, and many States are very nearly there.

So what we are saying by this legislation and what the Republican leader, when he worked with the majority leader to craft this legislation, was insistent upon is that we quit playing the political game, that we quit, year after year, coming to the floor and talking in great round terms about our concerns and what ought to be and what ought not to be. But let us, in a very sensible and practical way, provide an informational system that protects constitutional rights of the law-abiding citizen and says to the person with a felonious record or a person who has an adjudicated mental record, that guns are off limits to you, and we have the mechanism by which to assure that.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Idaho has 6½ minutes remaining.

Mr. BUMPERS. Does the Senator from Idaho yield the floor?

Mr. CRAIG. Yes, I yield the floor.

The PRESIDING OFFICER. The time is controlled by the Senator from Ohio and the Senator from Idaho.

Mr. METZENBAUM. The Senator from Ohio has 15 minutes?

The PRESIDING OFFICER. The Senator from Ohio has 14 minutes.

Mr. METZENBAUM. I do not know where I used one. I will not argue about it. I yield 4 minutes to the Senator from Arkansas.

Mr. BUMPERS. Mr. President, first of all, why are we debating a cloture motion? For one thing, we just got through voting by a pretty good majority not to preempt cities, counties and States who have laws on the sale of weapons that are more stringent than the Brady bill. If Little Rock, AR, had a 7-day waiting period, it is preempted because the Brady bill is 5 days.

Think about that. Think about a filibuster being conducted on this floor saying the people of Arkansas do not have the right to do what they want to do in order to try to curb crime—a filibuster to stop a minuscule effort to stop violence, or at least make some impact on the violent nature of this Nation.

Not one nation on Earth, not a Third World, first world or any other world, would even think about allowing people to buy weapons the way we do in this country. So what do you think has happened? Of roughly 170 nations on Earth, who do you think is No. 1 in crime? That is right, the good old U.S. of A. Stand up at the Fourth of July picnic and talk about what a great patriot you are and then tell them what has happened in this country just in the past 20 years—200 million handguns floating around.

They say it is too late now; the cow is out of the barn.

People in the inner cities of this country are as frightened as the citizens of Sarajevo. They would not dare walk alone in certain areas of Washington, DC. They cannot go to the grocery store after the Sun sets, and we cannot even pass a little amendment that said you must wait 5 days to buy a handgun.

I used to practice law in a small town. I had people walk in my office and say, "I am going to get him before the Sun goes down," because of an insult that had passed within the past 30 minutes. Give them 5 days and they would forget what was even said.

After 5 years of debate, those who filibuster this bill say, we want that guy to be able to buy a gun in the heat of passion. You read every day, every single day, where somebody is mad so he went and bought a gun and killed somebody, all within an hour or two. The people who filibuster this bill say that is just fine.

Dwight Eisenhower said that the people of this Nation are going to demand peace one of these days, and when they do the politicians better get out of the way and let them have it.

The American people are demanding a stop to the violence, and do you know who is thwarting the will of the American people? The U.S. Senate. It has become so gross I can hardly talk about it. Every law enforcement organization in America favors the Brady bill. I see those signs and bumper stickers which read, "Support Your Local Sheriff." What a joke. The Senate is not supporting the local sheriff. It is not supporting the local police. It is not supporting the people who go out and bare their chests to these guys in the inner cities. It is not just the inner cities. It is rural America, too.

One of these days people are going to say we want the violence stopped, and they are going to turn a lot of people out, and you better get out of the way and let the American people have peace.

We are not talking about legitimate hunting weapons. I am a hunter. I have a shotgun. That is not what we are talking about. We have never talked about those types of weapons. That has been a diversion, a distraction designed to keep the Senate from addressing the real problem.

We are trying to talk about sense, sanity, and civilized conduct. Surely to God there are enough men and women in the Senate to do their duty in voting for cloture and letting the Brady bill pass.

Surely to God we can get cloture on a very simple, minimal requirement at a time when the biggest cause of death among black males in this country between 18 and 34 years of age is murder.

Think of it. We have rapidly become the most uncivilized nation on Earth, and you cannot stop it in the Senate. Why? Because they are scared to death of the National Rifle Association. Just call it what it is.

Surely to God the Members of the Senate are ready to stand up and do their duty.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BUMPERS. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. METZENBAUM. Mr. President, I yield myself 4 minutes.

Mr. President, it is a rather sad commentary, and I do not know whether I feel anger or I have a tear in my heart because here we are in a country where the American people say the most significant, the most challenging problem in our country is crime, and we in the Senate are using the right to filibuster to keep this from being voted on up or down. What a sad commentary that is, that there are some in this body who would use the right to speak and debate and not actually do that but just stall, in order to keep Members of this body from having a chance to vote on the Brady bill.

What are we really talking about? What kind of a body are we? We talk about passing a major crime bill to do something about crime, and then when it comes to getting guns out of the hands of kids and out of the hands of criminals, out of the hands of crazies, we are not willing to step up and vote no. We want to filibuster. We want the right to debate and debate and debate and talk.

I probably have been a party to that on occasion, but never against something as absurd as this. Here there is an effort by the Members of this body, by Sarah and Jim Brady, by decent people all over the country, some of whom have paid with their lives. This young lady, Michelle, who lost her husband rather recently, lobbying in the Halls of Congress. What a beautiful human being; what courage she has trying to say we need the Brady bill.

Yesterday, I had in my office a gentleman who came all the way from Japan with I think 1.7 million signatures because his son, who did not speak English that well and was studying in this country, went to the door—was not involved in doing anything—walked away from the door when the man did not answer, saw somebody finally, came back to the door. It was Halloween night. He came back—saw him—came back to the door, and the individual took his gun and shot him and killed him.

This Mr. Hatori, who was in my office, was saying he could not understand—and I cannot understand, the rest of the civilized world cannot understand—what is wrong with the U.S. Senate that they are not willing to vote up or down on the question of a 5-day waiting period.

What a tragedy. What a travesty it is. We ought to have the courage of our convictions. But no. We are worried about the NRA; the NRA will not like us.

I noticed in the morning paper just today, about how one of the big gun manufacturers is out urging their people, urging their customers, urging the gun sellers to help the NRA get more members. Is that not a wonderful thing? A large gun manufacturer, out using tax-deductible dollars for the purpose of urging people to join the NRA.

I think it is a challenge to us here today. I think it is a question of whether we have the courage to stand up to the NRA and to say to them: We are going to pass in this Congress the Brady bill, a bill to make a major step forward in controlling the number of guns in the streets of America.

I hope that this issue will not be lost by reason of the fact we do not have 60 votes.

I yield the floor.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, I am not sure who controls the time.

Mr. METZENBAUM. I do. I yield the Senator 5 minutes.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. BIDEN. Mr. President, there used to be an expression related to age and attitude. They say someone is awfully long in the tooth. Well, this issue is long in the tooth. We have been banging this around for the last several years. We have been banging it around almost since President Reagan was shot.

On this issue, the Brady bill, those being in opposition to the Brady bill—notwithstanding the fact that a majority of the Members of the U.S. Senate and a clear majority of the House of Representatives support the Brady bill—for a year and a half have prevented us from passing a crime bill.

So obviously, there are those who oppose the Brady bill, who feel very, very strongly about it, strong to the point that it took us 2 years to get a crime bill, a bipartisan crime bill, I might add. Once the Brady bill was not in the crime bill, the world changed. We passed a crime bill, a gigantic crime bill.

The reason I bother to mention that is that as a matter of fact one of my colleagues today, who is one of the major architects of the crime bill, pointed out today that we had no crime bill; and an opponent of the Brady bill pointed out today in the press that there was no crime bill for all this time because of Brady. But with Brady out of this, we could now have a crime bill.

The point I am trying to make is the toll that is exacted for not allowing the U.S. Congress to work its will, the entirety of the Congress. By the way, although we stop action here in the Senate, we should put this in perspective. This is a filibuster not in terms of the Senate acting, a filibuster in terms of the Congress acting, in terms of the President being able to act; the effect of this—everyone knows the outcome if we are allowed to vote, if we are allowed to get a vote.

Now we have to go through—and I acknowledge that my Republican friends have yielded part of their rights, which would be they could have stopped us from having this cloture vote for 2 days instead of allowing it to come within several hours.

But that really begs the question. By whatever name one calls it, this is a filibuster. The only time we need 60 votes is when there is a filibuster, requiring a supermajority.

My colleagues on the other side, and the NRA—and I make a distinction "and the NRA"— my colleagues on the other side and the NRA have basically said, well, we can accept the Brady bill if two things happen. One, if we have a sunset provision in the Brady bill relative to the time that a waiting period would be in effect, prior to, or all the checking coming on line.

The second is they said we want to be able to preempt our States, and tell our States what they can and cannot do relative to the waiting period. They won on one of those issues.

The Brady folks, like me, do not like the sunset provision. We do not like the preemption provision. They like preemption; they like sunset. They won one of the two. But we are getting down to the point of, well, if I cannot win both, I am taking my ball and going home. The fact of the matter is, they won one of the two.

Ordinarily, the way this body works is it is a matter of compromise. There is now a bill before us that the pro-Brady supporters would have accepted a month ago, would have accepted 2 months ago, would have accepted 5 months ago. Because it has sunset in it, we do not want that. But we lost. We lost straight up and down. It lost in the House. Preemption lost in the Senate; it lost in the House.

So what we have here is a bill that is a compromise. But apparently it is not pure enough still and the NRA is telling Democratic Members, that I know of, and I suspect telling Republican Members: You cannot vote for this.

This is a filibuster, clear and simple. We have to break the filibuster. We need 60 votes. If we do not get 60 votes, the Nation, the House of Representatives, the President, all of whom support this, and a majority of Senators, are denied the right to do something about handguns, felons, and waiting periods.

I sincerely hope we will move to bring an end to the debate on this issue with 60 votes.

The PRESIDING OFFICER. The Senator's time has expired. All time has expired on the debate controlled by Senator METZENBAUM. The Senator from Idaho is recognized for 6½ minutes.

Mr. METZENBAUM. Mr. President, the Chair told me that I had 14 minutes. I gave 5 minutes to the Senator from Arkansas; 4 minutes for himself and 5 minutes——

The PRESIDING OFFICER. Five to the Senator——

Mr. METZENBAUM. I guess that is right. I think the addition is right.

[Laughter.]

Mr. CRAIG. I yield 5 minutes to the minority leader.

Mr. DOLE. Mr. President, I would be happy to yield 2 of those minutes to the Senator from Wisconsin.

Mr. KOHL. I thank the minority leader very much.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized for 2 minutes.

Mr. KOHL. Mr. President, I want to make clear what we are doing here. We are now trying to get 60 votes to go to a Brady bill, which consists of a background check on firearms and a 5-year waiting period which we will then sunset.

I daresay if you put this to the American people, you could get probably 95 percent, 90 percent, of the people who want to see that sort of a Brady bill enacted.

I cannot imagine that the U.S. Senate, faced with this sort of a proposition, would turn it down. It seems to me that if we turn that down, every one of us needs to go back and explain that to the people in our home States; I do not care if you are from Wisconsin, Kansas, California, or wherever. It is almost inexplicable to try to make the American people understand why we turned down a Brady bill which sets up a background check on all firearms, and a temporary—to be sunsetted in 5 years—waiting period on the purchase of a handgun.

That is the proposition before us. I think all 100 Senators have to make a pretty strong decision on this. I cannot imagine us not getting 60 votes, Mr. President.

I think we ought to get 80 or 90 votes on this sort of compromise. I am looking forward to the vote.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas, the Republican leader, is recognized.

Mr. DOLE. Mr. President, I have listened to the debate carefully, because I would like to vote for this legislation. In fact, I do not know why we had the first two votes. This bill would have been out of here an hour or two ago, with a 99-0 vote, had we not had the two votes on preemption and sunset. Sunsetting is still in the bill. Preemption should be in the bill. We have modified it and taken care of some of the concerns.

As I indicated, one of our colleagues from the House raised this with me the other night in the Cloakroom. We tried to take care of those concerns when it comes to licensing, construction, checking someone's mental health, and a number of things that actually delay. We thought we would take care of that. So we did that. We also provide that once the computer check is on line, you can go back and reenact waiting periods if States still desire to do that.

It seems to me that we provided the agreement. And had this amendment not been stricken—the other amendment—under the UC we entered into, the bill would have been agreed to, and we would have been out of here. If cloture is not obtained, there is a good chance between now and 11 o'clock—the time of the next cloture vote—that this very, very small difference can be resolved. I think it could be with the Senator from Ohio in 5, 10, 15, 30, 40 minutes. I do not want to leave the impression that you have to get cloture or this bill is dead. That is up to the majority. There is still one other cloture vote at 11 o'clock or, hopefully, earlier.

In the meantime, we are prepared to discuss, have dialog, whatever, to see if there is any way we can reach any agreement. The bottom line is that this is a good piece of legislation. It would be better with preemption in it. So I urge my colleagues not to invoke cloture, give us an opportunity to pass a strong bill.

A lot of things in this particular so-called Brady bill—and it is a much modified Brady bill, but keep in mind the original Brady bill was nothing but a Federal waiting period. That has been changed in 1991 and changed again today. There are a number of provisions that were not in the Brady bill in 1991 that are in the bill today. It is much stronger legislation. We ought to leave the preemption in, go to conference, work it out and get it back here late tonight, or early tomorrow, so we can have action on this bill before Congress adjourns.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho has 2½ minutes remaining.

Mr. CRAIG. Mr. President, let me compliment the Republican leader for the time and effort he has put into getting an instantaneous background check out to the American people. He has persisted over the last several years and has forced a lot of different interest groups to come to terms over a very important issue. We are here debating in a very substantive way a very important piece of legislation today, because of the leadership of Senator DOLE, who has said this is an important issue, but it is not so important that we ought to trample on the rights of citizens.

So let us do it in a way that does not destroy those rights but goes after the criminals. Let us make sure that States have adequate resources by which to implement this, and let us force the States to do it. He is absolutely right that this bill would have passed a few moments ago and would have been off to conference if we had been able to hold preemption in there. That is an important part of the enforcement mechanism that brings States on line with an instantaneous background check.

In other words, like he said a few moments ago, let us quit waiting and waiting and waiting. Let us vote the cloture down; let us get preemption back in and move this legislation to conference.

Mr. MITCHELL. Mr. President, I am going to address the subject on my leader time. I am aware that the time on this side has expired.

Mr. President, and Members of the Senate, the U.S. Senate finds itself, unfortunately, in a familiar position. According to the public opinion polls, 92 percent of the American people favor the Brady bill; 84 percent of those Americans who own guns favor the Brady bill; 68 percent of the members of the National Rifle Association favor the Brady bill; the President of the United States favors the Brady bill; a majority of the House of Representatives favors the Brady bill; a majority of the U.S. Senate favors the Brady bill; yet, we cannot even vote on the Brady bill because the rules of the Senate permit a minority, using the filibuster to delay and prevent action, from voting on something that 92 percent of the American people favor. That is where we find ourselves.

We have just heard the suggestion made that why do we not pass it with preemption? The House of Representatives debated preemption and voted it down. The Senate debated preemption and voted it down. Now our colleagues say "let us put preemption in." What kind of democracy is that? We debated it, we voted, and we rejected it—both the House and the Senate. Now our colleagues say, "but it has to be in the bill."

Is there any American civics course, or is there any school in America that says when you have a debate and you vote, the losers win? The answer is no, that is not democracy. Only in the U.S. Senate would such a fantastic suggestion be possible, let alone be accepted—that after you just lost, you say that the price is that I must prevail. The fact of the matter is this really ought not to be controversial.

In 1991, 67 Senators voted for this bill without preemption. What has happened to those Senators between then and now that they suddenly say that preemption must be in the bill? What has caused them to change their minds, to reverse their position? We have not heard an explanation of that; not a single word has been said. No response to the question has been made. There is no reason.

It is an effort to kill the bill. That is what the preemption is. Everybody on this floor knows that. This is an effort to do by indirection that which cannot be done directly, because 92 percent of the American people feel the other way, because 84 percent of gun owners feel the other way, because 68 percent of the members of the NRA feel the other way, because a majority of the

House of Representatives feels the other way, because a majority of the Senate feels the other way. The only way they can defeat it is to use the rules of the Senate which, in effect, give the minority power to prevent action on legislation. And so here we are again on an issue in which there is majority support in the Senate, in the House, and overwhelming majority support among the American people; and we cannot act because Republican Senators are once again filibustering. That is where we are. Let no American misunderstand the result. If this bill dies, it dies because of the Republican Senators' filibuster.

I hope it will not die. We have come a long way. We have worked out a lot of differences. We have reached agreement on a lot of provisions. But there cannot be any inclusion of preemption in this final bill.

I must say, Mr. President, I have never been more astonished when I saw some of the great States rights speechmakers here voting for preemption, Senators who time after time—and I am not going to embarrass them before the Senate. But I have prepared a long group of excerpts from the CONGRESSIONAL RECORD of some of our colleagues on the other side about States rights. I am not going to identify anyone by name but, my gosh, these are dramatic reasons.

> I cannot support this because it is the Federal Government telling the States what to do.
>
> States ought to be left to determine what is best for them.
>
> It is offensive to the States.
>
> It ought to be offensive to those of us who really believe in the principles of Federalism.

There are page after page after page after page of States rights quotations by Senators who then voted to preempt States rights. They have one set of principles on guns and one set of principles on everything else. It is selective States rights.

Well, we all know what the story is. Everybody here knows what the story is. This is an effort to kill the bill, and it is going to be up to Senators here today to decide whether we are going to pass a bill or whether we are going to kill a bill. And the cloture vote will determine that.

Mr. President, I urge my colleagues for once let us stand up and do what we know to be right, what the overwhelming majority of the American people want, what the House has voted by a majority, and what the majority of this body wants.

There is no doubt about it. There is no dispute about it. The American people want it. The House wants it. The Senate wants it by majority, but the minority is preventing it from happening because of the filibuster.

Let us for once do the right thing, and let us vote cloture. Let us end this filibuster. Let us pass this bill, and let us take this small step to protect Americans from the random violence which now so dangerously and in such deadly fashion affects our streets and cities.

Mr. President, I yield the floor.

Mr. KOHL. Mr. President, let me tell you about four Milwaukee teenagers—two of them 13-year-old girls—who were executed in a gangland style killing last winter. When you hear their story, you may understand why I support the Brady bill and other reasonable restrictions on firearms.

Last December these two girls and their 14-year-old girl friend went over to a young man named Frank Cook's apartment for a party. One of the girls—they were not yet old enough to be called young women—was dating Mr. Cook. Simply put, they went to the wrong place at the wrong time. Frank was a 17-year-old drug dealer who was using an apartment as his drug house. He was in competition with a rival drug gang, one of whose members lived next door. The leader of the rival gang was a man named Elliot House.

On December 19, House decided to brutally eliminate his competition and cover up unrelated gambling losses. So that evening he and his companions, including an associate named Emmett Ezra White, killed Frank Cook. They used an AK-47, a Tech 9, an additional semiautomatic, and a handgun. Tragically, they also killed the three girls: Ayshia Lewis, age 13; Patricia Simmons, age 13; and Kizzy Holt, age 14. There was no evidence that any of the girls was involved with illegal drugs.

At the time of their death, the girls were playing Nintendo and eating pizza. The four kids were shot at least 27 times, mostly in the back. When she sentenced White to four consecutive life terms, Circuit Court Judge Janine Geske stated:

> Those young girls were ordered to the floor face down, and we've heard testimony during the trial how the two girls huddled together like frightened lambs. They were so close together that ultimately when they were shot, the quarter that was in the clothing of one of the girls embedded itself in the neck of one of the other girls.

Mr. President, it is difficult to fathom what kind of twisted minds could gun down these young people. But it is also difficult to fathom what kind of government could fail to enact a simple piece of legislation that calls for a waiting period on handguns and a background check on firearms.

We all know that there is no panacea for this senseless violence. And we all know that nothing that we can do here will ever make the families of these slain children whole again. We need tougher laws, more cops on the beat, more certainty of punishment and more hope where there is now only hopelessness. The crime bill that we just passed will only begin to address these problems.

But there is one more crucial step we can take to reduce at least some of this carnage. We can enact the Brady bill. It is supported by 90 percent of the American people and it will not infringe on anyone's constitutional rights. It will not infringe on the law-abiding rights of hunters.

Mr. President, more than 2½ years ago the majority leader, Senator AL GORE, and I took the original Brady bill and combined it with the best elements of the so-called instant check system proposed by the NRA. In brief, our compromise measure had three major components: Mandatory background checks on all firearms purchases; a uniform 5 business-day waiting period for handgun buys that would remain in effect until an accurate instant check system was in place; and $100 million for States to upgrade their computerized criminal history records. Our approach enjoyed broad support: It was endorsed by both HOWARD METZENBAUM, who has led the fight for Brady since its original introduction, as well as by the distinguished minority leader. The amendment, which passed the Senate by a substantial 67 to 32 margin, forms the basis of the proposal we are debating today.

Yet, Mr. President, during the 2½ years since we failed to move the Brady bill beyond the Senate, firearms violence has continued to rage in our communities and on our streets. According to Dr. Robert Froehlke of the Center for Disease Control in Atlanta, "In some areas of the country it is now more likely for a black male to die from homicide than it was for a U.S. soldier to be killed in Vietnam."

Indeed, it may actually be more dangerous to live in a major American city than to serve your country in a foreign war. Fewer than 85,000 Americans were killed in Vietnam and Korea combined, but more than 150,000 Americans have been killed by firearms since the Brady bill was introduced in 1987. And while fewer than 300 Americans died during the Persian Gulf conflict, more than twice that many Wisconsinites were killed by firearms over the past 7 years. That is not just disturbing, Mr. President, it is unacceptable.

Of course, this is not a perfect piece of legislation: It is a compromise. In an ideal world, the Brady bill before us would have a permanent waiting period, which I believe is critical to giving people consumed by violent passion time to cool off. Wisconsin, which has a 2-day waiting period and background check on pistols, has prevented more than 500 convicted felons from buying handguns in the past 2 years. Even the NRA once believed that waiting periods have value. In a 1976 publication entitled "On Firearms Control," the NRA stated:

> A waiting period could help in reducing crimes of passion and in preventing people with criminal records or dangerous mental illness from acquiring weapons.

But I am absolutely convinced that the bill before us today represents the best deal we could make to get the votes we need. And I believe that when the American people realize that the waiting period will expire in several years, they will urge us to enact one that is permanent, uniform, and lengthy.

Mr. President, in the past 2 years I have made more than a dozen floor statements on the Brady bill; I have talked about the Brady bill in many meetings in Wisconsin; I have sat through countless hours of strategy meetings on this legislation. But I am tired of talking about the Brady bill; we need to enact it this year.

I believe that this Congress will enact the Brady bill. We will enact the Brady bill because, by an overwhelming majority, the American people now recognize that the need for it has never been so compelling and that the consequences created by its absence have never been so destructive.

Enacting the Brady bill will help save lives. And, hopefully, it will help restore the American people's faith in their Government. I urge my colleagues to support the cloture motion.

CLOTURE MOTION

The ACTING PRESIDENT pro tempore. Under the previous order, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the Mitchell-Dole substitute amendment to S. 414, the Brady bill:

Joe Biden, Dianne Feinstein, Christopher Dodd, George Mitchell, Harlan Mathews, Barbara Boxer, Edward Kennedy, Frank R. Lautenberg, Carl Levin, Howard Metzenbaum, Herb Kohl, Bill Bradley, John Glenn, Claiborne Pell, J. Lieberman, Patty Murray.

CALL OF THE ROLL

The ACTING PRESIDENT pro tempore. By unanimous consent, the quorum call has been waived.

VOTE

The ACTING PRESIDENT pro tempore. The question is, Is it the sense of the Senate that debate on the Mitchell-Dole substitute amendment, as amended, S. 414, the Brady bill, shall be brought to a close. The yeas and nays are mandatory under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. DORGAN] is necessarily absent.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 57, nays 42, as follows:

[Rollcall Vote No. 387 Leg.]

YEAS—57

Akaka
Baucus
Biden
Bingaman
Boren
Boxer
Bradley
Bumpers
Byrd
Chafee
Conrad
Danforth
Daschle
DeConcini
Dodd
Durenberger
Exon
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Harkin
Hatfield
Inouye
Jeffords
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mathews
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sarbanes
Sasser
Simon
Warner
Wellstone
Wofford

NAYS—42

Bennett
Bond
Breaux
Brown
Bryan
Burns
Campbell
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
Dole
Domenici
Faircloth
Gramm
Grassley
Gregg
Hatch
Heflin
Helms
Hollings
Hutchison
Johnston
Kempthorne
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Packwood
Pressler
Shelby
Simpson
Smith
Specter
Stevens
Thurmond
Wallop

NOT VOTING—1

Dorgan

The ACTING PRESIDENT pro tempore. On this vote, the yeas are 57, the nays are 42.

Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The majority leader.

Mr. MITCHELL. May we have order, Mr. President?

The ACTING PRESIDENT pro tempore. The Senate will be in order.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that, notwithstanding the provisions of rule XXII, the Senate proceed to executive session to consider the nomination of Janet Napolitano to be U.S. attorney for the District of Arizona (Ex. Cal. 387); that the majority leader is authorized to file a cloture motion on the nomination; that there be 20 minutes, equally divided and controlled in the usual form, between the chairman and ranking member of the Committee on the Judiciary, or their designees; that following the conclusion or yielding back of time, the Senate, without any intervening action, vote on the cloture motion; that if cloture is invoked, the Senate, without any intervening action, proceed to vote on the nomination; that, if confirmed, the President be informed of the Senate's action; and that the Senate return to legislative session.

Mr. LOTT. Mr. President, I object.

The ACTING PRESIDENT pro tempore. The Senator from Mississippi objects.

Mr. MITCHELL. Mr. President, I had been advised by our colleagues this had been cleared on the Republican side.

Mr. LOTT. Will the distinguished majority leader yield for a question? Is it the intent of the majority leader that, if this unanimous-consent request is agreed to, that he would go to this nomination immediately, there would only be 20 minutes of debate, and then a final vote? Exactly what is the process that the leader is recommending here, that he is asking for?

Mr. MITCHELL. First, this is the product of lengthy negotiations and discussions between the leadership on both sides. This is one of some number of nominations to which there have been objections made by some Senators. We want to try to proceed to it. We have been unable to do so.

So, this is an agreement under which we will proceed to it, debate for 20 minutes, and then have a cloture vote. If cloture is invoked, we approve the nomination. If it is not invoked, then we would proceed back to NAFTA.

If we are not able to do that, then obviously under the rules I could move to proceed, file the cloture motion, and it would then ripen in the second legislative day from now and we would proceed in accordance with the rules.

Mr. LOTT. Is it the majority leader's intent to do the same thing with the nomination for the NLRB, Gould?

Mr. MITCHELL. I have made no decision in that regard.

Mr. LOTT. You have made no decision in that regard?

Mr. MITCHELL. I have not, either to do it or not to do it. We have discussed the matter, have discussed it both with the Republican leader and with Senators who support that nomination.

I have not made any decision as of now.

Mr. LOTT. If the majority leader will yield further, the majority leader is saying he has discussed this with the Republican leader, but that there has been no discussion or agreement with regard to Gould? It has only been with regard to this particular one?

Mr. MITCHELL. That is correct.

Mr. LOTT. Mr. President, if it is still in order, I withdraw my objection on this particular unanimous consent.

The ACTING PRESIDENT pro tempore. Is there any other objection? Without objection, it is so ordered.

EXECUTIVE SESSION

NOMINATION OF JANET ANN NAPOLITANO, OF ARIZONA, TO BE U.S. ATTORNEY FOR THE DISTRICT OF ARIZONA

The bill clerk read the nomination of Janet Ann Napolitano, of Arizona, to be United States Attorney for the District of Arizona.

The ACTING PRESIDENT pro tempore. The majority leader.

CLOTURE MOTION

Mr. MITCHELL. Mr. President, I send a cloture motion to the desk.

The ACTING PRESIDENT pro tempore. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on Executive Calendar No. 387, the nomination of Janet Ann Napolitano to be U.S. attorney for the District of Arizona.

Wendell Ford, Paul Wellstone, Tom Harkin, Paul Simon, Edward Kennedy, Pat Leahy, Jay Rockefeller, Jeff Bingaman, David Pryor, Patty Murray, Dianne Feinstein, Howard Metzenbaum, Dennis DeConcini, Harris Wofford, John F. Kerry, Carl Levin.

The ACTING PRESIDENT pro tempore. The Senator from Delaware.

Mr. BIDEN. Parliamentary inquiry, how much time does the Senator from Delaware control?

The ACTING PRESIDENT pro tempore. The Senator controls 10 minutes.

Mr. BIDEN. Mr. President, I will yield and designate the Senator from Arizona as the person to control the time.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. DECONCINI. Mr. President, I rise to urge the Senate to break the logjam on the nomination of Janet Napolitano to be U.S. attorney for the District of Arizona. This nomination means a great deal to my State. She has been in office since July 4th as acting U.S. attorney and the legal profession and law enforcement officials of my State have given her performance outstanding reviews.

It also means a great deal to me personally. I have known this young lawyer for 10 years. She is a competent, capable, strong lawyer, who understands the need to prosecute and the need to defend people's rights as defendants.

She has tried cases and she is ready for this confirmation and this full-fledged U.S. attorneyship. I recommend Janet to President Clinton. Without a single reservation, the President sent her up here as a nominee of the administration approved by the Justice Department in July. In September, she was voted by the committee favorably 12 to 6 and now it is before us.

The Senate has been prevented from acting upon her nomination until today for really only one reason: Janet's choice of clients. She played a minor role—and I stress minor role—in the legal representation of Prof. Anita Hill before the Senate Judiciary Committee. Had she not helped in that representation, the Senate would have confirmed her without a doubt. She has been unjustly accused, in my judgment, of interfering, and perhaps being part of perjury as to the corroborating witness with the Anita Hill complaint against Clarence Thomas which involved, as we all remember, alleged sexual harassment.

Janet would like to explain what happened, but she cannot. Over 90 questions were submitted to her by the Judiciary Committee members. She answered all of the questions that she could answer. However, Mrs. Hoerchner, who was the corroborating witness who came forward for Anita Hill, has invoked the attorney-client privilege, and Janet is bound by this privilege not to disclose what went on between them.

To me and to many others, it is clear that the privilege is here. I have been a practicing lawyer; I have exercised that privilege. And I believe that it is asking too much of this nominee to compel her to disregard the obligation that she has to this client and to come forward with information that I do not think would be detrimental at all and then have her be subject to disbarment by the profession of which she is a member.

She is responsive and she wants to be the U.S. attorney. She is not hiding anything from this committee. Everyone here knows that she has acted appropriately in respecting the attorney-client privilege.

I ask unanimous consent that backup material from a number of academicians and legal writings, which demonstrate why this privilege is and should be in force here, be submitted for the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONFIRMATION OF JANET NAPOLITANO TO BE U.S. ATTORNEY FOR THE DISTRICT OF ARIZONA

(List of the items to be included in the RECORD.)

1. Questions submitted to Janet Napolitano by Senators Simpson and Thurmond and Janet Napolitano's answers.
2. A letter from Mr. Ronald R. Allen, Jr., Attorney for Judge Hoerchner in which Judge Hoerchner refuses to waive her Attorney-Client privilege.
3. A letter from Professor Geoffrey C. Hazard, Jr. of Yale Law School dated September 28, 1993.
4. A letter from Professor Geoffrey C. Hazard, Jr. of Yale Law School dated September 29, 1993.
5. A letter from Professor Stephen Gillers of New York University School of Law dated September 30, 1993.
6. A letter from the present and four most recent presidents of the Arizona State Bar Association dated October 19, 1993.
7. An article by Anthony Lewis "Merchants of Hate," New York Times, 11/08/93.
8. An article from Arizona Republic "What's that we smell? Politics?" 10/29/93.
9. An article from The Atlanta-Journal Constitution "Haunted by the ghost of Hill-Thomas, 9/26/93.
10. Letters of support from constituents.

ANSWERS OF JANET NAPOLITANO TO QUESTIONS SUBMITTED BY SENATORS SIMPSON AND THURMOND

It is my response to questions submitted by Senators Simpson and Thurmond in connection with my nomination to the United States Attorney for the District of Arizona.

Three preliminary observations, amplified in the answers following, may be helpful: These questions relate to the appearance of Professor Anita Hill before the Senate Judiciary Committee in October 1991. Professor Hill retained my then partner John Frank to represent her in the matter, and I assisted Mr. Frank in that representation. My discrete responsibility was to work with corroborating witnesses Professor Hill invited to testify in support of her position. I was not involved in the preparation or presentation of Professor Hill's own testimony. Several of the questions asked of me therefore relate to portions of that event with which I had no connection, and I therefore cannot respond; these are specifically noted in the answers given.

Second, Judge Susan Hoerchner was one of the corroborating witnesses presented by Professor Hill, and I worked with her. Accordingly, I am precluded by the attorney-client privilege from relating the conversation with Judge Hoerchner about which the questions inquire. The persons present were Judge Hoerchner, the witness; Ron Allen, her attorney; and I as Prof. Hill's attorney. The privilege is Judge Hoerchner's, and she has not released me to divulge the conversation. This is an illustration of the existence of the privilege in the case of "pooled-information"; as set forth in the current draft of the American Law Institute's Restatement of the Law Governing Lawyers, §126, where "two or more clients represented by separate lawyers share a common interest in a matter, the communications of each separately represented client" are privileged. For the same effect, see the Uniform Rules of Evidence, Rule 502(b)(3). Illustrative cases are *Hunydee* v. *United States*, 355 F.2d 183, 185 (9th Cir. 1965); *Continental Oil Co.* v. *United States*, 330 F.2d 347 (9th Cir. 1984); and *In re Grand Jury Subpoena Duces Tecum Dated November 16, 1974*, 406 F. Supp. 381, 388–89 (S.D.N.Y. 1975). The question then arises as to the meaning of "common interest." 2 Weinstein, Evidence §503(b)[06] says that in light of the phrase common interest, "the privilege [is] to be broadly construed in multiparty situations," and that only if the interests "of the parties are totally antagonistic will the privilege be denied"; and see numerous cases there cited. The privilege applies "whenever the communication was made in order to facilitate the rendition of legal services to each of the clients involved in the conference." Professor Wigmore, 8 Wigmore Evidence, 560 (McNaughton Revision), says that at least since 1833 "it has never since been doubted to be the law," that "communications made in seeking legal advice for any purpose were within the principle of the privilege." (Emphasis in original.)

Third, I respectfully suggest that there is no charge in an answer of Judge Hoerchner as is suggested. The issue, as I understand it, is whether I instructed a witness to change her answer as to the date of a telephone call during a break in the Senate staff interview. In fact, Judge Hoerchner did not change her answer to the matter of the date of the telephone call. She did not remember the exact date. She was essentially asked this question five times prior to the answer under challenge. The first time she said she could only "guess at the time." The second time she said that she could not say just when the conversation took occurred. The third, she said she was not absolutely certain about the date. The fourth, she said, "I really don't know if it was '81 versus another time." The fifth, she was asked whether the conversation was prior to September of 1981 and she responded,"Yes, if my memory is . . ." and trailed off. Some pages after the alleged coaching, she was asked about the date and said, "I don't know for sure." She repeated that same answer at a later time. In short, the alleged change of answer never took place.

QUESTIONS SUBMITTED BY SENS. SIMPSON AND THURMOND

Representation

1. (a) Did you serve as legal counsel to any person in connection with the accusations or charges that were the subject of the Thomas-Hill hearings? If so, for whom did you serve?

Answer: Yes, I served as counsel for Professor Anita Hill and as incident to that representation served as counsel to various witnesses.

(b) When did you agree to serve as counsel for such person?

Answer: October 9, 1991.

(c) Was your retention as counsel reflected in any engagement letter or other writing? If so, please provide a copy of such writing with your written response to these questions.

Answer: No, there was no written engagement letter or other writing.

(d) Who paid your fees or expenses regarding any such representation?

Answer: The expenses were borne by myself pro bono, and there were no fees.

(e) What was the nature of your engagement?

Answer: The nature of our engagement for Anita Hill was to assist her in appearing before the Senate Judiciary Committee. My specific responsibility was to work with witnesses Horechner, Carr and Wells in connection with their appearances on Prof. Hill's behalf.

(f) Over what period of time were you retained?

Answer: I was retained on October 9, 1991 and my representation essentially ended on October 13, 1991. After the Committee hearing ended, I provided some assistance to Professor Hill in connection with having her travel expenses reimbursed by the Committee.

2. (a) In addition to yourself, who served as counsel or advisor to Prof. Hill or any of her corroborating witnesses? By whom were they retained? What was the nature of their engagement? Over what period of time were they retained?

Answer: Prof. Anita Hill retained my senior partner, John P. Frank, in connection with her appearance before the Committee. His charges were similarly voluntary and pro bono for the same period of time. Other persons served as counsel to Prof. Hill, including Professor Charles Ogletree of the Harvard Law School, Professor Emma Jordan and Professor Sue Deller Ross. The arrangements made with Professor Ogletree and the others are unknown by me.

In connection with my specific responsibility, I worked with Mr. Ron Allen, who was counsel to Susan Hoerchner. Mr. John Carr was represented by one his law partners. Ms. Ellen Wells had no separate representation. I do not know what the arrangement for Carr's partner and Mr. Allen were. Witnesses Carr, Wells and Hoerchner coordinated their appearances through me. Witness Joe Paul was separately subpoenaed by the Committee. I have had no communications with Mr. Paul—before, during or after the hearing—and I do not know what his counsel arrangements were.

(b) Was there any agreement among such counsel? If so, please provide a copy of such agreement with your responses to these questions. If not, or if you do not have a copy, please summarize the terms of any such agreement.

Answer: There was no written agreement among counsel.

(c) Who served as lead counsel to Prof. Hill?

Answer: Mr. Frank and Professor Ogletree were her lead counsel.

3. (a) What were your responsibilities in connection with the Thomas-Hill hearings?

Answer: My principal responsibility was working with the corroborating witnesses offered by Prof. Hill who appeared on Sunday afternoon, October 13. These witnesses were Hoerchner, Carr and Wells. I also assembled character witnesses to be able to testify in Professor Hill's behalf.

(b) Were you assigned the responsibility of handling procedural matters with the Judiciary Committee?

Answer: Yes. I worked with Committee staff on scheduling, making people available for interviews, and handling other administrative matters as staff requested.

(c) What was the nature of your assignment?

Answer: See answer to 3(a).

(d) Who assigned these matters to you?

Answer: Mr. Frank assigned me all my duties in connection with this matter.

The Hoerchner interview

4. On October 1, 1991, lawyers for the Senate Judiciary Committee conducted an interview with Judge Susan Hoerchner. You were present for this interview as counsel for Anita Hill. During this interview, Judge Hoerchner related a telephone call she received from Anita Hill in which Hill allegedly complained of sexual harassment by Clarence Thomas. Judge Hoerchner recalled that this telephone call had occurred "sometime before September 1981"; that it was "at a time when we spoke fairly regularly by telephone"; and that "she told me she was undergoing sexual harassment at work by her boss."

When questioned further as to how she placed the date, Hoerchner said she remembered the call as having taken place in Washington, and she moved to California in September 1981.

In a prior call to a Committee investigator, Hoerchner had placed the time of the call as the "spring of 1981;" six months before Hill went to work for Thomas.

What follows is the on-the-record exchange between Hoerchner and committee lawyers during the final round of questioning about the date of the call:

Q. And, in an attempt to pin down the date a little more specifically as to your first phone conversation about the sexual harassment issue in 1981, the year you mentioned, you said the first time you moved out of Washington was September of 1981, is that correct?

A. Right.

Q. Okay. Were you living in Washington at the time you two had this phone conversation?

A. Yes.

Q. When she told you?

A. Yes.

Q. So it was prior to September of 1981?

A. Oh, I see what you are saying.

Q. I am just trying for the benefit of everybody to get to the truth, to pin down the—

A. I think I was. Yes, I'm sorry. That isn't something I can . . .

Q. Okay.

A. I was living in Washington prior to that time. I'm not sure that was the time of the phone call, but I really think it was.

Q. Okay. You were or were not living in Washington when you think you had this—do you think you were living in Washington or not?

A. I think I was.

Q. So that would make it prior to September of 1981.

A. Yes, if my memory is . . .

Preface

As a preface to answering this set of questions, I would respectfully point out that the quoted excerpt implies that I interrupted the witness. In fact, Judge Hoerchner was interrupted by Mr. Wooten, Mr. Schwartz made a comment, and then Mr. Wooten spoke again. Only at that point did I request that we take a break. The transcript of the staff interviews reflects this sequence of events and is attached as Exhibit A. With that background, I answered the questions set forth:

(a) At this point of Hoerchner's testimony, you interrupted her and stated, "Can I meet with the witness? Can we talk for just a minute?" To whom were you directing these requests? To Committee staff? To Hoerchner's counsel, Ronald Allen, who was present during the interview? To both?

Answer: At that point of the Hoerchner testimony, and contrary to the assumption in the question, I did not interrupt her. When, a little later, I asked whether I could "meet with the witness," I was addressing my question to the lawyers for the Committee generally.

(b) For what purpose did you seek to interrupt Hoerchner?

Answer? I did not "seek to interrupt Hoerchner," There was no question before Judge Hoerchner when I made my request. I requested a break in order to talk to Judge Hoerchner and Mr. Allen.

(c) What precisely did you tell Hoerchner when you spoke with her off-the-record? Did you discuss the timing of Hill's call to Hoerchner? Did you discuss where Hoerchner was living at the time? Did you at any time suggest that Hoerchner change her answer to the Committee lawyers?

Answer: I may not reveal the substance of my conversation with Judge Hoerchner and Mr. Allen. As Professor Hill's counsel in the interview, I am precluded under the joint counsel theory of the attorney-client privilege from revealing the substance of this conversation. I have been guided by the American Law Institute's Restatement of Law Governing Lawyers, T.D. No. 2, §126. This provision provides that "if two or more clients represented by separate lawyers share a common interest in a matter, the communications of each separately represented client are privileged as against the third person." The Rules of Evidence also embrace this principle. "A client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications . . . by him . . . to a lawyer . . . representing another party . . . concerning a matter of common interest." Unif. Rules of Evid., Rule 502(b)(3).

I have asked Judge Hoerchner to be relieved of the privilege, but have been refused.

The communication itself was a verbal conversation that took place in the hall outside the room where the interview was held on the afternoon of October 10, 1991.

(d) What follows is the exchange between Hoerchner and Committee lawyers after you spoke off-the-record with Hoerchner:

Q. When you had the initial phone conversation with Anita Hill and she spoke for the first time about sexual harassment, do you recall where you were living—what city?

A. I don't know for sure.

After your off-the-record conversation with Hoerchner, Hoerchner was considerably less certain about the timing of the call of where she was living at the time.

(i) Was Judge Hoerchner's testimony before the Committee sworn to under oath?

Answer: Yes. However, I would note that the transcript cited above is incomplete. The actual "exchange between Hoerchner and Committee lawyers after my conversation with Judge Hoerchner" is found in the interview transcript at page 24. It is apparent from the transcript that Judge Hoerchner's immediate response was on a wholly different topic.

Respectfully, I do not believe that, after the break, Judge Hoerchner was "considerably less certain about the timing of the call." The fact is that she had been asked the same or similar question some five times previously in the course of the examination and had exhibited great uncertainty throughout. At page 4, she said she had "only been able to guess at the time." At page 8, she said that "I can't say that I did not speak to Anita after September, 1981." At page 11, asked if she was "absolutely certain" about the date, she said, "No, I'm not." At page 12, she said, "I really don't know if it was 1981 versus another time." At page 23, asked if the conversation was "prior to September of 1981," she said, "Yes, if my memory is . . . ." After my discussion with her, asked the date, at page 25, she said, "I don't know for sure" and she repeated this at page 31. At no point during the questioning was she able to date with conviction or precision a telephone call which had occurred ten years earlier.

(ii) Prior to and during Hoerchner's testimony before the Judiciary Committee, did you have any discussions with Hoerchner or her representatives about the timing of Hill's call?

Answer: See below.

(c) Did you discuss where she was living at the time?

Answer: See below.

(d) What precisely was discussed?

Answer: This group of questions relates to Judge Hoerchner's sworn testimony before the Judiciary Committee. The Judiciary Committee testimony was under oath. I did have at least one discussion with Judge Hoerchner after the interview and prior to her Committee appearance. The conversation took place in a room in the Capitol and, to the best of my recollection, was on Saturday, October 12, 1991. The contents of the conversation are covered by the attorney-client privilege. I have asked Judge Hoerchner to waive the privilege, but she has declined to do so.

5. Turning to the issue of Hill's alleged corroborating witnesses, prior to your off-the-record discussion with Hoerchner at the interview, Hoerchner had this exchange with Committee lawyers:

Q. Did she ever relay to you that you were the only person who knew about these allegations of these problems she was having at work?

A. I think she told me that more recently.

* * * * *

Q. I should have asked you this earlier, and I apologize. You said, going back to the you were the only person—Anita Hill told you you were the only person who knew about the allegations of sexual harassment, and you said that she reiterated that recently to you. Was this in one of those phone conversations?

A. No. She never told me until recently.

Q. That you were the only person that knew.

A. Right.

Q. When did she tell you that?

A. It may have been around the time that she wanted to know if I would talk to the FBI.

Q. So we're talking the last couple of weeks of September?

A. Very recent, yes.

After your off-the-record conversation referred to above, Hoerchner spontaneously made the following statement:

A. Okay. I recently came to the conclusion that I was the only one that she had told at the time. And I believe that the basis for the conclusion was that I was told by the FBI agent who interviewed me that there were only three names on—either in the affidavit or stemming from her FBI interview, I am not sure which, I think the affidavit and that my name was the only one she had listed as a corroborating witness.

During your off-the-record discussion with Hoerchner, what discussions did you have about the corroborating witness issue? Did you discuss with Hoerchner any statement by Hill that Hoerchner would not be the sole corroborating witness on the sexual harassment charge? If so, why? Did you suggest to Hoerchner that she change or in any way modify her testimony about this issue? If so, why?

Answer: This question returns to the staff interview. Again, the attorney-client privilege bars me from relating any conversation I had with the witness. See answer to Question 4(c).

6. During the Hoerchner interview, you stated that you appeared as counsel for Hill. That previous Thursday, you were present at the meeting held by Hill strategists at the Pepper, Hamilton law firm. At that meeting, Prof. Hill's written statement regarding her sexual harassment charge was prepared. That statement contains a representation that Thomas first began harassing Hill with unwanted advances on or about late December or early January. The morning of the Hoerchner interview, Hill testified before the Committee and again placed the first episode of Thomas's harassment during this time frame.

During the Hoerchner interview, Hoerchner variously stated that the call from Hill regarding sexual harassment occurred in the Spring of 1981 or September of 1981. Either date, of course, is inaccurate because it places the call from Hill about the alleged sexual harassment months before Hill herself claimed the harassment first occurred.

(a) Did you know Hoerchner's statements regarding the timing of the call to be inconsistent with Hill's account? If so, how did you learn that these statements were inconsistent? When did you first learn that these statements were inconsistent?

Answer: As a preface to my answer, I would note that I was not present in the meeting at Pepper, Hamilton which is referred to, nor did I work on Professor Hill's statement. At some point in the course of the representation, I heard or read Professor Hill's statement. I do not recall knowing or believing there was any inconsistency as is suggested. As I have stated, I always understood Judge Hoerchner to be very uncertain about the timing of the telephone call in question.

(b) As an attorney subject to the Professional Code of Responsibility, were you under an ethical obligation to inform the Committee of the "erroneous" statements made by Hoerchner?

Answer: The question assumes an erroneous statement and I do not believe that there was one. Judge Hoerchner said as many times as she could, and in as many ways as she could, that she was uncertain of the date.

(c) Did you willfully mislead the Committee by permitting a misplaced reliance on the veracity of statements made by Hoerchner which you knew or should of known to be false?

Answer: No. Moreover, the question assumes that there were false statements by Judge Hoerchner. I am not aware of anything of the sort.

7. Do you now have or have you ever had a copy of the Hoerchner interview transcript? If so, when did you first receive a copy? Who supplied it to you? Do you have copies of any other "Committee confidential" materials, including, for example, FBI reports? Did you furnish a copy of the transcript or any portion thereof to others? If so, who?

Answer: Yes, I have a copy of the transcript of the Senate staff interview of Judge Hoerchner. I received a copy of this transcript only after publication of The Real Anita Hill by David Brock which quotes from the transcript and an editorial in The Washington Times which did the same. I received the transcript from Mr. Ron Allen. (There is no "confidential" stamp or other indicator of confidentiality on the copy I received.) In short, I did not have a copy of the transcript until it was already being quoted in the media, I did not obtain it from the Committee, and nothing on the transcript itself would suggest that anything in it was confidential. I have furnished a copy of the interview transcript to Senator DeConcini's staff. I also have shown it to my secretary, my father, and to two local journalists who asked specific questions about the transcript after reading Mr. Brock's book. As far as I am aware, I have no other "Committee confidential" material.

Napolitano's relationship to and association with Hill

8. (a) Did you give Professor Hill, or others associated with or supporting Prof. Hill, any advice with respect to the issue of Prof. Hill's separation from the law firm of Wald, Harkrader?

Answer: No, I did not give any advice relating to Professor Hill's separation from Wald, Harkrader.

(b) Was this issue ever discussed in your presence in the preparation sessions, or elsewhere, and if so, what was discussed and who was present?

Answer: This issue was not discussed in my presence.

9. Did you at any point contact any member or members of the news media regarding Prof. Hill's testimony or allegations, and if so, which news organizations or individuals did you contact? Describe the discussions between you and representatives of the news organizations with whom you spoke. Within Ms. Hill's team of advisors, who was responsible for press contacts?

Answer: I did not contact the media. Ms. Wendy Sherman was in charge of press relations during the hearing.

10. (a) Did you have prior knowledge of Prof. Hill's decision to take a polygraph examination?

Answer: Yes, Mr. Frank told me about the prospective Hill polygraph.

(b) Did you offer advice on this decision?

Answer: No, I did not offer any advice on the polygraph test.

(c) How many polygraph examinations did Prof. Hill take in connection with her appearance before the Committee and accusations against Clarence Thomas?

Answer: So far as I know, there was only the one polygraph test.

11. (a) Were you present for, or did you take part in, discussions of Prof. Hill's interview with the FBI?

Answer: No, I was not present and did not take part in any discussion or any interview Professor Hill may have had with the FBI.

(b) What issues were discussed in this context?

Answer: I do not know.

(c) What advice did you give, if any?

Answer: I gave no advice.

12. Prior to, during and after the Judiciary Committee hearings, what discussions have you had with Prof. Hill relating to the hearings, her relationship to Clarence Thomas or the allegations that were the subject of her Committee testimony?

Answer: The few conversations I had with Professor Hill are covered by the attorney-client privilege; and, therefore, I am precluded from answering these questions.

13. In meetings at which you and Prof. Hill, any of Ms. Hill's corroborating witnesses or any counsel or advisors to Prof. Hill or any such witnesses were present,

(a) which issues were raised by you, Ms. Hill or any such advisors, counsels or witnesses?

(b) what advice did you or any such advisors, counsels or witnesses provide?

Answer: If the questions are meant to ask whether there was any meeting of Professor Hill and her advisors at which I was present and participated, there were no such meetings; there was a social moment at the end of the hearings at which I had my picture taken with Professor Hill along with all of the other advisors who were available. If the questions are meant to reveal discussions or advice given in meetings with the corroborating witness, the privilege has been asserted and I am bound by the privilege.

14. (a) Did you assist in the drafting of Prof. Hill's testimony, or make any suggestions about the content of such testimony?

Answer: No, I did not assist in drafting Prof. Hill's testimony.

(b) Who prepared Anita Hill's written testimony?

Answer: To the best of my knowledge, the testimony was principally prepared by Prof. Hill herself with the assistance of Mr. Frank, Prof. Ogletree, Prof. Jordan and Prof. Ross.

(c) Who reviewed the written testimony prior to its delivery to the Committee?

Answer: I do not know.

15. Did you assist in the drafting of the statement for any individual who testified on behalf of Prof. Hill, or make any suggestions as to the content of such drafts? What suggestions did you make?

Answer: As described earlier, in my representation of Prof. Hill I worked with witnesses Hoerchner, Wells and Carr. Any written statements of Carr, Wells or Hoerchner were prepared by them independently. I do not recall if I performed any editing or proofreading function, except that I did review Ms. Well's statement before she testified. Any advice I may have given to them is subject to the attorney-client privilege and I am bound by the privilege.

16. Did you talk with any of Prof. Hill's supporting witnesses, including but not limited to, Carr, Wells, and Paul? To the best of your recollection what did you say? What did the witnesses say?

Answer: No other supporting witnesses appeared, except for those listed in Question 15. I spoke with Mr. Carr once on the telephone and arranged for him to be telephonically interviewed. I met at least once with Ms. Wells.

17. Did you at any time discuss with Prof. Hill or her representatives whether graphic details of statements allegedly made to her by Clarence Thomas should be provided to the Committee? With whom did you have these discussions?

Answer: No; as previously noted, I was not involved in Prof. Hill's preparation.

18. Was Prof. Hill offered any advice about the content of her testimony before the Senate Judiciary Committee? Did you or anyone else recommend responses to possible questions from Committee members? Was Prof. Hill's testimony guided in any other way by those present?

Answer: I do not know. I believe Prof. Hill's statement was prepared on the day before her appearance. However, I did not participate in that activity and, thus, I do not know the answers to these questions.

19. During the hearings, Prof. Hill's employment and medical records were at issue.

(a) Did you attend or participate in discussions concerning Hill's employment and medical records?

(b) Did you ever examine such records?

(c) Did you talk with anyone who was aware of the content of such records?

(d) Do you know where such records were located?

(e) Did you know or do you now know, who was custodian of such records?

Answer: The answer is "no" as to all points concerning Prof. Hill's medical and employment records, with the exception that I did speak with Mr. Frank who may have been aware of the content of such records.

20. Who paid for Prof. Hill's family to attend the Judiciary Committee hearings?

Answer: I do not know who paid for Prof. Hill's family to attend the hearing.

21. During the first morning of her testimony, Prof. Hill testified that staff members advised her that Judge Thomas would withdraw his nomination if she came forward with her allegations. That afternoon, she changed her testimony and denied she believed Thomas would withdraw.

(a) What discussions did you have with Prof. Hill, or any of her other advisors or counsel, between Ms. Hill's morning statement to the Committee and her differing afternoon testimony?

Answer. None.

(b) What was the rationale for this change in testimony?

Answer: I have no knowledge about this subject.

22. During the hearings, the following exchange occurred:

Sen. Spector: Professor Hill, did you know that as an Attorney, you could have stayed on at the Department of Education?

Prof. Hill: No, I did not know at the time.

Sen. Spector: Did you make an inquiry of his successor, Mr. Singleton, as to what your status would be?

Prof. Hill: No, I did not. I'm not even sure I knew who his successor was at the time.

Despite Prof. Hill's above statements under oath, it is a fact that Schedule A employees at the Executive Branch are protected from discharge simply because their present supervisor leaves his or her position.

During this time, the affidavit of Mr. Singleton had been submitted to the Judiciary Committee, contradicting Prof. Hill on both points: that she knew what Schedule A status meant, and that she did talk to Singleton about her status.

(a) Were you aware of the Singleton affidavit when Prof. Hill made this statement?

Answer: No, I was not aware of the Singleton affidavit.

(b) If you were, what actions did you take to resolve this apparent inconsistency in Prof. Hill's testimony?

Answer: Not applicable.

23. During the hearings, copies were introduced from then EEOC Chairman Thomas' phone logs showing ten phone messages that Prof. Hill left for Thomas between 1983 and 1991. Prof. Hill stated that these calls were made in a "professional context . . . . None of them were personal in nature." When attempting to account for the more personal messages (i.e. "Wanted to congratulate on marriage."), Prof. Hill stated:

"I knew his secretary, Diane Holt. We had worked together at EEOC and Education. There were occasions on which I spoke to her, and on some of those occasions, undoubtedly, I passed on some casual comment to then Chairman Thomas . . . ."

When Diane Holt later testified, she had this to say about Prof. Hill's above statements:

"That is not true. Had Anita Hill called me and even asked that I pass along a hello to Judge Thomas, I would have done just that, but it would not have been an official message on the phone log."

(a) When did you hear Ms. Holt's testimony on this point?

(b) What steps did you take to determine the veracity of Prof. Hill's testimony?

(c) Did you continue to advise Prof. Hill on the phone log matter without determining the accuracy of Ms. Holt's testimony?

(d) How did you resolve the inconsistencies of Prof. Hill's and Ms. Holt's testimony?

Answer: I am not sure that I ever heard Ms. Holt's testimony on this point. In any event, I had no role in advising Professor Hill on this subject.

24. The newly published book, The Real Anita Hill, by David Brock, calls into serious question a number of allegations made by Anita Hill during the Judiciary Committee hearings, including:

Prof. Hill's allegation that she was sexually harassed by Judge Thomas,

Prof. Hill's allegations that she left the law firm of Wald, Harkrader voluntarily,

Prof. Hill's allegation that Judge Thomas made to her specific references regarding pornography and explicit sexual comments.

(a) Did you, prior to, during, or subsequent to the time you advised Prof. Hill, make any efforts to verify the truth of these and other allegations made by Prof. Hill?

(b) If you failed to verify these allegations prior to or during the Judiciary Committee hearings, do you believe, in retrospect, that it was appropriate for you to elicit unverified testimony before a Committee of the United States Senate?

Answer: As previously stated, in our representation of Professor Hill, I had no role in working with Professor Hill on any of the foregoing subjects.

25. On Monday, September 23, 1991, a Judiciary Committee investigator received over the Committee's telecopy machine a four-page type-written statement, dated and

signed by Anita Hill regarding charges of sexual harassment against Clarence Thomas. Two days later, Hill refiled the statement, to correct certain grammatical errors and misspellings.

Do you know who leaked to the media either or both of Hill's written statements? If so, who?

Answer: I have no knowledge of any aspect of this statement or the questions.

Dated this 23rd day of September, 1993.

JANET A. NAPOLITANO.

RONALD R. ALLEN, Jr.,
ATTORNEY AT LAW,
New York, NY, October 8, 1993.

Janet Napolitano, Esq.,
U.S. Attorney, Phoenix, AZ.

DEAR MS. NAPOLITANO: I confirm that, as I informed you some time ago, my client, Judge Susan Hoerchner, has instructed me to advise you that she has not waived and does not intend to waive the attorney-client privilege attaching to her brief working relationship with you during the Thomas confirmation hearings.

It is Judge Hoerchner's strong belief that the attorney-client privilege is so fundamental to the American judicial system that it is inconceivable that any client would be asked to waive it as an implicit condition of your confirmation in the position for which you have been nominated, for which you are so well qualified, and in which I understand you have already been admirably functioning. Similarly incomprehensible is the apparent innuendo that you suborned perjury, or indeed that your conduct during the Thomas confirmation hearings in any way fell short of the highest ethical and professional standards. Any suggestion to the contrary is manifest political opportunism. In the present context, your steadfast assertion of the attorney-client privilege provides additional demonstration, if any were necessary, that you do not and will not waiver from the most stringent ethical imperatives.

Sincerely yours,

RONALD R. ALLEN, Jr.

YALE LAW SCHOOL,
New Haven, CT, September 28, 1993.

Hon. DENNIS DECONCINI,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR DECONCINI: Responding to your request, I herewith submit an opinion concerning the ethical propriety of the conduct of Attorney Janet Napolitano in the witness interview that was conducted of Ms. Hoerchner on October 13, 1991, in connection with the hearings on the confirmation of Justice Thomas.

1. I disclose that I am personally acquainted with Ms. Napolitano and with John Frank, also of Phoenix, and that both of them are members of the American Law Institute, of which I am Director. I believe you are aware that I have previously rendered opinions on various matters of judicial and lawyer ethics in connection with appointments to the federal bench. I provided an opinion on behalf of (now) Justice Thomas concerning a question of his conduct while a judge in the Court of Appeals. I also provided a character reference statement on behalf of Anita Hill in the confirmation proceedings.

I have been an expert witness concerning professional ethics of judges and lawyers in various civil, disciplinary and criminal matters throughout the country. A copy of my professional vita is enclosed.

2. In my opinion, nothing in the record indicates any impropriety on the part of Attorney Napolitano in the conversation she had with Ms. Hoerchner about which question has been raised. Furthermore, it is my opinion that the content of the communications involved are covered by Ms. Hoerchner's attorney-client privilege, which I understand Ms. Hoerchner has not waived. In such a situation it is legally impermissible for Attorney Napolitano to disclose the communications involved.

3. In reaching my opinion I have reviewed the account of the incident that has been given in an article entitled "Who is Janet Napolitano? By David Brock in the October 1993 issue of The American Spectator, and the transcript of the interview of Ms. Hoerchner that is in question. In addition, I am informed and have assumed as a fact that Ms. Hoerchner was at the time represented by Attorney Allen; that Attorney Napolitano was representing Professor Anita Hill; that these representations involved a matter of interest to both Ms. Hoerchner and Professor Hill, specifically Ms. Hoerchner's recollection of and testimony about an earlier conversation with Professor Hill; and that Ms. Hoerchner has invoked and continues to assert her attorney-client privilege with respect to that matter.

4. There are two questions presented:

First, was unethical conduct involved in Attorney Napolitano's conferring with Ms. Hoerchner during the course of the interview of Ms. Hoerchner that was being conducted by the staff attorneys of the Senate Committee which was addressing the appointment of (now) Justice Thomas?

Second, was unethical conduct involved in Attorney Napolitano's refusal to respond to questions concerning the conversation she had with Ms. Hoerchner?

In my opinion, there was no unethical conduct in either respect.

6. Concerning Attorney Napolitano's conference with Ms. Hoerchner during the interview, it is necessary to compare the transcript of the interview, as recorded by verbatim stenography at the time, with the account that has been given by Mr. Brock.

The specific subject of Ms. Hoerchner's testimony was the date of the conversation, some ten years previously, that Ms. Hoerchner testified to having had with Ms. Hill.

(a) The transcript indicates as follows:

(1) Ms. Hoerchner stated that her conversation with Ms. Hill occurred at a point in time that Ms. Hoerchner identified. However, responding to probe questions, Ms. Hoerchner several times stated she was unsure of the date. She then stated that she remembered the conversation as having occurred while Ms. Hoerchner was living in Washington, before she moved to California. She was then asked to correlate the time when she was living in Washington with the time of the conversation with Ms. Hill.

(2) In response, Ms. Hoerchner expressed recognition that, if the conversation occurred while she was living in Washington, then it could not have occurred at the time she had initially remembered. At this point Attorney Napolitano asked in the presence of staff counsel "Can I meet with the witness? Can we talk for just a minute?" Staff counsel agreed that this might be done.

A confidential conversation off the record then ensued between Ms. Hoerchner, her counsel Attorney Allen and Attorney Napolitano, Ms. Hill's counsel. The transcript notes:

"[Off the record.]"

The transcript then resumes:

"Mr. Wooten: I would like to say for the record that we took a break so the Judge (i.e., Ms. Hoerchner) could confer with her lawyers or representatives."

"Now we are back on the record."

This is the usual denotation where such a conversation is held between counsel and a witness.

(3) The interrogation of Ms. Hoerchner then resumed. However, the subject of this resumed testimony is not the date of the conversation with Ms. Hill that had previously been referenced. Instead, the subject was whether Ms. Hoerchner had had more than one conversation with Ms. Hill and what information Ms. Hoerchner had given to the FBI in the Bureau's investigation of the Hill account.

(4) Later in Ms. Hoerchner's testimony the questioning returned to Ms. Hoerchner's recollection of the date of the conversation. In response to probe questions, she several times reiterated that she was unsure of the date, and unsure whether the conversation with Ms. Hill had occurred while Ms. Hoerchner was still living in Washington.

(b) The account by Mr. Brock compresses the sequence by omitting several lines of the transcript. The compression implies that Ms. Hoerchner changed her testimony and that she did so as a result of coaching by Attorney Napolitano. The transcript read in full sequence does not support this implication, nor does it reveal a "Napolitano gap" as Mr. Brock suggested.

7. Off-the-record-Conference. The transcript discloses that the witness, Ms. Hoerchner, had acknowledged uncertainty as to the date of her conversation with Ms. Hill, and had recognized that her previous dating of it was erroneous if the conversation had occurred while Ms. Hoerchner was still living in Washington. It was at this point that Attorney Napolitano asked that a private conference be permitted with the witness, with the witness's counsel Mr. Allen.

8. In my opinion, requesting a private conference with a witness in such circumstances is entirely proper and is universally recognized as such. Witnesses often are uncertain or confused as to details concerning date, time, place, persons present, and sequence of events. As a consequence, they may give answers that seem correct to them but which are inconsistent with objectively verifiable facts or inconsistent with other parts of their testimony.

It is a proper function for counsel to help the witness avoid giving inaccurate testimony. Doing so is especially appropriated where a matter of crucial detail is involved, as was involved in Ms. Hoerchner's testimony. I have read hundreds of depositions by very competent counsel and have observed many instances of such practice. Training in trial advocacy, both in law school and in continuing legal education, is to the same effect. Indeed, in some circumstances it would be a dereliction of professional duty if counsel did not interject in such a way.

Counsel's advice properly will be to the effect that the witness should acknowledge that she cannot precisely remember, if that is the situation. There is no indication that Attorney Napolitano's advice was otherwise, certainly none that she coached the witness to give a recollection that the witness did not have.

9. The fact that Attorney Allen was present, representing Ms. Hoerchner, does not signify that it was officious or improper for Attorney Napolitano to suggest the private conversation with the witness. Attorney Allen and Attorney Napolitano were conducting their respective representations in a matter in which their clients had a common interest. The transcript does not indicate one way or the other, but it may have

been that the Attorneys Allen and Napolitano nodded or otherwise silently communicated with each other before Ms. Napolitano spoke. In any event, where lawyers are engaged in such a matter of common interest, it is proper for either of them to undertake a procedural initiative such as asking for a consultation off the record.

10. Attorney-Client Privilege. Attorney Napolitano was representing her client, Ms. Hill, in a matter of common interest in cooperation with an attorney for another client, Mr. Allen on behalf of Ms. Hoerchner. The conversation off the record was among Ms. Hoerchner, her attorney Mr. Allen, and Ms. Napolitano as Ms. Hill's attorney. In such circumstances, the attorney-client privilege protecting Ms. Hoerchner governs not only her attorney, Mr. Allen, but the other attorney made privy to the discussion of the matter of common interest, Attorney Napolitano.

11. Under the attorney-client privilege and related duty of confidentiality, Mr. Allen is prohibited from disclosing the content of the communication with Ms. Hoerchner, unless Ms. Hoerchner waives the privilege. Because the matter involved one of common interest among clients whose lawyers were cooperating with each other, Attorney Napolitano is also prohibited from disclosing the communication unless Ms. Hoerchner waives the privilege. In my opinion, therefore, it is not improper or unethical for Attorney Napolitano to refuse to disclose the off-the-record conversation with Ms. Hoerchner. To the contrary, it would be a breach of her professional duty if she were to do so.

Sincerely,

Geoffrey C. Hazard, Jr.

Yale Law School,
New Haven, CT, September 29, 1993.

Hon. Dennis DeConcini,
U.S. Senate, Hart Senate Office Building, Washington, DC.

Dear Senator DeConcini: This supplements my opinion of September 28, 1993, further addressing the issue of attorney-client privilege. It is my opinion that the communication between Ms. Hoerchner and Attorney Napolitano is covered by the attorney-client, although that Attorney Napolitano represented Ms. Hill while Ms. Hoerchner was represented by Attorney Ron Allen. The application of the attorney-client privilege to the communication between Ms. Hoerchner and Attorney Napolitano follows from the "pooled information" or "common interest" rule. This rule is commonly called the "joint defense" rule because it most often has application among defendants cooperating in a case in which they are joint defendants.

The rule is stated in Restatement of the Law Governing Lawyers, Tentative Draft No. 2 (April 1, 1989), published by the American Law Institute. This Draft has been approved by the Institute. Section 126 states as follows:

If two or more clients represented by separate lawyers share a common interest in a matter, the communications of each separately represented client * * *

Are privileged as against a third person, and any such client may assert the privilege, if the communication is made in confidence between such a client * * * and another commonly interested client or such a client's * * * lawyer * * *.

Comment *c* to §126 states:

This Section is not limited to sharing information during pending litigation. Sharing might occur with respect to any matter of common interest about which clients consult lawyers for legal assistance, including pre-litigation consulting or legal assistance that does not contemplate litigation, such as for document preparation or legal advice.

Comment *e* to §126 states:

The interests of the separately represented clients need not be entirely congruent to qualify as common interest * * * Pool participants will commonly have conflicts of interest between themselves. The presence of conflicts does not deny them the opportunity to share confidential information concerning their common interests.

In accord concerning the common interest rule are: Revised Uniform Rules of Evidence Rule 502(b)(3) (1974); Proposed Federal Rules of Evidence Rule 503(b)(3) (1973); e.g., *Hunydee* v. *United States*, 355 F.2d 183 (9th Cir. 1965) (criminal case); *Eisenberg* v. *Gagnon*, 766 F.2d 770 (3d Cir. 1985) (civil case).

I trust this makes clear the basis of my opinion.

Sincerely,

Geoffrey C. Hazard, Jr.

New York University,
School of Law,
New York, NY, September 30, 1993.

Hon. Dennis DeConcini,
U.S. Senate, Washington, DC.

Dear Senator: I respond to your facsimile inquiry of yesterday:

First. Janet Napolitano has properly asserted the attorney client privilege for the conversation she had with Judge Hoerchner while representing Professor Hill. The privilege applies because Judge Hoerchner and Professor Hill had a common interest. Because of this privilege, Ms. Napolitano could not properly reveal communications with Judge Hoerchner without Judge Hoerchner's permission. Further, Ms. Napolitano could properly, and would in fact have to, decline to reveal the conversation even if subpoenaed to do so.

Second. The communications are, in addition to being privileged under the law of evidence, also ethically protected as confidential information of Ms. Napolitano's client, Professor Hill, under the rules governing the conduct of lawyers. See Rule 1.6, ABA Model Rules of Professional Conduct. Information is confidential under this rule whatever its source. This additional (ethical) protection means that even if Judge Hoerchner had waived the privilege, Ms. Napolitano could not voluntarily reveal communications with Judge Hoerchner without Professor Hill's consent.

Third. You ask if Ms. Napolitano's statements to Judge Hoerchner are privileged. The answer is yes if they constitute legal advice or tend directly or indirectly to reveal the substance of what Judge Hoerchner said to Ms. Napolitano. In re Sealed Case, 737 F.2d 94, 99 (D.C. Cir. 1984). Given the context, this test is easily applied. I can't imagine how the subject of the conversation could be other than legal advice or how inferences from Ms. Napolitano's statements could fail, directly or indirectly, to reveal what Judge Hoerchner said to her.

Credentials. I am professor of law at New York University Law School. Among other subjects, I have taught legal ethics and evidence since 1978. Both subjects address the issues you pose. I have written widely for the legal and popular press and for law journals in the area of legal ethics. I am author of a widely used casebook on legal ethics, now in its third edition, entitled Regulation of Lawyers: Problems of Law and Ethics (1992).

I hope I have answered your questions.

Sincerely,

Stephen Gillers.

October 19, 1993.

Hon. Dennis DeConcini,
U.S. Senate, Hart Senate Office Building, Washington, DC.

Hon. John McCain,
U.S. Senate, Russell Senate Office Building, Washington, DC.

Dear Senators DeConcini and McCain: We are the present and four most recent past presidents of the Arizona State Bar Association. We write as individuals to ask you to do all you can to speed along the confirmation of Janet Napolitano as U.S. Attorney.

We all personally know Ms. Napolitano. She is an attorney of great ability and a person of impeccable integrity. We are dismayed that she is being subjected to criticism for not waiving the attorney-client privilege in connection with a conversation she had on behalf of her client at a hearing with Senate staff members two years ago. Such a charge goes to the heart of the ethical code attorneys are sworn by law to uphold.

It is of the utmost importance that clients be able to speak to their attorneys in confidence. Like the doctor's privilege and the priest's privilege, lawyers are under the strictest ethical obligation to protect those confidences. In this particular case, Ms. Napolitano, representing one client, had a conversation with a client of a second attorney in that second attorney's presence, on a matter of common interest to both clients. The law is absolutely clear that in such a situation Ms. Napolitano is obligated to respect that confidential communication. She would violate the canons of ethics of the Arizona State Bar if she did not do so. This is fully set out in the opinion of Professor Geoffrey Hazard, the country's foremost expert in matters of this kind, which we attach.

This is an attack on Ms. Napolitano for abiding by the law and by our state's ethics. A lawyer violating those canons can lose his or her license to practice law in our state. It is disgraceful when a lawyer is attacked for doing her professional duty. Certainly as a Senator we know that you are anxious to support attorneys upholding the ethical code designed to protect the public.

Please do all you can to end this matter quickly with the speedy confirmation of Ms. Napolitano.

Yours very truly,

Sarah R. Simmons, Brown & Bain, P.A., One South Church, 19th Floor, Tucson, Arizona, 85702–2265, President, Arizona State Bar.

Robert E. Schmitt, Murphy, Lutey, Schmitt & Beck, 117 East Gurley, 3rd Floor, Prescott, Arizona, 85302–0591, AZ State Bar President 92–93.

Roxana C. Bacon, Bryan Cave, 2800 N. Central, #2100, Phoenix, Arizona, 85004–1019, AZ State Bar President 91–92.

Frederick M. Aspey, Aspey, Watkins & Diesel, 123 North San Francisco, Flagstaff, AZ, 86001–5231, AZ State Bar President 90–91.

Tom Karas, 101 N. First Ave., #2470, Phoenix, Arizona, 85003–1918, AZ State Bar President 89–90.

[From the New York Times, Monday, Nov. 8, 1993]

(By Anthony Lewis)

MERCHANTS OF HATE

Boston.—If you wonder how low the politics of hate and revenge can get in Washington, listen to this story.

Janet Napolitano, a leading Arizona lawyer, has been nominated by President Clinton as U.S. Attorney for that state. She is a

Democrat but has supported both parties. She once worked for Senator Pete Domenici, Republican of New Mexico, and he is for her.

Ms. Napolitano's nomination was approved by the Senate Judiciary Committee. But a floor vote is being blocked by right-wing Republicans. Why? Because Ms. Napolitano was one of the lawyers for Anita Hill in the hearings in which she confronted Justice Clarence Thomas.

The attack on Ms. Napolitano is led by a journalist who wrote a book attacking Professor Hill, David Brock. The American Spectator, which printed Mr. Brock's first smear of Professor Hill as "a bit nutty and a bit slutty," printed a Brock article on Ms. Napolitano last month.

The new Brock article centers on the same claim that was a principal basis of his attack of Professor Hill. This is that Judge Susan Hoerchner, a friend who testified that Professor Hill had told her of Justice Thomas's sexual advances, first said the conversation occurred at a time before Ms. Hill worked for Mr. Thomas—and then, warned by a lawyer, said she could not remember when it was. The lawyer was Ms. Napolitano.

Mr. Brock prints what he says is the relevant part of an interview of Judge Hoerchner by Senate Judiciary staff members. In it she says "I think" the conversation took place before she left Washington in September 1981.

The quoted transcript has her saying "Yes, if my memory is—" when Mr. Brock writes: "At that point, Napolitano interrupted," asking to speak with the witness. After their brief off-the-record talk, he says, Judge Hoerchner changed her story and said she could not remember the date.

The Brock charge falls away on examination. It is in fact based on misrepresentations.

1. The interview transcript did not end where Mr. Brock says "Napolitano interrupted." A staff member interrupted and said he wanted to be sure everyone could ask questions. Only after several staff comments, with no question pending, did Ms. Napolitano say she would like to talk with Judge Hoerchner.

2. When Judge Hoerchner said later that she could not remember the date of the conversation, that was not new. Five times before the break in testimony she had said she could not remember or could only guess at the date—which was hardly surprising for a telephone conversation 10 years earlier.

On the basis of the Brock attack, Republican Senators Alan Simpson and Strom Thurmond sent 91 written questions to Ms. Napolitano, some of them implying illegal conduct on her part. Her answers satisfied most members of the Judiciary Committee that the charges were empty.

But Ms. Napolitano would not answer questions about what she and Judge Hoerchner discussed during that break, because it was a conversation protected by the lawyer-client privilege. Now right-wing Republicans are demanding that she violate legal ethics and disclose it.

The present and four most recent past presidents of the Arizona Bar, in a letter supporting Ms. Napolitano as a "person of impeccable integrity," said they were "dismayed" at the demand. They wrote:

"This is an attack on Ms. Napolitano for abiding by the law and by our state's ethics. A lawyer violating those canons can lose his or her license to practice law in our state. It is disgraceful when a lawyer is attacked for doing her professional duty."

In attacking Ms. Napolitano, David Brock has abandoned the pretense that he is an impartial investigative reporter. He is a hatchet man of the far-out right, trying to rescue the shattered credibility of his Hill book.

Senators can delay action on Janet Napolitano because of the current perversion of Senate rules, under which one or two members can block a nomination by threatening a filibuster. Thanksgiving and the end of the session are near.

But it is not clear why senators on the right would want to bring the Thomas-Hill conflict back to public attention. Do they really want to reopen the question of Justice Thomas's truthfulness?

[From the Arizona Republic, Oct. 29, 1993]

WHAT'S THAT WE SMELL? POLITICS?

That odor wafting over the delayed Janet Napolitano confirmation as U.S. attorney for Arizona is the smell of politics from the hands of senators seeking retribution for old partisan pains.

Let's clear the air. Janet Napolitano will be confirmed on merit, and rightfully so.

The political dillydallying over her confirmation is simple retaliation by some Republican senators for the hardball politics Democrats played during the Anita Hill-Clarence Thomas hearings. Democrats who played then shouldn't be surprised nor raise outrage at the retaliation; that's the way they play the game, too. But remember, despite the noise, that Napolitano's professional qualifications are not suspect.

Janet Napolitano, a faithful Democrat and a fine lawyer, was part of the team of attorneys who advised Anita Hill and her supporters two years ago during the confirmation hearings for Supreme Court Justice Thomas. Hill's account of being sexually harassed by Thomas while his employee riveted the nation and spotlighted the political gamesmanship that takes place in Senate hearing rooms. Americans were enthralled, but not necessarily impressed.

Many members of the Senate Judiciary Committee holding up a floor vote on the Napolitano confirmation suffered through the trying Hill-Thomas debacle, which gave more delight to Democrats in one weekend than in all the Reagan-Bush years. Those senators also remembered the Democrat hands that played in the defeat of Robert Bork's nomination to the Supreme Court. Because this is a political process, there was no question that Napolitano's nomination would be given scrutiny. What goes around, comes around. Fair enough for a while; now it's time to move on. Janet Napolitano didn't invent the Anita Hill affair; she shouldn't be the scapegoat.

Critics claim that Napolitano coached Judge Susan Hoerchner of California to change her testimony during fact-finding questioning by Senate staffers. Others read transcripts of the informal session quite differently. The implication is that Napolitano acted unethically. But some legal ethicists say Napolitano cannot answer the questions without violating attorney-client confidentiality rules. Senate Judiciary Committee members Alan Simpson and Strom Thurmond, both supporters of Thomas' nomination, asked Napolitano to answer 91 written questions about her role on the Hill legal team and about her off-the-record conversations with Hoerchner. She reportedly answered all she could without violating attorney-client privilege.

Seeing the Simpson-Thurmond nitpicking for what it is, the Judiciary Committee voted for confirmation on a 12-6 count. With a Democratic majority in the Senate and a few Republicans already committed to confirmation, the only question that remains is when Napolitano will be confirmed.

In recommending Napolitano's confirmation, Arizona Supreme Court Justice James Moeller said here work is "uniformly very, very good. She is an effective and principled litigator. Never have I heard a lawyer or judge in this community question her ethics or integrity. On that score she enjoys an absolutely unblemished record."

Arizona and the nation deserve the crack federal prosecutor that Janet Napolitano gives every indication of being. The Republicans have delivered their political retribution for the Hill affair. The political game is over. There is no valid reason to hold up this presidential appointment.

[From the Atlanta Journal-Constitution, Sept. 26,. 1993]

HAUNTED BY THE GHOST OF HILL-THOMAS

In the latest bit of backlash related to the Anita Hill-Clarence Thomas affair, Sen. Alan Simpson of Wyoming is once again displaying his true colors. Apparently he has subscribed to the notion that Hill's harassment charges against the Supreme court nominee were part of a grand feminist conspiracy, as set forth in a recently released book, "The Real Anita Hill: The Untold Story."

Central to that conspiracy is one Janet Napolitano, President Clinton's nominee for U.S. attorney for Arizona. Napolitano was one of a handful of lawyers who advised Hill during the grueling confirmation hearings.

The senator is now charging that Napolitano may have coached Hill's star witness into perjuring herself to shore up this imagined feminist plot. To drag out, what should be a swift, sure confirmation, Simpson is demanding that the nominee respond to nearly 100 questions—many of which he knows she can't answer without violating attorney-client privilege.

The charges are particularly reprehensible given the cast of characters making them. This is not about Napolitano's ethics or qualifications. This is about politics.

The book about Hill, much heralded by staunch conservatives, is hardly a piece of objective journalism. Author David Brock describes himself as an "investigative reporter" with no preconceived notions, but his credentials speak otherwise. A fellow with the right-wing Heritage Foundation, Brock once described Hill as "a little nutty and a little slutty" in an article predating his book.

The witness Napolitano purportedly coached during the 1991 hearings was Susan Hoerchner, a California judge and friend of Hill's who provided the strongest testimony in support of Hill's charges. She testified that Hill had confided in her about the harassment as early as spring of 1981. But that was before Hill had even begun working for Thomas.

After a brief recess, urged by Napolitano, Hoerchner returned to the stand and said she didn't remember the exact date. That does not suggest Napolitano did anything inappropriate.

Napolitano is eminently qualified for this job—described by colleagues as a "workhorse" with "a tremendous grasp of the law." This scurrilous attack against her is as much against her role as a Democratic party activist as her role in the Hill-Thomas affair. She should be confirmed and permitted to get on with her job.

DAUGHTON HAWKINS BROCKELMAN
GUINAN & PATTERSON,
Phoenix, AZ, September 22, 1992.
Hon. DENNIS DECONCINI,
U.S. Senate,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR DECONCINI: I am delighted to write in support of the nomination of Janet Napolitano to be the next United States Attorney for the District of Arizona and to add my voice to those urging the Committee on the Judiciary to send her name on to the full Senate for prompt confirmation.

From 1977 to 1980, I had the honor and pleasure to serve in the position to which Janet has been nominated. Although the office was somewhat smaller then, the caseload was much the same: major crimes in Indian Country, narcotics, major fraud, public corruption, and related matters. Janet has all the skills to lead a major metropolitan U.S. Attorney's office: solid judgement, sharp intellect, and an impeccable sense of ethics. She is, in my opinion, extremely well qualified to hold this position.

Janet has been a partner at the law firm of Lewis & Roca, a very prominent Phoenix firm, whose ranks over the years have included some of Arizona's most respected and able lawyers. Its founder Orme Lewis served in the Eisenhower administration and was an active practitioner well into his 80's. Its former members serve as distinguished judges and a number of its present members have served in the past in public service for state and federal administrations of both parties. Lewis & Roca is a remarkable training ground and we are fortunate indeed to have such a fine lawyer to serve in this important position.

I would be pleased to answer any question that you or any member of the Committee might have and I thank you for the opportunity to speak to the nomination of this very able and talented lawyer.

Sincerely,

MICHAEL D. HAWKINS.

SUPREME COURT,
STATE OF ARIZONA,
Phoenix, AZ, September 29, 1993.
Hon. JOSEPH BIDEN,
Chairman, Senate Judiciary Committee, Russell Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: I understand the Judiciary Committee will shortly consider the President's nomination of Ms. Janet Napolitano to be United States Attorney for Arizona. I write to express my opinion that she is an outstanding choice for this extremely important position. I have been trial and appellate judge in Phoenix, where Ms. Napolitano practices, for most, if not all, of her professional career. Because her practice includes much litigation and, in particular, appellate litigation, I have had many occasions to observe and review her work, both in the courtroom and by way of written briefs and memoranda. Her work is uniformly very, very good. She is an effective and principled litigator. Never have I heard a lawyer or judge in this community question her ethics or integrity. On that score, she enjoys an absolutely unblemished record.

Ms. Napolitano will be a very able United States Attorney and will serve the people with distinction. I am pleased to recommend her confirmation. I might add that my reasons for making this recommendation are entirely professional, not political: I am a lifelong Republican.

I thank you for your consideration of this letter.

Yours truly,

JAMES MOELLER,
Vice Chief Justice.

LAW OFFICES OF
WILLIAM C. SMITHERMAN, P.C.
Tucson, AZ, October 19, 1993.
Hon. DENNIS DECONCINI,
Hon. JOHN MCCAIN,
U.S. Senate, Washington, DC.

DEAR DENNIS AND JOHN: Please let me add my voice to those who support the confirmation of Janet Napolitano as United States Attorney for Arizona, a position I was honored to hold from 1972 to 1977.

As a former U.S. Attorney it is extremely important to have people of known integrity and ability in this critical, high profile law enforcement position. I know Janet Napolitano and know that she possesses the requisite character and ability to discharge the responsibilities of this great office. She is already doing a great job.

I recommend her to you for confirmation and I do so without any reservation whatsoever.

Sincerely,

WILLIAM C. SMITHERMAN,
President-Elect, National Association of Former United States Attorneys.

THE NAVAJO NATION,
Window Rock, AZ, October 12, 1993.
Senator DENNIS DECONCINI,
Senate Hart Office Building, Washington, DC.

DEAR SENATOR DECONCINI: I am writing to you as President of the Navajo Nation to give my unqualified support for the Administration's nominee for U.S. Attorney for Arizona, Ms. Janet Napolitano. I believe Ms. Napolitano, with her accomplishments and qualifications, will raise the level of service provided to Arizona by the Office of the U.S. Attorney. Ms. Napolitano has indicated that she will make it a priority to address the many problems and concerns of the Navajo Nation and people, and of Native Americans in Arizona.

I and members of my staff have met with Ms. Napolitano on several occasions and have all come away with the impression that she is unusually capable and wants to do the right thing. We are impressed also that she listens carefully and hears what we say. She is a person who understands not just narrow legal issues, but the political and human dimensions of a problem as well.

We support Ms. Napolitano's nomination because we believe she will bring a new level of competence, experience, activism and compassion for our problems. Thank you for your consideration of this recommendation.

Sincerely,

PETERSON ZAH,
President.

OCTOBER 19, 1993.
Hon. DENNIS DECONCINI,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR DECONCINI: As I told you in our telephone conversation yesterday, I am writing to you on behalf of Janet Napolitano. Although I do not know Janet well, nor do I know the specifics of her representation of Ms. Hill, I do know that she is well regarded in the legal community in Arizona for her intellect and dedication.

As a former United States Attorney for this District, I also tell you that it is important for the sake of continuity that this vital position be filled as soon as possible. Without a strong United States Attorney to maintain leadership within the federal system, problems are not resolved quickly or easily. I urge you and your colleagues to act expeditiously. Her nomination merits and necessitates prompt review.

Sincerely,

LINDA A. AKERS.

JONES, SKELTON & HOCHULI,
ATTORNEYS AT LAW,
Phoenix, AZ, October 5, 1993.
Hon. JOHN MCCAIN,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR MCCAIN: I am writing you this letter to urge you to vote in favor of Janet A. Napolitano as the next United States Attorney for Arizona. I have known Janet from her days as a lawyer with Lewis & Roca. I found her to be extremely capable, knowledgeable and above reproach in her work with that firm.

When Janet's name was submitted to President Clinton by Senator Dennis DeConcini, I called Janet and met her for lunch. I was deeply impressed by her sincerity and commitment towards the job of United States Attorney. Having served in that position from 1981 to 1985, I would be the first person to speak out against a nominee if I felt that a nominee lacked either the talent, skills or ethics to successfully perform that important position. I have explicit trust in Janet's ethics and integrity. I am convinced that she will devote her full time and effort to that job.

I am happy to see that Senator DeConcini not only nominated a woman to that position but selected someone who is bright, highly respected, and articulate. I am distressed that an author of a book on the "Clarence Thomas" hearings could do such a number on her and win any kind of following. Anybody who knows Janet Napolitano would know that she would never, in a thousand years, counsel a witness to give false testimony or to fabricate evidence.

I have heard that Senator Alan Simpson of Wyoming may put the nomination on "hold." I would urge you to talk to Senator Simpson and encourage him to refrain from such an action. The U.S. Attorney's office in Arizona needs a Presidentially confirmed U.S. Attorney. To drag this process on is not only unfair to Janet but is also unfair to the many good people who work in that office. The vast majority of these federal attorneys were hired by myself, Steve McNamee and Linda Akers.

I believe Janet Napolitano will make an outstanding United States Attorney and will prove to be one of the brightest and best ever to serve in that position. If I can answer any questions or provide you any further insight, please don't hesitate to give me a call.

Very truly yours,

A. MELVIN MCDONALD,
For the Firm.

Mr. DECONCINI. Mr. President, I think it is sad that we cannot get this approved by the normal process. I respect everybody's right. There is opposition, and perhaps it is political and perhaps it is not. But I can tell you the people of Arizona do not want political gridlock. The People of Arizona—both Republicans and Democrats—want this particular nominee to be confirmed.

Part of the package that I have just submitted shows Republican judges writing to the U.S. Senate Judiciary Committee supporting her nomination.

The Arizona Republic, a very conservative Republican newspaper, urged the Senate to confirm Janet Napolitano. Let me read what that newspaper said:

> The Republicans have delivered their political retribution for the Hill Affair. The political game is over. There is no valid reason to hold up this Presidential appointment.

I want to thank the distinguished senior Senator on the Judiciary Committee, Mr. THURMOND, for pulling his hoe, and the Senator from Mississippi for withdrawing his objection to this unanimous consent request. Janet Napolitano has been strongly endorsed by each Arizona U.S. attorney over the past 20 years, appointed by both parties—Bush, Reagan, Carter, and Ford. She also has been warmly endorsed by the ranking Republican on the Arizona State Supreme Court. So that is no reason why this professional lawyer should not be confirmed. I hope the body will do so and vote cloture in about 15 minutes.

Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. Four minutes 46 seconds.

Mr. DECONCINI. I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. DECONCINI. Mr. President, I suggest the absence of a quorum and ask unanimous consent the time not be taken out of the two sides.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Who yields time?

Ms. MIKULSKI. Mr. President, I was about to propound a unanimous-consent request.

I ask unanimous consent that I be able to speak against the NAFTA agreement at this particular time.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. FORD. Mr. President, I reserve the right to object, and I will not. We are within just a very few minutes of having a cloture vote on this nomination. Can the Senator withhold until we get through or——

Ms. MIKULSKI. I have obligations that will take me off the floor.

Mr. FORD. I am trying to expedite this.

Ms. MIKULSKI. Originally, the Senator from Alaska was going to yield me time when we were parachuted in by this nomination.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. STEVENS. Mr. President, I am happy to yield to the Senator from Maryland 15 minutes of the time that is allocated to this Senator on the NAFTA bill, if it is appropriate for her to use it at this time.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. DECONCINI addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. DECONCINI. Mr. President, I told the Senator from Maryland I would not object. I do not want to change my mind and will not, but I have been advised by the leadership they want the clock to run and get on with this cloture vote.

I wonder if the Senator from Maryland will withhold to see if we can possibly get the other side to come forward and yield back the remainder of time, which I am prepared to do for the proponents of this nomation. If the Senator will withhold for a moment while I attempt——

Ms. MIKULSKI. I understand that. I realize I am parachuting in on this conversation. Another obligation takes me off the floor at 4. I am prepared to speak for only 10 minutes while the Senator is trying to track the other person down. Otherwise, we have an empty quorum call.

Mr. DECONCINI. I will not object.

The ACTING PRESIDENT pro tempore. Is there objection? If not, the Senator from Maryland is recognized.

NORTH AMERICAN FREE-TRADE AGREEMENT IMPLEMENTATION ACT

Ms. MIKULSKI. Mr. President, I thank my colleague for the courtesy.

This is an exceptionally difficult decision for me.

As I have listened to the debate on the North American Free-Trade Agreement, I have heard some of my colleagues talk with great confidence and certainty—on both sides.

I have read so much, and listened so carefully, and thought so hard about this issue, that I am prepared to argue passionately—both for and against NAFTA.

It is an exceptionally difficult decision.

On every major vote I have cast in the U.S. Senate, I have reflected upon my core values and my basic mission as a U.S. Senator.

My entire life has been devoted to: saving jobs, saving neighborhoods, and saving lives.

I am a blue-collar Senator. I have lived most of my life in my blue-collar neighborhood. My mom and dad owned a grocery store. When the workers at Bethlehem Steel went on strike, my dad gave them credit. My career in public service is one of deep commitment to working-class people.

The hard-working, middle-class people of the First Councilmanic District of Baltimore sent me to represent them in city hall because they believed I would fight to meet their day-to-day needs.

Then they sent me on to the House of Representatives—and the people of Maryland entrusted me with this seat in the Senate, entrusted me to look out for them. To look out for their jobs, and to get Maryland ready for the future.

My core values have remained the same since I began my fight to save my neighborhood and entered public life. And today, I find my core values are in conflict.

I have spoken on this floor many times about jobs today—and jobs tomorrow.

Jobs today—and jobs tomorrow.

And I have spoken up for working people. Let us be clear—as they listen to the debate over NAFTA, they wonder who is speaking for them.

I find that in this debate, there has been no real acknowledgment of what working people face.

In the last decade, working people in America have faced a loss of jobs, lower wages, a reduced standard of living, and a shrinking manufacturing base.

Working people have played by the rules, raised their families, gone to church—they hear that they are disposable. They are being told that their contributions do not matter, that they are obsolescent.

I bridle and bristle at the way people who have joined trade unions have been maligned in this debate. For many of them, the trade union movement has been their key to a better standard of living for themselves and their families.

These working people feel a loss of hope. They feel that no one is listening to their concerns and taking them seriously. They fear they have no place to go, and that nobody really wants them.

And this NAFTA debate has struck a chord with America's angry working class. Taking a stand against NAFTA has become a magnet for their very valid fears.

American workers fear they are losing ground that will never be regained. Workers know they are thought of as economic units, just like component parts in the production line—not as men and women who have families, pay taxes, contribute to the United Way, and are called on to fight and die in America's military engagements.

When they hear the word "efficiency," they know it is a code word for layoffs.

When they hear "got to be competitive," that means they are forced to give wage concessions or cuts in health benefits or pension security.

What do they want?

Respect for who they are and what they contribute to the economy and to the community.

They want income for the work they do so they can be middle class, buy a home, help their kids get an education, and buy food and clothing for the family.

And they want to be part of America's future.

They want to be included, not excluded.

I know their fears personally. I have seen the loss of manufacturing jobs in Maryland.

When I was a young girl, I spent a summer working in a canning factory in my own neighborhood. Next door was another factory where they made the cans.

I saw that factory move from my neighborhood in Baltimore to the Eastern Shore. Now they have left there as well.

It is the same story for Bethlehem Steel. I have watched the decline of the once-robust shipbuilding industry. And General Motors, which once employed tens of thousands of moms and dads who earned a decent wage.

I am concerned not only about a loss of jobs, and the wage levels here in the United States. I am also concerned about a loss of national sovereignty. Where decisions and disputes affecting people's daily lives are taken out of a framework in which corporations are held responsible for their deeds and actions—and instead, turned over to transnational organizations made up of unelected, unaccountable technocrats.

A big brother, who is big but no brother.

When we set up these tri-partite, multinational structures, accountable to no one, where is the concept of civic duty?

Where is due process?

Where is the rule of law?

How do we hold corporate citizens responsible for their actions?

I am disappointed in this trade agreement. I think we should have had so much more. We need a strategy to create good jobs for American workers.

The President cut a deal with everybody, but not the American worker.

He cut deals with sugar, with tomatoes, with peanuts—how about let's cut a deal with the American worker? Not a protectionist deal, but a real job creation plan.

We should have had "NAFTA-plus."

NAFTA-plus a manufacturing strategy. NAFTA-plus a strategy to create new products that we can export around the world.

The old ways are not working. The world is changing, and we need to get America and Maryland ready for the 21st century.

Some may say: That is your responsibility, Senator. You were elected to come up with those ideas. Well, I have been a leader, fighting to develop the core technologies of the future, which will lead to new ideas and new products—investments that will create jobs today and jobs tomorrow.

Jobs—in aerospace and high-speed ground transportation. Jobs—in environmental cleanup technologies and telecommunications.

I call upon the President to develop a job creation strategy. There is going to be a NAFTA. This trade agreement is going to pass. Now it is time to add the second part.

It is time for NAFTA-plus.

The President should have provided that leadership. That is what Presidents are for.

We still need NAFTA-plus: a strategy that generates not only more jobs, but jobs that generate an American standard of living as we have come to experience it and expect it.

The President must convene an initiative to develop a real policy to save jobs and generate new opportunities—to bring us together, not to use rhetoric that divides us. We need leadership and strategy to develop a real manufacturing agenda.

We need more than a common market, we need a common purpose. Not only profits for a few—but prosperity for all. And not only new markets abroad—but new opportunities here, in manufacturing, engineering, science and technology. We need a community of common interests—and not name calling about special interests.

A new century is coming. A new economy is about to be born. I do not want America to be left behind.

Without a job-creation strategy, I am not satisfied with this trade agreement. I cannot vote for it, when I know it will give the American worker no confidence in the future.

I believe this trade agreement will pass, but I believe it is not adequate. We are going to have NAFTA, but I am casting a protest vote for what should have been. We should have had NAFTA-plus.

So I vote "no" on NAFTA—and "yes" for the American worker.

I yield the floor and I thank my colleagues for their cooperation.

Mr. LOTT and Mr. EXON addressed the Chair.

The PRESIDING OFFICER. Who yields time?

The Senator from Mississippi.

NOMINATION OF JANET ANN NAPOLITANO, OF ARIZONA, TO BE U.S. ATTORNEY FOR THE DISTRICT OF ARIZONA

The Senate resumed consideration of the nomination.

Mr. LOTT. Mr. President, as we consider voting on the nomination of Janet Napolitano to be U.S. attorney for Arizona, there are some things we need to consider this afternoon. Since we have had the break from when the Senator from Arizona spoke in her behalf—we had some comment on NAFTA—I do want to clear up the point now that we are back on this nomination that was pending. We are only limited to 20 minutes, I believe, in total, on this discussion before we go to a cloture vote.

Mr. President, if I could then go forward on this particular nomination, confirming Ms. Napolitano would set a disturbing precedent, and that is why I reserved the right to object a few moments ago, because I think that we need to consider very carefully what we are doing.

I do not know that much about this nominee, and I am not passing judgment at this time on her qualifications. If the Senator from Arizona says she is qualified, I accept that. But there was a disturbing series of events in the committee I think we need to talk about.

If she is confirmed, we will set a new standard for nominations and for every other nominee of this type and we will be shirking our responsibility in the Senate to fulfill a constitutional duty of advise and consent. A "yea" vote today says that we, the Senate, do not need to have all of the information relevant to a nominee's fitness. We, the Senate, do not have to use all due diligence. A "yea" vote would take an eraser I believe to article II, section 2 of the Constitution.

We do not know all that we need to know about this particular nominee. If the information that was sought by members of the Judiciary Committee could be provided, then I think there would be no problem with this nomination moving forward. It is not about politics. This is about duty.

Ms. Napolitano has stonewalled the committee and, therefore, this Chamber by refusing to answer pertinent questions about her role in the Justice Clarence Thomas confirmation hearings. Some of my colleagues are willing to abdicate this precious charge of advise and consent of the Constitution, and I think that that would be a mistake. So let me take just a moment to explain why I have these reservations.

As counsel to Ms. Anita Hill during the Thomas hearings, she also advised, informally as I understand it, Judge Susan Hoerchner, who testified that she had heard Ms. Hill say things about Justice Thomas.

To make a long story short, it seems that after Ms. Hoerchner said with certainty certain things, after a talk with Ms. Napolitano out of the room, Ms. Hoerchner seemed to have amnesia or forgot the exact details of what she had been saying earlier, that she was so certain about.

Subsequent evidence points to the possibility that Ms. Hoerchner perjured herself and that Ms. Napolitano might have been involved in advising her about what she said when she came back in.

I am not alleging at all that that is the case. I am saying the committee needs to know what happened. What is used here by Ms. Napolitano is the attorney-client privilege as her reason for stonewalling. She was not Ms. Hoerchner's counsel. She has cited what has been referred to, I guess, as a pool privilege requirement that she is forced to use to get around telling exactly what happened.

I do not want to dwell on the particulars. But I think it is just enough to say that such an attorney-client privilege would not necessarily exist since Ms. Hoerchner was not Ms. Napolitano's client. Therefore, she should have answered the questions that were asked by a number of the members of the Judiciary Committee.

Besides all of this, Ms. Napolitano has been allowed to thwart the will of the legislature by just saying she was not going to do it and get away with it.

I ask unanimous consent that a hearing transcript be printed in the RECORD, pages 377 to 393 of the nomination hearings of Justice Rehnquist, dated July 29, 30, 31, and August 1, 1986.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF JOHN R. BOLTON, ASSISTANT ATTORNEY GENERAL, OFFICE OF LEGISLATIVE AFFAIRS, U.S. DEPARTMENT OF JUSTICE

Mr. BOLTON. Yes. Thank you, Mr. Chairman.

I regret that, due to the shortness of time, I do not have prepared remarks, but I do have a few things I would like to say. Earlier today, reference was made to a memorandum from the President to the heads of executive departments and agencies, dated November 4, 1982. I would just like to begin by reading one sentence from that memorandum. I quote from the President:

"The Supreme Court has held that the executive branch may occasionally find it necessary and proper to preserve the confidentiality of national security secrets, deliberative communications that form a part of the decisionmaking process, for other information important to the discharge of the executive branch's constitutional responsibilities."

Mr. Chairman, there has been a long history in this country, dating back to President Washington, of the importance of preserving the confidentiality of executive branch deliberations. By analogy, the judicial branch of Government preserves the confidentiality of the internal deliberations of our courts; Members of Congress preserve the confidentiality of their communications with their staffs. And, for the same reason, going to the fundamental basis of our Government, the executive branch must also have confidentiality in communication among top advisors to Cabinet heads and to the President.

There is no doubt, Mr. Chairman, of the importance of securing candid advice to ensure the proper functioning of the executive branch. If I could, to demonstrate the importance of this, I would like to read brief excerpts from two Supreme Court opinions. The first is the opinion of the Court in *Nixon* v. *Administrator of General Services*. I might say that the language I am quoting from is from Justice Brennan. I quote Justice Brennan who, in turn, quotes from the Solicitor General.

Justice Brennan said, "Nevertheless, we think that the Solicitor General states the sounder view and we adopt it." Justice Brennan quoting now from the Solicitor General: "This Court held in *United States* v. *Nixon* that the privilege is necessary to provide the confidentiality required for the President's conduct of office. Unless he can give his advisors some assurance of confidentiality, a President could not expect to receive the full and frank submissions of fact and opinions upon which effective discharge of his duties depends. The confidentiality necessary to this exchange cannot be measured by the few months or years between the submission of the information and the end of the President's tenure. The privilege is not for the benefit of the President as an individual, but for the benefit of the Republic. Therefore, the privilege survives the individual President's tenure.

Now, the reasons for the privilege, the Court said in United States against Nixon, are plain—and I quote now from the opinion in that case.

"Human experience teaches that those who expect public dissemination of their remarks may well temper candor with a concern for appearances and for their own interest, to the detriment of the decisionmaking process."

Let quote further from that opinion, if I may, Mr. Chairman. "A President and those who assist him must be free to explore alternatives in the process of shaping policies and making decisions, and to do so in a way many would be unwilling to express except privately."

Mr. Chairman, executive privilege is claimed only after the most searching scrutiny. Not all documents qualify and, indeed, as I mentioned earlier today in response to the request from three Democratic Senators, certain documents were produced to the committee from the Office of Legal Counsel, that in our legal judgment would not qualify.

However, following the procedures laid out in the President's memorandum, from which I have quoted previously, I have been advised by the counsel to the President, Peter Wallison, on the advise of the Attorney General, the Assistant Attorney General for the Office of Legal Counsel, and the Counsel to the President, that the President has authorized me to assert executive privilege with respect to the confidential memoranda, opinions, and other deliberative materials from the files of the Office of Legal Counsel from 1969 to 1971.

That concludes any remarks, Mr. Chairman.

The CHAIRMAN. That's it. Thank you very much.

Senator HEFLIN. Mr. Chairman.

The CHAIRMAN. Any questions?

Senator HEFLIN. Yes, Mr. Chairman. I think this witness is subject to being examined. In the normal course of events, I'm not sure how an executive privilege is entered, as to whether or not it is entered by an emissary like Mr. Bolton or, on the other hand, whether it comes through a written document or how.

I am not conversant with all of this information, as are several others, such as Senator Biden, the minority leader. Rather than delay it right now, I would suggest that we go to other witnesses and that Mr. Bolton be reserved. I understand that Senator Biden is on his way here, and when he arrives, if he has questions that he wishes to direct to Mr. Bolton, he would have that right. I think the courtesy is his and it is his right.

I would think, therefore, rather than delay, that we could go to some of the other witnesses and reserve Mr. Bolton's cross-examination until Senator Biden arrives. As I understand it, he is on his way.

Senator SIMON. Mr. Chairman.

The CHAIRMAN. The distinguished Senator from Illinois.

Senator SIMON. I am obtaining materials, from the House Judiciary Committee, which contain many internal documents of the kind we're talking about, and not from an administration of some years ago but from the current administration. I had just a few of those reproduced here.

Here is a memo from Laurel Pike Melson, attorney-advisor; she is with the Office of Legal Counsel, and it's to Theodore P. Olson, Assistant Attorney General in the Office of Legal Counsel. It's dated December 6, 1982.

Here is another memorandum to Theodore Olson, within the Department. Here is a memorandum for the Attorney General from the Legal Counsel, dated May 30, 1984. Here is a memorandum from Legal Counsel to the Assistant Attorney General for Legislative Affairs.

There are half-a-dozen more here that I have had my staff xerox. It is fairly clear that executive privilege and a willingness to turn over documents has been part of the history of this administration and is in line with the President's memorandum of November 4, 1982.

In that memorandum, incidentally, the President says "Executive privilege will be asserted only in the most compelling circumstances."

I don't know that we have such compelling circumstances right now, and clearly, what we are being told is appreciably different from the earlier pattern of this administration. I would hope that Mr. Bolton would take this message back to the Attorney General. If some of the documents really are, for some reason, very sensitive, that would be a good reason to use executive privilege. But it just sounds like we're being denied material that we ought to have. I hope that Mr. Bolton and the Justice Department will reconsider.

Mr. BOLTON. Mr. Chairman, might I respond to the Senator's remarks?

The CHAIRMAN. Senator Simon, I'm somewhat constrained because of the possibility of litigation still involving the documents to which you referred. But I can say that there is one clear distinction between the case to which you're referring and the present case, and that is that in that matter the President determined to waive executive privilege; in this instance he has determined to assert it.

Senator SIMON. I understand that the President is asserting it here. I guess I would urge you to think that over carefully. I would like to know a good, solid reason why in this instance executive privilege is being asserted.

Mr. BOLTON. Senator, as I testified earlier today, and as I tried to indicate in my remarks this evening, the nature of the Office of Legal Counsel in the Department of Justice, together with the Office of the Solicitor General of the Department of Justice, is really unique within the executive branch and our system of justice.

Because of the critical legal advisory role that those offices play for the Attorney General, the President's principal legal advisor, and the importance and the complexity and the sensitivity of the issues with which they deal, to open the files of those offices and reveal the documents, even under guarded circumstances, would gravely risk impairing and perhaps destroying the ability of those offices to provide the critical legal advice that the President and the Attorney General require to fulfill their constitutional mandate, to take care that the laws be faithfully executed.

Senator SIMON. We are not talking about today—and these documents, a whole host of them, are from this administration. We are talking about a decade-and-a-half ago.

If nothing else, can you provide an index or a list of the items you're withholding?

Mr. BOLTON. Senator, at this point, I would have to say that I believe the answer to that is "no", but I will certainly take that question under advisement.

The CHAIRMAN. I would like to say that in the President's order of November 4, 1982, certain procedures were outlined there. It provides that congressional requests for information shall be complied with, unless—and this is important—unless it is determined that compliance raises a substantial question of executive privilege. A substantial question of executive privilege exists if disclosure of the information requested might significantly impair the national security—that's not the case here, but the next two are important—the deliberate processes of the executive branch, or other aspects of the performance of the executive branch's constitutional duties.

So, even if executive privilege was not claimed here, I feel that under the President's order here that the ruling as previously made was correct. But executive privilege has been claimed here and, as far as I'm concerned, that ends it.

If you wish to furnish other information or requests, we'll be glad for you to do it.

Mr. BOLTON. Mr. Chairman, if I could just make the record clear, parts or all of the documents in question fall under all three heads of the sentence which you read, and which I read earlier.

The CHAIRMAN. Are there any further comments?

The distinguished Senator from Massachusetts.

Senator KENNEDY. Mr. Chairman, I don't think one can reach any other opinion but that the administration is stonewalling on this.

Mr. BOLTON. Excuse me, Senator——

Senator KENNEDY. You'll have an opportunity to respond.

The administration is stonewalling on these requests. During the course of these hearings we have made requests with regard to memoranda on civil rights and civil liberties. I was on this panel at another time when we had this nominee for Justice on the Supreme Court. We were unable to get information at that time, and after the hearings were closed, we found out the allegations of intimidation of blacks and Hispanic voters down in the Southwest and we had to go back over that now many years later to get the direct response from the individuals who have, in many instances, sworn affidavits stating that this was the case.

We had difficulty in getting information back the last time, and then during the course of the deliberations of the Senate we find the memoranda allegedly written by Mr. Rehnquist, that indicated full support for *Plessy* v. *Ferguson*, that Mr. Rehnquist in testifying here says was to be presented for Mr. Robert Jackson, a distinguished jurist, whose closest confidants and people that know him consider it a sham and a disgrace.

We didn't have an opportunity at that last hearing to get information on this. We had to inquire some years later. Then, we hear Mr. Rehnquist say "Well, that's many years ago. I can't answer."

This is on the eve of Watergate, these activities. I was on this committee when Sam Ervin conducted the hearing about illegal wiretapping, where press men and women were being wiretapped in this country; loyal American citizens were being wiretapped. I was on this committee when we took remedial action with legislation to deal with that issue. I was on this committee when we were having mass demonstrations and we had proposals by the administration about mass arrests, involving first amendment rights, the right of petitioning their government, the right of free speech, the right of dissent.

There have been allegations and charges that Mr. Rehnquist was providing the legal guidance and advice on issues that affected the first amendment, basic rights and liberties of individuals. That's an issue before our panel. It doesn't involve the security of the United States; it involves the security of the rights of the first amendment to the American people, and the most important right is the first amendment to the Constitution. That's what we're talking about.

This is the eve of Watergate, where we have the various plans and programs that provided the "plumber" plan that this committee was familiar with, the Houston plan, about how they were going to subvert individual rights and liberties, when we were having the CIA spying on American citizens.

I think we do a disservice to Mr. Rehnquist if he wrote a memorandum saying the first amendment rights were involved with these individuals, and the members of the administration ought to be restrained and respect those rights, and we don't see it. I think that would be enormously valuable.

There is only one other conclusion you could reach, and that is that kind of protection was not evident in the kind of memoranda that Mr. Rehnquist wrote.

In *Laird* v. *Tatum*, involved the use of military personnel to provide surveillance. To read Mr. Rehnquist's exchange with Sam Ervin on that, talking about whether there was a justifiable issue or not and indicating there wasn't, and then casually referring to that exchange in his memorandum opinion as a discussion of Constitutional law, when he issued his decision on that case, the effect of which was to deny discovery opportunities on governmental activities about which he was allegedly involved in advising the Justice Department.

I daresay, if we got discovery during that period of time, we may not have had a Watergate. We may not have had a Watergate, because those activities were being undertaken during that period of time.

So, it begins to tie up, Mr. Rehnquist. He indicated that he didn't think those individuals, those protesters, had a right, and then when he got to Court, which at the time this case was coming to Court, he cast the deciding vote. That delayed the opportunity for a full examination of the activities of the administration during that period of time. He was legal counsel guiding the Attorney General on first amendment rights, civil rights and civil liberties, what had to be respected and what didn't. It's all becoming very clear now.

I daresay, if you can find the justification under national security, under President Reagan's guidelines to withhold these documents you're a much better lawyer than anyone that I can possibly imagine.

I would just conclude with this, Mr. Chairman. Under President Reagan's order, congressional requests for information shall be complied with as promptly and as fully as possible, unless it is determined that compliance raises substantial questions of executive privilege. A substantial question of executive privilege exists if disclosure of the information requested might significantly impair the national security. That's the first line, national security, including the conduct of foreign relations. The deliberative branch of the executive branch, or other aspects of performance.

Mr. BOLTON. Mr. Chairman, could I respond to Senator Kennedy?

The CHAIRMAN. Yes; you may respond.

Mr. BOLTON. Very briefly, Mr. Chairman.

Senator Kennedy, you correctly stated that you were a member of the committee in 1971 when Justice Rehnquist was the nominee to be Associate Justice, and came before the Senate.

Our records indicate that, in 1971, no requests were made for any documents from the Office of Legal Counsel.

Senator KENNEDY. That's not the question. We asked for additional kinds of information, which this committee was not permitted to have until after the Committee had finished with the witness and had no opportunity to examine further.

What we are basically talking about is information. We are talking about information, and you've got it and you're giving it.

Mr. BOLTON. Mr. Chairman—

Senator KENNEDY. That's the question. You've got it and you're not giving it, and it's involved with the questions that I asked about civil rights, with respect to civil rights and civil liberties, at a time when those fundamental values were probably threatened in our society as at any time in recent history. Mr. Rehnquist wrote memoranda concerning these issues.

I think the American people, in whatever concerns they might have, would feel an enormous sense of relief to know that he was in the vanguard for protecting those rights and liberties. I think they're entitled to that kind of assurance.

But your response is "Oh, no, no, no, no, no, no. We won't be able to get qualified people that will ever come down and work in our office again, because someone might release a memo." That is hogwash. That's hogwash. And President Reagan must understand it with his document on it.

Mr. BOLTON. Mr. Chairman, may I respond to that, too, please?

The CHAIRMAN. Yes; you may respond.

Mr. BOLTON. Let me say first, Senator Kennedy, that the subject matter of any of the documents that are withheld is not the reason for the withholding. The reason for the withholding is a principle, in my view, at least as important as the first amendment that you mentioned. That principle is the separation of powers. It is critical to the survival of the constitutional system that the Framers created that the branches operate with sufficient independence that they can fulfill their constitutional responsibilities.

Just as the Congress has constitutional responsibilities, just as the Judiciary has constitutional responsibilities, so too does the executive branch. I quoted from a Supreme Court opinion before you arrive which recognized the critical importance of candor, and of the need for an executive privilege.

Senator KENNEDY. Finally, in response to your earlier comment about information not being provided by the Office of Legal Counsel, Mr. Rehnquist was queried by Senator Bayh on just about all of these areas. His answer at that time was attorney-client relationship. But he didn't indicate that he was bothered by it, but when the time came again, when we asked the Justice Department to waive that particular issue, the answer was no. So, we were denied it then and we found the information that came out afterward.

We're being denied it tonight. And it isn't the committee. It's the American people. You're not saying it to Senator Thurmond, you're not saying it to me, not saying it to any of these Members. You're telling the American people that at the time of greatest threat of individual rights and liberties and the civil rights of the American people, he wrote about these matters and expressed his view on those different questions, umpteen years ago, that they have no right to have the opportunity to view those materials—not national security, not dealing with nuclear weapons, not dealing with submarine capability. We're talking about questions of mass arrests; we're talking about surveillance of American citizens; we're talking about wiretapping; we're talking about rights of privacy; we're talking about the civil liberties of the American people.

And your answer is "no way" to the Judiciary Committee, "no way" to the American people. That's your answer.

Mr. BOLTON. With all due respect, Senator Kennedy, I don't think that's my answer. My answer is that the separation of powers——

Senator KENNEDY. Provide the information, then.

Mr. BOLTON [continuing]. On which the American people rely for the proper functioning of their Government dictates this result.

I might say, also, that the questions that were put to the Justice before he was excused were not questions that went to the substance of the deliberations; as has been held in any number of court cases concerning the attorney-client privilege, it is permissible to ascertain whether the communication was made, but it is not permissible to ascertain the substance of the communication.

The CHAIRMAN. The distinguished Senator from Utah.

Senator HATCH. Mr. Chairman, this has gone on more than enough. If you stop and look at it, the fact of the matter is you are not talking about the whole Department of Justice. You're talking about the Office of Legal Counsel.

In spite of all the bald assertions that Senator Kennedy has made here tonight about all of this stuff that you would find if you could get into these records, the fact of the matter is that he doesn't know what you would find. That is what you call a fishing expedition. Almost any court of law would be concerned about fishing expeditions under almost any set of circumstances.

The reason there is a desire to have a fishing expedition—and I think it is exemplified every time somebody on the other side gets excited about an issue like this—is that it is a Watergate issue. Let us be honest about it. The reason they are so excited about fishing here is because they really do not have anything to stop this nominee. And they have not been able to show anything to stop this nominee. And their assertions that he is an extremist have not been proven thus far, nor will they be proven. In fact, if anything, their assertions are extreme. That has been proven by the Justice who has sat here and tolerated the kind of abuse that he has taken from time to time.

It doesn't take any intelligence to understand that when you are talking about the Office of Legal Counsel, you are talking about the personal law firm of the President. You are talking about people who have to give very considered legal recommendations on all kinds of issues that involve confidential informants, national security issues, and all kinds of issues that require confidentiality.

Furthermore, your position on the separation of powers, being an important part of the Constitution is well taken. I have to agree with you, especially when the President asserts executive privilege, another right he has under the Constitution.

But you are right, Mr. Bolton. The separation of powers doctrine is an important doctrine. You cannot be bullied by political talk here from the Judiciary Committee, no matter how important the Senator may be, no matter what bald assertions he makes, no matter how long he has been here, and no matter how much they forgot to ask for these materials back in 1971.

But now they want them, after the man has served 15 solid years on the Supreme Court. Two hundred opinions have been gone through by the Bar Association. Sixty-five practicing lawyers, 180 judges, including State Supreme Court Justices from the various States, and 50 law deans and professors were interviewed. We have questioned the nominee for almost 3 days now. And we are going to hear from the other side on the ballot issue. We have FBI reports. We have a wealth of documents coming out of our ears. We have articles, we have memoranda. We are going to listen, I suppose, to more than 60 witnesses, an additional 10 that the other side has demanded. And now they are coming in here and asserting Watergate.

Let us be honest about it. Some of the best and some of the worst "fishermen" in the world are on this committee. You make the choice which ones are the worst.

Senator SIMON. Would my colleague yield?

Senator HATCH. Yes; I would be happy to yield. I think he has made a set of very good constitutional points. I believe that it is time for us to realize that there may be some merit in what he is saying.

Senator SIMON. On the question of separation on powers, here I have four documents, rather substantial books, which contain all kinds of memoranda between people within the Department of Justice——

Senator HATCH. And given to other agencies.

Senator SIMON [continuing]. Legislative Counsel to the President and so forth, of this administration.

Senator HATCH. That is right.

Senator SIMON. And they turned those over to the House Judiciary Committee. Now we're asking for documents of 15, 16, 17 years ago, and all of a sudden there is a separation of powers problem.

Senator HATCH. Only because the President did not assert executive privilege. Had he asserted it, they would not have given those documents. Now, let us be honest about it. He is asserting it here. He has a right to and every reason to.

You are not talking about anybody. You are talking about a sitting Supreme Court Justice. You do not have to treat him like a tin can you can kick all over the street.

Senator SIMON. We're not talking——

Senator HATCH. We're not talking about you, Senator Simon. I do not think you are.

Senator SIMON. You were here when Justice Rehnquist said he had no objection to us receiving these documents.

Senator HATCH. He is not the one that determines that. He is not the President of the United States.

The Chairman. But the Attorney General didn't as a matter of principle.

Senator HATCH. That is right. He stated the principle.

Senator SIMON. A principle selectively applied?

Senator BIDEN. Would the gentleman yield?

Senator HATCH. That is a right the President has under the Constitution.

Senator BIDEN. Sure he does. But the Office of—the opinion of the Office of Legal Counsel are, in fact, released——

Mr. BOLTON. Certain opinions are released.

Senator BIDEN. Certain opinions are released, that's a right you make the judgment opinions, right? As to whether or not they in fact—for example, the fellow or woman who wrote the opinion, the memorandum opinions for Assistant Attorney General in the Criminal Division of Immigration and National Security, eluding inspection is a criminal offense is in venture, that person, the mere fact that that memo, which was written for the Attorney General, and he or she did not know it was going to be released, the fact that it's not released—it was John M. Harmon, Assistant Attorney General, Office of Legal Counsel—that's not likely to keep him from working for the office that you, without consulting him, released the memo, is it?

Mr. BOLTON. Quite the contrary, Senator. There are certain memorandum prepared by the Office of Legal Counsel with the full intention prepared by the Office of Legal Counsel with the full intention that they be published in books such as——

Senator BIDEN. Yeah; all of them, every one in here?

Mr. BOLTON. No; that's exactly the point.

Senator BIDEN. So, what you do, you go through and you make a judgment based upon what can be released and can't be released, or should not be released, right?

Mr. BOLTON. No. sir, there are certain documents, as I mentioned earlier today, that are prepared by the Office of Legal Counsel and in some cases signed by the Attorney General and in some cases signed by the Assistant Attorney General for that office, that are intended as guidance for all or other parts of the executive branch, and for the public at large.

Senator BIDEN. Are they the only ones that are released?

Mr. BOLTON. They are the only ones published in volumes such as the one you're holding.

Senator BIDEN. They're the only ones published?

Mr. BOLTON. That's correct.

Senator BIDEN. So, there is no guidance for the Attorney General coming from Mr. Rehnquist at the time that all these phenomenal things were going on that Senator Kennedy spoke to that wouldn't, in fact, warrant being seen now? I mean, is it going to that wouldn't, in fact, warrant being seen now? I mean, is it going to keep somebody from not working for the government because they're released now?

Mr. Bolton. I believe, as I quoted from Justice Brennan's opinion a little bit earlier—and perhaps I could quote from it again since you arrived after that.

Senator BIDEN. Sure.

Mr. BOLTON. This is Justice Brennan, quoting and adopting the views of the Solicitor General in the case of *Nixon* v. *Administrator of General Services*:

"The confidentiality necessary to this exchange cannot be measured by the few months or years between the submission of the information and the end of the President's tenure. The privilege is not for the benefit of the President but for the benefit of the Republic. Therefore, the privilege survives the individual President's tenure."

Senator BIDEN. I don't disagree with that. All I'm trying to figure out here is this. It seems to me we could settle this real easily.

Why don't you all go down, make up a list of all the memoranda that are involved. Go down and look at the memoranda. If you conclude that each memorandum would, in fact, if released, do what Justice Brennan is worried about, then tell us. If not, if they're like many of these memoranda that are in here which, in fact, are pretty straightforward, and would not only be something bad to be released—for example, you already sent us one. You sent a memorandum that, ironically, was written by Justice Rehnquist to the President, defining the executive privilege. You sent us that one up.

Mr. BOLTON. That legal advice had already been made public, as I understand it.

Senator BIDEN. Oh, that's the reason. I got it.

So, that whoever made it public before—I mean, why can't you use the same test that was used before? I mean, can't you just go through them and figure out whether or not they really are—I mean, why are you doing this so that now you're going to have people saying "well, I don't know if I can vote this . . ." Why can't we just go in the back room—I'm serious; I'm not being smart—sit down and go through them.

Senator Hatch and I could sit down with you, and you say: "Look, I can't show you this one; I can show you this one. I can't show you this one, but I can show you this one." That's what we have always done before. But you're making this blanket exception.

Mr. BOLTON. Senator, each of the documents that was produced or withheld was subject to exactly the kind of consideration that you've just asked for.

Senator BIDEN. You went through every document?

Mr. BOLTON. I didn't personally. They were gone through by attorneys within the Department of Justice.

Senator BIDEN. I see. And every single thing that William Rehnquist wrote at that time falls into this category?

Mr. BOLTON. No; all of those things that were responsive to the request in the letter of July 24th—

Senator BIDEN. Everything that had to do with civil rights, every memorandum he ever wrote on civil rights——

The CHAIRMAN. Senator, we've got to get on with it.

Senator BIDEN. I know we do.

The CHAIRMAN. We've got 40-odd witnesses here. Let's get through with this thing.

Senator BIDEN. Can you tell us how many there were? You know, you acknowledged it's OK to ask for—that the separation of powers, in fact, when you cited the analogy of the attorney-client privilege, you said you can have permission to ask if communications were made but not what the communication was.

Can we ask you how many communications were made?

Mr. BOLTON. Senator Simon made a similar request before. I told him my view at this point was that the tentative answer to that would be "no," but we would take that under advisement.

Senator BIDEN. I just think you all are making a big mistake, I really do.

Mr. BOLTON. Senator, could I respond to that, because——

Senator HATCH. Mr. Chairman, may I ask a question?

The CHAIRMAN. Yes.

Senator HATCH. let me ask you one question.

Has this committee ever received any documents upon request from the Office of Legal Counsel of this nature before?

Mr. BOLTON. To my knowledge, Senator Hatch, this committee has never received any internal deliberative OLC memoranda before.

Senator BIDEN. Have we ever asked for any?

Senator HATCH. Excuse me——

Mr. BOLTON. The committee did not for certain on Justice Rehnquist's first confirmation hearing in 1971, and not that I know of before.

Senator BIDEN. We're asking now.

Senator HATCH. Let me finish, if I could.

Mr. Bolton, as I understand it, throughout the history of the committee we have asked for various documents and we have received documents from other parts of the Justice Department, but we have really either never asked for them or we certainly haven't ever gotten them from the Office of Legal Counsel?

Mr. BOLTON. I believe that's correct.

Senator HATCH. And that is why you are taking this principle position?

The CHAIRMAN. Let's move on. The decision has been made. If you wish to take it up, let us know tomorrow. We're going to move on with these witnesses now.

Senator METZENBAUM. Mr. Chairman, I haven't had an opportunity to be heard, and I came over especially. I left the floor because I was very disturbed, because to me, the whole issue concerning Justice Rehnquist has become one of credibility and integrity, and he's not a party to this particular decision.

Mr. BOLTON. That's correct.

Senator METZENBAUM. I do not lay this on him, but the fact is, what we have now is a deliberate coverup. Simply stated, it's a coverup. You, Mr. Bolton, may try to give it a higher profile, that it has to do with the separation of powers, but that just doesn't fly. Because the President of the United States specifically said that Congress could have the information.

You came here this morning saying we couldn't have the information. And then somebody said to you, that's not true unless you invoke executive privilege. So, you ran back to the office. Somebody decided to invoke executive privilege. That didn't make it right, because we're entitled to know what the facts are.

Now, let me ask you, Mr. Bolton, who decided to submit this matter to the President?

Mr. BOLTON. It was the recommendation of Mr. Cooper, myself, the Attorney General, and the Counsel to the President.

Senator METZENBAUM. Then it was all of you, a group of you, that made the recommendation; is that right?

Mr. BOLTON. You could call it that.

Senator METZENBAUM. But it included the Attorney General?

Mr. BOLTON. I wouldn't put myself on the same plane with the Attorney General. I was——

Senator METZENBAUM. I'm not concerned about that. But it included the Attorney General?

Mr. BOLTON. That's correct.

Senator METZENBAUM. Now, what I don't understand ties in with things that my colleagues have said, and that is, what is so secret? Why are you unwilling to make this information available? If there were an issue of separation of powers, then the President wouldn't have issued his memorandum of November 4, 1982, which spelled out a procedure and said: "Give the information to Congress."

What is there in these documents that you don't want us to——

The CHAIRMAN. He said "unless," and then he set out——

Senator METZENBAUM. That's right. But none of those three things are covered.

The CHAIRMAN. Oh, yes.

Senator METZENBAUM. Mr. Chairman, I didn't interrupt you. If you please, if you please, I didn't interrupt you.

The CHAIRMAN. Go ahead.

Senator METZENBAUM. All right. Thank you.

There is certainly no national security issue. There is certainly nothing about the deliberative processes of the executive branch, because this is a matter of 15 years ago. I can't have anything to do about those deliberative processes, or other aspects of the performance of the executive branch's constitutional duties. I see no way that those can be involved.

So then you drop down in this particular memorandum to the point of the Department having the right to ask the President to do it, and the President invokes executive privilege. Nobody denies the fact he has the right to do it—I don't deny the fact; others on the committee may. But he has the right to do it.

But I question the judgment, I question the propriety of doing it. I question whether it should be done when we have before us the confirmation of a Chief Justice who himself says let the information be made available. "I don't object to it."

Mr. Chairman, I believe that what you have here is a situation where you have drawn a blanket over a part of the Chief Justice's background, in a period of time that was extremely important, as spelled out by Senator Kennedy. What concerns me is why he would do this. What logical reason?

Separation of powers does not fly, Mr. Bolton. You can hang it on that, but it does not fly, since the President's memorandum very carefully takes care of that.

The CHAIRMAN. Where is this?

Senator METZENBAUM. Where is what?

Mr. BOLTON. Mr. Chairman, could I respond, if Senator Metzenbaum has concluded? Could I respond?

The CHAIRMAN. Yes, you may respond.

Mr. BOLTON. The claim of executive privilege here is based on all three of the heads that are listed in the sentence from the President's memorandum that you referred to.

And I would say in response to your comments, and to a remark that Senator Biden made, that "a lot of people may not understand this." A lot of people may not understand it, and I wish that the appreciation of the importance of separation of powers and the proper role of the three branches was more generally known.

Senator METZENBAUM. But it is not separation of powers.

Mr. BOLTON. It is, Senator, with all due respect.

Senator METZENBAUM. Because the President has specifically said we may have the information unless you invoke Executive privilege and you people told him to invoke it. So, there was no separation of powers issue until you told him to invoke it.

Mr. BOLTON. I do not quite follow that, Senator.

The CHAIRMAN. Go ahead. You have a right to finish your statement.

Senator METZENBAUM. But I do. I do follow it.

Mr. BOLTON. The President has made a determination based on the recommendations that I noted before, that release of these documents would impair the internal deliberative functions of the Government.

And even though it was some time ago, as I quoted earlier from Justice Brennan, not known as an extreme conservative, and his adoption of the Solicitor General's brief in Nixon against Administrator of General Services, the privilege survives the tenure of any one President because—and I will quote again: "The privilege is not for the benefit of the President as an individual, but for the benefit of the Republic."

Senator METZENBAUM. Mr. Bolton, did you give us the memos, the private memos of Brad Reynolds when he was up for confirmation?

Mr. BOLTON. I was not at the Department at that time. My understanding is that memoranda from the files of the Civil Rights Division were provided to the committee, but I would stress that there is a difference between the work of the litigating divisions of the Department—although in some cases, a claim of Executive privilege would be appropriate there—and the Office of Legal Counsel and the Solicitor General's Office which perform core functions of advising the Attorney General, the President's chief legal adviser.

And I might note that, as I understand it, during the confirmation hearings of Charles Freed to be Solicitor General, the committee requested documents from the Office of the Solicitor General, and the request was declined.

Senator METZENBAUM. Mr. Bolton, did you give Office of Legal Counsel memos to the House?

Mr. BOLTON. As I indicated earlier to Senator Simon who asked a similar question, and let me repeat what I said there, because there is still the potential for litigation arising out of that matter, I am constrained in what I can say.

But one critical difference between that situation and the present situation is——

Senator METZENBAUM. Well, just answer yes or no. Did you or didn't you?

Mr. BOLTON [continuing]. Is that in that situation, the President determined to waive Executive privilege. Here, he has determined to assert it.

Senator METZENBAUM. But you did give the memos to the House?

Mr. BOLTON. Such documents were produced. That is correct.

The CHAIRMAN. Anything else now? We have got to get onto these witnesses. I want to say this: this is not the first time Executive privilege has been claimed. In 1961 and 1962, I spearheaded an investigation concerning the merging of the military.

I requested memorandums and documents, and everything from the Defense Department, from Secretary McNamara. He would not furnish them. And finally we kept on and on, and then the vice president was sent down to the hearing to announce that he claims Executive privilege.

This is no more of a Watergate or a coverup than I caught back during the Kennedy administration. They denied me the documents I wanted at that time. They claimed they had the reason for it, national security, and so forth. Anyway, that was it.

So this situation today is no worse than it was then. They have a right to exercise Executive privilege, and I did not contend further because I knew they had that right.

Now you have exercised executive privilege here on behalf of the Attorney General and the President, and that ends it. If you want to furnish anything else tomorrow or later, you can do it, but so far as I am concerned, that ends it, and we are now going into the witnesses, and you are now excused.

Senator KENNEDY. If the Chair would—since there was some reference to a previous administration, if I could just have maybe 1 minute on that.

The CHAIRMAN. I will be glad to——

Senator KENNEDY. If it was wrong then, it does not make it right now. There were wrong things that—mistakes made during that time, and it does not make them right now.

Now I understand, that under the Executive order, to comply with it, the document has to be referenced, the date has to be referenced. The author has to be referenced and the recipient has to be referenced, in order to comply with the law. And——

The CHAIRMAN. I thought I should have had them then, but under the authority now——

Senator KENNEDY. Well, I am just asking whether that has been complied with now, from the Office of Legal Counsel.

The CHAIRMAN. I think——

Senator KENNEDY. Those are the requirements under law now——

The CHAIRMAN. I think they have got grounds here to claim——

Senator KENNEDY [continuing]. And I want to know if those have been complied with.

The CHAIRMAN [continuing]. If they want to. In fact——

Senator KENNEDY. I am asking a question. Can I get the answer?

The CHAIRMAN. In fact we could even——

Senator KENNEDY. You can give me the answer. Otherwise we will sing a song here——

The CHAIRMAN. Do you want to answer his question?

Senator KENNEDY. I do not think there have been, and that is why we are getting a little committee filibuster.

Senator HATCH. Look at that smile on Senator Kennedy's face.

The CHAIRMAN. Well, at any rate, even if he had not claimed Executive privilege, I think the committee had the right to act on the second and third reasons here, to waive exceptions.

Senator KENNEDY. Well, have they got the document date, author and recipient? Have you complied with that part of the law?

Mr. BOLTON. Excuse me, Senator Kennedy. From what portion of the memorandum?

Senator KENNEDY. To use the Executive privilege, under existing judicial precedents, you have to name the document, the date, the author, and the recipient. Those are required now under the current judicial holdings for the exercise of Executive privilege, and I am asking whether that aspect of the law has been complied with by the administration.

Mr. BOLTON. Well, I believe what you are referring to is if there is anything further to be done with it. There is certainly no requirement, at this juncture, that such a tabulation be prepared.

Senator KENNEDY. I believe once, if you are going to use Executive privilege for any particular document, those requirements have to be met. So I would hope that you would, because there is going to be obvious efforts to obtain them.

Mr. BOLTON. I would say again, Senator, I do not believe there is any specific requirement at this point.

The CHAIRMAN. In 1961, they were not referenced then. The military was muzzled. They could not talk against communism, make public speeches, and I objected to it because they were muzzled. I tried to get some documents and they——

Senator KENNEDY. I thought we were going onto the other witnesses.

The CHAIRMAN. Let me get through. And no numbers were given. No numbers were given, no reference was given——

Senator KENNEDY. That is a long time ago.

The CHAIRMAN. And I was just in a—that is right, a long time ago.

Senator KENNEDY. That is a long time ago.

Mr. BOLTON. I am with you, Mr. Chairman.

The CHAIRMAN. At any rate, this situation here is not half as bad as that. Now we are going to the witnesses. We are going to the witnesses now.

Now the following people have submitted statements to save time: Donald Baldwin, executive director, National Law Enforcement Council. Paul M. Weyrich, Free Congress, Research and Education Foundation. Patrick V. McGooghan, the Institute for Government and Politics. The Honorable Phil Neal, Neal, Gover & Eisenberg; Mr. Gerhardt Casper, office of the dean, University of Chicago, Law School; Honorable Charles S. Rhein, past president, American Bar Association. Gerald P. Regard, president, Family Research Council. William French Smith, former Attorney General. All in support of Mr. Rehnquist.

To save time, we are just going to put them in the record.

Mr. LOTT. Mr. President, in the past, a number of Senators have risen in the Judiciary Committee and here on the floor and really complained about previous administrations not providing all the information that was required. I remember in particular there was a situation with Justice Rehnquist where his confirmation was held up because I believe Executive privilege was asked for by the administration, and the committee said we are not going to let this nomination go forward until we get all of the information. It was held up.

That is what we should do here. We should hold this nomination up until we find out exactly what happened in these negotiations and those discussions outside the room. Once that is done, then I think we can take up the nomination and vote, having full faith that we took every effort to find out the details of what transpired.

Mr. President, I see that there are members of the Judiciary Committee here on the floor that can perhaps give some more detail on what happened. I would be glad at this time to yield the floor so that they may speak.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. SIMPSON. Mr. President, while the majority leader is here, I might make a request, if I could, for an additional 10 minutes. I am perfectly aware of how unattractive that is to most of us. But I originally had requested that I be consulted before this came forward. I was not given that privilege.

It is not the leader's fault, but nevertheless—I would like to have 10 or 15 minutes of remarks. I ask unanimous consent for the additional 10 minutes so I might discuss this, because certainly the consultation was not honored.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. MITCHELL. Mr. President, I am sorry that the consultation fell through. Of course, we just dealt with the leader's office.

But I have no objection. Might the Senator agree that Senator DECONCINI would have an equal amount of additional time, if he chooses to do so?

Mr. SIMPSON. I can assure you I think that is acceptable.

Mr. MITCHELL. Mr. President, I make the request.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Wyoming, Mr. SIMPSON, is recognized.

Mr. SIMPSON. Mr. President, I thank the majority leader for his sense of fairness, which is always evidenced. I admire him, and I have told him that many times.

Mr. President, this is one that perhaps I should not enter into, but I cannot resist because it is so blatant and so strange. Janet Napolitano, who has been nominated by this administration to be the U.S. attorney for Arizona, has declined to answer certain questions which Senator STROM THURMOND and I submitted to her during the Judiciary Committee's review of the nomination.

She was present when the committee staff interviewed one Susan Hoerchner, a person involved in the Clarence Thomas hearings who Anita Hill initially identified—please hear this—as the only person, the only person, she had ever told about the alleged sexual harassment. Remember, too, in your review that Anita Hill never alleged sexual harassment to the Judiciary Committee. That seems to have been forgotten in the revision of history in the current day. But she never alleged that Clarence Thomas had been guilty of sexual harassment, never: Not in the FBI report, not in her first statement, not in her revised statement.

She wanted the committee to look at his behavior, to be aware of his behavior. Then she refused to give the committee her name; she refused to have her name submitted to the accused. And the chairman, being a fair and remarkable man, said, "We do not do business that way."

Then, through the media—and we all know the story—her story was presented when a member of the media called her and said, "Everybody knows about this. Are you going to say it, or shall we say it?"

So she said it for herself, and she said, "This is devastating for me." And it has proven so; just as devastating for her, Anita Hill, as it was devastating for Clarence Thomas.

That all happened while I was observing. And a most fascinating part of the process was the witness, Susan Hoerchner, who had her own attorney—get this—present at the committee interview. Ms. Napolitano was also present and introduced herself on the record as the attorney for Anita Hill; nothing more.

During the interview, Hoerchner related that she recalled Hill telephoning her in September 1981 to say she was being sexually harassed by her boss. Hill did not go to work for Thomas until September 1981. Hill had already testified that the harassment had occurred 2 or 3 months after she took the job with Clarence Thomas. Thus, according to Hoerchner's recollection, it could not have been Clarence Thomas who Hill spoke of in the September telephone conversation.

So Hoerchner then also told the Senate investigators—this is all in the transcript—that Hill had related to her recently that Hoerchner was the only person she had told about the harassment.

At this point, Napolitano interrupted the interview to ask if she could speak privately to Hoerchner. There was then a break in the interview—this is all in the transcript—while Napolitano took Hoerchner into the hall to speak to her. Hoerchner came back and testified that she could not remember for sure when the telephone conversation with Hill did take place. She corrected herself to say it was the FBI agents who interviewed her who made her think that she was the only person that Anita Hill had told about the alleged harassment.

Those changes in Hoerchner's testimony after her private conversation with Napolitano in the hall I think raises a valid question of what Napolitano told Hoerchner in that conversation.

For example, did Napolitano tell her that Hill, in her testimony to the Judiciary Committee earlier in that day, had stated that the alleged harassment had occurred months after the date Hoerchner had suggested? Did Napolitano tell Hoerchner that her testimony contradicted Hill's testimony that morning that she had told three persons instead of one about the alleged harassment?

So Senator THURMOND and I submitted questions to Napolitano asking what she said to Hoerchner when she took her into the hall to speak to her privately and confidentially, and Napolitano has refused to answer claiming the attorney-client privilege.

Napolitano was not Hoerchner's attorney. So no attorney-client privilege relationship existed between them. There was no lawsuit involved, no litigation. So there was no common defense which Hill and Hoerchner can claim.

So the common interest or the pooled information exception did not exist in this case. Further, the attorney-client privilege exists to protect confidential communications from the client to the attorney, or to protect communications from the attorney which could disclose confidential matters told to the attorney by the client.

If Hoerchner was seeking legal advice, then she would have sought it from her own attorney, who was present at the time.

Additionally, since it was Napolitano who interrupted the interview and sought to speak with Hoerchner, one can only conclude that in reality, Ms. Napolitano is seeking to protect Ms. Napolitano, not Hoerchner. All we want Napolitano to answer is this question, which she has refused: What did you say to Susan Hoerchner when you took her out into the hall? We do not want to know what Hoerchner said to Napolitano. In fact, we do not even know if she said anything to Napolitano. What we wanted and needed to know, before confirming her as the chief Federal prosecutor in the State of Arizona, is whether she did indeed instruct Hoerchner to alter her testimony to Senate investigators.

Instead, she refuses to answer, using what I believe is a bogus claim of privilege, since she was not the attorney of Susan Hoerchner. I will not support the confirmation of a nominee who is not forthcoming, one who would hinder rather than facilitate the committee's efforts to carry out its confirmation duties.

I might also note that in the 10 years since her graduation from law school, Ms. Napolitano has had virtually no criminal justice experience. She has said that .5 percent of her practice —half of 1 percent of her practice—has involved criminal matters, and I predict she will have a very difficult time as a Federal prosecutor if she takes this extraordinary broad and loose view of the attorney-client privilege. Criminal defendants will use it against her. I believe that they can read the transcripts. I think she is going to find her work to be very difficult. It is very unfortunate to see a person who will be the chief legal officer—and I am fascinated as to her rationale as to why she would not respond—using some kind of pooled information doctrine when it obviously does not apply.

So I am sure there will be some dazzling explanations on Ms. Napolitano's behalf as to how good she is. I do not know about that. All I know is that she pulled a woman out into the hallway and said something to her and then exerted the privilege, and there was no purpose in that, unless she was rehabilitating her testimony, which seems to be the case in reviewing the record. Very interesting. That is why I will vote against her. I am not up to filibustering. I have never said that. I am up to a little honesty and openness about a concept used in litigation and used between the attorney and the client. This is absurd.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER (Mr. ROBB). The Senator from Arizona is recognized.

Mr. DECONCINI. Mr. President, just for clarification purposes, and then I will yield to the Senator from California, let me explain. Janet Napolitano was one of several lawyers representing

Anita Hill. Judge Hoerchner was a corroborating witness for Anita Hill, who was represented by Mr. Allen. During the conversation that is in question here, attorney Napolitano represented her client in a matter of common interest, in cooperation with an attorney for another client—here, Mr. Allen, who represents Ms. Hoerchner. The conversation, off the record, was among Ms. Hoerchner, her attorney, Mr. Allen, and Ms. Napolitano, the attorney for Ms. Hill.

What does all that mean? Well, according to the leading authority on legal ethics, Prof. Geoffrey Hazard of Yale Law School, along with the American Law Institute's Restatement of the Law Governing Lawyers:

> "In such circumstances, the attorney-client privilege protecting Ms. Hoerchner governs not only her attorney, Mr. Allen, but the other attorney made privy to the discussion of the matter of common interest," meaning and stating "Attorney Napolitano."

So if this nominee came forward and disclosed what this conversation was, she is violating the code of ethics and would be subject to disbarment in the State of Arizona. As a result, Janet Napolitano is in a no-win situation. She has asked Ms. Hoerchner if she would waive her privilege but Ms. Hoerchner has elected not to, and there is a letter in the RECORD stating her reasons for doing so.

So Ms. Napolitano was willing to come forward and explain everything. But she cannot. Is she to be punished because she represented Anita Hill? Is she to be punished because she does not want to violate her legal code of responsibility and disclose this privileged conversation? I do not think she should.

I do not think the Judiciary Committee has the right to force her. They cannot force her. She has been cooperative and has gone so far as to ask the person who has the privilege—in this case, Judge Hoerchner—if she would waive this privilege, but Judge Hoerchner has declined. It is clear that the attorney-client privilege is here.

I yield 2 minutes to the Senator from California.

Mrs. BOXER. I thank the Senator for yielding. The Senator from Wyoming says, "I do not know how good this woman is," and I think it is important to look at her qualifications: Phi Beta Kappa, Truman scholar, clerk to the Ninth Circuit Court, partner in a law firm. If the Senator wants more, I could read that she has been warmly endorsed by all of the Arizona U.S. attorneys for the past 20 years, appointed by both parties, and the last U.S. district court judge appointee of President Bush is among them. She was warmly endorsed by the ranking Republican on the State supreme court. The five most recent Presidents of the Arizona State Bar have warmly endorsed Ms. Napolitano and strongly commend her for meeting the ethical requirements of the attorney-client privilege. The Arizona Republic and the Atlanta Constitution have editorialized strongly in her favor.

I have to say, Mr. President, that I am very sad to see this campaign—if I can call it that—against a most qualified nominee for U.S. attorney. There is no real issue against Ms. Napolitano. We have the transcripts here that show this whole business of an interruption. That is based on a false transcript. We have a transcript here. We have the highest experts saying this woman is quite ethical.

I am very distressed that there are some in this Chamber who cannot seem to put behind them the Thomas-Hill hearings. Let us heal this Chamber. When are we going to put that behind us? We have a qualified woman here. She is probably more qualified than many who have come before her. The Senator from Arizona feels she would be excellent.

I just have to say what is really going on here is not about this interruption, because that has all been cleared up on the record. She has been cleared. What it is about is that there are some people who cannot put the Thomas-Hill hearings behind them. Yes, she was one of the lawyers for Prof. Anita Hill. Guess what? That is not a crime. Let us come together and vote for this nominee.

I yield the floor.

The PRESIDING OFFICER. All time yielded to the Senator has expired.

Who yields time?

Mr. DECONCINI. Mr. President, I yield 2 minutes to the Senator from Illinois.

Ms. MOSELEY-BRAUN. Mr. President, I will pick up where my distinguished colleague from California left off to say that this is an issue that should have died a simple death and, instead, the issue is continuing to rattle along and to bedevil all of us in this Chamber.

Actually, I would not be in this Chamber were it not in part for this issue. Frankly, it was the conduct of the Senate committee in the Thomas-Hill hearings that alerted America and suggested to a lot of people out there that there ought to be women elected to this body. I, along with a group of other women, were elected for the first time. It was a sea change in American politics coming from that one incident. Why this is being dragged out like this is a mystery to me. It makes no sense to continue to pick apart all of the discrete incidents and occurrences associated with those hearings and continue to air that laundry, if you will, before the world every time a new aspect of it arises.

That is precisely what is involved here. There are people who are upset and angry at the way this nominee conducted and comported herself in connection with her representation of a witness at the hearing. It is just that simple. Out of that disapproval of her conduct—coming out of that activity—her nomination as a U.S. attorney for Arizona is being held up.

I think it is unfair, wrong, and, quite frankly, I think the objection to her nomination underscores the need for some consciousness raising on the entire issue of what is and is not permissible conduct.

I was taken by another irony, in addition to the fact that I am standing here speaking on behalf of a woman who came out of a hearing—that had the hearing not happened, I might not be here. There is another irony, and that is the letter speaking to the propriety of Ms. Napolitano's conduct that comes from one Geoffrey C. Hazard, the sterling professor of law at Yale Law School.

He also was and is the director of the American Law Institute. Professor Hazard says in 25 words or less that what she did was ethical and in keeping with the representation, the highest conduct and standard of conduct for attorneys representing their clients.

But even more to the point, I was struck by the fact Professor Hazard was a professor of mine at the law school in Chicago years ago. I do not know Ms. Napolitano, but I do know Professor Hazard. He is a man of sterling integrity and of the highest caliber intellect. He is probably one of the smartest lawyers in this country. For him to have opined that in this situation there was no violation of any legal rules, there was no violation of any legal ethics and activities, Ms. Napolitano was fully in keeping with the highest standards of practice seems to me to tell or should tell someone something.

What it tells us is that there is no rationale, no good reason to hold up this nomination, and that the efforts to hold up this nomination are predicated in a longstanding crunch from 1½ years ago that just will not go away.

I will conclude my remarks by saying I hope that the Members of this Chamber will put a stake through the heart of those hearings once and for all and end this chapter in our history by approving this nominee.

The PRESIDING OFFICER. The time allotted to the Senator from Illinois has expired.

Who yields time?

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Wyoming.

Mr. SIMPSON. What is the situation with regard to time?

The PRESIDING OFFICER. The Senator from Wyoming controls 4 minutes and 27 seconds; the Senator from Arizona controls 5 minutes and 41 seconds.

Mr. SIMPSON. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator's time is reserved.

Who yields time?

Mr. DECONCINI. Mr. President, I would suggest the absence of a quorum.

Mr. SIMPSON. Is the Senator waiving the remainder of his time?

Mr. DECONCINI. I am prepared to yield it back, if the Senator wants to yield it back. I am prepared to proceed.

Mr. SIMPSON. I reserve my time, and if we go to a quorum call, we then delay.

Let the record be absolutely clear I want my colleagues from Illinois and California, if I might have their attention——

The PRESIDING OFFICER. The Senator from Wyoming [Mr. SIMPSON] is recognized on his time.

Mr. SIMPSON. For a point of parliamentary privilege, this Senator is not involved in placing a hold on the nomination of this nominee. I have never done that. I said I would not filibuster. I want the record to be absolutely clear. All I said was I wanted a consultation before it came forward so we could have a proper time agreement which might have been another 20 minutes on either side. I want the record to be absolutely certain that this Senator was not involved in delaying tactics in any sense.

Mr. DECONCINI. Will the Senator yield on my time?

The PRESIDING OFFICER. The Senator from Arizona [Mr. DECONCINI].

Mr. DECONCINI. I concur in the remarks by Senator SIMPSON. He has never indicated and, quite to the contrary, has indicated from the very beginning that he would not hold up this nomination. Though he felt strongly about her, he would present some facts as he sees them and make a case and vote against her. That is very accurate.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming [Mr. SIMPSON].

Mr. SIMPSON. Let me say I am very pleased to work with these new Members. These two fine Members are on committees on which I serve—Judiciary with Senator MOSELEY-BRAUN, and the Environment and Public Works with Senator BOXER. They are a great addition. They bring great energy, spirit, and intellect to this place. I am fascinated when I hear about washing old laundry on this. When the 2-year anniversary came, I was interviewed by 100 people hoping they could find out things during the second anniversary.

I said, "Why do you not all go home?" They did not go home. This is not about laundry. She did not answer my questions and she used a privilege that does not exist in this instance, because she was not that person's attorney. To me that brings into question her knowledge of the law. I think nominees must be required to cooperate with the Senate in its constitutional duty to investigate a nominee's qualifications for high office. The question here is: Should the Senate confirm nominees who refuse to provide information requested by the Judiciary Committee.

Some nominees in recent memory were required to supply 30 boxes of materials to emphasize the type of inquiry that some nominees were required to respond to. So that is where I am coming from.

Thank you.

Ms. MOSELEY-BRAUN. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Who yields time?

Ms. MOSELEY-BRAUN. Is the Senator not aware that Attorney Napolitano was acting in the capacity of counsel to Ms. Hill at the time of these occurrences?

Mr. SIMPSON. I would respectfully say to my colleague from Illinois that she was representing Anita Hill, indeed, but she was not representing Ms. Hoerchner, because Ms. Hoerchner had an attorney of her own and this is not a phony transcript. This is a complete transcript of an interview which is not sworn to but nevertheless has never been objected to and was recorded.

Ms. MOSELEY-BRAUN. Then I would bring the Senator's attention to Professor Hazard's letter of September 28 where he talks specifically about the attorney-client privilege, and he says on page 7.

> Attorney Napolitano was representing her client, Ms. Hill, in a matter of common interest in cooperation with an attorney for another client, Mr. Allen on behalf of Ms. Hoerchner. The conversation off the record was among Ms. Hoerchner, her attorney Mr. Allen, and Ms. Napolitano as Ms. Hill's attorney. In such circumstances, the attorney-client privilege protecting Ms. Hoerchner governs not only her attorney, Mr. Allen, but the other attorney made privy to the discussion of the matter of common interest, Attorney Napolitano.

That is kind of a black book law to my colleague, and I know he delves into these matters, but that is and always has been the interpretation of the operation of the privilege in these circumstances.

So to suggest that somehow Attorney Napolitano was acting outside of the authority and the responsibility that her status as Ms. Hill's attorney gave her in this situation I think again obscures the point of her responsibilities as counsel to Ms. Hill in connection with matters of common interest with Ms. Hoerchner.

Mr. SIMPSON. Mr. President, let me say it would be——

The PRESIDING OFFICER. The time controlled by the Senator from Wyoming has expired.

Mr. SIMPSON. Could I have an additional minute?

Mr. DECONCINI. How much time does the Senator have?

The PRESIDING OFFICER. The Senator has 5 minutes and 17 seconds.

Mr. DECONCINI. Mr. President, I yield 2 minutes to the Senator.

The PRESIDING OFFICER. The Senator from Wyoming is recognized for up to 2 minutes on time chargeable to the Senator from Arizona.

Mr. SIMPSON. I thank the Senator very much for his courtesies.

It would be hazardous to challenge Professor Hazard, but I will, and I certainly will, because there was no lawsuit involved here. No litigation was involved in this situation.

So there was no common defense which Hill or Hoerchner could claim, so the common interest, or the pooled information exception, does not exist in this case. We do not want to know what Ms. Hoerchner said. I want to know what Ms. Napolitano said, and that has nothing to do with the claimed privilege because they were not in the attorney-client relationship, and there was no litigation involved so no common interest, no common defense, and no pooled information exception.

Ms. MOSELEY-BRAUN. Mr. President, will the Senator yield?

Mr. DECONCINI. Mr. President, if I could, I will yield time in a moment.

The PRESIDING OFFICER. The Senator from Arizona [Mr. DECONCINI].

Mr. DECONCINI. Mr. President, I have to beg to differ with my friend from Wyoming because, according to the people who write ethics, who write evidence rules—and one is "Weinstein on Evidence"—it says clearly the privilege between attorney and client apply not only to the actual litigation but to "whenever the communication was made in order to facilitate the rendition of legal services to each of the clients involved in conference." That is exactly what we are talking about.

Ms. Napolitano was there with Ms. Hoerchner's lawyer, Mr. Allen, as the Senator from Illinois just read in Professor Hazard's letter. That is what happened. A privileged conversation took place. And now, Janet Napolitano is being asked to dissolve that privilege, which she cannot do. To me, there is no question that the privilege is there, although some will disagree, and I respect that, but I believe it is overwhelmingly clear.

I am glad to yield a minute to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois [Ms. MOSELEY-BRAUN] is recognized for up to 1 minute.

Ms. MOSELEY-BRAUN. I thank the Senator from Arizona very much. He took the words out of my mouth and made exactly the point I wanted to make.

I know the Senator from Wyoming is aware that the attorney-client privilege does not necessarily require litigation to be ongoing. The privilege attaches to the relationship, not necessarily to the forum.

But, be that as it may, I want to say in closing—because I really had not intended for this to become this kind of colloquy—one of the lovely things about this institution is that individuals can object to a nomination for a good reason, a bad reason, or no reason at all.

If the Senator were to suggest that the reason for holding up or for objecting to this nomination was a good reason, then I submit to him Dr. Hazard's analysis of the law, and suggest that maybe perhaps on the law it is not really a good reason. We, obviously, are entitled to disagree with one another on the law.

But here I think the law is pretty clear. What Ms. Napolitano did as an attorney was in keeping with not just the law but with the ethics of the profession.

The second point, however, is with regard to no reason at all. If the Senator wants to object to her confirmation for no reason at all, it certainly is obviously his right or anyone else's right.

But let us be clear. The objection to this nomination is not made for bad reasons. It is the bad reasons that worry me and for which I have taken the floor to suggest that perhaps it is time we put the Anita Hill-Clarence Thomas hearings behind us.

Mr. DECONCINI. Mr. President, how much time does the Senator from Arizona control?

The PRESIDING OFFICER. The Senator from Arizona controls 1 minute and 32 seconds.

Mr. DECONCINI. Mr. President, I yield the remaining time to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for the remaining time.

Mr. BINGAMAN. Mr. President, I thank the Senator from Arizona very much.

Mr. President, I wish to just speak briefly, because I know the nominee. I compliment the Senator from Arizona for the excellent recommendation that he made to the President in this case, and I compliment the President for indicating his desire to go forward with this nomination.

Janet Napolitano is someone who grew up in New Mexico. Her father is the retiring dean of our medical school; an extremely respected family in our State.

She is one of the real bright stars that we like to look as coming up in the legal profession around this country. She has practiced law with great distinction in Phoenix, AZ. I know many of the attorneys who have practiced with her and they are extremely respectful of her capability.

I think this is an excellent nomination. I urge my colleagues to support her.

CLOTURE MOTION

The PRESIDING OFFICER. All time having been yielded back or expired, under the previous order, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on Executive Calendar No. 387, the nomination of Janet Ann Napolitano to be U.S. attorney for the District of Arizona:

Wendell Ford, Paul Wellstone, Tom Harkin, Paul Simon, Edward Kennedy, Pat Leahy, Jay Rockefeller, Jeff Bingaman, David Pryor, Patty Murray, Dianne Feinstein, Howard M. Metzenbaum, Dennis DeConcini, Harris Wofford, John F. Kerry, Carl Levin.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the nomination of Janet Ann Napolitano of Arizona, to be U.S. attorney for the District of Arizona, shall be brought to a close? The yeas and nays are required. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. DORGAN] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. PACKWOOD] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 72, nays 26, as follows:

The result was announced—yeas 72, nays 26, as follows:

[Rollcall Vote No. 388 Ex.]

YEAS—72

Akaka
Baucus
Biden
Bingaman
Bond
Boren
Boxer
Bradley
Breaux
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cohen
Conrad
D'Amato
Daschle
DeConcini
Dodd
Domenici
Durenberger
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lugar
Mathews
McCain
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sarbanes
Sasser
Shelby
Simon
Specter
Stevens
Thurmond
Warner
Wellstone
Wofford

NAYS—26

Bennett
Brown
Coats
Cochran
Coverdell
Craig
Danforth
Dole
Faircloth
Gorton
Gramm
Grassley
Gregg
Hatch
Helms
Hutchison
Kempthorne
Lott
Mack
McConnell
Murkowski
Nickles
Pressler
Simpson
Smith
Wallop

NOT VOTING—2

Dorgan
Packwood

The PRESIDING OFFICER. On this vote, the yeas are 72, the nays are 26. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Janet Ann Napolitano, of Arizona, to be U.S. attorney for the District of Arizona?

So the nomination was confirmed.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

UNANIMOUS-CONSENT AGREEMENT—H.R. 3450

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of the North American Free-Trade Agreement legislation, H.R. 3450, with the following Senators controlling time: Senator BAUCUS controlling the time for the Democratic proponents; Senator MOYNIHAN controlling the time for the Democratic opponents; Senator STEVENS controlling the time for the Republican opponents; Senator PACKWOOD controlling the time for the Republican proponents; and that the bill be returned to the calendar today at such time as decided by the majority leader, after consultation with the Republican leader.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. Reserving the right to object. Can we find out how much time is left? Eight hours is left? Will there be adequate time for people on all sides?

Mr. MITCHELL. We are working to try to accommodate the Senator.

The PRESIDING OFFICER. Is there objection?

Mr. COATS. Reserving the right to object. I am trying to get some idea for the timing on the votes this evening, particularly on the NAFTA vote. I do not know how much time is left. I would like to speak on that, but if all time is used on this, I would like to inquire of the majority leader whether we will still be voting on that issue this evening and roughly when?

Mr. MITCHELL. Mr. President, I made no decision in that regard and will not do so until I consult further with the Republican leader and the managers of the bill.

The PRESIDING OFFICER. Is there objection to the unanimous consent request propounded by the majority leader? Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I thank my colleagues. If I could say further to the Senator from Indiana that as soon as I make a decision, I will announce it so that all Senators will be aware of it. It depends upon several factors, including how much more time is used this evening which, of course, means how much time is left when we conclude debate on it this evening, and a couple of other measures that we have been discussing. So there has been no decision as yet. I will discuss it in great detail with the Republican leader.

NORTH AMERICAN FREE-TRADE AGREEMENT IMPLEMENTATION ACT

The PRESIDING OFFICER. Under the previous order, the clerk will report the pending business.

The assistant legislative clerk read as follows:

> A bill (H.R. 3450) to implement the North American Free-Trade Agreement.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. Who yields time? The Chair recognizes the Senator from Alaska.

Mr. STEVENS. Mr. President, I yield myself 30 minutes and I will state to Senators, if I understand the procedure correctly, there should be a vote as to what I am going to propose sometime between 6 and 6:30.

The PRESIDING OFFICER. The Senator is recognized for up to 30 minutes.

Mr. STEVENS. Mr. President, I am normally in favor of free trade, and I try to support free trade concepts.

Article II, section 2, clause 2 of the Constitution grants to the Senate the responsibility to review and "advise and consent" to treaties negotiated by the President. Nevertheless, there has been a recent growth in the use of Executive agreements instead of treaties with regard to international agreements. There is no question that this trend has diluted the Senate's constitutionally granted power to advise and consent on such international agreements.

Although the President has some discretion to choose the instrument that he will use to enter into an international agreement, he must respect the confines of the instrument he chooses. I believe the Constitution refers to treaties, to compacts and to agreements as some of the choices the President has. But, I believe that there are some parameters on any President in choosing the instrument that he is going to use for international accords.

This administration's submission of side accords—agreements that are not trade agreements—in the NAFTA implementing legislation oversteps the authority of the President.

Never before has Congress passed a "nontrade" executive agreement under the fast-track procedure. When the fast-track procedure was granted by the Congress to the President, it was never contemplated, and I challenge anyone to find anywhere in any of the reports or in the laws that it was contemplated, that additional nontrade executive agreements could be included in the legislation that approves trade agreements under the fast-track concept.

I believe that the President should be required to submit implementing legislation for the side accords to the Congress which would be subject to amendment by Members of Congress.

I wish to call this to the attention of the Senate. In a few moments I will offer an amendment that will trigger a procedure that we have discussed with the Parliamentarian.

(Mrs. FEINSTEIN assumed the chair.)

Mr. STEVENS. Let me call to the attention of the Senate the fact that NAFTA with the side accords creates a series of new bureaucracies. These were listed in an article that appeared in the Washington Times on November 16, and included a chart prepared by the Competitive Enterprise Institute which listed the number of new bureaucracies created by the side accords. I have seen the list in several other places but for convenience we use the list included in that article.

The first is the North American Free-Trade Commission which has 24 subbureaucracies. The side accords also create the North American Development Bank, the Border Environment Cooperation Commission, the Commission for Environmental Cooperation, which has a series of subcommittees or panels: Council, Secretariat, Joint and Public Advisory Committee, Arbitral Panels, National Advisory Committees, Governmental Committees, and ad hoc committees. There is a Commission for Labor Cooperation, Ministerial Council, International Coordinating Secretariat, National Administrative Offices, Evaluation Committees of Experts, Arbitration Panels again, and a whole series of additional separate items.

Of the 19 items listed on this chart, all except the North American Free-Trade Commission are created by separate agreements that are incorporated in this legislation. These are new bureaucracies. One, as I said, is the North American Development Bank. It was negotiated after the other side accords were completed, as was the Border Environment Cooperation Commission.

What concerns me about these commissions is they create high-level staff positions that will be filled by individuals that are not appointed with the advise and consent of the Senate. Although the U.S. representative or the environment and labor councils will be filled by a cabinet-level official, there are many other powerful staff positions such as the Secretariat that will be appointed without congressional approval. Except for the council representative, none of them will be submitted to the Senate for confirmation. All of them will be appointed without congressional approval.

The Secretariat has authority to investigate a wide range of issues that could have a significant impact on individual States, and that is why I am here today.

I believe that the Congress has a role to play in the creation of new international bodies. I would liken this to the Law-of-the-Sea Treaty. The concepts that are created by these two side agreements are very much like the Law-of-the-Sea Treaty. They are so similar that I believe the side accords should have been negotiated as a treaty and presented to the Senate as such. They instead come to us as side agreements. But, they are not trade agreements.

Now, Madam President, I am one who lived through the Depression days. I have heard a lot of people talk here today and yesterday about their personal experiences with regard to trade and the role that it played just prior to the depression.

Nevertheless, I believe Congress has made a great mistake in this trade agreement to begin with by ignoring the viewpoints that have been expressed by working people throughout the country. In their effort to balance those interests, I believe, the administration has created a situation where—and this is not a political comment, it is just a fact—in seeking to augment new points of view, rushed ahead and created two additional agreements for the purpose of addressing some of those concerns. The result was the additional side accords—executive agreements that should not be in this bill.

Parliamentary inquiry: Has this bill been designated as a revenue measure?

The PRESIDING OFFICER. The bill has been considered on the assumption that it is a revenue measure.

Mr. STEVENS. I believe that the Senate should be aware that under the Constitution there is no question that article I, section 7 provides Members of the Senate the right to offer amendments to revenue bills.

Article 1, section 7:

> All bills for raising Revenues shall originate in the House of Representatives, but the Senate may propose or concur with Amendments as on other Bills.

Now, just as a side reference, listen to that—"as on other bills." I have presumed now for 25 years that I have the right to offer an amendment to any bill, right? We sometimes limit that right to offer amendments. We designate that we can consent to it, but we enter into consent agreements. In this instance, we set up a procedure that I think has ignored this Constitutional right, and I wish to now trigger this concept.

AMENDMENT NO. 1221

(Purpose: To strike Subtitle D, Implementation of NAFTA Supplemental Agreements, from the North American Free Trade Agreement Implementation Act)

Mr. STEVENS. Madam President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will read the amendment.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 1221.

Beginning on page 282, line 11, strike all through line 4 on page 300.

Mr. STEVENS. Madam President, I would ask, is this amendment in order?

The PRESIDING OFFICER. The Chair holds that the amendment is not in order under fast-track legislation 19 U.S.C. 2191(d).

Mr. STEVENS. Madam President, I appeal the ruling of the Chair.

Mr. MOYNIHAN. I ask for the yeas and nays.

The PRESIDING OFFICER. Under the fast-track debate, there will be 1 hour evenly divided.

Mr. STEVENS. Madam President, it is my understanding that a half-hour will be under my control as the proponent. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. STEVENS. Will the manager of the bill on the other side be in charge of other 30 minutes?

The PRESIDING OFFICER. That is correct.

Mr. STEVENS. Madam President, I wish to point out once again I believe that as Members of the Senate, we have at the very least, a constitutional right to offer amendments to revenue bills. The ruling of the Chair has just denied me that right after stating that NAFTA is a revenue measure. Clearly, article 1, section 7 of the Constitution gives me the right to propose amendments. The Senate has the right to propose and concur with amendments "as on other bills." The measure before this body is a revenue bill, and should be amendable. I think the Senate must carefully consider this issue. We must consider the very vast precedent that is involved in the procedure that has been followed by this administration. The administration has included in the implementing language of the NAFTA, language to authorize its additional executive agreements.

I do not criticize them for attempting to achieve their goal, but let us look at how we got where we are now.

The 1974 Trade Act sets up the fast-track procedure. It specifically defines the parameters of any legislation to implement a trade agreement under that fast-track procedure established in this act. It states specifically in section 151(b)(1) that the term "implementing bill" means only a bill of either House of Congress which is introduced, et cetera, for the purpose of carrying out approval of a trade agreement. It can only contain: "(A) a provision approving such trade agreement or agreements, (B) a provision approving the statement of administrative action (if any) proposed to implement such trade agreement or agreements, and, (C) if changes in existing laws or new statutory authority is required to implement such trade agreement or agreements, provisions, necessary or appropriate to implement such trade agreement or agreements, either appealing or amending existing law or providing new statutory authority."

Madam President, there is no question that the ruling of the Chair based on the fast-track procedure has prohibited me from offering an amendment to a revenue bill, and has violated my constitutional rights as a Senator from Alaska to offer an amendment to a revenue bill.

It does not seem fair that there can be a procedure in American democracy that would deny a duly elected person the right to try and change a bill—particularly a bill of this type which does not comply with the law.

The side accords included in this legislation were negotiated too late. They were concluded too late for the President to submit them under the fast-track procedure.

Under the 1988 Trade Act, Public Law 100-418, section 1102(c), Congress granted President Bush the authority to "enter into bilateral trade agreements with foreign countries that provide for the elimination or the reduction of any duty imposed by the United States." The authority to negotiate the trade agreement was granted under the fast-track procedures of section 151 of the Trade Act of 1974. Fast-track authority expired on June 1, 1991, but the President had the right to request an extension until May 31, 1993. The extension would be automatically granted unless either House of Congress adopted a resolution of disapproval. Neither House passed one, and the authority was extended until June 1, 1993.

On August 13, 1993, after the expiration of the fast-track authority, the administration announced the completion of two supplemental accords, one on the environment and the other on labor. Let me repeat. The side accords were negotiated 2½ months after the authority for negotiations under fast track had expired.

My second point is that the side accords are not trade agreements. But they are being included in this legislation. My amendment seeks to knock them out. They should not be here. They are not subject to consideration under the fast-track procedure.

In a letter dated October 7, 1993, Trade Ambassador Mickey Kantor told Congressman BILL ARCHER that the environmental and labor side accords were not trade agreements negotiated pursuant to the fast-track procedures, and, therefore, Congress would not be asked to approve the supplemental accords pursuant to the fast track. At the Senate Commerce Committee hearing on October 21, I asked Ambassador Kantor the same question. The reply was a slightly different answer. Ambassador Kantor told me that the implementing legislation for the side accords would be included in the implementing legislation transmitted to Congress because the administration viewed it as "necessary and appropriate" to implement trade agreements.

Madam President, this is where they get the "necessary and appropriate." They get it from section 151(b)(1)(C) of the Trade Act of 1974. But the administration is misreading this section. The "necessary and appropriate" language is only involved if changes in existing law or new statutory authority are required to implement such trade agreements.

There is no authority whatsoever in the law to include separate executive agreements in this legislation. And they should not be here. The Chair, by denying me the right to offer an amendment to delete them, has denied my constitutional rights and is permitting the administration to pursue an authority which is illegal. There is no legal authority for these side agreements to be before the Congress under the fast-track procedures.

I ask the Members of the Senate to think about what we are doing. I asked one of them in one of my conversations, Are there no parameters if this precedence is established on a President in the future? For instance, could the President have put his economic package in this bill? Does it just take a simple majority to rule what is lawful? Can we let a President, in effect, amend a 1974 law in order to get two executive agreements negotiated after the time for the fast track was expired and not within the statutory authority, and bring before us two agreements that in effect deny any Member of the Congress the right to amend them to protect their constituencies?

I go back to my original comment about a treaty. If it were a treaty, we could put a reservation on it. We could offer some understanding as to what it meant. The administration recognizes these are not trade provisions—they have publicly stated so. The side accords are not trade agreements; they are executive agreements.

Since they are not trade provisions, they cannot be "necessary and appropriate" as required under the law to bring about changes in the law or new statutory authority. The Senate should realize that there is no reason to include under fast-track consideration additional material that any President wants to send up here.

We provided the fast-track procedure for a purpose—to allow the President to successfully negotiate trade agreements with other countries. The only thing that can be included in this bill being considered under the fast-track procedure is a change that is necessary to existing law, or to add to new statutory authority, to accommodate this new trade agreement. Nothing else can be included.

Let me go back again. Nothing else because the law clearly says that the bill can contain only—only these three provisions listed in section 151(b) in order to consider under fast track.

The Chair has ruled in effect that the fast track applies to agreements negotiated after the trade agreement negotiating period expired and which are not necessary to bring about changes in the law, as noted by the 1974 act.

Nothing in NAFTA requires the implementation of those side accords. The side accords should and must be submitted to Congress under separate legislation which would be subject to hearings.

Let me go back, lastly, and then I will take questions if anyone wants to inquire of me as to what I am doing.

Look at this provision. We are now asking this legislation to implement all of those new bureaucracies to fund them. There have not been any hearings held as to whether the side agreements fell within the fast-track authority. There has been no participation in the creation of the new bureaucracies. Once more, these are trilateral commissions that are not within the control of the Congress from now on because they have been recognized by this legislation as side agreements. We cannot amend them. You cannot pass a law in here to change a trade agreement once it has been approved under the fast-track procedure.

They have the same status, Madam President, as a treaty. But there is the catch-22. How does the Senator from a State like mine—and I have here a whole series of items from my State where my State believes that we will suffer under NAFTA—address these concerns. I might add that there is more under the side agreements that we object to than under NAFTA. How can we possibly deal with those organizations? How can we have any impact on what authority is created and the scope of the recommendations they can make in Canada and Mexico as to our policy? That is an executive action by the President—there is no legislative involvement whatsoever.

I hope, that someone out there—I do not have the ability to do it—someone has the ability to challenge this law in court if my appeal to the Chair is not heard.

Madam President, it is a difficult thing to try and stop or slow down this super express consideration of NAFTA. It has an enormous freight behind it, as we all know, and it is carrying along two extra cars. This law, the 1974 Trade Act, says what can be in the NAFTA implementing legislation. The legislation can only contain specific provisions to be eligible for fast-track consideration. Yet, the fast-track authority is what the Chair has just used to rule my amendment out of order.

I am not normally in company with some of the people who agree with me on this point, Madam President. But I would like to ask to be placed in the RECORD at this time the material prepared by Public Citizen which takes the position that without congressional approval key provisions of the NAFTA supplemental agreements are constitutionally unenforceable. I ask unanimous consent that this be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Public Citizen, Nov. 19, 1993]

WITHOUT CONGRESSIONAL APPROVAL KEY PROVISIONS OF THE NAFTA SUPPLEMENTAL AGREEMENTS ARE CONSTITUTIONALLY UNENFORCEABLE

Pursuant to a campaign promise, the Clinton Administration negotiated supplemental North American Agreements on Environmental and Labor Cooperation. However, for political reasons, the President has not included a provision approving these agreements in the NAFTA implementing legislation.

More specifically, the supplemental agreements were concluded too late to be submitted under fast-track authority, which accelerates congressional consideration, limits congressional hearings and debate, and, most importantly, prohibits congressional amendments to the agreements and its implementing legislation. Fast-track authority expired for all trade agreements (other than the Uruguay Round of the General Agreement on Tariffs and Trade) not entered into by June 1, 1993. As a result, if the supplemental agreements were submitted to Congress, they (and their implementing legislation) could be amended. Political deadlock might result, since many conservative lawmakers believe the supplemental agreements go too far, while some liberal legislators believe they don't go far enough.[1]

The NAFTA Implementing Legislation Does Not Approve the Supplemental Agreements.

To avert such a showdown, NAFTA's implementing legislation does not contain a clause approving the supplemental agreements. The first, subsection of the NAFTA implementing legislation, entitled "Approval of Agreement and Statement of Administrative Action," provides that "the Congress approves" the NAFTA and the statement of administrative action submitted along with it. §101(a). Indeed, the Trade Act require that implementing legislation submitted under fast-track rules must contain a provision approving the underlying trade agreements. 19 U.S.C. §2191(b)(1)(A). The approval section make no mention of the supplemental agreements.

The first reference to the supplemental agreements is in the next section, entitled "Conditions for Entry into Force of the Agreement." "Entry into force" is a term of art that is the final act of making the trade agreement effective as an international obligation, and it is normally under taken by the President through an exchange of notes with other heads of state. It occurs after the President signs (or enters into) the agreement, and after Congress approves it. The NAFTA implementing bill allows the President to exchange notes with Canada or Mexico providing for NAFTA's entry into force "at such time as" that country provides for the entry into force of the supplemental agreements. §101(b)(2). This legal jargon means that the two agreements must become effective together; both are conditions for the other to become effective.

The entry into force subsection says nothing about how the supplemental agreements are to become effective with respect to the United States. This silence, coupled with the omission of the supplemental agreements from the approval section, presume that the President has the authority to sign and proclaim the effectiveness of the supplemental agreements without congressional action.

What the entry into force subsection does is link NAFTA and the supplemental agreements at the outset. As the Administration reluctantly conceded to the Washington Post (Oct. 29), any NAFTA country may withdraw legally from the supplemental agreements without that action affecting its status under NAFTA. To assuage its critics, the Administration indicated that it would withdraw from NAFTA with respect to any country that withdraws from the supplemental agreements. House Doc. 103–159, at 456 (Nov. 4, 1993). However, that statement is not enforceable against this Administration, let alone future ones. Rather, it is simply the Administration's intent at this time when it is trying to garner political support for NAFTA.

Elsewhere, the implementing bill has a subtitle on "Implementation of NAFTA Supplemental Agreements," but that subtitle does not contain a provision approving the supplemental agreements. Instead it authorizes: (1) the United States to participate in the Commissions on Environmental and Labor Cooperation in accordance with the supplemental agreements; and (2) the appropriation of $2 million for the Commission for Labor Cooperation and $5 million for the Commission for Environmental Cooperation for each of fiscal years 1994 and 1995. §§531 & 532.

The Commissions are but one component of the supplemental agreements, set forth in part three of each agreement. The countries' obligations to maintain strong environmental and labor laws and enforcement activities are set forth in part two and exist independently of the Commissions, cooperation commitments are in part four, and most importantly, the dispute resolution systems, including its authorization of trade sanctions, are set forth in part five. Statutory authorization for the United States to participate in the Commissions cannot be considered congressional approval of the supplemental agreements, particularly where that authorization is in a bill that approves other international agreement, but not these.

Footnotes at end of article.

Key Aspects of the Supplemental Agreements are Constitutionally Unenforceable Without Congressional Approval.

The United States can enter into treaties, which require ratification by two-thirds of the Senate, international agreements that require approval by simple majorities of both Houses of Congress, or executive agreements that may unilaterally be put into force by the President. The latter category is typically reserved for agreements concerning matters that are within the President's constitutional powers, such as recognition of foreign countries, receiving ambassadors, and enforcing U.S. law.

In contrast, where an international agreement involves matters within Congress' constitutional powers, makes commitments affecting the nation as a whole, or affects state laws, congressional approval is required. Whether that approval is a thorny issue that turns largely on whether powers specifically delegated to Congress as a whole are at stake. Thus, trade agreements must be approved by Congress as a whole because they regulate foreign commerce, a power constitutionally assigned to the entire Congress.

Because of the complex issues surrounding the proper treatment of an international agreement, federal regulations require federal agencies to consult with and obtain the legal opinion of the State Department's Legal Advisor to determine the proper status of particular international agreements. 22 C.F.R. §181.3–.4. In contravention of these regulations and routine practice, no such legal memorandum was prepared on the supplemental agreements. Instead, it appears that political considerations caused the Administration to sidestep both the legal analysis and the appropriate approval channels.

President Clinton's decision not to submit the supplemental agreements for congressional approval calls their constitutionality and enforceability into question. Simply stated, the President does not have the unilateral power under the U.S. Constitution to obligate the United States (or the states) to modify NAFTA or to pass laws. What this means is that the provisions of the supplemental agreements that have been touted as affording significant environmental or worker protection are without any legal effect.

1. THE TRADE SANCTIONS PROVISIONS

The arbitration process for deciding whether a NAFTA country is failing to effectively enforce its environmental laws has been touted as the most unprecedented and important tool of the environmental supplemental agreement to ensure effective enforcement of domestic environmental laws. Indeed, in October 1992, then-Governor Clinton promised that the Commission would have "the power to provide remedies, including money damages and legal power to stop pollution" and "substantial powers and resources to prevent and clean up water pollution." The U.S. Trade Representative's Report on Environmental Issues claims that "[t]he Environmental Agreement establishes a dispute settlement mechanism to ensure that the parties effectively enforce their environmental laws."

Under the environmental supplemental agreement, if an arbitral panel decides that a NAFTA country has a persistent pattern of failing to effectively enforce its environmental law to companies or sectors involved in North American trade, and the offending country does not correct the problem, the panel may assess monetary penalties to be used by the Commission to enhance the environment or environmental protection in the offending country. If the country does not pay the penalties within 180 days, then the other countries may impose trade sanctions by suspending NAFTA benefits in an amount equivalent to the assessment. The labor supplemental agreement has a similar arbitration process for labor law enforcement.

The real teeth behind this process is the trade sanctions authorization. However, the trade sanctions are not a valid United States obligation without congressional approval. The current statutory authority under which the President may negotiate trade agreements carefully preserves Congress' power to approve such agreements. Therefore, the President may not unilaterally agree to the trade sanctions provisions of the supplemental agreements.

The trade sanctions are flawed in another respect as well. NAFTA provides that, in the event of inconsistencies between NAFTA and other agreements between the parties, NAFTA prevails "except as otherwise provided in this Agreement." Article 103(2). The supplemental agreements' trade sanctions provisions authorize a party to suspend NAFTA benefits. That action is inevitably in consistent with NAFTA, and thus is impermissible unless NAFTA authorizes it.

In the absence of a provision in the NAFTA implementing bill approving the supplemental agreements, those agreements cannot be considered an extension of the NAFTA itself. The fact that a country may withdraw from the supplemental agreement while retaining NAFTA benefits confirms that the supplemental agreements are not part of the NAFTA.

As a result, the United States cannot impose trade sanctions to enforce an arbitral panel decision against another NAFTA country without being in violation of NAFTA. The other country could then challenge the trade sanctions under NAFTA's dispute settlement process, which could result in retaliatory sanctions being imposed under NAFTA.[2]

It is hard to imagine that Canada and Mexico would permit the supplemental agreements to enter into force if the United States cannot uphold its end of the bargain. After all, when Canada refused to be bound by the supplemental agreements' trade sanctions provisions, the negotiations stalled until Canada agreed to give arbitral panel decisions domestic legal effect. If the trade sanctions provisions are inapplicable to the United States, for lack of congressional approval, Mexico cannot be expected to tolerate being the only country subject to such sanctions.

2. THE OBLIGATIONS TO MAINTAIN STRONG DOMESTIC ENVIRONMENTAL AND LABOR LAWS

The supplemental agreements obligate the NAFTA countries to ensure that their laws (and those of the states) provide high levels of environmental and labor protection, that people with legally recognized interests have access to administrative and judicial proceedings that are not unnecessarily complicated or unreasonably delayed or costly for enforcement of those laws and for private remedies, such as money damages, and that environmental and labor laws are effectively enforced.

The President has the constitutional authority to unilaterally promise to ensure effective enforcement of federal environmental and labor laws, because he has the constitutional responsibility to "take care that the laws be faithfully executed."

The President has no analogous power with respect to state enforcement of state laws. To the contrary, our system of federalism ensures that states have full control over such matters. Therefore, the President cannot (even with congressional approval) bind the states to abide by any particular level of enforcement of their own laws.

Nor can the President create a binding obligation on the U.S. Congress or state legislatures to pass environmental or labor laws of any sort, let alone that provide a specified level of protection. Under the U.S. Constitution, it is the Congress that has the power to enact legislation, and the President's power is limited to recommending legislation and vetoing bills. And the Constitution reserves to the states the power to pass their own laws, unless federal law preempts them from doing so.

This extends, of course, to laws granting citizens access to the courts. If U.S. or state laws preclude private damages actions or call for unnecessarily complicated enforcement proceedings, the President cannot unilaterally eliminate those statutory provisions. Congress or state legislatures must do that.

Furthermore, if it is the U.S. judicial system that makes environmental and labor enforcement proceedings unduly complicated, costly or slow, the President has no power to compel the Judiciary, an independent branch of government, to change its practices.

Therefore, the President's refusal to write congressional approval of the supplemental agreements into NAFTA's implementing legislation essentially eviscerate the supplemental agreements.

Section 301 Does Not Save the Supplemental Agreements' Trade Sanctions Provisions.

When these constitutional issues have been raised, they have been met with varied responses, most likely because of the failure to prepare a reasoned legal analysis divorced from politics. Some have argued that the NAFTA implementing legislation does approve the supplemental agreements in the entry into force subsection. That and other claims that such approval is written into the NAFTA implementing bill are discussed above.

Others have contended that congressional approval of the supplemental agreements' trade sanctions provisions is unnecessary because Section 301 of the Trade Acts authorizes such sanctions. This argument is erroneous. Section 301 does not save the trade sanctions provisions for four reasons.

First, Section 301 is directed at actions that are inconsistent with international trade agreements and that restrict United States commerce. The supplemental agreements cannot be considered trade agreements because they are directed to each NAFTA country's domestic environmental and labor laws and enforcement activities. The core "trade" provisions of these agreements consist of their authorization of trade sanctions to enforce an arbitral panel determination that a country has failed to enforce effectively its domestic environmental laws. Those provisions alone do not convert an environmental agreement into a trade agreement. Indeed, if they did, then the supplemental agreements would need congressional approval as trade agreements, since, under the Trade Acts, Congress has retained authority to approve nontariff trade agreements negotiated by the Executive Branch.

Second, since the supplemental agreements are not valid trade agreements, Section 301 could authorize their trade sanctions on Mexico and Canada for failing to enforce their environmental laws. But if that is the case, then the supplemental agreements add nothing to the U.S. arsenal.

Third, the supplemental agreements authorized trade sanctions based on the finding of an arbitral panel. In contrast, Section 301 authorizes sanctions only after the U.S. Trade Representative consults with its advisory committees, publishes a notice in the Federal Register, conducts an investigation, and consults with the foreign country. Section 301 is, therefore, not a simple substitute for congressional approval of the supplemental agreements themselves.

Finally, reliance on Section 301 does not overcome NAFTA Article 103 which spells out that NAFTA prevails over inconsistent provisions of other international agreements except as otherwise provided in NAFTA. In order for the supplemental agreements' trade sanctions provisions (which allow NAFTA benefits to be suspended) to prevail over NAFTA, the supplemental agreements must be a part of NAFTA. They obviously are not so incorporated since the NAFTA implementing legislation does not even approve the supplemental agreements, and it leaves countries free to withdraw from the supplemental agreements without withdrawing from NAFTA.

CONCLUSION

The only logical conclusion is that Congress must approve the supplemental agreements in the NAFTA implementing legislation for them to have any teeth. Certainly, this would have been the prudent way to proceed. Politics appears to have stood in the way of prudence and may render the supplemental agreements a paper tiger.

FOOTNOTES

[1] It is possible that the President did not believe the supplemental agreements would be entitled to fast-track consideration in any event because they are not trade agreements in the ordinary sense.

[2] The supplemental agreements also require the NAFTA countries to cooperate on environmental matters related to trade, to exchange information about such matters, and to consult about any disputes that arise. None of these provisions create constitutional problems, as the President can commit the United States to such dealings with other nations.

Mr. STEVENS. Madam President, I close by asking the Senate to think about the precedent we are setting here. We are setting a precedent—at the request of the Executive—giving the Executive broad, broad authority to negotiate nontrade agreements under protections of the fast track procedure.

As I remember my constitutional history, the Framers of our Constitution had deep fears of a runaway Executive, an Executive that might go off and make agreements with foreign nationals, foreign governments, contrary to the best interests of our people. The Framers required that the treaties that we entered into, treaties that would commit us abroad, be submitted to the Senate for approval and gave us the authority to require two-thirds of us to agree before they would go into effect.

Now, a bare majority will put this agreement into effect, and it will carry with it those two special cars that are chock full of trouble, just chock full of trouble, for a lot of small States.

I believe we have the right to be heard. We have the right to offer amendments, and I believe by denying me that right today, the Senate will err. I reserve the remainder of my time.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Madam President, I yield myself 10 minutes.

Madam President, I strongly resist the amendment offered by the Senator from Alaska. First, because the ruling of the Chair is correct. This amendment is out of order.

The fast-track statute which we are offering this under is very clear: Amendments under this proceeding are not in order. The Chair is correct. Therefore, the Chair should be affirmed.

More importantly, Madam President, make no mistake about it, this is a killer amendment. If this amendment is successful, if the Chair is overruled, this amendment will kill NAFTA. Deader than a door nail. NAFTA is dead if this amendment passes. Because if this amendment passes, then any amendment is in order. If any amendment to NAFTA is in order, one can conjure up a whole multitude of possible amendments that would be irresistible, that will bring NAFTA down immediately.

If the Senate can offer amendments, then what happens? The House can offer amendments, any amendment, any subject to protect any interest group.

We all know about the contentious debate over NAFTA. We all know that NAFTA is negotiated to try to balance out interests in the country's national best interest. That is the effect of NAFTA. That is the intent of the President's negotiations.

That is the intent of the President's negotiations. We know that is out the window. It is gone and over. This amendment kills NAFTA. This is a killer amendment. In fact, Madam President, this is a serial killer amendment, because it kills fast track; it kills America's ability to negotiate any trade agreement whatsoever. It means the Uruguay round is dead. It is deader than a doornail if this amendment passes because it is subject to amendment, and we can guess all possible kinds of amendments that would come up in that context.

If this ruling is overturned, no country will begin to contemplate negotiating a trade agreement with a U.S. President. Why? Because that country would know that Congress can amend it with impunity, and probably would. French negotiators would have no incentive whatsoever to negotiate with the President with respect to reaching agreement on cultural provisions, on TV programs and films; nor would the Japanese on rice, or any country on any trade matter.

So this is a serial killer amendment. It will kill NAFTA today. It will kill GATT next month. And it will kill every other trade agreement we can imagine.

Madam President, the Senator heard the language that said necessary and appropriate provisions can be included in implementing language. Why are these side agreements necessary and appropriate? Very simply, because the world is getting smaller. There is a convergence of trade and environmental matters. They are more and more intertwined. The preamble to the NAFTA even specifically refers to a necessity of sustainable development, environmental protection, and labor provisions.

Logically, it is certainly appropriate, without even reaching the question of whether it is necessary—and I think it is necessary—to include provisions with respect to environmental and labor matters. In this modern world, if we do not have these provisions, we are giving other countries a subsidy which is a trade barrier, and that subsidy is, for example, the country of Mexico's failure to enforce environmental statutes. That lets polluters cut costs at our expense. That gives them a pollution subsidy because they do not have to live up to the same environmental standards that otherwise they would. All subsidies are trade barriers.

The Senator from Alaska is raising the constitutional question of article I, section 5. That is very simple. Sure, revenue bills begin in the House and come over here. But the provision in the Constitution says we "may" amend; it does not say we have to. It says we may as we get the bills. The Senator is clear and, sure, we limit ourselves around here with consent agreements. The House of Representatives does it with rules. We have all kinds of limitations on our ability to amend. Those are our own rules. We decide what we want to do. The Constitution does not say we must amend. It says we may amend. We, by our rules, may decide under certain circumstances that we do not want to amend.

These agreements are integral parts of NAFTA. President Clinton was opposed to NAFTA in his campaign until they got side agreements. I will vote against NAFTA if we have no side agreements. They are an integral part of this. Ambassador Kantor says the side agreements and NAFTA are "joined at the hip."

Mr. STEVENS. Will the Senator answer a question? I will be happy to use my time.

Mr. BAUCUS. Yes.

Mr. STEVENS. Does the Senator from Montana believe that these side accords are trade agreements?

Mr. BAUCUS. If I might answer that question, the Constitution is very clear. The President has broad executive authority to conclude agreements with other countries. The Constitution is also clear that in those instances where an executive agreement requires changes in legislation, Congress must act on the legislation and agree or not.

Mr. STEVENS. My question is: Are these side accords trade agreements? Do you agree with Ambassador Kantor that they are not trade agreements?

Mr. BAUCUS. These side agreements are part and parcel of NAFTA, because the NAFTA implementing language directly refers to them. In fact, the Senator must essentially agree to that point, because he is asking to strike provisions in NAFTA that refer to the side agreements.

Mr. STEVENS. That is not true. I am trying to strike from the legislation that would approve NAFTA, two side accords that are not necessary and that were negotiated after the fast-track expired.

The side accords were negotiated after the fast-track authority expired. Does the Senator believe that a President can keep negotiating and get additional side accords, additional agreements, and submit them under the fast-track after the time for the negotiation has expired? The President notified us that the trade agreement had been completed. After that notification was received, these side accords were negotiated. They were negotiated after this trade agreement was negotiated. That was after the fast-track authority had expired.

What authority gives the President of the United States the right to include the side accords. The Senator from Montana says anything that is "necessary and appropriate", as determined according to the President. The law says: Only if a change in existing law or new statutory authority is required to implement trade agreements can anything that is "necessary and appropriate" be included. I want to know by what authority does the Congress or the President include under this fast-track procedure the two side accords that were negotiated after the trade agreement time expired, and that the administration admits are not trade agreements.

Mr. BAUCUS. I will respond on the Senator's time. The President has authority to execute agreements, and in this case the fast-track statutory authority gives the President the ability to negotiate agreements and provisions appropriate to trade laws. That is what we are doing here.

Mr. STEVENS. Show that to me.

Mr. BAUCUS. That is what we are doing here.

Mr. STEVENS. I ask the Senator from Montana, show me that authority? The authority was delegated to the President under the 1974 act, and I have it.

Mr. BAUCUS. It is right there.

Mr. STEVENS. Show me where it says that.

Mr. BAUCUS. "That is appropriate," the third line from the bottom says.

Mr. STEVENS. It says "if" changes in the existing law are required, necessary or appropriate items to implement such trade agreements, either repealing or amending existing laws providing new statutory authority can be obtained.

Where does it say you can put new executive agreements in this bill? The bill can contain only these items.

Mr. BAUCUS. That is clear in what the Senator has showed the Senate. It is clear that the Senate has authority to vote on and enact recommendations by the President of the United States that are contained in the NAFTA and in implementing language, including the side agreements.

The Senator also said there were no hearings. That is not true. This Senator held several hearings on the side agreements in the Environment and Public Works Committee. There were hearings on both sides of the aisle on the provisions.

Mr. STEVENS. I apologize. Did the Senator hold the hearings to authorize the creation of what we are going to authorize by law?

Mr. BAUCUS. The Senator held hearings to find out the content.

Mr. STEVENS. Absolutely. The Senator from Montana was relying on an executive agreement to create new entities of the U.S. Federal Government. That is wrong.

The PRESIDING OFFICER. Does the Senator from Montana yield the floor?

Mr. BAUCUS. May I inquire of the Chair? How much time did I utilize?

The PRESIDING OFFICER. The Senator used 9 minutes and 37 seconds.

Mr. BAUCUS. I will finish the 23 seconds and state that this is a killer amendment. It is equally clear there will be no more negotiating trade agreements if this amendment passes. And it is equally clear the side agreements are fully appropriate. There is no question about it.

In my judgment, the Senator is frustrated as all of us are that we cannot come up with our own personal trade agreements, but we cannot because we are a legislative body.

We are trying to come up with an agreement that serves the national public interest. An agreement with another country, to the mutual best interests of both countries. There is going to be give and take, and this is a process that is going to be necessary because we are not a parliamentary form of government. We are a constitutional form of government, with the separation of powers between the legislative and executive branches, unlike other countries we do negotiations with. That is why the amendment must be defeated.

The PRESIDING OFFICER. Who yields time?

Mr. DANFORTH. The Senator from Montana has consumed all the time in opposition. That is my understanding.

The PRESIDING OFFICER. The Senator is correct.

Mr. DANFORTH. Could I have 3 minutes?

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Madam President, I rise in opposition to the challenge raised by the Senator from Alaska.

Yesterday, I stated my opposition to the North American Free-Trade Agreement. I laid out in some detail the reasons for that opposition. Nevertheless, I strongly oppose the Senator from Alaska's appeal from the rule of the Chair. For this represents a challenge not only to the NAFTA, but to the entire process developed for considering this and any other trade agreements—including the Uruguay round of the General Agreement on Tariffs and Trade, the deadline for which is less than 1 month away.

Should the Senator from Alaska prevail, it will mean not only the downfall of this NAFTA. It will threaten our future consideration of a Uruguay round agreement. Senator STEVENS' position is nothing less than a frontal attack on the entire fast-track process. A process that has been in place for the past two decades. With roots that date even further back.

I take this opportunity to remind my colleagues why we adopted fast-track procedures for major trade agreements. There is one reason, and it is a compelling one: Without the fast track, countries will not negotiate with us.

Our fast-track procedures really stem from the Reciprocal Trade Agreements Act of 1934. The 1934 Act responded to President Roosevelt's request for authority to negotiate and implement reciprocal trade agreements to clean up after the wreckage of the Smoot-Hawley Tariff Act of 1930.

That infamous act, in which the Congress set more than 20,000 tariff levels, item-by-item, resulted in an average U.S. tariff rate of 52.8 percent. By the end of 1931, 26 countries had retaliated.

The Congress soon realized that Smoot-Hawley was not the course to follow. Congress gave the President broad advance authority to negotiate and conclude reciprocal tariff agreements with foreign countries, without further congressional interference. That authority was extended in 1937, 1940, 1943, 1945, 1948, 1951, 1953, 1955, and again in 1958.

Then came the Kennedy round of GATT negotiations. In the Trade Expansion Act of 1962, Congress again gave the President tariff-cutting authority. But by that time, it had become apparent that, as tariffs were being reduced, other types of trade barriers were being erected.

And that set the stage for a confrontation between the Congress and the White House. The argument was that nontariff barriers fell outside the powers enumerated in the Constitution for the Congress. During the Kennedy round negotiations, the administration argued that trade agreements could be negotiated under the President's foreign affairs power without submitting the agreement to Congress for approval.

Congress fought back. The Congress refused to make the legislative changes that were necessary to implement one key aspect of the agreement, and enacted a bill to block the administration from implementing another. These actions destroyed the credibility of our negotiators. For 6 years, our trading partners refused to return to the negotiating table. Nontariff barriers continued to impede our exports. And we looked for a way back to the table.

The solution was the fast track as we know it today. It was first enacted in 1974, and it has served us well since. It was used in considering the Tokyo round agreements in 1979. And the United States-Israel Free-Trade Agreement in 1985. And the United States-Canada Free-Trade Agreement in 1988. And now the NAFTA. And these are the procedures that we will follow when we consider the Uruguay round agreements—unless, of course, we kill that opportunity today. For let us not be under any illusions: That is precisely what we will be doing if we vote to find the Senator's appeal well taken.

We will be overturning a decision that this body made just 4 months ago—our decision to extend the fast-track procedures to the Uruguay round results. That decision was by a vote of 76 to 16. An overwhelming vote. A strong bipartisan vote to keep the fast-track procedures in place for the Uruguay round.

Therefore, the Senator from Alaska's challenge should be opposed not only by supporters of the NAFTA—of which I am not one—but also by any Senator who supports the process that we extended by that overwhelming vote only 4 months ago.

I urge my colleagues to oppose this appeal from the rule of the Chair.

Mr. SASSER. Madam President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SASSER. Is there time remaining to the Democratic opponents to the agreement?

The PRESIDING OFFICER. Yes, there is.

Mr. SASSER. May I inquire of the Chair how much time is remaining?

The PRESIDING OFFICER. There are 19 minutes and 20 seconds remaining.

Mr. RIEGLE. Madam President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. RIEGLE. Am I correct in assuming that if the challenge by the Senator from Alaska [Mr. STEVENS] is upheld then that means there will be a second vote on the substance of the deletion he is speaking about? In other words, if the Chair is overruled that would be the first vote and there would, in fact, be a second vote on the issue that in fact he is raising? Am I correct in that?

The PRESIDING OFFICER. A vote could occur.

Mr. RIEGLE. Thank you.

Mr. BAUCUS. Madam President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAUCUS. Would it be appropriate under the rules and could a Senator ask for unanimous consent to take more time off of the total time for the bill and allocate it to time on this amendment? I think there are Senators who wish to speak on this amendment even though that time would be subtracted.

The PRESIDING OFFICER. That is authorized under the statute. The Senator from Montana should understand it does not take unanimous consent.

Mr. BAUCUS. Might I ask if we reach an agreement where the total time on the amendment by the Senator from Alaska is not 1 hour but 2 hours?

Mr. STEVENS. Madam President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STEVENS. Is it not so a Senator who controls time may allocate it any time during consideration of NAFTA? This time we are using now is coming off the NAFTA 20 hours. If the Senator controls any time he may allocate. This Senator controls some time. I am happy to allocate time to anyone who wants to support my position.

The PRESIDING OFFICER. There is 1 hour allocated on the appeal. However, additional time may be added to that from the bill's time.

Mr. STEVENS. Without consent?

The PRESIDING OFFICER. Without consent.

The Senator from Missouri.

Mr. DANFORTH. Madam President, I yield myself such time as I might consume from the bill.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. DANFORTH. Madam President, I will not take long. I really wanted to simply raise one point in answer to the Senator from Alaska. I think that Senator BAUCUS has pretty well stated the case on the effect that this would have both on NAFTA and on fast track authority in general. But I want to get to the legal argument that is raised by the Senator from Alaska and particularly his interpretation of the Constitution. The Senator from Alaska points to article I, section 7, clause 1 of the Constitution. That clause states that all bills for raising revenue shall originate in the House of Representatives but the Senate may propose or concur with amendments as on other bills.

The Senator from Alaska has asked the Chair whether this is a revenue bill. The Chair has said yes, it is a revenue bill. The Senator from Alaska then concludes that this particular phrase, "the Senate may propose or concur with amendments as on other bills," confers on the Senator from Alaska an individual right as a Senator to offer an amendment because this is a revenue bill. That is not this Senator's construction of the meaning of that phrase.

The phrase does not say any Senator may offer an amendment. The phrase says that the Senate may propose or concur with amendments as on other bills.

That means that the Senate determines how it functions with respect to amendments. The Senate has already determined this. There is legislation enacted in 1974 and that legislation sets out the terms under which trade agreements and trade legislation pursuant to those agreements come to the floor of the House and to the floor of the Senate.

The fast track legislation provides that they come as the Chair has ruled—without the ability to amend on the floor.

If it were not so there would not be any trade agreements. That is why in 1974 we passed this legislation. If we open up legislation relating to trade agreements on the floor of the Senate to amendments that is the end of it. So that is why that we have this provision of the law. But the Constitution relates to the Senate. It does not relate to individual Senators. It does not confer a right on individual Senators. It says in effect that the Senate can determine its own rules. The Constitution says expressly that the Senate can determine its own rules, and pursuant to that constitutional authority the 1974 legislation was enacted.

A comparable provision relates to the Budget Act, and in the Budget Act there are restrictions on what can be done on the floor of the Senate by individual Senators on legislation which is clearly revenue legislation.

When budget reconciliation is before us, for example, a Senator would be out of order, as this Senator understands it, if the Senator were to stand on the floor of the Senate and send an amendment to the desk and the amendment would provide for a tax cut without any offset. The Senator would just believe that there shall be a tax cut. The Senator would say, well, I am exercising my constitutional right to send this amendment to a revenue bill to the Chair, to the desk to be reported, and he would be ruled out of order. If it were not so, budget reconciliation could not operate. If it were not so with respect to trade legislation, trade legislation could not function.

So the Senate can establish rules. Congress can establish legislation which governs the way we, as a Senate, function.

It does not confer a right on an individual Senator. There is no right of an individual Senator to offer an amendment to a revenue bill. It is nowhere found in the Constitution of the United States. That is the sole point that I want to make.

Again, though, I would like to simply reiterate that if the Senator from Alaska is correct and if we can start offering amendments pertaining to revenue as a matter of right as individual Senators, then goodbye fast track. I mean, that really would be a blockbuster of a precedent as far as the U.S. Senate is concerned. Goodbye any trade agreements. Goodbye fast track legislation. Goodbye the possibility of negotiating the Uruguay round or anything else.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Madam President, I think my friend from Missouri ought to read the Constitution again, because it says that the Senate may propose or concur with amendments.

If he is correct in his interpretation, it means the whole Senate would have to agree to an amendment before it could even be proposed.

Individual Senators propose amendments, and I am not permitted to propose mine today.

Further, he says we passed this 1974 law. There it is. Does the Senate understand English?

Why is it that the American people are losing their confidence in this process that some of us have dedicated a substantial portion of our lives to? It is because they do not believe us anymore? We pass laws and then we say they do not mean what they say.

Anyone that can read and interpret will tell you that there is nothing in section 151(b)(1)(C) that says any President of the United States may put a side agreement in this legislation. The law says only a bill which contains the three features I listed can be considered under fast track. Nothing in any one of those features refers to a side agreement of any kind.

Further, we give the President the authority to have a specific period within which to negotiate trade agreements. He was negotiating. The time ran out. He had the right to extend it. He did extend it. The time ran out. He said, "I have concluded a trade agreement." Then, after the trade agreement time had expired—the new President negotiated three, but I am only objecting to two in this—side accords. Then they tried to say that is all right. He is the President of the United States and he ought to be able to do anything he wants to do, right? He ought to be able to come up here and put in this legislation language to approve his Executive agreements because they are necessary and appropriate.

Look at that section that says he can do whatever is necessary and appropriate. Where does it say he can put in side agreements that were negotiated after the time had expired? Even a trade agreement that expired after that time could not and should not be considered under the fast track.

These are separate Executive side accords. They are not trade agreements.

Somehow people say, "Oh, but the Congress set rules and we form rules. There is the rule."

I challenge the Senator from Missouri, you tell me where there is anything in the law that refers to agreements that are not trade agreements that are subject to the fast track.

The PRESIDING OFFICER. This is a question to the Senator from Missouri. Does the Senator wish to respond?

Mr. DANFORTH. Yes. Madam President.

Again, yielding myself time from the bill, clearly in the 1974 legislation, as is printed on the board that is held up by the Senator from Alaska, the legislation expressly contemplates that in implementing legislation, the Congress of the United States may go beyond the four corners of the trade agreement.

The section that is held up by the Senator from Alaska says, "if changes in existing law or new statutory authority is required to implement such trade agreements," and so on. So, clearly, it contemplates that in the legislation that is brought to the Congress, brought to the floor of the Senate, there will be something more than just the terms of the agreement that has been worked out by the President and whatever other Government the President is negotiating with. Changes in existing law, new statutory authority, in addition to the terms of agreement, are expressly provided for.

Now, then, the question is, is this additional statutory language necessary or—a disjunctive—is it appropriate?

Mr. STEVENS. Changes in existing law.

Mr. DANFORTH. Now, just a minute. Who determines whether it is appropriate? Who determines whether it is necessary or appropriate? The Congress of the United States determines whether it is necessary or appropriate.

The legislation is before us. The legislation that was dealt with in the Ways and Means Committee and the Finance Committee and on the floor of the House and the Senate. Ultimately, when we vote on this, we will determine whether it is necessary or appropriate. We either ratify it or we do not. That is what we are in the business of doing.

But it is clear on the face of the statute that it is expressly contemplated that additional statutory language, additional statutory authority can be added by the Congress.

The question of whether or not it is necessary or appropriate does not rise to a constitutional principle. This is not a constitutional point of order that is being raised about whether or not particular language is appropriate or is not appropriate.

That is a matter of the judgment of Members of the Senate, and that is what we will be voting on.

Mr. STEVENS. Madam President, I think I asked the Senator from Missouri a question.

Again, I respectfully tell my friend to read subsection (b)(1)(C) of section 151. It refers to changes in existing law or new statutory authority to implement such trade agreement or trade agreements.

Mr. DANFORTH. That is correct.

Mr. STEVENS. Now, this is not statutory authority. We are including by reference two agreements that were negotiated that create a series of bureaucracies for the Federal Government that are not trade agreements. By admission of the trade negotiator, they are not trade agreements. They are not necessary to implement trade agreements. They are not statutory legislation that is necessary.

That legislation in here is to incorporate by reference two things that are not trade agreements. And they are not necessary to implement trade agreements.

Let me tell my friend, I urge him to look at the 1974 report of the committee that dealt with this. It is Senate report language. It specifically calls this the definition section. It says: "A bill implementing a nontariff barrier agreement would contain a provision approving the trade agreement or trade agreements to be implemented, a provision approving a statement of administrative action, including any rules or regulations necessary to implement the agreement or agreements, if there be any such administrative action, and, if changes in existing law or if new statutory law would be required," to implement the trade agreements, then you would have a provision either repealing or amending existing law.

Now, what the section I am trying to delete does is it incorporates by reference two nontrade agreements that are not statutory law, and that are not either to repeal existing law or to put in effect a new provision.

Finally, let me say this—and I know others want to speak—under the Budget Act, a motion to strike is always in order. Under this, it is not.

I am making a motion to strike a provision which should not be in this bill. There is no provision in the Budget Act that is similar to this provision. The Senator said that under the Budget Act we gave away our authority to offer amendments, and this is similar to the Budget Act.

That is not so. My amendment is in effect a motion to strike, and I have been denied the ability to even do that.

Suppose my amendment passes—suppose subsection D of the bill comes out?

Suppose the Senate comes to its senses and says we do not want to allow the President the authority to include the side accords in the NAFTA. Suppose we just take it out, and the bill goes back to the House. Some people might vote against the NAFTA bill without it in. I agree with that. Some people might vote for it. But at least it would still be up to the Congress to decide whether to implement NAFTA.

It should not be permissible to include and implement two nontrade agreements in this fashion. That to me is wrong.

Mr. RIEGLE. Will the Senator yield for a question before he yields his time? I, first of all, want to say I agree with the Senator from Alaska, with his basic point. I think he is right about the technical flaw here and that you should, in fact, have the right to come in and address these individual issues that fall outside the scope of the treaty. I am wondering if the Senator from Alaska is aware, just to help make his point, there is another provision in here that provides $10 million for a trade center to be placed in the State of Texas. It cannot go any other place. It has to go in the State of Texas. It had nothing to do with the negotiations with Canada or Mexico.

This came at the very tail end when there was an effort being made to line up support in the House. Lo and behold, one of the items that got tucked in was a specific, $10 million item to finance a trade center that has to go in the State of Texas.

I would assert that for the very arguments the Senator from Alaska has made—that has nothing to do with this trade agreement, it has nothing to do with implementing it—there ought to be an ability to offer an amendment to knock it out. In fact I am drafting such an amendment because I think it ought to be knocked out. We are talking about saving money and this is a piece of pork that is tucked in here having to do with getting votes, not anything to do with the treaty.

It, in my view, illustrates the Senator's point. My question to him—I do not know if the Senator is aware of that particular item—but if he prevails on his basic challenge here of the ability to amend, would we then in turn be able to take and knock something like that out of here as not having anything to do with the treaty, per se?

Mr. STEVENS. Madam President, I believe the Senator from Michigan makes the right point. I believe at any time the Senate finds included in legislation that has been accorded a fast-track, provisions that are not within the scope of the basic authorization—that have not been negotiated within a time limit set and are not necessary either to repeal existing law or to add new statutory law—the Senate ought to have the right by motion of a Senator to strike that provision. The side accords are not within the fast-track. The Senator is absolutely right.

There are several other provisions that should also be struck. I do have some other amendments, but I am not going to offer them for obvious reasons. But there are other provisions in here that are similarly disqualified because they are not within the fast-track authority. They are not trade amendment required provisions. Clearly, section 151, was very specific. It was to limit the implementing bill under fast-track to simplify the approval of the trade agreement that has been brought before us. Other items such as authorizing appropriations to carry out the untrade related provisions ought not to be in the fast-track.

Mr. RIEGLE. Right.

Mr. STEVENS. I think it is wrong.

The test is whether it is necessary to implement the trade agreement. That is a judgmental factor. But who makes the judgment? Only the President?

Madam President, are we going to allow this country to come to the point that only the President makes decisions as to what is necessary and appropriate in dealing with authorizations to spend taxpayers' money, to hire people?

Are these people hired? Are they going to be Federal civil servants? Are they going to have the right to retirement? Do they get leave? Are they covered by medical insurance? By what law?

They were hired pursuant to an executive agreement, and the executive agreement is incorporated by reference here as though it was legislation. I do not think that is proper, I agree.

Mr. RIEGLE. I thank the Senator.

Mr. STEVENS. If no one else seeks time—I see my friend from New York would like some time.

I yield 10 minutes to the Senator from New York.

The PRESIDING OFFICER. Since the Senator from Alaska controls 6 minutes on the appeal——

Mr. STEVENS. That is from the bill.

The PRESIDING OFFICER. The Senator has that right. The Senator from New York is recognized for 10 minutes.

Mr. D'AMATO. Madam President, I join with my colleague, Senator STEVENS. He has pointed out some areas we need to look at. To put it quite candidly, these side agreements have polluted this pact. It has polluted it with a system which is one that is beyond the control and even the advice and consent of the Senate. And it is one that sets up a bureaucracy with extraordinary power.

I understand reasonable people can disagree, as it relates to NAFTA. I also understand the geopolitical significance and how, very validly, those who support it can say it would be a terrible blow to the psychology of all of our friends and neighbors, from Mexico throughout Latin South America. But when, as a result of the side agreements and the agreement itself, we find the ability to determine our own destiny as it relates to the law and its interpretation is given to one of these bureaucracies, I wonder what support the American people would really have for this.

Here is the North American Free Trade Commission, one of the commissions Senator STEVENS talks about, with 24 subbureaucracies. They are going to make the determinations as it relates to disputes. Who appoints this commission? How does the membership operate?

I do not want to offend our neighbors to the south but they have historically had a system that has been less than we would accept in our judicial system. There are some who would say it is outright corrupt. We are going to have representatives on this commission that comes from basically a system that has been corrupted. They are going to be making life and death decisions.

While I am concerned about the taking of jobs or the loss of jobs that has been well expounded upon by so many who feel it will be cheaper to do business and therefore they will move their manufacturing operations—while that may be a legitimate concern I will tell you what concerns me, and I have not heard anyone talk about it, is the issue of circumvention. I have seen this vividly. I have seen the Japanese—and I say the Japanese in particular—circumvent our laws, lose case after case after case, and continue to circumvent. And we have had a difficult, if not impossible, time stopping that in many cases. And we have lacked the courage to stand up.

We have had IBM and other international companies intervene to keep this body from seeing to it that there were laws that would prohibit the circumvention, fair laws. I remember being on this floor for some 15 hours over the case of Smith Corona, which was forced to move a good part of its manufacturing facility to Mexico.

They said we will stay if you stop the circumvention. They brought eight trade cases against the Japanese, they won every single case, and the Japanese continued the circumvention.

Let me say this. It is obvious to this Senator that the Japanese and others—but the Japanese in particular—are going to open up their plants as launching pads, not to sell to Mexico but to sell to the real market here in the United States. I want to know who is going to prohibit that? Who is going to stop the circumvention? Do we really believe that this trade commission is going to do it? Do we really believe that the Mexicans are not going to be totally sympathetic to the plants that are employing people and the fact that predatory pricing and dumping and circumvention of legitimate laws that we have with our trading partners in other areas of the region are going to be adhered to? Do we really believe that suddenly, because we entered into an agreement, NAFTA, they are now going to adhere to the integrity of law enforcement?

They have not done it heretofore. They have not done it as it relates to drugs, or quality of life issues, or the environment. Their court system is corrupt. Now we are going to add to that another corrupting system, the influence peddling of those who come, and the Japanese in particular, and we have seen it. Some are going to accuse me and say, "Oh, you should not be saying these things." We see it every day. We saw how a truck becomes a car to escape the tariff, and they have done it. Our own citizens were too willing, our own Secretary of the Treasury was too willing to accommodate them.

If we have a difficult time enforcing our laws, how are we going to depend on this trade commission, with the tremendous influences and with billions of dollars being invested in Mexico? And they will be. And make no mistake about it, they are not going to be looking to build products to ship them to Mexico. They are going to be looking to build products to ship them into the marketplace, the real marketplace, which is the United States.

Madam President, I hope I am wrong. I absolutely hope I am wrong. I hope that 4 years from now, 5 years from now people can say, "Alfonse, you were wrong, you were unduly concerned." But I do not think that the leopard changes his spots. The Japanese and their predatory pricing practices, their circumvention of laws is legendary and well documented. We are just opening up a gaping hole for them to do to us in a manner in which we have little, if any, control.

What are we going to do once this commission starts ruling against us, when they begin to say, "Well, the content provisions are satisfied"? Who do we appeal to? I would like to know. What do our legislators say? Are we going to go back and declare this null and void? What court will review this commission's findings? What does the President say and what happens when we have plants and equipment and people, working men and women in my State and other places losing their jobs, and who do we appeal to?

I suggest, if you are going to build something on a corrupt forum—and that is what we have there, a corrupt judiciary, a corrupt forum—we have an open invitation for those who will seek by power of their influence in dollars to see that that forum rules in their favor.

So I will just simply suggest this legislation, although well intended—although there may be people who can make very strong arguments for fair and free trade—it has to be based on principles that we know that the agreements will be adhered to and that we have an enforcement mechanism that is one that is above reproach. We certainly do not have that in this agreement.

For that and other reasons, I will vote against NAFTA. I do not believe that it is good for the people I represent. I hope my fears and my concerns turn out not to be well founded. I hope that I do not have to take to this floor 2 years from now or 3 years from now and point out the kinds of violations that will be censored by this commission with no court to appeal to, with no recourse for our people. Then we will sit back and say, "Oh, what a terrible mistake we made."

I thank the Senator from Alaska. I say he has risen to address something that is technical, but he is absolutely right and he has a right to move to strike these. The fact of the matter is, we are so heck-bent on pushing this through that we violate the rules and regulations to accommodate this. He has had the good sense and courage to stand up and call it to everyone's attention.

I yield the floor.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER (Mr. CONRAD). The Senator from Alaska.

Mr. STEVENS. Mr. President, I previously put into the RECORD, with the approval of the Chair, the memorandum prepared by Public Citizen, which I believe was sent to every Member of the Senate. Let me read from page 3 of that briefly.

I take this off the bill, if I may, please?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, this is a memorandum prepared by Public Citizen:

> Key aspects of the supplemental agreements are constitutionally unenforceable without congressional approval.
>
> The United States can enter into treaties, which require ratification by two-thirds of the Senate, international agreements that require approval by simple majorities of both Houses of the Congress, or executive agreements that may unilaterally be put into force by the President. The latter category is typically reserved for agreements concerning matters that are within the President's constitutional powers, such as recognition of foreign countries, receiving Ambassadors, and enforcing United States law.
>
> In contrast, where an international agreement involves matters within Congress' constitutional powers, makes commitments affecting the Nation as a whole, or affects State laws, congressional approval is required. Whether that approval must take the form of Senate ratification or congressional approval is a thorny issue that turns largely on whether powers specifically delegated to Congress as a whole are at stake. Thus, trade agreements must be approved by the Congress as a whole because they regulate foreign commerce, a power constitutionally assigned to the entire Congress. Because of the complex issues surrounding the proper treatment of an international agreement—

And I call the attention of the managers of the bill to this—

> Federal regulations require Federal agencies to consult with and obtain the legal opinion of the State Department's Legal Advisor to determine the proper status of particular international agreements.

That is 22 Code of Federal Regulations, section 181.3–.4.

> In contravention of these regulations and routine practice, no such legal memorandum was prepared on the supplemental agreements—

These are the supplemental agreements we are talking about in this bill.

> Instead, it appears that political considerations caused the administration to sidestep both the legal analysis and the appropriate approval channels. President Clinton's decisions not to submit the supplemental agreements for congressional approval calls their constitutionality and enforceability into question. Simply stated, the President does not have the unilateral power under the United States Constitution to obligate the United States or the States to modify NAFTA or to pass laws. What this means is that the provisions of the supplemental agreements that have been touted as according significant environmental and worker protection are without any legal effect.

There are many people voting for NAFTA because they think they do have legal effect. I believe a duly constituted court of the United States at some time is going to declare that these are not agreements that are within the President's power to put into effect through this mechanism. I hope that we have really set forth in the RECORD sufficient reason for others to examine these agreements and to take steps to prevent this erosion of the duly constitutional channels for approval of the creation of new Federal agencies, the erosion of the controls that were established by the checks and balances of our Constitution.

Furthermore, I have another reason to have considered this. Recall that Alaska is the only State in the Union that is prohibited from exporting its major resource. We cannot export the oil that is produced in Alaska. That is prohibited by both an amendment to the Alaska Pipeline Act, which was presented by then Senator Mondale, and it is also prohibited by the Export Administration Act. It is an absolute ban on our exporting into world commerce the oil that is produced in our State that is transported through the trans-Alaska pipeline.

That export ban increases transportation costs. Our oil is consumed down the west coast; 77 percent of it is consumed on the west coast of the United States. The balance goes by tanker through the Panama Canal pipeline, comes up the east coast, and some of it goes to the Caribbean centers.

The vast and voracious market for oil in the Pacific rim is not even allowed to be involved. As a consequence, the domestic production of oil in the western part of the United States has almost been eliminated. We have lost most of our stripper wells. We have lost about 3 million barrels a day, just slightly more than what Alaska produces and sends into that region.

There has been no incentive to discover new oil in the western part of the United States because Alaska's oil is confined to that area. Instead of it seeking its natural market in the Pacific rim where it is close by transportation and given an inducement to restore the oil industry of the Western States, we have been prohibited by Congress from doing so. People here talk about free trade. How did you vote on the Alaska pipeline amendments? How did you vote on the ban that prohibits our State from exporting oil? Instead, it probably can go into Mexico under this free-trade agreement. Now, I know that remains to be seen but we will know it some time in the future.

The goal of NAFTA as I understand it is to create new and more efficient markets, through a reduction of trade barriers. In our State, trade barriers are the very thing that has put a damper on exploring for oil out of the North Slope. We have 13 sedimentary basins in Alaska. Only two have been explored. Why? Why find new oil that is confined to be transported down to the south 48 and cannot enter the world oil markets? Instead, do you know where they are drilling? Mexico.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. CHAFEE. Might I have 10 minutes?

Mr. DANFORTH. Mr. President, I yield from the bill 10 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, first, I would like to point out, if I might, to the Senator from Alaska, when he referred to NAFTA proceeding on a super express, I point out that the negotiations on NAFTA started in September 1990. So this has been a 3-year process. I do not think it is quite fair to label it a super express.

Mr. STEVENS. Will the Senator yield for a moment?

Mr. CHAFEE. Sure.

Mr. STEVENS. This bill was not even before the Senate before we used up half of the 10 hours that we are allotted under the bill. I am talking about super express right here in the Senate.

Mr. CHAFEE. As you know, Mr. President, there are 20 hours and I suspect by the time we are through, we are going to consume a good portion of that 20 hours.

Mr. President, I would just like to make, if I may, a few points.

First—and I am solely talking about the side agreements—I think the impression has been given that the side agreements are being approved by Congress. These are not agreements that Congress must approve. They are not the same as trade agreements which are considered under fast track. The President can enter into these side agreements without approval. These are the types of agreements that the Executive of the United States can enter into, and he enters into such numerous Executive agreements every year. So that is the first point. The side agreements are not before us.

If you look at this legislation, the side agreements are not in it.

The next point. What Congress has to do is to implement certain U.S. obligations under the side agreements, and that is done under this bill.

Now, you might say what right have we to do that? What right have we to implement certain obligations under the side agreements, which, as I would point out now to the Senator from Alaska, are not even in the legislation before us—the side agreements.

Now, what is done here is to implement certain obligations under the side agreements, and that is done under what are considered the necessary and appropriate powers to implement the overall NAFTA package.

Who decides what is necessary and appropriate? We do. If we do not think they are necessary and appropriate, then we reject the whole bill before us this evening. That is one reason individuals can reject the whole bill. We have the right to do that.

The side agreements are linked to NAFTA in one simple respect: They will enter into force together. As I say, the side agreements are not even in this NAFTA we are considering before us. However, they will go into effect at the same time the overall agreement will. And the three NAFTA parties—Canada, the United States, and Mexico—will not put the overall agreement into force without the side agreements, nor the side agreements without NAFTA.

In conclusion, Mr. President, I would like to make the final point which the distinguished Senator from Montana and the others speaking this evening have made. If we can amend this agreement, then fast track is done. We might as well just forget fast track as far as it applies to the General Agreement on Tariffs and Trade and other trade agreements that we apply fast track to in the future.

So, Mr. President, tonight the Senator from Alaska is, to me, making a very dangerous, if you would, proposal; that is, that the whole fast-track procedure will be undermined.

Mr. DODD. Will my colleague yield on that point?

Mr. CHAFEE. Yes, I would.

Mr. DODD. I think the whole point of this debate is fast-track procedure. If I may, what my colleague from Rhode Island is saying is that the more appropriate time for this discussion, putting aside the specifics of an agreement, was when this body considered the fast track legislation. If you do not like a fast-track approach—and there are many who do not and there are some legitimate questions about fast track—the time and the place to raise the issue was when we adopted the fast track for this agreement. Once you have accepted that procedure, then, in effect, you have bought into exactly what is occurring here tonight with these particular side agreements. Is that not correct?

Mr. CHAFEE. That is absolutely correct. I might say that is not unique, for this body to deprive itself of the right to make amendments. The Senator from Alaska says in certain instances he has a constitutional right to make an amendment, but we give that right up. What is the whole base closure procedure about? We cannot amend the base closure package. Those are the rules we operate under. It is yes or no. That is the way it is with fast track. We, in approving fast track, have said to ourselves we in Congress are not the kind of people to deal with trade agreements if we can amend them.

Mr. DODD. Will my colleague yield further?

Mr. CHAFEE. Because every nation negotiating with the United States of America would say beware, do not agree on anything because that is just the starting point. Wait until Congress gets its hands on that agreement.

So at the urging of our Special Trade Representatives, our Presidents, our Secretaries of State, Secretaries of Commerce, we over many, many years in this body have agreed to the fast-track procedure so that meaningful trade agreements that involve literally hundreds, scores of nations—indeed, I think in the GATT instance it is something close to 160 nations—can enter into negotiations with the U.S. representatives with confidence that whatever is agreed to is going to be it, yes or no, but it is not going to be whittled away by Members of Congress, U.S. Senators and Representatives.

Mr. DODD. I thank my colleague.

Mr. STEVENS and Mr. DODD addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. Mr. President, I yield myself 5 minutes, if I can, and I will be happy to yield to my friend from Connecticut. I wish to reply to my good friend here from Rhode Island, if I may.

The PRESIDING OFFICER. The Senator from Alaska [Mr. STEVENS] is recognized.

Mr. STEVENS. Off the bill, please.

My friend and I are of the same generation. We are the Lindbergh generation, literally, and we use "we" too often. "We," he says, have given away our rights. That law was passed in 1974. How many of us were here in 1974? Can one Congress bind a subsequent Congress 29 years later? Are you saying those who were here 29 years ago gave away rights of new Senators here to represent a State? What am I hearing? I do not believe my ears.

I wonder if people have read the bill. The section I am trying to eliminate says, "Subtitle D, Implementation of NAFTA"—NAFTA—"Supplemental Agreements." And yet the testimony of the administration is they are not part of NAFTA; they are not trade agreements.

"Agreements Relating to Labor and Environment." What do we do? We start first off, we authorize money to be appropriated to such agencies the President may designate, $20 million for a commission we had nothing to do with. The Senator just said it is not created by law. It is inferred that the President's authority to negotiate those agreements gave him the authority to create new functions of Government, new trilateral functions of Government, paid for by the taxpayers of the United States.

If you go through it, it has the "Agreement on Environmental Cooperation." It gives again $5 million to go ahead with that. And it talks about the "Agreement on Border and Environmental Operation Commission," again, that is $5 million to go ahead with it; "North American Development Bank and related provisions." We obligate the United States to participate in a new bank with taxpayers' money with no authority of the Congress.

Let me repeat that, a bank, the North American Development Bank. But, as the Senator from Rhode Island says, it is not in this bill.

What is in the bill is legislation that has nothing to do with NAFTA. It implements two side agreements that were negotiated after negotiating time for trade agreements expired.

But what are we doing? We may subscribe on behalf of the United States to 150,000 shares of the capital stock of the bank. I cannot believe it. That bank was created by an Executive agreement with no authority of anybody, and we are to approve it, approve money to put it up. I just do not understand it.

"Exemption from securities laws for certain securities issued by the Bank." They are exempt from the laws that apply to everybody else. You just go buy 150,000 shares. It does not say how much you can pay for them but that is another matter.

"Community Adjustment Investment Program." The President can enter into another agreement now. This time we authorize him to enter into an agreement with a bank that he created.

I tell you, I do not think people are reading this bill. I am just trying to do what anyone would do that has read this bill. If this were a budget act, I would make a point of order it should not be in this bill. I would offer a motion to strike and my motion would not be ruled out of order by the Chair. That is all there is to it.

There are only 16 Senators here today who were Members of this body in 1974. Let me repeat that, 16 Senators voted on the 1974 bill, and my friend from Rhode Island says we waived our rights. As a matter of fact, I voted against the 1988 trade bill which granted the President the authority to negotiate NAFTA under the fast track.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. CHAFEE. If I might have 1 minute.

The PRESIDING OFFICER. Who yields time?

Mr. CHAFEE. One minute.

Mr. DANFORTH. One minute.

Mr. CHAFEE. I previously said there are 160 nations involved with GATT. It has been pointed out I was wrong. There are 108 nations. Still, it is a lot of nations.

Second, the Senator from Alaska has vigorously stated that we did not give up any of our rights. The fact is we authorized the fast track. If I might have the attention of the Senator from Alaska, because he was quite concerned about this matter, we authorized fast track in 1988. We authorized fast track in 1988. Everybody was here then; nearly everybody—1988. That was 4 years ago. And we extended it in May 1991. That is not back in 1974. And we extended it for GATT in June 1993.

So this idea that somehow we are being hornswoggled by a whole series of votes that were taken years before anybody came to the Senate, a bunch of decrepit Senators are the only ones that can remember that, is not quite true.

We authorized fast track in 1988. We extended it in May 1991. We extended it for GATT in June 1993. That is quite recent, I would say.

Several Senators addressed the Chair.

Mr. MOYNIHAN. Mr. President, I yield 4 minutes to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. I thank the distinguished chairman, Mr. President, and the Senator from Alaska.

I just happened in on the comments made by the distinguished colleague from Rhode Island, that the constitutional point of order made by the distinguished Senator from Alaska, was dangerous. I just had to get out of my chair, because I strongly disagree.

It is not the Constitution that is dangerous, it is this fast track procedure. The fact of the matter is everyone knows in their own hearts and minds that this fast track thing is a political fix. What happens, is that the President calls over and says he is about to get an agreement with a particular country or group of countries and asks the Congress to support him and give him a vote of confidence and vote for a procedure that limits our ability to amend or even discuss his agreement. And he asks us to do this before we have even seen it. And we all say, well, we don't question the fact that you are doing what is in the best interests of the country, so yes, we will go along with fast track.

Then, when the time comes to debate it, the right time to raise that point of order—oh, no, you do not have any time. They come under your nose with a watch. And they say, Wait a minute. I have to catch a plane. How much longer are you going to talk?

So the whole thing is arranged. The bottom line question is whether or not under the Constitution we can delegate this to the Executive or really, more specifically, whether we can amend the Constitution with a simple bill. The Constitution says we can amend any bill. This fast-track legislation is one.

In his Farewell Address George Washington said, "If, in the opinion of the people, the distribution or modification of the constitutional powers, be, in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates. But let there be no change by usurpation; for though this, in one instance, may be the instrument for good, it is the customary weapon by which free governments are destroyed. The precedent must always greatly overbalance, in permanent evil, any partial or transient benefit.

Now, Mr. President, can this Congress amend the Constitution, in the one instance, if they think it be the instrument of good to facilitate an agreement or treaty with one nation, or 108 or 138? I do not think so.

I hope the Senate will join in with the Senator from Alaska on his appeal of the ruling of the Chair, because though it might have been in this particular instance the instrument of the good, article I, section 8 of the United States Constitution says the Congress—not the President, not the Supreme Court, not the Secretary of State, not the Executive—"the Congress shall regulate foreign commerce."

Senators should ask themselves if we can go so far in fast track as to eliminate our constitutionally mandated duty to regulate foreign commerce and eliminate our ability to amend a bill that is before us.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HOLLINGS. It would seem like we would have that right.

I thank the distinguished chairman of the Finance Committee.

Mr. BAUCUS. Mr. President, I think we are about ready to vote and are fairly close to a vote.

It is important for Senators to realize once again that if this amendment passes, it is the end of NAFTA, it is the end of any trade agreement that this country can reach with any country. It will be the end of the Uruguay round, because if this amendment passes, there will be other amendments, and we can all conjure up a multitude of different kinds of ideas, different amendments that come before this body that would drag down NAFTA. Then we would have to have a conference with the House. The House would then, too, reconsider NAFTA. A whole host of possible amendments. It would be all over, the end of NAFTA.

In addition, Mr. President, it would mean the end of the Uruguay round. France, Japan, Canada, no country would negotiate with the United States in the Uruguay round because they could not trust the President to be able to carry and deliver the Congress because once the President went to Congress with an agreement, any Member of Congress would stand up and offer any amendment under the sun. That would be the end of it.

So this is not only a killer amendment, Mr. President. This is a serial killer amendment. This kills any potential trade agreement. It is all over. And if we worried about abdicating our national responsibility by killing NAFTA, if we pass this amendment, we are abdicating it all. We are saying to all countries, forget it, the United States is not a player. The United States is not going to enter into trade agreements in this new world, new global economy, and where we are also interrelated environmentally, labor provisions, and what not.

So I strongly urge Senators to vote to sustain the appeal of the ruling of the Chair.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, do we have time?

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. I will take time off Senator PACKWOOD's time.

I will just take a minute or two.

The PRESIDING OFFICER. The Republican leader, Senator DOLE.

Mr. DOLE. Mr. President, first, let me indicate that the Senator from Alaska is one of the most resourceful Members I have ever known in the U.S. Senate. I have listened in my office to much of his debate. He has given us this information in policy and other meetings on our side of the aisle. I think he makes probably a pretty good case.

But the question is whether or not we are going to pass NAFTA, the North American Free-Trade Agreement. As much as I respect my friend from Alaska, it seems to me if we vote against the Chair's ruling, it is a vote to kill NAFTA. If that is what the Members want to do, there is certainly an opportunity to do it.

I think it is going to be very difficult, if you support the amendment, to say you are for NAFTA. That is the only point I make. I want the NAFTA to pass.

I understand Senator STEVENS' concern for the side agreements. I think it is a bad idea. It did not get the President anything; did not get him much labor support; did not get him much environmental support. But the side agreements were made.

It seems to me that we have now decided how we are going to treat trade agreements. I hope we can defeat the amendment and move on with the debate. I understand the Senator from Alaska is willing to yield some of his time to the majority leader and have a vote on final passage sometime by 9 or 10 o'clock this evening.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, first, I have discussed the allocation of time with the Senator from Alaska, the Senate Republican leader.

The PRESIDING OFFICER. Will the majority leader yield so we might ascertain where the time he uses will be coming from?

Mr. BAUCUS. Mr. President, I yield 5 minutes to the majority leader.

Mr. MITCHELL. Mr. President, I have discussed this with the Senator from Alaska and the minority leader, and they have graciously agreed to a reallocation of time under which 90 minutes of the time remaining under Senator STEVENS' control would be transferred to the control of Senator MOYNIHAN. That would not change the overall amount of time on the bill, but would merely change the allocation and would reflect the difference in the numbers on the two sides and give more Senators an opportunity to speak on the bill.

I ask unanimous consent that such reallocation occur.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MITCHELL. I thank the Senator from Alaska, for his graciousness and I thank the minority leader as well.

Mr. President, I, too, will speak briefly with respect to the amendment. I really cannot say any more than to associate myself with the remarks of the Republican leader.

The Senator from Alaska is extremely resourceful, one of the most effective Members of this Senate, and he is also a good friend; I have great respect for him. I simply say that whatever the intention of this amendment, there is no doubt about what the effect will be if this amendment is adopted. There will not be a North American Free-Trade Agreement approved.

Therefore, for that and a variety of other reasons, I hope that the Senate will reject this amendment. I hope that Senators who support the North American Free-Trade Agreement will see it in that light. As the minority leader has just stated, you really cannot say you are for the agreement and then vote for an amendment that will kill the agreement. I limit my comments to that.

There are a whole variety of other reasons why I believe the amendment should not be approved, but they have been debated at length skillfully by the Senators from Montana, Missouri, Rhode Island, and others, and I know that perhaps the person most significantly affected by this is the chairman of the Finance Committee, who I know will say a few words about it now.

Therefore, I conclude by simply urging all Senators to join in support of the North American Free-Trade Agreement and in opposition to this amendment.

I yield the floor.

Mr. STEVENS. While the leader is here, several people have asked about an agreement and when to vote. I will be happy to discuss that with the leader and the chairman of the Finance Committee and the Senator from Montana.

Mr. MITCHELL. I will make the following suggestion, if agreeable to them; that the Senator from New York, the distinguished chairman of the Finance Committee, be recognized to speak, and that upon the conclusion of his remarks, the Senate vote on the pending measure.

Mr. STEVENS. Could I have 2 minutes to close?

Mr. MITCHELL. Certainly.

How much time does the Senator from New York need?

Mr. MOYNIHAN. Three minutes.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, I rise simply to speak from a longer perspective. We have at issue here a mode of reaching trade agreements which was begun in 1934 in the Reciprocal Trade Agreements Act of that year, in the aftermath of the disaster of the Smoot-Hawley Tariff Act. That act, in which we added 20,000 individual tariff increases on this floor, brought us to a 60 percent tariff rate, and brought the world and our own Nation's economy into ruin. In the aftermath, we said we cannot do it that way.

We proceeded happily in tariff negotiations through the Kennedy Round, which began in 1962 under the Trade Expansion Act of that year. The Kennedy round, signed June 30, 1967, contained provisions dealing with nontariff items. Increasingly, trade negotiators have found that not tariffs, but quotas and subsidies and such like, restrictions on who may conduct what kind of business, are the most important aspects of world trade. When the

Administration addressed several of ours in the Kennedy round, Congress refused to abide by them. Our trading partners then refused to negotiate further.

In 1974, accordingly, we adopted the fast-track procedure that we are under tonight. We did so in clear conformity with article I, section 5, clause 2 of the Constitution, which provides that each House may determine the rules of its proceedings.

As much as I share the concerns which the Senator from Alaska so ably set forth, I say do not put our whole trading negotiating position in the world in jeopardy. The Uruguay round of the General Agreement on Tariffs and Trade is to be concluded on December 15, scarcely a month away. Seven years in the making.

If it is thought in these final hours in Geneva that agreements reached with the U.S. Representatives of the President, who negotiate, will not be kept by the Congress, which legislates, we will not have a Uruguay round, and a moment of potentially great advantage to the world, and most particularly to our Nation, will have been lost on a procedural vote, on an issue which we can return to next year. If the Senator from Alaska wishes the Committee on Finance to address it, we will do so. I urge us to oppose this measure.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. I ask the Senator from Montana if he would like some time? I will take 2 minutes to close.

Mr. BAUCUS. I yield——

Mr. STEVENS. I have time.

Mr. President, I will take 2 minutes. I say to the Senate that I am saddened in many ways. I only seek to delete extraneous material from a bill that was designed to approve a trade agreement. I hope that perhaps I have been able to put a mark on the wall. I thank the Senator from New York for his commitment that the Finance Committee will review the fast-track procedure in the 1974 Trade Act. We ought to have the right to exclude extraneous matters from these bills, matters that really are not required by the trade agreement.

I agree we may have to have some sort of fast-track procedures considering trade bills, but only to the extent that it is absolutely required. Trade agreements are extraordinary. They are not designed for treaties. That is why we have a fast track.

Mr. President, the law we passed in 1974 was clear. The fast track was permissible, and the bill that prevents the fast-track approval for the trade agreement designated what could be in it. We are ignoring that. How do we expect judges to really interpret the laws we write if we are unwilling to abide by them ourselves? How do we expect "John Q. Citizen" to really respect and adhere to the laws we help pass if we are unwilling to adhere to them ourselves?

I think an arbitrary procedure in a bill passed in 1974, when only 16 of the Senators here were present, should not be binding on this Senate to the extent that it prohibits us from deleting from a bill extraneous matters which are not trade agreements, which were not negotiated within the timeframe we gave the President to negotiate trade agreements and which, by definition, are executive agreements which create 34 new entities of Government that will cost the taxpayers in this country thousands and millions of dollars to come.

I think it is wrong. I urge the Senate to overrule the Chair. I thank the leaders for their cooperation. I am prepared to yield the remainder of my time. Is the Senator from Montana prepared to yield his?

Mr. BAUCUS. Yes.

Mr. STEVENS. Mr. President, I ask for the yeas and nays on my appeal of the ruling of the Chair.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum, temporarily, for a minute, the time being charged against the time I have on the bill.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, there has been discussion as to why I have proceeded in this fashion and I would like to explain.

It was possible for us to have a vote on the constitutional question, which I have avoided. I have avoided it particularly for the reason that the Senator from New York has just indicated. He is willing, as the chairman of the Finance Committee, to explore with us issues I have raised today regarding the fast-track procedure of the 1974 Trade Act.

I did not want to set a precedent which would bind future Senates to an issue which I think we ought not to bind ourselves to now. We ought to try to amend this law and make it effective rather than establish a precedent other Senates might later not want and find it hard to undo.

We are merely appealing the ruling of the Chair that denies me the right to offer my amendment. We are not voting on the constitutional question. I thank the Senator from Connecticut for mentioning that to me.

I assure the Senate that I, too, respect the historic traditions of our body. I would not want to establish that precedent in this matter. I do not think it would be right. I do think we ought to correct the law, and my friend from New York is in a position to help us do so.

The PRESIDING OFFICER. All time has been yielded back.

Mr. STEVENS. Mr. President, again I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, may I yield just 2 minutes to my friend from South Carolina so he can make his point in the RECORD that we have been discussing.

The PRESIDING OFFICER. The Senator has that right.

The Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, I thank the distinguished Senator from Alaska.

Each one has his or her reasons and rationale for their vote. My reason is fundamental. I do not think you can amend the Constitution by a simple act of Congress.

Under the Constitution we have a right to amend this bill, any bill. I feel very strongly that that is constitutionally provided. I think fast track is an attempt to amend the Constitution to disallow any amending of this particular agreement or treaty.

While he describes his vote in the appeal of the Chair not a constitutional question, I describe mine as very fundamentally constitutional.

I thank the distinguished Senator.

The PRESIDING OFFICER. The question is, Shall the decision of the Chair that the amendment offered by the Senator from Alaska [Mr. STEVENS] is prohibited under section 151 of the Trade Act of 1974, 19 U.S.C. 2191(d), stand as the judgment of the Senate.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. DORGAN] is necessarily absent.

The PRESIDING OFFICER (Mr. LEAHY). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 73, nays 26, as follows:

[Rollcall Vote No. 389 Leg.]

YEAS—73

Akaka
Baucus
Bennett
Bingaman
Bond
Boren
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Byrd
Campbell
Chafee
Coats
Cochran
Conrad

Coverdell
Danforth
Daschle
DeConcini
Dodd
Dole
Domenici
Durenberger
Feinstein
Ford
Gorton
Graham
Gramm
Grassley
Gregg
Harkin
Hatch
Hatfield
Hutchison
Jeffords
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Lieberman
Lugar
Mack
Mathews
McCain
McConnell
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Nickles
Nunn
Packwood
Pell
Pryor
Reid
Robb
Rockefeller
Roth
Sarbanes
Sasser
Simon
Simpson
Thurmond
Wallop
Wofford

NAYS—26

Biden
Burns
Cohen
Craig
D'Amato
Exon
Faircloth
Feingold
Glenn
Heflin
Helms
Hollings
Inouye
Kempthorne
Levin
Lott
Metzenbaum
Murkowski
Pressler
Riegle
Shelby
Smith
Specter
Stevens
Warner
Wellstone

NOT VOTING—1

Dorgan

So the ruling of the Chair was sustained as the judgment of the Senate.

The PRESIDING OFFICER (Mr. LEAHY). The Senator from Alaska.

Mr. STEVENS. Mr. President, that was not an unanticipated result, but in view of it I shall not pursue the other amendments and points of order I had in mind concerning this bill.

I do want to thank my able assistants, Christine Ciccone, from the Rules Committee, my Legislative Director, Earl Comstock, and my administrative assistant and chief of staff, Lisa Sutherland.

I do thank the Senators for their cooperation. I look forward to working with the Members of the Senate to change the basic 1974 trade law. We should have the same rights to strike extraneous material and materials not absolutely essential to the trade agreements from any fast track consideration.

We have already yielded the time.

The PRESIDING OFFICER. Who yields time? The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield 22 minutes to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 22 minutes.

Mr. MITCHELL. Will the Senator yield for a moment?

Mr. BRADLEY. I am pleased to yield to the majority leader.

The PRESIDING OFFICER. The Senator from New Jersey has yielded to the Senator from Maine, the majority leader.

Mr. MITCHELL. Mr. President, I want this off my leader time and not off the time of the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I say to the Members of the Senate, it is my intention that the Senate will now continue in debate on the North American Free-Trade Agreement until 11 p.m. this evening. At that time, by a prior order, the Senate will vote again on cloture on the Brady bill.

I do not anticipate any votes between now and 11 p.m., and if something occurs that I do not now anticipate, we will attempt to give Senators plenty of notice for Senators to return. But there will be a vote at 11 p.m. on cloture on the Brady bill.

Between now and then, I will meet with the distinguished minority leader and others involved in this and other pending measures, and have an announcement with respect to the schedule thereafter, both the NAFTA and the other matters that we hope to resolve.

Several Senators addressed the Chair.

Mr. STEVENS. Will the majority leader yield?

Mr. MITCHELL. Certainly.

Mr. STEVENS. In view of the fact we have transferred an hour and a half of the time allocated to this side of the aisle to the distinguished chairman of the Finance Committee, would it be possible now to agree that the time remaining for the minority be consolidated between the pros and cons? That way we will not have to keep two people here to allocate time. I would like to consolidate the remaining time for the Republican side of the aisle for the remainder of this bill.

Mr. MITCHELL. I have no objection.

Mr. STEVENS. I ask unanimous consent that now be done.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Will the Senator from Alaska, if I could have his attention—when he says consolidated, consolidated in whom?

Mr. STEVENS. It is in Mr. PACKWOOD's—the minority leader.

Mr. MITCHELL. You are relinquishing your time to Senator PACKWOOD or his designee.

Mr. STEVENS. I am saying it is all one pot, subject to the control of our leader.

Mr. WARNER. Will the majority leader yield for a question?

Mr. METZENBAUM. May I address the leader, please?

The PRESIDING OFFICER. The Senator from Virginia will withhold for just a moment. Could we have order? The Senator from Virginia was seeking recognition to ask the Senator from Maine a question.

Mr. WARNER. I ask the distinguished leader, my understanding is the conference report on Senate intelligence authorization has either been acted upon or will be very shortly by the House.

Could the distinguished leader advise the Senate as to his intentions with respect to that piece of important legislation?

Mr. MITCHELL. It is my intention to proceed to that measure. I have not yet been able to get it cleared, but I am working on it, and I hope to be able to get that clearance in the near future. That is one of many matters we have been working on.

Mr. WARNER. I thank the distinguished leader.

Mr. METZENBAUM. Mr. President, I just want to say to the leader, as manager of the Brady bill, I have long felt around here that having votes at 11 o'clock at night has a certain amount of absurdity to it.

From my standpoint, I would have no objection if the leader wanted to put that vote over to tomorrow morning. I see no particular reason why we have to vote at 11, or that there is anything particularly symbolic or important about doing it.

If you wanted to do it at 10 o'clock in the morning?

Mr. MITCHELL. Mr. President, the timing of the second cloture vote was a disputed and negotiated feature of the agreement that was reached yesterday.

Whatever my personal disposition is, I am unable to do that at this time. I would have to consult further with the minority leader in that regard.

Mr. METZENBAUM. I am aware of that, but several of the Members have asked me why do we have to vote at 11 o'clock at night. It was my understanding the minority leader had indicated his desire to have that second vote at that time.

Mr. MITCHELL. That is correct.

Mr. METZENBAUM. So to be very clear about it, I have no objection to doing it, whatever time you want tomorrow.

Mr. MITCHELL. I will raise that with the minority leader. But may I suggest to you in a generic answer to the inquiry why we have to vote at 11? So that we can leave before Thanksgiving.

Mr. METZENBAUM. I did not know that was generic, but I will accept it.

Mr. MITCHELL. I thank my colleagues and the Senator from New Jersey for his courtesy.

NORTH AMERICAN FREE-TRADE AGREEMENT IMPLEMENTATION ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 22 minutes.

Mr. SARBANES. Mr. President, I would like to engage the Senator very briefly in a colloquy.

Mr. BRADLEY. I will be pleased to engage the distinguished Senator from Maryland in a colloquy but not on my time.

Mr. MOYNIHAN. If the Senator from Maryland will restrain himself, others Members will appreciate it.

Mr. SARBANES. I thank my colleague.

Yesterday, Mr. President, the Senator from New Jersey took the floor after I spoke with respect to some of the points that I had made in my presentation. I did not have a chance at that time to respond. I would like to do so now.

In his statement, the Senator from New Jersey said in response to some of the points that I had made: "The number that is frequently thrown around"—this is for the wage gap between the United States and Mexico—"ranges from 7 to 1 to 10 to 1. I think it is important for us to focus on what some of the real facts are as it relates to the issue of wages." That is the Senator from New Jersey speaking.

He then proceeded to make several points designed to counter the statement I had made earlier. One, that the compensation ratio is 3 to 1, not 7 to 1; two, that the low average productivity in Mexico is what matters, not the productivity of its export sector; and three, that the jobs that will be lost are low-tech jobs.

I submit that all three of these assertions are in error, and I would like very quickly to state why. I regret that I did not have the opportunity yesterday to make this brief statement.

In quoting from William Orme, "Continental Shift: Free Trade in the New North America," which I understand was the text the Senator from New Jersey was using on the floor, he quoted the following passage:

> The 10-to-1 ratio cited by Perot and others faithfully does reflect the pay differences between border assembly plants of, say, General Motors and General Electric, two of the biggest maquiladora employers, and between those factories and their unionized factories in the United States.
>
> Some of these operations are directly equivalent in terms of job description and productivity, and the comparison, therefore, is apt.

To the credit of the Senator from New Jersey, he did quote the above section of that study which made, in effect, the very point I was asserting on the wage gap—that in these border assembly plants, both GM and GE, you had a 10-to-1 wage gap ratio.

However later in his statement he quoted BLS compensation data, which are the figures I had used indicating a 7-to-1 compensation ratio, and then said:

> But the figures understate real wages—real wages in Mexico. Most of the typical Mexican industrial payroll goes toward fringe benefits such as subsidized food, transportation, and even housing, plus mandatory profit sharing and a required Christmas bonus equal to an additional month's pay. Mexican workers also get double pay for overtime, a minimum of 20 days paid vacation per year, and for women 12 weeks paid maternity leave. According to one analysis of this full picture, the benefit package given to Mexican industrial workers equals a startling 62 percent of base pay compared with 8 percent for American wage earners.
>
> With all these factors added in, some companies with manufacturing on both sides of the border contend the real wage differential is more like 3 to 1, with the gap closing all the time.

We had been using the 7-to-1 figure from the BLS compensation data. It was then asserted by the Senator from New Jersey that this comparison omits all of these items that have just been listed and that the inclusion of those items would, in fact, lower the wage gap from 7 to 1 to 3 to 1. As I understand it—I do not have the exact text of the Senator before me—I think he then went on to say that 3 to 1 is 3 to 1 and it is closing. It certainly is not, he said, 7 to 1.

We have checked this, and it is our understanding that the BLS data on Mexican compensation, which provided the 7-to-1 wage gap figure I had been using already included all of the items listed by the Senator from New Jersey—food, transportation, housing, profit sharing, Christmas bonus, overtime, vacation, and maternity leave.

In fact, the BLS description of what is included in the compensation figure either explicitly identifies some of these items—profit sharing, bonus, overtime, vacations—or tells us that they are included in the terms pay in-kind—food, transportation, housing or legally required benefit plans, and maternity leave.

It is the BLS' analysis that the wage gap ratio is 7 to 1 and that this factors in all of the numerous items I mentioned above. In other words the items were already counted in arriving at the 7 to 1 wage gap rather than being left out as the Senator from New Jersey assumed in asserting a 3-to-1 gap.

Also, we were told by the Senator from New Jersey that Mexican industrial workers have a benefit package equaling 62 percent of base pay compared to only 8 percent for American wage earners. That very low figure for the U.S. benefit package did not sound right to me on the face of it, but I did not have the figures in front of me at the time. We have since checked that, and the nonwage compensation in the United States is not 8 percent of base pay but, according to the BLS, 39.5 percent of base pay, not quite at the Mexican level but significantly greater than the figure put forth by the Senator from New Jersey.

But the 7-to-1 ratio, which I and others have used to make the argument that facilities might well be located in Mexico to take advantage of this wage gap given Mexican productivity at 80 to 100 percent of U.S. levels, in fact, include the items that the Senator from New Jersey cited.

Furthermore, the Senator also made reference to low average productivity in Mexico. Of course, the salient issue is what the productivity is in the export sector. I am trying very hard to compare apples and apples and not apples with oranges. I appreciate and understand that it is not helpful to the debate to engage in a comparison of apples and oranges.

I have been focusing on Mexico's export sector, which is what we are really talking about in terms of their productivity and the possible impact of NAFTA. Average productivity in Mexico is, of course, lower than the productivity in the export sector, but it is the productivity in the export sector that constitutes the challenge that we have been talking about with respect to the location of production facilities.

Finally, the Senator said that "a proponent of the NAFTA has to face up to and admit the loss of low-tech manufacturing." However, two industries with some of the heaviest investment in Mexico for export back to the United States are auto and electronics, neither of which are low technology. I think this is a very important point.

I thank the Senator for yielding. I have wanted since yesterday to put this correction in the RECORD.

Mr. BRADLEY. On the Senator's time, may I respond before I start to use my time?

Mr. SARBANES. Certainly.

Mr. BRADLEY. I thank the distinguished Senator for his comments on remarks that I made yesterday. As always, the distinguished Senator from Maryland is extremely precise. However, I think there probably is some slight continued disagreement on what the BLS figures actually show.

It is my understanding that in terms of subsidized food, transportation and housing, it is not included in the BLS numbers. Profit sharing, overtime, and vacation is included in the BLS numbers.

I would also say to the distinguished Senator that I think the argument about whether it is a 7-to-1 wage ratio or 3-to-1 wage ratio ignores something else I said yesterday, which was if you were talking about purchasing power parity, that the ratio would be close to 2.5 to 1, and I would simply suggest that once you get into the numbers there is a degree of complexity here that is obvious.

I think that the important thing for the argument I was trying to make—and I think that I can carry the argument forward even given the Senator's suggestions and comments—is that the direction of wages in Mexico is to higher wages.

In 1987, the ratio was 13 to 1. Taking the Senator's own comments and giving him not the 3 to 1 that I am suggesting it is but the 7 to 1, it is now 7 to 1, and the probability is that with the North American Free-Trade Agreement, by the time it is fully implemented, it will be 3 to 1.

The point is the direction of wages in Mexico is up, and I believe that indicates a significant problem with the argument that low wages are sucking all of the jobs to Mexico.

I would further point out that a lot of the objections, or a lot of the heat with regard to low wages focuses on the maquiladora program. The maquiladora program only has 450,000 workers but less than half of those workers are American companies. A very large percentage are Japanese companies. Less than half are American companies. Indeed, many of the American companies have gone down and would take two maquiladora workers in Mexico to replace one American worker, and in some cases they are not taking jobs from the United States because they are new industries, they are new components there in terms of CD's and personal computers.

So I would make the argument that to focus only on the maquiladora program and analogizing from that to the rest of Mexico is probably not the wisest way to go. In fact, the only study that I have actually seen done on the jobs that moved from the United States to Mexico, that had been tracked, showed that over I think it was a 10- to 15-year period 96,000 jobs. That is about a range of, what, 6,000 to 10,000 jobs, 12,000 jobs a year, in an economy that has 100 million jobs.

So I would say to the distinguished Senator from Maryland that if I gave him the points that he has made, the direction of the argument would still be the same. That is that it is not a major giant sucking sound to the south pulled by low wages, particularly when you add to that the lower productivity, and when you add to that the absence of infrastructure, and when you add to that the record since 1987 when the new economic policy was fully in place where real wages have increased by about 28 percent.

Mr. SARBANES. Mr. President, just to close this out.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. I am interested; the Senator uses 1987 as a base year, which was, of course, a low point for wages in Mexico.

What had happened is that the wage gap had been less than 13 to 1 earlier. However, you had a deterioration of the wage situation in Mexico which brought it down as low as 13 to 1. Subsequently, you have had some recovery which has brought the wage ratio back up to 7 to 1.

So the Senator has used in effect a depression, or recession year in Mexico, which resulted from a significant deterioration in Mexican wages, to use as his comparison. He then asserted that the recovery since the recession year, which brought wages back to a 7-to-1 ratio, represents a trend.

I think it is very important that this be understood. The improvement from 13 to 1 to 7 to 1 really represents a recovery from the trough year which resulted after a significant deterioration in the Mexican economy and the wage situation.

I am quite certain that if I had used the 1987 base year to assert a 13-to-1 gap, the distinguished Senator from New Jersey would have said, should not do that because I would be picking the worst year in terms of the Mexican economy and the Mexican wage situation, and therefore it would be an inappropriate year on which to base a comparison.

Now, second, on the point of the 7-to-1 ratio in the BLS compensation data, what the Senator said yesterday was that this figure underrepresented Mexican wages because it did not include subsidized food, transportation, housing, mandatory profit sharing, a Christmas bonus equal to an additional month's pay, double pay for overtime, a minimum of 20 weeks' paid vacation per year and, for women, 12 weeks paid maternity leave. He then said, if we added in all of these factors, that the differential would be 3 to 1 and not 7 to 1.

I wish to very strongly make the point that this in fact, is not the case. I have here the BLS hourly compensation costs for workers in manufacturing industries in Mexico where the BLS says:

> Average hourly earnings include pay for time worked, basic time and piece rates plus overtime premiums, shift differentials, and other work-related bonuses and premiums, pay for time not worked, holidays, vacations and other leave, and social and cost of living allowances.
>
> Furthermore, "additional compensation" refers to all employees and includes seasonal bonuses, end-of-year and vacation bonuses—

The Senator made a big thing yesterday of this bonus at the end of the year—

> End of year and vacation bonuses, profit-sharing bonuses, the cost of pay in kind, and employer expenditures for legally required contractual private benefit rights.

We asked the BLS the meaning of "cost of pay in kind," and they informed us that it includes food and transportation. All of these items that the Senator asserted yesterday were not being reflected in the 7-to-1 ratio, in fact, are reflected in it. They were included by the BLS in the course of making this comparison and did, in fact, give us the 7-to-1 wage gap between United States wages and Mexican wages that we have been using.

Mr. BRADLEY. I thank the Senator very much for his inquiry of the BLS and for their detailed explanation, particularly of what "in kind" is because there is no document that they submit to you, that can you find that "in kind" means housing, transportation, and food. This was I assume, something obtained in the discussion.

But the point here that I would like to make—and I take the Senator's point—I would like to just respond to why 1987; 1987 was not selected because that was the lowest of the low. I was not looking for the lowest possible number; 1987 was selected because that is when the policy of Mexico began to change. That is when they began to get out from under the IMF. The IMF was imposing a very rigid straitjacket on Mexico—valuation, balanced budgets, borrowing more from banks so they could pay interest to banks. And it was in 1987 that the policy began to change, began to change from a weak peso to a strong peso; began to move toward greater privatization in the State sector, and began to drop the overall tariffs; 1987 was selected because that was the time that the policy began to change, the result of which was the improvement from a 13-to-1 ratio, to a 7-to-1 ratio.

Mr. SARBANES. Mr. President, let me make this final point. According to the BLS the hourly compensation costs in 1987 were the lowest of any of the years from 1975 through 1992. That was the lowest year. It was higher in previous years, and then higher in subsequent years. And the Senator picked the trough year in order to make the comparison. The Senator from New Jersey asserts it was because of a change in policy. In fact, the earlier years had higher figures. Some had higher figures than now is the case. So the Senator from New Jersey picked the very bottom, trough year as the basis for his assertion that Mexican wages are on an upward trend.

Mr. BRADLEY. I think we can close this argument out. I would simply reassert that 1987 was a trough. But the reason it was a trough was important. Indeed, you had higher numbers earlier. You had higher numbers when petrodollars were flowing, and when banks were flowing money into Mexico, you had higher numbers. But the reality is the banks ultimately had Mexico under a thumb, and that is why these plummeted in the mid-1980's. That was the point I was trying to make. As the distinguished Senator from Maryland knows, he and I are about the only ones in this body who had any interest in the debt question.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, I want to say that I believe that the opposition to NAFTA is truly responding to the legitimate frustrations and fears and worries of millions of Americans. I just believe NAFTA is the wrong target for those angers and frustrations and, indeed, it has become a lightning rod for those angers and frustrations.

Mr. President, no consideration of NAFTA is possible until you begin to see what our predicament is. I think we are in the midst of four economic transformations:

The end of the cold war, the economic effect of which is to drop the number working in the defense sector from 7.2 million to 4.2 million.

Two, the gigantic national debt that went up to about $4 trillion in 12 years, the result of which was to turn the real estate boom into a real estate depression.

Three, the knowledge revolution. The introduction of the computer into the work force had a profound effect in reducing the number of people working. Steelworkers in 1979 were about 721,000. This year they are 374,000.

And four, the explosion of markets in the world. Three billion more people in the world markets today, 1 billion more workers producing tradeable goods competing with our workers. Indeed, in the last 20 years 60 percent of the garment industry, largely because of that competition, has gone to Asia.

Mr. President, a lot of people have lost a lot of jobs and are continuing to lose jobs because of these four economic transformations. I believe it is important that we are sensitive to their needs. I believe organized labor is responding to their needs. And in the tradition of those of us who believe the trade union movement has played an enormously important role in our country and in the world, I believe we should come together and assure those working Americans who have lost their jobs and those who will lose their jobs from these transformations will have adequate health care, lifetime education, and pension security.

But, Mr. President, to defeat NAFTA solves none of these problems. To defeat NAFTA solves none of these problems. Passing NAFTA is a part of an overall solution. Why do I say that? Because export growth in jobs is absolutely essential. From 1983 to 1989, export jobs in the United States went from 3.8 million to 6 million. In my State of New Jersey, they went from 133,000 to 199,000 in just 6 years. That is the only force that is creating jobs—export jobs. The rest are being lost from the end of the cold war, the giant debt, the computer revolution, and increasing competition.

Mr. President, what NAFTA does is generate export jobs. Over a 10-year period it eliminates tariff and nontariff barriers in manufacturing. Over a 15-year period it eliminates tariff and nontariff barriers in agriculture. It locks Mexico into the free market reforms that were initiated in the 1980's, and it gives the United States access to a market of 90 million people on a preferential basis.

Mr. President, one of the overlooked aspects of this is that Mexican economy is 23 percent manufacturing, 60 percent services. American companies are already in Mexico in manufacturing because that is the only way we could sell anything in Mexico, by getting access. We had to build it there because they had such high tariff and nontariff barriers.

But even then our services providers were denied access to the Mexican market. And the reason that is relevant, Mr. President, is that the number of people working in the United States in services in the last 20 years has skyrocketed, and the number of people working in manufacturing has plummeted. In 1952, 34 million people were working in manufacturing; today 17 million people. In 1952, 59 million people were working in services; today 79 million people. The reality is we are opening up the Mexican market precisely in the sector in which we have the largest number of people working.

Let us just go down the list of where some of these jobs are going to come from:

Autos: 60,000 autos exported in Mexico in the first year of NAFTA back up to 10,000, 10- to 15,000 jobs according to the Department of Commerce.

Agriculture: Corn growers in Illinois, Iowa, and Indiana, producing 150 bushels an acre will be competing with corn growers in Mexico who produce at 35 to 40 bushels an acre. No contest. One company, ADM, says 9,500 additional jobs will be created as a result of this.

Textiles: as I say, 60 percent of the garment industry left and went to Asia. They did not go to Mexico. They went to Asia. If 10 percent of that production came back to Mexico, it would generate about 1 billion yards of demand for textiles, and create about 100,000 jobs in the textile sector, which is a higher wage sector than the garment sector.

Heavy equipment: Caterpillar sold 5 tractors in Mexico in 1987; now it sells 1,000 tractors and its sales are increasing every year by leaps and bounds. In 1991, General Electric had sales in Mexico of $1.45 billion, three times the amount that it exports back to the United States.

Mr. President, there are real jobs in the service sector, 60 percent of the Mexican economy, 79 percent of the American employment.

Construction: Ryland Homes says it is going to get a part of President Salinas' program to build 320,000 homes in Mexico. American architects and engineers and plasterers and American steel and sheetrock and windows will be needed in Mexico.

Transportation: Union Pacific & Burlington Northern predict an increase in business 15 percent annually in traffic between Mexico and the United States. There is an old saying in Mexico. Back in the early 20th century, one leader in Mexico said "Between the United States and Mexico should not be the sound of a locomotive, but the sound of a desert." That was the kind of suspicion. That is changing. Union Pacific & Burlington will be connecting our countries.

Oil and gas: For the first time we will be able to get in; Dresser Industries, Solar Turbines, big and large companies.

Intellectual property for the first time is protected; 75 percent of the worldwide share of computer software is the United States. One company, Microsoft, increased sales in Mexico 100 percent in 1992 and 200 percent in 1993.

Pharmaceuticals. One company in my State says with the NAFTA, they will increase employment by 800 jobs. In film distribution, a major growth industry, there is no parallel in the world to the United States industry; it is finally protected and able to sell into Mexico.

Lennox China. They predict that in 4 years there will be a dramatic increase.

Insurance in Mexico is growing at 20 percent a year; 3 percent a year in the United States. The average Mexican spends $30 for insurance; the average American spends $1,950. That is a major growth market.

Finance. Beneficial Finance tells me—a New Jersey company—5 years after NAFTA is in effect, they will have opened 50 offices in Mexico and each will support a job in New Jersey at $40,000 to $50,000 a job.

Environmental technology. Companies like Brown and Caldwell in California will be cleaning up the environment, creating jobs in the United States. M&M Mars in New Jersey sales will go from $30 to $200 million.

Mr. President, what about the jobs and small business?

Mr. President, I will submit for the RECORD, and I ask unanimous consent to have printed in the RECORD, a list of 30 different small businesses in the State of New Jersey that deal with earrings, printing inks, paint tools, pressure valves, and vents that see Mexico as a major market.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

NEW JERSEY COMPANIES PARTICIPATING IN NAFTA PRESS CONFERENCE

Company, location, and products

Ace Printing; Springfield, NJ; commercial printing.

Alcan Aluminum; Union, NJ; non-ferrous mettalic powders and pigmants.

Cavanagh; printing inds.

American Cynamid; Bound Brook, NJ; industrial chem's, pesticides.

Att/Bell Labs; Murray Hill, NJ; telephone circuit sys, r&d.

Bag Packaging; Roselle, NJ; bags, plastic sheeting.

Biach Industries Inc.; Cranford, NJ; tensioning eqp, hydro pmps.

Cooperheat Inc.; Piscataway, NJ; heat treating equip.

Croll-Reynolds Co.; Westfield, NJ; pollution control eqp.

Degussa Corp.; Ridgefield Pk, NJ; chem's, precious met's catalysts.

Dock Resins; Linden, NJ; specialty chemicals.

Fluets Corp.; Hillside, NJ; machine parts, lab equipment.

Fluoramics Inc.; Mahwah, NJ; switches and lubricants.

Gemco; Camden, NJ; pharmaceutical machinery.

Girard Equipment; Rahway, NJ; pressure relief vents, valves.

Harris Corporation; Somerville, NJ; semiconductors.

Haarmann & Riemer Corp.; Springfield, NJ; flavors & fragrances.

Hayward Pool Products, Inc.; Elizabeth, NJ; swimming pool & spa equip.

Henry Heide Corp.; New Brunswick, NJ; non-chocolate candy.

Hexacon Electric Co.; Roselle Pk, NJ; hand soldering equip.

Hillside Spinning & Stamping Co.; Union, NJ; consumer/commercial bakeware.

IKG Industries; Clark, NJ; steel and aluminum bar grating.

Lafollette Vineyard/Winery; Belle Mead, NJ; vineyard/winery.

Lermer Packaging Corp; Garwood, NJ; plastic vials, jars, & closures.

Lincoln Mold & Die Corp.; Roselle, NJ; molds for closures.

Lors Machinery; Union, NJ; resistance welders.

Mentor Graphics Corp.; Warren, NJ; software.

Merck; Whitehouse Sta., NJ; pharmaceuticals.

Dyna-Lite Inc.; Hillside, NJ; strobe lghts, electronic flashes.

Electrocatalytic Inc.; Union, NJ; electrochlorinating machinery.

Emcore; Somerset, NJ; crystal production machinery.

Fanwood Chemical; Fanwood, NJ; chemical marketing.

Red Devil Inc.; Union, NJ; hand tools, painting tools, caulking.

Reheis Inc.; Berkeley Heights, NJ; materials for pharmaceuticals.

Rose Art Industries; Orange, NJ; chalk, crayons, paint sets.

The Schundler Company; Metuchen, NJ; perilite & vermiculite.

Seagrave Coatings Corp.; Carlstadt, NJ; arcrylic, urethane, epoxy.

Sealed Air Corp.; Totowa, NJ; plastic foamed pkgs, cushioned envelopes and meat absorbent pads.

S.S. White Technologies, Inc.; Piscataway, NJ; flexible shafts.

Union Carbide; Bound Brook, NJ; plastic resins, solvents.

Van Leer Chocolate; Jersey City, NJ; chocolate candy.

Vanton Pump & Equipment; Hillside, NJ; rotary pumps & steel castings.

Walden Farms; Linden, NJ; salad dressings.

Micron Powder Systems; Summit, NJ; pulverizing and mixing mach.

Milton Can Co.; Elizabeth, NJ; metal cans and pails.

National Starch & Chemical Co.; Bridgewater, NJ; adhesive, starches, resins.

The Newark Group, Inc.; Cranford, NJ; paperboard.

QEI Inc.; Springfield, NJ; automation equipment.

Mr. BRADLEY. The point is that we are going to export a lot to Mexico. It is going to generate jobs in the United States. But is the corollary true? Does every import take an American job? No; that is not true. Look at one of our major imports from Mexico, oil, at 750,000 barrels of oil a day, the fourth largest supplier in the world. That counts as imports. Does that take U.S. jobs? No. It is necessary to create jobs in the United States.

One of the unlooked-at aspects of this agreement is that under NAFTA there will be more investment in oil development in Mexico. I pose the question: Would you rather be more dependent on oil from Mexico or from the Persian Gulf? Under NAFTA, you will get the opportunity to be more dependent on Mexico.

We have some people opposing the agreement saying, "You are not going to sell a lot in Mexico; they are poor people."

The statistics: Mexicans purchase $458 per capita of American goods. More than any country in Europe and more than Japan. Aha, the opponents say. "What about the maquiladoras, send it down, send it back?" OK, take them out of the equation—$353 per person. That's still higher than the average European and almost as high as Japan at $395 per person.

The reality is that Mexico is the second largest manufacturing market for our goods, and it is the third largest farm market for our goods. There are 750,000 cars sold in Mexico every year—750,000 cars. People say Mexicans are all so poor. My question to you then is: Who is buying the 750,000 cars, projected to be one million by the end of the decade? Exports in the first year after NAFTA will be 60,000 into Mexico. At the end of the decade, it is expected to be 400,000 into Mexico.

Mr. President, regarding the Perot picture of Mexico—that shack with all of the poor people—I do not deny there are poor people, but there is also a middle class there. Some of the people in this body who make the assertion to the contrary, I would ask you to drive around Mexico City, Monterey, Pueblo, Guadalajara, Chihuahua, or Leon and look at the places—good houses, good cars. They take their kids to Disney World, and they send their kids to college. They eat well. They have good furniture in their homes.

The reality is that one-fifth of the Mexican population earns three-fifths of the income—not a good distribution of income, but we do not have much to brag about in this country either. But who can deny it is a market? There are 20 million people in the Mexican middle class. It is ready to buy American goods today.

Mr. President, the reality is that Mexico looks more like Texas than it does Guatemala. The reality is that $7 out of every $10 people in Mexico spend on imports, they buy from the United States. They are virtually dependent on the United States for machinery, staple foods, consumer goods, civil engineering, software, pharmaceuticals, on and on. And within 15 years, we will be interdependent, and that middle class will not be 20 million, but 50 million, and we will be selling them goods made by American workers that are earning higher wages, because exports pay higher wages than other jobs in this country.

Look at what happened in Europe when Spain, Portugal, and Greece came into the Common Market. Everybody's wages went up. Everybody's wages went up in Spain, Portugal, and the rest of Europe. That is what will happen. It will be a win-win situation. So this agreement makes economic sense, and it also makes, in my view, political sense.

I am not going to make excuses for the failures of the Mexican Government or for their failures on human rights. They have to understand that you cannot be called a great nation unless you are a democracy.

The next challenge for the next great Mexican leader is to bring fully representative democracy and competitive elections to the country of Mexico. The next great President will do for the political structure of Mexico what Carlos Salinas has done for the economic structure of Mexico. But that notwithstanding, is it better for us to be engaged or to run away? I say it is better to be engaged.

The labor side agreements give us ways to highlight the abuses. We retain the rights for 301 action if worker rights are grossly violated. We have an opportunity to begin to put pressure on Mexico to achieve these changes.

Will Mexico be less democratic with the NAFTA defeated? You bet it will be. With NAFTA, we will be able to move more quickly in the area.

For some on this floor who have stood to oppose the agreement, I cannot help but think back to the mid-1980's when the international banks had Mexico under their thumb. I would have liked to have seen from some of those who are opponents of NAFTA here as vigorous an effort focusing on the abuses of capital as has been made in defending the rights of labor. The reality is that Mexico will benefit politically from this, and we will benefit as Mexico benefits.

In terms of social policy, I do not need to say any more than that half of the population is under the age of 19. Does anybody think that with a million people entering the work force every year in the United States that if there are no jobs in Mexico, they are going to head north? Of course they are, when Carlos Salinas decides to end the old commune farms. If you do not have vegetable and fruit farms in Mexico that export to the United States and you do not have light industry, is there any doubt where Mexicans are going to head? They are going to head north in massive numbers.

Mr. President, I believe NAFTA provides an example of how you lead in a post-cold-war world. Where else in the world is there a large population with lower wages and average skills next to a place with higher wages, higher skills? Well, I would say it is Eastern Europe. Look how the Europeans are handling this.

They are putting up walls and not taking anything in. They are going to end up with a wave of illegal emigration. We have an opportunity to show

how you lead in a post-cold-war world, by reaching out—and that is why this is a historic moment—and why this is parallel to the purchase of Louisiana by Thomas Jefferson, or to the purchase of Alaska by Seward and Johnston, or to Harry Truman's decision to say, "We are not going to retreat to isolation, but we are going to reach out to the rest of the world."

So, Mr. President, I believe that this makes economic sense, it makes political sense, it makes social sense. It allows us to lead in a new way in a post-cold-war world. But I must say there is another reason that I feel a particular conviction about this treaty.

Some people have said NAFTA is the most important thing that happened to Mexico since the revolution. I agree with that. Other people say, look, the difference between Mexico and the United States is the difference between 18th century England and 15th century Spain. To a certain extent I agree with that, although Mexico has its own unique culture.

To me this agreement is as if two brothers had been estranged for many years and under the NAFTA have a chance to come back to the same table and share sustenance and talk about a common future.

I believe that a common destiny will be forged from this moment in ways that we cannot even conceive, and I believe it will enrich our culture and our society. That is why I think it is so terribly important that we pass the North American Free-Trade Agreement.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. CHAFEE. Mr. President, are you going to alternate back and forth?

The PRESIDING OFFICER. If we could have order.

The Senators from Montana, New York, and Rhode Island control the time.

I ask who yields time?

Mr. CHAFEE. Mr. President, I would like to yield time to the Senator from Washington.

The PRESIDING OFFICER. How much time?

Mr. CHAFEE. Twenty minutes.

Mr. MOYNIHAN. Mr. President, could I have a supplement to that, to yield 10 minutes, or such time as he may require, to the Senator from Nebraska following the Senator from Washington?

Does the Senator from Michigan wish time?

Mr. LEVIN. I would appreciate 15 minutes.

Mr. MOYNIHAN. I then yield 15 minutes to the Senator from Michigan to follow the Senator from Nebraska.

The PRESIDING OFFICER. If the Senator from New York will withhold, the Chair has requested who is going to yield time. The Chair will recognize Senators to whom time has been yielded.

The Senator from Montana also, I believe, would yield time. Is that correct?

Mr. BAUCUS. Mr. President, there are three managers, if you will, at this point.

The PRESIDING OFFICER. And the Chair is trying to recognize all three managers first.

Mr. BAUCUS. Mr. President, I would suggest that we arrange the next three anyway who may speak.

I might suggest the Senator from Washington speak next; following the Senator from Washington, the Senator from Nebraska; following the Senator from Nebraska, the Senator from Connecticut.

Mr. LEVIN. Could we add a fourth and get the Senator from Michigan as well?

Mr. CHAFEE. What I wish to do is make sure we do go back and forth to the extent possible. I do not have others here on the floor at this time but they might show up. So I hate to allot the time too far in advance.

Mr. MOYNIHAN. Will the Senator from Michigan be next?

The PRESIDING OFFICER. If the Senator will withhold a moment, the Senator from Rhode Island was the first of the managers to seek recognition. I do want to accommodate that. The Senator from New York sought recognition and the Senator from Montana has.

The Chair is in somewhat of a unique situation in which it finds it wants to accommodate all three managers the best way we can.

Mr. BAUCUS. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Rhode Island has the floor.

Mr. CHAFEE. I yield 20 minutes to the Senator from Washington.

Mr. BAUCUS. Mr. President, if I might ask the Senator to yield, I suggest to the Senator that we attempt to formulate a consent agreement to line up the next several Senators so they can plan accordingly.

Mr. President, I ask unanimous consent that following the time allocated to the Senator from Washington, the Senator from Nebraska then be recognized to speak; following the Senator from Nebraska, the Senator from Connecticut be recognized to speak for 12 minutes.

Might I ask if there are other Senators who now seek recognition?

Mr. CHAFEE. Mr. President, I am agreeable to that except if someone comes to the floor on our side I would like to be able to put them in.

Mr. LEVIN. I agree with that. If the Senator lists me after Senator DODD, I would be happy, and if a Republican comes in after Senator DODD I will be happy to have that Senator recognized.

Mr. MOYNIHAN. And 15 minutes to the Senator from Michigan.

Mr. EXON. Mr. President, with all due respect, there have been Senators waiting, and I recognize the priority and the pride of the Republican manager. I think it is not very good taste, however, frankly, I say to my friend from Rhode Island, to allow someone on that side where you have Senators waiting and have 8 or 10 over here.

If the Senator thinks that is fair, I do not. I have been patient since 1 o'clock this morning and I will be patient for another 20 minutes, I guess.

The PRESIDING OFFICER. If the Senator from Nebraska will withhold, the time still has to be yielded by the three managers who are the Senators from New York, Montana, and Rhode Island. The Senator from Rhode Island has the floor. The unanimous consent is being propounded.

Mr. BAUCUS. Mr. President, if I might continue. I suggest the unanimous consent request provide that following the Senators from Washington, Nebraska, and Connecticut that the next time would be allotted to a Senator from the Republican side; if no Senator appears to take that time following that period, that the Senator from Michigan be recognized.

Mr. MOYNIHAN. For 15 minutes.

Mr. BAUCUS. For that time.

Mr. CHAFEE. And if I could have another slot, in case someone showed up.

Mr. BAUCUS. Then recognize the Senator from Florida for 10 minutes. And that would be the request.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? The Chair hears none.

Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, could I just ask for a slot under that unanimous consent request, following the Senator from Michigan, that if there is an opening before the Senator from Michigan, if someone shows up, and then following the Senator from Michigan if there could be another slot for someone from this side if there is one?

I thank the Chair.

The PRESIDING OFFICER. As complicated as it may sound, as unique as it may sound, that is the Chair's understanding.

The Senator from Washington is recognized for 20 minutes yielded by the Senator from Rhode Island.

Mr. GORTON. Mr. President, in a few short hours the U.S. Senate will ratify the North American Free-Trade Agreement by a decisive margin. After this cause's hard-earned triumph in the House of Representatives, the Senate's action will bring to a successful conclusion a project begun by President Bush in 1990 and promoted by President Clinton this year. Our approval may well turn out to be the most significant vote cast during this Congress.

Certainly, some of the pact's importance derives from its positive impact on Mexican-American relations, and on the economies of the United States, Canada, and Mexico. More importantly, the pact will supply bargaining power and strength to President Clinton in his attempt to conclude a successful worldwide market opening through the General Agreement on Tariffs and Trade, and further to open the economies of the Pacific rim nations through the Asia-Pacific Economic Cooperation Forum this weekend in Seattle. But in my opinion, the principal reason this vote is so pivotal to the United States is that it reaffirms a traditional American optimism about our confidence, our competitiveness, and our primacy among the nations of the world.

As this debate began early this year, it was conducted as a relatively low-key discussion of the economic benefits of lower trade barriers between the United States and Mexico. In spite of all the overheated rhetoric, it is now even more clear than it was in January that a successful North American Free-Trade Agreement will result in a net increase in good jobs in the United States and in Mexico, and thus will be of economic benefit to employers, employees, and consumers in both nations. This is the invariable result of trade liberalization among all nations since the end of World War II.

NAFTA's opponents have based their opposition on a flawed premise, the proposition that the United States cannot compete successfully with producers in a nation whose wages are dramatically—in this case seven times—lower than our own, and that we therefore must impose high barriers to prevent the destruction of our own producers. This age-old fallacy of equating low wages with competitiveness would lead inevitably to the conclusion that Bangladesh will soon become the world's industrial powerhouse.

To the contrary, the United States has always traded successfully with Mexico and other low wage nations, because our workers and employers are the most productive on Earth. As Mexico began to lower its trade barriers in 1987, the United States turned $5 billion a year trade deficit with Mexico—mostly from oil imports—into a $5 billion trade surplus. Wages in the United States seven times as large as those in Mexico were overcome by the fact that American workers are more than seven times as productive. As a result, we are already competing successfully in Mexico in spite of the fact that their tariffs are still 2½ times greater than our own.

Mr. President, a simple illustration of the fallacies of the Perot set of ideas: If this normal piece of stationery represents the economy of the United States, then this piece represents the economy of Mexico—one-twentieth the size of that of the United States. And yet the opponents say that if we remove the tiny 2 or 3 percent tariff separating these two economies, this little economy will consume this great economy.

Mr. President, give me a break. It will never happen.

Now, there is a more sophisticated group of NAFTA opponents who have argued that the Mexican Government will not allow its workers' wages to rise with their productivity and that they are, therefore, the true protectors of Mexican employees. They demand guarantees of wage increases from the Mexican Government. But they are unintentionally asking for the very government controls that brought the Mexican economy to the verge of collapse in the early eighties. The real saving grace of NAFTA for Mexican workers is that it ensures the continuation of the market reforms that have already begun to increase their wages. When a true free market economy swells those wages further, as history shows to be inevitable, the Mexican worker will develop a buying power that will translate into more United States exports. In the past 20 years, every 1-percent increase in the Mexican GNP has brought a 1-percent increase in its imports. The United States will be the largest beneficiary of that increase in the future as it has been in the past.

A perfect example of the advantages of NAFTA can be found in Washington State. ConAgra, an agribusiness operating across the entire food chain, asserts that if NAFTA is rejected the chances of its moving operations into Mexico will increase. In the past 2 years, ConAgra's exports to Mexico have grown by 80 percent, now totaling $260 million. These exports, however, are still hindered by tariffs as high as 20 percent. To realize the full potential of the growing Mexican market, ConAgra must avoid that tariff—which under a failed NAFTA will mean moving operations into Mexico. Under a ratified NAFTA, the tariffs will be phased out, and ConAgra can follow its preference of expanding its operations in the United States. With NAFTA, ConAgra predicts that its exports to Mexico will double in 5 years.

If we multiply the number of examples like this, and subtract job losses in industries which will face successful Mexican competition—all, of course, to the benefit of our consumers—the United States can probably expect a net increase of between 100,000 and 500,000 jobs in the next 5 years. Such a gain for our economy is a real one, but it is certainly dwarfed by the millions of jobs both created and displaced by the normal dynamics of a vibrant and growing American economy. So a concentration solely on bilateral trade figures misses even more important arguments in favor of NAFTA.

Of course, Mexico will also benefit from NAFTA, finding large new markets in the United States for those products which it can efficiently and effectively produce and export. As Mexicans benefit, both as producers and consumers, they will successfully demand political and environmental reforms impossible to impose upon a poverty stricken country. At the same time, more of them will decide that they can succeed by staying at home in a culture in which they have grown and prospered, and the pressures of illegal immigration into the United States will at least be lessened. It should be obvious to everyone, though ignored by many of NAFTA's opponents, that Mexico will continue to be our southern neighbor, and that a growing and prosperous Mexico is a far better neighbor than would be an embittered and poverty stricken one.

As important as our trade relationship with Mexico is, it is dwarfed by our interest in a freer and more open worldwide trading regime. As I speak, President Clinton is in Seattle at the Asia-Pacific Economic Cooperation Forum. His goal there is to encourage the reduction of barriers imposed against American exports by many of our Pacific rim trading partners, developed and developing alike. The President's bargaining strength will be shattered by a rejection of NAFTA; it is greatly enhanced by NAFTA's success, a demonstration that the United States continues to believe in the virtues of free trade. Perhaps the APEC countries will react by beginning a process of negotiating a free trade agreement with the entire Pacific rim, the consummation of which would be immensely advantageous to the United States, as well as to its partners.

At the same time, the APEC conference is simply a lead-in to the last, vital month of negotiations in Geneva for a new General Agreement on Tariffs and Trade. A successful conclusion of the GATT Uruguay round is likely to increase our international trade by at least $35 billion a year and to represent a resounding defeat of the forces of protection which now seem so ascendent in France and a number of other members of the European Community. Success with the GATT is not assured by the passage of NAFTA, but it will almost certainly be made impossible by its defeat.

It is for these reasons that I am so gratified by the almost unanimous support of the North American Free-Trade Agreement on the part of my colleagues in the Washington State congressional delegation. Each of them is aware of the vital role that international trade plays in the economy of our State and almost all of them have contributed to the success of the North American Free-Trade Agreement: Speaker FOLEY, who garnered more than the necessary support without the help of most of the House Democratic leadership; Representatives SWIFT, DICKS, and MCDERMOTT, for respectfully disagreeing with constituents with whom they have worked closely over the years; Representative INSLEE for offering his early and effective leadership on this issue; and Representatives CANTWELL and KREIDLER, who ignored threats that this vote would cost them in their newly acquired constituencies. Each voted his or her conscience, and put the good of this Nation before political expediency. I also want to thank Representative DUNN, for once again making the right decision, and for being a part of a strong Republican reaffirmation of free trade. On Wednesday night our delegation made a showing worthy of the State we represent.

Important as international trade is to our Nation, however, the debate over the ratification of the North American Free-Trade Agreement would not have found its pivotal position in the first year of the Clinton administration on the basis of import and export statistics alone. Perhaps because it has triggered the first full-scale debate on free trade in the Nation and the Congress for decades, perhaps because of the unique nature of the coalitions on both sides of the issue, perhaps because it marks the first instance in decades in which a President has been opposed by most of his own party and saved by his political rivals, this has been a debate about more than trade. The key fault lines have divided those optimistic about the future of the United States, from those who see only peril in our economic future.

The pessimists believe that, whatever our past competitive successes, we are no longer the most efficient producers, the most imaginative entrepreneurs, the most prolific inventors in the world, and that we can no longer compete successfully with smaller and poorer nations without imposing barriers against their access to our markets. Fundamentally, these pessimists believe that international trade is a zero sum game, and that any gains on one side must be matched by losses on the other. As Robert Samuelson wrote:

> NAFTA's opponents are—despite disavowals—preaching protectionism, and their larger agenda is to make fundamental changes in U.S. policies.

These pessimists see the end of the American dream, and demand that we turn inward with our preoccupations, husband our resources, and wall the rest of the world out.

The optimists, the supporters of the North American Free-Trade Agreement in particular and free trade in general, continue to celebrate America as the strongest economy in the world, the most imaginative and the most productive. They believe that much of our prosperity, and that of the rest of the world, is based on constantly freer and greater international trade. They believe that we will continue to enhance our competitive advantages by competing and that the broadest free markets result in the greatest increases in productivity and efficiency. The optimists clearly have the facts on their side. The statistics of productivity around the world support their position. But the optimists' success in this debate is principally a reaffirmation of a belief in the continued vitality of the American dream.

Mr. President, the United States has always maintained a healthy skepticism about the future of its economic might. Last year, Economist, a British magazine, wrote:

> Economic paranoia has become an American habit. That has not stopped it from growing richer, at a rate that is dissappointing only by the standards of a comparative handful of countries * * * America worries as it prospers. So be it.

But is is important that our fundamental optimism about America's future always remains an antidote to the skepticism that brought us to the brink of protectionism this year. With this successful vote, Congress will reaffirm its confidence in the United States. The optimists in our Nation will win, the people of the United States will win, our prosperity will be enhanced, and the people of the world will be reassured about the success and benevolence of American leadership.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. CHAFEE. Mr. President, if I could just saw one word, I thank the distinguished Senator from Washington for that fine statement and express our appreciation. I also want to say I thought the Senator from New Jersey gave a very, very fine statement here earlier.

I thank the Chair and thank the Senator from Nebraska.

Mr. EXON. I am glad to accommodate my colleague.

Mr. President, I have remained uncommitted on the North American Free-Trade Agreement [NAFTA] because of some valid concerns, some of which I will discuss here. This is a difficult vote for me to cast for several reasons.

Even today I cannot, without reservations, easily come to what is the correct vote. But clearly this is decisionmaking time.

This decision is made even more difficult by the fast-track procedure which prohibits congressional amendment to the pact. I opposed fast-track authority for this agreement because it deprived Senators the opportunity to offer amendments and clarifications to the implementing legislation.

I listened to many parts of the keen and informative debate in the House. I have likewise listened to the debate here in the Senate. I compliment my colleagues in both bodies for a thoughtful debate that primarily has focused on legitimate issues.

I have studied the most contentious issues; met with and listened to my constituents on all sides of this issue, taken into account the letters, phone calls, and petitions delivered to me. This has been helpful, instructive and constructive. I have read editorial opinions from across Nebraska, most if not all are supportive of the proposal. Yet from all of this, I can only conclude that my constituents are fairly evenly divided on which is the right vote on NAFTA.

One option was to vote "no" and call for an immediate renegotiation. That would have been an unrealistic cop out since a reality check would clearly show it would not happen.

Another option would be to vote "yes" and explain, as some have, that we can conveniently escape from NAFTA should it not work out by simply giving 6 months notice and then pull out. The same people touting this salesmanship are the ones claiming we would be ostracized by the international community if we fail to ratify. This is clearly the phony easy divorce syndrome. If the world community would be upset by our refusal to ratify now can one imagine their rash at jilting the new bride during the honeymoon? It will not happen.

My decision came down uneasily on two primary considerations, net job loss or gain and the economic repercussions pro or con.

On the job issue, I have listened to the conflicting arguments and have concluded that no one honestly has a handle with any certainty whatsoever on the correct answers.

I was astonished at some of the arguments. One was a listing of several United States companies who are returning to his country after unpleasant experiences in Mexico and there would be more, many more, after approval of NAFTA. The explanation was that with the end of all tariff barriers there would be a flood of further present Mexican-based business firms back to the United States. How rewarding that all is. The Mexican Government, we are led to believe, has signed on to NAFTA so that they can lose factory production jobs to the United States. That is indeed a gracious gesture on their part. We gain and they gain by their losing jobs to us.

At one time we all but conceded that we would lose some low-skilled production jobs to Mexico, but would make it up by creating highly paid skilled jobs in this country. All would benefit.

I remembered the old adage that "a rising tide floats all boats". This truism has it that NAFTA will so swell the Mexican economy that their job boat and ours would both float upright by the tremendous rising tide to smooth sailing. That may be true provided both country's boats are of the same size and displacement. But if one is a 12-foot swamp boat and the other a yacht with a 12-foot keel, the later is not likely to float by the same tide but flounder. I refer, of course, to the undisputed vast differences between wage levels and standards of living.

I am unconvinced that NAFTA is generally good for our vast middle-class workers and therefore in the aggregate not good for America on the whole, at least in the short run and/or the long run. I readily concede that I could be wrong, but there is no clear sure win for both countries.

Thus far, to my knowledge, there has not been significant discussion of what long-term ill-affect NAFTA could have on the possible exploitation of other nations, quickly taking advantage of NAFTA, by bringing into Mexico their extensive capital to build plants there, with cheap labor, targeted for production that would flow freely into the United States duty free. I am afraid that many do not begin to realize the covetous eyes foreign entities cast on the most lucrative market in all the world—the United States of America and our unprecedented buying power. If you do not understand it ask Wal-mart or Sam's Stores, K-mart or Target. It's there to be awed and plucked by foreigners and domestic interests alike. NAFTA may just be a salvation for Mexico through the avenue of not only attracting United States investment but more opportunistically European and Japanese investment with resultant clear and unfettered highway of no tariff assessment that otherwise applies to them through direct shipments into our country from theirs. Interesting, is it not?

To emphasize my concerns, I wish to pointedly overstate the following scenario. Although make believe yet not totally removed from reality. I am a small production businessman on one side of the street—or the border—in the United States.

I have 50 employees who make an average of $7 per hour, plus the usual fringe and health benefits, Social Security and Medicare, I meet the minimum wage, honor all employee safety protection laws, obey expensive environmental requirements and pay income and property taxes of a high amount comparatively. I am doing OK as are my employees selling widgets wholesale at $10 each to Wal-mart and so forth. I even sell a few in Mexico and am hopeful that with NAFTA my business will boom there, as I have been assured by so many a bright future is assured for all.

Then you came along and started a direct competing business just across the street—or just across the border. No problem. Your widget is not as good as mine. Everyone knows of my reputation for quality widgets and, of course, all know we Americans are the most productive people in the world, especially when it comes to making widgets. You are destined to be forced out of business shortly.

It was then that I discovered that you had somehow cut a deal to pay your 50 employees $2 per hour, no fringe benefits, no health care, no Social Security or Medicare benefits. You do not know what minimum wages even mean. You are not required to follow environmental rules even if they are the law and employee safety requirements are limited to only safety razors in the outdoors men's facilities. Furthermore, you pay little or no income tax and your property taxes are paid for you by the local chamber of commerce. Reportedly, you have been awarded a big contract to supply Wal-Mart with "widgets" for $1.50 each but, gosh, everyone knows mine are better and besides Wal-Mart is a lousy merchandiser. Any economist can readily see that you are out of business before you begin. Poor you, I really feel sorry for you. But the good news is that you will not be faced with a union organizer because collective bargaining is outlawed under the deal you cut! At least you will not have to worry about giving your employees a raise, or any of those nasty fringe benefits that workers do not want anyway.

So much for the fantasy that may be more truth than fiction.

Whether this agreement passes or fails, there is one undisputed fact. American workers, industry and technology have been and will continue to be under intense competition. Low wage and increasingly skilled workers from Mexico, China, Southeast Asia, and the Caribbean have and will challenge the American standard of living.

As a nation, we Americans have our work cut out for us. Just as we united with a single purpose for 40 years to win the cold war, we must unite to win the economic war. Our best weapons are productivity, education, skills, and innovation. Every American from the rich suburbs to the poorest inner-cities to the rural heartland must rededicate themselves to education, the acquisition of new skills and personal responsibility. Our schools must be the best, our health care costs and costs of government must be brought under control and our commitment to quality and productivity must become near religious regardless of the fate of this agreement. If we are not prepared to meet this challenge, our Nation is doomed.

Indeed, there are many good features to NAFTA. Many American products will enter Mexico with fewer restrictions and with reduced tariffs. The maquiladora system will be phased out, intellectual property will be better protected. Whether these benefits will outweigh the increased access Mexico gains to the United States markets is a close question.

I feel that this NAFTA treaty is poorly drawn and most likely not in the best interests of most Americans and certainly Nebraskans. My agricultural groups are divided, there are some potential benefits but I suspect they may be short term.

My judgment is that on a current basis there will be little net job loss or gain in Nebraska as a result of NAFTA's passage. I emphasize this judgment is based on the Nebraska economy and jobs as they exist today. But the future effects of NAFTA's approval could cloud and adversely affect hope for new factories and new employment in Nebraska's future. We have been successful in maintaining our considerable industrial base but have been frustrated in some instances when seeking new plants. It is my belief that a Mexico with NAFTA, cheap labor, free access to Americans' buying power and devoid of industrial environmental controls would be perhaps an overpowering and unfair competitor against Nebraska's future industrial expansion efforts. Therein lies my concerns about future if not current Nebraska job losses caused by NAFTA. What about the next few years? In closing, I want to say, it remains my conviction from early on that a reduction in our standard of living would accrue to Nebraskans and other Americans if this NAFTA agreement is approved as I feel it will be.

Therefore, I am obliged in good conscience to cast my vote no. If the measure is passed, I hope it works out better than I have predicted.

Mr. President, I yield the floor and reserve any remaining time.

The PRESIDING OFFICER. Under the previous order, the Senator from Connecticut [Mr. DODD] has 12 minutes.

Mr. DODD. Mr. President, I thank my colleague from Montana.

I rise this evening to speak in favor of the North American Free-Trade Agreement and urge my colleagues to support it. Many of our colleagues over the last number of days have spoken eloquently about the economic impact of this agreement. I invite my colleagues' attention to the most recent remarks of our colleague from New Jersey, Senator BRADLEY. Tomorrow, we should read carefully his comments regarding the economic issues and concerns that have been raised in this debate. There is no doubt in my mind whatsoever that it is the economic concerns in our respective States and the country that are the most important reasons to vote for this agreement.

I would like to spend these few minutes this evening to address another aspect of this agreement which ought not to go unmentioned or undiscussed in this debate, and that is the foreign policy implications of this decision.

As chairman of the Subcommittee on the Western Hemisphere, I specifically want to discuss what our vote will mean, I believe, for U.S. relations with our neighbors to the south of us.

I see the North American Free-Trade Agreement as far more than a trade pact linking the United States, Canada, and Mexico. I see it also as the very first step in the construction of a Western Hemisphere of democracy and of prosperity. Following approval of this agreement, we must move forward with our neighbors throughout the Americas to negotiate a free trade agreement for the entire Western Hemisphere. That would pave the way for a historically new kind of relationship among the nations of this part of the world.

The relationship between the United States and the other countries of this hemisphere has been rocky over the past number of years. Many of the nations of Latin America and the Caribbean deeply mistrusted the United States. They closed their markets to our products and were often, as we all know, hostile to our foreign policy aims around the globe.

At the same time, the United States too often looked at this region, this hemisphere, only through the distorted lens of the cold war. In my view, our country for far too many years did not make an effort to truly understand these nations, and when push came to shove, we were often all too eager to support military solutions for the social, the economic, and the political problems that plague this hemisphere.

While the geographic distance between the United States and Latin America has only spanned the width of the Rio Grande, the political and economic distance throughout much of the past 2 centuries was far larger. In my view, Mr. President, this unhealthy relationship has hurt everyone involved.

After a number of years of growth, many Latin American economies began to run out of steam in the 1970's and some collapsed in the 1980's. The closed, state-dominated economies of the region were incapable of competing in the changing world marketplace. The United States suffered as well, as we all know, in the postwar period. We expended billions of dollars—billions of dollars, Mr. President—on military aid and military solutions. We missed, in my view, numerous opportunities to forge closer economic and political links to this part of the world. I merely invite my colleagues to recall that in the 1980's we spent $4 billion of American taxpayer money to support the military side of the equation in El Salvador. For one small country, $4 billion was spent by this Nation.

With the crumbling of communism and passing of the cold war, the nature of the relationship between the United States and its neighbors to the south has changed.

Mr. President, it has changed for the better. The issue is whether or not we will be wise enough, intelligent enough, thoughtful enough, perceptive enough to take advantage of this unique moment that has been offered to us. It may not last for long. The vote we cast on this agreement is of such historic importance that it ought not to be lost on our colleagues.

What I am talking about, Mr. President, is a hemisphere-wide free trade agreement—an agreement, that would cement an inter-American relationship based on cooperation, democracy, free market principles, and trade. Nothing less than that is at stake with our decision in this body.

As I see it, our approval of the North American Free-Trade Agreement is not an end of a process but only the very beginning. We will have lost a historic opportunity if we use this agreement as the blueprint for the construction of Fortress North America. We must extend the sphere of commerce and cooperation outward to encompass the rest of this hemisphere beyond Mexico, beyond Canada and beyond our own shores. If we pursue this course, Mr. President, we will look back upon our decision on the North American Free-Trade Agreement as the first installment of a truly amazing story, a story about the countries of an entire hemisphere, long kept apart by mutual mistrust and suspicion, linking their fates together.

This story, Mr. President, should not end with the adoption of the North American Free-Trade Agreement but with the adoption of a Pan-American Free-Trade Agreement that will unite the Americas. From the icy reaches of northern Canada to the deepest corner of the Amazon jungle, from the Arctic Circle nearly all the way to Antarctica, from the thriving urban centers of New York, Mexico City, Santiago, to the humblest villages of rural Mississippi, Yucatan, and Patagonia, this hemisphere now has a unique, truly unique opportunity to come together around the shared principles of democracy, mutual respect, free markets and free trade.

Such a union, Mr. President, would fulfill the vision of Simón Bolivar, the liberator of South America. As he led the continent to independence in the 1820's, Bolivar dreamed that Spain's former colonies in the Americas would form a union and that the union would forge close ties with the United States. The forces of nationalism and division dashed his dream of a hemisphere of peace and cooperation. But now we have before us, Mr. President, a chance to reconstitute that dream of 170 years ago. Gonzalo Sanchez De Lozada, the President of Bolivia, put it well:

> We can not underestimate how important NAFTA is as a symbolic message of inclusion and not of exclusion. For the first time in history the countries of the developed world invite the underdeveloped world to join in a great project, to create wealth, to bring social justice and more equality in the framework of freedom.

Assuming this body passes the North American Free-Trade Agreement—and I hope it will—our task, Mr. President, in the months ahead is to move forward in open negotiations for the expressed purpose of creating a regional free trade area. There are a number of countries that have evidenced a strong interest in taking part in this endeavor, and as the negotiating process proceeds my hope is that other countries will join us.

Hemispheric trade integration will not be easy, and it may take many years to complete. But we must begin that process. We must commit ourselves to achieving the goal because the success of such an effort in my view will be critical to our future economic well-being.

I rest this conclusion on the premise that the global economy of the future will be divided into powerful regional trading blocs. The Europeans have already formed one and Asia may soon follow. To compete in such an environment, the United States and other nations of the Western Hemisphere must form our own trading bloc. Such a bloc will guarantee us a huge market for our products and bolster our position in worldwide trade talks. A Western Hemisphere free trade agreement is also, Mr. President, the best means at our disposal to help our neighbors in Latin America and the Caribbean to improve their standards of living. It is in our interest for that to happen too.

A wealthier hemisphere will be better able to buy American goods. It will be better able to combat a variety of social ills including the illegal drug trade and the violence that accompanies it. Undocumented workers will not be so eager to flee nations, the economies of which are growing, and civil strife will be less likely to visit the citizens of prospering countries.

The kind of debates that wracked this body in the 1980's over Central America and earlier this year over Haiti would diminish, in my view, markedly if we could find a way to work with our neighbors to increase prosperity for everyone in the family of the Americas. The road to that goal does not lie through foreign aid. It will not happen that way. There certainly would not be enough money available in our budget even if we decided to do it. The route to prosperity, Mr. President, in the Americas lies through trade and democracy, through mutual respect and real cooperation. The route to prosperity travels the road of integration and unification.

That is the future I see for the Western Hemisphere, and that is the future we can begin to create passing the North American Free-Trade Agreement.

As Robert Kennedy said, Mr. President, nearly 30 years ago:

> History is a relentless master. It has no present, only the past rushing into our future. To try to hold fast is to be swept aside.

To reject the North American Free-Trade Agreement and the possibility of a new hemisphere-wide system that it signals would, indeed, in my view, put us in danger of being swept aside by the current of events. To approve the agreement would be a bold attempt to seize the rudder of American history and to steer our course directly into the future. I strongly urge my colleagues to vote in favor of this agreement.

Mr. President, I yield the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Under the previous order, the Senator from Wyoming was going to speak next on this side to be followed by the Senator from Michigan. The Senator from Wyoming is not present, so I would suggest the Senator from Michigan go ahead and if the Senator from Wyoming then comes, at his conclusion we put him in there, if that is agreeable.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, there are many parts of the NAFTA agreement that make it unfair to workers in the United States, but I am just going to focus on a few this evening, mainly as it relates to automobiles and auto parts.

First, under NAFTA, Mexico's discriminatory trade laws against American manufactured automobiles remain for 10 years.

Mexico now discriminates against United States assembled autos by requiring auto manufacturers to produce in Mexico in order to sell in Mexico. They also require manufacturers in Mexico to export $2 worth of automobiles from Mexico for every $1 worth of autos that they bring into Mexico. Those are called trade balancing laws. They have had the effect of making it impossible to sell in Mexico cars assembled in the United States.

That is the barrier we face with American assembled automobiles.

Now, under NAFTA, that barrier remains at a slightly phased down version for 10 years. That is the phase down period. Some people say, under NAFTA, these barriers are eliminated. What they do not tell you is that they remain for 10 years. We face those restrictions for 10 years, slightly phased down, yet we are going to lose manufacturing jobs in the auto and auto parts sector during that 10-year period because of these discriminatory restrictions.

What they do not tell you, because I do not think people want to know this, is that we are going to be asked to put into American domestic law—for the first time—these discriminatory restrictions that are currently in Mexican law. If NAFTA is agreed to, they become part of American domestic law. That is the first line under the auto decree part of the appendix of NAFTA. Reading from NAFTA:

> Until January 1, 2004, 10 years, Mexico may maintain the provisions of the decree through development of the Mexican automotive industry.

That is one part of the unfairness. But, we do not have any restriction on cars assembled in Mexico coming here. What is our restriction? Zip.

Next, Mexico's current laws require auto manufacturers in Mexico to purchase 36 percent of the parts that they use from Mexican parts manufacturers. That discriminatory law would also not be eliminated for 10 years under NAFTA. It would drop gradually during that 10-year period, from 36 to 34 percent for 5 years, and then for the next 5 years, 1 percent a year down to 29 percent.

We do not have any restriction on auto parts made in Mexico coming here. They have restrictions on our auto parts going to Mexico. And that restriction that discriminates against American auto parts also becomes part of NAFTA, which becomes part of American domestic law.

Why do we allow discriminatory restrictions on American autos and auto parts to remain for 10 more years? Why do we tolerate it for 10 more months or 10 more days? It is one thing for Mexico to protect its auto industry, which it has done. But surely, we should not incorporate in American domestic law discriminatory restrictions against our automobiles and our auto parts.

It is tough enough to compete against the $1 an hour labor, weak enforcement on environmental safety, and child labor laws, without tolerating discriminatory restrictions against our products for 10 more years.

This country has lost over 2½ million manufacturing jobs since 1979. A lot of that has been lost because of unfair trade practices. This is one of them. NAFTA says "Wait 10 more years, auto workers. Be discriminated against for 10 more years, and at the end of 10 more years then the discriminatory barriers end. In the meantime, take the slight reduction in the barrier and be satisfied with that."

And what I am here to say is we should not. Whether or not you produce autos or auto parts, all of us have manufacturing in our States. And what this is symptomatic of is a weak policy relative to manufacturing jobs.

Mr. President, NAFTA does not give us an open market for our automobiles or free trade for our automobiles. It has 2,000 pages of deals, rules involving all kinds of industry and trade. Some of our industries do well. Some of them do terribly. I am looking at an industry which is probably the biggest, involves more people employed in this country than any other industry. What I am telling this Senate is that the restrictions which discriminate against our auto parts and automobiles remain for 10 years in a slightly phased-down version, and this treaty would put those discriminatory restrictions in our law for the first time.

We want to get rid of these barriers now, not 10 years from now. Get rid of the Mexican barriers to our autos and auto parts now if you really believe in free trade, or do not give us the lectures about free trade. Drop the lectures. Drop the optimist-pessimist, future-past, rear view mirror-front view mirror right now. Drop the barriers to American automobiles and auto parts now instead of 10 more years of discrimination and hundreds of thousands of more lost jobs in a very important manufacturing sector.

This is what we have lost in manufacturing jobs in this country. I want to compare it to Mexico, Japan, and Germany since 1985.

In 1985, the United States had 19.2 million manufacturing jobs. In 1992, 7 years later, 18.1 million. We lost over 1 million manufacturing jobs.

Mexico, during that period, went from 2.3 million manufacturing jobs to 3.3 million manufacturing jobs. That is an increase of 1 million manufacturing jobs in 1985 to 1992.

Japan went from 10.6 million to 13.8 million.

Germany went from 8.06 million to 8.34 million.

Every one of them significant increases in manufacturing jobs, except us. And one of the reasons that we have lost jobs, one of those—and there are many—is because we have tolerated one-way streets in trade. This is a perfect example of it, one-way street in trade with Mexico in auto parts.

The way to get rid of it is to get rid of it now, not 10 years from now.

If they will not get rid of it, and they want to protect their auto industry at the cost of auto jobs and auto parts jobs here, then we have no alternative but to tell them—Japan, Mexico, Canada—we have to put the same restrictions on your products that you put on our products and we will phase out our restrictions at the same rate that you phase out your restrictions. That is a two-way street.

Free trade is get rid of the barriers now. Let us do it. But if you are not going to do it, if you are going to keep those restrictions on our products for 10 years, then for Heavens' sake, if we have any common sense and care about our manufacturing sector, we have to put the same restrictions on the other guy that the other guy puts on us.

I wonder if the Chair would tell me how many more minutes I have.

The PRESIDING OFFICER. The Senator has 6 minutes and 1 second.

Mr. LEVIN. I thank the Chair.

Mr. President, the underlying premise supporting NAFTA is that American exports to Mexico will increase and that all exports create jobs. That is the premise. Over and over and over again we are told by the administration that there will be 200,000 American jobs created in the first 2 years of NAFTA. That is exactly one-half of the picture. Even if the assumption is right that we will have 10 billion more exports, what they have not even calculated, although they admit there will be some lost jobs to imports, is what the number of those jobs lost to imports is. They have not made any deduction on the 200,000 new jobs they claim for jobs lost as a result of imports. Do all imports lose jobs? No. But the administration and everybody admits some imports are job losses. But, we still do not get any deduction for imports.

That is what I call "NAFTA math." It is half of the picture, exactly half of the picture. In the NAFTA math book, which would make my old math teacher wince, they only have pluses, no minuses. We asked the Under Secretary of Commerce for Economic Affairs, Paul London, last week whether or not it is not true that there is going to be some job losses from imports. He said, "Yes." We asked him, "Have you deducted them from the 200,000?" He said, "No." We asked, "Do you know about how many there are?" He said, "No." We asked, "Did you try to calculate how many there will be?" He said, "No." But there it still flows, 200,000 jobs.

It is a distortion. It is like looking at a ledger in a business and just looking at the revenues, not at the expenses, and saying it has been a really profitable year. By NAFTA math, we would be doing real well with Japan. Just look at the exports to Japan. Our exports to Japan are just terrific, in the tens of billions of dollars. In 1992, we had $47 billion in exports to Japan. Under NAFTA math, that is 840,000 export-created jobs to Japan. We are doing great by NAFTA math. There are 840,000 export-driven jobs because of exports to Japan. But, our trade, policy with Japan, in reality, is a disaster because you must deduct the much larger losses from imports from that export figure.

They do the same thing with that 60,000 automobile figure. I have heard that over and over again in the last few days. There will be 60,000 more cars shipped to Mexico next year. That is a Department of Commerce figure which derives from information it allegedly got from the Big Three. Assuming that it is true for the moment, how many extra cars are coming this way to the United States next year? Again, it is exactly one-half of the picture. All you get is export number. Ask the Commerce Department how many extra cars are coming this way to the United States. In fairness, do you not have to deduct the extra number coming this way from the extra number going that way, or at least consider them? We only get half of the picture. Is that the way they are going to sell this agreement? The answer is yes.

We tried for a month to get a number from the Commerce Department on the other half of the picture, how many additional cars are coming this way to the United States. Mexico increased their exports from 39,100 to 341,800 cars in the last 5 years. So if they claim, as they do, that 60,000 more cars under NAFTA will be going south, and those are all job creators under NAFTA math, how many additional cars will come this way north, and how many of those cars will be job losers? I think the Commerce Department owes the American people that number. I know the Commerce Department will not give us that number, and that is wrong and unfair.

We have an obligation to improve the way we measure plant relocation and job loss in the United States. I held a hearing on this very topic last spring which showed that our Government does not even track the movement of U.S. plants offshore. In 1992, the Department of Labor discontinued its mass layoff survey, the only survey that even attempted to track plant movement. If NAFTA passes, I will work to require the Labor Department to begin collecting this data in a useful way so we can monitor runaway plants and jobs.

Proponents of NAFTA have tried to portray anyone opposing NAFTA as preaching fear while they preached optimism. But when it looked like NAFTA was going to lose, the fear of Japan's going into Mexico was raised, the threat of anti-Americanism in Mexico was stressed, and the threat of illegal immigration was emphasized, to give but a few examples.

We must vote to defeat this NAFTA and send a strong message to our trade negotiators and our President that we want a better trade policy for our Nation. We want a trade policy that will allow our workers to compete on a level playing field. We want a trade policy that will ensure good jobs at fair pay for our people.

I yield the floor.

Mr. CHAFEE. Mr. President, the next order of business is for this side of the aisle. Senator LUGAR will have 10 minutes. Then it goes back to the other side to Senator GRAHAM, and then if Senator SIMPSON appears, it goes to him. Then it will go back to Senator CONRAD. So we will go ahead with Senator LUGAR for 10 minutes.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. LUGAR. Mr. President, the Senate should approve the North American Free-Trade Agreement. This agreement is in the strategic economic interest of the United States and will benefit our businesses, workers, consumers, and farmers.

The NAFTA is a strategic move to make the United States the preferred supplier of goods and services to the North American market. It breaks down trade barriers that have kept U.S. businesses from realizing their full potential in selling to Mexico. Even with these barriers, our Nation's exports to Mexico have been on the rise. In 1992, Indiana firms exported $359 million worth of products to Mexico, up from $156 million in 1988. But with the NAFTA, businesses in my State will be able to increase their exports—and therefore employment—even more.

Let me cite just three examples of how the NAFTA advances our strategic agenda of expanding export opportunities—for manufactured goods, for agriculture, and for services. First, an example in manufacturing: The NAFTA will gradually exempt the United States from Mexico's protectionist auto decree, which has often encouraged United States auto parts facilities to locate in Mexico in order to satisfy domestic content requirements in that market. The NAFTA will phase out these distortions—and Indiana companies like Arvin Industries in Columbus will benefit.

Second, in agriculture, the NAFTA will abolish Mexico's import licensing system on corn and other agricultural products. The result will be that the United States will have an advantage over competing suppliers in supplying the food and agricultural needs of Mexico's young and rapidly growing population. Indiana's 40,000 corn farmers, along with processing companies like American Maize-Products in Hammond, will gain by serving this market.

Third, an example from the services sector: the NAFTA will give United States insurance companies access to the Mexican insurance market—which is growing 20 percent a year, in contrast to 3 percent growth in the United States. Mexico is an underinsured society—few automobiles carry insurance, for instance—and companies that operate in Indiana, like the Chubb Group in Indianapolis and many others, will be positioned to serve this potentially huge market.

In a practical sense, the NAFTA will expand exports and export-related jobs in important industries. This is the consensus of informed analysts. For example, U.S. automotive exports could rise by as much as $1 billion in 1994 alone. Independent analysis projects an 8 percent increase in U.S. steel exports. And agricultural exports are forecast to rise by $2 billion upon full implementation of NAFTA—and Indiana farmers' share will be about $100 million.

I do not, however, base my assessment of the NAFTA's export potential primarily on the forecasts of academic experts, but on the experience and expectations of people who are actually selling products in Mexico and other markets. An exceptionally wide variety of Indiana companies have contacted my office to say they are selling to Mexico now and believe they will sell even more with the NAFTA. Their products are made in Indiana, not Mexico. A representative listing of what they sell would include corn products, auto parts, scientific instruments, soy products, pharmaceuticals and chemicals, gears and transmissions, compressors, refrigerated condensers, exhaust systems, metal stampings, power gear products, oil spill cleanup equipment, seed, furniture, consumer satisfaction surveys, ice cream equipment, woodworking equipment, and canning products.

Indiana's communities are increasingly aware of the potential for growth through exports. For example, the Evansville Chamber of Commerce writes in support of the NAFTA and says:

> We estimate that NAFTA would result in the creation of at least 540 new manufacturing jobs [in the Evansville area] and some 325 jobs in related sectors, such as construction and service.

The NAFTA will expand employment prospects in the United States at the grassroots, not restrict them. For all the many statistics that have been thrown around during the NAFTA debate, there has been relatively little focus on some basics.

Since the 1950's, U.S. manufacturing output as a percent of gross domestic product has stayed relatively constant—a little over 20 percent throughout that period of time. But U.S. manufacturing employment as a percent of all jobs has been on a long-term downtrend. Manufacturing jobs were around 35 percent of all jobs in the early 1950's but are well below 20 percent today. This downward trendline, by the way, is remarkably constant. The decline in the manufacturing share of employment dates to the 1950's, long before maquiladora plants or Japanese mercantilism or any of the other commonly blamed factors.

Surely, Mr. President, one logical response to this long-term secular decline phenomenon is to try and expand the demand for manufactured goods. By selling more products—by enlarging the demand base—we can maintain and expand employment opportunities without sacrificing productivity gains.

These considerations bring us back to why the NAFTA is in our Nation's strategic economic interest. The NAFTA will expand demand. It offers an opportunity to sell more products.

Today, Mr. President, many people are anxious about the future. That is understandable; we are living in a time of sometimes wrenching change.

The question is how we respond to anxiety—as individuals, and as a nation.

Do we retreat in fear and resentment? Do we build walls around ourselves? Is our reaction to be purely defensive?

That is not a healthy way for individuals to deal with their problems. It is not healthy for nations either.

We must, and we will, respond to economic anxiety with creativity, innovation and initiative. The NAFTA encourages us to do that. This agreement will break down trade barriers that have reduced sales of our products and services to Mexico. It will encourage innovation by creating an integrated continental market. It will allow us to engage the world through a powerful and growing trading alliance.

We should approve the NAFTA for the good of our country and for our future.

I thank the Chair.

The PRESIDING OFFICER (Mr. DASCHLE). Who yields time?

Mr. BAUCUS. Mr. President, I yield 8 minutes to the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized for 8 minutes.

Mr. GRAHAM. Mr. President, I will support the NAFTA, as I indicated in remarks several days ago.

My reason for that support includes the fact that I am convinced that NAFTA will result in more jobs for Americans and more jobs for Floridians. NAFTA will enhance the economic future of not only the United States but two of our critical allies. NAFTA will facilitate and accelerate hemispheric trade relations. NAFTA will contribute to avoidance of a slippage of Latin America back into its previous history of economic statism and authoritarian government. And NAFTA is a symbol of the United States self-confidence and willingness to compete in the world as we conclude the 20th century.

Mr. President, what I wanted to use my time for this evening was—on the assumption that NAFTA will pass, there will become a new economic relationship in North America—what do we do from here? The North American Free-Trade Agreement has always been seen as a milepost, not a destination. The larger destination is a move toward a greater economic unity within the Western Hemisphere. I hope that we will see this victory in the ratification of NAFTA as an impetus to move rapidly toward that destination.

We should not assume that Latin America is automatically going to be within the purview and within the influence of the United States. In fact, the largest community of Japanese outside Japan itself live in Brazil.

During the period of extreme economic dislocation in much of Latin America, our policies, which were seen as strident and not forthcoming, resulted in a substantial residue of goodwill being developed by Europeans.

So we should not take for granted that we will be the dominant economic force in this most growing economic area of the world. Rather we must use this as an opportunity to move forward aggressively to secure that position.

Mr. President, I particularly urge that the United States consider the Caribbean Basin nations, the nations of the Caribbean and Central America, as a priority of that next step. The United States has invested much over the last 12 years in encouraging the development of free market economies and democratic governments in this region.

The CBI countries, as a group, represent one of the fastest growing and most significant trade surpluses of any region in the world for the United States.

The United States has special interests in these nearest neighbors from trade, refugees, drugs, and democracy. We are going to see that interest particularly in focus I hope in the next few months as Haiti overcomes its authoritarian government and begins to try to rebuild a shattered economy.

The CBI nations are especially vulnerable to some of the effects of NAFTA. Currently, the CBI countries in areas such as apparel have a preferential position in terms of entry of their products into the United States. With NAFTA, they are going to fall behind Mexico in terms of economic competitiveness.

The United States would benefit by positive bilateral relations with the CBI countries. Today, under the Caribbean Basin Initiative, we have essentially a one-way trade relationship. We provide access to our markets without a great deal of demand having been made upon the CBI countries. A bilateral relationship will provide us with opportunities for expanded export into these countries as we are assuring their continued relationship with the United States.

Mr. President, I conclude with a second point in terms of what we need to be doing in the post-NAFTA environment, and that is a domestic initiative. NAFTA has been a ripping experience for much of this Nation. We need to be looking for opportunities for healing. I believe that much of that opportunity for healing will be to draw upon our own experience as the world's oldest and largest free-trade zone.

The United States of America for over 200 years has benefited by the fact that goods could be sold from South Dakota to Florida with no barriers or interference. But even though we have had that type of relationship, that has not meant that the 50 States of our Union have stood by passively. Rather, they have learned that it is important to develop relative advantage, competitive advantage in order to attract quality jobs, sustainable jobs in their States.

States have taken different approaches to accomplish that objective. South Carolina, under the leadership of our colleague, Senator HOLLINGS, developed one of the most innovative job training programs. California has made a long-time investment in one of the great public university systems of America. Those are two examples of strategies that States have used in order to make themselves attractive.

The United States of America now needs to see itself as a nation state competing with other nation states on a global basis for economic development.

That strategy must include components such as an effective job training program, quality basic education, research and development, and infrastructure, especially in transportation.

Those are going to be the characteristics of a nation state that can be competitive in a free market global economy. We should draw upon our own experience and familiarity and willingness to be a competitive nation as we adapt in the post-NAFTA environment.

Mr. President, the adoption of NAFTA completes an important chapter in our Nation's economic history. We now move forward with renewed confidence to the next chapter and with that confidence and enthusiasm America will continue to provide world example of leadership in terms of an open, effective, competitive, economic system that provides expanded opportunities for all of our people.

Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the Ambassador of Jamaica on behalf of the Caribbean nations' interest in NAFTA.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Times, Oct. 1, 1993]

CARIBBEAN NATIONS NEED NAFTA, TOO

(By Richard Bemal)

One of the ironies of the NAFTA debate is that while the North American Free Trade Agreement promises to expand the market for U.S. goods and services in Mexico, creating jobs in the U.S. by increasing U.S. exports, it simultaneously threatens to reduce U.S. trade with Central American and Caribbean countries at an ultimate cost to U.S. jobs. This is a needless tradeoff, because the NAFTA's adverse impact can be prevented by an extension of parity of U.S. market access to the region.

In the last 10 years, U.S. exports to the Caribbean Basin (the nations of Central America and the Caribbean) have increased by nearly 100 percent, and exports from the region to the United States have climbed by 50 percent. The total bilateral trading relationship now exceeds $21 billion per year, supporting over 40,000 jobs in the U.S. and thousands more in the Caribbean Basin. In 1992 the United States posted its seventh straight trade surplus with the 13 nations of the Caribbean Basin. The Caribbean Basin has become the 10th largest market for exports, and the United States continues to be the single largest market for the Caribbean. Some Caribbean Basin nations such as my own, Jamaica, purchase 75 percent of our imports from the United States. We will not be able to sustain this level of imports from the United States if we lose access to your markets, and the result will be a loss of jobs in both the United States and Jamaica.

The Clinton administration recognizes the importance of this trading relationship. Secretary of State Warren Christopher has linked U.S. market access to the viability of fragile democracies in Central America. In a summit last month with five Caribbean heads of government, President Clinton clearly stated that strong Caribbean economies generate U.S. exports, and directed U.S. Trade Representative Mickey Kantor to study the impact of NAFTA on the small economies of the Caribbean and to recommend measures to increase regional trade.

Fortunatley, the mechanism for this regional trade measure already exists and is gaining increasing support throughout the congress. Known as "Caribbean parity," this mechanism would temporarily extend the NAFTA provisions (including side agreements) to the Caribbean and Central America to keep these countries and Mexico on a level playing field: In return for permanent access to NAFTA or some other free trade agreement, the Caribbean countries would complete full trade liberalization negotiations with the United States, removing the remaining trade barriers and guaranteeing open access in Caribbean markets for U.S. products.

Since the mid-1980s, the U.S., Central American and Caribbean economies have grown increasingly interdependent. In an effort to stay internationally competitive, many U.S. firms have lowered the cost of U.S. produced apparel by manufacturing the cutting cloth in the United States with skilled labor and sending it to the Caribbean for assembly by relatively unskilled lower-wage workers. The garments are then sent back to the United States and exported from here at a price lower than would be otherwise possible. This "complementarity of production" has preserved the skilled, higher-wage jobs in the United States while providing employment and stimulating economic growth in the Caribbean.

The Commerce Department recently reported that U.S. apparel exporters have expanded their sales worldwide by over 75 percent since 1990. About two-thirds of their exports are assembled in Central America and the Caribbean from fabric produced and cut in the United States. In the case of Jamaica, close to 80 percent of the garment consists of U.S. produced, fabric and labor.

Without low-cost Caribbean assembly operations, U.S. apparel exporters would have been priced out of the market and employment would be lost in the United States. Without high-quality U.S.-made fabric, Caribbean Basin garment assemblers would quickly become unemployed. The regional trading structure now dictates that future economic growth will depend upon expanding U.S.-Caribbean Basin trade links.

As the Clinton administration builds its coalition on NAFTA, it must not forget the Caribbean. Not only would "parity" for the region help congressional passage of the treaty, it would also expand the way in which NAFTA will generate jobs and stimulate shared economic prosperity among the United States and its trading partners.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I want to be certain of the order here.

How much time is remaining on each side?

The PRESIDING OFFICER. The Republicans have 2 hours and 51 minutes; the Democrats have 2 hours and 1 minute.

Mr. DOMENICI. Mr. President, I understand that when Senator CHAFEE left, he left the floor to me.

Senator SIMPSON asked for 15 minutes and I yield him 15 minutes.

Mr. SIMPSON. Mr. President, I do not believe I will use that, and I will yield time back.

I obviously am in strong support of the North American Free-Trade Agreement. This debate has been rather an epic one. It has been a struggle often between myth, misery and misinformation—on the one hand—versus a positive economic vision for the future.

I think this Bush-Clinton NAFTA is the centerpiece of what is envisioned as an American trading region stretching to the very tip of South America.

This is a historic moment for our country, and our decision on NAFTA should rise above partisan politics. What sort of message would a rejection of NAFTA convey to the world? I can tell you one thing is certain: If we reject NAFTA, Germany, the European Community, Japan, China, and the rest of Asia will be more than willing to take up the slack with their exports. We will have lost a golden opportunity to have gained a larger portion of Mexico's swiftly growing import market. We will have lost the stepping stone to a worldwide trade agreement that will reduce all barriers to trade.

I have had the opportunity of hearing a great deal about NAFTA from Wyomingites ever since this trade accord was negotiated. I have heard some concerns which I shall address. But for the most part, I have heard about the positive impact NAFTA would have on Wyoming, and I will mention several specific benefits for Wyoming in these remarks.

In my travels back to Wyoming, I am always confronted with people who are right in your face, so to speak, who say, "Vote 'no' on NAFTA." And I say, "Why?" And they do not know why. Sometimes they just say, "Vote 'No.'" I think sometimes they have been listening too much to Ross Perot, who I think has magnificently distorted this issue.

I was very impressed by the work of our Vice President during the debate, so-called debate, with Ross Perot. I thought Vice-President AL GORE did a very fine job of disclosing, at least letting Ross Perot disclose, to the American people his shallowness with regard to his knowledge of complex issues, which, of course, has been known to many of us as we watched him campaign.

He is a man of easy answers to hard questions. Little snippets of irritation and peskiness do not substitute for intelligence. I think that he was portrayed in a way which has probably led to the decline of whatever role he has in the United States, and certainly he has a central one with his vote that he obtained in the last general election. Nevertheless, I think he was repudiated, along with some of his allies who were quite extreme in this matter.

My home State is a very small State, obviously, of 465,000 people. I represent fewer people than are in any other congressional district, which usually contain approximately 600,000 persons.

So people would say, "Vote 'no' on NAFTA." And I would say, "Why?" And they would give me some answer and then they would say, "Why would you vote for it?" after I would describe to them that that is exactly what I intended to do.

I said, "Let me put it in the simplest possible terms. You are asking this delegation"—Senator WALLOP, Congressman THOMAS, and our Governor, a Democrat named Mike Sullivan—"You continually ask us on the State level and the national level to go forth into the world, taking our great bag of goodies and tricks and paraphernalia and asking people to buy what we produce; asking them to buy our trona."

We are the largest producer of trona in the United States. The southeast corner of Wyoming produces 95 percent of the world's trona, which, of course, is a component of soda ash and the singular important product in glass.

The people and economy of Wyoming will profit from greater trade and investment liberalization under NAFTA. Wyoming's exports to Mexico have grown substantially since Mexico began to liberalize its economy in 1985. Since 1987, Wyoming's exports to Mexico have been growing at an average annual rate of 45 percent. Wyoming's exports to Mexico totaled $5 million in 1992. Current trade with Mexico generates considerable employment and income for Wyoming companies and residents.

Wyoming's economic potential is based on free trade. We produce oil, gas, wool, sheep, cattle, coal—we are the largest coal-producing State in the United States of America—and chemicals, MTBE, and other manufactured items. We certainly produce much more than the 465,000 of us could ever consume. The very essence of our work and half our day is spent trying to establish markets for Wyoming products in the United States and throughout the world.

Mexico is our third largest trading partner, and we have already entered into the agreement with Canada.

It was obvious to me then that the next part of the argument people would present would be, "How about pollution? What are we going to do about that? Their laws on pollution are very lax."

Then there would be a discussion of sewage on the border, which is always a dramatic thing. I did not have any pictures of that, but that was described in some detail.

Then, of course, corporations fleeing to Mexico, which, of course, they can already do.

And, like Vice President GORE in the debate with his adversary, I would say,

> What are you getting when you do not get NAFTA? What is your influence on what Mexico does internally with regard to its pollution? What is your influence on sewage on the border? What is your influence within the country when people ask about illegal immigration?

which is a subject that I have been deeply involved in.

And I would say to them,

> Please tell me what rejection of that agreement will do for those issues? Please replace emotion with reason and tell me what will happen.

Well, that always created a pretty good discussion. I would listen to them, and I have listened to those who are in opposition.

Now we find ourselves on the threshold of completion, I believe successfully, of this agreement.

And there is another thing, though, that I want to be assured that my colleagues hear, if we do not pass NAFTA. At least in my mind, there is a certainty that illegal immigration will become an ever more serious question. I say illegal immigration, because the principal reason for illegal immigration is the magnet of jobs. And the best way, the very best way to assure that those people do not come to the United States for jobs is to assure that their country reaches a higher level of economic status. When they do, the jobs will be created in Mexico, those jobs will be available to Mexican people, and they will stay. It is a very simple procedure.

That may not take place for the first year, for the second, or the third. But, long-term, 5, 10 years, certainly after that, this will be a very strong adhesive to cause people to remain in Mexico, to work in Mexico under the Government of Mexico, with no tariffs on either side after 15 years.

Wyoming agriculture will see growth in numerous areas. NAFTA will increase trade in both live cattle and beef through the removal of tariffs and licensing requirements. By the end of the transition period, revenue for the U.S. beef industry is projected to increase by $200 to $400 million. Sheep and lamb producers can expect increased exports. Ewe and lamb exports nearly doubled from 1990 to 1991 and are expected to continue to increase under the NAFTA.

Local concerns about how the agreement would have affected Wyoming sugar producers have been successfully addressed. The side letter was designed to protect against potential economic harm. It ensures that Mexico will not export large quantities of sugar and surplus sweeteners into the United States market.

Mexico has already passed legislation to open up its mining industry. I have heard from Wyoming mining companies that will have new opportunities to operate in Mexico under the NAFTA.

Wyoming soda ash companies will also enjoy increased trona exports to Mexico. Exports of trona—for fiber optics, car windows and other glass products—are projected to greatly increase as Mexican tariffs are removed.

NAFTA gradually reduces investment restrictions on banking and security firms allowing for open competition in financial services by the year 2000. Wyoming banks will now have the ability to open branches throughout Mexico.

The need for infrastructure improvement along the border and in Mexico—new roads, sewage and waste systems, and bridges—will bring about opportunities for Wyoming construction companies.

I have heard it asserted that free trade is the cause of the decline in real wages in the United States. That is a fallacious argument. Throughout history, increases in total trade volume have only led to increases in real wages, and more jobs.

NAFTA does not change the way which corporations can move their production facilities across the border. Any company that thinks it would be more profitable to move to Mexico and produce manufactured items, can do so today. However, NAFTA does commit Mexico to abide by United States labor and environmental laws. The labor and environmental side agreements to NAFTA will reduce the incentives U.S. companies might continue to enjoy without NAFTA.

I have also heard concerns about job displacement. The removal of U.S. tariffs will cause an estimated 150,000 displaced U.S. workers over the first 5 years of the agreement. However, that increase will be more than offset by the creation of 350,000 new jobs that the Department of Commerce estimates will be created by the removal of Mexican tariffs.

This means that America will realize a net increase of 200,000 new jobs due to NAFTA. Wages in those jobs will be equivalent to the wages currently earned in the U.S. export industries. Today, the average weekly wage in that sector of our economy is over $420 a week—17 percent higher than the average U.S. wage.

In the years ahead, we can expect to see free-trade blocs in Europe, Southeast Asia, and possibly South America. The U.S. economy is by far the largest single economy in the world. But we must compete for world markets. If we are forced to compete with a European free-trade bloc, or a Japanese-Southeast Asia bloc—both of which would be larger than our current economy and market—the United States would be at a terrible competitive disadvantage.

The prosperity that NAFTA will bring offers Mexico the only long-term solution to the problem of undocumented immigration into the United States from Mexico. The agreement does not and will not allow the free movement of Mexican labor into the

United States. The best way that we can cooperate with Mexico in alleviating the bilateral problem is through free trade. NAFTA will create jobs in the United States for Americans and it will create jobs in Mexico for Mexicans, who can then remain there to work.

This North American accord does not threaten our national sovereignty as some have suggested. We do not yield any authority to our northern and southern neighbors. In fact, no trade agreement surrenders any authority over U.S. citizens to any other national or international entity. All of that authority remains within the U.S. Government.

Wyoming will be one of the most negatively impacted States if we lose NAFTA.

So those are very interesting things.

And then the troublesome part of the debate—and I heard it enough because I am sensitive to it. I have had such remarkable recommendations presented to me as to what we should do with illegal immigration in America over the years, and usually, or at least sometimes, there is often a touch of racism involved. That is an ugly thing.

I thought Ross Perot's comments were very demeaning toward the Mexican Government and the Mexican people, to portray them as slovenly, lazy, inept people with a corrupt Government.

We can thank God that President Salinas has been there and tried desperately, unilaterally, to open his country to us. We are now going to do it bilaterally.

And I could not imagine a worse scenario than to defeat NAFTA, get nothing done with the environment, get nothing done with sewage, get nothing done with corporations fleeing, and then find that the whole election campaign for the next President of Mexico would be spent talking about the gringos from the North who did them in one more time, with a paternalistic, ugly, mean-spirited dialog of a campaign about how puny, how ineffective was the economy of Mexico. I cannot imagine what would have been worse for the United States of America, to watch a Mexican Presidential campaign on the platform. The winner would be the one who took the hardest strikes and blows at the United States of America. That is not going to happen, I do not believe.

Nevertheless, these are realities, and I think we will see reason triumph over emotion. I respect greatly those on the other side and particularly one. I mention his name—that is Lane Kirkland, president of the AFL–CIO.

I know the man and have come to have high regard for him. I enjoy him very much. He was a noble and stalwart figure and help with me with regard to illegal immigration. He was in the trench and assisted me on two separate occasions when we passed the illegal immigration bill. I have the deepest respect for him.

I said to him, "Lane, how did you get in this position? How did the AFL–CIO get to this position when the whole issue of America is jobs, and the whole issue of jobs is exports, and the whole issue of exports is free trade?"

He said, "Al, forget the reasons. We are just here. We are here. And you ought to hear the speeches that we can give." And then he gave me one and I said, "That is impressive. In fact it is moving, it is powerful."

Well, he said, "I could not turn back from this course regardless of what the arguments or the blandishments might be."

So it was. It is a shame because I think it has hurt organized labor in some ways, and that is unfortunate. I think at some point in time they could have given a shred. That is what legislating is about. That is what we are about—compromising an issue without compromising ourselves. I think at some point, back at some unknown milestone on the course, they could have given a bit and we never would have reached this unfortunate crossroads.

Nevertheless, I respect him greatly for fighting for a cause with passion and skill. I want to commend those in the House of Representatives, on both sides of the aisle, who did such a splendid job over there. I think of Congressmen BILL RICHARDSON, NEWT GINGRICH, BOB MATSUI, JIM KOLBE, DICK ARMEY, Minority Leader BOB MICHEL, and MICHAEL KOPETSKI. I could go down the list of people on both sides of the aisle, including TOM FOLEY, the Speaker. They did such tremendous work for our country.

I will end by saying that my State was founded and settled by men and women who never lost their vision of the future. To me, that is the same ethic that NAFTA represents.

We have a choice here today to express an economic vision for the future. I am proud to make that choice by supporting this historic trade agreement.

The PRESIDING OFFICER. Who yields time? The Senator from New York.

Mr. MOYNIHAN. Mr. President, I happily yield 10 minutes to the distinguished Senator from North Dakota.

The PRESIDING OFFICER. The Senator is recognized.

Mr. CONRAD. I thank the chairman of the Finance Committee, and I thank the Chair.

Mr. President, this vote on the North American Free-Trade Agreement has been a difficult decision for this Senator. It has been difficult because I believe in free trade, I believe in the doctrine of comparative advantage, that we produce what we do most efficiently, others do the same, and all of us benefit as a result. I believe in the economic benefits of opening markets, particularly for our agricultural products.

But we in North Dakota have learned from bitter experience that the devil is in the details with respect to so-called free-trade agreements.

Our most recent experience has been with the Canadian Free-Trade Agreement. All of us remember that the Canadian Free-Trade Agreement promised that we would have free trade, that we would have open markets, that we would have growing markets. We found out in North Dakota that it was not free trade; it was negotiated trade, and certain agricultural sectors had been traded away. Since the Canadian Free-Trade Agreement was implemented, Canadian wheat has flooded into the United States market. Any of my colleagues could come to North Dakota on any day and see the trucks rumble south carrying load after load of Canadian grain. Imports of durum wheat have increased from zero in 1985–1986 to 15 million bushels today. The Canadians have captured more than 20 percent of our market.

Imports of hard end spring wheat have totaled 35 million bushels in the most recent year, five times the average in the 5-year period prior to implementation of the Canadian Free-Trade Agreement.

Did this happen because our Canadian neighbors are more efficient, more productive, more competitive? Unfortunately, no. That is not what happened. We could understand if we were losing our markets because the other side was better at producing the product. But that is not the case. We have lost these markets, we have suffered these losses, because the Canadian Free-Trade Agreement put in place a system of unfair competition—plain and simple: unfair competition.

For example, the Canadian Free-Trade Agreement allows Canada to use transportation subsidies on wheat and barley shipments into the United States, a subsidy that is not available in this country. And the Canadian Free-Trade Agreement does nothing to curb the secret, anticompetitive pricing practices of the Canadian Wheat Board.

The distinguished occupant of the chair, along with others of us, recognized at the time the Canadian Free-Trade Agreement was passed that it contained these flaws, and we sought assurances from the Reagan administration that these problems would be resolved. Unfortunately, these assurances have turned out to be worthless.

We were told in the implementing legislation for the Coalition Free-Trade Agreement that the President would immediately begin negotiations to end the Canadian transportation subsidies. Not only has that not happened, there has never been a single serious attempt to make it happen.

We were told we retained the option to use section 22 of the Agricultural Adjustment Act to protect our farm programs. Section 22 would allow the President to limit imports of Canada's agricultural products into this country.

In fact, section 22 requires the Secretary of Agriculture to advise the President whenever he has reason to believe that imports are materially interfering with any program or operation of the Department, and further requires the President to take action if he agrees that there is reason for such belief.

The Bush administration refused to even consider initiating a section 22 action, despite clear evidence of damage to the American wheat program. As if that were not enough, we learned earlier this year that, in a secret side agreement never revealed to Congress, then-Trade Representative Clayton Yeutter told the Canadians that the plain language of the agreement, when it comes to selling wheat in our market at below their cost, did not really mean what it said. The agreement says that Canada cannot sell into the United States at less than the full acquisition price of the grain. But instead of the full acquisition price of Canadian grain, Mr. Yeutter told the Canadians we would only count part of the price. We would not count the transportation subsidy that gives their producers a 50-cent-a-bushel advantage.

We would not count the interim and final payments of the Canadian Wheat Board that typically amount to at least 20 percent of the total payments that the Canadian Wheat Board makes to Canadian producers. So full acquisition price did not mean full acquisition price at all. It meant something far less than that, and that has allowed Canada to dump at below cost into our markets, stealing markets which rightfully belong to our producers, costing our people literally hundreds of millions of dollars. North Dakota is on the front lines—right on the front lines—bearing the brunt.

Mr. President, this has been a bitter lesson for North Dakotans. We have become wary of so-called free-trade agreements. We want to know the details. And when I turned to the NAFTA, this experience with the Canadian Free-Trade Agreement was the backdrop for my review.

As I looked at the NAFTA, I saw the problems with wheat in the Canadian Free-Trade Agreement flowing right through to the NAFTA. I saw problems with sugar. Mexico, which is now an importer of sugar, was allowed unlimited access to the United States market.

I saw problems with dry edible beans. We are the largest producer of dry edible beans in the country. Our exports to Mexico are cut in half under the terms of this agreement. That is not free trade, when exports are cut in half. And I saw problems for potatoes. From 1990 to 1991, we doubled our exports to Mexico, but that growth of exports was cut off under the terms of the NAFTA.

The Clinton administration, to its credit, moved on some of these problems. On sugar, they resolved the problem. On wheat, they proposed to accept our end use certificate legislation so we could tag Canadian grain coming into this country, just as they do to us. Unfortunately, the words are there but the substance is lacking. We do not have the enforcement mechanism on end use certificates that assures us we will treat Canada in an equivalent way.

The administration came to us and said they would invoke section 22 action against Canada, that we would use our right to limit Canadian imports. The President told us he would send a section 22 action to the International Trade Commission in 60 days if Canada fails to respond. But there is no criteria for what is an acceptable Canadian response. That to me is a pig in a poke. I cannot tell farmers in North Dakota that the problem is resolved because Canada could take minimal action and the administration might then suspend the section 22 action. If this happened, we would have lost our best chance to rectify the mistakes of the Canadian Free-Trade Agreement that flow through to the NAFTA.

I cannot in good conscience tell my hardworking farmers that we have solved the problem when we do not have final action.

Finally, I believe we in this country can compete with anyone if we have a level playing field. But I am deeply concerned that the wage differential between our country and Mexico is artificially exaggerated because Mexican wages are artificially suppressed. That abandons our workers to an unfair playing field, one in which they are condemned to fight for their jobs with the scales weighted against them.

Mr. President, that is not free trade, it is not fair trade, it is negotiated trade. For those reasons, I must vote no on the NAFTA.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. McCAIN. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Arizona is recognized for 10 minutes.

Mr. McCAIN. Mr. President, in 1785 Thomas Jefferson wrote to his fellow Virginian, James Monroe: "I would say to every nation on earth, by treaty, your people shall trade freely with us, and ours with you."

The votes we cast today on the North American Free-Trade Agreement, like the votes cast in the other body Wednesday evening, will determine for many years to come whether Jefferson's aspiration remains the sincere pursuit of this great Nation.

I am confident that the Senate will approve NAFTA by an even larger margin than it won in the other body. I am very gratified that Congress resisted the often demagogic appeals of NAFTA opponents whose fears about the outside world overcame their confidence in America's strength, and our ability to protect our interests abroad.

America has little to fear from competition with a southern neighbor with an economy one-twentieth the size of ours, and a trade deficit with the United States that exists despite the fact that Mexico currently imposes higher tariffs on our goods than we impose on theirs.

I commend President Clinton for his energetic advocacy of NAFTA over the last 2 months. I would also like to salute the vision and industry of two previous Presidents, Ronald Reagan and George Bush, as well. Ronald Reagan was the first President to draw attention to the idea of a North American Free-Trade Agreement. And George Bush saw the idea through, negotiated the treaty with all the diplomatic skill for which he is rightfully respected by the world. For a President so often criticized for lacking vision, NAFTA could well serve as one of the most visionary endeavors any modern President has ever pursued.

Like President Clinton, I too hope that this success marks a new beginning for the administration. I am sure I need not remind the President of the nature of the coalition which ensured this important victory. Wednesday, over three-fourths of the Republican Members voted for NAFTA. Considerably fewer than half of the Democratic Members followed their example. By any fair reckoning, NEWT GINGRICH and his fellow Republicans deserve more than half the credit for NAFTA's approval in the other body. And, I am confident that well over half the support which NAFTA will receive in the Senate will come from Republican Members.

It is not clear to me today that Republicans are receiving the credit that they truly deserve. NAFTA was envisioned by a Republican, negotiated by a Republican, and passed by Republicans. With all due credit to the President, and those Democrats who had the coverage to vote with him, I think it is important that this town not overlook that fact that the vision and courage of Republicans was the difference between success and failure of NAFTA.

Mr. President, while I join in celebrating President Clinton's successful advocacy of NAFTA, I do have some regrets about all the means employed to achieve that success.

Purchasing votes for NAFTA with promises of trade protection for certain industries undermined the very principle of free trade that NAFTA was negotiated to advance. Even more egregious were the bribes of wasteful Federal projects which exacerbate the public's cynicism about their Government.

Every Member of Congress should have had the courage and wisdom to vote for NAFTA for no other reason than it is so clearly in the interests of our Nation. The Clinton administration should have had the courage to base its appeals to Members of Congress in a review of the treaty's many advantages for U.S. economic and political interests—advantages that overwhelm the narrow-minded, fearful arguments of NAFTA opponents.

To be fair, the administration did make an effective case for the treaty by emphasizing the important economic benefits certain to accrue to the United States if NAFTA passed, as well as the visionary quality of the treaty as a potential cornerstone of a hemisphere wide free-trade regime.

Those arguments, however, were diminished in the closing days by the politics as usual vote buying and selling that had little to do with free trade or a vision of a mutually prosperous hemisphere, and a lot to do with pork barrel pursuits.

I also note the President's willingness to send a letter to Republican supporters of NAFTA discouraging Democrats from exploiting the pro-NAFTA votes of Republicans in the next election. That is very generous of the President.

However, as a Republican I am happy to proclaim my support for NAFTA. I am proud of my support for NAFTA. And I am perfectly content to let the people of Arizona judge my support on its merits without a doctor's excuse from the White House.

Let me summarize the argument which should have been sufficient to persuade most Republicans and Democrats alike to support NAFTA.

For Republicans, how our party's divisions over NAFTA are resolved will shape the very heart and soul of Republican philosophy for a long time. Will we remain a party dedicated to the proposition that the people, being infinitely wiser and more practical in pursuit of their own interests than Governments, be allowed to act in their own economic interests with the least interference from their Government?

As a practical economic proposition, NAFTA and free trade generally, rest on the bedrock of Republican economic philosophy—common sense. No less an authority that the founding father of free market economic principles, Adam Smith would agree. He illustrated the folly of Government protectionism this way:

> By means of glasses, hot beds, and hot walls, very good grapes can be raised in Scotland, and very good wine can be made of them at about thirty times the expense for which equally good wine can be bought from foreign countries.

This commonsense perception of the negative consequences of high tariffs was well understood by Americans who engaged in the great tariff debates of the last century. It was understood by many of our Founding Fathers, by committed free traders in the 19th century, and by supporters of free trade today who argue persistently that tariffs are unfair taxes on an already overtaxed public and an impediment to prosperity.

Simply compare the Nation's prosperity in the period from 1860 to 1940 when tariff rates averaged 40 percent with the post World War II period when tariff rates averaged 6 percent. The first period was marked by three major depressions. The depression of 1873 was one of the longest in American history. The depressions of the 1890's and 1930's were at the time they struck the worst the Nation had ever experienced. By contrast, the period since World War II has been more prosperous than either the protectionists or free traders of the 19th century could have imagined.

It is with respect for these hard learn economic lessons of the past that the supporters of NAFTA have been so vigorous in their advocacy of the treaty.

Put plainly, Americans have prospered substantially from liberalized trade with Mexico, and they stand to prosper even more under NAFTA. There is no credible argument to disprove that simple fact. It should remain our party's firm resolve that it is the proper function of Government to remove whatever impediments remain to important markets for the goods and services of the American people.

There are, of course, other arguments at stake that transcend partisan economic values. Under President Salinas, Mexico—the only nation with which we share an unstable border—has moved dramatically away from statism, protectionism, and the reflexively anti-American, anticapitalism leftwing policies that have kept Mexico so firmly rooted in the Third World.

Rejecting NAFTA, denying Mexico the benefits of enlightened engagement with the world, might very well have provoked a return to these policies which are so inimical to our own interests.

Finally, there is the vision of our Nation which we have long sought to present to the rest of humanity. Involved in the NAFTA debate was the question of whether we are still a people imbued with the enlightened spirit of the New World or have we become more like the Europeans whose opposition to free minds and free markets our Founding Fathers struggled to overcome.

What NAFTA asks of us is to take counsel of our enduring aspirations, and not our fears, and by so doing help fulfill the promise of the New World—the promise of a hemisphere of free, democratic, prosperous nations, at peace with one another, and serving as the model for the entire world.

That, I submit, is a vision worth casting a vote for.

Mr. President, I yield the remainder of my time.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I yield myself 15 minutes on the Republican side in favor of NAFTA.

The PRESIDING OFFICER. The Senator is recognized for 15 minutes.

Mr. DOMENICI. Mr. President, fellow Senators, I have not spoken much about NAFTA other than a few days ago, perhaps 15 minutes on the floor of the Senate. But that should not be taken as any indication that my support for this arrangement of free trade in this hemisphere between Canada, Mexico, and the United States is not something that I have studied well and that I understand as well as I can and that I wholeheartedly support.

In fact, it was many months ago when this Senator took to the floor of the Senate and said the United States was very lucky to have a President of the Republic of Mexico named Carlos Salinas. It seemed to me that if ever this country wanted to develop this hemisphere with the same spirit, with the same freedom, with the same capitalistic ideas that would create wealth and jobs and prosperity, we had in a very real sense lucked out because onto this hemisphere came this man.

Many of us do not happen to have the luxury of having gone to Yale or Harvard or Stanford, although I can say at least a few of the children in my family have, but all of a sudden I decided that the Harvard Business School and its School of Economics—many of us would joke about it and talk about it because many thought it produced kind of a selfishness and maybe even a business sort of greed, none of which I agree with at this point—was worthwhile because of what it gave to Mexico, because this President was educated there. He obtained a PhD in economics, and I gather he was no run-of-the-mill student.

Then I went to Mexico two times, and I had the opportunity to look around, I say to my friend from Montana, at the Cabinet of this country called Mexico headed by this man Salinas. Let me say, fellow Americans, you could take that Cabinet and you would not have to teach them English and you could move them to the United States and, President Clinton, I regret to tell you, that would probably be as good a Cabinet as you have and maybe better.

Their Secretary of the Treasury, or, at least, the counterpart to ours, would not take a back seat to any economist in America, or anyone managing money for people or governments. Go all the way down the line and you find a youthful, exuberant, bright, dedicated group of men and women working for this man, President Salinas.

When he went into office, the United States of America did not have a glimpse of a chance of success in hemispheric trade with equity and equality and growth on both sides of the border that we could both be proud of as neighbors and grow with together because that Government and that country had not yet committed to the ideals and the spadework of a NAFTA.

There was no chance there could have been a NAFTA 6 or 7 years ago. Mexico was in the throes of a government that was protectionist, that did not want foreign investment. Remember that? They ran it all out of the country. They ran their own capital out of the country.

What happened under that atmosphere? Inflation rates were sky high, labor rates were in constant turmoil, and they had to control everything to make the economy run. The banks were nationalized at one point because the inflation and interest rates were too high, and they thought we will fix that by the Government owning them", right? It just got worse.

Then came a budget director. Now, we have had some famous budget directors in our day, in fact, in this time that I have been a Senator. But there was a budget director named Salinas, and he started this fellow Portillo, the President before Salinas, down the path of thinking of the Mexican people in a modern world, in a world where there was greater trade among countries, where tariffs were going down, where investments were made between peoples and between countries, so that growth could occur and jobs and prosperity move upward and skyward.

Out of the clear blue, when the new President was going to be selected, they found this budget director, and they made him President. Some of us have taken to the floor—not this Senator—and we were inferentially critical of how he was selected. Right? Because we said they are not a big enough democracy, we should not trade with them. Right? Inferentially they should have had an election, because how could Salinas be a good leader unless he was elected by everybody. Frankly, the United States of America thinks that in world trade, we are going to go to every country and say: Now just put it out here. You have a constitution; let us see it. You have three branches of government. Where are they? You have elections every 2 years and every 4 years? You do not? We are not sure we are going to have free-trade with you.

Let me tell you, we are not so perfect either. I mean, how would we like Salinas and his group of people looking over here to the United States, if they had the big club, and saying: We do not like what you are doing, either. Why should we have free trade with you?

They could think of a litany from that ceiling to this floor of things we are not doing right, that are not in the interest of free trade. They could give us a list of social problems in America that they do not want in their country. They do not want the social problems of our murders in our inner cities being part of this new trade between the countries.

In fact, if I were one of their politicians, I might be saying: "Wait, are we going to import that lifestyle? Is that what we are going to get when we have free trade? I am not sure we want it."

But that is not true. We are not talking about that. We are talking today about the economy of the United States, jobs for our people, and at the same time the American economic machine made up of capital investment, working men and women, educated people, and meeting the competition of a different world.

So why should we not tomorrow institutionalize in this hemisphere the successes of the Salinas administration in Mexico? That is what NAFTA is, more than anything else. It will say to Mexico, and between Canada and the United States, we will say to Mexico: "Now you have to keep the free markets that you started under this great leader; you have to take those trade barriers down." They are 16 feet tall and should go down to zero. Yes, people will say "what about ours?" Our trade barriers are 16 feet tall, down to a little curb. We are going to vote them down. Which nation should that favor more?

That is institutionalizing permanently between two great nations and two great peoples what President Salinas and his group of educated people committed to growth and prosperity have brought into being. If I had more time, I could give you a lengthy list outlining the growth in that country during the last 6 years that would make the United States look feeble. Granted, they started poorer. But we are not doing as well as Mexico. Their gross national product is growing faster than ours. Their inflation has come down from a higher rate down to a level that is really livable in the international marketplace. Their interest rates have come down from double digits to something we can live with and they can live with. Everywhere you look, their prosperity is increasing; their standard of living is going up; their disposable income is going up. And who do they want to spend it on? Is it not amazing? Every living man and woman in Mexico, I say to my friend from Nebraska, in that poor country, spends more of their Mexican pesos on American goods than the Japanese spend on American goods.

That is interesting. As poor as they are, on a yearly basis, they spend a higher percentage of their income buying American goods than the Japanese do. Why should we not institutionalize that? Or do we want to throw that out the window because of some kind of concern that they have not yet perfected their democracy?

Let me tell you. We were pretty lucky that we did not have a big free giant like the United States looking over our shoulders as we developed our democracy. They would not have traded with us in terms of being a real democracy with individual freedom and liberty until about the last 25 years. It was not long ago women could not vote. It was not long ago blacks were slaves. Right? Those are all things we could be critical of if we sit around and say we want perfection in terms of individual opportunity, freedom, and prosperity. Yet, we had more freedom and more opportunity than most countries in the world will ever have, and we were not perfect.

Having said that, let me suggest what is happening to this great country is very, very simple to this Senator. After the Second World War, we decided that we were going to be a strong economic power and we were going to sell our goods to the world. Frankly, they bought everything we could produce. From and after the Second World War and for about 25 to 28, 30 years, we dominated the world marketplace. We produced automobiles that were not very good. And the rest of the world bought them because nobody else produced them. They bought our American steel even though it was very expensive because nobody else produced steel. And we had a luxurious 25 to 30 years.

What did we want the world to do? Just think of it for a minute. We did not want to send our military and take them over. We got out of that Second World War; we said that is it. What did we want of the world? We wanted them to become democratic as best they could, and as quickly as possible, and capitalistic, with private property ownership, investment, and growth. We sat back and without using armies, without using navies, we encouraged other countries to follow our lead, for armies and navies had nothing whatsoever to do with peoples of the world catching onto democracy, to leadership in economics, to investment, to opportunities, to enterprise. And so the world grew like America; grew to be like us.

There was born real international trade, because before that we dominated it. Then there came a Japan, then there came a Germany, and then there came a Europe. And then, not too far behind them, came a number of countries that are growing in terms of material wealth much like ourselves.

And therein lies the competition that somehow or another frightens us to death. We asked the world to be like us, and prepare goods and services like us, grow and prosper like us, and now that they are getting there, and doing it well, we are timid and fearful. We should not even open our borders to Mexico because we are afraid of it. Right? Are they going to truly put our people out of work?

That is something hard to believe. I have not seen many things flow through here that are as hard to believe as the little country of Mexico, with great potential, 90 million and growing—what is it, 4 percent of our economy—just urging that we take down both countries' barriers, that we trade with each other. They invest in us, we invest in them, and guess what will happen when we do it? Both countries are going to grow.

Mexico's standard of living must grow faster than ours now percentagewise. That happens in every country. When you go from poor to a little less poor, to a little bit wealthy, to much more wealthy, it kind of stops growing exponentially and goes in the other direction. It gets harder. We are already up there. So theirs is going to grow faster. If we do it right, guess what is going to happen? They are going to be our biggest traders, trading partners, buying more goods and services from us than any country in the world.

It will happen just as sure as we are here. And anybody that criticizes the caliber, quality, and culture of the Mexican people is dooming this hemisphere to second-rate economic power in the world. For this hemisphere is not just North America.

Let me just suggest that as Mexico grows, the next thing to happen is that Central America, which is already catching on, is going to grow. And the next thing that is going to happen is countries in South America are going to start to grow, and they are going to be doing business our way.

It is going to be investment, competition, job training, education, produce what you are best at, and sell it to your own people and others. What is going to happen to America is that our manufacturing base and our base that requires good, high-paying jobs will grow. The thing that has caused us the most concern is that the high-paying jobs are not growing sufficiently in the United States.

They will never grow sufficiently unless they are fed by exports of finished products that demand high quality workers to put them together at competitive prices. How can Mexico not help us as we seek to do that? Think of what this hemisphere is going to look like when you add them all together—our Mexican friends to the south and all of the Latin American countries and Canada, with no trade barriers and the enthusiasm of investment and growth; and job training and education becomes contagious in the hemisphere. You can forget all of the prophets of gloom that appear on the American horizon and tell us we better keep it like it is.

Frankly, it is not so great like it is. Not wanting to do this with Mexico because we are fearful means we are going to keep the relationship like it is. The relationship like it is is getting better with the current government of Mexico, but it could fall backwards if we do not help institutionalize their successes with NAFTA.

I want to close tonight by suggesting that in the city of Santa Fe, NM, every year we burn what we call a Zozobra, a big stuffed kind of mummy that we walk down the road. And when we burn him, we are burning "old man gloom." That is an annual event, burning old man gloom, or Zozobra. Frankly, it reminds me of that when I hear those who are so skeptical, so fearful of our work force and our manufacturing companies and our ability to train our people, invest our money in modern technology to build competitive goods for Mexico and the world marketplace, I do not think we ought to have to burn Zozobra every year. I think we ought to just burn that tomorrow morning and vote "aye" for NAFTA.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER (Ms. MOSELEY-BRAUN). The Senator from Montana.

Mr. BAUCUS. Madam President, I want to first commend the Senator from New Mexico for one of the best statements on this subject I have yet heard. The Senator from the State of New Mexico represents a State next to Mexico, and he knows and understands Mexico very well. I commend him. I only regret that not every Senator was here this evening to hear it.

I yield 5 minutes to the Senator from Nebraska.

Mr. KERREY. Madam President, I rise to offer my support for the North American Free-Trade Agreement and to give proper recognition to those whose dedication to this historic agreement have now made our vote seem anticlimatic.

Both President Clinton and Vice President GORE deserve praise for their disciplined efforts to engineer and implement a NAFTA game plan that appealed to the competitive inclinations and the high-moral aspirations of the American people. In the process, the President and the Vice President demonstrated great respect for the legitimate fears that many Americans have about their job security. And, they have refused to concede to those who would prey on these fears to keep the United States from seizing an opportunity to expand job opportunities through trade and economic growth.

I also want to commend our Trade Representative, Ambassador Kantor, for his skill in keeping the NAFTA agreement moving ahead. He has always been available as a patient and concerned listener, and for that reason he has earned my personal respect and my support for this agreement.

I also wish to thank Bill Daley, the President's Special Counselor for NAFTA. He answered the call to come on to the NAFTA playing field in the final quarter, with his team down and the clock running out, and showed cool competence in moving NAFTA across the goal line. The administration's entire effort was a picture of teamwork.

Finally, I want to pay tribute to former President Bush. Tonight, no one should question George Bush's vision. It was his vision of a hemispheric trading block which brings us to this historic moment.

Having given proper individual recognition let me also recognize and speak to the legitimate concerns and fears of those who oppose the NAFTA. This agreement merely give us the opportunity for success; it by no means guarantees it. If it is our desire to counter the downward pressure on wages or to compensate for the loss of American jobs, we must with all due diligence implement policies which give increased job growth a chance.

What we do after this agreement becomes law is much more important than what we have said prior to enactment. The vision of mutual and rising prosperity will not become a reality if we continue fiscal policies in America which consume three-fourths of all available savings, entitlement policies which annually transfer income faster than working people can generate it and which inhibit the urgent need to invest in public infrastructure, tax policies that penalize savings, regulatory policies which make no effort to compare costs with benefit, education policies which produce high school graduates deficient in math, science, and reading skills, or health care policies which allow millions of American babies to begin life without a fighting chance to succeed.

The NAFTA is a five volume document of text and accompanying tariff schedules. The agreement provides the framework for an increasingly open trade relationship between the United States, Mexico, and Canada. As such it is little more than rules of the road. It will not and cannot determine either the quality of the road or the vehicles we use.

This framework, Madam President, lowers existing tariffs between the three countries. It converts quantitative restrictions on imports into tariffs so that these restrictions, too can be phased out in an orderly and measured way over the next few years. Thus, it allows each country some time to adjust to the new trade rules.

This framework obligates the United States, Mexico, and Canada to seek to harmonize the standards that govern commerce in their respective economies, but to do so in a way that respects each country's right to maintain the health and safety standards necessary to protect its citizens.

Madam President, any framework is only as strong as its foundation. In this case, the strength of our economic foundation, and the economic foundations in Mexico and Canada, will ultimately determine whether the NAFTA framework stands or fails. On this score, it is clear that we and our NAFTA partners have much to do in order to ensure NAFTA's true success.

In the case of Mexico, I can only say, Madam President, that if that country continues on the courageous path that it has pursued the past several years, I am confident that it will one day have the strong economic foundation required to make NAFTA work for Mexicans.

I cannot help but look with deep admiration and a bit of envy at all that President Salinas has done to right his country's economic ship of state. He has, in the face of long odds and clear political risk, asked individual Mexicans—many of whom have little—to make the sacrifices required to curb inflation, bring foreign debt under control, close a yawning Federal budget gap, and shrink a stifling Government role in the marketplace.

In the process, President Salinas has persuaded Mexicans to confront cold truths, as revealed by the Mexican farm leader who this past summer said, "We are slowly realizing that small farms only produce poverty." He has asked his fellow Mexicans to sacrifice in the present in the hopes that Mexico eventually will climb the ranks of the world economic order. In many ways NAFTA is simply about giving support to Mexico's reforms and ensuring that they are not reversed.

I must say, Madam President, I wish we could demonstrate a similar resolve in confronting the economic truths here in the United States. If we did, our economy would be growing faster and our people more secure. Instead, the powerful American economy—capable of much greater things—limps along with sluggish job growth and stagnant living standards.

Many Americans believe the NAFTA will cost them their job or their pay raise. I believe this fear is misplaced. Instead, I believe we should fear our failure to do the fundamental things needed to build people and businesses with the capacity to produce and succeed.

Let me give you an example of a fact which to me is fearsome. The fact is the mathematics achievement of American high school students. Math skills, in particular multistep mathematics and statistics, used to be a workplace luxury. Thirty years ago, 20 years ago, and in some cases 10 years ago it was possible to find high paying jobs which did not demand high skills.

Today, that has changed. Today, the hard economic truth is this: There are not very many high-wage, low-skill jobs around anymore.

Now, here is the fact. The National Assessment of Educational Performances 1992 scorecard for mathematics in Nebraska—a State that consistently scores among the top 10 percent in the Nation—revealed that 20 percent of white and 75 percent of our black eighth graders do not even manage to achieve a basic level of achievement. At the basic level a student need only do simple addition or calculate the correct change for a dollar.

This means that nearly 5,000 Nebraska students and 750,000 each year are given high school diplomas that are fraudulent. After 13 years of school we present them with the economic equivalent of a death certificate.

Madam President, this is just one fact and one reason why millions of Americans, especially those whose skills have not kept pace with market demands, fear NAFTA. They know their business and political leaders have failed them, and they do not trust us to do it right this time.

They do not trust us because they have seen us cower in the presence of special interests who insist on satisfying today's needs and who do not care about tomorrow. They do not trust us because they see our unwillingness to stand up to those corporate interests and wheeler-dealers who treat human beings and their lives as if they were depreciable assets. They do not trust us because we are afraid to lead.

Madam President, NAFTA represents a collective act of leadership. Those who began the negotiations, those who finished it, and those who have managed it to its success in the House and Senate have demonstrated the leadership needed to make NAFTA a success. Let us join them—and on behalf of the people we serve—earn the trust needed to complete our work.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. MACK. Madam President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Florida.

Mr. MACK. Madam President, this is a time of great opportunity for America and, frankly, a defining moment in our history.

There have been times when I have not been proud of what we in Congress have accomplished. But I must say that I take great pride in what this Congress is about to accomplish with respect to the North American Free-Trade Agreement.

When the NAFTA passed the other body just the other night, a significant victory was scored against some pretty tough opposition. Members voted to stand up for the basic principles that made America great, what an encouraging and exciting moment.

When I think about the future of my children, who are today 32 and 26 years of age, and that of my three grandchildren, aged 9, 5, and 5 months, it looks brighter as a result of Wednesday's vote in the House and the decision we will soon make in the U.S. Senate to approve the North American Free-Trade Agreement.

When I think about the future of my State, I wonder, too, what that will be like. It would be very easy to simply rely on the standbys of Florida's economy: agriculture, tourism, the military and people moving into the State. But now we can begin to set our sights on an even brighter future for Florida. The ports around the State, Jacksonville, Melbourne, Fort Lauderdale, Miami, Tampa, and Panama City look forward to this North American Free-Trade Agreement and hail the great opportunities which lie in the development of new technologies.

When I think about the future of my country, I also see a much brighter future dawning.

As the debate on the NAFTA has taken place, I have asked myself what America's future will be like? Will we remain the center of influence in the 21st century? Because of the passage of NAFTA I believe that answer is yes. It is a firm commitment to the principles that has made America great: The principles of free markets, free enterprise, free trade, and free people, the essence of capitalism and democracy.

Freedom is the organizing principle of this Nation, and the core of all human progress.

We live in a dramatically changing world today, one that is dramatically different from even the one that I experienced growing up. America is moving from an industrial society into the information and communications age, and this movement from one economic base to another is tearing at all quarters of our society and our economy.

But we must be prepared to change. We must look forward. We cannot allow ourselves to be trapped in the old technologies, in the old ways.

Sure, protectionism may create a temporary haven for investment in the old technologies, but it also consigns us to the limitations of the past.

I come from a city called Fort Meyers down on the west coast of Florida. There, Thomas Edison had his winter home and carried out many of the experiments to find just the right filament for the electric light.

I have heard others say that if Thomas Edison were alive today and invented the electric light bulb, Dan Rather would lead off his newscast with dire warnings that the candle-making industry was threatened, and someone would come to the floor of the U.S. Senate to protect the candle-making industry.

We must follow policies that lead to opportunities. We must follow the principles that made America great. Only if we do, will we continue to be the center of influence.

Last year, I read a book titled "Millenium." It was written by the former president of the Eastern Europe Development Bank, who was a former aide to French President Francois Mitterrand. The essence of the book was the question, what nation would be the center of influence in the 21st century? The answer responded to that question as if America no longer existed. In the author's mind, at issue was would Japan or the Pacific nations be the center of influence or would it be Europe. He believed America's time had, in fact, passed. While he allowed that some things could be done to get us back into the game, he really doubted whether we would be able to do it.

I think that the decision that we are about to make will clearly demonstrate that we are prepared to follow those ideals and those principles into the 21st century which will allow America to retain its position as the center of influence.

You might ask, is it really important for us to remain the center of influence? Are not there other more important challenges for America? I think it is fundamental to our own future, to that of our children and grandchildren, both from an economic moral perspective that we retain our pivotal role.

Were America to turn its back on the North American Free-Trade Agreement, how could we say to the rest of the world that the principles which are most important to your people and your future are freedom, justice, democracy, human rights, free markets, free enterprise, and capitalism? Why would they ever pay any attention to us, if we are not confident enough in those principles to accept a free-trade agreement with Mexico.

In conclusion, I am terribly proud of what America is about to do. I recall a statement that was made back in 1979, which proved to be the moment in which the very idea of a North American Free-Trade Agreement was born.

I refer to a paragraph in Ronald Reagan's announcement speech that he would seek the office of President of the United States in 1979. This is what he said.

> A developing closeness between the United States, Canada and Mexico," Reagan said, "would serve notice on friend and foe alike that we were prepared for a long haul, looking outward again and confident of our future; that together we are going to create jobs, to generate new fortunes of wealth for many and provide a legacy for the children of each of our countries.* * * It may take the next 100 years but we can dare to dream that at some future date a map of the world might show the North American continent as one of which the peoples and commerce of its three strong countries flow more freely across their present borders than they do today.

He spoke those words in 1979, and warned that it might take 100 years to accomplish. We have realized President Reagan's remarkable dream in only 14. It is a great victory for every American. I take great pride in what we are about to do, and I hope my colleagues will vote overwhelmingly for the North American Free-Trade Agreement.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. Madam President, I ask unanimous consent that the 5 minutes of the time allocated to the Republican side be transferred over to the Democrat proponents.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Madam President, I now yield 7 minutes to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. I thank the Senator from Montana for yielding time from the leadership on this critical issue.

Over the past year, thousands of my friends and neighbors in Washington State have written and called me about the North American Free-Trade Agreement. I have heard from many people at town hall meetings and other events I have attended around the State.

I have spent countless hours analyzing this treaty and the side agreements on the environment and labor relations. And, I have been lobbied hard even at home: my daughter, Sara, opposes the agreement. My mother is in favor. The people of Washington have strong views on both sides of this issue. Each person has made a compelling case.

Throughout my conversations, I have asked two simple questions: Will the NAFTA help or hurt working families in Washington State? And, will it help or hurt Washington State's opportunity for economic growth and expanding trade?

Based on my study of all the issues involved, I believe this agreement will not harm working families in Washington State, and it will enhance our State's economic growth. NAFTA will expand exports for aerospace and transportation, for computer software, for industries of the future that are dependent on intellectual property, for financial services, and for most agricultural sectors of Washington State's economy.

Throughout this year, my many friends in the labor movement have worked hard against the NAFTA. I have listened carefully to their arguments and concerns. They articulated clearly the fear of many families in my State and in this Nation. They fear loss of jobs, loss of their ability to put food on the table or to send their children to college.

They speak fervently about the lack of attention to the needs of real families who work hard every day. Madam President, we must heed those fears, because they are real.

But defeating NAFTA is not going to eliminate those concerns. Defeating NAFTA will not increase job opportunities in this Nation. Without NAFTA, our workers and our States will continue to face competition from low-wage countries.

My labor friends helped send me here, to Washington, DC., and I came here to work on issues that are important to them and all working families in this Nation. I came here ready to fight to reform health care, to reduce the deficit, to curb violence, to make college affordable, to create jobs and to ensure that working people have a brighter future. These are the real issues which working class families, like mine, will be dealing with in the next century. And those are the issues we must continue to fight for here in the U.S. Senate.

My friends in the environment movement have also expressed concerns about NAFTA. I have listened carefully to their arguments as well. But I have reached the conclusion that without NAFTA, we will have little or no leverage to improve the environment or the conditions for workers along the border with Mexico. This agreement is the first trade pact which specifically includes environmental concerns. This is unprecedented. It will allow us to use trade sanctions to compel Mexico to enforce its environmental laws. It gives us a base to improve on for the GATT.

Madam President, passage of this NAFTA is important to my region and to the people I represent. If we walk away from NAFTA, we also walk away from the Uruguay round. We walk away from any success with the APEC organization—whose members are meeting this week in my hometown of Seattle. Those trade talks are vital to our economy. Each year, Washington State conducts more than $64 billion in trade with Asian countries. This compares to half a billion dollars in trade with Mexico.

Madam President, I believe the best way to create new jobs and boost wages in the State of Washington is to expand markets for our products in other countries. Lowering tariff and non-tariff barriers around the world is important for our economy. NAFTA is far from perfect—it is not without risk. No trade agreement is. It is a compromise worked out between nations.

Madam President, I will vote for NAFTA because it is the beginning of a new dialogue on international trade vital to our State's and our Nation's economy. It is not the end of a conversation. It is the beginning of a movement to improve our economy and to increase our ability to compete in an emerging worldwide marketplace.

I will vote for NAFTA because the only reasonable conclusion I can reach, after months of researching this issue and listening to the debate between my mother and my daughter, is I know that it will help workers in my State. And, finally, together with the Uruguay round and APEC, it will promote economic growth and expand trade for Washington State as we face the next century.

I thank the Chair, and I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Montana.

Mr. BAUCUS. Madam President, I do not see any Senators seeking time. Might I say to all Senators who may be listening or watching and all staff who may be doing the same, that Senators who have not yet spoken should come to the floor now to speak.

We have approximately 35 minutes. If there are no speakers, we may have to move to a quorum call. During that time, all time will be charged to the time allotted to the managers of the bill.

So if Senators do not come now, they may not be able to speak on this issue. I strongly encourage staff to inform their Senators and Senators who may be watching or listening to come to the floor now. We have approximately 35 minutes within which Senators can make statements. If they do not come at this time, there is a chance they will be jeopardizing their right to speak on this issue.

Mr. FORD. Madam President, will the Senator yield for a question?

Mr. BAUCUS. Yes.

Mr. FORD. Is that 35 minutes for the proponents?

Mr. BAUCUS. That is total; 35 minutes before we are scheduled to vote at 11 o'clock.

Mr. FORD. That is not the amount of time left on the bill itself?

Mr. BAUCUS. No.

Mr. FORD. The Senator left that impression. I was concerned that you had 35 minutes left on the bill.

I thank the Senator.

Mr. BAUCUS. Madam President, the Senator from Kentucky is absolutely right. After the 35 minutes tonight, there will be time tomorrow to speak. But I am suggesting that the time tomorrow might not be available to the same degree it would be as it would be tonight.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. I apologize for coming in in the middle of the conversation. Is there any time tonight?

Mr. BAUCUS. There is time.

Madam President, I yield 10 minutes to the Senator from Delaware.

Mr. BIDEN. Madam President, listening to the long debate over NAFTA leading up to the vote today, I have been struck by the depths of the concerns expressed by those who oppose NAFTA, on the one hand, and the apparent ease with which some of NAFTA's supporters have dismissed those concerns, on the other.

How, I wondered, could some Americans be so confident that NAFTA is key to a bright future, when others are just as convinced that with NAFTA, they will have no future. Perhaps most disturbing to me has been the argument by some—not all, but some—supporters of NAFTA that their opponents are reacting out of ignorance and fear.

After all, they seem to say, we know that a poll of our country's experts and elites would show overwhelming support for the principles of free trade. Surely, if only the opponents would study a little economics, the vote for NAFTA would be unanimous.

Madam President, I am her to tell my colleagues that the opponents of NAFTA have every right to fear for the future, and every right to be skeptical of deals that, like NAFTA, experiment with mixing two economies as different as those of Mexico and the United States.

But I am also here today to announce that I believe that NAFTA is the best deal we are going to get now, and for the foreseeable future. More than that, it is in the interests of my State and of our country to increase the markets for our goods and create the jobs that increased trade will bring.

So while I share the fear and concerns of those who have called on us to reject NAFTA, I do not share their conclusion that defeating NAFTA will solve the very real problems that fuel those fears.

Let us turn away for a moment from the theory of free trade, and from the imaginary realm of econometric models, and look at some of the facts that millions of Americans have had to face for years.

First, there is the hemorrhaging of middle class jobs and incomes that has persisted unchecked for decades. Manufacturing jobs—the bedrock of not only American economic security, but of the families, neighborhoods, and communities whose values we so dearly need today—hundreds of thousands of those jobs have disappeared, and are now at their lowest level since 1965.

From 1979 to 1992, 2,850,000 manufacturing jobs have been lost in America.

While we are doing better at job creation this year than in the previous few years, at the same time corporate America has announced more layoffs—255,000 jobs—for the first half of this year. That was 23 percent higher than last year, and the highest first-half figure ever.

Long-term unemployment is the highest ever, because middle class jobs are being eliminated, not just moved around the country or to other industries. Workers cannot find the same kinds of jobs they have lost.

In my State of Delaware, Madam President, restructuring has cost us what we once thought were our most stable and secure jobs—DuPont has cut 5,000 jobs; and the General Motors plant at Boxwood is scheduled to close, wiping out 3,500 jobs. Those auto jobs alone threaten another 3,000 jobs in the State.

Every one of those jobs means a family tragedy.

How dare we tell these people not to worry. How dare we tell the 45-year-old Dupont chemist, with two kids in college and a mortgage to pay, that he has nothing to fear. Will he get another job? Maybe. Will it be as good as the one he lost? Probably not. Will he be the same guy when this is over? Never.

How dare we tell the line worker at GM not to worry, free trade will make us all better off. He's staring down the barrel of unemployment, torn up thinking about what will happen next. How dare we tell him and his family to put their faith in economists, in government experts, in the very businessmen whose calculations will soon put him in the street?

I understand those fears; I will not ignore them. And I want to tell them now that my vote for NAFTA today is cast with their fates foremost in my mind.

Their fears have been legitimately and forcefully expressed by both the leaders of organized labor, and the rank and file. I know, I've heard from them. Such genuine feelings cannot be whipped up on command by the leaders of organized labor, as some NAFTA supporters have cynically claimed.

Madam President, those fears are based on the reality that the America that we used to take for granted, the America in which hard work and clean living was rewarded with a decent, secure standard of living, is harder and harder to find.

Those who patronize that fear, or dismiss it as irrational, or who put it down as one of the costs of doing business to be balanced against better profits in the long run, are deluding only themselves. And, I must add, those who attempt to exploit those fears for their own self-aggrandizement, will find that they are playing with fire.

Because to dismiss those concerns—or to toy with them—is to ignore the fact is that we are at a critical juncture in the history of our country; we have real problems, serious problems that we ignore at our peril.

We have won the cold war, both prevailing over a military threat and winning the clash of values, and as a result we now confront a world of freer trade, with wealthier competitors, and with new markets to compete for. At the same time, a demobilization unparalleled since the end of World War II, the self-feeding trend of layoffs by our major employers, and explosion of new technologies have combined to keep this the most jobless—and joyless—so-called expansion in our modern economic experience.

Having won the war, we must not lose this new peace. We must find the ways to create the kinds of stable, secure, middleclass jobs on which we have built our free society and democratic institutions. If we fail, I fear that the cost will be that society and that democracy.

In the many years I have spent studying the causes and cures of crime, Madam President, I have become convinced that unless our citizens can have hope in a better future, our society will crumble from within. Despite our best efforts, including what I believe is a historic crime bill that we just passed here in the Senate, we are fighting only the symptoms of these problems in the criminal justice system. We must soon address their causes.

But, despite what we have heard in recent weeks, NAFTA is not the cause of the economic problems we face today. Nor, I must say, will it be more than a small part of their solution. The volume of the debate has been far out of proportion to the significance of this agreement to do either harm or good to our economy. Let us look at some of the facts.

Supporters of NAFTA have told us that all told, NAFTA may create 200,000 new jobs. Opponents claim that it will eventually come to cost us as much as 500,000 jobs. But with or without NAFTA, our economy will create over 18 million new jobs over the next 10 years. Whatever our decision here on NAFTA, our dynamic economy will create waves of activity that will swamp any ripples from NAFTA.

So I cannot agree with either side—those who sell NAFTA as a major source of new jobs or these who tell us that trade with Mexico will be some kind of suicide pact that will destroy the economy of both countries. Let me explain why I think NAFTA can be small, but positive step in solving those problems.

When President Clinton said that he would only support the NAFTA negotiated by the Bush administration if he could get side agreement to improve it, I agreed with him. The premise of the agreement to improve it, I agreed with him. The premise of the agreement is underiable—more open exchange with our closest neighbors and most important trading partners was inevitable, and ultimately in the best interest of all three countries.

But we needed better protection for workers on both sides of the border, and for the environment. I believe the agreements reached by the Clinton administration are a real improvement—they provide us with leverage we have never had in any other trade agreement to promote compliance by Mexico with their environmental, safety, health, and child labor laws. No; NAFTA does not transform Mexico into a mirror-image of our country, but no trade agreement can, or ever will.

But the biggest changes under NAFTA are reductions in Mexican tariffs that now make U.S. products more expensive. U.S. tariffs are so small now that they make little difference in the price of goods coming here from Mexico. Right now, any company, from the United States, or from any other country, can move right now to Mexico to take advantage of the fact that we are already the model of an open economy for the rest of the world.

So it is Mexico that will give up its protections—when we pass NAFTA, our products will sell better there.

Let's look at the detail of this agreement in the area of automobiles, an industry important to my State of Delaware and to our country's economy. Mexico now requires that our automakers have to build cars in Mexico if they want to sell there. NAFTA would get rid of that requirement. The result of that change, and the eventual phase out of tariffs, is that American workers will be able to build more cars in America for sale in Mexico.

The chairman of Chrysler was in Delaware just last week, to accept a quality award from the State on behalf of the workers in our Chrysler plant. Chrysler expects to sell 5,000 more cars to Mexico from their Newark, DE, plant by the end of the decade.

Without NAFTA, Chrysler will have to manufacture more cars in Mexico to meet the requirements of pre-NAFTA laws.

Mexico now has a tariff of 20 percent on American cars; that means those cars sell for 20 percent more than they will when NAFTA is fully implemented. That 20 percent price cut will increase our auto sales there. Now, Madam President, I wish that price cut would come all at once, instead of over a number of years; but it will come, under the terms of NAFTA. A defeat for NAFTA means the rules that discriminate against American goods will stay in place.

There are many other ways NAFTA will help Delaware take advantage of expanding international trade. Scott Paper has created 100 new jobs, and made a major long-term capital investment, specifically for an expanding Mexican market. When Mexico cuts the 10 percent tariff on their products from Delaware, demand there will expand.

Delaware's chemical industry sells numerous products to the world market. As Mexico has brought down its trade barriers in recent years, exports from three of DuPont's Delaware plants into Mexico have quadrupled, despite the barriers that now exist. With NAFTA, prices for their products will drop, trade will expand, and Delaware jobs will be protected.

ICI workers at the Atlas Point plant will increase sales to a major customer, Procter and Gamble, that makes the American consumer products so much in demand in Mexico.

Hercules Corporation's Middletown plant make chemicals used in the manufacture of circuit boards. The workers there will benefit when Mexico cuts its high tariffs on circuit boards from the United States, but leaves them in place for European and Asian competitors.

Hewlett-Packard's sales in Mexico have already increased 26 percent in the last year, particularly in the area of environmental monitoring equipment that will be needed to comply with NAFTA. With NAFTA, those sales will continue to increase.

Madam President, I am proud to say that Delaware has the highest per capita number of patents in this country. NAFTA provides the best protections for intellectual property rights of any trade agreement we have ever negotiated. Better protections for patents means that under the terms of NAFTA, Mexican companies can no longer copy products and processes that by right are property of our State's high-tech industries. That's why Barcroft Labs in Lewes, DE, told me that they support NAFTA.

The United States currently supplies almost all of Mexico's poultry imports. Delaware's important poultry industry will benefit from reduced tariffs and an expanded market in Mexico.

Now, opponents of NAFTA tell us much that is true about what they do not find in the agreement—NAFTA will not require fundamental changes in the Mexican Government and political system that has been rightly criticized by my friends in organized labor, and here on this floor, by my good friend, the Senator from South Carolina, and by the distinguished chairman of our Finance Committee.

Nor are there guarantees that every business deal undertaken with Mexico will create jobs for United States citizens, or that we will get to set Mexican wages to protect our workers here. But such terms are found in no trade agreement anywhere, nor could they be part of any future NAFTA that could possibly be negotiated.

So, let us move on from the distractions of this debate to the real trade problems that we face. We must remember that Mexico is not now, and at one-twentieth the size of our economy, is no threat to be, a major trade competitor. The real trade threats to our country come from high wage countries in Europe and Asia, that compete here on quality, not cheap labor.

One of those countries is Japan, that sold over $50 billion more here last year than we were allowed to sell there under their restrictive trade and commercial rules. This year, the imbalance will be worse. In contrast, we have a $5 billion trade surplus now with Mexico, without NAFTA's significant additional benefits in lowering barriers to our products.

I believe a vote for NAFTA can strengthen our hand in the next days, weeks, and months, as we press on with much more important trade negotiations with the Asia Pacific countries, with the more than $200 billion in increased world trade that can come from successful GATT negotiations, and with our bilateral talks with Japan early next year.

Madam President, we cannot let our legitimate fears turn into a fear to compete. A vote against NAFTA now would signal that doubt and hesitation have replaced our country's historical commitment to open markets. At the very time when we must break down barriers to trade with Japan, Europe, and the rest of the world, we will only hurt ourselves if we are distracted by the inflated claims of both sides in this NAFTA debate. After NAFTA, the real trade negotiations begin.

But, despite the critical role that trade will play in our future, the real threat to our country is that we still do not have a domestic economic plan that offers us hope for the future. Only hope can dispel the fears American workers feel today. And only real progress in creating jobs and income security will bring that hope.

Throughout the post-war period, we have experienced significant shifts in trade and jobs, equalling and even exceeding some of the trends we find so troubling today. But we managed the displacement and disruption caused by those shifts much more easily than today, because our economy was growing, and creating new jobs as quickly as the old ones disappeared. More importantly, we were creating better, higher-wage and more secure jobs.

Today, in Delaware, and throughout the economy American workers are trading stable, good-paying, secure jobs for temporary, lower wage jobs. This trend is feeding the fear that is rightly focused on NAFTA—when all the assumptions we have accepted for years fail us, why should we bet on an experiment promoted by big business, experts, and the government?

As important as new markets will be for our future, more important still is a plan—and a commitment—to create jobs now, in the United States. Those of us who vote for NAFTA tonight have a duty to fashion that plan. If we want to take advantage of the small step of NAFTA, and the bigger step of opening up trade with Japan and Europe, we must undertake the task of reviving jobs now.

I will be back at the first of next year, reminding the President that with this legislative victory comes not only additional leverage to pry open the markets of Europe and Japan. With his victory tonight comes a responsibility to commit to a domestic program to stimulate growth and job creation.

Much of what we must do to make such a strategy succeed, will require increased investments in our workers and the tools they will work with in a competitive international economy. At the same time, we must focus our energies and resources here and now to those tasks that have too long been neglected—renewing our country's economic foundations.

Madam President, I believe that it would be self-defeating for us to retreat from international competition, by rejecting NAFTA and weakening our negotiating clout with Europe and Japan. What would be equally bad, however, would be to commit ourselves to that competition without a plan to make our workers the best in the world, and to keep our domestic economy healthy.

Tonight, with our vote for NAFTA, we take the first step toward creating more jobs in an expanding world market; we will also take on the responsibility to take the next steps to revive job-creating investments in our own country.

And one more thing, Madam President. Our Governments' reluctance to enforce the trade deals already on the books is good reason for us to remain skeptical about the tangible benefits of NAFTA. I want to see more diligent and vigorous defense of our industries under current law, and will insist on the highest standards of monitoring and enforcement for NAFTA.

I know that there are plenty of folks willing to join me in this effort—not the least of which are my friends in organized labor. Passage of NAFTA here tonight is not the end of the process—its the beginning of an experiment that we will all be watching. And I'll be right back here on the Senate floor, demanding that this administration and all future administrations protect our interests with the strictest enforcement of the terms of NAFTA, up to and including our right to withdraw on 6 month's notice.

In addition to our rights to get out of this deal, NAFTA has a built-in procedure to guarantee a comprehensive review, 3 years from now, of the agreement's effects. Along with the new dispute settlement procedures set up under the side agreements, this review requirement will keep the spotlight of public opinion on what everyone agrees is still an experiment in international trade.

And in Delaware, I will be watching those companies that promised our State the new jobs and income security that will come with increased trade, to remind them of their commitments.

The challenge we face today is as serious as the challenge we faced at the beginning of the postwar period. It's hard to remember now, Madam President, but many economists told us at the end of World War II that without the boost from wartime spending, we were doomed to slip back into depression.

But of course that did not happen. And why not? Because we made the commitment to lead the world into a new era of international trade, opening markets through the GATT and other processes. We preached the virtues of free markets, free societies, and free people. The world economy expanded, and our economy led the way.

In that historical perspective, NAFTA is more important as a signal of our resolve to take command of our future than its modest, positive effect on our trade would suggest. It will soon—in the next few days, weeks, and months—strengthen the hand of our President as he negotiates trade agreements with Europe and Japan.

And in the future, this will be seen as the point at which we accepted the challenge, when we confronted the profound changes that give us real reasons to worry about our future, the point when turned this latest challenge into our next success.

Mr. DANFORTH. Madam President, I yield 1 minute to the Senator from Idaho.

Mr. CRAIG. Madam President, our vote on the NAFTA will have far reaching effects. My decision to vote against the agreement was a difficult one. In general, the NAFTA will create the largest single market in the world and has the potential to create jobs and spur economic growth. However, attached to this agreement is language that, in my mind, negates these potential benefits. Mr. President, I refer to the attachment of the environmental and labor side agreements. Specifically, I am concerned about provisions in the environmental side agreement which establish a Supra-National Commission to deal with trade related environmental concerns.

It is no secret that the NAFTA has had a long and rocky journey to reach this point today. I, myself, have been both pleased and disappointed with various aspects of the agreement. While the bottom line looks good economically, I remain very troubled by President Clinton's creation, the environmental side agreement.

In reviewing this problem, I looked at arguments both supporting and opposing the NAFTA. Some argue that the environmental side agreement language is too strong, while others argue that it is not strong enough. I found the language of the agreement very vague—something that could work to the benefit of those on both sides of this issue. It may be that the Commission is just a puppet organization, existing for show only. However, depending on the intent of those implementing it, it could prove to be a trilateral environmental protection agency. The latter is something I cannot accept, and am not willing to risk.

Under the previous administration, it could possibly have been overlooked. However, the Clinton administration has given me every indication that this side agreement is a crucial element of the NAFTA and will be implemented with the idea of upward harmonization of environmental laws. A memorandum

I received from the administration on October 29 of this year indicated that they would not proceed without the side agreements.

Another issue of concern is the relinquishment of sovereignty under the environmental side agreement. Initially, the administration came out with very forceful language about the strength and importance of this side agreement. For example, Ambassador Kantor, as quoted in the August 17, 1993, Wall Street Journal: "NAFTA's environmental provisions are a model for new international cooperation. Under them, no country in the agreement can lower its environmental standards, ever."

There is not enforceable language in the side agreement preventing the lowering of standards and the administration has since backed down on its rhetoric, but we know from the war on the west being waged by environmentalists in the administration that they are likely to implement this agreement to its fullest extent.

Let me be clear, I am not opposed to the appropriate care and concern about our environment. Quite the opposite—in a State like mine, where the economy is based on agriculture and natural resources, wise stewardship of resources is very important. We already are faced with extensive Federal encroachment into State natural resource policies without extending authority to a trinational commission.

That covers my concern on a practical level. On a philosophical level, I have great difficulty in supporting any agreement that even has the appearance of relinquishing sovereignty. The NAFTA side agreements, through their supranational structure, have gone beyond mere appearance. Therefore, I cannot ignore them, or pass them off as pure rhetoric.

Again, this decision has been difficult for me because I appreciate the positive aspects of this agreement. A year ago, I felt any problems in the NAFTA could be worked through—and I am pleased that one of my main concerns, the sugar language, has been resolved. However, the current administration has taken this opportunity to improve our economy and used it to establish multinational labor and environmental authorities which I cannot support.

Because of my support of free or freer trade, the decision to oppose the NAFTA was not easy. I supported providing fast-track authority which allowed us to proceed with this effort. I am very aware that there are many positive aspects to this agreement. There is much needed language dealing with intellectual property protection. The reduction of tariff barriers for United States products going to Mexico will create jobs and expand our exports. We have all heard that for every billion dollars in exports thousands of jobs are created; the current figure being 17,000 jobs per billion dollars in exports. That ratio varies from year to year because inflation is constantly raising the value of goods that can be produced by any individual and productivity changes; the number of people required to produce a certain value of goods.

Under the NAFTA, exports are expected to increase from $43.5 billion to perhaps $56 or $57 billion by as early as 1995.

The agreement also opens up opportunities for investment. Significant barriers in this area currently exist. There is also enhanced access for the service industry under the NAFTA. In addition, the agreement would open up access to Government procurement in Mexico.

However, as a U.S. Senator, I am tasked with more than just looking at the economic aspects of an international agreement. I must also be satisfied that this Nation's sovereignty is protected and our State's rights are preserved. I do not take that task lightly.

Above and beyond the positive aspects of the NAFTA, I cannot resolve my concerns about the potential impact of the environmental side agreement. No one has been able to tell me unequivocally that my concerns cannot be carried out should the NAFTA pass. Rather, the general response is that they are unlikely, or it is doubtful. My experience representing the State of Idaho tells me that is just not good enough. Too often, vaguely worded laws or agreements fall to the desires of those who are charged with implementing them.

If the NAFTA were simply a trade agreement I could support it. But, it is more than that. Therefore, I will oppose passage of the NAFTA.

I ask unanimous consent to have printed in the RECORD a letter signed by myself, Senator KEMPTHORNE and Congressman CRAPO to the President, further outlining our shared concerns.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, November 17, 1993.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: One common theme expressed by those for and against the North American Free Trade Agreement (NAFTA) is that it is more than just a trade agreement. You say the NAFTA is "essential to our leadership in this hemisphere of the world", while opponents claim it threatens America's future and sovereignty.

The NAFTA is more than just a trade agreement. If the NAFTA was just a trade agreement, it would simply eliminate unfair trade. Surely the NAFTA does that, and if it did just that, we would strongly support it.

We recognize the positive aspects of this agreement. The NAFTA creates the world's largest market, reduces tariffs, removes many investment barriers, offers greater protection of intellectual property and opens access to government procurement in Mexico. In Idaho, industries and trade experts such as Hewlett Packard, Simplot, Boise Cascade, Alex Sinclair and others predict that exports will increase. Idaho agriculture is expected to benefit from an anticipated increase in exports. If additional provisions reached on sugar prove effective, Idaho will benefit. We also appreciate the efforts by Ambassador Kantor to work with us to address some of the commodity problems with the Canadian Free Trade Agreement (CFTA).

Concerns about other issues raised by the NAFTA have not been addressed, specifically the provisions included in the Environmental and Labor Cooperation Side Agreements. These agreements negotiated by your Administration are vaguely worded and leave great latitude for subsequent interpretation.

For example, the effect of the environmental side agreement is unclear. EPA Administrator Carol Browner says the NAFTA has "teeth" when it comes to environmental protection, and says that the NAFTA defends the "environmental protection, and says that the NAFTA defends the "environmental sovereignty of the United States and its state and localities." Treasury Secretary Lloyd Bentsen testified that NAFTA is the "greenest trade agreement the United States has ever negotiated. It recognizes the links between trade and the environment . . . recognizes the obligation to enforce environmental laws. It also provides for accountability and dispute settlement—including possible trade sanctions."

Others say exactly the opposite. The Sierra Club says the NAFTA "puts the U.S. in a position where we will be pressed to weaken our pollution control laws." The issue of U.S. sovereignty is hotly disputed with some saying the NAFTA relinquishes American independence.

Both views cannot be right. Either the NAFTA has teeth or it doesn't. If the side agreements are tough, and enforceable through an international forum, then the impacts on U.S. sovereignty and states rights must be carefully considered.

With respect to environmental protection, Idaho is a natural resources state that depends on wise stewardship of these resources. The state is already governed by extensive federal, state and local environmental regulation that result from vaguely written laws.

Idahoans don't need more vague laws. Idahoans don't want agreements when no one knows how they will be interpreted, implemented or enforced. Idahoans don't want the EPA Administrator, or the Secretary of Labor or the OSHA Commissioner to be responsible for protecting Idaho's interests in international forums. Idahoans don't deserve Mexico and Canada dictating labor and environmental protection, especially if Idahoans are not a major part of the decision-making process.

But that is exactly what the NAFTA and the side agreements provide.

Little attention has been focused on the tri-national commissions created by the side agreements. The key concern is that while it is expected that most decisions are to be by consensus, environmental enforcement actions can be decided by a two-thirds vote (i.e. two governments voting against the other.)

It is noteworthy that at no time are state governments of the United States granted a formal role in this process. It is even more noteworthy that Canadian provinces are allowed to opt out of the enforcement provisions.

Frankly, our preference is that, at a minimum, the labor and environmental side agreements should be renegotiated. If that is not done, we hope to work with you to address the concerns listed below. In raising these issues, we should point out that NAFTA is a lengthy and complex document surrounded now by the implementing legislation, side agreements and inter-connections with other agreements such as GATT. It is very difficult to know if there are other problems which have not yet been identified that need to be corrected.

Our concern is that state governments are too removed from a process that adjudicates in an international forum a complaint based on actions taken by state governments. States should be able to represent themselves.

The environmental agreement provides that the EPA Administrator will represent a state or local government at the consultation or initiation process as a result of a complaint filed against them. At a minimum, the agreement should specify that States should be guaranteed the right to represent their interests.

State governments should have a greater degree of autonomy than is reflected in the side agreements. Although the NAFTA agreement itself does not overturn any conflicting state law, the United States has an obligation to Mexico and Canada to take "all necessary measures" to bring state laws into conformity with the agreement. The implementing legislation specifically authorizes the federal government to challenge any state law which conflicts with the NAFTA.

If a state law is in conflict with the NAFTA but the relevant state government can make a case for its retention, the law should be retained and should be exempted from the agreement. In the NAFTA, Canada and Mexico use this process extensively. The United States does not.

To force compliance with the NAFTA, the environmental side agreement allows as a last resort for fines to be imposed on national governments. As a delegation, we are concerned that the United States will seek to recover from a state a penalty imposed against the United States in cases where the state disagrees with the interpretation of a state or federal law or regulation. Legitimate differences in interpretation could be wrongly labeled as a failure to enforce an environmental law. Language should be included which prohibits the federal government from recovering a fine or other penalty where an interpretive dispute or a constitutional question exists.

Finally, there should be a guarantee that NAFTA enforcement actions should not be used as evidence and should be inadmissible in any federal proceeding against a state or local government. This is especially needed since under the existing agreement states are denied a reasonable opportunity to be heard and evidence of such a decision would have an unreasonable prejudicial effect.

With respect to the important issue of water, the NAFTA and the CFTA appear to open up the possibility of large-scale water exports from the United States to Canada and Mexico. The actual text of NAFTA supports the claim that large-scale water transfers cannot be prevented on the national or local level. Consistent with the CFTA, the NAFTA tariff treatment of water considers water as it would any other good by including it in its tariff schedules.

One of the basic principles of free trade is that similar goods and services should be treated similarly regardless of whether they are being traded domestically or internationally. This principle is embodied in Articles 102 and 301 of NAFTA. The agreement states that each party, province or state must accord no less favorable treatment accorded to any similar, directly competitive or substitutable good and service. Article 102 makes national treatment one of the underlying objectives of NAFTA. Article 301 specifically accords this national treatment provision of Article III of the General Agreement on Tariffs and Trade (GATT). As GATT tariff schedules typically include all types of water including large-scale exports, and because both NAFTA and the CFTA specifically include water in their tariff provision, NAFTA's national treatment principle appears to apply to large-scale water exports, thus allowing large-scale water exports. Because of its vagueness a guarantee preventing the NAFTA's application to large-scale water exports in the United States should be included.

This leads to great concern in Idaho where water is the life blood of our economy. It appears that the NAFTA, as an agreement entered into by the federal government, overrules state water law which prohibits interbasin transfer of water and exports of water outside of Idaho without the consent of the State Legislature. Large-scale export of Idaho water cannot be allowed and we urge you to work with us in the coming months to clarify this matter and implement agreement language which explicitly disallows large-scale export of water to Canada and Mexico or any other countries.

We hope we can work together to resolve these issues and any others that may arise. We look forward to working with you.

Sincerely,

LARRY B. CRAIG.
DIRK KEMPTHORNE.
MIKE CRAPO.

Mr. WALLOP. Madam President, I ask either of the managers if I might have 2 minutes.

Mr. DANFORTH. I yield 2 minutes to the Senator from Wyoming.

Mr. WALLOP. Madam President, let me begin by adding my kudos to those of others for the address that the Senator from New Mexico made. I have very little that I think I could add to his eloquence. But I believe this to be a historic opportunity for the three great nations of this hemisphere.

Growth in the next decade will be, in my judgment, in Asia and in Latin America where the real creation of wealth and exciting job growth will be. NAFTA secures an advantageous and important segue into a market which is already the fastest growing for many American exports.

It is important to step back and look at the broader implications of this debate. Because of its timing, NAFTA has become nothing less than a referendum on America's confidence, confidence which embodies our ideals and, indeed, our role in the world. For the last 50 years, America has led the world with vision, moral authority, for an ever-increasing global trading system. American vision and American persistence has worked spectacularly. It has brought prosperity, economic and political freedom to millions in Europe and in Asia. From the Marshall Plan to the rebuilding of Japan to a forward military presence in the far reaches of the globe, America's commitment meant the eventual collapse of communism and the specter of free markets from Stuttgart to Seoul.

That is why this vote is so significant. After 50 years of spectacular leadership and growth, will America be daunted by the very success she has created? So daunted that as the most powerful economy in the world, she rejects a liberalizing trade agreement with a market one-twentieth our size?

Perhaps even 10 years from now, students and scholars will scratch their head: What possibly could have made NAFTA so controversial?

But clearly it is controversial. And while I am an ardent supporter of this agreement, I do understand some of the anxieties that have been expressed during this debate. A shrinking global market has meant fundamental restructuring for our economy. And no one can deny that this kind of change brings loss and hardship. But it also means opportunity. This debate is not unique in displaying two differing visions for America—one is to erect barriers to protect an ever decreasing pie, another is finding ways to increase the pie. NAFTA is one way we can increase the pie. But trading a small slice of security for a bigger slice of opportunity can be a scary thing. In the end, however, it is vitally important to realize that whatever anxieties we may have will not go away if NAFTA were defeated.

Mr. President, I am perhaps most excited that today we are fulfilling the vision for the Americans expressed by Ronald Reagan over a decade ago. It was President Reagan, whose belief in freedom for all peoples, whose vision of a secure and prosperous American continent was the seed for this trade agreement.

In closing, Mr. President, let me say something about the man who has personified the ugly scare tactics and negativity of this debate. When this agreement passes, the only sucking sound you will hear will be the American people finally flushing Ross Perot down and away. This hypocritical assault on the confidence of America and Americans was his sad misjudgment. We are better, braver, and more certain than Ross Perot ever knew or ever could know. Passage of NAFTA will be a double blessing.

I hope and trust that the Senate will endorse and vote for NAFTA.

Mr. DANFORTH. Madam President, I yield 10 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized for 10 minutes.

Mrs. HUTCHISON. Madam President, I thank the senior Senator from Missouri. I would like to talk about NAFTA because I do think it is one of the most far-reaching agreements that I will get to vote on in my lifetime in the U.S. Senate.

It is important for us because we are looking at a changing world. We look at a Europe that is coming together and perhaps in the next 25 years it will be difficult for American products to go into Europe. Then we look at the Asian basin which also is coming together, and the world is coming together within hemispheres.

America must do the same. We must look to our hemisphere where we will create the largest trading alliance in the entire world. For us to have a strong hemisphere, we will take Canada, the United States and Mexico and we will bond and we will create jobs for all three of our countries. It is truly a win, win, win situation.

I want to commend ourselves and the President of the United States because this has been truly a bipartisan effort. President George Bush had the foresight to come to the table and say, "It is time for us to have a treaty with Mexico, along with Canada." He was looking to the future. President Clinton picked up the mantle and he has worked tirelessly to make sure that this gets through Congress. Congress has come together in a bipartisan way and the Republican leadership has worked with the President, as well as the Democratic leadership. We are going to make history tonight or tomorrow.

I would like to take the arguments one at a time because I am concerned. Senator BIDEN made a very good point. I am concerned about the working people because they do have a reason to wonder what in the world will happen because it has been a pretty unsettling few years for the working people of this country. So I would like to talk about the arguments because it is the working people who will benefit the most from this treaty.

Corporations will move to Mexico because of the low wages. In fact, corporations can move to Mexico now and, in fact, if corporations are going to move, I would rather they move to Mexico than so far away that American companies will not be able to use the component parts and the trade that is on our border. In fact, American companies do benefit when our corporations operate in Mexico.

The Dallas Morning News reported that Jefe, a microwave connection company for cellular telephones has grown by leaps and bounds. McAllen Bolt went from 10 workers to 42 when tariffs started coming down. They are doing work for Telefono de Mexico; 61,500 new jobs were created in Texas since 1987 because of exports to Mexico and that happened because the tariffs started coming down.

So corporations can move to Mexico now, but what we are going to be able to do with the tariffs gone is become more competitive. We will have more business in our hemisphere which will create more jobs for us.

Exports have gone from $10 billion to $40 billion since 1987. Mexico is now our third-largest trading partner. It is the largest trading partner of my home State of Texas. The average Mexican citizen now spends $380 on American products. That is more than the average European citizen, more than the average Japanese citizen. So we see that Mexico is becoming a real factor, a true trading partner and a valuable trading partner.

So fostering this is, of course, going to make it better for all of us. One out of six jobs in the United States depends on exports. One of three acres of farming is now for export. So exports do equal jobs in our country. That is why this treaty is so important.

Let us take the argument on the environment. The Rio Grande is the most polluted river in America. That is without NAFTA. We hear people say the environment is going to suffer if we have NAFTA. My goodness, the environment is going to be helped with NAFTA; in fact, it is our only hope. If you go to El Paso, you see the air pollution that the citizens of El Paso can do nothing about because it comes from Mexico. When we have NAFTA, there will be leverage, there will be a tripartite commission made up of members from Canada, United States, and Mexico. There will be a forum where we can have complaints if the laws are broken. The environment is going to be better with NAFTA. We will have the capability to police, we will have a commission that will be able to say you are polluting and you must stop or there will be a price to pay. So our only hope for the environment on our border cities is to have NAFTA with the leverage that produces.

Immigration. I will never forget when I was attending a speech that President Salinas made to the Texas Legislature in 1991, and the words that stuck in my mind were: "We want to export goods, not people."

President Salinas saw that if we have a trade agreement and we have an alliance that is drawn between our two countries, that people will be working in Mexico, they will be able to support their families, they will be able to buy more American goods and they will stay at home.

The estimates are that 1.5 million fewer illegal immigrants will come into our country if we have NAFTA. This is very, very important. It is important for the Mexican people; it is important for us. That is why I think of all of the reasons we have talked about on NAFTA, probably the least discussed has been our relationship with Mexico.

Our relationship with Mexico is better than at any time in the history of our countries, and it is an important alliance. Having two countries on borders that are friendly is such an advantage for us. When we look at the things that are happening in other parts of the world, we see what a great advantage it is to have friendly neighbors like Canada and Mexico. This will solidify that friendship even more.

So I am very proud that the U.S. Senate is going to join the House of Representatives and where the Republicans and the Democrats have come together to do something that is far-range thinking. It is not just reacting to crises all the time that we see so much. It is not just saying, OK, what are we doing today? This is planning for the future. NAFTA is not the end. NAFTA is the beginning.

I wish to see a time when we will go from the top of Canada all the way through South America and we will have free trade in North, Central, and South America, because that is going to be a strength when the Americas come together in this way. We are going to put together in the next 24 hours the largest trading alliance in the world, and it is going to be the Americas coming together.

So I am proud that we are going to do it because this is one of the ways that we will be able to continue to grow the economy, and it is only by growing the economy we can assure the workers of America that the jobs will be there, that the job growth will be there. It will be there because we are going to build this economy and make it bigger and make it better for all of the Americas.

So I thank the Chair, I thank the Senator from Missouri, and I am very proud to be part of this historic event because I know that in the next 10 years we are going to see the good benefits for the workers of America and especially for our neighboring countries and the strength of all the Americas will be started tonight.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Madam President, I yield 10 minutes to the Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Madam President, today, America is presented with a historic prospect. The opportunity to build a free market that stretches to every corner of a continent. The chance to find, with our neighbors north and south, the benefits of shared growth. The prospect of becoming the heart of the largest economic market in the world.

Together, under NAFTA, we will comprise an economic power containing 360 million consumers with a gross domestic product of almost $7 trillion.

This move to a continental market is rooted in both the clear merits of cooperation, and the increasing urgency of competition. The economic union of the European Community, the emerging power of Pacific economies, the new competitiveness of Third World agriculture and steel; the world is a blurred image of swift change. We have no choice but to take steps ensuring our strength in the world economy, and our access to markets close to home.

We have already had a taste of what the future holds. Until 1986, Mexico had in place a nearly 100 percent tariff on imported goods from the United States. The situation today has greatly improved, with barriers to U.S. imports now at 10 percent.

Since 1986 when Mexico opened its borders to American goods, U.S exports have more than tripled from $11.9 billion to $40.6 billion in 1992. We have changed a $2 billion trade deficit in 1990 into a $5 billion trade surplus with Mexico.

Exports to Mexico support 700,000 U.S. jobs with predictions that there will be a net gain of 200,000 jobs with NAFTA. And, these won't be jobs flipping hamburgers. They will be export-related jobs which pay 17 percent more than the average job.

NAFTA will benefit all three nations. But the absence of an agreement could do great harm. Without a trade pact, there is nothing to prevent Mexico from restoring import barriers to our goods to 50 or even 100 percent. In fact, the Mexican left, have suggested an alternative to NAFTA in which Mexico would place 100 percent tariffs on American goods while allowing European or Japanese products to enter duty free.

Mexico's current President Salinas has proven himself an activist in the field of free trade and open markets. But this President, under the Mexican constitution, will only hold office for one term. We have no indication of who his successor might be or what trade philosophies he might pursue. This is the time to put in writing a trade agreement with Mexico that will favor United States interests.

In Indiana, exports are the lifeblood of our economy. One-third of our farm production goes overseas; one of every six manufacturing jobs is due to exports. Indiana exports to Mexico and Canada were $3.3 billion in 1992—supporting 104,000 Hoosier jobs. Our exports to Mexico have increased 30 percent since 1987. This is impressive growth, but growth that could go much higher with NAFTA.

From the beginning I have said that my support for NAFTA would be based on whether the agreement would be in the best interest of Indiana workers. Over the last year, I studied the agreement and surveyed affected Indiana interests to determine its impact on our State's economy. I consulted with representatives of business, labor, and academia in order to reach a responsible decision. An intensive effort to discover the actual facts has made a strong case for supporting the NAFTA agreement. I found that the industries most important to Indiana's future—agriculture, auto, steel, and many others—stand to gain under NAFTA.

First, Hoosier farmers will gain under NAFTA. NAFTA would give Hoosier and American farmers accelerated access to more than 92 million Mexican consumers. As a major producer of corn, soybeans, and hogs, Hoosier farmers will benefit from increased exports of these high-value items.

Mexican meat consumption has doubled in the last 20 years, but it is still far below U.S. levels. As Mexican incomes rise, Mexicans will undoubtedly consume more beef. All of the beef, whether it is raised here or in Mexico, will be fed with more American corn, soybeans, and animal feed. Either way, American farmers and agribusiness workers will win.

A study conducted by Purdue University found that sales of Indiana farm produce would increase by $100 million in the first year after NAFTA goes into effect. And, according to the Indiana Farm Bureau, Indiana pork and corn exports will double; beef exports will go up by one-third; and one-fifth more of our soybeans will be headed to Mexico.

Beyond NAFTA's immediate opportunities, by creating the world's largest trade bloc, the pact will give us important leverage in dealing with the European Community and the Pacific rim on agricultural issues.

Second, Indiana's auto industry wins under NAFTA. The Mexican market holds great promise. Currently, only 1 in 16 Mexicans owns a car versus one in two Americans. Some forecasts show that annual car and truck sales in Mexico will rise from 706,000 in 1992 to over 2 million by decade's end.

United States auto companies have been producing inside Mexico mainly to sell to the Mexican market, not to export. These companies were attracted to Mexico by the Nation's prohibitive trade barriers, most significantly Mexican tariffs of up to 20 percent on imports. The U.S. tariff, by contrast, stands at only 2.5 percent. These policies have virtually prohibited United States exports of assembled vehicles from entering Mexico.

Right now, there is nothing preventing United States plants from relocating to Mexico to sell in this growing market—in fact, the current barriers provide incentive for United States plants to relocate. NAFTA reduces that possibility. It would be more profitable for our big three to use existing capacity to export to Mexico at an efficient scale rather than to add additional new capacity in Mexico at considerable expense.

Hoosier autoparts suppliers will be a winner. NAFTA will provide opportunities to increase sales to Mexican assembly plants, to United States plants that would sell more to Mexico, and to Japanese transplants who would face higher North American content requirements.

NAFTA's rules of origin will be of particular help to our autoparts industry. The treaty requires 62.5 percent of a vehicle's content must originate within the region to be counted as a North American-made car—and thus avoid higher tariffs. This is expected to encourage some small car production—as well as parts supply business—to move from Asia back to North America.

NAFTA is the reason Chrysler is investing heavily in its Kokomo, IN facility which produces transmissions. According to Bob Eaton, Chrysler's CEO, NAFTA will mean 64,000 transmissions will be sold in the first year of NAFTA. That means more jobs for Kokomo and more secure jobs in Kokomo.

Third, Indiana steel will do well under NAFTA. Mexico and Canada are our first and second largest markets for primary metal products. Five years ago, we imported 2½ times more steel from Mexico than we exported. Today, we export three times as much steel as we import from Mexico.

As Mexico continues to build its economy, demand for American steel will grow. Hoosier mills stand to gain market share because of their proximity to Mexico and the growing demand for steel that Mexicans cannot supply. From 1987 to 1992, Indiana exports of primary metals to Mexico increased from $19.5 million to $88.5 million—an increase of 350 percent.

On the whole, NAFTA is a net plus for Indiana. Some jobs may be lost. This would be the case with or without NAFTA. And Congress should rightly focus efforts on retraining workers that are displaced with or without the agreement. But there will be no giant sucking sound that will draw jobs south.

A trade agreement would bring growth to both sides of the border. First, it will increase American exports to Mexico by lowering that nation's considerable trade barriers to desirable American products. Second, it will eventually increase Mexican incomes so they can better afford United States goods—building a hungry market close to home.

What counts most today is not the cost of labor but the productivity of the worker. As James Glassman points out in the Washington Post, "Germany's wages are 60-percent higher than ours, while Portugual's are 70-percent lower. Which country do we fear as a competitor? Are we scared of Bangladesh?"

Mexico will have lower wages than the United States with or without the NAFTA agreement. United States companies that want to move to Mexico can do so already. But low wages alone do not attract businesses. U.S. companies look for good labor, not cheap labor, United States workers compete successfully with low wage Mexican workers because we are five times more productive.

For example, one company, North American Power Supply, recently closed its operations in Mexico and moved to Huntington, IN because it was drawn by a more stable, better trained workforce. Due to the difference in training, one job in this company that required 72 workers in Mexico is now being done by three workers in Indiana.

Kenneth Davidson, President of Dalton Foundries, an Indiana company, does not feel threatened by low Mexican wages. His business looked at putting a plant in Mexico but found that "water and electricity were expensive and not readily available, many of the raw materials would have to be imported, primarily from the United States." They also found that the work force was not trained as well or as productive as American workers.

It's a wonder that NAFTA opponents don't pay attention to BMW or Daimler-Benz when they choose to locate in the U.S. because of our highly-trained, highly productive work force.

It is also ironic that opponents see NAFTA making it difficult for United States businesses to compete with low wage Mexican labor, but many of these same opponents did not bat an eye as this administration raised the tax rates on American small business and made those increases retroactive.

As our former Trade Ambassador Carla Hills points out in an article in the New York Times, open trade is most important to our Nations small businesses which create 80 percent of the new jobs in the United States. "These firms usually cannot afford to build facilities in a foreign country. With NAFTA, they don't need to move to Mexico to sell to Mexicans." This is the message I am hearing in Indiana.

No trade agreement should be supported as an act of international philanthropy. I would not support anything that was not in the best interests of American workers and American jobs. But markets have a way of working to everyone's benefit. And I am convinced American workers will feel that benefit when economic barriers are dismantled.

We have also heard that NAFTA will turn over our foreign and economic policy to unelected bureaucrats and corporate elites. That the treaty creates transnational bureaucracies with the right to inspect American businesses, fine the U.S. Government, and supersede State laws.

The idea that NAFTA is some kind of conspiracy designed to dilute American sovereignty is nothing more than a scare tactic. These commissions may not be useful, but they are toothless. They possess no subpoena or investigatory powers. They can't issue restraining orders. They can only fine governments, not private parties. The U.S. retains complete control over our economy. And we can leave the agreement in 6 months if there are problems.

As Paul Gigot points out in the Wall Street Journal, it is because these agreements are toothless that the AFL–CIO and Sierra Club still oppose NAFTA.

Madam President, in looking at this debate we clearly have a choice between the past and the future. Getting a glimpse of what the future holds, we ought to look at where we were with Mexico not all that long ago in terms of our trade and where we are today.

Until 1986, Mexico had in place virtually a 100-percent tariff on imported goods from the United States, and that has been reduced substantially and, of course, under this agreement will be reduced considerably more. But since 1986, when Mexico opened its borders to American goods, United States exports have more than tripled, from $11.9 billion to $40.6 billion in 1992. We have taken what was in 1986 a $2 billion trade deficit to a $5 billion trade surplus with Mexico. We not only promote the idea of expanding and opening markets because under economic theory it suggests that both sides can profit and increase their standard of living, can increase their production, can increase their involvement in improving their economies in theory but also because in experience we know that this works.

Our Nation has had considerable experience with protectionism, and each time protectionism has resulted not in a greater standard of living for our work force but a lower standard of living—not in greater economic opportunities but in lower economic opportunities.

Madam President, when I initially heard that we were going to be dealing with the NAFTA agreement, I undertook an extensive analysis of Indiana industries, Indiana businesses, and Indiana workers to determine what effect this might have on our State. I consulted with representatives of business, labor, and academia to try to arrive at a responsible decision.

This intensive effort to discover the actual facts has, I believe, made a strong case for support for this agreement for the State of Indiana, and I think the same is true for our Nation as a whole.

I found that the industries most important to our State and to our future—agriculture, auto, auto parts, steel, pharmaceuticals, chemicals—stand to gain under NAFTA. As I looked at each one of these industries, I realized that exports are the lifeblood to the Indiana economy. One-third of our farm production is shipped overseas; one of every six manufacturing jobs in our State is due to exports. Our exports to Mexico and Canada were $3.3 billion in 1992, supporting 104,000 Hoosier jobs. Those exports to Mexico alone have increased 30 percent just since 1987. This is impressive growth and I think growth that can accelerate under NAFTA.

As I examined each industry, I realized that the restrictions and the restraints that are currently placed on export of these goods into Mexico are because Mexico's tariffs are up to three and four times what our tariffs are on their goods coming back into the United States. So it does not take a lot of mathematical analysis to understand that equalizing or lowering or even zeroing out those tariffs is going to be of substantial benefit to our State.

Many people talk about how the wages of Mexican workers are going to offset this advantage, and yet what I learned in my analysis of our business and industry and service sectors throughout the State of Indiana was that it is productivity which counts for far more than the wage base.

While the wage base in Mexico is less than one-third of what it is in Indiana, we found that our productivity in Indiana is five times greater. So business people were making decisions in terms of locating their businesses in Indiana on the basis of the productivity that they could achieve.

A study conducted last October by the Office of Technology Assessment found that it is $410 cheaper to make a car in the United States than Mexico, even though United States labor costs are eight times higher in this case. This is because the United States car could be built faster in a more advanced factory with more skilled workers, and labor, in any event, was a fraction of the car's overall cost.

Mexico will have lower wages than the United States with or without the NAFTA agreement. United States companies that want to move to Mexico can do so already, but low wages alone do not attract businesses. U.S. companies look for good labor, not cheap labor. U.S. workers compete successfully with low-wage Mexican workers because we are five times more productive.

No agreement, Madam President, should be supported as an act of international philanthropy. I would not support anything that is not in the best interest of American workers and American jobs, but markets have a way of working to everyone's benefit. I am convinced American workers will feel that benefit when economic barriers are dismantled.

Through all the arguments one simple fact remains. Trade walls hurt American workers. Domestic markets alone cannot sustain our growing, highly productive manufacturing and industrial base. We search for foreign markets for our own good. Our economic future is in open, two-way markets.

Advocates of trade barriers lack one important thing, a trust in the productivity and the quality of American workers. Free and fair world markets are an opportunity for American workers and for Hoosier workers who are among the best workers in the world.

Growing exports mean growing jobs if we refuse to be ruled by fear and doubt. America has no national interest in Mexican poverty. We cannot preserve our economic health by shutting off vast markets. A more prosperous Mexico is a larger consumer of American products. A more prosperous Mexico is a better defender of its environment. It is America that benefits from free trade. It is a fact both sides can improve their standards of productivity, their standards of worker benefits, their environmental standards, and their standard of living. It is in our best interests as a nation to look forward, not back. We are now competing in a global economy. We have little choice. Our choice is to look back and then see stagnation result, see a moderating standard of living, or to look forward and realize that we are competing in a global economy. We have the workers; we have the technology; we have the capital. We can compete and compete successfully. The good news is that all can benefit if we do so.

So I am looking forward to voting for and supporting NAFTA not only because it is in the best interests of my State but because it is the best interests of my country and its future.

Madam President, I yield the floor.

Mr. WELLSTONE. Madam President. I regret that I cannot support President Clinton on a matter as important as this one. No vote that we have taken this year says more about our vision for the country's economic future. If this NAFTA is a precedent for other trade agreements to come, and is a model for the way we believe that business should be conducted in the world trading system, then few votes can as deeply affect the lives of our citizens and communities.

The debate here in Washington over NAFTA has been valuable. It has been passionate at times, usually reasoned, and it has generally focused on the proper questions. I believe it has focused on the proper questions in large part because the democratization of the NAFTA debate outside of Washington has transformed the way we now consider trade policy inside of Washington.

The dramatic increase in grassroots involvement around and study of NAFTA has surprised the experts, bureaucrats, and business lawyers who previously had been accustomed to writing trade agreements by themselves, with little or no public input or accountability. This healthy development has forced attention to the questions that should matter most:

Will NAFTA improve the living standards of the majority of working people in the United States, Mexico, and Canada by encouraging a continental strategy of growth and global competition that is based on creating more, not fewer, high-wage/high-skill jobs?

Will NAFTA promote environmental and consumer protection?

Will it contribute to democracy and respect for human rights?

These interests have not in the past been the leading concerns in debate over trade agreements. The interests traditionally protected in trade agreements have been those of our financial and industrial sectors which seek safe investment opportunities and open markets for their products abroad.

Those traditional interests are assuredly addressed in this NAFTA. But in the NAFTA debate, citizens have brought additional concerns to the table. As a result, I believe that trade policy, thankfully, will never be the same.

The President has shown a lot of determination in the debate over NAFTA. And he showed considerable skill in using the power of his office to win passage of NAFTA in the House. I am sorry to say, however, that I believe that the President has missed a crucial opportunity to demonstrate the same kind of determination and to use the same kind of skills to pass a better agreement—an agreement which I believe it was possible to reach.

We are, as has been said many times in recent days, at an important historic moment for domestic and international leadership. In my opinion, this NAFTA does not promote the principles that America should stand for in the post-cold war world at this key moment. I believe that international agreements that we enter into in this period should demonstrate our leadership according to the best of American principles—the principles of raising living standards, of democracy and of human rights. This NAFTA does not do so.

I also believe that we are missing—by passing this NAFTA and not a better one which I think it was and is possible to reach—an important chance to address the legitimate concerns of the majority of working people in the United States, in Mexico, and in Canada.

By approving this NAFTA, we not only miss our chance to deliver a better agreement. We very likely also will preclude any chance of improving upon it when we consider additional agreements with other countries in Central and South America. NAFTA is a clear precedent for such further agreements.

Trade can lead to growth which benefits the majority of working people in all countries involved in that trade. Trade agreements can encourage the raising of labor and environmental standards to comparable levels. Trade agreements can make a positive link between respect for human rights and democracy and the granting of trade privileges. In my opinion, NAFTA should have these provisions and effects. I would be the first to embrace a NAFTA with such provisions and effects.

A good agreement would have delivered on the President's promise to encourage the raising of labor and environmental standards. It would have included a principled link to human rights and democracy.

But this NAFTA does not. Unfortunately, this NAFTA is a backward-looking document. It seeks to revive at the continental level 1980s-style, trickle-down economics. It would place downward pressure on hard-won environmental and consumer standards. And it relaxes our principled linkage of trade privileges to human rights performance.

This NAFTA fails to tie trade to respect for labor and human rights—two elements which are directly related. That failure is NAFTA's most basic flaw. The poor record of respect for labor and human rights in Mexico is the basic reason why competition between United States and Mexican workers is not fair and why we should not institutionalize such a relationship through a trade agreement.

It is well known that the current Mexican Government has held down wages and suppressed dissent in that country. This has been accomplished through the prevention of independent labor unions, through police and military repression, and through unfair elections. These combined policies have allowed Mexico to seek to attract investment on the basis of cheap labor.

Our workers can compete with workers anywhere in the world when that competition is fair. But competition is not fair when Mexican wages are held to one-seventh of United States levels through government policy, even when productivity and quality are comparable, as is more and more the case of Mexico's modern, high-productivity, export-oriented, new manufacturing sector. Holding down Mexican wages also, by the way, prevents Mexican workers from becoming a middle class which can purchase our consumer goods.

Unfortunately, the side agreements negotiated by this Administration do little to improve on the original text. My consistent position on a trade agreement with Mexico and Canada has not been "No, never." It has been "Yes, if * * *." I waited before taking a final position on NAFTA to examine the side agreements on labor and the environment that were announced in August. I wanted to give the President and Ambassador Kantor a chance to address the deep flaws in the text negotiated by the Bush administration. Ambassador Kantor assured me in March that he would deliver side agreements with real teeth.

But the side agreements contain no real effort to harmonize either labor or environmental standards upward. The enforcement mechanism in the side agreements is so weak that Mexican Secretary of Commerce Jaime Serra Puche reportedly assured the Mexican Congress that sanctions—the so-called teeth of the side agreements—would probably never be used. When we compare the protections afforded to business in the text of the agreement itself—the investment protections, the intellectual property protections, both of which, by the way, strictly require upward harmonization on the part of Mexico—with the lack of real protection for workers and the environment in the side agreements, then the unbalanced character of this agreement becomes abundantly apparent. In fact, the enforceability of these side agreements has been even further challenged in recent days by the interesting analysis of Public Citizen and by the elements of the debate which has occurred here today over the issue raised by the Senator from Alaska.

Madam President, I support more open global trade. I know that export industries provide jobs. I know that competitive imports benefit consumers and push our domestic industries to improve their quality and efficiency. I support the idea of a trade agreement with Mexico.

But this NAFTA will lead to a significant loss of U.S. jobs. By locking in incentives for United States firms to shift investment to Mexico to take advantage of lower wages and weaker regulation, NAFTA will depress wages in the country. It will place downward pressure on consumer and environmental standards.

Madam President, we could do much better.

Mr. INOUYE. Madam President, I am announcing my intention to vote against the legislation required to implement the North American Free-Trade Agreement [NAFTA].

When the NAFTA was announced last year, it did not provide sufficient environmental safeguards and financing for a program to help retrain American workers displaced as a result of the agreement. It also did not address the concerns of Hawaii's sugar industry on the export of surplus Mexican sugar to the United States. While I applaud the effort of the Clinton administration in allaying the concerns of the sugar industry, I believe that more adjustments are needed before there is a truly satisfactory agreement for the United States.

I believe that basic fairness requires that labor, environment, health, and quality standards be imposed in this new free-trade arena. Without these requirements, American jobs and many of Hawaii's agricultural markets will be lost to Mexico, where such standards are minimal. As the world's premier economic power, the United States has an obligation not only to bring about free and fair trade, but to improve the life of the 360 million people who live in the new free-trade area to be created by the NAFTA.

I will not support the NAFTA because of a glaring lack of these basic fairness standards. This is most apparent with some of the products most likely to be replaced should the NAFTA be implemented as presently drafted. I am not assured that Mexican producers will comply with the same health and environmental standards as required of United States producers.

Further, while there are NAFTA provisions that define remedies to health and environmental standards violations, such remedies are not likely to be pursued vigorously for products derived from the smaller industries in the United States. Hawaii's tropical crops, such as papayas, mangos, bananas, coffee, and horticultural products are examples of products in jeopardy because they are small in volume and are unlikely to warrant vigorous support by the administration should there be trade violations.

Businesses in my State tend to have higher operating costs than comparable operators in Mexico. In part, this is the case since Hawaii places a high value on providing workers with a safe working environment and a fair wage. Hawaii agricultural producers are committed to complying with pesticide regulations and fruit fly quarantines. I am not confident the NAFTA provides sufficient assurances that Mexico will also comply with United States standards in return for duty-free trade.

Further, while there are promises for worker retraining initiatives, I am not convinced of their sufficiency. Due to recent plantation closures in my State of Hawaii, I am very sensitive to the fact that older sugar worker have few realistic retraining opportunities for the remaining years of their working lives. With Mexico advertising its low wage rates as an inducement for foreign investment, it is not difficult to guess where cost-conscious firms will locate. The worker adjustment issue has been seriously underestimated by proponents of the NAFTA.

I have voted for free-trade agreements in the past. In 1988, the Congress deliberated the free-trade agreement with Canada. When the Senate voted for the implementing legislation on September 19, 1988, I was one of 83 Senators voting in favor of the agreement. That was a good agreement—one between nations with comparable economic levels of development and nations where labor unions enjoy the ability to organize and defend the interests of their workers. Even the side agreement concluded on labor does not authorize the committees and panels formed by it to examine critical issues such as the right to organize unions, the right to bargain collectively, and the right to strike. This is a serious flaw in this side agreement.

Madam President, those who oppose the NAFTA have been unfairly branded as antifree trade, protectionist, and anti-Mexican. That is patently untrue. The purpose of free trade is to support economic development in the participating nations, to create positive gains from trade. Inevitably, there is a redistribution of economic activity resulting in gains for some and losses for others. From a public policy standpoint, we need to compensate those adversely affected by helping them make an easier transition to a new economic environment. The NAFTA does not go far enough in this direction. It is for this reason that I emphasize that I am not opposed to free trade with Mexico, but am opposed to this particular agreement.

Mr. DASCHLE. Madam President, several days ago I announced my decision to vote for the North American Free-Trade Agreement. In that statement, I outlined the reasons for my position.

As I indicated at that time, this was a decision I reached after extensive analysis and a great deal of thought. Ascertaining the facts was not easy in light of the wide array of claims being made on both sides and, to some extent, the degree of the unknown inherent in a trade pact of this nature.

Since that time, the House of Representatives has approved NAFTA, and it appears all but certain that the agreement will be approved by the Senate, as well.

Today, as we prepare to vote on NAFTA, I would simply like to take a moment to commend my colleagues for their efforts to get to the bottom of the debate and make whatever decision they feel is best. I frankly have been very impressed with—and assisted by—many of the thoughtful comments that I have heard on the floor on this subject.

Most important, I would like to thank the host of individuals in my State, both for and against NAFTA, who have shared their thoughts on this agreement with me. I have received letters, talked on the phone, and met with these individuals, and I cannot begin to express how useful their comments have been.

Let me also say that their views, and all of the thinking from which I have benefited in making this decision, will continue to guide me as NAFTA is being implemented.

We must not vote today and walk away from this issue. Our job is not done when the final legislation is sent to the President for his signature. The focus will shift, but the job is not done.

Once in force, the agreement will put into play an array of actions called for in its provisions, and we in Congress must help ensure that the intended goals are achieved.

We must not only be sure that we and our NAFTA trading partners reduce tariffs and other barriers to trade as called for in the agreement, but that our partners live up to their promises to provide better enforcement of environmental laws, and to provide higher wages and better conditions for their workers. We must monitor the impacts on our own workers, our food inspection system, our environment, our industries, and every other aspect of our economy and well-being, in the event that adjustments are required either in our own laws or in the agreement itself.

So, I would urge my colleagues, as they vote on NAFTA, to keep this in mind. Let us do all we can to ensure that NAFTA truly meets our best expectations.

Mr. MCCONNELL. Madam President, the NAFTA document before us today is the fruition of an idea conceived by Ronald Reagan and carried forward by George Bush. A commitment to free trade by President Clinton and 234 Members of the House has made today's Senate action possible.

The Senate has been presented with a rare opportunity today. We can, with a single vote, commit the country to a course that clearly leads to a bright economic future and higher standard of living for all Americans. Today, we can clearly announce what this country stands for. I consider it a privilege to be part of this historic undertaking.

The evidence in support of NAFTA is overwhelming. So overwhelming, in fact, that I find it difficult to see how anyone can oppose it. NAFTA is a good deal for America. It is so obvious that, as Ross Perot might say, anyone over the age of 6 ought to be able to figure it out.

Let me highlight just a few of the reasons why I support NAFTA.

First of all, Mexicans can—and do—buy American goods. For all the talk about poverty south of the border, the average Mexican spends $450 a year on U.S. products. Compare that to the Japanese, who spend only $385, or the Europeans, who spend only $299. In fact, 70 percent of all Mexican imports come from the United States.

In my State, exports to Mexico have grown 356 percent since 1987, and trade with Mexico and Canada now supports 29,100 jobs.

Second, American firms will not move to Mexico just for lower wages. Let me illustrate this point with a Kentucky example. Mid-South Electric in Jackson County was recently awarded two manufacturing contracts by Motorola.

The contracts came to Kentucky from Mexico and Puerto Rico because, in the words of one official, Mid-South Electric offers superior quality, timely delivery, engineering capabilities, and added services not available in Mexico. If wages were the only factor, those contracts would still be in Mexico and Puerto Rico.

I might add that, without NAFTA, United States firms are more likely to move production to Mexico. Signet Systems produces auto air conditioners in Harrodsburg, KY. The firm now pays a 15-percent import duty and an 8-percent customs fee on goods it exports to Mexico.

This makes it next to impossible to compete in the Mexican market without putting a plant there. But under NAFTA, those tariffs will disappear. According to the CEO of Signet, the company is much more likely to build a plant in Mexico without NAFTA.

Third, NAFTA is not just supported by big business. Hundreds of small Kentucky enterprises, including farmers, strongly support the deal.

Take, for example, the Thiel Co. in Lexington. Thiel employs 43 people and makes stereo loudspeakers.

Under NAFTA, Thiel's exports to Mexico will increase from 45 to 60 percent of gross sales. Also, Kentucky's 92,000 small farmers will see exports to Mexico grow significantly. Fourth, America will gain as much, if not more, than Mexico under NAFTA. Currently, Mexican tariffs on United States products average $10. United States tariffs on Mexican goods average $4. Now, it shouldn't take a Rhodes scholar to figure out that eliminating all tariffs benefits us more than them.

To illustrate, consider Fruit of the Loom.

This fine Kentucky firm, which is my State's largest private employer, expects to boost sales to Mexico under NAFTA and eventually create 1,000 new jobs. The reason? Currently, Mexican tariffs on cotton underpants are 20 percent, while the U.S. tariff is only 8 percent. With NAFTA, those tariffs will eventually be eliminated. Without NAFTA, Fruit of the Loom will continue to be disadvantaged.

Moen Corp., which employs 155 Kentuckians, will increase the sale of its faucets and plumbing supplies to Mexico under NAFTA.

That is because faucets exported to Mexico face a 15-percent tariff, whereas faucets shipped into the United States from Mexico face no tariff. Under NAFTA, the playing field for Moen will be leveled.

Fifth, NAFTA is a winner for Kentucky agriculture. Almost all of the Commonwealth's agricultural groups have endorsed NAFTA, as have hundreds of farmers and dozens of local county farm bureaus. And it is no surprise. Under NAFTA, Kentucky corn farmers will see exports increase as much as $35 million. Kentucky soybean producers expect to see a $9 million gain from increased exports. And Kentucky dairy farmers anticipate sales will jump by more than $7 million.

I understand that concern has been expressed by some in the Kentucky tobacco community about NAFTA, and I want to take a moment to clearly address this issue. Currently, Mexico maintains a strict licensing system which essentially blocks United States tobacco exports. NAFTA immediately eliminates this major barrier. Mexico also imposes a 15 to 20 percent tariff on imported tobacco. NAFTA initially increases that tariff to 50 percent, but over a 10-year period, reduces it to zero.

Obviously, I would prefer an immediate reduction of this tariff. However, removal of the licensing requirement gets rid of the most significant barrier to exporting U.S. tobacco. In fact, USDA anticipates exports of tobacco and tobacco products to Mexico could reach $100 million by the end of the transition period. Without NAFTA, Mexico's market would remain closed to Kentucky farmers.

Finally, NAFTA will help, not hurt, the environment. It is said you can judge a person by the company he keeps. Well, NAFTA is endorsed by every major environmental group in the country, including the Natural Resources Defense Council, the Audubon Society, the Environmental Defense Fund, the National Wildlife Federation, and the World Wildlife Federation.

These groups represent 80 percent of the Americans who call themselves environmentalists. EPA Administrator Carol Browner, no friend of big business, strongly supports the agreement, as, of course, does Vice President Al Gore.

Can all these environmentalists be wrong? Those who oppose NAFTA on environmental grounds must seriously ask themselves if they aren't really just looking for an excuse to oppose free trade with Mexico.

I must note that I am deeply moved—and indeed encouraged—by the concern being expressed over the negative impact this action by Congress might have on American business. Many NAFTA opponents say we simply can't subject our companies to the burden of unfair competition from Mexico.

I assume these same Senators will, in the future, show equal concern with subjecting American firms to the burden of new taxes and government regulations. To these Senators, let me say that I stand ready to help you block such anticompetitive congressional actions.

Now, the opponents of NAFTA piously claim that they are not protectionist. In fact, they say they actually support free trade with Mexico. It is simply this NAFTA they oppose. Not this NAFTA has become their rallying cry. Well, if you believe that line, you have not been reading the papers.

Make no mistake about it: the opponents of NAFTA oppose free trade in any form. NAFTA is just their first target. Next on their list is the GATT negotiations. After that, they'll be looking to kill the budding economic cooperation among the Asia-Pacific nations. It was this kind of backward thinking, flat-earth economics that led to passage of the Smoot-Hawley Act. And we all know where that got us.

Whether Ralph Nader and Ross Perot like it or not, the world is surging towards global economic unity. The process simply cannot be stopped. Not by ham-handed political threats. Not by blatant manipulation of economic insecurities. And not by ugly appeals to xenophobia. The process of global integration is underway, and it is irreversible.

So today, Madam President, we have a choice. We can accept reality and embrace the future by preparing to compete in this new global economy. Or we can cling to the past by withdrawing further behind a wall of quotas and tariffs.

Does embracing the future involve risk? Absolutely. But this country was founded on a willingness to take on risk. Does clinging to the past reduce that risk? In the short term, perhaps. But in the long term, it most certainly means a declining economy and lower standard of living.

Madam President, I say to my colleagues, let us pass this NAFTA and let the world know that America stands ready and willing to compete—with anyone, anywhere, anytime.

Mr. DURENBERGER. Madam President, the battle for NAFTA was won in the House on Wednesday. The less dramatic vote in the Senate will present the final victory to the people of this country, and my home State of Minnesota.

We have reaffirmed to the country that we are a world leader.

We are not afraid to compete in an increasingly competitive global economy.

The President's hand is strengthened on the eve of the APEC meeting with other heads of state from the Asia/Pacific region.

Without this mandate, the country would not have the tools it needs to tackle the pesky trade problems we have with our Asian trade partners—the high trade deficits, the continuing bias, and trade barriers we face selling in the Asian market.

Without this vote, the Uruguay round would be dead. Now there is hope.

I support NAFTA because I believe that to improve the American economy we have to support expanded trade opportunities. This is not the time to retreat—to close our border to respond to what appears to be a growing isolationist movement in the United States.

We are already faced with a global economy. To opt out by failing to accept a trade agreement with our closest neighbors would drive a stake through the heart of our economy. President Clinton is already on fairly shaky ground in the way he is perceived abroad as an international leader. It is unconscionable that House Democrats, including the leadership, were willing to further weaken his leadership on both the economic and foreign policy fronts. One hundred and fifty-six Democrats voted against their own President.

Some Democrats apparently believe that they are safe to vote against a Republican policy negotiated during the Bush administration. That is a weak argument that will only hurt their own President.

This was certainly not the case in the past. Despite a divided Government, Republicans supported their Presidents on the United States-Canada Free-Trade Agreement, the CBI, and many other smaller initiatives with other countries designed to reduce barriers abroad. There was opposition to these agreements as well, but we were able to work together in a positive manner to come up with the best outcome. Republicans worked together with President Carter as he implemented the Tokyo round of multilateral negotiations. That, too, was very controversial, but we voted for the overall benefit of our constituents. An undivided Government should have persuaded the Democrats to rally behind the President. Is this not what the voters wanted in the last election? Did they get it?

Minnesota needs NAFTA because we have long been dependent on its export economy.

Minnesota iron ore and agricultural commodities have depended upon export markets for decades.

Minnesota multinationals such as 3M, Honeywell, General Mills, to name just a few, have been exporting worldwide for years creating many export-dependent jobs for Minnesotans as a result.

Minnesota has had for many years a great number of small and medium size high-technology companies which concentrate on niche markets abroad. The medical devices designed and produced by Minnesota Medical Alley companies are in high demand throughout the world.

Our State has offices in many other countries to take advantage of a growing international market, a market whose true dimensions are somewhat disguised by the general move toward an integrated global economy.

A NAFTA defeat would be a serious blow to Minnesotans who are just starting to concentrate on Mexican and Latin American markets. As European and Far Eastern economies stagnate, as these countries raise barriers against U.S. product, Minnesota needs to look toward more promising markets. The subsequent extension of NAFTA to Caribbean, Central, and South American countries would also help a great deal Growing economies in our hemisphere represent real opportunities for Minnesotans.

NAFTA will create the world's largest open market, with a population of 370 million and a GDP of $7 trillion. This is an unparalleled opportunity for the United States as a whole, and for Minnesota companies in particular.

In 1987, Mexico started to remove its trade barriers. Since then, Minnesota's exports to Mexico have grown 191 percent. In 1992 alone, Minnesota had $261,420,000 worth of exports to Mexico. Minnesota sales to Mexico will dwarf this figure, once we pass NAFTA and remove the remaining barriers.

Minnesota will not be alone in prospering from NAFTA. In 1987, the United States had a $5.7 billion trade deficit with Mexico. In 1992, just 5 years later, we had a surplus trade balance with Mexico of $5.6 billion.

In 1990, United States trade with Mexico totaled $59 billion—putting Mexico behind only Canada and Japan in overall trade with our country.

It is time for the United States to expand its freedom of trade with a trading partner that has a proven record of buying our products, and especially a trading partner that has striven to open its market to even more U.S. goods.

And Mexico is a proven trading partner. Mexico bought 40.6 billion dollars' worth of United States goods in 1992 alone.

The United States currently buys more from countries with which we have enormous trade deficits—countries like those in the Far East. Does it not make more sense to buy more from a country that will in turn provide an expanded market for even more Minnesota goods and services? Mexico is the third largest United States export market, and it is the fastest growing.

Minnesota has experienced great growth in exports as a result of the United States-Canada Free-Trade Agreement. Minnesota exports to Canada have increased 65 percent over the last 4 yours as a result of this agreement. In 1992, Minnesota's exports to Canada totalled $1.8 billion.

Just as the Canadians are our natural trading partner being our neighbor, so too are the Mexicans. The CFTA was just the beginning of the enormous trade potential in our hemisphere—Minnesota will continue to be an export leader as we expand our exports.

I hear constantly from Minnesotans across the State who urge me to support NAFTA because it will significantly expand their business and agricultural export opportunities.

The elimination of the high Mexican tariffs on agricultural products will open a large and growing market for our farmers. Not one single agriculture interest in the State of Minnesota opposes NAFTA. Not one. Minnesota agriculture depends on exports.

Minnesota Department of Agriculture Commissioner Elton Redalen bears out this analysis. He estimates that "NAFTA could mean up to $2.5 billion in additional agricultural exports to Mexico and because Minnesota is such a strong agricultural State, estimates indicate the NAFTA will increase agricultural revenues to Minnesotans by $80 to $110 million. This is simply too big of an opportunity to pass up."

Under NAFTA, exports of pork, pork products, and live hogs to Mexico are expected to double by the end of the transition period. This increase in exports will result from the elimination of Mexican tariffs and increased growth in Mexican consumer demand. It is expected that the increase in demand resulting from NAFTA implementation will add approximately $9 million in annual income for producers in Minnesota, and a total of $100 million nationwide.

Mexico is currently the United States pork industry's second largest—and fastest growing—export market. And that is with tariffs of 20 percent.

Under NAFTA, these tariffs will be eliminated over 10 years, providing preferential access for United States pork, while tariffs will remain in place for all other countries exporting pork to Mexico.

If NAFTA fails, Mexico could raise its current tariffs on a variety of products from a maximum of 20 percent to 50 percent. If we let this happen, United States exports would be virtually stopped and United States processors will be forced to move to Mexico in order to participate in the market. Mexico will give the special tariff reduction treatment to some other country, and United States producers will be driven out of Mexico.

According to the Meat Industry Trade Policy Council, the suggestion that NAFTA will create a mass exodus of meat processing activity south of the border is contradicted by fact. Nothing is stopping plant relocation today. In fact, the current tariffs on pork should be encouraging relocation but it has not happened. In fact, Mexican processing plants are moving to the United States. Mexico's second largest pork processor has relocated in San Antonio creating jobs for Americans.

The United States has exported over $650 million worth of corn to Mexico over the last 2 years. A free-trade agreement would increase these sales even further. The Minnesota Corn Growers Association predicts a significant increase in Mexico's demand for United States corn, and, as a result, the association has issued a strong endorsement of NAFTA.

The Mexican beef market is the fastest growing market on the continent, with some 90 million consumers. In 1988, United States exports of beef to Mexico were $80 million. In 1992, the figure exceeded $260 million, and it is expected to continue increasing. Mexico is a natural market for United States beef, as beef can be shipped there easily, and at low cost, by rail or truck.

Mexico is the fourth largest market in the world for United States soybeans, and the fifth largest for United States soybean meal. Mexico is far from self-sufficient in soybeans, and has to import to meet domestic consumption. There is significant room for expansion of U.S. exports. United States soybean exports to Mexico are expected to be about 2.5 to 2.7 million metric tons by the end of the transition period. That's about 20 percent above what would be expected without a NAFTA.

The opportunities for the U.S. agricultural industry are endless under the NAFTA. Without it, however, we threaten the prosperity of this industry that has been sparked, at least in part, by the preliminary tariff reduction. And we risk closing our farmers out of this profitable market entirely, as Mexico, without NAFTA, will seek a free trade agreement with another country which will be given the preferential tariff reduction, which will price United States agricultural products right out of the market.

Minnesota agriculture depends on access to a world market. The NAFTA is a choice about whether Minnesota farmers will help define the future with a world of new markets, or bind themselves to the past.

Small businesses will be able to compete in a market that is all but impenetrable to them now due to the cost of high tariffs and other unfair trade practices—barriers which NAFTA will eliminate or significantly reduce.

Minnesota's 3M is a world leader in the export of production materials—more than half of 3M's sales came from markets outside of the United States—$1.5 billion in 1992. 3M will increase its exports of production materials to Mexico once NAFTA is passed. Indeed, they recently added 300 manufacturing jobs in the United States to service the growing demand of the Mexican market. 3M's exports to Mexico have increased almost ninefold since 1986 and they expect them to continue growing.

Honeywell is another Minnesota company that will benefit from breaking down the Mexican trade barriers. Honeywell sources 95 percent of the raw materials it uses in its Mexican operations from the United States—this amounts to about $2.2 billion this year. After decades of flat sales in Mexico, since 1987 Honeywell has experienced an increase of 137 percent in sales there. Minnesota jobs in administration, sales, R&D, and engineering will only increase as a result of expanded exports of Honeywell's products to Mexico.

Over 700 Minnesotans make medical devices at Lake Region Manufacturing Co. of Chaska, MN. G.E. Melton, the company's chief financial officer, states:

> We have no intention of moving jobs out of the U.S. We like it here in Minnesota. There is a work ethic here that can't be matched in Mexico or Canada. But if we can't sell our products, be competitive in those two markets, then someone else, probably from Japan or Asia, will be there to supply the market. Lake Region currently exports 25–30% of our production. If we lose those sales, one hundred more Minnesotans would be unemployed. A vote for NAFTA is a vote for Minnesota.

An improved investment climate in Mexico will not cost United States jobs—it will create new ones. Much of the new investment in Mexico will be not the movement of United States jobs to Mexico, but rather the relocation of United States facilities in the Far East to Mexico. These relocations from the Far East will serve both Mexican and United States markets, but they will displace imports from the Far East that are shipped from countries possessing significant trade barriers to our products. Minnesota companies will be able to sell more parts, components and services to these relocated facilities as they seek quality inputs.

While we have made substantial progress reducing trade barriers with Japan, much work remains to be done. Barriers remain against construction services, against auto parts, against telecommunications products and services, to name a few. The biggest problems are structural impediments which include a real cultural bias against purchasing imported products. Is it not better to open our market to two countries which have demonstrated consumer demand for U.S. products?

The United States Commerce Department estimates that NAFTA's elimination of Mexican performance requirements could mean $1 billion in potential new sales for major United States auto producers in the first year of the agreement alone. That would mean an additional 15,000 new jobs in the U.S. auto and supplier industries. Without NAFTA, United States auto jobs will continue to shift to Mexico.

Without the market stimulus of NAFTA, demand for American goods and services will continue to be stifled, and high trade barriers will continue to restrict United States export opportunities in Mexico. At the same time, low U.S. tariffs promote imports. For example, United States automobiles exported to Mexico face a 20 percent tariff, while cars imported into the United States from Mexico face a 2.2 percent tariff. On top of that, Mexico requires auto manufacturers to export two cars from Mexico for every one car imported. NAFTA would eliminate these performance requirements and open the Mexican market to United States auto exports. This not only opens a large new market for United States cars and trucks, but it also eliminates the incentive for United States manufacturers to invest in Mexico.

Another example is telecommunications. Who is better situated to take care of Mexican telecommunications needs than United States companies? Improving the Mexican telecommunications infrastructure is a natural opportunity for United States companies. When United States companies sell United States-made telecommunications equipment to Mexico, it will not only help Mexico and create opportunities for American components, but it will also create an ongoing need for United States replacement components, product education, and continued service of the systems. This increased demand for U.S. technology and U.S. products will create more jobs in the United States and a stronger U.S. economy.

NAFTA will significantly benefit the United States, throughout our whole economy. The side agreements on environment and worker rights will give us needed leverage to obtain improvements in Mexico's enforcement of environmental laws. Mexico has the right laws, but neither the funding nor the will to enforce them.

The mere pressure of negotiating NAFTA has resulted in a Mexican commitment to provide further funding for environmental law enforcement—many polluting plants have already been closed—a United States-Mexican Commission committed to cleaning up the border, and a new United States-Mexican Development Bank to provide funding for environmental protection in Mexico. All of these initiatives will help a number of Minnesota companies which specialize in environmental technologies.

Mexico has also committed, through the labor side agreement, to increasing its minimum wage, permitting workers to organize into unions, and pursuing other improvements in worker rights.

I would like to remind my colleagues that none of this would have occurred without NAFTA. NAFTA is going to be a huge plus for human rights in Mexico because it will raise the standard of living of the Mexican people, and reduce the economic hardship that sends so many Mexicans spilling into the United States in desperate search of a better life.

There has been some relocation of United States jobs to Mexico in the past. Decisions to relocate are based on far more complex considerations than a mere comparison of labor costs. Key factors include worker productivity, infrastructure needs, transportation costs, telecommunications access, proximity to suppliers, local laws and regulations, and stability of the Government. These factors weigh just as heavily as labor costs.

HB Fuller Company in St. Paul has operated in Mexico, Central America, the Caribbean, and South America for nearly three decades. Using partners, local leaders and companies, this company has built local markets, created more jobs in its United States operations than in Latin America, and returned investment dollars to Minnesota. In fact, the President of HB Fuller, Walter Kissling, is a Costa Rican who rose from a Central American President to international business to his current position in the United States.

I am proud of American workers. They are the most productive in the world. One study states that Mexican workers are only one-fifth as productive as United States workers. That certainly would be an important consideration for those companies looking at a possible relocation. In fact, we have already seen some United States companies who have invested in Mexico close their Mexican plants and move back to the United States.

The productivity of these plants level in Mexico was so low that they were losing money. Without NAFTA, more jobs will shift to Mexico.

The threat of sanctions included in the side agreements will enable us to achieve further progress. The threat of withdrawing from the NAFTA, as is our right under the agreement, will pave the way for further progress. Again: What leverage would we have without NAFTA?

With NAFTA, we gain all of the benefits of open preferential access to the Mexican economy, as well as addressing current unfair trade practices. Without NAFTA, we would see diminished United States export opportunities, continuing plant relocations, disregard for the environment, maquiladoras, immigration pressures, and put ourselves at a competitive disadvantage vis-a-vis our Far East competitors, who would exploit investments in Mexico to target the United States market.

America has a national mission to promote global prosperity. Our principles show how we can do it. We must not shrink from our responsibility to lead the whole world into a peaceful, prosperous 21st century economy. For the good of our economy, for the future of our country, and for the future of a world in which too many people are still mired in poverty and yearn for the prosperity that can only be built on a foundation of global economic freedom, we must implement the NAFTA.

Mrs. KASSEBAUM. Madam President, I rise today in strong support of the North American Free-Trade Agreement.

Over the past 6 months, I have spent a lot of time talking to Kansans about NAFTA. Many are skeptical. They fear that this agreement will lead to the loss of good jobs and lowered wages for U.S. workers. NAFTA has come to symbolize the growing insecurity about the U.S. economy.

I have tried to convince these Kansans that the opposite is true: NAFTA will help expand the U.S. economy, create more high-paying jobs for American workers, and help secure our economic future.

Over the next decade, NAFTA will create the largest and most powerful market in the world. This expanded market will lead to new opportunities for American businesses and workers. Increased exports to Mexico will create new high-paying American jobs.

Economists have argued at length about the number of jobs that will be created by NAFTA or the number of jobs lost. The reality is that no one knows the exact numbers for certain. But we do know—based on our experience—that open markets create more and better U.S. jobs for U.S. workers.

The gradual opening of Mexican markets over the past 6 years shows that United States workers gain with increased trade. In this period, United States exports to Mexico climbed by more than 200 percent. In 1987, the United States had a $5.7 billion trade deficit with Mexico; we now have a $5.6 billion trade surplus with Mexico. NAFTA locks in these significant gains and will further expand United States exports to Mexico.

Madam President, since World War II, the world has undergone a period of unprecedented economic growth and prosperity. The fundamental engine of this expansion has been trade between nations. In this period, the United States rejected simple-minded protectionism and embraced the challenges of an economically interrelated world.

NAFTA takes another important and historic step in the direction of open markets and expanding economic growth. It reaffirms America's commitment to free trade and confirms U.S. leadership. In the near term, NAFTA strengthens U.S. credibility in two critical ongoing trade discussions.

President Clinton is meeting currently with Asian leaders in Seattle at the APEC forum. In the coming years, this region will become the most important trading partner for the United States. Already, the volume of trans-Pacific trade is 50 percent greater than trade across the Atlantic.

The next 3 weeks will also determine whether or not the GATT negotiations will succeed. These talks present an unprecedented and historic opportunity to expand world trade, international growth, and economic security.

Madam President, in addition to the compelling economic benefits for the United States, NAFTA will also help Mexico become more stable and prosperous, and that is good for the United States. Over the long term, prosperity in Mexico is the only lasting solution to illegal immigration from Mexico to the United States.

NAFTA reinforces the market-oriented economic and political reforms instituted under Mexican President Salinas. As a neighbor, we have an important stake in supporting progress and stability in Mexico.

Madam President, the debate on NAFTA stands as a test of the direction our country's economy will take over the coming decades. I believe we must seize the opportunities offered by NAFTA to compete and succeed as part of a dynamic global economy.

This is not an elitist argument. We only have to look to the history of our pioneering families to understand why trade matters. The Santa Fe Trail was undertaken at great risk in lives and fortunes to open the Southwest and trade to Mexico.

The question we face on NAFTA is whether we will compete and expand trade in the tradition of our pioneering heritage or turn inward and retreat from the future.

Mr. COHEN. Madam President, earlier this week I spoke on the floor of the Senate to express my opposition to the North American Free-Trade Agreement. As part of my justification for this position, I focused on recent actions by Canadian border officials. Specifically, these Canadian officials have been blatantly harassing Maine and Canadian citizens entering Canada as part of a larger strategy to deter Canadians from shopping in Maine.

I ask unanimous consent that three newspaper articles which provide graphic examples of this outrageous conduct be placed in the Record.

There being no objection, the articles were ordered to be printed in the Record as follows:

[From the Bangor Daily News, Nov. 10, 1993]

"Iron Curtain" Seen at Maine's Border

(By Wayne Brown and Andrew Kekacs)

An angry group of Maine businesspeople told U.S. trade representatives Tuesday that New Brunswick's tax and trade policies were building on "Iron curtain" between the province and Maine.

The complaints to trade officials about the provincial tax come just as debate has reached fever pitch concerning the North American Free-Trade Agreement which aims to remove most trade barriers between Canada, the United States and Mexico during the next 15 years.

On July 1, Canadian customs officials began collecting an 11 percent provincial sales tax on goods purchased outside New Brunswick. Collection efforts are targeted at shoppers returning home from the United States.

Keith Guttormsen, executive director of the Greater Calais Chamber of Commerce, said the tax was being collected only along the Maine border, not along New Brunswick's borders with Nova Scotia, Prince Edward Island and Quebec.

"The tax is against New Brunswick law, GATT (General Agreement on Tariffs and Trade) and the Free Trade Agreement," he said. ". . . In effect, (Canadians) are establishing an Iron Curtain between Maine and New Brunswick."

At meetings Tuesday in Bangor and Houlton, business people said New Brunswick shoppers were being subjected to intense questioning and frequent vehicle searches by Canadian customs officials. They said the harassment had sharply reduced the number of Canadians willing to make day trips to the United States.

"(Provincial leaders) only are hurting themselves," said Peter Daigle, president of Erin Co., which owns hotels in Bangor, Ellsworth and Waterville. "U.S. tourists are being forced to wait in line while Canadians are rousted for a pair of shoes . . . or a lawnmower bought in Bangor."

In Houlton, the operator of McLaughlin's Textiles held up a piece of calico fabric. The cloth costs $3.99 a yard at his store, said Mark Gendron, while the price in Canada is $6.99 a yard.

When a Canadian shopper buys fabric from Gendron, however, the exchange rate, taxes and duties increase the final cost to the shopper to $7.57 a yard.

"It's killed my Canadian business," he said. "Now, I'm at a competitive disadvantage."

The comments were echoed by speaker after speaker. Retailers, innkeepers and restaurateurs said that the sales to Canadian shoppers had fallen 24 to 69 percent in the past four months.

"The Greater Bangor economy has been hit hard by this illegal action of the province of New Brunswick," said Ted Sherwood, chairman of the Greater Bangor Chamber of Commerce. "How can we enter into broader Free Trade Agreement (between the United States, Canada and Mexico) when we cannot enforce this existing agreement?"

Gov. John R. McKernan said U.S. Trade Representative Mickey Kantor wasn't moving aggressively enough to persuade New Brunswick to curb the special tax enforcement.

"To this point, Trade Representative Kantor has taken a lackadaisical approach to this issue," McKernan said during his Capital for a Day visit to Waldoboro.

"Maine businesses are being hurt by this unfair tax, and it's time our trade representatives start protecting the state's interests in this matter," said the governor.

Pressure from Maine's congressional delegation persuaded federal officials to hold open meetings in several Maine communities this week.

In Bangor, representatives of organized labor and the Maine Greens protested the Clinton administration's support for the North American Free Trade Agreement.

"(The agreement) was negotiated in haste, in secret, in a fast-track deal," said John Hanson, director of the Bureau of Labor Education at the University of Maine. "These trade agreements raise more questions than they provide answers."

David Weiss, deputy assistant U.S. trade representative for North American affairs, said the border tax collections were a violation of the 1989 Free Trade Agreement between the United States and Canada.

"One of the difficult issues we face is not just can we win the case, but can we get some relief for you," said Weiss.

Weiss said Saskatchewan, Manitoba and Quebec also were collecting provincial sales tax from returning shoppers. In fact, the Canadian tried to persuade all border provinces to take similar actions.

The issue will be one of a half-dozen on the agenda when U.S. and Canadian trade officials meet in early December, according to Weiss.

In Houlton, more criticism was leveled at the inaction of the U.S. government in its dealings with Canada.

"My main fear is not Canada, it's you, the representatives . . . in my own country," Rodney McCrum, a Westfield potato farmer, told trade representatives. "Our government is doing a real good job taking care of the Canadians."

McCrum described U.S. officials as "the worst negotiators in the world." He said Canadians can easily bring potatoes into the United States, but the U.S. farmers are blocked from bringing spuds into Canada.

"It seems so simple . . . but U.S. politicians can't seem to understand," said McCrum. "I cannot, and will not, stay in business with this unfair trade."

[From the Bangor Daily News, Nov. 11, 1993]

Canadian Customs Office Diverts True Love's Course

(By Nancy Garland)

The course of true love ran smoothly for Royce "Mickey" Smith of Gardiner and Alison Teed of Machias until they stopped at the Calais-St. Stephen, New Brunswick, border crossing last Friday.

Smith, 21, had planned to surprise his girlfriend, a Canadian citizen, with a diamond ring over the weekend, but Canadian border inspectors not only ruined the surprise, they seized the $1,400 solitaire. Authorities are refusing to return the half-carat ring until Smith pays $730 (Canadian) in duties and penalties for not declaring the ring at the border. The American said he didn't know he had to.

Adding insult to injury, Smith and Teed were told they may be slapped with an additional 11 percent provincial tax which is assessed on goods purchased outside the province, according to Randall Wilson, an attorney in St. Stephen.

The action is "outrageous. It's officialdom gone awry," said John Mitchell, an attorney in Calais who, with Wilson, has volunteered legal services to help the young couple.

The couple's dilemma was brought to the attention of U.S. Rep. Olympia Snowe who termed the action a particularly egregious example of the increasingly hostile conditions confronting individuals crossing the border into New Brunswick.

"I was horrified to learn of the situation of Alison Teed and Mickey Smith," Snowe said in a press release.

Canadian authorities offered little explanation of the matter Wednesday. Duane Ingram, chief of customs for the St. Stephen area, said privacy restrictions prevent him from discussing a particular incident, but he said he would be able to offer general opinions in a day or two, once he had researched the situation.

He pointed out that all items other than clothing must be declared when crossing the border into Canada, Ingram said.

The incident is one of several reported confrontations this fall at border crossings between Maine and Canada, as the Canadian government attempts to curtail cross-border shopping. Harassment of motorists at border crossings has been a topic of discussions this week in meetings between Maine business people and U.S. trade representatives.

The couple's situation is "another example of the Iron Curtain being sewn between Maine and Canada," said attorney Mitchell. "It's an outrageous abuse of power."

The incident started when the couple stopped at the Calais-St. Stephen crossing station at about 4:45 p.m. Friday on their way to Saint John, New Brunswick, to visit Teed's family. A guard asked them if they had anything to declare, and Alison declared $20 worth of gifts she had bought for a niece.

The guard ordered them, and most cars in front and behind them, into a search line. Smith's bags were searched and the ring, which was in a box, was discovered.

At that point, Smith asked to speak with the guard privately, so the pair went into an office building. For the next half hour, Smith explained that he bought the ring in Augusta and intended to surprise Teed with a proposal.

The ring was seized and Smith was told that duties and penalties would be 40 percent of the ring's value, or $730.

When Smith returned to the car, accompanied by a guard, he told Teed about the now-confiscated ring.

"At that point I became very upset and started to cry," Teed recalled.

Teed got her marriage proposal, but it was in front of a customs' inspector. It wasn't the romantic scenario planned by her beau, but she accepted.

Teed, 24, is a Canadian citizen but she resides in Washington County where she is a student at the University of Maine at Machias. She is doing her student teaching at a Washington County school. She said Wednesday that she was still upset and angry at the poor treatment she and Smith received.

"It's not like I'm going to get proposed to every weekend," said Teed.

Smith remained angry Wednesday at the official invasion into a very personal moment. A marriage proposal "is supposed to be something you remember all your life. We'll remember this, but not the way we might want to," Smith said from his Gardiner home.

The pair resumed their trip and returned to Maine on Sunday. The ring remains in Canadian hands.

Attorney Wilson said he plans to file an appeal and request a hearing before customs officials. He questioned the guard's authority to seize the ring which was owned by an American and which would have returned to America within a few days.

Customs guidelines in Canada allow Canadian residents who marry non-residents to import wedding and engagement rings acquired outside Canada for a temporary period without payment of duties.

Canadian border inspectors are under pressure, Wilson said, to collect taxes and to file statistics on the number of searches they perform.

"They've gone way overboard in this situation. It's way beyond the bounds of propriety," said Wilson.

Meanwhile, Smith and Teed consider themselves engaged, but they want the ring back because it is a symbol of their love.

"I may use my next two or three paychecks to get it back," said Smith, who works in a warehouse in Gardiner.

[From the Houlton Pioneer Times, Nov. 17, 1993]

CANADIAN SHOPPERS STUCK AT N.B. BORDER FOR 11 HOURS

A bus carrying 44 elderly Canadian women stayed at the Canadian Border Station in Woodstock, N.B. for 11 hours on Oct. 28 as the items they bought on a trip to Bangor was processed by Canadian Customs officials.

The three-day trip mostly consisted of women buying Christmas presents for their grandchildren, according to Gordon Harvey, co-owner of Harvey Tours of Sydney, Nova Scotia, the company which ran the tour.

The women on the bus were from Nova Scotia.

Problems arose when the two customs officials working at the station learned that many had filled out their declarations of $100 worth of duty-free goods in American funds, not Canadian funds.

The items' value had to be converted into Canadian funds, he said, and then the duties on them had to be calculated. The women arrived at about 7 p.m. and finally left at about 8 a.m. the next morning.

In previous trips, Harvey said, processing items lasted from one to two hours.

The passengers stayed in a warehouse as their items were processed, Harvey said, even though one of them suffered from asthma, another had a pacemaker and others had high blood pressure.

"It was not a great place to spend the night," he said.

Harvey added that customs officials were entitled to do what they did and thought the incident was "blown way out of proportion."

Mr. CAMPBELL. Madam President, for almost 3 years, now, I have expressed my serious reservations about this NAFTA. As a Member of the House of Representatives, I voted against fast track because it takes away Congress' right and responsibility to change a flawed trade agreement. As a candidate for the U.S. Senate last year I expressed my serious reservations about this agreement.

Now that it is all said and done, the situation is exactly as I feared: We are stuck with a flawed agreement, and we do not have the right to make changes. That is why I am going to vote against this NAFTA.

My vote against NAFTA is not a vote against free trade, or a vote for isolationism, or a vote against Mexico. I have always said that we need develop trade ties with Mexico, and help Mexican workers earn better lives for themselves. I support free trade, the same way I support free markets and free political systems.

I also want to say that I reject any arguments against NAFTA that reflect racism and bigotry. I know that average Mexicans are honorable, hardworking people who want the same things we want—to earn an honest living, to live in a free and clean country, to provide for their children. As a powerful neighbor, I would like to help Mexicans meet those goals.

But I will vote against this flawed agreement, because in the end I believe it hurts American jobs. I have other concerns, but jobs is the key. This agreement is unfair to American workers and to Mexican workers.

NAFTA proponents use a whole bunch of studies that say in the long run, NAFTA will create jobs. Well, it is great to say that eventually NAFTA might create jobs. But nobody argues that in the short run, NAFTA will cause the dislocation of hundreds of thousands of American workers. Economic forecasts and theories are good for speculation, but I care about reality, and the reality is American families are going to suffer a lot more before there is any hope of improvement. I cannot accept that kind of sacrifice.

NAFTA supporters dismiss job losses under NAFTA as short term, as if they do not matter. Well, short term means nothing to workers and their families who lose their jobs, and do not know when they will get new ones. So many people already lost their jobs due to downsizing, and they are not getting those jobs back. Workers who lose their jobs under NAFTA will not have anywhere to go either. Sure, some worker may pick up a job eventually because of NAFTA, but that is little solace to all those people who know that NAFTA will cost them their jobs. To tell people that they will lose their jobs in the short term, but promise them that sometime in the future America may gain more jobs, is cold and unfeeling—and if recent history is any guide, also meaningless. The auto makers especially disturb me. They brag that United States auto plants will export 60,000 cars to Mexico in the first year. They do not say what will happen the second year, after they relocate their assembly plants to Mexico.

I wrote the U.S. Trade Representative about this concern, and he responded that the Government is committed to a large worker retraining program. He did not tell me that these NAFTA retraining programs would only last a couple of years, and he didn't tell me that according to the Government's own figures, only about 23,000 workers will be able to participate. That is a drop in the bucket compared to the job dislocations predicted under NAFTA. That is a cold slap in the face to American workers who trusted their elected representatives to look out for their interests.

NAFTA supporters say those of us in opposition don't have any faith in the American worker, that we're afraid to compete with other countries. As they say in my neck of the woods, that is a lot of bull. I know American workers can compete and win. After some tough years and a lot of concessions, American workers can manufacture cars and produce steel without subsidies and still compete strongly against workers in Germany and Japan. American workers are not afraid to compete—as long as the playing field is level.

That is not the case with Mexico. NAFTA does not provide a level playing field. NAFTA asks American workers to compete against Mexican workers who have no right to ask for better wages, who have no right to ask for better working conditions, and who have no right to ask for a better environment. Our American workers pay willingly for strong institutions that enforce our laws, protect workers' safety, and protect our civil rights. The Mexican Government does not provide any of this for Mexican workers. The Clinton administration could have dealt with these inequities in the Labor Side Agreement—but it did not.

I do not believe President Clinton wants to hurt American workers, but the labor provisions are so vague that they're useless. It seems to me that without theses provisions, American workers eventually either lose jobs or drop their wages to the level of Mexico. I wonder if CEO's of American companies will drop their own wages proportionately to their employees—or maybe Congress should drop its wages to the same level as Mexico's parliamentarians.

No one yet has convinced me that we are going to adequately handle the very real problem of third countries taking advantage of NAFTA and building plants in Mexico to avoid limits on their goods going to the United States. When I raised the issue of third county dumping of goods through Mexico, with the originating country reaping the profits and avoiding U.S. trade laws, our Trade Representative avoided the question.

I have said from the beginning that I was very leery about the environmental impact of NAFTA. I was concerned that our local and national environmental laws would still have to be followed by United States companies, but that companies in Mexico would not have to, giving Mexican-based companies an unfair advantage over their United States based counterparts. No one has yet addressed this issue. I want to be sure that NAFTA be compatible with all local, State and Federal environmental laws. The USTR assured me that any attempt to change U.S. laws to achieve NAFTA compatibility would require specific congressional approval. That is good news, but the bad news is, how do we enforce NAFTA's environmental side agreement against Mexico? How do we force Mexico's compliance? American workers pay a ton of money for strong, well-enforced environmental laws because we care about our health and our families' health. One need only look at the Rio Grande and wonder at the ability of the Mexican Government to address its environmental problems, let alone those that are expected with more plants going up in that country as a result of NAFTA. This is not a knock on Mexico's commitment to the environment, but a concern that the cost of that commitment makes it a very difficult proposition at best.

And let us talk about the cost of environmental cleanup. American taxpayers are expected to pay at least several billion more dollars under NAFTA for environmental cleanup. Why should American taxpayers have to pay this? I am outraged that those American companies that closed down their United State plants, fired all of their workers, and then moved to Mexico, where they took advantage of Mexico's lax environmental laws are bearing no responsibility for this mess that American taxpayers are now supposed to pay for. What a perfect example for all those other American companies who are just waiting to close down their United States plants, throw their employees out of work and move down to Mexico.

I still have some concerns about how the fairness of NAFTA for specific industries, like trucking. Lately, though, there have been so many side deals that we do not know what NAFTA means anymore. It is hardly worth calling a "free-trade agreement." In recent days we have seen agreements on wheat, beef, peanut butter, frozen orange juice, cucumbers, wine, textiles, flat glass, and tomatoes, and who knows what else. These deals do not promote an open and fair debate on this agreement. Something is very wrong with this agreement if the NAFTA supporters have to stoop to this just to gain votes.

The fact is, NAFTA pits industries which stand to win against industries which stand to lose. It puts American citizens and states that stand to gain jobs and market access against those American citizens and states that stand to lose jobs. It is dividing America as few issues have in recent years. I am very uncomfortable with the notion that I should vote for NAFTA, because it is good for some Coloradans, or some Southwest based companies, when I know it's going to screw many other American citizens elsewhere. If we have come to this point, pitting one region of the country against the other in our desire to improve the national economy, I have to say "no."

Mr. BOREN. Madam President, we begin a very important debate on our economic and political future. At stake is nothing less than our country's ability to shape our economic destiny and provide leadership in tomorrow's world. I believe NAFTA will allow us to prepare for the coming challenges and I urge my colleagues to pass this important legislation.

Instead of embracing the opportunities presented to us by NAFTA, many in Congress are responding to the shortsighted, misguided arguments raised by NAFTA's opponents. By now, we are familiar with the charges that this trade agreement will move jobs to Mexico, worsen the environmental conditions along the border and lock-in poor working conditions and low wages for Mexican workers.

Implicit in these arguments is the notion that the status quo is somehow better than the proposals in NAFTA; that a future without this NAFTA is more desirable. This notion is wrong.

When naysayers repeat their mantra about the massive job losses NAFTA would afflict, I point them to the real world experience of the past 10 years. Just 8 years ago Mexico reformed its economy and began reducing its trade barriers. Before those reforms, the U.S. had a trade deficit of $5 billion, now we have a trade surplus of $5 billion—a $10 billion turn around.

The reason for this dramatic shift is clear: Trade liberalization helps our economy. During that time, 400,000 jobs nationwide and 2,000 jobs in Oklahoma were created because of increased Mexican trade. This is what happens when trade is facilitated between countries. The job pie does not shrink, it expands. If the partial trade reforms created by the reform of the Mexican economy created 400,000 jobs, imagine how many more jobs NAFTA would create as barriers are completely eliminated.

Yet the barriers to trade have been one way. Our market is largely open; but the Mexican market, though changing, remains restricted in many areas. NAFTA would change this unfair trade relation and lock-in economic reform in Mexico. Under the trade agreement, the United States eliminates Mexican tariffs that are on average 2½ times higher than our own: On average, a 4-percent United States tariff on Mexican goods would be dropped in exchange for removal of a 10-percent Mexican tariff on United States goods. NAFTA would also strike the Mexican law that requires those who sell in Mexico to produce there also. The result is that NAFTA would make it easier to produce goods and services in the United States for sale in Mexico.

However, let us imagine a future without NAFTA. As Secretary Christopher said in his testimony to the Finance Committee, let us think of the alternatives to NAFTA and ask if they are better. Without NAFTA, companies will continue to move to Mexico knowing they will not have to comply with the environmental and labor standards dictated by the side agreements. Investors will seek opportunities in places like Asia where the consumer only spends an average 12 cents of every dollar on American goods compared to the 70 cents spent by Mexicans. Impoverished, jobless Mexicans will look towards jobs north of the border, fleeing from an economy that cannot support its labor force. This is what will happen if NAFTA fails—and possibly much worse.

At stake in NAFTA is the potential stability of our North American region. We care about what happens in Mexico because one way or another our futures are tied. We are for a growing Mexican economy, not just because we feel compassion for the Mexican worker, but also because we know it is in the long-term interest of the American worker. If Mexico can create jobs and encourage its workers to live there rather than emigrate, often illegally, to the United States, then both countries will benefit.

Mexico is a country where half of the population is under 19. Who will employ them in the future? At its present growth rate, Mexico cannot, and border states such as California are already pushed to the breaking point by immigrants seeking work and a better way of life. If NAFTA fails, I fear that many will come here to our already crowded job market if they cannot find work in their country.

Only through economic development and reform will Mexico be able to create a healthy market that benefits both countries. NAFTA represents continued reform in Mexico.

But make no mistake. Many in Mexico would prefer a return to the statist economy and closed markets of the early 80's. We must realize that economic reform in Mexico is tied with democratic change, and the forces against trade liberalization in Mexico are the same forces against a pluralistic society. The oligarchy that reaped the benefits of an inefficient economy are a dangerous and powerful faction of that country. Nothing would empower them more than the rejection of the economic reforms proposed by NAFTA.

If the repressive forces take control over Mexico, the political and social upheaval would be dramatic with immediate consequences in this country. Instead of making policies to enrich our workers and businesses with increased trade, our Government will be forced to rebuild our relationship with a cautious, possibly hostile country. Should the Mexican economy make a turn for the worse, the United States will be forced to hand out more foreign aid. I doubt whether our overburdened foreign aid program can sustain another needy country that is so important to our national interests. Our priorities would change from opening markets, to protecting democracy.

Some dismiss this kind of questioning and say that reform in Mexico is irreversible, that the changes from the last several years are permanent. But reforms can easily be stopped and circumstances can turn for the worse. One needs only to remember the events of the past several months in Russia to conclude how fragile progress can be. The lesson from Russia is clear: Change can not be taken for granted—it must be constantly promoted. The progressive change in Mexico is no exception and we must be prepared to encourage reform in this important country.

We must also think about how NAFTA—or the failure to enact it—will prepare us for tomorrow's economic arena. Let us not fool ourselves. Mexico with an economy the size of Los Angeles, is not this country's true economic threat. Our true competitors are Germany and Japan. We must ask how they are preparing for the future. Germany is a major force in the European Community, while Japan is slowly dominating the economies of its Asian neighbors. The view of our real competitors is that economic integration is part of their strategy to compete in the new global marketplace. Free-trade has not lowered wages or living standards in these countries. Instead, free-trade promotes international competitiveness while raising the standard of living and wages for its citizens.

Within NAFTA is a great economic opportunity for American workers to solidify and establish their share in the Mexican and North American market. But if we defeat NAFTA, this opportunity is lost. We must heed the statements by Mexican officials when they say they will look toward trade agreements with the Europeans and Japanese if NAFTA is rejected. We should not take this as merely a warning, but as a sober reminder of the emerging alliances of the international marketplace.

As important as the economic considerations are, this debate means much more. This is also about this country's leadership in tomorrow's world. Whether we like it or not, this debate reveals something fundamental of our nation's priorities. Will we lead the effort to tear down barriers or will we allow others to build new ones? Will we take the necessary steps to compete in the global market-place or will we let others surpass our economic position? Will we continue to fight for democracy and free markets or will we jettison those values which we fought so passionately for during the cold war?

Not other initiative before the Congress this year, perhaps the next several years, deals with the fundamental issues of control over our economic fortunes and our country's relations with two of our most important trading partners than does NAFTA. If we miss this historic opportunity to build this long-term relationship, then we are simply asking for unforseen economic and foreign policy problems.

Yet all of these important considerations seem to be forgotten in the NAFTA debate. Instead, the arguments against the agreement focus on empty rhetoric and misleading facts.

The truth is NAFTA is good for the American worker and business. It creates jobs, instead of eliminating them. It tears down trade barriers, instead of erecting them. It improves the environment, instead of damaging it. It puts pressure on us to prepare ourselves for the new global market place.

This decision is an historic one. This Nation is great not because it has been afraid to face new challenges. It is great because it has faced them with courage, hard work, and self confidence.

Mr. COCHRAN. Madam President, by phasing out licenses and tariffs now imposed by Mexico on our agricultural products and processed foods, we will sell more of what we produce because it will be less expensive. Uncle Ben's Rice mill in Greenville, MS, for example, will increase its production by one-third if NAFTA is approved. This will create 10 to 15 new jobs at the plant and over 200 in the Mississippi rice industry. Other mills in the Delta also expect similar increases in production.

During a visit to my office in Washington last week, the head of the chemicals division of First Mississippi Corp. estimated that their sales in Mexico would triple, or maybe quadruple, if NAFTA is approved.

The elimination of Mexican tariffs on Mississippi products gives us an advantage over our competition. Our goods can be bought for less as a result.

Therefore, we will sell more poultry products, more beef products, more pork products, and more dairy products, all of which are important businesses in our State. As a matter of fact, the Mississippi Farm Bureau expects NAFTA to generate an additional $10 to $15 million annually for Mississippi agriculture.

Because there will be more demand for what we produce on our farms the prices farmers are paid for their crops will go up. Corn is expected to increase by 6 cents a bushel and rice by 25 cents per hundredweight. Soybeans and wheat will also increase in value. Mississippi State University says NAFTA will mean an annual increase of 26,000 bales in exports of Mississippi cotton.

Others who will derive clear and important growth and new jobs from this agreement include furniture manufacturers, lumber and wood products, electronics, electric equipment, transportation, and port facilities.

Few votes that I have had to cast in my 20 years as a member of the Mississippi congressional delegation have been more clearly and unambiguously supported by such persuasive evidence.

Madam President, I ask unanimous consent to have printed in the RECORD excerpts I have compiled from "Correcting the Record," the response of the U.S. Trade Representative to the Perot/Choate NAFTA book and a summary of "What NAFTA means for Mississippi," compiled by the Department of Commerce.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

[Excerpts from "Correcting the Record"]

RESPONSE OF THE OFFICE OF THE U.S. TRADE REPRESENTATIVE TO THE PEROT/CHOATE NAFTA BOOK, SEPTEMBER 2, 1993

The Office of the U.S. Trade Representative (USTR) refutes over 115 assertions made by Ross Perot (with Pat Choate) in the book, Save Your Job, Save Our Country: Why NAFTA Must be Stopped—Now! A few are quoted below.

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Perot (p. 10): "The NAFTA deal on agricultural trade is * * * bad."

USTR: "U.S. agriculture and the American farmer are big winners under the NAFTA. Conservative estimates show an expected increase of $2 billion to $2.5 billion in U.S. agricultural exports annually by the end of the transition period because of the NAFTA." ("Effects of the North American Free Trade Agreement on U.S. Agricultural Commodities," U.S. Department of Agriculture, March 1993.)"

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Perot (p. 10): "NAFTA * * * exempts Mexico from the U.S. Meat Import Act, which limits the amount of imported beef that can enter U.S. markets. At the same time, the agreement will give Mexico unrestricted access to U.S. and Canadian feed grains, which it needs to develop a large scale cattle-feeding and beef-processing industry. The result will be a massive shift of the U.S. beef industry from the United States to Mexico as investors rush to take advantage of cheap wages, low safety standards, and lax sanitation practices."

USTR: "This statement completely misrepresents the benefits of NAFTA for U.S. beef producers. The American beef industry is one of the biggest winners of all under the NAFTA. Mexican tariffs of 15 percent on live cattle, 20 percent on fresh beef, and 25 percent on frozen beef will immediately be eliminated under the NAFTA. As a result, U.S. beef exports to Mexico are expected to double under the NAFTA. That is why U.S. cattlemen are among the strongest supporters of this Agreement.

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Perot (p. 12): "The eventual elimination of Mexican tariffs on U.S. goods going to Mexico, which average only about ten percent, will mean little to most U.S. companies and workers. The reason is simple: Mexico's market is small—less than five percent of the size of the U.S. market—and Mexican consumers are poor."

USTR: "The Perot book's dismissal of Mexico as an important market shows a lack of understanding of international trade. While Mexico is currently a small economy, it is a big market for U.S. exports. It is our third largest—and fastest growing—major export market, after Canada and Japan. Mexican per capita imports from the U.S. total $450 per year, more than that of Japan or Europe, even though Mexico's per capita income is far lower.

"The book is also wrong in minimizing the importance of Mexico's current trade barriers. The fact is that Mexican tariffs are 2.5 times as high as U.S. tariffs, and Mexico also relies on non-tariff barriers to restrict U.S. access to their markets. NAFTA will level the playing field."

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Perot (p. 18): "Under the 1974 Trade Act, Congress directed the Office of the U.S. Trade Representative to seek advice and counsel from private advisory panels during any treaty negotiations, including NAFTA. For the most part, it never happened."

USTR: "Totally untrue. The U.S. Trade Representative consulted with its 39 advisory committees and other members of the private sector to the fullest extent. During the NAFTA negotiating process, NAFTA negotiators held over 350 meetings with private sector advisory committees, and an additional 350 briefings for trade associations and private sector organizations throughout the country. Each of the advisory committees later wrote reports on the final agreement reflecting their extensive knowledge of the agreement."

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Perot (p. 20): "After the trade pact was completed, one of the U.S. negotiators explained to an audience of federal regulators that although changes in most domestic regulations normally require notice and public comment, secret trade negotiations (such as NAFTA) could alter these same regulations without the need for notice and public comment. The negotiator said, 'I have seen specific instances where USTR staff denied copies of U.S. negotiating positions which would require overturning Federal regulations from the staff of the agency issuing those regulations.'"

USTR: "False. This is another quote from a paper later repudiated by its author. As noted in the Department of Commerce's retraction: 'Contrary to the assertion in the [paper], the NAFTA is not a treaty that is self-executing and it will not automatically supersede any Federal laws or regulations. Rather, the NAFTA is an executive agreement that will supersede existing laws only to the extent provided by the Congress in implementing legislation.'

"Congress has the final say as to whether to change our laws. NAFTA doesn't change that."

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Perot (p. 23): "Only a handful of people * * * know what is actually in the agreement * * *"

USTR: "NAFTA is the most broadly received trade agreement in history. It has been publicly available for a year, and has been the subject of numerous economic studies (almost all of which are positive). This statement is irresponsible in implying that NAFTA has somehow been kept a secret."

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Perot (pp. 28–29): "NAFTA will accelerate the loss of manufacturing jobs in the United States."

USTR: "False. U.S. exports of manufactures to Mexico have grown rapidly since Mexico lowered its trade barriers after 1986, and are projected to grow more under NAFTA. This has actually added more than 400,000 new jobs to the American economy.

"* * * NAFTA will create the largest market in the world. By increasing our export opportunities, NAFTA will enable us to take advantage of U.S. economic strengths, which include high-wage, high-tech manufacturing, and to increase further the number of jobs associated with exports to Mexico."

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Perot (p. 31): "Mexico provides automakers an easy escape hatch from the high cost of operating in the United States, and they are taking advantage of it."

USTR: "False NAFTA immediately reduces and eliminates Mexican local content and local production requirements that have encouraged U.S. automobile and parts manufacturers to move production, and jobs, to Mexico. with NAFTA, the United States will be able to export automobiles and parts to Mexico, the fastest growing market for these products in North America. NAFTA reduces and eliminates Mexican trade balancing rules that require the export of automotive products produced in Mexico to the United States in order to import parts needed for assembly to serve the Mexican market.

"In other words, NAFTA phases out to current Mexican measures which force investment in Mexico and exports from Mexico in order for a company to sell in Mexico.

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Perot (p. 79): "NAFTA Chapter Three tariff provisions will quickly open the U.S. market to goods shipped from Mexico."

USTR: "Fifty percent of goods entering the United States from Mexico currently enter free of duty, and have been doing so for years. Chapter Three merely codifies current treatment for such products.

"For those tariffs that have not been reduced previously, NAFTA provides sufficient time (up to 15 years for some highly import-sensitive goods) for U.S. industries to adjust to the elimination of those tariffs."

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Perot (p. 80): "U.S. textile manufacturers are disadvantaged by the NAFTA."

USTR: "U.S. exports to Mexico of textiles, fibers and apparel have grown 25 percent on average each year since 1986, reaching $1.5 billion in 1992, and creating a trade surplus in the sector of $81 million, in spite of Mexico's current 10–20 percent tariffs. NAFTA will continue and accelerate this export growth because it will phase out remaining tariffs and barriers to trade in this sector."

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Perot (p. 97): "Mexico, Canada, and the United States also agreed to form a new trade bureaucracy that would assist in the administration of NAFTA. This is just what the U.S. taxpayers need—another international agency to support."

USTR: "The NAFTA won't require a new, costly 'international agency.' Nothing of the sort has been required under nearly identical provisions of the U.S.-Canada FTA. What the NAFTA will provide is a comprehensive forum for the countries involved to consult on and resolve trade and investment issues before they turn into costly disputes that could threaten U.S. jobs."

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Perot (p. 102): "Any trade agreement that can't stand full public scrutiny by Congress before, during, and after the negotiations is not worth having."

USTR: "It is not possible to negotiate in public, but it is absolutely true that any trade agreement must be able to stand full scrutiny by Congress and the public. NAFTA has been, and will be, the subject of exhaustive public discussion and Congressional debate. * * *

"The upcoming debate over NAFTA this fall promises to be one of the most intensive in memory. Congress will pass the implementing legislation for NAFTA only after fully satisfying itself that the agreement is in the national interest. The Administration believes that it can and will make that case, but there is surely no danger of any rush to judgment."

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Perot (p. 102): "The first action that is required of Congress is to reject NAFTA. Congress' second action should be to reauthorize the president to negotiate a win-win trade deal with Mexico."

USTR: "Virtually every serious study done has shown that the NAFTA, strengthened by the supplemental agreements recently completed, is a 'win-win trade deal with Mexico.' But if this agreement, negotiated by a Republican president and supplemented by a Democratic president, is rejected, there should be no illusions that the U.S. and Mexico will be back at the table, negotiating some better deal. There will be no further negotiations; trade relations between the countries will be set back significantly, for years to come."

WHAT NAFTA MEANS FOR MISSISSIPPI EXPORTS

Mississippi exports to Mexico and Canada—$494 million in 1991.

JOBS

Mississippi jobs supported by manufactured exports to Mexico and Canada—15,000.

Mississippi industries: NAFTA market openings benefit vital Mississippi industries: lumber, furniture, stone, clay and glass, electronics, computers, transportation equipment, paper products, food products. To highlight just a few that will gain from NAFTA:

Electric and electronic equipment, a leading Mississippi export, will benefit from improved access to the Mexican and Canadian markets under NAFTA. Sales in this industry to Mexico and Canada have nearly doubled in the last three years. U.S. exports to Mexico grew from $3.2 billion in 1987 to nearly $6 billion in 1991, while exports to Canada reached $10.1 billion. Government procurement provisions, incorporated into NAFTA, will create opportunities for U.S. manufacturers to sell under open and transparent bidding to Mexico's public sector, including government-owned enterprises such as PEMEX and the Comision Federal de Electricidad, which comprise the largest share of this market in Mexico. Elimination of Mexican tariffs that are as high as 20%, more open government procurement, greater uniformity in product standards, and stronger intellectual property protection will help Mississippi firms increase their market share. Today, 57,000 U.S. jobs, many in Mississippi, are supported by exports of electric and electronic machinery to Mexico alone.

Lumber and wood products exports from Mississippi, are likely to show strong export growth under NAFTA, because it eliminates the red tape of import permits, user fees, and other non-tariff barriers that restrict the movement of U.S. forest product exports to Canada and Mexico. NAFTA provides strong rules of origin that will ensure that these products contain substantial North American content. NAFTA also eliminates tariffs ranging from 10 to 20%, creating opportunities to exceed the approximately $1.4 billion of lumber and forestry products that the U.S. exported to Canada and Mexico in 1991.

Furniture and fixtures, a major Mississippi export, will benefit from increased access to markets with major potential. U.S. exports of furniture alone to Mexico increased over 65 percent in 1991, reaching $553 million. Exports have continued to increase rapidly—over 35 percent—in the first quarter of 1992. Mississippi furniture manufacturers will have greater appeal to Mexican consumers as Mexican tariffs of 10–20% are eliminated. Canadian tariffs on American furniture will be eliminated January 1993. Government procurement provisions incorporated into NAFTA will open this market to competitive, transparent bidding by U.S. manufacturers for sales to Mexico's public sector, including government-owned enterprises such as PEMEX and the Comision Federal de Electricidad, which comprise a sizable share of the market.

Mississippi's Paper industry will enjoy increased access to the Mexican paper market when tariffs of 10–20% and import barriers are removed. In addition, government procurement provisions incorporated into NAFTA will open this market to competitive, transparent bidding by U.S. firms for sales to Mexico's public sector, including government-owned enterprises. Mexico is the U.S.' third leading paper export market, following Canada and Japan, even with its comparatively high duties. U.S. exports of paper products to Mexico expanded from $574 million to almost $1.1 billion between 1987 and 1991.

Food products, a leading North American export of Mississippi, will build on their recent export gains (ranging from a 34% increase in U.S. exports of alcoholic beverages to Mexico, to a 271% increase in U.S. exports of bakery products to Mexico between 1990–91) due to reductions in tariffs and other barriers. As Mexican tariffs on food products drop to zero and import licenses disappear, the 6,000 jobs which U.S. food exports to Mexico support, will continue to increase. Removal of Canadian tariffs on U.S. foodstuffs will reach the midpoint by 1993 and zero by 1998, which should boost U.S. exports of food products above the $3.3 billion worth exported in 1991. The NAFTA also obligates Canada and Mexico to recognize and protect bourbon and Tennessee whiskey as distinctive products, with immediate elimination of tariffs on these products into Canada and Mexico. Most other alcoholic beverage tariffs will be phased out over five years.

Stone, clay, glass, and concrete products, a leading export of Mississippi to Mexico, will be more competitive in Mexico as tariffs ranging from 10 percent to 20 percent are eliminated. U.S. exports to Mexico of these products grew from $199 million to $383 million between 1989 and 1991. Exports of household glass should benefit particularly. As Canadian tariffs reach zero on stone, clay, glass and concrete products exports (most by 1993), the U.S. share of the Canadian market should grow from the approximately $1.3 billion of exports shipped in 1991.

Services are an important employer in Mississippi—mostly in health and business services. This sector will gain from unprecedented export opportunities through NAFTA. Restrictions on the cross-border provision of most services will be removed. Liberalization of the telecommunications and land transport sectors will enhance access for all service providers through cheaper communications and transport costs. NAFTA enables firms to provide services in Canada or Mexico without forcing them to establish there, and makes it easier for sales representatives, agents, market researchers, investors, intracompany transferees, after sales service providers (a vital element of success for business services), and professionals (provided they meet the country's licensing criteria) to move between the three countries to provide their services.

Mississippi agriculture has the potential for large gains under a NAFTA. In 1990, agricultural production in Mississippi generated $2.4 billion in farm cash receipts. Cotton, broilers, cattle and calves, soybeans, aquaculture are Mississippi's leading commodities. Exports are expected to increase for most of these commodities.

Last year, U.S. exports to Mexico of cotton were $49 million, poultry $131 million, beef and veal $185 million, and soybeans $343 million. U.S. cotton exports to Mexico will likely increase as income growth increases Mexican textile and apparel demand. The removal of tariffs and licensing requirements and the reduction of feed costs in Mexico will allow U.S. poultry exports to Mexico to increase slightly. Under NAFTA, U.S. cattle exports, currently small, will likely grow to over 1 million head per year. U.S. soybean exports to Mexico by the end of the transition period are expected to double, with a net gain of approximately $75 million, annually above non-NAFTA levels.

NAFTA IS GOOD FOR THE APPAREL INDUSTRY IN ARKANSAS

Mr. PRYOR. Madam President, I recently received a letter from America's largest apparel manufacturer supporting the North American Free-Trade Agreement [NAFTA].

In his letter, Levi Strauss president and CEO Thomas W. Tusher makes a strong appeal to reject protectionism in exchange for a forward looking trade policy.

I was particularly impressed by Mr. Tusher's letter because he is a veteran in trade with Mexico. In fact, Levi Strauss sells more than 3.4 million apparel products a year in Mexico and, as he points out, 90 percent of these products are produced in the United States by 25,000 American employees.

Madam President, many of those Levi Strauss employees work in Arkansas and, I daresay, the Arkansas employees are widely known as among the most productive and efficient employees in that company and in the apparel industry.

Mr. Tusher's letter makes a strong case for NAFTA and should be reassuring to workers who have been told by misleading commercials that their jobs may be shipped to Mexico due to NAFTA. The message is that NAFTA will help, not hurt, the workers at Levi Strauss in the United States.

Madam President, I ask unanimous consent that Mr. Tusher's letter be printed in the RECORD following my statement.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

LEVI'S,
November 12, 1993.

Hon. DAVID PRYOR,
U.S. Senate, Washington, DC.

DEAR SENATOR PRYOR: On behalf of Levi Strauss & Co., the largest apparel manufacturer in the United States, I am writing to urge your support for the North American Free Trade Agreement (NAFTA).

As a global corporation with affiliates in numerous countries, Levi Strauss & Co. employs 25,000 workers in the United States. Our affiliate in Mexico sells more than 3.4 million apparel products a year there and over 90 percent of those products are manufactured in the United States. If NAFTA fails to pass and Mexico reverts to its earlier, more protectionist practices, these exports and the U.S.-based jobs that produce them could be in jeopardy.

As a major employer and exporter in your state, we believe enactment of NAFTA will enhance economic growth.

A ratified NAFTA can:

Encourage more Levi Strauss & Co. exports by reducing the high cost of Mexican tariffs, making our American-made products more affordable in Mexico, boosting demand, and providing an edge over European and Asian competitors:

Prevent foreign apparel manufacturers from using Mexico as a platform for exports into the United States due to NAFTA's strict rules of origin that prohibit the use of non-North American denim;

Save Levi Strauss & Co. as much as $14 million in tariff reductions in 1994 alone;

Increase Levi Strauss & Co.'s flexibility to achieve long-term efficiencies in our U.S. manufacturing and North American retail outlets; and

Set an historic trade precedent by including specific environmental and labor standards—standards that Levi Strauss & Co. already practices around the world.

Our company's decision to support NAFTA is the result of careful consideration of the agreement and our commitment to responsible commercial success. Based upon our review of NAFTA's trade provisions, "side" accords on environmental and labor standards, specific protections against textile and apparel import surges, and worker retraining assistance, we believe the North American Free Trade Agreement is in the best interest of our company and our country.

We urge you to support NAFTA's implementing legislation and provide Levi Strauss & Co. with the tools to remain competitive.

Sincerely,

THOMAS W. TUSHER,
President and Chief Operating Officer.

Mr. FEINGOLD. Madam President, I rise to oppose the North American Free-Trade Agreement.

This has been a difficult issue for me as many individuals whom I deeply respect have urged me to support this agreement. They argue that this agreement will provide many opportunities for industries, especially Wisconsin-based industries, that would not otherwise exist.

Others make the classic arguments that have been set out in every freshman economics text since Adam Smith's "Wealth of Nations" was published in our Nation's birth year of 1776. Free trade, the argue, will benefit all as each economy moves toward doing what it does best and overall economic efficiency is enhanced.

But many others have urged, passionately, that I oppose the measure. They have seen the significant migration south of many of our basic manufacturing jobs over the past 30 years, and more recently, have seen many jobs leave Wisconsin and go to Mexico. For them, NAFTA will only serve to further accelerate this migration, and any theoretical benefits that would result from free trade would do little to soften the economic blow to their livelihood.

Madam President, much of what has been said on each side of this argument has merit. Some of the statements made on each side are grossly exaggerated, and misrepresent what is likely to happen, and to that end, this debate has done a disservice to the American people.

In the end, just as everyone else in this body has done, I have had to weigh the costs and benefits of this agreement as I see them.

I would support a free-trade agreement, even one which produces some economic dislocation, if I thought the benefits outweighed the costs, and if the agreement was fundamentally balanced.

I will vote against this agreement because it fails both of those tests.

This agreement effectively creates a 51st State, with a population approaching 100 million. This State will have many of the legal protections for capital and intellectual property that exist in the other 50 states. But, it will have no effective minimum wage, there will be no real right to form a union, no real right to collectively bargain, and no real right to strike.

This 51st State will be an industrial robber baron's dream come true. It will be as if the Wagner Act of 1935 and the Fair Labor Standards Act of 1938 never happened.

For those who doubt the attitude this State has toward workers, they need only recall an incident that occurred in 1987. An automobile manufacturer in Mexico renounced its union contract, discharged 2,000 employees, and imposed a new union contract with reduced wages—a 45 percent pay cut. Workers who protested in support of dissident union leadership were shot by gunmen hired by the official, government controlled union, and 1,000 state police occupied the plant to enforce the new contract.

And this attitude is not isolated. In their 1992 review of the State Department's Report on Human Rights, the Lawyers Committee for Human Rights disclosed that there were over 400 reported cases of torture as well as other forms of institutionalized violence by security forces.

Madam President, that review also faulted the Bush State Department for attempting to minimize and hide human rights abuses in Mexico in an effort to promote the agreement we are debating today. And during this debate, others have joined in the effort to quiet those who would raise questions about the human rights record of the current regime in Mexico. My colleague from Minnesota [Mr. WELLSTONE] was criticized on the floor yesterday for daring to raise this matter in the context of a free-trade agreement.

There is no better forum to insist on specific commitments to improve human and worker rights than a free-trade agreement. That is the philosophy behind Jackson-Vanik. I believe it made a real difference in the lives of hundreds of thousands of Soviet Jews. It is the reason many of us are insisting that China improve their record before granting most favored nation status.

Instead, we are asked to believe to take on faith that enhanced trade will improve the lot of Mexican workers.

We are told that, over time, this 51st State's economy will grow, that the workers will benefit from that growth, will increase their purchases of goods from the other 50 States, which, in turn, will create more jobs. Supporters of NAFTA essentially are arguing for a policy of constructive engagement as an instrument to increase Mexican consumer income.

Madam President, allow me to express some skepticism that, given the horrendous human and worker rights record of Mexico, we will see significant growth in the disposable income of Mexican workers.

Even in an environment which is much more friendly to labor, we have seen that an increase in national productivity does not necessarily translate into an increase in disposable income. We need look no further than our own country's experience of the past 12 years, where our productivity increased while family income dropped.

To ensure that workers and consumers enjoy the fruits of their productivity takes a government policy that is affirmatively dedicated to that end—hardly the labor policies of Mexico over the past decade.

This environment of artificially low wages has already proven inviting to many American businesses, and we have lost thousands of jobs to Mexico because of it. Nothing in NAFTA promises any change to this situation.

Far from it.

The critical protections that are absent for labor, are detailed and substantial for those making capital investments, owners of intellectual property, and providers of financial services. Given the administration that negotiated the underlying agreement, this should not be surprising. It is consistent with the trickle down approach to economic growth evident for the past 12 years, a theory that has been thoroughly discredited in practice, but still has political appeal.

Madam President, this agreement isn't just about free trade. If we just wanted to eliminate all the tariffs between our countries over a few years, we could agree to eliminate tariff and non-tariff barriers over time in an agreement only two pages long.

But this agreement is so massive its almost bullet proof.

The great bulk of the agreement is taken up by the detailed protections for owners of property that I just mentioned, but not one word ensuring workers will benefit as well.

Madam President, this agreement is not balanced.

At the same time the benefits of this agreement have been exaggerated, while its costs have been diminished.

There are many instances of this distortion. Let me look at one that is close to home for me.

Proponents of this agreement have always pointed to agriculture as one of the potential big winners under NAFTA. As a native of the dairy State, such a claim has special interest for me. Proponents point to the potential market of nearly 100 million Mexicans that will be able to buy Wisconsin dairy products.

Careful examination, however, reveals a different story.

A study done at the University of Wisconsin estimates that NAFTA will, at best, increase farm revenue by one-tenth of one percent for dairy farmers. That figure is achieved only if one assumes strict and absolute enforcement of the so-called rules of origin, and further assumes that there will be no increase in Mexican exports of dairy products to the United States—both extremely unlikely events.

Madam President, a one-tenth of one percent increase in income in an industry that is purported to be one of the big winners under NAFTA, and achieved only under fairy tale conditions is a gloomy endorsement of the agreement.

While the benefits of dubious, for Wisconsin at least, the costs of all too evident. We have seen jobs, high paying manufacturing jobs, move from Wisconsin to Mexico in recent years. One company, Briggs and Stratton, has moved jobs from Wisconsin to its Juarez plant since 1988, shifting another 240 jobs there just a few weeks ago. When the move to Juarez is complete, the Briggs and Stratton plant there will actually employ more people than the plan in Glendale, WI, plant.

The reason for this move, and for the other jobs Wisconsin as lost to Mexico, is simple. The average wage for Briggs workers in the Milwaukee area is about $15 per hour, and as the head of the local union noted, Wisconsin workers just cannot compete with wages of $1 dollar an hour and the lack of health, safety, and environmental standards.

And this job loss has come without the massive protections for capital investment and intellectual property. Can anyone doubt that it will be even more attractive for some businesses to move to our new 51st State?

One national study suggests that in Wisconsin alone, there are 178,000 jobs that will be at risk because of NAFTA. Maybe that study is wrong. Maybe it is off by half, maybe only 90,000 Wisconsin jobs will be at risk because of NAFTA.

Madam President, for Wisconsin at least, the potential costs far outweigh the potential benefits.

Beyond the basic economic concerns that many have raised, there is another area that has not received a great deal of attention, but which I want to highlight—the erosion of our democratic institutions under NAFTA.

To be sure, this agreement is only part of a larger trend of sacrificing democratic institutions for so-called economic efficiency. But this agreement accelerates that process needlessly.

Under NAFTA, we are asked to replace the judgment of our people as reflected in the laws and standards set forth by their elected representives with rules written by organizations dominated by multi-national corporations.

The agreement itself is deliberately deceptive on this point. It purports to assure us that we can continue to set our own food, environmental, and safety standards. But upon closer examination, one discovers that any of our standards that do not conform to NAFTA approved standards are subject to potential challenge. In the end, NAFTA forces us to choose between our own standards and remaining as a party to the agreement.

Given the massive economic and political power lined up in favor of this agreement, it is unlikely that once implemented, we will ever withdraw from NAFTA.

We could have had an agreement that would have brought Mexican workers income up to the levels their high productivity justifies, lessening the risk of runaway plants and making them better consumers of American products. We could have had an agreement that would ensure that the benefits of free trade were equitable distributed to everyone. We could have had an agreement that established landmark environmental guidelines as a model for future-trade agreements. We could have had an agreement that would have included sufficient retaining money to minimize the dislocation that is inevitable in any free-trade agreement.

The tragedy, Madam President, is that we could have had a trade agreement that laid the groundwork for a market-based economy that would bring all of the New World into the 21st century.

This NAFTA does not do that, and I will vote against it.

Mr. ROCKEFELLER. Madam President, I will vote against the North American Free-Trade Agreement. Coming to this decision has not been an easy process. The rhetoric about NAFTA from all sides has been hot and often full of exaggeration.

In trying to sort through the arguments, my focus has been on West Virginia. For almost 30 years I have worked to bring more jobs to West Virginia and to hang on to the ones we have. This has not been an easy task. Although our unemployment rate is half what it was 10 years ago in the depths of recession, until only a few months ago it was still the highest in the country, as it has been for the past 4 years.

One of the reasons for the lack of jobs has been the lack of diversity in our economy. The fact is we are over dependent on a few large industries—chemicals, steel, coal—industries that have employed thousands of our people, but now find themselves more vulnerable than most to international competition. And, too many of our workers are at the mercy of corporate headquarters, which are generally located somewhere else.

Our people and communities feel like they are on economic thin ice. They wonder how we can take the risk of free trade with Mexico, before taking the steps to turn the ice into firm ground.

It is a risk that I have concluded we should not take right now. We should not have to risk any more jobs or lose any more plants. Instead it is time to first shore up the jobs and economy of States like West Virginia and take the steps needed to be competitive with other countries.

Consequently, I will vote against NAFTA. I believe this decision reflects the views of most West Virginians and the expectation that this Nation's No. 1 priority should be the economic security of our people.

At the same time, I want to acknowledge the hard work of the President and his team on behalf of this agreement. Ambassador Kantor, Ambassador Yerxa, and their general counsel and my friend, Ira Shapiro, have been extraordinarily diligent and thorough in trying to fashion the best agreement possible and subsequently in trying to address the detailed concerns of many of us in the Congress, including myself.

I also appreciate the President's reason for promoting NAFTA. As he says, NAFTA points us toward our inevitable future. Economic integration with Canada and Mexico is going to occur, and eventually must occur for our region to be competitive with other blocs in Asia and Europe. The economic seams between the United States, Canada, and Mexico are already disappearing, and bringing painful change to all our economies. In Canada, the United States—Canada Free-Trade Agreement has meant numerous plant closings as companies consolidate their production in the United States. Here hemispheric integration has meant the ongoing movement of jobs and investment south to Mexico, initially in the maguiladora plants and now more broadly.

While we have improved productivity dramatically, we have done it at the cost of thousands of jobs. For 12 years we have labored under an administration that encouraged companies to think that the best way to improve productivity was to lower labor costs, either by reducing the work force or paying workers less. While labor costs can be a relatively small part of a manufacturer's total costs, they are often a large part of his controllable costs. The movement of manufacturing facilities outside our borders—not just to Mexico but a host of countries—has been an important reflection of that.

Between 1987 and 1991, 5.6 million Americans became displaced workers. When surveyed last year, only 27 percent of them had full-time jobs as good or better than the ones they lost. Equally important, 35 percent of those displaced workers were in manufacturing. The output of those that remain has increased, which makes us more efficient and internationally competitive, but it is our growing inability to create new jobs for the displaced that destroyed George Bush in the 1992 election and will threaten Bill Clinton 3 years from now if he cannot solve it.

As I said, NAFTA is not responsible for this continued high unemployment and the erosion of our manufacturing base, but I have concluded that NAFTA is far more likely to accelerate those trends in the short term than it is to reverse them, and we are simply not prepared to deal with that development.

NAFTA will not do that solely because of lower wages or weaker enforcement of health, safety, or environmental laws, as some have argued. To the extent those are factors in the marketplace, they are present now. What

NAFTA brings to the table is certainty for investors and corporate planners. Certainty of policy and law in Mexico. Certainty against arbitrary actions like expropriation. And certainty of a dispute settlement mechanism that takes key issues out of the Mexican judicial system and into a bilateral process where the U.S. has a role. In other words, NAFTA represents a green light for those contemplating investment in Mexico, which will be good for the Mexicans and good for those companies and their shareholders, but it is unlikely to be good for the people of West Virginia.

As I indicated, the relatively narrow breadth of our State's economy already provides limited opportunities for growth, and it does not appear that those opportunities are likely to be found in Mexico, which has historically been one of West Virginia's minor trading partners. In 1992, only 2.6 percent of our exports went to Mexico. That puts Mexico 12th on our list of export markets.

Indeed, industries like chinaware and glassware, which are labor intensive and where the technology is stable and well known, will face serious difficulties from Mexican competition. There is little doubt about that—virtually all studies that have examined specific sectors have come to that conclusion. Steel may be in that position as well, though that is more difficult to predict.

Our biggest employer, chemicals, supports NAFTA and makes a good case it will lead to increased exports to Mexico. At the same time, it is a capital-intensive, highly mechanized industry, and it is much harder to demonstrate that the increased exports that will occur will lead to more jobs in West Virginia.

I could go on, but the pattern is the same. Some industries will lose jobs; others will gain exports, but not necessarily jobs. That is not to say there are no American winners in the NAFTA. No doubt there are—but they will be hard to find in West Virginia.

The biggest NAFTA winners will be the large companies and banks that successfully invest in Mexico. Such investment in the short run will mean increased exports there, as we ship capital equipment to Mexico to establish or expand manufacturing facilities. In the long run, it will mean more imports back into the United States.

Clyde Prestowitz of the Economic Strategy Institute suggested several weeks ago in an article in the Washington Post that one way to enhance NAFTA's prospects is for the likely beneficiaries to commit themselves to narrowing the socioeconomic gap between Mexico and the United States. Paying higher wages in Mexico, promising to reassign and retrain displaced workers here, and maintaining a company trade surplus with Mexico would not only, as Prestowitz says, "go a long way to calm the fear of losing more American's jobs," it would more rapidly erode the differences between our economies and put them on a more equal footing.

This suggests that those of us worried about the green light of NAFTA should not simply support a red light instead. Our interest is not in blocking economic integration, which, as I said, is going to occur anyway; it is in making sure that our economy is prepared for that integration so that it can go forward with minimal dislocation. A yellow light, perhaps.

An analogy that both sides in this debate have used is the accession of Portugal and Spain into the European Community, beginning in 1985. Proponents of NAFTA argue that the relatively smooth accession of two poor countries with much lower per capita incomes into the EC shows that integration between very different economies can succeed. Opponents point out, however, that the terms of accession were very different than what has been negotiated in the NAFTA. The EC resisted integration until both Spain and Portugal had removed authoritarian regimes and restored democracy and human rights; it provided for significant transfers of resources to the two new members to bring their economies more into line with the rest of the community; and it included protections for the dislocations that would occur in both the old and new members. In other words, economic integration between poor and rich partners can succeed—if the foundation is carefully prepared and the progress closely monitored.

Prestowitz' proposals are examples of what we need to do before exposing American workers to the full impact of a NAFTA. That is, timing is an important factor. We need to prepare our own economy—and our workers—for the change a NAFTA will cause before we simply allow the light to turn green.

Some of that preparation is defensive—commitments by American companies to pursue better living and working standards in Mexico, and actions by our Government to provide effective job search assistance, job retraining, and economic support while it is going on. In fact, I should note the aggressive role played by some of us on the Senate Finance Committee in pressing for the development of an effective and funded dislocated worker plan that will apply specifically to NAFTA. My objective in participating in this part of the process was very clear. If and when NAFTA causes workers in West Virginia and other States to lose their jobs, I want to see our Government have the commitment and ability to reach out quickly with support that will help them get reemployed. These are people who want to work, play by the rules, and raise their families. We need them to be productive members of the workforce.

But that is clearly not enough. The classic worker response to proposals for dislocated worker assistance is, "retraining for what?" And they have a point. If there are no jobs, retraining is not only useless, it's a fraud on the workers.

So our pre-NAFTA focus must also be on job creation, specifically high-skill, high-wage job creation. We are not good at that. Neither is anybody else, but that is small consolation to the laid-off worker. I believe that history will show we missed a golden opportunity to do something about job creation last spring when Congress rejected the President's stimulus program. Much of the debate at that time was on its short-term aspects, like more summer jobs and more police. Relatively unnoticed in the debate was the substantial package of support for critical technology research, development, and commercialization.

We have recaptured some of the R&D money, but commercialization—turning good ideas into marketable products—is where the jobs are. It is also where our competitive future must be, for it is manufacturing that generates not only jobs but profits to fund research and development of new generations of technology and products. We may lead the world in research, but ultimately if we don't make anything, we won't be inventing anything, and we won't be finding good jobs for our workers.

S. 4, the National Competitiveness Act, which I have been working hard to bring to the Senate floor, also addresses commercialization, and we need to get that bill enacted. Several weeks ago I appeared on a panel with Bo Cutter, Deputy Director of the National Economic Council, and listened to him lament the fact that both the Government and the American people seem incapable of dealing with both deficit reduction and a shift in spending priorities at the same time. That is tragically true. The private sector knows the difference between an operating budget and a capital budget for investment. We should make the same distinction and invest in areas that will produce economic growth. Instead, an opportunity was missed to refocus the Government's energy on high-wage, high-skill job creation.

That missed opportunity makes it more difficult to support NAFTA, because when the question is asked, "What are we doing about those who will lose their jobs due to NAFTA," the Government has no good answer. And make no mistake about it, there will be job losses. Most studies suggest there will also be gains, and most of the debate has been over where the gains and losses net out. The more important issue is what we do about the losses. And, since many of those losses are likely to be in West Virginia, I cannot support NAFTA.

Finally, I would also suggest the debate over NAFTA needs to be placed in a larger context. The same forces that have opposed NAFTA will oppose the Uruguay round and any other trade liberalization initiative we take in the near future. It is too easy simply to say that this is a problem of communication. The old "if we get our story out, everyone will agree with us" approach.

In fact, what we have witnessed in the NAFTA debate is not so much a failure of communication as a failure to address the underlying concerns. Those concerns focus on what NAFTA or any other trade liberalization initiative means for jobs because of its implications for investment and production outsourcing. NAFTA will be good for our highly skilled workers in competitive industries, but it poses only additional threats for the 60 percent of our work force that does not fit that definition. It is easy for economists and journalists—who have never lost a job to a trade agreement—to argue cavalierly that our economy is changing and those low skill jobs are disappearing anyway, but that does not free us from the responsibility of dealing with the victims.

As politicians, we see the pain those changes cause and know from firsthand experience that while the jobs may disappear, the people do not. They stay—and they vote, as they should. Congress recognized this 30 years ago and struck a deal with labor that they would acquiesce in open trade policies, and the Government would provide training and income support for workers who lost their jobs as a result. That became the Trade Adjustment Assistance Program.

Today's dynamic is the same—only worse. The potential victims of our trade policy are more numerous, the job alternatives fewer, and our training programs have hardly changed at all—yet. We just heard President Clinton promise to take the next steps including the reform of worker adjustment programs.

I want to make clear that I am not making an argument against trade liberalization. I am suggesting it is time to renew and update our vows of 30 years ago. Trade liberalization inevitably takes place in a political context that perceives its consequences in much more immediate terms than our media and economic elites. We can pursue it successfully only if we are also tackling the very real losses that it causes—by preventing the losses, not just assisting the victims.

Simply put, we cannot get away with trade liberalization just because it helps the part of our population that is already doing well. We must convince our workers, their families, and their communities that it is part of a larger set of policies that addresses all of our—and their—economic needs.

The President will win this NAFTA debate, but it is only the first battle, not the war. If we are to pursue our historic, forward-looking policy of trade liberalization, then we must do a better job of showing—not simply telling—our people that our Government is committed to creating new jobs not just through trade policy but, if necessary, in spite of it.

BRADY HANDGUN VIOLENCE PREVENTION ACT

The PRESIDING OFFICER. The hour of 11 p.m. having arrived, the Senate will now resume consideration of S. 414, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 414) to amend title 18, United States Code, to require a waiting period before the purchase of a handgun.

The Senate resumed consideration of the bill.

Mr. KENNEDY. Madam President, I strongly support the Brady bill, and I urge its speedy enactment. The Senate should invoke cloture immediately and get this law on the books.

We face an epidemic of violence in this country, and it is fueled by the promiscuous availability of firearms. The statistics are shocking:

Every year, more than 24,000 Americans are killed with handguns.

Over half a million violent crimes are committed each year by individuals armed with handguns.

Every 2 minutes, a handgun causes an injury.

Over $1 billion a year is spent on medical treatment for gunshot wounds, and over $14 billion is lost each year in medical costs and lost productivity.

Behind each statistic is a human tragedy. A young child killed or maimed as a bystander in a schoolyard dispute. A mother shot dead as she drives home from work. A shopkeeper struck down in an armed robbery. Congress' failure to act in the face of this carnage is inexcusable.

Perhaps the most horrifying aspect of gun-related violence is its impact on children. Firearms are the second leading cause of death for the young, second only to automobile crashes. Every day in America, 12 children are killed with guns. In 1988, for the first time, the firearm death rate for teenagers exceeded the death rate from natural causes. And this trend has continued. In 1990, there were nearly 40 percent more deaths by firearms among 15- to 19-year-olds than from natural causes.

Firearms kill more teenagers than cancer, heart disease, and all other natural causes combined. Among young people 15 to 24 years old, one in four deaths are by firearms. The statistics among black teenage males are even more shocking; 3 out of 5 deaths in this age group—60 percent—result from a firearm injury.

A recent article in the Washington Post describes very young children in this city planning their own funerals. One 11-year-old girl named Jessica dreams of being buried in her junior prom dress. Children deserve a chance to dream about the future, not about their funerals.

Increasingly, young people are not only the victims of such violence—they are also the perpetrators. The FBI reports that the past decade has seen an unprecedented level of juvenile violence. Homicide arrest rates for teenage boys more than doubled between 1985 and 1991, and nearly 75 percent of these juvenile murder offenders used guns, primarily handguns, for their crimes.

At the heart of the problem is the ease with which teenagers and young adults can acquire handguns. The Brady bill will reduce handgun violence in two important ways.

First, it will stop thousands of illegal handgun purchases by providing law enforcement with a window of opportunity to conduct background checks on would-be purchasers. This step will help keep guns out of the hands of felons, minors, those with a history of mental illness, and others who should not possess these lethal weapons.

It will also reduce the number of shootings by providing a cooling off period for potential purchasers who are inclined to commit violent acts in the heat of the moment.

Support for responsible steps on gun control is overwhelming. Every major law enforcement organization in the country urges us to pass this bill. Eighty-five percent of the American people want this bill. At their recent crime summit, the big-city mayors asked us to pass this bill and then move on to additional gun restrictions.

The current Surgeon General, Dr. Joycelyn Elders, and her two immediate predecessors, C. Everett Koop and Antonia Novello, have each urged Americans to recognize gun violence as a critical public health issue.

It is not enough to impose tough sentences on those who commit crimes with these weapons. All of us who favor this bill also support tough punishment for violent criminals. But we know that punishment alone is not a sufficient answer to the handgun crisis. This bill can help prevent violent crime before it occurs. It will save lives and restore some measure of sanity to the debate on crime.

The tide is turning against the National Rifle Association. Assault weapons bans have prevailed in Connecticut and New Jersey. Virginia has enacted a limit of one gun a month.

California has a waiting period that is a precursor of the legislation we are debating today. In fact the worst thing we could do is use this worthy bill as a vehicle to preempt State laws that go further to restrict access to handguns. I am pleased we adopted the Mitchell amendment to strike preemption from the bill.

I regret that the Senate rejected the Metzenbaum amendment to strike the sunset provision from the bill. There is no reason to sunset a law that will save lives.

Earlier today, the Senate passed a crime bill that restricts the manufacture, sale, and possession of assault weapons, and prohibits possession of handguns by minors. The Brady bill represents the next urgently needed step toward a rational gun policy for the Nation.

The bill before us is also a monument to the courage and perseverance of Jim and Sarah Brady. Action in this legislation is long overdue, and because of their tireless work, it may finally be taking place.

I urge my colleagues to support the cloture motion and support this bill.

Mr. DODD. Madam President, if we want to make our streets safer, we must make it harder for criminals to get guns. We took an important step in that direction by passing the Feinstein amendment to the crime bill. That measure, which restricts the manufacture, possession, and to transfer of semi-automatic assault weapons, will help keep these weapons of war out of the hands of gangs, and help ensure that our police officers are not outgunned.

But we need to do much more. That is why we must pass the Brady bill, which would give police officers 5 days to complete a background check on anybody purchasing a handgun. I am a cosponsor of this measure, and I urge my colleagues to join with me to pass this bill.

Many of us have worked for a number of years to enact this simple, but important, measure into law. By now, most of us know the horrifying statistics by heart: 24,000 Americans killed with handguns each year; someone injured by a handgun every 2 minutes; $1 billion spent treating gunshot victims each year.

The effect of this violence on our children is particularly disturbing. Too many kids are either carrying guns or living in fear of those kids who carry guns. Each day, approximately 130,000 students bring a firearm to school. How are children supposed to learn in that kind of environment? What kind of lessons do they learn from seeing a friend or family member gunned down? How are they supposed to become productive members of their society when their world is filled with so much violence?

Because the problem has become so big, and so urgent, it has been very frustrating to see this bill stalled year after year. What we are trying to accomplish is such a small step—a 5-day waiting period. The bill will not take handguns away from law-abiding hunters and collectors. It simply gives the police a chance to make sure that a handgun purchaser does not have a criminal record. Not surprisingly, every major police organization in this country supports this legislation.

In fact, many of my constituents who are gun collectors and hunters support this bill. They know what this measure can accomplish. My home State of Connecticut has had a 14-day waiting period in effect for years. Background checks of gun buyers in Connecticut have kept guns out of the hands of hundreds of unqualified purchasers. In California, which has a similar law, background checks have prevented criminals from purchasing 11,000 guns.

Earlier, we passed a $22 billion crime bill. That measure should go a long way toward making our neighborhoods safer. Let us take another step forward and pass the Brady bill.

Ms. MIKULSKI. Madam President, as an original cosponsor of the Brady bill and a longtime supporter of a handgun waiting period, I rise today to express my support for the Brady Handgun Prevention Act.

I support the Brady bill because it will make it more difficult for criminals to obtain guns. It will help protect our children. It will help protect our society, our streets and our neighborhoods.

When I visit schools in Maryland, I hear time and time again about the fear of crime. Some kids are scared to go to school. Some are scared about what happens to them on the way to school. And some are scared about what happens to them in school. How do we expect our kids to learn when they are worried about their own safety? How do we expect them to learn when we spend money on metal detectors instead of books?

We cannot tolerate what is happening on our streets. Children in our cities are hostages in their own homes. Kids in Baltimore are afraid to play jacks on their white marble steps. Neighborhood storeowners are afraid to open their doors. Moms and Dads are afraid to walk to the grocery store.

We cannot look the other way when a woman is raped at gunpoint. Or a store clerk is shot in a robbery attempt. Or a 10-year-old is killed in a drive-by shooting.

We have a chance to make it more difficult for criminals to buy guns. We have a chance to make a difference. And we owe it to the victims of violent crimes and their loved ones. Victims like Jim and Sarah Brady, whose determination helped bring this legislation to a vote.

A waiting period in the State of Maryland has made it possible for the Maryland State Police to stop over 12,000 criminals from obtaining handguns. We need to give police this tool everywhere in America.

Let us run a check on someone who wants to buy a gun. Let us keep a criminal from walking into a store, buying a gun and walking out onto our streets. Let us pass the Brady bill now.

Mr. BRADLEY. Madam President, I rise as a cosponsor to speak in support of S. 414, the so-called Brady bill. I urge my colleagues to do the same.

This bill requires that every purchase of a handgun be preceded by a 5-day waiting period during which local police can investigate the criminal background of the potential purchaser. The purpose of the bill is to give local police the opportunity to screen out felons and other high-risk individuals, as well as provide a cooling-off period designed to deter the commission of crimes of passion.

This bill also establishes a program of grants to the States for the improvement and automation of their central criminal record systems. Eventually, a system will be put in place to provide for an instant background check of all people wishing to purchase a handgun.

This bill is a modest attempt to restrict the flow of handguns to individuals who pose a high risk to the public. Yet there are some in this body who contend that it will have no positive effect. I strongly disagree. In my home State of New Jersey, a permit-to-purchase background check program has operated for 20 years. During that period, the program has stopped more than 10,000 purchases by convicted felons. How can anyone say that stopping 10,000 handgun purchases by convicted felons has not made a difference?

Although the Brady bill should not be a panacea for society's crime problems, I believe it will have a very positive effect. If used by local law enforcement, this program can reduce the number of criminals or other-wise unfit individuals who legally receive handguns. It will not, by itself, solve the problem of gun-related homicide. But, when combined with other crime control measures, it will make a very positive difference.

Mrs. BOXER. Madam President, I rise first of all to speak in support of the Brady bill that is now before us. It is not the solution to the handgun problem in America. It is only a start. But its passage is an important signal of a new attitude in our country toward gun violence.

I rise also to pay tribute to the people who are most responsible for bringing this legislation to this point—Chairman BIDEN and Senator HOWARD METZENBAUM, Congressman CHUCK SHUMER and former Congressman Ed Feighan, and most especially, to Jim and Sarah Brady.

Their courage and determination are truly inspirational.

Finally, Mr. President, I rise to express my hope that this bill will be the first step toward enactment of more comprehensive laws to reduce gun violence in this Nation. It is a dose of common sense, that critical first step in shaking our Nation loose from the dream and myth that says each American has the right to possess any and every gun without even the hint of limitation.

Madam President, Americans justifiably take great pride in the economic quality of life in our country, compared to that in other industrialized nations.

But there is one area where the rest of the world is baffled by our poor quality of life—and that is violence, especially gun violence.

Just consider the number of people killed by handguns in other industrialized nations: In 1990, there were 22 people killed by handguns in Great Britain, 13 in Sweden, 91 in Switzerland, 87 in Japan, 10 in Australia, and 68 in Canada.

In that same year, however, handguns claimed the lives of 10,567 Americans, and in 1991, the number rose to 14,200.

Why are other nations relatively free of gun violence?

One reason could be their stricter laws. Japan, for example, denies weapons to those with no fixed address; rifle or shotgun ownership is allowed only for those who have safely possessed a hunting firearm for at least 10 years. Virtually no one other than the police may posses a handgun.

In Germany, a gun license is valid only for 3 years, and to keep that gun, the applicant must continually apply for a new license. As a result, misuse of guns in Germany accounts for only 0.3 percent of all criminal acts.

In Australia, you get your gun license from law enforcement officials, must renew the license annually, and risk confiscation of the gun if the license is not renewed.

Madam President, these facts are compelling evidence that we simply are not doing enough in this country to keep guns out of the hands of criminals. Stronger laws—like the Brady bill's 5-day waiting period and computerized criminal record check—are needed.

Waiting periods and mandatory background checks work. My State of California has had a 15-day waiting period and background check since 1975 for handguns and since 1991 for long guns.

A gun dealer who does not comply with the waiting period or sells a gun to a person he knows or suspects to be ineligible faces up to a year in jail and a $1,000 fine.

The California Department of Justice reports that from January 1991 through September 1993, California's waiting period stopped 16,420 illegal gun purchases. Just over 8,000 of these were denied to convicted murderers.

California's law is effective unfortunately, State laws are not enough. Without a national waiting period, we cannot prevent the kind of violence that occurred in San Francisco last summer.

On July 6, a gunman went across the border into Nevada, used a fake address to purchase two guns, and returned to kill eight people in an office building in downtown San Francisco.

As the distinguished chairman of the Judiciary Committee has so often said, there are some problems so vast that piecemeal solutions just will not do, State-by-State approaches just will not do.

With a national waiting period, we can begin to put a stop to the thousands of senseless deaths from handguns. The Brady bill can help us stop criminals from getting guns. It's just a first step, but it is a good and necessary one.

Madam President, the Brady bill passes the common sense test. If we want to stop criminals from getting guns, then we have to do something to make it harder for them to get the guns.

Common sense tells us that the dramatically lower gun deaths in other countries has something to do with their laws.

Common sense tells us that a 5-day waiting period and a mandatory background computer check are sensible and reasonable limitations to impose on anyone wishing to buy a dangerous weapon that has wreaked so much destruction on American society.

And common sense tells us that unless we do something now to limit the availability of handguns, our children will never again feel safe in their schools, our neighborhoods will never again be safe to walk, and out cities will never again be good places in which to live and work and raise families.

Let us pass the Brady bill today, and begin to change history.

• Ms. MOSELEY-BRAUN. Madam President, during the debate of the past 3 weeks we have heard time and time again how, throughout this country, crime and violence are causing Americans to change the way we live our daily lives. Parents refuse to let their children play outside for fear they will be the next victim of a drive-by shooting. Neighbors eye each other suspiciously as they walk down the streets, unsure who among them might be armed with a handgun. Entire cities or neighborhoods are avoided for fear of what might happen there.

During the debate on the crime bill, this body has proposed numerous solutions to make the American people once again feel safe in their homes, in their schools, and on the streets.

We have authorized money to build bigger and better prisons to punish people convicted of crimes. We have enacted stiffer penalties for those who commit acts ranging from hate crimes to arson. We have authorized rehabilitation efforts, including treatment programs for drug-addicted prisoners and boot camps for young first-time offenders.

But I submit that these efforts—as effective and as well-intentioned as they are—go only part of the way toward addressing the tremendous fear of violence that affects so many American citizens. Simply put, Madam President, neither punishment nor rehabilitation alone is enough. Unless and until we get serious about the tremendous toll that handgun violence takes on our society, no American can feel safe.

Despite what opponents of gun control would have us believe, the majority of the American people are outraged by the permissiveness of our Nation's gun laws. In many places throughout America, an individual can easily obtain an unlimited number of guns, regardless of his or her age, prior criminal convictions, or mental health.

The American people have told us loud and clear that it is time to inject some sanity—and some simple common sense—into our gun laws. We can see this triumph of common sense in the decision of the New Jersey Legislature to maintain a ban on automatic weapons, despite heavy lobbying from gun control opponents. Common sense also prevailed in Virginia, a State traditionally known for relaxed gun laws, where the legislature decided to limit gun purchases to one per month.

And common sense is also motivating the thousands of American citizens who have urged this Congress to pass the Brady bill. In fact, more than 90 percent of the American public supports the Brady bill, including 68 percent of the NRA's own members.

What do these Americans know that the U.S. Senate has, for far too many years, failed to comprehend? Perhaps the public realizes that, in the 6 years since the Brady bill was first introduced, handgun violence has resulted in 150,000 homicides. That amounts to 65 men, women, and children who lose their lives to gunfire each day.

Perhaps they realize that, if a waiting period had been in place when John Hinckley purchased the handgun he used to shoot James Brady, the pawnshop owner would have discovered that Hinckley lied about his home address—claiming to still live in Texas when he had moved to Colorado—and that Hinckley had recently been arrested for trying to carry a shotgun on an airplane, and could have prevented the sale. Or perhaps they simply realize that, in States where a waiting period is already in effect, literally thousands and thousands of criminals have been prevented from purchasing handguns. The waiting period in my home State of Illinois has already halted gun sales to nearly 3,000 people who had felony convictions or other disqualifying factors.

The time has come, Madam President, for the U.S. Senate to take a stand. We can no longer ignore the rising toll that handgun violence takes on this country. The problem of handgun violence is a national epidemic. It needs a national solution.

The Brady bill is a simple and reasonable response to the tremendous rise in handgun violence. The bill imposes a national 5-day waiting period on the sale of a handgun, and requires local law enforcement officials to conduct background checks on handgun purchasers. That is it, Madam President. The bill does not restrict the right of law-abiding citizens to purchase or own a handgun. Those individuals can purchase or own all the handguns they choose. This bill simply prevents handguns from being sold to convicted felons, the mentally ill, drug addicted, or non-U.S. citizens—nothing more and nothing less. Who in their right mind could argue with that?

But there are, of course, opponents who would like to see this important legislation defeated. These opponents argue that the Brady bill is the wrong response to the problem of gun violence, that we should concentrate instead on punishing those who commit crimes.

I agree with the opponents of this bill that criminals should be punished. That is why this Senate has voted to increase money for prisons, to impose longer sentences on a wide variety of crimes, and even to try juveniles who commit violent crimes with a firearm as adults.

But I disagree with the opponents of this bill that punishing criminals is the only way to fight crime. We cannot simply focus on locking people up, because once you need to lock someone up, you have already failed at what should be the central task of the criminal justice system: preventing crime in the first place.

I would much rather prevent a murder than give assurances to the victim's family we will lock up the person who murdered their mother or father, sister or brother, husband or wife. I would much rather prevent a crime than spend taxpayer dollars—to the tune of $75,000 per cell per year—punishing criminals. That is why I so strongly support this legislation. If we can keep a criminal from ever getting his or her hands on the weapon, we can stop the crime from occurring.

Will the Brady bill stop every convicted felon from securing a handgun? Of course not. But we can look to the results in States that have already enacted waiting periods to know just how successful these laws can be. As I stated earlier, the waiting period in my home State of Illinois has already halted gun sales to nearly 3,000 individuals. California's waiting period has prevented 16,000 gun sales since 1991, including 8,000 sales to criminals convicted of homicide or assault. New Jersey, Oregon, and Georgia, all of which have waiting periods, have had similar success.

Unfortunately, not every State has seen the wisdom of imposing a waiting period of handgun sales. Far too many States allow handguns to be sold immediately, over the counter, to anyone who has the cash, fills out a simple form and displays identification. Because there is no uniform Federal law, criminals prevented from buying a handgun in one State can simply travel to another to purchase their weapon.

If handgun violence were isolated and occurred only in Illinois, or California, State laws would be perfectly adequate to solve the problem. But handgun violence is a national crisis. From Maine to California, and every point in between, guns are killing and injuring more and more people every day. The Brady bill recognizes that we can not address the national epidemic of handgun violence with piecemeal, State-by-State legislation. It proposes a comprehensive, national solution to this increasingly national problem, the problem of easy access to handguns throughout our Nation. The Federal Government must show the necessary leadership to enact this comprehensive, national bill.

When James Brady addressed Congress earlier this year, to urge that we enact the Brady bill, he told us: "I'm not here to ask help for me, but to do it for our kids. They deserve a future. And we owe it to them to see they have one." We can not help the 150,000 people who have been murdered with handguns in the 7 years since the Brady bill was first proposed. For them, it is too late. But it is not too late to save the 150,000 people who will be murdered in the next 7 years. It is for those people that we must act today.

Madam President, as I mentioned earlier, 90 percent of all Americans support the passage of the Brady bill. The American people are watching and waiting for us to do something to curb the increasing amount of violent crime and handgun murders. Clearly, the average American has seen through the self-serving and misguided arguments raised by Brady bill opponents.

The time has come for the U.S. Senate to do the same. I urge the Senate to act quickly to enact this legislation.●

Mr. JEFFORDS. Mr. President, I am on the floor of the Senate today to support the Brady Handgun Violence Prevention Act and will cast my vote for passage of that measure. But before doing so, I wanted to take this opportunity to say a few words about why I believe this is a vote that must be cast for the benefit of the Nation.

The State of Vermont is both small in size and largely rural in character. As such, we do not have the large metropolitan centers found in many other States. We do not have the distressingly high levels of crime and gun-related violence which are coming to be the most recognized characteristics of our cities. But we do have a disturbing number of violent crimes, even in our State.

We also have guns in Vermont, Mr. President, lots of guns. Vermonters are avid hunters, shooters, sportsmen, and collectors of firearms. Many of our young people are trained early in the ways of hunting and shooting. That training includes a good measure of instruction in the safe use and handling of firearms, as well as a healthy respect for one's fellow man. Coming from this background, I am not one who believes that guns are inherently evil, or that gun owners are criminals. In fact, I am a gun owner myself.

Still, I support the Brady bill even though a large and vocal number of my fellow Vermonters are vehemently opposed to its passage for fear that their second amendment rights are being infringed. I also support the right of Vermont's hunters and sportsmen to purchase, collect and use firearms. However, I recognize that this right has to be balanced against the Government's obligation to protect public safety. I don't think these are inconsistent concepts.

I do not believe that Brady bill waiting periods should be established prior to hand gun purchases unless accurate background checks can be made. Thus, I am not here supporting waiting periods without background checks. Further, I agree with those people who maintain that the best way to achieve my objective would be through an instant check system. This is precisely what I would like to see established not only in Vermont, but throughout the Nation.

However, it is clear that a national instant check cannot be set up immediately. It will take time to upgrade the data bases and software necessary to make this system a reality. Thus, because I believe that we should act now to try to keep guns out of the hands of people who cannot legally buy them—such as convicted felons and the mentally ill. I also support the current version of Brady that imposes a 5-day waiting period with a background check as a bridge to the establishment of instant check or similar systems.

Vermont will probably be able to get its system up and running early in the game. Despite budget limitations, the State has automated its criminal names index and will soon add its criminal history files. The funds which the Brady bill will provide should make this process even easier to complete. When this happens, the waiting period provisions of the Brady bill will cease to be applicable and only the instant check will remain.

Mr. President, the debate on this issue has not changed much in the few years since we last voted on it in the Senate. Then, as now, there are good arguments on both sides. The bill won't end crime, in Vermont or the country, and criminals will still get guns on the black market. But it will make the job of our police a little bit safer, and even if only a few lives are saved because a gun could not be bought through legal sources, I think its worth the effort.

The bill does not limit the lawful purchase of handguns. It simply provides an effective means of enforcing the current law. Some delay may result to the law abiding citizen in the purchase of a handgun, but in my view this is a small price to pay for the improved criminal identification system.

As a former attorney general of the State of Vermont, I am naturally sensitive to the interests of those on the front lines of law enforcement, our police forces. Law enforcement organizations throughout Vermont and across the Nation have given their support to the Brady bill, and I can do no less for them that to give this measure my vote.

Mr. DURENBERGER. Mr. President, I rise today in support of swift Senate passage of the Brady bill.

Throughout my years in the Senate, I have generally been skeptical of gun control legislation. I have not supported efforts to have the Federal Government ban ownership of guns. However, I have supported the Brady bill since 1991, when we crafted a reasonable compromise during debate on a crime bill.

During consideration of the crime bill that eventually died in the 102d Congress, we agreed to move toward an instant background check system to ensure that gun dealers do not sell handguns to dangerous individuals. That compromise is the version of the Brady bill that stands before us today. We should enact this compromise.

This bill provides for a temporary national 5-day waiting period until a national, computerized background check system is phased in. The national 5-day waiting period and the instant check system are designed to enable gun sellers to learn whether a potential buyer is a felon or otherwise unqualified to purchase a handgun. The legislation provides $100 million to States to help them acquire instant check technology. Once the instant check system is operational, the Federal waiting period will disappear.

To some extent, we are forcing Federal policy on the States by requiring them to adopt an interim waiting period and an instant background check. That is because the Congress passed a law in 1968 that said that guns should be kept out of the hands of felons and other dangerous individuals. Let me point out that gun control opponents and proponents alike agree that we should prevent the sales of guns to dangerous people. The Brady bill will help us move toward that important national goal.

Some States have imposed waiting periods as a measure to prevent heat of passion crimes. My home State of Minnesota has a 7-day waiting period for citizens trying to obtain a 1-year license to purchase handguns.

I must add that I oppose any effort to use this bill to erase State waiting periods. Once the Federal waiting period disappears, we should allow State decisions to impose waiting periods to stand.

The preemption provision proposed by Senator DOLE and endorsed by the NRA would wipe out State waiting periods for 1 year after the expiration of the Federal waiting period. Proponents of State waiting periods would then be required to initiate new legislation.

I can find no compelling reason to preempt existing State waiting periods.

With the installation of instant check capacity, one of the reasons for a waiting period ends. But others remain. The burden will be, as it is today, with gun sellers and gun buyers to prove these reasons invalid. That's the way it is today. That's the way it ought to remain. I must continue to cast my vote for cloture to end a debate most of us who were there believed ended with our 1991 compromise.

Let's get to final passage. It's the will of a substantial majority. I am pleased that we are finally moving toward enactment of this consensus measure. I am especially grateful to Jim Brady and his remarkable wife Sarah for their tireless efforts to bring us to this point.

I urge my colleagues to join me in voting yes for cloture and final passage of this bill.

Mr. FORD. Madam President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the Mitchell-Dole substitute amendment to S. 414, the Brady bill:

Joe Biden, Dianne Feinstein, Christopher Dodd, George Mitchell, Harlan Mathews, Barbara Boxer, Edward M. Kennedy, Frank R. Lautenberg, Carl Levin, Howard Metzenbaum, Herb Kohl, Bill Bradley, John Glenn, Claiborne Pell, J. Lieberman, Patty Murray.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the Mitchell-Dole substitute amendment, as amended, shall be brought to a close? The yeas and nays are required. The clerk will call the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. DORGAN] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. HELMS] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 57, nays 41, as follows:

[Rollcall Vote No. 390 Leg.]

YEAS—57

Akaka
Baucus
Biden
Bingaman
Boren
Boxer
Bradley
Bumpers
Byrd
Chafee
Conrad
Danforth
Daschle
DeConcini
Dodd
Durenberger
Exon
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Harkin
Hatfield
Inouye
Jeffords
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mathews
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sarbanes
Sasser
Simon
Warner
Wellstone
Wofford

NAYS—41

Bennett
Bond
Breaux
Brown
Bryan
Burns
Campbell
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
Dole
Domenici
Faircloth
Gramm
Grassley
Gregg
Hatch
Heflin
Hollings
Hutchison
Johnston
Kempthorne
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Packwood
Pressler
Shelby
Simpson
Smith
Specter
Stevens
Thurmond
Wallop

NOT VOTING—2

Dorgan
Helms

The PRESIDING OFFICER. On this vote, the yeas are 57, the nays are 41. Three-fifths of the Senators duly chosen and sworn, not having voted in the affirmative, the motion is rejected.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. Madam President, I yield to the majority leader.

The PRESIDING OFFICER. The majority leader, the Senator from Maine, is recognized.

Mr. MITCHELL. Madam President, there will be no further rollcall votes this evening. The Senate will return to session at 10:15 a.m. tomorrow to resume debate on the North American Free-Trade Agreement.

It is not possible to state at this time what time votes will occur, if any, but I can state that there will be no votes prior to noon.

However, those Senators who intend to participate in what remains of the debate on the North American Free-Trade Agreement should be here at 10:15 a.m. to participate in that discussion.

The PRESIDING OFFICER. The minority leader, the Senator from Kansas.

Mr. DOLE. Madam President, if the majority leader will yield, it is my understanding there is still some hope we will complete the work tomorrow. If that is not successful, then it could be on Wednesday.

Mr. MITCHELL. That is correct.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BIDEN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Madam President, with regard to the Brady bill, which we have been debating for the past 72 hours, I want to say that I have been asked by a number of people, including our colleagues, as well as the press, what the next step will be. The fact is I think the next step is next year.

I congratulate the opponents of the Brady bill. They required us to get 60 votes. We did not get it. We did not get it twice. So where I come from that means we lost.

So I just want to make it clear. There is no negotiation actively going on, as far as I know, at this moment. We will be back. The proponents of the Brady bill will be back next calendar year and I expect and hope we will prevail.

But, at the moment, there is no ongoing negotiation, no expectation, at least that I have, that we are likely to come back to our colleagues in the Senate and say, "By the way, we will try it another way."

So I just want to tell literally 15, 20 of our colleagues who have asked me that question, as well as the press, that that is the state of play as it stands now.

Obviously, we are always open to listen to anything. But there is no negotiation.

Mr. DOLE. Will the Senator yield?

Mr. BIDEN I am delighted to yield.

Mr. DOLE. I just want to underscore the last point: There is a willingness to listen.

Mr. BIDEN. Absolutely.

Mr. DOLE. I think there is a willingness to cooperate. We have said that many times today. There have been no negotiations today. I think that was a misunderstanding. Everybody thought that.

But there is a willingness to do so. It is still our hope that we can pass a bill here with about 99 votes.

Mr. BIDEN. If the Senator will yield, Madam President, that is a hope. But, after being involved in several years of negotiation on this, I think it is a false hope and a false expectation. But, hope springs eternal. It is an occupational requirement for this job.

So I will continue to hope and I will continue to be available to listen. And I am sure the lead sponsor of this bill, the distinguished Senator from Ohio, Senator METZENBAUM, will be. But I think it is little more than a fading hope.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Madam President, I am not very optimistic. I know that if you do not have 60 votes, you cannot cut off the debate. You may have a majority of the Senate, but you cannot go very far in this body under these circumstances.

With respect to negotiations, I do not know where to negotiate. But let me say, my door is open, my ears are open, my mind is open. I would be very happy to listen to any proposals or suggestions that the leadership on that side of the aisle are prepared to make.

But, at this moment, there is just nothing much to talk about. We did not have the 60 votes. We have a majority. I will be here at 10 o'clock tomorrow morning. If anybody has something on the plate, we are certainly willing to look at it.

MORNING BUSINESS

Mr. FORD. Madam President, I ask unanimous consent there now be a period for morning business with Senators to speak therein for up to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO DR. BARBARA HATTON, PRESIDENT, SOUTH CAROLINA STATE UNIVERSITY

Mr. THURMOND. Mr. President, this past Saturday I had the great pleasure of bringing greetings to the inauguration ceremony of Dr. Barbara Hatton as the seventh president of South Carolina State University.

Originally established in 1896 as a land grant institution, South Carolina State University now offers more than 60 undergraduate degrees as well as graduate degrees in several fields of study. In almost a century of existence, the State university has educated thousands of South Carolinians who have distinguished themselves in all facets of society. This university plays a critical role in our State's higher education system and we are proud of the university and its graduates.

Dr. Hatton comes to South Carolina State University with an impressive wealth of experience, as both an educator and an administrator. Holding degrees from Stanford, Atlanta, and Howard Universities, Dr. Hatton has dedicated her life to education. In her long and respected career, she has worked with some of this Nation's leading colleges and universities, constantly seeking to further her own knowledge while working to provide her students the best possible education available.

Mr. President, from my days as a young teacher in rural South Carolina to the floor of the U.S. Senate, I have always championed the importance of education and I recognize that Dr. Hatton does the same. I am pleased that this outstanding woman has assumed the presidency of South Carolina State University and I am confident that she will do an admirable job in guiding it into the 21st century. Mr. President, I ask unanimous consent that a copy of the program from Dr. Hatton's inauguration be inserted into the RECORD following my remarks.

There being no objection, the program was ordered to be printed in the RECORD, as follows:

THE INAUGURAL CEREMONY

(Dr. James A. Boykin, Chairman, Board of Trustees of South Carolina State University, Presiding)

Organ prelude—"O Hail This Brightest Day of Days," Johann S. Bach.

"Rigadon," Andre Campra.

Academic procession—"War March of the Priests" (Athalie), Felix Mendelssohn.

Invocation, The Reverend James W. Sanders, Member, Board of Trustees.

National Anthem, Audience.

Welcome, Mr. I.S. Leevy Johnson, Member, Board of Trustees.

Music—"Lift Every Voice and Sing," arr. Roland Carter.

South Carolina State University Choir,
Arthur L. Evans, Conductor.

GREETINGS

The Students, Mr. Marcus Butts, President, Student Government Association.

The faculty and staff, Dr. Jacqueline Skubal, President, The Faculty Senate.

The Alumni, Mr. Louis Buck, President, National Alumni Association.

Colleges and universities, Dr. Luns C. Richardson, President, Morris College, Sumter, South Carolina.

Learned societies, associations and foundations, Mr. Barry Gaberman, The Ford Foundation, Ms. Mary L. Bundy, The Edward W. Hazen Foundation.

Music—"You Must Have That True Religion," arr. Roland Carter.

South Carolina State University Choir.

SALUTATIONS

Commission on Higher Education, Mr. Fred Sheheen, Commissioner.

Local government, The Honorable Martin Cheatham, Mayor, City of Orangeburg.

South Carolina Legislature, The Honorable Marshall B. Williams, President Pro Tempore and The Honorable John W. Matthews, State Senator.

State of South Carolina, the Honorable Carroll Campbell, Governor.

United States Senate, The Honorable J. Strom Thurmond, Senator.

United States House of Representatives, The Honorable James E. Clyburn, Representative.

THE ACT OF INAUGURATION

Presentation of Barbara R. Hatton as seventh president of South Carolina State University, Dr. Stephen Wright, Chairman Emeritus, College Entrance Board.

Presentation of charter and seal, Mr. Charles C. Lewis, Sr., Vice Chairman, Board of Trustees.

Presentation of the medallion, Dr. M. Maceo Nance, Jr., President Emeritus.

The investiture, Dr. James A. Boykin, Chairman, Board of Trustees.

Inaugural Address, Dr. Barbara Rose Hatton, President, South Carolina State University.

Alma mater, Robert Shaw Wilkinson—T.D. Phillips.

South Carolina State University Choir

Audience

Sing the praise of Alma Mater, Let us rally to her call
Lift our voices, send them ringing, Thru the groves and classic hall.

Refrain

Hail! Hail! Dear Alma Mater, Hail! Hail! Dear S.C.C.
We'll defend and honor, Love and Cherish thee.
We are loyal sons and daughters, Proud to own the name we bear
For the truths that thou has taught us, Ready all to do and dare.

Benediction, The Reverend Sanders.

Academic recession—"Pomp and Circumstances," Elgar.

Dr. Arthur L. Evans, Director, Concern Choir/Organist.

Mr. Lamerial R. Ridges, Choir Accompanist.

RECEPTION

Following this program, President Hatton will greet members of the audience at a reception in the Kirkland W. Green Student Center.

SPEECH BY PRESIDENT GEORGE BUSH TO THE ASSOCIATION OF THE U.S. ARMY

Mr. THURMOND. Mr. President, each year, the Association of the U.S. Army presents its prestigious George C. Marshall Award to an individual who has distinguished himself through selfless and outstanding service to our Nation. This year, the AUSA presented this award to former President George Bush.

President Bush's contributions to the United States need little review in this Chamber. From the day he enlisted in the Navy at age 18, to the reasoned advice he provides today as one of the country's elder statesman, George Bush has established an enviable record of public service. It is because of his impressive experience and unique insight into world affairs that I would like to share the remarks Mr. Bush made following his acceptance of the Marshall Award last month. I found what he had to say about maintaining a strong defense to be especially poignant, given the final conference report which we in the Senate passed yesterday. I believe that we have cut our forces as deeply as we dare, and that any further reductions will adversely affect the ability of our military to protect our national security and interests. I ask unanimous consent that a copy of President Bush's speech be included in the RECORD following my remarks.

I would also like to take this opportunity to recognize Mr. Norman R. Augustine, the chairman of the Association of the U.S. Army and chairman and chief executive officer of the Martin Marrietta Corp. Mr. Augustine has considerable experience in the defense field, having served at the highest levels in both the public and private sectors, and does an admirable job in advocating the goals of his association and the U.S. Army.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

SPEECH BY HON. GEORGE BUSH

Thank you all very much. Let me tell you how to get a medal like this. What you do is you get good people like Brent Scowcroft, over here (who made the mistake of going into the Air Force, but nevertheless), and a hand-full of others. You get a good group of chiefs and you let the Army that you count on get the job done, and that's exactly what happened.

That's why I am standing up here honored by this award, proud of course to receive an award the same night as my friend, Strom Thurmond. What a great, great man he is and how much support he gave us, and I mean the military and this President.

I want to thank everybody, pay my respects to Chaplain Zimmerman. He and I worshiped together the day Desert Storm started. I would also like to pay my respects to Secretary of the Army (Designate) West, and of course to General Gordon Sullivan, the Chief with whom I worked so closely. Also, to all the members of this Association of the U.S. Army, to the members of the Council of Trustees, members of the Army Band. (They're smart; they left before the speech.) But those guys are wonderful. And of course to my friend, Norm Augustine. I thank him for the introduction, those very kind words, and the medal presentation. And I am very pleased to be with you for this dinner.

I listened to Chaplain Zimmerman's invocation, and I was reminded of a convocation last week in Houston where Barbara and I live, where a new Bishop was ordained. And the guy introducing the Bishop was talking about all the previous Bishops, and he mentioned how proud he was to know every single one of them except Bishop Smyth who served 95 years before him. And then he continued, "After seeing the face that looked back at me in the mirror this morning, I was surprised I did not know Bishop Smyth." And so I look out here and see some of these young troops, and I know exactly how he felt, and I'm delighted to be here.

And literally, this is another true story. The other day in the barber shop in Houston, I was sitting there getting shorn and two little kids were looking around the corner and one said, "No, no, no, it's not." And the other said, "Yes, it is. I'm sure that's him. You can tell by the wrinkles." How quickly they forget—but at least the chef didn't bring on the broccoli. And Hillary, wherever you may be, they didn't bring on any peas either.

So this is only my third trip back to Washington since leaving office, and one reason is that Barbara and I are really enjoying our retirement, thank you. I can now relax and enjoy a nice relaxing hour playing eighteen holes of golf. But one thing has changed: now everybody beats me on the golf course. It's different!

A lot of you asked about Barbara, and I think we exemplify the finest in marriage tradition. We have been married almost 49 years; 49 in January. And she is like a school girl. Just two nights ago we spent the first night in a new house we built in Houston. Built on the very same lot, incidentally (I hope the press are here), where they ridiculed me saying, "An elitist like Bush would never live on a tiny lot like that." We got a neat house there. Barbara is doing the heavy lifting, and I'm up here having a good time. So everything is going fine.

I don't come to Washington much any more, as I said, but I must say I was proud and pleased to be along with many of you here (and I know Gordon Sullivan was there, and so many others) at Fort Myers the other day when one of your own, General Colin Powell, said farewell to the troops that he led so well. I believe that speech was about the finest I've ever heard.

I was also here to witness the handshake that was heard around the world, and to put in a plug the next day for NAFTA. I'll say a word about that later. And you should know, in all fairness and all decency and honor, that President Clinton and the First Lady just went out of their way to make me feel welcome. It was a little tense. Barb didn't even want to go, and she didn't. You know her; she wasn't quite ready. But I went, and I'm proud I did. Our President was extraordinarily gracious and so was his lady.

I loved it when I was here. I don't miss Washington. I don't miss the politics. I damn sure don't miss the press. I am not running for a darn thing, so I don't care what they think about that. You know, it's wonderful to be liberated at last. All I want to do is stay out of their first-strike zone. What I do miss are friends, many of them in this room tonight. I miss that wonderfully professional staff in the People's House, the White House.

Most of all, and I said this is a non-military gathering the other night, I miss most of all dealing with our Military. And that is why I am particularly pleased to be here. I am honored, I really am, by this award. The Marshall Award is both a tribute and a metaphore. It's named for a man who made a difference—not because he wished it, but because he willed it.

And your program lists the honor roll; Norm clipped them off tonight. I'm very proud that former Secretary Marsh and General Vessey, meritorious winners of this award, are here. But it was, as you can tell from the list of Marshall Medal recipients, generals, ambassadors, public servants, and three Presidents—Eisenhower, Truman and Ford. I think they were all peace makers, and I am very proud to be in their company.

The June day in 1942 that I graduated from school, Secretary of War Henry Simson gave our commencement speech. This was four days before, or maybe it was on my eighteenth birthday, and he spoke of what an American soldier should be. "The soldier," he said, "should be brave without being brutal, self-confident without boasting, being part of an irresistible might without losing faith in individual liberty." Simson was describing our sons and daughters. In effect, he also defined George Catlett Marshall—a man who loved each one of them, and who made this country proud.

A soldier/wartime chief of staff/diplomat/Nobel Peace Prize recipient, George Marshall engraved those words on America's heart and mind. Hating war—he loved freedom more. He made history move his way.

Let me just say a little about what he taught us then and now. As democracy triumphed in the eighties, some called it accidental. It was not accidental. It's just that man like George Marshall made its victory seem providential.

General Marshall believed first in peace through strength and he showed that in World War I. It was in the spring of 1918 that, as operations officer responsbile for tactical plans, he helped General Pershing acquire artillery flame throwers; something new called "tanks" came into use.

This materiele allowed the famed First Division to prepare for a local offensive at Cantigny in France. Our troops won their first battle of the war, and it was the first-ever won by Americans fighting in Europe. Think of the names and places, and it's hard to believe it was called the War to End All Wars. Billy Mitchell, Sergeant York, Eddie Rickenbaker, Sedan, Bellau Wood, the Marne. George Marhall affected them all.

His goal was real peace. The peace of freedom over tyranny. He knew that when it comes to that national defense of the democracies, finishing second means finishing last.

A few moments ago you honored a man who knows and shows this. Some like Strom Thurmond for his politics. I most admire him for a different reason—the same reason I revere other good friends tonight. Strom always stood up, and still stands up for a strong defense. He was appalled by the thought of a hollow army. When the light show began over Bagdad in January 1991, I thanked my lucky stars for Strom and the many, many others who are here tonight, who fought to give our young men and women the very best arms in the world.

Over the years I have been privileged (some of it through my father) to know a number of such statesmen: Senator Russell, Scoop Jackson, Senator John Stennis, my dear friend, John Tower (who got brutalzied in what I think was an unfair proceeding in the United States Senate), and many others. They knew that only a strong America could be vigilant America and that only a vigilant America could help the force of law outlast the use of force.

Marshall knew that no one walks away from appeasing an aggressor. He knew that as Saint Thomas Aquinas said, "If the highest air of a Captain is to protect his ship, he would keep it in port."

So General Marshall sailed freedom's ship against the doubters and against the defeatists—teaching us a second lesson. America thrives when, in Arthur Vandenberg's words, "Politics stop at the water's edge." To this day I don't know whether George Marshall was a Democrat or a Republican. As a matter of fact, I don't know whether Colin Powell is a Democrat or Republican. I don't think it matters. What does matter is that Marshal believed in what became the outlines of the New World Order.

That world order continues to evolve and continues to change every day. It is defined by three fundamental characteristics: More democracy around the world—More economic freedom—More growth and prosperity for all.

These are all hallmarks not only of a new but of a better world—a world that depends on American leadership. I have always believed that America bears a mandate or responsibility. Now, more than ever, it is our responsibility—our destiny to lead.

That leadership takes different forms. It starts with the knowledge that nations are like individuals. You can't insult them if you hope to affect them.

You may recall at the time of the fall of the Berlin Wall, political opponents jumped all over me for my prudence, for my apparent uncaring nature. One TV personality, bless her (we see her quite a bit, I'm afraid, on the television), said to me, "Why don't you express the emotion that we, the American people, feel at this moment in history?" The Senate Leader suggested that I was wrong because I wouldn't go to Berlin and join those enthusiastic people on top of the Berlin Wall.

Well, it could have been good theater, it might have been good politics. God knows, I needed some last year. But it would have also been a total disaster. When the wall fell, our first questions were: (And Brent remembers this well.) "Would the Soviets just stand by and watch as the GDR left the fold? Would they accept a free Germany in NATO?" Our team, and it was a good and able team, knew that it wasn't time to celebrate. It was time to get to work.

Today we know from our embattled friend, Edvard Shevardnadze's account, that Mikhail Gorbachev was then in fact fighting a hard-line contingent willing to do anything to defend the Soviet sphere.

I tried to be sensitive to this—never publicly saying, "The Cold War is over," until October 3, 1990, the day Germany was reunited. Incidentally, as some of you know (I'm sure Al Haig and others know), former President Gorbachev—the architect of perestroika and glasnost—for which history, I believe, will treat him very, very kindly—still bristles when someone from the West says, "We won the Cold War." We forget the courage that he showed in moving that country, the Soviet Union, toward openness, towards reform.

Our refusal to grandstand over the Cold War, I think, bore fruit in the Gulf War. In the two months after that August second invasion, the Security Council passed eight major resolutions setting terms to solve the crisis. And if we had taunted earlier or split from Gorbachev solely to back Yeltsin at that time, Gorbachev would never have signaled to Saddam Hussein that he did not have Soviet support.

And American leadership matters. No other nation has the reach, the respect, and the resources to touch each corner of the world. Take China. After Tianamen Square, many in Congress wanted me to cut a billion people off from the rest of the world by cancelling our MFN trade provision. I felt incensed about the shortcomings in the human rights department, and we led the way on sanctions. But they wanted me to cut this off. I knew that if we cancelled trade with China, China would cancel cooperation with us.

I know for a fact that there are more individual freedoms in China today than when Barbara and I lived there just eighteen to nineteen years ago. And certainly things could be better. But the middle kingdom simply cannot be bullied, it is economic reform which has already led to dramatically more individual freedoms that will inevitably lead to more political reform.

Now if we had slammed the door to express the strong feeling we have against the outrages we saw, China would have repaid us, I am absolutely certain, by vetoing the UN Resolutions in 1990. I am not saying that would have stopped us in our tracks. I think everybody here probably agreed we did what we had to do. But China did not oppose us when Desert Storm began, and avoiding their vetoes meant avoiding a UN deadlock, and it meant a much easier way of mobilizing the entire world in support of the mission of the United States Army, the Marines, the Air Force, Navy, Coast Guard and everyone else.

Incidentally, now this is a side bar, I think Congress was dead wrong in injecting politics into the Olympics and trying to block China from getting the games. Sydney is going to do a good job. I've been there. They are athletically-oriented, and I hope the committee's decision was based on an athletic agenda and not a political agenda. More contact between China and the rest of the world means more openness and more change. Besides, we ought to keep politics the hell out of the Olympic games. So that's my view.

This brings me to a final lesson taught by General Marshall. America must remain engaged. General Marshall knew that America must not turn inward. And today, the Army's mission under the commanders that we have here, has been beautifully and superbly executed. People are saying, "Well now, we ought to pull back." And across the political spectrum, Democrat, Republican, Liberal, you hear calls for protectionism, isolationism. America first. Put us first. Here is my answer: Nowhere is that more true than in the debate now going on over the North American Free Trade Agreement. I was proud of our team that negotiated that agreement. And when we negotiated the NAFTA agreement, we knew the immediate benefits of linking Mexico, Canada and the United States into one huge market of 360 million consumers with a combined GDP of six trillion dollars. NAFTA will boost economies on both sides of the border—whether you talk exports and jobs, or new investment and less state control over goods and markets.

I believe it is vitally important to us—and to Mexico—and more than that, it's vitally important to our relationship with Latin America and the entire hemisphere. NAFTA is a big concept. It is bigger than one aspect of the debate—jobs or anything else. So I am confident it is going to mean an increase in jobs in America. It is also bigger than trade. It really has to do with how our hemisphere looks at America.

I am very proud of how our administration improved relations with Latin America—often neglected in the past. Democracy and freedom are on the rise in this precious hemisphere of ours, and NAFTA will guarantee that they stay there.

Courageous South American leaders like Carlos Menem in Argentina, or Aylwin in Chile, to say nothing of Carlos Salinas, my dear friend in Mexico, all of them are looking to say, "Is the United States going to do with us that which they did with their neighbor to the North?" It is a big concept, and we simply must go forward. They are friends. We treat people as friends. They must not be treated as second-class citizens.

I remember how, during the Gulf War (Brent will never let me forget it; in fact, he made me make the phone call I am going to refer to), when we decided not to interdict a ship that was suspected of carrying contraband up the Gulf of Iraq. Other ships had been turned around by our Navy in conjunction with the Brits and I had the assignment, thanks to General Scowcroft—courageous man that he is—and Baker and all of these guys, to call Margaret Thatcher to explain to her why we did not interdict this ship. And she listened to the argument mumbling, "Very nice, very nice," and then she said, "But now George, remember, this is no time to go wobbly." Well, America then did not go wobbly against tyranny abroad, and America now must not go wobbly against demography at home.

George Marshall knew that principles were too large to permit small-minded prejudice. Listen to how, in 1947, the then-Secretary of

State announced his plan to help Greece and Turkey. He said: "Our policy is directed, not against any country, but against hunger, poverty, desperation, and chaos." At the time, Lord Bevin, the British Foreign Secretary, said of the Marshall Plan: "This is the turning point." I recall how the London Economist said: "Marshall aid is the most straightforwardly generous thing that any country has ever done for others."

Think of 1918 and 1945 or foreign aid in General Marshall's time. Each showed a strong, bipartisan and fully engaged America. America at her most generous. America at her best. George Marshall knew there are things worth fighting for—as he showed from the Philippines to Normandy. And, yes, things worth living for—values that he learned at Virginia Military Institute. Values that don't change from one year to the next.

As I look around this room, I see those who led and shaped the greatest Army in the world, and I vowed as President that I would never send an American soldier into combat with one hand tied behind that soldier's back. I did the politics, and you all did the military part. We did the politics, and you all superbly did the fighting.

America's Army—Count on Us, you bet! Panama (I see Max Thurman here), Desert Storm, General Franks is here, and many, many others who served in the Storm. And, yes, Somalia where every kid in that original mission felt that they were doing, he or she was doing the Lord's work. They were saving those starving children, and they did it superbly. And what a job they did, and god bless each and every one of them.

And that is kind of a capstone, the way I look at how the presidency interacted with the military, and I can't say that after twelve years in the arena, eight as Vice President, four as President, that I don't miss certain things. As I mentioned to you, I miss dealing with the Military. I can say that what matters in the end, and Barb and I are just discovering this (we are kinda like newlyweds after 49 years), I can say that what matters isn't prestige or power. What matters are family, friends, and faith in God and in our Country. And like George Marshall, Barbara and I have been blessed with all, and I feel blessed being with you tonight, and deeply honored by receiving this piece of ribbon and this medal.

Thank you all and God bless you.

TRIBUTE TO MARGO STONE

Mr. DECONCINI. Mr. President, Margo Stone, a cross-categorical resource teacher at Centennial Elementary School in the Flowing Wells Unified School District in Tucson, has been chosen as the 1994 Arizona Teacher of the Year/Ambassador for Excellence. I would like to extend my congratulations as well as my appreciation for her efforts on behalf of Arizona's children.

As we all know, teachers are the backbone of our educational system. They are all-too-often unsung heroes on the frontlines of America's efforts to educate our children, to steer them away from the negative influences of drugs and gangs and to equip them and inspire them to seek a better future through education. Margo Stone exemplifies the finest of Arizona's and our Nation's teachers.

Margo Stone has been teaching special education in Arizona schools since 1983. In 1990, she came to Centennial Elementary School. Renate Krompasky, her nominating principal, is quick to extol her qualifications: "Margo is an exemplary teacher who can combine the scientific principles of teaching with human relations skills and creativity to make learning come alive for her special education students. It is amazing how confident the students become after a year of working with Margo Stone." Krompasky's support is shared by Stone's colleagues who praise her not only because of her dedication to her students, but for the assistance she provides to other teachers.

Stone believes that she brings to her classroom the confidence that her own teachers gave to her throughout her life. She no doubt passes this gift of self-confidence and drive for success on to her students.

Stone's accomplishments continue beyond the classroom into her community. She has been a block captain in a neighborhood crime-prevention program, the Centennial School's representative for the United Way Campaign, and a participant in the March of Dimes Walk America. In addition, she donates her time helping to prepare hot meals and brown bag lunches for the Salvation Army. She is also a member of the Council for Exceptional Children, the Learning Disabilities Association of America and Arizona and a delegate to the Arizona Education Association.

Margo Stone deserves to be commended for her devotion to improving the lives of our children. I ask my colleagues to join me, along with many Arizona citizens, in honoring Margo Stone for her excellence as a teacher and role model.

JAMES PHILLIP "PHIL" JONES

Mr. BOND. Mr. President, I would like to give special recognition today to Mr. James Phillip "Phil" Jones of Jefferson City, MO. On June 6, 1992, Mr. Jones broke a Taekwondo world record by breaking 74 concrete blocks in 14.53 seconds. This past month, on October 29, Mr. Jones broke another world record by breaking 152 blocks in 60 seconds, becoming the first person in the history of martial arts to go over the 150 mark for blocks broken in 60 seconds or less.

The hard work and dedication evident in Mr. Jones' feat is indeed inspiring, but what makes these events even more special is that they benefit students. From the beginning of September until October 29, American Taekwondo Association schools and clubs have contacted friends, neighbors, and family members to secure pledges on a per-brick-broken basis. The proceeds will go to the Grandmaster H.U. Lee Scholarship Foundation. Each year, the foundation grants 12 scholarships to outstanding high school seniors who hold a black belt in Taekwondo and excel in academics and leadership. Funding for the foundation is raised throughout America in similar events, and every dollar is awarded directly to a new college student.

Mr. Jones displays tremendous dedication and self discipline with his achievements in Taekwondo. By donating the proceeds of his efforts to students, he proves his compassion and dedication to his neighbors and his community.

GRANT TODD

Mr. NICKLES. Mr. President, to say Grant Todd was an outdoor enthusiast is an understatement. He loved the natural beauty of Oklahoma and worked tirelessly to preserve both its wildlife and habitat. This same devotion reflected his love for his wife and family, people and friendships, his country and his faith. On Monday, November 8, Oklahomans lost a friend when Grant and two other Oklahomans were killed approximately 2 miles south of Marlow, OK, in a small four-seat Cessna aircraft which crashed into a wooded ravine. Grant was the manager of my Oklahoma City office.

Grant was just 28 years old, and had been on my staff since 1986, leaving briefly in 1988 to work on the Presidential campaigns of Bob Dole and George Bush. He had been with my Oklahoma City office full time since 1989, and was promoted to office manager later that same year.

Grant achieved a great deal during his life. His quick rise through my office into a position of management responsibility was an indication of his talents. He was a very friendly and outgoing young man who was always easy to approach. Grant had the unique ability to relate well to almost anyone with whom he came into contact. These qualities made him one of those rare and valuable finds, the kind of individual that anyone would be proud to work with and to have as a friend. I am certainly proud of Grant and proud that he chose to serve the citizens of Oklahoma by working on my behalf with the U.S. Senate.

I was privileged to know Grant as a personal friend. Grant met his wife Lauren while working in Washington. Their relationship was based on their love for each other and their faith in God. For those closest to them, it was easy to see that Grant and Lauren were the best of friends, with a solid relationship and strong values.

Mr. President, I join Grant's family and friends in their loss, as I will miss him. The State of Oklahoma and our Nation are better places for his having lived, and share our loss. I have heard from many people in Oklahoma and around the country who have expressed their condolences. I appreciate their kind thoughts, and Grant's family and friends appreciate their prayers as well.

I would like to add my thoughts and prayers for the other men killed in the accident, Joel K. Smith and Raymond Gene Moss II. They, too, were men of honor that served their State and Nation with distinction. May God bless Grant, Joel, and Ray as they enter eternal life and may He comfort their families and friends as we grieve their departure from us.

God gave us a gift in Grant Terry Todd. Having had the opportunity to know Grant, to work with him, to worship with him, to witness his love and devotion to his wife and family, to understand his appreciation of God's natural creations and to see the way he touched and is still touching people's lives I know the power of God's gift. It is great and it is forever.

COMPUTER ABUSE TITLE IN S. 1607

Mr. LEAHY. Mr. President, I am delighted that the Computer Abuse Amendments Act that I have worked on over the years with Senators BROWN and KOHL is part of the crime bill.

It is important to update our laws to stay abreast of rapid changes in computer technology and computer abuse techniques. In the 101st Congress, the Senate responded to the threat posed by new forms of computer abuse—destructive viruses, worms, and Trojan horses—by unanimously passing S. 2476. That bill was not considered by the House of Representatives, so I joined with Senators BROWN and KOHL in reintroducing the bill, S. 1322, in the last Congress. S. 1322 passed the Senate as an amendment to S. 1241, the Violent Crime Control Act. The provision was altered slightly in the crime conference with the House in November 1991. It passed the House in this modified form as part of the conference report to H.R. 3371, the Violent Crime Control Act of 1991.

The computer abuse amendments are the product of several years of work by the Subcommittee on Technology and the Law. In the 101st Congress, I chaired two hearings on computer abuse. This proposal has been drafted and revised on the basis of careful review of issues raised in the subcommittee's hearings, and with the benefit of consultation with computer experts. This proposal has been broadly supported by the computer industry and by computer users. At the subcommittee's hearing on July 31, 1990, Deputy Assistant Attorney General Mark Richard testified that this bill "* * * provides a useful improvement over and clarification of, the scope of existing law."

The free flow of information is vital to our competitiveness as a nation. Innovations in computer technology create new opportunities for improving the flow of information and advancing America's economic future, but they also create new opportunities for abuse by those who seek to undermine our computer systems. The maintenance of the security and integrity of computer systems has become increasingly critical to interstate and foreign commerce, communications, education, technology, and national security.

The National Research Council [NRC] published a major study, "Computers at Risk: Safe Computing in the Information Age." The study finds that we risk computer breaches that could cause economic disaster and even threaten human life. According to the NRC study, "tomorrow's terrorist may be able to do more damage with a keyboard than with a bomb." The NRC study underscores the need for immediate action to protect our computer systems.

This legislation deals with new technologies and newly discovered forms of computer abuse. An alarming number of new techniques—computer viruses, worms, and Trojan horses—can be used to enter computers secretly. Their simple names belie their insidious nature. Thousands of virus attacks have been reported and hundreds of different viruses have been identified. Computer breaches can cause economic disaster and even threaten human life.

Hidden programs can destroy or alter data. For example, a Michigan hospital reported that its patient information had been scrambled or altered by a virus that came with a vendor's image display system. Hidden programs can also hopelessly clog computer networks, as we saw with the INTERNET worm of November 1988.

Other computer incidents, using the same kinds of programs, have been inadvertent. For example, in December 1989, that Vermont State computer network froze. It was impossible to sign on to the system. Rather than a virus or sabotage, it turned out to be a security device in the form of a time bomb, built into the system's hardware to deter outside access. The manufacturer code would be triggered after a given date, locking out access through normal channels. It was a nuisance to be sure, but certainly not criminal.

The subcommittee held a hearing on May 15, 1989, to explore the threat to computers and the information stored in them posed by new forms of computer abuse. We heard testimony from FBI Director William Sessions, who stressed the seriousness of the threat posed by computer viruses and other techniques.

The subcommittee also heard testimony from Dr. Clifford Stoll, an astrophysicist at the Harvard-Smithsonian Center for Astrophysics. He testified that many researchers throughout the United States were prevented from using their computers for 2 days as a result of a worm that was introduced onto the INTERNET computer network in November 1988. While managing the computer system at the Lawrence Berkeley Laboratory, Dr. Stoll caught a West German spy using computer networks to try to gain access to military information.

As a prosecutor for more than 8 years in Vermont, I learned that the best deterrent to crime was the threat of swift apprehension, conviction, and punishment. Whether the offense is murder, drunk driving, or computer crime, we need clear laws to bring offenders to justice. Trespassing, breaking and entering, vandalism, and stealing are against the law. They have always been against the law because they are contrary to the values and principles that society holds dear. That has not changed and will not change.

In crafting these computer abuse amendments, we have been mindful of the need to balance clear punishment for destructive conduct with the need to encourage legitimate experimentation and the free flow of information. As several witnesses testified in the subcommittee's hearings, the open exchange of information is crucial to scientific development and the growth of new industries. We cannot unduly inhibit that inquisitive 13-year-old who, if left to experiment today, may tomorrow develop the telecommunications or computer technology to lead the United States into the 21st century. He or she represents our future and our best hope to remain a technologically competitive nation.

Mr. President, these amendments clarify the intent standards, the actions prohibited, and the jurisdiction of the current Computer Fraud and Abuse Act [CFAA], 18 U.S.C. Sec. 1030. Under the current statute, prosecution of computer abuse crimes must be predicated upon the violator's gaining unauthorized access to the affected Federal interest computers. However, computer abusers have developed an arsenal of new techniques which result in the replication and transmission of destructive programs or codes that inflict damage upon remote computers to which the violator never gained access in the commonly understood sense of that term. The new subsection of the CFAA created by this bill places the focus on harmful intent and resultant harm, rather than on the technical concept of computer access.

The computer abuse amendments make it a felony intentionally to cause harm to a computer or the information stored in it by transmitting a computer program or code—including destructive computer viruses—without the knowledge and authorization of the person responsible for the computer attacked. This is broader than existing law, which prohibits intentionally access[ing] a Federal interest computer without authorization, if that causes damage.

This legislation recognizes that some computer incidents are not malicious—or even intentional—and they are treated differently. The computer abuse amendments create a parallel misdemeanor for knowingly transmitting a computer program with reckless disregard of a substantial and unjustifiable risk that the transmission will cause harm. The standard for recklessness is taken from the Model Penal Code. This provision will give prosecutors and juries greater flexibility to get convictions for destructive conduct.

The computer abuse amendments create a new, civil remedy for those harmed by violations of the CFAA. This would boost the deterrence of the statute by allowing aggrieved individuals to obtain relief.

The legislation expands the jurisdiction of the CFAA. It would cover all computers involved in interstate commerce, not just Federal interest computers, as the current law does. This is appropriate because of the interstate nature of computer networks. American society is increasingly dependent on computer networks that span State and national boundaries. The potential for abuse of computer networks knows no boundaries. The computer abuse amendments address this threat by expanding the jurisdiction of the CFAA to the full extent of the powers of Congress under the commerce clause of the U.S. Constitution, article I, section 8.

I want to thank Senators BROWN and KOHL for working with me on this legislation. Enactment of this sound and balanced legislation would help ensure that our laws keep pace with new forms of computer abuse.

VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT

Mr. HARKIN. Mr. President, 3 days ago, a drive-by shooting occurred. Dennis Dozier was driving home from his job at 3:30 in the morning, when another vehicle came up behind him, and several shots were fired. One bullet entered Mr. Dozier's head below the ear, and blew away his tonsils. The bullet passed out of Dozier's body, and thankfully, he was able to maintain control of his vehicle, and stopped at a nearby house, where the residents called the police. Dennis' mother, Mary Dozier, speculated that it was someone out for kicks.

Here in Washington, this kind of attack has become all too common. We've all heard of the carjackings, random shootings, and rocks thrown through windshields on the beltway. We have grown all too accustomed to it.

For many years, Mr. President, Iowans felt they were immune from that sort of terror. We heard of the violence and crime in the major cities, but we felt that we were safe. People in small towns in Iowa would never imagine being afraid to walk around in their neighborhoods at night. They felt that it was safe to drive down the streets. They even felt secure leaving their homes unlocked—even if they were away from home.

Sadly, for a growing number of Iowans, even in small towns, that's no longer the case. Iowans are scared of crime. A recent poll by the Des Moines Register found that just half of the women surveyed in Polk County, where Des Moines is located, feel safe walking in their neighborhoods at night. Only 4 years ago, nearly two-thirds of women in Polk County felt safe walking at night in their neighborhoods.

What happened in the meantime? A series of highly publicized crimes have shocked my State. A double murder in the Drake Diner in Des Moines during a robbery, in front of many witnesses. The abduction of a college student returning to school after her summer holiday. The murderous rampage of a graduate student at the University of Iowa, leaving four dead and one severely wounded. Perhaps the most disturbing aspect of crime today—and the reason so many Americans are worried about crime—is that it appears so random. Everyone, everywhere, is a potential victim.

Mr. President, the drive-by shooting of Dennis Dozier I mentioned at the beginning of my statement didn't happen in Washington, or Los Angeles, or New York. It happened on County Road E–36 in Hardin County, IA. E–36 runs between Clutier, IA, population 249, and Garrison, IA, population 411, where Mr. Dozier owns the Hitchin' Post restaurant, which he had just closed for the night. So the people of Iowa no longer feel safe, as they once did.

Dennis Dozier's brother, Curt, came to my office in Cedar Rapids yesterday, and dropped off a note. He wrote:

> I am writing this note to you to tell you that I am fed up with the violence that has been going on in America. Recently my brother was shot three times in a random shooting incident last saturday nite. Thankfully he is recovering real well. At least he will be able to live to talk about it. I hope you support the crime bill that is currently being mentioned in the Senate. I know it is not a complete answer but it may help. Thank you for your support along with your fellow senators.

I certainly agree with Curt's concerns.

It's time for Congress to take action—far past time. For years, the American people have waited for the filibusters and blustering about crime to end, and for the Congress to take action. In the crime bill before us, we take some important steps to that end.

What does this bill do for rural States? It provides hundreds of new police and law enforcement personnel for Iowa, thanks to the amendment by the distinguished President pro tempore. It provides funds to establish cooperative projects in rural States to address the problem of domestic violence. Rural drug enforcement is also beefed up with substantially larger authorizations to address this problem.

In 1990, I worked with a number of my rural colleagues to request a study of rural drug abuse by the GAO. The results were startling, and demonstrated that drug and alcohol abuse are a major problem in rural States. Lifetime prevalence of substance abuse by rural 18 year olds in 1988 occurred at a similar rate to urban youths, for alcohol, cigarettes, stimulants, inhalants, tranquilizers, and heroin. The arrest rates for alcohol and drug abuse per thousand residents is similar between rural States and nonrural States.

Mr. President, most of the new officers provided under this bill would come through community policing grants. I have been a long-time supporter of community policing, as an effort to improve Community/Police interactions and as one of our most effective strategies for preventing and deterring crime in our neighborhoods. I also support the Triad program, authorized under this bill, which provides for important cooperative action by local law enforcement and senior citizens groups to prevent crime against seniors.

This emphasis on community policing and crime prevention is greatly needed. I believe we need to go even further to prevent crime and its root causes. We need a balanced two-pronged approach to combating crime and returning safety to our streets.

This bill is tough on criminals. And it should be. People have to know that if they commit a crime they will pay a heavy price. I supported the three-time-loser law, providing for a mandatory life term without parole for persons convicted of three violent crimes carrying terms of 5 years or more. I also supported Senator MOSELEY-BRAUN's amendment to try juveniles as adults for certain violent Federal crimes. And I supported sentencing enhancement for hate crimes, after moving for the inclusion of disability among applicable hate crime categories.

But I don't think this bill does enough to prevent crime and its root causes. To be serious about combating crime, we have to be serious about early intervention, education, substance abuse prevention and treatment, job creation, and other efforts to defeat the hopelessness that often leads to crime.

We also have to clearly recognize that action by the Government, cannot be looked upon as a magic bullet to crime control. President Clinton gave a speech last week at the Church of God in Christ, in Memphis, where the Reverend Dr. Martin Luther King delivered his last sermon. His speech emphasized the most important issues in addressing the root causes of crime—personal responsibility and morality. While I believe it is appropriate to try as adults 13 and 14 year olds who commit savage crimes, I think we have to shake our heads and wonder why these young people would commit these heinous crimes. President Clinton spoke of the reaction Dr. King would have if he were here today—seeing the violence rampant in our cities. I agree with the President when he says, "it is our moral duty to turn it around." And that must start with families and their communities.

One issue that troubles me about this bill is its inclusion of capital punishment. I have always opposed the death penalty. I think it is not the place of the government to decide that someone no longer should live. Perhaps the most troubling prospect is that, where there is the potential to put someone to death, there is also the possibility of a mistake being made. No matter how carefully we devise the procedures or consider the evidence, there remains a distinct possibility of the execution of an innocent person. There can be no greater injustice than for a person to be executed by the State for a crime he or she did not commit.

But on balance, I believe that the many important anticrime measures in this bill outweigh the increased use of the death penalty it would permit. So without a laundry list of the valuable provisions, let me just state my support of this bill. My support for the bill is not unreserved, and I suspect that many Senators, perhaps most of us, have provisions that we would prefer were not in this legislation. But on the whole, this is an important step forward which should have a significant impact on crime.

THE 60TH RATIFICATION OF THE LAW OF THE SEA CONVENTION

Mr. PELL. Mr. President, on Tuesday of this week an event of great significance for the United States and for the world passed relatively unnoticed. That was the deposit of the 60th instrument of ratification for the U.N. Convention on the Law of the Sea. As a result of that action, the Convention—which governs the use of 71 percent of the Earth's surface—will enter into force in 1 year's time.

I have long been a proponent of such a treaty. In 1967, I introduced the first Senate resolution calling on the President to negotiate a Law of the Sea Convention. I followed up with several additional resolutions in support of the Convention and was actively involved in congressional oversight of the negotiations, serving as delegate to the negotiations as well as chairing and participating in numerous hearings on the negotiations. In short, I think it is fair to say that I was the leading proponent of the Convention in the Senate. Incidentally, too, the Seabed Arms Control Treaty grew out of the first Law of the Sea draft treaty I introduced.

Unfortunately, as a result of shortsighted decisions taken by an earlier administration the United States may not be a party to the Convention when it enters into force. That is a bitter pill, for as the world's foremost maritime nation, the United States has vital interests in the Convention and in being an active participant in the Convention's mechanisms and processes.

The stage for this debacle was set in 1982, when the Reagan administration decided the United States would not sign the Convention because of its treatment of deep seabed mining in part XI of the Convention. While I agree that there are problems with part XI, my own view was and is that these could have been worked out by the United States as a participant in the treaty process.

Instead, the Reagan administration opted out. It decided it would accept those portions of the Convention that it liked as customary international law, and reject the provisions that it did not like. The notion that this is viable proposition will now be put to the test if the Convention enters into force without the United States as a party.

Fortunately, a resolution of U.S. concerns with part XI may be in the offering. Beginning in the summer of 1990, then-Secretary General of the United Nations Javier Perez de Cuellar initiated informal consultations to try and resolve concerns related to the Convention's treatment of deep seabed mining. These consultations had the benefit of the input from one of the United States' finest diplomats, Thomas Pickering, during his tenure as U.S. Ambassador to the United Nations. The consultative process continued by the current Secretary General, Boutros Boutros-Ghali.

It picked up steam earlier this year when the Clinton administration announced that the United States would take a more active role in the Secretary General's consultations. Instead of participating merely in a listening role, the Clinton administration decided that the United States would participate with the intent of seeking a solution to the impasse over part XI.

As I commented earlier this year in the Senate, this was a marked improvement from the Reagan and Bush years. I expect that in the years to come, the Clinton administration will receive plaudits for its decision.

These consultations are beginning to bear fruit. The August round of consultations produced a draft paper—commonly referred to as the boat paper—that marked a significant advance in efforts to resolve concerns about part XI. The paper presented useful procedural and substantive approaches for addressing these concerns.

Does the boat paper paper resolve all of the U.S. seabed mining industry's concerns about part XI? Probably not. But it is a start toward resolving the concerns expressed by the Reagan administration in 1982. And, last week it was the basis for negotiation towards an accepted part XI and a generally acceptable Law of the Sea Convention. This is all the more urgent now that the Convention will come into force in 1 year, on November 16, 1994.

Mr. President, the Law of the Sea Convention represents an important advance in the development of international law. In the long term, the articulation of a sound and just legal architecture to govern the Earth's oceans will benefit the United States. For example, the Convention establishes agreed limits on territorial seas and provides for exclusive economic zones. It formally supports important freedom of navigation rights. It contains significant rules for the protection of the marine environment. There are many other benefits.

Mr. President, we have the opportunity to repair a mistake that was made 11 years ago when the Reagan administration did not sign the LOS Convention. During the coming 12 months, it will still be possible to negotiate modifications to the Convention, and to reach agreement with the other signator nations. After the Convention enters into force, comes into force, this will be more difficult. I hope the Clinton administration will move ahead rapidly to resolve concerns with part XI so that the United States will be able to sign the Convention before it comes into force.

EMERGENCY UNEMPLOYMENT COMPENSATION LEGISLATION MUST PASS BEFORE ADJOURNMENT

Mr. PELL. Mr. President, as my colleagues will recall, the Senate passed H.R. 3167, the Unemployment Compensation Amendments of 1993 on October 28, 1993.

Unfortunately, that bill has been stalled in a conference committee since that time. Last week, the conference reached what it thought was a final bill. Regrettably, the other body rejected that proposal and sent the bill back to conference. It is my understanding that the conference has not even met since that time.

The Senate members of the conference have done a fine job representing the Senate in their efforts to produce a final bill. Unfortunately, however, this process has taken entirely too much time. While the other body spends time discussing the merits of an extraneous matter, thousands of Rhode Islanders and hundreds of thousands of other Americans are forced to wait. They wait to find out if and when their Representatives will act on their behalf. While they wait, they plan and worry about making ends meet until we do act.

Not a single day passes without my offices in Providence and Washington receiving calls from unemployed Rhode Islanders, all wanting to know if, by chance, Congress finally passed the bill. Not only are these people trying to pay the rent and buy the groceries, but as time goes by they now want to know if a Thanksgiving dinner can be prepared and whether Christmas and Hanukkah gifts can be bought. It is impossible to explain the peculiarities of the legislative process to someone worrying about feeding their family.

Mr. President, I voted for the Gramm amendment that appears to be at the center of current debate. While the amendment does have merit, it should not, must not, kill this essential legislation. If Members of the other body feel strongly about the issues contained in the Gramm amendment, I would urge the joint leadership to provide them with a separate vote on this matter in January.

I am very concerned that in the press to go home for the year this important issue will be lost in the shadows of other more high profile matters. It would be unconscionable if we adjourn before passing and sending to President Clinton a final version of the emergency unemployment compensation legislation.

THE DEFICIT AND THE CRIME BILL

Mr. MATHEWS. Mr. President, a few moments ago, I joined the majority of our colleagues in voting in favor of the crime bill. But now that the vote is taken, I want to say I am troubled about one consequence of the bill we have just passed. Make no mistake: I endorse what this bill will achieve. The Senate has taken aggressive action to crush the criminals who terrorize our streets and to stop the flow of weapons slaughtering Americans coast to coast. I supported that bill because assuring public safety and welfare is one of the highest obligations of Government. However, there is another obligation of Government, one that all of us have been struggling with, a priority as important as crime in the minds of Americans, and a problem that likewise will haunt future generations if we don't act today. That priority and problem is the Federal deficit.

The crime bill that President Clinton and the distinguished chairman of the Judiciary Committee initially proposed was a focused and well crafted measure costing $5.9 billion. When it reached the floor, it was $12 billion. That is a sizable sum of money, but it was a reasonable sum for the task that the bill set out to achieve—provided those billions were fully and frankly funded. Unfortunately, Mr. President, they were not. The measure was merely a $12 billion addition to the Federal deficit.

Then two things happened almost simultaneously. After the November elections, we expanded the crime bill to a $22 billion package. And we decided we'd pay for it out of money we planned to save in the future. Spending money we haven't saved yet is a vexing enough idea for someone who, like me, has spent 42 years in public service as a finance man. But what was maddening is that we earlier voted to spend that very same money for deficit reduction and infrastructure. So when the crime bill came up, we not only spent money we didn't have—we spent it a second time.

Mr. President, I voted for the crime bill because I've had a bellyful of the guns and criminals who tyrannize American life. But, Mr. President, I remain deeply troubled that we have not financed this measure honestly and responsibly.

Look what we've been doing. Twenty years ago Congress spent and said the money would come from somewhere. Ten years ago Congress spent and said tomorrow's growth would pay for everything. Now we spend and say tomorrow's savings will pay for everything. Mr. President, we cannot continue—however worthy and deserving the project—to use as our financing source a bottomless bucket of smoke.

Deficit reduction has to be a fixed priority if we're going to achieve it, and we aren't making it a fixed priority. We have a priority du jour. Every time disciples for the next new priority hit the beach, we're converted. And every time we spend without real, explicit, responsible ways to pay, we magnify the deficit. Deficit reduction fades further into a vague and elusive tomorrow, where our children and grandchildren will indeed have to face it—even though we've vowed a hundred times we won't let that happen.

Nonetheless, Mr. President, I am pinning one hope on the immediate future. I am hoping that a fiscally accountable crime bill will emerge from conference accompanied by a credible financing package. Even though I won't have a seat among the conferees, I will have a voice when the bill returns here. And I will remind this chamber that the commitment we made to reduce the deficit is every bit as earnest as the commitment we made to reduce crime.

EXPLANATION OF VOTE

Mr. DANFORTH. Mr. President, I rise today to explain my vote against the motion to cut off debate on the nomination of Janet Napolitano to be the U.S. attorney for the District of Arizona. In my view, Ms. Napolitano played a key role in an incident which disqualified her from a position of public trust.

A little over 2 years ago, the Judiciary Committee took the deposition of a witness, Ms. Hoerchner, during its deliberations on the nomination of Clarence Thomas to be an Associate Justice of the Supreme Court. For some reason, the committee not only permitted Ms. Hoerchner and her attorney to attend the deposition, but also allowed Ms. Napolitano, the attorney for another witness, before the committee, to attend the deposition.

A careful reading of the transcript of the deposition of Ms. Hoerchner on October 10, 1991, reveals that, following an off-the-record conference with Ms. Napolitano and requested by Ms. Napolitano, Ms. Hoerchner modified her preceding testimony in ways to make it far less damaging to Ms. Napolitano's client and far more damaging to Justice Thomas. I believe this intervention was inappropriate.

Ms. Napolitano has refused to disclose the substance of her conversation with Ms. Hoerchner to the Judiciary Committee. She claims that the conversation is protected by attorney-client privilege, claiming that her client, Ms. Hill, and the other witness, Ms. Hoerchner, shared a common interest.

I disagree with her analysis. Ms. Napolitano has given no hint as to what that common interest might be. There was no apparent legal or economic interests Ms. Hill and Ms. Hoerchner held in common. Rather, they were supposedly disinterested witnesses in a proceeding in which neither had any apparent personal interest. Their testimony was designed solely to inform the Senate about a nominee. In my view, the two did not share a common interest, and thus her defense of attorney-client privilege should fail.

Because I believe that Ms. Napolitano was centrally involved in this unfortunate incident, I will vote against cloture on this nomination.

CONGRATULATIONS TO L. PAUL DUBE ON HIS RETIREMENT

Mr. NUNN. Mr. President, at the end of this month, the Department of Defense, and the Nation, will be losing a dedicated public servant. Mr. L. Paul Dube will retire after serving with distinction in the Department of Defense for 31 years.

Paul Dube began his career in the Department of Navy in 1962, the same year he received his degree from the University of New Hampshire. Paul spent 6 years in the Navy before moving to the Office of the Secretary of Defense in 1968. For the past 25 years, Paul Dube has served in the Office of the Comptroller, which is the primary office in the Defense Department responsible for preparing the defense budget each year.

In the Office of the Comptroller, Paul has served as Director for Military Personnel programs; as Director for Operations, with oversight of the operation and maintenance accounts which fund training and other crucial readiness activities; as Assistant Deputy Comptroller; and, since 1988, as Deputy Comptroller for Program and Budget. Paul is a charter member of the Senior Executive Service.

As Deputy Comptroller for Program and Budget, Paul has served as the senior official assisting the Comptroller in the preparation and execution of the defense budget in a time of extraordinary change and extraordinary challenge. As the defense budget has declined in real terms each year since 1985, the Department of Defense has made significant reductions in personnel and force structure while at the same time undertaking military operations such as Operation Just Cause in Panama, Operation Restore Hope in Somalia, and Operation Desert Storm, to name just a few.

The Department has met these challenges through the dedicated efforts of people like Paul Dube. Although career civil servants like Paul Dube are for the most part unknown to the public, those of us responsible for the oversight of the Defense Department recognize the contribution Paul Dube has made to the difficult job of getting the best defense possible from our declining defense budget.

As I well know, putting together and managing the defense budget is an exceedingly complex process. Our Nation has been fortunate to have a consummate professional like Paul Dube to help carry out that task. I congratulate him for a distinguished career and, on behalf of the Armed Services Committee, I want to express our best wishes to Paul for continued success in all his endeavors.

UNITED STATES RELATIONS WITH INDONESIA

Mrs. FEINSTEIN. Mr. President, this week President Clinton will meet leaders of 12 Asian nations at the Seattle meeting of the Asia Pacific Economic Cooperation [APEC] forum. For the first time, heads of state will meet to discuss economic cooperation in the Pacific rim—the fastest-growing region of the world. Japan, South Korea, Indonesia, China, and other countries have proven that sustained growth is still possible in our global economy. I commend President Clinton for his vision in seeking a Pacific Community for economic cooperation and coordinated growth.

In my State of California, we are well aware of the benefits of trade with Asia. Almost half of California's exports go to the Asia-Pacific region—some $31 billion. But tariffs on American goods limit free access and prevent those California businesses from selling even more American products to the region. I believe it is important for President Clinton to pursue new opportunities for American exports in Asia as we try to jump-start the American and, in particular, the California economy.

Unfortunately, American economic relations with some Asian nations have sometimes been complicated by human rights concerns. Some would say that human rights are a matter of a country's internal affairs. However, I believe we are our brother's keepers. The experience of World War II was a sobering one and taught us a valuable lesson. If the world had responded sooner, perhaps the tragic genocide would not have occurred. Human rights should be a matter of concern for every nation throughout the world.

Indonesia, in particular, has been criticized for its invasion and occupation of East Timor. On December 7, 1975, Indonesia invaded East Timor, which had just received independence from its Portuguese colonizers. It is estimated that more than 100,000 East Timorese, at least one-sixth of the population, died as a result of the invasion. In addition to reported torture, arbitrary arrests, and random violence, the Indonesia Army systematically burned Timorese crops and farm villages to wreak a gruesome famine. By one report, one-half of all surviving Timorese children have irreparable brain damage as a result of malnutrition.

During all of the years of occupation, the people of East Timor have defended their right to self-determination. On November 12, 1991, 1,000 peaceful demonstrators gathered to honor a human rights leader who had been killed 2 weeks earlier. As the marchers approached his grave, Indonesian troops gunned down some 100 unarmed protestors. The event was recorded by British television and prompted an international outcry.

To its credit, the Indonesian Government responded and took positive steps on human rights following the tragic event in 1991. Officials in Jakarta condemned the massacre and arrested the military leaders responsible for the shootings. The government has also granted limited access to the International Red Cross, established a human rights committee in parliament, and allowed increased public discussion of human rights.

And more recently, the Indonesian Government reduced the sentences of more than 16,000 prisoners for good behavior. Almost 900 others received conditional releases on Indonesian Independence Day. It is now possible that Timorese political prisoner Xanana Gusmao may be released after 12 years of his life sentence.

These small steps of progress must be rewarded and encouraged by the United States. A strong historical supporter of American interests, Indonesia was a bulwark against communism in Southeast Asia during the Vietnam war. Indonesia also played a crucial role in helping locate American prisoners of war, supported the liberation of Kuwait in the Persian Gulf war, and helped negotiate the historic Cambodian peace agreement.

It would be a mistake to cut off all contact with Indonesia because we have suddenly become more aware of historical abuses. I believe this could have devastating consequences. Indonesia is a multiethnic state and is the fifth largest nation in the world. A rigid American stance on Indonesia has the potential to destabilize Indonesia and all of Southeast Asia.

In order to promote human rights in Indonesia, the United States must develop a carrot-and-stick approach. We must continue to criticize human rights abuses and take appropriate action when these abuses continue. But, we must also use caution to ensure that economic and political cooperation continues, in part to help promote improvements in human rights.

The Foreign Assistance Act of 1993 includes measures—sponsored by Senator FEINGOLD—to promote continued improvement in Indonesia's human rights record. Humanitarian programs are continued while military aid is linked to documented and sustained improvements in Indonesia's human rights record, especially in East Timor. I support these provisions and am hopeful that this approach will help improve human rights in East Timor and maintain our strong relationship with Indonesia.

In addition, I believe this approach will help promote economic cooperation between our two countries; both the Indonesian and American economies could benefit.

Mr. President, Indonesia is an important Asian ally. It is important that the United States does not completely isolate itself from Indonesia and other countries in Southeast Asia. The APEC meeting this weekend presents an opportunity to increase American engagement with all of our Asian trading partners. Increased economic cooperation will result in mutual growth and improve human rights. It is my fervent hope that a strong American commitment to APEC will promote prosperity and democracy around the entire Pacific rim.

I ask unanimous consent that articles from the New York Times and Jakarta Post that demonstrate some improvements in Indonesia's human rights record be printed in the RECORD at this time.

There being no objection, the articles ordered to be printed in the RECORD, as follows:

[From the New York Times, Aug. 14, 1993]

INDONESIA REDUCES SEPARATIST'S PRISON TERM

BANGKOK, THAILAND.—The East Timor separatist leader who was sentenced to life imprisonment in May has had his sentence reduced to 20 years by President Suharto, the Indonesian government announced Friday.

The separatist, Jose Alexandre Gusmao, who is known as Xanana, had been found guilty of rebellion and firearms possession after a trial in East Timor, which was a Portuguese colony until 1975.

The President's decision was "based on the consideration that Xanana has acknowledged his mistakes and has accepted East Timor's integration into Indonesia," a Government spokesman said in Jakarta.

He would not comment on speculation that President Suharto's decision had been influenced by international condemnation over the conduct of Mr. Gusmao's trial and over Indonesia's human rights record in East Timor, which was invaded by Indonesia in 1975 and annexed the next year.

The State Department confirmed this month that it had blocked the sale of four used F-5 planes to Indonesia for reasons that included "human rights concerns in Indonesia." Meeting with President Suharto in Tokyo in July, President Clinton raised concerns about conditions in East Timor.

[From the Jakarta Post, Aug. 14, 1993]

MORE THAN 16,000 INMATES GET REMISSION

JAKARTA.—A total of 16,471 inmates will get remissions in their sentences of between one and six months and 896 others will receive conditional releases on Independence Day tomorrow, the government announced Saturday.

The Director General of Correctional Institutions of the Ministry of Justice, Baharudin Lopa, said remissions are granted each year on Aug. 17 for good behavior.

For some, this will mean freedom tomorrow but Baharudin declined "for ethical reasons" to disclose whether political prisoners are among those to be released.

The number of people receiving remissions this year is slightly higher than last year's 16,325, he told reporters.

There are currently 28,202 people serving jail terms in 375 prisons across Indonesia.

Those who won conditional releases are required to report to the authorities regularly until their time has been served, he said.

Baharudin also disclosed that 110 inmates have been given work release permission.

The government would have liked to give such a chance to more inmates but there are not many companies willing to accept them, he added.

The arrangement for "reassimilation" is given to inmates who are about to complete their jail terms and those who have served at least half of their sentences.

The length of remission which an inmate is entitled to increases each time, starting with one month for the first six month of his term, rising to two months after completing his first year, three months after the second year and so on.

XANANA

According a Kompas report yesterday, a person serving a 20-year term would only spend a total of 11 years and seven months if he or she gets all sentence remissions each year.

This means that Fretilin leader Jose Alexandre Xanana Gusmao, whose life sentence was commuted to a 20-year jail term through clemency from President Soeharto last week, may be freed after less than 12 years if he shows good behavior.

This is a likely prospect given that he had been cooperative with the authorities.

Xanana, who was convicted by a court in Dili last May of heading an armed rebellion in East Timor, began his jail term in Setnarang on Friday.

The clemency was praised by Armed Forces Chief Gen. Feisal Tanjung who said on Saturday that it was a very good move. He conceded that it might be connected with Indonesia's effort to better its image in international political circles.

Foreign diplomats welcomed the action as a sign of Jakarta's sensitivity to growing criticism of its human rights policies but London-based human rights group Amnesty International remained unconvinced, saying that the clemency was designed to appease the international community.

"Amnesty International has remained seriously concerned about the health of Xanana Gusmao throughout his detention," it said in a statement reported by Reuters news agency.

In Dili, lawyer Domingos M.D. Soares said the President's decision was politically wise and legally sound.

CONCERNING THE CHIEF OF THE U.S. FOREST SERVICE

Mr. DECONCINI. Mr. President, I rise today to discuss the recent removal of the Chief of the U.S. Forest Service, Dale Robertson. I am greatly disturbed by the manner in which Chief Robertson was removed from the position he has held, honorably in my opinion, for many years. It is very dismaying that a long term career employee of Chief Robertson's stature should be so abruptly removed from his position. Chief Robertson deserved better.

I would also like to note my dismay at the rumors concerning the future of the Forest Service Chief position. Rumors are running rampant that the administration intends to appoint a replacement for Chief Robertson who is not a career Forest Service or Federal Government employee, thus politicizing the office.

Mr. President, I certainly hope that these are just rumors and the belief that the administration is moving to politicize the office of the Chief of the Forest Service is unfounded. Not only would it be bad policy, but in light of the need for sound and professional forest management in this Nation, it just doesn't make sense. The Forest Service is beginning a major movement toward ecosystem management, and it is absolutely necessary to have a Chief who has the career status and professional knowledge to effectively lead the Forest Service in developing these new policies. Natural resource management in our national forests must have the stability and expert stewardship provided by experienced career employees.

Over 70 forest supervisors felt strongly enough about this to sign a letter expressing their concern and opposition to making the Chief position a political one. I think that is a pretty definitive statement on the negative effects such a decision would have on the Forest Service.

The administrator needs to state clearly its intention regarding the future of the Chief's position and the direction it has in mind for the Forest Service. The air needs to be cleared so that these rumors can be put to rest.

I don't think this country can afford a swing in forest management policy with each change in administration. The Forest Service has an important role in balancing multiple-use of our national forests with the protection of wildlife species. Secretary Espy and President Clinton have an opportunity to make sure that the responsibilities of this agency are not subject to political whims and to ensure consistent and professional leadership for the Forest Service.

I urge the administration to proceed with care on this issue and not to ignore the protests of numerous forest supervisors and the history of leadership of the agency itself. The acting Chief, Dave Unger, is a capable and experienced career employee. There is no need to rush forward with an ill-advised notion that will set a poor precedent for the future leadership of the Forest Service.

The importance of strong leadership for the Forest Service at this particular time cannot be understated. To alter the tradition of utilizing career employees in top management jobs at the Forest Service is not in the best interest of the public or for the management of our national forests.

OLYMPIC ORDER TO SENATOR STEVENS

Mr. DOLE. Mr. President, on October 30, at a ceremony in New York, the International Olympic Committee presented Senator TED STEVENS with its highest award, the Olympic Order.

The senior Senator from Alaska is the first Member of Comgress to be given the honor, and only the 34th person ever to receive the award.

Olympic gold medalist Donna deVarona, who won gold medals in swimming in the 1964 and 1968 Olympics, and who worked with Senator STEVENS on the Amateur Sports Act and on Title IX legislation, introduced the Senator to the crowd of more than 1,000 Olympians and members of the International Olympic Committee and the U.S. Olympic Committee, who were gathered for the ceremony.

Juan Antonio Samaranch, president of the International Olympic Committee, also made brief remarks commending Senator STEVENS, prior to conferring the Olympic Order on Senator STEVENS.

I ask unanimous consent that Ms. deVarona's introduction of Senator STEVENS, and IOC President Samaranch's words as he conferred the honor, be made a part of the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

Donna deVarona. Thank you for changing the program to accommodate my schedule, and thank you for asking me to come and speak on behalf of Senator Stevens.

Once the Olympics touches you, they are with you forever and none of us ever want to leave.

I remember in 1972 going to Munich for ABC as a broadcaster. And I remember wanting so much, as an athlete, to give back to sport. I wanted to tell the audience how important the Olympics were and how proud I was of America.

In 1972, as you know, our Olympic Committee was a different entity than it is today. It was structured, and it could not respond to the needs of the day.

When our Olympic games were over that year, we came back to the United States and found we could not re-structure from within.

Believe it or not, we went to Washington to solve our problems.

Very risky. But we were very lucky when President Ford appointed his commission and chose Senator Stevens, a devoted advocate of sports and physical fitness.

The commission convened in 1975. It came up with recommendations to the Senate for re-structuring the Olympic Committee to make the committee more credible, more honorable.

The commission also recommended creating a checks-and-balances system to give athletes rights. The system would also give the Olympic Committee more standing in the community so that the American business community would embrace the Olympics and be proud of the Olympics.

Then, we had a change in Administration. As most of you know with commissions, a change in Administration usually means those findings are put on a shelf.

But during the Carter Administration, Senator Stevens was relentless in pursuing a legislative agenda.

He was so relentless that in 1978 the Amateur Sports Act was passed. The entity you see today was created.

At that time Senator Stevens also had the courage during the Administration-led boycott to stand alone in the Senate—when all of America was caught up in the emotional charge to boycott the Moscow Games—and say it's insane to boycott the Olympics.

He did it again in 1993 when the House asked for a joint resolution in the Senate to protest Beijing's bid for the Olympics. Senator Stevens knew that a boycott would serve no purpose in promoting the understanding and goodwill that the Olympics generate. I promise you, it didn't earn him any votes.

During the Gorbachev-Reagan summit before the Seoul Olympics, Senator Stevens asked those two leaders to pledge noninterference and support of the Seoul Games.

Senator Stevens consistently speaks for us—athletes and Americans.

And I must say, as a female athlete, he has always supported us on Title Nine.

He is one leader we can always look to. He is one leader who keeps the focus on the athlete, and he makes me proud of Washington. I would like to now introduce the honorable Senator Stevens.

Juan Antonio Samaranch: Senator Stevens, in recognition of your outstanding merit in the cause of world sports and your faithfulness to the Olympic ideal as illustrated by Pierre deCoubertin, the innovator of the Olympic Games, I have the high honor to award you the Olympic Order.

AMERICA IN DENIAL

Mr. KENNEDY. Mr. President, I want to call to the attention of my colleagues an important Washington Post article by Joe Califano, the former Secretary of Health, Education, and Welfare. Secretary Califano is currently serving as President of the Center on Addiction and Substance Abuse at Columbia University, and has made great strides in educating the American people about the costs of substance abuse and the urgent need for an integrated, comprehensive substance abuse benefit in national health care reform.

Today we passed a $22 billion crime bill, but nothing will have a more significant impact on the crime rate than providing drug treatment to everyone who needs it.

I urge my colleagues to give this thoughtful article their careful attention.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 14, 1993]

AMERICA IN DENIAL

(By Joseph A. Califano, Jr.)

The scent of self-delusion perfumes the air as Washington debates its current trinity of concerns; health care reform, the crime bill and violence in America. The hot air coming from Capitol Hill and the White House on these subjects could fry an egg on a chilly sidewalk, yet it's difficult to find any discussion of the cold reality common to all three trendy topics; substance abuse and addiction involving legal and illegal drugs, alcohol and nicotine.

The health reform debate is mired in arguments over how to manipulate the financing and delivery of care to the sick, although no industrial nation has been able to provide universal access at reasonable cost solely by such tinkering. Senators spar over mandatory sentences and the death penalty for drug-related and violent crimes as they vote to build more prisons to demonstrate their machismo, although a generation of such narrowly focused "get tough" policies has failed to arrest the rise of crime in urban and rural America.

To stem violence, Congress and the administration fire their heavy artillery at movies and television and tee up a five-day waiting period before you can buy a gun legally. They profess the belief that a little infringement on the First Amendment and a touch of gun control will give urban America kinder, gentler streets, even though millions of weapons, along with drugs and alcohol, will remain readily available on most street corners.

First, health care reform. At least $140 billion of the $1 trillion Americans will spend on health care next year is attributable to substance abuse and addition. A recent Center on Addition and Substance Abuse study found that more than $7.4 billion of the $41 billion Medicaid will spend on inpatient hospital care in 1994 can be traced directly to smoking, chewing tobacco, alcohol and drug abuse—and that doesn't count the victims of violence sparked by drugs and alcohol abuse, the smokers and prescription-drug abusers whose hospital records do not reveal substance abuse, and the many individuals whose eligibility for Medicaid stems from substance abuse that precipitated their slide into poverty or disability.

A recent study from the Medical College of Wisconsin revealed that more elderly Medicare patients are hospitalized for alcohol abuse than for heart attacks. In most urban areas, at least half the hospital beds are filled by patients suffering the ravages of cancer, heart disease, AIDS, tuberculosis, accidents and violence spawned or aggravated by tobacco alcohol and drugs. On a weekend evening, it's hard to find a patient in a city emergency room whose visit isn't due to substance abuse. If we had effective efforts to stop mothers from smoking, drinking and using drugs during pregnancy, we could save billions of dollars in health care costs for them and their children.

Next, crime and violence. Drugs and alcohol are implicated in at least three-fourths of the nation's homicides, suicides, assaults, rapes and child molestations. Add to that the muggings and robberies by drug-crazed perpetrators and the vandalism and date rape by high school and college students high on beer, pot or cocaine, and it's easy to understand why our nation is drowning in a crime wave.

Eighty percent of state and local prisoners are incarcerated for drug- or alcohol-related crimes. Most federal inmates are serving time for drug offenses. Most of the homeless who make our city sidewalks smack of Calcutta are victims of alcohol and drug abuse.

How can any member of Congress or administration policy wonk believe that tinkering with the financing and delivery of sick care, more mandatory prison sentences and death penalties and less violent television shows and movies will stop this carnage? It's time to confront substance abuse and addiction for what it is: America's Public Enemy Number One. Defeat of this formidable foe requires more resources, energy and commitment to research education, prevention and treatment.

The National Institutes of Health spend more than $4 billion on cancer, cardiovascular disease and AIDS research. They spend less than 20 percent of that amount on research into the causes, cures and prevention of substance abuse and addiction, the largest single cause and exacerbator of all three of the nation's fashionable killers and cripplers.

The only sure way not to get hooked on drugs or cigarettes is not to try them. Alcohol and cigarette education can promote moderation in drinking, curb teenage binges and discourage smoking. Tough enforcement of laws against underage drinking (closing and imposing heavy fines on bars and stores that sell alcohol to minors) has an impact. Yet we spend remarkably little on health promotion and disease prevention in this area. The police, overwhelmed in their battle against violent criminals and drug dealers, have little time to get tough on liquor law enforcement.

We need to know a lot more about what treatment works for whom. Skepticism about the effectiveness of treatment led the Democratic Congress to give the Bush administration less money for treatment than it requested, and led the Clinton administration and House to reduce treatment funds by a quarter of a billion dollars earlier this year. But good treatment programs—residential and nonresidential, long-term therapeutic communities and 30-day inpatient care—have success rates that compare favorably with many cancer treatments in which we invest millions without blinking an eye. Until we provide effective treatment in our prisons, America will continue to hold the shameful distinction of caging more prisoners per capita than any other nation.

If we do not confront substance abuse and addiction candidly and aggressively, the sound and the fury that echo in the corridors of power about the current trinity of political hot buttons, however well-international, will be just a lot of noise.

MEDICAID AND MEDICARE BENEFICIARIES IN HEALTH REFORM

Mr. DURENBERGER. Mr. President, today's "Washington Post" included an article regarding the recent approval of Tennessee's waiver application to adopt a new medical care program, known as TennCare. I request that the entire article be placed in the RECORD following my statement.

This announcement prompts me to recall the principles that my distinguished colleague and chairman of the Committee on Finance, Mr. MOYNIHAN, and I embodied in legislation we introduced last year, entitled the "Medicaid Coordinated Care Improvement Act".

The goal of our legislation was to remove the Federal barriers discouraging States from giving Medicaid clients the benefits of coordinated care. The essence of the bill was that States would no longer have to undergo the uncertain and frustrating process of seeking Federal Government waivers every time one of them wished to establish a coordinated care program for Medicaid enrollees. Millions of Americans already receive their care from health maintenance organizations and other forms of coordinated care. This is hardly a novel method of delivering health care and it shouldn't be a Federal case if a State wishes to offer it.

At the same time, our legislation included consumer safeguards that are unmatched in any health program under current law and that far exceeded the very few requirements faced by the traditional, uncoordinated, fee-for-service providers serving Medicaid clients.

Our bill would have given Medicaid clients more choice, tightened the quality assurance requirements, and specified that coordinated care organizations must work together with community health centers and other caregivers serving this population.

Mr. President, the purpose of the "Medicaid Coordinated Care Improvement Act" was to improve access, quality, and cost-effectiveness of health care for Medicaid enrollees across the Nation.

Access would improve as providers come forward—as they already have in New York, Minneapolis, Baltimore, and Philadelphia—to serve a population often ignored by fee-for-service physicians. Quality would be enhanced because of greater emphasis on preventing illness and on continuity of care. And cost-effectiveness would be improved for exactly the same reasons. It's cheaper to do it right the first time—to get that expectant mother into the doctor's office now instead of paying the big hospital bills later.

As exemplified in the efforts of Oregon and Tennessee, States are turning to innovative plans to restructure the health care programs administered at the state level as they continue to face unprecedented fiscal crises. The concept of removing federal obstacles to efficient care delivery systems is something that Republicans, Democrats, the States, the administration, caregivers, and consumers can all get behind.

As we near the close of the first session of the 103d Congress, we continue to move forward in addressing the needed reforms to this nation's health care delivery system. I am especially pleased that both sides of the aisle appear to be entertaining an idea I have long pontificated—the idea of integrating both our Medicare and Medicaid beneficiaries into any health care reform proposal.

As the Washington Post article points out, TennCare embraces some of the key elements of the Health Security Act. In addition, the "Health Equity and Access Reform Today Act of 1993" includes much of the bill Senator MOYNIHAN and I introduced as a stand-alone Medicaid proposal last year.

However, to date, the various health reform proposals do not change the underlying incentives in the Medicare program, which represents nearly 20 percent of all personal health expenditures. Although, the Federal Government is the primary buyer of services for the 34 million Medicare beneficiaries, Medicare would remain the largest unmanaged, open-ended fee-for-service health insurance program in the country—thereby providing contradictory incentives to efficient managed care delievery and possible undermining the ability of managed competition to succeed at cost containment.

I am continuing to work on legislation to restructure the Medicare program through the application of the managed competition principles. Specifically, my legislation will provide Medicare beneficiaries with an annual enrollment period to select from among competing health plans, employer-sponsored coverage, or the current federally administered fee-for-service program.

I hope to introduce this proposal early next year. In the interim, I urge my colleagues to seriously consider the impact of failing to incorporate the Medicare program in the context of health reform. Reform should serve to encourage quality, efficient care delivery to all consumers—regardless of the source of premium payment. I look forward to revisiting this issue in the second session of Congress.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 19, 1993]

TENNESSEE'S HEALTH GAMBLE

U.S. GIVES GO-AHEAD TO PLAN AKIN TO CLINTON'S

(By Dan Morgan)

The Clinton administration yesterday gave Tennessee permission to adopt a major new medical care program for 1.5 million poor and uninsured people that includes some of the key elements of the White House health reform plan.

The program, known as TennCare, will shift nearly 1 million Medicaid recipients and as many as 500,000 uninsured people into private "managed care" plans that will compete with each other for patients in 12 regions of the state.

Health and Human Services Secretary Donna E. Shalala said approval of TennCare is "consistent with the administration's policy of encouraging states to develop alternative [health] programs."

Tennessee needed a federal "waiver" of Medicaid rules to adopt its broad experiment, because it intends to finance the program almost entirely with state and federal Medicaid funds.

The approval, after months of high-level bargaining, amounts to a major coup for Tennessee's outgoing governor, Ned McWherter (D), who made a pitch for it at a White House meeting with President Clinton on Nov. 8. McWherter has staked his political legacy on a health care plan that will end the spiraling costs of the state Medicaid program.

Federal officials cautioned yesterday that they have reserved the right to approve participating health plans to make sure they are signing up enough doctors and hospitals to serve the beneficiaries.

The administration has expressed concern throughout the negotiation process that the program is underfunded. Some Tennessee doctors have said the fees being considered under the plan are so low that they will not treat TennCare patients, but state officials said they do not believe doctors will boycott the program.

Although TennCare eventually could provide health coverage for another 500,000 Tennesseans, neither the federal nor state governments will put up more cash initially than they would if the current Medicaid system continued unchanged. State officials say benefits will be as good as or better than those now offered by Medicare.

Some health care experts say doctors and hospitals, therefore, will bear the brunt of providing the same benefits to more people at the same cost.

"There is no question that the providers are taking the hit in this plan," said Gordon Bonnyman, a health attorney at Tennessee Legal Services.

State officials said their plan is on solid financial footing. "If we can emphasize preventive care, we'll save enormous amounts of money," said state Finance Commissioner David Manning. "We have fragmented our health care for the poor. Bringing it all together in a coherent plan makes it more cost-effective."

He added that Medicaid funds previously used to subsidize hospitals caring for the uninsured now will be available to buy health policies, since fewer hospital patients will be uninsured.

"We are confident that there'll be more service, not less, particularly primary care," said Charles A. Miller, a lawyer at the Washington firm of Covington & Burling who helped draft the proposal. "The benefit package is equal to or better than Medicaid."

The Tennessee package is the most far-reaching state Medicaid reform plan to be approved since Oregon won approval in March to restrict the number of Medicaid services offered so it could expand coverage to more people. Administration officials stressed that the Tennessee proposal does not do that.

As in the Clinton reform scheme, Medicaid recipients and the uninsured will be able to choose from one of several health plans in their region on the state, each of which will guarantee them a package of benefits. Many of the health plans are expected to let patients choose from a list of participating doctors and hospitals. Others may be health maintenance organizations (HMOs).

The state, acting much like one of Clinton's proposed state "health alliances." will buy coverage for those eligible for TennCare, using state and federal funds plus small sums paid for coverage by uninsured workers.

The plan also contains provisions for limiting state and federal outlays, and for restricting the growth of the federal contribution to 8.5 percent a year.

Bruce C. Vladeck, head of the Health Care Financing Administration, acknowledged that similarities exist between the Clinton and Tennessee schemes, but cautioned against "overselling the resemblances." He noted that the Clinton plan relies heavily on employees putting up some of the money toward health coverage of the poor. But in TennCare the private health insurance system will remain largely unchanged and there will be no new contributions by employers.

This has led to concerns about the adequacy of financing.

TennCare evolved out of a state financial crisis resulting from soaring Medicaid costs. Over the last few years, the state expanded Medicaid benefits and the Medicaid rolls but now finds itself with growing demands and no new sources of funds. The federal government already pays about two-thirds of the costs.

Tennessee's lobbying on behalf of TennCare went all the way to the White House. McWherter briefed Clinton on the negotiations during a half-hour meeting earlier this month that sources said also included a lengthy discussion of the North American Free Trade Agreement.

A senior White House official said the two subjects were "not related." However, Tennessee's House delegation on Wednesday voted 9 to 0 in favor of the trade pact.

DESIGNATES MAURICE RIVER AS WILD AND SCENIC RIVER

Mr. LAUTENBERG. Madam President, I am pleased to support S. 1380, which designates the Maurice River and its tributaries as components of the national Wild and Scenic Rivers System. Senator BILL BRADLEY and I agree that this bill is the best way to protect 35 miles of pristine waterways in an important area of New Jersey.

New Jersey is the most densely populated and urbanized State in the Nation. Most people see the New Jersey that is spotted with industries—industries that keep this country strong and moving forward.

But most people do not see another part of New Jersey, the extraordinary natural resources that have, in some remarkable way, remained relatively undisturbed and untouched as they withstand increasing pressure from development. The Maurice River and its tributaries which are protected by this legislation, is one such area.

In 1987, Senator BRADLEY and I introduced legislation that authorized the National Park Service to study the suitability and feasibility of designating portions of the Maurice River and its tributaries for inclusion in the Wild and Scenic Rivers System. Through consultation with the local communities, the Park Service issued a study recommending that the Maurice River and its tributaries be included in the system.

I am pleased that this bill enacts this recommendation, while respecting the rights of individual property owners and recognizing the preferences of local governments.

Twenty-five years ago, in the Wild and Scenic Rivers Act, we recognized the need to protect certain free-flowing rivers with remarkable natural, cultural, scenic and recreational features. We decided that river systems meeting certain criteria should be designated as components of this national system and be managed cooperatively by the communities, the local and State governments and the Federal Government.

In this vein, the act recognizes that communities are the largest stakeholders in this process; that those whose lives and leisure are tied to the river must be included as integral players in the management of the river. The management plan must reflect the needs and concerns of the community. This bill does just that.

The bill ensures sound management and local participation by requiring cooperative agreements to protect the river system in ways which are consistent with local river management plans. These local plans will be developed by the communities based on input from the residents, businesses and officials. The Department of the Interior will offer planning assistance to the local communities at their request.

The Maurice River and its tributaries are one of New Jersey's true treasures. It functions as the critical link between the Pinelands National Reserve and the Delaware Estuary ecosystems, and is an important habitat for many varieties of birds, wildlife and plants. The river system has been the focal point of the area's economy, culture, history and recreation.

Each time I visit this area, I am humbled by its beauty. A few years ago, while travelling down the river, a bald eagle flew just above me. Last week, my first grandchild was born. Now I feel an even more profound obligation to ensure that future generations can have that kind of experience. This bill, then, is more than an attempt to preserve the past; it is a promise that we will enrich the future.

I would like to thank Senator BRADLEY and Congressman BILL HUGHES for their diligence in crafting this bill to everybody's satisfaction. Citizens United to Protect the Maurice River and Its Tributaries has worked tirelessly to make this bill a reality. The Cumberland County Board of Chosen Freeholders represents the commitment of local government to build consensus and support for this effort. Finally, the National Park Service was invaluable in this process and I offer my thanks to them.

With this in mind, I urge all my colleagues in the Senate to join Senator BRADLEY and me in support of this bill that provides for protection and sound management of the Maurice River and its tributaries, a critical New Jersey resource.

TRIBUTE TO JERGEN NASH

Mr. DURENBERGER. As 1993 comes to an end, I would like to take a moment to remember one of Minnesota's great Scandinavians who dominated the airwaves for more than a quarter of a century. For many years, as sure as the day would begin, Jergen Nash would wake his listeners with the first daytime newscast for WCCO–AM Radio. And, just as night would fall, he would relax listeners at 9:30 with an array of light musical classics. Later, he became the primary newscaster from 8:00 to 5:00.

Jergen was one of the great radio announcers who helped to make WCCO–AM Radio the institution it is in the Upper Midwest. Radio audiences were drawn to this worldly Scandinavian who developed a reputation for acting like an Englishman. Jergen was known to be the most down-to-earth man broadcasting from Minneapolis and St. Paul into Minnesota, Wisconsin, Iowa, and the Dakotas. From the station's daily "Good Morning Stop" to his lively banter, Jergen rose to the top of the radio industry with his humor and creativity. Early in his career, Nash was named the winner of the American Federation of Television and Radio Artists award as the best radio announcer in the Twin Cities.

He explained the key to his own success when he described his outlook on providing daily news and entertainment for hundreds of thousands of listeners. He said that he just tries to "be a guest in someone's home every time I open the microphone—I guess that is why I enjoy radio so much. You can be an intimate guest—one radio man visiting one person at a time." Then he modestly adds, "At least that's what they write me and that's the easiest way for me to entertain and inform my friends."

The most endearing part of Jergen was how he shared anecdotes of his family life with the audience. During World War II while he was stationed in

England, he met his wife Mary Kathleen McMahon of Shoneyburn, Scotland, which explains how this Minnesotan acquired his British tastes. Mary and Jergen were married in 1944, and soon after began to raise a family with children Michael, Susan and Kathleen. Later, he became a grandparent.

Nash's Siamese cat, Tango, became a Northwest celebrity. That is because Jergen made a brief off-hand comment one noon about his sick cat. Good news for Tango and the Nash family came from all over the territory. WCCO listeners offered medical advice, sympathy, postcards, get-well cards, catnip, and even a get-well letter from a cat 200 miles away. Even the front yard elm tree became a matter of some concern across the five States. Jergen always reported its first buds, its first Robin, its new shoots of summer and its first fall colors.

In 1980 after 27 years at WCCO Radio, Jergen retired. But he could not completely leave one of his many passions in life. Until just before his death this year, he continued to grace "'CCO-Land" every Sunday morning with a show called "Life's Passing Parade."

Throughout his life—and certainly over the airwaves—Jergen Nash was a good neighbor. His commentary will be missed, but he left a legacy that will be carried on over the airwaves of WCCO Radio.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON AN AGREEMENT WITH THE RUSSIAN FEDERATION RELATIVE TO THE AGREEMENT ON MUTUAL FISHERIES RELATIONS—MESSAGE FROM THE PRESIDENT—PM 72

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; referred jointly, pursuant to 16 U.S.C. 1823(b), Public Law 94-265, to the Committee on Commerce, Science, and Transportation, and to the Committee on Foreign Relations.

To the Congress of the United States:

In accordance with the Magnuson Fishery Conservation and Management Act of 1976 (Public Law 94-265; 16 U.S.C. 1801 *et seq.*), I transmit herewith an Agreement Between the Government of the United States of America and the Government of the Russian Federation Amending and Extending the Agreement on Mutual Fisheries Relations of May 31, 1988. The agreement, which was effected by an exchange of notes at Washington on March 11 and September 15, 1993, extends the 1988 agreement through December 31, 1998. This agreement also amends the 1988 agreement by simplifying the provisions relating to the issuance of licenses by each Party to vessels of the other Party that wish to conduct operations in its 200-mile zone and by adding the requirement that the Parties exchange data relating to such fishing operations. The exchange of notes together with the present agreement constitute a governing international fishery agreement within the meaning of section 201(c) of the Act.

The agreement provides opportunities for nationals and vessels from each country to continue to conduct fisheries activities on a reciprocal basis in the other country's waters. The agreement also continues a framework for cooperation between the two countries on other fisheries issues of mutual concern. Since the 1988 agreement expired October 28, 1993, and U.S. fishermen are conducting operations in Russian waters, I strongly recommend that the Congress consider issuance of a joint resolution to bring this agreement into force at an early date.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *November 19, 1993.*

DEFERRALS OF BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT—PM 73

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Appropriations, the Committee on the Budget, the Committee on Foreign Relations, and the Committee on Environment and Public Works:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report four new and two revised deferrals of budget authority, totaling $7.8 billion.

These deferrals affect International Security Assistance programs as well as programs of the Agency for International Development, the Department of State, and the General Services Administration. The details of these deferrals are contained in the attached report.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *November 19, 1993.*

MESSAGES FROM THE HOUSE

At 12:48 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 796. An act to amend title 18, United States Code, to assure freedom of access to reproductive services;

H.R. 3225. An act to support the transition to nonracial democracy in South Africa;

H.R. 3471. An act to authorize the leasing of naval vessels to certain foreign countries; and

H.J. Res. 159. Joint resolution to designate the month of November in 1993 and 1994 as "National Hospice Month."

The message also announced that the House has passed the following bill and joint resolutions, each without amendment:

S. 1667. An act to extend authorities under the Middle East Peace Facilitation Act of 1993 by six months;

S.J. Res. 55. Joint resolution to designate the periods commencing on November 28, 1993, and ending on December 4, 1993, and commencing on November 27, 1994, and ending on December 3, 1994, as "National Home Care Week";

S.J. Res. 75. Joint resolution designating January 2, 1994, through January 8, 1994, as "National Law Enforcement Training Week"; and

S.J. Res. 122. Joint resolution designating December 1993 as "National Drunk and Drugged Driving Prevention Month."

At 6:46 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill and joint resolution, in which it requests the concurrence of the Senate:

H.R. 3514. An act to clarify the regulatory oversight exercised by the Rural Electrification Administration with respect to certain electric borrowers; and

H.J. Res. 294. Joint resolution to express appreciation to W. Graham Claytor, Jr., for a lifetime of dedicated and inspired service to the Nation.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1268) to assist the development of tribal judicial systems, and for other purposes.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 2632) to authorize appropriations for the Patent and Trademark Office in the Department of Commerce for fiscal year 1994.

MEASURE READ THE FIRST TIME

The following measure was read the first time:

H.R. 1025. An act to provide for a waiting period before the purchase of a handgun, and for the establishment of a national instant criminal background check system to be contacted by firearms dealers before the transfer of any firearm.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1764. A communication from the Assistant Attorney General (Office of Legislative Affairs), Department of Justice, transmitting, pursuant to law, the annual report on the Asset Forfeiture Program for fiscal year 1992; to the Committee on the Judiciary.

EC–1765. A communication from the Assistant Attorney General (Office of Legislative Affairs), Department of Justice, transmitting, pursuant to law, a report on the extent and effects of domestic and international terrorism on animal enterprises; to the Committee on the Judiciary.

EC–1766. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-141 adopted by the Council on October 5, 1993; to the Committee on Governmental Affairs.

EC–1767. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-142 adopted by the Council on November 2, 1993; to the Committee on Governmental Affairs.

EC–1768. A communication from the Office of the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Lawrence Street Lease"; to the Committee on Governmental Affairs.

EC–1769. A communication from the Office of the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Contracting Out For Prison Cell Space"; to the Committee on Governmental Affairs.

EC–1770. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report of a review of the White House travel office; to the Committee on Governmental Affairs.

EC–1771. A communication from the Director of Employee Benefits, Farm Credit Bank of Baltimore, transmitting, pursuant to law, report of the plan for calendar year 1992; to the Committee on Governmental Affairs.

EC–1772. A communication from the Chairman of the Federal Maritime Commission, transmitting, pursuant to law, the semi-annual report of the Office of the Inspector General for the period April 1, 1993 through September 30, 1993; to the Committee on Governmental Affairs.

EC–1773. A communication from the Chairman of the International Trade Commission, transmitting, pursuant to law, the semi-annual report of the Office of the Inspector General for the period April 1, 1993 through September 30, 1993; to the Committee on Governmental Affairs.

EC–1774. A communication from the Secretary of Education, transmitting, pursuant to law, notice of final funding priority—Rehabilitation Short-Term Training; to the Committee on Labor and Human Resources.

EC–1775. A communication from the Secretary of Education, transmitting, pursuant to law, notice of final funding priority—Rehabilitation Engineering Research Center for Accessibility and Universal Design in Housing; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUYE, from the Committee on Indian Affairs, with an amendment:

S. 1654. A bill to make certain technical corrections (Rept. No. 103–191).

By Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry, with an amendment in the nature of a substitute and an amendment to the title:

S. 1288. A bill to provide for the coordination and implementation of a national aquaculture policy for the private sector by the Secretary of Agriculture, to establish an aquaculture commercialization research program, and for other purposes (Rept. No. 103–192).

By Mr. INOUYE, from the Committee on Indian Affairs, without amendment:

S. 282. A bill to provide Federal recognition of the Mowa Band of Choctaw Indians of Alabama (Rept. No. 103–193).

By Mr. INOUYE, from the Committee on Indian Affairs, with an amendment in the nature of a substitute and an amendment to the title:

S. 1345. A bill to provide land-grant status for tribally controlled community colleges, tribally controlled postsecondary vocational institutions, the Institute of American Indian and Alaska Native Culture and Arts Development, Southwest Indian Polytechnic Institute, and Haskell Indian Junior College, and for other purposes (Rept. No. 103–194).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 680. A bill to provide for toy safety, and for other purposes (Rept. No. 103–195).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with amendments:

S. 1432. A bill to amend the Merchant Marine Act, 1936, to establish a National Commission to Ensure a Strong and Competitive United States Maritime Industry (Rept. No. 103–196).

By Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry, with an amendment in the nature of a substitute:

S. 717. A bill to amend the Egg Research and Consumer Information Act to modify the provisions governing the rate of assessment, to expand the exemption of egg producers from such Act, and for other purposes.

S. 994. A bill to authorize the establishment of a fresh cut flowers and fresh cut greens promotion and consumer information program for the benefit of the floricultural industry and other persons, and for other purposes.

By Mr. GLENN, from the Committee on Governmental Affairs, with an amendment:

S. 1070. A bill to provide that certain politically appointed Federal officers may not receive cash awards for a certain period during a Presidential election year, to prohibit cash awards to Executive Schedule officers, and for other purposes.

By Mr. KENNEDY, from the Committee on Labor and Human Resources, without amendment:

S. 1523. A bill to reauthorize certain programs under the Stewart B. McKinney Homeless Assistance Act, and for other purposes.

By Mr. MOYNIHAN, from the Committee on Finance, without amendment:

S. 1560. A bill to establish the Social Security Administration as an independent agency, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. MOYNIHAN, from the Committee on Finance:

Olivia A. Golden, of the District of Columbia, to be Commissioner on Children, Youth, and Families, Department of Health and Human Services.

(The above nomination was reported with the recommendation that she be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. ROCKEFELLER, from the Committee on Veterans' Affairs:

Preston M. Taylor, Jr., of New Jersey, to be Assistant Secretary of Labor for Veterans' Employment and Training.

(The above nomination was reported with the recommendation that he be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources:

Christine Ervin, of Oregon, to be an Assistant Secretary of Energy (Energy Efficiency and Renewable Energy).

(The above nomination was reported with the recommendation that she be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PELL, from the Committee on Foreign Relations:

Treaty Doc. 103-4. Protocol to the International Convention for the Conservation of Atlantic Tunas (Exec. Rept. 103–24).

Treaty Doc. 103-9. Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer (Exec. Rept. 103–25).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources:

Christine Ervin, of Oregon, to be an Assistant Secretary of Energy (Energy Efficiency and Renewable Energy).

(The above nomination was reported with the recommendation that she be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

TEXTS OF RESOLUTIONS OF ADVISE AND CONSENT TO RATIFICATION TO ABOVE TREATIES REPORTED BY THE COMMITTEE ON FOREIGN RELATIONS

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Protocol Adopted June 5, 1992, by the Conference of Plenipotentiaries of the Contracting Parties to the International Convention for the Conservation of Atlantic Tunas (ICCAT), Signed by the United States on October 22, 1992, to Amend Paragraph 2 of Article X of ICCAT.

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer, Adopted at Copenhagen, November 23–25, 1992, by the Fourth Meeting of the Parties to the Montreal Protocol.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BINGAMAN:

S. 1687. A bill to promote the effective and efficient use of Federal grant assistance provided to State governments to carry out certain environmental programs and activities, and for other purposes; to the Committee on Environment and Public Works.

By Mr. GRAHAM (for himself, Mr. DOMENICI, and Mr. MACK):

S. 1688. A bill to amend the Internal Revenue Code of 1986 to treat spaceports like airports under the exempt facility bond rules; to the Committee on Finance.

By Mr. GRAHAM (for himself and Mr. DOMENICI):

S. 1689. A bill to amend the Internal Revenue Code of 1986 with respect to the treatment of accelerated benefits under life insurance contracts; to the Committee on Finance.

By Mr. PRYOR (for himself, Mr. DANFORTH, Mr. BOREN, Mr. HATCH, Mr. CONRAD, Mr. WALLOP, Mr. SASSER, Mr. HATFIELD, and Mr. MATHEWS):

S. 1690. A bill to amend the Internal Revenue Code of 1986 to reform the rules regarding subchapter S corporations; to the Committee on Finance.

By Mr. CONRAD (for himself, Mr. DASCHLE, and Mr. GRASSLEY):

S. 1691. A bill to amend the Internal 1 to amend the Internal Revenue Code of 1986 to provide taxpayers engaged in certain agriculture-related activities a credit against income tax for property used to control environmental pollution and for soil and water conservation expenditures; to the Committee on Finance.

By Mr. PELL:

S. 1692. A bill to authorize the Secretarssue a certificate of documentation for the vessel Big Guy; to the Committee on Commerce, Science, and Transportation.

By Mr. REID:

S. 1693. A bill to amend the Internal Revenue Code of 1986 to delay the effective date for the change in the point of imposition of the tax on diesel fuel, to provide that vendors of diesel fuel used for any nontaxable use may claim refunds on behalf of the ultimate users, and to provide a similar rule for vendors of gasoline used by State and local governments; to the Committee on Finance.

By Mr. BROWN:

S. 1694. A bill to suspend certain requirements until it is determined or agreed that the requirements do not violate the General Agreement on Tariffs and Trade, and for other purposes; to the Committee on Finance.

By Mr. MACK (for himself and Mr. KERREY):

S. 1695. A bill to require the Secretary of the Treasury to mint coins in commemoration of the 25th anniversary of the Apollo 11 Moon landing; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HATFIELD (for himself, Mr. BRADLEY, Mr. KERRY, and Mr. FEINGOLD):

S. 1696. A bill to amend the Military Selective Service Act to terminate the registration requirement and to terminate the activities of civilian local boards, civilian appeal boards, and similar local agencies of the Selective Service System; to the Committee on Armed Services.

By Ms. MIKULSKI:

S. 1697. A bill to improve the ability of the Federal Government to prepare for and respond to major disasters, and for other purposes; to the Committee on Governmental Affairs.

By Mr. WALLOP (for himself, Mr. BOREN, and Mr. MCCAIN):

S. 1698. A bill to reduce the paperwork burden on certain rural regulated financial institutions, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SIMON (for himself and Mr. METZENBAUM):

S. 1699. A bill to amend the Internal Revenue Code of 1986 to provide that the amortization deduction for goodwill and certain other intangibles be determined by amortizing 75 percent of the adjusted basis of the intangibles ratably over a 15-year period; to the Committee on Finance.

By Mr. SIMON:

S. 1700. A bill to amend the Internal Revenue Code of 1986 to limit the interest deduction allowed corporations and to allow a deduction for dividends paid by corporations; to the Committee on Finance.

By Mr. SARBANES (for himself and Mr. SASSER):

S. 1701. A bill to provide for certain notice and procedures before the Social Security Administration may close, consolidate, or recategorize certain offices; to the Committee on Finance.

By Mr. SIMON:

S. 1702. A bill to amend the Federal Food, Drug, and Cosmetic Act to ensure that human tissue intended for transplantation is safe and effective, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. SARBANES (for himself, Mr. WARNER, Ms. MIKULSKI, and Mr. ROBB):

S. 1703. A bill to expand the boundaries of the Piscataway National Park, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SIMON (for himself and Ms. MOSELEY-BRAUN):

S. 1704. A bill to amend the Immigration Reform and Control Act of 1986 concerning interim assistance to States for legalization (SLIAG); to the Committee on the Judiciary.

By Mr. WOFFORD:

S. 1705. A bill to extend temporarily the suspension of duty on Tfa Lys Pro in free base and tosyl salt forms; to the Committee on Finance.

S. 1706. A bill to suspend temporarily the duty on certain chemicals; to the Committee on Finance.

S. 1707. A bill to suspend temporarily the duty on keto ester; to the Committee on Finance.

By Ms. MOSELEY-BRAUN:

S. 1708. A bill to renew the previously existing suspension of duty on parts of aircraft generators; to the Committee on Finance.

By Mr. WOFFORD:

S. 1709. A bill to suspend temporarily the duty on mounted closed circuit television lenses; to the Committee on Finance.

S. 1710. A bill to extend temporarily the suspension of duty on certain chemicals; to the Committee on Finance.

S. 1711. A bill to suspend temporarily the duty on certain chemicals; to the Committee on Finance.

By Mr. BOND (for himself and Mr. DANFORTH):

S. 1712. A bill entitled the "Charles Evans Whittaker United States Courthouse Act"; to the Committee on Environment and Public Works.

By Mr. DODD:

S. 1713. A bill to award grants to public-private partnerships to encourage work force diversity in order to improve the working conditions of all Americans and to help organizations compete more effectively both domestically and internationally, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BAUCUS:

S. 1714. A bill to amend title 23, United States Code, to provide for the establishment of State transportation investment loan funds, and for other purposes; to the Committee on Environment and Public Works.

By Mrs. HUTCHISON (for herself, Mrs. BOXER, Mr. RIEGLE, Mr. FAIRCLOTH, Mr. PRYOR, Mr. CAMPBELL, Mr. PRESSLER, Mr. HARKIN, Mr. PELL, Mr. BAUCUS, Mr. GRAHAM, Mr. BREAUX, Mr. GRASSLEY, Mr. REID, Mr. BURNS, Mr. HELMS, Mr. AKAKA, Mr. SIMON, Mr. COCHRAN, Mr. LOTT, Mr. BOND, Mr. BRADLEY, Mr. SHELBY, Ms. MOSELEY-BRAUN, Mr. FORD, Mr. SMITH, Mr. COATS, Mr. CHAFEE, Mr. WOFFORD, Mr. SIMPSON, Mr. LAUTENBERG, Mr. BENNETT, and Mrs. FEINSTEIN):

S. 1715. A bill to provide for the equitable disposition of distributions that are held by a bank or other intermediary as to which the beneficial owners are unknown or whose addresses are unknown, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ROBB (for himself and Mr. WARNER):

S. 1716. A bill to amend the Thomas Jefferson Commemoration Commission Act to extend the deadlines for reports; to the Committee on the Judiciary.

By Mr. MITCHELL (for himself, Mr. HATFIELD, Mr. KENNEDY, Mr. SIMPSON, and Mr. MOYNIHAN) (by request):

S. 1717. A bill to amend the John F. Kennedy Center Act to transfer operating responsibilities to the Board of Trustees of the John F. Kennedy Center for the Performing Arts, and for other purposes; to the Committee on Environment and Public Works.

By Mr. LIEBERMAN:

S. 1718. A bill to create a Supreme Court for the District of Columbia, and for other purposes; to the Committee on Governmental Affairs.

S. 1719. A bill to amend title XI of the Social Security Act to delay the penalty for failure of employers to file certain reports with respect to the Medicare and Medicaid Coverage Data Bank; to the Committee on Finance.

By Mr. SIMON:

S. 1720. A bill to establish the Gambling Impact Study Commission; to the Committee on Governmental Affairs.

By Mr. BREAUX:

S. 1721. A bill to provide for the transfer of certain tuna fishing vessels documented in the United States to foreign registry; to the Committee on Commerce, Science, and Transportation.

By Mr. KOHL (for himself and Mr. FEINGOLD):

S. 1722. A bill to amend the Federal Water Pollution Control Act to reserve a portion of the funds made available for capitalization grants for water pollution control revolving funds for the purpose of making grants to States that set aside amounts of State funds for water pollution control in excess of the amounts required under such Act, and for other purposes; to the Committee on Environment and Public Works.

By Mr. COHEN:

S. 1723. A bill to improve provisions relating to tech-prep education; to the Committee on Labor and Human Resources.

By Mr. JOHNSTON:

S. 1724. A bill to authorize the Secretary of Health and Human Services to award a grant for the establishment of the National Center for Sickle Cell Disease Research, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. COHEN (for himself, Mr. MACK, Mr. BENNETT, and Mr. FAIRCLOTH):

S. 1725. A bill to amend the Federal Deposit Insurance Act to clarify provisions intended to protect the Corporation from having bank loans or other assets diluted by secret side agreements; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SIMON:

S. 1726. A bill to provide for a competition to select the architectural plans for a museum to be built on the East Saint Louis portion of the Jefferson National Expansion Memorial, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. COHEN:

S. 1727. A bill to establish a National Maritime Heritage Program to make grants available for educational programs and the restoration of America's cultural resources for the purpose of preserving America's endangered maritime heritage; to the Committee on Commerce, Science, and Transportation.

By Mr. BRYAN (for himself and Mr. DOMENICI):

S. 1728. A bill to provide regulatory capital guidelines for treatment of real estate assets sold with limited recourse by depository institutions; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DOMENICI:

S. 1729. A bill to amend the Internal Revenue Code of 1986 to repeal the 1993 Federal income tax rate increases on trusts established for the benefit of individuals with disabilities or for college education costs of a beneficiary; to the Committee on Finance.

By Mr. THURMOND:

S. 1730. A bill to suspend temporarily the duty on 3,4-Dimethylbenzaldehyde (3,4-DBAL); to the Committee on Finance.

By Mr. CRAIG (for himself and Mr. WALLOP):

S. 1731. A bill to provide that the President shall appoint, by and with the advice and consent of the Senate, the Chief of the Forest Service of the Department of Agriculture, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HEFLIN:

S. 1732. A bill to extend arbitration under the provisions of chapter 44 of title 28, United States Code, and for other purposes; considered and passed.

By Mr. BAUCUS (for himself, Mr. MCCAIN, and Mr. RIEGLE):

S. 1733. A bill to amend the Internal Revenue Code of 1986 to provide tax treatment for foreign investment through a United States regulated investment company comparable to the tax treatment for direct foreign investment and investment through a foreign mutual fund; to the Committee on the Judiciary.

By Mr. SIMON (for himself, Mr. HATCH, and Ms. MOSELEY-BRAUN):

S. 1734. A bill to amend the Federal Food, Drug, and Cosmetic Act to expand the provisions relating to market exclusivity; to the Committee on the Judiciary.

By Mr. SIMON:

S. 1735. A bill to establish a Privacy Protection Commission, and for other purposes; to the Committee on the Judiciary.

By Mr. ROBB (for himself and Mr. WARNER):

S.J. Res. 154. A joint resolution designating January 16, 1994, as "Religious Freedom Day"; to the Committee on the Judiciary.

By Mr. D'AMATO:

S.J. Res. 155. A joint resolution to designate the week beginning March 13, 1994 as "National Manufacturing Week"; to the Committee on the Judiciary.

By Mr. MITCHELL (for himself, Mr. LAUTENBERG, Mr. HOLLINGS, Mr. EXON, Mr. NUNN, Mr. MOYNIHAN, Mr. D'AMATO, Mr. WARNER, Mr. NICKLES, Mr. KENNEDY, Mr. PELL, Mr. COHEN, and Mr. BIDEN):

S.J. Res. 156. A joint resolution to express appreciation to W. Graham Claytor, Jr., for a lifetime of dedicated and inspired service to the Nation; to the Committee on Commerce, Science, and Transportation.

By Mr. SASSER (for himself and Ms. MOSELEY-BRAUN):

S.J. Res. 157. A joint resolution to designate 1994 as "The year of Gospel Music"; to the Committee on the Judiciary.

By Mr. WOFFORD (for himself, Mr. PELL, Mr. ROBB, and Mr. GLENN):

S.J. Res. 158. A joint resolution to designate both the month of August 1994 and the month of August 1995 as "National Slovak American Heritage Month"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CHAFEE (for himself, Mr. INOUYE, Mr. HATFIELD, Ms. MIKULSKI, Mr. BOND, Mr. MCCAIN, Mr. STEVENS, Mr. MURKOWSKI, Mr. KEMPTHORNE, Mr. LOTT, Mr. COCHRAN, Mr. COHEN, Mrs. MURRAY, Ms. MOSELEY-BRAUN, Mr. SIMON, Mr. DURENBERGER, Mr. LUGAR, Mrs. HUTCHISON, Mr. LAUTENBERG, Mr. WARNER, Mr. AKAKA, Mr. SPECTER, Mr. BRYAN, Mr. HOLLINGS, Mr. THURMOND, Mr. GRASSLEY, Mr. JEFFORDS, Mrs. FEINSTEIN, Mr. BURNS, Mr. LEAHY, Mr. LIEBERMAN, Mr. REID, Mr. FORD, Mr. DECONCINI, Mr. WOFFORD, Mr. MCCONNELL, Mr. PELL, Mr. BINGAMAN, Mr. EXON, Mr. MACK, Mr. JOHNSTON, and Mr. DODD):

S. Res. 170. A resolution to express the sense of the Senate that obstetrician-gynecologists should be included as primary care providers for women in Federal laws relating to the provision of health care; to the Committee on Labor and Human Resources.

By Mr. FORD (for Mr. MITCHELL (for himself and Mr. DOLE)):

S. Res. 171. A resolution to authorize the production of records by the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs; considered and agreed to.

By Mr. DECONCINI:

S. Con. Res. 54. A concurrent resolution expressing the sense of the Congress regarding the impeded delivery of natural gas for heating to the civilian population of Bosnia-Herzegovina; to the Committee on Foreign Relations.

By Mr. LIEBERMAN (for himself, Mr. WOFFORD, and Mr. GRAHAM):

S. Con. Res. 55. A concurrent resolution expressing the sense of the Congress with respect to Taiwan's membership in the United Nations and other international organizations; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN:

S. 1687. A bill to promote the effective and efficient use of Federal grant assistance provided to State governments to carry out certain environmental programs and activities, and for other purposes; to the Committeee on Environment and Public Works.

ENVIRONMENTAL FLEXIBLE FUNDING ACT OF 1993

• Mr. BINGAMAN. Mr. President, today I am introducing a bill which marks a major first step in our efforts to deal with unfunded mandates. This is a bill which deals with one segment of these mandates, those in the environmental arena. This bill will help alleviate the impact of unfunded envirohmental mandates by promoting more effective and efficient use of existing environmental funds and by facilitating targeting of funds where the problems are the greatest.

The 1970's marked an environmental awakening of our country. We saw major Federal legislation in the areas of air, surface water, drinking water, and solid and hazardous waste. Over the years, we discovered that environmental problems were far more difficult to correct and far more pervasive than we realized. Existing legislation was reauthorized and with each reauthorization additional Federal requirements were enacted. New legislation was enacted, and again, new Federal requirements accompanied the bills.

The Federal laws did provide some funds to help implement the growing requirements. The EPA administers over 15 different programs providing $500 million annually to the States. These funds, however, are far below the moneys that the States estimate are needed to meet Federal requirements. Moreover, they are awarded to States for specific categories of activities regardless of the particular conditions or relative importance of these activities within a State. They are also awarded with different administrative and reporting requirements presenting States with accounting nightmares and providing barriers to more efficient use of funds through consolidation on a particular problem or a particular geographic area.

Existing grant programs fail to recognize that States differ between and within themselves. What might be of most concern to one community due to its unique circumstances is relatively unimportant to another. Federal assistance that might be available is restricted to nationally perceived priorities, preventing more effective use of funds or greater regional or local needs.

Many have called for a reform in the way the Federal Government funds environmental activities. State environmental directors have identified the constricting nature of the existing grant programs which prevent them from using existing funds where the problems are the greatest. The National Governors Association and the National Conference of State Legislators have called for flexible grants as a "first step toward broader, more ambitious reforms." The Vice President's National Performance Review identified flexible grants as a means of cutting redtape and creating a government that works better. Obviously, the time is ripe for changes to occur in the way the Federal Government conducts business.

I am proposing the Flexible Funding Act of 1993 so that we can begin now the process to enact these changes. This act recognizes that States are partners with the Federal Government in cleaning up pollution. It gives States the responsibility of developing a strategy of priority courses of action for the different major environmental endpoints—air, wetlands, water, et cetera—affected by pollution. It allows EPA to consolidate grant funds within an endpoint and award them to the States so they can implement these strategies. It also gives EPA the authority to transfer a percentage of funds from one program to another which is of greater concern to a State.

As a result of this bill, States will be able to better adapt Federal programs to meet the particular environmental needs of the State and its counties and municipalities. States will be able to develop underfunded or identified high risk programs. Barriers to the synergistic combination of different grants will be removed. The reduction in redtape will free resources that can be redirected to solving environmental problems.

Mr. President, my colleagues in Congress as well as the executive branch must face today's financial realities. Our State and local governments want to be environmental stewards. They want to promote a healthy environment. However, resources are finite. State and local governments, as well as the Federal Government, are strapped for funds. We must begin to use available resources more selectively and focus them where the risk is the greatest.

This bill, Mr. President, provides a needed first step in the more effective use of public funds to meet increasing Federal requirements.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1687

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Environmental Flexible Funding Act of 1993".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the magnitude, causes, and interrelationship of environmental pollution are far more significant than previously estimated;

(2) because, in recent years, the requirements under Federal law to address pollution have expanded, State and local governments have greater economic burdens in meeting the Federal requirements;

(3) the nature and extent of environmental problems vary among and within States;

(4) Federal financial assistance to help remediate environmental pollution is limited;

(5) grant programs that are in effect on the date of enactment of this Act are generally restricted to funding specific categories of activities, without regard to the particular conditions of individual States or the relative importance of the activities within a State; and

(6) a single program designed to deal with all forms of environmental pollution within a geographic area may be more effective than a number of programs that address specific components of pollution.

(b) PURPOSES.—The purposes of this Act are to—

(1) promote more effective and efficient use of Federal, State, and local funds with respect to the control of pollution;

(2) enable a State to adapt programs of Federal assistance to meet the particular environmental needs of the State;

(3) help alleviate the impact of Federal requirements by enabling States to integrate and target Federal assistance from a variety of funding sources into a single program to address priority problems if the integration of the assistance into the program furthers the goals and objectives of the programs for which the assistance was initially provided; and

(4) facilitate the funding of environmental programs that address multiple sources of pollution within a geographic area.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) AREA OF ENVIRONMENTAL CONCERN.—The term "area of environmental concern" includes air, drinking water, pesticides, solid and hazardous waste, toxics, and water quality (as defined and determined by the Administrator).

(3) ENVIRONMENTAL MEDIUM GRANT.—The term "environmental medium grant" means a grant made pursuant to the grant program established under section 4(a).

(4) GOVERNOR OF A STATE.—The term "Governor of a State" means the Governor of a State, or if the State does not have a Governor, the equivalent official of the State.

(5) INDIVIDUAL GRANT PROGRAM AUTHORITY.—The term "individual grant program authority" means an individual grant program authority described in section 4(a)(2). The term does not include any authority for a grant made to a State for—

(A) the protection of a specific geographic area within a State; or

(B) capitalization for the establishment of an environmental loan fund.

(6) MULTI-MEDIA ENVIRONMENTAL GRANT.—The term "multi-media environmental grant" means a grant made pursuant to the grant program established under section 4(b).

(7) STATE.—The term "State" means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau (until such time as the Compact of Free Association is ratified). The term shall include, to the extent allowable by law—

(A) an interstate agency that has jurisdiction over 2 or more States and is established pursuant to an agreement or compact that is approved by Congress to carry out the control of pollution (as defined and determined by the Administrator); or

(B) an entity that is—

(i) established by a cooperative agreement between 2 or more States to carry out the control of pollution (as defined and determined by the Administrator); and

(ii) approved by the Administrator.

(8) STATE AGENCY.—The term "State agency" means an entity of a State that is designated by the Governor of a State as having primary responsibility for carrying out the laws of the State relating to pollution prevention, control, and abatement.

SEC. 4. GRANT PROGRAMS.

(a) ENVIRONMENTAL MEDIUM GRANTS.—

(1) IN GENERAL.—

(A) ESTABLISHMENT OF PROGRAM.—As soon as practicable after the date of enactment of this Act, the Administrator shall, in consultation with the Governors of States and by regulation, establish an environmental medium grant program. Notwithstanding any other provision of law, for each fiscal year, from the amounts made available to the Administrator to make grants to States under the individual grant program authorities specified in paragraph (2), the Administrator may make a consolidated grant to any State with respect to which the Governor or the head of a State agency submits an application that is approved by the Administrator, in lieu of awarding the funds as individual grants that would otherwise be awarded to the State under the individual grant program authorities specified in paragraph (2), to fund eligible programs and activities relating to pollution prevention, control, and abatement and related environmental activities of a State.

(B) ADMINISTRATION BY STATE.—Except as otherwise provided in this Act, in carrying out the consolidated grant program under this subsection, a State may exercise the individual authorities that the State may exercise under the individual grant program authorities, and to the extent required to carry out this Act, may transfer authority to an appropriate State agency.

(C) USE OF GRANTS.—Under the grant program, grants shall be awarded to address the pollution prevention, control, and abatement problems and related environmental problems of one area of environmental concern on a statewide basis, in accordance with a priority work plan that meets the requirements of paragraph (4) and that is developed by the appropriate official of the State pursuant to such paragraph.

(2) INDIVIDUAL GRANT PROGRAM AUTHORITIES.—The individual grant program authorities specified in this paragraph include the following grant program authorities granted

to States under the following provisions of Federal environmental law:

(A) AIR PROGRAMS.—Sections 103(b), 105, 106, and 112 of the Clean Air Act (42 U.S.C. 7403(b), 7405, 7406, and 7412, respectively) and section 306 of the Toxic Substances Control Act (15 U.S.C. 2666).

(B) DRINKING WATER PROGRAMS.—Sections 1427, 1428, 1443, and 1465 of the Public Health Service Act (42 U.S.C. 300h-6, 300h-7, 300j-2, and 300j-25, respectively).

(C) PESTICIDES.—Section 23 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136u).

(D) SOLID AND HAZARDOUS WASTE PROGRAMS.—Sections 2007, 3011, and 4008 of the Solid Waste Disposal Act (42 U.S.C. 6916, 6931, and 6948, respectively).

(E) TOXIC SUBSTANCES PROGRAMS.—Sections 10, 28, and 403 of the Toxic Substances Control Act (15 U.S.C. 2609, 2627, and 2683, respectively).

(F) WATER QUALITY.—Sections 104(b), 104(g), 106, 205(j), 314(b), 319, 320, and 604(b) of the Federal Water Pollution Control Act (33 U.S.C. 1254(b), 1254(g), 1256, 1285(j), 1324(b), 1329, 1330, and 1384(b), respectively).

(G) OTHER PROVISIONS.—Any other related provision of Federal environmental law that the Administrator considers to be appropriate.

(3) APPLICATION.—An application submitted pursuant to paragraph (1) by the Governor of a State or the head of a State agency shall be in such form, and contain such information, as the Administrator determines appropriate and shall, at a minimum, include—

(A) a description of the programs and activities to be carried out by the State with funds made available under the grant that is the subject of the application;

(B) a statement concerning how the programs and activities specified in subparagraph (A) will promote the goals and objectives of the priority work plan of the State developed pursuant to paragraph (4);

(C) for each program or activity listed pursuant to subparagraph (A), a description of—

(i) the objectives of the program or activity; and

(ii) measurable performance criteria to be applied to the program or activity;

(D) a statement of the proposed distribution of funds made available under the grant among activities and programs, including an order of priorities;

(E) a statement concerning how the distribution of funds of the State will adequately address the requirements under the individual grant authorities covered under the environmental medium grant; and

(F) an identification of the State agency that will—

(i) carry out the programs and activities specified in subparagraph (A);

(ii) monitor the use of funds made available under the grant that is the subject of the application; and

(iii) report to the Administrator on the use of the funds.

(4) PRIORITY WORK PLAN.—

(A) IN GENERAL.—As part of a grant application, the Governor of the State or the head of the State agency of the State shall submit a priority work plan to the Administrator. The priority work plan shall be for a period of 1 or more years. The plan shall—

(i) be developed—

(I) in accordance with guidance issued by the Administrator pursuant to subparagraph (B); and

(II) with appropriate public notice and opportunity for review and comment; and

(ii) include a description of—

(I) the environmental problems to be addressed by the work plan;

(II) the proposed strategy of the State to address the problems specified in subclause (I), including the goals and objectives of the State relating to the strategy;

(III) priority actions to be taken pursuant to the work plan; and

(IV) the expected outputs and results in terms of effects on the environment to be accomplished pursuant to the work plan.

(B) GUIDANCE.—As soon as practicable after the date of enactment of this Act, the Administrator shall issue guidance for priority work plans prepared pursuant to this paragraph.

(5) ELIGIBLE PROGRAMS AND ACTIVITIES.—Any program or activity that is eligible to receive funding under a grant that would otherwise be awarded to a State under individual grant program authorities, but for this subsection, shall be considered to be an eligible program or activity for the purposes of this subsection.

(6) AMOUNT OF GRANT.—The amount of a grant awarded to a State under this subsection shall not exceed the total amount of grants that would otherwise be awarded to the State under individual grant program authorities, but for this subsection.

(7) COST-SHARING.—

(A) IN GENERAL.—Notwithstanding any other provision of law, including any requirement of individual grant program authorities that would otherwise apply but for this subsection, the Federal share of each program or activity that receives funding from a grant awarded pursuant to this subsection shall not exceed 50 percent of the cost of the program or activity.

(B) NON-FEDERAL SHARE.—Except as otherwise provided by law, as a condition of receiving a grant under this subsection, the State shall pay a non-Federal share from non-Federal sources.

(C) EXCESS CONTRIBUTIONS.—Any amount of funds contributed from non-Federal sources that is in excess of the non-Federal share required to be contributed pursuant to subparagraph (B) may not—

(i) be considered to be funds contributed pursuant to subparagraph (B); and

(ii) be subject to Federal auditing requirements that would otherwise apply to funds contributed pursuant to such subparagraph.

(8) LIMITATIONS AND CONDITIONS ON USE OF FUNDS.—Notwithstanding any other provision of law, including any limitation or condition of the use of funds under any individual grant program authority that would otherwise apply but for this subsection, a State that receives a grant under this subsection may use funds made available pursuant to this subsection for financial assistance to individuals only to the extent that the assistance is related to the costs of eligible programs and activities. The Administrator may not attach any other condition or limitation to the use of the grant funds.

(9) SATISFACTORY PROGRESS.—With respect to a State, the Administrator may reduce the amount of a grant or disapprove a grant application submitted pursuant to paragraph (3) if the Administrator determines that—

(A) for a preceding fiscal year, the State has failed to make satisfactory progress in achieving the performance measures stated in an application for a grant awarded to the State under this subsection; and

(B) on the basis of information available to the Administrator concerning the reliability and achievability of the performance measures referred to in subparagraph (A), the measures that the State failed to achieve are reliable and achievable.

(10) REPORTING REQUIREMENTS.—Not later than 120 days after the end of the 1-year period of a grant made to a State pursuant to this subsection, the appropriate official of the State agency specified in paragraph (3)(F) shall submit to the Administrator a report on the principal activities and achievements of the State accomplished with funds made available pursuant to the grant program under this subsection. The report shall compare the achievements referred to in the preceding sentence to—

(A) the measurable performance criteria described in the application of the State submitted pursuant to paragraph (3); and

(B) the goals and objectives specified in the priority work plan pursuant to paragraph (4)(a)(II) and the expected results specified in the priority work plan of the State pursuant to paragraph (4)(a)(ii)(IV).

(b) MULTI-MEDIA ENVIRONMENTAL GRANT.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Administrator shall, by regulation, establish a multi-media environmental grant program. Notwithstanding any other provision of law, the Administrator may make a grant to each State that submits an application that is approved by the Administrator to assist the State in designing, developing, and carrying out pollution prevention, control, and abatement programs and activities and other related environmental programs and activities that affect 2 or more areas of environmental concern.

(2) APPLICATIONS.—An application for a grant under this subsection shall be made in the same manner as prescribed under subsection (a)(3).

(3) PRIORITY WORK PLAN.—A priority work plan submitted as part of an application made under this subsection shall meet the requirements for a priority work plan developed under subsection (a)(4).

(4) ELIGIBLE PROGRAMS AND ACTIVITIES.—The Administrator shall designate programs and activities that shall be eligible to receive funding under this subsection and shall include programs and activities for—

(A) designing and conducting environmental risk assessments;

(B) environmental education;

(C) enhancing the capacity of a State to support environmental programs;

(D) enhancing the capacity of a State to support a geographical approach to environmental control programs and activities;

(E) promoting source reduction, including activities authorized under section 6605 of the Pollution Prevention Act of 1990 (42 U.S.C. 13104); and

(F) pollution prevention, control, and abatement.

(5) FEDERAL SHARE.—Except as otherwise provided by law, the percentage amount of Federal share of a grants awarded under this subsection shall not exceed the amount specified in subsection (a)(7)(A).

(6) SATISFACTORY PROGRESS.—Subsection (a)(9) shall apply to a grant or application for a grant made by a State under this subsection in the same manner as such subsection applies to a grant made under subsection (a).

(7) REPORTING REQUIREMENTS.—The reporting requirements under subsection (a)(10) shall apply to the Governor of a State that receives a grant under this subsection in the same manner as the requirements apply to the Governor of a State that receives a grant under subsection (a).

(c) GOVERNORS' DISCRETIONARY AUTHORITY.—Notwithstanding any other provision of law, on the request of a Governor of a State, the Administrator may transfer an amount not to exceed 20 percent of the amount that would otherwise be awarded to the State pursuant to individual grant authorities or a grant to the State under subsection (a) or (b) and award the funds as a supplemental amount that shall be subject to the same requirements as any other amounts awarded pursuant to—

(1) a grant authorized under the individual grant authorities specified in subsection (a)(2);

(2) an environmental medium grant awarded pursuant to subsection (a); or

(3) a multi-media environmental grant awarded pursuant to subsection (b).

(d) REQUEST FOR INFORMATION.—The Administrator may request such information, data, and reports as the Administrator considers necessary to—

(1) review an application submitted under this section for approval or disapproval;

(2) evaluate progress made under a grant awarded pursuant to this section; or

(3) prepare a report that the Administrator is required to prepare under section 5.

(e) NO REDUCTION IN AMOUNTS.—In no case shall the award of a grant to a State pursuant to this section result in a reduction of the total amount of funds awarded by the Administrator to a State as grants for conducting environmental programs and activities. Except as expressly provided otherwise, nothing in this section is intended to reduce or supplant the obligation of a State to pay a non-Federal share of a grant awarded by the Administrator to the State for conducting an environmental program or activity.

(f) APPLICABILITY.—This section shall apply beginning with the first full fiscal year following the date of issuance by the Administrator of the regulations establishing an environmental medium grant program under subsection (a)(1).

SEC. 5. REPORT TO CONGRESS.

Not later than 5 years after the date of enactment of this Act, the Administrator, in cooperation with the States, shall submit a report to Congress concerning the grant programs established under this Act. The report shall include such recommendations for changes in the grant programs as the Administrator considers appropriate.●

By Mr. GRAHAM (for himself, Mr. DOMENICI, and Mr. MACK):

S. 1688. A bill to amend the Internal Revenue Code of 1986 to treat spaceports like airports under the exempt facility bond rule; to the Committee on Finance.

THE SPACEPORT FINANCING ACT

Mr. GRAHAM. Mr. President, today I rise with my colleagues Senator MACK and Senator DOMENICI to introduce legislation entitled the Spaceport Financing Act. I am also submitting with this statement a technical description of this legislation. I urge my colleagues in the Senate to join us in this important effort by cosponsoring this bill.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE SPACEPORT FINANCING ACT

DESCRIPTION OF PRESENT LAW

Present law allows exempt facility bonds to be issued to finance certain transportation facilities, such as airports, docks and wharves, mass commuting facilities, high speed intercity rail facilities, and storage of training facilities directly related to the foregoing. Except for high-speed intercity rail facilities, these facilities must be owned by a governmental unit to be eligible for such financing. Exempt facility bonds for airports and docks and wharves are not subject to the private activity bond volume cap. Only 25% of the exempt facility bonds for a high-speed intercity rail facility requires private activity bond volume cap.

Airports.—Treasury Department regulations provide that airport property eligible for exempt facility bond financing includes facilities that are directly related and essential to servicing aircraft, enabling aircraft to take off and land, and transferring passengers or cargo to or from aircraft, but only if the facilities must be located at, or in close proximity to, the take-off and landing area to perform these functions. (See Treas. Reg. Sec. 1.103–8(e)(2)(ii)(a).) The regulations also provide that airports include other functionally related and subordinate facilities at or adjacement to the airport, such as terminals, hangers, loading facilities, repair shops, maintenance or overhaul facilities, and landbased navigational aids such as radar installations. (See Treas. Reg. Sec. L103–8(e)(2)(ii)(b).) Facilities the primary function of which is manufacturing rather than transportation are not eligible for exempt facility bond financing. (See IRC Sec. 142(c)(2)(E): see also Rev. Rul. 77-186, 1977-1, C.B. 22 (facility primarily used for constructing supertankers); Rev. Rul. 77-324, 1977-2, C.B.37 (facility primarily used by a manufacturer for custominizing and structurally modifying new aircraft).)

Public Use Requirement.—Treasury Department regulations provide generally that, in order to qualify as an exempt facility, the facility must serve or be available on a regular basis for general public use, or be a part of a facility so used, as contrasted with similar types of facilities that are constructed for the exclusive use of a limited number of nongovernmental persons in their trades or businesses. (See Treas. Reg. Sec. 1.103–8(e)(2) & 1.103–8(e)(1).) For example, a private dock or wharf leased to and serving only a single manufacturing plant would not qualify as a facility for general public use, but a hanger or repair facility at a municipal airport, or a dock or a wharf, would qualify even if it is leased or permanently assigned to a single nongovernmental person provided that such person directly serves the general public, such as a common passenger carrier or freight carrier. Certain facilities, such as sewage and solid waste disposal facilities, are treated in all events as serving a general public use although they may be part of a nonpublic facility, such as a manufacturing facility used in the trade or business of a single manufacturer.

Federally Guaranteed Bonds.—Bonds directly or indirectly guaranteed by the United States (or any agency or instrumentality thereof) are no tax-exempt. (See IRC Sec. 149(b).) The Treasury Department has not issued regulations interpreting the prohibition of federal guarantees and the scope of the prohibition is unclear.

EXPLANATION OF PROPOSED AMENDMENT

The proposed amendment clarifies that spaceports are eligible for exempt facility bond financing to the same extent as airports. As in the case of airports, the facilities must be owned by a governmental unit to be eligible for such financing.

The term "spaceport" includes facilities directly related and essential to servicing spacecraft, enabling spacecraft to take off or land, and transferring passengers or space cargo to or from spacecraft, but only if the facilities must be located at, or in close proximity to, the launch site to perform these functions. Space cargo includes satellites, scientific experiments, and other property transported into space, whether or not the cargo will return from space. The term "spaceport" also includes other functionally related and subordinate facilities at or adjacent to the spaceport, such as launch control centers, repair shops, maintenance or overhaul facilities, and rocket assembly facilities that must be located at or adjacent to the launch site. The term "spaceport" further includes storage facilities directly related to any governmentally-owned spaceport (including a spaceport owned by the U.S. Government).

It is intended that spaceports shall be treated in all events as serving the general public and will therefore satisfy the public use requirement contained in present Treasury Department regulations. It is also intended that the use of spaceport facilities by the federal government will not prevent the spaceport facilities from being treated as serving the general public, will not prevent the spaceport facilities from being treated as owned by a governmental unit, and will not otherwise render such facilities ineligible for exempt facility bond financing. In addition, the amendment specifies that payments by the federal government of rent, user fees, or other charges for the use of spaceport property will not be taken into account in determining whether bonds for spaceports are federally guaranteed as long as such payments are conditioned on the use of such property and are not payable unconditionally and in all events.

By Mr. PRYOR (for himself, Mr. DANFORTH, Mr. BOREN, Mr. HATCH, Mr. CONRAD, Mr. WALLOP, Mr. SASSER, Mr. HATFIELD, and Mr. MATHEWS):

S. 1690. A bill to amend the Internal Revenue Code of 1986 to reform the rules regarding subchapter S corporations; to the Committee on Finance.

S CORPORATION REFORM ACT OF 1993

Mr. PRYOR. Mr. President, I am proud and honored to rise with my friend and colleague, the Senator from Missouri, Senator JOHN DANFORTH and others, to introduce the S Corporation Reform Act of 1993.

This legislation is the culmination of the efforts of many, and certainly, represents a step Congress can, and should, take in order to capitalize on one of our country's most valuable resources—small businesses.

I want to thank all of the business men and women, attorneys, accountants, and small business organizations who have worked with me and my staff to help us to understand the unique problems of subchapter S corporations. They have helped us arrive at solutions that we think are easily administered and targeted to encourage economic growth.

The interest and enthusiasm for this effort is of special mention. At this date, the bill is endorsed by the: U.S. Chamber of Commerce, National Federation of Independent Businesses, Small Business Legislative Council, National Association of Private Enterprises, American Institute of Certified Public Accountants, and Subchapter S Committee of the American Bar Association's Tax Section.

Mr. President, these fine organizations represent hundreds of thousands of businesses across our country. It is quite a team, one that has worked thoughtfully and diligently to help produce a bill that Congress can and should pass overwhelmingly.

The S Corporation Reform Act of 1993 contains 26 provisions designed to usher sub S corporations into the financial environment of the 1990's.

Subchapter S was first enacted in 1958 to help remove tax considerations from small business owner's decisions to incorporate. This tax treatment has proved helpful to small business over the years, especially to start-up businesses. But subchapter S, as originally enacted in 1958, was very limiting and contained a number of pitfalls.

Today, over 1.6 million U.S. businesses are S corporations. And these businesses are still subject to many of the oppressive restraints which date back to its original enactment in 1958.

Mr. President, it goes without saying that times have changed since 1958. The financial environment is far more complex, and the 1950's sub S limitations restrict growth opportunities. Frankly, sub S needs an overhaul.

This legislation is the overhaul we need. It is an overhaul that is doable. And it is an overhaul that can give a boost to our economic recovery. In ordinary times, small businesses account for 50 percent of the new jobs in this country. However, in times of recovery, that number jumps to 75 percent.

This bill capitalizes on this phenomenon by:

First, expanding capital formation techniques available to S corporations;

Second, reforming S corporation fringe benefit rules;

Third, promoting the preservation of family-owned businesses; and

Fourth, removing undesirable tax traps.

Mr. President, these objectives are met by this legislation in ways that have been carefully thought through. There may well be other ways to encourage these goals and I hope and expect my colleagues will come forward with their ideas. I look forward to this dialog, and I urge my colleagues to examine this bill closely and join with Senator DANFORTH and I to focus on achievable progress for small business and enact this legislation.

Mr. President, I ask unanimous consent that a copy of the a summary of the bill be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1690

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "S Corporation Reform Act of 1993".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; amendment of 1986 Code; table of contents.
TITLE I—ELIGIBLE SHAREHOLDERS OF S CORPORATION
Subtitle A—Number of Shareholders
Sec. 101. S corporations permitted to have 50 shareholders.
Sec. 102. Members of family treated as 1 shareholder.
Subtitle B—Persons Allowed as Shareholders
Sec. 111. Certain exempt organizations.
Sec. 112. Financial institutions.
Sec. 113. Nonresident aliens.
Sec. 114. Electing small business trusts.
Subtitle C—Other Provisions
Sec. 121. Expansion of post-death qualification for certain trusts.
TITLE II—QUALIFICATION AND ELIGIBILITY REQUIREMENTS FOR S CORPORATIONS
Subtitle A—One Class of Stock
Sec. 201. Issuance of preferred stock permitted.
Sec. 202. Financial institutions permitted to hold safe harbor debt.
Subtitle B—Elections and Terminations
Sec. 211. Rules relating to inadvertent terminations and invalid elections.
Sec. 212. Agreement to terminate year.
Sec. 213. Expansion of post-termination transition period.
Sec. 214. Repeal of excessive passive investment income as a termination event.
Subtitle C—Other Provisions
Sec. 221. S corporations permitted to hold subsidiaries.
Sec. 222. C corporation rules to apply for fringe benefit purposes.
Sec. 223. Treatment of distributions during loss years.
Sec. 224. Consent dividend for AAA bypass election.
Sec. 225. Treatment of S corporations under subchapter C.
Sec. 226. Elimination of pre-1983 earnings and profits.
Sec. 227. Allowance of charitable contributions of inventory and scientific property.
TITLE III—TAXATION OF S CORPORATION SHAREHOLDERS
Sec. 301. Uniform treatment of owner-employees under prohibited transaction rules.
Sec. 302. Treatment of losses to shareholders.
TITLE IV—EFFECTIVE DATE
Sec. 401. Effective date.

TITLE I—ELIGIBLE SHAREHOLDERS OF S CORPORATION

Subtitle A—Number of Shareholders

SEC. 101. S CORPORATIONS PERMITTED TO HAVE 50 SHAREHOLDERS.

Subparagraph (A) of section 1361(b)(1) (defining small business corporation) is amended by striking "35 shareholders" and inserting "50 shareholders".

SEC. 102. MEMBERS OF FAMILY TREATED AS 1 SHAREHOLDER.

Paragraph (1) of section 1361(c) (relating to special rules for applying subsection (b)) is amended to read as follows:

"(1) MEMBERS OF FAMILY TREATED AS 1 SHAREHOLDER.—

"(A) IN GENERAL.—For purposes of subsection (b)(1)(A)—

"(i) except as provided in clause (ii), a husband and wife (and their estates) shall be treated as 1 shareholder, and

"(ii) in the case of a family with respect to which an election is in effect under subparagraph (E), all members of the family shall be treated as 1 shareholder.

"(B) MEMBERS OF THE FAMILY.—For purposes of subparagraph (A)(ii), the term 'members of the family' means the lineal descendants of the common ancestor and the spouses (or former spouses) of such lineal descendants or common ancestor.

"(C) COMMON ANCESTOR.—For purposes of this paragraph, an individual shall not be considered a common ancestor if, as of the later of the effective date of this paragraph or the time the election under section 1362(a) is made, the individual is more than 6 generations removed from the youngest generation of shareholders.

"(D) EFFECT OF ADOPTION, ETC.—In determining whether any relationship specified in subparagraph (B) or (C) exists, the rules of section 152(b)(2) shall apply.

"(E) ELECTION.—An election under subparagraph (A)(ii)—

"(i) must be made with the consent of all shareholders,

"(ii) shall remain in effect until terminated, and

"(iii) shall apply only with respect to 1 family in any corporation."

Subtitle B—Persons Allowed as Shareholders

SEC. 111. CERTAIN EXEMPT ORGANIZATIONS.

(a) CERTAIN EXEMPT ORGANIZATIONS ALLOWED TO BE SHAREHOLDERS.—

(1) IN GENERAL.—Subparagraph (B) of section 1361(b)(1) (defining small business corporation) is amended to read as follows:

"(B) have as a shareholder a person (other than an estate, a trust described in subsection (c)(2), or an organization described in subsection (c)(7)) who is not an individual,".

(2) ELIGIBLE EXEMPT ORGANIZATIONS.—Section 1361(c) (relating to special rules for applying subsection (b)) is amended by adding at the end the following new paragraph:

"(7) CERTAIN EXEMPT ORGANIZATIONS PERMITTED AS SHAREHOLDERS.—For purposes of subsection (b)(1)(B), an organization described in section 401(a) or 501(c)(3) may be a shareholder in an S corporation."

(b) CONTRIBUTIONS OF S CORPORATION STOCK.—Section 170(e)(1) (relating to certain contributions of ordinary income and capital gain property) is amended by adding at the end the following sentence: "For purposes of applying this paragraph in the case of a charitable contribution of stock in an S corporation, rules similar to the rules of section 751 shall apply in determining whether gain on such stock would have been long-term capital gain if such stock were sold by the taxpayer."

(c) SPECIAL RULES APPLICABLE TO PARTNERSHIPS AND S CORPORATIONS.—

(1) IN GENERAL.—Subsection (c) of section 512 (relating to unrelated business tax income) is amended—

(A) by inserting "or S corporation" after "partnership" each place it appears in paragraphs (1) and (3),

(B) by inserting "or shareholder" after "member" in paragraph (1), and

(C) by inserting "and S Corporations" after "Partnerships" in the heading.

(2) Reporting requirement.—Section 6037 (relating to return of S corporation) is amended by adding at the end the following new subsection:

"(c) Separate Statement of Items of Unrelated Business Taxable Income.—In the case of any S corporation regularly carrying on a trade or business (within the meaning of section 512(c)(1)), the information required under subsection (b) to be furnished to any shareholder described in section 1361(c)(7) shall include such information as is necessary to enable the shareholder to compute its pro rata share of the corporation's income or loss from the trade or business in accordance with section 512(a)(1), but without regard to the modifications described in paragraphs (8) through (15) of section 512(b)."

SEC. 112. FINANCIAL INSTITUTIONS.

Subparagraph (B) of section 1361(b)(2) (defining ineligible corporation) is amended to read as follows:

"(B) a financial institution which uses the reserve method of accounting for bad debts described in section 585 or 593,".

SEC. 113. NONRESIDENT ALIENS.

(a) Nonresident Aliens Allowed To Be Shareholders.—

(1) In general.—Paragraph (1) of section 1361(b) (defining small business corporation) is amended—

(A) by adding "and" at the end of subparagraph (B),

(B) by striking subparagraph (C), and

(C) by redesignating subparagraph (D) and subparagraph (C).

(2) Conforming amendments.—Paragraphs (4) and (5)(A) of section 1361(c) (relating to special rules for applying subsection (b)) are each amended by striking "subsection (b)(1)(D)" and inserting "subsection (b)(1)(C)".

(b) Nonresident Alien Shareholder Treated as Engaged in Trade or Business Within United States.—

(1) In general.—Section 875 is amended—

(A) by striking "and" at the end of paragraph (1),

(B) by striking the period at the end of paragraph (2) and inserting ", and", and

(C) by adding at the end the following new paragraph:

"(3) a nonresident alien individual shall be considered as being engaged in a trade or business within the United States if the S corporation of which such individual is a shareholder is so engaged."

(2) Application of withholding tax on nonresident alien shareholders.—Section 1446 (relating to withholding tax on foreign partners' share of effectively connected income) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) S Corporation Treated as Partnership, Etc.—For purposes of this section—

"(1) an S corporation shall be treated as a partnership,

"(2) the shareholders of such corporation shall be treated as partners of such partnership, and

"(3) any reference to section 704 shall be treated as a reference to section 1366."

(3) Conforming amendments.—

(A) The heading of section 875 is amended to read as follows:

"SEC. 875. PARTNERSHIPS; BENEFICIARIES OF ESTATES AND TRUSTS; S CORPORATIONS."

(B) The heading of section 1446 is amended to read as follows:

"SEC. 1446. WITHHOLDING TAX ON FOREIGN PARTNERS' AND S CORPORATE SHAREHOLDERS' SHARE OF EFFECTIVELY CONNECTED INCOME."

(4) Clerical amendments.—

(A) The item relating to section 875 in the table of sections for subpart A of part II of subchapter N of chapter 1 is amended to read as follows:

"Sec. 875. Partnerships; beneficiaries of estates and trusts; S corporations."

(B) The item relating to section 1446 in the table of sections for subchapter A of chapter 3 is amended to read as follows:

"Sec. 1446. Withholding tax on foreign partners' and S corporate shareholders' share of effectively connected income."

(c) Permanent Establishment of Partners and S Corporation Shareholders.—Section 894 (relating to income affected by treaty) is amended by adding at the end the following new subsection:

"(c) Permanent Establishment of Partners and S Corporation Shareholders.—If a partnership or S corporation has a permanent establishment in the United States (within the meaning of a treaty to which the United States is a party) at any time during a taxable year of such entity, a nonresident alien individual or foreign corporation which is a partner in such partnership, or a nonresident alien individual who is a shareholder in such S corporation, shall be treated as having a permanent establishment in the United States for purposes of such treaty."

SEC. 114. ELECTING SMALL BUSINESS TRUSTS.

(a) General Rule.—Subparagraph (A) of section 1361(c)(2) (relating to certain trusts permitted as shareholders) is amended by inserting after clause (iv) the following new clause:

"(v) An electing small business trust."

(b) Current Beneficiaries Treated as Shareholders.—Subparagraph (B) of section 1361(c)(2) is amended by adding at the end the following new clause:

"(v) In the case of a trust described in clause (v) of subparagraph (A), each potential current beneficiary of such trust shall be treated as a shareholder; except that, if for any period there is no potential current beneficiary of such trust, such trust shall be treated as the shareholder during such period."

(c) Electing Small Business Trust Defined.—Section 1361 (defining S corporation) is amended by adding at the end the following new subsection:

"(e) Electing Small Business Trust Defined.—

"(1) Electing small business trust.—For purposes of this section—

"(A) In general.—Except as provided in subparagraph (B), the term 'electing small business trust' means any trust if—

"(i) such trust does not have as a beneficiary any person other than an individual, an estate, or an organization described in section 401(a) or 501(c)(3),

"(ii) no interest in such trust was acquired by purchase, and

"(iii) an election under this subsection applies to such trust.

"(B) Certain trusts not eligible.—The term 'electing small business trust' shall not include—

"(i) any qualified subchapter S trust (as defined in subsection (d)(3)) if an election under subsection (d)(2) applies to any corporation the stock of which is held by such trust, and

"(ii) any trust exempt from tax under this subtitle.

"(C) Purchase.—For purposes of subparagraph (A), the term 'purchase' means any acquisition if the basis of the property acquired is determined under section 1012.

"(2) Potential current beneficiary.—For purposes of this section, the term 'potential current beneficiary' means, with respect to any period, any person who at any time during such period is entitled to, or at the discretion of any person may receive, a distribution from the principal or income of the trust. If a trust disposes of all of the stock which it holds in an S corporation, then, with respect to such corporation, the term 'potential current beneficiary' does not include any person who first met the requirements of the preceding sentence during the 60-day period ending on the date of such disposition.

"(3) Election.—An election under this subsection shall be made by the trustee in such manner and form, and at such time, as the Secretary may prescribe. Any such election shall apply to the taxable year of the trust for which made and all subsequent taxable years of such trust unless revoked with the consent of the Secretary.

"(4) Cross reference.—

"For special treatment of electing small business trusts, see section 641(d)."

(d) Taxation of Electing Small Business Trusts.—Section 641 (relating to imposition of tax on trusts) is amended by adding at the end the following new subsection:

"(d) Special Rules for Taxation of Electing Small Business Trusts.—

"(1) In general.—For purposes of this chapter—

"(A) the portion of any electing small business trust which consists of stock in 1 or more S corporations shall be treated as a separate trust, and

"(B) the amount of the tax imposed by this chapter on such separate trust shall be determined with the modifications of paragraph (2).

"(2) Modifications.—For purposes of paragraph (1), the modifications of this paragraph are the following:

"(A) Except as provided in section 1(h), the amount of the tax imposed by section 1(e) shall be determined by using the highest rate of tax set forth in section 1(e).

"(B) The exemption amount under section 55(d) shall be zero.

"(C) The only items of income, loss, deduction, or credit to be taken into account are the following:

"(i) The items required to be taken into account under section 1366.

"(ii) Any gain or loss from the disposition of stock in an S corporation.

"(iii) To the extent provided in regulations, State or local income taxes or administrative expenses to the extent allocable to items described in clauses (i) and (ii).

No deduction or credit shall be allowed for any amount not described in this paragraph, and no item described in this paragraph shall be apportioned to any beneficiary.

"(D) No amount shall be allowed under paragraph (1) or (2) of section 1211(b).

"(3) Treatment of remainder of trust and distributions.—For purposes of determining—

"(A) the amount of the tax imposed by this chapter on the portion of any electing small business trust not treated as a separate trust under paragraph (1), and

"(B) the distributable net income of the entire trust,

the items referred to in paragraph (2)(C) shall be excluded. Except as provided in the preceding sentence, this subsection shall not affect the taxation of any distribution from the trust.

"(4) Treatment of unused deductions where termination of separate trust.—If a portion of an electing small business trust ceases to be treated as a separate trust under paragraph (1), any carryover or excess deduction of the separate trust which is referred to in section 642(h) shall be taken into account by the entire trust.

"(5) Electing small business trust.—For purposes of this subsection, the term 'electing small business trust' has the meaning given such term by section 1361(e)(1)."

Subtitle C—Other Provisions

SEC. 121. EXPANSION OF POST-DEATH QUALIFICATION FOR CERTAIN TRUSTS.

Subparagraph (A) of section 1361(c)(2) (relating to certain trusts permitted as shareholders) is amended—

(1) by striking "60-day period" each place it appears in clauses (ii) and (iii) and inserting "2-year period", and

(2) by striking the last sentence in clause (ii).

TITLE II—QUALIFICATION AND ELIGIBILITY REQUIREMENTS FOR S CORPORATIONS

Subtitle A—One Class of Stock

SEC. 201. ISSUANCE OF PREFERRED STOCK PERMITTED.

(a) In General.—Section 1361(c), as amended by section 111(a)(2), is amended by adding at the end the following new paragraph:

"(8) Treatment of qualified preferred stock.—

"(A) In general.—Notwithstanding subsection (b)(1)(D), an S corporation may issue qualified preferred stock.

"(B) Qualified preferred stock defined.—For purposes of this paragraph, the term 'qualified preferred stock' means stock described in section 1504(a)(4) which is issued to a person eligible to hold common stock of an S corporation.

"(C) Distributions.—A distribution (not in part or full payment in exchange for stock) made by the corporation with respect to qualified preferred stock shall be includible as interest income of the holder and deductible to the corporation as interest expense in computing taxable income under section 1363(b) in the year such distribution is received."

(b) Conforming Amendments.—

(1) Subparagraph (C) of section 1361(b)(1), as redesignated by section 113(a)(1)(C), is amended by inserting "except as provided in paragraph (8)," before "have".

(2) Subsection (a) of section 1366 is amended by adding at the end the following new paragraph:

"(3) Allocation with respect to qualified preferred stock.—The holders of qualified preferred stock shall not, with respect to such stock, be allocated any of the items described in paragraph (1)."

SEC. 202. FINANCIAL INSTITUTIONS PERMITTED TO HOLD SAFE HARBOR DEBT.

Subparagraph (B) of section 1361(c)(5) (defining straight debt) is amended by adding "and" at the end of clause (i) and by striking clauses (ii) and (iii) and inserting the following:

"(ii) in any case in which the terms of such promise include a provision under which the obligation to pay may be converted (directly or indirectly) into stock of the corporation, such terms, taken as a whole, are substantially the same as the terms which could have been obtained on the effective date of the promise from a person which is not a related person (within the meaning of section 465(b)(3)(C)) to the S corporation or its shareholders, and

"(iii) the creditor is—

"(I) an individual,

"(II) an estate,

"(III) a trust described in paragraph (2), or

"(IV) a person which is actively and regularly engaged in the business of lending money."

Subtitle B—Elections and Terminations

SEC. 211. RULES RELATING TO INADVERTENT TERMINATIONS AND INVALID ELECTIONS.

(a) General Rule.—Subsection (f) of section 1362 (relating to inadvertent terminations) is amended to read as follows:

"(f) Inadvertent Invalid Elections or Terminations.—If—

"(1) an election under subsection (a) by any corporation—

"(A) was not effective for the taxable year for which made (determined without regard to subsection (b)(2)) by reason of a failure to meet the requirements of section 1361(b) or to obtain shareholder consents, or

"(B) was terminated under paragraph (2) of subsection (d),

"(2) the Secretary determines that the circumstances resulting in such ineffectiveness or termination were inadvertent,

"(3) no later than a reasonable period of time after discovery of the circumstances resulting in such ineffectiveness or termination, steps were taken—

"(A) so that the corporation is a small business corporation, or

"(B) to acquire the required shareholder consents, and

"(4) the corporation, and each person who was a shareholder in the corporation at any time during the period specified pursuant to this subsection, agrees to make such adjustments (consistent with the treatment of the corporation as an S corporation) as may be required by the Secretary with respect to such period,

then, notwithstanding the circumstances resulting in such ineffectiveness or termination, such corporation shall be treated as an S corporation during the period specified by the Secretary."

(b) Late Elections.—Subsection (b) of section 1362 is amended by adding at the end thereof the following new paragraph:

"(5) Authority to treat late elections as timely.—If—

"(A) an election under subsection (a) is made for any taxable year (determined without regard to paragraph (3)) after the date prescribed by this subsection for making such election for such taxable year, and

"(B) the Secretary determines that there was reasonable cause for the failure to timely make such election,

the Secretary may treat such election as timely made for such taxable year (and paragraph (3) shall not apply)."

(c) Automatic Waivers.—The Secretary of the Treasury shall provide for an automatic waiver procedure under section 1362(f) of the Internal Revenue Code of 1986 in cases in which the Secretary determines appropriate.

(d) Effective Date.—The amendments made by subsection (a) and (b) shall apply with respect to elections for taxable years beginning after December 31, 1982.

SEC. 212. AGREEMENT TO TERMINATE YEAR.

Paragraph (2) of section 1377(a) (relating to pro rata share) is amended to read as follows:

"(2) Election to terminate year.—

"(A) In general.—Under regulations prescribed by the Secretary, if any shareholder terminates the shareholder's interest in the corporation during the taxable year and all affected shareholders agree to the application of this paragraph, paragraph (1) shall be applied to the affected shareholders as if the taxable year consisted of 2 taxable years the first of which ends on the date of the termination.

"(B) Affected shareholders.—For purposes of subparagraph (A), the term 'affected shareholders' means the shareholder whose interest is terminated and all shareholders to whom such shareholder has transferred shares during the taxable year. If such shareholder has transferred shares to the corporation, the term 'affected shareholders' shall include all persons who are shareholders during the taxable year."

SEC. 213. EXPANSION OF POST-TERMINATION TRANSITION PERIOD.

(a) In General.—Paragraph (1) of section 1377(b) (relating to post-termination transition period) is amended by striking "and" at the end of subparagraph (A), by redesignating subparagraph (B) as subparagraph (C), and by inserting after subparagraph (A) the following new subparagraph:

"(B) the 120-day period beginning on the date of any determination pursuant to an audit of the taxpayer which follows the termination of the corporation's election and which adjusts a subchapter S item of income, loss, or deduction of the corporation arising during the S period (as defined in section 1368(e)(2)), and".

(b) Determination Defined.—Paragraph (2) of section 1377(b) is amended by striking subparagraphs (A) and (B), by redesignating subparagraph (C) as subparagraph (B), and by inserting before subparagraph (B) (as so redesignated) the following new subparagraph:

"(A) a determination as defined in section 1313(a), or".

(c) Repeal of Special Audit Provisions for Subchapter S Items.—

(1) General rule.—Subchapter D of chapter 63 (relating to tax treatment of subchapter S items) is hereby repealed.

(2) Consistent treatment required.—Section 6037 (relating to return of S corporation), as amended by section 111(c)(2), is amended by adding at the end the following new subsection:

"(d) Shareholder's Return Must Be Consistent With Corporate Return or Secretary Notified of Inconsistency.—

"(1) In general.—A shareholder of an S corporation shall, on such shareholder's return, treat a subchapter S item in a manner which is consistent with the treatment of such item on the corporate return.

"(2) Notification of inconsistent treatment.—

"(A) In general.—In the case of any subchapter S item, if—

"(i)(I) the corporation has filed a return but the shareholder's treatment on his return is (or may be) inconsistent with the treatment of the item on the corporate return, or

"(II) the corporation has not filed a return, and

"(ii) the shareholder files with the Secretary a statement identifying the inconsistency,

paragraph (1) shall not apply to such item.

"(B) Shareholder receiving incorrect information.—A shareholder shall be treated as having complied with clause (ii) of subparagraph (A) with respect to a subchapter S item if the shareholder—

"(i) demonstrates to the satisfaction of the Secretary that the treatment of the subchapter S item on the shareholder's return is consistent with the treatment of the item on the schedule furnished to the shareholder by the corporation, and

"(ii) elects to have this paragraph apply with respect to that item.

"(3) EFFECT OF FAILURE TO NOTIFY.—In any case—

"(A) described in subparagraph (A)(i)(I) of paragraph (2), and

"(B) in which the shareholder does not comply with subparagraph (A)(ii) of paragraph (2),

any adjustment required to make the treatment of the items by such shareholder consistent with the treatment of the items on the corporate return shall be treated as arising out of mathematical or clerical errors and assessed according to section 6213(b)(1). Paragraph (2) of section 6213(b) shall not apply to any assessment referred to in the preceding sentence.

"(4) SUBCHAPTER S ITEM.—For purposes of this subsection, the term 'subchapter S item' means any item of an S corporation to the extent that regulations prescribed by the Secretary provide that, for purposes of this subtitle, such item is more appropriately determined at the corporation level than at the shareholder level.

"(5) ADDITION TO TAX FOR FAILURE TO COMPLY WITH SECTION.—

"For addition to tax in the case of a shareholder's negligence in connection with, or disregard of, the requirements of this section, see part II of subchapter A of chapter 68."

(3) CONFORMING AMENDMENTS.—

(A) Section 1366 is amended by striking subsection (g).

(B) Subsection (b) of section 6233 is amended to read as follows:

"(b) SIMILAR RULES IN CERTAIN CASES.—If a partnership return is filed for any taxable year but it is determined that there is no entity for such taxable year, to the extent provided in regulations, rules similar to the rules of subsection (a) shall apply."

(C) The table of subchapters for chapter 63 is amended by striking the item relating to subchapter D.

SEC. 214. REPEAL OF EXCESSIVE PASSIVE INVESTMENT INCOME AS A TERMINATION EVENT.

(a) IN GENERAL.—Section 1362(d) (relating to termination) is amended by striking paragraph (3).

(b) MODIFICATION OF TAX IMPOSED ON EXCESSIVE PASSIVE INVESTMENT INCOME.—

(1) INCREASE IN THRESHOLD.—Subsections (a)(2) and (b)(1)(A)(i) of section 1375 (relating to tax imposed when passive investment income of corporation having subchapter C earnings and profits exceeds 25 percent of gross receipts) are each amended by striking "25 percent" and inserting "50 percent".

(2) TAX RATE INCREASE AFTER THIRD CONSECUTIVE YEAR.—Section 1375 is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

"(c) TAX RATE INCREASE AFTER THIRD CONSECUTIVE YEAR.—

"(1) IN GENERAL.—If an S corporation is described in subsection (a) for more than 3 consecutive taxable years, then the rate of tax imposed under subsection (a) with respect to each succeeding consecutive taxable year (if any) shall be determined under the following table:

"In the case of the—	The rate of tax imposed under subsection (a) shall be equal to such rate of tax for the 3rd taxable year, plus the following percentage points:
4th taxable year	10
5th taxable year	20
6th taxable year	30
7th taxable year	40
8th taxable year and thereafter	50.

"(2) YEARS TAKEN INTO ACCOUNT.—No tax shall be increased under paragraph (1) for any taxable year beginning before January 1, 1994."

(c) CONFORMING AMENDMENTS.—

(1) Section 1362(f)(1) is amended by striking "or (3)".

(2) Subsection (b) of section 1375 is amended by striking paragraphs (3) and (4) and inserting the following new paragraphs:

"(3) SUBCHAPTER C EARNINGS AND PROFITS.—The term 'subchapter C earnings and profits' means earnings and profits of any corporation for any taxable year with respect to which an election under section 1362(a) (or under section 1372 of prior law) was not in effect.

"(4) GROSS RECEIPTS FROM SALES OF CAPITAL ASSETS (OTHER THAN STOCK AND SECURITIES).—In the case of dispositions of capital assets (other than stock and securities), gross receipts from such dispositions shall be taken into account only to the extent of the capital gain net income therefrom.

"(5) PASSIVE INVESTMENT INCOME DEFINED.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'passive investment income' means gross receipts derived from royalties, rents, dividends, interest, and annuities.

"(B) EXCEPTION FOR INTEREST ON NOTES FROM SALES OF INVENTORY.—The term 'passive investment income' shall not include interest on any obligation acquired in the ordinary course of the corporation's trade or business from its sale of property described in section 1221(1).

"(C) TREATMENT OF CERTAIN LENDING OR FINANCE COMPANIES.—If the S corporation meets the requirements of section 542(c)(6) for the taxable year, the term 'passive investment income' shall not include gross receipts for the taxable year which are derived directly from the active and regular conduct of a lending or finance business (as defined in section 542(d)(1)).

"(D) SPECIAL RULE FOR OPTIONS AND COMMODITY DEALINGS.—

"(i) IN GENERAL.—In the case of any options dealer or commodities dealer, passive investment income shall be determined by not taking into account any gain or loss (in the normal course of the taxpayer's activity of dealing in or trading section 1256 contracts) from any section 1256 contract or property related to such a contract.

"(ii) DEFINITIONS.—For purposes of this subparagraph—

"(I) OPTIONS DEALER.—The term 'options dealer' has the meaning given such term by section 1256(g)(8).

"(II) COMMODITIES DEALER.—The term 'commodities dealer' means a person who is actively engaged in trading section 1256 contracts and is registered with a domestic board of trade which is designated as a contract market by the Commodities Futures Trading Commission.

"(III) SECTION 1256 CONTRACT.—The term 'section 1256 contract' has the meaning given to such term by section 1256(b).

"(E) COORDINATION WITH SECTION 1374.—The amount of passive investment income shall be determined by not taking into account any recognized built-in gain or loss of the S corporation for any taxable year in the recognition period. Terms used in the preceding sentence shall have the same respective meaning as when used in section 1374."

(3) The heading for section 1375 is amended by striking "25" and inserting "50".

(4) The table of sections for part III of subchapter S of chapter 1 is amended by striking "25" in the item relating to section 1375 and inserting "50".

(5) Clause (i) of section 1042(c)(4)(A) is amended by striking "section 1362(d)(3)(D)" and inserting "section 1375(b)(5)".

Subtitle C—Other Provisions

SEC. 221. S CORPORATIONS PERMITTED TO HOLD SUBSIDIARIES.

(a) IN GENERAL.—Paragraph (2) of section 1361(b) (defining ineligible corporation) is amended by striking subparagraph (A) and by redesignating subparagraphs (B), (C), (D), and (E) as subparagraphs (A), (B), (C), and (D), respectively.

(b) CERTAIN DIVIDENDS NOT TREATED AS PASSIVE INVESTMENT INCOME.—Section 1375(b)(5) (defining passive investment income), as added by section 214(c)(2), is amended by adding at the end the following new subparagraph:

"(F) TREATMENT OF CERTAIN DIVIDENDS.—If an S corporation holds stock in a C corporation meeting the requirements of section 1504(a)(2), the term 'passive investment income' shall not include dividends from such C corporation to the extent such dividends are attributable to the earnings and profits of such C corporation derived from the active conduct of a trade or business."

(c) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 1361, as amended by sections 111 and 201, is amended by striking paragraph (6) and redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively.

(2) Subsection (b) of section 1504 (defining includible corporation) is amended by adding at the end the following new paragraph:

"(8) An S corporation."

SEC. 222. C CORPORATION RULES TO APPLY FOR FRINGE BENEFIT PURPOSES.

(a) IN GENERAL.—Section 1372 (relating to partnership rules to apply for fringe benefit purposes) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 162(l) is amended by striking paragraph (5) and by redesignating paragraph (6) as paragraph (5).

(2) The table of sections for part III of subchapter S of chapter 1 is amended by striking the item relating to section 1372.

SEC. 223. TREATMENT OF DISTRIBUTIONS DURING LOSS YEARS.

(a) ADJUSTMENTS FOR DISTRIBUTIONS TAKEN INTO ACCOUNT BEFORE LOSSES.—

(1) Subparagraph (A) of section 1366(d)(1) (relating to losses and deductions cannot exceed shareholder's basis in stock and debt) is amended by striking "paragraph (1)" and inserting "paragraphs (1) and (2)(A)".

(2) Subsection (d) of section 1368 (relating to certain adjustments taken into account) is amended by adding at the end the following new sentence:

"In the case of any distribution made during any taxable year, the adjusted basis of the stock shall be determined with regard to the adjustments provided in paragraph (1) of section 1367(a) for the taxable year."

(b) ACCUMULATED ADJUSTMENTS ACCOUNT.—Paragraph (1) of section 1368(e) (relating to accumulated adjustments account) is amended by adding at the end the following new subparagraph:

"(C) NET LOSS FOR YEAR DISREGARDED.—

"(i) IN GENERAL.—In applying this section to distributions made during any taxable year, the amount in the accumulated adjustments account as of the close of such taxable year shall be determined without regard to any net negative adjustment for such taxable year.

"(ii) NET NEGATIVE ADJUSTMENT.—For purposes of clause (i), the term 'net negative adjustment' means, with respect to any taxable year, the excess (if any) of—

"(I) the reductions in the account for the taxable year (other than for distributions), over

"(II) the increases in such account for such taxable year."

(c) CONFORMING AMENDMENTS.—Subparagraph (A) of section 1368(e)(1) is amended—

(1) by striking "as provided in subparagraph (B)" and inserting "as otherwise provided in this paragraph", and

(2) by striking "section 1367(b)(2)(A)" and inserting "section 1367(a)(2)".

SEC. 224. CONSENT DIVIDEND FOR AAA BYPASS ELECTION.

Section 1368(e)(3) (relating to election to distribute earnings first) is amended by adding at the end the following new subparagraph:

"(C) CONSENT DIVIDEND.—Under regulations prescribed by the Secretary, an S corporation may, subject to the election under this paragraph, consent to treat as a distribution the amount specified in such consent, to the extent such amount does not exceed the accumulated earnings and profits of such corporation. The amount so specified shall be considered—

"(i) as distributed in money by the corporation to its shareholders on the last day of the taxable year of the corporation and as contributed to the capital of the corporation by the shareholders on such day, and

"(ii) if any such shareholder is an organization described in section 511(a)(2), as unrelated business taxable income (as defined in section 512) to such shareholder."

SEC. 225. TREATMENT OF S CORPORATIONS UNDER SUBCHAPTER C.

Subsection (a) of section 1371 (relating to application of subchapter C rules) is amended to read as follows:

"(a) APPLICATION OF SUBCHAPTER C RULES.—Except as otherwise provided in this title, and except to the extent inconsistent with this subchapter, subchapter C shall apply to an S corporation and its shareholders."

SEC. 226. ELIMINATION OF PRE-1983 EARNINGS AND PROFITS.

(a) IN GENERAL.—If—

(1) a corporation was an electing small business corporation under subchapter S of chapter 1 of the Internal Revenue Code of 1986 for any taxable year beginning before January 1, 1983, and

(2) such corporation is an S corporation under subchapter S of chapter 1 of such Code for its first taxable year beginning after December 31, 1993,

the amount of such corporation's accumulated earnings and profits (as of the beginning of such first taxable year) shall be reduced by an amount equal to the portion (if any) of such accumulated earnings and profits which were accumulated in any taxable year beginning before January 1, 1983, for which such corporation was an electing small business corporation under such subchapter S.

(b) CONFORMING AMENDMENTS.—

(1)(A) Subsection (a) of section 1375 is amended by striking "subchapter C" in paragraph (1) and inserting "accumulated".

(B) Subsection (b) of section 1375, as amended by section 214(c)(2), is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(C) The section heading for section 1375 is amended by striking "**subchapter c**" and inserting "**accumulated**".

(D) The table of sections for part III of subchapter S of chapter 1 is amended by striking "subchapter C" in the item relating to section 1375 and inserting "accumulated".

(2) Clause (i) of section 1042(c)(4)(A), as amended by section 214(c)(5), is amended by striking "section 1375(b)(5)" and inserting "section 1375(b)(4)".

SEC. 227. ALLOWANCE OF CHARITABLE CONTRIBUTIONS OF INVENTORY AND SCIENTIFIC PROPERTY.

(a) IN GENERAL.—Section 170(e) (relating to certain contributions of ordinary income and capital gain property) is amended—

(1) by striking "(other than a corporation which is an S corporation)" in paragraph (3)(A), and

(2) by striking clause (i) of paragraph (4)(D) and by redesignating clauses (ii) and (iii) of such paragraph as clauses (i) and (ii), respectively.

(b) STOCK BASIS ADJUSTMENT.—Paragraph (1) of section 1367(a) (relating to adjustments to basis of stock of shareholders, etc.) is amended by striking "and" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", and", and by adding at the end the following new subparagraph:

"(D) the excess of the deductions for charitable contributions over the basis of the property contributed."

TITLE III—TAXATION OF S CORPORATION SHAREHOLDERS

SEC. 301. UNIFORM TREATMENT OF OWNER-EMPLOYEES UNDER PROHIBITED TRANSACTION RULES.

The last sentence of section 4975(d) (relating to exemptions from prohibited transactions) is amended by striking "a shareholder-employee (as defined in section 1379, as in effect on the day before the date of the enactment of the Subchapter S Revision Act of 1982),".

SEC. 302. TREATMENT OF LOSSES TO SHAREHOLDERS.

(a) TREATMENT OF LOSSES IN LIQUIDATIONS.—Section 331 (relating to gain or loss to shareholders in corporate liquidations) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) LOSSES ON LIQUIDATIONS OF S CORPORATION.—

"(1) IN GENERAL.—The portion of any loss recognized by a shareholder of an S corporation (as defined in section 1361(a)(1)) on amounts received by such shareholder in a distribution in complete liquidation of such S corporation which does not exceed the ordinary income basis of stock of such S corporation in the hands of such shareholder shall not be treated as a loss from the sale or exchange of a capital asset but shall be treated as an ordinary loss.

"(2) ORDINARY INCOME BASIS.—For purposes of this subsection, the ordinary income basis of stock of an S corporation in the hands of a shareholder of such S corporation shall be an amount equal to the portion of such shareholder's basis in such stock which is equal to the aggregate increases in such basis under section 1367(a)(1) resulting from such shareholder' pro rata share of ordinary income of such S corporation attributable to the complete liquidation."

(b) CARRYOVER OF DISALLOWED LOSSES AND DEDUCTIONS UNDER AT-RISK RULES ALLOWED.—Paragraph (3) of section 1366(d) (relating to carryover of disallowed losses and deductions to post-termination transition period) is amended by adding at the end the following new subparagraph:

"(D) AT-RISK LIMITATIONS.—To the extent that any increase in adjusted basis described in subparagraph (B) would have increased the shareholder's amount at risk under section 465 if such increase had occurred on the day preceding the commencement of the post-termination transition period, rules similar to the rules described in subparagraphs (A) through (C) shall apply to any losses disallowed by reason of section 465(a)."

TITLE IV—EFFECTIVE DATE

SEC. 401. EFFECTIVE DATE.

Except as otherwise provided in this Act, the amendments made by this Act shall apply to taxable years beginning after December 31, 1993.

S CORPORATION REFORM ACT OF 1993

ACCELERATING CAPITAL FORMATION

Shareholder limitations

1. Increase the thirty-five shareholder limitation to fifty shareholder.

2. Permit tax exempt organizations as eligible shareholders.

3. Permit financial institutions as eligible shareholders.

4. Allow nonresident alien shareholders to own S corporation stock.

Preferred stock

5. Permit S corporations to issue "plain vanilla" preferred stock with no convertibility, and treat the stock as corporate debt for federal tax purposes.

Subsidiaries

6. Permit an S corporation to won more than 80 percent of another corporation's stock.

Debt

7. Expand Safe Harbor Debt to permit convertible debt.

8. Permit venture capitalists and lending institutions to hold "safe harbor debt."

PRESERVING FAMILY-OWNED BUSINESS

Shareholder limitations

9. Expand the types of trusts that can own S corporation stock.

Construction ownership

10. Count all members of a single family who own an S corporation's stock as a single shareholder.

REMOVING TRAPS FOR THE UNWARY

Elections

11. Permit the Secretary of Treasury to treat invalid elections as effective.

12. Provide for automatic waiver of certain inadvertent terminations.

Fringe benefits

13. Place S corporation shareholders in the same position as owners of regular corporations with respect to fringe benefits.

14. Repeal restrictions on qualified plan loans made to S corporation shareholders.

Passive investment income

15. Repeal excessive passive investment income as a termination event.

16. Exclude trade or business income from the passive investment income definition.

Technical proposals

17. Treat losses on liquidation of S corporations as ordinary to the extent the loss created by ordinary income passthrough triggered the liquidation.

18. Allow a carryover of disallowed losses and deductions under section 465 to the post-termination transition period.

19. Expand to two years the period of post-death S qualification for certain trusts.

20. Modify order of adjustments to AAA and stock basis.

21. Permit consent dividend for AAA bypass election.

22. Permit subchapter C to apply to S corporations.

23. Eliminate pre-1983 subchapter S earnings and profits.

24. Allow interim closing of the books on termination of shareholder interest with consent of corporation and affected shareholder.

25. Expand the post-termination transition period until 120 days after a determination is made that the election had terminated in a prior year.

26. Allow for charitable contributions of inventory and scientific property to be the same for subchapter S as for subchapter C.

Mr. DANFORTH. Mr. President, the bill that Senator PRYOR and I are introducing, the S Corporation Reform Act of 1993, would modernize an area of tax law of rapidly increasing importance to small businesses.

Our bill is supported by the U.S. Chamber of Commerce, the National Federation of Independent Businesses, the Small Business Legislative Council, the National Association of Private Enterprises, the American Institute of Certified Public Accountants, and the Subchapter S Committee of the American Bar Association. We are encouraged by expressions of strong interest from the Treasury Department, the Small Business Administration, and the House and Senate Small Business Committees.

TIME TO DUST OFF SUBCHAPTER S

Subchapter S was enacted in 1958 to help remove tax consideration from small business owners' decisions regarding the type of entity in which to conduct business; for example, partnership, sole proprietorship, or corporation. Under subchapter S, small businesses could choose to operate in whatever form they want without being penalized with a second level of tax. However, subchapter S, as originally enacted, was very limiting and contained a number of pitfalls and traps for the unwary. The first—and until today—only real attempt to update and improve the subchapter S rules occurred in 1982, over a decade ago.

S CORPORATION GROWTH HAS BEEN ASTOUNDING

In the early 1980's, S corporation tax returns accounted for only about 19 percent of all corporate returns, owned only 1 percent of corporate assets, and earned 2 percent of corporate income. In the late 1980's, posttax reform, an astounding growth in S corporations occurred. Today, S corporations represent over 42 percent of all corporate returns filed; their share of corporate net income is over 11 percent; and their share of corporate assets has nearly doubled since the 1980's.

THE ECONOMIC AND BUSINESS ENVIRONMENT HAS CHANGED

It is time to update the Tax Code to reflect the changing business and economic environment in which small businesses exist. Many of the prohibitive restraints currently in subchapter S date back to 1958. The financial environment in the 1990's is far more complex and the current restraints are handicapping small business.

For instance, small businesses have a difficult time attracting financing. Nontraditional sources of financing such as venture capitalists and pension funds play a growing role in investing in many businesses. Under current rules, however, S corporations are all but precluded from tapping into the capital of these investors.

The S Corporation Reform Act has 26 separate provisions. A number of these were contained in legislation passed last year by Congress but which did not become law. Some are contained in H.R. 13, the Tax Simplification Act of 1993, introduced by Chairman ROSTENKOWSKI. The package, taken as a whole, would modernize this section of the Internal Revenue Code by accomplishing four broad goals.

In summary, our legislation:

First, broadens eligibility rules for subchapter S corporations and their shareholders, enhancing the availability and desirability of electing S corporation status;

Second, simplifies some of the complex rules that confront S corporations and their shareholders and at the same time removes some of the traps for the unwary;

Third, expands capital formation techniques available to S corporations, creating a more level playing field with C corporations, limited liability companies and partnerships;

Fourth, helps preserve family-owned businesses.

I believe these objectives are very important to the Nation. It is my hope that the Senate and House of Representatives will have hearings on this issue next year and that comprehensive S corporation reform will be part of the next tax bill passed by Congress.

By Mr. CONRAD (for himself, Mr. DASCHLE, and Mr. GRASSLEY):

S. 1691. A bill to amend the Internal Revenue Code of 1986 to provide taxpayers engaged in certain agriculture-related activities a credit against income tax for property used to control environmental pollution and for soil and water conservation expenditures; to the Committee on Finance.

ENVIRONMENTAL REGULATIONS LEGISLATION

• Mr. CONRAD. Mr. President, today I am introducing legislation that is intended to ease the financial burden of the agricultural community in complying with the ever-increasing number of environmental regulations imposed by Federal, State, and local governments.

There are many reasons to support the agricultural community in this endeavor. American agricultural provides the safest, most reliable, and lowest cost food and fiber supply in the world. The food and fiber industry from farm to retail is America's single largest industry. This industry employs nearly 21 million people, almost 19 percent of the Nation's total workforce, and accounts for nearly one-fifth of our gross domestic product [GDP]. In spite of its importance, however, farm income is at record low levels on a per-decade basis, and, while there has recently been some recovery, projections for the 1990's anticipate further decline.

Agriculture is also the subject of the continuing upward spiral of expensive governmental regulation. The legislation that I am introducing today addresses the expense of current and proposed water and air quality regulations with which taxpayers engaged in agriculture or agricultural related businesses are required to comply. This bill would provide a 15 percent agricultural environmental tax credit for purchases of machinery, equipment, and structures for which the primary purpose is to comply with environmental regulations. The credit would be limited to $15,000 in any given year and to $150,000 today for any taxpayer.

A farmer or an agricultural related business would receive the credit for investment in structures and equipment including, for example, livestock waste-handling systems, constructed wetlands, terraces, no-till planters and other conservation farm equipment, and containment dikes. These are items for which cost ranges from $200 to $100,000, sizable sums of money for a North Dakota farmer with an average per farm income of $20,003.00 in1991. The credit would help alleviate some of the financial burden of complying with these provisions.

This legislation that I am introducing with my colleagues, Mr. DASCHLE and Mr. GRASSLEY, will help the rural community while furthering the goals of controlling environmental pollution and conserving America's soil and water resources.

I urge my colleagues to support this legislation. I ask unanimous consent that the entire text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1691

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CREDIT FOR PROPERTY USED IN CERTAIN AGRICULTURE-RELATED ACTIVITIES TO CONTROL ENVIRONMENTAL POLLUTION AND FOR SOIL AND WATER CONSERVATION EXPENDITURES.

(a) IN GENERAL.—Section 46 of the Internal Revenue Code of 1986 (relating to amount of investment credit) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by adding at the end thereof the following paragraph:

"(4) in the case of an eligible taxpayer (as defined in section 48(c)), the agricultural environmental credit."

(b) AGRICULTURAL ENVIRONMENTAL CREDIT.—Section 48 of such Code is amended by adding at the end thereof the following new subsection:

"(c) AGRICULTURAL ENVIRONMENTAL CREDIT.—

"(1) IN GENERAL.—For purposes of section 46, in the case of an eligible taxpayer, the agricultural environmental credit for any taxable year is equal to the lesser of—

"(A) the sum of—

"(i) 15 percent of the portion of the basis of each agricultural environmental property placed in service by the taxpayer during such taxable year, and

"(ii) 15 percent of the amount allowed as a deduction under section 175 (determined without regard to paragraph (4)(B)) for such taxable year, or

"(B) the lesser of—

"(i) $15,000, or

"(ii) the excess of—

"(I) $150,000, over

"(II) the amount of the credit taken into account under this section by the taxpayer for taxable years preceding the taxable year.

"(2) ELIGIBLE TAXPAYER.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'eligible taxpayer' means any taxpayer primarily engaged in a farming-related business.

"(B) FARMING-RELATED BUSINESS.—For purposes of this subsection, the term 'farming-related business' means—

"(i) a farming business (as defined in section 263A(e)(4)),

"(ii) a trade or business of mixing fertilizers from purchased fertilizer materials, and

"(iii) a trade or business of the wholesale distribution of animal feeds, fertilizers, agricultural chemicals, pesticides, seeds, or other farm supplies (other than grains).

"(3) AGRICULTURAL ENVIRONMENTAL PROPERTY.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'agricultural environmental property' means any new identifiable treatment facility—

"(i) which is used in a farming-related business for the primary purpose of complying with Federal, State, and local environmental laws dealing with the abatement or control of water, soil, or atmospheric pollution or contamination by removing, altering, disposing, storing, or preventing the creation or emission of pollutants, contaminants, wastes, or heat, and

"(ii) which does not significantly—

"(I) increase the output or capacity, extend the useful life, or reduce the total operating costs of plant or property to which such facility relates, or

"(II) alter the nature of any manufacturing or production process or facility.

"(B) NEW IDENTIFIABLE TREATMENT FACILITY.—The term 'new identifiable treatment facility' has the meaning given such term by section 169(d)(4)(A), determined by substituting 'December 31, 1993' for 'December 31, 1968'.

"(4) SPECIAL RULES.—

"(A) COORDINATION WITH ENERGY AND REHABILITATION CREDITS.—This subsection shall not apply to—

"(i) any property to the extent the basis of such property is attributable to qualified rehabilitation expenditures (as defined in section 47(c)(2)), or

"(ii) energy property.

"(B) COORDINATION WITH DEDUCTION FOR SOIL AND WATER CONSERVATION EXPENDITURES.—The amount which would (but for this subparagraph) be allowed as a deduction under section 175 for any taxable year shall be reduced by the amount of the credit allowed by paragraph (1)(B) for such year.

"(C) COORDINATION WITH AMORTIZATION OF POLLUTION CONTROL FACILITIES.—This subsection shall not apply to any property to the extent an election is made under section 169 with respect to the basis of such property."

(c) CLERICAL AMENDMENTS.—

(1) The section heading for section 48 of such Code is amended to read as follows:

"SEC. 48. ENERGY CREDIT; REFORESTATION CREDIT; AGRICULTURAL ENVIRONMENTAL CREDIT."

(2) The item relating to section 48 in the table of sections for subpart E of part IV of subchapter A of chapter 1 of such Code is amended to read as follows:

"Sec. 48. Energy credit; reforestation credit; agricultural environmental credit."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after December 31, 1993, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).•

By Mr. PELL:

S. 1692. A bill to authorize the Secretary of Transportation to issue a certificate of documentation for the vessel *Big Guy*; to the Committee on Commerce, Science, and Transportation.

VESSEL "BIG GUY" CERTIFICATE OF DOCUMENTATION LEGISLATION

Mr. PELL. Mr. President, I am introducing a bill today to direct that the vessel *Big Guy*, official No. 939310, be accorded coastwise trading privileges and be issued a coastwise endorsement under 46 U.S.C. 12106.

The *Big Guy* is 30.5 feet in length, 11.9 feet in breadth, has a depth of 5 feet, and is self-propelled.

The vessel was purchased by Mr. and Mrs. Vincent Galvin of East Providence, RI, who would now like to use the boat for a charter business. When the owners purchased the boat, they were unaware of the coastwise trade and fisheries restrictions of the Jones Act. They assumed that there were no restrictions on engaging the vessel in such a limited operation. However, due to the fact that the vessel has previously been partially foreign owned, it did not meet the requirements for a coastwise license endorsement in the United States. Such documentation is mandatory to enable the owners to use the vessel for its intended purpose.

The owners of *Big Guy* are thus seeking a waiver of the existing law because they wish to use the vessel for the purpose of engaging in limited commercial use. Their desired intentions for the vessel's use will not adversely affect the coastwise trade in U.S. waters. If they are granted this waiver, it is their intention to comply fully with U.S. documentation and safety requirements. The purpose of the legislation I am introducing is to allow the *Big Guy* to engage in coastwise trade and fisheries of the United States.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1692

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Notwithstanding sections 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (41 Stat. 999, chapter 250; 46 U.S.C. App. 883), the Secretary of Transportation may authorize a certificate of documentation for the vessel Big Guy, United States official number 939310.

By Mr. HATFIELD (for himself, Mr. BRADLEY, Mr. KERRY, and Mr. FEINGOLD):

S. 1696. A bill to amend the Military Selective Service Act to terminate the registration requirement and to terminate the activities of civilian local boards, civilian appeal boards, and similar local agencies of the Selective Service System; to the Committee on Armed services.

SELECTIVE SERVICE STANDBY ACT OF 1993

• Mr. HATFIELD. Mr. President. I am pleased to introduce legislation, along with Senators BRADLEY, KERRY, and FEINGOLD which will repeal the requirement that young men register for the draft or face legal penalties. The Selective Service Standby Act of 1993 will terminate the activities of the Selective Service System and halt the unnecessary and wasteful expenditure of $25 million or more every year.

Our bill will end the requirement for draft registration, end the Selective Service System's maintenance of lists of potential draftees, and will terminate the imposition of penalties against those who fail to register.

The gathering of these lists of names is not only a waste of our young people's time and the taxpayer's money, but it is not done well. Grave concerns have been raised about the true accuracy of the data bank, which seeks to track current addresses of one of the most transient sectors of our society. What is more, a highly critical report recently prepared by U.S. Army Force Integration Support Agency stated that the Selective Service System is overstaffed, with employees wasting time because they have nothing to do, and has not sought to maintain its data with appropriate technology.

The Senate Appropriations Committee, in its fiscal year 1994 report accompanying the VA-HUD bill, stated that

> If the Selective Service System is to continue, the Committee believes that the Agency must change, and change dramatically.

> The Committee has been disturbed by repeated reports that the agency is overstaffed, suffers from widespread poor morale among its employees, and seemingly has little self-discipline to correct its own internal problems.

Such negative findings would certainly challenge the existence of the most vital national program. Clearly, no one wants to waste money on a program which fails to fulfill its mission. And yet Selective Service continues on.

The irony is that this is an agency without a mission. With the breakup of the Soviet Union, defense analysts do not show a scenario where the United States military would require a draft to augment our total force. And analysis also shows that Selective Service registration will not provide significant time savings if a draft is necessary.

And certainly our recent experience in the Persian Gulf war has shown that our military capability is adequate to handle even the most challenging circumstances.

Proponents of draft registration and the harsh penalties which are brought against those young men who fail to register have argued that registration somehow promotes patriotism and that the Selective Service System is an insurance policy to guard against some unforeseen emergency.

Our Nation was founded upon the rock of individual freedom. Our ancestors fled a Europe which was rife with unjust and unwise conflicts, where people were compelled to fight at the whim of their monarch. Our Nation has experienced some of its most bitter civil unrest during debates over the draft.

During World War II, I felt it was my duty to answer the call for military service. My concern for my country and for those battling totalitarianism was deep and I joined the Navy without reservation. But my own decision to put on a uniform did not lead me to criticize those who chose not to serve.

The issue of voluntary versus mandatory service became much more critical during the Vietnam war. Slowly but surely the American public lost confidence in its leadership because the people did not support our adventurism in Southeast Asia. Only the draft kept the military ranks full. The draft sustained an unjust and unwanted war. Even this sad experience did not deter President Carter from reinstating registration in 1980. He did not do so because of a military need. He did so for political reasons. He resurrected draft registration as a political symbol to the Soviets after their invasion of Afghanistan.

Thus the purpose for the most recent reinstatement of the requirement to register for the draft is moot. What was intended as a symbolic act has caused tangible inconvenience and, unfortunately, some grief to our Nation's young men. The requirement to register with the Selective Service System is not painless. It is not cheap. It is not necessary. Even as we downsize our military we continue to maintain the world's most impressive and capable military force. It is time to place the Selective Service System on standby.●

● Mr. BRADLEY. Mr. President, on September 10, I came before this body with two principles by which to judge the value of Federal spending: First, does the spending provide something that is in the general interest and essential to American public life? If so, is taxpayer funding the only and most cost-effective way that this specific important public purpose can be met? At that time, I promised to propose legislation to cut spending that violates these principles. During consideration of the fiscal year 1994 appropriations bills, I offered amendments to cut spending by over $500 million. Unfortunately, all but one of those amendments was voted down by my colleagues in the Senate.

But budget-cutting is more than just offering amendments to appropriations bills. It requires taking every legislative opportunity to eliminate programs that fail to meet the criteria I have outlined. I therefore take great pleasure in joining with my friend Senator HATFIELD, and our cosponsors, in introducing the Selective Service Standby Act of 1993, an act to end the requirement for draft registration and terminate the activities of local Selective Service boards.

The plain fact is that the Selective Service System no longer provides something that is in the general interest and is essential to American public life. The Selective Service System is a dinosaur in the post-Soviet world, make obsolete by two welcome developments—the creation of the All-Volunteer Armed Forces, and the end of the Soviet threat.

Our all-volunteer force is a remarkable success story. After a rocky start, it has become the best-educated force in U.S. history. For example, last year over 98 percent of all new recruits had a high school degree. Recruits score higher than the population as a whole on the Armed Forces Qualifying Test. Most important, this force has proved itself—in Grenada, Panama, Iraq, and Somalia. Backed by Reserves, it is capable of handling the only kinds of conflicts we are likely to see—the Somalias, the Bosnias, and yes, the Desert Storms of the foreseeable future.

Desert Storm proved that our volunteer force, based by Reserves, can put a half-million men on the ground and support them, without resorting to conscription. In fact, we didn't come close to exhausting the supply of reservists and guardsmen. There was no thought of resorting to conscription.

The fact is, we don't need conscription for any conflict we are at all likely to fight in the foreseeable future. I don't ask you to take my word for this; the Pentagon's own 1993–99 Defense Planning Guidance Scenario Set found that only one of seven scenarios lasted long enough to require—or even allow for—conscription. And that scenario envisaged a reunified, rearmed Soviet Union, an increasingly remote possibility. The Congressional Research Service, in its January 22, 1991, Report for Congress on "The Persian Gulf War and the Draft" concluded:

> A requirement to increase the size of the active armed forces . . . could be met much more quickly with other methods than reinstituting a draft and using draftees to provide most enlisted manpower to fill new units.

With the disintegration of the Soviet Union and Russia's weakness, the Pentagon's worst-case scenario is not realistic. Today's events in Russia do not change that basic fact. Should the situation deteriorate further, and the forces of reform be defeated, any Russian threat could only be reconstituted over a period of years. This would give us time both to try to counteract this development by diplomatic and economic means, and to develop a system to identify our 18-year-olds—without paying millions of dollars per year in the meantime.

Indeed, this is what we have done in the past. The United States initiated registration in 1940, only a year before the World War II draft became necessary. After the war, the Selective Service was disbanded. It was then reconstituted in 1948 as the cold war took hold. In this day of drivers licenses and social security records, I find it hard to believe we couldn't, if necessary, identify our 18-year-olds in a cost-effective and timely manner.

Some may argue that spending $25 million per year on the Selective Service System is a cheap insurance policy in a dangerous world. I cannot agree. Twenty-five million dollars may seem a small figure to us in the Congress, who have become used to talking in terms of billions and, increasingly, trillions of dollars. But to our constituents, $25 million is real money. I don't see how we can justify spending such a sum on something we simply don't need.

Some argue that the military is the best judge as to whether Selective Service registration is still necessary. They counsel us to keep registration until the military tells us it is no longer necessary. That argument just doesn't hold water. Section 547 of the fiscal year 1993 Department of Defense Authorization Act (P.L. 102–484) requested DOD to prepare a report on the continued need for draft registration, due April 30, 1993. That report has not been done, not even in response to our nearly successful legislative effort to cut off all but termination funding. Were registration a high priority, we certainly would have heard from DOD by now.

The Selective Service System is not even performing its residual functions well. A November 1992 study by the U.S. Army Forces Integration Agency uncovered severe overstaffing, poor morale, and overgrading in the work force. It found employees reading newspapers and magazines, and freely admitting that they had no meaningful work to perform. As a result, the study recommended a cut of almost one-third in the work force. The study also found that work normally done by workers at grades 7, 9, 11, and 12 was being done by workers at grade 12, 13, 14, and 15. Even more, the study found that workers were using technology that is badly out of date, such as using a key punch system to enter names. It should be no surprise, then, that the study found morale to be so low.

The Selective Service System played an important role during the cold war. But the cold war is over, and keeping this outdated relic is a luxury we simply cannot afford. It is time to end government by inertia, stop unneeded spending, and phase out the Selective Service System. The Selective Service Standby Act of 1993 will do just that.•

By Ms. MIKULSKI:

S. 1697. A bill to improve the ability of the Federal Government to prepare for and respond to major disasters, and for other purposes; to the Committee on Governmental Affairs.

FEDERAL DISASTER PREPAREDNESS AND RESPONSE ACT

• Ms. MIKULSKI. Mr. President, today I am reintroducing legislation to reform the Federal Emergency Management Agency [FEMA]. On May 20, 1993, I introduced legislation entitled the Federal Disaster Preparedness and Response Act.

Today's legislation is simply a refinement of that original bill. It incorporates some important suggestions made by those who are on the front lines of disaster response, and I believe their input really strengthens this legislation.

The revised bill pays special tribute to firefighters—those who are fit for duty and ready to respond to the scene immediately—whenever disaster strikes.

I feel as strongly today as I did last spring that this legislation is vitally needed. Despite FEMA's excellent job at responding to the recent California fires and the Midwest floods, I believe this legislation is needed to completely reorient FEMA and change its culture to a risk-based all hazards agency.

My legislation requires FEMA to adopt a risk-based strategy in developing Federal disaster policy, based on the three R's: readiness, response, and recovery. Its objective is to save lives, save jobs, and save communities. It is intended to bolster the capability of State and local governments to be ready for all hazards—whether it's an earthquake, a hurricane, or a flood.

I look forward to seeing this bill enacted early next year, so that our civilian disaster agency will be as fit for duty as the U.S. military.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1697

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Federal Disaster Preparedness and Response Act of 1993".

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Declaration of purposes.
Sec. 3. Definitions.
Sec. 4. Sense of Congress.
Sec. 5. Presidential response plan.
Sec. 6. Predeclaration authority.
Sec. 7. Domestic crisis monitoring unit.
Sec. 8. Damage and needs assessment.
Sec. 9. Catastrophic disasters.
Sec. 10. Targeted emergency grants.
Sec. 11. Reorganization of FEMA.
Sec. 12. National Academy of Fire and Emergency Preparedness.
Sec. 13. Research center.
Sec. 14. Repeal of Civil Defense Act.

SEC. 2. DECLARATION OF PURPOSES.

The purposes of this Act are—

(1) to improve Government preparedness for and response to catastrophic disasters;

(2) to shift the emphasis of the Federal Emergency Management Agency (referred to in this Act as "FEMA") from nuclear attack-related activities to a risk-based strategy to improve preparedness for all hazards; and

(3) to redirect the mission of FEMA to mitigation, preparedness, response, and recovery for all hazards.

SEC. 3. DEFINITIONS.

Section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122) is amended—

(1) by striking paragraph (2) and inserting the following new paragraph (2):

"(2) Major disaster.—The term 'major disaster' means any occasion or instance that, as determined by the President, causes damage of sufficient severity and magnitude to warrant major disaster assistance under this Act to supplement the efforts and available resources of State and local governments, and disaster relief organizations in alleviating the damage, loss, and hardship caused by the disaster. Major disasters include disasters resulting from all hazards."; and

(2) by adding at the end the following new paragraphs:

"(10) Catastrophic disaster.—The term 'catastrophic disaster' means a major disaster that immediately overwhelms the ability of State, local, and volunteer agencies to adequately provide victims of the disaster with services necessary to sustain life.

"(11) All hazards.—The term 'all hazards' means natural or man-caused events, including, without limitation, civil disturbances, that may result in major disasters or emergencies.

"(12) Director.—The term 'Director' means the Director of the Federal Emergency Management Agency.".

SEC. 4. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the Federal Government should give immediate attention to developing a broad risk-based strategy for improving Federal readiness for and response to major disasters;

(2) the all hazards approach is the best way to prepare the United States for all disasters or emergencies;

(3) all reasonable actions should be taken to mitigate the effects of disasters;

(4) initial response to emergencies and disasters is made by State and local fire and emergency service agencies, whose capabilities must therefore be strengthened and maintained;

(5) the fire service performs a critical function of first response to fire and other hazards, and should be recognized for performing this function;

(6) the American Red Cross and other volunteer organizations have made, and will continue to make, valuable contributions in responding to disasters nationwide by providing channels for the generous sharing of time and resources with those in need;

(7) private nonprofit organizations play an important role in disaster relief operations, and are an essential element of disaster preparedness, response, and recovery efforts; and

(8) training and hazard mitigation are important preventive measures and are vital elements in disaster preparedness and recovery.

SEC. 5. PRESIDENTIAL RESPONSE PLAN.

Section 201 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5131) is amended to read as follows:

"SEC. 201. FEDERAL AND STATE DISASTER PREPAREDNESS PROGRAMS.

"(a) Establishment.—The President is authorized to establish a program of disaster preparedness that utilizes services of all appropriate agencies, and includes—

"(1) preparation of disaster preparedness plans for mitigation, warning, emergency operations, rehabilitation, and recovery;

"(2) training and exercises;

"(3) postdisaster critiques and evaluations;

"(4) annual review of programs;

"(5) coordination of Federal, State, and local preparedness programs;

"(6) application of science and technology; and

"(7) research.

"(b) Technical Assistance.—The President shall provide technical assistance to the States in developing comprehensive plans and practicable programs for—

"(1) preparation against disasters, including hazard reduction, avoidance, and mitigation;

"(2) assistance to individuals, businesses, and State and local governments following such disasters; and

"(3) recovery of damaged or destroyed public and private facilities.

"(c) Presidential Response Plan.—

"(1) Establishment.—Not later than 180 days after the date of enactment of the Federal Disaster Preparedness and Response Act of 1993, the President, acting through the Director, shall develop a Presidential Response Plan to provide Federal assistance, when requested, to States impacted by a major disaster, catastrophic disaster, or emergency, in coordination with appropriate Federal and non-Federal agencies, as determined by the President.

"(2) DISTRIBUTION.—The Director shall ensure that copies of the plan are widely distributed and publicly available.

"(3) TRAINING EXERCISES.—The plan shall include provisions for annual training exercises to be performed by designated participants in the plan, State and local entities, and private relief agencies to test their disaster preparedness capability.

"(4) OPERATIONAL PLANS.—The Director shall prepare operational plans to accompany the Presidential Response Plan, not later than 1 year after the date of enactment of the Federal Disaster Preparedness and Response Act of 1993, that shall—

"(A) describe the chain of command;

"(B) describe the specific duties of all Federal agencies involved;

"(C) describe the relationship between, and the respective duties of, Federal, State, and local governments, and private relief agencies;

"(D) be prepared for specific geographic regions designated by the Director;

"(E) be based on a comprehensive risk assessment of the United States, undertaken by the Director, that assesses the probability and severity of natural or man-made disasters occurring and having a severe impact on public health, safety, and property within various regions;

"(F) ensure consistency with the emergency operations plans of the State and local governments in the region;

"(G) support the development of mutual aid agreements between and among the States and local governments;

"(H) include specific systems and standardized plans for mutual aid, incident management, and emergency communications between State, regional, and local entities for the purpose of coordinating and integrating all emergency management activities; and

"(I) specify the participation of representatives from civilian disaster management and local fire and emergency service response communities.

"(d) NATIONAL DISASTER MEDICAL SYSTEM.—

"(1) TRANSFER OF FUNCTIONS.—The functions, personnel, facilities, and equipment of the National Disaster Medical System (referred to in this section as the 'System') are transferred from the Department of Health and Human Services to a new directorate, to be established within FEMA not later than 60 days after the date of enactment of the Federal Disaster Preparedness and Response Act of 1993.

"(2) PURPOSE OF SYSTEM.—It shall be the purpose of the System to prepare for and respond to major disasters, catastrophic disasters, and emergencies that require medical assistance in excess of the medical service capabilities of the affected States. The System shall provide for—

"(A) medical assistance to a disaster area through disaster medical assistance teams;

"(B) evacuation of patients that cannot be cared for locally; and

"(C) hospitalization through a national network of medical care facilities that agree to provide medical care to disaster victims.

"(3) LOCAL RESOURCES.—The services of the System shall supplement and not supplant State and local medical resources.

"(4) COORDINATION OF SERVICES.—The Director and the Secretary of Defense shall establish procedures, roles, and responsibilities for the provision of medical care in the event of a catastrophic disaster to ensure coordination between the System and the Department of Defense.

"(5) MILITARY CASUALTIES.—The System shall be made available to care for military casualties evacuated to the United States in the event that the medical care capabilities of the Department of Defense and the Department of Veterans Affairs are exceeded.

"(6) EVALUATION.—Not later than 180 days after the date of enactment of the Federal Disaster Preparedness and Response Act of 1993, the Director shall evaluate the performance of the System and the degree to which the System fulfills the intended mission of the System, and make recommendations to the President and Congress regarding potential improvements in the operations of the System.

"(7) DISASTER MEDICAL ASSISTANCE TEAMS.—

"(A) ESTABLISHMENT.—Not later than 1 year after the date of enactment of the Federal Disaster Preparedness and Response Act of 1993, the Director shall—

"(i) take steps necessary to ensure that not fewer than 20 disaster medical assistance teams are established and are made operational; and

"(ii) develop standards and guidelines for equipment, staffing, operations, and regular training of the disaster medical assistance teams.

"(B) EMPLOYMENT SECURITY.—A volunteer who leaves a position (other than a temporary position) in the service of an employer to perform services in conjunction with a disaster medical assistance team, and makes application for reemployment within 90 days after the completion of service or release from hospitalization continuing after completion of service for a period of not more than 1 year shall—

"(i) if still qualified to perform the duties of the position or able to become requalified with reasonable efforts by the employer, be restored to the position or to a position of like seniority, status, and pay; or

"(ii) if not qualified to perform the duties of the position or able to become requalified with reasonable efforts by the employer, by reason of disability sustained during service, but qualified to perform the duties of any other position in the employ of the employer, be offered employment and, if the person so requests, be employed in such other position the duties of which the person is qualified to perform as will provide the person like seniority, status, and pay, or the nearest approximation of seniority, status, and pay, consistent with the circumstances of the case, unless the circumstances of the employer have so changed as to make it impossible or unreasonable to do so.

"(C) CONSTRUCTION WITH OTHER LAWS.—Nothing in this subsection shall excuse noncompliance with any law of a State or political subdivision establishing greater or additional rights or protections than the rights and protections established under this subsection.

"(8) AUTHORIZATION OF APPROPRIATIONS.—Beginning with fiscal year 1994, there are authorized to be appropriated to the National Disaster Medical System $20,000,000 for each fiscal year, of which $5,000,000 shall be available for the Disaster Medical Assistance Teams.

"(e) ROLE OF NATIONAL GUARD.—

"(1) REVIEW.—The Secretary of Defense, in cooperation with the Director, shall direct the Chief, National Guard Bureau, to review the role of the National Guard in responding to major disasters and emergencies and make recommendations to the President. The recommendations shall address—

"(A) how the National Guard could better prepare for and respond to major disasters and emergencies;

"(B) how the force structure of the National Guard could be adjusted to provide Governors with improved immediate access to critical assets during an emergency;

"(C) how the National Guard should be integrated with the Presidential Response Plan;

"(D) how the National Guard should coordinate with the Disaster Medical Assistance Teams in preparing for and responding to disasters and emergencies; and

"(E) the development by the Chief, National Guard Bureau, of a format for an interstate compact that, when subscribed to by the States, facilitates the mutual use of National Guard assets across State borders during national disasters and domestic emergencies.

"(2) STUDY.—Not later than 30 days after the date of enactment of the Federal Disaster Preparedness and Response Act of 1993, the Director shall contract with the National Academy of Public Administration for a study to determine the proper roles of the Adjutant Generals of the States and the National Guard in preparing for and responding to natural disasters and domestic emergencies.

"(3) REPORT.—Not later than 1 year after the date of enactment of the Federal Disaster Preparedness and Response Act of 1993, the Secretary of Defense shall report to the President and Congress on the results of the review conducted pursuant to paragraph (1) and the study conducted pursuant to paragraph (2).

"(4) ALL HAZARDS RESPONSE TRAINING.—The Chief, National Guard Bureau, shall require National Guard units or members to participate in specialized training and exercises designed to enhance the readiness of the National Guard to respond to all hazards. Up to 5 percent of the funds appropriated for the military pay and operations and maintenance of the Army and Air National Guard may be used to fund the training and exercises.

"(5) INTERSTATE MUTUAL ASSISTANCE COMPACT.—The States are encouraged to enter into a nationwide compact for the mutual use of National Guard assets across State borders during domestic disasters and emergencies.

"(6) RESPONSE TO DISASTERS AND REIMBURSEMENT FOR AUTHORIZED ACTIVITIES.—To ensure more effective and rapid responses by National Guard units to natural disasters and domestic emergencies, the Chief, National Guard Bureau, is authorized to approve reimbursement to a State or States for all or any part of expenses incurred as a result of the use of the National Guard in any natural disaster or domestic emergency at the onset of the disaster or domestic emergency in any instance in which, in the judgment of the Governor of the affected State, it is probable that the occurrence will result in a declaration of a national emergency.

"(A) ELIGIBILITY.—For a State to be eligible for reimbursement under this subsection for deployment of its National Guard units in support of a natural disaster and domestic emergency, the National Guard units must be deployed in a State active duty status.

"(B) SOURCE OF FUNDS.—Funds available for disbursement to the States under this subsection shall come from the funds appropriated to the disaster relief fund.

"(C) APPROVAL.—A request by a Governor for reimbursement for use of the National Guard of the State shall be submitted to the Director, and the Director, upon validation of eligible activities, shall issue the necessary funding documents to effect reimbursement to the State.

"(D) CONSISTENCE WITH ACT.—In instances of natural disasters and domestic emergencies that result in a Federal declaration of a disaster or emergency by the President, the Director shall ensure that all funding reimbursement is in accordance with this Act, at a Federal share rate determined for that occurrence.

"(7) TRAINING AND COORDINATION WITH STATE ENTITIES.—

"(A) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 to the National Guard through FEMA to conduct disaster and emergency training exercises in conjunction with appropriate State and local entities.

"(B) ALLOCATION.—The Director shall allocate the funds made available under subparagraph (A) to the States.

"(C) USE OF FUNDS.—

"(i) IN GENERAL.—Funds made available under this paragraph shall be used to enhance the preparedness of State and local governments for disasters and emergencies.

"(ii) MINIMUM TRAINING.—The National Guard shall be required to conduct at least 2 disaster preparedness training exercises annually in every State, in conjunction with appropriate State and local entities.

"(f) DISASTER RESOURCE INVENTORY.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Federal Disaster Preparedness and Response Act of 1993, the Director shall complete an inventory of resources that are available to the Federal Government, including medical assets and foreign language communication, through public or private entities, for use or deployment, or both, in disaster relief or search and rescue operations following a major disaster, catastrophic disaster, or emergency. Each item in the inventory shall include the information necessary for prompt access to the resource.

"(2) ORGANIZATION.—The inventory shall be organized to facilitate the dispatch of resources on a regional basis. This paragraph shall not be construed to preclude the dispatch of specialized equipment or scarce resources from outside the geographic proximity of the disaster or emergency.

"(3) AVAILABILITY.—The Director shall ensure that the inventory is made available to the Governor of each State for the purposes of formulating a request for the declaration of a major disaster, catastrophic disaster, or emergency.

"(4) MAINTENANCE.—The Director shall ensure that information contained in the inventory is current and accurate.

"(5) STATE PARTICIPATION.—

"(A) IN GENERAL.—Not later than 90 days after the establishment of the inventory, the Director shall request each Governor of a State to identify the State Coordinating Officer and other public safety officials who are responsible for coordinating or overseeing State and local response to disasters and emergencies in the State.

"(B) ACCESS.—A public safety official designated under subparagraph (A) shall have direct and immediate access to the information contained in the inventory to expedite State and local responses to disasters and emergencies not declared by the President.

"(g) VOLUNTEERS.—Not later than 180 days after the date of enactment of the Federal Disaster Preparedness and Response Act of 1993, the Director shall—

"(1) establish a system that is coordinated with systems of private relief agencies to manage and utilize spontaneous disaster volunteers to carry out priority disaster response services; and

"(2) report to Congress on the system.

"(h) DONATED GOODS.—Not later than 180 days after the date of enactment of the Federal Disaster Preparedness and Response Act of 1993, the Director shall—

"(1) establish a system for the management of goods donated to the Federal Government to support disaster victims; and

"(2) report to Congress on the system.".

SEC. 6. PREDECLARATION AUTHORITY.

Title II of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5131 et seq.) is amended by adding at the end the following new section:

"SEC. 203. PREDECLARATION AUTHORITY.

"(a) AUTHORITY.—When, in the determination of the Director, events indicate that an emergency, major disaster or catastrophic disaster is likely to be declared, a Federal agency, in consultation with the Director, may take such actions as the agency considers necessary to prepare to provide Federal assistance to State and local governments and to disaster victims.

"(b) REIMBURSEMENT.—The Federal agency shall be reimbursed by the disaster relief fund for the cost of actions taken in accordance with this section.".

SEC. 7. DOMESTIC CRISIS MONITORING UNIT.

(a) ESTABLISHMENT.—Not later than 30 days of the date after the enactment of this section, the President shall establish a unit within the White House to be known as the "Domestic Crisis Monitoring Unit".

(b) HEAD.—The Domestic Crisis Preparedness and Monitoring Unit shall be headed by the Vice President.

(c) OTHER PARTICIPANTS.—The Cabinet Secretary, or a designee of the Secretary, and the Director, or a designee of the Director, shall be detailed to the unit upon activation.

(d) RESPONSIBILITIES.—The head of the Domestic Crisis Monitoring Unit shall—

(1) monitor potential and pending disasters and emergencies;

(2) notify the President and Federal agencies of impending disasters and emergencies as soon as practicable; and

(3) ensure effective, coordinated, and rapid Federal agency response in the immediate aftermath of a catastrophic disaster or emergency.

(e) COORDINATION OF ACTIVITIES.—The head of the Domestic Crisis Monitoring Unit shall coordinate with the Director and the Governors of States affected by a catastrophic disaster or emergency or in which a catastrophic disaster or emergency is likely to be declared.

(f) ACTIVATION.—The President shall activate the Domestic Crisis Monitoring Unit during the warning stages of a major or catastrophic disaster, or immediately following a catastrophic disaster when there is no warning, and shall remain activated until the President determines that continued activation is unwarranted.

(g) ROLE OF FEDERAL COORDINATING OFFICER.—

(1) CHIEF OF PRESIDENTIAL RESPONSE PLAN.—After activation of the Domestic Crisis Monitoring Unit, the Federal Coordinating Officer shall retain authority as the chief administrator of the Presidential Response Plan.

(2) COORDINATION OF PLAN PARTICIPANTS.—The Federal Coordinating Officer shall coordinate the activities of the participants of the Plan, including consulting with participating agencies to determine disaster response priorities and directing participating agencies to carry out assignments as needed.

SEC. 8. DAMAGE AND NEEDS ASSESSMENT.

(a) IN GENERAL.—Title III of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5141 et seq.) is amended—

(1) by redesignating sections 304 through 321 as sections 305 through 322, respectively; and

(2) by inserting immediately after section 303, the following new section:

"SEC. 304. DISASTER ASSESSMENT TEAMS.

"(a) IN GENERAL.—Not later than 6 months after the date of enactment of this section, the Director shall establish disaster assessment teams to be deployed at the discretion of the Director to a staging area near the impact area at the request of a governor of an affected State, or to an area where a major disaster, catastrophic disaster, or emergency is likely to be declared. The Director or other FEMA official designated by the Director shall lead each such assessment team, which shall have the purpose of assessing damage and resulting needs.

"(b) COMPOSITION.—The Director shall designate experts and officials from appropriate Federal agencies, including FEMA and the Department of Defense, supported by representatives of State and local agencies, and private relief agencies, to serve on the disaster assessment teams.

"(c) DETAIL OF GOVERNMENT EMPLOYEES.—Upon the request of the Director, the head of any Federal agency shall detail to temporary duty with an assessment team on a nonreimbursable basis, such personnel within the administrative jurisdiction of the head of the Federal agency as the Director may need or believe to be useful for carrying out the functions of the assessment team. Each such detail shall be without loss of seniority, pay, or other employee status.

"(d) EXERCISES.—The assessment teams shall conduct practice exercises at least annually, including officials from appropriate Federal, State, and local agencies.

"(e) DAMAGE AND NEEDS ASSESSMENT.—

"(1) IN GENERAL.—Not later than 3 hours after the onset of a potential or actual catastrophic disaster, the Director shall deploy an assessment team established under subsection (a) to evaluate the extent of the damage and the resulting needs for authorized Federal disaster relief assistance.

"(2) RECOMMENDATIONS.—As soon as possible after deployment, the assessment team shall make recommendations to the Director, the President, and the Governors of the affected States regarding the damage and the resources needed to provide life support to the affected areas. The assessment team shall recommend whether the disaster should be classified as a catastrophic disaster or a major disaster.

"(3) COORDINATION WITH STATE AND LOCAL OFFICIALS.—The damage and needs assessments shall be conducted in coordination with the State and local officials of the affected area.".

(b) CONFORMING AMENDMENT.—Section 408(d)(2) of such Act (42 U.S.C. 5176(d)(2)) is amended by striking "308" and inserting "309".

SEC. 9. CATASTROPHIC DISASTERS.

Title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170 et seq.) is amended by adding at the end the following new section:

"SEC. 426. CATASTROPHIC DISASTERS.

"(a) DECLARATION.—

"(1) RECOMMENDATION BY DISASTER ASSESSMENT TEAMS.—At the onset of a disaster in which the disaster assessment teams established under section 304(a) have been deployed, or immediately thereafter, the disaster assessment teams shall make concurrent recommendations to the Director, the President, and the Governors of the affected

States, the Director, and the President as to whether the disaster should be declared a catastrophic disaster.

"(2) REQUEST FOR DECLARATION.—A request for a declaration by the President that a catastrophic disaster exists shall be made by the Governor of each affected State seeking such declaration. A request for a major disaster declaration complying with the requirements of section 401 may accompany the request for a declaration of a catastrophic disaster.

"(3) FINAL DETERMINATION.—Based on a request or requests under paragraph (2), the President may declare that a catastrophic disaster, a major disaster, or an emergency exists. A determination by the President that a catastrophic disaster or an emergency exists shall be final.

"(b) EFFECT OF DETERMINATION.—

"(1) FEDERAL SHARE.—Notwithstanding subsections (b) and (c)(4) of section 403, the Federal share of the eligible cost of essential direct Federal assistance necessary to sustain life or to protect property following a catastrophic disaster declaration shall be—

"(A) for the first 72 hours (and for up to an additional 96 hours, at the discretion of the President) 100 percent; and

"(B) after the assistance provided under subparagraph (A), not less than 75 percent.

"(2) DISASTER RESPONSE AND MASS CARE.—Upon the declaration of a catastrophic disaster, the Federal Coordinating Officer shall assume an active role in determining whether ancillary resources, such as the resources of the Department of Defense, are required to support any disaster response function. Upon the determination that ancillary resources are required for mass care, the Federal Coordinating Officer will actively assist the American Red Cross in obtaining the resources of the Federal agencies.

"(3) RESPONSIBILITY OF THE DEPARTMENT OF DEFENSE.—

"(A) IN GENERAL.—Following the declaration of a catastrophic disaster, the Secretary of Defense shall, when requested by the President and with the concurrence of the Governor of the affected State, provide to persons adversely affected by the disaster, disaster response services not otherwise available from State, local, or volunteer agencies, including—

"(i) food, water, and shelter;

"(ii) communications;

"(iii) debris removal;

"(iv) medical assistance; and

"(v) any other services necessary to sustain human life or to promote recovery.

"(B) REIMBURSEMENT.—The Secretary of Defense shall be reimbursed by the disaster relief fund for the provision of disaster response services described in subparagraph (A).

"(C) DIRECTION OF ACTIVITIES.—The provision of disaster response services under subparagraph (A) and the administration of relief by consenting State, local, and volunteer agencies shall be directed by the Federal Coordinating Officer in consultation with the Vice President in coordination with the Governors of the affected States or a designee of the Governors. After a declaration of a catastrophic disaster, specific requests by the Governors for the individual disaster response services described in subparagraph (A) shall not be necessary.

"(D) TRAINING.—The Secretary of Defense shall undertake necessary training and exercises to ensure preparedness for this humanitarian mission.

"(E) CONTINGENCY PLAN.—The Director shall develop a contingency plan for the provision of disaster response services described in subparagraph (A) in the event that sufficient disaster response services are unavailable under subparagraph (A).

"(4) ADDITIONAL ASSISTANCE.—The assistance provided in this subsection shall supplement and not supplant the major disaster assistance programs provided in titles IV and V.".

SEC. 10. TARGETED EMERGENCY GRANTS.

(a) IN GENERAL.—Title II of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5131 et seq.) is further amended by adding at the end the following new section:

"SEC. 204. TARGETED EMERGENCY GRANTS.

"(a) IN GENERAL.—

"(1) ESTABLISHMENT.—The Director shall establish a grant program for the purposes of enabling State and local governments—

"(A) to mitigate, prepare for, and respond to major disasters or emergencies;

"(B) to construct and maintain State and local emergency operating centers;

"(C) to develop, install, and maintain emergency communications systems; and

"(D) to evaluate potential hazards in the State.

"(2) APPLICATION.—Application for a grant shall be made by the Governor of an affected State, and shall be reviewed by the Director.

"(3) BASIS FOR AWARDS.—The Director shall determine eligibility for grant awards under this section based on compliance with the performance standards described in subsection (b), and on equal consideration of—

"(A) the risk of occurrence of major disasters or emergencies; and

"(B) the population of each State applying for a grant.

"(4) DISTRIBUTION TO LOCAL JURISDICTIONS.—Each recipient State shall allocate a portion of the grant award, in an amount to be determined by the Director, to local participating jurisdictions.

"(b) PERFORMANCE STANDARDS.—

"(1) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this section, the Director shall establish performance standards to determine eligibility and application procedures for a grant award under this section.

"(2) CRITERIA.—The performance standards shall be based on the relative severity of risk to public health, safety, and property at risk in the State, and shall include provisions for—

"(A) updating emergency operations plans annually;

"(B) ensuring interoperability between Federal, State, and local emergency operations plans;

"(C) conducting training and annual exercises with all appropriate entities including the National Guard; and

"(D) requiring appropriate hazard mitigation activities.

"(3) PERFORMANCE REVIEW.—The Director shall conduct annual performance reviews of State emergency operations plans based on the criteria described in paragraph (2).

"(4) NOTIFICATION.—The Director shall notify a State that does not meet the performance standards within 60 days of review. In the notice, the Director shall direct the State as to the steps that must be taken to meet the performance standards.

"(5) OPPORTUNITY TO COMPLY.—A State that does not meet the performance standards shall be given an additional 60 days to comply.

"(c) FEDERAL SHARE OF GRANT.—The Federal share of a grant under this section shall be 75 percent of the cost of the emergency preparedness activities of the State.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $200,000,000 for each of fiscal years 1994 through 1998.".

(b) FEDERAL SHARE OF ASSISTANCE.—Title IV of such Act (42 U.S.C. 5170 et seq.) is amended—

(1) by redesignating sections 406 through 424 as sections 407 through 425, respectively; and

(2) by inserting immediately after section 405, the following new section:

"SEC. 406. COMPLIANCE WITH PERFORMANCE STANDARDS.

"(a) IN GENERAL.—Notwithstanding any other provision of this Act, the Director shall establish a sliding scale, in accordance with subsection (c), setting forth the Federal share of the cost of eligible assistance following a disaster or emergency for a State that is not in compliance with the performance standards established under section 204(b).

"(b) SLIDING SCALE.—On the sliding scale established under subsection (a), the Federal share shall not exceed 70 percent of the cost of long-term recovery for each year the State remains out of compliance with the performance standards. States that are not in compliance with performance standards shall pay a greater share of Federal assistance.".

(c) CONFORMING AMENDMENTS.—

(1) Section 106(c) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306(c)) is amended by striking paragraph (4).

(2) Section 5(b)(2)(A) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704(b)(2)(A)) is amended—

(A) by striking clause (iv); and

(B) by redesignating clauses (v) and (vi) as clauses (iv) and (v), respectively.

(3) The Robert T. Stafford Disaster Relief and Emergency Assistance Act is amended—

(A) in section 312 (as so redesignated in section 8(a)(1) of this Act)—

(i) by striking "406" each place it appears, and inserting "407"; and

(ii) by striking "422" each place it appears, and inserting "423";

(B) in section 317 (as so redesignated in section 8(a)(1) of this Act)—

(i) by striking "407" and inserting "408"; and

(ii) by striking "422" and inserting "423";

(C) in section 403(c)(2), by striking "407(b)" and inserting "408(b)";

(D) in section 405 (as so redesignated)—

(i) by striking "409" and inserting "410"; and

(ii) by striking "406" and inserting "407";

(E) in section 407(f)(2) (as so redesignated in paragraph (1) of this subsection), by striking "406, 407" and inserting "407, 408";

(F) in section 423 (as so redesignated)—

(i) by striking "407" each place it appears and inserting "408"; and

(ii) by striking "406" each place it appears, and inserting "407"; and

(G) in section 502(a)—

(i) in paragraph (5), by striking "407" and inserting "408"; and

(ii) in paragraph (6), by striking "408" and inserting "409".

SEC. 11. REORGANIZATION OF FEMA.

(a) IN GENERAL.—The Director shall restructure FEMA to—

(1) implement an all hazards approach to disaster management that includes activities and measures designed or undertaken to—

(A) minimize the effects of natural disasters, civil disturbances, or attack-related emergencies and disasters;

(B) respond to the immediate emergency conditions that are created by the disasters; and

(C) effectuate emergency repairs to, or the emergency restoration of, vital utilities and facilities destroyed or damaged by a disaster, subject to reimbursement by private utilities;

(2) utilize resources dedicated to defense-related programs on the date of enactment of this Act to respond to major disasters, catastrophic disasters, and emergencies;

(3) redefine the relationship between the Director and FEMA headquarters and regional offices to ensure effective disaster planning and response; and

(4) reduce the number of regional offices and locate the offices in areas the Director identifies as high risk.

(b) Redesignation of Employee Positions.—Not later than December 31, 1995, the following employee positions within FEMA shall be classified as career reserved positions within the meaning of section 3132(a)(8) of title 5, United States Code:

(1) The position of Executive Director of FEMA/Chief of Staff of FEMA.

(2) The position of Federal Insurance Administrator.

(3) The positions of Regional Director of FEMA, which shall be reduced in number.

(4) The position of General Counsel of FEMA.

(5) The position of Senior Advisor to the State and Local Programs and Support Directorate.

(6) Positions of a confidential or policy-determining character described in schedule C of subpart C of part 213 of title 5, Code of Federal Regulations.

SEC. 12. NATIONAL ACADEMY OF FIRE AND EMERGENCY PREPAREDNESS.

(a) Establishment.—The National Academy for Fire Prevention and Control and the Emergency Management Institute operated by FEMA are abolished and merged into the National Academy of Fire and Emergency Preparedness. The National Academy of Fire and Emergency Preparedness shall provide appropriate education for fire prevention and control of all hazards emergency management.

(b) Purpose.—The primary purpose of the Academy shall be first-response training for all hazards. Not less than 50 percent of the resources of the Academy shall be spent on training fire and emergency services professionals.

(c) Redesignation of Training Academy.—Section 7 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2206) is amended—

(1) in subsection (a), by striking "National Academy for Fire Prevention and Control" and inserting "National Academy of Fire and Emergency Preparedness"; and

(2) in subsection (d)—

(A) by striking "and" at the end of paragraph (4);

(B) by striking the period at the end of paragraph (5) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(6) train employees of the Federal Emergency Management Agency and State and local officials in all hazards, as defined in section 102(11) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.".

(d) Transfer of Functions and Resources.—The Director of the Federal Emergency Management Agency shall transfer the functions, personnel, facilities, and equipment of the Emergency Management Institute existing on the date of enactment of this Act to the National Academy of Fire and Emergency Preparedness.

(e) Authorization of Appropriations.—Section 17 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2216) is amended by adding at the end the following new subsection:

"(h) There are authorized to be appropriated for the National Academy of Fire and Emergency Preparedness $80,000,000 for each of fiscal years 1994 through 1998.".

(f) Conforming Amendment.—Section 4 of such Act (15 U.S.C. 2203) is amended by striking "National Academy for Fire Prevention and Control" and inserting "National Academy of Fire and Emergency Preparedness".

SEC. 13. RESEARCH CENTER.

Title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5101 et seq.) is amended by adding at the end the following new section:

"SEC. 605. RESEARCH CENTER.

"(a) Establishment.—Not later than 1 year after the date of enactment of this section, the Director shall establish a university-based research center to—

"(1) conduct research on disaster management methods, technologies, mitigation and response systems;

"(2) develop a curriculum for disaster management and related fields curriculum; and

"(3) provide education and training to the emergency response community.

"(b) Composition.—The university or universities shall be selected by the Director following a competitive selection process.

"(c) Report.—The center shall report annually to the President and Congress on the activities of the consortium.

"(d) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 1994 and 1995.".

SEC. 14. REPEAL OF CIVIL DEFENSE ACT.

(a) Repeal.—The Federal Civil Defense Act of 1950 (50 U.S.C. App. 2251 et seq.) is repealed.

(b) Conforming Amendments.—

(1) Section 813(d)(2) of the Agricultural Act of 1970 (7 U.S.C. 1427a(d)(2)) is amended by striking "as proclaimed" and all that follows through the period and inserting a period.

(2) Section 310 of title 23, United States Code, is amended by striking "Federal Civil Defense Administrator" and inserting "Director of the Federal Emergency Management Agency".

(3) Section 202 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5132) is amended—

(A) by striking subsection (c); and

(B) by redesignating subsection (d) as subsection (c).•

By Mr. WALLOP (for himself, Mr. Boren, and Mr. McCain).

S. 1698. A bill to reduce the paperwork burden on certain rural regulated financial institutions, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

RURAL COMMUNITY BANK PAPERWORK RELIEF ACT OF 1993

• Mr. WALLOP. Mr. President, continuing many of our efforts to respond to bankers' requests for paperwork reduction while working to ensure that appropriate degrees of safety and soundness are maintained in the banking industry, Senator McCain, Senator Boren, and I have drafted the Rural Community Bank Paperwork Relief Act to deal with a pressing need for Community Reinvestment Act reform in small, nonurban towns.

While the legislation would not apply to every bank in every town in any single State, I urge my colleagues to finally recognize that a politically viable compromise should be adopted to deal with the differing needs of banks in small and large communities. It is not right for smalltown banks to be subjected to the same Federal regulations as banks in large urban areas. It is time for a tiered approach to the CRA paperwork issue.

It is clear to me that unnecessary regulations are stifling the economic vitality of our Nation. This is just another part of many of our ongoing efforts to turn the tide on unnecessary Federal regulations. I urge my colleagues to cosponsor this reasonable legislation to finally deal with an important paperwork issue which adversely affects responsible banks in small communities.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1698

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rural Community Bank Paperwork Relief Act of 1993".

SEC. 2. SELF CERTIFICATION.

The Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) is amended by adding at the end the following new section:

"SEC. 809. SELF CERTIFICATION FOR INSTITUTIONS IN RURAL TOWNS.

"A regulated financial institution shall be exempt from the evaluation and examination requirements of this title if such institution—

"(1) is located in a town, political subdivision, or other unit of general local government that—

"(A) has a population of not more than 20,000 residents, according to the most recent available census data; and

"(B) is not located in a metropolitan statistical area of the United States Department of Commerce, Bureau of the Census;

"(2) has a net loans and leases to deposits ratio of not less than 70 percent of the average institutional ratio of financial institutions of similar size in the same State, as defined by the appropriate Federal financial supervisory agency; and

"(3) certifies that it is effectively meeting the credit needs of its entire community, including low- and moderate-income neighborhoods, as determined in regulations published by each appropriate Federal financial supervisory agency.".

SEC. 3. INCREASED INCENTIVES TO LENDING TO LOW- AND MODERATE-INCOME COMMUNITIES.

Section 804 of the Community Reinvestment Act of 1977 (12 U.S.C. 2903) is amended by adding at the end the following new subsection:

"(c) Certain Rural Institutions.—In evaluating a regulated financial institution, the appropriate Federal financial supervisory agency shall give appropriate consideration and weight to the institution's investments in and loans to joint ventures or other entities or projects that provide benefits to distressed communities located within or outside of the service area of the institution (as such terms are defined by the appropriate Federal financial supervisory agency) if such institution—

"(1) is located in a town, political subdivision, or other unit of general local government that is not located in a metropolitan statistical area of the United States Department of Commerce, Bureau of the Census; and

"(2) does not meet the requirements of section 809.".•

• Mr. BOREN. Mr. President, the Rural Community Bank Paperwork Relief Act introduced today by Senators McCAIN, WALLOP, and I would reform the Community Reinvestment Act to make compliance easier for rural banks and it will do much to relieve them from the excessive paperwork requirements of the act.

The Community Reinvestment Act [CRA] was passed in 1977 to encourage community development and investment. It requires banks to demonstrate evidence of community investment or an effort to encourage loans in their communities.

Currently, banks in small communities face substantial difficulties in complying with CRA paperwork requirements. Our bill would modify the CRA to provide insured depository institutions in towns of not more than 20,000 a means to self-certify they are meeting local credit needs. The bill allows banks to show they are meeting their communities' credit needs by utilizing State-based ratios as defined by the appropriate Federal agencies. By requiring banks to meet State-based ratios, we are retaining appropriate requirements for safety and soundness.

Banks in small towns are often the economic backbone of their communities. They invest in building the corner store on Main Street or loaning money to a family to build their first home. When we require banks in small towns to comply with identical regulations intended for banks in urban areas, we often unintentionally suppress economic growth and investment. It is essential that we balance the need for safety and soundness in our financial institutions with the need to stimulate, not stifle, economic growth. This bill would provide a way for responsible community banks to comply with the Community Reinvestment Act and continue to make credit available in their communities.•

• Mr. McCAIN. Mr. President, I am pleased to join with Senators WALLOP and BOREN in introducing the Rural Community Bank Paperwork Relief Act of 1993. This legislation takes a small but important step toward eliminating the tremendous regulatory burden imposed on financial institutions, especially smaller community banks, and allowing them to focus on their core business—making loans to creditworthy customers in their communities.

Much has been made of the so-called credit crunch, and the consequent inability of businesses and individuals in need of bank financing to obtain it, even if they are creditworthy. One principal reason banks are unable to make loans is the bewildering array of statutory and regulatory restrictions and paperwork requirements imposed by Congress and the regulatory agencies. While a case can certainly be made that every law and regulation is intended to serve a laudable purpose, the aggregate effect of the rapidly increasing regulatory burden imposed on banks is to cause them to devote substantial time, energy, and money to compliance rather than meeting the credit needs of the community. In fact, the Federal Financial Institutions Examination Council found that the annual cost of regulatory compliance may be as high as $17.5 billion. These are funds that can, and should, be loaned out to the community.

A prime example of a well-intentioned law which has clearly had a counterproductive effect on many financial institutions is the Community Reinvestment Act of 1977 [CRA]. The CRA has the laudable purpose of ensuring that banks meet the credit needs of their local communities. Unfortunately, however, the practical effect of the CRA has been for regulators to require, and banks to maintain, extensive records documenting their compliance with the CRA, even if the absence of a scintilla of information that an institution is not meeting the credit needs of the local community. The focus has been on documentation rather than performance.

This problem is particularly acute for smalltown banks. Small banks have fewer personnel and monetary resources to devote to unnecessary and unduly burdensome regulations. Loan officers that have to do double duty as regulatory compliance officers, as is the case in most smaller institutions, obviously have much less time to spend on making loans. Yet logic tells us that, even without heavy-handed Government regulation, small banks in rural communities must serve their local credit needs if they are to stay in business. A small bank in Gila Bend, AZ, is not going to be sucking up local deposits and siphoning them off to New York or Los Angeles, or even to Phoenix. The deposits collected locally will necessarily be reinvested in the community regardless of whether a Federal law like CRA requires it.

This bill recognizes this fact, and takes a small step forward toward eliminating unnecessary regulatory burdens imposed on banks. It would still require small banks in our smallest communities to comply with the basic goals of the CRA, but would enable them to self-certify that they are meeting the credit needs of their community and avoid having to deal with unnecessary evaluation and examination requirements.

I want to emphasize that, while it would be appropriate for the Congress to engage in a broader reexamination of whether the CRA, as currently written and implemented, represents sound public policy, the intent of this bill is much, much narrower. It applies only to banks in towns with populations of fewer than 20,000 persons and, I repeat, it does not exempt these banks from meeting the community lending requirements of the act.

It would, however, allow banks in small communities to spend fewer resources on paperwork regulations and more resources on making loans. That is what the business of banking is all about, and that is what we should seek to encourage. I urge my colleagues to join with us to cosponsor this important legislation.•

By Mr. SIMON (for himself and Mr. METZENBAUM):

S. 1699. A bill to amend the Internal Revenue Code of 1986 to provide that the amortization deduction for goodwill and certain other intangibles be determined by amortizing 75 percent of the adjusted basis of the intangibles ratably over a 15-year period; to the Committee on Finance.

INTANGIBLE ASSETS LEGISLATION

• Mr. SIMON. Mr. President, today I am introducing legislation to amend the Internal Revenue Code to provide that the amount of deduction with respect to any amortizable section 197 intangible is determined by amortizing 75 percent of the adjusted basis of the intangible over 15 years. The remaining 25 percent of adjusted basis will not be amortizable.

The Budget Reconciliation Act of 1993 provided the 100-percent amortization of goodwill and other intangible assets, and that is of great concern to me. It will cost the Treasury more than $2 billion each year in the long term.

Before the enactment of the new law, companies engaging in corporate buyouts could deduct the cost of tangible assets, such as buildings and machinery. The acquiring company could also deduct interest costs on borrowed money. This generous tax treatment for companies acquiring other companies stimulated the buyout and merger mania we saw in the 1980's and early 1990's—at great cost to taxpayers.

The wave of mergers led companies to increasingly seek tax deductions for their intangible assets as well. According to a 1991 report by the GAO, the reported value of intangible assets—assets that do not physically depreciate but that companies claim decline in value over time—in leveraged buyouts and other merger activities went from $45 billion in 1980 to $262 billion in 1987.

In the past, the IRS disallowed many deductions claimed by corporations for intangible assets. These included claims for goodwill, which can be defined as the value of a company's good name. Corporations attempted to deduct such items as customer lists, patents, brand name loyalty, all in the name of goodwill. When the IRS refused to allow these deductions, these major corporations went to court to avoid paying the taxes they owed to the IRS. This led to the so-called litigation explosion and the subsequent change in the tax law. Proponents of this provision claimed that simplification was needed to address the problems created by this litigation explosion.

In order to bring about simplification, the Congress simply caved in, Mr. President, by allowing the 100-percent deduction of intangible assets, including goodwill.

I led the battle against a similar provision last year during the debate on the unsuccessful tax bill, and I have spoken on this subject at length. In my CONGRESSONAL RECORD statement of September 10 of this year, I go into great detail about my objections to the amortization of goodwill. Today I will be brief.

The bill I am introducing, to allow only a 75-percent write-off of the value of a claimed intangible asset, is the same as the provision passed by the Senate in the 1993 budget reconciliation bill. The Senate adopted the 100-percent provision only after conference with the House.

The Joint Tax Committee and the GAO estimated that goodwill constitutes approximately 25 percent of all intangible assets. My bill therefore allows deductions for legitimate intangible assets but not for the amorphous goodwill. My bill also provides the needed tax simplification, while at the same time saves the Treasury more than $2 billion a year, over time.

Mr. President, let us not leave the Treasury with a long-term revenue loss, when we do not have to do so. Instead, let us take this golden opportunity to bring about further deficit reduction. I urge my colleagues to support this needed legislation.•

By Mr. SIMON:

S. 1700. A bill to amend the Internal Revenue Code of 1986 to limit the interest deduction allowed corporations and to allow a deduction for dividends paid by corporations; to the Committee on Finance.

EQUITY INCENTIVE ACT OF 1993

• Mr. SIMON. Mr. President, I introduce a bill to amend the Internal Revenue Code to limit the interest deduction allowed corporations and to allow a deduction for dividends paid by corporations.

Our current system of taxation encourages American businesses to use debt, rather than equity, to provide needed financing. My bill would encourage firms to shift from greater debt financing to more equity financing by limiting the interest deduction allowed corporations and allowing a deduction for dividends paid by corporations.

My proposal would be revenue neutral, although in the long run it should add to revenue because it would help the economy. I propose that, while 80 percent of interest payments remain deductible, 20 percent of the interest payments of all but the smallest corporations—including farm corporations—should be disallowed. And 50 percent of dividends should be deductible.

If a corporation borrows money to acquire another company or to buy equipment or for any other purpose, the interest on that debt is deductible, even though the debt can—and often does—put the corporation in a precarious position. But if the same corporation issues stock, and then pays dividends, there is no deduction. The tax laws favor debt.

That same corporation, if it cannot meet the payments of principal and interest, will have to sell itself or go bankrupt, neither of which are desirable goals. But if that corporation issues stock, and there is a dip in the economy, the only penalty the corporation must pay is that it cannot issue dividends. It can continue to thrive, employ people, and be a productive part of our society.

Our tax laws have encouraged corporations and banks and law firms to make the fast buck, rather than do the slow, solid things that are necessary to build their business and the economy of this nation. I favor tax laws that give corporations deductions for research, for creating jobs, for adding to the productivity of the nation.

My proposal would provide the incentive corporations need. It would encourage investment and help the growth of productivity. It would also help eliminate the excessive debt our country has accumulated, and it would go a long way toward strengthening the economy.

I hope my colleagues will join in supporting this legislation. It may need to be refined, but the idea is sound. Alan Greenspan endorses the concept of this proposal, Mr. President. I hope we can make it a part of the Tax Code.•

By Mr. SARBANES (for himself and Mr. SASSER):

S. 1701. A bill to provide for certain notice and procedures before the Social Security Administration may close, consolidate, or recategorize certain offices; to the Committee on Finance.

SOCIAL SECURITY ADMINISTRATION SERVICES PRESERVATION ACT

• Mr. SARBANES. Mr. President, today I am reintroducing the Social Security Administration Services Preservation Act. This legislation, which I first proposed during the 101st Congress, would establish procedures to be used when the Social Security Administration proposes to close a field office.

Public confidence in the Social Security program is vital to its effectiveness and is based, to some degree, on the service the Agency provides. The Agency's extensive network of offices plays an important role in providing quality service to the millions of Americans who depend upon Social Security programs. While the nationwide toll-free number has become an effective tool for some simple inquiries, it cannot replace the local offices where citizens can talk face-to-face with Agency representatives.

In the past, the Social Security Administration has closed, moved, and categorized service offices without adequate consideration of the public interest. This legislation would establish a process for considering such actions that would ensure that organizations, employees, and Social Security beneficiaries all receive adequate notice of the proposed change.

This bill would also require the Agency to list, as part of its annual budget submission, those offices which have been closed in the preceding year as well as those that the Agency plans to close. At present, Mr. President, there is no readily available source of this information even though it is clearly important if we in Congress are to be informed about the Agency's service to our constituents.

The procedures in the legislation are based both on the procedures for office closings employed by the U.S. Postal Service and on guidelines that the social Security Administration issued on April 25, 1980. Those guidelines specified criteria that should be used in decisions about closing and relocating facilities. Among the key criteria discussed are shifts in population, demand for personal service, socioeconomic changes, transportation availability, and public reaction to the proposal. I regret that, through the years, there has been too little adherence to the Agency's own procedures.

Mr. President, I am confident that many of my colleagues are aware of situations in their own States in which a service office was closed or downgraded without input from community groups and without adequate consideration of the public interest. This legislation would assure that the need for personal attention of many Social Security beneficiaries, such as senior citizens and handicapped persons, is considered before an office is closed. It recognizes that residents of areas that are characterized by low levels of income or education often have a greater need for personal assistance.

This legislation does not prevent the Administration from closing or moving offices. In my view, reasonable changes in the office structure should be made to maximize service while minimizing cost to the American taxpayer. As she assumes the challenging task of leading this critically important Agency, I hope that Dr. Shirley Sears Chater, the impressive new Commissioner, will review this legislation and indicate her own support for codifying these procedures.

Mr. President, this act would simply ensure that all decisions to close, recategorize, or move a Social Security office are considered using a fair process. The populations served by Social Security programs deserve nothing less.

As my colleagues may recall, I introduced similar legislation in the 101st and 102d Congresses. I hope that this important issue can finally be resolved by the 103d Congress and I am pleased that my colleague and friend, Senator JIM SASSER, is joining me as an original cosponsor of this bill.

Mr. President, I hope that this important legislation will be promptly approved by the Senate and I ask that the text of the act be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1701

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Social Security Administration Services Preservation Act".

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds that—

(1) the service philosophy of the Social Security Administration recognizes that the effective administration of programs depends upon the goodwill and acceptance of the public;

(2) the Statement of Objectives of the Social Security Administration in the year of 1958 recognized that public confidence and cooperation is partially based on the locations and appearances of offices;

(3) the mission of the Social Security Administration touches the lives of virtually all United States citizens and therefore offices of the Administration need to be readily accessible to all citizens regardless of residence;

(4) many United States citizens, especially many among the handicapped and the elderly, need personal attention to needs and should not be unnecessarily deprived of access to agency officers;

(5) discrepancies exist between the formal procedures for closing, consolidating, and recategorizing Social Security Administration offices and the practice often used;

(6) the procedures used for such decisions are inconsistent and often too informal;

(7) the procedures used in many closings, moves, and recategorizations have not adequately considered the interests of the individuals affected by the decisions; and

(8) all changes in the status and location of Social Security Administration offices should be considered in such a way as to not undermine public confidence in the Social Security program.

(b) The purposes of this Act are to—

(1) ensure that the public interest is considered and protected in all decisions to close, consolidate, or recategorize Social Security Administration offices; and

(2) establish a fair procedure to be followed in all such decisions.

CONSOLIDATION, CLOSING, OR RECATEGORIZATION OF A SOCIAL SECURITY ADMINISTRATION OFFICE

SEC. 3. Title VII of the Social Security Act is amended by adding at the end thereof the following new section:

"CONSOLIDATION, CLOSING, OR RECATEGORIZATION OF A SOCIAL SECURITY ADMINISTRATION OFFICE

"SEC. 712. (a) For purposes of this section, the term—

"(1) 'adequate public notice' means the conspicuous posting of a formal notice at the affected office and the mailing of a written notice to at least—

"(A) the employees of the affected office;

"(B) the regularly published local press serving the affected community;

"(C) all elected local public officials, community groups, and county, parish, and State welfare offices, and any other affected or relevant organization; and

"(D) the Members of Congress who serve the area in which the affected office is located;

"(2) 'move' with respect to an office means any change in the physical location of such office, unless such move is within the same political subdivision and is necessitated by an involuntary loss of a lease or a need for additional space;

"(3) 'office' includes all field offices, district offices, and hearings and appeals offices of the Social Security Administration;

"(4) 'political subdivision' means a component of a county or large city which has a common civic identity characterized by neighborhood pride, independence, or homogeneous ethnic, racial, religious, or economic background; and

"(5) 'recategorize' means the process of scaling down an office to a lesser status or level of function.

"(b) The Social Security Administration, after making a determination as to the necessity for the closing, consolidation, or recategorization of any office, shall provide adequate public notice of such determination at least 90 days prior to the proposed date of such closing, consolidation, or recategorization. Such notice shall include an invitation for written comments on the proposal and shall include an address for mailing such comments.

"(c) When making a determination to close, consolidate, or recategorize an office, the Social Security Administration shall consider—

"(1) the effect of such change on the community served by such office including the availability of public transportation to any site, the socioeconomic status of the community, the caseload of the affected office, and such other factors as the Social Security Administration determines are necessary;

"(2) the need of the community for personal service, relative to mail or telephone service, based on demographic information such as educational and literacy levels;

"(3) the effect of such determination on employees of the Social Security Administration at such office; and

"(4) the economic savings to the Social Security Administration resulting from the change.

"(d) The Commissioner of Social Security or the Deputy Commissioner of Social Security shall approve all preliminary and final determinations to close offices that are open full-time and provide a full range of services. The authority to make other preliminary and final determinations may be delegated by the Commissioner.

"(e) Any preliminary determination of the Social Security Administration to close, consolidate, or recategorize an office shall be in writing and shall include the findings of the Social Security Administration with respect to the considerations required under subsection (c).

"(f) A public hearing shall be—

"(1) held upon written request;

"(2) held no earlier than 60 days after adequate public notice of such hearing is made;

"(3) conducted on all proposals to consolidate, close, or recategorize the affected office;

"(4) held at or near the location of the affected office; and

"(5) conducted by an official designated by the regional or central office.

"(g) Within 30 days after the hearing held under the provisions of subsection (f) or after the 90-day period described under subsection (b), whichever is later, the Social Security Administration shall—

"(1) issue a final report that—

"(A) incorporates all of the testimony provided at the public hearing and all written comments received; and

"(B) specifies the final determination of the status of the affected office;

"(2) send copies of the final report to the local community press and the appropriate Members of Congress; and

"(3) provide adequate public notice of the final determination, including a notice that copies of the full final report may be viewed or obtained, without charge, at the affected office.

"(h) A final determination of the Social Security Administration to close, consolidate, or recategorize an office may be appealed by any person served by such office to the Commissioner of Social Security. Such appeal shall be filed no later than 30 days following adequate public notice of the final determination under subsection (g)(3). The Commissioner shall review such determination on the basis of the record before the Social Security Administration in deciding such appeal. The Commissioner shall set aside any determination, finding, or conclusion found to be—

"(1) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law;

"(2) without observance of procedure required by law; or

"(3) unsupported by substantial evidence on the record.

"(i) No action may be taken to close, move, or recategorize any office during the 30 days following the announcement of a decision nor during the time that any level of appeal is pending.

"(j) The Social Security Administration shall include in its annual budget submission to the Congress a list of all offices, as defined under subsection (a)(3), and all contact stations that—

"(1) were closed or discontinued during the year preceding the date of such submission; and

"(2) are scheduled to be closed or discontinued and the date that such action is planned.".●

By Mr. SIMON:

S. 1702. A bill to amend the Federal Food, Drug, and Cosmetic Act to ensure that human tissue intended for

transplantation is safe and effective, and for other purposes; to the Committee on Labor and Human Resources.

HUMAN TISSUE FOR TRANSPLANTATION ACT OF 1993

• Mr. SIMON. Mr. President, today I am introducing the Human Tissue for Transplantation Act of 1993, which will regulate human tissue banks and tissue banking practices. Representative RON WYDEN is introducing an identical measure in the other body today. It has been a pleasure to work with him and his staff, and I appreciate his leadership.

We have been circulating drafts of our bills among interested parties for a number of weeks and have received helpful comments that we have tried to incorporate in the final draft. I am aware there are remaining concerns about the bill as drafted, and my staff and I will continue to work with the tissue bank community and with my colleagues to resolve remaining issues in the weeks ahead. My hope is we can move quickly to final enactment early in the next session.

Every year more than 10,000 tissue donors supply approximately 500,000 pieces of tissue for transplantation in the United States. Approximately 400 tissue banks are operating in our country procuring, processing, storing, and/or distributing this tissue. These figures are approximate because no one really knows how many tissue banks are operating. There is currently no Federal oversight and only a handful of States require such tissue banks to register.

My involvement with this issue began 2 years ago when I was approached by the University of Chicago. The University and others involved with human heart valve transplantation were concerned about the FDA's decision to regulate human heart valves as class III medical devices. The concern was that such classification would result in potential shortages and unreasonably high costs. The more closely my staff and I examined this issue, the more we realized that the issues surrounding the regulation of heart valves were only the tip of the iceberg. The FDA, in the absence of an appropriate statutory framework to regulate human tissue, intended to move ahead to regulate other tissue under their cumbersome medical device regulations. This possibility was creating consternation among tissue banks, particularly the nonprofit tissue banks. And after four tissue transplant recipients contracted the HIV virus from infected tissue in 1991, many more people became painfully aware that human tissue banks needed to be regulated—and regulated in an effective and appropriate manner.

I have received at least one letter from a person who, but for the risk of infectious disease, would choose to receive tissue transplants. In my experience, one letter can represent the views of a significant number. This person was fortunate because for her it was not a life-or-death matter, and there were alternatives.

Those whose condition is life-threatening, a child in need of a heart valve replacement, for example, do not have this luxury. It is important, not just from a disease prevention standpoint, to assure people about the safety and quality of the tissue they are receiving.

Organizations such as the American Association of Tissue Banks [AATB] have done an admirable job of promulgating thorough standards under which tissue banks must operate to receive their accreditation. Unfortunately, too few banks have sought this accreditation and there is no means to enforce these standards.

There appears to be a consensus among the interested parties to this legislation that there is a need for regulation. We are in agreement that any regulation must provide for the registration of tissue banks, effective, uniform donor screening, and effective tracking from donor to recipient. None of these is uniformly being carried out in the tissue bank community today.

Most believe that the FDA should oversee any regulatory scheme that may be created and that compliance with the standards promulgated by the Secretary of the Department of Health and Human Services should not be voluntary.

Funds for startup costs will need to be appropriated. This amount could be $5 million, perhaps more, perhaps less. Once the regulatory scheme is in place, however, this program should be self-sustaining. User fees are a means by which to reach this end. In coming to this decision, we have taken into account the altruistic nature of tissue donation and the fact that most tissue banks are not for profit. Ultimately the cost of the user fees will be passed along to the transplant recipient. Under health care reform we are likely to provide assistance to those who are medically in need of such transplants. This seems an appropriate, fair, and reasonable way to cover the FDA's expenses for carrying out this important responsibility.

This bill will rescind those Federal regulations that classify human heart valves as class III medical devices and that subject human heart valves to premarket approval. Human heart valves will be regulated as human tissue. This bill will not regulate organs or blood, which are now appropriately regulated under their own authorities.

Under this bill, good tissue banking practices will be promulgated, to which tissue banks that wish to continue operating, will adhere. All tissue will be appropriately labeled so that both physicians and patients may be better informed. The likelihood of receiving infected tissue will be diminished by mandatory donor and tissue screening and testing, along with a uniform recordkeeping system that tracks the tissue from donor to recipient.

The FDA will be given the flexibility to determine the best means by which to enforce these regulations. For those banks not complying with good tissue banking practices or for those that otherwise fail to maintain the standards by which they obtained a license, the FDA may revoke their license.

Consideration has been given to protecting proprietary information so as not to discourage innovation in this rapidly developing field. I understand how far along tissue transplantation has come over the last 20 years, and in order to ensure continued developments, it is important that the new regulations that will be promulgated do not unnecessarily burden those involved with this research.

Involvement of the tissue banking community will come from their participation in a National Tissue Advisory Committee. This Committee will advise the Secretary on such matters as what are the appropriate quality standards and regulations for tissue banks; standards for good tissue banking practices; and among others, standards for the prevention of infectious disease transmission. It is my expectation that the advisory committee will take into consideration the standards used by organizations who currently accredit tissue banks.

The bill utilizes existing enforcement powers available to the FDA under the Federal Food, Drug, and Cosmetic Act. Seizure authority is a means to handle contaminated tissue as are the adulteration and misbranding provisions.

Last fall the Labor and Human Resources Committee in the Senate held a hearing on this subject and the House held a similar hearing in October, at which time we listened to the comments of the FDA, the profit and not-for-profit tissue bank community, and practicing physicians. We have incorporated many of their suggestions into this new bill and I am hopeful that this bill will be passed with relative ease. Again, although I am introducing this bill today, I will continue to work with interested parties so that all of their concerns will be sufficiently addressed.

I urge my colleagues to look carefully at this issue and to join me in supporting tissue transplant legislation early in the coming session.•

By Mr. SARBANES (for himself, Mr. WARNER, Ms. MIKULSKI, and Mr. ROBB):

S. 1703. A bill to expand the boundaries of the Piscataway National Park, and for other purposes; to the Committee on Energy and Natural Resources.

PISCATAWAY NATIONAL PARK EXPANSION

• Mr. SARBANES. Mr. President, today I am introducing legislation, together with my colleagues Senators

WARNER, MIKULSKI, and ROBB, to expand the boundaries of Piscataway National Park on the Maryland shores of the Potomac River. This boundary expansion will help protect the Park and the historic viewshed of Mount Vernon—one of our Nation's best known historic landmarks—by enabling the National Park Service to acquire two critical tracts of forested riverfront land, north of the existing boundaries of the park, which, if developed, could threaten or damage these national resources.

Piscataway National Park was established in 1961 under Public Law 87-362 to

> * * * preserve for the benefit of present and future generations to the historic and scenic values . . . and the present open and wooded character of certain lands situated along the Potomac River in Prince George's and Charles Counties, Maryland . . . which provide the principal overview from the Mount Vernon Estate and Fort Washington * * *

A number of proposed developments in the 1950's including a sewage treatment plant, oil tank farm and high rise apartments, sparked an ambitious effort by the Mount Vernon Ladies Association, the Accokeek Foundation, the Alice Ferguson Foundation, the Moyaone Association, and many individual citizens to protect the natural beauty along the Maryland shore of the Potomac River that ultimately resulted in the creation of Piscataway Park. The National Park Service, in cooperation with these organizations and local residents acquired land and scenic easements and, as a consequence, today the landscape or viewshed remains essentially unchanged from the time that George Washington's Mount Vernon home and Fort Washington were first constructed.

Piscataway Park currently comprises over 4,200 acres of which some 1,500 acres have been acquired in fee title and 2,700 acres have been protected through donated or purchased scenic easements. It is an oasis in the midst of an area that is highly urbanized and subject to continued population growth and development pressures. In addition to a rich diversity of animal and plant life and many archeological and historic sites, the Park includes the National Colonial Farm, a living historical farm operated by the Accokeek Foundation; Marshall Hall, the remains of an historic plantation dating back to the early 1700's; and the Hard Bargain Farm Environmental Center, a cooperative environmental education program developed by the Alice Ferguson Foundation where thousands of children come each year to learn about the natural beauty of this area and the importance of environmental stewardship.

A 1991 study, commissioned by the Mount Vernon Ladies Association, identified two major parcels of land beyond the current boundaries of Piscataway Park which, if developed according to existing zoning regulations, would intrude on this otherwise completely protected viewshed. The subject tracts comprise approximately 163 acres. They are steeply sloped; thus any development would present a visual intrusion on the viewshed and reverse the public benefits gained through the original authorizing legislation for Piscataway Park. They contain many important natural, historic, and cultural resource values, including several documented archeological sites from an Indian tribe which occupied the area. They also provide important habitat for bald eagles, great blue herons and a variety of other animals, fish, and plants.

This legislation authorities the National Park Service to acquire these remaining and critical unprotected areas. It will not only preserve the historic viewshed of Mount Vernon, but conserve the properties' important resource values. Federal ownership of this shoreline would also help provide additional protection to our Nation's River. Action is urgently needed before the opportunity and the decades of effort already made to protect the natural beauty of the area are lost forever.

The legislation has the strong support of the Mount Vernon Ladies Association of the Union, the Accokeek Foundation, the Alice Ferguson Foundation, the Moyaone Association and many individual citizens. I ask unanimous consent that letters from these organizations in support of the legislation and a letter from the Regional Director of the National Park Service, be included in the RECORD immediately following my statement. I urge my colleagues to join me in supporting this legislation. I am hopeful that the Energy and Natural Resources Committee will schedule a hearing on this measure early next year and that the legislation will be enacted before 103d Congress adjourns.

Mr. President, I ask unanimous consent to place additional material in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MOUNT VERNON LADIES
ASSOCIATION OF THE UNION,
Mount Vernon, VA, November 16, 1993.

Hon. PAUL S. SARBANES,
U.S. Senate, Washington, DC.

MY DEAR SENATOR SARBANES: It has come to our attention that certain river-front properties may become available for purchase adjacent to Piscataway National Park on the Potomac River across from Mount Vernon. If these properties are lost to private development this would cause irreparable harm to the parks, the river, and the historic view from Mount Vernon that has remained relatively intact since George Washington first made his home there in 1754.

Piscataway Park was established in 1961 to ensure the permanent protection of the view from Mount Vernon across the river into Maryland. Development of lands adjacent to the park could undo the public benefits gained through the original legislation. It is my understanding that you will be proposing legislation that would extend the boundaries of Piscataway Park. If there is anything we can do to assist you in this effort, please do not hesitate to contact me.

We greatly appreciate your interest, for it would be most regrettable if the commitment made to protect the setting of Mount Vernon over the past thirty years would be negated by indiscriminate development.

Sincerely,

NEIL W. HORSTMAN,
Resident Director.

ALICE FERGUSON
FOUNDATION, INC.,
Accokeek, MD, November 17, 1993.

Hon. PAUL S. SARBANES,
Senate Office Building,
Washington, DC.

DEAR SENATOR SARBANES: The Alice Ferguson Foundation is pleased that you are introducing legislation to purchase property to expand the boundaries of Piscataway Park. Your efforts to preserve these valuable natural and cultural resources from development are greatly appreciated.

In 1963 the Foundation donated 85 acres of land to help establish the Park. We were pleased to be part of a joint effort between citizens, organizations and the Department of Interior to preserve these lands. However, the pressures are still with us. We recognize the importance of protecting the natural, cultural and scenic features along Piscataway Creek. The Foundation supports this legislation which will expand the boundaries of the Park and protect those lands for future generations.

Sincerely,

KATHERINE G. POWELL,
Executive Director.

ACCOKEEK FOUNDATION,
Accokeek, MD, November 16, 1993.

Hon. PAUL S. SARBANES,
U.S. Senate, Washington, DC.

DEAR SENATOR SARBANES: I am writing to express the Accokeek Foundation's strong support for the acquisition of additional land for inclusion in Piscataway Park.

Our organization was founded more than thirty five years ago, to preserve, protect and foster, for scientific, educational or charitable use and study for the benefit of the people of the nation, the historic sites and relics, trees, plants and wild life rapidly disappearing from an area of great natural beauty along the Maryland shore of the historic Potomac River.

To that end, the Accokeek Foundation acquired land and easements at Bryan Point on the Maryland shore of the Potomac in the 1950s and 60s. Those lands, donated by the Foundation to the federal government, became the core of Piscataway Park, which was dedicated in 1968. We continue to work in close cooperation with the National Park Service to ensure the Park's protection and appropriate use.

Piscataway Park contains what archaeologists have called the richest collection of American Indian archaeological sites in any National Park east of the Mississippi. The additional land in question also contains significant archaeological deposits, and should be protected for that reason alone.

Further, Piscataway Park protects the historic view from the home of our nation's first president. Nearly one million people visit Mount Vernon each year and thus benefit directly from Piscataway Park, as well.

In our role as stewards in our community, we recognize the importance of protecting the natural, archaeological, and scenic resources along Piscataway Creek. All these values would be adversely impacted by inappropriate development, which we understand is likely if the land is not added to the park.

Thank you for your leadership on this issue. Please let me know if there is any further information that would be useful to you in this matter.

Sincerely yours,

WALTON C. CORKEN, *President*.

DEPARTMENT OF THE INTERIOR,
NATIONAL PARK SERVICE,
Washington, DC, September 17, 1993.

Hon. PAUL S. SARBANES,
U.S. Senate, Washington, DC.

DEAR SENATOR SARBANES: This letter is written in response to your staff's recent inquiry relative to a study by the Mount Vernon Ladies' Association of the Union who have identified private lands in Prince Georges County, Maryland which, if left unprotected, could be developed so as to despoil the view from the Mount Vernon Estate.

Public Law 87-362, approved October 4, 1961, authorized the preservation and protection of land to preserve the overview from the Mount Vernon Estate and Fort Washington by establishing Piscataway Park. The legislative intent was to protect the natural beauty of the lands as they existed at the time of construction and active use of Mount Vernon and Fort Washington for the benefit of future generations. This "viewshed park" is held in fee by the United States or protected with donated or purchased scenic easements.

The Association contracted with EDAW, Inc. for an analysis of all lands in and around Piscataway Park to delineate areas of sensitivity where excessive building heights or significant tree cutting would intrude on the view. The EDAW analysis revealed that land developments in certain areas beyond the boundary of Piscataway Park would be visible from Mount Vernon. The National Park Service has had an opportunity to review the 1991 visual analysis and the concerns which have been forwarded to you by the Mount Vernon Ladies' Association. Indeed, additional protection on the properties they have identified is needed to preserve the view. Reliance on existing local zoning and subdivision regulations enacted to preserve environmentally sensitive areas, such as stream beds and steep slopes, will not adequately protect the historic view from Mount Vernon. It is conceivable that cluster development plans or a planned unit development plan on several properties could be approved by local land use review bodies to the detriment of the historic view.

Two undeveloped parcels of property totalling approximately 161.5 acres adjoin Piscataway Bay. The properties are viewed from Mount Vernon across nearly 4 miles of open water and their development would be highly visible to the public. Locally, development on Piscataway Bay, near Piscataway Creek Stream Valley Park would be disruptive to the natural and historic features that have till now been largely protected by the Piscataway Park land resource and its management. Archaeological and prehistoric resources are known to exist on portions of the property.

We enthusiastically endorse the continual interest that has been taken by the Mount Vernon Ladies' Association in preserving the congressionally authorized viewshed. At the present time we cannot purchase land beyond our authorized boundary unless it is donated. However, we support any efforts to preserve this nationally signficant resource and would be pleased to work with you on determining the best method of protecting these properties.

Sincerely,

ROBERT STANTON,
Regional Director.●

By Mr. SIMON (for himself and Ms. MOSELEY-BRAUN):

S. 1704. A bill to amend the Immigration Reform and Control Act of 1986 concerning interim assistance to States for legalization [SLIAG]; to the Committee on the Judiciary.

IMMIGRATION REFORM LEGISLATION

● Mr. SIMON. Mr. President, today, I am pleased to introduce legislation to address a fundamentally important need in the United States—the unmet desire of new and recent immigrants to learn the English language and prepare to become naturalized U.S. citizens.

My bill, in which I am joined by my friend and colleague from my own State of Illinois, Senator MOSELEY-BRAUN, is the companion to a bill introduced earlier this month by my friend LUIS GUTIERREZ, the Representative from Illinois, and endorsed by the Congressional Hispanic Caucus.

This bill reimburses State and local governments and community based organizations for educational services to the approximately 1.9 million permanent residents who gained legal status under the Immigration Reform and Control Act of 1986. Approximately 5.3 percent of these permanent residents live in Illinois. They are now beginning to be eligible to apply to become naturalized U.S. citizens.

In 1986, Congress committed up to $4 billion to State and local governments and private service agencies who would provide health, education, and welfare support services to newly legalized aliens. The $82 million provided under this bill represents the final installment and will enable eligible individuals to gain proficiency in the English language.

Greater English proficiency is not only of benefit to the individual. It is a tremendous gift they provide to their families and children who they then can help learn English and gain greater educational and employment skills. It is in the national interest for there to be greater literacy on the part of all Americans as well.

We know there are tens of thousands of individuals on waiting lists for adult English classes in Chicago, New York City, San Francisco, Los Angeles, and communities throughout the Nation.

This bill provides some help to those local schools and community based organizations that provide English classes. This bill has attracted the strong support of the Hermandad Mexicana Nacional, Chicago Coalition for Immigrant and Refugee Protection. Both organizations have worked closely with the drafters of this bill as they know of its great importance to the future of immigrants and the Nation.

I look forward to working with all Senators who have an interest in education, immigration, and language issues to enact this bill.

I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1704

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INTERIM ASSISTANCE TO STATES FOR LEGALIZATION.

(a) ENTITLEMENT OF STATES.—Section 204(b)(4) of the Immigration Reform and Control Act of 1986 is amended—

(1) in the second sentence by inserting before the period at the end ", except that any funds which a State obligates as provided in paragraph (6) shall remain available through September 30, 1997";

(2) in the third sentence by striking "Any funds" and inserting "Aside from the funds that may be obligated pursuant to paragraph (6)(A), any funds";

(3) by inserting before the period at the end of the third sentence "including outstanding obligations pursuant to paragraph (6)(A), but not to exceed each State's unreimbursed costs and obligations"; and

(4) in the fourth sentence by inserting before the period at the end "and shall be reallocated by the Secretary as described in paragraph (6)(B)".

(b) EXTENSION OF SERVICES.—Section 204(b) of the Immigration Reform and Control Act of 1986 is amended by inserting after paragraph (5) the following new paragraph:

"(6)(A)(i) Notwithstanding any other provision of this Act, States may obligate $82,000,000 to make payments to public and private nonprofit organizations for educational services provided to adult eligible legalized aliens and for public information and outreach activities regarding naturalization and citizenship in fiscal years 1994 through 1997.

"(ii) Each State's share of the funds under clause (i) shall be equal to that State's share of the total number of eligible legalized aliens residing in all States for the fiscal year 1992, as determined by the Secretary.

"(iii) Any State in which more than 5 percent of the total number of eligible legalized aliens resided in 1992 shall obligate its full share of funds for the purposes of this clause (i) not later than September 30, 1994.

"(iv) Each State may designate the appropriate agency or agencies to administer funds under this subparagraph, except that for any State in which more than 20 percent of the total number of eligible legalized aliens resided in 1992, such agency shall be the State educational agency.

"(B) The Secretary shall make available on an equitable basis all additional funds remaining after June 30, 1995, for States to use for the purposes described in subparagraph (A) and to reimburse or make payments for any other services provided to eligible legalized aliens in fiscal years 1995 through 1997 which were approved by the Secretary before October 1, 1993.".

(c) ELIGIBLE LEGALIZED ALIEN DEFINED.—Section 204(j)(4) of the Immigration Reform and Control Act of 1986 is amended by inserting before the period at the end ", except that the 5-year limitation shall not apply for the purposes of providing services described in subsection (b)(6)".

(d) PROVISION OF SERVICES.—Section 204(c)(3)(C) of the Immigration Reform and Control Act of 1986 is amended by inserting ", and related program administration," after "aliens".

(e) REPORTS.—Section 204(e) of the Immigration Reform and Control Act of 1986 is amended by adding at the end the following:

"(5) For each of the fiscal years 1994 through 1997, the State shall include in the annual report to the Secretary information, in the aggregate and by individual provider, with respect to the following—

"(A) the number of eligible legalized aliens enrolled in educational services under subsection (b)(6);

"(B) the number of aliens described in subparagraph (A) who have applied for United States citizenship;

"(C) the number of aliens described in subparagraph (A) who have passed a test of written English and United States history and government administered or approved by the Immigration and Naturalization Service; and

"(D) the number of aliens described in subparagraph (A) who have become United States citizens.".•

By Mr. WOFFORD:

S. 1705. A bill to extend temporarily the suspension of duty on Tfa Lys Pro in free base and tosyl salt forms; to the Committee on Finance.

S. 1706. A bill to suspend temporarily the duty on certain chemicals; to the Committee on Finance.

S. 1707. A bill to suspend temporarily the duty on keto ester; to the Committee on Finance.

DUTY SUSPENSION LEGISLATION

• Mr. WOFFORD. Mr. President, today I am introducing legislation to suspend temporarily the duty on certain chemicals used to manufacture drugs used in the treatment of serious ailments.

The particular chemicals covered by these duty suspension bills must be imported from foreign sources because there are no domestic manufactures producing them in substantial quantities, if at all. Suspending the duties will lower the production cost for American companies that use these chemicals and help them to remain competitive. One such company, Merck & Co., U.S.A., has over 6,300 active employees and 1,400 retirees in the State of Pennsylvania.

While Merck imports many of the components needed to manufacture its drugs, it also exports many finished products. Duty suspension will help ensure the continued competitiveness of companies like Merck in domestic and foreign markets. Reducing production costs will also help to maintain current employment levels and may even enable companies to begin producing new products either through expansion of current operations or by building new facilities.

The legislation I am introducing today will help lower the production costs of drugs used to treat serious ailments. I urge my colleagues to support these measures.

TFA LYS PRO IN FREE BASE AND TOSYL SALTS

The first bill would extend for 3 years the suspension of the duty on Tfa Lys Pro in free base and tosyl salts, a component of lisinopril, a patented ace inhibiting antihypertensive.

METMERCAZOLE AND PYRMETHYL ALCOHOL

The next bill I am introducing would suspend for 3 years the duty on 2,5-dimethyl-2-hydroxymenthyl-4-methoxypyridine (pyrmethol alcohol) and 2-mercapto 5-methoxy benzimidazole (metmercazole).

Neither pyrmethol alcohol or metmercazole is manufactured by anyone in the United States. Both products are imported through the port of New York for reformulation into the drug prilosec by Merck & Co., Inc., at its Flint River, GA and West Point, PA plants. Prilosec is a new class of gastrointestinal drug called acid pump inhibitors and is approved for use in treating gastroesophageal reflux disease, severe erosive esophagitis, and conditions such as Zollinger-Ellison syndrome. Prilosec is also shown to be effective in the treatment of duodenal ulcers and other acid-related stomach disorders.

KETO ESTER

The last bill I am introducing today would suspend for 3 years the duty on ethyl 2-keto-4-phenylbutanoate (keto ester). This component of the drugs vasotec and prinivil is not manufactured by anyone in the United States.

Vasotec is an angiotensin coveting enzyme [ACE] inhibitor for the control of high blood pressure. It is also highly effective in reducing the death rate of patients with severe heart failure, and was the only proven ACE inhibitor to do this when it received additional approval in June 1988 for use in congestive heart failure. Prinivil is Merck's second ACE inhibitor for the treatment of hypertension and is approved in a number of countries for congestive heart failure.

Mr. President, duty suspension benefits a broad spectrum of American businesses by removing an artificial barrier to trade—an import duty that is effectively penalizing U.S. manufacturers. The duties addressed in the legislation I am introducing today are no longer needed to serve their primary purpose of protecting an American industry because their are no domestic manufacturers of these products. And, retaining existing duties will hamper the ability of American companies to reduce their production costs and remain competitive. Reducing the cost of production ultimately benefits the consumers who depend on these vital drugs and the employees who manufacture them.

Mr. President, I ask unanimous consent that the text of the bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 1705

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF DUTY SUSPENSION.

Heading 9902.30.53 of the Harmonized Tariff Schedule of the United States is amended by striking "12/31/92" and inserting "12/31/96".

SEC. 2. EFFECTIVE DATE.

(a) IN GENERAL.—The amendment made by section 1 applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

(b) RETROACTIVE APPLICATION TO CERTAIN ENTRIES.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, upon a request filed with the appropriate customs officer on or before the date that is 90 days after the date of the enactment of this Act, any entry, or withdrawal from warehouse for consumption, of goods described in heading 9902.30.53 of the Harmonized Tariff Schedule of the United States that was made—

(1) after December 31, 1992, and

(2) before the 15th day after the date of the enactment of this Act,

shall be liquidated or reliquidated as though such entry or withdrawal occurred on the 15th day after the date of the enactment of this Act.

S. 1706

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SUSPENSIONS.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new headings:

"9902.31.12	3,5-Dimethyl-2-hydroxymethyl-4-methoxy-pyridine (pyrmethyl alcohol) (CAS No. 86604–78–6) (provided for in subheading 2933.39.47)	Free	No change	No change	On or before 12/31/96
"9902.31.13	I2-Mercapto 5-methoxy benzimidazole (metmercazole) (CAS No. 37052–78–1) (provided for in subheading 2933.90.80)	Free	No change	No change	On or before 12/31/96".D

SEC. 2. EFFECTIVE DATE.

The amendment made by this Act applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

S. 1707

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TEMPORARY DUTY SUSPENSION.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.31.12	Ethyl 2-keto-4-phenylbutanoate (keto ester) (provided for in subheading 2918.30.20)	Free	No change	No change	On or before 12/31/96".

SEC. 2. EFFECTIVE DATE.

The amendment made by section 1 applies with respect to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of enactment of this Act.•

By Ms. MOSELEY-BRAUN:

S. 1708. A bill to renew the previously existing suspension of duty on parts of aircraft generators; to the Committee on Finance.

DUTY SUSPENSION ON AIRCRAFT GENERATOR PARTS

• Ms. MOSELEY-BRAUN. Mr. President, I am introducing legislation today to provide a temporary duty-suspension on aircraft generator parts through December 31, 1994, and retroactively give entries made after December 31, 1992, duty-free status.

This bill merely continues the duty-free status of aircraft generator parts that had been granted in an earlier miscellaneous tariff bill, but which has now expired. It provides a temporary suspension until a more permanent mechanism can be put in place to correct an inequity created by the harmonized system of tariffs.

Prior to the tariff schedules being harmonized, aircraft generator parts could be imported into the United States duty-free. U.S. manufacturers would then take those imported parts, and parts from domestic suppliers, and build an aircraft generator in the United States, using U.S. labor.

Under the new harmonized tariff schedule, this duty-free status on aircraft generator parts was eliminated. However, under the new tariff schedule, foreign-built aircraft generators can be imported duty-free. This inverted tariff structure works to the direct disadvantage of U.S. companies and U.S. workers.

This change resulted in a significant handicap to U.S. manufacturers, who want to build aircraft generators in the United States, and not overseas. Foreign manufacturers of aircraft generators can bring their product into the U.S. without any tariffs, while our U.S. manufacturers must pay duties on foreign aircraft generator parts they use when they build the complete generator here, at home. This change is an incentive for U.S. manufacturers to move their production overseas in order to avoid the duties on parts. At the very least, it makes our U.S.-built aircraft generators less competitive than foreign built aircraft generators.

As a result of this aberration, the 101st congress passed legislation to temporarily suspend duties on aircraft generators until the GATT negotiations or another method could be found to permanently correct the problem.

That duty extension has expired, and the tariff has once again become a significant burden on U.S. manufacturers, particularly, one in my State of Illinois. My bill would extend and make retroactive the duty-free status on aircraft generator parts. This bill is simple. It is non-controversial. It is reasonable.

The goal of our tariff system ought to be to establish a level playing field between U.S. and foreign manufacturers. It certainly ought not create disincentives to build products in this country.

I understand the finance committee may put together another miscellaneous tariff bill. I urge the committee to consider including this legislation in any miscellaneous tariff bill the committee may consider.

Mr. President, I look forward to working with my colleagues to ensure that this bill, which levels the trade playing field between U.S. and foreign aircraft generator manufacturers and between U.S. and foreign workers, is promptly enacted.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1708

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PARTS OF AIRCRAFT GENERATORS.

Heading 9902.85.03 of the Harmonized Tariff Schedule of the United States is amended by striking "12/31/92" and inserting "12/31/94".

SEC. 2. EFFECTIVE DATE.

(a) IN GENERAL.—The amendment made by section 1 applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

(b) RETROACTIVE PROVISION.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon a request filed with the appropriate customs officer on or before the 90th day after the date of the enactment of this Act, any entry, or withdrawal from warehouse for consumption, of an article described in heading 9902.85.03 of the Harmonized Tariff Schedule of the United States that was made—

(1) after December 31, 1992; and

(2) before the 15th day after the date of the enactment of this Act;

and with respect to which there would have been no duty or a lower duty if the amendment made by section 1 had applied to such entry or withdrawal, shall be liquidated or reliquidated as though such entry or withdrawal occurred on such 15th day.•

By Mr. WOFFORD:

S. 1709. A bill to suspend temporarily the duty on mounted closed circuit television lenses; to the Committee on Finance.

SUSPENDING THE DUTY ON CERTAIN TELEVISION LENSES

• Mr. WOFFORD. Mr. President, today I am introducing legislation to suspend temporarily the duty on mounted closed circuit television lenses.

These lenses are used in the manufacture of closed circuit television cameras by Burle Industries, a Pennsylvania corporation with its headquarters and principal manufacturing facility in Lancaster, PA where it employs over 700 people. It is not owned or controlled by foreign entities.

Burle is one of a very few domestic-owned companies still engaged in the manufacture of closed circuit television cameras in significant quantities in the United States. Burle designs, engineers and manufactures a full line of closed circuit television cameras and other equipment, as well as various electronic elements. It also exports a considerable quantity of its products.

Because of the extremely competitive nature of the business Burle is engaged in, it must find ways to reduce the cost of producing its products. This is particularly important to Burle's ability to support its current employment levels. If Burle is unable to remain competitive, it will be unable to continue to support its current level of employment.

A mounted lens is a vital part of the closed circuit television cameras. Japan is the principal source of these lenses. Germany is another source of high quality lenses, but provides a much smaller volume of the lenses sold here. Other sources include China, Hong Kong, and India. A very limited quantity of certain custom made lenses are manufactured in the United States by one company.

Currently, Burle imports closed circuit television camera lenses from Japan for use as a component of its closed circuit television cameras and for resale as discrete lenses. Lenses meeting Burle's specifications are not available from the U.S. manufacturer because it does not produce a sufficient quantity in the United States to meet Burle's requirements.

Burle competes for the closed circuit television camera market with a number of foreign, mostly Japanese, camera manufacturers. Under existing duty rates, U.S. Customs imposes a lower duty on cameras, parts and accessories entering the United States than it does for lenses alone. Lenses attached to cameras when they enter the United States are considered part of the camera. Thus, Burle pays a higher duty on the lenses it imports than other companies pay on cameras entering the United States with the lenses attached. This situation is typically described as "tariff inversion," and in this case, it is unfair.

Removal of the duty imposed on these lenses for a temporary period will assist Burle in competing with foreign television camera manufacturers. It will not injure domestic lens suppliers because effectively, there are none that manufacture the quantity required by Burle.

Suspending the duty on the mounted closed circuit television lenses used by Burle will lower the production cost and will help Burle remain competitive, thereby preventing the loss of jobs. And, in the long run, lowering production costs will not only benefit the domestic manufacturer but the consumer as well.

Mr. President, I ask unanimous consent that this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1709

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MOUNTED CLOSED CIRCUIT TELEVISION LENSES.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.90.02	Mounted lenses consisting of lenses suitable for use in, and presented separately from, closed circuit television cameras, with or without attached electrical or nonelectrical closed circuit television camera connectors, and with or without attached motors (provided for in subheading 9002.11.80, 9002.90.90, or 8529.90.30)	Free	No change	No change	On or before 12/31/96".

SEC. 2. EFFECTIVE DATE.

The amendment made by section 1 applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.●

By Mr. WOFFORD:

S. 1710. A bill to extend temporarily the suspension of duty on certain chemicals; to the Committee on Finance.

S. 1711. A bill to suspend temporarily the duty on certain chemicals; to the Committee on Finance.

SUSPENDING THE DUTY ON CERTAIN DYE INTERMEDIATES

● Mr. WOFFORD. Mr. President, today I am introducing two bills to suspend the duties on certain dye intermediates.

Beginning in 1922, Congress imposed tariffs on imported benzenoid intermediates in order to protect U.S. manufacturers of these dye intermediates. Now there are no domestic producers of benzenoid dye intermediates and these tariffs are hurting U.S. companies that must import them to produce their dyes.

During the past decade, the number of U.S. dye manufacturers has diminished until only eight remain, of which only two are totally U.S.-owned. As the major domestic dyes manufacturers ceased operations, the domestic sources for intermediates needed to make dyes also disappeared. Foreign manufacturers have been quick to fill this void in the U.S. dye market. Today, over 50 percent of the dyes sold in the United States, and a much higher share of the dye intermediates, are imported. They come primarily from Europe, but increasingly from less developed countries, such as India. As foreign-based dye manufacturers become more dominant in the industry, the remaining U.S.-based dye manufacturers are struggling to compete and survive.

Crompton & Knowles Corp. is among the largest totally U.S.-owned suppliers of dyes to the domestic textile industry. It is a leading domestic producer of specialty dyes for nylon, polyester, acrylics, and cotton. Two of Crompton & Knowles dye manufacturing plants are located in Reading and Gilbralter, PA, and its corporate headquarters is in Greenhills, PA. Together, these locations employ over 350 persons. The dye intermediates for which duty suspensions are being sought are used by Crompton & Knowles mainly to manufacture more than fifty types of dyes. Other domestic dye manufacturers use these chemicals for the same purpose.

In addition to selling its dyes domestically, Crompton & Knowles markets them overseas. Its sales in foreign markets, however, have been limited because of its inability to compete profitably with foreign suppliers that use duty-free intermediates. Crompton & Knowles has been forced to begin production of its dyes overseas in order to compete with European companies. The suspension of duties in the legislation I am introducing will assist Crompton & Knowles in exporting dyes and therefore minimize the amount of production and jobs that are shifted overseas.

Mr. President, I ask unanimous consent that the text of the bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 1710

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF SUSPENSION OF DUTY ON CERTAIN CHEMICALS.

Each of the following headings of the Harmonized Tariff Schedule of the United States is amended by striking "12/31/92" and inserting "12/31/94".

(1) 9902.29.04 (relating to p-Toluenesulfonyl chloride).

(2) 9902.29.13 (relating to 2,6-Dichlorobenzaldehyde).

(3) 9902.29.28 (relating to α,α,α-Trifluoro-o-toluidine).

(4) 9902.29.30 (relating to 8-Amino-1-naphthalenesulfonic acid and its salts).

(5) 9902.29.31 (relating to 5-Amino-2-(p-aminoanilino)benzenesulfonic acid).

(6) 9902.29.33 (relating to 1-Amino-8-hydroxy-3,6-naphthalenedisulfonic acid; and 4-Amino-5-hydroxy-2,7-naphthalenedisulfonic acid, monosodium salt (H acid, monosodium salt)).

(7) 9902.29.35 (relating to 6-Amino-4-hydroxy-2-naphthalenesulfonic acid (Gamma Acid)).

(8) 9902.29.38 (relating to 3,3′-Dimethoxybenzidine (o-Dianisidine) and its dihydrochloride).

(9) 9902.29.40 (relating to 2-Amino-5-nitrophenol).

(10) 9902.29.43 (relating to 1-Amino-2,4-dibromoanthraquinone).

(11) 9902.29.44 (relating to 1-Amino-4-bromo-2-anthraquinonesulfonic acid (Bromamine acid) and its sodium salt).

(12) 9902.29.47 (relating to 4-Methoxyaniline-2-sulfonic acid).

(13) 9902.29.51 (relating to N-(7-Hydroxy-1-naphthyl acetamide).

(14) 9902.29.57 (relating to N,N-bis(2-cyanoethyl)aniline).

(15) 9902.29.64 (relating to 6-(3-Methyl-5-oxo-1-pyrazolyl)-1,3-naphthalenedisulfonic acid (amino-J-pyrazolone) (CAS No. 7277–87–4); and 3-Methyl-1-phenyl-5-pyrazolone (Methylphenylpyrazolone).

(16) 9902.29.69 (relating to 3-Methyl-5-pyrazolone).

(17) 9902.29.79 (relating to 2-Amino-N-ethylbenzenesulfonoanilide).

(18) 9902.30.15 (relating to 7-Hydroxy-1,3-naphthalenedisulfonic acid, dipotassium salt (CAS No. 842–18–2)).

(19) 9902.30.18 (relating to 1,4-Dihydroxyanthraquinone (CAS No. 81–64–1)).

(20) 9902.30.31 (relating to 2-Chloro-4-nitroaniline (CAS No. 121–87–9)).

(21) 9902.30.32 (relating to 4-Chloro-α-α-α-trifluoro-o-toluidine (CAS No. 445–03–4)).

(22) 9902.30.34 (relating to 5-Amino-2-naphthalenesulfonic acid (CAS No. 119–79–9)).

(23) 9902.30.35 (relating to 7-Amino-1,3-naphthalenedisulfonic acid, monopotassium salt (CAS No. 842–15–9)).

(24) 9902.30.36 (relating to 4-Amino-1-naphthalenesulfonic acid, sodium salt (CAS No. 130–13–2)).

(25) 9902.30.37 (relating to 8-Amino-2-naphthalenesulfonic acid (CAS No. 119–28–8)).

(26) 9902.30.38 (relating to mixtures of 5- and 8-amino-2-naphthalenesulfonic acid (CAS No. 119–28–8)).

(27) 9902.30.39 (relating to 1-Naphthylamine (CAS No. 134–32–7)).

(28) 9902.30.40 (relating to 6-Amino-2-naphthalenesulfonic acid (CAS No. 93–00–5)).

(29) 9902.30.43 (relating to 2,4-Diaminobenzenesulfonic acid (CAS No. 88–63–1)).

(30) 9902.30.48 (relating to 2-Amino-4-chlorophenol (CAS No. 95–85–2)).

(31) 9902.30.47 (relating to 1-Amino-2-methoxybenzene (o-Anisidine) (CAS No. 90–04–0)).

(32) 9902.30.51 (relating to 7-Anilino-4-hydroxy-2-naphthalenesulfonic acid (CAS No. 119–40–4)).

(33) 9902.30.52 (relating to 1,4-Diamino-2,3-dihydroanthraquinone (CAS No. 81–63–0)).

(34) 9902.30.55 (relating to 1-Amino-2-bromo-4-hydroxyanthraquinone (CAS No. 116–82–5)).

(35) 9902.30.67 (relating to 4-Aminoacetanilide (CAS No. 122–80–5)).

(36) 9902.30.75 (relating to 2-[(4-Aminophenyl)sulfonyl]ethanol, hydrogen sulfate ester (CAS No. 2494–89–5)).

(37) 9902.30.80 (relating to 2,5-Dichloro-4-(3-methyl-5-oxo-2-pyrazolin-1-yl)-benzenesulfonic acid (CAS No. 84–57–1)).

(38) 9902.30.89 (relating to 1,3,3-Trimethyl-2-methyleneindoline (CAS No. 118–12–7)).

(39) 9902.30.94 (relating to 7-Nitronaphth[1,2]-oxadiazole-5-sulphonic acid (CAS No. 84–91–3)).

SEC. 2. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by section 1 apply with respect to goods entered, or withdrawn from warehouse for consumption on or after the 15th day after the date of the enactment of this Act.

(b) RETROACTIVE PROVISION.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon a request filed with the appropriate customs officer on or before the 90th day after the date of the enactment of this Act, any entry or withdrawal from warehouse for consumption of goods to which the amendment made by section 1 applies and that was made—

(1) after December 31, 1992; and

(2) before the 15th day after the date of the enactment of this Act;

and with respect to which there would have been a lower duty if the amendment made by section 1 had applied to such entry or withdrawal, shall be liquidated or reliquidated as though such entry or withdrawal had occurred on such 15th day.

S. 1711

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Miscellaneous Tariff Act of 1993".

(b) REFERENCE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a chapter, subchapter, note, additional U.S. note, heading, subheading, or other provision, the reference shall be considered to be made to a chapter, subchapter, note, additional U.S. note, heading, subheading, or other provision of the Harmonized Tariff Schedule of the United States.

SEC. 2. EXTENSION OF EXPIRED SUSPENSIONS.

(a) BETA NAPTHOL.—Heading 9902.29.08 is amended by striking "12/31/90" and inserting "12/31/95".

(b) J ACID.—Heading 9902.29.34 is amended by striking "12/31/90" and inserting "12/31/95".

SEC. 3. 2-NITROBENZENESULFONYL CHLORIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.31.12	2-Nitrobenzenesulfonyl chloride (CAS No. 1694–92–4) (provided for in subheading 2904.90.47)	Free	No change	No change	On or before 12/31/95"

SEC. 4. NEVILLE AND WINTER ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new headings:

"9902.31.13	4-Hydroxy-1-naphthalenesul-fonic acid, monopotassium salt (CAS No. 37860–62–1) (provided for in subheading 2908.20.60)	Free	No change	No change	On or before 12/31/95
9902.31.14	2-Naphthol-3,6-disulfonic acid, (CAS No. 148–75–4) and its disodium salt (CAS No. 135–51–3) (provided for in subheading 2908.20.04)	Free	No change	No change	On or before 12/31/95".

SEC. 5. ORTHANILIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.31.15	o-Aminobenzene-sulfonic acid (Orthanilic acid) (CAS No. 88–21–1) (provided for in subheading 2921.42.20)	Free	No change	No change	On or before 12/31/95".

SEC. 6. 2,5-DICHLOROANILINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.31.16	2,5-Dichloroaniline (CAS No. 95–82–9) (provided for in subheading 2921.42.20)	Free	No change	No change	On or before 12/31/95".

SEC. 7. 2,5-DICHLOROANILINE-4-SULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.31.17	2,5-Dichloroaniline-4-sulfonic acid (CAS No. 88–50–6) and its monosodium salt (CAS No. 41295–98–1) (provided for in subheading 2921.42.75)	Free	No change	No change	On or before 12/31/95".

SEC. 8. 2,6-DICHLORO-4-NITROANILINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.31.18	2,6-Dichloro-4-nitroaniline (CAS No. 99–30–9) (provided for in subheading 2921.42.75)	Free	No change	No change	On or before 12/31/95".

SEC. 9. 2,6-XYLIDINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.31.19	2,6-Xylidine (CAS No. 87–62–7) (provided for in subheading 2921.49.50)	Free	No change	No change	On or before 12/31/95".

SEC. 10. 2,4-DIMETHOXYANILINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.31.20	2,4-Dimethoxy-aniline (CAS No. 2735–04–8) (provided for in subheading 2922.29.20)	Free	No change	No change	On or before 12/31/95".

SEC. 11. 4′-AMINO-N-METHYLACETANILIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.31.21	4′-Amino-N-methylacet-anilide (CAS No. 119–63–1) (provided for in subheading 2924.29.09)	Free	No change	No change	On or before 12/31/95".

SEC. 12. 2-CYANO-4-NITROANILINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.31.22	2-Cyano-4-nitroaniline (CAS No. 17420–30–3) (provided for in subheading 2926.90.04)	Free	No change	No change	On or before 12/31/95".

SEC. 13. P-AMINOAZOBENZENEDISULFONIC ACID AND ITS SALTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.31.23	p-Aminoazo-benzenedi-sulfonic acid, monosodium salt (CAS No. 61950–37–6) (provided for in subheading 2927.00.10), and p-aminoazobenzenedisulfonic acid, disodium salt (CAS No. 2706–28–7) (provided for in subheading 2927.00.40)	Free	No change	No change	On or before 12/31/95".

SEC. 14. P-AMINOAZOBENZENE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.31.24	p-Aminoazo-benzene (CAS No. 60–09–3) (provided for in subheading 2927.00.50)	Free	No change	No change	On or before 12/31/95".

SEC. 15. P-AMINOAZOBENZENE HYDROCHLORIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.31.25	p-Aminoazo-benzene hydrochloride (CAS No. 3457–98–5) (provided for in subheading 2927.00.50)	Free	No change	No change	On or before 12/31/95".

SEC. 16. 2,2-DINITRODIPHENYL DISULFIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.31.26	2,2-Dinitrodiphenyl disulfide (CAS No. 1155–00–6) (provided for in subheading 2930.90.28)	Free	No change	No change	On or before 12/31/95".

SEC. 17. 4-CHLORO-3-(3-METHYL-5-OXO-2-PYRAZOLIN-1-YL)-BENZENESULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.31.27	4-Chloro-3-(3-methyl-5-oxo-2-pyrazolin-1-yl)-benzenesulfonic acid (CAS No. 88–76–6) (provided for in subheading 2933.19.10)	Free	No change	No change	On or before 12/31/95".

SEC. 18. 1-(P-SULFOPHENYL)-3-METHYL-5-PYRAZOLONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.31.28	1-(p-Sulfophenyl)-3-methyl-5-pyrazolone (CAS No. 89–36–1) (provided for in subheading 2933.19.42)	Free	No change	No change	On or before 12/31/95".

SEC. 19. 2-AMINOTHIAZOLE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.31.29	2-Aminothiazole (CAS No. 96–50–4) (provided for in subheading 2934.10.50)	Free	No change	No change	On or before 12/31/95".

SEC. 20. 2-AMINO-6-NITROBENZOTHIAZOLE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.31.30	2-Amino-6-nitrobenzo-thiazole (CAS No. 6285–57–0) (provided for in subheading 2934.20.60)	Free	No change	No change	On or before 12/31/95".

SEC. 21. 2-AMINO-5,6-DICHLOROBENZOTHIAZOLE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.31.31	2-Amino-5,6-dichlorobenzo-thiazole (CAS No. 24072–75–1) (provided for in subheading 2934.20.60)	Free	No change	No change	On or before 12/31/95".

SEC. 22. META TOLYLENE DIAMINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.31.32	Tolvane-2,4 Diamine (CAS No. 95-80-7) (provided for in subheading 2921.51.10	Free	No change	No change	On or before 12/31/95".

SEC. 23. XYLIDINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.31.33	Xylidine (CAS No. 95-68-1) (provided for in subheading 2921.49.10)	Free	No change	No change	On or before 12/31/95".

SEC. 24. MIXTURES OF (3,4-DIHYDROXYPHENYL)(2,4,6-TRIHYDROXYPHENYL-METHANONE 2-(2,4-DIHYDROXYPHENYL)-3,5,7-TRIHYDROXY-4H-1-BENZOPYRAN-4-ONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.32.03	Mixtures of (3,4-dihydroxy-phenyl–2,4,6–trihydroxy-phenyl)-methanone (CAS No. 480–16–0) and 2-(2,4-dihydroxy-phenyl)-3,5,7-trihydroxy-4H-1-benzopyran-4-one (CAS No. 519–34–6) (provided for in subheading 3203.00.50)	Free	No change	No change	On or before 12/31/95".

SEC. 25. EFFECTIVE DATE.

The amendments made by this Act apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.•

By Mr. BOND (for himself and Mr. DANFORTH):

S. 1712. A bill entitled the "Charles Evans Whittaker United States Courthouse Act"; to the Committee on Environment and Public Works.

CHARLES EVANS WHITTAKER U.S. COURTHOUSE ACT

• Mr. BOND. Mr. President, today on behalf of myself and the senior Senator from Missouri, Senator DANFORTH, I am introducing legislation to name the new Federal courthouse to be constructed in Kansas City, MO, for Justice Charles Evans Whittaker.

Charles Evans Whittaker practiced law in Kansas City for 30 years from 1924 to 1954. He was president of the Missouri Bar Association in 1954 when he was appointed to the U.S. District Court for the Western District of Missouri by President Eisenhower. In 1956 he was appointed to the Court of Appeals for the Eighth Circuit from whence he was appointed to the Supreme Court of the United States on March 2, 1957.

Justice Whittaker was a quintessential lawyer when he was first appointed to the district court and was universally held in high regard by the bench and bar. He is the only Missourian lawyer or judge ever to have served on the highest court in the land.

Mr. President, it is only fitting that the new courthouse which will be constructed in Kansas City to house the district court should bear the name of Charles Evans Whittaker.•

By Mr. DODD:

S. 1713. A bill to award grants to public-private partnerships to encourage work force diversity in order to improve the working conditions of all Americans and to help organizations compete more effectively both domestically and internationally, and for other purposes; to the Committee on Labor and Human Resources.

WORK FORCE DIVERSITY PARTNERSHIP ACT

• Mr. DODD. Mr. President, today I am introducing the Work Force Diversity Partnership Act of 1993, a bill that addresses one of the key issues in the next generation of employee relations.

The face of the American work force is changing dramatically. In the 1990's, people of color, Caucasian women, and immigrants will account for 85 percent of the net growth in our Nation's labor force. The expectations and demands of those in the work force are becoming increasingly diverse, yet our workplaces are on the whole inadequately prepared to deal effectively with this diversity. For example, more than a third of African-Americans holding masters degrees in business administration use "indifference" and "benign neglect" to describe their organization's treatment of African-American managers.

Clearly, diversity is also one of our Nation's greatest strengths. The myriad of peoples who have come to the United States and made it their home have brought with them unique talents and skills that have become the very foundation of our Nation. However, it is not clear that this diversity is being tapped in today's workplace. While there is a general agreement in the business community about the prevalence of the challenge, no one yet knows the best approach.

At the same time, increased domestic and international competition requires ever-increasing efficiency in the workplace. By understanding how to better manage a diverse work force, and by helping workers work together, American employers can improve the productivity of all Americans and increase the chances for economic success.

To help address these challenges, I am introducing the Work Force Diversity Partnership Act of 1993. This legislation would establish a grant program within the Department of Labor to study and address issues relating to cultural diversity in the work force and its impact on economic competitiveness, employment opportunities, advancement, and retention, and develop public and private sector training materials and programs concerning work force and cultural diversity.

The grant program would be a public-private partnership. Grants would be awarded to partnerships consisting of universities, corporations, nonprofits, labor groups, civil rights groups or other experts. Through this partnership structure, grants would produce real world answers to this challenge. Federal funds would be matched with funds from the private sector. In addition, grants would be awarded by the Secretary of Labor after being reviewed by peer review panels comprised of representatives from management, labor, education, and other interested organizations.

This legislation marks the first time that all who are affected by a challenge in the workplace are being asked to participate in the development of a solution. This bill acknowledges that management, labor, academia, workers, and others must come together to address these issues if we are to meet this challenge. It also marks one of the few times when Congress has had the opportunity to address an issue before it is perceived as a crisis. By working together, it is my hope that the interested parties can begin providing the possible ideas and answers to meet this important challenge.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1713

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Work Force Diversity Partnership Act of 1993".

SEC. 2. FINDINGS.

Congress finds that—

(1) the United States is becoming the most diverse work-place in the world at a time of growing economic dissatisfaction and intense global competition;

(2) people of color, caucasian women, and immigrants will account for 85 percent of the net growth in our Nation's labor force during the 1990's;

(3) the expectations, characteristics, demands, beliefs, work values, motivating factors and educational backgrounds of individuals in the work force are becoming increasingly diverse;

(4) employees, managers, administrators, and government officials are inadequately

prepared to deal effectively with increased diversity in the work force;

(5) increased domestic and international competition require that business, industry and government leaders effectively motivate and manage this diverse work force; and

(6) as more parents join the work force, it has become increasingly difficult for employees to balance the demands of the workplace with the needs of families; and

(7) by understanding and valuing diversity which respects differences, employers emphasize creativity, self initiative, leadership, innovation, and team-work, and thereby improve the working conditions of all Americans and the chances for economic success.

SEC. 3. PURPOSE.

It is the purpose of this Act to establish a grant program within the Department of Labor to—

(1) study and address issues relating to work force and cultural diversity and their impact on economic competitiveness, employment opportunities, advancement and retention; and

(2) develop collaborative public and private sector education and training materials that address the issues of work force and cultural diversity.

SEC. 4. DEFINITIONS.

As used in this Act—

(1) FEDERAL SHARE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term "Federal share" means 50 percent of the cost of each grant awarded under this Act.

(B) EXCEPTION.—If the Secretary, after consultation with the peer review panel, determines that to do so will further the purposes of this Act, the Secretary may increase the amount of the Federal share.

(2) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the same meaning given that term by section 1201(a) of the Higher Education Act of 1965 ((20 U.S.C. 1141(a)).

(3) NON-FEDERAL SHARE.—

(A) IN GENERAL.—The term "non-Federal share" means the amount required to be expended by the recipient of a grant under this Act.

(B) IN-KIND SERVICES.—Amounts available to pay the non-Federal share under this paragraph may include in-kind services or other resources.

(4) SECRETARY.—The term "Secretary" means the Secretary of Labor.

SEC. 5. WORK FORCE DIVERSITY GRANT PROGRAM.

(a) PROGRAM AUTHORIZED.—The Secretary is authorized to award grants to eligible entities to pay the Federal share of the cost of programs established by such entities that are designed to—

(1) target and develop issues relating to work force and cultural diversity;

(2) develop public and private sector education and training materials that focus on the issues of work force and cultural diversity;

(3) foster research, scholarship, innovative curriculum development, development of teaching materials, and other practicable supportive academic activities relating to such issues;

(4) assist in the dissemination and transfer of such materials for use in private sector training efforts as they relate to issues of work force and cultural diversity; and

(5) develop and establish cooperative higher education-business training programs to assist public and private industry leaders and workers in addressing the issue of work force diversity.

(b) REQUIREMENT.—The Secretary shall ensure that the recipient of a grant under this Act agrees to establish, operate, and provide the non-Federal share of the cost of the work force diversity programs for which the grant is made.

(c) DURATION OF GRANT.—No grant awarded under this Act may be for a period longer than 3 years.

SEC. 6. GRANT RECIPIENT SELECTION.

(a) SUBMISSION OF PROPOSALS.—To be eligible for a grant under this Act an entity shall prepare and submit to the Secretary a proposal, at such time, in such manner and containing such information as the Secretary may reasonably require.

(b) PARTICIPANTS.—

(1) IN GENERAL.—An institution of higher education in partnership with one or more organizations described in paragraph (2), shall be eligible to receive a grant under this Act.

(2) ORGANIZATIONS.—An organization referred to in paragraph (1) shall be—

(A) a corporation, business, or partnership, whether for profit or nonprofit;

(B) a labor organization; or

(C) an organization that has a demonstrated interest or expertise in work force diversity issues.

(c) CRITERIA FOR SELECTION.—

(1) IN GENERAL.—In determining whether to approve a proposal submitted under subsection (a), the Secretary shall take into account—

(A) the extent to which the grant applicant demonstrates a potential to achieve one or more of the purposes of this Act,

(B) the level of participation and financial commitment of the participants;

(C) the likelihood that a proposed program will foster the creation of increased diversity awareness programs in other institutional environments;

(E) the likelihood that the proposed program will result in the development and dissemination of national or regional best practices;

(F) the extent to which the project will impact the international competitiveness of the United States economy; and

(G) such other criteria as the Secretary may prescribe.

(2) FACULTY PARTICIPATION.—The Secretary shall encourage partnerships desiring to receive a grant under this Act to submit proposals that are written by teams of faculty from multiple disciplines, student and academic affairs professionals, or student organizations concerned with multicultural education, or any combination thereof.

(3) PRIORITY.—In awarding grants under this Act, the Secretary shall give priority to grant proposals that demonstrate the availability of sufficient amounts of non-Federal contributions or resources from non-governmental entities.

SEC. 7. AREAS OF ACTION.

A recipient of a grant under this Act shall use amounts received under such grant to engage in activities in accordance with one or more of the following guidelines:

(1) The development of instructional material concerning efforts designed to address cultural and work force diversity issues within the workplace setting.

(2) The development of public and private sector education and training materials that will address the issues of work force and cultural diversity.

(3) The development of new approaches to work force diversity issues and scholarship efforts to be integrated within the curriculum of business schools, ethnic and women's studies, engineering schools, social science disciplines, humanities and the arts and sciences. In using grant funds under this paragraph, a grantee may employ approaches to be carried out in conjunction with corporate education and training programs.

(4) The conduct of research concerning multicultural workplace interactions and team management and business in multicultural and multi-lingual marketplace settings.

(5) The implementation of faculty development programs that focus on research, appropriate learning environments, and pedagogical approaches to teaching multicultural management and work diversity issues.

(6) The development and dissemination of information concerning models for summer precollege business internship programs that aid in integrating the workplace and in giving students a better understanding of the private sector and of work force diversity issues.

(7) The conduct of forums, workshops, and conferences in which representatives from academic, corporate, government, or other institutions with a demonstrated interest or expertise in work force diversity will focus on issues, attitudes and strategies that sensitive managers, employees, faculty, corporate, government and other leaders and workers to workplace diversity issues.

(8) Any other activities that the Secretary determines to be appropriate to meet the purposes of this Act.

SEC. 8. PEER REVIEW.

To assist the Secretary in carrying out this Act, the Secretary shall establish peer review panels to review the merits of grant proposals proposed under this Act. In establishing such panels, the Secretary shall seek the widest participation of qualified individuals from participants, as defined in section 6(b). Each peer review panel shall report the findings and recommendations of the panel to the Secretary.

SEC. 9. RECIPIENT REPORTS.

Each recipient of a grant under this Act shall prepare and submit an annual report to the Secretary. Each such report shall include a summary of the progress of the activities implemented under the grant to achieve the purposes of this Act, a summary of the expenditures involved, a plan describing the recipient's planned use of funds for the forthcoming year, an explanation of the uses made of the results of the grant program where appropriate, and any other information that the Secretary determines to be appropriate.

SEC. 10. REPORT.

The Secretary shall annually prepare and submit to the appropriate committees of Congress, a report that shall include an evaluation of the progress made in achieving the purposes of this Act.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act, $10,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1998.•

By Mr. BAUCUS:

S. 1714. A bill to amend title 23, United States Code, to provide for the establishment of State transportation investment loan funds, and for other purposes; to the Committee on Environment and Public Works.

STATE TRANSPORTATION FINANCING IMPROVEMENT ACT

• Mr. BAUCUS. Mr. President, today I am introducing the State Transportation Financing Improvement Act of

1993. The bill gives States greater flexibility in financing transportation system improvements by allowing them wider access to public and private capital. Following my remarks, I will include a summary of the bill for the RECORD. But I would first like to make a few observations about the direction of our transportation policy.

In 1991, Congress passed an innovative, forward-thinking surface transportation bill. The Intermodal Surface Transportation Efficiency Act [ISTEA] provided for a distinct shift in the Federal Government's approach to financing surface transportation projects. It coordinated environmental transportation policy and introduced a new relationship among Federal, State and local governments for surface transportation planning.

ISTEA marks the end of the interstate era and the beginning of a new approach to how we solve our transportation problems. In addition to a new approach to planning, ISTEA recognized the need for additional capital to make necessary transportation modernizations and improvements. ISTEA authorized over $120 billion to be spent on surface transportation projects and programs over a 6-year period.

However, because of the need to restrain Federal spending, actual appropriations for highway and related programs have not kept pace with amounts authorized by ISTEA. For fiscal year 1992, ISTEA authorized $16.8 billion for surface transportation programs—not including transit funds. However, the 1992 appropriation was only $15.7 billion—approximately a $1.1 billion shortfall.

There was a similar experience in the past 2 years as well. The fiscal year 1993 authorized level was $18.3 billion and the appropriated amount was $15.3 billion. For 1994, the authorized level was $18.4 billion and $17.6 billion was appropriated.

These funding shortfalls make it more difficult to correct our deteriorating transportation system. The Department of Transportation's 1993 needs report indicated that we need to invest over $50 billion annually, at all levels of government just to maintain this Nation's Federal-aid system conditions—let alone improve them—which is far above the annual public sector investment of $33 billion. The report further stated that 45 percent of this Nation's bridges are obsolete or deficient and over 65 percent of its highways and roads need repair.

To deal with the conflicting pressures to reduce public spending and improve transportation systems, we must attract available capital from public and private sources. This is the goal of the State Transportation Financing Improvement Act that I am introducing today.

The bill reflects the philosophical basis of ISTEA—flexibility to solve problems—while adding financing tools that are familiar to and used by the capital markets.

Under the provisions of this bill, States have the discretionary authority to use a portion of their Federal-aid highway funds upfront to create a State transportation revolving loan fund [SRF].

Funds that are obligated to a SRF may be used for a number of financing options:

First, the making of a direct loan to a project or program;

Second, the refinancing of outstanding debt for a qualifying project;

Third, the purchasing of bond insurance or other forms of credit enhancement to improve capital markets;

Fourth, the subsidizing of interest rates of a loan for a qualifying project;

Fifth, the providing of a loan guarantee to a project; and

Sixth, as a source of security to issue bonds to provide additional capital.

States must still match their Federal funds and any project that receives assistance must still comply with all Federal regulations—including the Clean Air Act.

Choosing to use the financing options I have described will:

Make the capital formation process more rational and less risky;

Augment the funding limitations at the Federal, State, and local levels;

Reduce the banking industry's reluctance to invest or lend to transportation projects on a non-recourse basis;

Improve the feasibility of projects undergoing strict risk and credit analysis by financing institutions, credit enhancers and rating agencies; and

Provide leveraging opportunities to many parts of the Nation where economic and political obstacles make toll facilities infeasible.

While some States may choose not to create a SRF, they may choose to utilize the two other provisions of the State Transportation Financing Improvement Act—the toll loan provision and the nontoll provision. These provisions allow individual—of project-by-project—loans of Federal-aid funds to be made to public or private entities constructing toll or nontoll facilities.

While this bill will not alleviate all of our transportation problems, it can make a difference. During this period of continued high unemployment and Federal budget constraints, it is essential that the public and private sectors participate in future infrastructure development.

This bill can make a significant contribution to narrowing the Federal transportation funding shortfall by leveraging more private funds. My goal is to create financing tools that reflect the philosophical underpinnings of ISTEA and are familiar to and practical for the capital markets. It will help to create a steady, stable source of funds dedicated to transportation improvements and will facilitate the innovative provisions of ISTEA.

Mr. President, I now ask unanimous consent that a summary of the bill and bill itself be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1714

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "State Transportation Financing Improvement Act of 1993".

SEC. 2. STATE TRANSPORTATION INVESTMENT LOAN FUNDS.

Chapter 1 of title 23, United States Code, is amended by adding at the end the following new section:

"§ 161. State transportation investment loan funds

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—Subject to the requirements of this section and notwithstanding any other provision of law, a State may establish a transportation revolving loan fund (referred to in this section as a 'transportation investment loan fund') for making loans and providing other assistance to public or private entities constructing or proposing to construct projects or programs that are eligible to receive assistance under section 133(b) (referred to in this section as a 'qualifying project').

"(2) DETERMINATION OF DEPOSIT AND SPEND-OUT RATES.—For each fiscal year, not later than 90 days after the date of enactment of an appropriations Act that funds the majority of programs of the Department of Transportation for the fiscal year, the Secretary, in consultation with the Director of the Office of Management and Budget and the Director of the Congressional Budget Office, in accordance with recognized scorekeeping conventions, shall establish a schedule for deposits and payments made by or on behalf of a State with respect to a transportation investment loan fund established pursuant to paragraph (1) to meet the obligations of the State referred to in paragraph (3).

"(3) OBLIGATIONS AND DEPOSITS.—A State may obligate for deposit in a transportation investment loan fund, from funds apportioned or allocated to the State under sections 104(b)(3) and 157, an amount not to exceed the sum of—

"(A) the discretionary 37.5 percent of the remaining 80 percent of the surface transportation program funds apportioned to the State under section 104(b)(3), as described in the matter following clause (ii) of section 133(d)(3)(A); and

"(B) the difference between the amount allocated to the State pursuant to section 157(a)(4) and the amount that is obligated to urbanized areas of the State pursuant to section 133(d)(3).

"(4) TREATMENT OF DEPOSITS.—Any amounts deposited by a State pursuant to paragraph (3) shall be considered an expenditure by the State.

"(5) APPLICABILITY OF CASH MANAGEMENT REQUIREMENTS.—Sections 3335 and 6503 of title 31, United States Code, shall not apply to this section.

"(b) STATE MATCHING REQUIREMENT.—

"(1) ADDITIONAL DEPOSIT FROM NON-FEDERAL SOURCES.—At the same time as a State deposits funds under subsection (a) into a transportation investment loan fund, the

State shall deposit into the transportation investment loan fund from non-Federal sources an additional amount of State matching funds equal to—

"(A) the sum of—

"(i) the amount deposited pursuant to subsection (a); and

"(ii) an amount equal to the proportional non-Federal share that the State would otherwise pay on the basis of the amount, determined in accordance with section 120(b); multiplied by

"(B) the percentage amount of the non-Federal share for the State for a project carried out by the State, determined in accordance with section 120(b).

"(2) INVESTMENT INCOME.—All investment income earned on amounts deposited into the transportation investment loan fund shall be—

"(A) credited to the transportation investment loan fund; and

"(B) available for use in providing loans and other assistance from the transportation investment loan fund.

"(c) LOANS AND OTHER ASSISTANCE.—

"(1) GENERAL AUTHORITY.—From the amounts deposited into a transportation investment loan fund established by a State under this section, a State may loan to a public or private entity an amount equal to all or part of the cost of constructing a qualifying project, or provide other assistance with respect to a qualifying project.

"(2) COMPLIANCE WITH THE FEDERAL TRANSIT ACT, FEDERAL ENVIRONMENTAL LAWS, AND OTHER REQUIREMENTS.—As a condition of receiving a loan or other assistance under this section, the public or private entity that receives the loan or other assistance shall comply with the requirements of this title and any other applicable Federal law (including any applicable provision of the Federal Transit Act (49 U.S.C. App. 1601 et seq.) or a Federal environmental law).

"(3) SUBORDINATION OF DEBT.—The amount of a loan or other assistance (if applicable) received for a qualifying project under this subsection may be subordinated to any other debt financing for the project or program, except that amount of the loan or other assistance may not be subordinated to any other loan made by a State or any other public entity to the entity that receives the loan or other assistance.

"(4) REPAYMENT.—The repayment of a loan or other assistance (if applicable) made pursuant to this subsection shall commence not later than 5 years after the qualifying project that is the subject of the loan or other assistance has opened to traffic.

"(5) TERM OF LOAN.—The term of a loan made pursuant to this subsection shall not exceed 30 years from the date of obligation of the loan.

"(6) INTEREST.—A loan made pursuant to this subsection shall bear interest at a rate at or below market interest rates, as determined by the State to make the qualifying project that is the subject of the loan feasible.

"(7) REUSE OF FUNDS.—The repayment of a loan or other assistance (if applicable) provided pursuant to this subsection may be credited to the transportation investment loan fund or obligated for any purpose for which the funds were available.

"(8) PROCEDURES AND GUIDELINES.—Not later than 180 days after the date of enactment of this section, the Secretary shall establish procedures and guidelines for establishing, operating, and making loans and providing other assistance from a transportation investment loan fund.

"(d) DEFINITION OF OTHER ASSISTANCE.—As used in this section, the term 'other assistance' includes any use of funds—

"(1) to refinance outstanding debt used to finance a qualifying project if the State certifies that any savings that result from the refinancing shall be used to carry out the purposes of this title;

"(2) to guarantee or purchase insurance or other forms of enhancement for borrower debt in order to improve credit market access or to subsidize interest rates; and

"(3) to provide a loan guarantee for a loan made from the transportation investment loan fund.

"(e) OTHER USES OF THE TRANSPORTATION INVESTMENT LOAN FUND.—

"(1) SOURCE OF REVENUE OR SECURITY FOR BONDS.—Notwithstanding any other provision of this section, a State may use funds from the transportation investment loan fund of the State as security for bonds and notes issued to provide capital in addition to the capital referred to in subsection (a)(2) for the transportation investment loan fund.

"(2) ADMINISTRATIVE COSTS.—For each fiscal year, a State may use an amount not to exceed 2 percent of the Federal funds deposited by the State into the transportation investment loan fund of the State to provide for the reasonable costs of administering the transportation investment loan fund.".

SEC. 3. LOANS OF FEDERAL FUNDS FOR THE CONSTRUCTION OF NONTOLL FACILITIES.

Chapter 1 of title 23, United States Code, as amended by section 2, is further amended by adding at the end the following new section:

"§ 162. Loans of Federal funds for the construction of nontoll facilities

"(a) IN GENERAL.—

"(1) LOANS.—A State may loan an amount equal to all or part of the Federal share of a project or program to a public or private entity constructing or proposing to construct a nontoll facility if the repayment of the loan by the public or private entity will be made from a dedicated revenue source, including any excise tax, sales tax, motor vehicle use fees, tax on real property, tax increment financing, or other dedicated revenue sources.

"(2) DEFINITION OF QUALIFYING PROJECT.—As used in this section, the term 'qualifying project' means a project that meets the requirements of paragraph (1).

"(b) COMPLIANCE WITH THE FEDERAL TRANSIT ACT, FEDERAL ENVIRONMENTAL LAWS, AND OTHER REQUIREMENTS.—As a condition of receiving a loan under this section, the public or private entity that receives the loan shall ensure that the qualifying project complies with the requirements of this title and any other applicable law (including any applicable provision of the Federal Transit Act (49 U.S.C. App. 1601 et seq.) or a Federal environmental law).

"(c) SUBORDINATION OF DEBT.—The amount of a loan received for a project under this section may be subordinated to any other debt financing for the project, except that the amount of the loan may not be subordinated to the amount of any other loan made by the State or any other public entity to the entity constructing the project.

"(d) OBLIGATION OF FUNDS LOANED.—Funds loaned pursuant to this section may be obligated for qualifying projects.

"(e) REPAYMENT.—The repayment of a loan made pursuant to this section shall commence not later than 5 years after the qualifying project that is the subject of the loan has opened to traffic.

"(f) TERM OF LOAN.—The term of a loan made pursuant to this section shall not exceed 30 years from the date of obligation of the loan.

"(g) INTEREST.—A loan made pursuant to this section shall bear interest at a rate at or below market interest rates, as determined by the State to make the qualifying project that is the subject of the loan feasible.

"(h) REUSE OF FUNDS.—Amounts repaid to a State from any loan made pursuant to this section may be obligated—

"(1) for any purpose for which the loaned funds were available; and

"(2) for—

"(A) the refinancing of outstanding debt used to finance a qualifying project;

"(B) the guarantee or purchase of insurance or other forms of enhancement for borrower debt in order to improve credit market access or to subsidize interest rates; or

"(C) the provision of a loan guarantee.

"(i) GUIDELINES.—Not later than 180 days after the date of enactment of this section, the Secretary shall establish procedures and guidelines for making loans pursuant to this section.".

SEC. 4. TOLL ROADS.

Paragraph (7) of section 129(a) of title 23, United States Code, is amended to read as follows:

"(7) LOANS.—

"(A) IN GENERAL.—A State may loan an amount equal to all or part of the Federal share of a toll project under this section to a public or private entity constructing or proposing to construct a toll project. As used in this paragraph, the term 'qualifying project' means a project referred to in the preceding sentence.

"(B) COMPLIANCE WITH THE FEDERAL TRANSIT ACT, FEDERAL ENVIRONMENTAL LAWS, AND OTHER REQUIREMENTS.—As a condition to receiving a loan under this paragraph, the public or private entity that receives the loan shall ensure that the qualifying project complies with the requirements of this title and any other applicable law (including any applicable provision of the Federal Transit Act (49 U.S.C. App. 1601 et seq.) or a Federal environmental law

"(C) SUBORDINATION OF DEBT.—The amount of a loan received for a qualifying project under this paragraph may be subordinated to any other debt financing for the project, except that the amount of the loan may not be subordinated to the amount of any other loan made by the State or any other public entity to the entity constructing the project.

"(D) OBLIGATION OF FUNDS LOANED.—Funds loaned pursuant to this paragraph may be obligated for qualifying projects.

"(E) REPAYMENT.—The repayment of a loan made pursuant to this paragraph shall commence not later than 5 years after the facility that is the subject of the loan has opened to traffic.

"(F) TERM OF LOAN.—The term of a loan to a private or public entity shall not exceed 30 years from the time that the loan was obligated.

"(G) INTEREST.—A loan made pursuant to this paragraph shall bear interest at a rate at or below market interest rates, as determined by the State to make the qualifying project that is the subject of the loan feasible.

"(H) REUSE OF FUNDS.—Amounts repaid to a State from a loan made under this paragraph may be obligated—

"(i) for any purpose for which the loaned funds were available; and

"(ii) for—

"(I) the refinancing of outstanding debt used to finance a qualifying project;

"(II) the guarantee or purchase of insurance or other forms of enhancement for borrower debt in order to improve credit market access or to subsidized interest rates; or

"(III) the provision of a loan guarantee.

"(I) GUIDELINES.—Not later than 180 days after the date of enactment of the State Transportation Financing Improvement Act of 1993, the Secretary shall establish procedures and guidelines for making loans pursuant to this paragraph.".

SEC. 5. CONFORMING AMENDMENT TO TABLE OF CONTENTS.

The chapter analysis at the beginning of chapter 1 of title 23, United States Code, is amended by adding at the end the following new items:

"161. State transportation investment loan funds.

"162. Loans of Federal funds for the construction of nontoll facilities.".

SUMMARY OF THE STATE TRANSPORTATION FINANCING IMPROVEMENT ACT

The Act contains three separate transportation financing proposals. One is a revision of an existing provision of title 23, U.S.C. and two are additional financing provisions for surface transportation.

STATE TRANSPORTATION REVOLVING LOAN FUNDS

The bill gives states the discretionary authority to establish state transportation revolving loan funds (SRFs). States may use the discretionary portion of both their Surface Transportation Program (STP) and Minimum Allocation (MA) fund apportionments to capitalize the SRF (only the discretionary portion of these funds, not the portion that is suballocated to urban areas). The funds, not the portion that is suballocated to urban areas). The funds deposited into a SRF may be used for eligible projects—projects listed under the STP program. The STP program is the most flexible program under ISTEA—many transportation related activities are eligible for use of these funds. This includes, among other things, highway construction and 4R work, capital costs for mass transit projects, bicycle and pedestrian facilities and certain transportation control measures under the Clean Air Act Amendments.

At the time a state obligates funds to the SRF, the state must also deposit the appropriate non-Federal share or match. STP and MA projects are generally funded on a Federal/non-Federal ratio of 80/20.

Funds obligated to the SRF may be used for a variety of uses that include:

1. The making of a direct loan to a project or program;

2. The refinancing of outstanding debt for a qualifying project;

3. The purchasing of insurance or other forms of credit enhancement to improve capital market access for debt financing;

4. The subsidizing of interest rates of a loan for a qualifying project;

5. The providing of a loan guarantee to a project; and

6. As a source of security to issue bonds to provide additional capital.

As a condition to receiving assistance from the SRF, the recipient of the assistance must ensure the compliance with all Federal requirements that are currently in place with regard to Federal-aid highway funds. This includes the Clean Air Act, Davis-Bacon and other applicable requirements.

Loans made from the SRF may be subordinated to other debt financing for the project. The repayment of the loans must begin no later than 5 years after the project has opened to traffic. The term of the loan shall not exceed 30 years and the state has the authority to set the interest rate at or below market interest rates. The interest rate provisions apply to both public and private entities and there is no distinction between public or private recipients of assistance.

LOANS OF FEDERAL FUNDS FOR THE CONSTRUCTION OF NONTOLL FACILITIES

This section of the bill gives states the authority to make individual loans or provide assistance to specific projects on a project-by-project basis. Assistance will be provided to a public or private entity that can demonstrate the ability to repay the assistance using a dedicated revenue source—this can include but is not limited to any excise tax, motor vehicle use fees, sales tax revenues and tax increment financing. Section 3 of this Act expands the availability of loan assistance to those projects that have a dedicated revenue source and thus not restrict this option to toll facilities only.

As with the SRF, all projects receiving assistance must comply with all Federal requirements attributed to the use of Federal-aid highway funds. The assistance may be subordinated to other debt financing and the repayments must commence no later than 5 years after the project is opened to traffic. The term of the loan must not exceed 30 years and the interest rate is set by the state, at or below market interest rates.

The repayments of these loans may be further loaned or used for credit enhancement, but they must be used for transportation projects that are eligible under Title 23.

TOLL FACILITY LOAN PROVISIONS

Section 4 of this Act is a revision of the current ISTEA toll loan provision—section 1012 [23 U.S.C. 129(a)(7)]. The current provision of ISTEA allows individual loans to be made to public or private entities proposing to construct a toll facility—thus the repayment is backed by toll revenues.

The bill proposes four changes to 23 U.S.C. 129(a)(7):

1. Public or private entities receiving assistance under the proposed language must ensure that all Federal requirements are met, including the Clean Air Act.

2. ISTEA currently allows the loan rate to be set at the time of repayment—up to 5 years after the project is opened to traffic, which could be 7 to 8 years after the loan is made when you factor in construction time. This makes it difficult for the underwriting of any project—the loan rate must be known when the loan is made, not 7 to 8 years into the future. The proposed language sets the loan rate at the time of the obligation of the funds.

3. The proposed language changes the existing language with regard to the interest rate. There is no distinction made between the interest rates that a public or private entity receives on the assistance. The state has the discretionary authority to set the interest rate at the level appropriate for project feasibility.

4. The loans made under this toll loan provision "may" be subordinated to other debt financing for the project. The current language says that it "shall" be subordinated. This change will give states additional flexibility to structure loan agreements in the best possible way to make a project feasible.●

By Mrs. HUTCHISON (for herself, Mrs. BOXER, Mr. RIEGLE, Mr. FAIRCLOTH, Mr. PRYOR, Mr. CAMPBELL, Mr. PRESSLER, Mr. HARKIN, Mr. PELL, Mr. BAUCUS, Mr. GRAHAM, Mr. BREAUX, Mr. GRASSLEY, Mr. REID, Mr. BURNS, Mr. HELMS, Mr. AKAKA, Mr. SIMON, Mr. COCHRAN, Mr. LOTT, Mr. BOND, Mr. BRADLEY, Mr. SHELBY, Ms. MOSELEY-BRAUN, Mr. FORD, Mr. SMITH, Mr. COATS, Mr. CHAFEE, Mr. WOFFORD, Mr. SIMPSON, Mr. LAUTENBERG, Mr. BENNETT, and Mrs. FEINSTEIN):

S. 1715. A bill to provide for the equitable disposition of distributions that are held by a bank or other intermediary as to which the beneficial owners are unknown or whose addresses are unknown, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

EQUITABLE ESCHEATMENT ACT OF 1993

● Mrs. HUTCHISON. Mr. President, today Senator BOXER and I are introducing the Equitable Escheatment Act of 1993. This important bill will restore fairness to the laws governing claims by States to abandoned property from securities distributions such as corporate dividends and interest paid on municipal bonds. It will return unclaimed dividends and interest payments to their States of origin rather than to the two or three States where the financial intermediaries that fortuitously hold these distributions are incorporated.

This bill represents a bipartisan effort to restore equity to the rules of escheatment for unclaimed securities distributions, and is in direct response to the March 1993, decision of the Supreme Court in Delaware versus New York, which encouraged the Congress to settle the dispute among the 50 States. It is the companion to H.R. 2443, a bill introduced by House Banking Committee Chairman GONZALEZ and its ranking Republican, Mr. LEACH.

The abandoned property which is the subject of the Equitable Escheatment Act of 1993 arises during the payment of dividends and interest on publicly traded securities to owners of record that hold the securities for the beneficial owners. Because billions of shares of stocks and bonds are traded each year, financial intermediaries such as banks, brokerage firms, and depositories receive dividends and interest from issuers and other intermediaries, yet do not know to whom they should be paid because they do not know the identity of their beneficial owners. These dividends and interest payments are called owner-unknown unclaimed securities distributions. Though only 0.02 percent of all money involved in these distributions remains unclaimed, the total dollar amount at stake is very substantial and has ranged from $100 to $150 million annually.

Under the escheatment doctrine, the State of New York has been seizing all owner-unknown unclaimed dividends and interest arising from dividend and interest payments, without regard to the location of the company paying the dividend or the State or municipality paying the interest on their municipal bonds. From 1985 to 1991 alone, the State of New York appropriated more than $630 million of owner-unknown unclaimed dividend and interest payments from Wall Street brokerage firms and banks simply because they happen to be concentrated in New York City.

In 1988, Delaware filed a suite against New York in the U.S. Supreme Court, seeking its share of these funds. The remaining 48 States and the District of Columbia were permitted to intervene as plaintiffs in the lawsuit. The Supreme Court appointed a special master, who concluded that these unclaimed funds should be returned to the States from which the funds originated. Under the special master's decision, owner-unknown interest paid on a State or municipal bond would be returned to the paying State, and owner-unknown dividends paid by a publicly traded company would be returned to the State in which the company maintains its principal executive offices. The special master found that this arrangement was administratively feasible and would result in the most equitable distribution of the unclaimed property.

The Supreme Court, however, was constrained by its precedents, rejected the master's recommendation, and held that these funds should escheat to the State of incorporation of whatever financial intermediary, bank, depository, or brokerage firm happens to be holding these funds. Under this rule, two States—Delaware and New York—would recover virtually all of the unclaimed property because most large brokerage firms are incorporated in Delaware and the largest securities depository is incorporated in New York, as are most money center banks. Massachusetts would receive some funds because State Street Bank and Trust Co. is the largest custodial bank in the country.

The Court stated that

> If the States are dissatisfied with the outcome of a particular case, they may air their grievances before Congress. That body may reallocate abandoned property among the States without regard to this Court's interstate escheat rules. Congress overrode Pennsylvania versus New York by passing a specific statute concerning abandoned money orders and traveler's checks, and it may, ultimately settle this dispute through similar legislation.

The Court was referring to a law Congress enacted in 1974 to overrule the Supreme Court's 1972 decision in Pennsylvania versus New York that awarded all unclaimed money orders held by Western Union to New York because Western Union happened to be incorporated in New York. The 1974 legislation established a more equitable distribution of unclaimed money orders and travelers checks by returning such property to the States of origin, i.e., to the States where the money orders and travelers checks were purchased. The Equitable Escheatment Act of 1993 would continue the tradition of maintaining fair treatment of competing State claims to abandoned funds established in 1974 by following the Supreme Court's invitation to again overrule Pennsylvania versus New York, and reinstate the Special Master's recommendation.

I want to emphasize the importance of the securities industry's assistance in helping us to minimize the burden of the change proposed in this legislation on our financial institutions. It may be appropriate to protect the companies that have in good faith paid substantial funds to New York for more than 20 years so that they are not subject to audits by other States for money paid to New York. We are flexible on these issues, and remain open to working out a solution fair to all. Although some have argued that the industry cannot comply with this bill, I think that the most computerized industry in the Nation, which already keeps track of millions of accounts and their unclaimed property, can pay this money over to the States.

Mr. President, the unjust rule permitting this money to go to New York and Delaware cannot stand. To put it simply, we can't allow the States that got to the head of the bunk house dinner table first to eat all the food that the ranch hands at the foot rode all day for. Money from Texas citizens paid as in interest on Texas municipal bonds and dividends earned by the success of Texas companies cannot be used to line the State treasuries of Delaware and New York. Although I have used Taxes and California as examples, every Senator can substitute his or her State. Delaware and New York are taking the funds of your constituents, as well as mine. That is why the companion bill in the House has over 260 cosponsors, with more joining every day, and why I urge all Senators to support this important bill for the benefit of your State and its taxpayers.●

By Mr. ROBB (for himself and Mr. WARNER):

S. 1716. A bill to amend the Thomas Jefferson Commemoration Commission Act to extend the deadlines for reports; to the Committee on the Judiciary.

THOMAS JEFFERSON COMMEMORATION COMMISSION EXTENSION ACT

● Mr. ROBB. Mr. President, I introduce legislation to extend the Thomas Jefferson Commemoration Commission for an additional year. I am joined in this endeavor by the senior Senator from Virginia, Senator WARNER. This commission, dedicated to honoring the life, thought and legacy of Thomas Jefferson, promises to make important contributions to scholarly research and the body of knowledge concerning Thomas Jefferson. I encourage the Senate to approve this extension.

I want to be perfectly clear: this legislation does not authorize any new appropriations. This merely changes the due dates of the Commission's final reports. Originally authorized in August 1992 to commemorate the 250th anniversary of Jefferson's birth, the authorization for this non-partisan body will expire at the end of this year unless action is taken to extend it. This extension is necessary because the appointment of the Commission and its chairperson was not complete until June 1993. Consequently, although this delay occurred through no fault of its own, the Commission faces expiration just as its programs and activities are getting off the ground. I have therefore introduced this bill to extend the Commission's authorization to give the Commission more time to complete its work. Again, this extension involves no additional funding and will merely allow the Commission to proceed without interruption.

Twenty-one members compose the Commission, of whom 10 are officers of the U.S. Government and 11 are private citizens. The Commission's mission is to plan and implement conferences and symposia; recognize individuals and organizations that have contributed to the memory of Jefferson's achievements and to the understanding and preservation of his ideals, buildings, artifacts and writings; and coordinate the commemorative activities of States and Federal agencies.

The Commission, which met for the first time in July, has begun planning for several projects, including:

A conference to assess Jefferson's contribution to the development of the American West;

An international symposium in Washington, DC, to increase knowledge of Jefferson world-wide;

An educational project aimed at expanding the knowledge of Jefferson in schools; and

A series of discussion for public radio and television.

Mr. President, the interest in Thomas Jefferson generated by the celebration of his 250th birthday has been overwhelming, and particularly gratifying to those of us from Virginia, where Mr. Jefferson's memory is still revered. Extension of the Commission will allow that interest to be properly fulfilled, at no cost to the government.

I ask my colleagues in the Senate to support this important and worthwhile legislation.●

By Mr. MITCHELL (for himself, Mr. HATFIELD, Mr. KENNEDY, Mr. SIMPSON, and Mr. MOYNIHAN) (by request):

S. 1717. A bill to amend the John F. Kennedy Center Act to transfer operating responsibilities to the Board of

Trustees of the John F. Kennedy Center for the Performing Arts, and for other purposes; to the Committee on Environment and Public Works.

JOHN F. KENNEDY CENTER REAUTHORIZATION

Mr. MITCHELL. Mr. President, Washington, DC, is more than the political and governmental Capitol of our Nation. As the home of the National Archives, the Smithsonian Institution, the National Gallery of Art, the Library of Congress, and the Kennedy Center for the Performing Arts, it could also be called our cultural and educational capital. Every year, millions of Americans visit Washington to learn more about their Nation and their heritage. The Federal Government has long recognized that it has a role in preserving the Nation's history, celebrating its diverse citizenry, and supporting national museums and cultural centers.

These national institutions reach more than just the millions of Americans who personally visit Washington every year. Publications, seminars, and similar outreach programs expand the influence of our Nation's museums and cultural centers beyond their geographic locations.

One of the more innovative outreach programs has been developed by the Kennedy Center. The Kennedy Center, as the National Center for the Performing Arts, has repeatedly shown leadership in expanding the role of performing arts and arts education in communities across the Nation. In an effort to expand opportunities beyond the city of Washington, in 1991, it embarked on an effort to bring community arts centers and schools together from around the country to learn, share, and expand the influence of the arts. The Partners in Education Program at the JFK Center allows teams from community arts centers and schools to travel to the District of Columbia to learn from experts and from each other methods to successfully incorporate the arts into everyday curriculums.

This program has just completed its third successful year. In just 3 years, more than 42 teams from 31 different States have completed training sessions at the Kennedy Center, and all of the community arts centers which participated in the 1991 training session have since developed or expanded their programs for local teachers.

This type of program will expand accessibility of the arts to populations which have traditionally been underserved such as rural or inner-city communities. I am pleased to note that both the 1991 and 1992 programs included participants from Maine. Maine students do not always get the opportunity to travel to Washington to visit the Kennedy Center, but through the Kennedy Center's Partners in Education program, students in Maine will now find that the arts are more accessible and relevant to their studies.

The Kennedy Center has done an admirable job in bringing the arts to schools, but more can be done. That is why I am joining with Senators HATFIELD, KENNEDY, SIMPSON, and MOYNIHAN today in supporting legislation to increase the ability of the Kennedy Center to fulfill its role as the national arts and education center. Our legislation will expand the education and outreach programs of the Kennedy Center as well as provide for a more efficient and effective process of making necessary capital repairs to the physical structure.

I am very pleased with the bipartisan effort that has gone into the drafting of this legislation, and I appreciate the time and attention my colleagues and the administration have given the issue. The John F. Kennedy Center requires support if it is to fulfill its mandated mission as the National Performing Arts Center. I am encouraged by the support and progress that has been made on this measure, and I look forward to working with my colleagues in the Senate and with the administration to see this measure become law.

Mr. President, I ask unanimous consent that the text of the bill and additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1717

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "John F. Kennedy Center Act Amendments of 1993".

SEC. 2. BUREAU, BOARD OF TRUSTEES, AND ADVISORY COMMITTEE.

Section 2 of the John F. Kennedy Center Act (hereafter referred to as the "Act") (20 U.S.C. 76h) is amended—

(1) by redesignating subsections (a), (b) and (c) as subsections (b), (c) and (d);

(2) by inserting before subsection (b) (as redesignated in paragraph (1)) the following new subsections:

"(a) The Congress finds that—

"(1) the late John Fitzgerald Kennedy served with distinction as President of the United States, and as a Member of the Senate and the House of Representatives;

"(2) by the untimely death of John Fitzgerald Kennedy this Nation and the world have suffered a great loss;

"(3) the late John Fitzgerald Kennedy was particularly devoted to education and cultural understanding and the advancement of the performing arts;

"(4) it is fitting and proper that a living institution of the performing arts, designated as the National Center for the Performing Arts, named in the memory and honor of this great leader, shall serve as the sole national monument to his memory within the city of Washington and its environs;

"(5) such a living memorial serves all of the people of the United States by preserving, fostering and transmitting the performing arts traditions of the people of this nation and other countries by producing and presenting music, opera, theater, dance and other performing arts; and

"(6) such a living memorial should be housed in the John F. Kennedy Center for the Performing Arts, located in the District of Columbia.";

(3) in subsection (b) (as redesignated in paragraph (1)),

(A) in the first sentence, by inserting "as the National Center for the Performing Arts, a living memorial to John Fitzgerald Kennedy," after "thereof"; and

(B) in the second sentence—by striking "Chairman of the District of Columbia Recreation Board" and inserting "Superintendent of Schools of the District of Columbia";

(4) by amending subsection (c) (as redesignated in paragraph (1)) to read as follows:

"(c) The general trustees shall be appointed by the President of the United States and each such trustee shall hold office as a member of the Board for a term of 6 years, except that—

"(1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which such member's predecessor was appointed shall be appointed for the remainder of such term;

"(2) a member shall continue to serve until such member's successor has been appointed; and

"(3) the term of office of a member appointed prior to the date of enactment of this subsection shall expire as designated at the time of appointment.";

(5) in subsection (d) (as redesignated in paragraph (1)),

(a) in the first sentence, by inserting "of the United States" and "President" and before "may";

(b) in the fourth sentence, by striking "in" after "cultural activities to be carried on" and substituting "by"; and

(c) by inserting a period after "compensation" and striking the remainder of the last sentence.

(6) EFFECTIVE DATE FOR CERTAIN APPOINTMENTS.—the appointment made pursuant to the amendment made by clause (ii) of subsection (3)(B) shall not commence until the expiration of the term of the Chairman of the District of Columbia Recreation Board, serving as a Trustee of the John f. Kennedy Center for the Performing Arts on the date of enactment of this Act.

SEC. 3. PRESENTATIONS, PROGRAMS, FACILITIES FOR ACTIVITIES, AND MEMORIAL IN HONOR OF THE LATE PRESIDENT; RESTRICTION ON ADDITIONAL MEMORIALS

Subsection (a) of section 4 of the Act (20 U.S.C. 76j) is amended to read as follows:

"(a)(1) The Board shall—

"(A) present classical and contemporary music, opera, drama, dance and other performing arts from the United States and other countries;

"(B) promote and maintain the Center as the National Center for the Performing Arts by—

"(i) developing and maintaining a leadership role in national performing arts education policy and programs, including developing and presenting original and innovative performing arts and educational programs for children, youth, families, adults and educators designed specifically to foster an appreciation and understanding of the performing arts;

"(ii) developing and maintaining, a comprehensive and broad program for national and community outreach, including establishing model programs for adaptation by other presenting and educational institutions; and

"(iii) conducting joint initiatives with the national education and outreach programs of the Very Special Arts, an entity affiliated with the John F. Kennedy Center for the Performing Arts which has an established program for the identification, development and implementation of model programs and projects in the arts for disabled individuals;

"(C) strive to ensure that the John F. Kennedy Center for the Performing Arts education and outreach programs and policies meet the highest level of excellence and reflect the cultural diversity of the Nation;

"(D) provide facilities for other civic activities at the John F. Kennedy Center for the Performing Arts;

"(E) provide within the John F. Kennedy Center for the Performing Arts a suitable memorial in honor of the late President;

"(F) develop a comprehensive building needs plan for the existing features of the John F. Kennedy Center for the Performing Arts;

"(G) plan, design, and construct all major capital projects at the John F. Kennedy Center for the Performing Arts; and

"(H) provide information and interpretation; all maintenance, repair, and alteration of the building; and janitorial, security, and all other services necessary for operating the building and site.

"(2) (A) The Board, in accordance with applicable law, may enter into contracts or other arrangements with, and make payments to, public agencies or private organizations or persons in order to carry out the Board's functions under this Act. This includes, but is not limited to, utilizing the services and facilities of other agencies, including the Department of the Interior, General Services Administration, and Smithsonian Institution."

"(B) The Board shall prepare a budget pursuant to 31 U.S.C. sections 1104 and 1105(a) and subject to 31 U.S.C. section 1513(b).

"(C) The Board may utilize or employ the services of personnel of any agency or instrumentality of the Federal Government or of the District of Columbia, with the consent of the agency or the instrumentality concerned, upon a reimbursable basis, or utilize voluntary or uncompensated personnel."

"(D) In carrying out its duties under this Act, the Board may negotiate any contract for an environmental system, a protection system or a repair to, maintenance of, or restoration of, the John F. Kennedy Center for the Performing Arts with selected contractors and award the contract on the basis of contractor qualifications as well as price.".

"(E) The Board shall maintain the Hall of Nations, the Hall of States, and the Grand Foyer in a manner that is suitable to a national performing arts center that is operated as a Presidential memorial."

SEC. 4. OFFICERS AND EMPLOYEES, REVIEW OF BOARD ACTIONS.

Sections 5 of the Act (20 U.S.C. 76k) is amended—

(1) in the first sentence of subsection (a), by striking "Smithsonian Institution" and inserting "John F. Kennedy Center for the Performing Arts, as a bureau of the Smithsonian Institution.";

(2) in subsection (b)—

(A) in the section heading, by deleting "DIRECTOR, ASSISTANT DIRECTOR," and inserting "CHAIRPERSON".

(B) in the first sentence, by striking "director, an assistant director, and a secretary of the John F. Kennedy Center for the Performing Arts and of" and inserting "chairperson of the John F. Kennedy Center for the Performing Arts (hereafter in this Act referred to as the 'chairperson'), who shall serve as the chief executive officer of the Center, and a secretary of the Center. The chairperson may appoint a senior level executive who, by virtue of the individual's background, shall be well suited to be responsible for facilities management and services and who may, without regard to the provisions of Title 5, be appointed and compensated with appropriated funds, provided that compensation does not exceed the maximum rate of pay under 5 U.S.C. section 5376 for Senior-Level IV positions, and"

(C) in the last sentence by striking "director, assistant director," and inserting "chairperson"; and

(3) by redesignating subsection (c) as subsection (e) in this section, and amending it to read as follows:

"(e) The actions of the Board relating to performing arts and to payments made or directed to be made by it from any trust funds shall not be subject to review by any officer or agency other than a court of law."; and

(4) by adding after subsection (b) the following new subsections:

"(c) TRANSFER.—The property, liabilities, contracts, records, and unexpended balance of appropriations, authorizations, allocations and other funds employed, held, used, arising from, available to or to be made available in connection with the functions transferred from the Secretary of the Interior by enactment of this law, subject to 31 U.S.C. section 1531, shall be transferred to the Board as the Board and the Secretary of the Interior may determine, but not later than October 1, 1995. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for, and subject to the terms under, which the funds were originally authorized and appropriated.

"(d) TRANSFER OF PERSONNEL.—Employees of the National Park Service assigned to duties related to those functions being undertaken by the Board will be transferred with their functions to the John F. Kennedy Center Board of Trustees not later than October 1, 1995. These employees shall remain in the Federal competitive service retaining all benefits and rights provided under Title 5 of the United States Code. For a period of not less than three years, transferred employees will retain the right of priority consideration under merit promotion procedures or lateral reassignment for all vacancies within the Department of the Interior. All United States Park Police employees assigned to the John F. Kennedy Center will remain employees of the National Park Service. Appropriations provided for the John F. Kennedy Center for the Performing Arts will bear all costs associated with adverse action or grievance procedures resulting from this transfer of function, and from the abolishment of law enforcement and security services performed by the U.S. Park Police which are incurred during the transition period when the U.S. Park Police are performing functions within the building and site of the John F. Kennedy Center for the Performing Arts. Nothing contained herein shall, following the transfer specified herein, be deemed to prohibit the Board of Trustees from reorganizing functions at the Center in accord with the law governing such reorganizations."

SEC. 5. OFFICIAL SEAL, BOARD VACANCIES, AND QUORUM, TRUSTEE POWERS AND OBLIGATIONS, REPORTS, NATIONAL PARK SERVICE INTERPRETIVE FUNCTIONS, SUPPORT SERVICES, REVIEW AND AUDIT, SECRETARY OF THE INTERIOR'S FUNCTIONS, ESTABLISHMENT OF FUND.

Section 6 of the Act (20 U.S.C. 761) is amended—

(1) in subsection (c)—by striking "its" and inserting "the Board's";

(2) by striking subsection (e); and

(3) by striking subsection (f) and inserting the following new subsections—

"(f) The General Accounting Office shall review and audit, at least every 3 years, the accounts of the John F. Kennedy Center for the Performing Arts for the purpose of examining expenditures of funds appropriated under authority provided herein.

"(g) The functions of the Board funded by amounts appropriated under section 12 shall be subject to the requirements of the Inspector General Act of 1978, as amended. The Inspector General of the Smithsonian Institution is authorized to carry out the requirements of that Act on behalf of the Board, on a reimbursable basis.

"(h) The Board may procure insurance against any loss in connection with its property and other assets administered by it. The Board's employees and volunteers shall be deemed civil employees of the United States within the meaning of the term 'employee' as defined in 5 U.S.C. section 8101, except that the Board shall continue to provide benefits with respect to any disability or death resulting from an injury to its non-appropriated fund employees pursuant to the District of Columbia workers compensation statute; and such benefits, whether under workers compensation statutes or the Federal Employees Compensation Act, shall continue to be the exclusive liability of the Board and the United States with respect to all employees and volunteers; but in no circumstance may an employee bring suit against the United States under the Federal Tort Claim Procedure, chapter 171 of Title 28 of the United States Code, for disability or death resulting from personal injury sustained while in the performance of the employee's duties for the Board.

"(i) Any settlement, award or judgment, made or entered pursuant to chapter 171 of Title 28 of the United States Code, arising from any act or omission of a Kennedy Center Board employee in the performance of a nonappropriated fund activity, shall be paid only from funds available to the Board for its performing arts activities."

SEC. 6. TECHNICAL AMENDMENT.

Section 10 of the Act (20 U.S.C. 76p) is amended—

(1) by striking "he" and inserting "the Secretary"; and

(2) by striking "his" and inserting "the Secretary's".

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

The Act is amended by inserting at the end thereof the following new section 12 (20 U.S.C. 76r):

"SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

"(a) MAINTENANCE, REPAIR AND SECURITY.—There are authorized to be appropriated to the Board $12,000,000 for fiscal year 1995 and each succeeding fiscal year through fiscal year 1999 to carry out subparagraph (H) of section 4(a)(1).

"(b) CAPITAL PROJECTS.—There are authorized to be appropriated to the Board $9,000,000 for fiscal year 1994 and each succeeding fiscal year through fiscal year 1999 to carry out subparagraphs (F) and (G) of section 4(a)(1).

"(c) FEDERAL FUNDS.—No funds appropriated pursuant to this section shall be used for the direct expenses incurred in the production of performing arts attractions, or for personnel (including supplies and equipment used by them) who are involved in performing arts administration, or for production, staging, public relations, marketing, fundraising, ticket sales and education. However, funds appropriated directly to the Board shall not affect nor diminish other federal funds sought for performing arts functions and may be used to reimburse the Board for that portion of costs that are federal costs reasonably allocated to building services and theater maintenance and repairs."

SEC. 8. DEFINITIONS.

The Act is amended by inserting at the end thereof a new section 13 (20 U.S.C. 76s)—

"SEC. 13. DEFINITIONS.

"For the purpose of this Act—

"(1) the term 'capital projects' means capital repairs, replacements, improvements, rehabilitations, alterations and modifications to the existing features of the John F. Kennedy Center for the Performing Arts building and the site, including the theaters, garage, plaza, and building walkways;

"(2) the term 'maintenance, repair and security services' means all services and equipment necessary to maintain and operate the existing features of the John F. Kennedy Center for the Performing Arts building and the site, including the theaters, garage, plaza, and building walkways in a manner consistent with the requirements for high quality operations;

"(3) the terms "building and site of the John F. Kennedy Center for the Performing Arts" and "grounds of the John F. Kennedy Center for the Performing Arts" mean the site in the District of Columbia on which the John F. Kennedy Center building is constructed and which extends to the line of the west face of the west retaining walls and curbs of the Inner Loop Freeway on the east, the north face of the north retaining walls and curbs of the Theodore Roosevelt Bridge approaches on the south, the east face of the east retaining walls and curbs of Rock Creek Parkway on the west, and the south curbs of New Hampshire Avenue and F Street on the north."

SEC. 9. RULES AND REGULATIONS.

Sections 193r, 193u and 193v of Title 40 are amended as follows:

(1) 40 U.S.C. section 193r is amended by striking "and" after "Institution" and substituting a comma, and by adding ", and the Trustees of the John F. Kennedy Center for the Performing Arts," after "National Gallery of Art";

(2) 40 U.S.C. section 193u is amended by striking "and" after "Institution" where "Institution" twice appears, and substituting in both places a comma, and by adding ", and the Trustees of the John F. Kennedy Center for the Performing Arts," after "National Gallery of Art" in both places where "National Gallery of Art" appears; and

(3) 40 U.S.C. section 193v is amended by adding a new subsection (3)—

"(3) The site of the John F. Kennedy Center for the Performing Arts, which shall be held to extend to the line of the west face of the west retaining walls and curbs of the Inner Loop Freeway on the east, the north face of the north retaining walls and curbs of the Theodore Roosevelt Bridge approaches on the south, the east face of the east retaining walls and curbs of Rock Creek Parkway on the west, and the south curbs of New Hampshire Avenue and F Street on the north."

SECTION-BY-SECTION ANALYSIS

Sec. 1: Provides the short title of the bill.

Sec. 2: Repeats the findings of the existing statute.

Redesignates membership on the Board of Trustees.

Reduces the number of years served by a Trustee from 10 to 6.

Allows Trustees appointed previous to enactment of this law to serve out their appointed terms.

Sec. 3: Duties of the Board: requires that the Board:

(a)(1)(A)-(E): Presentations and programs:

Present both national and international classical and contemporary music, opera, drama, dance and other performing arts.

Develop and maintain a leadership role in national performing arts education policy and programs.

Develop and present original and innovative performing arts and educational programs for children, youth, families, adults and educators designed specifically to foster an appreciation and understanding of the performing arts.

Develop and maintain a comprehensive and broad program for national and community outreach.

Establish model programs for adaption by other presenting and educational institutions.

Conduct joint initiatives with Very Special Arts, an affiliate of the JFK Center develops and implements model programs for the disabled.

Ensure that the arts education and outreach programs meet the highest levels of excellence and reflect the cultural diversity of the nation.

(a)(1)(F): Building needs plan:

Develop a comprehensive building needs plan for the Center, not including expansion of the building or construction of new building.

(a)(1)(G): Capital projects: Construct capital projects.

(a)(1)(H): O&M and information: Provide O&M and information and interpretive functions in the building.

(a)(2) (A) and (B): Contract authority: Confirms Board's contract authority, similar to other situated entities, such as the Smithsonian, Holocaust Memorial and confirms Board's authority to enter into interagency agreements with other federal agencies.

(a)(2)(C) and (D) Procurement authority, contractor qualifications: Confirms Board's procurement authority, similar to the National Galler's; because of unique nature of the building, permits negotiation of contracts on basis of contractor qualifications as well as price.

(a)(2)(E): Public visitors: Requires maintenance of the Hall of States, Hall of Nations and Grand Foyer in a manner suitable for a performing arts memorial to the late President.

Sec. 4: Trust Funds, Officers and Employees, Review of Board Actions.

Clarifies Board's status as a bureau of the Smithsonian Institution, but does not alter relationship in any way; eases the legal entanglements regarding the receipt of gifts.

(2)(b): Modifies statutory language concerning leadership of the Kennedy Center to reflect past and present actions of the Board: the Chairperson, who also serves as CEO. Authorizes appointment of building administrator without regard to Title 5 restrictions.

(2) (c) and (d) Transfer: Provides for interagency transfer of pending projects from the Secretary of the Interior to the Board by October 1, 1995.

Transfers to the Board existing National Park Service employees, other than U.S. Park Police, and other security personnel, certain interpretive personnel, and grounds personnel. Carries over civil service entitlements. Confirms Board's authority to reorganize the staff. Gives transferred personnel three years' priority consideration for transfer back to the Department of the Interior. Provides that the Board shall cover the personnel costs of transferred personnel and the costs of any law enforcement and security services U.S. Park Police personnel actions.

(2)(e) Judicial Review: Confirms that other agencies are barred from reviewing actions of the Board only relating to performing arts and to payments made from nonappropriated, trust funds of the Board.

Sec 5: Official Seal, Board Vacancies, and Quorum, Trustee Powers and Obligations, Reports, Support Services, and Review and Audit.

Makes conforming amendments in language.

Requires GAO review of Kennedy Center accounts at least every three years.

Subjects Board to Inspector General Act of 1978 as to funds appropriated under section 12 of the Act.

Authorizes the Board to procure insurance, confirms that the Board's employees are federal employees for purposes of the Federal Employees Compensation act, except that the Board shall continue to cover its non-appropriated fund employees under the District of Columbia workers compensation statute.

Confirms that Board employees and volunteers are barred from any Federal Tort Claims Act action against the United States.

Sec. 6: Technical Amendment.

Sec. 7: Authorization of Appropriations

Maintenance, Repair and Security: Authorizes $12 million for FY'95 and each succeeding fiscal year through FY'99.

Capital Projects: Authorizes $9 million for FY'95 and each succeeding fiscal year through FY'99.

Federal Funds: Requires that no funds appropriated for capital projects or maintenance be used for direct expenses incurred in the production of performing arts attractions or related personnel costs, although the Board may reimburse itself from appropriated funds for federal costs reasonably allocated to building services and theater maintenance and repairs.

Sec. 8: Definitions.

Capital Projects: Capital repairs, replacements, improvements, rehabilitations and modifications to the existing building, theaters, garages, walkways and roadways.

Maintenance, Repair and Security Service: all services necessary to maintain and operate the existing features of the building and all existing interior and exterior spaces.

Defines the building and site of the Center as conforming to the original specification of the site, when the Center was established by Congress.

Sec. 9: Rules and Regulations.

Grants authority to the Kennedy Center trustees to promulgate regulations pertaining to the Kennedy Center site in the same manner as the Secretary of the Smithsonian Institution and Trustees of the National Gallery of Arts are authorized to promulgate regulations. These regulations must be published in the Federal Register.

Provides that the Kennedy Center trustees may suspend the applicability of certain prohibitions in the same manner as the Secretary of the Smithsonian Institution and Trustees of the National Gallery of Art may suspend applicability.

Defines the Kennedy Center site for which the Board may establish rules and regulations.

The proposed amendments do not provide to the Kennedy Center trustees authorization to designate employees as special policemen (40 U.S.C. section 193n), who have police powers (40 U.S.C. section 193u). The

Kennedy Center does not consider that such powers are required for the Kennedy Center's operations at this time.

By Mr. LIEBERMAN:

S. 1718. A bill to create a Supreme Court for the District of Columbia, and for other purposes; to the Committee on Governmental Affairs.

DISTRICT OF COLUMBIA JUDICIAL REORGANIZATION ACT OF 1993

• Mr. LIEBERMAN. Mr. President, I introduce the District of Columbia Judicial Reorganization Act of 1993. Last year, I introduced this bill at the request of the chief judge of the District of Columbia Court of Appeals and the chief judge of the Superior Court of the District of Columbia. The calls for enactment of this legislation to establish a three-tier appellate system for the District of Columbia continue to come from both the bench and the bar.

This bill has two titles. The first title creates a Supreme Court for the District of Columbia, to be the highest court in the District. This court would have an entirely discretionary jurisdiction, and would be the body principally charged with establishing uniform legal interpretations clarifying D.C. law. The current D.C. Court of Appeals would continue to hear appeals as of right from the trial court. The costs of creating and running this new court would be borne by the District, not the Federal Government. The second title adds four more judges to the superior court to handle that court's expanding caseload, expands the authority of the superior court's hearing commissioners to become judicial magistrates, and directs the Executive Office of the District of Columbia Courts to conduct a study of the feasibility and desirability of creating a night court to more speedily process criminal and civil cases.

The proposal to create a Supreme Court for the District of Columbia, thereby creating a three-tier court system similar to most States, has been around for several years. In 1990, the House of Representatives passed a version of this proposal, but it died in the Senate. This bill has already been reported by the House Committee on the District of Columbia, and is currently awaiting action by the full House. In hearings over the last several years, the creation of a three-tier judicial system has the support of the chief judges of the D.C. Court of Appeals and Superior Court, the Mayor, the corporation counsel, the D.C. Bar Association and the Bar Association of the District of Columbia, and the Council for Court Excellence. The administration has also stated that it supports allowing the District to restructure its court system.

Appellate courts have two generally recognized functions: error correction and law clarification. Proponents of moving to a three-tier system argue that because the caseload has grown dramatically, the D.C. Court of Appeals cannot longer perform both functions adequately. Because virtually all cases in the D.C. Court of Appeals are being heard on appeal for the first time as of right, the error correction function dominates the court's work. The caseload of the D.C. Court of Appeals has tripled since its creation in 1971, and it now has almost as many new filings each year as the entire Connecticut appellate court system—which has three-tiers. Indeed, the District of Columbia Court of Appeals has a larger appellate caseload than the appellate systems of 18 States, including seven with three-tier judicial systems.

Despite efforts to speed consideration of routine cases, the D.C. Court of Appeals sits en banc no more than 10 times per year, which gives little opportunity for resolving conflicts between panels. This adds confusion and uncertainty to the criminal and civil laws of the District. The D.C. Court of Appeals has taken a number of steps to increase judicial productivity, but the backlog continues to increase and delay on appeal now runs 22 months on average. This is 2½ times the American Bar Association's standards.

Moving to a three-tier appellate system is a tried and true way of facing up to appellate backlogs when nothing else has worked. Connecticut only recently moved to a three-tier system. Since I last introduced this bill in June 1992, two other States, Nebraska and Mississippi have also established three-tier judicial systems. And both of these States have fewer appellate filings than does the District of Columbia.

This is one of those issues that has been studied to death. Five separate studies have examined whether the District needs a supreme court with discretionary jurisdiction. Four of those five studies, the most recent of which was an exhaustive report completed in 1989 by a special committee of the D.C. bar, concluded that a three-tier judicial system was necessary. While the fifth study, a 1982 study by the District of Columbia Court System Study Committee of the District of Columbia Bar, recommended adding temporary judges to the court of appeals as an alternative, the respected chairman of that committee, Mr. Charles A. Horsky, has subsequently stated that his committee's conclusions were based on caseload assumptions that proved incorrect—they were too low—and he has endorsed the creation of a three-tier court system.

With such broad support and the benefit of a substantial amount of previous study, as well as the experience in other court systems, it is time for the Senate to pass legislation to create a three-tier judicial system in the District of Columbia. Improving the appellate system will improve the speed of final criminal and civil justice in the District. Persons properly convicted of crimes will know sooner that their sentences are final. And in those instances in which a retrial may be necessary, a faster appeals process means less time for memories to fade or for key witnesses to disappear.

Mr. President, it is not my goal to create a new tier in the court system just to do so. Nor is my mind closed to other alternatives to improving the appellate system. But based on the testimony of the chief judges of the D.C. Court of Appeals and the Superior Court, the Mayor, the corporation counsel, and the bar, the evidence so far is that these other alternatives have not solved the problem. The creation of a three-tier system appears to be the only permanent solution. On this matter of purely local concern, we should grant the District of Columbia's request.

I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1718

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "District of Columbia Judicial Reorganization Act of 1993".

TITLE I—SUPREME COURT OF THE DISTRICT OF COLUMBIA

SEC. 101. ESTABLISHMENT OF SUPREME COURT OF THE DISTRICT OF COLUMBIA.

Title 11 of the District of Columbia Code is amended by adding after chapter 5 the following new chapter 6:

"CHAPTER 6. SUPREME COURT OF THE DISTRICT OF COLUMBIA.

"SUBCHAPTER I. ESTABLISHMENT AND ORGANIZATION.

"Sec.
"11–601. Establishment; court of record; seal.
"11–602. Composition.
"11–603. Justices; service; compensation.
"11–604. Oath of justices.
"11–605. Term; hearings; quorum.
"11–606. Absence, disability, or disqualification of judges; vacancies.
"11–607. Assignment of justices and judges to and from other courts of the District of Columbia.
"11–608. Clerks and secretaries for justices.
"11–609. Reports.

"SUBCHAPTER II. JURISDICTION.

"11–621. Certification to the Supreme Court of the District of Columbia.
"11–622. Review by the Supreme Court of the District of Columbia.
"11–623. Certification of questions of law.

"SUBCHAPTER III. MISCELLANEOUS PROVISIONS.

"11–641. Contempt powers.
"11–642. Oaths, affirmations, and acknowledgments.
"11–643. Rules of court.
"11–644. Judicial conference.

"SUBCHAPTER I. ESTABLISHMENT AND ORGANIZATION.

"§ 11–601. Establishment; court of record; seal.

"(a) The Supreme Court of the District of Columbia (hereafter in this chapter referred to as 'the court') is hereby established as a court of record in the District of Columbia.

"(b) The court shall have a seal.

"§ 11–602. Composition.

"The court shall consist of a chief justice and 6 associate justices.

"§ 11–603. Justices; service; compensation.

"(a) The chief justice and the justices of the court shall serve in accordance with chapter 15 of this title.

"(b) Justices of the court shall be compensated at the rate prescribed by law for judges of the United States Court of Appeals. The chief justice shall receive $500 per year in addition to the salary of other justices of the court.

"§ 11–604. Oath of justices.

"Each justice, when appointed, shall take the oath prescribed for judges of courts of the United States.

"§ 11–605. Term; hearings; quorum.

"(a) The court shall sit in one term each year for such period as it may determine.

"(b) The court shall sit in banc to hear and determine cases and controversies, except that the court may sit in divisions of 3 justices to hear and determine cases and controversies certified for review under section 11–621 if the court determines that subsection (b)(2) of such section is the exclusive basis for such certification. The court in banc for a hearing shall consist of the justices of the court in regular active service.

"(c) A majority of the justices serving shall constitute a quorum.

"(d) A rehearing before the court may be ordered by a majority of the justices of the court in regular active service. The court in banc for a rehearing shall consist of the justices of the court in regular active service.

"§ 11–606. Absence, disability, or disqualification of justices; vacancies.

"(a) When the chief justice of the court is absent or disabled, the duties of the chief justice shall devolve upon and be performed by such associate justice as the chief justice may designate in writing. In the event that the chief justice is (1) disqualified or suspended, or (2) unable or fails to make such a designation, such duties shall devolve upon and be performed by the associate justices of the court according to the seniority of their original commissions.

"(b) A chief justice whose term as chief justice has expired shall continue to serve until redesignated or until a successor has been designated. When there is a vacancy in the position of chief justice the position shall be filled temporarily as provided in the second sentence of subsection (a).

"§ 11–607. Assignment of justices and judges to and from other courts of the District of Columbia.

"(a) Upon presentation of a certificate of necessity by the chief judge of the District of Columbia Court of Appeals, the chief justice of the Supreme Court of the District of Columbia may designate and assign temporarily one or more justices of the Supreme Court of the District of Columbia or one or more judges of the Superior Court of the District of Columbia to serve on the District of Columbia Court of Appeals or a division thereof whenever the business of the District of Columbia Court of Appeals so requires. Such designations or assignments shall be in conformity with the rules or orders of the District of Columbia Court of Appeals.

"(b) Upon presentation of a certificate of necessity by the chief judge of the Superior Court of the District of Columbia, the chief justice of the Supreme Court of the District of Columbia may designate and assign temporarily one or more justices of the Supreme Court of the District of Columbia or one or more judges of the District of Columbia Court of Appeals to serve as a judge of the Superior Court of the District of Columbia.

"§ 11–608. Clerks and secretaries for justices.

"Each justice may appoint and remove a personal secretary. The chief justice may appoint and remove not more than three personal law clerks, and each associate justice may appoint and remove not more than two personal law clerks. In addition, the chief justice may appoint and remove law clerks for the court and law clerks and secretaries for the senior justices. The law clerks appointed for the court shall serve as directed by the chief justice.

"§ 11–609. Reports.

"Each justice shall submit to the chief justice such reports and data as the chief justice may request.

"SUBCHAPTER II. JURISDICTION.

"§ 11–621. Certification to the Supreme Court of the District of Columbia.

"(a) In any case or class of cases in which an appeal has been taken to or filed with the District of Columbia Court of Appeals, the Supreme Court of the District of Columbia, by order of the Supreme Court sua sponte, or, in its discretion, on motion of the District of Columbia Court of Appeals or of any party, may certify the case or class of cases for review by the Supreme Court before it has been determined by the District of Columbia Court of Appeals. The effect of such certification shall be to transfer jurisdiction over the case or class of cases to the Supreme Court of the District of Columbia for all purposes.

"(b) Such certification may be made only if not less than 3 of the justices of the Supreme Court of the District of Columbia determine that—

"(1) the case or class of cases involves a question that is novel or difficult or is of importance in the general public interest or the administration of justice; or

"(2) the case or class of cases was pending in the District of Columbia Court of Appeals on the effective date of this section and, because the justices of the Supreme Court of the District of Columbia were familiar with the case or class of cases while serving as judges of the District of Columbia Court of Appeals, the sound and efficient administration of justice dictates that the case or class of cases be certified for review by the Supreme Court of the District of Columbia.

"§ 11–622. Review by the Supreme Court of the District of Columbia.

"(a) Any party aggrieved by a final decision of the District of Columbia Court of Appeals may petition the Supreme Court of the District of Columbia for an appeal. Such a petition may be granted and appeal be heard by the Supreme Court of the District of Columbia only upon the affirmative vote of not less than 3 of the justices that the matter involves a question that is novel or difficult, is the subject of conflicting authorities within the jurisdiction, or is of importance in the general public interest or the administration of justice. The granting of such petitions for appeal shall be in the discretion of the Supreme Court of the District of Columbia. The Supreme Court of the District of Columbia shall not be required to state reasons for denial of petitions for appeal.

"(b) On hearing an appeal in any case or controversy, the Supreme Court of the District of Columbia shall give judgment after an examination of the record without regard to errors or defects which do not affect the substantial rights of the parties.

"§ 11–623. Certification of questions of law.

"(a) The Supreme Court of the District of Columbia may answer a question of law of the District of Columbia certified to it by the Supreme Court of the United States, a Court of Appeals of the United States, or the highest appellate court of any State, if—

"(1) such question of law may be determinative of the case pending in such a court; and

"(2) there is no controlling precedent regarding such question of law in the decisions of the District of Columbia Court of Appeals or the Supreme Court of the District of Columbia.

"(b) This section may be invoked by an order of any of the courts referred to in subsection (a) upon such court's motion or upon the motion of any party to the case.

"(c) A certification order under this section shall—

"(1) describe the question of law to be answered;

"(2) contain a statement of all facts relevant to the question certified and the nature of the controversy in which the questions arose; and

"(3) upon the request of the Supreme Court of the District of Columbia contain the original or copies of the record of the case in question or of any portion of such record as the Supreme Court of the District of Columbia considers necessary to determine the questions of law which are the subject of the motion.

"(d) Fees and costs shall be the same as in appeals docketed before the Supreme Court of the District of Columbia and shall be equally divided between the parties unless precluded by statute or by order of the certifying court.

"(e) The written opinion of the Supreme Court of the District of Columbia stating the law governing any questions certified under subsection (a) shall be sent by the clerk to the certifying court and to the parties.

"(f) The Supreme Court of the District of Columbia, on its own motion, the motion of the District of Columbia Court of Appeals, or the motion of any party to a case pending in the Supreme Court of the District of Columbia or the District of Columbia Court of Appeals, may order certification of a question of law of another State to the highest court of such State if, in the view of the Supreme Court of the District of Columbia—

"(1) such question of law may be determinative of the case pending in the Supreme Court of the District of Columbia or the District of Columbia Court of Appeals; and

"(2) there is no controlling precedent regarding such question of law in the decisions of the appellate courts of the State to which the order of certification is directed.

"(g) The Supreme Court of the District of Columbia may prescribe the rules of procedure concerning the answering and certification of questions of law under this section.

"SUBCHAPTER III. MISCELLANEOUS PROVISIONS

"§ 11–641. Contempt powers.

"In addition to the powers conferred by section 402 of title 18, United States Code, the Supreme Court thereof, of the District of Columbia, or a justice thereof, may punish for disobedience of an order or for contempt committed in the presence of the court.

"§ 11–642. Oaths, affirmations, and acknowledgments.

"Each justice of the Supreme Court of the District of Columbia and each employee of the court authorized by the chief justice may administer oaths and affirmations and take acknowledgments.

"§ 11–643. Rules of court.

"The Supreme Court of the District of Columbia shall conduct its business in accordance with such rules and procedures as the court shall adopt.

"§ 11–644. Judicial conference.

"The chief justice of the Supreme Court of the District of Columbia shall summon annually the justices and active judges of the District of Columbia courts to a conference at a time and place that the chief justice designates, for the purpose of advising as to means of improving the administration of justice within the District of Columbia. The chief justice shall preside at such conference which shall be known as the Judicial Conference of the District of Columbia. Each justice and judge summoned, unless excused by the chief justice of the Supreme Court of the District of Columbia, shall attend throughout the conference. The Supreme Court of the District of Columbia shall provide by its rules for representation of and active participation by members of the unified District of Columbia Bar and other persons active in the legal profession at such conference.".

SEC. 102. TRANSITION PROVISIONS.

(a) ELEVATION OF JUDGES OF THE DISTRICT OF COLUMBIA COURT OF APPEALS AS JUSTICES OF THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.—

(1) Except as provided in paragraph (2), beginning on the effective date of this title the chief judge of the District of Columbia Court of Appeals shall serve the remainder of the term to which he or she was appointed as the chief justice of the Supreme Court of the District of Columbia and the associate judges of the District of Columbia Court of Appeals shall serve the remainder of the respective terms to which they were appointed as associate justices of the Supreme Court of the District of Columbia. The Supreme Court of the District of Columbia shall conform to the numerical requirements of section 11–602 of the D.C. Code through attrition. Vacancies in the offices of chief judge and associate judge of the District of Columbia Court of Appeals shall be filled in accordance with chapter 15 of title 11 of the D.C. Code.

(2) Any judge of the District of Columbia Court of Appeals may serve the remainder of the term to which he or she was appointed as a judge of that court by providing written notice to the chief judge of the District of Columbia Court of Appeals not less than 30 days after the date of the enactment of this Act.

(b) TRANSITION PERIOD FOR THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.—

(1) A committee consisting of the chief judge of the District of Columbia Court of Appeals together with 2 other judges of such court and the chief judge of the Superior Court of the District of Columbia together with 2 other judges of such court shall be responsible for the administration of the period of transition prior to the establishment of the Supreme Court of the District of Columbia, including the hiring of necessary staff, the preparation of facilities, and the purchase of necessary equipment and supplies.

(2) Not more than 120 days after the date of the enactment of this Act, the committee referred to in paragraph (1) shall submit to the Committee on Governmental Affairs of the Senate and the Committee on the District of Columbia of the House of Representatives a transition report, consistent with this Act, regarding the establishment of the Supreme Court of the District of Columbia and the filling of vacancies on the District of Columbia Court of Appeals resulting from the elevation of the judges of such Court to positions on the Supreme Court of the District of Columbia pursuant to subsection (a).

(3) This subsection shall take effect on the date of the enactment of this Act.

SEC. 103. CONFORMING AND OTHER AMENDMENTS.

(a) AMENDMENTS TO THE HOME RULE ACT.—

(1) Section 431(a) of the District of Columbia Self-Government and Governmental Reorganization Act is amended—

(A) in the first sentence by inserting "Supreme Court of the District of Columbia," after "vested in the"; and

(B) by adding after the fourth sentence the following: "The Supreme Court of the District of Columbia has jurisdiction of appeals from the District of Columbia Court of Appeals and of cases certified to the Supreme Court under section 11–621(a), District of Columbia Code.".

(2) Section 431 of such Act is further amended—

(A) in subsection (b)—

(i) by inserting "chief justice or" before "chief judge" each place it appears,

(ii) by striking "term as a judge" and inserting "term as a justice or judge", and

(iii) by inserting "chief justice's or" before "chief judge's" each place it appears;

(B) in subsections (b) and (g), by inserting "justices or" before "judges" each place it appears; and

(C) in subsections (c) and (g), by inserting "justice or" before "judge" each place it appears.

(3) Section 432 of such Act is amended—

(A) by inserting "justice or" before "judge" each place it appears;

(B) by striking "District of Columbia Court of Appeals" each place it appears and inserting "Supreme Court of the District of Columbia"; and

(C) in subsection (a)(1) by striking "law or which would be a felony in the District" and inserting "law or the laws of the District of Columbia".

(4) Section 433 of such Act is amended—

(A) in the heading by inserting "JUSTICES AND" before "JUDGES";

(B) by inserting "justices and" before "judges" each place it appears; and

(C) by inserting "justice or" before "judge" each place it appears.

(5) Section 434 of such Act is amended in subsections (b)(3) and (d)—

(A) by inserting "justice or" before "judge" each place it appears;

(B) by inserting "justices or" before "judges" each place it appears; and

(C) by inserting "justice's or" before "judge's" each place it appears.

(b) AMENDMENTS TO CHAPTER 1 OF TITLE 11, D.C. CODE.—

(1) Section 11–101(2), D.C. Code, is amended by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively, and by adding before subparagraph (B) (as so redesignated) the following:

"(A) The Supreme Court of the District of Columbia.".

(2) Section 11–102, D.C. Code, is amended to read as follows:

"§ 11–102. Status of Supreme Court of the District of Columbia.

"The highest court of the District of Columbia is the Supreme Court of the District of Columbia. Final judgments, orders, and decrees of the Supreme Court of the District of Columbia and of the District of Columbia Court of Appeals where review is denied by the Supreme Court of the District of Columbia are reviewable by the Supreme Court of the United States in accordance with section 1257 of title 28, United States Code.".

(3) The item relating to section 11–102 of the table of contents of chapter 1 of title 11, D.C. Code, is amended to read as follows:

"11–102. Status of Supreme Court of the District of Columbia.".

(c) AMENDMENTS TO CHAPTER 7 OF TITLE 11, D.C. CODE.—

(1) Chapter 7 of title 11, D.C. Code, is amended by striking sections 11–707, 11–723, and 11–744 and by striking the items relating to such sections in the table of contents of such chapter.

(2) Section 11–703(b), D.C. Code, is amended by striking "the rate prescribed by law for judges of the United States courts of appeals." and inserting the following: "a rate equal to the average of the compensation provided for judges of the Supreme Court of the District of Columbia under section 11–603 and the compensation provided for judges of the Superior Court of the District of Columbia under section 11–904(b).".

(3) Section 11–708, D.C. Code, is amended by striking "not more than three law clerks for the court." and inserting "law clerks for the court and law clerks and secretaries for the senior judges.".

(4) Section 11–722, D.C. Code, is amended by striking "Commissioner" and inserting "Mayor".

(5) Section 11–743, D.C. Code, is amended by striking "according to" and all that follows and inserting "in accordance with such rules and procedures as it may adopt.".

(d) AMENDMENTS TO CHAPTER 9 OF TITLE 11, D.C. CODE.—

(1) Section 11–908(b), D.C. Code, is amended to read as follows:

"(b) When the business of the Superior Court requires, the chief judge may certify to the chief justice of the Supreme Court of the District of Columbia the need for an additional judge or judges as provided in section 11–607 and 11–707.".

(2) Section 11–910, D.C. Code, is amended by adding at the end the following new sentence: "In addition, the chief judge may appoint and remove law clerks for the court, who shall serve as directed by the chief judge.".

(3) Section 11–946, D.C. Code, is amended by striking "District of Columbia Court of Appeals" each place it appears in the second and third sentences and inserting "Supreme Court of the District of Columbia".

(e) AMENDMENTS TO CHAPTER 15 OF TITLE 11, D.C. CODE.—

(1) Section 11–1501, D.C. Code, is amended to read as follows:

"§ 11–1501. Appointment and qualifications of judges.

"(a) Except as provided in section 434(d)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, the President shall nominate, from the list of persons recommended by the District of Columbia Judicial Nomination Commission established under section 434 of such Act, and, by and with the advice and consent of the Senate, appoint all justices and judges of the District of Columbia courts.

"(b) No person may be nominated or appointed a justice or judge of a District of Columbia court unless that person—

"(1) is a citizen of the United States;

"(2) is an active member of the unified District of Columbia Bar and has been engaged in the active practice of law in the District for the five years immediately preceding nomination or for such five years has served as a judge of the United States or the District of Columbia, has been on the faculty of a law school in the District, or has been employed as a lawyer by the United States or the District of Columbia government;

"(3) is a bona fide resident of the District of Columbia and has maintained an actual place of abode in the District for at least 90 days immediately prior to nomination, and shall retain such residency as long as he or she serves as such judge, except judges appointed prior to December 23, 1973, who retain residency in Montgomery or Prince Georges Counties in Maryland, Arlington or Fairfax Counties (or any cities within the outer boundaries thereof) or the city of Alexandria in Virginia shall not be required to be residents of the District to be eligible for reappointment or to serve any term to which reappointed;

"(4) is recommended to the President, for such nomination and appointment, by the District of Columbia Judicial Nomination Commission; and

"(5) has not served, within a period of 2 years prior to nomination, as a member of the District of Columbia Commission on Judicial Disabilities and Tenure or of the District of Columbia Judicial Nomination Commission.".

(2) Section 11-1504(a)(1), D.C. Code, is amended by striking the period at the end of the first sentence and inserting the following: ", except that a retired judge may not serve or perform judicial duties on the Supreme Court of the District of Columbia.".

(3) Section 11-1505(a), D.C. Code, is amended in the second sentence by striking "District" and all that follows and inserting "court of the District of Columbia on which the judge serves.".

(4) Subchapter I of chapter 15 of title 11, D.C. Code, is amended by adding at the end the following new section:

"§ 11-1506. Definitions.

"For purposes of this chapter—

"(1) the term 'judge' means any justice of the Supreme Court of the District of Columbia, or any judge of the District of Columbia Court of Appeals or the Superior Court; and

"(2) the term 'chief judge' means the chief justice of the Supreme Court of the District of Columbia, or the chief judges of the District of Columbia Court of Appeals or the Superior Court, as appropriate.".

(5) Section 11-1526, D.C. Code, is amended by striking "District of Columbia Court of Appeals" each place it appears and inserting "Supreme Court of the District of Columbia".

(6) Section 11-1528, D.C. Code, is amended in subsection (a)(2)(C) by inserting "the Supreme Court of the District of Columbia or" after "elevation to".

(7) Section 11-1529, D.C. Code, is amended by striking "District of Columbia Court of Appeals" and inserting "Supreme Court of the District of Columbia".

(8) Section 11-1561, D.C. Code, is amended—

(A) in paragraph (1), by inserting "any justice of the Supreme Court of the District of Columbia," before "any judge"; and

(B) in paragraph (2), by inserting "a justice in the Supreme Court of the District of Columbia," before "a judge".

(9) The table of sections for subchapter I of chapter 15 of title 11, D.C. Code, is amended by adding at the end the following:

"11-1506. Definitions.".

(f) AMENDMENTS TO CHAPTER 17 OF TITLE 11, D.C. CODE.—

(1) Section 11-1701, D.C. Code, is amended—

(A) by amending subsection (a) to read as follows:

"(a) There shall be a Joint Committee on Judicial Administration in the District of Columbia (hereafter in this chapter referred to as the 'Joint Committee') consisting (during the first 3 fiscal years that begin after the date of the enactment of the District of Columbia Judicial Reorganization Act of 1993) of the chief justice of the Supreme Court of the District of Columbia (who shall serve as chairperson) and two other justices of such court, the chief judge of the District of Columbia Court of Appeals, and the chief judge of the Superior Court of the District of Columbia and two additional judges of such court.";

(B) in subsection (b)—

(i) by amending paragraph (4) to read as follows:

"(4) Preparation and publication of an annual report of the District of Columbia court system regarding the work of the courts, the performance of the duties enumerated in this chapter, and any recommendations relating to the courts.", and

(ii) by striking paragraphs (6) and (9) and redesignating paragraphs (7) and (8) as paragraphs (6) and (7); and

(C) in subsection (c)—

(i) by amending paragraph (2) to read as follows:

"(2) formulate and enforce standards for outside activities of and receipt of compensation by the judges of the District of Columbia court system;",

(ii) in paragraph (3), by striking ", and institute such changes" and all that follows through "justice",

(iii) by striking "and" at the end of paragraph (3),

(iv) by striking the period at the end of paragraph (4) and inserting a semicolon, and

(v) by adding at the end the following new paragraphs:

"(5) submit the annual budget requests of the Supreme Court of the District of Columbia, the District of Columbia Court of Appeals, and the Superior Court to the Mayor of the District of Columbia as part of the integrated budget of the District of Columbia court system, except that any such request may be modified upon the concurrence of 5 of the 7 members of the Joint Committee; and

"(6) with the concurrence of the chief justice of the Supreme Court of the District of Columbia and the respective chief judges of the other District of Columbia courts, prepare and implement other policies and practices for the District of Columbia court system and resolve other matters which may be of joint and mutual concern of the Supreme Court of the District of Columbia, the District of Columbia Court of Appeals, and the Superior Court.".

(2) Section 11-1702, D.C. Code, is amended—

(A) in the heading, by inserting "**the chief justice and the**" after "**of**";

(B) by redesignating subsections (a) and (b) as subsections (b) and (c); and

(C) by inserting before subsection (b) the following new subsection:

"(a) The chief justice of the Supreme Court of the District of Columbia, in addition to the authority conferred by chapter 6 of this title, shall supervise the internal administration of that court—

"(1) including all administrative matters other than those within the responsibility enumerated in section 11-1701(b), and

"(2) including the implementation in that court of the matters enumerated in section 11-1701(b),

consistent with the general policies and directives of the Joint Committee.".

(3) Section 11-1703(a), D.C. Code, is amended—

(A) by striking "He" each place it appears and inserting "The Executive Officer"; and

(B) in the fourth sentence, by striking "judges" and inserting "judge of the District of Columbia Court of Appeals and the chief judge of the Superior Court of the District of Columbia".

(4) Section 11-1721, D.C. Code, is amended by amending the matter following the heading to read as follows:

"(a) The Supreme Court of the District of Columbia shall have a clerk appointed by the chief justice of that court who shall, under the direction of the chief justice, be responsible for the daily operations of that court and serve as the clerk of the District of Columbia Court of Appeals.

"(b) The Superior Court of the District of Columbia shall have a clerk appointed by the chief judge of that court who shall, under the direction of the chief judge, be responsible for the daily operations of that court.

"(c) Each such clerk appointed under this section shall receive a level of compensation, including retirement benefits, determined by the Joint Committee on Judicial Administration, except that such level may not exceed the level of compensation provided for the Executive Officer.".

(5) Section 11-1726, D.C. Code, is amended—

(A) in the first sentence, by striking "Executive Officer" and all that follows and inserting "Joint Committee (upon the recommendation of the Executive Officer) shall fix the rates of compensation of such employees."; and

(B) in the second sentence, by striking "Executive Officer" and inserting "Joint Committee".

(6) Section 11-1730(a), D.C. Code, is amended—

(A) by striking "Judges" and inserting "Justices and judges";

(B) by inserting "11-609," after "sections"; and

(C) by inserting "chief justice or" after "respective".

(7) Section 11-1731, D.C. Code, is amended—

(A) by striking "or the chief judge" and inserting ", the chief justice, or the chief judges";

(B) in paragraph (7), by striking "the District of Columbia Bail Agency" and inserting "the District of Columbia Pre-trial Services Agency";

(C) by inserting "and" at the end of paragraph (9); and

(D) by striking paragraphs (10) and (11) and inserting the following:

"(10) the Department of Human Services.".

(8) Section 11-1741, D.C. Code, is amended—

(A) by amending the matter preceding paragraph (1) to read as follows: "Within the District of Columbia courts, and subject to the supervision of the chief justice of the Supreme Court of the District of Columbia (acting in consultation with the chief judge of the District of Columbia Court of Appeals and the chief judge of the Superior Court of the District of Columbia), the Executive Officer shall—";

(B) by inserting "chief justice or" before "chief" each place it appears in paragraphs (5), (7), and (9);

(C) by striking "and" at the end of paragraph (8);

(D) by striking the period at the end of paragraph (9) and inserting "; and"; and

(E) by adding at the end the following:

"(10) be responsible for the allocation, negotiation for, and provision of space in the courts.".

(9) Section 11-1745(b)(2), D.C. Code, is amended by striking "Commissioner" and inserting "Mayor".

(10) Section 11-1747, D.C. Code, is amended by striking "him" and inserting "the Executive Officer".

(11) The table of sections for subchapter I of chapter 17 of title 11, D.C. Code, is amended by amending the item relating to section 11-1702 to read as follows:

"11-1702. Responsibilities of the chief justice and the chief judges in the respective courts.".

(g) AMENDMENT TO CHAPTER 21 OF TITLE 11, D.C. CODE.—Section 11-2102(c), D.C. Code, is amended by striking "Superior Court" and all that follows and inserting "Joint Committee on Judicial Administration in the District of Columbia in accordance with section 11-1726.".

(h) AMENDMENTS TO CHAPTER 25 OF TITLE 11, D.C. CODE.—

(1) Section 11-2501, D.C. Code, is amended—

(A) by striking "District of Columbia Court of Appeals" each place it appears and inserting "Supreme Court of the District of Columbia"; and

(B) by amending subsection (c) to read as follows:

"(c) Members of the bar of the District of Columbia Court of Appeals in good standing on the effective date of title I of the District of Columbia Judicial Reorganization Act of 1993 shall be automatically enrolled as members of the bar of the Supreme Court of the District of Columbia, and shall be subject to its disciplinary jurisdiction.".

(2) Section 11-2502, D.C. Code, is amended by striking "District of Columbia Court of Appeals" and inserting "Supreme Court of the District of Columbia".

(3) Section 11-2503, D.C. Code, is amended by striking "District of Columbia Court of Appeals" and inserting "Supreme Court of the District of Columbia".

(4) Section 11-2504, D.C. Code, is amended by striking "District of Columbia Court of Appeals" and inserting "other courts of the District of Columbia".

(i) AMENDMENT TO CHAPTER 26 OF TITLE 11, D.C. CODE.—Section 11-2607, D.C. Code, is amended by striking "Commissioner" and inserting "Mayor".

(j) AMENDMENT TO CHAPTER 3 OF TITLE 13, D.C. CODE.—Section 13-302, D.C. Code, is amended by inserting "the Supreme Court of the District of Columbia," after "process of".

(k) AMENDMENTS TO CHAPTER 3 OF TITLE 17, D.C. CODE.—

(1) The chapter heading for chapter 3 of title 17, D.C. Code, is amended by inserting "SUPREME COURT OF THE DISTRICT OF COLUMBIA AND" before "DISTRICT".

(2) Section 17-302, D.C. Code, is amended by striking "District of Columbia Court of Appeals" each place it appears and inserting "Supreme Court of the District of Columbia".

(3) Section 17-305, D.C. Code, is amended by adding at the end the following new subsection:

"(c) The Supreme Court of the District of Columbia shall apply the same standards regarding the scope of review and the reversal of judgment as the District of Columbia Court of Appeals applies under subsections (a) and (b).".

(4) Section 17-306, D.C. Code, is amended by inserting "Supreme Court of the District of Columbia or the" before "District".

(l) AMENDMENT TO CHAPTER 5 OF TITLE 21, D.C. CODE.—The first sentence of section 21-502(e), D.C. Code, is amended by striking "in accordance with" and all that follows and inserting "by the Joint Committee on Judicial Administration in the District of Columbia in accordance with section 11-1726.".

(m) AMENDMENT TO TITLE 5, UNITED STATES CODE.—Section 5102(c)(4) of title 5, United States Code, is amended by striking "the chief judges" and inserting "the chief justice and the associate justices of the Supreme Court of the District of Columbia and the chief judges".

(n) AMENDMENTS TO TITLE 18, UNITED STATES CODE.—(1) Section 3006A(k) of title 18, United States Code, is amended in the second sentence by striking "the Superior Court" and all that follows and inserting "the Supreme Court of the District of Columbia, the District of Columbia Court of Appeals, or the Superior Court of the District of Columbia.".

(2) Section 6001(4) of title 18, United States Code, is amended by inserting "the Supreme Court of the District of Columbia," before "the District of Columbia Court of Appeals,".

(o) AMENDMENTS TO TITLE 28, UNITED STATES CODE.—(1) Section 1257(b) of title 28, United States Code, is amended by striking "District of Columbia Court of Appeals" and inserting "Supreme Court of the District of Columbia".

(2) Section 2113 of title 28, United States Code, is amended by striking "District of Columbia Court of Appeals" and inserting "Supreme Court of the District of Columbia".

SEC. 104. EFFECTIVE DATE.

Except as provided in section 102, this title and the amendments made by this title shall take effect 6 months after the date of enactment of this Act.

TITLE II—JUDGES OF THE DISTRICT OF COLUMBIA COURTS

SEC. 201. DESIGNATION OF CHIEF JUDGE.

(a) IN GENERAL.—Section 11-1503(a), D.C. Code, is amended to read as follows:

"(a)(1) Except as provided in paragraph (2), the chief justice or chief judge of a District of Columbia court shall be designated by the District of Columbia Judicial Nomination Commission from among the judges of the court in regular active service. A chief judge shall serve for a term of 4 years or until a successor is designated, and shall be eligible for redesignation. A judge may relinquish the position of chief judge, after giving notice to the District of Columbia Judicial Nomination Commission.

"(2) Notwithstanding the first sentence of paragraph (1), the first chief justice of the Supreme Court of the District of Columbia shall be appointed in accordance with section 102(a) of the District of Columbia Judicial Reorganization Act of 1993.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 202. COMPOSITION OF SUPERIOR COURT OF THE DISTRICT OF COLUMBIA.

Section 11-903, D.C. Code, is amended—

(1) effective October 1, 1993, by striking "fifty-eight" and inserting "sixty"; and

(2) effective October 1, 1994, by striking "sixty" and inserting "sixty-two".

SEC. 203. TREATMENT OF HEARING COMMISSIONERS AS JUDICIAL MAGISTRATES.

(a) IN GENERAL.—

(1) REDESIGNATION OF TITLE.—Section 11-1732, D.C. Code, is amended—

(A) by striking "hearing commissioners" each place it appears in subsection (a), subsection (b), subsection (d), subsection (i), subsection (l), and subsection (n) and inserting "judicial magistrates";

(B) by striking "hearing commissioner" each place it appears in subsection (b), subsection (c), subsection (e), subsection (f), subsection (g), subsection (h), and subsection (j) and inserting "judicial magistrate";

(C) by striking "hearing commissioner's" each place it appears in subsection (e) and subsection (k) and inserting "judicial magistrate's";

(D) by striking "Hearing commissioners" each place it appears in subsections (b), (d), and (i) and inserting "Judicial magistrates"; and

(E) in the heading, by striking "**Hearing commissioners**" and inserting "**Judicial magistrates**".

(2) CONFORMING AMENDMENTS.—(A) Section 11-1732(c)(3), D.C. Code, is amended by striking ", except that" and all that follows and inserting a period.

(B) Section 16-924, D.C. Code, is amended—

(i) by striking "hearing commissioner" each place it appears and inserting "judicial magistrate"; and

(ii) in subsection (f), by striking "hearing commissioner's" and inserting "judicial magistrate's".

(C) Section 16-2308, D.C. Code, is amended by striking "judge" each place it appears and inserting "judicial officer".

(D) Section 16-2312, D.C. Code, is amended—

(i) by striking "judge" each place it appears in subsections (c), (d), (e), (f), and (j) and inserting "judicial officer";

(ii) in subsection (c), by striking "He" each place it appears and inserting "The judicial officer";

(iii) in subsection (d)(1), by striking "his reasons" and inserting "the reasons" and by striking "he finds" each place it appears and inserting "the judicial officer finds";

(iv) in subsection (d)(2)(A), by striking "supervise him" and inserting "supervise the child";

(v) in subsection (d)(2)(C), by striking "his protection" and inserting "the child's protection";

(vi) in subsection (e), by striking "he shall" and inserting "the judicial officer shall";

(vii) in subsection (f), by striking "his reasons" and inserting "the reasons", and by striking "he shall" each place it appears and inserting "the judicial officer shall";

(viii) by striking "his detention" each place it appears in subsections (h) and (i) and inserting "the child's detention"; and

(ix) in subsection (j), by striking "his parent" and inserting "the child's parent".

(3) CLERICAL AMENDMENT.—The item relating to section 11-1732 of the table of sections of chapter 17 of title 11, D.C. Code, is amended to read as follows:

"11-1732. Judicial magistrates.".

(4) TRANSITION PROVISION REGARDING HEARING COMMISSIONERS.—Any individual serving as a hearing commissioner under section 11-1732 of the District of Columbia Code as of the date of the enactment of this Act shall serve the remainder of such individual's term as a judicial magistrate, and may be reappointed as a judicial magistrate in accordance with section 11-1732(d), D.C. Code, except that any individual serving as a hearing commissioner as of the date of the enactment of this Act who was appointed as a

hearing commissioner prior to the effective date of section 11–1732 of the District of Columbia Code shall not be required to be a resident of the District of Columbia to be eligible to be reappointed.

(b) EXPANSION OF DUTIES.—Section 11–1732(j), D.C. Code, is amended—

(1) in paragraph (4)(A)—

(A) by inserting after "involving" the following: "the establishment of paternity or", and

(B) by striking "guidelines established by rule of the Superior Court" and inserting "child support guidelines established by the Council of the District of Columbia";

(2) in paragraph (5), by striking "and Family" and inserting "Family, Probate, and Tax";

(3) by redesignating paragraph (5) as paragraph (7); and

(4) by inserting after paragraph (4) the following new paragraphs:

"(5) Conduct detention, neglect, and shelter care proceedings in which a child is alleged to be delinquent, neglected, or in need of supervision.

"(6) Conduct proceedings and issue orders in uncontested probate and fiduciary matters brought under title 20 of the District of Columbia Code.".

(c) ADDITIONAL CONFORMING AMENDMENTS.—(1) Section 11–1732(d), D.C. Code, as amended by subsection (a)(1), is further amended—

(A) by striking the period at the end of the first sentence and inserting ", in accordance with standards and procedures established by the Superior Court."; and

(B) by striking the second sentence.

(2) Section 11–1732(m), D.C. Code, is amended to read as follows:

"(m) The Chief Judge of the Superior Court shall, from time to time, conduct such studies on the utilization of judicial magistrates as the Board of Judges shall deem expedient, taking into account the suggestions of the District of Columbia Bar and other interested parties.".

(3) Section 11–1732, D.C. Code, is amended by adding at the end the following new subsection:

"(p) The Joint Committee on Judicial Administration in the District of Columbia shall determine the rate of compensation for judicial magistrates in accordance with section 11–1726.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 204. STUDY OF FEASIBILITY OF ESTABLISHING DISTRICT OF COLUMBIA NIGHT COURT.

(a) STUDY.—The Executive Officer of the District of Columbia courts shall conduct a study of the feasibility and desirability of establishing a District of Columbia Night Court as a division of the Superior Court of the District of Columbia.

(b) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Executive Officer shall submit a report on the study conducted under subsection (a) to the Joint Committee on Judicial Administration in the District of Columbia, which shall forward the study together with any comments and recommendations to Congress not later than 180 days after the date of the enactment of this Act.•

By Mr. LIEBERMAN:

S. 1719. A bill to amend title XI of the Social Security Act to delay the penalty for failure of employers to file certain reports with respect to the Medicare and Medicaid coverage data bank; to the Committee on Finance.

MEDICARE DATA BANK PENALTY DELAY ACT

• Mr. LIEBERMAN. Mr. President, I introduce a bill that addresses a problem created by faulty legislation and an intransigent bureaucracy. Earlier this year, as part of the Omnibus Budget Reconciliation Act, Congress created the Medicare data bank. The goal of that legislation is to get the information necessary to determine when Medicare is paying bills that should be paid by private insurers.

The goal of collecting these funds is a laudable one, and I support that effort. But this solution has not been well thought through. What is a problem of communication between a patient, the health care provider, Medicare, and insurance companies is solved by placing a tremendous burden on business. Business is not part of the problem, but under the Medicare data bank they must bear the burden and expense of the solution. To add insult to injury, 95 to 98 percent of the information collected will never be used. Only 2 to 5 percent of the labor force and their dependents are eligible for Medicare and have private health insurance.

At the time the legislation was introduced, I argued that the legislation was misguided. I held hearings that showed how contemporary information technology could provide better solutions with less overall expense, and that insurance companies and plan administrators are ready to consider these alternatives. Unfortunately, the administration persisted, and Congress gave them what they wanted—authority to create this Medicare data bank.

GAO has recently reviewed the data bank proposal and confirmed what we suspected, that the data bank is a clumsy, expensive way to address the problem of coordination of benefits with Medicare. I hope we can revisit this proposal as part of health care reform.

As of January 1, 1994, each employer must record, for each employee and their dependents, the type of health care, the period of coverage, Social Security numbers, and name and address. Most companies don't currently collect and retain all this information, particularly for spouses and dependents. Even insurance companies don't necessarily record the Social Security number for each person covered. Some process all claims using the Social Security number, or other identification number, of only the covered employee.

The Health Care Financing Administration [HCFA] which is charged with maintaining this data bank, has not issued any guidance to businesses on what to collect or in what form the information should be reported. To make matters worse, HCFA has refused to meet with anyone to discuss the data bank until after January. That means that beginning January 1, every employer will be responsible for collecting this information, and subject to substantial penalty if it is not collected, but without any guidance from HCFA on what to report to how to report it.

In other words, HCFA is saying:

> We're going to fine you if you don't collect this information, even if you don't know you are supposed to collect it. And if the form we decide on for submission costs you money, or you have to go back and pay to reconstruct records to discover data we didn't tell you to collect, that's just too bad.

This does not sound like the customer oriented Government that President Clinton and Vice-President GORE said they were bringing us. This sounds more like Kafka's bureaucracy.

The provisions of this bill are quite simple. No penalties can be charged to employers for not reporting information they were not told to collect. In other words, until HCFA issues guidance telling employers what to collect and how to report it, employers can not be penalized for not collecting the information.

Because of the way the initial legislation was written, this bill adds two other provisions. First, penalties can be imposed for collections beginning the calendar year after HCFA issues guidance. The initial legislation for the data bank requires employers to report coverage data for one calendar year at the beginning of the following year. This change conforms penalties to the reporting schedule. Second, a reasonable period of time must be given for employers to alter their systems to collect and store this information.

This bill is simply a matter of fairness. It is unconscionable to impose penalties on business for not collecting information when we haven't told them what to collect or how to submit it. If HCFA can't issue final guidance to employers before January 1, penalties should be waived.

Mr. President. I ask unanimous consent that the text of the bill and additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1719

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DELAY OF PENALTY FOR FAILURE OF EMPLOYERS TO FILE REPORTS WITH THE SECRETARY OF HEALTH AND HUMAN SERVICES WITH RESPECT TO THE MEDICARE AND MEDICAID COVERAGE DATA BANK.

(a) IN GENERAL.—Section 1144(c)(9) of the Social Security Act (42 U.S.C. 1320b–14(c)(9)), as added by section 13581(a) of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66), is amended to read as follows:

"(9) PENALTY FOR FAILURE TO REPORT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), in the case of the failure of an employer (other than a Federal or other governmental entity) to report under paragraph (1)(A) with respect to each electing individual, the Secretary shall impose a penalty as described in part II of subchapter B of chapter 68 of the Internal Revenue Code of 1986.

"(B) DELAY OF PENALTY.—Subparagraph (A) shall not apply before the first day of the first calendar year which begins 90 days after the Secretary has promulgated regulations with respect to the information required to be reported under paragraph (1)(A) and with respect to the manner (including electronic transmission) in which such information is required to be reported.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective as if included in the enactment of section 13581(a) of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66).

GENERAL ACCOUNTING OFFICE,
Washington, DC, November 15, 1993.

Hon. JOSEPH I. LIEBERMAN,
Chairman, Subcommittee on Regulation and Government Information, Committee on Governmental Affairs, U.S. Senate.

DEAR MR. CHAIRMAN: On June 2, 1993, you requested that we study ways to simplify the administration of the Medicare Secondary Payer (MSP) Provisions. These provisions require that, in certain cases, health and accident insurers covering Medicare beneficiaries pay medical claims ahead of Medicare. The purpose of these provisions is to save Medicare funds by ensuring that Medicare does not pay when other insurance is available. Although our work is not yet complete, you asked us to provide our observations on whether the recently mandated Medicare and Medicaid Coverage Data Bank will contribute to more effective MSP program administration.

BACKGROUND

Section 13581 of the Omnibus Budget Reconciliation Act of 1993 (OBRA-93), signed into law on August 10, 1993, directed the Secretary of Health and Human Services (HHS) to establish the Medicare and Medicaid Coverage Data Bank. The act requires employers to report to the Secretary of HHS detailed information on the health insurance coverage they provide to their workers, including descriptive data on these employees, their dependents, and their insurers. The act requires employers to report this information for calendar years beginning in 1994. The Health Care Financing Administration (HCFA), which administers the MSP provisions, has been assigned responsibility for administering the data bank.

The aim of the data bank is to provide a source of information for the Medicare and Medicaid programs to more readily identify and collect payments from health insurers for covered beneficiaries. The Congressional Budget Office estimated that over the next 5 years (fiscal years 1994 through 1998), the data bank will save Medicare an additional $653 million and Medicaid an additional $293 million, over current MSP activities.

OBSERVATIONS

Although preliminary, the information that we have gathered to date raises concerns that the OBRA-93 Medicare and Medicaid coverage data bank may not realize the anticipated level of additional savings and faces immediate implementation barriers.

The data bank duplicates other legislatively mandated MSP efforts currently under way. Section 6202 of the Omnibus Budget Reconciliation Act of 1989[1] P.L. 101-239; 103 Stat. 2225) provides for HCFA to periodically match Medicare beneficiary data with Internal Revenue Service employment information. These data are used to detect cases where insurers may be responsible for payments already made by Medicare. After several years of preliminary data collection, HCFA is using the results of this match to attempt to recover from health insurers about $1 billion of potential overpayments. Thus, to the extent that the data bank duplicates information that this data match obtains, the additional savings anticipated will not be realized.

The data bank is an inefficient and costly method to identify potential MSP cases. Employers will be required to provide information for all their employees. However, according to information provided by HCFA, it is likely that less than 2 percent of all employees or their dependents would be subject to the MSP provision. Therefore, 98 percent of the data collected would not be relevant to the MSP program.

The relevant information in the data bank may still be incomplete for MSP purposes, according to HCFA officials. For example, the act does not require information on dates of employment, which is often needed to determine whether the MSP provisions apply. As a result, additional information on employment dates would need to be collected.

The Assistant Secretary for Management and Budget at HHS has recently notified Office of Management and Budget (OMB) officials that it is unlikely that HCFA could establish the data bank without funding. In a letter to OMB dated September 30, 1993, HHS stated that HCFA would need $17 million in fiscal year 1994 to begin designing and implementing the data bank. Thereafter, HHS estimated that an additional $25 to $30 million annually would be needed to administer the data bank.

As of November 8, 1993, HCFA had not issued implementation guidance on how employers should report information to the data bank. According to American Payroll Association officials, who represent 10,000 employers nationwide, such guidance is needed before employers' information systems can capture and transmit the data required by OBRA-93. As a result, employers may not be able to comply with the OBRA-93 reporting timeframe for 1994.

I hope these observations are useful. We will continue to keep your staff apprised of our ongoing efforts to find ways to make the MSP program more effective. If you or your staff would like to discuss further the information in this letter, please call Frank Pasquier at (206) 287-4861 or me at (202) 512-7118.

We are sending a copy of this correspondence to the Ranking Minority Member, Subcommittee on Regulation and Government Information, Committee on Governmental Affairs. Copies also will be made available to others upon request.

Sincerely yours,

______ ______.

(For Leslie G. Aronovitz, Associate Director, Health Financing Issues).•

By Mr. SIMON:

S. 1720. A bill to establish the Gambling Impact Study Commission; to the Committee on Governmental Affairs.

GAMBLING IMPACT STUDY COMMISSION

• Mr. SIMON. Mr. President, today I am introducing legislation that would establish an 18-month commission to review the impact gambling has had on local and State governments, as well as native American tribes.

Gambling has become one of the largest growth industries in this country; in 1991, legal gambling generated over $300 billion in betting, up over $90 billion from 1987.

State and local governments and native American tribes, strapped for financial resources, are turning to gambling as a source of revenue that involves neither cutting services nor increasing taxes. In 1991, State governments took in over $8 billion in monopoly profits from gambling. Thirty-three States have established State lotteries. Casino gambling is being developed in more and more cities and native American reservations across the country. And, as we have seen in my own State of Illinois, riverboat gambling is being viewed as the answer to many river communities' financial woes.

The potential for significant economic benefits from gambling are clear. But I am concerned that the potential for benefit is not being realized in communities across the country.

In Atlantic City, the site of the first major gambling operation on the east coast, $3.22 billion came into the city's gambling establishments in 1992. Of that, about $240 million, or 8 percent, of the earnings of the casinos actually ended up in the hands of State and local governments to be used for services. Those who have followed the course of the gambling industry in Atlantic City, and its effects on the surrounding communities, believe that the communities have come up short—most of the benefits fall to the casinos and not to the communities.

As the rush to State, local, and Indian gaming continues, I would like to see an objective, thoughtful review of the real impact of gambling operations in States, on communities and on native American tribes. I am introducing legislation that will establish a nine person commission, charged with doing this review, as well as recommending alternative sources of revenue that may be available to State, local and native American governments. The commission will have 18 months to complete their work and report back to Congress.

I urge my colleagues to join me in taking a hard look at what the real impact of gambling has been on some jurisdictions and States and to develop alternative sources of revenue for State, local and tribal governments.•

By Mr. BREAUX:

S. 1721. A bill to provide for the transfer of certain tuna fishing vessels documented in the United States to foreign registry; to the Committee on Commerce, Science, and Transportation.

TRANSFER OF CERTAIN TUNA FISHING VESSELS LEGISLATION

• Mr. BREAUX. Mr. President, I rise today to introduce a bill that would help correct an unintended consequence of the International Dolphin Conservation Act, which was signed into law last year as an amendment to the Marine Mammal Protection Act. The goals of the Marine Mammal Protection Act amendments are worthwhile, and I support the objective of protecting vulnerable populations of dolphins from the harmful effects of tuna fishing activities. However, complying with this law in many cases is cost prohibitive and is forcing many fishermen to decide whether or not to stay in business. I believe that it was not the desire of Congress, in passing that law, to put people out of business if those businesses comply with the new dolphin safe requirements.

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[1] Section 13561 of OBRA-93 extended the provision permitting HCFA to match beneficiary and Internal Revenue Service data to September 30, 1998.

The International Dolphin Conservation Act, enacted as Public Law 102-523, is intended to reduce and eventually eliminate the incidental mortality of dolphins due to commercial fishing in the eastern tropical Pacific Ocean. That law requires tuna fishermen to use dolphin safe techniques in harvesting yellowfin tuna. As a result, our Nation's yellowfin tuna fishermen have had to adjust their fishing operations and, as a consequence, have suffered severe economic dislocations. Many tuna fishermen have had to relocate their activities to other areas of the world's oceans; others have tried to remain in customary fishing grounds that are finding it increasingly prohibitive to do so. Mr. President, tuna fishermen have responded in a positive fashion, and at great expense, to attempt to comply with the requirements of this new law. However, in some cases, fishermen have found it difficult to keep from going out of business or selling to foreign owners.

This legislation that I am introducing today would provide the means for some tuna fishermen to both comply with the new law and to remain a U.S.-owned business. It would permit tuna vessel owners to document their boats under foreign registry, thereby facilitating access to productive fishing areas located off foreign shores. My bill would not excuse such U.S.-owned vessels from the requirements to fish in a dolphin safe manner. The vessels will continue to be owned by U.S. persons, who will still be bound by the provisions of the Marine Mammal Protection Act and the Merchant Marine Act of 1936.

Under the Merchant Marine Act, 1936, vessel owners may set aside certain monies in a Capital Construction Fund [CCF] to be used to acquire, construct, or reconstruct qualified vessels. Under existing law, owners of vessels acquired, constructed, or reconstructed with such funds must document these vessels in the United States. Although there are sound reasons for applying this requirement to large, ocean-going transport ships, there are no compelling reasons in this case that support such a restriction on tuna fishing vessels. My legislation, by allowing U.S.-owned, CCF-financed tuna vessels to reflag under foreign registry, makes it possible for this industry to absorb the costs of fishing in productive waters using dolphin safe methodologies. Without this legislation, the only alternative for some vessel owners is to sell out to foreign investors. This would mean an end to the tax revenues that this industry currently provides, and it would mean an end of the assurance that these vessels will continue to fish in an environmentally appropriate manner.

Mr. President, my measure ensures that the U.S. tuna fishing industry will continue to be conducted in an environmentally responsible fashion. At the same time, my bill offers an alternative that will allow U.S. fishermen to stay in business and to retain ownership of U.S. vessels. Mr. President, this measure promotes commercial development of marine resources while at the same time it guarantees consistency with the International Dolphin Conservation Act. I believe that these goals reflect the desires of the citizens of the United States, and I urge the Senate to support this legislation.•

By Mr. KOHL (for himself and Mr. FEINGOLD):

S. 1722. A bill to amend the Federal Water Pollution Control Act to reserve a portion of the funds made available for capitalization grants for water pollution control revolving funds for the purpose of making grants to States that set aside amounts of State funds for water pollution control in excess of the amounts required under such Act, and for other purposes; to the Committee on Environment and Public Works.

LEVEL OF EFFORT CLEAN WATER BONUS FUND ACT OF 1993

• Mr. KOHL. Mr. President, if we were to tell our constituents today that one of the largest Federal environmental programs in this Nation actively discourages States from contributing financially beyond a minimum level, most of them would see it as just another example of Government losing its collective mind. and Mr. President, I would agree with them.

This is why I rise today to introduce legislation to inject reason into the State water pollution control revolving fund, and the process used to allocate funds under that program.

The State water pollution control revolving fund [SRF] was created by the Water Quality Act of 1987, to provide grants for States to establish revolving loan funds. In turn, States provide low-cost loans to local governments for wastewater treatment infrastructure, and other water quality projects.

The formula for allocating funds appropriated each year under the SRF is weighted 75 percent for a State's level of environmental need relative to other States, and 25 percent based on the State's population.

On the surface, this formula may appear to make sense. But in reality, this formula gives State governments a disincentive to invest their own funds in environmental infrastructure, beyond the absolute minimum 20 percent match required. The more States invest to address their own environmental problems, the less they receive from the Federal Government, relative to less progressive States.

The end effect of this policy is that States are rewarded for environmental sluggishness and penalized for environmental progessivism.

In this time of budget crises and exploding environmental funding needs, we can no longer afford to be sending the wrong financial signals to our States. The Federal Government must foster a rational partnership with States. We must encourage, not discourage, stronger financial partnership.

My bill would help build a more rational financial partnership in environmental program funding, by creating a bonus fund for those States that overmatch the Federal SRF capitalization grant. In this way, we build fairness into a system that has long been unfair, and we create incentives for States to go above and beyond the minimum funding requirements specified by law. No longer would States have the incentive to lag behind other States in addressing their environmental problems in order to increase their slice of funding from the annual SRF grant pie.

The bill does not seek to change the existing SRF capitalization grant allocation formula. Instead, it would require that 20 percent of the capitalization grant appropriated each year for the water pollution control revolving funds be used to make bonus payments to those States that have overmatched their individual water pollution control revolving funds, or related non-Federal revolving funds.

I welcome my colleague from Wisconsin, Senator FEINGOLD, as a cosponsor. I urge my other colleagues to cosponsor this legislation, to inject a bit of reason into the funding process for this important environmental program.

It is my hope that this legislation would be incorporated into the Clean Water Act, when it is reauthorized next year.

I ask unanimous consent that text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1722

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Level of Effort Clean Water Bonus Fund Act of 1993".

SEC. 2. LEVEL OF EFFORT CAPITALIZATION GRANTS.

(a) IN GENERAL.—Section 604 of the Federal Water Pollution Control Act (33 U.S.C. 1384) is amended—

(1) in subsection (a), by striking "Sums" and inserting "Subject to subsection (d), sums"; and

(2) by adding at the end the following new subsection:

"(d) LEVEL OF EFFORT CAPITALIZATION GRANTS.—

"(1) IN GENERAL.—For each fiscal year, the Administrator shall reserve 20 percent of the funds made available for capitalization grants under this title for making level of effort capitalization grants to eligible States in accordance with this subsection. A State that receives a grant under this subsection shall deposit an amount equal to the amount of the grant into the water pollution control revolving fund of the State established under this title.

"(2) ELIGIBILITY.—A State shall be eligible to receive a grant under this subsection if the State—

"(A) submits an application for the grant to the Administrator in such form and at such time as the Administrator shall require; and

"(B) for the fiscal year preceding the fiscal year for which the application is submitted, deposits—

"(i) an amount of State funds in addition to the amount required under section 602(b)(2) into the water pollution control revolving fund of the State established under this title;

"(ii) an amount of State funds into a non-Federal revolving fund that the Administrator determines is subject to requirements that are substantially similar to the requirements of the fund referred to in clause (i); or

"(iii) both an amount as described in clause (i) and an amount as described in clause (ii).

"(3) AMOUNT OF GRANTS.—

"(A) IN GENERAL.—Subject to subparagraph (B), a grant to a State under this subsection shall be in an amount equal to the total amounts deposited as described in paragraph (2)(B).

"(B) LIMITATIONS.—

"(i) STATE MAXIMUM.—For each fiscal year, no State may receive a grant under this subsection in an amount that is greater than 20 percent of the amount of funds reserved under paragraph (1).

"(ii) INSUFFICIENT FUNDS.—If, for any fiscal year, the sum of the grant amounts calculated under subparagraph (A) for all eligible States is greater than the amount of funds reserved under paragraph (1), the Administrator shall make a grant to each eligible State in an amount that is equal to the product obtained by multiplying—

"(I) the amount of funds reserved under paragraph (1); by

"(II) the quotient obtained by dividing—

"(aa) the grant amount calculated under subparagraph (A) for the State; by

"(bb) the sum of the grant amounts calculated under subparagraph (A) for all eligible States.".

(b) CONFORMING AMENDMENTS.—Section 602(b) of such Act (33 U.S.C. 1382(b)) is amended—

(1) in paragraph (2), by inserting "except with respect to grants made to the State under section 604(d)," before "the State will deposit"; and

(2) in paragraph (3), by inserting ", except that with respect to grants made to the State under section 604(d), the State will enter into binding commitments to provide the assistance in an amount equal to 100 percent of the amount of each grant payment" before the semicolon at the end.•

By Mr. COHEN:

S. 1723. A bill to improve provisions relating to tech-prep education; to the Committee on Labor and Human Resources.

TECH-PREP EDUCATION LEGISLATION

• Mr. COHEN. Mr. President, all to often, conversations with our children about school involve questions like "Why do we have to learn this?" and "What is the purpose of studying that?" These plaintive queries are usually followed by an assertion that "We won't use anything we learn in this class in the 'real world.'"

These are things many of us said decades ago. However, today's "real world" is very different than the "real world" many of us faced when we graduated from high school. At one time, for example, parents could tell their children "You're right. You probably won't need algebra in your job or daily life, but you must complete it to graduate. So just do it!" In today's competitive world market, parents are finding that they respond in this manner less frequently. Instead, parents find themselves increasingly trying to encourage their children to understand algebra because the ability to manipulate mathematical equations is now an important, sometimes necessary skill to have in our high-technology society.

At one time teachers could tell their students "You need to know about Europe because it's good to know it." In today's competitive world market, teachers are finding that they respond in this manner less frequently. Rather than focusing on other countries merely for the intrinsic pursuit of knowledge, teachers are finding themselves trying to make students understand the importance of other countries to their own lives and our country's well-being.

Like it or not, the global economy is here. The mighty economic engine of America has taken us from horse-and-buggy to commercial jet aviation in this century. But we are not alone. People in other countries have ideas and ability, and we can't hold back the tide.

Clearly, in the 1990s the answers to the questions "Why do we have to learn this?" and "What is the purpose?" have changed. Unless our youth understand the importance of this, our country may face serious consequences in coming years.

We must prepare all our students—elementary, secondary, and postsecondary—to meet the demands of a world market and a rapidly evolving society. We must teach our children to remain competitive with countries which desire to carve a niche into the market right here at home. This is all the more important given the pending passage of the North American Free-Trade Agreement [NAFTA]. The international market is a two-way street: At the same time that we jockey for position in foreign markets, so do other countries seek to position themselves in our domestic market. The global economy has the potential for enormous reward, but we must prepare to meet the challenge.

One way to meet this challenge is to reinvent our educational system, which in some ways is still the envy of the world, so that it can meet today's needs and provide for ways to meet tomorrow's opportunities.

Unfortunately, our educational system has not done a good job of preparing our youth for the workplace. The U.S. Department of Education, for example, recently released a study that showed "[n]early half of all adult Americans read and write so poorly that it is difficult for them to hold a decent job."

Recent reports by the General Accounting Office and the National Research Council tell us that in 1993 high schools focus their resources on those students going on to college. The General Accounting Office further found that only 15 percent of incoming high school ninth graders complete a college degree within 6 years of high school graduation.

These reports describe a situation that could well end in tragedy for a large majority of our youth. I agree with the National Research Council's conclusion that, as a country, we tend to think of "support for labor market transitions, particularly for youths most at risk of failing to make the school-to-work transition . . . as a social, rather than an economic, responsibility." It is time that we radically change this philosophy. Educating our at risk youth is certainly an economic responsibility. It is an investment in our future.

In my own State of Maine, a large number of students are not continuing on to 2- and 4-year colleges. In fact, compared with other States, Maine ranks near the bottom in sending high school students to college. I am quite concerned about this situation. Clearly, college is not for everyone. I am not suggesting that it is. However, given the research findings from the General Accounting Office and the National Research Council, I am alarmed that many young people around the country may be falling through the cracks in terms of getting a good, practical education.

Fortunately, Maine is a leader in efforts to facilitate the successful transition of high school students from school to work. For example, last month the Maine Youth Apprenticeship Program, which combines classroom education with hands-on training in the workplace, was selected by the National Alliance of Business as the School-to-Work Program of the Year.

The Maine Youth Apprenticeship Program started last winter with a pilot group of 15 high school juniors. Students spend 20 weeks in class and 15 weeks working for a company in their field of interest. This pattern continues through their senior year, but with 15 additional weeks working for a company. In the third year of the program, students spend 34 weeks on the job and 16 weeks taking courses at their local technical college.

The program, which will include 200 students beginning in January, benefits both the student and the business involved. Students finish the program with a high school diploma, significant work experience, and technical college training. They also receive certification that they have mastered a particular technical skill and can earn up to $5,000 each year on the job. Employers can be certain they are getting a qualified worker, already trained and trustworthy, to improve production.

Maine's Youth Apprenticeship Program is complemented by another education effort, Jobs for Maine's Graduates, which operates in 20 schools in 17 communities throughout the State. Among other things, this program provides job specialists who are responsible for 20 to 40 students who are at risk of dropping out of school. In addition, the program provides basic skills education, job search activities, instruction on 37 skills necessary in a work environment through a 4-day-a-week credit class, and 9 months of follow-up support after high school graduation.

A third program in Maine is the technology preparation program, known commonly as "tech-prep," which Congress included in 1990 as part of the reauthorization of the Carl D. Perkins Vocational and Applied Technology Education Act. This program combines the last 2 years of high school with 2 years of postsecondary work at a technical college. This is commonly referred to as the "2+2 model." It provides students with the math, science and technological skills they will need to succeed in the economy of the 1990's. By combining academic and occupational subjects, tech-prep is designed to prepare students for high-skill technical occupations and offers a more practical, hands-on way for kids to learn that the more abstract, traditional method of learning currently taking place in most of this Nation's schools.

The legislation that I am introducing today is very much in the spirit of the School-to-Work Opportunities Act, which the Senate will consider at some point. It would improve the tech-prep program by making the program more responsive to students, businesses, and universities and would allow greater flexibility in the types of tech-prep programs offered by helping community groups reach kids before they drop out of school. Specifically, the legislation would first, require the involvement of businesses and baccalaureate degree granting programs in the groups receiving tech-prep grants, second, give highest priority to those tech-prep applications that provide for employment placement activities and the transfer of students to 4-year baccalaureate degree programs, and third, authorize tech-prep programs to begin either in the 9th or 11th grades.

Let me explain the potential value of each of these provisions.

INVOLVEMENT OF BUSINESSES AND 4-YEAR COLLEGES AND UNIVERSITIES

At this time, current law does not require the involvement of business or colleges offering 4-year baccalaureate programs in the groups receiving tech-prep grants. However, the involvement of businesses and colleges/universities would strengthen the connection between these two groups, high schools, and technical or community colleges.

By requiring the involvement of the business community, this legislation would make businesses a part of the education process—beyond simply employing youth. Is it in their interests? Certainly. During authorization of the Tech-Prep Education Act, for example, Congress found that businesses spend approximately $210 billion each year for training, remediation, and lost productivity due to ill-prepared workers.

By requiring the involvement of businesses, non-collegebound youth will come to know and better understand that what they do in their high school studies truly matters for future employment. With the active involvement of businesses in designing the tech-prep curriculum, youth will be less likely to ask "Why do we have to learn this?" and "What is the purpose?" and the belief that "We won't use anything we learn in this class in the 'real world'" will be disproven.

By strengthening the connection between high schools and 4-year degree granting colleges and universities, more students may enter the tech-prep program. Unfortunately, at this time some colleges and universities do not appear to feel any responsibility for educating those students who will not enter the 4-year postsecondary education system. This situation tends to make colleges and universities skeptical of the tech-prep curriculum. With colleges and universities involved in the process of developing and implementing tech-prep, they will feel more responsibility for educating all students and may be more willing to admit students who have taken tech-prep classes. Thus, students who might benefit from the applied method of teaching in the tech-prep program but who want to get a baccalaureate degree, will have greater options available to them. They can complete the postsecondary component of the tech-prep program by receiving either an associate degree or a baccalaureate degree. In this way, the tech-prep program will have greater potential.

PRIORITY OF CERTAIN TECH-PREP APPLICATIONS

Complementarily, my legislation would give highest priority to those tech-prep applications that provide for employment placement activities and the transfer of students to 4-year baccalaureate degree programs. This will ensure that the tech-prep program focuses foremost on ways to improve the skills of our workforce.

EARLIER EMPLOYMENT OF TECH-PREP

Finally, the legislation I am introducing today will allow schools greater flexibility in providing tech-prep classes. In my research, one of the most common things I heard was that the applied learning classes in the tech-prep program should begin before the 11th grade, which is now required in the Tech-Prep Education Act. Many students who drop out of school do so before the 11th grade and having a tech-prep program in place earlier may prevent some of those students from dropping out and help those who stay in school learn more effectively through the applied learning method.

Although some schools, like Presque Isle High School, are beginning classes in the 9th grade, other schools which want to offer the tech-prep classes earlier do not because they feel restricted by federal law. By authorizing "4+2" tech-prep programs, those schools who feel restricted now will be able to move classes to the 9th grade, when students may benefit the most.

I am pleased that the tech-prep program is recognized by many to be a promising educational approach. Tech-prep is the type of innovative approach to education we need to encourage. The world our children face requires that workers have many skills. If we do not ensure all our youth are prepared to compete in the new economy of the 21st century, they will be left behind. We are in a position to stop this from happening, and we must—for the future of our Nation may be at stake.

For this reason, I hope my colleagues will agree that my legislation helps to strengthen one of this country's most valuable school-to-work programs.

Mr. President, I ask that the text of the bill be printed in the RECORD.

The bill follows:

S. 1723

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TECH-PREP EDUCATION.

(a) CONTENTS OF PROGRAM.—Paragraph (2) of section 344(b) of the Tech-Prep Education Act (20 U.S.C. 2394b(b)(2)) is amended by inserting "or 4 years" before "of secondary school".

(b) CONSORTIA MEMBERSHIP.—Subsection (a) of section 343 of the Tech-Prep Education Act (20 U.S.C. 2394a) is amended—

(1) in paragraph (1), by striking "and" after the semicolon;

(2) in subparagraph (B) of paragraph (2), by striking the period and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(3) businesses, industries or labor unions; and

"(4) institutions of higher education that award baccalaureate degrees.".

(c) SPECIAL CONSIDERATION; PRIORITY.—Section 345 of the Tech-Prep Education Act (20 U.S.C. 2394c) is amended—

(1) by amending subsection (d) to read as follows:

"(d) SPECIAL CONSIDERATION.—The Secretary or the State board, as appropriate, shall give special consideration to applications which address effectively the issues of dropout prevention and re-entry and the needs of minority youths, youths of limited-English proficiency, youths with disabilities, and disadvantaged youths.";

(2) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(3) by inserting after subsection (d) the following new subsection:

"(e) PRIORITY.—The Secretary or the State board, as appropriate, shall give highest priority to applications that provide for effective employment placement activities or transfer of students to 4-year baccalaureate degree programs.".•

By Mr. JOHNSTON:

S. 1724. A bill to authorize the Secretary of Health and Human Services to award a grant for the establishment of the National Center for Sickle Cell Disease Resarch, and for other purposes; to the Committee on Labor and Human Resources.

THE NATIONAL CENTER FOR SICKLE CELL DISEASE RESEARCH

• Mr. JOHNSTON. Mr. President, I introduce legislation that will support research for a disease which disproportionately affects African-Americans and other minority groups. Sickle cell disease is a painful, life-threatening, genetic disease. Approximately 1 of every 12 African-Americans is born with the sickle cell genetic trait, and about 1 in every 600 is afflicted with sickle cell disease. Sickle cell conditions are also found, although less frequently, in other United States populations, including those of Puerto Rican, Cuban, and southern Italian ancestry. The disease has also recently been found in some Caucasians.

Sickle cell disease is based in the circulatory system and is a painful and disabling disorder for which there is currently no cure. In a healthy body, red blood cells contain the substance hemoglobin which carries oxygen from the lungs to various organs and tissues. This role of hemoglobin is essential to life because all body components require oxygen to live and carry out their functions. Diseased bodies have an abnormal type of hemoglobin which interrupts the flow of oxygen to these vital organs.

Red blood cells that contain normal hemoglobin remain round when they release oxygen. Cells with abnormal or sickle hemoglobin, upon releasing oxygen, become distorted into the shape of a sickle causing a chronic and painful anemia. Distorted, or sickled cells cannot traverse capillaries, further limiting oxygen supply to the body's tissues.

Mr. President, the minority population in the State of Louisiana is about 1.29 million people. Of this number roughly 3,250 people are suspected of having the disease, and of this number, 25 percent will have the most acute and serious form, which is often fatal. Alarmingly, about 130,000 Louisianians carry the genetic trait for this illness.

Mr. President, despite the fact that the cause of the sickle cell disease has been known for many years, progress has not been made in finding suitable treatment. Currently, the most common treatment for the illness is pain relief medication, treating only the immediate symptoms. Treating only the symptoms results in tissue damage, often to major organs, with each successive episode of oxygen depravation. Consequently, many of those afflicted with severe forms of the disease often do not even live to see adulthood.

Concerned with finding a cure for a disease that has such a devastating affect on the Nation's minority populations, Southern University in Baton Rouge, LA, the largest predominately African-American university in the United States, has committed itself to the creation of a center for sickle cell disease research.

With a single purpose, this center will conduct multidisciplinary research to lead to the discovery of a cure for sickle cell disease. The center will conduct basic biomedical research to determine the types of drugs that can prevent, inhibit, or reverse the sickling process, along with clinical research and joint studies to conduct clinical trials on antisickling agents. In addition, the center will work with other institutions to promote and enhance scholarship and teaching knowledge in order to disseminate newly gained knowledge on the disease.

Mr. President, it is important to note that the Louisiana State Legislature in recognition of the importance of such a center, and even in these exceedingly hard economic times, has committed $7 million to this project. To complete the center, and to be able to provide this valuable public health research, Southern University needs Federal assistance. To provide this assistance, I offer a bill to authorize the Secretary of Health and Human Services to award a grant for the creation of this center. This legislation will direct the Secretary to provide a grant to the Louisiana Department of Health and Hospitals for the establishment and construction of the National Center for Sickle Cell Disease Research at Southern University in Baton Rouge.

Mr. President, sickle cell disease is a vital public health problem which this bill would assist in overcoming. Such funding can only aid in the development of this Nation. I urge my colleagues to support this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1724

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that:

(1) Sickle Cell Disease is a serious illness that disproportionately affects African-Americans.

(2) Approximately 1 out of every 12 African-Americans is born with the sickle cell trait, and about 1 out of every 600 is afflicted with Sickle Cell Disease.

(3) Sickle cell conditions also occur in other United States populations, primarily those of Puerto Rican, Cuban, southern Italian ancestry and more recently sickle cell has been found in some Caucasian individuals.

(4) Sickle Cell Disease is a painful and disabling disorder which can lead to untimely death and is caused by inadequate transportation of oxygen due to an abnormal type of hemoglobin molecule in the red blood cells.

(5) Sickle Cell Disease is an inherited disease which can be transmitted to offspring, particularly if both parents carry the genetic trait.

(6) The sickle cell trait carriers show no sign of the disease, but statistically, 1 in 4 of their children will be afflicted with the disease.

(7) There is no national research center devoted to Sickle Cell Disease in the United States.

(8) There is no known cure for Sickle Cell Disease at this time and there is a need for prioritized and specialized research to find such a cure for this severely disabling disease.

(9) Louisiana's minority population is 1,299,281.

(10) Of this number, a suspected 3,248 individuals will have the disease and of those individuals, 25 percent (812 individuals) will have the most acute and serious stage of Sickle Cell Disease, a stage that is usually fatal.

(11) Some 129,928 individuals in Louisiana will carry the sickle cell trait.

(12) Southern University, located in Baton Rouge, Louisiana is the largest predominately African-American university in the United States.

(13) Approximately 16,700 students attend this 112 year old school and Southern graduates are located throughout the United States and the world.

(14) The State of Louisiana through the Louisiana Legislature and Southern University, has shown great leadership and committed significant financial and personnel resources towards the development of a National Center for Sickle Cell Disease Research.

(15) Because Southern University has committed its resources and personnel to seeing this project through to its ultimate goal, finding a cure for Sickle Cell Disease, and because of Southern University's large minority population it is appropriate to locate the National Center for Sickle Cell Disease Research at Southern University in Baton Rouge.

(b) PURPOSE.—It is the purpose of this Act to establish a National Center for Sickle Cell Disease at Southern University in Baton Rouge, Louisiana, that will have the following objectives—

(1) to conduct biomedical research and clinical investigations designed to find a cure for Sickle Cell Disease;

(2) to conduct a wide variety of human behavioral studies designed to provide new knowledge about such issues as the effectiveness of various counseling and education methods, and techniques to improve coping skills on the part of patients and their families;

(3) to establish collaborative arrangements and joint research programs and projects with other Louisiana institutions of higher education, such as Louisiana State University Medical Centers at New Orleans and Shreveport and Tulane University Medical Center to conduct clinical trials on antisickling agents;

(4) to provide expanded opportunities for faculty members at the institutions described in paragraph (3) to publish in the three broad areas of basic biomedical research, psychosocial research and clinical research;

(5) to become a laboratory for training both graduate and undergraduate students in research methods and techniques concerning Sickle Cell Disease; and

(6) to develop, promote and implement joint research projects with other public and private higher education institutions including teaching hospitals on Sickle Cell Disease.

SEC. 2. NATIONAL CENTER FOR SICKLE CELL DISEASE RESEARCH.

(a) GRANT.—The Secretary of Health and Human Services shall award a grant to the Louisiana Department of Health and Hospitals for the establishment and construction of the National Center for Sickle Cell Disease Research at Southern University in Baton Rouge, Louisiana, and for related facilities and equipment at such Center. Prior to the awarding of such grant, the State of Louisiana shall certify to the Secretary—

(1) that the State of Louisiana has provided not less than $7,000,000 to support and operate such Center; and

(2) that the State of Louisiana has developed a plan to provide funds for the continued operation and support of such center.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $21,000,000 to carry out the purposes of this Act.•

By Mr. COHEN (for himself, Mr. MACK, Mr. BENNETT, and Mr. FAIRCLOTH):

S. 1725. A bill to amend the Federal Deposit Insurance Act to clarify provisions intended to protect the Corporation from having bank loans or other assets diluted by secret side agreements; to the Committee on Banking, Housing, and Urban Affairs.

D'OENCH DUHME LEGISLATION

• Mr. COHEN. Mr. President, on November 9, the Subcommittee on Oversight of Government Management held a hearing at which the witnesses exposed examples of abuse, incompetence, and mismanagement at the Federal Deposit Insurance Corporation [FDIC].

In general, the subcommittee found that the FDIC's poor mismanagement of its records, delays in decision making and its very institutional culture has resulted in the unnecessary suffering of borrowers, closed businesses, and billions of dollars of loans and real estate being sold for a fraction of their worth.

The FDIC also demonstrates its willingness to complicate and delay during court proceedings. The FDIC's courtroom tactics have drawn deserved criticism from many sources, including Maine's Chief Federal Judge Gene Carter, who described the agency's style of litigation as "confused, obstructionist, inept and uncooperative."

Today, I wish to address yet another example of the callous disregard shown by the FDIC towards the rights of individuals and small businesses throughout the Nation. In my role as ranking Republican of the subcommittee, I have become aware of how the FDIC and the Resolution Trust Corporation [RTC] have systematically used an arcane banking law doctrine known as the "D'Oench Duhme Doctrine" to deny numerous individuals and small businesses their "day in court."

It is time to eliminate the "doom" in "D'Oench Duhme". Today, I am introducing legislation with Senators MACK, BENNETT, and FAIRCLOTH, that would rein in the FDIC and RTC in their use of the doctrine and clarify the right to seek and obtain judicial consideration of cases arising in this narrow banking law context. Once again, the doctrine would only apply where an "asset" of the bank is at issue.

In Ramins & Sons, Inc. versus RTC, Judge Jay Waldman of the Eastern District of Pennsylvania recently commented on how the doctrine is being misapplied, stating: "The doctrine is not a sword to be used to extinguish ordinary commercial obligations of a failed bank because they happen not to be accompanied by a formal agreement. The bank's gardener, window washer and garbage collector have a claim for services rendered whether or not they had a written contract."

It is important to understand the evolution of D'Oench Duhme to clearly see how the FDIC and RTC have been able to use this law to ignore legitimate claims of individuals and small businesses from across the country. In 1942 the U.S. Supreme Court issued a decision in D'Oench Duhme & Co. versus Federal Deposit Insurance Corporation creating this doctrine. The decision stated that if the FDIC took over a failed bank, then in disputes over the bank's assets, the FDIC would be bound only by written agreements contained in the bank's records.

This decision, which is not known as the D'Oench Duhme Doctrine, was later codified by Congress in 1950 and subsequently in 1989 [FIRREA] to provide that only certain written agreements could defeat the interest of the FDIC or RTC in an "asset" held by a bank. The key word here is "asset."

During the debate over the 1989 FIRREA legislation, much thought went into expanding the powers of the FDIC and RTC, which were thought to lack sufficient authority at the time. Apparently, based these recent D'Oench Duhme cases, the pendulum of authority has swung too far in favor of the FDIC and RTC. This imbalance has unintentionally hurt individuals and small businesses and needs to be corrected in a timely fashion.

However, I want to be careful to ensure that the FDIC and RTC maintain the D'Oench Duhme protections as they were originally intended. In its previous form, the doctrine clearly makes sense. The original intent of the D'Oench Duhme Doctrine, if interpreted properly, required that if someone is going to prevail over the FDIC or RTC in an asset dispute, he or she must overcome several procedural hurdles. The statute also requires that in order to prevail over the FDIC or RTC, a party must establish that there was a written agreement concerning the asset at issue and that the agreement was approved by the bank's board of directors or loan committee, entered into the minutes of the board or committee, maintained as an official record of the institution, and executed contemporaneously with the bank's acquisition of the asset.

It now appears that during the past few years, banking regulators and Federal courts have, based on the most recent codification of the D'Oench Duhme Doctrine, have read the word "asset" out of the statute. This has enabled the FDIC, RTC, and the courts to stretch the D'Oench Duhme Doctrine to the extreme, using it to cover not just loans and other assets held by a failed bank, but any liability.

Under the present FDIC and RTC policy, anyone performing services for a bank that failed is barred in some courts from raising legitimate claims against the receiver of the failed bank. Similarly, the doctrine has been used to deny a day in court for innocent third parties having a lawsuit against the bank for negligence or other claims.

The subcommittee has been contacted by a variety of individuals who have their claims against failed institutions dismissed in Federal court without even a hearing on the merits. In each case, the FDIC or RTC relied on the D'Oench Duhme Doctrine—even though an asset of the bank was not directly at issue.

There are many examples of businesses which provided services to a bank that subsequently failed and were denied the opportunity to collect the funds rightly owed them. The only thing standing in their way was the D'Oench Duhme Doctrine.

In Pennsylvania, for example, a general contractor made improvements on a property at the request of the bank that owned the property. This was an oral agreement for about $12,000 worth of work. After the work was done, the bank did not pay the contractor, who was left with no alternative but to go to court to recover his money. The contractor was left with no choice but to fight for the $12,000 in Federal court, where the RTC, acting as the bank's receiver, predictably tried to use the D'Oench Doctrine to avoid paying the claim.

D'Oench Duhme has also made an unwelcome appearance in my home State of Maine. In 1990, a general contractor that had provided labor and materials for construction found itself stymied by the FDIC's misapplication of the D'Oench Duhme Doctrine. The contractor had to fight the FDIC in court to enforce a mechanic's lien and collect the money it was owed. However, because the FDIC's lawyers chose to invoke the D'Oench Duhme Doctrine and protect the agency's own balance sheet, the contractor has had to endure significant legal fees to fight the D'Oench issue. This case is still unresolved.

The application of D'Oench Duhme also has a chilling effect which effectively prevents individuals and small businesses from bringing legitimate claims against that FDIC and RTC. I know that in Maine and throughout the country people who may have legitimate claims are discouraged from ever fighting the FDIC or the RTC because of the high legal costs and the unlikelihood of prevailing in a D'Oench case. For those who have fought D'Oench, it has been an expensive, lengthy and frustrating experience where the legitimacy of the claim rarely is at issue.

Several other examples will illustrate my cause for concern. In a recent Florida case, a small business filed a lawsuit alleging negligence by a national bank. The loan in question had been paid back in full more than 1 year prior to the bank's failure. Therefore, no "asset" was at issue in this lawsuit and D'Oench Duhme should not have been applied. Nevertheless, the FDIC successfully convinced a Federal court in Miami to dismiss the suit under the D'Oench Duhme Doctrine by arguing that the claim did not meet the procedural hurdles outlined earlier. Adding insult to injury, in this Florida case, the plaintiff had obtained an affidavit from the bank vice president admitting the bank's negligence. But, because the case was dismissed without a hearing on the merits, a judge or jury never had the opportunity to consider the affidavit's contents.

I have also received information concerning D'Oench Duhme cases in which banks have allegedly reneged on agreements to provide crucial funding for small business projects. In a Massachusetts case, a bank terminated the financing for a construction project for unclear reasons, causing the project to collapse. Even though a State judge awarded them $4 million, including damages from the bank's action, the plaintiffs have been caught in a costly bureaucratic nightmare and have been unable to collect from the RTC because of the misapplication of the D'Oench Duhme Doctrine.

Mr. President, when I criticize the misuse of the D'Oench Duhme Doctrine, I am not suggesting that the FDIC and RTC should not be able to use legitimate means to weed out the bad actors and secret sweetheart deals that have occurred. What I am suggesting, however, is that a useful legal tool is being wrongly applied, unfairly penalizing many individuals and small businesses.

The legislation I am introducing today is a technical correction ensuring that the D'Oench Duhme Doctrine applies only in situations where it was originally intended to apply. As the FDIC, RTC, and courts have read the "asset" test out of the statute, this legislation would amend the Federal Deposit Insurance Act to put the "asset" test back in the statute in no uncertain terms. It would still require a party to meet the procedural hurdles enumerated earlier if there is a dispute over an asset such as the valuation of an outstanding loan. But, it would preclude the FDIC and RTC from relying upon the doctrine to obtain wholesale dismissals of tort and contract claims against failed banking institutions where no underlying asset is at issue.

Under this legislation, a claim against a bank for fraud or negligence could receive a hearing on the merits in court. Similarly, if a window washing company is owed $1,500 by a bank that fails, under this legislation the company could bring an action against the bank and the FDIC could not deny the company a day in court solely because the "agreement" with the bank to perform such services was not approved by the bank's board of directors, entered into the minutes, and so forth. While to the FDIC a $1,500 claim may seem trivial, I assure them that to most small businesses in Maine, it is an amount still worth pursuing.

The rationale for this legislation should be clear. The current interpretation of the D'Oench Duhme Doctrine by the FDIC, RTC, and the courts contradicts the purpose and intent of the statute. Under the current interpretation, if a bank fails and the FDIC steps in, a claim against the bank may be worthless because it isn't based on a written "agreement" approved by the board of directors and kept as an official record. This affects thousands of small businesses that perform services for banks.

The legislation would provide relief in a limited retroactive manner, applying to any claim pending, under judicial review, or on appeal on or after October 1, 1993. Some measure of retroactivity is justified because many individuals and businesses victimized by the FDIC and RTC policy have been denied their due process rights and deserve their day in court.

Mr. President, it is my hope that other Senators will join me in supporting this legislation and working together to eliminate the "doom" in D'Oench Duhme.•

By Mr. SIMON:

S. 1726. A bill to provide for a competition to select the architectural plans for a museum to be built on the East St. Louis portion of the Jefferson National Expansion Memorial, and for other purposes; to the Committee on Energy and Natural Resources.

ARCHITECTURAL DESIGN COMPETITION ACT

• Mr. SIMON. Mr. President, I am introducing, together with my colleagues Senator CAROL MOSELEY-BRAUN, Senator JOHN DANFORTH, and Senator CHRISTOPHER BOND, a bill to provide for a competition to select the architectural plans for a museum, which I hope will be built in East St. Louis, IL, across from the Arch in St. Louis, also known as the Jefferson National Expansion Memorial. Congressman JERRY COSTELLO is introducing the same bill in the House.

The Arch in St. Louis, which has been so vital to the economic resuscitation of St. Louis, grew out of an architectural competition. And I believe that is a good procedure for this; also, one that permits architects from around the Nation to be creative and come up with their ideas.

What we hope to have, eventually, is a museum that recognizes and celebrates the ethnic diversity of America.

We want a museum where Polish-Americans, Italian-Americans, African-Americans, and people of every background can come and see what their people contributed to the richness of America but also get an appreciation of what other ethnic groups have contributed to the richness of America. It not only can be a draw for tourists from other countries, but it can be a unifying factor within our own country.

I might add that some leaders of the Latter-day Saints have expressed an interest in it and say that they would cooperate in such a museum enterprise by having a computer printout so that people could come and learn a little more about their heritage, their family roots. The Latter-day Saints, better known as the Mormons, have done more work in the area of tracing the roots of people than any other group, by far.

In any event, what is built in East St. Louis can help to develop East St. Louis, just as the Arch helped develop St. Louis. And just as the Arch was an enterprise criticized by many at the time, it has served to provide employment opportunity for a great many people in the St. Louis area, more indirectly than directly. The museum in East St. Louis can do the same.

I am pleased to introduce this legislation, which I hope we can pass next year.

I ask unanimous consent to print the legislation into the Record, at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1726

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "East Saint Louis Jefferson National Expansion Memorial Architectural Design Competition Act".

SEC. 2. ARCHITECTURAL DESIGN COMPETITION.

(a) Commission.—

(1) Establishment.—There is established a commission to be composed of 7 members appointed by the Secretary of the Interior, of whom—

(A) two shall be selected from among persons who represent the Saint Louis, Missouri, community;

(B) two shall be selected from among persons who represent the East Saint Louis, Illinois, community;

(C) two shall be selected from among persons who represent the Department of the Interior; and

(D) one shall be selected from among disinterested persons who are experts in the area of architectural design, and who shall serve as the professional advisor to the Commission.

(2) Appointment of members.—The Secretary shall appoint the members of the commission not later than 90 days after the date of enactment of this Act.

(3) Terms.—Members shall be appointed for the life of the commission.

(4) Vacancies.—Any vacancy in the commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(5) Chairperson and vice chairperson.—The commission shall select a Chairperson and Vice Chairperson from among the members of the commission.

(6) Meetings.—

(A) Initial meeting.—The Secretary shall schedule and call the first meeting not later than 30 days after the date on which all members of the commission have been appointed.

(B) Subsequent meetings.—The commission shall meet at the call of the Chairperson.

(7) Compensation of members.—Members of the commission shall serve without compensation, except that members shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the commission.

(8) Staff.—

(A) In general.—The Chairperson of the commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the commission to perform its duties. The employment of an executive director shall be subject to confirmation by the commission.

(B) Compensation.—The Chairperson may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(9) Detail of government employees.—Any Federal Government employee may be detailed to the commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(10) Procurement of temporary and intermittent services.—The Chairperson may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(11) Powers of the commission.—

(A) Information from federal agencies.—The commission may secure directly from any Federal department or agency such information as the commission considers necessary to carry out this Act. Upon request of the Chairperson, the head of such department or agency shall furnish such information to the commission.

(B) Postal services.—The commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(C) Gifts.—The commission may accept, use, and dispose of gifts or donations of services or property.

(b) Architectural Competition.—The commission shall conduct an architectural competition to solicit design proposals for a museum to be built on the East Saint Louis portion of the Jefferson National Expansion Memorial. The member of the Commission appointed pursuant to subsection (a)(1)(D) shall organize, manage, and direct the competition, identify potential jurors, and appoint jurors, with the approval of the commission.

(c) Study.—The commission shall conduct a study into possible funding mechanisms for the development, construction, and maintenance of the museum identified in subsection (b).

(d) Report.—Not later than 18 months after the date of enactment of this Act, the commission shall submit a report, with recommendations, to the President and Congress. The report shall contain a detailed statement of the findings and conclusions of the commission with respect to the museum and possible funding mechanisms.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $300,000 to carry out this Act.•

By Mr. COHEN:

S. 1727. A bill to establish a National Maritime Heritage Program to make grants available for educational programs and the restoration of America's cultural resources for the purpose of preserving America's endangered maritime heritage; to the Committee on Commerce, Science, and Transportation.

NATIONAL MARITIME HERITAGE ACT OF 1993

• Mr. COHEN. Mr. President, I introduce the National Maritime Heritage Act of 1993, legislation which would help to preserve our Nation's disintegrating maritime heritage.

America's maritime industry and its heritage has been sorely neglected and is in a serious state of decline which threatens this Nation's national security. In 1988, when the Commission on Merchant Marine and Defense was asked to explore the condition of America's Maritime Industry, it was revealed that the U.S. merchant marine force is unable to meet our Nation's minimum defense requirements. The Commission concluded that the state of U.S. maritime affairs poses, and I quote, a "clear and growing danger to the national security in the deteriorating conditions of America's maritime industries." In response to these findings, the Commission warned that, "unless decisive action is taken to reverse this downward trend, by the year 2000, the number of ships will be reduced by one-half to 220 vessels; the proportion of the U.S. ocean trade carried in U.S. vessels will drop from approximately 4 to 1 percent; the number of merchant fleet shipboard billets and merchant seamen will be about one-half their current size, and the shipyard industrial base will continue to shrink at an alarming rate."

The United States is an island Nation. The continued economic health of our Nation is inextricably linked to a healthy U.S. merchant marine. Sadly, we have neglected the maritime industry and its heritage. New policies are required to restore and expand our Nation's merchant fleet. A firm commitment by the men and women in this chamber must underpin the effort to rebuild the American merchant marine fleet.

The National Maritime Heritage Act of 1993 would establish a National Maritime Trust in order to provide for the preservation of U.S. maritime heritage through a competitive grant program within the U.S. Department of Transportation that will be administered by the National Maritime Trust, a charitable, educational, and nonprofit corporation. The structures created by this legislation will act as an umbrella organization bringing together Federal, State, local and non-profit groups in an effort to coordinate a national initiative to preserve our most important maritime properties and educate Americans about the significance of our maritime industry and its heritage. Grants will be made available for projects of national, regional, and local historic significance to ensure the preservation of America's maritime heritage. In addition, this measure would establish an advisory committee composed of knowledgeable maritime specialists to oversee the grants program, review grant proposals and advise the Secretary of Transportation as appropriate.

The National Maritime Heritage Act of 1993 would establish a cohesive funding mechanism to address the deteriorating state of our national maritime industry and heritage without adding to the deficit. By retiring obsolete National Defense Reserve Fleet vessels, as recommended by the GAO, which are currently maintained at great expense by the Maritime Administration, and requiring that approved projects receive matching State and private funding, as appropriate, the U.S. Government will actually save money. Furthermore, it is my belief that a modest investment in the preservation of our maritime heritage now will serve to avert the need for large expenditures for the repair of rapidly deteriorating maritime properties in the future.

This measure would benefit virtually every State in the Nation, every American as well as Americans of subsequent generations, create much-needed jobs, help to preserve traditional maritime related skills and would help to educate the public, particularly our young people, as to the vital importance of the maritime industry and its venerable heritage.

It is my view that there is a link between the lack of awareness of maritime affairs on the part of Americans and the deterioration of the maritime industry and its heritage. By taking this important step toward educating Americans about maritime affairs and bringing a clear focus to the importance of maritime heritage, we may create an environment where the maritime industry may flourish.

It is for these reasons, Mr. President, that I strongly urge my colleagues to support this important piece of legislation.

Mr. President, I ask unanimous consent that the text of the bill and additional material be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 1727

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Maritime Heritage Act of 1993".

SEC. 2. FINDINGS.

Congress finds and declares that—

(1) the United States is a maritime nation with rich maritime history, and it is desirable to foster in the American public a greater awareness and appreciation of the role of maritime endeavors in our Nation's history and culture;

(2) the maritime historical and cultural foundations of the Nation should be preserved as part of our community life and development;

(3) national, State, and local groups have been working independently to preserve the maritime heritage of the United States;

(4) historic resources significant to the Nation's maritime heritage are being lost or substantially altered, often inadvertently, with increasing frequency;

(5) the preservation of this irreplaceable maritime heritage is in the public interest so that its vital legacy of cultural, educational, aesthetic, inspirational, and economic benefits will be maintained and enriched for future generations of Americans;

(6) in the face of ever-increasing development, the present governmental and nongovernmental historic preservation programs and activities are inadequate to ensure future generations a genuine opportunity to appreciate and enjoy the rich maritime heritage of our Nation;

(7) a coordinated national program is needed to immediately redress the adverse consequences of a period of indifference during which the maritime heritage of the United States has become endangered and to ensure the future preservation of the Nation's maritime heritage;

(8) a national maritime heritage policy would greatly increase public awareness of the educational, recreational, and preservation values of maritime heritage; and

(9) the creation of a National Maritime Trust for Historic Preservation in the United States would greatly enhance maritime preservation.

SEC. 3. NATIONAL MARITIME HERITAGE POLICY.

It shall be the policy of the Federal Government in partnership with the States and local governments and private organizations and individuals to—

(1) use measures, including financial and technical assistance, to foster conditions under which our modern society and our historic maritime resources can exist in productive harmony and fulfill the social, economic, and other requirements of present and future generations;

(2) provide leadership in the preservation of the historic maritime resources of the United States;

(3) contribute to the preservation of historic maritime resources and give maximum encouragement to organizations and individuals undertaking preservation by private means; and

(4) assist State and local governments to expand and accelerate their maritime historic preservation programs and activities.

SEC. 4. NATIONAL MARITIME TRUST.

(a) Creation.—To further the policy enunciated in this Act to facilitate public participation in the preservation of maritime sites, buildings, and objects of significance or interest, and to further the education of the American public about the importance of our maritime heritage, there is hereby created a charitable, educational, and nonprofit corporation, to be known as the National Maritime Trust.

(b) Purpose.—The purposes of the National Maritime Trust shall be to—

(1) receive donations of real property and objects significant in American maritime history and culture;

(3) to preserve and administer them for public benefits;

(3) to accept, hold, and administer gifts of money, securities, or other property of whatsoever character for the purpose of carrying out a maritime preservation and education program; and

(4) to execute other functions as are vested in it by this Act.

(c) Principal Office.—The National Maritime Trust shall have its principal office in the District of Columbia and shall be deemed, for purposes of venue in civil actions, to be an inhabitant and resident thereof. The National Maritime Trust may establish offices in other places as it may deem necessary or appropriate in the conduct of its business.

(d) Administration of National Trust.—

(1) Composition of board of trustees.—

(A) The affairs of the National Maritime Trust shall be under administration of a board composed as follows: the Secretary of Transportation, the Secretary of Commerce, and the Secretary of the Navy, ex officio; and not less than six general trustees who shall be citizens of the United States (one of whom shall be a State Historic Preservation officer whose state has an agreement with the Secretary under section 5 of the Act), to be chosen as hereinafter provided.

(B) The Secretary of Transportation, the Secretary of Commerce, and the Secretary of the Navy, when it appears desirable in the interest of the conduct of the business of the board and to the extent as they deem it advisable, may, by written notice to the National Maritime Trust, designate any officer of their respective departments to act for them in the discharge of their duties as a member of the board of trustees.

(C) The number of general trustees shall be—

(i) fixed by the Board of Trustees of the National Maritime Trust;

(ii) chosen by the members of the National Maritime Trust from its members at any regular meeting of the National Maritime Trust; and

(iii) appointed by the Secretary of Transportation.

(2) Terms of office.—the respective terms of office of the general trustees shall be as prescribed by the said board of trustees but in no case shall exceed a period of five years from the date of election. A successor to a general trustee shall be chosen in the same manner and shall have a term expiring five years from the date of the expiration of the term for which the trustees predecessor was chosen, except that a successor chosen to fill a vacancy occurring prior to the expiration of such term shall be chosen only for the remainder of that term. The chairman of the board of trustees shall be elected by a majority vote of the member of the board.

(3) Compensation and expenses.—No compensation shall be paid to the members of the board of trustees for their services as such members, but they shall be reimbursed for travel and actual expenses necessary incurred by them in attending board meetings and performing other official duties on behalf of the National Maritime Trust at the direction of the board.

(e) Powers and Duties of National Maritime Trust.—To the extent necessary to enable it to carry out the functions vested in it by this Act, the National Maritime Trust shall have the following general powers:

(1) To have succession until dissolved by Act of Congress, in which event title to the properties of the National Maritime Trust, both real and personal, shall, insofar as consistent with existing contractual obligations and subject to all other legally enforceable claims or demands by or against the National Maritime Trust, at the discretion of the Secretary of the Interior, pass to and become vested in the United States of America;

(2) To sue and be sued in its corporate name;

(3) To adopt, alter, and use a corporate seal which shall be judicially noticed;

(4) To adopt a constitution and to make such bylaws, rules, and regulations, not inconsistent with the laws of the United States or of any State, as it deems necessary for the administration of its functions under this Act, including among other matter, bylaws, rules, and regulations governing visitation to maritime historic properties, administration of corporate funds, and the organization and procedure of the board of trustees;

(5) To accept, hold, and administer gifts and bequests of money, securities, or other personal property of whatsoever character, absolutely or in trust, for the purposes for which the National Maritime Trust is created. Unless otherwise restricted by the terms of the gift or bequest, the National Maritime Trust is authorized to sell, exchange, or otherwise dispose of and to invest or reinvest in such investments as it may determine from time to time the moneys, securities, or other property given or bequeathed to it. The principal of such corporate funds, together with the income therefrom and all other revenues received by it from any source whatsoever, shall be placed in such depositories as the National Maritime Trust shall determine and shall be subject to expenditures by the National Maritime Trust for its corporate purposes;

(6) To acquire by gift, devise, purchase, or otherwise, absolutely or on trust, and to hold and, unless otherwise restricted by the terms of the gift or devise, to encumber, convey, or otherwise dispose of, any real property, or any estate or interest therein (except property within the exterior boundaries of national parks and national monuments), as may be necessary and proper in carrying into effect the purposes of the National Maritime Trust;

(7) To contract and make cooperative agreements with Federal, State, or municipal departments or agencies, corporations, associations, or individuals, under such terms and conditions as it deems advisable, respecting the protection, preservation, maintenance, or operation of any maritime historic site, building, object or other property used in connection with-them for public use, regardless of whether the National Maritime Trust has acquired title to the properties, or any interest therein;

(8) To enter into contracts generally and to execute all instruments necessary or appropriate to carry out its corporate purposes, which instruments shall include such concession contracts, leases, or permits for the use of lands, buildings, or other property deemed desirable either to accommodate the public or to facilitate administration;

(9) To appoint and prescribe the duties of such officers, agents, and employees as may be necessary to carry out its functions and to fix and pay such compensation to them for their services as the National Maritime Trust may determine; and

(10) Generally to do any and all lawful acts necessary or appropriate to carry out the purposes for which the National Maritime Trust is created.

SEC. 5. NATIONAL HERITAGE GRANTS PROGRAM.

(a) Establishment.—

(1) There is established within the Department of Transportation a National Maritime Heritage Grants Program to foster in the American public a greater awareness and appreciation of the role of maritime endeavors in our Nation's history and culture.

(2) Within ninety days after the date of enactment of this Act, the Secretary may enter into a cooperative agreement with the National Maritime Trust for assistance in the administration of the grants program.

(3) The Secretary shall administer a program of matching grants-in-aid to carry out the purpose of this Act.

(4)(A) In addition to the programs under paragraph (3) of this subsection, the Secretary may administer a program of direct grants for the preservation of maritime resources. Funds to support this direct grants program annually shall not exceed 10 percent of the amount derived under section 6 of this Act.

(B) These grants may be made by the Secretary—

(i) for the preservation of national maritime historic resources which are threatened with demolition or impairment and for the preservation of maritime historic resources of significance;

(ii) for maritime demonstration projects which will provide information concerning professional methods and techniques having application to maritime historic resources;

(iii) for the training and development of skilled labor in trades and crafts, and in analysis, marine survey, and curation, relating to maritime historic preservation; and

(iv) for educational programs to increase the awareness by the American public of our maritime heritage.

(b) GRANTS PROCESS.—

(1) The Secretary shall publish annually a grants solicitation, together with grant priorities and other relevant information, in the Federal Register and otherwise as the Secretary deems appropriate.

(2) Each fiscal year, the Secretary, acting through the National Maritime Trust, shall receive and process applications for grants under the regulations promulgated pursuant to section 11 of this Act.

(c) NATIONAL MARITIME TRUST RESPONSIBILITIES.—Under the cooperative agreement executed under section (a) of this section, the National Maritime Trust shall be responsible for administration of the grants program, including—

(1) publicizing the program to prospective grantees in accordance with the regulations promulgated by the Secretary;

(2) answering inquiries from the public, including providing information on the program as requested;

(3) distributing grant applications;

(4) collecting proposals and ensuring their completeness;

(5) forwarding the proposals to the Committee for review;

(6) transmitting the recommendations of the Committee to the Secretary;

(7) keeping records of all grant awards and expenditures of funds;

(8) monitoring progress of grants;

(9) providing progress reports to the Secretary as requested;

(10) delegating responsibility of administering a project to the appropriate state Historic Preservation officer for the State in which the project or program is principally located to the maximum extent possible consistent with the purposes of this Act; and

(11) any other responsibilities that the Secretary deems appropriate.

(d) REPORT TO CONGRESS.—The National Maritime Trust shall submit an annual report on the program to the Secretary for transmittal to Congress. The report shall include—

(1) a description of each project funded;

(2) the results or accomplishments of each project;

(3) a detailed review of the National Maritime Trust's operations, activities and financial condition;

(4) recommended priorities for achieving the purposes of the Act under section 5(c)(4); and

(5) the audit report required under section 8.

(e) CRITERIA FOR GRANT ELIGIBILITY.—To qualify for a grant under this section, a grantee must—

(1) demonstrate that the project for which funding is being sought—

(A) has the potential for reaching a broad audience with an effective educational program based on American maritime history, technology, or the role of maritime endeavors in American culture; and

(B) has the ability to gamer support for non-Federal sources;

(2) match the grant award with non-Federal assets, including cash, as appropriate;

(3) demonstrate organizational viability;

(4) exhibit the existence of approved business and operation plans;

(5) maintain records as may be reasonably necessary to fully disclose—

(A) the amount and the disposition of the proceeds of the grant;

(B) the total cost of the project for which the grant is given or used;

(C) the amount and nature of that portion of the cost of the project supplied by other sources; and

(D) other records as will facilitate an effective audit required in regulation by the Secretary;

(6) provide access for the purposes of any required audit and examination of any books, documents, papers, and records of the recipient under this Act;

(7) be principally located in a state whose state Historic Preservation officer enters into an agreement with the Secretary regarding the delegation of the administration of the project or program under this Act; and

(8) be a unit of Federal, State, or local government, or a nonprofit organization that has applied for, or has been granted, 501(c)(3) status—

(f) GRANTS.—Grants will be available for projects of—

(1) national, regional, and local maritime historic significance, including restoration of vessels, small craft, lighthouses, and other sites, structures, or objects listed on the National Register of Historic Places; and

(2) significant educational or cultural value, including museums, fishing villages, maritime educational waterborne-experience programs, construction or purchase of educational facilities, structures or vessels, and other projects that the Secretary deems appropriate.

(g) TERMS AND CONDITIONS.—

(1) No part of any grant made under this section may be used to compensate any person intervening in any proceeding under this act.

(2) An application must be submitted in accordance with regulations and procedures prescribed by the Secretary;

(3) No grant may be awarded—

(A) unless the grantee has agreed to assume, after completion of the project for which the grant is awarded, the total cost of the continued maintenance, repair, and administration of the property in a manner satisfactory to the Secretary; and

(B) until the grantee has complied with such further terms and conditions as the Secretary may deem necessary or advisable.

(4) Except as permitted by other law, the State share of the costs referred to in paragraph (3) of this subsection shall be contributed by non-Federal sources.

(5) Notwithstanding any other law, no grant made pursuant to this Act shall be treated as taxable income for purposes of the Internal Revenue Code of 1986.

(6) The secretary shall make funding available as soon as practicable after execution of a grant agreement through the State Historic Preservation Officer for the State in which the project or program is principally located.

(7) The State Historic Preservation Officer shall administer grants for projects and programs as provided by this Act.

(8) The total administrative costs, direct and indirect, charged for carrying out projects and programs may not exceed 25 percent of the aggregate costs.

(9) The amount of funds expended on Federal projects shall not exceed 20 percent of the amount appropriated annually under this Act for the fund.

(h) REVIEW OF PROPOSALS.—

(1) COMMITTEE RECOMMENDATIONS.—The committee established under section 7 of this Act shall review the grant proposals and make recommendations to the Secretary as to which projects should receive funding.

(2) SECRETARIAL APPROVAL.—Within one hundred and twenty days of the deadline for submission, the Secretary shall approve applications for grants under this subsection recommended by the committee if the Secretary is satisfied that—

(A) the applicant has the requisite technical and financial capability to carry out the project; and

(B) the project adequately implements the objectives of the Act and will comply with subsection (g) of this section.

(i) WAIVER.—The Secretary may waive the requirements of this section for any grant under this Act.

SEC. 6. CONVEYANCE OF NDRF VESSEL FOR SCRAPPING BY NATIONAL MARITIME TRUST

(a) VESSEL CONVEYANCE AUTHORITY.—

(1) IN GENERAL.—Notwithstanding any other law, the Secretary may convey to the National Maritime Trust, without consideration, all right, title, and interest of the United States Government in each vessel which—

(A) is in the National Defense Reserve Fleet on the date of the enactment of this section;

(B) has no usefulness to the Government; and

(C) is scheduled to be scrapped.

(2) CONDITION.—As a condition of conveying a vessel to the National Maritime Trust pursuant to this section, the Secretary shall require that the National Maritime Trust enter into an agreement with the Secretary which requires that the National Maritime Trust—

(A) sell the vessel for scrap purposes;

(B) use the proceeds of that scrapping for expenses directly related to the purposes of this Act; and

(C) comply with any other conditions the Secretary considers appropriate.

(b) DELIVERY.—The Secretary shall deliver a vessel conveyed under this section to the National Maritime Trust—

(1) at the place where the vessel is located on the date of the approval of the conveyance;

(2) in its condition on that date; and

(3) without cost to the Government.

(c) MINIMUM VESSEL SALE.—The National Maritime Trust shall sell a sufficient quantity of vessels annually to ensure that the amount derived is not less than $5,000,000 for each fiscal year beginning in fiscal year 1994 and ending in fiscal year 2000, and amounts as may be required thereafter.

(d) TREATMENT OF AMOUNTS AVAILABLE TO THE TRUST.—Amounts available to, or used by, the National Maritime Trust pursuant to this subsection shall not be considered in any determination of the amounts available to the Department of the Interior.

(e) ADMINISTRATIVE EXPENDITURES.—

(1) MINIMUM AMOUNT.—Not more than 15 percent or $250,000, whichever is greater, of the amount derived under this section in any fiscal year may be used for administering the program under the cooperative agreement executed under section 5 of this Act.

(2) ALLOCATION.—Of the amount used for administering the program in any fiscal year, two thirds shall be allocated to the National Maritime Trust and one-third allocated to the Secretary.

(f) DISBURSEMENT CRITERIA.—In expending the funds derived under this section, the Secretary shall give due consideration to the following factors:

(1) the national significance of a project;

(2) its maritime historical and educational value to the community;

(3) the imminence of its destruction or loss; and

(4) the expressed intentions of the donor.

SEC. 7. MARITIME HERITAGE PROGRAM GRANTS COMMITTEE.

(a) ESTABLISHMENT.—There is established a Maritime Heritage Grants Committee.

(b) MEMBERSHIP.—Within one hundred and twenty days of enactment of this Act, and biennially thereafter, the Secretary shall appoint the members of the Committee. The Committee shall consist of eleven members representing various sectors of the maritime community who are knowledgeable and experienced in maritime heritage and preservation, and showing regional geographic balance, as follows:

(1) one representative from the field of small craft preservation;

(2) one representative from the field of large vessel preservation;

(3) one representative from the field of sail training;

(4) one representative from the field of preservation architecture;

(5) one representative from the field of underwater archeology;

(6) one representative from the field of lighthouse preservation;

(7) one representative from the field of maritime education;

(8) one representative having a military naval history background;

(9) one representative from a maritime museum or maritime historical society;

(10) one representative who is a State Historic Preservation Officer whose state has an agreement with the Secretary under section 5 of this Act; and

(11) one representative from the general public.

(c) DUTIES OF THE COMMITTEE.—The duties of the Committee include—

(1) providing oversight of the grants program on a continuing basis;

(2) reviewing grant proposals;

(3) making funding recommendations to the Secretary;

(4) identifying and advising the Secretary regarding priorities for achieving the purposes of the Act;

(5) reviewing the National Maritime Trust's annual grants report to the Secretary; and

(6) performing any other duties as the Secretary deems appropriate.

(d) REPORT.—The Committee shall submit annually a comprehensive report of its activities and the results of its studies to the Secretary and Congress and shall from time to time submit additional and special reports as it deems advisable. Each report shall propose legislative enactments and other actions as, in the judgment of the Committee, are necessary and appropriate to carry out its recommendations and shall provide the Committee's assessment of current and emerging problems in the field of maritime historic preservation and an evaluation of the effectiveness of the programs of Federal agencies, State and local governments, and the private sector in carrying out the purposes of this Act.

(e) QUORUM.—Seven members of the Committee shall constitute a quorum.

(f) APPOINTMENTS PROCESS.—

(1) DUTIES OF THE SECRETARY.—The Secretary shall—

(A) publicize annually in the Federal Register a call for nominations with a statement that the applications for nomination shall be submitted to the National Maritime Trust;

(B) make the appointments to the Committee giving due consideration to the recommendations of the National Maritime Trust; and

(C) designate a Chairman and a Vice Chairman, from the members appointed under this section. The Vice Chairman may act in place of the Chairman during the absence or disability of the Chairman or when the office is vacant.

(2) DUTIES OF THE NATIONAL MARITIME TRUST.—The National Maritime Trust shall—

(A) widely publicize the call for nominations in its newsletter and by any other appropriate means;

(B) collect nominations and categorize the nominations as set forth in subsection (b); and

(C) submit the nominations to the Secretary with recommendations as to appointments by category as set forth in subsection (b).

(3) TERMS OF APPOINTMENTS.—The members of the Committee shall be appointed for staggered terms of not more than three years. If a vacancy occurs, the Secretary shall appoint a replacement for the balance of the vacated term within sixty days.

(g) GOVERNMENT REPRESENTATIVES.—There shall be nonvoting government representatives appointed to serve as advisors to the Committee as follows—

(1) one representative each from the Department of Transportation, Department of Navy, and the National Oceanographic and Atmospheric Administration; and

(2) at least one representative from the National Maritime Initiative of the National Park Service;

(3) other representatives from interested government agencies as the Secretary deems appropriate.

(h) COMMITTEE INDEPENDENCE.—No officer or agency of the United States shall have any authority to require the Committee to submit its legislative recommendations, or testimony, or comments on legislation to any officer or agency of the United States for approval, comments, or review, prior to the submission of recommendations, testimony, or comments to Congress. In instances in which the Committee voluntarily seeks to obtain the comments or review of any officer or agency of the United States, the Committee shall include a description of those actions in its legislative recommendations, testimony, or comments on legislation that it transmits to Congress.

(i) SECRETARY ASSISTANCE.—To assist the Committee in discharging its responsibilities under this Act, the Secretary at the request of the Chairman, shall provide a report to the Committee detailing the significance of any maritime historic resource, describing the effects of any proposed undertaking on the affected resource, and recommending measures to avoid, minimize, or mitigate adverse effects.

(J) COMPENSATION.—A member of the Committee who is not an officer or employee of the United States shall serve without pay, and a member of the Committee who is an officer or employee of the United States shall receive no additional pay, on account of the member's service on the Committee. While away from home or regular place of business in the performance of service for the Committee, a member of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as a person employed intermittently in the Government service is allowed expenses under section 5703 of title 5, United States Code.

(k) FACA EXEMPTION.—The Committee is exempt from the provisions of the Federal Advisory Committee Act (86 Stat. 770).

SEC. 8. INTERIM PROJECTS.

(a) DETERMINATION BY COMMITTEE.—Within six months of the date of enactment of this Act, the Committee, in consultation with the Secretary, shall determine if any projects exist that meet the criteria under subsection (d) of this section.

(b) DESIGNATION BY SECRETARY.—The Secretary shall designate those projects determined qualified under subsection (a) of this section to receive a grant prior to issuance of the implementing regulations.

(c) ISSUANCE OF GRANTS.—Upon scrapping of a vessel under section 6 of this Act, the Secretary shall disburse funds derived under that section to those projects designated in subsection (b) of this section in the amounts approved in the grant for each project.

(d) INTERIM CRITERIA.—To qualify for an interim grant, a grantee must meet the criteria under section 5(e) of this Act and—

(1) be a 501(c)(3) organization;

(2) demonstrate that the project needs accelerated consideration to contribute to a significant national event relating to the maritime heritage of the United States;

(3) establish that one-half of the matching funds are in cash;

(4) demonstrate that the project for which funding is sought is national in scope and educational in nature; and

(5) show that the proposed project is supported by a broadbased membership program or group of donors.

SEC. 9. AUDITS OF ACCOUNTS.

(a) INDEPENDENT AUDIT.—The accounts of the National Maritime Trust shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The audits shall be conducted at a place or places where the accounts of the organization are nominally kept. All books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Alliance and necessary to facilitate the audits, and full facilities for verifying transactions with any assets held by depositories, fiscal agents, and custodians, shall be afforded to that person or persons. The report of this independent audit shall be included in the report to Congress required by section 3 of this Act.

(b) GENERAL ACCOUNTING OFFICE AUDIT.—The financial transactions of the National Maritime Trust for each fiscal year may be audited by the General Accounting Office in accordance with the principles and procedures and under rules and regulations as may be prescribed by the Comptroller General of the United States. Any audit shall be conducted at the place or places where accounts of the organization are normally kept. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, and files, and all other papers, things, or property belonging to or in use by the Trust, pertaining to its financial transactions and necessary to facilitate the audit, and shall be afforded full facilities for verifying transactions with any assets held by depositories, fiscal agents, and custodians. All books, accounts, records, reports, files, papers, and property of the organization shall remain in the possession and custody of the organization.

SEC. 10. DEFINITIONS.

(a) "Committee" means the Maritime Heritage Grants Committee established under section 5.

(b) "Secretary" means the Secretary of Transportation.

SEC. 11. REGULATIONS.

The Secretary, after consultation with the maritime community, shall promulgate regulations within one year of the date of enactment of this Act to establish terms of office for committee membership, granting priorities, the method of solicitation and review of grant proposals, criteria for review of grant proposals, administrative requirements, reporting and record keeping requirements, delegation of project and program administration to state Historic Preservation officers, and any other requirements as the Secretary deems appropriate.

SUMMARY—NATIONAL MARITIME HERITAGE ACT OF 1993

Section 1. Short Title.—"National Maritime Heritage Act of 1993".

Section 2. Findings.—Illustrates the need to support maritime projects to ensure the future preservation of the national maritime heritage of the United States.

Section 3. National Maritime Heritage Policy.—States a national policy to foster maritime heritage through a partnership with Federal, state and local governments, including State Historic Preservation Officers, and private entities.

Section 4. National Maritime Trust.—Creates a charitable, educational and non-profit corporation with a board of trustees composed of government officials and private citizens to administer this program.

Section 5. National Maritime Heritage Grants Program.—Establishes a competitive grants program within the Department of Transportation that will be administered by the National Maritime Trust. Grants will be available for projects of national, regional and local historic significance to ensure the preservation of America's maritime heritage.

Section 6. Conveyance of NDRF Vessels for Scrapping by National Maritime Trust.—Authorizes the disposal through transfer of National Defense Reserve Fleet vessels to the National Maritime Trust for scrapping to provide funding of $5,000,000 for each of the fiscal years 1994 to 2000 to support the grants program.

Section 7. Maritime Heritage Program Advisory Committee.—Establishes an advisory committee composed of eleven members of the maritime community with knowledge and experience in maritime heritage and preservation to oversee the grants program, review grant proposals and advise the Secretary as appropriate.

Section 8. Interim Projects.—Authorizes grants prior to issuance of regulations for those projects that demonstrate the need for immediate funding in order to contribute to a significant national event relating to the maritime heritage of the United States.

Section 9. Audits of Accounts.—Requires the National Maritime Trust to have its books audited annually by an independent auditor and subjects the Alliance to an audit by the General Accounting Office.

Section 10. Definitions.—Defines various terms in the Act.

Section 11. Regulations.—Requires the Secretary of Transportation to promulgate regulations implementing the grants program.

NATIONAL MARITIME HERITAGE ACT OF 1993—QUESTIONS AND ANSWERS

1. Why is there a need for maritime preservation funding?

The United States is a maritime nation, founded on wealth harvested from and carried upon the water. Our maritime heritage is an essential aspect of this country's history. The preservation of unique maritime resources and the communication of their value to the public has been sorely neglected. Many of our irreplaceable vessels, lighthouses, and other structures are endangered to the point of total loss. Only the heroic effort of a few individuals and groups has preserved the few resources that still exist.

The National Maritime Heritage Act of 1993 will coordinate grants to be made available for educational programs and the restoration of America's cultural resources for the purpose of preserving our endangered maritime heritage.

2. Why does the federal government have a responsibility to provide funding?

The federal government has a responsibility to raise public awareness of history and the importance of remaining cultural resources. That awareness, in turn, creates a sense of responsibility and stewardship to protect and preserve important properties in local communities. Federal preservation efforts provide the critical leadership and example needed to empower local people to do their part to preserve these valuable resources.

Maritime properties are subject to a harsh environment for preservation—ships and waterside structures deteriorate at a rapid rate. Federal assistance now may prevent a much greater monetary requirement in the future if we are to save the remnants of our maritime heritage.

3. What part of the federal preservation efforts is spent on maritime heritage projects?

The overwhelming majority of federal attention and funding has been focused on land-based preservation. Tens of millions of federal dollars every year go into land-based preservation through the National Trust for Historic Preservation, the National Park Service, and the state historic preservation offices. Maritime heritage has received little more than ten million dollars in federal funding in all its history.

4. What maritime cultural resources need assistance? Have specific maritime preservation priorities been set?

The National maritime Initiative of the National Park Service has identified and inventoried extant maritime historical resources across the United States including large vessels, small craft, lighthouses, shipwrecks and underwater sights, and the shoreside buildings that supported trade, fishing, and military activities afloat. The National Register of Historic Places and the National Historic Landmark Survey have evaluated many of these properties using standard objective criteria to determine the integrity and level of significance, be it local, state, or national. The History Division and other NPS cultural resources divisions have provided preservation assistance to many needy organizations and individuals and provided matching funding for a limited number of properties when money was available. This program of inventory, evaluation, and technical assistance provides the requisite information for setting funding priorities.

5. Why is there a need for a special advisory committee?

A coordinated national program is needed to immediately redress the adverse consequences of a period of indifference during which the maritime heritage of the United States has become endangered. The required expertise to effectively determine which maritime heritage projects meet the highest standards—and therefore deserve to receive federal funding—resides with peers in the field. The committee will consist of individuals who are knowledgeable and experienced in the various aspects of maritime heritage and preservation, and show regional geographic representation to produce a coordinated grants program which is fair and balanced.

6. What is the basis for the criteria for selection of advisory committee members?

The proposed advisory committee would contain individuals knowledgeable in the field of maritime heritage in general and in many cases individuals who possess expertise with respect to the various categories of maritime heritage that are to be reviewed. Professional qualification and lack of conflict of interest with potential projects to be reviewed will be the primary criteria for a candidates selection to serve on the committee.

7. Are there any precedents for the establishment of a funding mechanism such as that contemplated by the NMHA of '93? For this type of grants program with an outside advisory committee?

The National Trust for Historic Preservation is chartered by Congress and receives a grant appropriation every year. The trust has consistently made sub-grants every year to organizations in the field of historic preservation. This is also true of the state historic preservation offices.

In 1979, the Trust administered grants with the Department of Interior for one year of funding of $5 million to maritime programs.

The Saltenstall and John Kennedy Grants Program within the Department of Commerce makes grants for fisheries development annually in the amount of $5 to $6 million.

8. Why is there a need for an interim program of grants before the actual program can be established?

Certain meritorious maritime heritage projects need accelerated consideration so that they may contribute to a significant national event relating to maritime heritage or are an endangered structure or vessel in need of immediate attention. Because they are on short timeliness they require support before the formal grants program can be set up and be in a position to review applications. Examples may be a crisis need for stabilization of an endangered structure or vessel; a project or event which has a definitive deadline; or a project which is underway and requires support to be able to continue to make progress toward a timely goal. The bill takes into account that such projects should meet the highest standards to be funded.

9. Why should the National Defense Reserve Fleet be used to fund maritime preservation and education?

Our maritime heritage endangered resources are in desperate need. If we don't act now many resources will be lost, many projects will not succeed and what does survive will require much greater sums of support later on. What better way to fund this important need than through merchant marine vessels which no longer have any useful function. The National Defense Reserve Fleet was created to fill a need resulting from our steadily diminishing national merchant marine. This decline in the merchant marine is partly a result of minimal maritime heritage education. The projects funded through the National Maritime Heritage Act of 1993 will serve to increase public awareness which ultimately can beneficially impact the status of the merchant marine. Using funds from the scrapping of obsolete vessels from the NDRF also provides the needed support without having to allocate "new" funds (which add to the federal deficit).

10. Who benefits from this type of program?

Everyone benefits! The American people of this and subsequent generations will have their culture enriched and preserved by increasing their awareness of and access to our maritime heritage. This relatively modest sum of money can have a major impact in creating jobs and work throughout the country through the funding of maritime heritage projects. These projects will also serve to perpetuate many of the traditional skills we are currently in danger of losing.

11. Would the MARAD programs such as the merchant marine academies go unfunded if the proceeds of the NDRF vessels went to maritime heritage projects?

No. Merchant marine academies have support from the Congressional appropriations to MARAD which are separate from any funding provided by vessel scrapping. In addition, this proposed legislation does not interfere with the need of the academies to use proceeds from NDRF vessel scrapping to purchase or refurbish their training vessels. The National Maritime Heritage Act of 1993 specifically provides that if there is another designated need for a NDRF ship it will not enter into the NMH act scrapping program. The intention of this bill is to share the proceeds from the scrapping of these obsolete vessels with the maritime community so that everyone benefits.

Clearly there is a need for an improved merchant marine for commerce and for our national defense. By supporting the maritime heritage programs we can improve public awareness and appreciation of the importance of maritime endeavors not only in our history but also in today's economy. An informed public is the key to strengthening the nation's merchant marine, maritime commerce and culture.

12. Who is the National Maritime Alliance, and why should they be the administrators of this grant program?

The National Maritime Alliance is a nonprofit organization, established in the State of Delaware with an administrative office in the State of Maine. It is an association established to advance the shared interests of organizations dedicated to preservation of any aspect of American maritime heritage, and membership is open to such organizations and individuals. Several of the primary goals of the alliance are to increase public awareness of the importance of maritime heritage; to articulate a common philosophy for the preservation of maritime artifacts, skills and values; to promote adherence to established standards of performance in maritime preservation activities; and provide national leadership for maritime heritage issues. The board of directors for the Alliance represents top leaders in maritime preservation, and the Alliance serves as a central resource for the entire field. As such, it is the only appropriate body for administering such a program.•

By Mr. BRYAN (for himself and Mr. DOMENICI):

S. 1728. A bill to provide regulatory capital guidelines for treatment of real estate assets sold with limited recourse by depository institutions; to the Committee on Banking, Housing, and Urban Affairs.

THE COMMERCIAL MORTGAGE CAPITAL AVAILABILITY ACT OF 1993

Mr. BRYAN. Mr. President, I am introducing today legislation with Senator DOMENICI that would remove impediments to the formation of a viable secondary market for commercial mortgages. I believe this legislation will foster a much needed resurgence in the commercial real estate market which will have positive consequences throughout our economy.

I know firsthand of the problems commercial real estate firms are experiencing getting financing. Earlier this year, the Banking, Housing, and Urban Affairs Committee held hearings in Nevada on the credit crunch facing the business community. We heard testimony from a number of extremely reputable firms that were having their lines of credit substantially curtailed or having difficulties rolling over loans.

The difficulty these businesses experienced getting financing were not a factor of poor economic conditions in Nevada. To the contrary, the Nevada economy has been relatively healthy. The credit crunch was more a consequence of changes going on in our State's financial institutions.

Without a doubt, our lending institutions curtailed their business lending in response to the perception that holding commercial mortgages was too risky. This legislation will address this problem by lessening the risk for lenders when they make commercial loans.

There are a number of recommendations to end this credit crunch. I believe the most immediate steps we could take would be to facilitate the growth in a secondary market for commercial loans.

Today, there is a fledgling secondary market for commercial real estate but is minuscule when compared to the secondary market for residential mortgages which numbers in the tens of billions of dollars. In fact, 53 percent of new mortgages in this country are successfully sold into a secondary market.

A viable secondary market for commercial mortgages is essential to provide liquidity and become the takeout vehicle that is currently missing from the market for construction lenders.

This legislation will also be of great benefit to the safety and soundness of our Nation's financial institutions. If we have learned nothing else from the savings and loan debacle, it is that when a financial institution becomes overly concentrated in risky investments the U.S. taxpayers are in jeopardy.

This legislation would reduce this risk by allowing financial institutions to pass along commercial mortgages to the capital markets. This would spread the risk and foster stability by increasing the liquidity of these mortgages. Securities, by design, are a more liquid form of investment than direct investment in real estate, and the more liquid the assets held by a financial system, the more stable, secure, and flexible that system will be.

The thrust of this legislation is to remove a number of impediments to the development of a commercial secondary mortgage market. This legislation would broaden the Secondary Mortgage Market Enhancement Act [SMMEA] to apply to commercial mortgage securities, amend the Employment Retirement Income Security Act [ERISA] to include a class exemption for commercial mortgage securities from being considered prohibited transactions, and change the regulatory treatment—risk-based capital requirements—of subordinated commercial loans to avoid over-reserving.

The difficulties in the real estate industry resulting from various vulnerabilities in the commercial funding systems have aggravated this Nation's slow economic recovery. I believe by enacting this bill we will go a long way toward correcting this situation.

Mr. President, I ask unanimous consent that the text of the bill and a summary be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1728

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Commercial Mortgage Capital Availability Act of 1993".

SEC. 2. INSURED DEPOSITORY INSTITUTION CAPITAL REQUIREMENTS FOR TRANSFERS OF MORTGAGE LOANS.

(a) ACCOUNTING PRINCIPLES.—The accounting principles applicable to the transfer of a mortgage loan with recourse contained in reports or statements required to be filed with Federal banking agencies by a qualified insured depository institution shall be consistent with generally accepted accounting principles.

(b) CAPITAL AND RESERVE REQUIREMENTS.—With respect to the transfer of a mortgage loan with recourse that is a sale under generally accepted accounting principles, each qualified insured depository institution shall—

(1) establish and maintain a reserve equal to an amount sufficient to meet the reasonable estimated liability of the institution under the recourse arrangement; and

(2) treat as an asset (for purposes of applicable capital standards and other capital measures, including risk-based capital requirements) only the maximum amount at risk under the recourse arrangement.

(c) QUALIFIED INSTITUTIONS CRITERIA.—An insured depository institution is a qualified insured depository institution for purposes of this section if, without regard to the accounting principles or capital requirements referred to in subsections (a) and (b), the institution is—

(1) well capitalized; or

(2) with the approval, by regulation or order, of the appropriate Federal banking agency, adequately capitalized.

(d) AGGREGATE AMOUNT OF RECOURSE.—The total outstanding amount at risk with respect to transfers of mortgage loans under subsections (a) and (b) (together with the amount at risk under any provisions of law substantially similar to subsections (a) and (b)) shall not exceed—

(1) 15 percent of the risk-based capital of the institution; or

(2) such greater amount, as established by the appropriate Federal banking agency by regulation or order.

(e) INSTITUTIONS THAT CEASE TO BE QUALIFIED OR EXCEED AGGREGATE LIMITS.—If an insured depository institution ceases to be a qualified insured depository institution or exceeds the limits under subsection (d), this section shall remain applicable to any transfer of mortgage loans that occurred during the time that the institution was qualified and did not exceed such limit.

(f) PROMPT CORRECTIVE ACTION NOT AFFECTED.—The capital of an insured depository institution shall be computed without regard to this section in determining whether the institution is adequately capitalized, undercapitalized, significantly undercapitalized, or critically undercapitalized under section 38 of the Federal Deposit Insurance Act.

(g) REGULATIONS REQUIRED.—Not later than 180 days after the date of the enactment of this Act, each appropriate Federal banking agency shall promulgate final regulations implementing this section.

(h) ALTERNATIVE SYSTEM PERMITTED.—

(1) IN GENERAL.—This section shall not apply if, at the discretion of the appropriate Federal banking agency, the regulations of the agency provide that the aggregate amount of capital and reserves required with respect to the transfer of mortgage loans with recourse does not exceed the aggregate amount of capital and reserves that would be required under subsection (b).

(2) EXISTING TRANSACTIONS NOT AFFECTED.—Notwithstanding paragraph (1), this section shall remain in effect with respect to transfers of mortgage loans with recourse by qualified insured depository institutions occurring before the effective date of regulations referred to in paragraph (1).

(i) DEFINITIONS.—For purposes of this section—

(1) the term "adequately capitalized" has the same meaning as in section 28(b) of the Federal Deposit Insurance Act;

(2) the term "appropriate Federal banking agency" has the same meaning as in section 3 of the Federal Deposit Insurance Act;

(3) the term "capital standards" has the same meaning as in section 38(c) of the Federal Deposit Insurance Act;

(4) the term "Federal banking agencies" has the same meaning as in section 3 of the Federal Deposit Insurance Act;

(5) the term "insured depository institution" has the same meaning as in section 3 of the Federal Deposit Insurance Act;

(6) the term "other capital measures" has the same meaning as in section 38(c) of the Federal Deposit Insurance Act;

(7) the term "recourse" has the meaning given to such term under generally accepted accounting principles;

(8) the term "mortgage loan" means—

(A) a note or certificate of interest or participation in a note (including any rights designed to assure servicing of, or the timeliness of receipt by the holders of such notes, certificates, or participation of amounts payable under such notes, certificates or participation) that is principally secured by an interest in real property; or

(B) a security (as such term is defined in section 8 of the Securities Exchange Act of 1934) that is secured by one or more notes described in subparagraph (A) or certificates of interest or participation in such notes (with or without recourse to issuers thereof) and that, by its terms, provides for payments of principal in relation to payments, or reasonable projections of payments, on notes described in subparagraph (A) or certificates of interest or participation in such notes; and

(9) the term "well capitalized" has the same meaning as in section 38(b) of the Federal Deposit Insurance Act.

SEC. 3. AMENDMENT TO DEFINITION OF MORTGAGE RELATED SECURITY.

Section 3(a)(41)(A)(i) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(41)(A)(i)) is amended by inserting before the semicolon ", or on one or more parcels of real estate upon which is located one or more commercial structures".

SEC. 4. AUTHORITY TO EXEMPT COMMERCIAL MORTGAGE RELATED SECURITIES TRANSACTIONS FROM PROHIBITED TRANSACTION RULES.

The Secretary of Labor, in consultation with the Secretary of the Treasury, shall exempt, either unconditionally or on stated terms and conditions, transactions involving commercial mortgage related securities (as such term is defined in section 3(a)(41) of the Securities Exchange Act of 1934, as amended by section 3 of this Act) from—

(1) the restrictions of sections 406(a) and 407(a) of the Employee Retirement Income Security Act of 1974; and

(2) the taxes imposed under section 4975 of the Internal Revenue Code of 1986.

COMMERCIAL REAL ESTATE MORTGAGE SECURITIZATION: THE COMMERCIAL MORTGAGE CAPITAL AVAILABILITY ACT OF 1993

INTRODUCTION

As we enter the fourth quarter of 1993, there continues to be a lack of available commercial mortgage credit. Traditional commercial mortgage lenders have fled the commercial mortgage market, affecting both new construction and sales of existing properties. Mortgage loan renewals and refinancings, even by lenders with long-term credit relationships with borrowers, are increasingly difficult to secure.

When commercial mortgage credit is being advanced, it is under much more stringent terms than historical practice or current mortgage conditions should justify. Loan-to-value ratio limits are frequently below 60 percent, required debt coverage ratios are above 1.5, and spreads against 10-year Treasuries have increased to over 200 basis points, up from 60 basis points just 8 years ago. Furthermore, additional collateral or guarantees are frequently required, even on current, well-performing loans.

Additionally, federally-chartered commercial banks, burdened by poorly performing and illiquid commercial real estate portfolios, are constrained in their ability to modify or enhance their portfolio positions and, thus, are unable to originate new loans. Risk-based capital requirements, minimum equity standards, and the need to roll over maturing loans to avoid more REO has inhibited new lending activity over the last several years. This constraint has resulted in a diminished ability by these institutions to meet small business and corporate client needs, and is further exacerbating the economic plight of local communities. Improving the balance sheets of financial institutions by enhancing the liquidity of commercial mortgage loans would free up credit for lending in small business and local communities. The gain here is enormous, since small businesses have such a large impact on jobs and job creation.

Enhancing securitization[1] procedures and the secondary market for commercial real estate loans would foster economic growth, create jobs and add to the financial stability of our lending institutions by increasing the flow of funds through capital markets and fostering liquidity. Securitization will not stimulate unnecessary new development activity. Indeed, it will contribute to the recovery of our commercial sector and help assure that the financial crisis experienced over the past several years, will not be repeated.

Although real estate markets in selected parts of the country have begun to exhibit signs of a possible recovery, instability and deeply depressed market values are the norm in most areas. The weakness in the commercial real estate sector has triggered devastating events that extend far beyond the development site. Thousands of businesses related to the real estate industry have failed, tens of thousands of workers have lost their jobs and numerous financial institutions have failed.

Many local economies have suffered considerably due to eroding tax bases caused by the fall of commercial real estate values. Communities have been forced to make up the difference in a variety of ways, including higher tax rates, layoffs and reduced services. Thus, the deterioration of commercial property values has cut deeply into revenues that could otherwise have been used to build new schools, repair bridges, hire police and firemen, or provide other important community services.

BACKGROUND

The commercial credit predicament can be best illustrated by the trend in commercial mortgage credit outstanding. Between 1990 and 1991, total commercial (excluding multifamily) mortgage debt outstanding dropped from $760.4 billion to $751.4 billion—the first drop since 1971. Over the decades since 1971, commercial credit outstanding had increased at an average annual rate of 11.7 percent. As of the third quarter of 1992, the total volume of outstanding commercial mortgage loans was $726.1 billion. As of the second quarter of 1993, total outstanding commercial mortgage debt—excluding multifamily—was just under $700 billion.

A direct parallel to the commercial mortgage market's credit dilemma can be found in the historical development of the residential secondary mortgage market. Comparable liquidity and funding problems plagued the residential mortgage markets in the 1970s and early 1980s. However, the timely development of an active secondary market for residential mortgages, including new forms of residential mortgage-backed securities, solved what otherwise could have been a serious capital shortage for housing as well as a liquidity crisis for the institutions holding residential loans.

Also, Freddie Mac and Fannie Mae provided a consistent flow of funds into residential mortgages, eliminating regional differences in the availability of mortgage capital. Since 1970, they have successfully created and maintained a secondary market for residential mortgage-backed securities. This market now represents 53 percent of the new origination market and 46 percent of residential mortgages outstanding.

It is noteworthy that despite the nation's persistent economic and financial problems over the past five years, one problem the country has not experienced is a lack of residential mortgage financing at market interest rates. This is largely attributable to the progress made in the trading and securitization of residential mortgage loans.

MULTIFAMILY SECURITIZATION

Financing for multifamily housing has also become competitive and more difficult to obtain. The convergence of several factors in the last few years, including changes in institutional lending due to FIRREA, repercussions from the Tax Reform Act of 1986, the constriction in Freddie Mac Multifamily programs, the repeated battle for congressional extension of the low-income housing tax credit, and reduced activity by FHA, have permanently altered the multifamily arena and has added to the frustrations of this nation's lower- and middle-income families in their efforts to obtain decent, affordable housing.

In the 1980s, thrifts and commercial banks were the primary source of financing to multifamily construction projects. In Fall, 1985, thrifts provided 53 percent of multifamily financing, dominating all other sources. By Fall, 1992, this market share fell to 36 percent and the traditional lending industry (thrifts and banks) continues to downsize its commercial real estate activity, primarily due to legislative and regulatory restraints. Stricter regulation after FIRREA has steered thrifts entirely away from commercial real estate (which includes multifamily) lending. Banks, the next logical source for financing, are constrained in their ability to make commercial loans also due to regulatory pressures. The struggle to meet risk-based capital requirements, contention with environmental liability, and the inability to connect existing loans to the capital marketplace has put acute pressure on banks' reserves and portfolio management.

Insurance companies are also being extremely cautious after some significant failures and with the impending threat of harsh treatment from the Investments of Insurers Model Act, proposed by the National Association of Insurance Commissioners, take-out commitments from insurance companies are likely to vanish altogether.

SECONDARY MARKET FOR LIQUIDITY AND TAKE-OUT SUPPORT

Worsening the liquidity in multifamily finance is the inability of traditional lenders to easily securitize and sell multifamily mortgages into an active secondary market. In the current market, the need to obtain financing for new originations and liquidate existing mortgage portfolios is a strong impetus for growth in multifamily mortgage-backed securities. However, the proportion of securitized multifamily loans is substantially smaller than securitized residential mortgages. Multifamily securitization, though increasing in market share, has not grown like the single-family product largely because multifamily mortgages have greater complexity and variation than residential mortgages.

However, the largest increase in market share of multifamily loans has been by mortgage securities. Their share grew from 3.3 percent in 1985 to 10.4 percent in 1992. Yet, the Resolution Trust Corporation (RTC) accounted for much of the increase and the RTC's securitization activity is supposed to be cut back tremendously in the coming year.

During the past two years, 12 multifamily issues totaling $4.5 billion have come to market. Although largely supported by RTC assets, this massive loan packaging has established the viability of securitization and has shown that this is an important technique for creating new loan funds for income-producing real estate.

THE COMMERCIAL MORTGAGE CAPITAL AVAILABILITY ACT OF 1993 IS THE SOLUTION

While many solutions to the commercial mortgage credit crunch have been proposed—turning to other forms of lending or the raising of equity capital—the best possible solution would be to enhance the liquidity of present mortgage products. Several conditions are necessary for liquidity of commercial mortgages to be enhanced. First, and foremost, there must be legislative and regulatory encouragement.

A viable secondary market for commercial mortgages is essential to provide liquidity and become the take-out vehicle that is currently missing from the market for construction lenders. The recent credit crunch for commercial real estate has pointed up the vulnerability of our financial institutions in dealing with the structural changes faced by the industry. Although there are a number of impediments to the development of a commercial secondary mortgage market, the benefits will be great to financial institutions who can more actively manage their portfolios and to borrowers who will not suffer periods of illiquidity in the market.

This reasoning is supported by almost everyone in the commercial real estate finance industry, and that is:

A broad-based secondary market for commercial mortgages would provide the appropriate forum in which commercial loans may be securitized and traded. The ability to securitize and trade loans in a secondary market, in turn, creates liquidity. Securities are, by design, a more liquid form of investment than direct investment in real estate. Moreover, the more liquid the assets held by a financial system, the more stable, secure and flexible that system will be.

The market for commercial mortgage securities is steadily growing, although the market is modest in comparison to the residential mortgage securities market. This market will evolve with or without federal intervention, however, now is the time to foster securitization methods and practices that bolster safety and soundness while providing fair and equitable market access to healthy financial institutions.

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[1] What is Securitization: Securitization converts relatively illiquid real estate assets into marketable securities that can be purchased by a broad range of investors including pension funds, banks, insurance companies, mutual funds and investment funds. The securities are backed by pools of commercial mortgages, or sometimes by a single property, such as a large urban, mixed use complex.

The cash flows generated by the underlying properties are divided to create classes of securities in accordance to risk profiles, maturity schedules and various investor criteria. These securities are analyzed and assigned credit ratings by agencies such as Duff and Phelps, Moody's and Standard & Poor's, allowing investors to compare the risks of owning them with the risks of owning corporate bonds and other marketable investments.

Securitization techniques can enhance a loan origination program whereby an institution can originate, pool and securitize new mortgage loans without the capital restraints of becoming long-term holders of the loans. Thus, by packaging and selling off a significant proportion of loans to investors, lenders will be able to underwrite, process and service more mortgages without increasing their overall allocation to real estate. This directly enriches an institution's ability to manage asset-liability mix, interest rate sensitivity, and reduce capital required to meet regulatory reserve minimums.

With approximately $700 billion in commercial real estate loans outstanding in the nation's financial system, it is critical that measures be taken to assure that the institutions holding these commitments have suitable methods and policies for managing and recirculating their capital in a liquid market.

• Mr. DOMENICI. Mr. President, the Senator from Nevada [Mr. BRYAN] and I are introducing a very important bill today—the Commercial Mortgage Capital Availability Act of 1993. This bill addresses the credit crunch by removing impediments to securitization. This is the process Wall Street uses to covert relatively illiquid real estate assets into marketable securities that can be purchased by a broad range of investors including pension funds, banks, insurance companies, mutual funds, and investment funds. The securities are backed by pools of commercial mortgages or sometimes by a single property, such as a large urban, mixed-use complex.

Securitization makes money for lending recyclable. A banker makes a loan, sells it, takes the proceeds and lends it out again. Wall Street buys the loans, pools them, securitizes them and enables banks to make more loans without waiting for repayment month after month.

In the last Congress, I chaired the Real Estate Task Force. We received recommendations from 40 or more real estate and lending institutions. The task force examined ways to increase commercial real estate liquidity by expanding the secondary market. An expanded secondary market would make more credit available for commercial real estate and small business lending purposes.

In April of this year, I held a Senate Banking Committee credit crunch hearing in New Mexico. Senator BRYAN held a hearing on the same topic in Nevada. We came to the same conclusion—we need to make it easier for the secondary market in commercial real estate to function and grow.

Testimony at the hearing in New Mexico included some very illuminating testimony from Lou Toulga who is an Albuquerque real estate broker and the chairman of the National Association of Realtors commercial investment committee.

"The commercial real estate market has been hurt because the traditional sources of funding for long-term loans have either disappeared, been traumatized, or experienced considerable price instability."

He and other witnesses knew of many banks that are not making any commercial real estate loans. Those that do make loans only offer terms with very short amortization periods. This makes it difficult to satisfy debt coverage ratios and make cash flow work. Loan to value ratio limits are often below 60 percent and required debt coverage ratios are often above 1.5. Interest rates are higher too—the spreads against 10-year Treasuries are now more than 200 basis points.

Loan terms tend to be too short—5 years with the accompanying uncertainty of rollovers and the uncertainty of reappraisals and the potential of revaluations through the appraising process. To get a 20-year loan on a building, a developer needs to have tenants with 20-year leases. This is usually impossible.

Facing these serious obstacles the National Association of Realtors, the National Realty Committee and the Mortgage Bankers Association started a consortium to do the necessary work to create a secondary market for commercial lending. They have asked for Congress' help to eliminate some of the regulatory restraints in current law. For example, modify the Secondary Mortgage Market Enhancement Act to allow the securities from commercial loan pools to be accepted across all 50 States.

We also need to deal with subordination. When a banker subordinates a particular obligation and sells it, he still needs to maintain the same capital requirements as if he had held on to the loan. This locks up capital that could be loaned for other productive purposes.

We also need to modify ERISA to allow comparable treatment of commercial real estate. Commercial real estate should be treated as favorably as residential by allowing secondary mortgage securitization. This would provide parity under ERISA for commercial real estate.

The bill Senator BRYAN and I are introducing today does three things: Broadens the Secondary Mortgage Market Enhancement Act [SMMEA] to apply to commercial securities; amends the Employment Retirement Income Security Act [ERISA] to include a class exemption for commercial mortgage securities. They would no longer be classified as prohibited transactions; and changes the regulatory treatment—risk-based capital requirements—of subordinated commercial loans to avoid forcing financial institutions to set aside more reserves than are really necessary for safety and soundness of the financial institutions.

As we enter the fourth quarter of 1993, there continues to be a shortage of commercial mortgage credit. Mortgage loan renewals continue to be difficult to secure even notwithstanding long-term credit relationships. This bill will help address that problem.

I urge my colleagues to join Senator BRYAN and I in cosponsoring this bill. It is the logical extension of a bill reported out of the Banking Committee by Senator D'AMATO. He should be commended for his hard work in making more capital available to small businesses.•

By Mr. DOMENICI:

S. 1729. A bill to amend the Internal Revenue Code of 1986 to repeal the 1993 Federal income tax rate increases on trusts established for the benefit of individuals with disabilities or for college education costs of a beneficiary; to the Committee on Finance.

PERSONS WITH DISABILITIES TRUSTS TAX RATE RESTORATION ACT

Mr. DOMENICI. Mr. President, things aren't always as they seem—especially in the world of tax legislation. Included in the same section that raised the tax rates for higher income individuals were provisions increasing the tax rate for trusts with meager incomes as low as $1,500.

President Clinton campaigned that he wouldn't raise taxes on anyone earning less than $200,000, yet in the bill the President signed this summer, tax bracket increases begin for trusts that have income of $1,500.

This isn't really a tax on trusts. It is a tax on people who are mentally ill and people with disabilities. It is also a tax on education.

The legislation I am introducing today would repeal that tax increase.

Trusts, at first blush, are faceless entities associated with the idle rich. But the vast majority of trusts are long term financial planning tools for people with simple goals and very special needs.

Trusts are set up to save for college or to provide a living allowance for people with disabilities or mental illness. It is a way that parents can plan for the time when they have passed on. These are worthy purpose trusts that are taking a heavy tax hit under the bill the President signed into law.

Increasing the tax rates on these faceless entities called trusts sounds appealing until we stop to realize that the money comes out of the living allowances of individuals with disabilities or mental illness.

I have experienced personally the agony a family faces as they try to adequately plan and provide for the future comfort and financial management of the affairs of a person with a disability or mental illness. Parents of children with special needs feel an indescribable vulnerability and responsibility as they contemplate, "How can we best provide for our child who has a disability or mental illness when we are gone?" "How can we insure that he/she will have an adequate living allowance?" It is an inescapable worry that shouldn't be compounded by misguided and ever-changing tax policy.

The problems are complex. It isn't just having enough money. Money isn't the issue. Taxes isn't the issue. It is a management and caring dilemma. Some loved ones who are mentally ill are not suited to have immediate access to the financial resources that their parents saved for their economic security. A trust is a mechanism to provide the financial resources that parents would provide if they were still alive.

These trusts are not set up because wealthy people are trying to avoid taxes. Most of the tax avoidance schemes were written out of the Tax Code in 1986 anyway. The type of trust I am talking about is set up to provide for a loved one. Our tax policy should encourage family responsibility. Only the family can be counted on to provide financial support.

This is a terrible deed that we did in the tax bill to raise the rates on these trusts. Some of these trusts were set up decades ago to provide an adequate living allowance. They are irrevocable trusts. Once they are set up they cannot be changed.

These trusts are vulnerable to interest rate fluctuations and other economic variables. It is wrong to also subject them to an ever-increasing tax burden.

Parents and grandparents like to set up education trusts for their children and grandchildren. It teaches children to save. But under the new law trust income will be taxed much more steeply than in the past. In fact, these tax provisions really clobber these trusts too.

Under the old law, taxable trusts for college or for the care and maintenance of a person who is disabled or suffers from a mental illness paid a top rate of 31 percent on taxable income of more than $11,250. That was quite steep.

But under the administration bill that just passed it became much, much worse. They would pay 39.6 percent on income of more than $7,500.

This means that a very small trust under prior law with income of $3,750 would have paid $562 in Federal income taxes. Under the new law, the trust would pay $862—a 53-percent increase.

The bill I am introducing today would repeal that 53-percent rate increase.

Under the new tax law, trusts would pay 31 percent on income between $3,500 and $5,500; 36 percent on income over $5,500, and a surcharge on income over $7,500 leading to a marginal rate of 39.6 percent.

For a country with a miserable savings rate, this is the wrong tax policy and the wrong message to our children about responsibility, savings, and investment.

I would like to think the rate increase for these trusts was an unintended consequence of this new tax law. Regardless, it is one provision that should be repealed.

I hope my colleagues will join me in cosponsoring this bill. I ask unanimous consent that a copy of the legislation be reprinted in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1729

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Persons With Disabilities Trusts Tax Rate Restoration Act".

SEC. 2. REPEAL OF 1993 RATE INCREASES ON TRUSTS FOR INDIVIDUALS WHO ARE DISABLED OR FOR COLLEGE EDUCATIONS.

(a) IN GENERAL.—Section 1(e) of the Internal Revenue Code of 1986 (relating to tax imposed on estates and trusts) is amended to read as follows:

"(e) ESTATES AND TRUSTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), there is hereby imposed on the taxable income of—

"(A) every estate, and

"(B) every trust,

taxable under this subsection a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $1,500	15% of taxable income.
Over $1,500 but not over $3,500.	$225, plus 28% of the excess over $1,500.
Over $3,500 but not over $5,500.	$785, plus 31% of the excess over $3,500.
Over $5,500 but not over $7,500.	$1,405, plus 36% of the excess over $5,500.
Over $7,500	$2,125, plus 39.6% of the excess over $7,500.

"(2) SPECIAL RULE FOR CERTAIN TRUSTS.—

"(A) IN GENERAL.—There is hereby imposed on the taxable income of an eligible trust taxable under this subsection a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $3,300	15% of taxable income.
Over $3,300 but not over $9,900.	$495, plus 28% of the excess over $3,300.
Over $9,900	$2,343, plus 31% of the excess over $9,900.

"(B) ELIGIBLE TRUST.—For purposes of subparagraph (A), the term 'eligible trust' means a trust which is established exclusively for the purpose of providing reasonable amounts for—

(i) the support and maintenance of 1 or more beneficiaries each of whom is an individual who is mentally ill or has a disability (within the meaning of section 3(2) of the Americans With Disabilities Act of 1990 (42 U.S.C. 12102(2)) at the time the trust is established,

(ii) the support and maintenance of 1 or more beneficiaries each of whom is under 21 years of age and whose custodial parent or parents are deceased, or

(iii) the payment of qualified higher education expenses (as defined in section 135(c)(2)) of the grantor's children or grandchildren.

A trust shall not fail to meet the requirements of this subparagraph merely because the corpus of the trust may revert to the grantor or a member of the grantor's family upon the death of the beneficiary."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

By Mr. THURMOND:

S. 1730. A bill to suspend temporarily the duty on 3,4-Dimethylbenzaldehyde (3,4-DBAL); to the Committee on Finance.

DUTY SUSPENSION LEGISLATION

Mr. THURMOND. Mr. President, I rise today to introduce a bill which will suspend the duty on 3,4-Dimethylbenzaldehyde until December 31, 1993. Currently, this chemical is imported for use in the United States because there is no domestic supplier or readily available substitute. Therefore, suspending the duty on this chemical would not adversely affect domestic industries. This chemical is used to improve the clarity of polyolefin products. Major potential end uses include: Medical devices to improve safety, food storage containers, protective packaging, and improved pharmaceutical containers.

Mr. President, suspending the duty on this chemical will benefit the consumer by stabilizing the costs of manufacturing the end-use products. Further, this suspension will allow domestic producers to maintain or improve their ability to compete internationally. There are no known domestic producers of these materials. I hope the Senate will consider these measures expeditiously.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1730

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TEMPORARY DUTY SUSPENSION.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.31.12	3,4-Dimethylbenzaldehyde (3,4-DBAL) (CAS No. 5973–71–7) (provided for in subheading 2912.29.50)	Free	No change	No change	On or before 12/31/96".

SEC. 2. EFFECTIVE DATE.

The amendment made by section 1 applies with respect to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of enactment of this Act.

By Mr. BAUCUS (for himself, Mr. MCCAIN and Mr. RIEGLE):

S. 1733. A bill to amend the Internal Revenue Code of 1986 to provide tax treatment for foreign investment through a U.S. regulated investment company comparable to the tax treatment for direct foreign investment and investment through a foreign mutual fund; to the Committee on the Judiciary.

INVESTMENT COMPETITIVENESS ACT OF 1993

• Mr. BAUCUS. Mr. President, I send a bill to the desk and ask that its full text be printed in the RECORD immediately following these remarks.

Last December in conjunction with my cochairmanship of the Congressional Competitiveness Caucus, I issued a report called The New American Economy: Building for the Long Term. My objective in issuing the report was to outline specific steps necessary to begin a very broad and determined national effort to increase the income of Americans and to improve their quality of life, by meeting the highest standards of a competitive world economy.

Of particular importance is the need for an increase in capital investment in order to improve our international competitiveness. Increased investment leads to increased innovation, and this in turn stimulates productivity and overall economic growth.

The bill I introduce today, along with my colleagues Senator McCAIN and Senator RIEGLE, represents a critical step in increasing America's ability to attract foreign capital. At the same time, this legislation will improve the international competitiveness of the U.S. mutual fund industry.

The United States is the world leader in mutual fund products, management, and marketing. However, foreign investment in U.S. mutual funds is restricted by barriers created by U.S. tax law. In fact, foreign shareholders own less than one-half of 1 percent of the shares of the $1.8 trillion U.S. mutual fund industry.

In an effort to remove these barriers, Senator McCAIN, Senator RIEGLE, and I are today introducing the Investment Competitiveness Act of 1993. This legislation would remove the disincentive for foreign investors to purchase shares in U.S. mutual funds by providing them the same tax treatment as that received by a foreign investor who invests directly in a U.S. company or through a foreign mutual fund.

Under current law, most kinds of interest and short-term capital gains received directly by a foreign investor or received through a foreign mutual fund are not subject to the 30 percent withholding tax on investment income. However, interest and short-term capital gain income received through a U.S. mutual fund are subject to the withholding tax. This occurs because the statute characterizes interest income and short-term capital gain distributed by a U.S. mutual fund to a foreign investor as a dividend subject to withholding.

This legislation would correct this inequity and put U.S. funds on competitive footing with foreign funds by providing that interest income and short-term capital gain retain their character upon distribution to foreign investors.

The primary benefit of exporting U.S. mutual funds is the potential capital formation that results from the inflow of investment dollars into U.S. securities markets. Such capital formation would come about without the dilution of U.S. control of U.S. businesses that occurs from direct foreign investments in U.S. companies. Finally, increasing demand for U.S. mutual funds will have a ripple effect as it increases the need for ancillary fund service providers located in the United States.

Mr. President, I appreciate the efforts of Senators McCAIN and RIEGLE in cosponsoring this legislation, and I urge my other colleagues to support this bill and help to move it forward.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1733

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the "Investment Competitiveness Act of 1993".

(b) AMENDMENT OF 1986 CODE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. TREATMENT OF CERTAIN DIVIDENDS OF REGULATED INVESTMENT COMPANIES.

(a) GENERAL RULE.—

(1) NONRESIDENT ALIEN INDIVIDUALS.—Section 871 (relating to tax on nonresident alien individuals) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) EXEMPTION FOR CERTAIN DIVIDENDS OF REGULATED INVESTMENT COMPANIES.—

"(1) INTEREST-RELATED DIVIDENDS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), no tax shall be imposed under paragraph (1)(A) of subsection (a) on any interest-related dividend received from a regulated investment company.

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply—

"(i) to any interest-related dividend received from a regulated investment company by a person to the extent such dividend is attributable to interest (other than interest described in subparagraph (E) (i) or (iii)) received by such company on indebtedness issued by such person or by any corporation or partnership with respect to which such person is a 10-percent shareholder,

"(ii) to any interest-related dividend with respect to stock of a regulated investment company unless the person who would otherwise be required to deduct and withhold tax from such dividend under chapter 3 receives a statement (which meets requirements similar to the requirements of subsection (h)(4)) that the beneficial owner of such stock is not a United States person, and

"(iii) to any interest-related dividend paid to any person within a foreign country (or any interest-related dividend payment addressed to, or for the account of, persons within such foreign country) during any period described in subsection (h)(5) with respect to such country.

Clause (iii) shall not apply to any dividend with respect to any stock which was acquired on or before the date of the publication of the Secretary's determination under subsection (h)(5).

"(C) INTEREST-RELATED DIVIDEND.—For purposes of this paragraph, an interest-related dividend is any dividend (or part thereof) which is designated by the regulated investment company as an interest-related dividend in a written notice mailed to its shareholders not later than 60 days after the close of its taxable year. If the aggregate amount so designated with respect to a taxable year of the company (including amounts so designated with respect to dividends paid after the close of the taxable year described in section 855) is greater than the qualified net interest income of the company for such taxable year, the portion of each distribution which shall be an interest-related dividend shall be only that portion of the amounts so designated which such qualified net interest income bears to the aggregate amount so designated.

"(D) QUALIFIED NET INTEREST INCOME.—For purposes of subparagraph (C), the term 'qualified net interest income' means the qualified interest income of the regulated investment company reduced by the deductions properly allocable to such income.

"(E) QUALIFIED INTEREST INCOME.—For purposes of subparagraph (D), the term 'qualified interest income' means the sum of the following amounts derived by the regulated investment company from sources within the United States:

"(i) Any amount includible in gross income as original issue discount (within the meaning of section 1273) on an obligation payable 183 days or less from the date of original issue (without regard to the period held by the company).

"(ii) Any interest includable in gross income (including amounts recognized as ordinary income in respect of original issue discount or market discount or acquisition discount under part V of subchapter P and such other amounts as regulations may provide) on an obligation which is in registered form; except that this clause shall not apply to any interest on an obligation issued by a corporation or partnership if the regulated investment company is a 10-percent shareholder in such corporation or partnership.

"(iii) Any interest referred to in subsection (i)(2)(A) (without regard to the trade or business of the regulated investment company).

"(F) 10-PERCENT SHAREHOLDER.—For purposes of this paragraph, the term '10-percent shareholder' has the meaning given to such term by subsection (h)(3).

"(2) SHORT-TERM CAPITAL GAIN DIVIDENDS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), no tax shall be imposed under paragraph (1)(A) of subsection (a) on any short-term capital gain dividend received from a regulated investment company.

"(B) EXCEPTION FOR ALIENS TAXABLE UNDER SUBSECTION (a)(2).—Subparagraph (A) shall not apply in the case of any nonresident alien individual subject to tax under subsection (a)(2).

"(C) SHORT-TERM CAPITAL GAIN DIVIDEND.—For purposes of this paragraph, a short-term capital gain dividend is any dividend (or part thereof) which is designated by the regulated investment company as a short-term capital gain dividend in a written notice mailed to its shareholders not later than 60 days after the close of its taxable year. If the aggregate amount so designated with respect to a taxable year of the company (including amounts so designated with respect to dividends paid after the close of the taxable year described in section 855) is greater than the qualified short-term gain of the company for such taxable year, the portion of each distribution which shall be a short-term capital gain dividend shall be only that portion of the amounts so designated which such qualified short-term gain bears to the aggregate amount so designated.

"(D) QUALIFIED SHORT-TERM GAIN.—For purposes of subparagraph (C), the term 'qualified short-term gain' means the excess of the net short-term capital gain of the regulated investment company for the taxable year over the net long-term capital loss (if any) of such company for such taxable year. For purposes of this paragraph, the excess of the net short-term capital gain for a taxable year over the net long-term capital loss for a taxable year (to which an election under section 4982(e)(4) does not apply) shall be determined without regard to any net capital loss or net short-term capital loss attributable to transactions after October 31 of such year, and any such net capital loss or net short-term capital loss shall be treated as arising on the 1st day of the next taxable year. To the extent provided in regulations, the preceding sentence shall apply also for purposes of computing the taxable income of the regulated investment company."

(2) FOREIGN CORPORATIONS.—Section 881 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) TAX NOT TO APPLY TO CERTAIN DIVIDENDS OF REGULATED INVESTMENT COMPANIES.—

"(1) INTEREST-RELATED DIVIDENDS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), no tax shall be imposed under paragraph (1) of subsection (a) on any interest-related dividend (as defined in section 871(k)(1)) received from a regulated investment company.

"(B) EXCEPTION.—Subparagraph (A) shall not apply—

"(i) to any dividend referred to in section 871(k)(1)(B), and

"(ii) to any interest-related dividend received by a controlled foreign corporation (within the meaning of section 957(a)) to the extent such dividend is attributable to interest received by the regulated investment company from a person who is a related person (within the meaning of section 864(d)(4)) with respect to such controlled foreign corporation.

"(C) TREATMENT OF DIVIDENDS RECEIVED BY CONTROLLED FOREIGN CORPORATIONS.—The rules of subsection (c)(4)(A) shall apply to any interest-related dividend received by a controlled foreign corporation (within the meaning of section 957(a)) to the extent such dividend is attributable to interest received by the regulated investment company which is described in clause (ii) of section 871(k)(1)(E) (and not described in clause (i) or (iii) of such section).

"(2) SHORT-TERM CAPITAL GAIN DIVIDENDS.—No tax shall be imposed under paragraph (1) of subsection (a) on any short-term capital gain dividend (as defined in section 871(k)(2)) received from a regulated investment company."

(3) WITHHOLDING TAXES.—

(A) Subsection (c) of section 1441 is amended by adding at the end thereof the following new paragraph:

"(12) CERTAIN DIVIDENDS RECEIVED FROM REGULATED INVESTMENT COMPANIES.—

"(A) IN GENERAL.—No tax shall be required to be deducted and withheld under subsection (a) from any amount exempt from the tax imposed by section 871(a)(1)(A) by reason of section 871(k).

"(B) SPECIAL RULE.—For purposes of subparagraph (A), clause (i) of section 871(k)(1)(B) shall not apply to any dividend unless the regulated investment company knows that such dividend is a dividend referred to in such clause. A similar rule shall apply with respect to the exception contained in section 871(k)(2)(B)."

(B) Subsection (a) of section 1442 is amended—

(i) by striking "and the references in section 1441(c)(10)" and inserting "the reference in section 1441(c)(10)", and

(ii) by inserting before the period at the end thereof the following: ", and the references in section 1441(c)(12) to sections 871(a) and 871(k) shall be treated as referring to sections 881(a) and 881(e) (except that for purposes of applying subparagraph (A) of section 1441(c)(12), as so modified, clause (ii) of section 881(e)(1)(B) shall not apply to any dividend unless the regulated investment company knows that such dividend is a dividend referred to in such clause)".

(b) ESTATE TAX TREATMENT OF INTEREST IN CERTAIN REGULATED INVESTMENT COMPANIES.—Section 2105 (relating to property without the United States for estate tax purposes) is amended by adding at the end thereof the following new subsection:

"(d) STOCK IN A RIC.—

"(1) IN GENERAL.—For purposes of this subchapter, stock in a regulated investment company (as defined in section 851) owned by a nonresident not a citizen of the United States shall not be deemed property within the United States in the proportion that, at the end of the quarter of such investment company's taxable year immediately preceding a decedent's date of death (or at such other time as the Secretary may designate in regulations), the assets of the investment company that were qualifying assets with respect to the decedent bore to the total assets of the investment company.

"(2) QUALIFYING ASSETS.—For purposes of this subsection, qualifying assets with respect to a decedent are assets that, if owned directly by the decedent, would have been—

"(A) amounts, deposits, or debt obligations described in subsection (b) of this section,

"(B) debt obligations described in the last sentence of section 2104(c), or

"(C) other property not within the United States."

(c) TREATMENT OF REGULATED INVESTMENT COMPANIES UNDER SECTION 897.—

(1) Paragraph (1) of section 897(h) is amended by striking "REIT" each place it appears and inserting "qualified investment entity".

(2) Paragraphs (2) and (3) of section 897(h) are amended to read as follows:

"(2) SALE OF STOCK IN DOMESTICALLY CONTROLLED ENTITY NOT TAXED.—The term 'United States real property interest' does not include any interest in a domestically controlled qualified investment entity.

"(3) DISTRIBUTIONS BY DOMESTICALLY CONTROLLED QUALIFIED INVESTMENT ENTITIES.—In the case of a domestically controlled qualified investment entity, rules similar to the rules of subsection (d) shall apply to the foreign ownership percentage of any gain."

(3) Subparagraphs (A) and (B) of section 897(h)(4) are amended to read as follows:

"(A) QUALIFIED INVESTMENT ENTITY.—The term 'qualified investment entity' means any real estate investment trust and any regulated investment company.

"(B) DOMESTICALLY CONTROLLED.—The term 'domestically controlled qualified investment entity' means any qualified investment entity in which at all times during the testing period less than 50 percent in value of the stock was held directly or indirectly by foreign persons."

(4) Subparagraphs (C) and (D) of section 897(h)(4) are each amended by striking "REIT" and inserting "qualified investment entity".

(5) The subsection heading for subsection (h) of section 897 is amended by striking "REITS" and inserting "CERTAIN INVESTMENT ENTITIES".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to dividends with respect to taxable years of regulated investment companies beginning after the date of the enactment of this Act.•

• Mr. McCAIN. Mr. President, I am pleased to join with my good friend and colleague, Senator BAUCUS, in introducing the Investment Competitiveness Act of 1993. I have had a longstanding interest in enhancing the competitiveness of American businesses and industries, and eliminating artificial legal and regulatory barriers to the free flow of commerce and capital in the global marketplace. Encouraging capital investment to American firms is a vital component of any effort to improve our international competitiveness. This measure will help to ensure that U.S. mutual funds become one of the leading financial products exported by this country to the rest of the world, and consequently enhance the ability of U.S. firms to attract vital investment capital.

The U.S. mutual fund industry is clearly a tremendous growth industry, and a prime example of the preeminent role our country's financial services industry play in the global financial marketplace. Since 1980, industry assets have increased from about $135 billion to more than $1.8 trillion, with hundreds of millions more flowing into funds every day. Increasingly, foreign investors have participated in the U.S. securities markets, providing vital investment capital that fuels the growth of American enterprise.

Unfortunately, however, current tax law imposes unnecessary barriers in the way of foreign investors who may seek to invest in U.S. mutual funds. As noted by SEC Commissioner Carter Beese in a recent Wall Street Journal article, U.S. law imposes a prohibitive export tax on foreign investors simply for choosing U.S. mutual funds as their preferred investment vehicle, by subjecting them to withholding taxes that are not imposed if the investors purchases U.S. securities either directly or through a foreign fund.

The effect of this disparate treatment, not surprisingly, is that the mutual fund industry is incentivized to establish funds off-shore in order to satisfy the untapped demand on the part of foreign investors for U.S. securities. This is a less than satisfactory approach and unnecessarily and unduly limits the appeal and availability of U.S. funds to foreign investors, and consequently limits the growth of such funds.

This legislation would directly address this disparate treatment and put

U.S. funds on a level playing field and enable them to compete more effectively for vital investment capital. The result will be to benefit our capital markets; we will be exporting goods and services and creating jobs here, rather than exporting jobs abroad.

Mr. President. I want to commend Senator BAUCUS for his leadership on this important issue, and I look forward to working with him to obtain passage of this legislation. I would also request unanimous consent that a copy of the editorial by Commissioner Beese which appeared in the Wall Street Journal be inserted in the RECORD immediately following my remarks.•

[From the Wall Street Journal, Sept. 22, 1993]

MUTUAL FUNDS, THE NEXT GREAT U.S. EXPORT

(By J. Carter Brese Jr.)

The U.S. mutual fund industry has emerged as a dominant force in developing, managing and marketing investment products and services to American investors. Since 1980, industry assets have increased from about $135 billion to more than $1.8 trillion. With continued strong foreign demand for U.S. securities, and an ever-expanding pool of investors in industrialized and developing markets abroad, mutual funds appear poised to be the next great "Made in America" product successfully exported worldwide.

But this potential success for mutual funds will be nothing more than wishful thinking unless the U.S. modifies its tax laws, which now provide significant disincentives to any foreign investor seeking to purchase shares in a U.S. mutual fund.

For example, America's tax laws subject foreign investors in U.S. mutual funds to withholding taxes that are not imposed if the investor purchases U.S. securities either directly or through a foreign fund. In essence, America's laws impose a prohibitive export tax on foreign investors simply for choosing U.S. mutual funds as their preferred investment vehicle.

The current tax treatment of foreign investors in U.S. funds puts pressure on the mutual fund industry to establish funds offshore to attract these investors. Today, foreign demand for U.S. investment products is being satisfied by U.S. companies and their foreign competitors in such places as Bermuda, the Cayman Islands and Luxembourg.

Satisfying this demand indirectly appears to be limiting the market for U.S. securities unnecessarily. Although the growth of the mutual fund industry in these "tax havens" has been impressive, these offshore mutual funds will never successfully appeal to the average foreign investor because the offshore products lack the seal of approval provided by the U.S. regulatory system.

Because of the commitment to investor protection shared by the fund complexes and their regulators, the U.S. mutual fund industry has been free from major scandals and failures, and enjoys tremendous public confidence. If the tax laws were changed to allow U.S. mutual funds to capitalize on this advantage, America's ability to attract foreign capital, an important element of continued economic growth, would be enhanced.

In recent years, foreign investment in the U.S. in key sectors has declined or at best stagnated. Treasury Department figures indicate that the annualized rate of capital inflows into the U.S. during the first quarter of this year was only one-eighth the rate in the peak year of 1986.

Increased foreign investment in the U.S. through U.S. mutual funds could benefit our capital markets without increasing foreign control of American businesses. It would have a jobs effect by increasing the demand for the fund services provided by U.S. fund managers, custodians, accountants, transfer agents, and others based in the U.S.—jobs that are now located offshore.

Congress would be wise to enact legislation such as the Investment Competitiveness Act of 1993, recently introduced by Rep. Sam Gibbons (D., Fla.). Passage of this type of legislation would establish comparable tax treatment for U.S. and foreign funds, and thus free U.S. funds to compete on equal footing when courting foreign investors.

In today's competitive global economy, common sense says that the U.S. should be encouraging the export of every American good or service that foreign consumers want. It's one thing when U.S. businessmen complain that foreign laws or industry practices impede their ability to compete. It's quite another when U.S. tax law is one of the culprits.

By Mr. SIMON (for himself, Mr. HATCH and Ms. MOSELEY-BRAUN):

S. 1734. A bill to amend the Federal Food, Drug, and Cosmetic Act to expand the provisions relating to market exclusivity; to the Committee on the Judiciary.

MARKET EXCLUSIVITY FOR OXAPROZIN

• Mr. SIMON. Mr. President, today I introduce legislation to extend for 2 years the market exclusivity for oxaprozin, an important antiarthritic drug. Oxaprozin is a nonsteroidal, antiinflammatory drug [NSAID]. It is produced and marketed as DayPro by the G.D. Searle Pharmaceutical Co., headquartered in Skokie, IL. I am introducing this legislation as a matter of simple fairness and equity.

The Drug Price Competition and Patent Term Restoration Act of 1984, commonly referred to as the Waxman-Hatch Act, contains provisions granting 5 years of market exclusivity to brand name drug manufacturers following Food and Drug Administration [FDA] approval of a new drug application.

The legislation I am introducing today would provide DayPro a certain amount of market exclusivity beyond that provided in the Waxman-Hatch Act. Additional market exclusivity is being sought because the delay in obtaining FDA approval of DayPro was so excessive that the provisions of the Waxman-Hatch Act are inadequate to remedy the economic injury sustained by G.D. Searle. In the past, Congress has recognized that legislative action to grant additional market exclusivity protection in order to rectify inequities resulting from delays in FDA approval of new drug applications is justified in certain cases. I believe this is one of those cases.

I seek this remedy for a drug that was a victim of the same regulatory delays that were instrumental in causing Congress to recognize that Waxman-Hatch legislation was necessary in the first place. The Investigational New Drug Application [IND] for DayPro was filed in 1972 and then DayPro was caught up in an extremely long FDA drug lag. The New Drug Application [NDA] for DayPro was filed 10 years later in August 1982, and FDA approval of DayPro was granted on October 29, 1992. During the 20 years it took FDA to approve DayPro, its patent expired. Thus the practical patent life for DayPro was zero.

A number of studies have been conducted on the regulatory barriers that the NSAID faced in the 1980's. Studies make it clear that the problems encountered at FDA were generic—the unprecedented delay in NSAID approvals was due to FDA policy. The delay arose after serious problems were encountered with previously approved NSAID drugs. During this time, the FDA effectively imposed a moratorium on the approval of all NSAID's. It is important to note that the purpose of this moratorium was not to allow the FDA to collect further data on DayPro. The FDA never requested additional data on safety or efficacy beyond that which was presented in the original new drug application. When DayPro was approved in 1992, it was based on the data originally submitted to the FDA.

This legislation does not grant full recovery of the time that Searle lost while DayPro was under review; it does not grant even half of that time. The additional market exclusivity mentioned in this bill represents only some of the time lost after the drug applications had been under FDA review for more than 7 years. The legislation provides 2 years of added market exclusivity as partial compensation for the value lost when DayPro's patents expired while the drug application languished in the FDA files. I believe the figure of 2 years is a fair and equitable resolution of this matter.

G.D. Searle confronted an inordinate and inequitable delay in obtaining FDA approval to market DayPro. I urge that the relief embodied in this legislation be enacted.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1734

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Market Exclusivity Act of 1993".

SEC. 2. MARKET EXCLUSIVITY.

Section 505(j)(4)(D) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(4)(D)) is amended by adding at the end the following new clause:

"(vi) If—

"(I) an application (other than an abbreviated new drug application) was submitted under subsection (b) for a drug;

"(II) no active ingredient of the drug (including an ester or salt of the active ingredient) has been approved in any other application under subsection (b);

"(III) the application was filed before September 1, 1982;

"(IV) the application was under regulatory review for a regulatory review period (as defined in section 156(g) of title 35, United States Code) for at least 78 months; and

"(V) the application was approved October 29, 1992.

no application may be submitted under this subsection that refers to the drug for which the subsection (b) application was submitted before the expiration of 5 years from the date of the approval of the subsection (b) application, and no application submitted under this subsection that refers to such drug may be approved before the expiration of 5 years from the date of approval of the subsection (b) application plus the among by which the regulatory review period exceeds 84 months, except that the period for such amount of additional market exclusivity shall not exceed 24 months.".•

• Mr. HATCH. Mr. President, I rise to join my distinguished colleague from Illinois, Senator SIMON, in sponsoring legislation that would extend for 2 years the market exclusivity for the antiarthritic drug oxaprozin which is marketed as Daypro.

This extension is necessary because the delay in obtaining FDA approval the manufacturer, G.D. Searle Pharmaceutical Co., experience has been so excessive that the provisions of the Hatch-Waxman Act of 1984 are not sufficient to remedy the economic injury sustained.

Today, G.D. Searle simply seeks this remedy for a product that was a victim of the same regulatory delays that were instrumental in causing Congress to recognize that my 1984 legislation was necessary.

Mr. President, it seems to me that we need to encourage research and development in this country. This legislation serves to achieve that important objective by permitting a company that has invested heavily in research and development to receive the benefit of its patent.

Accordingly, I would urge my colleagues to support the bill's enactment.•

By Mr. SIMON:

S. 1735. A bill to establish a Privacy Protection Commission, and for other purposes; to the Committee on the Judiciary.

PRIVACY PROTECTION ACT OF 1993

• Mr. SIMON. Mr. President, I am introducing legislation today to create a Privacy Protection Commission. The fast-paced growth in technology coupled with American's increasing privacy concerns demand Congress take action.

A decade ago few could afford the millions of dollars necessary for a mainframe computer. Today, for a few thousand dollars, you can purchase a smaller, faster, and even more powerful personal computer. Ten years from now computers will likely be even less expensive, more accessible, and more powerful. Currently, there are "smart" buildings, electronic data "highways", mobile satellite communication systems, and interactive multimedia. Moreover, the future holds technologies that we can't even envision today. These changes hold the promise of advancement for our society, but they also pose serious questions about our right to privacy. We should not fear the future or its technology, but we must give significant consideration to the effect such technology will have on our rights.

Polls indicate that the American public is very concerned about this issue. For example, according to a Harris-Equifax poll completed this fall, 80 percent of those polled were concerned about threats to their personal privacy. In fact, an example of the high level of concern is reflected in the volume of calls received by California's Privacy Rights Clearing House. Within the first three months of operation. The California Clearinghouse received more than 5,400 calls. The Harris-Equifax poll also reported that only 9 percent of Americans felt that current law and organizational practices adequately protected their privacy. This perception is accurate. The Privacy Act of 1974 was created to afford citizens broad protection. Yet, studies and reviews of the Act clearly indicate that there is inadequate specific protection, too much ambiguity, and lack of strong enforcement.

Furthermore, half of those polled felt that technology has almost gotten out of control, and 80 percent felt that they had no control over how personal information about them is circulated and used by companies. A recent article written by Charles Piller for MAC World magazine outlined a number privacy concerns. I ask unanimous consent the article written by Charles Piller be included in the RECORD following my statement. These privacy concerns have caused the public to fear those with access to their personal information. Not surprisingly, distrust of business and government has significantly climbed upwards from just three years ago.

In 1990, the United States General Accounting Office reported that there were conservatively 910 major federal data banks with billions of individual records. Information that is often open to other governmental agencies and corporations, or sold to commercial data banks that trade information about you, your family, your home, your spending habits, and so on. What if the data is inaccurate or no longer relevant? Today's public debates on health care reform, immigration, and even gun control highlight the growing public concern regarding privacy.

The United States has long been the leader in the development of privacy policy. The framers of the Constitution and the Bill of Rights included an implied basic right to privacy. More than a hundred years later, Brandeis and Warren wrote their famous 1890 article, in which they wrote that privacy is the most cherished and comprehensive of all rights. International privacy scholar Professor David Flaherty has argued successfully that the United States invented the concept of a legal right to privacy. In 1967, Professor Alan Westin wrote Privacy and Freedom, which has been described as having been of primary influence on privacy debates world-wide. Another early and internationally influential report on privacy was completed in 1972 by the United States Department of Health, Education, and Welfare Advisory Committee. A few years later in 1974, Senator Sam Ervin introduced legislation to create a Federal Privacy Board. The result of debates on Senator Ervin's proposal was the enactment of the Privacy Act of 1974. The United States has not addressed privacy protection in any comprehensive way since.

International interest in privacy and in particular data protection dramatically moved forward in the late 1970's. In 1977 and 1978 six countries enacted privacy protection legislation. As of September 1993, 27 countries have enacted national privacy or data protection legislation, and 11 countries have legislation under consideration. I ask unanimous consent that a list of those countries be included in the RECORD following my statement. Among those considering legislation are former soviet block countries Croatia, Estonia, Slovakia, and Lithuania. Moreover, the European Community Commission will be adopting a Directive on the exchange of personal data between those countries with and those without data or privacy protection laws.

Mr. President, a Privacy Protection Commission is needed to restore the public's trust in business and government's commitment to protecting their privacy and willingness to thoughtfully and seriously address current and future privacy issues. It is also needed to fill in the gaps that remain in federal privacy law.

The Clinton Administration also recognizes the importance for restoring public trust. A statement the Office of Management and Budget sent to me included the following paragraph: "The need to protect individual privacy has become increasingly important as we move forward on two major initiatives, Health Care Reform and the National Information Infrastructure. The success of these initiatives will depend, in large part, on the extent to which Americans trust the underlying information systems. Recognizing this concern, the National Performance Review has called for a Commission to perform a function similar to that envisioned by Senator SIMON. Senator SIMON's bill responds to an issue of critical importance."

In addition, the National Research Council recommends the creation of "an independent federal advisory body . . ." in their newly released study, Private Lives and Public Policies.

Is is very important that the Privacy Protection Commission be effective and above politics. Toward that end, the Privacy Protection Commission will be advisory and independent. It is to be composed of 5 members, who are appointed by the President, by and with the consent of the Senate, with no more than 3 from the same political party. The members are to serve for staggered seven year terms, and during their tenure on the Commission, may not engage in any other employment.

Mr. President, I am concerned about the creation of additional bureaucracy; therefore the legislation would limit the number of employees to a total of 50 officers and employees. The creation of an independent Privacy Protection Commission is imperative. I have received support for an independent Privacy Protection Commission from consumer, civil liberty, privacy, library, technology, and law organizations, groups, and individuals. I ask unanimous consent that a copy of a letter I have received be included in the RECORD following my statement.

What the Commission's functions, make-up, and responsibilities are will certainly be debated through the congressional process. I look forward to hearing from and working with a broad range of individuals, organizations, and businesses on this issue, as well as the Administration.

I urge my colleagues to review the legislation and the issue, and join me in support of a Privacy Protection Commission. I ask unanimous consent that the text of the bill be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1735

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Privacy Protection Act of 1993".

SEC. 2. FINDINGS AND PURPOSE.

The Congress finds that—

(1) we live in an age of ever-increasing dependence on electronic data storage, communications, and usage;

(2) vast quantities of data are stored electronically and may be instantly transferred electronically from one party to another for business or for other purposes;

(3) the nature of such data allows for the increasing possibility that an individual's privacy rights may be violated;

(4) the technology is growing so rapidly that broader societal consequences may not have been reviewed or studied nor is it clear how the use of such technology will affect existing data systems and their use; and

(5) a United States Privacy Protection Commission should be established to—

(A) ensure that privacy rights of United States citizens in regard to electronic data and fair information practices and principles are not abused or violated;

(B) provide advisory guidance to the public and private sector on matters related to electronic data storage, communication, and usage;

(C) provide the public with a central agency for information and guidance on privacy protections and fair information practices and principles;

(D) oversee Federal agencies' implementation of section 552a of title 5, United States Code; and

(E) promote and encourage the adoption of fair information practices and principles in the public and private sector, which should include—

(i) the principle of openness, which provides that the existence of recordkeeping systems and databanks containing information about individuals be publicly known, along with a description of main purpose and uses of the data;

(ii) the principle of individual participation, which provides that each individual should have the right to see any data about him or herself and to correct any data that is not timely, accurate, or complete;

(iii) the principle of data quality, which provides that personal data should be relevant to the purposes for which they are to be used, and data should be timely, accurate, and complete;

(iv) the principle of collection limitation, which provides that there should be limits to the collection of personal data, that data should be collected by lawful and fair means, and that data should be collected, where appropriate, with the knowledge and consent of the subject;

(v) the principle of use limitation, which provides that there are limits to the use of personal data and that data should be used only for purposes specified at the time of collection;

(vi) the principle of disclosure limitation, which provides that personal data should not be communicated externally without the consent of the data subject or other legal authority;

(vii) the principle of security, which provides that personal data should be protected by reasonable security safeguards against such risks as loss, unauthorized access, destruction, use, modification or disclosure; and

(viii) the principle of accountability, which provides that recordkeepers should be accountable for complying with fair information practices and principles.

SEC. 3. ESTABLISHMENT OF A PRIVACY PROTECTION COMMISSION.

There is established the Privacy Protection Commission (hereinafter referred to as the "Commission").

SEC. 4. PRIVACY PROTECTION COMMISSION.

(a) MEMBERSHIP.—(1) The Commission shall be composed of 5 members who shall be appointed by the President, by and with the consent of the Senate, from among members of the public at large who are well qualified for service on the Commission by their knowledge and expertise in—

(A) civil rights and liberties;

(B) law;

(C) social sciences;

(D) computer technology;

(E) business; or

(F) State and local government.

(2) No more than 3 members of the Commission shall be members of the same political party.

(3) One of the members shall be designated Chairperson of the Commission by the President.

(b) MEETINGS.—The Chairperson shall preside at all meetings of the Commission, but the Chairperson may designate another member as an acting Chairperson who may preside in the absence of the Chairperson. A quorum for the transaction of business shall consist of at least 3 members present, except that 1 member may conduct hearings and take testimony if authorized by the Commission. Each member of the Commission, including the Chairperson, shall have equal responsibility and authority in all decisions and actions of the Commission, shall have full access to all information relating to performance of the duties or responsibilities of the Commission, and shall have 1 vote. Action of the Commission shall be determined by a majority vote of the members. The Chairperson or acting Chairperson shall see to the faithful execution of the policies and decisions of the Commission and shall report thereon to the Commission from time to time or as the Commission may direct.

(c) TERMS.—(1) A member of the Commission shall serve for a term of 7 years, except of members first appointed to the Commission—

(A) the member designated as Chairperson by the President shall be appointed for a term of 7 years;

(B) 2 members shall be appointed for a term of 5 years;

(C) 2 members shall be appointed for a term of 3 years; and

(D) all such terms shall begin on—

(i) January 1 next following the date of the enactment of this Act; or

(ii) such date as designated by the President.

(2) A member may continue to serve until a successor is confirmed.

(3) Members shall be eligible for reappointment for a single additional term.

(d) VACANCIES.—(1) Vacancies in the membership of the Commission shall be filled in the same manner in which the original appointment was made.

(2) If there are 2 or more Commission members in office, vacancies in the membership of the Commission shall not impair the power of the Commission to execute functions and powers of the Commission.

(e) COMPENSATION AND RESTRICTION ON OTHER EMPLOYMENT.—(1) The members of the Commission may not engage in any other employment during their tenure as members of the Commission.

(2) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new item:

"Members of Privacy Protection Commission (5).".

(f) REQUESTS AND RECOMMENDATIONS.—(1) Whenever the Commission submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit a copy of that request to Congress.

(2) Whenever the Commission submits any legislative recommendations, or testimony, or comments on legislation to the President or Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have any authority to require the Commission to submit its legislative recommendations, or testimony, or comments

on legislation, to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress.

(g) SEAL.—The Commission shall have an official seal which shall be judicially noted.

SEC. 5. PERSONNEL OF THE COMMISSION.

(a) EXECUTIVE DIRECTOR AND GENERAL COUNSEL.—The Commission shall appoint an Executive Director and a General Counsel who shall perform such duties as the Commission may determine. Such appointment may be made without regard to the provisions of title 5, United States Code. The Executive Director and the General Counsel shall be compensated at a rate not in excess of the rate payable for a position under level V of the Executive Schedule under section 5316 of title 5, United States Code.

(b) LIMITATION ON EMPLOYEES.—The Commission is authorized to appoint and fix the compensation of not more than 50 officers and employees (or the full-time equivalent thereof), and to prescribe their functions and duties.

(c) CONSULTANTS.—The Commission may obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

SEC. 6. FUNCTIONS OF THE COMMISSION.

(a) IN GENERAL.—The Commission shall—

(1) provide leadership and coordination to the efforts of all Federal departments and agencies to enforce all Federal statutes, Executive orders, regulations and policies which involve privacy or data protection;

(2) maximize effort, promote efficiency, and eliminate conflict, competition, duplication, and inconsistency among the operations, functions, and jurisdictions of Federal departments and agencies responsible for privacy or data protection, data protection rights and standards, and fair information practices and principles;

(3) develop model standards, guidelines, regulations, policies, and routine uses for and by Federal, State, and local agencies in implementing the provisions of section 552a of title 5, United States Code;

(4) publish on a regular basis a guide to sections 552 and 552a of title 5, United States Code, and other laws relating to data protection, for use by record subjects;

(5) publish a compilation of agency system of records notices, including an index and other finding aids;

(6) no later than December 1, 1996, make recommendations to Congress to amend section 552a of title 5, United States Code, and for improving the coordination between such section and section 552 of such title;

(7) provide active leadership, guidance, education, and appropriate assistance to private sector businesses, and organizations, groups, institutions, and individuals regarding privacy, data protection rights and standards, and fair information practices and principles;

(8) develop model privacy, data protection, and fair information practices, principles, standards, guidelines, policies, and routine uses for use by the private sector; and

(9) upon written request, provide appropriate assistance to the private sector in implementing privacy, data protection, and fair information practices, principles, standards, guidelines, policies, or routine uses of privacy and data protection, and fair information.

(b) DISCRETIONARY FUNCTIONS.—The Commission may—

(1) issue advisory opinions relating to section 552a of title 5, United States Code, or privacy and data protection practices, principles, standards, guidelines, policies, or routine uses of data at the request of a Federal agency, a data integrity Commission of an agency or business, a court, the Congress, a business or any person;

(2) investigate compliance with section 552a of title 5, United States Code, and report on any violation of any provision thereof or any regulation promulgated under such section to an agency, the President, the Attorney General, and the Congress;

(3) file comments with the Office of Management and Budget and with any agency on any proposal to—

(A) amend section 552a of title 5, United States Code, or any regulation promulgated under such section;

(B) create or modify a system of records; or

(C) establish or alter routine uses of such a system;

(4) request an agency to stay—

(A) the establishment or revision of a system of records;

(B) a routine use;

(C) an exemption; or

(D) any other regulation promulgated under section 552a of title 5, United States Code;

(5) review Federal, State, and local laws, Executive orders, regulations, directives, and judicial decisions and report on the extent to which they are consistent with privacy and data protection rights, and fair information practices and principles;

(6) at the request of a Federal, State, or local government agency, a private business, or any person, provide assistance on matters relating to privacy or data protection;

(7) comment on the implications for privacy or data protection of proposed Federal, State, or local statutes, regulations, or procedures;

(8) propose legislation on privacy or data protection;

(9) accept and investigate complaints about violation of privacy or data protection rights, and fair information practices and principles;

(10) participate in any formal or informal Federal administrative proceeding or process where, in the judgment of the Commission, the action being considered would have a material effect on privacy or data protection, either as a result of direct Government action or as the result of direct Government regulation of others;

(11) petition a Federal agency to take action on a matter affecting privacy or data protection;

(12) conduct, assist, or support research, studies, and investigations on the collection, maintenance, use or dissemination of personal information; the implications for privacy or data protection of computer, communications, and other technologies, and any other matter relating to privacy or data protection;

(13) assist in the development or implementation of policies designed to provide for the protection of personal information maintained by private sector recordkeepers;

(14) assist United States companies doing business abroad to respond to foreign privacy or data protection laws and agencies;

(15) assist in the coordination of the United States privacy and data protection policies with the privacy and data protection policies of foreign countries; and

(16) cooperate and consult with privacy or data protection commissions, boards, or agencies of foreign governments.

SEC. 7. CONFIDENTIALITY OF INFORMATION.

(a) IN GENERAL.—Each department, agency, and instrumentality of the executive branch of the Government, including each independent agency, shall furnish to the Commission upon request made by the Chairperson, such data, reports, and other information as the Commission determines necessary to carry out its functions under this Act.

(b) CONFIDENTIALITY.—In carrying out its functions and exercising its powers under this Act, the Commission may accept from any Federal agency or other person, any identifiable personal data if such data is necessary to carry out such powers and functions. In any case in which the Commission accepts any such information, it shall provide all appropriate safeguards to ensure that the confidentiality of such information is maintained and that under completion of the specific purpose for which such information is required, the information is destroyed or returned to the agency or person from which it was obtained.

SEC. 8. POWERS OF THE COMMISSION.

(a) IN GENERAL.—The Commission may, in carrying out its functions under this Act—

(1) conduct inspections;

(2) sit and act at such times and places;

(3) hold hearings;

(4) take testimony;

(5) require by subpoena the attendance of such witnesses and the production of books, records, papers, correspondence, documents, film, and electronic information;

(6) administer such oaths; and

(7) make appropriate and necessary expenditures.

(b) SUBPOENAS.—(1) Subpoenas shall be issued only upon an affirmative vote of a majority of all members of the Commission. Subpoenas shall be issued under the signature of the Chairperson or any member of the Commission designated by the Chairperson. Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(2) In the case of a disobedience to a subpoena issued under this Act, the Commission may invoke the aid of any district court of the United States in requiring compliance with such subpoena. Any district court of the United States within the jurisdiction where such person is found or transacts business may, in the case of contumacy or refusal to obey a subpoena issued by the Commission, issue an order requiring such person to appear and testify, to produce such books, records, papers, correspondence, documents, films, and electronic information any failure to obey the order of the court shall be punished by the court as a contempt thereof.

(c) APPEARANCES.—Appearances by the Commission in judicial and administrative proceedings shall be in its own name.

(d) DELEGATION.—The Commission may delegate any of its functions to such officers and employees of the Commission as the Commission may designate and may authorize such successive redelegations of such functions as it may determine desirable.

(e) ADMINISTRATIVE POWERS.—In order to carry out provisions of this Act, the Commission may—

(1) enter into contracts or other arrangements with any State or local government, any agency or department of the United States, or with any person, firm, association, or corporation; and

(2) establish advisory committees in accordance with the Federal Advisory Committee Act (5 U.S.C. App.).

SEC. 9. REPORTS AND INFORMATION.

In an annual report to the President and Congress, the Commission shall report on its activities in carrying out the provisions of this Act. The Commission shall undertake whatever efforts it may determine to be necessary or appropriate to inform and educate the public of data protection, privacy, and fair information rights and responsibilities.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.●

PRIVACY IN PERIL

(By Charles Piller)

In recent years, gathering and sharing personal information has become a way of life for business and government. People have kept track of one another for millennia, of course. But the advent of telecommunications, the growth of centralized government, and the rise of massive credit and insurance industries that manage vast computerized databases have turned the modest records of an insular society into a bazaar of data available to nearly anyone for a price.

The U.S. Constitution carries no explicit guarantee of personal privacy. But most Americans consider the ability to conduct one's personal affairs relatively free from unwanted instructions to be an inherent human right. A year-long Macworld investigation shows that such a right stands little chance against new electronic technologies that make most people's lives as clear as glass.

From a personal computer anywhere in the world, data can be gathered from limitlessly broad and diverse sources. The ability to capture, sort, and analyze that data is often nearly instantaneous. The force of such tools has overwhelmed the capacity of laws and social mores to protect privacy.

Until the last few years, if you wanted to find out, say, if anyone had sued Roger Heinen, the former Apple vice president who defected to Microsoft in January, you had to laboriously check, in person, at various county courthouses. I spent about two minutes doing the same thing online.

"As technology becomes ever more penetrating and intrusive, it becomes possible to gather information with laserlike specificity and spongelike absorbency," says Gary T. Marx, a privacy expert who teaches at the University of Colorado. "Information leakage becomes rampant; indeed, it is hemorrhaging. Barriers and boundaries—be they distance, darkness, time, walls, windows, even skin—that have been fundamental to our conceptions of privacy, liberty, and individuality give way. Actions, feelings, thoughts, acts, even futures are increasingly visible." Easy access has blurred the borders of private life.

The public views these developments with growing alarm. In a 1992 poll conducted by Louis Harris and Associates, 78 percent of Americans expressed concern about their personal privacy, up from about a third of those polled in 1970, and up from 64 percent in 1978. Perceived threats to personal privacy from computers rose from 38 percent in 1974 to 68 percent last year.

In a 1991 *Time*/CNN poll, 93 percent of respondents asserted that companies that sell personal data should be required to ask permission from individuals in advance. The 1990 census showed the highest rates of noncooperation ever—the result of fears that participation could place personal information in jeopardy, contend some privacy advocates. And California's Privacy Rights Clearinghouse—the first privacy hotline in the nation—logged more than 5400 calls within three months of its inception last November.

WHAT THEY HAVE ON YOU

Public concerns have risen in tandem with the proliferation of personal records kept by government, corporations, and employers. New forms of data are coming online all the time. Nearly every quantifiable aspect of our lives—and many a judgment call—finds its way into data banks where it is exchanged, sold, and resold, again and again.

The sheer volume of available data is stunning. In 1990, the U.S. General Accounting Office, an arm of Congress, conducted a survey of federal data banks that contain health, financial, Social Security, and a wide range of other personal data. That incomplete tally included 910 major data banks with billions of individual records. Much of the information from these computerized systems is open to other government agencies and corporations, or sold to thousands of commercial data banks that trade on records about your home, possessions, stock transactions, family characteristics, and buying habits.

And once created, a record rarely disappears. "In our society, there is a tendency to collect data without a clear purpose. And it stays around for years," says Alan Brill, head of the information-security practice for Kroll Associates, the largest and most successful private-investigation firm in the country. "It's like vampire data. It rises up from the dead to bite you," he says.

Obsolete information can mislead. Out of context, a single incriminating element in someone's personal history can become a defining characteristic. Suppose you were guilty of possessing a small quantity of marijuana in 1985, but haven't taken a toke since 1986. Should that conviction affect your employment prospects in 1993?

The problems grow when the data is wrong. If data banks contain millions or billions of records, it's hardly surprising that they sometimes slip a digit or two.

Consider the Big Three credit bureaus—TRW, Equifax, and Trans Union—which are among the largest and most closely monitored purveyors of personal data. These agencies compile and sell the records of key economic transactions for a large majority of American consumers.

Early this year, TRW agreed to pay $1000 each to about 1200 residents of Norwich, Vermont, whom the company erroneously designated as deadbeats due to a coding error. A 1988 survey of 1500 credit reports found that 43 percent contained errors. And a 1991 survey by Consumers Union found errors in 48 percent of reports requested from the Big Three, including 19 percent with inaccuracies that could cause a denial of credit, such as a delinquent debt. The Federal Trade Commission receives more complaints about credit bureaus than about any older industry.

Errors are not always the fault of the credit bureau—it might be from one of its sources. "In many cases the [credit bureaus'] responsibility to their customers is to give an accurate reflection of what's in the public record, and that public record may itself be inaccurate," explains Steve Metalitz, general counsel of the Information Industries Association, which represents about 500 companies that gather and resell data.

Regardless of the origin of such errors, there are no clear lines of responsibility for correcting the record. Meanwhile, the victim's life may descend into a Kafka-esque nightmare.

VALUES IN CONFLICT

The new standards of electronic intrusion upset the balance between two distinctly American values; an open and accountable society, and the right to be left alone.

There are many reasons to keep public records open and easily accessible. Society has the responsibility, for example, to monitor illegal activities, to capture criminals and to preserve public safety. If electronic privacy rights were absolute, we would never have learned about Oliver North's E-mail messages, which helped unravel the Iran-Contra scandal. And organized-crime kingpin John Gotti might never have been convicted but for the tap on his phone.

Yet data collection has a dark side. In the 1960s and 1970s, J. Edgar Hoover's FBI gathered personal data by any means possible and often used it to blackmail innocent people, sometimes destroying their lives.

Employers have a right to guard against ineptitude, criminality, and corporate spies. But should employers be free to search at will any and all employee computer files, E-mail, voice-mail, and data transmissions over a company's local area network? (See "Bosses with X-Ray Eyes," in this issue.)

Government investigators, members of the press, and the public at large may have a legitimate interest, for example, in knowing whether U.S. Transportation Secretary Federico Pena has ever been tagged for drunk driving. (We have no reason to believe he has.) But when the driving records of millions of people are sold to mass marketers of automobile insurance or alcohol-treatment programs, has the public trust been violated?

BEYOND JUNK MAIL

The issue transcends electronic—list sales and the invasive micro-marketing tactics they stimulate. Personal data itself has become a commodity for sale on the open electronic market to anyone who owns a personal computer.

Take the case of Marketplace: Households, an ill-fated joint venture of Lotus Development Corporation, a software developer, and the Equifax credit bureau. Marketplace would have placed the names, estimated incomes, purchasing habits, marital status, and other data on 120 million consumers on a CD-ROM—the nation on a disc for only $700. Few consumers were persuaded by the project's privacy protections. And they let it be known: 30,000 angry letters killed Marketplace. Shortly thereafter, in the face of mounting consumer pressure, Equifax agreed to quit selling any consumer credit data to direct-marketing vendors.

In the space of a year Equifax went from promoting one of the most far-reaching incursions into privacy ever contemplated to opting out of the credit-data marketing business altogether. Early this year, TRW (but not Trans Union) followed suit.

But the personal-information market hardly depends on Equifax or TRW. Thousands of other data resellers—Macworld among them—offer lists of likely buyers. This wealth of sources has spawned a sprawling information-reselling industry. The Burwell Directory of Information Brokers describes 1253 commercial services with names like Disclosure, Access Information, and Answer Associates.

Many of those services provide only data on companies, economic trends, or sociopolitical issues. But personal information—address, marital, salary, driving, and employment history; corporate affiliations; who your neighbors are; vehicle and real estate holdings; civil and criminal court records—and much of the rest of the trail of bytes left by all of us is now available from scores of commercial sources. And to make their lives easier, the data-hungry turn to supermarkets of online information.

DOWN IN THE DATA MINES

So-called superbureaus buy access to the major credit bureaus, state and federal agencies, and just about any other private or public-record repository they can find. They provide one-stop shopping for online data. The data-reselling trade is the electronic equivalent of the gold rush—few legal restrictions apply, and there is lots of money to be made if you own the mine.

Standards vary widely, but some information brokers are less than scrupulous in screening their clients. Even legally shielded data such as credit and phone records, as well as arrests that do not result in convictions, frequently are revealed to a wide range of qualified or merely determined and savvy requesters. These include private investigators, direct marketers, the press, FBI agents, lawyers, insurance companies, corporate spies, and vindictive ex-spouses.

For data mining to be worthwhile, the information has to be difficult or impractical to obtain using conventional methods, but worth the cost of electronic extraction. It is.

Consider the results of an online experiment my colleague Galen Gruman and I conducted during research for this article. First we selected prominent individuals from the entertainment industry, business, politics, the Macintosh industry, and sports, including Hollywood producer (and friend of President Bill Clinton) Harry Thomason, former San Francisco 49ers quarterback Joe Montana, and Bank of America CEO Richard Rosenberg. Then we tried to find out everything we could on them, with the following restrictions: we did not seek legally protected data, and all the information had to be obtained online.

For this modest search we spent an average of only $112 and 75 minutes per subject. Even so, we unearthed the essential financial, legal, martial, and residential histories of nearly all of our subjects (see the chart "Shattering the Illusion of Privacy"). In short, we compiled electronic dossiers. and these were the efforts of data-mining neophytes.

As online services become increasingly interconnected, affordable, and fast, the ability to build electronic dossiers may quickly become the hottest privacy issue of the next century. Then again, there are so many pressing privacy issues and such widely divergent sensibilities about personal privacy, even professional privacy advocates have trouble deciding what's most important.

A QUESTION OF PRIORITIES

"To me, junk mail is not the most burning privacy issue," says Evan Hendricks, editor of the *Privacy Times* newsletter. "But I can see it annoys the hell out of a lot of people." To illustrate the point, he pulled out a box of 300 recent letters from consumers apoplectic over a deluge of unwanted letters flowing into their mailboxes. Financial interests and personal sensibilities about electronic privacy cover an enormously broad spectrum. This makes it hard to separate trivial problems from real invasions that damage people.

"You have to choose a certain bundle of records, prioritize those records, and create a trustee situation around them," argues Jerry Berman, Washington, D.C., director of the Electronic Frontier Foundation, an advocacy group for computer users. "You cannot protect all data, bit by bit, byte by byte."

What should be in the bundle? Medical records are a top priority "due to the sensitivity of the data and the lack of any existing legislation to protect it," says Ronald Plesser, a lawyer who represents the information industry and headed President Clinton's transition team for the Federal Communications Commission. Tighter privacy controls for banking, tax and credit records are also near the top of every privacy advocate's list.

"Around the world, the U.S. is a laughingstock among privacy experts because we have a law protecting video-tape-rental records, but not medical records," Hendricks adds. (The release of individual video-rental records was sharply restricted after a reporter finagled the details of Judge Robert Bork's viewing habits during his confirmation hearings for a seat on the U.S. Supreme Court two years ago.)

OUTCRY OVER CREDIT RECORDS

Public outcry and political pressure have already reformed the major credit bureaus: all three bureaus now permit consumers to view and correct credit reports, although the reports released to consumers may not be as detailed as those given to, say, prospective employers or landlords. What's missing is usually information like an assessment of the person's credit risk.

TRW makes reports available free to individual consumers. Equifax has opened a toll-free line (800/685-1111) to respond to consumer questions. Bad publicity has prompted credit agencies—particularly Equifax—to more strictly screen companies and information brokers who seek access to credit reports. And in February, federal legislation was introduced that would force credit bureaus to correct errors within 30 days, and would hold banks and retailers accountable for the quality of the information they turn over to credit bureaus.

But credit records represent only a small fraction of online personal data. The far broader category of public-records data—real estate ownership, court records, tax liens, bankruptcy filings, voter registration data, auto and driver records, marriage records, and the like—should be on the table, argues Jan-Lori Goldman of the American Civil Liberties Union's Privacy Project.

"We're now asking a question that hasn't been asked before: What is the public's interest in accessing this information?" she says. Should the price of a driver's license be that you give up your detailed personal description to anyone who wants to buy it? Privacy advocates call for a close look at online data mining and they recommend limits on the collection of unduly detailed electronic dossiers.

Plesser, the Clinton transition team adviser, suggests using this test: "Is the use of the information compatible with the purpose for which it was collected?" When the question is no, the prospect of misinterpretation or crass exploitation usually follows.

DO ACCESS AND PRIVACY CONFLICT?

Many lawyers. direct marketers, and reporters say that radical restrictions on public-records data would give them electronic migraines, and could even make their jobs impossible. But Marc Rotenberg, Washington, D.C., director of Computer Professionals for Social Responsibility, warns against believing arguments that access and privacy rights are inherently incompatible. Such conflicts are often promoted by those who stand to profit by expanding access to private data, he argues.

Take the case of caller ID. Such systems instantly reveal a caller's number on a display attached to the phone of the party receiving the call. Caller ID has often been portrayed in the media as a simple case of competing consumer interests—some people advocate the system as a way to apprehend heavy breathers; others fear caller ID as an open invitation for businesses to surreptitiously pad marketing lists and for bullies to find battered spouses hiding in shelters.

But there is a third factor. "With the advent of caller ID, the telephone companies stood at the fulcrum of this information transfer and stood to benefit from the proposed sale of personal telephone numbers," Rotenberg says. How? They can charge businesses for using the caller ID service and then charge consumers for being listed or not listed, depending on the local laws' requirements.

MANAGING ELECTRONIC PRIVACY

How should such conflicts be resolved? In the U.S., a wide range of federal and state agencies grapple with privacy issues. Sometimes they have exemplary tools to work with, such as the Electronic Communications Privacy Act, which bans most electronic eavesdropping over phone or data lines.

More often, there is little or no legal protection of personal data. Part of the reason may be that no government agency reviews privacy issues comprehensively or tries to map a coherent overall policy on the wide range of consumer, commercial, and workplace privacy issues.

Canada and many European nations use privacy commissions or data-protection agencies to advise their governments on privacy policy, protect consumer rights, or regulate corporations. Most privacy advocates in this country see some kind of privacy board—staffed with specialists equipped to evaluate emerging privacy issues—as a key to timely and effective regulation.

"The U.S. is an embarrassment to the privacy movement overseas," says Simon Davies, director of the Australian Privacy Foundation. "The U.S. stands alone as an example of what a superpower should not do in privacy."

A U.S. data-protection board with advisory powers was proposed in Congress in 1991. Proponents believe that such a board could sort out the privacy implications of new services or technologies before they saturate the marketplace or are unnecessary quashed by consumer outrage.

The developers of Lotus Marketplace might have averted years of fruitless development if a privacy board had offered freedback on the idea in advance. The National Research and Education Network (NREN), promoted by the Clinton administration, would be a prime candidate for a advance evaluation by a privacy board. This multibillion-dollar "data superhighway" would theoretically allow tens of millions of Americans to communicate data, voice, video, and other forms of media at many times the speed of current networks. Protecting personal information on NREN is "the privacy issue of the twenty-first century," says the Electronic Frontier Foundation's Berman, yet so far the government has ignored the privacy implications of the project.

With powerful industry interests arrayed against it, privacy-board legislation has gone nowhere. "American consumers have more choice than any other consumers in the world. Part of the reason is that we are an open information society," says Lorna Christi of the Direct Marketing Association, echoing the industry's general fear of government regulation. "Self-regulation is working."

John Baker, senior vice president of Equifax, supports the idea of a board that conducts research and gives confidential advice to industry. But the objects to giving a privacy board the very investigative and complaint-resolution responsibilities that privacy advocates see as minimum requirements to safeguard consumer and worker rights.

For now at least, the privacy implication of new technologies are likely to be confronted by government on and ad hoc basis, and only after the pubic has cried out for relief.

THE ROLE OF TECHNOLOGY

Privacy advocates are fond of saying that the United States is "first in technology, last in privacy protection." And while technology has made our personal lives more transparent, privacy and technology are not inherently antagonistic. In the absence of a privacy board, new technologies may prove one of the most potent forces driving what Privacy Times's Hendricks calls "the right to informational self-determination."

Technology has already alleviated many everyday intrusions: Airport X-ray units have made hand searches of luggage rare. With magnetic markers in books and clothing, searches of purses or briefcases in libraries and stores are quickly becoming obsolete. And encryption software makes computer files infinitely more secure than paper documents in locked cabinets.

A California company has even developed a "video game" to replace drug testing for truck drivers and other workers. Before each shift, employees go through a short hand-eye coordination exercise at a computer terminal. If they fail this simple test, they skip the shift or are moved to less demanding work that day. The technique not only screens out drug or alcohol intoxication, but also seems to identify workers who are excessively fatigued or preoccupied. One trucking company reports a dramatic decrease in accidents and worker errors after a year using the system.

Such stories are encouraging, but so far they are rare. Industry and society face a daunting challenge to develop technologies that protect personal privacy faster than those that threaten privacy.

The stakes are high. "Privacy allows us to move freely between the public world and private world, to form smaller communities within the larger community, to share our concerns, dreams, and beliefs with our close friends. To have secrets," Rotenberg commented in an online forum sponsored last year by the Wall Street Journal. "There is a close tie between privacy and pluralism.* * * This is what I suspect is at risk in the current rush to record and exchange personal data. Global Village in theory. Surveillance State in practice."

NATIONAL DATA PROTECTION BILLS ENACTED

[As of September 13, 1993]

Country	Title of law	Date enacted	Date in force	Ratified CoE Conv. No. 108	Registration or notification	Includes manual files	Legal persons covered	License required for export
Australia	Privacy Act	1988	1990	N/A	Some	No	No	No.
Austria	Data Protection Act	Oct, 18, 78	Jan. 1, 80	Yes	All data	Yes	Yes	Some data.
Belgium	Protection of private life regarding the processing of Personal Data Act.	Dec. 8, 92	June 95	No	All data	Yes	Yes	
Canada	Privacy Act	1982	1982	N/A	No	Yes	No	No.
Czech Republic	Protection of personal data in information systems	Apr. 29, 92	Jun. 1, 92	No	Yes	Yes	No	Yes.
Denmark	Private Registers Act, Public Registers Act	Jun. 8, 78; amended 1987.	Jan. 1, 79	Yes	Some	Yes	Yes	Some.
Faeroe Islands	Private Registers Act, Public Registers Act	1984	Oct. 1, 84; April 1, 94.	No	Some	Yes	Yes	Some.
Findland	Data Protection Act	Feb. 4, 87	Jan. 1, 88	No	Some	Yes	No	Some.
France	Data Processing, Data Files and Individual Liberties Act.	Jan. 6, 78	Jan. 1, 80	Yes	All data	Yes	Yes	No.
Germany	Data Protection Act	Jan. 27, 77; amended 1990.	Jan. 1, 79; amended Jun. 1, 91.	Yes	Some	Yes	No	No.
Guernsey	Data Protection Act	Jul. 30, 86	Nov. 11, 87	Yes	Yes	All	No	No.
Hungary	Handling of personal data and access to public data bill.	Oct. 27, 92		No	Some	Yes	Yes	No.
Iceland	Systematic recording of Personal Data Act	Jun. 5, 81	Jan. 1, 82	Yes	All data	Yes	Yes	All data.
Ireland	Data Protection Act	Jul. 13, 88	Apr. 19, 89	Yes	Some	No	No	No.
Isle of Man	Data Protection Act	Jul. 16, 86	Oct. 17, 90	Yes	All data	No	No	No.
Israel	Privacy Act	1981	1981	N/A	Yes	Yes	No	No.
Japan	Act for protection of computer processed personal data.	Dec. 9, 88	Dec. 16, 88	N/A	Some	No	No	No.
Jersey	Data Protection Act	Apr. 30, 87	Nov. 11, 87	Yes	All data	No	No	No.
Luxembourg	The use of name linked data in computer processing	Mar. 31, 79	Oct. 1, 79	Yes	All data	No	Yes	No.
Netherlands	Data Protection Act	Dec. 28, 88	Jul. 1, 89	No	Some	Yes	No	No.
New Zealand	Privacy Commission Act	1992	1992	N/A	Some	Yes	No	No.
Norway	Personal Data Registers Act	Jan. 9, 78	Jan. 1, 80	Yes	Some	Yes	Yes	Some.
Portugal	Protection of Personal Data Act	Apr. 29, 91	May 4, 91	No	All data	No	No	All.
Spain	Regulation of automated processing of Personal Data Act.	Oct. 8, 92	Feb. 93	Yes	All Data	Yes	No	Some.
Sweden	Data Act	May 13, 73; amended 1982.	Jul 1, 74; amended 1983.	Yes	All data	No	No	Some data.
Switzerland	Data Protection Act	Jun. 19, 92	Jun. 16, 93	No	Some	Yes	Yes	Must be declared.
United Kingdom	Data Protection Act	Jul. 12, 84	Nov. 11, 87	Yes	All data	No	No	No.

NATIONAL DATA PROTECTION BILLS UNDER CONSIDERATION

[As of September 13, 1993]

Country	Title of law	Date introduced	Registration or notification	Includes manual files	Legal persons covered	License required for export.
Bulgaria	Information bill	1991				
Croatia	Bill on privacy protection	1993			No	Yes.
Estonia	Data protection bill	1992	Some	Yes	No	Some.
Greece	Data protection bill	1991	All data	Yes	No	Some.
Hong Kong	Information privacy bill	1993	Some	Yes	No	Some.
Italy	Administration of automated data banks	Sept. 1, 1992	Some	No	No	Some.
Liechtenstein	Data protection bill	1991	Some	Yes	Yes	Must be declared.
Lithuania	Data protection bill	1992	Some	Yes	No	
Poland	Protection of personal data bill	Oct. 1992	Automated files	Yes	No	
Slovakia	Data protection bill	1993	Yes	Yes	No	Yes.
Taiwan	Data protection bill	1993	Yes	No	No	Yes.

Source: Malcom Norris, Stuert Dresner, Dave Banisar, and Wayne Madsen. For English translations of most of the acts, see Madsen Handbook of Personal Data Protection (Stockton Press 1992).

COMPUTER PROFESSIONALS FOR
SOCIAL RESPONSIBILITY,
Washington, DC, November 10, 1993.

Senator PAUL SIMON,
U.S. Senate, Washington, DC.

DEAR SENATOR SIMON: We the undersigned consumer, technology, library, privacy and civil liberties organizations support the establishment of a privacy protection agency. We believe that an independent entity is necessary to help ensure that privacy rights and Constitutional freedoms are protected. With other countries now undertaking similar efforts and with growing concern about privacy protection in the United States, we believe that this is a particularly good time to move forward.

We support your efforts to introduce legislation and we look forward to working with you on this important initiative.

Sincerely,

Marc Rotenberg, Computer Professionals for Social Responsibility.

John Barker, National Consumers League.

Simon Davies, Privacy International.

Janlori Goldman, American Civil Liberties Union.
Leslie Harris, People For the American Way.
Evan Hendricks, US Privacy Council.
Mary Gardiner Jones, Consumer Interest Research Institute.
Judith Krug, American Library Association.
James Love, Center for the Study of Responsive Law.
Robert Ellis Smith, Privacy Journal.
George Trubow, Center for Informatics Law, John Marshall Law School.
Paul Wolfson, Public Citizen.

By Mr. ROBB (for himself and Mr. WARNER):

S.J. Res. 154. A joint resolution designated January 16, 1994, as "Religious Freedom Day"; to the Committee on the Judiciary.

RELIGIOUS FREEDOM DAY

Mr. ROBB. Mr. President, I rise with my friend and colleague from Virginia, Senator WARNER, to introduce legislation to recognize and commemorate January 16, 1994, as "Religious Freedom Day." While many commemoratives pass through this body each year, none to my knowledge celebrates this first and most basic liberty secured by the first amendment. The passage of this resolution will mark an important step in the mission to educate the Nation's public in the significance of Thomas Jefferson's Statute of Religious Freedom, adopted by the Virginia General Assembly on January 16, 1786. It will also provide Americans with the opportunity to join together in observing the primary liberties secured for the people by the religious clauses of the first amendment.

Mr. Jefferson drafted a bill for religious freedom in 1777, soon after the signing of the Declaration of Independence. Drawing from the ideas of Montesquieu, this charter would be the first in the world to establish the separation of Church and State and the freedom of exercise as the complementary components of a secular state. It was defeated by the Virginia General Assembly in 1779, the reintroduced in 1785 by James Madison while Jefferson served as Ambassador to France. Aided by Madison's famous article entitled "Memorial and Remonstrance against Religious Assessments," the Statute for Religious Freedom was adopted on January 16, 1786. On that occasion, Jefferson wrote to Madison, "It is honorable for us to have produced the first legislature with the courage to declare that the reason of man may trusted with the formation of his own opinion."

The contest to secure these religious freedoms, first in the Virginia Statute, and later in the Bill of Rights, was remarkable for the ideals at stake and the triumph of the democratic process which transformed these ideals into law. However, the purpose of Religious Freedom Day is not limited to the celebration of historical events, for the principles behind religious freedom are not frozen in history; rather, they remain central to any debate on the relationship between government and individual conscience. The faithful protection of those rights guaranteed by the first amendment and the Bill of Rights as a whole requires an electorate which will defend the principles behind those rights.

Religious Freedom Day will be an occasion for all Americans to observe those principles of individual conscience and societal tolerance which form the foundation of the first amendment. This will be a day to reflect on these words of the Constitution and the effect they have on our lives: "Congress shall make no law respecting an establishment of any religions, or prohibiting the free exercise thereof."

Mr. WARNER. Mr. President, I rise today to introduce along with Senator ROBB a joint resolution which would designate January 16, 1994, as "Religious Freedom Day."

The birth of this joint resolution goes back to January 16, 1786—the day the Virginia General Assembly adopted "An Act Establishing Religious Freedom for Virginia." Written by Thomas Jefferson, this statute was the first to institute the separation of church and state and secure for all citizens the freedom of worship. The Virginia statute for religious freedom inspired the first amendment and is regarded by scholars, lawyers, and religious leaders as one of the most influential documents ever created.

On January 16, 1992, the Virginia General Assembly passed a resolution commemorating the Virginia Statute for religious freedom as the precursor for the Bill of Rights. A proclamation was then signed by Governor Wilder and Virginia became the first State to establish a day for the appreciation of religious freedom.

The purpose of this joint resolution is to extend to all the States this opportunity to commemorate our religious freedoms. Therefore, I invite my colleagues to join Senator ROBB and myself in designating January 16, 1993, as "Religious Freedom Day."

I will close my remarks by submitting a letter written by A.E. Dick Howard, a professor at the University of Virginia School of Law, who so eloquently addresses the significance of the Virginia statute for religious freedom. I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD as follows:

SCHOOL OF LAW,
UNIVERSITY OF VIRGINIA,
Charlottesville, VA, December 20, 1991.

MS. CAROL NEGUS,
President, Council for America's First Freedom, Richmond, VA.

DEAR MS. NEGUS: The Virginia Statute for Religious Freedom is a document whose historical significance transcends the place and time which gave it birth.

One who delves into the circumstances surrounding the Statute's drafting and enactment will better understand the origins and meaning of religious freedom in America. In 1776, the Virginia Statute was enacted, a more complete statement of religious liberty and thereby come into being.

The history of the Virginia Statute is intertwined with that of the First Amendment to the United States Constitution. The Supreme Court of the United States, in interpreting the First Amendment, has often made reference to the Virginia Statute. That enactment remains a seminal document for any enquiry into the application of the First Amendment's religion clauses even two centuries later.

The Statute's significance is not confined to concerns about church and state or religion in the conventional sense. I can think of no document which more eloquently states Thomas Jefferson's concern for liberating the human mind from any manner of bondage. A splendid emanation of enlightenment thinking at his best, the Statute proclaims that at the heart of our conception of freedom lies freedom to believe what one will.

In an age when many countries are putting a totalitarian past behind them and are laying the foundations for constitutional democracy, the Virginia Statute points the way to aspirations which, if acted upon, would help mute the passions of national and ethnic rivalry. In my own work in Central and Eastern Europe, I have used the Statute as an example of an approach to religious freedom that would be worthy of emulation by constitutional draftsmen in the fledgling democracies.

The Virginia Statute is a document for the ages. I applaud the plans to commemorate its meaning and to undertake public education in its teachings.

Sincerely.

A.E. DICK HOWARD.

By Mr. D'AMATO:

S.J. Res. 155. A joint resolution to designate the week beginning March 13, 1994 as "National Manufacturing Week"; to the Committee on the Judiciary.

NATIONAL MANUFACTURING WEEK

• Mr. D'AMATO. Mr. President, I introduce a joint resolution designating the week of March 13 to 19, 1994, as "National Manufacturing Week."

This resolution celebrates the important contributions of the manufacturing industry to our economy, national defense, and way of life in the United States. Too often, Mr. President, this body takes for granted the importance of manufacturing to the U.S. economy. This importance is often clouded by a number of myths which still surround the manufacturing industry. Consider:

Myth 1: We are in a post industrial society.

Reality: In the 1980's, and so far in the 1990's, U.S. manufacturing's direct share of the economy has remained stable at more than a fifth of the gross domestic product. In addition, nearly half of total economic activity depends at least indirectly on manufacturing.

Myth 2: U.S. manufacturing is not globally competitive.

Reality: U.S. exports doubled between 1986 and 1992 and continue to set records. A large trade surplus with Europe and a rebounding surplus with other countries show United States products can penetrate the entire spectrum of world markets.

Myth 3: Manufacturing is plagued by low productivity.

Reality: Average productivity growth in manufacturing has been approximately 3 percent a year for 12 years, compared with the national average, which remained close to zero until last year.

Myth 4: Manufacturing is low-technology.

Reality: Nearly three-quarters of research and development spending in the United States is performed by manufacturers. Manufacturing is the main source of advances in technology and innovation.

Myth 5: High prices? Poor quality?

Reality: Recent surveys show American manufactured goods today offer greater value and higher quality than at any time in three decades.

Myth 6: Manufacturing jobs are not as good as other jobs.

Reality: Manufacturing workers receive 15 percent higher compensation; 98 percent receive company-paid health benefits; manufacturers spend more than $30 billion a year on education and training.

It is for these and other reasons, Mr. President, that I feel it is important that we recognize and salute the achievements of the manufacturers of America.

I ask unanimous consent that the text of this joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 155

Whereas throughout the history of the United States, manufacturing has contributed substantially to the economic well-being of the Nation;

Whereas manufacturing is an essential yet often overlooked component of the economic foundation of the United States;

Whereas a strong manufacturing industry contributes to continued growth, prosperity, and high-paying jobs in every other sector of the national economy;

Whereas manufacturing directly employs more than 18 million workers, and at least 18 million workers in the service sector depend on a sound manufacturing sector for their jobs;

Whereas manufacturing accounts for many of the highest paying jobs in the economy, and manufacturing wages are 20 percent higher on the average than nonmanufacturing wages;

Whereas, in the 1980's, manufacturing increased from 20 to 23 percent of the gross national product and manufacturing productivity in the last decade has increased at an annual rate of 3.6 percent, 3 times faster than the rate at which nonmanufacturing activity has increased;

Whereas the quality revolution has been one of the most important factors contributing to the recent resurgence of manufacturing in the United States;

Whereas manufacturing is an important source of tax revenue for the Federal Government, and State and local governments;

Whereas the continued leadership of the United States in science and technology is inherently linked to the success of manufacturing;

Whereas manufactured goods account for more than 80 percent of the trade deficit of the United States, indicating that manufacturing is especially important to overall national competitiveness and international trade;

Whereas a sound manufacturing economy is an essential pre-condition for a strong national defense;

Whereas the Nation's school children should be educated about job opportunities in manufacturing; and

Whereas the people of the United States should be educated about the role manufacturing plays in the economy, international competitiveness, and the standard of living of the Nation, and about the challenges and changing nature of manufacturing: Now therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning March 13, 1994, is designated as "National Manufacturing Week", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the week with appropriate ceremonies and activities.●

By Mr. MITCHELL (for himself, Mr. LAUTENBERG, Mr. HOLLINGS, Mr. EXON, Mr. NUNN, Mr. MOYNIHAN, Mr. D'AMATO, Mr. WARNER, Mr. NICKLES, Mr. KENNEDY, Mr. PELL, Mr. COHEN, and Mr. BIDEN):

S.J. Res. 156. A joint resolution honoring W. Graham Claytor.

HONORING W. GRAHAM CLAYTOR

Mr. MITCHELL. Mr. President, it was with both pleasure and sadness that I rise to introduce this joint resolution recognizing the many years of dedicated public service of W. Graham Claytor, Jr. He has served his country with honor and distinction as Secretary of the Navy and Assistant Secretary of Defense, but it is in his current position as president and chairman of the board of Amtrak that I have come to know him best.

I am pleased to be able to stand on the floor of the Senate today and publicly express my gratitude to Mr. Claytor for all that he has done for the National Railroad Passenger Corp. Just as he once decided, hours before receiving orders, to change the course of the U.S.S. *Cecil J. Doyle* and thus rescue almost 100 survivors of a ship which had been torpedoed, he also made the difficult but necessary decisions to change the course of Amtrak during his 11-year tenure and that have enabled the railroad's survival. He leaves behind a railroad that is a higher quality, more economically viable one than he inherited.

I wish him well as he enters his well-deserved retirement, and I urge the Senate to approve the following joint resolution expressing the United States' Congress appreciation to W. Graham Claytor, Jr., for a lifetime of dedicated and inspired service to the Nation.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 156

Whereas W. Graham Claytor, Jr., has announced his retirement at age 81 from the National Railroad Passenger Corporation, better known as Amtrak, where he has served as President and Chairman of the Board since 1982;

Whereas W. Graham Claytor, Jr., has provided remarkable, energetic, inspired, and at times heroic service to the Nation during a career that has included service in the United States Navy, a brilliant legal career, leadership of one of the Nation's largest private railroads, service as Secretary of the Navy, Acting Secretary of Transportation, and Deputy Secretary of Defense, and stewardship of Amtrak during a period that witnessed the rebirth of the Nation's passenger rail system;

Whereas W. Graham Claytor, Jr., has brought to his work enormous intellectual and analytical skills developed at the University of Virginia, where he received his bachelor's degree in 1933, and Harvard Law School, where he graduated in 1936 summa cum laude and as President of the Harvard Law Review;

Whereas W. Graham Claytor, Jr., worked as a law clerk for two of the finest and most brilliant jurists in this Nation's history, Judge Learned Hand of the United States Court of Appeals for the Second District in 1936–1937, and Supreme Court Justice Louis D. Brandeis in 1937–38, and later as an associate and partner at the law firm of Covington & Burling;

Whereas W. Graham Claytor, Jr., served his Nation during World War II, advancing in the United States Navy from ensign to lieutenant commander, and held commands of the U.S.S. SC-516, the U.S.S. Lee Fox, and the U.S.S. Cecil J. Doyle;

Whereas W. Graham Claytor, Jr., is credited with having saved almost 100 survivors of the sinking heavy cruiser U.S.S. Indianapolis, which had been torpedoed in shark-infested waters in the Pacific, by decisively changing the course of his ship, the U.S.S. Cecil J. Doyle, to rescue the survivors hours before receiving orders to take part in the rescue;

Whereas W. Graham Claytor, Jr., retired in 1977 as Chairman and Chief Executive Officer of Southern Railways, where he also had served as Vice President of Law and President, and was responsible for revamping the corporation's management style, planning, and long-term focus, and for making the railroad one of the largest and most successful in the Nation;

Whereas W. Graham Claytor, Jr., brought his experience as a decisive Naval officer and premier corporate manager to bear on the challenge of shaping a strong, versatile, modern Navy through his appointment by President Jimmy Carter and confirmation by the Senate in 1977 as Secretary of the Navy, and on the challenge of providing for a strong defense within mounting budgetary constraints in 1979 as Deputy Secretary of Defense, as well as serving as Acting Secretary of Transportation;

Whereas W. Graham Claytor, Jr., was appointed President and Chairman of the Board of Amtrak in 1982 at the age of 71, and is directly responsible for the dramatic improvement in the economics, quality, and marketability of rail passenger service that has occurred over the last decade, and in the resurgence of demand for Amtrak service as a means of addressing growing highway and airport congestion across the Nation;

Whereas the vision of leadership of W. Graham Claytor, Jr., is responsible for having enabled Amtrak and Congress to withstand zealous attempts to eliminate the Nation's rail passenger system by demanding of his corporation that Amtrak operate as a private business with strict attention to the bottom line and to improvements in efficiency and quality of service, and by engineering a substantial reduction in the corporation's revenue-to-cost ratio and in level of Federal support required to operate the system;

Whereas W. Graham Claytor, Jr., has positioned Amtrak to be the Nation's leader in the development of high-speed rail for the next century and has overseen development of the Northeast Corridor as the Nation's premier rail passenger line and a model for high-speed operations across the country; and

Whereas the retirement of W. Graham Claytor, Jr., will mean the loss of one of the Nation's most knowledgeable, inspiring, and persuasive voices in government service and of a close, personal friend to many in Congress, the Government, and business: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress recognizes the critical role of Amtrak in the Nation's transportation system, and that the Nation profoundly thanks W. Graham Claytor, Jr., for a lifetime of dedication and superb service to this Nation, for his willingness to assume major new public challenges at a time when his peers had long ago retired, for his ability to profoundly change the course of events, from the lives of the sailors of the U.S.S. Indianapolis to the preservation of national rail passenger service, and for his brilliant stewardship of Amtrak over the past decade.

By Mr. WOFFORD (for himself, Mr. PELL, Mr. ROBB, and Mr. GLENN):

S.J. Res. 158. A joint resolution to designate both the month of August 1994 and the month of August 1995 as "National Slovak American Heritage Month"; to the Committee on the Judiciary.

NATIONAL SLOVAK AMERICAN HERITAGE MONTH

• Mr. WOFFORD. Mr. President, I am proud to join my distinguished colleagues, Senator PELL, Senator ROBB, and Senator GLENN in introducing a joint resolution to recognize millions of Americans of Slovak descent by designating August 1994 and August 1995 as National Slovak American Heritage Month.

This year, as Slovakia sets forth on its new course as an independent nation, it is fitting that we remind ourselves of the contributions that our two nations have made, and continue to make, to each other. For decades, Americans of Slovak descent have made important contributions to this Nation. And in the years since Slovakia moved away from the former Soviet Union to the independence it enjoys today, may Slovak-Americans have worked selflessly to improve the home of their ancestors.

Immigrants from Slovakia began to arrive in the United States as early as the 18th century seeking religious, economic and political freedom. The number of Slovaks immigrating to America increased substantially during the late 1800's when many found work in the coal mines and with the railroads where they received as little as $1.50 to $2 a day for their labor. Later generations of Slovak-Americans moved into myriad professions where they have distinguished themselves in business, politics, science, athletics, and the arts.

Early Slovak immigrants identified themselves and their culture primarily in terms of their language and religion and in their distinct music, dances and cuisine. The first generation continued to speak Slovak at home, in the workplace, in schools and in places of worship. However, as Slovak-Americans have assimilated and become an essential part of the diverse American fabric, they have sacrificed some of their language and cultures. Since 1886, the number of publications produced in Slovak by Slovak-Americans has steadily declined to almost none. As generations pass, more and more of their proud heritage will be lost unless their children learn about Slovak culture from their elders.

By designating the month of August as National Slovak American History Month, we encourage education, celebration and understanding of the traditions and culture of people of Slovak decent.

I ask unanimous consent that the text of the resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 158

Whereas Stefan Parmenius Stitnicky, a Slovak chronologist and author of the poem "De Navigatione", came to the New World as a member of Sir Humphrey Gilbert's expedition in 1583;

Whereas Jan Boda, Stefan Mada, and other Slovaks were among the first settlers of Jamestown, Virginia in 1609;

Whereas Slovak immigrants came to North America in great numbers seeking religious, economic, and political freedom and, since the birth of this Nation, have labored diligently for the betterment of America;

Whereas the history of the Slovak people in the United States reflects a hard-working and honorable presence for over 200 years and includes service in all of the Nation's wars, including the American Revolution;

Whereas Slovak-Americans, who comprise the second largest Slav ethnic group in America, have distinguished themselves by contributing to the development of the sciences, arts, literature, government, military service, athletics, and education in the United States; and

Whereas in 1993 and 1994, Slovak-Americans celebrate the independence of Slovakia and the centennials of Slovak churches, newspapers, and fraternal organizations in the United States and, in doing so, proudly proclaim their pride in being Americans: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the months of August 1993 and August 1994 are each designated as "National Slovak American Heritage Month". The President is authorized and requested to issue a proclamation calling on the people of the United States to observe these months with appropriate ceremonies and activities.•

ADDITIONAL COSPONSORS

S. 257

At the request of Mr. BUMPERS, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 257, a bill to modify the requirements applicable to locatable minerals on public domain lands, consistent with the principles of self-initiation of mining claims, and for other purposes.

S. 340

At the request of Mr. HEFLIN, the names of the Senator from Indiana [Mr. LUGAR] and the Senator from West Virginia [Mr. BYRD] were added as cosponsors of S. 340, a bill to amend the Federal Food, Drug, and Cosmetic Act to clarify the application of the Act with respect to alternate uses of new animal drugs and new drugs intended for human use, and for other purposes.

S. 401

At the request of Mr. COHEN, his name was added as a cosponsor of S. 401, a bill to amend title 23, United States Code, to delay the effective date for penalties for States that do not have in effect safety belt and motorcycle helmet safety programs, and for other purposes.

S. 411

At the request of Mr. D'AMATO, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 411, a bill to freeze domestic discretionary spending for fiscal years 1994 and 1995 at fiscal year 1993 levels.

S. 449

At the request of Mr. SMITH, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 449, a bill to amend the Internal Revenue Code of 1986 to allow individuals to designate that up to 10 percent of their income tax liability be used to reduce the national debt, and to require spending reductions equal to the amounts so designated.

S. 473

At the request of Mr. JOHNSTON, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 473, a bill to promote the industrial competitiveness and economic growth of the United States by strengthening the linkages between the laboratories of the Department of Energy and the private sector and by supporting the development and application of technologies critical to the economic, scientific and technological competitiveness of the United States, and for other purposes.

S. 596

At the request of Mr. WOFFORD, his name was added as a cosponsor of S. 596, a bill to amend title IV of the Social Security Act to provide improved child welfare services, and for other purposes.

S. 618

At the request of Mr. RIEGLE, the name of the Senator from Wisconsin [Mr. FEINGOLD] was added as a cosponsor of S. 618, a bill to amend the Immigration and Nationality Act to permit the admission to the United States of nonimmigrant students and visitors who are the spouses and children of United States permanent resident aliens, and for other purposes.

At the request of Mr. LAUTENBERG, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 773, a bill to require the Administrator of the Environmental Protection Agency to establish a program to encourage voluntary environmental cleanup of facilities to foster their economic redevelopment, and for other purposes.

S. 774

At the request of Mr. WOFFORD, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 774, a bill to authorize appropriations for the Martin Luther King, Jr. Federal Holiday Commission, extend such Commission, establish a National Service Day to promote community service, and for other purposes.

S. 784

At the request of Mr. HATCH, the name of the Senator from Missouri [Mr. DANFORTH] was added as a cosponsor of S. 784, a bill to amend the Federal Food, Drug, and Cosmetic Act to establish standards with respect to dietary supplements, and for other purposes.

S. 916

At the request of Mr. CRAIG, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 916, a bill to amend the Davis-Bacon Act and the Copeland Act to provide new job opportunities, effect significant cost savings by increasing efficiency and economy in Federal procurement, promote small and minority business participation in Federal contracting, increase competition for Federal construction contracts, reduce unnecessary paperwork and reporting requirements, clarify the definition of prevailing wage, and for other purposes.

S. 921

At the request of Mr. BAUCUS, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of S. 921, a bill to reauthorize and amend the Endangered Species Act for the conservation of threatened and endangered species, and for other purposes.

S. 985

At the request of Mr. WOFFORD, his name was added as a cosponsor of S. 985, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act with respect to minor uses of pesticides, and for other purposes.

S. 1027

At the request of Mr. BROWN, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 1027, a bill to amend certain cargo preference laws.

S. 1154

At the request of Mr. DECONCINI, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 1154, a bill to amend the Foreign Assistance Act of 1961 to provide for the establishment of a Microenterprise Development Fund, and for other purposes.

S. 1175

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 1175, a bill to amend the Internal Revenue Code of 1986 to allow corporations to issue performance stock options to employees, and for other purposes.

S. 1188

At the request of Mr. COVERDELL, the name of the Senator from Utah [Mr. BENNETT] was added as a cosponsor of S. 1188, a bill to provide that Federal regulatory mandates shall not be enforced unless the cost to the States of implementing them are funded by the Federal Government.

S. 1208

At the request of Mr. WOFFORD, the names of the Senator from Rhode Island [Mr. PELL], the Senator from Hawaii [Mr. AKAKA], the Senator from Arizona [Mr. DECONCINI], and the Senator from Ohio [Mr. METZENBAUM] were added as cosponsors of S. 1208, a bill to authorize the minting of coins to commemorate the historic buildings in which the Constitution of the United States was written.

S. 1288

At the request of Mr. AKAKA, the names of the Senator from Arkansas [Mr. PRYOR] and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of S. 1288, a bill to provide for the coordination and implementation of a national aquaculture policy for the private sector by the Secretary of Agriculture, to establish an aquaculture commercialization research program, and for other purposes.

S. 1329

At the request of Mr. D'AMATO, the names of the Senator from California [Mrs. FEINSTEIN], the Senator from Ohio [Mr. METZENBAUM], the Senator from Alabama [Mr. HEFLIN], the Senator from Wisconsin [Mr. KOHL], the Senator from Louisiana [Mr. BREAUX], and the Senator from Missouri [Mr. DANFORTH] were added as cosponsors of S. 1329, a bill to provide for an investigation of the whereabouts of the United States citizens and others who have been missing from Cyprus since 1974.

S. 1361

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 1361, a bill to establish a national framework for the development of School-to-Work Opportunities systems in all States, and for other purposes.

S. 1383

At the request of Mr. HOLLINGS, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 1383, bill to amend the Communications Act of 1934 to prohibit the distribution to the public of violent video programming during hours when children are reasonably likely to comprise a substantial portion of the audience.

S. 1437

At the request of Mr. HOLLINGS, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 1437, a bill to amend section 1562 of title 38, United States Code, to increase the rate of pension for persons on the Medal of Honor roll.

S. 1447

At the request of Mr. SASSER, his name was added as a cosponsor of S. 1447, a bill to modify the disclosures required in radio advertisements for consumer leases, loans and savings accounts.

S. 1458

At the request of Mrs. KASSEBAUM, the names of the Senator from North Carolina [Mr. FAIRCLOTH], the Senator from New York [Mr. D'AMATO], and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of S. 1458, a bill to amend the Federal Aviation Act of 1958 to establish time limitations on certain civil actions against aircraft manufacturers, and for other purposes.

S. 1464

At the request of Mr. SIMON, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 1464, a bill to amend the Elementary and Secondary Education Act of 1965 to ensure gender equity in education, and for other purposes.

S. 1465

At the request of Mr. HARKIN, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 1465, a bill to amend certain education laws regarding gender equity training, dropout prevention, and gender equity research and data.

S. 1510

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of

S. 1510, a bill to amend title 38, United States Code, to increase the amount of the loan guaranty for loans for the purchase or construction of homes.

S. 1521

At the request of Mr. SHELBY, the names of the Senator from Oklahoma [Mr. NICKLES], the Senator from Utah [Mr. HATCH], the Senator from Mississippi [Mr. LOTT], the Senator from Idaho [Mr. CRAIG], and the Senator from Idaho [Mr. KEMPTHORNE] were added as cosponsors of S. 1521, a bill to reauthorize and amend the Endangered Species Act of 1973 to improve and protect the integrity of the programs of such Act for the conservation of threatened and endangered species, to ensure balanced consideration of all impacts of decisions implementing such Act, to provide for equitable treatment of non-Federal persons and Federal agencies under such Act, to encourage non-Federal persons to contribute voluntarily to species conservation, and for other purposes.

S. 1533

At the request of Mr. LOTT, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 1533, a bill to improve access to health insurance and contain health care costs, and for other purposes.

S. 1560

At the request of Mr. MOYNIHAN, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 1560, a bill to establish the Social Security Administration as an independent agency, and for other purposes.

S. 1607

At the request of Mr. HATCH, his name was added as a cosponsor of S. 1607, a bill to control and prevent crime.

S. 1625

At the request of Mr. BROWN, the names of the Senator from Illinois [Mr. SIMON], the Senator from Iowa [Mr. GRASSLEY], the Senator from Florida [Mr. MACK], the Senator from California [Mrs. BOXER], the Senator from Tennessee [Mr. SASSER], and the Senator from Colorado [Mr. CAMPBELL] were added as cosponsors of S. 1625, a bill to prohibit the sale of defense articles and defense services to countries that participate in the secondary and tertiary boycott of Israel.

S. 1664

At the request of Mr. BRYAN, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of S. 1664, a bill to amend subchapter II of chapter 53 of title 31, United States Code, to improve enforcement of anti-money laundering laws, and for other purposes.

S. 1670

At the request of Mr. HARKIN, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 1670, a bill to improve hazard mitigation and relocation assistance in connection with flooding, and for other purposes.

SENATE JOINT RESOLUTION 41

At the request of Mr. SIMON, the name of the Senator from Texas [Mrs. HUTCHISON] was added as a cosponsor of Senate Joint Resolution 41, a joint resolution proposing an amendment to the Constitution of the United States to require a balanced budget.

SENATE JOINT RESOLUTION 52

At the request of Mr. PACKWOOD, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of Senate Joint Resolution 52, a joint resolution to designate the month of November 1993 and 1994 as "National Hospice Month".

SENATE CONCURRENT RESOLUTION 34

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of Senate Concurrent Resolution 34, a concurrent resolution expressing the sense of the Senate regarding the accounting standards proposed by the Financial Accounting Standards Board.

SENATE CONCURRENT RESOLUTION 35

At the request of Mr. WOFFORD, the names of the Senator from Louisiana [Mr. JOHNSTON], the Senator from Wisconsin [Mr. FEINGOLD], and the Senator from Florida [Mr. GRAHAM] were added as cosponsors of Senate Concurrent Resolution 35, a concurrent resolution to express the sense of the Congress with respect to certain regulations of the Occupational Safety and Health Administration.

SENATE CONCURRENT RESOLUTION 50

At the request of Mr. LAUTENBERG, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of Senate Concurrent Resolution 50, a concurrent resolution concerning the Arab boycott of Israel.

SENATE RESOLUTION 148

At the request of Mr. SIMON, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of Senate Resolution 148, a resolution expressing the sense of the Senate that the United Nations should be encouraged to permit representatives of Taiwan to participate fully in its activities, and for other purposes.

SENATE RESOLUTION 162

At the request of Mr. DOLE, his name was added as a cosponsor of Senate Resolution 162, a resolution relating to the treatment of Hugo Princz, a United States citizen by the Federal Republic of Germany.

SENATE RESOLUTION 164

At the request of Mr. MITCHELL, his name was added as a cosponsor of Senate Resolution 164, a resolution expressing the sense of the Senate commemorating the bombing of Pan Am Flight 103.

SENATE RESOLUTION 167

At the request of Mr. MOYNIHAN, the names of the Senator from Colorado [Mr. BROWN] and the Senator from Kansas [Mrs. KASSEBAUM] were added as cosponsors of Senate Resolution 167, a resolution expressing the sense of the Senate concerning the Iraqi Government's campaign against the Marsh Arabs of Southern Iraq.

SENATE CONCURRENT RESOLUTION 54—RELATIVE TO BOSNIA AND HERZEGOVINA

Mr. DECONCINI submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 54

Expressing the sense of the Congress regarding the impeded delivery of natural gas for heating to the civilian population of Bosnia-Herzegovina.

Whereas there is little likelihood that either international negotiations or the ongoing combat in the region will result in a conclusion of the conflict in Bosnia-Herzegovina in the near future;

Whereas the innocent civilian population of Bosnia-Herzegovina is heavily reliant on natural gas for heating, especially in Sarajevo and other cities;

Whereas the pipeline that delivers natural gas to Bosnia-Herzegovina runs through Serbia prior to reaching Bosnia-Herzegovina;

Whereas delivery of natural gas to Bosnia-Herzegovina from the pipeline entering Bosnia-Herzegovina from Serbia has been impeded by Serb militants in Bosnia-Herzegovina;

Whereas the denial of natural gas for heating, and of other utilities, is one of many aspects of the Serb siege of Sarajevo and other Bosnia civilian centers, and is part of the repugnant Serb policy known as ethnic cleansing;

Whereas international sanctions have been imposed on Serbia due to Serbian authorities' control of and influence over the Serb militants in Bosnia-Herzegovina, who are responsible for aggression and atrocities;

Whereas the sanctions against Serbia contain an exemption for humanitarian items, including natural gas as a heating fuel, which has resulted in the continuing flow of natural gas from Hungary into Serbia through the same pipeline that extends to Bosnia-Herzegovina;

Whereas there are no signs that Serbian officials have made any effort to compel or convince the Serb militants to restore the flow of natural gas to Sarajevo and other parts of Bosnia-Herzegovina;

Whereas the civilians of Bosnia-Herzegovina are dangerously vulnerable to the elements as the second winter of the war against them approaches, and many thousands may die from the cold temperatures and associated deprivations; and

Whereas the current situation in Bosnia-Herzegovina may become an even greater human tragedy if action is not taken soon to remedy this situation: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) the President should actively seek a decision by the United Nations to immediately and completely cut off the delivery of natural gas to Serbia, including both delivery through the pipeline that enters Serbia from Hungary, and delivery through or by an alternative source; and

(2) such cutoff should continue until the regular and unimpeded flow of natural gas to

Sarajevo and other areas of Bosnia-Herzegovina is fully restored.

• Mr. DECONCINI. Mr. President, the strangulation of Sarajevo and other cities in Bosnia and Herzegovina continues as winter approaches. The first snowfall of the season fell earlier this week, a grim reminder of the humanitarian nightmare facing the beleaguered populace there following 19 months of aggression and genocide. The prospects for catastrophe are enormous absent a massive relief effort by the international community. And even then there is no guarantee that vital supplies will reach those in need before it is too late. The State Department recently estimated that 2.7 million civilians in Bosnia and Herzegovina are at risk.

The situation in Sarajevo and other cities is particularly acute given dangerously low food supplies, serious shortages of even the most basic medicines, and dwindling sources of fuel for heating. The slow but steady strangulation of these cities continues, taking its toll with each passing day. Earlier this week I met with Kemel Kurspahic, editor-in-chief of the Sarajevo newspaper, Oslobodjenje. Mr. Kurspahic painted a vivid picture of the severe daily hardship faced by the people of Sarajevo as they struggle to survive.

As part of their stranglehold on these cities the Serbs have cut off critical supplies of natural gas used for heating. This cynical practice was brought to my attention at a Helsinki Commission hearing I recently chaired. The flow of gas, which runs through a pipeline from Hungary which crosses Serbia, has been blocked by Serb militants. Supplies of natural gas to Belgrade, serviced by the same pipeline, have continued without interruption. The Serbs must be held accountable for such outrageous behavior.

The resolution which I submit today calls upon the President to actively seek a decision by the United Nations to immediately cut off all deliveries of natural gas to Serbia until the regular and unimpeded flow of gas to Sarajevo and other areas of Bosnia and Herzogovina is fully restored. Mr. President, I urge my colleagues to support this resolution which seeks to bring some measure of relief to the people of Sarajevo and other cities as they face the war for survival during yet another winter under siege.•

SENATE CONCURRENT RESOLUTION 55—RELATIVE TO TAIWAN

Mr. LIEBERMAN (for himself, Mr. WOFFORD, and Mr. GRAHAM) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 55

Expressing the sense of the Congress with respect to Taiwan's membership in the United Nations and other international organizations.

Whereas the Republic of China was one of the founding members of the United Nations in 1945;

Whereas as the end of the civil war in China in 1949 the Kuomindang nationalists were defeated and moved their Republic of China government to the island of Taiwan;

Whereas the governments in both Beijing and Taipei claim that they represent all of China, including Taiwan;

Whereas on December 15, 1978, the United States and the People's Republic of China released a joint communique that announced a switch in United States diplomatic recognition from Taipei to Beijing;

Whereas that joint communique also stated that "the United States will maintain cultural, commercial, and other unofficial relations with the people of Taiwan";

Whereas on December 15, 1978, in a unilateral statement released concurrently with that joint communique, the United States stated that it "continues to have an interest in the peaceful resolution of the Taiwan issue";

Whereas on April 10, 1979, President Carter signed into law the Taiwan Relations Act (Public Law 96-8), effective as of January 1, 1979, which created a domestic legal authority for the conduct of unofficial relations with Taiwan;

Whereas since January 1, 1979, the United States, in accordance with the Taiwan Relations Act, has continued the sale of selected defense articles and defense services to Taiwan;

Whereas in spite of its economic achievements and significant role in the world economy and in world affairs, Taiwan does not have representation in the United Nations or in other international organizations;

Whereas the people of Taiwan have, through their elected legislators, expressed a strong desire to join the United Nations and other international organizations; and

Whereas the participation of the people on Taiwan in the United Nations and in other international organizations would further enhance the peace, security, and stability in the Pacific and is in the best interests of the United States: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the 21,000,000 people on Taiwan should be represented in the United Nations and in other international organizations.

• Mr. LIEBERMAN. Mr. President, I rise today, together with my distinguished colleagues, Senators WOFFORD and GRAHAM, to submit a concurrent resolution concerning Taiwan. This resolution, if adopted, would express the sense of Congress that the 21 million people on Taiwan should be represented in the United Nations and in other international organizations.

Such a move would recognize the exceptional progress of the people on Taiwan in ensuring political freedoms, developing democratic institutions, and building economic strength. Although Taiwan is a small nation in relative size and population, it ranks 13th in world trade, and 25th in per capita income, and is the 7th largest foreign investor. Furthermore, it is the United States' sixth largest trading partner and the largest holder of foreign reserves worldwide with over $88 billion total.

In addition to building a booming economy, the people of Taiwan have taken definitive steps toward democratic reform. Taiwan has worked hard to escape its tumultuous past; and, while it is far from a perfect democracy, substantial strides have been made in developing democratic institutions—including a free press.

By granting U.N. membership to Taiwan, the international community will be sending a clear message that Taiwan is an independent state with a role to play in the rapidly changing international environment.

A similar version of this bill which was introduced by Representatives TORRICELLI, DORNAN, GEJDENSON, and TAUZIN has been gaining support in the House of Representatives.

Mr. President, as a vibrant member of the international community, Taiwan deserves a seat in the United Nations—not only to benefit the people of Taiwan but to enhance the credibility of the United Nations. It is time to officially recognize the economic and political sovereignty of the people of Taiwan by supporting its full membership in the United Nations.•

SENATE RESOLUTION 170—DESIGNATING OBSTETRICIAN-GYNECOLOGISTS AS PRIMARY CARE PHYSICIANS

Mr. CHAFEE (for himself, Mr. INOUYE, Mr. HATFIELD, Ms. MIKULSKI, Mr. BOND, Mr. MCCAIN, Mr. STEVENS, Mr. MURKOWSKI, Mr. KEMPTHORNE, Mr. LOTT, Mr. COCHRAN, Mr. COHEN, Mrs. MURRAY, Ms. MOSELEY-BRAUN, Mr. SIMON, Mr. DURENBERGER, Mr. LUGAR, Mrs. HUTCHISON, Mr. LAUTENBERG, Mr. WARNER, Mr. AKAKA, Mr. SPECTER, Mr. BRYAN, Mr. HOLLINGS, Mr. THURMOND, Mr. GRASSLEY, Mr. JEFFORDS, Mrs. FEINSTEIN, Mr. BURNS, Mr. LEAHY, Mr. LIEBERMAN, Mr. REID, Mr. FORD, Mr. DECONCINI, Mr. WOFFORD, Mr. MCCONNELL, Mr. PELL, Mr. BINGAMAN, Mr. EXON, Mr. MACK, Mr. JOHNSTON, and Mr. DODD) submitted the following resolution; which was referred to the Committee on Labor and Human Resources:

S. RES. 170

Whereas women constitute more than 50 percent of the population of the United States;

Whereas, because women's health historically has received little attention in terms of Federal funding and in terms of research priorities, there should be an increased emphasis on the needs and preferences of women in such areas;

Whereas the Federal Government should increase its support for women's health and can make a significant difference in improving the status of women's health;

Whereas increased funding for research is insignificant if women's health care services are restricted;

Whereas obstetrician-gynecologists manage the health of women beyond the reproductive system, and are uniquely qualified on the basis of education and experience to provide such health care services to women;

Whereas obstetrician-gynecologists provide health care to women with an awareness of the relationship of disease to family history;

Whereas over two-thirds of general family practice physicians do not deliver newborns and will not be able to address this need of women; and

Whereas 80 percent of maternity care services in the United States are provided by obstetrician-gynecologists: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) obstetrician-gynecologists should be included as primary care providers for women in Federal laws relating to the provision of health care; and

(2) legislative proposals that define primary care should include primary care services performed by obstetrician-gynecologists in such definition.

Mr. CHAFEE. Mr. President, the resolution we are submitting today is meant to draw attention to the differences in treatment and prevention that women experience in our health care system and to attempt to correct these deficiencies.

This resolution expresses the sense of several senators, including myself, that Obstetrician-Gynecologists [ob-gyns] should be included as primary care physicians in federal laws relating to health care, which will aid in providing women with greater access to complete health care.

In a survey from the HHS Office of Disease Prevention and Health Promotion, ob-gyns were found to provide primary care and a variety of preventive care services, such as screening for breast cancer, ovarian cancer, and others. When asked, ob-gyns provide counsel upon request from their patients about sexually transmitted diseases, HIV infection prevention, proper diet and exercise, work-related health risks, and aid in the identification of victims of domestic violence. In fact, a New England Journal of Medicine article, this August, found that ob-gyns, regardless of age and gender, consistently offer preventive screening measures at greater frequency than other medical professionals in closely related fields. Primary and preventive care are cornerstones of all health care reform plans being developed today.

Mr. President, it is my hope that health insurers include ob-gyns as primary care physicians in order to save money and lives, and to cut down on paper work and time-consuming referrals. In fact, ob-gyn patients are less often referred to other medical doctors than are the patients of other medical professionals. Furthermore, over two-thirds of all ob-gyns visits were established by returning patients. So, this shows that including ob-gyns as primary care physicians begins to close the gaps in women's health care.

Significant numbers of women currently view their ob-gyn as their primary care physician, and is the only physician they see regularly during their pre-menopausal years. In fact, last year 7,000,000 women visited their ob-gyn for a general medical exam, the second most frequently cited purpose of patient visits to ob-gyns. Furthermore, obtaining a general check up was a more frequently cited reason for visiting an ob-gyn than it was for seeing either family physicians for internists.

Prenatal care is the most frequently cited reason for visiting an ob-gyn. Proper prenatal care saves the health care system millions of dollars, but more importantly, Mr. President, it saves lives. Adequate prenatal care also reduces the incidence of low birthweight babies, which account for only 7 percent off all live births, which however, accounts for nearly 60 of all infant deaths. Low birthweight babies who do survive are twice as likely to suffer one or more handicaps, including mental retardation, deafness, blindness, autism, cerebral palsy, epilepsy, or chronic lung problems.

Mr. President, this is one step on the long march to improve the health of American women in this decade and beyond into the 21st century. The health care needs of half of our population must not be overlooked. I urge my colleagues to co-sponsor this Sense of the Senate resolution.

SENATE RESOLUTION 171—AUTHORIZE THE PRODUCTION OF RECORDS BY THE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 171

Whereas, the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs has been conducting an investigation of allegations of abuses in the Pell Grant financial assistance program;

Whereas, several law enforcement entities have requested access to records of the Subcommittee's investigation;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That the Chairman and Ranking Majority Member of the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, acting jointly, are authorized to provide, to law enforcement and regulatory entities requesting access, records of the Subcommittee's investigation of alleged abuses in the Pell Grant program.

AMENDMENTS SUBMITTED

BRADY HANDGUN VIOLENCE PREVENTION ACT

MITCHELL (AND DOLE) AMENDMENT NO. 1218

Mr. MITCHELL (for himself and Mr. DOLE) proposed an amendment to the bill (S. 414) to amend title 18, United States Code, to require a waiting period before the purchase of a handgun; as follows:

Strike all after the enacting clause and insert the following:

TITLE ___—BRADY HANDGUN CONTROL

SEC. ___01. SHORT TITLE.

This title may be cited as the "Brady Handgun Violence Prevention Act".

SEC. ___02. FEDERAL FIREARMS LICENSEE REQUIRED TO CONDUCT CRIMINAL BACKGROUND CHECK BEFORE TRANSFER OF FIREARM TO LICENSEE.

(a) INTERIM PROVISION.—

(1) IN GENERAL.—Section 922 of title 18, United States Code, is amended by adding at the end the following:

"(s)(1) Beginning on the date that is 90 days after the date of enactment of this subsection and ending either on the day before the date that is 60 months after such date of enactment or on the day that the Attorney General notifies the licensees in all of the States under section ___03(d) of the Brady Handgun Violence Prevention Act, whichever occurs earlier, it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer a handgun to an individual who is not licensed under section 923, unless—

"(A) after the most recent proposal of such transfer by the transferee—

"(i) the transferor has—

"(I) received from the transferee a statement of the transferee containing the information described in paragraph (3);

"(II) verified the identity of the transferee by examining the identification document presented;

"(III) within 1 day after the transferee furnishes the statement, provided notice of the contents of the statement to the chief law enforcement officer of the place of residence of the transferee; and

"(IV) within 1 day after the transferee furnishes the statement, transmitted a copy of the statement to the chief law enforcement officer of the place of residence of the transferee; and

"(ii)(I) 5 business days (meaning days on which State offices are open) have elapsed from the date the transferor furnished notice of the contents of the statement to the chief law enforcement officer, during which period the transferor has not received information from the chief law enforcement officer that receipt or possession of the handgun by the transferee would be in violation of Federal, State, or local law; or

"(II) the transferor has received notice from the chief law enforcement officer that the officer has no information indicating that receipt or possession of the handgun by the transferee would violate Federal, State, or local law;

"(B) the transferee has presented to the transferor a written statement, issued by the chief law enforcement officer of the place of residence of the transferee during the 10-day period ending on the date of the most recent proposal of such transfer by the transferee, stating that the transferee requires access to a handgun because of a threat to the life of the transferee or of any member of the household of the transferee;

"(C)(i) the transferee has presented to the transferor a permit that—

"(I) allows the transferee to possess or acquire a handgun; and

"(II) was issued not more than 5 years earlier by the State in which the transfer is to take place; and

"(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of the law;

"(D) the law of the State requires that, before any licensed importer, licensed manufacturer, or licensed dealer completes the transfer of a handgun to an individual who is not licensed under section 923, an authorized government official verify that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law;

"(E) the Secretary has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or

"(F) on application of the transferor, the Secretary has certified that compliance with subparagraph (A)(i)(III) is impracticable because—

"(i) the ratio of the number of law enforcement officers of the State in which the transfer is to occur to the number of square miles of land area of the State does not exceed 0.0025;

"(ii) the business premises of the transferor at which the transfer is to occur are extremely remote in relation to the chief law enforcement officer; and

"(iii) there is an absence of telecommunications facilities in the geographical area in which the business premises are located.

"(2) A chief law enforcement officer to whom a transferor has provided notice pursuant to paragraph (1)(A)(i)(III) shall make a reasonable effort to ascertain within 5 business days whether receipt or possession would be in violation of the law, including research in whatever State and local recordkeeping systems are available and in a national system designated by the Attorney General.

"(3) The statement referred to in paragraph (1)(A)(i)(I) shall contain only—

"(A) the name, address, and date of birth appearing on a valid identification document (as defined in section 1028(d)(1)) of the transferee containing a photograph of the transferee and a description of the identification used;

"(B) a statement that transferee—

"(i) is not under indictment for, and has not been convicted in any court of, a crime punishable by imprisonment for a term exceeding 1 year;

"(ii) is not a fugitive from justice;

"(iii) is not an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act);

"(iv) has not been adjudicated as a mental defective or been committed to a mental institution;

"(v) is not an alien who is illegally or unlawfully in the United States;

"(vi) has not been discharged from the Armed Forces under dishonorable conditions; and

"(vii) is not a person who, having been a citizen of the United States, has renounced such citizenship;

"(C) the date the statement is made; and

"(D) notice that the transferee intends to obtain a handgun from the transferor.

"(4) Any transferor of a handgun who, after such transfer, receives a report from a chief law enforcement officer containing information that receipt or possession of the handgun by the transferee violates Federal, State, or local law shall, within 1 business day after receipt of such request, communicate any information related to the transfer the transferor has about the transfer and the transferee to—

"(A) the chief law enforcement officer of the place of business of the transferor; and

"(B) the chief law enforcement officer of the place of residence of the transferee.

"(5) Any transferor who receives information, not otherwise available to the public, in a report under this subsection shall not disclose such information except to the transferee, to law enforcement authorities, or pursuant to the direction of a court of law.

"(6)(A) Any transferor who sells, delivers, or otherwise transfers a handgun to a transferee shall retain the copy of the statement of the transferee with respect to the handgun transaction, and shall retain evidence that the transferor has complied with subclauses (III) and (IV) of paragraph (1)(A)(i) with respect to the statement.

"(B) Unless the chief law enforcement officer to whom a statement is transmitted under paragraph (1)(A)(i)(IV) determines that a transaction would violate Federal, State, or local law—

"(i) the officer shall, within 20 business days after the date the transferee made the statement on the basis of which the notice was provided, destroy the statement, any record containing information derived from the statement, and any record created as a result of the notice required by paragraph (1)(A)(i)(III);

"(ii) the information contained in the statement shall not be conveyed to any person except a person who has a need to know in order to carry out this subsection; and

"(iii) the information contained in the statement shall not be used for any purpose other than to carry out this subsection.

"(C) If a chief law enforcement officer determines that an individual is ineligible to receive a handgun and the individual requests the officer to provide the reason for such determination, the officer shall provide such reasons to the individual in writing within 20 business days after receipt of the request.

"(7) A chief law enforcement officer or other person responsible for providing criminal history background information pursuant to this subsection shall not be liable in an action at law for damages—

"(A) for failure to prevent the sale or transfer of a handgun to a person whose receipt or possession of the handgun is unlawful under this section; or

"(B) for preventing such a sale or transfer to a person who may lawfully receive or possess a handgun.

"(8) For purposes of this subsection, the term 'chief law enforcement officer' means the chief of police, the sheriff, or an equivalent officer or the designee of any such individual.

"(9) The Secretary shall take necessary actions to ensure that the provisions of this subsection are published and disseminated to licensed dealers, law enforcement officials, and the public.".

(2) HANDGUN DEFINED.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(29) The term 'handgun' means—

"(A) a firearm which has a short stock and is designed to be held and fired by the use of a single hand; and

"(B) any combination of parts from which a firearm described in subparagraph (A) can be assembled.".

(b) PERMANENT PROVISION.—Section 922 of title 18, United States Code, as amended by subsection (a)(1), is amended by adding at the end the following:

"(t)(1) Beginning on the date that is 30 days after the Attorney General notifies licensees under section ____03(d)(1) of the Brady Handgun Violence Prevention Act that the national instant criminal background check system is established, and upon notification by the Attorney General to licensees that the system is operational and capable of supplying information immediately, (during which 30-day period subsection (s) shall remain in effect), a licensed importer, licensed manufacturer, or licensed dealer shall not transfer a firearm to any other person who is not licensed under this chapter, unless—

"(A) before the completion of the transfer, the licensee contacts the national instant criminal background check system established under section ____03 of that Act;

"(B)(i) the system provides the licensee with a unique identification number; or

"(ii) 3 business days (meaning a day on which State offices are open) have elapsed since the licensee contacted the system, and the system has not notified the licensee that the receipt of a firearm by such other person would violate subsection (g) or (n) of this section; and

"(C) the transferor has verified the identity of the transferee by examining a valid identification document (as defined in section 1028(d)(1) of this title) of the transferee containing a photograph of the transferee.

"(2) If receipt of a firearm would not violate section 922 (g) or (n) or state law, the system shall—

"(A) assign a unique identification number to the transfer;

"(B) provide the licensee with the number; and

"(C) destroy all records of the system with respect to the call (other than the identifying number and the date the number was assigned) and all records of the system relating to the person or the transfer.

"(3) Paragraph (1) shall not apply to a firearm transfer between a licensee and another person if—

"(A)(i) such other person has presented to the licensee a permit that—

"(I) allows such other person to possess or acquire a firearm; and

"(II) was issued not more than 5 years earlier by the State in which the transfer is to take place; and

"(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a firearm by such other person would be in violation of law;

"(B) the Secretary has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or

"(C) on application of the transferor, the Secretary has certified that compliance with paragraph (1)(A) is impracticable because—

"(i) the ratio of the number of law enforcement officers of the State in which the transfer is to occur to the number of square miles of land area of the State does not exceed 0.0025;

"(ii) the business premises of the licensee at which the transfer is to occur are extremely remote in relation to the chief law enforcement officer (as defined in subsection (s)(8)); and

"(iii) there is an absence of telecommunications facilities in the geographical area in which the business premises are located.

"(4) If the national instant criminal background check system notifies the licensee that the information available to the system does not demonstrate that the receipt of a firearm by such other person would violate subsection (g) or (n) or state law, and the licensee transfers a firearm to such other person, the licensee shall include in the record of the transfer the unique identification number provided by the system with respect to the transfer.

"(5) If the licensee knowingly transfers a firearm to such other person and knowingly fails to comply with paragraph (1) of this subsection with respect to the transfer and, at the time such other person most recently proposed the transfer, the national instant criminal background check system was operating and information was available to the system demonstrating that receipt of a firearm by such other person would violate subsection (g) or (n) of state law of this section, the Secretary may, after notice and opportunity for a hearing, suspend for not more than 6 months or revoke any license issued to the licensee under section 923, and may impose on the licensee a civil fine of not more than $5,000.

"(6) Neither a local government nor an employee of the Federal Government or of any State or local government, responsible for providing information to the national instant criminal background check system shall be liable in an action at law for damages—

"(A) for failure to prevent the sale or transfer of a firearm to a person whose receipt or possession of the firearm is unlawful under this section; or

"(B) for preventing such a sale or transfer to a person who may lawfully receive or possess a firearm.

"(7)(A) Notwithstanding any provision of the law of any State or political subdivision thereof that prohibits the transfer or receipt of a firearm unless a specified period of time has elapsed prior to the transfer or receipt of a firearm, a licensee may transfer and a person may receive a firearm immediately after compliance with paragraph (1).

"(B) Section 927 shall not apply to subparagraph (A) of this paragraph.

"(C) Subparagraph (A) shall not apply to any State or political subdivision thereof that enacts, more than 1 year after the effective date of subparagraph (A), a law that prohibits the transfer or receipt of a firearm unless a specified period of time has elapsed prior to the transfer or receipt of a firearm.".

(c) PENALTY.—Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (1), by striking "paragraph (2) or (3) of"; and

(2) by adding at the end the following:

"(5) Whoever knowingly violates subsection (s) or (t) of section 922 shall be fined not more than $1,000, imprisoned for not more than 1 year, or both.".

SEC. ___03. NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM.

(a) DETERMINATION OF TIMETABLES.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall—

(1) determine the type of computer hardware and software that will be used to operate the national instant criminal background check system and the means by which State criminal records systems and the telephone or electronic device of licensees will communicate with the national system;

(2) investigate the criminal records system of each State and determine for each State a timetable by which the State should be able to provide criminal records on an on-line capacity basis to the national system; and

(3) notify each State of the determinations made pursuant to paragraphs (1) and (2).

(b) ESTABLISHMENT OF SYSTEM.—

(1) DETERMINATIONS.—Not later than the date that is 24 months after the date of enactment of this Act, the Attorney General shall determine whether—

(A) the equipment used to link State criminal history records systems to the national criminal history records system and the equipment necessary to operate the national instant criminal background check system are operational; and

(B) any group of States that—

(i) have at least 80 percent of the population of the United States; and

(ii) have reported during a 12-month period at least 80 percent of the number of crimes of violence reported by all of the States during that period,

have achieved and maintained in each state at least 70 percent currency of case dispositions in computerized criminal history files for all cases in which there has been an event of activity within the last 5 years; and (c) if such determinations are made in the affirmative, the Attorney General shall certify that the national system is established.

(2) ESTABLISHMENT.—If the Attorney General makes an affirmative finding with respect to the matters described in paragraph (1) (A) and (B), the Attorney General shall establish a national instant criminal background check system that any licensee may contact, by telephone and by other electronic means in addition to the telephone, for information, to be supplied immediately, on whether receipt of a firearm by a prospective transferee would violate section 922 of title 18, United States Code or state law.

(c) EXPEDITED ACTION BY THE ATTORNEY GENERAL.—The Attorney General shall expedite—

(1) the upgrading and indexing of State criminal history records in the Federal criminal records system maintained by the Federal Bureau of Investigation;

(2) the development of hardware and software systems to link State criminal history check systems into the national instant criminal background check system established by the Attorney General pursuant to this section; and

(3) the current revitalization initiatives by the Federal Bureau of Investigation for technologically advanced fingerprint and criminal records identification.

(d) NOTIFICATION OF LICENSEES.—On establishment of the system under this section, the Attorney General shall notify each licensee and the chief law enforcement officer of each State of the existence and purpose of the system and the means to be used to contact the system.

(e) STATES IN COMPLIANCE WITH TIMETABLE.—At any time at which the Attorney General determines—

(1) that a State is in compliance with the timetable set for that State under section (a); and

(2) the State has achieved and maintains at least 70 percent currency of case dispositions in computerized criminal history files for all cases in which there has been an event of activity during the last 5 years,

the Attorney General shall notify each licensee in the State and the chief law enforcement officer of the State of the determination.

(f) ADMINISTRATIVE PROVISIONS.—

(1) AUTHORITY TO OBTAIN OFFICIAL INFORMATION.—Notwithstanding any other law, the Attorney General may secure directly from any department or agency of the United States such information on persons for whom receipt of a firearm would violate subsection (g) or (n) of section 922 of title 18, United States Code or state law, as is necessary to enable the system to operate in accordance with this section. On request of the Attorney General, the head of such department or agency shall furnish such information to the system.

(2) OTHER AUTHORITY.—The Attorney General shall develop such computer software, design and obtain such telecommunications and computer hardware, and employ such personnel, as are necessary to establish and operate the system in accordance with this section.

(f) WRITTEN REASONS PROVIDED ON REQUEST.—If the national instant criminal background check system determines that an individual is ineligible to receive a firearm and the individual requests the system to provide the reasons for the determination, the system shall provide such reasons to the individual, in writing, within 5 business days after the date of the request.

(g) CORRECTION OF ERRONEOUS SYSTEM INFORMATION.—If the system established under this section informs an individual contacting the system that receipt of a firearm by a prospective transferee would violate subsection (g) or (n) of section 922 of title 18, United States Code or state law, the prospective transferee may request the Attorney General to provide the prospective transferee with the reasons therefor. Upon receipt of such a request, the Attorney General shall immediately comply with the request. The prospective transferee may submit to the Attorney General information that to correct, clarify, or supplement records of the system with respect to the prospective transferee. After receipt of such information, the Attorney General shall immediately consider the information, investigate the matter further, and correct all erroneous Federal records relating to the prospective transferee and give notice of the error to any Federal department or agency or any State that was the source of such erroneous records.

(h) REGULATIONS.—After 90 days' notice to the public and an opportunity for hearing by interested parties, the Attorney General shall prescribe regulations to ensure the privacy and security of the information of the system established under this section.

(i) PROHIBITION RELATING TO ESTABLISHMENT OF REGISTRATION SYSTEMS WITH RESPECT TO FIREARMS.—No department, agency, officer, or employee of the United States may—

(1) require that any record or portion thereof generated by the system established under this section be recorded at or transferred to a facility owned, managed, or controlled by the United States or any State or political subdivision thereof; or

(2) use the system established under this section to establish any system for the registration of firearms, firearm owners, or firearm transactions or dispositions, except with

respect to persons, prohibited by section 922 (g) or (n) of title 18, United States Code or state law, from receiving a firearm.

(j) DEFINITIONS.—As used in this section:

(1) LICENSEE.—The term "licensee" means a licensed importer (as defined in section 921(a)(9) of title 18, United States Code), a licensed manufacturer (as defined in section 921(a)(10) of that title), or a licensed dealer (as defined in section 921(a)(11) of that title).

(2) OTHER TERMS.—The terms "firearm", "handgun", "licensed importer", "licensed manufacturer", and "licensed dealer" have the meanings stated in section 921(a) of title 18, United States Code, as amended by subsection (a)(2).

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, from the Violent Crime Reduction Trust Fund established by section 1115 of title 31, United States Code, such sums as are necessary to enable the Attorney General to carry out this section.

SEC. ___04. REMEDY FOR ERRONEOUS DENIAL OF FIREARM.

(a) IN GENERAL.—Chapter 44 of title 18, United States Code, is amended by inserting after section 925 the following new section:

"§ 925A. Remedy for erroneous denial of firearm

"Any person denied a firearm pursuant to subsection (s) or (t) of section 922—

"(1) due to the provision of erroneous information relating to the person by any State or political subdivision thereof, or by the national instant criminal background check system established under section ___03 of the Brady firearm Violation Prevention Act; or

"(2) who was not prohibited from receipt of a firearm pursuant to subsection (g) or (n) of section 922,

may bring an action against the State or political subdivision responsible for providing the erroneous information, or responsible for denying the transfer, or against the United States, as the case may be, for an order directing that the erroneous information be corrected or that the transfer be approved, as the case may be. In any action under this section, the court, in its discretion, may allow the prevailing party a reasonable attorney's fee as part of the costs.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 44 of title 18, United States Code, is amended by inserting after the item relating to section 925 the following new item:

"925A. Remedy for erroneous denial of firearm.".

SEC. ___05. RULE OF CONSTRUCTION.

This Act and the amendments made by this Act shall not be construed to alter or impair any right or remedy under section 552a of title 5, United States Code.

SEC. ___06. FUNDING FOR IMPROVEMENT OF CRIMINAL RECORDS.

(a) USE OF FORMULA GRANTS.—Section 509(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3759(b)) is amended—

(1) in paragraph (2) by striking "and" after the semicolon;

(2) in paragraph (3) by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) the improvement of State record systems and the sharing with the Attorney General of all of the records described in paragraphs (1), (2), and (3) of this subsection and the records required by the Attorney General under section ___03 of the Brady Handgun Violence Prevention Act, for the purpose of implementing that Act.".

(b) ADDITIONAL FUNDING.—

(1) GRANTS FOR THE IMPROVEMENT OF CRIMINAL RECORDS.—The Attorney General, through the Bureau of Justice Statistics, shall, subject to appropriations and with preference to States that as of the date of enactment of this Act have the lowest percent currency of case dispositions in computerized criminal history files, make a grant to each State to be used—

(A) for the creation of a computerized criminal history record system or improvement of an existing system;

(B) to improve accessibility to the national instant criminal background system; and

(C) upon establishment of the national system, to assist the State in the transmittal of criminal records to the national system.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under paragraph (1), from the Violent Crime Reduction Trust Fund established by section 1115 of title 31, United States Code, a total of $200,000,000 for fiscal year 1994 and all fiscal years thereafter.

SEC. ___07. WITHHOLDING OF DEPARTMENT OF JUSTICE FUNDS.

If the Attorney General does not certify the national instant criminal background check system pursuant to section ___03(a) by—

(1) 24 months after the date of enactment of this Act the general administrative funds appropriated to the Department of Justice for the fiscal year beginning in the calendar year in which the date that is 24 months after the date of enactment of this Act falls shall be reduced by 5 percent on a monthly basis; and

(2) 36 months after the date of enactment of this Act the general administrative funds appropriated to the Department of Justice for the fiscal year beginning in the calendar year in which the date that is 36 months after the date of enactment of this Act falls shall be reduced by 10 percent on a monthly basis.

SEC. ___08. WITHHOLDING STATE FUNDS.

Effective on the date of enactment of this Act, the Attorney General may reduce by up to 50 percent the allocation to a State for a fiscal year under title I of the Omnibus Crime Control and Safe Streets Act of 1968 of a State that is not in compliance with the timetable established for such State under section ___03(a).

TITLE ___—MULTIPLE FIREARM PURCHASES TO STATE AND LOCAL POLICE

SEC. ___01. REPORTING REQUIREMENT.

Section 923(g)(3) of title 18, United States Code, is amended—

(1) in the second sentence by inserting after "thereon," the following: ", and to the department of State police or State law enforcement agency of the State or local law enforcement agency of the local jurisdiction in which the sale or other disposition took place,";

(2) by inserting "(A)" after "(3)"; and

(3) by adding at the end thereof the following:

"(B) Except in the case of forms and contents thereof regarding a purchaser who is prohibited by subsection (g) or (n) of section 922 of this title from receipt of a firearm, the department of State police or State law enforcement agency or local law enforcement agency of the local jurisdiction shall not disclose any such form or the contents thereof to any person or entity, and shall destroy each such form and any record of the contents thereof no more than 20 days from the date such form is received. No later than the date that is 6 months after the effective date of this subparagraph, and at the end of each 6-month period thereafter, the department of State police or State law enforcement agency or local law enforcement agency of the local jurisdiction shall certify to the Attorney General of the United States that no disclosure contrary to this subparagraph has been made and that all forms and any record of the contents thereof have been destroyed as provided in this subparagraph.".

TITLE ___—FEDERAL FIREARMS LICENSE REFORM

SEC. ___01. SHORT TITLE.

This title may be cited as the "Federal Firearms License Reform Act of 1993".

SEC. ___02. PREVENTION OF THEFT OF FIREARMS.

(a) COMMON CARRIERS.—Section 922(e) of title 18, United States Code, is amended by adding at the end the following: "No common or contract carrier shall require or cause any label, tag, or other written notice to be placed on the outside of any package, luggage, or other container that such package, luggage, or other container contains a firearm.".

(b) RECEIPT REQUIREMENT.—Section 922(f) of title 18, United States Code, is amended—

(1) by inserting "(1)" after "(f)"; and

(2) by adding at the end the following new paragraph:

"(2) It shall be unlawful for any common or contract carrier to deliver in interstate or foreign commerce any firearm without obtaining written acknowledgement of receipt from the recipient of the package or other container in which there is a firearm.".

(c) LICENSING.—Section 923(c) of title 18, United States Code, is amended by inserting after the first sentence the following: "A licensee may, in person, transfer or deliver firearms to, and receive firearms from, another licensee at any location without regard to the State which is specified on the license.".

(d) UNLAWFUL ACTS.—Section 922 of title 18, United States Code, as amended by section ___02(b), is amended by adding at the end the following new subsection:

"(u) It shall be unlawful for a person to steal or unlawfully take or carry away from the person or the premises of a person who is licensed to engage in the business of importing, manufacturing, or dealing in firearms, any firearm in the licensee's business inventory that has been shipped or transported in interstate or foreign commerce.".

(e) PENALTIES.—Section 924 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(i)(1)(A) A person who knowingly violates section 922(u) shall be fined not more than $10,000, imprisoned not more than 10 years, or both.

"(B) A person who, during any robbery (as defined in section 1951) or riot (as defined in section 2104), violates section 922(u), shall be sentenced to imprisonment for 30 years, no part of which may be suspended or, if a death results, to life imprisonment without release.

"(2) Nothing contained in this subsection shall be construed as indicating an intent on the part of Congress to occupy the field in which provisions of this subsection operate to the exclusion of State laws on the same subject matter, nor shall any provision of this subsection be construed as invalidating any provision of State law unless such provision is inconsistent with any of the purposes of this subsection.".

SEC. ___03. LICENSE APPLICATION FEES FOR DEALERS IN FIREARMS.

Section 923(a)(3) of title 18, United States Code, is amended—

(1) in subparagraph (B) by striking "a pawnbroker dealing in firearms other than" and inserting "not a dealer in";

(2) in subparagraph (B) by striking "$25 per year" and inserting "$200 for 3 years, except that the renewal of a valid license shall be $90 for 3 years."; and

(3) by striking subparagraph (C).

SEC. ___04. DEFINITION OF ANTIQUE FIREARMS.

Section 921(a)(16)(A) of title 18, United States Code, is amended by striking "1898" and inserting "1918".

SEC. ___05. COMMUNICATION WITH LICENSEES.

Section 926 of title 18, United States Code, is amended—

(1) by inserting at the end of subsection (b) the following: "In addition to such other requirements of law as may be applicable, no rule or regulation shall be effective until 30 days after a copy has been provided to all persons licensed under this chapter."; and

(2) by inserting at the end thereof the following new subsections:

"(d) The Secretary shall publish and provide to all licensees, not less than on a quarterly basis each year, all official rulings concerning this chapter and concerning chapter 53 of title 26, United States Code.

"(e) The Secretary shall publish and provide to all licensees, at such times as he shall deem necessary, the names and license numbers of all revoked firearms licensees.".

SEC. 6. NOTIFICATIONS OF ADJUDICATIONS OF PERSONS AS MENTAL DEFECTIVES AND COMMITMENTS TO MENTAL INSTITUTIONS.

Section 503(a) of title I of the Omnibus Safe Streets and Crime Control Act of 1968 (42 U.S.C. 3753(a)) is amended by adding at the end the following new paragraph:

"(12) A certification that the State has established a plan under which the State will provide to the Department of Justice, without fee—

"(A) within 30 days after the date on which any person in the State is adjudicated as a mental defective or committed to a mental institution, notice of the adjudication or commitment; and

"(B) within 30 days after the date on which the Department of Justice requests it, a copy of the certified record of the adjudication or commitment.".

MITCHELL AMENDMENT NO. 1219

Mr. MITCHELL proposed an amendment to amendment No. 1218 to the bill S. 414, supra; as follows:

On page 15, strike lines 4 through 18.

METZENBAUM (AND KOHL) AMENDMENT NO. 1220

Mr. METZENBAUM (for himself and Mr. KOHL) proposed an amendment to amendment No. 1218 proposed by Mr. Mitchell to the bill S. 414, supra; as follows:

On page 2, lines 10 through 12, strike "either on the day before the date that is 60 months after such date of enactment or".

On page 2, lines 14 and 15, strike "whichever occurs earlier,"

NORTH AMERICAN FREE-TRADE AGREEMENT

STEVENS AMENDMENT NO. 1221

Mr. STEVENS proposed an amendment to the bill (H.R. 3450) to implement the North American Free Trade Agreement; as follows:

Beginning on page 282, line 11, strike all through line 4 on page 300.

ADMINISTRATIVE LAW JUDGE CORPS ACT

HEFLIN AMENDMENT NO. 1222

Mr. HEFLIN proposed an amendment to the bill (S. 486) to establish a specialized corps of judges necessary for certain Federal proceedings required to be conducted, and for other purposes; as follows:

On page 23, line 22, strike out ", whichever is earlier".

On page 28, line 19, strike out "subject to the provisions of subsection (e),".

On page 32, line 3, insert "or staff member's" after "judge's".

On page 40, line 19, insert "permits, contracts, collective bargaining agreements, recognition of labor organizations," after "regulations,".

BROWN AMENDMENT NO. 1223

Mr. HEFLIN (for Mr. BROWN) proposed an amendment to the bill S. 486, supra; as follows:

On Page 41, strike out lines 18 through 22, and insert in lieu thereof the following:

(b) REPORTS BY OFFICE OF MANAGEMENT AND BUDGET.—The Director of the Office of Management and Budget shall monitor and report to the Congress—

(1) 60 days after the effective date of this Act, on the amount of all funds expended in fiscal year 1994 by each agency on the functions transferred under this Act and the amendments made by this Act;

(2) no later than October 1, 1994, on the amount of unexpended balances of appropriations, authorizations, allocations, and other funds transferred by all agencies to the Administrative Law Judge Corps under this Act and the amendments made by this Act; and

(3) 1 year after the effective date of this Act, and each of the next 2 years thereafter on—

(A) whether the expenditure of each agency that transfers functions and duties under this Act and the amendments made by this Act are reduced by the amount of savings resulting from the transfer of such functions and duties; and

(B) the Government savings resulting from transfer of such functions to the Administrative Law Judge Corps and recommendations to the Congress on how to achieve additional savings.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for each of fiscal years 1995, 1996, 1997, 1998, and 1999 to carry out the provisions of this Act and subchapter VI of title 5, United States Code (as added by section 3 of this Act) such amounts as may be necessary, not to exceed in any such fiscal year the total amount expended by all agencies in fiscal year 1994 in performing all functions transferred under this Act and the amendments made by this Act.

COHEN (AND HEFLIN) AMENDMENT NO. 1224

Mr. HEFLIN (for Mr. COHEN) (for himself and Mr. HEFLIN) proposed an amendment to the bill S. 486, supra; as follows:

On page 34, beginning with line 18, strike out all through line 2 on page 37 and insert in lieu thereof the following:

§ 599e. Removal and discipline

"(a) IN GENERAL.—(1) Except as provided under paragraph (2), an administrative law judge may not be removed, suspended, reprimanded, or disciplined except for misconduct or neglect of duty, but may be removed for physical or mental disability (consistent with prohibitions on discrimination otherwise imposed by law).

"(2) Paragraph (1) shall not apply to an action initiated under section 1215.

"(b) RULES OF JUDICIAL CONDUCT.—No later than 180 days after the appointment and confirmation of the Council, the Council shall adopt and issue rules of judicial conduct for administrative law judges. Such code shall be enforced by the Council and shall include standards governing—

"(1) judicial conduct and extra-judicial activities to avoid actual, or the appearance of, improprieties or conflicts of interest;

"(2) the performance of judicial duties impartially and diligently;

"(3) avoidance of bias or prejudice with respect to all parties; and

"(4) efficiency and management of cases so as to reduce dilatory practices and unnecessary costs.

"(c) DISCIPLINARY ACTION BY THE COUNCIL.—An administrative law judge may be subject to disciplinary action by the Council under subsection (j). An administrative law judge may be removed only after the Council has filed with the Merit Systems Protection Board a notice of removal and the Merit Systems Protection Board has determined on the record, after an opportunity for a hearing before the Merit Systems Protection Board, that there is good cause to take the action of removal.

"(d) COMPLAINTS RESOLUTION BOARD.—Under regulations issued by the Council, a Complaints Resolution Board shall be established within the Corps to consider and to recommend appropriate action to be taken when a complaint is made concerning conduct of a judge of the Corps. Such complaint may be made by any interested person, including parties, practitioners, the chief judge, administrative law judges, and agencies.

"(e) COMPOSITION OF THE BOARD.—(1) The Board shall consist of—

"(A) 2 judges from each division of the Corps, who shall be appointed by the Council; and

"(B) 16 attorneys who shall be appointed in accordance with the provisions of paragraph (2).

"(2) The Council shall request a list of candidates to be members of the Board from the American Bar Association. Such list may not include any individual who is an administrative law judge or former administrative law judge.

"(3) The chief judge and the division chief judges may not serve on the Board.

"(4) No individual may serve 2 successive terms on the Board.

"(5)(A) Except as provided under subparagraph (B), all terms on the Board shall be 2 years.

"(B) In making the original appointments to the Board, the Council shall designate one-half of the appointments made under paragraph (1)(A) and one-half of the appointments made under paragraph (1)(B), as a term of 1 year.

"(6)(A) Each member of the Board who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for a position at the level of AL–3, rate C under section 5372 of this title for each day (including traveltime) during which such member is engaged in the performance of the duties of the Board. All members of the Board who are administrative law judges shall serve without compensation in addition to that received for their services as officers or employees of the United States.

"(B) The members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.

"(f) FILING AND REFERRAL OF COMPLAINT.—(1) A complaint concerning the official conduct of an administrative law judge shall be made in writing. The complaint shall be filed with the chief judge, or it may be originated by the chief judge on his own motion. The chief judge shall refer the complaint to a 5-member panel designated by the Council—

"(A) consisting of 3 administrative law judges appointed under subsection (e)(1)(A), none of whom may be serving in the same division as the administrative law judge who is the subject of the complaint; and

"(B) two members appointed under subsection (e)(1)(B), none of whom regularly practice before the division to which the administrative law judge, who is the subject of the complaint is assigned.

"(2) Any individual chosen to serve on the panel who has a personal or financial conflict of interest involving the administrative law judge who is the subject of the complaint shall be disqualified by the Council from serving on the panel. The Council shall replace any disqualified individual or vacancy with another member of the Board who is eligible to serve on the panel.

"(g) CHIEF JUDGE ACTION.—(1) After expeditiously reviewing a complaint, the chief judge, by written order stating his reason, may—

"(A) dismiss the complaint, if the chief judge finds the complaint to be—

"(i) directly related to the merits of a decision or procedural ruling; or

"(ii) frivolous;

"(B) conclude the proceeding if the chief judge finds that appropriate corrective action has been taken or that action on the complaint is no longer necessary because of intervening events; or

"(C) refer the complaint to the Complaint Resolution Board in accordance with subsection (f).

"(2) The chief judge shall transmit copies of the written order to the complainant and to the administrative law judge who is the subject of the complaint.

"(h) NOTICE OF THE COMPLAINT.—The administrative law judge and the complainant shall be given notice of receipt of the complaint and notice of referral of the complaint to the panel.

"(i) INQUIRY AND REPORT BY PANEL.—(1) The panel shall inquire into the complaint and have authority to conduct a full investigation of the complaint, including authority to hold hearings and issue subpoenas, examine witnesses, and receive evidence. All proceedings of the Complaint Resolution Board shall be confidential. The administrative law judge who is the subject of the complaint shall have the right to be represented by counsel and shall have an opportunity to appear before the panel. The complainant shall be afforded an opportunity to appear at the proceedings conducted by the investigating panel, if the panel concludes that the complainant could offer substantial information.

"(2) In determining whether misconduct has occurred, the panel shall apply a preponderance of evidence standard of proof to its proceedings.

"(3)(A) Within 90 days after the referral of the complaint, the panel shall report to the Council on its findings of fact and recommendations for appropriate disciplinary action, if any, that should be taken against the administrative law judge.

"(B) If the panel has not completed its inquiry within 90 days after receiving the complaint, the panel shall request an extension of time from the Council to complete its inquiry.

"(C) A copy of the report shall be provided concurrently to the Council, the administrative law judge who is the subject of the complaint, and the complainant. The Council shall retain all reports filed under this section and such reports shall be confidential, except that a recommendation for disciplinary action shall be made available to the public.

"(4) The recommendations of the panel shall include one of the following:

"(A) Dismissal of all or part of the complaint.

"(B) Direct informal reprimand.

"(C) Direct formal reprimand.

"(D) Suspension.

"(E) Automatic referral to the Merit Systems Protection Board on recommendations of removal.

"(5) The recommendations of the panel are binding on the Council, unless the administrative law judge appeals to the Merit Systems Protection Board.

"(j) DISCIPLINARY ACTION.—Except as provided in subsection (a)(2), the Council shall take appropriate disciplinary action against the administrative law judge based upon the report of the panel within 30 days after receiving the report of the panel. Such disciplinary action shall be enforced by the Council and shall be final unless the administrative law judge files an appeal with the Merit Systems Protection Board within 30 days after receiving notice of such disciplinary action.

"(k) RECOMMENDATION FOR RELIEF TO AGENCY, DEPARTMENT, OR COMMISSION.—Based upon a finding of judicial misconduct by an administrative law judge, the Council shall have authority to recommend to the head of an agency, department or commission that action may be taken to provide relief to aggrieved individuals due to the judicial misconduct by an administrative law judge.".

DEPARTMENT OF ENERGY NATIONAL COMPETITIVENESS TECHNOLOGY PARTNERSHIP ACT OF 1993

JOHNSTON AMENDMENT NO. 1225

Mr. FORD (for Mr. JOHNSTON) proposed an amendment to the bill (S. 473) to promote the industrial competitiveness and economic growth of the United States by strengthening the linkages between the laboratories of the Department of Energy and the private sector and by supporting the development and application of technologies critical to the economic, scientific and technological competitiveness of the United States, and for other purposes; as follows:

On page 46, strike lines 1–24, and on page 47, strike lines 1–8 and insert in lieu thereof the following:

"(C) Technology transfer.

"(3)(A) In addition to the missions identified in subsection (a)(2), the Departmental laboratories may pursue supporting missions to the extent that these supporting missions—

"(i) support the technology policies of the President;

"(ii) are developed in consultation with and coordinated with any other Federal agency or agencies that carry out such mission activities;

"(iii) are built upon the competencies developed in carrying out the primary missions identified in subsection (a)(2) and do not interfere with the pursuit of the missions identified in subsection (a)(2); and

"(iv) are carried out through a process that solicits the views of United States industry and other appropriate parties.

"(B) These supporting missions shall include activities in the following areas:

"(i) developing and operating high-performance computing and communications systems, with the goals of contributing to a national information infrastructure and addressing complex scientific and industrial challenges which require large-scale computational capabilities;

"(ii) conducting research on and development of advanced manufacturing systems and technologies, with the goal of assisting the private sector in improving the productivity, quality, energy efficiency, and control of manufacturing processes;

"(iii) conducting research on and development of advanced materials, with the goals of increasing energy efficiency, environmental protection, and improved industrial performance.

"(4) In carrying out the Department's missions, the Secretary, and the directors of the departmental laboratories, shall, to the maximum extent practicable, make use of partnerships. Such partnerships shall be for purposes of the following:

"(A) to lead to the development of technologies that the private sector can commercialize in areas of technology with broad application important to U.S. technological and economic competitiveness;

"(B) to provide Federal support in areas of technology where the cost or risk is too high for the private sector to support alone but that offer a potentially high payoff to the United States;

"(C) to contribute to the education and training of scientists and engineers;

“(D) to provide university and private researchers access to departmental laboratory facilities; or

“(E) to provide technical expertise to universities, industry or other Federal agencies.”.

On page 66, strike section 7.

On page 70, by striking section 8.

On page 72, on line 10, by striking “9” and inserting “8”.

On page 73, on line 3, by striking “10” and inserting “9”.

On page 74, on line 22, by striking “11” and inserting “10”.

On page 75, on line 3, by striking “12” and inserting “11”.

On page 66, insert after line 8 the following:

“SEC. 7. STANDARDIZATION OF REQUIREMENTS AFFECTING DEPARTMENT OF ENERGY EMPLOYEES.

“(a) Part A of title VI of the Department of Energy Organization Act (42 U.S.C. 7211 through 7218) is repealed.

“(b) The table of contents for the Department of Energy Organization Act is amended by striking out the matter relating to part A of title VI.”.

On page 73, after line 4 insert the following:

“(a) Section 12(a) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(a)) is amended by striking”, to the extent provided in any agency-approved joint work statement,”.

“(b) Section 12(b) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(b)) is amended by striking”, to the extent provided in any agency-approved joint work statement,”.

On page 73, line 5, strike “(a)” and insert “(c)”.

On page 73, lines 8 and 9, strike “deleting” and all that follows through “thereof” and insert “amending subparagraph (C)(i) to read as follows:”.

On page 73, line 13, strike “joint work statement and”.

On page 73, lines 15 and 16, strike “In any case where” and insert “If”.

On page 73, line 17, strike “joint work statements or”.

On page 73, line 19, strike “joint work statement or”.

On page 73, line 21, strike “No” and insert “Except as provided in subparagraph (D), no”.

On page 73, line 23, strike “both”.

On page 73, lines 24 and 25, strike “and a joint work statement”.

On page 74, strike lines 1 through 3, and insert:

“(2) by amending subparagraph (C)(ii) to read as follows:

“(ii) If an agency that has contracted with a non-Federal entity to operate a laboratory disapproves or requests the modification of a cooperative research and development agreement submitted under clause (i), the agency shall promptly transmit a written explanation of such disapproval or modification to the director of the laboratory concerned.”;”.

On page 74, after line 3, insert the following:

“(3) by amending subparagraph (C)(iii) to read as follows:

“(iii) Any agency that has contracted with a non-Federal entity to operate a laboratory shall develop and provide to such laboratory a model cooperative research and development agreement, and guidelines for using such an agreement, for the purposes of standardizing practices and procedures, resolving common legal issues, and enabling negotiation and review of a cooperative research and development agreement to be carried out in a routine and prompt manner.”;”

On page 74, line 4, strike “(3) by deleting” and insert “(4) by striking”.

On page 74, strike lines 5 and 6, and insert “(5) by amending subparagraph (C)(v) to read as follows:”.

On page 74, line 14, strike “and”.

On page 74, strike lines 15 through 21 and insert the following:

“(6) by striking subparagraph (C)(vi); and

“(7) by amending subparagraph (D) to read as follows:

“(D)(i) Any agency that has contracted with a non-Federal entity to operate a laboratory may permit the director of a laboratory to enter into a cooperative research and development agreement without the submission, review, and approval of the agreement under subparagraph (C)(i) if: the Federal share under the agreement does not exceed $500,000 per year, or any amount the head of the agency may prescribe; the text of the cooperative research and development agreement is consistent with a model agreement under subparagraph (C)(iii); the agreement is entered into in accord with the agency's guidelines under subparagraph (C)(iii); and the agreement is consistent with and furthers an assigned laboratory mission.

“(ii) The director of a laboratory shall notify the head of the agency of the purpose and scope of an agreement entered into under this subparagraph. The agency shall include in its annual report required by section 11(f) of this Act (15 U.S.C. 3710(f)) and assessment of the implementation of this subparagraph including a summary of agreements entered into by laboratory directors under this subparagraph.

“(d) Section 12(d) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)) is amended—

“(1) in paragraph (1) by inserting “and” after the second semicolon;

“(2) in paragraph (2)—

“(A) by striking “substantial” before “purpose” in subparagraph (B);

“(B) by striking “the primary purpose” and inserting “one of the purposes” in subparagraph (C); and

“(C) by striking “; and ” the second time it appears and inserting a period; and “(3) by striking paragraph (3).”.”.

PERSIAN GULF WAR VETERANS ACT OF 1993

ROCKEFELLER (AND OTHERS) AMENDMENT NO. 1226

Mr. FORD (for Mr. ROCKEFELLER for himself, Mr. MURKOWSKI, Mr. MITCHELL, Mr. AKAKA, Mr. DASCHLE, Mr. CAMPBELL, Mr. THURMOND, Mr. SPECTER, Mr. JEFFORDS, and Mr. RIEGLE) proposed an amendment to the bill (H.R. 2535) to amend title 38, United States Code, to provide additional authority for the Secretary of Veterans Affairs to provide health care for veterans of the Persian Gulf war; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. AUTHORITY TO PROVIDE PRIORITY HEALTH CARE TO VETERANS OF THE PERSIAN GULF WAR.

(a) INPATIENT CARE.—(1) Section 1710(a)(1)(G) of title 38, United States Code, is amended by striking out “or radiation” and inserting in lieu thereof “, radiation, or environmental hazard”.

(2) Section 1710(e) of such title is amended—

(A) by inserting at the end of paragraph (1) the following new subparagraph:

“(C) Subject to paragraphs (2) and (3) of this subsection, a veteran who the Secretary finds may have been exposed while serving on active duty in the Southwest Asia theater of operations during the Persian Gulf War to a toxic substance or environmental hazard is eligible for hospital care and nursing home care under subsection (a)(1)(G) of this section for any disability, notwithstanding that there is insufficient medical evidence to conclude that such disability may be associated with such exposure.”;

(B) in paragraph (2), by striking out “subparagraph (A) or (B)” and inserting in lieu thereof “subparagraph (A), (B), or (C)”; and

(C) in paragraph (3), by striking out the period at the end and inserting in lieu thereof “, or, in the case of care for a veteran described in paragraph (1)(C), after December 31, 1994.”.

(b) OUTPATIENT CARE.—Section 1712(a) of such title is amended—

(1) in paragraph (1)—

(A) by striking out “and” at the end of subparagraph (B);

(B) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof “; and”; and

(C) by adding at the end the following:

“(D) during the period before December 31, 1994, for any disability in the case of a veteran who served on active duty in the Southwest Asia theater of operations during the Persian Gulf War and who the Secretary finds may have been exposed to a toxic substance or environmental hazard during such service, notwithstanding that there is insufficient medical evidence to conclude that the disability may be associated with such exposure.”; and

(2) by adding at the end the following new paragraph:

“(7) Medical services may not be furnished under paragraph (1)(D) with respect to a disability that is found, in accordance with guidelines issued by the Under Secretary for Health, to have resulted from a cause other than an exposure described in that paragraph.”.

(c) EFFECTIVE DATE.—(1) The amendments made by subsections (a) and (b) shall take effect as of August 2, 1990.

(2) The Secretary of Veterans Affairs shall, upon request, reimburse any veteran who paid the United States an amount under section 1710(f) or 1712(f) of title 38, United States Code, as the case may be, for hospital care, nursing home care, or outpatient services furnished by the Secretary to the veteran before the date of the enactment of this Act on the basis of a finding that the veteran may have been exposed to a toxic substance or environmental hazard during the Persian Gulf War. The amount of the reimbursement shall be the amount that was paid by the veteran for such care or services under such section 1710(f) or 1712(f).

SEC. 2. EXTENSION OF CERTAIN HEALTH CARE AND OTHER AUTHORITIES.

(a) ELIGIBILITY FOR CARE FOR EXPOSURE TO DIOXIN OR IONIZING RADIATION.—Section 1710(e)(3) of title 38, United States Code, as amended by section 1(a)(2)(C), is further amended by striking out “December 31, 1993” and inserting in lieu thereof “June 30, 1994”.

(b) ELIGIBILITY FOR SEXUAL TRAUMA COUNSELING.—Section 102(b) of the Women Veterans Health Programs Act of 1992 (Public Law 102–585; 38 U.S.C. 1720D note) is amended—

(1) by striking out "December 31, 1991," and inserting in lieu thereof "December 31, 1992,"; and

(2) by striking out "December 31, 1993" and inserting in lieu thereof "December 31, 1994".

(c) AUTHORITY TO MAINTAIN REGIONAL OFFICE IN THE PHILIPPINES.—Section 315(b) of title 38, United States Code, is amended by striking out "March 31, 1994" and inserting in lieu thereof "December 31, 1994".

(d) AUTHORITY FOR ADVISORY COMMITTEE ON EDUCATION.—Section 3692(c) of title 38, United States Code, is amended by striking out "December 31, 1993" and inserting in lieu thereof "December 31, 1994".

SEC. 3. SHARING OF RESOURCES WITH STATE HOMES.

(a) PURPOSE.—Section 8151 of title 38, United States Code, is amended by adding at the end the following: "It is further the purpose of this subchapter to improve the provision of care to veterans under this title by authorizing the Secretary to enter into agreements with State veterans facilities for the sharing of health-care resources.".

(b) DEFINITION.—Section 8152 of such title is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph (3):

"(3) The term 'health-care resource' includes hospital care, medical services, and rehabilitative services, as those terms are defined in paragraphs (5), (6), and (8), respectively, of section 1701 of this title, any other health-care service, and any health-care support or administrative resource.".

(c) SHARING OF HEALTH-CARE RESOURCES.—Section 8153(a) of such title is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by striking out "other form of agreement," and all that follows and inserting in lieu thereof the following: "other form of agreement for the mutual use, or exchange of use, of—

"(A) specialized medical resources between Department health-care facilities and other health-care facilities (including organ banks, blood banks, or similar institutions), research centers, or medical schools; and

"(B) health-care resources between Department health-care facilities and State home facilities recognized under section 1742(a) of this title.

"(2) The Secretary may enter into a contract or other agreement under paragraph (1) only if (A) such an agreement will obviate the need for a similar resource to be provided in a Department health-care facility, or (B) the Department resources which are the subject of the agreement and which have been justified on the basis of veter * * *.

HIGHER EDUCATION TECHNICAL AMENDMENTS ACT OF 1993

KENNEDY AMENDMENT NO. 1227

Mr. FORD (for Mr. KENNEDY) submitted an amendment to the bill (S. 1507) to make technical amendments to the Higher Education Amendments of 1992 and the Higher Education Act of 1965, and for other purposes; as follows:

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the "Higher Education Technical Amendments of 1993".

(b) REFERENCES.—References in this Act to "the Act" are references to the Higher Education Act of 1965.

SEC. 2. TECHNICAL AMENDMENTS.

(a) AMENDMENTS TO TITLES I, II, AND III OF THE ACT.—Titles I, II, and III of the Act (20 U.S.C. 1001 et seq., 1021 et seq., 1051 et seq.) are amended—

(1) in section 103(b)(2), by increasing the indentation of subparagraphs (A) through (E) by two em spaces;

(2) in section 104(b)(5)(C), by striking "subpart" and inserting "part";

(3) in section 241(a)(2)(B), by striking "information service" and inserting "information science";

(4) in section 301(a)(2), by striking the comma after "planning";

(5) in section 312(c)(2), by inserting "the" before "second fiscal year" the second place it appears;

(6) in section 313(b), by inserting ", except that for the purpose of this subsection a grant under section 354(a)(1) shall not be considered a grant under this part" before the period.

(7) in section 316(c), by striking "Such programs may include—" and inserting the following:

"(2) EXAMPLES OF AUTHORIZED ACTIVITIES.—Such programs may include—";

(8) by reducing by two em spaces the indentation of each of the following provisions: sections 323(b)(3), 331(a)(2)(D), and 331(b)(5);

(9) in section 326(e)(2)—

(A) by inserting "and" after the semicolon at the end of subparagraph (A);

(B) by striking subparagraph (B); and

(C) by redesignating subparagraph (C) as subparagraph (B);

(10) in section 331(b)(2), by reducing the indentation of subparagraphs (B) and (C) by four em spaces; and

(11) in section 331(b)(5), by striking "an endowment" and inserting "An endowment".

(b) AMENDMENTS TO PART A OF TITLE IV OF THE ACT.—Part A of title IV of the Act (20 U.S.C. 1070 et seq.) is amended—

(1) in section 401(a)(1), by inserting ", except that this sentence shall not be construed to limit the authority of the Secretary to place an institution on a reimbursement system of payment" before the period at the end of the second sentence;

(2) in section 401(b)(6), in the matter preceding subparagraph (A), by striking "single 12-month period" and inserting "single award year";

(3) in section 401(b)(6)(A), by striking "a baccalaureate" and inserting "an associate or baccalaureate";

(4) in section 401(b)(6)(B), by striking "a bachelor's" and inserting "an associate or baccalaureate";

(5) in section 401(i), by striking "part D of title V" and inserting "subtitle D of title V";

(6) in section 402A(b), by striking paragraph (2) and inserting the following:

"(2) DURATION.—Grants or contracts made under this chapter shall be awarded for a period of 4 years, except that—

"(A) the Secretary shall award such grants or contracts for 5 years to applicants whose peer review scores were in the highest 10 percent of scores of all applicants receiving grants or contracts in each program competition for the same award year; and

"(B) grants made under section 402G shall be awarded for a period of 2 years.";

(7) in the second sentence of section 402A(c)(1), by inserting before the period the following ", except that in the case of the programs authorized in sections 402E and 402G, the level of consideration given to prior experience shall be the same as the level of consideration given this factor in the other programs authorized in this chapter";

(8) in section 402A(c)(2)(A), by inserting "with respect to grants made under section 402G, and" after "Except";

(9) in section 402A, by amending subsection (e) to read as follows:

"(e) DOCUMENTATION OF STATUS AS A LOW-INCOME INDIVIDUAL.—(1) Except in the case of an independent student, as defined in section 480(d), documentation of an individual's status pursuant to subsection (g)(2) shall be made by providing the Secretary with—

"(A) a signed statement from the individual's parent or legal guardian;

"(B) verification from another governmental source;

"(C) a signed financial aid application; or

"(D) a signed United States or Puerto Rico income tax return.

"(2) In the case of an independent student, as defined in section 480(d), documentation of an individual's status pursuant to subsection (g)(2) shall be made by providing the Secretary with—

"(A) a signed statement from the individual;

"(B) verification from another governmental source;

"(C) a signed financial aid application; or

"(D) a signed United States or Puerto Rico income tax return.";

(10) in section 402C(c), by striking "and foreign" and inserting "foreign";

(11) in section 402D(c)(2), by striking "either";

(12) in section 404A(1), by striking "high-school" and inserting "high school";

(13) in section 404B(a)(1)—

(A) by striking "section 403C" and inserting "section 404D"; and

(B) by striking "section 403D" and inserting "section 404C";

(14) in section 404B(a)(2), by inserting "shall" after "paragraph (1)";

(15) in section 404C(b)(3)(A), by striking "grades 12" and inserting "grade 12";

(16) in section 404C(b)(3)(D)(i), by striking "section 401D of this subpart" and inserting "section 402D";

(17) in section 404C(b)(3)(D)(ii), by striking "section 401D of this part" and inserting "section 402D";

(18) in section 404D(d)(3), by striking "program of instruction" and inserting "program of undergraduate instruction";

(19) in section 404D(d)(4), by striking "the" the first place it appears;

(20) in section 404E(c), by striking "tuition" and inserting "financial";

(21) in section 404F(a), by striking "under this section shall biannually" and inserting "under this chapter shall biennially";

(22) in section 404F(c), by striking "biannually" and inserting "biennially";

(23) in section 404G—

(A) by striking "an appropriation" and inserting "to be appropriated"; and

(B) by striking the second sentence and inserting the following: "For any fiscal year for which funds are authorized to be appropriated to carry out subpart 4 of part A of this title, no amount may be expended to carry out the provisions of this chapter unless the amount appropriated for such fiscal year to carry out such subpart 4 exceed $60,000,000.";

(24) in section 409A(1), by striking "private financial" and inserting "private student financial";

(25) in section 413C(d)—

(A) by striking ", a reasonable proportion of the institution's allocation shall be made available to such students, except that" and inserting "and"; and

(B) by striking "5 percent of the need" and inserting "5 percent of the total financial need";

(26) in section 413D(d)(3)(C), by striking "three-fourths in the Pell Grant family size offset" and inserting "150 percent of the difference between the income protection allowance for a family of five with one in college and the income protection allowance for a family of six with one in college";

(27) in section 415C(b)(7), by striking the period at the end and inserting a semicolon;

(28) in section 419C(b)—

(A) by striking "for a period of not more than 4 years for the first 4 years of study" and inserting "for a period of not less than 1 or more than 4 years during the first 4 years of study"; and

(B) by adding at the end the following:

"The State educational agency administering the program in a State shall have discretion to determine the period of the award (within the limits specified in the preceding sentence), except that—

"(1) if the amount appropriated for this subpart for any fiscal year exceeds the amount appropriated for this subpart for fiscal year 1993, the Secretary shall identify to each State educational agency the number of scholarships available to that State under section 419D(b) that are attributable to such excess;

"(2) the State educational agency shall award not less than that number of scholarships for a period of 4 years."; and

(29) in section 419D, by adding at the end the following new subsection:

"(d) CONSOLIDATION BY INSULAR AREAS PROHIBITED.—Notwithstanding section 501 of Public Law 95-1134 (48 U.S.C. 1469a), funds allocated under this part to an Insular Area described in that section shall be deemed to be direct payments to classes of individuals, and the Insular Area may not consolidate such funds with other funds received by the Insular Area from any department or agency of the United States Government."; and

(30) in section 419G(b), by striking "the District of Columbia, the Commonwealth of Puerto Rico," and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands,".

(c) AMENDMENTS TO PART B OF TITLE IV OF THE ACT.—Part B of title IV of the Act (20 U.S.C. 1071 et seq.) is amended—

(1) in section 422(c)(7), by striking the semicolon at the end of subparagraph (B) and inserting a period;

(2) in section 425(a)(1)(A)—

(A) by striking clauses (ii) and (iii) and inserting the following:

"(ii) in the case of a student at an eligible institution who has successfully completed such first year but has not successfully completed the remainder of a program of undergraduate education—

"(I) $3,500; or

"(II) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year;

"(iii) in the case of a student at an eligible institution who has successfully completed the first and second years of a program of undergraduate education but has not successfully completed the remainder of such program—

"(I) $5,500; or

"(II) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year;" and

(B) by striking the semicolon at the end of clause (iv) and inserting a period;

(3) in section 425(a)(1), by inserting at the end thereof the following:

"(C) For the purpose of subparagraph (A), the number of years that a student has completed in a program of undergraduate education shall include any prior enrollment in an eligible program of undergraduate education for which the student was awarded an associate or baccalaureate degree, if such degree is required by the institution for admission to the program in which the student is enrolled.";

(4) in the matter following subclause (II) of section 427(a)(2)(C)(i), by inserting "section" before "428B or 428C";

(5) in section 427A(e)(1), by striking "under this part," and inserting "under section 427, 428, or 428H of this part,";

(6) in section 427A(i)(1), by amending subparagraph (B) to read as follows:

"(B)(i) during any period in which a student is eligible to have interest payments paid on his or her behalf by the Government pursuant to section 428(a), by crediting the excess interest to the Government; or

"(ii) during any other period, by crediting such excess interest to the reduction of principal to the extent provided in paragraph (5) of this subsection.";

(7) in section 427A(i)(2)(B)—

(A) by striking "outstanding principal balance" and inserting "average daily principal balance"; and

(B) by striking "at the end of" and inserting "during";

(8) in section 427A(i)(4)(B)—

(A) by striking "outstanding principal balance" and inserting "average daily principal balance"; and

(B) by striking "at the end of" and inserting "during";

(9) in section 427A(i)(5)—

(A) in the first sentence—

(i) by striking "paragraph (2)" and inserting "paragraphs (2) and (4)"; and

(ii) by striking "principle" and inserting "principal"; and

(B) in the second sentence by inserting before the period at the end the following: ", but the excess interest shall be calculated and credited to the Secretary";

(10) in section 427A(i), by adding at the end the following new paragraph:

"(7) CONVERSION TO VARIABLE RATE.—(A) Subject to subparagraphs (C) and (D), a lender or holder shall convert the interest rate on a loan that is made pursuant to this part and is subject to the provisions of this subsection to a variable rate. Such conversion shall occur not later than January 1, 1995, and, commencing on the date of conversion, the applicable interest rate for each 12-month period beginning on July 1 and ending on June 30 shall be determined by the Secretary on the June 1 preceding each such 12-month period and be equal to the sum of (i) the bond equivalent rate of the 91-day Treasury bills auctioned at the final auction prior to such June 1; and (ii) 3.25 percent in the case of loans described in paragraph (1), or 3.10 percent in the case of loans described in paragraph (3).

"(B) In connection with the conversion specified in subparagraph (A) for any period prior to such conversion, and subject to paragraphs (C) and (D), a lender or holder shall convert the interest rate to a variable rate on a loan that is made pursuant to this part and is subject to the provisions of this subsection to a variable rate. The interest rates for such period shall be reset on a quarterly basis and the applicable interest rate for any quarter or portion thereof shall equal the sum of (i) the average of the bond equivalent rates of 91-Treasury bills auctioned for the preceding 3-month period, and (ii) 3.25 percent in the case of loans described in paragraph (1) or 3.10 percent in the case of loans described in paragraph (3). The rebate of excess interest derived through this conversion shall be provided to the borrower as specified in paragraph (5) for loans described in paragraph (1) or to the Government and borrower as specified in paragraph (3).

"(C) A lender or holder of a loan being converted pursuant to this paragraph shall complete such conversion on or before January 1, 1995. The lender or holder shall notify the borrower that the loan shall be converted to a variable interest rate and provide a description of the rate to the borrower not later than 30 days prior to the conversion. The notice shall advise the borrower that such rate shall be calculated in accordance with the procedures set forth in this paragraph and shall provide the borrower with a substantially equivalent benefit as the adjustment otherwise provided for under this subsection. Such notice may be incorporated into the disclosure required under section 433(b) if such disclosure has not been previously made.

"(D) The interest rate on a loan converted to a variable rate pursuant to this paragraph shall not exceed the maximum interest rate applicable to the loan prior to such conversion.

"(E) Loans on which the interest rate is converted in accordance with subparagraph (A) or (B) shall not be subject to any other provisions of this subsection.";

(11) in section 428(a)(2)(C)(i), by striking the period at the end and inserting "; and";

(12) in section 428(a)(2)(E), by inserting "or 428H" after "428A";

(13) in section 428(b)(1)(A)—

(A) by striking clauses (ii) and (iii) and inserting the following:

"(ii) in the case of a student at an eligible institution who has successfully completed such first year but has not successfully completed the remainder of a program of undergraduate education—

"(I) $3,500; or

"(II) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year;

"(iii) in the case of a student at an eligible institution who has successfully completed the first and second years of a program of undergraduate education but has not successfully completed the remainder of such program—

"(I) $5,500; or

"(II) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year;";

(B) by redesignating clause (iv) as clause (v); and

(C) by inserting after clause (iii) the following:

"(iv) in the case of a student who has received an associate or baccalaureate degree and is enrolled in an eligible program for which the institution requires such degree for admission, the number of years that a student has completed in a program of undergraduate education shall, for the purposes of clauses (ii) and (iii), include any prior enrollment in the eligible program of undergraduate education for which the student was awarded such degree; and";

(14) in section 428(b)(1)(B), by striking the matter following clause (ii) and inserting the following:

"except that the Secretary may increase the limit applicable to students who are pursuing programs which the Secretary determines are exceptionally expensive;";

(15) in section 428(b)(1), by amending subparagraph (N) to read as follows:

"(N) provides that funds borrowed by a student—

"(i) are disbursed to the institution by check or other means that is payable to, and requires the endorsement or other certification by, such student; or

"(ii) in the case of a student who is studying outside the United States in a program of study abroad that is approved for credit by the home institution at which such student is enrolled or at an eligible foreign institution, are, at the request of the student, disbursed directly to the student by the means described in clause (i), unless such student requests that the check be endorsed, or the funds transfer authorized, pursuant to an authorized power-of-attorney;";

(16) in section 428(b)(1)(U)—

(A) by striking "this clause;" and inserting "this clause"; and

(B) by inserting a comma after "emergency action" each place it appears;

(17) in section 428(b)(1)—

(A) by striking subparagraphs (V) and (W); and

(B) by redesignating subparagraphs (X), (Y), and (Z) as subparagraphs (V), (W,) and (X), respectively;

(18) in section 428(b)(2)(F)(i), by striking "each to provide a separate notice" and inserting "either jointly or separately to provide a notice";

(19) in section 428(b)(2)(F)(ii), by striking "transferor" and inserting "transferee";

(20) in section 428(b)(2)(F)(ii)(I), by striking "to another holder";

(21) in section 428(b)(2)(F)(ii)(II), by striking "such other" and inserting "the new";

(22) in section 428(b), by amending paragraph (7) to read as follows:

"(7) REPAYMENT PERIOD.—(A) In the case of a loan made under section 427 or 428, the repayment period shall exclude any period of authorized deferment or forbearance and shall begin—

"(i) the day after 6 months after the date the student ceases to carry at least one-half the normal full-time academic workload (as determined by the institution); or

"(ii) on an earlier date if the borrower requests and is granted a repayment schedule that provides for repayment to commence at an earlier date.

"(B) In the case of a loan made under section 428H, the repayment period shall exclude any period of authorized deferment or forbearance, and shall begin as described in clause (i) or (ii) of subparagraph (A), but interest shall begin to accrue or be paid by the borrower on the day the loan is disbursed.

"(C) In the case of a loan made under section 428A, 428B, or 428C, the repayment period shall begin on the day the loan is disbursed, or, if the loan is disbursed in multiple installments, on the day of the last such disbursement, and shall exclude any period of authorized deferment or forbearance.";

(23) in section 428(b), by adding at the end thereof the following new paragraph:

"(8) MEANS OF DISBURSEMENT OF LOAN PROCEEDS.—Nothing in this title shall be interpreted to prohibit the disbursement of loan proceeds by means other than by check or to allow the Secretary to require checks to be made co-payable to the institution and the borrower.";

(24) in section 428(c)(1)(A), by striking the last sentence and inserting the following: "A guaranty agency shall file a claim for reimbursement with respect to losses under this subsection within 45 days after the guaranty agency discharges its insurance obligation on the loan.";

(25) in section 428(c)(2)(G), by striking "demonstrates" and inserting "certifies";

(26) in section 428(c)(3) by striking subparagraph (A) and inserting the following:

"(A) shall contain provisions providing that—

"(i) upon written request, a lender shall grant a borrower forbearance, renewable at 12-month intervals, on terms agreed to in writing by the parties to the loan with the approval of the insurer, and otherwise consistent with the regulations of the Secretary, if the borrower—

"(I) is serving in a medical or dental internship or residency program, the successful completion of which is required to begin professional practice or service, or is serving in a medical or dental internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility that offers postgraduate training, provided that if the borrower qualifies for a deferment under section 427(a)(2)(C)(vii) or subsection (b)(1)(M)(vii) of this section as in effect prior to the enactment of the Higher Education Amendments of 1992, or section 427(a)(2)(C) or subsection (b)(1)(M) of this section as amended by such amendments, the borrower has exhausted his or her eligibility for such deferment;

"(II) has a debt burden under this title that equals or exceeds 20 percent of income; or

"(III) is serving in a national service position for which the borrower receives a national service educational award under the National and Community Service Trust Act of 1993;

"(ii) the length of the forbearance granted by the lender—

"(I) under clause (i)(I) shall equal the length of time remaining in the borrower's medical or dental internship or residency program, if the borrower is not eligible to receive a deferment described in such clause, or such length of time remaining in the program after the borrower has exhausted the borrower's eligibility for such deferment;

"(II) under clause (i)(II) shall not exceed 3 years; or

"(III) under clause (i)(III) shall not exceed the period for which the borrower is serving in a position described in such clause; and

"(iii) no administrative or other fee may be charged in connection with the granting of a forbearance under clause (i), and no adverse information regarding a borrower may be reported to a credit bureau organization solely because of the granting of such forbearance;";

(27) in section 428(e)(2)(A)—

(A) by striking "(i)";

(B) by striking "(I)" and inserting "(i)"; and

(C) by striking "(II)" and inserting "(ii)";

(28) in section 428(j)(2), in the matter preceding subparagraph (A), by striking "lender of last resort" and inserting "lender-of-last-resort";

(29) in section 428A(b)(1), by striking subparagraph (B) and inserting the following:

"(B) In the case of a student at an eligible institution who has successfully completed such first and second years but has not successfully completed the remainder of a program of undergraduate education—

"(i) $5,000; or

"(ii) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year.";

(30) in section 428A(b)(1)—

(A) by redesignating subparagraph (C) as subparagraph (D); and

(B) by inserting after subparagraph (B) the following new subparagraph:

"(C) For the purposes of this paragraph, the number of years that a student has completed in a program of undergraduate education shall include any prior enrollment in an eligible program of undergraduate education for which the student was awarded an associate or baccalaureate degree, if such degree is required by the institution for admission to the program in which the student is enrolled.";

(31) in section 428A(b)(3)(B)(i), by striking "section 428" and inserting "sections 428 and 428H";

(32) in section 428A(c)(1), by striking "sections 427 or 428(b)" and inserting "section 427 or 428(b)";

(33) in section 428C(a)(3)(A), by striking "delinquent or defaulted borrower who will reenter repayment through loan consolidation" and inserting "defaulted borrower who has made arrangements to repay the obligation on the defaulted loans satisfactory to the holders of the defaulted loans";

(34) in section 428C(a)(4)(A), by striking ", except for loans made to parent borrowers under section 428B as in effect prior to the enactment of the Higher Education Amendments of 1986";

(35) in section 428C(a)(4)(C), by striking "part C" and inserting "part A";

(36) in section 428C(c)(2)(A)(vi), by inserting a period after "30 years";

(37) in section 428C(c)(3)(A), by inserting "be an amount" before "equal to";

(38) in section 428F(a)(2)—

(A) by striking "this paragraph" and inserting "paragraph (1) of this subsection"; and

(B) by striking "this section" and inserting "this subsection";

(39) in section 428F(a)(4), by striking "this paragraph" and inserting "paragraph (1) of this subsection";

(40) in section 428F(b), by adding at the end thereof the following new sentence: "A borrower may only obtain the benefit of this subsection with respect to renewed eligibility once.";

(41) in section 428G(c)(3), by striking "disbursed" and inserting "disbursed by the lender";

(42) in section 428H(d)(2), by amending subparagraph (B) to read as follows:

"(B) in the case of a student at an eligible institution who has successfully completed such first and second years but has not successfully completed the remainder of a program of undergraduate education—

"(i) $5,000; or

"(ii) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year;";

(43) in section 428H(e)(1)—

(A) by striking "shall commence 6 months after the month in which the student ceases to carry at least one-half the normal full-time workload as determined by the institution." and inserting "shall begin at the beginning of the repayment period described in section 428(b)(7).";

(B) by adding at the end thereof the following new sentence: "Not less than 30 days prior to the anticipated commencement of such repayment period, the holder of such loan shall provide notice to the borrower that interest will accrue before repayment begins and of the borrower's option to begin loan repayment at an earlier date.";

(44) in section 428H(e)(4), by striking "427A(e)" and inserting "427A";

(45) in section 428H, by redesignating subsection (l) as subsection (h);

(46) in section 428I(g), by striking "the Federal False Claims Act" and inserting "section 3729 of title 31, United States Code,";

(47) in section 428J(b)(1), by striking "sections 428A, 428B, or 428C" and inserting "section 428A, 428B, or 428C";

(48) in section 428J(b)(1)(B), by striking "agrees in writing to volunteer for service" and inserting "serves as a full-time volunteer";

(49) in section 428J(c)(1), by striking "academic year" each place it appears and inserting "year of service";

(50) in the heading for section 428J(d), by striking "OF ELIGIBILITY" and inserting "TO ELIGIBLE";

(51) in section 428J, by amending subsection (e) to read as follows:

"(e) APPLICATION FOR REPAYMENT.—

"(1) IN GENERAL.—Each eligible individual desiring loan repayment under this section shall submit a complete and accurate application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require. Loan repayment under this section shall be on a first-come, first-served basis and subject to the availability of appropriations.

"(2) CONDITIONS.—An eligible individual may apply for repayment after completing each year of qualifying service. The borrower shall receive forbearance while engaged in qualifying service unless the borrower is in deferment while so engaged.";

(52) in section 430A(f)(1), by striking the comma at the end and inserting a semicolon;

(53) in the matter preceding paragraph (1) of section 433(b), by striking "60 days" and inserting "30 days";

(54) in section 433(e), by striking "section 428A, 428B," and inserting "sections 428A, 428B,";

(55) in section 435(a), by inserting after paragraph (2) the following new paragraph:

"(3) APPEALS BASED UPON ALLEGATIONS OF IMPROPER LOAN SERVICING.—An institution that—

"(A) is subject to loss of eligibility for the Federal Family Education Loan Program pursuant to paragraph (2)(A) of this subsection;

"(B) is subject to loss of eligibility for the Federal Supplemental Loans for Students pursuant to section 428A(a)(2); or

"(C) is an institution whose cohort default rate equals or exceeds 20 percent for the most recent year for which data are available;

may include in its appeal of such loss or rate a defense based on improper loan servicing (in addition to other defenses). In any such appeal, the Secretary shall take whatever steps are necessary to ensure that such institution has access to a representative sample (as determined by the Secretary) of the relevant loan servicing and collection records of the affected guaranty agencies and loan servicers for a reasonable period of time, not to exceed 30 days. The Secretary shall reduce the institution's cohort default rate to reflect the percentage of defaulted loans in the representative sample that are required to be excluded pursuant to subsection (m)(1)(B).";

(56) in section 435(d)(2)(D), by striking "lender; and" and inserting "lender;";

(57) in section 435(d)(2), by increasing the indentation of the matter following subparagraph (F) by two em spaces;

(58) in section 435(d)(3), by striking "435(o)" and inserting "435(m)";

(59) in section 435(m)(1)(A), by striking "428 or 428A" and inserting "428, 428A, or 428H,";

(60) in section 435(m)—

(A) by inserting at the end of paragraph (1)(A) the following new sentence: "The Secretary shall require that each guaranty agency that has insured loans for current or former students of the institution afford such institution a reasonable opportunity (as specified by the Secretary) to review and correct errors in the information required to be provided to the Secretary by the guaranty agency for the purposes of calculating a cohort default rate for such institution, prior to the calculation of such rate.";

(B) in paragraph (1)(B), by striking "and, in calculating" and all that follows through the period at the end thereof and inserting the following: "and, in considering appeals with respect to cohort default rates pursuant to subsection (a)(3), exclude any loans which, due to improper servicing or collection, would, as demonstrated by the evidence submitted in support of the institution's timely appeal to the Secretary, result in an inaccurate or incomplete calculation of such cohort default rate.";

(61) in section 435(m)(2)(D)—

(A) by inserting "(or the portion of a loan made under section 428C that is used to repay a loan made under section 428A)" after "section 428A" the first place it appears; and

(B) by inserting "(or a loan made under section 428C a portion of which is used to repay a loan made under section 428A)" after "section 428A" the second place it appears;

(62) in section 435(m), by adding at the end thereof the following new paragraph:

"(4) COLLECTION AND REPORTING OF COHORT DEFAULT RATES.—(A) The Secretary shall collect data from all insurers under this part and shall publish not less often than once every fiscal year a report showing default data for each category of institution, including (i) 4-year public institutions, (ii) 4-year private institutions, (iii) 2-year public institutions, (iv) 2-year private institutions, (v) 4-year proprietary institutions, (vi) 2-year proprietary institutions, and (vii) less than 2-year proprietary institutions.

"(B) The Secretary may designate such additional subcategories within the categories specified in subparagraph (A) as the Secretary deems appropriate.

"(C) The Secretary shall publish not less often than once every fiscal year a report showing default data for each institution for which a cohort default rate is calculated under this subsection.";

(63) in section 437, by amending subsection (b) to read as follows:

"(b) PAYMENT OF CLAIMS ON LOANS IN BANKRUPTCY.—The Secretary shall pay to the holder of a loan described in section 428(a)(1)(A) or (B), 428A, 428B, 428C, or 428H, the amount of the unpaid balance of principal and interest owed on such loan—

"(1) when the borrower files for relief under chapter 12 or 13 of title 11, United States Code;

"(2) when the borrower who has filed for relief under chapter 7 or 11 of such title commences an action for a determination of dischargeability under section 523(a)(8)(B) of such title; or

"(3) for loans described in section 523(a)(8)(A) of such title, when the borrower files for relief under chapter 7 or 11 of such title.";

(64) in section 437(c)(1)—

(A) by striking "If a student borrower" and inserting "If a borrower";

(B) by striking "under this part is unable" and inserting "under this part and the student borrower, or the student on whose behalf a parent borrowed, is unable"; and

(C) by striking "in which the borrower is enrolled" and inserting "in which such student is enrolled"; and

(65) in section 437(c)(4), by adding at the end the following new sentence: "The amount discharged under this subsection shall be treated the same as loans under section 465(a)(5) of this title.";

(66) in the matter preceding paragraph (1) of section 437A(a), by striking "under subsection (d)";

(67) in section 437A(c)(2), by inserting a period at the end;

(68) in section 437A, by striking subsection (e); and

(69) in section 439(r)(12), by striking "section 522" and inserting "section 552".

(d) AMENDMENT TO PART C OF TITLE IV OF THE ACT.—Part C of title IV of the Act (42 U.S.C. 2751 et seq.) is amended—

(1) in section 442(d)(4)(C), by striking "three-fourths in the Pell Grant family size offset" and inserting "150 percent of the difference between the income protection allowance for a family of five with one in college and the income protection allowance for a family of six with one in college";

(2) in section 442(e)—

(A) by inserting "(1)" before "If"; and

(B) by adding at the end the following new paragraph:

"(2) If, under paragraph (1) of this subsection, an institution returns more than 10 percent of its allocation, the institution's allocation for the next fiscal year shall be reduced by the amount returned. The Secretary may waive this paragraph for a specific institution if the Secretary finds that enforcing this paragraph would be contrary to the interest of the program.";

(3) in section 443(b)(2)(A), by striking "institution;" and inserting "institution; and";

(4) in section 443(b), by amending paragraph (5) to read as follows:

"(5) provide that the Federal share of the compensation of students employed in the work-study program in accordance with the agreement shall not exceed 75 percent for academic year 1993–1994 and succeeding academic years, except that the Federal share may exceed such amounts of compensation if the Secretary determines, pursuant to regulations promulgated by the Secretary establishing objective criteria for such determinations, that a Federal share in excess of such amounts is required in furtherance of the purpose of this part;"; and

(5) in section 443(b)(8), by striking subparagraphs (A), (B), and (C) and inserting the following:

"(A) that are only on campus and that—

"(i) to the maximum extent practicable, complement and reinforce the education programs or vocational goals of such students; and

"(ii) furnish student services that are directly related to the student's education, as determined by the Secretary pursuant to regulations, except that no student shall be employed in any position that would involve the solicitation of other potential students to enroll in the school; or

"(B) in community service in accordance with paragraph (2)(A) of this subsection;".

(e) AMENDMENT TO PART D OF TITLE IV OF THE ACT.—Section 453(b)(2)(B) of the Act (20 U.S.C. 1087c(b)(2)(B)) is amended to read as follows:

"(B) if the Secretary determines it necessary in order to carry out the purposes of subparagraph (A) and attain such reasonable representation (as required by subparagraph (A)), selecting additional institutions.".

(f) AMENDMENTS TO PART E OF TITLE IV OF THE ACT.—Part E of title IV of the Act (20 U.S.C. 1087aa et seq.) is amended—

(1) in subsections (a)(1) and (a)(2)(D) of section 462, by striking "if the institution which has" each place it appears and inserting "if the institution has";

(2) in section 462(d)(4)(C), by striking "three-fourths in the Pell Grant family size offset" and inserting "150 percent of the difference between the income protection allowance for a family of five with one in college and the income protection allowance for a family of six with one in college";

(3) in section 462(e), by reducing the indentation of paragraph (2) by two em spaces;

(4) in section 462(h)(4), by reducing the indentation of subparagraph (B) by two em spaces;

(5) in section 463(a)(2)(B)(i)(II), by striking "7.5 percent" and inserting "7.5 percent for award year 1993–1994 and has a cohort default rate which does not exceed 15 percent for award year 1994–1995 or for any succeeding award year";

(6) in section 463(c)(4), by striking "shall disclose" and inserting "shall disclose at least annually";

(7) in section 463, by adding at the end the following new subsections:

"(d) LIMITATION ON USE OF INTEREST BEARING ACCOUNTS.—In carrying out the provisions of subsection (a)(10), the Secretary may not require that any collection agency, collection attorney, or loan servicer collecting loans made under this part deposit amounts collected on such loans in interest bearing accounts, unless such agency, attorney, or servicer holds such amounts for more than 45 days.

"(e) SPECIAL DUE DILIGENCE RULE.—In carrying out the provisions of subsection (a)(5) relating to due diligence, the Secretary shall make every effort to ensure that institutions of higher education may use Internal Revenue Service skip-tracing collection procedures on loans made under this part.";

(8) in section 463A, by striking subsections (d) and (e);

(9) in section 464(c)(2)(B) by striking "repayment or" and inserting "repayment of";

(10) in section 464(c)(6), by striking "Fullbright" and inserting "Fulbright";

(11) in section 464(e), by striking "principle" and inserting "principal";

(12) in section 465(a)(2)(D), by striking "services" and inserting "service";

(13) in section 465(a)(2)(F), by striking "or" after the semicolon;

(14) in section 465(a), by reducing the indentation of paragraph (6) by 2 em spaces; and

(15) in section 466(c), by reducing the indentation of paragraph (2) by two em spaces.

(g) AMENDMENTS TO PART F OF TITLE IV OF THE ACT.—Part F of title IV of the Act (20 U.S.C. 1087kk et seq.) is amended—

(1) in section 472—

(A) in paragraph (10), by striking "and" after the semicolon;

(B) in paragraph (11), by striking the period and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(12) for a student who receives a loan under this or any other Federal law, or, at the option of the institution, a conventional student loan incurred by the student to cover a student's cost of attendance at the institution, an allowance for the actual cost of any loan fee, origination fee, or insurance premium charged to such student or such parent on such loan, or the average cost of any such fee or premium charged by the Secretary, lender, or guaranty agency making or insuring such loan, as the case may be.";

(2) in the table contained in sections 475(c)(4) and 477(b)(4), by inserting "$" before "9,510";

(3) in section 475(f)(3)—

(A) by striking "Income in the case of a parent" and inserting "If a parent";

(B) by striking "(1) of this subsection, or a parent" and inserting "(1) of this subsection, or if a parent"; and

(C) by striking "is determined as follows: The income" and inserting "the income";

(4) in section 475(g)(1)(B), by inserting a close parentheses after "paragraph (2)";

(5) in the table contained in section 475(g)(3), by adding a last row that is identical to the last row of the table contained in section 476(b)(2);

(6) in section 476, by adding at the end thereof the following new subsection:

"(d) COMPUTATIONS IN CASE OF SEPARATION, DIVORCE, OR DEATH.—In the case of a student who is divorced or separated, or whose spouse has died, the spouse's income and assets shall not be considered in determining the family's contribution from income or assets.";

(7) in section 477 by adding at the end thereof the following new subsection:

"(e) COMPUTATIONS IN CASE OF SEPARATION, DIVORCE, OR DEATH.—In the case of a student who is divorced or separated, or whose spouse has died, the spouse's income and assets shall not be considered in determining the family's available income or assets.";

(8) in section 478—

(A) by striking "1992–1993" each place it appears and inserting "1993–1994"; and

(B) in subsection (c)(1), by inserting "December" before "1992";

(9) in section 478(h), by striking "Bureau of Labor Standards" and inserting "Bureau of Labor Statistics";

(10) in section 479(a)(1), by inserting "of" after "(c)";

(11) in section 479(b)(1)(B)(i)—

(A) by inserting "(and the student's spouse, if any)" after "student" each time it appears; and

(B) by striking "such";

(12) in section 479(b)(2), by striking "five elements" and inserting "six elements";

(13) in section 479(b)(2)(E), by striking the semicolon and inserting a comma;

(14) in section 479(b)(3)—

(A) in subparagraph (A), by inserting "(including any prepared or electronic version of such form)" before "required"; and

(B) in subparagraph (B), by inserting "(including any prepared or electronic version of such return)" before "required";

(15) in section 479(c)—

(A) by amending subparagraph (A) of paragraph (1) to read as follows:

"(A) the student's parents were not required to file an income tax return under section 6012(a)(1) of the Internal Revenue Code of 1986; and";

(B) by amending subparagraph (A) of paragraph (2) to read as follows:

"(A) the student (and the student's spouse, if any) was not required to file an income tax return under section 6012(a)(1) of the Internal Revenue Code of 1986; and"; and

(C) in subparagraph (B) of paragraphs (1) and (2), by inserting "in 1992 or the current year, whichever is higher," after "that may be earned"; and

(16) in section 479A, by adding at the end the following new subsection:

"(c) ADJUSTMENTS FOR SPECIAL CIRCUMSTANCES.—

"(1) IN GENERAL.—A student financial aid administrator shall be considered to be making an adjustment for special circumstances in accordance with subsection (a) if—

"(A) in the case of a dependent student—

"(i) such student received a Federal Pell Grant as a dependent student in academic year 1992–1993 and the amount of such student's Federal Pell Grant for academic year 1993–1994 is at least $500 less than the amount of such student's Federal Pell Grant for academic year 1992–1993; and

"(ii) the decrease described in clause (i) is the direct result of a change in the determination of such student's need for assistance in accordance with this part that is attributable to the enactment of the Higher Education Amendments of 1992; and

"(B) in the case of a single independent student—

"(i) such student received a Federal Pell Grant as a single independent student in academic year 1992–1993 and qualified as an independent student in accordance with section 480(d) for academic year 1993–1994, and the amount of such student's Federal Pell Grant for academic year 1993–1994 is at least $500 less than the amount of such student's Federal Pell Grant for academic year 1992–1993; and

"(ii) the decrease described in clause (i) is the direct result of a change in the determination of such student's need for assistance in accordance with this part that is attributable to the enactment of the Higher Education Amendments of 1992.

"(2) AMOUNT.—A financial aid administrator shall not make an adjustment for special circumstances pursuant to this subsection in an amount that exceeds one-half of the difference between the amount of a student's Federal Pell Grant for academic year 1992–1993 and the amount of such student's Federal Pell Grant for academic year 1993–1994.

"(3) ACADEMIC YEAR LIMITATION.—A financial aid administrator shall make adjustments under this subsection only for Federal

Pell Grants awarded for academic years 1993–1994, 1994–1995, and 1995–1996.

"(4) SPECIAL RULE.—Adjustments under this subsection shall be made in any fiscal year only if an Act that contains an appropriation for such fiscal year to carry out this subsection is enacted on or after the date of enactment of the Higher Education Technical Amendments of 1993.

"(5) LIMITATION.—Adjustments under this subsection shall not be available for any academic year to any student who, on the basis of the financial circumstances of the student for the current academic year, would not have been eligible for a grant under this section in academic year 1992–1993.";

(17) in section 480(c)(2), by striking "Title" each place it appears and inserting "United States Code, title";

(18) in section 480(d)(2), by inserting "or was a ward of the court until the individual reached the age of 18" before the semicolon;

(19) in section 480(j), by reducing the indentation of paragraph (3) by 2 em spaces; and

(20) in section 480, by adding at the end the following new subsections:

"(k) DEPENDENTS.—(1) Except as otherwise provided, the term 'dependent of the parent' means the student, dependent children of the student's parents, including those children who are deemed to be dependent students when applying for aid under this title, and other persons who live with and receive more than one-half of their support from the parent and will continue to receive more than half of their support from the parent during the award year.

"(2) Except as otherwise provided, the term 'dependent of the student' means the student's dependent children and other persons (except the student's spouse) who live with and receive more than one-half of their support from the student and will continue to receive more than half of their support from the student during the award year.

"(l) FAMILY SIZE.—(1) In determining family size in the case of a dependent student—

"(A) if the parents are not divorced or separated, family members include the student's parents, and the dependents of the student's parents including the student;

"(B) if the parents are divorced or separated, family members include the parent whose income is included in computing available income and that parent's dependents, including the student; and

"(C) if the parents are divorced and the parent whose income is so included is remarried, or if the parent was a widow or widower who has remarried, family members also include, in addition to those individuals referred to in subparagraph (B), the new spouse and any dependents of the new spouse if that spouse's income is included in determining the parents' adjusted available income.

"(2) In determining family size in the case of an independent student—

"(A) family members include the student, the student's spouse, and the dependents of the student; and

"(B) if the student is divorced or separated, family members do not include the spouse (or ex-spouse), but do include the student and the student's dependents.

"(m) BUSINESS ASSETS.—The term 'business assets' means property that is used in the operation of a trade or business, including real estate, inventories, buildings, machinery, and other equipment, patents, franchise rights, and copyrights.".

(h) AMENDMENTS TO PART G OF TITLE IV OF THE ACT.—Part G of title IV of the Act (20 U.S.C. 1088 et seq.) is amended—

(1) in section 481(a)(3)(B), by inserting before the semicolon the following: ", except that the Secretary, at the request of such institution, may waive the applicability of this subparagraph to such institution for good cause, as determined by the Secretary in the case of an institution of higher education that provides a 2-year or 4-year program of instruction for which the institution awards an associate or baccalaureate degree";

(2) in section 481(a)(3)(D)—

(A) by striking "are admitted pursuant to section 484(d)" and inserting "do not have a high school diploma or its recognized equivalent"; and

(B) by inserting before the period the following: ", except that the Secretary may waive the limitation contained in this subparagraph if a nonprofit institution demonstrates to the satisfaction of the Secretary that it exceeds such limitation because it serves, through contracts with Federal, State, or local government agencies, significant numbers of students who do not have a high school diploma or its recognized equivalent";

(3) in section 481(a)(4), by amending subparagraph (A) to read as follows:

"(A) the institution, or an affiliate of the institution that has the power, by contract or ownership interest, to direct or cause the direction of the management or policies of the institution, has filed for bankruptcy; or";

(4) in section 481(d), by amending paragraph (2) to read as follows:

"(2) For the purpose of any program under this title, the term 'academic year' shall require a minimum of 30 weeks of instructional time, and, with respect to an undergraduate course of study, shall require that during such minimum period of instructional time a full-time student is expected to complete at least 24 semester or trimester hours or 36 quarter hours at an institution that measures program length in credit hours, or at least 900 clock hours at an institution that measures program length in clock hours. The Secretary may reduce such minimum of 30 weeks to not less than 26 weeks for good cause, as determined by the Secretary on a case-by-case basis, in the case of an institution of higher education that provides a 2-year or 4-year program of instruction for which the institution awards an associate or baccalaureate degree.";

(5) in section 481(e) by striking paragraph (2) and inserting the following:

"(2)(A) A program is an eligible program for purposes of part B of this title if it is a program of at least 300 clock hours of instruction, but less than 600 clock hours of instruction, offered during a minimum of 10 weeks, that—

"(i) has a verified completion rate of at least 70 percent, as determined in accordance with the regulations of the Secretary;

"(ii) has a verified placement rate of at least 70 percent, as determined in accordance with the regulations of the Secretary; and

"(iii) satisfies such further criteria as the Secretary may prescribe by regulation.

"(B) In the case of a program being determined eligible for the first time under this paragraph, such determination shall be made by the Secretary before such program is considered to have satisfied the requirements of this paragraph.";

(6) in section 481(f), by striking "State" and inserting "individual, or any State,";

(7) in section 482(c), by adding at the end the following new sentence: "For award year 1994–95, this subsection shall not require a delay in the effectiveness of regulatory changes affecting parts B, G, and H of this title that are published in final form by May 1, 1994.";

(8) in section 483(a)(1), by striking "section 411(d)" and inserting "section 401(d)";

(9) in section 483(a)(2), by inserting at the end the following new sentence: "No data collected on a form for which a fee is charged shall be used to complete the form prescribed under paragraph (1).";

(10) in section 483(a)(3), by inserting at the end the following sentence: "Entities designated by institutions of higher education or States to receive such data shall be subject to all requirements of this section, unless such requirements are waived by the Secretary.";

(11) in section 483(f), by striking "address, social security number," and inserting "address or employer's address, social security number or employer identification number,";

(12) in section 483, by redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively;

(13) in section 484(a)(4)(B), by inserting after "number" the following: ", except that the provisions of this subparagraph shall not apply to a student from the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau";

(14) in section 484(a)(5), by striking "in the United States for other than a temporary purpose and able to provide evidence from the Immigration and Naturalization Service of his or her intent to become a permanent resident" and inserting "able to provide evidence from the Immigration and Naturalization Service that he or she is in the United States for other than a temporary purpose with the intention of becoming a citizen or permanent resident";

(15) in section 484(b)(2)—

(A) in subparagraph (A), by striking "and" after the semicolon;

(B) in subparagraph (B), by striking the period and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(C) has applied for a loan under section 428H, if such student is eligible to apply for such a loan.";

(16) in the matter following subparagraph (B) of section 484(b)(3), by striking "part B" and inserting "part B or D";

(17) in section 484, by striking subsection (f);

(18) in section 484(g), by inserting a comma after "Part D" each place it appears;

(19) in the matter preceding clause (i) of section 484(h)(4)(B), by striking "constitutes" and inserting "constitute";

(20) in section 484(i)(2)—

(A) by striking "(h)(4)(A)(ii)" and inserting "(h)(4)(A)(i)"; and

(B) by striking "documentation," and inserting "documentation, or";

(21) in section 484(i)(3)—

(A) by striking "(h)(4)(B)(ii)" and inserting "(h)(4)(B)(i)"; and

(B) by striking ", or" and inserting a period;

(22) in section 484(i), by striking paragraph (4);

(23) in section 484(n), by striking "part B, C," and inserting "parts B, C,";

(24) in section 484(q)(2), by striking "a correct social security number" and inserting "documented evidence of a social security number that is determined by the institution to be correct";

(25) in section 484, by redesignating subsections (g) through (q) as subsections (f) through (p), respectively;

(26) in section 484B(a), by striking "grant, loan, or work assistance" and inserting "grant or loan assistance";

(27) in section 484B(b)(3), by striking "subsection (d)" and inserting "subsection (c)";

(28) in clauses (i), (ii), and (iii) of section 485(a)(1)(F), by inserting before the comma at the end of each such clause the following: "for the period of enrollment for which a refund is required";

(29) in section 485(a)(1)(F)(iv), by inserting "under" after "awards";

(30) in section 485(a)(1)(F)(vii), by striking "provided under this title";

(31) in section 485(a)(1)(F)(viii), by striking the period;

(32) in section 485(a)(1)(F), by striking clause (vi) and redesignating clauses (vii) and (viii) as clauses (vi) and (vii), respectively;

(33) in section 485(a)(1)(L), by inserting a comma after "full-time";

(34) in section 485(a)(3), by amending subparagraph (A) to read as follows:

"(A) shall, for any academic year beginning more than 270 days after the Secretary first prescribes final regulations pursuant to such subparagraph (L), be made available to current and prospective students prior to enrolling or entering into any financial obligation; and";

(35) in paragraphs (1)(A) and (2)(A) of section 485(b), by striking "under parts" and inserting "under part";

(36) in section 485(d), by inserting a period at the end of the penultimate sentence;

(37) in section 485(e), by adding at the end the following new paragraph:

"(9) This subsection shall not be effective until the first July 1 that follows, by more than 270 days, the date on which the Secretary first prescribes final regulations pursuant to this subsection. The reports required by this subsection shall be due on that July 1 and each succeeding July 1 and shall cover the 1-year period ending June 30 of the preceding year.";

(38) in section 485B(a)—

(A) by striking "part E" and inserting "parts D and E"; and

(B) by striking the second period at the end of the third sentence;

(39) in section 485B(a)(4), by striking "part E" and inserting "parts D and E";

(40) in section 485B(c), by striking "part B or part E" and inserting "part B, D, or E";

(41) in section 485B(e), by striking "under this part" each place it appears and inserting "under this title";

(42) in section 487(a)(2), by striking ", or for completing or handling the Federal Student Assistance Report";

(43) in section 487(c)(1)(F), by striking "eligibility for any program under this title of any otherwise eligible institution," and inserting "participation in any program under this title of an eligible institution,";

(44) in section 489(a), by striking "484(c)" and inserting "484(h)";

(45) in section 491(d)(1), by striking "sections 411A through 411E and"; and

(46) in section 491(h)(1), by striking "subtitle III" and inserting "subchapter III".

(i) AMENDMENTS TO PART H OF TITLE IV OF THE ACT.—Part H of title IV of the Act (20 U.S.C. 1099a et seq.) is amended—

(1) in section 494C(a), by striking the first and second sentences and inserting the following: "The Secretary shall review all eligible institutions of higher education in a State to determine if any such institution meets any of the criteria in subsection (b). If any such institution meets one or more of such criteria, the Secretary shall inform the State in which such institution is located that the institution has met such criteria, and the State shall review the institution pursuant to the standards in subsection (d). The Secretary may determine that a State need not review an institution if such institution meets the criterion in subsection (b)(10) only, such institution was previously reviewed by the State under subsection (d), and the State determined in such previous review that the institution did not violate any of the standards in subsection (d).";

(2) in section 494C(i), by striking "sections 428 or 487" and inserting "section 428 or 487";

(3) in section 496(a)(2)(A)(i), by inserting "of institutions of higher education" after "membership";

(4) in section 496(a)(3)(A), by striking "subparagraph (A)" and inserting "subparagraph (A)(i)";

(5) in section 496(a)(5)—

(A) by striking the period at the end of subparagraph (L) and inserting a semicolon; and

(B) by inserting after subparagraph (L) the following:

"except that subparagraphs (G), (H), (I), (J), and (L) shall not apply to agencies or associations described in paragraph (2)(A)(ii) of this subsection;";

(6) in the matter preceding paragraph (1) of section 496(c), by striking "for the purpose of this title" and inserting "as a reliable authority as to the quality of education or training offered by an institution seeking to participate in the programs authorized under this title";

(7) in section 496(l)(2)—

(A) by striking "institutution" and inserting "institution"; and

(B) by striking "association leading to the suspension" and inserting "association, described in paragraph (2)(A)(i), (2)(B), or (2)(C) of subsection (a) of this section, leading to the suspension";

(8) in section 496(n)(1), by amending subparagraph (B) to read as follows:

"(B) site visits, including unannounced site visits as appropriate, at accrediting agencies and associations, and, at the Secretary's discretion, at representative member institutions.";

(9) in section 498(c)—

(A) in paragraph (2), by adding at the end the following new sentences: "Such criteria shall take into account any differences in generally accepted accounting principles, and the financial statements required thereunder, that are applicable to for profit and nonprofit institutions. The Secretary shall take into account an institution's total financial circumstances in making a determination of its ability to meet the standards herein required.";

(B) in the matter preceding subparagraph (A) of paragraph (3), by striking "may determine" and inserting "shall determine";

(C) by amending subparagraph (C) of paragraph (3) to read as follows:

"(C) such institution establishes to the satisfaction of the Secretary, with the support of a financial statement audited by an independent certified public accountant in accordance with generally accepted auditing standards, that the institution has sufficient resources to ensure against the precipitous closure of the institution, including the ability to meet all of its financial obligations (including refunds of institutional charges and repayments to the Secretary for liabilities and debts incurred in programs administered by the Secretary); or";

(D) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

(E) by inserting after paragraph (3) the following new paragraph:

"(4) If an institution of higher education that provides a 2-year or 4-year program of instruction for which the institution awards an associate or baccalaureate degree fails to meet the ratio of current assets to current liabilities imposed by the Secretary pursuant to paragraph (2), the Secretary shall waive that particular requirement for that institution if the institution demonstrates to the satisfaction of the Secretary that—

"(A) there is no reasonable doubt as to its continued solvency and ability to delivery quality educational services;

"(B) it is current in its payment of all current liabilities, including student refunds, repayments to the Secretary, payroll, and payment of trade creditors and withholding taxes; and

"(C) it has substantial equity in school-occupied facilities, the acquisition of which was the direct cause of its failure to meet the current operating ratio requirement.";

(10) in section 498(f), by inserting after the second sentence the following: "The Secretary may establish priorities by which institutions are to receive site visits, and may coordinate such visits with site visits by States, guaranty agencies, and accrediting bodies in order to eliminate duplication, and reduce administrative burden.";

(11) in section 498(h)(1)(B), by amending clause (iii) to read as follows:

"(iii) the Secretary determines that an institution that seeks to renew its certification is, in the judgment of the Secretary, in an administrative or financial condition that may jeopardize its ability to perform its financial responsibilities under a program participation agreement.";

(12) in section 498, by amending subsection (i)(1) to read as follows:

"(i) TREATMENT OF CHANGES OF OWNERSHIP.—(1) An eligible institution of higher education that has had a change in ownership resulting in a change of control shall not qualify to participate in programs under this title after the change in control (except as provided in paragraph (3)) unless it establishes that it meets the requirements of section 481 (other than the requirements in subsections (b)(5) and (c)(3)) and this section after such change in control.";

(13) in section 498(i)(3), by amending subparagraph (A) to read as follows:

"(A) the sale or transfer, upon the death of an owner of an institution, of the ownership interest of the deceased in that institution to a family member or to a person holding an ownership interest in that institution; or";

(14) in section 498, by amending subsection (j)(1) to read as follows:

"(j) TREATMENT OF BRANCHES.—(1) A branch of an eligible institution of higher education, as defined pursuant to regulations of the Secretary, shall be certified under this subpart before it may participate as part of such institution in a program under this title, except that such branch shall not be required to meet the requirements of sections 481(b)(5) and 481(c)(3) prior to seeking such certification. Such branch is required to be in existence at least 2 years prior to seeking certification as a main campus or free-standing institution."; and

(15) in section 498A(e), by striking "Act," and inserting "Act".

(j) AMENDMENTS TO TITLES V THROUGH XII OF THE ACT.—Titles V through XII of the Act (20 U.S.C. 1101 et seq.) are amended—

(1) in section 505(b)(2)(D)(iii), by striking the period and inserting a semicolon;

(2) in section 525, by amending subsection (c) to read as follows:

"(c) WAIVERS.—For purposes of giving special consideration under section 523(d), a

State may waive the criteria contained in the first sentence of subsection (b) for not more than 25 percent of individuals receiving Paul Douglas Teacher Scholarships on or after July 1, 1993.";

(3) in the first sentence of section 530A by striking "elementary and secondary school teachers" each place it appears and inserting "preschool, elementary, and secondary school teachers";

(4) in section 535(b)(1)(C), by striking the semicolon and inserting a period;

(5) in section 537(a), by inserting "IN" before "GENERAL";

(6) in section 545(d), by striking "parts B, D," and inserting "part B, D,";

(7) in section 580B, by striking "(a) AUTHORIZATION.—";

(8) in section 581(b)(2), by striking "402A(g)(2)" and inserting "402A(g)";

(9) in section 597(d)(1), by striking "Development and" and inserting "and Development";

(10) in section 602(a)(3), by striking "(1)(A)" and inserting "(1)";

(11) in section 602(a)(4), by striking "(1)(A)" and inserting "(1)";

(12) in the heading of subsection (a) of section 603, by striking "RESOURCES" and inserting "RESOURCE";

(13) in section 607(c), by redesignating the second paragraph (2) as paragraph (3);

(14) in section 714, by striking "(a) IN GENERAL.—";

(15) in section 715(b)—

(A) by striking "(1) STATE GRANTS.—";

(B) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2);

(C) in paragraph (2) (as so redesignated) by redesignating clauses (i), (ii), and (iii) as subparagraphs (A), (B), and (C), respectively; and

(D) by reducing the indentation of such paragraphs (1) and (2) (as so redesignated) by two em spaces;

(16) in section 725—

(A) by redesignating paragraphs (2) through (5) as paragraphs (3) through (6), respectively; and

(B) by inserting after paragraph (1) the following new paragraph:

"(2) shall require that the first loans for capital projects authorized under section 723 be made no later than March 31, 1994;";

(17) in section 726, by inserting a period after "title" the first time it appears and striking the remainder of the sentence;

(18) in section 731(a), by striking "faculties," and inserting "faculty,";

(19) in section 731(c), by striking "enactment of";

(20) in section 734(e)—

(A) by striking "FACULTIES" and inserting "FACULTY"; and

(B) by striking "faculties" and inserting "faculty";

(21) in section 781(b), by striking "Education Amendments of 1992," and inserting "Education Amendments of 1992";

(22) in section 782(1)(A), by striking "outpatient care of student" and inserting "outpatient care of students";

(23) in section 783—

(A) in subsection (a)(2), by inserting "on all such loans owed by such institution" after "outstanding indebtedness"; and

(B) by adding at the end thereof the following new subsection:

"(d) REDUCTION OF AMOUNTS OWED TO TREASURER.—If the Secretary forgives all or part of a loan described in subsection (a), the outstanding balance remaining on the notes of the Secretary that were issued to the Secretary of the Treasury under section 761(d) as in effect prior to the enactment of the Higher Education Amendments of 1992, or under any provision of this title as in effect at the time such note was issued, shall be reduced by such amount forgiven.";

(24) in the matter preceding paragraph (1) of section 802(b), by inserting after "fiscal year" the following: "the Secretary shall reserve such amount as is necessary to make continuing awards to institutions of higher education that were, on the date of enactment of the Higher Education Amendments of 1992, operating an existing cooperative education program under a multiyear project award and to continue to pay to such institutions the Federal share in effect on the day before such date of enactment. Of the remainder of the amount appropriated in such fiscal year";

(25) in section 803(b)(6)(A), by striking "data";

(26) in section 803(e)(2)—

(A) by striking "Mexican American" and inserting "Mexican-American"; and

(B) by striking "Mariana" and inserting "Marianian";

(27) in section 901(b)(2), by striking "such part" and inserting "such title";

(28) in section 922, by amending subsection (f) to read as follows:

"(f) INSTITUTIONAL PAYMENTS.—(1) The Secretary shall pay to the institution of higher education, for each individual awarded a fellowship under this part at such institution, an institutional allowance. Except as provided in paragraph (2), such allowance shall be—

"(A) $6,000 annually with respect to individuals who first received fellowships under this part prior to academic year 1993–1994; and

"(B) with respect to individuals who first received fellowships during or after academic year 1993–1994—

"(i) $9,000 for the academic year 1993–1994; and

"(ii) for succeeding academic years, $9,000 adjusted annually thereafter in accordance with inflation as determined by the Department of Labor's Consumer Price Index for the previous calendar year.

"(2) The institutional allowance paid under paragraph (1) shall be reduced by the amount the institution charges and collects from a fellowship recipient for tuition and other expenses as part of the recipient's instructional program.";

(29) in the second sentence of section 923(b)(1), by striking "granting of such fellowships" and all that follows through "set forth in this section," and inserting "granting of such fellowships for an additional period of study not to exceed one 12-month period,";

(30) in section 923(b)(2), by striking out the second and third sentences and inserting the following: "Such period shall not exceed a total of 3 years, consisting of not more than 2 years of support for study or research, and not more than 1 year of support for dissertation work, provided that the student has attained satisfactory progress prior to the dissertation stage, except that the Secretary may provide by regulation for the granting of such fellowships for an additional period of study not to exceed one 12-month period, under special circumstances which the Secretary determines would most effectively serve the purposes of this part. The Secretary shall make a determination to provide such 12-month extension of an award to an individual fellowship recipient for study or research upon review of an application for such extension by the recipient. The institution shall provide 2 years of support for each student following the years of Federal predissertation support under this part. Any student receiving an award for graduate study leading to a doctoral degree shall receive at least 1 year of supervised training in instruction during such student's doctoral program.";

(31) in section 923(b), by adding at the end the following new paragraph:

"(3) CONTINUATION OF AWARDS UNDER PRIOR LAW.—Notwithstanding any other provision of law, in the case of an individual who was awarded a multiyear fellowship under this part before the date of enactment of the Higher Education Amendments of 1992, awards to such individual for the remainder of such fellowship may, at the discretion of the institution of higher education attended by such individual, be subject to the requirements of this subsection as in effect prior to such date of enactment. The institution shall be required to exercise such discretion at the time that its application to the Secretary for a grant under this part, and the amount of any such grant, are being considered by the Secretary.";

(32) in section 924, by adding at the end thereof the following new sentence: "Notwithstanding any other provision of law, the Secretary may use funds appropriated pursuant to this section for fiscal year 1994 to make continuation awards under section 923(b)(3) to individuals who would have been eligible for such awards in fiscal year 1993 if such section had been in effect.";

(33) in section 931(a), by inserting after the first sentence the following new sentence: "These fellowships shall be awarded to students intending to pursue a doctoral degree, except that fellowships may be granted to students pursuing a master's degree in those fields in which the master's degree is commonly accepted as the appropriate degree for a tenured-track faculty position in a baccalaureate degree-granting institution.";

(34) in the third sentence of section 932(a)(1), by striking "doctoral" and inserting "graduate";

(35) in section 932(c), by striking "doctoral" and inserting "graduate";

(36) in section 933(b), by amending paragraph (1) to read as follows:

"(1) IN GENERAL.—(A) The Secretary shall (in addition to stipends paid to individuals under this part) pay to the institution of higher education, for each individual awarded a fellowship under this part at such institution, an institutional allowance. Except as provided in subparagraph (B), such allowance shall be—

"(i) $6,000 annually with respect to individuals who first received fellowships under this part prior to academic year 1993–1994; and

"(ii) with respect to individuals who first receive fellowships during or after academic year 1993–1994—

"(I) $9,000 for the academic year 1993–1994; and

"(II) for succeeding academic years, $9,000 adjusted annually thereafter in accordance with inflation as determined by the Department of Labor's Consumer Price Index for the previous calendar year.

"(B) The institutional allowance paid under subparagraph (A) shall be reduced by the amount the institution charges and collects from a fellowship recipient for tuition and other expenses as part of the recipient's instructional program.";

(37) in section 941, by striking "the part" and inserting "this part";

(38) in section 943(b), by striking "foreign languages or area studies" and inserting "foreign languages and area studies";

(39) in section 945, by amending subsection (c) to read as follows:

"(c) TREATMENT OF INSTITUTIONAL PAYMENTS.—An institution of higher education that makes institutional payments for tuition and fees on behalf of individuals supported by fellowships under this part in amounts that exceed the institutional payments made by the Secretary pursuant to section 946(a) may count such payments toward the amounts the institution is required to provide pursuant to section 944(b)(2).";

(40) in section 946, by amending subsection (a) to read as follows:

"(a) INSTITUTIONAL PAYMENTS.—(1) The Secretary shall (in addition to stipends paid to individuals under this part) pay to the institution of higher education, for each individual awarded a fellowship under this part at such institution, an institutional allowance. Except as provided in paragraph (2), such allowance shall be—

"(A) $6,000 annually with respect to individuals who first received fellowships under this part prior to academic year 1993–1994; and

"(B) with respect to individuals who first receive fellowships during or after academic year 1993–1994—

"(i) $9,000 for the academic year 1993–1994; and

"(ii) for succeeding academic years, $9,000 adjusted annually thereafter in accordance with inflation as determined by the Department of Labor's Consumer Price Index for the previous calendar year.

"(2) The institutional allowance paid under paragraph (1) shall be reduced by the amount the institution charges and collects from a fellowship recipient for tuition and other expenses as part of the recipient's instructional program.";

(41) in the matter preceding paragraph (1) of section 951(a), by inserting "Pacific Islanders," after "Native Americans,";

(42) in section 1004(a), by striking "part" and inserting "subpart";

(43) in section 1011(d), by striking "part" and inserting "subpart";

(44) in part D of title X, by redesignating section 1181 as section 1081;

(45) in section 1081(d) (as so redesignated) by inserting a comma after "this title)" and after "such institutions";

(46) in section 1106(a), by striking "may receive a grant" and inserting "may receive such a grant";

(47) in section 1142(d)(2), by inserting "program" after "literacy corps";

(48) in the last sentence of section 1201(a), by striking "subpart 3 of part H," and inserting "subpart 2 of part H of title IV of this Act,";

(49) by amending section 1204 to read as follows:

"TREATMENT OF TERRITORIES AND TERRITORIAL STUDENT ASSISTANCE

"SEC. 1204. (a) The Secretary is required to waive the eligibility criteria of any postsecondary education program administered by the Department where such criteria do not take into account the unique circumstances in Guam, the Virgin Islands, American Samoa, Palau, the Commonwealth of the Northern Mariana Islands, and the freely associated states.

"(b) Notwithstanding any other provision of law, an institution of higher education that is located in any of the freely associated states, rather than a State, shall be eligible, if otherwise qualified, for assistance under chapter 1 of subpart 2 of part A of title IV of this Act.";

(50) in section 1205, in the section heading, by inserting "national advisory" before "committee";

(51) in section 1205(a), by inserting "National Advisory" before "Committee" the first place it appears;

(52) in paragraphs (1) and (6) of section 1205(c), by inserting "of title IV of this Act" after "part H";

(53) in section 1205(f), by striking "Accreditation and Institutional Eligibility" and inserting "Institutional Quality and Integrity";

(54) in section 1209(f)(1), by striking "the Act" and inserting "this Act";

(55) in title XII, by redesignating section 1211 (as added by section 6231 of the Omnibus Trade and Competitiveness Act of 1988) as section 1212; and

(56) in section 1212(e)(2) (as so redesignated), by inserting close quotation marks after "facilities" the first place it appears.

(k) AMENDMENTS TO THE 1992 AMENDMENTS.—The Higher Education Amendments of 1992 (Public Law 102-325; 106 Stat. 459) is amended—

(1) in section 401(d)(2)(A), by inserting "the first place it appears" before "the following:";

(2) in section 425(d)(1)—

(A) by inserting "the second sentence of" after "(1) in"; and

(B) by striking "in the second sentence";

(3) in section 425(d)(4)—

(A) by inserting "the second sentence of" after "(4) in"; and

(B) by striking "in the second sentence";

(4) in section 426(c), by striking "new subsections" and inserting "new subsection";

(5) in section 432(a)(3), by striking "427(a)(2)(C) and 428(b)(1)(M)" and inserting "427(a)(2)(C), 428(b)(1)(M), and 428B(d)(1)";

(6) in section 446, by striking subsection (c);

(7) in section 465(a), by amending paragraph (1) to read as follows:

"(1) in subparagraph (A), by striking 'and such determination' and all that follows through 'such chapter 1';";

(8) in section 484, by inserting after subsection (h) the following new subsection:

"(i) EFFECTIVE DATE.—The amendments made by subsection (g) with respect to the addition of subsection (n) shall be effective on and after December 1, 1987.";

(9) in section 486(a)(3), by striking "section 1" and inserting "section 103";

(10) in section 1409(b)(1), by striking "the Asbestos Hazard Emergency Response Act" and inserting "section 202 of the Toxic Substances Control Act (15 U.S.C. 2642)";

(11) in section 1422(9), by striking "has placed" and inserting "have placed";

(12) in section 1442(c), by striking "Chairman" and inserting "Chairperson";

(13) in section 1541(g), by striking "educational" and inserting "education"; and

(14) in the subsection (a)(1) amended by section 1554(a), by striking "4" and inserting "6".

(l) AMENDMENT TO THE 1986 AMENDMENT.—Section 1507(a)(12) of the Higher Education Amendments of 1986 (20 U.S.C. 4414(a)(12)) is amended by striking the period and inserting a semicolon.

(m) STYLISTIC CONSISTENCY.—The Act is amended so that the section designation and section heading of each section of the Act shall be in the form and typeface of the section designation and heading of this section.

(n) ACCREDITATION THROUGH TRANSFER OF CREDIT.—(1) An institution of higher education which satisfied the requirements of section 1201(a)(5)(B) of the Act prior to the enactment of the Higher Education Amendments of 1992, shall be considered to meet the requirements of section 1201(a)(5) of the Act if—

(A) within 60 days after the date of enactment of the Higher Education Technical Amendments of 1993, such institution has applied for accreditation by a nationally recognized accrediting agency or association which the Secretary determines, pursuant to subpart 2 of part H of title IV of the Act, to be a reliable authority as to the quality of education or training offered;

(B) within 2 years of the date of enactment of the Higher Education Technical Amendments of 1993, such institution is accredited by such an accrediting agency or association or, if not so accredited, has been granted preaccreditation status by such an agency or association that has been recognized by the Secretary for the granting of preaccreditation status, and the Secretary has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time; and

(C) such institution is legally authorized within a State to provide education beyond secondary education.

(2) The Secretary shall determine whether to recertify any institution that meets the requirements of paragraph (1) within 2 years after the date of enactment of this Act.

(3) Paragraph (1) of this subsection shall be effective on and after July 23, 1992.

SEC. 3. PACIFIC REGIONAL EDUCATIONAL LABORATORY.

Section 101A of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2311a) is amended—

(1) in the matter preceding paragraph (1) of subsection (b)—

(A) by striking "Center for the Advancement of Pacific Education, Honolulu, Hawaii, or its successor entity as the Pacific regional educational laboratory" and inserting "Pacific Regional Educational Laboratory, Honolulu, Hawaii"; and

(B) by inserting "or provide direct services regarding" after "grants for"; and

(2) in subsection (c), by striking "Center for the Advancement of Pacific Education" and inserting "Pacific Regional Educational Laboratory, Honolulu, Hawaii,".

SEC. 4. DISTRIBUTION OF FUNDS TO POSTSECONDARY AND ADULT PROGRAMS.

Section 232 of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2341a) is amended—

(1) in subsection (a)—

(A) in the first sentence—

(i) by inserting "(1)" before "Except"; and

(ii) by inserting "or consortia thereof" before "within"; and

(B) in the second sentence—

(i) by inserting "or consortium" before "shall"; and

(ii) by inserting "or consortium" before "in the preceding";

(C) by adding at the end the following new paragraph:

"(2) In order for a consortium of eligible institutions described in paragraph (1) to receive assistance pursuant to such paragraph such consortium shall operate joint projects that—

"(A) provide services to all postsecondary institutions participating in the consortium; and

"(B) are of sufficient size, scope and quality as to be effective.";

(2) in subsection (b)—

(A) in paragraph (1), by inserting "or consortia" after "institutions"; and

(B) in the matter preceding subparagraph (A) of paragraph (2), by inserting "or consortia" after "institutions"; and

(3) in subsection (c)—

(A) in paragraph (1), by inserting "or consortium" after "institution"; and

(B) in paragraph (2), by inserting "or consortia" after "institutions".

SEC. 5. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided therein or in subsection (b) of this section, the amendments made by section 2 of this Act shall be effective as if such amendments were included in the Higher Education Amendments of 1992 (Public Law 102–325), except that section 492 of the Act shall not apply to the amendments made by this Act.

(b) EXCEPTIONS.—

(1) EFFECTIVE ON OCTOBER 1, 1993.—The amendments made by the following subsections of section 2 of this Act shall be effective on and after October 1, 1993: (b)(29), (j)(28), (j)(36), and (j)(40).

(2) EFFECTIVE ON DATE OF ENACTMENT.—The amendments made by the following subsections of section 2 of this Act shall be effective on and after the date of enactment of this Act: (b)(2), (b)(7), (b)(28), (c)(3), (c)(5), (c)(13)(B), (c)(13)(C), (c)(18), (c)(30), (c)(62).

(3) EFFECTIVE 30 DAYS AFTER ENACTMENT.—The amendments made by the following subsections of section 2 of this Act shall be effective on and after 30 days after the date of enactment of this Act: (c)(19), (c)(20), (c)(21), (c)(59).

(4) EFFECTIVE 60 DAYS AFTER ENACTMENT.—The amendments made by the following subsections of section 2 of this Act shall be effective on and after 60 days after the date of enactment of this Act: (c)(31) and (c)(53).

(5) EFFECTIVE ON APRIL 1, 1994.—The amendments made by section 2(c)(43)(B) of this Act shall be effective on and after April 1, 1994.

(6) EFFECTIVE ON JULY 1, 1994.—The amendments made by the following subsection of section 2 of this Act shall be effective on and after July 1, 1994: (b)(25), (c)(2), (c)(13)(A), (c)(29).

(7) COHORT DEFAULT DATA EXAMINATIONS.—The amendment made by section 2(c)(60)(A) shall be effective on and after October 1, 1994.

(8) COHORT DEFAULT RATE DETERMINATIONS.—The amendments made to subsection (a)(3) and (m)(1)(B) of section 435 of this Act shall apply with respect to the determination (and appeals from determinations) of cohort default rates for fiscal year 1989 and any succeeding fiscal year.

NOTICES OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BUMPERS. Mr. President, I would like to announce for the public that a field hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests.

The field hearing will take place on Friday, December 10, 1993, from 2 p.m. to 4 p.m. in the 3rd Floor Auditorium of the Louisiana State Museum which is located in the Old United States Mint Building, 400 Esplanade Avenue, New Orleans, LA.

The purpose of the hearing is to receive testimony on S. 1586, a bill to establish the New Orleans Jazz National Historical Park in the State of Louisiana, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. It will be necessary to place witnesses in panels and limit the time for oral testimony. Witnesses testifying at the hearing are requested to bring 10 copies of their testimony with them on the day of the hearing. Please do not submit testimony in advance.

In addition, there will be a workshop preceding the hearing from 11:45 a.m. to 1:15 p.m. where staff will be available to receive any oral or written comments people may wish to submit or make regarding S. 1586. This material will also be included in the committee's official hearing record. The workshop, which is open to anyone interested in this legislation, will also be held in the third floor auditorium of the Louisiana State Museum.

Those who cannot attend either the hearing or the workshop but want to submit a statement for the record, may send it to the Subcommittee on Public Lands, National Parks and Forests, Room 364 of the Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information regarding the hearing, please contact Charmaine Caccioppi in Senator Johnston's New Orleans office at (504) 589–2427, Laura Hudson in Senator Johnston's Washington, DC office at (202) 224–0090 or Tom Williams of the Committee staff at (202) 224–7145.

NOTICE OF RESCHEDULING OF FIELD HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

SUBCOMMITTEE ON WATER AND POWER

Mr. BRADLEY. Mr. President, I would like to announce for the public the rescheduling of a November 8, 1993, field hearing before the Subcommittee on Water and Power of the Senate Committee on Energy and Natural Resources to receive testimony on the contemporary needs and management of the Newlands Project in Nevada, a Bureau of Reclamation project.

The hearing will take place Saturday, December 11, 1993, beginning at 8 a.m., in Reno, NV. The exact location of the hearing has not been determined. Interested parties should contact the Subcommittee on Water and Power at (202) 224–6836 after Monday, November 29, 1993.

Due to the limited time available at the hearing, witnesses may testify by invitation only. However, anyone wishing to submit written testimony to be included in the printed hearing record is welcome to do so. Those persons wishing to submit written testimony should mail five copies of the statement to the Subcommittee on Water and Power, United States Senate, 304 Dirksen Senate Office Building, Washington, DC, 20510–s6150.

For more information, please contact Dana Sebren Cooper, Counsel for the Subcommittee at (202) 224–4531.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Friday, November 19, 1993 at 9:30 a.m., in open session to consider the nomination of Dr. Morton H. Halperin to be Assistant Secretary of Defense for Democracy and Peacekeeping.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Friday, November 19, 1993, at 5 p.m. in closed session, to receive a briefing by the Department of Defense and State Department on policy toward North Korea.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet today at 10 a.m. to consider legislation to make the Social Security Administration an independent agency and to consider the nomination of Olivia Golden to be Commissioner, Administration on Children, Youth and Families.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee for authority to meet on Friday, November 19, at 11 a.m., for a hearing on the nomination of: Einar Dyhrkopp, to be Governor, U.S. Postal Service.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Friday, November 19, 1993, beginning at 9:30 a.m., in 485 Russell Senate Office Building on S. 1526, Indian Fish and Wildlife Resources Management Act of 1993.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. FORD. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a hearing and a markup on the nomination of Preston M. Taylor, Jr. to be Assistant Secretary of Labor for Veteran's Employment and Training. The hearing will be held in room 418 of the Russell Senate Office Building at 1:30 p.m. on Friday, November 19, 1993. The markup will be held in the Reception

Room after the first roll call vote after 2:30 p.m. on Friday, November 19, 1993.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EAST ASIAN AND PACIFIC AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on East Asian and Pacific Affairs of the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Friday, November 19, 1993, at 10 a.m. to receive a closed briefing on North Korea's intransigence on the nuclear inspection issue.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE ISSUE OF NORTHERN IRELAND

• Mr. DODD. Mr. President, earlier this year I appeared on the floor of this Chamber to inform my colleagues that the Committee on Foreign Relations planned to hold hearings on the issue of Northern Ireland.

These hearings would represent the first time since the troubles broke out in 1969—indeed, the first time in Ulster's history—that the issue of Northern Ireland would be examined by the committee. I am very grateful to the chairman of the committee, Senator PELL, and the chairman of the Subcommittee on European Affairs, Senator BIDEN, for their commitment to hold these timely and much-needed hearings.

For a variety of reasons, unfortunately, it proved impossible to schedule these hearings this year, as had been hoped. This was due in part to the challenge of finding time on the committee schedule and also to the recent emergence of a series of secret talks earlier this year. One set of talks was between Social Democratic and Labor Party leader John Hume and Sinn Fein leader Gerry Adams and another, if recent press reports are to be believed, was between Sinn Fein and the British Government. Obviously the existence of these negotiations and any secret agreements they may have produced would have made it difficult for the committee to engage in the kind of open and frank discussion needed when it comes to Northern Ireland.

Nonetheless, I want to make clear to my colleagues my very strong belief that the situation in Northern Ireland continues to deserve the attention of the Foreign Relations Committee. Since 1969, more than 3,000 people have been killed and over 30,000 wounded as a result of extended political violence in that troubled corner of the world. Surely amidst the troubles there are lessons we can learn about the nature of conflict and the many disparate forces that shape it; these lessons are all the more important as we go about laying the foundations for this new international order. Indeed I hope in some small way we can contribute to the body of knowledge on this conflict, and perhaps even hasten the day when it can be brought to an end.

Accordingly, I want to make clear that I fully expect that the Foreign Relations Committee will make every effort to pursue these hearings at some point in the next session of the current Congress. I look forward to working with my Senate colleagues on this very important issue in the future.•

TRIBUTE TO MALCOLM CHANCEY

• Mr. McCONNELL. Mr. President, I rise today to recognize a Kentuckian who has taken the idea of civic duty to heart. Not only is he a successful businessman in Louisville, but for many years I have watched Mr. Malcolm Chancey dedicate time and service to furthering special causes, in particular, education.

Mr. President, this is a man who believes in planning for our future today by giving our children the training they need to succeed. Almost 20 years ago, Mr. Chancey decided to get involved in the community by becoming an education volunteer. Over the years he has raised money for several education projects, including the New Kid in School initiative, which provided $11 million to schools for computers and other technology. He also instituted a dropout prevention program to help about 4,000 disadvantaged students stay in school and find jobs.

But his investment of time and dedication to society doesn't stop with education. Above all else, Mr. Chancey wants to promote and develop his community, and this seems to have been his driving force throughout the years. Mr. Chancey has served on about 25 boards and committees, ranging from the Downtown Development Corp. to the Museum of History and Science. He has collected more than $15 million for a project to build a football stadium and over $4 million for the Greater Louisville Fund for the Arts.

His successes are equally strong in the business world. Mr. Chancey currently presides over Liberty, our State's largest independent bank. If Liberty and Banc One of Ohio merge as planned, Mr. Chancey will lead Kentucky's largest banking empire.

As Malcolm Chancey expands his business pursuits, I am confident he will also expand his civic interests. Mr. President, I am sure that with such strong convictions motivating him, Mr. Chancey will have no problem continuing his civic leadership, even with increased professional demands.

Mr. Malcolm Chancey has made a name for himself throughout the years by giving of himself to Louisville and to Kentucky. I congratulate him on his accomplishments and wish him continued success.

Mr. President, I ask that a recent article from Louisville's Courier-Journal be submitted in today's CONGRESSIONAL RECORD.

The article follows:

LIBERTY CHIEF BANKS ON LOUISVILLE

(By Andrew Wolfson)

Growing up in Fairdale, the oldest of nine children and the son of a Bacon's maintenance engineer, Malcolm B. Chancey, Jr., worked through high school as a cook and busboy at Blue Boar Cafeteria.

Now, more than 40 years later, he is running Kentucky's biggest independent bank—and helping run its biggest city.

If Liberty and Banc One of Ohio consummate the merger they announced last week, Chancey will soon preside over Kentucky's largest banking empire. But he has made a bigger name for himself outside of banking, as one of Louisville's most influential citizens.

Collecting more than $15 million in one of Louisville's most successful grass-roots fund-raising drives, he has laid the foundation for a football stadium that some said couldn't—or shouldn't—be built.

His fingerprints can be found on everything from downtown development to the selection of Jefferson County's new school superintendent, to fund raising for the arts and the Boy Scouts.

Serving on nearly two dozen boards and committees, Chancey has become ubiquitous in public life.

That is especially true in Jefferson County Public Schools, where he has helped select the district's last two superintendents and has championed the pragmatic idea that what is good for the business is good for the schools—and vice versa.

"He wants to be a player, and he is a player," said Leonard Hardin, National City Bank's chief executive. Former school board member Mike Wooden said, "On virtually every project, Malcolm was there."

To Chancey's public detractors—who are few, and who appear to be confined to QUEST, the citizen group that monitors racial integration in the schools—he is too involved and his Chamber-of-Commerce vision of the schools is too narrow.

"Malcolm sees students as worker bees and the schools as a place to produce employees for the work force," said QUEST member Jim Hill. "We see students as living, breathing human beings . . . who shouldn't be pigeonholed into some occupation."

Retired state Sen. Georgia Powers said Chancey "has more power than any one person should have. I think he really has too much influence."

Elevated last January to the top rung at Liberty, Chancey has stepped forward to fill a community leadership void left by the deaths of such corporate chieftains as Capital Holding Corp.'s Tom Simons and Humana Inc.'s Wendell Cherry, and the retirement of J. David Grissom from Citizens Fidelity Corp. and A. Stevens Miles of First Kentucky National Corp.

But students of Louisville leadership, including former Chamber president Charles Buddeke III and University of Louisville business school Dean Robert Taylor, describe Chancey as a consensus-builder rather than a power broker or a wheeler-dealer.

And, while Buddeke calls Chancey one of Louisville's "three or four most powerful people," other leaders, including Gordon Davidson of Wyatt Tarrant & Combs, note that the banker has lost some public battles—most notably the 1991 library tax referendum. Chancey helped raise $750,000 for supporters of that cause, who out-spent opponents 130-to-1 only to lose by more than 6,000 votes.

Chancey prefers to call himself a "facilitator," and insists that people give him credit for more power and influence than he has. He said he may go months without seeing a school board member, for instance, and that he's talked only twice with new Superintendent Stephen Daeschner. (Chancey said his proudest accomplishment was a relatively small one—helping launch the student credit union at U of L.)

Chancey's clout begins with Liberty's $4.8 billion in assets. But friends and foes alike say his influence also derives from his energy and tenacity: He arrives at his office by 6:15 a.m. and usually doesn't head home until 12 hours later.

"A lot of people in this town go to cocktail parties and complain about what is wrong, but they don't want to do anything about it," said Republic Bank and Trust Co. chief executive Scott Trager. "Malcolm tries to do something."

Chancey acknowledges that his civic activities have been good for the bank. "If you are sowing the seeds to help the community, it comes back to you—and we've been getting our share," he said.

But he bridles at the notion, recently propounded by unsuccessful school board candidate Steve Porter, that his work in the schools is tied to preserving the district's no-bid bank account that Porter said has put $254 million into Liberty during the past three years.

"In all the years I've been dealing with public education," Chancey said, "I never once mentioned getting or keeping banking business in any way, shape or form."

Like many public figures, 61-year-old Malcolm Brant Chancey, Jr., is well-known, but not known well.

(None of two dozen business leaders interviewed for this story, for example, knew that he hails from Fairdale. If asked, Chancey says he's from "southern Jefferson County.")

Divided by a wide gulf in lifestyle and income, Chancey doesn't mix a great deal with his two sisters and six brothers, two of whom are elevator mechanics—"He's not like the rest of us," said Otis Chancey, a construction worker.

Chancey said he was "never real close" to his brothers and sisters in part because his parents looked to him to play surrogate father and disciplinarian. "I was never a child," he said. He said that it was as the oldest of nine children, however, that he got his first "management training."

Today Chancey drives a 3-year-old Oldsmobile and his wife, Gail, a 1987 Buick, but recently they bought a $450,000 beach-front condominium in Naples, Fla.

Chancey disclaims any great clout or influence, but he refers to the governor, mayor and county judge as "Brereton," "Jerry" and "Dave." He said he hates to see his name in the newspaper—but he used the media masterfully to collar donations for the stadium drive.

He's a registered Republican—and favors "conservative Republicans" in the White House—but he has lavished thousands of dollars in campaign contributions on Kentucky Democrats from Gov. Brereton Jones to Louisville Alderman-elect Scotty Greene. (Chancey never gave a cent to former Gov. Wallace Wilkinson, however, he wouldn't say why.)

He said he'd rather go to a football game than to the opera (he helped recruit coach Howard Schnellenberger), but he does attend the opera and the ballet. In 1991, in fact, he raised more than $4 million as chairman of the Greater Louisville Fund for the Arts.

Joining Liberty Bank in 1965 as a systems expert, the former computer salesman said he gave little thought to civic affairs until he suffered a "small coronary" in 1975 and decided "If I was going to do something good for the community, I better do it now."

The health scare coincided with a request from the Chamber for an education volunteer, and Liberty offered Chancey. He later helped recruit a new superintendent named Donald Ingwerson and managed an $11 million school-tax referendum that was trounced nearly 3-1 at the polls.

He led fund raising for the New Kid in School initiative, which injected $11 million in corporate money into the schools for computers and other technology. And he took a dropout prevention program that failed in Boston and made it work in Louisville—about 300 businesses and agencies have joined to help about 4,000 disadvantaged students stay in school and find full- and part-time jobs.

But it was running the stadium campaign that injected Chancey into the public spotlight. Even adversaries such as Sen. Tim Shaughnessy say Chancey wisely sought and raised money from fans first rather than from public coffers. Although the Louisville Cardinals' winning ways helped, Shaughnessy said the project would "never have been seriously considered without Malcolm Chancey."

What makes him run?

His biggest banking competitors say this interest in the schools and community is genuine and altruistic. Former Courier-Journal publisher George Gill, who serves on Liberty's board, notes that Louisville has been very good to Chancey, who collected more than $400,000 last year from Liberty in salary and bonuses, "He is just one of those guys who wants to put something back into the soil," Gill said.

Buddeke, the former Chamber president, said Chancey took his lead from his mentors at Liberty—Frank B. Hower Jr. and Joseph W. Phelps—"role models," Buddeke said, "from the old school of *noblesse oblige*."

That might seem to be an unusual role for a Fairdale native who was the first in his family to go to college.

"We don't have many lawyers or judges or bankers from Fairdale," said Martin Johnstone, a Fairdale native who is a judge on Kentucky's court of appeals. "That is not a direction that a lot of people from Fairdale take."

Chancey said his parents emphasized education, and he saw early on that schooling was the way to get ahead. Teachers at the old Fairdale High School told him he could be anything he wanted to be, Chancey said, and "I took them literally."

He is widely described as down-to-earth and accessible—"I don't think his ego is any bigger than it ought to be," Gill said.

Chancey golfs at the Louisville Country Club, Valhalla and Big Spring, but swims at a public pool, the Crescent Hill bubble. He and his wife live in a relatively unpretentious brick home in Cherokee Gardens valued at $276,000.

Retired Doe-Anderson chief Bob Allison said, "He has access to all the right people, but he's not a snob."

With Chancey at the helm last year, the Louisville Area Chamber of Commerce ducked the most controversial issue to face the city, taking no position on a proposed gay-rights ordinance that would have prohibited discrimination against gays in employment and housing.

But Chancey has never hidden his position as the Chamber's leading liaison to the Jefferson County schools: "The only agenda I have is to develop a better work force and to send a message to companies considering bringing plants here," he said.

He said he's a strong supporter of advanced classes, but he also says that the schools should train the next generation of plumbers, electricians and carpenters. "We too often want our kids to go to college and become Einsteins, when not all will become Einsteins," he said.

Although the Louisville Education Employment Partnership, which he chairs, has been criticized for creating a vast labor pool for fast-food restaurants, Chancey notes that many graduates have been placed in good jobs, including at his bank, and that others have gone to college. Data collected by the mentoring program show it has boosted academic performance and graduation rates.

QUEST members depict Chancey and former superintendent Ingwerson as Siamese twins connected at the head and say the relationship was so close it was troubling. "Ingwerson didn't make a move without checking with Malcolm first," Porter said.

Ingwerson remembers Chancey as a "great sounding board" with whom he never had any disagreements; Chancey says he and Ingwerson were "good civic associates" rather than friends, and that they usually consulted only once or twice a month.

Chancey insists he and Ingwerson did disagree once—on Ingwerson's plan in 1991 to drop busing in the primary grades, a move Ingwerson said was required by school reform.

"When he told me he thought it might produce all-black and all-white schools, I told him I didn't think that would fly," Chancey said.

But Ingwerson said he doesn't recall that conversation—or ever talking to Chancey about busing.

Porter, who served with Chancey on a panel that reviewed Ingwerson's plan to drop busing in the primary grades—said the banker "was against mandatory busing, period."

Chancey said he thought then—and still thinks—that busing for school desegregation has been a "strength" of the community, and notes that two of his four children were bused and are better off for it." But he also describes himself as a supporter of "school choice" and says he has long favored magnet schools and other carrots that encourage voluntary desegregation.

Expressing his views last year on race relations in Louisville, Chancey told The Courier-Journal: "I got where I am because I worked hard. Nobody gave me anything. Whatever I got, I worked for. To that extent, I can say nobody helped me because I'm white or helped me because I wasn't black."

Chancey said he regrets the perception that he endorsed Daeschner without researching Loretta Webb, a black candidate who vied for the superintendent's job; he said a bank board meeting kept him from visiting Webb's Virginia school district after making trips to see the other two candidates, including Daeschner in Cedar Rapids, Iowa.

But Chancey said he did call business leaders in Webb's district—"I couldn't find anyone who knew her."•

CELEBRATION OF DAVID McCORMICK'S 25TH ANNIVERSARY IN COUNTRY MUSIC

• Mr. BOREN. Mr. President, I rise today to congratulate David McCormick of Nashville, TN, on his 25 years of active participation in the explosion of the popularity of country music. Twenty-five years ago he started working for, and with, the late country music legend, Ernest Tubb—whose son Justin is following in his dad's footsteps. David began as a part-time clerk for Mr. Tubb, and after a 2-year tour in the Navy, returned to Nashville where Mr. Tubb offered him the job of manager of his record store at 417 Broadway, Nashville, TN, where the headquarters remain. David immediately took control of the store and recognized the opportunity to expand the organization. His expansion programs proved highly successful with the ultimate development of six stores; three in Nashville, one in Pigeon Forge, TN, one in Branson, MO, and a sixth and newest store in Ft. Worth, TX—in Ernest Tubb's home State. He believes in offering the music of artists from both the past and present to his customers. His company is known across the globe as the largest country and western record retail store in the world.

In addition to his success in business, David is known for his great humanitarianism, and his service to the community. He is on the board of directors of the Downtown Historical Commission of Nashville, a lifetime member of the Gospel Music Association, a member of the Nashville Chamber of Commerce, a founder of the Ernest Tubb Humanitarian Award and a very active member of Reunion of Professional Entertainers [ROPE]. Gov. Ned McWherter has also cited him for his outstanding achievement in these areas.

David is a great friend to many and is always willing to lend a helping hand. Young singers and songwriters often look to David for advice and support and he is always there. Mr. President, it is with great joy that I congratulate this distinguished American for 25 years of distinguished service to the country music industry.•

RECENT EVENTS IN KASHMIR

• Mr. COATS. Mr. President, for more than 1 month now, hundreds of innocent civilians have been trapped in the Hazratbal Mosque by government troops in Srinagar, a city in the Indian state of Kashmir. On October 16, 200–300 Kashmiris, who were returning from religious pilgrimages, sought shelter in the Hazratbal Mosque, the holiest site in Kashmir. The mosque was then surrounded by Indian troops, who claimed that the people inside were Kashmiri guerrillas, hiding a cache of weapons, a statement disputed by both Kashmiri officials and independent journalists. The Indian forces have since besieged the Hazratbal Mosque, and have rejected any attempts for a peaceful, negotiated settlement. The standoff continues today.

This is not the only case of gross human rights violations against the Kashmiri people. A peaceful demonstration by Kashmiri separatists at the mosque in Srinagar ended tragically when Indian troops opened fire, killing more than 40 people, and leaving more than 200 wounded. Reports of a program of systematic rape, intended to punish the Kashmiris, by the Indian Government have been filed by the human rights groups Asia Watch and Physicians for Human Rights, and Amnesty International has documented numerous other violations of Kashmiri rights. Sadly, the human rights abuses seem to be increasing.

Despite the presence of a sometimes violent campaign for independence by Kashmiri separatists, there can never be an excuse for the deliberate killing of innocent, unarmed civilians and widespread abuses of human rights. I call upon President Clinton, as well as my colleagues here, to urge the Indian Government to put an immediate end to human rights violations throughout its nation, and to attempt to deal with the situation in a manner befitting a country with a strong democratic tradition such as India, with due process and respect for the individual.•

WINTER IN BOSNIA

• Mr. LEAHY. Mr. President, as winter snows fall in the former Yugoslavia, I am deeply concerned about the large number of refugees and the problem of accessibility to them in Bosnia. There is a serious possibility of large numbers of deaths due to starvation and exposure to the winter elements if relief supplies do not reach these desperate people.

The recently passed foreign aid appropriations bill actually increased overall refugee funding, despite cuts in almost every other program. This increase was in part so that the United States could provide adequate assistance for Bosnia and refugees in that region. But in briefings on how that refuge aid is to be used I have become alarmed over the continued lack of access by U.N. relief convoys to many areas. The United States, together with our European allies, must not fail to ensure that the promises of relief are fulfilled. Extraordinary efforts may be necessary, such as large scale air drops. Whatever it takes, supplies and assistance must get through to these people. Any further delay could exact a terrible cost on the people of Bosnia.

As I understand the situation, there are currently enough relief supplies available, but significant difficulties in delivering the supplies to the interior of Bosnia where the need is greatest. The problem is not one of resources, though the scale of needs could eventually cause shortages, but at least as of now, the problem is access. Reports I am receiving indicate that both Serbian and Croatian regular and irregular forces are impeding or in some cases actually blockading relief supplies. There are signs that major fighting could once again break out between Croats and Serbs. Deliberate starvation could become a weapon of war.

An article in today's Washington Post, which I would ask to include at the end of my remarks, states that Mrs. Ogata, the U.N. High Commissioner for Refugees, has brokered an agreement between the Bosnian factions to allow free passage throughout the war-torn country. I congratulate Mrs. Ogata for this breakthrough. But the agreement lacks any enforcement and unfortunately will probably have as short a life as previous agreements.

United States and European leaders must not stand by and let a human catastrophe strike Bosnia this winter. I call on world leaders to bring massive pressure upon Presidents Tudjman and Milosevic to stand by their agreement to permit the flow of relief supplies into Bosnia. Also, Serb leader Radovan Karadzic must be convinced to allow the opening of the airport in Tuzla for aid flights. If necessary, I urge that we consider economic sanctions against Croatia if they continue to block relief. We cannot allow our allies and friends, including the Germans, who are afraid of a wave of refugees crossing their borders, to block us from taking strong action, including sanctions against, to open the roads to relief.

I am told that last year in the former Yugoslavia, thanks to one of the mildest winters in decades, only about 2,000 to 3,000 people perished for lack of shelter and supplies. However, relief officials tell me that this year's estimates of deaths from starvation and exposure could far exceed 100,000 if there is a normal winter. There are over 2 million refugees, displaced or at risk populations in Bosnia today. The number of refugees suffering in Bosnia is over two times as many as last year. Couple that with the likelihood of a bitterly cold winter, and the potential for the region to become a mass grave becomes more and more a possibility.

As I mentioned, the current problem is one of access, not resources. But this situation could change. If access is allowed, the danger of a resource shortage would occur. Mrs. Ogata has already called for an additional $700 million in supplemental aid to meet the needs of the Bosnian people through the winter months. Despite limited U.S. refugee resources, I strongly urge the administration to provide a fair U.S. share to meet the request of Mrs. Ogata, including drawing on the emergency migration and refugee assistance account, which we fully funded in the foreign aid bill signed into law on September 30.

This problem needs immediate and full attention of the United Nations. The longer relief is delayed or obstructed, the worse the situation for the refugees becomes. The United States, together with our allies, has a humanitarian responsibility to not let a Somalia or Sudan happen in Bosnia. We must not hesitate, nor falter in our attempts to prevent mass deaths through starvation and exposure.

The article follows:

[From the Washington Post, November 19, 1993]

BOSNIAN FACTIONS AGREE TO LET U.N. CONVOYS PASS

(By Peter Maass)

GENEVA.—The leaders of Bosnia's three warring factions, meeting for the first time in two months, agreed today to stop shooting at U.N. aid convoys and allow them free passage throughout the war-torn country, steps that would help avert a humanitarian catastrophe this winter.

The agreement, brokered by the United Nations High Commissioner for Refugees, depends on the goodwill of all sides and lacks any enforcement provisions. As a result, the six-point "joint declaration" could have as short a life as the long list of previous accords on aid convoys and cease-fires.

Bosnia's Serb and Croat leaders, whose forces are blamed for stopping aid shipments in a bid to starve and freeze the Muslim-led government into submission, pledged to abide by the pact. But Prime Minister Haris Silajdzic said the only way to ensure that the promises are honored is for the United States and its NATO allies to use force if convoys are blocked.

"The land corridors must be protected by force," Silajdzic said after signing the agreement. But NATO has repeatedly refused to use military power unless U.N. troops deployed in Bosnia were in danger.

In a reflection of the gap between words spoken in Geneva and actions taken in Bosnia, Croat leader Mate Boban told reporters that his forces never had stood in the way of U.N. convoys seeking to enter the besieged Muslim sector of Mostar. He insisted that U.N. convoys had stopped on their own accord because of "security problems." Generally it has been the threat of attacks by his forces that caused these security problems.

The meeting, the first in which the three sides' leaders have participated since peace talks fell apart in late September, comes amid a blizzard of warnings that Bosnians face massive deaths from freezing and starvation this winter. Similar forecasts preceded last winter, but catastrophe was averted because the weather was exceptionally mild and fighting was relatively contained.

"This winter spells real disaster," said Sadako Ogata, the U.N. High Commissioner for Refugees, in a speech at the start of today's closed-door meeting. "The combination of war, of military blockades and of freezing temperatures provides for a terrible, deadly mix."

Ogata, noting that early snow already covers parts of Bosnia, said she would recommend the immediate resumption of U.N. convoys into central Bosnia after they were halted last month. The suspension followed a series of attacks on aid convoys that culminated in the killing of a Danish driver on Oct. 26. The suspension meant that no food was reaching a region in which 1.5 million civilians survive on U.N. handouts and where some of them have resorted to eating animal feed.

Ogata painted a grim picture. She warned that today's agreement, even if honored, will have a limited impact as long as the war continues. The problem, she said, is that the delivery of food and clothing is not an answer to the suffering of Bosnians. "Without peace, I don't know whether the humanitarian catastrophe can be avoided," she said.

News reports from Bosnia are not encouraging. A U.N. spokesman in Sarajevo said today that five inmates of an isolated and unheated mental hospital had died from the cold and others were wandering around naked for lack of clothes. The institution is located in Pazaric, in government-held territory near Sarajevo, but aid convoys must pass through Serb lines to reach it, and the Serbs have prevented this.

Also in Sarajevo, a British medical group said its doctors would no longer perform rehabilitative surgery because the patients were too weak and cold to survive such procedures, the Associated Press reported. The group's program gave Sarajevans virtually their only chance for elective and reconstructive surgery because local doctors have limited their services to saving lives.

The situation would be alleviated if today's agreement is honored. The joint declaration, signed by all sides, requires them to establish local cease-fires when U.N. convoys need to use a contested route. It also allows the United Nations to deliver special winter supplies, such as building materials and fuel, that in the past have been blocked because of their potential military use.

On another key humanitarian issue, U.N. officials said Serb leader Radovan Karadzic refused today to allow the opening of a government-held airport in Tuzla, in north central Bosnia, for aid flights.●

NEW ATTACK SUBMARINE

● Mr. D'AMATO. Mr. President, it is worth recalling that then-Under Secretary of Defense Yockey, in granting milestone 0 approval for the new attack submarine [NAS], specifically stated in his acquisition decision memorandum that "approval to initiate concept definition studies does not constitute approval for the start of a new attack submarine in the 1990's".

I cannot say what doubts prompted Mr. Yockey's guarded approach, but 18 months later, with a cost and operational effectiveness analysis [COEA] in hand, his unwillingness to launch a new acquisition program seems visionary. Congress is on the verge of making a major mistake by supporting the NAS, otherwise known as the *Centurion*.

Of the specifics of the COEA I can say little, but I urge every Member with an interest in submarines to review the startling conclusions of this document. The tragedy is that the COEA came too late to influence the fiscal year 1994 Defense appropriations process. Salted through the following R&D lines:

Advanced Submarine Combat Systems Development [RDT&E, Navy, R–1, Line 51, PE#0603504N].

New Design SSN HM&E [Project #F2177] embedded within Advanced Submarine System Development [RDT&E, Navy, R–1, Line 61, PE#0603561N].

Advanced Submarine Support Equipment Program [Project #F0770] embedded within Submarine Tactical Warfare Systems [RDT&E, Navy, R–1, Line 62, PE#0603562N].

New Design SSN [Project #F2200] embedded within Ship Preliminary Design & Feasibility Studies [RDT&E, Navy, R–1, Line 63, PE#0603564N].

S9G Nuclear Propulsion Plant [Project #S2158] embedded within Advanced Nuclear Power Systems [RDT&E, Navy, R–1, Line 64, PE#0603570N].

New Design SSN [RDT&E, Navy, R–1, Line 125, PE#0604558N].

There is roughly $500 million for the NAS that we appropriated on the assumption that milestone I, and the beginning of demonstration and validation (dem/val), should and would be approved by the Defense Acquisition Board [DAB]. It is clear that milestone I for the *Centurion* should not be approved. If the DAB ignores the facts and approves dem/val anyway, it is incumbent upon Congress to recapture the funds we provided.

There are more sensible approaches to solving our submarine dilemma than the NAS. If the DAB doesn't take one of them, we should. Come January, when faced with the rescission bill, I will seek to redirect those funds currently earmarked for *Centurion*. The alternatives available are known to all. I will leave it to my colleagues to choose the wisest path once the fiscal year 1994 NAS funds are once again under our control.●

JIM HAMILTON: SOUTH CAROLINA'S PREMIER AVIATOR

● Mr. HOLLINGS. Mr. President, I rise to salute Jim Hamilton, my long-time friend and sometime pilot, on his selection as Aviator of the Year by the South Carolina Aviation Association.

Mr. President, this richly earned honor is the culmination of a truly distinguished career in public service and private enterprise. Jim Hamilton served in the U.S. Army as an aviator and paratrooper. For the last three decades, he has been president of Midlands Aviation Corp., in Columbia, SC, in which capacity he is widely recognized as the most respected aviator/businessman in our State. Jim was appointed to three 4-year terms on the South Carolina Aeronautics Commission and elected chairman of the commission twice. He also served two terms as president of the South Carolina Aviation Trades Association.

Jim is perhaps best known, however, for his extraordinary dedication and leadership in voluntary civic activities in the Columbia area. His special commitment is to the cause of promoting opportunities for retarded citizens. He has also done yeoman's work for other causes ranging from Habitat for Humanity to the American Cancer Society.

Mr. President, I deeply appreciate Jim Hamilton's many professional services and kindnesses to me down through the years. I congratulate him on being named South Carolina's Aviator of the Year for 1993.•

TRIBUTE TO DR. ARDIS D. HOVEN

• Mr. McCONNELL. Mr. President, over the years, Kentuckians have let me know that health care reform is among their top priorities. Mr. President, health care reform is now at the top of our national agenda, and as the Senate gears up to consider various reform proposals, I want to take an opportunity to recognize a new leader in Kentucky's efforts to meet its health care needs: Dr. Ardis D. Hoven, the 1993–94 president of the Kentucky Medical Association [KMA].

Dr. Hoven's career is clear testimony to her determination as a pioneer in medical care delivery. Based on her desire to provide quality service to her community, Dr. Hoven pursued a specialty in infectious disease at the University of Kentucky and the University of North Carolina—Chapel Hill. Dr. Hoven's career has focused on excellence in care delivery as well as an aggressive pursuit of continuing education. Mr. President, her leadership in the development of KMA's HIV/AIDS education and prevention policy exemplifies her talents as a facilitator and public health advocate. In accepting the historic honor of serving as KMA's first female president in its 143-year history, Dr. Hoven brings to her post a broad-based knowledge in medical care delivery and disease prevention.

Dr. Hoven's leadership comes at a time in Kentucky—and our Nation—when the call for comprehensive health care reform is at its crescendo. Her goals for KMA's role in this effort are precise—physicians must gain a basic, sound working knowledge of the fundamental issues impacting quality care; and reform should be based on patient advocacy and restoring care to our health care system.

Based on her parents' example as dedicated ministers to the needs of their community, Dr. Hoven is applying her talents as a consensus builder and medical professional to ensure Kentuckians are provided with total quality care, not a medical system fragmented by shortfalls in communication and choice.

Mr. President, I commend Dr. Hoven on her earnest dedication to the well-being of Kentucky's citizens through improved medical care, and I encourage my colleagues to keep these fundamental goals in mind as we work toward an effective, long-term plan for meeting America's extensive health care needs. Mr. President, I ask that a copy of Dr. Hoven's KMA acceptance speech appear in the RECORD following my remarks.

The speech follows:

INAUGURAL ADDRESS—ARDIS D. HOVEN, MD

Thank you for the honor bestowed upon me as the 143rd President of the Kentucky Medical Association. The opportunity for service to the profession of medicine and to my peers is a very important part of my professional career. I am truly grateful for the challenges and the experiences which will come from this endeavor.

I am also indebted to those physicians who have preceded me in this office. Their leadership has provided a clear blueprint from which those of us who follow may continue in the spirit of the Kentucky Medical Association and achieve the objectives and goals we feel so important in the practice of medicine and in the lives of our patients.

Today I choose to speak of advocacy and unity. Two simple concepts, but truly imperatives for the KMA as it moves into another year of deliberations regarding health care reform in this state and other issues requiring the initiatives of physicians in the local community and at the state level. KMA and the physicians of the Commonwealth have clearly declared their position on a variety of issues encompassed by health care reform. Dr. William Monnig in his inaugural address last year stated, and I quote, "The KMA is committed to meaningful health care reform. We can be a strong partner for those who want to create a cooperative process for health care reform." That commitment continues, along with the dedication to uphold the principles and ethics of the profession of medicine, and to dedicate ourselves to the best possible methods of practice and delivery of medical care in our state.

As we continue into this next year's agenda, I would suggest to you two measuring sticks or instruments by which we should evaluate and judge the elements being considered in the reform process:

Advocacy for our patients and all the people of the Commonwealth; and advocacy for the profession of medicine.

If the policies and procedures being considered do not meet our high standards in these two areas, we must boldly and candidly, but in the spirit of cooperation, speak out. We will repeatedly ask: "Does it meet adequately the needs of our patients?" and "Does it allow physicians to practice high quality, innovative medicine and provide comprehensive care?" Inherent, however, in this attitude is the willingness to consider new methods and concepts enabling us to continue to render care and not being fearful of change, if it is in the best interest of our patients and the profession. We must avoid fossilization of our innovative and creative capabilities.

The KMA has a healthy tradition of patient advocacy. Many issues, in addition to a very strong voice for meaningful and financially responsible health care reform, have over the past several years been important to the citizens of the Commonwealth. KMA has taken the leadership position in promoting preventive care and other lifesaving initiatives, both in the community and in the legislature; we have spoken about and become involved in community awareness and education regarding domestic and interpersonal violence; we have debated, educated and legislated issues centered around HIV disease and directed our attention to the issues surrounding the infected health care worker.

The Kentucky Physicians Care Program remains an extremely important component of our indigent health care initiatives. We, the physicians, have spoken strongly in favor of a strong and independent Board of Medical Licensure, and we have supported actively the impaired physicians program—all ultimately benefiting our patients. These are just a few examples of our advocacy role.

Clearly, health care reform will continue for us to be a major agenda item, probably for several years to come. An incredible amount of energy and intellect has already been applied to this process, and we will continue to work on the behalf of our patients and our profession. Our ability to render excellent quality medical care in a fiscally responsible environment will be of foremost concern as we deliberate the issues.

The Task Force on Health Care Reform has completed its subcommittee work; the reports have been filed. With the provider tax in litigation, we must move on to the current proposals emanating from the subcommittees. We as physicians and the Kentucky Medical Association do understand the fiscal issues necessary for health care reform. We likewise understand where the excesses are and what can be done to relieve the problems if given the opportunity legally and politically. Price-fixing historically has not worked and will not work in the arena of health care. Discriminatory rates of reimbursement for providers of health care have for a long time been opposed by organized medicine for obvious reasons. "Packaged" health care for rural Kentucky cannot be the same as it is for the more urban areas. Solid tort and liability reform in this state must take place in order for meaningful health care reform to progress. This past year we have benefited from strong and effective leadership. Dr. William Monnig in his role as President strongly and precisely stated and debated our positions and concerns. Dr. Russell Travis, as Chairman of the Board of Trustees, with a great wealth of knowledge led us cautiously through the maze of information and political activity and provided powerful insight into the problems ahead.

In his inaugural address as the 148th President of the American Medical Association, Dr. Joseph Painter spoke of three constants in medicine: The first—scientific excellence resulting in high quality care; the second—the patient/physician relationship which is the ethical cornerstone of our profession; the third—use of our problem-solving skills.

Those problem-solving skills which we use routinely and daily must be applied to health care reform with physicians as partners in the process. It is vitally important that we protect these three constants.

In June, Dr. James Todd at the opening session of the AMA House of Delegates stated, "Unity within our professional family is a key to the destiny of the house of medicine." Never before has the issue of unity among physicians and organized medicine been so important as it is now. There is simply no room for polarization or fragmentation. The problem-solving skills we all possess, our abilities to communicate with one another and our dedication to a very high and special calling should enable us cohesively and confidently to move forward. Henry Ford once said, "Don't find the fault, find a remedy." General George Patton pronounced, "If everyone is thinking alike, then somebody isn't thinking."

There is plenty of room under the tent for divergent views—we learn from one another.

There is adequate time for all to be heard and the issues debated—we must respect and consider all views and democratically resolve the problems. The democratic process is truly alive and well on the floor of the House of Delegates and in the reference committees of this our Annual Meeting—so vital to the life of organized medicine. I challenge all physicians to be involved constructively and to contribute in a meaningful way to the many initiatives being undertaken at the local community level and at the state level. One of my responsibilities to you as President of KMA will be to keep us all on our feet!

Repeatedly we hear that the medical profession has somewhat faltered in its objectives and the public's perception of us is not precisely as we would like it to be. This is a painful and sensitive issue, but nonetheless one we must confront. Why has this occurred? What messages do we truly deliver about ourselves as physicians and the medical profession as a whole? Dr. John Ring, Past President of the American Medical Association, defined medicine's professionalism as that dedication to competence, compassion, and moral accountability. We as individuals and as the Kentucky Medical Association must continue to carry these attributes as a banner for all to see.

Thank you for giving me the opportunity of serving you as President of the Kentucky Medical Association. I would be remiss if I did not tell you that as the first woman to hold this position, I am greatly honored and challenged to work diligently and effectively on your behalf. It is so important that as physicians we serve as role models and leaders to those who will come behind us. It is equally important that we leave them a legacy of committed service and solid foundations upon which they will continue the practice of medicine.

As we move into another year of intensive activity and committed endeavors on behalf of our patients and our profession, I ask for your support, your energies, your opinions, and your thoughtful ideas. I then ask of you that you commit to a strengthened and more powerful Kentucky Medical Association.•

THE NICKEL SOLUTION

• Mr. WOFFORD. Mr. President, the harmony and prosperity created by labor and management dedicated to the same goals and motivated by mutual need, understanding, and trust are the hallmarks of our economic system. I believe it is important to this Nation's economic well-being that we acknowledge when labor and management can come together with new ideas that lead not just to their benefit, but to the common good.

I am proud and honored to come before the Senate today to announce the 10-year anniversary of a partnership between American glass container workers and American glass container manufacturers. The partnership has been based on the need to save American jobs by promoting glass packaging. The solution was simple, but as with many great ideas, insightful. It has been each worker donating a nickel for every hour worked and industry matching the contribution. Through plant town promotions, glass awareness committees and other worker-funded programs the glass container industry's Industry-Union Glass Container Promotion Program or Nickel Solution has accomplished a great deal, not least of which is the creation of glass recycling infrastructure for our Nation. The program has enabled both labor and management to realize their goals of a more stable industry and secure employment.

We can do no less as a people than to shed a spotlight on this success story. A story, that if repeated in every industry, would make America stronger, more competitive, and a better place to raise our children. I ask my colleagues whether there can be a better goal for industry and labor.

Please join me in congratulating the two leaders of Nickel Solution, Mr. James E. Hatfield, international president of the Glass, Molders, Pottery, Plastics and Allied Workers International Union who had the vision to found the Nickel Solution a decade ago, and Mr. Larry Bankowski, president of the American Flint Glass Workers Union. Mr. Hatfield is one of my constituents and his union is headquartered in Media, PA. Mr. Bankowski's union also has many members in Pennsylvania. These gentlemen have proven my belief that labor and management can work together, and when they do, it is always good for America.

Mr. President, our distinguished Secretary of Labor, Mr. Robert Reich, has recognized this anniversary and enthusiastically congratulates the founders of the Nickel Solution. I ask that the Secretary's letter be entered in the RECORD.

The letter follows:

Hon. JAMES E. HATFIELD,
International President, Glass, Molders, Pottery, Plastics and Allied Workers International Union, Media, PA.

DEAR MR. HATFIELD: A nickel from the workers and a nickel from employers does add up to make a dime—that is, 10 years of productive partnership.

I enthusiastically congratulate the forces of labor and management in the glass container industry for their progressive steps in continuing the American tradition of support for productivity and job creation while maintaining an environmental consciousness to preserve our natural resources. Your union and its predecessor organizations have always been prescient in industrial progress, dating to Molders' president William Sylvis and his dream of high-performance producer cooperatives in the 1870s. Such efforts past and present, definitely illuminate the paths of progress citizens like yourselves are taking in the journey to American workplaces of the 21st century.

Best good wishes,

ROBERT B. REICH.

EXTENSION OF AUTHORIZATION OF THE THOMAS JEFFERSON COMMEMORATION COMMISSION

• Mr. WARNER. Mr. President, today I join along with my Virginia colleague, Senator ROBB, in sponsoring legislation to extend for 1 year the authorization of the Thomas Jefferson Commemoration Commission. This Commission was established by Congress with the mission to provide a focus for civic education on Jefferson's life, thought, and legacy.

Although the original legislation authorizing the Commission was enacted on August 17, 1992, the Commission was not fully appointed, nor was a chairperson named, until June 1993. The delay was largely a result of the change of administrations. However, due to this delay, the Commission was not able to fulfill its duties in the few months remaining under their original authorization. It is my hope that this extension will enable the Commission to complete the many worthwhile projects they have undertaken to stimulate thought and discussion about Jefferson's meaning for today and for the 21st century.

Saturday, April 13, 1993, marked the anniversary of the birthday of Thomas Jefferson. It is fitting that we introduce legislation honoring his contributions to the State of Virginia and our Nation in shaping the current structure of Federal and State government.

On April 13, 1743, Thomas Jefferson was born at Shadwell in Goochland—now Albemarle County, VA, the son of Peter Jefferson, a surveyor, and the former Jane Randolph, the daughter of perhaps the most distinguished family in the province. His father drew the first accurate map of Virginia in 1751, and established his mark in government as the burgess and county lieutenant. Thomas Jefferson inherited his father's fondness for the State of Virginia. Of the 10 children of Peter Jefferson, he left Thomas, the elder of his two sons, 2,750 acres of land and an established position in the community.

Few Presidents in the history of our country possessed the range of interests and intellect as Jefferson. He is regarded as a Renaissance man—accomplished in art, literature, law, science, music, language, government, philosophy, agriculture, mathematics, architecture, ethnology, and inventions. Jefferson was a statesman, ambassador, educator, writer, philosopher, architect, inventor, scientist, and musician. President Kennedy's remark to a group of Nobel prize winners, that so many distinguished persons had not been gathered in the White House since Jefferson dined alone, characterized the brilliance of him as a man schooled in all subjects and interested in all things.

Nature destined him to the sciences, Jefferson often said, but no careers were open to him to Virginia, and he took the path of law, studying under George Wythe, the most prominent law teacher of his generation. In 1767, he was admitted to the bar, at the age of 24. He led a highly successful law practice until the Revolution closed the courts. While he never practiced law again, his legal training and his attention to legal history, as well as of procedure, left a permanent impression on him and is reflected in his many writings—most notably as the author of the Declaration of Independence.

Jefferson's most important contribution to the Revolutionary debate was "A Summary View of the Rights of British America in 1774." He argued that Americans, as sons of expatriate Englishmen, possessed the same natural rights to govern themselves as their Saxon ancestors had exercised when they migrated to England from Germany. He was regarded as one of the Revolution's most articulate spokesmen, espousing the philosophies of the 18th century Enlightenment.

Following the Revolution, Jefferson returned to Virginia and to his seat in the reconstituted legislature and served until his election as Governor on June 1, 1779. He framed a bill for the purpose of moving the capital to Richmond, which included his preamble to the Virginia Constitution and provisions for public buildings. His plans for the State were never fully carried out, but he may properly be termed the "architect of Virginia government." He was responsible for the abolition of property laws that stemmed from feudalism and was a pioneer for establishing a complete system of public education, with elementary schools available to all.

From 1781 to 1783, Jefferson lived a private life and wrote his only book, "Notes on the State of Virginia," published in Paris, offering his opinions on a variety of subjects from slavery, geography, and science to the social and political life of 18th-century Virginia.

He returned to public service in June 1783 when he was elected as a delegate to Congress. He became a member of almost every important committee and drafted 31 State papers. Some of the most notable papers advocated establishing a decimal system of currency for the United States and a prohibition on slavery in all the western territory after 1800. He was also a major architect of American expansion and drafted papers to forbid the secession of any part of the western territory.

Jefferson resigned his position as President Washington's Secretary of State at the end of 1793, again determined to quit public life. But in 1796, the Republicans made him their Presidential candidate against John Adams. Losing by three electoral votes, Jefferson became Vice President. The chief significance of his service as Presiding Officer of the Senate lies in the fact that out of it emerged his "Manual of Parliamentary Procedure" in the U.S. Senate.

In 1798, Jefferson and James Madison prepared the Kentucky and Virginia resolutions in response to the Alien and Sedition Acts passed by the Federalist dominated Congress. These acts were used to stifle Democratic-Republican criticism of the Government. The resolutions advanced the theory of the Union as a compact among the several States, declared the Sedition Acts as unconstitutional and sought nullification. While the Sedition Acts were not repealed, the constitutional issue of State rights and Union expressed in the resolution of 1789 contributed to the resisting public clamor against the administration that led to its defeat at the polls in 1800.

On March 4, 1801, Jefferson became the third President of the United States. He defeated his opponent, Adams, in the electoral vote and his running mate, Aaron Burr, by 36 ballots in the House of Representatives after they received an equal number of votes. Jefferson's election marked the first means and powers of government, it sought to further peace, equality, and individual freedom. His greatest triumph came with his negotiating the Louisiana Purchase in 1803 for $11.25 million, thereby doubling the size of America with some 800,000 square miles.

Easily reelected in 1804, Jefferson encountered foreign and domestic troubles such as controlling an insurgency in the West and establishing an embargo on America's seagoing commerce. The embargo was ruinous to him and to many Virginia planters.

During his lifetime, Jefferson received American and international recognition as a man of learning. He was the president of the American Philosophical Society from 1797 to 1815. He received a gold medal from a French society for inventing the mouldboard plow which lifts, turns, and pulverizes soil with great efficiency—an invention to improve the resistance of a plow.

While Jefferson left no treatise on political philosophy, he was a passionate advocate of human liberty; he realized the value of the Union; he emphasized the importance of the States and of local agencies of government; and he anticipated the development of a dominant nation on the North American Continent. He is notable for being ahead of his time, a philosophical statesman rather than a political philosopher—"I am not an advocate for frequent changes in laws and constitutions. But laws and constitutions must go hand in hand with the progress of the human mind."

Jefferson died at Monticello on the 50th anniversary of the Declaration of Independence, July 4, 1826. He died believing that his debts would be paid, not realizing that Monticello would pass from the hands of his heirs forever. Jefferson believed in freedom of religion, government, thought, and speech. He said, "I have sworn upon the altar of God eternal hostility against every form of tyranny over the mind of man."

Jefferson's tombstone is inscribed with a simple epitaph he wrote for himself in remembrance of the things he left to the American people and not for his prestigious positions—"Here was buried Thomas Jefferson, author of the Declaration of American Independence, of the Statute of Virginia for religious freedom, and father of the University of Virginia."

Mr. President, Jefferson was truly one of the most remarkable and accomplished politicians of our Nation. The bill I am cosponsoring today with my Virginia colleague, Senator ROBB, would continue our tribute to our third President and honor his many contributions, both at home and abroad.•

SEATTLE ASIA PACIFIC ECONOMIC COOPERATION LEADERS MEETING

• Mr. JOHNSTON. This week has been an extraordinary week for trade, Mr. President. Much of our attention has focused on the North American Free-Trade Agreement [NAFTA], as is appropriate.

As important, however, are the discussions taking place right now in Seattle during the fifth annual ministerial meeting of the Asia Pacific Economic Cooperation, or APEC, forum. For the first time ever, this very important meeting will be followed by a meeting of the leaders of APEC participants, a thoughtful initiative announced by President Clinton last summer which I applaud.

Formed in 1989, on the initiative of Prime Minister Hawke of Australia, APEC is an important regional group which now includes 15 key Pacific rim actors: Australia, Brunei, Canada, the People's Republic of China, Hong Kong, Indonesia, Japan, Korea, Malaysia, New Zealand, the Philippines, Singapore, Chinese Taipei [Taiwan], Thailand, and the United States. Together these economies comprise almost half of the world's population, close to 60 percent of the world's gross domestic product and 40 percent of the world's trade.

The dynamic Pacific market has experienced remarkable growth over the last decade. Even with Japan's disappointing economic performance and the slower than hoped United States recovery in 1992, the weighted average growth rate for the region rose to 3.3 percent, from 2.6 percent in 1991. In large part, this is due to the growing economic diversity of the region, most notably, the emergence of multiple and diverse growth centers particularly in the ASEAN and China markets. This growth level is expected to increase to 4.2 percent in 1993, according to the Pacific Economic Cooperation Council, and to accelerate in 1994, in large part facilitated by growth in international trade.

The Asian/Pacific market is increasingly important to the United States.

United States total trade with Asian/Pacific rim nations increased 147.9 percent between 1981 and 1991. Trade with other major trading countries and blocs grew at a significantly lesser rate over this same period: With Canada, by 95 percent; with the European Community, by 91 percent, and with Latin America, by 56 percent. As a percentage of total United States trade with the world, United States total trade with the Asian/Pacific rim countries increased from 26 percent in 1981 to 36 percent in 1991.

Our exports to the Asian/Pacific rim countries rose 130.4 percent between 1981 and 1991 versus 92 percent for Canada, 84 percent for the European Community, and 51 percent for Latin America. U.S. manufactured exports tripled during this same period and accounted for over 75 percent of total U.S. exports to the region in 1991, compared by just under 62 percent in 1981.

At the same time, we continue to experience persistent trade imbalances with the Asian/Pacific rim area. From 1981 to 1991, the U.S. trade deficit with this region grew by over 230 percent, from $22.6 billion in 1981, to almost $75 billion in 1991. Fortunately, however, we have seen a decline in this deficit every year since 1987, when a record high $98.9 billion was recorded.

APEC offers the United States a forum for helping develop regional solutions to problems we have encountered, and in the long run for avoiding bilateral conflicts which too often in the past have led to tit-for-tat retaliation, in which all parties lose over the long run. It is my hope that the proposed Trade and Investment Framework will be adopted and create a regional forum and multilateral approach for increasing cooperation on key trade liberalization issues. Eventually, such a framework could result in concrete steps taken by all APEC parties in concert to reduce impediments and distortions affecting the flow of goods, services, capital, and technology, and reducing transaction costs affecting trade and investment flows.

With the end of the cold war, it is more important than ever that we explore every opportunity to develop institutionalized, multilateral forums for resolving potential trade disputes and regional economic issues. If our economy is to recover fully, and continue to grow in the next century, we must find ways to return to our roots as a nation of traders. More than half of the new jobs created in the United States in the late 1980's were the result of increased trade. Roughly 2.3 million good paying jobs in the United States depend on the $120 billion in annual merchandise exports to Asia, an area which grew as a percent of total United States exports to this area from almost 62 percent in 1983, to over 75 percent in 1991, and which by volume nearly tripled in that same period.

We can and must do more, however. Export job growth has improved, but our potential has not been fully met. If we remain outward looking in our approach to job creation, and take advantage of regional rather than strictly bilateral approaches, we can improve our performance record. The United States worker remains the most productive in the Asian/Pacific area and in key manufacturing sectors such as nonelectrical machinery, petroleum, stone, clay, and glass, United States productivity rates continued to grow more rapidly than elsewhere. Demand for many of these items is expected to continue throughout the Asian/Pacific rim area, particularly among the developing economies where infrastructure investment needs will continue to grow.

We can and must find regional institutionalized ways to coordinate policy positions and resolve differences so that we can benefit from these opportunities.

We cannot go it alone, in isolation from our other trading partners, unless we are willing to forsake these opportunities and the jobs they will create.

The President's initiative in calling for a leader's meeting this weekend will send an important political message that the United States is serious about staying fully engaged in the Asian/Pacific region, and doing so on the basis of mutual benefit and respect. I applaud the President for his efforts, and look forward to building on the foundation he has begun.

Several of my colleagues recently joined me in writing to the President to commend him on his emphasis on improving our economic and trade relations with Asia, and I ask unanimous consent that this letter be printed in full in the RECORD at the end of my remarks.

The letter follows:

U.S. SENATE,
Washington, DC, November 16, 1993.

Hon. BILL CLINTON,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: Our exports to the dynamic Asian market are vital to our continuing economic recovery. We are writing to commend your emphasis on our economic and trade relations with Asia, symbolized by your informal meeting with Asian leaders in Seattle on November 19 and 20.

This important informal discussion of future economic cooperation will do much to signal to our Asian friends that the United States is a reliable partner and will lay the foundation for the creation of thousands more high-paying export-related jobs in this country. Such a discussion in this forum will also reassure Asian leaders that we can avoid being mired down in contentious bilateral political issues and instead focus on how to encourage mutually beneficial trade and investment. As you predecessor, the late President John F. Kennedy, once said, "a rising tide lifts all boats." Robust economics in Asia and the United States helps everyone.

Your meeting will also send an important political message that the United States will remain fully engaged in the Asia-Pacific region but will do so based on the principles of mutual benefit and mutual respect. Your initiative to consult with Asian leaders on how to build a cooperative future is in the best tradition of American world leadership.

We wish you every success at the leader's meeting.

MITCH MCCONNELL.
DANIEL K. INOUYE.
J. BENNETT JOHNSTON.
KENT CONRAD.
JOHN B. BREAUX.
MAX BAUCUS.
SAM NUNN.
SLADE GORTON.•

NUCLEAR POWER, A NECESSARY OPTION FOR OUR ENERGY FUTURE

• Mr. WALLOP. Mr. President, my colleagues should know that America's nuclear energy industry is diligently working to ensure that the nuclear energy option remains a viable part of this country's energy mix.

At its November nuclear energy forum, the industry reported its progress in the strategic plan for building new nuclear power plants, which was initiated in 1990, and announced the implementation of its strategic plan for improved economic performance.

As the nuclear power industry continues to develop advanced, safe, and reliable reactors, the Federal Government has also recognized the nuclear power option through the passage of the National Energy Security Act of 1992. Though we have made progress in streamlining the Federal regulatory process, there is no guarantee that this administration is committed to developing nuclear power. The industry must, like a good sheep dog, keep pressing to ensure that the Government goes in the right direction.

The industry is to be commended for its plan for improved economics, realizing that the future of nuclear energy depends not only on new and improved reactor designs, but on continued safe and economic operations today.

Building on successes over the past several years—nuclear energy production costs have decreased on average by 4.4 percent from 1989 to 1991—the industry seeks to enhance safe and reliable operations through increased communications and shared operating experiences among utilities.

Mr. President, increasing numbers of U.S. nuclear energy facilities are joining the ranks of the world's top energy facilities. Through cooperation, operating experience at these world-class facilities can be shared and applied at all U.S. nuclear power plants. To be clear, the average cost per kilowatt-hour of electricity from nuclear energy is 2.16 cents. This compares competitively with coal-fired electricity at 1.98 cents per kilowatt-hour. However, considering that the 10 most economical nuclear energy plants generate electricity for less than 1.5 cents per kilowatt-hour, it is clear that a system to pool the best operating knowledge could significantly lower the cost of electricity to millions of American ratepayers.

Besides providing economically priced electricity, nuclear energy produces no air polluting emissions. In fact, as the second largest source of electricity in the United States, nuclear energy reduces sulfur dioxide emissions by 3.6 million tons a year, carbon dioxide by 500 million tons, nitrogen oxides by 2 million tons a year, a since 1973 it has displaced the burning of more than 4.6 billion barrels of oil.

Again, I commend the industry for presenting a forward-thinking plan. It should help ensure that nuclear energy can continue to meet much of the Nation's energy needs in a safe, economic, and environmentally sound fashion.•

S. 1288 THE NATIONAL AQUACULTURE DEPARTMENT, RESEARCH, AND PROMOTION ACT OF 1993

• Mr. AKAKA. Mr. President, let me begin by thanking Chairman LEAHY and his colleagues on the Agriculture Committee for favorably reporting S. 1288.

I want to thank Doug O'Brien and Michael Knipe of the Senate Agriculture Committee, as well as Shane Merz and Patrick McGarey of my personal staff, for their efforts to make this bill a reality.

Reauthorization of the National Aquaculture Act is important to Hawaii and the 29 other States that produce two dozen species of fish, shellfish, and aquatic plants for commercial production.

S. 1288 is a bill for aquaculture. The legislation is designed to promote Federal policies that will allow the United States to become more competitive in the expanding world market for aquaculture products.

S. 1288 addresses some of the most pressing needs of aquaculture farmers—credit assistance, disaster assistance, international production data, and improved policy coordination among Federal agencies. but the bill can best be summarized in a simple, three word statement: Aquaculture is agriculture.

For too long, aquaculture farmers have suffered from the lack of a clear governmentwide policy to promote this important sector of agriculture. Aquaculture has also been limited by an inability to participate in many of the farm programs available to dry-land agriculture. The time has come for the Federal Government to recognize that just because the crop you harvest has fins and gills instead of hoofs and horns, it is still agriculture, and you deserve to be treated just like any other farmer who works hard for a living.

Efforts to expand the U.S. aquaculture industry will not go unrewarded. The current U.S. trade deficit for seafood stands at $3.3 billion. If we could reduce our seafood trade deficit by one-third through expanded aquaculture production, we would create 25,000 new jobs. That is what this aquaculture bill is about—creating jobs and putting Americans to work in new, promising industries.

Nearly one-quarter of global seafood consumption will come from fish farming by the year 2000. Based on population projections and assuming stable wild fishery harvests, world aquaculture production must double by the end of this decease and increase sevenfold in the next 35 years to keep pace with rising demand for seafood. The question we must ask is whether U.S. aquaculture will share in this explosive growth.

S. 1288 was drafted with one basic principle in mind, namely, the bill should assist all acquaculture farmers equally. It would be wrong to promote any segment of the industry—whether it is marine or fresh water aquaculture farming, or a particular species of fish or shellfish—more than another.

The objective of this legislation is to reduce our annual trade deficit in edible seafood products and ensure that U.S. aquaculture achieves its world market potential in the decades ahead.

S. 1288 reauthorizes the National Aquaculture Act through 1995. The bill designates USDA as the lead Federal agency for the development, implementation, and coordination of national policy and programs for private aquaculture.•

CONGRATULATIONS TO KENTUCKY'S 3346TH U.S. ARMY DENTAL DETACHMENT

• Mr. McCONNELL. Mr. President, I rise today to pay tribute to the men and women of Kentucky's 3346th U.S. Army Dental Service Detachment. Based at Fort Knox, this unit's service during Operation Desert Storm/Desert Shield has earned them the Army Superior Unit Award, one of the Army's most elite peacetime unit honors.

The 3346th was called to service stateside during the gulf war, and mobilized in an unusual and experimental manner—members of the unit were sent all over the country to provide dental services at 24 different Army posts. Many dentists suffered severe damage to their personal dental practices as a result of prolonged absence.

During their deployment, no punitive or disciplinary actions were taken against any member of the unit. As a matter of fact, every member received a commendation, and two received Meritorious Service Medals.

Those who served should be proud of their service in support of our military efforts during the Persian Gulf war. I am proud of their dedication and resolve during this difficult and challenging mission.

The following are copies of the 3346th Army Superior Unit Award Citation, the Army's description of the unit's service, and a list of those who served in the unit during the mobilization and are authorized to wear the award. I ask that each of these be printed in the RECORD.

The material follows:

DEPARTMENT OF THE ARMY

This is to certify that the Army Superior Unit Award has been awarded to the 3346th United States Army Dental Service Detachment for meritorious performance of a difficult and challenging mission from 28 August 1990 to 27 August 1991.

ARMY SUPERIOR UNIT AWARD

By direction of the Secretary of the Army, the Army Superior Unit Award is awarded to: 3346th United States Army Dental Service Detachment for outstanding meritorious performance during peacetime of a difficult and challenging mission:

During the period of 28 August 1990 to 27 August 1991, the 3346th United States Army Dental Service Detachment distinguished itself by superior service while activated during Operations Desert Shield Storm. Mobilized as a unit to provide augmentation to Fort Knox, Kentucky, the 3346th United States Army Dental Service Detachment was tasked to fragment and provide individual augmentation to twenty-four different Health Services Command Dental Activities. This unit's effort contributed significantly to the successful accomplishment of the Health Services Command mission to mobilize the United States Army Reserve and sustain services at all Health Services Command Activities. The professionalism and superior performance of the unit was evidenced by one hundred percent of the unit being cited for exemplary duty, and its excellent disciplinary record. The 3346th United States Dental Service Detachments' performance of duty reflects great credit on the unit, the United States Army Reserves, Health Services Command, and the United States Army.

THE 3346TH U.S. ARMY DENTAL SERVICE DETACHMENT

The following is a list of soldiers assigned to the 3346th USA Dental Service Detachment that were activated for Operation Desert Shield/Storm and are authorized to wear the Army Superior Unit Award:

Spc. Albright, Cheryl Lynn.
Spc. Armstead, Melanie Renee.
Sgt. Arnett, Perry Jonathan.
Spc. Baker, Latoya Eunice.
Ssg. Basham, Linda Katherine.
Spc. Benford, Claude Robert.
Spc. Benjamin, Tonia Lynn.
Spc. Bennett, Douglas Freeman.
Sgt. Blain, Denola Delores.
Spc. Braswell, Steven L.
Ssg. Breese, Laura Lee.
Maj. Brents, Charles Edward.
Spc. Brooks, Ondrae Lamont.
1Lt. Brooks, Paul Cephus III.
Pfc. Buckner, Donna Michelle.
Spc. Bunner, Louis E.
Spc. Byerly, Joseph Leo.
Cpt. Carter, Kevin Bruce.
Sgt. Chleobowski, Dense M.
1Sg. Claywell, Calvin Leo.
Ltc. Cruise, Sidney Elliot.
Ltc. Day, Ordie Lee II.

Cpt. Escobar, Victor Hugo.
Maj. Feeley, Susan Burton.
Ltc. Feldman, Stephen Michael.
Sgt. Ferguson, Scott T.
Cpt. Florence, Franklin R. Jr.
Sgt. Gatza, Michael David.
Maj. Gholston, Lamont Ray.
Spc. Graham, Donald Wayne.
Cpt. Graves, Joseph A. III.
Sgt. Guillory, Ruth Ann.
Sgt. Hart, Kenny Wayne.
Maj. Hill, Joseph Lee.
Sgt. Hovis, Elizabeth.
Spc. Jessie, Michael Henry.
Ltc. Kimble, Michael Keith.
Col. King, William Peyton.
Spc. Lyons, Jacqueline Sherman.
Cpt. Lyvers, Joseph Darrell.
Spc. McCullough, Phyllis Ann.
Ssg. Miller, Candice Annette.
Cpt. Mitchell, Curtis Lee.
Spc. Moore, David Wayne.
Cpt. Nichols, John Thomas.
Ssg. Nix, Soon Suck.
Ssg. Peckinpaugh, Kim Marie.
Sgt. Phipps, Robyne Kay.
Maj. Quiroz, Tito Arturo.
Spc. Ramos, Monique B.
Spc. Reed, Cheryl Anne.
Sfc. Richardson, James Michael.
Maj. Riley, Susie Jackson.
Ssg. Robertson, Sonja Grace.
Spc. Robinson, Deborah D.
Spc. Rose, Guillermo Emanuel.
Ssg. Rundell, Catherine Agnes.
Cpt. Sanders, William Louden.
Cpt. Scalf, Stanley Thomas.
Spc. Schablik, Timothy James.
Pfc. Semernezski, Lillian.
Ltc. Skeeters, Thomas Milton.
Col. Skidmore, Hugh Philip, Jr.
Col. Slone, Clinard Coleman.
Sgt. Slusher, Morra Dawn.
Spc. Strong, Shelley Renee.
Ltc. Thompson, Harry Patrick.
Spc. Turner, Philip Joe II.
Maj. Walker, Joseph Patrick.
Spc. Wallace, Eric L.
Cpt. Waton, Keith Brian.
Spc. Wesley, Alfred Leon.
Maj. Wettig, Philip Clark.
Spc. Williams, Linda C.
Sgt. Yancey, Lucille Lynn.●

CELEBRATION OF THE CENTENNIAL ANNIVERSARY OF SOUTHERN CONNECTICUT STATE UNIVERSITY

● Mr. LIEBERMAN. Mr. President, I rise today to commemorate the 100th anniversary of Southern Connecticut State University, one of the leading academic institutions in my State. Over the years, the university has provided quality, multifaceted, and affordable higher education to many students, both from Connecticut and out-of-State. Southern was established in 1893 as a normal school with 85 students and 3 teachers. Today the university is comprised of 6 academic schools serving approximately 13,000 students. Students are offered 150 different subject areas to study and explore, providing a diversified, well-rounded education. Southern provides an excellent, affordable education to so many students who may not otherwise have the chance to earn a college or graduate degree.

Throughout its history, Southern Connecticut has used the dynamic city of New Haven as a classroom. Field trips and volunteer internships with various city and State agencies are an integral part of the Southern education. These opportunities give students a chance to study the real world, while at the same time providing New Haven with an invaluable asset—the enthusiasm of student willing and eager to lend their energy and idealism.

Southern has produced some of the best and brightest minds serving New Haven and the State of Connecticut. I sincerely wish to thank and congratulate Southern Connecticut State for its 100 years of providing education and service to Connecticut. I know that the school will continue to thrive and flourish through the next 100 years.

At this time, I would also like to congratulate the New Haven Symphony Orchestra on its centennial anniversary. For 100 years the symphony has delighted and soothed the hearts and souls of New Haven. May the next 100 years be as musical as the first.●

FRANK SUMNER SMITH, JR.: PROFILE IN HUMANITARIAN SERVICE

● Mr. HOLLINGS. Mr. President, I rise to congratulate Frank Sumner Smith, Jr., on being named recipient last month of the 1993 Distinguished Humanitarian Award by the Richland Memorial Hospital Foundation.

Mr. President, this prestigious honor has been richly earned by Frank Smith. Across three decades of voluntary service, Frank has provided outstanding leadership to Richland Memorial Hospital in a variety of capacities. His vision, stewardship, and dedication have been invaluable in the emergence of Richland Memorial as a nationally recognized regional community and teaching hospital.

As a Richland County Council member in the 1960's, Frank took a special interest in Richland Memorial and was instrumental in moving it to its current site. In 1971, he was appointed to the hospital's board of trustees. He subsequently served as chairman of the board, as treasurer, and as a key fundraiser for the hospital's Center for Cancer Treatment and Research. He currently chairs the campaign to expand and renovate Richland Memorial's Children's Emergency/Trauma Center.

Mr. President, Frank Smith has been a tremendous friend and supporter for many years. I have the greatest respect for his leadership at Richland Memorial and in the larger Columbia community. I congratulate him for this latest honor.●

IN RECOGNITION OF BANDON HIGH SCHOOL

● Mr. HATFIELD. Mr. President, I would like to take a moment to recognize the accomplishments of a special group of Oregonians. The Bandon High School football team, though one of the smallest in the State, is one of the best. Last month, the team won their second league championship in 3 years. Several games, in fact, have had to be stopped, in accordance with league rules, when Bandon led their opponents by 45 points. This is truly an outstanding team.

But this is not just a story of skillful athletics. My State, as are many of my colleagues' home States, is grappling with a severely limited budget. Funding for athletic and other extracurricular activities is often the first to go as our school districts trim expenditures. Despite these limitations, however, Bandon High School's program remains a bright spot in our otherwise grim situation.

The Bandon High School team persists in spite of its loss of State funds. The school provides transportation to and from away games, but the rest is left to helpful and dedicated fans of the team who run concession stands and hold other events to raise money for the team. Other supporters pack sack lunches for the players for their away games. Special recognition should go to the teams's skillful coach, Don Markham, and his wife Linda, who both work tremendously hard to see the team succeed. The devoted efforts of the community to keep their football program alive, and to boost it to tremendous success, deserves our recognition and praise. Schools truly draw communities together. I know of few better examples that that of Bandon High School.

I offer my heartfelt congratulations to the team this season, and in the seasons to come. The team, the school, and the community are truly a class act.●

REMARKS OF REV. FRANCE A. DAVIS

● Mr. BENNETT. Mr. President, on November 5 of this year I attended a Humanities Award Council Awards ceremony in Salt Lake.

The principal speaker was the Rev. France Davis, pastor of Calvary Baptist Church, and I was impressed by the wisdom and timeliness of his words. If there is any doubt regarding the value of the family as the firm basis of our moral and spiritual foundation, Reverend Davis' examples should put it to rest. His comments give me great hope, and I commend his speech to all and ask that it be included at this point in the RECORD.

The comments follow:

HUMANITIES AWARD COUNCIL AWARDS CEREMONY SPEECH BY FRANCE A. DAVIS

To Governor Leavitt in his absence, the Utah Endowment for the Humanities Board, Mr. Oswald, ladies and gentleman. You both honor and humble me by this 1993 Governor's Award in the Humanities. Please accept my sincere thanks and appreciation for the tribute paid to me, but no doubt owed to my lovely wife, Willene, my family, and the Calvary Baptist Church congregation. Since coming to this community in 1972, I have learned to enjoy it, especially the unique opportunities to speak and share all across the state. The endowment has made so much possible. Thanks!

GEMS OF LIFE

Permit me to share just a few of the gems that have made so much difference in my life. For my life, my work, and my commitment have been shaped by the history, the religion and philosophy, the tools of communication, the teacher and preacher that are in me, and the special people with which I have interacted. These highlights of my experience, my training, my examples, and my choices represent the foundation upon which the journey of my life has progressed.

Home Training

I was born next to the last of nine children and reared on a Georgia farm during the days of so-called "separate-but-equal." Schooling through my first college experience at Tuskegee took place at all black organizations. Although many around us had more, we never wanted for any need. We lived with strong bonds to extended family and enjoyed being with each other. The neighbors, the church folks, the school teachers, and everybody else cared about our welfare as if we were their own flesh and blood.

My earliest memory goes back to my parents who combined reading with strong religious training. I shall never forget how unfair I thought it was that the community children played outside after Sunday Worship while we sat around to my father read biblical passages such as Psalm 23. He had no more than a third grade formal education, yet sparked my interest in what I now know as the humanities.

High Achievement Model

The first gem that I have held on to all these years is a model of high achievement. While my parents did alright with their limited learning and limited opportunity, the encouraged us to do and be better. There would be no excuse for us not learning more, reaching higher, or taking advantage of the opportunity that would knock at our door. Furthermore, we were never to think of ourselves as "less than" or adopt a "can't do" attitude.

They passed this on to us through poetry such as Langston Hughes' "Mother to Son":

Well, son, I'll tell you'
Life for me ain't been no crystal stair.
It's had tacks in it,
And splinters,
And boards torn up,
And places with no carpet on the floor—
Bare.
But all the time
I'se been a-climbin' on,
And reaching' landin's,
And turnin' corners,
And sometimes goin' in the dark
Where there ain't been no light.
So boy, don't you turn back
Don't you set down on the steps
'Cause you finds it's kinder hard.
Don't you fall now—
For I'se still goin', honey'
I'se still climbin',
And life for me ain't been no crystal stair.

When complaining about the back breaking farm labor, my parents responded with proverbial sayings: "Hard work never hurt or killed anybody," and "If at first a task's begun, never wait until it's done. Be the labor great or small, do it well or not at all."

The Best of Whatever You Are

A second gem passed on to us was to be the best of whatever we were. In short, excellence was to be the measure of success. We were reminded that the race was not given to the swift nor to the strong, but to those who held out and endured until the end (Ecclesiastes 9:11). The choice of career and/or work was left to each individual but doing a good job was a family standard. I can still hear my parents drilling into us: "Be what you is and not what you ain't, 'cause if you ain't what you is, then you is what you ain't."

In simple terms, the advice was to let your talk be matched by your walk.

Listen Before You Act

Thirdly, my parents taught us to never take the cat by the tail and run off half-cocked. In these 1990's, we live in an information driven society with collections and volumes of data exploding everywhere. Our task is to do as Bill Crosby instructed the ball player: "Throw the ball! Pick it up first!" Know what you are doing before you attempt to do it. Think twice before you speak or act. Consider the facts and the cost. Look at the issue from the other point of view. That's the best way to learn how to appreciate and celebrate diversity. For variety is indeed the spice of life.

Grasshoppers In Our Own Sight

With these gems, I have made every effort to draw on history and philosophy to inform life. I have sought to communicate and teach in organized classrooms as well as the larger community. You might say, the humanities with special people like Vincent Harding, Quency Troupe, Henry Mitchell, James Cone, and Howard Thurman have been the heart of my upbringing and experience.

Thus, to focus on the enemy is to be so distracted that you miss the mark. The bible tells of twelve spies who went to check out the Promised Land. Ten of them returned reporting giants too powerful to overcome and that they saw themselves as grasshoppers. The other two, with a minority report, acknowledged the giants but saw the clusters of grapes ripe with possibilities. They were convinced the giants provided no sufficient reason to cause them to give up.

Similarly, the apostle Peter went water walking and did not sink until he became distracted by the storm raging around him. In due time, he cried out for help and The Master came to his rescue. Nina Walter wrote "Shallow Pools" to remind us of the possibilities:

Our minds
Are little pools
Shallow rain pools;
And yet, sometimes they do reflect
The stars.

We must never settle for being grasshoppers in our own eyes or the eyes of others. For to focus on the obstacles sets us up for failure. It is only to the degree that we keep our eyes on the mark of the higher calling that we, as Mahalia Jackson sang, can "Move On Up A Little Higher."

Thus, my goal is to be the best of whatever I am, to fear the living God, to serve people, and to live an exemplary life. Let me encourage you to aim for the sky, and if you fall short you will still land among the stars.

Hold fast to dreams
For if dreams die
Life is a broken-winged bird
That cannot fly.

Hold fast to dreams
For when dreams go
Life is a barren field
Frozen with snow.

"Dreams" by Langston Hughes.●

WE NEED BOLD THINKING ON HEALTH CARE TAX POLICY

● Mr. DURENBERGER. Mr. President, the debate over health care reform has called forth a great deal of creative thinking about the very foundations of our national health care policy. And that is as it should be. We need to question the obvious, to reconsider conventional wisdom, as we plan to restructure one of the largest segments of our economy, and one that affects every American.

Professor Michael Graetz of Yale University is both an eminent tax law and tax policy academician and an individual with significant practical experience, who served as Deputy Assistant Secretary of the Treasury for Tax Policy in the Bush administration.

Professor Graetz recently published an article in Tax Notes suggesting—in the context of an attack on the employer mandate provisions of the Clinton health care plan—that we rethink the tax policies that underlie our health care policies.

Right now we allow expenditures on health insurance to be deducted—or excluded—from taxable income without limit. The Breaux/Durenberger managed Competition Act would limit that deduction to a reasonable sum, based on the costs of health care coverage in the community—as will the Senate Republican plan. We provide those tax caps as part of our effort to introduce economic incentive market forces into the individual's health care decisions. On the other hand, the Clinton plan does not limit the deduction for insurance; here, as elsewhere, it relies primarily on regulatory forces—global and alliance-specific budgets—to hold down expenditures.

Professor Graetz has provocatively suggested that an appropriate avenue for us to pursue is the provision of a tax credit, rather than a tax deduction, for insurance costs and other health expenditures. This is a useful contribution that forces us to focus on the fact that a deduction is worth more to a person in a high tax bracket than one in a low tax bracket, or who does not pay taxes at all.

In may view, in a world of guaranteed access to health care at reasonable prices—with benefits available that would eliminate both the fear and the reality of catastrophic expenses—one may well ask whether health benefits need special treatment under the tax system, other than as an efficient way to deliver subsidies for those benefits to those who ought to receive them.

Our work on these questions is aided by Professor Graetz's comments, and I ask that they be printed at this point in the RECORD for the benefit of my colleagues.

The comments follow:

[From Tax Notes, Sept. 1993]

MANDATING EMPLOYER HEALTH COVERAGE: THE BIG MISTAKE

(By Michael J. Graetz)

My message here is simple. First, universal health insurance, like universal auto accident insurance, requires that coverage be mandated. Second, many current proposals either fail to face the mandate issue or, as in President Clinton's proposals, put the mandate in the wrong place: on employers. Both of these alternatives increase the danger of our stumbling into major health care reforms that in the long run will fail to provide the secure, portable, adequate, universal, and reasonably priced medical care that we all want.

In my view, the impetus for employer-mandated health coverage is not grounded in a vision of appropriate delivery of health insurance coverage, but rather in concerns for maintaining existing sources of health insurance financing and the attendant political need to minimize tax increases or new taxes to finance health reform. If ensuring that some specified level of health care insurance coverage is provided to everyone is the government's responsibility, like providing roads or sidewalks, parks and libraries, and elementary and secondary education, it is simply bizarre public policy to link the right to health care coverage to employment and then fill in gaps for those who work for small businesses or are unemployed or retired. The only reason for linking health coverage to employment is that employment now provides much such coverage, and no one is willing to challenge that status quo. In other words, employer mandates have far less to do with where we wish to take health reform than with where we are now and where we have been.

HOW DID WE GET HERE?

The current failing health care financing apparatus in the United States has resulted from a series of incremental policy decisions that have had little or nothing to do with the development of a coherent national health system. Employer-provided health coverage received an important stimulus from the exemption of such fringe benefits from the wage and price controls of the 1940s. This exemption allowed employers to pay their employees additional fringe benefits when they were barred from increasing cash wages.

The falling health care financing apparatus in the United States has resulted from a series of incremental policy decisions that have had little or nothing to do with the development of a coherent national health system.

An enduring further boost was provided by the income and Social Security and tax exemptions for recipients of employer-provided health insurance. These exemptions became more valuable due to the income tax bracket creep and Social Security tax rate increases of recent decades. Today, the combined federal tax rate (including the individual income tax and the employer and employee shares of Social Security and Medicare taxes) on the median worker is about 30 percent, down from a 1982 high of nearly 40 percent, but much higher than the 17-percent rate of 1965.[1] State income taxes, with top rates as high as 12 percent, also typically exempt employer-provided health insurance. Because of the tax advantages, employers find that about 65 cents of additional health coverage is worth as much as a dollar of cash wages for most of their employees, and, as a result, have preferred paying additional wages in the form of expanded health benefits. By the same token, union negotiators have found it easier to negotiate increases in health benefits than greater cash wages for their members.

The Employment Retirement Security Act of 1974 (ERISA), which was concerned principally with protecting employees' pension benefits, made employers' self-insurance of their employees' health benefits particularly desirable through a little noticed and undebated provision that insulated employer self-insurance plans from state premium taxes and regulations. Recent court interpretations of this "preemption" provision have broadly extended self-insuring employers' protections to permit many self-insurers to avoid contributing to state health insurance reform programs. One additional unforeseen consequence of the ERISA incentives for employer self insurance is that employers and their employees—rather than insurance companies—have borne a greater share of the burden of escalating health care costs. More than one-half of the increase in average employees' real wages during the period 1974 to 1989 took the form of increases in the costs of health benefits.

More than one-half of the increase in average employees' real wages during the period 1974 to 1989 took the form of increases in the costs of health benefits.

While uneven and often unfair in their effects, these various tax and other incentives for employer health coverage have enjoyed a degree of success. Today, employers provide health insurance to about 60 percent of the U.S. population and contribute more than $200 billion toward health insurance coverage of their employees. The employees themselves pay directly more than an additional $50 billion for their coverage and that of their families. The income and Social Security tax revenue that the government loses due to compensation taking this form rather than cash wages has been estimated to amount to about $65 billion this year.

But the days when this nation could rely on voluntary employer provision of health insurance as the backbone of health care finance are now past. The escalation of health care costs—coupled with increasing job mobility and insecurity and efforts of insurers and employers alike to reduce costs by selecting people with low risks or eliminating coverage for people when they become unhealthy—has made health insurance coverage a major financial concern for virtually all Americans. Fears that employers will drop or reduce health insurance coverage are rampant, and having a good job no longer means having good, or even any, health insurance coverage, if it ever did.

WHY A MANDATE IS NECESSARY

I have argued elsewhere that reliance on a voluntary tax-incentive-based private pension system to ensure retirement security is problematic,[2] and even now two decades after ERISA increased employees' security through vesting, funding, and other requirements, many employees do not get the retirement benefits they had reasonably expected. But reliance on voluntary provision of health insurance is far more risky. The mandatory Social Security system guarantees a minimum level of retirement income security for both retirees and disabled employees, while, by comparison, only Medicaid and mandatory free hospital emergency room care cushion the lack of health insurance coverage.

In principle at least, virtually everyone prefers solutions to problems that emerge through voluntary, rather than government-coerced, behavior. But in this case, it would be ineffective and expensive to depend on voluntary behavior. In the current voluntary employer-based financing system, health insurance tax incentives must be large enough to encourage employers to provide health insurance they would not otherwise buy, or else they are simply a waste of government largess and totally without merit. But whenever they actually encourage such purchases at the margin, they also reward people for conduct they would have undertaken in any event. Tax policy wonks, to use the Clintonese appellation, call this "buying the base." Normal people call it throwing money away.

If we are really serious about universal health insurance as a fundamental goal of health care reform, if we really mean everyone when we say "universal," then a government requirement—a mandate—to purchase health insurance seems inevitable. Many young healthy people regard the purchase of health insurance as a bad deal now, and the forthcoming community rating of the health insurance market, which will bar insurers from taking the good health as well as the bad of their applicants into account in setting premiums, will mean that healthy people will have to pay more for health insurance than their own health risks would warrant in an unregulated market (although some of this additional cost may be offset by the purchasing power of the health alliance or other entity purchasing large quantities of insurance). If we are going to spread the financial risks of poor health across the whole populace, then coverage will have to be mandatory.

Moreover, the existence of the medical safety net—porous as it is—demands mandatory health insurance coverage. Otherwise, people who experience remote risks but expensive costs of bad health will be paid for not through their own insurance, but instead through shifting these costs onto the insurance of others.

Mandatory health insurance should be a part of any reform, whether it is so-called managed competition, which would rely on large purchasing cooperatives to bring health costs under control; or a Canadian-style single-payer system, or some hybrid. To be sure, a mandate would have to be accompanied by subsidies for the poor, many of the disabled and elderly, the unemployed, and at least a very large number of middle-income families. But this pattern of subvention would not be new in our financing of health care; federal, state, and local governments now pay large subsidies for each of these groups, albeit in a haphazard and often uncoordinated way.

However, neither the wisdom nor the inevitability of a mandate has been accepted by many of the key players in the health reform debate. The health care reform strategy preferred by members of the Conservative Democratic Forum, led by Rep. Jim Cooper, D-Tenn., and the plan advanced by President Bush in 1992, which reflected a consensus among a significant number of House and Senate Republicans, would rely on community rating and the creation of large purchasing cooperatives required to take all comers to make health insurance sufficiently affordable; both reform packages would provide that coverage is voluntary, not mandatory. In contrast, the Senate Republican Health Care Task Force, chaired by Sen. John H. Chafee, R-R.I., has proposed phasing in a requirement that all individuals obtain health insurance, and President Clinton has called for mandating that employers provide coverage to their employees and that others obtain health insurance coverage.

WHY AN EMPLOYER MANDATE WOULD BE A BIG MISTAKE

Many key political actors seem to have accepted the view that a mandate is necessary to make health reform work, but have chosen to mandate employers to provide health insurance coverage for their employees. This group includes President Clinton, the Pepper Commission, the Chairman of the House Committee on Ways and Means, and many other House and Senate Democrats who have either explicitly endorsed an employer mandate or embraced its cousin, a play-or-pay system that mandates employer coverage either directly or through a payroll tax. Under play-or-pay, employers will choose to play—that is, to provide health coverage directly to their employees—if the level of the pay requirement is set high enough. On the other hand, if the pay requirement is set at a very low level, play-or-pay will induce many employers to abandon direct coverage in favor of government-provided health insurance.

For those mostly large employers who are already providing health coverage to their employees, there is, of course, little burden associated with a requirement to provide a standard package of health insurance benefits; all such a requirement would mean is that these firms would not be permitted to drop coverage below the level of the government's mandate. For most large employers, this restriction would be unlikely to chafe (unless their tax deductions for health coverage were limited) because the coverage they now provide is at least equal to, and often better than, the likely level of mandated coverage. On the other hand, for small businesses, who do not now provide their employees with health insurance, mandated coverage would substantially increase the costs both of keeping the employees they now have and of hiring new ones.

Again, there is more than one way to understand the thinking of those who support employer mandates. They may have concluded that health insurance coverage ought to be provided through employment and should be regarded as a fundamental obligation of employers to their employees—even when compared to a higher cash wage. (As I suggested earlier, one should wonder, of course, how this view distinguishes health care from, say housing, education, Social Security retirement benefits, or other "benefits" that could be employer-based.) Alternatively, they could have determined that current circumstances—in which employers provide and finance the bulk of adequate health insurance for the nonelderly population—demand that we preserve the health insurance base that we already have by prohibiting employers from abandoning existing employee coverage. Presumably, a notion of equity among employers—the idealized "level playing field," whatever that might mean here, given the inevitability in an employer-mandate system of providing some employers—principally small businesses—with government subsidies to enable them to fulfill their mandate—and the quest for universal coverage move them to require that other employers also provide equivalent health coverage for their employees.

The consequences of an employer mandate, however, would be quite difference from a requirement that all individuals or families obtain health insurance coverage. For those employers who wish to circumvent such a mandate, there could be incentives to use part-time workers (depending on how the mandate is structured)—and there certainly would be incentives to use temporary help, to substitute overtime for additional hiring, to engage in cash transactions off the books, and to classify workers as independent contractors rather than employees.

The adverse consequences of employer mandates would be harshest for marginal employees and marginal businesses. Often Congress attempts to avoid some of these adverse consequences of mandates by creating exemptions. For example, the Family Leave Act, enacted earlier this year, covers only employees who have been employed by the same employer for at least 12 months and have worked at least 1,250 hours in the 12-month period, and it completely exempts small businesses, defined as those that employ 50 or fewer people within a 75-mile radius. However, exceptions of this sort are simply not possible in the context of health care reform, if the goal of universal coverage is to be met. Indeed, the percentage of employees lacking health coverage is much higher in smaller firms than in larger ones—and there are roughly four million small businesses with 50 or fewer employees.

This means that an employer mandate will raise costs of hiring and retaining workers most for small businesses, which, of course, would attempt to lower cash wages or reduce the number of employees. Thus, an employer mandate would almost certainly be accompanied by some new subsidy for small or marginal businesses—additional charges on the Treasury that seem unlikely either to be well-targeted or equitable. For example, subsidies based solely on the size of the business—whether in terms of numbers of employees, assets, or receipts—would not distinguish those able to afford the additional costs of employer-mandated health coverage from those less able. Adding a requirement that a business demonstrate need would increase administrative costs and probably require a bureaucracy for adjudication. Subsidies based on the average wage levels of employees, which would be more generous for business with lower average wages, might be somewhat better targeted on the whole—inasmuch as a mandate by buy a standard health insurance package for each employee might be viewed as equivalent to an increase in the required minimum wage—but precisely because it would use averages, would still be inefficient and inequitable. Only adjusting the amount of the subsidy on the basis of each worker's income would address these problems, but individualizing the subsidy to each employee's need would convert the subsidies from employer-based payments to individual subsidies that seem incompatible and administratively difficult to coordinate with an employer mandate.

The fundamental problem is that we are not designing a health care delivery or financing system from scratch, but rather are trying to make substantial improvements in what we have now and to do so in a manner that does not either transfer unwarranted windfalls to people or firms or impose undue or inequitable burdens on them. The goal is to capture existing sources of finance of health insurance—and, as I indicated earlier, employment-based contributions for health care coverage constitute more than $250 billion of this total—and to minimize any new taxes needed to make health coverage universal. Put this way, what we are confronting is the familiar, but nevertheless difficult, issue of transition from one public policy—one set of institutional arrangements—to another. Recognizing this to be a transitional issue, however, demands that we address explicitly the questions of where we are heading and where we want to end up.

The enactment of employer mandates in this round of health reform would make it far more likely that we will forever have a health insurance delivery system tied to employment, rather than a system in which one's health insurance coverage is independent of where or for whom one works. If workers change jobs an average of eight times in their working lives, as has recently been suggested by the Secretary of Labor, and if we are serious about disengaging health coverage from job lock or job changes, moving in the direction of an employer mandate seems a very bad prescription, indeed.

As I indicated earlier, the provision of health insurance by employers largely resulted from wage and price control rules and tax incentives; today, only the latter remain important. The current tax system subsidizes employer-provided health insurance and greatly favors it over coverage that people purchase for themselves. If health insurance is provided by an employer, the costs—including those borne by the employee, if the employer has a so-called cafeteria plan—can be excluded from both income and Social Security taxes. By contrast, health insurance that individuals or families purchase for themselves almost always must be paid for with after-tax dollars—except for the self-employed, who have been allowed to deduct 25 percent of the costs of health insurance and, under the Clinton proposals, would be permitted to deduct 100 percent. The tax system serves, therefore, as a powerful inducement for employers to provide health insurance directly to their employees, rather than paying cash wages and letting the employee purchase his or her own health insurance. The current tax benefit is, of course, worth more to people in higher tax brackets and those who receive greater health benefits from their employers. Thus, the subsidy cannot be defended on grounds of equity.

A DIRECTION FOR CHANGE

The truth is that we will never wean ourselves from a system of employer-provided health insurance unless the tax incentives for health insurance are dramatically revised, and that will be no easy task. But if such change ever is to be accomplished, it should be done now, while the nation is setting a new course for the delivery and financing of health care. The failure to change direction in this round of reform will only lock us further into the existing system.

We will never wean ourselves from a system of employer-provided health insurance unless the tax incentives for health insurance are dramatically revised.

What we need to do is to redesign our system of public subsidies to create a fair and effective system that facilitates mandated purchases of health insurance for all American families. To the extent that employers want to purchase or finance health insurance for their employees, the system should be flexible enough to accommodate and even facilitate their taking on those roles. But individuals, not employers, should have the legal responsibility for obtaining health insurance.

An essential step in moving to such a system is to phase out the current tax exclusions for employer-provided health insurance and to replace them with a taxable tax credit or voucher for the purchase of health insurance. Treating the revenues lost due to payroll and income tax exclusions for employer-provided health coverage as a government expenditure, C. Eugene Steuerle has estimated that is 1992, the federal, state, and local governments accounted for about one-half of total U.S. expenditures on health care—nearly $400 billion, an average of $4,000 for each of the 100 million U.S. households. An additional $150 billion was contributed by employers (or, more accurately, in real economic terms, by employees in the form of lower cash wages), and nearly $200 billion more was spent out-of-pocket by individuals for a total of about $750 billion.[1]

A standard health insurance package that covers all medically necessary or appropriate health care (but not long-term care, cosmetic surgery, or unlimited mental health benefits) is estimated to cost about $2,000 per capita or about $5,250 for an average family, a total of about $525 billion for the entire U.S. population. A more generous $3,000 per capita policy would total about $800 billion. Community rating requirements and reform of health insurance markets (in the Clinton plan, through the creation of HIPCS or health alliances) means that individuals with chronic illnesses or preexisting conditions would not have to pay more for their health insurance and that individuals would enjoy the same economies of aggregation into large purchasing units that are now generally only possible for very large employers.

Within the existing system there is enough money to fund a standard package of insurance coverage for all Americans, including an equitable and even generous system of tax credits.

These figures—approximate though they may be—suggest that within the existing system there is enough money to fund a standard package of insurance coverage for all Americans, including an equitable and even generous system of tax credits. This means that with enough reshuffling of existing expenditures, additional government financing may not be necessary. In any case, however, it is essential to make much more effective use of the revenues that current subsidies cost the government. The political trick—and no one should underestimate how great a trick it is—is to manage the transition from the system we now have to the system of individually based universal coverage I have proposed.

Tax credits or vouchers should serve as the mechanisms for facilitating the purchase of health insurance for those who are currently uninsured. Ideally, as we move toward a unified, individually based system of universal health insurance coverage, per-capita tax credits or vouchers would also replace the current Medicaid program for acute care of the poor. To maintain the existing financial division between the federal government and the states, state governments would have to help finance tax credits for those now receiving such coverage through Medicaid. Over time, such credits might also substitute for the subsidies now provided for the voluntary physician coverage (Part B) of Medicare.

These tax credits or vouchers should be transferable to employers, insurers, health insurance purchasing cooperatives (or "health alliances"), or health provider networks for the purchase of health coverage. To reduce windfalls to those employers who are now providing health coverage for their employees, for some period of transition, employees could be required to maintain their current efforts. Such a maintenance-of-effort requirement should be structured in a manner that allows, or even encourages, employers to substitute cash wages for health insurance coverage as individual tax credits are phased in. A maintenance-of-effort requirement of this sort could prove quite difficult to enforce, but the potential denial of otherwise available tax deductions could be used to help to induce compliance. Similarly, the potential denial of tax deductions or tax credits, or the imposition of a special excise tax, could be used as tools for enforcing the individual mandate to obtain health coverage.

To ensure universal health insurance coverage, the system of tax credits or vouchers should be designed to finance fully the purchase of a standard package of health insurance benefits for people at the poverty level and to decline gradually as the family's income rises. It is essential that this be a gradual reduction, both to ensure the financial capacities of families only slightly above the poverty level (those, for example, with incomes of up to 200 percent of the poverty line) and to minimize increases in marginal tax rates due to phasing-down of the credits as incomes rise. As recent analyses of the taxation of Social Security benefits or Part B Medicare (physicians's services) subsidies for high-income people have demonstrated, it is important in designing an equitable universally available government subsidy that the subsidy be includable in the taxable income of recipients to avoid giving greater net benefits to high-income people. To guarantee the universality of this financing program and avoid the political pitfalls of limiting the availability of its benefits to those who meet some means test while, at the same time unduly increasing the tax burdens of those who currently enjoy employer-provided health insurance, some minimum amount of credit should be made available to all individuals, (equal, say, to one-fifth or one-quarter of the cost of a standard health insurance package). Such a progressive distribution of benefits could resemble somewhat the Social Security schedule of wage replacement retirement benefits.

This kind of universal tax credit financing system for health insurance coverage would have employment effects directly opposite those of an employer mandate. Since low-income workers would come to the job with their health insurance largely financed, they would become less expensive to hire—not, as under an employer mandate, substantially more expensive. Because the size of the government's contribution to the cost of insurance would diminish with increases in individual or family incomes, the difficulty of trying to target a subsidy appropriately for small businesses would be avoided, as would be regressivity of the existing tax exclusions that, as I have noted, are more valuable to those with higher income.

A revision of the health coverage financing system along the lines suggested here would be compatible with virtually any approach to health care reform that is not employer-based.

A revision of the health coverage financing system along the lines suggested here would be compatible with virtually any approach to health care reform that is not employer-based. To be sure, the transition to a system of health coverage based on an individual mandate could create difficulties that in the short run might be avoided by trying to patch an employer mandate onto the current system. Moreover, a financing plan centered around tax credits or vouchers might engender opposition from people who are viscerally opposed to any change that seems to funnel money through the government. But if we are bold now, we can move to a rational and stable, yet flexible, system of health care finance well-suited to a modern mobile labor force—a system in which no one would lose, or even have to change, their health insurance because of job change or job loss.

If, instead, we opt for an employer mandate, we will have simply deferred the need to eventually rationalize the system—and, in the meantime, added to the costs of, and thereby jeopardized the rates of, employment. Moreover, we will have failed to address the underlying reasons for the concerns that working people now have about the affordability and fragility of health coverage. Moving in the direction of an employer mandate, instead of an individual mandate, would be a big mistake. It is a mistake that we can, and should, avoid.

FOOTNOTES

[1] Economic Report of the President, January 1993, at 125.

[2] Michael J. Graetz, "The Troubled Marriage of Retirement Security and Tax Policies," 135 University of Pennsylvania Law Review 851 (1987).

[3] See C. Eugene Steuerle, "The Search for Adaptable Health Policy Through Finance-Based Reform," in Robert B. Helms (ed.) American Health Policy: Critical Issues for Reform (AEI Press, 1993).●

GRANDPARENTS BACK IN THE PARENTING BUSINESS

● Mr. HATFIELD. Mr. President, I would like to take a moment today to pay tribute to a group of people whose contributions to our society are often overlooked; people who give completely of themselves to help others in need. I am speaking of grandparents who spend their days raising their grandchildren.

Recently, the American Association of Retired Persons brought to my attention several stories of grandparents who are playing an increasingly active role in the lives of their grandchildren. At 50 or 60, many grandparents are entering back into full time parenting. Examples range from grandparents spending weekends barbecuing for their grandchildren to adopting their grandchildren.

As grandparent caregivers, they have experienced the joys of parenting: the first day of school, the first lost teeth, the school plans, and the bicycle training. However, they have also experienced the legal hassles, financial burdens, and emotional turmoil that come from caring for grandchildren full time.

Grandfather Richard Hammond says he often wonders what he is doing. While he might prefer more relaxed years of retirement, he asks, "How can you let them go into foster care?" With the problems of AIDS, unwanted pregnancies, divorce, child neglect, and drug abuse adding to the numbers of children needing parental guidance, grandparents have to come to the rescue. Their contributions are invaluable.

As a proud new grandparent myself, I understand that special attachment to a grandchild and I understand the desire to help my grandchildren live to their full potential. I also understand the strains of raising a child. The grandparents stepping in to help raise their grandchildren deserve recognition and tremendous thanks for the new role they are playing in their grandchildrens' lives.

During our debate of the crime bill over the last several weeks, it has become obvious to me that legislators in Washington can only do so much to curb the dramatic rise in crime we see across our country. Those who do the most to steer our children in the right direction are families, in these instances multigenerational families, who can teach young ones alternatives to lives of crime. I applaud the service of these grandparents to our communities and offer my thanks for their tireless work.

I ask that the article from the American Association of Retired Persons' newsletter be printed in the CONGRESSIONAL RECORD following my remarks.

The article follows:

HOW ARE THE KIDS DOING?—GRANDPARENTS TO THE RESCUE

(By Susan L. Crowley)

Jim Leonardo sizzles burgers on the grill while a couple of dozen kids gleefully jump into his backyard swimming pool. Twelve-year-old David cannonballs into the water, the spray arching into the air and raining down on the adults relaxing in lawn chairs.

"Take it easy, David, or you'll have to come out," yells Sally Walters, issuing a motherly ultimatum.

Except Walters is not David's mother—she is his grandmother. At age 50, she is back in the parenting business and is bringing up David herself.

In fact, all the adults at the barbecue at the Leonardo home in the Philadelphia suburbs have taken on the financial burdens, legal hassles, emotional upheavals and crushing fatigue of caring for grandchildren full time.

They are also members of Second Time Around Parents, one of hundreds of groups forming around the country for grandparent caregivers.

"Sometimes when I'm in the school-yard or driving the kids around, I think what the hell am I doing?" muses Richard Hammond, 68, who with his wife Agnes, 66, is bringing up three teenagers. "But how can you let them go into foster care?"

"I would much prefer to be just a grandmother," sighs 62-year-old Jane Roenberger as she towels off Michael, age 9. But she is determined to rear her grandson as long as his own mother can't do the job.

Commitment to the youngsters invariably wins out, but such mixed feelings are not unusual among the nation's growing number of grandparent caregivers.

What's fueling the trend? Teen pregnancies, divorce, AIDS, joblessness, incarceration and child neglect all contribute. But most experts say the burgeoning use of crack cocaine and other substances among birth parents—in all income groups—is the chief villain.

No one knows just how many grandparents are picking up the pieces, says Meridith Minkler, a professor of public health at the University of California at Berkeley. "But we believe about four million children are in their care," up 40 percent over the last 10 years.

These days grandparents are joining forces to get the help they need. "Nobody wants pity parties anymore," says Ethel Dunn, a Wisconsin grandmother and activist who cofounded the National Coalition of Grandparents in 1992. "What we need are laws to legitimize the multigenerational family."

Second Time Around Parents began as a support group in 1990. Members still "drop everything to help each other in a crisis," says Michele Daly, a social worker for family and community services in Pennsylvania's Delaware County who founded the group with Diane Werner, a single grandmother raising a grandson.

But the group has become savvier in negotiating the complex legal and social-services systems that regulate child care. Like other groups, they are lobbying Congress and state lawmakers to recognize the interests of children being raised by older relatives.

Cathy Leonardo, 57, is a vivacious women who with Jim, 58, has raised two grandchildren, now 8 and 10, since infancy. Part of that time they cared for two elderly parents as well.

Although financial woes are among the biggest headaches for most grandparents, Cathy points out, current laws offer little relief. "Foster parents get payments for child care. Grandparents get zero," she says, unless they become foster parents, too. But that means giving the state custody—and control—of the child.●

TRIBUTE TO JERGEN NASH

● Mr. DURENBERGER. Mr. President, as 1993 comes to an end, I would like to take a moment to remember one of Minnesota's great Scandinavians who dominated the airwaves for more than a quarter of a century. For many years, as sure as the day would begin, Jergen Nash would wake his listeners with the first daytime newscast for WCCO-AM Radio. And, just as night would fall, he would relax listeners at 9:30 with an array of light musical classics. Later, he became the primary newscaster from 8 to 5.

Jergen was one of the great radio announcers who helped to make WCCO-AM Radio the institution it is in the Upper Midwest. Radio audiences were drawn to this worldly Scandinavian who developed a reputation for acting like an Englishman. Jergen was known to be the most down-to-earth man broadcasting from Minneapolis and St. Paul into Minnesota, Wisconsin, Iowa, and the Dakotas. From the station's daily good morning song to his lively banter, Jergen rose to the top of the radio industry with his humor and creativity. Early in his career, Nash was named the winner of the American Federation of Television and Radio Artists award as the best radio announcer in the Twin Cities.

He explained the key to his own success when he described his outlook on providing daily news and entertainment for hundreds of thousands of listeners. He said that he just tries to "be a guest in someone's home every time I open the microphone * * * I guess that is why I enjoy radio so much. You can be an intimate guest * * * one radio man visiting one person at a time." Then he modestly adds, "At least that's what they write me and that's the easiest way for me to entertain and inform my friends."

The most endearing part of Jergen was how he shared anecdotes of his family life with the audience. During World War II while he was stationed in England, he met his wife Mary Kathleen McMahon of Shoneyburn, Scotland, which explains how this Minnesotan acquired his British tastes. Mary and Jergen were married in 1944, and soon after began to raise a family with children Michael, Susan, and Kathleen. Later, he became a grandparent.

Nash's Siamese cat, Tango, became a Northwest celebrity. That's because Jergen made a brief off-hand comment one noon about his sick cat. Good news for Tango and the Nash family came from all over the territory. WCCO listeners offered medical advice, sympathy, postcards, get-well cards, catnip, and even a get-well letter from a cat 200 miles away. Even the front yard elm tree became a matter of some concern across the five states. Jergen always reported its first buds, its first robin, its new shoots of summer and its first fall colors.

In 1980 after 27 years at WCCO Radio, Jergen retired. But he could not completely leave one of his many passions in life. Until just before his death this year, he continued to grace "'CCO-Land" every Sunday morning with a show called "Life's Passing Parade."

Throughout his life—and certainly over the airwaves—Jergen Nash was a good neighbor. His commentary will be missed, but he left a legacy that will be carried on over the airwaves of WCCO Radio.●

EXISTING APPLICANTS FOR LOTTERIES

● Mr. INOUYE. Mr. President, section 6002(e)(2) of title VI creates a special rule which provides that the Commission may not issue a license or permit by lottery after the date of enactment unless one or more applications for such license were accepted for filing by the Commission before July 26, 1993. I would like to clarify the use of the term "accepted for filing". For the purposes of this Act, accepted for filing is not meant in the usual technical sense, but means in this case that an application was actually timely filed before July 26, 1993, for a service that can be awarded by lottery under existing law. Thus, under the legislation, the FCC may use a lottery to award any license for which applications were filed prior to July 26.

This does not mean that every application that was filed before July 26, 1993, should be automatically considered eligible for the lottery. The Commission can and should review each application to determine whether the application complies with the rules of the Commission regarding the filing of such applications.

In permitting the Commission to use the lottery mechanism only to issue those licenses for which applications had been filed before July 26, 1993, the conferees were aware that the Commission would be required to suspend licensing activities for all other licenses while it alters its rules to conform to the new rules for auctions. The conferees concluded that the Commission would be able to make the needed rules changes promptly, and hence any disruption to services in the pipeline would be minor. The Commission should be mindful that delay in the resumption of licensing will harm these services, and hence it should move promptly to initiate—and consummate—the needed rulemaking proceedings.

I call the Commission's particular attention to the Interactive Video Data Service [IVDS] where delays in concluding the rulemaking and commencing the application and licensing process have already been lengthy. The public is not being well served by such delay, which is preventing the introduction of an important new service. The changes necessitated by this legislation should not be an invitation to reopen any questions resolved in the current rules. The Commission should merely modify the selection mechanism to substitute an auction mechanism for the lottery selection method. I expect the Commission to give particularly expeditious attention to concluding the needed rule modifications for IVDS, so the introduction of service will not be further delayed and the initial licensees and the providers of the technology and the service will not be disadvantaged.●

THE SOCIAL SECURITY ADMINISTRATION INDEPENDENCE ACT OF 1993

● Mr. MOYNIHAN. Mr. President, this morning the Committee on Finance voted to report S. 1560, a bill to remove the Social Security Administration from the Department of Health and Human Services and reestablish it as an independent agency in the executive branch of the Government. S. 1560 has as cosponsors my distinguished colleagues Senators PACKWOOD, MITCHELL, PRYOR, GRASSLEY, BRADLEY, RIEGLE, ROCKEFELLER, HATFIELD, JEFFORDS, MIKULSKI, and DECONCINI.

Making the Social Security Administration an independent agency is not a new notion. Social Security was originally independent, but lost that status when it was folded into the Federal Security Agency in 1939.

Beginning in the 1970's, there were proposals to return the agency to independent status. In 1980, the National Commission on Social Security recommended it. Wilbur Cohen, who was closely associated with social security for nearly three decades, and served as Secretary of Health, Education, and Welfare under President Johnson, was a member of this panel In 1983, the National Commission on Social Security Reform, the so-called Greenspan Commission, on which I served with the distinguished Republican leader, Senator DOLE, repeated the call to make SSA an independent agency.

In 1984 a study panel commissioned by the Congress and headed by the highly regarded former Comptroller General of the United States, Elmer Staats, issued its report on the best way to implement the proposal. The bill reported by the committee is based on those recommendations.

Under this legislation, the Social Security Administration will be led by a Commissioner, appointed by the President, with the advice and consent of the Senate. The Commissioner will serve a 4-year term that coincides with that of the President. In addition, the bill establishes a seven-member, bi-partisan, part-time advisory board, to make recommendations to the Commissioner on policy issues concerning Social Security.

Proposals to make SSA an independent agency have the support of nearly every organization with an interest in the administration of the Social Security program, including the American Association of Retired Persons, the National Council of Senior Citizens, and the AFL-CIO. At a September 14 hearing on this subject by the Committee on Finance, Arthur Flemming, Secretary of the Department of Health, Education, and Welfare under President Eisenhower, and now chairman of the Save Our Security Coalition [SOS], also testified in support of this measure.

The proposal enjoys broad-based support for a number of reasons. First, the sheer size of the agency argues for independence. SSA employs 64,000 workers in a national network of 1,300 offices. This is more than twice the number of employees at the State Department and three times the number of workers employed by the Department of Labor. And with a budget of more than $300 billion, SSA will spend more this year than the Department of Defense and nearly 10 times as much as the Department of Education. In fact, SSA's outlays this year will be larger than the combined outlays of 11 Federal departments. It simply defies common sense for an agency this large to be included under an umbrella bureaucracy.

Next is the matter of public confidence. While Social Security is our most successful domestic program, public opinion surveys consistently show that a majority of nonretired adults are not confident that the program will be there for them when they retire. I believe one reason for this is that you send in your FICA contributions every week, but you never hear back from SSA. A few years ago I got a provision enacted into law that will require SSA to start sending out annual statements to all workers by the end of the decade. This should help. But it cannot help for SSA to be buried in the Department of Health and Human Services. An agency that directly serves virtually every American, that administers a program as important as Social Security, that maintains earnings records for 132 million workers and sends benefits to 42 million recipients—that agency should be visible and accountable to inspire the public confidence that the program needs and deserves.

Compounding these problems is instability of leadership. In my 17 years on the Finance Committee, there have been 12 Commissioners, of whom five have been acting Commissioners. The position of Commissioner was vacant for a year before we received a nomination, whereupon the nominee was promptly confirmed on October 7. This turmoil at the top must end. This bill provides for a strong Commissioner, with a 4-year term of office, to provide the vigorous, stable leadership that Social Security must have.

Finally, I would make the point that this bill will enhance the capacity of the Department of Health and Human Services to deal with the enormous task before it. In recent years the principal focus of the Department has been on health, to the near exclusion of matters related to Social Security. And as we focus on how to restructure the health care system—which comprises some 14 percent of our domestic economy—it is essential that the leadership of the Department of HHS has the time and energy this undertaking requires. Removing SSA from the Department will facilitate the Secretary's participation in this important task.

This is an opportunity to make a significant improvement in government without raising the cost of government. The Congressional Budget Office has estimated the cost of the bill at $1 million a year. This increase is to cover the costs of the bipartisan advisory board, and the increased salary of the Commissioner and Deputy Commissioner, who under this bill will hold a position commensurate with their important responsibilities.

I ask unanimous consent that the text of the bill, along with a detailed description, be included in the RECORD at this point.

[The text of S. 1560 is printed in the RECORD of October 18, 1993 beginning on page 25186.]

The description follows:

THE SOCIAL SECURITY ADMINISTRATION INDEPENDENCE ACT OF 1993

DESCRIPTION OF PROVISIONS

Establishing the Social Security Administration [SSA] as an Independent Agency

Present Law.—SSA is a component of the Department of Health and Human Services (HHS). While the Secretary of HHS has overall responsibility for administration of the Old-Age, Survivors and Disability Insurance (OASDI) and Supplemental Security Income (SSI) programs, their administration has been delegated to the Commissioner of Social Security. The Commissioner reports only to the Secretary. The Commissioner is appointed by the President, by and with the advice and consent of the Senate, and is compensated at the rate for level IV of the Executive Schedule.

Under current SSA practice, there is one Principal Deputy Commissioner and six Deputy Commissioners (for management, operations, systems, policy and external affairs, human resources, and programs) who serve under the Commissioner. None of these are statutory positions. The Principal Deputy Commissioner is designated to serve as Acting Commissioner in the absence of the Commissioner.

By law, an advisory council is appointed by the Secretary of HHS every four years for the purpose of reviewing the status of the Social Security and Medicare programs, and a Board of Trustees is established to manage the OASDI Trust Funds.

Proposed Change.—The Social Security Administration will be established as an independent agency in the executive branch of the Government, responsible for the administration of the OASDI and SSI programs.

A. Commissioner and Deputy Commissioner of Social Security

The independent SSA will be directed by a Commission appointed by the President, by and with the advice and consent of the Senate, for a 4-year term coinciding with the term of the President (or until the appointment of a successor). The Commissioner will be compensated at the rate for level I of the Executive Schedule (equivalent to Cabinet officer pay). The Commissioner will be responsible for the exercise of all powers and the discharge of all duties of SSA, have authority and control over all personnel and activities of the agency, and serve as a member of the 5-member Board of Trustees of the OASDI Trust Funds.

The Commissioner will prescribe rules and regulations; establish, alter, consolidate, or discontinue organizational units and components of the agency (except for those prescribed by law); and assign duties, and delegate, or authorize successive redelegations of, authority to act and to render decisions, to such officers and employees as the Commissioner may find necessary.

The bill directs the Commissioner and the Secretary of HHS to consult with one another on an on-going basis to assure: (1) the coordination of the social security, SSI, and medicare and medicaid programs and (2) that adequate information concerning medicare and medicaid benefits will be available to the public.

The bill establishes a Deputy Commissioner in the independent SSA, who will be appointed by the President, with the advice and consent of the Senate, for a 4-year term coinciding with the term of the Commissioner or until appointment of a qualified successor.

The Deputy Commissioner will perform such duties and exercise such powers as are assigned by the Commissioner, and serve as acting Commissioner during the absence or disability of the Commissioner (or vacancy of office) unless the President designates someone else. The Deputy Commissioner will serve as the secretary of the OASDI Board of Trustees, and will be compensated at the rate provided for level II of the Executive Schedule.

B. Social Security Advisory Board

The bill provides for a 7-member part-time Advisory Board appointed for 6-year terms, made up as follows: 3 appointed by the President (no more than 2 from the same political party), and 2 each (no more than 1 from the same political party) by the Speaker of the House (with the advice of the Chairman and Ranking Minority Member of the Committee on Ways and Means) and the President pro tempore of the Senate (with the advice of the Chairman and Ranking Minority Member of the Committee on Finance).

Presidential appointees will be subject to Senate confirmation. Appointees will serve staggered terms. The chairman of the Board will be appointed by the President for a 4-year term, coinciding with the term of office for the President. The Board will be required to meet at least 6 times each year and generally will be responsible for giving advice to the Commissioner on policy issues.

Compensation of the members is set at a rate equal to 25 percent of level III of the Executive Schedule (except for meeting days when it would be equivalent to that of the daily rate of level III of the executive schedule). Other benefits (except for health insurance) will not accrue. The Board will have authority to appoint an SES staff director and hire its own staff.

The primary duty of the Board under this bill is to provide advice to the Commissioner of Social Security on policy matters relating to Social Security and SSI. Duties specified in the bill include analyzing the Nation's retirement and disability systems, making recommendations on policies to assure the solvency of the Social Security program, and engaging in activities that will increase public understanding of the Social Security system.

Because the Advisory Board essentially will take on the function of the quadrennial advisory council, this bill abolishes the advisory council for Social Security.

C. Personnel; Budgetary Matters

Under the bill, the Commissioner will appoint officers and employees to carry out the functions of SSA (with compensation fixed in accordance with title 5 of the U.S. Code, except as otherwise provided), and procure the services of experts and consultants.

The Director of the Office of Personnel Management (OPM) is directed to give SSA a larger allotment of SES positions to the extent a larger number is specified in a comprehensive work plan developed by the Commissioner, and the total number of such positions cannot be reduced at any time below the number SSA held immediately before enactment of this Act.

Appropriations requests for staffing and personnel of the Administration will be based upon a comprehensive work force plan, as determined by the Commissioner. Appropriations for administrative expenses are authorized to be provided on a biennial basis. Appropriate contingency funds will be apportioned upon the occurrence of the stipulated contingency, as determined by the Commissioner and reported to each House of Congress.

The number of positions in the independent SSA which may be excepted from the competitive service because of the confidential or policy-determining character of such positions cannot exceed the equivalent of ten full-time positions.

D. Transfers to the New Social Security Administration

The bill provides that assets and personnel related to the administration of Social Security programs will be transferred from HHS to the independent SSA.

HHS employees who are not employed on the date of the enactment of this bill in connection with functions transferred to SSA, but who are so employed on the day before SSA is established as an independent agency, may be transferred from HHS to SSA by the Commissioner, after consulting with the Secretary of HHS, if the Commissioner determine such transfers to be appropriate.

HHS employees who are employed on the date of enactment of this bill, solely in connection with functions transferred by this title to SSA, and who are so employed on the day before the date SSA is established as an independent agency, shall be transferred from HHS to SSA.

The office of Commissioner of Social Security in the Department of Health and Human Services is abolished effective upon the appointment of a Commissioner of Social Security pursuant to this Act.

E. Transitional Rules

The bill provides that the transition of SSA to its new status as an independent agency in the executive branch of the government will occur within 180 days after the enactment of this bill, unless the President establishes an earlier date. The transition will take place under the direction of a Transition Director, selected on the basis of experience and knowledge of the operation of the Federal government. Within 30 days after enactment, the President will appoint the Transition Director, who will be compensated at the rate provided for level IV of the executive schedule.

In conducting transition activities prior to the appointment of the Commissioner of Social Security, the Transition Director will consult regularly with the Director of the Office of Management and Budget. After such appointment, the Transition Director will conduct such activities at the direction of the Commissioner. Expenditures for necessary transition activities may be made out of the OASI and DI trust funds.

The President is required to appoint a Commissioner within 60 days after enactment of this bill. Upon such appointment and confirmation by the Senate, the Commissioner appointed under this title will assume the duties of the HHS Commissioner of Social Security until SSA is established as an independent agency. Nominations and appointments provided for under the provisions of the Act may be made at any time on or after enactment.

The bill requires that within 120 days of enactment, the Transition Director and the Commissioner of Social Security report to the Congress on the status of the transition, and on any significant internal restructuring or management improvements that are proposed to be undertaken.

All orders, determinations, rules, regulations, permits, contracts, collective bargaining agreements, recognitions of labor organizations, certificates, licenses, and privileges which have been issued or have been allowed to become effective that relate to the functions that are vested in the Commissioner of

Social Security shall continue in effect until modified, terminated or repealed by the Commissioner. Collective bargaining agreements shall remain in effect until the date of termination specified in such agreement.

The bill provides for the continuation of the existing advisory council for Medicare. The bill also repeals the requirement. That SSA submit an annual report to the Congress on the administration of the Social Security program.•

STATEMENT ON HEALTH CARE REFORM, QUALITY AND INNOVATION

• Mr. GREGG. Mr. President, I rise to make some comments on the President's health care reform plan. A few weeks ago, I talked about the effect that the President's plan would have on the delicate balance between State and Federal responsibilities for health care. Today, I would like to talk about an even more crucial topic—the effect that the President's plan would have on the high quality of medical care in this country.

Dr. C. Everett Koop, our distinguished former Surgeon General, recently said, "We Americans can have the best health care in the world, total access to care for everyone, or affordable care. But it is impossible to provide more than two of the three."

I think the First Lady and the President have decided to attempt all three in their plan. They do plan to provide total access to care for everyone, through their Health Security Card. They do plan to provide affordable care, by reducing medical price increases to the rate of general inflation by the year 1999. Mr. President, if you believe what Dr. Koop said, then we will no longer have the best health care in the world. This is one Senator who is not willing to give that up.

Nobody doubts that we Americans now have the finest medical care in history. If a citizen, rich or poor, were to collapse right now of a heart attack in downtown Washington, he would be taken to one of the world's greatest hospitals. He would be examined by doctors trained in the latest high-technology treatments for heart attacks. If it were indicated, he would receive a genetically-engineered enzyme to dissolve the clots in his coronary arteries. He would be admitted to a state-of-the-art coronary care unit. He would receive care that was better than virtually anywhere else in the world. Better than in Europe, better than in Japan.

Of the last 97 recipients of the Nobel Prize in Medicine and Physiology, 57 have been Americans. Of the 15 biotechnology-based drugs and vaccines approved by the FDA in 1991, every single one was developed by a U.S.-based firm. We are first in medical technology, first in pharmaceuticals, first in biologicals. We are also first in basic science—molecular biology, genetics, immunology. Without any doubt, the rest of the world depends on us in the United States for cutting-edge medical devices, for miracle drugs, and for new vaccines against killer diseases.

We have without question the world's best medical schools. Not just one or two of the world's best schools, but a score of the world's best schools. Doctors come from all over the world to train and practice here.

The President and Mrs. Clinton, and Ira Magaziner, believe they have a mandate from the American people to rewrite our health care economy from the ground up, sparing nothing. They don't want to just fix our system, they want to replace our system. If you have any doubt about that, Mr. President, you need only look at this 1,342 page plan.

The Clinton plan encompasses every square inch of the American health care system. For example, the plan dictates exactly what medical treatments will be covered and what will not. Blood lead tests for children, for instance, will be covered, but occult blood tests for colon cancer will not. The plan has controls, controls, controls on everything from breakthrough drugs prices, to the number of residency training positions in each medical specialty, to the prices doctors can charge for examinations and treatments.

What I am afraid the Clintons' plan would bring us, Mr. President, is a reduction in quality in medical care, a reduction to the level of mediocrity. If the Clinton plan were enacted, in 10 years we could easily find ourselves in the same situation as countries like Great Britain and Canada. Yes, access would be at least nominally improved for the 15 percent of our population who lack it now. But costs would be controlled through capped entitlements and global budgets, and quality would have slipped. Americans would wait in lines to see their doctors. People might wait in line for months for non-emergency care like total hip replacements and cataract operations, as they do in Canada and Great Britain. And when they did finally reach the head of that line, the care that they received would be of lower quality.

In Great Britain, doctors routinely decide not to provide kidney dialysis to patients who need it. As the President of the British Kidney Association once explained, "Decisions not to treat kidney patients are being taken by doctors all the time." But what is particularly tragic is that usually the patient does not understand that he could have been treated. In Great Britain, he just goes away to die quietly.

As one writer said, "The economics of the British National Health Service could not tolerate providing patients with real authority to choose health care." Mr. President, I believe the Clintons' health care plan could take the United States down the same road.

Now, I am sure that the proponents of the Clintons' plan will want to argue that the quality issue is explicitly addressed in the plan, in title V, subtitle A. They will point out that the Clinton plan includes a new National Quality Management Program, the NQMP. The NQMP would be run by the National Quality Management Council, the NQMC, made up of 15 members appointed by the President. The NQMC would set standards for the quality of care and send them out from Washington to the health alliances for implementation.

Mr. President, I don't want to put cold water on the NQMP, but I have significant doubt whether such a program would be successful. When the Federal Government tries to impose top-down regulations on the quality of anything, the result is often poor efficiency and higher costs.

Take Federal regulation of medical devices, for example. It takes literally years to get a new device approved by the FDA. The wait for approval is so long that many innovative companies simply give up. A report out this year said that the FDA was sitting on a backlog of more than 1,100 applications for new devices, not including a bunch of applications that were sitting in the mailroom, unopened. In the area of biotech drugs, there are now six times more drugs waiting for approval on desks at the FDA than there are on the market.

Lest we forget, the new NQMP would not be the Federal Government's first attempt to dictate quality from Washington. We have gone through a bevy of quality programs in Medicare. We had the UR program in the 1960's. Congress was not happy with it and enacted the PSRO program in 1972. The PSRO program was largely a failure, so Congress enacted the PRO program in 1982. The PRO looks to be working better than the earlier Medicare quality review programs, but there are still significant problems.

The Clintons' NQMC would also develop so-called practice guidelines for doctors. These would be used by doctors to assist in determining how diseases, disorders, and other health conditions can most effectively and appropriately be prevented, disgnosed, treated, and managed clinically.

Mr. President, perhaps practice guidelines could act to enhance quality, or at least to level it. But I have concern that they will be too long in the writing, too long in the revising, and too long in the distribution to be very useful.

Remember, these guidelines will be written by committees. They can, and do, take years to produce, so that by the time they are published, they are almost obsolete. Furthermore, these committees may not be sufficiently cognizant of the remarkable differences between individual patients.

I am also concerned that somebody will want to give these Federal guidelines some kind of binding effect. That would be very tempting. But it could also be very disastrous. In my view, we never want to place doctors in a position where they fear violating a Federal guideline for ordering a reasonable treatment.

Mr. President, quality of care is very dependent on our ability, as a Nation, to innovate. We could have a wonderful NQMP in Washington, we could have top-flight practice guidelines, we could have excellent outcomes research, but we still won't have any assurance of quality if we stifle innovation in medical care.

Americans want innovation and access to high-technology treatments. In a recent poll, when Americans were asked whether they would be willing to give up certain expensive treatments like organ transplants, only 25 percent said "yes." In a 1992 Gallup poll, 52 percent of Americans said they would be willing to pay more to have the latest medical technology available in their own small communities, rather than in regional centers only.

I have had a chance to listen to people's concern on this issue, and I have learned one very important thing. The people who are the most concerned about American medical innovation are those who are sick. Ask a person who has lupus, or AIDS, or cancer whether he wants to put American medical innovation at risk. You will get a very clear answer.

Mr. President, how can we encourage health care innovation? Well, the answer is just one word: competition. Without competition, there is no innovation.

Despite all the economic problems in our current health care system, we have a tradition of innovation. Take magnetic resonance imaging, for example. Take a trip out to Chicago and look around the annual meeting of the Radiological Society of North America. You will barely believe your eyes. There, in front of you, will see several football field-sized rooms full of the latest in diagnostic equipment. Magnetic resonance imagers that can literally take pictures of internal organs, or even take pictures of blood as it moves through the arteries of the body. Every year, the machines are more sophisticated and more able to image diseases like cancer, heart disease, and many others.

Twenty years ago, if a patient had a brain tumor inside the inner chambers of the brain, he would have to undergo something called a pneumoencephalogram, where air was introduced into the brain cavity. It was painful, and sometimes dangerous. In 1993, no patient need have a pneumoencephalogram, because of huge strides in brain imaging.

Many new technologies lower costs, because they are cheaper than existing methods. For example, CAT scanning and MRI have lowered the cost of diagnosing pituitary adenoma, a kind of brain tumor, by 27 percent. Positron emission tomography—called PET scanning—has the potential to lower the cost of diagnosing dead or dying cardiac tissue. PET scanning is also 80 percent cheaper than the older methods of diagnosing the cause of certain kinds of epilepsy.

Other new medical technologies may not lower costs, but they may be very cost-effective. A good example is Betaseron, a product developed by Chiron to treat multiple sclerosis. Betaseron costs a lot of money, $10,000 a year, but it reduces the need for hospitalization by one-third, saving significantly more than $10,000 per year, perhaps as much as $40,000 per year. And while it is preventing hospitalization, it is also preventing human suffering.

Mr. President, with all the rhetoric directed against the American medical industry these days, it's easy to forget how important they are to our economy. Take pharmaceuticals for an example. In 1991, the United States had a positive trade balance in pharmaceuticals of about $1.3 billion. The pharmaceutical industry is one of the few remaining manufacturing sectors in which the United States still shines.

We've all heard about the goose that laid the golden eggs. Mr. President, our golden eggs are the medical innovations that will improve our lives, and the lives of our children and our grandchildren. Our golden eggs are cures for cancer and arthritis, and heart disease. The goose that is laying those eggs is American medical innovation, in universities and in private companies all over the land. In our hurry to obey some perceived political mandate to rewrite the health care economy, we cannot afford to hurt that goose.

I do not believe that the American people want us to upset our Nation's leadership in medical innovation. Nearly every voter out there has, at some time or other, benefitted from these great inventions, whether it be a new antibiotic, a new machine that can dissolve kidney stones without even entering the body, or a new method for cleaning out blocked coronary arteries.

But medical innovation is already at risk, right now, even before health care reform. Many people do not realize how risky the biotechnology business is. According to Ernst & Young, the biotechnology industry lost $3.6 billion last year. It is not unusual for a biotechnology company to spend $350 million—that's right, $350 million—and 8 to 12 years to get a new product to market. Most biotechnology companies are small—75 percent have fewer than 50 employees—and more than 50 percent of their costs are for research and development.

A recent article in the Boston Globe related how just the talk of price controls by the Clinton administration has "scared investors away from biotechnology—with the result that we are seeing companies postpone or cut back clinical trials, lay off scientists, freeze employment, and forgo the designing or building of new manufacturing facilities."

Initial public offerings for stock in biotechnology companies have fallen dramatically just this year. In 1991–92, IPO's for biotechnology stocks averaged about $100 to $150 million per month. In 1992–93, fear of Federal regulation of launch prices had dropped IPO's to $20 to $30 million per month. And where have these struggling companies gone to find capital, Mr. President? To Japan. According to David Hale of Gensia, hundreds of companies are going to Japan for capital, and giving away large shares of their companies in return. Mr. Hale says that if price controls are instituted in the United States, "Japan will be a world biotechnology power in 15 years."

Mr. President, to save innovation we must have vigorous competition. And, in order to have competition, we must have a real health care insurance market.

The current health care insurance market, to the extent that it exists at all, is so distorted that it does not perform the basic functions of a market. It does not set prices or temper demand. It does not provide information on quality. It has to be changed.

But if we change it the way the President and the First Lady have in mind, we will end up with less competition, not more. And we will end up with less innovation and lower quality.

President Clinton's plan is ostensibly based on the principles of managed competition. But if you read the plan, you see a lot of managed but not much competition.

Start with the most basic part of the plan—the financing. The President and First Lady had a great opportunity to use the financing mechanism in their plan to promote competition. Unfortunately, they decided not to do it. In the President's plan, employers would pay not the premiums generated by their own employees, but 80 percent of the average premium for the entire alliance. That is not a premium, it's a tax. And it immediately takes 80 percent of the competition out of the President's plan.

Additionally, the President's plan requires every employee to purchase care in quasi-governmental monopolies called health alliances. Where is the competition in that? Gone. Leaving only a bureaucracy behind.

And perhaps worst of all, the President's plan relies on some very heavy-handed price controls. First, the plan includes an enforceable global budget for each health alliance. Second, the plan allows alliances to set prices for fee-for-service plans, and to eliminate from bidding those health plans that bid too high.

Price controls like these are directly antithetical to competition. More than anything else in the President's plan, they will harm innovation.

Mr. President, I want health care cost containment as much as anybody. But I am concerned that President and Mrs. Clinton, in attempting to expand access suddenly while also imposing cost controls, are writing a prescription for rationing and reductions in quality.

Health care reform based on true competition would not suffer from those same problems. By true competition, I mean a health care market that really operates like a market. Where the amount of information available on costs and quality is greatly increased, so that consumers have access to it when they purchase care. Where consumers can really know what they are getting for their hard-earned dollars.

A system based on grass-roots competition is a flexible system, able to adapt rapidly to changing demands in the marketplace. It is a system that can quickly redeploy resources into new uses. A system where the preferences of consumers drive the economy.

In such a system, innovation has its best chance to flourish. Good technologies, especially those that reduce costs and increase productivity, will rise to the surface. Bad technologies will sink. Promising research will be encouraged. Unpromising research will be discouraged. The natural battle between the need to control costs and the need to innovate will still be fought, but the winners and losers will be determined by the wants and needs of consumers, manifested by millions of individual decisions.

The alternative to competition is the Clinton plan, where the decisions, the selection of winners and losers, would be done in Washington by the National Quality Management Program and the National Health Board. Like other centralized government decisions, these would be made at a ponderously slow rate, with a heavy dose of political influence. If anyone doubts me on that, I offer one simple counterargument—Medicare.

Mr. President, we must have competition to have medical innovation. I suggest to my colleagues that they examine each of the reform plans that have been offered with that criterion in mind. Which ones provide for a true health care market? Which ones will maximize real economic competition? Which ones will keep decision-making in the hands of consumers, instead of in Washington?

The answers to those questions are crucial. If we in this body make the wrong decision, if we stifle American innovation in health care, we will have harmed the very thing that our American health care system has over all the other systems in the world, excellence.•

SENATE BIPARTISAN SPENDING CUTS PROPOSAL

• Mr. COHEN. President, when the Congress was considering the President's budget last August, there was great concern among both Democrats and Republicans that the plan relied too heavily on tax increases and not enough on spending cuts to reduce the deficit. I ultimately opposed the President's plan for this reason.

In exchange for their support for his package, the President promised a number of reluctant Democratic Members that he would offer additional spending cuts later this year.

Two weeks ago, the President fulfilled the letter of this agreement by offering a rescission bill. Unfortunately, the cuts in this bill total less than $12 billion. This is a barely significant in light of the nearly $1 trillion that will be added to the national debt over 5 years under the President's plan.

Anticipating the need for spending cuts beyond what the President would propose, a bipartisan groups of Members in each House have been working for the past month or so to develop a list of significant spending cuts that could be added to those proposed by the President.

On October 27, a bipartisan group in the House announced a plan to cut spending by $103 billion over 5 years. These Members deserve credit for their willingness to propose specific and detailed cuts. It is easy to call for deficit reduction in the abstract and to offer the usual platitudes about balancing the budget by cutting "waste, fraud and abuse." It is much harder to produce a detailed list of cuts, some of which are very unpopular.

While our House colleagues were working on their list of cuts, I and a group of like-minded Senators were developing our own list of spending reductions. On November 10, I joined Senator KERREY and others in offering a list of spending cuts totaling over $109 billion.

Tomorrow the House of Representatives is expected to consider the President's rescission bill and as well as an amendment offered by Congressman PENNY and Congressman KASICH incorporating the 103 billion in spending cuts developed by the bipartisan House group. I certainly hope that the House will pass this amendment and begin the process of serious deficit reduction.

When the Senate considers the rescission bill, the Senate bipartisan group intends to offer as an amendment our $109 billion list of spending cuts. While this may not occur until next year, we are intent on making serious spending cuts.

I firmly believe that lasting progress on the deficit can only be achieved through bipartisan efforts. For this reason, I joined Senators DANFORTH, BOREN and JOHNSTON last May in offering the only bipartisan alternative to the President's budget plan. Likewise, I have been pleased to work with a bipartisan group of Senators for the past month or so in developing a list of cuts that collectively we could support.

Not all of us support each and every item within the $109 billion in cuts, but each agrees that on balance the list is fair and deserves support.

The deficit continues to pose a serious threat to the standards of living of our children and their children. Higher deficits today mean higher taxes tomorrow. The only way to assure that deficits are reduced is by curtailing spending. Our proposal to cut $109 billion will not solve the deficit problem, but is a significant step in the right direction.•

HOUSING AND COMMUNITY DEVELOPMENT ACT

The text of the bill (S. 1299) to reform requirement for the disposition of multifamily property owned by the Secretary of Housing and Urban Development, enhance program flexibility, authorize a program to combat crime, and for other purposes, as passed by the Senate on November 18, 1993, is as follows:

S. 1299

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Housing and Community Development Act of 1993".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Definitions.

TITLE I—FHA MULTIFAMILY REFORMS

Sec. 101. Multifamily property disposition.
Sec. 102. Repeal of State agency multifamily property disposition demonstration.
Sec. 103. RTC marketing and disposition of multifamily projects owned by HUD.
Sec. 104. Civil money penalties against general partners and certain managing agents of multifamily housing projects.
Sec. 105. Models for property disposition.
Sec. 106. Preventing mortgage defaults.
Sec. 107. Interest rates on assigned mortgages.
Sec. 108. Authorization of appropriations.

TITLE II—ENHANCED PROGRAM FLEXIBILITY

Subtitle A—Office of Public and Indian Housing

Sec. 201. Revitalization of severely distressed public housing.
Sec. 202. Disallowance of earned income for residents who obtain employment.

Sec. 203. Ceiling rents based on reasonable rental value.
Sec. 204. Resident management program.

Subtitle B—Office of Community Planning and Development

Sec. 211. Economic development initiative.
Sec. 212. HOME investment partnerships.
Sec. 213. HOPE match requirement.
Sec. 214. Flexibility of CDBG program for disaster areas.
Sec. 215. Flexibility of HOME program for disaster areas.

Subtitle C—Community Partnerships Against Crime

Sec. 221. COMPAC program.

TITLE III—TECHNICAL AND OTHER AMENDMENTS

Subtitle A—Public and Assisted Housing

Sec. 301. Correction to definition of family.
Sec. 302. Identification of CIAP replacement needs.
Sec. 303. Applicability of public housing amendments to Indian housing.
Sec. 304. Project-based accounting.
Sec. 305. Operating subsidy adjustments for anticipated fraud recoveries.
Sec. 306. Technical assistance for lead hazard reduction grantees.
Sec. 307. Environmental review in connection with grants for lead-based paint hazard reduction.
Sec. 308. Fire safety in federally assisted housing.
Sec. 309. Section 23 conversion projects.
Sec. 310. Indemnification of contractors for intellectual property rights disputes.
Sec. 311. Assumption of environmental review responsibilities under United States Housing Act of 1937 programs.
Sec. 312. Increased State flexibility in the Low-Income Home Energy Assistance Program.

Subtitle B—Multifamily Housing

Sec. 321. Correction of multifamily mortgage limits.
Sec. 322. FHA multifamily risk-sharing; HFA pilot program amendments.
Sec. 323. Subsidy layering review.

Subtitle C—Miscellaneous and Technical Amendments

Sec. 331. Technical correction to rural housing preservation program.
Sec. 332. CDBG technical amendment.
Sec. 333. Environmental review in connection with special projects.

TITLE IV—GENERAL PROVISIONS

Sec. 401. Mount Rushmore Commemorative Coin Act.
Sec. 402. Minority community development grants for communities with special needs.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) the term "FHA" means the Federal Housing Administration;

(2) the term "Secretary" means the Secretary of Housing and Urban Development; and

(3) the term "RTC" means the Resolution Trust Corporation.

TITLE I—FHA MULTIFAMILY REFORMS

SEC. 101. MULTIFAMILY PROPERTY DISPOSITION.

(a) FINDINGS.—The Congress finds that—

(1) the portfolio of multifamily housing project mortgages insured by the FHA is severely troubled and at risk of default, requiring the Secretary to increase loss reserves from $5.5 billion in 1991 to $11.9 billion in 1992 to cover estimated future losses;

(2) the inventory of multifamily housing projects owned by the Secretary has more than tripled since 1989, and, by the end of 1993, may exceed 75,000 units;

(3) the cost to the Federal Government of owning and maintaining multifamily housing projects escalated to approximately $250 million in fiscal year 1992;

(4) the inventory of multifamily housing projects subject to mortgages held by the Secretary has increased dramatically, to more than 2,400 mortgages, and approximately half of these mortgages, secured by projects with over 230,000 units, are delinquent;

(5) the inventory of insured and formerly insured multifamily housing projects is rapidly deteriorating, endangering tenants and neighborhoods;

(6) over 5 million very low-income families today have a critical need for housing that is affordable and habitable; and

(7) the current statutory framework governing the disposition of multifamily housing projects effectively impedes the Government's ability to dispose of properties, protect tenants, and ensure that projects are maintained over time.

(b) MANAGEMENT AND DISPOSITION OF MULTIFAMILY HOUSING PROJECTS.—Section 203 of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z-11) is amended to read as follows:

"SEC. 203. MANAGEMENT AND DISPOSITION OF MULTIFAMILY HOUSING PROJECTS.

"(a) GOALS.—The Secretary of Housing and Urban Development (hereafter in this section referred to as the 'Secretary') shall manage or dispose of multifamily housing projects that are owned by the Secretary or that are subject to a mortgage held by the Secretary in a manner that—

"(1) is consistent with the National Housing Act and this section;

"(2) will protect the financial interests of the Federal Government; and

"(3) will, in the least costly fashion among reasonable available alternatives, further the goals of—

"(A) preserving housing so that it can remain available to and affordable by low-income persons;

"(B) preserving and revitalizing residential neighborhoods;

"(C) maintaining existing housing stock in a decent, safe, and sanitary condition;

"(D) minimizing the involuntary displacement of tenants;

"(E) maintaining housing for the purpose of providing rental housing, cooperative housing, and homeownership opportunities for low-income persons; and

"(F) minimizing the need to demolish multifamily housing projects.

The Secretary, in determining the manner in which a project is to be managed or disposed of, shall balance competing goals relating to individual projects in a manner that will further the purposes of this section.

"(b) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(1) MULTIFAMILY HOUSING PROJECT.—The term 'multifamily housing project' means any multifamily rental housing project that is, or prior to acquisition by the Secretary was, assisted or insured under the National Housing Act, or was subject to a loan under section 202 of the Housing Act of 1959.

"(2) SUBSIDIZED PROJECT.—The term 'subsidized project' means a multifamily housing project receiving any of the following types of assistance immediately prior to the assignment of the mortgage on such project to, or the acquisition of such mortgage by, the Secretary:

"(A) Below market interest rate mortgage insurance under the proviso of section 221(d)(5) of the National Housing Act.

"(B) Interest reduction payments made in connection with mortgages insured under section 236 of the National Housing Act.

"(C) Direct loans made under section 202 of the Housing Act of 1959.

"(D) Assistance in the form of—

"(i) rent supplement payments under section 101 of the Housing and Urban Development Act of 1965;

"(ii) additional assistance payments under section 236(f)(2) of the National Housing Act;

"(iii) housing assistance payments made under section 23 of the United States Housing Act of 1937 (as in effect before January 1, 1975); or

"(iv) housing assistance payments made under section 8 of the United States Housing Act of 1937 (excluding payments made for tenant-based assistance under section 8);

if (except for purposes of section 183(c) of the Housing and Community Development Act of 1987) such assistance payments are made to more than 50 percent of the units in the project.

"(3) FORMERLY SUBSIDIZED PROJECT.—The term 'formerly subsidized project' means a multifamily housing project owned by the Secretary that was a subsidized project immediately prior to its acquisition by the Secretary.

"(4) UNSUBSIDIZED PROJECT.—The term 'unsubsidized project' means a multifamily housing project owned by the Secretary that is not a subsidized project or a formerly subsidized project.

"(c) MANAGEMENT OR DISPOSITION OF PROPERTY.—

"(1) DISPOSITION TO PURCHASERS.—The Secretary is authorized, in carrying out this section, to dispose of a multifamily housing project owned by the Secretary on a negotiated, competitive bid, or other basis, on such terms as the Secretary deems appropriate considering the low-income character of the project and the requirements of subsection (a), to a purchaser determined by the Secretary to be capable of—

"(A) satisfying the conditions of the disposition plan;

"(B) implementing a sound financial and physical management program that is designed to enable the project to meet anticipated operating and repair expenses to ensure that the project will remain in decent, safe, and sanitary condition;

"(C) responding to the needs of the tenants and working cooperatively with tenant organizations;

"(D) providing adequate organizational, staff, and financial resources to the project; and

"(E) meeting such other requirements as the Secretary may determine.

"(2) CONTRACTING FOR MANAGEMENT SERVICES.—The Secretary is authorized, in carrying out this section—

"(A) to contract for management services for a multifamily housing project that is owned by the Secretary (or for which the Secretary is mortgagee in possession), on a negotiated, competitive bid, or other basis at a price determined by the Secretary to be reasonable, with a manager the Secretary has determined is capable of—

"(i) implementing a sound financial and physical management program that is designed to enable the project to meet anticipated operating and maintenance expenses to ensure that the project will remain in decent, safe, and sanitary condition;

"(ii) responding to the needs of the tenants and working cooperatively with tenant organizations;

"(iii) providing adequate organizational, staff, and other resources to implement a management program; and

"(iv) meeting such other requirements as the Secretary may determine; and

"(B) to require the owner of a multifamily housing project that is subject to a mortgage held by the Secretary to contract for management services for the project in the manner described in subparagraph (A).

"(3) FORECLOSURE SALE.—In carrying out this section, the Secretary shall—

"(A) prior to foreclosing on any multifamily housing project held by the Secretary, notify both the unit of general local government in which the property is located and the tenants of the property of the proposed foreclosure sale; and

"(B) upon disposition of a multifamily housing project through a foreclosure sale, determine that the purchaser is capable of implementing a sound financial and physical management program that is designed to enable the project to meet anticipated operating and repair expenses to ensure that the project will remain in decent, safe, and sanitary condition.

"(d) MAINTENANCE OF HOUSING PROJECTS.—

"(1) HOUSING PROJECTS OWNED BY THE SECRETARY.—In the case of multifamily housing projects that are owned by the Secretary (or for which the Secretary is mortgagee in possession), the Secretary shall—

"(A) to the greatest extent possible, maintain all such occupied projects in a decent, safe, and sanitary condition;

"(B) to the greatest extent possible, maintain full occupancy in all such projects; and

"(C) maintain all such projects for purposes of providing rental or cooperative housing.

"(2) HOUSING PROJECTS SUBJECT TO A MORTGAGE HELD BY THE SECRETARY.—In the case of any multifamily housing project that is subject to a mortgage held by the Secretary, the Secretary shall require the owner of the project to carry out the requirements of paragraph (1).

"(e) REQUIRED ASSISTANCE.—In carrying out the goals specified in subsection (a), the Secretary shall take not less than one of the following actions:

"(1) CONTRACT WITH OWNER.—Enter into contracts under section 8 of the United States Housing Act of 1937, to the extent budget authority is available, with owners of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure or after sale by the Secretary.

"(A) SUBSIDIZED OR FORMERLY SUBSIDIZED PROJECTS RECEIVING CERTAIN ASSISTANCE.—In the case of a subsidized project referred to in subparagraph (A), (B), or (C) of subsection (b)(2) or a formerly subsidized project that was subsidized as described in any such subparagraph—

"(i) the contract shall be sufficient to assist at least all units covered by an assistance contract under any of the authorities referred to in subsection (b)(2)(D) before acquisition, unless the Secretary acts pursuant to the provisions of subparagraph (C) of this paragraph;

"(ii) in the case of units requiring project-based rental assistance pursuant to clause (i) that are occupied by families who are not eligible for assistance under section 8, a contract under this subparagraph shall also provide that when a vacancy occurs, the owner shall lease the available unit to a family eligible for assistance under section 8; and

"(iii) the Secretary shall take actions to ensure the availability and affordability, as defined in paragraph (3)(B), for the remaining useful life of the project, as defined by the Secretary, of any unit located in any project referred to in subparagraph (A), (B), or (C) of subsection (b)(2) that does not otherwise receive project-based rental assistance under this subparagraph. To carry out this clause, the Secretary may require purchasers to establish use or rent restrictions on these units.

"(B) SUBSIDIZED OR FORMERLY SUBSIDIZED PROJECTS RECEIVING OTHER ASSISTANCE.—In the case of a subsidized project referred to in subsection (b)(2)(D) or a formerly subsidized project that was subsidized as described in subsection (b)(2)(D)—

"(i) the contract shall be sufficient to assist at least all units in the project that are covered, or that were covered immediately before foreclosure on or acquisition of the project by the Secretary, by an assistance contract under any of the authorities referred to in such subsection, unless the Secretary acts pursuant to provisions of subparagraph (C); and

"(ii) in the case of units requiring project-based rental assistance pursuant to clause (i) that are occupied by families who are not eligible for assistance under section 8, a contract under this paragraph shall also provide that when a vacancy occurs, the owner shall lease the available unit to a family eligible for assistance under section 8.

"(C) EXCEPTIONS TO SUBPARAGRAPHS (A) AND (B).—In lieu of providing project-based rental assistance under subparagraph (A) or (B), the Secretary may require certain units in unsubsidized projects to contain use restrictions providing that such units will be available to and affordable by very low-income families for the remaining useful life of the project, as defined by the Secretary, if—

"(i) the Secretary matches any reduction in the number of units otherwise required to be assisted with project-based rental assistance under subparagraph (A) or (B) with at least an equivalent increase in the number of units made affordable, as such term is defined in paragraph (3)(B), to very low-income persons within unsubsidized projects;

"(ii) the Secretary makes tenant-based assistance under section 8 available to low-income tenants residing in units otherwise requiring project-based rental assistance under subparagraph (A) or (B) upon disposition; and

"(iii) the units described in clause (i) are located within the same market area.

"(D) CONTRACT REQUIREMENTS FOR UNSUBSIDIZED PROJECTS.—Notwithstanding actions that are taken pursuant to subparagraph (C), in any unsubsidized project—

"(i) the contract shall be at least sufficient to provide project-based rental assistance for all units that are covered or were covered immediately before foreclosure or acquisition by an assistance contract under—

"(I) section 8(b)(2) of the United States Housing Act of 1937, as such section existed before October 1, 1983 (new construction and substantial rehabilitation); section 8(b) of such Act (property disposition); section 8(d)(2) of such Act (project-based certificates); section 8(e)(2) of such Act (moderate rehabilitation); section 23 of such Act (as in effect before January 1, 1975); or section 101 of the Housing and Urban Development Act of 1965 (rent supplements); or

"(II) section 8 of the United States Housing Act of 1937, following conversion from section 101 of the Housing and Urban Development Act of 1965; and

"(ii) the Secretary shall make available tenant-based assistance under section 8 of the United States Housing Act of 1937 to tenants currently residing in units that were covered by an assistance contract under the Loan Management Set-Aside program under section 8(b) of the United States Housing Act of 1937 immediately before foreclosure or acquisition of the project by the Secretary.

"(2) ANNUAL CONTRIBUTION CONTRACTS.—In the case of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure or after sale by the Secretary, enter into annual contribution contracts with public housing agencies to provide tenant-based assistance under section 8 of the United States Housing Act of 1937 to all low-income families who are otherwise eligible for assistance, in accordance with the requirements of subparagraph (A), (B), or (D) of paragraph (1), on the date that the project is acquired by the purchaser. The Secretary shall take action under this paragraph only after making a determination that there is an adequate supply of habitable housing in the area that is available to and affordable by low-income families using such assistance. With respect to subsidized or formerly subsidized projects, actions may be taken pursuant to this paragraph in connection with not more than 10 percent of the aggregate number of units in subsidized or formerly subsidized projects disposed of by the Secretary in each fiscal year.

"(3) OTHER ASSISTANCE.—

"(A) IN GENERAL.—In accordance with the authority provided under the National Housing Act, reduce the selling price, apply use or rent restrictions on certain units, or provide other financial assistance to the owners of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure, or after sale by the Secretary, on terms that will ensure that at least those units otherwise required to receive project-based section 8 assistance pursuant to subparagraph (A), (B), or (D) of paragraph (1) are available to and affordable by low-income persons for the remaining useful life of the project, as defined by the Secretary.

"(B) DEFINITION.—A unit shall be considered affordable under this paragraph if—

"(i) for very low-income tenants, the rent for such unit does not exceed 30 percent of 50 percent of the area median income, as determined by the Secretary, with adjustments for family size; and

"(ii) for low-income tenants other than very low-income tenants, the rent for such unit does not exceed 30 percent of 80 percent of the area median income, as determined by the Secretary, with adjustments for family size.

"(C) VERY LOW-INCOME TENANTS.—The Secretary shall provide assistance under section 8 of the United States Housing Act of 1937 to any very low-income tenant currently residing in a unit otherwise required to receive project-based rental assistance under section 8, pursuant to subparagraph (A), (B), or (D) of paragraph (1), if the rents charged such tenants as a result of actions taken pursuant to this paragraph exceed the amount payable as rent under section 3(a) of the United States Housing Act of 1937.

"(4) TRANSFER FOR USE UNDER OTHER PROGRAMS OF THE SECRETARY.—

"(A) IN GENERAL.—Enter into an agreement providing for the transfer of a multifamily housing project—

"(i) to a public housing agency for use of the project as public housing; or "(ii) to an owner or another appropriate entity for use of the project under section 202 of the Housing Act of 1959 or under section 811 of the Cranston-Gonzalez National Affordable Housing Act.

"(B) REQUIREMENTS FOR AGREEMENT.—The agreement described in subparagraph (A) shall—

"(i) contain such terms, conditions, and limitations as the Secretary determines appropriate, including requirements to assure use of the project under the public housing, section 202, and section 811 programs; and

"(ii) ensure that no current tenant will be displaced as a result of actions taken under this paragraph.

"(f) OTHER ASSISTANCE.—In addition to the actions required by subsection (e), the Secretary may take any of the following actions:

"(1) SHORT-TERM LOANS.—Provide short-term loans to facilitate the sale of multifamily housing projects to nonprofit organizations or to public agencies if—

"(A) authority for such loans is provided in advance in an appropriations Act;

"(B) such loans are for a term of not more than 5 years;

"(C) the Secretary is presented with satisfactory documentation, evidencing a commitment of permanent financing to replace such short-term loan, from a lender who meets standards set forth by the Secretary; and

"(D) the terms of such loans are consistent with prevailing practices in the marketplace or the provision of such loans results in no cost to the Government, as defined in section 502 of the Congressional Budget Act.

"(2) TENANT-BASED ASSISTANCE.—Make available tenant-based assistance under section 8 of the United States Housing Act of 1937 to very low-income families that do not otherwise qualify for project-based rental assistance.

"(3) ALTERNATIVE USES.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, and subject to notice to and comment from existing tenants, allow not more than—

"(i) 5 percent of the total number of units in multifamily housing projects that are disposed of by the Secretary during each fiscal year to be made available for uses other than rental or cooperative housing, including low-income homeownership opportunities, community space, office space for tenant or housing-related service providers or security programs, or small business uses, if such uses benefit the tenants of the project; and

"(ii) 5 percent of the total number of units in multifamily housing projects that are disposed of by the Secretary during each fiscal year to be used in any manner, if the Secretary and the unit of general local government or area-wide governing body determine that such use will further fair housing, community development, or neighborhood revitalization goals.

"(B) DISPLACEMENT PROTECTION.—The Secretary shall—

"(i) make available tenant-based assistance under section 8 of the United States Housing Act of 1937 to any tenant displaced as a result of actions taken by the Secretary pursuant to subparagraph (A); and

"(ii) take such actions as the Secretary determines necessary to ensure the successful use of any tenant-based assistance provided under this subparagraph.

"(4) AUTHORIZATION OF USE OR RENT RESTRICTIONS IN UNSUBSIDIZED PROJECTS.—In carrying out the goals specified in subsection (a), the Secretary may require certain units in unsubsidized projects upon disposition to contain use or rent restrictions providing that such units will be available to and affordable by very low-income persons for the remaining useful life of the property, as defined by the Secretary.

"(g) CONTRACT REQUIREMENTS.—

"(1) CONTRACT TERM.—

"(A) IN GENERAL.—Contracts for project-based rental assistance under section 8 of the United States Housing Act of 1937 provided pursuant to this section shall be for a term of not more than 15 years; and

"(B) CONTRACT TERM OF LESS THAN 15 YEARS.—To the extent that units receive project-based rental assistance for a contract term of less than 15 years, the Secretary shall require that rents charged to tenants for such units shall not exceed the amount payable for rent under section 3(a) of the United States Housing Act of 1937 for a period of at least 15 years.

"(2) CONTRACT RENT.—

"(A) IN GENERAL.—The Secretary shall set contract rents for section 8 project-based rental contracts issued under this section at levels that, in conjunction with other resources available to the purchaser, provide for the necessary costs of rehabilitation of such project and do not exceed the percentage of the existing housing fair market rents for the area, as determined by the Secretary under section 8(c) of the United States Housing Act of 1937.

"(B) UP-FRONT GRANTS.—If such an approach is determined to be more cost-effective, the Secretary may utilize the budget authority provided for project-based section 8 contracts issued under this section to—

"(i) provide project-based section 8 rental assistance; and

"(ii) provide up-front grants for the necessary costs of rehabilitation.

"(h) DISPOSITION PLAN.—

"(1) IN GENERAL.—Prior to the sale of a multifamily housing project that is owned by the Secretary, the Secretary shall develop a disposition plan for the project that specifies the minimum terms and conditions of the Secretary for disposition of the project, the initial sales price that is acceptable to the Secretary, and the assistance that the Secretary plans to make available to a prospective purchaser in accordance with this section. The initial sales price shall reflect the intended use of the property after sale.

"(2) COMMUNITY AND TENANT INPUT INTO DISPOSITION PLANS AND SALES.—

"(A) IN GENERAL.—In carrying out this section, the Secretary shall develop procedures to obtain appropriate and timely input into disposition plans from officials of the unit of general local government affected, the community in which the project is situated, and the tenants of the project.

"(B) TENANT ORGANIZATIONS.—The Secretary shall develop procedures to facilitate, where feasible and appropriate, the sale of multifamily housing projects to existing tenant organizations with demonstrated capacity or to public or nonprofit entities that represent or are affiliated with existing tenant organizations.

"(C) TECHNICAL ASSISTANCE.—

"(i) IN GENERAL.—To carry out the procedures developed under subparagraphs (A) and (B), the Secretary is authorized to provide technical assistance, directly or indirectly.

"(ii) TECHNICAL ASSISTANCE PROVIDERS.—Recipients of technical assistance funding under the Emergency Low Income Housing Preservation Act of 1987, the Low-Income Housing Preservation and Resident Homeownership Act of 1990, subtitle B of title IV of the Cranston-Gonzalez National Affordable Housing Act, shall be permitted to provide technical assistance to the extent of such funding under any of such programs or under this section, notwithstanding the source of funding.

"(iii) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 to carry out this subparagraph. In addition, the Secretary is authorized to use amounts appropriated for technical assistance under the Emergency Low Income Housing Preservation Act of 1987, the Low-Income Housing Preservation and Resident Homeownership Act of 1990, subtitle B of title IV of the Cranston-Gonzalez National Affordable Housing Act, for the provision of technical assistance under this section.

"(i) RIGHT OF FIRST REFUSAL.—

"(1) PROCEDURE.—

"(A) NOTIFICATION BY SECRETARY OF THE ACQUISITION OF TITLE.—Not later than 30 days after the Secretary acquires title to a multifamily housing project, the Secretary shall notify the appropriate unit of general local government and State agency or agencies designated by the Governor of the acquisition of such title.

"(B) EXPRESSION OF INTEREST.—Not later than 45 days after receiving notification from the Secretary under subparagraph (A), the unit of general local government or designated State agency may submit to the Secretary a preliminary expression of interest in the project. The Secretary may take such actions as may be necessary to require the unit of general local government or designated State agency to substantiate such interest.

"(C) TIMELY EXPRESSION OF INTEREST.—If the unit of general local government or designated State agency has expressed interest in the project before the expiration of the 45-day period referred to in subparagraph (B) and has substantiated such interest if requested, the Secretary shall notify the unit of general local government or designated State agency, within a reasonable period of time, of the terms and conditions of the disposition plan, in accordance with subsection (h). The Secretary shall then give the unit of general local government or designated State agency not more than 90 days after the date of such notification to make an offer to purchase the project.

"(D) NO TIMELY EXPRESSION OF INTEREST.—If the unit of general local government or designated State agency does not express interest before the expiration of the 45-day period referred to in subparagraph (B), or does not substantiate an expressed interest if requested, the Secretary may offer the project for sale to any interested person or entity.

"(2) ACCEPTANCE OF OFFERS.—If the Secretary has given the unit of general local government or designated State agency 90 days to make an offer to purchase the project, the Secretary shall accept an offer that complies with the terms and conditions of the disposition plan. The Secretary may accept an offer that does not comply with the terms and conditions of the disposition plan if the Secretary determines that the offer will further the goals specified in subsection (a) by actions that include extension of the duration of low-income affordability restrictions or otherwise restructuring the transaction in a manner that enhances the long-term affordability for low-income persons. The Secretary shall, in particular, have discretion to reduce the initial sales price in exchange for the extension of low-income affordability restrictions beyond the period of assistance contemplated by the attachment of assistance pursuant to subsection (e) or for an increase in the number of units that are available to and affordable by low-income families. If the Secretary and the unit of general local government or designated State agency cannot reach agreement within 90 days, the Secretary may offer the project for sale to the general public.

"(3) PURCHASE BY UNIT OF GENERAL LOCAL GOVERNMENT OR DESIGNATED STATE AGENCY.—Notwithstanding any other provision of law, a unit of general local government (including a public housing agency) or designated State agency may purchase multifamily housing projects in accordance with this subsection.

"(4) APPLICABILITY.—This subsection shall apply to projects that are acquired on or after the effective date of this subsection. With respect to projects acquired before such effective date, the Secretary may apply—

"(A) the requirements of paragraphs (2) and (3) of section 203(e) as such paragraphs existed immediately before the effective date of this subsection; or

"(B) the requirements of paragraphs (1) and (2) of this subsection, if the Secretary gives the unit of general local government or designated State agency—

"(i) 45 days to express interest in the project; and

"(ii) if the unit of general local government or designated State agency expresses interest in the project before the expiration of the 45-day period, and substantiates such interest if requested, 90 days from the date of notification of the terms and conditions of the disposition plan to make an offer to purchase the project.

"(j) DISPLACEMENT OF TENANTS AND RELOCATION ASSISTANCE.—

"(1) IN GENERAL.—Whenever tenants will be displaced as a result of the demolition of, repairs to, or conversion in the use of, a multifamily housing project that is owned by the Secretary (or for which the Secretary is mortgagee in possession), the Secretary shall identify tenants who will be displaced, and shall notify all such tenants of their pending displacement and of any relocation assistance that may be available. In the case of a multifamily housing project that is subject to a mortgage held by the Secretary, the Secretary shall require the owner of the project to carry out the requirements of this paragraph, if the Secretary has authorized the demolition of, repairs to, or conversion in the use of such multifamily housing project.

"(2) RIGHTS OF DISPLACED TENANTS.—The Secretary shall assure for any such tenant (who continues to meet applicable qualification standards) the right—

"(A) to return, whenever possible, to a repaired unit;

"(B) to occupy a unit in another multifamily housing project owned by the Secretary;

"(C) to obtain housing assistance under the United States Housing Act of 1937; or

"(D) to receive any other available relocation assistance as the Secretary determines to be appropriate.

"(k) MORTGAGE AND PROJECT SALES.—

"(1) IN GENERAL.—The Secretary may not approve the sale of any loan or mortgage held by the Secretary (including any loan or mortgage owned by the Government National Mortgage Association) on any subsidized project or formerly subsidized project, unless such sale is made as part of a transaction that will ensure that such project will continue to operate at least until the maturity date of such loan or mortgage, in a manner that will provide rental housing on terms at least as advantageous to existing and future tenants as the terms required by the program under which the loan or mortgage was made or insured prior to the assignment of the loan or mortgage on such project to the Secretary.

"(2) SALE OF CERTAIN PROJECTS.—The Secretary may not approve the sale of any subsidized project—

"(A) that is subject to a mortgage held by the Secretary; or

"(B) if the sale transaction involves the provision of any additional subsidy funds by the Secretary or a recasting of the mortgage; unless such sale is made as part of a transaction that will ensure that such project will continue to operate at least until the maturity date of the loan or mortgage, in a manner that will provide rental housing on terms at least as advantageous to existing and future tenants as the terms required by the program under which the loan or mortgage was made or insured prior to the proposed sale of the project.

"(3) MORTGAGE SALES TO STATE AND LOCAL GOVERNMENTS.—Notwithstanding any provision of law that may require competitive sales or bidding, the Secretary may carry out negotiated sales of mortgages held by the Secretary that are secured by subsidized, unsubsidized, or formerly subsidized multifamily housing projects, without the competitive selection of purchasers or intermediaries, to units of general local government or State agencies, or groups of investors that include at least 1 such unit of general local government or State agency, if the negotiations are conducted with such agencies, except that—

"(A) the terms of any such sale shall include the agreement of the purchasing agency or unit of local government or State agency to act as mortgagee or owner of a beneficial interest in such mortgages, in a manner consistent with maintaining the projects that are subject to such mortgages for occupancy by the general tenant group intended to be served by the applicable mortgage insurance program, including, to the extent the Secretary determines appropriate, authorizing such unit of local government or State agency to enforce the provisions of any regulatory agreement or other program requirements applicable to the related projects; and

"(B) the sales prices for such mortgages shall be, in the determination of the Secretary, the best prices that may be obtained for such mortgages from a unit of general local government or State agency, consistent with the expectation and intention that the projects financed will be retained for use under the applicable mortgage insurance program for the life of the initial mortgage insurance contract.

"(4) SALE OF MORTGAGES COVERING UNSUBSIDIZED PROJECTS.—Notwithstanding any other provision of law, the Secretary may sell mortgages held on unsubsidized projects on such terms and conditions as the Secretary may prescribe.

"(l) PROJECT-BASED RENTAL ASSISTANCE FOR TERM OF LESS THAN 15 YEARS.—Notwithstanding subsection (g), project-based rental assistance in connection with the disposition of a multifamily housing project may be provided for a contract term of less than 15 years if such assistance is provided—

"(1) under a contract authorized under section 6 of the HUD Demonstration Act of 1993; and

"(2) pursuant to a disposition plan under this section for a project that is determined by the Secretary to be otherwise in compliance with this section.

"(m) REPORT TO CONGRESS.—Not later than June 1 of each year, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, a report describing the status of multifamily housing projects owned by or subject to mortgages held by the Secretary, on an aggregate basis, which highlights the differences, if any, between the subsidized and the unsubsidized inventory. The report shall include—

"(1) the average and median size of the projects;

"(2) the geographic locations of the projects, by State and region;

"(3) the years during which projects were assigned to the Department, and the average and median length of time that projects remain in the HUD-held inventory;

"(4) the status of HUD-held mortgages;

"(5) the physical condition of the HUD-held and HUD-owned inventory;

"(6) the occupancy profile of the projects, including the income, family size, race, and ethnic origin of current tenants, and the rents paid by such tenants;

"(7) the proportion of units that are vacant;

"(8) the number of projects for which the Secretary is mortgagee in possession;

"(9) the number of projects sold in foreclosure sales;

"(10) the number of HUD-owned projects sold;

"(11) a description of actions undertaken pursuant to this section, including—

"(A) a comparison of results between actions taken after the date of enactment of the Housing and Community Development Act of 1993 and actions taken in the years preceding such date of enactment;

"(B) a description of any impediments to the disposition or management of multifamily housing projects, together with a recommendation of proposed legislative or regulatory changes designed to ameliorate such impediments;

"(C) a description of actions taken to restructure or commence foreclosure on delinquent multifamily mortgages held by the Department; and

"(D) a description of actions taken to monitor and prevent the default of multifamily housing mortgages held by the Federal Housing Administration;

"(12) a description of any of the functions performed in connection with this section that are contracted out to public or private entities or to States, including—

"(A) the costs associated with such delegation;

"(B) the implications of contracting out or delegating such functions for current Department field or regional personnel, including anticipated personnel or work load reductions;

"(C) necessary oversight required by Department personnel, including anticipated personnel hours devoted to such oversight;

"(D) a description of any authority granted to such public or private entities or States in conjunction with the functions that have been delegated or contracted out or that are not otherwise available for use by Department personnel; and

"(E) the extent to which such public or private entities or States include tenants of multifamily housing projects in the disposition planning for such projects; and

"(13) a description of the activities carried out under subsection (i) during the preceding year.".

(c) EFFECTIVE DATE.—The Secretary shall, by notice published in the Federal Register, which shall take effect upon publication, establish such requirements as may be necessary to implement the amendments made by this section. The notice shall invite public comments and, not later than 12 months after the date on which the notice is published, the Secretary shall issue final regulations based on the initial notice, taking into account any public comments received.

SEC. 102. REPEAL OF STATE AGENCY MULTIFAMILY PROPERTY DISPOSITION DEMONSTRATION.

Section 184 of the Housing and Community Development Act of 1987 (12 U.S.C. 1701z-11 note) is hereby repealed.

SEC. 103. RTC MARKETING AND DISPOSITION OF MULTIFAMILY PROJECTS OWNED BY HUD.

(a) AUTHORIZATION.—The Secretary may carry out a demonstration with not more than 50 unsubsidized multifamily housing projects owned by the Secretary, using the RTC for the marketing and disposition of the projects. Any such demonstration shall be carried out pursuant to an agreement between the RTC and the Secretary on such terms and conditions as are acceptable to the RTC and the Secretary. The RTC shall establish policies and procedures for marketing and disposition, subject to review and approval by the Secretary.

(b) RULES GOVERNING THE DEMONSTRATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), in carrying out the provisions of this section, the RTC shall dispose of unsubsidized multifamily housing projects pursuant to the provisions of section 21A(c) of the Federal Home Loan Bank Act.

(2) EXCEPTION.—Notwithstanding paragraph (1), a very low-income tenant currently residing in a unit otherwise required under subsection (e)(1)(D) of section 203 of the Housing and Community Development Amendments of 1978 to receive project-based rental assistance under section 8, shall upon disposition pay not more than the amount payable as rent under section 3(a) of the United States Housing Act of 1937.

(c) DETERMINATION OF PROJECTS INCLUDED.—In determining which projects to include in the demonstration, the Secretary and the RTC shall take into consideration—

(1) the prior experience of the RTC in disposing of other multifamily housing projects in the jurisdictions in which such projects are located; and

(2) such other factors as the Secretary and the RTC determine to be appropriate.

(d) REIMBURSEMENT.—The agreement entered into pursuant to subsection (a) shall provide that the Secretary shall reimburse the RTC for the direct costs associated with the demonstration, including the costs of administration and marketing, property management, and any repair and rehabilitation. The Secretary may use proceeds from the sale of the projects to reimburse the RTC for its costs.

(e) REPORTS.—

(1) ANNUAL REPORTS.—The Secretary and the RTC shall jointly submit an annual report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives detailing the progress of the demonstration.

(2) FINAL REPORT.—Not later than 3 months after the completion of the demonstration, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report describing the results of the demonstration and any recommendations for legislative action.

(f) TERMINATION.—The demonstration under this section shall not extend beyond the termination date of the RTC.

SEC. 104. CIVIL MONEY PENALTIES AGAINST GENERAL PARTNERS AND CERTAIN MANAGING AGENTS OF MULTIFAMILY HOUSING PROJECTS.

(a) CIVIL MONEY PENALTIES AGAINST MULTIFAMILY MORTGAGORS.—Section 537 of the National Housing Act (12 U.S.C. 1735f-15) is amended—

(1) in subsection (b)(1), by inserting after "mortgagor" the second place it appears the following: "or general partner of a partnership mortgagor";

(2) in subsection (c)—

(A) by striking the heading and inserting the following:

"(c) OTHER VIOLATIONS.—"; and

(B) in paragraph (1)—

(i) by striking "The Secretary may" and all that follows through the colon and inserting the following:

"(A) LIABLE PARTIES.—The Secretary may also impose a civil money penalty under this section on—

"(i) any mortgagor of a property that includes 5 or more living units and that has a mortgage insured, coinsured, or held pursuant to this Act;

"(ii) the general partner of a partnership mortgagor of such property; or

"(iii) any agent employed to manage the property that has an identity of interest with the mortgagor or the general partner of a partnership mortgagor of such property.

"(B) VIOLATIONS.—A penalty may be imposed under this paragraph for knowingly and materially taking any of the following actions:";

(ii) in subparagraph (B), as redesignated, by redesignating subparagraphs (A) through (L) as clauses (i) through (xii), respectively; and

(iii) by adding after clause (xii), as redesignated, the following new clauses:

"(xiii) Failure to maintain the premises, accommodations, and the grounds and equipment appurtenant thereto in good repair and condition in accordance with regulations and requirements of the Secretary, except that nothing in this clause shall have the effect of altering the provisions of an existing regulatory agreement or federally insured mortgage on the property.

"(xiv) Failure, by a mortgagor or general partner of a partnership mortgagor, to provide management for the project that is acceptable to the Secretary pursuant to regulations and requirements of the Secretary."; and

(iv) in the last sentence, by deleting "of such agreement" and inserting "of this subsection";

(3) in subsection (d)(1)(B), by inserting after "mortgagor" the following: ", general partner of a partnership mortgagor, or identity of interest agent employed to manage the property,";

(4) in subsection (d), by adding at the end the following new paragraph:

"(5) PAYMENT OF PENALTY.—No payment of a civil money penalty levied under this section shall be payable out of project income.";

(5) in subsection (e)(1), by deleting "a mortgagor" and inserting "an entity or person";

(6) in subsection (f), by inserting after "mortgagor" each place such term appears the following: ", general partner of a partnership mortgagor, or identity of interest agent employed to manage the property,";

(7) by striking the heading of subsection (f) and inserting the following: "CIVIL MONEY PENALTIES AGAINST MULTIFAMILY MORTGAGORS, GENERAL PARTNERS OF PARTNERSHIP MORTGAGORS, AND CERTAIN MANAGING AGENTS";

(8) in subsection (j), by striking "all civil money" and all that follows through the period at the end and inserting the following: "the Secretary shall apply all civil money penalties collected under this section, or any portion of such penalties, to the fund established under section 201(j) of the Housing and Community Development Amendments of 1978."; and

(9) by adding at the end the following new subsection:

"(k) IDENTITY OF INTEREST MANAGING AGENT.—For purposes of this section, the term 'identity of interest managing agent' means an ownership entity, or its general partner or partners, which has an ownership interest in and which exerts effective control over the property's ownership.".

(b) IMPLEMENTATION.—The Secretary shall implement the amendments made by this section by regulation issued after notice and opportunity for public comment. A proposed rule shall be published not later than March 1, 1994. The notice shall seek comments primarily as to the definition of the terms 'ownership interest in' and 'effective control', as such terms are used in the definition of identity of interest managing agent.

(c) APPLICABILITY OF AMENDMENTS.—The amendments made by subsection (a) shall apply only with respect to—

(1) violations that occur on or after the effective date of the final regulations implementing the amendments made by this section; and

(2) in the case of a continuing violation (as determined by the Secretary), any portion of a violation that occurs on or after such date.

SEC. 105. MODELS FOR PROPERTY DISPOSITION.

The Federal Housing Commissioner shall develop models which shall be designed to assist States and units of general local government in using other Federal programs for the purpose of acquiring, rehabilitating, or otherwise participating in—

(1) the disposition, pursuant to section 203 of the Housing and Community Development Amendments of 1978, of multifamily housing projects owned by the Secretary; or

(2) the sale, pursuant to section 203 of the Housing and Community Development Amendments of 1978, of multifamily housing projects subject to mortgages held by the Secretary.

SEC. 106. PREVENTING MORTGAGE DEFAULTS.

(a) MULTIFAMILY HOUSING PLANNING AND INVESTMENT STRATEGIES.—

(1) PREPARATION OF ASSESSMENTS FOR INDEPENDENT ENTITIES.—Section 402(a) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715-1a note) is amended by adding at the end the following: "The assessment shall be prepared by an entity that does not have an identity of interest with the owner.".

(2) TIMING OF SUBMISSION OF NEEDS ASSESSMENTS.—Section 402(b) of the Housing and Community Development Act of 1992 (12 U.S.C. 17152-1a note) is amended to read as follows:

"(b) TIMING.—To ensure that assessments for all covered multifamily housing properties will be submitted on or before the conclusion of fiscal year 1997, the Secretary shall require the owners of such properties, including covered multifamily housing properties for the elderly, to submit the assessments for the properties in accordance with the following schedule:

"(1) For fiscal year 1994, 10 percent of the aggregate number of such properties.

"(2) For each of fiscal years 1995, 1996, and 1997, an additional 30 percent of the aggregate number of such properties.".

(3) REVIEW OF COMPREHENSIVE NEEDS ASSESSMENTS.—Section 404(d) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715–1a note) is amended to read as follows:

"(d) REVIEW.—

"(1) IN GENERAL.—The Secretary shall review each comprehensive needs assessment for completeness and adequacy before the expiration of the 90-day period beginning on the receipt of the assessment.

"(2) INCOMPLETE OR INADEQUATE ASSESSMENTS.—If the Secretary determines that the assessment is substantially incomplete or inadequate, the Secretary shall—

"(A) provide the owner with a reasonable amount of time to resubmit an amended assessment; and

"(B) indicate to the owner the portion of the original assessment requiring completion or other revision.".

(4) REPEAL OF NOTICE PROVISION.—Section 404(f) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715–1a note) is hereby repealed.

(5) FUNDING.—Title IV of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–1a note) is amended by adding at the end the following new section:

"SEC. 409. FUNDING.

"(a) ALLOCATION OF ASSISTANCE.—Based upon needs identified in comprehensive needs assessments, and subject to otherwise applicable program requirements, including selection criteria, the Secretary may allocate the following assistance to owners of covered multifamily housing projects and may provide such assistance on a noncompetitive basis:

"(1) Operating assistance and capital improvement assistance for troubled multifamily housing projects pursuant to section 201 of the Housing and Community Development Amendments of 1978, except for assistance set aside under section 201(n)(1).

"(2) Loan management assistance available pursuant to section 8 of the United States Housing Act of 1937.

"(b) OPERATING ASSISTANCE AND CAPITAL IMPROVEMENT ASSISTANCE.—In providing assistance under subsection (a) the Secretary shall use the selection criteria set forth in section 201(n) of the Housing and Community Development Amendments.

"(c) AMOUNT OF ASSISTANCE.—The Secretary may fund all or only a portion of the needs identified in the capital needs assessment of an owner selected to receive assistance under this section.".

(b) FLEXIBLE SUBSIDY PROGRAM.—

(1) DELETION OF UTILITY COST REQUIREMENTS.—Section 201(i) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z–1a(i)) is hereby repealed.

(2) REPEAL OF MANDATORY CONTRIBUTION FROM OWNER.—Section 201(k)(2) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z–1a(k)(2)) is amended by striking ", except that" and all that follows through "such loan".

(3) FUNDING.—Section 201(n) of the Housing and Community Development Amendments of 1978 (42 U.S.C. 1715z–1a(n)) is amended to read as follows:

"(n)(1) For fiscal year 1994 only, in providing, and contracting to provide, assistance for capital improvements under this section, the Secretary shall set aside an amount, as determined by the Secretary, for projects that are eligible for incentives under section 224(b) of the Emergency Low Income Housing Preservation Act of 1987, as such section existed before the date of enactment of the Cranston-Gonzalez National Affordable Housing Act. The Secretary may make such assistance available on a noncompetitive basis.

"(2) Except as provided in paragraph (3), with respect to assistance under this section not set aside for projects under paragraph (1), the Secretary—

"(A) may award assistance on a noncompetitive basis; and

"(B) shall award assistance to eligible projects on the basis of—

"(i) the extent to which the project is physically or financially troubled, as evidenced by the comprehensive needs assessment submitted in accordance with title IV of the Housing and Community Development Act of 1992; and

"(ii) the extent to which such assistance is necessary and reasonable to prevent the default of federally insured mortgages.

"(3) The Secretary may make exceptions to selection criteria set forth in paragraph (2) to permit the provision of assistance to eligible projects based upon—

"(A) the extent to which such assistance is necessary to prevent the imminent foreclosure or default of a project whose owner has not submitted a comprehensive needs assessment pursuant to title IV of the Housing and Community Development Act of 1992;

"(B) the extent to which the project presents an imminent threat to the life, health, and safety of project residents; or

"(C) such other criteria as the Secretary may specify by regulation or by notice printed in the Federal Register.

"(4) In providing assistance under this section, the Secretary shall take into consideration—

"(A) the extent to which there is evidence that there will be significant opportunities for residents (including a resident council or resident management corporation, as appropriate) to be involved in the management of the project (except that this paragraph shall have no application to projects that are owned as cooperatives); and

"(B) the extent to which there is evidence that the project owner has provided competent management and complied with all regulatory and administrative instructions (including such instructions with respect to the comprehensive servicing of multifamily projects as the Secretary may issue).".

(c) IMPLEMENTATION AND EFFECTIVE DATE FOR SUBSECTIONS (a) AND (b).—

(1) IN GENERAL.—The Secretary shall, by notice published in the Federal Register, which shall take effect upon publication, establish such requirements as may be necessary to implement the amendments made by subsections (a) and (b). The notice shall invite public comments and, not later than 12 months after the date on which the notice is published, the Secretary shall issue final regulations based on the initial notice, taking into account any public comments received.

(2) CONTENTS.—The notice and the regulations shall describe the method by which the Secretary allocates assistance in accordance with section 409 of the Housing and Community Development Act of 1992 (as added by section 106(a) of this Act) and paragraphs (2) and (3) of section 201(n) of the Housing and Community Development Amendments of 1978.

(3) ANNUAL PUBLICATIONS.—The Secretary shall publish annually in the Federal Register—

(A) the method by which the Secretary determines which capital needs assessments will be received each year, in accordance with sections 402(b) and 404(d) of the Housing and Community Development Act of 1992; and

(B) a list of all owners of covered multifamily housing projects, by project, that have received funding under—

(i) section 409 of the Housing and Community Development Act of 1992 (as added by section 106(a) of this Act); or

(ii) paragraphs (2) and (3) of section 201(n) of the Housing and Community Development Amendments of 1978.

(4) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by subsections (a) and (b) shall take effect for amounts made available for fiscal year 1995.

(B) EXCEPTION.—Notwithstanding subparagraph (A), section 201(n)(1) of the Housing and Community Development Amendments of 1978 (as added by subsection (b)(3)) shall take effect on the date of enactment of this Act.

(d) STREAMLINED REFINANCING.—As soon as practicable, the Secretary shall implement a streamlined refinancing program under the authority provided in section 223 of the National Housing Act to prevent the default of mortgages insured by the FHA which cover multifamily housing projects, as defined in section 203(b) of the Housing and Community Development Amendments of 1978.

(e) PARTIAL PAYMENTS OF CLAIM.—

(1) IN GENERAL.—Notwithstanding any other provision of law, if the Secretary is requested to accept assignment of a mortgage insured by the Secretary that covers a multifamily housing project, as such term is defined in section 203(b) of the Housing and Community Development Amendments of 1978, and the Secretary determines that partial payment would be less costly to the Federal Government than other reasonable alternatives for maintaining the low-income character of the project, the Secretary may request the mortgagee, in lieu of assignment, to—

(A) accept partial payment of the claim under the mortgage insurance contract; and

(B) recast the mortgage, under such terms and conditions as the Secretary may determine.

(2) CONDITION.—As a condition to a partial claim payment under this section, the mortgagor shall agree to repay to the Secretary the amount of such payment and such obligation shall be secured by a second mortgage on the property on such terms and conditions as the Secretary may determine.

(f) GAO STUDY ON PREVENTION OF DEFAULT.—

(1) IN GENERAL.—Not later than June 1, 1994, the Comptroller General of the United States shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report that evaluates the adequacy of loan loss reserves in the General Insurance and Special Risk Insurance Funds and presents recommendations for the Secretary to prevent losses from occurring.

(2) CONTENTS.—The report submitted under paragraph (1) shall—

(A) evaluate the factors considered in arriving at loss estimates and determine whether other factors should be considered;

(B) determine the relative benefit of creating a new, actuarially sound insurance fund for all new multifamily housing insurance commitments; and

(C) recommend alternatives to the Secretary's current procedures for preventing the future default of multifamily housing project mortgages insured under title II of the National Housing Act.

(g) GAO STUDY ON ACTUARIAL SOUNDNESS OF CERTAIN INSURANCE PROGRAMS.—

(1) IN GENERAL.—Not later than June 1, 1994, the Comptroller General of the United States shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report that evaluates, in connection with the General Insurance Fund, the role and performance of the nursing home, hospital, and retirement service center insurance programs.

(2) CONTENTS.—The reports submitted under paragraph (1) shall—

(A) evaluate the strategic importance of these insurance programs to the mission of the FHA;

(B) evaluate the impact of these insurance programs upon the financial performance of the General Insurance Fund;

(C) assess the potential losses expected under these programs through fiscal year 1999;

(D) evaluate the risk of these programs to the General Insurance Fund in connection with changes in national health care policy;

(E) assess the ability of the FHA to manage these programs; and

(F) make recommendations for any necessary changes.

(h) ANNUAL ACTUARIAL REVIEW.—

(1) SPECIAL RISK INSURANCE FUND.—Section 238(c) of the National Housing Act (12 U.S.C. 1715z-3(c)) is amended by adding at the end the following new paragraph:

"(3) The Secretary shall undertake an annual review of the actuarial soundness of each of the insurance programs comprising the Special Risk Insurance Fund, and shall present findings from such review to the Congress in the FHA Annual Management Report.".

(2) GENERAL INSURANCE FUND.—Section 519 of the National Housing Act (12 U.S.C. 1735c) is amended by adding at the end the following new subsection:

"(g) ANNUAL ACTUARIAL REVIEW.—The Secretary shall undertake an annual review of the actuarial soundness of each of the insurance programs comprising the General Insurance Fund, and shall present findings from such review to the Congress in the FHA Annual Management Report.".

(i) ALTERNATIVE USES FOR PREVENTION OF DEFAULT.—

(1) IN GENERAL.—Subject to notice and comment from existing tenants, to prevent the imminent default of a multifamily housing project subject to a mortgage insured under title II of the National Housing Act, the Secretary may authorize the mortgagor to use the project for purposes not contemplated by or permitted under the regulatory agreement, if—

(A) such other uses are acceptable to the Secretary;

(B) such other uses would be otherwise insurable under title II of the National Housing Act;

(C) the outstanding principal balance on the mortgage covering such project is not increased;

(D) any financial benefit accruing to the mortgagor shall, subject to the discretion of the Secretary, be applied to project reserves or project rehabilitation; and

(E) such other use serves a public purpose.

(2) DISPLACEMENT PROTECTION.—The Secretary shall—

(A) make available tenant-based assistance under section 8 of the United States Housing Act of 1937 to any tenant displaced as a result of actions taken by the Secretary pursuant to paragraph (1); and

(B) take such actions as the Secretary determines necessary to ensure the successful use of any tenant-based assistance provided under this paragraph.

(3) IMPLEMENTATION.—The Secretary shall, by notice published in the Federal Register, which shall take effect upon publication, establish such requirements as may be necessary to implement the amendments made by this subsection. The notice shall invite public comments and, not later than 12 months after the date on which the notice is published, the Secretary shall issue final regulations based on the initial notice, taking into account any public comments received.

(j) MORTGAGE SALE DEMONSTRATION.—The Secretary may carry out a demonstration to test the feasibility of restructuring and disposing of troubled multifamily mortgages held by the Secretary through the establishment of partnerships between public, private, and nonprofit entities.

(k) NATIONAL INTERAGENCY TASK FORCE ON MULTIFAMILY HOUSING.—

(1) FUNCTIONS.—Section 543(e)(1) of the Housing and Community Development Act of 1992 (12 U.S.C. 1707 note) is amended—

(A) in subparagraph (D), by striking "and" at the end;

(B) in subparagraph (E), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(F) make available appropriate information to the Department of Housing and Urban Development that will assist in preventing the future default of multifamily housing project mortgages insured under title II of the National Housing Act.".

(2) USE OF APPROPRIATIONS AUTHORITY.—Section 543(h) of the Housing and Community Development Act of 1992 is amended by inserting after the first sentence the following: "The Secretary may use any non-Federal or private funding or may use the authority provided for salaries and expenses in appropriations Acts for activities carried out under this section.

SEC. 107. INTEREST RATES ON ASSIGNED MORTGAGES.

Section 7(i)(5) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(i)(5)) is amended by striking the first semicolon, and all that follows through "as determined by the Secretary".

SEC. 108. AUTHORIZATION OF APPROPRIATIONS.

(a) SPECIAL RISK INSURANCE FUND.—Section 238(b) of the National Housing Act (12 U.S.C. 1715z-3(b)) is amended by striking the fifth sentence.

(b) GENERAL INSURANCE FUND.—Section 519 of the National Housing Act (12 U.S.C. 1735c) is amended—

(1) by striking subsection (f); and

(2) by redesignating subsection (g) (as added by section 106(h)(2) of this Act) as subsection (f).

(c) MULTIFAMILY INSURANCE FUND APPROPRIATIONS.—Title V of the National Housing Act (12 U.S.C. 1731a et seq.) is amended by adding at the end the following new section:

"SEC. 541. AUTHORIZATION OF APPROPRIATIONS FOR GENERAL AND SPECIAL RISK INSURANCE FUNDS.

"There are authorized to be appropriated $350,000,000 for fiscal year 1994 and $360,500,000 for fiscal year 1995, to be allocated in any manner that the Secretary determines appropriate, for the following costs incurred in conjunction with programs authorized under the General Insurance Fund, as provided by section 519, and the Special Risk Insurance Fund, as provided by section 238:

"(1) The cost to the Government, as defined in section 502 of the Congressional Budget Act, of new insurance commitments.

"(2) The cost to the Government, as defined in section 502 of the Congressional Budget Act, of modifications to existing loans, loan guarantees, or insurance commitments.

"(3) The cost to the Government, as defined in section 502 of the Congressional Budget Act, of loans provided under section 203(f) of the Housing and Community Development Amendments of 1978.

"(4) The costs of the rehabilitation of multifamily housing projects (as defined in section 203(b) of the Housing and Community Development Amendments of 1978) upon disposition by the Secretary.".

TITLE II—ENHANCED PROGRAM FLEXIBILITY

Subtitle A—Office of Public and Indian Housing

SEC. 201. REVITALIZATION OF SEVERELY DISTRESSED PUBLIC HOUSING.

(a) IN GENERAL.—Section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v) is amended—

(1) by amending subsection (b) to read as follows:

"(b) [RESERVED].";

(2) in subsection (c)(2), by striking "$200,000" and inserting "$500,000";

(3) in subsection (c)(3)—

(A) by redesignating subparagraphs (E) through (I) as subparagraphs (F) through (J), respectively;

(B) by inserting after subparagraph (D) the following new subparagraph:

"(E) planning for community service and support service activities to be carried out by the public housing agency, residents, members of the community, and other persons and organizations willing to contribute to the social, economic, or physical improvement of the community (community service is a required element of the revitalization program);"; and

(C) in subparagraph (H), as redesignated, by striking "designing a suitable replacement housing plan," and inserting "designing suitable relocation and replacement housing plans,";

(4) in subsection (c)(4)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(B) by inserting after subparagraph (C) the following new subparagraph:

"(D) a description of the community service and support service planning activities to be carried out by the public housing agency, residents, members of the community, and other persons and organizations willing to contribute to the social, economic, or physical improvement of the community;";

(5) in subsection (c)(5)—

(A) by striking subparagraph (E) and redesignating subparagraphs (F) and (G) as subparagraphs (E) and (F), accordingly;

(B) in subparagraph (E), as redesignated, by inserting before the semicolon ", taking into account the condition of the stock of the public housing agency as a whole"; and

(C) by adding at the end the following:

"In making grants under this subsection, the Secretary may select a lower-rated, approvable application over a higher-rated application to increase the national geographic diversity among applications approved under this section.";

(6) in subsection (d)(2)—

(A) by redesignating subparagraphs (E) through (I) as subparagraphs (G) through (K), respectively;

(B) by inserting after subparagraph (D) the following new subparagraphs:

"(E) community service activities to be carried out by residents, members of the community, and other persons willing to contribute to the social, economic, or physical improvement of the community (community service is a required element of the revitalization program);

"(F) replacement of public housing units;"; and

(C) in subparagraph (K), as redesignated—

(i) by striking "15 percent" and inserting "20 percent"; and

(ii) by inserting before the period at the end the following: ", except that an amount equal to 15 percent of the amount of any grant under this subsection used for support services shall be contributed from non-Federal sources (which contribution shall be in the form of cash, administrative costs, and the reasonable value of in-kind contributions and may include funding under title I of the Housing and Community Development Act of 1974)";

(7) in subsection (d)(3)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(B) by inserting after subparagraph (C) the following new subparagraph:

"(D) a description of the community service and support service activities to be carried out by the public housing agency, residents, members of the community, and other persons and organizations willing to contribute to the social, economic, or physical improvement of the community;";

(8) in subsection (d)(4)—

(A) in subparagraph (D), by inserting "(with assistance from the Department of Housing and Urban Development if necessary)" after "applicant";

(B) by striking subparagraph (E) and redesignating subparagraphs (F) and (G) as subparagraphs (E) and (F), respectively;

(C) in subparagraph (E), as redesignated, by inserting before the semicolon ", taking into account the condition of the applicant's stock as a whole"; and

(D) by adding at the end the following:

"In making grants under this subsection, the Secretary may select a lower-rated, approvable application over a higher-rated application to increase the national geographic diversity among applications approved under this section.";

(9) in subsection (e), by adding at the end the following new paragraph:

"(3) DEMOLITION AND REPLACEMENT.—

"(A) IN GENERAL.—Notwithstanding any other applicable law or regulation, a revitalization plan under this section may include demolition and replacement on site or in the same neighborhood if the number of replacement units provided in the same neighborhood is fewer than the number of units demolished as a result of the revitalization effort.

"(B) TENANT-BASED ASSISTANCE.—Notwithstanding the limitations contained in subparagraph (A)(v) or (C) of section 18(b)(3), a public housing agency may replace not more than one-third of the units demolished or disposed of through a revitalization project under this section with tenant-based assistance under section 8.";

(10) in subsection (h)—

(A) by amending paragraph (5) to read as follows:

"(5) SEVERELY DISTRESSED PUBLIC HOUSING.—The term 'severely distressed public housing' means a public housing project or a building in a project—

"(A) that requires major redesign, reconstruction, redevelopment, or partial or total demolition to correct serious deficiencies in the original design (including inappropriately high population density), deferred maintenance, physical deterioration or obsolescence of major systems, and other deficiencies in the physical plant of the project; and

"(B) that either—

"(i)(I) is occupied predominantly by families with children that have extremely low incomes, high rates of unemployment, and extensive dependency on various forms of public assistance; and

"(II) has high rates of vandalism and criminal activity (including drug-related criminal activity); or

"(ii) that has a vacancy rate, as determined by the Secretary, of 50 percent or more;

"(C) that cannot be revitalized through assistance under other programs, such as the programs under sections 9 and 14, or through other administrative means because of the inadequacy of available funds; and

"(D) that, in the case of individual buildings, the building is, in the Secretary's determination, sufficiently separable from the remainder of the project to make use of the building feasible for purposes of this section."; and

(B) by adding at the end the following new paragraphs:

"(6) COMMUNITY SERVICE.—The term 'community service' means services provided on a volunteer or limited stipend basis for the social, economic, or physical improvement of the community to be served.

"(7) SUPPORT SERVICES.—The term 'support services' includes all activities designed to lead toward upward mobility, self-sufficiency, and improved quality of life for the residents of the project, such as literacy training, job training, day care, and economic development. Such activities may allow for the participation of residents of the neighborhood."; and

(11) in subsection (i)—

(A) by striking paragraph (2); and

(B) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(b) CONFORMING AMENDMENT.—The first sentence of section 25(m)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437w(m)(1)) is amended to read as follows:

"(1) The term 'eligible housing' means a public housing project, or one or more buildings within a project, that is owned or operated by a public housing agency that has been troubled for not less than 3 years and that, as determined by the Secretary, has failed to make substantial progress toward effective management.".

(c) USE OF TENANT-BASED ASSISTANCE FOR REPLACEMENT HOUSING.—Section 18(b)(3)(C)(i) of the United States Housing Act of 1937 (42 U.S.C. 1437p(b)(3)(C)(i)) is amended by striking "15-year".

(d) REPLACEMENT HOUSING OUTSIDE THE JURISDICTION OF THE PHA.—Section 18(b)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437p(b)(3)), as amended by subsection (c), is amended—

(1) by redesignating subparagraphs (D) through (H) as subparagraphs (E) through (I), respectively; and

(2) by inserting after subparagraph (C) the following new subparagraph:

"(D) may provide that all or part of such additional dwelling units may be located outside of the jurisdiction of the public housing agency (the 'original agency') if—

"(i) the location is in the same housing market area as the original agency, as determined by the Secretary;

"(ii) the plan contains an agreement between the original agency and the public housing agency in the alternate location or other public or private entity that will be responsible for providing the additional units in the alternate location ('alternate agency or entity') that the alternate agency or entity will, with respect to the dwelling units involved—

"(I) provide the dwelling units in accordance with subparagraph (A);

"(II) complete the plan on schedule in accordance with subparagraph (F);

"(III) meet the requirements of subparagraph (G) and the maximum rent provisions of subparagraph (H); and

"(IV) not impose a local residency preference on any resident of the jurisdiction of the original agency for purposes of admission to any such units; and

"(iii) the arrangement is approved by the unit of general local government for the jurisdiction in which the additional units will be located;".

SEC. 202. DISALLOWANCE OF EARNED INCOME FOR RESIDENTS WHO OBTAIN EMPLOYMENT.

(a) IN GENERAL.—Section 3 of the United States Housing Act of 1937 (42 U.S.C. 1437a) is amended—

(1) by striking the undesignated paragraph at the end of subsection (c)(3) (as added by section 515(b) of the Cranston-Gonzalez National Affordable Housing Act); and

(2) by adding at the end the following new subsection:

"(d) DISALLOWANCE OF EARNED INCOME FROM PUBLIC HOUSING RENT DETERMINATIONS.—Notwithstanding any other provision of law, the rent payable under subsection (a) for any public housing unit by a family whose income increases as a result of employment of a member of the family who was previously unemployed for one or more years (including a family whose income increases as a result of the participation of a family member in the Family Self-Sufficiency program or other job training program) shall not be increased for a period of 18 months, beginning with the commencement of employment as a result of the increased income due to such employment. After the expiration of the 18-month period, rent increases due to the continued employment of such family member shall be limited to 10 percent per year. In no case shall rent exceed the amount determined under subsection (a).".

(b) APPLICABILITY OF AMENDMENT.—Notwithstanding the amendment made by subsection (a), any resident of public housing participating in the program under the authority contained in the undesignated paragraph at the end of section 3(c)(3) of the United States Housing Act of 1937 as such paragraph existed before the date of enactment of this subsection shall continue to be governed by such authority.

SEC. 203. CEILING RENTS BASED ON REASONABLE RENTAL VALUE.

(a) AMENDMENT.—Section 3(a)(2)(A)(iii) of the United States Housing Act of 1937 (42 U.S.C. 1437a(a)(2)(A)(iii)) is amended to read as follows:

"(iii) is not less than the reasonable rental value of the unit, as determined by the Secretary.".

(b) REGULATIONS.—

(1) IN GENERAL.—The Secretary shall, by regulation, after notice and an opportunity for public comment, establish such requirements as may be necessary to carry out the provisions of section 3(a)(2)(A) of the United States Housing Act of 1937, as amended by subsection (a).

(2) APPLICABILITY.—Except in the case of an Indian housing authority, the regulations issued pursuant to paragraph (1) shall not apply to scattered site public housing units.

(3) TRANSITION RULE.—Prior to the issuance of final regulations under paragraph (1), a public housing agency may implement ceiling rents which shall be—

(A) determined in accordance with section 3(a)(2)(A) of the United States Housing Act of 1937, as such section existed before the date of enactment of this Act; or

(B) equal to the 95th percentile of the rent paid for a unit of comparable size by tenants in the same project or a group of comparable projects totaling 50 units or more.

SEC. 204. RESIDENT MANAGEMENT PROGRAM.

Section 20(f) of the United States Housing Act of 1937 (42 U.S.C. 1437r(f)) is amended—

(1) in paragraph (2), by striking "$100,000" and inserting "$250,000"; and

(2) in paragraph (3), by adding at the end the following: "The Secretary may use not more than 10 percent of the amounts made available under this subsection for program monitoring and evaluation, technical assistance, and information dissemination.".

Subtitle B—Office of Community Planning and Development

SEC. 211. ECONOMIC DEVELOPMENT INITIATIVE.

(a) SECTION 108 ELIGIBLE ACTIVITIES.—

(1) IN GENERAL.—Section 108(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(a)) is amended—

(A) in the first sentence—

(i) by striking "or" after "section 105(a);"; and

(ii) by inserting before the period the following: "; (5) the acquisition, construction, reconstruction, or installation of public facilities (except for buildings for the general conduct of government); or (6) in the case of colonias, public works and site or other improvements"; and

(B) by striking the second sentence and inserting the following: "A guarantee under this section (including a guarantee combined with a grant under subsection (q)) may be used to assist a grantee in obtaining financing only if the grantee has made efforts to obtain the financing without the use of the guarantee (and, if applicable, the grant) and cannot complete the financing consistent with the timely execution of the proposed activities and projects without the guarantee (or, if applicable, the grant).".

(2) DEFINITION.—Section 102(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)) is amended by adding at the end the following new paragraph:

"(24) The term 'colonia' means any identifiable community that—

"(A) is in the State of Arizona, California, New Mexico, or Texas;

"(B) is in the United States-Mexico border region;

"(C) is determined to be a colonia on the basis of objective criteria, including lack of potable water supply, lack of adequate sewage systems, and lack of decent, safe, and sanitary housing; and

"(D) was in existence as a colonia before the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act.".

(b) ECONOMIC DEVELOPMENT GRANTS.—

(1) IN GENERAL.—Section 108 of the Housing and Community Development Act of 1974 (42 U.S.C. 5308) is amended by adding at the end the following new subsection:

"(q) ECONOMIC DEVELOPMENT GRANTS.—

"(1) AUTHORIZATION.—The Secretary may make grants in connection with notes or other obligations guaranteed under this section to eligible public entities for the purpose of enhancing the security of loans guaranteed under this section or improving the viability of projects financed with loans guaranteed under this section.

"(2) ELIGIBLE ACTIVITIES.—Assistance under this subsection may be used for the purposes of and in conjunction with projects and activities assisted under subsection (a).

"(3) APPLICATIONS.—Applications for assistance under this subsection shall be submitted by eligible public entities in the form and in accordance with the procedures established by the Secretary. Eligible public entities may apply for grants only in conjunction with a request for guarantee under subsection (a).

"(4) SELECTION CRITERIA.—The Secretary shall establish criteria for awarding assistance under this subsection. Such criteria shall include—

"(A) the extent of need for such assistance;

"(B) the level of distress in the community to be served and in the jurisdiction applying for assistance;

"(C) the quality of the plan proposed and the capacity or potential capacity of the applicant to successfully carry out the plan; and

"(D) such other factors as the Secretary determines to be appropriate.".

(2) CONFORMING AMENDMENT.—Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) is amended—

(A) in section 101(c) in the second sentence, by inserting "or a grant" after "guarantee"; and

(B) in section 104(b)(3), by inserting "or a grant" after "guarantee".

(c) USE OF UDAG RECAPTURES.—Section 119(o) of the Housing and Community Development Act of 1974 (42 U.S.C. 5318(o)) is amended by inserting before the period the following: ", except that amounts available to the Secretary for use under this subsection as of October 1, 1993, and amounts released to the Secretary pursuant to subsection (t) may be used to provide grants under section 108(q).".

(d) UDAG AMNESTY PROGRAM.—

(1) AMENDMENT.—Section 119 of the Housing and Community Development Act of 1974 (42 U.S.C. 5318) is amended by adding at the end the following new subsection:

"(t) UDAG AMNESTY PROGRAM.—If a grant or a portion of a grant under this section remains unexpended as of the issuance of a notice implementing this subsection, the grantee may enter into an agreement, as provided under this subsection, with the Secretary to receive a percentage of the grant amount and relinquish all claims to the balance of the grant within 90 days of the issuance of notice implementing this subsection (or such later date as the Secretary may approve). The Secretary shall not recapture any funds obligated pursuant to this section during a period beginning on the date of enactment of the Housing and Community Development Act of 1993 until 90 days after the issuance of a notice implementing this subsection. A grantee may receive as a grant under this subsection—

"(1) 33 percent of such unexpended amounts if—

"(A) the grantee agrees to expend not less than one-half of the amount received for activities authorized pursuant to section 108(q) and to expend such funds in conjunction with a loan guarantee made under section 108 at least equal to twice the amount of the funds received; and

"(B)(i) the remainder of the amount received is used for economic development activities eligible under title I of this Act; and

"(ii) except when waived by the Secretary in the case of a severely distressed jurisdiction, not more than one-half of the costs of activities under subparagraph (B) are derived from such unexpended amounts; or

"(2) 25 percent of such unexpended amounts if—

"(A) the grantee agrees to expend such funds for economic development activities eligible under title I of this Act; and

"(B) except when waived by the Secretary in the case of a severely distressed jurisdiction, not more than one-half of the costs of such activities are derived from such unexpended amount.".

(2) IMPLEMENTATION.—Notwithstanding subsection (f), not later than 10 days after the date of enactment of this Act, the Secretary shall, by notice published in the Federal Register, which shall take effect upon publication, establish such requirements as may be necessary to implement the amendments made by this subsection.

(e) GUARANTEE OF OBLIGATIONS BACKED BY SECTION 108 LOANS.—Section 108 of the Housing and Community Development Act of 1974 (42 U.S.C. 5308), as amended by subsection (b), is amended by adding at the end the following new subsection:

"(r) GUARANTEE OF OBLIGATIONS BACKED BY SECTION 108 LOANS.—

"(1) AUTHORIZATION.—The Secretary may, upon such terms and conditions as the Secretary deems appropriate, guarantee the timely payment of the principal of and interest on trust certificates or other obligations that—

"(A) are offered by the Secretary, or by any other offeror approved for purposes of this subsection by the Secretary; and

"(B) are based on and backed by a trust or pool composed of notes or other obligations guaranteed by the Secretary under this section.

"(2) FULL FAITH AND CREDIT OF THE UNITED STATES.—Subsection (f) shall apply to any guarantee under this subsection.

"(3) SUBROGATION.—If the Secretary pays a claim under a guarantee issued under this section, the Secretary shall be subrogated fully to the rights satisfied by such payment.

"(4) POWERS OF THE SECRETARY.—No Federal, State, or local law shall preclude or limit the exercise by the Secretary of—

"(A) the power to contract with respect to public offerings and other sales of notes, trust certificates, and other obligations guaranteed under this section upon such terms and conditions as the Secretary deems appropriate;

"(B) the right to enforce by any means deemed appropriate by the Secretary any such contract; and

"(C) the Secretary's ownership rights, as applicable, in notes, certificates, or other obligations guaranteed under this section, or constituting the trust or pool against which trust certificates or other obligations guaranteed under this section are offered.".

(f) EFFECTIVE DATE.—The Secretary shall, by notice published in the Federal Register, which shall take effect upon publication, establish such requirements as may be necessary to implement the amendments made by this section. The notice shall invite public comments and, not later than 12 months after the date on which the notice is published, the Secretary shall issue final regulations based on the initial notice, taking into account any public comments received.

SEC. 212. HOME INVESTMENT PARTNERSHIPS.

(a) PARTICIPATION BY STATE AGENCIES OR INSTRUMENTALITIES.—Section 104(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704(2)) is amended by inserting before the period at the end the following: ", or any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive to act on behalf of the State with regard to the provisions of this Act".

(b) SIMPLIFY PROGRAM-WIDE INCOME TARGETING FOR HOME RENTAL HOUSING.—Section 214(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12744(1)) is amended by striking "such funds are invested with respect to dwelling units that are occupied by" each place such term appears and inserting "(i) the families receiving such rental assistance are, or (ii) the dwelling units assisted with such funds are occupied by" in each such place.

(c) REMOVE FIRST-TIME HOMEBUYER LIMITATION FOR HOME UNITS.—Section 215(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12745(b)) is amended by striking paragraph (3) and redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(d) SIMPLIFY RESALE PROVISIONS.—Section 215(b)(3)(B) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12745(b)(4)(B)), as redesignated by subsection (c), is amended by striking "subsection" and inserting "title".

(e) STABILIZATION OF HOME FUNDING THRESHOLDS.—The Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12701 et seq.) is amended—

(1) in section 216, by striking paragraph (10);

(2) in section 217(b), by striking paragraph (4);

(3) in section 217(b)(3)—

(A) in the first sentence, by striking "only those jurisdictions" and all that follows through "allocation" and inserting "jurisdictions that are not participating jurisdictions that are allocated an amount of $500,000 or more and jurisdictions that are participating jurisdictions shall receive an allocation"; and

(B) in the last sentence, by striking ", except as provided in paragraph (4)"; and

(4) in section 216—

(A) in paragraph (3)(A), by striking "Except as provided in paragraph (10), a jurisdiction" and inserting "A jurisdiction"; and

(B) in paragraph (9)(B), by striking ", except as provided in paragraph (10)".

(f) COMPREHENSIVE AFFORDABLE HOUSING STRATEGY.—

(1) HOME PROGRAM.—Section 218(d) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12748(d)) is amended in the first sentence, by inserting "that it is following a current housing affordability strategy that has been approved by the Secretary in accordance with section 105, and" after "certification".

(2) HOMELESS ASSISTANCE PROGRAMS.—Section 401 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361) is amended to read as follows:

"SEC. 401. HOUSING AFFORDABILITY STRATEGY.

"(a) REQUIREMENT TO FOLLOW A CHAS.—Assistance may be made available under subtitle B to metropolitan cities, urban counties, and States receiving a formula amount under section 413, only if the jurisdiction certifies that it is following a current housing affordability strategy that has been approved by the Secretary in accordance with section 105 of the Cranston-Gonzalez National Affordable Housing Act.

"(b) REQUIREMENT FOR CONSISTENCY WITH CHAS.—Assistance may be made available under this title only if the application contains a certification that the proposed project or activities are consistent with the housing affordability strategy of the State or unit of general local government in which the project is located. The certification shall be from the public official responsible for submitting the strategy for the jurisdiction.".

(3) CONFORMING CHANGES.—Title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361 et seq.) is amended by striking sections 426(a)(2)(F), 434(a)(10), and 454(b)(9).

(g) HOME MATCHING REQUIREMENTS.—Section 220(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12750(a)) is amended to read as follows:

"(a) CONTRIBUTION.—Each participating jurisdiction shall make contributions to housing that qualifies as affordable housing under this title that total, throughout a fiscal year, not less than 25 percent of the funds drawn from the jurisdiction's HOME Investment Trust Fund in that fiscal year. Such contribution shall be in addition to any amounts made available under section 216(3)(A)(ii).".

(h) SEPARATE AUDIT REQUIREMENT FOR THE HOME PROGRAM.—Section 283 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12833) is amended—

(1) by striking the section heading and inserting the following:

"SEC. 283. AUDITS BY THE COMPTROLLER GENERAL.";

(2) by striking subsection (a);

(3) in subsection (b)—

(A) by striking "(b) AUDITS BY THE COMPTROLLER GENERAL.—"; and

(B) by redesignating paragraphs (1) and (2) as subsections (a) and (b), respectively; and

(4) in subsection (a), as redesignated by paragraph (3), by striking the second sentence.

(i) HOME ENVIRONMENTAL REVIEW AMENDMENTS.—Section 288 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12838) is amended—

(1) in subsection (a)—

(A) in the first sentence, by striking "participating jurisdictions" and inserting "jurisdictions, Indian tribes, or insular areas"; and

(B) by adding at the end the following: "The regulations shall—

"(1) provide for the monitoring of environmental reviews performed under this section;

"(2) at the discretion of the Secretary, facilitate training for the performance of such reviews; and

"(3) establish criteria for the suspension or termination of the assumption under this section.

The Secretary's duty under this subsection shall not be construed to limit any responsibility assumed by a State or unit of general local government with respect to any particular release of funds.";

(2) in subsection (b) in the first sentence, by striking "participating jurisdiction" and inserting "jurisdiction, Indian tribe, or insular area";

(3) in subsection (c)(4), by striking "participating jurisdiction" and inserting "jurisdiction, Indian tribe, or insular area"; and

(4) in subsection (d), by striking "ASSISTANCE TO A STATE.—In the case of assistance to States" and inserting the following: "ASSISTANCE TO UNITS OF GENERAL LOCAL GOVERNMENT FROM A STATE.—In the case of assistance to units of general local government from a State".

(j) USE OF CDBG FUNDS FOR HOME ADMINISTRATIVE EXPENSES.—Section 105(a)(13) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(13)) is amended by inserting after "charges related to" the following: "(A) administering the HOME program under title II of the Cranston-Gonzalez National Affordable Housing Act; and (B)".

(k) PROJECT DELIVERY COSTS.—Section 105(a)(21) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(21)) is amended—

(1) by inserting "in connection with tenant-based assistance and affordable housing projects assisted under title II of the Cranston-Gonzalez National Affordable Housing Act" after "housing counseling"; and

(2) by striking "authorized" and all that follows through "any law" and inserting "assisted under title II of the Cranston-Gonzalez National Affordable Housing Act".

SEC. 213. HOPE MATCH REQUIREMENT.

Section 443(c)(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12893(c)(1)) is amended by striking "33" and inserting "25".

SEC. 214. FLEXIBILITY OF CDBG PROGRAM FOR DISASTER AREAS.

Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) is amended by adding at the end the following new section:

"SEC. 122. SUSPENSION OF REQUIREMENTS FOR DISASTER AREAS.

"For the duration of time during which an area has been declared a disaster area by the President under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, the Secretary may suspend all requirements for purposes of assistance under section 106 for that area, except for those related to public notice of funding availability, nondiscrimination, fair housing, labor standards, environmental standards, and requirements that activities benefit persons of low- and moderate-income.".

SEC. 215. FLEXIBILITY OF HOME PROGRAM FOR DISASTER AREAS.

Title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12721 et seq.) is amended by adding at the end the following new section:

"SEC. 290. SUSPENSION OF REQUIREMENTS FOR DISASTER AREAS.

"For the duration of time during which an area has been declared a disaster area by the President under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, the Secretary may suspend all requirements for purposes of assistance under this title for that area, except for those related to public notice of funding availability, nondiscrimination, fair housing, labor standards, environmental standards, and low-income housing affordability.".

Subtitle C—Community Partnerships Against Crime

SEC. 221. COMPAC PROGRAM.

(a) CONFORMING PROVISIONS.—Section 5001 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11901) is amended in the table of contents—

(1) by striking the item relating to the heading for chapter 2 and inserting the following:

"Chapter 2—Community Partnerships Against Crime";

(2) by striking the item relating to section 5122 and inserting the following:

"Sec. 5122. Purposes.";

and

(3) by adding the following after the item relating to section 5130:

"Sec. 5131. Technical assistance.".

(b) Short Title, Purposes, and Authority To Make Grants.—The Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11901 et seq.) is amended by striking the chapter heading for chapter 2, and by striking sections 5121, 5122, and 5123 and inserting the following:

"CHAPTER 2—COMMUNITY PARTNERSHIPS AGAINST CRIME

"SEC. 5121. SHORT TITLE.

"This chapter may be cited as the 'Community Partnerships Against Crime Act of 1993'.

"SEC. 5122. PURPOSES.

"The purposes of this chapter are to—

"(1) improve the quality of life for law-abiding public housing residents by reducing the levels of fear, violence, and crime in their communities;

"(2) expand and enhance the Federal Government's commitment to eliminating crime in public housing;

"(3) broaden the scope of the Public and Assisted Housing Drug Elimination Act of 1990 to apply to all types of crime, and not simply crime that is drug-related;

"(4) target opportunities for long-term commitments of funding primarily to public housing agencies with serious crime problems;

"(5) encourage the involvement of a broad range of community-based groups, and residents of neighboring housing that is owned or assisted by the Secretary, in the development and implementation of anti-crime plans;

"(6) reduce crime and disorder in and around public housing through the expansion of community-oriented policing activities and problem solving;

"(7) provide training, information services, and other technical assistance to program participants; and

"(8) establish a standardized assessment system to evaluate need among public housing agencies, and to measure progress in reaching crime reduction goals.

"SEC. 5123. AUTHORITY TO MAKE GRANTS.

"The Secretary of Housing and Urban Development, in accordance with the provisions of this chapter, may make grants, for use in eliminating crime in and around public and other federally assisted low-income housing projects (1) to public housing agencies (including Indian housing authorities), and (2) to private, for profit, and nonprofit owners of federally assisted low-income housing. In designing the program, the Secretary shall consult with the Attorney General.".

(c) Eligible Activities.—Section 5124(a) of the Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11903(a)) is amended—

(1) in the introductory material preceding paragraph (1), by inserting "and around" after "used in";

(2) in paragraph (3), by inserting ", such as fencing, lighting, locking, and surveillance systems" before the semicolon;

(3) in paragraph (4), by striking subparagraph (A) and inserting the following new subparagraph:

"(A) to investigate crime; and";

(4) in paragraph (6)—

(A) by striking "in and around public or other federally assisted low-income housing projects"; and

(B) by striking "and" after the semicolon;

(5) in paragraph (7)—

(A) by striking "where a public housing agency receives a grant,";

(B) by striking "drug abuse" and inserting "crime"; and

(C) by striking the period at the end and inserting a semicolon; and

(6) by adding at the end the following new paragraphs:

"(8) the employment or utilization of one or more individuals, including law enforcement officers, made available by contract or other cooperative arrangement with State or local law enforcement agencies, to engage in community policing involving interaction with members of the community on proactive crime control and prevention;

"(9) youth initiatives, such as activities involving training, education, after school programs, cultural programs, recreation and sports, career planning, and entrepreneurship and employment; and

"(10) resident service programs, such as job training, education programs, drug and alcohol treatment, and other appropriate social services that address the contributing factors of crime.".

(d) Applications.—Section 5125 of the Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11904) is amended—

(1) in subsection (a)—

(A) by striking "To receive a grant" and inserting the following:

"(1) Applications.—To receive a grant";

(B) in the second sentence, by striking "drug-related crime on the premises of" and inserting the following: "crime in and around"; and

(C) by adding at the end the following new paragraphs:

"(2) One-year renewable grants.—

"(A) In general.—Eligible applicants may submit an application for a 1-year grant under this chapter that, subject to the availability of appropriated amounts, shall be renewed annually for a period of not more than 4 years, if the Secretary finds, after an annual or more frequent performance review, that the public housing agency is performing under the terms of the grant and applicable laws in a satisfactory manner and meets such other requirements as the Secretary may prescribe.

"(B) Preference.—The Secretary shall accord a preference to applicants for grants under this paragraph if the grant is to be used to continue or expand activities eligible for assistance under this chapter that have received previous assistance either under this chapter, as it existed prior to the enactment of the Housing and Community Development Act of 1993, or under section 14 of the United States Housing Act of 1937. Such preference shall not preclude the selection by the Secretary of other meritorious applications, particularly applications which address urgent or severe crime problems or which demonstrate especially promising approaches to reducing crime. Such preference shall not be construed to require continuation of activities determined by the Secretary to be unworthy of continuation.

"(3) Public housing agencies that have especially severe crime problems.—The Secretary shall, by regulation issued after notice and opportunity for public comment, set forth criteria for establishing a class of public housing agencies that have especially severe crime problems. The Secretary may allocate a portion of the annual appropriation for this program for public housing agencies in this class.".

(2) in subsection (b)—

(A) by striking the introductory material preceding paragraph (1) and inserting the following: "The Secretary shall approve applications under subsection (a)(2) that are not subject to a preference under subsection (a)(2)(B) on the basis of—";

(B) in paragraph (1), by striking "drug-related crime problem in" and inserting the following: "crime problem in and around";

(C) in paragraph (2), by inserting immediately after "crime problem in" the following: "and around"; and

(D) in paragraph (4), by inserting after "local government" the following: ", local community-based nonprofit organizations, local resident organizations that represent the residents of neighboring projects that are owned or assisted by the Secretary,";

(3) in subsection (c)(2), by striking "drug-related" each place it appears; and

(4) by striking subsection (d).

(e) Definitions.—Section 5126 of the Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11905) is amended by striking paragraphs (1) and (2), and redesignating paragraphs (3) and (4) as paragraphs (1) and (2), respectively.

(f) Implementation.—Section 5127 of the Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11906) is amended by striking "Cranston-Gonzalez National Affordable Housing Act" and inserting "Housing and Community Development Act of 1993".

(g) Reports.—Section 5128 of the Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11907) is amended—

(1) by striking "The Secretary" and inserting the following:

"(a) Grantee Reports.—The Secretary";

(2) by striking "drug-related crime in" and inserting "crime in and around"; and

(3) by adding at the end the following new subsection:

"(b) HUD Reports.—The Secretary shall submit a report to the Congress describing the system used to distribute funds to grantees under this section. Such report shall include, at a minimum—

"(1) a description of the criteria used to establish the class of public housing agencies with especially severe crime problems and a list of such agencies;

"(2) the methodology used to distribute funds among the public housing agencies on the list created under paragraph (1); and

"(3) the Secretary's recommendations for any change to the method of distribution of funds.".

(h) Authorization of Appropriations.—Section 5130 of the Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11909) is amended—

(1) in the first sentence of subsection (a), by striking "$175,000,000 for fiscal year 1993" and all that follows through the end of the sentence and inserting "$265,000,000 for fiscal year 1994 and $325,000,000 for fiscal year 1995."; and

(2) in subsection (b)—

(A) in the heading, by striking "Set-Asides" and inserting "Set-Aside"; and

(B) by striking the second sentence.

(i) Repeal.—Section 520(k) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 11908) is hereby repealed.

(j) Technical Assistance.—The Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11901 et seq.) is further amended by adding at the end the following new section:

"SEC. 5131. TECHNICAL ASSISTANCE.

"Of the amounts appropriated annually for each of fiscal years 1994 and 1995 to carry out this chapter, the Secretary shall use not more than $10,000,000, directly or indirectly, under grants, contracts, or cooperative agreements, to provide training, information services, and other technical assistance to public housing agencies and other entities with respect to their participation in the program authorized by this chapter. Such technical assistance may include the establishment and operation of the clearinghouse on drug abuse in public housing and the regional training program on drug abuse in public housing under sections 5143 and 5144 of this Act. The Secretary is also authorized to use the foregoing amounts for obtaining assistance in establishing and managing assessment and evaluation criteria and specifications, and obtaining the opinions of experts in relevant fields.".

TITLE III—TECHNICAL AND OTHER AMENDMENTS

Subtitle A—Public and Assisted Housing

SEC. 301. CORRECTION TO DEFINITION OF FAMILY.

The first sentence of section 3(b)(3)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(3)(B)) is amended—

(1) by striking "means" and inserting "includes"; and

(2) by inserting "and" immediately after "children,".

SEC. 302. IDENTIFICATION OF CIAP REPLACEMENT NEEDS.

Section 14 of the United States Housing Act of 1937 (42 U.S.C. 1437l) is amended—

(1) in subsection (d)—

(A) by striking paragraph (2); and

(B) in paragraph (4)—

(i) by striking "and replacements,"; and

(ii) by striking "(1), (2), and (3)" and inserting "(1) and (3)"; and

(2) in subsection (f)(1)—

(A) by striking subparagraph (B); and

(B) in subparagraph (D), by striking "(1), (2), and (3)" and inserting "(1) and (3)".

SEC. 303. APPLICABILITY OF PUBLIC HOUSING AMENDMENTS TO INDIAN HOUSING.

(a) AMENDMENT.—Section 201(b) of the United States Housing Act of 1937 (42 U.S.C. 1437aa(b)) is amended to read as follows:

"(b) APPLICABILITY OF TITLE I.—Except as otherwise provided by law, the provisions of title I shall apply to low-income housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority.".

(b) APPLICABILITY OF AMENDMENT.—The amendment made by subsection (a) shall not affect provisions of the United States Housing Act of 1937 that were made applicable to public housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority in accordance with section 201(b)(2) of such Act, as such section existed before the effective date of this section.

(c) APPLICABILITY OF HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992.—Sections 103(a)(1), 112, 114, 116, 118, 903, and 927 of the Housing and Community Development Act of 1992 shall apply to public housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority.

SEC. 304. PROJECT-BASED ACCOUNTING.

Section 6(c)(4)(E) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)(4)(E)) is amended by striking "250" and inserting "500".

SEC. 305. OPERATING SUBSIDY ADJUSTMENTS FOR ANTICIPATED FRAUD RECOVERIES.

Section 9(a) of the United States Housing Act of 1937 (42 U.S.C. 1437g(a)) is amended by adding at the end the following new paragraph:

"(4) Adjustments to a public housing agency's operating subsidy made by the Secretary under this section shall reflect actual changes in rental income collections resulting from the application of section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988.".

SEC. 306. TECHNICAL ASSISTANCE FOR LEAD HAZARD REDUCTION GRANTEES.

Section 1011(g) of the Housing and Community Development Act of 1992 (42 U.S.C. 5318 note) is hereby repealed.

SEC. 307. ENVIRONMENTAL REVIEW IN CONNECTION WITH GRANTS FOR LEAD-BASED PAINT HAZARD REDUCTION.

Section 1011 of the Housing and Community Development Act of 1992 (42 U.S.C. 5318 note) is amended—

(1) by redesignating subsection (o) as subsection (p); and

(2) by adding after subsection (n) the following new subsection:

"(o) ENVIRONMENTAL REVIEW.—

"(1) IN GENERAL.—For purposes of environmental review, decisionmaking, and action pursuant to the National Environmental Policy Act of 1960 and other provisions of law that further the purposes of such Act, a grant under this section shall be treated as assistance under the HOME Investment Partnership Act, established under title II of the Cranston-Gonzalez National Affordable Housing Act, and shall be subject to the regulations promulgated by the Secretary to implement section 288 of such Act.

"(2) APPLICABILITY.—This subsection shall apply to—

"(A) grants awarded under this section; and

"(B) grants awarded to States and units of general local government for the abatement of significant lead-based paint and lead dust hazards in low- and moderate-income owner-occupied units and low-income privately owned rental units pursuant to title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (Public Law 102-139, 105 Stat. 736).".

SEC. 308. FIRE SAFETY IN FEDERALLY ASSISTED HOUSING.

Section 31(c)(2)(A)(i) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2227(c)(2)(A)(i)) is amended by adding "(or equivalent level of safety)" after "system".

SEC. 309. SECTION 23 CONVERSION PROJECTS.

(a) SECTION 23 CONVERSION.—

(1) AUTHORIZATION.—Notwithstanding contracts entered into pursuant to section 14(b)(2) of the United States Housing Act of 1937, the Secretary is authorized to enter into obligations for conversion of Leonard Terrace Apartments in Grand Rapids, Michigan, from a leased housing contract under section 23 of such Act to a project-based rental assistance contract under section 8 of such Act.

(2) REPAYMENT REQUIRED.—The authorization made in paragraph (1) is conditioned on the repayment to the Secretary of all amounts received by the public housing agency under the comprehensive improvement assistance program under section 14 of the United States Housing Act of 1937 for the Leonard Terrace Apartment project and the amounts, as determined by the Secretary, received by the public housing agency under the formula in section 14(k) of such Act by reason of the project.

(b) CONTRACT RENEWAL.—

(1) IN GENERAL.—Leased housing contracts under section 23 of the United States Housing Act of 1937, as such section existed before the date of enactment of the Housing and Community Development Act of 1974, that—

(A) were converted to section 8 contracts on terms similar to or the same as the terms of the section 8 new construction program; and

(B) expire during fiscal year 1994 or 1995;

shall be extended for a period not to exceed 5 years as if the rents on such projects were established under the section 8 new construction program, except that section 8(c)(2)(C) of the United States Housing Act of 1937 shall not apply to such contracts.

(2) BUDGET COMPLIANCE.—To the extent that paragraph (1) results in additional costs under this section, such paragraph shall be effective only to the extent that amounts to cover such additional costs are provided in advance in appropriation Acts.

SEC. 310. INDEMNIFICATION OF CONTRACTORS FOR INTELLECTUAL PROPERTY RIGHTS DISPUTES.

A recipient of Federal housing assistance may not use such funds to indemnify contractors or subcontractors against costs associated with litigating or settling disputes concerning the infringement of intellectual property rights.

SEC. 311. ASSUMPTION OF ENVIRONMENTAL REVIEW RESPONSIBILITIES UNDER UNITED STATES HOUSING ACT OF 1937 PROGRAMS.

Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following new section:

"SEC. 26. ENVIRONMENTAL REVIEWS.

"(a) IN GENERAL.—

"(1) RELEASE OF FUNDS.—In order to assure that the policies of the National Environmental Policy Act of 1969 and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the expenditure of funds under this title, and to assure to the public undiminished protection of the environment, the Secretary may, under such regulations, in lieu of the environmental protection procedures otherwise applicable, provide for the release of funds for projects or activities under this title, as specified by the Secretary upon the request of a public housing agency under this section, if the State or unit of general local government, as designated by the Secretary in accordance with regulations, assumes all of the responsibilities for environmental review, decisionmaking, and action pursuant to such Act, and such other provisions of law as the regulations of the Secretary may specify, which would otherwise apply to the Secretary with respect to the release of funds.

"(2) IMPLEMENTATION.—The Secretary, after consultation with the Council on Environmental Quality, shall issue such regulations as may be necessary to carry out this section. Such regulations shall specify the programs to be covered.

"(b) PROCEDURE.—The Secretary shall approve the release of funds subject to the procedures authorized by this section only if, not less than 15 days prior to such approval and prior to any commitment of funds to such projects or activities, the public housing agency has submitted to the Secretary a request for such release accompanied by a certification of the State or unit of general local government which meets the requirements of subsection (c). The Secretary's approval of any such certification shall be deemed to satisfy the Secretary's responsibilities under the National Environmental Policy Act of 1969 and such other provisions of law as the regulations of the Secretary specify insofar as those responsibilities relate to the release of funds which are covered by such certification.

"(c) CERTIFICATION.—A certification under the procedures authorized by this section shall—

"(1) be in a form acceptable to the Secretary;

"(2) be executed by the chief executive officer or other officer of the State or unit of general local government who qualifies under regulations of the Secretary;

"(3) specify that the State or unit of general local government under this section has fully carried out its responsibilities as described under subsection (a); and

"(4) specify that the certifying officer—

"(A) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 and agrees to comply with each provision of law specified in regulations issued by the Secretary insofar as the provisions of such Act or other such provision of law apply pursuant to subsection (a); and

"(B) is authorized and consents on behalf of the State or unit of general local government and himself or herself to accept the jurisdiction of the Federal courts for the purpose of enforcement of his or her responsibilities as such an official.

"(d) APPROVAL BY STATES.—In cases in which a unit of general local government carries out the responsibilities described in subsection (c), the Secretary may permit the State to perform those actions of the Secretary described in subsection (b) and the performance of such actions by the State, where permitted by the Secretary, shall be deemed to satisfy the Secretary's responsibilities referred to in the second sentence of subsection (b).".

SEC. 312. INCREASED STATE FLEXIBILITY IN THE LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM.

Section 927 of the Housing and Community Development Act of 1992 (42 U.S.C. 8624) is amended—

(1) in subsection (a)—

(A) in the heading, by striking "(a) ELIGIBILITY.—" and inserting the following:

"(a) IN GENERAL.—";

(B) by striking "(including but not limited to the Low-Income Home Energy Assistance Program)"; and

(C) by inserting ", except as provided in subsection (d)" before the period at the end;

(2) in subsection (b)—

(A) by striking "such" and inserting "or receiving energy"; and

(B) by inserting before the period at the end "for any program in which eligibility or benefits are based on need, except as provided in subsection (d)"; and

(3) by adding at the end the following new subsection:

"(d) SPECIAL RULE FOR LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM.—For purposes of the Low-Income Home Energy Assistance Program, tenants described in subsection (a)(2) shall not have their eligibility automatically denied. States may consider the amount of the heating or cooling component of utility allowances received by such tenants when setting benefit levels under the Low-Income Home Energy Assistance Program. Any reduction in fuel assistance benefits must be reasonably related to the amount of the heating or cooling component of the utility allowance received. States shall ensure that the highest level of assistance will be provided to those households with the highest energy burdens, in accordance with section 2605(b)(5) of the Low-Income Home Energy Assistance Act of 1981.".

Subtitle B—Multifamily Housing

SEC. 321. CORRECTION OF MULTIFAMILY MORTGAGE LIMITS.

The National Housing Act (12 U.S.C. 1701 et seq.) is amended in sections 207(c)(3), 213(b)(2), 220(d)(3)(B)(iii), and 234(e)(3) by striking "$59,160" each place it appears and inserting "$56,160".

SEC. 322. FHA MULTIFAMILY RISK-SHARING; HFA PILOT PROGRAM AMENDMENTS.

(a) IN GENERAL.—Section 542(c) of the Housing and Community Development Act of 1992 (12 U.S.C. 1707 note) is amended—

(1) in paragraph (1), by inserting after "qualified housing finance agencies" the following: "(including entities established by States that provide mortgage insurance)";

(2) in paragraph (2)—

(A) in subparagraph (C), by striking the last sentence and inserting the following: "Such agreements shall specify that the qualified housing finance agency and the Secretary shall share any loss in accordance with the risk-sharing agreement."; and

(B) by adding at the end the following new subparagraph:

"(F) DISCLOSURE OF RECORDS.—Qualified housing finance agencies shall make available to the Secretary such financial and other records as the Secretary deems necessary for program review and monitoring purposes.";

(3) in paragraph (7)—

(A) by striking "very low-income"; and

(B) by striking "(2)"; and

(4) by adding at the end the following new paragraphs:

"(9) ENVIRONMENTAL AND OTHER REVIEWS.—

"(A) ENVIRONMENTAL REVIEWS.—

"(i) IN GENERAL.—(I) In order to assure that the policies of the National Environmental Policy Act of 1969 and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the insurance of mortgages under subsection (c)(2), and to assure to the public undiminished protection of the environment, the Secretary may, under such regulations, in lieu of the environmental protection procedures otherwise applicable, provide for agreements to endorse for insurance mortgages under subsection (c)(2) upon the request of qualified housing finance agencies under this subsection, if the State or unit of general local government, as designated by the Secretary in accordance with regulations, assumes all of the responsibilities for environmental review, decisionmaking, and action pursuant to such Act, and such other provisions of law as the regulations of the Secretary may specify, that would otherwise apply to the Secretary with respect to the insurance of mortgages on particular properties.

"(II) The Secretary shall issue regulations to carry out this subparagraph only after consultation with the Council on Environmental Quality. Such regulations shall, among other matters, provide—

"(aa) for the monitoring of the performance of environmental reviews under this subparagraph;

"(bb) subject to the discretion of the Secretary, for the provision or facilitation of training for such performance; and

"(cc) subject to the discretion of the Secretary, for the suspension or termination by the Secretary of the qualified housing finance agency's responsibilities under subclause (I).

"(III) The Secretary's duty under subclause (II) shall not be construed to limit any responsibility assumed by a State or unit of general local government with respect to any particular property under subclause (I).

"(ii) PROCEDURE.—The Secretary shall approve a mortgage for the provision of mortgage insurance subject to the procedures authorized by this paragraph only if, not less than 15 days prior to such approval, prior to any approval, commitment, or endorsement of mortgage insurance on the property on behalf of the Secretary, and prior to any commitment by the qualified housing finance agency to provide financing under the risk-sharing agreement with respect to the property, the qualified housing finance agency submits to the Secretary a request for such approval, accompanied by a certification of the State or unit of general local government that meets the requirements of clause (iii). The Secretary's approval of any such certification shall be deemed to satisfy the Secretary's responsibilities under the National Environmental Policy Act of 1969 and such other provisions of law as the regulations of the Secretary specify insofar as those responsibilities relate to the provision of mortgage insurance on the property that is covered by such certification.

"(iii) CERTIFICATION.—A certification under the procedures authorized by this paragraph shall—

"(I) be in a form acceptable to the Secretary;

"(II) be executed by the chief executive officer or other officer of the State or unit of general local government who qualifies under regulations of the Secretary;

"(III) specify that the State or unit of general local government under this section has fully carried out its responsibilities as described under clause (i); and

"(IV) specify that the certifying officer consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 and under each provision of law specified in regulations issued by the Secretary insofar as the provisions of such Act or such other provisions of law apply pursuant to clause (i), and is authorized and consents on behalf of the State or unit of general local government and himself or herself to accept the jurisdiction of the Federal courts for the purpose of enforcement of the responsibilities as such an official.

"(iv) APPROVAL BY STATES.—In cases in which a unit of general local government carries out the responsibilities described in clause (i), the Secretary may permit the State to perform those actions of the Secretary described in clause (ii) and the performance of such actions by the State, where permitted by the Secretary, shall be deemed to satisfy the Secretary's responsibilities referred to in the second sentence of clause (ii).

"(B) LEAD-BASED PAINT POISONING PREVENTION.—In carrying out the requirements of section 302 of the Lead-Based Paint Poisoning Prevention Act, the Secretary may provide by regulation for the assumption of all or part of the Secretary's duties under such Act by qualified housing finance agencies, for purposes of this section.

"(C) CERTIFICATION OF SUBSIDY LAYERING COMPLIANCE.—The requirements of section

102(d) of the Department of Housing and Urban Development Reform Act of 1989 may be satisfied in connection with a commitment to insure a mortgage under this subsection by a certification by a housing credit agency (including an entity established by a State that provides mortgage insurance) to the Secretary that the combination of assistance within the jurisdiction of the Secretary and other government assistance provided in connection with a property for which a mortgage is to be insured shall not be any greater than is necessary to provide affordable housing.

"(10) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

"(A) MORTGAGE.—The term 'mortgage' means a first mortgage on real estate that is—

"(i) owned in fee simple; or

"(ii) subject to a leasehold interest that—

"(I) has a term of not less than 99 years and is renewable; or

"(II) has a remaining term that extends beyond the maturity of the mortgage for a period of not less than 10 years.

"(B) FIRST MORTGAGE.—The term 'first mortgage' means a single first lien given to secure advances on, or the unpaid purchase price of, real estate, under the laws of the State in which the real estate is located, together with the credit instrument, if any, secured thereby. Any other financing permitted on property insured under this section must be expressly subordinate to the insured mortgage.

"(C) UNIT OF GENERAL LOCAL GOVERNMENT; STATE.—The terms 'unit of general local government' and 'State' have the same meanings as in section 102(a) of the Housing and Community Development Act of 1974.".

(b) DEFINITION OF MULTIFAMILY HOUSING.—Section 544(1) of the Housing and Community Development Act of 1992 (12 U.S.C. 1707 note) is amended to read as follows:

"(1) The term 'multifamily housing' means housing accommodations on the mortgaged property that are designed principally for residential use, conform to standards satisfactory to the Secretary, and consist of not less than 5 rental units on 1 site. These units may be detached, semidetached, row house, or multifamily structures.".

SEC. 323. SUBSIDY LAYERING REVIEW.

Section 911 of the Housing and Community Development Act of 1992 (42 U.S.C. 3545 note) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) CERTIFICATION OF SUBSIDY LAYERING COMPLIANCE.—The requirements of section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 may be satisfied in connection with a project receiving assistance under a program that is within the jurisdiction of the Department of Housing and Urban Development and under section 42 of the Internal Revenue Code of 1986 by a certification by a housing credit agency to the Secretary, submitted in accordance with guidelines established by the Secretary, that the combination of assistance within the jurisdiction of the Secretary and other government assistance provided in connection with a property for which assistance is to be provided within the jurisdiction of the Department of Housing and Urban Development and under section 42 of the Internal Revenue Code of 1986 shall not be any greater than is necessary to provide affordable housing."; and

(2) by striking subsection (c) and inserting the following:

"(c) REVOCATION BY SECRETARY.—If the Secretary determines that a housing credit agency has failed to comply with the guidelines established under subsection (a), the Secretary—

"(1) may inform the housing credit agency that the agency may no longer submit certification of subsidy layering compliance under this section; and

"(2) shall carry out section 102(d) of the Housing and Urban Development Reform Act relating to affected projects allocated a low-income housing tax credit pursuant to section 42 of the Internal Revenue Code of 1986.".

Subtitle C—Miscellaneous and Technical Amendments

SEC. 331. TECHNICAL CORRECTION TO RURAL HOUSING PRESERVATION PROGRAM.

Section 515(c)(1) of the Housing Act of 1949 (42 U.S.C. 1485(c)(1)) is amended by striking "December 21, 1979" and inserting "December 15, 1989".

SEC. 332. CDBG TECHNICAL AMENDMENT.

Notwithstanding any other provision of law, the city of Slidell, Louisiana may submit, not later than 10 days following the enactment of this Act, and the Secretary of Housing and Urban Development shall consider and accept, the final statement of community development objectives and projected use of funds required by section 104(a)(1) of the Housing and Community Development Act of 1974 in connection with a grant to the city of Slidell under title 1 of such Act for fiscal year 1994.

SEC. 333. ENVIRONMENTAL REVIEW IN CONNECTION WITH SPECIAL PROJECTS.

(a) IN GENERAL.—

(1) RELEASE OF FUNDS.—In order to assure that the policies of the National Environmental Policy Act of 1969 and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the expenditure of funds for special projects appropriated under an appropriations Act for the Department of Housing and Urban Development, such as special projects under the head "Annual Contributions for Assisted Housing" in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993, and to assure to the public undiminished protection of the environment, the Secretary of Housing and Urban Development may, under such regulations, in lieu of the environmental protection procedures otherwise applicable, provide for the release of funds for particular special projects upon the request of recipients of special projects assistance, if the State or unit of general local government, as designated by the Secretary in accordance with regulations, assumes all of the responsibilities for environmental review, decisionmaking, and action pursuant to such Act, and such other provisions of law as the regulations of the Secretary specify, that would otherwise apply to the Secretary were the Secretary to undertake such special projects as Federal projects.

(2) IMPLEMENTATION.—The Secretary shall issue regulations to carry out this section only after consultation with the Council on Environmental Quality. Such regulations shall—

(A) provide for monitoring of the performance of environmental reviews under this section;

(B) in the discretion of the Secretary, provide for the provision or facilitation of training for such performance; and

(C) subject to the discretion of the Secretary, provide for suspension or termination by the Secretary of the assumption under paragraph (1).

(3) RESPONSIBILITIES OF STATE OR UNIT OF GENERAL LOCAL GOVERNMENT.—The Secretary's duty under paragraph (2) shall not be construed to limit any responsibility assumed by a State or unit of general local government with respect to any particular release of funds under paragraph (1).

(b) PROCEDURE.—The Secretary shall approve the release of funds for projects subject to the procedures authorized by this section only if, not less than 15 days prior to such approval and prior to any commitment of funds to such projects, the recipient submits to the Secretary a request for such release, accompanied by a certification of the State or unit of general local government which meets the requirements of subsection (c). The Secretary's approval of any such certification shall be deemed to satisfy the Secretary's responsibilities under the National Environmental Policy Act of 1969 and such other provisions of law as the regulations of the Secretary specify insofar as those responsibilities relate to the releases of funds for special projects to be carried out pursuant thereto which are covered by such certification.

(c) CERTIFICATION.—A certification under the procedures authorized by this section shall—

(1) be in a form acceptable to the Secretary;

(2) be executed by the chief executive officer or other officer of the State or unit of general local government who qualifies under regulations of the Secretary;

(3) specify that the State or unit of general local government under this section has fully carried out its responsibilities as described under subsection (a); and

(4) specify that the certifying officer—

(A) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 and agrees to comply with each provision of law specified in regulations issued by the Secretary insofar as the provisions of such Act or other such provision of law apply pursuant to subsection (a); and

(B) is authorized and consents on behalf of the State or unit of general local government and himself or herself to accept the jurisdiction of the Federal courts for the purpose of enforcement of the responsibilities as such an official.

(d) APPROVAL BY STATES.—In cases in which a unit of general local government carries out the responsibilities described in subsection (a), the Secretary may permit the State to perform those actions of the Secretary described in subsection (b) and the performance of such actions by the State, where permitted by the Secretary, shall be deemed to satisfy the Secretary's responsibilities referred to in the second sentence of subsection (b).

TITLE IV—GENERAL PROVISIONS

SEC. 401. MOUNT RUSHMORE COMMEMORATIVE COIN ACT.

(a) DISTRIBUTION OF SURCHARGES.—Section 8 of the Mount Rushmore Commemorative Coin Act (31 U.S.C. 5112 note) is amended by striking paragraphs (1) and (2) and inserting the following:

"(1) the first $18,750,000 shall be paid during fiscal year 1994 by the Secretary to the Society to assist the Society's efforts to improve, enlarge, and renovate the Mount Rushmore National Memorial; and

"(2) the remainder shall be returned to the United States Treasury for purposes of reducing the national debt.".

(b) RETROACTIVE EFFECT.—If, prior to the date of enactment of this Act, any amount of surcharges have been received by the Secretary of the Treasury and paid into the United States Treasury pursuant to section 8(1) of the Mount Rushmore Commemorative Coin Act, as in effect prior to the date of enactment of this Act, that amount shall be paid out of the Treasury to the extent necessary to comply with section 8(1) of the Mount Rushmore Commemorative Coin Act, as in effect after the date of enactment of this Act. Amounts paid pursuant to the preceding sentence shall be out of funds not otherwise appropriated.

SEC. 402. MINORITY COMMUNITY DEVELOPMENT GRANTS FOR COMMUNITIES WITH SPECIAL NEEDS.

(a) AUTHORIZATION.—There are hereby authorized to be expended from sums appropriated for water infrastructure financing and other wastewater activities for cities with special needs, not more than $25,000,000, for wastewater treatment projects, including the construction of facilities and related expenses in minority communities with special needs to—

(1) improve the housing stock infrastructure in the special needs communities; and

(2) abate health hazards caused by groundwater contamination from septage in arid areas with high groundwater levels.

(b) TREATMENT PROJECTS.—The wastewater treatment projects authorized under this section shall include innovative technologies such as vacuum systems and constructed wetlands.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "cities with special needs" includes minority communities with special needs;

(2) the term "minority" means an African-American, a Hispanic-American, an Asian-American, or a Native American; and

(3) the term "minority community with special needs" means an unincorporated community—

(A) that, based on the latest census data, has a minority population in excess of 50 percent;

(B) that has been unable to issue bonds or otherwise finance a wastewater treatment system itself because its attempts to change its political subdivision have been rejected by the State legislature; and

(C) for which the State legislature has appropriated funds to help pay for a wastewater treatment project.

THE DOE MINORITY BANK PRESERVATION ACT OF 1993

The text of the bill (S. 1685) to amend the Federal Deposit Insurance Act to permit the continued insurance of deposits in minority- and women-owned banks by the Bank Deposit Financial Assistance Program, as passed by the Senate on November 18, 1993, is as follows:

S. 1685

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "The DOE Minority Bank Preservation Act of 1993".

SEC. 2. AMENDMENT RELATING TO THE INSURANCE OF DEPOSITS BY THE BANK FINANCIAL ASSISTANCE PROGRAM.

Section 7(i)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(i)(1)) is amended by striking "shall be insured" and all that follows through the period and inserting ", or funds deposited by an insured depository institution pursuant to the Bank Deposit Financial Assistance Program of the Department of Energy, shall be separately insured in an amount not to exceed $100,000 for each beneficiary of an irrevocable trust or insured depository institution depositing such program funds.".

SEC. 3. MINORITY COMMUNITY DEVELOPMENT GRANTS FOR COMMUNITIES WITH SPECIAL NEEDS.

(a) There are hereby authorized to be expended from sums appropriated for water infrastructure financing and other wastewater activities for cities with special needs, no more than $25,000,000 for wastewater treatment projects, including the construction of facilities and related expenses in minority communities with special needs to—

(1) improve the housing stock infrastructure in the special needs communities; and

(2) abate health hazards caused by groundwater contamination from septage in arid areas with high groundwater levels.

(b) Treatment projects must include innovative technologies such as vacuum systems and constructed wetlands.

(c) For purposes of this section "cities with special needs" includes minority communities with special needs.

(1) A "minority" means an African-American, a Hispanic-American, an Asian American or Native American.

(2) A "minority community with special needs" means—

(i) an unincorporated community that, based on the latest census data, has a minority population in excess of 50 percent;

(ii) has been unable to issue bonds or otherwise finance a wastewater treatment system itself because its attempt to change its political subdivision has been rejected by the State legislature; and

(iii) that the State legislature has appropriated funds to help pay for the project.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I thank the Chair.

Madam President, I ask unanimous consent that I may proceed for up to 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. I thank the Chair.

VOTE FRAUD IN PHILADELPHIA

Mr. SPECTER. Madam President, I spoke very briefly yesterday in connection with the crime bill on a very serious matter of vote fraud in the city of Philadelphia on a special election held earlier this month for a seat in the Pennsylvania State Senate. It is a matter which requires the attention of the Senate, the Congress, and the Department of Justice because of the very serious issues involved.

This particular State Senate seat is crucial for the control of the Pennsylvania State Senate statewide, because, prior to that special election, there were 25 Republicans and 24 Democrats. If a Republican was elected, there would be Republican controlling of the State Senate. If a Democrat was elected, there would be Democrat control of the State Senate by virtue of the tie vote to be broken by the Lieutenant Governor, who is a Democrat.

When the election was held, out of approximately 40,000 votes cast, a Republican, an able young man named Bruce Marks, who was once an employee in the Senate, won by about 500 votes. When absentee ballots were counted, Bruce Marks lost by about 500 votes.

Evidence which has been disclosed in the Court of Common Pleas and also in an extensive series of articles in the Philadelphia Inquirer shows a systematic pattern of vote fraud, where workers of the Democratic Party went out and secured absentee ballots in violation of the State election code.

The State election code requires that people vote in person, unless they are to be out of the country or unless they are disabled so that they are physically incapacitated from coming to the voting booth. The application must be made in advance and the absentee ballots must be cast no later than Friday preceding the Tuesday of the election.

What happened, in fact, as disclosed by testimony in court under oath, and by affidavits which have been submitted, and by an extensive series of interviews in four major articles published in the Philadelphia Inquirer during the past week, shows a pattern that political workers from the Democratic party would go to Hispanics who had difficulty in understanding the form on the absentee ballot. They would represent to the prospective voters, almost all of whom were Hispanics, that they could conveniently vote at home by simply signing a paper. They showed people a paper which had the word "Democrat" on one column, where the prospective voters stated that they thought they were signifying their party registration, when, in fact, they wanted to vote for the Republican candidate Bruce Marks. This showing established a pattern of systematic fraud.

When the matter came before the county board of elections in a highly political context at 5:30 yesterday afternoon, the county commissioners certified the election in favor of the Democratic candidate. And then, by pure coincidence, he happened to be in Harrisburg, PA, to step into the State Senate chamber to be sworn in.

That kind of a raw political power play is regrettably common occurrence in the city of Philadelphia which has, for more than a century, been under one-party political rule. Since the election of 1951, 42 years ago, the Democrats have controlled the city of Philadelphia. For 67 years prior to 1951, the Republicans controlled the city of Philadelphia. In the face of one-party control, there has been this unfortunate history of corruption of vote fraud.

I knew it well, Madam President, because in my tenure as district attorney for Philadelphia from 1966 to 1974, I had the responsibilities to prosecute many cases involving vote fraud and some very systematic vote fraud.

One case, back in 1972, involved a trade for the top of the Republican ticket in exchange for the balance of the Democratic ticket. All of the poll watchers for the Democratic Presidential nominee, George McGovern, were chased from the polls to perform their watcher function on a spurious and illegal order issued by the judge of the Common Pleas Court, who was later criminally prosecuted, along with many other people. One illustration of a systematic effort in vote fraud.

I and others have called upon the State attorney general to conduct an investigation. I am pleased to say that he has entered into the investigative fray.

I have also called upon the district attorney of Philadelphia to undertake an investigation. Regrettably, the district attorney has declined on the stated ground that the district attorney ran on the ticket with the Democratic candidate and was at campaign rallies with him, which, under my knowledge of the law, does not warrant recusal. And that office, the district attorney office, which is a powerful office—an office, as I say that I held for 8 years between 1966 and 1974—has the duty to conduct an investigation.

The State attorney general is going to undertake an investigation and that is a step in the right direction. I have made a request to the Attorney General of the United States to initiate a Federal investigation because there is jurisdiction under Federal law because there was a pattern of coercion and intimidation of Hispanics.

I might say, for a couple of decades in Philadelphia, we have had the balance of legal notices printed in both Spanish and English to try to give Hispanics an understanding of what they are voting about. Notwithstanding that, it is a difficult matter, if someone is going to be overreaching and overbearing, as it happened in this case.

I hope the Attorney General will initiate a Justice Department investigation. We talk about crime and talk about corruption; we talk about the underpinnings of the democratic government. There is nothing more important than the sanctity of the vote and the integrity of the balloting process in any election no matter what it is for—but especially when it is an election which controls the Pennsylvania State Senate, which has an enormous impact on legislation involving the economy, on workman's compensation, on health care, on taxation, matters of enormous and fundamental importance.

I speak on this subject with a little more length than I could talk yesterday because of the time constrictions, because I think the people and my colleagues ought to know about it. The Members of the House ought to know about it. People who are watching on C-SPAN ought to know about it.

I hope those who agree with the sanctity and importance of the integrity of the ballot will take the time to write a letter to the Attorney General of the United States, urging a prompt investigation into these very, very serious charges because it is an important Federal matter.

INDEPENDENT FEDERAL LAW JUDGES

Mr. SPECTER. Madam President, I would like to make a brief comment about very important legislation which the distinguished Senator form Alabama [Mr. HEFLIN] is the principal sponsor on. A more extensive statement will be included in the CONGRESSIONAL RECORD, but I think it worthy of just a moment or two.

I ask for an additional 5 minutes, if I may, to speak on this subject?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. The legislation to which I refer is captioned Senate bill 486, which establishes an independent corps of Federal administrative law judges.

This is necessary because administrative law judges are technically in the executive branch. By way of very brief explanation, the article III judges are independent. Those are judges created under article III of the U.S. Constitution. When the Constitution was formed, article I was designated for Congress; article II for the executive branch, the President; and article III, for the Judiciary. I think the Founding Fathers thought the Congress was perhaps primary and the executive secondary and the judiciary system third.

As the constitutional law has worked out, the judiciary has evaluated itself to No. 1. When the issue of supremacy came before the courts, not surprisingly the courts decided that the courts were supreme, in Marbury versus Madison. They are still article III, and the article III judges are appointed for life and have independence.

But as we have seen the progress of the administrative agencies in carrying out the complex laws of the Federal bureaucracy, which is too massive, these administrative law judges have been created as part of the executive branch. Whereas they ought to be independent, and ought to function in the traditional role of judges, as impartial, they have, regrettably, been subjected to pressures from within their own agencies.

There is substantial evidence, illustratively, in the Social Security branch, where these judges have made decisions which are not impartial; where, in fact, they have yielded to pressures from the executive branch in which they serve.

The same thing has happened illustratively in the immigration laws, where we have found that the immigration administrative law judges have yielded to pressures within the administrative branch.

Senator HEFLIN, who heads the subcommittee of Judiciary, himself a former chief justice of Alabama, has been a leader on this critical issue of independence of the judiciary. It is a matter where I have long been concerned, because if you do not have impartial judges, the whole system of justice is for naught. And we have not had impartial judges on administrative branches. This is the fifth Congress where this issue has come before the Congress, where Senator HEFLIN and I have cosponsored this legislation. It is a very important bill.

Finally, tonight, in our so-called wrap-up, by unanimous consent we will have this legislation enacted. I hope the House will pass it and it will be signed into law because it is necessary for the protection of American citizens.

So I wanted to comment on that very briefly. At the appropriate time, I have signed a more extensive written statement which will be printed as part of the Record.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Pennsylvania.

EXTENDED UNEMPLOYMENT BENEFITS

Mr. WOFFORD. Madam President, the NAFTA debate, unfortunately, has turned around. It has turned into a debate over two symbols: America's willingness to embrace international trade against America's willingness to promote the interests of working people. From the beginning, I have been against NAFTA because I believe that agreement will cause job loss and the lowering of American wages. But we have to face facts tonight. NAFTA is going to pass before we adjourn. That is being hailed by some as a victory for international trade. That not my view. But now we can only hope it will turn out to be true.

But before we adjourn, it is important that we send a message to working people in America that we will protect their interests; that we do intend finally to put people first.

It has now been 7 weeks since extended unemployment benefits expired. That is a scandal. Every day, people from Pennsylvania call my office asking when Congress is going to act. Some are crying. All are confused and angry that their elected officials in Washington can so callously ignore their suffering.

Some may not see the connection between NAFTA and unemployment benefits, but it is critical. Whatever the overall effect of NAFTA, and I hope its proponents are right that it will create jobs and prosperity in the long run, we know this trade agreement will cause considerable worker dislocation and job loss in the short run. As the saying goes, in the long run, we will all be dead. But in the short run, right now, people who have already lost their jobs are suffering.

What do we think working families feel when they see Congress unwilling to extend unemployment compensation. Rushing ahead to approve an international trade agreement that will cause worker displacement.

Any definition of national security must include security in our homes, in our health, and in our jobs.

For almost 2 months now, Congress has been dithering and delaying on the passage of these extended benefits.

I know that we are rushing headlong toward adjournment, but I say to my colleagues that I think it would be an outrage, a true scandal, for us to adjourn without acting on these important benefits.

So, in closing Madam President, I only hope that those who have worked so hard to get NAFTA passed, will work just as hard to make certain that we keep the faith with the working people of America by extending unemployment benefits before we adjourn. You owe them that much. We owe them that.

REORGANIZATION OF THE FEDERAL ADMINISTRATIVE JUDICIARY ACT

Mr. HEFLIN. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 222, S. 486, the administrative law judge reorganization bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 486) to establish a specialized corps of judges necessary for certain Federal proceedings required to be conducted, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

[That this Act may be cited as the "Administrative Law Judge Corps Act".

[ESTABLISHMENT OF ADMINISTRATIVE LAW JUDGE CORPS

[SEC. 2. (a) Chapter 5 of title 5, United States Code, is amended by adding at the end thereof the following new subchapter:

[“SUBCHAPTER VI—ADMINISTRATIVE LAW JUDGE CORPS

["§ 595. Definitions

[“For the purposes of this subchapter—

[“(1) 'agency' means an authority referred to in section 551(1) of this title;

[“(2) 'Corps' means the Administrative Law Judge Corps of the United States established under section 596 of this title;

[“(3) 'administrative law judge' means an administrative law judge appointed under section 3105 of this title on or before the effective date of the Administrative Law Judge Corps Act or under section 599a of this title after such effective date;

[“(4) 'chief judge' means the chief administrative law judge appointed and serving under section 597 of this title;

[“(5) 'Council' means the Council of the Administrative Law Judge Corps established under section 599 of this title;

[“(6) 'Board', unless otherwise indicated, means the Complaints Resolution Board established under section 599c of this title; and

[“(7) 'division chief judge' means the chief administrative law judge of a division appointed and serving under section 598 of this title.

["§ 596. Establishment; membership

[“(a) There is established an Administrative Law Judge Corps consisting of all administrative law judges, in accordance with the provisions of subsection (b). Such Corps shall be located in Washington, D.C.

[“(b) An administrative law judge serving as such on the date of the commencement of the operation of the Corps shall be transferred to the Corps as of that date. An administrative law judge who is appointed on or after the date of the commencement of the operation of the Corps shall be a member of the Corps as of the date of such appointment.

["§ 597. Chief administrative law judge

[“(a) The chief administrative law judge shall be the chief administrative officer of the Corps and shall be the presiding judge of the Corps. The chief judge shall be appointed by the President, by and with the advice and consent of the Senate. The chief judge shall be an administrative law judge who has served as an administrative law judge for at least five years preceding the date of appointment as chief judge. The chief judge shall serve for a term of five years or until a successor is appointed and qualifies to serve, whichever is earlier. A chief judge may be reappointed upon the expiration of his term, by and with the advice and consent of the Senate.

[“(b)(1) If the office of chief judge is vacant, the division chief judge who is senior in length of service as a member of the Council shall serve as acting chief judge until such vacancy is filled.

[“(2) If two or more division chief judges have the same length of service as members of the Council, the division chief judge who is senior in length of service as an administrative law judge shall serve as such acting chief judge.

[“(c) The chief judge shall, within ninety days after the end of each fiscal year, submit a written report to the President and the Congress concerning the business of the Corps during the preceding fiscal year. The report shall include information and recommendations of the Council concerning the personnel requirements of the Corps.

[“(d) After serving as chief judge, such individual may continue to serve as an administrative law judge unless such individual has been removed from office in accordance with section 599c of this title.

["§ 598. Divisions of the Corps; division chief judges

[“(a) Each judge of the Corps shall be assigned to a division by the Council, pursuant to section 599. The assignment of a judge who was an administrative law judge on the date of commencement of the operation of the Corps shall be made after consideration of the areas of specialization in which the judge has served. Each division shall be headed by a division chief judge who shall exercise administrative supervision over such division.

[“(b) The divisions of the Corps shall be as follows:

[“(1) Division of Communications, Public Utility, and Transportation Regulation.

[“(2) Division of Safety and Environmental Regulation.

[“(3) Division of Labor.

[“(4) Division of Labor Relations.

[“(5) Division of Health and Benefits Programs.

[“(6) Division of Securities, Commodities, and Trade Regulation.

[“(7) Division of General Programs.

[“(8) Division of Financial Services Institutions.

[“(c)(1) The division chief judge of each division set forth in subsection (b) shall be appointed by the President, by and with the advice and consent of the Senate.

[“(2) To be eligible for appointment as a division chief judge, an individual shall have served as an administrative law judge for at least five years and should possess experience and expertise in the specialty of the division to which such person is an appointee.

[“(3) Division chief judges shall be appointed for five-year terms except that of those division chief judges first appointed, the President shall designate two such individuals to be appointed for five-year terms, three for four-year terms, and two for three-year terms.

[“(4) Any division chief judge appointed to fill an unexpired term shall be appointed only for the remainder of such predecessor's term, but may be reappointed as provided in paragraph (5).

[“(5) Any division chief judge may be reappointed upon the expiration of his term if nominated for such appointment pursuant to the provisions of this title.

[“(6) Any judge, after serving as division chief judge may continue to serve as an administrative law judge unless such individual has been removed from office in accordance with section 599c of this title.

["§ 599. Council of the Corps

[“(a) The policymaking body of the Corps shall be the Council of the Corps. The chief judge and the division chief judges shall constitute the Council. The chief judge shall preside over the Council. If the chief judge is unable to be present at a meeting of the Council, the division chief judge who is senior in length of service as a member of such Council shall preside.

[“(b) One half of all of the members for the Council shall constitute a quorum for the purpose of transacting business. The affirmative vote by a majority of all the members of the Council shall be required to approve a matter on behalf of the Council. Each member of the Council shall have one vote.

[“(c) Meetings of the Council shall be held at least once a month at the call of the chief judge or by the call of one-third or more of the members of the Council.

[“(d) The Council is authorized—

[“(1) to assign judges to divisions and transfer or reassign judges from one division to another, subject to the provisions of section 599a of this title;

["(2) to appoint persons as administrative law judges under section 599a of this title;

["(3) to file charges seeking adverse action against an administrative law judge under section 599c of this title;

["(4) subject to the provisions of subsection (e), to prescribe, after providing an opportunity for notice and comment, the rules of practice and procedure for the conduct of proceedings before the Corps, except that, with respect to a category of proceedings adjudicated by an agency before the effective date of the Administrative Law Judge Corps Act, the Council may not amend or revise the rules of practice and procedure prescribed by that agency during the two years following such effective date without the approval of that agency, and any amendments or revisions made to such rules shall not affect or be applied to any pending action;

["(5) to issue such rules and regulations as may be appropriate for the efficient conduct of the business of the Corps and the implementation of this subchapter, including the assignment of cases to administrative law judges;

["(6) subject to the civil service and classification laws and regulations, to select, appoint, employ, and fix the compensation of the employees (other than administrative law judges) that such Council determines necessary to carry out the functions, powers, and duties of the Corps and to prescribe the authority and duties of such employees;

["(7) to establish, abolish, alter, consolidate, and maintain such regional, district, and other field offices as are necessary to carry out the functions, powers, and duties of the Corps and to assign and reassign employees to such field offices;

["(8) to procure temporary and intermittent services under section 3109 of this title;

["(9) to enter into, to the extent or in such amounts as are authorized in appropriation Acts, without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5), contracts, leases, cooperative agreements, or other transactions that may be necessary to conduct the business of the Corps;

["(10) to delegate any of the chief judge's functions or powers with the consent of the chief judge, or whenever the office of such chief judge is vacant, to one or more division chief judges or other employees of the Corps, and to authorize the redelegation of any of those functions or powers;

["(11) to establish, after consulting with an agency, initial and continuing educational programs to ensure that each administrative law judge assigned to hear cases of an agency has the necessary training in the specialized field of law of that agency;

["(12) to make suitable arrangements for continuing education and training of other employees of the Corps, so that the level of expertise in the divisions of the Corps shall be maintained and enhanced; and

["(13) to determine all other matters of general policy of the Corps.

["(e) The Council shall select an official seal for the Corps which shall be officially noticed.

["§ 599a. Appointment and transfer of administrative law judges

["(a) After the initial establishment of the Corps, the Council shall appoint new or additional judges as may be necessary for the efficient and expeditious conduct of the business of the Corps. Appointments shall be made from a register maintained by the Office of Personnel Management under subchapter I of chapter 33 of this title. Upon request by the chief judge, the Office of Personnel Management shall certify enough names from the top of such register to enable the Council to consider five names for each vacancy. Notwithstanding section 3318 of this title, a vacancy in the Corps may be filled from the highest five eligible individuals available for appointment on the certificate furnished by the Office of Personnel Management.

["(b) A judge of the Corps may not perform or be assigned to perform duties inconsistent with the duties and responsibilities of an administrative law judge.

["(c) A judge of the Corps on the date of commencement of the operation of the Corps may not thereafter be involuntarily reassigned to a new permanent duty station if such station is beyond commuting distance of the duty station which is the judge's permanent duty station on that date, unless the Council determines and submits a written explanation to the judge stating that such reassignment is required to meet substantial changes in workloads. A judge may be temporarily detailed, once in a 24-month period, to a new duty station at any location, for a period of not more than 120 days.

["§ 599b. Jurisdiction

["(a) All types of cases, claims, actions and proceedings held before administrative law judges before the effective date of the Administrative Law Judge Corps Act shall be referred to the Corps for adjudication on the record after an opportunity for a hearing.

["(b) An administrative law judge who is a member of the Corps shall hear and render a decision upon—

["(1) every case of adjudication subject to the provisions of section 553, 554, or 556 of this title;

["(2) every case in which hearings are required by law to be held in accordance with sections 553, 554, or section 556 of this title; and

["(3) every other case referred to the Corps by an agency or court in which a determination is to be made on the record after an opportunity for a hearing.

["(c) When a case under subsection (b) arises, it shall be referred to the Corps. Under regulations issued by the Council the case shall be assigned to a division. The appropriate division chief judge shall assign cases to judges, taking into consideration specialization, training, workload and conflicts of interest.

["(d) Federal agencies and courts are authorized to refer any appropriate case either—

["(1) to the Corps; or

["(2) to a specific administrative law judge, with the approval of the majority of the Council, to serve as a special master pursuant to the provisions of Rule 53(a) of the Federal Rules of Civil Procedure.

["(e) Compliance with this subchapter shall satisfy any requirement under section 916 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.".

["§ 599c. Removal and discipline

["(a) Except as provided in subsection (b) of this section—

["(1) an administrative law judge may not be removed, suspended, reprimanded, or disciplined except for misconduct or neglect of duty, but may be removed for physical or mental disability; and

["(2) an action specified in paragraph (1) of this subsection may be taken against an administrative law judge only after the Council has filed a notice of adverse action against the administrative law judge with the Merit Systems Protection Board and the Board has determined, on the record after an opportunity for a hearing before the Board, that there is good cause to take such action.

["(b) Subsection (a) shall not apply to an action initiated under section 1206 of this title.

["(c) Under regulations issued by the Council, a Complaints Resolution Board shall be established within the Corps to consider and to recommend appropriate action to be taken when a complaint is made concerning the official conduct of a judge. Such complaint may be made by any interested person, including parties, practitioners, the chief judge, and agencies.

["(d) The Board shall consist of two judges from each division of the Corps who shall be appointed by the Council. The chief judge and the division chief judges may not serve on such Board.

["(e) A complaint of misconduct by an administrative law judge shall be made in writing. The complaint shall be filed with the chief judge, or it may be originated by the chief judge on his own motion. The chief judge shall refer the complaint to a panel consisting of three members of the Board selected by the Council, none of whom may be serving in the same division as the administrative law judge who is the subject of the complaint. The administrative law judge who is the subject of the complaint shall be given notice of the complaint and the composition of the panel. The administrative law judge may challenge peremptorily not more than two members of the panel. The Council shall replace a challenged member with another member of the Board who is eligible to serve on such panel.

["(f) The panel shall inquire into the complaint and shall render a report to the Council. A copy of the report shall be provided concurrently to the administrative law judge who is the subject of the complaint. The report shall be advisory only.

["(g) The proceedings, deliberations, and reports of the Board and the contents of complaints under this section shall be treated as privileged and confidential. Documents considered by the Board and reports of the Board are exempt from disclosure or publication under section 552 of this title. Section 552b of this title shall not apply to the Board.".

[(b) The table of sections for chapter 5 of title 5, United States Code, is amended by adding at the end thereof the following:

["SUBCHAPTER VI—ADMINISTRATIVE LAW JUDGE CORPS

"Sec.
["595. Definitions.
["596. Establishment; membership.
["597. Chief administrative law judge.
["598. Divisions of the Corps; division chief judges.
["599. Council of the Corps.
["599a. Appointment and transfer of administrative law judges.
["599b. Jurisdiction.
["599c. Removal and discipline.".

[AGENCY REVIEW STUDY AND REPORT

[SEC. 3. The chief administrative law judge of the Administrative Law Judge Corps of the United States shall make a study of the various types and levels of agency review to which decisions of administrative law judges are subject. A separate study shall be made for each division of the Corps. The studies shall include monitoring and evaluating data and shall be made in consultation with the division chief judges, the Chairman of the

Administrative Conference of the United States, and the agencies that review the decisions of administrative law judges. Not later than two years after the effective date of this Act, the Council shall report to the President and the Congress on the findings and recommendations resulting from the studies. The report shall include recommendations, including recommendations for new legislation, for any reforms that may be appropriate to make review of administrative law judges' decisions more efficient and meaningful and to accord greater finality to such decisions.

[TRANSITION AND SAVINGS PROVISIONS

[SEC. 4. (a) There are transferred to the administrative law judges of the Administrative Law Judge Corps established by section 596 of title 5, United States Code (as added by section 2 of this Act), all functions performed on the day before the effective date of this Act by the administrative law judges appointed under section 3105 of such title before the effective date of this Act.

[(b) With the consent of the agencies concerned, the Administrative Law Judge Corps of the United States may use the facilities and the services of officers, employees, and other personnel of agencies from which functions and duties are transferred to the Corps for so long as may be needed to facilitate the orderly transfer of those functions and duties under this Act.

[(c) The personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available, in connection with the functions, offices, and agencies transferred by this Act, are, subject to section 1531 of title 31, United States Code, correspondingly transferred to the Corps for appropriate allocation.

[(d) The transfer of personnel pursuant to subsection (b) of this section shall be without reduction in pay or classification for one year after such transfer.

[(e) The Director of the Office of Management and Budget, at such time or times as the Director shall provide, may make such determinations as may be necessary with regard to the functions, offices, agencies, or portions thereof, transferred by this Act, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, offices, agencies, or portions thereof, as may be necessary to carry out the provisions of this Act.

[(f) All orders, determinations, rules, regulations, certificates, licenses, and privileges which have been issued, made, granted, or allowed to become effective in the exercise of any duties, powers, or functions which are transferred under this Act and are in effect at the time this Act becomes effective shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Administrative Law Judge Corps of the United States or a judge thereof in the exercise of authority vested in the Corps or its members by this Act, by a court of competent jurisdiction, or by operation of law.

[(g) Except as provided in subsections (d)(5) and (e) of section 599 of title 5, United States Code, this Act shall not affect any proceeding before any department or agency or component thereof which is pending at the time this Act takes effect. Such a proceeding shall be continued before the Administrative Law Judge Corps of the United States or a judge thereof, or, to the extent the proceeding does not relate to functions so transferred, shall be continued before the agency in which it was pending on the effective date of this Act.

[(h) No suit, action, or other proceeding commenced before the effective date of this Act shall abate by reason of the enactment of this Act.

[AUTHORIZATION OF APPROPRIATIONS

[SEC. 5. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act and subchapter VI of title 5, United States Code (as added by section 2 of this Act).

[TECHNICAL AND CONFORMING AMENDMENTS

[SEC. 6. Title 5, United States Code, is amended as follows:

[(1) Section 573(b) is amended by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively, and inserting a new paragraph (4) to read as follows:

["(4) the chief administrative law judge of the Administrative Law Judge Corps of the United States;".

[(2) Section 3105 is amended to read as follows:

["§ 3105. Appointment of administrative law judges

["Administrative law judges shall be appointed by the Council of the Administrative Law Judge Corps pursuant to section 599a of this title.".

[(3) Section 3344 and any references to such section are repealed.

[(4) The table of sections for chapter 33 is amended by striking out the item relating to section 3344.

[(5)(A) Subchapter III of chapter 75 of title 5, United States Code, is repealed.

[(B) The table of sections at the beginning of chapter 75 of title 5, United States Code, is amended—

[(i) by striking out the items relating to subchapter III and section 7521;

[(ii) by redesignating "Subchapter IV" and all references to such subchapter as "Subchapter III"; and

[(iii) by redesignating "Subchapter V" and all references to such subchapter as "Subchapter IV".

[OPERATION OF THE CORPS

[SEC. 7. Operation of the Corps shall commence on the date the first chief administrative law judge of the Corps takes office.

[CONTRACT DISPUTES ACT

[SEC. 8. Nothing in this Act or the amendments made by this Act shall be deemed to affect any agency board established pursuant to the Contract Disputes Act (41 U.S.C. 601), or any other person designated to resolve claims or disputes pursuant to such Act.

[EFFECTIVE DATE

[SEC. 9. Except as otherwise provided, this Act and the amendments made by this Act shall take effect 120 days after the date of enactment.]

SECTION 1. SHORT TITLE.

This Act may be cited as the "Reorganization of the Federal Administrative Judiciary Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) in order to promote efficiency, productivity, the reduction of administrative functions, and to provide economies of scale and better public service and public trust in the administrative resolution of disputes, Federal administrative law judges should be organized in a unified corps;

(2) the dispersal of administrative law judges appointed under section 3105 of title 5, United States Code, in every Federal agency that requires hearings to be conducted by administrative law judges, underutilizes the potential of administrative law judges to serve the public and assist the Federal courts as special masters and finders of fact in specific instances to help reduce the backlog of cases in Federal courts;

(3) the organization of administrative law judges in a corps will best promote their assignment to Federal agency needs as demand requires;

(4) a unified administrative law judge corps will better promote the use of information technology in serving the public; and

(5) an administrative law judge corps will, through consolidation, eliminate unnecessary offices and reduce travel and other related costs.

SEC. 3. ESTABLISHMENT OF ADMINISTRATIVE LAW JUDGE CORPS.

(a) IN GENERAL.—Chapter 5 of title 5, United States Code, is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER VI—ADMINISTRATIVE LAW JUDGE CORPS

"§597. Definitions

"For the purposes of this subchapter—

"(1) 'agency' means an authority referred to in section 551(1);

"(2) 'Corps' means the Administrative Law Judge Corps of the United States established under section 598;

"(3) 'administrative law judge' means an administrative law judge appointed under section 3105 on or before the effective date of the Reorganization of the Federal Administrative Judiciary Act or under section 599c after such effective date;

"(4) 'chief judge' means the chief administrative law judge appointed and serving under section 599;

"(5) 'Council' means the Council of the Administrative Law Judge Corps established under section 599b;

"(6) 'Board', unless otherwise indicated, means the Complaints Resolution Board established under section 599e; and

"(7) 'division chief judge' means the chief administrative law judge of a division appointed and serving under section 599a.

"§598. Establishment; membership

"(a) ESTABLISHMENT.—There is established an Administrative Law Judge Corps consisting of all administrative law judges, in accordance with the provisions of subsection (b). Such Corps shall be administered in Washington, D.C.

"(b) MEMBERSHIP.—An administrative law judge serving as such on the date of the commencement of the operation of the Corps shall be transferred to the Corps as of that date. An administrative law judge who is appointed on or after the date of the commencement of the operation of the Corps shall be a member of the Corps as of the date of such appointment.

"§599. Chief administrative law judge

"(a) APPOINTMENT; TERM.—The chief administrative law judge shall be the chief administrative officer of the Corps and shall be the presiding judge of the Corps. The chief judge shall be appointed by the President, by and with the advice and consent of the Senate. The chief judge shall be learned in the law. The chief judge shall serve for a term of five years or until a successor is appointed and qualifies to serve, whichever is earlier. A chief judge may be reappointed upon the expiration of the term of such judge, by and with the advice and consent of the Senate.

"(b) VACANCIES.—(1) If the office of chief judge is vacant, the division chief judge who is senior in length of service as a member of the

Council shall serve as acting chief judge until such vacancy is filled.

"(2) If 2 or more division chief judges have the same length of service as members of the Council, the division chief judge who is senior in length of service as an administrative law judge shall serve as such acting chief judge.

"(c) SPECIAL FUNCTIONS OF CHIEF JUDGE.—(1) In addition to other duties conferred on the chief judge, the chief judge shall be responsible for developing programs and practices, in coordination with agencies using administrative law judges, which foster economy and efficiency in the processing of cases heard by administrative law judges. These programs and practices shall include—

"(A) training of judges in more than one subject area;

"(B) employment of computers and software and other information technology for automated decision preparation, case docketing, and research;

"(C) consolidating hearing facilities and law libraries; and

"(D) programs and practices to foster overall efficient use of staff, personnel, equipment, and facilities.

"(2) In order to minimize costs—

"(A) all administrative law judges and support personnel shall, for at least 1 year after the date of the commencement of the operation of the Corps, continue to use the office space and facilities, at the agencies using such judges and personnel, available before such date, and

"(B) the chief judge shall phase in transfers of administrative law judges and support personnel to other facilities so that the cost of providing facilities for the Corps shall not exceed the cost of maintaining such judges and personnel in equivalent space available at agencies using the Corps.

"(d) REPORTS.—The chief judge shall, within 90 days after the end of each fiscal year, make a written report to the President and the Congress concerning the business of the Corps during the preceding fiscal year. The report shall include information and recommendations of the Council concerning the future personnel requirements of the Corps.

"(e) SERVICE AFTER TERM EXPIRES.—After serving as chief judge, an individual may continue to serve as an administrative law judge unless such individual has been removed from office in accordance with section 599c.

"§599a. Divisions of the Corps; division chief judges

"(a) ASSIGNMENT TO DIVISIONS.—Each judge of the Corps shall be assigned to a division by the Council, pursuant to section 599b. The assignment of a judge who was an administrative law judge on the date of commencement of the operation of the Corps shall be made after consideration of the areas of specialization in which the judge has served. Each division shall be headed by a division chief judge who shall exercise administrative supervision over such division.

"(b) DIVISIONS.—The divisions of the Corps shall be as follows:

"(1) Division of Communications, Public Utility, and Transportation Regulation.

"(2) Division of Safety and Environmental Regulation.

"(3) Division of Labor.

"(4) Division of Labor Relations.

"(5) Division of Health and Human Services Programs.

"(6) Division of Securities, Commodities, and Trade Regulation.

"(7) Division of General Programs.

"(8) Division of Financial Services Institutions.

"(c) APPOINTMENT OF DIVISION CHIEF JUDGES.—(1) The division chief judge of each division set forth in subsection (b) shall be appointed by the President, by and with the advice and consent of the Senate, and shall be learned in the law.

"(2) Division chief judges shall be appointed for 5-year terms, except that of those division chief judges first appointed, the President shall designate 2 such individuals to be appointed for 5-year terms, 3 for 4-year terms, and 2 for 3-year terms.

"(3) Any division chief judge appointed to fill an unexpired term shall be appointed only for the remainder of such predecessor's term, but may be reappointed as provided in paragraph (4).

"(4) Any division chief judge may be reappointed upon the expiration of his or her term.

"(5) Any judge, after serving as division chief judge, may continue to serve as an administrative law judge unless such individual has been removed from office in accordance with section 599e.

"§599b. Council of the Corps

"(a) IN GENERAL.—The policymaking body of the Corps shall be the Council of the Corps. The chief judge and the division chief judges shall constitute the Council. The chief judge shall preside over the Council. If the chief judge is unable to be present at a meeting of the Council, the division chief judge who is senior in length of service as a member of such Council shall preside at the meeting.

"(b) QUORUM; VOTING.—One half of all of the members of the Council shall constitute a quorum for the purpose of transacting business. The affirmative vote by a majority of all the members of the Council shall be required to approve a matter on behalf of the Council. Each member of the Council shall have one vote.

"(c) MEETINGS.—Meetings of the Council shall be held at least once a month at the call of the chief judge or by the call of one-third or more of the members of the Council.

"(d) POWERS.—The Council is authorized—

"(1) to assign judges to divisions and transfer or reassign judges from one division to another, subject to the provisions of section 599c;

"(2) to appoint persons as administrative law judges under section 599c;

"(3) to file charges seeking adverse action against an administrative law judge under section 599e;

"(4) subject to the provisions of subsection (e), to prescribe, after providing an opportunity for notice and comment, the rules of practice and procedure for the conduct of proceedings before the Corps, except that, with respect to a category of proceedings adjudicated by an agency before the effective date of the Reorganization of the Federal Administrative Judiciary Act, the Council may not amend or revise the rules of practice and procedure prescribed by that agency during the 2 years following such effective date without the approval of that agency, and any amendments or revisions made to such rules shall not affect or be applied to any pending action;

"(5) to issue such rules and regulations as may be appropriate for the efficient conduct of the business of the Corps and the implementation of this subchapter, including the assignment of cases to administrative law judges;

"(6) subject to the civil service and classification laws and regulations—

"(A) to select, appoint, employ, and fix the compensation of the employees (other than administrative law judges) that the Council deems necessary to carry out the functions, powers, and duties of the Corps; and

"(B) to prescribe the authority and duties of such employees;

"(7) to establish, abolish, alter, consolidate, and maintain such regional, district, and other field offices as are necessary to carry out the functions, powers, and duties of the Corps and to assign and reassign employees to such field offices;

"(8) to procure temporary and intermittent services under section 3109;

"(9) to enter into, to the extent or in such amounts as are authorized in appropriation Acts, without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5), contracts, leases, cooperative agreements, or other transactions that may be necessary to conduct the business of the Corps;

"(10) to delegate any of the chief judge's functions or powers with the consent of the chief judge, or whenever the office of such chief judge is vacant, to one or more division chief judges or other employees of the Corps, and to authorize the redelegation of any of those functions or powers;

"(11) to establish, after consulting with an agency, initial and continuing educational programs to assure that each administrative law judge assigned to hear cases of that agency has the necessary training in the specialized field of law of that agency;

"(12) to make suitable arrangements for continuing education and training of other employees of the Corps, so that the level of expertise in the divisions of the Corps will be maintained and enhanced; and

"(13) to determine all other matters of general policy of the Corps.

"(e) OFFICIAL SEAL.—The Council shall select an official seal for the Corps which shall be judicially noticed.

"§599c. Appointment and transfer of administrative law judges

"(a) APPOINTMENT.—After the initial establishment of the Corps, the Council shall appoint new or additional judges as may be necessary for the efficient and expeditious conduct of the business of the Corps. Appointments shall be made from a register maintained by the Office of Personnel Management under subchapter I of chapter 33 of this title. Upon request by the chief judge, the Office of Personnel Management shall certify enough names from the top of such register to enable the Council to consider five names for each vacancy. Notwithstanding section 3318, a vacancy in the Corps may be filled from the highest five eligible individuals available for appointment on the certificate furnished by the Office of Personnel Management.

"(b) LIMITATION ON JUDGE'S DUTIES.—A judge of the Corps may not perform or be assigned to perform duties inconsistent with the duties and responsibilities of an administrative law judge.

"(c) REASSIGNMENTS; DETAILS.—A judge or staff member of the Corps on the date of commencement of the operation of the Corps, and all new judges and staff members appointed by the Council, may not thereafter be involuntarily reassigned to a new permanent duty station if such station is beyond the commuting area of the duty station which is the judge's permanent duty station on that date. A judge or staff member of the Corps may be temporarily detailed, once in a 24-month period, to a new duty station at any location, for a period of not more than 120 days.

"§599d. Jurisdiction

"(a) IN GENERAL.—Any case, claim, action, or proceeding authorized to be heard before an administrative law judge on the day before the effective date of the Reorganization of the Federal Administrative Judiciary Act shall, on or after such date, be referred to the Corps for adjudication on the record after an opportunity for a hearing.

"(b) TYPES OF CASES.—An administrative law judge who is a member of the Corps shall hear and render a decision upon—

"(1) every case of adjudication subject to the provisions of section 553, 554, or 556;

"(2) every case in which hearings are required by law to be held in accordance with sections 553, 554, or section 556;

"(3) every other case referred to the Corps by an agency in which a determination is to be made on the record after an opportunity for a hearing; and

"(4) every case referred to the Corps by a court for an administrative law judge to act as a special master or to otherwise making findings of fact on behalf of the referring court, which shall continue to have exclusive and undiminished jurisdiction over the case.

"(c) REFERRAL OF CASES.—When a case under subsection (b) arises, it shall be referred to the Corps. Under regulations issued by the Council, the case shall be assigned to a division. The appropriate division chief shall assign cases to judges, taking into consideration specialization, training, workload, and conflicts of interest.

"(d) REFERRALS BY AGENCIES AND COURTS.—Courts are authorized to refer, subject to the approval of the majority of the Council and the parties in the court proceeding, those cases, or portions thereof, in which they seek an administrative law judge either to act as a special master pursuant to the provisions of Rule 53(a) of the Federal Rules of Civil Procedure or otherwise seek an administrative law judge to make findings of fact in a case on behalf of the referring court, which shall continue to have exclusive and undiminished jurisdiction over the case. When a court has referred a case to an administrative law judge, the recommendations, rulings, and findings of fact of the administrative law judge are subject to de novo review by the referring court.

"(e) SATISFACTION OF OTHER PROCEDURAL REQUIREMENTS.—Compliance with this subchapter shall satisfy all requirements imposed under section 916 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

"(f) APPLICATION OF AGENCY POLICY.—The provisions of this subchapter shall effect no change in—

"(1) an agency's rulemaking, interpretative, or policymaking authority in carrying out the statutory responsibilities vested in the agency or agency head;

"(2) the adjudicatory authority of administrative law judges; or

"(3) the authority of an agency to review decisions of administrative law judges under any applicable provision of law.

"§ 599e. Removal and discipline

"(a) Except as provided in subsection (b)—

"(1) an administrative law judge may not be removed, suspended, reprimanded, or disciplined except for misconduct or neglect of duty, but may be removed for physical or mental disability (consistent with prohibitions on discrimination otherwise imposed by law); and

"(2) an action specified in paragraph (1) of this subsection may be taken against an administrative law judge only after the Council has filed with the Merit Systems Protection Board a notice of adverse action against the administrative law judge and the Merit Systems Protection Board has determined, on the record after an opportunity for a hearing before the Merit Systems Protection Board, that there is good cause to take such action.

"(b) Subsection (a) does not apply to an action initiated under section 1215.

"(c) COMPLAINTS RESOLUTION BOARD.—Under regulations issued by the Council, a Complaints Resolution Board shall be established within the Corps to consider and to recommend appropriate action to be taken when a complaint is made concerning the official conduct of a judge of the Corps. Such complaint may be made by any interested person, including parties, practitioners, the chief judge, and agencies.

"(d) COMPOSITION OF THE BOARD.—The Board shall consist of 2 judges from each division of the Corps, who shall be appointed by the Council. The chief judge and the division chief judges may not serve on the Board.

"(e) PROCEDURAL REQUIREMENTS.—A complaint of misconduct by an administrative law judge shall be made in writing. The complaint shall be filed with the chief judge, or it may be originated by the chief judge on his own motion. The chief judge shall refer the complaint to a panel consisting of 3 members of the Board selected by the Council, none of whom may be serving in the same division as the administrative law judge who is the subject of the complaint. The administrative law judge who is the subject of the complaint shall be given notice of the complaint and the composition of the panel. The administrative law judge may challenge peremptorily not more than 2 members of the panel. The Council shall replace a challenged member with another member of the Board who is eligible to serve on such panel.

"(f) INQUIRY AND REPORT BY PANEL.—The panel shall inquire into the complaint and shall render a report thereon to the Council. A copy of the report shall be provided concurrently to the administrative law judge who is the subject of the complaint. The report shall be advisory only.

"(g) CONFIDENTIALITY.—The proceedings, deliberations, and reports of the Board and the contents of complaints under this section shall be treated as privileged and confidential. Documents considered by the Board and reports of the Board under this section are exempt from disclosure or publication under section 552. Section 552b does not apply to the Board.".

(b) APPOINTMENTS OF DIVISION CHIEF JUDGES.—It is the sense of the Congress that the President should appoint as division chief judges under section 599a(c) of title 5, United States Code (as added by subsection (a) of this section), individuals who have served as an administrative law judge for at least 5 years.

(c) ADMINISTRATIVE PROVISION.—Except as provided under subchapter VI of chapter 5 of title 5, United States Code, the chief administrative law judge and the division chief judges appointed under such subchapter shall be deemed administrative law judges appointed under section 3105.

(d) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 5, United States Code, is amended by adding at the end thereof the following:

"SUBCHAPTER VI—ADMINISTRATIVE LAW JUDGE CORPS

"Sec.
"597. Definitions.
"598. Establishment; membership.
"599. Chief administrative law judge.
"599a. Divisions of the Corps; division chief judges.
"599b. Council of the Corps.
"599c. Appointment and transfer of administrative law judges.
"599d. Jurisdiction.
"599e. Removal and discipline.".

SEC. 4. AGENCY REVIEW STUDY AND REPORT.

(a) STUDY.—The chief administrative law judge of the Administrative Law Judge Corps of the United States shall conduct a study of the various types and levels of agency review to which decisions of administrative law judges are subject. A separate study shall be conducted for each division of the Corps. The studies shall include monitoring and evaluating data and shall be conducted in consultation with the division chief judges, the Chairman of the Administrative Conference of the United States, and the agencies that review the decisions of administrative law judges.

(b) REPORT.—(1) Not later than 2 years after the effective date of this Act, the Council shall report to the President and the Congress on the findings and recommendations resulting from the studies conducted under subsection (a).

(2) The report under paragraph (1) shall include recommendations, including recommendations for new legislation, for any reforms that may be appropriate to make review of administrative law judges' decisions more efficient and meaningful and to accord greater finality to such decisions, except that all decisions subject, before the effective date of this Act, to review pursuant to section 205(g) of the Social Security Act (42 U.S.C. 405(g)) shall continue to be subject to such review pursuant to such section.

(3) The report under paragraph (1) shall also include recommendations for using staff more efficiently to decrease backlogs, especially in the area of social security disability cases.

SEC. 5. TRANSITION AND SAVINGS PROVISIONS.

(a) TRANSFER OF FUNCTIONS.—There are transferred to the administrative law judges of the Administrative Law Judge Corps established by section 598 of title 5, United States Code (as added by section 3 of this Act), all functions authorized to be performed on the day before the effective date of this Act by the administrative law judges appointed under section 3105 of such title before the effective date of this Act.

(b) USE OF AGENCY FACILITIES AND PERSONNEL.—With the consent of the agencies concerned, the Administrative Law Judge Corps of the United States may use the facilities and the services of officers, employees, and other personnel of agencies from which functions and duties are transferred to the Corps for so long as may be needed to facilitate the orderly transfer of those functions and duties under this Act.

(c) INCIDENTAL TRANSFERS.—The personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available, in connection with the functions transferred by this Act, are, subject to section 1531 of title 31, United States Code, transferred to the Corps for appropriate allocation.

(d) PAY OF TRANSFERRED PERSONNEL.—The transfer of personnel pursuant to subsection (b) or (c) shall be without reduction in pay or classification for 5 years after such transfer.

(e) AUTHORITIES OF DIRECTOR OF OMB.—The Director of the Office of Management and Budget, at such time or times as the Director shall provide, may make such determinations as may be necessary with regard to the functions transferred by this Act, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out the provisions of this Act.

(f) CONTINUED EFFECTIVENESS OF PRIOR ACTIONS.—All orders, determinations, rules, regulations, certificates, licenses, and privileges which have been issued, made, granted, or allowed to become effective in the exercise of any duties, powers, or functions which are transferred under this Act and are in effect at the time this Act becomes effective shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Administrative Law Judge Corps of the United States or a judge thereof in the exercise of authority vested in the Corps or its members by this Act, by a court of competent jurisdiction, or by operation of law.

(g) PENDING PROCEEDINGS.—(1) Except as provided in subsections (d)(5) and (e) of section 599b of title 5, United States Code, this Act shall not affect any proceeding before any department or agency or component thereof which is *pending at the time this Act takes effect. Such a proceeding shall be continued before the Administrative Law Judge Corps of the United States or a judge thereof, or, to the extent the proceeding does not relate to functions so transferred, shall be continued before the agency in which it was pending on the effective date of this Act.*

(2) No suit, action, or other proceeding commenced before the effective date of this Act shall abate by reason of the enactment of this Act.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act and subchapter VI of title 5, United States Code (as added by section 3 of this Act).

SEC. 7. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TITLE 5, UNITED STATES CODE.—Title 5, United States Code, is amended as follows:

(1) Section 593(b) is amended—

(A) by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively, and

(B) by inserting the following after paragraph (3):

"(4) the chief administrative law judge of the Administrative Law Judge Corps of the United States;".

(2) Section 3105 is amended to read as follows:

"§ 3105. Appointment of administrative law judges

"Administrative law judges shall be appointed by the Council of the Administrative Law Judge Corps pursuant to sections 596 and 599c of this title.".

(3) Section 3344, and the item relating to section 3344 in the table of sections for chapter 33, are repealed.

(4) Subchapter III of chapter 75, and the items relating to subchapter III and section 7521 in the table of sections at the beginning of chapter 75, are repealed.

(5) Section 559 is amended—

(A) in the first sentence by striking "chapter 7" and all that follows through "7521" and inserting "subchapter VI of this chapter, chapter 7, and sections 1305, 3105, 4301(2)(E), and 5372"; and

(B) in the last sentence by striking "chapter 7" and all that follows through "7521" and inserting "subchapter VI of this chapter, chapter 7, section 1305, 3105, 4301(2)(E), or 5372".

(6) Section 1305 is amended—

(A) by striking "section 3105, 3344," and inserting "sections 3105,"; and

(B) by striking ", and for the purpose of section 7521 of this title, the Merit Systems Protection Board may".

(7) Section 5514(a)(2) is amended in the fourth sentence by striking ", except that" and all that follows through "administrative law judge".

(8) Section 7105 is amended—

(A) in subsection (d) by striking ", administrative law judges under section 3105 of this title,"; and

(B) in subsection (e)(2) by striking "under subsection (d) of this section" and inserting "under section 3105 of this title".

(9) Section 7132(a) is amended by striking "appointed by the Authority under section 3105 of this title" and inserting "appointed under section 3105 of this title who is conducting hearings under this chapter".

(10) Section 7502 is amended by striking "7521 or".

(11) Section 7512(E) is amended by striking "or 7521".

(b) OTHER PROVISIONS OF LAW.—

(1) Section 6(c) of the Commodity Exchange Act is amended—

(A) in the second sentence (7 U.S.C. 9)—

(i) by striking "Administrative Law Judge designated by the Commission" and inserting "administrative law judge of the Administrative Law Judge Corps"; and

(ii) by striking "Administrative Law Judge" and inserting "administrative law judge"; and

(B) by striking "Administrative Law Judge" each subsequent place it appears (7 U.S.C. 15) and inserting "administrative law judge of the Administrative Law Judge Corps".

(2) Section 12(b) of the Commodity Exchange Act (7 U.S.C. 16(b)) is amended by striking "Administrative Law Judges,".

(3) Section 274B(e)(2) of the Immigration and Nationality Act (8 U.S.C. 1324b(e)(2)) is amended by striking "are specially designated by the Attorney General as having" and inserting "have".

(4) Section 1416(a) of the Interstate Land Sales Full Disclosure Act (15 U.S.C. 1715(a)) is amended—

(A) in the first sentence by inserting ", subject to section 599d of title 5, United States Code," after "who may";

(B) by striking the second sentence; and

(C) in the third sentence by striking "his administrative law judges to other administrative law judges or" and inserting "administrative law judges carrying out functions under this title".

(5) Section 488A(b) of the Higher Education Act of 1965 (20 U.S.C. 1095a(b)) is amended in the third sentence by striking ", except that" and all that follows through "administrative law judge".

(6) Section 509(1) of title 28, United States Code, is amended—

(A) by striking "subchapter II" and inserting "subchapters II and VI"; and

(B) by striking "employed by the Department of Justice".

(7) Section 12 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 661) is amended—

(A) in subsection (e)—

(i) by striking "administrative law judges and other"; and

(ii) by striking ": Provided" and all that follows through the end of the subsection and inserting a period;

(B) in subsection (j) in the first sentence by striking "A" and all that follows through "Commission," and inserting "An administrative law judge to whom is assigned any proceeding instituted before the Commission shall hear and make a determination upon the proceeding and any motion in connection with such proceeding,"; and

(C) by striking subsection (k).

(8) Section 502(e)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 792(e)(1)) is amended by striking the second and third sentences and inserting the following: "Proceedings required to be conducted under this section shall be presided over by administrative law judges appointed under subchapter VI of chapter 5 of title 5, United States Code.".

(9) Section 166 of the Job Training Partnership Act (29 U.S.C. 1576(a)) is amended in the first sentence by striking "of the Department of Labor".

(10) Section 5(e) of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 804(e)) is amended to read as follows:

"(e) Proceedings required to be conducted in accordance with the provisions of this Act shall be presided over by administrative law judges appointed under subchapter VI of chapter 5 of title 5, United States Code.".

(11) Section 113 of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 823) is amended—

(A) in subsection (b)(2) by striking all that follows the second sentence;

(B) in subsection (d)(1) in the first sentence by striking "appointed by the Commission" and all that follows through "by the Commission," and inserting "to whom is assigned any proceeding instituted before the Commission shall hear and make a determination upon the proceeding and any motion in connection with the proceeding,"; and

(C) in subsection (e) in the first sentence by striking "its" each place it appears.

(12) Section 428(b) of the Black Lung Benefits Act (30 U.S.C. 938(b)) is amended by striking the seventh sentence.

(13) Section 321(c)(1) of title 31, United States Code, is amended—

(A) by striking "subchapter II" and inserting "subchapters II and VI"; and

(B) by striking "employed by the Secretary".

(14) Section 3801(a)(7)(A) of title 31, United States Code, is amended by striking "appointed in the authority" and all that follows through "such title;" and inserting "of the Administrative Law Judge Corps;".

(15) Section 19(d) of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 919(d)) is amended by amending the second sentence to read as follows: "Any such hearing shall be conducted by an administrative law judge qualified under subchapter VI of chapter 5 of that title.".

(16) Section 21(b)(5) of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 921(b)(5)) is amended by striking the first sentence.

(17) Section 7101(b)(2)(B) of title 38, United States Code, is amended by striking "7521" and inserting "599e".

(18) Section 8(b)(1) of the Contract Disputes Act of 1978 (41 U.S.C. 607(b)(1)) is amended in the first sentence by striking "hearing examiners appointed pursuant to section 3105 of title 5, United States Code" and inserting "administrative law judges appointed under section 3105 of title 5, United States Code (as in effect on the day before the effective date of the Reorganization of the Federal Administrative Judiciary Act)".

(19) Section 705(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–4(a)) is amended—

(A) by striking "administrative law judges,"; and

(B) by striking ": Provided" and all that follows through the end of the subsection and inserting a period.

(20) Section 808(c) of the Act of April 11, 1968 (42 U.S.C. 3608(c)), is amended—

(A) in the first sentence by inserting ", subject to section 599d of title 5, United States Code," after "The Secretary may";

(B) by striking the second sentence; and

(C) in the last sentence by striking "his hearing examiners to other hearing examiners or" and inserting "administrative law judges carrying out functions under this title".

(21) Section 806 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3787) is amended—

(A) in the first sentence by striking "appoint such hearing examiners" and all that follows through "United States Code," and inserting ", subject to section 599d of title 5, United States Code, request the use of such administrative law judges"; and

(B) in the second sentence by striking "hearing examiner or administrative law judge assigned to or employed thereby" and inserting "such administrative law judge".

(22) Section 401(c) of the Department of Energy Organization Act (42 U.S.C. 7171(c)) is amended by striking "appointment and employment of hearing examiners in accordance with the provisions of title 5," and inserting "referral of cases to the Administrative Law Judge Corps in accordance with subchapter VI of chapter 5 of title 5,".

(23) Section 303(c)(3) of the Independent Safety Board Act of 1974 (49 U.S.C. App. 1902(c)(3))

is amended by striking ", attorneys, and administrative law judges" and inserting "and attorneys".

(24) Section 304(b)(1) of the Independent Safety Board Act of 1974 (49 U.S.C. App. 1903(b)(1)) is amended in the first sentence by striking "employed by or".

(c) REFERENCES IN OTHER LAWS.—Reference in any other Federal law to an administrative law judge or hearing examiner or to an administrative law judge, hearing examiner, or employee appointed under section 3105 of title 5, United States Code, shall be deemed to refer to an administrative law judge of the Administrative Law Judge Corps established by section 598 of title 5, United States Code.

SEC. 8. OPERATION OF THE CORPS.

Operation of the Corps shall commence on the date the first chief administrative law judge of the Corps takes office.

SEC. 9. CONTRACT DISPUTES ACT.

Nothing in this Act or the amendments made by this Act shall be deemed to affect any agency board established pursuant to the Contract Disputes Act (41 U.S.C. 601 and following), or any other person designated to resolve claims or disputes pursuant to such Act.

SEC. 10. PAYMENT BY CERTAIN AGENCIES FOR ADMINISTRATIVE LAW JUDGE SALARIES AND EXPENSES.

Any agency which before the effective date of this Act paid the salaries and expenses of administrative law judges from fees charged by such agency shall on and after the effective date of this Act pay from such fees to the chief judge of the Administrative Law Judge Corps, or the designee of the chief judge, an amount necessary to reimburse the salaries and expenses of the Corps for services provided by the Corps to such agency.

SEC. 11. EFFECTIVE DATE.

Except as otherwise provided, this Act and the amendments made by this Act shall take effect 120 days after the date of the enactment of this Act.

Amend the title so as to read: "A bill to reorganize the Federal administrative law judiciary, and for other purposes.".

AMENDMENT NOS. 1222, 1223, AND 1224, EN BLOC

Mr. HEFLIN. Madam President, on behalf of myself, Senator BROWN and Senator COHEN, I send three amendments to the desk and I ask unanimous consent they be considered and agreed to en bloc and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the amendments.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. HEFLIN] proposes amendments numbered 1222, 1223, and 1224, en bloc.

So the amendments (Nos. 1222, 1223 and 1224) were agreed to en bloc, as follows:

AMENDMENT NO. 1222

(Purpose: To make technical corrections)

On page 23, line 22, strike out ", whichever is earlier".

On page 28, line 19, strike out "subject to the provisions of subsection (e),".

On page 32, line 3, insert "or staff member's" after "judge's".

On page 40, line 19, insert "permits, contracts, collective bargaining agreements, recognition of labor organizations," after "regulations,".

AMENDMENT NO. 1223

(Purpose: To provide for certain reports by the Office of Management and Budget, to limit authorization of appropriations for functions performed by the Administrative Law Judge Corps to the amount of expenditures for such functions in fiscal year 1993, and for other purposes)

On page 41, strike out lines 18 through 22, and insert in lieu thereof the following:

(h) REPORTS BY OFFICE OF MANAGEMENT AND BUDGET.—The Director of the Office of Management and Budget shall monitor and report to the Congress—

(1) 60 days after the effective date of this Act, on the amount of all funds expended in fiscal year 1994 by each agency on the functions transferred under this Act and the amendments made by this Act;

(2) no later than October 1, 1994, on the amount of unexpended balances of appropriations, authorizations, allocations, and other funds transferred by all agencies to the Administrative Law Judge Corps under this Act and the amendments made by this Act; and

(3) 1 year after the effective date of this Act, and each of the next 2 years thereafter on—

(A) whether the expenditure of each agency that transfers functions and duties under this Act and the amendments made by this Act are reduced by the amount of savings resulting from the transfer of such functions and duties; and

(B) the Government savings resulting from transfer of such functions to the Administrative Law Judge Corps and recommendations to the Congress on how to achieve additional savings.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for each of fiscal years 1995, 1996, 1997, 1988, and 1999 to carry out the provisions of this Act and subchapter VI of title 5, United States Code (as added by section 3 of this Act) such amounts as may be necessary, not to exceed in any such fiscal year the total amount expended by all agencies in fiscal year 1994 in performing all functions transferred under this Act and the amendments made by this Act.

AMENDMENT NO. 1224

(Purpose: To provide for the removal and discipline of administrative law judges, and for other purposes)

On page 34, beginning with line 18, strike out all through line 2 on page 37 and insert in lieu thereof the following:

"§ 599e. Removal and discipline

"(a) IN GENERAL.—(1) Except as provided under paragraph (2), an administrative law judge may not be removed, suspended, reprimanded, or disciplined except for misconduct or neglect of duty, but may be removed for physical or mental disability (consistent with prohibitions on discrimination otherwise imposed by law).

"(2) Paragraph (1) shall not apply to an action initiated under section 1215.

"(b) RULES OF JUDICIAL CONDUCT.—No later than 180 days after the appointment and confirmation of the Council, the Council shall adopt and issue rules of judicial conduct for administrative law judges. Such code shall be enforced by the Council and shall include standards governing—

"(1) judicial conduct and extra-judicial activities to avoid actual, or the appearance of, improprieties or conflicts of interest;

"(2) the performance of judicial duties impartially and diligently;

"(3) avoidance of bias or prejudice with respect to all parties; and

"(4) efficiency and management of cases so as to reduce dilatory practices and unnecessary costs.

"(c) DISCIPLINARY ACTION BY THE COUNCIL.—An administrative law judge may be subject to disciplinary action by the Council under subsection (j). An administrative law judge may be removed only after the Council has filed with the Merit Systems Protection Board a notice of removal and the Merit Systems Protection Board has determined on the record, after an opportunity for a hearing before the Merit Systems Protection Board, that there is good cause to take the action of removal.

"(d) COMPLAINTS RESOLUTION BOARD.—Under regulations issued by the Council, a Complaints Resolution Board shall be established within the Corps to consider and to recommend appropriate action to be taken when a complaint is made concerning conduct of a judge of the Corps. Such complaint may be made by any interested person, including parties, practitioners, the chief judge, administrative law judges, and agencies.

"(e) COMPOSITION OF THE BOARD.—(1) The Board shall consist of—

"(A) 2 judges from each division of the Corps, who shall be appointed by the Council; and

"(B) 16 attorneys who shall be appointed in accordance with the provisions of paragraph (2).

"(2) The Council shall request a list of candidates to be members of the Board from the American Bar Association. Such list may not include any individual who is an administrative law judge or former administrative law judge.

"(3) The chief judge and the division chief judges may not serve on the Board.

"(4) No individual may serve 2 successive terms on the Board.

"(5)(A) Except as provided under subparagraph (B), all terms on the Board shall be 2 years.

"(B) In making the original appointments to the Board, the Council shall designate one-half of the appointments made under paragraph (1)(A) and one-half of the appointments made under paragraph (1)(B), as a term of 1 year.

"(6)(A) Each member of the Board who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for a position at the level of AL–3, rate C under section 5372 of this title for each day (including travel time) during which such member is engaged in the performance of the duties of the Board. All members of the Board who are administrative law judges shall serve without compensation in addition to that received for their services as officers or employees of the United States.

"(B) The members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.

"(f) FILING AND REFERRAL OF COMPLAINT.—(1) A complaint concerning the official conduct of an administrative law judge shall be made in writing. The complaint shall be filed with the chief judge, or it may be originated by the chief judge on his own motion. The chief judge shall refer the complaint to a 5-member panel designated by the Council—

"(A) consisting of 3 administrative law judges appointed under subsection (e)(1)(A), none of whom may be serving in the same division as the administrative law judge who is the subject of the complaint; and

"(B) two members appointed under subsection (e)(1)(B), none of whom regularly practice before the division to which the administrative law judge, who is the subject of the complaint is assigned.

"(2) Any individual chosen to serve on the panel who has a personal or financial conflict of interest involving the administrative law judge who is the subject of the complaint shall be disqualified by the Council from serving on the panel. The Council shall replace any disqualified individual or vacancy with another member of the Board who is eligible to serve on the panel.

"(g) CHIEF JUDGE ACTION.—(1) After expeditiously reviewing a complaint, the chief judge, by written order stating his reason, may—

"(A) dismiss the complaint, if the chief judge finds the complaint to be—

"(i) directly related to the merits of a decision or procedural ruling; or

"(ii) frivolous;

"(B) conclude the proceeding if the chief judge finds that appropriate corrective action has been taken or that action on the complaint is no longer necessary because of intervening events; or

"(C) refer the complaint to the Complaint Resolution Board in accordance with subsection (f).

"(2) The chief judge shall transmit copies of the written order to the complainant and to the administrative law judge who is the subject of the complaint.

"(h) NOTICE OF THE COMPLAINT.—The administrative law judge and the complainant shall be given notice of receipt of the complaint and notice of referral of the complaint to the panel.

"(i) INQUIRY AND REPORT BY PANEL.—(1) The panel shall inquire into the complaint and have authority to conduct a full investigation of the complaint, including authority to hold hearings and issue subpoenas, examine witnesses, and receive evidence. All proceedings of the Complaint Resolution Board shall be confidential. The administrative law judge who is the subject of the complaint shall have the right to be represented by counsel and shall have an opportunity to appear before the panel. The complainant shall be afforded an opportunity to appear at the proceedings conducted by the investigating panel, if the panel concludes that the complainant could offer substantial information.

"(2) In determining whether misconduct has occurred, the panel shall apply a preponderance of evidence standard of proof to its proceedings.

"(3)(A) Within 90 days after the referral of the complaint, the panel shall report to the Council on its findings of fact and recommendations for appropriate disciplinary action, if any, that should be taken against the administrative law judge.

"(B) If the panel has not completed its inquiry within 90 days after receiving the complaint, the panel shall request an extension of time from the Council to complete its inquiry.

"(C) A copy of the report shall be provided concurrently to the Council, the administrative law judge who is the subject of the complaint, and the complainant. The Council shall retain all reports filed under this section and such reports shall be confidential, except that a recommendation for disciplinary action shall be made available to the public.

"(4) The recommendations of the panel shall include one of the following:

"(A) Dismissal of all or part of the complaint.

"(B) Direct informal reprimand.

"(C) Direct formal reprimand.

"(D) Suspension.

"(E) Automatic referral to the Merit Systems Protection Board on recommendations of removal.

"(5) The recommendations of the panel are binding on the Council, unless the administrative law judge appeals to the Merit Systems Protection Board.

"(j) DISCIPLINARY ACTION.—Except as provided in subsection (a)(2), the Council shall take appropriate disciplinary action against the administrative law judge based upon the report of the panel within 30 days after receiving the report of the panel. Such disciplinary action shall be enforced by the Council and shall be final unless the administrative law judge files an appeal with the Merit Systems Protection Board within 30 days after receiving notice of such disciplinary action.

"(k) RECOMMENDATION FOR RELIEF TO AGENCY, DEPARTMENT, OR COMMISSION.—Based upon a finding of judicial misconduct by an administrative law judge, the Council shall have authority to recommend to the head of an agency, department or commission that action may be taken to provide relief to aggrieved individuals due to the judicial misconduct by an administrative law judge.".

Mr. HEFLIN. Madam President, I am pleased to rise in support of S. 486, the Reorganization of the Federal Administrative Judiciary Act. The purpose of this bill is to reorganize and establish an independent corps of administrative law judges within the executive branch of government. The bill is designed to address two critical issues which face our Nation. First, an independent corps is vital to the continued impartial resolution of issues and decision of cases arising under the Administrative Procedure Act. Second, this bill streamlines the Federal bureaucracy in order to better meet the needs of the people of the United States. For these reasons, legislation needs to be adopted to improve this Nation's administrative system of justice.

On March 3, 1993, I introduced S. 486, and on September 15, 1993, the Judiciary Committee considered this legislation, and ordered it favorably reported in the nature of a substitute to the Senate. This bill is cosponsored by Senators SPECTER, DECONCINI, METZENBAUM, MOSELEY-BRAUN, SHELBY, BUMPERS, and FORD. It now has the support of Senator THURMOND, and Senators COHEN and BROWN, both of whom have offered two valuable amendments which will be presented on the floor and which strengthen and improve this legislation.

The primary objective of this legislation is to reorganize the Federal administrative judiciary to promote efficiency, productivity, and the reduction of overhead functions. It will provide for economies of scale to better serve the public in the resolution of administrative disputes. This goal will be accomplished by placing all ALJ's in a unified corps with a chief judge as the primary administrative officer. The chief judge will be responsible for developing programs and practices, in coordination with the agencies using ALJ's, which attain this objective. Those programs and practices will include the training of judges in more than one subject area. This training will permit the utilization of the skills and expertise of each judge across agency lines to meet the demands of the existing workload.

This legislation will promote good government in an efficient and effective manner. The Congressional Budget Office [CBO] has prepared a report which estimates the legislation can save as much as $22 million a year in as few as 5 years.

Since the reorganization of the Federal administrative law judges into a unified corps is expected to save the U.S. taxpayer substantial dollars, and in consultation with Senator HANK BROWN of Colorado, an amendment offered by Senator BROWN will be accepted to add a provision ensuring that agencies reduce their budgets to reflect the projected savings from the removal of ALJ's from their agencies and report to Congress on their efforts, and a specific authorization amount of $7 million will be offered to Section 6 of the committee substitute.

The establishment of a unified corps of administrative law judges is not a unique concept. In fact, this type of legislation was first implemented in a number of States, and has been very successful. The individual States have been leaders in adapting and streamlining the administrative process to meet the changing needs of the American public. The adoption of similar Federal legislation merely builds upon the successful experiences of the States.

A final consideration which argues in favor of independence for ALJ's is the issue of public perception. For individuals who face the daunting prospect of being accused by a Federal agency of illegal activities, the fact that an administrative law judge who is an employee of that agency is hearing their case is hardly reassuring. The realities of the everyday world indicate that the key to public satisfaction and confidence in judicial decisionmaking is the issue of decisional independence. The creation of a unified corps of administrative law judges is likely to have the beneficial effect of greater public satisfaction with the administrative law system.

Working with my colleagues on the Judiciary Committee in a bipartisan manner, I have made important modifications to the text of S.486, contained in a committee substitute, to accommodate the concerns expressed by Members in reviewing similar bills in past Congresses and to respond to concerns expressed by executive branch agencies, particularly the Department of Justice. The substitute is truly a reorganization of Federal administrative adjudication functions and not a radical departure from the principles of administrative law, which has concerned some Members in the past. To the contrary, the substitute insures that the rule of law will prevail in administrative adjudications without impermissible influence.

The substitute specifically states that an agency's policymaking authority will not be changed nor will the administrative law judge's adjudicatory authority. The reorganization preserves the existing powers of both agency managers and the administrative law judges, while removing the tension that naturally arises between those two functions. The substitute text provides that enactment of the bill will effect no change in an agency's rulemaking, interpretative or policymaking authority in carrying out statutory responsibilities vested in the agency or agency head. The substitute clarifies that the reorganization of administrative law judges in a corps will give that corps no policymaking authority for the agency, a past concern expressed by some Members. In preserving the status quo of the present administrative system, the agency and its head retain the authority to review decisions of administrative law judges under any applicable provision of law. The policymaking role of ALJ's is not enlarged by enactment of the bill nor is their adjudicatory authority changed from current status. An agency head or secretary retains final authority to reverse ALJ decisions as provided by statute and makes the final decisions for the agency. There is no change made in this statutory scheme by the passage of the bill.

In the committee report (103–154) to this legislation, my colleague, Senator COHEN, expressed support for the concept of establishing an independent Corps of administrative law judges within the executive branch of government and for the concept which would reform and streamline the Federal bureaucracy in order to serve the American public. Senator COHEN did have legitimate concerns and has offered excellent suggestions to improve and strengthen section 599(e) of the bill relating to removal and discipline of judges.

I have worked with Senator COHEN to strengthen and improve the removal and discipline provision of the bill, and I believe its provisions are a balanced effort to make the provisions fairer to all interest parties concerned by insuring public members serve on the Complaint Resolution Board (and its panels) to insure objectivity and impartiality. This legislation is better because of Senator COHEN'S participation and I greatly appreciate his cooperation.

For these reasons, I urge my colleagues to support final passage of this reform legislation.

Mr. BROWN addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. Madam President, these amendments incorporate a number of changes. One of the attributes of this bill that many talked about was that there was a potential by making this change we could save money. As a matter of fact, the Congressional Budget Office reports that the transfer has the ability to save $20 million a year. Those of us who have watched Congress from year to year know that fond hopes of saving money are not enough; that what we need to do is nail those savings down if it is possible.

These amendments include an effort to nail them down as much as I know can be done. They include the following efforts: Because the contention is that simply shifting these personnel to a new agency will not only not cost us more money but will save us money, we have tried to guarantee it.

So the amendments, one, ask the Congressional Budget Office to do an analysis and report back to Congress on how much the agencies spend on the ALJ functions in this fiscal year; that is, to give us a complete breakout of the exact cost of the function as it is under the current framework.

The second thing the amendments do is require the Congressional Budget Office to give us an analysis of how much they spend next year. In other words, we are not going to simply assume that they save money or have done it without increased costs, but we are going to ask a specific followup audit or investigation by the Congressional Budget Office to pin down exactly what they did so.

Third, we limit in this the authorization for appropriations for this function to be the same as being spent in this current fiscal year. As far as I know, these protections are somewhat unique and have not always been done in the past. As a matter of fact, we could not find precedents for it. Literally, what we are doing is taking the sponsors of this bill at their word. They claim they are not going to increase costs by making this change: Auditing it with investigations by the CBO and then limiting the authorization for appropriations to precisely what they did in this year. In other words, they are not even going to have an increase in the following year for the function.

The amendment also, to be safe, sunsets this provision within 5 years. The purpose of it, frankly, is to force this issue to be revisited. We will have the advantage of the Congressional Budget Office investigation and analysis at that time, and we can keep a hammer over their heads to ensure that they do, indeed, achieve the cost savings that they talked about.

We expect the ALJ corps to tighten its belt. Among the things that I believe are possible and that they have committed to try and do is close regional data collection offices that are no longer needed, and there appears to be a potential of doing that, and also reduce the salary grade of office managers in order to save taxpayer dollars.

These are tough amendments. these are amendments that are meant to save the taxpayers money.

I want to express my admiration for the distinguished Senator from Alabama, Senator HEFLIN, who has worked very hard and long on this bill. He has acted in a very responsible manner. He has worked very closely with us in crafting these amendments. His advice has been invaluable in attempting to make it work.

This is the kind of responsible change that I think we ought to be doing in a number of areas: Looking for ways to save money and then assuring in any legislation that comes up that we do, indeed, save it.

Madam President, I want to take this moment to thank the distinguished Senator from Alabama for his very hard work in this area. I think his willingness to listen and willingness to work has made this a valuable piece of legislation.

Mr. HEFLIN. Madam President, I appreciate the kind words of the Senator from Colorado.

Mr. COHEN. Madam President, today I am offering an amendment to ensure the accountability of administrative law judges, ALJ's.

Under Senator HEFLIN'S proposal, administrative law judges will be removed from the agencies in which they serve and an independent Corps of ALJ's will be established. It is the intention of the bill's sponsors to create an environment in which administrative law judges are immune from any undue agency pressure or influence on their judicial decisionmaking. Mr. President, I agree that this is a critical objective, particularly in light of experiences in which agencies did indeed challenge that independence.

For example, in the early 1980's, Congress came to the defense of the Social Security Administration's [SSA] ALJ's when it was discovered that the agency was wrongly intruding upon the legitimate independence of the ALJ's decisionmaking. The harsh memories of those days, when the SSA unjustly removed thousands of disabled persons from the rolls and pressured the ALJ's to rule against claimants, have not faded from our minds, and provide a strong argument for insulating ALJ's from undue pressure to rule in favor of the Government on appeals.

However, while independence is critical to ensure impartiality by ALJ's, more recently, disturbing evidence has been offered by representatives of disability claimants that unfair bias may have crept into the decisionmaking of some SSA ALJ's. While the allegations have been raised against only a small number of the over 800 SSA ALJ's, hearings that Senator LEVIN and I held on this issue in the Governmental Affairs Committee included strong testimony that some SSA ALJ's ignore medical evidence and expert testimony in order to deny disability claims.

Madam President, some of the alleged behavior was outrageous and must not be tolerated. For example we heard testimony that an ALJ declared that he would not give a hill of beans what the claimant testified about her pain; that an ALJ mischaracterized evidence stating that a claimant did not display outward signs of emotional distress, when the claimant spent much of the hearing with her knees drawn up to her chin; that an ALJ had berated claimants repeatedly at hearings during decisions, calling them manipulative or malingerers or that their conditions are easily faked, despite medical evidence to the contrary; that an ALJ stated that he would ignore medical evidence of obesity as a disability because he refuses to let someone eat their way onto benefits.

Despite repeated efforts of claimants' representatives to file complaints against such behavior, the Social Security Administration's response to these allegations of bias within the ALJ ranks has been slow, ad hoc, and unsatisfactory. While the agency recently has proposed changes in the procedure for handling complaints made against ALJ's, there are still basic flaws in how the agency handles these complaints that too easily allow an ALJ who is unfair or biased to go unsanctioned, and continue to hear disability cases.

While the provisions of S. 486 that separate ALJ's from their agencies will go far in insulating ALJs from undue influence in decisionmaking, I had concerns that the bill as reported from committee did not provide an adequate process to deal with complaints of bias or misconduct by ALJ's. If ALJ's are allowed by law to govern themselves, it is critical that a strong process be in place to ensure that ALJ's are bound by standards of conduct, and that allegations of misconduct are investigated fully and fairly.

My amendment would strengthen the provisions governing the removal and discipline of ALJ's and establish a fair and open process for taking disciplinary actions against ALJ's. My amendment requires that the Council of the ALJ Corps must adopt and issue rules of judicial conduct for administrative law judges. This code of conduct will include standards which govern the judicial conduct and extrajudicial activities of ALJs and should be designed to avoid actual, or the appearance of, improprieties or conflicts of interest, as well as bias or prejudice with respect to all parties, and to ensure the impartial and diligent performance of judicial duties and the efficient management of cases. The Council will be responsible in enforcing the code of conduct.

In addition, my amendment, while preserving the role of the Merit System Protection Board [MSPB] to take ultimate action of removal of an ALJ, will establish a complaint resolution panel, with outside membership to fairly and expeditiously dispose of complaints of misconduct against individual ALJs. By providing for an open, specific, and responsive procedure to handle allegations against ALJ's, the ALJ Corps will be able to retain public confidence and the integrity of the ALJ system. It will also eliminate the perception that the ALJ Corps will protect its own by ignoring allegations of bias or misconduct.

My amendment provides that a complaint can be made by any interested person, including parties, practitioners, the chief judge, other administrative law judges, and the Federal departments, agencies, or commissions.

With the complaint resolution panel comprised of outside members, similar to state judicial review commissions, this amendment ensures that there is some outside check on how an allegation is handled. Membership on the complaint resolution panel is balanced in order to ensure a fair hearing and resolution of the complaint.

My amendment gives the complaint resolution panel the authority to conduct full investigations, and requires the Panel to issue its findings of facts and any disciplinary recommendations to the Council, the complainant, and the ALJ who is the subject of the complainant. The recommendations of the complaint resolution panel are binding on the Council, unless the ALJ appeals to the MSPB, and the Council must take action within 30 days of the panel's recommendations.

Finally, my amendment gives the Council of the Corps the authority to make recommendations to the head of an agency, department or commission that action be taken to provide relief to aggrieved individuals due to the finding of judicial misconduct of an administrative law judge. This provision recognizes that with independence comes responsibility, and that the effects of an ALJ's misconduct could be far-reaching and warrant some action by the agency. Such a recommendation is advisory only, and does not require the agency to take any action.

While we must protect the legitimate independence of the ALJ, who is often the only person who stands between the claimant and the whim of agency bias and policy, it is crucial that we do not eliminate the accountability of ALJs who do engage in misconduct or unfair decisionmaking.

I believe that the inclusion of my amendment to S. 486 provides the necessary safeguards and mechanisms essential to any granting of additional independence to these federal employees.

I want to thank Senator HEFLIN and his staff for their willingness in working with me to address these concerns, as well as Judge Tennant and Judge Bernoski of the ALJ Association and the National Senior Citizens Law Center and several Social Security disability representatives for their assistance in developing this strengthened complaint procedure.

Mr. SHELBY. Madam President, I am pleased to join the senior Senator from Alabama as a cosponsor of S. 486, the Reorganization of the Federal Administrative Judiciary Act.

The principle of the bill, a uniform corps of ALJ's has already been enacted in a number of our States, and has been very successful. For many years, Senator HEFLIN has sought to bring similar success to the Federal administrative level by enacting this legislation. In fact, I first joined his longstanding effort while serving as a member of the House of Representatives. I believed in the necessity and importance of such a corps then, and I believe in it now. In fact, this bill represents a more improved and refined version of that original piece of legislation.

There are several important reasons why I believe this bill, if enacted into law, will greatly improve our administrative law system and benefit all of our citizens.

First, the bill will insure the independence, and the perception by the public, of the independence of our federal administrative law judges. ALJ's will continue to follow all applicable laws and agency regulations, just as they have in the past, but they will be free from what may be perceived as improper agency pressures. For example, the bill provides for the retention of all of the current authority of an agency and its head to review decisions of ALJ's under any applicable provision of law. However, the agency will no longer be able to reward or punish judges by measures such as promotions, staff support, and office space.

In short the bill insures that the rule of law will be followed without the threat of improper influence. This principle is basic and fundamental to any fair judicial system.

Second, the bill will save money, and will facilitate the more efficient operation of our administrative law system. It will do this in at least two ways: One, it will provide for the full utilization of ALJ's throughout the Federal Government. As it now stands, if an agency is underutilizing its ALJ's, there are considerable problems in getting work from other agencies for these judges.

Under the system envisioned by the bill, ALJ exchanges between agencies will be greatly improved. Two, duplication of personnel offices, travel, and many other facilities and services in the various agencies that currently employ ALJ's will be eliminated. It stands to reason that the elimination of such duplication and some antiquated functions will result in considerable savings. These matters have been verified by the Congressional Budget Office. CBO has estimated that these and other economies provided by the bill will save as much as 22 million dollars a year in as few as 5 years. The start-up costs will be small, and one particular item of saving, the elimination of regional hearing offices in the Social Security Administration, will result in a saving of about 12 million dollars annually. Modern communications technology has made these regional hearing offices unnecessary and antiquated.

Third, and this is very important to those of us who represent some citizens in our more remote areas, the bill will provide for more grass roots justice for our people. By taking advantage of existing facilities, remote communities can have many of their cases heard and decided near their homes and businesses, instead of far away in some large city. Thus, administrative justice will be brought closer to home for many of our citizens.

Finally, the bill also provides for appropriate and fair discipline, and in some instances, removal of ALJ's; for enhanced training of ALJ's; and for greater accountability of ALJ's to their supervisors.

Madam President, this bill has broad bipartisan support by some of the most able and well-respected legal scholars in this Chamber. I urge all of my colleagues to support this necessary and important piece of legislation.

Mr. GRASSLEY. Madam President, although I strongly oppose this bill, I must give credit to the chairman of our Subcommittee on Courts and Administrative Practice, Senator HEFLIN, for his persistence. This bill has been around for almost as long as I can remember. He has offered this bill in every Congress since the 98th, a decade ago. We have had numerous hearings on it, and reported it out of committee several times.

In this 10-year process, Senator HEFLIN has made numerous significant improvements to his bill. He has altered the bill's appointment provisions to conform with the Constitution. He has clarified that agency heads retain the power to overrule the ALJ's interpretations of agency policy. The amendment by Senator COHEN lessens my concerns about removal and discipline of ALJ's. Senator BROWN's amendment helps guarantee that the bill's alleged cost savings are realized.

Unfortunately, these improvements do not change the basic premise of the bill—which is inherently flawed. By removing ALJ's from agencies and creating a centralized corps, the bill eliminates ALJ expertise. ALJ expertise is the foundation of ALJ legitimacy. Congress lets executive branch officials function as factfinders because we believe they have expertise. That expertise enables them to better adjudicate cases involving highly technical matters—whether applying complicated energy regulations or adjudicating Social Security disability disputes. ALJ's should have a special familiarity with the enabling statute and regulations of their agency, and with the business they are regulating. It is an error to try to turn them into generalists. As the administrative conference explained in its blueribbon report last year:

> Rejection of specialized expertise as a justification for administrative adjudication would have major implications * * * a typical regulatory or benefit system can be understood only by mastering hundreds of pages of statutes and regulations, thousands of pages of judicial opinions, and tens of thousands of pages of agency guidelines and decisions, and the principles of one or more disciplines other than law.
>
> To illustrate the point, consider just three agencies * * * the Nuclear Regulatory Commission, the Federal Energy Regulatory Commission, and the Social Security Administration.
>
> NRC's primary mission is to regulate civilian applications of nuclear power to protect public health and safety. [This] requires application of the principles of engineering, large scale construction, physics, and meteorology.
>
> FERC's mission is to regulate the natural gas and electricity industries in a way that ensures consumers' prices are just, reasonable, and not discriminatory. [This] requires application of the principles of microeconomics to two of the most structurally complicated industries in the nation.
>
> SSA's primary adjudicatory mission is to determine which of hundreds of thousands of applicants for disability benefits each year are eligible. The recurring issues require application of the principles of medicine to an infinitely variable set of physical and mental conditions, and then to compare the results of that process with the full range of vocations available in the U.S. economy.

In addition, each agency has radically different procedural issues. While SSA ALJ's deal with one claimant against a huge agency, FERC ALJ's preside over a free-for-all between literally hundreds of interested parties.

We simply should not defer important decisions about our Nation's nuclear power rules, the price and supply structure of electric and gas power, or the distribution of welfare benefits, to unaccountable hearing officers who don't even know anything about the subject matter before them.

The bill's proponents claim to retain expertise by assigning ALJ's to eight divisions. But a FERC ALJ assigned to the "Division of Communications, Public Utility, and Transportation Regulation" would hardly be qualified to handle an FCC licensing issue. Nor would an OSHA ALJ assigned to the "Division of Safety and Environmental Regulation" be qualified to hear a complex case applying arcane EPA groundwater regulations.

Even the Federal ALJ conference, a longtime advocate of the corps, has found many of its members raise concerns about the elimination of ALJ expertise. In fact, a drafting committee from the conference went so far as to propose an alternative corps which would have a division for each agency. That would be a big step in the right direction. But despite these serious concerns coming from the ALJ community, the sponsors persist in their effort to turn over our Nation's administrative adjudications to a group of unaccountable generalists.

I also remain very concerned about the bill's provisions for removal and discipline. The Cohen amendment improves the procedure. But the bill still makes it impossible to remove or Discipline an ALJ unless a party can convince a board of senior ALJ's or the M.S.P.B. that the ALJ has engaged in "misconduct or neglect of duty." That is a very tough standard.

I am very concerned that these changes will serve only to make agency adjudications operate less efficiently. This in turn will hinder the ability of citizens to get their grievances heard by an agency.

I also question whether these changes are necessary to protect ALJ independence. The proponents claim that ALJ's are currently biased in favor of their agencies, because they serve under the direction of the agency head. I, too needed am committed to guaranteeing that ALJ's are independent fact-finders. Indeed, the constitution requires ALJ's are "impartial decision makers."

Because the Constitution requires it, we already guarantee ALJ independence. ALJ's can only be removed for good cause established before the merit systems protection board—not the agency. OPM controls ALJ's pay—not the agency. Most importantly, the decision of an ALJ is subject to judicial review.

The Administrative Conference of the United States was right when it concluded in a blue-ribbon study last year that "the case for establishing an independent ALJ corps * * * has not been made."

The Conference was not alone in this conclusion. The Reagan administration opposed the proposal. The Bush administration opposed the proposal. And now many members of the Clinton administration oppose it. Seven agencies have written letters of opposition to S. 486. And every one of those agencies has written with the permission of OMB. We've heard from Donna Shalala, Robert Reich, and several other agency heads. The consensus is clear that S. 486 is a bad idea.

I ask unanimous consent that the letters of the administration in opposition to S. 486 be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE SECRETARY OF HEALTH
AND HUMAN SERVICES,
Washington, DC, August 30, 1993.

Hon. JOSEPH R. BIDEN, JR.,
Chairman, Committee on the Judiciary, Washington, DC.

DEAR MR. CHAIRMAN: This is to offer our views on S. 486, a bill "To establish a specialized corps of judges necessary for certain Federal proceedings required to be conducted, and for other purposes".

The bill would create a corps of administrative law judges (ALJs) consisting of all current ALJs to hold hearings and render decisions on all cases to which the Administrative Procedure Act applies, as well as any other case referred to the corps by an agency or court in which a determination is to be made on the record after an opportunity for a hearing. The bill also would require that all types of cases, claims, actions, and proceedings previously held before ALJs be referred to the corps. The intent of the legislation is that Social Security cases where a claimant has requested an ALJ hearing would be referred to the corps.

The bill's primary impact on this Department would be in connection with its administration of the Social Security Act. Under the Social Security and Medicare programs, in fiscal year (FY) 1992 the Social Security Administration (SSA) received about 391,000 requests for hearings. In FY 1993, we estimate that SSA will receive about 471,000 requests for hearings and about 490,000 in FY 1994.

We strongly oppose enactment of the bill because it would not achieve the sponsors' objectives of increasing ALJ decisional independence, increasing administrative efficiency, or reducing administrative costs. On the contrary, we think the bill would impede efficient administration, increase costs, and reduce the consistency and accuracy of ALJ decisions. (A detailed discussion of the reasons for our position is enclosed.)

The Office of Management and Budget has advised that there is no objection to submission of this report to the Congress from the standpoint of the Administration's program.

Sincerely,

DONNA E. SHALALA

Enclosure to Report on S. 486

DESCRIPTION OF BILL

The bill would create an Administrative Law Judge (ALJ) corps consisting of all current ALJs to hold hearings and render decisions on all cases to which the Administrative Procedure Act (APA) applies as well as any other case referred to the corps by an agency or court in which a determination is to be made on the record after an opportunity for a hearing. The bill also requires that all types of cases, claims, actions, and proceedings heretofore held before ALJs be referred to the corps. There would be eight divisions in the corps with each division dealing with a different area of specialization, such as "Health and Benefits Programs."

The policymaking body of the corps would be the council of the corps, consisting of the chief ALJ of the corps and the chief ALJ of each division. The council would have jurisdiction over general policy and rules of practice and procedure of the corps, and would appoint future ALJs from the Office of Personnel Management's (OPM's) register.

Under the bill, an ALJ could not be removed, suspended reprimanded or disciplined except for misconduct or neglect of duty, but could be removed for physical or mental disability. Any complaint of misconduct would have to be referred to a three-member panel selected by the council from a complaints resolution board, consisting of two judges from each division of the corps appointed by the council. The panel's report would be advisory only.

The bill would require that the chief ALJ of the corps submit a written report, within 90 days after the end of each fiscal year (FY), to the President and the Congress concerning the business of the corps during the preceding FY and including information and recommendations of the council concerning future corps personnel needs.

The bill would also require the chief ALJ of the corps to study the levels and types of agency review of ALJ decisions for each division. The studies would be made in consultation with the division chief ALJs, the Chairman of the Administrative Conference of the United States, and the agencies that review the ALJ decisions. Within 2 years after the provision's effective date (120 days after enactment), the council would report to the President and the Congress on the study results, including recommendations for legislation and for any reforms that might make review of ALJ decisions more efficient and meaningful and would accord greater finality to the decisions.

DISCUSSION

The primary impact of the bill would be on the Department of Health and Human Services. SSA had 123 ALJs on duty at the end of FY 1992—more than 70 percent of all the ALJs in the Federal Government—and received approximately 391,000 hearing requests (mostly involving the Social Security disability program) in FY 1992.

A separate ALJ corps is inconsistent with the concept of administrative decisionmaking. The authority for ALJs to make decisions in hearing cases is delegated to ALJs because the Secretary cannot personally hear and decide the cases. Under the delegation, the ALJ acts on behalf of the Secretary, applying the Secretary's policies (as established through rules and regulations) to the individual fact situation in a particular case. The ALJ does not, however, establish or create new policy. The SSA ALJ's decision generally represents the final decision of the Secretary in a case (unless action is taken by the Appeals Council). If the claimant disagrees with that final decision, he may file a civil action, and the Department of Justice defends the Secretary's final decision. Thus, it would be inappropriate for an ALJ corps totally outside this Department to have the final responsibility for making administrative decisions for the Secretary.

SSA always guarantees the decisional independence of ALJs in order to protect the rights of a claimant to a full, fair, and impartial hearing. No attempt is made to influence the outcome of a particular case, and *ex parte* communications from SSA are prohibited. ALJs are appointed pursuant to the APA and their independence is protected through specific safeguards: hiring and selecting criteria and compensation are established by OPM, not by SSA; and adverse personnel actions, such as removals or suspensions, may be taken only when good cause is established before the Merit Systems Protection Board after opportunity for a hearing.

The vast majority of SSA's ALJ hearings involve cases where persons have been denied disability benefits, or their benefits have been terminated, because they have been found not to be disabled under the definition of disability in the law. The Congress has been concerned about ALJ accuracy and consistency in disability cases, and in 1980 enacted legislation (the so-called Bellmon amendment) requiring SSA to institute an ongoing review of ALJ decisions in disability cases. The Congress, in 1984, took a further step to ensure consistency of decisions at all levels of adjudication by enacting section 10 of Public Law 98-460, which requires that uniform standards for disability decisionmaking be published in regulations.

Under the bill, ALJs would continue to be bound by the Social Security law and regulations and agency policy, and the Bellmon review would continue. However, because the ALJs would no longer be a part of SSA, they would have a more remote working relationship with SSA and there would be new bureaucratic barriers—the corps and the corps council—impeding the direct and immediate flow of policy information from SSA to the ALJs. This is of particular concern because the council would have authority under the bill to prescribe rules of practice and procedure and regulations for the conduct of proceedings before the corps (with the exception of a 2-year period beginning on the Act's effective date for proceedings adjudicated by an agency before that effective date unless the agency approves). As a result, SSA's continuing efforts to carry out the congressional mandate to improve the consistency and accuracy of ALJ decisions would be significantly hindered by the bill.

Currently, ALJs assigned to a particular administrative agency develop extensive expertise in the law and regulations governing the agency's programs. Although the bill would establish divisions with some degree of specialization, it is clear that the ALJs within these divisions would be responsible for hearing cases under a variety of Federal programs. The loss of program expertise that would inevitably occur under the bill is of particular concern to SSA. The disability program is complex, particular concern to SSA. The disability program is complex, requiring knowledge of both medical and legal concepts. Changes in both the law and the regulations are common, necessitating training efforts for all adjudicators. The bill would decrease ALJ expertise in the disability program and seriously impede SSA's efforts to ensure consistent and accurate decisionmaking at all levels of adjudication.

Finally, we believe the effect of the bill would be to increase costs and reduce administrative efficiency. Processing times would increase under the bill because of the cumbersome and time-consuming transfer of cases from SSA to the ALJ corps for decision and the transfer of cases back to SSA for review and revision or effectuation, as well as the additional transfer of cases remanded by the courts. Accountability to the Congress and the public for administrative decisionmaking would be diffused as case processing would be split between the corps and the agencies.

More importantly, SSA's extensive policy and administrative experience, which the corps would not have, enables it to estimate the size and character of workloads and to take steps to deal with them efficiently. Because SSA's ALJ workloads have been substantial and are expected to remain so, we have never encountered nor do we anticipate a situation where there is not a sufficient number of hearings for SSA's ALJ workforce. SSA's ALJ overall productivity increased from an average of 30 cases a month per ALJ in FY 1980 to 37 cases a month per ALJ at the end of FY 1992. Improved productivity has been achieved by continuing administrative initiatives, including an increased ALJ staff support ratio (from 2.2 support staff to 1 ALJ in FY 1973 to 5 to 1 at the end of FY 1992), upgraded office equipment in SSA hearings offices, and improved organizational structures and methods of case processing. As a result, although SSA has far more ALJ hearings per year than any other agency, the productivity of SSA ALJs continues to be the highest. By merging SSA's workload with that of other Federal programs, it is very unlikely that the corps could tailor its processes to achieve this level of productivity and efficiency.

In view of SSA's considerable experience and achievements in dealing with a substantial hearings workload, we doubt whether a newly created ALJ corps could achieve the same level of success and therefore believe enactment of the bill would result in a reduction of the level and quality of service to the public.

U.S. DEPARTMENT OF LABOR,
SECRETARY OF LABOR,
Washington, DC, September 14, 1993.
Hon. JOSEPH R. BIDEN, Jr.,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is to submit the views of the Department of Labor on S. 486, the "Administrative Law Judge Corps Act." For the reasons expressed in this letter, the Department of Labor is opposed to this proposed legislation.

S. 486 would establish a new governmentwide Corps to which all current and future administrative law judges would belong. The Corps would be divided into eight subject matter divisions. Each judge would be assigned to one of these divisions. The Corps would be governed by a policy-making Council composed of a chief administrative law judge and the chief judges of the various divisions. The Council would be authorized to assign judges to divisions and to transfer or reassign judges from one division to another in the adjudication of Federal agency cases. The President of the United States would appoint the chief administrative law judge and the division chief judges, with the advice and consent of the Senate.

Administrative law judges (ALJs) play a key adjudicative role in many important Department of Labor programs, presiding over many diverse types of actions. For example, ALJs are part of enforcement proceedings in which respondents are charged with violating: health and safety provisions under the *Federal Mine Safety and Health Act of 19787*, 30 U.S.C. 801, *et seq*., and the *Occupational Safety and Health Act of 1970*, 29 U.S.C. 651, *et seq*.; minimum wage, overtime pay and child labor standards under the *Fair Labor Standards Act*, 29 U.S.C. 201, *et seq*.; prevailing wage requirements under the *Davis-Bacon Act*, 40 U.S.C. 276a, *et seq*.; and, worker protections for migrant and seasonal agricultural workers under the *Migrant and Seasonal Agricultural Worker Protection Act*, 29 U.S.C. 1801, *et seq*. ALJs also preside over hearings in which compensation is being sought by black lung claimants under the *Black Lung Benefits Act*, 30 U.S.C. 901, *et seq*., or in which employment discrimination is being alleged against a Federal contractor under *Executive Order 11246*, or involving issues of Federal grants under the *Job Training Partnership Act*, 29 U.S.C. 1501, *et seq*., or standards of conduct for Federal sector labor organizations under the *Civil Service Reform Act of 1978*, 5 U.S.C. 7120, or job service complaints under the *Wagner-Peyser Act of 1933*, as amended, 29 U.S.C. 49, *et seq*., or labor certification issues under the Immigration and Nationality Act, as amended, 8 U.S.C. 1101, et seq.

The role of an administrative law judge is fundamentally different from that of an Article III judge. While the ALJ exists to ensure that due process and fairness are observed at agency adjudicative proceedings, in certain program areas, the ALJ also serves as a part of the decisionmaking process of the agency. For example, at the Department of Labor, in many cases, an ALJ decision often acts as the recommended decision of the Department, and, if that decision is not appealed, it may also become the final decision of the Department. Consequently, it is critically important to the Department that its ALJs have the requisite expertise and experience to decide cases for the Department in an informed, timely and efficient manner. In our view, the existing system furthers this end. Thus under the existing system, by their ongoing concentration on and study of, a particular program, ALJs are able to interpret and invoke complex statutory and regulatory provisions that have become well known to them. This expertise and experience translates into a reservoir of knowledge, skill and understanding that results in a timely, effective and efficient decisionmaking process for the Department.

The existence of administrative law judges with specialized expertise is also a logical outgrowth of modern-day principles and practices of delegation of powers by Congress to Federal agencies. Congress delegates to agency heads the authority and responsibility to administer increasingly complex programs. The agency head is held accountable to the Congress: (1) to make sure that the authority is exercised within the standards set forth by the Congress; and (2) to ensure that requisite procedural safeguards are followed in the administration of the program. Just as the Secretary must rely on Assistant Secretaries and administators with extensive program expertise to stay within the parameters of the delegation, he must similarly depend on ALJs with equal expertise to comply with the necessary procedural safeguards.

While the bill would establish a "Department of Labor Division," the fact remains that, with the rotation of judges in and out of that Division, ALJs with little or no experience with the Department would be hearing DOL cases, and former ALJs of the Department would be hearing cases of other Federal agencies for which they have no particular expertise. Also, the expertise of the ALJs in the Division will be further diluted because, in all likelihood, they will be spreading their attention more thinly among cases brought under a variety of statutes.

While it might be argued that the bill would allow the Department the benefit of obtaining currently underutilized judges from other agencies to help in the reduction of the Department's caseloads, this benefit would be more than offset by the critical loss of expertise in the decisionmaking process. In our view, it is imperative that administrative law judges continue to function effectively and efficiently in areas well known to them if the public interest is to be served.

We also note that under the bill, two years after a Corps is established, the Council, not the Department of Labor, whose cases the judges hear, could adopt rules of practice and procedure applicable to all hearings before judges. While it is possible that program-specific rules would remain, the bill broadly provides the Council with the authority to act to substitute an entirely new set of rules general enough to cover all administrative proceedings. The establishment of uniform rules could unsettle many years of program precedent and agency policy, and would require a substantial expenditure of government time and resources by the Council, by the program agencies, and by persons practicing before the agency.

We believe that any need for this suggested reform is far outweighed by the potential harm that such revision could bring to the agency adjudication processes.

Thank you for the opportunity to comment on this proposed legislation. The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the President's program.

Sincerely,

ROBERT B. REICH.

U.S. DEPARTMENT OF TRANSPORTATION,
GENERAL COUNSEL,
Washington, DC, August 24, 1993.
Hon. JOSEPH R. BIDEN, Jr.,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Department of Transportation would like to take the opportunity to present its views on S. 486, a bill

To establish a specialized corps of judges necessary for certain Federal proceedings required to be conducted, and for other purposes.

S. 486 would amend the Administrative Procedure Act to establish an independent Administrative Law Judge Corps, to be made up of all existing administrative law judges (ALJ's) and all future appointees, and headed by a chief administrative law judge. The ALJ Corps would be divided according to subject areas into eight divisions, each headed by a chief judge. An administrative structure, known as the Council of the Corps, would be established to set policy and generally administer the affairs of the Corps. The Council would be composed of the Corps' chief judge and the eight division chief judges. The Council's responsibilities would include appointment of new judges, assignment or transfer of judges to divisions, oversight and disciplining of judges, establishment of rules of practice and procedure, and assignment of cases. The Corps' jurisdiction would extend to all types of cases, claims, actions and proceedings that are now held before ALJ's but would not affect disputes governed by the Contract Disputes Act (41 U.S.C. 601).

The Department of Transportation (DOT) opposes enactment of S. 486.

Although the reforms providing for the centralization of ALJ functions may provide for certain administrative efficiencies, we believe that these efficiencies are outweighed by the detrimental effects of the bill, namely: dilution of expertise available to the agency, disruption of agency practice, and loss of agency control over resources required for its functions.

We are concerned that ALJ's, organized in an independent agency, might be less sensitive to past agency precedent and the policy expressed by the agency decisionmakers. Moreover, to pool judges under general "Communications, Public Utility, and Transportation Regulation" or "Safety and Environmental" law divisions would deprive DOT of those persons who possess detailed knowledge of our programs and unique missions. For example, admiralty law cases under the Coast Guard's jurisdiction are a unique area of maritime concern. Periodic assignment of judges from the Corps without admiralty exposure or maritime expertise, to sit on marine casualty cases, and/or proceedings involving offenses peculiar to shipboard disciplines, would tend to erode agency policy as it relates to safety of life and property at sea. We believe this could also adversely affect Class II Federal Water Pollution Control Act (FWPCA) civil penalty cases now assigned to Coast Guard ALJ's. Although judges now sitting on these suspension and revocation, as well as pollution, cases exercise independent decisional authority and discretion, they nevertheless are acutely aware of the Coast Guard's congressionally mandated duties and responsibilities. We do not believe that the training proposed by section 599(d)(11) will be an adequate substitute for needed expertise and experience.

The bill would authorize the Council of the new ALJ Corps to assign judges to divisions, to assign cases to particular judges, and to develop uniform procedural rules for hearings. Not all Administrative Procedure Act adjudications are the same and there is no provision in section 599(d)(4) for the affected agencies to be involved in the development of such rules in order to accommodate individual agency circumstances. We believe that it is necessary for the Department to retain control over its own resources and over how its cases are processed in order for us to be able to quickly implement new statutory directions and respond to changing functions. For example, in the aviation area, if DOT were given new authority under bilateral agreements to issue a significant number of new route awards, it must have the ability to rapidly increase its ALJ resources with the qualifications it determines are best to meet those needs. While a Corps could set general qualification standards and control a registry of available ALJ's, the Department must not be in the position of depending on another agency to provide the necessary resources to perform our critical functions. If, because of budgetary constraints, insufficient funding were available to the new corps, the results would likely be longer backlogs and delays for adjudications that DOT now completes on a timely basis.

We believe it would be a very difficult task for the new Corps to develop uniform procedural rules for hearings that would be appropriate for all agencies. We are concerned that such procedures would be developed for the benefit of the ALJ's and not for the agencies for whom present procedures have been tailored to meet individual agency needs. For example, the bill could be read to authorize the Corps to set standards for admission to practice before the judges. The Coast Guard has a 45-year tradition of prosecuting the bulk of suspension and revocation actions with non-legally trained commissioned officers. Respondents in such proceedings are also allowed to be represented by non-lawyer counsel. Alteration of the rules to require, for example, that persons be represented by attorneys, would be expensive, unnecessary and would interfere with the efficient administration of the Coast Guard's safety program.

Finally, the Department believes that the study required by section 3 of the bill is inappropriate. The Administrative Conference of the United States would be a more appropriate and impartial forum in which to conduct such a study of the various levels and types of agency review of ALJ decisions if such a study is deemed necessary.

The Department appreciates the opportunity to comment on this bill. The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the submission to Congress of the Department's views on this legislation.

Sincerely,

STEPHEN H. KAPLAN.

UNITED STATES GOVERNMENT,
NATIONAL LABOR RELATIONS BOARD,
Washington, DC, August 12, 1993.

Hon. JOSEPH R. BIDEN, Jr.,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC

Re S. 486, Administrative Law Judge Corps Act.

DEAR SENATOR BIDEN: The National Labor Relations Board wishes to express its opposition to S. 486, the Administrative Law Judge Corps Act. Like it predecessor bills, S. 486 would create a corps of administrative law judges, replacing the present system of such judges working for various boards and agencies. As the NLRB is one of the agencies that uses a large number of judges, it is particularly concerned about the changes proposed in the bill. For the reasons set forth below, it believes that such changes would not be in the best interests of either the Agency or the public that the Agency serves.

The NLRB has worked hard over the years in assisting the Office of Personnel Management to develop a group of qualified expert NLRB judges. The corps proposal, however, would likely have precisely the opposite effect, resulting in the appointment and assignment of judges who have little if any National Labor Relations Act (NLRA) background or experience. Such a result would seriously undermine the continued effectiveness and credibility of the NLRB as the expert quasi-judicial administrative agency responsible for enforcing the NLRA.

S. 486 establishes 8 divisions, including a Division of Labor Relations. The Division of Labor Relations would not appear to be limited to NLRB judges, however. Rather, it would likely also include judges of the Federal Labor Relations Authority and the Merit Systems Protection Board. Further it is clear from various other provisions in the bill that any beneficial experience-based distinctions which might initially exist between the 8 divisions could over time be substantially if not completely blurred or eliminated. Thus, for example, the bill provides the overall policy for the corps would be set by a "Council" consisting of a chief judge and the division chief judges. The bill would authorize the Council to assign judges to divisions and transfer or reassign judges from one division to another. In addition, the bill would grant the Council unrestricted authority in assigning cases to a particular division; the Council's authority in this regard apparently being subject only to regulations issued by the Council itself. Only after the case is assigned to a division would the division chief be required to take into consideration specialization in assigning the case to a particular judge.

Thus, as under the prior bills, judges with little or no experience with the NLRA could be hearing NLRB cases, and former NLRB judges could be hearing many cases for which they have no particular expertise. The non-expert judges would not even be able to achieve special qualifications by intensive on-the-job training, as can be done now with those relatively few judges who come to us without any prior labor law experience. They would undoubtedly take more time to write decisions, thus increasing delays, and because of their inexperience create additional difficulty for attorneys appearing before them and especially for the Board in its review of their decisions. The Board has always, in the majority of its cases, found itself able after thorough review to issue a short-form decision approving the judges decision. This would be less likely if the Board were to review decisions issued by judges in other divisions having no expertise. The Board's already difficult workload would be made even more difficult to process within reasonable time limits. In addition, the present Board judges would spend much of their time on non-Board work, using their time to learn new fields, and squandering the expertise they have developed.

Furthermore, the United States Courts of Appeals, which often give deference to Board "expertise," would be less likely to do so if the judges rendering the initial decisions were generalists.

Under S. 486, two years after a corps is established, the Council, and not the agencies whose cases the judges hear, could adopt rules and regulations applicable to all hearings before judges. It is true that the proposed bill does not mandate uniform rules of procedure. But the "corps concept" itself suggests that uniformity for the many agencies utilizing the corps would be most probable. Indeed, proponents of the corps visualize it as like the United States District Courts.

And they also want the corps to be totally "independent" of the agencies served by it, which militates against separate procedural rules for each agency. Accordingly, we assume that these rules and regulations would have to be sufficiently general to cover proceedings ranging from regulatory, such as licensing and rate making, to enforcement, such as unfair labor and trade practices, and to claims work, such as social security and black lung. However, elaborate pre-trial discovery and written testimony which may be appropriate for a rulemaking proceeding, may be inappropriate for and burdensome to unfair labor practice proceedings. We expect that in consequence these rules will differ substantially from those with which the labor bar is experienced and which have been time tested and refined. The substitution of an entirely new set of rules general enough to cover all administrative proceedings can only serve to create many issues regarding their implementation, interpretation, and application. The result, of course, will be to unsettle areas now well settled in practice before the Board.

The Board is also opposed to a loss of control over its own caseload. Under the bill, the NLRB could not be assured of having unfair labor practices heard in a timely manner; that lack of control can only exacerbate delay in the issuing of Board decisions.

One of the principal bases advanced by supporters of a corps is the notion that it would foster a more independent administrative judiciary. However, in the post-Administrative Procedure Act history of the Board, there have been no allegations of agency control over the decisional independence of NLRB judges. If what is meant is to remove the Board's role in the appointment process (which is already subject to OPM's procedures), that consequence operates as a strong argument against the corps concept.

The NLRB is an independent body consisting of five members appointed by the President with the advice and consent of the Senate. The Board sits very much as an appellate court with respect to unfair labor practice cases arising under the National Labor Relations Act. It decides all cases which come before it, but has no role in deciding which cases to prosecute or bring before it. The authority to investigate charges that the Act has been violated and to issue complaints of such violations rests with the General Counsel, an independent officer also directly appointed by the President with the advice and consent of the Senate.

Unfair labor practice cases brought by the General Counsel are tried before Administrative Law Judges. The Administrative Law Judges are appointed by the Board, not the General Counsel, and within the narrow limits provided by the Administrative Procedure Act, are answerable to the Board, not the General Counsel. Thus, the Administrative Law Judges are by law and in fact totally independent of the officer who initiates cases and has taken a position as to how they should be resolved.

The relationship between the Board and the Administrative Law Judges is very much like that between an appellate court and trial courts in any uniform state court system. While the Board, of course, has an interest in seeing that its judges apply precedents and follow announced rules, it has no position with respect to any case when it is before an administrative law judge and no interest in how it is decided. It enters a case for the first time when a case is brought before it on appeal from an administrative law judge's decision. The proponents of the corps can cite no instances of interference with the independence on administrative law judges at the NLRB because the structure of the Board and the Administrative Procedure Act as it presently exists assure their decisional independence.

A second major argument made by proponents is that a corps of administrative law judges will be more efficient than the present system and save the government money because a corps could reallocate judges as fluctuating agency caseloads required and thus reduce the overall number of judges needed. In this regard, we have already noted above that efficiency will be impaired to the extent that judges are assigned to areas outside their expertise and require time to familiarize themselves with the substantial bodies of particularized agency case law.

Further, OPM has administered a loan program over the years which already assists agencies in temporarily reassigning judges as workloads fluctuate. It has been our experience over many years that the loan program does work well. OPM has streamlined procedures to make its use quick and easy, and its major drawback comes from the loss of efficiency when judges are assigned to areas outside their expertise, a drawback which would remain with a corps. We also note that the Board has recently been very active in the loan program and that the arrangements we have currently worked out with other agencies, including the Department of Labor, and the procedures now followed by OPM should serve as models for inter-agency loans in the future.

In sum, we believe that under the present system the decisional independence of administrative law judges is fully protected by the Administrative Procedure Act and provides for efficient and economical utilization of administrative law judges. We believe that there has been no showing of a need for change.

For all these reasons, the Board opposes S. 486.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

JAMES M. STEPHENS, *Chairman.*

FEDERAL LABOR RELATIONS AUTHORITY,
Washington, DC, September 2, 1993.

Hon. JOSEPH R. BIDEN, Jr.,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN. This is to offer the views of the Federal Labor Relations Authority (FLRA) on S. 486, the "Administrative Law Judges Corps Act."

The FLRA is an independent agency responsible for administering the Federal Service Labor-Management Relations Statute (Statute), 5 U.S.C. §§7101-7135. The FLRA adjudicates labor disputes involving Federal agencies and unions representing Federal employees. The disputes resolved by the Authority include whether conduct alleged in a complaint constitutes an unfair labor practice (ULP).

As provided in the Statute, the Authority has appointed Administrative Law Judges (ALJ) to hear unfair labor practice cases. Decisions of the ALJs are transmitted to the Authority, and may be affirmed, modified or reversed in whole or in part. If no exceptions to an ALJ decision are filed with the Authority, the decision is adopted by the Authority.

S. 486 would establish an independent Corps of Administrative Law Judges within the Executive Branch. The Corps would be governed by a Chief ALJ and organized into eight divisions, each headed by a Division Chief. The Division of Labor would be responsible for all private and Federal sector labor law cases. The Chief ALJ and the Division Chiefs would form a Council, the policy-making body of the Corps. The Council would have the authority to appoint persons as ALJs, assign and transfer judges to divisions, prescribe rules and regulations for the conduct of the Corps, and generally manage the day-to-day operation of the Corps. The bill also provides that agencies shall refer all cases to the Corps, and the Council shall assign the cases to a particular division.

If enacted, S. 486 would have a negative impact on the FLRA. Although the Federal sector labor-management relations program was modeled after the National Labor Relations Act, there are significant differences between the two labor programs. At the FLRA, Judges are confronted with issues such as a union's right to be represented at "formal discussions" and, through the ULP process, the enforcement of arbitration awards and orders from the Federal Service Impasses Panel.

Creating a Division of Labor within the Corps, while appearing to create a specialty, will fail to adequately ensure that Federal employees' disputes are heard by ALJs competent in the field of Federal labor law. Over the years, the expertise acquired by ALJs at the FLRA has proven extremely beneficial for the efficient and timely resolution of unfair labor practice cases in the Federal sector. With the creation of the Corps, our cases could be referred to judges with little or no experience in the Federal labor laws, in turn delaying the issuance of decisions. The bill provides no assurance that our cases will be reviewed by those judges expert in Federal labor law.

The Authority is also concerned over the loss of control over its own caseload. If the bill were enacted, the Authority would be required to refer all ULP cases to the Corps for assignment by the Council. While this would provide flexibility to compensate for unexpected increases in caseload, the Authority would be dependent on the Corps for the issuance of a decision. With no power to expedite our cases over another agency's cases which the Council may wish to prioritize, out cases could be delayed unnecessarily.

While supporters argue that the present system pressures ALJs to confirm to agency will, at the FLRA, the ALJs enjoy total autonomy in their decisional responsibilities. The Authority does not exert pressure on the ALJs to decide cases one way or the other and, if exceptions are filed, the Authority has complete control over the outcome of the case. Furthermore, ALJs act independently from the General Counsel, who initially prosecutes ULP cases before them.

Although the Authority appoints ALJs, hiring, compensation and selection criteria are established by the Office of Personnel Management. In addition, as specified in 5 U.S.C. §7, adverse personnel actions involving ALJs, such as removals or suspensions, may be taken only for good cause determined by the Merit Systems Protection Board after opportunity for a hearing before the Board. Existing law, therefore, provides adequate mechanisms to protect and safeguard the rights of Administrative Law Judges.

For these reasons, the Federal Labor Relations Authority opposes the enactment of S. 486.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

JEAN MCKEE,
Chairman.

OCCUPATIONAL SAFETY AND
HEALTH REVIEW COMMISSION
Washington, DC August 11, 1993.

Hon. JOSEPH R. BIDEN, Jr.,
Chairman, Judiciary Committee, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This letter expresses the views of the U.S. Occupational Safety & Health Review Commission (OSHRC) on S. 486, the "Administrative Law Judge Corps Act." OSHRC recommends against enactment of this legislation.

The bill would create a new Federal agency in the executive branch, the "Administration Law Judge Corps," into which all administrative law judges (ALJs) would be transferred from the administrative agencies where they now serve. This centralized corps of ALJs would conduct all the adjudicatory hearings required by statute. The Council of the Corps would have authority to assign ALJs to different divisions of the corps, to prescribe rules of practice and procedure for the conduct of proceedings before the corps, and generally to oversee the operation of the corps.

It is my understanding that proposals to establish a separate corps of ALJs have surfaced every year for the last fifteen years and the notion has been in discussion for over a quarter of a century. To date, a clear and certain case for creating such a corps has not been set forth. OSHRC's objections to the legislation are essentially three-fold:

(1) Our ALJs are already fully independent;
(2) Potential loss of substantive expertise;
(3) Potential procedural and logistical confusion.

We understand that one of the principal objectives of the legislation is to rid the ranks of the ALJs of possible bias and relieve them of actual or perceived partiality based on their relationship with the agencies whose cases they hear. As between our ALJs and the Labor Department, whose cases they hear, there is no relationship. Thus, like all independent adjudicatory agencies, OSHRC should be exempt from the scope of this legislation.

OSHRC is not the adjudicatory "arm" of the Occupational Safety and Health Administration of the Department of Labor. On the contrary, OSHRC was established as an independent agency to carry out adjudicatory functions under the Occupational Safety and Health Act of 1970 ("Act"). The ALJs at this agency comprise fully a quarter of the personnel. OSHRC has no investigative, prosecutorial or policy-making functions whatsoever, and our ALJs have no institutional interest in the outcome of the cases they decide. They adjudicate employers' challenges to safety and health citations issued by OSHA: the Secretary of Labor "prosecutes" the case for OSHA and the employer "defends" itself. An initial decision rendered by an OSHRC ALJ becomes final unless it is selected for review by the three presidential-appointee commissioners. Final orders of the OSHRC may be appealed in the U.S. Courts of Appeals. Subjecting OSHRC ALJs to this legislation would not alleviate any undue pressure because none presently exists.

Not only would the legislation not do the good it seeks to do, but it would do substantial harm. Depending on how specialized the ALJs serving in the various "divisions" of the corps actually become, they may find themselves unable to give the employees and employers the kind of hearing they deserve. As many as 20 to 30 percent of the parties who appear before OSHRC are not represented by counsel, while many others are represented by attorneys unfamiliar with the Act. Certain areas of occupational safety and health law, particularly health regulations, present complex technical problems. Litigants who now come before OSHRC depend on ALJs who are highly knowledgeable in this field to ensure fair hearings. Similarly, the Commissioners themselves rely on seasoned ALJs to create adequate hearing records for cases that are appealed.

We see that S. 486 initially creates separate divisions, among them the "Division of Safety and Environmental Regulation" and the "Division of Health and Benefits Programs." Since our Act reaches both safety and health hazards on the job, it is uncertain how the corps would distribute OSH Act cases—many of which involve health aspects as well as safety. Even assuming that cases arising under the OSH Act would be allocated to a single division, the expertise of individuals in that division of the corps will be diluted from what it now is, simply by virtue of the fact that they will be required to spread their attention more thinly among cases brought under a variety of acts. Through no fault of their own, either the judges will generate decisions of lower quality or the decisional process will be slowed. Lower quality decisions result in more cases on appeal. Both consequences work to the detriment of the litigants (most often the employer and the government) and, ultimately, of the employees whom the Act seeks to protect. Violations under the OSH Act are not required to be corrected until the entry of a final order by OSHRC.

If the Council of the ALJ Corps were ultimately to attempt to develop a single, generic set of rules governing proceedings before it, such rules would undoubtedly fail to capture the peculiarities of occupational safety and health law practice under the Act. OSHRC's own rules of procedure concerning many matters—notices of contest, pleadings, amendments of citations, discovery, petitions for discretionary review, petitions for modification of abatement, and simplified proceedings—are specifically designed to address problems peculiar to occupational safety and health law and the Act. The Act provides that the Federal Rules and Civil Procedure apply to our proceedings unless we issue a rule of our own, so we have undertaken a creative approach, with excellent results. For instance, our rules defining the role of a settlement judge, along with the option for simplified proceedings, now serve as model rules for other agencies. These innovations, combined with the expertise of our ALJs, have fostered exceptionally high settlement rates. Regressing to a standard set of rules would only exacerbate litigation, increase the number of cases and the time required for disposition, and drive up the very costs we have sought to control.

Finally, we are concerned about the mechanics of emptying this agency of its ALJs. We envision the assignment of a case to an ALJ corps judge who is expected to divide his or her time amount occupational safety and health cases and cases that arise under other acts covering safety, environment, health or other benefits, appealable to other independent agencies or courts. Not only will monitoring agency-specific case flows become a challenge, but because the physical case file is opened here and, most typically, is closed here, we expect that tracking and managing our cases in the interim could become a formidable task, particularly with the increased risk of case files being misplaced among the various agencies. At a minimum, case disposition time will rise significantly because of increased handling and transfers of files. In this era of budgetary constraints, there has been no showing that a newly established corps would result in increased efficiency or in economies of scale. Moreover, streamlining case dispositions is particularly important under the Occupational Safety and Health Act because an employer who appeals an alleged safety or health citation is under no obligation to eliminate that hazardous condition until OSHRC has issued a final order, during which time employees may continue to be at risk of injury or illness.

In sum S. 486 would create major problems for this agency rather than solve them. We respectfully register our opposition to the bill.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the President's program.

Sincerely,

EDWIN G. FOULKE, Jr.

FEDERAL MINE SAFETY AND
HEALTH REVIEW COMMISSION,
Washington, DC, August 10, 1993.

Hon. JOSEPH R. BIDEN, Jr.,
Chairman, Committee on the Judiciary, Washington, DC.

DEAR MR. CHAIRMAN: This letter is to offer the views of the Federal Mine Safety and Health Review Commission on S. 486, the Administrative Law Judge Corps Act. We strongly oppose this legislation. An administrative law judge (ALJ) corps would severely impair the expert and efficient disposition of mine safety and health cases by this Commission's ALJs. It would further run the risk of reducing operator compliance with federal mine safety requirements.

This Commission is an independent, adjudicative agency that provides administrative trial and appellate review of legal disputes arising under the Federal Mine Safety and Health Act of 1977 (Mine Act). Most cases deal with enforcement actions brought by the Department of Labor's Mine Safety and Health Administration against mine operators. In a typical proceeding, the Secretary of Labor prosecutes a case and a mine operator defends itself. Other cases address orders to close mines and miners' complaints of safety-related discrimination. This Commission is concerned solely with adjudication; it does not regulate nor enforce. Hence, its independence precludes potential bias or partiality on the part of its ALJs.

The cases brought before the Commission involve legal, procedural and technical issues that demand of our judges a secure grasp of the Mine Act, the implementing regulations promulgated by the Secretary of Labor, and the Commission's procedural rules and precedential case law, as well as a broad knowledge of modern mining technology. The legal issues in these cases arise under the Mine Act and its predecessor statute, the Federal Coal Mine Health and Safety Act of 1969. Congress recognized the special qualifications of our cadre of judges by transferring them en masse from the Department of the Interior to this Commission at the time it was created. The legislative history of the Mine Act evinces Congressional concern that, by permitting delays in adjudication and in civil penalty compliance, the prior law had failed to provide the means to react quickly to newly manifested hazards or to induce meaningful operator compliance. Congress expressed its intention that penalty litigation proceed with no undue delay.

The expertise of the Commission's judges in hearing and deciding cases has sustained high productivity and efficiency in case disposition. Case dispositions per ALJ have increased from 131 in fiscal year 1988 to an expected 232 this year. Mine safety cases are litigated by the Solicitor's Office in the Department of Labor and, to a large extent, by a specialized segment of the private bar. However, many mine operators and miners who appear before the Commission are not represented by counsel and others are represented by counsel who have little familiarity with the Mine Act. Experienced ALJs ensure fair hearings and save time and expense for both government and private litigants. Enactment of S. 486 would adversely affect the fairness and the efficiency with which cases are being heard and decided. The result would be delays in adjudication, which Congress sought to avoid in the Mine Act.

Commission administrative law judges were invested by Congress with a stature and authority that they have have used to great effect and stand to lose under a judge crops bill. A Commission judge's findings of fact are conclusive if supported by substantial evidence, the standard traditionally used by the federal courts in their review of final agency actions. Review of a judge's decision by the Commission is not a matter of right, but of discretion and the grounds for such review are circumscribed under the Mine Act. The statutory deference accorded to trial decisions in mine safety and health cases makes sense only in the context in which it was enacted, where the judges who hear and decide these cases in the first instance are experts. Of 5,469 ALJ case dispositions in fiscal year 1992, 82 were appealed for review by the Commission. Commission review and judicial review in the U.S. Courts of Appeals, as provided in the Mine Act, rely on expert ALJ development of the hearing record.

This Commission opposed earlier versions of this bill, introduced during the 98th, 99th, 100th, and 101st Congresses. It is the considered view of this Commission and its administrative law judges that S. 486 is counterproductive to its goals as expressed by Congress: the independent, fair and expeditious disposition of mine safety and health disputes.

We appreciate the opportunity to comment on this legislation and ask that this letter be included in the record. The Office of Management and Budget advises that there is no objection from the standpoint of the Administration's program to the submission of this report.

Sincerely yours,

ARLENE HOLEN,
Chairman.

Mr. BUMPERS. Madam President, I rise today to suppoert S. 486, the Reorganization of the Federal Judiciary Act, introduced by Senator HEFLIN. This legislation is an opportunity to improve the efficiency of administrative adjudication in the U.S. Government and to help restore confidence in that process. It will also save the taxpayers at least $20 million the first year and even more in the future.

This bill will establish an independent corps of administrative law judges in the executive branch of government to adjudicate cases arising under the Administrative Procedure Act. Right now, Administrative Law Judges are assigned to particular agencies and deal with cases dealing with programs administered by those agencies. This bill would remove them from those agencies and make them part of a corps of administrative law judges, strengthening their independence and eliminating the appearance of undue influence by the agencies about which they render decisions.

This proposal can only improve the professional stature of the ALJ corps and add authority to their decision. S. 486 would place all ALJ's under the supervision of a Chief Administrative Law Judge to be appointed by the President and subject to Senate confirmation. There would be eight Division Chief Administrative Law Judges, responsible for immediate supervision of judges in eight areas of government administrative activity. Section 559 a(a) of this bill explicitly provides that "* * * the assignment of judge to a division shall be made after consideration of the areas of specialization in which the judge has served."

This bill would preserve and employ the expertise of the judges, allowing them to specialize in the same substantive areas while freeing them from the bureaucracy. Under this system we will have the benefit of judges' expertise in a specialty, but it allows for the resources of the ALJ Corps to be shifted to the areas where they are most needed. The U.S. Government and the people it serves need that sort of efficiency. And here is one of the most appealing features of this proposal: CBO estimates that this new approach would save $20 million in fiscal year 1995 and $29 million by fiscal year 1998 and so on into the future. This is a rare opportunity to cut spending while improving services.

Nothing in this bill would interfere with day-to-day management or the process of policy formulation in the agencies. Agency rule-making and interpretive authority of agencies would not be changed in any way.

This is not a new idea. Twelve States have similar laws in place. In fact, the legislative history shows that the drafters of the Administrative Procedure Act, which this bill would amend, considered establishing a separate ALJ Corps, but they decided to hold off and try the current arrangement. Experience has now shown us that an independent ALJ corps will better serve the people, with greater independence and greater efficiency. S. 486 is a substantively and fiscally responsible proposal. I hope all of my colleagues will support it.

Mr. SPECTER. Madam President, I am pleased once again, to cosponsor legislation to establish an independent corps of administrative law judges for Federal administrative agencies. I have been a cosponsor of similar legislation in each of the past five Congresses. Although several of these bills have been favorably reported to the Senate by the Judiciary Committee, this year marks the first year that the legislation is being considered by the full Senate.

When our National Government was established under the Constitution in 1789, no one conceived of the administrative state. The Government had three branches: legislative, executive, and judicial. Beginning in the late 19th century, however, the duties Congress delegated to the executive branch started to expand. Fearing improper political influence in certain areas, Congress even created "independent" agencies to regulate aspects of the economy.

The development of administrative agencies necessitated the establishment of adjudicators within the executive branch to handle fact-specific disputes in cases pending before an agency in order to gather evidence and make decisions based on that evidence.

The explosion of administrative agencies during the 1930's resulted in a significant increase in the number of hearing examiners employed by these administrative agencies. In 1946, to bring some order and regularity to Federal administrative procedures, Congress enacted the Administrative Procedure Act, or APA, which still governs the conduct of administrative proceedings today. The APA formalized the role of hearing examiners, who today are called administrative law judges.

Because the role of administrative law judges developed in response to specific agency needs, administrative law judges were always part of the agency they served. Because of the constitutional structure, as part of the executive branch, the decisions of administrative law judges were always, in some sense, advisory, as these officers stood in the place of the agency head, who could overturn the decision. Through the development of regulations and caselaw, however, administrative law judges gained additional protection from agency interference for their decisions.

Nonetheless, as employees of the agency whose cases they were adjudicating, there was always something unseemly about the role of administrative law judges. There would always be some question of their impartiality. The Supreme Court resolved the constitutional concerns over the status of administrative law judges and the ability of administrative agencies to decide issues pending before them by supporting the division of labor within the agency structure.

While there is no constitutional impediment to administrative law judges being part of the agency whose cases they are adjudicating, the possibility of improper influence was a necessary evil of the structure as it evolved and was finally codified in the APA. The issue of the potential conflict of interest continued to fester until it burst into the open and gained wide exposure during the 1980's, when there were many allegations of improper influence by political officials on Social Security Administration administrative law judges to curb the rates at which they were awarding disability benefits.

This legislation was an effort to respond to the concerns raised by these allegations of improper political influence in the administrative adjudicatory process. While the provisions of this bill have changed significantly since its initial introduction, the central premise of the legislation remains intact. Under the bill, administrative law judges from the various Federal administrative agencies will be removed from their agencies and placed in a new agency composed only of the judges. Thus, administrative law judges will be independent from the agencies whose cases they are adjudicating. The potential and real conflicts of interest will disappear. Administrative law judges will be free to find the facts and apply them to the issues before them in a fair and fully impartial manner.

Let me make clear, as this legislation does, that we are not establishing administrative law judges as a new, fourth branch of Government. These adjudicators will remain part of the executive branch. They are not policymaking officials, but will remain fully bound by the policies and legal interpretations of the agencies themselves, who exercise this authority as appointees of the President, the constitutional officer who executes the laws Congress enacts. Administrative law judges in the new independent corps will not be free to substitute their view of the law; they are not judges in the constitutional sense. They remain aids to the administrative process. Nonetheless, their role as factfinders and appliers of agency regulations and policies is critical to the administrative process.

Many State administrative systems, responding to the real and perceived conflicts inherent in having administrative law judges remain part of the agency whose cases they adjudicate, have established independent corps of administrative law judges. By all accounts, these State systems function admirably.

I want to take a brief moment to express my appreciation to the lead sponsor of this legislation, the distinguished Senator from Alabama, who has been a stalwart in advocating the adoption of this measure for over 10 years.

This legislation represents a significant step forward for the machinery of our Federal Government, and I urge my colleagues to support this measure.

Mr. HEFLIN. Madam President, I urge that we go to third reading and pass the bill.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

(The text of the bill will be printed in a future edition of the RECORD.)

Mr. HEFLIN. Madam President, I move to reconsider the vote by which the bill was passed.

Mr. BROWN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEFLIN. Madam President, I would like to thank members of the staff who have worked so hard on this and particularly here on the Senate floor in moving this at this late hour. I particularly want to thank my staff director and chief counsel Winston Lett.

The PRESIDING OFFICER. Without objection, the title amendment is agreed to.

The title was amended so as to read: "A bill to reorganize the Federal administrative law judiciary, and for other purposes.".

Mr. FORD. Madam president, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMOVAL OF INJUNCTION OF SECRECY

Mr. FORD. Madam President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Convention on Biological Diversity (Treaty Document No. 103-20), transmitted to the Senate by the President today and ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

I transmit herewith, for the advice and consent of the Senate to ratification, the Convention on Biological Diversity, with Annexes, done at Rio de Janeiro, June 5, 1992, and signed by the United States in New York on June 4, 1993. The report of the Department of State is also enclosed for the information of the Senate.

The final text of the Convention was adopted in Nairobi by the Intergovernmental Negotiating Committee for a Convention on Biological Diversity (INC) on May 22, 1992. The INC was preceded by three technical meetings of an Ad Hoc Working Group of Experts on Biological Diversity and two meetings of an Ad Hoc Working Group of Legal and Technical Experts. Five sessions of the INC were held, from June 1991 to May 1992. The Convention was opened for signature at the United Nations Conference on Environment and Development in Rio de Janerio on June 5, 1992.

The Convention is a comprehensive agreement, addressing the many facets of biological diversity. It will play a major role in stemming the loss of the earth's species, their habitats, and ecosystems through the Convention's obligations to conserve biodiversity and sustainably use its components as well as its provisions that facilitate access to genetic resources and access to and transfer of technology so crucial to long-term sustainable development of the earth's biological resources. The Convention will also create a much needed forum for focusing international activities and setting global priorities on biological diversity.

The objectives of the Convention as set forth therein are the conservation of biological diversity, the sustainable use of its components, and the fair and equitable sharing of benefits arising out of the utilization of genetic resources. These objectives are implemented through specific provisions that address, *inter alia*, identification and monitoring, *in situ* and *ex situ* conservation, sustainable use, research and training, public education and awareness, impact assessment, access to genetic resources, access to and transfer of technology, technical and scientific cooperation, handling of biotechnology and distribution of its benefits, and financing.

Economic incentives will help all Parties achieve the environmental benefits of conservation and sustainable use of biological diversity. The Administration thus supports the concept that benefits stemming from the use of genetic resources should flow back to those nations that act to conserve biological diversity and provide access to their genetic resources. We will strive to realize this objective of the Convention. As recognized in the Convention, the adequate and effective protection of intellectual property rights is another important economic incentive that encourages the development of innovative technologies, improving all Parties' ability to conserve and sustainably use biological resources. The Administration will therefore strongly resist any actions taken by Parties to the Convention that lead to inadequate levels of protection of intellectual property rights, and will continue to pursue a vigorous policy with respect to the adequate and effective protection of intellectual property rights in negotiations on bilateral and multilateral trade agreements. In this regard, the report of the Department of State provides a detailed statement of the Administration's position on those provisions of the Convention that relate to intellectual property rights.

Biological diversity conservation in the United States is addressed through a tightly woven partnership of Federal, State, and private sector programs in management of our lands and waters and their resident and migratory species. There are hundreds of State and Federal laws and programs and an extensive system of Federal and State wildlife refuges, marine sanctuaries, wildlife management areas, recreation areas, parks, and forests. These existing programs and authorities are considered sufficient to enable any activities necessary to effectively implement our responsibilities under the Convention. The Administration does not intend to disrupt the existing balance of Federal and State authorities through this Convention. Indeed, the Administration is committed to expanding and strengthening these relationships. We look forward to continued cooperation in conserving biological diversity and in promoting the sustainable use of its components.

The Convention will enter into force on December 29, 1993. Prompt ratification will demonstrate the United

States commitment to the conservation and sustainable use of biological diversity and will encourage other countries to do likewise. Furthermore, in light of the rapid entry into force of the Convention, early ratification will best allow the United States to fully represent its national interest at the first Conference of the Parties.

I recommend that the Senate give early and favorable consideration to this Convention and give its advice and consent to ratification, subject to the understandings described in the accompanying report of the Secretary of State.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *November 19, 1993.*

TRADING WITH INDIANS ACT OF 1993

Mr. FORD. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 311, S. 1501, a bill to repeal certain provisions of law relating to trading with Indians; that the bill be read for the third time, passed, the motion to reconsider laid upon the table; that any statements thereon appear in the RECORD at the appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 1501) was passed, as follows:

(The text of the bill will be printed in a future edition of the RECORD.)

Mr. MCCAIN. Madam President, yesterday the Committee on Indian Affairs considered and unanimously voted to report S. 1501 to the Senate with the recommendation that the bill be passed. The committee report (S. Rept. 103–190) was filed last night. For the benefit of my colleagues, I would like to briefly highlight the purpose of this bill.

The purpose of S. 1501 is to repeal section 437 of title 18 U.S.C. This section prohibits officers, employees, or agents of the Bureau of Indian Affairs [BIA] or the Indian Health Service [IHS] from benefiting from contracts with any Indian, or from purchases and sales of property, goods, or services to or from any Indian unless specifically allowed by rules and regulations prescribed by the President or his designee.

The problem with the current law is that it is unduly restrictive because in addition to applying to IHS and BIA employees, the law also prohibits spouses from engaging in business activities with the local Indian residents. For example, a IHS employee at the Navajo Area Indian Health Service was informed this year that she was found to be in violation of the Trading with Indians Act solely because she has an interest in her husband's law practice on the Navajo Indian reservation. The IHS stated that she either had to divest herself of that interest or resign as a federal employee.

Madam President, no one questions the rationale behind the Trading with Indians Act. However, the effect of enforcing an 1834 statute, as amended, in 1993 has resulted in unforeseen and unintended consequences on IHS and BIA employees and their families. I believe there already exist adequate laws on the books which can address conflicts of interest involving Federal government employees. In order to double check this point, Senator Domenici and I wrote to Secretary Shalala and Secretary Babbitt on September 29, 1993 requesting the views of both departments on S. 1501. Both Departments provided a report in support of S. 1501, and have urged its passage. I would like to quote a pertinent paragraph from Secretary Shalala's letter.

> We support S. 1501 and urge its expedited passage. We agree with the position that the Standards of Ethical Conduct, along with the criminal statutes at 18 U.S.C. 201–211, provide adequate safeguards against conflicts of interest involving Federal government employees, including employees of the IHS. In our view, these authorities can accomplish the purposes of the Act (Trading with Indians Act) without the overly broad restrictions contained in the Act.

Madam, President, I believe it is time to repeal this outdated statue. I urge my colleagues to support S. 1501.

COASTAL HERITAGE TRAIL ROUTE APPROPRIATIONS

Mr. FORD. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 290, S. 1574, to authorize appropriations for the Coastal Heritage Trail Route in New Jersey; that the bill be read three times, passed, the motion to reconsider laid upon the table, and that any statements on the measure appear in the RECORD at the appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 1574) was passed, as follows:

(The text of the bill will be printed in a future edition of the RECORD.)

EXTENSION OF COURT-ANNEXED ARBITRATION

Mr. FORD. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 1732, a bill to extend court-annexed arbitration, introduced earlier today by Senator HEFLIN; that the bill be deemed read three times, passed, the motion to reconsider laid upon the table, and that any statements appear at the appropriate place in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 1732) was passed, as follows:

(The text of the bill will be printed in a future edition of the RECORD.)

Mr. HEFLIN. Madam President, Congress in 1988 passed legislation to authorize the continuation of 10 pilot programs of mandatory court-annexed arbitration which were operating in selected Federal district courts, and this legislation also authorized 10 additional pilot programs of voluntary court-annexed arbitration. This authority is scheduled to end on November 19th of this month, and I am introducing legislation today which would simply extend this authority with respect to these 20 pilot districts until 31 December 1994.

The House of Representatives in October of this year passed a bill, H.R. 1102, which would have required, not merely authorized, all 94 Federal districts courts to adopt either a mandatory or a voluntary court-annexed arbitration program which would operate under the existing authority of Chapter 44 [Sections 651–658] of Title 28 of the United States Code. H.R. 1102 also increased the maximum amount in controversy for cases referred under the mandatory programs from $100,000 to $150,000.

On October 29 of this year, the Judiciary Subcommittee on Courts and Administrative Practice held a hearing on the provisions of H.R. 1102 and heard a number of excellent witnesses who testified both in favor of and against the bill. Among those who testified were Judge Ann Claire Williams of the U.S. District Court for the Northern District of Illinois, who appeared as a representative of the Judiciary Conference which is the policy making body of the Federal judiciary. The Judicial Conference has recommended that Congress adopt legislation to continue authorization for court-annexed arbitration in the 20 district courts which are operating such programs, and the Conference recommended that Congress authorize all Federal district courts to have the discretion to utilize voluntary non-binding court-annexed arbitration. Thus the Judicial Conference did not recommend the expansion of mandatory court-annexed arbitration for the remainder of the Federal district courts.

Judge William W. Schwarzer, Director of the Federal Judicial Center, Judge Raymond Broderick, U.S. District Court for the Eastern District of Pennsylvania, Magistrate-Judge Wayne D. Brazil, U.S. District Court for the Northern District of California, and Dianne Nast, a practicing attorney in the Eastern District of Pennsylvania, testified in favor of H.R. 1102, citing the beneficial aspect of mandatory court-annexed arbitration. Jack Watson, a Washington attorney, on behalf of the American Bar Association, testified to the ABA's support for the policy goals of H.R. 1102, but he advised the subcommittee that the ABA "has not adopted a policy regarding the mandatory use of ADR procedures but strongly encourages, where appropriate, its voluntary use, as well as the availability of mandatory nonbinding arbitration in Federal district courts." Mr. Stuart Grossman, on behalf of the American Board of Trial Advocates, an organization consisting of approximately 4,000 plaintiff and defense counsel evenly divided, and Judge Bill Wilson, U.S. District Court for the Eastern District of Arkansas, testified in opposition to H.R. 1102 and the mandatory aspect of court-annexed arbitration as being unwise policy and violative of the right to a civil jury trial as guaranteed by the 7th amendment to the U.S. Constitution.

In light of the lack of clear consensus on such a sweeping proposal as that embodied by the provisions of H.R. 1102 and in light of the fact that the subcommittee has just begun to explore this proposed legislation and all of its far-ranging implications and what improvements, if any, could be made to the bill, I think it would be imprudent for the subcommittee to recommend to the full Judiciary Committee and the Senate the favorable passage of H.R. 1102 in its current form. I am, therefore, introducing today a bill to extend until 31 December 1994 the court-annexed arbitration programs which are currently operating in 20 pilot districts across the country. I urge my colleagues to favorably support this needed extension so that the Senate can send this legislation quickly to the House of Representatives to act upon, hopefully, before the expiration of the 19 November deadline.

Mr. GRASSLEY. Madam President, I offer my support to this bill to extend the authorization of court annexed arbitration in 20 U.S. district courts. I do so while at the same time expressing my disappointment that we are not able, at this time, to extend authority for court annexed arbitration in the remaining 74 U.S. district courts. But, I defer to the to the chairman of our Courts Subcommittee, Senator HEFLIN, who wants to study this issue in greater detail next year. In the meantime, we will extend the authority for arbitration in those jurisdictions in which it has proved to be a success. And I look forward to working with him to find a way to expand the use of arbitration in our Federal courts.

I would like to spend a few moments explaining why arbitration works and why it should be extended. In 1988, Congress passed legislation to extend the mandatory nonbinding court annexed arbitration programs then in existence in 10 districts and to grant authority for 10 additional district courts to adopt voluntary nonbinding court annexed arbitration. Arbitration would be utilized, under the terms of the 1988 Judicial Improvements and Access to Justice Act, in noncomplex cases where the amount sought in damages did not exceed $100,000. In the 10 mandatory districts, all small routine contract and tort cases would go through the arbitration process before a jury trial could be had. In the 10 voluntary districts, arbitration would be utilized only where the parties agreed to go to arbitration before seeking a trial.

All arbitration, whether in the mandatory or voluntary districts, is nonbinding. That is, if one or both parties are not satisfied with the arbitration result, they may proceed in court without prejudice. Current law contains some incentives to accept the arbitrator's decision. First, the party seeking the trial de novo may be responsible for the arbitrator's fee if that party does not improve his or her position at trial. And, in the voluntary arbitration districts, costs and attorneys' fees may be assessed against the party seeking the trial if that party fails to obtain a judgment at trial that is substantially more favorable than the arbitrator's award and the court finds the party acted in bad faith in seeking a trial.

Under the terms of the 1988 act, the Federal Judicial Center studied the 10 mandatory arbitration programs and found them to be an overwhelming success. First, arbitration provides parties with increased options to resolve the case—adjudication by a neutral third party, in addition to the possibility of settling the case. Second, arbitration provides the litigants with a fair procedure. Third, arbitration reduces costs and the time it takes to resolve cases. And, finally, arbitration reduces court burdens.

Lawyers and litigants are satisfied with arbitration, and they do not view arbitration as second-class justice. In fact, the opposite is actually true, as witnesses who appeared before our courts subcommittee hearing on October 29, 1993, stated. Magistrate Judge Wayne Brazil of California and attorney Dianne Nast of Pennsylvania spoke eloquently about justice denied to those parties who have to wait 2 to 4 years for a resolution of a $100,000 dispute. That waiting period—when neither the lawyer nor the judge is focussed on the case—represents second class justice. Without arbitration, the parties to such a case may feel that the only alternative to the long delay is a hasty settlement. That may be no justice at all.

The House of Representatives passed a more comprehensive bill earlier this year. H.R. 1102 reauthorizes the 20 programs in existence and requires the remaining 74 districts to adopt either mandatory or voluntary arbitration programs in cases where the amount of damages sought does not exceed $150,000. The House has a very good idea. But the House bill went further than the Federal judges wanted to go. On a very closely split vote, the judicial conference voted to endorse only additional voluntary arbitration. So, Senator HEFLIN is not yet ready to approve the House bill, since it would potentially create more mandatory arbitration.

In an effort to compromise the issue, I drafted a proposal that I hope will be the subject of discussion and consideration next year. My proposal, which I will ask to be printed in the RECORD following this statement, would simply authorize the 74 districts to adopt arbitration, either voluntary, mandatory or no arbitration, in the courts' discretion. In addition, my proposal would repeal the small disincentives for seeking a trial, now contained in current law. The district judges in each jurisdiction are best equipped to decide what type of arbitration works. I know that in Arkansas, as Judge Bill Wilson testified at our October 29 hearing, arbitration may not be necessary. In Iowa, U.S. District Court Judge Charles Wolle feels the same way. These judges are more able to control their dockets and move cases along effectively. But, I do not believe their view that arbitration is unnecessary in their jurisdictions should preclude other jurisdictions from adopting arbitration—which has been shown to be fair, effective and satisfactory to litigants and lawyers alike.

So, I look forward to working with my colleague from Alabama on this issue. I am hopeful that he will see the utility in expanding the availability of arbitration, and empowering the Federal judges, in each district, to determine what kind, if any, of arbitration best fits their caseload.

DEPARTMENT OF ENERGY NATIONAL COMPETITIVENESS TECHNOLOGY PARTNERSHIP ACT OF 1993

Mr. FORD. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 109, S. 473, a bill relating to the Department of Energy, National Competitiveness Act of 1993.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows.

A bill (S. 473) to promote the industrial competitiveness and economic growth of the United States, and so forth.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources with an amendment to strike out all after the enacting clause and inserting in lieu thereof the following:

S. 473

SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Energy National Competitiveness Technology Partnership Act of 1993".

SEC. 2. DEFINITIONS.

For purposes of this Act, the term—

(1) "Department" means the United States Department of Energy; and

(2) "Secretary" means the Secretary of the United States Department of Energy.

SEC. 3. COMPETITIVENESS AMENDMENT TO THE DEPARTMENT OF ENERGY ORGANIZATION ACT.

(a) The Department of Energy Organization Act is amended by adding the following new title (42 U.S.C. 7101 et seq.):

"TITLE XI—TECHNOLOGY PARTNERSHIPS

"SEC. 1101. FINDINGS, PURPOSES AND DEFINITIONS.

"(a) FINDINGS.—For purposes of this title, Congress finds that—

"(1) the Department has scientific and technical resources within the departmental laboratories in many areas of importance to the economic, scientific and technological competitiveness of United States industry;

"(2) the extensive scientific and technical investment in people, facilities and equipment in the departmental laboratories can contribute to the achievement of national technology goals in areas such as the environment, health, space, and transportation;

"(3) the Department has pursued aggressively the transfer of technology from departmental laboratories to the private sector; however, the capabilities of the laboratories could be made more fully accessible to United States industry and to other Federal agencies;

"(4) technology development has been increasingly driven by the commercial marketplace, and the private sector has research and development capabilities in a broad range of generic technologies;

"(5) the Department and the departmental laboratories would benefit, in carrying out their missions, from collaboration and partnership with United States industry and other Federal agencies; and

"(6) partnerships between the departmental laboratories and United States industry can provide significant benefits to the Nation as a whole, including creation of jobs for United States workers and improvement of the competitive position of the United States in key sectors of the economy such as aerospace, automotive, chemical and electronics.

"(b) PURPOSES.—The purposes of this title are—

"(1) to promote partnerships among the Department, the departmental laboratories and the private sector;

"(2) to establish a goal for the amount of departmental laboratory resources to be committed to partnerships;

"(3) to ensure that the Department and the departmental laboratories play an appropriate role, consistent with the core competencies of the laboratories, in implementing the President's critical technology strategies;

"(4) to provide additional authority to the Secretary to enter into partnerships with the private sector to carry out research, development, demonstration and commercial application activities;

"(5) to streamline the approval process for cooperative research and development agreements proposed by the departmental laboratories; and

"(6) to facilitate greater cooperation between the Department and other Federal agencies as part of an integrated national effort to improve United States competitiveness.

"(c) DEFINITIONS.—For purposes of this title, the term—

"(1) 'cooperative research and development agreement' has the meaning given that term in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(1));

"(2) 'core competency' means an area in which the Secretary determines a departmental laboratory has developed expertise and demonstrated capabilities;

"(3) 'critical technology' means a technology identified in the Report of the National Critical Technologies Panel;

"(4) 'departmental laboratory' means a facility operated by or on behalf of the Department that would be considered a laboratory as that term is defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(2)) or any other laboratory or facility designated by the Secretary;

"(5) 'disadvantaged' has the same meaning as that term has in section 8(a) (5) and (6) of the Small Business Act (15 U.S.C. 637(a) (5) and (6));

"(6) 'dual-use technology' means a technology that has military and commercial applications;

"(7) 'educational institution' means a college, university, or elementary or secondary school, including any not-for-profit organization dedicated to education that would be exempt under section 501(a) of the Internal Revenue Code of 1986;

"(8) 'minority college or university' means a historically Black college or university that would be considered a 'part B institution' by section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2)) or a 'minority institution' as that term is defined in section 1046 of the Higher Education Act of 1965 (20 U.S.C. 1135d–5(3)).

"(9) 'multi-program departmental laboratory' means any of the following: Argonne National Laboratory, Brookhaven National Laboratory, Idaho Nation Engineering Laboratory, Lawrence Berkeley Laboratory, Lawrence Livermore National Laboratory, Los Alamos National Laboratory, National Renewable Energy Laboratory, Oak Ridge National Laboratory, Pacific Northwest Laboratory, and Sandia National Laboratories;

"(10) 'partnership' means any arrangement under which the Secretary or one or more departmental laboratories undertakes research, development, demonstration, commercial application or technical assistance activities in cooperation with one or more non-Federal partners and which may include partners from other Federal agencies;

"(11) 'Report of the National Critical Technologies Panel' means the biennial report on national critical technologies submitted to Congress by the President pursuant to section 603(d) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6683(d)); and

"(12) 'small business' means a business concern that meets the applicable standards prescribed pursuant to section 3(a) of the Small Business Act (15 U.S.C. 632(a)).

"SEC. 1102. GENERAL AUTHORITY.

"(a)(1) In carrying out the missions of the Department, the Secretary and the departmental laboratories may conduct research, development, demonstration or commercial application activities that build on the core competencies of the departmental laboratories.

"(2) In addition to missions established pursuant to other laws, the Secretary may assign to departmental laboratories any of the following missions:

"(A) National security, including the—

"(i) advancement of the military application of atomic energy;

"(ii) support of the production of atomic weapons, or atomic weapons parts, including special nuclear materials;

"(iii) support of naval nuclear propulsion programs;

"(iv) support for the dismantlement of atomic weapons and the safe storage, transportation and disposal of special nuclear materials;

"(v) development of technologies and techniques for the safe storage, processing, treatment, transportation, and disposal of hazardous waste (including radioactive waste) resulting from nuclear materials production, weapons production and surveillance programs, and naval nuclear propulsion programs and of technologies and techniques for the reduction of environmental hazards and contamination due to such waste and the environmental restoration of sites affected by such waste;

"(vi) development of technologies and techniques needed for the effective negotiation and verification of international arms control agreements and for the containment of the proliferation of nuclear, chemical, and biological weapons and delivery vehicles of such weapons; and

"(vii) protection of health and promotion of safety in carrying out other national security missions.

"(B) Energy-related science and technology, including the—

"(i) enhancement of the nation's understanding of all forms of energy production and use;

"(ii) support of basic and applied research on the fundamental nature of matter and energy, including construction and operation of unique scientific instruments;

"(iii) development of energy resources, including solar, geothermal, fossil, and nuclear energy resources, and related fuel cycles;

"(iv) pursuit of a comprehensive program of research and development on the environmental effects of energy technologies and programs;

"(v) development of technologies and processes to reduce the generation of waste or pollution or the consumption of energy or materials;

"(vi) development of technologies and techniques for the safe storage, processing, treatment, management, transportation and disposal of nuclear waste resulting from commercial nuclear activities; and

"(vii) improvement of the quality of education in science, mathematics, and engineering.

"(C) Industrial infrastructure, in technology areas such as—

"(i) microelectronics;

"(ii) high-performance computing and communications;

"(iii) transportation;

"(iv) advanced manufacturing;

"(v) advanced materials;

"(vi) space;

"(vii) human health sciences; and

"(viii) environmental science.

"(D) Technology transfer.

"(3) In carrying out the Department's missions, the Secretary, and the directors of the departmental laboratories, shall, to the maximum extent practicable, make use of partnerships. Such partnerships shall be for purposes of the following:

"(A) to lead to the development of technologies that the private sector can commercialize in areas of technology with broad application important to United States technological and economic competitiveness;

"(B) to provide Federal support in areas of technology where the cost or risk is too high for the private sector to support alone but that offer a potentially high payoff to the United States;

"(C) to contribute to the education and training of scientists and engineers;

"(D) to provide university and private researchers access to departmental laboratory facilities; or

"(E) to provide technical expertise to universities, industry or other Federal agencies.

"(b) The Secretary, in carrying out partnerships, may enter into agreements using instruments authorized under applicable laws, including but not limited to contracts, cooperative research and development agreements, work for other agreements, user-facility agreements, cooperative agreements, grants, personnel exchange agreements and patent and software licenses with any person, any agency or instrumentality of the United States, any State or local governmental entity, any educational institution, and any other entity, private sector or otherwise.

"(c) The Secretary, and the directors of the departmental laboratories, shall utilize partnerships with United States industry, to the maximum extent practicable, to ensure that technologies developed in pursuit of the Department's missions are applied and commercialized in a timely manner.

"(d) The Secretary shall work with other Federal agencies to carry out research, development, demonstration or commercial application activities where the core competencies of the departmental laboratories could contribute to the missions of such other agencies.

"SEC. 1103. ESTABLISHMENT OF GOAL FOR PARTNERSHIPS BETWEEN DEPARTMENTAL LABORATORIES AND UNITED STATES INDUSTRY.

"(a) Beginning in fiscal year 1994, the Secretary shall establish a goal to allocate to cost-shared partnerships with United States industry not less than 20 percent of the annual funds provided by the Secretary to each multi-program departmental laboratory for research, development, demonstration and commercial application activities.

"(b) Beginning in fiscal year 1994, the Secretary shall establish an appropriate goal for the amount of resources to be committed to cost-shared partnerships with United States industry at other departmental laboratories.

"SEC. 1104. ROLE OF THE DEPARTMENT IN THE DEVELOPMENT OF CRITICAL TECHNOLOGY STRATEGIES.

"(a) The Secretary shall develop a multyear critical technology strategy for research, development, demonstration and commercial application activities supported by the Department for the critical technologies listed in the Report of the National Critical Technologies Panel.

"(b) In developing such strategy, the Secretary shall—

"(1) identify the core competencies of each departmental laboratory;

"(2) develop goals and objectives for the appropriate role of the Department in each of the critical technologies listed in the report, taking into consideration the core competencies of the departmental laboratories;

"(3) consult with appropriate representatives of United States industry, including members of industry associations and representatives of labor organizations; and

"(4) participate in the executive branch process to develop critical technology strategies.

"SEC. 1105. PARTNERSHIP PREFERENCES.

"(a) The Secretary shall ensure that the principal economic benefits of any partnership accrue to the United States economy.

"(b) Any partnership that would be given preference under section 12(c)(4) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(c)(4) if it were a cooperative research and development agreement shall be given preference under this title.

"(c) The Secretary shall issue guidelines, after consultation with the Laboratory Partnership Advisory Board established in section 1109, for application of section 12(c)(4) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(c)(4)) and application of subsection (a) of this section to partnerships.

"(d) The Secretary shall encourage partnerships that involve minority colleges or universities or private sector entities owned or controlled by disadvantaged individuals.

"SEC. 1106. EVALUATION OF PARTNERSHIP PROGRAMS.

"(a) The Secretary, in consultation with the Laboratory Partnership Advisory Board established in section 1109, shall develop mechanisms for independent evaluation of the ongoing partnership activities of the Department and the departmental laboratories.

"(b)(1) The Secretary and the director of each departmental laboratory shall develop mechanisms for assessing the progress of each partnership.

"(2) The Secretary and the director of each departmental laboratory shall utilize the mechanisms developed under paragraph (1) to evaluate the accomplishments of each ongoing multiyear partnership and shall condition continued Federal participation in each partnership on demonstrated progress.

"SEC. 1107. ANNUAL REPORT.

"(a) The Secretary shall submit an annual report to Congress describing the ongoing partnership activities of the Secretary and each departmental laboratory and, to the extent practicable, the activities planned by the Secretary and by each departmental laboratory for the coming fiscal year. In developing the report, the Secretary shall seek the advice of the Laboratory Partnership Advisory Board established in section 1109.

"(b) The Secretary shall submit the report under subsection (a) to the Committees on Appropriations and Energy and Natural Resources of the Senate and to the appropriate Committees of the House of Representatives. No later than March 1, 1994, and no later than the first of March of each subsequent year, the Secretary shall submit the report under subsection (a) that covers the fiscal year beginning on the first of October of such year.

"(c) Each director of a departmental laboratory shall provide annually to the Secretary a report on ongoing partnership activities and a plan and such other information as the Secretary may reasonably require describing the partnership activities the director plans to carry out in the coming fiscal year. The director shall provide such report and plan in a timely manner as prescribed by the Secretary to permit preparation of the report under subsection (a).

"(d) The Secretary's description of planned activities under subsection (a) shall include, to the extent such information is available, appropriate information on—

"(1) the total funds to be allocated to partnership activities by the Secretary and by the director of each departmental laboratory;

"(2) a breakdown of funds to be allocated by the Secretary and by the director of each departmental laboratory for partnership activities by areas of technology;

"(3) any plans for additional funds not described in paragraph (2) to be set aside for partnerships during the coming fiscal year;

"(4) any partnership that involves a federal contribution in excess of $500,000 the Secretary or the director of each departmental laboratory expects to enter into in the coming fiscal year;

"(5) the technologies that will be advanced by each partnership that involves a Federal contribution in excess of $500,000;

"(6) the types of entities that will be eligible for participation in partnerships;

"(7) the nature of the partnership arrangements, including the anticipated level of financial and in-kind contribution from participants and any repayment terms;

"(8) the extent of use of competitive procedures in selecting partnerships; and

"(9) such other information that the Secretary finds relevant to the determination of the appropriate level of Federal support for such partnerships.

"(e) The Secretary shall provide appropriate notice in advance to Congress of any partnership, which has not been described previously in the report required by subsection (a), that involves a Federal contribution in excess of $500,000.

"SEC. 1108. PARTNERSHIP PAYMENTS.

"(a)(1) Partnership agreements entered into by the Secretary may require a person or other entity to make payments to the Department, or any other Federal agency, as a condition for receiving support under the agreement.

"(2) The amount of any payment received by the Federal Government pursuant to a requirement imposed under paragraph (1) may be credited, to the extent authorized by the Secretary, to the account established under paragraph (3). Amounts so credited shall be available, subject to appropriations, for partnerships.

"(3) There is hereby established in the United States Treasury an account to be known as the 'Department of Energy Partnership Fund'. Funds in such account shall be available to the Secretary for the support of partnerships.

"(b) The Secretary may advance funds under any partnership without regard to section 3324 of title 31 of the United States Code to—

"(1) small businesses;

"(2) not-for-profit organizations that would be exempt under section 501(a) of the Internal Revenue Code of 1986; or

"(3) State or local governmental entities.

"SEC. 1109. LABORATORY PARTNERSHIP ADVISORY BOARD AND INDUSTRIAL ADVISORY GROUPS AT MULTI-PROGRAM DEPARTMENTAL LABORATORIES.

"(a)(1) The Secretary shall establish within the Department an advisory board to be known as the "Laboratory Partnership Advisory Board", to provide the Secretary with advice on the implementation of this title.

"(2) The membership of the Laboratory Partnership Advisory Board shall consist of persons who are qualified to provide the Secretary with advice on the implementation of this title. Members of the Board shall include representatives primarily from United States industry but shall also include representatives from—

"(A) small businesses;

"(B) private sector entities owned or controlled by disadvantaged persons;

"(C) educational institutions, including representatives from minority colleges or universities;

"(D) laboratories of other Federal agencies; and

"(E) professional and technical societies in the United States.

"(3) The Laboratory Partnership Advisory Board shall request comment and suggestions from departmental laboratories to assist the Board in providing advice to the Secretary on the implementation of this title.

"(b) The director of each multiprogram departmental laboratory shall establish an advisory group consisting of persons from United States industry to—

"(1) evaluate new initiatives proposed by the departmental laboratory;

"(2) identify opportunities for partnerships with United States industry; and

"(3) evaluate ongoing programs at the departmental laboratory from the perspective of United States industry.

"(c) Nothing in this section is intended to preclude the Secretary or the director of a departmental laboratory from utilizing existing advisory boards to achieve the purposes of this section.

"SEC. 1110. FELLOWSHIP PROGRAM.

"The Secretary shall encourage scientists, engineers and technical staff from departmental laboratories to serve as visiting fellows in research and manufacturing facilities of industrial organizations, State and local governments, and educational institutions in the United States and foreign countries. The Secretary may establish a formal fellowship program for this purpose or may authorize such activities on a case-by-case basis. The Secretary shall also encourage scientists and engineers from United States industry to serve as visiting scientists and engineers in the departmental laboratories.

"SEC. 1111. COOPERATION WITH STATE AND LOCAL PROGRAMS FOR TECHNOLOGY DEVELOPMENT AND DISSEMINATION.

"The Secretary and the director of each departmental laboratory shall seek opportunities to coordinate their activities with programs of State and local governments for technology development and dissemination, including programs funded in part by the Secretary of Defense pursuant to section 2523 of title 10, of the United States Code, and section 2513 of title 10, of the United States Code, and programs funded in part by the Secretary of Commerce pursuant to sections 25 and 26 of the Act of March 3, 1901 (15 U.S.C. 278k and 278l), and section 5121(b) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 2781 note).

"SEC. 1112. AVAILABILITY OF FUNDS FOR PARTNERSHIPS.

"(a) All of the funds authorized to be appropriated to the Secretary for research, development, demonstration or commercial application activities, other than atomic energy defense programs, shall be available for partnerships to the extent such partnerships are consistent with the goals and objectives of such activities.

"(b) All of the funds authorized to be appropriated to the Secretary for research, development, demonstration or commercial application of dual-use technologies within the Department's atomic energy defense activities shall be available for partnerships to the extent such partnerships are consistent with the goals and objectives of such activities.

"(c) Funds authorized to be appropriated to the Secretary and made available for departmental laboratory-directed research and development shall be available for any partnership.

"SEC. 1113. PROTECTION OF INFORMATION.

"Section 12(c)(7) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(c)(7)), relating to the protection of information, shall apply to the partnership activities undertaken by the Secretary and by the directors of the departmental laboratories.

"SEC. 1114. FAIRNESS OF OPPORTUNITY.

"(a) The Secretary and the director of each departmental laboratory shall institute procedures to ensure that information on laboratory capabilities and arrangements for participating in partnerships with the Secretary or the departmental laboratories is publicly disseminated.

"(b) Prior to entering into any partnership having a Federal contribution in excess of $5,000,000, the Secretary or director of a departmental laboratory shall ensure that the opportunity to participate in such partnership has been publicly announced to potential participants.

"(c) In cases where the Secretary or the director of a departmental laboratory believes a potential partnership activity would benefit from broad participation from the private sector, the Secretary or the director of such departmental laboratory may take such steps as may be necessary to facilitate formation of a United States industry consortium to pursue the partnership activity.

"SEC. 1115. PRODUCT LIABILITY.

"The Secretary, after consultation with the Laboratory Partnership Advisory Board established in section 1109, and the Attorney General shall enter into a memorandum of understanding establishing a consistent policy and standards regarding the liability of the United States, of the non-Federal entity operating a departmental laboratory and of any other party to a partnership for product liability claims arising from partnership activities. The Secretary and the director of each departmental laboratory shall, to the maximum extent practicable, incorporate into any partnership the policy and standards established in the memorandum of understanding.

"SEC. 1116. INTELLECTUAL PROPERTY.

"The Secretary shall, after consultation with the Laboratory Partnership Advisory Board established in section 1109, develop guidelines governing the application of intellectual property laws by the Secretary and by the director of each departmental laboratory in partnership arrangements.

"SEC. 1117. SMALL BUSINESS.

"(a) The Secretary shall develop simplified procedures and guidelines for partnerships involving small businesses to facilitate access to the resources and capabilities of the departmental laboratories.

"(b) Notwithstanding any other law, the Secretary may waive, in whole or in part, any cost-sharing requirement for a small business involved in a partnership if the Secretary determines that the cost-sharing requirement would impose an undue hardship on the small business and would prevent the formation of the partnership.

"(c) Notwithstanding section 12(d) of the Stevenson-Wydler Innovation Act of 1980 (15 U.S.C. 3710a(d)(1)), the Secretary may provide funds as part of a cooperative research and development agreement to a small business if the Secretary determines that the funds are necessary to prevent imposing an undue hardship on the small business and necessary for the formation of the cooperative research and development agreement.

"SEC. 1118. MINORITY COLLEGE AND UNIVERSITY REPORT.

"Within one year after the date of enactment of this title, and annually thereafter, the Secretary shall submit to the Committee on Energy and Natural Resources of the United States Senate and to the United States House of Representatives a report identifying opportunities for minority colleges and universities to participate in programs and activities being carried out by the Department or the departmental laboratories. The Secretary shall consult with representatives of minority colleges and universities in preparing the report. Such report shall—

"(a) describe ongoing education and training programs being carried out by the Department or the departmental laboratories with respect to or in conjunction with minority colleges and universities in the areas of mathematics, science, and engineering;

"(b) describe ongoing research, development demonstration or commercial application activities involving the Department or the departmental laboratories and minority colleges and universities;

"(c) describe funding levels for the programs and activities described in subsections (a) and (b);

"(d) identify ways for the Department or the departmental laboratories to assist minority colleges and universities in providing education and training in the fields of mathematics, science, and engineering;

"(e) identify ways for the Department or the departmental laboratories to assist minority colleges and universities in entering into partnerships;

"(f) address the need for and potential role of the Department or the departmental laboratories in providing to minority colleges and universities the following:

"(1) increased research opportunities for faculty and students;

"(2) assistance in faculty development and recruitment and curriculum enhancement and development; and

"(3) laboratory instrumentation and equipment, including computer equipment, through purchase, loan, or other transfer;

"(g) address the need for and potential role of the Department or departmental laboratories in providing funding and technical assistance for the development of infrastructure facilities, including buildings and laboratory facilities at minority colleges and universities; and

"(h) make specific proposals and recommendations, together with estimates of necessary funding levels, for initiatives to be carried out by the Department or the departmental laboratories to assist minority colleges and universities in providing education and training in the areas of mathematics, science, and engineering, and in entering into partnerships with the Department or departmental laboratories.

"SEC. 1119. MINORITY COLLEGE AND UNIVERSITY SCHOLARSHIP PROGRAM.

"The Secretary shall establish a scholarship program for students attending minority colleges or universities and pursuing a degree in energy-related scientific, mathematical, engineering, and technical disciplines. The program shall include tuition assistance. The program shall provide an opportunity for the scholarship recipient to participate in an applied work experience in a departmental laboratory. Recipients of such scholarships shall be students deemed by the Secretary to have demonstrated (1) a need for such assistance and (2) academic potential in the particular area of study. Scholarships awarded under this program shall be known as Secretary of Energy Scholarships.".

(b) CONFORMING AMENDMENT—The table of contents of the Department of Energy Organization Act (42 U.S.C. 7101 et. seq.) is amended by adding at the end thereof the following items:

"TITLE XI—TECHNOLOGY PARTNERSHIPS

"Sec. 1101. Finding, Purposes and Definitions.
"Sec. 1102. General Authority.
"Sec. 1103. Establishment of Goal for Partnerships Between Departmental Laboratories and United States Industry.
"Sec. 1104. Role of the Department in the Development of Critical Technology Strategies.
"Sec. 1105. Partnership Preferences.
"Sec. 1106. Evaluation of Partnership Programs.
"Sec. 1107. Annual Report.
"Sec. 1108. Partnership Payments.
"Sec. 1109. Laboratory Partnership Advisory Board and Industrial Advisory Groups at Multi-Program Departmental Laboratories.
"Sec. 1110. Fellowship Program.
"Sec. 1111. Cooperation with State and Local Programs for Technology Development and Dissemination.
"Sec. 1112. Availability of Funds for Partnerships.
"Sec. 1113. Protection of Information.
"Sec. 1114. Fairness of Opportunity.
"Sec. 1115. Product Liability.
"Sec. 1116. Intellectual Property.
"Sec. 1117. Small Business.
"Sec. 1118. Minority College and University Report.
"Sec. 1119. Minority College and University Scholarship program.".

SEC. 4. NATIONAL ADVANCED MANUFACTURING TECHNOLOGIES PROGRAM.

The Secretary is encouraged to use partnerships to expedite the private sector deployment of advanced manufacturing technologies as required by section 2202(a) of the Energy Policy Act of 1992 (42 U.S.C. 13502).

SEC. 5. NOT-FOR-PROFIT ORGANIZATIONS.

The Secretary shall encourage the establishment of not-for-profit organizations, such as the Center for Applied Development of Environmental Technology (CADET), that will facilitate the transfer of technologies from the departmental laboratories to the private sector.

SEC. 6. CAREER PATH PROGRAM.

(a) The Secretary, utilizing authority under other applicable law and the authority of this section, shall establish a career path program to recruit employees of the national laboratories to serve in positions in the Department.

(b) Section 207 of title 18, United States Code, is amended by inserting after subsection (j)(6) the following:

"(7) NATIONAL LABORATORIES.—(A) The restrictions contained in subsections (a), (b), (c), and (d) shall not apply to an appearance or communication made, or advice or aid rendered by a person employed at a facility described in subparagraph (B), if the appearance or communication is made on behalf of the facility or the advice or aid is provided to the contractor of the facility.

"(B) This paragraph applies to the following: Argonne National Laboratory, Brookhaven National Laboratory, Idaho National Engineering Laboratory, Lawrence Berkeley Laboratory, Lawrence Livermore National Laboratory, Los Alamos National Laboratory, National Renewable Energy Laboratory, Oak Ridge National Laboratory, Pacific Northwest Laboratory, and Sandia National Laboratories.".

(c) Section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) is amended by inserting the following new subsection:

"(q) NATIONAL LABORATORIES.—(1) The restrictions on obtaining a recusal contained in paragraphs (c)(2) and (c)(3) shall not apply to discussions of future employment or business opportunity between a procurement official and a competing contractor managing and operating a facility described in paragraph (3): *Provided*, That such discussions concern the employment of the procurement official at such facility.

"(2) The restrictions contained in paragraph (f)(1) shall not apply to activities performed on behalf of a facility described in paragraph (3).

"(3) This subsection applies to the following: Argonne National Laboratory, Brookhaven National Laboratory, Idaho National Engineering Laboratory, Lawrence Berkeley Laboratory, Lawrence Livermore National Laboratory, Los Alamos National Laboratory, National Renewable Energy Laboratory, Oak Ridge National Laboratory, Pacific Northwest Laboratory, and Sandia National Laboratories.".

SEC. 7. INFORMATION INFRASTRUCTURE AND TECHNOLOGY.

(a) FINDINGS.—For purposes of this title, Congress finds that—

(1) high-performance computing has the potential to enhance the economic, scientific and technological competitiveness of United States industry; and

(2) the Federal Government should ensure that there is a coordinated interagency program in partnership with the private sector to identify and promote applications of high-performance computing that will significantly improve the use of information, foster and strengthen research and development capabilities, and enhance the competitiveness of United States industry.

(b) PURPOSES.—The purposes of this section are to—

(1) ensure the widest possible application of high-performance computing in the United States; and

(2) provide for partnerships that will enhance Federal and private efforts to deploy and commercialize these technologies as part of a national information infrastructure.

(c) NATIONAL INFORMATION INFRASTRUCTURE DEVELOPMENT PROGRAM.—The High-Performance Computing Act of 1991 (15 U.S.C. 5501 et seq.) is amended—

(1) in section 101(a), by adding after paragraph (2) a new paragraph (3) as follows and renumbering subsequent paragraphs accordingly:

"(3) The Program shall also—

"(A) provide for a coordinated interagency effort in partnership with the private sector to develop, deploy and commercialize high-performance computing technologies through a national information infrastructure for applications in—

"(i) education,

"(ii) health care,

"(iii) manufacturing,

"(iv) digital information,

"(v) energy demand management,

"(vi) environmental monitoring and remediation,

"(vii) financial services,

"(viii) law enforcement; and

"(ix) such other fields as the President deems appropriate;

"(B) set forth the role of the network in making the benefits of applications of high-performance computing available to United States industry, government and academia through a national information infrastructure; and

"(C) otherwise ensure that services and applications of high-performance computing technologies are available as needed to United States industry, government and academia.";

(2) in section 101, by changing the reference to section 101(a)(3)(A) each time it appears to section 101(a)(4)(A); and

(3) in section 203, by adding at the end thereof a new subsection (f) as follows:

"(f) APPLICATIONS.—(1) The Secretary of Energy shall, consistent with the Program, provide for cooperative projects involving the Department of Energy or one or more Department of Energy laboratories and appropriate non-Federal entities to develop, test and apply high-performance computing technologies for—

"(A) education and training, including science, mathematics and engineering education and practical post-secondary training in skills needed by United States industry;

"(B) health care, including remote diagnosis and monitoring;

"(C) manufacturing;

"(D) energy demand management and control, including vehicle efficiency and utilization, energy efficiency in commercial and residential buildings, and industrial energy use and practices;

"(E) scientific, technical and energy information dissemination and analysis, including exhibits and model experiments;

"(F) technology transfer among the Department of Energy laboratories, United States industry and educational institutions;

"(G) environmental monitoring, modeling and remediation;

"(H) financial services, including security and data base management of financial data;

"(I) law enforcement; and

"(J) such other areas as the Secretary of Energy deems appropriate.

"(2) In carrying out projects under paragraph (1), the Secretary of Energy shall, where appropriate, seek to address the technical, architectural, economic, regulatory and market considerations critical to further development of a national information infrastructure.

"(3) There is authorized to be appropriated to the Secretary of Energy for purposes of this subsection $50,000,000 for fiscal year 1994, $100,000,000 for fiscal year 1995 and $150,000,000 for fiscal year 1996.".

SEC. 8. AVLIS COMMERCIALIZATION.

(a) PREDEPLOYMENT CONTRACTOR.—Not later than ninety days after the date of enactment of this Act, the Secretary shall solicit proposals for a commercial predeployment contractor to conduct such activities as may be necessary to enable the Secretary or any successor to the Secretary's uranium enrichment enterprise to deploy a commercial uranium enrichment plant using the Atomic Vapor Laser Isotope Separation (AVLIS) technology. Such activities shall include—

(1) developing a transition plan for transferring the AVLIS program from research, development, and demonstration activities at the Lawrence Livermore National Laboratory to deployment of a commercial AVLIS production plant;

(2) confirming the technical performance of AVLIS technology;

(3) developing the economic and industrial assessments necessary for the Secretary or his successor to make a commercial decision whether to deploy AVLIS;

(4) providing an industrial perspective for the planning and execution of remaining demonstration program activities; and

(5) completing feasibility and risk studies necessary for a commercial decision whether to deploy AVLIS, including financing options.

(b) ADDITIONAL ACTIVITIES.—Based upon the results of subsection (a), the Secretary may solicit additional proposals to complete the following activities:

(1) site selection, site characterization, and environmental documentation activities for a commercial AVLIS plant;

(2) engineering design of a production plant, developing a project schedule, and initiating operations planning;

(3) activities leading to obtaining necessary licenses from the Nuclear Regulatory Commission; and

(4) ensuring the successful integration of AVLIS technology into the commercial nuclear fuel cycle.

(c) REPORTS.—The Secretary shall submit to the Committee on Energy and Natural Resources of the United States Senate and to the Speaker of the House of Representatives a written report on the progress made toward the deployment of a commercial AVLIS production plant ninety days after the date of enactment of this Act and each ninety days thereafter.

SEC. 9. DOE MANAGEMENT.

(a) Section 202(a) of the Department of Energy Organization Act (42 U.S.C. 7132(a)) is amended by striking "Under Secretary" and inserting in its place "Under Secretaries".

(b) Section 202(b) of the Department of Energy Organization Act (42 U.S.C. 7132(b)) is amended to read as follows:

"(b) There shall be in the Department three Under Secretaries and a General Counsel, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall perform functions and duties the Secretary prescribes. The Under Secretaries shall be compensated at the rate for level III of the Executive Schedule under section 5314 of title 5, United States Code, and the General Counsel shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.".

SEC. 10. AMENDMENTS TO STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT.

(a) Section 12(c)(5) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(c)(5)) is amended—

(1) by deleting subparagraph (C)(i) and inserting in lieu thereof:

"(C)(i) Any agency that has contracted with a non-Federal entity to operate a laboratory shall review and approve, request specific modifications to, or disapprove a joint work statement and cooperative research and development agreement that is submitted by the director of such laboratory within thirty days after such submission. In any case where an agency has requested specific modifications to a joint work statement or cooperative research and development agreement, the agency shall approve or disapprove any resubmission of such joint work statement or cooperative research and development agreement within fifteen days after such resubmission. No agreement may be entered into by a Government-owned, contractor-operated laboratory under this section before both approval of the cooperative research and development agreement and a joint work statement.";

(2) by adding in subparagraph (C)(ii) the words, "or cooperative research and development agreement" after "joint work statement";

(3) by deleting subparagraph (C)(iv);

(4) by deleting subparagraph (C)(v) and inserting in lieu thereof:

"(C)(iv) If an agency fails to complete a review under clause (i) within any of the specified time-periods, the agency shall submit to the Congress, within 10 days after the failure to complete the review, a report on the reasons for such failure. The agency shall, at the end of each successive 15-day period thereafter during which such failure continues, submit to Congress another report on the reasons for the continued failure."; and

(5) by deleting subparagraph (C)(vi).

(b) Section 12(d)(2) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(2)) is amended—

(1) in subparagraph (B) by striking "substantial" before "purpose"; and

(2) in subparagraph (C) by striking "primary".

SEC. 11. GUIDELINES.

The implementation of the provisions of this Act shall not be delayed pending the issuance of guidelines, policies or standards required by sections 1105, 1115 and 1116 of the Department of Energy Organization Act (42 U.S.C. 7101 et. seq.) as added by section 3 of this Act.

SEC. 12. AUTHORIZATION.

(a) In addition to funds made available for partnerships under section 1112 of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.) as added by section 3 of this Act, there is authorized to be appropriated from funds otherwise available to the Secretary—

(1) for partnership activities with industry in areas other than atomic energy defense activities $100,000,000 for fiscal year 1994, $140,000,000 for fiscal year 1995, $180,000,000 for fiscal year 1996 and $220,000,000 for fiscal year 1997; and

(2) for partnership activities with industry involving dual-use technologies within the Department's atomic energy defense activities $240,000,000 for fiscal year 1994, $290,000,000 for fiscal year 1995, $350,000,000 for fiscal year 1996 and $400,000,000 for fiscal year 1997.

(b) There is authorized to be appropriated to the Secretary for the Minority College and University Scholarship Program established in section 1119 of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.) as added by section 3 of this Act $1,000,000 for fiscal year 1994, $2,000,000 for fiscal year 1995 and $3,000,000 for fiscal year 1996.

(c) There is authorized to be appropriated to the Secretary for research or educational programs, carried out through partnerships or otherwise, and for related facilities and equipment that involve minority colleges or universities such sums as may be necessary.

AMENDMENT NO. 1225

Mr. FORD. Madam President, on behalf of Senator JOHNSTON, I ask that it be in order to send to the desk 5 amendments, and I ask unanimous consent the Senate proceed to their immediate consideration en bloc, that the amendments be agreed to en bloc, that the motions to reconsider en bloc be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the amendments (No. 1225) were agreed to, as follows:

On page 46, strike lines 1–24, and on page 47, strike lines 1–8 and insert in lieu thereof the following:

"(C) Technology transfer.

"(3)(A) In addition to the missions identified in subsection (a)(2), the Departmental laboratories may pursue supporting missions to the extent that these supporting missions—

"(i) support the technology policies of the President;

"(ii) are developed in consultation with and coordinated with any other Federal agency or agencies that carry out such mission activities;

"(iii) are built upon the competencies developed in carrying out the primary missions identified in subsection (a)(2) and do not interfere with the pursuit of the missions identified in subsection (a)(2); and

"(iv) are carried out through a process that solicits the view of United States industry and other appropriate parties.

"(B) These supporting missions shall include activities in the following areas:

"(i) developing and operating high-performance computing and communications systems, with the goals of contributing to a national information infrastructure and addressing complex scientific and industrial challenges which require large-scale computational capabilities;

"(ii) conducting research on and development of advanced manufacturing systems and technologies, with the goal of assisting the private sector in improving the productivity, quality, energy efficiency, and control of manufacturing processes;

"(iii) conducting research on and development of advanced materials, with the goals of increasing energy efficiency, environmental protection, and improved industrial performance.

"(4) In carrying out the Department's missions, the Secretary, and the directors of the departmental laboratories, shall, to the maximum extent practicable, make use of partnerships. Such partnerships shall be for purposes of the following:

"(A) to lead to the development of technologies that the private sector can commercialize in areas of technology with broad application important to U.S. technological and economic competitiveness;

"(B) to provide Federal support in areas of technology where the cost or risk is too high for the private sector to support alone but that offer a potentially high payoff to the United States;

"(C) to contribute to the education and training of scientists and engineers;

"(D) to provide university and private researchers access to departmental laboratory facilities; or

"(E) to provide technical expertise to universities, industry or other Federal agencies.".

On page 66, strike section 7.

On page 70, by striking section 8.

On page 72, on line 10, by striking "9" and inserting "8".

On page 73, on line 3, by striking "10" and inserting "9".

On page 74, on line 22, by striking "11" and inserting "10".

On page 75, on line 3, by striking "12" and inserting "11".

On page 66, insert after line 8 the following:

"SEC. 7. STANDARDIZATION OF REQUIREMENTS AFFECTING DEPARTMENT OF ENERGY EMPLOYEES.

"(a) Part A of title VI of the Department of Energy Organization Act (42 U.S.C. 7211 through 7218) is repealed.

"(b) The table of contents for the Department of Energy Organization Act is amended by striking out the matter relating to part A of title VI.".

On page 73, after line 4 insert the following:

"(a) Section 12(a) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C.

3710a(a)) is amended by striking ", to the extent provided in any agency-approved joint work statement,".

"(b) Section 12(b) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(b)) is amended by striking ", to the extent provided in any agency-approved joint work statement,".".

On page 73, line 5, strike "(a)" and insert "(c)".

On page 73, lines 8 and 9, strike "deleting" and all that follows through "thereof" and insert "amending subparagraph (C)(i) to read as follows:".

On page 73, line 13, strike "joint work statement and".

On page 73, lines 15 and 16, strike "In any case where" and insert "If".

On page 73, line 17, strike "joint work statement or".

On page 73, line 19, strike "joint work statement or".

On page 73, line 21, strike "No" and insert "Except as provided in subparagraph (D), no".

On page 73, line 23, strike "both".

On page 73, lines 24 and 25, strike "and a joint work statement".

On page 74, lines 1 through 3, and insert:

"(2) by amending subparagraph (C)(ii) to read as follows:

"(ii) If an agency that has contracted with a non-Federal entity to operate a laboratory disapproves or requests the modification of a cooperative research and development agreement submitted under clause (i), the agency shall promptly transmit a written explanation of such disapproval or modification to the director of the laboratory concerned.";".

On page 74, after line 3, insert the following

"(3) by amending subparagraph (C)(iii) to read as follows:

"(iii) Any agency that has contracted with a non-Federal entity to operate a laboratory shall develop and provide to such laboratory a model cooperative research and development agreement, and guidelines for using such an agreement, for the purposes of standardizing practices and procedures, resolving common legal issues, and enabling negotiation and review of a cooperative research and development agreement to be carried out in a routine and prompt manner.";"

On page 74, line 4, strike "(3) by deleting" and insert "(4) by striking".

On page 74, strike lines 5 and 6, and insert "(5) by amending subparagraph (C)(v) to read as follows:".

On page 74, line 14, strike "and".

On page 74, strike lines 15 through 21 and insert the following:

"(6) by striking subparagraph (C)(vi); and

"(7) by amending subparagraph (D) to read as follows:

"(D)(i) Any agency that has contracted with a non-Federal entity to operate a laboratory may permit the director of a laboratory to enter into a cooperative research and development agreement without the submission, review, and approval of the agreement under subparagraph (C)(i) if: the Federal share under the agreement does not exceed $500,000 per year, or any amount the head of the agency may prescribe; the text of the cooperative research and development agreement is consistent with a model agreement under subparagraph (C)(iii); the agreement is entered into in accord with the agency's guidelines under subparagraph (C)(iii); and the agreement is consistent with and furthers an assigned laboratory mission.

"(ii) The director of a laboratory shall notify the head of the agency of the purpose and scope of an agreement entered into under this subparagraph. The agency shall include in its annual report required by section 11(f) of this Act (15 U.S.C. 3710(f)) an assessment of the implementation of this subparagraph including a summary of agreements entered into by laboratory directors under this subparagraph.

"(d) Section 12(d) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)) is amended—

"(1) in paragraph (1) by inserting "and" after the second semicolon;

"(2) in paragraph (2)—

"(A) by striking "substantial" before "purpose" in subparagraph (B);

"(B) by striking "the primary purpose" and inserting "one of the purposes" in subparagraph (C); and

"(C) by striking "; and" the second time it appears and inserting a period; and

"(3) by striking paragraph (3).".".

Mr. JOHNSTON. Madam President, today the Senate is considering S. 473, the Department of Energy National Competitiveness Technology Partnership Act of 1993. The Committee on Energy and Natural Resources reported S. 473 on June 24, 1993. On September 9, 1993, the Senate passed legislation virtually identical to S. 473 as an amendment to the National Defense Authorization Act for fiscal year 1994. Unfortunately, the House is not willing to act on this legislation as part of the Defense Authorization bill. Thus, it is necessary to move S. 473 through the Senate in order for the House to consider this important legislation.

We have a great opportunity to forge a governmentwide policy for advanced technology development in the 103d Congress. Earlier this year, President Clinton forwarded to Congress the administration's technology initiative, which includes proposals to increase and expand the partnerships between our national laboratories and industry. Similarly, a number of our colleagues have introduced legislative proposals to improve the competitiveness of U.S. industry. We need to work together—among committees in Congress and with the administration—to develop a coordinated effort. S. 473 will build on DOE's existing program in response to the new emphasis the Clinton administration is placing on U.S. competitiveness.

S. 473 will provide more flexible authority to the Department of Energy to work with domestic industry to strengthen the economic and technological competitiveness of the United States. The Department now has a significant program of cooperation with industry to develop new technologies.

To date, the Department has joined with industry in over 500 cooperative research and development agreements with a total value over $700 million. Industry pays nearly 60 percent of the costs under these agreements. There is a tremendous opportunity for cooperative work with the Department's laboratories to develop new technologies. The Department of Energy is the Federal Government's largest employer of scientists and engineers and owns the nation's premier laboratories and facilities for basic science. No national technology policy can afford to ignore these assets.

The Department's laboratory system consists of ten multi-program national laboratories and approximately 20 other specialized program facilities around the country. Development of the laboratory complex stems from the Manhattan Project, and the primary focus of the laboratories' work was initially in the area of weapons production. Over the years, the scope of research and development within the laboratory system has been broadened to include the full spectrum of fundamental sciences. Almost every area of basic scientific knowledge is represented in the research activities of the laboratories.

The laboratories currently employ over 60,000 scientists, engineers and technicians, more than 8,500 of whom have doctorate degrees. In fiscal year 1993, the laboratories will carry out $6.6 billion worth of research and development. More than 50 Nobel prizes have been awarded for work related to that performed at the national laboratories. No single laboratory or group of laboratories anywhere in the country can compare with this resource or match its record of accomplishment. The laboratory system has evolved into an interdisciplinary environment with the capability to undertake very complex research and development projects. Altogether, the laboratories represent one of the largest complexes engaged in fundamental research anywhere in the world.

Entire industries, as well as new companies and products, have evolved from technology initially developed within the Department's laboratories. Legislation over the last 10 years has promoted and simplified the transfer of technologies from the laboratories to the private sector. Yet, the laboratories' potential still remains largely untapped.

Several years ago, the Committee on Energy and Natural Resources began to reassess the missions and roles of the Department of Energy laboratories and to take a hard look at the adequacy of the mechanisms for technology transfer. In the 102d Congress, the committee reported S. 2566, which was passed by the Senate in July 1992. As there was no companion measure in the House, there was insufficient time for the House to act on the measure.

On March 2, 1993, along with a number of my colleagues from the Committee on Energy and Natural Resources, I introduced S. 473, which builds on the committee's work over the past several years. S. 473 reflects the input the committee received during hearings held on the bill as well as input from industry, the educational community and the laboratories.

Today I will offer five amendments to S. 473 that reflect events that have occurred since the bill was reported by the Energy and Natural Resources Committee. First, the administration has developed a statement for the Department of Energy's laboratories that delineates the missions and responsibilities of the laboratories. Therefore, I will offer an amendment to amend section 1102(a)(2)(C) of S. 473 to be consistent with the administration's position.

The administration's statement clarifies the role of the departmental laboratories in developing technologies important to the Nation. S. 473 as reported recognized the department's traditional missions in national security, energy, and technology transfer. S. 473 would have established industrial infrastructure as an appropriate mission of the departmental laboratories. Microelectronics, high-performance computing, transportation, advanced manufacturing, advanced materials, space, human health and environmental science were listed as examples of industrial infrastructure technologies. The departmental laboratories posses expertise in all of these areas of technologies. S. 473 authorized the departmental laboratories to pursue technology development in any of these areas, or any other area, as long as the activity built on the core competencies of the departmental laboratories.

The administration's statement recognizes the departmental laboratories traditional missions, referring to them as primary missions, and authorizes the laboratories to pursue missions that support the primary missions. The statement sets forth an illustrative listing of supporting missions—high-performance computing, advanced materials and advanced manufacturing. Many other areas of technology would also be appropriate areas to pursue as supporting missions. Some examples of these technologies are microelectronics, transportation, space, human health, and environmental science. To decide if an area of technology would be appropriate as a supporting mission, the administration's statement provides a list of criteria. One of the key criteria is that the activity build upon the competencies developed at the laboratories in carrying out their primary missions and does not interfere with a primary mission. S. 473 similarly required the departmental laboratories to build upon the core competencies of the laboratories when developing technologies beyond the energy or defense missions.

The administration's statement also requires that in carrying out a supporting mission the Department consult and coordinate with other agencies. The purpose of this change is to ensure the maximum efficient use of the Federal Government's resources. The Department of Energy already consults and coordinates with other agencies in carrying out many of its technology activities. For example, the Department of Energy has worked within the Federal Coordinating Council for Science, Engineering and Technology to establish the Department's role in the interagency high-performance computing and communications initiative. The amendment requires that industry views on supporting missions be solicited. Finally, the supporting mission should support the technology policies of the President.

The Department of Energy has also proposed a number of changes to S. 473 since the bill was reported.

The Department believes the time required for industry and laboratories to execute Cooperative Research and Development Agreements [CRADA's] needs to be reduced in order to attract the highest quality of industry interest. The Department has identified two ways to reduce that time. The first is to eliminate the statutory requirement for a laboratory to submit a joint work statement, a description of the work to be carried out, in addition to the actual CRADA to the Department. There is no reason the information contained in the joint work statement cannot be included in the CRADA. Requiring both the joint work statement and the CRADA is duplicative and slows down the approval process.

The second way the Department believes CRADA approval time can be reduced is if laboratory directors are given authority to enter into small CRADAs without having to gain approval from the Department. Requiring the Department's approval for every CRADA is burdensome on the laboratories, the Department and the private sector participants. Furthermore, small CRADA's typically involve small businesses who often lack the resources to deal with the requirements imposed by both laboratory and the Department. Giving laboratory directors the authority to execute small CRADA's will greatly streamline the process.

I believe both of these suggestions from the Department of Energy are good ones and intend to offer an amendment to address this.

The Department also believes that the purpose behind section six of S. 473—to enhance the Department's ability to attract qualified personnel—could be strengthened by repealing eight sections of the Department of Energy Organization Act (Public Law 95-91) that were enacted in 1977. These sections deal with conflict-of-interest requirements, financial reporting requirements, and post-employment restrictions for Departmental employees.

These sections were enacted by the Congress prior to passage of Government-wide ethics requirements in the Ethics in Government Act of 1978, and in some sense served as a prototype for these requirements. Since the passage of the Ethics in Government Act and the Ethics Reform Act of 1989, though, the need for specific statutory ethics requirements that are different from Government-wide requirements and unique to the Department of Energy [DOE] has disappeared.

The Senate has twice approved language to repeal these sections of the DOE Act in the fiscal year 1994 Department of Defense authorization bill and the fiscal year 1992-93 Department of Defense authorization bill. In addition, Congress has twice enacted into law temporary suspensions affecting these sections of the Department of Energy Organization Act. The Department of Energy and the administration strongly support this amendment, as does the exclusive bargaining representative for DOE headquarters employees, the National Treasury Employees Union.

Therefore, I will offer an amendment to strike these unnecessary provisions of law.

Two other amendments I will offer would delete sections 7 and 8 of S. 473. Section 7 deals with important issues in the area of information infrastructure and technology. For example, S. 473 would establish a program at the Department of Energy that would lead to new applications for use on high-speed computer networks. Provisions in other legislation before the Senate, however, deal with similar issues. The provisions of S. 473 must be reconciled with these other provisions before this piece of S. 473 can move forward. I expect that we will work out these issues soon, and they will be considered by the Senate in a separate vehicle.

Section 8 would require the Secretary of Energy to take certain actions leading up to the construction of a uranium enrichment plant using atomic vapor laser isotope separation [AVLIS] technology. Section 8 was a holdover from a previous version of the bill introduced in the 102d Congress.

Section 8 has been overtaken by events. Last year, Congress transferred responsibility for taking the requisite actions from the Department of Energy to the new United States Enrichment Corp. More recently, the Senate Appropriations Committee's report on the Energy and Water Development Appropriations Act for fiscal year 1994 enacted last month reaffirmed the U.S. Enrichment Corporation's responsibility for conducting these activities and for making a decision by April 30, 1994, on whether to build a commercial AVLIS plant. In light of these measures, section 8 is no longer needed.

The Senate has long supported the development of AVLIS as a more efficient and commercially competitive method of enriching uranium than current technology. Striking section 8 in no way diminishes the Senate's commitment to AVLIS. Striking the section merely reflects the arrangements that are now in place for determining the future of AVLIS.

S. 473, as amended, will leverage the capabilities and resources of the Department of Energy laboratories through partnerships with U.S. industry and universities in key areas of technology such as in energy, high-performance computing, the environment, human health, advanced manufacturing, advanced materials and transportation. S. 473 will establish a minimum goal for the percentage of each laboratory budget to be devoted to partnerships with industry, and it will provide more flexible authority to the Secretary of Energy to enter into partnerships with the private sector. Through these partnerships, a closer and more effective working relationship can be developed among the laboratories, U.S. industry, the educational community and other Federal agencies. These relationships will improve the coordination between the laboratories and the private sector and ensure that technologies important to this country's long-term survival will be developed. The amendment ensures that benefits from these partnerships will accrue to the United States.

Madam President, if this laboratory complex did not exist, we could not afford to create it in today's budget climate. We have these laboratories as a legacy from the time when the Nation invested heavily in the infrastructure of science for defense. These laboratories are on the brink of change in how they operate. With the end of the cold war, we are at a crossroads. As funding for nuclear weapons declines, it is prudent to redirect the activities of the national laboratories to help American industry and universities.

Some may think that we should simply let these laboratories fade away as they are no longer needed. The fact is, however, that the Department's laboratories already do more civilian research than weapons research. But they can still do more. We now have the opportunity to use these laboratories to solve the problems of today. We must define a new mission for DOE's laboratories—that of contributing strongly to the nation's technological and economic competitiveness. This bill will redirect the resources of the laboratories—and streamline the process for doing business—to do just that.

Madam President, I urge my colleagues to support passage of this important legislation.

Mr. DOMENICI. Madam President. I am proud to be a coauthor of S. 473, the Department of Energy National Competitiveness Technology Partnership Act of 1993. This legislation will dramatically streamline and expand partnerships between Department of Energy national laboratories, industry, and universities, improve the Department's ability to administer its technology transfer activities, and make the funding sources for partnerships more reliable.

As amended, S. 473 permits the Secretary of Energy to assign departmental laboratories missions in national security, energy-related science and technology, and technology transfer. In addition, the departmental laboratories may pursue supporting missions to the extent they meet certain requirements. This provision is included out of recognition that the departmental laboratories possess capabilities, developed in support of their traditional missions with applications in areas outside those traditional missions. Numerous entities, ranging from other Federal agencies to small businesses, have expressed an interest in pursuing the further development of those capabilities in order to utilize the laboratories' existing expertise.

Three areas in which the laboratories will have a supporting mission are explicitly stated in the legislation to serve as examples; high performance computing and communications, advanced manufacturing systems and technologies, and advanced materials. The departmental laboratories possess capabilities in a number of other areas such as microelectronics, transportation, space, human health sciences, and environmental science which could also serve as examples of areas in which it is appropriate for the departmental laboratories to pursue supporting missions.

The legislation requires the Secretary of Energy to establish guidelines regarding a number of difficult issues that have slowed CRADA negotiations. These include: The meaning of substantial manufacture and principal economic benefit, and the liability resulting from partnership activities. By requiring the establishment of guidelines, the legislation seeks to avoid the difficulties associated with the Department negotiating these issues on a case-by-case basis. While unusual circumstances may continue to require special consideration, in general, the Department should be able to provide potential non-federal partners with defined guidelines for participation in partnerships in advance of negotiations.

The Secretary of Energy is also directed to develop simplified guidelines for partnerships involving small business. Frequently, those businesses best positioned to take advantage of cutting edge technologies are small and lack the resources of established, larger entities. The guidelines will provide for special allowances regarding cost sharing and other requirements that can be difficult for small businesses to meet.

In order to best address issues such as the need to ensure fairness of opportunity, this legislation also places emphasis on larger partnerships based on industry developed technology agendas which involve large numbers of entities in certain industry sectors. As an example, I point to relationships with the Advanced Battery Consortium, AMTEX, and SEMATECH. These promise to have the most significant impact on U.S. competitiveness while providing market advantages to all participants.

We have also included an amendment to the committee reported version of S. 473 regarding joint work statements and laboratory director approved CRADA's. Last year, hundreds of companies dedicated significant resources to preparing joint work statements only to find, a number of months later, that no funding would be available for the labs to participate in CRADA's. This amendment will eliminate the upfront delay attributed to negotiating joint work statements by making them unnecessary in those cases in which a model CRADA can be used. In addition, laboratory directors would be provided the authority to sign CRADA's in cases in which the Federal share is no more than $500,000 and the CRADA is consistent with DOE's model CRADA's. Combined with those provisions of this legislation that clarify that program dollars are now available for technology transfer funding, these provisions should significantly reduce the time from which a promising technology or opportunity is identified to the time when collaborative work is initiated.

There is a recognition that private sector interests have differing requirements which are best met through a variety of mechanisms. For that reason, this legislation clarifies that partnerships consist not only of CRADA's but also of any arrangement under which the Department of Energy or one or more departmental laboratories undertakes research, development, demonstration, commercial application, or technical assistance in cooperation with one or more non-federal partners.

Standards will be developed for evaluating performance. Technology transfer now represents a significant portion of many labs' budgets. It is essential that these expenditures be held accountable to performance standards to ensure oversight and to demonstrate the value of the programs.

The protection of information provisions of Stevenson-Wydler are extended to all partnerships not just CRADA's. This provides the same enforceable provisions for the protection of intellectual property rights that have proven desirable and effective in CRADA's.

Since the passage of the National Technology Transfer Act of 1989, the Department of Energy's labs have signed over 500 CRADA's with a total value of over $680 million, $400 million of which represents the industry's contribution.

However, numerous industrial entities that could benefit greatly from partnering with the labs have been hesitant to initiate the long and tedious process involved in negotiating a CRADA. The process can take months or even years, in cases, longer than the life cycle of the technology the parties seek to develop, and frequently the Federal Government has been unable to provide funding for projects, even after the long negotiations process has been completed. In addition, the laboratories have been restricted in the areas in which they can apply their existing expertise to meet the needs of industry.

This legislation will greatly improve the ability of the national laboratories to make their expertise and resources available to non-federal partners. I would like to thank my colleagues with whom I have worked closely on this legislation, and I look forward to its enactment.

Mr. BAUCUS. Madam President, would the Senator from Louisiana yield for a question to clarify my understanding of the intent of the amended language in section 1102(a)(3)(A)(ii) related to the coordination of the missions of the Department of Energy laboratories with the missions of other Federal agencies. I am particularly interested in how the Department of Energy laboratories will coordinate their activities in environmental technologies with the Environmental Protection Agency. Could the distinguished chairman clarify for me how this section of S. 473 would be implemented?

Mr. JOHNSTON. Certainly. I would be happy to clarify the committee's intent. Section 1102(a)(3)(A)(ii) specifies that the Department of Energy laboratories should consult and coordinate with other Federal agencies when it carries out activities in areas that would be considered supporting missions of the Department. By supporting missions, what we mean is those areas where the laboratories have developed expertise in areas of technology that are outside of the primary missions of the Department of Energy. Some examples of such areas where it is appropriate for the laboratories to have a supporting mission are in high-performance computing, advanced manufacturing, and advanced materials.

The intent of this language is to ensure that there is coordination among Federal agencies and to avoid unnecessary duplication of activities. Essentially, this is a codification of the current practice within the administration to coordinate agency activities through such mechanisms as the Federal Coordinating Council for Science, Engineering, and Technology or memorandum of understanding between Federal agencies. This consultation and coordination will ensure that, in the development of advanced technologies, the resources of the Federal Government are brought together and used efficiently and without unnecessary duplication.

As my distinguished colleague from Montana probably knows, the Department of Energy laboratories already have a significant mission in the environmental area that was established in 1977 by the Department of Energy Organization Act. As my colleague knows, this mission includes both the development of technology for environmental cleanup and nuclear waste management and in research and development on the environmental effects of energy technologies and programs.

To the extent that there are additional activities pursued by the laboratories in the environmental area, the language included in this section would ensure that those activities are developed in consultation with and coordinated with the activities of the Environmental Protection Agency.

Mr. BAUCUS. I want to thank the distinguished chairman for clarifying the intent of this language. I would also urge the distinguished chairman as he advances this legislation to consider extending this kind of coordination to other aspects of the mission of the DOE national labs.

I strongly believe that environmental technologies are critical to our nation's future. They are the clearest linkage between the twin goals of a healthy environment and a strong economy. As DOE, EPA and other government agencies begin to turn their attention to this important new priority, it is critical that all of these efforts are well coordinated. I have sponsored legislation that would achieve this coordination.

The administration shares this goal of coordinating technology efforts among agencies. Indeed, the Director of the Office of Science and Technology Policy, Dr. Jack Gibbons, recently reiterated his support for broad coordination on environmental technologies. As the chairman advances this bill, I hope he could also work to broaden the necessary coordination, not just for the supporting missions of the DOE labs, but for some of their more basic missions as well.

Mr. REID. I have read section 1112(b) of S. 473, which regards the availability of funds for partnerships. Is it the intent of the chairman that the Nevada Test Site be eligible for these partnership funds?

Mr. JOHNSTON. The section says that all of the funds authorized to be appropriated to the Secretary for research, development, demonstration or commercial application of dual-use technologies within the Department of Energy's atomic energy defense activities shall be available for partnerships. Therefore, the Nevada Test Site would be eligible for such funds.

Mr. REID. I thank the chairman for that clarification. As the chairman knows, the Nevada Test Site is uniquely suited for technology transfer partnerships. For four decades, the facility has tested both nuclear devices and the effects of those devices. The technology developed to perform this important work, I believe, will have important private sector applications.

Mr. JOHNSTON. I agree that opportunities exist at the Nevada Test Site for partnerships with the private sector, and would support the Secretary of Energy in pursuing those opportunities.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

(The text of the bill will be printed in a future edition of the RECORD.)

Mr. FORD. Madam President, I move to reconsider the vote.

Mr. BROWN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FEDERAL EMPLOYEES CLEAN AIR INCENTIVES ACT

Mr. FORD. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3318, Federal Employees Clean Air Incentives Act just received form the House; that the bill be deemed read three times, passed, the motion to reconsider laid upon the table, and that any statements relating thereto be placed in the RECORD at an appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 3318) was passed.

PEARL HARBOR REMEMBRANCE DAY; COMMEMORATION OF THE BOMBING OF PAN AM FLIGHT 103; GOOD TEEN DAY

Mr. FORD. Madam President, I ask unanimous consent that the Judiciary Committee be discharged en bloc from further consideration of the following:

S.J. Res. 140;

S. Res. 164;

H.J. Res. 75;

That the Senate proceed en bloc to their immediate consideration; that the joint resolutions each be read three times and passed; that the resolution be agreed to; that the preambles be agreed to en bloc; that the motions to reconsider be laid upon the table en bloc; that any statements relating to these measures appear in the RECORD at the appropriate place as if given, and the consideration of these items appear individually in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution (H.J. Res. 75) was passed.

The joint resolution (S.J. Res. 140) was passed.

The resolution (S. Res. 164) was agreed to.

The resolutions, with their preambles, are as follows:

(The text of the resolutions will be printed in a future edition of the RECORD.)

Mr. MOYNIHAN. Madam President, I ask unanimous consent that the following list of Senators be added as cosponsors to S. Res. 164, designating December 21, 1993, as "Fifth Anniversary Day of Remembrance for the Victims of the Bombing on Pan Am Flight 103." Senators BUMPERS, ROCKEFELLER, BIDEN, HELMS, KERRY, BROWN, ROBB, JEFFORDS, FEINGOLD, MATHEWS, LIEBERMAN, PELL, SHELBY, KASSEBAUM, REID, PRYOR, BRYAN, SASSER, SPECTER, MURRAY, GLENN, WARNER, FEINSTEIN, COVERDELL, MITCHELL, INOUYE, and DANFORTH.

Madam President, 5 years ago, on December 21, 1988, a terrorist bomb destroyed Pan Am Flight 103, killing all 259 passengers aboard and 11 people on the ground. Of those killed, 189 were Americans. They had committed no offense other than being American. In effect, this was an attack on us all.

S. Res. 164, designates December 21, 1993, a day of remembrance for the victims of this crime. The resolution also honors the efforts of their loved ones and pledges the Senate's resolve never to forget the victims of the bombing and to punish their murderers.

I wish to thank my colleagues, the many who have cosponsored and supported this resolution. And, in particular, I wish to thank the families and loved ones of the victims of this horrible act for their support this endeavor.

During the approaching holiday season, the family members and friends of the passengers of Pan Am Flight 103 will be remembering their loved ones. It is important for the Senate to say that it, too, remembers them, and will neither forget them nor relent in its commitment to achieve justice in this matter.

AMERICAN INDIAN AGRICULTURAL RESOURCE MANAGEMENT ACT

Mr. FORD. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 298, H.R. 1425, an act to improve the management, productivity, and use of Indian agricultural lands; that the bill be read three times, passed, the motion to reconsider be laid upon the table, and that any statements thereon appear at the appropriate place in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 1425) was passed.

Mr. MCCAIN. Madam President, I am very pleased that we are acting on H.R. 1425, the American Indian Agricultural Resources Management Act. This legislation culminates 8 years of work by the Committee on Indian Affairs.

Approximately 54 million acres of land are held in trust by the United States for the benefit of Indian tribes and individuals. Seventy-five percent of these acres are used for agricultural pursuits. Over 33,000 Indian families derive their livelihood from agricultural pursuits. It is estimated that the Indian agriculture economy generates about $540 million in income each year and lease revenues to tribes and individuals account for another $50 million. This compares to total revenues from Indian forest resources of about $61 million per year and revenues from oil and gas resources of about $260 million per year. Clearly, Indian agricultural resources are a vital component of the economy on Indian lands.

H.R. 1425 reflects four years of work by the House and Senate to fashion legislation aimed at protecting and improving Indian agricultural lands and resources. The bill provides for the development of management plans by Indian tribal governments and the Secretary of the Interior. It contains authority for the Secretary and Indian tribes to develop effective laws to deal with the theft, waste and loss caused by trespass on Indian agricultural lands. A long overdue needs assessment is also authorized so that the Secretary, Indian tribal governments and the Congress will have the information which is necessary to make sound management and planning decisions. The laws relating to leasing of Indian agricultural lands are revised to promote the highest possible economic returns from Indian agricultural lands. The bill also provides new education and employment opportunities for Indian students interested in a career in natural resources management.

Madam President, H.R. 1425 will implement recommendations which were first made to the Congress in 1986 by Indian tribes and the Bureau of Indian Affairs. In the 1990 farm bill we were able to implement those recommendations which pertained to the Department of Agriculture. H.R. 1425 applies to the Department of the Interior and will bring greater certainty to the programs which already exist there.

I want to thank the tribal leaders and the members and staff of the Intertribal Agriculture Council for their assistance in developing this legislation. I also want to thank Representative Richardson, the Chairman of the Subcommittee on Native American Affairs of the House Committee on Natural Resources. We have been able to work together during this session of Congress to bridge substantial differences in the House and Senate approaches to this legislation during the 102d Congress and I appreciate his leadership.

Mr. CHAFEE. May I address a question to the distinguished vice chairman of the Committee on Indian Affairs, Senator MCCAIN?

Mr. MCCAIN. Yes.

Mr. CHAFEE. Does section 102(b) of H.R. 1425 prohibit, impede, or alter in any way the Secretary's responsibilities, and his ability to carry out his responsibilities, under the Endangered Species Act or any other Federal law relating to fish or wildlife?

Mr. MCCAIN. No; it does not.

Mr. CHAFEE. Does it in any way alter or affect the Secretary's ability to carry out his responsibilities as a Federal trustee for natural resources?

Mr. MCCAIN. Again, the answer is no. Nothing in this act alters or affects the authorities and responsibilities of the Secretary to implement Federal environmental laws or to carry out his responsibilities as a natural resource trustee.

Mr. CHAFEE. I thank the Senator for his response.

PERSIAN GULF WAR VETERANS ACT OF 1993

Mr. FORD. Madam President, I ask unanimous consent that the Veterans' Affairs Committee be discharged from further consideration of H.R. 2535 relating to Persian Gulf war veterans, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2535) to amend title 35 United States Code to provide additional authority for the Secretary of Veterans Affairs to provide health care for veterans of the Persian Gulf war.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 1226

Mr. FORD. I ask unanimous consent that it be in order for me on behalf of Senator ROCKEFELLER to send a substitute amendment to the desk, that it be agreed to, and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the amendment (No. 1226) was agreed to, as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. AUTHORITY TO PROVIDE PRIORITY HEALTH CARE TO VETERANS OF THE PERSIAN GULF WAR.

(a) INPATIENT CARE.—(1) Section 1710(a)(1)(G) of title 38, United States Code, is amended by striking out "or radiation" and inserting in lieu thereof ", radiation, or environmental hazard".

(2) Section 1710(e) of such title is amended—

(A) by inserting at the end of paragraph (1) the following new subparagraph:

"(C) Subject to paragraphs (2) and (3) of this subsection, a veteran who the Secretary finds may have been exposed while serving on active duty in the Southwest Asia theater of operations during the Persian Gulf War to a toxic substance or environmental hazard is eligible for hospital care and nursing home care under subsection (a)(1)(G) of this section for any disability, notwithstanding that there is insufficient medical evidence to conclude that such disability may be associated with such exposure.";

(B) in paragraph (2), by striking out "subparagraph (A) or (B)" and inserting in lieu thereof "subparagraph (A), (B), or (C)"; and

(C) in paragraph (3), by striking out the period at the end and inserting in lieu thereof ", or, in the case of care for a veteran described in paragraph (1)(C), after December 31, 1994.".

(b) OUTPATIENT CARE.—Section 1712(a) of such title is amended—

(1) in paragraph (1)—

(A) by striking out "and" at the end of subparagraph (B);

(B) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and"; and

(C) by adding at the end the following:

"(D) during the period before December 31, 1994, for any disability in the case of a veteran who served on active duty in the Southwest Asia theater of operations during the Persian Gulf War and who the Secretary finds may have been exposed to a toxic substance or environmental hazard during such service, notwithstanding that there is insufficient medical evidence to conclude that the disability may be associated with such exposure."; and

(2) by adding at the end the following new paragraph:

"(7) Medical services may not be furnished under paragraph (1)(D) with respect to a disability that is found, in accordance with guidelines issued by the Under Secretary for Health, to have resulted from a cause other than an exposure described in that paragraph.".

(c) EFFECTIVE DATE.—(1) The amendments made by subsections (a) and (b) shall take effect as of August 2, 1990.

(2) The Secretary of Veterans Affairs shall, upon request, reimburse any veteran who paid the United States an amount under section 1710(f) or 1712(f) of title 38, United States Code, as the case may be, for hospital care, nursing home care, or outpatient services furnished by the Secretary to the veteran before the date of the enactment of this Act on the basis of a finding that the veteran may have been exposed to a toxic substance or environmental hazard during the Persian Gulf War. The amount of the reimbursement shall be the amount that was paid by the veteran for such care or services under such section 1710(f) or 1712(f).

SEC. 2. EXTENSION OF CERTAIN HEALTH CARE AND OTHER AUTHORITIES.

(a) ELIGIBILITY FOR CARE FOR EXPOSURE TO DIOXIN OR IONIZING RADIATION.—Section 1710(e)(3) of title 38, United States Code, as amended by section 1(a)(2)(C), is further amended by striking out "December 31, 1993" and inserting in lieu thereof "June 30, 1994".

(b) ELIGIBILITY FOR SEXUAL TRAUMA COUNSELING.—Section 102(b) of the Women Veterans Health Programs Act of 1992 (Public Law 102-585; 38 U.S.C. 1720D note) is amended—

(1) by striking out "December 31, 1991," and inserting in lieu thereof "December 31, 1992,"; and

(2) by striking out "December 31, 1993" and inserting in lieu thereof "December 31, 1994".

(c) AUTHORITY TO MAINTAIN REGIONAL OFFICE IN THE PHILIPPINES.—Section 315(b) of title 38, United States Code, is amended by striking out "March 31, 1994" and inserting in lieu thereof "December 31, 1994".

(d) AUTHORITY FOR ADVISORY COMMITTEE ON EDUCATION.—Section 3692(c) of title 38, United States Code, is amended by striking out "December 31, 1993" and inserting in lieu thereof "December 31, 1994".

SEC. 3. SHARING OF RESOURCES WITH STATE HOMES.

(a) PURPOSE.—Section 8151 of title 38, United States Code, is amended by adding at the end the following: "It is further the purpose of this subchapter to improve the provision of care to veterans under this title by authorizing the Secretary to enter into agreements with State veterans facilities for the sharing of health-care resources.".

(b) DEFINITION.—Section 8152 of such title is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph (3):

"(3) The term 'health-care resource' includes hospital care, medical services, and rehabilitative services, as those terms are defined in paragraphs (5), (6), and (8), respectively, of section 1701 of this title, any other health-care service, and any health-care support or administrative resource.".

(c) SHARING OF HEALTH-CARE RESOURCES.—Section 8153(a) of such title is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by striking out "other form of agreement," and all that follows and inserting in lieu thereof the following: "other form of agreement for the mutual use, or exchange of use, of—

"(A) specialized medical resources between Department health-care facilities and other health-care facilities (including organ banks, blood banks, or similar institutions), research centers, or medical schools; and

"(B) health-care resources between Department health-care facilities and State home facilities recognized under section 1742(a) of this title.

"(2) The Secretary may enter into a contract or other agreement under paragraph (1) only if (A) such an agreement will obviate the need for a similar resource to be provided in a Department health care facility, or (B) the Department resources which are the subject of the agreement and which have been justified on the basis of veterans' care are not used to their maximum effective capacity.".

Mr. ROCKEFELLER. Madam President, I urge the Senate to support the pending measure which would give VA clear authority to furnish health care to Persian Gulf War veterans, extend several important veterans' benefits that will expire at the end of this calendar year or shortly thereafter, and provide authority to VA to share resources with State veterans' homes.

The provisions of this bill are derived mainly from S. 1030, the proposed "Veterans' Health Programs Improvement Act of 1993", which was reported favorably by the Committee on July 15, 1993, and from certain companion House measures. Due to the imminent end of the first session, there is insufficient time to conclude Senate action on S. 1030. I am, therefore, proposing the pending measure, as a substitute amendment to H.R. 2535, to ensure that VA can meet the health care needs of Persian Gulf War veterans and that certain benefits are not terminated before Congress takes final action on all of these issues early next year.

Specifically, this measure contains provisions that would:

First, authorize VA to furnish inpatient and ambulatory care to Persian Gulf War veterans, without regard for other eligibility criteria, until December 31, 1994. Although VA indicated at our Committee's hearing earlier this week that Persian Gulf War veterans already are receiving treatment for conditions that may be related to their service in the Gulf, this provision gives VA clear authority to furnish such care and to do so on a priority basis.

Second, extend the period of entitlement to VA care for veterans exposed to Agent Orange or radiation from December 31, 1993, to June 30, 1994.

Third, extend an existing limit on the period that certain veterans can seek sexual trauma care from VA by providing that veterans discharged before December 31, 1992, can seek such care until December 31, 1994.

Fourth, extend VA's authority to maintain a regional office in the Republic of the Philippines from March 31, 1994, until December 31, 1994.

Fifth, extend VA's Advisory Committee on Education from December 31, 1993, until December 31, 1994.

In addition, the measure includes a provision, originally included in H.R. 2034 as passed by the House on August 6, 1993, which would authorize VA to share with State veterans' homes any health care resources which are not used to maximum effective capacity.

Madam President, I urge my colleagues to support this measure to authorize VA to meet the health care needs of Persian Gulf War veterans and to provide short extensions of several important veterans' benefits, until the Congress has time next year to resolve fully these and other issues concerning veterans' health care.

Mr. MURKOWSKI. Madam President, I am pleased to join with the distinguished chairman of the Committee on Veterans' Affairs in support of legislation which will not allow the first session of the 103d Congress to come to a close with critical issues relating to America's veterans unaddressed.

The year gone by has brought many issues critical to our country's veterans before the Committee and, under the leadership of my friend from West Virginia, the Committee has considered and reported an impressive body of legislation.

In some cases however, the Committee has reported bills for which circumstances, or the need for further debate, have prevented consideration by the Senate. In some cases, those bills include time-crucial provisions or provisions relating to authority for VA action which will expire unless the Congress acts.

This bill addresses those needs by providing short term extensions so that the Senate may consider the underlying policy when we return for the second session of the 103d Congress.

For example, the Congress continues to evaluate the best long term options for meeting the health care needs of Persian Gulf veterans, including those who have difficult to diagnose illnesses. This bill would allow VA to provide those veterans with a complete continuum of care until a permanent policy is established.

The special health care priority for veterans exposed to herbicides or radiation will expire at the end of this year. This bill provides a temporary extension to ensure these veterans receive treatment while the Congress decides a long term policy.

The same principle applies to provisions relating to counseling for veterans who are the victims of sexual trauma, VA's authority to operate a benefits office in Manila, and VA's advisory committee on veterans' education.

The bill also includes a provision to allow VA to share health care resources with state veterans' homes.

I commend Chairman ROCKEFELLER for his initiative in ensuring that VA programs continue to serve veterans while the Congress deliberates long term policy, and I urge my colleagues to join me in support of the bill.

The PRESIDING OFFICER (Mr. WOFFORD). The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 2535), as amended, was passed.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. BROWN. I move to lay that motion on the table.

The PRESIDING OFFICER.

W. GRAHAM CLAYTOR, JR.

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.J. Res. 294, a joint resolution expressing appreciation to W. Graham Claytor, Jr., for a lifetime of dedicated inspired service to the Nation just received from the House; that the joint resolution be read three times; passed; and the motion to reconsider be laid upon the table; that the preamble be agreed to; and that any statement in relation thereto be placed in the RECORD at an appropriate place.

The PRESIDING OFFICER. The clerk will report: A joint resolution (H.J. Res. 294) expressing appreciation to W. Graham Claytor, Jr., for a lifetime of dedicated inspired service to the Nation.

There being no objection, the Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. If there is no objection, the resolution is deemed read the third time and passed, and the preamble is agreed to.

The joint resolution (H.J. Res. 294) was deemed read the third time and passed.

The preamble was agreed to.

The joint resolution with its preamble is as follows:

(The text of the joint resolution will be printed in a future edition of the RECORD.)

Mr. FORD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BROWN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE HAZARD MITIGATION AND RELOCATION ASSISTANCE ACT OF 1993

Mr. FORD. Mr. President, I ask unanimous consent that the Environment and Public Works Committee be discharged from further consideration of S. 1670, the Hazard Mitigation and Relocation Assistance Act of 1993; that the Senate then proceed to its immediate consideration; that the bill be deemed read three times, and passed; that the motion to reconsider be laid upon the table; and that any statements related to this measure appear in the RECORD at the appropriate place, as if given.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the Senate proceeded to considered the bill.

THE HAZARD MITIGATION AND FLOOD DAMAGE REDUCTION ACT OF 1993

Mr. CHAFEE. Mr. President, I would like to ask the sponsor of the bill we are about to approve, S. 1670, a question about the provision entitled "Statutory Construction." This bill amends section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act by, among other things, adding a new subsection (b). New paragraph (3) of subsection (b), entitled "Statutory Construction", says that new subsection (b) is not intended to alter or affect agreements entered into before enactment of this bill.

Under ordinary rules of statutory construction, the provisions of this bill would, with or without new paragraph (3), only apply to agreements entered into after enactment of this bill. Paragraph (3) appears to be superfluous and, for that reason, I am concerned that including it may have some unforeseen consequences. Could the sponsor of this bill, the Senator from Iowa, explain the need for this provision?

Mr. HARKIN. The language cited by the Senator from Rhode Island is included to make it clear that, with respect to agreements entered into prior to enactment of this bill, FEMA retains the flexibility that they now have to approve or to disapprove such agreements. Local and State entities maintain whatever rights they now have as well with respect to agreements entered into prior to enactment of this bill. With respect to agreements entered into after enactment, FEMA's discretion is limited. There are new conditions which must be applied to acquisition or relocation agreements that are entered into after enactment of this bill.

Mr. CHAFEE. So FEMA's authority under current law to reject, or to add conditions to, agreements that may have been entered into between States and local governments prior to enactment of this bill to ensure they are consistent with current Federal laws, regulations, and policy is not affected by this language?

Mr. HARKIN. That is correct. This language is designed to preserve FEMA's authority to approve such agreements, with or without conditions as allowed under current FEMA policies. For agreements entered into after enactment, FEMA will be required to impose certain conditions. The parties to the agreements maintain whatever rights they have. They gain no additional rights because of this subsection. And, FEMA loses none of its rights that it has under present law.

Mr. CHAFEE. I thank the Senator for his explanation.

THE HAZARD MITIGATION AND RELOCATION ASSISTANCE ACT

Mr. HARKIN. Madam President. I rise to thank my colleagues in the Senate for enabling the prompt passage of The Hazard Mitigation and Relocation Assistance Act, S. 1670 which I introduced along with Senators DANFORTH, MOSELEY-BRAUN, GRASSLEY, SIMON, and BOND. Similar legislation was proposed in the House under Congressman VOLKMER'S able leadership.

This legislation will provide additional resources to allow State and local governments with Federal support to help families whose homes are damaged in natural disasters acquire new homes that are not in flood prone areas. It will allow homeowners to receive preflood market value for their property thus allowing them to relocate.

This assistance would come through an increase in the amount of FEMA hazard mitigation funds provided to States after natural disasters like the devastating Midwest that hit last summer. The amount would be increased from 10 percent of the grants made for repair and replacement of publicly owned facilities by FEMA to 15 percent of the amount of FEMA provided grants for public and individual assistance in a State.

In addition, Mr. President, our legislation would reduce the burden to local communities by cutting the amount of the local match for the hazard mitigation funds from 50 to 25 percent. This has been included to address in the inability of hard hit States and local governments to make use of these funds.

Relocation projects approved under the legislation would only be acceptable if the local governments involved agreed that the land acquired under the program be used in perpetuity for uses appropriate for a flood plain such as a public park or a wetland. The only structures that could be built on the land acquired through the program created would be bathroom facilities, other buildings which are open on all sides or structures specifically approved by the Director of FEMA.

The legislation is not designed to impact projects which were under contract prior to this legislation.

Madam President, I am afraid without this legislation far too many families will rebuild, be flooded and then rebuild again. And, each time Federal funds will pay for some of those costs. It is far better in many circumstances to buy the housing and permanently use the land for parks or other useful public purposes.

This situation has been brought to my attention by many city officials and individual flood victims in Iowa. The need for these funds is very real. I believe that this measure will allow for a logical broadening of Federal disaster assistance. I thank my colleagues for supporting this important measure.

The bill (S. 1670) was deemed read the third time and passed as follows:

(The text of the bill will be printed in a future edition of the RECORD.)

HIGHER EDUCATION TECHNICAL AMENDMENTS ACT OF 1993

Mr. FORD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on (S. 1507), a bill to make technical amendments to the Higher Education Amendments of 1992 and the Higher Education Act of 1965, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Amendments: Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; REFERENCES EFFECTIVE DATES.

(a) SHORT TITLE.—This Act may be cited as the "Higher Education Technical Amendments of 1993".

(b) REFERENCES.—References in this Act to "the Act" are references to the Higher Education Act of 1965.

(c) EFFECTIVE DATES.—Except as otherwise provided therein, the amendments made by this Act shall be effective as if such amendments were included in The Higher Education Amendments of 1992 (Public Law 102–325).

SEC. 2. TECHNICAL AMENDMENTS.

(a) AMENDMENTS TO TITLES I, II, AND III OF THE ACT.—The Act is amended—

(1) in section 103(b)(2), by increasing the indentation of subparagraphs (A) through (E) by two em spaces;

(2) in section 104(b)(5)(C), by striking "subpart" and inserting "part";

(3) in section 241(a)(2)(B), by striking "information service" and inserting "information science";

(4) in section 301(a)(2), by striking the comma after "planning";

(5) in section 312(c)(2), by inserting "the" before "second fiscal year" the second place it appears;

(6) in section 316(c), by striking "Such programs may include—" and inserting the following:

"(2) EXAMPLES OF AUTHORIZED ACTIVITIES.—Such program may include—";

(7) by reducing by two em spaces the indentation of each of the following provisions: sections 323(b)(3), 331(a)(2)(D), and 331(b)(5);

(8) in section 326(e)(2)—

(A) by inserting "and" after the semicolon at the end of subparagraph (A);

(B) by striking subparagraph (B); and

(C) by redesignating subparagraph (C) as subparagraph (B);

(9) in section 331(b)(2), by reducing the indentation of subparagraphs (B) and (C) by four em spaces; and

(10) in section 331(b)(5), by striking "an endowment" and inserting "An endowment".

(b) AMENDMENTS TO PART A OF TITLE IV OF THE ACT.—Part A of title IV of the Act is amended—

(1) in section 401(a)(1), by striking the last sentence;

(2) in section 401(b)(6), in the matter preceding subparagraph (A), by striking "single 12-month period" and inserting "single award year";

(3) in section 401(b)(6)(A), by striking "a baccalaureate" and inserting "an associate or baccalaureate";

(4) in section 401(b)(6)(B), by striking "a bachelor's" and inserting "an associate or baccalaureate";

(5) in section 401(b)(8)(A), by striking "(determined in accordance with regulations issued by the Secretary)";

(6) in section 401(i), by striking "part D of title V" and inserting "subtitle D of title V";

(7) in section 402A(b), by striking paragraph (2) and inserting the following:

"(2) DURATION.—Grants or contracts made under this chapter shall be awarded for a period of 4 years, except that—

"(A) the Secretary shall award such grants or contracts for 5 years to applicants whose peer review scores were in the highest 10 percent of scores of all applicants receiving grants or contracts in each program competition for the same award year; and

"(B) grants made under section 402G shall be awarded for a period of 2 years.";

(8) in section 402A(c)(1), by inserting before the period the following ", except that in the case of the programs authorized in sections 402E and 402G, the level of consideration given to prior experience shall be the same as the level of consideration given this factor in the other programs authorized in this chapter";

(9) in section 402A(c)(2)(A), by inserting "with respect to grants made under section 402G, and" after "Except";

(10) in section 402A, by amending subsection (e) to read as follows:

"(e) DOCUMENTATION OF STATUS AS A LOW-INCOME INDIVIDUAL.—(1) Except in the case of an independent student, as defined in section 480(d), documentation of an individual's status pursuant to subsection (g)(2) shall be made by providing the Secretary with—

"(A) a signed statement from the individual's parent or legal guardian;

"(B) verification from another governmental source;

"(C) a signed financial aid application; or

"(D) a signed United States or Puerto Rico income tax return.

"(2) In the case of an independent student, as defined in section 480(d), documentation of an individual's status pursuant to subsection (g)(2) shall be made by providing the Secretary with—

"(A) a signed statement from the individual;

"(B) verification from another governmental source;

"(C) a signed financial aid application; or

"(D) a signed United States or Puerto Rico income tax return.";

(11) in section 402C(c), by striking "and foreign" and inserting "foreign";

(12) in section 402D(c)(2), by striking "either";

(13) in section 404A(1), by striking "high-school" and inserting "high school";

(14) in section 404B(a)(1)—

(A) by striking "section 403C" and inserting "section 404D"; and

(B) by striking "section 403D" and inserting "section 404C";

(15) in section 404B(a)(2), by inserting "shall" after "paragraph (1)";

(16) in section 404C(b)(3)(A), by striking "grades 12" and inserting "grade 12";

(17) in section 404C(b)(3)(D)(i), by striking "section 401D of this subpart" and inserting "section 402D";

(18) in section 404C(b)(3)(D)(ii), by striking "section 401D of this part" and inserting "section 402D";

(19) in section 404D(d)(3), by striking "program of instruction" and inserting "program of undergraduate instruction";

(20) in section 404D(d)(4), by striking "the" the first place it appears;

(21) in section 404E(c), by striking "tuition" and inserting "financial";

(22) in section 404F(a), by striking "under this section shall biannually" and inserting "under this chapter shall biennially";

(23) in section 404F(c), by striking "biannually" and inserting "biennially";

(24) in section 404G, by striking "an appropriation" and inserting "to be appropriated";

(25) in section 409A(1), by striking "private financial" and inserting "private student financial";

(26) in section 413C(d)—

(A) by striking ", a reasonable proportion of the institution's allocation shall be made available to such students, except that" and inserting "and"; and

(B) by striking "5 percent of the need" and inserting "5 percent of the total financial need";

(27) in section 413D(d)(3)(C), by striking "three-fourths in the Pell Grant family size offset" and inserting "150 percent of the difference between the income protection allowance for a family of five with one in college and the income protection allowance for a family of six with one in college";

(28) in section 415C(b)(7), by striking the period at the end and inserting a semicolon;

(29) in section 419C(b)—

(A) by striking "for a period of not more than 4 years for the first 4 years of study" and inserting "for a period of not less than 1 or more than 4 years during the first 4 years of study"; and

(B) by adding at the end the following:

"The State educational agency administering the program in a State shall have discretion to determine the period of the award (within the

limits specified in the preceding sentence), except that—

"(1) if the amount appropriated for this subpart for any fiscal year exceeds the amount appropriated for fiscal year 1993, the Secretary shall identify to each State educational agency the number of scholarships available to that State under section 419D(b) that are attributable to such excess; and

"(2) the State educational agency shall award not less than that number of scholarships for a period of 4 years.";

(30) in section 419D, by adding at the end the following new subsection:

"(d) CONSOLIDATION BY INSULAR AREAS PROHIBITED.—Notwithstanding section 501 of Public Law 95–1134 (48 U.S.C. 1469a), funds allocated under this part to an Insular Area described in that section shall be deemed to be direct payments to classes of individuals, and the Insular Area may not consolidate such funds with other funds received by the Insular Area from any department or agency of the United States Government."; and

(31) in section 419G(b), by striking "the District of Columbia, the Commonwealth of Puerto Rico,".

(c) AMENDMENTS TO PART B OF TITLE IV OF THE ACT.—Part B of title IV of the Act is amended—

(1) in section 422(c)(7), by striking the semicolon at the end of subparagraph (B) and inserting a period;

(2) in section 425(a)(1)(A)—

(A) by striking clauses (ii) and (iii) and inserting the following:

"(ii) in the case of a student at an eligible institution who has successfully completed such first year but has not successfully completed the remainder of a program of undergraduate education—

"(I) $3,500; or

"(II) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year;

"(iii) in the case of a student at an eligible institution who has successfully completed the first and second years of a program of undergraduate education but has not successfully completed the remainder of such program—

"(I) $5,500; or

"(II) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year;" and

(B) by striking the semicolon at the end of clause (iv) and inserting a period;

(3) in section 425(a)(1), by inserting at the end thereof the following:

"(C) For the purpose of subparagraph (A), the number of years that a student has completed in a program of undergraduate education shall include any prior enrollment in an eligible program of undergraduate education for which the student was awarded an associate or baccalaureate degree, if such degree is required by the institution for admission to the program in which the student is enrolled.";

(4) in section 427(a)(2)(C)(i), by inserting "section" before "428B or 428C";

(5) in section 427A(e)(1), by striking "under this part," and inserting "under section 427, 428, or 428H of this part,";

(6) in section 427A(i)(1), by amending subparagraph (B) to read as follows:

"(B)(i) during any period in which a student is eligible to have interest payments paid on his or her behalf by the Government pursuant to section 428(a), by crediting the excess interest to the Government; or

"(ii) during any other period, by crediting such excess interest to the reduction of principal to the extent provided in paragraph (5) of this subsection.";

(7) in section 427A(i)(2)(B), by striking out "outstanding principal balance" and inserting in lieu thereof "average daily principal balance";

(8) in section 427A(i)(4)(B), by striking out "outstanding principal balance" and inserting in lieu thereof "average daily principal balance";

(9) in section 427A(i)(5)—

(A) by striking "paragraph (2)" and inserting "paragraphs (2) and (4)";

(B) by striking "principle" and inserting "principal"; and

(C) by inserting before the period at the end of the second sentence the following: ", but the excess interest shall be calculated and credited to the Secretary";

(10) in section 427A(i), by adding at the end the following new paragraph:

"(7) CONVERSION TO VARIABLE RATE.—(A) Subject to subparagraphs (B) and (C), a lender or holder may convert the interest rate on a loan made pursuant to section 428 or 428H that is subject to the provisions of this subsection to a variable rate which is adjusted quarterly. The applicable rate of interest for such loans for each 3-month period beginning on January 1, April 1, July 1, or October 1, shall be determined on the first day of the month preceding such 3-month period, and shall be equal to (i) the bond equivalent rate of the 91-day Treasury bill auctioned at the final auction held prior to the first day of the month preceding such 3-month period; plus (ii) 3.25 percent if the first disbursement of the loan occurred prior to July 23, 1992, or 3.10 percent if the first disbursement of the loan occurred on or after July 23, 1992.

"(B) A lender or holder shall notify the borrower within 30 days of the conversion of the loan to a variable interest rate.

"(C) The interest rate on a loan converted to a variable rate pursuant to this paragraph shall not exceed the maximum interest rate applicable to the loan prior to such conversion.

"(D) Loans on which the interest rate is converted in accordance with subparagraph (A) shall not be subject to any other provisions of this subsection.";

(11) in section 428(a)(2)(C)(i), by striking the period at the end and inserting "; and";

(12) in section 428(a)(2)(E), by inserting "or 428H" after "428A";

(13) in section 428(a)(3)(A)(v)—

(A) in subclause (I), by striking out "before the first disbursement of the loan; or" and inserting "before the loan is first delivered to the borrower; or"; and

(B) in subclause (II), by striking out "before the first disbursement of the loan" and inserting "before the loan is first delivered to the borrower";

(14) in section 428(b)(1)(A)—

(A) by striking clauses (ii) and (iii) and inserting the following:

"(ii) in the case of a student at an eligible institution who has successfully completed such first year but has not successfully completed the remainder of a program of undergraduate education—

"(I) $3,500; or

"(II) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year;

"(iii) in the case of a student at an eligible institution who has successfully completed the first and second years of a program of undergraduate education but has not successfully completed the remainder of such program—

"(I) $5,500; or

"(II) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year;";

(B) by redesignating clause (iv) as clause (v); and

(C) by inserting after clause (iii) the following:

"(iv) in the case of a student who has received an associate or baccalaureate degree and is enrolled in an eligible program for which the institution requires such degree for admission, the number of years that a student has completed in a program of undergraduate education shall, for the purposes of clauses (ii) and (iii), include any prior enrollment in the eligible program of undergraduate education for which the student was awarded such degree; and";

(15) in section 428(b)(1)(B), by striking the matter following clause (ii) and inserting the following:

"except that the Secretary may increase the limit applicable to students who are pursuing programs which the Secretary determines are exceptionally expensive;";

(16) in section 428(b)(1), by amending subparagraph (N) to read as follows:

"(N) provides that funds borrowed by a student—

"(i) are disbursed to the institution by check or other means that is payable to, and requires the endorsement or other certification by, such student, unless such student requests that the check be endorsed, or the funds transfer authorized, pursuant to an authorized power-of-attorney; and

"(ii) are, at the request of the student, disbursed directly to the student by the means described in clause (i), in the case of a student who is studying outside the United States in a program of study abroad that is approved for credit by the home institution at which such student is enrolled or at an eligible foreign institution;";

(17) in section 428(b)(1)(U)—

(A) by striking "this clause;" and inserting "this clause"; and

(B) by inserting a comma after "emergency action" each place it appears;

(18) in section 428(b)(1), by striking subparagraph (V);

(19) in section 428(b)(2)(F)(i), by striking "each to provide a separate notice" and inserting "either jointly or separately to provide a notice";

(20) in section 428(b)(2)(F)(ii), by striking "transferor" and inserting "transferee";

(21) in section 428(b)(2)(F)(ii)(I), by striking "to another holder";

(22) in section 428(b)(2)(F)(ii)(II), by striking "such other" and inserting "the new";

(23) in section 428(b), by striking paragraph (7) and inserting the following:

"(7) REPAYMENT PERIOD.—(A) In the case of a loan made under section 427 or 428, the repayment period shall exclude any period of authorized deferment or forbearance and shall begin—

"(i) the day after 6 months after the date the student ceases to carry at least one-half the normal full-time academic workload (as determined by the institution); or

"(ii) on an earlier date if the borrower requests and is granted a repayment schedule that provides for repayment to commence at an earlier date.

"(B) In the case of a loan made under section 428H, the repayment period shall exclude any period of authorized deferment or forbearance, and—

"(i) if such loan is made to a borrower that has borrowed a loan made under section 427 or 428 for the same period of instruction—

"(I) interest shall begin to accrue or be paid by the borrower on the day the loan is disbursed, or, if the loan is disbursed in multiple installments, on the day of the last such disbursement; and

"(II) the repayment period with respect to principal begins in accordance with subparagraph (A); and

"(ii) if such loan is made to any other borrower, the repayment or accrual of interest shall begin as described in clause (i)(I), but the borrower shall be required to elect whether the repayment of principal shall begin as described in clause (i)(II), or on the day immediately after the student ceases to carry at least one-half the normal full-time academic workload (as determined by the institution).

"(C) In the case of a loan made under section 428A, 428B, or 428C, the repayment period shall begin on the day the loan is disbursed, or, if the loan is disbursed in multiple installments, on the day of the last such disbursement, and shall exclude any period of authorized deferment or forbearance.";

(24) in section 428(b), by adding at the end thereof the following new paragraph:

"(8) MEANS OF DISBURSEMENT OF LOAN PROCEEDS.—Nothing in this title shall be interpreted to prohibit the disbursement of loan proceeds by means other than by check or to allow the Secretary to require checks to be made co-payable to the institution and the borrower.";

(25) in section 428(c)(1)(A), by striking the last sentence and inserting the following: "A guaranty agency shall file a claim for reimbursement with respect to losses under this subsection within 45 days after the guaranty agency discharges its insurance obligation on the loan.";

(26) in section 428(c)(2)(G), by striking "demonstrates" and inserting "certifies";

(27) in section 428(c)(3), by striking subparagraph (A) and inserting the following:

"(A) shall contain provisions providing that—

"(i) upon written request, a lender shall grant a borrower forbearance, renewable at 12-month intervals, on terms agreed to in writing by the parties to the loan with the approval of the insurer, and otherwise consistent with the regulations of the Secretary, if the borrower—

"(I) is serving in a medical or dental internship or residency program, the successful completion of which is required to begin professional practice or service, or is serving in a medical or dental internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility that offers postgraduate training, provided that if the borrower qualifies for a deferment under section 427(a)(2)(C)(vii) or subparagraph (M)(vii) of this paragraph as in effect prior to the enactment of the Higher Education Amendments of 1992, or section 427(a)(2)(C) or subparagraph (M) of this paragraph as amended by such amendments, the borrower has exhausted his or her eligibility for such deferment; or

"(II) has a debt burden under this title that equals or exceeds 20 percent of income;

"(ii) the length of the forbearance granted by the lender—

"(I) under clause (i)(I) shall equal the length of time remaining in the borrower's medical or dental internship or residency program, if the borrower is not eligible to receive a deferment described in such clause, or such length of time remaining in the program after the borrower has exhausted his or her eligibility for such deferment; or

"(II) under clause (i)(II) shall not exceed 3 years; and

"(iii) no administrative or other fee may be charged in connection with the granting of a forbearance under clause (i), and no adverse information regarding a borrower may be reported to a credit bureau organization solely because of the granting of such forbearance;";

(28) in section 428(e)(2)(A)—

(A) by striking "(i)";

(B) by striking "(I)" and inserting "(i)"; and

(C) by striking "(II)" and inserting "(ii)";

(29) in section 428(j)(2), in the matter preceding subparagraph (A), by striking "lender of last resort" and inserting "lender-of-last-resort";

(30) in section 428A(b)(1), by striking subparagraph (B) and inserting the following:

"(B) In the case of a student at an eligible institution who has successfully completed such first and second years but has not successfully completed the remainder of a program of undergraduate education—

"(i) $5,500; or

"(ii) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year.";

(31) in section 428A(b)(1)—

(A) by redesignating subparagraph (C) as subparagraph (D); and

(B) by inserting after subparagraph (B) the following:

"(C) For the purposes of this paragraph, the number of years that a student has completed in a program of undergraduate education shall include any prior enrollment in an eligible program of undergraduate education for which the student was awarded an associate or baccalaureate degree, if such degree is required by the institution for admission to the program in which the student is enrolled.";

(32) in section 428A(b)(3)(B)(i), by striking "section 428" and inserting "sections 428 and 428H";

(33) in section 428A(c)(1), by striking "sections 427 or 428(b)" and inserting "section 427 or 428(b)";

(34) in section 428B(c)(2), by striking "borrower." and inserting "borrower, and sent to such institution.";

(35) in section 428C(a)(3)(A), by striking "delinquent or defaulted borrower who will reenter repayment through loan consolidation" and inserting "defaulted borrower who has made arrangements to repay the obligation on the defaulted loans satisfactory to the holders of the defaulted loan";

(36) in section 428C(a)(4)(A), by striking ", except for loans made to parent borrowers under section 428B as in effect prior to the enactment of the Higher Education Amendments of 1986";

(37) in section 428C(a)(4)(C), by striking "part C" and inserting "part A";

(38) in section 428C(c)(2)(A)(vi), by inserting a period after "30 years";

(39) in section 428C(c)(3)(A), by inserting "be an amount" before "equal to";

(40) in section 428F(a)(2)—

(A) by striking "this paragraph" and inserting "paragraph (1) of this subsection"; and

(B) by striking "this section" and inserting "this subsection";

(41) in section 428F(a)(4), by striking "this paragraph" and inserting "paragraph (1) of this subsection";

(42) in section 428F(b), by adding at the end thereof the following new sentence: "A borrower may only obtain the benefit of this subsection with respect to renewed eligibility once.";

(43) in section 428G(c)(3), by striking "disbursed" and inserting "disbursed by the lender";

(44) in section 428H(d)(2), by striking subparagraph (B) and inserting the following:

"(B) in the case of a student at an eligible institution who has successfully completed such first and second years but has not successfully completed the remainder of a program of undergraduate education, $5,000.";

(45) in section 428H(e)(1), by striking "shall commence 6 months after the month in which the student ceases to carry at least one-half the normal full-time workload as determined by the institution." and inserting "shall begin as described in section 428(b)(7)(B).";

(46) in section 428H(e)(4), by striking "427A(e)" and inserting "427A";

(47) in section 428H, by redesignating subsection (l) as subsection (h);

(48) in section 428I(g), by striking "the Federal False Claims Act" and inserting "section 3729 of title 31, United States Code,";

(49) in section 428J(b)(1), by striking "sections 428A, 428B, or 428C" and inserting "section 428A, 428B, or 428C";

(50) in section 428J(b)(1)(B), by striking "agrees in writing to volunteer for service" and inserting "serves as a full-time volunteer";

(51) in section 428J(c)(1), by striking "academic year" each place it appears and inserting "year of service";

(52) in the heading for section 428J(d), by striking "OF ELIGIBILITY" and inserting "TO ELIGIBLE";

(53) in section 428J, by amending subsection (e) to read as follows:

"(e) APPLICATION FOR REPAYMENT.—

"(1) IN GENERAL.—Each eligible individual desiring loan repayment under this section shall submit a complete and accurate application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require. Loan repayment under this section shall be on a first-come, first-served basis and subject to the availability of appropriations.

"(2) CONDITIONS.—An eligible individual may apply for repayment after completing each year of qualifying service. The borrower shall receive forbearance while engaged in qualifying service.";

(54) in section 430A(f)(1), by striking the comma at the end and inserting a semicolon;

(55) in section 432(m)(2)—

(A) by striking "DEFERMENT FORM" and inserting "DEFERMENT FORMS"; and

(B) by striking "a common deferment reporting form" and inserting "common deferment reporting forms";

(56) in section 433(b), in the matter preceding paragraph (1), by striking "60 days" and inserting "30 days";

(57) in section 433(e), by striking "section 428A, 428B," and inserting "sections 428A, 428B,";

(58) in section 435(d)(2)(D), by striking "lender; and" and inserting "lender;";

(59) in section 435(d)(2), by increasing the indentation of the matter following subparagraph (F) by two em spaces;

(60) in section 435(d)(3), by striking "435(o)" and inserting "435(m)";

(61) in section 435(m)(1)(A), by striking "428 or 428A" and inserting "428, 428A, or 428H,";

(62) in section 435(m)(2)(D)—

(A) by inserting "(or the portion of a loan made under section 428C that is used to repay a loan made under section 428A)" after "section 428A" the first place it appears; and

(B) by inserting "(or a loan made under section 428C a portion of which is used to repay a loan made under section 428A)" after "section 428A" the second place it appears;

(63) in section 437, by amending subsection (b) to read as follows:

"(b) Payment of Claims on Loans in Bankruptcy.—The Secretary shall pay to the holder of a loan described in section 428(a)(1)(A) or (B) or section 428A, 428B, 428C, or 428H, the amount of the unpaid balance of principal and interest owed on such loan—

"(1) when the borrower files for relief under chapter 12 or 13 of title 11, United States Code;

"(2) when the borrower who has filed for relief under chapter 7 or 11 of such title commences an action for a determination of dischargeability under section 523(a)(8)(B) of such title; or

"(3) for loans described in section 523(a)(8)(A) of such title, when the borrower files for relief under chapter 7 or 11 of such title.";

(64) in section 437(c)(1)—

(A) by striking "If a student borrower" and inserting "If a borrower";

(B) by striking "under this part is unable" and inserting "under this part and the student borrower, or the student on whose behalf a parent borrowed, is unable"; and

(C) by striking "in which the borrower is enrolled" and inserting "in which such student is enrolled"; and

(65) in section 437(c)(4), by adding at the end thereof the following sentence: "The amount of a loan, and interest on a loan, which is canceled under this subsection shall be treated the same as loans under section 465(a)(5) of this title.";

(66) in section 437A(a), in the matter preceding paragraph (1), by striking ", to the extent of funds appropriated under subsection (d)";

(67) in section 437A(c)(2), by inserting a period at the end;

(68) in section 437A, by striking subsection (e); and

(69) in section 439(r)(12), by striking "section 522" and inserting "section 552".

(d) Amendment to Part C of Title IV of the Act.—Part C of title IV of the Act is amended—

(1) in section 442(d)(4)(C), by striking "three-fourths in the Pell Grant family size offset" and inserting "150 percent of the difference between the income protection allowance for a family of five with one in college and the income protection allowance for a family of six with one in college";

(2) in section 442(e)—

(A) by inserting "(1)" after the subsection heading; and

(B) by adding at the end the following new paragraph:

"(2) If, under paragraph (1) of this subsection, an institution returns more than 10 percent of its allocation, the institution's allocation for the next fiscal year shall be reduced by the amount returned. The Secretary may waive this paragraph for a specific institution if the Secretary finds that enforcing this paragraph would be contrary to the interest of the program.";

(3) in section 443(b)(2)(A), by striking "institution;" and inserting "institution; and";

(4) in section 443(b), by amending paragraph (5) to read as follows:

"(5) provide that the Federal share of the compensation of students employed in the work-study program in accordance with the agreement shall not exceed 75 percent for academic year 1993–1994 and succeeding academic years, except that the Federal share may exceed such amounts of compensation if the Secretary determines, pursuant to regulations promulgated by the Secretary establishing objective criteria for such determinations, that a Federal share in excess of such amounts is required in furtherance of the purpose of this part;"; and

(5) in section 443(b)(8), by striking subparagraphs (A), (B), and (C) and inserting the following:

"(A) that are only on campus and that—

"(i) to the maximum extent practicable, complement and reinforce the education programs or vocational goals of such students; and

"(ii) furnish student services that are directly related to the student's education, as determined by the Secretary pursuant to regulations, except that no student shall be employed in any position that would involve the solicitation of other potential students to enroll in the school; or

"(B) in community service in accordance with paragraph (2)(A) of this subsection;".

(e) Amendments to Part E of Title IV of the Act.—Part E of title IV of the Act is amended—

(1) in section 462(a)(2)(D), by striking "if the institution which has" and inserting "if the institution has";

(2) in section 462(d)(4)(C), by striking "three-fourths in the Pell Grant family size offset" and inserting "150 percent of the difference between the income protection allowance for a family of five with one in college and the income protection allowance for a family of six with one in college";

(3) in section 462(e), by reducing the indentation of paragraph (2) by two em spaces;

(4) in section 462(h)(4), by reducing the indentation of subparagraph (B) by two em spaces;

(5) in section 463(a)(2)(B)(i)(II), by striking "7.5 percent" and inserting "7.5 percent for award year 1993–1994 and has a cohort default rate which does not exceed 15 percent for award year 1994–1995 or for any succeeding award year";

(6) in section 463(c)(4), by striking "shall disclose" and inserting "shall at least annually disclose";

(7) in section 463, by adding at the end the following new subsections:

"(d) Limitation on Use of Interest Bearing Accounts.—In carrying out the provisions of subsection (a)(10), the Secretary may not require that any collection agency, collection attorney, or loan servicer collecting loans made under this part deposit amounts collected on such loans in interest bearing accounts, unless such agency, attorney, or servicer holds such amounts for more than 45 days.

"(e) Special Due Diligence Rule.—In carrying out the provisions of subsection (a)(5) relating to due diligence, the Secretary shall make every effort to ensure that institutions of higher education may use Internal Revenue Service skip-tracing collection procedures on loans made under this part.";

(8) in section 463A, by striking subsections (d) and (e);

(9) in section 464(c)(2)(B) by striking "repayment or" and inserting "repayment of";

(10) in section 464(c)(6), by striking "Fullbright" and inserting "Fulbright";

(11) in section 464(e), by striking "principle" and inserting "principal";

(12) in section 465(a)(2)(D), by striking "services" and inserting "service";

(13) in section 465(a)(2)(F), by striking "or" at the end;

(14) in section 465(a), by reducing the indentation of paragraph (6) by 2 em spaces; and

(15) in section 466(c), by reducing the indentation of paragraph (2) by two em spaces.

(f) Amendments to Part F of Title IV of the Act.—Part F of title IV of the Act is amended—

(1) in the table contained in sections 475(c)(4) and 477(b)(4), by inserting "$" before "9,510";

(2) in section 475(f)(3)—

(A) by striking "Income in the case of a parent" and inserting "If a parent";

(B) by striking "(1) of this subsection, or a parent" and inserting "(1) of this subsection, or if a parent"; and

(C) by striking "is determined as follows: The income" and inserting "the income";

(3) in section 475(g)(1)(B), by inserting a close parentheses after "paragraph (2)";

(4) in the table contained in section 475(g)(3), by adding a last row that is identical to the last row of the table contained in section 476(b)(2);

(5) in section 476, by adding at the end thereof the following new subsection:

"(d) Computations in Case of Separation, Divorce, or Death.—In the case of a student who is divorced or separated, or whose spouse has died, the spouse's income and assets shall not be considered in determining the family's contribution from income or assets.";

(6) in section 477 by adding at the end thereof the following new subsection:

"(e) Computations in Case of Separation, Divorce, or Death.—In the case of a student who is divorced or separated, or whose spouse has died, the spouse's income and assets shall not be considered in determining the family's available income or assets.";

(7) in section 478—

(A) by striking "1992–1993" each place it appears and inserting "1993–1994"; and

(B) in subsection (c)(1), by striking "1992" and inserting "1993";

(8) in section 478(h), by striking "Bureau of Labor Standards" and inserting "Bureau of Labor Statistics";

(9) in section 479(a)(1), by inserting "of" after "(c)";

(10) in section 479(b)(1)(B)(i)—

(A) by inserting "(and the student's spouse, if any)" after "student" each time it appears; and

(B) by striking "such";

(11) in section 479(b)(2), by striking "five elements" and inserting "six elements";

(12) in section 479(b)(2)(E), by striking the semicolon and inserting a comma;

(13) in section 480(c)(2), by striking "Title" each place it appears and inserting "United States Code, title";

(14) in section 480(d)(2), by inserting "or was a ward of the court until the individual reached the age of 18" prior to the semicolon; and

(15) in section 480, by adding at the end the following new subsections:

"(k) Dependents.—(1) Except as otherwise provided, the term 'dependent of the parent' means the student, dependent children of the student's parents, including those children who are deemed to be dependent students when applying for aid under this title, and other persons who live with and receive more than one-half of their support from the parent and will continue to receive more than half of their support from the parent during the award year.

"(2) Except as otherwise provided, the term 'dependent of the student' means the student's dependent children and other persons (except the student's spouse) who live with and receive more than one-half of their support from the student and will continue to receive more than half of their support from the student during the award year.

"(l) Family Size.—(1) In determining family size in the case of a dependent student—

"(A) if the parents are not divorced or separated, family members include the student's parents, and the dependents of the student's parents including the student;

"(B) if the parents are divorced or separated, family members include the parent whose income is included in computing available income and that parent's dependents, including the student; and

"(C) if the parents are divorced and the parent whose income is so included is remarried, or if the parent was a widow or widower who has remarried, family members also include, in addition to those individuals referred to in subparagraph (B), the new spouse and any dependents of the new spouse if that spouse's income is included in determining the parents' adjusted available income.

"(2) In determining family size in the case of an independent student—

"(A) family members include the student, the student's spouse, and the dependents of the student; and

"(B) if the student is divorced or separated, family members do not include the spouse (or ex-spouse), but do include the student and the student's dependents.

"(m) BUSINESS ASSETS.—The term 'business assets' means property that is used in the operation of a trade or business, including real estate, inventories, buildings, machinery, and other equipment, patents, franchise rights, and copyrights.".

(g) AMENDMENTS TO PART G OF TITLE IV OF THE ACT.—Part G of title IV of the Act is amended—

(1) in section 481(a)(3)(B), by inserting before the semicolon the following: ", except that the Secretary, at the request of such institution, may waive the applicability of this subparagraph to such institution for good cause, as determined by the Secretary";

(2) in section 481(a)(3)(D)—

(A) by striking "are admitted pursuant to section 484(d)" and inserting "do not have a high school diploma or its recognized equivalent"; and

(B) by inserting before the period the following: ", except that the Secretary may waive the limitation contained in this subparagraph if a nonprofit institution demonstrates to the satisfaction of the Secretary that it exceeds such limitation because it serves, through contracts with Federal, State, or local government agencies, significant numbers of students who do not have a high school diploma or its recognized equivalent";

(3) in section 481(a)(4), by amending subparagraph (A) to read as follows:

"(A) the institution, or an affiliate of the institution that has the power, by contract or ownership interest, to direct or cause the direction of the management or policies of the institution, has filed for bankruptcy;";

(4) in section 481(d), by amending paragraph (2) to read as follows:

"(2) For the purpose of any program under this title, the term 'academic year' shall require a minimum of 30 weeks of instructional time, and, with respect to an undergraduate course of study, shall require that during such minimum period of instructional time a full-time student is expected to complete at least 24 semester or trimester hours or 36 quarter hours at an institution that measures program length in credit hours, or at least 900 clock hours at an institution that measures program length in clock hours.";

(5) in section 481(e) by striking paragraph (2) and inserting the following:

"(2)(A) A program is an eligible program for purposes of part B of this title if it is a program of at least 300 clock hours of instruction, but less than 600 clock hours of instruction, offered during a minimum of 10 weeks, that—

"(i) has a completion rate of at least 70 percent, as determined in accordance with the regulations of the Secretary;

"(ii) has a placement rate of at least 70 percent, as determined in accordance with the regulations of the Secretary; and

"(iii) satisfies such further criteria as the Secretary may prescribe by regulation.

"(B) In the case of a program being determined eligible for the first time under this paragraph, such determination shall be made by the Secretary before such program is considered to have satisfied the requirements of this paragraph.";

(6) in section 481(f), by striking "State" and inserting "individual, or any State,";

(7) in section 482(c), by adding at the end the following new sentence: "For award year 1994–95, this subsection will not apply to regulatory changes affecting parts B, G, and H of this title.";

(8) in section 483(a)(1), by striking "section 411(d)" and inserting "section 401(d)";

(9) in section 483(a)(2), by inserting at the end the following new sentence: "No data collected on a form for which a fee is charged shall be used to complete the form prescribed under paragraph (1).";

(10) in section 483(a)(3), by inserting at the end the following sentence: "Entities designated by institutions of higher education or States to receive such data shall be subject to all requirements of this section, unless such requirements are waived by the Secretary.";

(11) in section 483(f), by striking "address, social security number," and inserting "address or employer's address, social security number or employer identification number,";

(12) in section 484(a)(4)(B), by striking the semicolon and inserting the following: "(or if the student is ineligible for or unable to obtain a social security number, such student's identification number); and ";

(13) in section 484(a)(5), by striking "in the United States for other than a temporary purpose and able to provide evidence from the Immigration and Naturalization Service of his or her intent to become a permanent resident" and inserting "able to provide evidence from the Immigration and Naturalization Service that he or she is in the United States for other than a temporary purpose with the intention of becoming a citizen or permanent resident";

(14) in section 484(b)(2)—

(A) in subparagraph (A), by striking "and";

(B) in subparagraph (B), by striking the period and inserting "; and"; and

(C) after subparagraph (B), by inserting:

"(C) has applied for a loan under section 428H, if eligible.";

(15) in section 484(b)(3), by striking "part B" and inserting "part B or D";

(16) in section 484, by striking subsection (f);

(17) in section 484(g), by inserting a comma after "Part D" each place it appears;

(18) in section 484(h)(4)(B), by striking "constitutes" and inserting "constitute";

(19) in section 484(i)(2)—

(A) by striking "(h)(4)(A)(ii)" and inserting "(h)(4)(A)(i)"; and

(B) by striking "documentation," and inserting "documentation, or";

(20) in section 484(i)(3)—

(A) by striking "(h)(4)(B)(ii)" and inserting "(h)(4)(B)(i)"; and

(B) by striking ", or" and inserting a period;

(21) in section 484(i), by striking paragraph (4);

(22) in section 484(n), by striking "part B, C," and inserting "parts B, C,";

(23) in section 484(q)(2), by striking "a correct social security number" and inserting "documented evidence of a social security number that is determined by the institution to be correct";

(24) in section 484B(a), by striking "grant, loan, or work assistance" and inserting "grant or loan assistance";

(25) in section 484B(b)(3), by striking "subsection (d)" and inserting "subsection (c)";

(26) in section 485(a)(1)(F)(iv), by inserting "under" after "awards";

(27) in section 485(a)(1)(F)(viii), by striking the period;

(28) in section 485(a)(1)(F), by striking clause (vi) and redesignating clauses (vii) and (viii) as clauses (vi) and (vii), respectively;

(29) in section 485(a)(1)(L), by inserting a comma after "full-time";

(30) in section 485(a)(3), by striking subparagraph (A) and inserting the following:

"(A) shall, for any academic year beginning more than 270 days after the Secretary first prescribes final regulations pursuant to such subparagraph (L), be made available to current and prospective students prior to enrolling or entering into any financial obligation;";

(31) in paragraphs (1)(A) and (2)(A) of section 485(b), by striking "under parts" and inserting "under part";

(32) in section 485(e), by adding at the end the following new paragraph:

"(9) This subsection shall not be effective until the first July 1 that follows, by more than 270 days, the date on which the Secretary first prescribes final regulations pursuant to this subsection. The reports required by this subsection shall be due on that July 1 and each succeeding July 1 and shall cover the 1-year period ending June 30 of the preceding year.";

(33) in section 485B(a)—

(A) by striking "part E" and inserting "parts D and E"; and

(B) by striking the second period at the end of the third sentence;

(34) in section 485B(a)(4), by striking "part E" and inserting "parts D and E";

(35) in section 485B(c), by striking "part B or part E" and inserting "part B, D, or E";

(36) in section 485B(e), by striking "under this part" each place it appears and inserting "under this title";

(37) in section 487(a)(2), by striking ", or for completing or handling the Federal Student Assistance Report";

(38) in section 487(c)(1)(F), by striking "eligibility for any program under this title of any otherwise eligible institution," and inserting "participation in any program under this title of an eligible institution,";

(39) in section 489(a), by striking "484(c)" and inserting "484(h)"; and

(40) in section 491(h)(1), by striking "subtitle III" and inserting "subchapter III".

(h) AMENDMENTS TO PART H OF TITLE IV OF THE ACT.—Part H of title IV of the Act is amended—

(1) in section 494C(a), by striking the first and second sentences and inserting the following: "The Secretary shall review all eligible institutions of higher education in a State to determine if any such institution meets any of the criteria in subsection (b). If any such institution meets one or more of such criteria, the Secretary shall inform the State in which such institution is located that the institution has met such criteria, and the State shall review the institution pursuant to the standards in subsection (d). The Secretary may determine that a State need not review an institution if such institution only meets the criterion in subsection (b)(10), such institution was previously reviewed by the State under subsection (d), and the State determined in such previous review that the institution did not violate any of the standards in subsection (d).";

(2) in section 494C(i), by striking "sections 428 or 487" and inserting "section 428 or 487";

(3) in section 496(a)(2)(A)(i), by inserting "of institutions" after "membership";

(4) in section 496(a)(3)(A), by striking "subparagraph (A)" and inserting "subparagraph (A)(i)";

(5) in section 496(a)(5)—

(A) by striking the period at the end of subparagraph (L) and inserting a semicolon; and

(B) by inserting after subparagraph (L) the following:

"except that subparagraphs (G), (H), (I), (J), and (L) shall not apply to agencies or associations described in paragraph (2)(A)(ii) of this subsection;";

(6) in section 496(c), by striking "for the purpose of this title" and inserting "as a reliable authority as to the quality of education or training offered by an institution seeking to participate in the programs authorized under this title";

(7) in section 496(l)(2)—

(A) by striking "institutution" and inserting "institution"; and

(B) by striking "association leading to the suspension" and inserting "association, described in paragraph (2)(A)(i), (2)(B), or (2)(C) of subsection (a) of this section, leading to the suspension";

(8) in section 496(n)(1), by amending subparagraph (B) to read as follows:

"(B) site visits, including unannounced site visits as appropriate, at accrediting agencies and associations, and, at the Secretary's discretion, at representative member institutions.";

(9) in section 498(c)(3), by amending subparagraph (C) to read as follows:

"(C) such institution establishes to the satisfaction of the Secretary, with the support of a report of an independent certified public accountant prepared under generally accepted accounting principles (except as provided herein), that the institution has sufficient resources (which shall include, as a current asset, the equity in land, buildings, and other facilities owned and occupied by such institution and used to provide the education and training services described in such institution's official publications and statements) to ensure against precipitous closure, including the ability to meet all of its financial obligations, including refunds of institutional charges and repayments to the Secretary for liabilities and debts incurred in programs administered by the Secretary; or";

(10) in section 498(f), by inserting after the second sentence the following: "The Secretary may establish priorities by which institutions are to receive site visits, and may coordinate such visits with site visits by States, guaranty agencies, and accrediting bodies in order to eliminate duplication, and reduce administrative burden.";

(11) in section 498(h)(1)(B), by amending clause (iii) to read as follows:

"(iii) the Secretary determines that an institution that seeks to renew its certification is, in the judgment of the Secretary, in an administrative or financial condition that may jeopardize its ability to perform its financial responsibilities under a program participation agreement.";

(12) in section 498(h)(3), by striking "the Secretary may terminate"; and inserting "the Secretary may, after providing the institution an opportunity to show that the institution meets those responsibilities, terminate";

(13) in section 498, by amending subsection (i)(1) to read as follows:

"(i) TREATMENT OF CHANGES OF OWNERSHIP.—(1) An eligible institution of higher education that has had a change in ownership resulting in a change of control shall not qualify to participate in programs under this title after the change in control (except as provided in paragraph (3)) unless it establishes that it meets the requirements of section 481 (other than the requirements in subsections (b)(5) and (c)(3)) and this section after such change in control.";

(14) in section 498(i)(3), by amending subparagraph (A) to read as follows:

"(A) the sale or transfer, upon the death of an owner of an institution, of the ownership interest of the deceased in that institution to a family member or to a person holding an ownership interest in that institution; or";

(15) in section 498(j), by amending subsection (j)(1) to read as follows:

"(j) TREATMENT OF BRANCHES.—(1) A branch of an eligible institution of higher education, as defined pursuant to regulations of the Secretary, must be certified under this subpart before it may participate as part of such institution in a program under this title, except that such branch shall not be required to meet the requirements of sections 481(b)(5) and 481(c)(3) prior to seeking such certification. Such branch is required to be in existence at least 2 years prior to seeking certification as a main campus or free-standing institution."; and

(16) in section 498A(e), by striking "Act," and inserting "Act".

(i) AMENDMENTS TO TITLES V THROUGH XII OF THE ACT.—The Act is amended—

(1) in section 505(b)(2)(D)(iii), by striking the period and inserting a semicolon;

(2) in section 525, by striking subsection (c) and inserting the following:

"(c) WAIVERS.—For purposes of giving special consideration under section 523(d), a State may waive the criteria contained in the first sentence of subsection (b) for up to 25 percent of individuals receiving Paul Douglas Teacher Scholarships on or after July 1, 1993.";

(3) in the first sentence of section 530A—

(A) by striking "means" and inserting "is determined both during a scholar's education and when the scholar begins teaching and means"; and

(B) by striking "elementary and secondary school teachers" each place it appears and inserting "preschool, elementary, and secondary school teachers";

(4) in section 535(b)(1)(C), by striking the semicolon and inserting a period;

(5) in section 537(a), by inserting "IN" before "GENERAL";

(6) in section 545(d), by striking "parts B, D," and inserting "part B, D,";

(7) in section 580B, by striking "(a) Authorization.—";

(8) in section 581(b)(2), by striking "402A(g)(2)" and inserting "402A(g)";

(9) in section 597(d)(1), by striking "Development and" and inserting "and Development";

(10) in section 602(a)(3), by striking "(1)(A)" and inserting "(1)";

(11) in section 602(a)(4), by striking "(1)(A)" and inserting "(1)";

(12) in section 603(a), by striking "RESOURCES" and inserting "Resource";

(13) in section 607(c), by redesignating the last paragraph as paragraph (3);

(14) in section 714, by striking "(a) IN GENERAL.—";

(15) in section 715(b)—

(A) by striking "(1) STATE GRANTS.—";

(B) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2);

(C) in paragraph (2) (as so redesignated) by redesignating clauses (i), (ii), and (iii) as subparagraphs (A), (B), and (C), respectively; and

(D) by reducing the indentation of such paragraphs (1) and (2) (as so redesignated) by two em spaces;

(16) in section 725—

(A) by redesignating paragraphs (2) through (5) as subparagraphs (3) through (6), respectively; and

(B) by inserting after paragraph (1) the following:

"(2) shall require that the first loans for capital projects authorized under section 723 be made no later than March 31, 1994, and that the provisions of part B be administered under the Education Department General Administrative Regulations (EDGAR), if final regulations have not been completed by that date to implement the provisions of part B;"

(17) in section 726, by inserting a period after "title" the first time it appears and striking the remainder of the sentence;

(18) in section 731(a), by striking "faculties," and inserting "faculty,";

(19) in section 731(c), by striking "enactment of";

(20) in section 734(e)—

(A) by striking "FACULTIES" and inserting "FACULTY"; and

(B) by striking "faculties" and inserting "faculty";

(21) in section 781(b), by striking "Education Amendments of 1992," and inserting "Education Amendments of 1992";

(22) in section 782(1)(A), by striking "outpatient care of student" and inserting "outpatient care of students";

(23) in the matter preceding paragraph (1) of section 802(b), by inserting after "fiscal year" the following: "the Secretary shall reserve such amount as is necessary to make continuing awards to institutions of higher education that were, on the date of enactment of the Higher Education Amendments of 1992, operating an existing cooperative education program under a multiyear project award and to continue to pay to such institutions the Federal share in effect on the day before such date of enactment. Of the remainder of the amount appropriated in such fiscal year";

(24) in section 803(b)(6)(A), by striking out "data";

(25) in section 803(e)(2)—

(A) by striking "Mexican American" and inserting "Mexican-American"; and

(B) by striking "Mariana" and inserting "Marianian";

(26) in section 901(b)(2), by striking "such part" and inserting "such title";

(27) in section 922, by striking subsection (f) and inserting the following:

"(f) INSTITUTIONAL PAYMENTS.—(1) The Secretary shall pay to the institution of higher education, for each individual awarded a fellowship under this part at such institution, an institutional allowance. Except as provided in paragraph (2), such allowance shall be—

"(A) $6,000 annually with respect to individuals who first received fellowships under this part prior to academic year 1993–1994;

"(B) with respect to individuals who first receive fellowships during or after academic year 1993–1994—

"(i) $9,000 for the academic year 1993–1994;

"(ii) for succeeding academic years, $9,000 adjusted annually thereafter in accordance with inflation as determined by the Department of Labor's Consumer Price Index for the previous calendar year.

"(2) The institutional allowance paid under paragraph (1) shall be reduced by the amount the institution charges and collects from a fellowship recipient for tuition and other expenses as part of the recipient's instructional program.";

(28) in the second sentence of section 923(b)(1), by striking "granting of such fellowships" and all that follows through "set forth in this section," and inserting "granting of such fellowships for an additional period of study not to exceed one 12-month period,";

(29) in section 923(b)(2), by striking out the second and third sentences and inserting the following: "Such period shall not exceed a total of 3 years, consisting of not more than 2 years of support for study or research, and not more than 1 year of support for dissertation work provided that the student has attained satisfactory progress prior to the dissertation stage, except that the Secretary may provide by regulation for the granting of such fellowships for an additional period of study not to exceed one 12-

month period, under special circumstances which the Secretary determines would most effectively serve the purposes of this part. The Secretary shall make a determination to provide such 12-month extension of an award to an individual fellowship recipient for study or research upon review of an application for such extension by the recipient. The institution shall provide 2 years of support for each student following the years of Federal predissertation support under this part. Any student receiving an award for graduate study leading to a doctoral degree shall receive at least 1 year of supervised training in instruction during his or her doctoral program.'';

(30) in section 923(b), by adding at the end the following new paragraph:

''(3) CONTINUATION OF AWARDS UNDER PRIOR LAW.—Notwithstanding any other provision of law, in the case of an individual who was awarded a multiyear fellowship under this part before the date of enactment of the Higher Education Amendments of 1992, awards to such individual for the remainder of such fellowship may, at the discretion of the institution of higher education attended by such individual, be subject to the requirements of this subsection as in effect prior to such date of enactment. The institution shall be required to exercise such discretion at the time that its application to the Secretary for a grant under this part, and the amount of any such grant, are being considered by the Secretary.'';

(31) in section 924, by adding at the end thereof the following new sentence: ''Notwithstanding any other provision of law, the Secretary may use funds appropriated pursuant to this section for fiscal year 1994 to make continuation awards under section 923(b)(3) to individuals who would have been eligible for such awards in fiscal year 1993 if such section had been in effect.'';

(32) in section 931(a), by inserting after the first sentence the following new sentence: ''These fellowships shall be awarded to students intending to pursue a doctoral degree, except that fellowships may be granted to students pursuing a master's degree in those fields in which the master's degree is commonly accepted as the appropriate degree for a tenured-track faculty position in a baccalaureate degree-granting institution.'';

(33) in the third sentence of section 932(a)(1), by striking ''doctoral'' and inserting ''graduate'';

(34) in section 932(c), by striking ''doctoral'' and inserting ''graduate'';

(35) in section 933(b), by striking paragraph (1) and inserting the following:

''(1) IN GENERAL.—(A) The Secretary shall (in addition to stipends paid to individuals under this part) pay to the institution of higher education, for each individual awarded a fellowship under this part at such institution, an institutional allowance. Except as provided in subparagraph (B), such allowance shall be—

''(i) $6,000 annually with respect to individuals who first received fellowships under this part prior to academic year 1993–1994;

''(ii) with respect to individuals who first receive fellowships during or after academic year 1993–1994—

''(I) $9,000 for the academic year 1993–1994;

''(II) for succeeding academic years, $9,000 adjusted annually thereafter in accordance with inflation as determined by the Department of Labor's Consumer Price Index for the previous calendar year.

''(B) The institutional allowance paid under subparagraph (A) shall be reduced by the amount the institution charges and collects from a fellowship recipient for tuition and other expenses as part of the recipient's instructional program.'';

(36) in section 941, by striking ''the part'' and inserting ''this part'';

(37) in section 943(b), by striking ''foreign languages or area studies'' and inserting ''foreign languages and area studies'';

(38) in section 945, by striking subsection (c) and inserting the following:

''(c) TREATMENT OF INSTITUTIONAL PAYMENTS.—An institution of higher education that makes institutional payments for tuition and fees on behalf of individuals supported by fellowships under this part in amounts that exceed the institutional payments made by the Secretary pursuant to section 946(a) may count such payments toward the amounts the institution is required to provide pursuant to section 944(b)(2).'';

(39) in section 946, by striking subsection (a) and inserting the following:

''(f) INSTITUTIONAL PAYMENTS.—(1) The Secretary shall (in addition to stipends paid to individuals under this part) pay to the institution of higher education, for each individual awarded a fellowship under this part at such institution, an institutional allowance. Except as provided in paragraph (2), such allowance shall be—

''(A) $6,000 annually with respect to individuals who first received fellowships under this part prior to academic year 1993–1994;

''(B) with respect to individuals who first receive fellowships during or after academic year 1993–1994—

''(i) $9,000 for the academic year 1993–1994;

''(ii) for succeeding academic years, $9,000 adjusted annually thereafter in accordance with inflation as determined by the Department of Labor's Consumer Price Index for the previous calendar year.

''(2) The institutional allowance paid under paragraph (1) shall be reduced by the amount the institution charges and collects from a fellowship recipient for tuition and other expenses as part of the recipient's instructional program.'';

(40) in section 951(a), in the matter preceding paragraph (1), by inserting ''Pacific Islanders,'' after ''Native Americans,'';

(41) in section 1004(a), by striking ''part'' and inserting ''subpart'';

(42) in section 1011(d), by striking ''part'' and inserting ''subpart'';

(43) in part D of title X, by redesignating section 1181 as section 1081;

(44) in section 1081(d) (as so redesignated) by inserting a comma after ''this title)'' and after ''such institutions'';

(45) in section 1142(d)(2), by inserting ''program'' after ''literacy corps'';

(46) in section 1201(a), by striking ''subpart 3 of part H,'' and inserting ''subpart 2 of part H of title IV of this Act,'';

(47) by amending section 1204 to read as follows:

''TREATMENT OF TERRITORIES AND TERRITORIAL STUDENT ASSISTANCE

''SEC. 1204. (a) The Secretary is required to waive the eligibility criteria of any postsecondary education program administered by the Department where such criteria do not take into account the unique circumstances in Guam, the Virgin Islands, American Samoa, the Republic of Palau, the Commonwealth of the Northern Mariana Islands, and the freely associated states.

''(b) Notwithstanding any other provision of law, an institution of higher education that is located in any of the freely associated states, rather than a State, shall be eligible, if otherwise qualified, for assistance under chapter 1 of subpart 2 of part A of title IV of this Act.'';

*(48) in section 1205, in the section heading, by inserting ''**National Advisory**'' before ''**Committee**'';*

(49) in section 1205(a), by inserting ''National Advisory'' before ''Committee'' the first place it appears;

(50) in paragraphs (1) and (6) of section 1205(c), by inserting ''of title IV of this Act'' after ''part H'';

(51) in section 1205(f), by striking ''Accreditation and Institutional Eligibility'' and inserting ''Institutional Quality and Integrity'';

(52) in section 1209(f)(1), by striking ''the Act'' and inserting ''this Act'';

(53) in title XII, by redesignating section 1211 (as added by section 6231 of the Omnibus Trade and Competitiveness Act of 1988) as section 1212; and

(54) in section 1212(e)(2) (as so redesignated), by inserting close quotation marks after ''facilities'' the first place it appears.

(j) AMENDMENTS TO THE 1992 AMENDMENTS.—The Higher Education Amendments of 1992 is amended—

(1) in section 401(d)(2)(A), by inserting ''the first place it appears'' before ''the following:'';

(2) in section 425(d)(1)—

(A) by inserting ''the second sentence of'' after ''(1) in''; and

(B) by striking ''in the second sentence'';

(3) in section 425(d)(4)—

(A) by inserting ''the second sentence of'' after ''(4) in''; and

(B) by striking ''in the second sentence'';

(4) in section 426(c), by striking ''new subsections'' and inserting ''new subsection'';

(5) in section 432(a)(3), by striking ''427(a)(2)(C) and 428(b)(1)(M)'' and inserting ''427(a)(2)(C), 428(b)(1)(M), and 428B(d)(1)'';

(6) in section 432(a)—

(A) by redesignating paragraphs (13), (14), and (15), as paragraphs (14), (15), and (16), respectively; and

(B) by inserting immediately after paragraph (12) the following new paragraph:

''(13) that the changes made to subsections (a) and (c) of section 435, as they relate to the elimination of vocational schools from the definition of an eligible institution and to the repeal of the definition of a vocational school, shall be effective as of the effective date of final regulations implementing section 481(e)(2)(A) of the Act;'';

(7) in section 446, by striking subsection (c);

(8) in section 465(a), by amending paragraph (1) to read as follows:

''(1) in subparagraph (A), by striking 'and such determination' and all that follows through 'such chapter 1';'';

(9) in section 484, by inserting after subsection (h) the following new subsection:

''(i) EFFECTIVE DATE.—The amendments made by subsection (g) with respect to the addition of subsection (n) shall be effective on and after December 1, 1987.'';

(10) in section 486(a)(3), by striking ''section 1'' and inserting ''section 103'';

(11) in section 498—

(A) by redesignating paragraphs (3), (4), (5), (6), and (7) as paragraphs (4), (5), (6), (7), and (8), respectively;

(B) by inserting immediately after paragraph (2) the following new paragraph:

''(3) the changes made to section 481(b) and (c), relating to the references to an eligible program, shall be effective as of the effective date of final regulations implementing section 481(e)(2)(A) of the Act;''; and

(C) by amending paragraph (4) (as redesignated by subparagraph (A)) to read as follows:

''(4) section 481(e), as added by such amendments, relating to the definition of an eligible program, shall be effective as of the effective date of final regulations implementing paragraph (2)(A) of such section;'';

(12) in section 1409(b)(1), by striking ''the Asbestos Hazard Emergency Response Act'' and inserting ''section 202 of the Toxic Substances Control Act (15 U.S.C. 2642)'';

(13) in section 1422(9), by striking "has placed" and inserting "have placed";

(14) in section 1442(c), by striking "Chairman" and inserting "Chairperson";

(15) in section 1541(g), by striking "educational" and inserting "education"; and

(16) in section 1554(a)(1), by striking "4" and inserting "6".

(k) AMENDMENT TO THE 1986 AMENDMENT.—Section 1507(a)(12) of the Higher Education Amendments of 1986 is amended by striking the period and inserting a semicolon.

(l) ACCREDITATION THROUGH TRANSFER OF CREDIT.—(1) An institution of higher education which satisfied the requirements of section 1201(a)(5)(B) of the Act prior to the enactment of the Higher Education Amendments of 1992, shall be considered to meet the requirements of section 1201(a)(5) of the Act if—

(A) within 60 days after the date of enactment of the Higher Education Technical Amendments of 1993, such institution has applied for accreditation by a nationally recognized accrediting agency or association which the Secretary determines, pursuant to subpart 2 of part H of title IV of the Act, to be a reliable authority as to the quality of education or training offered; and

(B) within 2 years of the date of enactment of the Higher Education Technical Amendments of 1993, such institution is accredited by such an accrediting agency or association or, if not so accredited, has been granted preaccreditation status by such an agency or association that has been recognized by the Secretary for the granting of preaccreditation status, and the Secretary has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time.

(2) Paragraph (1) of this subsection shall be effective July 23, 1992.

(m) AMENDMENT TO PART D OF TITLE IV OF THE ACT.—Section 453(b)(2)(B) of the Act is amended to read as follows:

"(B) if the Secretary determines it necessary in order to carry out the purposes of subparagraph (A) and attain such reasonable representation (as required by subparagraph (A)), selecting additional institutions.".

HIGHER EDUCATION TECHNICAL AMENDMENTS

Mr. PELL. Mr. President, House and Senate staff have been working for the past 2 weeks to work out differences between the higher education technicals legislation approved by both Houses. The legislation before us is the result of their long hard work. It is needed legislation, and I would hope that we might be able to pass it before we adjourn this session.

There were over 280 items of difference between the two bills. Of these, more than 130 were corrections of grammar, punctuation, and spelling in the Higher Education Amendments of 1992. The remainder were clarifications of congressional intent with respect to provisions of those same amendments. A very few of these changes, however, are of considerable significance, and merit specific mention.

The legislation alters current law for our graduate education and cooperative education programs. These are crucial to the effective operation of those important programs, and to make sure that participants in these programs, especially those in the Patricia Roberts Harris Fellowship Program, can receive the assistance they need to pursue their postsecondary education.

The agreement reached at the staff level would also alleviate concerns regarding displacement of Pell grant recipients due to the needs analysis simplification accomplished last year. By giving financial aid officers the discretion to adjust the award of any student who lost a significant portion of their grant over the past year, this provision insures that all students will be treated fairly under the new law. I would point out, however, that a supplemental appropriation will be necessary in order for this provision to take effect.

The bill would also change provisions regarding the cohort default rate. This is necessary to insure that the Department can more effectively administer this program and crack down on institutions that may be able to unjustifiably use current law to avoid being kicked out of Federal student aid programs. At the same time, it provides protection for sound, legitimate institutions so that erroneous data will not be used in calculating their actual default rate.

We also clarify the financial responsibility provisions enacted as part of the 1992 Higher Education Amendments. This will protect institutions that are not financially at risk, but it does so without weakening the current law. It has been difficult to strike the necessary balance in this area, but the provisions in the amendment will, we believe, make sure that financially at-risk institutions will be subject to careful scrutiny and even exclusion from participation in Federal student aid programs. Our goal in this regard has been a constant one: to insure that students have access to a quality education at schools that are strong and viable institutions of postsecondary education.

This agreement would also safeguard Pell grant funds by clarifying that institutions may not use a provision in current law to keep the Secretary of Education from putting them on a reimbursement system. This same language was included in the original Senate-passed bill in response to concerns raised by the Department of Education.

To further safeguard all Federal student aid funds, the agreement would require institutions to verify the accuracy of the data used to determine program eligibility for all student aid applicants. Current law requires institutions to verify such data for only 30 percent of their applicants.

Mr. President, this agreement contains a number of critical and time-sensitive technical corrections to the Higher Education Act. The Senate has already approved a number of the provisions included in this agreement. In some cases, the Senate has acted favorably on these provisions twice before. It is important that we approve this important legislation before we adjourn, and I urge my colleagues to support this very necessary measure.

AMENDMENT NO. 1227

Mr. FORD. Mr. President, I move that the Senate concur in the House amendment with the following amendment.

The PRESIDING OFFICER. The clerk will report:

The legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD] for Mr. Kennedy, proposes an amendment numbered 1227.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

The PRESIDING OFFICER. The motion is agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BROWN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

S. RES. 160

S. RES 162

S. RES. 167

S. CON. RES. 44

S. CON. RES. 50

Mr. FORD. Mr. President, I ask unanimous consent that the Senate turn to consideration of the following calendar numbers: 301, S. Res. 160, the Burundi Resolution; 302, S. Res. 162, the Hugo Prinez Resolution; 304, S. Res. 167, the Marsh Arabs of Southern Iraq Resolution; 305, S. Con. Res. 44, the International Year of the World's Indigenous Peoples Concurrent Resolution; and 306, S. Con. Res. 50, the Boycott of Israel Concurrent Resolution; that they be considered, en bloc; that any committee reported amendments deemed be agreed to; that the resolutions be agreed to, and any preambles agreed to; that the motions to reconsider be tabled, en bloc, and that any statements thereon appear in the RECORD at the appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution and concurrent resolutions were considered and deemed agreed to, as follows:

BURUNDI RESOLUTION

The resolution (S. Res. 160) expressing the sense of the Senate regarding the October 21, 1993, attempted coup d'etat in Burundi, and for other purposes, was considered and agreed to. The preamble was agreed to. The resolution and the preamble are as follows:

S. RES. 160

Whereas Burundi has a long history of military rule and ethnic conflict between the majority Hutu and the minority Tutsi;

Whereas on March 9, 1992, the people of Burundi adopted a democratic constitution, leading to Burundi's first multiparty election on June 1, 1993, through which Melchoir Ndadaye was overwhelmingly elected president in a free and fair election;

Whereas President Ndadaye had shown his commitment to ethnic reconciliation and democracy by appointing members of the opposition to key government posts;

Whereas recent years have also witnessed a period of ethnic reconciliation in Burundi, in large part because of policies implemented by former President Buyoya;

Whereas on October 21, 1993, President Ndadaye and other senior government officials were murdered by coup plotters; and

Whereas the attempted coup and murder of President Ndadaye sparked ethnically motivated attacks throughout the country, resulting in widespread deaths and approximately 500,000 refugees fleeing to neighboring Rwanda, Tanzania, and Zaire: Now, therefore, be it

Resolved, That the Senate—

(1) strongly condemns the attempted coup d'etat in Burundi and the murder of President Ndadaye;

(2) commends the people of Burundi for their commitment to democracy by adopting a constitution and holding free and fair elections, and for their respect for the democratic process;

(3) urges the people of Burundi to help end ethnic strife that has caused untold suffering;

(4) encourages the people of Burundi to continue their commitment to ethnic reconciliation and democracy;

(5) commends the Clinton administration for its prompt condemnation of the October 21, 1993, coup in Burundi; and for the immediate suspension of foreign assistance to Burundi;

(6) calls upon the Organization of African Unity (OAU) to bolster and support the continuation of democracy and the end of ethnic strife in Burundi; and

(7) calls upon the international community to assist the OAU in its efforts to strengthen democracy in Burundi and to address the humanitarian needs of Burundian refugees in Rwanda, Tanzania, and Zaire.

HUGO PRINCZ RESOLUTION

The resolution (S. Res. 162) relating to the treatment of Hugo Princz, a United States citizen, by the Federal Republic of Germany, was considered and agreed to. The preamble was agreed to. The resolution and the preamble are as follows:

S. RES. 162

Whereas Hugo Princz and his family were United States citizens residing in Europe at the outbreak of World War II;

Whereas as civilians, Mr. Princz and his family were arrested as enemy aliens of the German Government (not prisoners of war) in early 1942;

Whereas the Government of Germany, over the protests of Mr. Princz's father, refused to honor the validity of the Princz family's United States passports on the grounds that the Princz family were Jewish Americans and failed to return the Princz family to the United States as part of an International Red Cross civilian prisoner exchange;

Whereas the Princz family was instead sent to Maidanek concentration camp in Poland, after which Mr. Princz's father, mother and sister were shipped to Treblinka death camp and exterminated;

Whereas Mr. Princz and his two younger brothers were transported by cattle car to Auschwitz to serve as slave laborers, where Mr. Princz was forced to watch as his two siblings were intentionally starved to death while they lay injured in a camp hospital;

Whereas Mr. Princz was subsequently transferred to a camp in Warsaw and, then, by death march, to the Dachau slave labor facility;

Whereas in the closing days of the war, Mr. Princz and other slave laborers were selected for extermination by German authorities in an effort to destroy incriminating evidence of war crimes;

Whereas hours before his scheduled execution, Mr. Princz's death train was intercepted and liberated by United States Armed Forces, and Mr. Princz was sent to an American military hospital for treatment;

Whereas although the actions of the United States Army saved Mr. Princz's life, he was sent to an American facility and was never processed through a "Center for Displaced Persons", a development which would later affect his eligibility to receive reparations for his suffering;

Whereas following his hospitalization, Mr. Princz was permitted to enter then-Communist-occupied Czechoslovakia to search for family members, and, after determining that he was the sole survivor, Mr. Princz traveled to America where he was taken in by relatives;

Whereas in the early 1950s, the Federal Republic of Germany (FRG) established a reparations program for "survivors", to which Mr. Princz made timely application in 1955;

Whereas Mr. Princz's application was rejected, and Mr. Princz has argued that his rejection was based on the grounds that he was a United States national at the time of his capture and later rescued and not a "stateless" person or "refugee";

Whereas Mr. Princz has not received relief from the Federal Republic of Germany in the intervening 40 years;

Whereas Mr. Princz's diplomatic remedies were exhausted by late 1990, forcing him to sue the Federal Republic of Germany in the Federal District Court for the District of Columbia in 1992;

Whereas the Court denied Germany's dismissal motion and determined Mr. Princz's situation to be sui generis, given Germany's concurrence with the material facts in the case and its simultaneous failure to accept financial responsibility with respect to Mr. Princz, when it has distributed billions of dollars in compensation to other Nazi death camp survivors, simply because of his American citizenship at the time of Mr. Princz's capture and later rescue;

Whereas the trail is now stayed pending Germany's appeal to the District of Columbia Circuit to require the case to be dismissed on grounds of sovereign immunity; and

Whereas Germany's refusal to redress Mr. Princz's unique and tragic grievances and to provide him a survivor's pension undercuts its oft-voiced claims to have put its terrible past behind it: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President and Secretary of State should—

(1) raise the matter of Hugo Princz with the Federal Republic of Germany, including the Chancellor and Foreign Minister, and take all appropriate steps necessary to ensure that this matter will be expeditiously resolved and that fair reparations will be provided Mr. Princz; and

(2) state publicly and unequivocally that the United States will not countenance the continued discriminatory treatment of Hugo Princz in light of the terrible torment he suffered at the hands of the Nazis.

MARSH ARABS OF SOUTHERN IRAQ RESOLUTION

The Senate proceeded to consider the resolution (S. Res. 167) expressing the sense of the Senate concerning the Iraqi Government's campaign against the Marsh Arabs of southern Iraq, which had been reported from the Committee on Foreign Relations with amendments.

The amendments were agreed to.

The resolution, as amended, was agreed to.

The preamble as amended was agreed to.

The resolution, as amended, and the preamble, as amended, are as follows:

S. RES. 167

Whereas, the government of Saddam Hussein has a long and well documented history of brutal repression of the population of Iraq;

Whereas, Saddam Hussein carried out a methodical campaign of genocide against Iraqi Kurds, including extensive efforts to render large areas of Iraqi Kurdistan uninhabitable and the use of poison gas in violation of international law;

Whereas, Saddam Hussein is now conducting a massive campaign of repression against the population of Shiite Arabs in southern Iraq known as the marsh Arabs or the *Maadan*;

Whereas, this campaign includes an enormous effort to drain the wetlands at the confluence of the Tigris and the Euphrates which have sustained the distinct marsh Arab civilization for thousands of years;

Whereas, in addition to draining the wetlands Iraqi troops have extensively shelled villages in the marshes;

Whereas, the campaign against the marsh Arabs appears to constitute an effort to drive the entire civilian population out of the marshes and to destroy the way of life of a distinct community within Iraq;

Whereas, there are recent reports that Iraqi troops have employed chemical weapons against the marsh Arabs in violation of international law and United Nations Security Council resolutions concerning Iraq;

Whereas, prior to the Gulf War the world community did not stop Saddam Hussein from employing similar tactics against the Kurds: Now, therefore, be it hereby

Resolved by the Senate, That the United States Government should immediately—

(a) raise the issue of Saddam Hussein's campaign of repression against the marsh Arabs in the Security Council;

(b) insist that United Nations weapons inspectors be permitted to conduct on site inspections concerning the possible use by Iraqi troops of chemical weapons;

(c) seek to provide humanitarian assistance to persons fleeing from the marshes; and,

(d) study and report to the Congress concerning the environmental consequences of the destruction of this vast wetlands area.

INTERNATIONAL YEAR OF THE WORLD'S INDIGENOUS PEOPLES CONCURRENT RESOLUTION

The Senate proceeded to consider the concurrent resolution (S. Con. Res. 44) to express the sense of the Congress concerning the International Year of the World's Indigenous Peoples, which had been reported from the Committee on Foreign Relations with amendments,

The amendments were agreed to.

The resolution, as amended, was agreed to.

The preamble was agreed to.

The resolution, as amended, and the preamble, are as follows:

S. CON. RES. 44

Whereas, United Nations Resolution 45/164 of December 18, 1990, proclaimed the year 1993 as the International Year of the World's Indigenous Peoples, in order to strengthen international cooperation for a solution to the problems faced by indigenous communities in areas such as human rights, the environment, development, education, and health;

Whereas indigenous peoples are descendants of the original inhabitants of many countries with diverse cultures, religions, languages, and social and economic customs;

Whereas an estimated 300 million indigenous peoples live in more than 70 countries, including the United States;

Whereas indigenous peoples are often disadvantaged and face common difficulties in their homelands, including issues such as self-determination, the preservation of land and natural resources, the preservation of culture, arts, and language, and dismal social and economic conditions;

Whereas many indigenous peoples continue to face discrimination and exploitation in their homelands;

Whereas the rights and social and economic conditions of indigenous peoples have often been overlooked by individual nations and the international community; and

Whereas the United Nations Working Group on Indigenous Populations has drafted a Declaration on the Rights of Indigenous Peoples: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) the United States should cooperate with the United Nations in its efforts to raise the level of public interest in and consciousness of the problems of indigenous peoples;

(2) the United States should address the rights and improve the social and economic conditions of its own indigenous peoples, including Native American Indians, Alaska Natives, Native Hawaiians, Chamorros, American Samoans, and Palauans;

(3) the United States should support the United Nations in its efforts to establish international standards on the rights of indigenous peoples; and

(4) the United States recognizes that the year 1993 is an insufficient time period for promoting public awareness of the plight of indigenous peoples and urges the United Nations to proclaim an International Decade of the World's Indigenous Peoples.

BOYCOTT OF ISRAEL CONCURRENT RESOLUTION

The concurrent resolution (S. Con. Res. 50) concerning the Arab League boycott of Israel, was considered and agreed to. The preamble was agreed to. The resolution and the preamble are as follows:

S. CON. RES. 50

Whereas the signing on September 13, 1993, of the Declaration of Principles between the Palestine Liberation Organization and the Government of Israel signals a new era of cooperation in the Middle East;

Whereas a true peace in the Middle East can only be established and remain in effect if there is economic stability and cooperation in the region;

Whereas adherence to the Arab League boycott of Israel is a source of economic instability in the Middle East;

Whereas the members of the Arab League instituted a primary boycott against Israel in 1948;

Whereas in the early 1950's the Arab states instituted a secondary and tertiary boycott against United States and other firms because of their commercial ties to Israel;

Whereas the boycott attempts to use economic blackmail to force United States firms to comply with boycott regulation;

Whereas the boycott was cited by the United States Trade Representative in the 1992 National Trade Estimate Report on Foreign Trade Barriers as an "additional legal restraint to United States trade in the region";

Whereas hundreds of United States firms have been blacklisted and barred from doing business with members of the Arab League under the secondary and tertiary boycott;

Whereas the total damage caused by the boycott is unknown because the number of United States firms that conduct business with Israel have not attempted commercial transactions with members of the Arab League due to the boycott is uncertain; and

Whereas the United States has a policy of prohibiting United States firms from providing Arab states with the requested information about compliance to boycott regulation; Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. SHORT TITLE.

This resolution may be cited as the "Anti-Boycott Resolution of 1993".

SEC. 2. EXPRESSION OF CONGRESSIONAL VIEWS.

The Congress—

(1) believes the continuation of the Arab League boycott of Israel will be a severe impediment to the economic prosperity of all participating nations and to the establishment of a lasting peace and prosperity in the Middle East;

(2) believes the secondary and tertiary boycott cause substantial economic losses to United States firms;

(3) welcomes the actions by those members of the Arab League that have begun dismantling the secondary and tertiary boycott, and urges them to continue their efforts until a complete dissolution of the primary, secondary, and tertiary boycott is achieved;

(4) hopes that the indefinite postponement of the October 24, 1993, meeting of the Central Boycott Committee signals an end to the placement of more United States firms on the boycott list and a willingness to dismantle the boycott in its entirety;

(5) urges those states that have begun to or are considering dismantling all forms of the boycott to proceed promptly with such dismantlement;

(6) urges those states that are still enforcing the boycott to dismantle the boycott in all its forms and to issue the necessary laws, rules, and regulations to ensure that United States firms have free and open access to Arab markets regardless of their business relationships with Israel;

(7) urges those states, in addition, to cease enforcing and requiring participation in the boycott in its primary, secondary, and tertiary forms;

(8) urges the United States Government to continue to raise the boycott as an unfair trade practice in every appropriate international trade forum; and

(9) expresses the sense of the Congress that the end of the Arab League boycott of Israel is of great urgency to the United States Government and will continue to be a priority issue in all bilateral relations with participating states until its complete dissolution.

Mr. LIEBERMAN. Mr. President, it gives me great pleasure to be an original cosponsor of this resolution and to urge my colleagues to vote for its adoption. The story of Hugo Princz and his family is one of great tragedy and legalistic folly. I will not recount the details of this story since they appear in the text of the resolution itself, but I urge my colleagues to read this amazing story of a family which was denied the protections they were entitled as American citizens in Germany at the outbreak of World War II. This family suffered great losses at the hands of Nazi tyranny and only Hugo Princz survived the death camps to which his family was sent even though they were Americans. Mr. Princz is alive today because he was rescued by American soldiers who liberated the death train which was carrying him to his execution. yet it was this very rescue which led to the circumstances which have been cited as the cause for his ineligibility for reparations from the German Government. He has been denied the reparations which Germany has paid other death camp survivors because of the mere fact that his rescue by Americans meant that he did not process through a center for displaced persons. This is a legalistic folly which the Government of Germany should be embarrassed to advance. There is no doubt that a great wrong was done to Hugo Princz as it was to too many other Jews by the Nazis. The Government of Germany has worked hard to right the wrongs of the past, yet it is unwilling to take the final step necessary and to acknowledge its debt to Hugo Princz.

This resolution should not be necessary. The Government of Germany should have resolved this matter long ago, but it has not. I hope that the Government of Germany will see the support that this resolution has in the United States Senate and will do whatever it can to end this folly. No one can give Hugo Princz back the loved ones he watched die, but the Federal Republic of Germany can and should acknowledge this tragedy and provide the fair reparations which are Hugo Princz's due.

Mr. LAUTENBERG. Mr. President, today the Senate will consider a resolution calling on the German Government to provide fair reparations to Mr. Hugo Princz, Senate Resolution 162. I urge my colleagues to approve this resolution without delay.

Hugo Princz is a constituent from Highland Park. His story is tragic. Sadly, because he is an American citizen he has been unable to collect fair reparations for his suffering during the Second World War.

Mr. Princz and his family lived in Europe at the outbreak of World War II. Although United States citizens and civilians at the time, Mr. Princz and his family were arrested as enemy aliens of the German Government in early 1942.

Despite the protests of Mr. Princz's father, the Government of Germany refused to honor the validity of the Princz family's United States passports.

Mr. President, the Princz family were Jewish Americans. Consequently, the Government of Germany refused to return them to the United States although a civilian prisoner exchange program was available through the International Red Cross.

Instead, the Princz family was sent to the Maidanek concentration camp in Poland. Mr. Princz's father, mother, and sister were shipped to Treblinka death camp and exterminated.

Mr. Princz and his two younger brothers were transported by cattle car to Auschwitz to serve as slave laborers. At Auschwitz, Mr. Princz was forced to watch as his two brothers were starved to death while they lay injured in a camp hospital. Mr. Princz was subsequently transferred to a camp in Warsaw and then, by death march, to the Dachau slave labor facility.

In the closing days of the war, Mr. Princz and other slave laborers were selected for extermination by Germany in an effort to destroy incriminating evidence of war crimes. Fortunately, hours before Mr. Princz's scheduled execution, his death train was intercepted and liberated by U.S. Armed Forces personnel.

United States personnel recognized Mr. Princz as an American by the designation "USA" stenciled by the Germans on his concentration camp garb, and he was sent to an American military hospital for immediate treatment.

The actions of the U.S. Army were commendable. They saved Mr. Princz' life. However, because Mr. Princz was given immediate medical treatment, he was never processed through a center for displaced persons. This process would later affect his eligibility to receive reparations for his suffering.

Following his hospitalization, Mr. Princz was permitted to enter then-Communist-occupied Czechoslovakia to search for family members. After determining that he was the sole survivor, Mr. Princz traveled to America.

In the early 1950's, the Federal Republic of Germany established a reparations program for survivors. Mr. Princz' application was rejected because he had not been classified as a "stateless" person or "refugee."

Had he been processed through the center for displaced persons" instead of receiving immediate medical care in a U.S. facility, Mr. Princz would have received this designation. Instead, he has been considered a U.S. national and, therefore, ineligible for fair reparations.

Although the Federal Republic of Germany has provided reparations to thousands of Holocaust survivors, Mr. Princz hasn't received a dime.

Mr. President, it's time for the Federal Republic of Germany to recognize its injustice against Mr. Princz. Mr. Princz has suffered enough. He should receive fair reparations.

This resolution urges the President and the Secretary of State to raise this case with the Federal Republic of Germany. It also urges them to take all appropriate steps necessary to ensure that this matter will be expeditiously resolved and that fair reparations will be provided Mr. Princz.

Mr. President, the Federal Republic of Germany cannot bring back Hugo Princz' family or erase the painful memories of the tragic years he spent in slave labor camps. But, the Federal Republic of Germany can and should acknowledge Mr. Princz's tragic story and provide him with fair reparations which are long overdue.

I urge my colleagues to approve this resolution without delay.

Mr. DURENBERGER. Mr. President, I am pleased that the Foreign Relations Committee has favorably reported Senate Resolution 160, a resolution I introduced which strongly condemns the recent attempted coup d'etat in Burundi and the assassination of its democratically elected president, Melchoir Ndadadye. I would like to thank my colleagues on the committee for taking swift action on this measure, and I urge all of my colleagues to support its passage.

Mr. President, I am no expert on Africa. But throughout my years in the Senate, I have been fortunate enough to form personal relationships with several African leaders. For this reason, I have a special interest in events on this continent.

About a month ago, in the midst of our debate over the United States presence in Somalia, several of us sat down to breakfast with a fairly young man who not long before had been elected President of Burundi in that country's first ever multiparty election. We found him to be committed to national unity, democracy, and economic progress.

At the time, I did not know much about Burundi, and I would guess that some of my colleagues have never even heard of this country. It is a small country, with a history of military rule and ethnic violence. Earlier this year, the people of Burundi made giant strides toward democracy, holding the country's first ever multiparty elections.

Just 2 weeks later, I learned that a military coup was taking place in Burundi, and the President had been killed. Luckily, the coup failed. But as a result of these events, ethnically motivated attacks have ravaged Burundi's countryside and more than one-tenth of the population had fled the country to neighboring Rwanda, Tanzania, and Zaire.

A few days ago, I spoke with University of Minnesota basketball's star center, Ernest Nzigamasabo, who happens to be from Burundi. A member of the minority Tutsi ethnic group in Burundi, Ernest has been in Minnesota for the past 6 years on a student visa—the last 4 years at the university.

Although approximately 700,000 Burundis have fled the country and many members of Ernest's family have been killed, his father refuses to leave. During our conversation, Ernest explained to me the depth of the ethnic conflict in Burundi and his hope that his generation can stop the cycle of conflict.

Mr. President, since the attempted coup, significant positive events have taken place, and I am hopeful that Burundi's problems will be resolved in the near future. The surviving members of the Government have recently come out of hiding and are attempting to follow the provisions of their constitution. And just today, it was reported that the United Nations Security Council has approved sending a fact finding delegation to Burundi.

This is a bipartisan resolution. It does not call for deploying U.S. troops. What it does in a broad sense is let the people of Burundi know that the United States is supportive of their efforts to bring democracy and ethnic reconciliation to their country. It is meant to bolster the hope of people like Ernest and his family.

Mr. President, I would like to thank all of my colleagues who cosponsored this resolution, and I urge its unanimous passage.

Thank you, Mr. President. I yield the floor.

INDIAN TRIBAL JUSTICE ACT

Mr. FORD. Mr. President, I submit a report of the committee of conference on H.R. 1268 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 1268), a bill to assist the development of tribal judicial systems, and for other purposes. Having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of RECORD.)

Mr. FORD. Mr. President, I ask unanimous consent that the conference report be agreed to, the motion to reconsider laid upon the table, and any statements thereon appear in the RECORD at the appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the conference report on H.R. 1268 was agreed to.

THE CONFERENCE REPORT FOR H.R. 1268, THE INDIAN TRIBAL JUSTICE ACT

Mr. MCCAIN. Mr. President, I am pleased that we have finally been able to reach agreement on this legislation. It has been nearly 6 years since the Committee on Indian Affairs began the process of developing and considering legislation to assist Indian tribal governments in the development and operation of justice systems. On the face of it, this effort would seem to be very straight forward. However, it has been fraught with profound disagreements among all interested parties. In the early stages of developing this legislation, we encountered great difficulty in reaching consensus among the tribal governments. At every stage in the process we have had to deal with objections from the Bureau of Indian Affairs. And, as many of my colleagues know, we encountered extreme difficulty in resolving our differences with the House during the last Congress.

I am happy to say today that we have finally resolved all differences and have produced a bill which moves the Federal Government and the Indian tribal governments in the right direction. As is the case in all compromises, this bill does not provide everything which everyone felt was necessary to redress the unmet needs of tribal justice systems. It will provide a basis from which most of the known problems can be resolved.

The conference substitute authorizes $50 million per year for the next 6 years to provide base support funding to tribal justice systems. In addition, $7 million per year is authorized to provide education, training and technical assistance for tribal judicial personnel. The present Branch of Judicial Services in the Bureau of Indian Affairs will be elevated to the Office of Tribal Justice Support, $500,000 per year is authorized for the administrative expenses of the office. This legislation also provides for an annual survey of the needs of tribal justice systems. Tribal judicial conferences are authorized to receive up to $500,000 per year for administrative costs and to enter into contracts under the Indian Self-Determination and Education Assistance Act to provide training, education and technical assistance to the tribal governments which are members of a conference.

We still have before us the task of ensuring that adequate appropriations are made available to carry out this legislation. I was pleased to hear the Bureau of Indian Affairs state in testimony to the Committee on Indian Affairs earlier this year that they intend to request $30 million for Indian justice systems in fiscal year 1995 and to seek funding for a long overdue needs assessment. I call upon President Clinton to include this request in his budget for 1995. I hope that the Appropriations Committee will work closely with us to ensure that these funds are provided.

Mr. President, I want to thank everyone who worked so long and hard to bring this legislation to final passage. As always, we owe a debt of gratitude to the distinguished chairman of the Indian Affairs Committee, Senator INOUYE. Our colleagues in the House, the chairman of the Committee on Natural Resources, Mr. MILLER and the chairman of the Subcommittee on Native Americans, Mr. RICHARDSON have worked very closely with us to resolve the problems which prevented us from reaching agreement in the last Congress. I thank them for their effort and their constructive approach to this legislation. Last, and certainly not least, I want to thank the hundreds of tribal leaders and judges who have worked with us on this legislation. I know that for many of them this legislation falls short of their expectations. I hope that they will continue to work with us over the next several years so that we can have a basis for further progress when we reauthorize this legislation in 1998.

AUTHORIZING PRODUCTION OF SENATE RECORDS

Mr. FORD. Mr. President, on behalf of the majority leader and the Republican leader, I send S. Res. 171 to the desk relating the authorization of production of Senate records and ask unanimous consent that the Senate proceed to its immediate consideration; that the resolution be agreed to, the preamble be agreed to; that the motion to reconsider be laid upon the payable table, and that a statement by the majority leader appear in the appropriate place in the RECORD as if given.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 171) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 0171

Whereas, the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs has been conducting an investigation of allegations of abuses in the Pell Grant financial assistance program;

Whereas, several law enforcement entities have requested access to records of the Subcommittee's investigation;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolve, That the Chairman and Ranking Minority Member of the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, acting jointly, are authorized to provide, to law enforcement and regulatory entities requesting access, records of the Subcommittee's investigation of alleged abuses in the Pell Grant program.

Mr. MITCHELL. Mr. President, several law enforcement entities have requested access to documents from the files of Permanent Subcommittee on Investigations relating to its investigation into allegations of fraud, waste, abuse, and mismanagement in the Pell Grant Program, which is a Federal student financial assistance program.

In keeping with the Senate's customary practice with regard to similar requests, this resolution would authorize the chairman and ranking minority member of the Subcommittee to provide to these agencies, and other law enforcement and regulatory entities that may make similar requests, Subcommittee records of its investigation into allegations of abuses in the Pell Grant Program.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FORD. Mr. President, if you will bear with me a little bit, I have several executive calendar unanimous consent agreements.

I ask unanimous consent that the Senate proceed to executive session to consider the following nominations:

Calendar Nos. 428, 486, 513, 521, 529, 538, 539, 540, 541, 542, 544, 545, 546, 547, 548, 549, 550, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604 605 606, 607, 608. And all nominations placed on the secretary's desk in the Air Force, Marine Corps and Navy.

I further ask unanimous consent that the nominees be confirmed, en bloc, that any statement appear in the RECORD as if read; that upon confirmation, the motions to reconsider be laid upon the table, en bloc, and that the President be immediately notified of the Senate's actions.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations, considered and confirmed, en bloc, are as follows:

FEDERAL COMMUNICATIONS COMMISSION

Reed E. Hundt, of Maryland, to be a Member of the Federal Communications Commission for a term of five years from July 1, 1993.

DEPARTMENT OF JUSTICE

Jo Ann Harris, of New York, to be an Assistant Attorney General.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Harold Varmus, of California, to be Director of the National Institutes of Health.

NATIONAL MEDIATION BOARD

Magdalena G. Jacobsen, of Oregon, to be a Member of the National Mediation Board for the term expiring July 1, 1996.

Robert S. Gelbard, of Washington, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Assistant Secretary of State for International Narcotics Matters, vice Melvyn Levitsky, resigned.

Brian J. Donnelly, of Massachusetts, to be an Alternate Representative of the United States of America to the Forty-eighth Session of the General Assembly of the United Nations.

Stuart George Moldaw, of California, to be an Alternate Representative of the United States of America to the Forty-eighth Session of the General Assembly of the United Nations.

EXECUTIVE OFFICE OF THE PRESIDENT

Jennifer Anne Hillman, of the District of Columbia, for the rank of Ambassador during her tenure of service as Chief Textile Negotiator.

UNITED STATES INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

John Chrystal, of Iowa, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 1994.

Mark L. Schneider, of California, to be an Assistant Administrator of the Agency for International Development.

George J. Kourpias, of Maryland, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 1994.

Lottie Lee Shackelford, of Arkansas, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 1995.

M. Douglas Stafford, of New York, to be an Assistant Administrator of the Agency for International Development. Natsios, resigned.

Larry E. Byrne, of Virginia, to be an Assistant Administrator of the Agency for International Development.

UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY

John David Holum, of South Dakota, to be Director of the United States Arms Control and Disarmament Agency.

INTER-AMERICAN DEVELOPMENT BANK

L. Ronald Scheman, of the District of Columbia, to be United States Executive Director of the Inter-American Development Bank for a term of three years.

INTERNATIONAL MONETARY FUND

Karin Lissakers, of New York, to be United States Executive Director of the International Monetary Fund for a term of two years.

DEPARTMENT OF JUSTICE

John Joseph Kelly, of New Mexico, to be United States Attorney for the District of New Mexico for the term of four years.

Gerald Mann Stern, of California, to be Special Counsel, Financial Institutions Fraud Unit, Department of Justice.

Kendall Brindley Coffey, of Florida, to be United States Attorney for the Southern District of Florida for the term of four years.

Sherry Scheel Matteucci, of Montana, to be United States Attorney for the District of Montana for the term of four years.

Alan D. Bersin, of California, to be United States Attorney for the Southern District of California for the term of four years.

James Burton Burns, of Illinois, to be United States Attorney for the Northern District of Illinois for the term of four years.

Joseph Leslie Famularo, of Kentucky, to be United States Attorney for the Eastern District of Kentucky for the term of four years.

Walter Charles Grace, of Illinois, to be United States Attorney for the Southern District of Illinois for the term of four years.

Loretta Collins Argrett, of Maryland, to be an Assistant Attorney General.

Patrick Michael Patterson, of Florida, to be United States Attorney for the Northern District of Florida for the term of four years.

Katrina Campbell Pflaumer, of Washington, to be United States Attorney for the Western District of Washington for the term of four years.

Charles Joseph Stevens, of California, to be United States Attorney for the Eastern District of California for the term of four years.

Donald Kenneth Stern, of Massachusetts, to be United States Attorney for the District of Massachusetts for the term of four years.

EXECUTIVE OFFICE OF THE PRESIDENT

Steven Kelman, of Massachusetts, to be Administrator for Federal Procurement Policy.

DEPARTMENT OF AGRICULTURE

Anthony A. Williams, of Connecticut, to be Chief Financial Officer, Department of Agriculture.

Grant B. Buntrock, of South Dakota, to be a Member of the Board of Directors of the Commodity Credit Corporation.

Michael V. Dunn, of Iowa, to be Administrator of the Farmers Home Administration, vice La Verne G. Ausman, resigned.

Wally B. Beyer, of North Dakota, to be Administrator of the Rural Electrification Administration for a term of ten years.

COMMODITY FUTURES TRADING COMMISSION

John E. Tull, Jr., of Arkansas, to be a Commissioner of the Commodity Futures Trading Commission for the term expiring April 13, 1998.

Barbara Pedersen Holum, of Maryland, to be a Commissioner of the Commodity Futures Trading Commission for the term expiring April 13, 1997, vice Fowler C. West, resigned.

DEPARTMENT OF DEFENSE

Joe Robert Reeder, of Texas, to be Under Secretary of the Army.

Togo Dennis West, Jr., of the District of Columbia, to be Secretary of the Army.

Richard Danzig, of the District of Columbia, to be Under Secretary of the Navy.

AIR FORCE

The following named officer for appointment in the United States Air Force to the grade of brigadier general under the provisions of title 10, United States Code, section 624:

The following named officer for appointment in the Reserve of the Air Force, to the grade indicated, under the provisions of Sections 593, 8218, 8351, and 8374, Title 10, United States Code:

To be major general

Brig. Gen. John R. Haack, [redacted] Air National Guard of the United States

The following named officer for appointment to the grade of lieutenant general on the retired list pursuant to the provisions to Title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Eugene H. Fischer, [redacted], United States Air Force

The following named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under Title 10, United States Code, section 601:

To be lieutenant general

Majo. Gen. Marcus A. Anderson, 533–36–8770, United States Air Force

ARMY

The following named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under Title 10, United States Code, Section 601(a):

To be lieutenant general

Maj. Gen. Robert L. Ord, III, [redacted], United States Army

The following-named Medical Corps officer for appointment in the Regular Army of the United States to the grade indicated under the provisions of Title 10, United States Code, Section 611(a) and 624(c):

To be permanent brigadier general

Col. Vernon C. Spaulding, [redacted], United States Army

The following named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, Section 601(a):

To be lieutenant general

Maj. Gen. Malcolm R. O'Neill, [redacted], United States Army

The following named officer for appointment to the grade of general while assigned to a position of importance and responsibility under title 10, United States Code, Section 601(a):

To be general

Lt. Gen. Leon E. Salomon, [redacted], United States Army

The following named officer to be placed on the retired list in the grade indicated under the provisions of Title 10, United States Code, Section 1370:

To be lieutenant general

Lt. Gen. Wilson A. Shoffner, [redacted], United States Army

The following named officer to be place on the retired list in the grade indicated under the provisions of Title 10, United States Code, Section 1370:

To be lieutenant general

Lt. Gen. Teddy G. Allen, [redacted] United States Army

The following United States Army National Guard officers for promotion to the grades indicated in the Reserve of the Army of the United States, under the provisions of Title 10, United States Code, sections 593(a), 3385 and 3392:

To be major general

Brig. Gen. Robert J. Byrne [redacted]
Brig. Gen. Michael W. Ryan, [redacted]
Brig. Gen. William F. Stewart [redacted]
Brig. Gen. George K. Hastings, [redacted]

To be brigadier general

Col. Frank A. Catalano, Jr. [redacted]
Col. Lawrence E. Gillespie, Sr. [redacted]
Col. Joel W. Norman, [redacted]
Col. Salvador R. Recio-Sanchez [redacted]
Col. Eugene W. Schmidt, [redacted]
Col. John E. Stevens, [redacted]
Col. Francis L. Briganti [redacted]
Col. Emilio Diaz-Colon, [redacted]
Col. John E. Prendegrast [redacted]
Col. Juan F. Rosado-Ortiz [redacted]
Col. Murrel J. Bowen, Jr. [redacted]
Col. Fletcher C. Coker, Jr. [redacted]
Col. Rodney C. Johnson, [redacted]
Col. Thomas C. Johnson, [redacted]
Col. Guido J. Portante, Jr. [redacted]
Col. John C. Rowland, [redacted]
Col. Thomas E. Whitecotton, III, [redacted]
Col. Edmund C. Zysk, [redacted]
Col. Francis A. Laden, [redacted]
Col. Sigurd E. Murphy, Jr. [redacted]
Col. Murray G. Sagsveen, [redacted]

NAVY

The following-named captain in the staff corps of the United States Navy for promotion to the permanent grade of rear admiral (lower half), pursuant to Title 10, United States Code, section 624, subject to qualifications therefore as provided by law:

MEDICAL CORPS

To be rear admiral (lower half)

Capt. Dennis Irwin Wright, [redacted], U.S. Navy

The following-named rear admiral (lower half) in the competitive category of special duty officer (intelligence) of the Navy for promotion to the permanent grade of rear admiral, pursuant to Title 10, United States Code, section 624, subject to qualifications therefor as provided by Law:

SPECIAL DUTY OFFICER (INTELLIGENCE)

To be rear admiral

Rear Adm. (lh) Michael William Cramer, U.S. Navy, [redacted]

The following named officer for appointment to the grade of vice admiral while assigned to a position of importance and responsibility under Title 10, United States Code, Section 601:

To be vice admiral

Rear Adm. Joseph W. Prueher, U.S. Navy, [redacted]

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE AIR FORCE, FOREIGN SERVICE, MARINE CORPS, NAVY

Air Force nominations beginning Robert D. Blevins, and ending Michael J. Yaguchi, which nominations were received by the Senate and appeared in the Congressional Record of November 4, 1993

Foreign Service nominations beginning Frank Almaguer, and ending James R. Dempsey, which nominations were received by the Senate and appeared in the Congressional Record of October 5, 1993

Foreign Service nominations beginning Curtis Warren Kamman, and ending Thomas W. Yun, M.d., which nominations were received by the Senate and appeared in the Congressional Record of October 5, 1993

Foreign Service nominations beginning Bruno J. Cornelio, and ending Richard R. Ries, which nominations were received by the Senate and appeared in the Congressional Record of October 21, 1993

Marine Corps nominations beginning Harald Aagaard, and ending Jeffery J. Tlapa, which nominations were received by the Senate and appeared in the Congressional Record of November 4, 1993

Navy nominations beginning Robert K. Takesuye, and ending Jason Scarlett, which nominations were received by the Senate and appeared in the Congressional Record of November 4, 1993

Navy nominations beginning John D. Sowers, and ending Gary W. Caille, which nominations were received by the Senate and appeared in the Congressional Record of November 4, 1993

Navy nominations beginning Ricky D. Allen, and ending Peter G. Wish, which nominations were received by the Senate and appeared in the Congressional Record of November 4, 1993

Navy nominations beginning Timothy F. Dolan, and ending Christopher A. Ursino, which nominations were received by the Senate and appeared in the Congressional Record of November 4, 1993

Navy nominations beginning Christopher J. Adams, and ending Edmund L. Zukowski, which nominations were received by the Senate and appeared in the Congressional Record of November 4, 1993

Navy nominations beginning James L. Basford, and ending Donald E. Wyatt, which nominations were received by the Senate and appeared in the Congressional Record of November 4, 1993

Navy nominations beginning Scott M. Allen, and ending Uriah E. Zachary, which nominations were received by the Senate and appeared in the Congressional Record of November 4, 1993

Navy nominations beginning Aaron M. Abarbanell, and ending Daryk E. Zirkle, which nominations were received by the Senate and appeared in the Congressional Record of November 4, 1993

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to consider the following nomination reported today by the Committee on Energy and Natural Resources. Christine Ervin, to be an Assistant Secretary of Energy.

I further ask unanimous consent that the nominee be confirmed, that any statements appear in the Record as if read, that the motion to reconsider be laid upon the table and that the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination was considered and confirmed, as follows:

DEPARTMENT OF ENERGY

Christine Ervin, to be an Assistant Secretary of Energy.

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to consider the following nomination reported by the Committee on Labor and Human Resources on November 17, and reported today by the Committee on Veterans Affairs: Preston M. Taylor, Jr., to be Assistant Secretary of Labor for Veterans' Employment and Training.

I further ask unanimous consent that the nominee be confirmed, that any statements appear in the Record as if read, that upon confirmation, the motion to reconsider be laid upon the table, that the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination was considered and confirmed, as follows:

DEPARTMENT OF LABOR

Preston M. Taylor, Jr., to be an Assistant Secretary of Labor for Veterans' Employment and Training.

STATEMENT ON THE NOMINATION OF PRESTON M. TAYLOR

Mr. ROCKEFELLER. Mr. President, as chairman of the Committee on Veterans' Affairs, I am pleased to recommend to the Senate the confirmation of Preston M. Taylor to be the Assistant Secretary of Labor for Veterans' Employment and Training.

Preston Taylor is an outspoken, dedicated individual, and I am confident that he will use his skills and talents to play a key role alongside the Secretary of Labor, Bob Reich, in bolstering the leadership and motivation of that Department's effort to provide America's veterans with quality employment and training opportunities.

The committee held a hearing on November 19, 1993, at which Mr. Taylor presented candid testimony to Committee members. He also responded to prehearing questions and completed the Committee's Questionnaire for Presidential Nominees. After reviewing all these materials as well as the FBI report, I am satisfied that Mr. Taylor is well-suited to serve in the position for which he has been nominated. On November 19, 1993, our committee met to consider Mr. Taylor's nomination and voted unanimously to recommend his confirmation to the full Senate.

Mr. President, I would like to speak briefly about this nominee.

Born in Mobile, AL, Preston Taylor received his undergraduate degree from Pepperdine University in 1978, and his master's degree in human resource management from Central Michigan University in 1987.

He has a distinguished military career, including 6 years of active duty with the Air Force and 33 years with the Air National Guard, where he rose to the rank of Brigadier General. He has extensive experience with human resource management and administrative matters, and presently serves as the Deputy Adjutant General for the State of New Jersey's Department of Military and Veterans' Affairs.

President Clinton has shown great confidence in Preston Taylor's work and an appreciation for his clear commitment to veterans. I share in this confidence, and I am pleased that the Veterans' Employment and Training

Service will benefit from the expertise he clearly brings with him.

I have no doubt that Mr. Taylor's unique and valuable perspectives regarding the relationship between State and Federal offices will be an asset to the position of Assistant Secretary of Labor for Veterans' Employment and Training. Such perspectives should assist him in building a closer partnership focused on sharing Federal and State-level responsibilities and providing services more effectively to veterans.

Mr. President, in conclusion, I reiterate my sense of satisfaction that Preston Taylor is well-suited to take on the challenges of the position for which he has been nominated, and I urge my colleagues to give him their unanimous support.

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to consider the following nomination reported by the Committee on Labor and Human Resources on November 17, and reported today by the Committee on Finance: Olivia A. Golden, to be Commissioner on Children, Youth, and Families, Department of Health and Human Services.

I further ask unanimous consent that the nominee be confirmed, that any statements appear in the Record as if read, that upon confirmation, the motion to reconsider be laid upon the table, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination was considered and confirmed, as follows:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Olivia A. Golden, to be Commissioner on Children, Youth, and Families, Department of Health and Human Services.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to the consideration of legislative business.

BRADY HANDGUN VIOLENCE PREVENTION ACT—H.R. 1025

Mr. FORD. Mr. President, under rule XIV, I understand the Senate has received from the House H.R. 1025, the Brady Handgun Violence Prevention Act.

On behalf of Senator BIDEN, I ask that the bill be read for the first time.

The PRESIDING OFFICER. The clerk will read the bill.

The legislative clerk read as follows:

> A bill (H.R. 1025) to provide for a waiting period before the purchase of a handgun, and for the establishment of a national instant criminal background check system to be contacted by firearms dealers before the transfer of any firearm.

Mr. FORD. Mr. President, I now ask for its second reading.

Mr. BROWN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The bill will be read for the second time on the next legislative day.

ORDERS FOR SATURDAY, NOVEMBER 20, 1993

Mr. FORD. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business, it stand in recess until 10:15 a.m., Saturday, November 20, that following the prayer, the Journal of proceedings be deemed approved to date, and the time for the 2 leaders reserved for their use later in the day; and that the Senate then resume consideration of Calendar No. 310, the North American Free Trade Agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL SATURDAY, NOVEMBER 20, 1993, AT 10:15 A.M.

Mr. FORD. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 12:17 a.m., recessed until Saturday, November 20, 1993, at 10:15 a.m.

NOMINATIONS

Executive nominations received by the Senate November 19, 1993:

FEDERAL AVIATION ADMINISTRATION

LINDA HALL DASCHLE, OF SOUTH DAKOTA, TO BE DEPUTY ADMINISTRATOR OF THE FEDERAL AVIATION ADMINISTRATION, VICE BARRY LAMBERT HARRIS, RESIGNED.

THE JUDICIARY

MICHAEL A. PONSOR, OF MASSACHUSETTS, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF MASSACHUSETTS VICE FRANK H. FREEDMAN, RETIRED.

MICHAEL J. DAVIS, OF MINNESOTA, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF MINNESOTA VICE HARRY H. MACLAUGHLIN, RETIRED.

LESLEY BROOKS WELLS, OF OHIO, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF OHIO VICE JOHN M. MANOS, RETIRED.

ANCER L. HAGGERTY, OF OREGON, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF OREGON VICE OWEN M. PANNER, RETIRED.

MARJORIE O. RENDELL, OF PENNSYLVANIA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA, VICE LOUIS C. BECHTLE, RETIRED.

SAMUEL FREDERICK BIERY, JR., OF TEXAS, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF TEXAS VICE A NEW POSITION CREATED BY PUBLIC LAW 101–650, APPROVED DECEMBER 1, 1990.

W. ROYAL FURGESON, JR., OF TEXAS, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF TEXAS VICE A NEW POSITION CREATED BY PUBLIC LAW 101–650, APPROVED DECEMBER 1, 1990.

ORLANDO L. GARCIA, OF TEXAS, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF TEXAS VICE EMILIO M. GARZA, ELEVATED.

JOHN H. HANNAH, JR., OF TEXAS, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF TEXAS VICE A NEW POSITION CREATED BY PUBLIC LAW 101–650, APPROVED DECEMBER 1, 1990.

JANIS GRAHAM JACK, OF TEXAS, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF TEXAS VICE A NEW POSITION CREATED BY PUBLIC LAW 101–650, APPROVED DECEMBER 1, 1990.

FRANKLIN D. BURGESS, OF WASHINGTON, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF WASHINGTON VICE JACK E. TANNER, RETIRED.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

SHIRLEY SACHI SAGAWA, OF VIRGINIA, TO BE A MANAGING DIRECTOR OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE. (NEW POSITION.)

POSTAL RATE COMMISSION

GEORGE W. HALEY, OF MARYLAND, TO BE A COMMISSIONER OF THE POSTAL RATE COMMISSION FOR THE TERM EXPIRING OCTOBER 14, 1998. (REAPPOINTMENT)

DEPARTMENT OF JUSTICE

REBECCA ALINE BETTS, OF WEST VIRGINIA, TO BE U.S. ATTORNEY FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA FOR THE TERM OF 4 YEARS VICE MICHAEL W. CAREY, RESIGNED.

ROBERT CHARLES BUNDY, OF ALASKA, TO BE U.S. ATTORNEY FOR THE DISTRICT OF ALASKA FOR THE TERM OF 4 YEARS VICE MICHAEL R. SPAAN, RESIGNED.

LARRY HERBERT COLLETON, OF FLORIDA, TO BE U.S. ATTORNEY FOR THE MIDDLE DISTRICT OF FLORIDA FOR THE TERM OF 4 YEARS VICE ROBERT W. GENZMAN, RESIGNED.

HARRY DONIVAL DIXON, JR., OF GEORGIA, TO BE U.S. ATTORNEY FOR THE SOUTHERN DISTRICT OF GEORGIA FOR THE TERM OF 4 YEARS VICE HINTON R. PIERCE, RESIGNED.

LEZIN JOSEPH HYMEL, JR., OF LOUISIANA, TO BE U.S. ATTORNEY FOR THE MIDDLE DISTRICT OF LOUISIANA FOR THE TERM OF 4 YEARS VICE PAUL RAYMOND LAMONICA.

DAVID LEE LILLEHAUG, OF MINNESOTA, TO BE U.S. ATTORNEY FOR THE DISTRICT OF MINNESOTA FOR THE TERM OF 4 YEARS VICE THOMAS B. HEFFELFINGER, RESIGNED.

KENNETH RAY ODEN, OF TEXAS, TO BE U.S. ATTORNEY FOR THE WESTERN DISTRICT OF TEXAS FOR THE TERM OF 4 YEARS VICE RONALD F. EDERER, RESIGNED.

DANIEL J. HORGAN, OF FLORIDA, TO BE U.S. MARSHAL FOR THE SOUTHERN DISTRICT OF FLORIDA FOR THE TERM OF 4 YEARS. (REAPPOINTMENT)

PATRICK J. WILKERSON, OF OKLAHOMA, TO BE U.S. MARSHAL FOR THE WESTERN DISTRICT OF OKLAHOMA FOR THE TERM OF 4 YEARS VICE STUART E. EARNEST.

JAMES LAMAR WIGGINS, OF GEORGIA, TO BE U.S. ATTORNEY FOR THE MIDDLE DISTRICT OF GEORGIA FOR THE TERM OF 4 YEARS VICE EDGAR W. ENNIS, JR., RESIGNED.

PAUL MICHAEL GAGNON, OF NEW HAMPSHIRE, TO BE U.S. ATTORNEY FOR THE DISTRICT OF NEW HAMPSHIRE FOR THE TERM OF 4 YEARS VICE JEFFREY R. HOWARD, RESIGNED.

MARK TIMOTHY CALLOWAY, OF NORTH CAROLINA, TO BE U.S. ATTORNEY FOR THE WESTERN DISTRICT OF NORTH CAROLINA FOR THE TERM OF 4 YEARS VICE THOMAS J. ASHCRAFT, RESIGNED.

WALTER CLINTON HOLTON, JR., OF NORTH CAROLINA, TO BE U.S. ATTORNEY FOR THE MIDDLE DISTRICT OF NORTH CAROLINA FOR THE TERM OF 4 YEARS VICE ROBERT H. EDMUNDS, RESIGNED.

KRISTINE OLSON ROGERS, OF OREGON, TO BE U.S. ATTORNEY FOR THE DISTRICT OF OREGON FOR THE TERM OF 4 YEARS VICE CHARLES H. TURNER, RESIGNED.

JAMES DOUGLAS, JR., OF MICHIGAN, TO BE U.S. MARSHAL FOR THE EASTERN DISTRICT OF MICHIGAN FOR THE TERM OF 4 YEARS VICE JAMES Y. STEWART.

WILLIAM STEPHEN STRIZICH, OF MONTANA, TO BE U.S. MARSHAL FOR THE DISTRICT OF MONTANA FOR THE TERM OF 4 YEARS VICE LEO A. GIACOMETTO.

TERRENCE EDWARD DELANEY, OF ILLINOIS, TO BE U.S. MARSHAL FOR THE SOUTHERN DISTRICT OF ILLINOIS FOR THE TERM OF 4 YEARS VICE DONALD R. BROOKSHIER.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

MARY LUCILLE JORDAN, OF MARYLAND, TO BE A MEMBER OF THE FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING AUGUST 30, 1996, VICE FORD BARNEY FORD.

DEPARTMENT OF STATE

ROBERT H. PELLETREAU, JR., OF CONNECTICUT, TO BE AN ASSISTANT SECRETARY OF STATE, VICE EDWARD P. DJEREJIAN.

IN THE ARMY

THE FOLLOWING NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE UNITED STATES ARMY IN ACCORDANCE WITH SECTIONS 624 AND 626, TITLE 10 UNITED STATES CODE. THE OFFICER IDENTIFIED WITH AN ASTERISK IS ALSO BEING NOMINATED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE.

ARMY

To be lieutenant colonel

NOEL B. BERGERON [redacted]

JUDGE ADVOCATE GENERAL

To be lieutenant colonel

RICHARD P. LAVERDURE [redacted]

ARMY

To be major

*SHEILA J. THURBER [redacted]

THE FOLLOWING NAMED OFFICES FOR PROMOTION IN THE RESERVE OF THE ARMY, UNDER THE PROVISIONS OF TITLE 190, U.S.C., SECITONS 593(A) AND 3383:

ARMY PROMOTION LIST

To be colonel

ROGER H. BLYTHE, [redacted]
JAMES L. CLEMENT, [redacted]
GARY W. DAVIS, [redacted]
BRANDT C. DOWNEY, [redacted]
MICHAEL HENRYSON, [redacted]
RANDALL KOPITZKE, [redacted]
RONALD J. NEWMAN, [redacted]
RICHARD T. REHN, [redacted]
W.C. WEATHERHEAD, [redacted]

CHAPLAIN CORPS

To be colonel

TIMOTHY J. O'BRIEN, [redacted]
RAYMOND J. OGE, [redacted]
SHERMAN R. REED, [redacted]

MEDICAL SERVICE CORPS

To be colonel

GARY J. MCCRIGHT, [redacted]

ARMY PROMOTION LIST

To be lieutenant colonel

WARREN. BEYER, [redacted]
GERALD ELLIS, [redacted]
HAROLD GLANVILLE, [redacted]
DANIEL F. HENNESSY, [redacted]
RICHARD INDRIERI, [redacted]
JOSEPH MAEZ, [redacted]
KENNETH B. ROSS, [redacted]
STEPHEN J. STOMBER, [redacted]
RUSSELL O. TATE, [redacted]
DAVID R. TUTHILL, [redacted]
KEITH R. WINGATE, [redacted]

CHAPLAIN CORPS

To be lieutenant colonel

JAMES L. HOKE, [redacted]

ARMY NURSE CORPS

To be lieutenant colonel

LEILA E. CREEL, [redacted]

MEDICAL CORPS

To be lieutenant colonel

JOHN L. BLACK, [redacted]

MEDICAL SERVICE CORPS

To be lieutenant colonel

MANUEL DOMINGUEZ, [redacted]
PAMELA D. PARKER, [redacted]

THE FOLLOWING NAMED OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY, UNDER THE PROVISIONS OF TITLE 10, U.S.C., SECTIONS 593(A), 3370 AND 1552:

ARMY NURSE CORPS

To be colonel

RODNEY C. LESTER, [redacted]

THE FOLLOWING NAMED OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY, UNDER THE PROVISIONS OF TITLE 10, U.S.C., SECTIONS 593(A), 3366 AND 1552:

ARMY PROMOTION LIST

To be lieutenant colonel

DAVID M. KLING, [redacted]
JOHN R. PHILLIPS, [redacted]
ALAN L. VANLOENEN, [redacted]

ARMY NURSE CORPS

To be lieutenant colonel

MAR CABRERA-MUNOZ, [redacted]
KAREN A. SMELTZER, [redacted]

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES, IN THEIR ACTIVE DUTY BRANCH AND GRADE, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 531, 532, AND 533:

ARMY NURSE CORPS

To be major

MARILYN H. BROOKS, [redacted]

MEDICAL SERVICE CORPS

To be majors

ROBERT S. BOROWSKI, [redacted]
LISANNE G. GROSS, [redacted]
THOMAS M. LOGAN, [redacted]
DENNIS R. PAYNE, [redacted]

To be captains

MUSTAPHA DEBBOUN, [redacted]
IRNE L. RICHARDSON, [redacted]
TODD W. WALKER, [redacted]
ROBERT E. WOOLDRIDGE, [redacted]
ALAN M. YAMAMOTO, [redacted]

To be first lieutenants

REX A. BERGGREN, [redacted]
S. LANCASTER-HALL, [redacted]
BRIAN M. SOLES, [redacted]

To be second lieutenant

STEPEHEN A. BARNES, [redacted]

VETERINARY CORPS

To be captains

HOWARD N. LOCKWOOD, [redacted]
ROBERT R. THOMPSON, [redacted]
N. VINCENT-JOHNSON, [redacted]
ANDREW C. WILKINSON, [redacted]

MEDICAL SPECIALIST CORPS

To be captain

ROBIN C. RICHARDSON, [redacted]

MEDICAL CORPS

To be colonels

RICHARD K. BACHMAN, [redacted]
DAVID B. CRANDALL, [redacted]
GERALD D. EVANS, [redacted]
DONALD R. MOFFITT, [redacted]
CHARLES T. THORNSVARD, [redacted]
CLYDE M. WEAVER, [redacted]

To be lieutenant colonels

WILLIAM R. BYRNE, [redacted]
HERACLIO F. CASTRO, [redacted]
VIRGIL T. DEAL, JR., [redacted]
STEVEN A. GREENWELL, [redacted]
MARY A. MCAFEE, [redacted]
MICHAEL A. NOCE, [redacted]
WILLIAM R. WILSON, [redacted]

To be majors

DAVID M. CHENEY, [redacted]
JOHN S. CROWLEY, [redacted]

To be captains

JOHN CAMPBELL, [redacted]
JANIS K. CHANG, [redacted]

DENTAL CORPS

To be lieutenant colonels

MICHAEL H. CHEMA, [redacted]
LINDA L. SMITH, [redacted]

To be major

ETHEL M. LARUE, [redacted]

To be captains

PAUL L. COREN, [redacted]
CORNELIUS C. LEHAN, [redacted]

THE FOLLOWING NAMED RESERVE OFFICERS' TRAINING CORPS CADETS FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES, IN THE GRADE OF SECOND LIEUTENANT, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 531, 532, AND 533:

CARL A. BROSKY, [redacted]
CASSANDRA A. BURNS, [redacted]
TRENT C. JEFFERIES, [redacted]
LESLIE L. LEWIS, [redacted]
STEPHEN C. LINTHWAITE, [redacted]
JEFFREY J. SHAFER, [redacted]

THE FOLLOWING NAMED DISTINGUISHED HONOR GRADUATES FROM THE OFFICER CANDIDATE SCHOOL FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES, IN THE GRADE OF SECOND LIEUTENANT, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 531, 532, AND 533:

THOMAS E. HANSON, [redacted]
DENNIS S. HEANEY, [redacted]
SUZANNE K. HECKENBACH, [redacted]
FRANK J. STANCO, JR., [redacted]
DAVID W. WHITMIRE, [redacted]

IN THE NAVY

THE FOLLOWING NAMED NAVAL ACADEMY MIDSHIPMEN TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

ANTHONY M. ELLIS
MICHAEL D. HASS
STEVE L. PALMER
EDRICKE L. PEYTON

THE FOLLOWING NAMED U.S. NAVAL RESERVE OFFICERS TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

DAVID R. APPEL
GEOFFREY L. GERBER
JONATHAN N. HENRY
CHRISTOPHER L. LEGRAND
CHRISTOPHER S. MILES

THE FOLLOWING NAMED DISTINGUISHED NAVAL GRADUATES TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

ERIC R. FEDELE
JEFFREY A. GUTHRIE
PERRY L. HERRICK
BRANDON A. LARSON
HARRIS S. ROSE
CHARLES L. SHEPARD
TROY P. SPILLMAN
JOSEPH H. WILKINSON

THE FOLLOWING NAMED MEDICAL COLLEGE GRADUATES TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

FRANK A. CHAPMAN
JOHN M. STONE

THE FOLLOWING U.S. NAVY OFFICER TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

RICK S. WEISSER

THE FOLLOWING U.S. NAVY OFFICER TO BE APPOINTED PERMANENT COMMANDER IN THE DENTAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

LELAND S. BLOUGH

THE FOLLOWING U.S. NAVY OFFICER TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL SERVICE CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

JAMES A. UNSEN

THE FOLLOWING NAMED U.S. NAVY OFFICERS TO BE APPOINTED PERMANENT COMMANDER IN THE CIVIL ENGINEER CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10. UNITED STATES CODE, SECTION 593:

WALTER D. DEKIN
TIMOTHY K. EQUELS

THE FOLLOWING NAMED U.S. NAVY OFFICERS TO BE APPOINTED PERMANENT COMMANDER IN THE LINE OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

JILL A. LEARN
STEPHEN R. LUOMA
PAULETTE R. NESHIEM

THE FOLLOWING NAMED DISTINGUISHED NAVAL GRADUATES TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

THOMAS D. BARBER
JEFFREY D. BROOKS
PHILLIP Z. CLAY
GALEN R. HARTMAN
ERIK W. JOHNSON
PATRICIA A. HOSKINSON
BRETT S. MARTIN
SCOTT E. MEDLIN
TABB B. STRINGER
BRIAN W. SULLIVAN
CHARLES C. WILLIAMS

THE FOLLOWING U.S. NAVY OFFICER TO BE APPOINTED PERMANENT LIEUTENANT IN THE JUDGE ADVOCATE GENERAL CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531.

MATTHEW C. DOLAN

THE FOLLOWING LIEUTENANT COLONEL, USAFR, TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 593 AND 716.

ALAN R. ROWLEY

THE FOLLOWING FORMER U.S. NAVAL RESERVE OFFICER TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593.

MARSHALL I. ABEL

THE FOLLOWING NAMED U.S. NAVY OFFICERS TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593.

GLENN M. AMUNDSON
CYNTHIA G. DAVIS
RICARDO B. EUSEBIO
DENNIS A. WILSON

THE FOLLOWING NAMED U.S. NAVAL RESERVE OFFICERS TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNTIED STATES CODE, SECTION 531:

MARK R. ASUNCION
THOMAS P. BASTOW
JOHN J. BOVATSEK
BARNABY D. BULLARD
FRANK E. DESIMONE
ROBERT A. EIKHOFF
ROBERT C. FRENZEL
DAVID C. GEORGE
ALEXANDER GILSON
TIMMY A. GOTTFRIED
THOMAS D. HACKER
MICHAEL D. HAGGERTY
MARK E. JOHNSON
PHILLIP A. KAHRL
ROBERT R. KENYON
JEFFERY G. LINVILLE
MICHAEL C. LORUSSO
SALVATORE M. MAIDA, JR.
LETITIA B. ROBINSON
DOUGLAS R. SCHELB
RICHARD A. SIENICKI
BRIAN D. VANOSS
KY N. VU
WILLIE V. WRIGHT

THE FOLLOWING NAMED U.S. NAVAL RESERVE OFFICERS, WHO ARE IN THE NAVY COMMISSIONING PROGRAM TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531.

JAMES F. BLAKELY
JAMES M. COLLINS
DINO S. DELEO
JOHN W. FOY
GENE M. GUTTROMSON
STEVEN R. HOEM
RICHARD W. KOENING
WILBERT A. PEDRAZA
PAUL J. STEINBRENNER
RICHARD F. WEBB
JAMES H. ZIEGLER

THE FOLLOWING DISTINGUISHED NAVAL GRAUDATE TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OF

THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531.

PATRICK L. PERRY

THE FOLLOWING MEDICAL COLLEGE GRADUATE TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593.

DAVID R. DAHLENBURG

THE FOLLOWING U.S. NAVY OFFICER TO BE APPOINTED PERMANENT COMMANDER IN THE DENTAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593.

TERRENCE L. ALLEMANG

THE FOLLOWING U.S. NAVY OFFICER TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593.

THOMAS G. ANDERSON, JR.

THE FOLLOWING U.S. NAVY OFFICER TO BE APPOINTED PERMANENT COMMANDER IN THE SUPPLY CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593.

GARY W. CORDERMAN

THE FOLLOWING NAMED U.S. NAVY OFFICERS TO BE APPOINTED PERMANENT COMMANDER IN THE LINE OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

CONINGSBY E. BURDON, JR.
KATHERIN S. DERIE
MARGARET R. EARLE
DON A. FRASIER, JR.
F. SEAN GORMAN
DAVID V. HUTSON
JOHN H. LANE, III
JANE D. WALSH

Communications Satellite Corporation

PETER S. KNIGHT, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMUNICATIONS SATELLITE CORPORATION UNTIL THE DATE OF THE ANNUAL MEETING OF THE CORPORATION IN 1996, VICE JAMES B. EDWARDS.

CONFIRMATION

Executive nomination confirmed by the Senate November 19, 1993:

DEPARTMENT OF JUSTICE

JANET ANN NAPOLITANO, OF ARIZONA, TO BE U.S. ATTORNEY FOR THE DISTRICT OF ARIZONA FOR THE TERM OF 4 YEARS.

Executive nominations confirmed by the Senate November 20, 1993:

FEDERAL COMMUNICATIONS COMMISSION

REED E. HUNDT, OF MARYLAND, TO BE A MEMBER OF THE FEDERAL COMMUNICATIONS COMMISSION FOR A TERM OF 5 YEARS FROM JULY 1, 1993.

EXECUTIVE OFFICE OF THE PRESIDENT

STEVEN KELMAN, OF MASSACHUSETTS, TO BE ADMINISTRATOR FOR FEDERAL PROCUREMENT POLICY.

JENNIFER ANNE HILLMAN, OF THE DISTRICT OF COLUMBIA, FOR THE RANK OF AMBASSADOR DURING HER TENURE OF SERVICE AS CHIEF TEXTILE NEGOTIATOR.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

JOHN CHRYSTAL, OF IOWA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 1994.

MARK L. SCHNEIDER, OF CALIFORNIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT.

GEORGE J. KOURPIAS, OF MARYLAND, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 1994.

LOTTIE LEE SHACKELFORD, OF ARKANSAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 1995.

M DOUGLAS STAFFORD, OF NEW YORK, TO BE AN ASSISTANT ADMINISTRATOR OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT.

LARRY E. BYRNE, OF VIRGINIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HAROLD VARMUS, OF CALIFORNIA, TO BE DIRECTOR OF THE NATIONAL INSTITUTES OF HEALTH.

DEPARTMENT OF STATE

BRIAN J. DONNELLY, OF MASSACHUSETTS, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE 48TH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

STUART GEORGE MOLDAW, OF CALIFORNIA, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE 48TH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

ROBERT S. GELBARD, OF WASHINGTON, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE ASSISTANT SECRETARY OF STATE FOR INTERNATIONAL NARCOTICS MATTERS.

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

JOHN DAVID HOLUM, OF SOUTH DAKOTA, TO BE DIRECTOR OF THE UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OLIVIA A. GOLDEN, OF THE DISTRICT OF COLUMBIA, TO BE COMMISSIONER ON CHILDREN, YOUTH, AND FAMILIES, DEPARTMENT OF HEALTH AND HUMAN SERVICES.

DEPARTMENT OF AGRICULTURE

ANTHONY A. WILLIAMS, OF CONNECTICUT, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF AGRICULTURE.

GRANT B. BUNTROCK, OF SOUTH DAKOTA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMODITY CREDIT CORPORATION.

WALLY B. BEYER, OF NORTH DAKOTA, TO BE ADMINISTRATOR OF THE RURAL ELECTRIFICATION ADMINISTRATION FOR A TERM OF 10 YEARS.

MICHAEL V. DUNN, OF IOWA, TO BE ADMINISTRATOR OF THE FARMERS HOME ADMINISTRATION.

NATIONAL MEDIATION BOARD

MAGDALENA G. JACOBSEN, OF OREGON, TO BE A MEMBER OF THE NATIONAL MEDIATION BOARD FOR THE TERM EXPIRING JULY 1, 1996.

DEPARTMENT OF LABOR

PRESTON M. TAYLOR, JR., OF NEW JERSEY, TO BE ASSISTANT SECRETARY OF LABOR FOR VETERANS' EMPLOYMENT AND TRAINING.

INTER-AMERICAN DEVELOPMENT BANK

L. RONALD SCHEMAN, OF THE DISTRICT OF COLUMBIA, TO BE UNITED STATES EXECUTIVE DIRECTOR OF THE INTER-AMERICAN DEVELOPMENT BANK FOR A TERM OF 3 YEARS.

DEPARTMENT OF DEFENSE

JOE ROBERT REEDER, OF TEXAS, TO BE UNDER SECRETARY OF THE ARMY.

TOGO DENNIS WEST, JR., OF THE DISTRICT OF COLUMBIA, TO BE SECRETARY OF THE ARMY.

RICHARD DANZIG, OF THE DISTRICT OF COLUMBIA, TO BE UNDER SECRETARY OF THE NAVY.

COMMODITY FUTURES TRADING COMMISSION

JOHN E. TULL, JR., OF ARKANSAS, TO BE A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION FOR THE TERM EXPIRING APRIL 13, 1998.

BARBARA PEDERSEN HOLUM, OF MARYLAND, TO BE A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION FOR THE TERM EXPIRING APRIL 13, 1997.

INTERNATIONAL MONETARY FUND

KARIN LISSAKERS, OF NEW YORK, TO BE U.S. EXECUTIVE DIRECTOR OF THE INTERNATIONAL MONETARY FUND FOR A TERM OF 2 YEARS.

DEPARTMENT OF ENERGY

CHRISTINE ERVIN, OF OREGON, TO BE AN ASSISTANT SECRETARY OF ENERGY (ENERGY EFFICIENCY AND RENEWABLE ENERGY).

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF JUSTICE

JO ANN HARRIS, OF NEW YORK, TO BE AN ASSISTANT ATTORNEY GENERAL.

JOHN JOSEPH KELLY, OF NEW MEXICO, TO BE U.S. ATTORNEY FOR THE DISTRICT OF NEW MEXICO FOR THE TERM OF 4 YEARS.

GERALD MANN STERN, OF CALIFORNIA, TO BE SPECIAL COUNSEL, FINANCIAL INSTITUTIONS FRAUD UNIT, DEPARTMENT OF JUSTICE.

KENDALL BRINDLEY COFFEY, OF FLORIDA, TO BE U.S. ATTORNEY FOR THE SOUTHERN DISTRICT OF FLORIDA FOR THE TERM OF 4 YEARS.

SHERRY SCHEEL MATTEUCCI, OF MONTANA, TO BE U.S. ATTORNEY FOR THE DISTRICT OF MONTANA FOR THE TERM OF 4 YEARS.

ALAN D. BERSIN, OF CALIFORNIA, TO BE U.S. ATTORNEY FOR THE SOUTHERN DISTRICT OF CALIFORNIA FOR THE TERM OF 4 YEARS.

JAMES BURTON BURNS, OF ILLINOIS, TO BE U.S. ATTORNEY FOR THE NORTHERN DISTRICT OF ILLINOIS FOR THE TERM OF 4 YEARS.

JOSEPH LESLIE FAMULARO, OF KENTUCKY, TO BE U.S. ATTORNEY FOR THE EASTERN DISTRICT OF KENTUCKY FOR THE TERM OF 4 YEARS.

WALTER CHARLES GRACE, OF ILLINOIS, TO BE U.S. ATTORNEY FOR THE SOUTHERN DISTRICT OF ILLINOIS FOR THE TERM OF 4 YEARS.

LORETTA COLLINS ARGRETT, OF MARYLAND, TO BE AN ASSISTANT ATTORNEY GENERAL.

PATRICK MICHAEL PATTERSON, OF FLORIDA, TO BE U.S. ATTORNEY FOR THE NORTHERN DISTRICT OF FLORIDA FOR THE TERM OF 4 YEARS.

KATRINA CAMPBELL PFLAUMER, OF WASHINGTON, TO BE U.S. ATTORNEY FOR THE WESTERN DISTRICT OF WASHINGTON FOR THE TERM OF 4 YEARS.

CHARLES JOSEPH STEVENS, OF CALIFORNIA, TO BE U.S. ATTORNEY FOR THE EASTERN DISTRICT OF CALIFORNIA FOR THE TERM OF 4 YEARS.

DONALD KENNETH STERN, OF MASSACHUSETTS, TO BE U.S. ATTORNEY FOR THE DISTRICT OF MASSACHUSETTS FOR THE TERM OF 4 YEARS.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE OF BRIGADIER GENERAL UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 624:

To be brigadier general

COL. PETER F. HOFFMAN, [redacted] REGULAR AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. JAMES E. CHAMBERS, [redacted] U.S. AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE, TO THE GRADE INDICATED, UNDER THE PROVISIONS OF SECTIONS 593, 8218, 8351, AND 9374, TITLE 10, UNITED STATES CODE:

To be major general

BRIG. GEN. JOHN R. HAACK, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL ON THE RETIRED LIST PURSUANT TO THE PROVISIONS TO TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. EUGENE H. FISCHER, [redacted] U.S. AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. MARCUS A. ANDERSON, [redacted] U.S. AIR FORCE.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. ROBERT L. ORD, III [redacted] U.S. ARMY.

THE FOLLOWING-NAMED MEDICAL CORPS OFFICER FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES TO THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 611(A) AND 624(C):

To be permanent brigadier general

COL. VERNON C. SPAULDING, [redacted] U.S. ARMY.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. MALCOLM R. O'NEILL, [redacted] U.S. ARMY.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be general

LT. GEN. LEON E. SALOMON, [redacted] U.S. ARMY.

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. WILSON A. SHOFFNER [redacted] U.S. ARMY.

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. TEDDY G. ALLEN [redacted] U.S. ARMY.

THE FOLLOWING UNITED STATES ARMY NATIONAL GUARD OFFICERS FOR PROMOTION TO THE GRADES INDICATED IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 593(A), 3385 AND 3392:

To be major general

BRIG. GEN. ROBERT J. BYRNE, [redacted]
BRIG. GEN. MICHAEL W. RYAN, [redacted]
BRIG. GEN. WILLIAM F. STEWART [redacted]
BRIG. GEN. GEORGE K. HASTINGS, [redacted]

To be brigadier general

COL. FRANK A. CATALANO, JR. [redacted]
COL. LAWRENCE E. GILLESPIE, SR. [redacted]
COL. JOEL W. NORMAN, [redacted]
COL. SALVADOR R. RECIO-SANCHEZ, [redacted]
COL. EUGENE W. SCHMIDT, [redacted]
COL. JOHN E. STEVENS, [redacted]
COL. FRANCIS L. BRIGANTI [redacted]
COL. EMILIO DIAZ-COLON, [redacted]
COL. JOHN E. PRENDERGAST [redacted]
COL. JUAN F. ROSADO-ORTIZ [redacted]
COL. MURREL J. BOWEN, JR. [redacted]
COL. FLETCHER C. COKER, JR. [redacted]
COL. RODNEY C. JOHNSON, [redacted]
COL. THOMAS C. JOHNSON, [redacted]
COL. GUIDO J. PORTANTE, JR. [redacted]
COL. JOHN C. ROWLAND, [redacted]
COL. THOMAS E. WHITECOTTON, III, [redacted]
COL. EDMUND C. ZYSK, [redacted]
COL. FRANCIS A. LADEN, [redacted]
COL. SIGURD E. MURPHY, JR. [redacted]
COL. MURRAY G. SAGSVEEN, [redacted]

IN THE NAVY

THE FOLLOWING-NAMED CAPTAIN IN THE STAFF CORPS OF THE UNITED STATES NAVY FOR PROMOTION TO THE PERMANENT GRADE OF REAR ADMIRAL (LOWER HALF), PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFORE AS PROVIDED BY LAW:

MEDICAL CORPS

To be rear admiral (lower half)

CAPT. DENNIS IRWIN WRIGHT, [redacted] U.S. NAVY.

THE FOLLOWING-NAMED REAR ADMIRAL (LOWER HALF) IN THE COMPETITIVE CATEGORY OF SPECIAL DUTY OFFICER (INTELLIGENCE) OF THE NAVY FOR PROMOTION TO THE PERMANENT GRADE OF REAR ADMIRAL, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFORE AS PROVIDED BY LAW:

SPECIAL DUTY OFFICER (INTELLIGENCE)

To be rear admiral

REAR ADM. (IH) MICHAEL WILLIAM CRAMER, U.S. NAVY, [redacted]

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF VICE ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

REAR ADM. JOSEPH W. PRUEHER, U.S. NAVY, [redacted]

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING ROBERT D. BLEVINS, AND ENDING MICHAEL J YAGUCHI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF NOVEMBER 4, 1993.

IN THE MARINE CORPS

MARINE CORPS NOMINATIONS BEGINNING HARALD AAGAARD, AND ENDING JEFFERY J. TLAPA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF NOVEMBER 4, 1993.

IN THE NAVY

NAVY NOMINATIONS BEGINNING ROBERT K. TAKESUYE, AND ENDING JASON SCARLETT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF NOVEMBER 4, 1993.

NAVY NOMINATIONS BEGINNING JOHN D. SOWERS, AND ENDING GARY W. CAILLE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF NOVEMBER 4, 1993.

NAVY NOMINATIONS BEGINNING RICKY D. ALLEN, AND ENDING PETER G. WISH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF NOVEMBER 4, 1993.

NAVY NOMINATIONS BEGINNING TIMOTHY F. DOLAN, AND ENDING CHRISTOPHER A. URSINO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF NOVEMBER 4, 1993.

NAVY NOMINATIONS BEGINNING CHRISTOPHER J. ADAMS, AND ENDING EDMUND L. ZUKOWSKI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF NOVEMBER 4, 1993.

NAVY NOMINATIONS BEGINNING JAMES L. BASFORD, AND ENDING DONALD E. WYATT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF NOVEMBER 4, 1993.

NAVY NOMINATIONS BEGINNING SCOTT M. ALLEN, AND ENDING URIAH E. ZACHARY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF NOVEMBER 4, 1993.

NAVY NOMINATIONS BEGINNING AARON M. ABARBANELL, AND ENDING DARYK E. ZIRKLE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF NOVEMBER 4, 1993.

EXTENSIONS OF REMARKS

CONGRATULATIONS JEANNE MARRINER AND JEAN LANE

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1993

Mr. HOCHBRUECKNER. Mr. Speaker, I rise today to honor two women who have been instrumental in leading the fight to save the Peconic Bay on eastern Long Island, NY. On the occasion of their retirement, on November 20 there will be a Save the Peconic Bays celebration to honor the efforts of Ms. Jeanne Marriner and Dr. Jean Lane over the past 6 years.

Jeanne Marriner was the chairperson of the Peconic Bay Brown Tide Citizen Task Force, and the executive director of Save the Peconic Bays, Inc. Through her speeches, publications, and videos, Jeanne brought attention to the brown tide problem in the East End Bays. Consequently, Jeanne played an integral role in the inclusion of the Peconic Bays as part of the National Estuary Program. In recognition of her extraordinary leadership Ms. Marriner was honored as the 1990 Suffolk Times Civic Person of the Year and twice named the Southold Town "Person of the Year."

Dr. Jean Lane, president of Save the Peconic Bays, has also played a vital role in preserving Eastern Long Island's waters. Since 1986, Jean has worked to obtain the resources and funding necessary to clean up the Peconic Bay. Dr. Lane's 7-year commitment to educating the public and saving the Peconic Bay was marked by its acceptance into the National Estuary Program.

The Peconic Bay is one of the world's great natural resources. In 1982, the East End Bays provided more than a quarter of the Nation's scallops and had an annual shellfish industry harvest of $5 million, a sharp contrast to the $13,000 harvest of 1992 following devastating brown tides. But the protection of Peconic National Estuary is more than just an economic necessity, it is an environmental cause that should be perpetuated for many generations to come.

In 1987, my first year in Congress, I joined Dr. Lane and Ms. Marriner in their effort to combat the brown tide that threatens the bay. I wrote to the Environmental Protection Agency to request direct Federal funding to assist in the effort to clean-up the Peconic Estuary. I was told, however, that the brown tide was not a Federal concern. Despite the discouraging response, I continued to pursue Federal assistance.

During the fall of 1988, I worked closely with former Congressman Norman Lent and Senator MOYNIHAN to encourage the Federal Government to add Peconic Bay to the National Estuary Program. In September 1992 I was proud to announce to my constituents that the Peconic Bay was only the 18th National Estuary in the entire Nation to achieve this unique environmental protection status.

The Environmental Protection Agency has organized a program management conference composed of Federal, State, and local government officials as well as local business people, fishermen, scientists, environmentalists, and farmers. With their efforts I am convinced that Peconic Bay can offer a model National Estuary Program effort.

Mr. Speaker, as efforts continue to restore the Peconic National Estuary, it gives me great pleasure to commend two women who have made a difference. I ask my colleagues to join me in saluting Jeanne Marriner and Dr. Jean Lane for their dedication to the Peconic Bay. I wish Ms. Marriner, who spends much of her free time sailing, and Dr. Lane, who is beginning a new career as an artist, the best of luck in their future endeavors.

THE CHALLENGE TO THE SHIPBUILDING INDUSTRY

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1993

Mrs. BENTLEY. Mr. Speaker, my fellow colleagues. On the first of October the President delivered to this Congress an invitation to partnership in meeting the challenge confronting one of our Nation's basic and traditional industries—the shipbuilding industry—the health and welfare of which holds far-reaching implications for our national economy and security.

I should like to share with this House the affirmative and constructive response which I have made, on my own behalf, to the President's appeal for partnership, and which I urge be adopted by my colleagues.

Re a national partnership for shipbuilding.

President WILLIAM J. CLINTON,
The White House.

DEAR MR. PRESIDENT: I write in response to and appreciation of your message to the Congress of October 1st, 1993—"Strengthening America's Shipyards: A Plan for Competing in the International Market"—and your call for a national partnership between the Administration and Congress, and between the government and the private sector, to meet the challenges that face that industry.

As one who has followed closely America's maritime industries for many years, I firmly believe that this nation's shipbuilding industry stands at a turning point of historic proportions:

On the one hand, the industry can be left to wither under the combined impact of declining defense orders, unfair subsidies abroad, and commercially unacceptable levels of productivity engendered by years of reliance on military contracts.

Or, with enlightened assistance, the industry can harness its unparalleled physical and human resources to American technology, know-how, and market opportunities and take its place as a dynamic and significant contributor both to our nation's economic well-being and growth and to the maintenance of our national security.

The choice for America is clear, and the good news is that never in recent memory has the combination of Administration and Congressional policy, industry resources, and market opportunities been aligned as positively and constructively to fully realize the commercial potential of the American shipbuilding industry.

Mr. President, I should like strongly to suggest one additional element to those enumerated in your report to the Congress as steps in the revitalization of commercial shipbuilding in this country. You quite correctly listed the following important objectives that this national partnership must achieve: identification of market needs; designing of products that can fill those market needs; development of a construction approach to create those products; and enhancement of this process through partnerships between shipyards, customers, suppliers, and technologists, and between the government and the private sector.

The added ingredient: Action now.

For an industry whose decline over recent years has been measured by a steady stream of headlines of layoffs and closed facilities, an additional ingredient is urgently needed if stability is to be achieved and future potential realized: action now, without delay, to advance concrete market-driven commercial production opportunities.

More studies of the industry are not the answer. This industry has been studied practically to death, and with nothing practical to show for it. More R&D is not the answer. We have the technology; what is needed is to bring that technology down to the factory floor and into the actual process of production (as our overseas competitors are doing, including with U.S. technology which remains on the shelf here in the States).

The action that is needed is to start the process of building ships for the market, and, in the process of production, to put men and women to work, gain new skills, apply technologies, train and retrain, increase productivity, and achieve international competitiveness.

But there has to be a starting place. To my knowledge, Mr. President, there are not many markets which present commercial ship building opportunities for our shipyards to choose from in their present commercially uncompetitive posture—and projections of international shipbuilding among highly competitve foreign yards are meaningless for the U.S. industry unless and until our yards achieve new improved levels of productivity and competitiveness.

But there is one significant immediate commercial market opportunity for the U.S. shipbuilding industry, and it presents a unique arena in which to match U.S. resources to commercial needs for the benefit of both the shipbuilding industry and the nation. I submit that this opportunity should be seized and capitalized on by the public-private partnership you have called for, and without a moment's delay. That is the American Flagship Project. The National Economic Council (NEC) and The White House

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Office of Science and Technology Policy have been briefed on this project, as have many of my colleagues in the Congress who share my concern and interest in America's maritime future.

The American Flagship project is a multi-billion dollar private sector initiative to construct three 250,000 GRT passenger vessels in our nation's shipyards for operation under the American flag. Over $28-million of private money has been invested in the development of the project including, specifically, the market analysis and testing, product design and engineering, the development of an innovative plan for construction, and the enhancement of this process through partnerships among the nation's shipyards, suppliers, technolgists, government, and the private-sector customer (which in this case happens to be an American Foundation). The project is market-driven and contract ready. I know of no other market-driven commercial project even approaching this scale or potential impact on our nation's shipyards; not even on the far horizon.

The worldwide passenger/cruise ship industry is healthy and growing and its customer base is almost exclusively American.

We quite rightly spend considerable time in this Congress and recent Administrations decrying the inroads of foreign-built, subsidized ships and underpaid crews into what are essentially U.S. trades. But retaliatory action against these situations is not our only recourse, Mr. President. We have tools at hand to start today the process of revitalizing our commercial shipbuilding industry. It requires nothing more than a "go ahead" from your Administration to move the process forward.

To illustrate the significance of the opportunity resident in the American Flagship project, I would note:

The cruise ship segment of the passenger ship market (and it is only one of several segments) is among the fastest-growing sectors of the international leisure and travel market, and the end of its growth rate is not in sight.

Americans represent at least 85 percent of the passengers in that industry and currently spend some $5-billion a year effectively "importing" foreign-build and foreign-manned passenger ships, of which amount some $4-billion a year is added to our national trade deficit.

Zero dollars are paid in corporate income and shipboard payroll taxes by what is essentially a booming U.S.-based industry.

Between 1992 and the end of this decade, it is estimated that revenues in this market will total 117-billion dollars, of which at least 100-billion dollars will be paid by Americans and 70-billion dollars of that will be added to our national trade deficit.

The strength of the passenger ship cruise market is such that over $4-billion in passenger cruise ships are currently on order from foreign shipyards (not counting the value of foreign government subsidies)—and every one of these ships targets the U.S. passenger.

Can U.S. shipyards enter and compete in the passenger market? Absolutely. But not with conventional-sized vessels where our foreign competitors already have a strong competitive advantage, not to mention subsidies. Rather, the U.S. can lead the way forward and focus on the next-generation complex, modularly-designed megaships which our nation's shipyards are uniquely positioned to undertake.

Among the advantages that will assist U.S. yards in entering and claiming a share of this dynamic market, starting now, are the following:

U.S. shipyards will be more competitive in building more complex ships—like very large passenger ships—rather than tankers and cargo ships as to which foreign yards will maintain a competitive edge until U.S. shipyards productivity is significantly improved.

Wage rates in U.S. shipyards are competitive with those of European and Japanese shipyards and are likely to remain so as productivity levels improve with actual construction experience and enhancement of technology.

The cruise industry and other markets for passenger ships are dollar markets, earning the major part of their revenues in dollars, so that shipyards building under dollar denominated contracts will have the double advantage of the competitive value of the dollar, and freedom from the cost of a currency hedge.

There are two major markets for passenger ships which are effectively reserved to U.S.-build ships, and each is substantially larger than the entire cruise market.

One of these is the meeting and convention market—with annual revenues currently ten times those of the entire cruise industry—and which is driven in large part by tax deductibility, which is available only on U.S.-built ships.

The other is the vast domestic leisure and vacation market, tapping the rich tourism and hospitality resources of America's coastal cities and communities far beyond the few cruise ports of departure for foreign ships—domestic destinations which, under the Passenger Services Act of 1886, can be served (and benefitted) only by ships built in the United States.

In short, Mr. President, U.S. shipyards can build the American Flagships of the future to serve these markets starting now, without delay, utilizing facilities and tools currently available, and without waiting for new legislation or elimination of the inequities of international shipyard subsidies. Equally importantly, in the process of that production our defense-reliant shipyards can adopt processes and technologies that will improve the productivity and competitiveness of their ship production skills across the board and as to all forms of ship construction.

But action requires more than opportunities. What is needed now is a specific plan that will start this process, and help our shipyards move up the learning/productivity curve, by tapping markets and revenue streams uniquely available to U.S. ships with a product uniquely designed to serve them. The sponsors of the American Flagship project have joined with 52 other participants—including over half of the nation's shipbuilding capacity, a number of Fortune 500 corporations, the nation's leading technology providers, the American Bureau of Shipping, and even the U.S. Navy—in making a proposal to the Advanced Research Projects Agency under your Technology Reinvestment Program. The proposal outlines a market-driven path to commercial competitiveness and dual-use capability for our nation's shipyards, starting now, not five years from now when thousands more jobs will have been lost and additional shipbuilding facilities closed.

The plan calls for the organization of a "virtual shipyard" to pull technology and know-how into the actual production process—taking R&D out of the laboratories and think-tanks and down to the factory floor where it can do our shipbuilding industry some good. The project represents a relatively small Technology Reinvestment award which can be leveraged, here and now, into a multi-billion dollar market-driven American shipbuilding project and real jobs.

Mr. President, I would also call your attention to the American Flagship project in the context of national security issues (e.g. the preservation of our defense technology and industrial base), the defense conversion objectives which your Administration has so successfully advanced (e.g. the potential for civil-military integration of the shipbuilding sector), and the extent to which the cost of maritime technology development and deployment can be transferred from the government to the private sector, supported by commercial markets and existing revenue streams.

It has certainly been reassuring to see so much focus in Washington lately on the shipbuilding industry, but concrete and comprehensive solutions that are based on commercial markets which will support them starting now, are not in abundance. The American Flagship project is one—and I urge your support of it.

With every good wish,

HELEN DELICH BENTLEY,
Member of Congress.

Mr. Speaker, in keeping with the spirit and substance my letter to the President, I urge upon my colleagues that in any legislation intended to support the commercial shipbuilding industry—be it the National Shipbuilding Initiative, funding for the Technology Reinvestment Program, or other relief—priority be expressly given to activities, tasks, and expenditures which lead to actual commercial production for identifiable market opportunities. I therefore urge upon my colleagues, Mr. Speaker language which would serve that purpose in any legislation or conference report, including in the shipbuilding provisions of H.R. 2401, and I request that it be included in the RECORD:

Of the funding and activities authorized for shipbuilding (e.g. under title XIII, subtitle E, the "National Shipbuilding and Shipyard Conversion Act of 1993" H.R. 2401), priority shall be accorded to expenditures and activities which demonstrably benefit the industry as a whole and which (1) leverage market-driven, commercial production activities and rely the least on further public expenditure; (2) translate soonest into actual shipproduction and thereby save and create jobs in the industry; and (3) in this context, also facilitate the acquisition of new methods, better practices, and appropriate technologies for increasing productivity and competitiveness, thereby preserving the defense technology and industrial base and ensuring affordable military ships.

To ensure the soonest and optimum benefit to the industry from the authorized funding and activities, the agencies involved in the administration of the activities and moneys are directed to implement projects meeting the above criteria in the most expeditious manner and to minimize regulatory and other barriers or delays to the maximum extent practicable.

IN HONOR OF JOHN MACKAY

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1993

Mr. STARK. Mr. Speaker, today I would like to take a few minutes to recognize John

Mackay's distinguished career of service to the schools and community of Milpitas, CA.

For more than 30 years, John Mackay has worked for the Milpitas Unified School District. In 1965, Mr. Mackay was the principal of Thomas Russell Junior High School. In 1967, he became an associate superintendent with the school district and later in 1971, he was promoted to deputy superintendent. Finally, in 1987, Mr. Mackay reached the top of his field when he became superintendent of the Milpitas Unified School District where he has served ever since.

Mr. Mackay has also served on a variety of educational organizations. From 1985 to 1992, Mr. Mackay was the commissioner for the Western Association of Schools and Colleges Accrediting Commission for Schools. He also served as commissioner of the Accrediting Commission for Community and Junior Colleges from 1985 to 1992. From 1991 to 1993, Mr. Mackay was the chairman for the Santa Clara County Superintendent's Association and the chairman for the Santa Clara County Special Education Local Planning Agency—Region V.

Even with all his duties at the Milpitas Unified School District, Mr. Mackay still found time to serve his community. He is a member of the Milpitas Chamber of Commerce and Director of the Milpitas/Berryessa YMCA. He also served as president of the Milpitas Rotary Club in 1982.

On January 7, 1994, John Mackay's colleagues will hold a retirement dinner to acknowledge him as an outstanding superintendent, and I join those who have recognized him for his monumental achievements.

John Mackay will be sorely missed at the Milpitas Unified School District.

TRIBUTE TO DR. STEPHEN KOLLINS

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1993

Mr. BILBRAY. Mr. Speaker, I rise today to pay tribute to an outstanding Nevadan, Dr. Stephen Kollins. Dr. Kollins is a leader among medical professionals in southern Nevada. In addition to a successful practice, Steve Kollins enjoys medical teaching and is an associate clinical professor at the University of Nevada, Las Vegas. He has published several book chapters and scientific papers.

He joined desert radiologists in 1978 and has helped shape the growth of the practice into Nevada's largest diagnostic radiology and radiation oncology practice. He shares clinical responsibility with his associates in a very innovative medical imaging practice at University Medical Center in southern Nevada, Desert Springs Hospital, and in the group's affiliated offices. He has also served as department director for the radiology department at Southwest Medical Associates since 1985.

Dr. Kollins is an impassioned advocate for children. His efforts linked University Medical Center with the Children's Miracle Network Telethon. To date, $2.2 million has been raised to support pediatrics at that overburdened medical facility.

Steve Kollins is a pillar of the Jewish-American community. He is a past president of Congregation Ner Tamid and has served on its board of directors since 1982. He is first vice president of the Jewish Federation of Las Vegas. He was instrumental in the creation of the federation's central offices and combining the offices of major public service organizations together, such as the Jewish Family Service Agency and B'nai B'rith.

Steve is blessed with three children: Michael, Lisa, and Judy.

Most recently, Dr. Kollins has been named Man of the Year by Hadassah in southern Nevada. I ask my colleagues to join me and the men and women of Hadassah in honoring a great man, and my friend.

CONGRATULATIONS TO OREGON TRAIL JUNIOR HIGH SCHOOL

HON. JAN MEYERS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1993

Mrs. MEYERS of Kansas. Mr. Speaker, I wish to congratulate the students, teachers, and parents at Oregon Trail Junior High School, the only school in Kansas awarded a blue ribbon school award by the Department of Education in 1993. Oregon Trail Junior High School is also the only school in Kansas to have received this award twice.

Blue ribbon school status is awarded by the Department of Education to schools that display strong leadership; a clear sense of mission; high-quality teaching; an appropriate, up-to-date curriculum; strong parental interest and involvement; and evidence that the school strives to help all students achieve the best of their abilities.

When one looks at the long list of award-winning programs and record of student accomplishments, it is easy to see why Oregon Trail Junior High School continues to receive accolades. Students regularly participate in national French and Spanish tests, scoring as the top three students in the State every year. Oregon Trail has ranked in the top three schools in the State the last 3 out of 4 years for the State of Kansas Scholarship Test.

Out of 720 students, 70 percent are involved in one or more extracurricular activities offered to them. Oregon Trail's first science olympiad team earned five medals, qualifying for the State competition. Oregon Trail students achieved significant increases in the Iowa Test of Basic Skills for 1991–92.

I wish to congratulate and recognize every student, teacher, and parent associated with Oregon Trail Junior High School. Your achievements show us what an involved and concerned community can accomplish.

HONORING SIDNEY LEVISS

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1993

Mr. ACKERMAN. Mr. Speaker, I rise today to join with the many constituents of my district as well as the members of the judiciary of the State of New York in honoring Justice Sidney Leviss who, after 21 years of dedicated and historic service, is retiring from the bench.

Justice Leviss' career is highlighted by constant achievement and a never ending dedication to public service. Justice Leviss received his law degree in 1941 from NYU, where he served on the New York University Law Review. He was admitted to the bar in 1942 to practice in Southern and Eastern Districts of Federal Court and in the Supreme Court of the United States, However, he then went on to serve his country in World War II in the U.S. Army Air Corps. Upon his return, he entered local government, becoming the assistant district attorney in Queens County. He then moved on to assistant commissioner of borough works for Queens County. Shortly, thereafter, the justice became deputy borough president and then borough president of Queens County. In 1972, Sidney Leviss ascended the bench as a justice of the Supreme Court of the State of New York.

Throughout his career, Justice Leviss has not only proven his dedication to the public service arena, but also has demonstrated his leadership in many civic and philanthropic activities. Among his accomplishments in the Borough President's office were the securing of funding and subsequent construction or planning of the Flushing River Bridge, College Point Industrial Park, Queens Museum of Art, addition to the Science Museum, 69th Street Subway Tunnel, Third City Water Tunnel, York College, Queensboro Community College, and numerous elementary, junior high schools, and high schools. As a Justice of the Supreme Court, Sidney Leviss wrote lead decisions in matrimonial law, negligence law, labor law, evidence and contract law, and presided over many complex cases in the areas of medical malpractice, product liability, and construction injury.

Mr. Speaker, I ask all my colleagues in the House of Representatives to join me now in extending our best wishes to Justice Sidney Leviss upon his retirement from the Justice of the Supreme Court of the State of New York and to congratulate this remarkable man for his 21 years of service.

TRIBUTE TO EDWARD GERKEN

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1993

Mr. SCHUMER. Mr. Speaker, one of the pleasures of serving in this legislative body is the opportunity we occasionally get to publicly acknowledge outstanding citizens of our Nation.

I rise today to recognize one such individual, Edward Gerken, on the occasion of his being named "Man of the Year" in health care by TOURO College. This devoted man has played a key role in the establishment of the extension campus of TOURO College for physician assistants at Coney Island Hospital. And in an effort to satisfy community health needs, he has supported alternative providers like Midwives since 1982. Mr. Gerken was also instrumental in the building and renovation of the Ida G. Israel Community Health Center in Coney Island. His unending and tireless efforts to initiate programs in areas such as medical records, audio and speech and hearing therapy, and physical and occupational therapy are of great worth to the community.

These are but a few of the numerous contributions that Edward Gerken has made to the world of medicine. He is a great man and it is a pleasure for me to be able to acknowledge him on this important day when he is receiving a well-deserved honor.

DEPOSIT INSURANCE REFORM, REGULATORY MODERNIZATION, AND TAXPAYER PROTECTION ACT OF 1993

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1993

Mr. PETRI. Mr. Speaker, today I introduce the Deposit Insurance Reform, Regulatory Modernization, and Taxpayer Protection Act of 1993.

Briefly, this bill will, as the title implies, reform the Nation's deposit insurance system by substituting private regulation for Government regulation of what is already an industry funded system. It will take the taxpayer completely off the hook for any future losses due to bank or thrift failures, and it will dramatically improve the efficiency of the banking industry through substantial regulatory relief and lower insurance premiums.

Bank insolvency losses unnecessarily reached levels not seen since the Great Depression because mispriced Federal deposit insurance contributed to a series of asset deflations, the major killer of banks and other highly leveraged lenders.

However, bank insolvency losses were largely concentrated in the Southwest and in New England. Overall commercial banking actually performed reasonably well during the 1980's in the other regions of the United States where there was relatively little asset deflation.

The political process, however, understands neither the underlying flaws of Federal deposit insurance nor the regional nature of bank insolvency losses. As usually happens, the Federal Government overreacted in an indiscriminate manner to the problems in recent years among banks and thrifts. Consequently, the regulatory pendulum has swung to an unjustifiable extreme, and the economy is paying the price.

An unwarranted increase in regulatory burdens and costs imposed on healthy banks and thrifts has caused an enormous shift in market share to the less taxed and less regulated channels of intermediation. However, these channels may in fact be less efficient and less capable of supplying credit to important sectors of the economy, such as small business.

My bill is designed to solve these problems and more. The Deposit Insurance Reform, Regulatory Modernization, and Taxpayer Protection Act of 1993 will create a "100 percent cross-guarantee" system under which each bank or thrift institution will enter into a contract with an ad hoc syndicate of banks, thrifts, pension or endowment funds, insurance companies and the like to guarantee all of its deposits. Premium rates and safety and soundness requirements will be negotiated contract by contract and will not require government approval.

The guarantors, who will have their own money at risk, will take over "safety and soundness" regulatory responsibility from the Federal Government. The specific contract provisions for this purpose will vary depending upon the condition and practices of the individual bank or thrift, effectively ending "one-size-fits-all" regulation.

Each syndicate will employ an independent syndicate agent firm to oversee the performance of the guaranteed bank or thrift. The syndicate, through its agent, will be able to force changes in the guaranteed bank or even close or sell it if it runs into trouble. The agent's independence will prevent anticompetitive behavior.

Various rules for the spreading of risk will ensure the safety of the entire system, including the mandating of minimum numbers of guarantors for each bank, limits on the amount of risk undertaken by any one guarantor, and the inclusion of mandatory "stop-loss" contracts under which guarantors will pass any excessive losses through to their own "second tier" of guarantors.

The Government's principal role will be to make sure that contracts are in place and that all the risk dispersion rules are complied with. Backup Federal deposit insurance will be retained but never needed even in circumstances worse than the Great Depression.

The entire system will have to meet a key market test before it can really get started, since no contracts will become effective until a "critical mass" of at least 250 banks with at least $500 billion of assets has chosen to participate and has contracts ready to go.

Once the system is operating, banks' regulatory burdens will become far lighter, banks will have the opportunity to earn money as guarantors, and their own deposit insurance premiums will be far lower. Premiums will be lower because risk-related premiums will deter unsound lending and guarantors will act quickly to minimize losses if problems develop. For these reasons and many others, I expect this proposal to be attractive to all segments of the financial world.

This legislation has several important benefits for the economy. The taxpayers will be protected in the event of any future loss due to bank failures. A more efficient banking industry will help promote economic growth. However, the most important benefit of this plan is that it should lead to the risk sensitive pricing of loans, which should moderate future speculative bubbles.

It is these positive effects on the economy as a whole that are really the most important reasons for taking a good look at this bill. If we're going to get our economy moving again and get a handle on our deficit problem, we need to fundamentally reform the way we do things in a number of key areas. Health care, welfare, and education are a few of those areas, but financial services is certainly a crucial one. I believe deposit insurance and regulatory reform are the most important keys to improving financial services.

Mr. Speaker, I insert in addition to this statement, a short synopsis and two articles about this legislation in the RECORD:

THE DEPOSIT INSURANCE REFORM, REGULATORY MODERNIZATION, AND TAXPAYER PROTECTION ACT OF 1993

INHERENT AND IRREPARABLE FLAWS IN FEDERAL DEPOSIT INSURANCE

As Roosevelt warned in 1933, it protects bad banks as well as good, it puts a premium on unsound banking, and it has cost taxpayers billions of dollars.

As bank and S&L insolvency losses soared during the 1980s, regulators moved too slowly to deal with failing institutions. This made losses even worse.

Its mispricing caused a substantial misallocation of credit in the 1980s that has greatly aggravated the current recession; even the FDIC's new risk-based premiums will overcharge good banks and thrifts and dampen their willingness to lend. Consequently, some sound businesses cannot get sufficient credit.

Deposit insurance must be priced to reflect the riskiness of individuals banks, but the FDIC cannot properly set risk-sensitive premiums because accurate prices can be established only in private, competitive markets.

Federal deposit insurance has become increasingly dependent upon extensive regulation that cannot keep up with rapid changes in a financial world driven increasingly by electronic technology. Government regulation has become counterproductive and harmful to good banks and thrifts and to America's international competitiveness.

BASIC PRINCIPLES OF THE 100 PERCENT CROSS-GUARANTEE SOLUTION

End taxpayer risk and bailouts by ensuring that private sector equity capital always protects ALL bank and thrift deposits from loss.

Let private markets set risk-sensitive deposit insurance premiums, based on leading indicators of banking risk, that will discourage unwise banking practices.

Shift "safety-and-soundness" regulation for banks and thrifts to those who bear the risk of loss, the owners of the private capital protecting depositors.

Also shift the bank closure decision to those bearing the risk of loss. These guarantors have the strongest incentive to minimize losses and therefore should control the risks they have assumed.

Use a "stop-loss" mechanism to spread the bank insolvency risk widely, and therefore thinly, over the equity capital of the financial world.

Retain federal deposit insurance as a never-to-be-used backup insurance, but only for deposits up to $100,000.

SPECIFICS OF THE 100 PERCENT CROSS-GUARANTEE SOLUTION

Each bank and thrift enters into a contract with a syndicate of banks, thrifts and/or other well capitalized entities that guarantees the original contractual terms of all deposits and most other liabilities of the guaranteed institution.

Premium rates and other contractual terms are negotiated on a syndicate-by-syndicate basis and are NOT subject to government regulation or approval.

Numerous safeguards protect taxpayers against another deposit insurance bailout. A mandatory "stop-loss" mechanism passes part of any large insolvency loss to the guarantors' guarantors. Risk dispersion rules require a minimum number of guarantors for any one bank of thrift and limit both the aggregate risk assumed by a guarantor and the percent of risk any one guarantor assumes for any one bank or thrift.

Cross-guarantee contracts cannot be canceled unless the guaranteed bank or thrift first obtains a replacement contract or is acquired by another guaranteed bank or thrift. Once guaranteed, no institution can operate without a cross-guarantee contract in place.

Each syndicate retains an agent to monitor the financial condition of the bank or thrift it has guaranteed to ensure adherence to all contractual terms and to act as a buffer to protect the competitive secrets of the guaranteed institution.

A new agency, the Cross-Guarantee Regulation Corporation, regulates the cross-guarantee process, primarily to ensure that all guarantors are guaranteed with regard to their cross-guarantee obligations and that they have sufficient capital relative to the risks they have assumed. Safety-and-soundness concerns for individual institutions shift to the syndicates. The bank regulatory establishment is then downsized as banks obtain guarantees.

A back-up fund (BUF) insures deposits up to $100,000, but only on a back-up basis. It should never experience a loss. Guaranteed banks can still post the FDIC insurance logo.

Weaker banks and thrifts have ample time to raise the capital needed to obtain a cross-guarantee contract or to merge with another institution. The FDIC has ample funds today to cover losses in the few institutions that will fail in this conversion process.

Phase-in provisions give smaller banks and thrifts up to ten years to obtain a cross-guarantee contract. The first contracts become effective when 250 banks or thrifts, with total assets of at least $500 billion, have approved contracts in hand.

A competitive market with an ample pool of potential guarantors protects against premium overcharges, ends concerns about capital adequacy in the banking system, and permits guarantors to accept or reject individual cross-guarantee risks as they see fit.

Although there should be no bank runs, cross-guarantee contracts protect any loan a Federal Reserve bank makes to a guaranteed institution experiencing liquidity problems.

[From the New York Times, March 11, 1992]

A PLAN TO BANKROLL DEPOSIT INSURANCE

(By Peter Passell)

Could Uncle Sam again be caught holding the bag in a banking scam on the scale of the savings and loan debacle? Knock on wood, probably not.

Last year Congress ordered Federal deposit insurers to take over ailing banks before the institutions managed to throw good taxpayer money after their own bad debts. And under rules that go into effect next year, banks that are inclined to take chances will be obligated to buffer the risks with more capital.

But safety is only half the deposit insurance story; the other half is efficiency. While the United States Treasury is now better armored against assaults from future Charles Keatings, deposit insurance remains a crude regulatory tool that only a bureaucrat could love.

Federal regulators must still make subjective calls about when to padlock the doors on friendly neighborhood banks. Moreover, insurance premiums still do not mirror the risks of individual bank portfolios, a failure that implicitly subsidizes the high rollers. It is no surprise, then, that many economists see deposit insurance as a necessary evil the inevitable price of securing the national money supply.

Many, but not all, Bert Ely, who runs Ely & Company, a consulting firm in Alexandria, Va., thinks he knows a better way: private deposit insurance. And he has found a patron in Thomas Petri, a Republican Congressman from Wisconsin with a soft spot for smart schemes to buy better government for less money.

The banking industry insures itself. Premiums go into a pool, with the proceeds dedicated to making good on individual banks' promises to depositors. But civil servants, not the contributors, are in charge of setting premiums and keeping banks on the straight and narrow. And without a market to discipline the process, regulators are unlikely to make economically rational decisions.

That is where the Ely-Petri plan fits in. It would eliminate the middleman, converting deposit insurance into a true industrywide self-insurance plan. Banks would be required to obtain insurance from syndicates of other banks and perhaps other financial institutions with deep pockets. The syndicates, in turn, would be required to reinsure with other syndicates against losses of a magnitude that could tap them out. And to cope with the incredibly unlikely event of the whole system running through its capital, the Government would reinsure the reinsurers.

Syndicates, managed by professional agents, would set premiums at any level they wished and negotiate their own criteria for withdrawing coverage—much the way a fire insurer deals with corporate policyholders. Competition between syndicates would prevent rate gouging, as well as creating pressures to price policies according to the perceived risk in banks' investment strategies.

Markets, not bureaucrats, would decide when banks closed: A bank that could not obtain insurance, or could not make a profit at the level of premiums demanded, would be forced to merge or liquidate.

Would it work? Robert Litan, an economist at the Brookings Institution, thinks the plan is "conceptually quite elegant." The big imponderable, he suggests, is whether a deep, competitive market in deposit insurance would emerge. After all, the existence of opportunities for profit do not always attract investors or expertise—especially in games that require big bucks to play.

One specific worry is whether syndicates would favor large banks over small because the costs of supervising smaller institutions would be high, per dollar insured. Another is that the syndicates would be excessively conservative, effectively forcing even well-managed, well-capitalized banks to shed higher-risk loans.

But it is not entirely clear that these are drawbacks. If small banks are more expensive to regulate than large ones, why should they not pay more? And if banks are driven to hold lower-risk portfolios, there is still reason to believe that less-than-blue-chip borrowers would have access to capital.

Finance companies and investment banks that specialize in commercial paper would probably pick up part of the slack. And the trend toward securitization, in which banks package everything from home mortgages to credit card debts in multimillion-dollar bundles and sell them to institutional investors, would no doubt accelerate.

Whether or not the Ely-Petri approach would do the job is irrelevant, of course, if it cannot attract serious support in Washington. One strategy for making it relevant, Mr. Litan suggests, would be to start with only large banks.

That would cheer up smaller banks, which resent the current Federal inclination to discriminate in favor of institutions that are "too big to fail." And it might pick up some support from the healthiest mega-banks, which now chafe at paying high insurance premiums to carry their deadbeat competitors.

[From the Hoosier Banker, January 1993]

THE 100 PERCENT CROSS-GUARANTEES: SAFETY, SOUNDNESS AND MUCH MORE FOR BANKING

(By Bert Ely, President, Ely & Company, Inc., Alexandria, VA)

Almost from the beginning of banking as a specially chartered business, the governments that charter banks have mandated safety and soundness requirements designed to protect depositors from losses. Key requirements have included minimum capital levels, restrictions on asset investments, loan-to-one-borrower limits, and liquidity standards.

Safety and soundness requirements, though, have not been foolproof protectors of depositors, which is why deposit insurance first emerged in 1829 with the formation of the Safety Fund Banking System in New York. That plan, as well as 10 subsequent state deposit insurance plans for banks, later failed during economic distress. All of these plans failed, because they were ill-conceived as insurance mechanisms.

Federal deposit insurance, which emerged from the ruins of the Great Depression, was modeled on the 11 earlier state plans that failed, which is why failing S&L's bankrupted the Federal Savings and Loan Insurance Corp. (FSLIC) in the 1980s. Bank failures also have caused enormous losses for the Bank Insurance Fund (BIF). Federal deposit insurance has fulfilled President Roosevelt's prophetic warning in 1933 that government deposit insurance would guarantee bad banks as well as good banks, would cost the taxpayers money, and would put a premium on unsound banking in the future.

Ignoring Roosevelt's warnings about the inherent flaws in federal deposit insurance, Congress and the banking regulators over the last decade have attempted to minimize future bank failures by imposing stiffer safety and soundness requirements that seek to take as much risk out of banking as possible, They may succeed, but the unintended consequences of increased safety and soundness requirements for banking may inflict even more havoc on our economy outside of the banking system.

Specifically, financial intermediation in this country is becoming less efficient, the potential for systemic risk elsewhere in the financial system is increasing, and many legitimate credit needs are not being met adequately. In effect, government policies are making things worse as they attempt to fix the irreparable, government-mandated safety and soundness standards for banking.

100 PERCENT CROSS-GUARANTEES: A BETTER WAY TO SAFE, SOUND AND WISE BANKING

Banks, like other types of financial intermediaries that hold the public's financial wealth, need safety and soundness standards. Banking also needs a sound insurance mechanism that protects depositors against losses when a bank or thrift fails in spite of those standards.

But government is not the only source for those standards, nor for deposit insurance.

The marketplace can do a better job of ensuring safe, sound and wise banking while protecting depositors against any losses if a private-sector deposit insurance mechanism is properly structured.

The 100 percent cross-guarantee concept represents a better way, and perhaps the only way, to utilize the marketplace to deliver better and safer banking than the federal government ever can hope to deliver. Cross-guarantees, which have been under development for more than a decade, moved beyond the concept stage when the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992 (HR 6069) was introduced on September 30, 1992, by Rep. Tom Petri, R-Wis. Effectively, the Petri bill employs the 100 percent cross-guarantee concept to privatize the management of the deposit insurance program now administered by the FDIC, thus bringing perestroika to American banking.

OBJECTIVES FOR SAFE AND SOUND BANKING

The following are legitimate public policy objectives for a safe and sound banking system:

A stable financial system that works smoothly, efficiently, and without disruption by protecting depositors and insureds against losses arising out of the failure of individual financial firms;

A safe financial system in which insolvent firms can be disposed of without triggering a financial crisis;

Private capital voluntarily placed at risk bears all losses incurred in protecting the depositors and insureds of failed firms.

KEY FEATURES OF CROSS-GUARANTEES

The Petri bill will create a marketplace in which each bank and thrift will have to seek a cross-guarantee contract that will protect all of its deposits and most of its other liabilities and commitments against any loss or failure to perform, should the institution become insolvent. Qualified parties voluntarily will provide the guarantees called for in these contracts in exchange for a risk-based premium. These guarantors can be other banks and thrifts, general business corporations, insurers, endowment and pension funds, and even very wealthy individuals.

Each bank and thrift will recruit a syndicate of guarantors from a large pool of guarantors that meet certain statutory requirements. The terms of each cross-guarantee contract will be negotiated solely by the guaranteed institution and its guarantors. Key terms of these contracts will include the formula under which the risk-based premium will be calculated and the safety and soundness standards applicable to the bank or thrift.

Market-driven risk-based premiums, based on leading indicators of banking risk, will deter unwise lending that leads to bank failures. Each contract also must specify a syndicate agent to monitor the activities of the guaranteed bank or thrift on behalf of the syndicate of guarantors. Figure 1 illustrates the parties to a cross-guarantee contract.

No longer will depository institutions be subject to one-size-must-fit-all government regulation; instead, the marketplace will tailor safety and soundness requirements to the operating style of individual institutions. This tailoring process will permit banks and thrifts to specialize and therefore to compete more effectively against firms that currently are less regulated.

The Petri bill creates a regulatory mechanism for the cross-guarantee marketplace that focuses on the ends or objectives of the process, not on how these ends are to be achieved. Specifically, the bill establishes certain requirements for each cross-guarantee contract and further requires that each contract be approved by a federal agency before it takes effect.

Key statutory requirements which each contract must meet include protecting all deposits and most other liabilities of the guaranteed institution, mandating certain "stop-loss" limits that will spread large or catastrophic losses widely but thinly over the capital of many guarantors, requiring that each guarantor who is not a guaranteed bank or thrift have a net worth of at least $100 million, and establishing specific risk-dispersion requirements for each contract and guarantor. In addition, no cross-guarantee contract can be canceled or allowed to expire, unless a replacement contract has been obtained.

The Petri bill bars the government from objecting to any contract provision dealing with the pricing of cross-guarantees, safety and soundness requirements imposed by guarantors, or the conditions under which a bank's or thrift's cross-guarantee syndicate can assume control of the institution. In other words, the government's say over contract terms will not extend beyond what specifically is required by statute.

The cross-guarantee concept, and especially its stop-loss feature, eliminates as a practical matter all taxpayer risk from deposit insurance. However, because depositors have come to rely on federal deposit insurance, the Petri bill creates a backup fund (BUF) to protect depositors up to the present limit of $100,000.

The cross-guarantee system, though, will be so strong that any economic catastrophe that bankrupted the system already would have caused our increasingly indebted federal government to default on its obligations. Figure 2 illustrates the relationship of the cross-guarantee system to the BUF.

Two other features of the Petri bill warrant special mention. First, the bill is a "narrow bill," in that it only reforms deposit insurance. It does not address those aspects of banking regulation that restrict competition or impose unwarranted inefficiencies on banking, such as branching restrictions or the separation of investment from commercial banking. Those issues can be dealt with more easily once the management of deposit insurance has been privatized.

Second, while the Petri bill addresses only federal deposit insurance for banks and thrifts, the cross-guarantee concept is applicable to any type of financial intermediary operating in any market economy in which contracts are readily enforceable. Hence, it will be relatively easy to extend the cross-guarantee concept to the securities and insurance industries, as well as to the financial systems of other countries.

Now is an ideal time to implement cross-guarantees. The American economy is in the early stages of what should be a long-term recovery from the deflation-driven recession of recent years. This long recovery period will permit cross-guarantees to take root in time to begin pricing against trends that otherwise could cause future speculative bubbles that will prove costly, not only to the economy, but possibly even to taxpayers.

CROSS-GUARANTEES WILL DELIVER MANY BENEFITS

The 100 percent cross-guarantee concept offers many benefits to the banking system, to the economy, to the American taxpayer, and to the political process. The order of these benefits does not diminish the importance of those benefits not presented first.

Benefit 1. Implementation of 100 percent cross-guarantees can occur much more quickly and completely than any other deposit insurance reform proposal. Many banks and thrifts will be ready to switch to 100 percent cross-guarantees on the date cross-guarantee contracts can first become effective, which will be 18 months after the legislation is enacted.

Benefit 2. the 100 percent cross-guarantee concept represents the only comprehensive reform of deposit insurance that has been proposed. Further, 100 percent cross-guarantees will reform federal deposit insurance by effectively replacing it. All other proposals, by attempting to reform federal deposit insurance and its accompanying regulatory straitjacket, are trying to repair the irreparable.

Benefit 3. The "solvency safety net" constructed by the stop-loss feature in all cross-guarantee contracts will effectively privatize the federal safety net, thus eliminating all risk of loss to taxpayers. Shifting the safety net function to 100 percent cross-guarantees will then permit the Federal Reserve to concentrate solely on its monetary management duties.

Benefit 4. The 100 percent cross-guarantees will not take away any existing protections for depositors and the financial system; cross-guarantees will only add to existing protections. Retaining federal deposit insurance, up to $100,000, but only as a backstop for 100 percent cross-guarantees, will give small depositors confidence that their deposits are just as well protected as they now are. However, because of the strength of 100 percent cross-guarantees, this backup protection, as a practical matter, will never be called upon.

Benefit 5. Because of the great strength of cross-guarantees, all guaranteed banks and thrifts almost certainly will be AAA-rated by the bank rating agencies. This high credit rating will permit banks and thrifts to raise funds more cheaply. Because cross-guarantees will be much cheaper than federal deposit insurance and regulatory burdens will be less costly, guaranteed banks and thrifts will be able to lower their "all-in" cost of funds.

Benefit 6. With lower funding costs, 100 percent cross-guarantees will permit guaranteed institutions to profitably hold lower-risk assets, such as loans to top-rated businesses. Also, banks and thrifts will be able to hold many assets in portfolio that they now feel compelled to securitize.

Benefit 7. The 100 percent cross-guarantee concept builds on the existing strengths of the banking system, most notably on the equity capital already invested in it. This capital and its earning power are more than enough to enable the banking system to withstand another Great Depression, once 100 percent cross-guarantees become a reality.

Benefit 8. Cross-guarantees will greatly increase financial stability within the banking system by explicitly protecting all domestic and foreign deposits in American banks and thrifts from insolvency losses that occur for whatever reason. This explicit protection will end uncertainties about the strength of the banking system whenever a bank or thrift with substantial uninsured deposits (deposits of more than $100,000 per depositor) gets into financial difficulty. Today, this uncertainty is competitively damaging to American banks, because other industrialized nations are not afflicted by uncertainties about the strength of their financial institutions.

Benefit 9. By protecting all deposits, 100 percent cross-guarantees will eliminate the daylight overdraft risk. A daylight overdraft is the risk that a bank will not be able to cover its payments system overdraft at the end of a business day, because it suddenly has become insolvent. Because 100 percent cross-guarantees will cover all payments system liabilities of a bank or thrift, guarantors will effectively bear the daylight overdraft risk of a bank or thrift as part of assuming the overall solvency risk of that institution.

Benefit 10. Guarantor takeovers of failing banks and thrifts, before they become insolvent, will improve the overall efficiency of the economy by ridding the banking system of inefficient competitors. One of the hidden costs of the FSLIC debacle was that it burdened the banking system with overcapacity in the form of inefficient and insolvent S&Ls, whose losses were effectively being subsidized by the taxpayer.

Benefit 11. The 100 percent cross-guarantees will eliminate any need for depositor discipline. Because guarantors will protect all deposit balances, including balances of more than $100,000, there will be no need to rely on depositors to discipline the risk-taking proclivities of bankers. This will be the case, because 100 percent cross-guarantees will shift the responsibility for assessing the riskiness of a bank's or thrift's activities from a highly risk-adverse set of creditors (bank depositors) to that source of funds (the equity capital of guarantors) that is best suited to and willing to assess and price financial risks.

Benefit 12. The 100 percent cross-guarantee concept completely eliminates too-big-to-fail as a public policy concern. Today, regulators cower at the thought of liquidating a large bank for fear that uninsured depositors in that bank, and others, will stampede. However, because guarantors will protect all deposits, large depositors will not panic, even if the biggest bank is taken over by its guarantors and sold to another bank or liquidated. A weak bank may lose depositors who are dissatisfied with the bank's services, but depositors protected by 100 percent cross-guarantees will not flee out of fear for the safety of their funds.

Benefit 13. Because 100 percent cross-guarantees will eliminate practically all risk to taxpayers, federal deposit insurance no longer will represent a $3.3 trillion contingent liability of the federal government.

Benefit 14. The risk-deterring effect of risk-sensitive premiums will encourage banks to lend and invest more wisely than many banks do now. Wiser lending will lead to a more productive use of credit within the economy, which in turn will enhance economic growth. In particular, risk-sensitive premiums will choke the flow of credit-inflating speculative bubbles, such as occurred with farmland in the 1970s and commercial real estate in the 1980s. Bursting bubbles waste much capital and prolong the recovery from recessions.

Benefit 15. Risk-sensitive premiums will largely, if not completely, eliminate the cross-subsidy in flat-rate deposit insurance premiums, a subsidy that ow flows from good banks to the bad. In 1992, the cross-subsidy cost America's better banks and thrifts at least $5 billion. Risk-sensitive premiums will cause the nation's riskier banks and thrifts, as a group, to pay for most, if not all, of the insolvency losses the failed institutions in this group incur. The FDIC's new risk-based premiums will not materially reduce this cross-subsidy. Figure 3 contrasts the risk-sensitive premium rates the FDIC will be charging in 1993 with the likely structure of risk-sensitive premiums that will develop in the cross-guarantee marketplace.

Benefit 16. The 100 percent cross-guarantees will permit banks and thrifts to reduce substantially the total cost of their deposit insurance, including the cost of compliance. Figure 4 forecasts total costs (including compliance costs) of federal deposit insurance with 100 percent cross-guarantees. The decline in the net cost of cross-guarantees reflects the expected learning curve for the cross-guarantee process. The cross-hatched area between gross cost and net cost illustrates another benefit of cross-guarantees—guaranteed institutions can "net down" the cost of their cross-guarantees by becoming more active as guarantors, if overall cross-guarantee premium rates reflect too much pessimism about future cross-guarantee losses.

Benefit 17. The 100 percent cross-guarantees will permit banks and thrifts to escape the one-size-must-fit-all mentality of banking regulation. Regulation effectively will shift to the cross-guarantee contract. The risk-balancing incentives of risk-sensitive premiums also will serve to optimize risk-taking by bankers. This regulatory shift will give individual banks and thrifts the flexibility to negotiate contractual terms that will permit them to innovate at their own pace and to tailor their capital structures to the lending and investing strategies best suited for each institution.

Benefit 18. The 100 percent cross-guarantees will greatly improve opportunities for community banks by freeing them from the practical effect of the too-big-to-fail policy. No longer will community banks be constrained from accepting deposits of more than $100,000. Cross-guarantees also will have an especially beneficial effect on the cost of funds for community banks, in addition to permitting them to operate more efficiently. Without 100 percent cross-guarantees, many community banks will have an increasingly difficult time surviving in the banking marketplace.

Benefit 19. The 100 percent cross-guarantee concept easily could be extended to protect the liabilities of all providers of financial services, including securities firms, money market mutual funds, insurance companies, and even government-sponsored enterprises. This extension would eliminate the growing systemic risk these channels of funds intermediation pose to the taxpayer through the increased access they gained to the Federal Reserve's discount window under FDICIA (the 1991 banking legislation).

Benefit 20. The 100 percent cross-guarantee concept permits non-bank firms, endowment and pension funds, and even very wealthy individuals to participate as guarantors, provided that the cross-guarantee obligations of these firms are themselves guaranteed by other guarantors. Broadening the capital base available to guarantee bank and thrift deposits and other liabilities of these institutions will further strengthen the financial backing of America's depository institutions.

Benefit 21. Perhaps the greatest benefit of 100 percent cross-guarantees will be depoliticizing the banking business, because banks and thrifts no longer will have an incentive to seek political salvation for their banking troubles. Thus, 100 percent cross-guarantees will free the political process from the inherent flaws of federal deposit insurance.

CONCLUSION

Government regulation of banks and thrifts has caused great harm to the American economy, most recently by fostering several speculative bubbles whose bursting has saddled our economy with painful asset deflation and a sluggish economic recovery. Increased regulatory micromanagement only makes matters worse by employing an increasing number of bureaucrats to override the marketplace.

Congress must make a U-turn by enacting 100 percent cross-guarantees to privatize deposit insurance and all of the regulatory apparatus that now encrusts the nation's banking system. Only then will America begin to enjoy a safe, efficient and stable financial system.

NATIONAL EDUCATION STATISTICS ACT OF 1993

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1993

Mr. KILDEE. Mr. Speaker, today I am introducing, on behalf of myself and Mr. FORD of Michigan, the Clinton administration's National Education Statistics Act of 1993. This bill proposes the reauthorization of the National Center for Education Statistics [NCES] and the National Assessment of Educational Progress [NAEP] as a freestanding law.

I have often said that education is a local function, State responsibility, and important Federal concern—and the National Education Statistics Act of 1993 is one of the very legitimate ways that this Federal concern in education is expressed. In fact, this bill seeks to continue one of the oldest Federal educational activities—the collection, analysis, and dissemination of information on the condition and progress of education nationally and across the States—begun in 1867.

The administration's proposal would extend the current NCES authority through fiscal year 1999 including the administration of NAEP, the highly regarded and only national source of information on what students at various ages know and are able to do in specific academic subject areas.

Mr. Speaker, I am pleased to introduce this bill for the administration. It raises a number of issues which deserve to be considered in the context of our reauthorization of the Elementary and Secondary Education Act of 1965.

U.S. SHIP SAFETY AND COMPETITIVENESS ACT

HON. JACK KINGSTON

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1993

Mr. KINGSTON. Mr. Speaker, today, I am introducing the U.S. Ship Safety and Competitiveness Act which will end featherbedding in our endangered merchant marine and increase our ability to compete in the world market. My bill would exempt U.S.-flag vessels from the arcane radiotelegraphy and morse code officer requirements of the Communication Act of 1934—provided they operate in accordance with the Global Maritime Distress and Safety System [GMDSS].

There are several reasons I am offering this bill.

Through years of international cooperation, the use of new technology has been agreed upon in conventions of nations. This new technology developed into a system called Global Maritime Distress and Safety System [GMDSS] and provides a more safe and comprehensive way of communicating on vessels.

Virtually all the competition of U.S.-flag vessels, including foreign ships calling at our own U.S. ports, have adopted and are able to implement this GMDSS system as their sole method of at-sea distress communications. This not only makes them safer but also much more efficient.

Under the GMDSS system, ships will be required to have two trained crew members already on board who will be responsible for the operation of the GMDSS system. Unlike the requirements of the Communications Act of 1934, crew members who are responsible for the GMDSS system may have other duties on board besides monitoring the radio. Under present law, morse code officers may perform other duties but must be compensated for it. Under the GMDSS system, a crew member who is hired to work as a cook, captain, or any other duty aboard ship may be responsible for the GMDSS system as well. The ship owner is not required to pay extra for this service.

Not surprisingly, our own U.S. Coast Guard announced in January 1993 that it will no longer monitor distress signals on Coast Guard vessels or at Coast Guard stations making morse telegraphy and the radio operators that operate them unnecessary. Furthermore, our own U.S. Navy no longer uses morse code on its ships.

By 1995, our new ships will be required to be equipped with GMDSS equipment but will still have to carry radiotelegraphy equipment—equipment that generates a morse code distress signal that will not even be heard by the U.S. Coast Guard. The radio officers required by law to operate this outdated equipment cost our shipping companies approximately $220,000 per ship per year. The cost to equip a ship with GMDSS is approximately $200,000—a one time cost.

Because our U.S. flag vessels are operating under severe cost disadvantages, the problem of requiring operators to employ crew members that are not needed is a serious problem that needs to be addressed. This burden and disparate treatment is one more example of the many rules affecting only U.S.-flag vessels and operators and thus making it all but impossible to compete with their foreign flag counterparts. I urge my colleagues to join me and cosponsor the U.S. Ship Safety and Competitiveness Act.

H.R.—

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "U.S. Ship Safety and Competitiveness Act of 1993".

SEC. 2. EXEMPTION FOR COMPLIANCE WITH GMDSS PROVISIONS.

Section 352(a) of the Communications Act of 1934 (47 U.S.C. 352(a)) is amended—

(1) by redesignating paragraphs (5) through (8) as paragraphs (6) through (9), respectively; and

(2) by inserting after paragraph (4) the following new paragraph:

"(5) a United States ship operating in accordance with the Global Maritime Distress and Safety System provisions of the Safety Convention;".

TRIBUTE TO REV. OTHA GILYARD

HON. FRED UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1993

Mr. UPTON. Mr. Speaker, as the U.S. Representative of Michigan's Sixth District, I want to express my deepest appreciation for the many fine years of service Rev. Otha Gilyard has provided to the Kalamazoo community.

Over nearly 20 years, Reverend Gilyard has become a leading force in our community. His dedication to the cause of social justice and improving the lives of others has left a lasting mark throughout all the Kalamazoo area. The void that he leaves behind will be a hard one to fill.

Reverend Gilyard has played a key role in the development of numerous local projects such as the Safe House. Presently, 400–500 people a week visit the Safe House to seek drug addiction counseling at any of the three meetings a day, 7 days a week.

"They become your community. They become family. I can call them in a heartbeat," said Willie Hampton, a Safe House graduate who has been clean from drugs for the first time in more than a decade. "I'm a miracle," Hampton said. Thanks to Reverend Gilyard and Safe House, there are many miracles walking around Kalamazoo today.

Other examples of projects spearheaded by Reverend Gilyard include Pride Place and the Family Institute. These projects have been instrumental in helping the people of Kalamazoo overcome problems and pull together as families.

The Kalamazoo Gazette describes Gilyard as one who "served as a bridge to unite corporate boardrooms and academic ivy towers with the daily realities of Kalamazoo's poor and downtrodden. He earned the respect of Kalamazoo's power brokers while persistently prodding them to do the right thing."

In addition to his many other accomplishments, Reverend Gilyard has been the strong leader of the Mount Zion Baptist Church. Through his own actions, he has instilled in the congregation the importance of transforming faith into deeds, a practice that we should all strive to follow in our daily lives. Actions do speak louder than words and never has this been more true than in the case of Otha Gilyard.

It is comforting to know that such a special person is being offered a new opportunity for service in another community. I am sure that he will continue to be a blessing to all the people around him. I offer my warmest wishes to Reverend Gilyard and his family in the years ahead.

He has served us all with his hard work. It is now our duty to try and fill the void. We wish him well in his new challenge in Columbus, OH. He truly touched our corner of the State for the better and for that we are all most grateful.

TRIBUTE TO PRISCILLA CHRISTINE CAPELLAN

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1993

Mr. DIXON. Mr. Speaker, I rise today to pay special tribute to Mrs. Priscilla Christine Capellan, who will celebrate her 90th birthday on November 19, 1993. Mrs. Capellan, who resides in my congressional district, has spent the majority of her life as a teacher and a champion for children.

Born in Calvert, AL on November 19, 1903, Priscilla was one of six children born to Mr. and Mrs. Abraham Franklin. After Mr. Franklin's death, Mary Franklin moved her family to Cincinnati, OH.

Craving a warmer and dryer climate, Priscilla moved to Los Angeles as a young woman, enrolling in Jefferson High School. While attending Jefferson, Priscilla performed day work to support herself. Following her graduation, she studied at Arizona State Teachers College—known today as Arizona State University—receiving her Bachelor of Arts degree in 1929.

In 1931, Priscilla married Mr. Ernest Ramos and to that union was born a son Gene E. Ramos. In 1940, following the end of her marriage to Ernest Ramos, Priscilla wed Mr. Joseph E. Turner. Priscilla and Joseph also had a son, Joseph R. Turner. In 1950, she married Mr. Eliseo Capellan; the Capellan's have been happily married for 43 years.

Following a long career as an elementary school teacher in Merced, CA, Priscilla retired from teaching and embarked on a second career at Delta Headstart Schools. In 1971, at the age of 68, she founded the Do Re Me Child Development Center. She served as the director of this pre-school program until retiring—for a third time—at the age of 87 years young.

Priscilla Capellan has been an active member of the N.A.A.C.P., Sigma Gamma Rho Sorority, American Legion Services, Arizona State University Alumna Association, and the Brotherhood Crusade. Mrs. Capellan has also been listed among the Who's Who of American Women for 1977–1978 and is a bearer of the International Date Line.

Mr. Speaker, I urge my colleagues in the House of Representatives to join me in honoring Mrs. Priscilla Christine Capellan on her 90th birthday, and especially in paying tribute to a lifetime devoted to providing quality education to literally thousands of children in the Merced and Los Angeles communities. I join with her family, including her grandchildren Gia, Geno, Anthony, Michael, and Shirley as well as an extended circle of friends, in saying well-done Mrs. Capellan. May the future continue to surround Priscilla Capellan with joy, serenity, and the love of her family and friends.

NORTH AMERICAN FREE-TRADE AGREEMENT

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1993

Mrs. COLLINS of Illinois. Mr. Speaker, even though this body has already passed NAFTA, I feel it is incumbent upon me to point out more of my concerns not only because the Senate has not yet done so, but more importantly because the whole story should be told in the CONGRESSIONAL RECORD.

My concerns that the North American Free-Trade Agreement [NAFTA] will cost hundreds of thousands of American workers their jobs has been well documented, but were greatly heightened recently after seeing the CBS news program, "60 Minutes". In a segment entitled, "North of the Border", CBS reported that large American computer corporations are replacing American computer programmers with foreign programmers who are being allowed to enter the country by totally perverting the intent of our immigration laws.

According to CBS, there are computer companies that are firing Americans in order to bring the lower-wage foreigner in. In 1992, the first year after, what was to have been strengthening changes to our immigration laws went into effect, U.S. employers made applications to admit 53,000 foreign workers. So far this year, applications to admit 72,800 foreign workers have been submitted by American firms; and, even though foreign workers are supposed to be admitted only on a temporary basis under this program, temporary may be as long as 5 to 6 years.

Worse still, It appears that no one at the Labor Department presently investigates to ensure that employers are paying these foreign workers a prevailing wage. As a result, CBS found cases where foreign computer workers were receiving only subsistence allowances in exchange for their work.

So, what does this have to do with the NAFTA that former President Bush negotiated and that is widely supported by America's largest corporations? The issue is credibility. Why should we believe claims of big business that NAFTA is a winner, not a loser, for American workers when many of those same firms are the very ones that are laying off Americans and replacing them here in America with foreign, nonimmigrant workers. These companies have found a way to use cheap foreign labor even before NAFTA takes effect—they have brought foreign labor to them.

Assurances that the Bush administration's NAFTA will be good for American workers must be viewed in the light of similar claims that American corporations would not abuse the immigration laws to bring in cheap foreign labor.

Let me assure my colleagues that the victims of this immigration scam are American workers, who are losing their jobs. Within the same period of time Hewlett-Packard hired foreign computer programmers in California, it fired 2,700 of its employees in the San Francisco Bay Area.

Americans cannot, and should never have to, compete with indentured labor; yet, that is what is happening. On its program, CBS interviewed a computer programmer from India who was assigned to work for Hewlett-Packard in California. Her salary of $250 a month was still being paid back in India, and she was being paid $1,300 a month for living expenses in the United States. Altogether that comes to less than $20,000 a year, and according to CBS, nowhere near what Hewlett-Packard would have to pay an American.

But, the savings to U.S. corporations are even more dramatic than might be imagined, because Hewlett-Packard and others do not actually hire individual foreign workers. Instead, American companies contract with personnel firms to provide workers, and as a result, never have to pay taxes or benefits for the foreign workers who serve them. The State of California is reportedly investigating a number of these personnel firms that specialize in foreign workers for their failure to withhold State or Federal taxes and contributions for social security and other benefits.

United States corporations stand to realize even greater labor cost savings from producing in Mexico, if they believe—and they do—that NAFTA makes their investments in Mexico as safe as investments here in the United States. The average wage for Mexican industrial workers is only $2.35, or about a seventh of the average United States factory wage. In the maquiladora plants in the United States-Mexico border area, the average wage is less than $2.00.

So let me ask my colleagues: If American corporations are willing to fire United States workers so they can pay foreign workers a little under $20,000 a year, do you really not think they will be even more willing to replace American labor with Mexican labor they pay only about $5,000 a year?

I think all of us know the answer to that question. The problem with NAFTA is that while it may be a good deal for American business, there is very little in it for American working people. Mexico did not commit to lift its restrictions on wage increases so that workers could bargain fairly and competitively for wage rates that world class manufacturing, like that which is now taking place in Mexico, commands.

Violations of worker rights in Mexico cannot even be brought up for dispute settlement under the side agreement on labor that was negotiated. As a result, there is little incentive for Mexico's Government to lift restrictions on which unions can be recognized and the ability of workers to strike.

So, I advise my fellow Americans that when they listened to all the claims U.S. corporations have made about NAFTA and jobs, remember the "60 Minutes" program. Clearly, American business will go to incredible lengths to gain access to cheap foreign labor. NAFTA will only make cheap labor in Mexico more accessible for United States business than it is today.

MORE THAN A HOLIDAY

HON. LESLIE L. BYRNE

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1993

Ms. BYRNE. Mr. Speaker, recently we celebrated Veterans Day—a day set aside to honor the men and women who sacrificed greatly to preserve freedom and democracy in our country and in nations throughout the world. To many, Veterans Day is just another Federal holiday, but one young girl, a constituent of mine, sought the true meaning of Veterans Day and eloquently captured it in a story she wrote for a local newspaper. Maxine Giammo, a 12-year-old seventh grader at Frost Intermediate School, tells an inspirational story of courage, bravery, compassion, and triumph. The story is about her neighbor, Bob Grimes, a World War II veteran shot down in Belgium on October 20, 1943. I submit it to the CONGRESSIONAL RECORD so that everyone may read it, reflect upon it, and be grateful for the gifts that our brave veterans have afforded us. I am also confident that you will find in this story a renewed appreciation for the youth of our country. I am honored to represent Bob Grimes and Maxine Giammo.

[From the Fairfax Journal, Nov. 10, 1993]

GIRL LEARNS FROM VETERAN

(By Maxine Giammo)

I used to think that Veterans' Day glorified war. That it was just a day to honor people who had killed others. Until I heard about my neighbor, Mr. Bob Grimes' recent trip to Belgium.

He and his wife just returned from a reunion with the various "helpers" who had saved his life after his plane was shot down by German war planes in 1943.

Fifty years ago, on Oct. 20th, Mr. Grimes and nine other crew members began their fifth mission. They flew out of southwest England, heading to Germany. While flying over Belgium, one of the engines of their B-17 developed problems, and they had to fall out of formation.

They then became involved in an air battle with German planes. Three members of Grimes' crew were killed, and the tail of the plane was gone.

As the plane circled to the ground, the remaining seven members parachuted out. Unfortunately, the copilot, Art Pickett, died when his parachute failed to open fully and he hit the side of a church. The rest of the crew members landed within 30 miles of each other. Mr. Grimes had been shot in the leg while in the plane. As a result, he had trouble walking after landing near the small town of Silly. Luckily, a man and a young boy found him and promised to return that night.

But they didn't. So Mr. Grimes had to risk finding help on his own. He struggled to the nearest house, but was motioned away when he knocked on the door. Apparently, there were Germans inside the house. He hid in the outhouse until a woman from the house brought him some food. She said that he couldn't stay there, but motioned him on to the next house.

At first, the couple there also waved him on. But when they saw his leg wound, they realized that he couldn't go anywhere. They gave him iodine for this leg, and he spent the night on the kitchen floor. The Germans were looking for him and his surviving crewmen, so Mr. Grimes was moved to various houses during the next week. He remembers few details of this because his leg had become infected, and he was delirious with fever.

Finally, he reached Brussels. There, he stayed above a church and was cared for by doctors who worked with the Belgian resistance. I cringed as Mr. Grimes described the two futile attempts to dig the bullet out. A third doctor agreed to operate if Mr. Grimes could walk in and out of the clinic after hours. After viewing the leg, this doctor concluded that he could best reach the bullet by cutting in from the opposite side of the wound. Mr. Grimes was awake for this because there was no anesthesia.

Mr. Grimes remained in Brussels while he recovered. During this time, he used a fake French identification card, but because he spoke French poorly, he tried to avoid any encounters with German soldiers.

By late January, he was well enough to travel. He joined a mixed group of escaped Americans and Belgians working with the resistance group, "Comet." They traveled southwest through France to Spain, which was a neutral country.

Two members of the group drowned crossing what they thought would be a small stream, but was really a raging river. One of the Americans turned back toward France at this point.

He was captured by the Germans and imprisoned until the end of the war. The remaining four members of the group were arrested by the Spanish militia as they crossed the Pyrenees mountains. One week later, the American consulate arranged for them to go to England. From there, they were flown home.

This whole story has drastically changed my views about those who fight in wars. Especially when I realized that Mr. Grimes was only 20 years old when this happened. That's only 8 years older than I am. And I especially admire the people who risked their lives to help save Mr. Grimes. Thanks to his navigator, Jim McCoy, Mr. Grimes had a chance to see them again last month.

Two years ago, Jim McCoy placed ads in various Belgian newspapers asking for any information on the people, the "helpers" who had saved their lives. He received numerous replies and began planning a reunion. Unfortunately, McCoy died earlier this year. However, the people in the various small towns involved completed what McCoy had started, and the reunion was held in October to celebrate the 50th anniversary of the crash.

Mrs. McCoy and her daughter were able to attend. They and Bob and Mary Helen Grimes were the guests of honor at various celebrations over a three-day period. In one ceremony, the name of the street where the copilot died was changed to Place de Pickett, in his honor. There was also the unveiling of a small monument to the three men killed in the plane. Mr. Grimes met with the son and daughter of the first couple who had helped him, and walked on that same kitchen floor again.

Several hundred people attended the events. The Grimes received many gifts, including a silk collar made from the parachute and trimmed with Belgian lace, and a wood carving depicting the events 50 years ago.

A woman Mr. Grimes didn't even know ran up from the crowd as he was walking down the street to give him his favorite gift. It was a large silver shoehorn her husband had made from a piece of the crashed plane.

As I think about this story, one thought runs through my mind. Who saved whom? And how can you thank someone for that? Mr. Grimes risked his life to save the Europeans, and they risked theirs to save him. This is what I'll be thinking about tomorrow.

HOW TO BRING USFSPA INTO THE NINETIES

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1993

Mrs. SCHROEDER. Mr. Speaker, when Congress passed the Uniformed Services Former Spouses Protection Act [USFSPA] in 1982, the world was a very different place. The cold war was raging. The Soviet Union occupied Afghanistan and had walked out of the strategic arms negotiations in Geneva. NATO allies deployed missiles throughout Europe and the United States mounted its largest peacetime buildup ever. Conventional wisdom said that our military was to be armed to the teeth, and staffed to the hilt, far into the future.

Now the world is very different. The cold war is over and the Iron Curtain has crumbled. The Soviet Union is the Commonwealth of Independent States, and the United States military is in the midst of its biggest drawdown effort in history.

In 1991, to encourage downsizing, Congress created two new voluntary programs, the Variable Separation Incentive [VSI] and the Special Separation Benefit [SSB]. When military members choose these benefits, they do so in lieu of their traditional retirement packages. While these benefits have been incredibly effective in streamlining our military forces, they have also created a huge loophole in USFSPA, because neither program is covered.

Under USFSPA, military retirement is considered property and is divisible according to State divorce law. USFSPA has prevented thousands of unskilled and often elderly former military spouses, who had devoted their lives to the military, from slipping into financial distress. It was impossible however, for Congress in 1982 to anticipate the drawdown needs of the 1990's, and untold numbers of former military spouses, possessing court orders splitting retirement benefits, are destitute when the military member chooses VSI or SSB.

This is why I am introducing legislation to bring both VSI and SSB under USFSPA. My legislation does not mandate a division of any military benefit. Nor does it nullify divorce law in any State. It simply clarifies congressional intent that no matter which voluntary benefit the military member chooses, be it retirement, VSI, or SSB, the spouse's contribution to military service is no less significant.

Because Federal law has been silent since VSI and SSB were created, military members and former military spouses have spent thousands of extra dollars in attorney fees, court time, and personal hardship, to determine how these benefits should be divided. Courts in Texas, Arizona, and Georgia have already considered the question and ruled that VSI and SSB are divisible. Other States have not yet ruled. New Federal legislation is needed to establish a clear and fair national standard.

IN CELEBRATION OF THE 500TH ANNIVERSARY OF THE DISCOVERY OF PUERTO RICO

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1993

Mr. MENENDEZ. Mr. Speaker, I rise today in recognition of the 500th anniversary of the discovery of the island of Puerto Rico. Tonight, in the Justice William Brennan Court House in Jersey City, NJ, the Puerto Rican community will come together to celebrate the history of the island, and their continuing ties to its culture.

The evening's ceremonies have been coordinated by co-chairpersons Nidia Davila-Colon and Lourdes Arroyo, with Hudson County Executive Robert C. Janiszewski serving as the honorary chairperson. As part of the festivities, we are pleased to welcome Postmaster George J. Ortiz, who on behalf of Mr. Ivan O. Puig, Caribbean district manager for the U.S. Postal Service, will unveil a special commemorative stamp celebrating the quincentennial.

Mr. Speaker, I'd like to share with my colleagues some of the rich history of Puerto Rico, which has shaped the nature of the island and its people.

During the pre-Columbian era, the island was populated by the peaceful Taino Indians, who made their lives fishing and hunting the indigenous game. These were the people first encountered on the island by Christopher Columbus five centuries ago. In 1508, the Spanish Crown colonized Puerto Rico, and in 1510, King Ferdinand appointed Juan Ponce de Leon as governor.

By 1595, the British had become aware of Puerto Rico's strategic position as the gateway to the West Indies. Under Sir Francis Drake, the British attacked the island, but to no avail. In 1598, a second attack was launched by England, this time with the aid of France and Holland, but the Puerto Rican defenders held fast.

During the 18th century, the economy of Puerto Rico grew dramatically with the establishment of commerce between Barcelona and San Juan, and the authorization of trade with Venezuela and Santo Domingo. Also during that century, the first Puerto Rican coin was struck, and the first civil, geographical, and natural history of the island was written. Toward the end of the century, Puerto Rico provided safe harbor to rebel ships during the American War of Independence. In 1797, the British launched one last attack on Puerto Rico. The heroic defense of San Juan was so extraordinary that the Spanish Crown bestowed a special commendation on the Puerto Rican people. It was during this century that the people of the island really began to develop a self-identity and culture truly separate from that of Spain, and more islanders felt a bond of loyalty to their land.

The 19th century also brought great change to Puerto Rico. In 1809, the first representatives of the island were sent to the Spanish Government. In 1812, the first Puerto Rican Constitution granted islanders Spanish citizenship. In 1819, the first treaty with the United

States allowed the sale of much of the island's sugar crop to the United States. In 1868, the famous insurrection against the Spanish was provoked by a group of rebels, and was known as "El grito de Lares." It was during that year that the first political parties were founded. Slavery was abolished on the island in 1873, and 24 years later, in 1897, Spain granted autonomy to Puerto Rico; the first and only system of self-government known to the island. However, that independence was short-lived after the U.S. invasion during the Spanish-American War, following which, Puerto Rico became a possession of the United States. At the close of the century, in 1900, the Foraker Act invalidated the laws passed by the Puerto Rican Government, and supplanted them with U.S. law.

In our own century, Puerto Ricans were granted United States citizenship by the Jones-Shafroth Act in 1917, but it was not until 1932 that Puerto Rican women were able to exercise their right to vote. In 1937, tragedy struck when a group of unarmed Puerto Rican nationalists were shot by police after the governor cancelled their permit to march. The "Masacre de Ponce" resulted in 21 deaths and many wounded, and was protested as a terrible violation of human rights by the American Civil Liberties Union. In 1946, the first native Puerto Rican governor, Jesus T. Pinero, was appointed by the president, and in 1948, Luis Munoz Marin, of the Popular Democratic Party, became the first governor elected by the people of the island. In 1950, Congress approved a constitutional form of government for Puerto Rico, and a referendum on commonwealth status was approved by popular referendum. On July 25, 1952, the Commonwealth of Puerto Rico was established, the Puerto Rican Constitution was adopted, the Puerto Rican flag was officially unfurled, and the National Anthem "La Borinqueña," was heard. Fifteen years later, another referendum on the island's status was held, in which the voters chose to continue the Commonwealth. In 1972, the United Nations Decolonization Committee declared that Puerto Rico had the right to be independent. Eleven years later, on November 14, 1993, the people of Puerto Rico reaffirmed their support for the Commonwealth. And now, tonight, we celebrate the 500th Anniversary of the discovery of Puerto Rico. I ask my colleagues to join me today in recognizing this great historical event, and in looking forward to the next 500 years of close and productive relations with the people of Puerto Rico.

CLARK STATE COMMUNITY COLLEGE PERFORMING ARTS CENTER

HON. DAVID L. HOBSON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1993

Mr. HOBSON. Mr. Speaker, in a nation whose cities and communities are often preoccupied with fighting crime and battling our society's wrongs, there is something very right happening in my hometown of Springfield, OH.

Recently, I attended the opening of the new Performing Arts Center at Clark State Community College. The Clark County community came together to help fund this 84,000 square foot center, mainly with contributions from private citizens, local corporations and foundations.

The new Performing Arts Center will greatly enhance the cultural life of our community through educational programming in performing and technical theatre, orchestra performances, art presentations, plays, recitals, lectures and more.

I want to extend special recognition to Dick and Barbara Kuss, Harry Turner and Al Salerno for their hard work and for whom the center's facilities—the Kuss Auditorium, Turner Studio Theatre and Salerno Educational Center—are named.

Through their help and many, many others, the Clark County community and Ohio will be an ever better place to call home.

INTRODUCTION OF CAMPAIGN SPENDING LIMIT LEGISLATION

HON. EARL POMEROY

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1993

Mr. POMEROY. Mr. Speaker, I rise today to introduce legislation which would bring a much needed reform to our current campaign finance system. Spending on campaigns has spiraled out of control in recent years. It has become common for candidates running for Congress to spend millions of dollars to win an election. In the 1976 election cycle, $115.5 million was spent. In the 1990 election cycle, $445 million was spent—that's an increase of 360 percent. In 1992, the average house race cost $557,403, costing two times as much money as it did in 1982. You will find few who don't believe that something must be done about this.

By bill offers a solution. It would limit spending to $600,000 per house race. This legislation will become effective once spending limits are deemed constitutional. This could happen once a constitutional amendment is passed or the Supreme Court reinterprets Buckley versus Valeo. I have cosponsored House Joint Resolution 20 which would amend the Constitution to allow spending limits.

In some districts this new limit may not make much difference, but in others this will drastically limit the ability of wealthy individuals to "buy" their seat while putting an end to the money chase. This is a desperately needed step in overhauling our current campaign finance system and helping restore the faith of the American people in their elected officials.

Mr. Speaker, on several occasions I have joined my colleagues in their calls for comprehensive legislation to rework our present campaign financing system. I made a pledge to my constituents in this regard and will continue to work hard to see that we adopt meaningful reform measures during this session. My bill is a step in that direction. I urge my colleagues to support my bill and by doing so send a strong message showing they support reform of the flawed system we currently operate under.

SUPPORT HUMAN RIGHTS OF CHILDREN

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1993

Mr. MILLER of California, Mr. Speaker, I commend to my colleagues the following article on human rights of children. It was authored by our former colleague and long-time human rights advocate Father Robert Drinan.

Through this article, I would like to bring to your attention the renewed international commitment to human rights of children. The Convention on the Rights of the Child adopted by the United Nations in 1989 has made great headway into ending the widespread offenses against children. Sadly, the United States has yet to sign and ratify the convention which would focus attention on the continued neglect of children here at home.

A NEW WORLDWIDE COMMITMENT TO THE RIGHTS OF CHILDREN

(By Robert F. Drinan)

When the convention on the Rights of the Child was adopted by the General Assembly of the United Nations in 1989, no one could have predicted that, by May 1993, 136 countries would have ratified the convention and 23 additional nations would have signed but not yet ratified it.

Its 54 articles endorse, for the first time in international laws in one instrument, a broad spectrum of social and economic as well as civil and political rights. The committee established to monitor the way nations carry out their new obligations is in place, and in 1993 it received and reacted to the reports of 16 nations. Made up of experts from 10 countries, the committee is also visiting nations in Africa and Latin America.

The adoption of the convention by the United Nations has set off a worldwide surge of activities on behalf of children. In Namibia the concept of child rights was made explicit in the new Constitution. In Costa Rica and Norway a children's ombudsman has been established. Egypt has created a national commission for children. Bolivia has brought its legislation into line with the convention's provisions. Brazil is engaged in an extensive media campaign to publicize the article on child rights in Brazil's new 1990 Constitution.

The plight of children is the principal reason for the amazingly prompt reaction by almost all of the nations in the world to the U.N. convention. Children constitute almost 50 percent of humanity and are the victims of political and economic chaos almost everywhere. More than 1.5 million children were killed in wars over the last decade and more than 4 million were physically disabled. Approximately 5 million are now in refugee camps and the number is increasing daily. The "silent emergencies" of malnutrition and preventable diseases are claiming the lives of 35,000 children every day.

Among these victims girls suffer the most. In many countries they have lower survival rates than boys, in part because they are given less food and health care. In education girls also suffer discrimination. Of the 100 million children between the ages of 7 and 12 who are not in school, almost 70 percent are girls. If present trends continue, the number of children not in school could double by the year 2000.

The increasing number of street children is unbelievable. A United Nations Children's

Fund figure of 100 million children living on the streets is generally accepted. There are 40 million street children in Latin America, 25 to 30 million in Asia and 10 million in Africa. The number of these children living in complete or partial abandonment is destined to grow by tens of millions. Children who are sexually exploited are also shockingly numerous. Human rights groups report that in South and Southeast Asia there are hundreds of child prostitutes. The Convention on the Rights of the Child places an obligation on all of the signatory nations to work for the elimination of all such conditions. Its articles address the question of child abuse in every form, spelling out for the first time in an international convent those rights which are now guaranteed by international law. No form of neglect of children is left out.

The convention is especially severe in condemning child labor. This barbarous practice—banned in the United States in the 1920's after decades of struggle—allows millions of children to knot carpets in India and Pakistan, to harvest bananas in Brazil, to salvage rags in Egypt and to harvest cotton in the Sudan. Although the International Labor Organization in the 1920's condemned these practices, they continue and even grow in frequency.

The official worldwide ratification of the Convention on the Rights of the Child, which occurred in a period unprecedented for its brevity, has prompted action by nongovernmental groups. In London, a unit entitled "Defense for Children International" issues a publication filled with information about the rights of children everywhere. Other nongovernmental organizations are taking advantage of the worldwide enthusiasm to implement provisions of the new U.N. document.

The saddest part of this otherwise upbeat story is the fact that the United States stands ignominiously among the 29 out of 180 countries that have neither signed nor ratified the U.N. convention—which puts us in the company of Iraq, Saudi Arabia and Somalia.

The Clinton Administration has all but pledged it would recommend that the U.S. Senate ratify the convention. The American Bar Association and scores of legal and public interest groups have urged the Senate to act. No Senate resistance is visible, but in all probability reservations will be proposed—some of them born of excessive will be proposed—some of them born of excessive legalistic caution. The Administration has also pledged that it will urge Senate ratification of other major human rights treaties such as the convenant eliminating discrimination against women. The State Department will apparently urge the White House to send up the treaties to the Senate one by one rather than transmit them all in one action. Where the U.N. Convention on the Rights of the Child fits in this schedule is not clear.

For those who question whether ratification of the convention will benefit children in the United States, the clear answer is that it will. There are several areas where the United States is de facto or de jure not in compliance. One obvious example is that, in the majority of states, a person can be executed for homicide committed while he or she was a juvenile. This is forbidden in the U.N. convention, and indeed only six nations in the world legalize the death penalty for children who took a life.

The widespread neglect of children in the United States—often as a result of racial or sexual discrimination—is also forbidden by the convention. American children are more likely to die in their first year of life than infants in 18 other countries. African-American babies suffer an infant mortality rate that is higher than the rate in 31 other nations, while their polio immunization rate lags behind that of 69 other countries. The rate of poverty among U.S. children continues to rise. In the 1960's, 14 percent were poor, whereas today that figure is 22 percent.

If the United States were to ratify the convention, it could be reprimanded by the U.N. committee because of its failure to live up to the promises to children that ratification implies. Such a rebuke from a U.N. committee could be salutary and efficacious.

Amid all the world's violence of the last five years it is heartening to be reminded that, during this very time, the world's nations have been aroused to unprecedented concern for the rights of children. A legal and moral revolution on behalf of children has occurred over a short period of time. Promises and pledges have been made. The results are not yet in hand, but when the vast majority of nations speak out on an issue of moral and legal concern, that statement is likely to have impact. For example, in every session of the United Nations from its very beginning, at least one of its agencies has spoken out against South African apartheid. This long series of declarations was clearly instrumental in the development of a moral consensus that apartheid must go.

From time immemorial offenses against children have been regarded as odious in every nation, and national laws and customs contain countless measures protective of children. Humanity's basic instinct to extend tenderness to children in special ways has now become a part of international law, and measures to enforce it are in the process of being put in place.

Spiritual writers tell us that the "desire of the desire" to love God and humanity can be the beginning of wonderful things. Humanity's new pledge to grant justice and kindness to children may be the beginning of a whole new world.

THE 20TH ANNIVERSARY OF THE TV SPORTS BLACKOUT BILL

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1993

Mr. BRYANT. Mr. Speaker, this year marks the twentieth anniversary of the so-called "TV Sports Blackout Bill"—legislation which required television stations to carry local sports games if the event was sold out. President Nixon signed this bill into law September 14, 1973—less than 2 days before the start of the 1973 NFL season.

It was the decision of the late Phil Cochran, the NFL's Broadcast Coordinator, to blackout Redskins games in Baltimore—as well as Washington, DC, which led to the enactment of this measure. The bill was introduced, discussed, marked up, and passed in a record nine weeks.

My good friend Phil Hochberg has written an excellent article, which appeared in the Entertainment Law Reporter, describing the events which led up to this historic event and preserved fans' access to otherwise unavailable games. I commend his article to your attention.

[From the Entertainment Law Report, November 1993]

SOLONS CLOBBER NFL: THE 20th Anniversary of the TV Sports Blackout Bill

[by Phillip R. Hochberg]

September 14—just after the beginning of this year's National Football League season—marked the twentieth anniversary of perhaps the most damaging interview in sports history.

No, not the grammatically correct, but factually inaccurate "The Giants is dead" (Charley Dressen on the 1951 New York Giants, who came from 13½ games back to win the pennant.) Nor "Is Brooklyn still in the league?" (Bill Terry on the 1934 Dodgers who knocked Terry's Giants out of the pennant.) No, this one was in the Washington Post in the summer of 1973 when the late Bob Cochran, then the NFL's Broadcast Coordinator, told the Post that the League intended to continue blacking out Redskin home games not only in Washington, but in Baltimore, as well.

Sold-out Redskin games—they had only been selling out for a half-dozen seasons at that point—were occasionally seen on Baltimore stations and could be picked up in Washington. But Cochran indicated that practice would end.

He said the League was "well within [its] rights to order the blackout by the Baltimore Station. Nor are we going to listen to fan mail saying, 'I want this' and 'I want that!' In this society, people are wanting to get something they shouldn't necessarily have to get . . . they're so spoiled."

When asked why the Redskin home games should not be seen in Baltimore, Cochran replied, "That's our business." He said he had made the decision and had no intention of changing his mind.

The 93rd Congress helped him change his mind.

The legislation—Public Law 93-107—was passed in almost record time nine weeks from introduction to hearings to mark-up to passage in both Houses to Conference to Presidential signature, the Friday before the start of the 1973 NFL season. As Rep. Jack Kemp said, the bill went through as fast as the 1964 Gulf of Tonkin Resolution.

The law changed the viewing habits of the nation. Few can remember that prior to 1973, home games, sold out or not, just weren't televised by the NFL. Instead neutral games were brought into the market, a policy the NFL continues today when there is no sellout.

Pressure had actually begun a year before when the NFL was asked by President Richard Nixon, through his Attorney General, to lift the blackouts in the 1972 playoff games. Commissioner Pete Rozelle said no.

Cochran's interview changed the entire equation. Here was a sports league, not only facing down the President of the United States, but telling the world that it and it alone would make any decisions dealing with television. Meanwhile, the three national television networks—the principal proponents of the bill—couldn't have been happier.

The networks saw it as a three-fold gain: they could substitute more popular sold-out home games for the neutral games: they could get that better product at no increases in the price of their existing contracts; and they were determined to deny sports leagues the chance to sell games to cable and pay TV.

Indeed, if the networks could get sold-out home games on TV for one year, it would trigger an obscure FCC regulation that would have barred sold-out home games from pay for five seasons.

Even beyond that, the networks were betting that once sold-out NFL home games appeared on local television, the League would find itself hard-pressed to take them off.

While the Senate version would have required any team with a single game on local of network television to make available any sold-out game to local TV, the House bill applied only to games that appeared on the networks—a huge difference to Major League Baseball, the National Basketball Association, and the National Hockey League, since they sold out many games, but had less than three per cent on the networks.

On Friday, September 14, President Nixon signed Public Law 93-107, less than 48 hours before the beginning of the 1973 NFL season. Passage of the legislation was front-page news in NFL cities.

Few people today realize that the law requiring that blackouts be lifted on those sold-out network games expired at the end of 1975 and that the professional leagues have "voluntarily" lifted the blackouts for the past seventeen years. "Voluntary," as in, "If you don't lift the blackouts, we'll simply make the law permanent."

The impact of the law? Certainly, the networks got what they wanted—at least what they wanted in 1973—in terms of the more attractive games, a change in their contract terms without paying anything additional for it, and denying games to cable and pay. They short-circuited any thoughts that the NFL might have had about cable. In fact, it wasn't until 1987 that even a limited cable deal was worked out by pro football.

The NFL obviously lost business opportunities. No-shows increased, especially at late-season, bad weather games, resulting in concession and parking losses. In the next series of television contracts, however, it's safe to assume that at least some of the loss was recouped in rights payments. Moreover, at the present billion dollars plus a year for TV rights, the NFL's contract negotiators have shown their continuing skills.

And the public got something too, in fact, "something for nothing." It's never very hard to justify taking someone else's property as long as it doesn't cost you anything. As former Senator Russell Long used to say, "Don't tax you, don't tax me, tax that guy behind the tree."

But was it all a win-win situation? Was there any downside to Public Law 93-107? Here's a modest response: Requiring the NFL to lift the blackouts has led to a Congressional attitude that anything innovative that football might consider in the new media by definition is suspect. And that, it is suggested, has really retarded benefits for the public. For example, what's wrong with the idea that a Redskin fan living out of town should be able to buy the Washington games on pay cable? Right now that fan is shut out of most Redskin games, a victim of geography. If you're willing to pay $5 or $10 or $20 to watch a game that's otherwise available, why not have the opportunity? But all the NFL has to is consider it and Congress raises its collective eyebrow and warns the NFL (Don't even think about it without clearing it here first"), remembering its success of twenty years ago.

TRIBUTE TO SENATOR FRANCISCO R. SANTOS

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1993

Mr. UNDERWOOD. Mr. Speaker, Francisco R. Santos from Sinajana, Guam recently passed away. I'd like to share with my colleagues some thoughts that I have about this great leader.

Senator Santos died at the relatively early age of 62, yet he had over 23 years of experience in the government.

He served 11 consecutive terms as a Guam senator and had extensive experience with issues affecting Federal territorial relations. For four terms, he was chairman of the Committee on Federal, Foreign and Legal Affairs. He was a member of every political status committee or commission formulated to review Guam's political status and to pave the way for a new political relationship with the United States.

At the time of his death, Senator Santos was the vice chair of the Commission on Self Determination.

As you may recall, the Guam Commission on Self-Determination is the organization which has represented and continues to represent the government of Guam in our outstanding quest for commonwealth status.

In spite of having a busy political career, Senator Santos made the time to serve the community.

He was a founding member of the Guam Humane Society; chairman of the Guam Special Olympics; vice chairman of the Governor's Committees on Children and Youth, and a founding member of the Sinajana Civic Improvement Club, which was instrumental in reducing the amount of crimes committed by youth in the villages of Guam.

Senator Santos is survived by his wife, the former Isabel Cruz Borja of Chalan Pago and five children.

It is comforting to know that one of his sons was recently elected to the Guam Legislature to complete his father's term. So, he is serving on the same committees that his father served on, and he has taken over the chairmanship of the Federal Territorial Relations Committee.

Senator Santos was one of Guam's most unselfish and dedicated public servants who exhibited the highest levels of integrity and honesty. May we model our political and personal lives on such goals.

TINNIN FAMILY DESERVING OF NCRD AWARD FOR SERVICE TO THREE RIVERS COMMUNITY COLLEGE

HON. BILL EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1993

Mr. EMERSON. Mr. Speaker, I rise today to offer both my congratulations and appreciation to the Nelson B. Tinnin family who will be receiving an award from the National Council for Resource Development for their lifelong commitment to education and specifically, Three Rivers Community College (TRCC).

Every year, the National Council for Resource Development (NCRD) recognizes various organizations and individuals that have made significant contributions to 2-year colleges. The NCRD is a professional organization concerned exclusively with government and private fund raising for 2-year colleges and is an affiliate of the American Association of Community and Junior Colleges.

The Tinnin family, the late Missouri State Senator Nelson B. Tinnin, has wife Lora B. Tinnin, and their son, the late Brent B. Tinnin, have demonstrated a continuing commitment to education and TRCC through their work as teachers, legislators, and benefactors for over six decades.

Both Nelson and Lora were school teachers. He taught agriculture in Missouri for 17 years and served 7 years as a school principal. He was elected to the Missouri State Senate in 1960; one of his first major efforts was to help gain passage of the Missouri Junior College Act of 1961. This act permitted the establishment of junior college districts in the State. Senator Tinnin also provided leadership for the State law that gained funding for the new junior colleges. Four years later he worked with local residents of Southeast Missouri to create a junior college in Poplar Bluff. The Three Rivers Junior College District was born a year later, in 1966. During his political career, Nelson Tinnin became one of the most influential State senators in Missouri. However, he remained a staunch supporter of education and effectively used his considerable influence, as chairman of the Senate Education Committee, to advance post secondary education in Missouri.

The Tinnin's son, Brent, was a local businessman when the Three Rivers Junior College District was established. He immediately recognized its importance and worked tirelessly to get funding to construct a permanent campus. To accomplish this, he convinced all other local Southeast Missouri municipalities and political subdivisions to forgo their requests for Economic Development Administration [EDA] funding for 1 year. This ensured that TRCC would be first in line for funding. He then lobbied the Governor of Missouri to release the funding and succeeded in gaining $1 million to start campus construction. Bolstered by the million-dollar gift, TRCC was able to solicit support to construct its present campus without ever having to present a bond issue to the district's taxpayers. Brent Tinnin also served, during this time, as an elected TRCC trustee and was directly involved with early college development.

The Tinnin family has also supported TRCC as financial benefactors. Initially, a $10,000 endowment to provide scholarships for students was established. Then in January 1993, Lora B. Tinnin presented TRCC a check for $993,624.49 in memory of her late husband and son. The money is to be used to construct a fine arts center on the TRCC campus. This gift, the single largest in TRCC history, brings the Tinnin family's total contributions to the college to $1.1 million.

The college district of TRCC extends over 2,700 square miles in Southeast Missouri, from the Ozark foothills to the Mississippi

Delta. A significant proportion of the students enrolled at TRCC are both low-income and first generation college students. Because of the generosity of people like the Tinnin family, TRCC is able to serve this area in need and do an outstanding job in fulfilling their commitment to the community.

The Tinnin family has given so much to education in the State of Missouri and Three Rivers Community College. Their tireless commitment has continued and will endure through the bright and talented young people given educational opportunities because of their generosity. On behalf of the people of the State of Missouri, I would like to offer my sincere appreciation and congratulations to Lara B. Tinnin.

IN HONOR OF RONALD SINGLEY

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1993

Mr. STARK. Mr. Speaker, today, I would like to take a few minutes to recognize Ronald Singley's distinguished career of service to the school and community of Milpitas, CA.

For more than 30 years, Mr. Singley has worked for the Milpitas Unified School District. In 1967, Mr. Singley became the principal of Thomas Russell Junior High School. In 1969, he served as principal of Milpitas High School, and later in 1973, for Curtner Elementary School. In 1976, he became director of personnel for the district and finally, its associate superintendent in 1987 where he has served ever since.

Mr. Singley has also been district negotiator since 1977 and developed and implemented the disaster preparedness plan and safety program for the district.

Mr. Singley has also served on a variety of educational organizations. From 1975 to 1976, he was the president of the Milpitas Management Association. From 1980 to 1981, he was president of ACSA Region 8 and, in 1992, he became president of the Santa Clara Country Schools Insurance Group.

Even with all his duties at the Milpitas Unified School District, Mr. Singley still found time to serve his community including serving as president of the Milpitas Rotary Club in 1974 and 1975.

On January 7, 1994, Ronald Singley's colleagues will hold a retirement dinner to acknowledge him as an outstanding associate superintendent, and I wanted to join with those who have recognized him for his monumental achievements.

Ronald Singley will be sorely missed at the Milpitas Unified School District.

INTRODUCTION OF CONCURRENT RESOLUTION EXPRESSING THE SENSE OF THE CONGRESS REGARDING THE IMPEDED DELIVERY OF HEATING FUELS TO THE PEOPLE OF BOSNIA-HERZEGOVINA

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1993

Mr. MARKEY. Mr. Speaker, I rise today to focus the attention of my colleagues on the fate of the people of Bosnia-Herzegovina. Winter is approaching, temperatures are dropping, and snow already has fallen to the ground. The people of this region are struggling for their very existence. Not only are their lives threatened by the direct effects of a lengthy war, but they must also face a second bitter winter without the supplies and resources that are essential for survival.

At the October 21, 1993 hearing of the Commission on Security and Cooperation in Europe, the Helsinki Commission, witnesses testified about the current suffering of the people and about their likely fate if immediate steps are not taken to ensure their survival through the winter. Serb militants have impeded the delivery of necessary winter supplies to Bosnia-Herzegovina; they are deliberately impeding the delivery of natural gas which is essential for heating during the winter. This intentional deprivation of resources is one of the many aspects of the repugnant policy known as "ethnic cleansing." The restriction of winter survival resources is, indeed, another mechanism of genocide.

I rise today to suggest that we are not helpless. We are not rendered powerless by our distance from the conflict. We are only silenced by choice and by apathy for a situation that has fallen out of the headlines and has been relegated to the back pages of our newspapers. I am convinced that we can help. I know that we can make a difference to the survival of the citizens of Bosnia-Herzegovina.

I am here before you today to introduce a resolution urging the President to take immediate steps to bring about the cutoff of natural gas to Serbia, and Belgrade in particular, until such time as the Serbs restore the flow of natural gas to Sarajevo and to the rest of Bosnia-Herzegovina. The pipeline that delivers natural gas to the Bosnians runs first through Hungary to Serbia prior to reaching Sarajevo. Let us urge President Clinton to work with the United Nations, the Hungarian Government and the other related governments to effect a cutoff of natural gas at a point prior to the pipeline'e entry into Serbia. If a parity of conditions could be effected, then the Serbian leaders would be forced to realize the severe plight they are creating for the Bosnians. It is time for the United States to break our silence and to take the initiative on this international tragedy.

The best possible outcome for the people of the former Yugoslavia would be the unobstructed delivery of natural gas and other heating fuels to all areas of the region. We would like to see all peoples of the region face the coming winter secure in the knowledge that they will have the resources to heat their homes and cook their food. The Serbian authorities have the ability to make that outcome a reality. They have had the ability to restore heat to all areas for many months. As winter begins, it is by choice, not necessity, that the Serbian authorities have deprived the people of Bosnia-Herzegovina of heating fuel. We must force the Serbian authorities to remove this threat from the people of Bosnia-Herzegovina.

Last year, during a relatively mild winter, the people employed desperate measures to ensure their survival. They cut down and burned their trees; they burned their furniture; they even dug up the roots of trees to use as firewood. Despite these efforts, people died in the cold. This year, tens of thousands may die unless we come to their aid.

We must not continue to sit by our televisions and idly watch these people die. Mr. Speaker, this is not a television show, this is not a soap opera. These are people and they will freeze to death if we do not intervene.

Mr. Speaker, I ask unanimous consent that the text of the resolution appear in the RECORD at the conclusion of my remarks.

PRESIDENT'S SPENDING REDUCTION PLAN DOES NOT DELIVER

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1993

Mr. PACKARD. Mr. Speaker, Clinton claims his spending reduction plan will reduce the Federal deficit by $10 billion over the next 5 years. However, the Congressional Budget Office scored Clinton's package at $305 million in cuts over 5 years. This is quite a difference to what President Clinton has claimed.

Stripped of all its political rhetoric, the President's package of so called spending cuts, H.R. 3400 is far less significant than promised. It fails to dent the deficit or slow the Federal budget's growth which will increase by $81 billion over the next 12 months under the Clinton administration.

Once again President Clinton is failing to fulfill a pledge he made. When persuading reluctant Representatives earlier this summer to support his budget, he promised them an opportunity to vote for further spending reductions.

The 13 appropriations subcommittees did their work on budget cuts and submitted thoughtful fiscal year 1994 spending bills. They did not sidesaddle the process like the President and the leadership did. The question before us is can we cut deeper? I think the answer to this is yes.

The House leadership is stalling this body, keeping it from working its will on additional spending cuts. The President has failed us in his job and now the leadership is preventing us from doing what our constituents sent us here to do, reduce the Federal deficit.

The President failed to deliver his promise of significant spending cuts, and the House leadership has limited our ability to carry out of wishes of further spending reductions. However, I can assure you that if the leadership allows Republicans to go forth with their package of spending cuts—we will deliver.

TRIBUTE TO ROTARIANS OF DISTRICT 7190

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1993

Mr. SOLOMON. Mr. Speaker, on November 14, 1993, the Rotarians of district 7190 will gather for their annual meeting in Albany, NY.

Paul Harris is the founder of Rotary International, which, through the Rotary Foundation, has led the way in the promotion of world peace and understanding through its various international, charitable, and educational programs.

The foundation has provided over 1,000 scholarships for graduate, undergraduate, and vocational and journalism scholars, as well as teachers of the handicapped. The foundation can also point to over 400 study group exchanges and humanitarian projects.

One of the most prominent programs of the foundation is Polio Plus, which has raised over $300 million dollars all over the world, to immunize children against polio. During 1988, I had the privilege of awarding a congressional plaque to Walter Maddocks, who was international chairman of Polio Plus.

Mr. Speaker, I am proud to call myself a friend of Rotary International. I ask you and other members to join me as we pay our tribute to district 7190.

1INTRODUCTION OF A BILL TO AUTHORIZE AND DIRECT THE SECRETARY OF AGRICULTURE TO EXCHANGE CERTAIN NATIONAL FOREST SYSTEM LANDS IN THE TARGHEE NATIONAL FOREST

HON. MICHAEL D. CRAPO

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1993

Mr. CRAPO. Mr. Speaker, I rise today to introduce a bill to authorize and direct the Secretary of Agriculture to exchange certain national forest system lands in the Targhee National Forest. The bill will exchange lands in the island park ranger district of the Targhee National Forest in Idaho for private land in the Ashton Ranger District of the Targhee National Forest in Wyoming.

The value of the lands exchanged would be equal, or if they were not equal, the values would be equalized by payment of money to the grantor or to the Secretary of Agriculture as the circumstances would require so long as payment does not exceed 25 percentum of the total values of the lands of interests that would be transferred out of Federal ownership.

The exchange involves approximately 45 acres of national forest system lands and 95 acres of private land. The actual acreage will be determined by fair market value appraisals, but the intent of this bill is to acquire all 95 acres of private land with the minimum national forest system acreage necessary and made available by the bill.

I appreciate the efforts by Congressman Craig Thomas and his staff as well as the efforts made by my staff especially John Hatch in my Pocatello District Office, who has worked diligently to make this a reality. I urge the committee to take quick action on this bill in order to make this land exchange a reality.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF EXCHANGE.

(a) Conveyance.—Notwithstanding the requirements in the Act entitled "An Act to Consolidate National Forest Lands", approved March 20, 1922 (16 U.S.C. 485), and section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)) that Federal and non-Federal lands exchanged for each other must be located within the same State, the Secretary of Agriculture shall convey the Federal lands described in section 2(a) in exchange for the non-Federal lands described in section 2(b) in accordance with the provisions of this Act.

(b) Applicability of Other Provisions of Law.—Except as otherwise provided in this Act, the land exchange required in this Act shall be made under the existing authorities of the Secretary.

(c) Acceptability of Title and Manner of Conveyance.—The Secretary shall not carry out the exchange described in subsection (a) unless the title to the non-Federal lands to be conveyed to the United States, and the form and procedures of conveyance, are acceptable to the Secretary.

SEC. 2. DESCRIPTION OF LANDS TO BE EXCHANGED.

(a) Federal Lands.—The Federal lands referred to in this Act are located in the Targhee National Forest in Idaho and generally depicted on the map entitled "Targhee Exchange, Idaho-Wyoming—Proposed, Federal Land", dated June 16, 1993.

(b) Non-Federal Lands.—The non-Federal lands referred to in this Act are located in the Targhee National Forest in Wyoming and generally depicted on the map entitled "Non-Federal Land, Targhee Exchange, Idaho-Wyoming—Proposed", dated June 16, 1993.

(c) Maps.—The maps referred to in subsections (a) and (b) shall be on file and available for inspection in the office of the Targhee National Forest in Idaho and in the national office of the Forest Service.

SEC. 3. EQUALIZATION OF VALUES.

The values of the Federal and non-Federal lands to be exchanged under this Act shall be established by appraisals of fair market value that shall be subject to approval by the Secretary. The values either shall be equal or shall be equalized using the following methods:

(1) Adjustment of lands.—

(A) Portion of federal lands.—If the Federal lands are greater in value than the non-Federal lands, the Secretary shall reduce the acreage of the Federal lands until the values of the Federal lands closely approximate the values of the non-Federal lands.

(B) Additional federally-owned lands.—If the non-Federal lands are greater in value than the Federal lands, the Secretary may convey additional federally owned lands within the Targhee National Forest up to an amount necessary to equalize the values of the non-Federal lands and the lands to be transferred out of Federal ownership.

(2) Payment of money.—The values may be equalized by the payment of money as provided in section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)).

SEC. 4. DEFINITIONS.

For purposes of this Act:

(1) The term "Federal lands" means the Federal lands described in section 2(a).

(2) The term "non-Federal lands" means the non-Federal lands described in section 2(b).

(3) The term "Secretary" means the Secretary of Agriculture.

REGARDING THE REFORMS, POLICIES, AND PROGRAMS OF PREMIER LIEN CHAN

HON. BOB FRANKS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1993

Mr. FRANKS of New Jersey. Mr. Speaker, my fellow colleagues, I rise today to submit for your reference any excellent article that was recently brought to my attention. This article, written by Dr. Winston L. Yang, Chairman of the Department of Asian Studies at Seton Hall University in South Orange, New Jersey, discusses the reforms, policies, and programs of Premier Lien Chan of Taiwan.

Mr. Speaker, it is my hope that my colleagues will refer to this article when issues related to the future of Taiwan and the Republic of China are debated on the House floor.

Premier Lien Chan: His Reforms, Policies, and Programs in Taiwan

(By Winston L.Y. Yang, Seton Hall University and Cecilia S. Chang, St. John's University)

In late December, 1992, the Republic of China (ROC) on Taiwan held its first election of all national legislators since the move of its government to Taipei in 1949. The election of 161 legislators was a giant step toward greater democracy and an essential move designed to rejuvenate the national legislature in Taiwan.

In the newly elected legislative body, the ruling Nationalist Party, Kuomintang (KMT), retains its majority status even though the opposition party, Democratic Progressive Party (DPP), has made significant gains.

APPOINTMENT OF LIEN CHAN

Soon after the election, President Lee Teng-hui nominated Dr. Lien Chan, Governor of Taiwan Province, as the new premier of the ROC to succeed Hau Pei-tsun. Lien's appointment was confirmed by the legislators on February 23, 1993. In a 109-33 vote, the newly elected legislators gave their strong approval for Lien to become the 14th ROC premier. At 56, he has thus become the first Taiwanese native to serve in the post.

A close ally of President Lee, Lien has enjoyed Lee's strong support, trust, and confidence. His appointment was also an important part of Lee's effort to rejuvenate the government and transfer power from an older generation to the new and to give more power to the Taiwanese natives.

LIEN'S CAREER AND EXPERIENCE

Born in Sian on the mainland in 1936 to a prominent Taiwanese family, he came to Taiwan with his family at the age of 10. Educated at National Taiwan University, he received his Ph.D. in political science from the University of Chicago in 1965. After a brief teaching career in the United States, he returned to Taiwan to teach political science at his alma mater.

Lien has complied an impressive record in both the KMT and the government. First named the ROC's ambassador to El Salvador in 1975, he returned home a year later to become deputy secretary-general of the ruling party.

Lein joined the Cabinet in 1978, serving in succession as chairman of the National Youth Commission, Minister of Transportation and Communications, Vice Premier, and Minister of Foreign Affairs. During the last two years he was Taiwan's provincial governor.

It was during his tenure as Foreign Minister that Taipei launched its "Pragmatic Diplomacy" to strengthen its international standing.

In August, 1993, he was confirmed by the 14th KMT Congress as one of its four Vice Chairmen.

Lien is one of the few political figures in Taiwan who have accumulated extensive experience in both internal and foreign affairs.

In terms of background, training, and experience, Lien is highly qualified for the premier's post.

APPROVAL AND SUPPORT

Lien's appointment has won the strong approval of not only the ROC legislators but also most of Taiwan's top leaders. The KMT's Standing Committee gave his appointment unanimous approval. The people of Taiwan have also given broad support to the appointment, as reflected in the public opinion polls. The press, including such leading newspapers as China Times and Independent News, has also come out to endorse the appointment.

The stock exchange soared more than 20 percent earlier in February in response in Lien's nomination.

Responses to the appointment from abroad have been very favorable. Both The Los Angeles Times and The New York Times, in their reports, speak favorably of Lien's appointment. The New York Times, in a report dated February 11, 1993, hails the appointment as "marking a major shift of power in the ruling Nationalist Party (Kuomintang) in the wake of democratic reforms."

One of the American views, as reflected by the influential New York Times, is that Lien's appointment was part of the democratic reforms of President Lew, the first native President, that have gradually shifted power into the hands of native Taiwanese majority since the lifting of martial law in 1987.

REFORMS AND PROGRAMS

Mr. Lien has been carrying out the policies of democratic reforms and the use of Taiwan's economic power to break out of the international isolation created by Beijing.

He has also affirmed his commitment to the "One China" policy and the ruling party's official goal of eventual reunification with the mainland. Following a pragmatic policy toward the mainland and expanding unofficial exchanges between the two sides, he insists on the need for the strengthening of Taipei's national defense and international standing.

Mr. Lien has indicated his desire for hastening the pace of modernization and national economic development. One of his goals is to increase the per capita income to at least $20,000 by the beginning of the twenty-first century.

In implementing "Pragmatic Diplomacy," Lien has given strong support to Taipei's drive to return to the United Nations and to join other international organizations in order to strengthen Taipei's standing in the world.

His economic recovery program, realistic and well-designed, is intended to help Taiwan improve its economy and competitiveness.

Premier Lien has attached great importance to his administrative reform programs, designed to improve morale, quality, and efficiency and to reduce and ultimately eliminate corruption, insubordination, bureaucratic snobs and waste in personnel and resources. He intends to establish a clean, efficient, capable, and streamlined government to make it become Taiwan's greatest "service enterprise", which should serve the people and meet the needs of the people in a better way. Personnel cuts, office automation, combining, closing or merging parts of various agencies, and an anti-corruption campaign have been planned and will be launched soon.

Combating inefficiency and corruption in national government, the administrative reform programs call for a five percent reduction in the number of government employees and closer watch for corruption and for heavier penalties, as well as the streamlining of government agencies and less red tape for the convenience of the people. Public officials involved in 14 kinds of activities, from handling construction bids to performing judicial duties, will be closely monitored.

DIFFICULTIES AND CHALLENGES

Lien must work his way through a long list of economic predicaments. The government's budget deficit is growing while the strong demand for more spending on social welfare programs has made it virtually impossible to significantly reduce the deficit.

Moreover, Taiwan's industrial base is confronted with a continued exodus of enterprises looking for better investment environment in Southeast Asia, Mainland China, and elsewhere. In foreign trade, there are such serious problems as Taiwan's shrinking global trade surplus, the huge trade deficit with Japan, and the U.S. threat of trade retaliation.

The controversial land tax and the unequal distribution of wealth which is deteriorating the living standards of the poorest 20 percent of Taiwan's population are also among the many difficult issues for Lien.

Both inside and outside the KMT, Lien is facing opposition. The DPP, which controls close to one third of the seats in the legislature, opposes nearly all the ruling party's policies and programs. Members of the New Party (NP) and its allies, including an opposition faction within the KMT, are also an important opposition force.

Many of Lien's programs and policies may run into trouble in the legislature. It is very difficult to win the support of the NP, and it is virtually impossible to form a united front with the NP to fight against the pressure and challenges of the opposition party, DPP. The KMT's internal unit has become a serious problem.

Taipei has improved its international standing, but there remain many problems in foreign affairs, created largely by the Beijing government. Taiwan's campaign for a seat in the United Nations is still facing great obstacles. There are also serious problems and issues in the Taipei-Beijing relations.

For Lien, the greatest challenge will be to maintain Taiwan's political stability and economic growth and prosperity while hastening the pace of reform and democratization. He must make more extensive democratic reforms and achieve breakthroughs on the international front and in Taiwan-Mainland China Relations.

Apparently, President Lee, confident that Premier Lien will be able to achieve his goals, has entrusted Lien to many difficult and challenging tasks. Many in Taiwan, too, are confident that Lien, under the current circumstance, is the best candidate to serve in the post.

Premier Lien is indeed confronted with numerous difficult tasks. For him, great difficulties and challenges lie ahead. He will also have great opportunities for bringing ROC to the 21st century as a modern, democratic, and prosperous nation.

COMMERCIALIZING FEDERAL TECHNOLOGIES: THE KEY TO JOB CREATION AND ECONOMIC GROWTH

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1993

Mr. KANJORSKI. Mr. Speaker, today I am introducing the Federal Technology Commercialization and Credit Enhancement Act of 1993. I am particularly pleased that House Majority Leader RICHARD A. GEPHARDT and Congressman GEORGE E. BROWN, Jr., chairman of the Committee on Science, Space and Technology, are among those who have joined with me as original cosponsors of this legislation.

This legislation represents a bold new initiative to create large numbers of new high-paying jobs which offer real opportunity for future advancement. If enacted, the bill will play a critical role in promoting economic growth throughout our country, in revitalizing depressed urban and rural communities, and in assisting the United States to regain its international industrial and manufacturing preeminence.

COMMERCIALIZATION OF INNOVATIVE NEW TECHNOLOGIES

Initiatives are already underway to enhance the utilization of advanced manufacturing processes, to establish an integrated computer information highway, and to facilitate the creation of private-sector consortia to undertake research and development for several critical technologies. Nevertheless, one essential component to utilizing advanced technologies to successful reinvigoration of the U.S. economy has thus far been largely overlooked: the development of a dynamic program to commercialize technologies already held by the Federal Government.

Establishing such a dynamic program is precisely what is accomplished under the Federal Technology Commercialization and Credit Enhancement Act of 1993. This legislation will bridge the gap between the innovative technologies, inventions, and processes which have been developed at the Nation's Government laboratories and at academic institutions, and their effective commercialization by private U.S. businesses.

Through research in Federal laboratories and at colleges and universities, we have accumulated tens of thousands of patents, licenses, and technologies. These represent trillions of dollars of assets which should be used to create businesses to fuel economic growth and revitalization. Yet today, the primary beneficiaries of America's investments in research are our trade competitors, not U.S. businesses.

The Federal Technology Commercialization and Credit Enhancement Act of 1993 transforms this wealth of federally-held innovative new technologies into new business and employment opportunities.

ELEMENTS CRITICAL FOR SUCCESS

The legislation addresses elements critical for the successful transfer and commercialization of federally held technologies.

Comprehensive Inventory and Data Base.—The bill directs the Secretary of Commerce to, "establish and maintain an integrated, comprehensive data base describing all patents, licenses, technologies, and processes held by the Federal Government. * * *" It requires that this information be standardized, and that the data base be user friendly. The data base must respond to the needs of small- and medium-sized businesses to be able to access the inventory with minimal cost and effort, and without the need to retain consultants and lawyers, to explore opportunities for commercializing innovative new technologies.

In addition, potential applications of these technologies should be identified and all future research grants should require the submission of a standardized commercialization plan for new patents, technologies, or innovations which arise in the course of the research.

Technology Transfer and Commercialization Corporation Created to Conduct Aggressive Marketing and Outreach.—The legislation calls for the creation of a public/private corporation, "for the purpose of promoting and facilitating the transfer and commercialization of patents, licenses, processes, and technologies. * * *" In so doing, the bill creates a profit incentive to reward people for successfully placing these technologies.

The corporation is directed to undertake an aggressive marketing and outreach effort to U.S. entrepreneurs and existing U.S. businesses to move these technologies into commercial production. In this effort, the corporation is directed to utilize new information technologies, including the utilization of cable television, and the modern electronic media.

In accordance with regulations to be promulgated by the Secretary of Commerce, the corporation is authorized to, "act as the sole agent, and represent the interests of, the Federal Government in facilitating the transfer of patents, licenses, processes, and technologies. * * *" This allows for the development of a one-stop shopping system which combines searches on the centralized technology inventory system, unified Federal contracting authority, federally-assisted business financing options, and any necessary technical assistant. Consolidating these functions at a single contact point also makes it possible to keep paperwork and costs to the businessman to an absolute minimum.

Commercialization Financing.—The legislation establishes a Technology Transfer Investment Fund, to be administered by the corporation, to provide financial assistance to U.S. entrepreneurs and U.S. business people interested in commercializing these technologies.

In addition to loans and loan guarantees, the bill authorizes the corporation to invest in nonvoting equity instruments of the new or expanding businesses it will be financing to bring these technologies to the marketplace. Having the option of taking an equity position may be critical to the success of many of these new ventures. In addition, taking an equity position offers the potential for the Technology Transfer Investment Fund to become self-financing in the future. Sixty percent of the income from dividends or the sale of these instruments would be returned to the fund for reinvestment.

IMPLICATIONS FOR NEW JOB CREATION

Commercializing innovative technologies, as proposed in this legislation, offers enormous new opportunities for business ownership, economic advancement, as well as significant new employment opportunities for all Americans. By using the funds provided under the bill to underwrite new business financing to commercialize innovative technologies, the Federal Government should be able to leverage between $9 and $12 billion per year.

This translates into directly creating approximately 10,000 new $1 million small businesses each year, employing 20 to 25 people each. That means we can create 200,000 to 250,000 new, high-paying jobs with real future growth opportunities every year, or about 1,000,000 new jobs over the next 4 years.

For every congressional district across the country, this translates into an average of 2,300 new jobs, at good wages, with real futures. In addition to these 1,000,000 new jobs directly created, at least another 2,000,000 additional jobs will be created indirectly.

Mr. Speaker, there is simply no question that bold new initiatives are vitally necessary to ensure that new jobs are created, that our economy be revitalized, and that the United States regain its international industrial and manufacturing preeminence.

There is a great deal of attention being focused on the need for retraining workers who lose their jobs because of international competition, because of reductions in defense spending, and because of the changing dynamics of our society. Yet the question remains, where are the jobs for which we are retraining people? A critical part of this question is answered by the Federal Technology Commercialization and Credit Enhancement Act. I urge my colleagues to join by cosponsoring this legislation and working for its enactment.

KEY DOCUMENTS PROVE INNOCENCE OF JOSEPH OCCHIPINTI

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1993

Mr. TRAFICANT. Mr. Speaker, as part of my continuing efforts to bring to light all the facts in the case of former Immigration and Naturalization Service agent Joseph Occhipinti, I submit into the RECORD additional key evidence in this case.

MISUSE OF PROSECUTORIAL DISCRETION

1. The majority of the complainants admitted at trial that they had perjured themselves in the Grand Jury with respect to their continued involvement in criminal activity and prior criminal arrests. However, not one was ever prosecuted for their perjury or their admitted criminal activity. Nor, did the U.S. Attorney refer the noted violations to appropriate law enforcement for follow up investigation.

2. Officer Occhipinti was charged and convicted for conspiracy to violate civil rights. During "Project Bodega" more than forty (40) law enforcement officers, many who were senior police officials, participated in the consentual searches. The prosecution failed to prosecute these alleged co-conspirators or notify their agencies of these alleged violations, in order that they initiate disciplinary actions.

3. Officer Stafford Williams the only unindicted co-conspirator, who testified for the prosecution, at trial was given immunity from prosecution pursuant to a plea bargain cooperation agreement. A review of the agreement disclosed that he was not protected from administrative prosecution by this employer. Yet, reliable information from high ranking INS officials disclose that the U.S. Attorneys Office intentionally withhold from INS his Grand Jury testimony. That action precluded INS from initiating disciplinary action against the officer. We have also learned that Officer Williams has just been approved for transfer to the U.S. Customs Service as a special agent. In order for this transfer to be approved, he had to undergo a complete background and character check. It is believed that the U.S. Attorneys Office made favorable recommendations on his behalf in exchange for his testimony. That action was in violation of his cooperation agreement.

The defense was precluded through ineffective assistance of counsel to produce a consentually monitored conversation with officer Williams, where he acknowledges that the "Project Bodega" searches were lawfully conducted. His only disappointment, was the fact that he did not get an outstanding performance rating and a commissioner's award for his work in "Project Bodega".

4. One of the saddest moments I have ever witnessed in my thirteen years as an attorney was the day the prosecution in a successful effort to prejudice the defense case called upon young John F. Kennedy Jr. Mr. Kennedy was subpoenaed to testify regarding one time he supposedly saw officer Occhipinti read the Miranda warning too fast to a drug dealer. It made the front page of New York newspapers and the talk of all the courtroom personnel, whom you could hear swooning and commenting on how cute Mr. Kennedy was. It was a shame how this irrelevant testimony was used in order to sensationalize the trial and play on the sympathies of jurors and the public at large.

5. The prosecution rushed this case to trial after having obtained a questionable twenty five (25) count indictment in the record time of three (3) months. Many of the counts were dismissed by the prosecution after their case and witnesses began falling apart. This is extremely unusual, particularly as in this case, since the defense attorney admitted having a mental break down. The prosecution arduously objected to any postponement in order to retain new legal counsel. They alleged it was a ploy by the defense to stall the case.

6. During jury deliberation, the prosecutors intentionally withheld from the defense equal access to the courts transcripts in order to respond to the jurors inquiries. The defense was unable to adequately respond to the jury's inquiries.

7. The defense conducted a pretrial investigation, whereby, various types of contraband were purchased from the majority of the complainants. That investigation generated approximately 55 consentually monitored conversations, whereby, the complainants incriminated themselves in ongoing criminal activity. This evidence was intended to be used to impeach the credibility of the witnesses, as well as their perjury in the Grand Jury. However, the court ordered that these incriminating tapes be turned over to the prosecution. The prosecution willfully and with malice utilized the judges order to detain the tapes for an inordinate period of time precluding the defense from cross examining and impeaching the credibility of the witnesses. Attached is an affidavit from one of three undercover officers attesting to the complainants involvement in criminal activity. Exhibit "D"

INEFFECTIVE ASSISTANCE OF COUNSEL

1. The defense attorney, Mr. Mordkofsky, showed signs of mental incompetence and paranoia which was evidenced by unusual crazed behavior. One of which was to subject his client to strip searches in front of his wife. He did this in order to assure that his bizarre behavior was not being recorded. The mental incompetence by defense attorney was so extreme that it jeopardized his clients case and ultimately required me to lodge a complaint with the New York Bar Association as required by the ethical code. Exhibit "E"

2. Evidence of the ineffective assistance of counsel was overwhelmingly documented in the rule 33 motion, which was ultimately denied by the trial judge. Exhibit "F"

3. Mr. Mordkofsky's ailment was so severe that when I requested he be removed as defense attorney because of his psychiatric problems, he threatened suicide. This conversation, which had been consentually monitored by an investigator for the defense, was presented to the court. The trial judge refused to receive the tape as evidence, and had the investigator's testimony stricken from the record.

4. Evidence has been developed that defense counsel was indeed under psychiatric care and had spoken about suicide to a Supreme Court Justice in White Plains, New York, a mere week before trial. The defense asked the court to re-open the rule 33 motion based on this newly developed evidence. However, the application was denied.

MISCELLANEOUS PREJUDICIAL ACTS

1. The prosecution called approximately 37 witnesses at trial. The defense announced that they planned to call a similar amount of witnesses and the prosecution protested. The trial judge directed that the defense cut their witnesses in half.

2. This trial took place in the hot days of early summer. The air-conditioning unit which was working during the prosecution's presentation mysteriously disappeared when the defense started its presentation. This fact not only exacerbated defense attorney's mental condition but had an adverse effect upon the jury who frequently went to sleep.

DETECTION OF SETUP CONSPIRACY

1. Pursuant to numerous inquiries I made to friends and former clients in the Dominican community, I received information which clearly showed evidence on an organized conspiracy to frame Officer Occhipinti. The conspiracy involved the intentional fabrication of civil rights violations and related embezzlement allegations. The intent of the conspiracy was to effectively stop Officer Occhipinti from hurting their illegal activities.

2. Although many persons stated to meet that they have specific information regarding the setup of Officer Occhipinti, only four individuals have had the courage to come forward. This cooperation could only be obtained contingent on our promise that their testimony and identity will be revealed to the court, the Department of Justice and Congressional-Senate judiciary committees. It is of utmost importance that precautionary measures be taken by the government to assure the confidentiality and physical safety of these witnesses, since their testimony will have an adverse effect on Dominican Organized Crime and Drug Cartels. Their testimony will place the Sources and their families in physical danger. Police statistics clearly confirm these fears by the fact that Washington Heights has the highest homicide rate in the nation. Therefore, I will refer to these witnesses as a "Source" in order to protect their identity at this time.

SOURCE A

Source A is a Dominican merchant who defaulted on his loan to a Dominican loanshark. The source is now in fear of assassination for nonpayment. The source provided the following information pertaining to the Federation's alleged involvement in criminal activity and their setup conspiracy of Officer Occhipinti.

a. The Federation is allegedly composed of Dominican organized crime figures involved in drug trafficking, money laundering, illegal money wire transfers, loansharking, assassinations for hire, official corruption and alien smuggling, among others.

b. The source surrendered the internal records of the Federation, which documented that many of its members were previously investigated, arrested, prosecuted and in many instances convicted through the enforcement efforts of Officer Occhipinti.

WITHDRAWING FROM SOMALIA

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1993

Mr. PETRI. Mr. Speaker, I would like to submit for the RECORD a column I have written on how I believe we should go about withdrawing from Somalia. This column was published in the Washington Times of November 15, 1993.

As a former Peace Corps volunteer and employee of the Agency for International Development in Somalia, I have given this question some thought, and offer my suggestions in a constructive spirit.

Even if we hope for a successful withdrawal on the President's timetable, I believe we should get started on my recommendations without delay. Actually, I think it is in America's interest to get out of Somalia much more quickly than is currently planned, in which case there is no time to waste if we are to implement the policies which I propose.

The column follows:

[From the Washington Times, Nov. 15, 1993]

HERE'S A WAY OUT OF SOMALIA

(By Thomas E. Petri)

How can the United States prevent the return of famine and disorder to Somalia following the withdrawal of U.S. troops? The conventional answer: by encouraging Somali clans to form a unified national government responsible for sustaining order after foreign troops leave.

This answer ignores these inconvenient facts, however: Without government resources, the clans will have no incentive to cooperate. But an agreement of Somali clans to form a unified government will not, by itself, make any resources available.

Instead of focusing on the clans exclusively, the United States and the United Nations should organize the existing providers of aid and military forces into a unified structure that will provide resources for an ongoing Somali government.

Historically, resources needed to operate a government on Somali soil have come from outside Somalia and have been quite modest, particularly when measured against the billions spent on this year's international rescue operation.

Following independence in 1960, the Somali government received tens of millions of dollars of foreign aid from a long list of donors and enjoyed additional modest tax revenue in the $7 million to $8 million range, nearly all from tariffs both on foreign aid and on goods imported mainly for the international community living in the capital.

Nearly all of the aid and the other goods were brought in through the port of Mogadishu or the capital's airport. This is why control or influence over these two facilities is important to Mohamed Farrah Aidid.

So that a Somali government, once formed, will have the resources it needs, it makes sense for the United Nations immediately to begin collecting the tariff revenues, organizing the flow of aid into Somalia and requiring the members of the world community employing Somalis (or others) on Somali territory to collect payroll taxes. The tariff revenues, tax funds and control over aid flow can be turned over to the Somali government when it organizes and be used by it to defray the costs of maintaining order.

If the United Nations sets up the structure and begins collecting the revenue now, the growing treasury available to a Somali government will in itself be a strong inducement for the clans to reach agreement.

Expecting the Somalis, on the other hand, to organize a new government's revenue administration is unrealistic. Understandably, many individual relief organizations would threaten to withdraw, arguing that they should not pay taxes for the privilege of making donations. Somalis benefiting from their efforts would join in their resistance.

The result would be the continued unregulated flow of separate streams of resources into Somalia. Only the strong authority of the United Nations can elicit the cooperation from foreigners needed to get the system up and running.

Under present circumstances, the dozens of independent aid organizations, press and other foreign entities operating in Somalia with their own separate resources exert a centrifugal pressure on Somali society and prevent the centralized focus needed to unite warring tribal factions. Organizing this foreign community will increase pressure on the Somalis to organize in response, since they will then have only one foreign entity—the United Nations—to look to for the final word on the flow of aid, people and funds into their country.

Organizing and taxing the world community in this way has advantages beyond helping the Somalis to organize themselves and providing the resources needed to maintain order after the departure of U.S. forces. It would give the United Nations a more effective lever than military force for influencing Mr. Aidid.

Once the flow of funds, people and goods is centrally regulated, the United Nations could more easily close the port and airport of Mogadishu, perhaps using Kismayu instead. If he remains uncooperative, this approach would punish Mr. Aidid by reducing the income of his supporters.

A thousand-year history of shifting clan alliances will likely continue into the indefinite future unless those clans perceive a tangible benefit in producing a unified government. By organizing the international community as it relates to Somalia, the United Nations can facilitate Somalia's establishment of a centralized government, as well as provide the stream of funds necessary for its continued existence.

A SALUTE TO THE SISTERS OF MERCY, REGIONAL COMMUNITY OF PITTSBURGH

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1993

Mr. COYNE. Mr. Speaker, I am proud today to pay tribute to the Sisters of Mercy, Regional Community of Pittsburgh, who will soon celebrate 150 years of service in the city of Pittsburgh neighboring cities, boroughs and townships, and other communities across the United States as well as Puerto Rico and Chimbote, Peru.

It was on December 20, 1843, that a group of seven women from St. Leo's Convent in Carlow, Ireland arrived in Pittsburgh to found the first group of Sisters of Mercy in the United States. This group was led by Mother Frances Warde, a close friend and confidante of Catherine McAuley, who founded the Order of Mercy in Dublin, Ireland in 1831. Having come to Pittsburgh at the request of Michael O'Connor, first Roman Catholic bishop of Pittsburgh, the Sisters of Mercy celebrated their arrival in the United States by commemorating December 21 as Foundation Day.

These Sisters of Mercy dedicated their lives to instructing the uneducated of all ages, caring for the sick and for orphaned children, and for rendering compassionate service to others, especially to needy women. Mother Frances Warde and the other Sisters of Mercy—Sisters Josephine Cullen, Elizabeth Strange, Aloysia Strange, Philomena Reid, Veronica McDarby, and Margaret O'Brien—set an example which has continued to inspire subsequent generations of women who have devoted their lives to service as a member of the Sisters of Mercy.

This tradition of service to those in need led the Pittsburgh Regional Community of the Sisters of Mercy to establish the first Mercy Hospital in Pittsburgh in 1847. This hospital continues today to serve as one of the Pittsburgh finest health care facilities. The Sisters of Mercy also staffed Saint Paul's Orphanage from 1846 through the 1970's. They also founded Saint Xavier Academy in Latrobe in 1845, established Mount Mercy/Our Lady of Mercy Academy in the Pittsburgh area, assisted both Confederate and Union troops during the Civil War, taught in countless primary and secondary Catholic schools, founded Carlow College in Pittsburgh—(formerly Mount Mercy)—in 1929, and also offered weekend religious instruction to children of outlying parishes in the tri-state area.

The good work of the Sisters of Mercy extends far beyond the city of Pittsburgh and even the tri-state area. In 1959, the Sisters of Mercy assumed the administration and staffing of Holy Cross Hospital of Florida. The Sisters of Mercy also sent a group of missionaries to Chimbote, Peru, in 1967. In addition, six other communities of Sisters of Mercy were founded directly from the Regional Community of Pittsburgh. These communities are Chicago, IL, in 1846; Loretto, PA, in 1848; Providence, RI, in 1851; Baltimore, MD, in 1855; Titusville, PA, in 1870; and Wilkes-Barre, PA, in 1875.

Mr. Speaker, the people of Pittsburgh deeply appreciate the outstanding public service provided by the Sisters of Mercy since they first came to our community in 1843. The important role of the Sisters of Mercy in the history of our community was recognized in 1966 when Mother Frances Warde was proclaimed one of Pittsburgh's 10 outstanding women by the Historical Society of Western Pennsylvania. It is fitting that the U.S. House of Representatives should also pay tribute to the Sisters of Mercy, Regional Community of Pittsburgh.

INDUSTRY-FUNDED CHECK-OFF PROGRAM FOR PROPANE GAS

HON. W.J. (BILLY) TAUZIN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1993

Mr. TAUZIN. Mr. Speaker, today I am introducing legislation to establish an industry funded checkoff program for propane gas, an environmentally sound and economical energy source upon which some 60 million Americans rely every year.

One of the Nation's most versatile sources of energy, propane supplies 3 to 4 percent of total U.S. energy needs. Propane is most commonly used to provide energy to residential areas not served by the natural gas distribution system. Propane is also used by farmers to dry crops, power tractors, or warm greenhouses; by millions of recreational vehicle owners and camping enthusiasts; in industry as a source of heat and power; and in construction.

Long recognized as an environmentally sound and clean burning energy source, propane is also the most widely used alternative motor fuel in the Nation. Increasing numbers of fleet vehicle owners are seeking the advantages of propane: clean burning, high octane, reduced downtime, and lower maintenance costs.

There are more than 150 checkoff programs at the Federal and State levels, primarily in the agriculture industry. Federal programs include beef, eggs, cotton, milk, and soybeans.

In the energy industry there are similar programs such as the Gas Research Institute, natural gas, the Electric Power Research Institute, the Texas Railroad Commission propane checkoff and similar State programs in Louisiana, Missouri, and Alabama. Oil producers in Oklahoma have recently created the Oklahoma Energy Resource Board.

In a checkoff program, a small fraction of the wholesale price of a product is set aside and forwarded to a specially created checkoff board. The propane board, which would be known as the Propane Education and Research Council, would use those pooled funds for a variety of activities that would benefit the propane consumer, the propane industry, and the public.

Specific activities that would be undertaken by the Propane Education and Research Council would include research and development of more efficient, cleaner burning appliance; safety, education, research, and training for the industry and the public; and marketing activities including cooperative activities with State associations and builder outreach. These activities will provide substantial benefits to propane consumers and the public.

Other energy checkoff programs have shown a substantial return for every dollar spent. Gas Research Institute [GRI] for example has shown a return of $4 for every dollar spent. While GRI's work benefits urban and suburban natural gas consumers, the propane checkoff will benefit rural and agriculture consumers of propane as well as urban and suburban propane consumers.

For example, the agriculture industry, which accounts for 7 to 8 percent of all propane consumed in the United States, will see substantial benefits from the propane checkoff. Much of the large industrial and agricultural equipment now in use is not as efficient as residential and commercial equipment. The propane checkoff will allow for research and development into better, more efficient equipment for the industry. Even a minimal 2 percent increase in equipment efficiency would show strong returns to the agriculture industry. Obviously, better and more efficient utilization of propane will benefit the industry in other ways as well which increase the value of the return.

Propane, unlike all other major forms of energy—and many minor energy sources—receives no Federal support for research, development, education, or other activities. In a period of deficit spending and tight funding restrictions, rather than turn to the Federal Government for support, the propane industry has developed this self-help proposal to help ensure that propane is most effectively utilized. This program is designed to be funded by the industry, yet will provide substantial benefits to propane consumers, the public, and the propane industry.

It is important to note that the legislation I am proposing does not actually establish the propane checkoff, but instead calls upon the Secretary of Energy to hold a referendum among propane producers and retail marketers to authorize establishment of the checkoff. Two-thirds of both propane marketers and propane producers must approve establishment of the checkoff before it can go into effect and the program can be terminated by a one-half vote of both classes. In other words, we are not forcing this program on the industry. Rather, at the industry's request, we are providing a coordinated opportunity for the industry to voluntarily pool its resources.

This is an important self-help measure for the propane industry based on a proven precedent from other industries. I encourage my colleagues to join me in cosponsoring this legislation.

CALVERT CLIFFS: A GOOD EXAMPLE OF NUCLEAR POWER

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1993

Mr. HOYER. Mr. Speaker, Today I would like to call attention to Baltimore Gas & Electric's nuclear powerplant located at Calvert Cliffs. This plant is a good example of the important role nuclear power can play in our country.

Calvert Cliffs generated more than 10 million kilowatts of electricity last year, enough to supply more than half of the residential, manufacturing, and commercial electrical needs of central Maryland. While this is a significant achievement in and of itself, it is equally important to note that this electricity was generated without any atmospheric pollutants of any kind. In fact, Calvert Cliffs is the major reason that Maryland is among the lowest producers of SO_2, CO_2, and nitrogen oxides from electric powerplants in the mid-Atlantic region.

It is worth noting that Calvert Cliffs and our country's other nuclear powerplants avoid emitting 4 million tons of SO_2 and 2 million tons of nitrogen oxides which would result from fossil fueled generation of an equivalent amount of electricity. At a time when our Federal, State, and county governments are working to implement the Clean Air Act, I believe more people will recognize the important role nuclear power plays in keeping our air clean.

However, none of this could be accomplished without the dedicated and professional employees at Clavert Cliffs. The plant's 1,576 workers strive hard to ensure the safe and efficient operation of this plant.

In the last Congress, we passed the Energy Policy Act of 1992. In addition to providing a blueprint for our Nation's energy security and environmental well-being into the future, this act will maintain the nuclear power option.

I would encourage my colleagues to visit Calvert Cliffs which sits on 2,200 acres adjacent to the Chesapeake Bay. Most of that space is undeveloped and provides significant shelter for birds, deer, and other wildlife. Another 120 acres of the property is still used for corn and soybean crops. I think you will be impressed by its unobtrusiveness and its contribution to my State's power needs. I urge my colleagues to join me in commending the Baltimore Gas & Electric Co. and its employees at Calvert Cliffs nuclear powerplant.

IN SUPPORT OF INTRODUCTION OF THE HUMAN TISSUES FOR TRANSPLANTATION ACT OF 1993

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1993

Mr. WYDEN. Mr. Speaker, I rise to introduce the Human Tissue for Transplantation Act of 1993, legislation which will ensure the safety and effectiveness of tissues harvested, treated and preserved for use in a growing variety of medical procedures.

I urge my colleagues to support this measure, a reasonable and efficient regulatory regime which is the result of bipartisan cooperation involving my friend, LARRY COMBEST, the ranking minority member of the Subcommittee on Regulation, Business Opportunities and Technology. We also have worked closely with Senator PAUL SIMON of the other body, who today will introduce identical legislation.

In just a few years, the use of transplanted human tissue has gone from the realm of science fiction into standard medical practice. This year alone, hundreds of thousands of human tissue transplant procedures will be performed using skin, bones, heart valves, corneas, arteries, and ligaments. The tissue bank industry is booming, and the absence of regulation leaves too much room for poor surgical outcomes, serious injury and even death. We know that donated tissues have transmitted diseases like HIV, Hepatitis C and a rare disease called Creutzfeldt-Jakob. These diseases are fatal. There are no cures.

This bill amends the Food, Drug and Cosmetic Act in order to fill a gaping hole in public health protection. It aims to improve public health by protecting people with severe burn injuries, bone cancer patients needing new bone to keep their limbs, and children needing good and safe heart valves. In a nutshell, this bill will shield patients from blood-borne diseases which might be transmitted through these tissues, and from tissues which might have been rendered ineffective for their intended use by overtreatment with chemicals, radiation or preservative freezing.

Mr. Speaker, we see these problems because the human tissue business, today, is not required to adhere to any industry-wide standards for treating, maintaining and recordkeeping. My legislation would set standards for all of these activities, require certification of participating organizations, and mandate regular inspections to assure compliance.

The need for this legislation becomes more critical as technology creates new ways to collect, process and store human tissue. As it stands today, anything goes, from ultra high-tech methods to the use of old basement freezers.

Our government has learned tragic safety lessons about the need to stop the spread of infectious disease through preventive measures. A case in point is the tough struggle to regulate blood and blood products. We know that when we do not screen and track donations like blood or tissue, it is not a matter of "if" but of "when" disaster will strike. Donor screening and testing may not eliminate all of the risk involved with human tissue transplants. But it can dramatically increase the odds for a healthy outcome.

In hearings before the Subcommittee on Regulation, Business Opportunities and Technology, which I chair, surgeons providing human tissue medical treatment, tissue banks, and FDA officials agreed that the development of an even-handed, sensible regulatory system is needed to protect patients receiving transplanted tissue. We need to screen donors, test the tissue, register tissue banks and develop minimum requirements for how tissue is handled.

Our health care system simply can't afford unsafe, or poor quality tissues. The financial and human costs simply are too high. No one can afford the added cost and risk of extra surgeries to replace tissue that fails to work because it was processed into a useless patch. We cannot afford to treat the infectious diseases carried in bad tissue. We cannot afford any, and I underline any, tissue without mandatory standards and practices that are based on good science.

The professionals that collect, process and store tissues must be trained in methods that protect the public's trust and health. Today, no such training is required. There are no operating standards for the estimated 500 to 600 tissues banks doing business in this country.

Meanwhile, foreign tissue banks are aggressively marketing their tissue. Some openly acknowledge that they cannot vouch for how clean the tissue is, let alone whether it is free from disease or even viable after being fried with gamma radiation.

In my view, this is a health care disaster waiting to happen.

The Food and Drug Administration's current style of oversight * * * having made regulatory mincemeat out on heart valves, corneas and dura mater * * * does little more than generate lawsuits and disrupt patient care. We need a new and comprehensive solution that makes sense for the public interest and the tissue bank industry.

This bill is not a budget-buster. It includes a reasonable self-supporting fee provision to make sure our needs for public health protection do not drop between the cracks in FDA's regulatory floor. With a modest registration fee for tissue banks and a system for reasonable operating fees, we can make this a pay-as-you-go program once it is up and running. I want to tell the tissue banks and the FDA that Congress knows the free ride for Government regulation is over. At the same time, we cannot ask a fragile though promising new industry to pay for more than it can carry.

We need fiscal reality in regulation. And that is what this bill delivers.

The Commissioner of the Food and Drug Administration wrote Congress in July, stating that he recognized, and I quote, "* * * the general need for greater oversight for all human tissue."

My subcommittee has worked closely with the American Red Cross, the American Association of Tissue Banks, and the American Association of Blood Banks, in crafting this bill, and these major industry organizations agree on its general elements.

"This well-crafted legislation will provide the necessary, appropriate and enforceable regulatory oversight of the tissue industry," wrote Dr. S. Randolph May, national head of tissue services for the American Red Cross.

I would also like to thank Chairman JOHN D. DINGELL and his staff and Chairman HENRY A. WAXMAN and his staff for all their counsel and assistance in preparing this legislation.

TRIBUTE TO NATE (TINY) ARCHIBALD

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1993

Mr. TOWNS. Mr. Speaker, today it is my pleasure to comment on the accomplishments of a man nicknamed "Tiny" whose feats on the basketball court enabled him to be installed as a giant in the National Basketball Association Hall of Fame. Nate "Tiny" Archibald was born in the Patterson Houses in the South Bronx.

Tiny attended DeWitt Clinton High School in the Bronx where he was an all-city guard. He attended Arizona Western University and subsequently transferred to the University of Texas at El Paso. In 1970 he was drafted in the first round by the Cincinnati Royals. His illustrious career spanned 13 years in the NBA, where he played in six All-Star games, and was named to three All-NBA First Teams and two All-NBA Second Teams. In 1981 he was named MVP for the NBA. He also has the distinction of having led the league in scoring and assists for one season. In 1990 he was elected to the NBA Hall of Fame.

After concluding his professional career Tiny completed the requirements for a masters degree in adult education and human resources from Fordham University, where he is currently pursuing his doctorate.

Committed to serving his community, especially disadvantaged youth, Tiny Archibald has immersed himself in the community and teaches in the New York City Public School System. He also serves as a career program liaison for Community School District No 5. Tiny has also sponsored numerous basketball tournaments to benefit young people.

It is my pleasure and honor to recognize the vast accomplishments and contributions of a man that loves and takes pride in his community. Tiny has committed himself to giving back as much as he can to the youth of his community. Indeed, Nate "Tiny" Archibald is a giant within the New York educational and athletic community.

FAMILES USA

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1993

Mr. BURTON of Indiana. Mr. Speaker, I am placing in the RECORD a report prepared by the Capital Research Center concerning the organization Families USA, headed by Ron Pollack. Ron Pollack was one of President Clinton's early advisers on health care during last year's campaign.

Families USA, which he founded, is one of the leading advocacy groups promoting the President's health care plan. The group is sponsoring television ads supporting the Clinton plan and attacking the insurance industry, sponsoring health reform action parties across the country to generate local media attention, and engaging in other local grassroots organization activities.

I believe that this profile, prepared by the Capital Research Center's Robert Berkebile will be very useful to my colleagues as the health care debate moves forward, and I commend it to all of my colleagues' attention.

I would also like to commend the Capital Research Center for doing a fine job of exposing the activities of different nonprofit foundations and the patterns of philanthropic giving of major corporations.

COMMENTARY: ADVOCATING THE NEXT ENTITLEMENT: GOVERNMENT HEALTH CARE

"It's great for American families! The President's Reform will absolutely guarantee that you'll never lose your health insurance, no matter what * * * [it] will ban the fine print that insurance companies use to dump you or deny you benefits you've paid for. It will crack down on insurance and drug company overcharges." That's the opinion of Ronald Pollack, executive director of Families USA (United Seniors for Action) Foundation, a health consumer and seniors advocacy group, that is heavily promoting the Clinton health plan in print and on television. With health care now a top priority on the national policy agenda, Families USA is becoming a major player in the world of special interest advocacy groups.

Families USA/Families USA Foundation was created in 1981 with $40,000,000 from Phillipe Villers, an engineer who founded Computervision, a high-technology company. Inspired by the anti-war and civil rights movements of the 1960s, Villers has been a long-time supporter of such groups as the American Civil Liberties Union, Amnesty International, the liberal wing of the Democratic Party, and the Unitarian-Universalist Association. He has been cited as a model for the new "progressive" philanthropists who use their money to promote social change. Villers's wife, Katherine, directs the foundation's Boston office.

Families USA Foundation is headquartered in Washington and is a tax-exempt 501(c)(3) nonprofit. It makes grants and offers technical assistance and educational materials to grassroots organizations promoting its agenda of issues affecting the elderly. Originally called the Villers Foundation, the organization's change of name in 1989 coincided with a shift in its activities from grant-making to direct lobbying. Grants declined from $2,400,000 in 1987 to $600,000 in 1991. In contrast, budgeted funds for the 501(c)(4) lobbying arm, Families USA, grew from $600,000 in 1987 to about $1.2 million in 1992, according to The Chronicle of Philanthropy (2/11/92). Drew Altman, president of the health-oriented Henry J. Kaiser Family Foundation, told The Chronicle of Philanthropyy096 (2/11/92), "I frankly don't think of them as a foundation * * * [executive director] Ron [Pollack] may have a (c)(3), but it is the (c)(4) that moves the world."

The relationship of the (c)(4) to the (c)(3) can be illustrated by the following. In a press release (dated January 28, 1992), following the President's State of the Union address, Ronald Pollack, executive director of Families USA, declared, "What George Bush is presenting us with is a new form of medical Darwinism. It's not survival of the fittest but survival of the richest." Eleven days earlier, on January 17, the *Older Americans Report*, a Health & Human Services Department newsletter, reported that HHS' Administration on Aging had awarded Families USA Foundation, whose executive director is also Ronald Pollack, a grant to fund a "National Eldercare Institute on Income Security/Health Policy." The three year grant, which runs from September 91 to September 94, will give Families USA Foundation $1,000,000.

FAMILIES USA AND BILL CLINTON

Families USA took a flexible and pragmatic position at the start of the current health care debate. Unlike other activist groups and labor unions that pushed for a Canadian-style single-payer health program, Families USA was prepared to endorse a range of proposals from "pay or play"—which would require employers to provide employee health insurance or pay the federal government to do so— to comprehensive government health insurance, funded by federal tax dollars and administered by state governments. The April 17 *National Journal* reported that the group budgeted $1.5 million to build support for health reform, and would send eight field organizers into a third of the states, targeting the Southeast and Midwest.

The group has long maintained contact with Bill Clinton. Before announcing his candidacy, the Arkansas Governor spent over two hours getting input from Families USA on his health-care reform platform. John J. McGrath, chief health policy adviser to Governor Clinton, told *The Chronicle of Philanthropy*, "If you asked me to go through a short list of advocacy groups that were getting the message out on health care, their name would be on it * * * Families USA moves policy * * * into the arena in which action flows.

In June of 1992, then presidential candidate Bill Clinton was running third in the polls, behind both George Bush and Ross Perot. Three months later, Clinton was ahead in the polls but losing ground on health-care. His top advisers noticed a sound of confusion on the issue, with Clinton skipping back and forth between reform plans not clarifying which one he favored.

Clinton realized in the wake of Perot's surge that he couldn't stick with an expensive, government-run system. He needed a new approach. In August Clinton's health advisers began moving toward the notion of providing universal coverage while holding down costs. Known as "managed competition," the system would create regional alliances that would buy coverage in large, packages from rival groups of doctors, hospitals and other health-care providers.

On September 22, 1992, Clinton was hurriedly briefed on the plan in a crowded Holiday Inn suite in East Lansing, Michigan. Ronald Pollack informed Clinton that managed care was a secret weapon he could spring on Bush. Pollack told Clinton, "you could strike a populist chord by helping business lower costs, by providing Americans with cradle-to-grave coverage and by standing up to such special interests as doctors, drug companies and insurance firms. Best of all, the plan created no new taxes." Clinton loved it.

Clinton was so excited that he asked if he could release cost estimates based on the managed-care idea to the public. Pollack told Clinton his group (Families USA) would release a "bipartisan" report detailing managed competition's effect on the budget. "Why not, Pollack said, let his group put numbers out?", Time Magazine reports in its September 20, 1993 issue. Clinton agreed. This way the numbers would be available but could not be directly linked to Clinton's plan. Two days later, after a 48-hour marathon of speech writing, Clinton spelled out his new, improved plan to an audience at the Merck pharmaceutical company in New Jersey. Clinton's blueprint for reform was now in place.

MEDIA SAVVY

Ronald Pollack and his media director, Arnold Bennett, know how to generate publicity. An award-winning documentary film producer and former media consultant to Democratic candidates, Bennett has been called a "sort of mad scientist of media and health reform." In late January he was one of five "presenters" who briefed the President, Hillary Rodham Clinton and thirty Administration officials in the White House on how to manage the health care debate to shape public opinion. Officials were urged to avoid terms like "global budgets" and "managed competition" and instead tell Americans how health care prices "have risen four times faster than their salaries."

To stay in media rolodexes, Families USA provides many services to journalists. It supplies names and phone numbers of people "victimized" by the current health-care system. It arranges satellite interviews for television shows and offers radio stations pre-recorded messages presenting the group's reactions to current health care reform proposals. For the current campaign, Families USA has placed television ads supporting the Clinton plan and attacking the insurance industry. Individuals calling toll-free numbers in all fifty states are invited to host health care "action parties" to build community support.

Families USA also knows how to build coalitions of diverse special interest groups to lobby for a common entitlement. It organized 184 consumer, religious, labor, and health industry groups to sign a March 21 letter to President Clinton. The letter demanded prompt provision of a universal and comprehensive health program for all Americans paid for by a government program or tax subsidies. The coalition included ACORN, Children's Defense Fund, Consumer Federation of America, National Urban League, and the United Steelworkers of America, but also the American Medical Association, American Hospital Association, Blue Cross & Blue Shield Association, and the Pharmaceutical Manufacturers Association. Of course, all the groups stand to gain if government pays for the health insurance of people whose bills are otherwise unpaid.

PROMOTING THE CLINTON PACKAGE

Families USA's twelve-page "Special Report" on the proposed "Health Security Act of 1993" provides case studies of individuals and families who lose their insurance or who have inadequate insurance, and of insurance problems faced by early retirees, the self-employed, those with high drug costs, and those needing long term care. Dated September 22, the day of the President's address, the report assures all that the Clinton plan will provide comprehensive health benefits, will keep annual out-of-pocket costs down, and that there will be no caps, exclusions or lifetime limits on coverage. In addition, small business employers are assured that they can buy insurance at the same price as big business, cannot be rejected, and that insurance companies can raise premiums no faster than inflation. The proposed reforms "will provide the security and peace of mind that American families profoundly lack today."

The account does not address problems that are now being discussed by economic analysts. There is no estimate of the increased costs needed to cover the 37 million uninsured, the underinsured, and those who will change their insurance-related behavior because of changes to the system (e.g. potential early retirees). Nor does Families USA estimate the impact of the mandatory 7.9 per cent payroll tax on business hiring and its effect on government tax revenues. The dismal choice of eventual rationing of medical services, more tax increases or further increase of the deficit if funding is insufficient goes unmentioned, whatever it may lack in financial details, political analysts note that the Clinton plan shrewdly builds public support by promising an array of benefits and compensations. The Families USA report repeats these assurances.

WHAT'S CAUSING THE PROBLEM?

Insurance companies are Families USA's enemy of choice. In its most recent direct mail pieces, Families USA makes the following assertions:

More than $60 billion goes to insurance company red tape and administrative waste.

All together our health care system wastes a total of $200 billion a year.

Insurance company executives are paid million dollar salaries.

Families USA's attack on insurance companies is no new venture, and the organization has diligently worked to expose weaknesses in the industry.

The cost of long-term health care and the failure of private insurance to pay for it has long been a prime target. During the 1988 election season, Families USA and the American Association of Retired People organized a highly successful campaign to generate public discussion of the issue by all the presidential candidates. Families USA also provided partial support to the Brookings Institution for "Caring for the Disabled Elderly: Who Will Pay?" (1988), a 318-page book by Alice Rivlin, now deputy director of the Office of Management and Budget, and Joshua Wiener, a Brookings Institution fellow. Its own 115-page publication, "Because We're All in This Together: The Case for a National Long Term Care Insurance Policy" appeared after the election in September 1989. Written by former Social Security Commissioner Robert Ball and conservative journalist Tom Bethell, it also discussed the weakness of private insurance.

Families USA supports a government-run long term care program covering all Americans. Commenting on a February 1993 Families USA study, Pollack told a *Washington Post* reporter, "For most, private nursing home insurance is like buying an expensive cocktail umbrella to keep you dry in a tropical storm."

The insurance industry is also attacked in a recent July 1993 Families USA report on so-called "bare-bones" health insurance plans. These plans have low premiums and are meant to be affordable for low-income persons and small businesses. Pollack said the policies were "touted by the insurance industry" but proved to be a "commercial flop" because benefits were limited by high deductibles and low annual and maximum caps.

To combat the claimed failures of the insurance industry, Families USA Foundation is using the media to gain support for Clinton's health care package. How are they doing this? They're throwing a party.

On Thursday, October 21, 1993, Families USA will play host to an anticipated 1,000 "Health Reform Action Parties" across America. The purpose of the event is to arouse and organize the people to persuade their neighbors, politicians and the media to support the Clinton health plan. That is, they are urged to support the Clinton plan if it meets the following criteria: "(a) [it] will guarantee that we'll never be denied or lose our health coverage; (b) that we will be entitled to a comprehensive benefit package, no matter what our income level, and that no insurance company will be able to take away benefits we need because of some "fine print"; and (c) that it will clamp down on the profiteering in the health care industry, thus making high-quality health care affordable for families and businesses."

For those people holding Health Action Parties, Families USA is providing pre-printed invitations, hand-outs, talking points, and even 15-minute videos—all free of charge. Families USA urges hosts to attempt to generate media coverage of their parties by contacting local newspapers and television and radio stations.

CONFRONTING GOVERNMENT FAILURE

Families USA has not been shy about attacking government handling of social programs. According to a March 1993 Families USA report, 1.8 million out of 4.2 million elderly poor persons eligible for state aid to pay their Medicare premiums and deductibles were not receiving this benefit. In the District of Columbia the figure reached 55 percent. "Millions of elderly poor are left out in the cold because the states and the federal government lack adequate outreach programs to bring all eligible seniors in to sign up for the benefits," Pollack told the Washington Post. (Elderly persons whose income is below $6,810 are eligible for the benefit.) Health and Human Services Secretary Donna Shalala sympathized but said "the Social Security Administration does not have the authority or the resources to assume responsibility" for a state task.

Families USA also attacked the government's failure to provide income security to the elderly. A 1989 study, "SSI AWARE: Why The Elderly Poor Don't Get the Help They Were Promised," reported survey results of 6,000 elderly poor persons and argued that eligibility requirements and application procedures hindered participation in Supplemental Security Income (SSI). These obstacles, the report concluded, kept over half of those eligible for assistance from receiving SSI benefits.

Families USA does not seem to have considered that government administration of these programs may be a reason for their failures. How much more difficult will be administration of a nationwide government-run health program attempting to mandate the actions of insurers, employers, doctors and hospitals operating under price controls.

EMPOWERING SENIORS

Families USA Foundation now presents itself as a health consumer advocate, but until recently it focused on grassroots organization of the elderly. "Nurturing a movement of empowerment among elders," Families USA has distributed grants to organize the elderly and teach them methods of advocacy. In 1988, Families USA awarded grants totalling over $2,100,000 to 105 recipients, including:

Americans for Health	100,000
Center for Community Change	20,000
Center on Budget and Policy Priorities	37,000
Citizens Fund	65,000
Civil Rights Project	25,000
Florida Consumers Federation Foundation	22,600
Gray Panthers of Austin, Texas	12,000
National Academy of Social Insurance	52,000
National Caucus and Center on Black Aged	40,000
National Council of La Raza	12,000
National Hispanic Council on Aging	10,000
National Senior Citizens Education and Research Center	22,500

Older Women's League	46,500
Pension Rights Center	35,000
Urban Institute	4,087

In 1990 the Foundation made 146 grants totalling $1,457,462. 67 grants were under $10,000. Funding research, outreach and education programs was important, but so was organization building: grants were made to expand the membership base or to develop a long-range fundraising plan for groups, many of them state and local. In 1990, for instance, organization building grants went to Massachusetts Senior Action Council ($30,000), Arkansas Seniors Organized for Progress, Education and Research ($25,000), Council of Senior West Virginians ($10,500), Gray Panthers of Austin, Texas ($8,600), and Senior Advocates of Cedar Rapids, Iowa ($3,822).

Families USA attacks "ageist" stereotypes of elders as wealthy "surplus people" who contribute little to society or as a special interest group that demands social benefits from an over-taxed working population. It has made grants to encourage corporations to set up volunteer programs for retirees and to promote "senior mentoring." But more typical are 1990 grants to document a widening income gap between rich and poor ($35,000 to the Center on Budget and Policy Priorities), conduct media and education campaigns on the crisis of long term care ($37,500 to the Communications Consortium), and for public education on the need for family and medical leave legislation ($15,000 to the Women's Legal Defense Fund).

In the late 1980s, a time when Families U.S.A. was making more grants, support also went to such groups as the California Rural Legal Assistance Foundation ($15,000 in 1986), Public Citizen ($20,000 in 1986 for public education on the impact of the AT&T divestiture) and even the Christic Institute ($5,000 in 1986 and 1988 for "public education on the displacement of thousands of Indians from their homelands in northeastern Arizona.")

PLAYING WITH FIRE

In its 1986–1988 annual report, Families USA indicates that the elderly comprise a large portion of the 35 million Americans who are uninsured and the uncounted millions who are underinsured in the United States. But as Heartland Institute president Joseph Bast notes in the January-April 1992, Intellectual Ammunition, a magazine for state legislators; "Thirty-seven million Americans are without health insurance at any given moment. But fewer than a quarter as many remain without insurance for longer than 12 months. Many of these people are healthy, young, and relatively well-off; for them, being uninsured for short periods of time does not pose a medical risk."

Moreover, it should be remembered that having no health insurance is not the same as having no health care. It is against the law for a nonprofit hospital to turn away a patient needing medical care, and fewer than 12 per cent of U.S. hospitals are for-profit. Certainly, inadequate insurance coverage is a problem that must be addressed. But Families USA and the Clinton Administration will have much to answer for if, in their zeal to correct faults in the health insurance system in a manner that can be sold to the public and Washington special interests, they undermine the greatest health care system in the world.

TAX DEDUCTION BILL FOR BUSINESS EXCHANGE WITH RUSSIA

HON. MICHAEL A. "MAC" COLLINS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1993

Mr. COLLINS of Georgia. Mr. Speaker, I rise today to discuss my bill that addresses a real need, both in our business community and in the new and growing business community of Russia.

My legislation would offer a tax deduction for expenses associated with traveling to Russia for the purpose of participating in a professional or technical exchange. In other words, it would give American business people the opportunity to interact with Russian business people for the purposes of sharing institutional knowledge.

In Russia, free enterprise, entrepreneurial ventures and private investment are still a very new and foreign concept. The business community in the United States has a tremendous opportunity to teach business people in Russia's new democracy much about developing, operating and succeeding in private enterprise.

Here in our business communities we have knowledge that we take for granted. Russians have much to learn about free enterprise and have already indicated that they are eager to receive the "know how" that the United States private sector has to offer. Now more than ever we should encourage our private sector to contribute to the growth and expansion of new democracies across the world. Through this legislation we can add one of many needed incentives to the tax code that will help our domestic businesses invest in the future.

FEDERAL TECHNOLOGY COMMERCIALIZATION AND CREDIT ENHANCEMENT ACT OF 1993

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1993

Mr. BROWN of California. Mr. Speaker, I am pleased to join Mr. KANJORSKI as an original cosponsor of legislation he has developed to improve the effectiveness of Federal technology transfer efforts—the Federal Technology Commercialization and Credit Enhancement Act of 1993.

The legislation introduced today by Mr. KANJORSKI is a commendable effort to enhance the value of taxpayer-financed research and development. The total Federal research and development budget for fiscal year 1994 will exceed $75 billion. This commitment represents a substantial public investment. This legislation seeks to increase the social and economic return on that investment. For that reason, I believe the measure deserves careful consideration by the Congress.

My sponsorship of this legislation, however, is not without some reservations over certain aspects of the bill.

The bill would establish a federally-sponsored corporation, governed by a private board, to act as sole agent of the Federal Government for transferring federally originated or owned technology to the private sector. The corporation would have authority to provide loans, loan guarantees, and equity capital directly to private concerns to finance commercialization of Federal technology. The corporation would have mixed-ownership since it would be financed with private capital and public funds controlled by the corporation.

The measure would significantly alter the legal and policy framework governing Federal technology transfer efforts that have evolved over the last 20 years. A decentralized approach to technology transfer is promoted under current law. This bill advocates a centralized effort carried out by a single federally-sponsored corporation. A centralized approach to technology transfer has been tried several times in the past with limited success. We need to evaluate carefully the effectiveness of our present technology transfer programs before we change them in a significant way.

Another concern I have with the bill deals with constitutional matters. The Technology Transfer and Commercialization Financing Corp. that would be established under the legislation would not be an agency or establishment of the United States. It would be a private entity and, therefore, not subject to constitutional provisions, laws, and regulations applicable to Federal agencies. However, the corporation would be partially financed with public funds under its control and would have authority to transfer public assets to the private sector. The vesting of control of Federal funds and the exercise of governmental powers in a private entity raises fundamental constitutional questions that must be addressed.

The bill is not perfect, but it is a credible starting point that deserves serious consideration. I look forward to working with the gentleman from Pennsylvania, with my colleagues in the Congress, and with the administration on this legislation and the important issues it addresses.

SMALL BUSINESS NEEDS AN INTERNAL TRADE ADVOCATE

HON. JAN MEYERS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1993

Mrs. MEYERS of Kansas. Mr. Speaker, today I am introducing a resolution to express the sense of Congress that the U.S. Trade Representative [USTR] should establish a new position of Assistant U.S. Trade Representative for Small Business.

Currenty, the USTR has 16 separate assistant trade representatives, which include separate assistants for agriculture, for industry, for the General Agreement on Tariffs and Trade, and for issues affecting Investment, Science and Technology. Yet there is no assistant trade representative assigned to understand and act on the special problems often faced by our Nation's 20 million small businesses, to protect their interests during trade negotiations, or to promote policies that could encourage more exporting by small firms.

Small enterprises remain our Nation's top product and service innovators and our leading job creators. They have exploited new approaches, technologies and domestic markets with astonishing success despite the ever-increasing burden of Government regulations and mandates. Small businessmen and women are risk takers who can smell a market niche from miles away and fill it adroitly.

Given these all-American attributes, one has to wonder why small businesses often shy away from exporting? I suspect part of the reason lies in a belief that their Government cares little about untangling the domestic redtape and breaking international barriers that make exporting so daunting to a small firm with limited resources. I also suspect they are right: The Federal Government does not adequately advocate their cause at home or abroad.

Mr. Speaker, entrepreneurs do not ask their Government for handouts or extravagant programs. They are fiercely independent and confident that they can get the job done on their own if given the opportunity. Small businesses merely ask that their government clear a path to opportunity so they can travel the road to growth and job creation.

One limited, inexpensive step on this road is to create an Assistant Trade Representative for Small Business whose sole responsibility is to vigorously advance and defend the interests of small enterprises in our global economy. At the advent of the North American Free Trade Agreement, I can think of no better pursuit.

Mr. Speaker, as I have often intoned: If America will help small business, small business will help America. On behalf of small enterprises and the millions of workers they employ and could employ, I urge President Clinton and Ambassador Kantor to move unilaterally to fulfill the request contained in this resolution. I also urge our colleagues to cosponsor this proposal to help persuade the administration that we here in Congress believe in the promise and the future of small business both here in America and beyond.

END THE ARAB BOYCOTT NOW

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1993

Mr. SWETT. Mr. Speaker, the Arab League economic boycott of Israel has been a tool of economic warfare directed at the nation since its birth in 1948. Today I stand in strong conviction to call an end to this belligerency and urge all of my colleagues to join me and the other sponsors of House Concurrent Resolution 175 in passing this important piece of legislation.

The Arab League boycott seeks to isolate the Israeli economy through primary, secondary, and tertiary boycotts. The damage to Israel's economy caused by this boycott is incalculable, but the cost is substantial. While the primary level of the boycott prohibits import of Israeli-origin goods and services into boycotting countries, the boycott has been applied at secondary and tertiary levels, which acts as a barrier to U.S. exports. Even Kuwait, where we risked and lost American lives during the Persian Gulf war, has not lifted its application of the boycott.

Mr. Speaker, this far-reaching effect has hurt Americans. In trying to destroy Israel's economic and military viability, the Arab League also directs its boycott at any company that has business contacts with Israel. American companies, forced to choose between doing business solely with Israel or with the Arab countries, have suffered indeterminate loss of opportunity and potential employability of Americans. U.S. companies consistently have felt the economic hardship of this secondary and tertiary level of boycott, with over 400 American firms believed to be on an Arab blacklist.

The signing of the Declaration of Principles between the Israeli Government and the Palestine Liberation Organization and the ongoing peace talks between these two principals and other Arab countries signals a new era of cooperation in the Middle East. The climate surrounding these events makes this an opportune time to call on the Arab countries to lift the economic boycott against Israel as a tangible symbol of their intention to keep the commitment they have made to establish a just and lasting peace in this region.

True peace in the Middle East can only be established and endure if there is economic cooperation in the region. This new cooperation must be extended to include trade relationships. Currently, the West Bank and Gaza survive solely on Israel's economy, the only nation that trades with this area and, ironically, the country which the Arab League seeks to isolate. The continuation of this economic warfare will be a severe impediment to the prosperity of the region.

So far, the Arab response to a call for ending the boycott has been less than favorable, ranging from Syria's call for an expansion of the Arab blacklist to statements by the PLO that the boycott cannot be lifted without a unanimous vote by the Arab League. This Arab entrenchment makes one question the sincerity of their peace commitment.

Mr. Speaker, Israel has taken substantial risks in pursuit of peace, and it has assumed those risks, in no small part, because of its confidence in the unwavering support of the United States. To fortify this commitment, I urge all of my colleagues to join me tonight in supporting this legislation and demand an immediate end to this economic warfare. I also urge that in every appropriate international trade forum the U.S. Government continue to raise the boycott as an unfair trade practice.

Now is the time to take advantage of the recent advances toward peace and bring a long overdue end to this unfair practice. Ending the Arab economic boycott against Israel must be a top priority of Congress and the administration to secure peace in this region. I urge all of my colleagues to vote in support of House Concurrent Resolution 175.

TRIBUTE TO MARVIN ROBERTS

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1993

Mr. TOWNS. Mr. Speaker, far too often we hear about athletes who are successful for only a brief moment in time. Today I want to cite the progress of Marvin Roberts whose athletic prowess was a gateway to other successes in life.

Marvin attended Wingate High School in Brooklyn. He attended Utah State University where he excelled as a basketball player. He played basketball professionally in Europe. He also played with the Los Angeles Lakers, Kentucky Colonels and the Denver Nuggets in the National Basketball Association. Marvin was not content to bask in the glow of his basketball fame. He received his bachelor of science degree from California State University.

A multi-talented individual, Marvin became an actor and member of the Screen Actors Guild, and the American Federation of Television & Radio Artists. He has appeared on television commercials and in motion pictures.

Marvin currently works as a regional human resources manager for the McDonald's Corporation. He has been with the company since 1985. This gentleman typifies the capacity of inner city athletes to capitalize on athletic and educational opportunities afforded to them. He used his opportunities as a springboard for his later success in life. Marvin Roberts exemplifies the capacity and the resolve of inner city youths to overcome adversity and become mature and self sufficient adults.

FDA ACTIONS TAKEN ON CERTAIN DRUGS AND OTHER PRODUCTS

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1993

Mrs. COLLINS of Illinois. Mr. Speaker, today I rise to introduce a bill to extend by 2 years the nonpatent market exclusivity applicable to an important anti-arthritic drug, oxaprozin, marketed as Daypro, a nonsteroidal anti-inflammatory drug or NSAID, produced by G.D. Searle Pharmaceutical Co. in Illinois. If not for an inexcusable delay on the part of the Food and Drug Administration this measure would not be necessary.

The Drug Price Competition and Patent Term Restoration Act of 1984, commonly referred to as the Waxman-Hatch Act, among other things granted to manufacturers of brand-name drugs 5 years of market exclusivity following the FDA's approval of a New Drug Application [NDA] for the drug. This intellectual property protection is independent of any other intellectual property protection such as patent protection.

The Investigational New Drug Application [IND] for Daypro was filed in 1972. Daypro was then caught in the infamous FDA product approval lag. The New Drug Application for Daypro was then filed in August of 1982. The FDA's approval was granted on October 29, 1992, 20 years after submitting its Investigational New Drug application and over 10 years after filing the New Drug Application. During the 10 years that it took the FDA to approve the NDA, however, the patent on the drug expired. Thus the actual patent life for Daypro was zero.

A variety of studies have been conducted on the issue of the regulatory barriers that the NSAID's faced in the 1980's. Those studies make clear that the problems that were encountered at the FDA were generic—they apply with equal force to all the NSAID products. The unprecedented delay in the approval of the NSAID's was due to an unjustified inaction by the FDA in the review of drugs in the NSAID class starting in the mid-1980's. The delay arose after serious problems were encountered with specific NSAID's that had already been approved. Paralyzed by caution, the FDA in effect imposed a moratorium on the approval of all NSAID's. It is worth emphasizing again, however, that the purpose of this moratorium was not to allow the FDA to collect further data on oxaprozin from Daypro's sponsor. After Searle submitted its NDA, no further data on safety or efficacy was ever requested. In 1992, the FDA approved Daypro for marketing based on the data submitted 10 years before.

My bill grants Daypro a certain amount of market exclusivity beyond that which the Waxman-Hatch Act provides. This additional exclusivity is sought because the delays in obtaining FDA approval that Daypro's sponsor experienced has been so excessive that the provisions of the Waxman-Hatch Act are entirely inadequate to remedy the economic injury sustained. Congress has always recognized that legislative action may be justified in extraordinary circumstances, as exist here, to grant additional intellectual property protection to rectify inequities resulting from delays in FDA processing of New Drug Applications. Today I simply seek this remedy for a product that was a victim of the same regulatory delays that were instrumental in causing Congress to recognize that the 1984 legislation was necessary. But for the FDA's unjustified delays, this product would have qualified for the market exclusivity in 1984.

The bill that I introduce today does not grant full recovery of the time that Searle lost while Daypro was under review; it does not grant half or even a quarter of that time. The additional market exclusivity that this bill grants represents only a fraction of the lost time. Under the formula described in the bill Searle can gain no more than 2 years of additional market exclusivity. This figure is a fair and equitable resolution of the matter.

Mr. Speaker, the need for this bill points to systemic problems at the FDA. I will be paying close attention to the actions of this agency as it regulates these drugs and other products including dietary supplements. Obviously the FDA must ensure the safety of the products which are marketed to consumers in this country, but in so doing it must avoid unnecessary delays that hurt manufacturers of drugs and dietary supplements which rely on the FDA to act speedily.

As you may know in another piece of legislation that I have introduced I have taken an active interest in making sure that the FDA approve safe dietary supplements for use and that the claims that these products make be accurate. This is the proper role of this agency. The unfortunate sequence of events which led to my introducing this bill today suggest that the FDA may be in need of significant reform so that manufacturers of drugs, dietary supplements or the variety of other products that it regulates are not penalized by inaction on the part of this agency. While I look forward to more systemic reform to ensure that the FDA is more balanced and speedy in its actions, I hope that we can at least address some past actions taken by this agency by passing this legislation.

THE TELECOMMUNICATIONS AND FINANCIAL SERVICES FAIR TRADE ACT OF 1993

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1993

Mr. MARKEY. Mr. Speaker, I rise to introduce the Telecommunications and Financial Services Fair Trade Act of 1993. The purpose of this bill is to break down barriers to U.S. companies selling financial services and telecommunications products and services worldwide.

This is truly a historic moment in international history. The successful passage of the North American Free-Trade Agreement, the first-ever summit meeting of the Asian Pacific Export Cooperation countries, and the ongoing GATT negotiations, should provide all of us with renewed hope that we can achieve a truly free and open global trading system.

This bill is one of the next pivotal steps we must take to reshape our trade strategy in the wake of the cold war's end and in light of the tremendous change occurring in the global economy. No longer can the United States stand idly by and hope that other countries will pursue truly free and open trade rules. We must send a strong message to these countries that free trade must be a two-way street, not a deadend for American products.

As chairman of the Subcommittee on Telecommunications and Finance, I have witnessed firsthand the blatant discrimination against U.S. and other foreign producers of these products by some of our most important trading partners. My fair trade legislation will send the European and Pacific rim countries a clear message that we will no longer tolerate discriminatory practices in these two industries, both of which are critical to our future economic growth.

For example, Fidelity is prohibited from selling mutual funds in Japan and other Asian countries while Japanese and Korean firms are allowed into our markets under the same regulations as United States firms. This year, for the first time ever, AT&T was able to sell a switching device, one of its most important products, to Japan.

Japan purchases just 5 percent of its telecommunications goods and services from foreign companies while the United States and the European Community [EC] countries buy about 25 percent from foreign firms. Last year the United States had a $75 billion overall merchandise trade deficit with Asia and a $50 billion deficit with Japan.

Many of the Western European countries also lag behind the United States in open markets. The American trade surplus with the European Community shrunk to $9 billion last year, a drop of nearly 50 percent from the 1991 level.

British Telecomm has applied for a license to offer international telecommunications services to United States customers on a resale basis, however, no United States long distance carrier is allowed to do the same in the United Kingdom market.

Given the increasingly globalized nature of these industries, open markets and free and fair trade are essential to their continued ability to lead the world in sophistication and innovation. These industries are the ones that will drive our economy into the next century and beyond.

Title I of this bill would establish a fair and transparent process whereby the Department of Treasury, in conjunction with the Securities and Exchange Commission [SEC] would have the authority to apply a reciprocal national treatment standard to encourage the fair treatment of United States firms.

Despite intensified negotiating efforts by the Treasury, access to Japan's market has remained strictly limited for most United States securities firms. For instance, while Japan has allowed United States mutual funds to be sold in their market, United States brokers are still prohibited from establishing and therefore selling those funds in the $400 billion Japanese market. Likewise, the Korean financial markets also remain closed to American firms.

This bill provides a series of reporting requirements to identify countries that have failed to accord national treatment to United States securities firms, for example, broker dealers and investment advisors. This bill also calls for the initiation of negotiations with any foreign countries identified in the report as having failed to accord national treatment in order to remove such barriers; and regulatory sanctions imposed by the SEC against foreign securities if no agreement is reached to eliminate foreign barriers to national treatment of such firms.

Likewise, the United States telecommunications market is most open and competitive in the world. Its future competitiveness is vital to our hopes for leading the technological revolution. And yet our country faces a trade deficit in telecommunications equipment of $496 million in 1992.

Despite concerted efforts by Government and industry to open the Japanese telecommunications market, United States equipment suppliers have been able to secure only 5 percent of the Japanese procurement market while Japanese companies such as, Fijutsu, Hitachi, and NEC continue to sell freely in our market. Moreover, despite a bilateral agreement designed to ensure that Nippon Telegraph and Telephone [NTT], Japan's major telecommunications provider, opens its procurement procedures, American companies still supply only about 7 percent of its equipment.

Title II of this legislation builds upon existing telecommunications trade laws to provide the

Federal Communications Commission [FCC] the authority to deny applications or certification for equipment or services filed by persons or companies of a foreign country that has violated a telecommunications trade agreement with the United States. The United States currently has telecommunications agreements with Japan, Korea, and Canada and will have a new agreement with Mexico if and when the North American Free-Trade Agreement is implemented. A new multilateral telecommunications agreement is expected if the current round of negotiations under the General Agreement on Tariffs and Trade is successfully concluded.

This bill will also grant the FCC the authority to deny a section 214 application if the Commission finds that the home market of the applicant does not provide comparable access to U.S. companies.

OWCP: A PROGRAM IN NEED OF "REINVENTION"

HON. MIKE KREIDLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1993

Mr. KREIDLER. Mr. Speaker, Before the end of this session we will consider a series of measures to reinvent government, many of which result from serious work undertaken by Members of the freshman class. These members and Vice President Gore are to be commended for their effort.

The ideas being advanced this year, for the most part, are creative and useful and will help us produce a more efficient and effective government.

It is also true, however, that we have had limited opportunities since the publication of the recommendations by Vice President GORE's "National Performance Review" to consider other ideas.

So I want to say to my constituents, and to fellow Members of the freshman class, that reinvention of Government must not stop here, with the end of this session. Indeed, some of the deepest structural problems with Government remain unaddressed, and will require our attention next year—and beyond.

I want to mention one such problem which illustrates, I believe, the job facing us in the future.

From virtually my first day in office, I have received an extraordinarily large number of complaints from my constituents regarding the Department of Labor's Office of Workers Compensation Programs.

I thought at first there was a problem specific to the Department's Seattle office. But as I have raised my concerns with other Members of the freshman class, I've come to the conclusion that the problems are structural, and national in scope.

Indeed, Members from States as diverse as California, Virginia, Texas, Wisconsin, Minnesota, and Oregon, have told me about similar complaints from their constituents, who believe OWCP is broken and needs to be fixed.

I hope, before the start of the next session, Labor Secretary Robert Reich will put forward a serious proposal to reform this program. One month ago, in an interview with a Seattle newspaper, Secretary Reich admitted that our current compensation programs are inherited from the 1930's and 1940's and in need of an overhaul.

I can guarantee the Secretary that a fresh, open-minded review of the internal problems of his OWCP will be well received by the Members of the freshman class who have shared with me their frustrations with the current system.

Any serious proposal from the Secretary, or from Congress if that becomes necessary, must reform at least six major areas of deficiency within the OWCP:

COMMUNICATIONS

OWCP consistently fails to respond to requests for information regarding medical treatments and payments, and fails to provide copies of documents to the legal representatives of injured workers.

PAYMENTS

OWCP consistently fails to make timely payments; its rejections of medical bills often seems arbitrary; and it commonly miscalculates the amount of compensation.

DECISIONS

OWCP decisionmaking consistently demonstrates arbitrary interpretation of medical conditions, violations of internal rules and regulations, and a bias for employers.

MEDICAL

OWCP medical conclusions indicate a pattern of unsubstantiated denial of treatment, use of biased physicians and diagnostic firms, unsupported denial of medication, and pressure on claimant physicians to change opinions.

APPEALS

The OWCP has a history of delaying appeals, of dismissing relevant medical evidence from appeals, and of allowing claim handlers to influence the outcome of appeals.

REHABILITATION

The OWCP also has a disturbing history of using private rehabilitation counselors with little or no oversight of their practices, expenses, and success rate.

I believe I speak for other Members who have shared their districts' OWCP experiences with me when I encourage Secretary Reich to investigate these problems. In doing so, he will need to overcome an entrenched bureaucracy that has not changed substantially since President Clinton took office.

Over 2 years ago, the House Subcommittee on Employment Standards scheduled hearings on the OWCP, but it never held them. Instead, Chairman Ford and Congressman Murphy decided to ask for a General Accounting Office investigation. I understand the GAO study was completed last spring but, for reasons which are unclear to me, has not yet reported its findings.

I hope Secretary Reich's statement on reform of compensation programs reflects a willingness to work with us to take a fresh look at OWCP. The same sort of problems that prompted the Subcommittee on Employment Standards to schedule hearings 2 years ago have, in many instances, worsened, and will continue to do so the more we delay. Clearly there is a need to reinvent OWCP, and we'll be working to do so next year, hopefully with the support of Secretary Reich.

HELP PREVENT UNPLANNED TEENAGE PREGNANCIES

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1993

Mrs. JOHNSON of Connecticut. Mr. Speaker, the problem of unintended adolescent pregnancy has reached dramatic proportions, and continues to grow. Despite a decline in the number of teens in the United States, our teenagers have one of the highest pregnancy rates in the western world—twice as high as in England, France, and Canada, and seven times as high as the Netherlands. By age 18 one in four female adolescents will become pregnant at least once, resulting in more than 1 million pregnancies per year.

Poverty. There is no question that the dramatic incidence of teen pregnancy is one of the major causes of poverty amongst women and children. Studies show that within 5 years of giving birth, fully 70 percent of those who become mothers as a teenager will be on welfare. Further research has documented a higher incidence of abuse and lower educational achievement level amongst children brought up in poverty. It is indeed a great tragedy that teen pregnancy so often results in limitations on opportunities for adolescent mothers and their children to succeed.

Today, Representatives JIM GREENWOOD, CYNTHIA MCKINNEY, NYDIA VELAZQUEZ and I introduced the Mickey Leland Adolescent Pregnancy Prevention and Parenthood Act, to reverse this disturbing trend. Our bill would revise and extend title XX of the Public Health Service Act, the Adolescent Family Life Demonstration Projects. The time for a demonstration program is past—the problems of teen pregnancy and childbearing need the attention of a full service program.

Our bill focuses on preventing pregnancies for at-risk youth before they happen. It encourages community-based integration and innovation so that grantees are able to tailor programs to fit their community's wants and needs. Additionally, for those teens who do become pregnant, services provided under the revised program include comprehensive prenatal and postpartum care, well-baby and well-child care, family planning, and family life and parenting education.

Further, this bill reaches out to teenage boys. Recent research indicates that young fathers who abandon parental responsibilities often do so reluctantly, with the primary cause being economic. Under our bill, both male and female teens would be eligible for counseling and referral services for employment, employment training, nutrition, substance abuse, and other services. Adolescents would also receive assistance in establishing eligibility for Federal, State, and local health and social services. As our child support enforcement laws become more effective, as recent reforms assure they will, such help for young men is imperative to assist them in understanding the obligations entailed in responsible fatherhood.

I urge my colleagues to join us in giving teens the tools to take charge of their lives by supporting our efforts to reverse the trend of unintended adolescent pregnancy.

THE ENVIRONMENTAL PROFESSIONALS TRAINING AND CERTIFICATION ACT OF 1993

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1993

Mr. RICHARDSON. Mr. Speaker, I rise today to introduce legislation to establish minimum Federal standards for programs that train and certify environmental professionals. I would like to thank my colleagues RICK BOUCHER of Virginia, SHERROD BROWN of Ohio, TOM MANTON of New York, MARJORIE MARGOLIES-MEZVINSKY of Pennsylvania and CURT WELDON of Pennsylvania for joining me in sponsoring this legislation.

Remarkably, today there are no Federal guidelines regarding the proper training and certification of environmental professionals. Virtually anyone who wants to enter the growing environmental market and conduct environmental assessments on hazardous waste sites across the country can simply fill out a form and send a fee to a sham certification organization. This situation was recently brought to my attention by one of the leading underwriters of environmental insurance, Environmental Compliance Services [ECS]. ECS received an unsolicited mailing advertising the market value of receiving a certificate that would enable an individual to perform environmental assessments. The mailing went on to state that such certification could be obtained by completing the enclosed self-graded test and sending in a small fee.

Mr. Speaker, I was amazed to hear of this incredible oversight in Federal law. Environmental assessments have an enormous impact on the insurance and business communities. I know that as an insurance underwriter, ECS was as shocked as I was to learn that an individual can so easily receive certification to perform environmental assessments crucial to the protection of public health and safety. As a result, ECS and I began to discuss the idea of establishing minimum criteria for the education and training of environmental professionals.

The Environmental Professionals Training and Certification Act of 1993 represents the result of those discussions. Specifically, the bill requires the Administrator of the EPA to establish an advisory board, known as the Environmental Certification Board within 6 months of enactment. The Board would consist of at least six members who are experts in related fields of interest. The Board would issue recommendations to the Administrator regarding the establishment of minimum standards for those organizations providing environmental training and certification for phase I environmental professionals.

Based on the Board's recommendations, the Administrator would issue regulations establishing minimum education, training, and certification standards that organizations issuing certification to environmental professionals must meet. These standards would include, but not limited to, the following: formal environmental training; continuing environmental certification; environmental certification and testing procedures; revocation and disciplinary procedures; establishment of a code of ethics; consumer education; certification renewal procedures; and annual reporting of program activities.

Mr. Speaker, this legislation does not attempt to exclude any organization from training or certifying environmental professionals—it merely attempts to ensure that such organizations meet certain minimum Federal standards which will ensure that the public and the business community can rely on the qualifications and standards of today's environmental professionals. I urge my colleagues to support the Environmental Professionals Training and Certification Act.

TRIBUTE TO ANTHONY L. WATSON

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1993

Mr. TOWNS. Mr. Speaker, as we consider the prospects of health care reform, there are a number of individuals who have worked in the health care arena and made valuable contributions. Mr. Anthony L. Watson is one person who has amassed considerable expertise and prestige in the area of health care. Mr. Watson is the president of the Health Insurance Plan [HIP], a position he assumed in 1990. Prior to his appointment he served as the executive vice president and chief operation officer of HIP. HIP is the largest HMO in the East with a membership of 1.1 million.

Mr. Watson has more than 20 years of executive experience with Federal, State and city health care agencies. Prior to joining HIP, Mr. Watson was the executive director of health systems agency of New York City, the largest health planning agency in the country. He has held numerous other posts of responsibility with the Department of Health, Education and Welfare, the Public Health Service, and the Center for Disease Control.

Mr. Watson has also served on the faculty of the City University of New York, and Herbert J. Lehman College where he has lectured on health care delivery systems. He holds a Bachelor of Arts Degree, and attended the Columbia University School of Public Health, Division of Health Administration. He is a highly published author on health planning. Additionally, Mr. Watson has received numerous awards including the American Health Planning Association's Schlesinger Award for Outstanding Contributions to Community Health Planning.

One of the hallmarks of Tony Watson is that he gives unselfishly of his time and resources. He is a pillar in the community, and has dedicated his life to the profession of health care delivery. I am pleased to recognize this gentleman for his vast contributions to society.

THE ELIZABETH A. GREESON DIALYSIS COVERAGE ACT OF 1993

HON. MICHAEL A. "MAC" COLLINS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1993

Mr. COLLINS of Georgia. Mr. Speaker, today I rise to discuss the "Elizabeth A. Greeson Dialysis Coverage Act of 1993."

This legislation will require private facilities offering Medicare-financed renal dialysis kidney treatment to provide these services on a 24-hour basis. These privately owned facilities could make alternative arrangements with area hospitals that would provide comparable treatment during nonbusiness hours of the weekday or weekend.

The primary purpose of this bill is to stress to privately owned facilities that their responsibility includes the well-being of the patient, and not merely monetary profit. They should be accountable for treatment when it is needed for the preservation of life—24 hours a day, not just when it is convenient.

For Beth Greeson who battled kidney failure for years, this legislation comes too late. But with its passage, we will improve how we provide renal dialysis treatment and enable other families to avoid tragic loss due to failures of the health care system.

HONORING JOSEPH CORACE

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1993

Mr. NADLER. Mr. Speaker, I rise today to join my friends and neighbors in the Brooklyn Division of Kiwanis International in honoring their past Lt. Gov. Joseph L. Corace. Mr. Corace will be honored tomorrow evening at Sirico's Restaurant in Brooklyn.

This tribute is well earned, and stands as a fitting testimony to his lifelong dedicated service to our city and our community.

Mr. Corace has long been active in community affairs, both through Kiwanis and through numerous charitable and community organizations. He has served as the president of the Coney Island Club and on the board of directors of the Brooklyn School for Special Children.

He also led the Brooklyn Division of Kiwanis International in numerous charitable activities, including the Children's Miracle Network, the March of Dimes, HeartShare, and the Brooklyn Memorial Day Parade.

Mr. Speaker, I am proud to share with my colleagues the story of one individual whose life-long faithful service to our community is truly worthy of recognition and honor. It is with great pride and much gratitude that I join the Brooklyn Division of Kiwanis International in honoring Joseph Corace.

TRIBUTE TO PAUL A. SIVLEY

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1993

Ms. ESHOO. Mr. Speaker, I rise today to honor Paul A. Sivley on the occasion of his retirement from the San Carlos City Council.

Paul A. Sivley has given 4 years of outstanding service to the city of San Carlos, CA. He was elected to the city council in 1989 and has served with great distinction as mayor of San Carlos for 1992 and 1993. As a member of the board of directors of the Association of Bay Area Governments, Paul Sivley has demonstrated his commitment to the success of the entire region. He has worked to alleviate the social problems of communities with his service on the San Mateo County Aids Task Force and the San Carlos Education Foundation. Paul Sivley is deeply involved in the San Carlos community and has represented his constituents with leadership and integrity as a member of the Rotary Club, the Chamber of Commerce, and as chairman of the Industrial Council.

Mr. Speaker, I'm proud to represent the city of San Carlos and am honored to have this opportunity to congratulate my good friend and partner in public service Paul A. Sivley on his retirement from public office. I urge my colleagues in this House to join me in saluting this outstanding public leader of the 14th Congressional District and salute all he is and all he has done.

CONGRESSMAN KILDEE SALUTES DR. CLINTON JONES

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1993

Mr. KILDEE. Mr. Speaker, I rise today to urge my colleagues in the U.S. House of Representatives to join me in paying tribute to an outstanding educator in my hometown of Flint, MI, Dr. Clinton Jones.

Dr. Clinton Jones is leaving his position as chancellor of the University of Michigan-Flint to return to the classroom. During Dr. Jones' tenure as chancellor, the University of Michigan-Flint has experienced unprecedented growth among its student body. It has become a regional educational institution that offers students a diverse curriculum taught by renowned instructors. Dr. Jones has provided the leadership necessary to move the institution into the next century. He has been a visionary, striving for excellence in education in an urban setting.

Dr. Clinton Jones obtained a bachelor of science degree from Southern University in Baton Rouge, LA. He then moved to California where he earned a master of arts degree in government from California State University, Los Angeles. He received a doctor of philosophy in government from Claremont Graduate School. He entered the field of higher education administration in 1975 when he accepted a position as chairman of the urban studies department and associate director of the Institute for Urban Affairs and Research at Howard University in Washington, DC. He moved to Georgia where he served as the associate dean of the College of Public and Urban Affairs at Georgia State University. He then became vice-chancellor for academic affairs at the University of Houston-Downtown. In 1984, he became the chancellor of the University of Michigan-Flint.

Dr. Jones has also published in several journals on urban politics, criminal justice, and equal employment. He has shown tremendous support for various student organizations and has been recognized for his commitment to students. In addition to his outstanding dedication to students, Dr. Jones has also played an active role in the Flint community. In Flint, he has received recognition from many organizations, including the Metropolitan Chamber of Commerce and the National Association of Negro and Professional Women. In addition, Dr. Jones is a member of the board of directors of the Urban League, the Urban Coalition, the Genesee Economic Area Revitalization, and McLaren Regional Medical Center.

Mr. Speaker, it is indeed an honor and a pleasure for me to rise today before my colleagues in the U.S. House of Representatives to pay tribute to Dr. Clinton Jones. He is a man of great moral character committed to providing quality education to all who enroll at the University of Michigan-Flint. He has touched thousands of lives and has provided Flint with great leadership in the field of education. I wish him well as he leaves on sabbatical and I know that he will continue to enrich the lives of all those with whom he comes in contact.